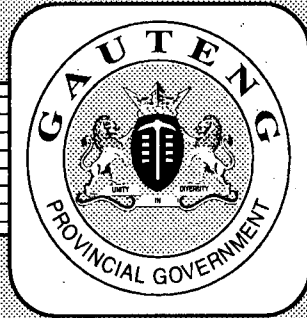


**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE
GAUTENG**

Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

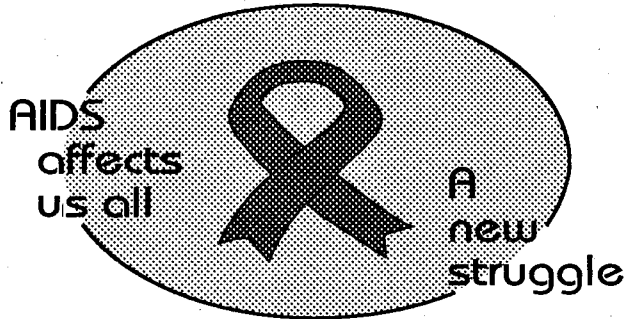
Selling price • Verkoopprys: **R2,50**
Other countries • Buitelands: **R3,25**

Vol. 8

PRETORIA, 7 FEBRUARY 2002
FEBRUARIE

No. 26

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

CONTENTS

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE		
273 Gauteng Petitions Bill, 2002: For comments	3	26

GENERAL NOTICE

NOTICE 273 OF 2002

GAUTENG PROVINCIAL LEGISLATURE

PUBLICATION OF GAUTENG PETITIONS BILL

Notice is hereby given that the Member of the Gauteng Legislature, Chairperson of Petitions and Public Participation Committee (Mr M Radebe) intends to introduce the Gauteng Petitions Bill in the Legislature as published in this Extraordinary Gazette.

Any person or organisation wishing to comment on this proposed Legislation may lodge written comments on or before **1 March 2002** 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 J Singh)
Private Bag X52
Johannesburg
2000

Physical Address
Gauteng Provincial Legislature
Corner President and Loveday Str
Johannesburg
Tel No: (011) 498-5561
Fax No: (011) 498-5719

BILL

To provide for the right to submit a petition to the Legislature of the Province of Gauteng; to provide for the general principles and procedures for the submission of a petition to the Legislature; to provide for the consideration of a petition by the Standing Committee of the Legislature assigned to deal with petitions; to provide for the repeal of the Gauteng Petitions Act, 1998, as amended; and to provide for incidental matters.

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

Definitions

1. In this Act, unless the context otherwise indicates -

"*administrative support service*" means employees of the Legislature assigned by the Secretary for purposes of the effective implementation and execution of this Act;

"*appeal*" means an appeal contemplated in section 9;

"*Chairperson*" means the chairperson of the Committee;

"*Committee*" means a committee of the Legislature assigned by the Speaker to be responsible for the consideration of petitions in terms of this Act, consisting of members of the Legislature as determined from time to time in accordance with the Standing Rules;

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

"*Executive Council*" means the executive council of the Province contemplated in section 132 of the Constitution;

"*Legislature*" means the provincial legislature of the Province contemplated in section 104 of the Constitution;

"*municipal council*" means the local government authority in the Province;

"*petition*" means a complaint or request or a representation or a submission addressed by a petitioner to the Committee in terms of this Act;

"*petitioner*" means a person who submits a petition in terms of this Act, and includes a natural or juristic person;

"*prescribed*" means prescribed by regulation in terms of section 17;

"*Province*" means the province of Gauteng established in terms of section 103 of the Constitution;

"*relevant authority*" means a provincial department, municipal council, or other government institution over which the Legislature exercises oversight;

"*Secretary*" means the person appointed in terms of section 12(1)(a) of the Gauteng Provincial Legislature Services Act, 1996 (Act No. 5 of 1996);

"*Speaker*" means the Speaker of the Legislature elected in terms of section 111 of the Constitution;

"*Standing Rules*" means the rules and orders made for the conduct of the business of the Legislature in terms of section 116 of the Constitution;

"*this Act*" includes the regulations promulgated under this Act.

Right to petition

2. Any person may submit a petition in terms of this Act.

General principles

3. (1) A petitioner may submit a petition in any of the official languages of the Republic of South Africa.

(2) The Committee must –

- (a) respect, protect and promote the rights of a petitioner provided for in this Act;
- (b) take appropriate steps to promote and facilitate participation by the citizens of the Province in the process of government in the Province, particularly persons disadvantaged by unfair discrimination of whatever nature; and
- (c) enhance democracy by exercising maximum accountability and transparency in their consideration of petitions.

(3) The Speaker must promote and facilitate a fair and equitable process of considering petitions submitted to the Legislature in terms of this Act.

Petition

4. (1) A petition may be –

- (a) a single petition, which is an individual submission from a single petitioner, concerning a particular complaint or request;
- (b) an association petition, which is an individual submission from an association or single petitioner mandated by an association to submit that petition, concerning a particular complaint or request;
- (c) a collective petition, which is a collection of signatures from a number of petitioners, concerning a particular complaint or request; or

- (d) a mass or group petition, which is made up of individual or group submissions from a number of petitioners, concerning the same or substantially similar complaints or requests.
- (2) A petition may be submitted by a person acting –
- (a) in his or her own interest;
 - (b) in the interest of another person who is not in a position for whatever reason to submit a petition in his, her or its own name;
 - (c) as a member of or in the interest of a group or class of persons; or
 - (d) in the public interest.
- (3) A petition may subject to subsection (4) address any matter –
- (a) within the legislative authority of the Province contemplated in the Constitution;
 - (b) within the executive authority of the Province contemplated in the Constitution;
 - (c) assigned to a member of the Executive Council in terms of the Constitution; or
 - (d) relating to the provincial supervision of local government contemplated in the Constitution.
- (4) The Committee must refuse to consider a petition –
- (a) falling outside the scope of matters contemplated in subsection (3);
 - (b) concerning a matter pending in a court of law or other tribunal or forum contemplated in the Constitution;
 - (c) in connection with the conviction and sentencing by a criminal court of law of a person to a period of imprisonment; or

- (d) addressing a matter, which falls within the scope of a commission of inquiry, established in terms of the Provincial Commissions Act, 1997 (Act No. 1 of 1997).
- (5) The Committee may refuse to consider a petition which –
- (a) is illegible;
 - (b) does not state the correct name and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition has been submitted;
 - (c) has not been signed by the petitioner, except in the case of a petitioner who is unable to write and -
 - (i) who has made a mark on the petition as a symbol of his or her authority to submit the petition; and
 - (ii) that mark was made in the presence of two witnesses who are able to write and who by signing that petition certify that the mark is that of the petitioner;
 - (d) addresses a matter previously considered by the Committee except if that petition contains new information that may materially impact on the outcome of the consideration of the matter;
 - (e) contains defamatory statements or improper language;
 - (f) if applicable, addresses a matter that the petitioner has not yet brought to the attention of the relevant authority, or if the petitioner has brought it to the attention of the relevant authority, the relevant authority has not been afforded reasonable time to consider the matter.

Submission of petition

5. (1) A petition must be submitted strictly in accordance with this Act.

(2) The administrative support service must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition meeting all the requirements imposed by this Act so that that person may properly submit a petition.

(3) The administrative support service must take all prescribed steps to prepare the petition for consideration by the Committee.

Functions of Committee

6. The Committee must -

- (a) receive every petition submitted in terms of this Act;
- (b) subject to section 4(3), (4) and (5), consider every petition properly submitted in terms of this Act;
- (c) record the oral submission or evidence of a petitioner given in terms of section 7(a);
- (d) if a petition has been referred to a member of the Executive Council or a municipal council in terms of section 7(e) -
 - (i) direct the person or body to whom the petition was referred to consider that petition, make a decision or recommendation in respect of that petition or otherwise dispose of the request or complaint raised in that petition; and
 - (ii) require the person or body to whom that petition was referred to furnish the Committee within four weeks of that referral in writing with a detailed report on the steps taken by that person or body to address the complaint, request, recommendation

- or instruction by the Committee, as the case may be, and the reasons for those particular steps;
- (e) if it refuses to consider a petition in terms of section 4(3), (4) and (5) or because it has not been submitted in accordance with this Act, in writing inform the petitioner of that fact as well as the reasons for its decision;
 - (f) on a quarterly basis report to the Legislature on the petitions submitted to it during that period and all its activities in respect thereof, including:
 - (i) the responsiveness, efficiency and timeousness with which petitions were dealt with; and
 - (ii) the efficacy of the petitions process and procedures; and
 - (g) instruct the administrative support service to inform a petitioner timeously -
 - (i) from time to time, of progress in respect of the consideration of a petition;
 - (ii) of any decision taken by the Committee in respect of a petition, and the reasons for that decision;
 - (iii) if the petitioner has been invited by the Committee to make an oral submission or call a witness;
 - (iv) of the date, time and venue when the petition is to be considered and that the petitioner may attend that sitting of the Committee;
 - (v) of any referral to any person or body contemplated in this Act;
 - (vi) of other remedies available to the petitioner and;
 - (vii) of the fact that the petitioner has access to the petition file at all reasonable times.

Powers of Committee

7. The Committee may -

- (a) invite a petitioner to -
 - (i) supplement his or her petition with additional oral or written submissions;
 - (ii) call a witness to present oral or written evidence to the Committee;
- (b) make a recommendation to an appropriate person or body with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner;
- (c) make a recommendation to an appropriate person or body in respect of the general approach to be followed in future in settling a request or complaint;
- (d) if requested to do so by a petitioner, resolve a dispute or complaint, reverse an act, rectify an omission, regarding matters other than those prescribed by legislation by means of mediation or negotiation;
- (e) refer the petition and recommendation, if any, to a member of the Executive Council or a municipal council for consideration and decision in respect of the complaint or request contained in the petition.
- (f) make a recommendation to the Speaker to refer the petition to -
 - (i) the Legislature;
 - (ii) another committee of the Legislature;
 - (iii) a member of the Executive Council.
 - (iv) a municipal council in the Province;
 - (v) a body supporting constitutional democracy established by Chapter 9 of the Constitution; or
 - (vi) the National Prosecuting Authority;

- (g) conclude its consideration of a petition if it resolves that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner;
- (h) if a petition has been referred to a member of the Executive Council or a municipal council in terms of section 6(d) and that person or body has failed to comply with section 6(d) or that person or body's conduct or response is unsatisfactory –
 - (i) make a complaint to the Public Protector or the Premier;
 - (ii) take any other appropriate steps that the Committee may lawfully take;
- (i) if the complaint or request in the petition has since its submission been settled to the satisfaction of the petitioner, close the petition file;
- (j) delegate any of its functions or powers in terms of section 10;

Procedure for consideration of petition

8. The procedure for the consideration of a petition is as prescribed in the regulations and in accordance with the Standing Rules.

Right of appeal

- 9.** (1) A petitioner may appeal to the Speaker against –
- (a) a refusal by the Committee to consider a petition;
 - (b) where applicable, a determination by the Chairperson to consider the petition submitted by that petitioner behind closed doors; or

- (c) any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.
- (2) An appeal must be submitted and processed as prescribed.
- (3) The Speaker must consider the appeal as prescribed and may thereafter –
- (a) dismiss the appeal;
 - (b) table the appeal document and refer it to the Committee for re-consideration; or
 - (c) refer the appeal and the petition file with a recommendation to –
 - (i) the Legislature;
 - (ii) a standing committee of the Legislature;
 - (iii) the Premier or a member of the Executive Council;
 - (iv) the municipal council of a local government;
 - (v) an institution supporting constitutional democracy contemplated in Chapter 9 of the Constitution; or
 - (vi) the National Prosecuting Authority; or
 - (d) make any other determination, which he or she is competent in law to make in respect of the petition.
- (4) The Speaker must within a reasonable time after the consideration of an appeal in writing report to the Legislature on that appeal.

Delegation

10. (1) The Committee may delegate any of its duties, functions or powers in respect of a particular petition to a member of the Committee.

(2) A member contemplated in subsection (1) shall be appointed by the Chairperson.

(3) The Chairperson must provide that member with a written and signed authorization to consider a particular petition.

(4) The Chairperson may at any time before the member has commenced his or her consideration of a particular petition withdraw his or her authorization.

(5) The member must after he or she has concluded his or her consideration of a petition report the outcome of his or her consideration of that petition to the Committee.

(6) Nothing in this section prevents the Committee from exercising any power or performing any duty delegated in terms of this section.

(7) A member appointed in terms of this section has all the powers by implication necessary to enable him or her to fulfil his or her function.

Sitting of Committee

11. (1) The Committee may for purposes of hearing evidence and considering a petition sit at a date and time and at a place in the Province determined by the Chairperson.

(2) The Chairperson must give public notice of a sitting in accordance with the Standing Rules.

(3) The Chairperson must instruct the administrative support service to timeously-

- (a) ensure that subpoenas have been properly issued and served as prescribed;
- (b) inform the petitioner in writing of any matter that the petitioner is entitled to be informed of in terms of this Act, any other law or the Standing Rules;

- (c) if necessary, ensure that the contents of a petition file are translated into a working language of the Committee;
- (d) perform any additional duty, which will enable the Committee to properly consider a petition and exercise its other functions in terms of this Act.

(4) Evidence presented before the Committee must be heard in public unless it is –

- (a) in the interests of justice; or
- (b) in the interests of the safety of the petitioner or a witness

that, the evidence must be heard behind closed doors.

(5) The administrative support service must provide the Chairperson with a list of submitted petitions, which have not been finalised by the Committee for tabling at each meeting of the Committee.

Accountability of Committee

12. (1) The Committee must report to the Legislature as contemplated in section 6(1)(f) and (g).

(2) A debate on an issue raised in a report of the Committee to the Legislature must take place if more than five members of the Legislature so demand.

(3) The Legislature may refer any matter contained in a report submitted to the Legislature by the Committee back to the Committee for reconsideration.

(4) A member of the Legislature has access to a petition file at any reasonable time.

(5) The Legislature may whilst the Committee is considering a petition only conduct an interpellation in respect of that petition relating to the process of considering the petition and not in respect of the merits thereof.

(6) A member of the Legislature may whilst the Committee is considering a petition only put a question in respect of that petition relating to the process of considering the petition and not in respect of the merits thereof.

Witnesses and material of evidence

13. (1) For the purpose of ascertaining a matter relating to the subject of its investigation, the committee may-

- (a) summon a person to attend a sitting of the Committee, as a witness, in order to give evidence, produce any book, document, object or other material of evidence if the Committee requires it; or
 - (b) subpoena a person to attend a sitting of the Committee, as a witness in order to give evidence, or produce any book, document, object or other material of evidence, before the Committee at a time and place specified in the subpoena.
- (2) A subpoena contemplated in subsection (2) must -
- (a) be signed and issued by the Chairperson;
 - (b) state the matter in respect of which it is issued;
 - (c) stipulate the date, time and venue when the person or a representative of a body must appear before the Committee;
 - (d) draw the attention of the person to whom the subpoena is addressed to the provisions of subsection (4); and

(e) be timeously served on the person to whom the subpoena is addressed by registered mail, by personal delivery or by any other prescribed method.

(3) A person appearing before the Committee to give oral evidence must before giving that evidence take an oath or make an affirmation, administered by the Chairperson or any other person authorised by him or her to do so, to only speak the truth.

(4) Any person other than an employee of the Province or a municipal council appearing before the Committee to give oral evidence or to produce any document, object or other material of evidence under a subpoena issued in terms of this section is entitled to the witness fees payable to a witness giving evidence at a criminal trial in a High Court of the Republic.

(5) A person appearing before the Committee to give oral evidence may be assisted by a representative of their choice.

Retention of materials of evidence

14. (1) The Committee must make a copy or reproduction in any format of materials of evidence submitted to it.

(2) The Committee must retain such copy or reproduction for an indefinite period after conclusion of the consideration of a petition.

(3) The Administrative support service must include the copy or reproduction contemplated in subsection (1) in the particular petition file.

Offences

15. (1) A person properly subpoenaed in terms of section 13 who without sufficient cause –

(a) fails to appear before the Committee at the date and venue stipulated in the subpoena;

- (b) fails to remain in attendance at the sitting of the Committee until the Chairperson excuses him or her from further attendance;
- (c) refuses or fails to take an oath or make an affirmation contemplated in section 13(3) when called upon by the Chairperson to do so;
- (d) refuses or fails to produce any book, document, object or other material of evidence in his or her possession or under his or her control which he or she has been instructed to produce

is guilty of an offence.

(2) A person properly subpoenaed in terms of section 13 who after having taken an oath or made an affirmation –

- (a) fails to answer fully or truthfully any question lawfully put to him or her; or
- (b) otherwise knowingly gives false evidence

is guilty of an offence.

(3) A person –

- (a) who threatens, obstructs or unduly influences a person properly subpoenaed in terms of section 13 to –
 - (i) refuse or fail to give oral evidence before the Committee;
 - (ii) knowingly give false evidence before the Committee; or
 - (iii) refuse or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control which he or she has been instructed to produce;

- (b) properly subpoenaed in terms of section 13 who produces any book, document, object or other material of evidence before the Committee, which he or she knows is false, fabricated, falsified or unlawfully or falsely altered;
- (c) who destroys, conceals, falsifies, fabricates or unlawfully or falsely alters any book, document, object or other material of evidence which he or she knows or may be reasonably expected to know may be relevant to a petition being considered or to be considered by the Committee; or
- (d) who knowingly furnishes the Committee with information or makes a statement before it which is false or misleading

is guilty of an offence.

(4) Any person who wilfully obstructs or unduly influences the Committee, any member of the Committee or any member of the administrative support service from doing or not doing anything authorised in terms of this Act is guilty of an offence.

Penalties

16. A person convicted of an offence under section 15 is liable to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

Regulations

17. (1) The Speaker must make regulations in respect of -

- (a) the process and procedures for the submission of a petition;

- (b) the registration of a petition and opening of a petition file by the administrative support service;
 - (c) the preliminary investigation of a petition by the administrative support service;
 - (d) the process and procedures for the submission of an appeal by a petitioner;
 - (e) the process and procedures for the handling of a petition when the Legislature is not in session; and
 - (f) the procedure to deal with conflicts of interest.
- (2) The Speaker may make regulations in respect of -
- (a) the rights of a petitioner contemplated in this Act;
 - (b) any duty or function not provided for in subsection (1), which the Committee is required to perform;
 - (c) any duty or function not provided for in subsection (1), which the administrative support service is required to perform;
 - (d) any time frames to be adhered to during any process or for any procedure contemplated in this Act;
 - (e) the archiving or disposal of a petition file that has been closed;
 - (f) the procedures and process for the issuing and serving of subpoenas for purposes of this Act;
 - (g) any measures to be taken by the Legislature, the Committee or the Secretary to promote and facilitate participation by the citizens of the Province in the process of government in the Province; or
 - (h) in general, any matter not provided for in this section that may be necessary to prescribe in order to achieve or promote the objects of this Act.

Repeal of Laws

18. The Gauteng Petitions Act, 1998 (Act No. 14 of 1998) and the Gauteng Petitions Amendment Act, 1999 (Act No. 5 of 1999) are repealed.

Short title and commencement

19. This Act is called the Gauteng Petitions Act, 2002, and comes into operation on a date fixed by the Speaker by proclamation in the *Provincial Gazette*.

EXPLANATORY MEMORANDUM ON THE OBJECTS OF THE GAUTENG PETITIONS BILL, 2002

1. REASONS FOR THE BILL

1.1 Purpose of the Bill

The Bill is being introduced to replace the Gauteng Petitions Act, 1998 (Act No. 14 of 1998) and the Gauteng Petitions Amendment Act, 1999 (Act No. 5 of 1999), in order for petitions matters to be dealt with under the provisions of the Gauteng Petitions Bill, 2002.

1.2 Background

The Gauteng Provincial Legislature promulgated the Gauteng Petitions Act in 1998. The objectives of the Act were to realise the constitutional provisions that compel Legislatures to set up public participation mechanisms. The Act further gave meaning to the constitutional rights of the citizens to petition and provided a legal framework and mechanism for the consideration of petitions by the legislature.

Early in 2001, a process of drafting regulations pursuant to the Act was initiated. A final set of the draft regulations has been produced. The process of drafting regulations and the experience gathered over a period of implementing the Act revealed that the Act did not adequately provide for a petitions process envisaged in the policy papers relating to the matter.

1.3 Discussions

Subsequent to the enactment of the Gauteng Petitions Act, 1998 and its amendment by the Gauteng Petitions Amendment Act, 1999 (Act No. 5 of 1999), a study was commissioned into the efficacy of the Petitions and Public Participation Process. The study was followed by a Petitions and Public Participation Workshop report on the recommendations contained therein and a Petitions and Public Participation Standing Committee study tour undertaken to Germany and Scotland. The visits to Germany and Scotland were undertaken within the context of this evaluation process. The visit to Germany was imperative in that the Gauteng Legislature's petition process is substantially modelled on the German Bundestag Committee. In drafting regulations to the Act, 1998, effect was to be given to the recommendations of the evaluation processes.

- I. Instructions were issued for the drafting of regulations pursuant to section 18 of the Act, 1998. The brief was however, not confined to just drafting the regulations. It also included a review of the primary Act with the view of effecting improvements.
- II. In drafting the regulations, it became evident that the Act, 1998 did not adequately provide for a petition's process envisaged in the policy papers and new thinking emanating from the efficacy study. Consequently the draft regulations contain provisions that are not provided for in the primary Act.
- III. An anomaly results in that the regulations cannot be adopted until the primary legislation makes provision for the inclusion of regulations that deviate from the Gauteng Petitions Act,

1998, as it is currently constituted. In other words a review of the Act has to occur first before the draft regulations can be tabled for adoption.

- IV. The Bill is therefore tabled to address the anomaly referred to in (iii) above. Instead of amending the Act, which would prove a cumbersome and potentially confusing exercise, a new Bill is proposed.
- V. The Bill retains the broad philosophy and principles of the Act, whilst achieving a more logical flow and sequencing, correcting repetitions and removing ambiguities and superfluous provisions. The Bill is drafted employing the plain English method to create a user-friendlier piece of legislation.
- VI. The Bill changes the model of the Petitions process. Whereas the current Act provides that the Petitions and Public Participation Standing Committee (PPPSC) may refer petitions for consideration to other committees, the bill recognises the PPPSC as the Committee primarily responsible for petitions. The effect is that the PPPSC will consider all petitions with the view to resolving them and only refer those petitions that raise policy or legislative issues to relevant portfolio Committees.
- VII. The Bill provides for the regulation of consideration of petitions when the Legislature is not in session. A mechanism to deal with petitions at the end of a legislative term may also be prescribed.

- VIII. The Gauteng Petitions Bill, 2002 makes sufficient provision for time frames to be prescribed that are binding on all parties involved in the consideration of petitions.
- IX. The Bill makes provisions for the Committee tasked with the responsibility of considering petitions to account to the Legislature on its consideration of petitions.
- X. More importantly the Bill gives further meaning to the rules of administrative justice by making provisions for an appeal mechanism. The Bill further sets out categories constituting grounds of appeal.

