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**ISAZISO SENCAZELO YOMBALO:**

[ ] Amazwi acaciswe ngombhalo akanjelwe abonisa amaphutha kuloMthetho.

Amazwi acaciswe ngomugqa ogqamile obonisa uMthetho ojobelelwe ngoMthetho obhaliwe.

# UMTHETHOSIVIVINYWA

**Ukuhlinzekela ukugidlela isibizontela sokuthuthukisa amakhono; nokuhlinzekela izindaba ezihlangene nakho.**

**A** KUMISWE yiPhalamente yeRipabliki yaseNingizimy Afrika, njengokulandelayo:—

## UHLU LOKUPHAKATHI

### ISAHLUKO 1

#### 5 UKUPHATHA, UKUGIDLELA NOKUTHOLWA FUTHI KWESIBIZONTELA

1. Izincazelo
2. Ukuphathwa koMthetho
3. Ukugidlela isibizontela
4. Iziyekelo
- 10 5. Ukubhalisela ukurejistela ukukhokha isibizontela
6. Ukukhokha isibizontela kuKhoishinali nokusibuyisela emuva
7. Ukukhokha isibizontela kuSETA nokusibuyisela emuva
8. Ukwaba izibizontela ezikhokhwe kuKhomishinali
9. Ukwaba izibizontela ezikhokhwe kuSETA
- 15 10. Izindleko zokuqoqa
11. Inzuzo yokwephuza ukukhokha
12. Izinhlawalo zokungakhokhi
13. Ukusebenza koMthetho weNtela wemali eNgenayo

### ISAHLUKO 2

#### 20 UKUTHOLA FUTHI KWESETA ISIBIZONTELA

14. Ukuthola futhi isibizontela
15. Ukubekwa kwabahloli
16. Amandla okungena abahloli
17. Amandla abahloli okubuza nokuhlola
- 25 18. Ukubambisana nabahloli
19. Izethembiso nemiyalo yokuthotshelwa

### ISAHLUKO 3

#### IZIHLINZEKO EZIJWAYELEKILE

20. Amacala  
 21. Isiqiniseko sokulunga kwesitatimente  
 5 22. Izimiselo  
 23. Ukuchibiyela uMthetho wokuThuthukisa aMakhono  
 24. Isihloko esifingqiwe nokuqala

#### ISHEDULI

#### UKUCHIBIYELA UMTHETHO WOKUTHUTHUKISA AMAKHONO

#### 10 ISAHLUKO 1

#### UKUPHATHA, UKUGIDLELA NOKUTHOLA FUTHI ISIBIZONTELA

##### Izincazelo

1. KuloMthetho, ngaphandle kokuba ingqikithi isho okunye—  
 15 “**umgwamanda onqunyiwe**” kusho umgwamanda onqunyiwe nguNgqongqoshe njengokuyala kwesigaba 7(1)(b) ukuqoqela iSETA isibizontela;  
 “**uKhomishinali**” kusho uKhomishinali weNkonzo yeMali yaseNingizimu Afrika, omiswe isigaba 2 soMthetho weNkonzo yeMali yaseNingizimu Afrika, 1997 (uMthetho No. 34 ka 1997);  
 20 “**umQondisi-Jikelele**” kusho umQongisi-Jikelele wezeMisebenzi;  
 “**umsebenzi**” umbandakanya umsebenzi njengoba echazwe kuSheduli yesiNe kuMthetho weNtela yemali eNgenayo;  
 “**umqashi**” umbandakanya umqashi njengoba echazwe kuSheduli yesiNe kuMthetho weNtela yemali eNgenayo;  
 25 “**uMthetho weNtela yemali eNgenayo**” kusho uMthetho weNtela wemali eNgenayo, 1962 (uMthetho No. 58 ka 1962);  
 “**inzuzo**” kusho noma iyiphi inzuzo ekhokhwayo njengokuyala kwesigaba 11;  
 “**isibizontela**” kusho isibizontela sokuthuthukisa amakhono okubhekiswe kuso kusigaba 3;  
 30 “**uNgqongqoshe**” kusho uNgqongqoshe wezeMisebenzi;  
 “**iGunya likaZwelonke laMakhono**” kusho iGunya likaZwelonke laMakhono, elimiswe yisigaba 4 soMthetho wokuThuthukisa aMakhono;  
 “**iSikhwama sikaZwelonke saMakhono**” kusho iSikhwama sikaZwelonke saMakhono, esimiswe isigaba 27(1) soMthetho wokuThuthukisa aMakhono;  
 35 “**inhlawulo**” kusho noma iyiphi inhlawulo ekhokhwayo njengokuyala kwesigaba 12;  
 “**okunqunyiwe**” kusho okunqunyiwe yisimiselo njengokuyala kwesigaba 22;  
 “**umkhakha**” kusho umkhakha njengoba unqunyiwe nguNgqongqoshe njengokuyala kwesigaba 9(2) soMthetho wokuThuthukisa aMakhono;  
 40 “**iSETA**” kusho igunya lomkhakha wemfundo nokuqeqesha, emiswe yisigaba 9(1) soMthetho wokuThuthukisa aMakhono;  
 “**uMthetho wokuThuthukisa aMakhono**” kusho uMthetho wokuThuthukisa aMakhono, 1998 (uMthetho No. 97 ka 1998);  
 “**loMthetho**” uhlanganisa noma isiphi isimiselo esenziwe njengokuyala kwesigaba 22, kodwa kawumbandakanyi izenezelo.

#### 45 Ukuphathwa koMthetho

2. (1) Kuye ngesigatshona (2) umQondisi-Jikelele makaphathe loMthetho.  
 (2) UKhomishinali makaphathe izihlinzeko zaloMthetho njengokuba ziphathelene nokuqoqwa kwesibizontela esikhokhwa kuKhomishinali njengokuyala kwaloMthetho.  
 (3) UmQondisi-Jikelele anganikezela ngamandla okuphatha noma iyiphi inxenye  
 50 yaloMthetho, okucatshangwe kusigatshana (1), kusiphathimandla esikhula esiphethe seSETA.  
 (4) Ukunikezela ngamandla njengokuyala kwesigatshana (3)—

- (a) kuya ngemibandela umQondisi-Jikelele ayinqumayo
- (b) mayibe ngebhalilwe;
- (c) akumvimbeli/akumnqabeli umQondisi-Jikelele ekwenzeni mxenye yoku-phatha enikezelwe kanjalo;
- 5 (d) kungahoxiswa noma ngasiphi isikhathi ngokubhaliwe.

