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# UMTHETHOSIVIVINYWA

**Ukuhlinzeka uhlaka lwezikhungo lokuhlahla nokugcwalisa umkhakha kazwelonke kanye namasu endaweni yokusebenza ukuthuthukisa nokwenza ngcono amakhono oquqaba lwabasebenzi base Ningizimu-Afrika; ukuhlanganisa lawo masu ngaphakathi koHlaka lweZimfanelo zika Zwelonke; ezicatshangwe kuMthetho weGunya lweZimfanelo wase Ningizimu Afrika, 1995; ukuhlinzekela ulwazi oluholela kwezivunyiwe izimfanelo zomsebenzi; ukuhlinzekela ukuxhaswa ngezimali ukuthuthukiswa kwamakhono ngesikimu sesabelo-zibizontela kanye neSikhwama sika Zwelonke saMakhono, ukuhlinzekela nokulungisa ngomthetho amahovisi okuqasha, kanye nokuhlinzekela izindaba/izinto ezihlangene kanye nakho.**

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**ISAHLUKO 1**

**IZINCAZELO, INHLOSO NOKUSEBENZA KOMTHETHO**

**Izincazelo**

**1.** Kulo Mthetho, ngaphandle kokuba ingqikithi isho okunye—

**"uMthetho weMibandela eyisiSekelo soMsebenzi"** kusho uMthetho weMibandela eyisiSekelo soMsebenzi, 1997 (uMthetho No. 75 ka 1997);

**"uMnyango"** kusho uMnyango wezeMisebenzi;

**"umQondisi-Jikelele"** kusho umQondisi-Jikelele wezeMisebenzi;

**"isisebenzi"** kusho—

*(a)* noma imuphi umuntu, ngaphandle komuntu ozimele owenza into ngenkontileka osebenzela omunye umuntu noma uHulumeni omukela, noma onikwe ilungelo lokwamukela, noma imuphi umvuzo/iholo; noma

*(b)* imuphi omunye umuntu noma ngayiphi indlela osiza ekuqhubeni noma ukuphatha ibhizinisi lomqashi, futhi

**"ukusebenza"** no **"msebenzi"** kunezichazelo ezivumelananyo/ezihambisanayo; **"izinkonzo zomsebenzi"** kusho ukuhlinzeka ngenkonzo—

*(a)* ukuqondisa noma ukweluleka abasebenzi ngamathuba okukhetha umsebenzi noma ngokunika ulwazi noma ezinye izindlela zokufinyelela;

*(b)* ukulinganisela abafuna umsebenzi—

(i) wokungena noma wokuphinda ukungena emakethe yomsebenzi; noma

(ii) imfundo nokuqeqeshwa njengokulaya kwalo Mthetho;

*(c)* ukudlulisela abafuna umsebenzi—

(i) kubaqashi ukufaka izicelo zezikhala; noma

(ii) kubahlinzeki boqeqesho ukuyofunda nokuqeqeshwa;

*(d)* ukusiza abaqashi—

(i) ngokubatholela izinkonzo zokujoyinisa/zokubutha nokufaka;

(ii) ngokwaluleka bona ngokutholakala kwabafuna umsebenzi abanamakhono ahambisana nezidingo zabo; kanye

(iii) nokubaluleka ngokudilizwa kwezisebenzi nokuthuthukiswa kwamasu okuhlalisanawo; noma

*(e)* nanoma iyiphi enye enqunyiwe inkonzo yomsebenzi;

**"umnyango kahulumeni"** kusho noma imuphi umnyango noma ingxenye ehlangene yenhlangano okubhekiswe kuyo kuSheduli 1 noma 2 yoMthetho weNkonzo yoMphakathi; 1994 (Isimemezelo No. 103 sika 1994);

**"iNkantolo yezeMisebenzi"** kusho iNkantolo yezeMisebenzi emiswe yisigaba 151 yoMthetho yezoBudlelwane kwezeMisebenzi, 1995 (uMthetho No. 66 ka 1995);

**"uNgqongqoshe"** kusho uNgqongqoshe wezeMisebenzi;

**"iGunya likaZwelonke laMakhono"** kusho iGunya lika Zwelonke laMakhono elimiswe isigaba 4;

**"umgomo wokuthuthukisa amakhono kaZwelonke"** kusho umgomo wokuthuthukisa amakhono kazwelonke okubhekiswe kuwo kusigaba 5(1)*(a)* (ii);

**"isu lokuthuthukisa amakhono kaZwelonke"** kusho umgomo wokuthuthukisa amakhono kazwelonke okubhekiswe kuwo kusigaba 5(1)*(a)*(ii);

**"iSikhwama sikaZwelonke saMakhono"** kusho iSikhwama sikaZwelonke saMakhono esimiswe isigaba 27;

**"NEDLAC"** kusho uMkhandlu wezeMisebenzi nokuThuthukisa uMnotho kaZwelonke omiswe isigaba 2 soMthetho woMkhandlu wezeMisebenzi nokuThuthukisa uMnotho kaZwelonke, 1994 (uMthetho No. 35 ka 1994);

**"okunqunyiwe"** kusho okunqunywe isimiselo;

**"isimiselo"** kusho esenziwe futhi esisebenzayo njengokulaya kwesigaba 36;

**"iSETA"** kusho igunya lomkhakha wemfundo nokuqeqesha elimiswe njengokulaya kwesigaba 9(1);

**"uMthetho weZibizontela wokuThuthukisa aMakhono"** kusho umthetho kazwelonke ogidlela izibizontela wokuthuthukisa amakhono;

**"isibizontela sokuthuthukisa amakhono"** kusho isibizontela zokuthuthukisa amakhono esikhokhwayo njengokuyala koMthetho weZibizontela wokuThuthukisa aMakhono;

**"iGunya leZimfanelo lase Ningizimu Afrika"** kusho iGunya leZimfanelo lase Ningizimu Afrika elimiswe isigaba 3 soMthetho weGunya leZimfanelo laseNingizimu Afrika;

**"uMthetho weGunya leZimfanelo laseNingizimu Afrika"** kusho uMthetho weGunya leZimfanelo lase Ningizimu Afrika, 1995 (uMthetho No 58 ka 1995);

**"lo Mthetho'** uhlangananisa noma iziphi izimiselo kodwa kawuhlanganisi izinezezelo ezibekwa ngaphansi; futhi

**"umsebenzi"** uhlanganisa isisebenzi, umuntu ongaqashiwe nofuna umsebenzi.

**Izinhloso zoMthetho**

**2.** (1) Izinhloso zaloMthetho ilezi—

*(a)* ukuthuthukisa amakhono oquqaba lwezisebenzi lwase Ningizimu Afrika—
   (i) ukuze kwenziwe ngcono izinga lempilo yabasebenzi, amathemba kanye nenkululeko yomsebenzi;
   (ii) ukwenza ngcono umkhiqizo endaweni yomsebenzi nokuncintisana kwabaqashi;
   (iii) ukuqhubekisa ukuzisebenza; kanye
   (iv) nokwenza ngcono ukunikezwa kwezinkonzo zokuhlalisana kahle

*(b)* ukwandisa amazinga okutshalwa kwemali kwimfundo nokuqeqeshwa emakethe yezemisebenzi kanye nokwenza ngcono inzuzo kulokho kutshalwa;

*(c)* ukukhuthaza abaqashi—
   (i) ukusebenzisa indawo yomsebenzi njengendawo ekhuthazela ukufunda;
   (ii) ukunika izisebenzi amathuba okuthola amakhono amasha;
   (iii) ukunikeza amathuba kwabasha abangenayo emakethe yomsebenzi ukuzuza ukwazi ngomsebenzi; kanye
   (iv) nokuqasha abantu abakuthola kunzima ukuqashwa;

*(d)* ukukhuthaza abasebenzi ukuhlanganyela ekufundeni kanye nezinye izinhlelo zokuqeqeshwa;

*(e)* ukwenza ngcono amathemba omsebenzi kubantu ababejiyezekile ngaphambili ngenxa yobandlululo olungalungile futhi nokuzilungisa lezozici ezijiyezayo ngokuqeqesha nemfundo;

*(f)* ukuqikelela ubunjalo/izinga lemfundo nokuqeqeshwa endaweni yomsebenzi nokuqeqeshelwa umsebenzi;

*(g)* ukusiza—
   (i) abafuna umsebenzi ukuthola umsebenzi;
   (ii) abasebenzi abadiliziwe baphinda bangene emakethe yomsebenzi;
   (iii) abaqashi ukuthola izisebenzi ezinezitifiketi; kanye

*(h)* nokuhlinzeka kanye nokulungisa ngomthetho amahovisi okuqasha

(2) Lezo zinhloso zizofezwa—

*(a)* ngokumisa uhlaka lwezikhungo nolwezimali oluhlanganise—
   (i) iGunya likaZwelonke laMakhono;
   (ii) iSikhwama sikaZwelonke saMakhono;
   (iii) isikimu sesabelo-zibizontela sokuthuthukisa amakhono njengoba sicatshangwe kuMthetho weZibizontela wokuThuthukiswa kwaMakhono;
   (iv) aMagunya oMkhakha weMfundo nokuQeqesha
   (v) izizinda zomsebenzi; kanye
   (vi) neQembu lokuSongoza/loKwenza ukuThuthukiswa kwaMakhono

*(b)* ukukhuthaza ukubambisana phakathi komkhakha womnotho womphakathi nowangasese ukuhlinzeka imfundo nokuqeqesha endaweni yomsebenzi nokwendawo yomsebenzi; kanye

*(c)* nokusebenzisana neGunya leZimfanelo laseNingizimu Afrika.

**Ukuhumusha**

**3.** Noma imuphi umuntu osebenzisa loMthetho makahumushe izihlinzeko zawo ukugcina—

*(a)* izinhloso zawo; kanye

*(b)* nezinjongo zoMthetho weGunya leZimfanelo zeNingizimu Afrika.

## ISAHLUKO 2

## IGUNYA LAMAKHONA LIKAZWELONKE

**Ukumisa iGunya laMakhono likaZwelonke**

**4.** IGunya laMakhono likaZwelonke ngalokhu liyamiswa.

**Imisebenzi yeGunya laMakhono likaZwelonke**

**5.** (1) Imisebenzi yeGunya laMakhono likaZwelonke yile—

*(a)* ukweluleka uNgqongqoshe—

(i) ngomgomo wokuthuthukisa amakhono kazwelonke;

(ii) ngesu lokuthuthukisa amakhono kazwelonke;

(iii) ngezinkombanqubo ekugcwalisweni kwesu lokuthuthukisa amakhono kaZwelonke;

(iv) ngokwabiwa kwemali yokwelekela yeSikhwama saMakhono sikaZwelonke; kanye

(v) nanoma yiziphi izimiselo ezizonqunywa;

*(b)* ukuhlukanisa/ukuhlanganisa amaGunya oMkhakha weMfundo nokuQeqesha—

(i) emgomeni wokuthuthukisa amakhono kazwelonke; kanye

(ii) nangesu lokuthuthukisa amakhono kazwelonke

*(c)* ukubika kuNgqongqoshe ngendlela enqunyiwe ngenqubekela—phambili eyenziwe ekugcwaliseni isu lokuthuthukisa amakhono kazwelonke

*(d)* ukuhola uphenyo lwanoma iluphi udaba oluvuka ekusetshenzisweni kwalo Mthetho; kanye

*(e)* nokusebenzisa noma imaphi amandla nokugcina noma iziphi ezinye izibopho ezinikwe noma ezigidlelwe iGunya yilo Mthetho.

(2) ngezinhloso zezimpenyo okubhekiswe kuzo kusigatshana (1)*(d)*, iGunya linamandla anqunyiwe okungena nokubuza nokuhlola.

(3) IGunya malenze imisebenzi yalo njengokuvumelana naloMthetho nomthethosisekelo walo.

