

**COURT- ANNEXED MEDIATION RULES
OF THE MAGISTRATES' COURTS**

PREAMBLE

Whereas section 34 of the Constitution of the Republic of South Africa, 1996 guarantees everyone the right to have any dispute that can be resolved by the application of the law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum;

And whereas section 6(1) of the Rules Board for Courts Law Act 107 of 1985 empowers the Rules Board for Courts of Law (Rules Board) established under section 2 of that Act to review existing rules of court, to make rules for the Supreme Court of Appeal, the High Courts and the lower courts regulating the practice and procedure in connection with litigation and generally regulating any matter which may be necessary or useful for the proper conduct of the functions of the said courts in civil as well as criminal proceedings;

And whereas the Access to Justice Conference held in July 2011, under the leadership of the Chief Justice, towards achieving the delivery of accessible and quality justice for all, resolved that steps must be taken to introduce alternative dispute resolution, preferably court-annexed mediation or the CCMA kind of alternative dispute resolution, into the court system;

And whereas the main purposes of mediation are to:

- (a) promote access to justice;
- (b) promote restorative justice;
- (c) preserve relationships between litigants or potential litigants which may become strained or destroyed by the adversarial nature of litigation;
- (d) facilitate an expeditious and cost-effective resolution of a dispute between litigants or potential litigants;

- (e) assist litigants or potential litigants to determine at an early stage of the litigation or prior to commencement of litigation whether proceeding with a trial or an opposed application is in their best interests or not;
- (f) allow litigants or potential litigants to return to litigation should the attempt at mediation not be successful;
- (g) dispense with litigation procedure and rules of evidence; and
- (h) provide litigants or potential litigants with solutions to the dispute, which are beyond the scope and powers of judicial officers;

And whereas the Minister of Justice and Constitutional Development directed the Rules Board to make rules to regulate the procedure for voluntary referral to court-annexed mediation of civil disputes, to be implemented on a pilot basis in certain courts;

The Rules Board has therefore made the following rules to regulate the procedure for voluntary court-annexed mediation of civil disputes in the Magistrates' Courts:

1 Definitions

In these rules unless the context indicates otherwise:

'action' means litigation commenced by the issue of summons;

'alternative dispute resolution' means a process, in which an independent and impartial person assists parties to attempt to resolve the dispute between them, either before or after commencement of litigation;

'application' means litigation commenced by a notice of motion accompanied by affidavit;

'day' means a court day, which excludes Saturdays, Sundays and public holidays;

'defendant' includes any respondent and any party who would be defending a dispute if litigation was initiated;

'deliver' means to serve a document on the opposite party to litigation and to file the original with the registrar or clerk of the court;

‘dispute’ means the subject matter of actual or potential litigation between parties or an aspect thereof;

‘dispute resolution officer’ means a person who administers and controls the alternative dispute resolution process and whose functions are set out in these rules;

‘judicial officer’ means a Magistrate or an Additional Magistrate or an Assistant Magistrate or a Regional Magistrate.

‘litigant’ means a party to litigation;

‘litigation’ means court proceedings commenced by action or application proceedings;

‘mediation’ means the process by which a mediator assists the parties in actual or potential litigation to resolve the dispute between them by facilitating discussions between the parties, assisting them in identifying issues, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute;

‘mediator’ means a person selected, by the parties or by a dispute resolution officer from a list referred to in rule 14(2), to mediate a dispute between the parties;

‘Minister’ means the Minister for Justice and Constitutional Development;

‘potential litigation’ means litigation which may arise out of a dispute;

‘rules of court’ mean the rules of court applicable to the Magistrates’ Courts ;

‘statement of claim’ means a statement in which a party intending to claim any relief against another party sets out in clear and concise terms the material facts on which such party’s claim is based;

‘statement of defence’ means a written answer in which a defendant sets out in clear and concise terms the material facts on which such defence is based.

2 Application of these rules

(1) These rules apply to-

(a) the voluntary submission to mediation of a dispute prior to commencement of litigation in the Magistrate’s Courts; and

(b) current litigation in the Magistrates’ Courts, under the circumstances referred to in rules 6 and 7 of these Rules.

- (2) These rules do not replace any of the rules of the Magistrates' Courts.

3 Referral to mediation

- (1) A dispute may be referred to mediation-
- (a) by any party prior to the commencement of potential litigation;
 - (b) by any party after commencement of litigation but prior to judgment: Provided that where the trial has commenced the parties must obtain the authorisation of the court;
 - (c) by a judicial officer at any time after the commencement of litigation if the judicial officer believes that there is good reason for doing so.

4 Functions and duties of dispute resolution officer

- (1) The dispute resolution officer must explain to all parties—
- (a) the purpose of alternative dispute resolution, the meaning, objectives and benefits, including costs savings, of mediation; and
 - (b) the costs of mediation, based on the Annexure to these rules.
- (2) The dispute resolution officer must inform the parties that they may be assisted by legal representatives of their choice at their own cost.
- (3) The dispute resolution officer must, in consultation with the parties, execute the functions and duties in this rule and in rules 5 and 6.
- (4) Upon conclusion of an agreement to mediate, the dispute resolution officer must forward to the mediator-
- (a) a copy of the agreement to mediate;
 - (b) copies of the statement of claim and statement of defence, if mediation is to occur prior to commencement of litigation;
 - (c) copies of the summons and plea, or statement of defence if no plea has been filed, in action proceedings; and
 - (d) copies of the founding, answering and replying affidavits, or statement of defence if no answering affidavit has been filed, in application proceedings.

5 Procedure for referral to mediation prior to commencement of litigation

- (1) A party desiring to submit a dispute to mediation prior to commencement of litigation must make a request in writing in accordance with Form 1, to the dispute resolution officer of the court which would ordinarily have jurisdiction to hear the matter if litigation was instituted
- (2) The request must indicate—
 - (a) whether relief is being claimed by or against the party seeking to mediate;
 - (b) the full names of the other party or parties or name or names by which the other party or parties to the dispute are known to the party seeking mediation;
 - (c) the physical and postal addresses of the other party or parties to the dispute;
 - (d) the facsimile number or email address of the party seeking mediation, if such party has a facsimile number or email address; and
 - (e) the nature of the dispute and the material facts on which the dispute is based.
- (3) The dispute resolution officer must inform all other parties to the dispute that mediation of the dispute is being sought and must call upon the party seeking mediation and all other parties to the dispute to attend a conference within ten (10) days, for the purposes of determining whether all or some of the parties agree to submit the dispute to mediation.
- (4) If at the conference referred to in sub rule 3 some or all of the parties between whom mediation is possible, agree to submit the dispute to mediation, the dispute resolution officer must—
 - (a) in collaboration with the parties appoint a mediator or, if the parties cannot agree on a mediator, then the dispute resolution officer must appoint a mediator from the list referred to in rule 14(2);
 - (b) confer with the mediator and set the date, time and venue for mediation; and
 - (c) conclude a written mediation agreement between the parties which must contain the following particulars:
 - (i) the particulars referred to in sub rule 2(b), (c) and (d) of this rule;
 - (ii) that the parties have agreed to mediate the dispute between them;
 - (iii) the date, time and venue of the mediation;
 - (iv) the name of the mediator;

- (v) the period of time that will be allocated for each mediation session;
 - (vi) the time within which mediation will be concluded and the method by which any periods or time limits may be extended;
 - (vii) the confidentiality and privilege attaching to disclosures at the mediation; and
 - (viii) the consequences of any party not abiding by the agreement .
- (5) A party claiming relief must lodge a statement of claim with the dispute resolution officer within ten (10) days of the signature of the agreement referred to in sub rule 4(c) of this rule and forward a copy to all other parties to the mediation proceedings.
- (6) The party or parties against whom relief is being claimed must lodge a statement of defence with the dispute resolution officer within ten (10) days of receipt of the statement of claim, and forward a copy to all other parties to the mediation proceedings.

6 Referral to mediation by litigants

- (1) (a) Any party may at any stage after litigation has commenced, but before trial, request the dispute resolution officer, in writing, to refer the dispute to mediation.
- (b) The dispute resolution officer must inform all other parties to the dispute that mediation of the dispute is being sought and must call upon the party seeking mediation and all other parties to the dispute to attend a conference within ten (10) days for the purposes of determining whether all or some of the parties agree to submit to mediation.
- (2) After the commencement of trial but prior to judgment any party may apply to court to refer the dispute to mediation.
- (3) If the court grants an order referring the dispute to mediation, the provisions of rules 4(4); 5(4) and sub rule (4) of this rule must apply.
- (4) (a) In action matters, if pleadings have closed, the summons or declaration and plea, as referred to in the rules, will serve as the statement of case and statement of defence, respectively.
- (b) If a plea has not been delivered, the defendant must deliver a statement within ten (10) days of conclusion of the agreement to mediate.
- (c) In application matters, the founding affidavit will serve as the statement of claim and the answering affidavit if delivered, will serve as the statement of defence.

(d) If no answering affidavit has been delivered, the respondent must deliver a statement of defence within ten (10) days of conclusion of the agreement to mediate.

7 Referral to mediation by the court

- (1) A court may, prior to or during a trial but before judgment, direct the parties to submit to mediation and refer the dispute to the dispute resolution officer.
- (2) If during the trial the parties consent to the dispute being mediated, the parties must request the court to refer the dispute to the dispute resolution officer.
- (3) The provisions of rules 4(4) and 5(4) must apply if a dispute is referred to mediation under this rule.

8 Role and functions of mediator

- (1) At the commencement of mediation the mediator must inform the parties of the following—
 - (a) the purposes of mediation and its objective to facilitate settlement between the parties;
 - (b) the mediator's facilitative role as an impartial mediator who cannot make any decisions of fact or law and who cannot determine the credibility of any person participating in the mediation;
 - (c) the inquisitorial nature of such proceedings;
 - (d) the rules governing the mediation;
 - (e) that all discussions and disclosures, whether oral or written, made during mediation are confidential and inadmissible as evidence in any court, tribunal or other forum, unless the discussions and disclosures are recorded in a settlement agreement signed by the parties, or are otherwise discoverable in terms of the rules of court, or in terms of any other law;
 - (f) that the mediator may during the mediation session encourage the parties to make full disclosure if in the opinion of the mediator such disclosure may facilitate a resolution of the dispute between the parties;
 - (g) that no party may be compelled to make any disclosure, but a party may make voluntary disclosures with the same protection referred to in sub rule (1) e);

(h) that he or she will assist to draft a settlement agreement if the dispute is resolved; and

(i) if the dispute is not resolved, the mediator will refer the dispute back to the dispute resolution officer, informing him or her that the dispute could not be resolved.

- (2) In every mediation the mediator must, within five (5) days of the conclusion of the mediation process, submit a report to the dispute resolution officer informing him or her of the outcome of the mediation.
- (3) A mediator may postpone a mediation session if the parties agree.

