ISAZISO SAHULUMENI WENDAWO
UMASIPALA WASENDUMENI
IMITHESHWANA EPHATHELENE NEZAKHIWO NEZINDAWO ZOKUKHULULEKA ZOMPHAKATHI

UMphathi waMasipala lapha umemezela, ngokweSigaba 13 soMthetho waHulumeni weNdawo: Izinhlelo zaMasipala, 2000 [uMthetho Nombolo 32 we-2000] ufundwa kanye neSigaba 162 soMthethosisekelo waseRiphabhlikhi yaseNingizimu Afrika, 1996 [uMthetho Nombolo 108 we-1996], uMtheshwana ophathelene neZakhiwo neZindawo zokukhululeka zoMphakathi.

Inhloso YoMtheshwana

Inhloso yalo mtheshwana:

(a) Ukulawula ukusetshenziswa ngendlela efanele kwezakhiwo nezindawo zokukhululeka zomphakathi: kanye
(b) Nokumisa izinqubo, izindlela zokwenza nezinhlelo zokulawula ukusetshenziswa nokuqashiswa kwezakhiwo zamasipala.

ISAHLUKO 1
UKUHUMUSHA

1. **Incazelo** – Kulo mtheshwana, ubunye bubandakanya ubuningi okanye kuguqukezelwe, okanye ngaphandle uma ingqikithi isho okunye –
'isixhumelelo' sisho noma yini efakiwe noma into yokusebenza noma esakhiweni samasipala, futhi kubandakanya, ngale kokululaza okuchazwe phambilini, okhiye, izihluthulelo, amawindi, izindlu zangasese, obheseni, ompompi bamanzi nokubethelwe odongeni;

'Isikhulu Esigunyaziwe' sisho –
(a) isikhulu samasipala esigunyazwe ngumphathi yiwo ukulawula, ukwenza, nokuphoqa ukuthotshelwa kwezimiso zalo mtheshwana;
(b) isiphathimandla somgwaqo esiqokwe ngokulandela iSigaba 3A soMthetho Kazwelonke Wokuhamba Kwezithuthi Emgwaqeni we-1996 [uMthetho nombolo 93 we- 1996];
(c) ilungu lombutho wamaphoyisa, njengoba sichazwe ngokulandela iSigaba 1 soMthetho Wombutho Wamaphoyisa eNingizim Afrika we-1995 [uMthetho Nombolo 68 we-995]; noma
(d) isiphathimandla sokuthula, esihlongozwe ngokulandela iSigaba 1 soMthetho Wenqubo yokuthethwa Kwamacala we-1977 [uMthetho Nombolo 51 we-1977];

'umkhandlu' usho umkhandlu wamasipala, noma wanoma yisiphi isakhiwo sezepolitiki, umphathisikhundla kwezepolitiki sezepolitiki, ikhansela, noma ngumuphi umsebenzi osebenza ngokugunyazwa noma isakhiwo esingaphansi esinikezwe igunya ngumkhandlu;

'umqashiselwa' usho noma yimuphi umuntu osebenzisa, okhokha, noma othola igunya lokusebenzisa isakhiwo noma izindawo zokukhululeka zomphakathi;

'isakhiwo samasipala' sisho indlu, ihholo, ikamelo noma ihhovisi, kubandlakanya nanoma yiyiphi ingxenye yaso nokusentshenziswa ngaphakathi, okuyimpahla, noma okulawulwa noma kuqashiswa ngumasipala, futhi okusetshenziswa ngumphakathi, kungaba ukhokha imali yokungena noma awuyikhokhi;

'umasipala' usho uMasipala WaseNdumeni, omiswe ngokulandela iSigaba 12 soMthetho Wezakhiwo ZaMasipala we-1998 [uMthetho Nombolo 117 we-1998], futhi ubandakanya noma yisiphi isakhiwo sezepolitiki, umphathisikhundla kwezepolitiki, ikhansela, isithunywa salo esigunyazwe ngokomthetho noma yinoma ngumuphi

umsebenzi walo omele ukusebenza kwalo mtheshwana ngokwamandla agixabezwe umkhandlu, futhi adluliselwe noma aphinde adluliselwe leso sakhiwo sezepolitiki, lowo mphathisikhundla kwezepolotiki, lelo khansela, lowo mkhulumeli noma lowo msebenzi;

'isaziso' sisho isaziso esisemthethweni esixhonye lapho kungenwa khona, noma endaweni ebonakalayo ngaphakathi noma esakhiweni noma endaweni yokukhululeka yomphakathi, nalapho umasipala uyomemezela izimiso nemiyalelo emukelwe yiwo ngokulandela lo metheshwana;

'inkathazo' isho, ngale kokululaza ukwaziwa okujwayelekile kwegama, isenzo, iphutha, isimo noma ukwenzeka kwezinto -

(a) okuthiya, okucunula, okufaka engozini noma okuphazamisa umphakathi ngothi lwayo; noma

(b) okudala ukuphazamiseka okubonakalayo ekusebenzeni noma ekuzithokoziseni ngesakhiwo samasipala noma ngendawo yokukhululeka yomphakathi, futhi 'inkathazo emphakathini' iyoba nencazelo efanayo;

'umuntu' usho umuntu ongowokuzalwa noma ongowongokomthetho, futhi kubandakanya ukuhlanganyela ngokuzinikela kwabantu abangokokuzalwa noma abangokomthetho;

'Imali emisiwe ekhokhwayo' isho imali ekhokhwayo emiswe ngesinqumo samasipala yokuqasha isakhiwo samasipala noma yokusebenzisa indawo yokukhululeka yomphakathi;

'indawo yokukhululeka yomphakathi' isho noma ngumuphi umhlaba, ibala, indawo yokumisa amatende, iziziba zokubhukuda, indawo evakashelwayo, indawo yokungcebeleka, isiqiwi semvelo, ipaki lezilwane, lezimila noma yiliphi elinye ipaki noma umzila wokuhamba okuyindawo yamasipala, kubandakanya noma yiyiphi ingxenye yayo nalokho okusetshenziswa kuyo; futhi

'umsebenzisi' usho noma ngumuphi umuntu osebenzisa ngqo, noma ozuza ngqo esakhiweni samasipala noma endaweni yokukhululeka komphakathi.

