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ISEBE LEZOTHUTHO

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

UMTHETHO WOLAWULO LWEENKONZO
ZOMOYA - 1983

UMTHETHO NOMBOLO 26 WOVE-1983

DEPARTMENT OF TRANSPORT

GOVERNMENT NOTICE NO. 60

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

AIR SERVICES CONTROL ACT,
1983

ACT NO. 26 OF 1983

UMTHETHO WOLAWULO LWEENKONZO ZOMOYA, 1983

UMTHETHO

Equkanisa nehlomela umthetho olungiselela ukulavisenswa nokulawuliwa kwabathuthi ngomoya kunye neenkonzomoya.

(Okubhalwe ngesiNgesi kusayinwe nguMongameli. Kwavunywa ngomhla we 4 Julayi 1983).

MAKWENZIWE UMTHETHO yiNdlu yeNdibano yeSizwe yeRiphabliki yeCiskei ngolu hlobo lulandelayo:—

Ingcaciso-magama l. Kulo Mthetho, ngaphandle kokuba ingxam ibonisa nto yimbi -

"umthuthi ngomoya" kuthethwa nawuphina umntu oqhuba inkonzo yomoya;

"inqwelo-moya" kuthethwa nawuphina umatshini othi ufumane ukuxhaswa kwiatmosfera ngeentshukumo zomoya ngaphandle kweentshukumo zomoya ezijoliswe kumphezulu womhlaba;

"inkonzo yomoya" kuthethwa nayiphina inkonzo eqhutywa ngenqwelo-moya kujongwe inzuzo yaye kubandakanywa inkonzo yezothutho ngomoya;

"Ciskei" kuthethwa iRiphabliki yeCiskei;

"iQumrhu" kuthethwa iqumrhu elisekwe phantsi kwecandelo 5 (i) loMthetho waseCiskei wamaQumrhu, 1981 (uMthetho 16 wowe-1981);

iSebe" kuthethwa iSebe lezoThutho.

uMlawuli-Jikelele" kuthethwa uMlawuli-Jikelele weSebe:

iGazethi" kuthethwa iGazethi kaRhulumente weRiphabliki yeCiskei;

"inkonzo yezothutho ngomoya yamazwe ngamazwe" kuthethwa inkonzo yezothutho ngomoya ecanda kwisithuba esisesomoya selizwe leCiskei kunye ubuncinane nelinye ilizwe;

"ilayisensi" kuthethwa ilayisensi yomthuthi ngomoya ekhutshwa okanye ekuthatyathwa ngokuba ikhutshwe phantsi kwecandelo 8;

"uMphathiswa" kuthethwa uMphathiswa wezoThutho;

"umntu" kubandakanywa iqumrhu;

"umgaqo" kuthethwa umgaqo owenziwe waze wabe uyasebenza phantsi kwalo Mthetho;

"engokwamaxesha okanye engekho ngokwamaxesha", ngokumayela neenkonzomoya yezothutho ngomoya iya kuthatyathwa ngokubhekiselwa kwingcaciso-magama equlethwe kwimigaqo;

"iBhodi" kuthethwa iBhodi eyoNgameleyo yezoThutho esekwe ngokwecandelo 3 loMthetho woLawulo lwezoThutho eziNdloleni, 1982 (uMthetho 15 wowe-1982) yaze yamiswa ngokwamalungiselelo ecandelo 2 lalo Mthetho;

"iKhonvenshini" kuthethwa iKhonvenshini yezoHambo zoMoya zoLuntu zaMazwe ngamazwe evuleleke ukuba isayinwe eChicago ngomhla wesi-7 kuDisemba 1944, kubandakanywa nasiphina iSihlomelo soko esithatyathwe phantsi kwenqaku 90 lalo Khonvenshini kunye nasiphina isihlomelo soko, nanjengoko kwazona zimbophelela uRhulumente weCiskei ngenxa yamalungiselelo ecandelo 3(2) loMthetho onguMgaqo-siseko weRiphabliki yeCiskei, 1981 (uMthetho 20 wowe-1981);

"lo Mthetho" kubandakanywa imigaqo.

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Amalungiselelo
ngokuphathelele
nokusebenza
koMthetho.

2. (1) Ngokwenjongo zaloMthetho yaye kulawula amalungiselelo awo -
 - (a) iBhodi iya kuba sisiphatha-mandla esilayisensayo nesilawulayo; yaye
 - (b) uMlawuli-Jikelele neSebe uya kuba semagxeni abo wonke umsebenzi wolawulo ovela okanye ozalwa kukusebenza kwaloo malungiselelo.
- (2) Ukuze iBhodi ibe nokusebenzisa ngokukuko amandla, amagunya kunye nemisebenzi yayo phantsi kwalo Mthetho, uMongameli uya kuthi, ukuba ilungu leBhodi elalathelwe phantsi kwecandelo 3(i)(c) lo Mthetho woLawulo lwezoThutho eziNdloleni, 1982 alithi kwangazeshanye libe linolwazi olunzulu ngemicimbi yezomoya, alathele njengelungu elongezelelweyo leBhodi, kodwa nje kuphela ukuba kuqwalaselwe kufikelelwe esigqwibeni ngemicimbi ekufuneka iqwalaselwe yiBhodi ize ifikelele esigqibeni phantsi kwalo Mthetho, umntu -
 - (a) onalo olo lwazi, yaye
 - (b) ongafanelekanga ukuba alathelwe ngamalungiselelo mutatis mutandis ecandelo 5 (1) loMthetho woLawulo lwezoThutho eziNdloleni, 1982 oxeliweyo.
- (3) Ilungu elongezelelweyo leBhodi ekujongwe kulo kwicandelwana (2) liya kwalathelwa phantsi kwaloo miqathango ngokuphathelele kwintlawulo, izibonelelo kunye nezinye izilungiselelo njengoko uMongameli enokuthi amaxesha ngamaxesha amisele, lize libe nokwalathelwa njalo njengelingesosigxina.
- (4) Naninina naliphina ilungu elongezelelweyo leBhodi elalathelwe phantsi kwecandelwana (2) lithi ixeshana lingabinakho ukuyenza imisebenzi yalo okanye liye lazikhwebula, uMongameli uya kwalathela umntu ofanelelekileyo ukuba angene endaweni yalo njengelo lungu longezelelweyo phantsi kwaloo miqathango nanjengoko uMongameli enokwenza isigqibo.
- (5) Ngokweenjongo zalo Mthetho amalungu amathathu eBhodi aya kwenza iKhoram yentlanganiso yeBhodi: Phantsi kwento ethi akukho ntlanganiso yeBhodi iya kumiswa kakuhle ngaphandle kokuba ilungu leBhodi elinolwazi olwendelayo ngemicimbi yezomoya likhona.

Amandla,
amagunya
nemisebenzi
yeBhodi ngo-
kumayela
nezicelo.

3. (1) Kulawula amalungiselelo aloMthetho iBhodi iya kuchophela ithabathe izigqibo ngazo zonke izicelo -
 - (a) zokukhutshwa kwelayisensi;
 - (b) zokuhlaziywa, ukutshintshelwa, ukuhlenga-hlengiswa, ukuguqulwa okanye ukuhlonyelwa kwelayisensi okanye imiqathango yoko;
 - (c) zokukhululwa kuwo nawaphina amalungiselelo alo Mthetho okanye nawuphina umqathango welayisensi;
 - (d) liqela elinomdla okanye egameni leqela elinomdla, ezicela iBhodi ukuba yenze nawuphina ummiselo okanye inike nawuphina umyalelo, imvume okanye isamkelo enokusenza ngokusemthethweni okanye isinike ngokuphathelele nawuphina umcimbi othi ngalo Mthetho okanye nawuphina ummiselo okanye umyalelo ube uthintelwe, ugunyazisiwe okanye kufuneka wenziwe.

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- (2) Naninina iBhodi ithe yala nasiphina isicelo esinjalo okanye iye yayahlukanisa imiqathango yelayisensi phantsi kwecandelo 8 (5) okanye yacima okanye yayixhoma ilayisensi phantsi kwecandelo 16, iBhodi iya kuthi, ukuba umceli okanye umnini welayisensi echaphazelekayo uye wacela njalo ngokubhaliweyo nangokuhlawula kuMlawuli-Jikelele umrhumo omiselweyo, imnike izizathu zoko kwala kwayo, ukuququ-ququlwa, ukucinywa okanye ukuxhonywa, ngokwemeko leyo.
- (3) Nawuphina umntu oziva engaxolanga ngaso nasiphina isizathu seBhodi phantsi kwecandelwana (1) angathi, ngokubhaliweyo okuthunyelwa kuMlawuli-Jikelele yaye zingedlulanga iintsuku ezilishumi elinesine emva kokufumaneka kwezizathu ekubhekiselwe kuzo kwecandelwana (2), abhene ngaso eso sigqibo kuMphathiswa yaye uMphathiswa angathi ngako oko abekele ecaleni, ahlomele okanye aguqu-guqule eso sigqibo okanye kungenjalo athabathe eso sigqibo okanye kungenjalo athabathe eso sigqibo nanjengoko ngokoluvo lwakhe bekufanele ukuba sithatyathiwe yiBhodi.
- (4) Isigqibo soMphathiswa ngaso nasiphina isibheni phantsi kwecandelwana (3) siya kuba sesokugqibela yaye siya kuthi ngazo zonke iinjongo sithatyathwe njengesigqibo seBhodi.

Inkonzo yezomoya 4.
akusayi kwenziwa
malungiselelo.
ngayo kukho
ilayisensi.

