

UMTHETHO WEZITHUTHI ZOMPHAKATHI KAMASIPALA WASETHEKWINI, 2014



Wemukelwe uMkhandlu mhla ka:

Washawa mhla ka:

UMTHETHO KAMASIPALA WEZITHUTHI ZOMPHAKATHI, 2014

Wokuhlinzekela ukwakhiwa nokusebenza kwamarenki, izitobhi nezindawo zokuma zamakhumbi, amabhasi amancane namabhasi emhlabeni kamasipala; wokuhlinzekela ukukhishwa kwamaphemithi okusebenzisa izakhungo zezithuthi zomphakathi; wokulawula ukusetshenziswa kwezikhungo zezithuthi zomphakathi; wokulawula ukusebenza kwamatekisi emitha; wokulawula ukuziphatha kwabashayeli, okhondakthi nabagibeli ezakhiweni zezithuthi zomphakathi; wokwenqabela ukuziphatha okuthile; wokunquma amacala nezigwebo; wokuhlinzekela ukuchithwa kwemithetho nokugcinwa kwayo; nokuhlinzekela ezinye izindaba eziphathelele nalokho.

ISENDLALELO

NJENGOBA bonke abantu benelungelo lokuphila endaweni engenabo ubungozi empilweni yabo noma kwinhlalakahle yabo ngokwesigaba 24(a) soMthethosisekelo;

NJENGOBA kunesidingo sokuthi kulawulwe izithuthi zomphakathi endaweni engaphansi kukaMasipala waseThekwini ukuze kuqinisekise inhlalakahle nokuphepha kwabagibeli nokusebenza ngendlela efanele nesheshayo kwemboni yezithuthi zomphakathi;

NJENGOBA uMasipala unamandla ngokweNgxenywe B yoHlelo 4 loMthethosisekelo okulawula mayelana nezindaba ezinjengodaba lwezithuthi zomphakathi zikamasipala nangokweNgxenywe B yoHlelo 5 mayelana nezindaba ezithinta imigwaqo kamasipala, ukuhamba kwezimoto emgwaqeni nokupaka;

NANJENGOBA uMasipala waseThekwini unamandla, ngokwesigaba 156(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, okusungula nokushaya iMithetho kaMasipala ukuze kusingathwe ngendlela izindaba onelungelo lokuzilawula;

MANJE NGAKHO-KE umkhandlu kaMasipala waseThekwini, ngokwesigaba 156 sifundwa noHlelo 5 (iNgxenywe B) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, sifundwa nesigaba 11 soMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), ngalokhu usungula lo Mthetho kaMasipala olandelayo:

OKUQUKETHWE

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3. Izinhloso zoMthetho kaMasipala
4. Ukusebenza koMthetho kaMasipala

ISAPHLUKO 2 IZIKHUNGO ZEZITHUTHI ZOMPHAKATHI

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6. Imithetho ephathelene nezakhiwo zezithuthi zomphakathi
7. Olayini ezakhiweni zezithuthi zomphakathi
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9. Ukugezwa nokukhandwa kwezimoto ezakhiweni zezithuthi zomphakathi
10. Ukushiywa dengwane kwezimoto
11. Amamashali
12. Izitobhi nezindawo zokuma
13. Ukubuyiselwa ezindaweni zokuma
14. Izigungu zamakhumbi nezamabhasi
15. Ijoka lomshayeli webhasi lokuma
16. Izimali zokugibela

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17. Ukwenqatshelwa ukungena ezikhungweni zezithuthi zomphakathi ngaphandle kwephemithi
18. Isicelo sephemithi yokungena ezikhungweni zezithuthi zomphakathi
19. Amadiskhi
20. Ikhophi yephemithi nediskhi yokungena ezikhungweni zezithuthi zomphakathi

21. Amalungelo abanikazi bamaphemithi ezikhungweni zezithuthi zomphakathi
22. Izimali ezikhokhwayo ezikhungweni zezithuthi zomphakathi
23. Ukushintsha ikheli nesimo
24. Ukuchitshiyelwa kwemininingwane
25. Ukushintshaniswa kwesikhashana kwemoto yokuthutha umphakathi
26. Ukudluliselwa kwephemithi yokusebenzisa yesikhungo sezithuthi zomphakathi
27. Ukumiswa nokuhoxiswa kwephemithi yokusebenzisa yesikhungo sezithuthi zomphakathi
28. Ukuvezwa kwephemithi yokusebenzisa yesikhungo sezithuthi zomphakathi uma icelwa
29. Amacala aphaathelene namadiskhi
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38. Kwenqatshelwe ukuthintathinta imitha
39. Ukuhlolwa kwamamitha amatekisi
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ISAPHLUKO 5

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- 50. Izilwane
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ISHEDULI: IMITHETHO KAMASIPALA ECHITHIWE

ISAPHLUKO 1 UKUHUNYUSHWA

Izincazelo

- 1. Kulo Mthetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile –
"isisebenzi esigunyaziwe" kushiwo umuntu ogunyazwe ukusebenzisa izinhlinzeko zalo Mthetho kaMasipala, okubandakanya phakathi kokunye:-

(a) isikhulu somthetho njengoba sichazwe esigabeni 334 soMthetho weNqubo yamaCala, 1977 (uMthetho No. 51 ka 1977);

(b) iphoyisa likaMasipala noma loMkhandludolobha njengoba lichazwe eMthethweni wamaPhoyisa aseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995); kanye

(c) nalowo msebenzi, i-ejenti, abaqokiwe, izithunywa nabahlinzeka ngezidingo kumasipala njengoba bengagunyazwa uMasipala mayelana nalokhu;

“ibhibhi” kushiwo okokugqoka okugaxwa esifubeni somuntu, okunophawu olugqamile olukhombisa ukuthi lowo muntu ungukhondakthi futhi okugunyazwe yiNhlolo;

“ibhasi” kushiwo imoto esetshenziswa umphakathi eyakhelwe noma eyakhiwe umakhi wezimoto osemthethweni ngokuhambisana noMthetho wokuHamba kweziMoto eMgwaqeni kaZwelonke, 1996 (uMthetho No. 93 ka 1996) enezihlalo zabagibeli abangaphezu kuka 35 engakabalwa umshayeli;

“inhlango yabamabhasi” kushiwo inhlango yabanikazi bamabhasi ebhaliswe ngokusemthethweni uhlaka lwezokubhalisa lwesifundazwe noma omunye uhlaka osemthethweni ofanele;

“irenki yamabhasi” kushiwo isikhungo sikaMasipala ngokwalo Mthetho kaMasipala esisemhlabeni kamasipala esakhelwe ukuba sisetshenziswe amabhasi kuphela, lapho amabhasi engacosha khona abagibeli futhi ehlise khona abagibeli;

“indawo yokuma amabhasi” kushiwo indawo, ngaphandle kwerenki, lapho kuma khona amabhasi kuze kuvuleke indawo erenki noma endaweni yokuma;

“isitobhi sebhasi” kushiwo indawo eklanywe uMasipala, ngaphandle kwerenki yamabhasi, lapho ibhasi ingama khona icoshe noma yeshise abagibeli noma ime isikhashana;

“ukhondakthi” kushiwo umuntu owenza umsebenzi wokuba ukhondakthi wabashayeli nabagibeli bezithuthi zomphakathi, okubandakanya –

(a) ukubiza nokunxena abagibeli;

- (b) ukulawula nokubheka ukubigela kwabantu emotweni; kanye
- (c) nokuqoqa imali yokugibela, ngaphandle uma kukhokhwa ngekhadi noma ngenye indlela okungakhishwa kuyona imali engukheshi;

“idiskhi” kushiwo idiskhi noma olunye uhlobo lomazisi olukhishwa uMasipala alunikeze umnikazi wephemithi yesikhungo sezithuthi zomphakathi;

“umshayeli” kushiwo umshayeli njengoba echazwe eMthethweni wokuHamba kweziMoto eMgwaqeni kaZwelonke, 1996 (uMthetho No. 93 ka 1996);

“iNhloko” kushiwo umuntu –

- (a)ogunyazwe ukwenza lowo msebenzi;
- (b)nanoma isiphi esinye isisebenzi sikaMasipala esiqokwe ukuba senze wonke noma ingxenye yamajoka eNhloko ngaphansi kwalo Mthetho kaMasipala mayelana nalokho esikuqokelwe;

“umugqa ogudle unqenqema lomgwaqo” kushiwo umngcele ophakathi komgwaqo nonqenqema kanti uma lungekho unqenqema kushiwo umugqa ohlukanisa umgwaqo nengaphandle lomgwaqo;

“imashali” kushiwo umuntu oqokwe yinhlango yamatekisi noma yinhlango yamabhasi ukulawula nokuhlela ukuhamba kwezimoto nabagibeli esikhungweni sezithuthi zomphakathi;

“itekisi yemitha” kushiwo imoto eyakhelwe ukuthutha abagibeli exhunywe imitha yetekisi eqopha ibanga elihanjiwe noma isikhathi esidliwe wuhambo oluthathwayo;

“ibhasi elincane” kushiwo imoto eyakhiwe umkhiqizi obhalisiwe wezimoto ngokuhambisana noMthetho wokuHamba kweziMoto eMgwaqeni, 1996 (uMthetho No. 93 ka 1996), eyakhethwe ukuthwala abagibeli abaphakathi kuka 19 no 35 abahleli phansi, engakabalwa umshayeli;

