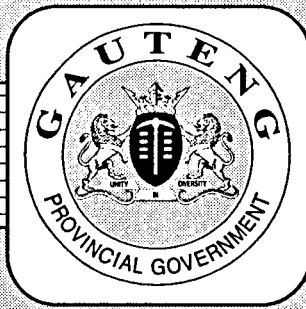


Proposed Regs.

**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE
GAUTENG**

Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

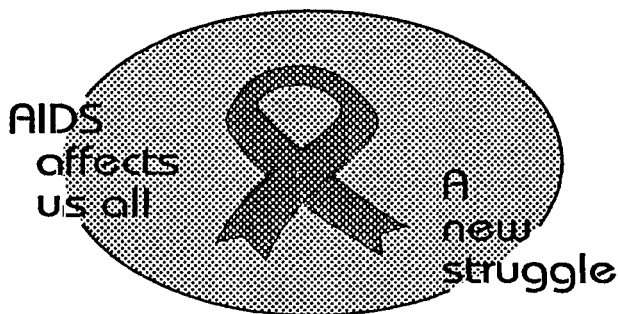
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PRETORIA, 16 AUGUST
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No. 327

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GENERAL NOTICE

NOTICE 2694 OF 2004

GAUTENG PROVINCIAL LEGISLATURE

PUBLICATION OF THE GAUTENG PETITIONS REGULATIONS PURSUANT TO GAUTENG PETITIONS ACT 5 OF 2002

Notice is hereby given that the Speaker, Mr. R. Mdakane, intends to promulgate Petitions Regulations in terms of Section 17 of the Gauteng Petitions Act 5 of 2002.

Any person or organization wishing to comment on this proposed Legislation may lodge written comments on or before **August 31, 2004** by posting, faxing or handing them in at the following address:

The Secretary to the Legislature
Gauteng Provincial Legislature
C/o Committee Co-ordinator (Mr. S. Tshabalala)
Private Bag X52
Johannesburg
2000

Physical Address
Gauteng Provincial Legislature
Corner President and Loveday Street
Johannesburg
Tel No: (011) 498-5680
Fax No: (011) 498-5719

GAUTENG PETITIONS ACT 5 OF 2002**REGULATIONS RELATING TO THE
SUBMISSION AND CONSIDERATION OF PETITIONS**

The Speaker of the Gauteng Provincial Legislature has, in terms of section 17 of the Gauteng Petitions Act, 1998 (Act No. 5 of 2002), made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In these regulations, unless the context indicates otherwise, any word or expression defined in the Act has that meaning, and—

“appeal” means an appeal in terms of regulation 10;

“administrative support service” means the administrative support contemplated in section 16;

“the Act” means the Gauteng Petitions Act, 2002 (Act No. 5 of 2002).

Application of regulations

2. These regulations apply to any petition submitted in accordance with the Act.

Rights of petitioner

3. (1) The Committee must from time to time take reasonable steps to –
- (a) inform the citizens of the Province of their rights in terms of the Act;
 - (b) inform the citizens of the Province of the physical address, fax number or e-

mail address where a petition may be addressed to the Legislature;

- (c) ensure that persons or categories of persons disadvantaged by unfair discrimination enjoy full participation in the process of provincial government;
 - (d) exercise maximum accountability and transparency in the consideration of the petition;
 - (e) where appropriate or if requested to do so by a petitioner, resolve a dispute, reverse an act or rectify an omission by means of mediation or negotiation;
 - (f) where appropriate, make a complaint to the Public Protector if the conduct of a person or body to whom a petition has been referred, is unsatisfactory;
 - (g) assume an role of supervision in respect of the administrative support service;
 - (h) in general issue directions to the administrative support service in respect of preliminary investigations;
 - (i) instruct the administrative support service to report to it on the efficacy of the processes of public participation and petitions; and
 - (j) instruct the administrative support service to organize and manage programmes designed to promote, advertise or popularise public participation and petitions.
- (2) A petitioner has a right to –
- (a) address a petition to the Committee;
 - (b) withdraw a petition;
 - (c) address a petition in the official language of his or her choice;
 - (d)
 - (e) at any time before the Committee concludes its consideration of the petition–
 - (i) submit new information to the Committee in respect of the subject matter of the petition;
 - (ii) submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition;
 - (iii) inform the Committee if any person or body has unexpectedly subsequent to the submission of the petition addressed the matter in

respect of which the petition was submitted;

- (iv) submit a request to the Committee to obtain any information or hear any evidence or oral submission in respect of the subject matter of the petition

which must included in the petition file;

- (f) to be notified by the Committee within four weeks of the tabling of the petition submitted by him or her of –
 - (i) the file number of the petition file assigned to that petition;
 - (i) the manner in which a petition is being dealt with; and
 - (ii) the reasons why the petition is being dealt with in that manner;
- (g) have his or her petition considered by the Committee, unless the petition is subject to a disqualification contemplated in the Act or these regulations;
- (h) be given written reasons if the Committee refuses to consider a petition; and
- (i) have his or her rights provided for in –
 - (i) the Constitution, especially his or her right to administrative justice, and
 - (ii) the Act and these regulationsrespected by the Legislature, the Speaker, the Committee and the administrative support service.

Submission

- 4.(1) A petition must be submitted in accordance with the provisions of the Act.
- (2) A petition must be delivered in person or by mail, whether by ordinary mail or by electronic transmission thereof.
- (3) The administrative support service must on receipt of a petition complete the form in Annexure "A" to these regulations, reflecting –
 - (a) the name of the person who made the petition, or the name of the group or class of persons on whose behalf that person has made that petition;
 - (b) the capacity contemplated in paragraphs (a), (b), (c) and (d) of the definition of "petitioner" in section 1 of the Act in which the petitioner is acting;

- (c) the contact details of the person making the petition;
 - (d) the subject matter of the petition; and
 - (e) any matter which the Speaker or the Committee may require to be detailed.
- (4) The administrative support service must consider a petition in order to determine whether it meets the requirements of the Act and these regulations to be considered by the Committee and enter an opinion in this regard in the petition file.

Registration of petition

5. (1) The administrative support service must subject to subregulation (2) register a petition by entering the details thereof in an official register.

(2) The administrative support service must within seven working days after delivery of a petition in terms of regulation 4(2) which has been registered as a petition in terms of subregulation (1) –

- (a) open a “petition file” which must contain the form contemplated in regulation 4(3) and all information or other material particular to the petition which the administrative support service obtains or produces;
- (b) assign a file number to the petition file contemplated in paragraph (a);
- (c) inform the person made the petition which has been registered as the petition of the registration thereof and the file number assigned to that petition.

(4) The Speaker may at any time direct the administrative support service to inform any other person or body in writing of the petition.

(5) The administrative support service must retain a legible and full copy of the petition file.

Preliminary investigation of petition

6.(1) The administrative support service must after registration of a petition and the opening of a petition file as contemplated in regulation 5 conduct a preliminary investigation in respect of that petition and –

- (a) if applicable, obtain all information or documents on policy held by the national executive or any other relevant official body on the petition;
- (b) obtain all information or documents on policy held by the executive authority of the Province on the petition;
- (c) endeavour to obtain the input of the Department which is responsible for a function of the executive of the Province which is relevant to the petition;
- (d) if applicable, obtain all information or documents on policy held by a municipal council of a local government on the petition;
- (e) endeavour to obtain the input of the municipal council of a local government which is responsible for a function within its jurisdiction which is relevant to the petition;
- (f) if necessary, cause the petition and any other relevant information or document to be translated in accordance with the Standing Rules; and
- (g) if the petition pertains to -
 - (i) a question of law;
 - (ii) the interpretation of legislation;
 - (iii) a legislative proposal; or
 - (iv) a bill tabled in the Legislature,require a legal adviser of the Legislature or the executive authority of the Province to render advice or express an opinion on that matter.

(2) The administrative support service or the legal adviser contemplated in paragraph (g) of subregulation (1) may for purposes of this regulation request any person or body other than contemplated in subregulation (1) to comment on or provide information held by him, her or it in respect of the statement or complaint which may reasonably be required to complete the preliminary investigation into the petition.

(3) The administrative support service must, if it has in terms of -

- (a) paragraphs (a), (b), (c), (d) or (e) of subregulation (1) or subregulation (2) requested information, documents on policy or official comment;
- (b) paragraph (f) requested a translation of the petition and other information; or
- (c) paragraph (g) requested legal advice or a legal opinion,

request the Department, body, municipal council, local government, translator or legal

adviser concerned, as the case may be, to provide that information, documents on policy or official comment within 14 working days after receipt of that request.

(4) The administrative support service must conduct its preliminary investigation without favour or prejudice to the petitioner or the petition and in accordance with any code of conduct applicable to an employee of the Legislature.

(5) The administrative support service must within 21 working days of registration of a petition submit the petition file to the Speaker.

(6) The petition file contemplated in subregulation (5) must contain separate reports in respect of –

- (a) the preliminary investigation into the petition, including –
 - (i) any opinion held or recommendation made by the administrative support service in respect of the petition;
 - (ii) any opinion or comment on the matter furnished by a legal adviser contemplated in paragraphs (g) of subregulation (1);
- (b) the steps taken by the administrative support service in accordance with subregulation (1); and
- (c) the name of any person or body who was requested to provide information in respect of or comment on the petition who or which failed or refused to do so and, if available, his, her or its reasons for failing or refusing to do so.

Referral

7. The Speaker must upon receipt of the petition file examine the file and –

- (a) may refer the file back to the administrative support service with instructions he or she may deem appropriate, including an instruction in respect of the period of time within which the administrative support service must comply with his or her instructions; or
- (b) pursuant to section 5 of the Act and, if applicable, section 8(12) of the Act -
 - (i) table the petition in accordance with the Standing Rules; and
 - (ii) refer the petition to the Committee for consideration and resolution in accordance with the Standing Rules.

Committee

8. (1) The Committee must consider and deal with the petition referred to it by the Speaker in accordance with the Act, these regulations and the Standing Rules.

(2) The Committee, in addition to its functions provided for in the Act and the Standing Rules may –

- (a) recommend that the Speaker refers a petition in whole or in part to a person or body contemplated in section 8(9) of the Act;
- (b) issue directions to the administrative support service in respect of the further investigation of a particular petition;
- (c) instruct the administrative support service to inform the petitioner in writing of interim developments in respect of the consideration and resolution of a particular petition.

Closure and submission of petition after consideration by Committee

9. (1) The Committee must after concluding its consideration of the petition –

- (a) close the petition file;
- (a) include the details thereof in its quarterly report contemplated in section 15(1) of the Act;
- (b) instruct the administrative support service to notify the petitioner, and if necessary, any other person or body in writing of the outcome of the petition; and
- (c) instruct the administrative support service to archive the petition file in accordance with any applicable law pertaining to the archiving of documents.

(2) The Committee must after closing the petition in accordance with subregulation (1)(a) submit a report in respect of the petition to the Speaker.

Right of appeal

10. (1) A petitioner may appeal 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) (a) A petitioner who intends to exercise his or her right of appeal must within 21 working days of receipt of written notification of any matter contemplated in subregulation (1) submit a document to be known as the “appeal document” recording his or her appeal.

- (b) The document contemplated in paragraph (a) must be submitted in the same manner as a petition as provided for in the Act and these regulations.
- (c) A petitioner may at any time by written notice withdraw an appeal.
- (d) The administrative support service must upon request render reasonable assistance to a petitioner for the lodging of an appeal.

