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IPHONDO LENTSHONA KOLONI

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**PROVINCIAL NOTICE**

The following Provincial Notice is published for general information.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale Gebou,  
Waalstraat,  
Kaapstad.

**ISAZISO SEPHONDO**

Esi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi.

ADV. B. GERBER,  
UMLAWULI-JIKELELE

iSakhiwo sePhondo,  
Wale Street,  
eKapa.

**PROVINCIAL NOTICE**

P.N. 304/2014

21 November 2014

**WESTERN CAPE INDEPENDENT HEALTH COMPLAINTS COMMITTEE REGULATIONS, 2014**

The Provincial Minister of Health in the Western Cape, under section 20 of the Western Cape Independent Health Complaints Committee Act, 2014 (Act 2 of 2014), has made the regulations set out in the Schedule.

**SCHEDULE****Definitions**

1. In these regulations, any word or expression to which a meaning has been assigned in the Act retains that meaning and, unless the context indicates otherwise—

“**action plan**” means the plan compiled by the Committee in terms of regulation 2(2);

“**Head of Department**” means the head of the department responsible for health services in the Province;

“**manager**” means a person who is the head of a health-care establishment;

“**the Act**” means the Western Cape Independent Health Complaints Committee Act, 2014 (Act 2 of 2014).

**Consideration of complaints**

2. (1) The Committee must, within five days of receipt of a complaint referred to it in terms of section 10(a) of the Act, hold a planning meeting and assess the complaint in order to compile an action plan and to determine—

- (a) whether it needs to meet with any of the parties involved in the complaint to obtain additional information that may assist in the consideration of the complaint;
- (b) whether a visit to the relevant health-care establishment is required to verify information provided to the Committee or to obtain additional information from the relevant health-care establishment that may assist in the consideration of the complaint;
- (c) whether additional documents or information are required from the Department or the complainant that may assist in the consideration of the complaint; and
- (d) whether the evaluation of the complaint requires expertise and knowledge that none of the members has in a particular subject field.

(2) The action plan must—

- (a) set out the manner in which the Committee intends to deal with the complaint; and
- (b) include a reasonable period, which may not exceed 20 days from the date of the planning meeting, by which the implementation of the action plan must be completed.

(3) The Committee must, within five days of the completion of the implementation of the action plan, meet to evaluate the complaint.

(4) When evaluating the complaint, the Committee must—

- (a) assess all the relevant documents and information available;
- (b) ensure that the information required by section 13(3) of the Act is contained in the report to be rendered to the Minister or the Head of Department, as the case may be; and
- (c) decide on the recommendation to be made to the Minister or the Head of Department, as the case may be.

(5) Subject to subregulations (7) and (8)(b), the Committee must, within five days of evaluating the complaint as contemplated in subregulation (4), compile and render its report to the Minister or the Head of Department, as the case may be, in accordance with section 13(3) of the Act.

(6) If the Committee, under section 13(2) of the Act, decides during its meeting contemplated in subregulation (3) to request an extension of the period referred to in subregulation (5), it must do so in writing and immediately submit the request to the Minister or Head of Department, as the case may be, stating the reasons for the request and a proposed date for rendering the report.

(7) The Minister or Head of Department, as the case may be, may—

- (a) grant an extension of the period and accept the proposed date;
- (b) grant an extension of the period and propose a different date; or
- (c) refuse the request for an extension and immediately notify the Committee of his or her refusal.

(8) (a) If the Minister or Head of Department, as the case may be, refused an extension of the period within which to render the report, the Committee must render the report in terms of subregulation (5).

(b) For purposes of this subregulation, the five-day period referred to in subregulation (5) commences on the date on which the Committee receives notification of the refusal.