### Ukugidlela isibizontela

3. (1) Wonke umqashi makakhokhe isibizontela sokuthuthukisa amakhono kusukela—
- 10 (a) mhlaka 1 Apreli 2000, ngesilinganiso sephesenti elingu 0,5 lesamba esithelwayo; kanye
  - (b) nomhlaka 1 Apreli 2001, ngesilinganiso sephesenti elilodwa lesamba esithelwayo.
- (2) Phezu kwesigatshana (1), uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali kanye noNgqongqoshe weZindaba zeZifundazwe nokuThuthukiswa koMthetho-  
15 sisekelo nangenothisi kuGazethi, angagidlela isibizontela sokuthuthukisa amakhono kuwo wonke umasipala, njengoba echazwe kusigaba 10B soMthetho woMbuso weSifunda oGuqukayo, 1993(uMthetho No. 209 ka 1993), noma noma iluphi uhlobo lweqoqo noma unongo lukamasipala, esifanele sinqunywe esambeni esithelwayo ngesilinganiso esibalulwe kuleyo nothisi sanqunywa njengokuhambisana nesigatshana  
20 (3) kuleyo nothisi.
- (3) Umbumbatha lwezibizontela eziqoqwe kumasipala ngenxa yenothisi njen-  
gokuyala kwesigatshana (2) nezabelo zebhajethi ngezinhloso zokuqeqeshwa kulowo  
masipala kusukela mhlaka—
- 25 (a) 1 Apreli 2000, masibe ngaphansi kwamaphesenti angu 0,5 esamba esithelwayo;
  - (b) 1 Apreli 2001, masibe ngaphansi kwephesenti elilodwa lesamba esithelwayo; futhi
  - (c) 1 Apreli 2002, masingabi ngaphansi kwephesenti elilodwa lwesamba esithelwayo.
- (4) Ngezinhloso zesigatshana (1), (2) no (3), kodwa kuye ngesigatshana (5), isamba esithelwayo kusho umbumbatha lwesamba senkokhelo/seholo, olukhokhiwe noma olukhokhwayo, noma olucatshangwa ukuthi lukhokhiwe noma luyakhokhwa ngum-  
qashi kubasebenzi bakhe noma ngayiphi inyanga, njengoba lunqunywe njengokuhambisana nezihlinzeko zeSheduli yesiNe kuMthetho weNtela wemali eNgenayo  
35 ngenhloso yokunquma ukukweleta kwanoma iyiphi intela yabasebenzi njengokuyala kwaleyo Sheduli, noma lowo mqashi uyakukweleta ukususa noma ukugodla leyo ntela yabasebenzi.
- (5) Isamba senkokhelo/seholo okubhekiswe kulo kusigatshana (4) asihlanganisi noma isiphi isamba—
- 40 (a) esikhokhiwe noma esikhokhwayo kunoma imuphi umuntu ocatshangwe ezindimeni (c) no (d) zencazelo “yomsebenzi” endimeni 1 yeSheduli yesiNe kuMthetho weNtela wemali eNgenayo, osekhishelwe isitifiketi sokuyekela njengokuyala kwendima 2(5)(a) yaleyo Sheduli;
  - 45 (b) esikhokhiwe noma esikhokhwayo kunoma imuphi umuntu ngendlela yanoma iyiphi impesheni, inkokhelo enqunyelwe yobudala noma inkokhelo enqunyelwe yomhlalaphansi;
  - (c) ecatshangwe ezindimeni (a), (d), (e) noma (eA) zencazelo “yemali yonke engenayo” esigabeni 1 soMthetho weNtela wemali eNgenayo;
  - 50 (d) esikhokhwayo kumfundi njengokuyala kwenkontileka yomsebenzi ecatshangwe esigabeni 18 (3) soMthetho wokuThuthukisa aMakhono.
- (6) Phezu kwesigatshana (1), esicelweni seSETA, uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali futhi ngenothisi kuGazethi, anganquma ngezikhathi ngezikhathi isilinganiso nesisekelo sokubala isibizontela esikhokhwa ngabaqashi ngaphakathi kwendawo yamandla noma inxenye yendawo yamandla eSETA esahlukile  
55 kusilinganiso nesisekelo esicatshangwe kusigatshana (1)(a) noma (b), kuye ngesimo, kodwa kuye ngesigatshana (7)
- (7) Isilinganiso nesisekelo esinqunywe kunothisi njengokuyala, kwesigatshana (6) singebe nomphumela wokuthi isamba sezibizontela eziqoqiwe ngenxa yaleyo nothisi sibe ngaphansi kwesamba sezibizontela ezingabe zaqoqwa zisekelwe esilinganisweni  
60 nesisekelo esicatshangwe kusigatshana (1)(a) noma (b) kuye ngesimo.

(8) uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali anganquma isimo sokunquma ngenhloso yanoma ikuphi ukunquma okucatshangwe kusigatshana (6).

(9) Inothi is okubhekiswe kuyo kusigatshana (6) mayiqukathe—

- (a) isilinganiso nesisekelo sokubala isibizontela;  
 5 (b) usuku isibizontela esizokhokhwa ngalo;  
 (c) ukuchazwa kwabaqashi abazowela ngaphakathi yamandla eSETA noma inxenywe yendawo yamandla isibizontela esikhokhelwa yona;  
 (d) noma iluphi olunye udaba oludingekayo ukulungiselela ukuqoqwa kwesibizontela okusebenzayo/okuphumelelayo.

## 10 Iziyekelo

### 4. Isibizontela asikhokhwa—

- (a) yinoma imuphi umqashi wenkonzo yomphakathi ekuzwelonke noma esemkhakheni kahulumeni wesifunda;  
 15 (b) yinoma imuphi umqashi lapha isigaba 3(1)(a) noma (b) sisebenza khona futhi—  
 (i) phakathi kwanoma iyiphi inyanga lapho kukhona izizathu ezifanele ezikhokhwayo zokuthi umbumbatha lwesamba senkokhelo, njengoba lunqunywe njengokuhambisana nesigaba 3(4), olukhokhiwe noma olukhokhwayo ngulowo mqashi kubo bonke abasebenzi bakhe ngenkathi yezinyanga ezi-12 ezilandelayo aluzukweqa ku R250 000, noma isamba esinye esinjalo njengoba uNgqongqoshe enganquma ngenothi kuGazethi; futhi  
 20 (ii) nokuthi lowo mqashi akayaliwe/akadingile ukuba acele ukurejistwa njengomqashi njengokuyala kwendima 15(1) yeSheduli yesiNe kuMthetho weNtela wemali eNgenayo;  
 25 (c) noma isiphi isikhungo senkolo noma isikhungo sesihle esicatshangwe kusigaba 10(1)(f) soMthetho weNtela wemali eNgenayo noma noma isikhwanama esicatshangwe kusigaba 10(1)(fA) soMthetho weNtela wemali eNgenayo, esimiswe ukuhlinzeka izimali kunoma isiphi isikhungo esinjalo.  
 30 (d) noma iyiphi inhlangothi/isikhungo somphakathi sikazwelonke noma sesifunda lapho amaphesenti anga-80 noma ngaphezulu encithakalo yesikhungo ekhokhwa khona ngokuqonde ngqo noma ngokungaqondile kuzimali ezivotelwe yiPhalamente.

### Ukubhalisela/ukurejistela ukukhokha isibizontela

- 35 5. (1) Lapho umqashi ekweleta ukukhokha isibizontela, lowo mqashi—  
 (a) makenze isicelo kuKhomishinali sokurejistwa njengomqashi ngenhloso yokukhokha isibizontela ngaleyo ndlela njengoba uKhomishinali enganquma ngayo futhi makasho kuleso sicelo indawo yamandla eSETA lowo mqashi okufanele ahleliswe ngaphakathi kwayo (uma ekhona); futhi  
 40 (b) uma umqashi ethintiwe ukumiswa noma ukuchibiyelwa kweSETA njengoba kucatshangwe kusigatshana (4), makasho kuKhomishinali indawo yamandla lowo mqashi okufanele ahleliswe ngaphakathi kwayo.  
 (2) Kuye ngesigatshana (1), lapha umqashi ewela ngaphakathi kwendawo yamandla eSETA ngaphezu koyedwa, lowo mqashi,; kubukwa—  
 45 (a) ukubunjwa kwabasebenzi/koquqaba lwabasebenzi bakhe;  
 (b) isamba senkokhelo ekhokhiwe noma ekhokhwayo kuzinhlobo ezahlukile zabasebenzi; kanye  
 (c) nezidingo zokuqeqeshwa ezahlukile zezinhlobo zabasebenzi, makaqoke iSETA eyodwa okufanele ahleliswe ngaphakathi kwayo kuye ngaloMthetho.  
 50 (3) Ukuqoka komqashi njengokuyala kwesigatshana (2) kuyambophezela umqashi ngaphandle kokuba uKhomishinali ebuka izinto ezicatshangwe kusigatshana (2)(a), (b) no (c) eyala ngokunye.  
 (4) Uma iSETA imiswa noma indawo yayo yamandla ichibiyelwa ngemuva kuka 1 Apreli 2000, uNgqongqoshe ngenothi kuGazethi—  
 55 (a) makazise abaqashi nganoma iluphi ushintsho mayelana nokuthi isibizontela sikhokhwa noma sizokhokhwa kuyiphi iSETA; futhi  
 (b) makanqume usuku, ngaphezu kwezinsuku ezi-60 ngemuva kosuku lwenothi, abaqashi abayoqala ngalo ukuthintwa yilokho kumiswa noma ukuchibiyelwa kwendawo yamandla.

(5) Umqashi owela ngaphakathi kwendawo yamandla eSETA ebalulwe kunothisi okubhekiswe kuyo kusigaba 7(1)—

- (a) makenze isicelo kuSETA ngaleyo njengoba ndlela iSETA inganquma ukurejistwa njengomqashi ngenhloso yokukhokha isibizontela;
- 5 (b) makayise isitatimente kuKhomishinali ngaphakathi kwezinsuku ezi-21 kusukela osukwini lwaleyo nothisi esifakaza ukuthi lowo mqashi uwela ngaphakathi kwendawo yamandla alowo SETA nokuthi ukukhokhwa kwesibizontela kuyokwenziwa kulowo SETA.

(6) Noma imuphi umqashi okhululiwe ekukhokheni isibizontela njengokuba ku-10 tshangwe kusigaba 4(a) ne (d) makarejiste njengokuyala kwesigatshana (1).

#### **Ukukhokhwa kwesibizontela kuKhomishinali nokusibuyisela emuva**

6. (1) Kuye ngesigaba 7, wonke umqashi makakhokhe isibizontela kuKhomishinali ngendlela nangaphakathi kwenkathi enqunywe kuloMthetho.