ISAHLUKO 2
UKUSETSHENZISWA KWEZAKHIWO ZAMASIPALA NEZINDAWO ZOKUKHULULEKA ZOMPHAKATHI

2. **Isibalo Esikhulu Sokugcina Sabavakashi**

(1) Umasipala unganquma isibalo esikhulu sokugcina sabavakashi abangaba khona ngesikhathi esithize noma esakhiweni samasipala noma endaweni yokukhululeka yomphakathi.

(2) Isibalo esiihlongozwe esigatshaneni (1) siyomenyezelwa ngumasipala ngesaziso.

3. **Ukungena Esakhiweni Samasipala Noma Endaweni Yokukhululeka Yomphakathi**

(1) Isakhiwo samasipala noma indawo yokukhululeka yomphakathi, kweyame ezimisweni zalo mtheshwana, ivulelwa umphakathi ngezikhathi ezinqunywe ngumasipala, futhi zimenyezelwa ngesaziso.

(2) Akekho umvakashi oyongena noma aphume esakhiweni samasipala noma endaweni yokukhululeka yomphakathi ngentuba engenalo uphawu lwaleyo nhloso.

4. **Ukungena Nokusetshenziswa Ngabantu Abakhubazekile**

(1) Umasipala uyoqiniseka ukuthi zonke izintuba zokungena nokuphuma esakhiweni samasipala noma endaweni yokukhululeka yomphakathi zakhiwe ngendlela elungele nevumela ukungena kwabantu abakhubazekile.

(2) Isakhiwo samasipala siyoba nendawo ekhuphuka ngezinyawo, amakheshe noma izinto zokusebenza nezinsiza ezifana nawo ukwenza lula ukusetshenziswa kwazo ngabantu abakhubazekile.

(3) Akukho okuqukethwe kulesi sigaba okuyohunyushwa sengathi kunciphisa izimfuno zoMthetho KaZwelonke WeZimiso Nemigomo Yezakhiwo we-1977 [uMthetho Nombolo 103 we-1977] nanoma ngumuphi omunye umgomo omenyezelwe ngokulandela leyo ndlela.

5. **Imali Yokungena**

(1) Umvakashi esakhiweni samasipala noma endaweni yokukhululeka yomphakathi uyokhokha imali yokungena, njengokunquma kwamasipala njalo emva kwesikhathi, futhi leyo mali iyomenyezelwa ngesaziso.

(2) Kunganqunywa izimali ezehlukene mayelana nabudala babavakashi obehlukene, futhi umasipala ungaxolela amaqembu athile abantu ukuba angayikhokhi imali yokungena, kube sekutheni lokho kuxolelwa akukhona ukubandlulula ngokungemthetho.

6. **Inkathazo**

(1) Akukho muntu oyokwenza noma avumele noma yiziphi izenzo ezilandelayo esakhiweni samasipala noma endaweni yokukhululeka yomphakathi ngaphandle kwemvume yamasipala ebhalwe ngaphambilini-

(a) ukudutshulwa kwezikhali, kwezibhamu, kwevolovolo noma ukusetshenziswa kwemicibisholo, kweminsalo, kwendwayimane, kwezihlilingi, noma kwezinye izikhali;

(b) ukuqhumisa izikwibhisi, kube sekutheni izidingo zoMthetho Weziqhumane we-2003 [uMthetho Nombolo 15 we-2003 nanoma yisiphi esinye isimiso esimenyezelwe kanjalo siyalandelwa uma lowo muntu ethola imvume yamasipala ebhalwe ngaphambilini;

(c) ukushiswa kwemvithiza noma inkucuza;

(d) ukubanga iphunga elibi noma elinyanyisayo;

(e) ukukhiqiza intuthu eyinkathazo;

(f) ukuphazamisa ngokulwa, ngokumemeza, noma ngokuxabana, noma ngokusebenzisa izandisamsindo, imisakazo, omabonakude, noma ukucasula umphakathi; noma

(g) ukudala, noma yingayiphi enye indlela, inkathazo, ukuthikameza, ukuphazamisa, noma ukucasula, umphakathi.

(2) Isikhulu esigunyaziwe, ngesikhathi somcimbi womqashiselwa, singayala ukuthi umqashiselwa asuse esakhiweni samasipala noma endaweni yokukhululeka yomphakathi noma ngumuphi umuntu esimweni sokudakwa futhi oziphethe ngendlela yokudelela, noma oyinkathazo noma ocasula abanye abantu esakhiweni samasipala noma endaweni yokukhululeka yomphakathi noma kubahlali benye ingxenye yesakhiwo samasipala noma endaweni yokukhululeka yomphakathi noma ezindlini zomakhelwane.

(3) Isikhulu esigunyaziwe, ngesikhathi somcimbi womqashiselwa, singayala ukuthi umqashiselwa enqabe ukungena esakhiweni samasipala noma endaweni yokukhululeka yomphakathi noma ngumuphi umuntu esimweni sokudakwa futhi oziphethe ngendlela yokudelela, noma oyinkathazo noma ocasula abanye abantu esakhiweni samasipala noma endaweni yokukhululeka yomphakathi noma kubahlali benye ingxenye yesakhiwo samasipala noma endaweni yokukhululeka yomphakathi noma ezindlini zomakhelwane.

7**.** **Ezempilo**

Akukho muntu esakhiweni samasipala noma endaweni yokukhululeka yomphakathi -

(a) oyolahla, awise noma abeke noma yiyiphi inkucuza, imvithi noma impahla noma enye into, noma oyovumela lokho ukuba kwenzeke, ngaphandle

kusesitsheni esihlinzekelwe ukwenza lokho esakhiweni samasipala noma endaweni yokukhululeka yomphakathi;

(b) oyonukubeza noma angcolise amanzi esizibeni sokubhukuda, edanyini, emfudlaneni, emfuleni, emchachazweni wamanzi, noma enye indlela yokuletha amanzi; noma;

(c) oyokwenza noma yisiphi isenzo esingakhubaza kabuhlungu impilo yomvakashi esakhiweni samasipala noma endaweni yokukhululeka yomphakathi.

