



IRIPHABLIKI YOMZANTSI AFRIKA

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I-OFISI KAMONGAMELI

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Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwayo kuluntu jikelele kolu xwebhu:—

Ino. 3 ka 2000: uMthetho weNkuthazo wokuPhatha ngo-Bulungisa, 2000.

*(English text signed by the President.)
(Assented to 2 February 2000.)*

UMTHETHO

Ufezekisa amalungelo kwisenzo sezolawulo esinobulungisa esisemthethweni, esifanelekileyo, nesingenasheyi ngokomgaqo-nkqubo nesinika amalungelo okunikwa izizathu ezibhaliweyo ngesosenzo sezolawulo esiqulathwe kwisiqendu 33 somGaqo-siseko weRiphabliki yomZantsi Afrika, 1996; nokulungiselela neminye imibandela enxulumene noko.

INTSHAYELELO

NJENGOKUBA isiqendu 33(1) nsesi (2) somGaqo-siseko sibonelela ukuba wonke umntu unelungelo kwisenzo sezolawulo esisemthethweni, esifanelekileyo, nesingenasheyi ngokomgaqo-nkqubo yaye wonke umntu othe amalungelo akhe aphulwa ngokungalinganga sisenzo solawulo unelungelo lokunikwa izizathu ezibhaliweyo;

NANJENGOKUBA isiqendu 33(3) somGaqo-siseko sifuna ukuba kwenziwe umthetho wesizwe ukufezekisa loo malungelo, yaye—

kubonelelwe ukuhlolwa kwesenzo solawulo yinkundla okanye apho kufanelekileyo, yinkundla yamatyala azimeleyo nangenakhetho; ukubeka phezu kukarhulumente umsebenzi wokunika loo malungelo nokukhuthaza ulawulo olusebenzayo;

NANJENGOKUBA uluhlu 23 leShedyuli 6 lomGaqo-siseko lubonelela ukuba umthetho wesizwe okhankanywe kwisiqendu 33(3) mawenziwe nje ixesha leminyaka emithathu ukusukela kusuku waqalayo ukusebenza umGaqo-siseko;

NASEKUBENI UKUZE—

kukhuthazwe ulawulo olunempumelelo kunye nolawulo olulungileyo; ukudala inkqubo yesizwe enokuthembeka, ephandle necacileyo kulawulo lwabasebenzi okanye xa kusenziwa umsebenzi onxulumene nolawulo lwabo okanye ukwenziwa kwalo msebenzi, kunikwe ilungelo kwisenzo solawulo esinobulungisa.

N GOKO KE KUWISWA uMthetho yiPalamente yeRiphabliki yomZantsi Afrika, ngoluhlobo:—

Ingcaciso-magama

1. Kulo Mthetho, ngaphandle kokuba umxholo walatha okanye—

- (i) “**isenzo sezolawulo**” kuthethwa nasiphina isigqibo esithathiweyo, okanye 5
nakuphina ukungathathwa kwesigqibo—
 - (a) iziko likarhulumente, apho—
 - (i) lisenza umsebenzi walo ngokomGaqo-siseko wephondo; okanye
 - (ii) lisenza imisebenzi yolawulo lwesizwe okanye lisenza imisebenzi 10
yesizwe ngokwawo nawuphina umthetho; okanye
 - (b) umntu okanye inkampani nokuba yintlanganiso yabantu xa besenza
umsebenzi wesizwe okanye kawonke-wonke ngokwesiqendu
esigunyazisayo, uze waphule ngokungalinganga amalungelo awo