2. IMPLICATIONS OF THE BILL

2.1 Social Implications

It is important that the Gauteng Petitions Bill, 2002 should be based on and informed by the values and principles contained in the Constitution. Of particular relevance in the context are those that impose a duty on Provincial Legislatures to proactively promote and facilitate the involvement of citizens in the legislative process. Section 118(1)(a) of the Constitution provides that *"a provincial legislature must facilitate public involvement in the legislative and other processes of the legislature and its committees"*. This, of course, has to be read in conjunction with section 115(d), which permits and empowers *"a provincial legislature or any of its committees...to receive petitions, representations or submissions from any interested persons or institutions"*.

The Constitution in section 195(e) further provides that *"People's needs must be responded to, and the public must be encouraged to take part in policy making"*. Section 17 of the Constitution guarantees *"everyone a right, peacefully and unarmed, to assembly, to demonstrate, to picket and to present petitions"*. The Bill seeks to give effect to this and all other applicable provisions of the Constitution and its spirit. The principles of the Gauteng Petitions Act, 1998, as amended, are retained and improved upon.

The Bill is drafted in plain and simple English. The provisions have been arranged in a manner that achieves logical flow and sequencing. The impact that the Bill intends to have is to provide mechanisms that assist people to realise and exercise their constitutional rights.

2.2 Environmental Implications

None.

2.3 Financial implications

The petition process is a critical programme of the Legislature and such budget already exists for the programme.

3. PROPOSAL

A thorough analysis of the petitions process and its efficacy has been undertaken and good practices have been assimilated from countries with similar practices. There is also a need to address limitations attendant to the Act, 1998, which became apparent in

the process of drafting the regulations. It is on this basis that the following proposals are made:

- I. That the Gauteng Petitions Act, 1998 (Act No. 14 of 1998) and the Gauteng Petitions Amendment Act, 1999 (Act No. 5 of 1999) be replaced by the Gauteng Petitions Bill, 2002.
- II. That the Gauteng Petitions Bill, 2002 makes adequate provisions for dealing with petitions and gives maximum expressions to the principles underpinning the petitions process.
- III. That the Gauteng Petitions Bill, 2002 should be adopted to allow for the promulgation of the regulations that should be issued pursuant thereto.

4. CLAUSE-BY-CLAUSE EXPLANATION OF THE BILL

Clause 1: Definitions

This section proposes a few new or amended definitions:

- (a) "administrative support service", in order to remove the need for substantive provisions in the text of the Bill;
- (b) "appeal", to provide for the new process of appeal proposed in the Bill;
- (c) "petition", with the substantive portions now included in the text of the Bill;
- (d) "petitioner", with the substantive portions now included in the text of the Bill;
- (e) "prescribed", to make provision for regulations; and

- (f) "this Act", to ensure that the provision of the regulations are also binding.

Clause 2: Right to petition

This section states the right.

Clause: General principles

This section makes provision for the guiding principles to exercise the right. Subsection (3) places an obligation on the Speaker to promote and facilitate a fair and equitable process.

Clause 4: Petition

Subsection (1) deals with the different types of petitions. These provisions were formerly contained in the Gauteng Petitions Act, 1998 in the definition of "petition".

Subsection (2) describes the persons who have locus standi in respect of the submission of a petition. These provisions were also formerly contained in the definition of "petitioner".

Subsection (3) provides for the scope of the subject matter of petitions. A petition must obviously deal with a matter in respect of which the Legislature or the Provincial Executive has jurisdiction.

Subsection (4) states the instances where the Committee must refuse to consider a petition. The principles of the Gauteng Petitions Act, 1998 are repeated.

Subsection (5) describes the circumstances under which the Committee in its own discretion may refuse to consider a petition. The principles of the Act, 1998 are repeated. A provision from another part of the Act dealing with settled petitions is now included here. In addition, provision is now also made for petitions which contain defamatory statements or improper language, or which address matters which the petitioners have not yet brought to the attention of the relevant authority.

Clause 5: Submission of petition

This section provides for the general principles concerning the submission of a petition. The detail of the procedures and processes are prescribed in the regulations. Provisions are again made for the administrative support service to render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition meeting all the requirements imposed by the Bill so that that person may properly submit a petition.

Clause 6: Functions of Committee

The functions of the Committee are listed in this section. No new principles are introduced, but this provision combines a number of sections and subsection in the original Act, 1998.

Clause 7: Powers of Committee

The general powers of the Committee are listed in this section. Apart from existing measures taken from a variety of subsections in the original Act, 1998, this section now also makes provision for:

- (a) paragraph (c): The Committee may make a recommendation to an appropriate person or body in respect of the general approach to be followed in future in settling a request or complaint; and
- (b) subparagraph (iv) of paragraph (f): The Committee may now also make a recommendation to the Speaker to refer the petition to the national prosecuting authority.

Clause 8: Procedure for consideration of petition

The procedure for the consideration of a petition may be prescribed in the regulations and standing rules.

Clause 9: Right of appeal

This is a new provision. In terms of the rules of the law of administrative justice, a person against whom a finding has been made should be able to take that decision for reconsideration. In this proposal, a petitioner may appeal against –

- a refusal by the Committee to consider a petition;
- where applicable, a determination by the Chairperson to consider the petition submitted by that petitioner behind closed doors; or
- any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.

The appeal must be submitted and processed as prescribed in the regulations.

The Speaker must consider the appeal as prescribed in the regulations and that he or she may thereafter –

- dismiss the appeal;
- refer the appeal to the Committee for re-consideration; or
- refer the appeal and the petition file with a recommendation to the Legislature, another standing committee of the Legislature, the Premier or a member of the Executive Council of the Province, the relevant municipal council of a local government, an institution supporting constitutional democracy or the National Prosecuting Authority; or
- make any other determination, which he or she is competent in law to make in respect of the petition.

Clause 10: Delegation

This section makes provisions for the Committee to delegate its powers.

Clause 11: Sitting of Committee

This provision is based on its predecessor in the original Act, except that it is more specific in respect of the reasons for a meeting of the Committee to be held behind closed doors. This removes the threat of unconstitutionality.

Clause 12: Accountability of the Committee

This section is a combination of various provisions in the original Act, 1998. It does however also add the following new features:

- (a) subsection (4): A member of the Legislature has access to a petition file at any reasonable time;
- (b) subsection (5): The Legislature may whilst the Committee is considering a petition only conduct an interpellation in respect of the process of considering the petition and not in respect of the merits thereof; and
- (c) subsection (6): A member of the Legislature may whilst the Committee is considering a petition only put a question in respect of that petition in respect of the process of considering the petition and not in respect of the merits thereof.

Clause 13: Witnesses and material of evidence

This section is based on the existing provision, except that the following right required by rules of administrative justice is specifically included:

- subsection (5): A person appearing before the Committee to give oral evidence may be assisted by a representative of their choice; and

Clause 14: Retention of materials of evidence

This section is based on the existing provision, except that it now also allows the Committee to retain copies or reproductions of any document, object or other material of evidence indefinitely.

Clause 15: Offences

The existing provision has been refined. A new subsection (4) is proposed, to provide for an offence if a person wilfully obstructs the Committee, any member of the Committee or any member of the administrative support service from doing anything it, he or she may or must do in terms of this Act or if a person unduly influences the Committee, any member of the Committee or any member of the administrative support service to do anything it, he or she may not do in terms of this Act.

Clause 16: Penalties

The section makes provisions for penalties.

Clause 17: Regulations

This clause makes provision for the regulations which are needed for the process relating to the submission of a petition, the opening of a petition file by the administrative support service, the preliminary investigation of a petition by the administrative support service prior to the petition being considered by the Committee, the referral by the Speaker of the petition to the Committee.

Provision is also made for the procedures for the submission of an appeal by a petitioner, the procedures for the handling of a petition when the Legislature is not in session and the prevention of conflicts of interest.

The above-mentioned regulations are mandatory.

The Speaker may also in his or her discretion make additional regulations in respect of additional rights, duties or function not provided for in the Act, time frames to be adhered to and the disposal of closed files.

Clause 18: Repeal of laws

This clause makes provision for the repeal of the Gauteng Petitions Act, 1998 and the Gauteng Petitions Amendment Act, 1999.

Clause 19: Short title and commencement

This clause makes provision for the short title and commencement of the Act.

NOTICE 273 OF 2002

UMTHETHOSIVIVINYWA

Ukuhlinzeka ilungelo lokwethula izinxuso kusiShayamthetho sesiFundazwe saseGauteng; ukuhlinzeka imimisomigomo nenqubo engujikelele maqondana nokwethulwa kwezinxuso esiShayamthetho; ukuhlinzeka ukucutshungulwa kwesinxuso yiKomidi eMileyo enikezwe umsebenzi wokubhekana nezinxuso esiShayamthetho; ukuhlinzeka ukwesulwa komThetho weziNxuso UmThetho weziNxuso eGauteng(Gauteng Petitions Act) ka 1998 njengoba uchitshiyelwe; nokuhlinzeka izinto ezihambisana nalokho.

Makumiswe yisiShayamthetho saseGauteng, ngokulandelayo: -

Izincazelo

1. Okuqukethwe kulo mThetho kuyochazwa kanje ngaphandle kokuba kunikezwe ngenye indlela -

"insizakalo eyeseka ubuphathiswa" isho abaqashwa besiShayamThetho ababekwe ngunoBhala ngenjongo yokusetshenziswa nokubonelela ukulandelwa kwalo mThetho;

"ukudlulisa" kusho ukudlulisa ngokubekiwe kwisigaba 9;

"uSihlalo" usho usihlalo weKomidi;

"iKomidi" lisho iKomidi lesiShayamThetho usoMlomo alinikeze umsebenzi wokucutshungulwa izinxuso ngokwale sigaba, ukwakheka kwalo linamalungu esiShayamthetho ngokubekiwe ezikhathini ezinqunyiwe kuye nangokushintsha kwezinto ngokuhambisanayo nemiThethonqubo eMileyo (Standing Rules);

"umthethosisekelo" usho umThethosisekelo weRiphabhulikhi yaseNingizimu Afrika, ka 1996 (umThetho onguNombolo 108 ka 1996);

"umKhandlu Omkhulu" usho umkhandlu omkhulu wesiFundazwe ngokubekiwe kwisigaba 132 somThethosisekelo;

"isiShayamthetho" sisho isiShayamthetho sesiFundazwe ngokubekiwe kwisigaba 104 somThethosisekelo;

"umkhandlu kamasipala" usho isiphathimandla sikhulumeni wasekhaya esiFundazwe;

"isinxuso" sisho isikhalazo noma isicelo noma isethulo noma isiphakamiso esethulwa ngonxusayo kwiKomidi ngokwalo mThetho;

"onxusayo" usho umuntu owethula isinxuso ngokwalo mThetho, okubala umuntu odalie noma umuntu ebusweni bomthetho;

"okubekiwe" kusho okubekwe umthetho-mgomo ngokwesigaba 17;

"isiFundazwe" sisho isiFundazwe saseGauteng esibekiwe ngokwesigaba 103 somThethosisekelo;

"isiphathimandla esiqondene" sisho umnyango wesiFundazwe, umkhandlu kamasipala, noma esinye isikhungo sikhulumeni esisebenza ngaphansi kwesandla sesiShayamthetho;

"unoBhala" usho umuntu oqashiwe ngokwesigaba 12(1)(a) somThetho weziNsiza esiShayamthetho sesiFundazwe saseGauteng (Gauteng Provincial Legislature Services Act), ka 1996 (UmThetho onguNombolo 5 ka 1996);

"usoMlomo" usho usoMlomo wesiShayamthetho okhethwe ngokwesigaba 111 somThethosisekelo;

"imiThethonqubo eMisiwe" isho imithethonqubo nezinhlelo ezakhelwe ukuqhuba umsebenzi wesiShayamthetho ngokwesigaba 116 somThethosisekelo;

"lo mThetho" ubandakanya inqubo-migomo ebekwe ngaphansi kwalo mThetho.

Ilungelo lokufaka isinxuso

2. Noma ubani angasehula isinxuso ngokwalo mThetho.

Imimiso-migomo engujikelele

3. (1) Ofake isinxuso angasehula nganoma yiluphi ulimi olusemthethweni eNingizimu Afrika.

(2) iKomidi kumele -

(a) lihloniphe, livikele futhi likhuthaze amalungelo ofake isinxuso ngokuhlinzeke kulo mThetho;

(b) lithathe izinyathelo ezifanele ukukhuthaza nokugqugquzelela ukuthi izakhamuzi zesiFundazwe zibambe iqhaza kwinqubo kahulumeni esiFundazwe, ikakhulukazi labo bantu abancisheke amathuba ngandlela thize; futhi

(c) likhuthaze intando yeningi ngokusebenza ngendlela ebalayo ngezenzo nephumele obala lapho libhekisisa izinxuso.

(3) UsoMlomo kumele akhuthaze futhi agqugquzelele inqubo enobuqiniso nokucabangela lapho kucutshungulwa isinxuso esethulwe ngokwalo mThetho esiShayamthetho.

Isinxuso

4. (1) Isinxuso singaba -

(a) yisinxuso esisodwa, esizihambela sodwana siqhamuka kumuntu oyedwa ofake isinxuso, maqondana nesikhalazo noma isicelo esithize ;

(b) isinxuso senhlangano, esiyisethulo esizihambela ngasodwana esiqhamuka kwinhlangano noma koyedwa ofake isinxuso ethunye yinhlangano ukuthi makethule leso sinxuso, maqondana nesikhalazo noma isicelo;

- (c) isinxuso sabaningi, esinamasignesha amaningi abantu abahlukahlukene abafake isinxuso maqondana nesikhalazo noma isicelo; noma
- (d) isinxuso seningi noma iqembu, esinesethulo esisodwa noma esiqhamuka kwabaningi abafake isinxuso, maqondana nesikhalazo noma isicelo esifanayo noma okucishe kufane.
- (2) Isinxuso singethulwa umuntu –
- (a) ozenzela yena ngokwakhe;
- (b) owenzela omunye umuntu ngesizathu esithize yena engezimele yena mathupha;
- (c) oyilungu noma omele iqembu labantu abathize; noma
- (d) omele izinto ezithinta umphakathi.
- (3) Ngokuhambisanayo nesigatshana (4) isinxuso singaba nganoma yiluphi udaba –
- (a) olungaphansi kwamandla esishayamthetho sesifundazwe ngokubekiwe kumThethosisekelo;
- (b) olungaphansi komkhandlu Omkhulu esiFundazwe ngokubekiwe kumThethosisekelo;
- (c) olunikezwe ilungu lomKhandlu Omkhulu ngokomThethosisekelo; noma
- (d) maqondana nokuqapha kwesiFundazwe siqaphe uhulumeni wasekhaya ngokubekiwe kumThethosisekelo.
- (4) IKomidi kumele lenqabe ukubhekisisa isinxuso –
- (a) esingekho phakathi kwalezo ezibekiwe kwisigatshana (3);
- (b) esimaqondana nodaba olusezithebeni zenkantolo noma olusaqulwayo engxenye noma kwisikhungo ngokubekiwe kumThethosisekelo;

- (c) maqondana nokugwetshwa nokujeziswa yinkantolo yamacala ukuthi umuntu makadonse isikhathi esithize ejele; noma
 - (d) sikhuluma ngodaba, olungaphansi kwendima yekhomishani ephenyayo, emiswe ngokomThetho wamaKhomishani esiFundazwe (Provincial Commissions Act), ka 1997 (UmThetho onguNombolo 1 ka 1997).
- (5) IKomidi lingenqaba ukubhekisisa isinxuso-
- (a) esingabonakali;
 - (b) esingenayo imininingwane okutholakala kuyo onxusayo futhi, lapho kufanele, igama likasosiyeshini noma iqembu elifakelwe isinxuso;
 - (c) ofake isinxuso engasayinile, ngaphandle uma osifakile isinxuso engakwazi ukubhala futhi-
 - (i) ewenzile umaka kwisinxuso waba yinkomba yokuthi ugunyazile ukuthi isinxuso masethulwe; futhi
 - (ii) lowo maka kube owenziwe phambi kofakazi ababili abakwaziyo ukubhala futhi ukusayina kwabo isinxuso kuchaza ukuthi bayafakaza ukuthi umaka lowo ungowofake isinxuso;
 - (d) esikhuluma ngodaba iKomidi eselike lalubhekisisa ngaphambilini ngaphandle uma isinxuso leso siqukethe imininingwane emisha engase idale omunye umphumela odabeni oselubhekelelwa;
 - (e) siqukethe inkulumo elulaza igama lomuntu noma ulimi olunamagama aziswana;
 - (f) kwesinye isikhathi, uma kuwudaba obelungakethulwa phambi kwesiphathimandla esiqondene, noma uma isiphathimandla engasinikezile isikhathi esanele ukuthi silubheke udaba.

Ukwethula isinxuso

5. (1) Isinxuso kumele sethulwe kuphela ngokwalo mThetho.
- (2) abelekeleli kwezobuphathiswa kumele belekelele ngazo zonke izindlela, ngaphandle kwezezimali, kunoma ubani ongakwazi ukwethula isinxuso esihambisana nezidingongqangi ezibekwe yilo mThetho ukuze isinxuso asethule ngendlela eyiyo.
- (3) Abelekeleli kwezobuphathiswa kumele benze konke okubekiwe ukulungiselela isinxuso ukuze iKomidi isicubungule.

Imisebenzi yeKomidi**6. The IKomidi kumele -**

- (a) lamukele zonke izinxuso ezethulwe ngokwalo mThetho;
- (b) ngokuhambisanayo nezigaba 4(3), (4) no (5), licubungule zonke izinxuso ezethulwe ngokwalo mThetho;
- (c) liqophe zonke iziphakamiso noma ubufakazi obethulwe bukhoma ngokwesigaba 7(a);
- (d) Uma isinxuso sidluliselwe kwiLungu lomKhandlu Omkhulu noma kumasipala ngokwesigaba 7(e) -
- (i) liyalele umuntu noma umgwamanda okudluliselwe kuye isinxuso ukuthi makasicubungule, athathe isinqumo noma isiphakamsiso maqondana naleso sinxuso noma libhekane nesicelo noma isikhalazo esiphakanyisiwe kwisinxuso lesa; futhi
- (ii) litshele umuntu noma umgwamanda obekudluliselwe kuye noma kuwo isinxuso ukuthi makahlanganise umbiko awubhale phansi maqondana nezinyathelo lowo munto noma umgwamanda azithathile ukubhekana naleso sikhalazo, isicelo noma isiphakamiso noma

- umyalelo oqhamuke kwiKomidi, lokho nje okuqondene, nesizathu sokuthatha lezo zinyathelo;
- (e) uma lenqaba ukubhekisisa isinxuso ngokwesigaba 4(3), (4) no (5) noma uma kade singethulwanga ngokwalo mThetho, libhalele ofake isinxuso limazise ngalokho ofake isinxuso kanjalo nangezizathu zesinqumo elisithathile;
- (f) kuthi makwata wonke, lazise isiShayamthetho ngezinxuso elizitholile ngaleso sikhathi kanjalo nangazo zonke izinto elizenzile kulokho, okubala:
- (i) ukuphendula, ukuzinikela kanjalo nokugcinwa kwesikhathi lapho kucutshungulwa izinxuso; kanye
- (ii) nokuphumelela kwenqubo yokusebenza nenqubo yezinxuso; futhi
- (g) litshele abelekelela kwezobuphathiswa ukuthi bamazise ngesikhathi esifanele ofake isinxuso -
- (i) izikhawu ezithile, ngenqubekela phambili maqondana nesinxuso sakhe;
- (ii) nganoma yisiphi isinqumo esithathwe yikomidi maqondana nesinxuso, nesizathu saleso sinqumo;
- (iii) uma ofake isinxuso limumema iKomidi ukuthi azokwethulela bukhoma iKomidi maqondana nesinxuso noma azibizele ufakazi;
- (iv) ngosuku, isikhathi nendawo lapho isinxuso sizocutshungulwa khona nokuthi ofake isinxuso angawethamela umhlangano weKomidi;
- (v) nganoma yikuphi ukudlulisela komunye umuntu ngokubekiwe kulo mThetho;
- (vi) ngezinye izizosumbululo angazisebenzisa ofake isinxuso futhi;

- (vii) Nangokuthi ofake isinxuso uyakwazi nganoma yisiphi isikhathi esamukelekile ukuyovula abheke ifayela yezinxuso.