**Requesting meetings with parties to complaints**

3. (1) If the Committee needs to meet with the complainant or any other person involved in the complaint other than the persons referred to in subregulation (2), the Committee must submit a written notice by hand, electronic mail or facsimile to the complainant or such other person, as the case may be, requesting a meeting.
- (2) If the Committee needs to meet with an official of the Department or a member of staff of a health-care establishment, the Committee must submit a written notice by hand, electronic mail or facsimile to the Head of Department or the manager of the health-care establishment, as the case may be, requesting a meeting.
- (3) The written notice referred to in subregulations (1) and (2) must contain the following:
- (a) a request to meet with the Committee;
  - (b) the proposed date, time and place of the meeting;
  - (c) the purpose of the meeting;
  - (d) a request to provide the documents or information referred to in the notice, if applicable; and
  - (e) if it is the complainant who is requested to meet with the Committee, a brief explanation of what is to be discussed at the meeting.
- (4) If an official of the Department, or a member of staff of a health-care establishment, who was requested to meet with the Committee fails, refuses or neglects to attend the requested meeting, the Committee may—
- (a) in the case of an official of the Department, submit a notice to the Head of Department containing a copy of the notice contemplated in subregulation (2) and requesting him or her to ensure the attendance of that person at a new meeting on a new date and time specified by the Committee; or
  - (b) in the case of a member of staff of a health-care establishment, submit a notice to the manager containing a copy of the notice contemplated in subregulation (2) and requesting him or her to ensure the attendance of that person on a new date and time specified by the Committee for the meeting.
- (5) If an official of the Department, or a member of staff of a health-care establishment, who was requested as contemplated in subregulation (3)(d) fails, refuses or neglects to provide documents or information at a meeting with the Committee, the Committee may—
- (a) in the case of an official of the Department, request the Head of Department to submit the requested documents or information on a date agreed on by the Head of Department and the Chairperson; or
  - (b) in the case of a member of staff of a health-care establishment, request the manager to submit the requested documents or information to the Committee.

**Visits to health-care establishments**

4. (1) If a visit to a health-care establishment is required, the Committee must submit a written notice by hand, electronic mail or facsimile to the manager at least seven days before the intended visit.
- (2) The written notice must set out the following:
- (a) the date, time and place of the intended visit;
  - (b) the purpose of the visit;
  - (c) who is requested to be available to meet with the members;
  - (d) the documents or information to be made available for inspection by the members; and
  - (e) the names of the members who will be conducting the visit.
- (3) The Committee may not remove any original documents from a health-care establishment without the consent of the manager.
- (4) The manager may authorise that the documents or information requested by the Committee be copied and given to the members either during their visit or on a date agreed on by the manager and the members.
- (5) If the manager fails, refuses or neglects to provide the documents or information requested by the Committee in terms of subregulation (2)(d), either during the visit or on the agreed date contemplated in subregulation (4), the Chairperson may request the Head of Department to obtain the documents or information.
- (6) If the manager fails, refuses or neglects to give the members referred to in subregulation (2)(e) access to the health-care establishment, the Chairperson may request the Head of Department to grant access to the health-care establishment on a date agreed on by the Head of Department and the Chairperson.

**Requesting additional documents and information**

5. (1) If the Committee determines that it requires additional documents or information that may assist it in the consideration of a complaint, the Committee must submit a written notice by hand, electronic mail or facsimile to the complainant, the manager or the relevant official from the Department, as the case may be, requesting the additional documents or information.
- (2) The written notice must contain the following:
- (a) the purpose of the request;
  - (b) the documents or information requested by the Committee; and
  - (c) the date by which the documents or information must be submitted to the Committee.
- (3) The complainant, manager or relevant official of the Department, as the case may be, must submit the requested documents or information to the Committee by hand, electronic mail or facsimile by the date stated in the notice.
- (4) If the manager or relevant official of the Department fails, refuses or neglects to submit the requested documents or information as contemplated in subregulations (2)(b) and (c), the Head of Department must submit the documents or information to the Committee on a date agreed on by the Head of Department and the Chairperson.

**Requests for advisory assistance**

6. (1) If the evaluation of a complaint requires expertise and knowledge that none of the members has in a particular subject field, the Committee may, in terms of section 12(6) of the Act, in writing, request the approval of the Minister to have a person with the requisite expertise and knowledge participate in a meeting of the Committee to advise the Committee.
- (2) The request must be submitted to the Minister by hand, electronic mail or facsimile and must include—
- (a) the reasons for which the advisory assistance is required; and
  - (b) the expertise and knowledge required to assist the Committee in its consideration of the complaint.
- (3) The Minister may—
- (a) grant the request; or
  - (b) on providing reasonable grounds, refuse the request.
- (4) If the Department appoints an expert for whom approval to appoint has been obtained as contemplated in subregulation (3), the Department must—
- (a) appoint the expert in accordance with the accepted departmental procedures; and
  - (b) remunerate the expert appointed in accordance with the instructions and regulations prescribed by National Treasury.
- (5) An expert who is an employee of the State may not be remunerated in terms of subregulation (4)(b).

**Short title**

7. These regulations are called the Western Cape Independent Health Complaints Committee Regulations, 2014.

## PROVINSIALE KENNISGEWING

P.K. 304/2014

21 November 2014

**REGULASIES OP DIE WES-KAAPSE ONAFHANKLIKE GESONDHEIDSKLAGTEKOMITEE, 2014**

Die Provinsiale Minister van Gesondheid in die Wes-Kaap het kragtens artikel 20 van die Wes-Kaapse Wet op die Onafhanklike Gesondheidsklagtekomitee, 2014 (Wet 2 van 2014), die regulasies gemaak soos uiteengesit in die Bylae.