**Ukubunjwa kweGunya laMakhono likaZwelonke nesikhathi sokuphatha nesokuphuma**

**6.** (1) IGunya laMakhono/likaZwelonke lenziwe/libunjwe—

*(a)* usihlalo ovotayo obekwe uNgqongqoshe

*(b)* amalungu angu 24 ovotayo namathathu angavoti abekwe nguNgqongqoshe; kanye

*(c)* nesiphathimandla esingavoti esiphethe.

(2) Amalungu okubhekiswe kuwo kusigatshana (1)*(b)* yilawa—

*(a)* amalungu amahlanu avotayo aphakanyiswe ngu NEDLAC futhi abekwa uNgqongqoshe ukumela izinyonyana zabasebenzi.

*(b)* amalungu amahlanu avotayo aphakanyiswe ngu NEDLAC futhi abekwa nguNgqongqoshe ukumela abaqashi.

*(c)* amalungu amahlanu avotayo aphakanyiswe uNEDLAC futhi abekwa nguNgqongqoshe ukumela izinhlangano zomphakathi nosizo lwentuthuko okufanele kuhlanganise—

(i) owesifazane omele okungokwabesifazane;

(ii) umuntu omele okungokwentsha; kanye

(iii) nomuntu okhubazekile omele okungokwabantu abenemiqhina;

*(d)* amalungu amahlanu avotayo abekwe nguNgqongqoshe ukumela okungokwa Hulumeni;

*(e)* amalungu amane avotayo abekwe nguNgqongqoshe ukumela okungokwabahlinzeka ngemfundo nokuQeqesha;

*(f)* amalungu amabili angavoti, anobungcweti kumqandiselo/ekuhlinzekeni amahovisi okuqasha, amiswe nguNgqongqoshe; kanye

*(g)* nelungu nelilodwa elingavoti eliphakanyiswe iGunya leZimfanelo leNingizimu Afrika elibekwe nguNgqongqoshe ukumela leloGunya.

(3) UNgqongqoshe makakhombe amalungu amane njengamaphini kasihlalo; elilodwa iphini likasihlalo abe munye kumalungu abekwe ukumela—

*(a)* izinyonyana zabasebenzi;

*(b)* izinhlangano zabaqashi;

*(c)* izinhlangano zomphakathi nosizo lwentuthuko; kanye

*(d)* iziFiso zikaHulumeni.

(4) Ilungu leGunya liba sehhovisi/liphatha isikhundla inkathi eyiminyaka emithathu futhi lisenokukhethwa ukuphinda libekwe.

(5) Ilungu leGunya lishiya ihovisi uma lelolungu—

*(a)* lisuswa ehhovisi nguNgqongqoshe njengokucatshangwe kusigatshana 6; noma

*(b)* lishiya ngenothisi ebhaliwe ikhelwe yaqondiswa kuNgqongqoshe

(6) uNgqongqoshe angalisusa ilungu leGunya—

*(a)* ngesicelo esibhalwe umgwamanda owaphakamisa lelolungu njengokulaya kwesigatshana (2);

*(b)* ngokuziphatha kabi kakhulu

*(c)* ngokungabi namandla okungenakuguqulwa

*(d)* ukuphutha/ukungabikho emihlanganweni, emithathu elandelene yeGunya—

(i) ngaphandle kwemvume ngaphambili yeGunya; noma

(ii) ngaphandle kokuba ilungu liveza isizathu esihle; noma

*(e)* ngokuhlanganyela kunoma imuphi umsebenzi ongalimaza iMisebenzi yeGunya

(7) Noma isiphi isikhala ehovisi lelungu singagcwaliswa nguNgqongqoshe ngokubeka elinye ilungu njengokulaya kwesigaba (2).

**uMthethosisekelo weGunya laMakhono likaZwelonke**

**7.** (1) IGunya laMakhono likaZwelonke malamukele uMthethosisekelo walo, ngesikhathi esifanele ngemuva kokubeka amalungu alo.

(2) kuye ngelungelo laloMthetho, uMthethosisekelo weGunya—

*(a)* mawuhlinzekele—

(i) inqubo yokuqokwa kwamalungu eGunya njengokubekiwe kusigaba 6(2)*(a)*, *(b)*, *(c)* no *(g)*;

(ii) ukumiswa nokusebenza kwamakomiti; kuhlangane nesigungu;

(iii) izimiselo zokubiza nokuhola imihlangano yeGunya namakomiti alo, kuhlangene nekhoramu edingekayo kanye namaminithi agcinwayo aleyomihlangano kuqikelelwe ukuthi okungenani inothisi yezinsuku ezi-30 yomhlangano okuyokhankanywa kuwo ukuchibiyela umthethosisekelo noma isimiselo esidingekile.

(iv) amalungelo okuvota amalungu ahlukene kanye nendlela izinqumo eziyothathwa ngayo iGunya namakomiti alo;

(v) uMthetho wokuziphatha kwamalungu eGunya;

(vi) ukunquma ngokulamula kwanoma imuphi umbango ophathelene nokuhumusha noma ukusebenza koMthethosisekelo; kanye

(vii) nenqubo yokuchibiyela uMthethosisekelo; kuqikelelwe ukuthi iningi lokuthathu eshumini lalokho kuchibiyela lidingekile futhi imvume kaNgqongqoshe yaleso sichibiyelo esidingekile; futhi ukuthi imvume yanoma ikuphi ukuchibiyela iyadingeka; futhi

*(b)* ingahlinzekela—

(i) ukunikeza amandla nezibopho zeGunya kumalungu alo; amakomiti nezisebenzi; kuqikelelwe ukuthi iGunya lingagidlela imibandela yokunikeza amandla, nanoma imaphi amandla noma isibopho ngesizathu sokunikeza amandla futhi lingawuguqula noma lesule noma isiphi isinqumo esenziwe ngaphansi kwanoma ikuphi ukunikeza amandla; kanye

(ii) nanoma iluphi olunye udaba/indaba edingekile ukwenza iMisebenzi yeGunya.

(3) Okungenani inothisi yezinsuku ezingu 30 zomhlangano weGunya mayinikwe lapho kuzokhankanywa khona isichibiyelo somthethosisekelo noma isimiselo

(4) Amavoti asekelayo okungenani abe okuthathu eshumini okungawamalungu eGunya kanye nemvume kaNgqongqoshe kudingekile ukuchibiyela umthethosisekelo walo.

(5) Amavoti amalunga eGunya asekelayo okungenani okokuthathu eshumini adingekile ukweluleka uNgqongqoshe ngezimiselo ezizokwaziwa

(6) Phezu kwesigatshana (2)*(a)*(i), uNgqongqoshe makanqume inqubo yeziphakamiso zokubekwa kokuqala kwamalungu okubhekiswe kuwo kusigaba 6(2)*(a), (b), (c)* no *(g)*.

**Inkokhelo/umvuzo/iholo nokuphathwa kweGunya laMakhono likaZwelonke**

**8.** (1) Ilungu leGunya laMakhono likaZwelonke elingaqashiwe isikhathi esigcwele nguHulumeni lingakhokhelwa umvuzo nezinkokhelo ezinqunyiwe uNgqongqoshe ngokuvumelana noNgqongqoshe wezeZimali.

(2) Kuye ngelungelo lemithetho ephethe inkonzo yomphakathi, umQondisi-Jikelele—

*(a)* makabeke umuntu ozokuba isiphathimandla esiphethe seGunya laMakhono lika Zwelonke okuyothi ekubekweni asebenzele inkonzo yomphakathi; futhi.

*(b)* makahlinzeke iGunya ngabasebenzi nemali uNgqongqoshe akubona kudingekile ukwenza iMisebenzi yalo.

## ISAHLUKO 3

## AMAGUNYA OMKHAKHA WEMFUNDO NOKUQEQESHA

**Ukumisa iSETA**

**9.** (1) UNgqongqoshe, ngendlela enqunyiwe, angamisela noma imuphi umkhakha wezomnotho kazwelonke, iGunya loMkhakha wemfundo nokuQeqesha ngesaziso ku*Gazethi*.

(2) UNgqongqoshe makanqume umkhakha owehlukene/ongafani ngezinhloso zesigatshana (1) maqondana nezinhlobo zabaqashi futhi ngezinhloso zalokho kunquma ananzele/abheke—

*(a)* imfundo nezidingo zokuqeqeshwa kwabaqashi nezisebenzi—

(i) abasebenzisa izinto ezifanayo, uchunge leMisebenzi nemisebezi ethile;

(ii) abenza imikhiqizo efanayo; noma

(iii) abanika izinkonzo ezifanayo;

*(b)* ukungabi namandla komkhakha ohlongoziwe wezinhlobo zomsebenzi ezihlangene nomhlahla-ndlela womsebenzi okhethiweyo wokuziphilisa;

*(c)* indawo yanoma imaphi amasu kaZwelonke okukhula komnotho nentuthuko;

*(d)* ukuhlelwa kwezinhlangano zezinyonyana izinhlangano zabaqashi zoHulumeni kwimikhakha ehlangene/esondelene kakhulu;

*(e)* nanoma ikuphi ukuvumelana okungabakhona phakathi kwezinyonyana zabasebenzi izinhlangano zabaqashi neminyango eqondene kaHulumeni ngencazelo yanoma umuphi umkhakha; kanye

*(f)* amandla oMkhakha ohlongoziwe okuhlela nokuphathwa kwezimali ukuxhasa iSETA.

(3) Ekumisweni kweSETA, uNgqongqoshe angahlinzeka ngosizo lweSETA ukwenza imisebenzi yayo.

**Imisebenzi yeSETA**

**10.** (1) ISETA—

*(a)* mayithuthukise ipulani yomkhakha wamakhono ngaphakathi kohlaka lwesu lokuthuthukisa amakhono kaZwelonke;

*(b)* mayigcwalise ipulani yomkhakha waMakhono—

(i) ngokumisa izindawo zolwazi;

(ii) ngokuvumela amapulani amakhono endaweni yomsebenzi;

(iii) ngokwabela imali yokusiza ngendlela enqunyiwe kubaqashi, abahlinzeki bemfundo nokuqeqesha nabasebenzi, kanye

(iv) nangokuqapha imfundo nokuqeqesha kumkhakha,

*(c)* mayiqhubekise izindawo zolwazi

(i) ngokukhomba izindawo zomsebenzi zokuthola ulwazi lomsebenzi ngokuwenza,

(ii) ngokusekela ukuthuthukiswa kwezinto zokufunda;

(iii) ngokwenza ngcono ukulungiselela ukufunda; kanye

(iv) nangokusiza ukwenza isivumelwano sokufunda;

*(d)* mayibhalise izivumelwano zokufunda,

*(e)* mayifake isicelo kwiGunya leZimfanelo laseNingizimu Afrika ngaphakathi kwesonto kusukela ekumisweni kwalo ukwamukelwa/ ukuvunywa njengomgwamanda ocatshangwe kusigaba 5(1)*(a)*(ii)*(bb)* ngaphakathi kwezinyanga ezingu 18 kusukela osukwini leso sicelo esirejitwe ngalo.

*(f)* mayiqoqe ibizontela lokuthuthukisa aMakhono kumkhakha walo,

(*g*) mayihlukanise/mayihlanganise iGunya laMakhono likaZwelonke—
(i) kumgomo wokuthuthukiswa kwamakhono;
(ii) kulisu lokuthuthukisa aMakhono likaZwelonke; kanye
(iii) nakupulani yaMakhono kumkhakha wayo
(*h*) mayibike kumQondisi-Jikelele—
(i) ngemali engenayo nencithakalo; kanye
(ii) nokugcwalisa ipulani yaMakhono oMkhakha wayo;
(*i*) mayihlukanise/mayihlanganise amahovisi okuqasha oMnyango kanye nanoma imuphi umgwamanda weMfundo omiswe ngaphansi kwanoma imuphi umthetho ophethe/obusa imfundo yeRiphabliki ukwenza ngcono ukwazi—
(i) ngamathuba omsebenzi, kanye
(ii) naphakathi kwabahlinzeki bemfundo nokuQeqesha kanye nemakethe yomsebenzi futhi
(*j*) ibeka abasebenzi abadingekile ukwenza imisebenzi ecatshangwe kulesisigaba;
(*k*) mayigcine noma iziphi ezinye izibopho ezigidlelwe yiloMthetho noma ezihlangene nezinhloso zaloMthetho.

