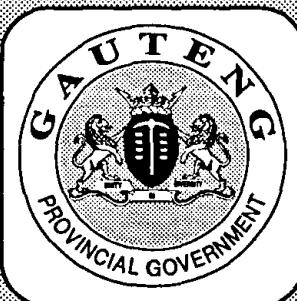


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THE PROVINCE OF
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GENERAL NOTICE

NOTICE 1208 OF 1998

GAUTENG PROVINCIAL LEGISLATURE

PUBLICATION OF RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS BILL

Notice is hereby given that the Member of the Executive Council for Development Planning and Local Government intends to Introduce the Rationalisation of Local Government Affairs Bill in the Legislature as published in this *Provincial Gazette*.

Any person or organisation wishing to comment on this proposed legislation may lodge written comments or representations on or before 11 June 1998 by posting, faxing or handing them in at the following address:

The Secretary to the Legislature
Gauteng Provincial Legislature
C/o Committee Co-ordinator (Ms Thandaza Dlulane)
Private Bag X52
Johannesburg 2000
Physical address:
Gauteng Provincial Legislature
Corner President and Loveday Streets
Johannesburg
Tel. No: (011) 498-5551
Fax No: (011) 498-5719

GAUTENG PROVINCIAL LEGISLATURE

RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS BILL

as introduced

by

MEC FOR DEVELOPMENT PLANNING AND LOCAL GOVERNMENT

BILL

To provide for rationalisation of the legislative and administrative framework for the local sphere of government; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of Gauteng, as follows:-

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THE PROVINCIAL GOVERNMENT OF THE
PROVINCE OF KWAZULU-NATAL

NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(A) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(B) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(C) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(D) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(E) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(F) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(G) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(H) OF THE
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NOTIFICATION IN ACCORDANCE WITH SECTION 10(1)(K) OF THE
PROVISIONAL AUTHORITY ACT, 1994

CHAPTER 1

DEFINITIONS, PURPOSE AND APPLICATION

Definitions

1 In this Act, unless the context otherwise indicates –

"action taken", includes issuing regulations, making by-laws, taking administrative or other measures, entering into contracts incurring obligations and instituting or defending any criminal or civil or other legal proceedings, for the purposes of section 60(1) and (2) of this Act;

"any other law", includes the common law;

"by-law", means any law made by a municipal council and includes a code or procedure;

"Chief Executive Officer", means the Chief Executive Officer appointed in terms of section 16;

"committee", means a municipal committee of enquiry established under section 49;

"Constitution", means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"designated officer", means the person designated in terms of section 22;

"local government matter", for purposes of sections 49 and 50 does not include promoting, opposing or discussing the election of any person to any municipal, provincial or national body, organisation or corporation;

"Local Government Ordinance", means the Local Government Ordinance, 1939 (Ordinance 17 of 1939), as amended;

"Local Government Transition Act", means the Local Government Transition Act, 1993 (Act No 209 of 1993), as amended;

"MEC", means the relevant member of the Executive Council responsible for local government matters in the Province of Gauteng; "powers, functions or duties", includes the notion of "powers and functions" as contemplated in the Constitution and "powers and duties" as contemplated in the Local Government Transition Act;

"prescribed", means prescribed by regulation and "prescribe" has a corresponding meaning;

"province", means the Province of Gauteng;

"public place", means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, servitude or enclosed space vested in a municipality and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;

"standard by-law", means a by-law made by the MEC in accordance with the provisions of sections 10 and 11; and

"this Act", includes the section numbers, the schedules and any regulation or by-law issued or made in terms of this Act but does not include the headings.

Purpose

- 2 (1) The purpose of this Act is to rationalise the legislative and administrative framework within which the local sphere of government may conduct its affairs in relation to, amongst other things –
- (a) determining and standardising the status, powers, functions and duties of a municipal council;
 - (b) making and issuing of by-laws, standard by-laws and regulations;
 - (c) harmonising labour relations; and
 - (d) enabling municipalities to effectively conduct their affairs, more particularly with regard to the procurement of goods and services, the execution of works and the conducting of inspection, and the regulation of access to public places.

- (2) In respect of the matters referred to in sub-section (1) this Act seeks to facilitate the transformation of the local sphere of government by -
- (i) promoting and strengthening the capacity and integrity of the local sphere of government;
 - (ii) encouraging municipalities to maintain and improve adequate standards of governance and service delivery;
 - (iii) encouraging members of the public to contribute to the governance of municipalities; and
 - (iv) promoting a spirit of co-operation and shared responsibility within government.

Application of the Act

- 3 (1) Any person applying or interpreting this Act must -
- (a) give a construction of its provisions in a manner that -
 - (i) is consistent with the statements of purpose set out in section 2; and
 - (ii) takes account of the particular purpose, role and circumstances of the local sphere of government as contemplated in the Constitution and any other law.
- (2) The provisions of this Act must be considered -
- (a) in the light of any other law governing a municipal council; and
 - (b) in a manner that favours a reasonable interpretation of the relevant laws that avoids conflict between them over an interpretation that brings them into conflict.
- (3) If any conflict, relating to the matters dealt with in this Act, arises between this Act and the provisions of any other law, except the Constitution, the Local Government Transition Act or any Act expressly amending this Act, the provisions of this Act will prevail.

CHAPTER 2

STATUS, POWERS, FUNCTIONS AND DUTIES OF MUNICIPALITIES

Status of municipalities

- 4 (1) Subject to any other law, every municipal council established in terms of the Local Government Transition Act, or declared to be established in terms of that Act, will –
- (a) continue to exist and retain its status as a municipal council; and
 - (b) be deemed to be a body corporate.
- (2) Subject to any other law, a municipal council, as a body corporate –
- (a) continues to exist despite any changes to its area of jurisdiction or composition of its governance structures;
 - (b) is capable of suing or being sued in its own name; and
 - (c) may purchase, hold, let or alienate property.

City status of municipalities

- 5 (1) A municipal council that has been declared to be a city in terms of the Local Government Ordinance or any other law, will retain its status as a city.
- (2) If a metropolitan council has within its area of jurisdiction a metropolitan local council that is declared or deemed to be a city as contemplated in sub-section (1), the metropolitan council acquires –
- (a) the status of a city; and
 - (b) all the powers, obligations, privileges and benefits conferred on a city in terms of any other law.

- (3) A municipal council that has been declared to be a city as contemplated in sub-section (1) or has acquired city status as contemplated in sub-section (2), may reflect this status -
- (a) in its name; and
 - (b) on any of its documents.

The powers, functions and duties of municipal councils

- 6 (1) In addition to the powers, functions or duties of a municipal council referred to in the Constitution, the Local Government Transition Act or any other law, a municipal council has the powers, functions or duties that are conferred, imposed, assigned or delegated to it in terms of this Act.
- (2) A municipal council may take any step necessary for, or expedient to achieving the purpose of this Act.
- (3) A municipal council may make and administer by-laws for the effective -
- (a) performance of its powers, functions or duties; and
 - (b) administration of the matters in respect of which it has the right to administer.

CHAPTER 3

BY-LAWS, STANDARD BY-LAWS AND REGULATIONS

(a) *By-laws*

The procedure for making by-laws

- 7 (1) To make a by-law, a municipal council must pass a resolution declaring its intention to this effect.
- (2) After the resolution has been passed, the municipal council must -

- (a) announce its intention to make by-laws by notice in the Provincial Gazette;
 - (b) specify the following in the notice:
 - (i) that comment is being sought on a draft by-law;
 - (ii) in summarised form, what the draft by-law deals with;
 - (iii) the person to whom or place where enquiries relating to the draft by-law may be directed;
 - (iv) subject to sub-sections (7) and (8), the place where, time when and the circumstances and manner in which a copy of the draft by-law may be obtained or displayed for inspection;
 - (v) the period for comment on the draft by-law which must be no less than one month from the date of the notice; and
 - (vi) the person with whom or place where comments on the draft by-law may be lodged;
 - (c) at any time before making the by-law, consultations with any relevant interest groups may be held in any form, including the holding of an enquiry; and
 - (d) the comments received and the content of consultations must be considered before making the by-law.
- (3) If a municipal council has not made a by-law within one year of the announcement referred to in sub-section (1)(b), that by-law cannot be made unless the procedure provided for in sub-section (1) is repeated.
- (4) The provisions of sub-sections (1)(b) and (2) do not apply in respect of -
 - (a) any by-law which the public interest requires to be made without delay; and
 - (b) an amendment to correct a textual error.
- (5) The provisions of sub-sections (1) to (3) apply in respect of amending or repealing any by-law, with such changes as may be required by context.

- (6) A by-law comes into operation on the date of its publication in the Provincial Gazette or such other date specified in the Provincial Gazette.
- (7) A municipal council may determine a fee for obtaining a copy of the draft by-law.
- (8) The place where the draft by-law is displayed must enable all those affected by the by-law to be speedily and conveniently informed of its contents.
- (9) Every municipal council must develop and implement policies and programmes to assist members of the public to comment on the draft by-law.

Periodic review of by-laws

- 8 (1) A municipal council must conduct and complete a review of its by-laws –
 - (a) that are in operation prior to or upon this Act coming into effect by not later than a date prescribed by the MEC;
 - (b) that come into operation after the this Act has taken effect, at intervals of no less than ten (10) years after the coming into operation of that by-law.
- (2) If a municipal council fails to conduct and complete a review within the time periods specified in sub-section (1), the MEC may request the municipal council to submit representations to outline the reasons for its failure.
- (3) A municipal council must comply with this request and submit the representations in writing to the MEC within one month of receipt of the request.
- (4) If upon considering these representations, the MEC is not satisfied with the reasons for the failure, the MEC may, by written notice, recommend to the municipal council to conduct the review within a reasonable time.
- (5) The notice referred to in sub-section (4) must contain the MEC's reasons for the decision.
- (6) For purposes of this section "conduct and complete a review" includes –

- (a) the evaluation or consideration of a by-law; and, if appropriate,
- (b) the making, amendment or repeal of a by-law.

Access to and inspection of by-laws

- 9 (1) In addition to what may be provided for in any regulation issued in terms of section 13(1), a municipal council must determine the circumstances and the manner in which the public may have access to, inspect or obtain a copy of any by-law.
- (2) The determination referred to in sub-section (1) may not specify a fee for merely having sight of or inspecting a by-law.

(b) *Standard by-laws*

The MEC's power to make standard by-laws

- 10 For purposes of assisting municipalities, the MEC may make a standard by-law on any matter contemplated in section 6.

Procedure for making standard by-laws

- 11 The provisions of section 15 apply to the making of standard by-laws, with the changes as may be required by context.

Effect of a standard by-law

- 12 (1) A standard by-law or its amendment or repeal, is only binding on a municipal council if it makes a by-law to this effect.
- (2) A reference in a by-law to a standard by-law is sufficient to incorporate the contents of the standard by-law in the by-law.

(c) *Regulations***The MEC's power to issue regulations**

- 13 (1) Within one year of this Act coming into effect, the MEC must issue regulations on the circumstances and the manner in which the public may have access to, inspect or obtain a copy of any regulation, by-law, standard by-law, code or procedure; and
- (2) The MEC may issue regulations on any matter necessary or expedient to achieving the purpose of this Act.

Content of regulations

- 14 (1) A regulation may -
- (a) confer a power or place a duty on a person, body or public authority;
 - (b) contain conditions including restrictions or prohibitions and may provide for exemptions; and
 - (c) be made in respect of -
 - (i) different parts of Gauteng; or
 - (ii) different categories of persons or bodies.
- (2) At any time and with respect to any person, body, organisation or corporation, and subject to the provisions of the regulation concerned, the MEC may by notice either in the Provincial Gazette, or delivered by post or hand, -
- (a) impose, vary or withdraw any conditions contemplated in the regulation; or
 - (b) grant, vary or withdraw any exemption contemplated in the regulation.
- (3) The MEC may not vary or withdraw a condition or exemption imposed or granted in terms of sub-section (2) unless the person or body to whom it applies has been given an opportunity to make representations on the issue.
- (4) Any restriction or prohibition contained in the regulations must -

- (a) be proportionate to the objects of that regulation; and
 - (b) limit the conduct of persons and bodies as little as is reasonably possible.
- (5) If a failure to comply with a restriction or prohibition in terms of any regulation is an offence by which a person may be subject to criminal liability, that regulation must provide that, to the extent practicable, before being subject to criminal liability, the affected person must be given notice of the offence and an opportunity to comply with the regulations.

Procedure for issuing regulations

- 15 (1) To issue any regulation in terms of this Act, the MEC must -
- (a) announce its intention to issue the regulation by notice in the Provincial Gazette.
 - (b) specify the following in the notice:
 - (i) that comment is being sought on draft regulations;
 - (ii) in summarised form, what the draft deals with;
 - (iii) the person to whom or place where enquiries relating to the draft regulations may be directed;
 - (iv) subject to sub-sections (6) and (7), the place where, time when and the circumstances and manner in which a copy of the draft regulations may be obtained or displayed for inspection;
 - (v) the period for comment on the draft regulations which must be no less than one month from the date of the notice; and
 - (vi) the person to whom or place where comments on the draft regulations may be lodged;
 - (c) at any time before issuing the regulations, hold consultations with relevant interest groups in any form, including the holding of an enquiry;
 - (d) consider the comments received and the content of consultations; and

(e) obtain the concurrence of the committee of the provincial legislature responsible for local government matters before issuing the regulation.

(2) If the MEC has not made regulations within one year of the announcement referred to in sub-section (1)(a), those regulations cannot be made unless the procedure provided for in sub-section (2) is repeated.

(3) The provisions of sub-section (1) do not apply in respect of-

(a) regulations which the public interest requires to be made without delay; and

(b) an amendment to correct a textual error.

(4) The provisions of sub-sections (1) and (2) apply in respect of amending or repealing any regulations, with such changes as may be required by context.

(5) Regulations will come into operation on the date of its publication in the Provincial Gazette or such other date specified in the Provincial Gazette.

(6) A municipal council may determine a fee for obtaining a copy of the draft by-law.

(7) The place where draft regulations are displayed must enable all those affected by the regulations to be speedily and conveniently informed of its contents.

(8) The MEC must take steps to ensure that policies and programmes are developed and implemented to assist members of the public to comment on draft regulations.

CHAPTER 4

MATTERS RELATING TO PERSONNEL, COUNCILLORS AND MAYORS

Appointment of chief executive officer and other personnel

16 Every municipal council must with due regard to transparency and public accountability –

- (a) appoint a chief executive officer and such personnel as are necessary for the proper carrying out of its powers, functions or duties; and
- (b) appoint the chief executive officer and personnel on such terms and conditions as may be negotiated.

Powers and duties of chief executive officer

17 (1) In addition to what is provided for in this Act or any other law, the powers and duties of the chief executive officer are –

- (a) to act as head of the municipal council's personnel and in this capacity to exercise authority over them –
 - (i) so far as this may be necessary for the efficient management and execution of the municipal council's powers, duties or functions; or
 - (ii) to the extent determined by a municipal council.
- (b) to supervise the efficient and effective implementation of the municipal council's programmes and policies and the performance of its powers, functions or duties;
- (c) to ensure that the resources of the municipal council are most effectively used to achieve the objectives of the municipal council;
- (d) to ensure that effective and fair personnel related policies are developed and implemented in all departments; and
- (e) to encourage and maintain good relations both in the

municipal council and with the community it serves.

- (2) The chief executive officer will have such other powers and duties-
- (a) as the municipal council considers appropriate; and
 - (b) as may be provided for in any other law.

Rationalisation of terms and conditions of employment

18 In the event of an amalgamation or merger of municipalities done in terms of any law -

- (a) the employees of the previously constituted municipalities are deemed to be employees of the amalgamated or merged municipal council;
- (b) the terms and conditions of employment of the employees affected by the amalgamation or merger must at all times be no less favourable than those that applied to them prior to the amalgamation or merger; and
- (c) as soon as it is practicable, the amalgamated or merged municipal council must design and implement measures to equalise any differences in the terms and conditions of employment that may exist between the employees from the previously constituted municipalities having regard to their respective post levels.

Medical aid benefits

19 (1) Every municipal council -

- (a) must provide access to a scheme which confers medical aid benefits to all its employees including its retired employees; and
 - (b) may provide access to a scheme which confers medical aid benefits to all its councillors.
- (2) The scheme contemplated in sub-section (1) need not be designed in a manner that confers medical aid benefits exclusively on the category of persons contemplated in sub-section (1) (a) and (b) respectively.
- (3) The scheme contemplated in sub-section (1) and the rules, obligations and benefits applicable to it, including rules pertaining to

qualification for benefits of the contributions to be made by a municipal council or the beneficiaries of the scheme, must be determined -

- (a) where applicable, in accordance with the procedures specified in any existing collective bargaining procedural agreement; and
 - (b) after consultation with all affected beneficiaries.
- (4) Any scheme established in terms of the Local Government Ordinance, or any other applicable law or collective agreement which confers medical aid benefits to the employees or councillors of a municipal council, will continue to exist, and the rules, obligations and benefits applicable to the scheme continue to apply unless replaced or amended -
- (a) in terms of this Act or any other law;
 - (b) in terms of its own rules; and
 - (c) in accordance with the procedure contemplated in sub-section (3).
- (5) A replacement or amendment contemplated in sub-section (4) must not place any employee or councillor in a position that is less favourable than that position which existed prior to the replacement or amendment.

Retirement benefits

- 20 (1) Every municipal council -
- (a) must provide access to a scheme which confers retirement benefits to all its employees; and
 - (b) must provide access to a scheme which confers retirement benefits to all its councillors.
- (2) The scheme contemplated in sub-section (1) need not be designed in a manner that confers retirement benefits exclusively to the category of persons contemplated in sub-section (1) (a) and (b) respectively.
- (3) The scheme contemplated in sub-section (1) and the rules, obligations and benefits applicable to it, including rules pertaining to qualifications for benefits of the contributions to be made by a

- municipal council or the beneficiaries to the scheme must be determined –
- (a) if applicable, in accordance with the procedures specified in any existing collective bargaining procedural agreement, and
 - (b) after consultation with all other potential or affected beneficiaries.
- (4) Any scheme established in terms of the Local Government Ordinance, or any other applicable law or collective agreement which confers retirement benefits on the employees or councillors of a municipal council, will continue to exist, and the rules, obligations and benefits of the scheme continue to apply unless replaced or amended –
- (a) in terms of this Act or any other law;
 - (b) in terms of its own rules; and
 - (c) in accordance with the procedure contemplated in sub-section (3).
- (5) Any replacement or amendment contemplated in sub-section (4) must not place any employee or councillor in a position that is less favourable than that position which existed prior to the replacement or amendment.
- (6) Where funds have been established in terms of section 79 *ter* and 79 *quat* of the Local Government Ordinance, the municipal council concerned must design and implement measures to equalise the contributions in respect of employees belonging to these funds having regard to their respective post levels.
- (7) The municipal council must undertake the measures contemplated in sub-section (6) within two (2) years of the commencement of this Act.

Miscellaneous provisions relating to mayors

- 21 (1) When appointing a mayor –
- (a) a municipal council may fix the term of office of the mayor so as to coincide with the term of office of the municipal council; and

- (b) to fill a vacancy that arises during a term of office of the municipal council, the appointment may be limited to the remaining portion of that term of office.
- (2) For purposes of removing a mayor from office, a municipal council may determine that this may only be done by a resolution decided by at least a two-thirds majority.
- (3) A municipal council may delegate to its mayor, the responsibility for implementing or monitoring the implementation of any aspect of a relevant national or provincial programme or campaign and this responsibility must be exercised within the parameters of the municipal council's policies and procedures.
- (4) A mayor may serve on an executive committee or any other committee of a municipal council either –
- (a) in the ordinary capacity as a councillor; or
 - (b) by virtue of holding the office of mayor.
- (5) A municipal council may determine that a mayor has no voting rights when serving on the executive committee or any other committee in the circumstance contemplated in sub-section 4(b).
- (6) If a municipal council considers it necessary to appoint a deputy mayor, the council may apply the provisions of sub-sections (1) to (5) to deputy mayors, with the changes required by context.

CHAPTER 5

DESIGNATED OFFICERS, EXECUTION OF WORK, INSPECTIONS, COMPLIANCE PROCEDURES AND RELATED OFFENCES

Authorisation of designated officers

- 22 The chief executive officer may authorise any person in the employ of a municipal council to be a designated officer.

Functions of designated officers

- 23 (1) Designated officers may execute work, conduct an inspection and monitor and enforce compliance with this Act and any other law which authorises a municipality to designate a person to execute work, conduct an inspection or monitor and enforce compliance.
- (2) Subject to any other law, a designated officer must carry out the functions contemplated in this section in accordance with the procedure outlined in sections 25 and 26.

Powers of designated officers

- 24 (1) The powers of designated officers provided for in this Chapter are -
- (a) in addition to any power conferred on a designated officer in terms of any other law; and
- (b) subject to these laws.
- (2) A designated officer who executes work or conducts an inspection may-
- (a) execute work on or inspect land or premises;
- (b) question a person present on any land or premises in respect of any matter which may be relevant to the work or inspection;
- (c) question a person whom the designated officer believes may have information relevant to the work or inspection;
- (d) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
- (e) copy any document referred to in sub-section (d) or if necessary, remove the document in order to copy it;
- (f) take samples of any substance that is relevant to the work or inspection;
- (g) monitor and take readings or make measurements;

- (h) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises; and
 - (i) do what is necessary for the execution of work or the conducting of an inspection that a municipality is required to undertake in terms of any other law.
- (3) A designated officer who removes anything other than a substance contemplated in sub-section (2)(f) from land or premises being worked upon or inspected must –
- (a) issue a receipt for it to the owner of or person in control of the premises; and
 - (b) return it as soon as is practicable after achieving the purpose for which it was removed.

Procedure to execute work or conduct an inspection: entry with a written authorisation

- 25 (1) A designated officer may enter any land or premises if a magistrate or a justice has issued a written authorisation to enter and execute work or inspect the land or premises, and the written authorisation is still valid.
- (2) A magistrate or a justice may issue a written authorisation to enter and execute work or inspect any land or premises, if, from information on oath, there are reasonable grounds to believe either –
- (a) that, in the interest of the public, it is necessary to execute work or obtain information that cannot be obtained without entering that land or those premises; or
 - (b) that there is non compliance with the terms of this Act or any other law contemplated in section 23 in respect of the land or those premises.
- (3) A written authorisation in terms of sub-section (2) may be issued at any time and must specifically –
- (a) identify the land or premises that may be entered and worked on or inspected; and
 - (b) authorise the designated officer to enter and execute work or inspect the land or premises and to do anything listed in section 24(2).

- (4) A written authorisation in terms of sub-section (2) is valid until one of the following events occurs –
- (a) it is carried out;
 - (b) it is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
 - (c) the purpose for which it was issued has lapsed; or
 - (d) three months have passed since the issuing date.
- (5) A written authorisation in terms of sub-section (2) may only be carried out between 07h00 and 19h00, unless the magistrate or a justice who issues it states in writing that it may be carried out at a different time reasonable in the circumstances.
- (6) Before commencing any work or inspection, designated officers who carry out a written authorisation must either –
- (a) if the owner of or a person apparently in control of the land or premises is present –
 - (i) identify themselves and explain their authority to that person or furnish proof of their authorisation; and
 - (ii) hand a copy of the written authorisation to that person;
 - (b) if the owner or person apparently in control of the land or premises is absent or refuses to accept a copy, attach a copy of the written authorisation to the land or premises in a prominent and visible place.

Procedure to execute work or conduct an inspection : entry without a written authorisation

- 26 (1) A designated officer who does not have a written authorisation may enter and execute work or inspect –
- (a) any land or premises, with the consent of the owner or person apparently in control of the land or those premises; or
 - (b) any land or premises, except residential land or premises, on a routine basis –

- (i) no more frequently than six (6) times during a twelve (12) month period; or
 - (ii) more frequently if permitted by any other law for the purposes of the work or inspection.
- (2) In addition to the entry permitted in terms of sub-section (1), a designated officer may enter any land or premises without a written authorisation –
- (a) if authorised to do so by any other law; or
 - (b) in respect of which there is an outstanding compliance notice, issued in terms of section 32, for the purpose of determining whether that notice has been complied with.
- (3) Before commencing work or inspecting any land or premises in terms of this section, designated officers must identify themselves and explain their authority or furnish proof of their authorisation to the person apparently in control of the land or premises or the person who gave them permission to enter.
- (4) An entry and execution of work or inspection without a written authorisation must be carried out at a reasonable time in the circumstances.

Observing fundamental rights

- 27 Designated officers who enter and execute work or inspect any land or premises in terms of this Chapter must conduct themselves with strict regard for decency and orderliness and with regard for each person's human rights including the right to dignity, freedom, security and privacy.

Using force to enter

- 28 (1) A designated officer carrying out a written authorisation in terms of section 25 may overcome any resistance to entry, execution of work or inspection by using as much force as is reasonably required, including breaking a lock, door or window of the land or premises to be entered.
- (2) Before resorting to force, the person carrying out the written authorisation must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, an article or document that is the object of the work or inspection,

- (3) The funds of the municipal council must be used to compensate anyone who suffers damage because of forced entry during the execution of any work or an inspection when no one responsible for the land or premises was present.
- (4) Force may not be used to effect an entry to execute work or conduct inspection in terms of section 26, unless an emergency arises or it is specifically authorised by any other law.

Designated officer may be accompanied

- 29 During the execution of any work or an inspection, a designated officer may be accompanied by either a member of the South African Police Service, or any other person reasonably required to assist in executing the work or conducting the inspection, or all of them.

Duty to produce documents

- 30 Any person who holds any document relevant to the execution of any work on inspection, must produce it at the request of the designated officer.

Duty to answer questions and assist designated officers

- 31
 - (1) Any person who is questioned by a designated officer in terms of this Chapter must answer truthfully and to the best of their ability.
 - (2) An answer or explanation given to a designated officer may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to -
 - (a) the administration or taking of an oath;
 - (b) the making of false statements; or
 - (c) the failure to answer a lawful question fully and satisfactorily.
 - (3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by a designated officer to perform their functions effectively.

Compliance notices

- 32 (1) A designated officer who becomes aware that any provision of this Act has not been complied with, may issue a compliance notice to the owner or person apparently in control of the relevant land or premises.
- (2) A designated officer who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a compliance notice may issue a compliance certificate to that effect.
- (3) A compliance notice remains in force until a designated officer has issued a compliance certificate in respect of that notice.
- (4) A compliance notice must set out -
- (a) the provision that has not been complied with;
 - (b) details of the nature and extent of non-compliance;
 - (c) any steps that are required to be taken and the period within which those steps must be taken; and
 - (d) any penalty that may be imposed in terms of section 51 in the event of non-compliance with these steps.

Offences

- 33 (1) It is an offence for any person to -
- (a) refuse to grant a designated officer access to land or premises to which that designated officer is duly authorised to have access;
 - (b) obstruct, interfere or hinder a designated officer who is carrying out a duty under this Act;
 - (c) fail or refuse to provide a designated officer with a document or information that the person is required to provide under this Act;
 - (d) give false or misleading information to a designated officer;
 - (e) unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;

- (f) pretend to be a designated officer;
- (g) falsely alter an authorisation to a designated officer or a written authorisation, compliance notice or compliance certificate issued in terms of this Chapter;
- (h) falsify an authorisation to a designated officer or a written authorisation, compliance notice or compliance certificate contemplated in this Chapter;
- (i) fail to comply with a compliance notice issued in terms of this Chapter;
- (j) enter any land or premises without a written authorisation in circumstances requiring a warrant;
- (k) act contrary to a written authorisation issued in terms of this Chapter;
- (l) without authority -
 - (i) enter or inspect land or premises;
 - (ii) carry out any act mentioned in section 24(1) or (2); or
- (m) disclose any information relating to the financial or business affairs of any person, which was acquired in the performance of any function or exercise of any power in terms of this Act, except -
 - (i) to a person who requires that information in order to perform a function or exercise a power in terms of this Act;
 - (ii) if the disclosure is ordered by a court of law; or
 - (iii) if the disclosure is in compliance with the provisions of any law.

Application of this Chapter

- 34 (1) The provisions of this Chapter apply to all persons or bodies, including the State.
- (2) A provision of this Chapter conferring a power or imposing a duty applies in respect of -

- (a) all land or premises;
 - (b) any person or thing on all land or in any premises;
 - (c) the owner or occupier of all land or premises;
 - (d) any matter relating to land, premises, a person or thing.
- (3) For the purposes of this Chapter, the head of a national, provincial or municipal department is deemed to be –
- (a) the owner and occupier of all land or premises that the department occupies or uses to the exclusion of any other person; and
 - (b) the employer of the persons in the service of that department if, as an employer, the department –
 - (i) bears all duties imposed by this Act; and
 - (ii) exercises all powers conferred by this Act.

CHAPTER 6

PROCUREMENT OF GOODS & SERVICES BY MUNICIPALITIES

Procedure for procuring goods or services

- 35 (1) The MEC must prescribe the tender value of the services or goods in respect of which the procurement procedure as contemplated in section 36 applies.
- (2) Despite the provisions of sub-section (1), the procedure provided for in section 36 may be dispensed with in respect of prescribed goods or services –
- (a) in the case where the required goods or services have to be procured –
 - (i) as a matter of emergency;

- (ii) as a matter of necessity; or
 - (iii) from a sole supplier; and
- (b) if the procedure as contemplated in section 37 has been complied with.
- (3) In respect of the procurement of all other goods or services, the procedures contemplated in the financial regulations applicable to a municipality must be complied with.

Procedure for procuring prescribed goods or services

- 36 (1) When intending to procure prescribed goods or services, a municipal council must comply with the following procedure:
- (a) The decision to procure the prescribed goods or services must be contained in a notice that is –
 - (i) published at least in an appropriate newspaper circulating within the boundaries of the municipality; and
 - (ii) displayed at least at a prominent place that is designated for that purpose by the municipal council.
 - (b) The notice must state –
 - (i) in summarised form the requirements and specifications of the prescribed goods or services;
 - (ii) the place, and time when and the circumstances or manner in which the document containing the requirements or the specifications of the prescribed goods or services will be displayed for inspection or acquisition;
 - (iii) the period within which tender applications could be made for supplying the prescribed goods or services, including the cut-off time after which no further tender application will be considered;
 - (iv) the procedure for submitting a tender application including –

- (aa) the documents to be completed and additional information, documents, samples, materials or monetary deposits that must accompany the application; and
 - (bb) the place where the tender application must be lodged;
 - (v) other information that may be relevant for purposes of considering the tender application; and
 - (vi) the place where all tender applications received will be registered as contemplated in sub-section (4).
- (2) Any person, body, organisation or corporation submitting a tender application must-
- (a) properly complete the appropriate tender application form; and
 - (b) provide all information documents, samples, materials or monetary deposit relevant to the tender application.
- (3) A failure to materially comply with the provisions of sub-section (2) or a misrepresentation in the application may disqualify the application.
- (4) At the cut-off time contemplated in sub-section (b)(iii), the municipal council must enter the name and contact details of all tender applicants and their tender value in a register created for this purpose by the municipal council.
- (5) In respect of the register contemplated in sub-section (4), any member of the public may -
- (a) be present to witness the registration process; and
 - (b) inspect the register at place, time and in the circumstances and manner that a municipal council deems reasonable in the circumstances.
- (6) When considering which tender to accept, a municipal council must give due consideration to, amongst other things -
- (a) the factors specified in any other law;
 - (b) policy made by a competent organ of state;

- (c) only those tender applicants whose names have been entered in the register referred to in sub-section (4) and whose applications have not been invalidated;
 - (d) the promotion of small and medium sized enterprises;
 - (e) the affirmation of those preferred categories of persons, bodies, organisations or corporations as may be determined by the council;
 - (f) employment generation or the transfer of skills;
 - (g) effective and efficient delivery of municipal services;
 - (h) the capacity and ability of tender applicants to supply the goods or services; and
 - (i) the cost-effectiveness of the application. In this regard the municipal council is not obliged to award a tender to an applicant submitting the lowest tender value.
- (7) The decision whether to accept, reject or disqualify a tender application must be taken by the municipal council. However, the municipal council may assign or delegate this function in respect of certain prescribed goods or services to the committee contemplated in section 42.
- (8) The decision of the municipal council or the committee contemplated in section 42, is final and binding.
- (9) The municipal council or the committee contemplated in section 42 must convey its decision in writing to the tender applicant and provide reasons for its decision to any tender applicant if -
- (a) (i) its application is deemed to be disqualified; or
 - (ii) its application is rejected; and
 - (b) the applicant makes a request for these reasons in writing.

Expedited procedure for procuring prescribed goods or services

- 37 (1) A municipal council may decide to dispense with the procedure specified in section 36 and appoint the person, body, organisation or corporation to supply the prescribed goods or services and convey its decision in writing to the appointee, if -

- (a) subject to sub-section (3) it is satisfied that the circumstances as contemplated in section 35(2)(a) prevail; and
 - (b) it takes a resolution to this effect.
- (2) If the chief executive officer is satisfied that for reasons of an emergency, a prescribed good or service has to be procured prior to the municipal council taking the relevant resolution, the chief executive officer with the concurrence of the mayor may procure the goods or service and report this fact to the municipal council at its next meeting.
- (3) Within one month of the resolution contemplated in sub-section (1) or the action taken in terms of sub-section (2), the matters specified in sub-section (4) must be -
- (a) published by the municipal council at least in an appropriate newspaper circulating within the boundaries of the municipality; and
 - (b) displayed at a prominent place that is designed for that purpose by a municipal council.
- (4) The matters to be published or displayed are -
- (a) the reasons for dispensing with the procedure specified in section 36;
 - (b) a summary of the requirements of the prescribed goods or services;
 - (c) the place and time when and the circumstances or manner in which the document containing the requirements or specifications of the prescribed goods or service will be displayed for inspection or acquisition; and
 - (d) the details of the person, body, organisation or corporation supplying the goods or services.
- (5) The functions of a municipal council in terms of this section may not be assigned nor delegated.

Extending or varying a tender agreement

- 38 (1) Subject to sub-section (2), a municipal council on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods or services to the municipal council in terms of this Chapter, may resolve to extend or vary a tender agreement if –
- (a) the circumstances as contemplated in section 35(2)(a) prevail; or
 - (b) with due regard to administrative efficiency and effectiveness, the council deems it appropriate.
- (2) A municipal council may not extend or vary a tender agreement –
- (a) more than once;
 - (b) for a period exceeding the duration of the original agreement; or
 - (c) for an amount exceeding twenty (20) percent of the original tender value.
- (3) Within one month of the resolution referred to in sub-section (1), the matters specified in sub-section (4) must be –
- (a) published by the municipal council at least in an appropriate newspaper circulating within the boundaries of the municipality; and
 - (b) displayed at a prominent place that is designed for that purpose by a municipal council.
- (4) The matters to be published or displayed are –
- (a) the reasons for dispensing with the procedure specified in section 36;
 - (b) a summary of the requirements of the goods or services; and
 - (c) the details of the person, body, organisation or corporation supplying the goods or services.
- (5) The functions of a municipal council in terms of this section may not be assigned nor delegated.

Invalid and irregular tender applications and breaches of tender agreements

39 (1) For the purposes of this section –

- (a) the words "tender application" includes an application to extend or vary a tender; and
- (b) the word "supplier" means the person, body, organisation or corporation supplying goods or services to the municipal council in terms of this Chapter.

(2) If a municipal council is satisfied that a tender application has been accepted, varied or extended in the circumstances specified in sub-section (3)(a) and (b) or that a tender agreement has been breached in the circumstances specified in sub-section 3(c) –

- (a) it must send the supplier a written notice of the decision and the reasons for that decision; and
- (b) in that notice, it must inform the supplier that it has fourteen (14) days from the date of the notice to submit representations on why the municipal council should not take the steps specified in sub-section (5).

(3) For purposes of sub-section (2), the circumstances are –

- (a) where a supplier –
 - (i) provided false information in any tender application;
 - (ii) exerted undue influence on any person involved in considering a tender application; or
 - (iii) provided a financial or other reward, to any person involved in considering a tender application in exchange for securing, varying or extending the tender;
- (b) where a person involved in the consideration of a tender application has a material interest in the applicant body, organisation or corporation or the outcome of the tender application and this interest had not been disclosed prior to the consideration of the tender application; or
- (c) where the supplier fails or is unable to satisfactorily comply with the requirements or specifications of the goods or services to be supplied.

- (4) If the tender applicant or supplier has received the notice in terms of sub-section (2) within the fourteen (14) day period and does not submit the representations or submits the representations within that time and the municipal council considers the representations to be unsatisfactory, the municipal council must take any or a combination of the steps specified in sub-section (5), and in writing notify the supplier of the reasons for the decision.
- (5) For purposes of sub-sections (2) and (4), the steps that must be taken are -
- canceling the tender agreement;
 - recovering any loss incurred or damage suffered by a municipality for having to cancel the tender agreement; or
 - barring the supplier from being considered for any tender for a period to be determined by the municipal council.
- (6) A supplier may appeal against the decision of the municipal council to take the steps contemplated in sub-section (5) in accordance with the procedure provided for in section 40.

Appeals in respect of invalid and irregular tenders and breaches of tender agreements

- 40 (1) Any supplier of goods or services to a municipal council who has received a notice in terms of section 39(4), may appeal against the decision taken in terms of that section, by submitting within fourteen (14) days of the date of the notice, a notice of appeal setting out the grounds of the appeal to the procurement Appeals tribunal. The notice must also include copies of the following items -
- the tender application and accompanying documentation;
 - the municipal council's notice issued in terms of section 39(2);
 - details of its response to the municipal council's notice; and
 - the municipal council's notice in terms of section 39(4) and reasons for the decision that is the subject matter of the appeal.
- (2) Subject to sections 41(1) and (2), the municipal council must determine the procedures for noting, conducting and considering appeals and must inform the parties to the appeal of these procedures prior to the commencement of the appeal.

- (3) The procurement appeals tribunal must consider the appeal in the manner determined by the municipal council and send a written notice of the decision to the supplier that instituted the appeal proceedings and the municipal council. If the appeal is not upheld, the notice must include the reasons for the decision.
- (4) The procurement appeals tribunal may make an order for costs if a party, or person who represented that party in the appeal -
 - (a) acted in a frivolous, vexatious or unreasonable manner by proceeding with or opposing the appeal or in conducting the appeal; or
 - (b) without good cause, fails to attend or remain in attendance during the appeal.
- (5) The decision of the procurement appeals tribunal is final and binding on all parties to the appeal.
- (6) In any appeal proceeding conducted in terms of this Chapter, the following documents constitute the terms of a tender agreement -
 - (a) the document containing the requirements or the specifications of the prescribed goods or services as referred to in sections 36(1)(b)(ii) and 37(3)(c), and if applicable, the terms and conditions contained in a tender application form; and
 - (b) the written notification as contemplated in sections 36(7) and 37(1)(b) confirming the acceptance of the application or the appointment.

Procurement appeals tribunal and panel of arbitrators

- 41 (1) A municipal council must establish a procurement Appeals tribunal which must be composed of at least two members from the panel of arbitrators.
- (2) The members of the panel referred to in sub-section (1), may appoint any number of experts to the procurement Appeals tribunal either -
 - (i) on their own initiative; or
 - (ii) upon consideration of a written application received from either party to the appeal for the appointment of an expert.

- (3) A municipal council must maintain a panel of arbitrators consisting of at least six (6) persons. These persons may not be councillors or employees of the municipal council.
- (4) The following procedure applies whenever a municipal council is required to appoint a person to the panel of arbitrators :
 - (a) The municipal council must publish a notice calling for nominees and stating the criteria for nominations, at least in an appropriate newspaper circulating within the boundaries of the municipality.
 - (b) The municipal council must cause the nominations submitted in response to the notice to be considered and compile a short-list of nominees.
 - (c) The municipal council must cause the nominees on the short-list to be interviewed and must thereafter make the necessary appointments.
- (5) The terms and conditions of appointment of members of the panel of arbitrators and expert must be determined by the municipal council.

Establishment of a committee responsible for procurement

- 42 (1) A municipal council may establish a committee responsible for procurement or confer on any of its committees this responsibility.
- (2) In addition to its function specified in this Chapter, this committee may -
- (a) recommend policies, procedures and practices to enable a municipal council to exercise its powers, functions or duties in terms of this Chapter in an effective, efficient and transparent manner;
 - (b) make recommendations to the municipal council concerning -
 - (i) the standardisation and simplification of all tender application processes;
 - (ii) the rendering of advice and other support services to tender applicants;
 - (c) make recommendations concerning the criteria for determining the categories of persons, bodies, organisations or

- corporations to be affirmed as contemplated in section 36(6)(c); and
- (d) perform any function that a municipal council deems appropriate for purposes of giving effect to this Chapter, including conducting investigations, making recommendations and reporting on any matter.

CHAPTER 7

RESTRICTION OF ACCESS TO PUBLIC PLACES FOR SAFETY AND SECURITY PURPOSES

A municipal council's power to restrict access

- 43 For purposes of enhancing safety and security, a municipal council may -
- (a) on its own initiative impose a restriction on access to any public place if it complies with the provisions of section 44; or
- (b) authorise any person, body or organisation to restrict access to any public place if the provisions of section 45 have been complied with.

Procedure for municipal councils to impose restrictions on access

- 44 (1) When intending to impose a restriction on access to a public place, a municipal council must -
- (a) determine the proposed terms of the restriction after consultation with the South African Police Service;
- (b) pass a resolution confirming the proposed terms and resolve to impose the restriction; and thereafter
- (c) comply with the following procedure:
- (i) The intention to impose the restriction must be announced by notice in the Provincial Gazette and where these exist, in one or more newspapers circulating in the area concerned.
- (ii) The notice must specify -

- (aa) that comment is being sought on the draft terms of a restriction;
 - (bb) the public place affected by the restriction;
 - (cc) the proposed terms of the restriction;
 - (dd) the documents or written reports relied upon by the municipal council to pass its resolution;
 - (ee) the person to whom or place where enquiries relating to the draft terms of the restrictions may be directed;
 - (ff) subject to sub-sections (6) and (7), the place, time and circumstances when and in which a copy of the documents or original reports may be obtained or displayed for inspection;
 - (gg) the period for comment on the draft terms of restrictions which must not be less than one month; and
 - (hh) the person on whom or place where comment on the draft terms of the restriction may be lodged.
- (iii) At any time before imposing the restriction, consultations with any relevant interest group may be held in any form, including the holding of an enquiry.
- (iv) Comments received and the content of all consultations must be considered before imposing the restriction.
- (2) If the municipal council has not imposed the restriction within four months of the announcement referred to in sub-section (1)(c)(i), that restriction cannot be made unless the procedure provided for in sub-section (1) has been repeated.
- (3) A municipal council may dispense with the procedures specified in sub-section (1) in respect of any restriction which in the public interest requires to be imposed without delay, but must implement this procedure within one month of the restriction coming into operation, failing which the restriction will no longer be valid.
- (4) A restriction will come into operation on the date of its publication in the Provincial Gazette or such other date as specified in the Provincial Gazette.

- (5) A municipal council may determine the fee for obtaining a copy of any document or written report relevant to determining the draft terms of the restriction.
- (6) The place where the documents and written reports may be obtained or displayed for inspection must enable all those affected by the restriction to be expeditiously and conveniently informed of its contents.
- (7) Every municipal council must develop and implement policies and programmes to assist members of the public to comment on the draft terms of the restriction.

Procedure for municipal councils to authorise others to restrict access

- 45 (1) Any person, body or organisation may apply to a municipal council for authorisation to restrict access to a public place by -
- (a) submitting a written application specifying -
 - (i) the name and contact details of the applicant;
 - (ii) a description of the public place which is the subject of the application;
 - (iii) a description of the circumstances giving rise to the application;
 - (iv) the category and estimated number of persons affected by the circumstances giving rise to the application;
 - (v) the nature and extent of the restriction in respect of which the application is sought; and
 - (vi) the category and an estimate number of persons who may be affected by the restriction in respect of which the application is sought;
 - (b) furnishing proof that at least two thirds of the persons affected by the circumstances giving rise to the application approve of the restriction in respect of which the application is sought; and
 - (c) paying a non-refundable administrative fee as may be determined by the municipal council.

- (2) After receiving the application, the municipal council must arrange for a meeting to be convened with the applicant and the South African Police Service for purposes of enabling it to determine –
- (a) the merits of the application; and
 - (b) the terms and conditions for granting the authorisation including the payment of fees and deposits.
- (3) If the municipal council intends granting the authorisation to restrict access to a public place pursuant to a determination made in terms of sub-section (2), the provisions of section 44 are applicable, with the changes as may be required by context.

Duration of restriction to access or authorisation to restrict access

- 46 (1) Unless otherwise stated in the Provincial Gazette and subject to this section, a restriction or authorisation to restrict access is valid for no longer than two (2) years.
- (2) A municipal council may extend the duration of the restriction or authorisation to restrict if –
- (a) it or the applicant initiates the procedures referred to in sections 44 and 45 respectively; and
 - (b) the procedures are initiated at least one month before the expiry of the restriction or authorisation to restrict.
- (3) For purposes of sub-section (2), the procedures are deemed to be initiated –
- (a) in respect of restricting access, when a municipal council passes the resolution referred to in section 44(1)(b); and
 - (b) in respect of an authorisation to restrict access, on the date on which the application referred to in section 45(1) is received by a municipal council.
- (4) Pending the outcome of the procedures contemplated in sub-section (2), a restriction or authorisation to restrict access remains valid.

Offences relating to authorisation to restrict access

- 47 It is an offence for any person, body or organisation to –

- (a) restrict access to a public place without having obtained authorisation in terms of this Act or any other law; or
- (b) present itself as being validly authorised to restrict access to a public place in terms of this Act, when it is not so authorised.

Access to and inspection of the terms of a restriction or authorisation to restrict access

- 48 For purposes of ensuring that members of the public have access to or are able to inspect the terms of a restriction or authorisation to restrict access, the provisions of section 9, apply with the changes as may be required by context.

CHAPTER 8

MISCELLANEOUS MATTERS

Municipal committee of enquiry

- 49 (1) A municipal council may establish a committee to investigate any local government matter-
- (a) it considers appropriate and which relates to its powers, functions or duties; and
 - (b) of public interest.
- (2) (a) To establish a committee, a municipal council must pass a resolution to this effect.
- (b) A resolution referred to in paragraph (a) must specify the terms of reference of the committee including the time period within which the committee must complete its mandate.
- (c) A municipal council may designate a member of the committee as the chairperson.
- (d) A municipal council must provide such committee with support staff and facilities.

- (3) The MEC must make regulations concerning the manner in which the committee will conduct its investigations.
- (4) When the committee has completed its mandate, it must send a report containing its findings and recommendations to the municipal council for consideration.
- (5) A municipal council may exercise or perform any power, function or duty it considers appropriate arising from its consideration of the findings and recommendations of the committee.

Public hearing

- 50 (1) A municipal council must convene a public hearing for purposes of considering and making recommendations in respect of any local government matter of public interest if it receives a petition calling for a public hearing which is signed by at least that number of registered municipal voters as may be determined by the municipal council. The number to be determined may not exceed half a percent of the total number of registered municipal voters.
- (2) The petition referred to in sub-section (1) must specify the local government matter to be considered.
- (3) A municipal council may on its own initiative resolve to convene a public hearing for the purposes specified in sub-section (1).
- (4) Subject to sub-section (5), a municipal council must determine the procedures for convening and conducting the public hearing.
- (5) To convene a public hearing, the municipal council must -
 - (a) announce its intention to convene the public hearing in the Provincial Gazette and, where these exist, in one or more newspapers circulating in the area concerned;
 - (b) issue a notice specifying -
 - (i) the venue of the public hearing;
 - (ii) the date of the public hearing which must be at least fourteen (14) days after the notice and not later than two months after receipt of the petition referred to in sub-section (1) or the resolution referred to in sub-section (3);

- (iii) in summarised form, the issues to be considered in the public hearing; and
- (iv) procedures to be adopted for conducting the public hearing.

The MEC's power to issue guidelines to municipal councils

51 The MEC may issue guidelines to municipal councils to assist them in -

- (a) exercising their powers, functions or duties; or
- (b) giving effect to the purposes of this Act.

Financial management and credit control

52 (1) For purposes of promoting effective municipal financial management, all municipalities must make by-laws regulating its credit control measures in accordance with the provisions of sub-sections (2) and (3).

(2) The MEC, with the concurrence of the Member of the Executive Council responsible for finance in the province, may from time to time prescribe requirements that must be incorporated into the by-laws.

(3) The by-laws and prescribed requirements must make provision at least for the following matters -

- (a) the services and products in respect of which taxes, rates, levies, fees, charges or surcharges may be imposed on residents or those conducting business within the boundaries of municipalities;
- (b) the circumstances and manner of payment for these taxes, rates, levies, fees, charges or surcharges;
- (c) the consequences of non-payment including -
 - (i) the discontinuance of any service or supply of any product;
 - (ii) the circumstances, manner and duration of this discontinuance;

- (iii) the steps that a municipal council may take to recover amounts owing;
 - (iv) the steps that a municipal council may take to protect its equipment and property in the event of a discontinuance; and
- (d) the prevention and termination of all services or the recovery of products acquired in an illegal or unauthorised manner.

CHAPTER 9

GENERAL PROVISIONS

Penalties

- 53 Any person convicted of an offence in terms of this Act, shall be liable to a fine or imprisonment for a period not exceeding five (5) years, or to both fine and imprisonment.

Indemnification from liability

- 54 (1) Neither an employee of a municipality nor any person, body, organisation or corporation acting on behalf of a municipality nor a councillor is liable for any damages arising from –
- (a) any omission or act done in the cause of his or her duties and in good faith; or
 - (b) the publication or disclosure in terms of this Act, of any report, finding point of view or recommendation that is given in good faith.
- (2) A municipality is indemnified in respect of any legal proceedings instituted by an injured or aggrieved party arising out of the circumstances contemplated in sub-section (1) where the person, body, organisation or corporation acting on behalf of a municipality is an independent contractor.

Right to legal representation

- 55 (1) In legal proceedings instituted against councillors or employees of a municipality or at any inquest or enquiry in respect of which they have been summoned to attend and testify on matters falling within the course and scope of their duties, the municipal council must secure legal representation for the councillors or employees concerned and the cost for such representation must be borne by the municipality only in those circumstances or in a manner as may be determined by the municipal council.
- (2) The municipal council must determine the circumstances and manner in which it would bear the cost of the legal representation referred to in sub-section (1).

Delegations and agreements made and entered into by municipal councils

- 56 (1) Subject to the provisions of this Act or any other law, a municipal council, may in writing, delegate on those terms and conditions it deems appropriate, any power, function or duty conferred on the municipal council by this Act or any other law to -
- (a) any person in the employ of the council;
- (b) any committee, sub-committee, board or body established by the council consisting of councillors and or persons in the employ of the council; or
- (c) any other municipal council.
- (2) A municipal council may enter into agreements with any public or private provider of goods or services to enable the council to exercise and perform its powers, functions or duties.
- (3) A municipal council must keep a register of all delegations and agreements made and entered into in terms of this Act.
- (4) Within six (6) months of coming into office, a municipal council must review all delegations and agreements made and entered into by it in terms of this section.
- (5) Despite the provisions of sub-section (4), a municipal council may review its delegations and agreements whenever it considers a review appropriate.

Assignment and delegation of powers, functions, duties and responsibilities to municipal councils

- 57 (1) The powers, functions, duties or responsibilities of the Premier, the MEC, the provincial government or the department responsible for local government matters in the province are assigned or delegated to municipal councils to the extent indicated in schedule 2.
- (2) Subject to the provisions of this Act or any other law, the MEC may assign or delegate any other power, function, duty or responsibility conferred in terms of this Act or any other law on the MEC, to a municipal council by accordingly amending or making the appropriate entry to schedule 2.
- (3) An assignment or delegation made in terms of this section may be made in respect of -
- (a) different municipalities; or
- (b) different groups or categories of municipalities.

Repeal of laws

- 58 The laws mentioned in schedule 1 are repealed to the extent indicated.

Transitional provisions

- 59 (1) Despite the repeal of the provisions of the Local Government Ordinance, 1939 (Ordinance 17 of 1939) as indicated in schedule 1, any action taken in terms of the repealed provisions shall be regarded to have been taken under the corresponding provision of this Act and will continue to be valid or have force and effect except if it is inconsistent with the Local Government Transition Act, this Act or any other law.
- (2) Despite the repeal of the provisions of the Local Government (Administration and elections) Ordinance, 1960, (Ordinance 40 of 1960) as indicated in schedule 1, any action taken in terms of the repealed provisions is deemed to have been taken under the corresponding provision of this Act and will continue to be valid and have force and effect except if it is inconsistent with the Local Government Transition Act, this Act or any other law.

Short title and commencement

- 60 This Act shall be called the **Rationalisation of Local Government Affairs Act, 1998**, and shall come into effect on a date to be fixed by the Premier by proclamation in the Provincial Gazette.