Amandla eKomidi

7. IKomidi -

- (a) lingamema ofake isinxuso ukuthi -
- (i) athayisele isinxuso sakhe ngokwenza izethulo bukhoma noma ngokubhalwe phansi;
 - (ii) abize ufakazi ozokwethula ubufakazi obubhaliwe noma bukhoma phambi kweKomidi;
- (b) lingenza isiphakamiso kumuntu noma umgwamanda ofanele ngenhloso yokubhekana nesicelo noma isikhalazo esikwisinxuso ngendlela ezokwanelisa ofake isinxuso;
- (c) lingenza isiphakamiso kumuntu noma umgwamanda ofanele maqondana nenqubo efanele ukulandelwa esikhathini esizayo lapho kubhekwana nezicelo noma izikhalazo;
- (d) uma ofake isicelo elicelile, lingaxazulula ingxabano noma isikhalazo, lilungise okwenziwe, lilungise okungenziwanga, maqondana nezinye izinto ezngaphandle kwalezo eziqukethwe kumthetho othize ngokulamula noma ngokuxoxisana;
- (e) lidlulisele phambili isinxuso nesiphakamiso, uma sikhona, likudlulisele kwilungu lomKhandlu Omkhulu noma kumkhandlu kamasipala ukuze bakubhekelele bathathe nesinqumo maqondana nesikhalazo noma isicelo esikwisinxuso.
- (f) lingenza isiphakamiso lisibhekise kusoMlomo ukuze asidlulisele -

- (i) kwisiShayamthetho;
- (ii) kwelinye ikomidi lesiShayamthetho;
- (iii) kwiLungu lomKhandlu Omkhulu.
- (iv) kumkhandlu kamasipala eSiFundazwe;
- (v) kumgwamanda oweseka umThethosisekelo wentando yeningi omiswe yiSahluko 9 somThethosisekelo; noma
- (vi) kumShushisi oyisiPhathimandla kuZwelonke;
- (g) lingaziphothulela lona ngokwalo isinxuso uma linquma ukuthi akukho zinyathelo, noma ezinye izinyathelo, lokho nje okuqondene, ezingathathwa ukulungisa isimo ngendlela engenelisa ofake isinxuso;
- (h) uma isinxuso sidluliselwe kwiLungu lomKhandlu Omkhulu noma kumkhandlu kamasipala ngokwesigaba 6(d) bese lowo muntu noma umgwamanda behluleka ukuhambisa ngokwesigaba 6(d) noma lowo muntu noma umgwamanda benze noma baphendula ngokungenelisiyo -
 - (i) lifake isikhalazo kuMvikeli womPhakathi noma kuNdunankulu;
 - (ii) lithathe noma yiziphi izinyathelo ezisemthethweni iKomidi elumelekile ukuthi zingathathwa;
- (i) uma isikhalazo noma isicelo okukwisinxuso kuxazululiwe futhi kwamanelisa ofake isinxuso, liyivale ifayela yesinxuso;
- (j) lidlulisele imisebenzi noma yimaphi amandla alo ngokwesigaba 10;

Inqubo yokubhekisiswa kwesinxuso

8. Inqubo yokubhekisisa isinxuso injengoba ibekiwe kwinqubomgomo nangokubekiwe kwimiThethonqubo Emileyo.

Ilungelo lokudlulisa isinxuso

9. (1) Umfaki-sinxuso angaludlulisela kusoMlomo udaba -
- (a) lapho iKomidi lenqaba ukubhekisisa isinxuso;
 - (b) uma kwenzekile, usihlalo wanquma ukuba udaba lulalelwe ngasese; noma
 - (c) lapho kwenziwe isiphakamiso, kwathintwa omunye umuntu ngalolo daba, kumbe kwabhekwa esinye isinqumo seKomidi emveni kokuba selucutshunguliwe udaba lwesinxuso.
- (2) Lapho kwethulwa isinxuso kufanele ukuba kulandelwe uhlelo olubekiwe.
- (3) UsoMlomo kufanele abhekele ukudluliswa kwesinxuso njengoba kubekiwe kanti unakho ukuthi emveni kwalokho -
- (a) akuchithe ukudluliswa kwesinxuso;
 - (b) ethule udaba lolu lwesinxuso ezithebeni zeKomidi ukuze luphinde lubhekwe;
 - (c) ethule ifayela eliqukethe udaba lokudluliswa kwesinxuso bese efaka nesincomo sakhe -
 - (i) kusiShayamthetho;
 - (ii) kwiKomidi elimile lesiShayamthetho;
 - (iii) kuNdunankulu kumbe iLungu loMgwamanda oMkhulu esiFundazwe;
 - (iv) kumgwamanda kamasipala wasekhaya;
 - (v) kwisikhungo eseseka inqubo yentando yeningi ngokubekiwe kwisahlukoi 9 somThethosisekelo; noma
 - (vi) kuMshushisi oyisiPhathimandla kuZwelonke; kumbe
 - (d) athathe isinqumo asigunyazwe ngumthetho malungana nesinxuso.

(4) usoMlomo kufanele kuthi sekudlule isikhathi elwemukelile lwalubhekisisa udaba lokudluliswa kwesinxuso, abhale umbiko awubhekise kusiShayamthetho.

UbuPhathiswa

10. (1) IKomidi lingawadlulisa amandla alo okusebenza kunoma iliphi ilungu leKomidi maqondana nodaba lwesinxuso.

(2) iLungu elibekiwe kwisigatshana (1) liqokwa nguSihlalo.

(3) uSihlalo kufanele anike lelo lungu igunya elibhalwe phansi lokuthi licubungule isinxuso esithize.

(4) uSihlalo angalihoxisa noma nini lelo gunya lokubhekisisa abelinikeze ilungu isinxuso lingakaqali ukusebenza ngalolo daba.

(5) iLungu elibhekisisa isinxuso, kufanele lithi lingawuphothula lowo msebenzi bese libikela IKomidi ngelikutholile.

(6) akukho kulesi sigaba okuvimbela iKomidi ukuba lisebenzise amandla kumbe lenze umsebenzi eliwunikeziwe ngokwalesi sigaba.

(7) ILungu eliqokwe ngokwalesi sigaba linamandla adingeka njengokulindelekile ukuba lifeze umsebenzi osezandleni zalo.

Ukuhlangana kweKomidi

11. (1) Ngokwezinhloso zokulalela ubufakazi nokubhekisisa isinxuso, iKomidi lingaahlangana ngosuku nangesikhathi nasendaweni eseSiFundazwe eyoqokwa nguSihlalo.

(2) USihlalo kufanele akhiphe isaziso somphakathi salowo mhlango ngokuhambisanayo nemiThetho-nqubo eMisiwe.

(3) USihlalo kufanele ukuba ajube ithimba elizosebenza lilungiselele lomhlango ukuba ngesikhathi esifanele -

(a) liqinisekise ukuthi izincwadi ezibiza ofakazi sezikhishiwe ngendlela efanelekile futhi banikezwa zona njekwenqubo;

- (b) libhalele lazise umfaki sinxuso nganoma yini ephathelene nesinxuso sakhe okufanele ukuba ayazi ngokwalo mThetho, nanoma imiphi eminye imithetho noma imiThetho eMileyo;
- (c) uma kunesidingo, liqinisekise ukuthi okuqukethwe ifayela lesinxuso kuhunyushelwe olimini olusetshenziswa yiKomidi;
- (d) lenze nanoma imuphi omunye umsebenzi ozosiza ukuba IKomidi lilusebenze kahle udaba lokubhekisisa isinxuso futhi liyenze kahle neminye imisebenzi yalo ngokwalo mThetho.

(4) Ubufakazi obethulwa phambi kweKomidi kufanele bethulwe emphakathini ovulelekile ngaphandle uma -

- (a) kuzobhekela ubulungiswa; noma
- (b) kuzobhekela ukuphepha komfaki sinxuso kumbe ufakazi ukuba udaba lulalelwe ngasese.

(5) Ithimba eliqokelwe ukusebenza kulo ludaba kufanele ukuba linikeze uSihlalo uhla lwezinxuso ezingakaphothulwa yiKomidi ukuze zethulwe kulowo nayilowo mhlango weKomidi.

Ukubala kweKomidi ngezenzo

12. (1) IKomidi kumele libikele isiShayamthetho ngokubekiwe kwisigaba 6(1)(f) no (g).

(2) udaba oluphakanyiswe kumbiko weKomidi lesiShayamthetho lungavulelwa inkundla uma engaphezu kwamahlanu amalungu afuna ukuba kwenziwe njalo.

(3) IsiShayamthetho singalubuyisela noma iluphi udaba oluqukethwe kumbiko owethulwe kuso yiKomidi kulo ukuba luphinde lucutshungulwe yiKomidi.

(4) Ilungu lesiShayamthetho linegunya lokuthola ifayela lesinxuso noma yingasiphi isikhathi esamukelekile esinomqondo.

(5) IsiShayamthetho singakwazi ukuthi ngesikhathi IKomidi libhekisisa isinxuso sona sibe sibuzwa kuphela imibuzo emaqondana nokuqhubekayo lapho kucutshungulwa isinxuso hhayi maqondana nengqikithi ye isinxuso; futhi

(6) Ilungu lesiShayamthetho lingakwazi ukuthi ngesikhathi IKomidi libhekisisa isinxuso lona libe libuzwa kuphela imibuzo emaqondana nokuqhubekayo lapho kucutshungulwa isinxuso hhayi maqondana nengqikithi yesinxuso.

Ofakazi nezinto eziwubufakazi

13. (1) ngenhloso yokusebenza udaba oluphambi kwalo, iKomidi lingakwazi -

- (a) ukubiza umuntu ukuthi azokufakaza ngenkathi kuhlangele iKomidi, kumbe akhiphe ubufakazi obungaba yincwadi, umbhalo, into nokunye okungadingwa yiKomidi; noma
- (b) ukubiza umuntu ukuthi azokufakaza ngenkathi kuhlangele iKomidi, kumbe akhiphe ubufakazi obungayincwadi, umbhalo, into nokunye okungadingwa yiKomidi ngesikhathi nasendaweni ekhonjwe yincwadi leyo embizayo.

(2) Incwadi ebiza ufakazi njengokubekiwe kwisigatshana (2) kufanele -

- (a) isayindwe futhi ikhishwe uSihlalo;
- (b) ilubeke lucace udaba ufakazi abizelwa lona;
- (c) icacise usuku, nesikhathi, kanye nendawo lapho ebizelwa khona ufakazi kumbe omele inhlangotho ethize lapho kufanele avele phambi kweKomidi;
- (d) aziswe lowo obizelwa ukuzofakaza ngemithetho yesigatshana (4); futhi

(e) ayinikezwe ngesikhathi esifanele umuntu ebhekiswe kuye ngeposi elirejistiwe, ayinikwe esandleni, nanoma ngayiphi enye indlela ebekiwe.

(3) umuntu ovela ngaphambi kweKomidi ukuzokwethula bukhoma ubufakazi kufanele ngaphambi kokunikeza lobo bufakazi afungiswe nguSihlalo kumbe omunye amgunyazile ukuba enze njalo ngokuthi uzokukhuluma iqiniso lodwa.

(4) Noma imuphi umuntu ongasebenzeli isiFundazwe kumbe umkhandlu kamasipala kufanele akhokhelwe ngokuzokwethula bukhoma ubufakazi phambi kweKomidi njengokubizwa kwakhe ngenchwadi ngokwale sigatshana, inkokhelo yakhe kube yileyo enqunyelwe ofakazi baseNkantolo ephakeme yamaJaji eRiphabhuliki.

(5) Umuntu ovela phambi kweKomidi ukuzokwethula bukhoma ubufakazi angelekelelwa ummeli ayokuzikhethela yena.

Ukugcinwa kwezinto eziwubufakazi

14. (1) IKomidi kufanele lenze amakhophi kumbe imifanekiso noma ngayiphi indlela, yezinto eziwubufakazi.

(2) IKomidi kufanele liyigcine leyo mifanekiso isikhathi esinganqunyiwe emveni kokuba sekuphuthuliwe ukubhekelelwa kwesinxuso.

(3) Ithimba eliqokelwe ukusebenza lona kufanele lifake leyo mifanekiso namakhophi kwifayela laleso sinxuso, njengokubekiwe kwisigatshana (1) .

Ukwephulwa komthetho

15. (1) Umuntu obizelwe ngokufanele ukuba azokwethula ubufakazi ngokwesigaba 13 bese ngaphandle kwesizathu esanelisayo -

- (a) angaveli phambi kweKomidi ngosuku abizwe ngalo nasendaweni abizelwe kuyo okubhalwe njengoba kubhaliwe encwadini embizayo;
- (b) angahlali kuze kube uSihlalo omkhululayo lapho kuhlange IKomidi;
- (c) enqabe kumbe ehluleke ukufunga ukukhuluma iqiniso njengokubekiwe kwisisigaba 13(3) lapho uSihlalo emtshela ukuba afungele ukukhuluma iqiniso;
- (d) enqabe kumbe ehluleke ukukhipha incwadi, umbhalo, into, kumbe okunye okuwubufakazi obukuyena kumbe okungaphansi kwesandla sakhe kodwa ebe eyaliwe ukuthi akakukhiphe

wenza icala.

(2) Umuntu othi ebizwe ngendlela eyiyo ukuthi azokwethula ubufakazi ngokwesigaba 13 wabuya wafunga phambi kweKomidi ukuthi uzokukhuluma iqiniso lonke neqiniso lodwa -

- (a) kodwa angaphenduli ngokugcwele nangokweqiniso imibuzo ebhekiswe kuyena ngokusemthethweni; kumbe
- (b) kuthi ngesibomu, afakaze ngokungeyikho,

wenza icala.

(3) Umuntu -

- (a) owesabisa, athikameze, kumbe afake umuyo wezikhova umuntu obizelwe ukuzokwethula ubufakazi ngokwesigaba 13 ukuze -
 - (i) enqabe kumbe angaphumeleli ukuzokwethula bukhoma ubufakazi phambi kweKomidi;
 - (ii) ethule ubufakazi obungeyibo ngesibomu phambi kweKomidi; noma
 - (iii) enqabe kumbe ehluleke ukukhipha incwadi, umbhalo, into, kumbe okunye okuwubufakazi obukuyena kumbe okungaphansi kwesandla sakhe ebe eyaliwe ukuthi akakukhiphe ;

- (b) okhishelwe ngendlela eyiyo incwadi embizela ukuthi azokufakaza ngokwesigaba 13 bese ekhipha incwadi, umbhalo, into, kumbe okunye okuwubufakazi phambi kweKomidi, ebe azi ukuthi kugunyathiwe;
- (c) olimaza, afihle, agunyathe incwadi, umbhalo, into, kumbe okunye okuwubufakazi akwaziyo ukuthi kungase kube mqoka ekucutshungulweni kwalesi sinxuso esifakiwe; noma
- (d) owethula ngabomu ubufakazi obungeyibo nobuzokwedusa iKomidi

wenza icala.

(4) noma imuphi umuntu okuthi ngenhloso athikameze kumbe afakele iKomidi umoya wezikhova, noma iliphi ilungu leKomidi noma iliphi ilungu lethimba eliqokelwe ukusebenza lilungisele ukuhlangana kweKomidi ukuze kube nomphumela wokuthi enze kumbe angenzi lokho akujutshelwe ngokwezimiso zalo Mthetho, unecala

Izizeziso

- 16.** Umuntu otholakale enecala ngaphansi kwesigaba 15 angahlawuliswa imali kumbe agqunywe ejele isikhathi esingebe ngaphezulu kwezinyanga ezi 12 kumbe kokubili inhlawulo yemali

Inqubo-Migomo

- 17.** (1) USoMlomo kufanele ashaye imiThetho-Migomo malungana –
- (a) nezinhlelo nezinqubo okufanele ukuba zilandelwe lapho kwethulwa izinxuso;
 - (b) nokubhaliswa kwesinxuso nokuvulwa kwefayela lesinxuso yithimba eliqokelwe ukusebenza lilungisele ukuhlangana kweKomidi;

- (c) nokucutshungulwa kokuqala kwesinxuso okwenziwa yithimba eliqokelwe ukusebenza lilungisele ukuhlangana kweKomidi;
 - (d) nezinhlelo nezinqubo okufanele ukuba zilandelwe lapho kwethulwa izinxuso umethuli sinxuso;
 - (e) nezinhlelo nezinqubo okufanele ukuba zilandelwe lapho kwethulwa isinxuso ngenkathi IsiShayamthetho singasebenzi; kanye
 - (f) nenqubo elandelwayo lapho kubonakala sengathi ubuqotho bungase busoleke ngenxa yokushayisana komsebenzi.
- (2) USoMlomo angayishaya imiThetho-Migomo eqondene -
- (a) namalungelo kamfaki sinxuso njengokubekiwe kulo mThetho;
 - (b) nanoma imuphi umsebenzi nesibopho okungahlinzekelwanga kwisigatshana (1), okulindeleke ukuba kwenziwe yiKomidi
 - (c) nanoma imuphi umsebenzi nesibopho okungahlinzekelwanga kwisigatshana (1), okufanele ukuba kwenziwe yithimba eliqokelwe ukusebenza lilungisele ukuhlangana kweKomidi;
 - (d) nezikhathi okufanele ukuba zigcinwe ngesikhathi sanoma iluphi uhlelo nanoma iyiphi inqubo njengokubekiwe kulo mThetho;
 - (e) nokugcinwa nokulahlwa kwefayela lesinxuso uma uhlelo lokusibhekisisa seluphothuliwe;
 - (f) nezinqubo nohlelo lokukhishwa nokuhanjiswa kwezincwadi ezibiza ofakazi odabeni ngokwezinhloso zalo mThetho;
 - (g) nanoma isiphi isinyathelo esiyothathwa isiShayamthetho, IKomidi kumbe uNobhala ukugqugquzela umphakathi wesiFundazwe ukuba

ubambe iqhaza ezinhlelweni zikaHulumeni
wesiFundazwe; noma

- (h) ngokujwayelekile, nanoma iluphi olunye udaba olungabhekewanga kule sigaba okungaba nesidingo sokuba kwenziwa ukuze kuthuthukiswe izinjongo zalo mThetho.

Ukuqedwa kwemiThetho

18. UmThetho weziNxuso eGauteng (Gauteng Petitions Act), ka 1998 (UmThetho onguNombolo 14 ka 1998) nomThetho Ochibiyela iziNxuso eGauteng (Gauteng Petitions Amendment Act), ka 1999 (UmThetho onguNombolo 5 ka 1999) iyaqedwa.

Isihloko kafushane nokuqala ukusebenza

19. lo mThetho ubizwa ngoMthetho weziNxuso eGauteng, ka 2002, futhi uyoqala ukusebenza ngosuku oluyobekwa ngusoMlomo ngesimemezelo ayosikhipha *kwiPhephandaba lesiFundazwe*.

NOTICE 273 OF 2002

IMEMORANDAMU ECHAZAYO NGEZINJONGO ZOMTHETHOSIVIVINYWA WEZINXUSO KA 2002

1. ISIZATHU SOMTHETHOSIVIVINYWA

1.1 Okuhlosiwe ngomThethosivivinywa

Lo mThethosivivinywa wakhelwe ukufakwa esikhundleni somThetho weziNxuso eGauteng (UmThetho weziNxuso eGauteng), ka 1998 (umThetho onguNombolo 14 ka 1998) kanye neziChibiyelo zomThetho weziNxuso eGauteng (Gauteng Petitions Amendment Act), ka 1999 (umThetho onguNombolo 5 ka 1999), ukuze izinto eziqondene nezinxuso zisetshenzwe ngaphansi kwemithetho yomThethosivivinywa weziNxuso eGauteng, ka 2002.

1.2 Imvelaphi

IsiShayamthetho sesiFundazwe saseGauteng samisa umThetho weziNxuso eGauteng ngo 1998. Izinjongo zomThetho kwabe kungukufeza imithetho yomthethosisekelo osiphoqayo isishayamthetho ukuthi masimise izindlela zokuthi umphakathi ukwazi ukubamba iqhaza esishayamthetho. UmThetho waphinda futhi wacacisa amalungelo okuthi umphakathi ukwazi ukufaka izinxuso kanjalo nohlaka nendlela ukuthi isishayamthetho sikwazi ukucubungula izinxuso.

Ekuqaleni kuka 2001, kwaqala umsebenzi wokubhala inqubo-migomo ezosebenzisana nomThetho. Sewukhiqiziwe umbhalo

wokugcina wenqubo-migomo. Umsebenzi wokubhala inqubo-migomo kanye nesipiliyoni esitholakale ekuhambeni kwesikhathi lapho ususetshenziswa umThetho sakhombisa ukuthi umThetho kade ungayihlinzekele ngokwanele inqubo esophiwe kumthetho-mgomo omaqondana nalolu daba.

1.3 Izingxoxo

Kwathi lapho sewushayiwe umThetho weziNxuso eGauteng, ka 1998 kanye nezichibiyelo zomthetho weziNxuso eGauteng, ka 1999 (umThetho onguNombolo 5 ka 1999), kwase kuqalwa ucwaningo lokuphenya ngokusebenza ngempumelelo kwezinqubo zezinxuso kanye neyokuBamba komPhakathi iqhaza. Ucwaningo lwalandelwa umbiko womHlangano Wokufundisana weziNxuso nokuBamba komPhakathi iqhaza maqondana neziphakamiso eziqukethwe lapho kanjalo nokuvakasha kweKomidi Elimileyo leziNxuso nokuBamba komPhakathi iqhaza lavakashela eJamilani nase-Scotland. Lokhu kuvakashela e-Germany nase-Scotland kwakubalulekile ngenxa yokuthi inqubo yezinxuso esiShayamthetho saseGauteng yakhelwe phezu kwesibonelo seKomidi i-German Bundestag Committee. Ngesikhathi kubhalwa inqubo-migomo yomThetho ka 1998, kwakumele kulandelwe iziphakamiso ezitholakale ngesikhathi kuqhutshwa umsebenzi ohlola indlela yokusebenza.

- I. Kwakhishwa imiyalelo yokuthi makubhalwe inqubo-migomo ehambisana nesigaba 18 somThetho ka 1998. Kepha umyalelo wawungagcini nje ngokuthi makubhalwe inqubo-migomo. Wawubeke nokuthi makubuyekezwe umThetho wakuqala ukuze ulungiswe wenziwe ngcono.
- II. Kwathi lapho kubhalwa inqubo-migomo, kwaqala kwabonakala ukuthi umThetho ka 1998 qwuyihlinzekele ngokwanele inqubo esophiwe laphaya emaphepheni omthetho-mgomo kanjalo

nendlela entsha yokucabanga eqhamuke kucwaningo lokuthola ukuphumelela kokusebenza kwenqubo. Ngakho-ke, imibhalo yokuqala yenqubo-migomo iqukethe imithetho engahlinzekelwe kumThetho wokuqala.

- III. Lokho-ke kudala isimo esiphambene nomthetho ngenxa yokuthi inqubo-migomo ingemukelwe kuze kube umthetho oyisona sendlalelo uyaqala uhlinzekela ukufakwa kwenqubo-migomo enokwehluka kumThetho weziNxuso eGauteng, ka 1998, kule ndlela owakheke ngayo njengamanje. Ngamanye amazwi kumele uqale ubuyekezwe umThetho ngaphambi kokuthi inqubo-migomo yethulwe ukuze yamukelwe.
- IV. Ngakho-ke umThethosivivinywa ubekwe ezithebeni ukuze ulungise le simo esingalungile okukhulunywa ngaso ku (iii) ngenhla. Esikhundleni sokuthi kuchitshiyelwe umThetho, okungaba umsebenzi onzima nodidayo, kuhlongozwa UmThethosivivinywa omusha.
- V. UmThethosivivinywa uyigcinile imiqondo eyisendlalelo nemimiso-migomo kumThetho, wabuye futhi wakwazi ukufeza isimo esisebenza ngokunomqondo nokulandelana okuzwakalayo, walungisa ukuphindaphinda obekukhona wasusa nemithetho engezwakali nengadingeki. UmThethosivivinywa usubhalwe ngendlela esebenzisa ulimi olulula ukuze ube umthetho osebenziseka noqondakala kalula.
- VI. UmThethosivivinywa uyayishintsha inqubo yokufaka izinxuso. Ngesikhathi UmThetho wona wenza umhlinzeko, iKomidi eliMileyo leziNxuso nokuBamba komPhakathi Iqhaza (Petitions and Public Participation Standing Committee) (PPPSC) lingazidlulisela kwamanye amakomidi izinxuso,

umThethosivivinywa wona i-PPPSC uyithatha njengalona Komidi eliqondene ngqo nezinxuso. Lokho-ke kusho ukuthi i-PPPSC iyona ezobhekelela zonke izinxuso ngenhloso yokuzixazulula idlulise kuphela lezo ezikhuluma ngomthetho-mgomo noma ngezihloko ezimayelana nomthetho wesishayamthetho oqondene namaKomidi eziKhundla (Portfolio Committees).

