

UMASIPALA WASE-ENDUMENI

IMITHESHWANA EPHATHELENE NOKULAWULA AMAKHUMBI NAMABHASI

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2. Ukungabandlululi

- (a) Kweyame esihlinzekweni sesigatshana (b) sawo, akukho sinhlinzeko sale Mitheshwana esiyosetshenziselwa ukubandlulula abantu ngesizathu sobuhlanga, senkolo noma sobulili futhi ngeke kwahunyushwa kanjalo ukugunyaza lokho kubandlulula.
- (b) Ngaphandle kwezimiso zesigatshana (a) sawo, ukubandlulula ngezizathu sobulili kungagunyazwa ngokukusobala ngokulandela noma yisiphi isimiso sale mitheshwana ebeka ukuthi kugqokwe ingubo efanelekile noma evimbela ukungena kwabantu endaweni yokugezela, endlini yangasese noma ezakhiweni zokugqokela noma ebeka imigomo eyehlukile mayelana nalezi zindawo.

1: IZINCAZELO

Mayelana nenhloso yale Mitheshwana, noma yliphi igama elinencazelo elinikezwe yona eMthethweni KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni noma uMthetho Wezimiselo Zokuhamba eMgwaqweni ezimenezelwe ngaphansi kwawo, ziyoba naleyo ncazelo kule Mitheshwana. Uma kukhona ukungqubuzana kulezi zincazelo, kusebenza izincazelo njengoba zethulwe eMthethweni KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni we-1996, (uMthetho KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni, Nombolo 93 we-1996). Ngaphandle uma okuqokela kusho okunye, amagama abalulwe ngezansi kumele abe nalezi zincazelo.

“uMthetho” usho uMthetho KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni Nombolo 93 we-1996).

“iSiphathimandla Esigunyaziwe” kusho umhloli wezithuthi, umhloli wezincwadi zokushayela, noma yisiphathimandla sezommgwaqo nanoma yimuphi umuntu omenyezwe nguNgqongqoshe Wezokuthutha ngokomthetho ukuba abe yisiphathimandla esigunyaziwe, ngalezo zikhathi, futhi kumele kube nesiphathimandla sokuthula ngokusho koMthetho KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni we-1996 (uMthetho KaZwelonke Wokuhamba Kwezithuthi, Nombolo 93 we-1996).

“iMitheshwana” isho uMtheshwana owenziwe ngokulandela iSigaba 80A soMthetho KaZwelonke Wokuhamba Kwezithuthi Egwaqweni we-1996, (uMthetho KaZwelonke Wokuhamba Kwezithuthi

Emgwaqweni, Nombolo 93 we-1996).ufundwa neSigaba 31(2) saHulumeni WeziNdawo: uMthetho Wezigaba zaMasipala, we-998(uMthetho Nombolo 117 we-1998)

“uMphathi waMasipala” usho isikhulu oqokelwe lesi sikhundla ngokomthetho nguMkhandlu noma ngumuphi umuntu ogunyazwe ukuba abe, asebenze egameni lakhe.

“uSicabha” usho umuntu oqashwe “ngumnikazi” olawula ikhumbi kanye noma nebhasi ukuba aqoqe imali ekhokhwa ngabagibeli kuyo futhi ubandakanya, uma kuyisithuthi esilawulwa ngumuntu oyedwa, oqashelwe lesi sithuthi;

“uMkhandlu” usho uMkhandlu waMasipala WaseNdumeni futhi ubandakanya noma ngumuphi umuntu onikezwe igunya egameni loMkhandlu.

“uMshayeli” usho noma ngumuphi umuntu oshayela noma ozama ukushayela isithuthi somphakathi.

“uKulindela ukulayisha” ngukuma kwekhumbi kanye noma nebhasi lisalindele ukulayisha.

“iBhasi Elincane” lisho ibhasi elincane, elenziwe, noma eliguqulwe kuphela noma ngokukhethekile ukuthutha abantu abangaphezu kwe-16 futhi bengaphansi kwabangama-35 (kuhlanganisa nomshayeli)

“iKhumbi” isho isithuthi somphakathi esenzelwe kuphela noma ngokukhethekile ukuthutha abantu abangengaphezu kwe-15 futhi abangengaphansi kwabayi-9 (kuhlanganisa nomshayeli, futhi esetshenziselwa ukuqashwa noma ukuklonyeliswa nokesebenzela ukuqashwa nokuklonyeliswa noma ngokuchaza komthetho okulandelayo nokulandela ngokwemisebenzi engahleliwe.

“uMninimakhumbi” usho umuntu onesibopho sokusebenzisa ikhumbi, futhi obhalise njengomninimakhumbi kuMbhalisi WeSifundazwe nangokulandela uMthetho KaZwelonke Wokuhamba Kwezithuthi Emgwaqweni

“iRenke Yamakhumbi noma iRenke Yamabhasi” yinoma yiyiphi indawo ehlelwe, NguMkhandlu, edweshwewe ngezimidwebo yomgwaqo emisiwe kanye nezimpawu nomgwaqo futhi kwabekwa izinombolo, ukuze isetshenziswe ngokukhethekile ngamakhumbi noma ngamabhasi atshengisa idiski yemvume yokusebenza.

“iMvume Yamakhumbi noma Imvume Yamabhasi” yimvume ebhaliwe, enikezwe umphathi wekhumbi noma webhasi nguMkhandlu ukuze asebenzela erenke ethile yamakhumbi noma yamabhasi .

“iDiski YeRenke yamakhumbi noma amabhasi” yidiski enikezelwe nguMkhandlu ekhombisa inombolo yerenke engasetshenziswa ikhumbi noma ibhasi elitshengisa idiski ebaluliwe yemvume yokusebenzisa irenke yamakhumbi noma yamabhasi.

“iSitobhi samakhumbi noma samabhasi” indawo ekhonjiswe ngemidwebo yomgwaqo kanye nezimpawu zomgwaqo, ezikhonjwe nguMkhandlu ukuze isetshenziswa ngokukhethekile ngamakhumbi namabhasi atshengisa idiski yemvume yokusebenza irenke, ukulayisha nokwehlisa abagibeli kuphela futhi akuyona indawo yokuma noma yokulindela ukulayisha.