“ikhumbi” kushiwo imoto eyakhiwe umkhiqizi obhalisiwe wezimoto ngokuhambisana noMthetho wokuHamba kweziMoto eMgwaqeni, 1996 (uMthetho No. 93 ka 1996),

eyakhethwe ukuthwala abagibeli abaphakathi kuka 9 no 18 abahleli phansi, engakabalwa umshayeli;

“itekisi” kushiwo ikhumbi noma ibhasi elincane elisetshenziselwa ukuthwala abantu;

“inhlango yamatekisi” kushiwo inhlango yabanikazi bamatekisi ebhaliswe emnyangweni wesifundazwe olawula le mboni noma kolunye uhloko oluthintekayo;

“indawo yokuma amatekisi” kushiwo indawo, ngaphandle kwerenki, lapho kuma khona amatekisi kuze kuvuleke indawo erenki noma esitobhini;

“irenki yamatekisi” kushiwo isakhiwo uMasipala asibekile ukusetshenziswa amatekisi ngokwalo Mthetho kaMasipala lapho amatekisi engagibeza noma ehlise khona abagibeli;

“isitobhi samatekisi” kushiwo indawo eklanywe uMasipala, ngaphandle kwerenki yamatekisi lapho amatekisi engama khona acoshe noma ehlise abagibeli;

“umkhandlu kamasipala” noma **“umkhandlu”** kushiwo umkhandlu kamasipala weTheku, okuwumkhandlu okukhulunywe ngawo esigabeni 157(1) soMthethosisekelo;

“uMasipala” kushiwo uMasipala waseThekwini, uMasipala oseMkhakheni A njengoba kuhlangoziwe ngokwesigaba 155(1) soMthethosisekelo waseNingizimu Afrika futhi owasungulwa ngeSaziso sesiFundazwe No. 43 sika 2000 (KZN);

“imenenja kamasipala” kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zoMasipala njengenhloko yezokuphatha yomkhandlu kamasipala;

“impahla kamasipala” kushiwo impahla umasipala angumnikazi wayo, aqashisa ngayo noma ayilawulayo;

“ukusebenzisa” mayelana nemoto, kusho ukusebenzisa noma ukushayela imoto noma ukuvumela ukuba kusetshenziswe noma kushayelwe imoto;

“umshayeli” kushiwo umshayeli wezithuthi zomphakathi, njengoba echazwe eMthethweni wokuHamba kweziMoto eMgwaqeni kaZwelonke, 1996 (uMthetho No. 93 ka 1996), okungumuntu oqhuba ibhizinisi lokuthutha umphakathi emgwaqeni;

“ilayisensi yokusebenza” kushiwo ilayisensi njengoba ichazwe esigabeni 1 soMthetho weziThuthi eziHamba ePhansi kaZwelonke, 2009 (uMthetho No. 5 ka 2009);

“umnikazi” mayelana nemoto, kushiwo —

(a) umuntu onelungelo lokusebenzisa nokugcina imoto ngokomthetho ojwayelekile noma ngokwesivumelwano anaso nomnikazi waleyo moto osemthethweni;

(b) noma imuphi umuntu okukhulunywe ngaye endimeni (a), nganoma isiphi isikhathi lapho lowo muntu ehlulekile ukubuyisela leyo moto kumnikazi osemthethweni wemoto abanesivumelwano okukhulunywe ngaso endimeni (a); noma

(c) umdayisi wezimoto odayisa ngezimoto,

futhi obhaliswe kanjalo ngokuhambisana nemithethonqubo engaphansi kwesigaba 4 soMthetho wokuHamba kweziMoto eMgwaqeni kaZwelonke, 1996 (uMthetho No. 93 ka 1996), kanti igama **“okomnikazi”** linencazelo efanayo;

“ukupaka” kushiwo ukugcina imoto, inomuntu noma ingenamuntu, imile isikhathi side kunaleso esilindelekile ngenhloso yokulayisha noma yokwehlisa abantu noma impahla, kodwa akubandakanyi ukugcinwa kwaleyo moto ngezizathu ezingenakugwemeka kumuntu oshayela leyo moto;

“umgibeli” kushiwo noma imuphi umuntu esithuthini somphakathi okhokhela usizo lokuhanjiswa endaweni ethile, kanjalo nanoma imuphi omunye umuntu esithuthini somphakathi ongakhokhiswa ngenxa yesikhundla sakhe, kodwa akubandakanyi umshayeli nokhondakthi;

“iphemithi” kushiwo **“iphemithi”** njengoba ichazwe esigabeni 1 soMthetho weziThuthi eziHamba Phansi kaZwelonke, 2009 (uMthetho No. 5 ka 2009);

"umgwaqo womphakathi" kushiwo noma imuphi umgwaqo, isitaladi indawo yokuhamba noma enye indawo yokuhamba izimoto (okungaba ngeyokuhamba izimoto noma cha) esetshenziswa imvamisa umphakathi noma lapho kuhamba khona umphakathi, futhi kubandakanya –

- (a) unqenqema lwalowo mgwaqo, sitaladi noma indawo yokuhamba;
- (b) noma iliphi ibhuloho, indawo yokuwela noma udonga lwalowo mgwaqo, sitaladi noma indawo yokuhamba; kanye
- (c) nanoma imuphi omunye umsebenzi noma into eyingxenywe noma exhumene noma okungeyalowo mgwaqo, sitaladi noma indawo yokuhamba;

"isakhiwo sezithuthi zomphakathi" kushiwo irenki yamabhasi, indawo yokuma amabhasi, isitobhi sebhasi, irenki yamatekisi, indawo yokuma amatekisi kanjalo nesitobhi setekisi;

"iphemithi yokusebenzisa isikhungo sezithuthi zomphakathi" kushiwo –

- (a) mayelana namabhasi, iphemithi ekhishwe ngokwalo Mthetho kaMasipala evumela umnikazi wephemithi ukuba ashayele ibhasi erenki, ezindaweni zokuma nasezitobhini zamabhasi; kanti
- (b) mayelana namatekisi, kushiwo iphemithi ekhishwe ngokwalo Mthetho kaMasipala evumela umnikazi wephemithi ukuthi ashayele itekisi erenki, ezindaweni zokuma amatekisi nasezitobhini zamatekisi;

"umnikazi wephemithi yokusebenzisa isikhungo sezithuthi zomphakathi" kushiwo umuntu onikezwe iphemithi yokusebenzisa isikhungo sezithuthi zomphakathi ngokwalo Mthetho kaMasipala;

"imoto yokuthutha umphakathi" kushiwo itekisi, ibhasi elincane, itekisi yemitha noma ibhasi;

"umgwaqo" kushiwo leyo ngxenye yomgwaqo, yesitaladi noma yendawo yokuhamba eyenziwe, eyakhiwe noma eyakhelwe ukuhamba izimoto ephakathi konqenqema olusezinhlangothini zomgwaqo;

"umzila" kushiwo imigwaqo ehanjwa yimoto kusukela lapho isuka khona kuya lapho iya khona, noma uma kuyisithuthi esihamba emgwaqeni, uma imigwaqo ingaklanyiwe,

umgwaqo olandelwa yileyo moto njengoba unqunyiwe kulandelwa izimpawu nezinkomba;

“**unqenqema**” kushiwo ingxenye yomgwaqo, yesitaladi noma yendawo yokuhamba ephakathi komugqa oseceleni nengaphandle lomgwaqo;

“**umcimbi okhethekile**” kushiwo umcimbi njengoba uchazwe eMthethweni wezokuPhepha emiCimbini yezeMidlalo nokuNgcebeleka, 2010 (uMthetho No. 2 ka 2010), okungaba ngokwemidlalo, ezokuzijuxuza, ezokungcebeleka, ezenkolo, ezamasiko, imibukiso, izinhlangano noma okuthi akube njalo ebanjelwa enkundleni, endaweni noma bude buduze nomzila lapho izithuthi zihambela khona; futhi

“**imoto**” kushiwo noma iyiphi imoto ezidumelayo kanti kubandakanya –

(a) inqola; kanye

(b) nemoto enamaphedali nenjini noma imoto kagesi noma ingxenye yayo eyakhelwe noma ehlelwe ukuba ihambe ngalawo maphedali noma ngaleyo njini noma kokubili injini namaphedali, kodwa akubandakanyi –

(i) noma iyiphi imoto ehamba ngogesi webhethri elawulwa umuntu ohamba ngezinyawo;

(ii) nanoma iyiphi imoto enesisindo ezingeqile kumakhilogremu angu-230 futhi eyakhelwe yahlelwa ukusetshenziswa umuntu onokukhubazeka ngandlela thile futhi esetshenziswa yilowo muntu kuphela.

Ukahunyushwa koMthetho kaMasipala

2. Uma kuba nokushayisana phakathi kombhalo wesiNgisi walo Mthetho kaMasipala nombhalo ohunyushiwe, umbhalo wesiNgisi iwona oyosebenza.

Izinhloso zoMthetho kaMasipala

3. Izinhloso zalo Mthetho kaMasipala ukulawula –

(a) ukusebenza kwamarenki amatekisi namarenki amabhasi ukuze kuqinisekiswa ukuthi izithuthi zomphakathi zisebenza ngendlela efanele nelungile;

- (b) ukusebenza kwamatekisi, kwamabhasi namatekisi emitha ezikhungweni zezithuthi zomphakathi ngendlela eqinisekisa ukuphepha, ukuvikeleka nenhlalakahle yabagibeli; kanye
- (c) nokusebenza kwamatekisi, amabhasi namatekisi emitha ukuze kuqinisekiswa ukuthi lezi zimoto zokuthutha umphakathi zisebenza ngendlela efanele nelungile.