(2) ISETA—
(*a*) inawo wonke amandla anjalo njengoba edingekile ukuyinika amandla okugcina izibopho okubhekiswe kuzo kusigatshana (1); kanye
(*b*) namanye amandla anikwe iSETA yiloMthetho.

(3) ISETA mayenze imisebenzi yayo njengokuvumelana naloMthetho kanye nomthethosisekelo wayo.

**Ukubunjwa kweSETA**

**11.** ISETA ingabunjwa kuphela ngamalungu amele—
(*a*) izinyonyana zabasebenzi;
(*b*) izinhlangano zabaqashi, kuhlanganisa osomabhizinisi abancane;
(*c*) iminyango kahulumeni eqondene; futhi
(*d*) uma uNgqongqoshe, emuva kokubonisana namalungu okubhekiswe kuwo kundima *(a) (b)* no *(c)*, ebona ukuthi kuwufanele umkhakha—
(i) noma imuphi umgwamanda wobungcweti oshisekele/okhathalele; noma
(ii) noma imuphi umkhandlu wokwenza izivumelwano onamandla kulowo mkhakha.

**Imigwamanda ye SETA**

**12.** (1) ISETA ingamisa imigwamanda kumkhakha wayo ngemvume kaNgqongqoshe.

(2) umgwamanda omiswe kanjalo mawubunjwe isibalo esilingene samalungu amele izisebenzi nabaqashi futhi umgahlanganisa nalowo malungu angeziwe njengoba iseta inquma

(3) Lowo mgwamanda mawenze leyomisebenzi yeSETA njengoba unikwe amandla okuyenza njengokulaya komthethosisekelo weSETA yawo.

(4) Umgwamanda weSETA uvumelekile kulokho kwekhulu kwezibizontela zokuthuthukisa amakhono eziqoqwe endaweni yamandla awo njengoba uNgqongqoshe ngemuva kokubonisana neSETA enquma.

**UMthethosisekelo we SETA**

**13.** (1) Ngenhloso yokumisa i SETA, UNgqongqoshe makavumele umthethosisekelo weSETA.

(2) uNgqongqoshe angachibiyela umthethosisekelo ngendlela enqunyiwe emuva kokubonisana neSETA.

(3) kuye ngelungelo lalo Mthetho, umthethosisekelo weSETA—
(*a*) mawusho—
(i) izinyonyana\izinhlangano zabaqashi neminyango kahulumeni eqondene kumkhakha;

(ii) izimo nendlela ilungu leSETA elingasuswa ngazo;
(iii) inani lamalungu azobekwa kuSETA, kuqikelelwe ukuthi iSETA, ibunjwe inani elilingene lamalungu amele abasebenzi nabaqashi;
(iv) inqubo yokuthatha indawo yelungu leSETA okwenziwa inhlangano ephakamise lelolungu;
(v) izimiso nendlela ilungu elingashintshwa ngayo iSETA;
(vi) ukukhethwa kwabaphethe izikhundla ngamalungu eSETA kanye nabantu abangababambela ngesikhathi bengekho noma bengenamandla, isikhathi sabo sokuphatha nemisebenzi kanye nezimo nendlela abangashintshwa ngayo;
(vii) ukumiswa nokusebenza kwamakomiti kuhlangene nesigungu,
(viii) izimiselo zokubiza nokuhola imihlangano yeSETA kanye nemigwamanda yayo namakomiti, kuhlangene nekhoramu edingekile kanye namaminithi agcinwayo aleyomihlangano;
(ix) amalungelo okuvota kwamalungu angefani nendlela izinqumo ezizothathwa ngayo iSETA kanye nemigwamada yayo namakomiti;
(x) umthetho/indlela yokuziphatha kwamalungu eSETA nemigwamanda yayo;
(xi) ukubekwa kwesiphathimandla esikhulu, kanye nalezo ezinye izisebenzi ezidingekile ukwenza imisebenzi ephumelelayo yeSETA, ngamalunga ayo kuhlangene nokunqunywa kwemiyalelo nemibandela yomsebenzi; kanye.
(xii) nokunquma ngokunqumela omunye kunoma imuphi umbango ophathelene nokuhumusha noma ukusebenza komthethosisekelo; futhi

*(b)* ingahlinzekela—
(i) ukunikeza amandla nezibopho zeSETA kumalungu ayo imigwamanda, amakomiti nezisebenzi, kuqikelelwe ukuthi iSETA ingagidlela imibandela yokunikeza amandla, ingephucwe noma imaphi amandla noma isibopho ngenxa yokunikeza amandla futhi ingaguqula noma isule noma isiphi isinqumo esenziwe ngaphansi kwanoma ikuphi ukunikezwa amandla; kanye
(ii) nanoma iyiphi enye indaba/udaba olundingekile ukwenza imisebenzi yeSETA.

**Izimali ze SETA**

**14.** (1) I SETA ixhaswa ngezimali—
*(a)* ezivela kuzibizontela zokuthuthukiswa kwamakhono eziqoqwe kumkhakha wayo;
*(b)* ngezimali ezikhokhwe kuyo zivela kuSikhwama saMakhono kaZwelonke;
*(c)* ngemali yokusiza/isabelo, iminikelo namafa enikwe wona;
*(d)* ngemali engenayo ezuzwe kunsalela yemali ebekiwe noma efakiwe;
*(e)* ngemali engenayo ezuzwe emsebenzini owenziwe ngendlela enqunyiwe, kanye
*(f)* nangemali emukelwe kunoma imuphi omunye umthombo.

(2) Imali emukelwe iSETA mayikhokhwe ku- akhawundi yasebhange kunoma iliphi ibhange elirejistiwe futhi ingafakwa kuphela—
*(a)* kumakhawundi okonga, kumasheya ayisimaphakade noma abekelwe isikhathi esinqunyiwe kunoma iliphi ibhange elibhaliswe noma esinye isikhungo semali;
*(b)* kumasheya angaphakathi arejistiwe acatshangwe kusigaba 21(1) soMthetho weSikhwama seSizwe, 1975 (uMthetho No. 66 ka 1975);
*(c)* kusikimu samayunithi trast esiphethwe inkampani esirejistiwe njengenkampani ephethe njengokulaya kwesigaba 4 noma 30 soMthetho wokuPhatha amaYunithi Trast, 1981 (uMthetho No. 54 ka 1981); kanye
*(d)* nanoma ngayiphi enye indlela evumelwe nguNgqongqoshe.

(3) Izimali ezamukelwe iSETA zingasetshenziswa kuphela ngendlela enqunyiwe futhi—
*(a)* ukuxhasa ukwenza imisebenzi yayo; kanye
*(b)* nokukhokhela ukuphatha ngaphakathi komkhawulo onqunyiwe.

(4) Kunyaka ngamunye wezimali, ophela ngosuku olunqunyiwe, wonke uSETA

makayise kuNgqongqoshe isitatimente sikaSETA semali eyisilinganiso engenayo nencithakalo yonyaka olandelayo wezimali.

(5) Wonke uSETA, njengokuhambisana nemigomo eyamukelekile ngokuvamile yomkhuba wokugcina nokuqinisa ngezimali—

*(a)* mayigcine amabhuku—marekhodi ezimali ezingenayo, incithakalo, impahla nezikweleti; futhi

*(b)* ngaphakathi kwezinyanga eziyisithupha emuva kokuphela konyaka ngamunye wezimali, ilungise amakhawundi akhombisa imali engenile nencithakalo kanye nebhalansishidi ekhombisa impahla yayo, izikweledi nesimo sezimali ekupheleni kwalowo nyaka wezimali.

(6) UmCwaningi-Jikelele—

*(a)* makacwaninge amakhawundi, izitatimente zemali nokuphathwa kwezimali zeSETA; futhi

*(b)* makabike ngalolo cwaningo ku SETA nakuNgongqoshe futhi kulowo mbiko akhiphe umbono noma iSETA izithobele yini izihlinzeko zaloMthetho, nomthethosisekelo, eziphathelene nezindaba zezimali;

**Ukuthatha ukuphathwa kwe SETA**

**15.** (1) UNgqongqoshe angayala umQondisi-Jikelele ngesaziso ku*Gazethi* ukubeka umphathi ukuthatha ukuphathwa kweSETA, emuva kokubonisana neGunya laMakhono likaZwelonke, uma uNgqongqoshe ebona ukuthi—

*(a)* iSETA iyehluleka ukwenza imisebenzi yayo;

*(b)* kukhona ukuphathwa kabi kwezimali; noma

*(c)* ubulungu bayo abusamele kakhulu ukubunjwa okucatshangwe kusigaba 11

(2) Kuleso saziso uNgqongqoshe—

*(a)* makanqume amandla nezibopho zomphathi obekwe njengokulaya kwesigatshana (1);

*(b)* angamisa noma ashintshe elilodwa noma angaphezulu amalungu eSETA ngesizathu esicatshangwe kusigatshana 1*(a)*, *(b)* noma *(c)*;

*(c)* angamisa ukusebenza komthethosisekelo weSETA; futhi

*(d)* angadlulisela imali ekukhawundi lebhange leSETA kuSikhwama saMakhono kaZwelonke ngendlela enqunyiwe.

(3) Uma uNgqongqoshe esesisakazile/esesimemezele isaziso njengokulaya kwesigatshana (1), uNgqongqoshe ukuze alungisele ukuthi iSETA iyawuqhuba futhi iyayenza imisebenzi yayo—

*(a)* angachibiyela umthethosisekelo wayo;

*(b)* angabuyisela esikhundleni noma iliphi lamalungu ayo; futhi

*(c)* angahoxisa noma achibiyele noma isiphi isihlinzeko sesaziso esicatshangwe kusigatshana (2) ngemibandela njengoba uNgongqoshe ebona kufanele.

## ISAHLUKO 4

## IZINDAWO/IZIZINDA ZOKUFUNDA

**Izindawo/izizinda zokufunda**

**16.** ISETA ingamisa isizinda sokufunda uma—

*(a)* isizinda sokufunda senziwe inxenye yokufunda ehlanganisiwe/ehleliwe;

*(b)* isizinda sokufunda sihlanganisa ukwazi ngokuwenza umsebenzi wohlobo olushiwo oludingekayo kanye nesikhathi;

*(c)* ukufunda kwakungaholela kwimfanelo eqondene nomsebenzi okubhaliswe iGunya leZimfanelo zeNingizimu Afrika; futhi

*(d)* isizinda sokufunda sibhaliswe nomQondisi-Jikelele ngendlela enqunyiwe.

**Izivumelwano zokufunda**

**17.** (1) Ngezinhloso zalesiSahluko, ''isivumelwano sokufunda'' kusho isivumelwano okungenwe kuso isikhathi esishiwo phakathi—

*(a)* komfundi;

*(b)* umqashi noma iqoqo labaqashi kulesisigaba okubhekiswe kubo njengo ''mqashi''; futhi

*(c)* abahlinzeki boqeqesho ovunywelomukelwe ngumgwamanda ocatshangwe kusigaba 5 (1)*(a)*(ii)*(bb)* seGunya leZimfanelo zeNingizimu Afrika, noma iqoqo lalabo bahlinzeki boqeqesho.