nabanina umntu aze abe neziphumo ezithe ngqo ngokwasemthethweni, kodwa aziquki—

- (aa) imisebenzi yesigqeba sesizwe esinolawulo oluphezulu olukhankanywe kwiziqendu 79(1) no (4), 84(2), 85(2), 91(2), (3), (4) no (5), 92(3), 93, 97, 98, 99 no 100 womGaqo-siseko; 5
- (bb) imisebenzi yeBhunga lePhondo elunolawulo oluphezulu olukhankanywe kwiziqendu 121(1) no (2), 125(2)(d), (e) no (f), 126, 127(2)(a), (b), (c), (d) no(f), 132(2), 133(3)(b), 137, 138, 139 no 145(1) womGaqo-siseko;
- (cc) imisebenzi yesigqeba yekhansile zomasipala; 10
- (dd) imisebenzi enxulumene negunya lowiso-mthetho lePalamente, leNdlu yoWiso-mthetho lePhondo okanye leBhunga looMasipala;
- (ee) imisebenzi yeenkundla yeemantyi neejaji ezixeliweyo kwiziqendu 166 somGaqo-siseko okanye seNkundla eyoDwa yamaTyala emiselwe phantsi kwesiqendu 2 soMthetho weQela eliloDwa eliPhengululayo neeNkundla zamaTyala awodwa, 1996 (uMthetho Na.74 ka 1996), kunye neenkundla zamatyala zenkokheli zemveli phantsi komthetho wesintu okanye nawo nawuphina umthetho;
- (ff) isigqibo sokufaka okanye sokuqhuba notshutshiso;
- (gg) isigqibo malunga nawo nawuphina umba omayela nokutyunjwa kwemantyi yiKhomishini yeNkonzo yeeJaji; 20
- (hh) naso nasiphina isigqibo esithatyathiweyo, okanye nakuphina ukungathathwa kweso sigqibo, ngokwesiqendu 4(1);
- (ii) **“umphathi”** uthetha iziko likarhulumente, okanye umntu okanye inkampani nokuba yintlanganiso yabantu abathatha isenzo solawulo; 25
- (iii) **“umGaqo-siseko”** kuthethwa umGaqo-siseko weRiphablikhi yomZantsi Afrika, 1996;
- (iv) **“inkundla”** kuthethwa—
- (a) iNkundla yomGaqo-siseko esebenza ngokwesiqendu 167(6)(a) somGaqo-siseko; okanye 30
- (b) iNkundla ePhezulu okanye nayo nayiphina inkundla ekumgangatho olingana nayo; okanye
- (ii) iNkundla kaMantyi, nokuba ngokubanzi okanye mayela nodidi oluthile lwesenzo solawulo, enyulwe nguMphathiswa ngesaziso kwiGazethi nechotshelwa yiMantyi eyonyulwe ngokubhaliweyo nguMphathiswa emva kokuvumelana neKhomishini yeeMantyi, 35
- phantsi kwendawo yegunya lolawulo lesenzo solawulo esenzeke kuso okanye apho umphathi okanye apho umqeshi omkhulu wakhe aphelele khona okanye apho lowo mntu athe amalungelo akhe ophulwa ahlala khona okanye iziphumo ezingalunganga zesenzo solawulo zehla khona, ziza kwehla khona okanye ziya kwehla khona; 40
- (v) **“igunya elenza into ethile”** kuthethwa—
- (a) mayela namaziko karhulumente akhankanywe kwingcaciso-magama “yegunya elenza into ethile” kwiziqendu 1 soMthetho weNkonzo kaRhulumente, 1994 (Isibhengezo Na. 103 ka 1994), elo “gunya elenza into ethile” njengoko licacisiwe kulo naliphi na iziko likarhulumente; 45
- (b) mayela namanye onke amaziko karhulumente kunye nenkampani okanye intlangano ethathwa njengomntu ngokwasemthethweni xa isenza imisebenzi yoluntu, igosa elikhulu lombuso olawulayo walo; okanye
- (c) mayela nabantu xa besenza imisebenzi yoluntu, abo bantu; 50
- (vi) **“isigqibo”** kuthethwa isigqibo esimayela nohlobo lolawulo olwenziweyo, oluqulunqwa ukwenziwa, okanye olufuna ukwenziwa, njengoko kunganjalo, phantsi kwesiqendu esigunyazisayo, siquka isigqibo esibhekiselele—
- (a) ekwenziweni, ekuxhomeni, ekurhoxiseni, nasekwaleni ekwenzeni umyalelo, umvuzo okanye nokumiswa; 55
- (b) ekunikeni, ekuxhomeni, ekurhoxiseni okanye ekwaleni ukunika isiqinisekiso, inkcazelo okanye imvume;
- (c) ekukhupheni, ekuxhomeni, ekurhoxiseni okanye ekwaleni ukukhupha iphepha-mvume, igunya okanye nalo naluphina uxwebhu;
- (d) ekufakeni unikezelo okanye unyino; 60
- (e) ekwenzeni ubhengezo, ubango okanye isicelo;
- (f) ekugcineni okanye ekwaleni ukunikezela ngento; okanye