- (1) Ngaphandle kokuba njengalapha kamva kweli cancelo kulungiselelwe, akukho mntu uya kusebenzisa inqwelo-moya ukulungiselela nayiphina inkonzo yezomoya, ngaphandle kokuba yaye ngokwemigaqo nemiqathango yelayisensi.
- (2) Akukho layisensi iya kufuneka ngokumayela nayiphina inkonzo yezothutho ngomoya engokwamaxesha yamazwe ngamazwe eqhutywa yikhampani yeendlela zomoya yelinye ilizwe ngokwemigaqo yayo nayiphina imvumelwano eyenziweyo nguye yaye phakathi koRhulumente weCiskei kunye nelo Lizwe lilelinye.
- (3) (a) uMongameli angathi ukuba kubonakala kuye kufanelekile ukwenza njalo, ngesihlokomiso kwiGazethi ashiye okanye aguqule, kangokuba kube kubonakala kuye kunqweneleka, ukusebenza kwecandelwana (1) kwinqwelo-moya ehambeleyo okanye ngokumayela nenqwelo-moya ehambeleyo, ebhaliswe ngokobuzwe kwelinye ilizwe elinemvumelwano nalo, aqhuba umsebenzi wokuthwala abantu, impahla okanye iposi kujongwe intlawulo okanye ngokuqeshiswa kwezinye kunangokweenkoko zamazwe ngamazwe ezingokwamaxesha.
- (b) Ngokweenjongo zeli candelwana "iLizwe ikuvunyelwene nalo". Kuthethwa naliphina iLizwe ekuthi kulo amalungiselelo eMvumelwano abe ayalibophelela.
- (4) Nawuphina umntu owaphula amalungiselelo ecandelwana (1) uya kuba nobutyala aze akuba egwetyiwe ahlawule ngolwaphulo-mthetho lokuqala ifayini engedlulanga kwiwaka leerandi, yaye ngalo lonke ulwaphulo-mthetho olulandelayo, ifayini engedlulanga kumawaka amabini eerandi.

isicelo
selayisensi
somthuthi
ngomoya.

5. (1) Wonke umntu ocela ukukhutshelwa ilayisensi uya kwenza isicelo eso ngokubhaliweyo kwiBhodi ngoMlawuli-Jikelele yaye eya kuthi kweso sicelo okanye kunye neso sicelo anike-
 - (a) igama lakhe elizeleyo, idilesi, kunye nobuzwe; okanye
 - (b) ukuba umceli liqumrhu, igama lalo nedilesi; okanye

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- (c) ukuba umceli yikhampani, ikopi yememorandam kunye neencwadi zomanyano kunye namagama, iidilesi kunye nohlanga lwabalawuli balo.
 - (d) ngaphandle kwalapho umceli oliqumrhu, into ebonisa ngokwanelisayo kwiBhodi yokufumaneka kwemali eyaneleyo eyinkunzi yokuhlawula ilinge elicetywayo, kunye neNgxelo yesixa-mali saloo mali iyikunzi;
 - (e) iinkcukacha zenkonzo yezomoya umceli aceba ukuyifumanisa, kunye nezo nkcukacha njengoko iBhodi inokuzifuna zequmrhu analo umceli okanye aceba ukulimisa ngeenjongo zaloo nkonzo;
 - (f) iinkcukacha zenani leenqwelo-moya (kubandakanywa iinqwelo-moya ezingamalalela) eziza kusetyenziswa;
 - (g) ezo nkcukacha iBhodi inokuzifuna zeentlobo zeenqwelo-moya eziza kusetyenziswa;
 - (h) iinkcukacha ngokumayela nokufumaneka kweepatsi ezizizipere zaloo nqwelo-moya kuthethwa ngayo nezilungiselelo zokusevisa, ukulondoloza nokulungisa kwindawo ephelela kuyo okanye kwiindawo eziphakathi apha kwindlela yayo umceli aceba ukunika inkonzo kuyo
 - (i) iinkcukacha ngokumayela nestafu esiza kuqeshwa ngokuphathelele nenkonzo yomoya, ezineenkcukacha zenani labantu abaza kuqeshwa kwiindidi ngeendidi zenqesho, imilinganiselo yentlawulo ecetywayo, inkxaso yokuhamba kunye nezinye izibonelelo, amancedo, nezilungiselelo, iiyure zomsebenzi zesiqhelo, kunye nenqikelelo yenani leeyure zokubhabha ngenyanga ekuya kuthi ilungu ngalinye leqela lamalungu enqwelo-moya lalo nayiphina inqwelo-moya kufuneke ukuba lizisebenze;
 - (j) iinkcukacha ezimayela-
 - (i) neentlobo neendidi zetrafikhi umceli ajonge ukuyithutha;
 - (ii) neendlela kunye nedolophu ajonge ukusebenza kuyo kunye nezikhululo zeenqwelo-moya eziza kusetyenziswa;
 - (iii) ifrikhwensi kunye noludwe lwamaxesha acetywayo enkonzo yomoya;
 - (iv) uluhlu lweentlawulo okanye iimali ezibizwayo olucetywayo;
 - (v) umhla oqikelelwayo wokuqalisa kwenkonzo yomoya ecetywayo;
 - (vi) amava amandulo omceli ukuba ngaba akho ekusebenzeni kwenkonzo yomoya yorhwebo;
 - (k) ezinye iinkcukacha ezinjalo eziphathelele kwisicelo nanjengoko iBhodi inokuzifuna.
- (2) Umnini-layisensi owenza isicelo sokuhlaziya ilayisensi yakhe uya kuhambisa nesicelo sakhe ezo nkcukacha nanjengoko zinokumiselwa ngokumayela nohlobo lwenkonzo yomoya ekufunwa isigunyaziso ngayo.
- (3) Nasiphina isicelo ngokwemiqazo yalo Mthetho siya kufakwa kuMlawuli-Jikelele oya kuthi enze ukuba isaziso seso sicelo sipapashwe kwiGazethi sichaza -

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- (a) kwimeko yokukhutshwa okanye ukuhlaziywa kwelayisensi -
- (i) igama lomceli kunye nedilesi yakhe yokuposela;
 - (ii) iinkcukacha zenkonzo yomoya umceli aceba ukuyifumanisa;
 - (iii) uluhlu lweentlawulo okanye iimali ezibizwayo olucetywayo;
 - (iv) inkcazelo ngokubanzi emfutshane yenqwelo-moya eza kusetyenziswa yaye;
 - (v) apho kwenziwe isicelo selayisensi yokuqhuba inkonzo yezothutho ngomoya ethe gqolo, iinkcukacha zeendlela ezicetywayo kunye neefrikhwensi zenkonzo;
- (b) kwimeko yaso nasiphina esinye isicelo ezo nkcukacha okanye iingcombolo ngokumayela nohlobo loko nanjengoko kunokumiselwa.

- (4) Umlawuli-Jikelele angathi nangaliphina ixesha afune ukuba umceli anike ezinye iinkcukacha ezinjalo okanye ezingcono ngokumayela nawo nawuphina umbandela ekubhekiselwe kuwo kwicandelwana (1) nanjengoko enokubona kuyimfuneko okanye kunqweneleka.
- (5) Umceli angathi ngokubhaliweyo athumele naziphina izibakala okanye iingcombolo ezongezelelekileyo exhasa isicelo sakhe.

Izichaso.

6. (1) Nawuphina umntu onomdla angathi ngeentsuku ezingamashumi amathathu emva kokupapashwa kweenkcukacha zaso nasiphina isicelo ngokwemigaqo yecandelo 5(3), afake kuMlawuli-Jikelele isichaso ngokubhaliweyo, ebeka ngokuzeleyo izizathu zokuchasa kwakhe yaye, ukuba isichaso siphathelele kuphela kwimiba ethile yesicelo, nokuba siphathelele kowuphina umba, yaye eya kuthi kwangaxesha linye enze ukuba ikopi yeso sichaso ithunyelwe kumceli.
- (2) Umlawuli-Jikelele angafuna ukuba nawuphina umntu ofake isichaso ukuba anike ezo ngcombolo zizezinye okanye zingcono ngokumayela nokuchase kwakhe nanjengoko uMlawuli-Jikelele enokubona kuyimfuneko okanye kunqweneleka.

Ukuqwalaselwa kwezicelo.

7. (1) Umlawuli-Jikelele uya kuthi ngokukhawuleza kangangoko kunokwenzeka athumele nasiphina isicelo esifakwe kuye ngokwemigaqo yalo Mthetho, kunye nazo zonke izichaso zaso kunye nezibakala ezixhasa oko (ukuba ngaba zikho), kwintlanganiso yeBhodi ukuba siqwalaselwe yaye eya kwenza ukuba umceli kunye naye wonke umntu oye wasichasa isicelo aziswe ngokubhaliweyo ngomhla ixesha nendawo yentlanganiso.
- (2) Kuloo ntlanganiso okanye ngeenjongo zaloo ntlanganiso, ngokwemeko leyo -
- (a) umceli naye wonke umntu ochasayo kunye namagqwetha abo (ukuba akho) baya kuba nelungelo lokuvela baze bamanyelwe;
 - (b) iBhodi ingafuna okanye inyanzelise ngendlela ebekwe kwicandelwana (3) nawuphina omnye umntu ukuba aye kwiintlangano zeBhodi aze anike ubugqina okanye anike iingcombolo okanye aveze nayiphina incwadi, uxwebu okanye into ethi ngokoluvo lweBhodi ibe okanye ingathi ibe nakho nakuphina ukunxulumana nomcimbi oza kuqwalaselwa; yaye
- (c) iintlangano ziya kuvuleleka kuwonke-wonke.

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Phantsi kwento ethi bonke abantu abanika ubungqina phambi kweBhodi baya kukwenza oko phantsi kwesifungo okanye isingqiniso esiya kwenziwa nguSihlalo weBhodi yaye beya kubuzisiswa;

Kwakhona phantsi kwento ethi umceli okanye nawuphina umntu ochasayo, ngokwemeko leyo, uya kuba nelungelo lokuhlola nayiphina incwadi, uxwebu okanye enye into evezwe lilo naliphina ingqina.

(3) Nawuphina umntu ekubhekiselwe kuye kwicandelwana (2)(b) uya kunyanzeleka ukuba abekho ngeesamani ezikhutshwe phantsi kwesandla sikaSihlalo weBhodi, ezihanjiswe kwangendlela enye njengesapina kwityala lesizi kwinkundla kaMantyi.

(4) Nawuphina umntu othi, emva kokuba ebizwe ngokufanelekileyo phantsi kwecandelwana (3), engenasizathu ngokwasemthethweni angaphumeleli ukuvela ngokuthobela iisamani okanye ahlale ekho ade abe ukhululelwe ukuba abekho kwakhona, okanye othi engenasizathu ngokwasemthethweni ale ukufungiswa okanye ukwenza isingqiniso okanye ukuphendula nawuphina umbuzo onxulumeneyo awubuzwayo ngokusemthethweni okanye ukuveza nayiphina incwadi, uxwebhu okanye into ekubhekiselwe kuyo kwicandelwana (2) (b), anokuthi abenakho ukuyiveza, okanye othi, lo gama aphantsi kwesifungo okanye isingqiniso, enze nayiphina ingxelo engachanekanga phambi kweBhodi eyazi ukuba ayichanekanga, uya kuba nobutyala bolwaphulo-mthetho: Phantsi kwento ethi ngokumayela nokuncinwa kwakhe nawuphina loo mntu okanye ukuvezwa kwayo nayiphina loo ncwadi, uxwebhu okanye into umthetho ophathelele kwisilungiselelo, njengoko usebenza kwingqina elikhutshelwe isapina ukuba linike ubungqina okanye liveze naluphina uxwebu okanye into phambi kwenkundla yamatyala, uya kusebenza.