(2) Umqashi makangasikhokhi isibizontela kuKhomishinali ngasemuva kwezinsuku 15 eziyisikhombisa, noma ngenkathi endana kanjalo njengoba uKhomishinali enquma, ngemuva kokuphela kwenyanga ngayinye okukhokhwa ngayo futhi ndawonye naleyonkokhelo ayise isitatimente—

- (a) sikuleso simo njengoba uKhomishinali engayala; futhi
- 20 (b) sibonisa isamba sesibizontela esikweletwa yilowo mqashi futhi siqethe olunye ulwazi olunjalo njengoba uKhomishinali engayala.

(3) Uma isamba sanoma isiphi isibizontela, inzuzo noma inhlawulo ekhokhwe ngumqashi kuKhomishinali yayingathelwa noma yayingakhokhwa, noma yayeqile kusamba esithelwayo noma esikhokhwayo njengokuyala kwaloMthetho, lesa samba masibuyiselwe emuva kulowo mqashi nguKhomishinali sikhishwa eSikhwameni 25 sikaZwelonke seMali.

(4) Uma umQondisi-Jikelele esesabile isamba esigcwele njengokuhambisa nesigaba 8 noma noma isiphi isigamu sesamba okubhekiswe kuso kusigatshana (3), umQondisi-Jikelele lapho kudingekile makasigodle isamba esabiwe kanjalo kuzinkokhelo ezizayo ziya/ezikweletwa iSETA noma iSikhwama sikaZwelonke saMakhono, kuye ngesimo, 30 njengokuyala kwaloMthetho.

(5) UKhomishinali makazise/makabikele umQondisi-Jikelele, ngaphambi kosuku lwesikhombisa lwenyanga ngayinye—

- (a) ngamagama abaqashi kwiSETA ngayinye nesamba sezibizontela, inzuzo nezinhlawulo eziqoqwe emalini nezimali eziphindiselwe kulaba baqashi; 35 kanye
- (b) nangamagama abaqashi abangaweli ngaphakathi kwendawo yamandla anoma iyiphi iSETA nesamba sezibizontela, inzuzo nezinhlawulo eziqoqwe kubaqashi nezimali eziyiswe kulabo baqashi, phakathi kwenyanga edlule.

#### **Ukukhokhwa kwesibizontela kuSETA nokusibuyisela emuva**

40 7. (1) Kuye ngesigatshana (2), uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali futhi ngenothisi kuGazethi, anganquma ukuthi bonke abaqashi abawela ngaphakathi kwendawo yamandla anoma iyiphi iSETA ebalulwe kuleyonothisi makakhokhe isibizontela—

- (a) kulowo SETA; noma
- 45 (b) kumgwamanda ophakanyiswe uSETA futhi wavumelwa nguNgqongqoshe ukuqoqela lowo SETA isibizontela.

(2) Ngaphambi kokwenza isinqumo esicatshangwe kusigatshana (1), uNgqongqoshe noNgqongqoshe wezeZimali mabaneliswe ukuthi—

- (a) izizathu ezanele zikhona zokuba iSETA iqoqe isibizontela kubaqashi endaweni yayo yamandla;
- 50 (b) uSETA, noma umgwamanda ophakanyiswe uSETA ukumqoqela isibizontela, usekhombise ukufanela okudingekile kokuqoqa isibizontela; futhi
- (c) izindleko eziphathelele nalokho kuqoqwa zingeke zeqe kumaphesenti amabili ombumbatha lwesamba lezibizontela eziqoqiwe.

55 (3) UNgqongqoshe angayisoxisa inothisi ecatsangwe kusigatshana (1) uma enelisiwe ukuthi uSETA akasithobelanga ngendlela enqunyiwe isigaba 10(1)(a), (b), (g)(iii) ne (h)(ii) soMthetho wokuThuthukisa aMakhono.

(4) Umqashi, kungaze kube ngasemuva kwezinsuku eziyishombisa emuva kokuphela kwenyanga isibizontela esikhokhwa ngayo—

- (a) engasikhokhile isibizontela; futhi  
 (b) engayisanga kuSETA noma umgwamanda ovumelwe nakuKhomishinali isitatimente—
- 5 (i) sikuleso simo njengoba lowo SETA noma umgwamanda ovumelwe, kuye ngesimo, noKhomishinali, ngokulandelana, engayala; futhi  
 (ii) sibonisa isamba sesibizontela esikhokhwe kuSETA noma umgwamanda ovumelwe futhi siqukethe olunye ulwazi olunjalo njengoba uSETA noma umgwamanda ovumelwe, kuye ngesimo, noKhomishinali bengayala.
- 10 (5) Uma isamba sesibizontela, inzuzo noma inhlawulo ekhokhwe ngumqashi kuSETA noma umgwamanda ovumelwe yayingathelwa noma yayeqile kusamba esithelwayo noma esikhokhwayo njengokuyala kwaloMthetho, leso samba masibuyiselwe kumqashi nyiSETA noma umgwamanda ovumyelwe sithathwe sivela ezimalini ze SETA.
- 15 (6) Uma noma isiphi isigamu sesamba esibuyiselwe njengokuyala kwesigatshana (5), sesikhokhwe kuSikhwama sikaZwelonke saMakhono njengokuyala kwesigaba 9(a), iSETA mayisigodle leso sigamu kuzinkokhelo ezizayo eziya kuSikhwama njengokuyala kwaloMthetho.

#### **Ukwabiwa kwezibizontela ezikhokhwe kuKhomishinali**

- 20 **8.** (1) Isibizontela, inzuzo nezinhlawulo eziqoqwe uKhomishinali, ngemuva kokususa izimali ezibuyiselwa emuva, mazikhokhwe kuSikhwama seMali sikaZwelonke.
- (2) Kuye ngesigaba 6(4) umbumbatha lwesamba sezibizontela, inzuzo nezinhlawulo olukhokhwe kuSikhwama sikaZwelonke seMali njengokuyala kwesigatshana (1)
- 25 luphuma ngqo kuSikhwama sikaZwelonke seMali ziya—  
 (a) kuSETA ziyisamba esicatshangwe kusigatshana (3)(b);  
 (b) kuSikhwama sikaZwelonke saMakhono ziyisamba esicatshangwe kusigatshana (3)(a) no (c).
- (3) UmQondisi-Jikelele, ngaphakathi/ezinsukwini ezi-14 ngemuva kokwamukela
- 30 inothi kuKhomishinali njengokuyala kwesigaba 6(5), makabe—  
 (a) amaphesenti anga-20 ezibizontela, inzuzo nezinhlawulo eziqoqwe maqondana neSETA ziye kuSikhwama sikaZwelonke saMakhono;  
 (b) amaphesenti anga-80 ezibizontela, inzuzo nezinhlawulo eziqoqwe maqondana neSETA kuleyo SETA ngemuva kokuba esezanelisele ukuthi iSETA
- 35 isigthobele ngendlela enqunyiwe isigaba 10(1)(a), (b), (g)(iii) ne (h)(ii) soMthetho wokuThuthukisa aMakhono;  
 (c) izibizontela, inzuzo nezinhlawulo eziqoqwe uKhomishinali kubaqashi abangaweli ngaphakathi kwendawo yamandla eSETA eziya kuSikhwama sikaZwelonke saMakhono.
- 40 (4) Izibizontela, inzuzo nezinhlawulo, ezabelwe iSETA njengokuyala kwesigatshana (3)(b) maziphathwe njengokuhambisana nesigaba 14 soMthetho wokuThuthukisa aMakhono.

#### **Ukwabiwa kwezibizontela ezikhokhwe kwiSETA**

- 45 **9.** Kuye ngesigatshana 10(3), isiphathimandla esikhulu esiphethe seSETA noma umgwamanda waso ovumelwe, kuye ngesimo—  
 (a) mawungawakhokhi amaphesenti anga-20 ezibizontela eziqoqwe yilowo SETA njengokuyala kwesigaba 7(1), futhi nanoma iyiphi inzalo nezinhlawulo eziqoqwe maqondana nazo, sekudlule usuku lwe-15 lwenyanga ngayinye, kuSikhwama sikaZwelonke saMakhono;
- 50 (b) masiphathe insalela yezibizontela, inzuzo nezinhlawulo eziqoqwe kanjalo njengokuhambisana nesigaba 14 soMthetho wokuThuthukisa aMakhono.