“iSiphathimandla Sezokuvikela” sisho ilungu loMbutho WamaPhoyisa AseNingizimu Afrika noma olandela ngokomthetho esikhundleni.

“iBhasi Lomphakathi noma iBhasi” lisho isithuthi somphakathi esimiselwe kuphela noma ikakhulu ukuthwala abagibeli abangaphezu kwe-5 nokusetshenziselwa ukuqashwa nokuklonyeliswa futhi esisebenza noma ukusebenza ngokuqashwa noma ngokuklonyeliswa ngokwemisebenzi ebaliwe

futhi ngaleso sizathu esinikezwe imvume yokuthutha impahla emgwaqweni yiBhodi Lendawo Lezokuthutha eMgwaqeni uma umzila noma ingxenye yomzila ingaphansi koMkhandlu.

INGXENYE 2: UKWAKHIWA NOKULAWULWA KWAMARENKE NEZITOBHI ZAMAKHUMBI NAMABHASI.

Isigaba 1: Ukumiswa Kwamarenke Nezitobhi Zamakhumbi Namabhasi.

- (1) Le mitheshwana iyosebenza kuwo wonke amarenke nezitobhi zamakhumbi namabhasi, ezehlukiselwe noma ezingehlukaniswa kamuva nguMkhandlu njengamarenke amakhumbi kanye namarenke amabhasi noma izitobhi zamakhumbi kanye nemabhasi, ezigunyazwe ukusetshenziswa ngezimvume zamarenke ezikhishwe ngokulandela le mitheshwana.
- (2) Amarenke amakhumbi namarenke amabhasi noma izitobhi kuyoba yilezo ezichazwe ezinhlweleni ezihlelwe yisiphathimandla esigunyaziwe soMkhandlu njengoba zichibiyelwa ngokuhamba kwesikhathi.

Isigaba 2: Ukukhonjwa Kwamarenke Nezitobhi Zamakhumbi Namabhasi

Ukwehlukiswa kwamarenke nezitobhi zamakhumbi namabhasi ukuba kusetshenziswe ngamakhumbi noma amabhasi kuphela kuyokwenziwa futhi kuchazwe ngokwakha, ngokudweba noma ukubeka kulezo zindawo (kungaba semgwaqeni womphakathi noma kungesiwo) njengokunquma koMkhandlu, izimpawu zomgwaqo ezimiswe ngeZimiso ezakhiwe ngokulandela uMthetho.

Isigaba 3: Ukuklama Emarenke Amakhumbi noma Amabhasi

UMkhandlu ungaklama kuwo wonke amarenke indawo noma izindawo ezikhethekile ngenhloso noma ngezinhloso ezikhethekile, njengokulayisha nokwehlisa abagibeli, ukulindela ukulayisha, abahwebi basemgwaqeni.

Isigaba 4: Ukwabiwa Kwamarenke Nezitobhi Zamakhumbi Noma Zamabhasi

- (1) Amarenke akhiwe ngokulandela isigaba 1 ayosetshenziswa kuphela ngamakhumbi noma ngamabhasi atshengisa idiski yemvume yokusebenza eqondene naleyo renke yamakhumbi noma yamabhasi; (kuba sekutheni lokhu kunqatshelwa akuyosebenza ekhumbini noma ebhasini, uma ukufaka esikhundleni noma ukushintshanisa kugunyaziwe ngokulandela isigaba 14).
- (2) Izitobhi ezakhiwe ngokulandela isigaba 1 ziyosetshenziswa yiwo wonke amakhumbi namabhasi asebenza kulowo mzila noma obelwe umsebenzi, inhlango, umzila noma uhambo oluthile, njengoba kukhonjisiwe ophawini lomgwaqo olugxunyekwe kuleso sitobhi.

Isigaba 5: Isikhathi Sokulinda Nokuma Kwamakhumbi Namabhasi Emarenke Nasezitobhini.

- (1) UMkhandlu unganquma, ngokugxumeka izimpawu zomgwaqo emarenke noma eduze kwerenke, iside esiqhubekayo amakhumbi namabhasi angasilinda erenke.
- (2) Ayikho ikhumbi noma ibhasi elivunyelwe ukuma esitobhini samakhumbi noma samabhasi isikhathi eside ngokweqile sokuhlela noma sokucosha abagibeli.
- (3) Ayikho ikhumbi noma ibhasi eelivunyelwe ukuma lisasebenza, ngaphandle uma kuyisikhumulo noma yizitobhi eziklanyiwe.

Isigaba 6: Ukugunyaza ukusebenzisa Amarenke Nezitobhi Zamakhumbi Noma Zamabhasi.

- (1) Ngumshayeli waleyo khumbi noma ibhasi kuphela elidiski yemvume yokusebenzisa irenke noma isitobhi ekhishwe ngokulandela iMitheshwana oyokwenza noma oyovumela isithuthi esibaluliwe ukusebenzise irenke noma isitobhi esithile nganoma yisiphi isikhathi (kuba sekutheni lesi senqabelo lokhu kwenqaba akuyosebenza ekhumbini noma ebhasini, uma ukufaka esikhundleni noma ukushintshanisa kugunyaziwe ngokulandela isigaba 14).
- (2) Kuyoba ukwephula umthetho ngunoma ngumuphi umuntu ukumisa noma yiyiphi ikhumbi nomn ibhasi elinediski yemvume yokusebenza ekhishwe ngokulandela le Mitheshwana, kunoma yiyiphi enye irenke noma isitobhi okungesiyo irenke noma isitobhi sekhumbi noma sebhasi elabelwe sona futhi sahlukaniselwa leyo disk yemvume yerenke yemakhumbi noma yebhasi.
- (3) Umshayeli wekhumbi noma webhasi uyoba kuleso sithuthi ngenkathi sikulyo renke noma leso sitobhi.