(2) Imiyalelo okuvunyelwane ngayo yesivumelwano sokufunda masiphoqe—

*(a)* umqashi—

(i) ukuqasha umfundi inkathi eshiwo esivumelwaneni;

(ii) ukuhlinzeka umfundi ngokwazi kokuwenza umsebenzi okushiwo;

(iii) ukumkhulula umfundi ukuzofunda futhi aqeqeshwe njengoba kushiwo kusivumelwano;

*(b)* umfundi—

(i) ukusebenzela umqashi;

(ii) ukuhamba eshiwo imfundo nokuQeqesha; futhi

*(c)* umhlinzeki woqeqesho ahlinzekele—

(i) imfundo nokuqeqesha okushiwo kusivumelwano; futhi

(ii) nokuxhaswa komfundi okushiwo kusivumelwano.

(3) Isivumelwano sokufunda masibe kufomu enqunyiwe futhi irejistwe neSETA ngendlela enqunyiwe.

(4) Isivumelwano sokufunda singepheliswe ngaphambi kokuphela kwenkathi yesikhathi esishiwo kusivumelwano ngaphandle—

*(a)* kokuba umfundi enelisa izidingo zokuqeda ukufunda okuyimpumelelo

*(b)* kokuba ISETA eyarejista isivumelwano ikuvume lokho kupheliswe; noma

*(c)* umfundi exoshwe kahle ngesizathu esiphathelene nokuziphatha komfundi noma isikhundla njengesisebenzi.

(5) umqashi noma ohlinzekela uqeqesho ongumhlanganyeli kusivumelwano sokufunda angashintshwa—

*(a)* ngemvume yomfundi; futhi

*(b)* ngemvume yeSETA eyebhalisa isivumelwano.

(6) ISETA mayinike umQondisi-Jikelele, ngendlela enqunyiwe, irekhodi yezivumelwano zokufunda ezibhaliswe ISETA.

**Inkontileka yomsebenzi nomfundi**

**18.** (1) uma umfundi esemsebenzini womqashi ongumhlanganyeli kusivumelwano sokufunda esithintekile nxashana isivumelwano senziwa, inkontileka yomsebenzi yomfundi ayithintiwe isivumelwano.

(2) Uma umfundi wayengekho emsebenzini womqashi ongumhlangayeli kusivumelwano esithintekile nxashana isivumelwano senziwa, umqashi nomfundi mabangene kunkontileka yomsebenzi.

(3) inkontileka yomsebenzi nomfundi ecatshangwe kusigatshana (2) ingaphansi kwelungelo lanoma iyiphi imiyalelo nemibandela enganqunywa nguNgqongqoshe ngokuncoma kweKhomishani yeMibandela yoMsebenzi eyamiswa isigaba 59 (1) soMthetho weMibandela eyisiSekelo yoMsebenzi.

(4) Isahluko sesishiyagalombili nesishiyagalolunye soMthetho weMibandela eyisiSekelo soMsebenzi ziyasebenza ngezinguquko eziyalwa ingqikithi, ngokunquma okwenziwe njengokulaya kwesigatshana (3) ngaphandle kokuthi—

*(a)* ngezinhloso zesigaba 54(3) salowo Mthetho, iKhomishani yeMibandela yoMsebenzi mayicabange nangomphumela ongenziwa yinoma imiphi yale-

mibandela yomsebenzi esongozwayo ekuqashweni kwabafundi kanye nempumelelo yezinhloso zaloMthetho; futhi

*(b)* isigaba 55(7) saloya Mthetho asisebenzi.

(5) Inkontileka yomsebenzi yomfundi ingepheliswe ngaphambi kokuphela kwenkathi eshiwo kusivumelwano sokufunda ngaphandle kokuba isivumelwano sokufunda sipheliswa njengokulaya kwesigaba 17(4).

(6) Inkontileka yomsebenzi yomfundi iphela ekupheleni kwenkathi yesikhathi esishiwo kusivumelwano sokufunda ngaphandle kokuba isivumelwano senziwa nomuntu owayesevele esesemsebenzini womqashi ongumhlanganyeli kusivumelwano lapho isivumelwano senziwa.

**Imibango ngezokufunda**

**19.** (1) Ngezinhloso zalesi sigaba ''umbango'' kusho umbango—

*(a)* ngokuhumusha noma ukusebenza kwanoma isiphi isihlinzeko—

(i) sesivumelwano sokufunda;

(ii) inkontileka yomsebenzi yomfundi;

(iii) ukunquma okwenziwe njengokulaya kwesigaba 17(3);

*(b)* lesi Sahluko;

*(c)* ukupheliswa—

(i) kwesivumelwano sokufunda; kanye

(ii) nenkontileka yomsebenzi yomfundi.

(2) Noma imuphi umhlanganyeli kumbango angawudlulisela kwiKhomishane yokuLamula ukuLamulela nokuNqumela ngomunye emiswe isigaba 112 soMthetho wezoBudlelwane kwezeMisebenzi, 1995 (uMthetho No. 66 ka 1995).

(3) Umhlanganyeli odlulisela umbango makanelise, leyo Khomishane ukuthi iKhophi lokudluliswa kombango linikwe bonke abanye abahlanganyeli kumbango.

(4) IKhomishane mayizame ukuqaqa umbango ngokulamula.

(5) Uma umbango ugcina ungaxazululekile noma imuphi umhlanganyeli angacela ukuba umbango uxazululwe ngokunquma ngesikhathi esifanele.

(6) Umthetho osebenza ekubeni-noMthetho nokulunga wokuxosha ngesizathu esiphathelene nesikhundla sesisebenzi noma ukuziphatha uyasebenza kumbango ocatshangwe kusigatshana (1)*(c)*(ii).

## ISAHLUKO 5

## IZINHLELO ZAMAKHONO

**Izinhlelo zaMakhono**

**20.** (1) Ngezinhloso zaleSahluko, ''uhlelo lwamakhono'' kusho uhlelo lwamakhono—

*(a)* olusekelwe/olumiswe emsebenzini;

*(b)* oluyothi nxashana seluqediwe lwenze isifundo maqondana nemfanelo njengokulaya koHlaka lweZimfanelo zikaZwelonke njengoba luchaziwe kusigaba 1 soMthetho weGunya leZimfanelo zeNingizimu Afrika; futhi

*(c)* lusebenzisa aba hlinzekela uqeqesho abavunyiwe; noma

*(d)* oluthobela imiyalo enqunyiwe.

(2) Noma imuphi umuntu osethuthukise uhlelo lwamakhono angafaka isicelo—

*(a)* ku SETA onamandla imali yokusiza/isabelo; noma

*(b)* kumQondisi-Jikelele imali yokwelekela/isabsidi.

(3) ISETA noma umQondisi- Jikelele angaxhasa ngemali uhlelo lwamakhono uma—

*(a)* uthobela—

(i) isigatshana (1);

(ii) noma imiphi imiyalo egidlelwe iSETA noma umQondisi-Jikelele; futhi

(iii) nanoma imiphi imiyalo enqunyiwe; futhi

*(b)* luhambisana—

(i) nepulani yomkhakha okuthuthukisa amakhono eSETA; noma
(ii) isu lokuthuthukisa amakhono kazwelonke; futhi
*(c)* imali ikhona.

(4) I SETA noma umQondisi -Jikelele angabeka noma imiphi imiyalelo nemibandela yokuxhasa njengokulaya kwesigatsana (3) iSETA noma umQondisi-Jikelele, kuye ngesimo, ayibona idingekile.

(5) ISETA noma umQondisi-Jikelele makaqaphe izinhlelo zamakhono ezixhaswa iSETA noma umQondisi-Jikelele, kuye ngesimo.

(6) ISETA noma umQondisi-Jikelele osenze izimali zatholakala zohlelo lwamakhono angazigodla/azibambe izimali noma azithole futhi noma iziphi izimali ezikhokhiwe uma iSETA noma umQondisi-Jikelele, kuye ngesimo, unombono wokuthi—
*(a)* imali ayisetshenziselwa inhloso eyatholelwa yona;
*(b)* noma imuphi umyalelo noma umbandela wokuxhasa awuthotshelwa; noma
*(c)* ISETA noma umQondisi-Jikelele, kuye ngesimo, akanelisiwe ukuthi ukuqeqesha kuseqophelweni elifanele.

**Imibango**

**21.** Noma imuphi umhlanganyeli kumbango ngokusebenza noma ukuhumushwa—
*(a)* kwanoma yimuphi umyalelo noma umbandela wokuxhasa okubhekiswe kuwo kwisigaba 20(4); noma
*(b)* isiphi isihlinzeko salesi Sahluko, angadlulisela umbango keNkantolo yezeMisebenzi ukunquma.

## ISAHLUKO 6

## IZIKHUNGO KUMNYANGO WEZEMISEBENZI

**Iqembu eliSongoza Ukuthuthukiswa kwaMakhono**

**22.** (1) Kuye ngelungelo lemithetho ebusa/ephethe inkonzo yomphakathi, umQondisi-Jikelele—
*(a)* makamise iQembu lokuSongoza/lokuCeba ukuThuthukiswa kwaMakhono kuMnyango; kanye
*(b)* nokuhlinzeka iQembu ngezisebenzi nemali okudingekayo ukwenza iMisebenzi yalo.

(2) Imisebenzi yeQembu lokuSongoza ukuThuthukiswa kwaMakhono yile—
*(a)* ukucwaninga nokuhlaziya imakethe yomsebenzi ukuze linqume izidingo zokuthuthukisela amakhono—
(i) iNingizimu Afrika yonkana;
(ii) umkhakha ngamunye womnotho; kanye
(iii) nemikhakha kaHulumeni
*(b)* ukusiza ukubumba—
(i) isu lokuthuthukisa amakhono kazwelonke; kanye
(ii) namapulani okuthuthukisa amakhono omkhakha; futhi
*(c)* ukuzihlinzeka ngokwazi ngamakhono ku—
(i) Ngqongqoshe;
(ii) Gunya laMakhono kaZwelonke;
(iii) maSETA;
(iv) abahlinzeki bemfundo nokuqeqesha;
(v) nemikhakha kahulumeni

**Amahhovisi okuqasha/izinkonzo zomsebenzi**

**23.** (1) Kuye ngelungelo lemithetho ebusa/ephethe inkonzo yomphakathi, umQondisi-Jikelele—
*(a)* makamise izizinda zomsebenzi kuMnyango; futhi
*(b)* makabeke inani lalabo bantu kunkonzo yomphakathi kusizinda ngasinye njengoba kudingekile ukwenza imisebenzi yaleso sizanda.

(2) Imisebenzi yalezo zizinda zomsebenzi yilezi—
*(a)* ukunikeza izinkonzo zomsebenzi kubasebenzi, abaqashi, nakubaniki boqeqesho, okumbandakanya ukwenza ngcono lezozinkonzo ezinikezwa umphakathi wasemaphandleni;
*(b)* ukubhalisa abafuna umsebenzi;
*(c)* ukubhalisa izikhala namathuba omsebenzi;

*(d)* ukusiza izinhlobo ezinqunyiwe zabantu —
(i) ukungena emfundweni ethile nezinhlelo zokuqeqesha;
(ii) ukuthola umsebenzi ;
(iii) ukuqala ukwenza imali engenayo; futhi
(iv) ukuhlanganyela kuzinhlelo zomsebenzi ezithile; kanye

*(e)* nokwenza nanoma imuphi omunye umsebenzi oqondene nemisebenzi okubhekiswe kuyo kuzindima *(a)* kuya ku *(d)*.

(3) UNgqongqoshe angalaya abaqashi, emuva kokubonisana neGunya laMakhono kaZwelonke ngesaziso ku*Gazethi* ukwazisa isizinda somsebenzi ngendlela enqunyiwe—

*(a)* nganoma isiphi isikhala; futhi

*(b)* nangokuqashwa kwanoma ngubani ofuna umsebenzi othunyelwe yileso sizinda somsebenzi.

**Ukubhaliswa kwabantu abahlinzeka ngezinkonzo zomsebenzi**

**24.** (1) Noma imuphi umuntu ofisa ukuhlinzeka ngezinkonzo zomsebenzi ngenzuzo makacele ukubhaliswa kumQondisi-Jikelele ngendlela enqunyiwe

(2) UmQondisi-Jikelele makabhalise umceli uma enelisiwe ukuthi izilinganiso ezinqunyiwe zanelisiwe.