(5) Nawuphina umntu othi -

(a) ale okanye asilele ukuhamba kangangoko anakho ngokwayo nayiphina imfuneko efanelekileyo yeBhodi ngokumayela nokwenziwa kwemisebenzi yayo phantsi kweli candelo, okanye

(b) ngabom aphazamisane okanye athintele iBhodi ekwenzeni loo misebenzi,

uya kuba nobutyala bolwaphulo-mthetho.

(6) Nawuphina umntu ogwetywe ngolwaphulo-mthetho phantsi kweli candelo uya kuhlawula ifayini engedlulanga kumakhulu amabini eerandi.

Ukufikelela
ezigqibeni
ngezicelo.

8. (1) iBhodi ingathi ngokokubona kwayo ikhuphe isicelo selayisensi phantsi kwecandelo 5, okanye ingathi isale eso sicelo, okanye ingathi isikhuphe isicelo ngokuphathelele kummandla okanye umgama wokusebenza, okanye kuyo nayiphina enye imeko, inike isigunyaziso esingekho banzi kunelayisensi efunwa ngumceli.

(2) Ekwenzeni ngokokubona kwayo iBhodi iya kuthathela ingqalelo -

(a) imfuneko yecandelo labantu abachatshazelwa sisicelo yodidi lwenkonzo yomoya ekufunelwa yona isigunyaziso;

(b) ukulungelelaniswa kunye nokuphuhliswa kweenkonzo zezothutho ngomoya kunye nezinye iinkonzo zezothutho ngokubanzi, ngenjongo yokuninisekisa eyona nkonzo isebenza ngokukuko eluntwini;

(c) ukuyekwa kokuphinda-phindwa kwezinto ngendlela engeyiyo eyoqoqosho; yaye

(d) ngokubanzi, oko kuya kuba luncedo ebantwini;

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- (3) Ngaphandle kokudlela indlela ububanzi beengongoma eziqwalaselweyo ezikhankanywe kwicandelwana (2), iBhodi iya kuthi, iluthathele ingqalelo uhlobo lwesicelo esiphambi kwayo, iqwalasele le mcimbi ilandelayo, oko kuthuthi -
- (a) ukubakho kwezinye iinkonzo zomoya kuloo mmandla ekuthi kuwo okanye phakathi kuwo kulungiselelwe inkonzo ecetywayo;
 - (b) ukuba kunokwenzeka kubekho iinkonzo zomoya kuloo mmandla;
 - (c) umgangatho wokusebenza ngemfezeko kunye nokubakho rhoqo kweenkonzo zomoya, ukuba ngaba zikho, esele zilungiselelwe kuloo mmandla, nokokuba ngumceli okanye ngomnye umthuthi ngomoya;
 - (d) ithuba ekulungiselelwe ngalo ezo nkonzo ngumceli okanye ngabanye abathuthi;
 - (e) ubungakanani bexesha ekuya kuthi kulo umceli abe nakho ukwenza amalungiselelo enkonzo yomoya ekhuselekileyo nenempumelelo ngokumayela nokuqhutywa okuthe gqolo, ukusebenza rhoqo, ifrikhwensi, ukulibamba ixesha, ukufaneleka kweentlawulo kunye nokusebenza ngokumenfezeko ngokubanzi;
 - (f) amajelo ezimali omceli;
 - (g) ukufaneleka kohlobo lwenqwelo-moya ekucetywa ukuba isetyenziswe ngeenjongo zenkonzo yomoya; yaye
 - (h) naziphina izibakala ezibekwayo ezixhasa okanye ezichasa isicelo ezenziwe ngokufanelekileyo ngokwamalungiselelo alo Mthetho.
- (4) IBhodi ingasamkela sonke okanye ngokuyinxenye nasiphina isicelo esenziwa ngumthuthi ngomoya sokuba kuhlonyelwe okanye kuguqulwe ilayisensi yakhe okanye imiqathango yayo, ukuba ngokoluvo lwayo ngesizathu seemeko ezitshintshileyo okanye ngaso nasiphina esinye isizathu esibanmbkayo nesanelisayo (kubandakanywa nayiphina ingongoma eqwalaselweyo ekhankanywe kwicandelwana (2) okanye (3) kunqweneleka ukuba kwenziwe njalo ukunceda uluntu okanye ukuze kube nokulunyukelwa ubunzima.
- (5) IBhodi ingathi ngokuqhuba kwayo kwiimeko ezinje iyitshintsha-tshintshe imiqathango eqhotyoshelwe yiyo kwilayisensi, okanye ingaqoboshela eminye imiqathango kuyo: Phantsi kwento ethi iBhodi ayiyi kuwutshintsha-tshintsha njalo nawuphina umqathango welayisensi okanye iqhobeshela kuyo nawuphina omnye umqathango, onesiphumo, kuyo nayiphina kwezi meko sokusikela umda nangayiphina indlela isigunyaziso esinikwa yilayisensi, ngaphandle kokuba isaziso seentsuku ezingamashumi amabini ananye ubuncinane senjongo yayo yokwenzxa njalo sinikwe umnini yaye enikwe ithuba lokuba eviwe yiBhodi ekuchasa oko: Kwakhona phantsi kwento ethi umnini welayisensi echaphazelekayo uya kunikwa ixesha elifanelekileyo yiBhodi emakuthi ngalo ahambe ngokwako nakuphina oko kutshintsha-tshintshwa kwemiqathango yelasensi yakhe okanye ngaloo mqathango mtsha uqhotyoshelwe njalo kwilayisensi yakhe.
9. Naninina inkonzo yomoya efunyaniswa nguye nawuphina umthuthi-ngomoya kuwo nawuphina ummandla othile okanye kuyo nayiphina indlela ethile ithe, ngokoluvo lweBhodi, yabe inempumelelo yaye yanele ukuba ihlangabezane, ngentlawulo efanekileyo imfuneko yabantu kolo didi lwenkonzo yomoya kuloo mmandla okanye kuloo ndlela, iBhodi ayiyi kukhupha layisensi kuye nawuphina omnye umntu yokuba kwenziwe amalungiselelo enkonzo yomoya kwakuloo mmandla mnye okanye kwakuloo ndlela inye ekphisana nenkonzo yomoya ekhankanywe kuqala:

Ukukhuselwa
kwabathuthi
ngomoya
abafumanisa
iinkonzo
ezinempumelelo.

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Phantsi kwento ethi eli candelwana aliya kuthatyathwa njengokuba liyayithintela iBhodi ekubeni ikhuphe ilayisensi yokuba kwenziwe amalungiselelo enkonzo yezothutho-ngomoya kwindlela ethi iqabele kuyo nayiphina inxenye yendlela ekuthe kuyo kwalungi selelwa inkonzo yezothutho ngomoya nguye nawuphina omnye umthuthi ngomoya, ukuba iBhodi yanelisekile okokuba amalungiselelo enkonzo yezothutho ngomoya kuloo ndlela ikhankanywe kuqala ayimfuneko ukuze kube nokwaneliswa ngokufanelekileyo iimfuneko zothutho ngomoya lwabantu.

imicimbi
emayicaciswe
kwilayisensi-
nemiqathango
emayiqhotyoshelwe

kuyo.

10. (1) Akukho layisensi inye iya kugunyazisa ukuba kufumaneka udidi olungaphezulu kwesinye lwenkonzo yomoya esekwe ngokomgaqo, kodwa ilayisensi zokufamanisa iindidi ezahlukeneyo ezimbini okanye ngaphezulu zenkonzo yomoya esekwe njalo zinganikwa kwalo mntu mnye.
- (2) Zonke ilayisensi ziya kucacisa-
 - (a) igama nedilesi yomnini-layisensi;
 - (b) udidi lwenkonzo yomoya egunyaziswe yilayisensi;
 - (c) ithuba lokusebenza kwelayisensi;
 - (d) ummandla ekuthi phakati kwawo okanye indlela ekuthi kuyo okanye iindawo ekuthi phakathi kwazo kube nokufunyaniswa inkonzo yomoya.
- (3) IBhodi ingaqhoboshela kwilayisensi loo miqathango iyile ilandelayo nanjengoko inokusebenza ngokumayela nodidi oluthile lwenkonzo yomoya olugunyaziswe yilayisensi, oko kukuthi-
 - (a) umqathango wokuba inqwelo-moya eza kusetyenziswa ayayi kusebenza kwisikhululo seenqwelo-moya esixeliweyo okanye ukusuka kwisikhululo seenqwelo-moya esixeliweyo okanye iya kusebenza kuphela kwisikhululo seenqwelo-moyaezixeliweyo okanye kwisikhululo seenqwelo-moya esixeliweyo esinye nangaphezulu: Phantsi kwento ethi akukho mthuthi ngomoya kuya kufuneka esebenze kwisikhululo seenqwelo-moya esingalungiselelwanga ngeendlela zoqhagamishelwano ngeemfono-mfono;
 - (b) umqathango wokuba udidi oluthile okanye inkcazelo ethi yempahla ngaphandle kweposi iya kuthi ithwalwe okanye ayiyi kuthwalwa;
 - (c) umqathango ocacisa iintlawulo okanye ezona ntlawulo ziphezulu okanye zisezantsi ezinokweziwa ngokumayela nenkonzo yomoya;
 - (d) umqathango othintela ukukhweliswa okanye ekuhliswa kwabahambi okanye impahla kummandla oxeliweyo okanye phakathi kommandla oxeliweyo okanye phakati kweendawo ezixeliweyo endleleni;
 - (e) imiqathango yamalungiselelo ayakwenziwa ngumthuthi ngomoya okuhlululwa kwembuyekiso ngokumayela nokulimala okanye ukufa kwakhe nawuphina kubaqeshwa bakhe okubangelwe yingozi evele yaye ngethuba lokusebenza laloo mqeshwa, kuyo nayiphina imeko apho amalungiselelo omthetho ophathelele kwintlawulo yembuyekiso kubasebenzi abasebenza eCiskei angasebenziyo ngokumayela nokulimala okanye ukufa kwaloo mqeshwa;
 - (f) umqathango ofuna ukuba kungcinwe eyona frikhwensi isezantsi icacisiweyo emayigcinwe kwinkonzo leyo;
 - (g) umqathango ocacisa okokuba inkonzo yomoya ingathi iqhutywe emini kuphela okanye ngokuhlwa kuphela;