Isigaba 7: Isibopho SoMkhandlu Ngokomthetho

UMkhandlu awuyobekwa cala ngokomthetho noma ngayiphi indlela mayelana:

- (1) Nokulahleka noma ukulimala kwanoma yisiphi isithuthi noma yini ephakathi kuleso sithuthi esipakwe noma esimiswe kunoma yisiphi isitobhi esishayelwa phakathi, ngaphandle noma esiphuma kunoma yiyiphi irenke noma isitobhi;
- (2) Nokushona, ukulimala, ukonakala ukulahleka (kuhlanganisa nokulahlekelwa okulandelayo) kunoma ngumuphi umuntu kunoma yiyiphi irenke noma isitobhi.

Isigaba 8: Ukuvalwa Kwerenke Yamakhumbi Noma Amabhasi.

- (1) Le Mitheshwana futhi, uma kufanele, nokusungula kwenye indawo irenke yesikhashana esikhundleni senye. Lokho kuvalwa kanye nokusungulwa kwesikhashana kuyothathwa ngokuthi kwenziwe. UMkhandlu uyoba negunya lokuvala okwesikhashana noma yiyiphi irenke esungulwe ngokubeka izaziso ngaphakathi noma eduze kwerenke leyo futhi ngaleso sikhashana sokuvalwa, kwekhumbi noma kwebhasi elinikelzwe idiski yemvume yokusebenza mayelana naleyo renke iyothathwa njengesemthethweni mayelana nerenke esungulwe esikhundleni senye.
- (2) Awekho amalungelo omnikazi onemvume yaserenke yamakhumbi namabhasi ngokwale Mitheshwana oyovimba uMkhandlu ukuvala noma ukususa unomphela noma yiyiphi irenke esungulwe ngale ndlela noma ukuchibiyela le Mitheshwana. Kuba sekutheni, nokho, ukuthi ayikho eyovalwa noma isuswe unomphela kuze kuphele isaziso esibhaliwe sezinyanga ezintathu kumnikazi wanoma iyiphi idiski ekhishwe ngokulandela le Mitheshwana, ngaphandle uma kunezimo eziphuthumayo, futhi nanoma iyiphi imali ekhokhiwe iyobuyiselwa ngokulingana.

INGXENYE 3: IZIMVUME ZAMARENKE

Isigaba 9: Izicelo Zezimvume Zamarenke Amakhumbi Noma Amabhasi.

- (1) Umnikazi/umninimakhumbi uyofaka isicelo sokusebenzisa noma yiyiphi irenke yamakhumbi namabhasi ngokubhalela uMphathi waMasipala incwadi. Leso sicelo senziwa ngefomu ekhandwe nguMkhandlu.
- (2) Onke amakhumbi noma amabhasi okucelwa ukuba abe nemvume yokusebenza, ayoba:
 - (a) Nesitifiketi sokufaneleka (i-COF)

- (b) Nemvume ye-LRTB noma igunya lokwenza umsebenzi ngokulandela uMthetho Wezokuthutha Emgwaqweni nanoma yimuphi omunye umthetho ongena endaweni yawo.
 - (c) Negama nekheli lo mnikazi elifundekayo, ahlala kulo nelaziwayo, linanyathiselwe esandleni sobunxele sesithuthi.
 - (d) Nendawo ahambela kuyo itshengiswe ngaphambili esithuthini;
 - (e) Nobufakazi bokuthi ubhalisile noMbhali si weSifundazwe lapho kufanele;
 - (f) Nomthamo wokuthwala kwesithuthi utshengiswe.
- (3) Kuyokhokhwa imali njengoba imiswe futhi yabuyekwezwa emva kwezikhathi ezithile nguMkhandlu mayelana nemvume yerenke eyabelwe ikhumbi noma ibhasi ngalinye, kube sekutheni lapho isicelo semvume yerenke sivunywa, inani lemali liyokweyama esikhathini esisele sokusebenzisa irenke kulowo nyaka, ibalelwe enyangu eneseduze.

Isigaba 10: Ukukhipha Izimvume Zamarenke Zamakhumbi Noma Amabhasi

- (1) Ukugunyaza izimvume zamarenke zamakhumbi namabhasi kuyisibopho soMkhandlu, okumele kubandakanye izimo ezithile eziqondene nesithuthi njengoba kudingeka njengokulandelayo:
 - (a) Ukuphoqelela noma yisiphi isithuthi indawo yokulayisha noma indawo yokulindela;
 - (b) Ukulawula amahora noma yiyiphi irenke engasetshenziswa ngaso;
 - (c) Ukubalula inani lezithuthi ezingasebenzisa noma yiyiphi ingxenye yerenke;
 - (d) Ukubalula umzila ikhumbi noma ibhasi okumele liwusebenzise;
 - (e) Noma yisiphi esinye isimo ukuqinisekisa ukwabiwa kwamarenke okulungile noma ukugwema ukuthikameziseka nokucinana kwezithuthi nabagibeli noma ukuqinisekisa ukulawulwa kokuhamba kwezithuthi.
- (2) Lapho isicelo sokusebenzisa irenke sigunyaziwe, umfaki sicelo uyonikezwa imvume yerenke yamakhumbi noma yamabhasi nediski yemvume yerenke yamakhumbi namabhasi neyediski yemvume ngohlaka olumiswe lwagunyazwa nguMkhandlu, yaxhonywa ngaphambili lapho enombolweni yokubhalisa yekhumbi noma ibhasi nalapho kufaneleke khona inombolo yerenke nencazelo yomsebenzi egunyazwe ukuba iwenze;
- (3) Imvume yerenke yekhumbi noma yebhasi enganikeziwe kuze kudlule izinyanga ezintathu iyophelelwa yisikhathi, ngaphandle uma ukwelulelwa isikhathi kuceliwe futhi kwagunyazwa nguMkhandlu. Imvume yerenke yekhumbi noma yebhasi iyosebenza kuphela isikhathi esibaluliwe.
- (4) Imvume yerenke yekhumbi noma yebhasi enikeziwe ngokulandela le Mitheshwana ayinadluliselwa komunye umuntu ngaphandle kokugunyazwa nguMkhandlu okubhalwe phansi.
- (5) UMkhandlu, ngokubona kwawo, ungabuyisa idiski yemvume yerenke yekhumbi noma yebhasi elahlekile noma eyonakele ngokukhokha imali, njengokuchaza kwesinqumo soMkhandlu, kanye nokulethwa kwencwadi efungelwe echaza izimo ezibangele lokho kulahleka noma ukonakala.