9 Suspension of time limits pending mediation

The time limits prescribed by the rules of court for the delivery of pleadings and notices, the filing of affidavits or the taking of any step by any litigant are suspended from the time of conclusion of an agreement to mediate to the conclusion of the mediation proceedings.

10 Settlement Agreements

- (1) In the event of a settlement being reached, the mediator must assist the parties to draft the settlement agreement, which must be transmitted to the dispute resolution officer by the mediator.
- (2) If a settlement is reached at mediation proceedings in a dispute which was not the subject of litigation, the dispute resolution officer must, upon receipt of the settlement agreement from the mediator, file the settlement agreement.
- (3) If a settlement is not reached at the mediation proceedings in a dispute which was not the subject of litigation, the dispute resolution officer must, upon receipt of the report from the mediator, file the report.
- (4) If a settlement is reached at mediation proceedings in a dispute which was the subject of litigation, the dispute resolution officer must at the request of the parties and upon receipt of the settlement agreement from the mediator, place the settlement agreement before a judicial officer in chambers for noting that the dispute has been resolved or to make the agreement an order of court, upon the agreement of the parties.

- (5) If a settlement is not reached at mediation proceedings in a dispute which was the subject of litigation, the dispute resolution officer must, upon receipt of the report from the mediator, file the report and inform the registrar or clerk of the court to enable the litigation to continue.
- (6) Every settlement agreement must be reduced to writing.

11 Partially unsettled disputes

Should any aspect of a dispute between the parties remain unsettled, the unresolved issues may be litigated upon by the parties.

12 Fees payable to mediators

- (1) The fees payable to mediators are prescribed in the table in Annexure A to these rules.
- (2) The parties participating in the mediation process must pay the mediator's fees.
- (3) Liability for the fees of the mediator must be borne equally between opposing parties participating in the mediation process.

13 Representation of parties at mediation proceedings

- (1) Parties to mediation proceedings must attend such proceedings in person and may be represented by legal representatives.
 - (2) Where a juristic person or a firm or a partnership is a party to mediation proceedings such entity must be represented by an official from that juristic person, firm or partnership, who must be duly authorised to represent the entity, to conclude a settlement and sign a settlement agreement on behalf of such entity.
- (3) Where the State or an organ of state is a party to mediation proceedings such entity must be represented by an official assisted by the state attorney who must be duly authorised to represent the entity.

14 Minister to determine standards of fitness and compile list of accredited mediators

- (1) The qualification and standards of fitness of mediators to conduct mediation referred to in these rules must be determined by the Minister.
- (2) The Minister must periodically provide a list of accredited mediators to execute the functions and objectives in these rules.

15 Short title

These rules will be referred to as the Voluntary Court-Annexed Mediation Rules of the Magistrates' Courts.

VRYWILLIGE HOF-AANGEHEGTE BEMIDDELINGSREËLS VAN DIE MAGISTRAATSKANTORE

INLEIDING

Nademaal artikel 34 van die Grondwet van die Republiek van Suid-Afrika, 1996 elkeen die reg waarborg om enige dispuut wat opgelos kan word deur die toepassing van die wet in 'n regverdige openbare verhoor voor 'n hof te laat besleg, of, waar van toepassing, 'n ander onafhanklike en onpartydige tribunaal of forum;

En nademaal artikel 6(1) van die Wet op die Reglementsraad vir Geregshowe, Wet 107 van 1985, die Reglementsraad vir Geregshowe (Reglementsraad) wat onder seksie 2 van daardie Wet opgerig is om bestaande reëls van die hof te hersien, bemagtig om reëls op te stel vir die Hoër Hof van Appèl, die Hoër Howe en die laer howe wat die praktyk en prosedure in verband met gedingvoering reguleer en in die algemeen enige saak reguleer wat nodig of nuttig mag wees vir die behoorlike bestuur van die funksies van genoemde howe in siviele sowel as kriminele verrigtinge;

En nademaal die Konferensie oor Toegang tot Geregtigheid gehou in Julie 2011, onder die leierskap van die Hoofregter, met die oogmerk om toeganklike en gelyke geregtigheid vir almal daar te stel, besluit het dat stappe geneem moet word om alternatiewe dispuutbeslegting, verkieslik hof-geannekseerde bemiddeling of die RVBA-tipe alternatiewe dispuutbeslegting, in die hofstelsel in te lyf;

En nademaal die hoofdoelwitte van bemiddeling is om:

- (a) toegang tot geregtigheid te bevorder;
- (b) herstellende geregtigheid te bevorder;
- (c) verhoudings tussen gedingvoerders en potensiële gedingvoerders wat deur die ongunstige aard van gedingvoering gespanne mag raak of vernietig word, te bewaar;

- (d) 'n gladde en koste-effektiewe beslegting van 'n dispuut tussen gedingvoerders en potensiële gedingvoerders te fasiliteer;
- (e) gedingvoerders of potensiële gedingvoerders by te staan om op 'n vroeë stadium van die gedingvoering of voor aanvang van gedingvoering te bepaal of om met 'n verhoor of 'n teengestaande aansoek voort te gaan, in hulle beste belang is al dan nie;
- (f) gedingvoerders of potensiële gedingvoerders toe te laat om na gedingvoering terug te keer sou die poging tot bemiddeling onsuksesvol wees;
- (g) gedingvoeringprosedure en bewysreëls ter syde te stel; en
- (h) gedingvoerders of potensiële gedingvoerders van oplossings tot die dispuut te voorsien, wat buite die bestek en magte van regsbeamptes val;

En nademaal die Minister van Justisie en Grondwetlike Ontwikkeling die Reglementsraad instruksie gegee het om reëls op te stel om die prosedure vir vrywillige verwysing na hof-aangehegte bemiddeling van siviele dispuite te reguleer, om op 'n loodsbasis in sekere howe geïmplementeer te word;

Derhalwe het die Reglementsraad die volgende reëls opgestel om die prosedure vir vrywillige hof-aangehegte bemiddeling van siviele dispuite in die Magistraatshowe te reguleer:

1 Definisies

In hierdie reëls tensy die inhoud andersins aandui, beteken:

'aansoek' gedingvoering wat 'n aanvang neem met kennisgewing van mosie vergesel van beëdigde verklaring;

'aksie' gedingvoering wat 'n aanvang neem met die uitreiking van 'n dagvaardiging;

'alternatiewe dispuutbeslegting' 'n proses waarin 'n onafhanklike en onpartydige persoon partye bystaan om te probeer om die dispuut tussen hulle te besleg, óf voor óf na aanvang van gedingvoering;

'bemiddelaar' 'n persoon wat deur die partye of deur 'n dispuutbeslegtingsbeampte uit 'n lys gekies is waarna verwys in reël 14(2), om 'n dispuut tussen die partye te bemiddel;

'bemiddeling' die proses waardeur 'n bemiddelaar die partye in werklike of potensiële gedingvoering bystaan om die dispuut tussen hulle te besleg deur onderhandelings tussen die partye te fasiliteer, hulle behulpsaam te wees met die identifisering van kwessies, areas van kompromie te ondersoek en opsies te genereer in 'n poging om die dispuut op te los;

'bestel' om 'n dokument aan die teenparty af te lewer ter gedingvoering en om die oorspronklike by die registrateur of klerk van die hof in te dien;

'dag' hofdag, wat Saterdag, Sondag en openbare vakansiedae uitsluit;

'dispuut' die onderwerp van werklike of potensiële gedingvoering tussen partye of 'n aspek daarvan;

'dispuutbeslegtingsbeampte' 'n persoon wat die alternatiewe dispuutbeslegtingsproses administreer en beheer en wie se funksies in hierdie reëls uiteengesit word;

'gedingvoerder' 'n party tot gedingvoering;

'gedingvoering' die hofverrigtinge wat met aksie- of aansoekverrigtinge begin;

'hofreëls' die hofreëls van toepassing op die Magistraatshowe;

'Minister' die Minister van Justisie en Grondwetlike Ontwikkeling;

'potensiële gedingvoering' gedingvoering wat uit 'n dispuut mag ontstaan;

'regterlike amptenaar' 'n Magistraat of 'n Addisionele Magistraat of 'n Assistent-Magistraat of 'n Streeksmagistraat;

'uiteensetting van eis' 'n verklaring waarin 'n party wat van voorneme is om enige verligting teen die ander party te eis, in duidelike en bondige terme die wesenlike feite uiteensit waarop sodanige party se eis gebaseer is;

'uiteensetting van verweer' 'n geskrewe antwoord waarin 'n verweerder in duidelike en bondige terme die wesenlike feite uiteensit waarop sodanige verweer gebaseer is.

'verweerder' sluit enige respondent en enige party in wat 'n dispuut sou verdedig indien gedingvoering geïnisieer wou word.

2 Toepassing van hierdie reëls

- (1) Hierdie reëls is van toepassing op-
 - (a) Die vrywillige onderwerping aan bemiddeling van 'n dispuut voor aanvang van gedingvoering in die Magistraatshowe; en
 - (b) huidige gedingvoering in die Magistraatshowe, onder die omstandighede na verwys in reëls 6 en 7 van hierdie reëls.
- (2) Hierdie reëls vervang nie enige van die reëls van die Magistraatshowe nie.

3 Verwysing vir bemiddeling

- (1) 'n Dispuut mag vir bemiddeling verwys word-
 - (a) deur enige party alvorens potensiële gedingvoering begin;
 - (b) deur enige party na aanvang van gedingvoering maar voor uitspraak: Met dien verstande dat waar die verhoor begin het, die partye die magtiging van die hof moet verkry;
 - (c) deur 'n regterlike amptenaar te enige tyd na die aanvang van gedingvoering indien die geregtelike beampte glo daar is goeie rede daartoe.

4 Funksies en pligte van dispuutbeslegtingsbeampte

- (1) Die dispuutbeslegtingsbeampte moet aan alle partye —
 - (a) die doel van alternatiewe dispuutbeslegting, die betekenis, doelwitte en voordele, insluitende kostebesparings, van bemiddeling verduidelik; en
 - (b) die kostes van bemiddeling verduidelik, gebaseer op die Bylaag tot hierdie reëls.
- (2) Die dispuutbeslegtingsbeampte moet die partye inlig dat hulle deur regsverteenvoerders van hulle keuse op hul eie onkoste bygestaan mag word.
- (3) Die dispuutbeslegtingsbeampte moet, in oorlegpleging met die partye, die funksies en pligte in hierdie reël en in reëls 5 en 6 uitvoer.
- (4) Wanneer 'n ooreenkoms tot bemiddeling gesluit word, moet die dispuutbeslegtingsbeampte die volgende aan die bemiddelaar stuur:

- (a) 'n afskrif van die ooreenkoms om te bemiddel;
- (b) afskrifte van die uiteensetting van eis en uiteensetting van verweer, indien bemiddeling voor aanvang van gedingvoering gaan begin;
- (c) afskrifte van die dagvaardiging en pleit, of uiteensetting van verweer indien geen pleit ingedien is in aksieverrigtinge nie; en
- (d) afskrifte van die openings-, antwoordende en repliserende verklarings, of uiteensetting van verweer indien geen antwoordende verklaring in aansoekverrigtinge ingedien is nie.