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- (h) umqathango ofuna ukuba inkonzo yomoya isebenze ngokupheleleleyo ngethuba elicacisiweyo, elingedlulanga kwiminyaka emibini, emva komhla ekhutshwe ngawo ilayisensi;
- (i) umqathango ofuna ukuba umthuthi ngomoya ayinike iBhodi ithuba elicacisiweyo lesaziso senjongo yakhe yokuyiyeka inkonzo yomoya;
- (j) umqathango ofuna ukuba umthuthi ngomoya ayinike iBhodi ithuba elicacisiweyo lesaziso senjongo yakhe yokuyiyeka inkonzo yomoya;
- (k) nayiphina eminye imiqathango ethi iBhodi iyibone ukuba iyafuneka ukunceda ukukhusela uluntu okanye ukuthintela ukhuphiswano olungelulo oloqoqosho;

Ithuba
lokusebenza
kwelayisensi
kunye
nokuhlaziya
kwelayisensi

11. (1) Ilayisensi ingakhutshelwa elo thuba, elingedlulanga kwiminyaka esixhenxe, nanjengoko iBhodi ingathi kwimeko nganye icacise. Phantsi kwento ethi zonke ilayisensisi zokuqhutywa kwenkonzo yezothutho ngomoya engokwamaxesha ziya kukhutshelwa ithuba lokuqala leminyaka esixhenxe: Kwakhona phantsi kwento ethi nayiphina ilayisensi ingahlaziywa yiBhodi ihlaziyelwa elo thuba longezelelweyo okanye loo mathuba ongezelelweyo, elingedlulanga kwiminyaka emihlanu ngexesha, nanjengoko iBhodi inokuthi kwimeko nganye ibone kufanelekile ununceda uluntu, yaye phantsi kwaloo miqathango njengoko ikhankanyiwe kwicandelo 10.
- (2) Isicelo sokuhlaziywa kwelayisensi singathunyelwa kwiBhodi ngoMlawuli-Jikelele zingedlululanga iinyanga ezilishumi elinesibini phambi komhla wokuphelelwa kwelayisensi yaye ukuba nasiphina isicelo esinjalo sithunyelwa kwiinyanga ezingekho ngaphantsi kweshumi elinesibhozo phambi komhla wokuphelelwa kwelayisensi, isigqibo seBhodi ngako oko siya kudluliselwa kumceli kwiinyanga ezingekho ngaphantsi kweshumi elinesibini phambi kwaloo mhla.
- (3) Ithuba lokusebenza kwelayisensi lingathi, ngokokubona kweBhodi, lixelwe ukuba liqalisa ukususela ngomhla olandela lowo ikhutshwe ngawo ilayisensi.
- (4) Ukuba, ngomhla ephelwa ngawo ilayisensi, kusalindelwe ukuba kuxoxwe ngesicelo sokuhlaziywa kwelayisensi, ilayisensi ephelweyo iya kuthatyathwa njengokuba iyaqhuba ukusebenza kude kube kufikelelwe esigqibeni ngeso sicelo.

Inkonzo yomoya
ayiyi kuqalisa
kude dube
kufunyenwe
isiqiniso
sokusebenza.

12. (1) Umthuthi ngomoya, okhutshelwe ilayisensi yokufumanisa inkonzo yomoya, akayi kuyiqalisa loo nkonzo, yaye umthuthi ngomoya olayisensi yakhe yokyqhuba inkonzo enjalo iye yahlazi ywa akayi kuyiqhuba inkonzo enjalo, ide ibe iBhodi imnike isiqiniso sokusebenza esiqiniso ukuba imnini uxhotyiswe ngokwaneleyo yaye enakho ukuqhuba inkonzo yomoya ekhuselekileyo kwindlela okanye kummandla ekhutshelwe wona ilayisensi.
- (2) Nasiphina isatifikethi esikhutshwe ngeenjongo zecandelwana (1) asiya kusebenza ekuphelelweni kwethuba ilayisensi leyo ichaphazelekayo ikhutshelwe lona okanye inlaziyelwe lona.
- (3) Nawuphina umntu owaphula amalungiselelo ecandelwana (1) uya kuba nobutyala bolwaphulomthetho yaye eya kuthi esakugwetywa afumane izohlwayo ezimiswe licandelo 4 (4).

Umrhumo
welayisensi.

13. Kuya kuhlawulwa kuMlawuli-Jikelele ngumthuthi ngomoya ngokumayela nelayisensi nganye ekhutshwe nguye, yaye nangokumayela nokuhlaziywa okanye ukutshintshwa kwayo nayiphina loo layisensi, loo mrhumo njengoko unokuthi umiselwe ngumgaqo ngokuphathelele kudidi lwelayisensi ekuthethwa ngayo.

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Ukutshintshwa
okanye
ukunqunyanyiswa.

14. (1) Ilayisensi ingathi, ngesicelo somnini, itshintshwe yiBhodi itshintshelwe komnye umntu ngethuba elishiyekileyo lokusebenza kwayo, yaye iBhodi ingathi inike imvume yayo yokuyitshintsha kulawula loo miqathango nanjengoko inokubona kufanelekile ukuba kuncedwe uluntu.
- (2) Ukuba nawuphina umqathango, ekuthe phantsi kwawo kwafumaneka imvume yeBhodi yokutshintsha ilayisensi, awuthanga uzalisekise ngokumayela nentengiselwano ekuthi kuyo utshintsho lwenze inxenye, okanye ukuba kubonakala ngathi kunikwe iinkcukacha ezingachanekanga kwiBhodi ngokumayela nesicelo solo tshintsho, iBhodi ingathi ngoko nangoko iyirhoxise imvume yayo yolo tshintsho yaye ngako oko ilayisensi ayiyi kusebenza.
- (3) Kuya kuthi kunye nazo zonke izicelo zokutshintshwa kwelayisensi, kwifomu emiselweyo ngokomgaqo, kuthunyelwe kwiBhodi izibhengezo ezifungelweyo ngumnini nalowo kunjongwe ukuba kutshintshelwe kuye zelayisensi ezibeka iinkcukacha ngokuzeleyo zentengiselwano oluthi utshintsho lwelayisensi olucetywayo lwenze inxenye yayo okanye okuzalwa yiyo, kubandakanywa neenkcukacha zokuqwalaselwa ngokupheleleyo ukususela kulowo kutshintshelwa kuye ukuya kumninilayisensi.
- (4) Ilayisensi iya kuthi ngokuzenzekela ingasebenzi kwimeko apho kuthi kuthinjwe izinto ezilunge kumnini wayo okanye, ukuba umnini yikhampani, okanye kwimeko apho ithi iphelelwe

I-inshorensi.

15. Wonke umthuthi ngomoya onelayisensi uya kuthi ainshore yaye ngalo ixesha azigcine einshoriwe, ngezixa-mali ezingako okanye ixesha elingako nanjengoko kunokumiselwangokomgaqo ngokumayela nodidi lwenkonzo yomoya efunyaniswa nguloo mthuthi ngomoya, kubizo-mbuyekezo oluluhlobo okanye udidiolumiselwe njalo, olunokuvela ngokusetyenziswa kwenqwelo-moya nguloo mthuthi ngomoya phantsi kwesigunyaziso esiqulethwe yilayisensi yakhe.

Ukucinywa
okanye
ukuxhonywa
kwelayisensi.

16. (1) IBhodi ingathi, kulawula amalungiselelo eengcandelwana (2) (nele-3) ngalo naliphina ixesha icime ilayisensi okanye iyixhome elo thuba iBhodi inokucinga ukuba lifanelikile okanye iyiguqu-guqule okanye yongeze kwimiqathango yayo ukuba, ngokoluvo lweBhodi -
- (a) umnini-layisensi uye wenza nasiphina isenzo esiludlela indlala ukhuseleko lwesizwe seCiskei; okanye
- (b) umnini-layisensi uye waphula okanye usilele ukuhamba -
- (i) ngawo nawaphina amalungiselelo alo Mthetho okanye namwphina umthetho ophathelele kwiihambo zomoya; okanye
- (ii) ngawo nawuphina umyalelo ngokwasemthethweni okanye imfuneko yeBhodi phantsi kwalo Mthetho; okanye
- (iii) ngawo nawuphina umqathango welayisesi yakhe; okanye
- (iv) ngokwemigaqo yayo nayiphina iekzemshini ayinikwe phantsi kwalo Mthetho; okanye
- (c) umnini layisensi uye wasilela ukuqhuba inkonzo yomoya ngokwemigaqo yelayisensi yakhe, okanye
- (d) kwimeko yenkonzo yezothutho ngomoya, inkonzo efunyaniswa ngumnini welayisenxi ayithi ngokuzeleyo nangokunempumelelo ihlangabezane neemfuneko zothutho ngomoya loluntu kwindlela okanye kummandla inkonzo leyo elayisenswe ngawo; okanye