Isigaba 11: Imvume Yerenke Yekhumbi Noma Yebhasi Okumele Iphathwe Nediski Yemvume Yerenke Yekhumbi Noma Yebhasi Okumele itshengiswe.

- a. Imvume yerenke yekhumbi neyebhasi iyophathwa ngaso sonke isikhathi ekhumbini noma ebhasini elinikezwa yona. Umshayeli waleso sithuthi esibaluliwe uyoveza imvume yerenke ecelwa yinoma yisiphi iSiphathimandla eSigunyaziwe noma iPhoyisa loMgwaqo. Ukweluleka ukuveza imvume yerenke yekhumbi noma yebhasi elibaluliwe lapho icelwa umshayeli uyobekwa icala.
- b. Idiski yemvume yerenke yekhumbi noma ibhasi enikeziwe ngokulandela isigaba 10 sale Mitheshwana iyotshengiswa ngaso sonke isikhathi ngesikhwama esivikela zonke izimo zezulu, ngakwesokunxele sewindi elingaphambili lekhumbi noma ibhasi

elinikizelwa yona, ifundeke futhi ibonakale ngokucacile ngaphandle kuleso sithuthi. Ukwehluleka ukuveza idiski yemvume yerenke yaleyo khumbi noma ibhasi njengoba kuphoqelega yilo Mtheshwana, umshayeli, umsebenzisi nomnikazi waleso sithuthi uyobekwa icala.

Isigaba 12: Ukuphelelwa Ysikhathi Nokuvuselelwa Kwemvume Yerenke Yekhumbi Noma Yebhasi

- (1) Ayikho imvume yerenke yekhumbi noma yebhasi eyosebenza isikhathi esingaphezu konyaka. Imvume yerenke yekhumbi noma yebhasi ekhishwe ngokulandela le Mitheshwana iyophelelwe yisikhathi ngosuku lokugcina kuZibandlela njalo ngonyaka. Izicelo zokuvuselela imvume yerenke yekhumbi noma yebhasi yonyaka olandelayo ziyofakwa eMkhandlwini ngaphambi kosuku loku-1 kuZibandlela minyaka yonke, ngendlela efanayo ehlinzekwe eSigabeni 9 sale Mitheshwana.
- (2) Asikho isicelo sokuvuselela imvume yerenke yekhumbi noma yebhasi esiyokwamukelwa emva kwezinyanga izintathu isikhathi sipelele ngaphandle uma kwenziwe isicelo esibhaliwe sokwelulelwa isikhathi futhi semukelwa nguMkhandlu.
- (3) Isicelo sokuvuselela imvume yerenke yekhumbi noma yebhasi esingavuselelwe ngaphambi kosuku lokuphelelwa yisikhathi, ngokubona koMkhandlu, sithathwe njengesicelo esisha.

Isigaba 13: Amandla Okwenqaba Noma Okwesula Isicelo Semvume Yerenke Yekhumbi Noma Yebhasi.

- (1) UMkhandlu uyoba negunya lokwesula noma ukwenqaba ukuvuselela noma ukunikeza imvume yerenke yekhumbi noma yebhasi uma:
 - (a) Izitifiketi zokuthwala zaleso sithuthi esinikezwe imvume yerenke yekhumbi noma ibhasi eqondene nayo zesuliwe noma zihoxisiwe noma zingavuselelwanga;
 - (b) Imvume yerenke yekhumbi noma yebhasi eyanikezwa ngokuletha imininingwane engesiyo ngumfaki sicelo;
 - (c) Umninimakhumbi/umsebenzisi wekhumbi noma webhasi etholakala enamacala aphilathelene noMthetho Wokuhamba Kwezithuthi Emgwaqeni emenza abe ngumuntu ongafanale umsebenzi wokuthutha umphakathi;
 - (d) Uma isicelo sokuvuselela imvume yekhumbi noma yebhasi singafakwanga ngaphambi kokuphelelwa yileso isikhathi;
 - (e) Uma singekho isikhala esikhona serenke yekhumbi noma yebhasi;
 - (f) Uma umshayeli wesithuthi esiqondene naleyo mvume engesiye umnikazi welayisense esemthethweni walolo hlobo lesithuthi esithintekayo, noma engenayo imvume yokushayela ngokomsebenzi okuhlinzekelwe eMthethweni KaZwelonke Wokuhamba Kwezithuthi Emgwaqeni we-1996 (uMthetho Nombolo 93 we-1996);
 - (g) Isithuthi singenawo umshwalense njengoba kudingeka ngokweSigaba 20.
- (2) Ukwesulwa noma ukumiswa kwemvume yerenke yekhumbi noma yebhasi ngokulandela lesi sigaba, akunikezi umnikazi ilungelo lokubuyiselwa imali ayikhokhile.

Isigaba 14: Amandla Okugunyaza Ukufaka Enye Ikhumbi noma Ibhasi Endaweni Yenye

- (1) Uma nganoma yisiphi isikhathi ikhumbi noma ibhasi elinemvume yerenke yekhumbi noma yebhasi elaliyinikeziwe iyokhandwa, noma kungaba yisiphi isizathu umnikazi anaso, uMkhandlu ungagunyaza ukuba kufakwe enye ikhumbi noma ibhasi, okwesikhashana noma okwesikhathi semvume yerenke yekhumbi noma yebhasi, kube sekutheni ophethe imvume yerenke yekhumbi noma yebhasi futhi ungumnikazi waleyo khumbi noma ibhasi futhi useyikhokhile imali emisiwe ngokulandela isinqumo soMkhandlu. Ophethe imvume yerenke yekhumbi noma yebhasi kumele abuyisele imvume yerenke yekhumbi noma yebhasi ukuze anikezwe entsha, kube sekutheni uma ilahlekile imvume yerenke yekhumbi noma yebhasi kulethwa incwadi efungelwe.