#### **Izindleko zokuqoqa**

10. (1) Kuye ngesigatshana (2), umQondisi-Jikelele, njalo ngenyanga njengoba kungavunyelwana phakathi kukaKhomishinali nomQondisi-Jikelele, makakhokhe izindleko zikaKhomishinali zokuqoqa izibizontela eSikhwameni sikaZwelonke saMakhono.
- (2) Umbumbatha lwesamba sezindleko sokuqoqa okubhekise kuzo kusigatshana (1) zisilalisiwe izindleko zokuqala umsebenzi, lungeqe kumaphesenti amabili obumbatha lwesamba sezibizontela zibalwe ngesilinganiso okubhekiswe kuso kusigaba 3(1)(b).

(3) Kuye ngesigatshana (4), iSETA noma umgwamanda wayo ovumelwe kunkokhelo yayo eya eSikhwameni sikaZwelonke saMakhono.

(4) Umbumbatha lwesamba lwezinko zokuqoqa okubhekiswe kuzo kusigatshana (3) lungeqe emaphesentini ombumbatha lwesamba sezibizantela eziqoqiwe.

## 5 Inzuzo yokuphuza ukukhokha

11. Uma umqashi ehluleka ukukhokha isibizantela noma noma isiphi isigamu sayo ngosuku lokugcina lokukhokha sona, njengoba kucatshangwe kusigaba 6(2) no 7(4), inzuzo iyakhokhwa esambeni esingakhokhiwe ngesilinganiso esicatshangwe kundima (b) yencazelo “yesilinganiso esinqunyiwe” kusigaba 1 soMthetho weNtela wemali eNgenayo, sibalwe kusukela kulolo suku lokugcina lokukhokha kuya osukwini leyonkokhelo emukelwe ngalo uKhomishinali, iSETA noma umgwamanda ovumelwe, kuye ngesimo.

### Izinhlawulo ekwehlulekeni

12. (1) Kuye ngesigatshana (2), uma noma isiphi isibizantela esisala singakhokhiwe ngemuva kosuku lokugcina lokukhokhwa kwaso njengoba kucatshangwe kusigaba 6(2) noma 7(3), inhlawulo engamaphesenti ayi-10 alesosamba esingakhokhiwe iyakhokhwa ngaphezulu kwenzuzo ecatsangwe kusigaba 11.

(2) UKhomishinali noma isiphathimandla esikhulu esiphethe seSETA, noma umgwamanda ovumelwe, kuye ngesimo, sibuka isimo singavithumela inhlawulo noma noma isiphi isigamu sayo sigidlelwe isigatshana (1).

### Ukusebenza koMthetho weNtela wemali eNgenayo

13. Izihlinzeko zoMthetho weNtela wemali eNgenayo eziphathele—

- (a) nokuphathwa kwazo njengoba ziqukethwe kuSahluko I soMthetho weNtela wemali eNgenayo;
- (b) isitatimente semali engenayo, ukuvezwa kolwazi, imibhalo noma izinto, izinhlaziyo, ukusesha nokuthatha nobufakazi obufungelwe;
- (c) izilinganiso;
- (d) izimpikiso nokwedlulisa;
- (e) ukukhokha nokuphinda ukuthola intela, inzuzo nezinhlawulo;
- (f) izimali ezibuyiselwa emuva;
- (g) abamele abakhokhi bentela njengoba kuqukethwe kuSheduli yesiNe kuMthetho weNtela wemali eNgenayo;
- (h) ukuthengiselana, izindlela noma amasu okuhloswe ngawo ukugwema noma ukuhlehlisa ukukweletwa kwentela emalini engenayo noma ukunciphisa isamba sezintela emalini engenayo; futhi
- (i) ukubika ngokungaziphathi kahle ngomsebenzi, ziyasebenza ngezinguquko ezidingwa ingqikithi, kusibizantela esikhokhiwe noma esikhokhwayo kuKhomishinali, njegokuyala kwaloMthetho mayelana—
  - (i) nokuphathwa kwaloMthetho
  - (ii) nezitatimente, ukuvezwa kolwazi, imibhalo noma izinto, izinhlaziyo, ukusesha nokuthatha nobufakazi obufungelwe ngenhloso yokuthola ulwazi olugcwele mayelana nokubalwa kwesibizantela esikweletwayo nesikhokhwayo njegokuyala kwaloMthetho;
  - (iii) noma isiphi isilinganiso, ukuphikisa nokwedlulisa nokuthola inkokhelo, ukuthola futhi noma ukubuyisela emuva isibizantela, inzuzo noma inhlawulo;
  - (iv) nokumelwa komkhokhi-ntela;
  - (v) nanoma ikuphi ukuthengiselana, indlela noma isu okungenwe kulo noma elenziwe/elakhiwe ngenhloso yakugwema noma ukuhlehlisa ukukweleta isibizantela noma ukunciphisa isamba saleso sibizantela nasekusebenzeni kwezihlinzeko ezicatshangwe kundima (h), lezo zihlinzeko zicatshangwa ukuthi zimbandakanya inkomba kusibizantela;
  - (vi) nokubika ngokungaziphathi kahle ngomsebenzi.

## ISIAHLUKO 2

### UKUTHOLA FUTHI KWESETA ISIBIZONTELA

#### Ukuthola futhi isbizontela

14. (1) Isibizontela esikhokhwa umqashi njengokuyala kwesigaba 7(1) kwiSETA  
5 noma kumgwamanda ovumelwe wayo sicutshangwa ukuthi siyisikweleti kwiSETA.  
(2) Uma umqashi—  
(a) ehluleka ukuyisa isitatimente maqondana nesamba sezibizontela azikwele-  
tayo njengoba kucatshangwa kusigaba 7(4)(b); noma  
(b) eyisa isitatimente esibonisa isamba, ngombono wesiphathimandla esikhulu  
10 esiphethe seSETA noma umgwamanda ovumelwe, kuye ngesimo, ukuthi  
singaphansi kwesamba esikweletwayo njengokuyala kwaloMthetho, isipha-  
thimandla esikhulu esiphethe noma umgwamanda ovumelwe, kuye ngesimo,  
singasilinganisa isamba sesibizontela esikweletwayo bese sikhapha isilinga-  
niso sesamba esingakhokhiwe.  
15 (3) Uma noma isiphi isamba sesibizontela esikhokhwayo ngumqashi kuSETA  
njengokuhambisana nesigaba 7(1), noma noma iyiphi inzuzo noma inhlawulo yaso,  
esala ingakhokhwe ngosuku lokucina lokukhokhwa kwayo njengoba kucatshangwe  
kuzigaba 7(4)(a), 11 no 12, ngokulandelana, iSETA noma umgwamanda ovumelwe,  
kuye ngesimo, phezu kwanoma imuphi umthetho ophambene nalokho, ingaphinde  
20 isithole futhi isamba esingakhokhiwe ngokumangala enkantolo yemantshi enamandla  
endaweni lapho umuntu okweleta isibizontela, inzuzo noma inhlawulo eqhuba khona  
ibhizinisi.

#### Ukubekwa kwabahloli

15. (1) Umhloli wezemisebenzi obekwe njengokuyala kwesigaba 63 soMthetho  
25 weMibandela eyisiSeko yomSebenzi, 1997 (uMthetho No. 75 ka 1997), ucatshangwa  
ukuthi ungumhloli kuye ngaloMthetho njengokuba uqondene nokuqoqwa kwezibizon-  
tela yiSETA noma umgwamanda ovumelwe wayo.  
(2) UmQondisi-Jikelele makakhombe ngesitifiketi esisayiniwe noma imuphi umuntu  
obekwe ngendlela enqunyiwe ngesimo sokunquma esinqunyiwe njengomphatheli  
30 weSETA noma umgwamanda ovumelwe wayo njengomhloli kuye ngaloMthetho  
njengokuba uphathelene nokuqoqwa kwezibizontela yiSETA noma umgwamanda  
ovumelwe, kuye ngesimo.

#### Amandla abahloli okungena

16. (1) Ukuze kuqashwe futhi kuphoqeletwe ukuthobela loMthetho njengokuba  
35 uqondene nokuqoqwa kwezibizontela yiSETA noma umgwamanda ovumelwe wayo,  
umhloli angangena ngaphandle kwewalanti noma inothi noma ngasiphi isikhathi  
esifanele kunoma iyiphi indawo yomsebenzi noma iyiphi enye indawo engelona ikhaya  
lapha umqashi eqhuba khona ibhizinisi noma egcina khona imiqulu yemibhalo.  
(2) Umhloli angangena ekhaya noma noma iyiphi enye indawo ecatshangwe  
40 kusigatshana (1) kuphela—  
(a) ngemvume yomnikazi noma yohlalayo khona/yomhlali, noma  
(b) uma egunyazwe iwalanti, njengokuyala kwesigatshana (3), ukwenza njalo.  
(3) imantshi, noma ijaji leNkantolo ePhakeme, enamandla lingakhipa iwalanti  
elicatshangwe kusigatshana (2) ekameleni lejaji kuphela ngesicelo somhloli esibhaliwe  
45 okubhekiswe kuye kusigaba 15, futhi esisho ngaphansi kwesifungo noma esiqinisayo  
izizathu zesidingo sokungena endaweni ukuze kuqashwe ukuthotshelwa kwaloMthetho  
njengokuba uqondene nokuqoqwa kwezibizontela yiSETA noma umgwamanda  
ovumelwe wayo.