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- (e) kwimeko yomnini-layisensi onenxaxheba emnika ulawulo kuyo nayiphina ikhampani, nokukuba ifakiwe eCiskei okanye ayifakwanga, engengomnini-layisensi, loo khampani ithe ngokoluvo lweBhodi yenza nasiphina isenzo esiludlela indlala ukhuselko lwesizwe seCiskei okanye iye yaphula okanye yasilela ukuhamba ngawo nawaphina amalungiselelo ekubhekiselwe kuwo kumhlathi (b) (i).
- (2) IBhodi ayiyi kusebenzisa nawaphina amagunya ayo phantsi kwecandelwana (1) ngaphandle kokuba iye yamnika umnini-layisensi isaziso esivakalayo senyathelo eceba ukulithabatha kunye nemihlaba yokwenza oko, yaye ibe imnike umnini-layisensi ithuba lokubonisa isizathu, nokokuba kungokubhaliweyo okanye ngokuvela buqu okanye ngommeli phambi kweBhodi, okokuba kunganina kungathatyathwa inyathelo elicetywayo, yaye akukho layisensi iya kucinywa okanye ixhonywe ngesizathu sokusilela ukuhamba ngokoqathango ngaphandle kokuba kubonakala kwiBhodi ukuba ukusilela oko kuyaphinda ukwenzeka okanye kuthe gqolo okanye kuye kwenziwa ngabom yaye kuxhomisa amehlo.
- (3) Ukuyekwa ixeshana, ukuxhonywa, ukuphambukiswa okanye ukuphazayiswa kwenkonzo yomoya, okubangelwe okanye okwenziwe ziimeko ezimbi zemo-zulu, izizathu zokhuseleko, ukugula okanye enye imeko yokuxakeka, akuyi kuthatyathwa njengokuba kukwaphula nawuphinaumqathango welayisensi egunyazisa inkonzo enjalo, kodwa iBhodi ingathi, kuyo nayiphina imeko enjalo, ifune ukuba umninilayisensi ayinike ingxelo ezeleyo ngeso sehlo, yaye umninilayisensi uya kuthumela loo ngxelo ngaloo ndlela nohlobo nangelo thuba njengoko iBhodi inokuyalela.
- (4) Ukuba nawuphina umntu unenxaxheba emnika ulawulo kwikhampani emva kokukhutshwa okanye ukuhlaziywa kwelayisensikuloo khampani loo layisensi iya kuthi, ngaphandle kokuba iBhodi iye yonika imvume yayo yokuba kufunyanwe loo nxaxheba, ngokuzenzekela ixhonywe ukususela kumhla wamashumi amabini ananye emva komhla woko kufunyanwa kwayo okanye ukususela kumhla ongemva kulowo nanjengoko iBhodi inokumisela, yaye ide ibe iBhodi inike imvume yayo yoko kufunyanwa kwayo.
- (5) Ngokweenjongo zeengcandelwana(1) nele(4) inthetho ethi "inxaxheba enika ulawulo" ngokuphathelele kwikhampani kuthethwa nayiphina inxaxheba efunyanwa kuloo khampani yenye ikhampani, ekuthi ngayo enye ikhampani ibe, ngokumayela nekhampeni ekhankanywe kuqala, iyikhampani eyongameleyo njengoko kuchaziwe kwicandelo l' loMthetho wamaQumrhu, 1973 (uMthetho 61 wowe-1973) yaye kubandakanywa nayiphina inxaxheba efanayo efunyanwa kuyo nayiphina ikhampani ngumntu ongumntu.

Iiritheni.

17. Umlawuli-Jikelele angathi ngomyalelo ngokubhaliweyo afune ukuba abathuthi ngomoya okanye naluphina udidi oluthile lomthuthi ngomoya bamnike, ukwenzela ukwazisa iBhodi yaye ngaloo ndlela nolo hlobo nangaloo maxesha njengoko enokumiselwa yiBhodi, ezo ritheni eqiphathelele kulo naluphina udidiokanye iindidi zenkonzo yomoya efunyaniswa ngabo bathuthi okanye udidi lwabathuthi, nanjengoko iBhodi inokubona kufanelekile ukuze kube nokuqhutywa kakhule imisebenzi yayo neemfanelo phantsi kwalo Mthetho.

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Ukukhululelwa.

18. (1) IBhodi okanye, kwimeko yako nakuphina ukuxakeka uMlawuli-Jikelele angathi ngesicelo sakhe nawuphina umthuthi ngomoya amkhululele ekusebenzeni kwecandelo 4(1) okanye ekusebenzeni kwawo nawuphina amanye amalungiselelo alo Mthetho okanye awo nawuphina umqathango welayisensi yakhe, ukuba ngokoluvo lweBhodi okanye uMlawuli-Jikelele, ngokwemeko leyo, umthuthi ngomoya ochaphazelekayo ufumanisa okanye ucaba ukufumanisa inkonzo yomoya engajongana nzuzo ekwenza oko ngeenjongo zamalizo okanye zentlalo-ntle, okanye ngeenjongo ezizalwa koko okanye ukukhululelwa okunjalo kuya kuncedisa ekusindiseni ubomi.
- (2) Nakuphina ukukhululelwa okwenziwe phantsi kwecandelwana (1) kungathi kusikelwe umda ukuze kube nokusebenza kuphela ngokumayela nenqwelo-moya enye nangaphezulu okanye kwindlela enye ethile okanye ngaphezulu, iihambo okanye iintengiselwano okanye kungasikelwa umda ngexesha, ummandla okanye umgama okanye ngenye indlela nanjengoko iBhodi okanye uMlawuli-Jikelele ngokwemeko leyo enokubona kufanelekile.
- (3) Naninina iBhodi okanye uMlawuli-Jikelele, ngokwemeko leyo, enoluvo lokuba ukulibazisa ekupapasheni ngokwemigaqo yecandelo 5(3) iinkcukacha zesicelo sokukhululelwa kungathi kuyithintele injongo yesicelo, nokuba ukungapapashwa kwezo nkcukacha akuyi kuba yingozi ekuncedeni uluntu, iBhodi okanye uMlawuli-Jikelele angasamkela isicelo ngoko nangoko.
- (4) Nawuphina umntu osebenzisa inqwelo-moya eghuba inkonzo yomoya esaphula imigaqo yokukhululelwa athe wakuikwa phantsi kweli candelo uya kuba nobutyala aze esakube egwetyiwe ahlawule ifayini engedlulanga kwiwaka leerandi.

Amalungiselelo ngokumayela neelasensi ezikhoyo kunye neenkonz.

19. (1) Ukuba nawuphina umthuthi ngomoya uthe, ngomhla wokuqalisa kwalo Mthetho, wabe ufumanisa kuwo nawuphina ummandla okanye kuyo nayiphina indlela inkonzo yezothutho ngomoya engokwamaxesha ekuthe ngayo akakhutshelwa ilayisensi ekujongwe kuyo kwicandelwana(3), iBhodi ayiyi kunika layisensi kuye nawuphina omnye umnty ngodidi lwenkonzo yomoya efanayo kwakindlela enye okanye kummandla omnye ngaphandle kokuba lo mthuthi ngomoya uye wasilela ukwenza isicelo selayisensi ngokumayela nenkonzo leyo ifunyaniswa nguye ngethuba leenyanga ezinathathu emva kokuqalisa ukusebenza kwalo mthetho.
- (2) Ukuba umthuthi ngomoya ekubhekiselwe kuye kwicandelwana(1) uye wenza isicelo selayisensi ngokumayela nalo nkonzo njengoko ichaziwe kwelo candelwana ngethuba leenyanga ezintathu emva kokuqalisa ukusebenza kwalo Mthetho iBhodi ayiyi kusikhaba isicelo kodwa ingayi khupha ilayisensi ekwenziwe isicelo ngayo kulawula loo miqathango nanjengoko inokuqhotyoshelwa kwilayisensi phantsi kwecandelo 10(3).
- (3) Nayiphina ilayisensi yokulungiselela inkonzo yezothutho ngomoya, ekhutshwe phambi kokuqalisa ukusebenza kwalo Mthetho iya kuthatyathwa njengokuba ikhutshwe yiBhodi phantsi kwamalungiselelo alo Mthetho.
- (4) Zonke ilayisensi ekubhekiselwe kuzo kwicandelwana(3) ziya kuhlala zisebenza ithuba elicacisiweyo kwilayisensi, kodwa akukho nto iqulethwe kwelo candelwana iya kuthatyathwa njengethintela igunya leBhodi phantsi kwalo Mthetho lokuyicima okanye ukuyixhoma okanye kungenjalo ukujongana nalo layisensi njengoko kubhekiselwe kuyo kwelo candelwana.

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- (5) Ukuba kuyo nayiphina ilayisensi ekubhekiselwe kuyo kwicandelwana (3), kuye kwabekwa ithuba ekwakufuneka ngalo ukuba umnini-layisensi aqalise ukuqhuba inkonzo yomoya egunyaziswa yilayisensi, yaye elo thuba libe, ngomhla wokuqalisa ukusebenza kwalo Mthetho, alikapheli, akuyi kuba kufanelekile kwiBhodi ukuthi ngelo thuba inike nawuphina omnye umntu ilayisensi yodidi olufanayo lwenkonzo kwakuloo mmandla mnye okanye kwakwindlela enye kunaleyo ekukhutshelwe yona loo layisensi ikhankanywe kuqala.

Uthelekelelo. 20. Kuyo nayiphina inkqubo phantsi kwalo Mthetho -

- (a) inqwelo-moya esetyenziselwa ukufumanisa inkonzo yomoya iya kuthi, kude kube kubonakalisiwe ngenye indlela, ithelekelelwe ukuba isetyenziswa njalo okanye ibangelwe ukuba isetyenziswe njalo ngumntu inqwelo-moya leyo ibhaliswe ngaye ngokwemigaqo yawo nawuphina umthetho ophathelele nokubhaliswa kwenqwelo-moya ngokobuzwe.
- (b) inqwelo-moya ebhaliswe ngegama lomntu ongumthuthi ngomoya, nesetyenziswa ukufumanisa inkonzo yomoya ngenye indlela kunangokwemigaqo nemiqathango yelayisensi yaloo mthutyi ngomoya, iya kuthi, kude kube kuboniswe ngenye indlela, ithatyathwe ngokuba isetyenziswe okanye yenziwe ukuba isetyenziswe nguloo mthutyi ngomoya;
- (c) ukuthwalwa kwinqwelo-moya kwakhe nawuphina umntu ukongeza kubantu abaqhuba inqwelo-moya okanye kwayo nayiphina impahla kuya kuthi, kude kube kuboniswe ngenye indlela, kuthatyathwe njengokuba kuthwalwa kujongwe inzuzo;
- (d) uxwebhu oluthatyathwa njengokuba yilayisensi ekhutshwe phantsi kwalo Mthetho, okanye ikopi yayo nayiphina loo layisensi eqiniselwe ngokubhaliweyo ngaloo ndlela nguMlawuli-Jikelele luya kuthi ngokuvezwa nje kwalo lwamkelwe njengento ebonisayo prima facie yezo ngongoma zikhankanywe apho.
- (e) isiqiniso esisayinwe nguMlawuli-Jikelele sokokuba ilayisensi ayithanga yakhutshwa yiBhodi kumntu othile, siya kuthi ngokuvezwa kwaso samkelwe njengento ebonisayo prima facie yezo ngongoma zikhankanywe apho.