- (2) Ngale kwezihlinzeko zale miTheshwana, uMkhandlu ungagunyaza ophethe imvume yerenke yekhumbi noma yebhasi ukushintshanisa ikhumbi noma ibhasi eliqondene naleyo mvume yerenke yekhumbi noma yebhasi ivumelana nganoma iyiphi enye ikhumbi noma ibhasi yohlobo olufanayo okungeyakhe noma engaphansi kwenhlangano efanayo, lapho imvume yokweThwala Emgwaqeni Womphakathi anikezwe yona ngokulandela uMthetho Wezokuthutha Emgwaqeni we-1977 uvumela leyo khumbi noma ibhasi ukungena endaweni yenye kube sekutheni inani lamakhumbi namabhasi anawo futhi esebenzisa noma iyiphi irenke yekhumbi noma yebhasi ngosuku oluthile aliyoba ngaphezu kwenani lezimvume zerenke yekhumbi noma yebhasi elinikezelwe lowo mphathi wemvume mayelana naleyo renke yamakhumbi noma yamabhasi.

Isigaba 15: Ukudlulisela Imvume Yerenke Yamakhumbi noma Yamabhasi Kwelinye Irenke Yamakhumbi Noma Yamabhasi.

Kweyame ezihlinzekeni, *izinguquko sezenziwe*, zezigaba 9 & 10, imvume yekhumbi noma yebhasi yangaleso sikhathi, uma umnikazi efaka isicelo, eMkhandlwini nalapho isigunyaza, ingadlulisa ngaphandle kokukhokhela enye irenke yekhumbi noma ibhasi enye imali, futhi lokho kudlulisela kuyosayinwa emvumeni yerenke yekhumbi noma yebhasi, emva kwalokho imvume yerenke yekhumbi noma yebhasi iyothathwa ngenxa yezinhloso zale Mitheshwana njengenikezwe irenke yekhumbi noma yebhasi edluliselwe kuyo.

INGXENYE 4: INQUBO YOKUZIPHATHA YOMNINIMAKHUMBI NOMA UMSEBENZISI/ YOMSHAYELI

Isigaba 16: Abashayeli Kumele Balalele Imiyalelo YeSiphathimandla Esiguyaziwe Noma Iphoyisa lomgwaqo

- (1) Umshayeli nanoma yimuphi umuntu osebenzisa noma iyiphi ikhumbi noma ibhasi oyosebenzisa amalungelo awagidlabezwe yimvume yerenke yekhumbi noma yebhasi agunyaza leso sithuthi ukusebenzisa lawo marenke noma izitobhi ngokucabangela amalungelo nenkululeko yabagibeli namanye amakhumbi namabhasi agunyaziwe ukusebenzisa leyo renke; futhi ngaphandle kokuhlonipha izibopho zale mitheshwana, uyothobela yonke imiyalelo esemthethweni noma izimpawu azikhonjiswe yinoma yisiphi iSiphathimandla Esigunyaziwe noma iPhoyisa Lomgwaqo;
- (2) Ngale MiTheshwana, iSiphathimandla Esigunyaziwe noma iPhoyisa Lomgwaqo lapha ligunyazwa ukuba likhiphe leyo miyalelo noma izimpawu, ezingafaneleka ukugwema ukuvimbeleka nokucinana kwezithuthi noma abagibeli kanye nokulawula ngendlela ukuhamba kwezithuthi phakathi noma noma eduze nerenke.

Isigaba 17: Ukuziphatha Okungagunyaziwe Emgwaqeni Noma Erenke Yomphakathi

- (1) Akukho mshayeli noma umuntu olawula noma iyiphi ikhumbi noma ibhasi oyoma emgwaqeni womphakathi, lapho isitobhi noma irenke yamakhumbi noma yamabhasi ihlinzekiwe, ngesizathu sokuba aqashwe, noma acoshe noma ehlise abagibeli noma avumele noma ngumuphi umgibeli noma ofuna ukugibela noma ashiye leyo khumbi noma ibhasi ngaphandle uma irenke noma isitobhi sakhiwe ngokulandela le Mitheshwana lapho lezo zindawo zikhona eceleni komgwaqo;
- (2) Akukho muntu oyokhangisa, alandele noma anxenxe abathengi banoma iyiphi ikhumbi noma ibhasi ngokuzulazula, ngokumemeza, nangokupopoza noma ingayiphi enye indlela.
- (3) Akukho muntu oyosebenzisa ikhumbi noma ibhasi emgwaqeni womphakathi ngendlela ebanga umsindo omkhulu ongagwemeka uma ngokwakhe uqobo ecophelela;

- (4) Akukho muntu oyogeza noma iyiphi ikhumbi noma ibhasi kunoma yimuphi umgwaqo noma irenke yomphakathi endaweni eyenganyelwe nguMkhandlu ngaphandle kwezindawo ezihlelelwe ukuze ezingahlinzekwa nguMkhandlu ngokuthanda kwawo;
- (5) Akukho muntu oyokhanda noma iyiphi ikhumbi noma ibhasi kunoma ngumuphi ugwaqo noma irenke yomphakathi noma endaweni eyenganyelwe nguMkhandlu kube sekutheni le Mitheshwana ayikwenqabi ukwenza imisebenzana emincane edingeka okwesikhashana noma ukumisa ngokushesha leyo khumbi noma ibhasi ukuze ilungele ukuthi iphinde ihambe.

Isigaba 18: Ukutshengiswa Indawo Okuhanjelwa Kuyo

Uma ibhasi iya erenke yayo yamakhumbi noma yamabhasi, umshayeli waleso sithuthi uyotshengisa ngokucacile ngaphambili indawo lapho ikhumbi noma ibhasi lihambela khona.