MEMORANDUM ON THE OBJECTS OF THE BILL

INTRODUCTION

- 1 In terms of section 104(1)(b)(i) - (iv) of the Constitution of the Republic of South Africa, 1996, as read with Chapter 7, Schedules 4 and 5 and the definition of "provincial legislation" in section 239, the Gauteng Provincial Legislature has the necessary authority to legislate on the matters dealt with in this Bill.
- 2 Consequent thereon, at the beginning of last year the Member of the Executive Council (MEC) responsible for local government appointed a Political Task Team which was charged with the responsibility for drafting legislation relating to the local sphere of government. The Political Task Team was composed of members drawn from across the political spectrum.
- 3 The Political Task Team had attached to it a Legislative Technical Task Team which was made up of officials from the Department of Planning and Local Government, advisors appointed by the Department of Planning and Local Government and representatives of the Gauteng Association of Local Authorities (GALA). The function of this team was to draft the necessary legislation in accordance with the directives of the Political Task Team.

PROBLEMS FACING LOCAL GOVERNMENT

- 4 The Political Task Team and the Legislative Technical Task Team were at all times mindful that there are numerous laws, the application of which has resulted in anomalies, inconsistencies and constitutionally problematic conduct on the part of both provincial government and municipalities. These laws include the Constitution; Local Government Transition Act; Local Government Ordinance, and The Local Government (Administration and Elections) Ordinance, 1960. This Bill deals only with those aspects arising out of the application of these statutes that are relevant to facilitating the process of transformation of the local sphere of government. It is envisaged that all other issues will form the subject matter of a subsequent and a more embracing piece of legislation which would be informed by the white paper processes both of the national and provincial spheres of government and future national legislation governing municipalities.
- 5 In addition municipalities are confronted with practical problems such as --
 - (a) the declining state of local government finances and the perceived culture of non-payment;
 - (b) the public clamour for street closures;
 - (c) archaic tender procedures; and
 - (a) the need to empower councillors and maintain transparency in government.

- 6 This Bill is therefore an interim measure (bridging legislation) to rationalise the legislative and administration framework within which municipalities currently operate.

Reasons for the bill and social impact

- 7 At a workshop convened by the Political Task Team in March last year, cognisance was taken of the stated intention of the Minister of Provincial Affairs and Constitutional Development to formulate its white paper by the end of 1997, (with national legislation to follow thereafter) and the need for the development of provincial policy in relation to local government.
- 8 A decision was taken by the MEC and the Political Task Team to present for promulgation a Bill dealing only with those matters that were immediately affecting the transformation of local government and the delivery of municipal services.
- 9 The matters to be addressed in this Bill were agreed to by the Department of Planning and Local Government, the Political Task Team and GALA. The considerations employed in selecting these matters, *inter alia*, were --
- (a) factors that are retarding the effective integration and consolidation of local government structures;
 - (b) the need to accelerate rationalisation and transformation in the local sphere of government;
 - (c) obstacles to the delivery of municipal services;
 - (d) the need to empower municipalities to regulate matters in respect of which gaps exist in the law; and
 - (e) the need to infuse municipalities with the spirit of the Constitution when conducting their affairs.
- 10 A social impact study has not been embarked upon for purpose of this Bill given its stated intent to deal only with the legislative and administrative framework within which municipalities operate. It is envisaged that such a study would have to be undertaken for purposes of drafting the more embracing piece of legislation contemplated in paragraph 4 of this memorandum.

Solution

- 11 Given the nature of the problems and concerns facing local government, a comprehensive legislative solution requires the prior promulgation of national legislation and a provincial white paper. This Bill does not seek to provide such a solution. It is an interim measure to deal with the most pressing administrative and legal difficulties confronting the local sphere of

government in the context of an environment whose vision is yet being formulated. It is therefore very much a self-contained piece of legislation that aims to place municipalities in a position to adapt to future changes. It does so by --

- (a) determining and standardising the status, powers, functions and duties of a municipal council;
- (b) making and issuing of by-laws, standard by-laws and regulations;
- (c) harmonising labour relations; and
- (d) enabling municipalities to effectively conduct their affairs, more particularly with regard to the procurement of goods and services, the execution of works and the conducting of inspection, and the regulation of access to public places.

Monitoring

- 12 The effectiveness of this Bill will be monitored through the Gauteng Inter-governmental Forums and the Gauteng Association of Local Authorities. These measures are in addition to the day to day functioning of the MEC's office and the relevant provincial department as well as the Mayoral Forum.

The financial implications of the bill

- 13 This Bill has no major additional financial implications for the province.

SUMMARY OF EACH SECTION IN THE BILL

- 14 Section 1 defines relevant terms.
- 15 Section 2 sets out the purpose of the Bill and in broad terms sets out the mechanisms for achieving these purposes.
- 16 Section 3 provides guidelines for applying and interpreting this Bill.
- 17 Section 4 provides for the continued existence of municipalities and confirms its "body corporate" nature.
- 18 Section 5 ensures that municipalities that have previously been declared as cities will retain this status and makes provision for eliminating anomalies that have arisen in newly-created municipalities concerning city status.

- 19 Section 6 consolidates the powers, functions and duties of municipal councils.
- 20 Section 7 sets out the procedure for making by-laws.
- 21 Section 8 provides for periodic review of by-laws and makes provision for provincial monitoring and oversight of the review process.
- 22 Section 9 facilitates public access and inspection of by-laws.
- 23 Section 10 enables the MEC to make standard by-laws.
- 24 Section 11 sets out the procedure for making standard by-laws.
- 25 Section 12 sets out the legal effect of a standard by-law.
- 26 Section 13 sets out the MEC's powers to issue regulations.
- 27 Section 14 sets out what may be contained in regulations.
- 28 Section 15 sets out the procedure for issuing regulations.
- 29 Section 16 provides for the appointment by a municipal council of a chief executive officer and its personnel.
- 30 Section 17 prescribes the powers and duties of the chief executive officer.
- 31 Section 18 seeks to rationalise the terms and conditions of amalgamated or merged municipalities.
- 32 Section 19 provides for the establishment of medical aid benefit schemes by a municipal council.
- 33 Section 20 provides for the establishment of retirement benefit schemes by a municipal council.
- 34 Section 21 regulates the term of office of mayors, procedures for their removal from office, their delegated powers and their voting rights.
- 35 Section 22 authorises a municipality to appoint designated officers.
- 36 Section 23 sets out the functions of designated officers.
- 37 Section 24 sets out the powers of designated officers.
- 38 Section 25 provides for a procedure for designated officers to execute work or conduct an inspection in circumstances where a written authorisation is required.

- 39 Section 26 specifies a procedure for designated officers to execute work or conduct an inspection in circumstances where a written authorisation is not required.
- 40 Section 27 entrenches the observance of fundamental rights by designated officers when executing work or conducting an inspection.
- 41 Section 28 regulates the use of force by designated officers when performing their functions.
- 42 Section 29 enables a designated officer to be accompanied by a member of the South African Police Services when they are performing their functions.
- 43 Section 30 imposes a duty on persons holding relevant documentation to make those available to the designated officer.
- 44 Section 31 imposes a duty on all persons to answer questions and assist designated officers.
- 45 Section 32 makes provision for the issuing of compliance notices.
- 46 Section 33 sets out the circumstances when offences will be deemed to have been committed in relation to the work of designated agents.
- 47 Section 34 circumscribes the application of the provisions dealing with designated agents and their powers and functions.
- 48 Section 35 outlines the procedure for procuring goods or services.
- 49 Section 36 prescribes a procedure for procuring prescribed goods or services.
- 50 Section 37 sets out a procedure for the expedited procurement of prescribed goods or service.
- 51 Section 38 regulates the extension or variation of a tender agreement.
- 52 Section 39 sets out a procedure for dealing with invalid or irregular tender applications in breaches of tender agreements.
- 53 Section 40 sets out the appeal procedure in respect of invalid and irregular tenders and breaches of tender agreements.
- 54 Section 41 makes provision for the establishment of a procurement appeals tribunal and panel of arbitrators.

- 55 Section 42 provides for the establishment by a municipal council of a committee responsible for procurement.
- 56 Section 43 empowers a municipal council to impose restriction on access to any public place or to authorise any person, body or organisation to restrict access to any public place.
- 57 Section 44 sets out the procedure that a municipal council has to follow to impose a restriction on access.
- 58 Section 45 sets out the procedure for a municipal council granting the authority to others to restrict access.
- 59 Section 46 circumscribes the duration of a restriction or authorisation to restrict access.
- 60 Section 47 specifies the circumstances when an offence may be committed in relation to authorising restricted access.
- 61 Section 48 enables members of the public to have access to or inspect the terms of any restriction or authorisation.
- 62 Section 49 makes provision for the establishment of municipal inquiries and regulates circumstances and manner of the establishment and conducting of its affairs.
- 63 Section 50 makes provision for the establishment of a public hearing by a municipal council and sets out the procedures and mechanisms for its establishment and the conducting of its affairs.
- 64 Section 51 enables a member of the executive council to issue guidelines to municipal councils.
- 65 Section 52 enables a municipal council to enhance its financial management and credit control.
- 66 Section 53 specifies the penalties applicable to any offence committed in terms of this Act.
- 67 Section 54 specifies the circumstances under which employees of a municipal council or persons acting on behalf of the council may be indemnified from liability.
- 68 Section 55 outlines the circumstances when councillors or employees of a municipality are entitled to legal representation.

- 69 Section 56 sets out the circumstances when the powers of a municipal council may be delegated or when a municipal council may enter into agreements.
- 70 Section 57 regulates the assignment and delegation of provincial powers, functions and duties to municipal councils.
- 71 Section 58 deals with the repeals of laws.
- 72 Section 59 deals with transitional arrangements.
- 72 Section 60 specifies the short title of the Bill and makes provision for when this Bill will come into operation.

SCHEDULE 1
LAWS REPEALED

Number and year of law	Short title	Extent of repeal
58 of 1903	Municipal Corporation Ordinance, 1903	The whole
506 of 1937	Administrators Notice - Local Authorities Depreciation Regulations	The whole
17 of 1939	Local Government Ordinance, 1939	Sections 1;5;8;34;36;41; 47A; 53; 54; 57; 62; 65; 70; 72; 77; 78; 79 bis; 79 ter; 79 quat; 79 sext; 89; 90; 91; 92; 93; 94; 95; 96; 96bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118 bis; 119; 120; 121; 122; 123; 124; 125; 125(A); 126; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 162; 164A; 165; 166; 173.
13 of 1958	Public Bodies (Language) Ordinance, 1958	The whole
21 of 1958	Local Government Control, 1958	The whole

40 of 1960	Local Government (Administration & Elections) Ordinance, 1960	Sections 3 to 51; 62; 62A; 63 (1) to (20); 63A; 64; 65; 67; 69; 70; 70bis; 71.
15 of 1981	Town Council of Midrand, 1981	The whole
24 of 1986	Local Government Areas Ordinance, 1986	The whole
22 of 1988	Administrations Proclamation - Amendment of Ordinance 40 of 1960	The whole
23 of 1988	Administrators Proclamation - Regulations relating to the Establishment of Health Committee	The whole

SCHEDULE 2

**ASSIGNMENT & DELEGATION OF POWERS,
FUNCTIONS, DUTIES AND RESPONSIBILITIES
TO MUNICIPAL COUNCILS**

ITEM A - LOCAL GOVERNMENT ORDINANCE, 1939		
PART 1 - ASSIGNMENT		
SECTION	SECTION TITLE	EXTENT OF ASSIGNMENT
19(7)	Allowances to mayor, deputy-mayor and councillors.	The whole
64(1)	Setting apart of sites for purpose or erection of public or municipal buildings.	The whole
65(bis)(4)(b)	Public vehicle routes, stopping places and stands.	The whole
67(6) & (9)(b)	Permanent closing or diversion of street.	The whole
69(1)(a)	Numbering of houses and naming of public places.	The whole
71(2)	Power to establish pounds.	The whole
79(9)(bis)	General powers.	The whole
79(10)	General powers.	The whole
79(28)	General powers.	The whole
79(33)	General powers.	The whole - except 79(33)(b)(ii)
79(42)	General powers.	The whole
79(53)	General powers.	The whole
80B(4)(b)(i)	Determination, amendment or withdrawal of charges by special resolution.	The whole
81(1)(c)	Works for supply of water.	The whole

81(1)(d)	Works for supply of water.	The whole
81(1A)	Works for supply of water.	The whole
81(2)	Works for supply of water.	The whole
83(1)(bis)	Works for supply of light, heat, and power.	The whole
83(3)(a)	Works for supply of light, heat, and power.	The whole
83(4)	Works for supply of light, heat, and power	The whole
83A(1)	Restrictions on use of water and electricity.	The whole
104(bis)	Power of local authority to relax requirements of building by-laws or to waive compliance therewith.	The whole
131(5)	Other special powers for town councils.	The whole
131(17)	Other special powers for town councils.	The whole
133	Power to undertake sewerage and drainage.	The whole
142(1)(b)	Power to execute drainage works on private land or premises or to make advances therefor.	The whole
155(1)	Sanitary control of surface and underground mine workings.	The whole

PART 2 - DELEGATION

SECTION	SECTION TITLE	EXTENT OF DELEGATION
79(16)	General powers.	The whole
79(17)(e)	General powers.	The whole
79(18)(e)	General powers.	The whole

79(18)(f)(aa)	General powers.	The whole
79(18)(f)(bb)	General powers.	The whole
79(18)(h)(bb)	General powers.	The whole
79(24)(c)	General powers.	The whole
80A(b)(ii)	Incorporation in by-laws of specifications, regulations and other documents by reference.	The whole
83(1)(c)(i)	Works for supply of light, heat, and power.	The whole

ITEM B - LOCAL GOVERNMENT (ADMINISTRATION & ELECTION ORDINANCE, 1960

PART 1 - ASSIGNMENT

SECTION	SECTION TITLE	EXTENT OF ASSIGNMENT
57(6)(b)	Functions of Management Committee	The whole

PART 2 - DELEGATION

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KENNISGEWING 1208 VAN 1998

GAUTENGSE PROVINSIALE WETGEWER

WETSONTWERP OP DIE RASIONALISASIE VAN PLAASLIKE REGERINGSAANGELEENTHEDE

soos voorgestel

deur

LUR VIR ONTWIKKELINGSBEPLANNING EN PLAASLIKE REGERING

WETSONTWERP

Om voorsiening te maak vir die wetgewende en administratiewe raamwerk vir die plaaslike regeringsfeer; en om voorsiening te maak vir aangeleenthede wat daarvan verband hou.

Word daar soos volg deur die Provinciale Wetgewer **VERORDEN**:-

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HOOFSTUK 1

OMSKRYWINGS, DOEL EN TOEPASSING

Omskrywings

- 1 In hierdie Wet, tensy die samehang anders aandui -
 - sluit "optrede geneem" die uitreiking van regulasies, uitvaardiging van verordeninge, neem van administratiewe of ander maatreëls, sluiting van kontrakte, aangaan van verpligtinge en instelling of verdediging van enige strafrechtelike of siviele of ander regsprosedures vir die doeleinades van artikel 60(1) en (2) van hierdie Wet in;
 - sluit "enige ander wet" die gemenereg in;
 - beteken "verordening" enige wet wat deur 'n munisipale raad uitgevaardig word en sluit 'n kode of prosedure in;
 - beteken "Hoof Uitvoerende Beampte" die Hoof Uitvoerende Beampte wat ingevolge artikel 16 aangestel word;
 - beteken "komitee" 'n munisipale ondersoekkomitee daargestel ingevolge artikel 49;
 - beteken "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996 (Wetnr. 108 van 1996);
 - beteken "aangewese beampte" die persoon wat ingevolge artikel 22 aangewys is;
 - sluit "plaaslike regeringsaangeleenthed" vir die doeleinades van artikels 49 en 50 nie die bevordering, opponering of bespreking van die verkiesing van enige persoon tot enige munisipale, provinsiale of nasionale liggaam, organisasie of korporasie nie;
 - beteken "Ordonnansie op Plaaslike Regering" die Ordonnansie op Plaaslike Regering, 1939 (Ordonnansie 17 van 1939), soos gewysig;
 - beteken "Oorgangswet op Plaaslike Regering" die Oorgangswet op Plaaslike Regering, 1993 (Wetnr. 209 van 1993), soos gewysig;
 - beteken "LUR" die betrokke lid van die Uitvoerende Raad vir plaaslike regeringsaangeleenthede in die Provinsie van Gauteng;
 - sluit "bevoegdhede, funksies of pligte" die begrip van "bevoegdhede en funksies" soos bedoel in die Grondwet en "bevoegdhede en pligte" soos bedoel in die Oorgangswet op Plaaslike Regering in;
 - beteken "voorgeskryf" voorgeskryf deur enige regulasie, en "voorskryf" het 'n ooreenstemmende betekenis;
 - beteken "provinsie" die Provinsie van Gauteng;

beteken "openbare plek" enige pad, straat, deurgang, brug, oorhoofse brug, duikweg, sypaadjie, voetpaadjie, laan, plein, oop gebied, tuin, park, padjie, bus- of taxi-staanplek, serwituut of ingesloten ruimte wat aan 'n munisipaliteit behoort en sluit enige pad, plek of deurgang in wat ononderbroke deur die publiek gebruik word of wat die publiek die reg het om te gebruik;

beteken "standaardverordening" enige verordening wat deur die LUR uitgevaardig word ooreenkomsdig die bepalings van artikels 10 en 11; en

sluit "hierdie Wet" die artikelnummers, die bylaes en enige regulasie in wat ingevolge hierdie Wet uitgereik of uitgevaardig word, maar sluit dit nie die opskrifte in nie.

Doel

- 2 (1) Die doel van hierdie Wet is om die wetgewende en administratiewe raamwerk waarbinne die plaaslike regeringsfeer sy sake kan bestuur te rationaliseer in verband met, onder andere -
 - (a) die bepaling en standaardisering van die status, bevoegdhede, funksies en pligte van 'n munisipale raad;
 - (b) die uitreiking en uitvaardiging van verordeninge, standaardverordeninge en regulasies;
 - (c) die harmonisering van arbeidsverhoudinge; en
 - (d) die instaatstelling van munisipaliteite om hul sake te verrig, meer in besonder met betrekking tot die verkryging van goedere en dienste, die verrigting van werke en die uitvoer van inspeksies, en die regulering van toegang tot openbare plekke.
- (2) Ten opsigte van die aangeleenthede waarna in subartikel (1) verwys word, is hierdie Wet daarop gemik om die transformasie van die plaaslike regeringsfeer te faciliteer deur -
 - (i) die vermoë en integriteit van die plaaslike regeringsfeer te bevorder en te versterk;
 - (ii) munisipaliteite aan te moedig om toereikende standarde van beheer en dienslewering te handhaaf en te verbeter;
 - (iii) lede van die publiek aan te moedig om tot die beheer van munisipaliteite by te dra; en
 - (iv) 'n gees van samewerking en gedeelde verantwoordelikheid in die regering te bevorder.

Toepassing van die Wet

- 3 (1) Enige persoon wat hierdie Wet toepas of vertolk, moet -
- (a) 'n konstruksie van die bepalings daarvan gee op 'n wyse wat -
 - (i) ooreenstem met die verklaring van doelstelling soos in afdeling 2 uiteengesit; en
 - (ii) ag slaan op die besonderse doel, rol en omstandighede van die plaaslike regeringsfeer soos wat dit in die Grondwet en enige ander wet beoog word.
- (2) Die bepalings van hierdie Wet moet gesien word -
- (a) in die lig van enige ander wet wat 'n munisipale raad beheer; en
 - (b) op 'n wyse wat 'n redelike vertolking van die tersaaklike wet in die hand werk en wat teenstrydigheid tussen hulle vermy oor 'n vertolking wat hulle in stryd met mekaar bring.
- (3) Indien enige konflik in verband met die aangeleenthede wat in hierdie Wet hanteer word tussen hierdie Wet en die bepalings van enige ander wet ontstaan, behalwe die Grondwet, die Oorgangswet op Plaaslike Regering of enige Wet waardeur hierdie Wet uitdruklik gewysig word, geld die bepalings van hierdie Wet.

HOOFSTUK 2

STATUS, BEVOEGDHEDE, FUNKSIES EN PLIGTE VAN MUNISIPALITEITE

Status van munisipaliteite

- 4 (1) Behoudens enige ander wet moet elke munisipale raad ingestel ingevolge die Oorgangswet op Plaaslike Regering, of wat verklaar is ingevolge daardie Wet ingestel te wees -
- (a) voortbestaan en sy status as 'n munisipale raad behou; en
 - (b) geag word 'n regspersoon te wees.
- (2) 'n Munisipale raad, behoudens enige ander wet, as 'n regspersoon -
- (a) gaan voort om te bestaan ondanks enige veranderinge aan sy regsgebied of die samestelling van sy beheerstrukture;
 - (b) is bevoeg om in sy eie naam eisend en verwerend op te tree; en
 - (c) kan eiendom koop, hou, verhuur of vervreem.

Stadstatus van munisipaliteit

- 5 (1) 'n Munisipale raad wat tot 'n stad verklaar is ingevolge die Ordonnansie op Plaaslike Regering of enige ander wet, behou sy status as 'n stad.
- (2) Indien 'n metropolitaanse raad binne sy regssgebied 'n metropolitaanse plaaslike raad het wat tot 'n stad verklaar is of geag word te wees soos beoog in subartikel (1), verkry die metropolitaanse raad -
- (a) die status van 'n stad; en
 - (b) al die bevoegdhede, verpligte, voorregte en voordele aan 'n stad verleen ingevolge enige ander wet.
- (3) 'n Munisipale raad wat tot 'n stad verklaar is soos in subartikel (1) beoog of wat stadstatus verkry het soos in subartikel (2) beoog, kan hierdie status weerspieël -
- (a) in sy naam; en
 - (b) op enige van sy dokumente.

Die bevoegdhede, funksies en pligte van munisipale rade

- 6 (1) Benewens die bevoegdhede, funksies of pligte van 'n munisipale raad bedoel in die Grondwet, die Oorgangswet op Plaaslike Regering of enige ander wet, het 'n munisipale raad die bevoegdhede, funksies of pligte wat ingevolge hierdie Wet aan hom verleen, opgelê, opgedra of gedelegeer word.
- (2) 'n Munisipale raad kan enige stap doen wat nodig of dienstig is vir die bereiking van die doel van hierdie Wet.
- (3) 'n Munisipale raad kan verordeninge uitvaardig en administreer vir die doeltreffende -
- (a) verrigting van sy bevoegdhede, funksies of pligte; en
 - (b) administrasie van die aangeleenthede ten opsigte waarvan hy die reg het om te administreer.

HOOFSTUK 3

VERORDENINGE, STANDAARDVERORDENINGE EN REGULASIES

(a) Verordeninge

Prosedure vir die uitvaardiging van verordeninge

- 7 (1) Om 'n verordening uit te vaardig moet 'n munisipale raad 'n resolusie aanneem waarin sy voorneme te dien effekte verklaar word.
- (2) Nadat die resolusie aangeneem is, moet die munisipale raad -
- (a) sy voorneme om die verordening uit te vaardig deur kennisgewing in die provinsiale koerant aankondig;
 - (b) die volgende in die kennisgewing vermeld:
 - (i) dat kommentaar op 'n konsepverordening verlang word;
 - (ii) in opgesomde vorm, waaroer die konsepverordening handel;
 - (iii) die persoon aan wie of die plek waar navrae oor die konsepverordening gerig kan word;
 - (iv) behoudens subartikels (7) en (8), die plek waar, tyd wanneer, omstandighede waarin en wyse waarop 'n afskrif van die konsepverordening verkry kan word of ter insae beskikbaar sal wees;
 - (v) die tydperk vir kommentaar op die konsepverordening, wat minstens een maand na die datum van die kennisgewing moet wees; en
 - (vi) die persoon aan wie of die plek waar kommentaar op die konsepverordening ingedien kan word;
 - (c) te enige tyd voordat die verordening uitgevaardig word, oorleg pleeg in enige vorm met enige tersaaklike belangegroepe, insluitend die hou van 'n ondersoek; en
 - (d) die kommentaar wat ontvang is en die inhoud van oorlegpleging oorweeg voordat die verordening uitgevaardig word.
- (3) Indien 'n munisipale raad nie binne een jaar na die aankondiging in subartikel (1)(b) bedoel 'n verordening uitgevaardig het nie, kan daardie verordening nie uitgevaardig word tensy die prosedure in subartikel (1) bedoel, herhaal word nie.

- (4) Die bepalings van subartikels (1)(b) en (2) is nie van toepassing ten opsigte van -
- (a) enige verordening wat in openbare belang sonder versuim uitgevaardig moet word nie; en
 - (b) 'n wysiging om 'n tekstuele fout reg te stel nie.
- (5) Die bepalings van subartikels (1) tot (3) is van toepassing ten opsigte van die wysiging of herroeping van enige verordening, met sodanige veranderinge wat die samehang vereis.
- (6) 'n Verordening tree in werking op die datum van publikasie daarvan in die provinsiale koerant of op sodanige ander datum as wat in die provinsiale koerant gemeld word.
- (7) 'n Municipale raad kan 'n fooi bepaal vir die verkryging van 'n afskrif van die konsepverordening.
- (8) Die plek waar die konsepverordening vertoon word, moet almal wat deur dié verordening geraak word in staat stel om vinnig en gerieflik oor die inhoud daarvan ingelig te word.
- (9) Elke municipale raad moet beleide en programme ontwikkel en implementeer om lede van die publiek by te staan om kommentaar op die konsepverordening te lewer.

Periodieke hersiening van verordeninge

- 8 (1) 'n Municipale raad moet 'n hersiening van sy verordeninge uitvoer en afhandel -
- (a) wat voor of ten tye van die inwerkingtreding van hierdie Wet in werking is, voor 'n datum wat deur die LUR voorgeskryf word;
 - (b) wat na die inwerkingtreding van hierdie Wet in werking tree, met tussenposes van minstens tien (10) jaar na die inwerkingtreding van daardie verordeninge.
- (2) Indien 'n municipale raad versuim om 'n hersiening binne die tydperke in subartikel (1) vermeld uit te voer en af te handel, mag die LUR die municipale raad versoek om vertoë voor te lê waarin die redes vir sy versuim uiteengesit word.
- (3) 'n Municipale raad moet aan hierdie versoek voldoen en vertoë skriftelik binne een maand vanaf ontvangs van die versoek by die LUR indien.
- (4) Indien, nadat hierdie vertoë oorweeg is, die LUR nie tevreden is met die redes vir die versuim nie, mag die LUR deur middel van skriftelike kennisgwing die municipale raad aanbeveel om die hersiening binne 'n redelike tydperk uit

te voer.

- (5) Die kennisgewing waarna in subartikel (4) verwys word, moet die LUR se redes vir die besluit bevat.
- (6) Vir doeleteindes van hierdie artikel sluit "'n hersiening uitvoer en afhandel" in -
 - (a) die evaluering of oorweging van 'n verordening; en, indien gepas,
 - (b) die uitvaardiging, wysiging of herroeping van 'n verordening.

Toegang tot en insae in verordeninge

- 9 (1) Benewens enigiets waarvoor daar voorsiening gemaak word in enige regulasie uitgereik ingevolge artikel 13(1), moet 'n munisipale raad die omstandighede bepaal waarin en die wyse waarop die publiek toegang tot of insae in enige verordening mag verkry of 'n afskrif daarvan kan bekom.
- (2) Die bepaling waarna in subartikel (1) verwys word, mag nie 'n fooi vir blote kyk na of insae in 'n verordening bepaal nie.

(b) Standaardverordeninge

Die LUR se bevoegdheid om standaardverordeninge uit te vaardig

- 10 Ten einde munisipaliteite by te staan, kan die LUR 'n standaardverordening uitvaardig oor enige aangeleentheid wat in artikel 6 beoog word.

Prosedure vir die uitvaardiging van standaardverordeninge

- 11 Die bepalings van artikel 15 is van toepassing op die uitvaardiging van standaardverordeninge, met die veranderings wat die samehang mag vereis.

Uitwerking van 'n standaardverordening

- 12 (1) 'n Standaardverordening of die wysiging of herroeping daarvan is bindend vir 'n munisipale raad slegs indien hy 'n verordening te dien effekte uitvaardig.
- (2) 'n Verwysing in 'n verordening na 'n standaardverordening is voldoende om die inhoud van die standaardverordening in die verordening op te neem.

(c) Regulasies

Die LUR se bevoegdheid om regulasies uit te vaardig

- 13 (1) Binne een jaar na die inwerkingtreding van hierdie Wet moet die LUR regulasies uitvaardig oor die omstandighede waarin en die wyse waarop die publiek toegang kan kry tot, insae kan hê in, of 'n afskrif kan kry van enige regulasie, verordening, standaardverordening, kode of prosedure; en
- (2) Die LUR kan regulasies uitvaardig oor enige aangeleentheid wat nodig of dienstig is vir die bereiking van die doel van hierdie Wet.

Inhoud van regulasies

- 14 (1) 'n Regulasie kan -
- (a) 'n bevoegdheid verleen aan of 'n plig plaas op 'n persoon, liggaam of openbare owerheid;
 - (b) voorwaardes bevat, insluitend beperkings of 'n verbod, en kan voorsiening maak vir vrystellings; en
 - (c) uitgereik word ten opsigte van -
 - (i) verskillende dele van Gauteng; of
 - (ii) verskillende kategorieë persone of liggeme.
- (2) Die LUR kan te enige tyd en met betrekking tot enige persoon, liggaam, organisasie of korporasie, en onderworpe die bepalings van die betrokke regulasie, by wyse van kennisgewing in die provinsiale koerant of afgelewer per pos of per hand -
- (a) enige voorwaardes beoog in die regulasie, oplê, wysig of intrek; of
 - (b) enige vrystelling beoog in die regulasie, verleen, wysig of intrek.
- (3) Die LUR mag geen voorwaarde of vrystelling wat ingevolge subartikel (2) opgelê of verleen is, wysig of intrek tensy die persoon of liggaam op wie dit van toepassing is, 'n geleentheid gebied is om vertoe oor die kwessie te rig nie.
- (4) 'n Beperking of verbod vervat in die regulasies moet -
- (a) in verhouding wees tot die oogmerke van daardie regulasie; en
 - (b) die gedrag van persone en liggeme so min as wat redelikerwys moontlik is, beperk.
- (5) Indien 'n versuim om te voldoen aan 'n beperking of verbod ingevolge

enige regulasie 'n oortreding is waarvoor 'n persoon strafrechtlik aanspreeklik kan wees, moet daardie regulasie bepaal dat, in soverre dit doenlik is, die persoon kennis gegee moet word van die oortreding en 'n geleentheid gebied moet word om aan die regulasies te voldoen, alvorens hy of sy strafrechtlik aanspreeklik word.

Prosedure vir die uitvaardiging van regulasies

- 15 (1) Om enige regulasie ingevolge hierdie Wet uit te vaardig, moet die LUR -
 - (a) sy/haar voorneme om die regulasie uit te vaardig by wyse van kennisgewing in die provinsiale koerant aankondig.
 - (b) die volgende in die kennisgewing spesifieer:
 - (i) dat kommentaar oor konsepregulasies ingewag word;
 - (ii) waарoor die konsepregulasies handel, in opgesomde formaat,
 - (iii) die persoon aan wie of die plek waar navrae oor die konsepregulasies gerig kan word;
 - (iv) behoudens subartikels (6) en (7), die plek waar, tyd wanneer, omstandighede waarin en wyse waarop 'n afskrif van die konsepregulasies verkry kan word of ter insae beskikbaar sal wees;
 - (v) die tydperk vir kommentaar op die konsepregulasies, wat minstens een maand na die datum van die kennisgewing moet wees; en
 - (vi) die persoon aan wie of die plek waar kommentaar op die konsepregulasies ingedien kan word;
 - (c) te enige tyd voordat die regulasies uitgereik word, oorleg pleeg in enige vorm met enige tersaaklike belangsgroepe, insluitend die hou van 'n ondersoek;
 - (d) die kommentaar wat ontvang is en die inhoud van oorlegpleging oorweeg; en
 - (e) die instemming van die komitee van die provinsiale wetgewer verantwoordelik vir plaaslike regeringsaangeleenthede bekom, voordat die regulasie uitgevaardig word.
- (2) Indien die LUR nie binne een jaar na die aankondiging waarna in subartikel (1)(a) verwys word daardie regulasies uitgevaardig het nie, kan daardie regulasies nie uitgevaardig word tensy die prosedure wat in subartikel (2) bepaal word, herhaal word nie.

- (3) Die bepalings van subartikel (1) is nie van toepassing ten opsigte van -
 - (a) regulasies wat in openbare belang sonder versuim uitgevaardig moet word nie; en
 - (b) 'n wysiging om 'n tekstuele fout reg te stel nie.
- (4) Die bepalings van subartikels (1) en (2) is van toepassing ten opsigte van die wysiging of herroeping van enige regulasies, met sodanige veranderinge wat die samehang vereis.
- (5) Regulasies tree in werking op die datum van publikasie daarvan in die provinsiale koerant of op sodanige ander datum as wat in die provinsiale koerant gemeld word.
- (6) 'n Municipale raad kan 'n fooi bepaal vir die verkryging van 'n afskrif van die konsepregulasies.
- (7) Die plek waar die konsepregulasies vertoon word, moet almal wat deur die regulasies geraak word in staat stel om vinnig en gerieflik oor die inhoud daarvan ingelig te word.
- (8) Die LUR moet stappe doen om te verseker dat beleide en programme ontwikkel en implementeer word om lede van die publiek by te staan om kommentaar op die konsepregulasies te lewer.

HOOFSTUK 4

AANGELEENTHEDE RAKENDE PERSONEEL, RAADSLEDE EN BURGEMEESTERS

Aanstelling van hoof uitvoerende beampete en ander personeel

- 16 Elke municipale raad moet met behoorlike inagneming van deursigtigheid en openbare verantwoordbaarheid -
- (a) 'n hoof uitvoerende beampete en sodanige ander personeel aanstel as wat nodig is vir die behoorlike uitvoering van sy bevoegdhede, funksies of pligte; en
 - (b) die hoof uitvoerende beampete en personeel aanstel op sodanige bepalings en voorwaardes as wat onderhandel mag word.

Bevoegdhede en pligte van hoof uitvoerende beampete

- 17 (1) Benewens wat in hierdie Wet of enige ander wet bepaal word, is die bevoegdhede en pligte van die hoof uitvoerende beampete -

- (a) om as hoof van die munisipale raad se personeel op te tree en in hierdie hoedanigheid gesag oor hulle uit te oefen -
 - (i) in soverre dit nodig mag wees vir die doeltreffende bestuur en uitvoering van die munisipale raad se bevoegdhede, funksies of pligte; of
 - (ii) in die mate waartoe deur die munisipale raad bepaal word.
 - (b) om toesig te hou oor die doeltreffende en doelmatige implementering van die munisipale raad se programme en beleide en die uitvoering van sy bevoegdhede, funksies of pligte;
 - (c) om te verseker dat die hulpbronne van die munisipale raad so doeltreffend moontlik aangewend word om die oogmerke van die munisipale raad te bereik;
 - (d) om te verseker dat doeltreffende en regverdig personeelverwante beleide in alle departemente ontwikkel en geïmplementeer word; en
 - (e) om goeie verhoudinge aan te moedig en te handhaaf, beide in die munisipale raad en met die gemeenskap wat dit dien.
- (2) Die hoof uitvoerende beampete het sodanige ander bevoegdhede, pligte en funksies -
- (a) as wat die munisipale raad geskik ag; en
 - (b) waarvoor daar in enige ander wet voorsiening gemaak word.

Rasionalisasie van bepalings en voorwaardes van diens

- 18 In die geval van 'n amalgamasie of samesmelting van munisipaliteite ingevolge enige wet -
- (a) word die werknemers van die voorheen saamgestelde munisipaliteite geag werknemers van die geamalgameerde of saamgesmelte munisipale raad te wees;
 - (b) moet die bepalings en voorwaardes van diens van die werknemers wat deur die amalgamasie of samesmelting geraak word, te alle tye nie minder gunstig wees as dié wat voor die amalgamasie of samesmelting op hulle van toepassing was nie; en
 - (c) moet die geamalgameerde of saamgesmelte munisipale raad so gou as wat doenlik is, maatreëls ontwerp en implementeer om enige verskille in die bepalings en voorwaardes van diens wat daar moontlik tussen die werknemers van die voorheen saamgestelde munisipaliteite bestaan, gelyk te stel, met inagneming van hul posvlakte.

Mediese bystandsvoordele

- 19 (1) Elke munisipale raad -
- (a) moet toegang tot 'n skema verskaf wat mediese bystandsvoordele aan al sy werknemers verleen, insluitend sy afgetrede werknemers; en
 - (b) kan toegang tot 'n skema verskaf wat mediese bystandsvoordele aan al sy raadslede verleen.
- (2) Die skema wat in subartikel (1) beoog word, hoef nie ontwerp te wees op 'n wyse wat mediese bystandsvoordele uitsluitlik aan die kategorie persone wat onderskeidelik in subartikel (1) (a) en (b) beoog, verleen nie.
- (3) Die skema wat in subartikel (1) beoog word en die reëls, verpligtinge en voordele wat daarop van toepassing is, insluitend die reëls betreffende die kwalifisering vir voordele of die bydraes wat deur 'n munisipale raad of die begunstigdes van die skema gemaak word, moet bepaal word -
- (a) waar van toepassing, in ooreenstemming met die procedures vermeld in enige bestaande kollektiewe procedurele bedingingsooreenkoms; en
 - (b) na oorlegpleging met alle begunstigdes wat geraak word.
- (4) Enige skema ingestel ingevolge die Ordonnansie op Plaaslike Regering of enige ander toepaslike wet of kollektiewe ooreenkoms wat mediese bystandsvoordele aan die werknemers of raadslede van 'n munisipale raad verleen, gaan voort om te bestaan, en die reëls, verpligtinge en voordele van toepassing op die skema bly van toepassing tensy dit vervang of gewysig word -
- (a) ingevolge hierdie Wet of enige ander wet;
 - (b) ingevolge sy eie reëls; en
 - (c) in ooreenstemming met die prosedure in subartikel (3) beoog.
- (5) 'n Vervanging of wysiging soos in subartikel (4) beoog, mag geen werknemer of raadslid in 'n posisie plaas wat minder gunstig is as die posisie wat voor die vervanging of wysiging bestaan het nie.

Aftreevoordele

- 20 (1) Elke munisipale raad -
- (a) moet toegang tot 'n skema verskaf wat aftreevoordele aan al sy werknemers verleen; en
 - (b) moet toegang tot 'n skema verskaf wat aftreevoordele aan al sy

raadslede verleen.

- (2) Die skema in subartikel (1) beoog hoof nie ontwerp te wees op 'n wyse wat aftreevoordele uitsluitlik aan die kategorie persone wat onderskeidelik in subartikel (1) (a) en (b) beoog word, verleen nie.
- (3) Die skema in subartikel (1) beoog en die reëls, verpligtinge en voordele wat daarop van toepassing is, insluitend reëls van toepassing op kwalifisering vir voordele of bydraes wat deur 'n munisipale raad of die begunstigdes van die skema gemaak word, moet bepaal word -
 - (a) waar toepaslik, in ooreenstemming met die prosedures vermeld in enige bestaande kollektiewe procedurele bedingingsooreenkoms; en
 - (b) na oorleg met alle ander potensiële of geaffekteerde begunstigdes.
- (4) Enige skema ingestel ingevolge die Ordonnansie op Plaaslike Regering of enige ander toepaslike wet of kollektiewe ooreenkoms wat aftreevoordele aan die werknekmers of raadslede van 'n munisipale raad verleen, gaan voort om te bestaan, en die reëls, verpligtinge en voordele van toepassing op die skema gaan voort om van toepassing te wees tensy dit vervang of gewysig word -
 - (a) ingevolge hierdie Wet of enige ander wet;
 - (b) ingevolge sy eie reëls; en
 - (c) in ooreenstemming met die procedure in subartikel (3) beoog.
- (5) Enige vervanging of wysiging in subartikel (4) beoog, mag geen werknekmer of raadslid in 'n posisie plaas wat minder gunstig is as die posisie wat voor die vervanging of wysiging bestaan het nie.
- (6) Waar fondse ingestel is ingevolge artikel 79 *ter* en 79 *quat* van die Ordonnansie op Plaaslike Bestuur, moet die betrokke munisipale raad maatreëls ontwerp en implementeer om die voordele van werknekmers wat aan hierdie fondse behoort, gelyk te stel, met inagneming van hul onderskeie posvlakte.
- (7) Die munisipale raad moet die maatreëls wat in subartikel (6) bedoel word binne twee (2) jaar vanaf die inwerkingtreding van die Wet onderneem.

Diverse bepalings rakende burgemeesters

- 21 (1) Wanneer 'n burgemeester aangestel word -

- (a) kan 'n munisipale raad die ampstermyn van die burgemeester bepaal sodat dit saamval met die ampstermyn van die munisipale raad; en
- (b) om 'n vakature te vul wat gedurende 'n ampstermyn van die munisipale raad ontstaan, kan die aanstelling beperk word tot die onverstreke deel van daardie ampstermyn.
- (2) Ten einde 'n burgemeester van sy amp te onthef kan 'n munisipale raad bepaal dat dit gedoen kan word slegs deur 'n resolusie wat deur 'n meerderheid van minstens twee derdes gesteun is.
- (3) 'n Munisipale raad kan aan sy burgemeester die verantwoordelikheid deleer om enige aspek van 'n tersaaklike nasionale of provinsiale program of veldtog te implementeer of die implementering daarvan te monitor, en hierdie verantwoordelikheid moet uitgeoefen word binne die bestek van die munisipale raad se beleide en procedures.
- (4) 'n Burgemeester kan in 'n uitvoerende komitee of enige ander komitee van 'n munisipale raad dien hetsy -
 - (a) in die gewone hoedanigheid as 'n raadslid; of
 - (b) uit hoofde van die amp van burgemeester.
- (5) 'n Munisipale raad kan bepaal dat 'n burgemeester geen stemreg het nie wanneer hy of sy in die uitvoerende komitee of enige ander komitee dien in die omstandighede in subartikel (4)(b) beoog.
- (6) Indien 'n munisipale raad dit nodig ag om 'n adjunkburgemeester aan te stel, kan die raad die bepalings van subartikels (1) tot (5) op adjunkburgemeesters toepas, met die veranderinge wat die samehang vereis.

HOOFSTUK 5

AANGEWESE BEAMPTES, VERRIGTING VAN WERK, INSPEKSIES, NAKOMING VAN PROSEDURES EN VERBANDHOUDENDE OORTREDINGS

Magtiging van aangewese beampes

- 22 Die hoof uitvoerende beampte kan enige persoon in diens van 'n munisipale raad magtig om 'n aangewese beampte te wees.

Funksies van aangewese beampes

- 23 (1) Aangewese beampes kan werk verrig, inspeksie doen en die nakoming van

hierdie Wet en enige ander wet monitor en afdwing wat 'n munisipaliteit magtig om iemand aan te wys om werk te verrig, inspeksie te doen of nakoming te monitor en af te dwing.

- (2) Behoudens enige ander wet moet 'n aangewese beampete die funksies in hierdie artikel beoog, verrig ooreenkomstig die prosedure in artikels 25 en 26 uiteengesit.

Bevoegdhede van aangewese beamptes

- 24 (1) Die bevoegdhede van aangewese beamptes waarvoor daar in hierdie Hoofstuk voorsiening gemaak word, is -
- (a) benewens enige bevoegdheid verleen aan 'n aangewese beampete ingevolge enige ander wet; en
 - (b) onderworpe aan daardie wette.
- (2) 'n Aangewese beampete wat werk verrig of 'n inspeksie doen, kan -
- (a) grond of persele inspekteer of werk daarop verrig;
 - (b) 'n persoon teenwoordig op enige grond of perseel ondervra ten opsigte van enige aangeleentheid wat op die werk of inspeksie betrekking mag hê;
 - (c) 'n persoon ondervra wat die aangewese beampete vermoed oor inligting beskik wat op die werk of ondersoek betrekking mag hê;
 - (d) enige dokument ondersoek wat 'n persoon moet byhou ingevolge enige wet of wat op enige werk of inspeksie betrekking mag hê;
 - (e) enige dokument waarna in paragraaf (d) verwys word, kopieer of, indien nodig, die dokument verwyder ten einde dit te kopieer;
 - (f) monsters neem van enige stof wat op die werk of inspeksie betrekking het;
 - (g) lesings monitor en neem of metings doen;
 - (h) foto's neem of audiovisuele opnames maak van enigiets of enige persoon, proses, handeling of toestand op of betreffende enige grond of perseel; en
 - (i) alle dinge doen wat nodig is vir die verrigting van werk of die uitvoer van 'n inspeksie wat ingevolge enige ander wet van 'n munisipaliteit vereis word.
- (3) 'n Aangewese beampete wat enigiets anders as 'n stof soos bedoel in subartikel (2)(f) van grond of 'n perseel waarop daar gewerk word of wat

geïnspekteer word af verwyder, moet -

- (a) 'n kwitansie daarvoor aan die eienaar of persoon in beheer van die perseel uitreik; en
- (b) dit so gou doenlik terugbesorg nadat die doel bereik is waarvoor dit verwyder is.

Procedure om werk te verrig of inspeksie uit te voer: betreding met 'n skriftelike magtiging

- 25 (1) 'n Aangewese beampete kan enige grond of perseel betree indien 'n landdros of 'n regter 'n skriftelike magtiging uitgereik het om die grond of perseel te betree en werk daar te verrig of 'n inspeksie uit te voer, en die skriftelike magtiging nog geldig is.
- (2) 'n Landdros of 'n regter kan 'n skriftelike magtiging uitreik om enige grond of perseel te betree en werk te verrig of 'n inspeksie te doen indien, uit inligting onder eed, daar redelike gronde is om te vermoed dat -
- (a) in belang van die publiek, dit nodig is om werk te verrig of inligting te verkry wat nie verkry kan word sonder om daardie grond of perseel te betree nie; of
 - (b) daar nie-nakoming is van die bepalings van hierdie Wet of enige ander wet beoog in artikel 23 ten opsigte van daardie grond of perseel.
- (3) 'n Skriftelike magtiging ingevolge subartikel (2) kan te enige tyd uitgereik word en moet spesifiek -
- (a) die grond of perseel identifiseer wat betree kan word of waarop daar gewerk kan word of wat geïnspekteer kan word; en
 - (b) die aangewese beampete magtig om die grond of perseel te betree en werk te verrig of dit te inspekteer en om enigiets te doen wat in artikel 24(2) aangedui is.
- (4) 'n Skriftelike magtiging ingevolge subartikel (2) is geldig totdat een van die volgende gebeurtenisse plaasvind -
- (a) dit uitgevoer word;
 - (b) dit gekanselleer word deur die persoon wat dit uitgereik het of, in die afwesigheid van daardie persoon, deur 'n persoon met soortgelyke gesag;
 - (c) die doel waarvoor dit uitgereik is, verval het; of
 - (d) drie maande verloop het sedert die datum waarop dit uitgereik is.

- (5) 'n Skriftelike magtiging ingevolge subartikel (2) mag slegs tussen 07:00 en 19:00 uitgevoer word, tensy die landdros of regter wat dit uitreik, skriftelik verklaar dat dit op 'n ander tyd wat in die omstandighede redelik is, uitgevoer kan word.
- (6) Voordat hulle met enige werk of inspeksie begin, moet aangewese beampies wat 'n skriftelike magtiging uitvoer -
- (a) indien die eienaar of 'n ander persoon skynbaar in beheer van die grond of perseel teenwoordig is -
 - (i) hulself identifiseer en hulle gesag verduidelik of bewys van hulle magtiging aan daardie persoon lever; en
 - (ii) 'n afskrif van die skriftelike magtiging aan daardie persoon oorhandig;
 - (b) indien die eienaar of persoon skynbaar in beheer van die grond of perseel afwesig is of weier om 'n afskrif te ontvang, 'n afskrif van die skriftelike magtiging op 'n opvallende en sigbare plek aan die grond of perseel heg.

Prosedure om werk te verrig of inspeksie uit te voer: betreding sonder 'n skriftelike magtiging

- 26 (1) 'n Aangewese beampte wat nie 'n skriftelike magtiging het nie, kan -
- (a) enige grond of perseel betree en dit inspekteer of werk daar verrig met die instemming van die eienaar of persoon skynbaar in beheer van daardie grond of perseel; of
 - (b) enige grond of perseel, uitgesonderd residensiële grond of perseel, op 'n roetinegrondslag betree en dit inspekteer of werk daar verrig -
 - (i) maar nie meer dikwels as drie keer gedurende 'n tydperk van 12 maande nie; of
 - (ii) meer dikwels indien dit regtens vir die doel van die werk of inspeksie toelaatbaar is.
- (2) Benewens die betreding toegelaat ingevolge subartikel (1) kan 'n aangewese beampte enige grond of perseel sonder 'n skriftelike magtiging betree -
- (a) indien hy of sy by enige ander wet gemagtig word om dit te doen; of
 - (b) ten opsigte waarvan daar 'n uitstaande nakomingskennisgewing ingevolge artikel 32 uitgereik is, met die doel om vas te stel of daardie kennisgewing nagekom is.

- (3) Alvorens hulle ingevolge hierdie artikel begin werk of enige grond of perseel inspekteer, moet aangewese beamptes hulself identifiseer en hulle gesag verduidelik of bewys van hulle magtiging lewer aan die persoon skynbaar in beheer van die grond of perseel of die persoon wat aan hulle toestemming verleen het om die grond of perseel te betree.
- (4) Betreding en verrigting van werk of inspeksie sonder 'n skriftelike magtiging moet gedoen word op 'n tyd wat in die omstandighede redelik is.

Nakoming van fundamentele regte

- 27 Aangewese beampes wat enige grond of persele ingevolge hierdie Hoofstuk betree en inspekteer of werk daar verrig, moet hulle gedra met streng inagneming van ordentlikheid en ordelikheid en met inagneming van elke persoon se menseregte, insluitend die reg op waardigheid, vryheid, sekuriteit en privaatheid.

Gebruik van geweld om toegang te bekom

- 28 (1) 'n Aangewese beampte wat 'n skriftelike magtiging ingevolge artikel 25 uitvoer, kan enige weerstand teen betreding, die verrigting van werk of inspeksie oorkom deur soveel geweld te gebruik as wat redelikerwys nodig is, insluitend om 'n slot, deur of venster van die grond of perseel wat betree moet word, te breek.
- (2) Voordat geweld gebruik word, moet die persoon wat die skriftelike magtiging uitvoer, hoorbaar toegang versoek en sy of haar doel aankondig, tensy hy of sy redelickerwys vermoed dat dit sal veroorsaak dat iemand 'n artikel of dokument wat die onderwerp van die werk of inspeksie is, sal vernietig of wegdoen of daarmee peuter.
- (3) Die fondse van die munisipale raad moet aangewend word om enigiemand te vergoed wat skade ly as gevolg van betreding met geweld tydens die verrigting van enige werk of inspeksie wanneer daar niemand verantwoordelik vir die grond of perseel teenwoordig was nie.
- (4) Tensy 'n noodgeval opduik of dit spesifiek deur enige ander wet gemagtig word, mag geweld nie gebruik word nie om betreding te bewerkstellig om werk te verrig of 'n inspeksie ingevolge artikel 26 uit te voer nie.

Aangewese beampte kan vergesel word

- 29 Gedurende die verrigting van enige werk of 'n inspeksie kan 'n aangewese beampte vergesel word deur 'n lid van die Suid-Afrikaanse Polisiediens of enige ander persoon wat redelickerwys nodig is om te help met die verrigting van die werk of die uitvoering van die inspeksie, of beide.

Plig om dokumente aan te bied

- 30 Enige persoon wat enige dokument het wat betrekking het op die verrigting van

enige werk of inspeksie, moet dit op versoek van die aangewese beampte aanbied:

Plig om vrae te beantwoord en aangewese beamptes by te staan

- 31 (1) Enige persoon wat deur 'n aangewese beampte ingevolge hierdie Hoofstuk ondervra word, moet eerlik en na sy of haar beste vermoë antwoord.
- (2) 'n Antwoord of verduideliking wat aan 'n aangewese beampte verstrek is, mag nie in 'n strafregtelike geding teen die persoon wat dit verstrek het, gebruik of toegelaat word nie, behalwe in 'n geding teen daardie persoon op 'n aanklag betreffende -
- (a) die afneem of aflê van 'n eed;
 - (b) die maak van vals verklarings; of
 - (c) die versuim om 'n wettige vraag volledig en bevredigend te beantwoord.
- (3) 'n Eienaar of okkuperer van enige grond of perseel moet enige fasiliteit en bystand verskaf wat redelikerwys deur 'n aangewese beampte verlang word om sy of haar funksies doeltreffend te kan verrig.