Imigaqo. 21. uMphathiswa angenza imigaqo ehamba ngokwalo Mthetho ngokumayela-

- (a) nendlela nohlobo ekuya kuthi ngalo kwenziwe nasiphina isicelo phantsi kwalo Mthetho;
- (b) nohlobo lweenkcukacha emazinikwe naso nasiphina isicelo phantsi kwalo Mthetho;
- (c) nendlela yokupapasha kunye neziqulatho zaso nasiphina isaziso phantsi kwecandelo 5 (3);
- (d) nendlela ekuya kuthi kwenziwe isaziso ngayo sokuchotshelwa kwamatyala ngokwemigaqo yecandelo 7 (1);
- (e) nohlobo lwayo nayiphina ilayisensi, isiqiniso, iisamani okanye olunye uxwebhu oluza kusetyenziswa ngeenjongo zalo Mthetho;
- (f) imirhumo ehlawulwa ngokumayela nokukhutshwa, ukuhlaziywa okanye ukutshintshwa kwelayisensi;
- (g) ukusekwa nokuchazwa kweendidi okanye amaqela abathuthi ngomoya okanye iinkonzo zomoya;

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- (h) nawuphina omnye umcimbi othi ngalo Mthetho ufune ukuba okanye ongathi umiselwe okanye ekungafuneka ukuba okanye kufaneleke ukuba umiselwe ukuze lo Mthetho ube nokusetyenziswa ngokukuko nangokufanelekileyo.

Ingeniso kunye nenkcitho phantsi kwalo Mthetho.

22. Yonke inkcityo eye yenziwa liSebe ekusetyenzisweni kwalo Mthetho iya kuthi ihlawulwe kukhutshwa kwizimali ezabiwe yiNdlu yeNdibano yeSizwe kusenzelwa loo njongo yaye zonke izimali ezifunyenwe phantsi kwalo Mthetho ziya kuhlalulwa kwiNcixowa-mali yeCiskei yeNgeniso.

Ukutshitshiswa.

23. (1) kulawula amalungiselelo ecandelwana (2) imithetho ekhankanywe kwiShedyuli ngokwenjenje iyatshitshiswa okanye iyahlonyelwa ukuyokutsho kubungakanani obuboniswe kuluhlu lwesithathu kwishedyuli.
- (2) Ade abe uMphathiswa wenza imigaqo phantsi kwecandelo 21, imigaqo esebenzayo phantsi kwemithetho etshitshisiweyo licandelo 23 iya kuthi, kangangoko inokusetyenziswa yaye ihamba namalungiselelo aloMthetho, iqhube ukusebenza: Phantsi kwento ethi nakuphina ukubhekiselwa kwimigaqo exeliweyo okanye kuwo nawuphina umthetho ophathelele kwiihambo zomoya zoluntu -
- (a) "kwiKhomishini yezoThutho yeSizwe" okanye "ikhomishini" kuya kuthatyathwa njengokubhekiselwa kwiBhodi; okanye
- (b) ku "Mkhomishinari weHambo zoMoya zoluntu okanye umkhomishinari" kuya kuthatyathwa njengokubhekiselwa kuMlawuli-Jikelele.

Okanye ukuhlonyelwa kwemithetho

24. Lo Mthetho uya kubizwa ngokuba nguMthetho woLawulo lweeNkonzo zoMoya, 1983.

ISHEDYULI

IMITHETHO ETSHITSHISIWEYO OKANYE EHLONYELWEYO

Inombolo noNyaka woMthetho	Intloko emfutshane	Ubungakanani bokutshitshiswa okanye ukuhlonyelwa
UMthetho 51 wowe-1949	UMthetho weeNkonzo zoMoya 1949	Utshitshiswa uwonke
UMthetho 6 wowe-1964	UMthetho osisiHlomelo Nkonzo zoMoya, 1964	Utshitshiswa uwonke
UMthetho 15 wowe-1982	UMthetho woLawulo lwezo-Thutho eziNdleleni, 1982	(1) Kwicandelo 1 (1) makufakelwe kwingcaciso-magama yeli gama "iBhodi eyongameleyo" endaweni yeli "uthutho ngedlela" eli gama "uthutho"; yaye (2) Kwicandelo 3 makufakelwe endaweni yamagama "uthutho ngedlela" naphina apho avela khona, eli gama "uthutho"

AIR SERVICES CONTROL ACT, 1983

ACT

To consolidate and amend the law providing for the licensing and control of air carriers and air services.

(English text signed by the President. Assented to on 4 July 1983).

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

Definitions.

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

"air carrier" means any person who operates an air service;

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

"air service" means any service performed by means of an aircraft for reward and includes an air transport service;

"Ciskei" means the Republic of Ciskei;

"Corporation" means a corporation established under section 5(1) of the Ciskeian Corporations Act, 1981 (Act 16 of 1981);

"Department" means the Department of Transport;

"Director-General" means the Director-General of the Department;

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

"international air transport service" means an air transport service which passes through the air space of the territory of Ciskei and at least one other State;

"licence" means an air carrier's licence granted, or deemed to have been granted, under section 8;

"Minister" means the Minister of Transport;

"person" includes a corporation;

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

"scheduled or non-scheduled", in relation to an air transport service, shall be construed with reference to the definitions contained in the regulations;

"the Board" means the Central Transport Board established by section 3 of the Road Transportation Control Act, 1982 (Act 15 of 1982) and constituted in accordance with the provisions of section 2 of this Act;

"the Convention" means the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944, including any Annex thereto adopted under article 90 of that Convention and any amendment thereof, in so far as the same are binding on the Government of Ciskei by virtue of the provisions of section 3(2) of the Republic of Ciskei Constitution Act, 1981 (Act 20 of 1981);

"this Act" includes the regulations.

Provisions relating to application of Act.

2. (1) For the purposes of this Act and subject to its provisions -

(a) the Board shall be the licensing and controlling authority; and

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- (b) the Director-General and the Department shall be responsible for all the administrative work arising from or incidental to the application of such provisions.
- (2) To enable the Board to discharge effectively its powers, authorities and functions under this Act, the President shall, if the member of the Board appointed under section 3(1)(c) of the Road Transportation Control Act, 1982 does not at the same time possess a thorough knowledge of aviation matters, appoint as an additional member of the Board, but solely for the consideration and determination of the matters which the Board is required to consider and determine under this Act, a person who -
- (a) does possess such knowledge; and
- (b) is not disqualified from appointment by the provisions mutatis mutandis of section 5(1) of the said Road Transportation Control Act, 1982.
- (3) The additional member of the Board contemplated in subsection (2) shall be appointed on such conditions as regards remuneration, allowances and other privileges as the President may from time to time determine, and may be so appointed on a part-time basis.
- (4) Whenever any additional member of the Board appointed under subsection (2) is temporarily unable to perform his functions as such or has recused himself, the President shall appoint a competent person to act in his place as such additional member on such conditions as the President may decide.
- (5) For the purposes of this Act three members of the Board shall form a quorum for a meeting of the Board: Provided that no meeting of the Board shall be properly constituted unless a member of the Board, who has a thorough knowledge of aviation matters, is present.
- Powers, authority 3. and functions of the Board in relation to applications.
- (1) Subject to the provisions of this Act the Board shall hear and determine every application -
- (a) for the grant of a licence;
- (b) for the renewal, transfer, alteration, modification or amendment of a licence or the conditions thereof;
- (c) for the exemption from any provision of this Act or any condition of a licence;
- (d) by or on behalf of any interested party, requesting the Board to make any order or to give any direction, consent or approval which it may lawfully make or give with respect to any matter which by this Act or any order or direction of the Board is prohibited, sanctioned or required to be done.
- (2) Whenever the Board has refused any such application or has varied the conditions of a licence under section 8(5) or cancelled or suspended a licence under section 16, the Board shall, if the applicant or the holder of the licence concerned has so requested in writing and upon payment to the Director-General of the prescribed fee, furnish to him its reasons for such refusal, variation, cancellation or suspension, as the case may be.

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(3) Any person who feels aggrieved at any decision of the Board under subsection (1) may, in writing addressed to the Director-General and not later than fourteen days after the receipt of the reasons referred to in subsection (2), appeal against such decision to the Minister and the Minister may thereupon set aside or amend or vary such decision or otherwise make such decision as in his opinion ought to have been made by the Board.

(4) The decision of the Minister or any appeal under subsection (3) shall be final and shall for all purposes be deemed to be the decision of the Board.

Air service not to be provided except under licence.

4. (1) Except as hereinafter in this section provided, no person shall use an aircraft for the provision of any air service, except under and in accordance with the terms and conditions of a licence.

(2) No licence shall be required in respect of any scheduled international air transport service which is being operated by an airline of another State in terms of any agreement entered into by and between the Government of Ciskei and such other State.

(3) (a) The President may, if it appears to him expedient to do so, by proclamation in the Gazette exclude or modify, to such extent as to him seems desirable, the application of subsection (1) to or in respect of visiting aircraft, registered as to nationality in another contracting State, which are engaged in the carriage of passengers, cargo or mail for remuneration or hire on other than scheduled international services.

(b) For the purposes of this subsection "contracting State" means any State on which the provisions of the Convention are binding.

(4) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable for a first offence, to a fine not exceeding one thousand rand, and for every subsequent offence, to a fine not exceeding two thousand rand.

Application for air carrier's licence.