(3) The appeal document must with reference to –

- (i) the process of the consideration of the petition by the Committee; or
- (ii) the written reasons furnished by the Committee or the chairperson of the Committee, as the case may be, for its, his or her decision

set out -

- (a) the reasons for the appeal;
- (b) the matters in respect of which the Committee or the chairperson, as the case may be, erred;
- (c) the decision, recommendation or conclusion the Committee should in the opinion of the petitioner have made or arrived at.

(4) The appeal document may not contain information which before the conclusion of the consideration of the petition by the Committee was not included in the petition file.

(5) The administrative support service must forthwith upon receipt of the appeal document –

- (a) in writing acknowledge receipt of the appeal document;
- (b) enter the details of the appeal document in the register;

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- (c) include the appeal document in the petition file;
 - (d) in writing notify the Committee and any person or body who has in any way been involved with the petition of the appeal and provide the Committee or that person or body with a copy of the appeal document; and
 - (e) refer the appeal document and the petition file to the Speaker.
- (6) The Speaker must within 15 working days after receipt of the appeal document and the petition file consider the appeal 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 document 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 of the Province;
 - (iv) the municipal council of a local government; or
 - (v) an institution supporting constitutional democracy contemplated in Chapter 5 of the Constitution;
 - (d) make any other determination which he or she is competent in law to make in respect of the petition.
- (7) The administrative support service must –
- (a) if so required by the Speaker or the Committee, as the case may be, from time to time inform the person who lodged the appeal of the status of or progress in respect of the appeal; and
 - (b) within 15 working days after the Committee has concluded its consideration of the appeal in writing advise the person who lodged the appeal of the outcome of the appeal.

Legislature not in session

11. (1) The –

- (a) provisions of the Act, the Standing Rules or these regulations; and

- (b) the duties and obligations placed on a person or body, including the Committee or a Member, in terms of the Act, the Standing Rules or these regulations

are not suspended in respect of a petition solely because the Legislature is in recess, at the end of a legislative term or for whatever other reason not sitting.

(2) A petition submitted before the Legislature goes in recess or is at the end of a legislative term must be dealt with in accordance with the Act, the Standing Rules and these regulations as if the Legislature were still sitting.

(3) If –

- (a) the term of office of the Legislature expires;
- (b) the Legislature is dissolved in terms of section 109 of the Constitution; or
- (c) the Premier has called an election for the Legislature

and the Committee has not yet finalized its consideration of the petition, the Committee must immediately cease its consideration of the petition and refer the petition to the Speaker, who must instruct the administrative support service to hold over the petition until a new Legislature has been elected and has met for its first sitting contemplated in section 110(1) of the Constitution.

(4) If the administrative support service is investigating a petition in a period during which a Legislature has not yet been elected, it must hold the petition over until a new Legislature has been elected and has met for the first sitting contemplated in section 110(1) of the Constitution.

(5) The administrative support service must in writing inform a petitioner if a situation contemplated in this regulation arises.

Conflict of interests

12. (1) Any member of the Committee or member of staff of the administrative support service must if he or she has a direct pecuniary interest in any petitioner, in respect of any petitioner or in the outcome of a petition immediately upon becoming aware of that interest–

- (a) in writing notify the Speaker of that interest and details thereof; and

- (b) cause a copy of that notification to the Speaker to be lodged in the petition file.
- (2) Subregulation (1) does not in any way derogate from the provisions of -
 - (a) the Powers, Privileges and Immunities of the Provincial Legislature Act, 1995 (Act No. 2 of 1995); or
 - (b) any code of ethics or code of conduct applicable to any member of the Committee or member of staff of the administrative support service.

Short title

13. These regulations are called the Gauteng Petitions Regulations, 2003.

Annexure A

<p>Gauteng Provincial Legislature Petition in terms of section 4(1) of the Gauteng Petitions Act, 1998 (Act No. 14 of 1998)</p>
--

Full names of petitioner	
If applicable, name of person or group on whose behalf the petitioner is acting	
Address of petitioner	
ID number of petitioner	
Registration number of petitioner if a legal person	
Contact telephone number of petitioner	
Fax number of petitioner	
E-mail address of petitioner	
Petition	
Number of pages appended to this document containing	

the petition	
Titles and number of pages of annexures to petition	
Description of any evidence not in paper form submitted with this petition	
Nature of assistance required by petitioner to submit this petition	

By signing this petition or making a mark on this petition, the petitioner declares to the best of his/her knowledge that -

- (a) the contents of the petition is true and correct; and
- (b) the petition is not a matter –
 - (i) pending in a court of law;
 - (ii) in respect of which a court of law has given a final judgment or made a final ruling;
 - (iii) originating from a prisoner, connected with his or her case; or
 - (iv) before a commission of enquiry established in terms of the Provincial Commissions Act, 1997 (Act No. 1 of 1997).

Signature or mark of petitioner	
Signature of witnesses if petitioner is unable to sign his or her name	
Date	
Place	

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GAUTENGSE PETISIEWET, NO 5 VAN 2002**REGULASIES RAKENDE DIE VOORLEGGING
EN OORWEGING VAN PETISIES**

Die Speaker van die Gauteng Provinsiale Wetgewer het ingevolge artikel 17 van die Gautengse Petisiewet, 2002 (Wet No. 5 van 2002), die regulasies in die Bylae uitgevaardig.

BYLAE**Woordomskrywing**

1. In hierdie regulasies, tensy dit uit die samehang anders blyk, het enige woord of uitdrukking wat in die Wet omskryf is, daardie betekenis en beteken –

"administratiewe steundiens" die administratiewe steun in artikel 16 beoog;

"appèl" 'n appèl ingevolge regulasie 10; en

"die Wet" die Gautengse Petisiewet, 2000 (Wet No. 5 van 2002).

Toepassing van regulasies

2. Hierdie regulasies is van toepassing op enige petisie wat in ooreenstemming met die Wet voorgelê word.

Regte van petitioneris

3. (1) Die Komitee moet van tyd tot tyd redelike stappe doen om –
- (a) die burgers van die Provinsie oor hulle regte ingevolge die Wet in te lig;
 - (b) die burgers van die Provinsie in te lig oor die fisiese adres, faksnommer of e-posadres waarheen 'n petisie aan die Wetgewer gestuur kan word;

- (c) te verseker dat persone of kategorieë persone wat deur onbillike diskriminasie benadeel is, volle deelname aan die proses van provinsiale regering kan geniet;
 - (d) maksimum verantwoordingspligtigheid en deursigtigheid by die oorweging van die petisie uit te oefen;
 - (e) waar toepaslik of indien deur 'n petitioneris versoek om dit te doen, 'n geskil te besleg, 'n handeling om te keer of 'n weglating reg te stel deur middel van bemiddeling of onderhandeling;
 - (f) waar toepaslik, 'n klag by die Openbare Beskermer aanhangig te maak indien die gedrag van 'n persoon of liggaam na wie 'n petisie verwys is, onbevredigend is;
 - (g) 'n toesighoudende rol te speel ten opsigte van die administratiewe steundiens;
 - (h) oor die algemeen instruksies aan die administratiewe steundiens uit te reik ten opsigte van voorlopige ondersoeke;
 - (i) die administratiewe steundiens te gelas om aan hom verslag te doen oor die doeltreffendheid van die prosesse van openbare deelname en petisies; en
 - (j) die administratiewe steundiens te gelas om programme te organiseer en te bestuur wat daarop gemik is om openbare deelname en petisies te bevorder, te adverteer of te populariseer.
- (2) 'n Petitioneris het die reg om –
- (a) 'n petisie aan die Komitee voor te lê;
 - (b) 'n petisie terug te trek;
 - (c) 'n petisie in die amptelike taal van sy of haar keuse te rig;
 - (d) te eniger tyd voordat die Komitee sy oorweging van die petisie afhandel –
 - (i) nuwe inligting aan die Komitee voor te lê ten opsigte van die onderwerp van die petisie;
 - (ii) 'n skriftelike weerlegging van enige verklaring, mening of aanbeveling uitgedruk deur enige persoon of liggaam ten opsigte van daardie petisie, voor te lê;

- (iii) die Komitee in te lig indien enige persoon of liggaam onverwags na die voorlegging van die petisie die aangeleentheid ten opsigte waarvan die petisie voorgelê is, hanteer het;
 - (iv) 'n versoek aan die Komitee voor te lê om enige inligting te verkry of enige getuienis of mondelinge voorlegging aan te hoor ten opsigte van die onderwerp van die petisie, wat by die petisielêer ingesluit moet word;
 - (f) binne vier weke na die tertafellegging van die petisie wat hy of sy voorgelê het, deur die Komitee in kennis gestel te word van –
 - (i) die lêernommer van die petisielêer wat aan daardie petisie toegeken is;
 - (ii) die wyse waarop 'n petisie hanteer word; en
 - (iii) die redes waarom die petisie op daardie wyse hanteer word;
 - (g) sy of haar petisie deur die Komitee te laat oorweeg, tensy die petisie onderhewig is aan 'n diskwalifikasie in die Wet of hierdie regulasies beoog;
 - (h) van redes voorsien te word indien die Komitee weier om 'n petisie te oorweeg; en
 - (i) sy of haar regte ingevolge –
 - (i) die Grondwet, veral sy of haar reg op administratiewe geregtigheid, en
 - (ii) die Wet en hierdie regulasies,
- te laat respekteer deur die Wetgewer, die Speaker, die Komitee en die administratiewe steundiens.

Voorlegging

4. (1) 'n Petisie moet in ooreenstemming met die bepalings van die Wet voorgelê word.
- (2) 'n Petisie moet persoonlik of per pos afgelewer word, hetsy per gewone pos of deur elektroniese versending.
- (3) Die administratiewe steundiens moet by ontvangs van 'n petisie die vorm in Aanhangsel A by hierdie regulasies invul, met vermelding van –

- (a) die naam van die persoon wat die petisie rig, of die naam van die groep of klas persone namens wie daardie persoon die petisie rig;
- (b) die hoedanigheid in paragrawe (a), (b), (c) en (d) van die omskrywing van "petitionaris" in artikel 1 van die Wet beoog, waarin die petitionaris optree;
- (c) die kontakbesonderhede van die persoon wat die petisie rig;
- (d) die onderwerp van die petisie; en
- (e) enige aangeleentheid wat op versoek van die Speaker of die Komitee vermeld moet word.

(4) Die administratiewe steundiens moet 'n petisie oorweeg om te bepaal of dit voldoen aan die vereistes van die Wet en hierdie regulasies vir oorweging deur die Komitee, en moet 'n mening in dié verband in die petisielêer insluit.

Registrasie van petisie

5. (1) Die administratiewe steundiens moet, behoudens subregulasie (2), 'n petisie registreer deur die besonderhede daarvan in 'n amptelike register aan te teken.

(2) Die administratiewe steundiens moet binne sewe werkdade na die aflewering van 'n petisie ingevolge regulasie 4(2) wat ingevolge subregulasie (1) as 'n petisie geregistreer is –

- (a) 'n "petisielêer" open wat die vorm in regulasie 4(3) bedoel en alle inligting of ander materiaal rakende die petisie wat die administratiewe steundiens verkry of produseer, bevat;
- (b) 'n lêernommer toeken aan die petisielêer in paragraaf (a) bedoel;
- (c) die persoon wat die petisie, wat as die petisie geregistreer is, gerig het, in kennis stel van die registrasie daarvan en die lêernommer wat aan daardie petisie toegeken is.

(3) Die Speaker kan te eniger tyd die administratiewe steundiens gelas om enige ander persoon of liggaam skriftelik van die petisie in kennis te stel.