8. **Izakhiwo**

(1) Akukho muntu, ngaphandle kwemvume ebhaliwe ngumasipala ngaphambilini, oyokwakha, noma amise, esakhiweni samasipala noma endaweni yokukhululeka yomphakathi, esinye isakhiwo noma umpheme noma enye into efana nayo.

(2) Ngaphandle kwezimiso zesigatshana (1), umuntu angamisa umahambanendlwana/ikharaveni noma agxumeke itende ngenhloso yokuhlala yokukhululeka yomphakathi, kube sekutheni lowo mahambanendlwana noma itende limiswe noma ligxunyekwe endaweni ehlukaniselwe leyo nhloso ngesaziso.

9. U**tshwala Nokudla**

(1) Akukho muntu oyoletha esakhiweni samasipala noma endaweni yokukhululeka yomphakathi noma nguluphi uphuzo noma ukudla, noma okwaluhlobo luni, ngaphandle uma evunyelwe ngemvume noma ngesaziso esibhaliwe, kube sekutheni –

(a) ukulungisa nokuphekwa kokudla esakhiweni samasipala noma endaweni yokukhululeka yomphakathi kwenziwa –

(i) endaweni ehlukaniselwe leyo nhloso; futhi

(ii) ngendlela ehlanzekile nenempilo; futhi

(b) akukho silwane, inkukhu noma inhlanzi engabulawa noma ihlinzwe esakhiweni samasipala noma endaweni yokukhululeka yomphakathi, ngaphandle uma evunyelwe ngemvume noma isaziso esibhalwe ngaphambilini.

10. **Izilwane**

(1) Akukho muntu oyoletha noma yisiphi isilwane, inyoni, inhlanzi noma inkukhu esakhiweni samasipala noma endaweni yokukhululeka yomphakathi, kube sekutheni –

(a) umuntu okhubazeke ngokungaboni uhamba nenja: futhi

(b) umasipala ukhiphe imiyalelo mayelana nokwahlukile ngokwezenqabelo ezishiwo phambilini.

(2) Imiyalelo ehlongozwe esigatshaneni (2)(b) iyomenyezelwa ngesaziso.

11. Ukusetshenziswa Kwezakhiwo Zamasipala Nezindawo Zokukhululeka Zomphakathi

(1) Mayelana nokusetshenziswa kwesakhiwo samasipala nendawo yokukhululeka yomphakathi, akukho muntu -

(a) oyohlela noma ethule okokuthokozisa umphakathi;

(b) oyoqoqa imali noma enye impahla esingumnikelo wesihle noma ngenye inhloso emphakathini;

(c) oyokhangisa noma asabalalise noma yiphi incwajana, iphepha lesaziso, umdwebo, incwadi, incwadi yesikweletu, noma ngumuphi umsebenzi oshicilelwe noma obhaliwe noma odwetshiwe;

(d) oyohlela, abambe noma akhulume kunanoma ngumuphi umhlangano;

(e) oyohlela noma abambe noma umhlangano womphakathi noma umshongolo, umbukiso noma umgido;

(f) oyokwenza noma nguluphi uhwebo, umsebenzi noma ibhizinisi;

(g) oyokhangisa, adayise, aqashise noma alethe ukuze adayise noma aqashise, noma iyiphi impahla noma into; noma
(h) oyokwenza indali,

kuleso sakhiwo samasipala noma indawo yokukhululeka yomphakathi, ngaphandle uma ethole imvume ebhalwe ngaphambilini kumasipala, noma leso senzo sivunyelwe ngokulandela izimiso zokuqashisa ezihlongozwe esahlukweni salo mtheshwana.

(2) Akukho okuqukethwe kulesi sigaba okuyohunyushwa ngokunciphisa -
(a) imibandela yoMthetho Wokulawulwa Kwemibuthano we-1993 [uMthetho Nombolo 205 we-1993]; noma
(b) noma yiliphi ilungelo lomuntu ngokomthethosisekelo ukuba ahlanganise, abhikishe, aqhinqe noma ethule isikhalo.

12. **Ukuphepha Nokuziphatha Ngobuqotho**

(1) Kweyame esigatshaneni (2), akukho muntu -
(a) oyolimaza noma onakalise;
(b) oyosebenzisa, noma azame ukusebenzisa, noma yini ngenhloso okungeyona ebalulwe noma eqagulwe ngesaziso;
(c) oyokokhela umlilo noma apheke ukudla, ngaphandle uma kwasezindaweni ezihlukaniselwe leyo nhloso ngesaziso;
(d) oyogeza noma yiziphi izitsha noma izingubo, noma alengise lezo zingubo, ngaphandle kwasezindaweni ezihlukaniselwe leyo nhloso ngesaziso,

esakhiweni samasipala noma endaweni yokukhululeka yomphakathi;

(2) Umasipala, ngesaziso, futhi kweyame kulezo zimiso njengoba umasipala ubona kudingeka, futhi ukuphawulile esazisweni leso, ungagunyaza noma yisiphi sezenzo ezihlongozwe esigatshaneni (1), noma ezimisweni ezifanele zokuqashisa.

ISAHLUKO 3
UKUQASHISA NGEZAKHIWO ZAMASIPALA

13. **Ukubambisana Kweminyango Yamasipala**

Umnyango nomnyango wamasipala owengamele noma ophethe noma yisiphi isakhiwo samasipala kumele ubambisane nalowo mnyango ekwenzeni isiqiniseko sokuthi –

(a) leso sakhiwo samasipala sinakeleke ngendlela yokuthi sikulungele ukufeza inhloso esehlukaniselwe yona futhi siyasetshenziswa; futhi
(b) kweyame ezimisweni zesigaba 19, ayikho ingxenye yaleso sakhiwo samasipala esinikezelwa noma esiqashiselwa, abantu abangaphezu koyedwa ngesikhathi esifanayo.