Ukusebenza koMthetho kaMasipala

4. Lo Mthetho kaMasipala usebenza kuzona zonke izindawo ezingaphansi kolawulo lukaMasipala weTheku futhi ubophezela wonke umuntu kukho konke okushoyo.

ISAHLUKO 2

IZIKHUNGO SEZITHUTHI ZOMPHAKATHI

Ukwakhiwa kwezikhungo zezithuthi zomphakathi

5.(1) INhloko –

- (a) ingaqoka indawo bese yakha isikhungo sezithuthi zomphakathi emhlabeni kamasipala; futhi
- (b) inganweba, inciphise noma ivale isikhungo sezithuthi zomphakathi.

(2) INhloko, ezimweni eziphuthumayo noma ngenhloso yokubhekelela izimo ezikhethekile, ingaqoka indawo bese yakha isikhungo sezithuthi zomphakathi sesikhashana emhlabeni kamasipala.

Imithetho yesikhungo sezithuthi zomphakathi

6. Umasipala -

- (a) uma akha isikhungo sezithuthi zomphakathi, angabeka imithetho mayelana nokusetshenziswa kwaleso sikhungo; futhi
- (b) noma nini ngemuva kwalokho angachibiyela noma ashintshe leyo mithetho.

Olayini ezakhungweni zomphakathi

7.(1) Akukho mnikazi noma mshayeli wemoto yokuthutha umphakathi oyovumela ukuthi imoto ibekwe noma ime –

- (a) kunoma iyiphi ingxenye yesikhungo sezithuthi zomphakathi ngaphandle kwasendaweni eklanywe ngomaka noma ngezimpawu zomgwaqo njengendawo yokulayisha; noma
- (b) endaweni yokulayisha eklanywe njengendawo yokulayisha yomzila othile uma engagunyaziwe ukuhambela kulowo mzila.

(2) Bonke abashayeli bezithuthi zomphakathi kumele bahloniphe noma ibaphi omaka noma izimpawu eziphathelene nolayini esikhungweni, kanjalo nanoma imuphi umyalelo okhishwa amamashali mayelana nalokho.

Izimoto kumele zibe sesimweni esihle sokusebenza

8. Akekho umuntu ovumeleke ukufaka imoto engasebenzi kahle esikhungweni sezithuthi zomphakathi, noma abangele noma avumele ukuthi leyo moto ibe sesikhungweni sezithuthi zomphakathi.

Ukugeza izimoto nokukhanda izimoto ezikhungweni zezithuthi zomphakathi

9. Akukho muntu –

- (a) oyokhanda noma alungise imoto esikhungweni sezithuthi zomphakathi; noma
- (b) ageze imoto esikhungweni sezithuthi zomphakathi ngaphandle uma leso sikhungo sinendawo ebekelwe lokho.

Ukushiya dengwane kwezimoto

10. Akukho mshayeli wemoto ethutha umphakathi -

- (a) oyoshiya dengwane imoto yakhe; noma
- (b) oyovumela omunye umuntu ukuthi ashayele imoto ethutha umphakathi ephethwe nguyena ngaphandle kwemvume yomnikazi wekhadi lokusebenza noma wephemithi edingekayo.

Amamashali

11.(1) Kuncike kwisigatshana (2) no (3), inhlango yamatekisi noma yamabhasi ingaqoka imashali eyodwa noma ngaphezulu esikhungweni sezithuthi zomphakathi ezokwenza le misebenzi elandelayo:

(a) mayelana nabagibeli -

- (i) ezolawula olayini ngokuhambisana nezindlela ezifanele nokuma kwemizila;
- (ii) ezolawula ukulayishwa ngendlela ehlelekile kwabagibeli;
- (iii) ezolawula isibalo sabagibeli emotweni ngayinye ukugwema ukulayisha ngokweqile nokuqinisekisa ukuthi abashayeli bathola ithuba elilinganayo;
- (iv) ezolawula abagibeli iphinde ihlinzeke ngolwazi mayelana nokusebenza kwezimoto zokuthutha umphakathi ezisebenza kuleso sikhungo; futhi
- (v) ezokwazisa abashayeli mayelana nezidingo ezilindelekile zabagibeli nanganoma iluphi udaba olufuze lolo; futhi

(b) mayelana nezimoto zokuthutha umphakathi:

- (i) ezolawula ukungena kwezimoto ezikhungweni zezithuthi zomphakathi;
- (ii) ezovumela ukungena kwabanamaphemithi ezikhungo zezithuthi zomphakathi kuphela;
- (iii) ezohlela ukuhamba wezimoto ezithutha umphakathi ezindaweni zokuma nezokulayisha;
- (iv) ezolawula ukuphuma kwezimoto zokuthutha umphakathi ngendlela okulayishwa ngayo; futhi
- (v) ilawule izimoto zomphakathi ezindaweni zokuma iphinde iziyalele uma sekumele zingene erenki.

(2) Uma isikhungo sezithuthi zomphakathi noma ingxenye yaso yabelwe ukuba isetshenziswe inhlango ethile yamatekisi noma yamabhasi, yileyo nhlango kuphela eyoqoka amamashali mayelana naleso sikhungo noma leyo ngxenye yaso.

(3) Uma kuba nombango mayelana nokuthi iyiphi inhlango yamatekisi ezoqoka imashali noma amamashali kuleso sikhungo sezithuthi zomphakathi, isigungu samatekisi noma samabhasi isona esiyonquma ngalokho.

(4) UMasipala ungabeka inqubo yokuziphatha yamamashali ezikhungweni zezithuthi zomphakathi futhi uchibiyele leyo nqubo izikhathi ngezikhathi.

(5) Akukho muntu oyosebenza njengemashali esikhungweni sezithuthi zomphakathi ngaphandle uma eqokwe ngencwadi yinhlangano yamatekisi noma yamabhasi ethintekayo. Wonke umuntu osebenza noma ozama ukusebenza njengemashali kumele, uma eyalelwa umsebenzi ogunyaziwe, aveze izincwadi ezikhombisa ukuthi uqokwe njengemashali.

(6) Akukho mnikazi noma mshayeli wesithuthi somphakathi, nhlangano yamatekisi noma yamabhasi, abangaqasha onogada abahlomile ekutheni bazohlinzeka ngezokuphepha esikhungweni sezithuthi zomphakathi.

Ukuma ezindaweni zokuma

12. Umshayeli wemoto yokuthutha umphakathi —

- (a) angapaka itekisi noma ibhasi endaweni yokupaka ekhethekile noma endaweni yokuma eklanyelwe lokho yalolo hlobo lwemoto; futhi
- (b) angacosha noma agibeze abagibeli kuphela erenki, endaweni ekhethekile yokupaka noma esitobhini esiklanyelwe lolo hlobo lwemoto.

Ukubuyiselwa ezindaweni zokuma

13. Uma ngabe imashali iveza ukuthi asikho isikhala erenki yamatekisi, esitobhini samatekisi, erenki yamabhasi nasezitobhini zamabhasi noma zamatekisi, noma ngabe yingasiphi isikhathi, amatekisi namabhasi, ngokuhambisana nezidingo, kufanele apakwe endaweni yokuma ezogagulwa umashali noma ngumsebenzi ogunyaziwe.

Izingungu zamatekisi namabhasi

14.(1) UMasipala angasugula isigungu samatekisi namabhasi ukuze akwazi ukwenza izincomo eziqondene nomkhakha wezamatekisi namabhasi.

(2) Zonke izinhlangano zosomatekisi kanye nezamabhasi zivumelekile ukuthi zibe ngamalunga ezigungu zamatekisi noma zamabhasi eziphathelele nazo.

Ijoka lomshayeli webhasi lokuma esitobhini

15.(1) Uma ibhasi likaMasipala elisebenza emzileni wamabhasi linesibalo sabagibeli esingaphansi kwalesi esimisiwe ngokomthetho, futhi uma umshayeli ebona umuntu omile esitobhini sebhasi ngenhloso yokugibela, kumele ukuthi umshayeli, ngokuhambisana nesigatshana (2), amise ibhasi esitobhini, lisondele eduzane nonqenqema lwasesitobhini, ukuze umgibeli akwazi ukugibela ebhasini.

(2) Umshayeli webhasi oshayela ibhasi elibhalwe ukuthi “alimi” noma “lima ezitobhini ezithile” noma “ispesheleli” akadingekile ukuthi ame ndawo aze afike lapho ayalelwe ukuba aye khona ngokwesaziso asinikiwe.

(3) Akekho umshayeli webhasi olindeleke ukuthi ame acoshe umgibeli ongamile esitobhini sebhasi.

(4) Ukhondakthi webhasi (uma ekhona) angeke avumele ukuthi kugibele umuntu ebhasini uma lowo muntu engamile esitobhini sebhasi.

Imali yokugibela

16. Zonke izithuthi ezingena endaweni yezithuthi zomphakathi kufanele zibe nophawu olugqamile esicabheni esingakwesokunxele noma ngasohlangothini lwesinxele lwesithuthi olubhalwe ngokucacile:

- (a) imali yokugibela;
- (b) isibalo sabantu isithuthi leso esivumeleke ukubathatha; kanye
- (c) nenambapleti yesithuthi.