(4) Die administratiewe steundiens moet 'n leesbare en volledige afskrif van die petisielêer hou.

Voorlopige ondersoek van petisie

6. (1) Die administratiewe steundiens moet na registrasie van 'n petisie en die opening van 'n petisielêer soos in regulasie 5 bedoel, 'n voorlopige ondersoek doen ten opsigte van daardie petisie, en –

- (a) indien van toepassing, alle inligting of dokumente oor beleid wat deur die nasionale uitvoerende gesag of enige ander tersaaklike amptelike liggaam oor die petisie gehou word, verkry;
- (b) alle inligting of dokumente oor beleid wat deur die uitvoerende gesag van die Provinsie oor die petisie gehou word, verkry;
- (c) probeer om die inset van die departement wat verantwoordelik is vir 'n funksie van die uitvoerende gesag van die Provinsie wat vir die petisie tersaaklik is, te verkry;
- (d) indien van toepassing, alle inligting of dokumente oor beleid wat deur 'n munisipale raad van 'n plaaslike regering oor die petisie gehou word, verkry;
- (e) probeer om die inset van 'n munisipale raad van 'n plaaslike regering wat verantwoordelik is vir 'n funksie binne sy jurisdiksie wat vir die petisie tersaaklik is, te verkry;
- (f) indien nodig, die petisie en enige ander tersaaklike inligting of dokument laat vertaal in ooreenstemming met die Staande Reëls; en
- (g) indien die petisie betrekking het op –
 - (i) 'n regspraak;
 - (ii) die vertolking van wetgewing;
 - (iii) 'n wetgewende voorstel; of
 - (iv) 'n wetsontwerp wat in die Wetgewer ter tafel gelê is,

'n regsadviseur van die Wetgewer of die uitvoerende gesag van die Provinsie advies laat lewer of 'n mening laat uitspreek oor daardie aangeleentheid.

(2) Die administratiewe steundiens of die regsadviseur in paragraaf (g) van subregulasie (1) bedoel, kan vir doeleindes van hierdie regulasie enige ander persoon of liggaam as wat in subregulasie (1) bedoel word, versoek om kommentaar te lewer of inligting te verstrek wat deur hom of haar gehou word ten opsigte van die verklaring of klag wat redelikerwys nodig kan wees om die voorlopige ondersoek na die petisie af te handel.

(3) Die administratiewe steundiens moet, indien hy ingevolge –

- (a) paragrawe (a), (b), (c), (d) of (e) van subregulasie (1) of subregulasie (2) inligting, dokumente oor beleid of amptelike kommentaar aangevra het;
- (b) paragraaf (f) 'n vertaling van die petisie of ander inligting aangevra het; of
- (c) paragraaf (g) regsadvies of 'n regsmeening aangevra het,

die betrokke departement, liggaam, munisipale raad, plaaslike regering, vertaler of regsadviseur, na gelang van die geval, versoek om daardie inligting, dokumente oor beleid of amptelike kommentaar binne 14 werkdade na ontvangs van daardie versoek te verskaf.

(4) Die administratiewe steundiens moet sy voorlopige ondersoek doen sonder begunstiging of vooroordeel teenoor die petisionaris of die petisie en in ooreenstemming met enige gedragskode van toepassing op 'n werknemer van die Wetgewer.

(5) Die administratiewe steundiens moet die petisielêer binne 21 werkdade na registrasie van 'n petisie aan die Speaker voorlê.

(6) Die petisielêer in subregulasie (5) bedoel, moet afsonderlike verslae bevat ten opsigte van –

- (a) die voorlopige ondersoek na die petisie, insluitende –
 - (i) enige mening gehuldig of aanbeveling gedoen deur die administratiewe steundiens ten opsigte van die petisie;
 - (ii) enige mening of kommentaar oor die aangeleentheid wat deur 'n regsadviseur bedoel in paragraaf (g) van subregulasie (1) verskaf is;
- (b) die stappe wat die administratiewe steundiens in ooreenstemming met subregulasie (1) gedoen het; en
- (c) die naam van enige persoon of liggaam wat versoek is om inligting te verstrek ten opsigte van of kommentaar te lewer op die petisie, wat versuim of geweier het om dit te doen en, indien beskikbaar, die redes waarom hy of sy versuim of geweier het om dit te doen.

Verwysing

7. Die Speaker moet by ontvangs van die petisielêer die lêer ondersoek en –

- (a) kan die lêer terugverwys na die administratiewe steundiens met instruksies wat hy of sy gepas ag, insluitende 'n instruksie ten

opsigte van die tydperk waarbinne die administratiewe steundiens aan sy of haar instruksies moet voldoen; of

- (b) ingevolge artikel 5 van die Wet en, indien van toepassing, artikel 8(12) van die Wet –
 - (i) die petisie in ooreenstemming met die Staande Reëls ter tafel lê; en
 - (ii) die petisie na die Komitee verwys vir oorweging en besluit in ooreenstemming met die Staande Reëls.

Komitee

8. (1) Die Komitee moet die petisie wat deur die Speaker na hom verwys is, oorweeg en hanteer in ooreenstemming met die Wet, hierdie regulasies en die Staande Reëls.

(2) Die Komitee, benewens sy funksies soos in die Wet en die Staande Reëls bepaal, kan –

- (a) aanbeveel dat die Speaker 'n petisie in geheel of gedeeltelik verwys na 'n persoon of liggaam in artikel 8(9) van die Wet bedoel;
- (b) instruksies aan die administratiewe steundiens uitreik ten opsigte van die verdere ondersoek van 'n bepaalde petisie;
- (c) die administratiewe steundiens gelas om die petitioneris skriftelik in kennis te stel van tussentydse ontwikkelings ten opsigte van die oorweging en afhandeling van 'n bepaalde petisie.

Sluiting en voorlegging van petisie na oorweging deur Komitee

9. (1) Die Komitee moet na afhandeling van sy oorweging van die petisie –

- (a) die petisielêer sluit;
- (b) die besonderhede daarvan insluit in sy kwartaalverslag in artikel 15(1) van die Wet bedoel;
- (c) die administratiewe steundiens gelas om die petitioneris en, indien nodig, enige ander persoon of liggaam skriftelik in kennis te stel van die uitkoms van die petisie; en
- (d) die administratiewe steundiens gelas om die petisielêer te argiveer in ooreenstemming met enige toepaslike wet rakende die argivering van dokumente.

(2) Die Komitee moet na sluiting van die petisie in ooreenstemming met subregulasie (1)(a) 'n verslag ten opsigte van die petisie aan die Speaker voorlê.

Reg van appèl

10. (1) 'n Petisionaris kan appelleer teen –

- (a) 'n weiering deur die Komitee om 'n petisie te oorweeg;
 - (b) waar van toepassing, 'n beslissing deur die voorsitter om die petisie wat deur daardie petisionaris voorgelê is, agter geslote deure te oorweeg; of
 - (c) 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 voorgelê is.
- (2) (a) 'n Petisionaris wat voornemens is om sy of haar reg van appèl uit te oefen, moet binne 21 werkdade na ontvangs van skriftelike kennisgewing van enige aangeleentheid in subregulasie (1) bedoel, 'n dokument, bekend as die "appèldokument", voorlê om sy of haar appèl aan te teken.
- (b) Die dokument in paragraaf (a) bedoel, moet op dieselfde wyse as 'n petisie voorgelê word, soos in die Wet en hierdie regulasies bepaal.
 - (c) 'n Petisionaris kan te eniger tyd 'n appèl by skriftelike kennisgewing terugtrek.
 - (d) Die administratiewe steundiens moet op versoek redelike bystand aan 'n petisionaris lewer vir die indiening van 'n appèl.
- (3) Die appèldokument moet, met verwysing na –
- (i) die proses van die oorweging van die petisie deur die Komitee; of
 - (ii) die skriftelike redes wat deur die Komitee of die voorsitter van die Komitee, na gelang van die geval, vir sy of haar besluit verstrek is,

'n uiteensetting bevat van –

- (a) die redes vir die appèl;
- (b) die aangeleentede ten opsigte waarvan die Komitee of die voorsitter, na gelang van die geval, gefouteer het;

- (c) die besluit, aanbeveling of gevolgtrekking wat die Komitee na die mening van die petisionaris moes geneem, gedoen of gemaak het.
- (4) Die appèldokument mag nie inligting bevat wat voor die afhandeling van die oorweging van die petisie deur die Komitee nie by die petisielêer ingesluit was nie.
- (5) Die administratiewe steundiens moet by ontvangs van die appèldokument onverwyld –
- (a) skriftelik ontvangs van die appèldokument erken;
 - (b) die besonderhede van die appèldokument in die register aanteken;
 - (c) die appèldokument in die petisielêer insluit;
 - (d) die Komitee en enige persoon of liggaam wat op enige wyse betrokke was by die petisie of die appèl, skriftelik in kennis stel en die Komitee of daardie persoon of liggaam voorsien van 'n afskrif van die appèldokument; en
 - (e) die appèldokument en die petisielêer na die Speaker verwys.
- (6) Die Speaker moet die appèl binne 15 werkdade na ontvangs van die appèldokument en die petisielêer oorweeg en kan daarna –
- (a) die appèl van die hand wys;
 - (b) die appèldokument ter tafel lê en dit na die Komitee verwys vir heroorweging; of
 - (c) die appèldokument en die petisielêer met 'n aanbeveling verwys na –
 - (i) die Wetgewer;
 - (ii) 'n staande komitee van die Wetgewer;
 - (iii) die Premier of 'n lid van die Uitvoerende Raad van die Provinsie;
 - (iv) die munisipale raad van 'n plaaslike regering; of
 - (v) 'n instelling wat grondwetlike demokrasie ondersteun, in Hoofstuk 9 van die Grondwet bedoel; of
 - (d) enige ander bepaling maak wat hy of sy regtens bevoeg is om te maak ten opsigte van die petisie.

(7) Die administratiewe steundiens moet –

- (q) indien die Speaker of die Komitee, na gelang van die geval, dit verlang, van tyd tot tyd die persoon wat die appèl aanhangig gemaak het, inlig oor die status van of vordering ten opsigte van die appèl; en
- (b) binne 15 werkdade nadat die Komitee sy oorweging van die appèl afgehandel het, die persoon wat die appèl aanhangig gemaak het, skriftelik in kennis stel van die uitkoms van die appèl.

Wetgewer nie in sessie

11. (1) Die –

- (a) bepalings van die Wet, die Staande Reëls of hierdie regulasies; en
- (b) die pligte en verpligtinge opgedra aan 'n persoon of liggaam, insluitende die Komitee of 'n lid, ingevolge die Wet, die Staande Reëls of hierdie regulasies,

word nie ten opsigte van 'n petisie opgeskort bloot omdat die Wetgewer in reses is, aan die einde van 'n wetgewende termyn is of om welke ander rede ook al nie sit nie.

(2) 'n Petisie wat voorgelê is voordat die Wetgewer in reses gaan of aan die einde van 'n wetgewende termyn is, moet in ooreenstemming met die Wet, die Staande Reëls en hierdie regulasies hanteer word asof die Wetgewer nog sit.

(3) Indien –

- (a) die ampstermyn van die Wetgewer verstryk;
- (b) die Wetgewer ingevolge artikel 109 van die Grondwet ontbind word; of
- (c) die Premier 'n verkiesing vir die Wetgewer uitgeroep het,

en die Komitee nog nie sy oorweging van die petisie afgehandel het nie, moet die Komitee onmiddellik die oorweging van die petisie staak en die petisie na die Speaker verwys, wat die administratiewe steundiens moet gelas om die petisie oor te hou totdat 'n nuwe Wetgewer verkies is en vir sy eerste sitting byeengekom het soos in artikel 110(1) van die Grondwet beoog.