5. (1) Every person who applies for the grant of a licence shall make his application in writing to the Board through the Director-General and shall in or together with such application furnish -

(a) his full name, address and nationality; or

(b) if the applicant is a corporation, its name and address; or

(c) if the applicant is a company, a copy of its memorandum and articles of association and the names, addresses and nationalities of its directors;

(d) except where the application is a corporation, proof to the satisfaction of the Board of the availability of sufficient capital for financing the proposed enterprise, and a statement of the amount of such capital;

(e) particulars of the air service which the applicant proposes to provide, and such particulars as the Board may require of the organization which the applicant has or proposes to set up for the purposes of such service;

(f) particulars of the number of aircraft (including reserve aircraft) to be used;

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- (g) such particulars as the Board may require of the types of aircraft to be used;
 - (h) particulars concerning the availability of spare parts for the aircraft in question and of the servicing, maintenance and repair facilities at terminal and intermediate points on the route over which the applicant proposes to provide the service;
 - (i) particulars concerning the personnel to be employed in connection with the air service, with particulars of the number of persons to be employed in each of the various classes of employment, the proposed rates of pay, travelling, subsistence and other allowances, benefits and privileges, normal hours of duty, and an estimate of the number of flying hours per month which each member of the crew of any aircraft will be required to perform;
 - (j) particulars concerning -
 - (i) the types and classes of traffic which the applicant proposes to convey;
 - (ii) the routes and town proposed to be served and the airports to be used;
 - (iii) the frequency and time-tables of the proposed air service;
 - (iv) the proposed tariff of charges or fares;
 - (v) the estimated date of commencement of the proposed air service;
 - (vi) the applicant's previous experience, if any, in the operation of a commercial air service;
 - (k) such other particulars relating to the application as the Board may require.
- (2) A licence-holder who applies for the renewal of his licence shall furnish with his application such particulars as may be prescribed in relation to the class of air service for which authorization is sought.
- (3) Any application in terms of this Act shall be lodged with the Director-General who shall cause notice of such application to be published in the Gazette, setting out -
- (a) in the case of an application for the grant or renewal of a licence -
 - (i) the name of the applicant and his postal address;
 - (ii) particulars of the air service which the applicant proposes to provide;
 - (iii) the proposed tariff of charges or fares;
 - (iv) a brief general description of the aircraft to be used; and
 - (v) where application is made for a licence for the operation of a regular air transport service, particulars of the proposed routes and the frequencies of the service;
 - (b) in the case of any other application, such particulars or information concerning the nature thereof as may be prescribed.

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- (4) The Director-General may at any time require an applicant to furnish such further or better particulars in regard to any matter referred to in subsection (1) as he may deem necessary or desirable.
- (5) An applicant may in writing submit any representations or additional information in support of his application.

Objections.

- 6. (1) Any interested person may, within thirty days after the publication of the particulars of any application in terms of section 5(3), lodge with the Director-General an objection in writing, setting out in detail the reasons for his objection and, in the objection relates only to certain aspects of the application, to which aspect it relates, and he shall at the same time cause a copy of such objection to be sent to the applicant.
- (2) The Director-General may require any person who has lodged an objection to furnish such further or better information in regard to his objection as the Director-General may deem necessary or desirable.

Consideration
of applications.

- 7. (1) The Director-General shall as soon as practicable submit any application lodged with him in terms of this Act, together with all the objections thereto and representations in support thereof (if any), to a meeting of the Board for consideration and shall cause the applicant and every person who has objected to the application to be notified in writing of the date, time and place of the meeting.
- (2) At or for the purposes of such meeting, as the case may be -
 - (a) the applicant and every objector and their legal representatives (if any) shall have the right to appear and to be heard;
 - (b) the Board may require and compel in the manner set out in subsection (3) any other person to attend the proceedings of the Board and to give evidence or to furnish information or to produce any book, document or thing which in the opinion of the Board has or might have any bearing on the matter to be considered; and
 - (c) the proceedings shall be open to the public;

Provided that all persons giving evidence before the Board shall do so under oath or affirmation to be administered by the Chairman of the Board and shall be subject to cross-examination;

Provided further that the applicant or any objector, as the case may be, shall have the right to examine any book, document or other thing produced by any witness.

- (3) Any person referred to in subsection (2) (b) shall be compelled to attend by summons under the hand of the Chairman of the Board, served in the same manner as a subpoena in a criminal case in a Magistrate's court.
- (4) Any person who, having been duly summoned under subsection (3), without lawful excuse fails to appear in obedience to the summons or to remain in attendance until he is excused from further attendance, or who without lawful excuse refuses to be sworn or to make affirmation or to answer any relevant question lawfully put to him or to produce any book, document or thing referred to in subsection (2) (b) which he may be able to produce, or who, while he is under oath or affirmation, makes any false statement before the Board which he knows to be false, shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any document or thing before a court of law, shall apply.

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(5) Any person who -

- (a) refuses or fails to comply to the best of his ability with any reasonable requirement of the Board in connection with the exercise of its functions under this section, or
- (b) wilfully hinders or obstructs the Board in the exercise of those functions,

shall be guilty of an offence.

- (6) Any person convicted of an offence under this section shall be liable to a fine not exceeding two hundred rand.

**Determination
of applications.**

8. (1) The Board may at its discretion grant an application for a licence under section 5, or may refuse such application, or may grant a licence which in respect of area or distance of operation, or in any other respect, confers a less extensive authorization than the licence sought by the applicant.

- (2) In exercising its discretion the Board shall have regard to -

- (a) the need of the section of the public affected by the application for the class of air service for which authorization is sought;
- (b) the co-ordination and development of air and other transport services generally, with the object of ensuring the most effective service to the public;
- (c) the avoidance of uneconomical overlapping; and
- (d) generally, the interests of the public.

- (3) Without prejudice to the generality of the considerations mentioned in subsection (2), the Board shall, having regard to the nature of the application before it, take into consideration the following matters, namely -

- (a) the existence of other air services in the area through or within which the proposed service is to be provided;
- (b) the possibilities of air services in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other air carriers;
- (d) the period for which such services have been provided by the applicant or by other carriers;
- (e) the extent to which it is probable that the applicant will be able to provide a safe and satisfactory air service in respect of continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency;
- (f) the financial resources of the applicant;
- (g) the suitability of the type of aircraft proposed to be used for the purposes of the air service; and
- (h) any representations in support of or in opposition to the application, duly made in accordance with the provisions of this Act.

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- (4) The Board may grant wholly or in part any application by an air carrier for the amendment or modification of his licence or the conditions thereof, if in its opinion by reason of altered circumstances or for any other good and sufficient reason (including any consideration mentioned in subsection (2) or (3)) it is desirable to do so in the public interest or in order to avoid hardship.
- (5) The Board may of its own motion in like circumstances vary the conditions attached by it to a licence, or may attach further conditions thereto: Provided that the Board shall not so vary any condition of a licence or attach thereto any further condition, which has the effect, in either case, of restricting in any respect the authorization conferred by the licence, unless at least twenty-one days' notice of its intention so to do has been given to the holder and he has been given an opportunity of being heard by the Board in opposition thereto: Provided further that the holder of the licence concerned shall be allowed a reasonable time by the Board within which to comply with any such variation of the conditions of his licence or with such new condition so attached to his licence.

**Protection of
air carriers
who provide
satisfactory
services.**

- 9. Whenever an air service provided by any air carrier within any particular area or over any particular route is, in the opinion of the Board, satisfactory and sufficient to meet at a reasonable charge the need of the public for that class of air service within that area or over that route, the Board shall not grant a licence to any other person for the provision of an air service within substantially the same area or over substantially the same route in competition with the first-mentioned air service: Provided that this subsection shall not be deemed to prohibit the Board from granting a licence for the provision of an air transport service over a route which overlaps any segment of a route over which an air transport service is provided by any other air carrier, if the Board is satisfied that the provision of an air transport service over such first-mentioned route is necessary in order to satisfy adequately the air transportation requirements of the public.

**Matters to be
specified in
licence and
conditions
which may be
attached thereto.**

- 10. (1) No one licence shall authorize the provision of more than one of the classes of air service established by regulation, but licences to provide two or more different classes of air service so established may be granted to the same person.
- (2) Every licence shall specify -
 - (a) the name and address of the licence-holder;
 - (b) the class of air service authorized by the licence;
 - (c) the period of validity of the licence;
 - (d) the area within which or the route over which or the points between which the air service may be provided.
- (3) The Board may attach to a licence such of the following conditions as may be applicable in respect of the particular class of air service authorized by the licence, namely -
 - (a) a condition that the aircraft to be used shall not operate at or from a specified aerodrome or shall only operate at or from one or more specified aerodromes: Provided that no air carrier shall be required to operate at an aerodrome which is not provided with telephonic means of communication;
 - (b) a condition that a certain class or description of goods other than mails shall or shall not be carried;

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- (c) a condition specifying the charges or the maximum or minimum charges which may be made in connection with the air service;
- (d) a condition prohibiting the taking or setting down of passengers or goods within a specified area or between a specified area or between specified points on a route;
- (e) conditions as to the provision which shall be made by the air carrier for the payment of compensation in respect of the disablement or death of any of his employees resulting from any accident arising out of and in the course of such employee's employment, in any case where the provisions of the law relating to the payment of compensation to workmen in force in Ciskei do not apply in respect of the disablement or death of such employee;
- (f) a condition requiring a specified minimum frequency to be maintained on the service;
- (g) a condition stipulating that the air service may be operated by day only, or by night only;
- (h) a condition requiring the air service to be in full operation within a specified period, not exceeding two years, after the date upon which the licence is granted;
- (i) a condition requiring the air carrier to give the Board a specified period of notice of his intention to abandon the air service;
- (j) a condition prohibiting the conveyance of mails without the authority of the Postmaster-General;
- (k) any other conditions which the Board considers to be desirable in the interests of public safety or to prevent uneconomic competition.

**Period of
validity of
licence and
renewal of
licence.**

11. (1) A licence may be granted for such period, not exceeding seven years, as the Board may in each case stipulate: Provided that every licence for the operation of a scheduled air transport service shall be granted for an initial period of seven years: Provided further that any licence may be renewed by the board for such further period or periods, not exceeding five years at a time, as the Board may in each case deem desirable in the public interest, and subject to such conditions as are mentioned in section 10.
- (2) An application for the renewal of a licence shall be submitted to the Board through the Director-General not later than twelve months prior to the date of expiration of the licence and if any such application is submitted not less than eighteen months prior to the date of expiration of the licence, the decision of the Board thereon shall be communicated to the applicant not less than twelve months prior to that date.
- (3) The period of validity of a licence may, at the discretion of the Board, be expressed to commence as from a date subsequent to that on which the licence is actually granted.
- (4) If, at the date on which a licence expires, proceedings are pending on an application for the renewal of the licence, the expired licence shall be deemed to continue in force until such application has been finally determined.