- (g) ekwenzeni okanye ekwaleni ukwenza naso nasiphina isenzo okanye into eluhlobo lolawulo, yaye into ebhekiselele ekwaleni ukuthatha isigqibo mayitolikwe kanjalo;
- (vii) **“isigqendu esigunyazisayo”** sithetha umthetho ongabhalwanga, umthetho wesintu, okanye imvumelwano, uxwebhu okanye nalo naluphina uxwebhu olubhekiselele ekubeni isenzo solawulo sasithathwe ngokungathi kunjalo; 5
- (viii) **“ukwala”** ngokubhekiselele ekuthatheni isigqibo, kuquka ukwala ukuthatha isigqibo;
- (ix) **“uMphathiswa”** kuthethwa ilungu leKhabhinethi elithembekileyo elithweswe ulawulo lezobulungisa; 10
- (x) **“iziko likarhulumente”** lithetha konke okuqulathwe kwisigqendu 239 somGaqo-siseko;
- (xi) **“ukumiselwa”** kuthetha ukumisela ngommiselo owenziwe phantsi kwesigqendu 10;
- (xii) **“uwonke-wonke”** ngokwenjongo zesigqendu 4, kuquka nalo naluphina uhlobo okanye udidi luka wonke-wonke; 15
- (xiii) **“inkundla yamatyala”** kuthethwa nayo nayiphina inkundla ezimeleyo nengenamkhethe emiselwe ngumthetho wesizwe ngenjongo yokuhlola amatyala anxulumene nesenzo solawulo ngokubhekiselele kulo Mthetho

Ukusetyenziswa kwalo Mthetho

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2. (1) UMphathiswa, ngesaziso kwiGazethi,—

- (a) ukuba ubona kufanelekile yaye kulungile kwezo meko, uyakukhulula isenzo solawulo okanye uhlobo okanye udidi lwezenzo solawulo ukuba nazo naziphina izigunyazisi sesigqendu 3, 4 okanye 5 ukuba zingasetyenziswa; okanye 25
- (b) ukuze akhuthaze ulawulo olufanelekileyo yaye ukuba ubona kufanelekile yaye kulungile, avumele umphathi ukuba aphambuke kuyo nayo nayiphina imfuno exeliweyo kwisigqendu 3(2), 4(1)(a) kunye no (e), 2 no 3 okanye 5(2), ngokwemeko eyakuba ixeliwe kwisaziso.
- (2) Nalo naluphina ukhululo okanye imvume enikiweyo ngokwesiqendwana (1) kufuneka ivunywe yiPalamente phambi kokuba ipapashwe kwiGazethi. 30

Isenzo solawulo ngokomGaqo-nkqubo ongenasheyi

3. (1) Isenzo solawulo esaphulwa ngobalulekileyo nangokungalunganga amalungelo okanye into esemthethweni elindelekileyo yawo nawuphina umntu kufuneka ibe ngokomgaqo-nkqubo ongenasheyi. 35

(2)(a) Umgqo-nkqubo ongenasheyi uxhomekeke kwiimeko zalo naliphina ityala.

(b) Ukwenzela ukunikezela ilungelo kwisenzo solawulo ngokomgaqo-nkqubo ongenasheyi, umphathi, phantsi kwesiqendwana (a), kufuneka anike umntu oxeliweyo kwisiqendwana (1)—

- (a) isaziso esaneleyo sohlobo nenjongo yeso senzo solawulo esiyilwayo; 40
- (b) ixesha elifanelekileyo lokwenza inkcazelo;
- (c) ingxelo ecacileyo yesosenzo solawulo;
- (d) nesaziso esaneleyo selungelo lokuhlola okanye lokubhena ngaphakathi, apho kufanele; kunye
- (e) nesaziso esaneleyo selungelo lokucela izizathu ngokwesiqendu 5 45

(3) Ukwenzela ukunika ilungelo kwisenzo solawulo ngokomgaqo-nkqubo ongenasheyi, umphathi, ngokokubona kwakhe, anganika kwakhona umntu oxeliweyo kwisiqendwana (1) ithuba—

- (a) lokufumana uncedo kunye, kumatyala anzima nantsokothileyo, nelokufumana igqwetha; 50
- (b) lokunika nokuphika iindaba kunye nengxoxo;
- (c) avele enkundleni ngokwakhe.

(4) (a) Ukuba kufanelekile yaye kulungile, umphathi angehluka kuzo naziphina iimfuno ezixeliweyo kwisiqendwana 2(1).