ISAHLUKO 3**AMAPHEMITHI****Ukwenqatshelwa ukungena esikhungweni sezithuthi zomphakathi ngaphandle kwephemithi**

17.(1) Akekho umuntu ovumeleke ukuthi angene noma apake esikhungweni sezithuthi zomphakathi ngaphandle –

- (a) kwephemithi yezithuthi zomphakathi esemthethweni yaleyo moto esuke ingena endaweni yezithuthi zomphakathi; futhi
- (b) abe nediskhi esemthethweni, eveziwe ngokusobala yaleyo moto esuke ingena esikhungweni sezithuthi zomphakathi ngokwalo Mthetho.

(2) Akekho umuntu osebenza ngezithuthi zomphakathi oqhamuka ngale kwemingcele kaMasipala ovumelekile ukuthi angene emizileni kaMasipala ngaphandle kokuthola iphemithi nediskhi esemthethweni.

(3) UMasipala angakhipha idiskhi nephemithi eceleni enzela isithuthi esingasebenzeli emizeleni kaMasipala.

Isicelo sephemithi yesikhungo sezithuthi

18.(1) Noma ubani angakwazi ukufaka isicelo sephemithi yesikhungo sezithuthi uma –

- (a) engumnikazi wetekisi noma webhasi;
- (b) enikezwe ikhadi lokusebenzisa imizila ehanjelwa yilesi sikhungo sezithuthi zomphakathi esithintekayo;
- (c) itekisi noma ibhasi elicelwayo linesitifiketi sokuthi ikulungele ukuba semgwaqeni;
- (d) umshayeli ohlongozwayo enezincwadi zokushayela ezifanele;
- (e) umshayeli ohlongozwayo engakweleti amathikithi asemgwaqeni namawaranti;
- (f) engamkweleti lutho umasipala; futhi
- (g) enephemithi esemthethweni yokushayela.

(2) Isicelo sephemithi kufanele sifakwe ngefomu lakhona eliqokwe iNhlolo yoMnyango ngaleyo nkathi.

(3) Akekho umuntu onganikwa iphemithi yokusebenza emgwaqeni, uma engakulethi lokhu –

- (a) ikhophi egxiviziwe yekhadi lokusebenza;
- (b) ikhophi egxiviziwe yesitifiketi sokuthi imoto ifanele ukuba semgwaqeni, njengokwezidingo zomthethonqubo 138 wemithethonqubo yoMthetho wokuHamba kweziMoto eMgwaqeni kaZwelonke, 1996 (uMthetho No. 93 ka 1996);
- (c) ikhophi egxiviziwe yephemithi yokusebenzisa umgwaqo womphakathi ngaphansi koMthetho wezokuThutha zaseMgwaqeni, 1977 (uMthetho No. 74 ka 1977);

(d) ikhophi egxiviziwe kamazisi osemthethweni noma owesikhashana osemthethweni okhishwe uMnyango wezaseKhaya yomshayeli (uma enomazisi wesikhashana, kufanele uhambisane isithombe sepasi somshayeli);

(e) ubufakazi benambapleti nelayisensi yemoto ngokwesigaba 14 soMthetho wokuHamba kweziMoto eMgwaqeni 93 ka 1996; kanye

(f) nencwadi eyeseka lokho evela kwinhlangano yamatekisi noma yamabhasi.

(4) Imvume yokusebenzisa isikhungo sezithuthi zomphakathi engalandiwe kuze kuphele izinyanga eziyisithupha iyophelelwa isikhathi, ngaphandle uma kubhalwe incwadi enxusa ukuthi kwelulwe isikhathi futhi yemukelwa nguMasipala.

(5) Uma ngabe kukhishwe iphemithi ekhishwe ngokushayisana nalo Mthetho, kufanele umnikazi wephemithi, uma kusho umasipala, alethe leyo phemithi nediskhi kuMasipala.

(6) Kufanele iNhlolo icubungule zonke izicelo zamaphemithi okusebenzisa isikhungo sezithuthi zomphakathi futhi ingakwazi ukuthi -

(a) isigunyaze ngaphansi kwemibandela ethile;

(b) icele ulwazi oluthe xaxa ngesikhathi esithile; noma

(c) isichithe isicelo bese ibeka izizathu zokusichitha.

(7) INhlolo ingabhekelela lezi zimo ezilandelayo uma isicubungula isicelo semvume yokusebenza esikhungweni sezithuthi zomphakathi:

(a) izidingo zokubhekelela —

(i) abafakizicelo bebala elinsundu;

(ii) abafakizicelo abangasebenzi;

(iii) abafakizicelo abaqalayo ukufaka izicelo; kanye

(iv) nabafakizicelo abangahlali ndawonye nomunye umuntu osenayo iphemithi, ngaphandle uma umfakizicelo engondliwa yilowo muntu onephemithi; futhi

(b) kungukuthi umfakizicelo akakaze atholakale enecala lokwephula lo mthetho.

(8) INhlolo ingenqaba ukukhipha iphemithi yokusebenzisa umgwaqo womphakathi, ngokuhambisana nesigaba 84(6) soMthetho wokuHamba kweziMoto eMgwaqeni, 1996 (uMthetho No. 93 ka 1996) kanye nezinhlinzeko zalo mthetho, ngezizathu zokuthi indawo ayisekho erenki ekukhulunywa ngayo.

(9) Umuntu oyohlizeka ulwazi olungesilo iqiniso ngamabomu ngesikhathi efaka isicelo sephemithi yokusebenzisa isikhungo sezithuthi zomphakathi uyothweswa icala.

(10) INhloko ingakwazi ukuthi, uma ikhipha iphemithi yokusebenzisa isakhiwo sezithuthi zomphakathi, ibeke imibandela ethile mayelana nokusetshenziswa kwerenki leyo okukhulunywa ngayo.

(11) Iphemithi yokusebenzisa isakhiwo sezithuthi zomphakathi isebenza izinyanga eziyi-12 kusukela ngosuku eyakhishwa ngalo futhi kufanele ichaze lokhu okulandelayo:

- (a) irenki leyo phemithi esebenza kuyo;
- (b) uhlobo nenambapleti yemoto ezosetshenziswa njengesithuthi;
- (c) ilayisensi yokusebenza, kanye
- (d) nemizila le moto ezosebenzela kuyo.

(12) Kumele ukuthi iNhloko ikhiphe amaphemithi ehlukeni imoto ngayinye.

(13) Akekho umuntu ovumelekile ukuba enze umfanekiso, alingise, ahliphize, one, axikize noma enze umaka kwiphemithi yezithuthi zomphakathi.

Amadiskhi

19.(1) Idiskhi eneminingwane yesithuthi somphakathi kufanele –

- (a) ikhishwe kanye nawo wonke amaphemithi; futhi
- (b) bese ifakwa ngokushesha kuleyo moto eqondene nayo njengoba kuchaziwe kwisigatshana (2).

(2) Kufanele ukuthi idiskhi ifakwe ngale ndlela:

- (a) uma ngabe isithuthi somphakathi sinewindi langaphambili kwemoto elingenambala, kufanele ukuthi idiskhi ifakwe ngasesandleni sobunxele salo iwindi langaphambili -
 - (i) endaweni engaminyene;
 - (ii) ibheke phezulu;
 - (iii) le ndawo enombhalo ibheke phambili ngendlela yokuthi iminingwane ebhalwe khona icacile bha kumuntu ome ngaphandle ngasesandleni sobunxele sesithuthi; futhi

(b) uma ngabe isithuthi leso sinewindi langaphambili elidimile, kumele idiski ifakwe ngasesandleni sobunxele ngaphandle kwewindi langaphambili–

- (i) iphanyekwe ngento engangenisi amanzi;
- (ii) endaweni engaminyene;
- (iii) ibheke phezulu; futhi
- (iv) le ndawo enombhalo ibheke phambili ngendlela yokuthi iminingwane ebhalwe khona icacile bha kumuntu ome ngaphandle ngasesandleni sobunxele sesithuthi.

(3) Umnikazi wesithuthi somphakathi kufanele aqinisekise ukuthi amadiskhi akhe ahlala njalo ehambisana nemigomo yalo Mthetho.

Ikhophi yephemithi noma idiskhi

20.(1) Uma umnikazi wephemithi –

- (a) enikeza uMasipala izizathu ezanelisayo, ngokubhala i-afidavithi, echazayo ukuthi iphemithi ilahlekile noma ilimele; noma
- (b) iphemithi noma idiskhi yonakele ngendlela yokuthi amagama nezinokmbolo zayo azisabonakali,

kufanele ukuthi uMasipala, emva kokuba umnikazi wephemithi esefake isicelo sephemithi kwifomu futhi esekhokhe nemali efanele, ukhiphe iphemithi efana nale yakuqala ebhalwe ngokucacile ukuthi “ikhophi”.

(2) Umnikazi wephemithi kufanele afake idiskhi yakhe njengokulandisa kwesigaba 19.

(3) Uma itekisi lisetshenziswa lingenayo idiskhi, kuyothathwa ngokuthi umnikazi noma umshayeli wesithuthi akanayo iphemithi esemthethweni kuze kube uveza ubufakazi bokuthi unayo idiskhi efanele kumuntu ogunyaziwe noma ukuthi usefake isicelo sekhophi yediskhi noma sephemithi.