#### Amandla omhloli okubuza nokuhlola

17. (1) Ukuze kuqashwe ukuthotshelwa kwaloMthetho njengokuba uphathelene  
50 nokuqoqwa kwezibizontela yiSETA noma umgwamanda ovumelwe wayo, u mhloli o  
kubhekiswe kuye kusigaba 15—  
(a) angayala umuntu ukuba adalule/aveze ulwazi noma ngomlomo noma  
ngokubhaliwe, futhi noma eyedwa noma kukhona ofakazi kunoma iluphi  
55 udaba loMthetho ophathelene nalo, futhi ayale ukuba ukudalulwa / ukuvezwa  
kufungelwe noma kuqiniseke;

- (b) angahlola, futhi abuze umuntu nganoma imuphi umbhalo loMthetho ophathelene nawo kanjalo;
- (c) angenza inyela lalowo mbhalo, noma athathe lowo mbhalo ukuze enze amanyela awo noma imifanekiso kulowo mbhalo;
- 5 (d) angayala umuntu ukuba akhiphe noma ayise endaweni ebalulwe ngumhloli ukuze lowo mbhalo uhlolwe, futhi
- (e) angenza noma imuphi omunye umsebenzi odingekile ukuze kuqashwe noma kuphoqeelwe ukuthotshelwa kwalo Mthetho njengokuba uphathelene nokuqoqwa kwezibizontela yiSETA noma umgwamanda ovumelwe wayo.
- 10 (2) Umhloli angahamba notolika kanye nanoma imuphi omunye umuntu odingekile ngokufanele ukusiza ukwenza ukuhlola.
- (3) Umhloli—
- (a) ekuclweni makaveze isitifiketi sokubekwa njengomhloli;
- (b) makakhiphe irisidi yanoma imuphi umbhalo othathiwe noma oyisiwe njen-
- 15 gokuyala kwesigatshana (1) (c) noma (d); futhi
- (c) makabuyise noma yintoni ethathwe/esuswe kanjalo noma eyisiwe ngaphakathi kwesikhathi esifanele.

### Ukubambisana nabahloli

18. (1) Noma imuphi umuntu obuzwa ngumhloli okubhekiswe kuye kusigaba 15 makaphendule yonke imibuzo efanele eqondiswe ngokusemthethweni kulowo muntu ngeqiniso futhi ngokusemandleni akhe.
- (2) Umqashi makanikele nganoma iyiphi imfanelo nosizo ezakhiweni/endaweni yakhe oludingwa ngokufanele ngumhloli ukwenza imisebenzi yakhe ngokuphumelelayo.

### 25 Izethembiso nokuthobela imiyalo

19. Izigaba 68 no 73 zoMthetho weMibandela eyisiSeko yomSebenzi, 1997 (uMthetho No. 75 ka 1997), ziyasebenza, ngokuguquka okudingwa ingqikithi—
- (a) ekuqapheni nokuphoqeelwa kwaloMthetho, njengokuba uphathelene nokuqoqwa kwezibizontela yiSETA noma umgwamanda ovumelwe wayo; kanye
- 30 (b) nanoma iziphi izinyathelo zomthetho eziphathelene nokwephulwa kwaloMthetho njengokuba ziphathelene nokuqoqwa kwezibizontela yiSETA noma umgwamanda ovumelwe wayo.

## ISAHLUKO 3

### IZIHLINZEKO eZIJWAYELEKILE

### 35 Amacala

20. Noma imuphi umuntu—
- (a) owehluleka ukufaka isicelo sokurejistwa ngenhloso yesibizontela;
- (b) owehluleka ukukhokha noma isiphi isibizontela ngosuku olunqunyelwe ukukhokhwa kwaso;
- 40 (c) onika noma iluphi ulwazi olungamanga esitatimentini noma omunye umbhalo odingekayo njengokuyala kwaloMthetho, azi ukuthi ulwazi lungamanga;
- (d) owehluleka—
- (i) ukunikeza noma ukuyisa noma isiphi isitatimente noma omunye umbhalo noma into;
- 45 (ii) ukudalula noma iluphi ulwazi;
- (iii) ukunika impendulo noma ukuphendula ngeqiniso nangokugcwele, noma imiphi imibuzo ebhekiswe kuye; noma
- (iv) ukuya/ukubakhona nokunika ubufakazi, obudingekayo jengokuyala
- 50 kwaloMthetho; noma
- (e) avimbele noma athiye noma imuphi umuntu ukwenza imisebenzi njen-
- gokuyala kwaloMthetho, wenza icala futhi uyobekwa icala, kuthi ekulahlweni ahlawuliswe noma adonse inkathi engeqile kunyaka oyedwa.

### Isiqiniseko sokulunga/sobuqiniso besitatimente

21. Kunoma iziphi izinyathelo zomthetho eziphathelene nokwaphulwa kwaloMthetho, kukumqashi ukuveza isiqiniseko sokuthi ulwazi olunikezwe ngulowo mqashi esitatimentini esidinga ukuyiswa njengokuyala kwaloMthetho lulungile.

### 5 Izimiselo

22. UNgqongqoshe, ebonisana noNgqongqoshe wezeZimali futhi nangemuva kokubonisana neGunya likaZwelonke laMakhono, angenza izimiselo nganoma iluphi udaba—

- 10 (a) olunganqunywa noma olufanele lunqunywe njengokuyala kwaloMthetho;  
 (b) oludingekele ukuphathwa okuphumelelayo kwaloMthetho.

### Ukuchibiyelwa koMthetho wokuThuthukisa aMakhono

23. UMthetho wokuThuthukisa aMakhono uyachibiyelwa njengoba kuhlelwe kusheduli.

### Isihloko esifingqiwe nokuqala

- 15 24. LoMthetho ubizwa ngokuthi uMthetho weZibizontela wokuThuthukisa aMakhono, 1999, futhi, uyoqala ukuba namandla ngosuku oluyonqunywa nguMongameli ngesimemezelo ku*Gazethi*.

## ISHEDULI

## UKUCHIBIYELA UMTHETHO WOKUTHUTHUKISA AMAKHONO

(Isigaba 23)

## Ukuchibiyela isigaba 1 soMthetho 97 ka 1998

1. Isigaba I soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa ngokubeka endaweni yezincazelo “zoMthetho weZibizontela wokuThuthukisa aMakhono” kanye “nezibizontela zokuthuthukisa amakhono” izincazelo ezilandelayo “UMthetho we Zibizontela wokuThuthukisa aMakhono” kusho uMthetho weZibizontela wokuThuthukisa aMakhono, 1999; ‘izibizontela zokuthuthukisa makhono’ kusho isibizontela njengoba sichazwe kusigaba 1 soMthetho weZibizontela wokuThuthukisa aMakhono”;

## Ukuchibiyela isigaba 2 soMthetho 97 ka 1998

2. Isigaba 2 soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa ngokubeka endaweni yesigatshan (2)(a)(iii) indlela yokukhuluma “isabelo-sibizontela” ngendlela yokukhuluma “uxhaso-sibizontela”.

## Ukuchibiyela isigaba 10 soMthetho 97 ka 1998

3. Isigaba 10 soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa—
- (a) ngokubeka endaweni yendima (f) yesigathsana (1) indima elandelayo: “(f) lapho kudingekile ukwenza njalo njengoba kucatshangwe esigabeni 7(1) soMthetho weZibizontela wokuThuthukisa aMakhono, iqoqe izibizontela zokuthuthukisa amakhono, futhi mayikhiphe izibizontela, ezabelwe yona njengokuyala kwezigaba 8(3)(b) no 9(b) emkhakheni wayo”;
  - (b) ngokushintsha indima (k) yesigatshana (1) ngerdima elandelayo: “(k) enze noma yiziphi ezinye izibopho ezigidlelwe yiloMthetho noma uMthetho weZibizontela wokuThuthukisa aMakhono noma uvumelana nezinhlozo zaloMthetho”;
  - (c) ngokubeka endaweni yendima (b) ‘yesigatshana (2) indima elandelayo: “(b) amanye amandla anikwe ISETA yiloMthetho noma uMthetho weZibizontela wokuThuthukisa aMakhono”;
  - (d) ngokubeka endaweni yesigathsane (3) isigatshana esilandelayo: “(3) ISETA mayenze imisebenzi yayo njengokuhambisana naloMthetho, uMthetho weZibizontela wokuThuthukisa aMakhono kanye nomthetho-sisekelo wayo”.