(b) Ukulolonga ukuba iyantluko exeliweyo kumhlathi (b) ifanelekile kwaye ilungile, umphathi angathabatha zonke iimeko eziphathelele kuyo, kuquka—

- (i) iinjongo zesigqendu esigunyazisayo;
- (ii) uhlobo nenjongo yesenzo solawulo nokuba kufuneka sithathwe;
- (iii) isiphumo esinokulindelwa kweso senzo solawulo;

- (iv) ukungxamiseka kokuba kuthathwe eso senzo solawulo okanye ukungxamiseka kwemibandela; kunye
 - (v) nemfuno yokukhuthaza ulawulo olusebenzayo olunempumelelo nolulungileyo
- (5) Apho umphathi egunyaziswe nguwo nawuphina umthetho ukuba alandele umgaqo-nkqubo ongenasheyi kodwa owahlukileyo kwisiqendwana (2), umphathi angayisebenzisa loo nkqubo yahlukileyo. 5

Isenzo solawulo esinxulumene noluntu

4. (1) Kwiimeko apho isenzo solawulo saphulwa ngobalulekileyo nangokungalunganga amalungelo oluntu, umphathi, ukuze anike ilungelo kumgaqo-nkqubo ongenasheyi kwisenzo solawulo kufuneka agqibe ekubeni— 10
- (a) enze uphando luka wonke-wonke ngokwesiqendwana (2);
 - (b) alandele isaziso okanye inkqubo-nkcazo ngokwesiqendwana (3);
 - (c) alandele iinkqubo ezikwisiqendwana (2) no (3);
 - (d) apho umphathi agunyaziswe nguwo nawuphina umthetho ukuba alandele umgaqo-nkqubo ongenasheyi kodwa owahlukileyo, alandele loo mgaqo-nkqubo; okanye 15
 - (e) alandele nayo nayiphina inkqubo efanelekileyo eyakunika oko okusesiqendwini (3).
- (2) Ukuba umphathi ugqiba ukuba enze uphando luka wonke-wonke— 20
- (a) igunya elenza into ethile liya kubamba uphando luka wonke-wonke okanye lityumbe umntu ofanelekileyo okanye uluhlu lwabantu abathile ukuba benze oko; kuze
 - (b) igunya elenza into ethile okanye umntu okanye uluhlu olukhankanywe kumhlathi (a) luza— 25
 - (i) kumisa umgaqo-nkqubo wolo phando luka wonke-wonke oluya—
 - (aa) kuquka ukuva ingxelo kawonke-wonke; lize
 - (bb) lithobele imigaqo emiselwe umgaqo-nkqubo omawulandelwe malunga nophando lukawonke-wonke, njengoko kumiselwe;
 - (ii) kwenziwe uphando ngokwaloo mgaqo-nkqubo; 30
 - (iii) kwenziwe ingxelo ebhaliweyo ngophando kunikwe nezizathu zaso nasiphina isenzo solawulo esithathiweyo okanye esicebisayo; kuze
 - (iv) ngokukhawuleza emva koko, kubhengezwe ngesiNgesi kunye okufutshane nolunye ulwimi kwiGazethi okanye kwiGazethi yeloPhondo, isaziso esiqulathe— 35
 - (aa) ingxelo emfutshane; kunye
 - (bb) neendawo ezithile namaxesha apho ingxelo inokubonwa khona ize ikotshwe.
- (3) Ukuba ngaba umphathi ugqiba ekubeni alandele isaziso kunye nenkqubo-nkcazo, umphathi uya— 40
- (a) kuthatha amanyathelo afanelekileyo ukuba achaze ngesenzo solawulo kwabo banokuchaphazeleka ngokungalunganga ngaso aze abize inkcazo kubo;
 - (b) kucinga naziphina iinkcazo azifumeneyo;
 - (c) kugqiba ekubeni athathe okanye angathathi senzo solawulo ngaphandle kwenguqulo okanye kunye nenguqulo; aze 45
 - (d) kuthobela imigaqo emiselwe kumgaqo-nkqubo ofanele ulandelwe malunga nesaziso kunye neenkqubo-nkcazo, njengoko kumiselwe—
 - (a) ukuba kufanelekile yaye kulungile uMphathi angahluka kwiimfuno ezixeliweyo kwisiqendwana 1(a) kuye kutsho ku 1(e), (2) no (3).
 - (b) ukulolonga ukuba iyanthluko exeliweyo kumhlathi (a) ifanelekile kwaye ilungile, umphathi angathabatha zonke iimeko eziphathelele kuyo, kuquka— 50
 - (i) iinjongo zesiqendu esigunyazisayo;
 - (ii) uhlobo nenjongo yesenzo solawulo nokuba kufuneka sithathiwe;
 - (iii) isiphumo esinokulindelwa kweso senzo solawulo; 55
 - (iv) ukungxamiseka kokuba kuthathwe eso senzo solawulo okanye ukungxamiseka kwemibandela; okanye
 - (v) imfuno yokukhuthaza ulawulo olusebenzayo, olunempumelelo nolulungileyo.