**BYLAE****Woordomskrywing**

1. In hierdie regulasies behou enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is daardie betekenis en, tensy dit uit die samehang anders blyk, beteken—

“**aksieplan**” die plan wat ingevolge regulasie 2(2) deur die Komitee opgestel word

“**bestuurder**” 'n persoon wat die hoof van 'n gesondheidsorginstelling is;

“**Departementshoof**” die hoof van die departement verantwoordelik vir gesondheidsdienste in die Provinsie;

“**die Wet**” die Wes-Kaapse Wet op die Onafhanklike Gesondheidsklagtekomitee, 2014 (Wet 2 van 2014).

**Oorweging van klagtes**

2. (1) Die Komitee moet binne vyf dae vanaf ontvangs van 'n klagte ingevolge artikel 10(a) van die Wet na hom verwys 'n beplanningsvergadering hou en die klagte assessee ten einde 'n aksieplan op te stel en om vas te stel—

(a) of die Komitee met enige party betrokke by die klagte moet vergader om bykomende inligting te bekom wat met sy oorweging van die klagte kan help;

(b) of 'n besoek aan die tersaaklike gesondheidsorginstelling benodig word om inligting wat aan die Komitee verskaf is, te verifieer of om bykomende inligting te bekom van die tersaaklike gesondheidsorginstelling wat met die oorweging van die klagte kan help;

(c) of bykomende dokumente of inligting van die Departement of klaer benodig word wat met die oorweging van die klagte kan help; en

(d) of die evaluering van die klagte kundigheid en kennis vereis waaroor die lede nie beskik in 'n bepaalde vakgebied nie.

(2) Die aksieplan moet—

(a) die wyse uiteensit waarop die Komitee beoog om met die klagte te handel; en

(b) 'n redelike tydperk insluit, wat nie 20 dae vanaf die datum van die beplanningsvergadering mag oorskry nie, waarbinne die implementering van die aksieplan voltooi moet wees.

(3) Die Komitee moet binne vyf dae vanaf die voltooiing van die implementering van die aksieplan vergader om die klagte te evalueer.

(4) Wanneer die Komitee die klagte evalueer, moet die Komitee—

(a) alle tersaaklike dokumente en inligting beskikbaar assessee;

(b) toesien dat die inligting vereis deur artikel 13(3) van die Wet in die verslag bevat word wat aan die Minister of Departementshoof, na gelang van die geval, gelewer moet word; en

(c) besluit oor die aanbeveling wat aan die Minister of die Departementshoof gemaak moet word, na gelang van die geval.

(5) Behoudens subregulasies (7) en (8)(b) moet die Komitee binne vyf dae vanaf die evaluasie van die klagte soos beoog in subregulasie (4) sy verslag saamstel en aan die Minister of die Departementshoof, na gelang van die geval, ooreenkomstig artikel 13(3) van die Wet lewer.

(6) Indien die Komitee, kragtens artikel 13(2) van die Wet, gedurende sy vergadering beoog in subregulasie (3) besluit om 'n verlenging van die tydperk bedoel in subregulasie (5) te versoek, moet die Komitee dit skriftelik doen en die versoek onmiddellik indien by die Minister of Departementshoof, na gelang van die geval, met vermelding van die redes vir die versoek en 'n voorgestelde datum vir die lewering van die verslag.

(7) Die Minister of Departementshoof, na gelang van die geval, kan—

(a) 'n verlenging van die tydperk toestaan en die voorgestelde datum aanvaar;

(b) 'n verlenging van die tydperk toestaan en 'n ander datum voorstel; of

(c) die versoek om 'n verlenging weier en die Komitee onmiddellik van sy of haar weiering in kennis stel.

(8) (a) Indien die Minister of Departementshoof, na gelang van die geval, 'n verlenging geweier het van die tydperk waarbinne die verslag gelewer moet word, moet die Komitee die verslag ingevolge subregulasie (5) lewer.

(b) Vir die doeleindes van hierdie subregulasie neem die vyfdagtydperk genoem in subregulasie (5) 'n aanvang op die datum waarop die Komitee kennis van die weiering ontvang.

**Versoeke om vergaderings met partye by klagtes**

3. (1) Indien die Komitee 'n vergadering benodig met die klaer of enige ander persoon wat by die klagte betrokke is buiten die persone bedoel in subregulasie (2), moet die Komitee 'n skriftelike kennisgewing wat 'n vergadering versoek per hand, per elektroniese pos of per faks indien by die klaer of sodanige ander persoon, na gelang van die geval.