Nakomingskennisgewings

- 32 (1) 'n Aangewese beampte wat daarvan bewus word dat enige bepaling van hierdie Wet nie nagekom is nie, kan 'n nakomingskennisgewing uitreik aan die eienaar of persoon wat skynbaar in beheer van die betrokke grond of perseel is.
- (2) 'n Aangewese beampte wat oortuig is dat die eienaar of persoon skynbaar in beheer van enige grond of perseel voldoen het aan die bepalings van 'n nakomingskennisgewing, kan 'n nakomingsertifikaat te dien effekte uitreik.
- (3) 'n Nakomingskennisgewing bly van krag totdat 'n aangewese beampte 'n nakomingsertifikaat ten opsigte van daardie kennisgewing uitreik.
- (4) 'n Nakomingskennisgewing moet die volgende uiteensit:
- (a) die bepaling wat nie nagekom is nie;
 - (b) besonderhede van die aard en omvang van nie-nakoming;
 - (c) enige stappe wat gedoen moet word en die tydperk waarin daardie stappe uitgevoer moet word; en
 - (d) enige straf wat ingevolge artikel 51 opgelê kan word in die geval van die nie-nakoming van hierdie stappe.

Oortredings

33 (1) Dit is 'n oortreding vir enige persoon -

- (a) om te weier om aan 'n aangewese beamppte toegang te verleen tot grond of 'n perseel ten opsigte waarvan daardie aangewese beamppte behoorlik gemagtig is om toegang te hê;
- (b) om 'n aangewese beamppte wat 'n plig ingevolge hierdie Wet uitvoer, te verhinder of te dwarsboom of met hom of haar in te meng;
- (c) om te versuim of te weier om 'n aangewese beamppte te voorsien van 'n dokument of inligting wat die persoon ingevolge hierdie Wet moet verskaf;
- (d) om valse of misleidende inligting aan 'n aangewese beamppte te verstrek;
- (e) om die eienaar van enige grond of perseel, of 'n persoon wat vir daardie eienaar werk, onwettig te verhinder om die grond of perseel te betree ten einde 'n vereiste van hierdie Wet na te kom;
- (f) om voor te gee om 'n aangewese beamppte te wees;
- (g) om 'n magtiging aan 'n aangewese beamppte, of 'n skriftelike magtiging, nakomingskennisgewing of nakomingsertifikaat wat ingevolge hierdie Hoofstuk uitgereik word, valslik te verander;
- (h) om 'n magtiging aan 'n aangewese beamppte, of 'n skriftelike magtiging, nakomingskennisgewing of nakomingsertifikaat waarna in hierdie Hoofstuk verwys word, te vervals;
- (i) om te versuim om te voldoen aan 'n nakomingskennisgewing wat ingevolge hierdie Hoofstuk uitgereik word;
- (j) om enige grond of perseel sonder 'n skriftelike magtiging te betree in omstandighede wat 'n lasbrief vereis;
- (k) omstrydig met 'n skriftelike magtiging wat ingevolge hierdie Hoofstuk uitgereik is, op te tree;
- (l) om sonder magtiging -
 - (i) grond of persele te betree of te inspekteer;
 - (ii) enige handeling te verrig wat in artikel 24(1) of (2) vermeld word; of

- (m) om enige inligting openbaar te maak rakende die finansiële of sake-aangeleenthede van enige persoon, wat verkry is tydens die verrigting van enige funksie of die uitvoering van enige bevoegdheid ingevolge hierdie Wet, behalwe -
- (i) aan 'n persoon wat daardie inligting nodig het ten einde ingevolge hierdie Wet 'n funksie te verrig of 'n bevoegdheid uit te oefen;
 - (ii) indien die openbaarmaking deur 'n gereghof gelas word; of
 - (iii) indien die openbaarmaking in ooreenstemming met die bepalings van enige wet is.

Toepassing van hierdie Hoofstuk

- 34 (1) Die bepalings van hierdie Hoofstuk is van toepassing op alle persone of liggame, insluitend die Staat.
- (2) 'n Bepaling van hierdie Hoofstuk wat 'n bevoegdheid verleen of 'n plig ople, is van toepassing ten opsigte van -
- (a) alle grond of persele;
 - (b) enige persoon of ding op enige grond of in enige perseel;
 - (c) die eienaar of okkuperer van enige grond of perseel;
 - (d) enige aangeleentheid rakende grond, 'n perseel, 'n persoon of 'n ding.
- (3) Vir doeleindes van hierdie Hoofstuk word die hoof van 'n nasionale, provinsiale of munisipale departement geag -
- (a) die eienaar en okkuperer te wees van alle grond of persele wat die departement okkuper of gebruik, met die uitsluiting van enige ander persoon; en
 - (b) die werkewer te wees van die persone in diens van daardie departement indien, as 'n werkewer, die departement -
- (i) alle pligte moet uitoefen wat deur hierdie Wet opgelê word; en
 - (ii) alle bevoegdhede uitoefen wat deur hierdie Wet verleen word.

HOOFSTUK 6

VERKRYGING VAN GOEDERE EN DIENSTE DEUR MUNISIPALITEITE

Prosedure vir die verkryging van goedere of dienste

- 35 (1) Die LUR moet die tenderwaarde van die goedere of dienste ten opsigte waarvan die verkrygingsprosedure soos beoog in artikel 36 van toepassing is, voorskryf.
- (2) Ondanks die bepalings van subartikel (1) kan daar afgesien word van die prosedure waarvoor artikel 36 voorsiening maak -
- (a) in die geval waar die verlangde goedere of dienste verkry moet word-
 - (i) as 'n saak van dringendheid;
 - (ii) as 'n saak van noodsaak; of
 - (iii) van 'n alleenverskaffer; en
 - (b) indien daar aan die prosedure wat in artikel 37 bedoel word, voldoen word.
- (3) Ten opsigte van die verkryging van alle ander goedere of dienste moet die prosedures beoog in die finansiële regulasies van toepassing op 'n munisipaliteit nagekom word.

Prosedure vir die verkryging van voorgeskrewe goedere of dienste

- 36 (1) Wanneer 'n munisipale raad van voorneme is om voorgeskrewe goedere of dienste te verkry, moet hy die volgende prosedure volg:
- (a) Die besluit om die voorgeskrewe goedere of dienste te verkry, moet vervat word in 'n kennisgewing wat -
 - (i) gepubliseer word in minstens 'n gesikte koerant wat binne die grense van die munisipaliteit versprei word; en
 - (ii) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipale raad aangewys word.
 - (b) Die kennisgewing moet die volgende vermeld -
 - (i) In opgesomde vorm, die vereistes en spesifikasies van die voorgeskrewe goedere of dienste;
 - (ii) die plek waar, tyd wanneer en die omstandighede waaronder

of wyse waarop die dokument wat die vereistes of die spesifikasies van die voorgeskrewe goedere of dienste bevat, beskikbaar sal wees vir insae of verkryging;

- (iii) die tydperk waarin tenderaansoeke ingedien kan word vir die verskaffing van die voorgeskrewe goedere of dienste, insluitend die keertyd waarna geen verdere tenderaansoek oorweeg sal word nie;
 - (iv) die prosedure vir die indiening van 'n tenderaansoek, insluitend -
 - (aa) die dokumente wat ingevul moet word en bykomende inligting, dokumente, monsters, materiaal of geldelike deposito's wat die aansoek moet vergesel; en
 - (bb) die plek waar die tenderaansoek ingedien moet word;
 - (v) ander inligting wat tersaaklik kan wees vir die oorweging van die tenderaansoek; en
 - (vi) die plek waar alle tenderaansoeke wat ontvang is, geregistreer sal word soos in subartikel (4) beoog.
- (2) Enige persoon, liggaam, organisasie of korporasie wat 'n tenderaansoek indien moet -
 - (a) die geskikte tenderaansoekvorm behoorlik invul; en
 - (b) alle inligting, dokumente, monsters, materiaal of geldelike deposito's betreffende die tenderaansoek verskaf.
- (3) Versuim om wesenlik aan die bepalings van subartikel (2) te voldoen of enige wanvoorstelling in die aansoek kan die aansoek diskwalifiseer.
- (4) Op die keertyd in subartikel (1)(b)(iii) beoog, moet die munisipale raad die naam en kontakbesonderhede van alle tenderaansoekers en hul tenderwaarde aanteken in 'n register wat vir hierdie doel deur die munisipale raad geskep is.
- (5) Ten opsigte van die register in subartikel (4) beoog, kan enige lid van die publiek -
 - (a) teenwoordig wees om getuie van die registrasjeproses te wees; en
 - (b) insae hê in die register op 'n plek en tyd en in die omstandighede en op die wyse wat 'n munisipale raad in die omstandighede redelik ag.

- (6) Wanneer 'n munisipale raad oorweging skenk aan watter tender om te aanvaar, moet hy onder ander die volgende aspekte behoorlik in ag neem -
- (a) die faktore wat in enige ander wet vermeld word;
 - (b) beleid gemaak deur 'n bevoegde staatsorgaan;
 - (c) slegs tenderaansoekers wie se name aangeteken is in die register in subartikel (4) bedoel en wie se aansoeke nie ongeldig verklaar is nie;
 - (d) die bevordering van klein en medium ondernemings;
 - (e) die bevestiging van die voorkeurkategorieë persone, liggame, organisasies of korporasies soos deur die munisipaliteit bepaal;
 - (f) die skepping van werkgeleenthede of die oordrag van vaardighede;
 - (g) doeltreffende en doelmatige lewering van munisipale dienste;
 - (h) die kapasiteit en vermoë van tenderaansoekers om die goedere of dienste te lewer; en
 - (i) die kostedoeltreffendheid van die aansoek. In hierdie verband is die munisipale raad nie verplig om 'n tender toe te ken aan 'n aansoeker wat die laagste tenderwaarde voorlê nie.
- (7) Die besluit om 'n tenderaansoek te aanvaar, te verwerp of te diskwalifiseer moet deur die munisipale raad geneem word. Die munisipale raad kan egter hierdie funksie ten opsigte van sekere voorgeskrewe goedere of dienste opdra of deleger aan die komitee in artikel 42 beoog.
- (8) Die besluit van die munisipale raad of die komitee wat in artikel 42 beoog word, is finaal en bindend.
- (9) Die munisipale raad of die komitee wat in artikel 42 beoog word, moet sy besluit skriftelik aan die tenderaansoeker bekend maak en moet redes vir sy besluit aan enige tenderaansoeker verstrek indien -
- (a) (i) sy aansoek geag word gediskwalifiseer te wees; of
 (ii) sy aansoek verwerp is; en
 - (b) die aansoeker skriftelik versoek dat hierdie redes verstrek word.

Versnelde prosedure vir die verkryging van voorgeskrewe goedere of dienste

- 37 (1) 'n Munisipale raad mag besluit om af te sien van die prosedure gespesifieer in artikel 36 en die persoon, liggaam, organisasie of

korporasie aanstel om die voorgeskrewe goedere of dienste te lewer, en dié besluit skriftelik aan die aangestelde oordra, indien -

- (a) die raad, onderworpe aan subartikel (3) tevrede is dat die omstandighede soos wat in artikel 35(2)(a) van toepassing is; en
 - (b) dit 'n resolusie tot dien effekte neem.
- (2) Indien die hoof uitvoerende beampete tevrede is, dat omrede dringendheid, 'n voorgeskrewe diens of goedere aangeskaf moet word voordat die munisipale raad die tersaaklike resolusie geneem het, mag die hoof uitvoerende beampete die goedere of dienste bekom met oorlegpleging en instemming van die burgemeester, en hierdie feit aan die munisipale raad by sy volgende vergadering bekend maak.
- (3) Binne een maand na die resolusie wat in subartikel (1) bedoel word of die optrede wat ingevolge subartikel (2) geneem is, moet die sake wat in subartikel (4) gespesifiseer word -
- (a) deur die munisipaliteit gepubliseer word in minstens 'n geskikte koerant wat binne die grense van die munisipaliteit versprei word; en
 - (b) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipaliteit aangewys word.
- (4) Die aangeleenthede wat gepubliseer of vertoon moet word, is -
- (a) die redes waarom daar afgesien is van die prosedure in artikel 36 vermeld;
 - (b) 'n opsomming van die vereistes van die voorgeskrewe goedere of dienste;
 - (c) die plek waar, die tyd wanneer en die omstandighede waarin of die wyse waarop die dokument wat die vereistes of spesifikasies van die voorgeskrewe goedere of dienste bevat, vertoon sal word vir insae of verkryging; en
 - (d) die besonderhede van die persoon, liggaam, organisasie of korporasie wat die goedere of dienste verskaf.
- (5) Die funksies van 'n munisipale raad ingevolge hierdie artikel mag nie opgedra of gedelegeer word nie.

Verlenging of verandering van 'n tenderooreenkoms

- 38 (1) Behoudens subartikel (2) kan 'n munisipale raad uit eie beweging of by ontvangs van 'n aansoek van die persoon, liggaam, organisasie of korporasie wat ingevolge hierdie Hoofstuk goedere of dienste aan die

munisipale raad verskaf, besluit om 'n tenderooreenkoms te verleng of te verander indien -

- (a) die omstandighede soos in artikel 35(2)(a) bedoel, geld; of
 - (b) met behoorlike inagneming van administratiewe doeltreffendheid en doelmatigheid, die munisipale raad dit geskik ag.
- (2) 'n Munisipale raad mag nie 'n tenderooreenkoms -
- (a) meer as een keer;
 - (b) vir 'n tydperk van langer as die duur van die ooreenkoms; of
 - (c) vir 'n bedrag van meer as twintig (20) persent van die oorspronklike tenderwaarde;
- verleng of verander nie.
- (3) Binne een maand na die resolusie in subartikel (1) bedoel, moet die aangeleenthede in subartikel (4) vermeld -
- (a) deur die munisipaliteit gepubliseer word in minstens 'n geskikte koerant wat binne die grense van die munisipaliteit versprei word; en
 - (b) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipaliteit aangewys word.
- (4) Die aangeleenthede wat gepubliseer of vertoon moet word, is -
- (a) die redes waarom daar afgesien is van die prosedure in artikel 36 vermeld;
 - (b) 'n opsomming van die vereistes van die goedere of dienste;
 - (c) die besonderhede van die persoon, liggaam, organisasie of korporasie wat die goedere of dienste verskaf.
- (5) Die funksies van 'n munisipale raad ingevolge hierdie artikel mag nie opgedra of gedelegeer word nie.

Ongeldige en onreëlmatige tenderaansoeke en verbrekings van tenderooreenkomste

- 39 (1) Vir doeleindeste van hierdie artikel -
- (a) beteken die woord "tenderaansoek" ook 'n aansoek om 'n tender te verleng of te verander; en

- (b) beteken die woord "verskaffer" die persoon, liggaam, organisasie of korporasie wat goedere of dienste ingevolge hierdie Hoofstuk aan die munisipale raad verskaf.
- (2) Indien 'n munisipale raad oortuig is dat 'n tenderaansoek aanvaar, verander of verleng is in die omstandighede vermeld in subartikel (3)(a) en (b) of dat 'n tenderooreenkoms verbreek is in die omstandighede vermeld in subartikel (3)(c) -
- (a) moet hy 'n skriftelike kennisgewing van die besluit en die redes vir daardie besluit aan die verskaffer stuur; en
 - (b) moet hy in daardie kennisgewing die verskaffer in kennis stel dat hy veertien (14) dae vanaf die datum van die kennisgewing het om vertoë voor te lê waarom die munisipale raad nie die stappe in subartikel (5) vermeld, moet doen nie.
- (3) Vir doeleindes van subartikel (2) is die omstandighede -
- (a) waar 'n verskaffer -
 - (i) vals inligting in enige tenderaansoek verstrek het;
 - (ii) onbehoorlike invloed uitgeoefen het op enige persoon betrokke by die oorweging van 'n tenderaansoek; of
 - (iii) 'n finansiële of ander beloning aan enige persoon betrokke by die oorweging van 'n tenderaansoek verskaf het in ruil vir die toekenning, verandering of verlenging van die tender;
 - (b) waar 'n persoon betrokke by die oorweging van 'n tenderaansoek 'n wesentlike belang het by die aansoekerliggaam, organisasie of korporasie of die uitkoms van die tenderaansoek en hierdie belang nie voor die oorweging van die tenderaansoek openbaar gemaak is nie; of
 - (c) waar die verskaffer versuim of nie daartoe in staat is nie om bevredigend te voldoen aan die vereistes of spesifikasies van die goedere of dienste wat verskaf moet word.
- (4) Indien die tenderaansoeker of verskaffer die kennisgewing ingevolge subartikel (2) binne die tydperk van veertien (14) dae ontvang het en nie die vertoë voorlē nie of die vertoë voorlē binne die tyd wat die munisipale raad as onaanvaarbaar beskou, moet die munisipale raad enige van of 'n kombinasie van die stappe vermeld in subartikel (5) doen en die verskaffer skriftelik in kennis stel van die redes vir die besluit.
- (5) Vir doeleindes van subartikels (2) en (4) is die stappe wat gedoen moet word -

- (a) om die tenderooreenkoms te kanselleer;
 - (b) om enige verlies of skade gely deur 'n munisipaliteit as gevolg van die kansellasie van die tenderooreenkoms, te verhaal; of
 - (c) om die verskaffer te belet om vir enige tender oorweeg te word vir 'n tydperk wat die munisipale raad bepaal.
- (6) 'n Verskaffer kan teen die besluit van die munisipale raad om die stappe beoog in subartikel (5) te doen, appelleer ooreenkomstig die prosedure waarvoor daar in artikel 40 voorsiening gemaak word.

Appèlle ten opsigte van ongeldige en onreëlmatige tenders en verbrekings van tenderooreenkomste

- 40 (1) Enige verskaffer van goedere of dienste aan die munisipale raad wat 'n kennisgewing ingevolge artikel 39(4) ontvang het, kan teen die besluit geneem ingevolge daardie artikel appelleer deur binne veertien (14) dae na die datum van die kennisgewing 'n kennisgewing van appèl aan die Verkrygingsappèltribunaal voorlê waarin die gronde vir die appèl uiteengesit word. Verder moet die kennisgewing vergesel gaan van die volgende items -
- (a) die tenderaansoek en gepaardgaande dokumentasie;
 - (b) die munisipale raad se kennisgewing uitgereik ingevolge artikel 39(2);
 - (c) besonderhede van sy reaksie op die munisipale raad se kennisgewing; en
 - (d) die munisipale raad se kennisgewing ingevolge artikel 39(4) en redes vir die besluit wat die onderwerp van die appèl is.
- (2) Behoudens artikels 41(1) en (2) moet die munisipale raad die prosedures vir die aantekening, uitvoer en oorweging van appèlle bepaal en moet hy die partye tot die appèl voor die aanvang van die appèl van hierdie prosedures in kennis stel.
- (3) Die Verkrygingsappèltribunaal moet die appèl oorweeg op die wyse deur die munisipale raad bepaal en moet 'n skriftelike kennisgewing van die besluit aan die verskaffer wat die appèlverrigtinge aanhangig gemaak het, en aan die munisipale raad stuur. Indien die appèl nie gehandhaaf word nie, moet die kennisgewing die redes vir die besluit vermeld.
- (4) Die Verkrygingsappèltribunaal kan 'n bevel vir koste uitreik indien 'n party, of 'n persoon wat daardie party in die appèl verteenwoordig het -
- (a) op 'n beuselagtige, kwelsugtige of onredelike wyse opgetree het deur met die appèl voort te gaan of dit teen te staan of in die voer

van die appèl; of

- (b) sonder goeie rede versuim om sy opwagting te maak of gedurende die appèl teenwoordig te bly.
- (5) Die besluit van die Verkrygingsappèltribunaal is finaal en bindend vir alle partye tot die appèl.
- (6) In enige appèlverrigtinge ingevolge hierdie Hoofstuk maak die volgende dokumente die bepalings van 'n tenderooreenkomst uit -
 - (a) die dokument wat die vereistes of die spesifikasies van die voorgeskrewe goedere of dienste soos bedoel in artikels 36(1)(b)(ii) en 37(3)(c) bevat, en indien van toepassing, die bepalings en voorwaardes vervat in 'n tenderaansoekvorm; en
 - (b) die skriftelike kennisgewing ingevolge artikels 36(7) en 37(1)(b) wat die aanvaarding van die aansoek of die aanstelling bevestig.

Verkrygingsappèltribunaal en paneel van arbiters

- 41 (1) 'n Municipale raad moet 'n Verkrygingsappèltribunaal instel wat uit minstens twee lede van die paneel van arbiters moet bestaan.
- (2) Die lede van die paneel in subartikel (1) bedoel, kan enige aantal deskundiges in die Verkrygingsappèltribunaal aanstel -
 - (i) uit eie beweging; of
 - (ii) na oorweging van 'n skriftelike aansoek ontvang van enige party tot die appèl vir die aanstelling van 'n deskundige.
- (3) 'n Municipale raad moet toesien dat die paneel van arbiters te alle tye uit ten minste ses persone moet bestaan. Hierdie persone mag nie raadslede of werknemers van die municipale raad wees nie.
- (4) Die volgende prosedure is van toepassing telkens wanneer 'n municipale raad iemand in die paneel van arbiters moet aanstel:
 - (a) Die municipale raad moet 'n kennisgewing publiseer waarin benoemings gevra word en met vermelding van die maatstawwe vir benoemings, minstens in 'n geskikte koerant wat binne die grense van die munisipaliteit versprei word.
 - (b) Die municipale raad moet toesien dat die benoemings wat na aanleiding van die kennisgewing voorgelê is, oorweeg word en moet 'n kortlys van benoemdes opstel.
 - (c) Die municipale raad moet toesien dat onderhoude met die benoemdes op die kortlys gevoer word en moet daarna die nodige

aanstellings doen.

- (5) Die bepalings en voorwaardes van aanstelling van lede van die paneel van arbiters en deskundiges moet deur die munisipale raad bepaal word.

Instelling van 'n verkrygingskomitee

- 42 (1) 'n Munisipale raad kan 'n verkrygingskomitee verantwoordelik vir verkryging instel of hierdie verantwoordelikheid aan enige van sy komitees opdra.
- (2) Benewens sy funksie soos in hierdie Hoofstuk vermeld, kan die komitee -
- (a) beleide, procedures en praktyke aanbeveel om 'n munisipale raad in staat te stel om sy bevoegdhede, funksies of pligte ingevolge hierdie Hoofstuk op 'n doeltreffende, doelmatige en deursigtige wyse uit te oefen en te verrig;
 - (b) aanbevelings aan die munisipale raad doen oor -
 - (i) die standaardisering en vereenvoudiging van alle tenderaansoekprosesse;
 - (ii) die gee van advies en ander ondersteuningsdienste aan tenderaansoekers;
 - (c) aanbevelings doen oor die maatstawwe vir die bepaling van die kategorieë van persone, liggame, organisasies of korporasies wat bevestig moet word soos in artikel 36(6)(c) beoog; en
 - (d) enige funksie verrig wat 'n munisipale raad geskik ag ten einde aan hierdie Hoofstuk uitvoering te gee, insluitend die hou van ondersoeke, die maak van aanbevelings en verslagdoening oor enige aangeleentheid.

HOOFSTUK 7

BEPERKING VAN TOEGANG TOT OPENBARE PLEKKE VIR VEILIGHEIDS- EN SEKURITEITSDOELEINDES

'n Munisipale raad se bevoegdheid om toegang te beperk

- 43 Ten einde veiligheid en sekuriteit te verbeter kan 'n munisipale raad -
- (a) uit eie beweging 'n beperking plaas op toegang tot enige openbare plek indien dit in ooreenstemming met die bepalings van artikel 44 is; of
 - (b) enige persoon, liggaam of organisasie magtig om toegang tot enige openbare plek te beperk indien die bepalings van artikel 45 nagekom is.

Prosedure vir munisipale rade om beperkings op toegang te plaas

- 44 (1) Wanneer 'n munisipale raad van voorneme is om 'n beperking op toegang tot 'n openbare plek te plaas, moet hy -
- (a) die voorgestelde bepalings van die beperking bepaal na oorleg met die Suid-Afrikaanse Polisiediens;
 - (b) 'n resolusie aanneem wat die voorgestelde bepalings bekratig en besluit om die beperking in te stel; en daarna
 - (c) die volgende prosedure volg:
 - (i) Die voorneme om die beperking in te stel, moet aangekondig word by wyse van kennisgewing in die provinsiale koerant en, waar dit bestaan, een of meer koerante wat in die betrokke gebied versprei word.
 - (ii) Die kennisgewing moet die volgende vermeld:
 - (aa) dat kommentaar op die konsepbepalings van 'n beperking verlang word;
 - (bb) die openbare plek wat deur die beperking geraak word;
 - (cc) die voorgestelde bepalings van die beperking;
 - (dd) die dokumente of skriftelike verslae waarop die munisipale raad gesteun het toe die resolusie aangeneem is;
 - (ee) die persoon aan wie of die plek waar navrae oor die konsepbepalings van die beperking gerig kan word;
 - (ff) behoudens subartikels (6) en (7), die plek, tyd en omstandighede waar, wanneer en waarin 'n afskrif van die dokumente of oorspronklike verslae ter insae vertoon of verkry kan word;
 - (gg) die tydperk vir kommentaar oor die konsepbepalings van die beperking, wat minstens een maand moet wees; en
 - (hh) die persoon by wie of die plek waar kommentaar oor die konsepbepalings van die beperking ingedien kan word.
 - (iii) Te enige tyd voor die instelling van die beperking kan oorleg

in enige vorm, insluitend die hou van 'n ondersoek, gepleeg word met enige tersaaklike groep.

- (iv) Kommentaar wat ontvang is en die inhoud van alle oorlegplegings moet oorweeg word alvorens die beperking ingestel word.
- (2) Indien die munisipale raad nie die beperking binne vier maande na die aankondiging in subartikel (1)(c)(i) bedoel, ingestel het nie, mag daardie beperking nie ingestel word nie tensy die prosedure in subartikel (1) beoog herhaal is.
- (3) 'n Munisipale raad kan afsien van die procedures in subartikel (1) vermeld ten opsigte van enige beperking wat in openbare belang sonder versuim ingestel moet word, maar moet hierdie prosedure implementeer binne een maand na die inwerkingtreding van die beperking, by gebreke waaraan die beperking nie meer geldig sal wees nie.
- (4) 'n Beperking tree in werking op die datum van publikasie daarvan in die provinsiale koerant of op sodanige later datum as wat in die provinsiale koerant vermeld word.
- (5) 'n Munisipale raad kan die fooi bepaal vir die verkryging van 'n afskrif van enige dokument of skriftelike verslag wat verband hou met die bepaling van die konsepbeplings van die beperking.
- (6) Die plek waar die dokumente en skriftelike verslae verkry of ter insae vertoon kan word, moet al diegene wat deur die beperking geraak word in staat stel om spoedig en gerieflik ingelig te word oor die inhoud daarvan.
- (7) Elke munisipale raad moet beleide en programme ontwikkel en implementeer om lede van die publiek by te staan om kommentaar oor die konsepbeplings van die beperking te lewer.

Prosedure vir munisipale rade om ander te magtig om toegang te beperk

- 45 (1) Enige persoon, liggaam of organisasie kan by 'n munisipale raad aansoek doen vir magtiging om toegang tot 'n openbare plek te beperk deur -
- (a) 'n skriftelike aansoek voor te lê met vermelding van -
 - (i) die naam en kontakbesonderhede van die aansoeker;
 - (ii) 'n beskrywing van die openbare plek wat die onderwerp van die aansoek is;
 - (iii) 'n beskrywing van die omstandighede wat tot die aansoek aanleiding gegee het;
 - (iv) die kategorie en geraamde aantal persone wat geraak word

- deur die omstandighede wat tot die aansoek aanleiding gegee het;
- (v) die aard en omvang van die beperking ten opsigte waarvan die aansoek gebring word; en
 - (vi) die kategorie en 'n geraamde aantal persone wat geraak kan word deur die beperking ten opsigte waarvan die aansoek gebring word;
- (b) bewys te verskaf dat ten minste twee derdes van die persone wat geraak word deur die omstandighede wat tot die aansoek aanleiding gegee het, die beperking ten opsigte waarvan die aansoek gebring word, goedkeur; en
 - (c) 'n nie-terugbetaalbare administrasie fooi te betaal soos deur die munisipale raad bepaal.
- (2) Na ontvangs van die aansoek moet die munisipale raad reël dat 'n vergadering belê word met die aansoeker en die Suid-Afrikaanse Polisiediens ten einde hom in staat te stel om -
- (a) die meriete van die aansoek te bepaal; en
 - (b) die bepalings en voorwaardes vir die verlening van die magtiging te bepaal, insluitend die betaling van fooie en deposito's.
- (3) Indien die munisipale raad van voorneme is om die magtiging te verleen om toegang tot 'n openbare plek te beperk voortspruitend uit 'n bepaling gemaak ingevolge subartikel (2), is die bepalings van artikel 44 van toepassing, met die veranderings wat die samehang mag vereis.

Duur van beperking of magtiging om toegang te beperk

- 46 (1) Tensy anders in die provinsiale koerant verklaar en onderworpe aan hierdie artikel is 'n beperking of magtiging om toegang te beperk geldig vir hoogstens twee (2) jaar.
- (2) 'n Munisipale raad kan die duur van die beperking of magtiging om toegang te beperk verleng indien -
- (a) hy of die aansoeker met die procedures waarna in onderskeidelik artikels 44 en 45 verwys word, begin; en
 - (b) die procedures minstens een maand voor die verstryking van die beperking of magtiging om te beperk, begin word.
- (3) Vir doeleindes van subartikel (2) word daar geag met die procedures begin te word wanneer -

- (a) ten opsigte van die beperking van toegang, 'n munisipale raad die resolusie in artikel 44(1)(b) bedoel, aanneem; en
 - (b) ten opsigte van 'n magtiging om toegang te beperk, die datum waarop die aansoek in artikel 45(1) bedoel, deur 'n munisipale raad ontvang word.
- (4) Afhangende van die uitkoms van die procedures in subartikel (2) beoog, bly 'n beperking of magtiging om toegang te beperk geldig.

Oortredings betreffende magtiging om toegang te beperk

- 47 Dit is 'n oortreding vir enige persoon, liggaam of organisasie om -
- (a) toegang tot 'n openbare plek te beperk sonder om magtiging ingevolge hierdie Wet of enige ander wet te verkry het; of
 - (b) homself voor te hou as geldiglik gemagtig om toegang tot 'n openbare plek ingevolge hierdie Wet te beperk as hy nie aldus gemagtig is nie.
- Toegang tot en inspeksie van die bepalings van 'n beperking of magtiging om toegang te beperk**
- 48 Ten einde te verseker dat lede van die publiek toegang het tot of insae kan hê in die bepalings van 'n beperking of magtiging om toegang te beperk, is die bepalings van artikel 9 van toepassing, met die wysigings wat die samehang mag vereis.

HOOFSTUK 8**DIVERSE AANGELEENTHEDE****Munisipale ondersoekkomitee**

- 49 (1) 'n Munisipale raad kan 'n komitee instel om enige plaaslike regeringsaangeleentheid te ondersoek -
- (a) wat hy geskik ag en wat betrekking het op sy bevoegdhede, funksies of pligte; en
 - (b) van openbare belang.
- (2) (a) Om 'n komitee in te stel moet 'n munisipale raad 'n resolusie te dien effekte aanneem.
- (b) 'n Resolusie waarna in paragraaf (1) verwys word, moet die verwysingsraamwerk van die komitee vermeld, insluitend die tydperk waarbinne die komitee sy mandaat moet afhandel.
 - (d) 'n Munisipale raad mag 'n lid van die komitee as voorsitter aanwys.
 - (e) 'n Munisipale raad moet sodanige komitee van ondersteunende personeel en fasiliteite voorsien.
- (3) Die LUR moet regulasies uitreik rakende die wyse waarop die komitee sy ondersoek moet voer.
- (4) Wanneer die komitee sy mandaat voltooi het, moet hy 'n verslag waarin sy bevindinge en aanbevelings vervat word, aan die munisipale raad deurstuur vir oorweging.
- (5) 'n Munisipale raad mag enige mag uitoefen of funksie of plig verrig wat hy geskik ag, voortspruitend uit sy oorweging van die bevindinge en aanbevelings van die komitee.

Openbare verhoor

- 50 (1) 'n Munisipale raad moet 'n openbare verhoor belê ten einde aanbevelings te oorweeg en te doen ten opsigte van enige plaaslike regeringsaangeleentheid van openbare belang indien hy 'n petisie ontvang wat 'n openbare verhoor vra en wat onderteken is deur minstens die aantal geregistreerde munisipale kiesers soos wat deur munisipale raad bepaal kan word. Die aantal wat bepaal moet word, mag nie meer wees as 'n halwe persent van die totale aantal geregistreerde munisipale kiesers nie.
- (2) Die petisie in subartikel (1) bedoel, moet die plaaslike regeringsaangeleentheid wat oorweeg moet word, vermeld.
- (3) 'n Munisipale raad kan uit eie beweging besluit om 'n openbare verhoor te belê vir die doel in subartikel (1) vermeld.

- (4) Behoudens subartikel (5) moet 'n munisipale raad die prosedure vir die belê en hou van die openbare verhoor bepaal.
- (5) Om 'n openbare verhoor te belê, moet die munisipale raad -
- (a) sy voorneme om die openbare verhoor te belê, in die provinsiale koerant aankondig en in een of meer koerante wat in die betrokke gebied versprei word;
 - (b) 'n kennisgewing uitreik met vermelding van -
 - (i) die plek waar die openbare verhoor gehou gaan word;
 - (ii) die datum van die openbare verhoor, wat minstens veertien (14) dae na die kennisgewing moet wees en nie later as twee maande na ontvangs van die peticie in subartikel (1) bedoel of die resolusie in subartikel (3) bedoel nie;
 - (iii) in opgesomde vorm, die kwessies wat by die openbare verhoor oorweeg moet word; en
 - (iv) procedures wat aangeneem moet word vir die hou van die openbare verhoor.

Die LUR se bevoegdheid om riglyne aan munisipale rade uit te reik

- 51 Die LUR kan riglyne aan munisipale rade uitreik om hulle by te staan -
- (a) met die uitoefening van hulle bevoegdhede, funksies of pligte; of
 - (b) om aan die oogmerke van hierdie Wet uitvoering te gee.

Finansiële bestuur en kredietbeheer

- 52 (1) Met die doel om doeltreffende munisipale finansiële bestuur te bevorder, moet alle munisipaliteite verordeninge uitvaardig wat sy kredietbeheermaatreëls ooreenkomsdig die bepalings van subartikel (2) en (3) beheer.
- (2) Die LUR, met die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir finansies in die provinsie, kan van tyd tot tyd vereistes voorskryf wat by die verordeninge ingelyf moet word.
- (3) Die verordeninge en voorgeskrewe vereistes moet voorsiening maak vir minstens die volgende aangeleenthede -
- (a) die dienste en produkte ten opsigte waarvan belasting, tariewe, heffings, fooie of koste of bobelasting op inwoners of op diegene wat sake binne die grense van die munisipaliteit bedryf, ingestel kan word;

- (b) die omstandighede waaronder en wyse waarop hierdie belasting, tariewe, heffings, fooie of koste of bobelasting betaal moet word;
- (c) die gevolge van nie-betaling, insluitend -
 - (i) die opskorting van enige diens of produkverskaffing;
 - (ii) die omstandighede, wyse en duur van hierdie opskorting;
 - (iii) die stappe wat 'n munisipale raad mag doen om bedrae wat verskuldig is, te verhaal;
 - (iv) die stappe wat 'n munisipale raad mag doen om sy toerusting en eiendom ingeval van 'n opskorting te beskerm; en
- (d) die voorkoming en beëindiging van alle dienste of die verhaling van produkte wat op 'n onwettige of ongemagtigde wyse bekom is.

HOOFTUK 9

ALGEMENE BEPALINGS

Strawwe

53 Enige persoon wat skuldig bevind word aan 'n oortreding ingevolge hierdie Wet, is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk wat nie vyf (5) jaar oorskry nie, of met sowel 'n boete as gevangenisstraf.

Vrywaring van aanspreeklikheid

- 54 (1) Nog 'n werknemer van 'n munisipaliteit nog enige persoon, liggaam, organisasie of korporasie wat namens 'n munisipaliteit optree, nog 'n raadslid is aanspreeklik vir enige skade voortspruitend uit -
 - (a) enige versuim of handeling wat ter goeder trou in die loop van sy of haar pligte gedoen of verrig word; of
 - (b) die publikasie of openbaarmaking ingevolge hierdie Wet van enige verslag, bevinding, standpunt of aanbeveling wat ter goeder trou gegee is.
- (2) 'n Munisipaliteit word gevrywaar ten opsigte van enige regsgeding ingestel deur 'n benadeelde of gegriefde party voortspruitend uit die omstandighede wat in subartikel (1) bedoel word, waar die persoon, liggaam, organisasie of korporasie wat namens 'n munisipaliteit optree 'n onafhanklike kontrakteur is.

Reg op regsgertenwoordiging

- 55 (1) In enige regsgeding wat teen raadslede of werknemers van 'n munisipaliteit ingestel

word, of by enige geregtelike nadoodse ondersoek of ondersoek ten opsigte waarvan hulle gedagvaar is om teenwoordig te wees en te getuig ten opsigte van aangeleenthede wat betrekking het op die loop en omvang van hul pligte, moet 'n municipale raadregsverteenwoordiging vir die betrokke raadslede of werknemers bekom en die koste van sodanige verteenwoordiging moet deur die munisipaliteit gedra word, slegs in sodanige omstandighede en op 'n wyse wat deur die municipale raad bepaal mag word.

- (2) Die municipale raad moet die omstandighede waarin en wyse waarop dit die koste sal betaal van die regsverteenwoordiging waarna in subartikel (1) verwys word, bepaal.

Delegasies en ooreenkomste afgevaardig en aangegaan deur municipale rade

- 56 (1) Onderworpe aan die bepalings van hierdie Wet of enige ander wet kan 'n municipale raad ingevolge die bepalings en voorwaardes wat hy geskik ag, enige bevoegdhede, funksies of pligte wat deur hierdie Wet of enige ander wet aan die municipale raad verleen of opgedra is, skriftelik deleger aan -
- (a) enige persoon in diens van die raad;
 - (b) enige komitee, subkomitee, raad of liggaam ingestel deur die raad en bestaande uit raadslede en/of persone in diens van die raad; of
 - (c) enige ander municipale raad.
- (2) 'n Municipale raad kan ooreenkomste met enige openbare of private verskaffer van goedere of dienste sluit om die raad in staat te stel om sy bevoegdhede, funksies of pligte uit te oefen en te verrig.
- (3) 'n Municipale raad moet 'n register hou van alle delegasies en ooreenkomste afgevaardig en aangegaan ingevolge hierdie Wet.
- (4) Binne ses (6) maande na ampsaanvaarding moet 'n municipale raad alle delegasies en ooreenkomste wat hy ingevolge hierdie artikel afgevaardig en aangegaan het, hersien.
- (5) Ongeag die bepalings van subartikel (4), kan 'n municipale raad sy delegasies en ooreenkomste hersien wanneer hy ook al 'n hersiening wenslik ag.

Opdra en delegering van bevoegdhede, funksies, pligte en verantwoordelikhede aan municipale rade

- 57 (1) Die bevoegdhede, funksies, pligte of verantwoordelikhede van die Premier, die LUR, die provinsiale regering of die departement verantwoordelik vir plaaslike regeringsaangeleenthede word aan municipale rade opgedra of gedelegeer in soverre dit in bylae 2 aangedui word.
- (2) Onderworpe aan die bepalings van hierdie Wet of enige ander wet kan die LUR enige ander bevoegdheid, funksie, plig of verantwoordelikhed wat ingevolge hierdie Wet of enige ander wet aan die LUR opgedra word, aan 'n municipale raad opdra of deleger deur die gepaste inskrywing of wysiging in bylae 2 dienooreenkomstig aan te bring.

- (3) 'n Opdrag of delegering ingevolge hierdie artikel gedoen, kan gedoen word ten opsigte van -
- (a) verskillende munisipaliteite; of
 - (b) verskillende groepe of kategorieë munisipaliteite.

Herroeping van wette

58 Die wette wat in bylae 1 vermeld word, word herroep in die mate wat aangedui word.

Organgsbeplings

- 59** (1) Ongeag die herroeping van die beplings van die Ordonnansie op Plaaslike Bestuur, 1939 (Ordonnansie 17 van 1939) soos in bylae 1 aangedui, word enige daad wat ingevolge die beplings wat herroep is, verrig word, geag ingevolge die ooreenstemmende bepling van hierdie Wet verrig te gewees het en sal voortgaan om geldig en van krag te wees behalwe as dit teenstrydig is met die Oorgangswet op Plaaslike Regering, hierdie Wet of enige ander Wet.
- (2) Ongeag die herroeping van die beplings van die Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings), 1960 (Ordonnansie 40 van 1960) soos in bylae 1 aangedui, word enige daad wat ingevolge die beplings wat herroep is, verrig word, geag ingevolge die ooreenstemmende bepling van hierdie Wet verrig te gewees het en sal voortgaan om geldig en van krag te wees behalwe as dit teenstrydig is met die Oorgangswet op Plaaslike Regering, hierdie Wet of enige ander Wet.

Kort titel en inwerkingtreding

60 Hierdie Wet staan bekend as die **Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998**, en tree in werking op 'n datum wat by wyse van proklamasie in die provinsiale koerant deur die Premier bepaal word.

MEMORANDUM OOR DIE DOELWITTE VAN DIE WETSONTWERP

INLEIDING

- 1 Ingevolge artikel 104(1)(b) (i) - (iv) van die Grondwet van die Republiek van Suid-Afrika, 1996, soos saamgelees met Hoofstuk 7, Bylaes 4 en 5 en die omskrywing van "provinsiale wetgewing" in artikel 239, het die Gautengse Proviniale Wetgewer die nodige bevoegdheid om wetgewing oor die aangeleenthede wat in hierdie Wetsontwerp aangespreek word, uit te vaardig.
- 2 Met die oog daarop, het die Lid van die Uitvoerende Raad (LUR) verantwoordelik vir plaaslike regering 'n Politieke Taakspan aangestel waaraan die verantwoordelikheid vir die opstel van wetgewing in verband met die plaaslike regeringsfeer opgedra is. Die Politieke Taakspan is saamgestel uit lede wat van dwarsoor die hele politieke spektrum getrek is.
- 3 Die Politieke Taakspan is ondersteun deur 'n Wetgewende Tegniese Taakspan wat bestaan het uit amptenare van die Departement van Beplanning en Plaaslike Regering, adviseurs aangestel deur die Departement van Beplanning en Plaaslike Regering en verteenwoordigers van die Gauteng Vereniging van Plaaslike Owerhede (GVPO). Die funksie van hierdie span was om die nodige wetgewing in ooreenstemming met die aanwysings van die Politieke Taakspan op te stel.

PROBLEME WAARMEE PLAASLIKE REGERING TE KAMPE HET

- 4 Die Politieke Taakspan en die Wetgewende Tegniese Taakspan was te alle tye gedagtgig daaraan dat daar talle wette is waarvan die toepassing geleei het tot anomalieë, inkonsekwendhede en grondwetlik problematiese optrede aan die kant van sowel die provinsiale regering as munisipaliteite. Hierdie wette sluit die Grondwet; die Oorgangswet op Plaaslike Regering en Die Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings), 1960 in. Hierdie Wetsontwerp handel slegs oor die aspekte voortspruitend uit die toepassing van hierdie statute wat tersaaklik is vir die fasilitering van die proses van transformasie van die plaaslike regeringsfeer. Daar word beoog dat alle ander kwessies die onderwerp sal uitmaak van 'n latere en meer omvattende stuk wetgewing wat gegrond sal wees op die witskrifprosesse van sowel die nasionale as die provinsiale regeringsfeer en toekomstige nasionale wetgewing wat munisipaliteite beheer.
- 5 Daarbewens was munisipaliteite gekonfronteer met praktiese probleme soos --
 - (a) die agteruitgang van plaaslike regering se finansiële status en die gewaarwording van 'n kultuur van nie-betaling;
 - (b) die openbare aandrang op stratafsluitings;
 - (c) ouderwetse tenderprosedures; en
 - (d) die behoeftte daaraan om raadslede te bemagtig en deursigtigheid in regeringsaangeleenthede te handhaaf.
- 6 Hierdie Wetsontwerp is derhalwe 'n tussentydse maatreël (oorbruggingswetgewing) om die wetgewende en administratiewe raamwerk waarbinne munisipaliteite tans funksioneer, te rationaliseer.

Redes vir die Wetsontwerp en sosiale impak

- 7 Op 'n werkinkel wat in Maart verlede jaar deur die Politieke Taakspan gehou is, is daar kennis geneem van die verklaarde voorname van die Minister van Provinciale Sake en Staatkundige Ontwikkeling om teen die einde van 1997 sy witskrif te formuleer (met nasionale wetgewing wat daarop sou volg), en van die behoefté aan die ontwikkeling van provinsiale beleid met betrekking tot plaaslike regering.
- 8 'n Besluit is deur die LUR en die Politieke Taakspan geneem om, met die oog op promulgering, 'n Wetsontwerp voor te lê wat slegs aangeleenthede behandel wat die transformasie van plaaslike regering en die lewering van munisipale dienste raak.
- 9 Daar is tussen die Departement van Beplanning en Plaaslike Regering, die Politieke Taakspan en die GVPO eenstemmigheid bereik oor die aangeleenthede wat in hierdie Wetsontwerp aandag moes kry. Die oorwegings wat by die keuse van hierdie aangeleenthede gegeld het, was onder andere die volgende:
- (a) faktore wat die doeltreffende integrasie en konsolidasie van plaaslike regeringstrukture vertraag;
 - (b) die behoefté om rasionalisasie en transformasie in die plaaslike regeringsfeer te versnel;
 - (c) hindernisse vir die lewering van munisipale dienste;
 - (d) die behoefté om munisipaliteite te bemagtig om aangeleenthede ten opsigte waarvan daar leemtes in die reg bestaan, te reguleer; en
 - (e) die behoefté om by munisipaliteite die gees van die Grondwet by die verrigting van hulle sake in te skerp.
- 10 'n Sosiale impakstudie is nie vir die doeleindes van hierdie Wetsontwerp onderneem nie, in die lig van die vermelde oogmerk om slegs die wetgewende en administratiewe raamwerk waarbinne munisipaliteite funksioneer te hanteer. Daar word beoog dat sodanige studie wel onderneem sal moet word met die doel om 'n meer omvattende stuk wetgewing op te stel, soos waarna in paragraaf 4 van hierdie Memorandum verwys word.

Oplossing

- 11 In die lig van die aard van die probleme en besorgdheid van plaaslike regering, is 'n omvattende wetgewende oplossing noodsaaklik om nasionale wetgewing en 'n provinciale witskrif vooraf te promulgeer. Hierdie Wetsontwerp is nie daarop gemik om 'n sodanige oplossing te bied nie. Dit is 'n tussentydse maatreël om die dringendste administratiewe en regsprobleme waarmee die plaaslike regeringsfeer te kampe het aan te spreek, in die konteks van 'n omgewing waarvan die visie nog geformuleer moet word. Dit is derhalwe grotendeels 'n opsigselfstaande stuk wetgewing, wat daarop gerig is om munisipaliteite in 'n posisie te plaas om by toekomstige veranderinge aan te pas. Dit word bewerkstellig deur:
- (a) die status, bevoegdhede, funksies en pligte van 'n munisipale raad te bepaal en te standaardiseer;
 - (b) verordeninge, standaardverordeninge en regulasies te maak en uit te vaardig;
 - (c) arbeidsverhoudinge te harmonieer; en

- (d) munisipaliteite daar toe in staat te stel om hul sake doeltreffend uit te voer, in besonder met betrekking tot die verkryging van goedere en dienste, die verrigting van werke, die uitvoer van inspeksies en die regulering van toegang tot openbare plekke.

Monitering

- 12 Die doeltreffendheid van die Wetsontwerp sal deur die Gauteng Inter-regeringsforums en die Gauteng Vereniging van Plaaslike Owerhede gemonitor word. Hierdie maatreëls geld bo en behalwe die dag-tot-dag funksionering van die LUR se kantoor en die tersaaklike provinsiale departement, asook die Burgemeestersforum.

Die finansiële implikasies van die Wetsontwerp

- 13 Hierdie Wetsontwerp hou geen belangrike finansiële implikasies vir die provinsie in nie.

OPSOMMING VAN ELKE ARTIKEL VAN DIE WETSONTWERP

- 14 Artikel 1 omskryf die tersaaklike uitdrukings.
- 15 Artikel 2 skets die doelwitte van die Wetsontwerp en sit die mekanismes vir die bereiking van hierdie doelwitte uiteen.
- 16 Artikel 3 verskaf riglyne vir die toepassing en vertolking van die Wetsontwerp.
- 17 Artikel 4 verseker die voortbestaan van munisipaliteite en bevestig die "regspersoonlike" aard daarvan.
- 18 Artikel 5 verseker dat munisipaliteite wat voorheen tot stede verklaar is, hierdie status sal behou, en maak voorsiening vir die uitwissing van anomalieë wat by nuutgeskepte munisipaliteite betreffende stadstatus ontstaan het.
- 19 Artikel 6 konsolideer die bevoegdhede, funksies en pligte van municipalerade.
- 20 Artikel 7 sit die prosedure vir die uitvaardiging van verordeninge uiteen.
- 21 Artikel 8 maak voorsiening vir die periodieke hersiening van verordeninge en maak voorsiening vir provinsiale monitering van en toesig oor die hersieningsproses.
- 22 Artikel 9 fasiliteer openbare toegang en die inspeksie van verordeninge.
- 23 Artikel 10 stel die LUR daar toe in staat om standaardverordeninge uit te vaardig.
- 24 Artikel 11 sit die prosedure vir die uitvaardiging van standaardverordeninge uiteen.
- 25 Artikel 12 sit die reguitwerking van 'n standaardverordening uiteen.
- 26 Artikel 13 sit die magte van die LUR om regulasies uit te vaardig, uiteen.
- 27 Artikel 14 bepaal wat in regulasies vervat mag word.

- 28 Artikel 15 sit die prosedure vir die uitvaardiging van regulasies uiteen.
- 29 Artikel 16 maak voorsiening vir die aanstelling van 'n hoof uitvoerende beampete en personeel deur 'n munisipale raad.
- 30 Artikel 17 skryf die pligte en bevoegdhede van 'n hoof uitvoerende beampete voor.
- 31 Artikel 18 is daarop gemik om die bepalings en voorwaardes van gemaalgameerde of saamgesmelte munisipaliteite te rasionaliseer.
- 32 Artikel 19 maak voorsiening vir die daarstelling van mediese bystandskemas deur 'n munisipale raad.
- 33 Artikel 20 maak voorsiening vir die daarstelling van aftreevoordeelskemas deur 'n munisipale raad.
- 34 Artikel 21 reguleer die ampstermy van burgemeesters, procedures vir hul ampsontheffing, hul gedelegeerde bevoegdhede en hul stemregte.
- 35 Artikel 22 magtig 'n munisipaliteit om aangewese beampetes aan te stel.
- 36 Artikel 23 sit die funksies van aangewese beampetes uiteen.
- 37 Artikel 24 sit die bevoegdhede van aangewese beampetes uiteen.
- 38 Artikel 25 maak voorsiening vir die prosedure vir aangewese beampetes om werk te verrig of inspeksies uit te voer in omstandighede waar 'n skriftelike magtiging vereis word.
- 39 Artikel 26 spesifieer 'n prosedure vir aangewese beampetes om werk te verrig of 'n inspeksie uit te voer in omstandighede waar 'n skriftelike magtiging nie vereis word nie.
- 40 Artikel 27 verskans die nakoming van fundamentele regte deur aangewese beampetes wanneer werk verrig word of inspeksies uitgevoer word.
- 41 Artikel 28 reguleer die gebruik van geweld deur aangewese beampetes wanneer hulle hul funksies verrig.
- 42 Artikel 29 stel aangewese beampetes daartoe in staat om by die uitvoering van hul funksies deur 'n lid van die Suid-Afrikaanse Polisiediens vergesel te word.
- 43 Artikel 30 lê 'n plig op persone wat tersaaklike dokumentasie in besit het, om daardie dokumente aan die aangewese beampete beskikbaar te stel.
- 44 Artikel 31 lê 'n plig op alle persone om vrae te beantwoord en bystand aan aangewese beampetes te verleen.
- 45 Artikel 32 maak voorsiening vir die uitreiking van nakomingskennisgewings.
- 46 Artikel 33 sit die omstandighede uiteen waar oortredings in verband met die werk van aangewese beampetes geag word gepleeg te gewees het.

- 47 Artikel 34 omskryf die toepassing van die bepalings wat oor aangewese beampies en hul bevoegdhede en funksies handel.
- 48 Artikel 35 sit die prosedures vir die verkryging van goedere en dienste uiteen.
- 49 Artikel 36 skryf 'n prosedure vir die verkryging van goedere en dienste voor.
- 50 Artikel 37 sit 'n prosedure vir die versnelde verkryging van goedere en dienste uiteen.
- 51 Artikel 38 reguleer die uitbreiding of verandering van 'n tenderooreenkoms.
- 52 Artikel 39 sit die prosedure vir die hantering van ongeldige of onreëlmatige tenderaansoeke, wat tenderooreenkomste verbreek, uiteen.
- 53 Artikel 40 sit die appèlprosedure ten opsigte van ongeldige of onreëlmatige tenderaansoeke, wat tenderooreenkomste verbreek, uiteen.
- 54 Artikel 41 maak voorsiening vir die daarstelling van 'n Verkrygingsappèltribunaal en paneel van arbiters.
- 55 Artikel 42 maak voorsiening vir die daarstelling, deur 'n munisipale raad, van 'n komitee verantwoordelik vir verkryging.