(3) Uma umQondisi-Jikelele—

*(a)* erejista umceli, isitifiketi esinqunyiwe masikhishelwe lowo muntu;

*(b)* enqaba ukubhalisa umceli, umQondisi-Jikelele makanike umceli inothisi\ isaziso esibhaliwe ngaleso sinqumo

(4) Ihovisi lokuqasha lezinkonzo zomsebenzi malithobele izilinganiso ezinqunyiwe.

**Ukwesulwa kokubhaliswa kwehovisi lokuqasha/lezinkonzo zomsebenzi**

**25.** (1) Kuye ngelungelo lalesi sigaba, umQondisi-Jikelele angesula ukubhaliswa kwehovisi lokuqasha uma eneliswa ukuthi ihhovisi lokuqasha alizithobeli izilinganiso ezinqunyiwe.

(2) Uma umQondisi-Jikelele enesizathu sokukholwa ukuthi ihovisi lokuqasha alizithobeli izilinganiso ezinqunyiwe ngakho-ke ukubhaliswa kwalo kufanele ukwesulwa, umQondisi-Jikelele, ngaphambi kokwesula ukurejistwa kwalo—

*(a)* makazise inkonzo ngenhloso yokwesula ukurejistwa nezizathu zokwenza njalo;

*(b)* makanike inkonzo izinsuku ezingu 30 kusukela osukwini lwenothisi ukwenza izikhalo ukuthi kungani ukurejistwa kwalo kungesulwe; futhi

*(c)* makazinake lezo zikhalo ekufinyeleleni kusinqumo.

(3) Uma umQondisi-Jikelele esula ukurejistwa kwehhovisi lokuqasha/inkonzo yomsebenzi umQondisi- Jikelele makanike inothisi ebhaliwe yaleso sinqumo kunkonzo yomsebenzi.

**Ukudlulisa isinqumo somQondisi-Jikelele**

**26.** (1) Noma imuphi umuntu onesikhalo ngesinqumo somQondisi-Jikelele njengokulaya kwesigaba 24(3)*(b)* noma 25(3) angacela umQondisi-Jikelele ukunika lowo muntu izizathu esinqumo zinga pheli izinsuku ezingu 30 zenothisi ebhaliwe yaleso sinqumo.

(2) UmQondisi-Jikelele makanike lowo muntu izizathu ezibhaliwe zaleso sinqumo phakathi kwezinsuku ezingu 30 zokwamukela leso sicelo.

(3) Noma imuphi umuntu owoniwe/onesikhalo ngesinqumo somQondisi-Jikelele njengokulaya kwesigaba 24(3)*(b)* noma 25(3) angasidlulisela isinqumo kuNkantolo yezeMisebenzi phakathi kwezinsuku ezingu 60—

*(a)* zosuku lwesinqumo somQondisi-Jikelele; noma

*(b)* uma izizathu ezibhaliwe zesinqumo ziceliwe, usuku lwalezo zizathu.

(4) INkantolo yezeMisebenzi ngesizathu esihle esikhonjisiwe ingayelula inkathi yesikhathi umuntu angadlulisa ngayo lelocala.

## ISAHLUKO 7

## UKUXHASA NGEMALI UKUTHUTHUKISA AMAKHONO

### ISikhwama saMakhono kaZwelonke

**27.** (1) ISikhwama saMakhono kaZwelonke ngalokhu siyamiswa.

(2) ISikhwama masabelwe/masinikwe—

*(a)* Amaphesenti angu-20 ezibizontela ezicatshangwe kuMthetho weZibizontela wokuThuthukisa aMakhono;

*(b)* izibizontela zokuthuthukisa amakhono eziqoqwe futhi zedluliselwa kuSikhwama njengokuyala koMthetho weZibizontela wokuThuthukisa aMakhono maqondana naleyomikhakhe engenayo iSETA;

*(c)* imali ehlukaniselwe iSikhwama iPhalamende;

*(d)* inzuzo ezuzwe/etholwe ekuzaliseni imali ecatshangwe kusigaba 29(3);

*(e)* izipho zeSikhwama; kanye

*(f)* nemali emukelwe kunoma imuphi umthombo.

### Ukusetshenziswa kwemali eseSikhwameni

**28.** Imali eseSikhwameni ingasetshenziselwa kuphela amaqhinga akhonjwe kulisu lokuthuthukisa amakhono kazwelonke njengasemqoka ezweni lonke noma amanye anjalo amaqhinga aqondene/aphathelene nempumelelo yezinhloso zaloMthetho njengoba umQondisi-Jikelele enquma.

### Ukuqondisa nokuphathwa kweSikhwama

**29.** (1) UmQondisi-Jikelele uyisiphathimandla esibikayo seSikhwama njengokulaya koMthetho weSikhwama seSizwe, 1975 (uMthetho No. 66 ka 1975) futhi—

*(a)* makaqondise iSikhwama;

*(b)* makagcine irekhodi elifanele lakho konke ukuthengiselana kwemali, impahla nezikweleti zeSikhwama; futhi

*(c)* ngesikhathi esifanele emuva kokuphela konyaka ngamunye ophela ngosuku olunqunyiwe makalungise ama-akhawundi emali engenayo nencithakalo yeSikhwama yonyaka nebhalansishidi yempahla yaso nezikweleti njengoba zinjalo ekupheleni kwalowo nyaka.

(2) Noma iyiphi imali kuSikhwama engadingiwe ukusetshenziswa masinyane ingafakwa kuKhomishana wokuFakwa kweMali yoMphakathi noma ifakwe kusikhungo semali esivumelwe uNgqongqoshe futhi ingakhishwa nxashana idingeka.

(3) Noma iyiphi imali engakhishwanga/engachithwanga kuSikhwama ekupheleni konyaka wezimali mayidluliselwe kunyaka wezimali olandelayo njengemali yeSikhwama.

### IBhajethi yokuqeqeshwa ngabaqashi benkonzo yomphakathi

**30.** Inkonzo yomphakathi ngayinye kumikhakha kahulumeni kazwelonke nowamaProvinsi—

*(a)* mababhajethele okungenani iphesenti elilodwa lepeyrol yayo ukuqeqesha nemfundo yezisebenzi zayo kusukela mhlaka 1 Apreli 2000; futhi

*(b)* inganikela ngemali kuSETA.

## ISAHLUKO 8

## OKUJWAYELEKILE

### Amandla eNkantolo yezeMisebenzi

**31.** (1) Kuye ngelungelo lamandla eNkantolo yokuDlulisa yezeMisebenzi futhi ngaphandle lapho loMthetho uhlinzeka ngokunye, iNkantolo yezeMisebenzi inamandla akhethayo/ayo yodwa kuphela maqondana nazo zonke izindaba ezivela/ezisuka kuloMthetho.

(2) INkantolo yezeMisebenzi ingahlola/ingabukeza noma isiphi isenzo noma ukushiya/ukuyeka ukwenza kwanoma imuphi umuntu maqondana naloMthetho phezu kwanoma iziphi izizathu ezivunywe umthetho

(3) Uma icala ukumangala okuphathelene nanoma iluphi udaba olucatshangwe kusigatshana (1) kuqaliswa eNkantolo engenawo amandla maqondana nalolo ludaba/nalelocala, leyo nkantolo noma sekukuliphi ibanga phakathi kwecala ingaludlulisela kuNkantolo yezeMisebenzi.

**Ukuqapha ukuphoqelela nokumangala**

**32.** ISahluko seShumi neSheduli yesiBili yoMthetho weMibandela eyisiSekelo soMsebenzi ziyasebenza ngokuguquka okudingwa ingqikithi—

*(a)* ekuqapheni nokuphoqelelwa kwaloMthetho; futhi

*(b)* nanoma ikuphi ukumangala okuphathelene nokwaphula loMthetho.

**Amacala**

**33.** Kulicala—

*(a)* ukuvimbela noma ukuzama ukuthonya umuntu ngokungafanele owenza umsebenzi njengokulaya kwalo Mthetho;

*(b)* ukuthola/ukuzuza noma ukuzama ukuthola/ukuzuza noma imuphi umbhalo onqunyiwe ngenkohliso, ngokulutha noma ukuyisa ekhohlisayo noma umbhalo ofojiwe; noma

*(c)* ukunika ukwazi/ulwazi olungamanga kunoma imuphi umbhalo onqunyiwe wazi ukuthi lololwazi lungamanga.

*(d)* Ukunika/ukuhlinzeka ngezinkonzo zomsebenzi ngenzuzo ngaphandle kokubhaliswa njengokulaya kwesigaba 24.

**Izinhlawulo**

**34.** Noma imuphi umuntu olahlwe ngecala okubhekiswe kulo kusigaba 33 angagwetshwa inhlawulo noma ukudonsa inkathi engedlulile kunyaka owodwa.

**Ukunika amandla**

**35.** (1) UNgqongqoshe anganikeza amandla ngokubhaliwe kumQondisi—Jikelele noma isiphi esinye isiphathimandla soMnyango noma imaphi amandla noma isibopho esinikwe noma esigidlelwe kuNgqongqoshe yiloMthetho.

(2) UmQondisi—Jikelele ngokubhala anganika amandla noma isiphi isiphathimandla soMnyango noma imaphi amandla noma isibopho esinikwe noma esigidlelwe kumQondisi—Jikelele yiloMthetho.

(3) Noma imuphu umuntu osenikwe noma imaphi amandla noma isibopho njengokulaya kwesigatshana (1) noma (2) makasebenzise lawomandla noma agcine leso sibopho kuye ngelungelo lemibandela lowomuntu owenza ukunika ayibona idingekile.

(4) Noma ikuphi ukunika amandla njengokulaya kwesigatshana (1) noma (2)—

*(a)* makube okubhaliwe;

*(b)* akumnqabeli umuntu owanika lawomandla ukuwasebenzisa lawomandla noma ukwenza/ ukugcina lesosibopho; futhi

*(c)* angahoxiswa noma ngasiphi isikhathi ngokubhaliwe yilowo muntu

**Izimiselo**

**36.** UNgqongqoshe angenza emuva kokubonisana neGunya laMakhono ka-Zwelonke, ngesaziso ku*Gazethi*, izimiselo eziphathelene nanoma iluphi udaba—

*(a)* olunga noma olufanele lunqunywe ngaphansi kwalo Mthetho; futhi

*(b)* oludingekile ukunquma ukuze kufezwe izinhloso zaloMthetho.

**Ukuchithwa kwemithetho nezihlinzeko zesikhashana**

**37.** (1) Imithetho okubhekiswe kuyo kuSheduli 1 ngalokhu iyachithwa kangangoba kushiwo.

(2) Ukuchithwa kwaleyo mithetho kuye ngelungelo lanoma isiphi isihlinzeko sesikhashana kuSheduli.

**UMthetho uyambophezela uHulumeni**

**38.** LoMthetho uyambophezela uHulumeni.

**Isihloko esifingqiwe nokuqala**

**39.** (1) LoMthetho ubizwa ngoMthetho wokuThuthukiswa kwaMakhono, 1998

(2) LoMthetho uqala ukuba namandla ngosuku oluyonqunywa nguMongameli ngesimemezelo ku*Gazethi*.