5 Prosedure vir verwysing vir bemiddeling voor aanvang van gedingvoering

- (1) 'n Party wat 'n dispuut vir bemiddeling wil verwys alvorens gedingvoering begin, moet ooreenkomstig Vorm 1 'n skriftelike aansoek by die dispuutbeslegtingsbeampte van die hof indien wat normaalweg jurisdiksie sou hê om die saak aan te hoor indien gedingvoering ingestel wou word.
- (2) Die versoek moet aandui -
 - (a) of verligting deur of teen die party geëis word wat bemiddeling versoek;
 - (b) die volle name van die ander party of partye of naam of name waaronder die ander party of partye tot die dispuut aan die party wat bemiddeling versoek, bekend is;
 - (c) die fisiese en posadresse van die ander party of party tot die dispuut;
 - (d) die faksimileenommer of e-posadres van die party wat bemiddeling versoek, indien sodanige party 'n faksimileenommer of e-posadres besit;
 - (e) die aard van die dispuut en die wesentliche feite waarop die dispuut gebaseer word.
- (3) Die dispuutbeslegtingsbeampte moet alle ander partye tot die dispuut inlig dat bemiddeling van die dispuut versoek word en moet die ander party wat bemiddeling versoek en al die ander partye tot die dispuut aansê om binne tien (10) dae 'n konferensie by te woon, om te bepaal of al of sommige van die partye toestem om die dispuut aan bemiddeling te onderwerp.
- (4) Indien sommige of al die partye tussen wie bemiddeling moontlik is, by die konferensie waarna verwys in subreël 3, toestem om die dispuut aan arbitrasie te onderwerp, moet die dispuutbeslegtingsbeampte -
 - (a) in samewerking met die partye 'n bemiddelaar aanstel, of, indien die partye nie oor 'n bemiddelaar kan ooreenkom nie, moet die dispuutbeslegtingsbeampte 'n bemiddelaar aanwys uit die lys waarna verwys in reël 14(2);

- (b) met die bemiddelaar oorleg pleeg en 'n datum, tyd en lokaal vir bemiddeling vasstel; en
- (c) 'n geskrewe bemiddelingsooreenkoms tussen die partye aangaan, wat die volgende besonderhede moet bevat:
 - (i) die besonderhede waarna verwys in subreël 2(b), (c) en (d) van hierdie reël;
 - (ii) dat die partye ooreengekom het om die dispuut tussen hulle te bemiddel;
 - (iii) die datum, tyd en lokaal van die bemiddeling;
 - (iv) die naam van die bemiddelaar;
 - (v) die tydperk wat aan elke bemiddelingsessie toegestaan sal word;
 - (vi) die tyd waarin bemiddeling afgesluit sal word en die metode waarvolgens enige tydperke of tydbepelings verleng mag word;
 - (vii) die vertroulikheid en bevoorregting verbonde aan openbaarmakings by die bemiddeling; en
 - (viii) die gevolge sou enige party nie die ooreenkoms nakom nie.
- (5) 'n Party wat verligting eis moet 'n uiteensetting van eis by die dispuutbeslegtingsbeampte indien binne tien (10) dae na die ondertekening van die ooreenkoms waarna verwys in subreël 4(c) van hierdie reël en 'n afskrif na alle ander partye tot die bemiddelingsverrigtinge aanstuur.
- (6) Die party of partye teen wie verligting geëis word, moet 'n uiteensetting van verweer by die dispuutbeslegtingsbeampte indien binne tien (10) dae na ontvangs van die uiteensetting van eis, en 'n afskrif aan alle ander partye tot die bemiddelingsverrigtinge aanstuur.

6 Verwysing na bemiddeling deur gedingvoerder

- (1) (a) Enige party mag op enige stadium na gedingvoering begin het, maar voor verhoor, die dispuutbeslegtingsbeampte skriftelik versoek om die dispuut na bemiddeling te verwys.
 - (b) Die dispuutbeslegtingsbeampte moet alle ander partye tot die dispuut inlig dat bemiddeling van die dispuut versoek word en moet die ander party wat bemiddeling versoek en al die ander partye tot die dispuut aansê om binne tien (10) dae 'n konferensie by te woon, om te bepaal of al of sommige van die partye toestem om die dispuut aan bemiddeling te onderwerp.

- (2) Na die aanvang van verhoor maar voor uitspraak mag enige party by die hof aansoek doen om die dispuut vir bemiddeling te verwys.
- (3) Indien die hof 'n bevel toestaan wat die dispuut vir bemiddeling verwys, moet die voorwaardes van reëls 4(4); 5(4) en subreël van hierdie reël toegepas word.
- (4) (a) In aksiekwessies, indien pleitstukke gesluit het, sal die dagvaardiging of uiteensetting en pleit, soos na verwys in die reëls, dien as uiteensetting van eis en uiteensetting van verweer, onderskeidelik.

(b) Indien 'n pleit nie gelewer is nie, moet die verweerder binne tien (1) dae na afsluiting van die sluiting van die ooreenkoms om te bemiddel, 'n uiteensetting lewer.

(c) In aansoekkwessies sal die openingsverklaring dien as die uiteensetting van eis en die antwoordende verklaring indien bestel, sal dien as die uiteensetting van verweer.

(d) Indien geen antwoordende verklaring bestel is nie, moet die respondent binne tien (10) dae na sluiting van die ooreenkoms om te bemiddel, 'n uiteensetting van verweer bestel.

7 Verwysing na bemiddeling deur die hof

- (1) 'n Hof mag, voor of tydens 'n verhoor maar voor uitspraak, die partye instruksie gee om te bemiddel en die dispuut na die dispuutbemiddelingsbeampte verwys.
- (2) Indien die partye tydens die verhoor toestem dat die dispuut bemiddel word, moet die partye die hof versoek om die dispuut na die dispuutverwysingsbeampte te verwys.
- (3) Die voorwaardes van reëls 4(4) en 5(4) moet toegepas word indien 'n dispuut onder hierdie reël vir bemiddeling verwys word.

8 Rol en funksies van bemiddelaar

- (1) By die aanvang van bemiddeling moet die bemiddelaar die partye van die volgende inlig -
 - (a) Die oogmerke van bemiddeling en die doelwit om beslegting tussen die party te fasiliteer;

(b) die bemiddelaar se fasiliterende rol as 'n onpartydige bemiddelaar wat nie enige feite- of regsbesluite kan neem nie en wat nie die geloofwaardigheid van enige persoon wat aan die bemiddelingsproses deelneem, kan bepaal nie;

(c) die inkwisitore aard van sodanige verrigtinge;

(d) die reëls wat die bemiddeling bestuur;

(e) dat alle besprekings en openbarings, hetsy mondeling of geskrewe, wat tydens enige bemiddeling gemaak word, vertroulik is en nie in enige hof, tribunaal of ander forum as getuienis toelaatbaar is nie, tensy die besprekings en openbarings in 'n skikkingsooreenkoms geboekstaaf word wat die partye onderteken, of wat andersins openbaar gemaak kan word ingevolge die hofreëls, of ingevolge enige ander wet;

(f) dat die bemiddelaar tydens die bemiddelingssessie die partye mag aanmoedig om alles openbaar te maak lê indien sodanige openbaarmaking na die mening van die bemiddelaar 'n beslegting van die dispuut tussen die partye mag fasiliteer;

(g) dat geen party gedwing mag word om enige openbaring te maak nie, maar dat 'n party vrywillige openbarings mag maak met dieselfde beskerming waarna verwys in subreël (1) (e);

(h) dat hy of sy bystand sal verleen om 'n skikkingsooreenkoms op te stel indien die dispuut besleg word; en

(i) indien die dispuut nie besleg word nie, sal die bemiddelaar die dispuut na die dispuutbeslegtingsbeampte terugverwys, en hom of haar inlig dat die dispuut nie besleg kon word nie.

(2) In elke bemiddeling moet die bemiddelaar binne vyf (5) dae na die afloop van die bemiddelingsproses 'n verslag by die dispuutbeslegtingsbeampte indien wat hom inlig oor die uitkoms van die bemiddeling.

(3) 'n Bemiddelaar mag 'n bemiddelingssessies uitstel indien die partye toestem.

9 Opskorting van tydbepelkings in afwagting van bemiddeling

Die tydbepelkings deur die hofreëls voorgeskryf vir die bestel van pleitstukke en kennisgewings, die indiening van beëdigde verklarings of die neem van enige stappe deur enige gedingvoerder word opgeskort vanaf die tyd wat 'n ooreenkoms om te bemiddel aangegaan is totdat die bemiddelingsverrigtinge afgesluit word.

10 Skikkingsooreenkomste

- (1) In geval 'n ooreenkoms bereik word, moet die bemiddelaar die partye bystaan met die opstel van die skikkingsooreenkoms, wat deur die bemiddelaar aan die dispuutbeslegtingsbeampte oorgedra moet word.
- (2) Indien 'n ooreenkoms by bemiddelingsverrigting bereik word in 'n dispuut wat nie die onderwerp van gedingvoering was nie, moet die dispuutbeslegtingsbeampte en by ontvangs van die skikkingsooreenkoms van die bemiddelaar, die skikkingsooreenkoms indien.
- (3) Indien 'n skikking nie deur die bemiddelingsverrigtinge bereik word in 'n dispuut wat nie die onderwerp van gedingvoering was nie, moet die dispuutbeslegtingsbeampte by ontvangs van die verslag van die bemiddelaar, die verslag indien.
- (4) Indien 'n skikking by bemiddelingsverrigtinge bereik word in 'n dispuut wat die onderwerp van gedingvoering was, moet die dispuutbeslegtingsbeampte op versoek van die partye en by ontvangs van die skikkingsooreenkoms van die bemiddelaar, die skikkingsooreenkoms aan 'n regterlike amptenaar in kamerhof voorlê vir notering dat die dispuut besleg is of om die ooreenkoms 'n bevel van die hof te maak, wanneer die partye daartoe toestem.
- (5) Indien 'n ooreenkoms nie by bemiddelingsverrigting bereik word nie in 'n dispuut wat die onderwerp van gedingvoering was, moet die dispuutbeslegtingsbeampte by ontvangs van die verslag van die bemiddelaar, die verslag indien en die registrateur of klerk van die hof inlig ten einde die gedingvoering te laat voortgaan.
- (6) Elke skikkingsooreenkoms moet op skrif gestel word.

11 Gedeeltelik-onbeslegte dispute

Sou enige aspek van 'n dispuut tussen die partye onbesleg bly, mag die partye geding voer oor onopgeloste kwessies.

12 Fooie betaalbaar aan bemiddelaars

- (1) Die fooie betaalbaar aan bemiddelaars word in die tabel in Bylaag A tot hierdie reëls voorgeskryf.
- (2) Die partye wat aan die bemiddelingsproses deelneem, moet die bemiddelaar se fooie betaal.
- (3) Aanspreeklikheid vir die bemiddelaar se fooie moet in gelyke mate deur die opponerende partye wat aan die bemiddelingproses deelneem, betaal word.