14. **Isicelo Sokuqasha Isakhiwo Samasipala**

(1) Noma ngumuphi umuntu onesifiso sokufaka isicelo sokuqasha isakhiwo samasipala kufanele –
(a) afake isicelo kumasipala ngefomu elilungiselwe leyo nhloso ngumasipala;
(b) agagule ngokucacile kuleso sicelo –
(i) isakhiwo samasipala, uhlelo lokuhlala, indawo nempahla ezosetshenziswa edingekayo; kanye
(ii) nesikhathi okuzodingwa ngaso isakhiwo samasipala;
(c) aqiniseke ukuthi lelo fomu lokufaka isicelo umasipala usithola zingakadluli izinsuku ezingama-30 ngaphambi kosuku isakhiwo samasipala umfakisicelo asidinga ngaso okokuqala, kube sekutheni leso sikhathi singaxegiswa ngumasipala, kweyame ekutheni sisetshenziswa kangakanani leso sakhiwo samasipala.

(2) Umasipala ungenqaba ukuqashisa noma yisiphi isakhiwo samasipala ngokulandela isigatshana (1), noma usule noma ngukuphi ukubekiswa kwaso uma –

(a) isakhiwo samasipala sizosetshenziselwa inhloso engemthetho; noma

(b) isakhiwo samasipala sidingwa ngesikhathi esifanayo ngumasipala ngoba uzosisebenzisa, kube sekutheni umasipala ukhipha isaziso okungenani kusenezinsuku eziyi-14 sokuhoxisa noma ngukuphi ukubekiswa kwesakhiwo okwenziwe..

(3) Akukho sinxephezelo esiyokhokhelwa umqashiselwa ngumasipala ngokulahlekelwa komqashiselwa ngesizathu sesenzo samasipala ngokulandela isigatshana (2), kube sekutheni umasipala uyobuyisa zonke izimali ezibizwayo ngokufaka isicelo.

(4) Umqashiselwa uphoqeleke ukuba asebenzise isakhiwo samasipala esibalulwe efomini lesicelo, futhi akumele asebenzise esinye isakhiwo samasipala engacelanga ukusisebenzisa.

(5) Isakhiwo samasipala esiqashwe ngaleyo ndlela, ngaphandle kwemvume ebhalwe phambilini ngumasipala, singesetshenziselwe enye inhloso okungesiyo esishiwo efomini lesicelo noma esibalulwe ezimisweni zokuqasha.

15. **Uhlelo Lwezimali Ezikhokhwayo**

Umasipala unganquma uhlelo lwezimali ezimisiwe zokuqasha izakhiwo zamasipala ezihlinzekwa ngumasipala ngokulandela lo mtheshwana, njalo emva kwesikathi,

16. **Ukukhokhwa Kwezimali Ezibizwayo**

Akukho muntu oyovunyelwa ukusebenzisa noma yisiphi isakhiwo samasipala ngaphandle uma imali emisiwe ephelele, lapho kufanele khona, ingakhokhiwe, kube sekutheni umasipala ungaxolela noma ngumuphi umuntu noma inhlangano, ngesizathu esilungile, angakhokhi yonke imali emisiwe, noma ingxenye yayo.

17. **Isikhathi Sokuqasha**

Ngaphandle kwanoma yisiphi isinqumo esenziwe ngumasipala mayelana nezinsuku nesikhathi nobungako besikhathi isakhiwo samasipala esingaqashwa ngaso, umasipala ungavumela umqashiselwa isikhathi esifanele sokungena esakhiweni samasipala ngaphambi kosuku lokuqala kwesikhathi asiqasha, ukuze umqashiselwa akwazi ukwenza amalungiselelo ahlele okudingekayo, kodwa kweyame ekutheni umqashiselwa uzikhokhe ngaphambili izimali ezimisiwe.

18. **Ukuguqula Isikhathi Sokuqasha**

(1) Noma ngumuphi umuntu ofaka isicelo sokusebenzisa isakhiwo samasipala ngokulandela isigaba 14, kulandela ukugunyazwa kwaleso sicelo, nokubekiswa kwaleso sakhiwo samasipala, angafaka isicelo sokuhlehlisela lokho kubekiswa kolunye usuku, ngaphandle kwesijeziso noma ukulahlekelwa, kube sekutheni kungenqatshwa uma leso sakhiwo samasipala, ngaleso sikhathi, sibekisiwe ukuze sisetshenziswe ngomunye umuntu ngosuku okucelwa ukuba luhlehliswe.

(2) Noma ngumuphi umuntu osefake isicelo sokubekisa isakhiwo samasipala angahoxisa lokho kubekisa, kube sekutheni uma -

(a) ukubekisa kusulwa inyanga eyo-1 noma ngaphezulu ngaphambi kosuku lokuqala lwalokho kubekiswa, umqashiselwa kumele abuyiselwe yonke imali emisiwe aseyikhokhile;

(b) ukubekisa kusulwa izinsuku ezingaphezu kwezinsuku eziyi-15 kodwa ngaphansi kwenyanga eyo-1 ngaphambi kosuku lokuqala lwalokho kubekiswa, umqashiselwa kumele abuyiselwe ama-50% emali emisiwe;

(c) ukubekiswa kusulwa ezinsukwini eziyi-15 noma ngaphansi ngaphambi kosuku lokuqala lwalokho kubekiswa, umqashiselwa akumele abuyiselwa noma yiyiphi imali emisiwe.

(3) Noma ngumuphi umuntu angelula isikhathi sokuqasha isakhiwo samasipala ngesicelo esibhaliwe kumasipala ngendlela ehlinzekwe esigabeni 14(1), kube sekutheni -

(a) isaziso sezinsuku ezingama-30, njengoba sihlongozwe ngokulandela isigaba 14(1)(c), asisetshenziswa;

(b) isakhiwo samasipala othintekayo ngaleso sikhathi, awusibekisile ukuze sisetshenziswe ngomunye umuntu.

19. **Ukuqashisa Ngokuhlanganyela**

(1) Umasipala ungavumela noma yisiphi isakhiwo samasipala noma ingxenye yaso ukuba sisetshenziswe abaqashiselwa abehlukene sikhathi sinye.

(2) Uma kwenzeka kuba nokusetshenziswa sikhathi sinye, umqashiselwa ngamunye kufanele asebenzise noma yiziphi ezinye izindawo zokukhululeka zomphakathi ezisebenzayo noma eziyingxenye yesakhiwo samasipala –

(a) ngokuhlanganyela nabanye abaqashiselwa; futhi

(b) nangendlela yokuthi bonke abaqashiselwa, izimenywa, abasekeli, abathengi, abasebenzi, abenzeli, abaqondisi noma ezinye izithunywa zakhe ziyakuthokozela ukusebenzisa isakhiwo samasipala esisetshenziswayo ngaphandle kokuqonela ilungelo labanye abasebenzisi.