## ISHEDULI 1

## UKUCHITHWA KWEMITHETHO
## (Isigaba 37 (1))

| Ino. yonyaka womthetho | Isihloko esifingqiwe | Ubungakanani bokuchithwa |
|---|---|---|
| UMthetho No. 56 ka 1981 | UMthetho wokuQeqeshelwa Amandla okuSebenza, 1981 | Wonke |
| UMthetho No. 62 ka 1981 | UMthetho wokweLuleka noku Beka, 1981 | Wonke |
| UMthetho No. 41 ka 1985 | UMthetho woMbuso weSifunda wokuQeqesha 1985 | Wonke |
| UMthetho No. 106 ka 1996 | UMthetho wezokuXhumana Kude 1996 | Izigaba 78 kuya ku 87. |

## ISHEDULI 2

## IZIHLINZEKO ZESIKHASHANA/EZIGUQUKAYO
## (Isigaba 37 (2))

### Izincazelo

**1.** Kule Ngxenye—

**''uMthetho wokweLuleka nokuBeka''** kusho uMthetho wokweLuleka nokuBeka, 1981 (uMthetho No. 62 ka 1981);

**''uMthetho woMbuso wesiFunda wokuQeqesha''** kusho uMthetho woMbuso weSifunda wokuQeqesha, 1985 (uMthetho No. 41 ka 1985);

**''uMthetho wokuQeqeshelwa Amandla okuSebenza''** kusho uMthetho wokuQeqeshelwa Amandla okuSebenza, 1981 (uMthetho No. 56 ka 1981); futhi

**''uMthetho wokuXhumana Kude''** kusho uMthetho wokuXhumana Kude, 1996 (uMthetho No. 103 ka 1996).

### IBhodi yokuQeqesha kaZwelonke

**2.** IBhodi yokuQeqesha emiswe njengokulaya kwesigaba 3 soMthetho wokuQeqeshelwa Amandla okuSebenza iyaqhubeka nokubakhona futhi yenze imisebenzi weGunya laMakhono kaZwelonke kuze kube usihlalo namalungu eGunya laMakhono kaZwelonke bayabekwa.

### ISikhwama sokuThuthukisa Amandla okuSebenza

**3.** Yonke impahla, amalungelo, izikweleti nezibopho zeSikhwama sokuThuthukisa Amandla okuSebenza, esimiswe isigaba 38 soMthetho wokuQeqeshelwa Amandla okuSebenza, ngalokhu adluliselwa kuSikhwama saMakhono sikaZwelonke.

### Amabhodi okuqeqesha namaPrentisishiphi

**4.** (1) Kuye ngelungelo lohlamvana (4), ibhodi lokuqeqesha elimiswe futhi lavunywa njengokulaya kwezigaba 12A no 12B zoMthetho wokuQeqeshelwa Amandla okuSebenza, liyaqhubeka ukubakhona futhi lenza imisebenzi yalo sengathi lowaya Mthetho awukaze uchithwe, kuze kube u 31 Mashi 2000.

(2) Lapho ibhodi yokuqeqesha iphela ukubakhona ngomhlaka 31 Mashi 2000—

*(a)* leya bhodi yokuqeqesha mayisongwe njengokulaya komthethosisekelo wayo; futhi

*(b)* noma iliphi iprentisi elingaphansi kwenkonteleka yobuprentisi; erejistwe ileyo bhodi yokuqeqesha futhi ikhona masinyane ngaphambi kokuba ibhodi yokuqeqesha iphele ukubakhona, mayiphathwe sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwanga ngaphandle kokuthi umQondisi-Jikelele makenze imisebenzi yebhodi yokuqeqesha kuze kube leyonkontileka yobuprentisi iyaphela.

(3) uNgqongqoshe makaqede ibhodi yokuqeqesha ngaphambi kuka 31 Mashi 2000, ngesaziso ku*Gazethi* uma—

*(a)* iSETA imisiwe; futhi
*(b)* leyo SETA inamandla phezu kwanoma iyiphi inxenye yebhizinisi elenza impahla noma indawo lapho ibhodi eqeqeshayo isivunyiwe njengokulaya kwesigaba 12B soMthetho wokuQeqeshelwa Amandla okuSebenza.

(4) Lapho ibhodi eqeqeshayo iqedwa njengokulaya kwesaziso okubhekiswe kuso kuluhlamvana (3)—

*(a)* yonke impahla, amalungelo, izikweleti nezibopho zebhodi lokuqeqesha zidluliselwa kuSETA ekhonjwe kulesaziso;
*(b)* noma iliphi iprentisi elingaphansi kwenkontileka yobuprentisi, erejistwe ibhodi yokuqeqesha futhi ikhona masinyane ngaphambi kokuqedwa kwebhodi yokuqeqesha kuye ngelungelo lohlamvana (6) mayiphathwe sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwannga ngaphandle kokuthi leyoSETA mayenze imisebenzi yebhodi lokuqeqesha kuze kube inkontileka yobuPrentisishiphi iyaphela.

(5) Kuye ngelungelo lohlamvana (4)*(b)*, izigaba 13 kuya ku 29 zoMthetho wokuQeqeshelwa Amandla okuSebenza uzohlala usetshenziswa sengathi lowoMthetho awuchithwanga kuze kube usuku olunqunywe ngu Ngqongqoshe ku*Gazethi*.

(6) Kusukela ngosuku masinyane ngemuva kosuku okubhekiswe kulo kuluhlamvana (5)—

*(a)* noma imuphi umsebenzi wolwazi okhonjwe ngaphansi kwesigaba 13(1) soMthetho wokuQeqeshelwa Amandla okuSebenza ocatshangwa / obukwa njengemfanelo ecatshangwe kusigaba 16*(c)* saloMthetho;
*(b)* Izihlinzeko eziqondene zanoma iyiphi inkontileka yePrentisishiphi erejistwe njengokulaya kwesigaba 18 salowoMthetho zicatshangwa ukuthi ziyisivumelwano sokufunda esirejistwe njengokulaya kwesigaba 17(3) saloMthetho futhi inkontileka yomsebenzi okubhekiswe kuyo kusigaba 18(3) saloMthetho; kanye
*(c)* Nanoma iliphi iPrentisi okubhekiswe kulo kusigaba 17 saloMthetho licatshangwa ukuthi lingumfundi maqondana naleso sivumelwano sokufunda.

**Izizinda zokuqeqesha**

**5.** (1) Kulo luhlamvu **''isizinda sokuqeqesha ''** kusho noma isiphi—

*(a)* isizinda esirejistwe njengesizinda sokuqeqesha sesifunda esirejistiwe njengokulaya kwesigaba 31 soMthetho wokuQeqeshelwa Amandla okuSebenza; noma
*(b)* isizinda sokuqeqesha esibhaliswe njengebhizinisi lokwenza imphahla eliyisizinda sokuqeqesha njengokulaya kwesigaba 34 soMthetho wokuQeqeshelwa Amandla okuSebenza; noma
*(c)* itrast yokuqeqesha emiswe njengokulaya kwanoma imuphi umthetho oshiwo kuSheduli 1 yoMthetho wokuHlanganisa Imithetho yoMsebenzi, 1994 (uMthetho No. 49 ka 1994), futhi okhona masinyane ngaphambi kokuqala kwaloMthetho.

(2) Kuye ngelungelo lohlamvana (3), isizinda sokuqeqesha siyaqhubeka ukubakhona futhi ukwenza imisebenzi yaso sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza noma imuphi umthetho olawulwe kuSheduli 1 yoMthetho okubhekiswa kuwo ohlamvaneni (1)*(b)* awuchithwanga.

(3) Isizinda sokuqeqesha masisongwe njengokulaya komthethosisekelo waso kungabi ngasemuva komhlaka 31 Mashi 2000 ngaphandle kokuba sesirejistwe njengenhlangano engeyona eyenzuzo njengokulaya kwesigaba 21 soMthetho weZinkampani, 1973 (uMthetho No. 61 ka 1973) ngaphambi kwalolo suku.

(4) UmQondisi-Jikelele angathatha izinyathetho ukusonga isizinda sokuqeqesha emuva komhlaka 31 Julayi 1999 uma leso sizinda—

*(a)* asikakaceli ukubhaliswa njengenjalo inhlangano engeyona eyenzuzo; noma
*(b)* asikazithathi izinyathelo ukuzisonga njengokulaya komthethosisekelo waso.

(5) Uma isizinda sokuqeqesha sisongwa, noma iziphi izimpahla namalunngelo angadingekile ukugcina izibopho nezikweleti zaleso sizinda masilahlwe ngokweziyalelo zikamQondisi-Jikelele.

(6) Isigaba 32 soMthetho wokuQeqeshelwa Amandla okuSebenza uhlala usebenza kuze kube usuku ounqunywa nguNgqongqoshe ngesaziso ku*Gazethi*.

**Amalungiselelo okuqeqesha izimfunda**

**6.** Noma imaphi amalungiselelo acatshangwe kusigaba 30 soMthetho wokuQeqeshelwa Amandla okuSebenza futhi esetshenziswa masinyane ngaphambi kokuqala kwaloMthetho ayohlala esetshenziswa sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwanga kube usuku olunqunywe nguNgqongqoshe ngesaziso ku*Gazethi*.

**Izabelo/imali yokusiza**

**7.** Isigaba 35 soMthetho wokuQeqeshelwa Amandla okuSebenza siyohlala sisetshenziswa sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwanga kuze kube usuku olunqunywe nguNgqongqoshe ngesaziso ku*Gazethi*.

**ISikhwama sokuQeqesha Abantu abaNgaqashiwe**

**8.** (1) Noma ikuphi okuseleyo kweSikhwama sokuQeqesha Abantu abaNgaqashiwe esimiswe isigaba 36A soMthetho wokuQeqeshelwa Amandla okuSebenza ngalokhu kudluliselwa kuSikhwama saMakhono kaZwelonke.

(2) Okuseleyo okudluliselwe kanjalo kungasetshenziselwa kuphela ukuqeqesha abantu abangaqashiwe.

**Izikimu zokuqeqesha**

**9.** (1) Kuye ngelungelo lohlamvana (2), noma isiphi isikimu okuqiniswe ukuthi siyabophezela njengokulaya kwesigaba 39 soMthetho wokuQeqeshelwa Amandla okuSebenza siyaqhubeka sengathi lowoMthetho awuchithwanga.

(2) Noma isiphi isikimu esinjalo masiyekwe / masinqanyulwe kungabi ngasemuva komhlaka 31 Mashi 2000 ngaphandle kokuba isikimu—

*(a)* sesirejistiwe njengenhlangano engeyona yenzuzo njengokulaya kwesigaba 21 soMthetho weZinkampani, 1973 (uMthetho No. 61 ka 1973), ngaphambi kwalolo suku, kuqikelelwe ukuthi kulokho kubhaliswa noma isiphi isaziso njengokulaya kwesigaba 39(5) maqondana naleso sikimu siyaphela ukusetshenziswa;

*(b)* sesidayisiwe ngesivumelwano samalungu ebhodi yokuqeqesha enamandla phezu kwabaqashi kuye ngelungelo lesikimu ngaphambi kwalolo suku; noma

*(c)* sesidluliselwe kuSETA ngesivumelwano salawo malungu ebhodi yokuqeqesha ngaphambi kwalolo suku.

(3) Uma leso sikimu siyekwa, noma iyiphi impahla namalungelo angadingekile ukugcina izibopho nezikweleti zaleso sikimu mayilahlwe ngokweziyalelo zomQondisi-Jikelele.

**Izibizontela zokuqeqesha**

**10.** (1) Kuye ngelungelo lohlamvana (2), isigaba 39 soMthetho wokuQeqeshelwa Amandla okuSebenza sizohlala sisetshenziswa sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwanga kuze kube umhlaka 31 Mashi 2000.

(2) Isaziso esigidlela isibizontela njengokulaya kwesigaba 39 soMthetho wokuQeqeshelwa Amandla okuSebenza futhi esikhishwe, ngaphambi noma ngemuva kokuqala kwaloMthetho —

*(a)* singachibiyelwa nguNgqongqoshe, ngesaziso ku*Gazethi*, ukuhlinzeka ukuthi isibizontela asikhokhwe kuSETA ekhonjwe kuleso saziso; futhi

*(b)* siyaphela ukusetshenziswa lapho sihoxiswa njengokuyala koMthetho weZibizontela wokuThuthukisa aMakhono.