(2) Indien die Komitee 'n vergadering met 'n amptenaar van die Departement of 'n personeelid van 'n gesondheidsorginstelling benodig, moet die Komitee 'n skriftelike kennisgewing wat 'n vergadering versoek per hand, per elektroniese pos of per faks indien by die Departementshoof of die bestuurder van die gesondheidsorginstelling, na gelang van die geval.

- (3) Die skriftelike kennisgewing bedoel in subregulasies (1) en (2) moet die volgende bevat:
- (a) 'n versoek om met die Komitee te vergader;
  - (b) die voorgestelde datum, tyd en plek van die vergadering;
  - (c) die doel van die vergadering;
  - (d) 'n versoek om die dokumente of inligting wat na verwys word in die kennisgewing, indien van toepassing, te verskaf; en
  - (e) indien dit die klaer is wat versoek word om met die Komitee te vergader, 'n bondige verduideliking van wat by die vergadering bespreek gaan word.
- (4) Indien 'n amptenaar van die Departement, of 'n personeellid van 'n gesondheidsorginstelling, wat versoek is om met die Komitee te vergader versuim, weier of nalaat om die versoekte vergadering by te woon, kan die Komitee—
- (a) in die geval van 'n amptenaar van die Departement, 'n kennisgewing wat 'n afskrif bevat van die kennisgewing beoog in subregulasie (2) by die Departementshoof indien en hom of haar versoek om die bywoning te verseker van daardie persoon by 'n nuwe vergadering op 'n nuwe datum en tyd gespesifiseer deur die Komitee; of
  - (b) in die geval van 'n personeellid van 'n gesondheidsorginstelling, 'n kennisgewing by die bestuurder indien wat 'n afskrif bevat van die kennisgewing beoog in subregulasie (2) en hom of haar versoek om die bywoning te verseker van daardie persoon op 'n nuwe datum en tyd gespesifiseer deur die Komitee vir die vergadering.
- (5) Indien 'n amptenaar van die Departement, of 'n personeellid van 'n gesondheidsorginstelling, wat versoek is soos beoog in subregulasie (3)(d), versuim, weier of nalaat om dokumente of inligting te verskaf by 'n vergadering met die Komitee, kan die Komitee—
- (a) in die geval van 'n amptenaar van die Departement, die Departementshoof versoek om die versoekte dokumente of inligting in te dien op 'n datum waarvoor die Departementshoof en Voorsitter ooreenkom; of
  - (b) in die geval van 'n personeellid van 'n gesondheidsorginstelling, die bestuurder versoek om die versoekte dokumente of inligting by die Komitee in te dien.

### **Besoeke aan gesondheidsorginstellings**

4. (1) Indien 'n besoek aan 'n gesondheidsorginstelling benodig word, moet die Komitee minstens sewe dae voor die voorgenome besoek 'n skriftelike kennisgewing per hand, per elektroniese pos of per faks by die bestuurder indien.
- (2) Die skriftelike kennisgewing moet die volgende uiteensit:
- (a) die datum, tyd en plek van die voorgenome besoek;
  - (b) die doel van die besoek;
  - (c) wie versoek word om beskikbaar te wees om met die lede te vergader;
  - (d) die dokumente of inligting wat beskikbaar gestel moet word vir die insae van die lede; en
  - (e) die name van die lede wat die besoek gaan aflê.
- (3) Die Komitee mag nie enige oorspronklike dokumente uit 'n gesondheidsorginstelling verwyder sonder die instemming van die bestuurder nie.
- (4) Die bestuurder kan magtig dat afskrifte gemaak word van die dokumente of inligting benodig deur die Komitee en aan die lede gegee word óf tydens hul besoek óf op 'n datum waarvoor die bestuurder en die lede ooreenkom.
- (5) Indien die bestuurder óf tydens die besoek óf op die ooreengekome datum beoog in subregulasie (4) versuim, weier of nalaat om die dokumente of inligting te verskaf wat ingevolge subregulasie (2)(d) deur die Komitee versoek is, kan die Voorsitter die Departementshoof versoek om die dokumente of inligting te bekom.
- (6) Indien die bestuurder versuim, weier of nalaat om die lede bedoel in subregulasie (2)(e) toegang tot die gesondheidsorginstelling te gee, kan die Voorsitter die Departementshoof versoek om toegang tot die gesondheidsorginstelling te verleen op 'n datum waarvoor die Departementshoof en die Voorsitter ooreenkom.