## Ukuchibiyela isigaba 14 soMthetho 97 ka 1998

4. Isigaba 14 soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa—
- (a) ngokubeka endaweni yendima (a) yesigath/hana (1) isigatshana esilandelayo: “(a) amaphesenti anga-80 ezibizontela zokuthuthukisa amakhono, inzuzo nezinhlawulo eziqoqiwe maqondana neSETA, nengoba zabiwe njengokuyala kwezigaba 8(3) no 9(b) zoMthetho weZibizontela wokuThuthukisa aMakhono”;
  - (b) nokukhipha/nokususa indima (c) yesigatshana (2)

## Ukuchibiyela isigaba 27 soMthetho 97 ka 1998

5. Isigaba 27 soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa ngokubeka endaweni yezindima (a) no (b) zesigatshana (2) izindima ezilandelayo: “(a) amaphesenti anga-20 ezibizontela zokuthuthukisa amakhono, inzuzo nezinhlawulo eziqoqwe maqondana nawo wonke uSETA, njengoba kulaya izigaba 8(3)(a) no 9(a) zoMthetho weZibizontela wokuThuthukisa aMakhono;

- (b) izibizontela zokuthuthukisa amakhono, inzuzo nezinhlawulo eziqoqwe nguKhomishinal kubaqashi abangaweli endaweni yamandla eSETA, njen-goba kuyala isigaba 8(3)(c) soMthetho weZibizontela wokuThuthukiswa aMakhono”.

#### **Ukuchibiyelwa kwesigaba 30 soMthetho 97 ka 1998**

6. Isigaba 30 soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa ngokubeka endaweni yendima (a) yesigatshana (1) indima elandelayo:

“(a) makabhajathele okungenani—

- (i) iphesentana elingu 0,5 yepeyrol yakhe kusukela mhlaka 1 Apreli 2000;
- (ii) iphesenti elilodwa lepeyrol yakhe kusukela mhlaka 1 Apreli 2001, lokuqeqesha nemfundo yabasebenzi bakhe; futhi.”.

#### **Ukufaka isigaba 30A kuMthetho 97 ka 1998**

7. Isigaba esilandelayo ngalokhu siyafakwa emuva kwesigaba 30 soMthetho wokuThuthukisa aMakhono:

**“Ibhajethi yokuqeqeshwa yizinhlangano/yizikhungo zomphakathi zikazwelonke nezifundazwe**

**30A. Inhlangano/isikhungo somphakathi sikazwelonke ngasinye noma sesifundazwe, lapha amaphesenti anga-80 noma ngaphezulu encithakalo yenhlangano/isikhungo somphakathi ekhokhwa ngokuqondile ngqo noma ngokungaqondile ezimalini ezivotelwe yiPhalamente mayibhajethele okungenani—**

- (a) iphesentana elingu-0,5 lepeyrol yayo kusukela mhlaka 1 Apreli 2000;
- (b) iphesenti elilodwa lepeyrol yaso kusukela mhlaka 1 Apreli 2001 lokuqeqesha nemfundo yabasebenzi bayo.”.

#### **Ukuchibiyelwa kohlamvu 10 lweSheduli 2 kuMthetho 97 ka 1998**

8. Umhamvu 10 lweSheduli 2 kuMthetho wokuThuthukisa aMakhono ngalokhu luyachibiyelwa ngokukhipha/ngokususa indima (b) yohlamvana (2).

#### **Ukuchibiyelwa kohlamvu 14 lweSheduli 2 kaMthetho 97 ka 1998**

9. Uhlamvu 14 lweSheduli 2 kuMthetho wokuThuthukisa aMakhono ngalokhu luyachibiyelwa ngokubeka endaweni yahlamvana (3) uhlamvana olulandelayo:

“(3) Kuye ngohlamvana 7(c), noma isiphi isibizontela esigidlelwe njen-gokuyala kwesigaba 10 soMthetho woMbuso we Sifunda wokuQeqesha oseben-zayo masinyane ngaphambi kokuqala kuwoMthetho, uhlala usebenza kuze kube umhlaka 31 Mashi 2000 [ngaphandle kokuba sihoxiswe ngaphambi kwalolo suku lwenyanga nguNgqongqoshe njengokuyala kwesigaba 2(3) soMthetho wokuThuthukisa aMakhono] kube sengathi uMthetho woMbuso weSifunda woku Qeqesha awuchithwanga.”.

#### **Ukuchibiyelwa kwesihloko eside soMthetho ka 1998**

10. Isihloko eside soMthetho wokuThuthukisa aMakhono ngalokhu siyachibiyelwa ngokubeka endaweni yendlela yokukhuluma “isabelo-sibizintela” indlela yokukhu-luma “uxhaso-sibizontela”.

## INCAZELO NGEZINJONGO ZOMTHETHOSIVIVINYWA WEZIBIZONTELA WOKUTHUTHUKISA AMAKHONO, 1999

### 1. *Inhloso yoMthethosivivinywa*

UMthethosivivinywa umisa isibizontela esiphoqayo ngenhloso yokuxhasa ngemali imfundo noqeqesho okucatshangwe kuMthetho wokuThuthukisa aMakhono, 1998 (uMthetho No. 97 ka 1998). UMthethosivivinywa uqala isibizontela—

(a) kusukela mhlaka 1 Apreli 2000, esilingene nephesenti elingu 0.5; futhi

(b) kusukela mhlaka 1 Apreli 2001, esilingene nephesenti

elilodwa lepeyrol yabaqashi ngenyanga. Abaqashi mabasikhokhe lesi sibizontela kuKhomishinali weNkonzo yeMali yaseNingizimu Afrika. Kodwa-ke, lapha uNgqongqoshe wezeMisebenzi noNgqongqoshe wezeZimali benelisiwe ukuthi izizathu ezanele zikhona nalapha isimo sokunquma esithile sihlangatshezwa, banganika imvume kubaqashi abangaphakathi kwendawo yamandla eSETA ethile ukukhokha izibizontela zabo ngqo kulowo SETA othile. Amashumi amabili amaphesenti ezimali eziqoqiwe ayokwabelwa iSikhwama sikaZwelonke saMakhono esimiswe ngaphansi koMthetho wokuThuthukisa aMakhono 1998. Kanye nezimali ezamukelwe kusikhwama sikazwelonke, lemali iyosetshenziswa ukuxhasa amakhono kazwelonke asemqoka. Amashumi ayisishiyagalombili amaphesenti asele ezibizontela makakhokhwe kumakhawundi asebhange oSETA abehlukene ukaxhasa ukwenziwa kwemisebenzi yabo nokukhokhela ukuphathwa kwayo ngaphakathi komkhawulo onqunywe. Lapha kungekho khona SETA, imali yalowo mkhokha iyokhokhwa kuSikhwama sikaZwelonke saMakhono. UMthetho wokuThuthukisa aMakhono 1998 uyala iminyango kahulumeni kazwelonke nowezifunda ukubhajethela iphesenti okungenani elingu 0,5 lezindleko zabasebenzi lokuthuthukisa amakhono kusukela mhlaka 1 Apreli 2000 kanye nephesenti elilodwa kusukela mhlaka 1 Apreli 2001.

Abaqashi benkonzo yoMphakathi kumikhakha kahulumeni kazwelonke neyefunda, ngakho-ke bayakhululwa ekukhokheni isibizontela. Labo baqashi abangadingile ukurejistela intela yabasebenzi njengokuyala kweSheduli yesiNe kuMthetho weNtela wemali eNgenayo, 1962 (uMthetho No. 58 ka 1962), nalabo umbumbatha lwesikhwama sabo sokuholela ngonyaka esingaphansi singaphansi kuka R250 000, nabo futhi bayakhululwa. UMthethosivivinywa futhi wenza isihlinzeko sokuthi isibizontela asikhokhwa—

(a) yinoma isiphi isikhungo senkolo noma sesihle esicatshangwe kusigaba 10(1)(f) soMthetho weNtela wemali eNgenayo 1962, noma isiphi isikhwama esicatshangwe kusigaba 10(1)(f) salowo Mthetho, esimiselwe ukuhlinzekela izimali kunoma isiphi isikhungo esinjalo; kanye

(b) nayinoma iyiphi inhangano/isikhungo somphakathi esikuzwelonke noma esifundeni lapha amaphesenti anga-80 noma ngaphezulu encithakalo yayo ekhokhwa ngendlela eqondile noma engaqondile kwizimali ezivotelwe yiPhalamente.