(4) Indien die administratiewe steundiens 'n petisie ondersoek in 'n tydperk waartydens 'n Wetgewer nog nie verkies is nie, moet hy die petisie oorhou

totdat 'n nuwe Wetgewer verkies is en vir sy eerste sitting byeengekom het soos in artikel 110(1) van die Grondwet beoog.

(5) Die administratiewe steundiens moet 'n petisionaris skriftelik in kennis stel indien 'n situasie in hierdie regulasie beoog, ontstaan.

Belangebotsing

12. (1) Enige lid van die Komitee of lid van die personeel van die administratiewe steundiens moet, indien hy of sy 'n regstreekse geldelike belang by enige petisionaris, ten opsigte van enige petisionaris of die uitkoms van 'n petisie het, onmiddellik wanneer hy of sy van daardie belang bewus word –

- (a) die Speaker skriftelik van daardie belang en besonderhede daarvan in kennis stel; en
- (b) 'n afskrif van daardie kennisgewing aan die Speaker in die petisielêer laat opneem.

(2) Subregulasie (1) doen in geen opsig afbreuk nie aan die bepalings van –

- (a) die Wet op die Bevoegdhede, Voorregte en Immuniteite van die Provinsiale Wetgewer, 1995 (Wet No. 2 van 1995); of
- (b) enige etiese kode of gedragskode van toepassing op enige lid van die Komitee of lid van die personeel van die administratiewe steundiens.

Kort titel

13. Hierdie regulasies heet die Gautengse Petisieregulasies, 2004.

Aanhangsel A

<p>Gauteng Provinsiale Wetgewer</p> <p>Petisie ingevolge artikel 4(1) van die Gautengse Petisiewet, 2002 (Wet No. 5 van 2002)</p>

Volle name van petisionaris	
Indien van toepassing, naam van persoon of groep namens wie die petisionaris optree	
Adres van petisionaris	
ID-nommer van petisionaris	

Registrasienuommer van petisionaris indien 'n regspersoon	
Kontaktelefoonnummer van petisionaris	
Faksnommer van petisionaris	
E-posadres van petisionaris	
Petisie	
Getal bladsye aan hierdie dokument geheg wat die petisie bevat	
Titels en getal bladsye van aanhangsels by die petisie	
Beskrywing van enige getuienis nie in papiervorm nie wat saam met hierdie petisie voorgelê word	
Aard van bystand wat petisionaris verlang om hierdie petisie voor te lê	

Deur hierdie petisie te onderteken of sy merk daarop te maak, verklaar die petisionaris dat, na sy/haar beste wete –

- (a) die inhoud van die petisie waar en korrek is; en
- (b) die petisie nie 'n kwessie –
 - (i) is wat in 'n geregshof hangende is nie;
 - (ii) is ten opsigte waarvan 'n geregshof 'n finale uitspraak gegee het of 'n finale beslissing gemaak het nie;
 - (iii) afkomstig van 'n gevangene in verband met sy of haar saak is nie; of
 - (iv) voor 'n kommissie van ondersoek ingestel ingevolge die Provinsiale Kommissiewet, 1997 (Wet No. 1 van 1997), is nie.

Handtekening of merk van petisionaris	
Handtekening van getuies indien die petisionaris nie sy of	

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haar naam kan teken nie	
Datum	
Plek	

MOLAO WA DIPHETHIŠENE WA GAUTENG WA 5 WA 2002**MELAWANA YEO E AMANAGO LE GO TLIŠWA GAMMOGO LE TLHOKOMEDIŠIŠO YA
DIPHETHIŠENE**

Sepikara sa Lekgotlatheramolao la Profense ya Gauteng se ile sa dira melawana ka gare ga Šetšule go ya ka karolo ya 17 ya Molao wa Diphethišene wa Gauteng, wa 2002 (Molao wa nomoro ya 5 wa 2002)

ŠETŠULE**Ditlhalošo**

1. Ka gare ga melawana ye, ka ntle le gore temana e laetše ka tsela ye nngwe, lentšu lefe goba lefe goba tlhalošo yeo e hlalositšwego ka gare ga Molao e na le tlhaloso yeo, le gore-

“boipiletšo” e hlalosa boipiletšo go ya ka mabaka a molawana wa 10;

“tirelo ya thekgo ya taolo”: e hlalosa thekgo ya taolo yeo e akantšwego karolong ya 16;

“Molao” e hlalosa Molao wa Diphethišene wa Gauteng, wa 2002 (Molao wa 5 wa 2002).

Ka moo melwana e šomago ka gona

2. Melawana ye e šoma go phethišene efe goba efe yeo e tlišitšwego go ya ka Molao.

Ditokelo tša mkgopedi

3. (1) Komiti e swanetše gore nako le nako e tšee magato ao a kwešišagalago a go-

Ya sephiri
Seswantšho sa mafelelo

- (a) tsebiša badudi ba mo profenseng ka ga ditokelo tša bona go ya ka mabaka a molao;
- (b) tsebiša badudi ba mo profenseng ka ga aterese ya bodulo, nomoro ya fax goba aterese ya e-mail moo phethišene e tla romelwago gona kua Lekgotlatheramolaong;
- (c) netefatša gore batho goba dikarolo tša batho bao ba sego ba holega ka baka la kgethollo yeo e sa lokago ba ipshina ka go kgatha tema mo tshepetšong ya mmušo wa profense;
- (d) phethagatša maikarabelo ao a tletšego le ponagatšo mabapi le tlhokomedišišo ya phethišene;
- (e) Moo go swanetšego goba ge mokgopedi a kgopetše gore go dirwe ka tsela yeo go fediša ngangišano, go fetola molao goba go lokiša seo se tlogetšwego go šomišwe namolo goba dipoledišano;
- (f) Moo go swanetšego, go tlišwe pelaelo go Mošireletši wa Setšhaba ge maitshwaro a motho goba mokgatlo moo phethišene e rometšwego gona, a sa kgotsotfatše;
- (g) Go tšewe mošomo wa bolaodi mabapi le tirelo ya thekgo ya taolo;
- (h) Ka kakaretšo go laetšwe ditšhupetšo go tirelo ya thekgo ya taolo mabapi le dinyakišišo tša mathomo;
- (i) Go laelwe tirelo ya thekgo ya taolo gore go begwe go yona ka ga bokgoni bja ditshepetšo tša go kgatha tema ga setšhaba le diphethišene; gammogo le
- (j) Go laela tirelo ya thekgo ya taolo go beakanya le go laola mananeo ao a diretšwego go tšwetša pele, go kwatša le go phatlalatša go kgatha tema ga setšhaba le diphethišene.

2. Mokgopedi o na le tokelo ya go

- (a) lebiša phethišene go Komiti;
- (b) Go gogelamorago phethišene;
- (c) Go ngwala phethišene ka leleme la semmušo leo a ikgethetšego lona;
- (d) Ka nako efe goba efe pele ga Komiti, a ka fediša tlhokomedišišo ya phethišene-
 - (i) tliša tshedimošo ye mpsha go komiti mabapi le tabataba ya phethišene;
 - (ii) tliša kganetšo ka go ngwala fase mabapi le taba efe goba efe, kakanyo goba tshwayotshwayo yeo e hlagišitšwego ke motho goba mokgatlo ofe goba ofe mabapi le phethišene yeo;

- (iii) sedimoša komiti ge e le gore motho goba mokgatlo ofe gobe ofe ka morago ga go tlišwa ga phethišene, o boletše ka taba ka moo go sa lebelelwago mabapi le phethišene yeo e tlišitšwego;
- (iv) tliša kgopelo go komiti go hwetša tshedimošo efe goba efe goba go kwa bohlatse goba go bolela ka molomo mabapi le tabataba ya phethišene, yeo e swanetšego go akaretšwa ka gare ga faele ya phethišene;
- (f) go tsebišwa ke komiti mo dibekeng tše nne ka ga tshekatsheko ya phethišene yeo e tlišitšwego ke yena mabapi le-
 - (i) nomoro ya faele ya phethišene yeo e abetšwego phethišene yeo;
 - (ii) mokgwa woo phethišene e sekasekwago ka gona; gammogo le
 - (iii) mabaka a gore na ke ka baka la eng phethišene yeo e sekasekwa ka mokgwa woo;
- (g) go dirwe gore phethišene e hlokomedišišwe ke komiti, ge e se gore phethišene yeo e ga se ya ganetšwa go ya ka moo go akantšwego ka gare ga molao goba melawana ye;
- (h) go fiwe mabaka ge e le gore komiti e gana go hlokomedišiša phethišene; le gore
- (i) a fiwe ditokelo tša gagwe ka gare ga-
 - (i) Molaotheo, kudukudu tokelo ya gagwe mabapi le toka ya taolo, le
 - (ii) Molao wa melawana ye e hlompfiwago ke Lekgotlatheramolao, Komiti gammogo le tirelo ya thekgo ya taolo.

Go tlišwa ga phethišene

- 4 (1) Phethišene e swanetše go tlišwa go ya ka ditaetšo tša Molao.
- (2) Phethišene e swanetše go tlišwa ke motho ka sebele, e romelwe ka poso, le ge e le gore ke ka poso yeo e tlwaelegilego goba ka phethišetšo ya elektroniki.
- (3) Tirelo ya thekgo ya taolo ka morago ga go amogela phethišene e swanetše go tlatša fomo mo go Tlaleletšo (Annexure) "A" mo melawaneng ye, yeo e bontšhago –
 - (a) leina la motho yoo a dirilego phethišene, goba leina la sehlopha goba legoro la batho leo motho yoo a dirilego phethišene sebakeng sa lona;
 - (b) bokgoni ka moo go akantšwego ka gare ga ditemana tša (a), (b), (c) le (d) tša tlhaloso ya "mokgopedi" mo karolong ya 1 ya Molao moo e lego gore mokgopedi a dirago go ya ka ona;
 - (c) ditaba ka botlalo tša go ikopanya le motho yoo a dirago phethišene;
 - (d) tabataba ya phethišene; gammogo le

- (e) taba efe goba efe yeo Sepikara goba Komiti ba ka nyakago gore e hlalošwe ka botlalo.
- (4) Tirelo ya thekgo ya taolo e swanetše go hlokomedišiša phethišene go bona ge e ka ba e dirilwe go ya ka dinyakwa tša Molao gomme le melawana ye e swanetše go hlokomedišišwa ke Komiti gomme go tsenywe kakanyo mabapi le se, ka gare ga faele ya phethišene.

Ngwadišo ya phethišene

5. (1) Tirelo ya thekgo ya taolo e swanetše go ngwadiša phethišene go ya ka molawana wa ka fasana wa (2) ka go tsenya ditaba ka botlalo ka gare ga puku ya boingwadišo ya semmušo.

- (2) Tirelo ya thekgo ya taolo e swanetše gore mo matsatšing a šupa ka morago ga go romelwa ga phethišene, go ya ka molawana wa 4(2) yeo e ngwadišitšwego bjalo ka phethišene go ya ka molawana wa ka fasana wa (1) –

- (a) e bule "faele ya phethišene" yeo e swanetšego go ba le fomo yeo e akantšwego ka gare ga molawana wa 4(3) gammogo le tshedimošo ka moka goba sedirišwa se se itšego se sengwe seo se amanago le phethišene seo tirelo ya thekgo ya taolo se e hwetšago goba se e tšweletšago;
- (b) efa nomoro ya faele go phethišene go ya ka moo go akantšwego temaneng ya (a);
- (c) tsebiša motho yoo a dirilego phethišene yeo e ngwadišitšwego bjalo ka phethišene ka ga go ngwadišwa gammogo le nomoro ya faele yeo e filwego phethišene yeo.