Isigaba 19: Ukuhlanzeka Kwenqola noma Kwendawo

- (a) Bonke abantu ababenzisa noma iyiphi ikhumbi noma ibhasi ezindaweni ezenganyelwe nguMkhandlu bayogcina isithuthi sisesimweni esihlanzekile, futhi sisesimweni esibukukayo, sibe sikhandiwe.
- (b) Zonke izinhlangano ezisebenzela erenke yamakhumbi noma yamabhasi ziyoba nesibopho sokuhlanzeka kwaleyo renke yamakhumbi noma yamabhasi.

Isigaba 20: Umshwalense

Umninimakhumbi noma umsebenzisi wekhumbi noma webhasi uyothathela noma yisiphi isithuthi umshwalense ogcwele odingwa yimvume yerenke, kanye nabagibeli bonke nezimpahla zabo ngokulandela isibopho somthetho njengesidingo somthetho, ngaphambi kokunikezwa kwanoma iyiphi imvume yerenke, futhi uyoveza ubufakazi balokho njengokudinga koMkhandlu.

INGXENYE 5: INQUBO YOKUZIPHATHA KWABAGIBELI

Isigaba 21: Ukungena Nokuphuma Ekhumbini noma Ebhasini.

- (1) Bonke abagibeli bayongena noma baphume ekhumbini noma ebhasini ngentuba ehlinzekiwe;
- (2) Akukho muntu oyogibela ikhumbi noma ibhasi kuze kube ukuthi bonke abafisa ukwehla ekhumbini noma ebhasini sebehlele;
- (3) Kuyoba icala kunoma ngumuphi umuntu ukungena noma ukuzama ukungena noma ukwehla ekhumbini noma ebhasini elinesibalo sabagibeli eligunyazwe ukusithwala.
- (4) Emizileni lapho kuhlinzekwe khona izitobhi noma amarenke kunikeziwe, akukho muntu oyogibela noma azame ukugibela, ehle noma azame ukwehla ekhumbini noma ebhasini kunoma iyiphi indawo emgwaqeni ngaphandle kwesitobhi noma irenke yamakhumbi noma yamabhasi ekhonjisiwe, uma izitobhi noma amarenke ekhona emgwaqeni;
- (5) Akukho muntu oyogibela noma azame ukugibela, ehle noma azame ukwehla ekhumbini noma ebhasini ihamba.

Isigaba 22: Imigqa Nabalawuli Bemigqa

- (1) Kunoma iyiphi irenke yamakhumbi noma yamabhasi eyakhiwe ngokulandela le Mitheshwana, uMkhandlu ungabeka noma wenze kubekwe izimpawu zemigqa ezinamabhodi ezaziso ezitshengisa ukuma noma indlela umuntu olindele ukugibela ikhumbi noma ibhasi ayoma noma enze ngayo uhele, uphawu olusekwe noma lungasekiwe ngezivimbeli zehele eziyimigqa edwetshwe phansi endaweni ehlukaniselwe ukushaya ujenga.

- (2) Abantu abafuna ukugibela noma yisiphi isithuthi kunoma yisiphi isikhumulo noma iyiphi enye indawo yokuma lapho izivimbeli zohele ezixunyekiwe bayokwenza uhele lapho kutshengiswe khona ukuthi leso sithuthi siyosukela khona;
- (3) Lapho zingaxunyekiwe khona izimpawu zohele abantu abalindile eduze noma erenke noma esitobhini samakhumbi noma samabhasi ngenhloso yokugibela ikhumbi noma ibhasi bayokwenza uhele ngokwabo olungengaphezu kwabantu abami ngababili, noma umugqa owodwa uma lokho kudingwa yiSiphathimandla Esigunyaziwe noma iPhoyisa Lomgwaqo;
- (4) Abantu abenza noma nguluphi uhele bayokwemukela futhi bavume kulandela ukufika kwabo. Akukho muntu oyovunyelwe ukuqhola omunye ongaphambi kwakhe;
- (5) Akukho muntu oyogibela noma yisiphi isithuthi kunoma iyiphi irenke noma indawo yokuma, ngaphandle kohele (ngaphandle uma kungekho muntu olindele ukugibela isithuthi), futhi akukho muntu oyovunyelwa ukuqhola omunye ongaphambi kwakhe;
- (6) Bonke abantu abame oheleni noma abagibelayo noma abazama ukugibela ikhumbi noma ibhasi erenke yamakhumbi noma yamabhasi lapho uhele selwenziwe bayothobela yoke imiyalelo enikezwe iSiphathimandla Esigunyaziwe noma iPhoyisa Lomgwaqo ukuze kulawuleke uhele noma kunqandwa ukuvimbeleka kokuhamba kwezithuthi nabagibeli;
- (7) Umlawuli wohele osebenza kunoma iyiphi irenke kumele abonakale ngokucacile futhi kumele atshengise igama lakhe ngendlela egqamile ezigutsheni azigqokile, ngezansi kwehlombe lakwesobunxele;
- (8) Umlawuli wohele kumele enze umsebenzi wakhe ngenhlonipho nangentobeko futhi akhombise ukuhlonipha bonke abagibeli;
- (9) Lapho umlawuli wohele elawula ukungena ekhumbini noma ebhasini; akumele avumele abagibeli abangaphezu kwesibalo esivumelekile ngokomthetho, kuleso sithuthi.

Isigaba 23: Ukukhokha Kwemali Yokugibela: Isibopho Somgibeli Ukukhokha

Bonke abagibeli bayokhokha imali yokuya lapho beya khona esemthethweni.