Izizathu zesenzo solawulo

5. (1) Naye nawuphina umntu othe amalungelo akhe aphulwa ngobalulekileyo nangokungalunganga sisenzo solawulo nothe akanikwa zizathu zeso senzo, nje kwixeshana elizintsuku ezingama-90 emva kosuku athe loo nmtu wazi ngalo mayela neso senzo okanye abe ubelindeleke ukuba anganolwazi lweso senzo solawulo angacela 5
umphathi lowo ukuba amnike izizathu ezibhaliweyo ngeso senzo.

(2) UMphathi, isicelo esenziwe kuye kufuneka, nje kwixeshana elizintsuku ezingama-90 emva kokuba efumene eso sicelo, anike loo mntu izizathu ezibhaliweyo mayela neso senzo solawulo.

(3) Ukuba umphathi uyala ukunika izizathu zeso senzo kufuneka, ngokubhekiselele 10
kwisiqendwana (4) yaye ngaphandle kobungqina obubobunye, kuthathwe ukuba nakwezaphi iinkqubo zohlolo ukuba eso senzo solawulo sathathwa ngaphandle kwesizathu esilungileyo.

(4) (a) Umpathi angohluka kwiimfuno zokunika izizathu ukuba ngaba kufanelekile futhi kulungile kulo meko, yaye kufuneka axelele loo mntu wenze isicelo ngalo 15
yantlukwano.

(b) Ukulolonga ukuba iyantluko exeliweyo kumhlathi (a) ukuba ifanelekile yaye ilungile, umphathi uyakuthabatha zonke iimeko eziphathelele kuyo, kuquka—

- (i) iinjongo zesiqendu esigunyazisayo;
- (ii) uhlobo nenjongo nesiphumo esingalindeleka kweso senzo solawulo; 20
- (iii) uhlobo nobungakanani balo yantlukwano;
- (iv) ubudlelwane phakathi kweyantlukwano nenjongo;
- (v) ukubaluleka kwenjongo yeyantlukwano;
- (vi) nemfuno yokukhuthaza ulawulo olusebenzayo, olunempumelelo 25
nolulungileyo.

(5) Apho umphathi egunyazisiwe nguwo nawuphina umthetho ukuba alandele umgaqo-nkqubo ongenasheyi kodwa owahlukileyo kwisiqendwana (2), umphathi angayisebenzisa lo nkqubo yahlukileyo.

(6) Ukwenzela ukukhuthaza ulawulo olunempumelelo, uMphathiswa, ngesicelo somphathi, ngesaziso kwiGazethi, angapapasha uludwe oluchaza isenzo solawulo 30
okanye uluhlu okanye udidi lwezenzo zolawulo ayakuthi umphathi lowo anike izizathu kuloo mntu othe amalungelo akhe ophulwa ngokungalunganga seso senzo—

- (a) ngaphandle kokuba loo mntu ade abe ucele izizathu ngokwesi siqendu
- (b) umphathiswa, nje intsuku ezili-14 emva kokufumana isicelo esixeliweyo kumhlathi (a) yaye ngendleko zaloo mphathi, apapashe olo luhlu oluxeliweyo 35
kuloo mhlathi.

Uhlolo lwesenzo solawulo ezinkundleni

6. (1) Nawuphina umntu angafaka inkqubo enkundleni okanye enkundleni yamatyala mayela nohlolo lwesenzo solawulo.

(2) Inkundla okanye inkundla yamatyala inegunya lokuhlola isenzo solawulo 40
ukuba—

- (a) umphathi owasithathayo sona
 - (i) wayengavumelekanga ukuba asenze ngokwesiqendu esigunyazisayo;
 - (ii) wasenza phantsi kwegunya alinikwayo kodwa wayenga vunyelwanga ngokwesiqendu esigunyazisayo; okanye 45
 - (iii) waba nguqalagwebe okanye urhaneleka njalo;
- (b) inkqubo eyalelayo okanye imfuneko eyalelayo emiselwe ngumthetho zange athobeke yona;
- (c) isenzo sasingekho mgaqweni-nkqubo;
- (d) isenzo sasichatshazelwe kukungalandeli umthetho; 50
- (e) isenzo sathathwa—
 - (i) ngesizathu esingavunyelwanga sisiqendu esigunyazisayo;
 - (ii) ngeenjongo ezingaphaya okanye ngokungathembekanga;
 - (iii) ngenxa yeengcinga ezingekho ezathathwayo okanye ezikhoyo ezingazange zathathwa; 55
 - (iv) ngenxa yokubambelela ngokuqinileyo emigaqweni;
 - (v) ngenxa yemiyalelo engavumelekanga nengenanjongo yozwilakhe; okanye
 - (vi) ngokuzithandela, ngobubi okanye ngaphandle kokucinga kakuhle umbandela; 60