### **Versoeke om bykomende dokumente en inligting**

5. (1) Indien die Komitee bepaal dat hy bykomende dokumente of inligting benodig wat die Komitee kan help met die oorweging van 'n klage, moet die Komitee 'n skriftelike kennisgewing wat die bykomende dokumente of inligting versoek per hand, per elektroniese pos of per faks indien by die klaer, die bestuurder of betrokke amptenaar van die Departement, na gelang van die geval.
- (2) Die skriftelike kennisgewing moet die volgende bevat:
- (a) die doel van die versoek;
  - (b) die dokumente of inligting deur die Komitee versoek; en
  - (c) die datum waarop die dokumente of inligting by die Komitee ingedien moet word.
- (3) Die klaer, bestuurder of betrokke amptenaar van die Departement, na gelang van die geval, moet die versoekte dokumente of inligting per hand, per elektroniese pos of per faks indien by die Komitee teen die datum vermeld in die kennisgewing.
- (4) Indien die bestuurder of betrokke amptenaar van die Departement versuim, weier of nalaat om die versoekte dokumente of inligting in te dien soos beoog in subregulasies (2)(b) en (c), moet die Departementshoof die dokumente of inligting indien by die Komitee op 'n datum waarvoor die Departementshoof en Voorsitter ooreenkom.

### **Versoeke om raadgevende hulp**

6. (1) Indien die evaluering van 'n klage kundigheid en kennis vereis waarvoor die lede nie beskik in 'n bepaalde vakgebied nie, kan die Komitee, ingevolge artikel 12(6) van die Wet, die goedkeuring van die Minister skriftelik versoek om 'n persoon met die vereiste kundigheid en kennis aan die vergadering van die Komitee te laat deelneem om die Komitee van raad te voorsien.

- (2) Die versoek moet per hand, per elektroniese pos of per faks by die Minister ingedien word en moet die volgende insluit—
- (a) die redes waarom die raadgevende hulp benodig word; en
  - (b) die kundigheid en kennis wat benodig word om die Komitee te help met sy oorweging van die klagte.
- (3) Die Minister kan—
- (a) die versoek toestaan; of
  - (b) by die verskaffing van redelike gronde, die versoek weier.
- (4) Indien die Departement 'n deskundige aanstel vir wie goedkeuring om aanstelling verkry is soos beoog in subregulasie (3), moet die Departement—
- (a) die deskundige aanstel ooreenkomstig die aanvaarde departementele prosedures; en
  - (b) die aangestelde deskundige vergoed ooreenkomstig die instruksies en regulasies voorgeskryf deur die Nasionale Tesourie.
- (5) 'n Deskundige wat 'n werkmemer van die Staat is mag nie ingevolge subregulasie (4)(b) vergoed word nie.

**Kort titel**

7. Hierdie regulasies heet die Wes-Kaapse Regulasies op die Onafhanklike Gesondheidsklagtekomitee, 2014.

## ISAZISO SEPHONDO

I.S. 304/2014

21 kweyeNkanga 2014

## IMIMISELO YEKOMITI EZIMELEYO YEZIKHALAZO YEZEMPILO YENTSHONA KOLONI, 2014

UMphathiswa wezeMpilo weNtshona Koloni, phantsi kwecandelo 20 loMthetho weKomiti eziMeleyo yeZikhalazo yezeMpilo weNtshona Koloni, 2014 (uMthetho 2 ka-2014), wenze imimiselo echazwe kwiShedyuli.

## ISHEDYULI

## Inkcazo-magama

1. Kule mimiselo, naliphi na igama okanye ibinzana-magama elinikwe intsingiselo kulo Mthetho luhlala linaloo ntsingiselo liyinikeyo, yaye, ngaphandle kwalapho indlela elisetyenziswe ngayo igama ilinika enye intsingiselo—

“**isicwangciso samanyathelo**” sithetha isicwangciso esenziwe yiKomiti ngokommiselo 2(2);

“**INtloko yeSebe**” ithetha intloko yesebe enoxanduva lweenkonzo zempilo kwiPhondo;

“**umphathi**” uthetha umntu oyintloko kwiziko lezempilo;

“**uMthetho**” uthetha uMthetho weKomiti eziMeleyo yeZikhalazo yezeMpilo weNtshona Koloni, 2014 (uMthetho 2 ka-2014).