13 Verteenwoordiging van partye by bemiddelingsverrigtinge

- (1) Partye tot bemiddelingsverrigtinge moet sodanige verrigtinge persoonlik bywoon en mag deur regverteenoordigers verteenwoordig word.
- (2) Waar 'n regspersoon of 'n maatskappy of 'n vennootskap 'n party tot bemiddelingsverrigtinge is, moet sodanige entiteit deur 'n beampte van daardie regspersoon, maatskappy of vennootskap verteenwoordig word, wat behoorlik daartoe gemagtig moet wees om die entiteit te verteenwoordig, 'n ooreenkoms te sluit en 'n skikkingsooreenkoms namens sodanige entiteit te onderteken.
- (3) Waar die Staat of 'n regeringsliggaam 'n party tot bemiddelingsverrigtinge is moet sodanige entiteit deur 'n beampte verteenwoordig word bygestaan deur die staatsprokureur wat behoorlik daartoe gemagtig moet wees om die entiteit te verteenwoordig.

14 Minister sal die standarde van bevoegdheid bepaal en lys van geakkrediteerde bemiddelaars opstel

- (1) Die kwalifikasie en standarde van bevoegdheid van bemiddelaars om bemiddeling te verrig waarna in hierdie reëls verwys word, moet deur die Minister bepaal word.
- (2) Die Minister moet periodiek 'n lys van geakkrediteerde bemiddelaars voorsien om die funksies en doelwitte van hierdie reëls uit te voer.

15 Kort titel

Hierdie reëls sal na verwys word as die Vrywillige Hof-aangehegte Bemiddelingsreëls van die Magistraatshowe.

IKHOTHO YOKUZINIKELA- ISINGEZELELO SEMITHETHO YOKULAMULA KUKAMARHASTRADA WEKHOTHO

ISENDLALELO

Njengombana isiGaba 34 somThethosisekelo weRiphabliki yeSewula Afrika womnyaka ka-1996 uqinisekisa kuwokewoke ilungelo lokobana iinghonyayo zabo zirarululwe ngokwekambiso yomthetho isiqunto sawo esithathwa ngokulalelwa kwemibono yomphakathi ngaphambi kobana kuyiwe ekhotho nanyana, lapha kufanele khona, kwenye indawo ekhululekileko kanye nebandla lesikhatjhana nanyana emhlanganweni;

Begodu lokha isigaba 6(1) somThetho weBhodi yamaKhotho nemiThetho uMthetho 107 ka-1985 sinikela imiThetho yeBhodi mayelana namaKhotho (imiThetho yeBhodi)

ngaphasi kwesiGaba 2 somThetho wokubuyekeza o imithetho esetjenziswa ekhotho, ukwenza imithetho yeKhotho ePhakemeko yeeNghonyayo, amaKhotho aPhezulu kanye namakhotho aphasi kulawulwe indlela asebenza ngayo kanye nekambiso ekhambisana namahlelo wokuvikela imilandu emakhotho nokulawula ukuphathwa komunye nomunye umlandu okungaba yinto ethogekako nanyana ehle mayelana nokuziphatha kuhle kwemisebenzi evezawo yemakhotho emiphakathini kanye neenkambisweni zobulelesi;

Begodu lapha ikhonfereensi ye-Access to Justice Conference eyabanjwa ngenyanga kaVelabahlince ngomnyaka ka-2011, ngaphasi kobudosiphambili bomPhathi wamaJaji, mayelana nokuzwa ukunikelwa kokutholakala kanye nekhwalithi yobulungiswa kibo boke abantu, kusonjululwe lawo magadando okufanele athathwe ukwethula ezinye iinsombululo ezinyulwako, khulukhulu esingezelelweni sekhotho sokulamula nanyana somhlobo wesisombululo sesinghonyayo esinyulwako we-CCMA , ngokwekambiso yekhotho;

Begodu lapha umnqopho oqakathekileko wokulamula ngile:

- (a) ukuthuthukisa ukungenelela kwezobulungiswa;
- (b) ukuthuthukisa ubulungiswa obusezingeni eliphezulu;

- (c) ukubulunga itjhebiswano phakathi kwabanghonyoyili nanyana labo abathanda ukunghonyoyila okungaba yinto elimazako nanyana eyoniwa mhlobo wesinghonyoyilo;
- (d) ukukghonakalisa msinya kanye neensombululo ezingabizi khulu hlangana komnghonyoyili kanye nabathanda ukunghonyoyila;
- (e) ukusiza abanghonyoyili nanyana abangaba nomukghwa wokunghonyoyila ukubona msinya nakunesinghonyoyilo nanyana ngaphambi kokuthoma kwesinghonyoyilo ukobana ingabe ukuragela phambili nomlandu nanyana ukuphikiswa kwesibawo kuyinto abayifunako nanyana awa;
- (f) ukuvumela abafaki beenghonyoyilo nanyana abangafaka iinghonyoyilo ukobana babuyele esinghonyoyilo nakungenzeka umzamo wokulamula ungaphumeleli;
- (g) ukuvumela iinkambiso zokunghonyoyilo kanye nemithetho yokuqinisekisa kanye nokuvumela
- (h) ukunikela abafaka iinghonyoyilo nanyana abangafaka iinghonyoyilo ezineensombululo zeenghonyoyilo, okungilezo ezingehla komsebenzi kanye namandla weemphathiswa zephiko lobulungiswa ;

Begodu njengombana uNgqongqotjhe wezobuLungiswa kanye nokuThuthikisa imiThethosisekeloayelelise iBhodi yemiThetho ukobana yenze imithetho ezakulawula ikambiso emayelana nekhotho yokuzinikela engezelelwa kulamula iinghonyoyilo zomphakathi, ezakwenziwa njengento esazanywako kwamanye amakhotho;

Yeke imiThetho yeBhodi yenze lemithetho elandelako ukulawula ikambiso emayelana nekhotho yokuzinikela engezelelwa kulamula iinghonyoyilo zomphakathi kuMarhastrada emaKhotho:

1 linhlathululo

Kilemithetho ngaphandle kwalokha nangabe ubujamo butjho okhunye:

'isenzo' kutjihiwo isinghonyoyilo esithonywe ngokobana kuthunyelwe umlayezo wokubizelwa ekhotho ;

'isisombululo sokurarulula umraro esinyulwako' kutjihiwo ikambiso, lapha umuntu ozijameleko naloyo ongathathi ikambiso asiza khona iinqhema ukuzama ukurarulula irarano ephakathi kwazo, kungaba ngaphambilini nanyana ngemva kokuthoma kwesinghonyoyilo;

'Indlela yokwenza 'kutjiwo ukuthoma kwehlelo lokuvikela umlandu ekhotho ngokwesaziso esikhambisana ne-afidavidi;

'ilanga'ilanga lokuya ekhotho, elingafaki aboMgqibelo, aboSondo kanye namaHolideyi womphakathi;

'ummangalelwa' ufaka hlangana omunye nomunye ummangalelwa kanye nesinye isiqhema esizabe sivikela isinghonyoyilo nangabe ihlelo lokuvikela umlandu ekhotho besele lithonyiwe;

'ukwethula'kutjiwo ukunikela ngomtlole ngakwesinye isiqhema esingakhambisani nehlelo lokuvikela umlandu ekhotho kanye nokufayila wamambala nerejistra nanyana unobhala wekhotho;

'isinghonyoyilo'kutjiwo indaba yamambala nanyana ongafaka isinghonyoyilo hlangana neenqhema nanyana ingcenywe yaso;

'isiphathiswa esirarulula imiraro'kutjiwo umuntu ophethe nolawula ikambiso yamararano angaba khona begodu imisebenzaso iveziwe ngaphakathi kwemithetho;

'isiphathiswa sobulungiswa'kutjiwo uMarhastrada nanyana uMarhastrada oNgeziweko nanyana umSizi kaMarhastrada nanyana uMarhastrada wesiYingi.

'mumuntu obandakanyeka kilokho ukungavumelani okuphenywako'kutjiwo ingcenywe yehlelo lokuvikela umlandu ekhotho ;

'ihlelo lokuvikela umlandu'kutjiwo bona iinkambiso zekhotho zithoma ngesenzo nanyana ngokuragwa kweenkambiso;

'ukulamula'kutjiwo ikambiso lapha uklamuli asiza khona iingcenywe nanyana abangaba neenghonyoyilo ukurarulula irarano eliphakathi kwabo ngokukghonakalisa iingcoco hlangana neenqhema , zisizwe ngokuqala iindima, ukuhlathulula iindaba, ukuhlathulula okunyulwako, ukutholisisa iindawozokubonisana kanye nokuthola izinto ezingakhethwa emzameni ongenziwa mayelana nokurarulula irarano;

'uklamuli'kutjiwo umuntu okhethwe ziinqhema nanyana siphathiswa esirarulula imirarano ukusukela erhelweni elivezwe emthethweni 14(2), ukulamula irarano hlangana neenqhema;

'uNgqongqotjhe'kutjiwo uNgqongqotjhe wezobuLungiswa nokuThuthukisa imiThethosisekelo;

'Ihlelo lokuvikela umlandu ekhotho elinokwenziwa' kutjhiwo ihlelo lokuvikela elingahle libe khona ngaphandle kwesinghonyilo;

'imithetho yekhotho' kutjhiwo imithetho yekhotho esetjenziswa boMarhistrada emaKhotho;

'isitatimende setleyimu' kutjhiwo isitatimende lapha ingcenywe ithanda ukuthola khona ukuzwana nesinye isiqhema okuvezwe kuhle tihatjhalazi begodu namathemu amancani okungilawo itleyimu yesiqhemeso edzimelele kiso;

'isitatimende sokuzivikela' kutjhiwo ipendulo etlolwe phasi lapha ummangali aveza tihatjhalazi ngamathemu arhunyeziweko amaphuzu ukuvikelwa okudzimelele kiwo.

2 Ukusetjenziswa kwemithetho le

(1) Imithetho le isebenza kilokhu-

(a) ukuzinikela ekulamuleni irarano elibe khona ngaphambi kobana kuthome ihlelo lokuvikela umlandu kuMarhastrada weKhotho; begodu

(b) ihlelo lanje lokuvikela umlandu kuMarhastrada weKhotho, ngaphasi kwezehlakalo ezivezwe emithethweni we-6 kanye ne- 7 yalemithetho.

(2) Imithetho le ayijamiseleli eminye yemithetho kaMarhastrada weKhotho.