- (f) isenzo ngokwaso
 (i) saphula umthetho okanye asigunyaziswanga ngumthetho;
 (ii) asicacanga okanye siyaguquguquka; okanye
 (iii) asidibananga ngengqiqo ne—
 (aa) njongo esathathelwa sona; 5
 (bb) njongo yesiqendu esigunyazisayo;
 (cc) nkcazo ephambi komphathi; okanye
 (dd) zizathu esinekelwe sona ngumphathi;
 (g) isenzo eso sibe nokusilela ekubeni isigqibo sithathwe
 (h) ukusetyenziswa kwegunya okanye ukwenziwa komsebenzi ogunya— 10
 zisiweyo sisiqendu esigunyazisayo, ekwenzeni isenzo solawulo
 ekwakungathi sithathiwe, sabe sasingafanelekanga futhi singena-
 kusetyenziswa okanye senziwe ngumntu ofanelekileyo; okanye
 (i) isenzo asikho phantsi komGaqo-siseko okanye asikho mthethweni.
 (3) Ukuba naye nawuphina umntu ukholosa ngokuhlolwa okuxeliweyo kwisiqenwana 15
 (2) (g), uyakuthi ukuba kwaliwe ukuthathwa isigqibo, apho—
 (a) (i) umphathi efanele ukuthatha isigqibo;
 (ii) kungekho mthetho umisela ixesha lokuba umphathi kufuneka athathe
 ngaso isigqibo; yaye
 (iii) umphathi akakwazanga ukuthabatha eso sigqibo, 20
 afake umgaqo-ukqubo enkundleni okanye enkundleni yamatyala ukuba
 kuhlolwe oko kungakwazi ukuthabatha isigqibo phantsi komba othi kubekho
 ukulibaziseka okungafanelekanga ekuthatyathweni kweso sigqibo; okanye
 (b) (i) umphathi efanele ukuthatha isigqibo;
 (ii) umthetho umisela ixesha ekufanele ukuba umphathi athabathe ngaso 25
 isigqibo; yaye
 (iii) umphathi akakwazanga ukuthatha isigqibo phambi kokuba kuphele
 ixesha,
 afake umgaqo-nkqubo enkundleni okanye enkundleni yamatyala ukuba
 kuhlolwe oko kungakwazi ukuthatha isigqibo nje kwelo xesha libekiweyo 30
 phantsi komba othi umphathi ufanele ukuthatha isigqibo nangona ixesha
 ebekelinikiwe liphelile.

Inkqubo yohlolo

7. (1) Nayo nayiphina imigaqo-nkqubo yohlolo ngokwesiqendu 6(1) kufuneka ifakwe
 ngaphandle kokulibaziseka okungafanelekanga yaye kungabisemva kwentsuku 35
 ezingama-180 emva kosuku—
 (a) phantsi kwesiqendwana (2)(c) loo mgaqo-nkqubo ufakiwe phantsi koncedo
 lwangaphakathi olugqityiweyo noluxeliweyo kwisiqendwana (2)(a); okanye
 (b) apho olo ncedo lungekho khona athe loo mntu waxelelwa ngeso senzo
 solawulo, wazi futhi ngeso senzo nezizathu zoko okanye abe ubelindeleke 40
 ukuba anganolwazi lweso senzo nezizathu.
 (2) (a) Phantsi komhlathi (c) akukho nkundla okanye nankundla yamatyala
 eyakuhlola isenzo solawulo ngokwaloMthetho ngaphandle kokuba uncedo
 lwangaphakathi olukhona nakowuphina umthetho lube luqale lwasetyenziswa.
 (b) Phantsi komhlathi (c), inkundla okanye inkundla yamatyala, ukuba ayikholwanga, 45
 ukuba uncedo lwangaphakathi lwasetyenziswa, iyakuyalela ukuba loo mntu aqale
 asebenzise olo ncedo lwangaphakathi phambi kokuba afake umgaqo-nkqubo
 enkundleni okanye enkundleni yamatyala ukuba zihlole ngokwaloMthetho.
 (c) Inkundla okanye inkundla yamatyala, kwiimeko ezahlukeneyo, naxa loo mntu enza
 isicelo, akhulule loo mntu ukuba asebenzise uncedo lwangaphakathi ukuba inkundla 50
 okanye inkundla yamatyala ibona kufanelekile ngokwasebulungiseni.
 (3) ImiGaqo yebhodi zenkundla zoMthetho ezimiswe sisiqendu 2 soMthetho
 wemigaqo yeBhodi zeNkundla zoMthetho, 1985 (uMthetho Na. 107 ka 1985),
 uyakwenza uze uzalisekise imigaqo yenkqubo yokuhlola ezinkundleni, oku ikwenza nje
 unyaka omnye ungaphelanga emva kosuku loMthetho uqalisile ukusebenza. 55
 (4) Phambi kokuba iqalise ukusebenza imigaqo yenkqubo ephantsi kwesiqendwana
 (2), zonke iinkqubo zohlolo ezinkundleni kufuneka ziqalise kwiiNkundla
 eziPhakamileyo okanye kwiNkundla yomGaqo-siseko.
 (5) Nawuphina umthetho owenziweyo phantsi kwesiqendwana (3), phambi kokuba
 upapashwe kwiGazethi, kufuneka uvunywe yiPalamente. 60