(3) Izimiso zalo mtheshwana, zifundwa nezinguquko ezifanele, zisebenza ngokuhlanganyela kubasenzisi besakhiwo samasipala esiqashiwe.

20. **Ukuqashisela Omunye**

Umqashiselwa angekwazi -

(a) ukuqashisela omunye noma yisiphi isakhiwo esiqashiwe noma samasipala omunye umuntu noma inhlangano;

(b) ukuyeka, ukubambisa, noma ukudlulisela, komunye umuntu noma yiliphi ilungelo noma isibopho sakhe ngaphansi kwalo mtheshwana; futhi

(c) ukuvumela omunye umuntu ahlale esakhiweni samasipala ngaphandle kwemvume yamasipala ebhalwe ngaphambilini.

21. **Isimo Sesakhiwo Samasipala**

(1) Umqashiselwa kufanele ahlole isakhiwo samasipala esiqashisayo, kubandakanya konke okufakiwe, okusetshenziswayo, okuxhunyiwe, izitsha nempahla yasendlini, ngaphambi kokuqala ukusebenzisa lokho okufakiwe, okusetshenziswayo, okuxhunyiwe, izitsha nempahla yasendlini.

(2) Uma umqashiselwa ethola ukuthi lokho okufakiwe, okusetshenziswayo, okuxhunyiwe, izitsha nempahla yasendlini esakhiweni samasipala akulungile, umqashiselwa kumele akubike lokho kumasipala.

(3) Uma umqashiselwa ehluleka kungaba ukuhlola isakhiwo samasipala ngokulandela isigatshana (1), noma ukubika noma nguluphi ufa olutholakele ngokulandela isigatshana (2), kuyothathwa ngokuthi, lapho umqashiselwa eqala ukuhlala, yonke into noma isakhiwo samasipala sasilungile.

22. **Izibopho Zomqashiselwa**

Noma ngumuphi umuntu oqasha isakhiwo samasipala kumele -

(a) alandele zonke izinyathelo ezifanele ukugcina amapayipi endle, ompompi nemisele yamanzi esakhiweni noma ephakela isakhiwo samasipala engathikamezekile noma engavalekile ngenxa yemicimbi yomqashiselwa;

(b) ngazo zonke izikhathi agcine isakhiwo samasipala sisesimweni esihlanzekile, esihlelekile nesinempilo;

(c) angaxhomi noma anamathelise esakhiweni samasipala noma yiziphi izaziso noma enye into, ngaphandle kwemvume yamasipala ebhalwe ngaphabilini, kube sekutheni ekupheleni kokuqashwa, umqashiselwa ususa zonke lezo zinto ezinanyathelisiwe;

(d) angasithabezi noma yisiphi isibuko samafasitela ngokusipenda noma ngenye indlela;

(e) angashayeleli izipikili ezindongeni noma kumaphathishini noma ezicabheni zesakhiwo samasipala;

(f) angaguquli noma athikameze noma athwese ngokweqile noma yikuphi kwagesi okufakiwe esakhiweni samasipala;

(g) angasusi noma akhiphe noma iyiphi impahla noma enye into okungeyamasipala;

(h) avimbe noma athikameze noma athintathinte noma iyiphi ithemostethi noma isiguqulamoya esakhweni samasipala;

(i) angenise noma afake noma yini engaphephile noma into, impahla, okuxhunyiwe, izisetshenziswa noma into yokusebenza esindayo, ngokubona kwamasipala okufanele, okungalimaza isakhiwo samasipala noma ingxenye yaso, kube sekutheni umasipala ungaphoqelela, uma kungeniswa leyo nto, lezo zimiso ezifanele ukuqikelela ukuphepha kwesakhiwo samasipala nabasebenzisi baso;

(j) angafaki esakhiweni samasipala noma iyiphi ingxenye noma into eguqula umoya noma efaka umoya, ngaphandle kwemvume yamasipala ebhalwe ngaphambilini;

(k) angavumeli ukugcinwa kwezimoto noma enye into ehambayo yanoma luphi uhlobo onqenqemeni, endaweni yokungena emahholo, ezitebhisini noma emaphasejini esakhiwo samasipala;

(l) angenzi lutho noma avumele kwenziwe into, engahambisani nomyalelo noma isenqabelo esifanele esinikezwe noma esikhishwe ngumasipala;

(m) angashiyi izithuthi, noma avumele ukushiywa kwezithuthi ngabavakashi, ngabathengi, abasekeli, ngabasebenzi, ngabenzeli, ngabaqondisi noma ngezinye izithunywa zakhe noma yilaphi esakhiweni samasipala, ngaphandle kwasezindaweni eyehlukaniselwe ukushiywa kwezithuthi, noma njengoba kusho isikhulu esigunyaziwe.

23. **Ukulimala Kwempahla**

(1) Umqashiselwa ohluleka ukugcina nokunakekela isakhiwo samasipala esimweni esifana naleso esasikuso esiqasha uyobekwa icala.

(2) Ngaphezu kwanoma yiliphi ikhambi umasipala onalo ngokwemithetho yabantu, umqashiselwa uyokhokha ngokulandela izimiso zezijeziso ezibalulwe kulo mtheshwana.

24. **Izikhangiso Nemihlobiso**

(1) Akukho muntu ofake isicelo sokuqasha isakhiwo samasipala ongamemezela noma akhangise ingcaca noma ngumuphi umsebenzi noma umcimbi okusafakwe isicelo sokuqasha leso sakhiwo samasipala, ngaphambi kokuba umasipala sewumazisile lowo muntu ngencwadi ukuthi isicelo semukelwe.

(2) Noma ngumuphi umqashiselwa, ngaphambi kokushiya isakhiwo samasipala asiqashile, ekupheleni kwesikhathi sokuqasha, uyosusa wonke amaphosta, izaziso, imihlobiso, amaflegi, iziphandla, izimpawu, nezinye izinhlobo zokukhangisa noma zokukhombisa ezakhiwe noma ezigxunyekwe nguyena, futhi alungise umonakalo odalwe ngukususwa kwalokho.