**Abaluleki ngoqeqesho**

**11.** Izigaba 45 no 46 zoMthetho wokuQeqeshelwa Amandla okuSebenza zizohlala zisetshenziswa sengathi uMthetho wokuQeqeshelwa Amandla okuSebenza awuchithwanga kuze kube usuku olunqunywe uNgqongqoshe ngesaziso ku*Gazethi*.

**Abarejistiwe abafuna umsebenzi**

**12.** Noma imuphi ofuna umsebenzi obhaliswe njengokulaya kwesigaba 4 soMthetho wokweLuleka nokuBeka, masinyane ngaphambi kokuqala kwalo Mthetho, ucatshangwa ukuthi ungorejistiwe ofuna umsebenzi njengokulaya kwesigaba 23(2)*(b)*.

**Amahovisi okuqasha angasese**

**13.** Noma iliphi ihovisi lokuqasha langasese ebhaliswe njengokulaya kwesigaba 15 soMthetho wokweLuleka nokuBeka masinyane ngaphambi kokuqala kwaloMthetho licatshangwa ukuthi liyinkonzo yomsebenzi ebhaliswe yenzuzo njengokulaya kwesigaba 24 saloMthetho.

**Umkhakha wombuso wesifunda**

**14.** (1) ISikhwama soMbuso weSifunda wokuqeqesha ( kuloluhlamvu oluphawulwe njenge ''Sikhwama'' ), esimiswe isigaba 7 soMthetho woMbuso weSifunda wokuQeqesha siyaqhubeka, kuye ngelungelo lohlamvana (5) kuya ku (7), ukubakhona sengathi lowoMthetho awuchithwanga.

(2) Noma imuphi umgwamanda noma isikhungo, kuhlangene nomgwamanda kahulumeni wesifunda ocatshangwa njengesizinda sokuqeqesha ngaphansi kwesigaba 9A soMthetho woMbuso weSifunda masinyane ngaphambi kokuqala kwaloMthetho uyaqhubeka ukucatshangwa kanjalo inkathi eyizinyanga ezine kusukela kulokho kuqala sengathi uMthetho woMbuso weSifunda wokuQeqesha awuchithwanga.

(3) Kuye ngelungelo lohlamvana (7)*(c)*, noma isiphi isibizontela esigidlelwe njengokulaya kwesigaba 10 soMthetho woMbuso weSifunda wokuQeqesha futhi sisetshenziswa masinyane ngaphambi kokuqala kwaloMthetho sizohlala sisetshenziswa kuze kube umhlaka 31 Mashi 2000 ngaphandle kokuba sihoxiswa ngaphambi kwalolosuku nguNgqongqoshe njengokulaya kwesigaba 2 (3) soMthetho wezibizontela wokuThuthukisa aMakhono sengathi umThetho woMbuso weSifunda wokuQeqesha awuchithwanga.

(4) Kuye ngelungelo lohlamvana (7)—

*(a)* amandla anikiwe futhi nezibopho ezigidlelwe kuBhodi yokuQeqesha iMigwamanda yeMibuso yeZifunda emiswe isigaba 2 soMthetho woMbuso weSifunda wokuQeqesha angasetshenziswa futhi mawasetshenziswe yiBhodi yeMfundo nokuQeqesha yoMbuso weSifunda emiswe njengokulaya kwesigaba 12(A) soMthetho wokuQeqeshelwa Amandla okuSebenza; futhi

*(b)* yonke impahla, amalungelo, izikweleti nezibopho zeBhodi yokuQeqesha iMigwamanda yeMibuso yeZifunda ngalokhu kudluliselwa kuBhodi yeMfundo nokuQeqesha yoMbuso weSifunda.

(5) UmQondisi-Jikelele: Ukuthuthukiswa kwezoMthethosisekelo uyisiphathimandla esibikayo ngeSikhwama.

(6) UNgqongqoshe weZindaba zeZifundazwe nokuThuthukiswa kwezoMthethosisekelo, angazisebenzisa izimali zeSikhwama ukuxhasa ngemali noma imuphi umuntu noma isikhungo leso ngokubona kukaNgqongqoshe esingathuthukisa amakhono, ulwazi, ubungcweti noma izimfudu zomuntu okhethelwe umkhandlu wamasipala noma eqashwe umasipala, emuva kokubonisana neBhodi yoMbuso weSifunda nokuQeqesha.

(7) Lapho iSETA imiselwa umkhakha wombuso wesifunda—

*(a)* iBhodi yeMfundo nokuQeqesha yoMbuso weSifunda iyaphela ukubakhona;

*(b)* impahla, amalungelo, izikweleti nezibopho zaleyoBhodi yokuQeqesha makudluliselwe kuSETA;

*(c)* isibizontela okubhekiswe kuso kuhlamvana (3) sicatshangwa ukuthi siyisibizontela esigidlelwe njengokulaya kwesigaba 39(1) soMthetho wokuQeqeshelwa Amandla okuSebenza; njengoba kushiwo kuloluhlamvu 10;

*(d)* iSikhwama siyaphela ukubakhona; futhi

*(e)* umQondisi-Jikelele: Ukuthuthukiswa kwezoMthethosisekelo makadlulisele noma iyiphi imali eseleyo eSikhwameni kukhawundi yebhange yalowo SETA.

**Umkhakha wezokuxhumana kude**

**15.** (1) Kuye ngelungelo lohlamvana (2), iSikhwama saMandla Abasebenzi okubhekiswe kuso kusigaba 78(1) soMthetho wezokuXhumana Kude siyaqhubeka ukubakhona sengathi izigaba 78 kuya ku 87 zalowoMthetho azichithwanga.

(2) ISikhwama okubhekiswe kuso kuhlamvana (1) siyaphela ukubakhona—

*(a)* mhlaka 31 Mashi 2000; noma

*(b)* ekumisweni kweSETA enamandla kumkhakha wezokuxhumana.

(3) Uma lesoSikhwama siphela ukubakhona njengokulaya—

*(a)* kohlamvana 2*(a)*, imali eseleyo eSikhwameni mayidluliselwe kwiSikhwama saMakhono kaZwelonke; noma

*(b)* kohlamvana 2*(b)*, imali eseleyo eSikhwameni mayidluliselwe kuSETA okubhekiswe kuyo kulolo hlamvana.

(4) Kuye ngelungelo lohlamvana (5), iminikelo ecatshangwe kusigaba 86 (1) soMthetho wezokuXhumana Kude esetshenziswayo masinyane ngaphambi kokuqala kwaloMthetho, izohlala isetshenziswa kuze kube umhlaka 31 Mashi 2000 sengathi lowoMthetho awuchithwanga.

(5) Uma iSETA enamandla emkhakheni wezokuxhumana imiswa, iminikelo ecatshangwe kuhlamvana (4) mayifakwe kulowo SETA.

**Iziyekelo kusibopho semali yokudlulisa impahla, intela yezipho noma iyiphi enye entela**

**16.** Noma ikuphi ukudluliswa kwempahla noma amalungelo acatshangwe kuleSheduli kukhululiwe kusibopho semali yokwedlulisa impahla, intela yezipho noma iyiphi enye intela.

# INCAZELO NGEZINJONGO ZOMTHETHOSIVIVINYWA WOKUTHUTHUKISA AMAKHONO 1998

## 1. Inhloso yoMthethosivivinywa

INingizimu Afrika inesithombe samakhono esibana ngenxa yobunjalo obubana bemfundo evamile yeningi labantu baseNingizimu Afrika, ukuhlangana okubana kokuningi ukuxhaswa kokuqeqeshwa okusobala kanye nezinga eliphansi lokuxhaswa koqeqesho izinkampani. Lesi sithombe sivimbela ukukhula kokukhiqiza emafemini, amathemba okuxhaswa okusha kanye nokuqasheka kwabasha nabangaqashiwe. Ukusekelwa/ukuqiniswa kwamabhizinisi amancane nalingene kuyancipha ngokulinganayo.

UMthethosivivinywa wokuThuthukisa aMakhono ufuna ukuthuthukisa amakhono oquqaba lwabasebenzi baseNingizimu Afrika futhi ngalokho ukhulise ubunjalo impilo yokusebenza kwabasebenzi, wenze ngcono ukukwazi ukukhiqiza endaweni yomsebenzi, uqhubekise ukuzisebenza kanye nokunikeza izinkonzo zokuhlalisana. UMthethosivivinywa futhi ufuna ukukhuthaza abaqashi ukwenza indawo yomsebenzi njengendawo ekhuthalele ukufunda kanye nokuhlinzekela amathuba abasha abangenayo emakethe yomsebenzi ukuzuza ukwazi.

Ibala uMthethosivivinywa ogxile kulo ukwenza ngcono amathemba omsebenzi kubantu ababejiyezekile ngaphambili ngemfundo nokuqeqeshwa. Izinkonzo zoMsebenzi zizogxila ekusizeni abafuna umsebenzi ukuthola umsebenzi; abasebenzi abadiliziwe ukuphinda bangene emakethe yomsebenzi futhi nabaqashi ukuthola abasebenzi abanezimfanelo.

Ukuhlangana/ukuvumelana koMthethosivivinywa wokuThuthukisa Amakhono neGunya leZimfanelo zeNingizimu Afrika ulungiselela ukuqinisekisa ubunjalo bokufunda emakethe yomsebenzi nokwemakethe yomsebenzi. Ukunika abaqashi abahleliwe nabasebenzi isibopho esikhulu sokuqhubekisa ukuhlangana kokuqeqesha kuyongezela/kuyokhulisa futhi ubunjalo.

Kuzofinyelelwa kumgomo woMthethosivivinywa noMthethosivivinywa weZibizontela wokuThuthukisa aMakhono ocatshangwayo ngokumisa uhlaka oluqinile lwesikhungo semali oludlula lolo olwalukhona ngaphambili ngaphansi koMthetho wokuQeqeshelwa Amandla okuSebenza. Indawo yeBhodi yokuQeqesha kaZwelonke izothathwa iGunya laMakhono kaZwelonke. I Gunya lokuQeqesha likaZwelonke lingumgwamanda wokweluleka uNgqongqoshe wezeMisebenzi onesibopho sokuqinisekisa ukuthi amasu okuthuthukisa amakhono kazwelonke, amapulani, okusemqoka kanye nomgomo/ibanga elihlosiwe kuyamiswa futhi kuyathotshelwa. Amabhodi okuqeqesha omsebenzi wokwenza impahla indawo yawo iyothathwa aMagunya okuQeqesha uMkhakha weMfundo onesibopho sokuthuthukisa amapulani amakhono omkhakha avumelana namasu amakhono kazwelonke kanye namabanga ahlosiwe. Amapulani amakhono omkhakha ayobekwa phambi kweGunya laMakhono kaZwelonke bese evumelwa uNgqongqoshe wezeMisebenzi.

Izinhlelo sokufunda zikhonjiwe kuMthethosivivinywa. Olokuqala izindawo zokufunda. Lezi zingenisa ubuprentisi bemvelo. Zihlanganisa ukufunda okuhleliwe kwahlanganiswa nokwazi ngomsebenzi okuholela kuzimfanelo ezirejistiwe kuzwelonke, zahlanganiswa ngokomsebenzi ezindaweni ezinesidingo sekhono noma ithuba emakethe yomsebenzi. Lezi ziyosiza abantu abasha abangaqashiwe ukungena emsebenzini, ngokulingana nabasebenzi abakhona ukwenza ngcono amazinga amakhono abo. Olwesibili Izinhlelo zaMakhono. Lezi akuzona izindawo zokufunda, kodwa zifanele futhi ukwenelisa ubunjalo nezilinganiso zokuhlangana ukufanelekela izinkokhelo zesabelo esivela kumaSETA noma iSikhwama saMakhono sikaZwelonke.

UMthethosivivinywa uyambophezela uhulumeni. Iminyango kaHulumeni kudingeka ibhajethe elilodwa iphesenti lezindleko zabasebenzi babo ukuthuthukisa amakhono. Iminyango kaHulumeni iyohlanganyela kwiGunya leNkonzo yoMphakathi yeMfundo nokuQeqesha ngokulingana kumaSETA omkhakha oqondene.