(4) Umuntu usuke enza icala uma –

- (a) eveza noma enza ikhophi yediskhi yokusebenza ezikhungweni zokuthutha umphakathi ngokungemthetho;
- (b) ephanyeka idiskhi engekho emthethweni kwisithuthi somphakathi; noma

(c) esebenzisa isithuthi esiphanyekwe idiski evalelekile, ecashile, engafundeki ngaphandle uma lokho kucashiseka, kuvaleleka nokungafundeki kungenxa yezizathu ezingale kwezingalawulwa umnikazi wesithuthi.

(5) Akekho umuntu ovumelekile ukuba enze umfanekiso, alingise, ahliphize, one, axikize noma enze umaka kwiphemithi yezithuthi zomphakathi.

Amalungelo abanikazi bamaphemithi ezithuthi zomphakathi

21.(1) Iphemithi yokusebenzisa isikhungo sezithuthi zomphakathi igunyaza ukuthi umnikazi noma umshayeli akwazi ukuthi asebenzise isikhungo sezithuthi zomphakathi ngale moto ayitholele iphemithi nenediskhi.

(2) Umnikazi noma umshayeli wesithuthi somphakathi akavumelekile ukuthi angene noma apake esikhungweni sezithuthi zomphakathi ngaphandle kwalapho kuchaza khona idiskhi yakhe khona.

Imali yokukhokhela isikhungo sezithuthi zomphakathi

22.(1) Umasipala unelungelo lokukhokhisa noma ngabe —

(a) yimuphi umnikazi wesithuthi somphakathi, imali yephemithi ekhokhwa kanye ngonyaka;

(b) nanoma ubani ocela ikhophi yephemithi noma yediskhi; imali yokukhipha leyo khophi.

(2) Umasipala unegunya, lokuthi nanoma ngabe yisiphi isikhathi, ashintshe imali yesicelo, imali yephemithi yokusebenzisa izithuthi zomphakathi kanye nemali yokwenza ikhophi.

(3) Uma ngabe iphemithi ikhishwe maphakathi nonyaka, imali ezokhokhelwa ukusetshenziswa kwayo kufanele incishiswe ilingane nesikhathi esisele onyakeni ekhishwe ngawo.

Ukushintsha kwekheli nesimo

23.(1) Kuncike esigabeni 77 soMthetho kaZwelonke weziThuthi eziHamba Phansi, 2009 (uMthetho No. 5 ka 2009), umnikazi wephemithi yesithuthi somphakathi kumele athumele isaziso esibhalwe phansi kuMasipala –

- (a) uma kukhona ushintsho ekhelini lakhe;
- (b) uma edayisa noma echitha isithuthi somphakathi lesi iphemithi eyakhishwa ngaphansi kwaso futhi, uma imoto isidayisiwe noma ichithiwe –
 - (i) igama nekheli lomuntu amnikeze imoto, futhi
 - (ii) nesizathu sokudayisa noma sokuchitha imoto,

zingakapheli izinsuku eziyi-10 kwenzekile lokhu.

(2) Umnikazi wephemithi kumele, ngaleso sikhathi eletha isaziso ngokwesigatshana (1), athumele iphemithi yesithuthi nediskhi kuMasipala ukuze kuchitshiyelwe.

(3) Uma iphemithi yesithuthi somphakathi inomonakalo ngale ndlela ukuthi iminingwane ayibonakali kahle, umnikazi wayo kumele ayithumele kwaMasipala bese umsebenzi ogunyaziwe ekhipha enye iphemithi ngenani elizokhokhwa umnikazi wediskhi yaserenki.

Ukuchitshiyelwa kwemininingwane

24.(1) Uma uMasipala ekholelwa ekutheni imininingwane ebhalwe kwiphemithi noma kwidiskhi yesithuthi somphakathi iyiphutha, uMasipala, ngale kokugudluka kwizinhlinzeko zalo Mthetho kaMasipala –

- (a) angazisa umnikazi wephemithi othintekayo;
- (b) amcele ukuba eze nencazelo ezwakalayo; futhi
- (c) amcele ukuba abuyise iphemithi yesithuthi somphakathi noma idiskhi ukuze ichitshiyelwe,

zingakapheli izinsuku eziyi-10 sikhishiwe isaziso.

(2) Uma iphemithi noma idiskhi yesithuthi somphakathi ilethiwe ukuze ichitshiyelwe ngokwalesi sigaba, uMasipala kumele uhlinzeke umnikazi wephemithi yesithuthi somphakathi ngephemithi noma ngediskhi yesikhashana, ezosebenza kuze kubuye le pthemithi noma idiskhi kumnikazi wephemithi yesithuthi somphakathi.

Ukushintshaniswa kwesikhashana kwemoto yokuthutha umphakathi

25.(1) Umnikazi wephemithi yokuthutha umphakathi, uma kuwukuthi uthole imvume ebhalwe phansi kuMasipala, engakwazi ukushintshanisa isithuthi somphakathi esinephemithi nenye imoto isikhashana uma kuwukuthi leso sithuthi asisahambi noma siphuke engozini.

(2) Ukushintshela kwenye imoto okubhalwe esigatshaneni (1) kungenzeka uma –

- (a) kungeke kuphele izinsuku eziyi 180; futhi
- (b) le phemithi yesithuthi somphakathi, idiskhi nemvume ebhalwe phansi kaMasipala kuzohlala kule moto ekushintshaniswe ngayo ngaso sonke isikhathi kuze kuphele isikhathi sokushintshanisa.

Ukudluliswa kwamaphemithi ezithuthi zomphakathi

26.(1) Iphemithi ayidluliselwa noma ikanjani, kodwa ingadluliswa ngemvume kaMasipala uma –

- (a) umnikazi wephemithi yokuthutha umphakathi ethatha umhlala phansi, engeke aphinde akwazi ukuyisebenzisa noma eshona;
- (b) kudayiswa kwebhizinisi lomnikazi wephemithi yokuthutha umphakathi;
- (c) kudayiswa kwemoto enaleyo phemithi;
- (d) kudliwa kwesikhashana noma unomphelo kwempahla yomnikazi wephemithi yokuthutha umphakathi; noma
- (e) kuhlakazwa inkampani yomnikazi wephemithi yokuthutha umphakathi, uma umnikazi wephemithi kuyinkampani noma ibhizinisi.

(2) Undlalifa, umabi, ilungu lethrasti, umhlakazi wamabhizinisi noma umphatheli osemthethweni womnikazi wephemithi yesithuthi somphakathi, njengoba kungaba njalo, ezimweni okukhulunywe ngazo esigatshaneni (1), angafaka isicelo kuMasipala sokuthi kudluliselwe leyo phemithi yesithuthi somphakathi, kuleso sikhathi iphemithi yesithuthi somphakathi ingakaphelelwa isikhathi.

(3) INhloko inelungelo lokufuna ubufakazi obanelisayo kumnikazi wephemithi obuveza ukuthi zihlangabeziwe izimfuno zesigatshana (1).

(4) Uma iNhlolo isigunyaza ukudluliselwa kwephemithi yesithuthi somphakathi, inganquma izidingo ezithile engazibona zifanele.

Ukumiswa nokuhoxiswa kwephemithi yokuthutha umphakathi

27. (1) Iphemithi yokuthutha umphakathi iphelelwa isikhathi kusukela ngelanga ilayisense yokusebenza, isitifiketi sokulungela ukuhamba emgwaqeni, iphemithi yokuthwala impahla iphelelwa isikhathi noma yesuliwe.

(2) uMasipala ungakwazi ukumisa iphemithi yesithuthi somphakathi noma isithuthi somphakathi isikhathi esithile uma –

(a) uma umnikazi wesithuthi somphakathi ehluleka –

(i) ukuthobela umyalelo womthetho okhishwe ngokwalo Mthetho kaMasipala; noma

(ii) ukukhanda nokugcina imoto isesimweni;

(b) umsebenzi ogunyaziwe ehlola imoto bese ethola ukuthi imoto –

(i) yakheke ngendlela, noma, isesimweni esingaphephile esibalweni sabantu esibekiwe okumele bayigibele; noma

(ii) ayihlangabezani nezimfuno zalo Mthetho kaMasipala;

(c) umnikazi wemoto engathobeli –

(i) noma iyiphi imibandela yephemithi yesithuthi sakhe;

(ii) umthetho wezithuthi zomphakathi;

(iii) noma ikuphi okuhlinzekiwe kulo Mthetho kaMasipala nanoma imuphi omunye umthetho; noma

(d) uma kutholakala ukuthi umnikazi uhlinzeke uMasipala ngeminingwane okungeyona ngesikhathi ecelwa ukuba ahlinzeke ngeminingwane.