INGXENYE 6: UMPHATHI WERENKE

Isigaba 24: Isidingo Somphathi weRenke

- (1) Amarenke amakhumbi/amabhasi akumasipala ongaphansi koMkhandlu, futhi lapho ngokubona kweyodwa noma ngaphezulu kwezinhlangano zamatekisi, kudingeka kuqashwe umphathi werenke, uMkhandlu, emuva kokubonisana nazo zonke izinhlangano nabo bonke abanye abasebenzisa leyo renke, unganquma ukuthi kuyadingeka yini ukuthi umphathi werenke aqokwe;
- (2) UMkhandlu udinga imininingwane elandelayo mayelana nokuqokwa koMphathi weRenke, ukuba ilethwe yiNhlango yamakhumbi noma iNkampani yamabhasi ngokubhala incwadi:
 - (a) Igama leNhlango yamakhumbi noma iNkampani yamabhasi
 - (b) Amagama aphelele kaSihlalo noma omnikazi;
 - (c) Imininingwane yokuxhumana: Inombolo yocingo nekheli;
 - (d) Igama lerenke efakelwa isicelo;
 - (e) Amagama oMphathi Werenke ohlongozwayo;
 - (f) Inombolo yamazisi yoMphathi Werenke ohlongozwayo;
 - (g) Inani lamakhumbi noma lamabhasi avunyelwe ukusebanzisa leyo renke;
 - (h) Amagama nenani lezinye izinhlangano/ izinkampani zamabhasi asebenzisa leyo renke;
 - (i) Izizathu zenhlango/zabanikazi zokufuna umphathi werenke aqokwe yiwo, achaze ngokugcwele;
 - (j) Ukuzibophezela okusayinelwe yinhlangano noma ngumnikazi ukuthi inhlangano/ umnikazi nomphathi werenke, uma eqokwe, uzohlonipha noma yimiphi imibandela

ebekwa njengoba ingabekwa nguMkhandlu lapho unikeza igunya lawo nokuthi labo baphathi ngeke bagxambukele emisebenzini, ezithuthini, kubashayeli, kubagibeli nasezikhulwini zezinye izinhlangano/abanikazi ngaphandle kokwenza imisebenzi yakhe, noma adale noma yikuphi ukungezwani phakathi kwanoma yibaphi ababaluliwe ngenhla.

Isigunyazo soMkhandlu asiyokugodlwa ngokungemthetho.

Isigaba 25: Iqhaza Lomphathi WeRenke

Noma ngumuphi uMphathi Werenke oqokwe ngokulandela lesi sigaba:

- (a) Uyolawula ukungena nokuphuma erenke, kwanoma iyiphi ikhumbi noma ibhasi esebenzisa irenke ukuqinisekisa ukuthi akukho ukucinana okwenzakalayo ezindaweni zokungena nezokuphuma, noma kwenye irenke;
- (b) Uyolawula, ngokufanele, ukuziphatha kwabantu abangaphakathi erenke;
- (c) Uyoyalela noma ngumuphi umuntu ofisa ukusebenzisa ikhumbi noma ibhasi ukuthi ikuphi leyo khumbi ayidingayo;
- (d) Uyokwaba inani elifanele, elisemthethweni labagibeli ekhumbini noma ebhasini futhi angavumeli ukulayisha ngokweqile ukuba kwenzeke;
- (e) Uyozama ukuxazulula ukungezwani nokungavumelani phakathi kwabadayisi, abahamba ngezinyawo, abagibeli noma abashayeli mayelana nokwabiwa noma ukusetshenziswa kwendawo erenke, futhi uma kungaphumeleli, uyothinta iSiphathimandla Sophiko Lwezokuvikela ukubika isehlakalo abuyisele ukuthula;
- (f) Ngaphandle kokuzifaka engozini, uyozama ukujivaza ukuphathwa kwezikhali ngumshayeli, umsebenzisi noma umgibeli futhi abike noma yiziphi izehlakalo eziphathelene nezikhali eMnyangweni Wamaphoyisa noma kwiSiphathimandla eSigunyaziwe ;
- (g) Uyoqinisekisa ukuthi imihele edalwe ngagibeli abalindele ukugibela amakhumbi noma amabhasi, yenziwa ngendlela ehambisana nanoma yiziphi izihlinzeko zesigaba 22 sale Mitheshwana;
- (h) Uyoqinisekisa ukuthi noma yimiphi imihele yenziwa ngendlela eyalelwa nguye nangokuma okuyalelwa nguyena;
- (i) Uyoqinisekisa ukuthi noma yibaphi abantu abasoheleni abathikamezi abanye abasebenzisi berenke, futhi abaminyanisi noma ngumuphi umzila noma unqenqema ukuvimbela abanye abahamba ngezinyawo noma abagibela ukuba balusebenzise;
- (j) Uyoqinisekisa ukuthi noma yibaphi abantu abagibela amakhumbi noma amabhasi ngendlela enokuthula yokuthi lowo ofike kuqala, ugibela kuqala;
- (k) Uyoqinisekisa ukuthi abagibeli abenze uhele futhi abalindle kunoma yiyiphi ingxenye yerenke abalahli izibi noma yikuphi ngaphandle kwasemigqomeni yezibi ehlinzekelwe lokho, futhi ahlele nemfolomane yomnyango wemisebenzi ukuthi leyo migqomo iyathululwa nguMkhandlu ngezikhathi ezijwayelekile noma uma seyigcwele;
- (l) Uyoqinisekisa ukuthi ayikho ikhumbi noma ibhasi egezwayo noma ehlanzwayo, ngaphandle uma kusendaweni ekhonjelwe lokho, nokuthi akukho ukulungiswa nokukhandwa okwenziwa ngaphakathi erenke, ngaphandle kokukhanda okuphuthumayo okuzovumela umshayeli ahambise ikhumbi esikhungweni esifanele sokukhanda;
- (m) Uyobikela imfolomane yezemisebenzi noma umuntu ommele mayelana nokuhlanzeka kwezindawo zokuzikhulula erenke nokuqinisekisa ngokuxhumanana nalesi siphathimandla ukuthi lezi zindawo ziyahlanzwa njalo noma uma izindawo zingahlanzekile, noma ukuthi ukulungiswa okudingekile kuyabikwa futhi kuyalandelwa;
- (n) Ukuthi amakhumbi namabhasi apakwe ezindaweni ezabelwe wona. Noma yikuphi ukungenzeki ngendlela okuqhubekayo kubikelwe okwenzayo lokho uma kungokokuPhiko Lokuvikela LoMkhandlu noma uMnyango Wezokuhamba Kwezithuthi Emgwaqeni uma isehlakalo sesiphinda ukuze kuthathwe isinqumo;

- (o) Uyoqinisekisa ukuthi akukho mgibeli ongena ekhumbini noma ebhasini ebukeka kuye ikunoma yisiphi isimo sokungalungele ukuba semgwaqeni ukuze ilungiswe, futhi abikele umshayeli iphutha/ amaphutha agqamile acele ukuthi alungiswe;
- (p) Uyozibophezela ukuxhumana neSiphathimandla Esigunyaziwe mayelana nanoma yimuphi omunye umsebenzi/ imisebenzi akholelwa ukuthi kumele ayenze noma yinganoma yisiphi isigaba esingase simholele kunoma nguluphi uhlobo lobunzima;
- (q) Um kukhona iholo okumele liholwe, kumele likhokhwe yinhlangano ecele ukuthi aqokwe.