- VII. UmThethosivivinywa uhlinzekela inqobo-migomo yokubhekelela izinxuso ngesikhathi isiShayamthetho sisekhefina. Uhlelo lokubhekana nezinxuso ekupheleni kwesikhathi sesishayamthetho nalo futhi lungase lumiswe.
- VIII. UmThethosivivinywa weziNxuso eGauteng, ka 2002 uhlinzeke ngemithetho eyanele ukuthi kumiswe izikhathi ezifanele ukugcinwa neziyisibopho kubo bonke ababandakanyekayo lapho kubhekelelwa izinxuso.
- IX. UmThethosivivinywa uhlinzeka ukuthi iKomidi elinikezwe umsebenzi wokubhekelela izinxuso libikele isiShayamthetho ngokubhekelela kwalo izinxuso.
- X. Okunye futhi okubaluleke kakhulu ukuthi umThethosivivinywa ucacisa imithetho-nqubo yobulungiswa bobuphathiswa ngokuhlinzeka ngohlelo lokudlulisela phambili udaba.

2. UMPHUMELA WOMTHETHOSIVIVINYWA

2.1 Umphumela Kwezokuhlalisana

Kubalulekile ukuthi umThethosivivinywa weziNxuso eGauteng, ka 2002 kube owakhelwe phezu kokubaluleka nemimiso-migomo equkethwe umThethosisekelo. Okubaluleke kakhulu kokuqukethwe

yilokhu yilokho okubeka emahlombe esiShayamThetho esiFundazwe ukuthi masithathe izinyathelo ezibonakalayo ukukhuthaza ukuthi abahlali besiFundazwe nabo babambe iqhaza ekwakhiweni komthetho. Isigaba 118(1)(a) somThethosisekelo sihlinzeka ukuthi *"isiShayamthetho sesiFundazwe kumele sikhuthaze umphakathi ukuthi ulibambe iqhaza lapho kushaywa umthetho nakwezinye izinto eziqondene nesishayamthetho kanye neKomidi laso"*. Kodwa-ke, lokhu kumele kufundwe ngokubandakanya isigaba 115(d), esivumela futhi sinikeze amandla *kwisishayamthetho sesifundazwe noma iliphi lamakomidi aso...ukwamukela izinxuso, izinkulumo noma izethulo eziqhamuka kubantu noma izikhungo zabanentshisekelo"*.

Isigaba 195(e) somThethosisekelo siyaqhubeka sihlinzeka ukuthi *"izidingo zabantu kumele kubhekwane nazo, futhi nomphakathi ukhuthazwe ukulibamba iqhaza lapho kuhlangukiswa umthetho-mgomo"*. Isigaba 17 somThethosisekelo siqinisekisa *"wonke umuntu ilungelo lokuhlangukisa, ngoxolo nangaphandle kokuhloma, ukubhiyoza, ukukhuthaza abanye ukuthi mabateleke nokwethula izinxuso"*. UmThethosivivinywa uqonde ukubhekelela lokhu neminye imithetho efana nawo ekumThethosisekelo nezinjongo zawo. Imimiso-migomo ekumThetho weziNxuso eGauteng, ka 1998, njengoba uchitshiyelwe, igciniwe futhi yenziwa ngcono.

UmThethosivivinywa ubhalwe ngolimi olulula nolucacile. Imithetho ibekwe ngendlela eyenza ilandeleke kalula nangokucacile. UmThethosivivinywa uqonde ukubhekelela ukuthi kunohlelo olubhekelela abantu ukuthi bawazi futhi bakwazi nokuwasebenzisa amalungelo abo akumthethosisekelo.

2.2 Umphumela Kwezemvelo

Awukho.

2.3 Umphumela Kwezezimali

Inqubo yesinxuso iwuhlelo olubalulekile esiShayamthetho ngakho ulwabiwomali lwalo luhlelo selukhona.

3. OKUHLONGOZWAYO

Kuqalwe uhlaziyo lwenqubo yezinxuso kanti nempumelelo yokusebenza kwayo ithathelwe kumazwe aqhuba ngendlela efanayo. Kunesidingo futhi sokuthi kubhekelelwe izinqinamba ezikhona kumThetho, ka 1998, ezaqala zabonakala ngesikhathi kubhalwa inqubo-migomo. Yingakho-ke kwenziwa le ziphakamiso ezilandelayo:

- I. Ukuthi umThetho weziNxuso eGauteng, ka 1998 (UmThetho onguNombolo 14 ka 1998) kanye nomThetho weziChibiyelo zeziNxuso eGauteng, ka 1999 (UmThetho onguNombolo 5 ka 1999) kuthi esikhundleni sawo kungene UmThethosivivinywa weziNxuso eGauteng, ka 2002.
- II. Ukuthi UmThethosivivinywa weziNxuso eGauteng, ka 2002 uhlinzeka ngokwanele izindlela zokubhekana nezinxuso nokubeka ngokugqamile imimiso-migomo egcizelela inqubo yezinxuso.
- III. Ukuthi UmThethosivivinywa weziNxuso eGauteng, ka 2002, kumele wamukelwe ukuze kuvuleke indlela yokumiswa kwenqubo-migomo efanele ukwakhelwa phezu kwawo.

4. INCAZELO YESIGABA NESIGABA SOMTHETHOSIVIVINYWA

Isigaba 1: Izincazelo

Lesi sigaba sihlongoza izincazelo ezintsha ezimbalwa noma ezichitshiyelwe

- (a) "*insizakalo eyeseka ubuphathiswa*", ukuze kususwe isidingo semithetho eminingi kwingqikithi yomThethosivivinywa;

- (b) "*Ukudlulisa*", ukuhlinzeka inqubo entsha nehlongozwayo kumThethosivivinywa;
- (c) "*isinxuso*", nezingxenye eziningi esezifakiwe kwingqikithi yomThethosivivinywa;
- (d) "*ofake isinxuso*", nezingxenye eziningi esezifakiwe kwingqikithi yomThethosivivinywa;
- (e) "*okubekiwe*", ukuhlinzekela inqubo-migomo; kanye
- (f) "*lo mThetho*", ukuqinisekisa ukuthi imithetho yenqubo-migomo nayo iyabophezela.

Isigaba 2: Ilungelo lokufaka isinxuso

Le sigaba sibeka ilungelo.

Isigaba 3: Imimiso-migomo engujikelele

Le sigaba sihlinzeka imimiso-migomo eyimihlahlandlela yokusebenzisa ilungelo. Isigatshana (3) sibophezela uSomlomo ukuthi akhuthaze futhi agqugquzelele inqubo enobuqiniso nokucabangela.

Isigaba 4: Isinxuso

Isigatshana (1) simaqondana nezinhlobonhlobo zezinxuso. Le mithetho kuqala yayiqukethwe UmThetho weziNxuso eGauteng, ka 1998 kwincazelo "yesinxuso".

Isigatshana (2) sichaza umuntu onelungelo emthethweni maqondana nokufaka isinxuso. Le mithetho kuqala yayiqukethwe yincazelo "yofake isinxuso".

Isigatshana (3) sihlizeka indima yendikimba yezinxuso. Isinxuso kumele ngokubonakaloyo sidingide indikimba yodaba maqondana namandla esiShayamthetho noma noMkhandlu Ophethe esiFundazwe okwengamela udaba.

Isigatshana (4) sibeka izimo lapho iKomidi kumele lenqabe ukubhekelela isinxuso. Imimiso-migomo yomThetho weziNxuso eGauteng, ka 1998 iyaphindwa.

Isigatshana (5) sichaza izimo lapho iKomidi ngokuzinqumela kwalo lingenqaba ukucubungula isinxuso. Imimiso-migomo yomThetho, ka 1998 iyaphindwa. Umthetho oqhamuka kwenye ingxenye yomThetho okhuluma ngezisinxuso eseziphothuliwe nawo uyafakwa lapha. Okunye futhi, kuhlinzekelwa izinxuso ezinenkulumo elulazayo noma ezinolimi olungalungile, kumbe ezikhuluma ngodaba abafake isinxuso akade bengakalubeki ezithebeni zesiphathimandla esifanele.

Isigaba 5: Ukwethula isinxuso

Le sigaba sihlizekela imimiso-migomo emaqondana nokwethulwa kwesinxuso. Imininingwane yezinqubo nemisebenzi nezinhlelo kubekiwe kule nqubo-migomo. Kuphinde futhi kuhlinzekelwe izinsizakalo ezeseka ubuphathiswa ukunikeza lonke usizo olungaphakelwa, ngaphandle kwezezimali, kunoma ubani ongakwazi ukwethula isinxuso esihambisana nezidingongqangi ezibekwe yilo mThetho ukuze asethule ngendlela isinxuso.

Isigaba 6: Imisebenzi yeKomidi

Imisebenzi yeKomidi ibekiwe yaba uluhlu kule sigaba. Ayikho imimiso-migomo emisha eqhanyukisiwe, kepha lo mthetho uhlanganisa izigaba nezigatshana eziningi ebezikumthetho wokuqala ka, 1998.

Isigaba 7: Amandla eKomidi

Amandla angujikelele eKomidi abekiwe aba uluhlu kule sigaba. Ngaphandle kwezinyathelo ezivele zikhona ezicashunwe kwzigatshana zomThetho wokuqala, ka 1998, le sigaba sesiphinde sihlinzekele:

- (a) indima (c): IKomidi lingenza isiphakamiso kumuntu noma umgwamanda ofanele maqondana nenqubo efanele ukulandelwa esikhathini esizayo lapho kucutshungulwa izicelo noma izikhalazo; futhi
- (b) isigatshana (iv) sendima (f): IKomidi lingenza isiphakamiso lisibhekise kusoMlomo ukuze asidlulisele kumShushisi oyisiPhathimandla kuZwelonke.

Isigaba 8: Inqubo yokubhekelela isinxuso

Inqubo yokubhekelela isinxuso injengoba ibekiwe kwinqubo-migomo nangokubekiwe kwimiThethonqubo Emileyo.

Isigaba 9: Ilungelo lokudlulisa

Lona umthetho omusha. Ngokwenqubo yokusebenza komthetho wobuphathiswa bobulungiswa, umuntu olahlwe yicala kumele akwazi ukusithatha asidlulisele phambili isinqumo ukuthi masiphinde sibhekwe. Kulo luhlongozo, ofake isinxuso angaludlulisa udaba ukuphikisana -

- nokwenqaba kweKomidi ukucubungula isinxuso;
- kwesinye isikhathi, nesinqumo sikaalo sokuthi udaba malulalelwe ngasese; nanoma
- yisiphi isiphakamiso, ukuthumela komunye umuntu, kumbe kumgwamanda noma esinye isinqumo seKomidi emveni kokuba selucutshunguliwe udaba lwesinxuso.

Udaba oludlulisiwe kumele lwethulwe ludingidwe ngokubekiwe

kwinqubo-migomo.

UsoMlomo kumele alucubungule udaba oludlulisiwe ngokubekiwe kwinqubo-migomo kanti unakho ukuthi emveni kwalokho –

- aluchithe udaba oludlulisiwe;
- athumele udaba oludlulisiwe ezithebeni zeKomidi ukuze luphinde lucutshungulwe; noma
- athumele udaba oludlulisiwe kanye nefayela lesinxuso afake nesiphakamiso sakhe akubhekise kusiShayamthetho, kwelinye ikomidi elimileyo esiShayamthetho, kuNdunankulu kumbe kwiLungu lomKhandlu Omkhulu esiFundazwe kumkhandlu oqondene kamasipala kahulumeni wasekhaya, kwisikhungo eseseka inqubo yentando yeningi noma kuMshushisi oyisiPhathimandla kuZwelonke; noma
- athathe isinqumo agunyazekile ngokusemthethweni ukuthi angasithatha maqondana nesinxuso.

Isigaba 10: Ukudlulisa amandla

Lesi sigaba sihlizekela iKomidi ukuthi likwazi ukudlulisa amandla alo.

Isigaba 11: Ukuhlangana kweKomidi

Lo mThetho wakhelwe phezu kwalona odlule, ngaphandle kokuthi lona ushaya esikhonkosini maqondana nezizathu zokuhlangana kweKomidi ukuthi makube ngasese. Lokhu kuqeda isimo sokusolelwa ukuhambisi ngokomthethosisekelo.

Isigaba 12: Ukubala kweKomidi ngezenzo

Lesi sigaba siyinhlanganisela yemithetho ehlukahlukene kumThetho wokuqala, ka 1998. Kepha uyazifaka nezinye zalezi zinto ezilandelayo:

- (a) isigatshana (4): Ilungu lesiShayamthetho liyakwazi ukuthola ifayela lesinxuso noma inini ngezikhathi ezinomqondo;
- (b) isigatshana (5): IsiShayamthetho singakwazi ukuthi ngesikhathi IKomidi licubungula isinxuso sona sibe sibuzo kuphela imibuzo emaqondana nokuqhubekayo lapho kucutshungulwa isinxuso hhayi maqondana nengqikithi ye isinxuso; futhi
- (c) isigatshana (6): Ilungu lesiShayamthetho lingakwazi ukuthi ngesikhathi IKomidi licubungula isinxuso lona libe libuzo kuphela imibuzo emaqondana nokuqhubekayo lapho kucutshungulwa isinxuso hhayi maqondana nengqikithi yesinxuso.

Isigaba 13: Ofakazi nezinto eziwubufakazi

Lesi sigaba sakhelwe phezu komthetho ovele ukhona, ngaphandle kokuthi lelilungelo eliyisidingongqangi sobuphathiswa bobulungiswa sibekwe sacaca:

- isigatshana (5): Umuntu ovela phambi kweKomidi ukuze ethule bukhoma ubufakazi angelelekelwa ummeli azikhethele yena; futhi

Isigaba 14: Ukugcinwa kwezinto eziwubufakazi

Lesi sigaba sakhelwe phezu komthetho ovele ukhona, ngaphandle kokuthi manje sesiyalivumela iKomidi ukuthi liwagcine amakhophi noma umqulu othize ophinde wenziwa, into esetshenzisiwe noma yini enye ebe ubufakazi futhi igcinwe isikhathi esinganqunyiwe.

Isigaba 15: Ukwepfulwa komthetho

Umthetho ovele ukhona ucolisiwe. Kuhlangozwa isigatshana (4), ukuhlinzekela ukwepfulwa komthetho uma umuntu ethikameza ngamasibomu iKomidi, ilungu leKomidi noma yiliphi ilungu labeseka

ubuphathiswa lapho benza okuthize, okumele bakwenze noma abangakwenza ngokwalo mThetho noma uma kukhona umuntu oba nomthelela ongafanele kwiKomidi, kwilungu leKomidi noma kwabeseka ubuphathiswa ukuthi benze okuthize, loyo muntu noma lelo komidi libe lingekwenze ngokwalo mThetho.

Isigaba 16: Izijeziso

Lesi sigaba sihlinzekela izijeziso.

Isigaba 17: Inqubo-migomo

Lesi sigaba sihlinzekela inqubo-migomo edingekayo ukuqhuba umsebenzi maqondana nokwethulwa kwesinxuso, ukuvulwa kwefayela yesinxuso ivulwa ngonikeza usizo ukwelekelela kwezobuphathiswa, uphenyo lokuqala lwesinxuso olusingathwa owelekelela ubuphathiswa ngaphambi kokuthi isinxuso sicutshungulwe yiKomidi, ukudlulisela kukasoMlomo isinxuso kwiKomidi.

Kuhlinzekelwa nenqubo yokwethula udaba olwedlulisiwe ngumfaki-sinxuso, inqubo yokusingatha isinxuso lapho isiShayamthetho sisekhefini singahlangani nokugwema isimo sokushayisana komsebenzi okunokudala ukusolakala kobuqotho.

Le nqubo-migomo engenhla iyimpoqo.

UsoMlomo angakwazi ukuthi ngegunya alinikeziwe abeke eminye imithetho eyinqubo-migomo maqondana namanye amalungelo engeziwe, imisebenzi enikeziwe noma engabaliwe kumThetho, izikhathi okufanele zigcinwe lapho kwenziwa izinto kanjalo nokuchithwa kwamafayela asevaliwe.

Isigaba 18: Ukuqedwa kwemiThetho

Lesi sigaba sihlinzekela ukuqedwa komThetho weziNxuso eGauteng, ka 1998 nomThetho oyisiChibiyelo seziNxuso eGauteng, ka 1999.

Isigaba 19: Isihloko kafushane nokuqala ukusebenza

Lesi sigaba sihlinzekela isihloko kafushane nokuqala kokusebenza komThetho.

KENNISGEWING 273 VAN 2002

WETSONTWERP

Om voorsiening te maak vir die reg om 'n petisie by die Wetgewer van die Provinsie van Gauteng in te dien; om voorsiening te maak vir die algemene beginsels en prosedures vir die indien van 'n petisie by die Wetgewer; om voorsiening te maak vir die oorweging van 'n petisie deur die Staande Komitee van die Wetgewer wat petisies moet hanteer; om voorsiening te maak vir die herroeping van die Gautengse Petisiewet, 1998, soos gewysig; en om voorsiening te maak vir toevallige aangeleenthede.

DAAR WORD AS VOLG DEUR DIE PROVINSIALE WETGEWER VAN GAUTENG BEPAAL : -

DEFINISIES

1. In hierdie Wet, tensy die konteks anders aandui -

"*administratiewe steundiens*" beteken werknemers van die Wetgewer wat deur die Sekretaris aangewys is vir die doel om hierdie Wet effektief te implementeer en uit te voer;

"*appèl*" beteken 'n appèl soos in afdeling 9 bedoel word;

"*Voorsitter*" beteken die Voorsitter van die Komitee;

"*Komitee*" beteken 'n komitee van die Wetgewer wat deur die Speaker aangewys is om verantwoordelik te wees vir die oorweging van petisies in terme van hierdie Wet, bestaande uit lede van die Wetgewer soos van tyd tot tyd volgens die Staande Reëls bepaal word;

"*Grondwet*" beteken die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);

"*Uitvoerende Raad*" beteken die uitvoerende raad van die Provinsie soos in afdeling 132 van die Grondwet bedoel word;

"*Wetgewer*" beteken die provinsiale wetgewer van die Provinsie soos bedoel in afdeling 104 van die Grondwet;

"*munisipale raad*" beteken die plaaslike regeringsowerheid in die Provinsie;

"*petisie*" beteken 'n klagte of versoek of verdoë of betoog wat deur 'n petisionaris aan die Komitee in terme van hierdie Wet gerig word;

"*petitionaris*" beteken 'n persoon wat 'n petisie in terme van hierdie Wet indien, en sluit in 'n persoon of regspersoon;

"*voorgeskryf*" beteken voorgeskryf deur regulasie in terme van afdeling 17;

"*provinsie*" beteken die provinsie van Gauteng gevestig in terme van afdeling 103 van die Grondwet;

"*relevante gesag*" beteken 'n provinsiale departement, munisipale owerheid, of ander regeringsinstansie waaroor die Wetgewer toesig het;

"*Sekretaris*" beteken die persoon wat aangestel is in terme van afdeling 12(1)(a) van die Dienstewet van die Gautengse Provinsiale Wetgewer, 1996 (Wet No. 5 van 1996);

"*Speaker*" beteken die Speaker van die Wetgewer gekies in terme van afdeling 111 van die Grondwet;

"*Staannde Reëls*" beteken die reëls en instruksies vir die uitvoering van die sake van die Wetgewer in terme van afdeling 116 van die Grondwet;

"*hierdie Wet*" sluit in die regulasies wat volgens hierdie Wet uitgevaardig word.

Reg tot petisie

2. Enige persoon mag 'n petisie in terme van hierdie Wet indien.

Algemene beginsels

3. (1) 'n Petisionaris mag 'n petisie in enige van die amptelike tale van die Republiek van Suid-Afrika indien.

(2) Die Komitee moet -

(a) die regte van 'n petisionaris waarvoor in hierdie Wet voorsiening gemaak word, respekteer, beskerm en bevorder;

(b) toepaslike stappe doen om deelname deur die burgers van die Provinsie te bevorder en te vergemaklik in die proses van regering in die Provinsie, in die besonder persone wat deur onregverdigde diskriminasie van watter aard ook al benadeel is; en

(c) demokrasie versterk deur die maksimum toerekenbaarheid en deursigtigheid uit te oefen in hulle oorweging van die petisies.

(3) Die Speaker moet 'n regverdige en billike proses om petisies te oorweeg wat by die Wetgewer ingedien is in terme van hierdie Wet, bevorder en vergemaklik.

Petisie

4. (1) 'n Petisie mag -

(a) 'n enkele petisie wees, wat 'n individuele betoog van 'n enkele petisionaris is aangaande 'n besondere klagte of versoek;

(b) 'n assosiasiepetisie wees, wat 'n individuele betoog van 'n assosiasie of enkele petisionaris is met 'n mandaat van 'n assosiasie om daardie petisie aangaande 'n besondere klagte of versoek in te dien;

(c) 'n kollektiewe petisie wees, wat 'n versameling van handtekeninge is van 'n aantal petisionarisse aangaande 'n besondere klagte of versoek; of

(d) 'n massa- of groeppetisie wees, wat bestaan uit individuele of groeppetisies van 'n aantal petisionarisse, aangaande dieselfde of naastenby dieselfde klagtes of versoeke.

(2) 'n Petisie mag ingedien word deur 'n persoon wat optree -

(a) in sy of haar eie belang;

(b) in die belang van 'n ander persoon wat nie om watter rede ook al in 'n posisie is om 'n petisie in sy, haar of sy eie naam in te dien nie;

(c) as 'n lid van of in die belang van 'n groep of klas persone; of

(d) in die openbare belang.

(3) 'n Petisie mag, onderworpe aan onderafdeling (4), enige saak aanspreek -

(a) binne die wetgewende gesag van die Provinsie soos in die Grondwet bedoel;

(b) binne die uitvoerende gesag van die Provinsie soos in die Grondwet bedoel;

(c) wat aan 'n lid van die Uitvoerende Raad toegewys is in terme van die Grondwet; of

(d) wat verband hou met die provinsiale toesig van plaaslike regering soos in die Grondwet bedoel.

(4) Die Komitee sal weier om 'n petisie te oorweeg -

(a) wat buite die bestek van aangeleenthede val wat in onderafdeling (3) bedoel word;

(b) wat handel oor 'n saak wat hangende is in 'n geregshof of ander tribunaal of forum soos in die Grondwet bedoel;

(c) wat verband hou met die skuldigbevinding en vonnisoplegging deur 'n geregshof van 'n persoon tot 'n tydperk van gevangenisstraf; of

(d) wat 'n saak aanspreek wat binne die bestek van 'n kommissie van ondersoek val, wat in terme van die Provinsiale Kommissiewet, 1997 (Wet No. 1 van 1997) ingestel is.