(3) Uma iNhlolo ikholwa ukuthi kunezizathu zokuthi iphemithi yesithuthi somphakathi imiswe noma ihoxiswe, kumele kulandelwe le nqubo:

(a) uMasipala kumele anike umnikazi wephemithi yesithuthi somphakathi noma usoseshini wetekisi noma usoseshini wamabhasi lapho umnikazi wephemithi eyilungu kuwo, isaziso esibhalwe phansi sezinsuku ezingama-21 esithunyelwa ngesandla noma ngeposi likaMasipala ngenhloso yokusula iphemithi yesithuthi somphakathi;

(b) lesi saziso okukhulunywa ngaso esigatshaneni (a) kumele sibandakanye –

- (i) isitatimende esikhuluma ngesimo esidale ukuba kuthathwe lesi sinyathelo esihlongozwayo;
 - (ii) izizathu zesinyathelo esihlongozwayo;
 - (iii) isimemo sokuthola izimvo ezibhalwe phansi ngalolu daba;
 - (iv) ikheli lapho izimvo zingathunyelwa khona; kanye
 - (v) nosuku, isikhathi nendawo la kuyohlala khona isithangami (okungamele sihlale zingakapheli izinsuku ezingama-15 sikhishiwe lesi saziso) okuyocutshungulwa ngalo ukumiswa noma ukuhuxiswa, futhi siveze ukuthi umnikazi wephemithi yesithuthi somphakathi engaletha afisa ukukusho aphinde abe yingxenye yesithangami;
- (c) umnikazi wephemithi yesithuthi somphakathi kumele anikwe ithuba lokuthi, yena noma ozomumela ngokusemthethweni bavele esithangamini ukuzokwenza izethulo kwiNhloko;
- (d) uma umnikazi wesithuthi somphakathi enesifiso sokuvela ngaphambi kwesithangami ukuzophikisa lesi sinyathelo esihlongozwayo, kumele, zingakapheli izinsuku eziyi-7 ethole isaziso nanoma ingasiphi isikhathi uMasipala ongasivuma, athumele izimvo zakhe ezibhalwe phansi ngesandla noma ngeposi elisemthethweni azibhekise kulelo kheli elizobe libhaliwe kwisaziso; futhi
- (e) ngemuva kokuhlala kwesithangami, uNhloko kumele akhiphe isinqumo sokuthi kumele yini iphemithi yesithuthi somphakathi imiswe noma ihoxiswe futhi anikeze nomnikazi wephemithi yesithuthi somphakathi izizathu zesinqumo ezibhalwe phansi zingakapheli izinsuku eziyi-14 emva kosuku lokuhlala ngesithangami.
- (3) Akekho umuntu onelungelo lokushayela isithuthi somphakathi, noma apake isithuthi somphakathi, noma avumele lokhu kwenzeke uma iphemithi yesithuthi somphakathi imisiwe noma ihoxisiwe.

Iphemithi yesithuthi somphakathi kumele ivezwe uma ifuneka

28.(1) Umnikazi wephemithi yesithuthi somphakathi ngokwa lo Mthetho kaMasipala kumele agcine iphemithi yesithuthi somphakathi isesimweni esamukelekile futhi ikwazi ukufundeka.

(2) Noma imuphi umsebenzi ogunyaziwe angamisa umshayeli wesithuthi somphakathi bese emyalela —

- (a) ukuba avezele uMasipala iphemithi yesithuthi somphakathi zingakapheli izinsuku eziyi-5 etsheliwe umsebenzi ogunyaziwe; futhi
- (b) asho amagama akhe aphelele nekheli negama nekheli lomnikazi noma lomshayeli waleyo moto.

(3) Akekho umshayeli okukhulunywa ngaye esigatshaneni (2) uma emiswa umsebenzi ogunyaziwe ovumelekile ukuba –

- (a) anqabe ukuma;
- (b) anqabe ukuhlinzeka ngegama lakhe eliphelele nekheli lakhe;
- (c) anqabe ukuveza igama lakhe nekheli negama lomnikazi noma lomuntu omphethe;
- (d) anqabe noma ahluleke ukuveza iphemithi yesithuthi somphakathi okukhulunywe ngayo esigatshaneni (2); noma
- (e) anikeze igama nekheli okungelona.

Amacala ahlobene namadiskhi

29. Akekho umuntu onelungelo –

- (a) lokufaka idiskhi kunoma iyiphi imoto ngaphandle kwale iphemithi ekhishelwe yona; noma
- (b) lokungena esikhungweni sezithuthi zomphakathi esingenayo iphemithi esemthethweni eveziwe obala ngokwalo Mthetho kaMasipala.

Akuvumelekile ukukokotelwa kwamaphemithi noma amadikshi

30.(1) Akekho umuntu ovumelekile ukuba akokotele, enze umfaniso, alimaze, asike, noma ashintshe noma enze umaka kwiphemithi yesithuthi somphakathi.

(2) Akekho umuntu onelungelo lokusebenzisa noma avume ukuthi imoto isetshenziswe njengesithuthi somphakathi endaweni yezithuthi zomphakathi uma iphemithi yokuthutha umphakathi yaleyo moto ethutha umphakathi imisiwe noma ihoxisiwe, noma uma iphelelwe isikhathi.

(3) Uma ikhadi lokusebenza limisiwe, lesuliwe noma lihoxisiwe umyango wezamalayisensi, lokho kusho ukuthi iphemithi yokuthutha umphakathi ekhishwe uMasipala imisiwe, noma yesuliwe nayo.

Ukubuyiswa kwamaphemithi ezithuthi zomphakathi namadiskhi

31. Umnikazi wephemithi yesithuthi somphakathi kumele abuyisele kuMasipala ngokushesha iphemithi uma iphelelwa isikhathi noma uma –

- (a) uMasipala emisa noma ehoxisa iphemithi;
- (b) umnikazi wephemithi enqatshelwe imvume yokudlulisela iphemithi;
- (c) umnikazi wephemithi engasebenzi isikhathi esiyizinsuku ezingama-25 noma ngaphezulu; noma
- (d) umnikazi wephemithi engasathandi ukusebenzisa isithuthi somphakathi esisebenzisa leyo phemithi.

**ISAHLUKO 4
AMATEKISI AMAMITHA**

Amatekisi amamitha kanye nokuvezwa kwegama

32. Akukho muntu ovumelekile ukushayela itekisi yemitha, noma avumele omunye ukuba ashayele itekisi yemitha, ngaphandle uma ixhunywe imitha yetekisi –

- (a) esebenza kahle;
- (b) ehambisanayo nalo mthetho kaMasipala; futhi
- (c) esihloliwe futhi yavalwa kahle ngamaphoyisa kaMasipala.

Ukuma kwemitha etekisini

33. Imitha etekisini kumele –

- (a) ixhunywe ngaphakathi ngendlela yokuthi imali ezokhokhwa ngumgibeli ivele ngokucacile ngaso sonke isikhathi kuyena umgibeli esihlalweni sangemuva; futhi
- (b) ikhanye nasebumnyameni.

Ukusetshenziswa kwemitha

34.(1) Imitha yetekisi kumele isebenze ngokobuchwepheshe bukagesi noma ngokobumekhenikhi kusukela ku-gearbox wemoto noma esondweni langaphambili kwesokunxele setekisi yemitha noma kwenye ingxenye yemoto engagunyazwa yiNhlolo.

(2) Umshayeli wetekisi yemitha kumele aqinisekise ukuthi itekisi ayishayelayo iyatshengisa kungibeli inani azolikhokha ngokuhambisana namatharifu anamekwe etekisini njengokuyalela kwesigaba 16.

Ukuqala kokusebenza kwemitha

35. Umshayeli wetekisi yemitha kumele —

- (a) uma efika lapho umgibeli esukela khona, futhi hhayi ngaphambi kwalokho, aqalise ukusebenza kwemitha yetekisi yakhe
- (b) uma efika lapho umgibeli ehanjiswa khona, futhi hhayi ngale kwalokho, ngokushesha ayimise imitha ingabe isaqopha; futhi
- (c) akumise ukusebenza kwemitha yetekisi ekuqopheni uma itekisi isimile kakhulukazi uma lokho kuma kungadalwa isiminyamina sezimoto, noma ngokwesenzo sekhasimende, noma ngokwesicelo sekhasimende.

Imitha kumele ihlale igcinwe kahle futhi ivikelekile

36.(1) Umnikazi wetekisi yemitha kumele, zikhathi zonke, aqinisekise ukuthi imitha ihlala ivaliwe futhi ingalimali.

(2) Uma ngabe isivikelo semitha yetekisi siphuka ngengozi noma silimala, umshayeli wetekisi kumele ngokushesha, ngaphambi kokuba itekisi iphinde isetshenziswe njengemoto ezothwala abagibeli, afake isicelo eMaphoyiseni kaMasipala ukuba bamfakele isivikelo esisha noma kuvuselelwe esidala.

Okungabekezelelwa ematekisini emitha

37. Okungabekezelelwa etekisini yemitha uma ngabe isihloliwe yilokhu:

- (a) ukuhlolwa kwasemgaqweni: angeke kwabekezelelwa ukungabi sesimweni esifanele noma ukubhaliswa kwemoto okungajwayelekile, kepha uma amasondo

emoto esedleke ngokucacile, kuyobekezelelwa ukudleka okulinganiselwa kumamitha ayishuni ikhilomitha ngalinye futhi kubekezelelwe okungenani amamitha angama 50 ikhilomitha ngalinye; futhi

(b) isikhathi esamukelekile: kungabekezelelwa okungenani isikhathi esiwumzuzwana owodwa ngeminithi kanye nemizuzwana emibili ngeminithi.