- (3) Sepikara se ka laela tirelo ya thekgo ya taolo nako efe goba efe ka go ngwala fase, go tsebiša motho ofe goba ofe yo mongwe goba mokgatlo ka ga phethišene.
- (4) Tirelo ya thekgo ya taolo e swanetše go swara khophi yeo e balegago ye e tletšego ya faele ya phethišene.

Nyakišišo ya mathomo ya phethišene

6.(1) Tirelo ya thekgo ya taolo e swanetše gore ka morago ga go ngwadiša phethišene le go bulwa ga faele ya phethišene go ya ka moo go akantšwego ka gona molawaneng wa 5 e dire nyakišišo ya mathomo mabapi le phethišene yeo; le gore-

- (a) ge go kgonega, go hwetšwe tshedimošo ka moka ka ga phethišene goba ditokumente tša polisi tšeo di swerwego ke khuduthamaga ya setšhaba goba mokgatlo ofe gobe ofe wa maleba wa semmušo;
- (b) go hwetšwe tshedimošo ka moka ka ga phethišene goba ditokumente tša polisi tšeo di swerwego ke molaodi-khuduthamaga wa Profense
- (c) go lekwe go hwetša dikakanyo tša Lefapha leo le nago le maikarabelo a mošomo wa khuduthamaga ya Profense yeo e lego ya maleba mabapi le phethišene;
- (d) ge go kgonega, go hwetšwe tshedimošo ka moka goba ditokumente tša polisi tšeo di swerwego ke khansele ya mmasepala wa mmušo wa selegae mabapi le phethišene;
- (e) go lekwe go hwetša dikakanyo tša khansele ya mmasepala wa mmušo wa selegae woo o lego wa maleba woo o nago le maikarabelo a mošomo mo taolong ya bona mabapi le phethišene;
- (f) ge go swanelega, dira gore phethišene goba tshedimošo efe goba efe ya maleba goba tokumente e fetolelwe malemeng a mangwe go ya ka Melao yeo e Beilwego; gomme
- (g) ge phethišene e le maleba le -
 1. taba ya molao;
 2. tlhathollo ya molao
 3. tšhišinyo ya molao; goba
 4. molaokakanywa woo o sekasekilwego ka gare ga Lekgotlatheramolao

nyaka moeletši wa semolao wa Lekgotlatheramolao goba moalodi-khuduthamaga wa Profense go thuša ka keletšo goba a hlagiše kakanyo mo tabeng yeo.

(2) Tirelo ya thekgo ya taolo goba moeletši wa semolao yoo a akantšwego mo temaneng ya (g) ya molawana wa ka fasana wa (1) a ka kgopela motho goba mokgatlo ofe goba ofe go ya ka molawana wo, ka ntle le wo o akantšwego mo molawaneng wa ka fasana wa (1) go swayaswaya goba go fana ka tshedimošo yeo a e swerego, mabapi le taba goba ngongorego yeo e ka nyakegago go feleletša nyakišišo ya mathomo ka gare ga phethišene.

(3) Tirelo ya thekgo ya taolo e swanetše go, ge e le gore e na le, go ya ka mabaka a -

- (a) ditemana (a), (b), (c), (d) goba (e) tša molawana wa ka fasana wa (1) goba molawana wa ka fasana wa (2) e kgopele tshedimošo, ditokumente ka ga polisi goba tshwayotshwayo ya semmušo;

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- (b) temana ya (f) e kgopetše phetolelelo ya phethišenene mo malemeng a mangwe gammogo le tshedimošo ye nngwe; goba
- (c) temana (g) e kgopetše keletšo ya semolao goba kakanyo ya semolao,

e kgopele lefapha, mokgatlo, khansele ya mmasepala, mmušo wa selegae, mofetoledi goba moeletši wa semolao yo a amegago, ka moo go lego ka gona, go fana ka tshedimošo yeo, le ditokumente ka ga polisi goba tshwayotshwayo ya semmušo mo matšatšing a 14 a mošomo ka morago ga kamogelo ya kgopelo yeo.

(4) Tirelo ya thekgo ya taolo e swanetše go dira dinyakišišo tša yona tša mathomo ka ntle ga kgaugelo goba kgethollo go mokgopedi goba phethišene le go ya ka mabaka a mokgwa wa maitshwaro ofe goba ofe wo mošomi wa Lekgotlatheramolao a swanetšego go dira go ya ka ona.

- (5) Tirelo ya thekgo ya taolo e swanetše gore mo matšatšing a 21 a mošomo a go ngwadišwa ga phethišene, e tliše faele ya phethišene go Sepikara.
- (6) Faele ya phethišene yeo e akantšwego molawaneng wa ka fasana wa (5) e swanetše go swara dipego tšeo di aroganego mabapi le –

- (a) nyakišišo ya mathomo ka gare ga phethišene, go akaretšwa –
 - (i) kakanyo yeo e swerwego goba tshwayotshwayo yeo e dirilwego ke tirelo ya thekgo ya taolo mabapi le phethišene;
 - (ii) kakanyo goba tshwayotshwayo efe goba efe mabapi le taba yeo e filwego ke moeletši wa semolao yeo e akantšwego mo ditemaneng tša (g) tša molawana wa ka fasana wa (1)
- (b) magato ao a tšerwego ke tirelo ya thekgo ya taolo go ya ka molawana wa ka fasana wa (1); gammogo le
- (c) leina la motho goba mokgatlo ofe goba ofe wo o ilego wa kgopelwa go fana ka tshedimošo mabapi le tshwayotshwayo ka ga phethišene yoo a ilego a palelwa goba a gana go dira ka tsela yeo, ge e le gore o gona, gammogo le mabaka a gagwe a go palelwa goba a go gana go dira ka seo.

Tšhupetšo

- 7. Sepikara se swanetše gore ka morago ga go amogela faele ya phethišene, a lekole faele gomme -
 - (a) A ka bušetša faele go tirelo ya thekgo ya taolo gammogo le ditaelo, ge go swanelega, a ka akaretša taelo mabapi le nako yeo tirelo ya thekgo ya taolo e swanetšego gore e dire go ya ka ditaelo tša gagwe; goba
 - (b) ka kgapeletšo ya karolo ya 5 ya Molao le, karolo ya 8 (12) ya Molao ge go kgonega,
 - 1. a ka sekaseka phethišene go ya ka Melao ye e Beilwego; le go
 - 2. bušetša phethišene go Komiti gore e e hlokomedišiše le go dira sephetho go ya ka Melao ye e Beilwego.

Komiti

- 8.(1) Komiti e swanetše go hlokomedišiša le go šomana le phethišene yeo e bušeditšwego go yona ke Sepikara go ya ka Molao, melawana ye le Melao ye e Beilwego.
- (2) Komiti, ka tlaleletšo ya mešomo ya yona yeo e laeditšwego ka gare ga Molao gammogo le Melao ye e Beilwego e ka –

- (a) šišinya gore Sepikara se bušetše phethišene ka moka goba karolo ya yona go motho goba mokgatlo wo o akantšwego karolong ya 8(9) ya Molao;
- (b) ntšhe ditaetšo go tirelo ya thekgo ya taolo mabapi le nyakišišo ye nngwe ya phethišene ye e itšego.

(c) laela tirelo ya thekgo ya taolo go botša mokgopedi ka go ngwala fase ka ga ditšwetšopele tša nakwana mabapi le tlhokomedišišo le sephetho sa phethišene ye e itšego.

Go tswalela le go neela phethišene ka morago ga tlhokomedišišo ke Komiti

9. (1) Komiti e swanetše gore ka morago ga go fetša go hlokomedišiša phethišene e –

- (a) tswalele faele ya phethišene;
- (b) e akaretše dintlha ka bottlalo ka gare ga pego ya kotara ka moo e akantšwego karolong ya 15(1) ya Molao;
- (c) e laele tirelo ya thekgo ya taolo go tsebiša mokgopedi, gomme ge go hlokega, motho goba mokgatlo ofe goba ofe ka go ngwala fase sephetho sa phethišene; le gore
- (d) e laele tirelo ya thekgo ya taolo go boloka faele ya phethišene ka thoko go ya ka molao ofe gobe ofe wo o šomago mabapi le go bolokwa ga ditokumente.

(2) Komiti e swanetše gore ka morago ga go tswalela phethišene go ya ka melawana ya ka fasana e-

(1) e neele Sepikara pego mabapi le phethišene.

Tokelo ya Boipiletšo (appeal)

10. (1) Mokgopedi a ka dira boipiletšo kgahlanong le –

- (a) go gana ga komiti mabapi le go tlhokomedišišo ya phethišene

(b) moo go kgonegago, maikemišetšo ka Modulasetulo go hlokomedišiša phethišene yeo e tlišitšwego ke mokgopedi yoo ka sephiring; goba

(c.) tshwayotshwayo efe goba efe, pušetšo go motho goba mokgatlo goba sephetho se sengwe sa komiti, ka morago ga tlhokomedišišo ya phethišene yeo e tlišitšwego ke yena.

2.(a) Mokgopedi yo a ikemišeditšego go phethagatša tokelo ya gagwe ya boipiletšo o swanetše gore sebakeng sa matšatši a 21 a mošomo, ka morago ga go amogela temošo ya taba efe goba efe ye e akantšwego ka gare ga molawana wa ka fasana wa (1) a tliše tokumente yeo e tsebjago ka la "tokumente ya boipiletšo" (appeal document) ya go ngwadiša boipiletšo bja gagwe.

(b) tokumente yeo e akantšwego mo temaneng ya (a) e swanetše go tlišwa ka mokgwa wo o swanago le ka moo phethišene e tlišitšwego ka gona, ka moo go laeditšwego ka gare ga Molao le melawana ye.

(c) Mokgopedi a ka re ka nako efe goba efe, ka go ngwala fase, a gogela morago boipiletšo ka tsebišo.

(d) Tirelo ya thekgo ya taolo e swanetše go thuša mokgopedi ka go dira boipiletšo ge e kgopetšwe go dira seo.

3. Tokumente ya boipiletšo e swanetše gore, mabapi le –

-tshepetšo ya tlhokomedišišo ya phethišene ke Komiti; goba

-mabaka ao a ngwadilwego ao a tlišitšwego ke Komiti goba Modulasetulo wa Komiti, ka moo go tla bego go le ka gona, ka sephetho sa gagwe,

e laetše –

(a) mabaka a boipiletšo;

(b) ditaba tšeo go ya ka Komiti goba Modulasetulo ka moo go tla bego go le ka gona, di fošagetšego;

(c) sephetho, tshwayotshwayo goba pheletšo yeo Komiti e swanetšego gore go ya ka kakanyo ya mokgopedi e swanetšego gore e be di dirilwe goba di fihleletšwe.

4. Tokumente ya boipiletšo ga ya swanela go swara tshedimošo yeo e lego gore ga se ya akaretšwa ka gare ga phethišene, pele ga go fetša tlhokomedišišo ya phethišene ke Komiti.