## 2 Okuqukethwe uMthethosivivinywa

*2.1 IGunya laMakhono likaZwelonke*

Isahluko 2 sihlelisa imisebenzi yeGunya laMakhono likaZwelonke, (iphuzu 4), ukubunjwa kweGunya laMakhono likaZwelonke, (iphuzu 5), sikhombisa ukuthi iGunya laMakhono likaZwelonke malimiswe njengokulaya koMthethosisekelo oqukethwe ku Sheduli 1 yoMthethosivivinywa (iphuzu 6), futhi uyala umQondisi-Jikelele ukubeka Isiphathimandla Esiphethe kwiGunya laMakhono likaZwelonke futhi lihlinzeka ngemali edingekile yokusebenza okuphumelelayo (iphuzu 7).

*2.2 Amagunya oMkhakha weMfundo nokuQeqesha (SETA's)*

Isahluko 3 sihlinzekela ukuba uNgqongqoshe amise amaSETA njengokuvumelana nezilinganiso kwiphuzu 8. Amandla nemisebenzi kanye nokubunjwa kweSETA kubhalwe kumaphuzu 9 no 10. AmaSETA angamisa Imigwamanda yokuqaqa inkinga yemikhakhana noma izindawo zejiyogilafu ngaphakathi kweSETA. ISETA inganika noma imaphi amandla ayo noma imisebenzi kuMakomiti noma Imigwamanda. Ukubunjwa kweKomiti noma uMgwamanda kuchaziwe futhi (iphuzu 11). Zonke izindaba zemali ngamaSETA ziphathwe kuphuzu 12. Lokhu kuhlanganisa imithombo yezimali zeSETA, imiyalo ebusa/ephethe ukufakwa kwemali ngamaSETA, indlela izimali ezingasetshenziswa ngayo, nokubhajetha, ukubika nezinqubo zokucwaninga amabhuku amaSETA okufanele azilandele. UNgqongqoshe ngaphansi kwemibandela angayala umQondisi-Jikelele ukuthatha ukuphathwa kweSETA kanye nezinqubo umQondisi-Jikelele okufanele azilandele zichazwe kuphuzu 15.

*2.3. Izindawo zokufunda*

Isahluko 4 siphatha izindawo zokufunda, ezenziwe inxenye ehlangene yokufunda futhi nokwazi ukuwenza umsebenzi okuholela kumfanelo eboshelwe kumsebenzi futhi yavunywa iGunya leZimfanelo laseNingizimu Afrika (iphuzu 16). Isivumelwano sokufunda okungenwe kuso phakathi komfundi, umqashi noma iqoqo labaqashi kanye nomhlinzeki woqeqesho ovunyiwe noma iqoqo labahlinzeki boqeqesho. Isivumelwano sigidlela izibopho ezithize kumhlanganyeli ngamunye kusivumelwano. Isivumelwano sokufunda singapheliswa ngaphansi kwemibandela eshiwo (iphuzu 17). Inkontileka yomsebenzi nomfundi osevele eseqashiwe/esesemsebenzini ayithintiwe isivumelwano sokufunda. Lapha umfundi engena kusivumelwano engaqashiwe, inkontileka yomsebenzi mabavumelane phakathi komfundi nomqashi ongumhlanganyeli. UNgqongqoshe ngeseluleko saMakhomishani eMibandela yoMsebenzi, makanqume imiyalelo nemibandela yenkontileka yalomsebenzi. Inkontileka nomfundi ingapheliswa ngaphansi kwemibandela eshiwo (Bona iphuzu 18). Izinqubo zokuphatha imibango ngezindawo zokufunda ziphathwe ephuzwini 19.

*2.4. Izinhlelo zamaKhono*

Isahluko 5 siphatha izinhlelo zamakhono ezingezona izindawo zokufunda. Uhlelo lwamakhono luchaziwe. Izinqubo zokufumana izipho noma amasabsidi ukuxhasa ukuthuthukiswa kwamakhono zishiwo. Izinqubo zokuqapha nemibandela amagunya omkhakha wemfundo nokuqeqesha noma umQondisi-Jikelele angagodla izimali ezinjalo ngaphansi kwayo ishiwo (iphuzu 20). Imibango ephathelene nezinhlelo zamakhono engadluliselwa kuNkantolo yezeMisebenzi (iphuzu 21).

*2.5. Izikhungo zoMnyango wezeMisebenzi*

Isahluko 6 siphatha izikhungo ezimbili neMinyango esemqoka kakhulu ekunikeni okuthenjiswe uMthethosivivinywa. Esokuqala iQembu lokuThuthukisa amaKhono, elinesibopho sokuhlanganisa ukulungisela ukuthuthukiswa kwamakhono. UmQondisi-Jikelele makamise iQembu ukwenza imisebenzi eshiwo kuphuzu 22. Esesibili izinkonzo zomsebenzi, eziyohlinzeka ngohide lwezinkonzo, ezishiwo kuphuzu 23, kulabo abangaqashiwe, abaqashi nabasha abangena emakethe yomsebenzi.

Lelophuzu futhi linika amandla uNgqongqoshe ukulaya abaqashi ukwazisa izizinda zomsebenzi nganoma isiphi isikhala nokuqashwa kwanoma ngubani ofuna umsebezi othunyelwe isizinda somsebenzi.

Iphuzu 24 lilungisa ukuhlinzekela izinkonzo zomsebenzi zenzuzo. Ngaphambi kokuba leyonkonzo inikelwe kufanele ibhaliswe nomQondisi-Jikelele. UmQondisi-Jikelele angakwesula ukubhaliswa kwanoma iyiphi inkonzo yomsebenzi uma ihluleka ukuthobela imiyalo enqunyiwe, kodwa umQondisi-Jikelele makalandele izinqubo ezishiwo ngaphansi kwephuzu 25.

*2.6. Ukuxhasa ngemali yokuthuthukiswa kwamakhono*

Ukumiswa kwesiKhwama saMakhono kaZwelonke, imithombo yezimali yaso, izinhloso izimali ezingasetshenziselwa zona ukuqondiswa nokuphathwa kweSikhwama kuhlelwe kumaphuzu 27 kuyaku 30. UMthethosivivinywa weZibizontela wokuThuthukiswa kwaMakhono ocatshangwayo uhlinzeka ukuthi ama-20 amaphesenti ezibizontela aqoqwe njengokulaya kwayo makakhokhwe kwiSikhwama.

*2.7. Okujwayelekile*

Isahluko 8 siphatha—

- *(a)* amandla eNkantolo yezeMisebenzi (iphuzu 31);
- *(b)* ukuqapha ukuphoqelela nokumangalelwa (iphuzu 32);
- *(c)* amacala (iphuzu 33);
- *(d)* amandla phezu kokugidlela izinhlawulo kanye nobubanzi bezinhlawulo obungagidlelwa (iphuzu 34);
- *(e)* ukunikezwa amandla nguNgqongqoshe nomQondisi-Jikelele (iphuzu 35); futhi
- *(f)* amandla kaNgqongqoshe ukwenza izimiselo.

*2.8 AmaSheduli kuMthethosivivinywa*

Isigaba 37 (1), sifundwa neSheduli 1 sichitha—

- *(a)* wonke uMthetho wokweLuleka nokuBeka, 1981 (uMthetho No. 62 ka 1981);
- *(b)* wonke uMthetho woMbuso wesiFunda wokuQeqesha, 1985 (uMthetho No. 41 ka 1985);
- *(c)* wonke uMthetho wokuQeqeshelwa Amandla okuSebenza, 1981 (uMthetho No. 56 ka 1981); kanye
- *(d)* nezigaba 78 kuya ku 87 zoMthetho wezokuXhumana Kude, 1996 (uMthetho No. 103 ka 1996).

ISheduli 2, iqukethe izihlinzeko zesikhashana, ezidingekile ukuthola ukukhipha ngokuthula izihlinzeko ezizochithwa kanye nokufakwa phakathi kwezihlinzeko zaloMthethosivivinywa.

## 3. Abahlanganyeli okwaboniswana nabo

Isu lokuQalela ukuqeqesha elibunjwe iBhodi yokuQeqesha likaZwelonke (''NTB'') lancoma ukuthi olunye ucwaningo ludingekile maqondana nokuxhasa nokuphathwa kwemfundo nokuqeqesha okumiswe emsebenzini kulelizwe. UNgqongqoshe wezeMisebenzi wacela ukuba lezizincomo zisetshenziswe. IBhodi yokuQeqesha kaZwelonke noNEDLAC baphathisa abeluleki/ababonisi ukwenza ucwaningo kulezi zindawo kusukela ku 1995 kuya ku 1996. Imibiko yagxila komakade bebona bomhlaba ekuxhaseni ngemali nokuphathwa kwemfundo nezinhlelo zemfundo nokuqeqesha, ukwazi kwalapha kanye nasemazingeni encithakalo yokuqeqeshwa ngasese nakumikhakha kahulumeni eNingizimu Afrika. Lemibiko yaba isisekelo somunye futhi umgomo wokuthuthukisa umsebenzi woMnyango wezeMisebenzi.

I-NTB yayisa iphepha elingaphelele eliluHlaza lokuThuthukisa Amandla Abantu ngomhlaka Septemba 1996 ukuze lisetshenziswe njengesisekelo sePhepha eliluHlaza.

UMnyango wezeMisebenzi walimemezela Isu lokuThuthukisa aMakhono lePhepha eliluHlaza lezoMthetho nokukhula kwezoMsebenzi mhlaka 24 Mashi 1996 futhi wamema abahlanganyeli ukwethula izithasiselo. Lapha kufanele khona izithasiselo zafakwa kudrafti yoMthethosivivinywa wokuThuthukisa aMakhono eyamemezelwa ku*Gazethi* ngomhlaka 2 Septemba 1997. Izinhlangano zonke zihlangene zabangu 34, kuhlanganise izinyonyana zabasebenzi, imikhandlu kanye neminye imigwamanda

engeyena uhulumeni zayisa izithasiselo ezisekelayo kanye neminye iminako. Lapho kufanele khona, izithasiselo zafakwa kobukeziwe uMthethosivivinywa wokuThuthukiswa kwaMakhono.

Imihlangano yokubonisana yenziwa nemigwamanda noma abantu abalandelayo: NTB, abameli beminyango kahulumeni uMnyango wezeMfundo, ukuPhathwa kweNkonzo yoMphakathi uMnyango wezokuMbiwaphansi naMandla, ukuThuthukiswa kwezoMthethosisekelo, ezeZimali, ezoHwebo, ezokuXhumana Kude, iKhomishani yeNtsha kanye nabo bonke abaQondisi-Jikelele.

Imibono yethulwa nokubonisana kwenziwa nawo wonke amaProvinsi, amabhodi okuqeqesha, izinyonyana, Potfoliyo Komiti kwezeMisebenzi, izimboni namabhizinisi ngesicelo kanye neminye imigwamanda. Imihlangano yokubonisana yawusiza uMnyango wezeMisebenzi ukuphinda ukulungisa uMthethosivivinywa.

Amalungu eNEDLAC alandelayo nawo bandakonyeka emshikashikeni wokubonisana: BSA, COSATU, NACTU no FEDUSA, iminyango kahulumeni weMisebenzi, oweZimali, owezokuThuthukisa uMthethosisekelo, ezoHwebo, owokuPhathwa kweZinkonzo zoMphakathi; nomkhakha wokuthuthukisa umPhakathi. Umbiko oqukethe yonke imininingwane yezingxoxo noNEDLAC maqondana nomshikashika wokubonisana maqondana noMthethosivivinywa uyatholakala.

## 4. Inqubo yasePhalamende

Abaluleki bakaHulumeni kwezomthetho babona ukuthi uMthethosivivinywa ufanele ukukhankanywa iPhalamende njengokuhambisana nenqubo emiswe isigaba 75 soMthethosisekelo waseNingizimu Afrika, 1996.