Uncedo kwiinkqubo zohlolo ezinkundleni

8. (1) Inkundla okanye inkundla yamatyala, kwimigaqo-nkqubo zohlolo ngokwesiqendu 6(1), iyakunika umyalelo olungileyo nonobulungisa, kuquka imiyalelo—
- (a) oyalela umphathi— 5
 - (i) ukuba anike izizathu; okanye
 - (ii) enze njengoko inkundla okanye inkundla yamatyala ifuna;
 - (b) inqande umphathi ukuba enze ngendlela ethile;
 - (c) ibeke ecaleni isenzo solawulo ize—
 - (i) iphindisele umbandela kumphathi ukuba aphinde awucinge, yenze loo 10
nto inemiyalelo okanye ingenawo, okanye
 - (ii) kumatyala athile—
 - (aa) isebenzise endaweni okanye ijike eso senzo solawulo okanye
ilungise loo nto inebatha kweso senzo solawulo; okanye
 - (bb) iyalele umphathi okanye naye nawuphina omnye umntu 15
onxulumene nalo mgaqo-nkqubo ukuba abhatale imbuyekezo;
 - (d) abhengeze amalungelo abo bantu mayela nombandela onxulumene neso
senzo solawulo;
 - (e) anike usiko lwexeshana okanye nalo naluphina uncdo lwexeshana; okanye.
 - (f) enze nawo nawuphina umyalelo obhekiselele ezindlekweni. 20
- (2) Inkundla okanye inkundla yamatyala kwimigaqo-nkqubo yohlolo ngokwesiqendu 6(3), inganika umyalelo olungileyo nonobulungisa, kuquka imiyalelo—
- (a) kuyalelwe ukuthathwa kwesigqibo;
 - (b) ukubhengeza amalungelo abantu mayela nokuthathwa kwesigqibo;
 - (c) ukuyalela abantu ukuba benze okanye bangenzi nasiphina isenzo okanye into, 25
ukwenza okanye ukungenzi, nayiphina into inkundla okanye inkundla
yamatyala iyibona inyanzelekile ukwenza ubulungisa kwabo bantu; okanye
 - (d) inike iindleko.

Utshintsho lwexesha

9. (1) Ixesha lama— 30
- (a) 90 eentsuku ezixeliweyo kwisiqendu 6 zingancitshiswa; okanye
 - (b) 90 eentsuku okanye 180 eentsuku ezixeliweyo kwisiqendu 6 no 8
zingandiswa zinikwe ixesha elimileyo,
- ngemvumelwano phakathi kwamaqela aphikisanayo okanye, xa lo mvumelwano ingalunganga, ibe yinkundla apho umntu okanye umphathi lowo enze eso sicelo. 35
- (2) Inkundla okanye inkundla yamatyala iyakusivuma eso sicelo sixeliweyo kwisiqendwana (10 apho umdla neenjongo zobulungisa zisitsho.

Imimiselo

10. (1) Umphathiswa uyakwenza imimiselo ebhekiselele—
- (a) kwimigaqo-nkqubo emayilandelwe kwabanikezelwe igunya lokuba 40
ngabaphathi okanye ngokubhekiselele kwiindidi zesenzo solawulo
ukulungiselela ukuphuhlisa ilungelo kumgaqo-nkqubo ongenasheyi;
 - (b) kwimigaqo-nkqubo yokumisela inkqubo emayilandelwe malunga nophando
lukawonke-wonke;
 - (c) kwimigaqo-nkqubo yokumisela inkqubo emayilandelwe malunga nesaziso 45
kanye neenkqubo-nkcazo;
 - (d) kwimigaqo-nkqubo emayilandelwe malunga nezicelo zokufumana izizathu;
 - (e) kwingqokelela yomthetho ecwangcisiweyo ukwenzela ukunika abaphathi,
imigaqo nengxelo ekujongwe kuyo ukuze kukhuthazwe ulawulo
olunempumelelo nokuphumeza iinjongo zalo Mthetho. 50
- (2) UMphathiswa angeza imimiselo ebhekiselele—
- (a) uyilo, imisebenzi namandla ebhunga elicebisayo ukuba lujonge
ukusetyenziswa kwaloMthetho lize licebise uMphathiswa—
 - (i) kubhengezo olululo lwemigaqo eyodwa nesemgangathweni ekufanele
uthotyelwe ekusebenziseni isenzo solawulo, siquka ukuthotyelwa 55
nokucwangciswa kweencwadi eziqulethe imigaqo nesemgangathweni
emayisetyenziswe liziko likarhulumente;