5. Tirelo ya thekgo ya taolo e swanetše gore semeetseng ge go amogelwa tokumente ya boipiletšo e –

- (a) arabe ka go ngwala fase gore e amogetše tokumente ya boipiletšo;
- (b) tsenye dikagare tša tokumente ya boipiletšo ka gare ga puku ya boingwadišo;
- (c) akaretše tokumente ya boipiletšo ka gare ga faele ya phethišene;
- (d) ka go ngwala fase, e tsebiše Komiti goba motho ofe goba ofe goba mokgatlo woo o bego o šoma ka phethišene ka ga boipiletšo gomme e fe Komiti goba motho yoo goba mokgatlo khophi ya tokumente ya boipiletšo; le
- (e) go bušetša tokumente ya boipiletšo le faele ya phethišene go Sepikara.

6. Sepikara se swanetše gore mo matšatšing a mošomo a 15 ka morago ga go amogela tokumente ya boipiletšo gammogo le faele ya phethišene a hlokomedišiše boipiletšo gomme ka morago ga moo a ka –

- (a) ganetša boipiletšo;
- (b) sekaseka tokumente gomme a e bušetša go Komiti gore e hlokomedišišwe gape; goba
- (c) a bušetša tokumente ya boipiletšo le faele ya phethišene ka ditshwayotshwayo go –
 - (i) Lekgotlatheramolao;
 - (ii) Komiti ye e ikemetšego ya Lekgotlatheramolao;
 - (iii) Mo-Primiara goba leloko la Khansele-Khuduthamaga ya Profense;
 - (iv) khansele ya mmasepala goba mmušo wa selegae;

(v).goba kago yeo e thekgago temokrase ya molaotheo ka moo e akantšwego ka gare ga Karolo ya 9 ya Molaotheo.

(d) a dira taetšo efe goba efe ye nngwe yeo e lego gore o na le bokgoni ka molao bjo a ka bo dirago mabapi le phethišene.

7.Tirelo ya thekgo ya Taolo e swanetše –

(a) ge e le gore Sepikara goba Komiti ba nyaka ka tsela yeo, ka moo go lego ka gona, ka nako le nako, e tsebiše motho yoo a dirilego boipiletšo ka ga maemo goba tšwetšopele mabapi le boipiletšo; le

(b) mo sebakeng sa matšatši a 15 a mošomo ka morago ga gore Komiti e fetše tlhokomedišišo ya yona ya boipiletšo, e tsebiše, motho yo a dirilego boipiletšo ka go ngwala fase, ka ga sephetho sa boipiletšo.

Lekgotlatheramolao leo le se nago tulelo

11. (1)

(a) Ditlhalošišo tša Molao, Melao yeo e beilwego goba melawana ye; gammogo le

(b) mešomo le dikgapeletšo tšeo di beilwego mo mothong goba mo mokgatlong, go akaretšwa Komiti goba leloko, go ya ka Molao, Melao yeo e beilwego goba melawana ye,

ga se tša fegwa mabapi le phethišene fela ka baka la gore Lekgotlatheramolao le sa le maikhutšong, mafelelong a nako ya lekgotlatheramolao, goba lebaka lefe goba lefe leo le dirago gore go se be le tulelo.

2.Phethišene yeo e tlišitšwego pele ga ge Lekgotlatheramolao le ya maikhutšong goba e ka ba mafelelo a nako ya lekgotlatheramolao, e swanetše gore e hlokomedišišwe go ya ka Molao, Melao yeo e Beilwego gammogo le melawana ye bjale ka ge o ka re Lekgotlatheramolao le sa na le tulelo.

3.Ge e le gore –

(a) nako ya tulelo ya Lekgotlatheramolao e a fela;

(b) Lekgotlatheramolao le a phatlalatšwa go ya ka mabaka a karolo 109 ya Molaotheo; goba

(c) Mo-Primiera o biditše gore go be le dikgetho tša Lekgotlatheramolao;

Gomme Komiti ga se ya feleletša tlhokomedišišo ya yona ya phethišene, Komiti e swanetše gore e fediše tlhokomedišišo ya phethišene ka yona nako yeo gomme e bušetše phethišene go Sepikara, yoo a tlogo laela tirelo ya thekgo ya taolo go emiša phethišene go fihlela ge Lekgotlatheramolao le leswa le kgethilwe gomme le dirile kopano ya lona ya mathomo ka moo go akantšwego mo karolong ya 110 (1) ya Molaotheo.

4.Ge e le gore tirelo ya thekgo ya taolo e nyakišiša phethišene nakong ya ge e le gore Lekgotlatheramolao ga sa la hlwa le kgethwa, e swanetše go emiša ka phethišene go fihlela ge Lekgotlatheramolao le leswa le kgethilwe, ebile le dirile kopano ya lona ya mathomo go ya ka moo go akantšwego mo karolong ya 110 (1) ya Molaotheo.

5.Tirelo ya thekgo ya taolo e swanetše gore e tsebiše mokgopedi ka go ngwala fase ge e le gore maemo ao a akantšwego ka gare ga molao wo a hlagile.

Thulano ya dikgahlego

12.(1) Leloko lefe goba lefe la Komiti goba mošomi wa tirelo ya thekgo ta taolo o swanetše gore ge e le gore o na le kgahlego ya tšhelete ye e lego thwii go mokgopedi ofe goba ofe, goba mabapi le sephetho sa phethišene, ge a se na go lemoga ka bonako ka ga kgahlego yeo a-

(a) tsebiše Sepikara ka go ngwala ka ga kgahlego yeo le ditaba ka botlalo; gomme

(b) a dire gore khophi yeo ya tsebišo go Sepikara e dirwe gore e be gona ka gare ga faele ya phethišene.

(2) Molawana wa ka fasana wa (1) ga o nyenyefatše ka tsela efe goba efe ditlhalošišo tša –

(a) Maatla, Ditokelo le Ditokologo tša Molao wa Lekgotlatheramolao wa Profense wa 1995 (Molao wa 2 wa 1995); goba

(b) thuto ya maitshwaro goba mokgwa ofe goba ofe wa maitshwaro wo o šomago go leloko lefe goba lefe la Komiti goba mošomi wa tirelo ya thekgo ya taolo.

Hlogo ye kopana

13. Melawana ye e bitšwa Melawana ya Diphethišene ya Gauteng, ya 2004.

Tlaleletšo ya A

<p>Lekgotlatheramolao la Profense ya Gauteng</p> <p>Phethišene go ya ka karolo ya 4(1) ya Molao wa Diphethišene wa Gauteng wa 1998 (Molao wa 14 wa 1998)</p>
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Maina ka botlalo a mokgopedi	
Ge go kgonega, leina la motho goba sehlopha seo mokgopedi a emego legatong la sona	
Aterese ya mokgopedi	
Nomoro ya boitšhupo ya mokgopedi	
Nomoro ya boingwadišo ya mokgopedi ge e le motho wa semolao	
Nomoro ya mogala ya go ikopanya le mokgopedi	
Nomoro ya fax ya mokgopedi	
Aterese ya e-mail ya mokgopedi	
Phethišene	
Palo ya matlakala ao a kgomareditšwego mo tokumenteng ye e nago le phethišene	
Dihlogo le palo ya matlakala a	

ditlaleletšo go phethišene	
Tlhalošo ya bohlatse bofe goba bofe bjo bo sego ka sebopego sa pampiri bjo bo tlišitšwego le phethišene	
Mokgwa wa thušo woo o nyakwago ke mokgopedi wa go tliša phethišene	

Ka go saena phethišene goba go dira leswao mo phethišeneng ye, mokgopedi o bega ka tsebo ya gagwe ye botse gore –

(a) dikagare tša phethišene ke tša nnete ebile le nepagetše; le gore

(b) phethišene ga se taba yeo e –

-emišitšwego ka gare ga kgorotshoko ya molao

-yeo e lego gore kgorotshoko ya molao e file kahlolo ya mafelelo goba e dirile sephetho sa mafelelo;

-e hlotšwe go tšwa go mogolegwa, yeo e lego gore e amana le molato wa gagwe; goba

-pele ga go go hlongwa ga khomišene go ya ka Molao wa Dikhomišene wa Profense wa 1997 (Molao wa 1 wa 1997)

Tshaeno goba leswao la mokgopedi	
Tshaeno ya tlhatse ge e le gore mokgopedi ga a kgone go saena leina la gagwe	
Letšatšikgwedi	
Lefelo	

UMTHETHO WAMAPHETHISHINI WASEGAUTENG UMTHETHO 5 KA2002**IMITHETHONQUBO EPHATHELENE NOKWETHULA
KANYE NOKUBHEKWA KWEZICELO**

Usomlomo wesiShayamthetho sesiFundazwe saseGauteng uthe, ngokuhambisana nesigaba 17 soMthetho wamaPhethishini waseGauteng, ka2002 (uMthetho No. 5 ka2002), wenza imithethonqubo ekwiSheduli.

ISHEDULI**Izincazelo**

1. Kule mithethonqubo, ngaphandle uma indikimba ikhomba okunye, noma yiliphi igama noma umusho ochazwe eMthethweni unaleyo ncazelo, futhi—

“isikhalo” kusho ukudlulisa isikhalo ngokomthethonqubo 10;

“insiza esekela kwezokuphatha” kusho insiza kwezokuphatha ekukhulunywa ngayo esigabeni 16;

“uMthetho” kusho uMthetho wamaPhethishini waseGauteng, ka2002 (uMthetho No. 5 ka2002).

Ukusetshenziswa kwemithethonqubo

2. Le mithethonqubo isebenza kunoma yisiphi isicelo esilethwe ngokuhambisana noMthetho.

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Amalungelo alowo ofaka iphethishini

- 3. (1)** Ikomidi kufanele emva kwezikhathi ezithize lithathe izinyathelo ezibonakalayo ekutheni –
- (a) lazise izakhamuzi zesiFundazwe ngamalungelo azo ngokuhambisana noMthetho;
 - (b) lazise izakhamuzi zesiFundazwe ngekheli lendawo, inombolo yefeksi noma ye-imeyili lapho amaphethishini angathunyelwa khona esiShayamthetho;
 - (c) liqinisekise ukuthi abantu noma imikhakha yabantu abavaleleka ngaphandle ngenxa yokubandlululwa nabo bayakwazi ukuzimbandakanya ngokuphelele kwimigudu kahulumeni wesifundazwe;
 - (d) lisebenzise umgomo wokumelana nezibopho kanye nokuveza konke obala ngokugcwele lapho libheka iphethishini;
 - (e) lapho kufanelekile noma uma kucele ofake iphethishini ukuba kwenziwe njalo, lixazulule ukungezwani, liqede isenzo noma lilungise obekushiye ngokuthi lilamule noma lisebenzise izingxoxo;
 - (f) lapho kufanelekile, lifake isikhalo kuMvikeli woMphakathi uma ukuziphatha komuntu noma umgwamanda okwedluliselwe kuwona iphethishini, kungagculisi;
 - (g) libambe iqhaza lokuqapha maqondana nensiza yokusekela kwezokuphatha;
 - (h) ngokuvamile linikeze insiza esekela kwezokuphatha izinkomba maqondana nokuphenya kokulungiselela;
 - (i) lithume insiza esekela kwezokuphatha ukuba ibike kulona ngokusebenza kahle kwemigudu yokumbandakanya umphakathi namaphethishini; futhi
 - (j) lithume insiza esekela kwezokuphatha ukuba ihlanganise futhi yengamele izinhlelo ezakhelwe ukugquguzela, ukukhangisa nokudumisa ukumbandakanywa komphakathi namaphethishini.
- (2)** Ofake iphethishini unelungelo lokuthi -
- (a) athumele iphethishini kwiKomidi;
 - (b) ahoxise iphethishini;
 - (c) athumele iphethishini ngolimi olusemthethweni aluthandayo;