Isigaba 26: Ukususwa KoMphathi WeRenke

Uma kunokwepulwa okuqhubekayo kwanoma yiziphi zezimiso ezingenhla nguMphathi Werenke uMkhandlu, emva kokubonisana neNhlango Yamakhumbi noma iNkampani Yamabhasi emqokile, ungamisa ukuqokwa koMphathi Werenke onecala, ngaleso sizathu uyohamba ngokuthula, nangaphandle kokuphazamisa kuleyo renke.

INGXEYE 7: OKUVAMILE

Isigaba 27: Amalungelo Nezibopho Zabagibeli Uma Ikhumbi Noma Ibhasi Lingalungile

Uma nganoma yisiphi isikhathi ikhumbi noma ibhasi lingasebenzi noma ngayiphi imbangela lingakwazi ukuqhubeka, ngokucelwa ngumshayeli noma usicabha abagibeli bayolishiya, futhi uma labo bagibeli sebekhokhile bayoba nelungelo lokucela ukubuyiselwa imali abayikhokhile, noma bavunyelwe ukuhamba ngenye ikhumbi noma ibhasi elikhona, ngezindleko zomshayeli noma usicabha waleyo khumbi noma ibhasi, ingxenye esele yemali yohambo abalukhokhele.

Isigaba 28: Izimpahla Eziyingozi Noma Eziyisinengiso

Abantu abahamba nganoma iyiphi ikhumbi noma ibhasi nanoma yiziphi bephethe noma iyiphi impahla, amathuluzi noma izinto zokusebenza ezingabonakala ziyingozi noma ziyisinengiso kubagibeli, kumshayeli, kusicabha kwiSiphathimandla Esigunyaziwe noma ePhoyiseni Lomgwqo, ziyothathwa..

Isigaba 29: Izilwane

Umshayeli noma usicabha wekhumbi noma webhasi noma iSiphathimandla Esigunyaziwe noma iPhoyisa Lomgwaqo lingenqaba ukufaka kuleyo khumbi noma ibhasi noma yinoma yingasiphi isikhathi lingacele umgibeli ukuba asuse lapho isilwane, ngokubona kwalo, ukuthi singase sidale ukucasuka noma sicasula abanye abagibeli, kube sekutheni uma imali ayikhokhile uyabuyiselwa.

Isigaba 30: Izenzo Ezingemukelekile Ekhumbini noma Ebhasini

Lezi zenzo ezilandelayo azemukelekile ekhumbini noma ebhasini:

- (a) Ukubhema, uma ukungavumeleki kukhonjisiwe ngezimpawu;
- (b) Ukudlala umculo okuhlukomezayo noma okubanga umsindo omkhulu;
- (c) Ukusebenzisa ulimi olungalungile noluyinhamba;
- (d) Ukuthikameza ukuthula kwabagibeli;
- (e) Ukulimaza ikhumbi noma ibhasi noma imifakela ephakathi;
- (f) Ukuthikameza impahla yekhumbi noma yebhasi nganoma iyiphi indlela;
- (g) Ukukhipha ngempoqa umshayeli emzileni wakhe;

Umuntu owenza lezi zenzo ezibalulwe ngenhla, ngaphezu kwesijeziso esimiselwe lokho, uyolahlekelwa yimali ayikhokhile futhi akhishwe ekhumbini noma ebhasini.

Isigaba 31: Uthuthuva Noma Ukuziphatha Okungalungile

Noma ngumuphi umuntu ophazamisayo noma oziphatha ngendlela enothuthuva noma engalungile, uyobekwa icala futhi angakhishwa ekhumbini noma ebhasini, oheleni noma endaweni yerenke yamakhumbi noma yamabhasi yiSiphathimandla Esigunyaziwe noma iPhoyisa Longwaqo.

Isigaba 32: Ukulinyazwa kwempahla kaMasipala Akuvunyelwe

Akukho muntu oyolimaza, avithize, aphihlize, ahlikize, asuse noma nganoma iyiphi enye indlela athikameze impahla yamasipala.

Isigaba 33: Amacala Nezinhlawulo Nezikhalo

- (1) Noma yisiphi isithuthi esipakiwe noma esimiswe:
 - (i) Ngokwephula noma ngumuphi wale Mitheshwana; noma
 - (ii) Umnikazi noma umshayeli waso enamasamanisi noma izincwadi ezigunyaza ukuba aboshwe; noma
 - (iii) Esingakulungele ukuba semgwaqeni.
- (2) Ukwehluleka ukuthobela imibandela yanoma yisiphi isimiso noma isaziso esichazwe esigatshaneni (1) ngenhla kuyoba icala eliqhubekayo futhi umuntu ohlulekayo ukuthobela imibandela yalesi isimiso noma isaziso uyobekwa elinye icala usuku nosuku ehluleka ukuthobela le mibandela.
- (3) Izihlinzeko zeMitheshwana yoMkhandlu ephathelene naMacala, Nezinhlawulo kanye neZikhalo *ngaphandle kokuguqulwa* ziyosebenza njengale Mitheshwana.

Isigaba 34: Ukuchithwa KweMitheshwana Engaphambili

Imitheshwana engaphambili yoMkhandlu ephathelene nokulawula amakhumbi namabhasi kanye yisiphi isichibiyelo lapha iyachithwa.