- 56 Artikel 43 magtig 'n munisipale raad om 'n beperking op toegang tot enige openbare plek te plaas of om enige persoon, liggaaom of organisasie te magtig om toegang tot enige openbare plek te beperk.
- 57 Artikel 44 sit die prosedure wat 'n munisipale raad moet volg om 'n beperking op toegang te plaas, uiteen.
- 58 Artikel 45 sit die prosedure uiteen waardeur 'n munisipale raad magtig aan ander kan toeken om toegang te beperk.
- 59 Artikel 46 omskryf die duur van 'n beperking of 'n magtiging om toegang te beperk.
- 60 Artikel 47 spesifieer die omstandighede waaronder 'n oortreding met betrekking tot beperkte toegang gepleeg kan word.
- 61 Artikel 48 stel lede van die publiek daartoe in staat om toegang te hê tot, of insae te hê in die bepalings van enige beperking of magtiging.
- 62 Artikel 49 maak voorsiening vir die instelling van munisipale ondersoeke en reguleer die omstandighede waaronder en die wyse waarop ondersoeke ingestel en ondersoekaangeleenthede uitgevoer kan word.
- 63 Artikel 50 maak voorsiening vir die belê van 'n openbare verhoor deur 'n munisipale raad en sit die procedures en mekanismes vir die instelling en uitvoering van verhooraangeleenthede uiteen.
- 64 Artikel 51 stel 'n lid van die uitvoerende raad daartoe in staat om riglyne aan munisipale rade uit

te reik.

- 65 Artikel 52 stel 'n munisipale raad daartoe in staat om sy finansiële bestuur en kredietbeheer te verbeter.
- 66 Artikel 53 spesifieer die strawwe van toepassing op enige oortreding wat ingevolge hierdie Wet gepleeg word.
- 67 Artikel 54 spesifieer die omstandighede waaronder werknemers van 'n munisipale raad of persone wat namens die raad optree van aanspreeklikheid gevrywaar kan word.
- 68 Artikel 55 sit die omstandighede waaronder raadslede of werknemers van 'n munisipaliteit op regsvtereenwoordiging geregtig is, uiteen.
- 69 Artikel 56 sit die omstandighede waaronder die magte van 'n munisipale raad gedelegeer kan word of waaronder munisipale rade ooreenkomste mag aangaan, uiteen.
- 70 Artikel 57 reguleer die opdrag en delegering van provinsiale bevoegdhede, funksies en pligte aan munisipale rade.
- 71 Artikel 58 behandel die herroeping van wette.
- 72 Artikel 59 behandel die oorgangsreëlings.
- 73 Artikel 60 spesifieer die kort titel van die Wetsontwerp en maak voorsiening vir wanneer hierdie Wetsontwerp in werking sal tree.

BYLAE 1

WETTE WAT HERROEP WORD

Nommer en jaar van wet	Kort titel	Mate van herroeping
58 van 1903	Municipal Corporation Ordinance, 1903	Die geheel
506 van 1937	Administrateurskennisgewing - Plaaslike Besture: Regulasies op Waardevermindering	Die geheel
17 van 1939	Ordonnansie op Plaaslike Bestuur, 1939	Artikels 1; 5; 8; 34;36; 41; 47A;53; 54; 57; 62; 65; 70; 72; 77; 78; 79bis; 79 ter; 79quat; 79sext; 89; 90; 91; 92; 93; 94; 95; 96; 96bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118bis; 119; 120; 121; 122; 123; 124; 125; 125(A); 126; 126(A); 127; 127(A); 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156(A); 157; 162; 164(A); 165; 166; 173.
13 van 1958	Ordonnansie op Openbare Liggeme (Taal), 1958	Die geheel
21 van 1958	Beheer oor Plaaslike Bestuur, 1958	Die geheel
40 van 1960	Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings), 1960	Artikels 30 tot 51; 62; 62(A); 63 (1) tot (20); 63(A); 64; 65; 67; 69; 70; 70bis; 71.
15 van 1981	Stadsraad van Midrand, 1981	Die geheel
24 van 1986	Ordonnansie op Plaaslike Bestuursgebiede, 1986	Die geheel
22 van 1988	Administrateursproklamasie - Wysiging van Ordonnansie 40 van 1960	Die geheel
23 van 1988	Administrateursproklamasie - Regulasies betreffende die Instelling van Gesondheidskomitees	Die geheel

BYLAE 2

**OPDRAG EN DELEGERING VAN BEVOEGDHEDE,
FUNKSIES, PLIGTE EN VERANTWOORDELIGHED
AAN MUNISIPALE RADE**

ITEM A - ORDONNANSIE OP PLAASLIKE BESTUUR, 1939		
DEEL 1 - OPDRAG		
ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN OPGEDRA
19(7)	Toelaes aan burgemeester, onderburgemeester en raadslede	Die geheel
64(1)	Afbakening van terreine vir doel van oprigting van publieke of munisipale geboue	Die geheel
65(bis)(4)(b)	Roetes, stilstouplekke en standplase vir publieke voertuie	Die geheel
67(6) en (9)(b)	Permanente sluiting of verlegging van strate	Die geheel
69(1)(a)	Verlening van nommers aan huise en name aan publieke plekke	Die geheel
71(2)	Bevoegdheid om skutte op te rig	Die geheel
79(9)bis	Algemene bevoegdhede	Die geheel
79(10)	Algemene bevoegdhede	Die geheel
79(28)	Algemene bevoegdhede	Die geheel
79(33)	Algemene bevoegdhede	Die geheel - behalwe 79(33)(b)(ii)
79(42)	Algemene bevoegdhede	Die geheel
79(53)	Algemene bevoegdhede	Die geheel
80B(4)(b)(i)	Vasstelling, wysiging of intrekking van heffings by spesiale resolusie	Die geheel
81(1)(c)	Werke vir die lewering van water	Die geheel
81(1)(d)	Werke vir die lewering van water	Die geheel
81(1A)	Werke vir die lewering van water	Die geheel
81(2)	Werke vir die lewering van water	Die geheel
83(1)(bis)	Werke vir die lewering van lig, hitte en krag	Die geheel
83(3)(a)	Werke vir die lewering van lig, hitte en krag	Die geheel
83(4)	Werke vir die lewering van lig, hitte en krag	Die geheel

A(1)	Beperking op die gebruik van water en elektrisiteit	Die geheel
104(bis)	Bevoegdheid van plaaslike owerheid om vereistes van bouverordeninge te verslap of af te sien van voldoening daaraan	Die geheel
131(5)	Ander spesiale bevoegdhede vir dorpsrade	Die geheel
131(17)	Ander spesiale bevoegdhede vir dorpsrade	Die geheel
133	Bevoegdheid om riolerings- en dreineringswerk te onderneem	Die geheel
142(1)(b)	Bevoegdheid om dreineringswerke te verrig op private grond of eiendom of om voorskotte daarvoor te verleen	Die geheel
155(1)	Sanitêre beheer oor bo- en ondergrondse mynwerksaamhede	Die geheel

DEEL 2 - DELEGASIE		
ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN OPGEDRA
79(16)	Algemene bevoegdhede	Die geheel
79(17)(e)	Algemene bevoegdhede	Die geheel
79(18)(e)	Algemene bevoegdhede	Die geheel
79(18)(f)(aa)	Algemene bevoegdhede	Die geheel
79(18)(f)(bb)	Algemene bevoegdhede	Die geheel
79(18)(h)(bb)	Algemene bevoegdhede	Die geheel
79(24)(c)	Algemene bevoegdhede	Die geheel
80A(b)(ii)	Insluiting van spesifikasies, regulasies en ander dokumente in verordeninge by wyse van verwysing	Die geheel
83(1)(c)(i)	Werke vir die lewering van lig, hitte en krag	Die geheel

ITEM B - ORDONNANSIE OP PLAASLIKE BESTUUR (ADMINISTRASIE EN VERKIESINGS), 1960		
DEEL 1 - OPDRAG		
ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN OPGEDRA
57(6)(b)	Funksies van Bestuurskomitee	Die geheel
DEEL 2 - DELEGASIE		

NOTICE 1208 OF 1998

**LEKGOTLATHERAMELAO LA
PROBENTSHE YA GAUTENG**

**MOLAOKAKANYWA WA TEKANETŠO
YA MERERO YA MMUŠO YA
SELEGAE**

Bjale ka ge o tsebagaditšwe

ke

LELOKO LA LEKGOTLAPHETHIŠI LA PEAKANYO LE MMUŠO WA SELEGAE

[B-1998]

MOLAOKAKANYWA

Go kgonagatša tekanetšo ya motheo wa peo melao le taolo karolong ya selegae ya mmušo; le go kgonagatša merero yeo e amanago le seo.

Lekgotlatheramelao la Gauteng le beya Molaokakanywa wo ka mokgwa wo o latelago:-

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KGAOLO 1

DITLHALOSO, MORERO LE TIRIŠO

Ditlhaloso

1 Molaong wo, ntle le ge moelego wa kgopol o nyaka tlhaloso ye nngwe -

"magato ao a tšerwego", a akaretša go ntšwa ga melaotshepetšo, go dira melaoselegae, go tšeya magato a taolo goba a mangwe, go tsenela dikwano tše di tlišago boikarabelo le go hloma goba go emelela tsheko efe goba efe ya bosenyi goba ya leago goba ye nngwe le ye nngwe ya molao, ka mabaka a karolo 60(1) le (2) tša Molaso wo;

"molao ofe goba ofe wo mongwe", e akaretša molao wa setšo;

"molao wa selegae", ke molao ofe goba ofe wo o dirilwego ke lekgotla la masepala gomme e akaretša mokgwa wa go šoma goba tsela;

"Mohlankedi Mogolo-Phethiši", ke Mohlankedi Mogolo-Phethiši yo a hlomilwego go ya ka karolo 16;

"Komiti", ke komiti ya dinyakišiyo ya masepala, yeo e hlomilwego go ya ka karolo 49;

"Molaotheo", ke Molaotheo wa Repabliki ya Afrika Borwa, 1996 (Molao wa 108 wa 1996);

"Mohlankedi yo a filwego maemo a itšego", ke motho yo a filwego maemo go ya ka karolo 22;

"Morero wa mmušo wa selegae", ka mabaka a karolo 49 le 50 ga e akaretše go hlatloša, go ganetša goba go boledišana ka ga kgetho ya motho ofe goba ofe go lekgotla lefe goba lefe la masepala, probentshe goba la mmušo wa gare, le ge e ka ba mokagtlo goba koporase.

"Molawana wa Mmušo wa Selegae", ke Molawana wa Mmušo wa Selegae, 1939 (Molawana 17 wa 1939), bjale ka ge o fetošitšwe;

"Molao wa Lebakanyana wa Mmušo wa Selegae", ke Molao wa Lebakanyana wa Mmušo wa Selegae, 1993 (Molao 209 wa 1993), bjale ka ge o fetošitšwe;

Leloko la Lekgotlaphethiši", ke leloko la maleba la Lekgotlaphethiši leo le rwelego boikarabelo mererong ya mmušo wa selegae ka Probentsheng ya Gauteng; "maatla, mešomo le maikarabelo"; di akaretša kgopol o "maatla le mešomo" bjale ka ge di

ukangwa ka gare ga Molaotheo gomme, "maatla le maikarabelo" bjale ka ge di ukangwa ka Molaong wa Lebakanyana wa Mmušo wa Selegae;

"laetšwego" e ra seo se laetšwego ke molaotshepetšo gomme "laetšwe" e na le tlhaloso yeo e sepelelanago le se sengwe.

"probentshe" ke Probentshe ya Gauteng.

"Lefelo la setšhaba", ke tsela efe goba efe, mokgoba, tsejana ya go feta, leporogo, leporogo la ka godimo, tsela ya ka tlase, lefelo leo le beetšwego go ka sepelwa ke ba maoto, tselana ya maoto, tselana ya ka thoko, karolo ya tsela, sekwaere, lefelo, mogola, serapa, phaka, tselana, boemathekisi goba boemapese, lefelo le lengwe le le lengwe leo le lego taolong ya masepala gomme le akaretša tsela efe goba efe, lefelo goba tsela ya go feta yeo e dirišwago ke batho ntle le tšitišo, goba yeo batho ba nago le tokelo ya go e diriša.

"molao wa selegae wa tlwaelo", ke molao wa selegae wo o dirilwego ke Lelokø la Lekgotlaphethiši go ya ka ditaelo tša dikarolo 10 le 11; gomme

"Molao wo", e akaretša dinomoro, diskedule le melaotshepetšo efe goba efe goba melao ya selegae yeo e ntšhitšwego goba e dirilwego go ya ka Molao wo, eupša ga e akaretše dihlogo.

Morero

- 2 (1) Morero wa Molao wo ke go lekanetša motheo wa peo melao le taolo tseo karolo ya pušo ya selegae e e ka spetšago merero ya yona kamanong le, magareng a tše dingwe -
 - (a) go kgonthiša le go beakanya maemo, maatla, mešomo le maikarabelo a lekgotla la masepala;
 - (b) go dira le go ntšhwa ga melaoselegae, melaoselegae ya tlwaelo le melaotshepetšo;
 - (c) go lomaganya dikamano tša mešomo; le
 - (d) go kgontšha bomasepala go sepetša merero ya bona ka dipuelo, kudu kudu ge go hlokomeiwa go hwetšwa ga diphahlo le ditirelo, go phethagatšwa ga mešomo le go dirwa ga ditekolo le go sepetšwa ga phihlelelo ya mafelo a setšhaba.
- (2) Mabapi le merero yeo e hlalositšwego go karolwana (1) Molao wo o nyaka go kgonagatša phetošo ya karolo ya selegae ya mmušo ka -
 - (i) go tšweletša le go tiiša bokgoni le botshepegi bja karolo ya

- selegae ya mmušo;
- (ii) go hlohleletša bomasepala go gomarela le go kaonefatša maemo a lekanego a pušo le kabo ya ditirelo;
 - (iii) go hlohleletša batho go ba le seabi pušong ya bomasepala; le
 - (iv) go tšweletša moya wa tirišano le go hlakanelo boikarabelo ka gare ga mmušo.

Tirišo ya Molao

- 3 (1) Motho ofe goba ofe yo a dirišago goba a hlilosago Molao wo o swanetše -
- (a) go fa sebopego sa kabo ya wona ka mokgwa wo o -
 - (i) sepelelanago le dipego tša morero tše di hlalositšwego karolong ya 2; le
 - (ii) hlokamelago morero wo o itšego, mošomo le maemo a karolo ya selegae ya mmušo bjale ka ge a ukangwe ka Molaongtheo le molaong ofe goba ofe o mongwe.
- (2) Ditaelo tša molao wo di swanetše go elwa hloko -
- (a) go ya le molao ofe goba ofe wo o laolago lekgotla la masepala; le
 - (b) ka mokgwa wo o thekgago tlhalošo ye e kwalago ya melao ya maleba, yeo e efogago thulano magareng ga yona mabapi le tlhaloso yeo e ka dirago gore melao yeo e thulane.
- (3) Ge gotsoga thulano efe goba efe yeo e amanago le merero yeo go swaranwego le yona Molaong wo, magareng a Molao wo le dikarolo tša molao ofe goba ofe o mongwe, ntle le Molaongtheo, Molao wa Pušo ya Lebakanyana ya Selegae, goba molao ofe goba ofe wo o tlogago o fetola Molao wo, go tla dirišwa ditaelo tša Molao wo.

KGAOLO 2

MAEMO, MAATLA MEŠOMO LE MAIKARABELO A BOMASEPALA

Maemo a bomasepala

- 4 (1) Go ya ka molao ofe goba ofe o mongwe, Lekgotla le lengwe le le lengwe la masepala leo le hlomilwego go ya ka Molao wa Pušo ya Selegae ya Lebakanyana, goba le goeleditšwe go ba leo le hlomilwego go ya ka molao

wo, le tla -

- (a) tšwela pele go ba gona le go gomarela maemo a lona bjale ka lekgotla la masepala; le gona le
 - (b) tla tšewa go ba mokgatlo wo o lego karolo ya setlamo.
- (2) Go ya ka molao ofe goba ofe o mongwe, lekgotla la masepala, bjale ka karolo ya setlamo -
- (a) le tšwela pele go ba gona le ge go ka ba le diphetogo dife goba dife tše di ka bago lefelong leo le welago ka tlase ga taolo ya lona, goba makaleng a lona a taolo;
 - (b) le seemong sa go ka seka goba go sekišwa leineng la lona;
 - (c) le ka reka, go swara, go hiriša, goba go ikgaoganya le thoto

Maemo a botoropokgolo a bomasepala

- 5 (1) Lekgotla la masepala leo le goeeditšwego go ba toropokgolo go ya ka Molawana wa Pušo ya Selegae, goba molao ofe goba ofe o mongwe, le tla gomarela maemo a lona bjale ka toropokgolo.
- (2) ge lekgotla la metse-setoropo le re tikologong yeo e laolwago ke lona, la ba le lekgotla la selegae la metse-setoropo leo le goeeditšwego goba le hhaloswa go ba leo le ka bago toropokgolo, bjale ka ge go ukangwe karolwaneng (1), lekgotla la metse-setoropo leo le tla hwetša -
- (a) maemo a toropokgolo; le
 - (b) maatla ka moka, maikarabelo, ditokelo le mehola yeo e fiwago toropokgolo go ya ka molao ofe goba ofe.
- (3) Lekgotla la masepala leo le goeeditšwego go ba toropokgolo bjale ka ge go ukangwe karolwaneng ya (1) goba le hweditše maemo a toropokgolo bjale ka ge go ukangwe karolwaneng (2), le ka laetša maemo a -
- (a) leineng la lona; le
 - (b) dipampiring dife goba dife tša lona.

Maatla, mešomo le maikarabelo a makgotla a bomasepala

- 6 (1) Godimo ga maatla, mešomo goba maikarabelo a lekgotla la masepala, ao a hhalositšwego ka Molaongtheo le ka Molaong wa Pušo ya Selegae ya Lebakanyana, goba molao ofe goba ofe, lekgotla la masepala le na le maatla, mešomo goba maikarabelo ao a fiwago, a abelwago goba a rolelwago lona go ya ka Molao wo.
- (2) Lekgotla la masepala le ka tšeya kgato efe goba efe yeo e nyakegago go ka phethagatša morero wa Molao wo.
- (3) Lekgotla la masepala le ka dira le go laola melaoselegae gore le kgone gore ka mo go nago le dipuelo le -
- (a) phethagatše maatla a lona, mešomo goba le maikarabelo; le gona le
- (b) laole merero yeo lo lero nago lago le tokelo ya go e laola.

KGAOLO 3

MELAOSELEGAE, MELAOSELEGAE YA TLWAELO LE MELAOTSHEPETŠO

(a) Melaoselegae

Tsela ya go dira melaoselegae

- 7 (1) Go dira molaoselegae, lekgotla la masepala le swanetše go fetiša kwano ya go goeletša gore le na le maikemišetšo a mohuta woo.
- (2) Morago ga ge kwano e fetišitšwe lekgotla la masepala le swanetše go -
- (a) tsebagatša maikemišetšo a lona a go dira molaoselegae ka tsebišo ye e tšwelelago ka Kuranteng ya Probentshe;
- (b) gatelela tše di latelago tsebišong yeo -
- (i) gore go nyakaga maikutlo mabapi le molaoselegae wo o akanywago;
- (ii) go fa kakaretšo ya gore molaoselegae wo o akanywago o tla ba mabapi le eng;

- (iii) motho goba lefelo leo go lona tshedimošo e ka hwetšwago mabapi le molaoselegae wo o akanywago;
- (iv) go ya ka karolwana (7) le (8) lefelo, nako yeo ka yona le mabaka le mokgwa woo ka wona khophi ya molaoselegae wo o akanywago e ka hwetšwago, goba ya bewa phatlalatša gore e lekolwe;.
- (v) lebaka la go ntšha maikutlo ka ga molaoselegae wo o akanywago, leo le sa swanelago go ba ka tlase ga kgwedi e tee, go tloga letšatšing la tsebišo; le
- (vi) motho goba lefelo leo go lona maikutlo mabapi le molaoselegae wo o akanywago, a ka išwago.

- (c) nakong e nngwe le e nngwe pele molaoselegae o ka dirwa, go ka swarwa ditherišano tša mohuta ofe goba ofe le sehlopha se sengwe le se sengwe sa maleba, seo se nago le kgahlego, go akaretšwa le go swarwa ga dinyakišiso; le gona
- (d) maikutlo ao a amogetšwego le dintlha tša ditherišano di swanetše go elwa hloko pele ga ge molaoselegae o ka dirwa.

- (3) Ge lekgotla la masepala le se la dira molaoselegae lebakeng la ngwaga go tloga mola go dirwago pego yeo e hlalositšwego karolwaneng ya (1) (b), molaoselegae woo o ka se dirwe, ntle le gore tsela yeo e filwego karolwaneng ya (1) e boeletšwe.
- (4) Ditaelo tša karolwana (1)(b) le (2) ga di dirišege mabapi le -
 - (a) molaoselegae ofe goba ofe woo dikgahlegelo tša setšhaba di nyakago gore o dirwe ntle le tiego; le
 - (b) phetošo ya go kaonefatša phošo yeo e dirilwego ge go ngwalwa.

- (5) Ditaelo tša karolwana (1) go ya go (3) di ka dirišwa ge go fetolwa goba go fedиšwa molaoselegae ofe goba ofe, ka diphetogo tše di ka nyakegago go ya le mabaka.
- (6) Molaoselegae o tla thoma go dirišwa letšatšing la go phatlalatšwa ga wona ka Kuranteng ya Probentshe, goba letšatšing le lengwe leo le beilwego ka Kuranteng ya Probentshe.
- (7) Lekgotla la masepala le ka beya tefelo ya go hwetša khophi ya molaoselegae wo o akanywago.

- (8) Lefelo leo go lona molaoselegae wo o akanywago o laetšwago, le swanetše go kgontšha batho ka moka bao ba angwago ke molaoselegae woo, go sedimošwa ka potlako le gona ntle le mathata, mabapi le dikagare tša molaoselegae woo.
- (9) Lekgotla le lengwe le le lengwe la masepala le swanetše go hlabolla le go diriša maano tshepetšo le mananeo go thuša maloko a setšhaba go ntšha maikutlo ka ga molaoselegae wo o akanywago.

Tebelelo leswa ya nako le nako ya melaoselegae

- 8 (1) Lekgotla la masepala le swanetše go sepetša le go phetha tebelelo leswa ya melaoselegae ya lona -
 - (a) yeo e dirišwago pele goba go thomeng ga Molao wo letšatšing leo le sego morago ga leo le beilwego ke Leloko la Lekgotlaphethiši;
 - (b) yeo e thomago go dirišwa morago ga go šoma ga Molao wo, mabakeng ao a sa fetanego ka mengwaga ya ka tlase ga lesome (10) morago ga go thoma go šoma ga molaoselegae woo.
- (2) Ge lekgotla la masepala le sa sepetše le go phetha tebelelo leswa mabakeng ao a beilwego karolwaneng (1), Leloko la Lekgotlaphethiši le ka kgopela gore lekgotla la masepala le tliše mabaka a go se phethagatše seo.
- (3) Lekgotla la masepala le swanetše go obamela kgopelo ye gomme le tliše bohlatsa go Leloko la Lekgotlaphethiši lebakeng leo le sa fetego kgwedi go tloga ge le amogela kgopelo yeo.
- (4) Ge le ka re ge le e la bohlatsa bjo hloko, Leloko la Lekgotlaphethiši la se kgotsofatšwe ke mabaka a go palelwa goo, Leloko la Lekgotlaphethiši le ka re ka tsebišo ye e ngwadilwego la šišnya go lekgotla la masepala gore le dire tebelelo leswa lebakeng leo le kwagalago.
- (5) Tsebišo yeo e bolelwago go karolwana (4) e swanetše go ba le mabaka a Leloko la Lekgotlaphethiši a sephetho se.
- (6) Ka mabaka a karolo ye "go dira le go phetha tebelelo leswa" go akaretša -
 - (a) kelo goba kelo hloko ya molaoselegae, gomme ge go le maleba,
 - (b) go dirwa, go fetogo fetošwa goba go fedišwa ga molaoselegae.

Phihlelelo le tlhahlobo ya melaoselegae

- 9 (1) Godimo ga seo se ka laelwago molawaneng o mongwe le o mongwe wo o

ntšhišwego go ya ka karolo 13(1), lekgotla la masepala le ka beya mabaka le mokgwa woo ka wona batho ba ka kgonago go fihlelala, go hlahloba, goba go hwetša khophi ya molaoselegae ofe goba ofe.

- (2) Peo ya mabaka yeo go bolelwago ka ga yona go karolwana (1) e ka no se beye tefelo ya go bonwa feela goba go hlahlobja ga molaoselegae.

(b) Melaoselegae ya tlwaelo

Maatla a Leloko la Lekgotlaphethiši a go dira melaoselegae ya tlwaelo

- 10 Ka morero wa go thuša bomasepala, Leloko la Lekgotlaphethiši le ka dira melaoselegae wa tlwaelo mabapi le taba e nngwe le enngwe yeo e ukangwago go karolo 6.

Tsela ya go dira melaoselegae ya tlwaelo

- 11 Ditaelo tša karolo 15 di dirišwa go hlangweng ga melaoselegae ya tlwaelo, ka diphetogo tše di ka nyakwago ke mabaka.

Khuetso ya molaoselegae wa tlwaelo

- 12 (1) Molaoselegae wa tlwaelo goba phetoša ya wona goba go fedišwa ga wona, o tlama lekgotla la masepala ge feela o dira melaoselegae mabapi le se.
 (2) Tšhupetšo ye e lego molaong selegae, ye e lebišwago go melaoselegae wa tlwaelo, e lekane go akaretša dikagare tša molaoselegae wa tlwaelo ka go molaoselegae.

(c) Melaotshepetšo

Maatla a Leloko la Lekgotlaphethiši a go ntšha melaotshepetšo

- 13 (1) Lebakeng la ngwaga morago ga gore Molao wo o thome go šoma, Leloko la Lekgotlaphethiši le swanetše go ntšha melaotshepetšo mabapi le mabaka le mokgwa wo ka wona batho ba ka bago le phihlelelo ya go hlahloba, goba go hwetša khophi ya melaotshepetšo ofe goba ofe, molaoselegae, molaoselegae wa tlwaelo, tshepetšo goba tsela; le gona
 (2) Leloko la Lekgotlaphethiši le ka ntšha melaotshepetšo mabapi le morero o mongwe le o mongwe wo o lego bohlokwa goba wo o ka kgonagatšago go

phethagatšwa ga morero wa Molao wo.

Dikagare tša melaotshepetšo

14 (1) Molaotshepetšo o ka -

- (a) fa maatla goba wa beya boikarabelo go motho, mokgatlo goba go pušo ya setšhaba;
- (b) ba le mabaka ao a akaretšago mapheko, goba dikiletšo, le gona o ka fa ditlamollo; gomme o
- (c) ka dirwa mabapi le -
 - (i) dikarolo tše di fapafapanego tša Gauteng; goba
 - (ii) magoro a fapafapanego a batho, goba mekgatlo.

- (2) Nakong e nngwe le e nngwe le gona mabapi le motho mang goba mang, mokgatlo, lekgotla goba koporase, le gona go ya ka ditaelo tša melaotshepetšo ye e angwago, Leloko la Lekgotlaphethiši, le ka re ka tsebišo yeo e ka tšwelelago ka Kuranteng ya Probentshe goba ya go sepetšwa ka poso goba ka seatla, -
- (a) la beya, la fetoša, goba la gomiša mabaka afe goba afe ao a ukangwago ka molaong tshepetšo; goba
- (b) la fa, la fetoša goba la gomiša tlamollo efe goba efe yeo e ukangwago ka molaong tshepetšo.
- (3) Leloko la Lekgotlaphethiši le ka se fetoše goba la gomiša lebaka goba tlamollo yeo e pharilwego goba e filwego go ya ka karolwana (2), ge e se feela lebakeng la ge motho goba mokgatlo wo o angwago, a filwe sebaka sa go tšweletša bohlatse mabapi le morero woo.
- (4) Lepheko lefe goba lefe goba kiletšo yeo e lego ka molaotshepetšo, e swanetše go -
 - (a) sepelelana le maikemišetšo a molaotshepetšo woo; le gona
 - (b) le fokotše boitshwaro bja batho le mekgatlo gannyane ka mo go ka kgonagalago.

- (5) Ge e le gore go palelwa ke go sepelelana le lepheko goba kiletšo go ya ka molaotshepetšo ofe goba ofe, ke molato wo o ka dirago gore motho a lebane le tatofatšo ya bosenyi, molaotshepetšo woo o swanetše go dira gore ge go kgonega, motho yo a angwago tsebišwe pele a ka pharwa molato, ka ga tatofatšo yeo le sebaka sa gore a sepedišane le melaotshepetšo.

Tsela ya go ntšha melaotshepetšo

- 15 (1) Go ntšha molaotshepetšo ofe goba ofe go ya ka Molao wo, Leloko la Lekgotlaphethiši le swanetše go -
- (a) tsebagatša maikemišetšo a lona a go ntšha molaotshepetšo ka tsebišo ya Kuranta ya Probentshe;
 - (b) hhalosa tše di latelago ka tsebišong yeo:
 - (i) gore go nyakega maikutlo mabapi le molaotshepetšo wo o akanywago;
 - (ii) ka mokgwa wo o akareditšwego, seo kakanyo ye e lego ka ga sona;
 - (iii) motho yoo go yena goba lefelo leo dinyakišišo mabapi le melaotshepetšo ye e akanywago di ka lebišwago;
 - (iv) go ya ka molawana tshepetšo (6) le (7) lefelo leo nako le mabaka le mokgwa woo ka wona khophi ya melaotshepetšo ye e akanywago e ka hwetšwago ka gona, goba ya bewa pepeneneng gore e lekolwe;
 - (v) lebaka la go ntšha maikutlo ka ga melaotshepetšo yeo e akangwago, leo le sa swanelago go ba ka tlase ga kgwedi e tee go tloga letšatšing la tsebišo; le
 - (vi) motho goba lefelo leo go lona maikutlo ka ga melaotshepetšo yeo e akanywago, a ka romelwago;
 - (c) nakong ye nngwe le ye nngwe pele go ka ntšhwla melaotshepetšo, le sware ditherišano le dihlopha tša maleba tše di angwago ka sebopego sefe goba sefe, go akaretšwa go dirwa ga dinyakišišo;
 - (d) hlokomela maikutlo ao a amogetšwego le dikagare tša ditherišano; le go
 - (e) hwetša kwano ya komiti ya lekgotlatheramelao la probentshe yeo e nago le boikarabelo bja merero ya mmušo wa selegae pele le ka ntšha molaotshepetšo.

- (2) Ge Leloko la Lekgotlaphethiši le se la dira melaotshepetšo lebakeng la ngwaga la tsebagatšo yeo e boletšwego karolwaneng (1)(a), melaotshepetšo yeo e ka se dirwe ntle le gore tsela yeo e laetšwego go karolwana (2) e boeletšwe.
- (3) Dititaelo tša karolwana (1) di ka se di ke dirišetšwe -
 - (a) melaotshepetšo yeo kgahlegelo ya batho e nyakago gore e dirwe ntle le tiego; le
 - (b) phetošo ya go lokiša phošo ya seo se ngwadilwego.
- (4) Ditaelo tša karolwana (1) le (2) di dirišetšwa go fetoša goba go fediša molaotshepetšo ofe goba ofe ka diphetogo tše di ka nyakwago ke mabaka.
- (5) Melaotshepetšo e tla thoma go dirišwa letšatšing leo e phatlalatšwago ka lona ka Kuranteng ya Probentshe goba letšatšing le lengwe leo le laelwago Kuranteng ya Probentshe.
- (6) Lekgotla la masepala le ka beya tefelo ya go hwetša khophi ya molaoselegae wo o akanywago.
- (7) Lefelo leo go lona melaotshepetšo ye e akanywago e pepentšhwago gona le swanetše go dira gore batho ka moka bao ba angwago ke melaotshepetšo yeo ba sedimošwe ka potlako le gona ntle le tšhitelo ka ga dikarare tša yona.
- (8) Leloko la Lekgotlaphethiši le swanetše go tšeya magato a go kgonthiša gore maano tshepetšo le mananeo a a hlabollwa le go tsenywa tirišong go thuša maloko a setšhaba go ntšha maikutlo ka ga melaotshepetšo ye e akanywago.

KGAOLO 4

MERERO YEO E AMANAGO LE BAŠOMEDI, BALEKGOTLA LE BORATOROPO

Go hlongwa ga mohlankeddi mogolo-phethiši le bašomedi ba bangwe

- 16 Lekgotla le lengwe le le lengwe la masepala le swanetše gore, ka mabaka a go ba pepeneneng le go ba le boikarabelo setšhabeng le -
- (a) hlome mohlankeddi mogolo-phethiši le badiredi bao ba nyakegago gore le kgone go phethagatša maatla a lona, mešomo goba maikarabelo ka mokgwa wa maleba; le gona le
 - (b) hlome mohlankeddi mogolo-phethiši le badiredi ka mabaka ao a ka

rerisanwago.

Maatla le maikarabelo a mohlankedi mogolo-phethiši

- 17 (1) Godimo ga seo se laetšwego molaong wo goba molaong ofe goba ofe wo mongwe, maikarabelo a mohlankedi mogolo-phethiši ke -
- (a) go šoma bjale ka hlogo ya badiredi ba lekgotla la masepala le go diriša maatla a taolo badireding, ka wona maemo a -
 - (i) go ya le ka moo se se ka nyakegago ka gona gore go kgonege go tšweletša taolo ye e atlegilego, le phethagatšo ya maatla, maikarabelo goba mešomo ya lekgotla la masepala; goba
 - (ii) ka kelo yeo e beilwego ke lekgotla la masepala. - (b) go okamela tirišo ya bokgoni le ya go ba le dipuelo, ya mananeo le maano tshepetšo a lekgotla la masepala, le go phethagatšwa ga maatla, mešomo goba maikarabelo a lona;
 - (c) go kgonthiša gore mehlodi ya lekgotla la masepala e dirišwa ka bokgoni go phethagatša maikemišetšo a lekgotla la masepala;
 - (d) go kgonthiša gore maano tshepetša a go ba le dipuelo le ao a lokilego a go amana le badiredi a hlabollwa le go tsenya tirišong ka dikgorong ka moka; le gona
 - (e) go hlohleletša le go tšwetša pele dikamano tše botse ka lekgotleng la masepala le ka setšhabeng seo le le direlago.
- (2) Mohlankedi mogolo-phethiši o tla ba le maatla a mangwe gape le maikarabelo le mešomo -
- (a) go ya le ka mo lekgotla la masepala le bonago go swanetše; le
 - (b) ka mo go ka laelwago ke molao ofe goba ofe o mongwe.

Tekanetšo ya dikwano le mabaka a go thwalwa

- 18 Lebakeng la ge go e ba le kakaretšo goba kopano ya bomasepala go ya ka molao ofe goba ofe -

- (a) badiredi ba bomasepala ba peleng ba tšewa go ba badiredi ba lekgotla la masepala leo le akareditšwego goba le kopantšwego;
- (b) dikwano le mabaka a go thwalwa ga badiredi bao ba amilwego ke kakaretšo goba go kopanyo, di swanetše gore ka mabaka ka moka, di se ke tša ba tše di nago le mohola o monnyane ge di bapetšwa le tše di bego di ba ama pele ga kakaretšo goba kopanyo yeo; le gona
- (c) ka pela ka mo go ka kgonegago, lekgotla la masepala leo le akareditšwego goba leo le kopantšwego, le swanetše go hlama le go tsenya tirišong, magato a go lekalekanetša diphapano dife goba dife tša dikwano le mabaka a mošomo ao a ka bago gona magareng a badiredi ba bomasepatla ba peleng, ge go hlokamelwa maemo a bona a mešomo.

Mehola ya thušo ya kalafo

- 19 (1) Lekgotla le lengwe le le lengwe la masepala -
- (a) le swanetše go tsenya tirišong sekema seo se fago bašomedi ka moka mehola ya thušo ya kalafo, go akaretšwa le bašomedi ka moka bao ba rotšego mediro, le gona
 - (b) le ka kgonagatša phihlelelo ya sekema seo se fago balekgotla ba lona ka moka mehola ya thušo ya kalafo.
- (2) Sekema seo se ukangwago karolwaneng (1) ga se a gapeletšega go hlangwa ka mokgwa wo o kgonagatšago mehola ya thušo ya kalafo feela go legoro la batho bao ba ukangwago karolwaneng (1) (a) le (b) ka go latelana.
- (3) Sekema seo se ukangwago karolwaneng (1) le melawana, dikobamelo le mehola yeo e amago sekema seo, go akaretšwa melawana yeo e lego mabapi le ditshwanelego tša go ka holega ga bao ba nago le diabe, tše di swanetšego go dirwa ke lekgotla la masepala goba bao ba holwago ke sekema seo, di swanetše go kgonthišwa -
- (a) moo go kgonegago, go ya le ditsela tše di laetšwego dikwanong dife goba dife tše di lego gona, tša go tlišwa ke ditherišano ka ga ditokelo tša bašomi; le gona
 - (b) morago ga ditherišano le baholwa bao ba angwago.
- (4) Sekema sefe le sefe seo se hlomilwego go ya ka Molawana wa Mmušo wa Selegae, goba molao ofe goba ofe wa maleba, goba kwano ya dihlopha, yeo e fago bašomedi goba balekgotla ba lekgotla la masepala mehola ya thušo ya kalafo, se tla tšwela pele go ba gona, gomme melaotshepetšo, maikarabelo le

mehola yeo e amago sekema seo e tšwela pele go dirišwa, ge e se feela ge e ka tšeelwa sebaka ke e mengwe, goba ya fotošwa -

- (a) go ya ka Molao wo goba molao ofe goba ofe o mongwe;
 - (b) go ya ka melaotshepetšo ya sona; le gona
 - (c) go sepelelana le tsela yeo e ukangwago karolwaneng (3).
- (5) Go tšeelwa sebaka goba go fotošwa go ukangwago karolwaneng ya (4) ga se ga swanela go beya mošomedi goba molekgotla maemong ao a phalwago ke ao a bilego gona pele ga go tšeelwa sebaka goba go phetošo yeo.

Mehola ya go rola mošomo

- 20 (1) Lekgotla le lengwe le le lengwe la masepala -
- (a) le swanetše go tsenya tirišong sekema seo se fago bašomedi ba lona ka moka mehola ya go rola modiro; le gona
 - (b) le swanetše go kgonagatša phihlelelo ya sekema seo se fago balekgotla ka moka ditokelo tša go rola modiro.
- (2) Sekema seo se ukangwago karolwaneng (1), ga se gapeletšege go hlangwa ka mokgwa wo e lego gore se fa ditokelo tša go rola modiro feela go legoro la batho bao ba ukangwago karolwaneng 1(a) goba (b) ka go latelana.
- (3) Sekema seo se ukangwago karolwaneng (1) le melawana, dikobamelo le mehola yeo e amago sekema seo, go akaretšwa melawana yeo e lego mabapi le ditshwanelego tša go ka holega ga bao ba nago le diabe, tše di swanetšego go dirwa ke lekgotla la masepala goba bao ba holwago ke sekema seo, di swanetše go kgonthišwa -
- (a) ge go kgonega, go ya ka ditsela dife goba dife tše di laetšwego, tša go tlišwa ke ditherišano ka ga ditokelo tša bašomi, le gona
 - (b) morago ga ditherišano le batho ka moka bao e ka bago baholwa, goba le baholwa bao ba angwago.
- (4) Sekema sefe le sefe seo se hlomilwego go ya ka Molawana wa Mmušo wa Selegae, goba molao o mongwe le o mongwe wa maleba goba dikwano tša dihlopha wo o fago bašomedi goba balekgotla ba lekgotla la masepala mehola ya go rola modiro, se tla tšwela pele go ba gona, gomme melaotshepetšo, dikobamelo le mehola ya sekema di tšwela pele go dirišwa, ge e se feela ge

e ka tšeelwa sebaka ke e mengwe goba ya fotošwa -

- (a) go ya ka Molao wo goba molao ofe goba ofe wo mongwe;
 - (b) go ya ka melawana ya sona, le
 - (c) go sepelelana le tsela yeo e ukangwago go karolwana (3)
- (5) Go tšeelwa sebaka goba go fotošwa go gongwe le go gongwe go ukangwago karolwaneng (4) ga se ga swanela go beya mošomedi goba molekgotla ofe goba ofe maemong ao a phalwago ke ao a a bilego gona pele ga go tšeelwa sebaka goba photošo yeo.
- (6) Moo go šetšego go hlomilwe dikhwama go ya ka Karolo 79 *ter* le 79 *quat* ya Molawana wa Mmušo wa Selegae, lekgotla la masepala leo le angwago, le swnetše go hlama le go tsenya tirišong, magato a go lekalekanya mehola ya bašomedi bao e lego ba dikhwama tseo go hlokometšwe maemo a bona ao a fapafapanego.
- (7) Lekgotla la masepala le swanetše go phethagatša magato ao a ukangwago karolwaneng (6) lebakeng la mengwaga ye mebedi (2) morago ga go thoma ga Molao wo.

Ditaelo tše di fapafapanego tseo di lego mabapi le boratoropo

- 21 (1) Ge go hlongwa ratoropo -
- (a) lekgotla la masepala le ka beya lebaka la go šoma la ratoropo gore le sepelelane le la lekgotla la masepala; le gona
 - (b) go tlatša sekgoba seo se bago gona lebakeng la go šoma ga lekgotla la masepala, go hlongwa goo go ka fokoletšwa karolong ye e šetšego ya ya lebaka leo la go šoma.
- (2) Ka morero wa go tlošwa ga ratoropo mošomong wa gagwe, lekgotla la masepala le ka laela gore se se ka dirwa feela ka sephetho seo se tserwego ke baemedi ba bontši bjo bo sego ka tlase ga pedi-tharong.
- (3) Lekgotla la masepala le ka rolela ratoropo wa lona, boikarabelo bja go hloma goba go lekola go hlongwa ga ntlha efe goba efe ya lenaneo goba lesolo la maleba la setšhaba, goba la probentshe, gomme boikarabelo bjo bo swanetše go phethagatšwa go ya ka ditumelelo tša maano tshepetšo le ditsela tša lekgotla la masepala.
- (4) Ratoropo a ka šoma komiting ya phethišo goba komiting e nngwe le e nngwe

ya lekgotla la masepala -

- (a) maemong ao a tlwaelegilego, bjale ka molekgotla; goba
 - (b) ka lebaka la maemo a gagwe a go ba mošomong wa ratoropo.
- (5) Lekgotla la masepala le ka laela gore ratoropo ga a na ditokelo tša go boutage a šoma komiting ya phethišo goba ka komiting ye nngwe le ye nngwe mabakeng ao a ukangwago go karolwana 4(b).
- (6) Ge lekgotla la masepala le bona go le bohlokwa gore go hlongwe motlatša ratoropo, lekgotla le ka diriša ditaelo tša karolwana (1) go ya go (5) go batlatša ratoropo ka diphetogo tše di nyakwago go ya le mabaka.

KGAOLO 5

BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO, PHETHAGATŠO YA MOŠOMO, DITEKOLO, DITSELA TŠA KOBAMELO MELAO LE MELATO YEO E AMANO LE TŠONA

Go fiwa maatla ga bahlankedi bao ba fiwego maemo a itšego

- 22 Mohlankedi mogolo-phethisi a ká fa motho ofe goba ofe yo a šomelago lekgotla la masepala, maemo a go ba mohlankedi yo a filwego maemo a itšego.

Mešomo ya bahlankedi bao ba filwego maemo a itšego

- 23 (1) Bahlankedi bao ba filwego maemo a itšego ba ka phethagatša mošomo, ba dira tekolo le go hlapetša le go gapeletša kobamelo ya Molao wo le molao ofe goba ofe wo mongwe wo o fago masepala maatla go hloma motho gore a phethagatše mošomo, a dire tekolo, goba a hlapetse le go gapeletša kobamelo.
- (2) Go ya ka molao ofe goba ofe wo mongwe, mohlankedi yo a filwego maemo a itšego o swanetše go phethagatša mešomo ye e ukangwago karolong ye go dumelelana le tsela yeo e hhalositšwego dikarolong 25 le 26.

Maatla a bahlankedi bao ba filwego maemo a itšego

- 24 (1) Maatla a bahlankedi bao ba filwego maemo a itšego, ao a laelwago Kgaolong ye ke -

- (a) ao a tlago godimo ga maatla ao a filwego mohlankedidi wa maemo a itšego go ya ka molao ofe goba ofe o mongwe; le gona
- (b) go ya ka melao ye.
- (2) Mohlankedidi yo a filwego maemo a itšego, yo a phethagatšago mošomo goba yo a dirago tekolo, a ka -
- (a) go phethagatša mošomo goba go lekola mabu, goba lefelo;
- (b) go botšiša motho yo a lego gona mabung afe goba afe goba lefelong, mabapi le taba e nngwe le e nngwe yeo e ka amanago le mošomo goba tekolo;
- (c) go botšiša motho yo mohlankedidi yo a filwego maemo a itšego, a ka dumelago gore o na le tshedimošo yeo e amanago le mošomo goba tekolo yeo e dirwago;
- (d) go hlahloba sengwalwa sefe le sefe seo motho a swanetšego go se hlokomela go ya ka molao ofe goba ofe wo o ka amanago le mošomo goba tekolo;
- (e) go ngwalolla sengwalwa sefe goba sefe seo se hhalositšwego karolwaneng (d), goba ge go nyakega, go šuthiša sengwalwa gore se ngwalollwe;
- (f) go tšeya mehlala ya selo se sengwe seo se amanago le mošomo goba tekolo;
- (g) go okamela le go bala dimethara, goba go tšeya dikelo.
- (h) go tšeya diswantšho goba go dira dikgatišo tša medumo le diswantšho, tša selo se sengwe le se sengwe, goba motho yo mongwe le yo mongwe, lenaneo, tiro goba mabaka a mangwe le a mangwe ao a lego mabung goba ao a amanago le mabu goba lefelo lefe goba lefe; le gona
- (i) dilo ka moka tše di nyakegago go phethagatša mošomo goba go dirwa ga tekolo efe goba efe, yeo masepala o swanetšego go e dira go ya ka molao ofe goba ofe o mongwe.
- (3) Mohlankedidi yo a filwego maemo a itšego, yo a šuthišasgo selo se sengwe le se sengwe ntle le seo se ukangwago karolwaneng (2) (f) go tloga mabung goba lefelong leo le šongwago goba le lekolwago, o swanetše: -

- (a) go iša resiti ya yona go mong goba motho yo a laolago lefelo leo; le gona
- (b) a se bušetše ka pela ka mo go ka kgonegago, morago ga go phetha mošomo wo se šuthišeditšwego wona.

Tsela ya go phethagatša mošomo goba go dira tekolo: go tsena ka tumelelo yeo e ngwadilwego

- 25 (1) Mohlankedi yo a filwego maemo a itšego a ka tsena mabung afe goba afe goba lefelong lefe goba lefe ge magistrata goba moahlodi a ntšitše lengwalo la go fa tumelelo ya go tsena le go phethagatša mošomo, goba go lekola mabu goba lefelo, gomme tumelelo ye e ngwadilwego e sa na le maatla.
- (2) Magistrata goba moahlodi a ka ntšha lengwalo la tumelelo ya go tsena le go phethagatša mošomo goba go lekola mabu afe goba afe goba lefelo, ge go ya ka tshedimošo yeo e filwego ka kano, go na le mabaka ao a kwagalago a go kgolwa gore -
- (a) go ya ka dikgahlegelo tša setšhaba, go bohlokwa go phethagatša mošomo goba go hwetša tshedimošo yeo e ka se hwetšagalego ntle le go tsena ka mabung ao goba ka lefelong leo; goba
 - (b) gona le go se hlomphe mabaka a Molao wo, goba molao ofe goba ofe o mongwe wo o ukangwago karolong 23 mabapi le mabu goba mafelo ao.
- (3) Tumelelo yeo e ngwadilwego go ya ka karolwana (2) e ka ntšhwa nako e ngwe le e nngwe, gomme le swanetse go tloga le -
- (a) Šupa mabu goba mafelo ao a ka tsenwago le go šongwa goba go lekolwa; le
 - (b) go fa mohlankedi yo a filwego maemo a itšego, maatla a go tsenas le go phethagatša mošomo, goba go lekola mabu goba mafelo goba go dira selo se sengwe le se sengwe le go dira se sengwe le se sengwe seo se beilwego karolong 24(2).
- (4) Tumelelo yeo e ngwadilwego go ya ka karolwana (2) le na le maatla go fihlela ge e nngwe ya ditiragalo tše di latelago e eba gona -
- (a) le phethagaditšwe;

- (b) le khantshetšwe ke motho yo a le ntšhitšego, goba ge motho yoo a se gona, ke motho yo a nago le maatla a go swana le ao;
- (c) morero woo le ntšheditšwego wona o fetile; goba
- (d) go fetile dikgwedi tše tharo go tloga letšatšing leo le ntšhitšwego ka lona.

- (5) Tumelelo ye e ngwadilwego go ya ka karolwana (2) e ka dirišwa feela magareng a 07:00 le 19:00, ge e se feelsa ge magistrata goba moahlodi yo a e ntšhitšego a hhalosa ka go ngwala, gore le ka dirišwa ka nako ye e fapanago le ye, e lego yeo e kwagalago go ya ka maemo.
- (6) Pele ba ka thoma ka mošomo ofe le ofe, goba tekolo, bahlankedi bao ba filwego maemo, bao ba dirišago tumelelo yeo e ngwadilwego, ba swanetše gore-
 - (a) ge mong wa mabu goba motho yo go bonalago a laola mabu goba lefelo a le gona -
 - (i) ba itsebagatše gomme ba hhalose maatla a bona go motho yo, goba ba fe bohlatsa bja maatla ao ba a filwego; le gona
 - (ii) ba fetišetše khophi ya tumelelo ye e ngwadilwego go motho yoo.
 - (b) ge mong wa mabu goba motho yo go bonalago a na le taolo ya mabu goba lefelo leo a se gona, goba a gana go amogela khophi, ba gomaretše khophi ya tumelelo yeo e ngwadilwego, mabung goba lefelong leo, ka moo le tlago bonala gabotse le le pepeneneng.

Tsela ya go phethagatša mošomo goba go dira tekolo: go tsena ntle le tumelelo ye e ngwadilwego

- 26 (1) Mohlankedi yo a filwego maemo a itšego, yo a se nago tumelelo ye e ngwadilwego, a ka tsena gomme a phethagatša mošomo goba a lekola -
- (a) mabu afe goba afe, goba lefelo, ka tumelelo ya mong, goba ya motho yo a bonalago a na le taolo ya mabu goba lefelo leo; goba
 - (b) mabu afe goba afe, goba lefelo lefe goba lefe, ge e se feelsa mabu goba lefelo leo go dulwago go lona ka mokgwa wo otlwaetšwego -

- (i) makgeng ao a sa fetego a tshelelaggo (6) lebakeng la dikgwedi tše lesome pedi (12); goba
 - (ii) makgeng a mantšinyana ge go dumelwa ke molao ofe goba ofe ka morero wa go šoma goba go dira tekolo.
- (2) Godimo ga tumelelo ya go tsena, go ya ka karolwana (1), mohlankedidi yo a filwego maemo a itšego, a ka tsena ka mabung goba ka lefelong lefe goba lefe ntle le tumelelo ye e ngwadilwego -
- (a) ge a filwe maatla a go dira bjale ke molao ofe goba ofe wo mongwe; goba
 - (b) ge go na le tshedimošo ye e šetšego ya kobamelo ya taelo, yeo e ntšitšwego go ya ka karolwana 32, ka morero wa go kgonthiša ge e ba tshedimošo yeo e ile ya obamelwa.
- (3) Pele mošomo o ka thongwa goba mabu goba lefelo le ka lekolwa go ya ka karolo ye, bahlankedidi bao ba filwego maemo ba swanetše go itsebagatša gomme ba hhalose maatla a bona goba ba tšweletše bohlatse bja maatla a bona go motho yo a bonalago a laola mabu goba lefelo leo, goba motho yo a ba filego tumelelo ya go tsena.
- (4) Go tsena le go phethagatša mošomo goba tekolo ntle le tumelelo ye e ngwadilwego, di swanetše go dirwa ka nako yeo e swanelanago le mabaka.

Go hlokomela ditokelo tša motheo

- 27 Bahlankedidi bao ba filwego maemo a itšego bao ba tsenago gomme ba phethagatša mošomo, goba ba lekola mabu afe goba afe, goba lefelo go ya ka Kgaolo ye, ba swanetše go itshwara ka mokgwa woo o tlogago o na le tlhompho le molao, le gona ka kelohloko ya ditokelo tša botho tša mang le mang, go akaretšwa ditokelo tša seriti, tokologo, tšhireletšego le bosephiri.