Akuvumelekile ukuphazamisa ukusebenza kwemitha

38.(1) Akekho umuntu ovumelekile –

(a) ukuba azinqumele inani lakhe lokugibela ngaphandle kwaleli elibekiwe ngokwamatharifu anamekwe ngaphakathi ematekisini;

(b) ukulimaza, ukuphula, noma ukuphazamisa ukuvalelwa kwemitha exhunywe etekisini; noma

(c) ukuhlela kabusha, ukukokotela noma ukuphazamisa ukuxhunywa kwemitha yematekisi, noma yisondo okanye ukuxhunywa okwenziwe etekisini.

(2) Akekho umshayeli noma umnikazi wetekisi yemitha okumele agunyaze ukusetshenziswa kwetekisi yakhe ukuba ithwale abagibeli uma –

(a) imitha exhunywe emotweni ingabhali inani okuyilona lona lomgibeli; noma

(b) amasondo etekisi yemitha engafani nalawo ngokosayizi ayefakiwe mhla yayihlolwa futhi igunyazwa ngokusemthethweni.

(3) Umshayeli noma umnikazi wetekisi kumele –

(a) aqinisekise ukuthi itekisi yakhe ixhunywe i-speedometer kanye ne-odometer, kokubili okusebenza kahle, nokuthi i-odometer, itshengise ibanga okuyilona lona elihanjiwe; futhi

(b) angavumeli okanye angagunyazi ukusetshenziswa kwetekisi ngaphandle uma i-odometer kanye ne-speedometer kuxhunyiwe futhi kusebenza kahle.

Ukuhlolwa kwamatekisi emitha

39. Umsebenzi kaMasipala ogunyaziwe angathumela isaziso esibhalwe phansi esiyalela umnikazi wetekisi noma umshayeli ukuba alethe itekisi ethintekayo eMaphoyiseni kaMasipala ukuba izohlolwa futhi kuphinde kuhlolwe nokusebenza kwemitha kuyona ngaleso sikhathi nasendaweni ebhalwe esazisweni.

Izindleko zokuhlolwa kwemamitha

40. Inani elibekiwe kumele likhokhwe kuMasipala elizokhokhwa ngetekisi ngayinye ezohlolwa ngaMaphoyisa kaMasipala.

Imitha ingathathwa njengengafanele ukusetshenziswa

41.(1) Uma ngabe imitha yetekisi exhunyiwe itholakala ukuthi ayikho esimweni esifanele futhi ayisebenzi ngokwanelisayo, uMasipala unganquma ukuthi ingasetshenziswa futhi kususwe uphawu lwayo olutshengisa ukuthi isemthethweni.

(2) Akekho umuntu ovumelekile ukusebenzisa imoto yokuthutha umphakathi uma ukuxhunywa kwemitha etekisini kungakahlolwa futhi kwagunyazwa, futhi yabekwa uphawu lokuthi isemthethweni.

Izimpawu zamatekisi anemitha

42.(1) Amatekisi emitha asebenza ngaphansi kwemingcele kaMasipala kumele axhunywe uphawu olufanele okhakhayini lwemoto oluhambisana nezimfuno zemigomo kaMasipala.

(2) Lolu phawu olugqamile lwaphezulu kwetekisi kumele lunakekelwe kahle zikhathi zonke.

ISAPHLUKO 5**UKUZIPHATHA KWABASHAYELI, KOKHONDAKTHI KANYE NABAGIBELI****Ukwenqatshelwa ukugibela izithuthi zomphakathi**

43. Akekho umuntu ovumelekile esikhungweni sezithuthi zomphakathi ukuba asebenzise indluzula, ukwesabisa, nanoma yikuphi okwenza okungavumelekile, ukuvimba noma ukuzama ukuvimba –

- (a) noma imuphi umuntu ukuba agibele izimoto ezithutha umphakathi; noma
- (b) umshayeli wemoto ethutha umphakathi ekuthutheni umphakathi.

Ukuthuthwa kwempahla eyingozi noma eyihlazo ngezithuthini zomphakathi

44. Umnikazi wemoto ethutha umphakathi akavumelekile, esikhungweni sezithuthi somphakathi, ukuthi agibeze ngamabomu umuntu noma impahla, noma avumele umuntu okanye impahla ukuba igitshezwe, uma lowo muntu noma leyo mpahla ingavumelekile ukuba igitshezwe ngokwemithetho esebenzayo.

Ukugibela nokwehla ezimotweni ezithutha umphakathi

45. Akekho umuntu ovumelekile ukuthi endaweni yokusebenza kwezimoto zokuthutha umphakathi enze lokhu okulandelayo –

- (a) agibele imoto ethutha umphakathi bonke abantu abafisa ukwehla kuleyo moto bengakenzi njalo;
- (b) afune ukugibela ngenkani emotweni ethutha umphakathi ekubeni isibalo sabagibeli sizokweqa kuleso esisemthethweni esithwalwa yimoto ethutha umphakathi; noma
- (c) ehle noma egibele, noma azame ukwehla noma ukugibela, imoto ethutha umphakathi ihamba.

Olayini babagibeli ezikhungweni zezithuthi zomphakathi

46.(1) UMasipala esikhungweni sezithuthi zomphakathi, ungagxumeka –

- (a) izimpawu zolayini kanye namabhodi ezaziso akhombisa olayini bezindawo ngezindawo kanjalo nendlela abantu abalinde izimoto okumele bame ngayo; kanye
- (b) nezinsimbi noma imigqa ebhaliwe ehlukanisayo ngenhloso yokuhlela olayini babagibeli.

(2) Bonke abagibeli abahlose ukugibela izimoto ezithutha umphakathi ezisemarenki kumele kuqala bangene kulayini lapho kubhalwe khona ukuthi izimoto eziya endaweni ethile zisukela khona.

(3) Uma kungekho phawu olugxunyeke, abagibeli abalindele ukungena emotweni ethutha umphakathi kumele kuqala bangene kulayini endaweni lapho izimoto ezithutha umphakathi zirenka khona futhi ngokuyalelwa ngabaqokelwe ukwenza lo msebenzi, ukhondakthi noma umsebenzi kaMasipala ogunyaziwe.

(4) Umgibeli angangena emotweni ethutha umphakathi esikhungweni sezithuthi zomphakathi kuphela uma ephambili kulayini.

Ukubonakala kokhondakthi

47. Noma imuphi ukhondakthi kumele, uma esemsebenzini –

- (a) agqoke ibhibhi noma ijakhethi ekhombisayo ukuthi ungukhondakthi; futhi
- (b) aphaathe ikhadi likamazisi elimvezayo ukuthi ungubani.

Ukukhokhwa kwemali yokugibela

48. Umgibeli ogibela izimoto ezithutha umphakathi ezikhungweni ezithutha umphakathi kumele akhokhe inani elibekiwe lohambo asuke elucelile.

Ukuphuka kwemoto yokuthutha umphakathi

49.(1) Uma imoto ethutha umphakathi esikhungweni sezithuthi zomphakathi iphuka noma ngenxa yanoma isiphi isizathu ihluleka ukuqhubeka, abagibeli kumele ngokucela komshayeli, behle kuleyo moto.

(2) Uma ngabe abagibeli sebekhokhile inani lokugibela, bangaziqokela ngokwabo ukuthi -

- (a) babuyiselwa imali esebeyikhokhile; noma
- (b) bayaqhubeka nohambo ngenye imoto ehlinzekiwe ukuqedelela uhambo lwabo, ngenani lokugibela elinqunywe ngumshayeli wemoto ephukile.

Izilwane

50. Akekho umgibeli ovumelekile ukugibela imoto ethutha umphakathi nesilwane ngaphandle kwenja ehola abangababoni emehlweni.

Izenzo ezingavumelekile ezimotweni ezithutha umphakathi

51.(1) Lezi zenzo ezilandelayo azivumelekile ezimotweni ezithutha umphakathi:

- (a) ukubhema;

- (b) ukudlala umculo ochukuluzayo noma odlalelwa phezulu kakhulu;
- (c) ukusebenzisa ulimi oluqojeme noma oluchukuluzayo;
- (d) izenzo ezicunulayo;
- (e) ukuphazamisa inhlalahlahle yomunye umgibeli;
- (f) ukulimaza noma yini okanye ukuphazamisa ingqalasizinda yezindawo zokutha umphakathi;
- (g) ukuphoqa umshayeli ukuba achezuke emzileni ovumelekile;
- (h) ukufaka izimpilo zabanye abantu engozini; kanye
- (i) nokuphazamisa ukusebenza komunye umshayeli.

(2) Noma imuphi umuntu ophazamisa noma oziphatha ngendlela esusa uthuthuva noma ngendlela engafanele esikhungweni sezithuthi zomphakathi futhi ephula umthetho kaMasipala angakhishwa kulayini ngumsebenzi ogunyazwe nguMasipala.

Impahla eshiywe dengwane esikhungweni sezithuthi zomphakathi

52. Umshayeli wemoto ethutha umphakathi kumele ahlohlise imoto njalo emuva kohambo ngalunye, uma kwenzeka ukuthi umgibeli ukhohlwe impahla yakhe emotweni, umshayeli kumele —

- (a) abuyisele impahla kumgibeli oyikhohlwe emotweni; noma
- (b) uma engakwazi ukuyibuyisela kumniniyo oyikhohlwe emotweni yakhe, ayithathe leyo mpahla ngokushesha ayihambise ehhovisi laserenki, ehhovisi lamathikithi noma esiteshini esiseduzane samaphoyisa ayinikeze iphoyisa elisemsebenzini ngaleso sikhathi, athole nesiliphu sokuthi uyilethile impahla.