3 Ukudluliselwa ekulamulweni

(1) Irarano lingadluliselwa ekutheni liyokulamulwa-

(a) ngesinye nesinye isiqhema ngaphambi kobana kuthome ihlelo elingaba khona lokuvikela umlandu ekhotho;

(b) ngesinye nesinye isiqhema ngemva kokuthoma kwehlelo lokuvikela umlandu ekhotho kodwana ngaphambi kwesahlulelo: Ngaphandle kwalokha nangabe ukuhlolwa komlandu kuthomile iinqhema kufanele zithole imvumo yekhotho;

(c) siphathiswa sobulungiswa kwesinye nesinye isikhathi ngemva kokuthoma kwehlelo lokuvikela umlandu ekhotho nangabe isiphathiswa sobulungiswa sikholelwa ekutheni kunesizathu esizwakalako sokwenza lokho.

4 Okwenziwa kanye nemisebenzi yesiphathiswa esirarulula irarano

- (1) Isiphathiswa sokurarulula irarano kufanele sihlathululele zoke iinqhema —
 - (a) umnqopho wesisombululo esinyulwako serarano, ihlathululo, iminqopho kanye nenzuzo, kufakwe hlangana iindleko ezongiwo zokulamula; kanye
 - (b) neendleko zokulamula, eziyame eengezelelweni zemithetho le.
- (2) Isiphathiswa sokurarulula irarano kufanele sazise iinqhema bona zingasizwa bajameli bezomthetho nanyana amagqwetha abawathandako ngeendleko zabo.
- (3) Isiphathiswa sokurarulula irarano kufanele ngokubonisana neenqhema, sense imisebenzaso kilomthetho nemthethweni 5 newe-6.
- (4) Nakufikelelwa esiphethweni sesivumelwano sokulamula, isiphathiswa sokurarulula irarano kufanele athumele lokhu okulandelako kumlamuli-
 - (a) ikhophi yesivumelwano sokulamula;
 - (b) amakhophi wesitatimende setleyimu kanye nesitatimende sokuvikela , nangabe ukulamula kuzokwenzeka ngemva kokuthonywa kwehlelo lokuvikela umlandu ekhotho;
 - (c) amakhophi wamasamoni kanye nokubawa ukulitjalelwa, nanyana isitatimende sokuvikela nangabe asikho isibawo sokulitjalelwa esifakiweko, ekambisweni eyenziwako; kanye
 - (d) namakhophi wokuthola, ukuphendula nokuphendulwa kwama-afidavidi, nanyana isitatimende nangabe ayikho ipendulo ye-afidavidi efayiliweko, ekambisweni yesibawo.

5 Ikambiso yokudlulisela ukulamula ngemva kokuthoma kwehlelo lokuvikela umlandu ekhotho

- (1) Isiqhema esifisa ukuthumela isinghonyoyilo ekulamulweni ngemva kokuthoma kwehlelo lokuvikela umlandu ekhotho kufanele wenze isibawo esitolwe phasi esikhambisana neForomo 1, basithumele kusiphathiswa sekhotho esirarulula irarano esingaba namandla wokulalela umlandu nangabe ihlelo lokuvikela umlandu ekhotho lenziwa
- (2) Isibawo kufanele siveze —
 - (a) bona ingabe ilamulo litleyinyiwe mayelana nesiqhema esifuna kulanyulwe;

(b) amabizo azeleko wesiqhema nanyana iinqhema nanyana ibizo nanyana amabizo ezinye iinqhema ezinghonghoyilako ezaziwa ngawo ngilesosiqhema esifuna kulanyulwe;

(c) isiphande sesitrada kanye neseposi sesinye isiqhema nanyana iinqhema ezinghonghoyilako;

(d) inomboro yefeksi nanyana isiphande se-imeyili, sesiqhema esifuna kulanyulwe, nangabe isiqhemeso sinenomboro yefeksi nanyana isiphande se-imeyili; kanye

(e) nomhlobo wesinghonghoyilo kanye namaphuzu lawo isinghonghoyilo esidzimelele kiwo.

(3) Isiphathiswa sokurarulula irarano kufanele sazise zoke iinqhema ezinesinghonghoyilo ukobana ukulanyulwa kwesinghonghoyilo kuzokwenziwa begodu kufanele abize lesi siqhema esifuna kulanyulwe kanye nezinye iinqhema ezibandakanyeka esinghonghoyilweni nazo zikhambele ikhonferensi hlangana namalanga alitjumi (10), mayelana nomnqopho wokuqala bona ingabe zoke nanyana ezinye iinqhema ziyavuma ukuthumela isinghonghoyilo ukobana silanyulwe.

(4) Nangabe kileyokhonferensi evezwe kumthetho 3 ezinye nanyana zoke iinqhema hlangana nalezo ukulamulwa okungakghonakala, yeke isiphathiswa esirarulula irarano kufanele -

(a) ngokubambisana neenqhema sikhetha umlamuli nanyana, nangabe iinqhema azivumelani ngomlamuli, yeke isiphathiswa esirarulula irarano kufanele sikhetha umlamuli erhelweni elivezwe kumthetho 14(2);

(b) khambisana nomlamuli bese uhlele ilanga , isikhathi kanye nendawo mayelana nokulamula ; bese

(c) vumelanani ngesivumelwano sokulamula esitlolwe phasi hlangana neenqhema ezizakuba naleminingwana elandelako:

(i) imininingwana evezwe emthethweni ongaphasi ku- 2(b), (c) kanye no (d) walomthetho;

(ii) ukobana iinqhema zivumile ukulamula irarano elihlangana nazo;

(iii) ilanga, isikhathi kanye nendawo yokulamula;

(iv) ibizo lomamuli;

(v) isikhathi esizakubekelwe isetjheni yokulamula ngayinye;

(vi) isikhatheso ukulamula okuzakuragwa ngaso kanye nendlela okuzakuragwa ngayo ngendlela eminye neminye imibandela yesikhathi esingangezwa ngayo;

(vii) ubuntumba nehlonipho ekhambisana nalokho okwenziwa ngaphakathi kokulamula; kanye

(viii) nemiphumela yesinye nesinye isiqhema esingazibopheleliko esivumelwaneni.

(5) Isiqhema esifuna isizo kufanele sifake isitatimende setleyimu kusiphathiswa esirarulula irarano hlangana namalanga alitjumi (10) wokutlikitlwa kwesivumelwano avezwe kumthetho ongaphasi ku-4(c) womthetho lo bese bathumela ikhophi kizo zoke iinqhema eziya ekambisweni yokulamula.

(6) Isiqhema nanyana iinqhema lezo ezifuna isizo kufanele zifake isitatimende sokuzivikela nesiphathiswa esirarulula imiraro hlangana namalanga alitjumi (10) wokuthola isitatimende setleyimu, bese uthumela ikhophi kizo zoke iinqhema eziya ekambisweni yokulamula.

6 Ukuthunyelwa ekambisweni yokulamula lihlelolokuvikela umlandu ekhotho

(1) (a) Esinye nesinye isiqhema kwesinye nesinye isikhathi kwesinye nesinye isigaba ngemva kokuthoma kwehlelo lokuvikela umlandu ekhotho, kodwana ngaphambi kokugwetjwa, bawa isiphathiswa esirarulula imiraro, usitolele uqalise kusinghonghoyilo okumele silanyulwe.

(b) Isiphathiswa esirarulula irarano kufanele sazise zoke ezinye iinqhema ngesinghonghoyilo okufanele sirarululwe begodu kufanele sibize isiqhema esifuna kulanyulwe kanye nezinye iinqhema ezikhona esinghonghoyilweni ukobana zikhambele ikhonferensi hlangana namalanga alitjumi (10) mayelana nomnqopho wokuqala bona zoke nanyana ezinye zeenqhema ziyavuma bona ziyokulanyulwa.

(2) Ngemva kokugwetjwa komlandu kodwana ngaphambi kokwahlulelwa esinye nesinye isiqhema singafaka isibawo ekhotho ukobana kukhonjelwe bona isinghonghoyilo silanyulwe.

(3) Nangabe ikhotho inikela umlayo othumela bona kube nokulamula, okutlhogwa mithetho 4(4); 5(4) kanye nomthetho ongaphasi wesi-(4) kufanele usebenze.

(4) (a) Eendabeni ezifuna ukutjhejwa, nangabe ukurabhela sekuvaliwe, amasamoni nanyana isimemezelo kanye nesenzo sokulila, njengombana sivezwe kilemithetho, izakuthathwa njengesitatimende somlandu kanye nesitatimende sokuzivikela, ngokulamana.

(b) Nangabe isenzo sokulila asikethulwa, ummangalelwa kufanele ethule isitatimende hlangana namalanga alitjumi (10) wokuphethwa kwesivumelwano ukobana kulanyulwe.

(c) Eendabeni zesibawo, i-afidavidi ekhona izakuthathwa njengesitatimende setleyimu bese i-afidavidi ephendulako nangabe seyinikelwe yona-ke ithathwe njengesitatimende sokuzivikela.

(d) Nangabe ayikho i-afidavidi enikelweko, ophendulako kufanele alethe isitatimende sokuzivikela hlangana namalanga alitjumi (10) wokuphela kwesivumelwano sokulamula.

7 Ukudluliselwa kumlamuli yikhotho

- (1) Ikhotho ngaphambi nanyana lokha nakugwetjwa umlandu kodwana ngaphambi kokwahlulelwa ingatjela iinqhema ukobana zithumele kumlamuli bese zidlulisele isinghonghoyilo kusiphathisa esirarulula irarano.
- (2) Nangabe lokha nakugwetjwa umlandu iinqhema ezibandakanyekako esinghonghoyilweni esilanyulwako, iinqhema kufanele zibawe ikhotho ukobana idlulisele isinghonghoyilo kusiphathiswa esirarulula irarano.
- (3) Iindingo zemithetho 4(4) kanye ne- 5(4) kufanele isebenze nangabe isinghonghoyilo sidluliselwe ukobana siyokulanyulwa ngaphasi komthetho lo.

8 Indima kanye nomsebenzi womlamuli

- (1) Nakuthoma ukulanyulwa, umlamuli kufanele azise iinqhema ngalokhu okulandelako—
 - (a) Iinhloso zokulamula kanye nemiqophayo yokukghonakalisa ukobana kube khona imali ebhadalwako hlangana neenqhema;
 - (b) Indima yomlamuli yokukghonakalisa njengomlamuli ongathathi ihlangothi ongeze athatha iinqunto nanyana umthetho begodu ongeze akghona ukuqunta ukuthembeka komunye nomunye umuntu ozibandakanya ekulamuleni;
 - (c) umhlobo wokuhloliswa kweenkambiso ezinjalo;
 - (d) imithetho elawula ukulamula;
 - (e) ukobana zoke iingcoco kanye nokuveza kungaba ngokutlola phasi nanyana okutjhiwo ngomlomo okwenziwa ngesikhathi sokulamula kuyifihlo begodu abamukeleki njengobufakazi kwenye nenye ikhotho, ebandla elikhethekileko nanyana kweminye imihlangano, ngaphandle kwalokha nangabe iingcoco kanye nokuveza kutlolwe phasi esivumelwaneni sokubhadala esitlikitlwe ziinqhema ,

nanyana mhlamunye ziyatholakala ngokutjho kwemithetho le yekhotho, nanyana ngokutjho komunye nomunye umthetho;

(f) ukobana umlamuli hlangana nesetjheni yokulamula angakhuthaza iinqhema ukobana ziveze koke tihatjhalazi nangabe ngokuya komlamuli okuvezwakokho kungakghonakalisa ukurarululwa komraro ohlangana neenqhema ezimbili;

(g) ukobana asikho isiqhema esingakatelelwa ukobana sikhulume nanyana siveze, kodwana isiqhema singazivezela sona ngokuthanda kwaso kanye nevikelo elifanako elivezwe kumthetho ongaphasi ka- (1) e);

(h) ukobana uzakusiza ekwenzeni itlhatlha lesivumelwano sokubhadala, kodwana isiqhema nangabe isinghonghoyilo siraruliwe; begodu

(i) nangabe isinghonghoyilo asikararululwa , umlamuli uzasidlulisela godu kusiphathiswa esirarulula imiraro, asazise bona isinghonghoyilo akhange sirarululwe.