### 2. *Imisuka eyindikimba yoMthethosivivinywa*

#### 2.1 Isahluko 1: Ukuphatha, ukugidlela nokuthola futhi isibizontela

*Iphuzu 1* liqukethe izincazelo.

*Iphuzu 2* linquma ukuthi umQondisi-Jikelele wezeMisebenzi (DG) makaphathe loMthetho. Liphinde linqume ukuthi (uDG) anganika iSETA amandla esibopho sokuphatha, kuye ngaleyomibandela angayigidlela.

UKhomishinali weNkonzo yeMali yaseNingizimu Afrika makawuphathe uMthetho njengokuba uqondene/uphathelene nokuqoqwa kwesibizontela esikhokhwa kuKhomishinali njengokuyala kwaloMthetho.

*Iphuzu 3* ligidlela isibopho kubobonke abaqashi ukukhokha isibizontela sokuthuthukisa amakhono ngesilinganiso sephesenti elilodwa lesamba esithelwayo kusukela 1 Apreli 2000. *Iphuzwana (2)* lihlenzeka ukuthi phezu kwesigatshana (1), uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali kanye noNgqongqoshe weZindaba zeZifundazwe nokuThuthukiswa koMthethosisekelo nangenothi kuGazethi, angagidlela isibizontela kuwo wonke umasipala.

*Iphuzu 4* Lihlinzekela iziyekelo ekukhokheni isibizontela. Noma ukhuliwe ekukhokheni izibizontela. Ngaphezu kwalokho noma imuphi umqashi uyokhululwa ekukhokheni isibizontela lapha—

- (a) kukhona izizathu ezamukelekile ezifanele zokukholwa ukuthi umbumbatha lwemali yokuholela ngeke lube ngaphezulu kuka R250 000; kanye
- (b) nokuthi lowo mqashi akadingile ukurejista njengomqashi njengokuyala kwendima 15(1) kweSheduli yesiNe kuMthetho weNtela wemali eNgenayo 1962. Futhi isibizontela asikhokhwa nanoma isiphi isikhungo senkolo noma sesihle kanye futhi nenhlango/ isikhungo somphakathi esithile esihlelwe kundima 1 ngenhla nazo futhi zikhululiwe.

*Iphuzu 5* lihlinzeka izinqubo zokurejistwa kwabaqashi ngenhlozo isibizontela. Wonke umqashi oqala ukukweleta sibizontela makarejiste kuKhomishinali futhi asho/akhombe ukuthi ufanele ahleliswe ngaphakathi kwamuphi uSETA. Kungenzeka kodwa ukuthi umqashi awele ngaphakathi koSETA ongaphezu kuyedwa, futhi uma kwenzeka lokho, lowo mqashi makaqoke uSETA oyedwa ngenhlozo yokukhokha isibizontela futhi amazise uKhomishinali ngalokho kukhetha/kuqoka kwakhe. Lokho kukhetha/kuqoka kuyambophezela umqashi ngaphandle kokuba uKhomishinali eyala ngokunye. Lapha kumiswa uSETA omusha noma indawo yamandla akhe echibiyelwa futhi lokho kumthinta umqashi, lowo mqashi makamazise futhi uKhomishinali ngokushintsha kweSETA.

Umqashi owela ngaphakathi kweSETA eziqoqela yona izibizontela zayo, njengoba kuhlinzekwe ephuzwini 7, makayise futhi isitatimente kuKhomishinali esifakaza ukuthi uwela ngaphakathi kwendawo yamandla alowo SETA futhi nokuthi isibizontela sizokhokhwa kulowo SETA. Iphuzwana (5) lihlinzekela ukuthi umqashi okhululiwe ekukhokheni isibizontela njengoba kucatshangwe kuphuzu 4(a), (c) ne (d) noma kunjalo makarejiste kuKhomishinali.

*Iphuzu 6* lihlinzeka ukuthi bonke abaqashi, ngaphandle kwabaqashi abawela ngaphakathi kwendawo yamandla eSETA engaziqoqela izibizontela zayo njengokuyala kwepuzu 7, mabakhokhe izibizontela kuKhomishinali. Leliphuzu futhi lenza isihlinzeko sokubuyisela emuva imali kubaqashi, uma kwenzeka ukuthi isibizontela sikhokhwe ngekweqila, noma lapha isibizontela esikhokhiwe sasingakweletwa njengokuyala koMthethosivivinywa. Iphuzwana (5) lihlinzeka ukuthi uKhomishinali ngaphambi kosuku lwesikhombisa lwenyanga ngayinge, makahlinzeke uDG ngamagama abaqashi, behliliswe nguSETA, futhi nesamba sezibizontela, inzuzo nezinhlawulo eziqoqwe maqondana noSETA ngamunye ngenyanga eyedule.

*Iphuzu 7* lihlinzeka ukuthi uNgqongqoshe wezeMisebenzi, ebonisana noNgqongqoshe wezeZimali, lihlinzeka ukuthi uSETA angaziqoqela izibizontela zakhe. USETA, kodwa, makakhombise ukuthi kukhona izizathu ezanele zokuba aqoqe. Nangaphezu kwalokho, mayikhombise ukuthi ifanele ukuqoqa izimali nesibizo/imali yoquqoqa zingeke zeqe kumaphesenti amabili ombumbatha lwesamba sezibizontela eziqoqiwe. Leliphuzu, futhi, libeka amabala engwe ngezinqubo ezizolandelwa lapho umqashi ekhokha isibizontela kuSETA. Izinqubo zokukhokha izimali kubaqashi nazo zihlinzekelwe kuleliphuzu.

*Iphuzu 8* lihlinzekela izinqubo ezizolandelwa ekwabeni izibizontela eziqoqwe nguKhomishinali. Inqikithi ukuthi, izibizontela, inzuzo nezinhlawulo, ngemuva kokususwa kwemali ebuyiselwa emuva kubaqashi, zikhokhwa eSikhwameni sikaZwelonke seMali. UmQondisi-Jikelele uyonikwa ulwazi luvela kuKhomishinali, njengoba kuhlinzekelwe ephuzwini 6(5), futhi uyoza izimali kanjalo. UDG makabe amaphesenti anga-20 ezimali, eziqoqwe maqondana namaSETA, aya kuSikhwama sikaZwelonke saMakhono, futhi namaphesenti anga-80 azo kumaSETA. Zonke zimali eziqoqwe kubaqashi abangaweli endaweni yamaandla eSETA mazikhokhwe kuSikhwama sekaZwelonke saMakhono. Izimali eziyokwabiwa ngu mQondisi-Jikelele ziyo thathwa eSikhwameni sikaZwelonke seMali. Ukwabiwa kwezibizontela makwenziwe ngesikhathi esinqunyiwe.

*Iphuzu 9* Libeka amabala engwe ngezinqubo ezizolandelwa lapha izimali eziqoqwe nqo ngamaSETA. AmaSETA makakhokhe amaphesenti anga-20 ezibizontela, inzuzo nezinhlawulo eziqoqiwe kuSikhwama sikaZwelonke saMakhono. Insalela mayiphathwe njengokuhambisana nesigaba 14 soMthetho wokuThuthukisa aMakhono, 1998.

*Iphuzu 10* lilayezela ukuthi izindleko zikaKhomishinali, zokuqoqa mazikhokhwe zivela kuzibizontela ezikhokhwe kuSikhwama sikaZwelonke saMakhono. ISETA ingazigodla izibizontela eziyizondleko zayo zokuqoqa ezikhokhwa kuleso Sikhwama. Izindleko kodwa zingeqe kumaphesenti amabili ombumbatha lwesamba sezibizontela ezibalwe ngesilinganiso okubhekiswe kuso kuphuzu 3(1)(b).

*Iphuzu 11* lihlinzeka ukuthi umqashi ukweleta inzuzo uma isibizontela singakhokhiwe ngosuku lokusikhokha.

*Iphuzu 12* lithi ngaphezulu kwenzuzo ecatshangwe ephuzwini 11 umqashi owehluleka ukukhokha isibizontela ngosuku lokusikhokha ukweleta ukukhokha inhlawulo engamaphesenti ayi-10 esamba esingakhokhiwe. UKhomishinali noma isiphathimandla esikhulu esiphethe seSETA noma umgwamanda ovumelwe singayithumela inhlawulo noma isiphi isigamu sayo.