(5) Die Komitee mag weier om 'n petisie te oorweeg wat -

(a) onleesbaar is;

(b) nie die korrekte naam en kontakbesonderhede van die petitioner en waar van toepassing, die naam van die assosiasie of groep namens wie die petisie ingedien is, vermeld nie;

(c) nie deur die petitioner geteken is nie, uitgesonderd in die geval van 'n petitioner wat nie kan skryf nie, en -

(i) wat 'n merk op die petisie gemaak het as 'n simbool van sy of haar magtiging om die petisie in te dien; en

(ii) dat die merk gemaak is in die teenwoordigheid van twee getuies wat kan skryf en wat deur die petisie te teken, sertifiseer dat die merk dié van die petitioner is;

(d) 'n saak aanspreek wat voorheen oorweeg is deur die Komitee, behalwe as daardie petisie nuwe inligting bevat wat 'n wesentliche impak op die uitslag van die oorweging van die saak kan hê;

(e) lasterlike verklarings of onbehoorlike taal bevat;

(f) indien van toepassing, 'n saak aanspreek wat die petisionaris nog nie onder die aandag van die toepaslike owerheid gebring het nie, of as die petisionaris dit onder die aandag van die toepaslike owerheid gebring het, die toepaslike owerheid nog nie 'n redelike tyd gegun is om die saak te oorweeg nie.

Indien van petisie

5. (1) 'n Petisie moet streng volgens hierdie Wet ingedien word.
- (2) Die administratiewe steundiens moet alle redelike bystand, uitgesonder finansiële bystand, verleen aan enige persoon wat onbekwaam is om 'n petisie in te dien wat aan die vereistes van hierdie Wet voldoen, sodat daardie persoon 'n petisie behoorlik kan indien.
- (3) Die administratiewe steundiens moet alle voorgeskrewe stappe doen om die petisie voor te berei vir oorweging deur die komitee.

Funksies van komitee

6. Die komitee moet -
- (a) elke petisie ontvang wat in terme van hierdie Wet ingedien is;
 - (b) onderworpe aan afdeling 4(3), (4) en (5), elke petisie oorweeg wat behoorlik ingedien is in terme van hierdie Wet;
 - (c) die mondelinge indiening of getuienis van 'n petisionaris aanteken wat in terme van afdeling 7(a) gegee is;
 - (d) As 'n petisie verwys is na 'n lid van die Uitvoerende Raad of 'n munisipale raad in terme van afdeling 7(e) -
 - (i) die persoon of liggaam na wie die petisie verwys is, voorlig om daardie petisie te oorweeg, 'n besluit te neem of aanbeveling te doen ten opsigte van daardie petisie of andersins die versoek of klagte af te handel wat in die petisie gerig is; en
 - (ii) van die persoon of liggaam na wie daardie petisie verwys is, vereis om die Komitee binne vier weke van daardie verwysing skriftelik van 'n gedetailleerde verslag te voorsien van die

stappe wat gedoen is deur daardie persoon of liggaam om die klagte, versoek, aanbeveling of instruksie deur die Komitee aan te spreek, soos die geval mag wees, en die redes vir daardie besondere stappe;

(e) as dit weier om 'n petisie te oorweeg in terme van afdeling 4(3), (4) en (5) of as dit nie ingedien is volgens hierdie Wet nie, die petitioneris skriftelik van daardie feit verwittig asook die redes vir sy besluit;

(f) op 'n kwartaallikse basis aan die Wetgewer verslag doen oor die petisies wat gedurende daardie tydperk by hom ingedien is en al sy aktiwiteite ten opsigte daarvan, insluitende :

(i) die simpatiekheid, doeltreffendheid en tydigheid waarmee petisies gehanteer is; en

(ii) die werkzaamheid van die petisieproses en -prosedures; en

(g) die administratiewe steundiens opdrag gee om 'n petitioneris tydig in te lig -

(i) van tyd tot tyd oor vordering ten opsigte van die oorweging van 'n petisie;

(ii) oor enige besluit wat deur die Komitee geneem is ten opsigte van 'n petisie en die redes vir daardie besluit;

(iii) of die petitioneris deur die Komitee genooi is om 'n mondelinge betoog te lewer of 'n getuie te roep;

(iv) oor die datum, tyd en plek wanneer die petisie oorweeg gaan word en dat die petitioneris daardie sitting van die Komitee mag bywoon;

(v) oor enige verwysing na enige persoon of liggaam soos in hierdie Wet bedoel;

(vi) oor ander regsmeddele wat tot die petitioneris beskikbaar is en;

(vii) oor die feit dat die petitioneris te alle redelike tye toegang het tot die petisielêer.

Magte van Komitee

7. Die Komitee mag -

(a) 'n petitioneris nooi om -

(i) sy of haar petisie aan te vul met bykomende mondelinge of skriftelike betoë;

- (ii) 'n getuie roep om mondelinge of skriftelike getuienis aan die Komitee te lewer;
- (b) 'n aanbeveling doen aan 'n toepaslike persoon of liggaam met die oogmerk om die versoek of klagte wat in die petisie vervat is tot die bevrediging van die petisionaris af te handel;
- (c) 'n aanbeveling doen aan 'n toepaslike persoon of liggaam ten opsigte van die algemene benadering wat gevolg moet word in die toekoms om 'n versoek of klagte af te handel;
- (d) indien so versoek word deur 'n petisionaris, 'n dispuut of klagte oplos, 'n wet ter syde stel, 'n weglating regstel, ten opsigte van sake anders as daardie wat deur wetgewing voorgeskryf word deur middel van bemiddeling of onderhandeling;
- (e) die petisie of aanbeveling, indien enige, verwys na 'n lid van die Uitvoerende Raad of 'n munisipale raad vir oorweging en besluit ten opsigte van die klagte of versoek wat in die petisie vervat is;
- (f) 'n aanbeveling aan die Speaker doen om die petisie te verwys na -
 - (i) die Wetgewer;
 - (ii) 'n ander komitee van die Wetgewer;
 - (iii) 'n lid van die Uitvoerende Raad;
 - (iv) 'n munisipale raad in die Provinsie;
 - (v) 'n liggaam wat konstitusionele demokrasie steun ingevolge Hoofstuk 9 van die Grondwet; of
 - (vi) die Nasionale Vervolgingsgesag;
- (g) sy oorweging van 'n petisie afsluit as dit besluit dat geen stappe, of geen verdere stappe, soos die geval mag wees, gedoen kan word om die saak tot die bevrediging van die petisionaris af te handel nie;
- (h) as 'n petisie verwys is na 'n lid van die Uitvoerende Raad of 'n munisipale raad in terme van afdeling 6(d) en daardie

persoon of liggaam in gebreke gebly het om te voldoen aan afdeling 6(d) of as daardie persoon of liggaam se gedrag of respons onbevredigend is -

- (i) 'n klagte rig aan die Openbare Beskermer of die Premier;
- (ii) enige ander toepaslike stappe doen wat die Komitee regtens mag doen;
- (i) as die klagte of versoek in die petisie sedert die indiening daarvan afgehandel is tot die bevrediging van die petitioner, die petisielêer afsluit;
- (j) enige van sy funksies of magte in terme van afdeling 10 delegeer.

Prosedure vir oorweging van petisie

8. Die prosedure vir die oorweging van 'n petisie is soos voorgeskryf in die regulasies en in ooreenstemming met die Staande Reëls.

Reg tot appèl

- 9.** (1) 'n Petisionaris mag appelleer by die Speaker teen -
- (a) 'n weiering deur die Komitee om 'n petisie te oorweeg;
 - (b) waar van toepassing, 'n bepaling van die Voorsitter om die petisie wat deur daardie petisionaris ingedien is agter geslote deure aan te hoor; of
 - (c) enige aanbeveling, verwysing na 'n ander persoon of liggaam of ander besluit van die Komitee na oorweging van die petisie ingedien deur hom of haar.
- (2) 'n Appèl moet ingedien en geprosesseer word soos voorgeskryf.
- (3) Die Speaker moet die appèl oorweeg soos voorgeskryf en mag daarna -
- (a) die appèl verwerp;
 - (b) die appèldokument ter tafel lê en dit verwys na die Komitee vir heroorweging; of
 - (c) die appèl en die petisielêer verwys met 'n aanbeveling na -

- (i) die Wetgewer;
 - (ii) 'n staande komitee van die Wetgewer;
 - (iii) die Premier of 'n lid van die Uitvoerende Raad;
 - (iv) die Munisipale Raad van 'n plaaslike regering;
 - (v) 'n liggaam wat konstitusionele demokrasie steun soos bedoel in Hoofstuk 9 van die Grondwet; of
 - (vi) die Nasionale Vervolgingsgesag; of
- (d) enige ander bepaling maak wat hy of sy regtens bevoegd is om te maak ten opsigte van die petisie.

(4) Die Speaker moet binne 'n redelike tyd na die oorweging van 'n appèl skriftelik verslag doen aan die Wetgewer aangaande daardie appèl.

Delegering

- 10.** (1) Die Komitee mag enige van sy pligte, funksies of magte ten opsigte van 'n besondere petisie delegeer aan 'n lid van die Komitee.
- (2) 'n Lid soos bedoel in onderafdeling (1) moet deur die Voorsitter aangestel word.
- (3) Die Voorsitter moet daardie lid van 'n geskrewe en getekende magtiging voorsien om 'n sekere petisie te oorweeg.
- (4) Die Voorsitter mag te eniger tyd voordat die lid met sy of haar oorweging van 'n sekere petisie begin, sy of haar magtiging terugtrek.
- (5) Die lid moet nadat hy of sy, sy of haar oorweging van 'n petisie afgesluit het, die resultaat van sy of haar oorweging van daardie petisie aan die Komitee rapporteer.
- (6) Niks in hierdie afdeling weerhou die Komitee daarvan om enige mag uit te oefen of enige plig uit te voer in terme van hierdie afdeling nie.
- (7) 'n Lid wat in terme van hierdie afdeling aangestel is het al die magte deur implikasie wat nodig is om hom of haar in staat te stel om sy of haar funksie te vervul.

Sitting van Komitee

- 11.** (1) Die komitee mag vir die doeleindes om getuienis aan te hoor en 'n petisie te oorweeg, sit op 'n datum en tyd en op 'n plek in die Provinsie wat deur die Voorsitter bepaal is.
- (2) Die Voorsitter moet publieke kennis gee van 'n sitting in ooreenstemming met die Staande Reëls.
- (3) Die Voorsitter moet die administratiewe steundiens opdrag gee om tydig -
- (a) seker te maak dat getuiedagvaardings behoorlik uitgereik en beteken is soos voorgeskryf;
 - (b) die petisionaris skriftelik in kennis te stel van enige saak waaroor die petisionaris geregtig is om oor ingelig te word in terme van hierdie Wet, enige ander wet of die Staande Reëls;
 - (c) indien nodig, seker maak dat die inhoud van 'n petisielêer vertaal word in 'n werkstaal van die Komitee;
 - (d) enige ander bykomstige plig vervul wat die Komitee in staat sal stel om 'n petisie behoorlik te oorweeg en sy ander funksies in terme van hierdie Wet uit te voer.
- (4) Getuienis wat voor die Komitee gelewer word moet in die openbaar aangehoor word, tensy dit -
- (a) in die belang van die regspleging is; of
 - (b) in die belang van die veiligheid van die petisionaris of 'n getuie is
- dat die getuienis agter geslote deure aangehoor word.
- (5) Die administratiewe steundiens moet die Voorsitter van 'n lys voorsien van petisies wat ingedien is wat nog nie deur die Komitee gefinaliseer is nie vir ter tafellegging by elke vergadering van die Komitee.

Toerekenbaarheid van Komitee

- 12.** (1) Die Komitee moet verslag doen aan die Wetgewer soos bedoel in afdeling 6(1)(f) en (g).
- (2) 'n Debat oor 'n aangeleentheid wat geopper is in 'n verslag van die Komitee aan die Wetgewer moet plaasvind as meer as vyf lede van die Wetgewer so daarop aandrang.

(3) Die Wetgewer mag enige saak vervat in 'n verslag ingedien by die Wetgewer deur die Komitee terugverwys na die Komitee vir heroorweging.

(4) 'n Lid van die Wetgewer het te eniger redelike tyd toegang tot 'n petisielêer.

(5) Die Wetgewer mag, terwyl die Komitee 'n petisie oorweeg, slegs 'n interpellasie uitvoer ten opsigte van daardie petisie wat verband hou met die proses van oorweging van die petisie en nie ten opsigte van die meriete daarvan nie.

(6) 'n Lid van die Wetgewer mag, terwyl die Komitee 'n petisie oorweeg, slegs 'n vraag vra ten opsigte van daardie petisie wat verband hou met die proses van oorweging van die petisie en nie ten opsigte van die meriete daarvan nie.

Getuies en wesenlike getuienis

13. (1) Vir die doel van vasstelling van 'n saak wat verband hou met die onderwerp van sy ondersoek, mag die Komitee -

(a) 'n persoon dagvaar om 'n sitting van die Komitee by te woon, as 'n getuie, om getuienis te lewer, of enige boek, dokument, voorwerp of ander wesenlike getuienis te voorskyn bring indien die Komitee dit vereis; of

(b) 'n persoon as getuie dagvaar om 'n sitting van die Komitee by te woon, as 'n getuie, om getuienis te lewer, of enige boek, dokument, voorwerp of ander wesenlike getuienis te voorskyn te bring voor die Komitee op 'n tyd en plek gespesifiseer in die getuiedagvaarding.

(2) 'n getuiedagvaarding bedoel in onderafdeling (2) moet -

(a) geteken en uitgereik wees deur die Voorsitter;

(b) die aangeleentheid vermeld ten opsigte waarvan dit uitgereik is;

(c) die datum, tyd en plek stipuleer wanneer die persoon of verteenwoordiger van 'n liggaam voor die Komitee moet verskyn;

(d) die aandag van die persoon aan wie die getuiedagvaarding gerig is vestig op die voorwaardes van onderafdeling (4); en

(e) tydig op die persoon beteken word aan wie die getuiedagvaarding gerig is per geregistreerde pos, deur persoonlike aflewering of op enige ander voorgeskrewe metode.

(3) 'n Persoon wat voor die Komitee verskyn om mondelinge getuienis te lewer moet voordat daardie getuienis gelewer word, 'n eed of plegtige verklaring aflê, afgeneem deur die Voorsitter of enige ander persoon gemagtig deur hom of haar om dit te doen, om net die waarheid te praat.

(4) Enige persoon behalwe 'n werknemer van die Provinsie of 'n munisipale raad wat voor die Komitee verskyn om mondelinge getuienis te lewer of enige dokument, voorwerp of ander wesenlike getuienis te voorskyn te bring ingevolge 'n getuiedagvaarding uitgereik in terme van hierdie afdeling, is geregtig op die getuienisvergoeding betaalbaar aan 'n getuie wat getuig by 'n kriminele verhoor in 'n Hoër Hof van die Republiek.

(5) 'n Persoon wat voor die Komitee verskyn om mondelinge getuienis te lewer, mag deur 'n verteenwoordiger van sy of haar keuse bygestaan word.

Retensie van wesenlike getuienis

14. (1) Die Komitee moet 'n afskrif of reproduksie maak in enige formaat van wesenlike getuienis wat by hom ingedien is.

(2) Die Komitee moet sodanige afskrif of reproduksie terughou vir 'n onbepaalde tyd na afhandeling van die oorweging van 'n petisie.

(3) Die Administratiewe steundiens moet die afskrif of reproduksie bedoel in onderafdeling (1) in die besondere petisielêer insluit.

Oortredings

15. (1) 'n Persoon wat behoorlik as getuie gedagvaar is in terme van afdeling 13 wat sonder genoegsame gronde -

- (a) nalaat om voor die Komitee te verskyn op die datum en plek gestipuleer in die getuiedagvaarding;
- (b) nalaat om teenwoordig te bly by die sitting van die Komitee totdat die Voorsitter hom of haar verskoon van verdere bywoning;
- (c) weier of nalaat om 'n eed of plegtige verklaring af te lê soos bedoel in afdeling 13(3) wanneer deur die Voorsitter gevra word om dit te doen;
- (d) weier of nalaat om enige boek, dokument, voorwerp of ander wesenlike getuienis in sy of haar besit of onder sy of haar beheer te voorskyn te bring wat hy of sy opdrag gegee is om te voorskyn te bring

is skuldig aan 'n oortreding.

(2) 'n Persoon wat behoorlik as getuie gedagvaar is in terme van afdeling 13 wat nadat 'n eed of plegtige verklaring afgelê is -

- (a) nalaat om enige vraag regtens gestel aan hom of haar ten volle of na waarheid te beantwoord; of
- (b) andersins met opset valse getuienis lewer

is skuldig aan 'n oortreding.

(3) 'n Persoon -

(a) wat 'n persoon wat behoorlik as getuie gedagvaar is in terme van afdeling 13 dreig, verhinder of ten onregte beïnvloed om -

- (i) mondelinge getuienis voor die Komitee te weier of na te laat ;
- (ii) met opset valse getuienis voor die Komitee lewer; of
- (iii) weier of nalaat om enige boek, dokument, voorwerp of ander wesenlike getuienis in sy of haar besit of beheer te voorskyn te bring wat sy hy of haar beveel is om te voorskyn te bring;

(b) behoorlik as getuie gedagvaar in terme van afdeling 13 wat enige boek, dokument, voorwerp, of enige wesenlike getuienis voor die Komitee te voorskyn bring, wat hy of sy weet vals, gefabriseer, vervals of onwettig of valslik verander is;

(c) wat enige boek, dokument, voorwerp of ander wesenlike getuienis vernietig, versteek, vervals, fabriseer of onwettig of

valslik verander wat hy of sy weet of redelikerwys verwag relevant te wees tot 'n petisie wat oorweeg word of oorweeg gaan word deur die Komitee; of

(d) wat met opset die Komitee van inligting voorsien of 'n verklaring voor dit doen wat vals of misleidend is

is aan 'n oortreding skuldig.

(4) Enige persoon wat met opset die Komitee, enige lid van die Komitee of enige lid van die administratiewe steundiens verhinder of ten onregte beïnvloed om iets te doen of nie te doen nie soos gemagtig in terme van hierdie Wet is aan 'n oortreding skuldig.

Straf

16. 'n Persoon wat skuldig bevind word aan 'n oortreding ingevolge afdeling 15 is blootgestel aan 'n boete of aan gevangenisstraf vir 'n tydperk wat nie 12 maande oorskry nie of aan albei sodanige boete en gevangenisstraf.

Regulasies

17. (1) Die Speaker moet regulasies voorskryf ten opsigte van -

- (a) die proses en prosedures vir die indien van 'n petisie;
- (b) die registrasie van 'n petisie en open van 'n petisielêer deur die administratiewe steundiens;
- (c) die voorlopige ondersoek van 'n petisie deur die administratiewe steundiens;
- (d) die proses en prosedures vir die indien van 'n appèl deur 'n petitioner;
- (e) die proses en prosedures vir die hantering van 'n petisie wanneer die Wetgewer nie in sitting is nie; en
- (f) die prosedure om belangebotsing te hanteer.

(2) Die Speaker mag 'n regulasie voorskryf ten opsigte van -

- (a) die regte van 'n petitioner bedoel in hierdie Wet;
- (b) enige plig of funksie wat nie voorsien word in onderafdeling (1) nie wat die Komitee vereis word om te doen;

- (c) enige plig of funksie wat nie voorsien word in onderafdeling (1) nie wat die administratiewe steundiens vereis word om te doen;
- (d) enige tydsbepalings waaraan voldoen moet word gedurende enige proses of vir enige prosedure bedoel in hierdie Wet;
- (e) die argiefplasing of beskikking van 'n petisielêer wat gesluit is;
- (f) die prosedures en proses vir die uitreik en beteken van getuiedagvaardings vir die doelstellings van hierdie Wet;
- (g) enige maatreëls wat getref moet word deur die Wetgewer, die Komitee of die Sekretaris om deelname deur die burgers van die Provinsie in die proses van regering in die Provinsie te bevorder en te vergemaklik; of
- (h) oor die algemeen, enige aangeleentheid nie voorsien in hierdie afdeling nie wat nodig mag wees om voor te skryf om die doelstellings van hierdie Wet te bereik of te bevorder.

Herroep van Wette

18. Die Gautengse Petisiewet, 1998 (Wet No. 14 van 1998) en die Gautengse Petisiewysigingswet, 1999 (Wet No. 5 van 1999) word herroep.

Korttitel en aanvang

19. Hierdie Wet word genoem die Gautengse Petisiewet, 2002 en tree in werking op 'n datum vasgestel deur die Speaker deur proklamasie in die Provinsiale Staatskoerant.

VERKLARENDE MEMORANDUM OOR DIE DOELSTELLINGS VAN DIE GAUTENGSE PETISIEWET, 2002

1. REDES VIR DIE WET

1.1 Doel van die Wet

Die Wet word ingestel ter vervanging van die Gautengse Petisiewet, 1998 (Wet No. 14 van 1998) en die Gautengse Petisiewysigingswet, 1999 (Wet No. 5 van 1999), vir die hantering van petisie-aangeleenthede volgens die bepalings van die Gautengse Petisiewet, 2002.

1.2 Agtergrond

Die Gautengse Provinsiale Wetgewer het in 1998 die Gautengse Petisiewet uitgevaardig. Die doelstellings van die Wet was om die konstitusionele bepalings te realiseer wat Wetgewers verplig om publieke deelnemingsmeganismes in te stel. Die Wet het verder betekenis gegee aan die konstitusionele regte van die burgers om petisies te kan indien en het 'n regsraamwerk en meganisme vir die oorweging van petisies deur die Wetgewer voorsien.

Vroeg in 2001 het 'n proses met die opstel van konsepregulasies ingevolge die Wet begin. 'n Finale stel van die konsepregulasies is geproduseer. Die proses om regulasies op te stel en die ondervinding wat opgedoen is oor die tydperk wat die Wet geïmplementeer is, het blootgelê dat die Wet nie genoegsame voorsiening maak vir 'n petisieproses soos in die beleidsdokumente voorsien word wat met die saak verband hou nie.

1.3 Besprekings

Vervolgens na die bepaling van die Gautengse Petisiewet, 1998 en sy wysiging deur die Gautengse Petisiewysigingswet, 1999 (Wet No. 5 van 1999), is 'n studie gelas na die doeltreffendheid van die Petisie-

en Publieke Deelnemingsproses. Die studie is opgevolg deur 'n Petisie- en Publieke Deelnemingswerkwinkelverslag oor die aanbevelings wat daarin vervat is en 'n studietoer deur 'n Petisie- en Publieke Deelnamestaandekomitee na Duitsland en Skotland onderneem. Die besoeke aan Duitsland en Skotland is onderneem in die konteks van hierdie evalueringsproses. Die besoek aan Duitsland was gebiedend noodsaaklik omdat die Gautengse Wetgewer se petisieproses in 'n groot mate op die Duitse Bundestag-komitee geskoei is. By die opstel van regulasies tot die Wet, 1998, moes effek gegee word aan die aanbevelings van die evalueringsproses.