(2) Kokhunye nokhunye ukulamula umlamuli kufanele, hlangana namalanga amahlanu (5) wesiphetho sekambiso yokulamula, athumele umbiko kusiphathiswa esirarulula imiraro asitjele ngomphumela wokulmula..

(3) Umlamuli angatshwilisa isetjheni yokulamula nangabe iinqhema ziyavuma.

9 Ukujanyiswa kweenkhathi kusalindelwe ukulamula

Imibandela yeenkhathi equntiweko mithetho yekhotho mayelana nokwethulwa kwezenzo zokubawa kanye nezaziso, ukufayilwa kwama-afidavidi nanyana ukuthathwa kwelinye nelinye igadango ngelinye nelinye ihlelo lokuvikela umlandu ekhotho liyajanyiswa ukusukela ngesikhathi sokuphethwa kwesivumelwano ukulamula esiphethweni seenkambiso zokulamula.

10 Iimvumelwano zokubhadala

(1) Lokha nasele kuvunyelenwe ngemali okufanele ibhadalwe, umlamuli kufanele asize iinqhema ukwenza itlhatlhaesivumelwano semali ebhadalwako, okufanele atjhugululwe kusiphathiswa esirarulula imiraro lokho kwenziwe mlamuli.

(2) Nangabe kufinyelelwe esivumelwaneni eenkambisweni zokulamula erarululweni egade kungasiyo into eqaliweko ehlelweni, isiphathiswa sokurarulula irarano kufanele ngemva kobana athole isivumelwano sokubhadala kumlamuli, afayile isivumelwano sokubhadala.

- (3) Nangabe akukafinyelelwa esivumelwaneni eenkambisweni zokulamula esinghonyilweni ebekungasiso esiqaliwe ehlelweni lokuvikela umlandu, isiphathiswa sokurarulula irarano, ngemva kokuthola umbiko obuya kumlamuli, uzakufayila umbiko.
- (4) Nangabe imali ebhadalwako kuvunyelanwa ngayo eenkambisweni zokulamula esinghonyilweni egade silawulwa lihlelo lokuvikela umlandu ekhotho, isiphathiswa esirarulula imiraro kufanele ngokwesibawo seenqhema nangemva kokuthola isivumelwano sokubhadala kumlamuli, sifake isivumelwano sokubhadala ngaphambi kwesiphathiswa sobulungiswa eenkundleni mayelana nokutjheja bona isinghonyilo sisonjululiwe nanyana ukwenza isivumelwano umlayo wekhotho, ngemva kokuvumelana kweenqhema.
- (5) Nangabe isivumelwano akukafikelelwa kiso eenkambisweni zokulamula emrarweni egade ulawulwa lihlelo lokuvikela umlandu ekhotho, isiphathiswa esirarulula imiraro kufanele ngemva kokuthola umbiko obuya kumlamuli, sifayile umbiko bese sazisa irejistra nanyana unobhala wekhotho ukwenzela bona ihlelo lokuvikela umlandu liragele phambili.
- (6) Zoke iimvumelwano zokubhadala kufanele zitlolwe phasi.

11 Ingcenye yeenghonyilo ezingakararululwa

Nakungenzeka kube khona okuphakathi kweenqhema okungakararululwa, lokho okungakararululwa kungathunyelwa ehlelweni lokuvikela umlandu ekhotho kuthunyelwe ziinqhema.

12 Iimali ezibhadalwa abalamuli

- (1) Iimali ezibhadalwa abalamuli ziquntwe ethebulini yesingezelelo A zalemithetho.
- (2) Iinqhema ezizibandakanyako ekambisweni yokulamula kufanele zibhadale iimali zokulamula.
- (3) Iinkolodo zeemali zokulamula kufanele zibhadalwe ngokulinganako hlanguka neenqhema eziphikisanako ezizibandakanya ekambisweni yokulamula.

13 Ukujameleka kweenqhema eenkambisweni zokulamula

- (1) Iinqhema ezisekambisweni yokulamula kufanele zikhambele iinkambiso ezinjalo ngokwazo begodu zingajanyelwa magqwetha nanyana bajameli bezomthetho.
- (2) Lapha umuntu ogunyazwe mthetho nanyana ifemu nanyana ibhizinisi yabantu ababili iyingcenywe yeenkambiso zokulamula amabhizinisi anjalo kufanele ajanyelwe siphathiswa esithunyelwe ngiloyo muntu, ifemu nanyana ibhizinisi yabantu ababilabo, okufanele bagunyazwe ngokomthetho ukobana bajamele ibhizinisi ukobana bavumelane ngokulungisa bese batlikitla isivumelwano sokulungisa ngokujamela ibhizinisi leyo.
- (3) Lapha umBuso nanyana umkhakha wombuso usiqhema nanyana yeenkambiso zokulamula leso siqhema kufanele sijanyelwe sikhulu esisizwa ligqwetha elifanele ligunyazeke ngokomthetho ukobana lijamele isiqhemeso.

14 UNgqongqotjhe ukuqala amazinga wokuphila begodu abuthelele irhelo labalamuli abakhredithiweko

- (1) Ikhwalifikhetjheni kanye namazinga wobuphilo babalamuli ukwenza abalamuli abaveziweko kilemithetho okufanele kuqinisekise nguNgqongqotjhe.
- (2) UNgqongqotjhe okwesikhatjhana kufanele banikele irhelo labalamuli abakhredithiweko ukobana benze imisebenzi kanye neminqopho ekilemithetho.

15 Isihloko esifitjhani

Imithetho le izakubizwa ngokuthiwa yiKhotho yokuzinikela engezelelwa miThetho yokuLamula yamaKhotho waboMarhastrada

MELAO YA BOLAMODI BJA TLALELETŠO YA KGOROTSHEKO YA BOITHAOPO YA DIKGOROTSHEKO TŠA BOMASETERATA

MATSENO Le ge karolo 34 ya Molaotheo wa Repabliki ya Afrika Borwa, 1996 e tiišeletša mang le mang tokelo ya go ba le phapano efe goba efe yeo e ka rarollwago ka molao ka go theeletšwa ke bohle ntle le go tšea lehlakore ka go tšwelela pele ga kgorotsheko goba, moo go lebanego, ka foramong goba lekgotleng le lengwe la go ikemela ebile le sa tšee lehlakore;

Gape le ge karolo 6(1) ya Boto ya Melao ya Molao wa Molao wa Dikgorotsheko 107 wa 1985 o matlafatša Boto ya Melao ya Molao wa Dikgorotsheko (Boto ya Melao) ye e hlomilwego ka fase ga karolo 2 ya Molao woo go sekaseka melao ye e lego gona ya kgorotsheko, go hlama melao ya Kgorotshekokgolo ya Boipobolo, Dikgorotsheko tša Godimo le dikgorotsheko tša fase ye e laolago phethagatšo le tshepedišo mabapi le tsheko le go laola ka kakaretšo taba ye nngwe le ye nngwe yeo e kago nyakega goba go tšwela mohola tshepedišo ya maleba ya mešomo ya dikgoro tše di bolelwago tshekong ya ya melato ya leago le ya bosenyi;

Gape le ge Khonferentshe ya Pihlelelo ya Toka ya go swarwa ka Mosegamanye 2011, ka fase ga boetapele bja Moahlodimogolo, mabapi le go fihlelela toka ya boleng le kabo ya go fihlelelwa ke bohle, e tšeere sephetho sa gore go swanetše go tšewa magato a go thoma go šomiša tharollo ya phapano ka bolamodi, kudu ka kgetho ya bolamodi bja tlaleletšo bja kgorotsheko goba mohuta wa CCMA wa tharollo ya phapano ka bolamodi, ka gare ga mokgwa wa kgorotsheko;

Le ge merero ye megolo ya bolamodi bjo e le:

- (a) go godiša pihlelelo ya toka;
- (b) go godiša toka ya tokišo;
- (c) go boloka dikamano gare ga babegi ba molato goba batho ba go nago le kgonagalo ya gore ba ka bega molato tšeo di ka befelago pele goba tša senywa ke mohuta wa phapano;

- (d) go dira gore go be le tharollo ya ka pela ya phapano le go se bitše tšhelete ye ntši gare ga babegi wa molato goba batho ba go nago le kgonagalo ya gore ba ka bega molato molato;
- (e) go thuša babegi ba molato goba batho ba go nago le kgonagalo ya gore ba ka bega molato go laetša e sa le mathomong a tsheko goba pele tsheko e thoma, e kaba tsheko e tšwela pele goba molato wo o ganetšwago o ema ka lehlakoreng la bona goba aowa;
- (f) go dumelela babegi ba molato goba batho ba go nago le kgonagalo ya gore ba ka bega molato go boela tshekong ge maitekelo a bolamodi a ka se atlege;
- (g) go fediša tshepedišo ya tsheko le melao ya bohlatse; le
- (h) go fa babegi ba molato goba batho ba go nago le kgonagalo ya gore ba ka bega molato ditharollo tša phapano, tšeo di lego ka godimo ga magomo a mošomo le maatla a bahlankedi ba toka;

Gape le ge Tona ya Toka le Tlhabollo ya Molaotheo a laetše Boto ya Melao go dira melao ya go laola tshepedišo ya go fetišetša diphapano tša leago go bolamodi bja kgorotsheko ya tlaleletšo ka boithaopo, gore bo thome go šomišwa bjalo ka teko ka dikgorotshekong tše itšeng;

Boto ya Melao ka go realo e dirile melao ye e latelago go laola tshepedišo ya bolamodi bja tlaleletšo bja kgorotsheko ya boithaopo ya diphapano tša leago ka Dikgorotshekong tša Bomaseterata:

1 Dithalošo

Go melao ye ntle le ge seemo se laetša ka mokgwa o mong:

'kgato' ke tsheko ye e thomilwego ka lebaka la go ntšhwa ga ditagafala;

'tharollo ya phapano ka bolamodi' ke tshepetšo, yeo ka yona motho wa go ikemela le go se tšee lehlakore a thušago balli go leka go rarolla phapano gare ga bona, e ka ba pele goba morago ga go thoma ga tsheko;

'tshekišo' e šupa gore tsheko e thomile ka tsebišo ya tšhišinyo ya go sepela le kenelwa (affidavit);

'letšatši' ke letšatši la kgorotsheko, leo le sa akaretšego Mekibelo, Disontaga le matšatši a bohle a maikhutšo;

'mosekišwa' ke moiphetoledi o mongwe le o mongwe le molli ofe goba ofe woo a tlogo iphetolela go phapano ge go butšwe molato;

'go tliša' ke fa molli wa ka lehlakoreng le lengwe la molato tokomane le go e ngwadiša le mongwadiši goba klereke ya kgorotsheko;

'phapano' ke tabakgolo ya tsheko ya mmakgonthe goba tsheko ye e kgonegago go ka ba gona gare ga balli goba selo sa go fihla moo;

'mohlankedi wa ditharollo tša diphapano' ke motho yoo a sepetšago le go laola tshepeditšo ya tharollo ya phapano ka bolamodi woo mešomo ya gagwe e laetšwago ka mo gare ga melao ye;

'mohlankedi wa toka' ke Maserata goba Maserata wa Tlaleletšo goba Mothuši wa Maserata goba Maserata wa Selete.