25. **Ukungena, Abangenisi Nokuthengiswa Kwamathikithi**

Umqashiselwa uyoba nesibopho ngawo wonke amalungiselelo mayelana –

(a) nokungena kwamlungu omphakathi kunoma yimiphi imicimbi yamasiko noma eminye esakhiweni samasipala;

(b) nokubakhona kwabangenisi, kanye nabanye abantu abadingekayo ukulawula ukungena kwabantu esakhiweni samasipala; kanye

(c) nokuthengiswa kwamathikithi.

26. **Ukuminyana**

(1) Ukuminyana esakhiweni samasipala akuyovunyelwa nganoma yisiphi isikhathi ngesikhathi semicimbi yomqashiselwa.

(2) Umqashiselwa kufanele alandele izimiso zamasipala ezibeka inani elikhulu lokugcina labantu abavunyelwe esakhiweni samasipala emicimbini.

(3) Ngale kokunciphisa izidingo ezijwalekile ezichazwe esigatshaneni (1) nese-(2), umqashiselwa akayukuvumela esakhiweni samasipala abantu abangaphezu kwenani lezihlalo ezikhona, noma, lapho izihlalo zingekho khona, inani labantu eliphezulu lokugcina elimiswe ngesaziso esakhiweni samasipala, noma njengoba libalulwe ezimisweni zokuqashisa.

27. **Ukuthengiswa Kokudla Neziphuzo**

(1) Akukho muntu ongathengisa ukudla noma iziphuzo esakhiweni samasipala esiqashiwe ngesikhathi somcimbi, ngaphandle kwemvume yamasipala ebhalwe ngaphambilini.

(2) Umasipala ungavumela ukuthengiswa kokudla neziphuzo yilowo muntu njengoba kungagunyazwa, emva kokuba esethole isicelo sokuthengisa lezo zinto, futhi umasipala unganika labo bantu abagunyaziwe indawo eyanele, lapho impahla ethengisayo, kungahlaliswa nempahla yasendlini nezinto zokusebenza, okufakiwe nezincwadi ezidingekayo kulokho kuthengisa.

(3) Izimiso zezigatshana (1) nese- (2) azisebenzi uma ukukhipha nokuthengiswa kokudla neziphuzo kuyingxenye esemqoka yemicimbi yomqashiselwa.

(4) Umasipala awuyukuba nasibopho sokukhokhela umqashiselwa noma omunye umuntu isinxephezelo ngenxa yokulahleka, yokwebiwa noma yokulimala kwezinto ezichazwe esigatshaneni (2) ngenxa yanoma yisiphi isizathu, ngaphandle uma lokhu kulahleka, kwebiwa noma kulimala kungenxa yokwenza ngenhloso noma ngephutha noma ngobudedengu bamasipala.

28. **Imisebenzi**

(1) Uhlobo lwemisebenzi yamasipala okumele ihlinzekwe esakhiweni samasipala iyonqunywa ngokwentando yamasipala.

(2) Umasipala awuyobekwa icala ngenxa –

(a) yokungemukeli noma yokungathunyelwa kwempahla, okuposiwe noma imiyalezo yomqashiselwa;

(b) yokulahleka, ukwebiwa noma ukulimala kwempahla yomqashiselwa, noma yezimenywa, yabathengi, yabasekeli, yabasebenzi, yabenzeli, yabaqondisi noma ezinye izithunywa zakhe okungabe ziyifake noma ziyishiye esakhiweni samasipala noma kwenye ingxenye yaso, ngaphandle uma lokhu kulahleka, kwebiwa noma kulimala kungenxa yokwenza ngenhloso noma ngephutha noma ngobudedengu bamasipala.

(3) Umasipala ungathatha lezo zinyathelo ongazibona zidingeka mayelana nokunakekeleka nokusetshenziswa kwezindawo zawonke wonke esakhiweni samasipala.

(4) Isikhulu esigunyaziwe singathamela noma sibe khona emsebenzini womqashiselwa, ukuqiniseka ukuthi ziyalandelwa izimiso zalo mtheshwana.

(5) Umqashiselwa akanagunya lokusebenzisa isiphathimandla esigunyaziwe noma esinye isithunywa samasipala esithamele umsebenzi ngokulandela isigatshana (4).

(6) Umqashiselwa akanagunya lokuba ahlanzelwe noma enzelwe eminye imisebenzi ngumasipala mahhala maqondana nemicimbi yomqashiselwa ngesikhathi sokulungiselela, noma somcimbi uqobo.

29. **Ukuzikhipha ecaleni**

(1) Umasipala awuyibekwa icala ngenxa -

(a) yanoma ngukuphi ukulinyalelwa noma ukulahlekelwa kwanoma ngumuphi umuntu ngenxa yokunganikezwa kwemisebenzi yamasipala eyanele noma ngokuthikamezeka kwalokho kunikezelwa yisakhiwo samasipala, noma ngenxa yanoma yisiphi isenzo noma iphutha lamasipala, uma umasipala ucabanga ukuthi ukuthikamezeka kuyadingeka ukuze ukwazi ukusebenzisa amandla awo noma ukwenza umsebenzi wawo ngaphansi kwalo mtheshwana, noma ngumuphi omunye umthetho;

(b) Yanoma ngukuphi ukulahlekelwa, ukwebiwa noma ukulimala kwempahla ethengisayo, impahla yasendlini, izinto ezisetshenziswayo, okufakiwe, izincwadi, amaphepha, izingubo, noma izinto zanoma nguluphi uhlobo, ezigcinwe esakhiweni samasipala esiqashwe ngumqashiselwa noma omunye umuntu, kungaba maqondana nebhizinisi lomqashiselwa noma cha;

(c) noma yikuphi ukulahlekelwa okungavelela umqashiselwa ngokusebenzisa isakhiwo samasipala, noma ngenxa yemvula, isichotho, umbani, umoya, umlilo, isiphepho, isiteleka noma umbhikisho womphakathi;

(d) yokufa noma yokulimala komqashiselwa noma omunye osesakhiweni samasipala ngesikhathi somsebenzi noma somcimbi; kanye nangokulahlekelwa komqashiselwa ngenxa yanoma ngukuphi ukwehluleka noma iphutha esakhiweni samasipala,

kube sekutheni lokho kulimala, ukweba noma ukulahleka kungenxa yokwenza ngenhloso noma ngephutha noma ngobudedengu bamasipala.