Go diriša maatla go tsena

- 28 (1) Mohlankedidi yo a filwego maemo a itšego, yo a dirišago tumelelo ye e ngwadilwego go ya ka karolo 25, a ka fenza twantšho ye nngwe le ye nngwe ya go ganetša matseno, phethagatšo ya mošomo, goba tekolo, ka go diriša maatla a mantši go ya ka mo go nyakegago, go akaretšwa le go roba sekgyonyo, lemati, goba lefasetere leo le lego mabung goba lefelong leo go swanetšego go tsenwa go lona.
- (2) Pele a ka diriša maatla, motho yo a dirišago tumelelo ye engwadilwego, o swanetše gore ka mo go kwalago, a nyake go amogelwa, gomme a bege

morero wa gagwe, ntle le ge a kgolwa ka mo go sa belaetšego gore ka go dira bjale, a ka baka gore motho a senye, a tloše, goba a kgwerekhele selo goba sengwalwa seo e lego morero wa mošomo, goba tekolo.

- (3) Ditšelete tša lekgotla la masepala di swanetše go dirišwa go lefela mang goba mang yo a bago le ditshenyegelo ka lebaka la tiragalo ya go tsena ka tirišo ya maatla, lebakeng la phethagatšo ya mošomo ofe goba ofe, goba tekolo, lebakeng la ge go be go se na motho yo a nago le boikarabelo tlhokomelong ya mabu goba lefelo leo.
- (4) Maatla ga se a swanela go dirišwa go tsena ka nepo ya go phethagatša mošomo goba go go dira tekolo go ya ka karolo 26, ntle le ge go tsoga seemo sa tšhoganetšo goba e le seo se tlogago se dumelwelwa ke molao ofe goba ofe wo mongwe.

Mohlankedi yo a filwego maemo a itšego a ka felegetšwa

- 29 Lebakeng la go phethagatšwa ga mošomo ofe goba ofe, goba tekolo, mohlankedi yo a filwego maemo a ka felegetšwa ke leloko la Tirelo ya Afrika Borwa ya Sephodisa, goba motho ofe goba ofe yo mongwe yo ka mo go kwagalago, a nyakwago gore a thuše go phethagatša mošomo, goba go dira tekolo, goba ka moka ga tšona.

Boikarabelo bja go tšweletša dipampiri

- 30 Motho ofe goba ofe yo a nago le lengwalo leo le amanago le go phethagatšwa ga mošomo ofe goba ofe tekolong, o swanetše go le tšweletša, ge a kgopelwa ke mohlankedi yo a filwego maemo a itšego.

Boikarabelo bja bja go arabal dipotšišo le go thuša bahlankedi bao ba filwego maemo a itšego

- 31
 - (1) Motho yo mongwe le yo mongwe yo a botšišwago ke mohlankedi yo a filwego maemo, go ya ka Kgaolo ye, o swanetše go arabal ka nnete le ka bokgoni vja gagwe ka moka.
 - (2) Karabo goba tlhaloso yeo e filwego mohlankedi yo a filwego maemo, ga se ya swanela go dirišwa goba ya amogelwa ditshekong tša bosenyi, kgahlanong le motho yo a e fago, ntle le magatong ao a lego kgahlanong le motho yoo tatofatšong yeo e amanago le -
 - (a) taolo goba go dirwa ga kano;
 - (b) go dirwa ga dipego tše di fošagetšego; goba
 - (c) go se arabal potšišo yeo e lego molaong ka botlalo le ka mo go kgotsofatšago.

- (3) Mong wa mabu goba motho yo a dulago mabung goba lefelong, o swanetše go aba setlabelo sefe goba sefe, goba thušo, yeo e nyakegago ka mo go kwalago, ke mohlankedidi yo a filwego maemo, gore a kgone go dira mošomo wa gagwe ka katlego.

Ditsebišo tša kobamelo

- 32 (1) Mohlankedidi yo a filwego maemo yo a lémogago gore taelo efe goba efe ya Molao wo ga se ya obamelwa, a ka ntšha tsebišo ya kobamelo go mong wa mabu goba go motho yo a bonalago a na le taolo ya mabu ao a angwago, goba lefelo.
- (2) Mohlankedidi yo a filwego maemo, yo a kgotsofetšego gore mong wa mabu goba motho yo a bonalago a na le taolo ya mabu goba lefelo o kgotsofaditše dinyakwa tša tsebišo ya kobamelo, a ka ntšha setifikeiti sa kobamelo mabapi le taba ye.
- (3) Tsebišo ya kobamelo e tla no dula e šoma, go fihlela ge mohlankedidi yo a filwego maemo a itšego a ntšha setifikeiti sa kobamelo mabapi le tsebišo yeo.
- (4) Tsebišo ya kobamelo e swanetše go hlalosa -
- (a) taelo yeo e se ya obamelwago;
 - (b) dintilha ka ga sebolego le bogolo bja tlhokego ya kobamelo;
 - (c) magato afe goba age ao a nyakegago gore a tšewe le lebaka leo ka lona magato ao a swanetšego go tšewa; le
 - (d) kotlo efe goba efe yeo e ka bewago go ya ka karolo 51 lebakeng la ge magato a a sa obamelwe.

Melato

- 33 (1) Ke molato gore motho mang goba mang -
- (a) a gane go fa mohlankedidi yo a filwego maemo phihlelelo go mabu goba lefelo leo mohlankedidi yo a filwego maatla a go a fihlelela;
 - (b) a šire, a tsena-tsene, goba a šitiše mohlankedidi yo a filwego maemo, yo a phethagatšago boikarabelo go ya ka Molao wo;
 - (c) a šitwe goba a gane go fa mohlankedidi yo a filwego maemo, lengwalo goba tshedimošo yeo motho yoo a swanetšego go e aba go

- ya ka Molao wo;
- (d) a fe mohlankedi yo a filwego maemo tshedimošo ye e fošagetšego, goba yeo e timetšago;
 - (e) a re ntle le tumelelo ya molao, a thibele mong wa mabu afe goba afe, goba wa lefelo, goba motho yo a šomelago mong yoo, go tsena ka mabung goba ao ka lefelong leo, gore a kgone go kgotsofatša dinyakwa tša Molao wo;
 - (f) a itire mohlankedi yo a filwego maemo;
 - (g) a re ka mo go fošagetšego, a fetoše lengwalo la go fa maatla goba tumelelo ye e ngwadilwego, tsebišo ya kobamelo goba setifikeiti sa kobamelo, tše di ntšitšwego go ya ka Kgaolo ye;
 - (h) a fošagatše tumelelo yeo e filwego mohlankedi yo a filwego maemo a itšego goba lengwalo la go fa tumelelo, tsebišo ya kobamelo goba setifikeiti sa kobamelo, tše di ukangwago Kgaolong ye;
 - (i) a šitwe ke go obamela tsebišo ya kobamelo yeo e ntšitšwego ka Kgaolong ye;
 - (j) a tsene ka mabung goba ka lefelong lefe goba lefe, ntle le tumelelo ye e ngwadilwego, mabakeng ao a nyakago lengwalo la go fa tumelelo;
 - (k) a dire ka mokgwa wo o lwantšago tumelelo ye e ngwadilwego, yeo e ntšitšwego go ya ka Kgaolo ye;
 - (l) a re ntle le tumelelo -
 - (i) a tsene goba a lekole mabu goba lefelo;
 - (ii) a dire tiro efe goba efe yeo e hhalositšwego karolong 24(1) goba (2); goba
 - (m) a utolle tshedimošo efe goba efe yeo e lego mabapi le merero ya ditšelete goba ya kgwebo, ya motho ofe goba ofe, e lego yeo e hweditšwego lebakeng la ge go phethagatšwa mošomo ofe goba ofe, goba tirišo ya maatla afe goba afe go ya ka Molao wo, ntle le -
 - (i) go motho yo a nyakago tshedimošo yeo gore a phethagatše mošomo o mongwe goba a diriše maatla go ya ka Molao wo;
 - (ii) ge kutullo yeo e laetšwe ke kgorotsheko ya molao; goba

(iii) ge kutullo yeo e obamela taelo ya molao ofe goba ofe.

Tirišo ya Kgaolo ye

- 34 (1) Ditaelo tša Kgaolo ye di ama motho ofe goba ofe, goba mokgatlo, go akaretšwa le Naga.
- (2) Taelo ya Kgaolo ye, yeo e fago maatla goba e rwešago boikarabelo, e dirišwa mabapi le -
- (a) mabu ka moka, goba lefelo;
 - (b) motho ofe goba ofe, goba selo go mabu afe goba afe, goba ka lefelong lefe goba lefe;
 - (c) mong wa mabu goba modudi wa mabu afe goba afe, goba lefelo;
 - (d) morero ofe goba ofe wo o amanago le mabu, lefelo, motho goba selo.
- (3) Go phethagatša morero wa Kgaolo ye, hlogo ya kgoro ya setšhaba, probentshe, goba masepala e tšewa go ba -
- (a) mong le modudi wa mabu afe goba afe, goba lefelo leo kgoro e lego go lona, goba e le dirišago, go sa akaretšwe motho ofe goba ofe yo mongwe; le
 - (b) mothwadi wa batho bao ba lego tirelong ya kgoro, ge e le gore bjale ka mothwadi, kgoro -
- (i) e rwala boikarabelo ka moka bjo bo beilwego ke Molao wo; le gona
 - (ii) e diriša maatla ka moka ao e a filwego ke Molao wo.

KGAOLO 6**GO HWETŠWA GA DIPHAHLO LE DITIRELO KE BOMASEPALA****Tsela ya go hwetša diphahlo goba ditirelo**

- 35 (1) Leloko la Lekgotlaphethiši le swanetše go beya boleng bja thendara ya tirelo goba diphahlo mabapi le tsela ya go hwetša diphahlo le ditirelo e dirišwago ka gona go ya ka mo go ukangwago karolong ya 36.
- (2) Go sa šetšwe ditaelo tša karolwana (1), tsela yeo e filwego karolong 36 e ka dirišwa mabapi le diphahlo le ditirelo tše di laetšwego -
- (a) lebakeng la ge diphahlo goba ditirelo tše di nyakegago di swanetše go hwetšwa -
- (i) e le taba ya tšhoganetšo;
 - (ii) e le tše di nyakegago; goba
 - (iv) di etšwa go moabi yo a lego nnoši; le gona
- (b) ge tsela yeo e ukangwago karolong 37 e obametšwe.
- (3) Mabapi le go hwetšwa ga diphahlo goba ditirelo tše dingwe ka moka, tsela yeo e ukangwago melaong-tshepetšo ya ditšelete tše di amago masepala, e swanetše go obamelwa.

Tsela ya go hwetša diphahlo goba ditirelo tše di laetšwego

- 36 (1) Ge le na le maikemišetšo a go hwetša diphahlo goba ditirelo tše di laetšwego, lekgotla la masepala le swanetše go obamela tsela ye e latelago -
- (a) Sephetho sa go hwetša diphahlo goba ditirelo tše di laetšwego se swanetše go ba ka tsebišong yeo -
- (i) e phatlaladitšwego le ge e ka ba ka kuranteng ya maleba, yeo e sepetšwago ka mellwaneng ya masepala; le gona
 - (ii) e pepentšhitšwego le ge e ka ba ka lefelong leo le bonalago, leo le diretšwego morero woo ke lekgotla la

masepala.

- (b) Tsebišo yeo e swanetše go hlalosa -
- (i) ka mokgwa wo o akareditšwego, dinyakwa le tlhaloso ya diphahlo goba ditirelo tšeо di laetšwego;
 - (ii) lefelo le nako le mabaka le mokgwa wo ka wona sengwalwa seo se nago le dinyakwa tša ditlhaloso tša diphahlo goba ditirelo tšeо di laetšwego di tla pepentšhwago ka gona, gore di lekolwe, goba di hwetšwe;
 - (iii) lebaka leo ka lona dikgopelo tša dithendara di ka dirwago, tša go aba diphahlo goba ditirelo tšeо di laetšwego go akaretšwa nako yeo ka yona go ka se sa amogelwago dikgopelo tša dithendara;
 - (iv) tsela ya go tšweletša dikgopelo tša dithendara, go akaretšwa -
- (aa) dingwalwa tšeо di swanetšego go tlatšwa le tshedimošo ya tlaleletšo, dingwalwa, mehlala, didirišwa goba ditšhelete tšeо di swanetšego go sepetšwa le dikgopelo tša dithendara; le
 - (bb) lefelo leo dikgopelo tša dithendara di swanetšego go išwa go lona;
- (v) tshedimošo e nngwe yeo e ka bago maleba mererong ya go hlokomela dikgopelo tša dithendara; le
 - (vi) lefelo leo dikgopelo ka moka tša dithendara tšeо di amogetšwego di tla ngwadišwago bjale ka ge go ukangwa karolwaneng (4).
- (2) Motho ofe goba ofe, mokgatlo, lekgotla goba koporase a ka tsenya kgopelo ya thendara ka -
- (a) go tlatša foromo ya kgopelo ya thendara ka mokgwa wa maleba;
 - (b) go fa dingwalwa tša tshedimošo ka moka, mehlala, didirišwa le ditšhelete tšeо di amanago le kgopelo ya thendara.

- (3) Go šitwa ke go obamela dinyakwa tšsa didirišwa tša karolwana (2) goba go fa tlhaloso yeo e fošagetšego ka kgopelong, go ka dira gore kgopelo yeo e se elwe šedi.
- (4) Ge lebaka la dikgopelo le tswalelwa bjale ka ge go ukangwa karolwaneng (i)(b)(iii) lekgotla la masepala le swanetše go tsenya leina le dintilha tša go ikopanya le badira dikgopelo ka moka ba dithendara, le boleng bja dithendara tša bona ka registareng yeo e diretšwego morero woo ke lekgotla la masepala.
- (5) Mabapi le registara yeo e ukangwago karolwaneng (4), leloko le lengwe le le lengwe la setšhaba le ka
- (a) ba gona go hlatsela lenaneo la go ngwadišwa; le go
 - (b) lekola registara ka mafelong, dinakong, mabakeng, le ka mokgwa woo ka wona lekgotla la masepala le ka bonago go kwagala go ya le mabaka.
- (6) Ge le hlokemedišwa thendara yeo e swanetšego go amogelwa, lekgotla la masepala le swanetše go fa šedi e kgolwane, magareng a tše dingwe, go -
- (a) dintilha tše di hhalositswego molaong ofe goba ofe wo mongwe;
 - (b) leanotshepetšo leo le dirilwego ke lefapa la mmušo leo le nago le bokgoni;
 - (c) badiradikgopelo feela bao maina a bona a tsentšwego ka registareng yeo e hhalositswego karolwaneng ya (4) le bao dikgopelo tša bona di sa paledišwago;
 - (d) tšweletšo ya dikgwebo tše nnyane le tša magareng;
 - (e) tiišetšo ya magoro ao a kgethwago a batho, mekgatlo, makgotla le dikoporase, bjale ka ge go ka kgonthišwa ke masepala;
 - (f) go bulwa ga dikgoba tša mošomo goba go fetišetšwa ga bokgoni;
 - (g) kabu ya ditirelo tša masepala ye e nago le dipuelo le bokgoni.
 - (h) temogo le bokgoni bja badiradikgopelo tša dithendara, bja go aba diphahlo le ditirelo; le
 - (i) go se senye tšelete ga kgopelo yeo. Mabapi le taba ye, lekgotla la masepala ga se la gapeletšega go go fa modirakgopelo yo thendara ya gagwe e lego ya boleng bja tlasetlase.
- (7) Sephetho sa go amogela, go gana goba go palediša kgopelo ya thendara se

swanetše go tšewa ke lekgotla la masepala. Le ge go le bjale, lekgotla la masepala le ka fa, goba la rolela mošomo wo, mabapi le diphahlo goba ditirelo tše dingwe tše di laetšwego, go komiti yeo e ukangwago karolong 42.

- (8) Sephetho sa lekgotla la masepala goba komiti yeo e ukangwago karolong 42 ke sa mafelelo, le gona se a tlama.
- (9) Lekgotla la masepala, goba komiti yeo e ukangwago karolong 42 le swanetše go fetišetša sephetho sa lona ka go ngwala, go modirakgopelo ya thendara, gomme le fe mabaka a sephetho sa lona go modirakgopelo yo mongwe le yo mongwe wa thendara ge -
 - (a) (i) kgopelo e šwanetše go paledišwa; goba
 - (ii) kgopelo e gannwe; le ge
- (b) modirakgopelo a kgopela go fiwa mabaka ka go ngwala.

Tsela ye e kgonagaditšwego ya go hwetša diphahlo goba ditirelo tše di laetšwego.

- 37 (1) Lekgotla la masepala le ka tšeya sephetho go diriša tsela yeo e hlalositšwego karolong 36 gomme la hloma motho, mokgatlo, lekgotla goba koporase go aba diphahlo goba ditirelo tše di laetšwego le go fetišetša sephetho sa lona ka go ngwala go motho yo a hlomilwego, ge -
 - (a) go ya ka karolwana (3) le kgotsofetse gore mabaka ao a ukangwago karolong 35(2)(a) a gona; gomme
 - (b) le tšeye sephetho mabapi le taba yeo.
- (2) Ge mohlankedti mogolo-phethiši a kgotsofetše gore ka lebaka la tšhoganetšo, phahlo goba tirelo yeo e laetšwego e swanetše go hwetšwa pele ga gore lekgotla la masepala le tšeye sephetho sa maleba, mohlankedti mogolo-phethiši ka kwano le ratoropo a ka kgopela diphahlo goba ditirelo gomme a begela lekgotla la masepala kopanong ya lona ye e latelago.
- (3) Lebakeng leo le sa fetego kgwedi e tee morago ga sephetho seo se ukangwago karolwaneng (1) goba kgato yeo e tšerwego go ya ka karolwana (2) merero yeo e boletšwego karolwaneng (4) e swanetše go -
 - (a) phatlalatšwa ke lekgotla la masepala le ge e ka ba ka kuranteng ya maleba yeo e sepetšwago ka mellwaneng ya masepala; gomme e

- (b) pepentšhwe lefelong leo le bonalago leo le diretšwego morero woo ke lekgotla la masepala.
- (4) Merero yeo e swanetšego go phatlalatšwa le go pepentšhwa ke -
- (a) mabaka a go diriša tsela yeo e boletšwego karolong 36;
 - (b) kakaretšo ya dinyakwa tša diphahlo goba ditirelo tše di laetšwego.
 - (c) lefelo le nako le mabaka goba mokgwa woo ka wona sengwalwa seo se nago le dinyakwa goba ditihaloso tša diphahlo goba ditirelo tše di laetšwego, di tla pepentšhwago ka gona, gore di lekole goba di hwetšwe, le
 - (d) dintlha tša motho, mokgatla, lekgotla goba koparase yeo e abago diphahlo goba ditirelo.
- (5) Mešomo ya lekgotla la masepala go ya ka karolo ye, ga se ya swanelo go fiwa goba bo rolelwa.

Katološo goba phetošo ya kwano ya thendara

- 38 (1) Go ya ka karolwana (2), lekgotla la masepala ka matsapa a goba morago ga go amogela kgopelo go tšwa go motho, lekgotla, mokgatla goba koropasi yeo e abago diphahlo goba ditirelo go lekgotla la masepala go ya ka Kgaolo ye, le ka fediša, goba la katološa, goba la fetoša kwano ya thendara, ge -
- (a) mabaka ao a ukangwago karolong 35(2)(a) a le gona; goba
 - (b) ge go elwa hloko bokgoni le mohola wa taolo, e le tše lekgotla le di bonago e le tša maleba.
- (2) Lekgotla la masepala le ka se katolose goba la fetoša kwano ya thendara -
- (a) go feta gatee;
 - (b) lebakeng leo le fetago lebaka la kwano ya mathomo; goba
 - (c) ka palo ye e fetago diphesente tše masome-pedi (20) tša boleng bja mathomo bja thendara.
- (3) Lebakeng la kgwedi e tee la kwano yeo e hlalositšwego karolwaneng (1), merero yeo e hlalositšwego karolwaneng ya (4) e swanetše go -

- (a) phatlatalašwa ke lekgotla la masepala le ge e ka ba ka kuranteng ya maleba yeo e sepetšwago ka mellwaneng ya masepala, gomme e
 - (b) pepentšhwe lefelong leo le bonalago leo le diretšwego morero woo ke lekgotla la masepala.
- (4) Merero yeo e swanetšego go phalalatšwa le go pepentšhwa ke -
- (a) mabaka a go diriša tsela yeo e boletšwego go karolo 36;
 - (b) kakaretšo ya dinyakwa tša diphahlo goba ditirelo; le
 - (c) dintilha ka ga motho, mokgatlo, lekgotla goba koporase yeo e abago diphahlo goba ditirelo;
 - (d) dintilha tša motho, mokgatlo, lekgotla goba koporasi yeo e abago diphahlo goba ditirelo.
- (5) Mešomo ya lekgotla la masepala go ya ka karolo ye ga se ya swanela go fiwa goba go rolelwā.

Dikgopelo tša dithendara tše di sa dumelwago le tše di sa sepelelanego le molao, le ditlhokomologo tša dikwano tša dithendara

- 39 (1) Ka merero ya karolo ye -
- (a) mantšu "kgopelo ya thendara" a akaretša kgopelo ya go katološa goba go fetoša thendara; gomme
 - (b) lentšu "moabi" le ra motho, mokgatlo, lekgotla goba koporase yeo e abago diphahlo goba ditirelo go lekgotla la masepala go ya ka Kgaolo ye.
- (2) Ge lekgotla la masepala le kgotsofetše gore kgopelo ya thendara e amogetšwe, e fetošitšwe goba e katološitšwe mabakeng ao a hlalositšwego karolwaneng (3)(a) le (b) goba le kgotsofetše gore kwano ya thendara e hlokomologilwe mabakeng ao a hlalositšwego karolwaneng (3)(c) -
- (a) le swanetše go romela moabi tsebišo yeo e ngwadilwego ka ga sephetho le mabaka a sephetho seo; gomme

- (b) ka tsebišong yeo, le swanetše go sedimoša moabi gore o na le matšatši a lesome-nne (14) go tloga letšatšing la tsebišo yeo, go tšweletša bohlatse ka ga mabaka ao lekgotla la masepala le sa swanelago go tšeya mabaka ao a hhalositšwego karolwaneng (5).
- (3) Ka morero wa karolwana (2), mabaka ao ke -
- (a) moo moabi -
- (i) a filego tshedimošo ye e fošagetšego go modira-kgopelo ofe goba ofe ya thendara;
- (ii) go ba le khuetšo yeo e sa nyakegego go motho yo mongwe le yo mongwe yo a amanago le go hlokomela kgopelo ya thendara; goba
- (iii) a abile mpho ya tšelete goba e nngwe le e nngwe, go motho ofe goba ofe yo a amanago le go hlokomela kgopelo ya thendara, e le gore a hwetše, a fetoše goba a katološe thendara;
- (b) moo motho yo a amanago le go hlokomelwa ga kgopelo ya thendara a nago le kgahlegelo ya tše di bonalago go mokgatlo wo o dirago kgopelo, lekgotla goba koporase, goba dipuelo tša kgopelo ya thendara, gomme kgahlego ye e se ya ka ya utollwa pele ga hlokomelo ye ya thendara; goba
- (c) ge moabi a palelwa goba a sa kgone go kgotsofatša dinyakwa goba ditlhaloso tša dithoto goba ditirelo tše di swanetšego go abja.
- (4) Ge modirakgopelo ya thendara goba moabi a amogetše tsebišo go ya ka karolwana (2) lebakeng la matšatši a 14, gomme a sa tšweletše bohlatse, goba a tšweletša bohlatse lebakeng leo gomme lekgotla la masepala le tšeya gore lebaka leo ga le amogelege, lekgotla le swanetše go tšeya kgato efe goba efe, goba go kopanya magato ao a hhalositšwego karolwaneng (5), gomme le swanetše go tsebiša moabi ka go ngwala, mabaka a sephetho seo.
- (5) Ka merero ya karolwana (2) le (4), magato ao a swanetšego go tšewa ke -
- (a) go fedишwa ga kwano ya thendara;
- (b) go lokišwa ga tobo efe goba efe yeo e hweditšwego, goba tshenyo yeo e diragetšego go masepala ka lebaka la ge o fedишše kwano ya thendara; goba

- (c) go iletša moabi tlhokomelong ya thendara efe goba efe lebakeng leo le tla bewago ke lekgotla la masepala.
- (6) Moabi a ka dira aphili kgahlanong le sephetho sa lekgotla la masepala sa go tšeya magato ao a laetšwego karolong 40.

Go dira diaphili mabapi le dithendara tše di sa dumelwego le tše di sa sepelelango le molao, le ditlhokologo tša dikwano tša dithendara

- 40 (1) Moabi ofe goba ofe wa diphahlo goba ditirelo go lekgotla la masepala, yo a amogetšego tsebišo go ya ka karolo 39(4), a ka dira aphili kgahlanong le sephetho seo se fihletšwego go ya ka karolo yeo, ka go tšweletša, lebakeng la matšatši a lesome-nne (14) la go ntšhwa ga tsebišo yeo, tsebišo ya aphili, yeo e hlalosago mabaka a aphili go lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo. Godimo ga moo, tsebišo yeo e swanetše go felegetšwa ke tše di latelago -
- (a) kgopelo ya thendara le dingwalwa tše di sepelago le yona;
 - (b) tsebišo ya lekgotla la masepala, yeo e ntšhitšwego go ya ka karolo 39(2);
 - (c) dintlha tša go ikarabela ga yona go tsebišo ya lekgotla la masepala; le
 - (d) tsebišo ya lekgotla la masepala go ya ka karolo 39(4) le mabaka a sephetho seo aphili e lego ka ga sona.
- (2) Go ya ka dikarolo 41(1) le (2) lekgotla la masepala le swanetše go kgonthiša ditsela tša go tšeya dintlha, go sepetša le go ela šedi diaphili, gomme le swanetše go tsebiša mahlakore ao a angwago ke diaphili tše ka ga ditsela tše, pele go ka thongwa ka aphili.
- (3) Lekgotla la diaphili tša khwetšo ya diphahlo le ditirelo, le swanetše go ela šedi diaphili ka mokgwa wo o beilwego ke lekgotla la masepala, gomme le romele tsebišo ye e ngwadilwego ya sephetho seo go moabi yo a tlilego ka aphili yeo le lekgotla la masepala. Ge aphili e sa atlega, tsebišo yeo e swanetše go akaretša mabaka a sephetho seo.
- (4) Lekgotla la diaphili tša khwetšo ya diphahlo le ditirelo le ka dira taelo ya ditshenyagalelo, ge lehlakore, goba motho yo a emetšego lehlakore leo aphiling -
- (a) a šomile ka mokgwa wo o sa kwišisegego, wo o sa tshepegego le wo o sa kgwagalego ka go tšwela pele ka aphili, goba go e ganetša;

- goba tshepetšong ya aphili; goba
- (b) ntle le lebaka le lebotse a se ke a ba gona, goba a se dule lebaka ka moka, aphiling.
- (5) Diphetho tša lekgotla la diaphili tša khwetšo ya dithoto le ditirelo ke tša mafelelo, le gona di tlama mahlakore ka moka ao a angwago ke aphili yeo.
- (6) Bohlatseng bjo bongwe le bjo bongwe bja aphili, bjo bo sepetšwago go ya ka Kgaolo ye, dingwalwa tše di latelago di dira dikwano tša tumelelano ya thendara -
- (a) dingwalwa tše di nago le dinyakwa goba ditlhaloso tša diphahlo le ditirelo tše di laetšwego bjale ka ge go boletšwe ka ga tšona dikarolong 36(1)(b)(ii) le 37(3)(c), gomme ge go le maleba, dikwano le mabaka ao a lego ka foromong ya kgopelo ya thendara; le
- (b) tsebišo ye e ngwadilwego bjale ka ge e ukangwa Karolong 36(7) le 37(1)(b), tše di tiišeletšago kamogelo ya kgopelo goba ya go hlongwa.

Lekgotla la diaphili tša khwetšo ya diphahlo le ditirelo le sehlopha sa banamodi

- 41 (1) Lekgotla la masepala le swanetše go hloma lekgotla la Diaphili tša khwetšo ya diphahlo le ditirelo, leo le swanetšego go hlangwa ka maloko a palo ye e sego ka tlase ga pedi, go tšwa sehlopheng sa banamodi.
- (2) Maloko a sehlopha seo se boletšwego karolwaneng (1), a ka hloma leloko lefe goba lefe la ditsebi, go Lekgotla la Diaphili -
- (i) ka matsapa a bona; goba
- (ii) morago ga kelohloko ya kgopelo yeo e ngwadilwego, yeo e amogetšwego go tšwa go lehlakore lefe goba lefe leo le angwago ke aphili ye, mabapi le go hlongwa ga setsebi goba ditsebi.
- (3) Lekgotla la masepala le swanetše go ba le sehlopha sa banamodi seo se hlamilwego ka batho ba palo yeo e sego ka tlase ga tshela (6). Batho bao ga se ba swanela go ba balekgotla goba bašomedi ba lekgotla la masepala.
- (4) Tsela ye e latelago e dirišwa ge lekgotla la masepala le swanetše go hloma motho sehlopheng sa banamodi -

- (a) Lekgotla la masepala le swanetše go phatlalatša tsebišo yeo e dirago boipiletšo bja go hlopšha, gomme e hlalosa dinyakwa tša dihlopho, le ge e ka ba ka kuranteng ya maleba yeo e sepetšwago ka mellwaneng ya masepala woo.
 - (b) Lekgotla la masepala le swanetše go dira gore dihlopho tše di tlišitšwego morago ga boikarabelo tsebišong yeo e dirilwego, di elwe šedi, gomme le beakanye lenaneo la bao ba hlophilwego.
 - (c) Lekgotla la masepala le swanetše go dira gore bao ba hlophilwego lenaneong leo, ba swarišwe dipoledišano, gomme morago ga moo le dire dihlongo tša maleba.
- (5) Dikwano le mabaka a go hlongwa ga maloko a sehlopha sa banamodi le ditsebi, di swanetše go bewa ke lekgotla la masepala.

Go hlongwa ga komiti yeo e nago le boikarabelo bja khwetšo ya diphahlo le ditirelo

- 42 (1) Lekgotla la masepala le ka hloma komiti yeo e nago le boikarabelo bja a khwetšo ya diphahlo le ditirelo, goba le beye boikarabelo bjo go efe goba efe ya dikomiti tša lona.
- (2) Godimo ga mešomo ya yona yeo e hlalositšwego ka Kgaolong ye, komiti e ka-
- (a) šišinya maano tshepetšo, ditsela le ditlwaelo tša go dira gore lekgotla la masepala le phethagatše maatla a lona, mešomo le maikarabelo, go ya ka Kgaolo ye ka mokgwa wo o nago le dipuelo, bokgoni le ponagalo;
 - (b) dira ditšhišinyo go lekgotla la masepala, mabapi le -
 - (i) tekanetšo le nolofatšo ya mananeo ka moka a dikgopelo tša dithendara;
 - (ii) go fa keletšo le ditirelo tše dingwe tša thekgo go badira-dikgopelo tša dithendara;
 - (c) go dira ditšhišinyo tše di amago mekgwa ya go kgonthiša magoro a batho, mekgatlo, makgotla goba dikoporase tše di swanetšego go tiišetšwa bjale ka ge go ukangwa karolong 36(6)(c); le
 - (d) go dira mošomo ofe goba ofe woo lekgotla la masepala le bonago o le maleba ka merero ya fa Kgaolo ye maatla, go akaretšwa le go dirwa ga dinyakišišo, go dirwa ga ditšhišinyo le go begwa ga taba

efe goba efe.

KGAOLO 7

MAPHEKO A PHIHLELELO YA MAFELO A SETSHABA KA MABAKA A POLOKEGO LE TSHIRELETSEGO

Maatla a lekgotla la masepala a go beya mapheko a phihlelelo

- 43 Ka mabaka a go kgonthiša polokego le tshireletšego, lekgotla la masepala le ka -
- (a) beya dikiletšo ka matsapa a lona, phihlelelong ya lefelo lefe goba lefe la setshaba, ge e sepelelana le ditaelo tša karolo 44; goba
 - (b) go fa motho ofe goba ofe, mokgatlo goba lekgotla, maatla a go beya mapheko lefelong lefe goba lefe la setshaba ge ditaelo tša karolo 45 di obametšwe.

Tsela ya makgotla a bomasepala ya go beya mapheko a phihlelelo

- 44 (1) Ge le na le maikemišetšo a go beya lepheko la phihlelelo ya lefelo la setshaba, lekgotla la masepala le swanetše go -
- (a) kgonthiša mabaka ao a šišinywago a lepheko morago ga ditherišano le Tirelo ya Afrika Borwa ya Sephodisa;
 - (b) fetiša kwano yeo e tiišeletšago mabaka ao a šišinywago le maikemišetšo a go hloma kiletšo; gomme morago ga moo
 - (c) latele tsela ye e latelago -
 - (i) maikemišetšo a go hloma lépheko a swanetše go begwa ka tsebišo ka Kuranteng ya Probentshe, gomme moo go lego maleba, ka go ye nngwe ya dikuranta tša tše di sepetšwago ka tikologong yeo e angwago.
 - (ii) tsebišo yeo e swanetše go hlalosa -
 - (aa) gore go yakega maikutlo ka ga mabaka ao a ukangwago a lepheko;

- (bb) lefelo la setšhaba leo le angwago ke lepheko;
 - (cc) mabaka ao a šišinywago a lepheko;
 - (dd) dingwalwa goba dipego tše di ngwadilwego, tše lekgotla la masepala le di dirišitšego go fetiša kwano;
 - (ee) motho goba lefelo leo dinyakišišo di ka lebišwago mabapi le mabaka ao a šišinywago a lepheko;
 - (ff) go ya ka karolwana (6) le (7), mafelo, dinako le mabaka ao ka wona khophi ya sengwalwa goba dipego tša mathomo di ka hwetšwago goba tša pepentšhwa gore di lekolwe;
 - (gg) lebaka la go ntšhwa ga maikutlo ka ga mabaka ao a ukangwago a mapheko, e lego leo le sa swanelago go ba ka tlase ga kgwedi; le
 - (hh) Motho goba lefelo leo maikutlo a ka lebišwago mabapi le mabaka ao a ukangwago a lepheko.
 - (iii) Nako efe le efe pele go hlongwa lepheko, ditherisano le dihlopha dife goba dife tša maleba di ka swarwa ka sebopego sefe goba sefe, go akaretšwa go swarwa ga nyakišišo.
 - (iv) Maikutlo ao a amogetšwego le dikagare tša ditherisano ka moka di swanetše go hlokomelwa pele go ka hlongwa lepheko.
- (2) **Ge lekgotla la masepala le se la beya lepheko lebakeng la dikgwedi tše nne go tloga pegong yeo e boletšwego karolwaneng 1(c)(i), lepheko leo le ka se dirwe, ge e se feela ge tsela yeo e laetšwego karolwaneng (1) e boeleditšwe.**
- (3) **Lekgotla la masepala le ka diriša ditsela tše di hhalositšwego karolwaneng (1) mabapi le lepheko lefe goba lefe leo, ka dikgahlegelo tša batho, le swanetšego go hlongwa ntle le go senya nako, eupša le swanetše go diriša tsela ye lebakeng la kgwedi morago ga gore lepheko le thome go dirišwa, gomme ge se se ka se dirwe, lepheko le ka se sa ba la maleba.**
- (4) **Lepheko le tla thoma go dirišwa letšatšing la phatlalatšo ya lona ka Kuranteng ya Probentshe, goba letšatšing le lengwe leo le ka bewago ka Kuranteng ya Probentshe.**
- (5) **Lekgotla ja masepala le ka beya tefelo ya go hwetša khophi ya sengwalwa sefe**

goba sefe goba pego ye e ngwadilwego yeo e lego maleba le go kgonthiša mabaka a lepheko leo le ukangwago.

- (6) Lefelo leo dingwalwa le dipego tše di ngwadilwego di ka hwetšwago gona, goba tša pepentšwa gore di lekolwe, le swanetše go dira gore batho ka moka bao ba angwago ke lepheko ba sedimošwe ka ga dikagare tša tšona ka potlako le ka go se šitišege.
- (7) Lekgotla le lengwe le le lengwe la masepala le swanetše go hlabolla le go hloma maano tshepetšo le mananeo go thuša maloko a setšhaba go ntšha maikutlo ka ga mabaka ao a ukangwago a kiletšo.

Tsela ya makgotla a bomasepala ya go fa ba bangwe maatla a go beya mapheko a phihlelelo

- 45 (1) Motho ofe goba ofe, mokgatlo goba lekgotla, a ka dira kgopelo go lekgotla la masepala gore a fiwe maatla a go beya mapheko a phihlelelo ka lefelong la setšhaba ka -

- (a) go tšweletša kgopelo ye e ngwadilwego, yeo e hhalosago
 - (i) leina le dintlhā tša go ikopanya le modirakgopelo;
 - (ii) tlhaloso ya lefelo la setšhaba leo kgopelo yeo e lago ka ga lona;
 - (iii) tlhaloso ya mabaka ao a bakilego kgopelo yeo;
 - (iv) legoro le palo ya batho bao ba angwago ke mabaka ao a bakilego kgopelo yeo;
 - (v) mohuta le kelo ya lepheko leo le direlwago kgopelo; le
 - (vi) legoro le kakanyo ya palo ya batho bao ba ka angwago ke lepheko leo le direlwago kgopelo;
 - (b) go tšweletša bohlatse bja gore kelo ye e sego ka tlase ga peditharong ya batho bao ba angwago ke mabaka ao a bakilego kgopelo yeo, ba dumelela lepheko leo le direlwago kgopelo; le go
 - (c) tefelo yeo e sa bušetšwego ya taolo go ya le ka moo go tla bewago ke lekgotla la masepala.
- (2) Morago ga go amogela kgopelo, lekgotla la masepala le swanetše go beakanya dikopano tše di tlago swarwa le modirakgopelo le Tirelo ya Afrika Borwa ya

Sephodisa, ka morero wa go dira gore le kgone go kgonthiša -

- (a) tshwanelego ya kgopelo; le
 - (b) dikwano le mabaka a go fa maatla go akaretšwa ditefelo le dipeeletšo.
- (3) Ge lekgotla la masepala le na le maikešetšo a go fa maatla a go beya mapheko ka lefelong la setšaba go ya ka tiišo ye e dirilwego go ya ka karolwana (2) ditaelo tša karolo 44 di a dirišega, ka diphetogo tše di ka nyakegago go ya le mabaka.

Lebaka la lepheko la phihlelelo goba la go fiwa maatla a go beya lepheko la phihlelelo

- 46 (1) Ntle le ge go hhalositšwe ka Kuranteng ya Probentshe, le gona go ya ka karolo ye, lepheko go ba go fiwa maatla a go beya lepheko la phihlelelo go šoma lebaka leo le sa fetego mengwaga e mebedi (2).
- (2) Lekgotla la masepala le ka katološa lebaka la lepheko goba go fiwa ga maatla a go beya lepheko ge -
- (a) lona goba modirakgopelo le thoma magato ao a hhalositšwego dikarolong 44 le 45 ka go latelana; gomme
 - (b) ditsela tše di thongwa lebakeng leo le sego ka tlase ga kgwedi pele lebaka la lepheko goba go fiwa ga maatla a go beya lepheko, le fela.
- (3) ka mabaka a karolwana (2) ditsela di tšewago ba tše di thomilwego ge -
- (a) ka mabaka a go beya mapheko a phihlelelo, lekgotla la masepala le fetiša kwano yeo e hhalositšwego karolong ya 44(1)(b); le ge
 - (b) ka lebaka la go fa maatla a go beya mapheko a phihlelelo, letšatši leo ka lona kgopelo yeo e hhalositšwego karolong 45(1) e amogelwa ke lekgotla la masepala.
- (4) Ge go sa letetšwe dipolo tša ditsela tše di ukangwago karolwaneng (2), lepheko goba go fiwa maatla a go beya lepheko, le dula le šoma.

Melato yeo e amanago le go fiwa maatla a go beya mapheko a phihlelelo

- 47 Ke molato go motho ofe goba ofe, mokgatlo goba lekgotla go -
- (a) beya mapheko lefelong la setšhaba ntle le go hwetša maatla go ya ka Molao wo goba molao ofe goba ofe o mongwe; goba
 - (b) go iponagatša bjale ka yoo a filwego maatla a go beya mapheko ka lefelong la setšhaba go ya ka Molao wo, mola a se a fiwa maatla ao.

Phihlelelo le tekolo ya mabaka a lepheko goba go fiwa maatla a go beya mapheko a phihlelelo

- 48 Ka mabaka a go kgonthiša gore maloko a setšhaba a na le phihlelelo le go kgora go lekola mabaka a lepheko goba go fiwa maatla a go beya lepheko la phihlelelo ditaelo tša karolo 9 di dirišwa ka diphetogo tše di ka nyakwago ke mabaka.

KGAOLO 8**MERERO YE E FAPAFAPANEKO****Komiti ya masepala ya go dira dinyakišišo**

- 49 (1) Lekgotla la masepala le ka hloma komiti go nyakišiša morero wo mongwe le wo mongwe wa mmuso wa selegae -
- (a) wo le o tšeyago go ba wa maleba le woo o amanago le lona ka maatla, mešomo goba maikarabelo;
 - (b) woo batho ba nago le kgahlegelo go wona.
- (2) (a) Go hloma komiti, lekgotla la masepala le swanetše go fetiša kwano yeo e lego mabapi le seo.
- (b) Kwano yeo e boletšwego temaneng ya (a) e swanetše go hlalosa mabaka a boikarabelo bja komiti yeo go akaretšwa lebaka leo ka lona komiti e swanetšego go phetha boikarabelo bjo e bo filwego.

- (c) Lekgotla la masepala le ka hloma leloko la komiti bjale ka modulasetulo
- (d) Lektotla la masepala le swanetše go fa komiti yeo badiredi ba go e thekga le dinolofatši.
- (3) Leloko la Lekgotlaphethiši le le swanetše go dira melaotshepetšo mabapi le mokgwa wo ka wona komiti e tla sepetšago dinyakišio tša yona.
- (4) Ge komiti e phethile boikarabelo bjo e bo filwego, e swanetše go romela pego yeo e nago le seo e se lemogilego le ditšišinyo go lekgotla la masepala gore di elwe hloko.
- (5) Lekgotla la masepala le ka diriša maatla afe goba afe, goba la dira mošomo ofe goba ofe goba la ba le maikarabelo afe goba afe ao le bonago a le maleba ka lebaka la go ela hloko tše di lemogilwego le ditšišinyo tša komiti yeo.

Bohlatse bja phatlalatša

- 50 (1) Lekgotla la masepala le swanetše go bitša pitšo ya phatlalatša ka merero ya go go ela hloko le go dira ditšišinyo mabapi le morero ofe goba ofe wa mmušo wa selegae wo batho ba nago le kgahlegelo go wona ge le ka amogela lengwalo la dinyakwa leo le dirago boipiletšo bja gore go be le bohlatse bja phatlalatša, leo le saennwego ke batho ba palo yeo e tlagoo bewa ke lekgotla la masepala ya bakgethi bao ba ngwadišitšwego. Palo yeo e tla bewago ga se ya swanela go feta seripa-gare sa phesente ya palomoka ya bakgethi bao ba ngwadišitšwego ba masepala.
- (2) Lengwalo la dinyakwa, leo le boletšwego karolwaneng (1) le swanetše go hhalosa morero wa mmušo wa selegae, wo o swanetšego go elwa hloko.
- (3) Lekgotla la masepala, ka matsapa a lona, le ka tšeaya sephetho sa go bitša pitšo ya phatlalatša ka merero yeo e hhalositšwego karolwaneng (1).
- (4) Go ya ka karolwana (5), lekgotla la masepala le swanete go beya tsela ya go bitša le go sepetša bohlatse bja phatlalatša.
- (5) Go bitša pitšo ya phatlalatša, lekgotla la masepala le swanetše -
- (a) go tsebagatša maikemišetšo a lona a go bitša pitšo ya bohlatse bja phatlalatša, ka Kuranteng ya Probentshe le moo go lego maleba, ka go e ye nngwe ya dikuranta tša tše di sepetšwago ka tikologong yeo e angwago; gona
 - (b) le ntšhe tsebišo yeo e hhalosago -

- (i) lefelo leo theeletšo ya phatlalatša e tla swarelwago gona;
- (ii) letšatši la bohlatse bja phatlalatša, leo le swanetšego gore le seke la ba ka tlase ga matšatši a lesome-nne (14) morago ga tsebišo yeo, gomme e seke ya ba morago ga dikgwedi tše pedi morago ga go amogela lengwalo la dinyakwa leo le hhalositšwego karolwaneng (1) goba sephetho seo se boletschego karolwaneng (3);
- (iii) ka sebopego se se akareditšwego, merero yeo e swanetšego go elwa šedi theeletšong ya bohlatse bja phatlalatša; le
- (iv) tsela yeo e swanetšego go dirišwa ge go sepetšwa theeletšo ya bohlatse bja phatlalatša.

Maatla a Leloko la Lekgotlaphethiši a go fa makgotla a bomasepala ditsela tša tlhahlo

51 Leloko la Lekgotlaphethiši le ka fa makgotla a bomasepala ditsela tša tlhahlo go le thuša go -

- (a) diriša maatla a lona, mešomo le goba maikarabelo;
- (b) go kgonagatša morero wa Molao wo.

Tshepedišo ya ditšhelete le taolo ya dikoloto

- 52 (1) Ka mabaka a go tšweletša taolo ya ditšhelete tša masepala yeo e nago le dipuelo tše nyakegago, bomasepala ka moka ba swanetše go dira melaoselegae yeo e lokišagho magato a yoa a taolo ya dikoloto go ya le ditaelo tša dikarolwana (2) le (3).
- (2) Leloko la Lekgotlaphethiši, ka kwano le Leloko la Lekgotlaphethiši leo le swaraganego le matlotlo ka probentsheng yeo, le ka re nako le nako, la beya dinyakwa tše di swanetšego go akaretšwa ka go melaoselegae.
- (3) Melaoselegae le dinyakwa tše di laetšwego di swanetše go kgonagatša merero yeo e sego ka tlase ga ye -
- (a) ditirelo le ditšweletšwa tše di ka beelwago metšhelo, makgetho, le ditefelo tše dingwe go badudi goba bao ba sepetšago kgwebo ka mellwaneng ya bomasepala;
 - (b) mabaka le mokgwa wa go lefela makgetho, metšhelo le ditefelo tše;

- (c) ditlamorago tša go se lefele ditirelo go akaretšwa -
- (i) go kgaosetšwa ga tirelo efe goba efe goba kabu ya setšweletšwa sefe goba sefe;
 - (ii) mabaka, mokgwa le lebaka la kgaosetšo ye.
 - (iii) magato ao a ka tšewago ke lekgotla la masepala go hwetša ditšhelete tše di kolotwago;
 - (iv) magato ao lekgotla la masepala le ka a tšeyago go šireletša ditlabelo tša lona le thoto lebakeng la kgaosetšo; le
- (d) thibelo le go fediswa ga ditirelo ga ditirelo ka moka goba go hwetšwa gape ga ditšweletšwa tše di humanwego ka mokgwa wo o sego molaong le wo o sa fiwago tumelelo.

KGAOLO 9

DITAELO TŠA KAKARETŠO

Dikotlo

- 53 Motho ofe ogba ofe yo a bonwego molato go ya ka Molao wo, o tla fiwa kotlo goba kgolegolebaka leo le sa fetego mengwaga ye mehlano (5) goba ktolo le kgolego ka bobedi.

Tshireletšo ya go latofatšwa

- 54 (1) Ga go modiredi wa masepala goba motho ofe goba ofe, mokgatlo, lekgotla goba koporase yeo e šomago legatong la masepala goba molekgotla ye e tla pharwago molato mabapi le ditshenyo tše di bakwago ke -
- (a) go se dirwe goba tiro yeo e dirilwego lebakeng la maikarabelo a gagwe le gona ka moyu wo mobotse; goba
 - (b) go phatlalatšwa goba go utollwa go ya ka Molao wo, ga pego efe goba efe, pono ya boitemogelo goba tshišinyo yeo e fiwago ka moyu wo mobotse.
- (2) Masepala o šireleditšwe ditatofašong mabapi le tsheko efe goba efe yeo e

hlomilwego ke lehlakore leo le kwišitšwego boholoko goba le šitetšwego ka lebaka la ao a beilwego karolwaneng (1) moo motho, mokgatlo, lekgotla goba koporase ye e šomago legatong la masepala e lego mokontraki yo a ikemetšego.

Tokelo ya go emelwa molaong

- 55 (1) Ditshekong tša molao tše di hlomilwego kgahlanong le balekgotla goba badiredi ba masepala goba dinyakišong dife goba dife tše ba laetšwego go tla go tšona le go tla go fa bohlatse ka ga merero yeo e welago maikarabelong a bona, lekgotla la masepala le swanetše go hwetša baemedi ba molao ba go emela balekgotla goba badiredi bao ba angwago gomme ditshenyegelo tša boemedi bjoo di swanetše go ba magetleng a masepala feela mabakeng goba ka mokgwa wo o tla bewago ke lekgotla la masepala.
- (2) Lekgotla la masepala le swanetše go kgonthiša mabaka le mokgwa woo ka wona le tla rwalago ditshenyagelo tša boemedi bja molao bjo bo boletšwego go karolwana (1).

Ditholelo le dikwano tše di dirilwego le go tsenelwa ke makgotla a bomasepala

- 56 (1) Go ya ka ditaelo tša Molao wo goba molao ofe goba ofe wo mongwe, lekgotla la masepala, le ka re ka go ngwala, la romela ka dikwano le mabaka ao le bonago a le bohlokwa, maatla afe goba afe, mošomo goba boikarabelo bjo bo filwego lekgotla la masepala ke Molao wo goba molao ofe goba ofe wo mongwe go -
- (a) motho ofe goba ofe yo a thwetšwego ke lekgotla;
 - (b) komiti efe goba efe, komiti ya ka tlasana, boto goba mokgatlo wo o hlomilwego ke lekgotla wo o nago le balekgotla goba batho bao ba thwetšwego ke lekgotla; goba
 - (c) lekgotla lefe goba lefe le lengwe la masepala.
- (2) Lekgotla la masepala le ka tsenela dikwano le moabi ofe goba ofe wa mmušo goba wa poraebete wa dipahalio le ditirelo go dira gore lekgotla le kgone go diriša maatla a lona, mešomo le maikarabelo.
- (3) Lekgotla la masepala le swanetše go ba le registara ya ditholelo le dikwano ka moka tše di dirilwego le go tsenelwa go ya ka Molao wo.
- (4) Lebakeng la dikgwedi tše tshelelagoo (6) la go thoma go šoma, lekgotla la masepala le swanetše go lebelela leswa ditholelo le dikwano ka moka tše di dirilwego le go tsenelwa ke lona go ya ka karolo ye.

- (5) Go sa šetšwe ditaelo tša karolwana (4), lekgotla la masepala le ka lebelela leswa ditholelo le dikwano tša lona ge le bona gore tebelelo leswa ke ya maleba.

Go fiwa le go rolelwa ga maatla, mešomo le maikarabelo go makgotla a bomasepala

- 57 (1) Maatla, mešomo goba maikarabelo a Molekgotlamogolo, Leloko la Lekgotlaphethiši, mmušo wa probentshe goba kgoro yeo e nago le boikarabelo bja merero ya mmušo wa selegae ka probentsheng yeo, a fiwa goba a rolelwa makgola a bomasepala ka mokgwa wo o laeditšwego skeduleng 2
- (2) Go ya ka ditaelo tša Molao wo, goba molao ofe goba ofe, Leloko la Lekgotlaphethiši le ka fa goba la rolela maatla afe goba afe, mošomo goba maikarabelo ao a filwego go ya ka Molao wo goba molao ofe goba ofe wo mongwe go Leloko la Lekgotlaphethiši, go lekgotla la masepala ka gore ka maleba, la fetoša, goba la tsenya dintlha tša maleba go skedule 2 .
- (3) Go fiwa ga boikarabelo goba tholelo yeo e dirilwego go ya ka karolo ye eka direlw -
- (a) bomasepala ba go fapafapanan; goba
- (b) dihlopha tša go fapafapanan goba magoro a bomasepala.

Go fedишва ga melao

- 58 Melao yeo e boletšwego skeduleng 1 e fedишва go ya ka mo go laetšwego.

Ditaelo tša lebakanyana

- 59 (1) Go sa šetšwe go fedишва ga ditaelo tša Molao wa Probentshe wa Mmušo wa Selegae, 1939 (Molao wa Probentshe 17 wa 1939) bjale ka ge go laeditšwe skeduleng 1, kgato efe goba efe yeo e tšerwego go ya ka ditaelo tšeо di fedиштwego, e tla tšewa go ba yeo e bilego ka tlase ga taelo yeo e sepelelanago le yona ya Molao wo gomme e tla tšwela pele go ba le mohola goba maatla ntle le ge e sa sepelelane Molao wa Lebakanyana wa Mmušo wa Selegae, Molao wo, goba molao ofe goba ofe wo mongwe.
- (2) Go sa šetšwe go fedишва ga ditaelo tša Molao wa Probentshe wa Mmušo wa Selegae (Taolo le dikgetho) wa 1960 (Molao wa Probentshe 40 wa 1960) bjale ka ge o laeditšwe go skedule 1, kgato efe goba efe yeo e tšewago go ya ka ditaelo tšeо di fedиштwego tša Molao wo, e tla tšwela pele go ba le mohola le maatla, ntle le ge e sa sepelelane le Molao wa Lebakanyana wa Mmušo wa Selegae, goba Molao ofe goba ofe wo mongwe.