- I. Instruksies is uitgereik vir die opstel van regulasies ingevolge afdeling 18 van die Wet, 1998. Die opdrag was egter nie net beperk tot die opstel van regulasies nie. Dit het ook ingesluit 'n hersiening van die primêre Wet met die oog om verbeterings aan te bring.
- II. Met die opstel van die regulasies, het dit duidelik geword dat die Wet, 1998, nie heeltemal voldoen aan die petisieproses wat in die beleidsdokumente voorsien is nie en 'n nuwe denkrigting wat voortspruit uit die doeltreffendheidstudie het ontstaan. Gevolglik bevat die konsepregulasies bepalinge wat nie in die primêre Wet voorsiening voor gemaak word nie.
- III. 'n Anomalie het tot gevolg dat die regulasies nie aanvaar kan word nie totdat die primêre wetgewing voorsiening maak vir die insluiting van regulasies wat afwyk van die Gautengse Petisiewet, 1998, soos dit tans saamgestel is. Met ander woorde, 'n hersiening van die Wet moet eers plaasvind alvorens die konsepregulasies ter tafel gelê kan word vir aanvaarding.
- IV. Die Konsepwet word dus ter tafel gelê om die anomalie aan te spreek wat in (III) hierbo verwys word. In plaas van om die Wet te wysig, wat 'n omslagtige en potensieel verwarrende oefening sal wees, word 'n nuwe Wetsontwerp voorgestel.

- V. Die Konsepwet behou die breë filosofie en beginsels van die Wet, terwyl 'n meer logiese vloei en opeenvolging bereik word, herhalings reggestel en dubbelsinnighede en oorbodige voorwaardes verwyder word. Die konsepwet word opgestel deur die "Plain English"-metode te gebruik deur 'n gebruikersvriendelike stuk wetgewing te skep.
- VI. Die Konsepwet verander die model van die Petisieproses. Waar die huidige Wet voorsiening maak dat die Staande Komitees vir Petisies en Publieke Deelname (SKPPD) petisies vir oorweging na ander komitees kan verwys, erken die Wetsontwerp die SKPPD as die Komitee wat primêr verantwoordelik is vir petisies. Die effek is dat die SKPPD alle petisies sal oorweeg met die oog om dit op te los en net daardie petisies wat beleid- of wetgewende kwessies aanspreek na die relevante portefeuljekomitees toe verwys.
- VII. Die Konsepwet voorsien vir die regulering van oorweging van petisies wanneer die Wetgewer nie in sitting is nie. 'n Meganisme om petisies te hanteer aan die einde van 'n wetgewende termyn kan ook voorgeskryf word.
- VIII. Die Gautengse Petisiewet, 2002, maak voldoende voorsiening vir tydsbepalings wat voorgeskryf moet word wat bindend is op alle partye wat betrokke is by die oorweging van petisies.
- IX. Die Wetsontwerp maak voorsiening vir die Komitee wat die verantwoordelikheid aan opgedra is om petisies te oorweeg om aan die Wetgewer verslag te doen aangaande sy oorweging van petisies.
- X. Van groter belang, die Wetsontwerp gee verdere betekenis aan die reëls van administratiewe geregtigheid deur voorsiening te maak vir 'n appèlmeganisme. Die Wetsontwerp sit verder kategorieë uiteen wat die gronde vir appèl uitmaak.

2. IMPLIKASIES VAN DIE WETSONTWERP

2.1 Sosiale Implikasies

Dit is belangrik dat die Gautengse Petisiewet, 2002, gebaseer word op en op hoogte gestel word van die waardes en beginsels wat in die Grondwet vervat is. Van besondere toepassing in die konteks is dié wat 'n taak stel aan die Provinsiale Wetgewers om proaktief die betrokkenheid van burgers in die wetgewende proses te bevorder en te vergemaklik. Afdeling 118(1)(a) van die Grondwet voorsien dat "'n provinsiale wetgewer moet publieke betrokkenheid in die wetgewende en ander prosesse van die wetgewer en sy komitees vergemaklik". Dit moet natuurlik saamgelees word met afdeling 115(d) wat "'n provinsiale wetgewer of enige van sy komitees... om petisies, vertoë of betoë van enige belanghebbende persone of instansies te ontvang", toelaat en bemagtig.

Die Grondwet in afdeling 195(e) maak verder voorsiening dat "Die mense se behoeftes moet aan voldoen word en die publiek moet aangemoedig word om deel te neem aan beleidmaking". Afdeling 17 van die Grondwet waarborg "elkeen 'n reg, vreedsaam en ongewapen, om bymekaar te kom, te betoog, wagposte te plaas by stakings en petisies in te dien". Die Wetsontwerp wil uitvoering hieraan en alle ander toepaslike bepalings van die Grondwet en die gees daarvan gee. Die beginsels van die Gautengse Petisiewet, 1998, soos gewysig, word behou en op verbeter.

Die Wet is in gewone en eenvoudige Engels opgestel. Die voorwaardes is gerangskik op 'n manier wat logiese vloei en volgorde verseker. Die impak wat die Wetsontwerp wil maak, is om meganismes te voorsien wat mense bystaan om hulle konstitusionele regte te realiseer en uit te oefen.

2.2 Omgewingsimplikasies

Geen.

2.3 Finansiële implikasies

Die petisieproses is 'n kritieke program van die Wetgewer en begroting bestaan alreeds vir die program.

3. VOORSTEL

'n Deeglike analise van die petisieproses en die werksaamheid daarvan is onderneem en goeie praktyke is opgeneem van lande met soortgelyke praktyke. Daar bestaan ook 'n behoefte om beperkings aan te spreek wat aanwesig is in die Wet, 1998, wat na vore gekom het tydens die opstel van die regulasies. Dit is op hierdie grondslag dat die volgende voorstelle gemaak word:

- I. Dat die Gautengse Petisiewet, 1998 (Wet No. 14 van 1998) en die Gautengse Petisiewysigingswet, 1999 (Wet No. 5 van 1999) vervang word deur die Gautengse Petisiewetsontwerp, 2002.
- II. Dat die Gautengse Petisiewetsontwerp, 2002 genoegsame voorsiening maak vir die hantering van petisies en maksimum uiting gee aan die beginsels wat die petisieproses ondersteun.
- III. Dat die Gautengse Petisiewetsontwerp, 2002 aanvaar word om toe te laat vir die uitvaardiging van die regulasies wat ingevolge daarvan uitgereik gaan word.

4. VERDUIDELIKING VAN DIE WETSONTWERP VOLGENS KLOUSULES

Klausule 1 : Definisies

Hierdie afdeling stel 'n paar nuwe of gewysigde definisies voor :

- (a) "*administratiewe steundiens*", om die noodigheid van substantiewe bepalings in die teks van die Wetsontwerp te verwyder;

- (b) "*appèl*", om te voorsien vir die nuwe proses van appèl wat in die Wetsontwerp voorgestel word;
- (c) "*petisie*", met die substantiewe gedeeltes wat nou in die teks van die Wetsontwerp ingesluit is;
- (d) "*petitionaris*", met die substantiewe gedeeltes wat nou in die teks van die Wetsontwerp ingesluit is;
- (e) "*voorgeskryf*", om voorsiening vir regulasies te maak; en
- (f) "*hierdie Wet*", om seker te maak dat die bepalings van die regulasies ook bindend is.

Klousule 2 : Reg tot petisie

Hierdie afdeling stel die reg.

Klousule 3 : Algemene beginsels

Hierdie afdeling maak voorsiening vir die rigsgoere om die reg uit te oefen. Onderafdeling (3) plaas 'n verpligting op die Speaker om 'n regverdigte en billike proses te bevorder en te vergemaklik.

Klousule 4 : Petisie

Onderafdeling (1) het te doene met die verskillende soorte petisies. Hierdie bepalings was voorheen vervat in die Gautengse Petisiewet, 1998 in die definisie van "petisie".

Onderafdeling (2) beskryf die persone wat locus standi het ten opsigte van die indien van 'n petisie. Hierdie bepalings is ook voorheen vervat in die definisie van "petitionaris".

Onderafdeling (3) voorsien die bestek van die onderwerp van petisies. 'n Petisie moet vanselfsprekend handel oor 'n saak waarvoor die Wetgewer of die Provinsiale Uitvoerende Raad jurisdiksie het.

Onderafdeling (4) meld die gevalle waar die Komitee moet weier om

'n petisie te oorweeg. Die beginsels van die Gautengse Petisiewet, 1998 word herhaal.

Onderafdeling (5) beskryf die omstandighede wanneer die Komitee na eie goeddunke kan weier om 'n petisie te oorweeg. Die beginsels van die Wet, 1998 word herhaal. 'n Bepaling van 'n ander gedeelte van die Wet wat handel oor afgehandelde petisies, is hier ingesluit. Hierbenewens word voorsiening ook nou gemaak vir petisies wat lasterlike stellings of onbehoorlike taal bevat, of wat sake aanspreek wat die petitionerisse nog nie onder die aandag van die betrokke gesag gebring het nie.

Klousule 5 : Indien van 'n petisie

Hierdie afdeling maak voorsiening vir die algemene beginsels wat betrekking het op die indien van 'n petisie. Die besonderhede van die prosedures en prosesse word in die regulasies voorgeskryf. Voorsiening word weer eens gemaak vir die administratiewe steundiens om alle redelike bystand, uitsluitende finansiële bystand, te lewer aan enige persoon wat nie in staat is nie om 'n petisie in te dien wat aan al die vereistes voldoen wat deur die Wetsontwerp voorgeskryf word sodat daardie persoon 'n petisie behoorlik kan indien.

Klousule 6 : Funksies van Komitee

Die funksies van die Komitee word in hierdie afdeling gelys. Geen nuwe beginsels word voorgestel nie, maar hierdie bepaling kombineer 'n aantal afdelings en onderafdelings in die oorspronklike Wet, 1998.

Klousule 7 : Magte van Komitee

Die algemene magte van die Komitee word in hierdie afdeling gelys. Benewens bestaande maatreëls geneem uit verskillende onderafdelings in die oorspronklike Wet, maak hierdie afdeling ook

nou voorsiening vir:

- (a) paragraaf (c): Die Komitee mag 'n aanbeveling doen aan 'n toepaslike persoon of liggaam ten opsigte van die algemene benadering wat in die toekoms gevolg moet word met die afhandeling van 'n versoek of klagte; en
- (b) subparagraaf (iv) of paragraaf (7): Die Komitee mag nou ook 'n aanbeveling doen aan die Speaker om die petisie na die nasionale vervolgingsgesag te verwys.

Klousule 8 : Prosedure vir oorweging van petisie

Die prosedure vir die oorweging van 'n petisie, mag in die regulasies en staande reëls voorgeskryf word.

Klousule 9 : Reg tot Appèl

Hierdie is 'n nuwe voorwaarde. In terme van die reëls van die wet op administratiewe geregtigheid, behoort 'n persoon teen wie 'n bevinding gemaak is, daardie bevinding vir heroorweging te kan neem. In hierdie voorstel, mag 'n petitioneris appèl aanteken teen -

- * 'n weiering van die Komitee om die petisie te oorweeg;
- * waar van toepassing, 'n bepaling deur die Voorsitter om die petisie wat ingedien is deur daardie petitioneris agter geslote deure aan te hoor; of
- * enige aanbeveling, verwysing na 'n ander persoon of liggaam of ander besluit van die Komitee na oorweging van die petisie wat deur hom of haar ingedien is.

Die appèl moet ingedien en geprosesseer word soos in die regulasies voorgeskryf word.

Die Speaker moet die appèl oorweeg soos in die regulasies voorgeskryf word en dat hy of sy daarna -

- * die appèl mag verwerp;

- * die appèl na die Komitee toe mag verwys vir heroorweging; of
- * die appèl en die petisielêër mag verwys met 'n aanbeveling na die Wetgewer, 'n ander staande komitee van die Wetgewer, die Premier of 'n lid van die Uitvoerende Raad van die Provinsie, die toepaslike munisipale raad of 'n plaaslike regering, 'n instelling wat konstitusionele demokrasie ondersteun of die Nasionale Vervolgingsgesag; of
- * enige ander bepaling mag maak wat hy of sy regtens bevoegd is om te maak ten opsigte van die petisie.

Klousule 10 : Delegering

Hierdie afdeling maak voorsiening vir die Komitee om sy magte te delegeer.

Klousule 11 : Sitting van Komitee

Hierdie bepaling is gebaseer op sy voorganger in die oorspronklike Wet, behalwe dat dit meer spesifiek is ten opsigte van die redes vir 'n vergadering van die Komitee wat agter geslote deure gehou moet word. Dit verwyder die gevaar van ongrondwetlikheid.

Klousule 12 : Toerekenbaarheid van die Komitee

Hierdie afdeling is 'n kombinasie van verskeie bepalings in die oorspronklike Wet, 1998. Dit voeg egter ook die volgende nuwe kenmerke by:

- (a) onderafdeling (4): 'n Lid van die Wetgewer het te eniger redelike tyd toegang tot 'n petisielêër;
- (b) onderafdeling (5): Die Wetgewer mag terwyl die Komitee 'n petisie oorweeg net 'n interpellasie uitvoer ten opsigte van die proses van oorweging van die petisie en nie te opsigte van die meriete daarvan nie; en

- (c) onderafdeling (6): 'n Lid van die Wetgewer mag terwyl die Komitee 'n petisie oorweeg, slegs 'n vraag vra ten opsigte van daardie petisie ten opsigte van die proses van oorweging van die petisie en nie ten opsigte van die meriete daarvan nie.

Klousule 13 : Getuies en wesenlike getuies

Hierdie afdeling is op die huidige bepaling gebaseer, behalwe dat die volgende reg wat vereis word deur die reëls van administratiewe geregtigheid spesifiek ingesluit word :

- * onderafdeling (5) : 'n Persoon wat voor die Komitee verskyn om mondelinge getuienis te lewer, mag deur 'n verteenwoordiger van hul keuse bygestaan word.

Klousule 14 : Retensie van wesenlike getuienis

Hierdie afdeling is op die huidige bepaling gebaseer, behalwe dat dit nou ook die Komitee toelaat om onbepaald afskrifte of reproduksies te hou van enige dokument, voorwerp of ander wesenlike getuienis.

Klousule 15 : Oortredings

Die bestaande bepaling is verfyn. 'n Nuwe onderafdeling (4) is voorgestel om voorsiening te maak vir 'n oortreding as 'n persoon met opset die Komitee, enige lid van die Komitee of enige lid van die administratiewe steundiens dwarsboom om enigiets te doen wat dit, hy of sy mag of moet doen in terme van hierdie Wet of as 'n persoon ten onregte die Komitee, enige lid van die Komitee of enige lid van die administratiewe steundiens beïnvloed om enigiets te doen wat dit, hy of sy nie mag doen in terme van hierdie Wet nie.

Klousule 16 : Straf

Hierdie afdeling maak voorsiening vir straf.

Klousule 17 : Regulasies

Hierdie klousule maak voorsiening vir die regulasies wat nodig is vir die proses wat verband hou met die indien van 'n petisie, die opening van 'n petisielêer deur die administratiewe steundiens, die voorafgaande ondersoek van 'n petisie deur die administratiewe steundiens voordat die petisie deur die Komitee oorweeg word, die verwysing van die Speaker van die petisie na die Komitee.

Voorsiening word ook gemaak vir die prosedures vir die indien van 'n appèl deur 'n petitioner, die prosedures vir die hantering van 'n petisie wanneer die Wetgewer nie in sitting is nie en die voorkoming van belangebotsing.

Die bogenoemde regulasies is verpligtend.

Die Speaker mag ook na sy of haar diskresie bykomende regulasies uitvaardig ten opsigte van bykomende regte, pligte of funksies wat nie in die Wet voorsien word nie, tydsbepalings waaraan voldoen moet word en die beskikking van gesluite lêers.

Klousule 18 : Herroep van Wette

Hierdie klousule maak voorsiening vir die herroep van die Gautengse Petisiewet, 1998 en die Gautengse Petisiewysigingswet, 1999.

Klousule 19 : Korttitel en aanvang

Hierdie klousule maak voorsiening vir die korttitel en aanvang van die Wet.

MOLAOKAKANYWA

Go thuša go tšweletša tokelo ya go tliša diphethišene go Lekgotlatheramelao la Profense ya Gauteng; go thuša go tšweletša ditaolo ka kakaretšo le ditshepetšo tša go tliša diphethišene go Lekgotlatheramelao; go thuša go tšweletša tekolo ya diphethišene ke Komiti ye e lego Gona ya Lekgotlatheramelao yeo e abetšwego go šomana le diphethišene; go thuša go tšweletša phedišo ya Molao wa diphethišene wa Gauteng, wa 1998, bjalo ka ge o fetotšwe (o lokišitšwe); le go thuša go tšweletša ditaba tšeo di diregago ka sewelo.

E TLA HLONGWA MOLAO ke Lekgotlatheramelao la Profense ya Gauteng ka mokgwa wo:

Ditlhalošo

1. Mo go Molao wo, ka ntle le ge diteng di hlaloša se sengwe - "tirelo ya go thekga taolo" e ra gore badiredi ba Lekgotlatheramelao bao ba abetšwego / filwego ke Mongwaledi maikemišetšo a go tsenya tirišong le go phethagatša Molao wo;

"*boipiletšo*" ke gore boipiletšo bjoo bo akanywago mo go karolo 9;

"*Modulasetulo*": ke gore modulasetulo wa Komiti;

"*Komiti*" ke gore komiti ya Lekgotlatheramelao yeo e abetšwego ke Sepikara sa Lekgotlatheramelao go ba le maikarabelo a go hlokomela diphethišene go ya ka Molao wo, yeo e "theilwego ka maloko a Lekgotlatheramelao bjale ka ge e laetšwa nako le le nako go ya ka Molao ye e lego gona;

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

"*Khansele ya khuduthamaga*" ke gore khansele ya khuduthamaga ya Profense

bjalo ka ge e akantšwe mo go karolo 132 ya Molaotheo;

"Lekgotlatheramelao" ke gore lekgotlatheramelao la Profense bjalo ka ge e akantšwe mo go karolo 104 ya Molaotheo;

"Khansele ya mmasepala" ke gore pušo ya taolo ya selegae ya Profense;

"Phethišene" ke gore ngongorego goba kgopelo goba kemelo goba tlišo yeo e bolelwago ke mophethišene goba mongongoregi go komiti go ya ka mabaka a Molao;

"Mophethišene" ke gore motho yo a tlišago phethišene go ya ka mabaka a Molao, go akaretša motho wa tlhago le motho ka semolao (ditlamo tše di fapanego);

"Kgethetšwego" ke gore kgethetšwego ke molawana go ya ka mabaka a karolo 17;

"Profense" ke gore profense ya Gauteng ye e theilwego go ya ka mabaka a karolo 103 ya Molaotheo;

"Taolo ya maleba" ke gore kgoro ya profense, khansele ya mmasepala goba tlhomo ye nngwe le ye nngwe ya pušo yeo Lekgotlatheramelao le šomišago tihokomologo;

"Mongwaledi" ke gore motho yo a kgethilwego go ya ka mabaka a karolo 12(1)(a) a Molao wa Ditirelo tša Lekgotlatheramelao ya Profense ya Gauteng wa 1996 (Molao wa ya 5 wa 1996);

"Sepikara" ke gore Sepikara sa Lekgotlatheramelao seo se kgethilwego go ya ka mabaka a karolo ya 111 ya Molaotheo;

"Melao ye e lego Gona" ke gore melao le ditaelo tše di dirilwego mo tshepetsong ya mešomo ya Lekgotlatheramelao go ya ka mabaka a karolo 116 a Molaotheo;

"Molao wo" o akaretša tsebišo ya ditaolo tše di lego ka fase ga Molao wo.

Tokelo ya go phethišena

2. Motho yo mongwe le yo mongwe a ka tliša phethišene go ya ka mabaka a Molao wo.

Ditaolo ka kakaretšo

3. (1) Mophethišene a ka tliša phethišene ka polelo e fe goba e fe ya dipolelo tša semmušo tša Repabliki ya Afrika.

(2) Komiti e swanetše –

(a) go hlompha, go boloka le go godiša ditokelo tša mophethišene tšeo di tšweleditšwego mo go Molao wo;

(b) go tšewe magato a maleba go godiša le go nolofatša go tšea karolo ga badudi / baagi ba Profese mo tshepetšong ya pušo ya Profense, kudukudu batho bao ba bego ba bušeditšwe morago ke kgethollo ya mohuta ofe goba ofe; le

(c) go godiša temokrasi ka go tšweletša maikarabelo a magolo le ponagatšo phatlalatša ge ba akanya diphethišene.

(3) Sepikara se swanetše go godiša le go nolofatša tshepetšo ya toka le tekatekano ge ba akanya diphethišene tšeo di tlišitšwego mo Palamenteng go ya ka mabaka a Molao wo.

Phethišene

4. (1) Phethišene e ka ba –

(a) Phethišene e tee, yeo e tlišitšwego ke motho o tee go tšwa go mophethišene o tee, mabapi le ngongorego ye e rilego goba kgopelo;

(b) Phethišene ya lekgotla, yeo e tlišitšwego ke motho o tee go tšwa go lekgotla goba ethišene o tee yoo a filwego maatla ke

lekgotla go tliša phethišene yeo, mabapi le ngongorego ye e rilego goba kgopelo;

(c) phethišene ye e kgobokantšwego, yeo e lego kgoboketšo ya ditshaeno tše di tšwago go baphethišene ba mmalwa, mabapi le ngongorego ye e rilego goba kgopelo; goba

(d) phethišene ya sehlopha goba batho ba bantši, yeo e dirwago ke ditlišwa tša motho o tee goba sehlopha go tšwa go baphethišene ba mmalwa, mabapi le dingongorego goba dikgopelo tša go swana goba tša go nyaka go swana.

(2) Phethišene e ka tlišwa ke motho yo a emelago -

(a) dikgahlego tša gagwe;

(b) dikgahlego tša motho yo mongwe yoo a sego mo maemong a go tliša phethišene ka noši goba ka leina la gagwe go ya ka mabaka a rilego ao a mo thibelago go dira seo;

(c) bjalo ka leloko goba go ya ka dikgahlego tša sehlopha goba sehlopha sa batho; goba

(d) go ya ka dikgahlego tša setšhaba.

(3) Phethišene e wela ka fase ga goba e laolwa ke karolwana ya (4) gomme e bolela ka taba ye nngwe le ye nngwe -

(a) yeo e lego ka taolong ya lekgotlatlhakamolao la Profense leo le akantšwego mo go Molaotheo;

(b) yeo e lego taolong ya khuduthamaga ya Profense yeo e akantšwego mo go Molaotheo;

(c) yeo e abetšwego maloko a Khansele ya Khuduthamaga go ya ka mabaka a Molaotheo; goba

(d) yeo e amago tlhokomelo ya profense ya pušo ya selegae yeo e akantšwego ka mo go Molaotheo.