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- (d) noma nini ngaphambi kokuba Komidi lisonge ukubheka kwalo iphethishini—
- (i) athumele ulwazi olusha eKomidini maqondana nodaba oluqukethwe yiphethishini;
 - (ii) athumele okubhaliwe okuphika noma yisiphi isitatimende, umbono noma isiphakamiso esethulwe yinoma yimuphi umuntu noma umgwamanda maqondana naleyo phethishini;
 - (iii) azise iKomidi uma noma yimuphi umuntu noma umgwamanda kuthe kungazelelekile emva kokuthunyelwa kwephethishini wabhekana nodaba iphethishini eyayithunyelwe maqondana nalo;
 - (iv) athumele isicelo kwikomidi sokuthola noma yiluphi ulwazi noma ukuzwa noma yibuphi ubufakazi noma isethulo esenziwa ngomlomo maqondana nodaba oluqukethwe yiphethishini ekufanele kufakwe kwifayela lephethishini;
- (f) lokwaziswa yiKomidi engakapheli amasonto amane ngokwethulwa kwephethishini ayithumele maqondana -
- (i) nenombolo yefayela lephethishini enikezwe leyo phethishini;
 - (i) nendlela iphethishini ebhekwa ngayo; kanye
 - (ii) nezizathu zokuthi kungani iphethishini ibhekwa ngaleyo ndlela;
- (g) lokuthi iphethishini yakhe ibhekwe yiKomidi, ngaphandle uma iphethishini ingahle yephucwe izimfanelo zokubhekwa njengalokho kushiwo eMthethweni noma kule mithethonqubo;
- (h) anikwe izizathu ezilotshiwe uma iKomidi lenqaba ukubheka iphethishini; futhi
- (i) amalungelo akhe ahlinzekelwe -
 - (i) kuMthethosisekelo, ikakhulukazi ilungelo lakhe lokuthola ubulungiswa kwezokuphatha; kanye
 - (ii) naseMthethweni nakule mithethonqubo ehlonishwa yisiShayamthetho, nguSomlomo, yiKomidi kanye nensiza esekela kwezokuphatha.

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Ukuthumela

- 4.(1) Iphethishini kufanele ithunyelwe ngokuhambisana nemibandela yoMthetho.
- (2) Iphethishini kufanele ilethwe ngumuntu mathupha noma iposwe, kungaba ngeposi elejwayelekile noma ngeposi likagesi, okusho i-imeyili.
- (3) Insiza esekela kwezokuphatha kufanele lapho ithola iphethishini igcwalise ifomu elikwisiThasiselo "A" sale mithethonqubo, iveze –
- (a) igama lomuntu owenze iphethishini, noma igama leqembu noma isigaba sabantu ekwenziwe leyo phethishini egameni labo;
 - (b) amandla ekukhulunywe ngawo kwizigaba (a), (b), (c) no (d) zencazelo "yofaka iphethishini" esigabeni 1 soMthetho lowo ofaka iphethishini enza lokho ngaphansi kwawo;
 - (c) imininingwane yokuthi kungaxhunyanwa kanjani nofake iphethishini;
 - (d) ingqikithi yephethishini; kanye
 - (e) nanoma yiluphi udaba uSomlomo noma iKomidi abangadinga ukuba lubekwe kucaze.
- (4) Insiza esekela kwezokuphatha kufanele ibheke iphethishini ukuze inqume ukuba iyahambisana yini nezidingo zoMthetho kanye nale mithethonqubo ukuthi ingabhekwa yiKomidi bese ifaka umbono maqondana nalokhu kwifayela lephethishini.

Ukubhaliswa kwephethishini

5. (1) Insiza esekela kwezokuphatha kufanele ngokuncike kumthethonqubo omncane (2) ibhalise iphethishini ngokufaka imininingwane yayo kwirejista esemthethweni.
- (2) Insiza esekela kwezokuphatha kufanele zithi zingakapheli izinsuku eziyisikhombisa zokusebenza emva kokulethwa kwephethishini ngokomthethonqubo 4(2) futhi ebhaliswe kwirejista njengephethishini ngokomthethonqubo omncane (1) –
- (a) ivule "ifayela lephethishini" ekufanele liqukathe ifomu elichazwe kumthethonqubo 4(3) kanye nalo lonke ulwazi noma okunye okuwusizo kwiphethishini ekutholwe yinsiza esekela kwezokuphatha noma ekukhiqize yona;

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- (b) inike inombolo yefayela kwifayela lephethishini elichazwe kwindima (a);
 - (c) yazise umuntu owenze iphethishini esibhaliswe kwirejista ngalokho kubhaliswa kanye nenombolo yefayela enikezwe leyo phethishini.
- (3) Usomlomo kungathi noma nini athume insiza esekela kwezokuphatha ukuba yazise noma yimuphi umuntu noma umgwamanda mayelana nephethishini.
- (4) Insiza esekela kwezokuphatha kufanele igcine ikhophi efundekayo futhi ephelele yefayela lephethishini.

Uphenyo lokulungiselela iphethishini

6.(1) Insiza esekela kwezokuphatha kufanele ibhalise iphethishini kanye nokuvulwa kwefayela lephethishini njengalokho kushiwo kumthethonqubo 5 bese yenza uphenyo lokulungiselela maqondana naleyo phethishini bese –

- (a) uma kufanele, ithole lonke ulwazi noma imibhalo ngemigomo ephethwe yiziphathimandla zikazwelonke noma ngomunye umgwamanda osemthethweni maqondana naleyo phethishini;
- (b) ithole lonke ulwazi noma imibhalo ngemigomo ephethwe yiziphathimandla zesiFundazwe noma ngomunye umgwamanda osemthethweni maqondana naleyo phethishini;
- (c) izame ukuthola imibono yoMnyango obhekene nomsebenzi wesiphathimandla sesiFundazwe iphethishini eqondene nawo;
- (d) uma kwenzeka, ithole lonke ulwazi noma imibhalo ngemigomo ephethwe yiziphathimandla zomkhandlu kamasipala kuhulumeni wasekhaya maqondana naleyo phethishini;
- (e) izame ukuthola imibono yomkhandlu kamasipala kuhulumeni wasekhaya obhekene nomsebenzi ongena ngaphansi kwamandla awo ohambisana nephethishini;
- (f) uma kudingeka, yenze ukuba iphethishini kanye nolunye ulwazi oluhambisana nayo noma imibhalo kuhunyushwe ngokuhambisana nemiThetho Emisiwe; futhi

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(g) uma iphethishini iphathelene -

(i) nodaba lomthetho;

(ii) ukhunyushwa komthetho;

(iii) isiphakamiso somthetho; noma

(iv) umthethosivivinywa owethulwe kwisiShayamthetho

bathole umeluleki wezomthetho wesiShayamthetho noma wesiphathimandla esikhulu sesiFundazwe ukuba asize ngezeluleko noma abeke imibono yakhe maqondana nodaba.

(2) Insiza esekela kwezokuphatha noma umeluleki wezomthetho ekukhulunywa ngaye kwindima (g) yomthethonqubo omncane (1) kungathi ngokwezidingo zalo mthethonqubo bacele noma yimuphi umuntu noma umgwamanda ngaphandle kwalowo ekukhulunywe ngawo kumthethonqubo omncane (1) ukuba abeke umbono noma ahlinzeke ulwazi analo maqondana nesitatimende noma isikhalo esingahle sidingeke ukuze kuphuthulwe uphenyo lokulungiselela iphethishini.

(3) Insiza esekela kwezokuphatha kufanele, uma ngokuhambisana -

(a) nezindima (a), (b), (c), (d) noma (e) zomthethonqubo omncane (1) noma umthethonqubo omncane (2) icele ulwazi, imibhalo ngomgomo noma umbono osemthethweni;

(b) nendima (f) icele ukuba kuhunyushwe iphethishini kanye nolunye ulwazi; noma

(c) ngendima (g) icele iseluleko somthetho noma umbono womthetho;

icele uMnyango, umgwamanda, umkhandlu kamasipala, uhulumeni wasekhaya, umhumushi noma umeluleki wezomthetho othintekayo, kuye nesimo, ukuba ahlinzeke ulwazi, imibhalo ngomgomo noma umbono osemthethweni zingakapheli izinsuku eziyi-14 emva kokuthola isicelo.

(4) Insiza esekela kwezokuphatha kufanele yenze uphenyo lokulungiselela ngaphandle kokwenzelela noma kokubandlulula ofake iphethishini noma iphethishini maqondana nanoma yimuphi umthetho wokuziphatha othinta umuntu oqashwe yisiShayamthetho.

(5) Insiza esekela kwezokuphatha kufanele zithi zingakapheli izinsuku zokusebenza ezingama-21 kubhaliswe iphethishini ithumele ifayela yephethishini kuSomlomo.

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- (6) Ifayela lephethishini ekukhulunywa ngalo kumthethonqubo omncane (5) kufanele libe nemibiko eyahlukene maqondana –
- (a) nophenyo lokulungiselela leyo phethishini, kuxuba –
 - (i) noma yimuphi umbono obanjwe noma isiphakamiso esenziwe insiza esekela kwezokuphatha maqondana nephethishini;
 - (ii) noma yimuphi umbono ofakwe ngumeluleki wezomthetho ekukhulunywe ngawo kwindima (g) yomthethonqubo omncane (1);
 - (b) nezinyathelo ezithathwe yinsiza esekela kwezokuphatha ngokuhambisana nomthethonqubo omncane (1); kanye
 - (c) negama lomuntu noma umgwamanda ocelwe ukuba ulethe ulwazi noma ubeke umbono maqondana nephethishini kepha owehlulekile noma owenqabile ukwenza kanjalo futhi, uma zikhona, kubekwe izizathu zabo zokwehluleka ukwenza kanjalo.

Ukudlulisa

7. Usomlomo kufanele athi uma ethola ifayela lephethishini alihlole bese –
- (a) elibuyisela emuva kwinsiza esekela kwezokuphatha lihambisane nemiyalo ayibona ifanele, kuxuba nomyalo maqondana nesikhathi ekufanele insiza esekela kwezokuphatha isithathe ekutheni yenze njengokusho komyalo wakhe; noma
 - (b) njengasesigabeni 5 soMthetho futhi, uma kufanelekile, isigaba 8(12) soMthetho -
 - (i) ethule iphethishini ngokuhambisana nemiThetho eMisiwe; futhi
 - (ii) edlulisele iphethishini kwiKomidi ukuze liyibheke bese lithatha isinqumo ngokuhambisana nemiThetho eMisiwe.

Ikomidi

8. (1) Ikomidi kufanele libheke bese lisebenza ngephethishini eyedluliselwe kulona

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nguSomlomo ngokuhambisana noMthetho, le mithethonqubo kanye nemiThetho eMisiwe.

(2) Ikomidi, ngaphezu kwemisebenzi yalo ehlinzekelwe eMthethweni nasemiThethweni eMisiwe lingenza lokhu -

- (a) ukuphakamisa ukuba uSomlomo adlulisele iphethishini iphelele noma ingxenye yayo kumuntu noma kumgwamanda ekukhulunywa ngawo kwisigaba 8(9) soMthetho;
- (b) ukukhipha imiyalo eya kwinsiza esekela kwezokuphatha maqondana nokuthi kwenziwe olunye uphenyo ngaleyo phethishini;
- (c) ukutshela insiza esekela kwezokuphatha ukuba yazise umuntu ofake iphethishini ngokumbhalela mayelana nokusenzeka esikhathini esiphakathi nendawo maqondana nokubhekwa kanye nokuphothulwa kwaleyo phethishini.