Hlogo ye kopana le go thoma

- 60 Molao wo o tla bitšwa Molao wa Tekanetšo ya Merero ya Minušo wa Selegae, 1998, gomme o tla thoma go dirišwa letšatšing leo le tla bewago ke Molekgotlamogolo ka kgoeletšo ka Kuranteng ya Probentshe.

MEMORANDAMO KA GA DINEPO TŠA MOLAOKAKANYWA WO

MATSENO

1. Go ya ka karolo 104(1)(b)(i) - (iv) ya Moloatheo wa Repabliki ya Afrika Borwa, 1996, bjale ka ge o balwa mmogo le Kgaolo 7, diskedule 4 le 5 le tlhaloso ya "molao wa probentshe" karolong 239, Lekgotlatheramelao la Probentshe ya Gauteng le na le maatla ao a nyakegago go hloma melao ka ga merero yeo e boletšwego Molaong-kakanywa wo.
2. Ka lebaka la seo, mathomong a ngwagola Leloko la Lekgotlaphethiši leo le nago le boikarabelo bja mmušo wa selegae le hlomile Sehlophatšhomo sa Dipolitiki, seo se filwego boikarabelo bja go thala melao ye e lego mabapi le lehakori la selegae la mmušo. Sehlophatšhomo se sa Dipolitiki se be se hlamilwe ka maloko ao a hweditšwego go tšwa mekgatlong ye e fapafapanago ya dipolitiki.
3. Sehlophatšhomo sa Dipolitiki se ile sa akaretša Sehlophatšhomo sa Botegniki bja Theramelao, seo se bego se hlamilwe ka bahlankedidi ba Kgoro ya Peakanyo le Mmušo wa Selegae le baemedi ba Mokgatlo wa Gauteng wa Dipušo tša Selegae (Gauteng Association of Local Authorities - GALA). Mošomo wa sehlopha se e be e le go thala melao ye e nyakegago go ya ka ditaelo tša Sehlophatšhomo sa Dipolitiki.

MATHATA AO MMUŠO WA SELEGAE O LEBAGANEGO LE WONAS

4. Sehlophatšhomo sa Dipolitiki le Sehlophatšhomo sa Bogetnkiki bja Theramelao di be di dutše di lemoga gore go na le melao ye mentši, yeo tirišo ya yona e bilego le diphoso, go se dumelelane le boitshwaro bja go tliša mathata a moloatheo go mmušo wa probentshe le bomasepala. Melao ye e akaretša Moloatheo, Molao wa Lebakanyana wa Mmušo wa Selegae, Molao wa Probentshe wa Mmušo wa Selegae, le Molao wa Probentshe wa Mmušo wa Selegae (Taolo le Dikgetho), wa 1960. Molaokakanywa wo o swaragane feela le dinttha tše di tšwelelagoo ka lebaka la tirišo ya melao yeo e lego maleba kgonagatšong ya lenaneo la go tliša diphetogo leholakoreng la selegae la mmušo. Go lebeletšwe gore merero ye mengwe ka moka e tla bopa tabakgolo ya molao wo o latelago e lego woo o akaretšago dintlhā tše ntšinyana, woo o tlago thekgwa ke mananeo a maikemišetšo a mmušo a mahlakore a mmušo wa gare le a diprobentshe, le molao wa ka moso wa mmušo wa gare wo o laolago bomasepala.
5. Godimo ga moo, bomasepala ba lebagane le mathata a go swana le -
 - (a) seemo se se theogago sa ditšelete tša mmušo wa selegae le setlwaedi seo se naganwago sa go se lefele ditirelo;
 - (b) lerato la batho la go tswalela mekgoba;
 - (c) ditsela tše di šeilwego ke mabaka tša dithendara; le

- (d) bohlokwa bja go fa balekgotla maatla le go gomarela go ba pepeneneng ka mmušong.
- 6 Ka lebaka leo Molaokakanywa wo ke legato la lebakanyana (molao wa letšibogo) la go lekanetšametheo ya peo-melao le taolo yeo bomasepala ba šomago ka go yona ga bjale.
- Mabaka a molaokakanywa le khuetšo phedišanong**
- 7 Kopanong yeo e biditšwego ke Sehlophatšhomo sa Dipolitiki ka Matšhe ngwagola, go lemogilwe maikemišetšo ao a boletšwego a Tona ya Merero ya Diprobentshe le Tlhabollo ya Molaatheo, go hlama pego ya maikemišetšo a kgoro yeo go ya mafelelong a 1997 (gomme molao wa mmušo wa gare o be o tla latela moragonyana) le tlhokego ya tlhabollo ya leanotshepetšo mabapi le mmušo wa selegae.
- 8 Sephethlo se ile sa tšewa ke Leloko la Lekgotlaphethiši le Sehlophatšhomo sa Dipolitiki go tšweletša Molaokakanywa gore o goeletšwe, e lego woo o šomanago feela le merero yeo e bego e huetša ka pejana diphetošo tša mmušo wa selegae le kabo ya ditirelo tša masepala.
- 9 Merero yeo e swanetšego go hlokamelwa ka Molaongkakanywa e kwanetšwe le Kgoro ya Peakanyo le Mmušo wa Selegae, Sehlophatšhomo sa Dipolitiki le GALA. Tše di ilego tša elwa tlhoko ge go kgethwa merero ye, magareng a tše dingwe, e bile -
- (a) dintlha tše di diegišago kopanyo le kakaretšo tša mohola tša mafapha a mebušo ya bomasepala;
 - (b) tlhokego ya go potlakiša tekanetšo le phetošo ka lehlakoreng la selegae la mmušo;
 - (c) ditšitišo kabong ya ditirelo tša masepala;
 - (d) tlhokego ya go fa bomasepala maatla a go sepediša merero yeo go nago le dikgala mabapi le yona molaong; le
 - (e) tlhokego ya tsenya bomasepala moyo wa Molaatheo ge e sepetša merero ya yona.
- 10 Ga se ga diwa dinyakišo ka ga khuetšo phedišanong ka morero wa Molaokakanywa wo, ka ge o na le maikemišetšo a go šomana feela le motheo wa peo-melao le taolo woo bomasepala ba šomago ka go wona. Go lebeletšwe gore dinyakišo tša mohuta woo di tla swanelwa ke go dirwa ka' merero ya go thala molao woo o akaretšago dintlha tše ntšinyana wo o ukangwago temaneng ya 4 ya memorandamo wo.

Tharollo

- 11 Ka lebaka la mathata le ditlhobaelo tše o mmušo wa selegae o lebaganego našo, tharollo ya molao wo o akaretšago dintilha tše ntši o nyaka gore go goeletšwe pele molao wa mmušo wa gare le pego ya maikemišetšo a probentshe. Molaokakanywa wo ga o nyake go fa tharollo ya mohuta woo. Ke kgato ya lebakanyana ya go šomana le mathata a bjako a taolo le a molao ao a lebanego lehlakore la selegae la mmušo ka kwišišo ya tikologo yeo pono ya yona e sa beakanywago. Ka lebaka leo ke molao wo o lebišitšwego kudu nepong ya go beya bomasepala maemong a go itlwaelanya le diphetogo tša ka moso. O dira seo ka go -
- (a) kgonthiša le go lekanetša maemo, maatla, mešomo le maikarabelo a lekgotla la masepala;
 - (b) dira le go ntšhwa ga melaoselegae, melaoselegae ya tlwaelo le melaotshepetšo;
 - (c) tliša kwano dikamanong tša mešomo; le
 - (d) dira gore bomasepala ba kgone go sepetša merero ya bona ka dipuelo, kudu-kudu mabapi le go hwetšwa ga diphahlo le ditirelo, go phethagatšwa ga mešomo le go dirwa ga ditekolo, le go laolwa ga phihlelelo ka mafelong a setšhaba.

Tlhapetšo

- 12 Go ba le dipuelo ga Molaokakanywa wo go tla hlapetšwa ka Diforamo tša Gauteng tša Mebušo le Mokgatlo wa Gauteng wa Dipušo tša Selegae. Magato a ke koketšo ya mešomo ya letšatši ka letšatši ya kantoro ya Leloko la Lekgotlaphethiši le kgoro ya maleba ya probentshe gammogo le Foramo ya Ratoropo.

Mabaka a ditšhelete a Molaokakanywa

- 13 Molaokakanywa wo ga o na mabaka a magolo a tlaleletšo a ditšhelete go probentshe.

KAKARETŠO YA KAROLO YE NNGWE LE YE NNGWE KA MOLAONGKAKANYWA

- 14 Karolo 1 e hhalosa mareo a maleba.
- 15 Karolo 2 e hhalosa morero wa Molaokakanywa gomme ka kakaretšo e beya mekgwa ya go fihlelela merero yeo.
- 16 Karolo 3 e fa ditsela tša tlhahlo tša go diriša le go kwišisa Molaokakanywa wo.
- 17 Karolo 4 e kgonagatša go ba gona go tšwelago pele ga bomasepala le gona e tiišetša sebolepego sa bomasepala sa boikemelo.

- 18 Karolo 5 e kgonthiša gore bomasepala bao peleng ba ilego ba goeletšwa bjale ka ditoropokgolo ba tla gomarela maemo ao gomme e dira dikgonagatšo tša go ntšha diphošo tše di tšweletšego ka go bomasepala bao baswa mabapi le maemo a go ba toropokgolo.
- 19 Karolo 6 e kgoboketša maatla, mešomo le maikarabelo a makgotla a masepala.
- 20 Karolo 7 e hhalosa tsela ya go dira melaoselegae.
- 21 Karolo 8 e kgonagatša tebelelo leswa ya lebaka ka lebaka ya melaoselegae gomme e kgonagatša tlhapetšo ya probentshe le kokamelo ya lenaneo la tebelelo leswa.
- 22 Karolo 9 e kgonagatša phihlelelo ya setšhaba le tekolo ya melaoselegae.
- 23 Karolo 10 e dira gore Leloko la Lekgotlaphethiši a kgone go dira melaoselegae ya tlwaelo.
- 24 Karolo 11 e hhalosa tsela ya go dira melaoselegae ya tlwaelo.
- 25 Karolo 12 e hhalosa dipuelo tša molao tša molaoselegae wa tlwaelo.
- 26 Karolo 13 e hhalosa maatla a Leloko la Lekgotlaphethiši a go ntšha melaotshepetšo.
- 27 Karolo 14 e hhalosa seo se ka akaretšwago ka melaong-tshepetšo.
- 28 Karolo 15 e hhalosa tsela ya go ntšha melaotshepetšo.
- 29 Karolo 16 e kgonagatša go hlongwa ke lekgotla la masepala ga mohlankedidi mogolo-phethiši le bašomedi ba lona.
- 30 Karolo 17 e laela maatla le maikarabelo a mohlankedidi mogolo-phethiši.
- 31 Karolo 18 e nyaka go lekanetša dikwano le mabaka a bomasepala bao ba akreditšwego goba bao ba kopantšwego.
- 32 Karolo 19 e kgonagatša go hlongwa ga dikema tša mehola ya thušo ya kalafo ke lekgotla la masepala.
- 33 Karolo 20 e kgonagatša go hlongwa ga dikema tša mehola ya go rola modiro ke lekgotla la masepala.
- 34 Karolo 21 e laola lebaka la mošomo la boratoropo, ditsela tša go ba ntšha mošomong maatla a bona ao a roletšwego ke ditokelo tša bona tša go bouta.
- 35 Karolo 22 e fa masepala maatla a go hloma bahlankedidi bao ba filwego maemo a itšego.
- 36 Karolo 23 e hhalosa mešomo ya bahlankedidi bao ba filwego maemo a itšego.
- 37 Karolo 24 e hhalosa maatla a bahlankedidi bao ba filwego maemo a itšego.

- 38 Karolo 25 e kgonagatša tsela ya gore bahlankedi bao ba filwego maemo a itšego ba phethagatše mošomo goba ba dire tekolo mabakeng ao go nyakegago tumelelo ye e ngwadilwego.
- 39 Karolo 26 e beya tsela yeo ka yona bahlankedi bao ba filwego maemo a itšego ba ka phethagatšago mošomo goba ba dira tekolo mabakeng ao tumelelo ye e ngwadilwego e sa nyakegago.
- 40 Karolo 27 e tiišetša go hlokomelwga ditokelo tša motheo ke bahlankedi bao ba filwego maemo a itšego ge ba phethagatša mošomo goba ba dira tekolo.
- 41 Karolo 28 e laola tirišo ya maatla ke bahlankedi bao ba filwego maemo a itšego ge ba dira mešomo ya bona.
- 42 Karolo 29 e dira gore mohlankedi yo a filwego maemo a itšego a felegetšwe ke leloko la Tirelo ya Afrika Borwa ya Sephodisa ge a dira mošomo wa gagwe.
- 43 Karolo 30 e beya boikarabelo go batho bao ba nago le dipampiri tša maleba gore ba di fe mohlankedi yo a filwego maemo a itšego.
- 44 Karolo 31 e beya boikarabelo go batho ka moka gore ba arabe dipotišo le gore ba thuše bahlankedi bao ba filwego maemo a itšego.
- 45 Karolo 32 e kgonagatša go ntšhwa ga ditsebišo tša kobamelo.
- 46 Karolo 33 e hhalosa mabaka ao ka wona melato e tla tšewago go ba yeo e dirilwego mabapi le mošomo wa baemedi bao ba filwego maemo a itšego.
- 47 Karolo 34 e hhalosa tirišo ya ditaelo tše di šomanago le baemedi bao ba filwego maemo le maatla a bona le mešomo.
- 48 Karolo 35 e hhalosa tsela ya go hwetša diphahlo le ditirelo.
- 49 Karolo 36 e laela tsela ya go hwetša diphahlo goba ditirelo tše di laetšwego.
- 50 Karolo 37 e hhalosa tsela ye e kgonagaditšwego ya go hwetša dithoto tše di laetšwego goba tirelo.
- 51 Karolo 38 e laola katološo goba phetošo ya kwano ya thendara.
- 52 Karolo 39 e hhalosa tsela ya go šomana le dikgopelo tša dithendara, tše e sego tša maleba goba tše di sa sepelelanego le molao le ditlhokomogo tša dikwano tša dithendara.
- 53 Karolo 40 e hhalosa tsela ya go dira diaphili mabapi le dithendara tše e sego tša maleba goba tše di sa sepelelanego le molao le ditlhokomologo tša dikwano tša dithendara.
- 54 Karolo 41 e kgonagatša go hlongwa ga lekgotla la diaphili tša khwetšo ya diphahlo le ditirelo le sehlopha sa banamodi.

- 55 Karolo 42 e kgonagatša go hlongwa ke lekgotla la masepala ga komiti yeo e nago le boikarabelo bja khwetšo ya diphahlo le ditirelo.
- 56 Karolo 43 e fa lekgotla la masepala maatla a go beya mapheko a phihlelelo go lefelo lefe goba lefe la setšaba, goba go fa maatla go motho ofe goba ofe, mokgatlo goba lekgotla go beya mapheko a phihlelelo go lefelo lefe goba lefe la setšaba.
- 57 Karolo 44 e hhalosa tsela yeo lekgotla la masepala le swanetšego go e latela go beya lepheko la phihlelelo.
- 58 Karolo 45 e hhalosa tsela ya lekgotla la masepala ya go fa ba bangwe maatla a go beya mapheko a phihlelelo.
- 59 Karolo 46 e hhalosa lebaka la lepheko goba go fiwa ga maatla a go beya mapheko a phihlelelo.
- 60 Karolo 47 e kgonthiša mabaka ao ka wona molato o ka dirwago mabapi le go fa maatla a go beya mapheko a phihlelelo.
- 61 Karolo 48 e dira gore maloko a setšaba a be le phihlelelo le tekolo ya lepheko goba go fiwa maatla a go beya lepheko la phihlelelo.
- 62 Karolo 49 e kgonagatša go hlongwa ga komiti ya dinyakišo ya masepala le gona e laola mabaka le mokgwa wa go hlongwa le go sepetša merero ya yona.
- 63 Karolo 50 e kgonagatša go hlongwa ga theeletšo ya phatlalatša ke lekgotla la masepala gommé e hhalosa ditsela le mekgwa ya go hlongwa ga yona le go sepetšwa ga merero ya yona.
- 64 Karolo 51 e dira gore leloko la lekgotlaphethiši le ntše ditsela tša tlhahlo go makgotla a bomasepala.
- 65 Karolo 52 e dira gore lekgotla la masepala le tiišetše tshepedišo ya lona ya ditšhelete le taolo ya dikoloto.
- 66 Karolo 53 e hhalosa dikotlo tše di amanago le molato ofe goba ofe wo o dirilwego go ya ka Molao wo.
- 67 Karolo 54 e hhalosa mabaka ao ka wona badiredi ba lekgotla la masepala goba batho bao ba šomago legatong la lektola ba ka šireletšwago ditatofatšong.
- 68 Karolo 55 e hhalosa mabaka ao ka wona balekgotla goba badiredi ba masepala ba ka fiwago boemedi bja molao.
- 69 Karolo 56 e hhalosa mabaka ao ka wona maatla a lekgotla la masepala a ka rolelwago, goba moo lekgotla la masepala le ka tsenelago dikwano.
- 70 Karolo 57 e laola go fiwa le go rolelwaga maatla a probentshe, mešomo le maikarabelo go makgotla a bomasepala.

- 71 Karolo 58 e šomana le go fedišwa ga melao.
- 72 Karolo 59 e šomana le dipeakanyo tša lebakanyana.
- 73 Karolo 60 e hhalosa hlogo ye kopana ya Molaokakanywa gomme e kgonagatša nako yeo Molaokakanywa wo o tla thomago go dirišwa.

SKEDULE 1**MELAO YE E FEDIŠITŠWEGO**

Nomoro le ngwaga wa molao	Hlogo ye kopana	Kelo ya phedišo
58 wa 1903	Molao wa Probentshe wa Koporase ya Masepala, 1903	Ka moka
506 wa 1937	Tsebišo ya Molaodi - Melaotshephetšo ya Dipušo tša Selegae ya Konalo	Ka moka
17 wa 1939	Molawana wa Probentshe wa Mmušo wa Selegae	Dikarolo 1;5;8;34;36;41;47A; 53;54;57;62;65;70;72;77;78; 79bis; 79ter; 79quat; 79sext; 89; 90; 91; 92; 93; 94; 95; 96; 96bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118bis; 119; 120; 121; 122; 123; 124; 125; 125 (A); 126; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 162; 164A; 165; 166; 173.
13 wa 1958	Molao wa Probentshe wa Mekgatlo ya Mmušo (Leleme), 1958	Ka moka
21 wa 1958	Taolo ya Mmušo wa Selegae	Ka moka
40 wa 1960	Molao wa Probentshe wa Mmušo wa Selegae (Taolo le Dikgetho), 1960	Dikarolo 3 go ya go 51, 62, 62A; 63(1) go ya go (20); 63A, 64; 65, 67, 69, 70; 70bis; 71.
15 wa 1981	Lekgotlatoropo la Midrand, 1981	Ka moka
24 wa 1986	Molao wa Probentshe wa Mafelo a Selegae; 1986	Ka moka
22 wa 1988	Kgoeletšo ya Taolo - Phetošo ya Molao wa Probentshe 40 wa 1960	Ka moka
23 wa 1988	Kgoeletšo ya Balaodi - Melao tshepetšo ya mabapi le go Hlongwa ga Komiti ya Maphele	Ka moka

SKEDULE 2

GO FIWA LE GO ROLELWA GA MAATLA, MEŠOMO LE MAIKARABELO GO MAKGOTLA LA BOMASEPALA

MORERO A - MOLAO WA PROBENTSHE WA MMUŠO WA SELEGAE, 1939		
KAROLO 1 - GO FIWA		
KAROLO	HLOGO YA KAROLO	KELO YA GO FIWA
19(7)	Diputseletšo tša ratoropo, motlatša-ratoropo le balekgotla.	Ka moka
64(1)	Go beelwa thoko ga ditsha ka morero wa go aga meago ya setšhaba goba ya masepała.	Ka moka
65(bis)(4)(b)	Ditsela tša dinamelwa tša setšhaba, mafelo a go ema le ditsha.	Ka moka
67(6) le (9)(b)	Go tswalelelwa saruri ga go phamošwa ga mokgoba.	Ka moka
69(1)(a)	Go ngwalwa dinomoro ga dintlo le go reelwa maina ga mafelo a setšhaba.	Ka moka
71(2)	Maatla a go hloma bobolokelo.	Ka moka
79(9)(bis)	Maatla a kakaretšo.	Ka moka
79(10)	Maatla a kakaretšo.	Ka moka
79(28)	Maatla a kakaretšo.	Ka moka
79(33)	Maatla a kakaretšo.	Ka moka ntle le 79(33)(b)(ii)
79(42)	Maatla a kakaretšo.	Ka moka
79(53)	Maatla a kakaretšo.	Ka moka
80B(4)(b)(i)	Kgonthišo, phetošo goba go gomišwa ga ditatofatšo ka kwano yeo e sego ya mehleng.	Ka moka
81(1)(c)	Mešomo ya kabu ya meetse	Ka moka
81(1)(d)	Mešomo ya kabu ya meetse	Ka moka
81(1A)	Mešomo ya kabu ya meetse	Ka moka
812(2)	Mešomo ya kabu ya meetse	Ka moka

83(1)(bis)	Mešomo ya kabo ya lesedi, borutho, le maatla.	Ka moka
83(3)(a)	Mešomo ya kabo ya lesedi, borutho, le maatla.	Ka moka
83(4)	Mešomo ya kabo ya lesedi, borutho, le maatla.	Ka moka
83A(1)	Mapheko a tirišo ya meetse le mohlagase.	Ka moka
104(bis)	Maatla a pušo ya selegae a go bebefatša dinyakwa tša melaoselegae ya go aga goba go efoga kobamelo ya tšona.	Ka moka
131(5)	Maatla a mangwe ao e sego a mehleng a makgotla a ditoropo.	Ka moka
131(17)	Maatla a mangwe ao e sego a mehleng a makgotla a ditoropo.	Ka moka
133	Maatla a go šomana le kelelatšila le kelelo ya meetse.	Ka moka
142(1)(b)	Maatla a go phethagatša mešomo ya kelelo ya meetse mabung a poraebete goba ka mafelong goba go dira ditokišetšo tša seo.	Ka moka
155(1)	Taolo ya maphelo ya mešomo ya ka godimo le ka tlase ga meepo.	Ka moka

KAROLO 2 - THOLELO

KAROLO	HLOGO YA KAROLO	KELO YA THOLELO
79(16)	Maatla a kakaretšo.	Ka moka
79(17)(e)	Maatla a kakaretšo.	Ka moka
79(18)(e)	Maatla a kakaretšo.	Ka moka
79(18)(f)(aa)	Maatla a kakaretšo.	Ka moka
79(18)(f)(bb)	Maatla a kakaretšo.	Ka moka
79(18)(h)(bb)	Maatla a kakaretšo.	Ka moka
79(24(c))	Maatla a kakaretšo.	Ka moka
80A(b)(ii)	Go akaretšwa ka go melaoselegae ga dithhaloso, melaotshepetšo le dingwalwa tše dingwe ka tšhupetšo.	Ka moka
83(1)(c)(i)	Mešomo ya kabo ya lesedi, borutho le maatla.	Ka moka

**NTLHA B - MOLAO WA PROBENTSHE WA MMUŠO WA
SELEGAE (TAOLO LE DIKGETHO) 1960**

KAROLO 1 - GO FIWA GA BOIKARABELO

KAROLO	HLOGO YA KAROLO	KELO YA GO FIWA GA BOIKARABELO
57(6)(b)	Mešomo ya Komiti ya Tshepedišo.	Ka moka

KAROLO 2 - THOLELO YA BOIKARABELO

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NOTICE 1208 OF 1998

ISISHAYAMTHETHO SESIFUNDA SASEGAUTENG

UMTHETHOSIVIVINYO WOKUHLELWA KABUSHA

KWEZINDABA ZOHULUMENI BASEKHAYA

Njengoba wethulwe

ngu

MPHATHISWA WEZOKUHLELELA INTUTHUKO NOHULUMENI BASEKHAYA

UMTHETHOSIVIVINYO

Ohlinzekela ukuhlelwa kabusha uhlaka lwemithetho nokuphatha esigabeni sokulumeni basekhaya; nokunikezala ngemininingwane ekhangene nalokho.

UKUBA USHAYWE yisiShayamthetho sesiFunda saseGauteng ngendlela elandelayo

UKUHLELWA KWEZIGABA

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ISAHLUKO 1

IZICHASISO, INJONGO NOKUSETSHENZISWA

Izichasiso

1 Kulo Mthetho, ngaphandle uma isimo sisho

"isinyathelo esithathwayo", sihlanganisa ukumiswa kwamagunya, ukushaywa kwemithetho yomasipala, izimiso zokuphatha, ukwenziwa kwezin kontileka ezinezibophezelo kanye nokufakwa noma ukuvikelwa kwezinyathelo zomthetho zobugebengu noma zomphakathi, ngokubhekela isigaba 60(1) no (2) salo Mthetho.

"noma yimuphi omunye umthetho", ku hlanganisa nemithetho ejwayelekile;

"umthetho kamasipala" kusho umthetho owenziwe ngumkhandlu kamasipala futhi u hlanganisa uhlelo lwano noma indlela;

"iSikhulu esiyiNhloko", kusho iSikhulu esiyiNhloko esiqokwe ngokubhekela isigaba 16;

"ikomidi", lisho ikomidi lophenyo likamasipala elimiswe ngokwesigaba 49;

"UMthethosisekelo", kusho uMthethosisekelo waseRiphabhulikhi yaseNingizimu Afrika ka 1996 (UMthetho 108 ka 1996);

"isikhulu esibekiwe" kushiwo umuntu obekwe ngokwesigaba 22;

"udaba lukahulumeni wasekhaya", ngokubhekela izigaba 49 no 50 akuhlanganisi ukugqugquzelwa, ukuvinjelwa noma ukuxoxa ngokukhethwa kwanoma yimuphi umuntu kunoma yimuphi umasipala, uhlaka lwasifunda ncma lukazwelone, inhlango noma inkampani;

"UMthetho kaHulumeni waseKhaya", kusho uMthetho woHulumeni baseKhaya ka 1939 (Umthetho 17 ka 1939), njengoba uchibiyelwe;

"UMthetho wesiKhashana woHulumeni baseKhaya", kusho uMthetho wesiKhashana woHulumeni baseKhaya ka 1993 (UMthetho 209 ka 1993) njengoba uchibiyelwe;

"uMphathiswa" kushiwo ilungu lesiGungu esiKhulu elibhekele izindaba zohulumeni basekhaya esiFundeni saseGauteng;

"amandla, imisebenzi noma izibopho", ku hlanganisa umcabango "wamandla nemisebenzi"

njengoba kubhekelwe kuMthethosisekelo kanye "namandla nezibopho" njengoba kubhekelwe eMthethweni wesiKhashana woHulumeni baseKhaya;

"emiselwe", kusho okumiselwe ngokomthetho kanti negama "misela" lisho okufanayo;

"isifunda", kusho isiFunda saseGauteng;

"indawo yomphakathi", isho noma yimuphi umgwaqo, isitaladi, indawo yokudlula, ibhuloho, ibhuloho elihamba phezulu, ibhuloho elihamba ngaphansi, iphevumente yezinyawo, indlela yezinyawo, indawo yokuhamba eseceleni komgwaqo, ungwengwe, isikwele, indawo evulekile, ingadi, ipaki, indlela, irenke yamabhasi noma amatekisi, noma indawo evalelekile ephethwe ngumasipala nehlanganisa noma yimuphi umgwaqo, indawo, indawo yokudlula nasendaweni engaphazanyiswa yokusetshenziswa ngumphakathi noma leyo umphakathi onelungelo lokuyisebenzisa;

"umthetho kamasipala omiyo", usho umthetho kamasipala oshaywe nguMphathiswa ngokubhekelela izimiselo zezigaba 10 no 11; kanye

"lo Mthetho", uhlanganisa izinombolo zesigaba, amasheduli, kanye nanoma yimuphi umthetho noma umthetho kamasipala obekwe noma wenziwa ngokwezimiselo zalomthetho nokho ongahlanganisi izihloko.

Injongo

- 2 (1) Injongo yalo Mthetho ngukuguqula uhlaka lezomthetho nokuphatha izinga likahulumeni wasekhaya elingayiphatha ngalo imicimbi yalo ngokuphathelene nalokhu, phakathi kwezinye izinto .
 - (a) ukusho nokumisa isikhundla, amandla, imisebenzi nezibopho zomkhandlu kamasipala;
 - (b) ukwenza nokukhipha imithetho eyenziwa ngumasipala, imithetho emiyo eyenziwa ngumasipala kanye nezimiso;
 - (c) ukulungisa ubudlelwano nabasebenzi; kanye
 - (d) nokugunyaza omasipala ukuba benze imisebenzi yabo ngendlela, ikakhulukazi ngasekutholeni izinto zokusebenza kanye nemisebenzi, ukwensiwa kwemisebenzi kanye nokwenziwa kokuhlola, kanye nokuphathwa kokungena ezindaweni zomphakathi.

(2) Ngokupathelene nezindaba ezishiwo esigatshaneni (1) lo Mthetho ubhekela ukuguqulwa kohlaka lukahulumeni wasekhaya .

- (i) ngokugqugquzel a nokuqinisa amandla nokwethembeka kohlaka lukahulumeni wasekhaya;
- (ii) ukugqugquzel omasipala ukuba bahlangabezane futhi benze ngcono amazinga okuphatha nokuphakela ngemisebenzi;
- (iii) ukugqugquzel amalungu omphakathi ukuba abambe iqhaza ekuphathweni komasipala; futhi
- (iv) kuthuthukiswe umoya wokubambisana nokusizana ngesibopho sokuphatha.

Ukusetshenziswa kwalo mthetho

3 (1) Noma ngubani osebenzisa futhi atolike lo Mthetho kufanele .

(a) anikezele izimiselo zawo ngendlela yokuthi .

- (i) kuyahambelana nezitatemende zenhoso ezishiwo esigaben 2; futhi
- (ii) ziayibhekela ikakhulukazi injongo, iqhaza kanye nezimo zesigaba sohulumeni basekhaya njengoba kubhekelwe kuMthethosisekelo kanye nanoma yimuphi omunye umthetho.

(2) Izimiselo zalo Mthetho kufanele ziqashelwe

- (a) kunoma yimuphi omunye umthetho ophethe umkhandlu kamasipala;
- (b) ngendlela ehambisana ngokuyikho ngokutolikwa kwemthetho eyiyo nevimbela ingxabano phakathi kwayo ngokutohikwa okuletha ingxabano.

(3) Uma kuqubuka ingxabano, ephathelene nezindaba okukhulunywa ngazo kulo Mthetho, phakathi kwalo Mthetho kanye nezimiselo zanoma yimuphi omunye umthetho, ngaphandle koMthethosisekelo, uMthetho wesikhashana woHulumeni baseKhaya noma yimuphi omunye umthetho ochibiyela lo Mthetho, izimiselo zalo Mthetho zizosebenza.

ISAHLUKO 2**ISIKHUNDLA, AMANDLA, IMISEBENZI KANYE NEZIBOPHO****ZOMASIPALA****Izikhundla zomasipala**

- 4 (1) Ngokuhambisana nanoma yimuphi umthetho, lowo nalowo mkhandlu kamasipala omiswe ngokuhambisana noMthetho wesikhashana woHulumeni baseKhaya, noma omenyezelwe njengomiswe ngokuhambisana nalo Mthetho,
- (a) uzoqhubeka nokuba khona futhi nesikhundla sawo njengomkhandlu kamasipala; futhi
 - (b) uzothathwa njengomsemthethweni.
- (2) Ngokuhambisana nanoma yimuphi omunye umthetho, umkhandlu kamasipala, njengosemthethweni
- (a) uyaqhubeka nokuba khona kungakhathaleki ngoguquko endaweni oyiphethe noma ukuma kwezinhlaka zavo zokuphatha;
 - (b) uyakwazi ukufaka icala noma wona ufakwe icala egameni lawo;
 - (c) ungathenga, uphathe, uthelise noma uthengise indawo.

Izikhundla zomasipala edolobheni elikhulu

- 5 (1) Umkhandlu kamasipala osumiswe ngokuthi uyidolobha ngokuhambisana noMthetho woHulumeni baseKhaya noma yimuphi omunye umthetho, uzoqhubeka nokuba

kulelozinga.

- (2) Uma umkhandlu wedolobhakazi unomkhandlu wendawo ngaphansi kwavo nalowomkhandlu osumiswe njengedolobha ngokuhambelana nesigatshana (1), umkhandlu wedolobhakazi uthola-
 - (a) isikhundla sokuba yidolobha; futhi
 - (b) wonke amandla, izibopho, amalungelo kanye nemivuzo okunikezelwe edolobheni nganoma yimuphi omunye umthetho.

- (3) Umkhandlu kamasipala osumiswe njengedolobha njengokuqondisa kwasigatshana (1) noma osuthole isikhundla sokuba yidolobha njengoba kubekwe esigatshaneni (2), ungasikhombisa lesikhundla -
 - (a) egameni lawo; kanye
 - (b) nakunoma yiziphi izincwadi zaho

Amandla, imisebenzi kanye nezibopho zemikhandlu yomasipala

- 6 (1) Ngokwengezelela emandleni, imisebenzi kanye nezibopho zemikhandlu yomasipala okuvezwе kuMthethosisekelо kanye noMthetho wesiKhashana woHulumeni baseKhaya noma yimuphi omunye umthetho, umkhandlu kamasipala unamandla, imisebenzi noma izibopho ophiwe, wathwaliswa, wanikezelwa noma wehliselwa khona ngokwezimiso zalo Mthetho.
- (2) Umkhandlu kamasipala ungathatha noma yisiphi isinyathelo esidingekile noma esiyiso ekufezeni izinjongo zalo Mthetho.
- (3) Umkhandlu kamasipala ungenza futhi uphathe umthetho oshaywe yiwo ukuze kwenzeke ngendlela:
- (a) wenze ngokuyikho amandla, imisebenzi noma izibopho zaho; kanye
 - (b) nokuphatha lezo zindaba onegunya lokuzilawula.

ISAHLUKO 3**IMITHETHO YOMASIPALA,****IMITHETHO EMISIWE YOMASIPALA KANYE NEZIMISO*****(a) Imithetho yomasipala*****Uhlelo okufanele luelandelwe ekushayweni komthetho kamasipala**

- 7 (1) Ukushaya umthetho kamasipala, umkhandlu kamasipala kufanele uphasise isiphakamiso esimemezele inhloso yokwenza njalo.
- (2) Uma isiphakamiso sesiphasisiwe umkhandlu kamasipala kufanele .
- (a) umemezele inhloso yokushaya umthetho ngokubeka isaziso kusoMqulu kaHulumeni wesiFunda
- (b) ukhombe lokhu okulandelayo kuleso saziso .
- (i) ukuthi kucelwa ukuphawula ngohlaka lo mthetho kamasipala;
- (ii) ngendlela efingqiwe, ukuthi loluhlaka lo mthetho kamasipala lumayelana nani;
- (iii) umuntu okungabuzwa kuye noma indawo lapho kungabuzwa khona mayelana nohlaka lo mthetho kamasipala;
- (iv) ngokuhambisana nesigatshana (7) no (8), indawo, isikhathi, nini, nazimo kanye nandlelani okungatholakala ngayo ikhophi yohlaka lo mthetho kamasipala noma lapho lukhonjiswe khona ukuba luholwe;
- (v) isikhathi esibekelwe ukuphawula ngohlaka lwsikhashana lo mthetho kamasipala nokungafanele sibe ngaphansi kwenyanga eyodwa

kusukela osukwini lwasaziso; kanye

- (vi) umuntu noma indawo lapho izimvo eziveziwe ngohlaka lo mthetho kamasipala zinganikezelwa khona.

- (c) kunoma yisiphi isikhathi ngaphambi kokwenza umthetho kamasipala, ukubonisana nalawo maqembu athintekile kungenziwa nganoma yiyiphi indlela, kuflanganisa nokwenziwa kophenyo; futhi
- (d) izimvo ezitholakele kanye nalokho okuvele ekubonisaneni kufanele kubhekkelwe ngaphambi kokushaywa komthetho kamasipala.

- (3) Uma umkhandlu kamasipala ungawushayanga umthetho esikhathini esingunyaka kwensiwa isimemezelo esishiwo esigatshaneni (1)(b), lowo mthetho awusenakushaywa ngaphandle kokuthi indlela emisiwe esigatshaneni (1) iphindwe kabusha.
- (4) Izimiselo zesigatshana (1)(b) no (2) azisebenzi ngokumayelana .
 - (a) nomthetho kamasipala okusidingo somphakathi sicindezela ukuba wenziwe ngaphandle kokubambezeleka; kanye
 - (b) nesichibiyelo sokulungisa iphutha lokubhala.

- (5) Izimiselo zezigatshana (1) kuya ku (3), zisebenza ekuchitshiyelweni nasekwesulweni kunoma yimuphi umthetho kamasipala, nalezo zinguquko okungenzeka zidingakale ngenxa yesimo.
- (6) Umthetho kamasipala uyoqala ukusebenza osukwini oshicilelwwe ngalo kusoMqulu kaHulumeni wesiFunda noma ngalolo lusuku olumiswe kusoMqulu kaHulumeni wesiFunda.
- (7) Umkhandlu kamasipala ungamisela ngemali okufanele ikhokhwe uma kuzotholakala ikhophi yohlaka lo mthetho.
- (8) Indawo lapho loluhlaka lo mthetho lubekwe khona kufanele lwenzele lula labo obathintayo lowo mthetho ukuba basiswe ngokushesha nakalula ngokuqukethwe yilowo mthetho.
- (9) Yonke imikhandlu yomasipala kufanele yenze futhi imisele imigomo nezinhlelo zokusiza amalungu omphakathi ukuba akwazi ukuphawula ngohlaka lo mthetho kamasipala.

Ikubuyekezwa kwazikhathi kwemithetho yomasipala

- 8 (1) Umkhandlu kamasipala kufanele wenze futhi uphothule ukubuyekezwa *kwemithetho yawo* -
- (a) esebenza ngaphambi noma ekuqaleni kokusebenza kwalo Mthetho singakedluli isikhathi esimiswe nguMphathiswa;
 - (b) eqala ukusebenza emva kokuqala ukusebenza kwalo Mthetho ekushiyaneni ngesikhathini esingaphansi kweminyaka eyishumi waqala ukusebenza lowo mthetho kamasipala.
- (2) Uma umkhandlu kamasipala wehluleka wukwenza futhi uphothule ukubuyekezwa esikhathini esimiswe esigatshaneni (1), uMphathiswa angacela ukuba umkhandlu kamasipala ulethe iziphakamiso, ezikhaza izizathu zokwahluleka kwavo.
- (3) Umkhandlu kamasipala kufanele uhambisane naleso sicelo futhi ulethe iziphakamiso ezibhaliwe kuMphathiswa esikhathini esiyinyanga yokuthola leso sicelo.
- (4) Uma uMphathiswa engenelisekile ngezizathu ezinikezelwe ngokwehluleka, angaphakamisa emkhandlwini kamasipala ukuba ubuyekeze ngesikhathi esizwakalayo.
- (5) Isaziso esishiwo esigatshaneni (4) kufanele sisho izizathu zoMphathiswa ngaleso sinqumo.
- (6) Ngokubonelela lesi sigaba "ukwenza nokuphothula ukubuyekeza" kuhlanganisa -
- (a) ukuhlolwa noma ukubhekwa koMthetho kamasipala; uma kunesidingo,
 - (b) kwensiwe, kuchitshiyelwe noma kwesulwe umthetho kamasipala.

Ukufinyeleleka nokuhlolwa kwemithetho kamasipala

- 9 (1) Ngokuhlanganisa nalokho okungafakwa emigomeni emiselwe ngokubhekela isigaba 13(1), umkhandlu kamasipala ungazisho izimo nendlela umphakathi ongafinyelela ngazo, uhlole noma uthole ikhophi yanoma yimuphi umthetho kamasipala.
- (2) Ukumisa okuhlonzwe esigatshaneni (1) akunakulisho inani lokubuka nje noma ukuhlolwa umthetho kamasipala.

*(b) Imithetho emiyo yomasipala***Amandla Omphathiswa okushaya imithetho emiyo yomasipala**

- 10 Ngokomsebenzi wokusiza omasipala, uMphathiswa angashaya umthetho omiyo kamasipala nganoma yiluphi udaba olubhekelwe kwisigaba 6.

Uhlelo olulandelwayo uma kushaywa imithetho emiyo yomasipala

- 11 Izimiselo ezibekwe kwisigaba 15 ziyasebenza nasekwakhiweni komthetho omiyo kamasipala kanye nezinguqukuo ezingadingeka ngokwesimo.

Umphumela womthetho omiyo womasipala

- 12 (1) Umthetho omiyo kamasipala noma isichibiyelo sawo noma ukwesuluwa kwavo, kubophelela kumkhandlu kamasipala uma wenza umthetho osho lokho.
- (2) Ukushiwo komthetho kamasipala emthethweni kamasipala omiyo, kwenele ukuhlanganisa okuqukethwe ngumthetho kamasipala omiyo emthethweni kamasipala.

*(c) Izimiselo***Amandla Omphathiswa okubeka izimiselo**

- 13 (1) Esikhathini esingunyaka kuqale ukusebenza kwalo Mthetho, uMphathiswa kufanele abeke izimiselo ngezimo nendlela umphakathi ongafinyelela, uhlelo noma uthole ikhophi yanoma yimuphi isimiso, umthetho kamasipala, umthetho omiyo kamasipala, ikhodi noma uhlelo olundelwayo; futhi
- (2) UMphathiswa angabeka izimiselo kunoma yini edingekayo noma ebalulekile ekutholeni injongo yalo Mthetho.

Okuqukethwe yizimiselo

14 (1) Isimiselo -

- (a) singanikezela amandla noma sibeke isibopho kumuntu, enhlanganweni noma emkhandlwini womphakathi;
- (b) singaba nezimiso kuhlanganisa nemibandela noma ukuvinjelwa kanti singasho nokuxolelwe; futhi
- (c) singenziwa ngokupathelene -
 - (i) nezingxenye ezahlukene zeGauteng; noma
 - (ii) nezinhlobo ezahlukene zabantu nezinhlangano.

- (2) Nganoma yisiphi isikhathi kanye nokupathelene namuphi umuntu, uhlaka, inhlango noma inkampani kanye nokubhekela izimiselo zemithetho ephathelene nalokho, uMphathiswa angenza lokhu okulandelayo ngesaziso eMqulwini kaHulumeni wesifunda noma ngokulethwa ngeposi noma ngesandla, -
- (a) angabeka, aguqule noma asuse noma yimuphi umbandela obhekewi yisimiselo; noma
- (b) anikezele, aguqule noma asuse noma yikuphi ukuxolelwa okubhekewi esimiselweni.
- (3) UMphathiswa angeze aguqula noma asuse umbandela noma ukuxolelwa okubekwe noma kwanikezelwa ngokuhambisana nesigatshana (2) ngaphandle kokuba umuntu noma uhlaka okusebenza kuwo, bathole ithuba lokwenza isethulo noma izethulo ngokodaba.
- (4) Noma yisiphi isithiyo noma ukuvinjelwa okuqukethwe yisimiselo kufanele -

- (a) kuhambelane nezinjongo zaleso simiselo; futhi
- (b) kuvimbele ukusebenza kwalabo bantu noma izinhlaka ngokuzithiba okukhulu

- (5) Uma ukwehluleka ukuhambisana nesithyo noma isivimbelo ngokuphatelene nesimiso esithile kungaholela ekubekweni icala kulowo muntu, lesi simiselo kufanele simisele ukuba lowo muntu anikwe isaziso secala kanye nethuba lokuhambisana nesimiselo ngaphambi kokuba abekwe icala.

Uhlelo olulandelwayo lokukhishwa kwezimiselo

15 (1) Ukuze akhiphe izimiselo ngokuphatelene nalo Mthetho, uMphathiswa kufanele -

- (a) amemezele inhoso yokushaya umthetho ngokubeka isaziso kusoMqulu kaHulumeni wesiFunda
- (b) ukhombe lokhu okulandelayo kuleso saziso -
 - (i) ukuthi kucelwa ukuphawula ngohlaka Iwaleyomithetho kamasipala;
 - (ii) ngendlela efingqiwe, ukuthi loluhlaka lumayelana nani;
 - (iii) umuntu okungabuzwa kuye noma indawo lapho kungabuzwa khona mayelana nohlaka Iwemithetho;
 - (iv) ngokuhambisana nesigatshana (6) no (7), indawo, isikhathi,nini, nazimo kanye nandlelani okungatholakala ngayo ikhophi yohlaka Iwemithetho noma lapho lukhonjiswe khona ukuba luholwe;
 - (v) isikhathi esibekelwe ukuphawula ngohlaka Iwesikhashana Iwemithetho nokungafanele sibe ngaphansi kwenyanga eyodwa kusukela osukwini Iwesaziso; kanye
 - (vi) umuntu noma indawo lapho izimvo eziveziwe ngohlaka Iwemithetho zinganikezelwa khona.
- (c) kunoma yisiphi isikhathi ngaphambi kokwenza imithetho, ukubonisana nalawo maqembu athintekile kungenziwa nganoma yiyiphi indlela, kuhlanganisa nokwenziwa kophenyo; futhi
- (d) ukubhekewa kwezimvo ezitholakele kanye nalokho okuvele ekubonisaneni; kanye
- (e) nokuthola ukuvumelana kwekomidi leshayamthetho lesifunda elibhekeli

izindaba zohulumeni basekhaya ngaphambi kokushaya lowomthetho.

- (2) Uma uMphathiswa engayishayanga imithetho esikhathini esingunyaka kwenziwa isimemezelo esishiwo esigatshaneni (1)(a), leyo mithetho ayisenakushaywa ngaphandle kokuthi indlela emisiwe esigatshaneni (2) iphindwe kabusha.
- (3) Izimiselo zesigatshana (1) azisebenzi ngokumayelana:
 - (a) nemithetho eyisidingo somphakathi sicindezela ukuba wenviwe ngaphandle kokubambezeleka; kanye
 - (b) nesichibiyelo sokulungisa iphutha lokubhala.
- (4) Izimiselo zezigatshana (1) no (2), zisebenza ekuchitshiyelweni nasekwesulweni kunoma yimiphi imithetho, nalezo zinguquko okungenzeka zidingakale ngenxa yesimo.
- (5) Imithetho iyoqala ukusebenza osukwini eyoshicilelwwe ngalo kusoMqulu kaHulumeni wesifunda noma ngalolo lusuku olumiswe kusoMqulu kaHulumeni wesifunda.
- (6) Umkhandlu kamasipala ungamisela ngemali okufanele ikhokhwe uma kuzotholakala ikhophi yohlaka lwemithetho.
- (7) Indawo lapho loluhlaka lwemithetho lubekwe khona kufanele lwenzele lula labo obathintayo kulelyo mithetho ukuba baziswe ngokushesha nakalula ngokuqukethwe.
- (8) UMphathiswa kufanele aqinisekise ukuthi umisele imigomo nezinhlelo zokusiza amalungu omphakathi ukuba akwazi ukuphawula ngohlaka lwemithetho.

ISAHLUKO 4**IZINDABA EZIPHATHELENE NABASEBENZI, AMAKHANSEL
NEZIMEYA**

Ukuqokwa kwasikhulu esiyinhloko kanye nabanye abasebenzi

16. Lowo nalowo mkhandlu kamasipala kufanele, ngokubhekela ukusebenza ngakuvulelekile nesibopho emphakathini .
- (a) uqoke isikhulu esiyinhloko kanye nalabo basebenzi abangadingeka ekusebenziseni amandla, imisebenzi nezibopho; futhi
 - (b) uqoke isikhulu esiyinhloko kanye nabasebenzi ngezivumelwano nezimiselo zokusebenza okungaxoxiswana ngazo.

Amandla nezibopho zesikhulu esiyinhloko

- 17 (1) Ngokwengezelela kulokho okumiswe kulo Mthetho noma yimuphi omunye umthetho, imisebenzi yesikhulu esiyinhloko yilena .
- (a) ukusebenza njengenhloko yabasebenzi bomkhandlu kamasipala kanti ngalesisikhundla abe namandla phezu kwabo .
 - (i) lapho kunesidingo khona ngokuphatha okuyikho kanye nasekusetshenzisweni ngendlela kwamandla, imisebenzi noma izibopho; noma
 - (ii) ngemingcele ebekwe ngumkhandlu kamasipala.
 - (b) ukuhlola ukusebenza ngendlela nangokuyikho kwezinhlelo nemigomo

yomkhandlu kamasipala kanye nokusetshenzisa kwamandla, imisebenzi nezibopho;

- (c) ukuqinisekisa ukuthi imithombo yomkhandlu kamasipala isetshenzisa ngokuyikho ekufezeni izinjongo zomkhandlu kamasipala;
- (d) ukuqinisekisa ukuthi kumiswa futhi kusetshenzisa imigomo eyiyo neqotho kuyoyonke iminyango; futhi
- (e) kugqgquzelwa kuzinziswe ubudlelwano obuhle ngaphakathi emkhandlwini kamasipala kanye nasemphakathini okusetshenzwa kuwo.

(2) Isikhulu esiyinhloko sizoba nalawo mandla nezibopho .

- (a) njengokubona komkhandlu kamasipala ngokuthi afanele; kanye
- (b) nalawo angamiselwa kunoma yimuphi omunye umthetho.

Ukuguqulwa kwezivumelwano nezimiselo zokusebenza

18 Uma kuba khona ukuhlanganiswa noma ukulunjaniswa komasipala okwenziwa ngokuhambisana nanoma yimuphi umthetho .

- (a) abasebenzi bemikhandlu ebikhona phambilini bathathwa ngokuthi sebengabasebenzi bomkhandlu kamasipala ohlanganisiwe noma olunjanisiwe;
- (b) izimiselo nezimo zokusebenza zabasebenzi abathintekile ngokuhlanganiswa noma ngokulunjaniswa kufanele ngazozonke izikhathi zingabi ngezingezinhle kunalezo ababenazo ngaphambi kokuhlanganiswa noma ukulunjaniswa; futhi
- (c) kufanele umkhandlu kamasipala ohlanganisiwe noma olunjanisiwe umise futhi usebenzise izindlela zokulinganisa noma yikuphi ukwahlukana ezivumelwaneni nasezimiselweni zokusebenza okungenzeka kube khona phakathi kwabasebenzi bomasipala abebekhona phambilini, ngokubhekela amazinga ezikhundla zabo.

Izinuzo zezempiro

19 (1) Yonke imikhandlu yomasipala .

- (a) kufanele ihlinzkele ukutholakala kohlelo olunikezela izinzuzo zezempi lo kubobonke abasebenzi bayo kuhlanganisa nalabo basebenzi asebathatha umhlapaphansi; futhi
 - (b) ingahlinzekela ngohlelo olunikezela izinzuzo zezempi lo kuwownke amakhansela.
- (2) Uhlelo olubhekelwe esigatshaneni (1) akudingekile ukuthi zihlelwe ngendlela enikezela izinzuzo zezempi lo eqoqweni labantu ababhekelwe esigatshaneni 1(a) no (b).
- (3) Uhlelo olubhekelelwe esigatshaneni (1) kanye nemithetho, izibophezel o kanye nezinzu zo okuhambisana nakho, kuhlanganisa nemithetho emayelana nokufaneleka kwezinzu zo zeminikelo okufanele yenziwe ngumkhandlu kamasipala noma labo abahlomulayo ngalolo luhlelo, kufanele kunqunywe .
- (a) lapho kufanele khona, ngokuhambisana nezindlela ezimisiwe kunoma yisiphi isivumelwano esihlanganisayo sokubonisana; futhi
 - (b) emva kokubonisana nalabo abazuzayo okungenzeka bathintek e kanye nabalabo abathintekayo.
- (4) Noma yiluphi uhlelo olumiswe ngokulandela uMthetho woHulumeni baseKhaya noma ngabe yimuphi omunye umthetho ongasebenza noma isivumelwano sokubonisana esihlanganisayo esinikezela izinzuzo zezempi lo kubasebenzi noma amakhansela omkhandlu kamasipala, uzoqhube ka usebenze kanti imithetho, izibopho kanye nezinzu zo ezisebenzayo kulo luhlelo zizoqhube ka zisebenze ngaphandle-ke uma zisusiwe noma zachitshiyelwa .
- (a) ngokuhambisana nalo Mthetho noma yimuphi omunye umthetho;
 - (b) ngokwemithetho yalo; kanye
 - (c) nokuhambisana nohlelo olubhekelwe esigatshaneni (3).
- (5) Umfakelelo noma isichibiyelo esibhekelelwe yisigatshana (4) akufanele kubeke noma yimuphi umsebenzi noma ikhansela esimweni esingesihle kunaleso esasiyikho

ngaphambi kokufakelelwa noma ukuchitshiyelwa.