## Ukuqwalaselwa kwezikhalazo

2. (1) IKomiti kufuneka ithi, kwisithuba seentsuku ezintlanu yamkele isikhalazo ekubhekiselelwa kuso kwicandelo 10(a) loMthetho, ibe nentlanganiso yocwangciso lokuqwalasela isikhalazo ukuze yenze isicwangciso sokuthabatha amanyathelo nokukhangela ukuba—

(a) ingaba kuyafuneka na ukuba ihlangane namaqela abandakanyekayo kwisikhalazo ukuze kufumaneke ezinye iinkcukacha ezingaluncedo xa kuqwalaselwa isikhalazo;

(b) ingaba kuyafuneka na ukuba kuhanjelwe iziko lezempilo elichaphazelekayo ukuqinisekisa ukuba zigqithiswe iinkcukacha kwiKomiti okanye kufuneka ezinye iinkcukacha ezivela kwiziko lezempilo elichaphazelekayo ezingaluncedo xa kuqwalaselwa isikhalazo;

(c) ingaba amanyeamaxwebhu okanye iinkcukacha ezingaluncedo ziyafunwa na kwiSebe okanye kumntu ofake isikhalazo xa kuqwalaselwa isikhalazo; kwanokuba

(d) ingaba ukuphonononga kwesikhalazo kufuna ubungcali nolwazi kwinkalo angenalwazi ngayo amalungu lawo.

(2) Isicwangciso samanyathelo kufuneka—

(a) sidandalazise indlela iKomiti eya kukhawulelana ngayo nesikhalazo eso; kwanokuba

(b) sikhankanye ixesha elifanelekileyo, elingenakugqitha kwiintsuku ezingama-20 ukusukela ngomhla wentlanganiso yocwangciso, nalapho kufuneka kugqitywe ngendlela esiya kusebenza ngayo isicwangciso samanyathelo.

(3) IKomiti kufuneka ithi kwisithuba seentsuku ezintlanu zokugqitywa ngendlela esiya kusebenza ngayo isicwangciso samanyathelo, kuhlele intlanganiso yokuphonononga isikhalazo.

(4) Xa iphonononga isikhalazo, iKomiti kufuneka—

(a) ihlole amaxwebhu achaphazelekayo neenkukacha ezifumanekileyo;

(b) iqinisekise ukuba iinkcukacha ezimiselwe ngokwecandelo 13(3) loMthetho zikhankanyiwe kwingxelo eza kusetyenziswa nguMphathiswa okanye yiNtloko yeSebe ngokuxhomekeke kwimeko; kwanokuba

(c) igqibe ngezindululo eziya kwenziwa kuMphathiswa okanye kwiNtloko yeSebe, ngokuxhomekeke kwimeko.

(5) Ngokuxhomekeke kwimimisela (7) no-(8)(b), iKomiti kufuneka ithi kwisithuba seentsuku ezintlanu zokuphonononga isikhalazo njengoko kuchaziwe kummiselwana (4), yenze kwaye inike ingxelo kuMphathiswa okanye kwiNtloko yeSebe, ngokuxhomekeke kwimeko leyo, oko ikwenza ngokwecandelo 13(3) loMthetho.

(6) Ukuba iKomiti, phantsi kwecandelo 13(2) loMthetho, ithe ngexesha lentlanganiso echazwe kummiselwana (3) yagqiba ekubeni yenze isicelo sokwandiswa kwexesha ekubhekiselelwa kulo kummiselwana (5), kufuneka ibhale ize isingenise ngokukhawuleza isicelo kuMphathiswa okanye kwiNtloko yeSebe, ngokuxhomekeke kwimeko, inike izizathu zokwenza eso sicelo iphakamise nomhla wokungeniswa kwengxelo.

(7) UMphathiswa okanye iNtloko yeSebe, ngokuxhomekeke kwimeko, iya—

(a) kunika imvume yokwandisa ixesha yamkele umhla ophakanyisiweyo;

(b) kunika imvume yokwandisa ixesha iphakamise omnye umhla; okanye

(c) kusikhaba isicelo sokwandiswa kwexesha ize iyazise ngokukhawuleza iKomiti ngokukhatywa kwaso.

(8) (a) Ukuba uMphathiswa okanye iNtloko yeSebe, ngokuxhomekeke kwimeko, akavumi ukwandisa ixesha ebekufaneleke ukuba kungeniswa ingxelo, iKomiti kufuneka ingenise ingxelo ngokummiselwana (5).

(b) Ngokweenjongo zalo mmiselwana, iintsuku ezintlanu ekubhekiselelwa kuzo kummiselwana (5) ziqala ngomhla efumana ngayo isaziso sokukhatywa kwesicelo sayo iKomiti.

## Ukucelwa kweentlanganiso kwabo bachaphazelekayo kwizikhalazo

3. (1) Ukuba iKomiti ifuna ukudibana nomntu owenze isikhalazo okanye naye nawuphi na omnye umntu obandakanyekayo kwisikhalazo ngaphandle kwabantu ekubhekiselelwa kubo kummiselwana (2), iKomiti kufuneka ingenise ngesandla, ngemeyili isaziso esibhaliweyo kumntu ofake isikhalazo okanye komnye umntu okwanjalo, ngokuxhomekeke kwimeko, acele intlanganiso.