(4) Komiti e swanetše go gana go akanya ka phethišene -

- (a) ye e welago ka ntle ga morero wa ditaba tše di akantšwego mo go karolwana (3);
 - (b) ye e amago taba yeo e sa letetšego sephetho sa kgoro ya tsheko goba lekgotla goba foramo tše di akantšwego ka mo go Molaotheo;
 - (c) ye e lego mabapa le tatofatšo le kahlolo ya kgoro ya tsheko ya bosenyi bja motho yo a hloletšwego lebaka le le rilego kgolegong; goba
 - (d) ye e bolelago ka taba, yeo e welago ka gare ga morero wa khomišene ya dinyakišišo, yeo e theilwego go ya ka mabaka a Molao wa Dikhomišene wa Profense, 1997 (Molao wa nomoro ya 1 wa 1997).
- (5) Komiti e ka gana go akanya phethišene yeo -
- (a) e sa bonalego gabotse;
 - (b) e sa bolelego leina le diaterese ka botlalo tša mophethišene le mo go nyakegago, leina la lekgotla goba sehlopha seo e tlišitšwego legatong la bona;
 - (c) e sa saenwago ke mophethišene, ka ntle le ge mophethišene e sa kgone go ngwala gomme -
 - (i) ge a dirile leswao mo phethišeneng bjalo ka tšhupetšo ya go ba le maatla a go tliša phethišene; le
 - (ii) leswao leo le dirilwe mo pele ga ditlhatse tše pedi tšeo di kgonago go ngwala gomme ka go saena ga bona phethišene go hlatsela gore leswao leo ke la mophethišene;
 - (d) e bolelago ka taba yeo e kilego ya akanywa ke Komiti ka ntle le ge phethišene yeo e na le dintlha tše dimpsha tšeo di ka bago le thulano mo go phetho ya kakanyo ya taba yeo;
 - (e) e nago le dipolelo tša kgobošo goba polelo ye mpe;
 - (f) mo go kgonegago, e bolelago ka taba yeo mophethišene a

šetšego a e tliša tlhokomelong ya taolo ya maleba, goba ge mophethišene a e tlišitše tlhokomelong ya taolo ya maleba, taolo ya maleba ga se ya fiwa nako ye e kwagalago go akanya taba yeo.

Tlišo ya phethišene

5. (1) Phethišene e swanetše go tlišwa ka go latelwa ka botlalo go ya ka Molao wo.
- (2) Tirelo ya go thekga taolo e swanetše go neela ka dithušo ka moka tše di kwagalago, ka ntle le thušo ya ditšhelete /matlotlo , go motho yo monwge le yo mongwe yo a sa kgonego go tliša phethišene yeo e akaretšago dinyakwa ka moka tšeo di gapeletšwago ke Molao wo gore motho yoo a kgone go tliša phethišene ya maleba.
- (3) Tirelo ya go thekga taolo e swanetše go tšea ka moka magato ao a kgethetšwego go beakanya phethišene go tlo akanywa ke Komiti.

Mošomo wa Komiti

6. Komiti e swanetše go -
 - (a) amogela phethišene ye nngwe le ye nngwe ye e tlišitšwego go ya ka mabaka a Molao wo;
 - (b) latela karolo ya 4(3), (4) le (5), go akanya phethišene ye nngwe le ye nngwe gabotse yeo e tlišitšwego go ya ka mabaka a Molao wo;
 - (c) ngwala bjalo ka bohatse bja tlišo ya molomo goba bohatse bja mophethišene bjoo bo filwego go ya ka mabaka a karolo ya 7(a);
 - (d) ge phethišene e išitšwe go leloko la Khansele la

Khuduthamaga goba go khansele ya mmasepala go ya ka mabaka a karolo ya 7(e) -

(i) laela motho goba mokgatlo go ya moo phethišene e išitšwego gona go yo akanya phethišene yeo, dira sephetho goba go fa dikeletšo mabapi le phethišene yeo goba go fediša kgopelo goba ngongorego yeo e tšweleditšwego mo go phethišene; le

(ii) go nyaka gore motho yoo goba mokgatlo woo phethišene e išitšwego go yena goba bona go fa Komiti mo lebakeng la dibeke tše nne tša kišo yeo ka lengwalo, go ngwala pego ka botlalo ya magato ao a tšerwego ke motho yoo goba mokgatlo woo go ahlaahla ngongorego, kgopelo, keletšo goba taelo ya Komiti, go ya ka taba yeo, le mabaka a go tšea magato ao a rilego;

(e) ge e gana go akanya phethišene go ya ka Mabaka a karolo 4(3), (4) le (5) goba ka ge e se ya tlišwa go ya ka Molao wo, ka lengwalo ba swanetše go botša mophethišene ka ntlha yeo le mabaka a go tšea sephetho seo;

(f) bega ka kotara go Lekgotlatheramelao ka diphethišene tše di tlišitšwego go bona mo nakong yeo le ditiro tša bona ka moka mabapi le tšeo, go akaretšwa:

(i) boikarabelo, bokgoni le bonako bjoo diphethišene di šomilwego ka gona; le

(ii) bokgoni bja tshepedišo ya diphethišene le ditshepetšo; le

(g) go laela tirelo ya go thekga taolo go botša mophethišene ka nako -

(i) ka nako le nako, ka ga tšwelopele ya kakanyo ya phethišene;

- (ii) ka ga sephetho sefe goba sefe seo se tšerwego ke Komiti mabapi le phethišene, le mabaka a go tšea sephetho seo;
- (iii) ge mophethišene a memilwe ke Komiti go tliša phethišene ka molomo goba go bitša hlatse;
- (iv) ka ga letšatši, nako le lefelo ge phethišene e tlile go akanywa le gore mophethišene a ka no ba gona mo tulong ya Komiti;
- (v) ka ga kišo go motho yo mongwe le yo mongwe goba mokgatlo woo o akantšwego mo go Molao wo;
- (vi) ka dithušo tše dingwe tšeo di lego gona tšeo mophethišene a ka di dirišago le
- (vii) ka ntlha ya gore mophethišene o na le tumelelo ya go bona faele ya phethišene ka dinako tšohle tše di kwagalago.

Maatla a Komiti

7. Komiti e ka -

- (a) mema mophethišene go -
 - (i) oketša phethišene ya gagwe ka go tliša ditlaleletšo ka molomo goba tše di ngwadilwego tša phethišene;
 - (ii) bitša hlatse go fa bohlatse bja molomo goba bjo bo ngwadilwego go Komiti;
- (b) dira dikeletšo go motho wa maleba goba mokgatlo ka ponalo ya go fediša kgopelo goba gongorego yeo e lego ka gare ga phethišene yeo e tla kgotsofatšago mophethišene;
- (c) dira dikeletšo go motho wa maleba goba mokgatlo mabapi le tsela (tlhakego) ya kakaketšo yeo e tlilego go latelwa mo mabakeng a a tlogo ge go fedišwa kgopelo goba ngongorego;

(d) ge e kgopetšwe go dira bjalo ke mophethišene, go ahlola kgohlano goba ngongorego, go bušetša morago tiragalo, go lokiša / phošolla tlhokomologo, mabapi le ditaba tše dingwe ka ntle le tšeo di kgethetšwego ke tlhakamolao ka tšhomišo ya namolo goba therišano;

(e) iša phethišene le dikeletšo, ge di le gona, go leloko la Khansele ya Khuduthamaga goba go khansele ya mmasepala go yo e akanya le go fa sephetho go ya ka ngongorego goba kgopelo yeo e lego ka gare ga phethišene.

(f) dira keletšo go Sepikara go iša phethišene go -

(i) Lekgotlatheramelao;

(ii) Komiti ye nngwe ya Lekgotlatheramelao;

(iii) leloko la Khansele ya Khuduthamaga;

(iv) khansele ya mmasepala ya Profense;

(v) Setho se se thekgago molaotheo wa temokrasi wo o theilwego ke kgaolo ya 9 ya Molaotheo; goba

(vi) Taolo ya Tshekišo ya setšhaba

(g) phetha kakanyo tša bona tša phethišene ge di ahlola gore ga go magato ao a swanetšego go tšewa goba magato a mangwe go ya ka taba yeo go fediša phethišene yeo e tlogo go kgotsofatša mophethišene;

(h) ge phethišene e išitšwe go leloko la Khansele ya Khudutlamaga goba go khansele ya mmasepala go ya ka mabaka a karolo ya 6(d) le g/e motho yoo goba mokgatlo woo a paletšwe ke go latela karolo ya 6(d) goba maitshwaro a motho yoo goba mokgatlo woo goba karabo yeo ga e kgotsofatše -

(i) go dira ngongorego go Mošireletši wa Setšhaba goba go Tonakgolo ya Profense;

(ii) go tšea magato a mangwe le a mangwe a maleba ao Komiti e kago go a tšea a semolao;

(i) ge ngongorego goba kgopelo ya phethišene go tloga mola e tlišwago e šetše e fedišitšwe go ya ka kgotšofalo ya mophethišene, gona faele ya phethišene e tla tswalelwa;

(j) neelana ka e nngwe le e nngwe ya mešomo goba maatla a yona go ya ka mabaka a karolo (10).

Tshepedišo ya kakanyo ya phethišene

8. Tshepedišo ya kakanyo ya phethišene e kgethilwe go ya ka melawana le go ya ka Melao ye e Lego Gona.

Tokelo ya go ipiletša (boipiletšo)

9. (1) Mophethišene a ka ipiletša go Sepikara kgahlanong le -

(a) go gana go akanya phethišene ke Komiti;

(b) mo go lego gona, maikemišetšo a Modulasetulo go akanya phethišene ye e tlišitšwego ke Mophethišene sephiring (go sa dumelelwa motho ka gare); goba

(c) keletšo efe goba efe yeo e išwago go motho yo mongwe goba mokgatlo goba sephetho se sengwe sa Komiti ka morago ga

kakanyo ya phethišene yeo e tlišitšwego ke yena.

(2) Boipiletšo bo swanetše go tlišwa gomme bja ahlaahlwa go ya ka mo go kgethetšwego.

(3) Sepikara se swanetše go akanya boipiletšo bjoo ka mo go kgethetšwego le gore ka morago a ka -

(a) phatlalatša boipiletšo bjoo;

(b) bea tafoleng tokumente ya boipiletšo le go e iša go Komiti go e akanya gape; goba

(c) iša boipiletšo le faele ya phethišene le keletšo go -

(i) Lekgotlatheramelao;

(ii) Komiti ye e lego gona ya Lekgotlatheramelao;

(iii) Tonakgolo ya Profense goba leloko la Khansele ya Khuduthamaga;

(iv) khansele ya mmasepala ya pušo selegae;

(v) Setho se se thekgago molaotheo wa temokrasi bjalo ka ge o akantšwe mo go kgaolo 9 ya Molaotheo; goba

(vi) Taolo ya Tshekišo ya Setšhaba; goba

(d) dira maikemišetšo a mangwe, ao ka semolao a kgonago go a dira go ya ka phethišene;

(4) Sepikara se swanetše mo nakong ye e kwagalago ka morago ga kakanyo ya boipiletšo ka go ngwala a begele Lekgotlatheramelao ka boipiletšo bjoo.

Neelano

10. (1) Komiti e ka neelana ka e nngwe le e nngwe ya ditshwanelo, mešomo goba maatla a tšona go ya ka phethišene ye e rilego go leloko la Komiti.

- (2) Leloko le le akantšwego mo go karolwana (1) le tla kgethwa ke Modulasetulo.
- (3) Modulasetulo o swanetše go fa leloko leo tokelo ye e ngwadilwego le go saenwa go akanya phethišene ye e rilego.
- (4) Modulasetulo a ka phumula tokelo ya gagwe nako ye nngwe le ye nngwe pele leloko le thoma go akanya phethišene ye e rilego.
- (5) Leloko le swanetše go bega ka morago ga ge le feditše go akanya phethišene go Komiti dipheho tša kakanyo ya phethišene yeo.
- (6) Ga go na seo se thibelago Komiti mo karolong ye go tšweletša maatla goba go dira tshwanelo e fe go ba efe ye e neetšwego go ya ka karolo ye.
- (7) Leloko leo le kgethilwego go ya ka mabaka a karolo ye le filwe maatla ao a nyakegago go mo kgontšha gore a phethe mošomo wa gagwe.

Tulo ya Komiti

- 11.** (1) Komiti e ka dula go theeletša bohlatse le go akanya phethišene ka letšatšikgwedi, nako le lefelo mo Profenseng leo le tlogo go kgethwa ke Modulasetulo.
- (2) Modulasetulo o swanetše go fa tsebišo go setšhaba ka tulo go ya ka Molao ye e lego Gona.
- (3) Modulasetulo o swanetše go laela tirelo ya go thekga taolo gore nako le nako e kgone -
 - (a) go kgonthiša gore lengwalo la piletšo tshekong (tagafara) le ntšhitšwe le go fiwa bjalo ka ge go kgethetšwe;
 - (b) go botša mophethišene ka lengwalo ka taba efe goba efe yeo mophethišene a loketšego go botšwa go ya ka mabaka a Molao, le molao ofe goba ofe o mongwe goba Molao ye e lego Gona;

- (c) ge go nyakega, go kgonthiša gore diteng tša faele ya phethišene di fetolelwa go polelo ya go šoma ya Komiti.
- (d) go dira mešomo ya tlaleletšo, yeo e tla kgontšhago Komiti go akanya ka tshwanelo phethišene le go šomiša mešomo ye mengwe ya bona go ya ka mabaka a Molao wo.
- (4) Bohlatse bjo bo tlišitšwego pele ga Komiti bo swanetše go theeletšwa phatlalatša ka ntle le ge -
- (a) e le dikgahlego tša toka; goba
- (b) e le dikgahlego tša tšhireletšo ya mophethišene goba hlatse. Gore bohlatse bo swanetše go kwewa sephiring (go sa dumelelwa motho ka gare).
- (5) Tirelo ya go thekga taolo e swanetše go fa Modula-setulo lenaneo la ditlišo tša diphethišene, tšeo di sa fetšišwago ke Komiti go tlišwa tafoleng mo go kopano ye nngwe le ye nngwe ya Komiti.

Maikarabelo a Komiti

- 12.** (1) Komiti e swanetše go begela Lekgotlatheramelao bjalo ka ge go akantšwe mo go karolo 6(1)(f) le (g).
- (2) Ngangišano ka taba ye e tšweletšego mo pegong ya Komiti go Lekgotlatheramelao e swanetše go direga ge maloko ao a fetago a mahlano a Lekgotlatheramelao a nyaka go be bjalo.
- (3) Lekgotlatheramelao e ka bušetša taba efe goba efe yeo e tšwelelago ka gare ga pego yeo e tlišitšwego go Lekgotlatheramelao ke Komiti morago go Komiti gore e e akanywe gape.
- (4) Leloko la Lekgotlatheramelao le na le tokelo ya go lebelela faele ya phethišene nako ye nngwe le ye nngwe ye e kwagalago.
- (5) Lekgotlatheramelao e ka re mola Komiti e sa akanya phethišene gomme ya e tsena ganong ka dipotšišo mabapi le phethišene mo

tshepetsong ya ge go akanywa phethišene, e sego mabapi le maemo a yona.

(6) Leloko la Lekgotlatheramelao le ka re mola Komiti e sa akanya ka phethišene la botšiša fela mabapi le phethišene yeo ye e amanago le tshepetsō ya go akanywa ga phethišene e sego mabapi le maemo a gagwe.

Dihlatse le bohlatse bja ditlakelo

13. (1) Ka lebaka la go nyakišiša tabataba ye e lego mabapi le nyakišišo ya yona, Komiti e ka -

(a) laela motho go tla tulong ya Komiti, bjalo ka hlatse, go tlo fa bohlatse, go ntšha puku efe goba efe, tokumente, sedirišwa goba ditlakelo tše dingwe bjalo ka bohlatse ge Komiti e nyaka bjalo; goba

(b) go biletša tshekong motho go tla tulong ya Komiti, bjalo ka hlatse go tlo fa bohlatse, goba go ntšha puku efe goba efe, tokumente, sedirišwa goba ditlakelo tše dingwe bjalo ka bohlatse, pele ga Komiti ka nako le lefelo tšeo di beilwego mo lengwalo la piletšo tshekong.

(2) Lengwalo la piletšo tshekong leo le akantšwego mo go karolwana (2) le swanetše -

(a) go ba le saenwe le go ntšhwa ke Modulasetulo;

(b) go bea taba mabapi le lebaka la go ntšhiwa;

(c) go fa letšatšikgwedi, nako le lefelo moo motho goba moemedi wa mokgatlo a swanetšego go tlo tšwelela pele ga Komiti;

(d) go tliša šeding go motho yoo lengwalo la piletšo tshekong le ngwaletšwego yena go ya ka dipeelano tša karolwana (4); le

(e) go išwa ka nako go motho yoo lengwalo la piletšo tshekong

le ngwaletšwego yena ka poso ye e rejistarilwego (lefetšwego), go le iša ka noši goba ka mokgwa wo mongwe le wo mangwe woo o kgethilwego.

(3) Motho yo a tllilego go tšwelela pele ga Komiti go tlo fa bohlatse bja molomo o swanetše gore pele a efa bohlatse bjoo a ikane goba a dire kgonthišo, pele ga Modulasetulo goba motho yo mongwe yo a filwego maatla a taolo ke Modulasetulo go dira bjalo gore o tllile go bolela nnete fela.

(4) Motho yo mongwe le yo mongwe yo e sego modiredi wa Profense goba wa khansele ya mmasepala yoo a tšwelelago pele ga Komiti go tlo fa bohlatse bja molomo goba go ntšha tokumente lefe goba lefe, sedirišwa goba ditlakelo tše dingwe bjalo ka bohlatse ka fase ga lengwalo la piletšo tshekong, leo a le filwego go ya ka mabaka a karolo ye, o na le tokelo ya tefelo ya tihatse yeo e lefšago tihatse yeo e fago bohlatse mo tshekong ya bosenyi kua kgorongkgolo ya Tsheko ya Repabliki.

(5) Motho yo a tšwelelago pele ga Komiti go fa bohlatse bja molomo a ka thušwa ke moemedi yo a kgethilwego ke bona.

Go swara bohlatse bja ditlakelo

- 14.** (1) Komiti e swanetšwe go dira khopi goba go ngwalolla ka mokgwa ofe goba ofe wa ditlakelo tša bohlatse tšeo di tlišitšwego.
- (2) Komiti e swanetše go swara khopi goba sengwalollwa lebaka la go ya go ile ka morago ga phetho ya dikakanyo tša phethišene.
- (3) Tirelo ya go thekga taolo e swanetše go nokela khopi goba sengwalollwa bjalo ka ge se ankantšwe mo go karolwana (1) mo faeleng ya phethišene ye e rilego.

Melato

15. (1) Motho yo a filwego gabotse lengwalo la piletšo tshekong go ya ka mabaka a karolo 13 yoo ka ntle le lebaka le le kwagalago -

(a) a palelwa go tšwelela pele ga Komiti ka letšatšikgwedi le lefelo leo le boletšwego mo go lengwalo la piletšo tshekong;

(b) a palelwa go šala a tsenetše tulo ya Komiti go fihlela Modulasetulo a mo fa tokelo ya go tloga gore a se sa tsenela tulo ye nngwe;

(c) go gana goba go palelwa go ikana goba go dira kgonthišo bjalo ka ge e akantšwe mo go karolo ya 13(3) ge a bitšwa ke Modulasetulo go dira bjalo;

(d) go gana goba go palelwa go ntšha puku efe goba efe, tokumente, sedirišwa goba ditlakelo tše dingwe tša bohlatse tšeo a di swerego goba tšeo di lego ka fase ga taolo ya gagwe gomme a laetšwe go di ntšha, o na le molato.

(2) Motho ge a filwe lengwalo la piletšo tshekong gabotse go ya ka mabaka a karolo 13 ka morago ga ge a ikanne goba a dirile kgonthišo -

(a) a palelwa go araba ka botlalo goba ka nnete potšišo efe goba efe yeo a e botšišwago ka semolao; goba

(b) a dutše a tseba gomme a fa bohlatse bja maaka, o na le molato.

(3) Motho -

(a) yo a tšhošetšfilwego lengwalo la piletšo tshekong go ya ka mabaka a karolo ya 13 go -

(i) gana goba go palelwa ke go fa bohlatse ka molomo pele ga Komiti;

(ii) fa bohlatse bja maaka a dutše a tseba pele ga Komiti;

(iii) gana goba go palelwa go ntšha puku efe goba efe tokumente, sedirišwa goba ditlakelo tše dingwe tša bohlatse

tšeo a di swerego goba tšeo di lego ka fase ga taolo ya gagwe tšeo a laetšwego go di ntšha;

(b) yo a filwego lengwalo la piletšo tshekong gabotse go ya ka mabaka a karolo ya 13, yoo a ntšhago puku efe goba efe, tokumente, sedirišwa goba ditlakelo tše dingwe bjalo ka bohlatse pele ga komiti, bjoo a tsebago gore ke maaka, maithomelo, maakafaditšwe goba ga bo molaong goba bo fetotšwe ka maaka;

(c) Yo a senyago, fihlago, maakafatšago, ithomelago goba bo se molaong goba bo fetotšwe ka maaka puku efe goba efe, lengwalo (tokumente) , sedirišwa goba ditlakelo tše dingwe tša bohlatse bjoo a tsebago goba mohlomongwe a ka be a letetšwe go tseba gomme e le maleba le phetišene yeo e akanywago goba e tlilego go akanywa ke komiti; goba

(d) Yo a tsebago gomme a efa Komiti ditaba goba a dira pego pele ga yona yeo e lego maaka goba ye e timetšago mohlala, o na le molato.

(4) Motho yo mongwe le yo mongwe yoo a thibelago ka swele goba yo a huetšago ka mokgwa wo o sa lokago Komiti, leloko lefe goba lefe la Komiti goba leloko lefe goba lefe la tirelo ya go thekga taolo go dira goba go se dire se sengwe seo a filwego maatla go ya ka mabaka a Molao wo, o na le molato.

Dikotlo

16. Motho yo a bonwego molato ka fase ga karolo ya 15 o lebanwe ke tefišo goba kgolegong lebaka le le sa fetego dikgwedi tše lesomepedi (12) goba bobedi bja tšona e lego tefišo le kgolego.