Izinzu zomhlapaphansi

20 (1) Yonke imikhandlu kamasipala kufanele .

- (a) imisele uhlelo olunikezela izinzuzo zomhlaphansi kubobonke abasebenzi bayo; futhi
 - (b) imisele uhlelo olunikezela ngezinzu zomhlapaphansi kuwowonke amakhansela awo.
- (2) Uhlelo olubhekewi esigatshaneni (1) akudingekile ukuthi zihlelwe ngendlela enikezela izinzuzo zomhlaphansi eqoqwemi labantu ababhekewi yisigatshana I(a) no (b).
- (3) Uhlelo olubhekelelwe esigatshaneni (1) kanye nemithetho, izibophezelo kanye nezinzu okuhambisana nakho, kuhlanganisa nemithetho emayelana nokufaneleka kwezinzu zeminkelo okufanele yenziwe ngumkhandlu kamasipala noma labo abahlomulayo ngalolo luhlelo, kufanele kunqunywe .
- (a) lapho kufanele khona, ngokuhambisana nezindlela ezimisiwe kunoma yisiphi isivumelwano esihlanganisayo sokubonisana; futhi
 - (b) emva kokubonisana nalabo abazuzayo okungenzeka bathintekayo kanye nabalabo abathintekayo.
- (4) Noma yiluphi uhlelo olumiswe ngokuandela uMthetho woHulumeni baseKhaya noma ngabe yimuphi omunye umthetho ongasebenza noma isivumelwano sokubonisana esihlanganisayo esinikezela izinzuzo zomhlaphansi kubasebenzi noma amakhansela omkhandlu kamasipala, uzothubeka usebenze kanti imithetho, izibopho kanye nezinzu ozisebenzayo kuloluhlelo zizoqhubeka zisebenze ngaphandle-ke uma zisusiwe noma zachitshiyelwa .
- (a) ngokuhambisana nalo Mthetho noma yimuphi omunye umthetho;
 - (b) ngokwemithetho yalo; kanye

- (c) nokuhambisana nohlelo olubhekewe esigatshaneni (3).
- (5) Umfakelelo noma isichibiyelo esibhekelye yisigatshana (4) akufanele kubek noma yimuphi umsebenzi noma ikhansela esimweni esingesihle kunaleso esasiyikho ngaphambi kokufakelelwea noma ukuchitshiyelwa.
- (6) Lapho izikhwama zimiswe ngokulandela isigaba 79 *ter* no 79 *quat* koMthetho woHulumeni baseKhaya, umkhandlu kamasipala othintekayo kufanele uqambe futhi umise izindlela zokulinganisa izinzuzo zabasebenzi abangamalungu alezizikhwama.
- (7) UMkhandlu kamasipala kufanele wenze lezo ziphakamiso ezibhekelye esigatshanem (6) esikhathini esiyiminyaka emibili (2) sokuqala kokusebenza kwalomthetho.

Izimiselo eziyingxube ngokuphathelene nezimeya

- 21 (1) Uma kuqokwa imeya -
- (a) umkhandlu kamasipala umise isikhathi sokuphatha semeya ukuze kuhambisane nesikhathi sokuphatha komkhandlu kamasipala; futhi
- (b) ukuvala isikhewu esivele ngesikhathi sokuphatha komkhandlu kamasipala, lokho kuqokwa kungamiselwa isikhathi esisasele salokho kuphatha.
- (2) Ngokwenhoso yokususa imeya esikhundleni, umkhandlu kamasipala unganquma ukuthi lokhu kwenziwe ngesiphakamiso esinqunywe okungenani ngubuningi bokubili kokuthathu.
- (3) Umkhandlu kamasipala unganikezelu emeyeni isibopho sokumisa noma ukuhlolu ukumiswa kwanoma yiliphi iphuzu noma amaphuzu ohlelo noma umkhankaso wesifunda kanti lesibopho kufanele senziwe ngaphakathi kwezimiso zemigomo nezindlela zokusebenza zomkhandlu kamasipala.
- (4) Imeya ingaba yilungu lekomidi elikhulu noma yiliphi elinye ikomidi lomkhandlu kamasipala -
- (a) njengelungu elejwayelekile njengekhansela; noma
- (b) ngokuba yisikhulu esiyimeya.

- (5) Umkhandlu kamasipala unganquma ukuthi imeya ayinawo amalungelo okuvota uma iyilungu lekomidi elikhulu noma yiliphi elinye ikomidi ngaphansi kwezimo ezishivo esigatshaneni 4(b).
- (6) Uma umkhandlu kamasipala ubona ukuthi kufanele uqoke iphini lemeya, umkhandlu ungasebenza izimiselo zesigatshana (1) kuya ku (5) ngokuphatelene namaphini ezimeya nezinguquku ezidingekile ngenxa yesimo.

ISAHLUKO 5

IZIKHULU EZIBEKIWE, UKWENZIWA KOMSEBENZI, UKUHLOLA, IZINDLELA ZOKUSEBENZISANA KANYE NAMACALA AHAMBISANA NALOKHO

Igunya Iezikhulu ezibekiwe

- 22 Isikhulu esiyinhloko singagunyaza noma ngubani osebenzela umkhandlu kamasipala njengesikhulu esibekiwe.

Imisebenzi yezikhulu ezibekiwe

- 23 (1) Izikhulu ezibekiwe zingenza umsebenzi, zenze inhlolo, ziqaphe futhi zicindezele izimiselo zalo Mthetho noma yimuphi omunye umthetho onikezelia igunya umasipala ukuqoka umuntu ukuba enze umsebenzi, enze inhlolo, aqaphe futhi acindezele izimiselo zomthetho.
- (2) Ngokuhambisana nanoma yimuphi omunye umthetho, isikhulu esibekiwe kufanele senze yonke imisebenzi ebhekeliwe kulesi sigaba ngokuhambisana nohlelo olumiselwe

ezigabeni 25 no 26.

Amandla ezikhulu ezibekiwe

24 (1) Amandla ezikhulu ezibekiwe abhekeliwe kulesi Sahluko -

- (a) ayengezelela kulawo mandla anikezwe isikhulu esibekiwe ngokuhambisana nanoma yimuphi omunye umthetho; futhi
- (b) ayahambisana nalemithetho

(2) Isikhulu esibekiwe esenza umsebenzi noma esenza inhlolo -

- (a) singenza umsebenzi noma senze inhlolo endaweni noma ezakhiweni;
- (b) singafaka imibuzo umuntu okuleyondawo noma izakhiwo nganoma yiluphi udaba oluphatelene nomsebenzi noma inhlolo;
- (c) singabuza umuntu leso sikhulu esibekiwe esikholwa ngukuthi banolwazi ophathelene nomsebenzi noma nokuhlola;
- (d) singahlola noma yimuphi umbhalo umuntu okudingke ukuthi ahlale ewenzile ngophathelene nanoma yimuphi umthetho noma ophathelene nanoma yimuphi umsebenzi noma ukuhlola;
- (e) singakopisha noma yimuphi umbhalo okukhulunywe ngawo esigatshaneni (d) noma uma kunesidingo angawuthatha lowo mbhalo ukuze awukopishe;
- (f) singathatha amasampula anoma sici sini esiphathelene nomsebenzi noma ukuhlola;
- (g) singahlola futhi sibhale phansi okufundwayo futhi sikale;
- (h) singathatha izithombe noma siqophe ngesiqophi noma yini noma ngubani, umsebenzi, isenzo noma isimo kuleyo ndawo noma isakhiwo; kanye
- (i) nazozonke izinto ezibalulekile ekwenziweni komsebenzi noma ekwenziweni kohlolo umasipala angadinga ukukwenza ngokuphatelene nanoma yimuphi omunye umthetho.

- (3) Isikhulu esibekiwe esisusa noma yini ngaphandle kwesici esibhekeliwe esigatshaneni (2)(f) endaweni noma esakhweni okwenziwa kukho umsebenzi noma esihlolwayo, kufanele:
- (a) sinikezele ngerisithi ngaleso senzo kumnikazi noma umuntu ophethe lezo zakhiwo; futhi
 - (b) sikubuyisele lokho okwathathwa ngokushesha emva kokufeza injongo okwakuthathelwe yona.

Uhlelo olulandelwayo ukwenza umsebenzi noma ukwenza inhlolo: ukungena ngesigunyaziso ebhaliwe

- 25 (1) Isikhulu esibekiwe singangena kunoma yiyiphi indawo noma izakhiwo uma imantsi noma ovezobulungisa enikezele ngencwadi evumela ukungena futhi kwenziwe umsebenzi noma ukuhlola kuleyo ndawo noma isakhiwo futhi leyo ncwadi ibe isasebenza.
- (2) Imantsi noma ovezobulungisa anganikezelala incwadi evumela ukungena futhi kwenziwe umsebenzi noma ukuhlola kunoma yiyiphi indawo noma izakhiwo uma, ngokolwazi olunikezelwe ngokulufungela, kunezizathu eziqinile zokukholwa ukuthi
- (a) ngokubhekela inhlakahle yomphakathi, kubalulekile ukwenza lowo msebenzi noma ukuthola ulwazi olungenakutholakala ngaphandle kokungena kuleyo ndawo noma kulezo zakhiwo; noma
 - (b) uma kunokungahambisan nezimiso zalo Mthetho nanoma yimuphi omunye umthetho obhekeliwe esigaben 23 ngokuphathelene naleyo ndawo noma izakhiwo;
- (3) Isigunyaziso esibhaliwe ngokwesigatshana (2) singanikezelwa nganoma yisiphi isikhathi kanti kufanele siqondise ngqo
- (a) siyichaze leyo ndawo noma izakhiwo okungangenwa kuzo kwenziwe umsebenzi noma ukuhlola; futhi
 - (b) sinikezele igunya isikhulu esibekiwe ukungena nokwenza umsebenzi noma

ukuhlola indawo noma izakhiwo nokwenza noma yini eshiwo esigabeni 24 (2).

- (4) Isigunyaziso esibhaliwe ngokwesigatshana (2) siba semthethweni kuze kube kwenzeka okunye kwalokhu .
- (a) siyenziwa;
- (b) iyakhanselwa ngumuntu oyinikezelile noma uma lowo muntu engekho, ngumuntu onegunya elifanayo;
- (c) uma injongo ebinekelelwe yona seyedlulelwe yisikhathi; noma
- (d) sekwedlule izinyanga ezintathu selokhu yakhishwa.
- (5) Isigunyaziso esibhaliwe ngokwesigatshana (2) singasetshenziswa phakathi kuka-07:00 no-19:00, ngaphandle-ke uma imantshi noma ovezobulungisa oyikhiphayo esho ngokubhalwe phansi ukuthi ingasetshenziswa ngesinye isikhathi esizwakalayo phansi kwezimo ezikhona.
- (6) Ngaphambi kokuqalisu umsebenzi noma ukuhlola, izikhulu ezibekiwe ezisebenzisa incwadi yesigunyaziso kufanele zenze lokhu .
- (a) uma umnikazi noma umuntu ophethe leyo ndawo noma izakhiwo ekhona .
- (i) zizazise futhi zichaze igunya lazo kulowo muntu noma zinikezele ngobufakazi bokugunyaziswa; futhi
- (ii) zinikezele ngekhophi yesigunyaziso kulowo muntu noma kumuntu obhalwe kuyona; noma
- (b) uma umnikazi noma umuntu ophethe indawo noma izakhiwo engekho noma enqaba ukwamukela ikhophi, namathisela ikhophi yencwadi yesigunyaziso kuleyo ndawo noma ezakhiweni endaweni esobala futhi egqamile.

Uhlelo olulandelwayo ukwenza umsebenzi noma ukwenza inhlobo: ukungena ngaphandle kwesigunyaziso esibhaliwe

- 26 (1) Isikhulu esibekiwe esingenayo isigunyaziso esibhaliwe singangena futhi senze umsebenzi noma sihlobo.
- (a) noma yiyiphi indawo noma izakhiwo, ngemvume yomnikazi noma umuntu ophethe leyo ndawo noma lezo zakhiwo; noma
 - (b) noma yiyiphi indawo noma izakhiwo, ngaphandle kwendawo okuhlalwa kuyo noma izakhiwo, ngokuvamisa
 - (i) kungabi ngaphezu kwamahlandla amayisithupha (6) esikhathini esiyizinyanga eziyishumi nambili; noma
 - (ii) ngokuvamisa uma sivunyelwe yinoma yimuphi umthetho ngokwezizathu zokusebenza noma ukuhlola.
- (2) Ngokwengezelela ekuvunyelweri ukungena ngokwesigatshana (1), isikhulu esibekiwe singangena noma kuyiphi indawo noma izakhiwo ngaphandle kwesigunyaziso esibhaliwe.
- (a) uma singunyaziwe ukwenze njalo yinoma yimuphi umthetho; noma
 - (b) uma kunesaziso esimiyo sokuphoqeleta ukuhambisana nomthetho, ekhishwe ngokuhambisana nesigaba 32, ngokwesizathu sokubona ukuthi isaziso sekuanjiswaene yini naso.
- (3) Ngaphambi kokugalisa ukusebenza noma ukuhlola noma yiyiphi indawo noma izakhiwo ngokwalesi sigaba, izikhulu ezibekiwe kufanele zizazise futhi zichaze igunya lazo noma zinikezele ngesiqinisekiso sokugunyazwa kulowo muntu obonakała okungathi nguye ophethe indawo noma izakhiwo noma kumuntu ozinikeze imvume yokungena.
- (4) Ukungena wenze umsebenzi noma ukuhlola ngaphandle kwencwadi eyimvume kufanele kwensiwe ngesikhathi esamukelekayo ngaphansi kwezimo.

Ukubhekela amalungelo angaguquki

- 27 Izikhulu esibekiwe ezingena zenze umsebenzi noma zihlole noma yiyiphi indawo noma izakhiwo ngokwezimiselo zalesi Sahluko, kufanele ziziphathetha ngokuqaphela ikakhulukazi ukuhlionipa nokulunga kanye nokubhekela amalungelo esintu omuntu ngamunye kuhlanganisa nelungelo lesithunzi, inkululeko, ukuvikeleka kanye nobuwena.

Ukusebenzisa indluzula ukungena

- 28 (1) Isikhulu esibekiwe esisebenzisa incwadi yokungena ngokwesigaba 25 singangena ngenkani uma senyatshelwa ukungena, ukwenza umsebenzi noma ukuhlola ngokusebenzisa indluzula edingekile, kuhlanganisa nokwaphula isibhluthulelo, umnyango noma ifasitele laleyo ndawo noma izakhiwo okungenwa kuzo.
- (2) Ngaphambi kokusebenzisa indluzula, lowo muntu osebenzisa incwadi yokungena kufanele asho ngokuzwakalayo ukuthi ufunu ukuvulelwathu futhi kufanele asho nenjongo, ngaphandle-ke uma ekholwa ngukuthi lokho kungaholela ekutheni othile esule, asuse noma athinte leyonto noma umbhalo okuyiwona okufanele isetshenzwe noma ihlolwe.
- (3) Izikhwama zomkhandlu kamasipala kufanele zisetshenziwelwa ukunxephezelwa noma ngubani othola ukulimala ngenxa yokungena okunendluzula ngesikhathi kwensiwa noma yimuphi umsebenzi noma ukuhlola ngesikhathi kungekho muntu obheke leyo ndawo noma izakhiwo.
- (4) Indluzula ingeze yasetshenziwa ekungeneni ukuze kwensiwe umsebenzi noma ukuhlola ngokwesigaba 26, ngaphandle-ke uma kunesimo esiphuthumayo futhi kuvunywe yinoma yimuphi umthetho.

Isikhulu esibekiwe singaphelezelwa

- 29 Ekwenziweni kwanoma yimuphi umsebenzi noma ukuhlola, isikhulu esibekiwe singaphelezelwa yilungu loMbutho wamaPhoyisa waseNingizimu Afrika, noma yimuphi nje umuntu okufuneka asize ekwenziweni komsebenzi noma ukwenza ukuhlola, noma konke nje.

Isibopho sokuveza imibhalo

- 30 Noma ngubani ophethe imibhalo engasebenza ekwenziweni komsebenzi noma ukuhlola, kufanele ayikhiphe uma ecelwa yisikhulu esibekiwe.

Isibopho sokuphendula imibuzo nokusiza izikhulu esibekiwe

- 31 (1) Noma ngubani obuzwa yisikhulu esibekiwe ngokwalesi Sahluko, kufanele aphendule ngokuyiqiniso nokusemandleni akhe.
- (2) Impendulo noma incazelwe esikhulwini esibekiwe ayinakusetshenziswa noma ivunywe enkantolo yamacala kulowo muntu onikezele ngayo, ngaphandle-ke kwasesigcawini lapho lowo muntu ebekwe icala eliphathelene .
- (a) nezokuphatha noma ukuthathwa kwesifungo;
 - (b) ukwenziwa kwezitativende ezingamanga; noma
 - (c) ukwehluleka ukuphendula umbuzo osemthethweni ngokugcweli nangokwenelisayo.
- (3) Umnikazi noma lowo ohleli kunoma yiyiphi indawo noma izakhiwo kufanele anikezelenganoma yini futhi anike nosizo oludingwa yisikhulu esibekiwe ukuze senze umsebenzi waso ngokuyikho.

Izaziso zokuhambisana nezimfuno

- 32 (1) Isikhulu esibekiwe esithola ukuthi kunesimiselo salo Mthetho okungahanjiswananga naso, singanikezela ngesaziso sokuhambisana kumnikazi noma umuntu obonakala ephethe leyo ndawo noma izakhiwo.
- (2) Isikhulu esibekiwe esenelisekile ukuthi umnikazi noma umuntu obonakala ephethe kunoma yiyiphi indawo noma izakhiwo usehlangabezene nemiyalelo yesaziso sokuhambisana, singanikezela ngesitifiketi sokuhambisana nomyalelo esisho lokho.
- (3) Isaziso sokuhambisana sihlale simile kuze kube isikhulu esibekiwe sinikezela ngesitifiketi mayelana naleso saziso.
- (4) Isaziso sokuhambisana kufanele sisho lokhu .
- (a) isimiselo okungahanjiswananga naso;
 - (b) imininingwane ngendlela nezinga lokungahambisani;
 - (c) yinoma yiziphi izinyathelo okuzodingeka zithathwe kanye nesikhathi esimiselwe ukuba lezo zinyathelo zithathwe ngaso; futhi

- (d) yinoma yisiphi isijeziso okungenzeka simiswe ngokwesigaba 51 uma kungahanjiswana nalezi zinyathelo.

Amacala

33 (1) Kuyicala kunoma ngubani -

- (a) ukwenqabela isikhulu esibekiwe imvume yokungena endaweni noma ezakhiweni leso sikhulu esibekiwe esinegunya eliphelele ukungena kuyo;
- (b) ukuvimbela, ukugxambukela nokunqinda isikhulu esibekiwe esenza umsebenzi waso ngaphansi kwalo Mthetho;
- (c) ukwehluleka noma ukwenqaba ukunikezela isikhulu esibekiwe ngemibhala noma ulwazi lowo muntu okudingeka alunikezele ngaphansi kwalo Mthetho;
- (d) ukunika ulwazi olungamanga noma olwedusayo esikhulwini esibekiwe;
- (e) ukuvimbela ngokungemthetho umnikazi wendawo noma wezakhiwo noma umuntu osebenzela lowo mnikazi, ekungeneni kuleyo ndawo noma izakhiwo ukuze kuhanjiswane nezimiselo zalo Mthetho;
- (f) ukuzenza isikhulu esibekiwe;
- (g) ukuguqula ngokungamanga esikhulwini esibekiwe noma isigunyazo esibhaliwe, isaziso sokuhambisana noma isitifiketi sokuhambisana esikhishwe ngezimiselo zalesi Sahluko;
- (h) ukuguqula ngokungamanga esikhulwini esibekiwe noma isigunyazo esibhaliwe, isaziso sokuhambisana noma isitifiketi sokuhambisana okubhekewe kulesi Sahluko;
- (i) ukwehluleka ukuhambisana nesaziso sokuhambisana esikhishwe ngokwalesi Sahluko;
- (j) ukungena kunoma yiyiphi indawo noma izakhiwo ngaphandle kwencwadi eyimvume; ezimweni ezidina imvume;
- (k) ukwenza ngokungahambisani nencwadi eyimvume ekhishwe ngokwezimiso zalesi Sahluko;
- (l) ngaphandle kwegunya -

- (i) lokungena noma uhlole indawo noma izakhiwo;
 - (ii) ukwenza noma yini ebalwe esigabeni 24(1) noma (2); noma
- (m) ukuveza ulwazi olumayelana nezindaba zezimali noma zamabhizinisi zanoma yimuphi umuntu, nokwatholakala ekwenzeni noma yimuphi umsebenzi noma kusetshenziswa noma yimaphi amandla ngezimiso zalo Mthetho, ngaphandle .
- (i) komuntu odinga lolo lwazi ukuze enze umsebenzi noma asebenzise amandla ngokumayelana nalo Mthetho;
 - (ii) uma ngabe lokho kuvezwa kunqunywe yinkantolo yomthetho; noma
 - (iii) uma lokho kuvezwa kuhambisana nezimiso zanoma yimuphi umthetho.

Ukusetshenziswa kwalesi Sahluko

- 34 (1) Izimiselo zalesi Sahluko zisebenza kunoma yimuphi umuntu noma uhlaka, kuhlanganisa noMbuso.
- (2) Isimiselo salesi Sahluko esinikezela amandla noma ukunikezela ngesibopho simayelana .
- (a) nanoma yiyiphi indawo noma izakhiwo;
 - (b) nanoma ngubani noma into nanoma kuyiphi indawo noma kuziphi izakhiwo;
 - (c) kumnikazi noma umhlali wanoma yiyiphi indawo noma izakhiwo;
 - (d) kunoma yiluphi udaba oluphathelene nendawo, izakhiwo, umuntu noma into.
- (3) Ngokuhambisana nomsebenzi walesi Sahluko, inhloko yomnyango kazwelonke, wesifunda noma kamasipala uthathwa
- (a) njengomnikazi kanye nomhlali wanoma yiyiphi indawo noma izakhiwo lowo

mnyango ohleli kuzo noma ozisebenzisa ngokwawo kungahlanganisi abanye abantu; futhi

- (b) ungumqashi wabantu abasebenzela lwo mnyango uma, njengomqashi, umnyango
 - (i) unesibopho sonke esibekwe yilo Mthetho; futhi
 - (ii) usebenzisa amandla onke anikezelwe ngokwalo Mthetho;

ISAHLUKO 6

UKUTHOLAKALA KWEZIMPAHLA

NEMISEBENZI NGAWOMASIPALA

Uhlelo olulanelwayo ekutholweni kwezimpahla noma imisebenzi

- 35 (1) UMPHATHISWA kufanele amise inani lethenda yemisebenzi noma izimpahla ngokuphathelene nohlelo lokutholakala njengoba lubhekewwe esigabeni 36.
- (2) Ngaphandle kwezimiselo ezisesigatshaneni (1), uhlelo olumisiwe esigabeni 36 lungenze lwasetshenziswa ngokuphathelene nezimpahla noma imisebenzi .
- (a) lapho izimpahla noma imisebenzi kufanele zitholakale .
- (i) ngokushesha;

(ii) kunesidingo esikhulu; noma

(iii) kunomfakeli oyedwa; futhi

(b) uma loluhlelo olumiswe kwisigaba 37 kuLangatshezwene nalo.

(3) Ngokuphathelene nokutholakala kwazozonke ezinye izimpahla noma imisebenzi, uhlelo olubekwe ezimiselweni zezimali nezisebenza kubobonke omasipala kufanele olulandelwe.

Uhlelo olulandelwayo ekutholweni kwezimpahla noma imisebenzi okumiselwe

36 (1) Uma umkhandlu kamaspala ufunu ukuthola izimpahla noma imisebenzi ukumiselwe, kufanele uhambisane naloluhlelo olulandelayo -

(a) Isinqumo sokutholwa kwezimpahla noma imisebenzi emiselwe kufanele shiwo esazisweni -

(i) esishicilelwwe okungenani ephephandaben elitholakala phakathi kwemingcele yalowo masipala; futhi

(ii) sivezwe okungenani endaweni eggamile nebekelwe lowo msebenzi ngumkhandlu kamaspala;

(b) Leso saziso kufanele sisho lokhu -

(i) sisho ngokufingqiwe izidingo nezincasiselo ngezimpahla nemisebenzi okumiselwe;

(ii) indawo nesikhathi kanye nezimo noma indlela umqulu ophethe izidingo nezincasiselo ngezimpahla noma ngemisebenzi emisiwe okuzokhonjisa ngayo ukuze kuhlolwe noma kutholakale;

(iii) isikhathi okufanele izicelo zamathenda okunikezela ngezimpahla noma imisebenzi okumiselwe zifakwe ngaso, kuLanganisa nesikhathi esingujuqu emva kwaso okungeke kusemukelwa zicelo zamathenda;

(iv) indlela okufanele ilandelwe ekulethweni kwezicelo zamathenda

kuhlanganisa -

- (aa) izincwadi okufanelwe zigcwaliswe kanye nolwazi lokwengezelela, izincwadi, amasampula, izinto zokusebenza noma amadiphozithi ezimali okufanele ahambisane nesicelo; kanye
- (bb) nendawo lapho izicelo zamathenda okufanele zifakwe khona;

- (v) olunye ulwazi okungenzeka lube semqoka maqondana nomsebenzi wokucubungula isicelo; kanye
- (vi) nendawo lapho zonke izicelo zamathenda ezitholakele zingabhaliswa khona njengoba kubhekewa esigatshaneni (4).

- (2) Noma ngubani, uhlaka, inhlangano noma inkampani ingasifaka isicelo sethenda
 - (a) ngokugcwalisa ngokuyikho ifomu okuyilo lethenda; kanye
 - (b) nokunikezela ngazozonke izincwadi zolwazi, amasampula, izinto zokusebenza noma idiphozithi yemali engadingeka ngokufaka isicelo sethenda.

- (3) Ukwehluleka ukuhambisana nezimiselo sesigatshana (2) noma ukusho okungeyikho esicelweni kungasifenyisa isicelo.
- (4) Esikhathini esingujuqu nesibhekewa esigatshaneni 1(b)(iii), umkhandlu kamasipala kufanele ufake igama neminingwane yokuxhumana yabobonke abafake izicelo zamathenda kanye nenani lethenda kwirejista eyenzelwe lomsebenzi ngumkhandlu kamasipala.
- (5) Ngokuphathelene nerejista ebhekewa esigatshaneni (4), noma yiliphi ilungu lomphakathi .
 - (a) lingaba khona ukufakazisa ngohlelo lokubhalisa; kanye
 - (b) nokuhlola irejista endaweni noma ezindaweni, ngesikhathi noma ngezikhathi kanye nasezimeni nangendalela umkhandlu kamasipala abona ukuthi ifanele

kulezo zimo.

- (6) Uma sekucutshungulwa ukuthi yiyphi ithenda okufanele yamukelwe, umkhandlu kamasipala kufanele unake kakhulu lokhu, phakathi kwezinye izinto -
 - (a) amaphuzu achasiswe kunoma yimuphi omunye umthetho;
 - (b) inqubomgomu emiswe nguhlaka oluyilo loMbuso;
 - (c) yilabo bafaki zicelo abamagama abo afakwe kwirejista okukhulunywe ngayo kwisigatshana (4) nabazicelo zabozingazange zichithwe;
 - (d) ukugquguzelwa kwamabhizinisi amancane namaphakathi nendawo;
 - (e) ukuvunywa kwalezo zinhla ezinconywayo zabantu, izinhlaka, izinhlangano noma izinkampani ezingashiwo ngumasipala;
 - (f) ukuvezwa kwamathuba emisebenzi noma ukudluliselwa kwamakhono;
 - (g) ukuphakelwa ngokuyikho nangendlela kwemisebenzi kamasipala;
 - (h) amandla okukwazi ukunikezela ngezimpahla nemisebenzi kwalabo abafake izicelo zamathenda; kanye
 - (i) ukongeka kwemali ngesicelo. Ngokuphathelene nalokhu umkhandlu kamasipala awuphoqelekile ukunikezela ithenda kofake isicelo obize imali encane kunazononke izicelo.
- (7) Isinqumo sokwamukelwa, ukuchithwa nokwenqatshelwa kwesticelo sethenda kufanele sithathwe ngumkhandlu kamasipala. Nokho ke umkhandlu kamasipala ungawedlulisela ekomidini elibhekeliwe esigaben 42 lomsebenzi ngokuphathelene nezinye izimpahla nemisebenzi emiselwe.
- (8) Isinqumo somkhandlu kamasipala noma ikomidi elibhekeliwe esigaben 42, singujuqu futhi siyabophezela.
- (9) Umkhandlu kamasipala noma ikomidi elibhekeliwe esigaben 42 kufanele bazise ngesinqumo sabo ngokubhalwe phansi kulowo ofake isicelo sethenda futhi unikeze nezizathu ngesinqumo sanoma yiyphi ithenda uma .

- (a) (i) **isicelo sithathwe ngokuthi senqatshelwe; noma**
 (ii) **uma isicelo sichithiwe; futhi**

- (b) **uma ofake isicelo ezifuna lezizathu zibhalwe phansi.**

Uhlelo olusheshiswayo lokuthola izimpahla noma imisebenzi emiselwe

- 37 (1) **UMkhandlu unganquma ukulususa uhlelo olumiswe esigabeni 36 uqoke umuntu, uhiaka, inhlango noma inkampani ngokuba ufakele ngezimpahla noma imisebenzi okumiselwe futhi wazise ngalesinqumo ngokubhaliwe kulowo oqokiwe uma:**
- (a) **ngokubhekela isigatshana (3), wenelisekile ngokuthi izimo ezibhekewi esigabeni 35(2)(a) zikhona; futhi**
 - (b) **uthathe isinqumo ngalokhu.**
- (2) **Uma isikhulu esiyinhloko sanelisekile ngezizathu zesimo esiphuthumayo, impahla emiselwe noma umsebenzi kufanele kutholakale ngaphambi kokuba umkhandlu kamasipala uthathe isinqumo esiyiso, isikhulu esiyinhloko ngokuvumelana nemeya, singazithola izimpahla noma imisebenzi bese siyawubikela umkhandlu kamasipala emhlanganweni olandelayo.**
- (3) **Esikhathini esiyiyinyanga kwenziwe lesinqumo, izindaba ezibhekewi esigatshaneni (1) noma ngesinyathelo esithathwe ngokwesigatshana (2), izindaba ezichazwe esigatshaneni (4) kufanele .**
- (a) **zishicilelwwe ngumasipala okungenani ephephandabeni elitholakala phakathi kwemingcele yalovo masipala; futhi**
 - (b) **zivezwe okungenani endaweni eggamile nebekelwe lowo msebenzi ngumasipala.**
- (4) **Izindaba okufanele zishicilelwwe noma zikhonjiswe yilezi .**
- (a) **izizathu zokushiya ukusebenzia uhlelo olumiswe esigabeni 36;**

- (b) kushiwo ngokufingqiwe izidingo nezincasiselo ngezimpahla nemisebenzi okumiselwe
 - (c) indawo nezikhathi kanye nezimo noma indlela umqulu ophethe izidingo nezincasiselo ngezimpahla noma ngemisebenzi emisiwe okuzokhonjiswa ngayo ukuze kuhololwe noma kutholakale; futhi
 - (d) imininingwane yomuntu, uhlaka, inhlangano noma inkampani ezofakela ngezimpahla noma imisebenzi.
- (5) Imisebenzi yomkhandlu kamasipala ngokuphathelene nalesisigaba akunakudluliselwa noma kunikezelwe kwabanye.

Ukwandiswa nokuguqulwa kwesivumelwano sethenda

- 38 (1) Ngokuhambisana nesigatshana (2), umkhandlu kamasipala ngokuzenzela ngokwawo noma emva kokuthola isicelo kumuntu, uhlaka, inhlangano noma inkampani efakela ngezimpahla noma ngemisebenzi emkhandlwini kamasipala ngokuphathelene nalesi Sahluko, unganquma ukwandisa noma uguqule isivumelwano sethenda -
- (a) izimo ezibhekewa esigabeni 35(2)(a) zikhona; noma
 - (b) uma kubhekelwa ukusebenza kokuphatha ngokuyikho uma umkhandlu ukubona lokho kunesidingo.
- (2) Umkhandlu kamasipala ungeze wasandisa noma usiguqule isivumelwano sethenda -
- (a) ngaphezu kwehlandla elilodwa;
 - (b) ngaphezu kwesikhathi ebesibekwe ngokwesivumelwano saphambilini; noma
 - (c) ngesamba esingaphezulu ngamaphesenti angamashumi amabili (20) enani lethenda laphambilini.
- (3) Ngaphakathi kwesikhathi esiyinyanga kwensiwe lesinqumo, izindaba ezibhekewa esigatshaneni (1) izindaba ezichazwe esigatshaneni (4) kufanele -

- (a) zishicilelwwe ngumasipala okungenani ephephandaben elitholakala phakathi kwemingcele yalowo masipala; futhi
 - (b) zivezwe okungenani endaweni egqamile nebekelwe lowo msebenzi ngumasipala.
- (4) Izindaba okufanele zishicilelwwe noma zikhonjiswe yilezi -
- (a) izizathu zokushiya ukusebenzia uhlelo olumiswe esigaben 36;
 - (b) kushiwo ngokufingqiwe izidingo nezincasiselo ngezimpahla noma imisebenzi; futhi
 - (c) imininingwane yomuntu, uhlaka, inhlango noma inkampani ezofakela ngezimpahla noma imisebenzi.
- (5) Imisebenzi yomkhandlu kamasipala ngokuphatelene nalesisigaba akunakudlulisewa noma kunikeyelwe kwabanye.

Izicelo ezingekho emthethweni kanye nezingaqondile kanye nokwaphulwa kwezivumelwano zamathenda

39 (1) Ngokuhambisana nomsebenzi walesisigaba -

- (a) amagama athi "isicelo sethenda" kufanele afakwe esicelweni sokwandisa noma sokuguqula ithenda; futhi
 - (b) negama elithi "umfakeli" lisho umuntu, uhlaka, inhlango noma inkampani efakela ngezimpahla noma imisebenzi kumkhandlu kamasipala ngokwezimiso zalesi Sahluko.
- (2) Uma umkhandlu kamasipala wenelisekile ngokuthi isicelo sethenda samukelwe, saguqulwa noma sandiswa ngaphansi kwezimo ezibekwe esigatshaneni (3)(a) kanye no (b) noma uma isivumelwano sethenda sesaphuliwe ngaphansi kwezimo ezivezwe esigatshaneni (3)(c) -

- (a) kufanele uthumele umfakeli isaziso esibhaliwe mayelana nesinqumo kanye nezizathu zaleso sinqumo; futhi
 - (b) kuleso saziso kufanele wazise umfakeli ukuthi unezinsuku eziyishumi nane (14) kusukela ngosuku lwasaziso ukwenza isethulo sokuthi kungani umkhandlu kamasipala kungafanele uthathe izinyathelo ezibekwe esigatshaneni (5).
- (3) Ngokubhekela isigatshana (2), izimo yilezi
- (a) lapho umfakeli
 - (i) enikezele ngolwazi olungamanga kunoma yisiphi isicelo;
 - (ii) efake ithonya elingafanelekile kunoma ngubani onesandla ekucutshungulweni kwesicelo sakhe sethenda; noma
 - (iii) enikezele ngomvuzo wemali noma wani; kumuntu onesandla ekucubunguleni isicelo sakhe sethenda ukuze athole, aguqule noma andiselwe ithenda;
 - (b) lapho umuntu onesandla ekucutshungulweni kwethenda eyingxene ohlakeni olufake isicelo, enhlanganweni noma enkampanini noma emphumeleni wesicelo sethenda kanti lokho kuba yingxene kungaziswanga ngaphambi kokucutshungulwa kwesicelo sethenda; noma
 - (c) uma umfakeli ehlulekile noma engaphumeleli ukuhambisana nezidingo nezincasiselo zezipahla noma imisebenzi ezizofakelwa.
- (4) Uma lowo ofake isicelo sethenda noma umfakeli esethole isaziso ngokuphathelene nesigatshana (2) ezinsukwini eziyishumi nane (14) futhi angezi nezethulo noma lezo zathulo ezethulwe ngaphakathi kwaleso sikhathi umkhandlu kamasipala ungazemukeli, umkhandlu kufanele uthathe esinye salezi zinyathelo ezichazwe esigatshaneni (5), kanye nokubhaliwe kwaziswe umfakeli ngezizathu zesinqumo.
- (5) Ngokubhekela isigatshana (2) no (4), izinyathelo okufanele zithathwe yilezi .

- (a) ukukhanselwa kwesivumelwano sethenda;
 - (b) ukubuyiselwa ngokulahlekelwa noma ukulimala okutholwe ngumasipala ngenxa yokukhanselwa kwesivumelwano sethenda; noma
 - (c) ukuvinjelwa komfakeli ukuba abhekeliwe esicelweni sethenda isikhathi esizobekwa ngumkhandlu kamasipala.
- (6) Umfakeli angafaka isikhala zo ngesinqumo somkhandlu kamasipala ekuthatheni izinyathelo ezibhekwele esigatshaneni (5) ngokupathelene nohlelo olumiselwe esigabeni 40.

Ukuzikhalela mayelana nezicelo zamathenda ezingavunyelwe nezingekho emthethweni kanye nokwaphulwa kwezivumelwano zamathenda

- 40 (1) Noma yimuphi umfakeli wezimpahla noma imisebenzi emkhandlwini kamasipala osethole isaziso ngokwezimiselo zesigaba 39(4), angafaka isikhala zo ngesinqumo esithathwe ngokwezimiso zaleso sigaba, zingakapheli izinsuku eziyishumi nane, ngokufaka isaziso sokukhalaza esiveza izizathu zokukhalaza eSigungwini sokuzikhalela ngokuTholwa kwezinto zokusebenza. Ngokwengezelela, isaziso kufanele siphelezele lezizinto ezilandelayo.
- (a) isicelo sethenda kanye nezincwadi eziphelezelayo;
 - (b) isaziso somkhandlu kamasipala esakhishwa ngokwezimiso zesigaba 39(2);
 - (c) imininingwane yempendulo yakhe esazisweni somkhandlu kamasipala; kanye
 - (d) nesaziso somkhandlu kamasipala ngokwezimiso zesigaba 39(4) kanye nezizathu zesinqumo okuyilona ludaba olukhalazelwe.
- (2) Ngokuhambisana nesigaba 41(1) no (2), umkhandlu kamasipala kufanele uchaze indlela ezolandelwa ekuvumeni, ekubambeni nasekubhekeleni izikhala zo kanye nokwazisa lawo maqembu athintekile kuleso sikhala zo ngokumayelana nalezizindlela ngaphambi kokuqala kwesikhala zo.
- (3) ISigungu sokuzikhalela ngokuTholwa kwezinto zokusebenza kufanele sibheke isikhala zo ngendlela emiswe ngumkhandlu kamasipala futhi sithumele isaziso esibhaliwe ngesinqumo kumfakeli ogale uhlelo lokuzikhalela kanye nasemkhandlwini kamasipala. Uma ngabe singaphumeleli isicelo sokukhalaza, isaziso kufanele

zaleso sinqumo.

- (4) iSigungu sokuziKhalela ngokuTholwa kwezinto zokusebenza singanquma ukuba kubuyiswe izindleko uma leloqembu, noma umuntu obemele leloqembu esikhalaZweni
- (a) eziphathe ngendlela engenanhlonipho, ebeyinkinga noma ukungabi nangqondo ngokuqhubeKa noma nokuphikisana nesikhalaZo noma ngokubhekelwa kwesikhalaZo; noma
- (b) ehlulekile ukufika noma nokwehluleka ukuqhubeKa nokubakhona ngesikhathi kulalelwE isikhalaZo ngaphandle kwesizathu esizwakalayo.
- (5) Isinqumo seSigungu sokuziKhalela ngokuTholakala kwezinto zokusebenza singujuqu futhi siyabophezelA kuwowonke amaqembu abekhona ekuhlalelwEni kwesikhalaZo.
- (6) Kunoma yikuphi ukulalelwA kwesikhalaZo okuhanjiswe ngokwezimiso zalesi Sahluko, lezizincwadi ezilandelayo ziysisakhiwo zesivumelwano sethenda -
- (a) incwadi ephethe izidingo noma izincasiselo zezimpahla noma imisebenzi emiselwe nokukhulunywa ngakho ezigabenI (36(1)(b)(ii) kanye naku 37(3)(c), kanti uma kusebenza, izimiso nemiqobo okufakwe kwifomu yesicelo sethenda; kanye
- (b) nesaziso esibhaliwe njengoba kubhekelwe esigabenI 36(7) kanye no 37(1)(b) ukuqinisekisa ukuvunywa kwesicelo noma ukuqokwa.

Isigungu sokuzikhalela ngokutholwa kwezinto zokusebenza kanye nethimba labalamuli

- 41 (1) Umkhandlu kamasipala kufanele umise iSigungu sokuziKhalela ngokuTholwa kwezinto zokusebenza okufanele sibe namalungo okungenani amabili ethimba labalamuli.
- (2) Amalungu ethimba okukhulunywa ngalo esigatshaneni (1), angaqoka noma yiliphi inani lochwepheshe babe ngamalungu eSigungu sokuziKhalela ngokuTholwa -
- (i) ngokuzikhethela kwabo; noma
- (ii) uma sekubhekelwe isicelo esibhaliwe esitholwe sivele kunoma yiliphi iqembu eliyingxene yohlelo lokulalelwA kwesikhalaZo nelicela ukuqokwa,

kukachwepheshe.

- (3) Umkhandlu kamasipala ungabavuma abantu njengoba kufanelekile ukuze kube nethimba labalamuli elinabantu okungenani abayisithupha (6). Labo bantu angeze baba ngamakhansela noma abasebenzi bomkhandlu kamasipala.
- (4) Lendlela elandelayo isebezena noma nini uma umkhandlu kamasipala kudingeka uqoke umuntu ekubeni yilungu lethimba labalamuli .
 - (a) Umkhandlu kamasipala ushicilela isaziso esicela iziphakamiso zamagama nesisho imibandela yokuphakamisa igama, okungenani ephephandabeni elifanele nelitholakala ngaphakathi kwemingcele yalowo masipala.
 - (b) Umkhandlu kamasipala kufanele kube yiwo owenza ukuba kulethwe iziphakamiso ngokulandela isaziso bese uhlola iziphakamiso bese wenza uhlu olufushane lwalabo abaphakanyisiwe.
 - (c) Umkhandlu kamasipala kufanele labo abasohlwini olufushane ubabizele esigcawini sokubabuza emva kwalokho uqoke labo abafanele.
- (5) Izimiso nezimo zokuqokwa kwamalungu ethimba labalamuli kanye nochwepheshe noma ochwepheshe kufanele kumiswe ngumkhandlu kamasipala.

Ukwesekwa kwekomidi lokutholwa kwezinto zokusebenza

- 42 (1) Umkhandlu kamasipala ungamisa ikomidi lokuthola izinto zokusebenza noma unikezele ngalomsebenzi kwelinye lamakomidi awo.
- (2) Ngokwengezelela emisebenzini ethile yalo emiswe kulesiSahluko, ikomidi .
 - (a) lingaphakamisa izinqubomigomo, izindlela zokusebenza kanye nokwenza ukusiza umkhandlu kamasipala ukuba usebenzise amandla awo, wenze imisebenzi kanye nezibophezelo ngokuphathelene nalesi Sahluko ngokuyikho nangendalela ebonakalayo yokusebenza;
 - (b) lingenza iziphakamiso emkhandlwini kamasipala ngokuphathelene
 - (i) ngokumiswa kwamazinga nokwenza kube lula ukuqonda

- izinhlelo zezelalo zamathenda;
- (ii) ukunikezelwa kwezaluleko kanye nemisebenzi yokwesekela kulabo abafake izicelo zamthenda;
- (c) ukwenza iziphakamiso ngokumayelana nezingcaciso okuyizo ezizomisa uhla noma izinhla zabantu, izinhlaka, izinhlangano noma izinkampani okufanele ziqinisekiswa ngokubhekkelwe esigabeni 36(6)(c); futhi
- (d) ingenza noma yimuphi umsebenzi umkhandlu kamasipala obona kufanele wensiwe ukufeza lesi Sahluko, kuhlanganisa nokwenziwa kwezinhlo, ukwenziwa kweziphakamiso kanye nokubikwa kwanoma yiluphi udaba.

ISAHLUKO 7

IMIKHAWULO YOKUNGENA EZINDAWENI

ZOMPHAKATHI NGEZOKUBHEKELA

UKUPHEPHA NOKUVIKELEKA

Amandla omkhandlu kamasipala ukubeka imikhawulo ngokungena

43 Ngokubhekela ezokuphepha nokuvikeleka, umkhandlu kamasipala -

- (a) ungabeka imikhawulo ngokwawo ekungeneni kunoma yiyiphi indawo yomphakathi uma lokho kuhambisana nezimiselo zesigaba 44; noma
- (b) ugunyaze noma yimuphi umuntu noma abantu, uhlaka noma inhlangano ukubeka umkhawulo ekungeneni kunoma yiyiphi indawo yomphakathi uma izimiselo zesigaba

45 kuhanjiswene nazo.

Indlela elandelwayo yokuba imikhandlu yomasipala ebeka ngayo imikhawulo yokungena

44 (1) Uma ufunu ukubeka umkhawulo ekungeneni endaweni yomphakathi, umkhandlu kamasipala kufanele -

- (a) uphakamise izimiselo zomkhawulo emva kokubonisana noMbutho wamaPhoyisa aseNingizimu Afrika;
- (b) uphasise isiphakamiso esiqinisekisa izimiselo ezenziwe futhi unqume ukumisa lowo mkhawulo; bese kuthi emva kwalokho
- (c) uhambisane nalolu hlelo olulandelayo -
 - (i) inhlosa yokumisa umkhawulo kufanele imenyezelwe ngesaziso kusoMqulu wesifunda kanti lapho ekhona kumenyezelwe ephephandabeni elilodwa noma amanye atholakala endaweni. ethintekile;
 - (ii) isaziso kufanele sichaze -
 - (aa) ukuthi kufuneka uvo mayelana nezimiselo zomkhawulo eziphakanyisiwe;
 - (bb) indawo yomphakathi ezothinteka yilowo mkhawulo;
 - (cc) izimise zomkhawulo eziphakanyisiwe;
 - (dd) izincwadi noma imibiko ebhaliwe nokuyiyo esize umkhandlu kamasipala ukuba uphasise leso siphakamiso;
 - (ee) umuntu noma indawo lapho imibuzo emayelana neziphakamiso ezenziwe ezingathunyelwa khona;
 - (ff) ngokuhambisana nesigatshana (6) no (7), indawo, isikhathi, kanye nezimo lapho ikhophi yezincwadi noma imibiko yokuqala kungatholakala khona noma kukhonjiswe ukuze kuhlolwe;

- (gg) isikhathi esibekelwe izimvo ngokuphathelene nezimiselo eziphakanyisiwe esingeke saba ngaphansi kwasikhathi esiyinyanga; kanye
 - (hh) umuntu noma indawo lapho izimvo ngokwezimiselo ezphakanyisiwe kunganikelwa khona;
 - (iii) nganoma yisiphi isikhathi ngaphambi kokumisa umkhawulo, ukubonisana nanoma ngobani abathintekile kungenziwe yinoma ngayiphi indlela, kuLanganisa nokubanjwa kwasigcawu somphakathi; futhi
 - (iv) izimvo ezitholakale kanye nalokho okuvele kukho konke ukubonisana kufanele kubhekeliwe ngaphambi kokubekwa komkhawulo.
- (2) Uma umkhandlu kamasipala ungawubekanga umkhawulo esikhathini esiyizinyanga ezine kwenziwe isimemezelo esishiwo esigatshaneni 1(c)(i), lowo mkhawulo ungeke wenziwa ngaphandle kokuba indlela emiswe esigatshaneni (1) iphindwe kabusha.
- (3) Umkhandlu kamasipala ungeze wazisebenzisa izindlela ezimiswe esigatshaneni (1) ngokuphathelene nanoma yimuphi umkhawulo uma isidingo somphakathi sokuba ubekwe sidinga ukuba lokho kwenziwe ngaphandle kokuchithwa kwasikhathi, nokho kufanenele ulandele lendlela ngaphansi kwasikhathi esiyinyanga lowo mkhawulo uqalile ukusebenza kanti uma kungenziwanga lokho lowo mkhawulo ungeke usaba semthethweni.
- (4) Umkhawulo uyoqala ukusebenza ngelanda oshicilelwwe ngalo emqulwini wesifunda noma ngalolo lusuku olushiwo kuMqulu wesiFunda.
- (5) Umkhandlu kamasipala ungayisho imali okufanele ikhokhwe ngokutholakala kwekhophi yanoma yiyiphi incwadi noma umbiko obhaliwe nobalulekile ekwenziweni kwezimiselo zomkhawulo;
- (6) Indawo lapho lezi zincwadi kanye nemibiko ebhaliwe kungatholakala khona noma kuboniswe ukuze kuholwe kufanele kuniikeze bonke labo abathintekile ngalowo mkhawulo ithuba lokwaziswa kabanzi ngokuqukethe.
- (7) Yonke imikhandlu yomasipala kufanele imise futhi yenze izinqubomigomo nezinhlelo zokusiza amalungu omphakathi ukuba akwazi ukuphawula ngezimiso ezenziwe mayelana nomkhawulo.

Indlela elandelwayo yokuba imikhandlu yomasipala banikeze abanye igunya lokubeka umkhawulo wokungena

- 45 (1) Noma yimuphi umuntu nomaabantu, uhlaka noma inhlangano ingasifaka isicelo emkhandlwini kamasipala ukuthola igunya lokumisa umkhawulo wokungena endaweni yomphakathi -
- (a) ngokunikezela ngesicelo esibhaliwe nesichaza
 - (i) igama nemininingwane yalowo ofaka isicelo;
 - (ii) ukuchazwa kwaleyo ndawo yomphakathi nokuyiyo okufakwe ngayo isicelo;
 - (iii) ukuchazwa kwezimo eziholele ekufakweni kвесicelo;
 - (iv) iqoqo nesibhalo sabantu abathintekile ngalezi zimo eziholele esicelweni;
 - (v) ubunjalo kanye nobukhulu bomkhawulo ngokumayelana nesicelo esifakwayo; futhi
 - (vi) iqoqo kanye nesibhalo esihlawumbiselwe sabantu okungenzeka bathintekile ngalowo mkhawulo okufakwe isicelo ngawo.
 - (b) ukunikezelwa kobufakazi bokuthi okungenani izingxene ezimbili kwezintathu kubantu abazothinteka ngezimo eziholele esicelweni bayawuvuma umkhawulo nofakelwe lesi sicelo; kanye
 - (c) nokukhokhwa kwemali engabuyi yokuphatha lomsebenzi nenganqunywa ngumkhandlu kamasipala.
- (2) Emva kokuthola isicelo, umkhandlu kamasipala kufanele ulungiselele ukuba kubanjwe umhlangano noma imihlangano nalowo ofake isicelo kanye noMbutho wamaPhoyisa waseNingizimu Afrika ukuze kubhekkelwe -
- (a) amaphuzulu esicelo; kanye
 - (b) nezimiselo nezimo zokunikezelwa lelo gunya.

- (3) Uma umkhandlu kamasipala uzimisele ngokunikezela igunya lokubeka umkhawulo ekungeneni endaweni yomphakathi ngokwesinqumo esenziwe ngokwezimiselo zesigatshana (2), izimiso zesigaba 44 ziasebenza, kube nezinguqulo ezingadingwa yisimo.

Isikhathi esimiselwe umkhawulo noma igunya lokumisa umkhawulo wokungena

- 46 (1) Ngaphandle uma kushiwo kuMqulu wesiFunda futhi ngokuhambisana nalesi sigaba, umkhawulo noma igunya lokubeka umkhawulo wokungena akunakuba semthethweni isikhathi esingaphezu kweminyaka emibili (2).
- (2) Umkhandlu kamasipala ungasandisa isikhathi somkhawulo noma igunya lokumisa umkhawulo .
- (a) uma lowo ofake isicelo eqalisa ngendlela eshiwo ezigabeni 44 no 45 ngokulandelana; futhi
- (b) lokhu kwensiwe okungenani kusasele isikhathi esingangenyanga ngaphambi kokuphela kwesikhathi sesimiselo noma igunya lokuvimbela.
- (3) Ngokubhekela isigatshana (2), izindlela ezbekiwe kuthathwa ngokuthi zenziwe .
- (a) uma ngokumayelana nokubeka umkhawulo wokungena, umkhandlu kamasipala uphasisa isiphakamiso esibekwe esigabeni 44(1)(b); futhi
- (b) ngokuphathelene nesigunyaziso sokubeka umkhawulo wokungena, usuku isicelo esishiwo esigabeni 45(1) esitholwa ngaso ngumkhandlu kamasipala.
- (4) Uma kusamelwe umphumela wezindlela ezbekwe esigatshaneni (2), umkhawulo noma igunya lokubeka umkhawulo liqhubeka nokuba semthethweni.