'mmegi wa molato' ke molli yo a tšeago karolo tshekong;

'tsheko' ke ditshepedišo tša kgorotsheko tše di thomilwego ka ditshepedišo tša go seka goba tshekišo;

'Bolamodi' ke tshepeditšo yeo ka yona molamodi a thušago balli tshekong ya mmakgonthe goba tsheko ye go kgonegago gore e ka ba gona go rarolla phapano gare ga bona ka go sepetša dipoledišano gare ga balli, ka go ba thuša go hlaola ditaba tša go fapantšha, go hlaloša dintlha tša bohlokwa, go bona gore go a kwanwa le go tšweletša dikgetho ka maiteko a go rarollaphapano;

'molamodi' ke motho yo a kgethilwego ke, balli goba mohlankedi wa ditharollo tša diphapano go tšwa lenaneong la maina le le bolelwago ka go molao wa 14(2), go lamola phapano gare ba balli;

'Tona' ke Tona ya Toka le Tlhabollo ya Molaotheo;

'tsheko ya go ba le kgonagalo ya go ka begwa' ke tsheko yeo e kago tšwelela ka lebaka la phapano;

'melao ya kgorotsheko' ke melao ya kgorotsheko ye e latelwago ka Dikgorotshekong tša Bomaserata;

'setatamente sa kgopelo' ke setatamente seo ka go sona molli yo a ikemišetšago go dira kgopelo ya kimollo efe goba efe kgahlanong le molli yo mongwe a laetšago gabotse le ka bokopana dintlha tša thekgo tšeo kleimi ye bjalo ya molli e theilwego godimo ga tšona;

'setatamente sa mabaka' ke karabo ya go ngwalwa yeo ka go yona mosekišwa a laetšago gabotse le ka bokopana dintlha tša thekgo tšeotšhireletšo e theilwego godimo ga tšona.

2 Phethagatšo ya melao ye

(1) Melao ye e akaretša-

(a) go tliša phapano ka boithaopo go bolamodi pele go thongwa ka tsheko ka Dikgorotshekong tša Bomaseterata; le

(b) melato ya bjale ka gare ga Dikgorotsheko tša Bomaseterata, ka fase ga maemo ao a supšago ka gare ga melao ya 6 le 7 ya Melao ye.

(2) Melao ye ga e tšee legato la melao efe goba efe ya Dikgorotsheko tša Bomaseterata.

3 Phetišetšo go bolamodi

(1) Phapano e ka fetišetšwa go bolamodi-

(a) ka molli ofe goba ofe pele go thongwa ka tsheko ye go nago le kgonagalo ya gore e ka ba gona;

(b) ka molli ofe goba ofe morago ga go thoma ga tsheko eupša pele ga kahlolo: ge e le gore moo tsheko e thomilego balli ba swanetše go hwetša tumelelo ya kgorotsheko;

(c) ka mohlankedi wa toka nakong efe goba efe morago ga go thongwa ka tsheko ge mohlankedi wa toka a dumela gore go na le lebaka le le botse la go dira bjalo.

Mešomo le mediro ya mohlankedi wa ditharollo tša diphapano

(1) Mohlankedi wa ditharollo tša diphapano o swanetše go hlalošetša balli ka moka—

(a) morero wa tharollo ya phapano ka bolamodi, se se šupšago, maikemišetšo le dikholo, go akaretšwa poloko ya ditshenyegelo, tša bolamodi; le

(b) ditshenyegelo tša bolamodi, go ya ka Tlaleletšo ya melao ye.

(2) Mohlankedi wa ditharollo tša diphapano o swanetše go tsebiša balli bao ba ka thušwago ke baemedi ba ba ikgethetšego bona ba semolao ka tshenyegelogo ya bona.

(3) Mohlankedi wa ditharollo tša diphapano o swanetše, ka tšhomišano le balli, go dira mešomo le mediro ka molaong wo le ka gare ga molao wa 5 le wa 6.

(4) Ge go se no fihlelelwa sephetho sa go kwana lebolamodi, mohlankedi wa ditharollo tša diphapano o swanetše go se romela go molamodi-

(a) khopi ya kwano ya go lamola;

(b) dikhopi tša setatamente sa kgopelo le setatamente sa mabaka, ge bolamodi bo swanela go direga pele tsheko e thoma;

(c) dikhopi tša ditagafala le boipobolo, goba setatamente sa mabaka ge go se na boipobolo ye e dirilwego, ka kगतong ya ditshepedišo; le

(d) dikhopitša dikenelwa tsa mathomo, tsa karabo le tsa phetolo, goba setatamente sa mabaka ge kenelwa ya karabo e sešo ya dirwa, ka ya ditshepedišong tsheko.

5 Tshepedišo ya go fetišetša phapano go bolamodi pele go thongwa ka tsheko

(1) Molli yo a ratago go tliša phapano go bolaodi pele tsheko e thoma o swanetše go dira kgopelo ka lengwalo go ya ka Foromo ya 1, go mohlankedi wa ditharollo tša diphapano wa kgorotsheko yeo ka tlwaelo e nago le tokelo ya go theeletša molato ge molato o begilwe

(2) Kgopelo e swanetše go laetša—

(a) ge e ba kimollo e kgopelwa ke goba e dirwa kgahlanong le molli yo a nyakago bolamodi;

(b) maina ka botlalo a molli yo mongwe goba leina goba maina ao molli yo mongwe goba balli phapanong a tsebegago ka ona go molli yo a nyakago bolamodi;

(c) diaterese tša bodulo le tša poso tša molli goba balli ba bangwe phapanong;

(d) nomoro ya fekse goba aterese ya e-meili ya molli yo a nyakago bolamodi, ge molli yo bjalo a na le nomoro ya fekse goba aterese ya e-meili; le

(e) mohuta wa phapano le dintlha tša thekga tšeo phapano e theilwego godimo ga tšona.

(3) Mohlankedi wa ditharollo tša diphapano o swanetše go tsebiša balli ba bangwe ka moka gore bolamodi bja phapano bo a nyakega gomme o swanetše go kgopela molli yo a nyakago bolamodi le balli ba bangweka moka phapanong go tla kopanong pele go feta matšatši a lesome (10), ka maikemišetšo a go bona ge e ba bohle goba ba bangwe ba balli ba kwana go iša phapano go bolamodi.

(4) Ge mo kopanong ye e bolelwago mo go molawana wa 3 ba bangwe goba balli bohle bao bolamodi bo kgonegago gare ga bona, ba kwana go tliša phapano bolamoding, mohlankedi wa ditharollo tša diphapano o swanetše-

(a) ka tšhomišano le balli go thwala molamodi goba, ge balli ba sa kwane ka molamodi, gona mohlankedi wa ditharollo tša diphapano o swanetše go thwala molamodi go tšwa lenaneong la maina le go bolelwago ka lona ka molaong wa 14(2);

(b) boledišana le molamodi le kwane le ka letšatšikgwedi, nako le lefelo la bolamodi; le

(c) phetha kwano ya bolamodi ya go ngwalwa gare ga balli yeo e swanetšego go akaretša tshedimošo ye e latelago:

(i) tshedimošo ye go bolelwago ka yona ka molawaneng wa 2(b), (c) le (d) tša molao wo;

(ii) gore balli ba kwane go tsenela bolamodi bja phapano gare ga bona;

(iii) letšatšikgwedi, nako le lefelo la bolamodi;

(iv) leina la molamodi;

(v) paka ya nako yeo e tlogo fiwa tulo ye nngwe le ye nngwe ya bolamodi

(vi) nako yeo ka yona bolamodi bo tla phethwago ka yona le mokgwa woo dipaka dife goba dife goba magomo a nako di ka katološwago ka gona;

(vii) sephiri le monyetla wa go amana le dikutullo bolamoding; le

(viii) dipoelo tša molli ofe goba ofe yo a sa latelego kwano.

(5) Molli yo a dirago kgopelo ya kimollo o swanetše go fa mohlankedi wa ditharollo tša diphapano setatamente sa kgopelo pele go fela matšatši a lesome (10) a go saenelwa ga kwano ye go bolelwago ka yona molawaneng wa 4(c) wa molao wo le go romela khopi go balli ba bangwe ka moka ditshepedišong ya bolamodi.

(6) Molli goba balli bao kimollo e kgopelwago go bona ba swanetše go fa mohlankedi wa ditharollo tša diphapano setatamente sa mabaka pele go fela matšatši a lesome (10) a go amogelwa ga setatamente sa kgopelo, le go romela khopi go balli ba bangwe ka moka ditshepedišong ya bolamodi.

6 Phetišetšo go bolamodi ka babegi ba molato

(1) (a) Molli mang le mang maemong afe goba afe morago ga ge tsheko e thomile, eupša pele ga tsheko, o kgopela mohlankedi wa ditharollo tša diphapano, ka lengwalo, go fetišetša phapano bolamoding.

(b) mohlankedi wa ditharollo tša diphapano o swanetše go tsebiša balli ba bangwe ka moka gore go nyakega bolamodi bja phapano gomme o swanetše go kgopela molli yo a nyakago bolamodi le balli ba bangwe ka moka phapanong go tla kopanong pele go feta matšatši a lesome (10) ka maikemišetšo a go bona ge e ba balli bohle goba ba bangwe ba dumela go ya bolamoding.

(2) Ka morago ga go thoma ga tsheko eupša pele ga kahlolo molli ofe goba ofe a ka dira kgopelo go kgorotsheko go fetišetša phapano bolamoding.

(3) Ge kgorotsheko e e fa taelo ya go fetišetša phapano bolamoding, mabaka a melao 4(4); 5(4) le melawana (4) ya molao wo a swanetše go latelwa.