Ukuvalwa kanye nokwethulwa kwephethishini emva kokubhekwa yiKomidi

9. (1) Ikomidi kufanele kuthi emva kokuphuthula ukubheka kwalo iphethishini –

- (a) livale ifayela lephethishini;
- (a) lifake imininingwane yalokho embikweni walo wekota yonyaka ekukhulunywa ngayo kwisigaba 15(1) soMthetho;
- (b) litshela insiza esekela kwezokuphatha ukuba yazise ofake iphethishini, futhi uma kunesidingo, noma yimuphi omunye umuntu noma umgwamanda ngokubabhalela maqondana nemiphumela yephethishini; futhi
- (c) litshela insiza esekela kwezokuphatha ukuba ikhweze ifayela lephethishini ngokuhambisana nanoma yimuphi umthetho othintekayo oqondene nokukhwezwa kwemibhalo.

(2) Ikomidi kufanele kuthi emva kokuvala iphethishini ngokuhambisana nomthethonqubo omncane (1)(a) lihambise umbiko maqondana nephethishini kuSomlomo.

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Ilungelo lokufaka isikhalo

10. (1) Ofake iphethishini angakhalaza –

- (a) ngokuthi iKomidi lenqabile ukubheka iphethishini;
- (b) lapho kufanele khona, ngokuphikelela kukaSihlalo ukuba abheke iphethishini ngokufihlekile; noma
- (c) nganoma yisiphi isiphakamiso, ukwedluliselwa komunye umuntu noma kumgwamanda noma esinye isinqumo seKomidi emva kokubhekwa kwephethishini elethwe nguyena.

(2) (a) Umuntu ofake iphethishini ofisa ukusebenzisa ilungelo lakhe lokukhala kufanele zithi zingakapheli izinsuku zokusebenza ezingama-21 emva kokuthola isaziso esilotshiwe nganoma yiluphi udaba ekukhulunywe ngalo kumthethonqubo omncane (1) ahambise umbhalo ozokwaziwa ngokuthi “umbhalo wesikhalo” engenisa isikhalo sakhe.

- (b) Umbhalo ekukhulunywa ngawo kwindima (a) kufanele uthunyelwe ngendlela efanayo neyephethishini njengalokho kuhlinzekwe eMthethweni nakule mithethonqubo.
- (c) Ofake iphethishini kungathi noma yingasiphi isikhathi ngokuletha isaziso esibhaliwe ahoxise iphethishini yakhe.
- (d) Insiza esekela kwezokuphatha kufanele ithi lapho ithola isicelo ihlinzeke usizo olusemandleni ayo kofake iphethishini maqondana nokufaka isikhalo.

(3) Umbhalo wesikhalo kufanele maqondana –

- (i) nomgudu wokubhekwa kwephethishini yiKomidi; noma
- (ii) izizathu ezibhaliwe ezilethwe yiKomidi noma usihlalo weKomidi, kuye nesimo, maqondana nesinqumo sabo noma sakhe

ubeke -

- (a) izizathu zokwenza isikhalo;
- (b) izindaba lapho iKomidi noma usihlalo, kuye nesimo, enze iphutha khona;
- (c) isinqumo, iziphakamiso noma isiphetho ebekufanele kukhishwe yiKomidi ngokubona kwalowo ofake iphethishini.

(4) Umbhalo wesikhalo akufanele ube nolwazi okuthe ngaphambi kwesiphetho sokubhekwa kwephethishini yiKomidi lwabe lungafakiwe kwifayela lephethishini.

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- (5) Insiza esekela kwezokuphatha kufanele khona lapho ekutholeni umbhalo wesikhalo
-
- (a) ibhalele ofake isikhalo bemtshela ukuthi bawutholile umbhalo wesikhalo;
 - (b) ifake imininingwane yombhalo wesikhalo kwirejista;
 - (c) ifake umbhalo wesikhalo kwifayela lephethishini;
 - (d) yazise iKomidi ngokulibhalela kanye nanoma yimuphi omunye umuntu noma umgwamanda okuthe noma ingayiphi indlela wambandakanyeka kwiphethishini ekunesikhalo ngayo bese ihlinzeka iKomidi noma lowo muntu noma umgwamanda ngekhophi lombhalo wesikhalo; bese
 - (e) idlulisela umbhalo wesikhalo nefayela lephethishini kuSomlomo.
- (6) Usomlomo kufanele kuthi zingakapheli izinsuku zokusebenza eziyi-15 emva kokuthola umbhalo wesikhalo kanye nefayela lephethishini abheke isikhalo emva kwalokho angakwazi -
- (a) ukuchitha isikhalo;
 - (b) ukwethula umbhalo wesikhalo bese ewudlulisela kwiKomidi ukuze ubhekwe futhi; noma
 - (c) adlulisele umbhalo wesikhalo kanye nefayela lephethishini lihambisana neziphakamiso -
 - (i) kwisiShayamthetho;
 - (ii) ekomidini elimileyo lesiShayamthetho;
 - (iii) kuNdunankulu noma ilungu loMkhandlu Omkhulu wesiFundazwe;
 - (iv) umkhandlu kamasipala kuhulumeni wasekhaya; noma
 - (v) kwinhlangano esekela intando yeningi ngokomthethosisekelo ekukhulunywa ngayo kwisiGaba 9 soMthethosisekelo;
 - (d) enze noma yiziphi ezinye izinqumo angakwazi ukuzenza maqondana nephethishini ngokomthetho.
- (7) Insiza esekela kwezokuphatha kufanele —
- (a) uma kudingwa nguSomlomo noma iKomidi, kuye nesimo, izikhathi ngezikhathi yazise umuntu ofake isikhalo ngokuthi umsebenzi wokubheka isikhalo usukuphi; futhi

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- (b) kuthi zingakapheli izinsuku zokusebenza eziyi-15 emva kokuba iKomidi seliphothule ukubheka kwalo isikhalo yazise umuntu ofake isikhalo ngokumbhalela ngomphumela wesikhalo.

Uma isishayamthetho sivalile

11. (1) (a) Imithethonqubo yoMthetho, imiThetho eMisiwe noma le mithethonqubo; kanye

- (b) nemisebenzi nezibopho ezethweswe umuntu noma umgwamanda, kuxuba iKomidi noma iLungu, ngokuhambisana noMthetho, imiThetho eMisiwe noma le mithethonqubo

akumi ukusebenza maqondana nephethishini ngenxa yokuthi isiShayamthetho sisahlabe ikhefu, kuphele ithemu yesishayamthetho noma ngenxa yokungasebenzi kwaso nganoma yisiphi isizathu.

(2) Iphethishini elethwe ngaphambi kokuba isiShayamthetho sihlabe ikhefu noma sibe sekupheleni kwethemu yaso kufanele ibhekwe ngokuhambisana noMthetho, imiThetho eMisiwe kanye nale mithethonqubo kube sengathi isiShayamthetho sisebenza ngokujwayelekile.

(3) Uma –

- (a) ithemu yokusebenza kwesiShayamthetho iphela;
(b) isiShayamthetho sihlakazwa ngokwesigaba 109 soMthethosisekelo; noma
(c) uNdunankulu ememe ukuthi kube nokhetho lwesiShayamthetho

iKomidi libe lingakaphothuli ukubheka kwalo iphethishini, iKomidi kufanele likuyeke ngokushesha ukubheka kwalo iphethishini bese lidlulisela iphethishini kuSomlomo, ekuyofanela ukuba atshele insiza esekela kwezokuphatha ukuba ibambe kancane iphethishini kuze kube kukhethwe isiShayamthetho esisha futhi sahlangu kanye njengalokho kubekwe kwisigaba 110(1) soMthethosisekelo.

(4) Uma insiza esekela kwezokuphatha iphenya iphethishini ngesikhathi kungakakhethwa isiShayamthetho, kufanele ime kancane ngokuphenya iphethishini kuze kube kukhethwe isiShayamthetho esisha futhi sahlangu kanye njengalokho kubekwe

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kwisigaba 110(1) soMthethosisekelo.

(5) Insiza esekela kwezokuphatha kufanele yazise ofake iphethishini ngokumbhalela uma kwehla isimo ekukhulunywa ngaso kulo mthethonqubo.

Ukushayisana kwezintshisekelo

12. (1) Noma yiliphi ilungu leKomidi noma ilungu labasebenzi bensiza esekela kwezokuphatha kufanele uma enentshisekelo eqondene nemali kunoma imuphi umuntu ofake iphethishini, maqondana nanoma yimuphi umuntu ofake iphethishini noma emphumeleni wephethishini athi ngokushesha lapho ethola ngaleyo ntshisekelo -

(a) ngokubhaliwe azise uSomlomo ngaleyo ntshisekelo kanye neminingwane ngayo; futhi

(b) abone ukuthi ikhophi yaleso saziso esiya kuSomlomo ifakwa kwifayela lephethishini.

(2) Umthethonqubo omncane (1) awugudluki nangayiphi indlela kwimibandela -

(a) yaMandla, amaGunya kanye ukuVikelwa oMthetho wesiShayamthetho sesiFundazwe, ka1995 (uMthetho No. 2 ka1995) noma

(b) imuphi umthetho wenkambo elungileyo noma umthetho wokuziphatha othinta noma yiliphi ilungu leKomidi noma ilungu labasebenzi bensiza esekela kwezokuphatha.

Isihloko esifushane

13. Le mithethonqubo izobizwa ngokuthi Imithethonqubo yamaPhethishini yaseGauteng, ka2004.

Isithasiselo A

IsiShayamthetho sesiFundazwe saseGauteng
Iphethishini ngokwesigaba 4(1) soMthetho wamaPhethishini waseGauteng, ka1998 (uMthetho

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No. 14 ka1998)

Amagama aphelele omuntu ofaka iphethishini	
Uma kufuneka, igama lomuntu noma iqembu iphethishini efakwa egameni labo	
Ikheli lofaka iphethishini	
Inombolo kamazisi yofaka iphethishini	
Inombolo yokubhaliswa yofaka iphethishini uma engumuntu ngokomthetho	
Inombolo yocingo yofaka iphethishini	
Inombolo yefeksi yofaka iphethishini	
Ikheli le-imeyili lofaka iphethishini	
Iphethishini	
Inani lamakhasi athasiselwe kulo mbhalo oqukethe iphethishini	
Izihloko nenani lamakhasi ezithasiselo zephethishini	
Incazelo yanoma yibuphi ubufakazi obungalotshiwe phansi obulethwe kanye nephethishini	
Uhlobo losizo oludingwa ngofaka iphethishini ukuze	

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akwazi ukwethula le phethishini	
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Ngokusayinda le phethishini noma ukwenza umaka kule phethishini, ofaka iphethishini uyavuma ngokwazi kwakhe konke ukuthi -

- (a) okuqukethwe kwiphethishini kuyiqiniso futhi kulungile, nokuthi
- (b) iphethishini akusilona udaba –
 - (i) olusamele ukuqulwa enkantolo yomthetho;
 - (ii) inkantolo yomthetho esikhiphe isinqumo sayo sokugcina noma esikhiphe izwi layo lokugcina ngalo;
 - (iii) oluvela esiboshweni, oluhlangene necala laso; noma
 - (iv) oluphambi kwekhomishana yophenyo esungulwe ngokuhambisana noMthetho wamaKhomishana eziFundazwe, ka1997 (uMthetho No. 1 ka 1997).

Isignesha noma umaka wofaka iphethishini	
Isignesha yofakazi uma ofaka iphethishini engakwazi ukusayinda igama lakhe	
Usuku	
Indawo	