Amacala aphathelene nekugunyazwa ukubeka imikhawulo yokungena

- 47 Kuyicala kunoma ngumuphi umuntu, uhlaka noma inhlangano .

- (a) ukubeka umkhawulo wokungena endaweni yomphakathi ngaphandle kokuthola, ukugunyazwa ngokwezimiselo zalo Mthetho noma nangamuphi omunye umthetho; noma
- (b) ukwenza okungathi kugunyazwe ngokusemhethweni ukubeka umkhawulo ngokungena endaweni yomphakathi ngokwezimiselo zalo Mthetho, kube kungazange kugunyazwe.

Ukungena nokuhlola izimiselo zomkhawulo noma igunya lokubeka umkhawulo wokungena

- 48 Ngokubhekela ukuqinisekia ukuthi amalungu omphakathi ayakwazi ukungena noma ukuhlola izimiselo zomkhawulo noma isigunyazo sokubeka umkhawulo, izimiso zesigaba 9 zisebenza nezinguquko okungenzeka zidingwe yisimo.

ISAHLUKO 8

AMAPHUZU AYINGXUBE

Ikomidi lophenyo kamasipala

- 49 (1) Umkhandlu kamasipala ungamisa ikomidi ukuphenya nganoma yiluphi udaba lukahulumeni wasekhaya .
- (a) obona ukuthi lufanele nolumayelana namandla awo, imisebenzi kanye nezibopho; futhi
 - (b) olubhekele inhlalakahle yomphakathi.
- (2) (a) Ukumisa ikomidi, umkhandlu kamasipala kufanele uphasise isiphakamiso salokho.
- (b) Leso siphakamiso esishivo esiqephini (a) kufanele sichaze amaphuzu

okuzophenywa phezu kwavo yikhomishani kamasipala kuhlanganisa nesikhathi esimiselwe lelo komidi ukuba liphothule umsebenzi walo.

- (c) Umkhandlu kamasipala ungamisela ilungu le komidi njengosihlalo.
- (d) Umkhandlu kamasipala kufanele unikezele le komidi ngabasebenzi bokusiza kanye nezinsiza.
- (3) UMphathiswa kufanele amise imithetho ngendlela ikomidi eliyolwenza ngayo uphenyo lwalo.
- (4) Uma ikomidi seliphothule umsebenzi walo, okhomishani kufanele bathumele umbiko ophethe lokho abakufumene kanye neziphakamiso emkhandlwini kamasipala ukuze uwucubungule.
- (5) Umkhandlu kamasipala ungathatha noma yiziphi izinyathelo obona ukuthi zifanele ukubhekana nokufunyenwe nokuphakanyiswe yikomidi.

Izigcawu somphakathi

- 50 (1) Umkhandlu kamasipala kufanele ubize isigcawu somphakathi ukuzobhekela nokwenza iziphakamiso ngokumayelana nanoma yiluphi udaba lukahulumeni wasekhaya nolubalulekile emphakathini uma uthola incwadi yezikhala zo ecela isigcawu somphakathi nesayindwe okungenani yilelo nani labavoti bakamasipala elingamiswa ngumkhandlu kamasipala. Inani elingamiswa alinakuba ngaphezulu ngesigamu samaphesenti abavoti ababhalisile kulowo masipala.
- (2) Incwadi yezikhala zo eshiwo esigatshaneni (1) kufanele ichaze udaba lukahulumeni wasekhaya oluzocutshungulwa.
- (3) Umkhandlu kamasipala wona ngokwawo unganquma ukubiza isigcawu somphakathi ngokubhekela lokho okuchazwe esigatshaneni (1).
- (4) Ngokuhambisana nesigatshana (5), umkhandlu kamasipala unganquma indlela ezolandelwa ekubizweni nasekuphathweni kwesigcawu somphakathi.
- (5) Ukubiza isigcawu somphakathi, umkhandlu kamasipala
- (a) ungamemezela inhloso yawo yokubiza isigcawu somphakathi kusoMquiu wesifunda kanti lapho ekhona kumenyezelwe ephephandabenii eliodwa noma

amanye a tholakala endaweni ethintekile;

(b) ukhiphe nesaziso esichaza -

(i) indawo yesigcawu somphakathi;

(ii) usuku lwasigcawu somphakathi nokufanele sibanjwe okungenani ezinsukwini eziyishumi nane (14) emva kwesaziso futhi kungabi ngemuva kwezinyanga ezimbili emva kokutholakala kwencwadi yezikhala eshiwo esigatshaneni (1) noma isiphakamiso esishiwo esigatshaneni (3);

(iii) ngendlela efingqiwe, izindaba ezizoxoxwa esigcawini somphakathi; kanye

(iv) nendlela ezolandelwa ekuphathweni kwasigcawu somphakathi.

Amandla omphathiswa okunikezela ngeziqondiso emikhandlwini yomasipala

51 UMphathiswa angakhipa iziqondiso emkhandlwini kamasipala ukuwusiza

(a) ekusebenziseni amandla awo, ukwenza imisebenzi nezibopho; noma

(b) ukunika amandla izinjongo zalo Mthetho.

Ukuphathwa kwezimali nokusetshenziswa kwazo

- 52 (1) Ngokubhekelela ukusetshenziswa ngokuyikho kwezimali, bonke omasipala kufanele bashaye imithetho enquma ngokusetshenziswa kwezimali ngokubhekela izimiselo zesigatshana (2) no (3).**
- (2) UMphathiswa, ngokuvumelana neLungu lesiGungu esiKhulu eliphetha ezezimali esifundeni, angamisela izidingo okufanele zifakte emithethweni yomasipala.**
- (3) Imithetho yomasipala kanye nezidindo ezimiselwe kufanele zihlinzekele okungenani lokhu okulandelayo .**

- (a) imisebenzi kanye nezimpahla ngokuphathelene nezintela, izintela zemisebenzi, izintela zokusebenza kanye nezintela zokwengezelela, zingakhokhiswa izakhamuzi noma labo abanamabhizini ngaphakathi kwemingcele yomasipala;
- (b) izimo nendlela yokukhokha lezo zintela, izintela zemisebenzi, izintela zokusebenza kanye nezintela zokwengezelela;
- (c) imiphumela yokungakhokhi ihlanganisa -
 - (i) ukumiswa kwanoma yimuphi umsebenzi noma ukunikezelwa kwempahla;
 - (ii) izimo, indlela kanye nesikhathi salokho kumiswa kokuphakelwa;
 - (iii) izinyathelo umkhandlu kamasipala ongazithatha ukuthola imali akweletwa yona;
 - (iv) izinyathelo umkhandlu kamasipala ongazithatha ukuvikela izinto zokusebenza kanye nempahla uma kumiswa ukuphakelwa; kanye
- (d) nokuvimbela nokuqedwa kwayoyonke imisebenzi noma ukutholakala kwezimpahla ezitholwe ngokungemthetho noma ngendlela engavunyelwe.

ISAHLUKO 9

IZIMISELO EZIVAMILE

Izijeziso

53 Noma ngubani otholwe enecala ngokwezimiso zalo Mthetho, uyobhekana nenhanwulo noma

ukuvaluelwa ejele isikhathi esingeqile eminyakeni emihlanu noma kokubili inhlawulo nokuvaluelwa ejele.

Ukuvikelwa ekubekweni icala

- 54 (1) Akukho msebenzi kamasipala noma yimuphi-ke umuntu, uhlaka, inhlangano noma inkampani esebeza egameni likamasipala noma ikhansela, angavekwa icala ngomonakalo ongenzeka ngenxa
- (a) yokungavezwa kokuthile noma isenzo esenziwe ngokuyikho; noma
 - (b) ukushicilelwu noma ukuvezwa kwezimiselo zalo Mthetho, kwanoma yimuphi umbiko, ukuthola uvo noma isiphakamiso esinikezelwe ngokuyikho.
- (2) Umasipala akanacala mayelana nonoma yiziphi izinyathelo zomthetho ezithathwe yiqembu elilimele noma eloniwego ngokubhekela izimo ezibhekeliwe esigatshaneni (1) lapho umuntu, uhlaka, inhlangano noma inkampani esebezela umasipala isebeza njengenkontileka ezimele.

Ilungelo lokumelelwu ngokwasemthethweni

- 55 (1) Kunoma yiluphi uhlelo lwezomthetho oluthathelwa amakhansela noma abasebenzi bakamasipala noma kuliphi udaba lokuphenya ngokufa noma uphenyo mayelana nalokho ababizelwe khona futhi bafakaze ezimweni lapho lokho kuhlala, uphenyo ngokufa noma uphenyo kuphathelene nemisebenzi yabo kumasipala, umkhandlu kamasipala kufanele uhlizzekele amakhansela nabasebenzi abathintekile ngokumelelwu ngokusemthethweni kanti izindleko zalezo zathulo kufanele zibhekane nomasipala kulezozimo noma ngendlela eyomisela ngumkhandlu kamasipala.
- (2) Umkhandlu kamasipala unganquma ngezimo nendlela ongabhekana ngayo nezindleko zokumelela okusemthethweni okushiwo esigatshaneni (1)

Izithunywa nezivumelwano ezenziwe zavunywa yimikhandlu yomasipala

- 56 (1) Ngokuhambisana nezimiselo zalo Mthetho noma yimuphi omunye umthetho, umkhandlu kamasipala, ngokubhalwe phansi, ungaphathisa kulabo abazimiselo nezimo zokusebenza kwabo okubona kufanele, noma yimaphi amandla, umsebenzi noma isibopho esinikezelwe emkhandlwini yilo Mthetho noma yimuphi omunye umthetho-

- (a) **kunoma yimuphi umuntu oqashwe ngumkhandlu;**
 - (b) **kunoma yiliphi ikomidi, ikomidi elincane, ibhodi noma uhlaka oluhlanganisa amakhansela kanye noma ngabantu abaqashwe ngumkhandlu; noma**
 - (c) **kunoma yimuphi umkhandlu kamasipala.**
- (2) **Umkhandlu kamasipala ungenza izivumelwano nanoma yimuphi umfakeli wombuso noma ozimele wezimpahla noma wemisebenzi ukwenza ukuba umkhandlu ukwazi ukufenza usebenzise amandla awo, imisebenzi noma izibopho.**
- (3) **Umkhandlu kamasipala kufanele ugcine irejista yakho konke ukuphathisa ngamandla kanye nezivumelwano ezenziwe ngokwezimiso zalo Mthetho.**
- (4) **Ngaphakathi kwezinyanga eziyisithupha (6) ungene ezintanjeni zokuphatha, umkhandlu kamasipala kufanele ubuyekeze konke ukuphathiswa obekwenziwe kanye nezivumelwano ezenziwa kwavunyelwana ngazo yiwo ngokwezimiselo zalesisigaba.**
- (5) **Kungakhathaleki ngesigatshana (4) umkhandlu kamasipala ungabeukeza ukuthumela kwawo kanye nezivumelwano ongene kuzo uma ubona kufanele.**

57 Ukunikwa nokuphathiswa amandla, imisebenzi nezibopho emikhndlwini yomasipala

- (1) **Amandla, imisebenzi kanye nezibopho noma izibophezelo kaNdunankulu, uMphathiswa, uhulumeni wesifunda noma umnyango obhekele izindaba zohulumeni basekhaya esifundeni kunikeyelwa noma kuphathiswe imikhndlwini yomasipala ngalelo zinga elishiwo kwisheduli 2.**
- (2) **Ngokuhambisana nezimiso zalo Mthetho noma yimuphi omunye umthetho, uMphathiswa anganika noma aphathise noma yimaphi amandla, umsebenzi, isibopho noma isibophezelo esinikezelwe ngokwezimiso zalo Mthetho noma yimuphi omunye uMthetho kuMphathiswa, emkhndlweni kamasipala ngokuchibiyela ngokuyikho noma ukufaka okuyikho kwisheduli 2.**
- (3) **Ukunikwa noma ukuphathiswa okwenziwe ngokwezimiso zalesi sigaba kungenziwa -**
- (a) **ngomasipala abehlukene; noma**
 - (b) **amaqembu ehlukene noma amaqqoqo omasipala.**

Ukwesulwa kwemithetho

58 Imitetho eshiwo kusheduli 1 iyesulwa ngobubanzi obuveziwe.

Izimiselo zesikhashana

59 (1) Nakuba zesuliwe izimiselo zoMthetho woHulumeni baseKhaya ka 1939 (uMthetho 17 ka 1939) njengoba kushuwo kusheduli 1, noma yisiphi isinyathelo esithathwa ngezimiselo ezesuliwe, kuyothathwa ngokuthi zithathwe ngezimiselo ezifanayo phansi kwaloMthetho kanti ziyoqhubeka nokuba semthethweni futhi zibe namandla omthetho ngaphandle uma ziShayisana noMthetho woHulumeni baseKhaya, lo Mthetho noma omunye nje umthetho.

(2) Nakuba zesuliwe izimiselo zoMthetho woHulumeni baseKhaya (ezokuphatha nokhetho) ka 1960 (uMthetho 40 ka 1960) njengoba kushuwo kusheduli 1, noma yisiphi isinyathelo esithathwa ngezimiselo ezesuliwe, kuyothathwa ngokuthi zithathwe ngezimiselo ezifanayo phansi kwalo Mthetho kanti ziyoqhubeka nokuba semthethweni futhi zibe namandla omthetho ngaphandle uma ziShayisana noMthetho woHulumeni baseKhaya, loMthetho noma omunye nje umthetho.

Igama elifingqiwe nokuqala ukusebenza komthetho

60 Lo Mthetho ubizwa ngokuthi nguMthetho wokuHlelwa kabuSha kweziNdaba zoHulumeni baseKhaya ka 1998 kanti uyoqala ukusebenza osukwini oluyomiswa nguNdunankulu ngesimemezelo kusoMqulu wesifunda.

IMEMORANDAMU NGEZINJONGO ZALOMTHETHOSIVIVINYO

ISINGENISO

- 1 Ngokwesigaba 104(1)(b)(i) - (iv) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika ka 1996, ngokufundwa nesahluko 7, isheduli 4 no 5 kanye nesichasiso so"mthetho wesifunda" esigabeni 239, isiShayamthetho sesiFunda saseGauteng sinalo igunye lokushaya umthetho ezindabeni ezibekwe kulo Mthethosivivinyo.
- 2 Ngomphumela walokho, ekuqaleni konyaka owedlule iLungu lesiGungu esiKhulu (MEC) esibhekele ohulumeni basekhaya lamisa iThimba lokuSebenza lezePolitiki nelanikezelwa umsebenzi wokwakha umthetho ophathelene nezindaba zasekhaya zikahulumeni. IThimba lokuSebenza lezePolitiki lalakhwiwe ngamalungu aliqhamukisa kumaqembu ehlukene ezepolitiki.
- 3 IThimba lokuSebenza lezePolitiki lajoyina iThimba lokuSebenza eliBhekele ukuShaywa koMthetho nelalakhwiwe yizikhulu zoMnyango wezokuHlela noHulumeni baseKhaya abeluleki abaqokwe nguMnyango wezokuHlela noHulumeni baseKhaya kanjalo neziThunywa ezimele iNhlangano yemiKhandlu yokuPhatha yaseGauteng (iGauteng Association of Local Authorities - iGala. Umsebenzi walelithimba kwakungukubhala umthetho ngokulandela imiyalelo yeThimba lokuSebenza lezePolitiki (Political Task Team).

IZINKINGA EZIBHEKENE NOHULUMENI BASEKHAYA

- 4 IThimba lokuSebenza lezePolitiki kanye neThimba lokuSebenza eliBhekelele ukuShaywa koMthetho ngaso sonke isikhathi bebekuqaphele ukuthi bekunemithetho eminingi, ukusebenza kwayo okwenze kwaba nokungahambi ngokufanele, ukungenzeki kwezinto ngendlela efanayo, kanye nezinkinga zokuziphatha ngokwewayamene nomthethosisekelo ohlangothini lukahulumeni wesifunda kanye nakomasipala. Le mithetho ihlanganisa uMthethosisekelo, uMthetho wesiKhashana woHulumeni baseKhaya, uMthetho woHulumeni baseKhaya (ezokuphatha nokhetho) ka 1960. LoMthethosivivinyo ukhuluma kuphela ngalawo maphuzu aphathelene nokusetshenziswa kwale mithetho nangaphathelene nokulethwa kwezinguquko emkhakheni wohulumeni bendawo. Kucatshangwa ukuthi onke amanye amaphuzu azoba yingxene yomthetho ozolandela nozofaka okuningi. Lowo mthetho uyokwakhiwa ususelwa emsebenzini wokubhalwa komhlahlandlela wokubonisana (white paper) ezingeni likazwelonke kanye nelesifunda kanjalo nasemthethweni kazwelonke wangomuso olawula ohulumeni bakamasipala.
- 5 Ngokwengezelela, omasipala babhekene nezinkinga zakusebenza ezinjengalezi .
 - (a) ukwehla kwezinga lezimali zohulumeni basekhaya kanye nesikomphilo lokungakhokhelwa kwemisebenzi;
 - (b) inqwaba yezicelo zomphakathi zokuvalwa kwemigwaqo;

- (c) uhlelo oludala lwamathenda; kanye
 - (d) nesidingo sokunikezela amandla amakhansela kanye nokuqhubeka kokusebenza ngokusobala kukahulumeni.
- 6 Lo Mthethosivivinyo ngakho-ke uyinto yesikhashana (umthetho wokuhlanganisa) ukuhlela kabusha uhlaka lwemithetho kanye nokuphatha omasipala abasebenza ngaphansi kwakho.

Izizathu zalomthethosivivinyo kanye nomphumela enhlalweni yomphakathi

- 7 Emhlanganweni wokubonisana owawubizwe yiThimba lokuSebenza lezePolitiki ngoMarch nyakenye, kwabhekelwa injongo eyashiwo nguNgqongqoshe weziNdaba zeziFunda neNtuthuko yoMthethosisekelo ukwakha umhlahlandlela wavo ngasekupheleni kuka-1997 (umthetho kazwelonke uzolandela kamuva) kanye nesindingo sokuthuthukiswa kwenqubomgommo yesifunda ngokuphathelene nohulumeni basekhaya.
- 8 Isinqumo sathathwa nguMphathiswa kanye neThimba lokuSebenza lezePolitiki sokuba kulungiselelwu ukulethwa uMthethosivivinyo okhuluma ngalezo zindaba ezinqinda uhlelo loguquko kohulumeni basekhaya kanye nokuphakelwa kwemisebenzi yomasipala.
- 9 Amaphuzu okuyiwona adingidwa kulo Mthethosivivinywa avunywa nguMnyango wezokuHlela noHulumeni beziFunda, avunywa yiThimba lokuSebenza lezePolitiki kanye neGALA. Izinto ezabhekwa ekukhetheni lamaphuzu zifaka phakathi kokunye .
- (a) izinto eziyizithiyo ekuhlanganisweni ngendlela efanele kwezinhlaka zohulumeni bendawo;
 - (b) isidingo sokusheshisa ukuncishiswa kanye nokulethwa kwezinguquko emkhakheni wohulumeni bendawo;
 - (c) izingqinamba ezikhona ekwenziweni komsebenzi kamasipala;
 - (d) isidingo sokunika omasipla amandla okuphatha lawo maphuzu akhombisa ukuba nezikhala emthethweni; kanye
 - (e) isidingo sokuvuselela omasipala ngomoya woMthethosisekelo lapho kwenziwa imisebenzi eqondene nabo.
- 10 Ucwanningo lemiphumela enhlalweni yomphakathi alukenziwa ngaloMthethosivivinyo uma kubhekelwa injongo eshiwo yokubhekela kuphela uhlaka lomthetho kanye nezokuphatha

omasipala abasebenza ngaphansi kwalo. Kulindeleke ukuba lolo cwaningo lwensiwe ngezinjongo zokwakha ucezwana lomthetho obhekeliwe esiqephini 4 sale memorandamu.

Isithombululo

- 11 Uma kubhekwa uhlobo lwezinkinga kanye nezinkathalo ezibhekene nohulumeni basekhaya, isithombululo somthetho obanzi sidinga ukuba kube nomthetho kazwelonke kanye nomhlahlindlela wesifunda. Lo Mthethosivivinyo awuzami ukuba yleso sithombululo. Uyinto yesikhashana ukuze kubhekeliwe izinkinga eziphuthumayo zokuphatha nomthetho ezihangatshezwa yisigaba sohulumeni basekhaya ngokubhekela isimo lapho umbono ungakenziwa. Ngakho-ke ungucezwana oluncane lomthetho ohlose ukusiza omasipala ukuba babhekane nekusasa. Lokhu ukwenza -
- (a) ngokunquma nokumisa amazinga afanayo amandla, imisebenzi kanye nezibopho zomkhandlu kamaspala;
 - (b) ukwenza nokumisa imithetho kamaspala, imithetho emiyo yomasipala kanye nezimiselo;
 - (c) ukuletha ukuthula ebudlelwaneni bezabasebenzi; kanye
 - (d) nokusiza omasipala ukuba baziphathe ngokuyikho izindaba zabo, ikakhulukazi ngokuphathelene nokutholakala kwezimpahla kanye nemisebenzi, ukwenziwa kwemisebenzi kanye nokwenziwa kwezinhlolo, kanye nokuphathwa kokungena ezindaweni zomphakathi.

Ukuhlola

- 12 Ukusebenza kwalo Mthetho kuyohlolwa ngeSigcawu sokuSebenzisana koHulumeni eGauteng kanye neNhlangano yoHulumeni baseKhaya eGauteng. Lokhu kuyinhlanganisela ekusebenzeni kwansukuzonke kwehhovisi lo Mphathiswa kanye neminyango eyiyo yesifunda kanjalo neSigcawu seziMeya.

Imiphumela ngokwezimali yalo Mthethosivivinyo

- 13 Lo Mthethosivivinyo awunamiphumela eyengeziwe ngokwezimali esifundeni.

ISAMARI YESIGABA NGASINYE KUMTHETHOSIVIVINYO

- 14 Isigaba 1 sichaza amagama okukhulunywa ngawo.
- 15 Isigaba 2 simisa injongo yoMthethosivivinyo kanye nezindlela zokufezekisa lezo zinjongo.
- 16 Isigaba 3 sinikezela ngeziqondiso ngokusebenzisa nokutolikwa kwalo Mthethosivivinyo.
- 17 Isigaba 4 simisela ngokuqhubeka kokuba khona komasipala futhi siqinisekise "nobunhlangano" yabo.
- 18 Isigaba 5 siqinisekisa ukuthi omasipala ababebizwe ngamadolobha amakhulu phambilini bayaqhube ka nalelozinga futhi simisela nokususwa kokushayisana komasipala abasanda kwakhiwa ngodaba Iwezikhundla zamadolobha amakhulu.
- 19 Isigaba 6 sihlanganisa amandla, imisebenzi kanye nezibopho zemikhandlu yomasipala.
- 20 Isigaba 7 simisa uhlelo lokushaya imithetho yomasipala.
- 21 Isigaba 8 simisela ukubuyekezwa kwazikhathi kwemithetho yomasipala futhi simisela nokuhlolola kwesifunda kanye nokubhekwa kohlelo lokubuyekeza.
- 22 Isigaba 9 sihlinzekela ukuvunyelwa komphakathi ukuhlola imithetho yomasipala.
- 23 Isigaba 10 sinikezela uMphathiswa amandla okushaya imithetho yomasipala.
- 24 Isigaba 11 simisela indlela yohlelo lokushaywa kwemithetho emiyo yomasipala.
- 25 Isigaba 12 simisela imiphumela yezomthetho yomthetho omiyo kamasipala.
- 26 Isigaba 13 simisela amandla oMphathiswa ukukhipha izimiselo.
- 27 Isigaba 14 sisho lezo zinto ezingaba sezimiselweni.
- 28 Isigaba 15 sisho indlela izimiselo ezingakhishwa ngayo.
- 29 Isigaba 16 simisela ukuqokwa ngumasipala kwesikhulu esiyinhloko kanye nabasebenzi.
- 30 Isigaba 17 singuma ngamandla nezibopho zesikhulu esiyinhloko.
- 31 Isigaba 18 sizama ukuhlela kabusha izimiso nezimo zokusebenza zomasipala abalunjanisiwe noma abahlanganisiwe.
- 32 Isigaba 19 sihlinzekela ngokumiswa kwezinhlelo zezinuzo zezemithi ngumkhandlu kamasipala.

- 3 Isigaba 20 sihlinzekela ngokumiswa kwezinuzo zomhlalaphansi ngumkhandlu kamasipala.
- 34 Isigaba 21 sinquma ngesikhathi sokuphatha sezimeya, izindlela zokukhishwa esikhundleni, amandla anikezwe wona kanye namalungelo azo okuvota.
- 35 Isigaba 22 sinikezela umasipala amandla okubeka izikhulu ezibekiwe.
- 36 Isigaba 23 sibeka imisebenzi yezikhulu ezibekiwe.
- 37 Isigaba 24 sibeka amandla ezikhulu ezibekiwe.
- 38 Isigaba 25 sisho uhlelo olulandelwa yizikhulu ezibekiwe ekwenzeni umsebenzi wazo noma ukuhlola ezimweni lapho kudingeka isigunyazo esibhaliwe.
- 39 Isigaba 26 sibeka ngokuqondile indlela izikhulu ezibekiwe okufanele ziwenze ngayo umsebenzi noma ukuhlola lapho singadingekile isiqondiso esibhaliwe.
- 40 Isigaba 27 sigcizelela ukubhekelwa kwamalungelo angaguqukiyo yizikhulu ezibekiwe uma zenza umsebenzi noma zenza inhlobo.
- 41 Isigaba 28 simisela ukusetshenziswa kwendluzula yizikhulu ezibekiwe uma zenza umsebenzi wazo.
- 42 Isigaba 29 sinikezela izikhulu ezibekiwe igunya lokuphelekezelwa yilungu laMbutho wamaPhoyisa waseNingizimu Afrika uma zenza umsebenzi wazo.
- 43 Isigaba 30 sibophezela umuntu ophethe izincwadi eziyizo ukua aziveze lezo zincwadi esikhulwini esibekiwe.
- 44 Isigaba 31 sibophezela wonke umuntu ukuba aphendule imibuzo futhi asize izikhulu ezibekiwe.
- 45 Isigaba 32 sihlinzekela ngokukhishwa kwezazizo zokuhambisana.
- 46 Isigaba 33 sisho izimo ngamacala yinoma yimuphi umuntu ongaqokwanga ngokusemthethweni njengezikhulu ezibekiwe.
- 47 Isigaba 34 sibeka imingcelo ngokusetshenziswa kwezimiselo ezimayelana nezikhulu ezibekiwe kanye namandla azo nemisebenzi.
- 48 Isigaba 35 sisho uhlelo olulandelwayo ekutholakaleni kwezimpahla nemisebenzi.
- 49 Isigaba 36 sisho uhlelo olulandelwayo ekutholakaleni kwezimpahla noma imisebenzi emiselwe.
- 50 Isigaba 37 sibeka uhlelo olulandelwayo ekutholakaleni kwezimpahla nemisebenzi emiselwe

ngokuphuthumayo.

- 51 Isigaba 38 sinquma ngokwandiswa noma ukuguqulwa kwsivumelwano sethenda.
- 52 Isigaba 39 sisho uhlelo olulandelwayo uma kubhekenwe nezicelo ezingemthetho noma ezingendlela ezaphula izivumelwano zethenda.
- 53 Isigaba 40 sibeka uhlelo lokuzikhalela ngokumayelana nezicelo ezingemthetho noma ezingendlela ezaphula izivumelwano zethenda.
- 54 Isigaba 41 sibeka uhlelo lokumiswa kwsigcawu sokwedlulisela kanye nethimba labalamuli.
- 55 Isigaba 42 sihlinzekela ukumiswa kwekomidi elizobhekela ukutholakala kwezidingo ngumkhandlu kamasipala.
- 56 Isigaba 43 sinikezela amandla umkhandlu kamasipala ukubeka umkhawulo noma ugunyaze noma yimuphi umuntu noma abantu, uhlaka noma inhlango ukubeka umqobo wokungena kunoma yiypifi indawo yomphakathi.
- 57 Isigaba 44 sibeka izindlela okufanele zilandelwe ngumkhandlu kamasipala uma kunenhoso yokubeka imikhawulo yokungena.
- 58 Isigaba 45 sibeka uhlelo olulandelwayo ukuze umkhandlu kamasipala unikezele igunya kwabanye ukubeka umkhawulo.
- 59 Isigaba 46 sinquma isikhathi somkhawulo noma igunya lokubeka umkhawulo.
- 60 Isigaba 47 sisho izimo lapho kungenzeka ica la mayelana nokunikelwa kwegunya lomkhawulo.
- 61 Isigaba 48 sinikezela amandla amalungu omphakathi ukuba athole noma abheke izimiso zomkhawulo noma igunya.
- 62 Isigaba 49 sihlinzekela ngokumiswa kophenyo lomasipala futhi sisho nezimo nendlela yokumiswa nokwenziwa kwalowo msebenzi.
- 63 Isigaba 50 sihlinzekela ukumiswa kwsigcawu somphakathi sikamasipala futhi sisho nendlela yokumiswa nokusebenza kwaso.
- 64 Isigaba 51 sinikezela amandla iLungu lesiGungu esikhulu ukuba anikezele ngeziqondiso emikhandlwini kamasipala.
- 65 Isigaba 52 sinikezela amandla umkhandlu kamasipala ukuba wenze ngcono ukuphathwa kvezimali zavo kanye nokusetshenziswa kwazo.

- 66 Isigaba 53 sinquma izijeziso ezibekelwe noma yiliphi icala elenziwe ngaphansi kwalo Mthetho.
- 67 Isigaba 54 sinquma izimo lapho abasebenzi bomkhandlu kamasipala noma abantu abathunywe ngumkhandlu bengeke babekwa icala.
- 68 Isigaba 55 sisho izimo lapho amakhansela noma abasebenzi bakamasipala benelungelo lokumelelwa ngokusemthethweni.
- 69 Isigaba 56 sisho izimo lapho amandla omkhandlu kamasipala enganikezelwa khona noma lapho umkhandlu kamasipala ungenza khona izivumelwano.
- 70 Isigaba 57 sinquma ngokunikwa noma ukwedluliswa kwamandla esifunda, imisebenzi kanye nezibopho emikhandlwini yomasipala.
- 71 Isigaba 58 sikhulumwa ngokwesulwa kwemithetho.
- 72 Isigaba 59 sikhulumwa ngezinhlelo zesikhashana.
- 73 Isigaba 60 sichaza igama elifingqiwe lo Mthethosivivinyo bese sisho ukuthi lo Mthethosivivinyo uyoqala nini ukusebenza.

ISHEDULI 1

IMITHETHO EYESULWAYO

Inombolo kanye nonyaka womthetho	Igama elifingqiwe	Izinga lokwesulwa
58 ka 1903	UMthetho wokuHlanganiswa koMasipala ka 1903	Wonke
506 ka 1937	Isaziso sabaPhathi - Izimiselo zokweHliswa kwaMandla abaPhathi beziNdawo	Wonke
17 ka 1939	UMthetho woHulumeni baseKhaya ka 1939	Izigaba 1, 5, 8, 34, 35, 36, 41, 47A, 53, 54, 57, 62, 65, 70; 72; 77; 78; 79bis; 79ter; 79quat; 79sext; 89; 90; 91; 92; 93; 94; 95; 96, 96bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118bis; 119; 120; 121; 122; 123; 124; 125; 125A; 126; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 162; 164A; 165; 166; 173.
13 ka 1958	UMthetho wezinHlaka zoMphakathi (Izilimi) ka 1958	Wonke
21 wa 1958	Ukuphathwa koHulumeni baseKhaya ka 1958	Wonke
40 ka 1960	UMthetho woHulumeni baseKhaya (Ezokuphatha Nezokhetho) ka 1960	Izigaba 3 kuya ku-51; 62; 82A; 63(1) kuya ku-(20); 63A; 64; 65; 67; 69; 70; 70bis; 71
15 ka 1981	UMkhandlu weDolobha waseMidrand ka 1981	Wonke
24 ka 1986	UMthetho weziNdawo koHulumeni baseKhaya ka 1986	Wonke
22 ka 1988	Isimemezelo sezokuPhatha - ISichibiyelo soMthetho 40 ka 1960	Wonke

zv ka 1988	Isimeremezelo sabaPhathi ngokuphathelene nokumiswa kweKomidi lezeMpilo	Wonke
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ISHEDULI 2

UKUNIKWA NOKUPHATHISWA AMANDLA, IMISEBENZI NEZIBOPHO EMIKHANDLWINI YOMASIPALA

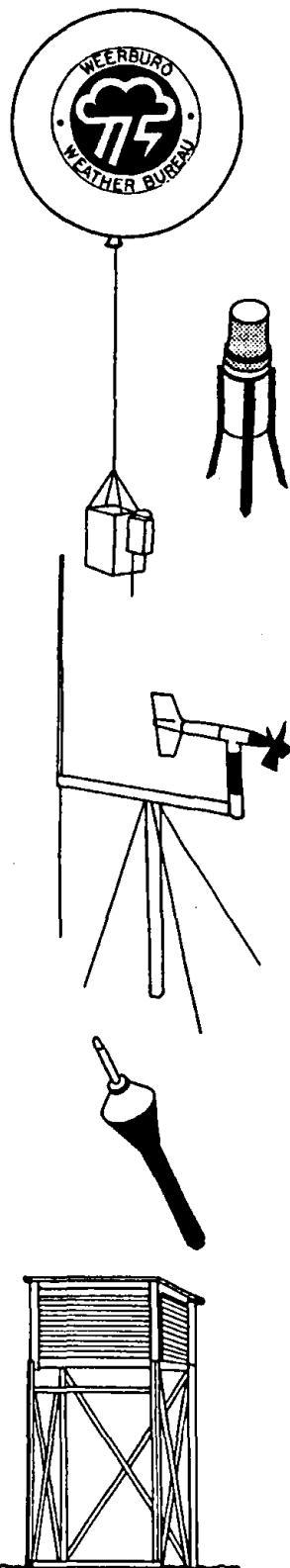
IPHUZU A . UMTHEETHO WOHULUMENI BASEKHAYA KA 1939		
INGXENYE 1 . UKUNIKWA		
ISIGABA	IGAMA LESIGABA	IZINGA LOKUNIKWA
19(7)	Amalungelo anikwa izimeya, amaphini ezimeya kanye namakhansela.	Sonke
64(1)	Ukubekwa eceleni kwezizinda zemisebenzi noma ukwakhiwa kwezakhiwo zomphakathi noma zikamasipala.	Sonke
65 (bis)(4)(b)	Izindlela zezingola zomphakathi, izindawo zokuma kanye nezitende.	Sonke
67(6) & (9)(b)	Ukuvalwa ngokuphelele noma ukushintshwa komgwaqo.	Sonke
69(1)(a)	Ukfakelwa kwezinombolo kwezindlu kanye nokunikezelwa kwamagama kwezindawo zomphakathi.	Sonke
71(2)	Amandla okumisa amaphawundi.	Sonke
79(9)(bis)	Amandla avamile.	Sonke
79(10)	Amandla avamile.	Sonke
79(28)	Amandla avamile.	Sonke
79(33)	Amandla avamile.	Sonke - ngaphandle kuka-79(33)(b)(ii)
79(42)	Amandla avamile.	Sonke
79(53)	Amandla avamile.	Sonke

808(4)(b)(i)	Ukuvezwa, ukuchibiyelwa noma ukuhoxiswa kwamacala ngesiphakamiso esiyisipesheli	Sonke
81(1)(c)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(1)(d)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(1A)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(2)	Imisebenzi yokuphakelwa kwamanzi	Sonke
83(1)(bis)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83(3)(a)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83(4)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83A(1)	Imiqobo ngokusetshenziswa kwamanzi kanye nogesi	Sonke
104(bis)	Amandla oHulumeni baseKhaya okuxegisa izidingo zokwakha imithetho yomasipala noma ukususa ukuhambisana nalokho	Sonke
131(5)	Amanye amandla ayisipesheli emikhandlu yamadolobha	Sonke
131(17)	Amanye amandla ayisipesheli emikhandlu yamadolobha	Sonke
133	Amandla okwenza umsebenzi wokuthuthwa kwendle nemfucuza	Sonke
142(1)(b)	Amandla okwenza umsebenzi wokuthuthwa imfucuza endaweni yomuntu noma ezakhieni zomuntu noma ukufuna ukwenza lokho	Sonke
155(1)	Ukuphatha ezokuhlanzekwa kwemisebenzi yangaphezulu nangaphansi kwezimayini.	Sonke

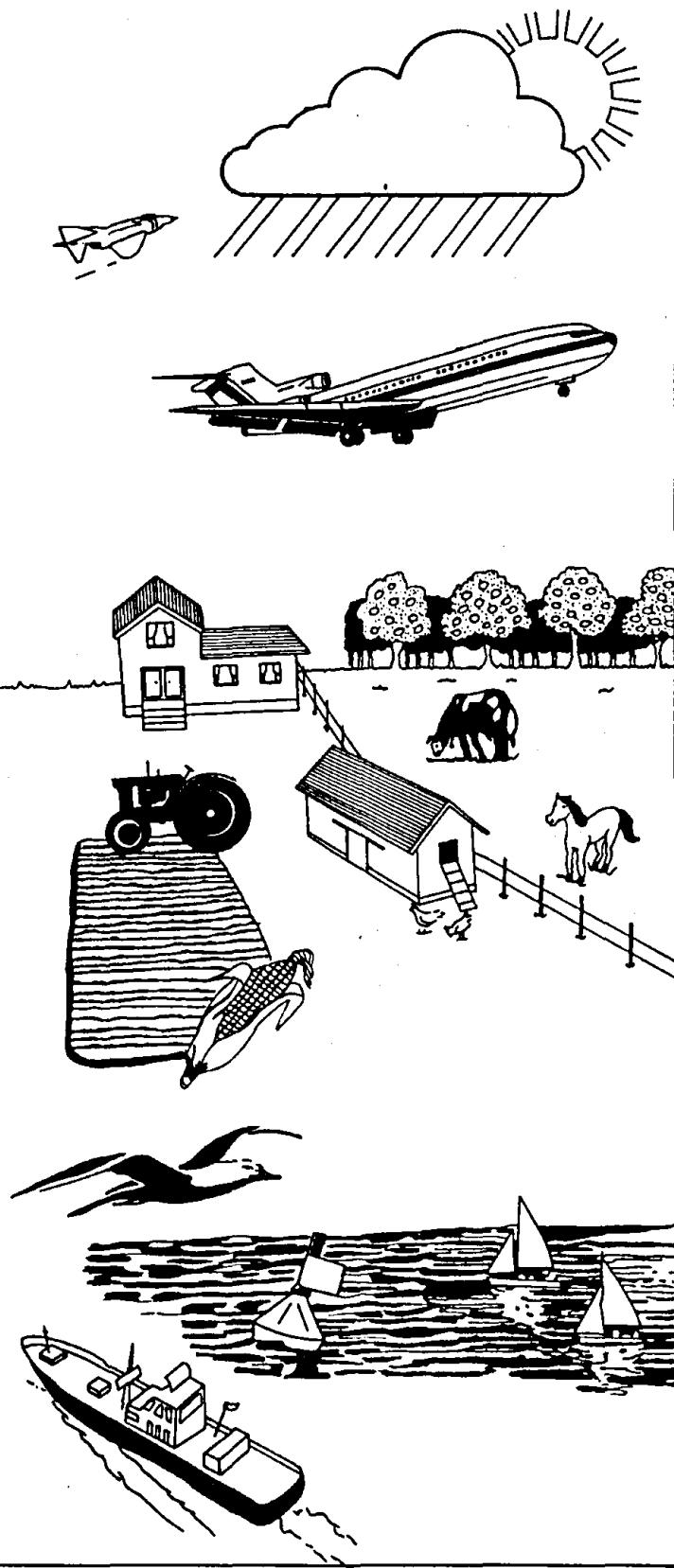
INGXENYE 2 - UKUPHATHISWA		
ISIGABA	IGAMA LESIGABA	IZINGA LOKUPHATHISWA
79(16)	Amandla avamile	Sonke
79(17)(e)	Amandla avamile	Sonke
79(18)(e)	Amandla avamile	Sonke
79(18)(f)(aa)	Amandla avamile	Sonke
79(18)(f)(bb)	Amandla avamile	Sonke
79(18(h)(bb)	Amandla avamile	Sonke
79(24)(c)	Amandla avamile	Sonke
80A(b)(ii)	Ukuhlanganiswa kwezincasiselo, imithetho kanye nezinye izincwadi emithethweni yomasipala ngokukhomba.	Sonke
83(1)(c)(i)	Imisebenzi yokuphakela ngokukhanyisa, ukufudumeza kane namandla.	Sonke

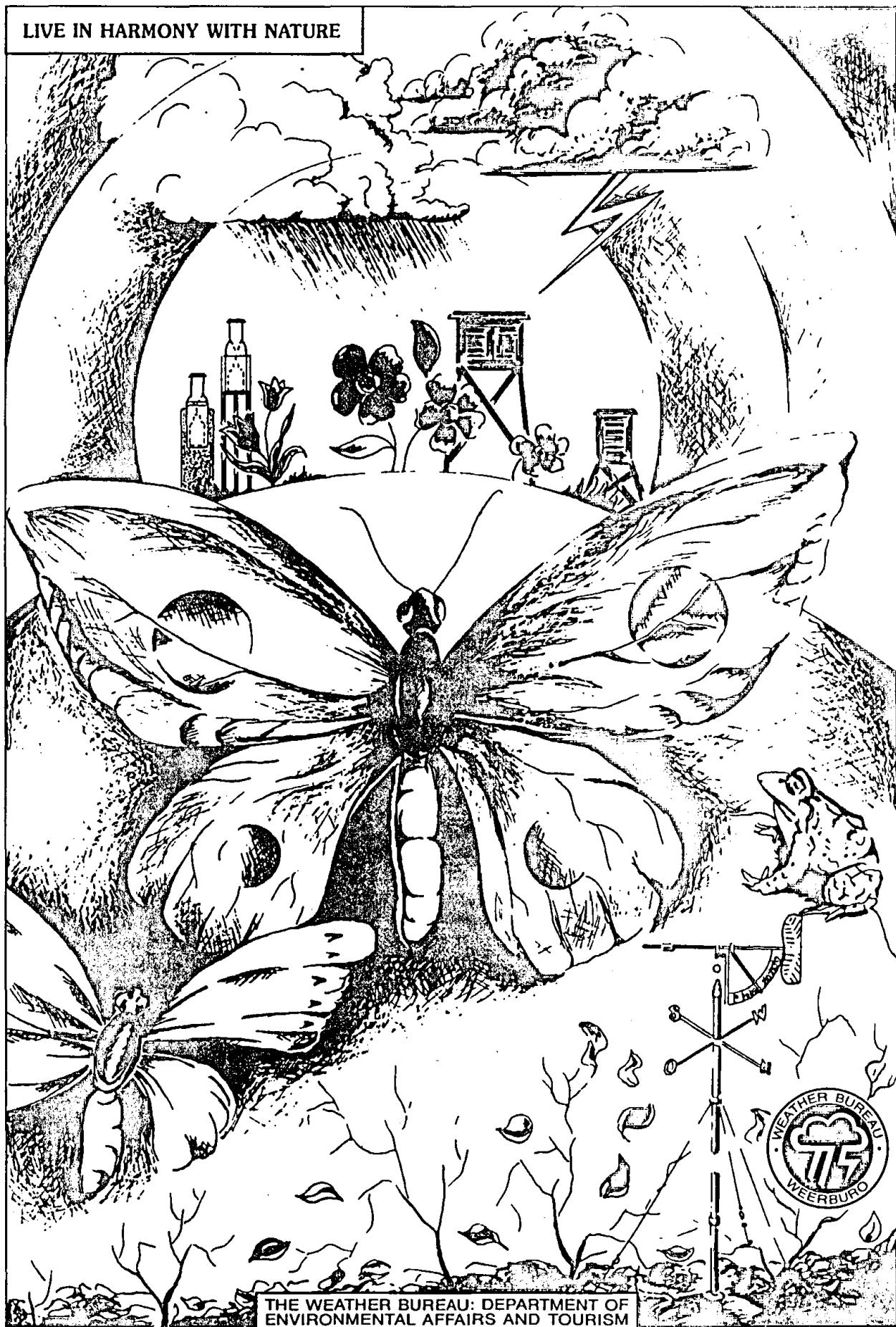
IPHUZU B - UMTHETHO WOHULUMENI BASEKHAYA KA 1960 (EZOKUPHATHA KANYE NOKHETHO)		
INGXENYE 1 - UKUNIKWA		
ISIGABA	IGAMA LESIGABA	IZINGA LOKUNIKWA
57(6)(b)	Imisebenzi yamaKomidi okuPhatha	Sonke
INGXENYE 2 - UKUPHATHISWA		
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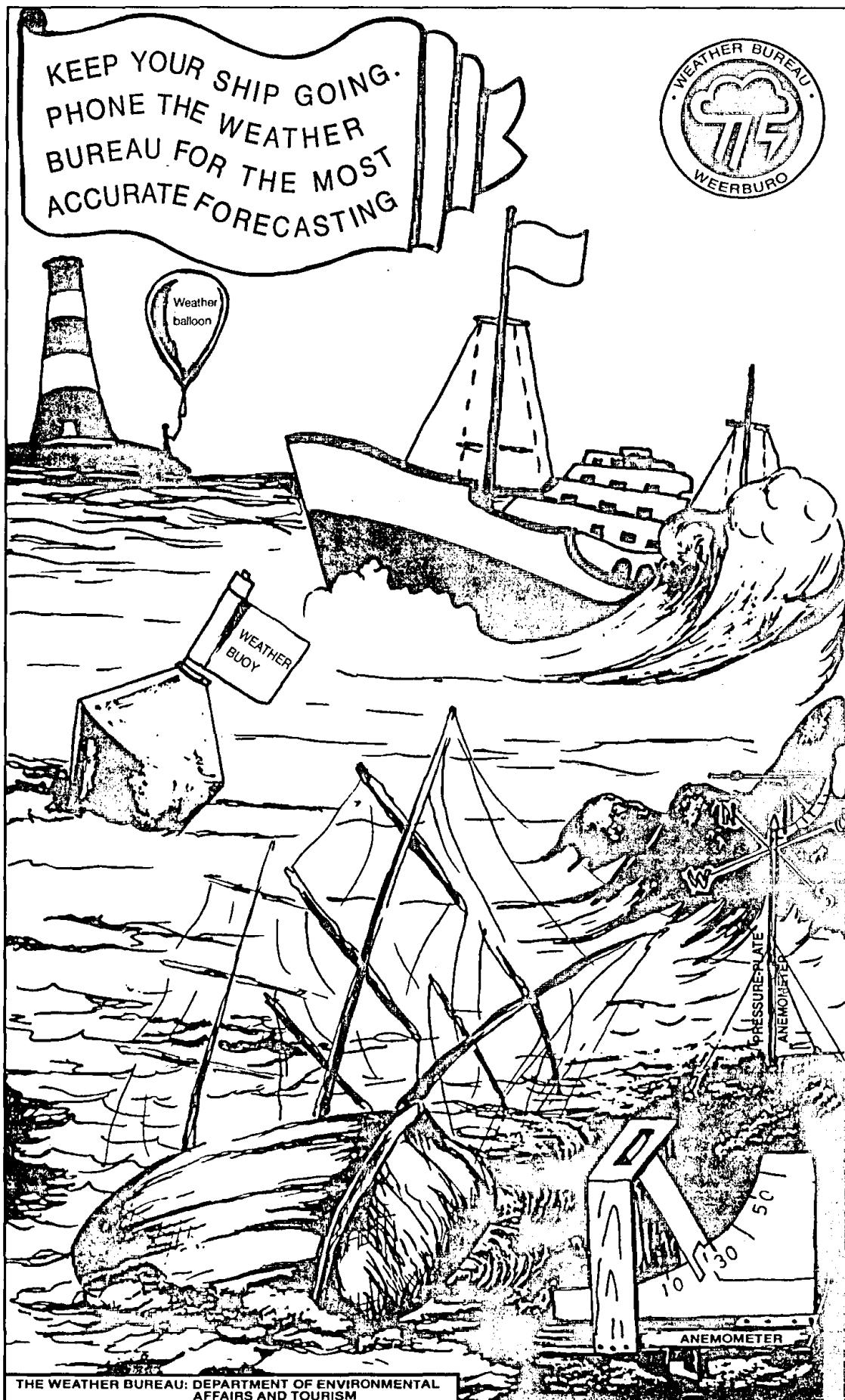
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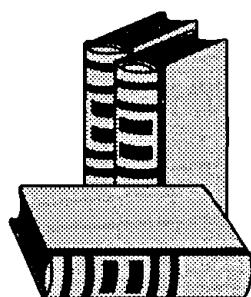
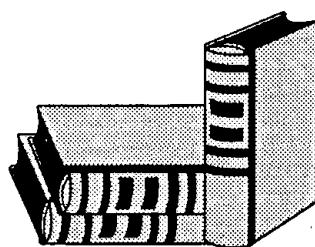






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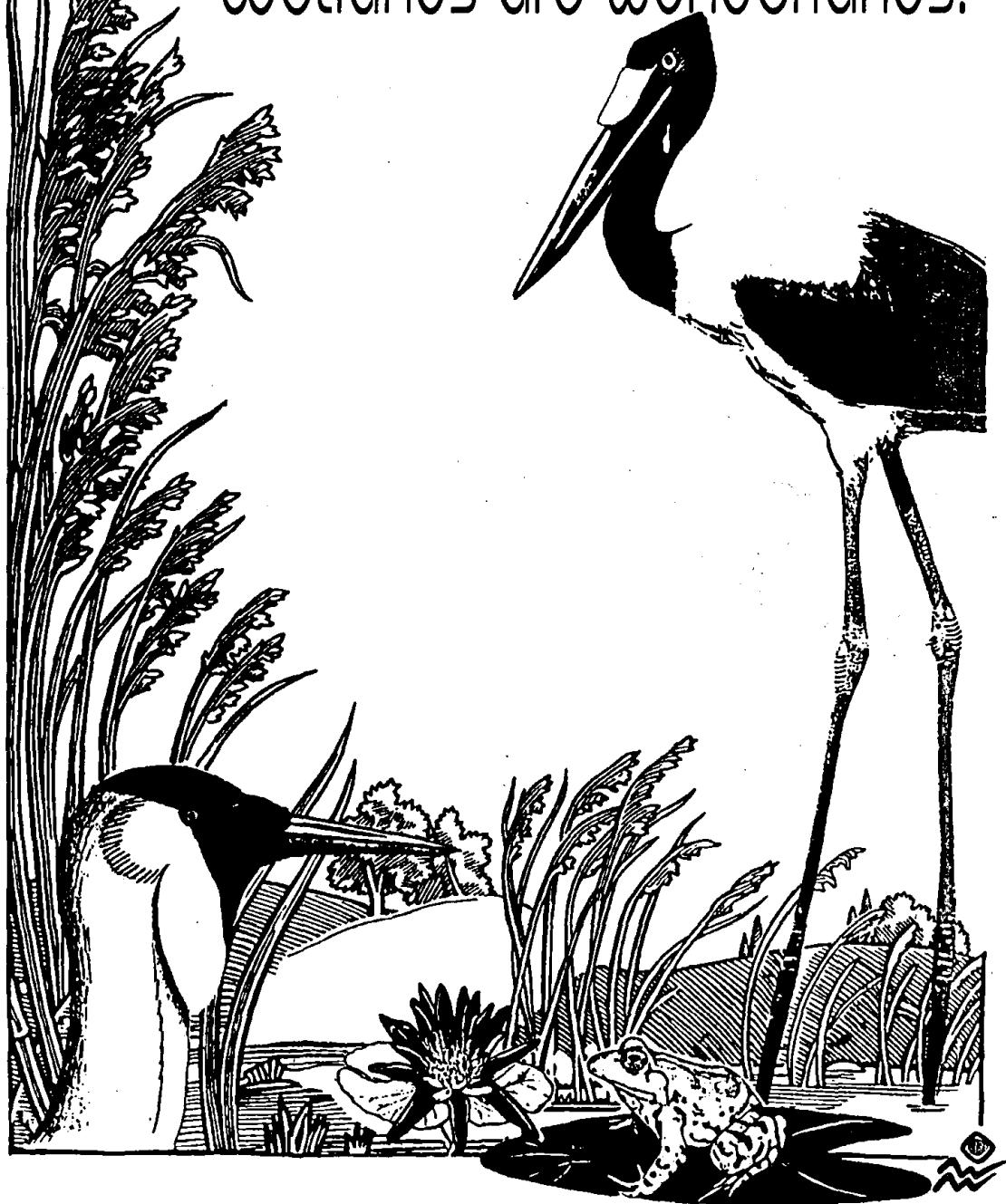
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Departement van Omgewingsake en Toerisme*

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Department of Environmental Affairs and Tourism

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