(2) Uma isicelo sokuqashisa sesigunyaziwe ngumasipala, umqashiselwa kumele agcwalise futhi asayinele umasipala isivikelo secala, njengoba kungase kumiswe, kube kubhekelelwa umasipala.

30. **Ukubhidlika Kwesakhiwo Samasipala**

(1) Umasipala ungahoxisa ukuqashwa kwesakhiwo samasipala uma -

(a) isakhiwo samasipala sibhidlike noma silimale ngangokuthi ngeke sasebenza;

(b) isakhiwo samasipala silimele, ngangokuthi ngeke sasebenza ngenxa yokungangeneki kuso, noma ukunikezwa kwanoma yimuphi umsebenzi wamasipala odingekayo; noma

(c) isakhiwo samasipala sidilike noma silimele, futhi umasipala unquma ukungaqhubeki nokuqashisa isakhiwo samasipala, ukuze uqale ukwakha kabusha, ukusivuselela, noma ukusilungisa, noma ngenxa yezizathu zokuphepha.

(2) Noma yisiphi isinqumo esithathwe ngokulandela isigatshana (1) kufanele sidluliselwe kumqashiselwa ngesaziso esibhaliwe ngumasipala ngesikhathi esifanele sokuhoxisa ukuqashwa.

(3) Akukho mqashiselwa oyofuna noma ngukuphi ukunxeshezelwa ngumasipala nganoma ngukuphi ukulimala noma ukulahlekelwa ngenxa yokulimala, noma yokudilika kwesakhiwo noma noma yiyiphi ingxenye yaso, noma ngenxa yokulahleka okudalekile mayelana nokusetshenziswa kwesakhiwo samasipala ngumqashiselwa ukuze ahlomule.

31. **Ukusula Ukuqasha Ngenxa Yokungathobeli umthetho**

Umamasipala ungasula, noma yisiphi isikhathi sokuqashwa kwesakhiwo samasipala uma umqashiselwa ehluleka ukuthobela noma yiziphi izimiso zalo mtheshwana, uma kwenzeka njalo -

(a) umasipala awuyobekwa icala lanoma ngukuphi ukulimala noma ukulahlekelwa kwanoma ngumuphi umuntu ngenxa yalokho kusula;

(b) lokho kusula kuyokwenziwa ngale kokunyundela noma yiliphi ilungelo lamasipala kumqashiselwa ngaphansi kwalo mtheshwana, noma umthetho wabantu.

32. **Ukuphela Kokuqasha**

(1) Ekupheleni kwesikhathi sokuqasha -

(a) umqashiselwa kufanele abuyisele isakhiwo samasipala kumasipala, silungile futhi sisesimweni esihle;

(b) umqashiselwa kufanele akhande, futhi alungise, ngezindleko zakhe yinoma ngukuphi ukulimala noma ukuphuka, noma abuyise izindleko zamasipala zokubuyisela, zokulungisa noma zokukhanda noma yini ephukile, elimele noma into elahlekile; futhi

(c) umasipala ungasusa emalini ekhokhwe ngumqashiselwa mayelana nezindleko zesakhiwo samasipala zokwephuka, zokulimala noma ukulahlekelwa.

(2) umqashiselwa kufanele aphume esakhiweni samasipala esiqashiwe ngaleso sikhathi emva kokuphela kwesikhathi sokuqasha, njengoba kubaluliwe efomini lokufaka isicelo noma ezimisweni, kube sekutheni -

(a) ukwehluleka komqashiselwa ukulandela lezi zimiso zalesi sigatshana kunika umasipala igunya ukuba umkhokhise enye imali emisiwe mayelana naleso sikhathi esingaphezulu esihlalwa ngumqashiselwa emva kokuphela kwesikhathi sokuqasha; futhi

(b) izimiso zalesi sigatshana azimenqabeli umasipala ukuba uthathe izinyathelo zomthetho ukuthola imvume yokumkhipha lowo mqashiselwa esakhiweni samasipala.

(3) Umqashiselwa kufanele alandele yonke imiyalelo yamasipala efanele nesemthethweni mayelana nokuhlanza isakhiwo samasipala lapho umqashiselwa esephuma kuso, kube sekutheni umasipala uqobo ungakhetha ukuhlanza ngokwakhe zonke izitsha ezisetshenziswa ngumqashiselwa.

(4) Umqashiselwa kufanele alandele yonke imiyalelo yamasipala efanele nesemthethweni mayelana nokuphuma esakhiweni samasipala nokubuyiselwa kwaso.

33. **Izingozi Zomlilo Nomshuwalense**

(1) Umqashiselwa akayukuletha, noma avumele ukuba kulethwe, noma kugcinwe, esakhiweni samasipala, noma enze noma avumele ukuba kwenziwe esakhiweni samasipala, noma utho, into noma umcimbi ongadala ukuba inqubomgomo yomlilo, noma enye inqubomgomo yomshuwalense, wesakhiwo samasipala esetshenziswayo ingasebenzi, noma ongadala imali ekhokhelwa lowo mshuwalense ngenyanga yenyuke.

(2) Uma imali ekhokhelwa lowo mshuwalense yenyuka ngenxa yanoma yisiphi isenzo noma iphutha elihlongozwe esigatshaneni (1), -

(a) umasipala, ngokubona kwawo, ungavumela lowo mcimbi, futhi ufune umqashiselwa abuyise lelo nani elifanele mayelana naleyo imali enye ekhokhelwa umshuwalense; futhi

(b) umqashiselwa kufanele akhokhe lelo nani ngokushesha lapho aziswa ngumasipala noma inkampani yomshuwalense ukuthi akhokhe leyo mali enye ekhokhelwa umshuwalense ebiziwe.

(3) Umasipala nganoma yisiphi isikhathi ungafuna umqashiselwa ukuba athathe umshuwalense enkampaneni yomshuwalense, egunyazwe ngumasipala, mayelana nokulimala noma nokulahlekelwa okwenzeke ngesikhathi noma ngenxa yanoma ngumuphi umcimbi isakhiwo samasipala esiqashelwe wona.