(2) Ukuba iKomiti ifuna ukudibana negosa leSebe okanye ilungu labasebenzi beziko lezempilo, iKomiti kufuneka ingenise ngesandla, ngemeyili ethunyelwa ngobuxhakaxhaka okanye ngefeksi kwiNtloko yeSebe okanye kumphathi weziko lezempilo, ngokuxhomekeke kwimeko.

(3) Isaziso esibhaliweyo ekubhekiselelwa kuso kummiselwana (1) no-(2) kufuneka kubekho oku kulandelayo:



- (a) isicelo sokudibana neKomiti;
  - (b) umhla ophakanyiswayo, ixesha nendawo yentlanganiso;
  - (c) injongo yentlanganiso;
  - (d) isicelo sokuvelisa amaxwebhu okanye iinkcukacha ekubhekiselelwa kuzo kwisaziso, ukuba zikhona; kwaye
  - (e) ukuba ngumntu ofake isikhalazo ocelwa ukuba adibane neKomiti, kufuneka anike nesishwankathelo esichaza ngomba ekuza kuxoxwa ngawo entlanganisweni.
- (4) Ukuba igosa leSebe okanye ilungu labasebenzi beziko lezempilo elalichelwe ukuba lidibane neKomiti liyasilela, alivumi okanye alibonakalisi nkathalo ngokuya entlanganisweni eceliweyo, iKomiti iya kuthi—
- (a) xa igosa leSebe lithe langenisa kwiNtloko yeSebe isaziso esinesaziso esichaziweyo kummiselwana (2) lenze isicelo sokuba liqinisekiswa ukuba uya kubakho loo mntu uchaphazelekayo kwintlanganiso entsha ngomhla owamiselwa yiKomiti; okanye
  - (b) xa ilungu labasebenzi beziko lezempilo lithe langenisa kumphathi isaziso esinesaziso esichaziweyo kummiselwana (2), lenza nesicelo sokuba liqinisekiswa ukuba uya kubakho loo mntu uchaphazelekayo kwintlanganiso entsha ngomhla owamiselwa yiKomiti.
- (5) Ukuba igosa leSebe okanye ilungu labasebenzi leziko lezempilo elacelwa njengoko kuchaziwe kummiselwana (3)(d) liyasilela, alivumi okanye alibonakalisi nkathalo ekungeniseni amaxwebhu okanye iinkcukacha kwiKomiti, iKomiti iya kuthi—
- (a) xa igosa leSebe, lithe lenza isicelo kwiNtloko yeSebe ukuba lingenise amaxwebhu okanye iinkcukacha ngomhla ekuvunyelweni ngawo kwiNtloko yeSebe nakuSihlalo; okanye
  - (b) xa ilungu labasebenzi beziko lezempilo lithe lenza isicelo kumphathi ukuba lingenise amaxwebhu okanye iinkcukacha kwiKomiti.

### Ukuya kumaziko ezempilo

4. (1) Ukuba kufuneka kuhanjelwe kumaziko ezempilo, iKomiti kufuneka ingenise ngesandla, ngemeyili ethunyelwa ngobuxhakaxhaka nangefekisi isaziso esibhaliweyo, kumphathi kwisithuba seentsuku ezisixhenxe ubuncinane ngaphambi kokuba kuhanjelwe iziko elo.
- (2) Ukubhalwa kwesaziso kufuneka kubonakalise oku kulandelayo:
- (a) umhla, ixesha neziko eliza kuhanjelwa;
  - (b) injongo yokuhambela elo ziko;
  - (c) umntu ocelwe ukuba abe khona oza kudibana namalungu;
  - (d) amaxwebhu okanye iinkcukacha kufuneka zifumaneka ukuze zihlolwe ngamalungu; kunye
  - (e) namagama amalungu aya kuchophela oko kuhanjelweyo.
- (3) IKomiti iya kuthatha nawaphi na amaxwebhu kwiziko lezempilo ngaphandle kwemvume yomphathi.
- (4) Umphathi uya kugunyazisa ukuba amaxwebhu okanye iinkcukacha ezicelwe yiKomiti zifothokotshwe zidluliswe kumalungu ngexesha lokuhanjelwa kweziko lezempilo okanye ngomhla ekuvunyelweni ngawo nomphathi kunye namalungu.
- (5) Ukuba umphathi uyasilela, akavumi okanye akabonakalisi nkathalo yokubhekiselelwa amaxwebhu okanye iinkcukacha ezicelwa yiKomiti ngokummiselwana (2)(d), nokuba kungexesha lokuhanjelwa kweziko lezempilo okanye ngomhla ekuvunyelweni ngawo njengoko kuchaziwe kummiselwana (4), uSihlalo wenze isicelo kwiNtloko yeSebe ukufumana amaxwebhu okanye iinkcukacha.
- (6) Ukuba umphathi uyasilela, akavumi okanye akabonakalisi nkathalo yokuba amalungu ekubhekiselelwa kuwo kummiselwana (2)(e) angene kwiziko lezempilo, uSihlalo angenza isicelo kwiNtloko yeSebe sokuba kufumaneka imvume yokungena kwiziko lezempilo ngomhla ekwavunyelwana ngawo yiNtloko yeSebe noSihlalo.