Melawana

17. (1) Sepikara se swanetše go dira melawana mabapi le
- (a) tshepetšo le ditshepedišo tša go tliša phethišene;
 - (b) ngwadišo ya phethišene le go bulwa ga faele ya phethišene ke tirelo ya go thekga taolo;
 - (c) go dira dinyakišišo tša mathomo tša phethišene ke tirelo ya go thekga taolo;
 - (d) tshepetšo le ditshepedišo tša go tliša boipiletšo ka mophetišene;
 - (e) tshepetšo le ditshepedišo tša tshwaro ya phethišene ge Lekgotlatheramelao le sa le maikhutšong; le
 - (f) tshepedišo ya ka moo go ahlaahlwago ka gona moo go nago le dithulano tša dikgahlego.
- (2) Sepikara se ka dira melawana mabapi le -
- (a) ditokelo tša mophethišene tšeo di akantšwego mo go Molao wo;
 - (b) tshwanelo e fe goba e fe goba mošomo o fe goba ofe wo o sa fiwago ka mo go karolwana ya (1), woo Komiti e letetšwego go e dira;
 - (c) tshwanelo efe goba efe goba mošomo ofe goba ofe wo o sa fiwago ka mo go karolwana ya (1), woo tirelo ya go thekga taolo e letetšwego go o dira;
 - (d) go latela dinako dife goba dife tšeo di beilwego, ka nako ya tshepetšo efe goba efe goba tshepedišo efe goba efe ye e akantšwego ka mo go Molao wo;
 - (e) go lota goba tahlo ya faele ya phethišene ye e tswaletšwego;
 - (f) ditshepedišo le tshepetšo tša go ntšha le go fiwa ga mangwalo a piletšo tshekong go ya ka merero ya Molao wo;
 - (g) Magato afe goba afe a tlogo go tšewa ke Lekgotlatheramelao,

Komiti goba Mongwaledi go godiša le go nolofatša go kgata tema ga baagi ba Profense mo tshepetsong ya pušo mo Profenseng; goba

(h) ka kakaretšo, taba efe goba efe yeo e sa fiwago mo go karolo ye, gomme e ka be go nyakega gore e kgethelwe gore go tle go phethe goba go godiša nepo ya Molao wo.

Go fedišwa ga Molao

- 18.** Molao wa Diphethišene wa Gauteng, 1998 (Molao 14 wa 1998) le Molao-phethošwa wa Diphethišene wa Gauteng, 1999 (Molao 5 wa 1999) e fedišitšwe.

Thaetlele ye kopana le go thongwa go šoma.

- 19.** Molao wo o bitšwa Molao wa Diphethišene wa Gauteng, 2002, gomme o thoma go šoma ka letšatšikgwedi leo le beilwego ke Sepikara ka tsebišo ka mo go kuranta ya mmušo ya Profense.

**MEMORANTAMO WA DITLHALOŠO
TŠA MERERO YA MOLAOKANANYWA
WA DIPHETHIŠENE WA GAUTENG, WA 2002**

1. MABAKA A MOLAOKAKANYWA

1.1 Morero wa Molaokakanywa

Molaokakanywa o tsenywa legatong la Molao wa Diphethišene wa Gauteng wa 1998 (Molao 14 wa 1998) le Molao-phetošwa wa Diphethišene wa Gauteng wa 1999 (Molao 5 wa 1999), gore ditaba tše di amago diphethišene di tle di ahlaahlwe ka fase ga dipeelano tša Molaokakanywa wa Diphethišene wa Gauteng wa 2002.

1.2 Boithekgo

Lekgotlatheromelao la Profense ya Gauteng e tsebagaditše Molao wa Diphethišene wa Gauteng ka 1998. Morero ya Molao wo e be ele go tšweletša dipeelano tša molaotheo tšeo di gapeletšago Lekgotlatheromelao go beakanya ditsela tšeo setšhaba se tlogo go kgatha tema. Molao wo gape o fa ditlhalošo tša ditokelo tša baagi tšeo di hwetšwago mo go Molaotheo go phethišena le go ba fa tihakego ya semolao le ditsela tšeo lekgotlatheromelao le akanyago ka gona diphethišene.

Mo mathomong a ngwaga wa 2001, go ile wa hlohlomišwa go ngwala melawana yeo e tlogo go latelwa ke Molao wo. Sehlopha sa mafelelo sa melawana kakanywa se ile sa tšweletšwa. Tshepetšo ya go ngwala melawana le maitemogelo ao a kgobokeditšwego mo lebakeng la mengwaga la go tsenya tirišong. Molao wo, o utolotše gore Molao wo ga se wa tšweletša gabotse tshepetšo ya diphethišene go ya ka moo e bego e letetšwe ka mo go dipampiri tša pholisi mabapi le taba ye.

1.3 Ditherišano / Dipoledišano

Ka morago ga go latela o go tsenya tirišong ga Molao wa Diphethišene wa Gauteng wa 1998 le di phetošo tša wona tšeo di lego mo go Molao-Diphetošwa wa Diphethišene wa Gauteng wa 1999 (Molao 5 wa 1999), go ile gwa dirwa thuto ya go lebelela bokgoni bja Diphethišene le Tshepetšo ya kgato-tema ga Setšhaba. Thuto ye e ile ya latelwa ke pego ya Wekshopo ya Diphethišene le kgato-tema ya Setšhaba ka ga dikeletšo tšeo di bego di le ka gare ga pego ye, gomme go ile gwa tšewa leeto le thuto go ya Jeremane le Scotland ke Komiti ye e lego Gona ya diphethišene le kgato-tema ga Setšhaba. Maeto a go ya Jeremane le Scotland a be tšerwe go ya ka diteng tša go hlahloba tshepetšo. Ketelo ya Jeremane e be e le ye e laelago ka ge tshepetšo ya diphethišene ya Palamente ya Gauteng e

theilwe go malebela (mmotlolo) wa Komiti ya "German Bundestag". Mo go ngwalweng ga melawana ya Molao wa 1998, go be go swanetše go gatelelwa dikeletšo tša go hlahloba ditshepetšo.

- (i) Ditaelo di ile tša fiwa mo go ngwalweng ga melawana go latela karolo ya 18 ya Molao wa 1998. Kakaretšo e be e sa šetša fela mo go ngwalweng ga melawana. E be e akaretša tshekatsheko ya Motheo ya Molao go lebeletšwe go lokelwa dikaonafatšo.
- (ii) Mo go ngwalweng ga melawana, go ile gwa ba pepeneneng gore Molao wa 1998, ga se wa laetša gabotse tshepetšo ya topo yeo e letetšwego mo go dipampiri tša pholisi gomme go nagana leswa go ile gwa tšweletšwa ke bokgoni bja thuto. Ka fao, melawana-kakanywa e na le dipeelano tšeo di sego gona mo go Molao wa motheo.
- (iii) Phapano e ba gona ya gore melawana e ka se amogelwe go fihlela molao wa motheo o dira peelano ya go lokela melawana yeo e fapogago mo go Molao wa diphethišene wa Gauteng wa 1998 bjalo ka ge ga bjale o dirilwe. Ka mantšu a mangwe, tshekatsheko ya Molao wo e swanetše go direga pele, pele melawanakakanywa e ka hlohlomišwa go amogelwa.
- (iv) Ka fao, molaokakanywa o hlohlomišwa go bolela ka diphapano tšeo di bolelwago mo go (iii) ka godimo. Sebakeng sa go dira diphetošo mo Molaong, tšeo di ka laetšago go ba le tiro ye e hlakahlakanego le go hlola matshwenyego, gona go kaone ge go ka hlohlomišwa Molaokakanywa o mofsa.
- (v) Molaokakanywa o tla boloka boikgopolelo ka bophara le Metheo ya Molao wo, mola o phethela kelelo ye e kwagalago le tatelano, go phošolla dipoeletšo le go ntšha dipeelano tše di sa kwešišegogo le tše di hlokago botebo. Molaokakanywa wo o ngwadilwe gomme o šomišitše mokgwa wa go ngwala ka Seisemane se se bobebe seo se kwešišegogo bonolo gore Molao wo o kwešišwe bonolo.
- (vi) Molaokakanywa wo o fetola malebela (mmotlolo) wa tshepetšo ya diphethišene. Molao wa ga bjale o fa gore Komiti ye e lego Gona ya diphethišene le kgato-tema ga Setšhaba (PPPSC) e ka iša ditopo gore di yo akanywa go dikomiti tše dingwe, molaokakanywa o lemoga PPPSC bjalo ka Komiti yeo maikarabelo a yona e lego ditopo. Sephetho ke gore PPPSC e tla akanya diphethišene ka moka ka ponalo ya go di fediša gomme e tla romela fela diphethišene tšeo di tšweletšago ditaba tša pholisi goba tša semolao go ya go Dikomiti tša rnaleba tša diphotefolio.

- (vii) Molaokakanywa o tšweletša taolo ya dikakanyo tša diphethišene ge Lekgotlatheramelao le le maikhutšong. Go ka kgethelwa tsela yeo go ka akanywago diphethišene mafeleleng a kotara ya tulo ya lekgotlatheramelao.
- (viii) Molaokakanywa wa diphethišene wa Gauteng wa 2002 o dira dipeelano tše di lekanego tša dinako tšeo di kgethetšwego tšeo di tlemago dihlopha ka moka tšeo di amegago le dikakanyo tša diphethišene.
- (ix) Molaokakanywa o dira dipeelano tša gore Komiti yeo e filwego maikarabelo a go akanya diphethišene go ba le maikarabelo go Lekgotlatheramelao mo dikakanyong tša bona tša diphethišene.
- (x) Se se bohlokwa kudukudu ke gore Molaokakanywa o fa gape tlhalešo ya melao ya taolo ya toka ka go dira dipeelano tša ditsela tša go ipiletša. Molaokakanywa gape o bea dikgoro tšeo di bopago ditokelo tša go ipiletša.

2. **DITLAMORAGO TŠA MOLAOKAKANYWA**

2.1 **Ditlamorago tša Leago**

Go bohlokwa gore Molaokakanywa wa Diphethišene wa Gauteng wa 2002 o theiwe mo go mehola le metheo yeo e hwetšwago ka gare ga Molaotheo.

Go ama ye e rilego go ya ka diteng ke tšeo di rwešago Lekgotlatheramelao la Profense mošomo wa go godiša le go nolofatša go tsenya baagi mo tshepetšong ya molao. Karolo 118(1)(a) ya Molaotheo e fa gore "*lekgotlatheramelao la profense e swanetše go nolofatša tsenyo ya setšhaba mo go tshepetšo ya molao le ditshepetšo tše dingwe tša lekgotlatheramelao le dikomiti tša gona*". Se se swanetše go balwa mmogo le karolo 115(d) yeo e dumelago le go maatlafatša "*lekgotlatheramelao la profense goba e nngwe le e nngwe ya dikomiti ... go amogela diphethišene, boemedi goba ditlišo go tšwa bathong goba ditlamong tše di amegago*".

Molaotheo gape mo go karolo 195(e) o fa gore "*dinyakwa tša batho di swanetše go arabja le gore setšhaba se swanetše go hlohleletšwa go tšea karolo mo go direng ga pholisi*". Karolo 17 ya Molaotheo e kgonthiša gore "*mang le mang ro na le tokelo, ya go kopana ka khutšo ba sa itlhama ka dibetša, go šupetša, go laetša ngongorego le go fana ka diphethišene*". Molaokakanywa o nyaka go phetha tše le tše dingwe tše di lebanego dipeelano tša Molaotheo le moya wa gona. Metheo ya Molao wa diphethišene wa Gauteng wa 1998, ka ge o fetošitšwe, e a bolokwa gomme gwa kaonafatšwa godimo ga yona.

Molaokakanywa o ngwadilwe ka Seisemane se se bonolo. Dipeelano di

beakantšwe ka mokgwa wa go phethagatša kelelo ye e kwagalago le tatelano ya gona. Seo Molaokakanywa o nyakago go se tšweletša, ke go fa ditsela tšeo di tlogo go thuša batho go lemoga le go diriša ditokelo tša bona tša molaotheo.

2.2 **Ditlamorago tša Tikologo**

Ga di gona.

2.3 **Ditlamorago tša Matlotlo (Ditšhelete)**

Tshepetšo ya diphethišene ke lenaneo le le bohlokwa la Lekgotlatheramelao gomme tekanyetšo ya ditšhelete e šetše e le gona ya lenaneo le.

3. **TŠHIŠINYO**

Tshekatsheko ya tshepetšo ya diphethišene le bokgoni bja yona e šetše e dirilwe gomme ditirišo tše botse di šetše di amogetšwe go tšwa dinageng tšeo di nago le ditirišo tša go swana. Go na le nyakego ya go ahlaahla magomo a a lego gona mo go Molao wa 1998 woo o bilego gona mo tshepetšong ya go ngwala melawana. Ditšhišinyo tše di latelago di theilwe godimo ga;

- (i) Gore Molao wa diphethišene wa Gauteng wa 1998 (Molao wa nomoro ya 14 wa 1998) le Molao wa Diphetošo wa diphethišene wa Gauteng wa 1999 (Molao wa nomoro ya 5 wa 1999) e tsene legatong ke Molaokakanywa wa diphethišene wa Gauteng wa 2002.
- (ii) Gore Molaokakanywa wa Diphethišene wa Gauteng wa 2002 o dira dipeelano tša maleba tšeo di amago diphethišene le go fa ditlhagišo maemo a godimo go metheo yeo e thekgago tshepetšo ya diphethišene.
- (iii) Gore Molaokakanywa diphethišene wa Gauteng wa 2002 o amogelwe, go tlo dumelela tsebišo ya melawana yeo e tlogo go ntšhiwa ka morago ga go tšwetša pele se.

4. **TLHALOŠO YA TEMANA-KA-TEMANA YA MOLAOKAKANYWA**

Karolo 1: Ditlhalošo

Karolo ye e šišinya ditlhalošo tše mpsha goba tše kaonafadišwego:

- (a) "Tirelo ya go thekga taolo", gore go tlošwe nyakego ya dipeelano tša nnete mo go temana ya Molaokakanywa;
- (b) "boipiletšo", go fa tshepetšo ye mpsha ya boipiletšo yeo e

- šišintšwego ka mo go Molaotheo;
- (c) "phethišene", ka dikarolo tša nnete tšeo di akareditšwego ka mo go temana ya Molaokakanywa;
 - (d) "mophethišene", ka dikarolo tša nnete tšeo di akareditšwego ka mo go temana ya Molaokakanywa;
 - (e) "kgethetšwego" go dira peelano ya melawana; le
 - (f) "molao wo" go kgonthiša gore peelano ya melawana e a tlema.

Karolo 2: Tokelo ya go phethišena

Karolo ye e bolela ka tokelo.

Karolo 3: Metheo ya kakaretšo

Karolo ye e dira peelano ya ditheo tša go hlahla go šomiša tokelo. Karolwana ya (3) e bea kgapeletšo magetleng a Sepikara go godiša le go nolofatša tshepetšo ye e botse ya go hloka kgethollo.

Karolo 4: Phethišene

Karolwana (1) e šoma ka mehuta ye e fapanego ya diphethišene. Dipeelano tše peleng di be di hwetšwa bo go Molao wa diphethišene wa Gauteng wa 1998 mo go tlhalošo ya "tphethišene".

Karolwana (2) e hlaloša batho bao ba nago le tokelo mabapi ie go tliša phethišene. Dipeelano tše di be di hwetšwa peleng mo tlhalošong ya "mophethišene".

Karolwana (3) e fa morero wa tabataba ya diphethišene. Phethišene e swanetše go šoma ka taba yeo Lekgotlatheramelao goba Khuduthamaga ya Profense e nago le tokelo ya boahlodi.

Karolwana (4) e bolela mabaka ao Komiti e swanetšego go gana go akanya phethišene. Metheo ya Molao wa diphethišene wa Gauteng wa 1998 e boeleditšwe.

Karolwana (5) e hlaloša mabaka ao Komiti e swanetšego go šomiša boikgethelo bja bona go ka gana go akanya topo. Metheo ya Molao ya 1998 e boeleditšwe. Peelano go tšwa go seripa se sengwe sa Molao seo se šomago ka phetšo ya diphethišene se noketšwe bjale. Go oketša, peelano bjale e dirilwe mo go diphethišene tšeo di nago le polelo ya kgobošo goba polelompe, goba tšeo di bolelago ka ditaba tšeo baphethišene ba se šego ba di tliša šeding pele ga taolo ya maleba.

Karolo 5: Tlišo ya phethišene

Karolo ye e fa metheo ka kakaretšo mabapi le tlišo ya phethišene. Ditshepedišo le ditshepetšo ka botlalo di kgethetšwe mo go melawana. Dipeelano di dirwa gape mo go tirelo ya go thekga taolo go fa thušo ye e kwagalago, ka ntle ga thušo ya ditšhelete, go motho yo mongwe le yo mongwe yo a sa kgonego go tliša phethišene yeo e nago le dinyakwa ka moka tšeo di beilwego ke Molaokakanywa gore motho yoo a kgone go tliša gabotse phethišene yeo.

Karolo 6: Mešomo ya Komiti

Mešomo ya Komiti e ngwadilwe mo go karolo ye. Ga go metheo e meswa yeo e tsebišitšwego, eupša peelano ye e kopanya dikarolo le dikarolwana mo go Molao wa mathomo wa 1998.

Karolo 7: Maatla a Komiti

Maatla ka kakaretšo a Komiti a ngwadilwe mo go karolo ye. Ka ntle le dikgato tše di lego gona tšeo di tšerwego go tšwa go dikarolwana tša Molao wa mathomo wa 1998, karolo ye bjale e dira peelano ya:

- (a) temana ya (c): Komiti e ka dira keletšo go motho goba mokgatlo wa maleba mabapi le tsela ya kakaretšo yeo e swanetšego go latelwa mo nakong ye e tlogo ge go fedišwa kgopelo goba ngongorego; le
- (b) temananyana ya (iv) ya temana ya (f): Komiti e ka dira bjalo go eletša Sepikara go iša phethišene go taolo ya botšhutšhisi ya setšhaba.

Karolo 8: Tshepedišo ya go akanya phethišene

Tshepedišo ya go akanya phethišene e ka kgethelwa ka mo go melawana le melao ye e lego gona.

Karolo 9: Tokelo ya boipiletšo

Ye ke tokišo ye mpsha. Go ya ka mabaka a melao ya molao wa taolo ya toka, motho yoo khwetšo e ilego ya dirwa kgahlanong le yena, o swanetše go kgona go tšea sephetho seo gore se ye go akanya gape. Mo tšhišinyong ye, mophethišene a ka ipiletša kgahlanong le -

- go gana ga Komiti go akanya phethišene;
- mo go lego gona, maikemišetšo a Modulasetulo a go akanya phethišene ye e tlišitšwego ke mophethišene sephiring (go sa dumelelwa motho ka gare); goba

- keletšo efe goba efe, go išwa go motho yo mongwe goba mokgatlo goba sephetho se sengwe sa Komiti ka morago ga ge go akantšwe phethišene yeo a e tlišitšego.

Boipiletšo bo swanetše go tlišwa le go sepetšwa go ya ka melawana yeo e kgethilwego.

Sepikara se swanetše go akanya boipiletšo bjoo go ya ka melawana yeo e kgethilwego, gomme a ka re ka morago a -

- phatlalatša (gana) boipiletšo;
- iša boipiletšo go Komiti gore ba e akanye gape; goba
- iša boipiletšo le faele ya topo ka keletšo go Lekgotlatheramelao, komiti ye nngwe ye e lego Gona ya Lekgotlatheramelao, Tonakgolo ya Profense goba lekolo la Khansele ya Khuduthamaga la Profense, khansele ya maleba ya mmasepala wa pušo selegae, dihlongwa tše di thekgago temokrasi ya molaotheo goba Taolo ya Setšhaba ya Botšhutšhisi; goba
- dira phetho efe goba efe ye nngwe, yeo a nago le maatla a semolao go e dira mabapi le phethišene.

Karolo 10: Neelano

Karolo ye e dira dipeelano tša gore Komiti e neelane ka maatla a bona.

Karolo 11: Tulo ya Komiti

Peelano ye e theilwe godimo ga peelano ya mathomo yeo e lego ka mo go Molao wa mathomo, ka ntle le gore e hlaloša gabotse mabapi le mabaka ao a dirago gore kopano ya Komiti e swarelwe sephiring (go sa dumelwa motho ka gare). Se se tloša botšhošetši bja go se be molaong.

Karolo 12: Maikarabelo a Komiti

Karolo ye ke kopano ya dipeelano tše di fapanego tša Molao wa mathomo wa 1998. E oketša diponego tše mpsha tše di latelago:

- (a) Karolwana (4): Leloko la Lekgotlatheramelao le na le tumelelo ya go lebelela faele ya phethišene nako ye nngwe le ye nngwe ye e kwagalago;
- (b) Karolwana (5): Lekgotlatheramelao le ka re mola komiti e sa akanya phethišene gomme la e tsena ganong ka dipotšišo mabapi le

phethišene mo tshepetšong ya ge go akanywa phethišene e sego mabapi le maemo a yona; le

- (c) Karolwana (6): Leloko le Lekgotlatheramelao le ka re mola komiti e sa akanya ka phethišene la botšiša potšišo fela mabapi le phethišene yeo ye e amanago le tshepetšo ya go akanya phethišene e sego mabapi le maemo a yona.

Karolo 13: Dihlatse le bohlatsa bja ditlakelo

Karolo ye e theilwe go peelano yeo e lego gona, ka ntle le gore tokelo ye e latelago ye e nyakwago ke melao ya taolo ya toka e akaretša kudukudu:

Karolwana (5): Motho yo a tšwelelago pele ga Komiti go fa bohlatsa bja molomo, a ka thušwa ke moemedi yo a kgethilwego ke bona; le

Karolo 14: Go swara bohlatsa bja ditlakelo

Karolo ye e theilwe godimo ga peelano ye e lego gona, ka ntle le gore ga bjale e dumelela Komiti go swara dikhopi goba mangwalollwa a fe goba a fe a tokumente, sedirišwa goba ditlakelo tša bohlatsa go ya go ile.

Karolo 15: Melato

Peelano ye e lego gona e beakantšwe gape. Karolwana ye mpsha (4) e šišintšwe, go fa gore ke molato ge motho a šitiša ka boomo Komiti, leloko lefe goba lefe la Komiti goba leloko lefe goba lefe la tirelo ya go thekga taolo go dira se sengwe seo a ka goba a swanetšego go se dira go ya ka mabaka a Molao wo, goba ge motho a huetša Komiti ka mokgwa wo o sa lokago, leloko lefe goba lefe la Komiti goba leloko lefe goba lefe go dira se sengwe seo a sa swanelago go se dira go ya ka mabaka a Molao wo.

Karolo 16: Dikotlo

Karolo ye e dira dipeelano tša dikotlo.

Karolo 17: Melawana

Temana ye e dira peelano ya melawana yeo e nyakegago mo tshepetšong ye e amago tlišo ya phethišene, go bulwa ga faele ya phethišene ke tirelo ya thekgo ya taolo pele phethišene e ka akanywa ke Komiti, taelo ya go išwa ga phethišene go Komiti ke Sepikara.

Melawana ye e beilwego ka mo godimo e nale maatla a taolelo.

Sepikara se ka re gape sa šomiša boikgopolelo bja gagwe ge a oketša

melawana mabapi le koketšo ya ditokelo, mešomo le mehola yeo e sa fiwago ka mo go Molao wo, dinako tšeo di swanetšwego go latelwa le go lahlwa ga faele ye e tswaletšwego.

Karolo 18: Go fedišwa ga melao

Temana ye e dira peelano ya go fediša Molao wa Diphethišene wa Gauteng wa 1998 le Molao wa Phetošo wa Diphethišene wa Gauteng wa 1999.

Karolo 19: Thaetlele ye kopana le go tsenywa tirišong

Temana ye e dira peelano ya thaetlele ye kopana le go tsenywa tirišong ga Molao wo.