34. **Izakhiwo Zokulondoloza**

Umasipala awuyukuba nasibopho sokuhlinzeka izakhiwo zokulondoloza impahla yomqashiselwa, noma yezimenywa, yabathengi, yabasekeli, yabasebenzi, yabavakashi, yabaxhasi noma yezithunywa zakhe nganoma yisiphi isikhathi ngaphambi, ngesikhathi noma ngemuva komsebenzi noma umcimbi.

35. **Impahla Yokusebenza**

(1) Umqashiselwa odinga umasipala uhlinzeke noma yiyiphi impahla ukuba ayisebenzise ngesikhathi somsebenzi noma somcimbi angayisebenzisa leyo mpahla kuphela ngemvume yamasipala, futhi ngaphansi konakekelo lwesiphathimandla esigunyaziwe.

(2) Uma umqashiselwa elimaza impahla yokusebenza, noma esusa noma eyala ukuba kususwe impahla yokusebenza esakhiweni samasipala ngaphandle kwemvume, noma ehluleka ukuyibuyisela, umqashiselwa uyokhokha izindleko zokuyilungisa noma zokuyibuyisela.

36. **Ilungelo lokungena**

(1) Isiphathimandla esigunyaziwe singangena esakhiweni samasipala ngazo zonke izikhathi ezifanele -

(a) ukuhlola isakhiwo samasipala nokwenza noma ngukuphi ukukhanda noma ukwandisa noma ukushintsho noma ukwandisa noma ukuguqula noma ukulungisa isakhiwo samasipala; futhi

(b) ukwenza isiqiniseko sokuthi imigomo yokuqashwa kwesakhiwo samasipala, nezimiso zalo mtheshwana, ziyalandelwa.

(2) Umqashiselwa akanalo ilungelo lokufuna ukubuyiselwa izimali azibiziwe zokuqasha isakhiwo samasipala, isinxephezelo, umonakalo noma okunye mayelana namalungelo isiphathimandla esigunyaziwe esiwasebenzisile ngaphansi kwesigatshana (1).

(3) Isiphathimandla esigunyaziwe singakhanda isibhaxa sokugibela, uthango lwezaziso, nempahla yokwakha esakhiweni samasipala, kanye nokunye kokusebenza okudingwa ngumthetho noma ezinye izisetshenziswa okungaqinisekiswa ngonjiniyela bamasipala ukuthi kuyadingeka ukwenza umsebenzi wokukhanda ohlongozwe esigatshaneni.

37. **Ukuhlola**

Lapho imicimbi yomqashiselwa seyiphothuliwe ekupheleni kwesikhathi sokuqasha, noma Upon the conclusion of the hirer's activities at the end of the period of hire, or ekuhoxisweni kokuqasha ngaphansi kwanoma yiziphi izimiso zalo mtheshwana, umasipala nomqashiselwa, noma oqokwe nguye, kufanela bahlole isakhiwo samasipala, ngenhloso yohlola noma ngumuphi umonakalo noma ukulahlekelwa.

38. **Ukuqasha Izindawo Zokukhululeka Zomphakathi**

(1) Izimiso zalesi sahluko ziyosebenza, ushintsho olufanele selenziwe (*mutatis mutandis)*, ekuqasheni izindawo zokukhululeka zomphakathi.

(2) Kuyoba sekuboneni kwamasipala ukunquma –

(a) ukuqashisa noma ukungaqashisi ngendawo yokukhululeka yomphakathi; futhi

(b) izimiso zalokho kuqashisa.

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39. **Amacala Nezinhlawulo**

Noma ngumuphi umuntu ophula, noma owehluleka ukuthobela, isihlinzeke salo mtheshwana, isaziso esikhishwe ngokulandela lo mtheshwana, noma isimiso esiphoqelelwa ngaphansi kwalo mtheshwana, ngale kokuthi lokho kwephulwa noma ukwehluleka kuqinisekiswe njengecala ndawana thize kulo mtheshwana, uyobekwa icala, futhi akhokhe, lapho egwetshwa -

(a) inhlawulo engengaphezu kwama-R60 000, noma aboshwe isikhathi esingengaphezu kwezinyanga eziyi-12, noma enye inhlawulo ngaphezulu noma isikhathi sokuboshwa ngaphezulu noma kokubili leyo nhlawulo nalokho kuboshwa;

(b) Uma kuyicala eliqhubekayo nokwenzeka, enye inhlawulo yama-R600.00 ngaphezulu noma esinye isikhathi sokuboshwa sosuku olu-1 ngaphezulu, noma leyo nhlawulo noma lokho kuboshwa ngaphezulu, noma kokubili leyo nhlawulo ngaphezulu nokuboshwa, kwalolo nalolo suku eboshelwe lelo cala liqhubeka; futhi

(c) enye imali ngaphezulu elingana nanoma yiziphi izindleko nencithakalo etholwe yinkantolo idalwe ngumasipala ngenxa yalokho kwephulwa noma ukwehluleka.

40. **Izimiselo**

Umasipala ungenza izimiselo ezingashayisani nalo mtheshwana, ezimisa -

(a) noma yini engamiswa noma okumele imiswe ngokulandela lo mtheshwana; futhi

(b) noma yini engakhuthaza ukusetshenziswa kwalo mtheshwana.

41. **Ukuchithwa Kwemitheshwana**

Noma yimiphi imitheshwana ephathelene nezakhiwo zamasipala nezindawo zokukhululeka zomphakathi ezemukelwe ngumasipala noma ngumuphi umkhandlu wamasipala oodlule manje osewuwuphiko lokuphatha lwamasipala uyochithwa kusukela ngosuku lokumemezela lo mtheshwana.

42. **Isihloko Esifingqiwe**

Lo mtheshwana ubizwa ngokuthi uMtheshwana Ophathelene Nezakhiwo Zamasipala Nezindawo Zokukhululeka Zomphakathi we-2007, futhi uqala ukusebenza ngosuku olunqinywe ngumasipala ngesimemezelo kwiGazethi Yesifundazwe.