*Iphuzu 13* lenza izihlinzeko ezithile zoMthetho weNtela wemali eNgenayo, 1962, ezisebenza lapha isibizontela siqoqwe nguKhomishinali. Lezizihlinzeko zimbandakanya, phakathi kokunye, ukuphathwa koMthetho, izinqubo eziqondene nokuthola ulwazi, imibhalo noma izinto, ukuphikisa nokudlulisa kanye nokuthola futhi intela.

## **2.2 Isahluko 2: Ukuphinda kweSETA ukuthola futhi Isibizontela**

*Iphuzu 14* lihlinzeka ukuthi isibizontela sizocatshangwa njengesikweleti esikweletwa iSETA. Uma umqashi ehluleka ukuyisa isitatimente esikhombisa isamba sesibizontela esikweletwayo, noma lapha isamba esikhonjisiwe esitatimentini ngombono weSiphathimandla esiphethe se SETA singaphansi kwesamba esikweletwayo, isiphathimandla esiphethe singasilinganisa isamba sesibizontela esikweletwayo bese sikhapha isilinganiso sesamba esingakhokhiwe. Uma isibizontela noma isamba esingakhokhiwe sisala singakhokhiwe, iSETA ingaphinde isithole futhi ngokumangala enkontolo yemantshi.

*Iphuzu 15* lihlinzeka ukuthi umhloli wezemisebenzi obekwe njengokuyala kwesigaba 63 soMthetho weMibandela eyisiSeko yomSebenzi, 1997 (uMthetho No 75 ka 1997), ucatshangwa ukuthi ungumhloli kuye ngalesi Sahluko. Kodwa-ke ngaphezulu kwalokho, izinqubo ezilungiswe ngomthetho ziyosakazwa ukunika amandla iSETA ukubeka abaphatheli bayo. Laba baphatheli bayocatshangwa ukuthi bangabahloli bezemisebenzi kuye ngalesi Sahluko.

*Iphuzu 16* libeka amabala engwe ngamandla okungena abahloli.

*Iphuzu 17* libeka amabala engwe ngamandla omhloli okubuza nokuhlola umuntu noma imibhalo. Umhloli udinga ekucelweni ukukhipha isitifiketi sokubekwa kanye nerisidi yanoma imuphi umbhalo othathiwe nokubuyisa leyoimbhalo phakathi kwesikhathi esifanele.

*Iphuzu 18* licindezela labo ababuzwayo ngumhloli ukuba baphendule yonke imibuzo efanele ngeqiniso futhi ngokusemandleni abo onke. Abaqashi bacindezelekile ukunika noma iyiphi imfanelo nosizo olwamukelekayo ezakhiweni zabo olucelwe ngumhloli.

*Iphuzu 19* likhomba ukuthi izigaba 68 kuyaku 73 zoMthetho waMibandela eyisiSeko yomSebenzi, 1997, ziyosebenza kuloMthethosivivinywa maqondana, nokuqapha noku-phoqeelwa kwaloMthetho nezinyathelo zomthetho eziphathelele nokwaphulwa kwaloMthetho.

## **2.3. Isahluko 3: Izihlinzeko ezijwayelekile**

*Iphuzu 20* lihlelisa amacala futhi lihlinzeka ukuthi noma imuphi umuntu owenza icala uyobekwa icala, ekulahlweni ahlawuliswe noma adonse inkathi engeqile kunyaka oyedwa.

*Iphuzu 21* lihlinzeka ukuthi ukuthathwa kwezinyathelo zomthetho eziphathelele nokwaphulwa koMthetho, kusemahlombe omqashi ukuqinisa/ukubonisa ukuthi ulwazi olunikiwe lulungile.

*Iphuzu 22* lihlinzeka ukuthi uNgqongqoshe wezeMisebenzi makabonise no Ngqongqoshe wezeZimali ngaphambi kokukhipha izimiselo. UNgqongqoshe makabonise futhi neGunya likaZwelonke laMakhono ngaphambi kokukhipha izimiselo ezinganqunywa noma ezifanele ukunqunywa njengokuyala kwaloMthetho noma ezingekile ekuphathweni okuphumelelayo kwaloMthetho.

*Iphuzu 23* likhombisa ukuthi iSheduli ijobelwe eyenza izichibiyelo ezithile kuMthetho wokuThuthukisa aMakhono, 1998.

*Iphuzu 24* lithi loMthetho uzothiwa uMthetho weZibizontela wokuThuthukisa aMakhono, 1999, futhi uyoqala ukusebenza mhlaka 1 Apreli 2000.

## **3. Abahlanganyeli okwaboniswa 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 lezizinto zisetshenziswe. IBhodi youQeqesha ka-

Zwelonke no NEDLAC baphathisa abaluleki/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 eNingizimuy Afrika. Lemibiko yaba isisekelo somunye futhi umgomo wokuthuthukisa umsebenzi woMnyango wezeMisebenzi.

I-NTB yayisa iphepha elingaphelele eliluhlaza lokuThuthukisa Amandla Abantu ngomhlaka 30 Septemba 1996 ukuze lisetshenziswe njengesisekelo sePhepha eliluhlaza.

UMnyango wezeMisebenzi walimemezela Isu lokuThuthukisa aMakhono lePhepha eliluhlaza lokuthuthukisa ezomphakathi lezoMthetho nokukhula kwezoMsebenzi mhlaka 24 Mashi 1996 futhi wamema abahlanganyeli ukwethula izithasiselo. Lapha kufanele khona izithasiselo zafakwa kudrafti yoMthethosivinywa wokuThuthukisa aMakhono eyamemezela ku*Gazethi* ngomhlaka 2 Septemba 1997. Izinhlangano zonke zihlangene zabangu 34, kuhlangukise izinyonyana zabasebenzi. Imikhandlu kanye neminye imigwamanda engekho kuhulumeni zayisa izithasiselo ezisekelayo kanye neminye iminako lapho kufanele khona. Izithasiselo zafakwa kobukeziwe uMthethosivinywa wokuThuthukiswa kwaMakhono.

Imihlangano yokubonisana yenziwa nemigwamanda noma abantu abalandelayo: NTB, abameli beminyango kahulumeni uMnyango wezeMfundo. UkuPhathwa kweNkonzo yoMphakathi, uMnyango wezokuMbiwaphansi naMandla. UkuThuthukiwa kwezoMthethosisekelo. EzeZimali. EzoHwebo, ezokuXhumana Kude, Ikhomisani yeNtsha kanye nabo bonke abaQondisi-Jikelele.

Imibono yethulwa nokubonisana kwenziwa nawo wonke amaProvinsi, amabhodi okuqeqesha, izinyonyana, Potfolio Komiti kwezeMisebenzi, izimboni namabhezini ngesicelo kanye neminye imigwamanda. Imihlangano yokubonisana yawusiza uMnyango wezeMisebenzi ngokuba uphinde ulungise uMthethosivinywa.

Amalungu e NEDLAC alandelayo nawo abandakanyeka emshikashikeni wokubonisana: BSA, COSATU, NACTU no FEDUSA, iminyango kahulumeni weMisebenzi, oweZimali, owezokuThuthukisa uMthethosisekelo, ezoHwebo, owokuPhathwa kweZinkonzo zoMphakathi; nomkhakha wokuthuthukisa umPhakathi. Umbiko oqukethe yonke imininwane yezingxoxo noNEDLAC maqondana nomshikashika wokubonisana maqondana noMthethosivinywa uyatholakala”

Emuva kwalokho, ngaphakathi kuhulumeni, izingxoxo zabakhona phakathi koNgqongqoshe wezeMisebenzi nowezimali. Izikhulu ezivela kuNkonzo yeMali yaseNingizimu Afrika neMnyango kaHulumeni yeNcithakalo, oweZimali nowezeMisebenzi zabamba izingxoxo ezibanzi maqondana nokugidlela isibizontela sokuthuthukisa amakhono. UMthethosivinywa owalungiswa futhi waphethwa kulezi zingxoxo, wayiswa kuKhabinethi futhi usanda kuvunywa yiyo.

#### **4. Inqubo yasePhalamende**

Abaluleki bakaHulumeni kwezoMthetho babona ukuthi uMthethosivinywa unguMthethosivinywa wemali njengokuba ugidlela isibizontela ngakho-ke iPhalamende mayiwukhankanye loMthethosivinywa njengokuhambisana nenqubo emiswe yisigaba 75 soMthethosisekelo weRipapliki yaseNingizimu Afrika.