### Ukufunwa kwamanye amaxwebhu nezinye iinkcukacha

5. (1) Ukuba iKomiti ifumanisa ukuba kufuneka amanye amaxwebhu okanye iinkcukacha ezingaluncedo xa kuqwalaselwa isikhalazo, iKomiti kufuneka ingenise ngesandla, ngemeyili ethunyelwa ngobuxhakaxhaka okanye ngefeksi isaziso kumntu ofake izikhalazo, kumphathi okanye kwigosa elichaphazelekayo leSebe, ngokuxhomekeke kwimeko, icele amanye amaxwebhu okanye iinkcukacha.
- (2) Isaziso kufuneka sibe noku kulandelayo:
- (a) injongo yesicelo;
  - (b) amaxwebhu okanye iinkcukacha ezicelwa yiKomiti; kunye
  - (c) nomhla ekufuneka loo maxwebhu okanye iinkcukacha zingeniswe ngawo kwiKomiti.
- (3) Umntu ofake isikhalazo, umphathi okanye igosa elichaphazelekayo leSebe, ngokuxhomekeke kwimeko, kufuneka angenise ngesandla, ngemeyili ethunyelwa ngobuxhakaxhaka okanye ngefeksi amaxwebhu okanye iinkcukacha ezicelwayo, ngomhla ochaziweyo kwisaziso.
- (4) Ukuba umphathi okanye igosa elichaphazelekayo leSebe liyasilela, alivumi okanye alibonakalisi nkathalo ekungeniseni amaxwebhu okanye iinkcukacha eziceliweyo njengoko kuchaziwe kwimimisela 2(b) no-(c), iNtloko yeSebe kufuneka ithumele amaxwebhu okanye iinkcukacha kwiKomiti ngomhla ekuvunyelweni ngawo yiNtloko yeSebe noSihlalo.

### Izicelo zokunikwa iingcebiso

6. (1) Ukuba uphononongo lwesikhalazo lufuna ubungcali nolwazi kwinkalo apho kungekho namnye kumalungu onalo olo lwazi ngayo, iKomiti iya kuthi ngokwecandelo 12(6) loMthetho, ngembalelwano, yenze isicelo semvume kuMphathiswa ngembalelwano, ukufumana umntu onolwazi nobuchule obufunekayo ekuthabatheni inxaxheba kwintlanganiso yeKomiti ukunika iingcebiso kwiKomiti.
- (2) Isicelo kufuneka sifakwe kuMphathiswa ngesandla, ngemeyili ethunyelwa ngobuxhakaxhaka okanye ngefeksi, kufuneka sichaze—
- (a) izizathu zokufuneka kweingcebiso; kwanokuba
  - (b) kufuneka ubungcali nolwazi ukunceda iKomiti.

- (3) UMphathiswa uya kuthi—
- (a) anikezele isicelo; okanye
  - (b) ngokunikezela ngamagunya angawo, asikhabe isicelo.
- (4) Ukuba ngaba iSebe liqesha ingcali eqeshwe ngokwemvume ephunyezwe lisebe echazwe kummiselwana (3), iSebe liya—
- (a) kuqesha ingcali ngokuhambelana nemigaqo eyamkelekileyo yesebe, ize
  - (b) ingcali leyo ifumane umvuzo ngokuhambelana nemiyalelo nemimiselo ebekwe liSebe loNondyabo weSizwe.
- (5) Ingcali engumsebenzi kaRhulumente ayisayi kufumana mvuzo ngokokumiselwe kummiselwana (4)(b).

**Isihloko esifutshane**

7. Le mimiselo ibizwa ngokuba yiMimiselo yeKomiti eziMeleyo yeZikhalazo yezeMpilo yeNtshona Koloni, 2014.