- (ii) nakuzo naziphina iziphuhliso ezinokwenziwa malunga nezikhalazo zaphakathi, iinkqubo, izibheni zokuphatha zaphakathi kunye nohlolo ziinkundla zesenzo solawulo;
- (iii) kuyilo olululo lweenkundla ezizimeleyo nezingenakhethi, ukwandiswa kwezo nkundla, ukuba zihlale isenzo solawulo kunye, neenkundla zolawulo ezizodwa, ziquka iinkundla nje ezinegunya kuwo onke amaziko karhulumente okanye inani elithile lamaziko karhulumente, ukuba zize zimisele izibheni ezinxulumene nesenzo esilawulayo; 5
- (iv) kuhlobo olululo lokufuna abaphathi, ixesha ngexesha, ukubonelela ukuqhuba kwemigaqo yokuphatha kwabo kunye nokumisela imiqathango yokuphela kwemigaqo esemgangathweni; 10
- (v) kuqaliso, ukwenza ngokulungeleleneyo, udweliso lwenkqubo lokufundisa uwonke-wonke namalungu kunye nabaqeshwa babaphathi ngokubhekiselele kokuqulathwe kuloMthetho kunye nokukumGaqa-siseko okumayela nesenzo solawulo; 15
- (vi) nakuyo nayiphina into enophuhliso olujonge ekuqinisekiseni ukuba isenzo solawulo siyavumelana nolawulo olunobulungisa;
- (vii) nakuwo nawaphina amanyathelo anokusisa ekufumaneni zonke iimfuno zalo mthetho; kunye
- (viii) nakuyo nayiphina enye into enxulumene nokuba uMphathiswa angacela ingcebiso kuyo; 20
- (b) ukunqulungwa nokubhengezwa kwemithetho yokuziphatha yokubhaliswa lwemithetho nemigangatho ekufuneka ibe kuyo
- (c) ukuqalisa, ukwenza ngokulungeleleneyo udweliso lwenkqubo lokufundisa uwonke wonke namalungu kunye nabaqeshwa babaphathi ngokubhekiselele kokuqulathwe kuloMthetho kunye nakumgaqa-siseko okumayela nesenzo solawulo; 25
- (d) imibandela efunwa nevunye nguloMthetho ukuba imiselwe; kunye
- (e) nemibandela efanelekileyo noncedo emayimiselwe ukwenza
 - (i) ukuphumeza iinjongo zaloMthetho; okanye— 30
 - (ii) phantsi kwesiqendwana (3), enze oko akucetyisiweyo okanye ekuthiwe makakwenze libhunga elicebisayo exeliweyo kumphathi (a)
- (3) Esi siqendu masingatolikwa njengesigunyazisa uMphathiswa ukuba wenza imimiselo mayela nawo nawuphina umbandela ongamiselwa nguMthetho weNkonzo kaRhulumente na umGaqa-siseko okanye nawo nawuphina uMthetho. 35
- (4) Nawo nawuphina ummiselo
 - (a) owenziwe phantsi kweziqendwana (1)(a), (b) (c) no (d), kunye no (2)(c), (d), no (e), phambi kokuba zipapashwe kwiGazethi maziqale zivunye yiPalamente.
- (5) Nawo nawuphina ummiselo owenziwe phantsi kwesiqendu (10) no (2) eziyakuba nempembelelo yenkcitho kuRhulumente mazenziwe emva kokuvumelana noMphathiswa wezeMali. 40
- (6) Ummiselo okhankanywe kwisiqendwana (1)(e) kufuneka uvunye yiKwabhinethi yaye kufuneka wenziwe iminyaka embini ingaphelanga emva kokuqala kwalomthetho.

Igama elifutshane noqaliso

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11. LoMthetho ubizwa ngokuba nguMthetho weNkuthazo wokuPhatha ngobuLungisa, 1999, yaye uyakuqula ukusebenza ngomhla oyakutyunjwa nguPrezidanti ngokubhengeza isiHlomelo kwiGazethi.