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- Air service not to be commenced until operating certificate obtained.**
12. (1) An air carrier, to whom a licence for the provision of an air service has been granted, shall not commence such service, and an air carrier whose licence for the provision of such a service has been renewed shall not continue such service, until the Board has issued to him an operating certificate certifying that the holder is adequately equipped and able to conduct a safe air service over the route or within the area in respect of which the licence was granted.
- (2) Any certificate issued for the purposes of subsection (1) shall lapse upon the expiration of the period for which the relevant licence was granted or renewed.
- (3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed by section 4 (4).
- Licence fee.**
13. There shall be paid to the Director-General by an air carrier in respect of each licence issued to him, and in respect of the renewal or transfer of any such licence, such fee as may be prescribed by regulation in relation to the class of licence in question.
- Transfer or termination of.**
14. (1) A licence may, on the application of the holder, be transferred by the Board to another person for the remaining period of its validity, and the Board may make its consent to the transfer subject to such conditions as it may in the public interest deem desirable.
- (2) If any condition, subject to which the consent of the Board to the transfer of a licence was obtained, is not fulfilled in connection with the transaction of which the transfer forms a part, or if it appears that any false information has been furnished to the Board in connection with an application for such a transfer, a Board may forthwith withdraw its consent to the transfer and thereupon the licence shall become null and void.
- (3) With every application for the transfer of a licence there shall, in the form prescribed by regulation, be submitted to the Board sworn declarations by the holder and the proposed transferee of the licence setting forth full particulars of the transaction of which the proposed transfer of the licence forms a part or to which it is incidental, including particulars of the full consideration passing from the transferee to the licence-holder.
- (4) A licence shall automatically lapse in the event of the sequestration of the estate of its holder or, if the holder is a company, in the event of its being wound up.
- Insurance.**
15. Every licensed air carrier shall insure and at all times keep himself insured, in such sums or to such extent as may be prescribed by regulation in relation to the class of air service provided by such air carrier, against claims of a nature or class likewise so prescribed, which may arise out of the use of aircraft by such air carrier under the authority conveyed by his licence.
- Cancellation or suspension of licence.**
16. (1) The Board may, subject to the provisions of subsections (2) and (3), at any time cancel a licence or suspend it for such period as the Board may think fit or vary or add to the conditions thereof if, in the opinion of the Board -
- (a) the licence-holder has committed any act prejudicial to the national security of Ciskei; or

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- (b) the licence-holder has contravened or failed to comply with -
 - (i) any provision of this Act or of any law relating to aviation; or
 - (ii) any lawful order or requirement of the Board under this Act; or
 - (iii) any condition of his licence; or
 - (iv) the terms of any exemption granted to him under this Act; or
 - (c) the licence-holder has failed to operate the air service in terms of his licence; or
 - (d) in the case of an air transport service, the service provided by the holder of the licence does not fully and satisfactorily meet the air transport requirements of the public over the route or within the area in respect of which the service was licensed; or
 - (e) in the case of a licence-holder who has a controlling interest in an company, whether incorporated in Ciskei or not, which is not the holder of a licence, such company has in the opinion of the Board committed any act prejudicial to the national security of Ciskei or has contravened or failed to comply with any provision referred to in paragraph (b) (i).
- (2) The Board shall not exercise any of its powers under subsection (1) unless it has given the licence-holder reasonable notice of the action which it is proposed to take and of the grounds therefor, and has afforded the licence-holder an opportunity of showing cause, either in writing or by appearance in person or by a representative before the Board, why the proposed action should not be taken, and no licence shall be cancelled or suspended on the ground of failure to comply with a condition unless it appears to the Board that the failure has been repeated or persistent or has been deliberate and serious.
- (3) The temporary abandonment, suspension, diversion or interruption of an air service, necessitated or brought about by adverse weather conditions, considerations of safety, illness or other emergency, shall not be taken to constitute a breach of any condition of the licence authorizing such service, but the Board may, in any such case, require the licence-holder to furnish it with a full report on the occurrence, and the licence-holder shall submit such report in such manner and form and within such period as the Board may direct.
- (4) If any person acquires a controlling interest in a company after the issue or renewal of a licence to such company, such licence shall, unless the Board has given its approval to the acquisition of that interest, automatically be suspended with effect from the twenty-first day after the date of such acquisition or from such later date as the Board may determine, and until the Board has given its approval to such acquisition.
- (5) For the purposes of subsections (1) and (4) the expression "controlling interest" in relation to a company, means any interest held in that company by another company, by virtue of which such other company is, in relation to the firstmentioned company, a holding company as defined in section 1 of the Companies Act, 1973 (Act 61 of 1973), and includes any like interest held in any company by a natural person.

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Returns.

17. The Director-General may by order in writing require air carriers or any particular class of air carrier to render to him for the information of the Board and in such manner and form and at such times as may be prescribed by the Board, such returns in relation to any class or classes of air service provided by such carriers or class of carrier, as the Board may deem necessary for the effective carrying out of its duties and functions under this Act.

Exemptions.

18. (1) The Board or, in the case of any emergency the Director-General may on the application of any air carrier, exempt him from the operation of section 4(1) or from the operation of any other provision of this Act or any condition of his licence, if in the opinion of the Board or the Director-General, as the case may be, the air carrier concerned is providing or proposes to provide an air service on a non-profit basis for charitable or welfare purposes, or for purposes incidental thereto, or that the granting of such exemption will assist in saving life.
- (2) Any exemption granted under subsection (1) may be limited so as to apply only in respect of one or more aircraft or one or more particular routes, journeys or transactions, or may be limited as to time, area or distance, or otherwise as the board or the Director-General as the case may be, may think fit.
- (3) Whenever the Board or the Director-General, as the case may be, is of opinion that the delay involved in publishing in terms of section 5(3) particulars of an application for exemption would defeat the object of the application, and that non-publication of such particulars would not be detrimental to the general public interest, the Board or the Director-General may grant the application forthwith.
- (4) Any person who uses an aircraft for the provision of an air service in contravention of the terms of an exemption granted to him under this section shall be guilty of an offence and liable on conviction of a fine not exceeding one thousand rand.

Provision
with regard
to existing
licences and
services.

19. (1) If any air carrier is, at the date of commencement of this Act, providing within any area or over any route, a scheduled air transport service in respect of which the licence contemplated in subsection (3) has not been granted to him, the Board shall not grant a licence to any other person for a similar class of air service over substantially the same route or within substantially the same area unless such air carrier has failed to apply for a licence in respect of the service so provided by him within three months after the commencement of this Act.
- (2) If an air carrier referred to in subsection (1) has applied for a licence in respect of such a service as is described in that subsection within a period of three months after the commencement of this Act, the Board shall not refuse the application, but may grant the licence applied for subject to such conditions as may be attached to a licence under section 10(3).
- (3) Any licence to provide an air transport service, granted before the commencement of this Act shall be deemed to have been granted by the Board under the provisions of this Act.
- (4) Every licence referred to in subsection (3) shall remain in force for the period specified in the licence, but nothing in that subsection contained shall be deemed to curtail the power of the Board under this Act to cancel or suspend or otherwise deal with such a licence as is referred to in that subsection.

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- (5) If, in any licence referred to in subsection (3), a period has been specified within which the licence-holder was required to commence the operation of the air service authorized by the licence, and such period has, at the date of commencement of this Act, not yet expired, it shall not be competent for the Board, during the currency of such period to grant to any other person a licence for a similar class of service within substantially the same area or over substantially the same route as that in respect of which such first-mentioned licence was granted.

Presumptions.

20. In any proceedings under this Act -

- (a) an aircraft which is being used for the provision of an air service shall, until the contrary is proved, be presumed to be so used or caused to be so used by the person in whose name that aircraft is registered in terms of any law relating to the registration of aircraft as to nationality;
- (b) an aircraft which is registered in the name of a person who is a licensed air carrier, and which is being used for the provision of an air service otherwise than in accordance with the terms and conditions of such air carrier's licence, shall, until the contrary is proved, be presumed to be so used or caused to be so used by such air carrier;
- (c) the conveyance in an aircraft of any person in addition to the normal operating crew, or of any goods shall, until the contrary is proved, be presumed to be a conveyance for reward;
- (d) a document purporting to be a licence issued under this Act, or a copy of any such licence certified in writing as such by the Director-General shall on its mere production be accepted as *prima facie* proof of the facts stated therein;
- (e) a certificate signed by the Director-General that a licence has not been granted by the Board to a specified person, shall on its mere production be accepted as *prima facie* proof of the facts stated therein.

Regulations.

21. The Minister may make regulations not inconsistent with this Act, with regard to -

- (a) the manner and form in which any application under this Act shall be made;
- (b) the nature of the particulars to be furnished with any application under this Act;
- (c) the manner of publication and the contents of any notice under section 5 (3);
- (d) the manner in which notice of hearings shall be given in terms of section 7 (1);
- (e) the form of any licence, certificate, summons or other document to be used for the purposes of this Act;
- (f) the fees payable in respect of the issue, renewal or transfer of a licence;
- (g) the establishment and definition of classifications or groups of air carriers or air services;
- (h) any other matter which by this Act is required to be or may be prescribed or which it may be necessary or expedient to prescribe in order that this Act may be effectively and conveniently administered.

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- Revenue and expenditure under this Act. 22. All expenditure incurred by the Department in the administration of this Act shall be defrayed from moneys appropriated by the National Assembly for the purpose and all moneys received under this Act shall be paid into the Ciskeian Revenue Fund.
- Repeal or amendment of laws and savings. 23. (1) Subject to the provisions of subsection (2) the laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column of the schedule.
- (2) Until the Minister makes regulations under section 21, the regulations in force under the laws repealed by section 23 shall, in so far as they can be applied and are not inconsistent with the provisions of this Act, continue to apply: Provided that any reference in the said regulations or in any other law relating to civil aviation to-
- (a) the "National Transport Commission" or the "commission" shall be construed as a reference to the Board; or
- (b) the "Commissioner for Civil Aviation" or the "commissioner" shall be construed as a reference to the Director-General.
- Short title. 24. This Act shall be called the Air Services Control Act, 1983.

SCHEDULE

LAWS REPEALED OR AMENDED

No. and Year of Law	Short title	Extent of repeal or amendment
Act 51 of 1949	Air Services Act, 1949	The whole repealed.
Act 6 of 1964	Air Services Amendment Act, 1964	The whole repealed.
Act 15 of 1982	Road Transportation Control Act, 1982	(1) In section 1(1) substitute in the definition of "central board" for the words "road transportation" the word "transport"; and (2) In section 3 substitute for the words "road transportation", wherever they occur, the word "transport".

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