ISAPHLUKO 6

UKUPHOQELELWA KOMTHETHO

Ukusetshenziswa kwamalungelo okungena

53.(1) Umsebenzi ogunyaziwe, ngokulandela izichibiyelo zalesi sahluko, ngesikhathi esifanele futhi nangaphandle kokwazisa ngaphambi kwesikhathi —

- (a) angangena esikhungweni sezithuthi zomphakathi ukuzohlola le ndawo; futhi
- (b) aphonse imibuzo mayelana nesimo sendawo kulowo oyengamele.

(2) Umuntu ophazamisa ukusebenza komsebenzi kaMasipala ogunyaziwe njengoba kuveziwe esigatshaneni (1) wephula umthetho.

Imiyalelo yezomthetho

54. Ukuhluleka ukuhlonipha isicelo esemthethweni soMsebenzi kaMasipala ogunyaziwe kuyothathwa njengokuphulwa koMthetho kaMasipala.

Ukuthwala icala

55.(1) Uma ngabe umsebenzi noma i-ejenti yomuntu onephemithi yephula umthetho kaMasipala noma yephula izinhlinzeko zephemithi yokusebenza esikhungweni sokuthutha, umqashi uzothathwa njengomuntu okunguyena owephule umthetho ngokwakhe ngaphandle ke uma engenelisa inkantolo ukuthi wenze yonke imizamo yokugwema lokho kuphulwa komthetho.

(2) Ukuthi umqashi umyalile kumsebenzi wakhe, ukuba agweme ukuphula umthetho, angeke ngenxa yalokho kube ngubufakazi obanele bokuthi kuthathwe izinyathelo ezifanele ukugwema lokho.

Amacala

56. Noma imuphi umuntu –

- (a) owephula izichibiyelo zomthetho zikaMasipala;
- (b) owephula noma imiphi imibandela ehambisana nephimithi ayinikeziwe;
- (d) ohluleka ukuthobela imiyalelo yomthetho ekhishwa ngokwemithetho kaMasipala;
- (e) owesabisayo, owenqabayo, ongenelela kungafanele noma ophazamisa umsebenzi ogunyaziwe noma ovimba umsebenzi kaMasipala ukuba aqhube umsebeni wakhe ngokwemiyalelo yomthetho kaMasipala; noma
- (f) onikezela ngimininingwane engelona iqiniso noma ulwazi oludukisayo kumsebenzi kaMasipala ogunyaziwe,

uyothweswa icala.

Izinhlawulo

57.(1) Noma ngubani otholakala necala ngaphansi kweMithetho kaMasipala uzojeziswa ngokukhokhiswa inhlawulo engevile kwisamba sika R5 000 noma ukugqunywa ejele isikhathi esingevile ezinyangeni ezingama 12, noma kokubili imali nokuboshwa.

(2) Uma kuqhutshekwa nokwenziwa kwecala, kungengezwa enye inhlawulo engeqile enanini lika R500 noma ukuboshwa isikhathi esingeqile ezinsukwini eziyishumi noma kokubili imali nokuboshwa, ngosuku ngalunye okwenziwe ngalo icala.

Ukukhululwa

58. UMasipala izikhathi ngezikhathi ngokubeka imibandela efanele, angakhetha ukukhulula abathile ezihlinzekweni zalo Mthetho kaMasipala.

ISAHLUKO 7
OKUNGXUBEVANGE

Ukudluliselwa kwamandla

59. (1) Kweyame kuMthethosisekelo nemithetho efanele kazwelonke neyesifundazwe –

- (a) namaphi amandla, ngaphandle kwamandla okukhulunywa ngawo esigabeni 160(2) soMthethosisekelo;
- (b) namuphi umsebenzi; noma
- (c) nasiphi isibopho,

ngokwalo Mthetho KaMasipala, okunikezwe uMasipala noma naziphi ezinye izinhlaka zikaMasipala zezombusazwe, abaphathizikhundla bezombusazwe, ikhansela, umsebenzi, kungaphinde kudluliselwe yilolo hlaka lwezombusazwe, yilowo mphathisikhundla wezombusazwe, yilelo khansela, noma yilowo msebenzi esikhungweni sangaphakathi, noma kumsebenzi oqashwe wuMasipala.

(3) Nakuphi ukudluliselwa kwamandla okuhlongozwa kulesi sigaba kumele kuqoshwe ohleni lwamandla adluliseliwe, okumele luqathe ulwazi mayelana –

- (a) naleso sikhungo noma lowo muntu odlulisela amandla noma odlulisa amandla adlulisiwe;
- (b) nowemukela lawo mandla adlulisiwe noma odluliselwe amandla adlulisiwe; kanye
- (c) nemibandela ehambisana nalawo mandla adluliselwe.

Ukudlulisa kwezinqumo

60. (1) Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko lokudlulisa isinqumo oluqukethwe eMthethweni Wezinhlelo Zomasipala: uMthetho Wohulumeni Basekhaya ka-2000 (uMthetho No. 32 ka-2000) ngesaziso esibhaliwe sokudlulisa isinqumo kanye nezizathu kwiMenenja kaMasipala zingakapheli izinsuku ezingama-21 kusukela ngosuku lwesaziso ngesinqumo.

(2) IMenenja kaMasipala kumele ngokushesha yethule lesi sicelo sokuphikisana nesinqumo kwisiphathimandla sokudluliswa kwezinqumo esifanele.

(3) Isiphathimandla sokudluliswa kwezinqumo kumele siqalise uhlelo lokudlulisa isinqumo engakapheli amasonto ayisithupha futhi sinqume ngaleso sicelo esikhathini esifanele.

(4) Isiphathimandla sokudluliswa kwezinqumo kumele sivumelane, siguqule noma sichithe isinqumo, kodwa akukho guquko noma kuchithwa kwesinqumo okungahoxisa namaphi amalungelo angabe atholakele ngenxa yaleso sinqumo.

(5) Isiphathimandla sokudluliswa kwezinqumo kumele sinikeze izizathu ezibhaliweyo ngesinqumo saso kuzo zonke izindaba ezithinta ukudluliswa kwezinqumo.

(6) Zonke izicelo zokudluliswa kwezinqumo zenziwa ngokulandela uMthetho Wezinhlelo Zomasipala: uMthetho Wohulumeni Basekhaya, ka-2000 (uMthetho No. 32 ka-2000) hhayi ngokulandela lo Mthetho KaMasipala.

Ukuchithwa nokugcinwa kwemithetho

61. (1) Imithetho ebekiwe kwikholomu yokuqala neyesibili yeSheduli yalo Mthetho KaMasipala ngalokhu iyachithwa ngale ndlela echaziwe kwikholomu yesithathu kule Sheduli esikhuluma ngayo.

(2) Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 1, kuyaqhubeka nokusebenza, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe.

Isihloko esifingqiwe nokuqala kokusebenza komthetho

62. Lo mthetho kaMasipala ubizwa ngoMthetho kaMasipala weziThuthi zoMphakathi, 2014, kanti uyoqala ukusebenza ngosuku oyoshicilelwa ngalo kwiGazethi yesiFundazwe noma njengoba kukhonjisiwe kwisaziso sawo.

ISHEDULI
IMITHETHO ECHITHWAYO
(Isigaba 61)

<i>Inombolo nonyaka womthetho</i>	<i>Isihloko</i>	<i>Ingxenye echithwayoo</i>
Isaziso sesiFundazwe No. 481 sika 1942	By-laws Relating to the Allocation of Taxi Ranks, City of Durban	Wonke
Isaziso sesiFundazwe No. 699 sika 1959	By-laws Relating to Bus Ranks and Routes, City of Durban	Wonke
Isaziso sesiFundazwe No. 112 sika 1939	Durban Corporation Transport By-laws, City of Durban	Wonke
Isaziso sesiFundazwe No. 552 sika 1970	Road Traffic By-laws, Amanzimtoti	Wonke
Isaziso sesiFundazwe No. 551 sika 1970	Road Traffic By-laws, Isipingo	Wonke
Isaziso sesiFundazwe No. 354 sika 1969	Standard By-laws, Kingsburgh	Isahluko XIII
Isaziso sesiFundazwe No. 240 sika 1969	Road Traffic By-laws, Umkomaas	Wonke
Isaziso sesiFundazwe No. 87 sika 1953, esemukelwa ngokweSaziso sikaMasipala No. 225 sika 1992	Standard By-laws, Mount Edgecombe	Isahluko XIII

Isaziso sesiFundazwe No. 67 sika 1948	Motor Vehicle and Road Traffic Regulation By-laws, Tongaat	Wonke
Isaziso sesiFundazwe No. 87 sika 1953, esemukelwa ngokwesaziso sesiFundazwe No. 357 sika 1978	Standard By-laws, Umhlanga Rocks	Isahluko XIII
Isaziso sesiFundazwe No. 87 sika 1953, esemukelwa ngokwesaziso sesiFundazwe No. 349 sika 1970	Standard By-laws, Verulam	Isahluko XIII
Isaziso sesiFundazwe No. 134 sika 1984	Traffic By-laws, New Germany	Wonke
Isaziso sesiFundazwe No. 347 sika 1982	Traffic By-laws, Pinetown	Wonke
Isaziso sesiFundazwe No. 184 sika 1988	Street, Traffic, Nuisance and Entertainment By-laws, Queensburgh	Izahluko II no III