(4) (a) Mo ditabeng tša magato, ge maipobolo a tswaletšwe, ditagafala goba pego le boipobolo, bjalo ka ge di laetswa ka mo melaong, di tla šoma bjalo ka setatamente sa molato le setatamente sa mabaka, ka tatelano.

(b) Ge go se go dirwe boipobolo, mosekišwa o swanetse go fa setatamente pele go feta matsatsi a lesome (10) a go phethwa ga kwano ya go lamola.

(c) Mo ditabeng tša go dira kgopelo, kenelwa ya mathomo e tla šoma bjalo ka setatamente sa kgopelo le kenelwaya karabo ge di tlišitšwe, di tla šoma bjalo ka setatamente sa mabaka.

(d) Ge go se na kenelwa ya karabo ye e tlišitšwego, moiphetoledi o swanetše go fa setatamente sa mabaka pele go feta matšatši a lesome (10) a go phethwa ga kwano ya bolamodi.

7 Phetisetšo go bolamodi ka kgorotsheko

(1) Kgorotsheko e ka, pele ga goba nakong ya tsheko eupša pele ga kahlolo, ya laela balli go kwana le bolamodi le go fetišetša phapano go mohlankedi wa ditharollo tša diphapano.

(2) Ge ka nako ya tsheko balli ba ba kwanago le gore phapano e fetišetšwebolamoding, balli ba swanetše go kgopela kgorotsheko go fetišetša phapano go mohlankedi wa ditharollo tša diphapano.

(3) Mabaka a melao 4(4) le 5(4) a swanetše go latelwa ge phapano e fetišetšwa bolamoding ka fase ga molao wo.

8 Karolo le mešomo ya bolamodi

- (1) Mathomong a bolamodi molamodi o swanetše go tsebiša balli tše di latelago—
- (a) maikemišetšo a bolamodi le nepokgolo ya bjona go phethagatša kwano gare ga balli;
 - (b) karolo ya molamodi ya go lamola bjalo ka molamodi wa go se tšee lehlakore yoo a ka se tšee go diphetho dife goba dife tša kgonthe goba molao ebile e le yoo a ka se kgonego go laetša botshepegi bja motho mang le mang yo a tšee go karolo bolamoding;
 - (c) mohuta wa dipotšišo tša ditshepedišo tše bjalo;
 - (d) melao ya go laola bolaodi;
 - (e) gore dipoledišano le dikutullo ka moka, e ka ba ka molomo goba lengwalo, tše di dirilwego nakong ya bolamodi ke sephiri ebile ga di ganetšwe bjalo ka bohlatse ka gare ga kgorotsheko efe goba efe, lekgotla goba foramo ye nngwe, ntle le ge dipoledišano le dikutullo di ngwadilwe ka gare ga kwano ya sephetho ye e saenetšwego ke balli, goba mohlomongwe di hwetšega go ya ka melao ya kgorotsheko, goba go ya ka molao o mongwe ofe le ofe;
 - (f) gore molamodi nakong ya tulo ya bolamodi a ka hlohleletša balli go utulla ka botlalo ge e le gore go ya ka kgopolo ya molamodi kutullo ye bjalo e ka tliša sephetho sa phapano gare ga balli;
 - (g) gore ga go molli yo a ka gapeletšwago go dira kutullo ya eng goba eng, eupša molli a ka utulla ka boithaopo ka tšhireletšo ya go swana le ye e bolelwago ka gare ga molawana (1) e);
 - (h) gore o tla thuša go ngwala kwano ya sephetho ge phapano e rarolotšwe; le
 - (i) ge phapano e se ya rarollwa, molamodi o tla romela phapano morago go mohlankedi wa ditharollo tša diphapano, a mo tsebiša gore phapano e padile go rarollwa.
- (2) Ka bolamoding bjo bongwe le bjo bongwe molamodi o swanetše, pele go feta matšatši a mahlano (5) a go phethwa ga tshepedišo ya bolamodi, go fa mohlankedi wa ditharollo tša diphapano pegog go mo tsebiša dipelo tša bolamodi.
- (3) Molamodi a ka bušetša tulo ya bolamodi morago ge balli ba dumela.

9 Phego ya magomo a nako go sa emetšwe bolamodi

Magomo a nako ao a beilwego ke melao ya kgorotsheko go phethagatša maipobolo le ditsebišo, go ngwala dikenelwa goba go tšea kgato efe goba efe ka mmeji wa molato ofe goba ofe di a fegwa go tloga ka nako ya go phethwa ga kwano go lamola go fihla mafelelong a ditshepedišo tša bolamodi.

10 Dikwano tša Sephetho

- (1) Ge go ka fihlelelwa sephetho, molamodi o swanetše go thuša balli go ngwala kwano ya sephetho, yeo a swanetšego go e iša go mohlankedi wa ditharollo tša diphapano.
- (2) Ge sephetho se fihleletšwe tshepedišong ya bolamodi go phapano yeo e bego e se karolo ya tsheko, mohlankedi wa ditharollo tša diphapano, ge a se na go amogela kwano ya sephetho go tšwa go molamodi, o ngwadiša kwano ya sephetho.
- (3) Ge sephetho e se se fihlelelwe tshepedišong ya bolamodi phapanong yeo e bego e se karolo ya tsheko, mohlankedi wa ditharollo tša diphapano o swanetše, ge a se na go amogela pego go tšwa go molamodi, go ngwadiša pego.
- (4) Ge go fihleletšwe sephetho tshepedišong ya bolamodi phapanong yeo e lego karolo ya tsheko, mohlankedi wa ditharollo tša diphapano o swanetše, go latela kgopelo ya balli, le ge a se na go amogela kwano ya sephetho go tšwa go molamodi, go bea kwano ya sephetho pele ga mohlankedi wa toka ka ditšhembaseng go laetša gore phapano e rarolotšwe goba go dira kwano go ba taelo ya kgorotsheko, ge balli ba se na go kwana.
- (5) Ge sephetho e se se fihlelelwe bolamoding bja phapano ye e bego e le karolo ya tsheko, mohlankedi wa ditharollo tša diphapano o swanetše, ge a se na go amogela pego go tšwa go molamodi, go ngwadiša pego le go tsebiša mongwadiši goba klereke ya kgorotsheko go dumelela tshekogo tšwela pele.
- (6) Kwano ya sephetho ye nngwe le ye nngwe e swanetše go phethwa ka go ngwalwa.

11 Diphapano tša rarollwa seripa

Ge selo sefe goba sefe sa phapano gare ga balli e se se rarollwe, ditabana tše di sego tša rarollwa di ka bewa kgorotsheko ke balli.

12 Ditefo tše di lefelwago balamodi

- (1) Ditefo tše di lefelwago balamodi di laeditšwe ka lenanaeong la ka gare ga *Annexure A* ya melao ye.
- (2) Balli ba ba tšeago karolo tshepeditšong ya bolamodi ba swanetše go lefa ditefo tša balamodi.
- (3) Maikarabelo a ditefo tša balamodi a swanetše go rwalwa ka go lekana gare ga balli ba phapano tshepeditšong ya bolamodi.

13 Kemelo ya balli tshepedišong ya bolamodi

- (1) Balli tshepedišong ya bolamodi ba swanetše go tsenela ditshepedišo tše bjalo ka sebele ebile ba ka emelwa ke moemedi wa semolao.
 - (2) Moo motho wa semolao goba feme goba tirišano ye e lego karolo ya tshepedišo ya bolamodi setheo se se bjalo se swanetše go emelwa ke mohlankedi go tšwa go motho yoo wa semolao, feme goba tirišano, yoo a swanetšego go ba le tumelelo ya go emela setheo, go fihlelela sephetho le go saenela kwano ya sephetho legatong la setheo se bjalo.
- (3) Moo mmušo goba lekala la mmušo e lego karolo ya tshepedišo ya bolamodi setheo se se bjalo se swanetše go emelwa ke mohlankedi yo a thušwago ke ramolao wa mmušo yoo a swanetšego go ba le tumelelo ya go emela setheo.

14 Tona o swanela go laetša ditekanetšo tša maswanedi le go ngwala lenaneo la maina a balamodi ba ba dumeletšwego

- (1) Dinyakwa le ditekanetšo tša maswanedi a balamodi a go lamola ao a laeditšwego ka gare ga melao ye e swanetse go laetšwa ke Tona.
- (2) Tona o swanetše go tšweletša lenaneo la maina a balamodi ba ba dumeletšwego go phethagatša mešomo le maikemišetšo a melao ye.

15 Thaetlele ye kopana

Melao e tla tsebja bjalo ka Melao ya bolamodi bja tlaleletšo ya kgorotsheko ya Boithapo ya Dikgorotsheko tša Bomaseterata.

**LEKGOTLA LA BOITHAOPO – MELAO YA THAROLLO YA SEHLOMATHISO
YA MAKGOTLA A MMASETERATA**

SELELEKELA

Moo karolo ya 34 ya Molaotheo wa Rephabliki ya Aforika Borwa, 1996 e netefaletsang motho ka mong tokelo ya hore tseko efe kapa efe e ka rarollwa ka tshebediso ya molao e etswang pitsong ya tekatekano ya setjhaba kapela lekgotla kapa, moo ho lokelang, kopano e nngwe e ikemetseng mme e senang leeme kapa foramo;

Mme moo karolo ya 6(1) ya Boto ya Melao bakeng sa Molao wa Makgotla a Molao 107 wa 1985 e fang Boto ya Melao sa Molao wa Makgotla a Molao (Boto ya Molao) e thehilweng tlasa karolo ya 2 ya Molao o ho shebabotjha melao ya hajwale ya lekgotla, ho etsa melao bakeng sa Lekgotla le Phahameng la Dinyewe, Makgotla a Phahameng le makgotla a tlase a laolang tshebetso le mokgwatshebetso ho latela molao mme ka kakaretso le ho laola taba efe kapa efe e ka hlokahalang kapa ya thusa bakeng sa tsamaiso e nepahetseng ya mesebetsi ya makgotla a boletsweng dinyeweng tsa setjhaba le tsa bosenyi;

Mme moo Kopano ya Phihlello ya Toka e neng e tshwerwe ka Phupu 2011, tlasa boetapele ba Moahlodi e Moholo, mabapi le ho fihlella phano ya toka e fihlillehang e boleng bakeng sa bohle, ho ile ha nkwa qeto ya hore mehato e lokela ho nkwa ho tsebisa mokgwa o mong wa tharollo ya tseko, haholo tharollo ya sehlomathiso sa lekgotla kapa mofuta wa tharollo wa CCMA, ho tshebetso ya lekgotla;

Le moo maikemisetso a mantlha a tharollo ke ho:

- (a) ntlafatsa phihlello ho toka;
- (b) ntlafatsa toka e buseletsang;
- (c) boloka dikamano pakeng tsa batseki kapa ba ka bang batseki tse ka utlwang bohloko kapa tsa sengwa ke sebopeho se seng monate sa tseko ya lekgotla;

- (d) thusa ka tsamaiso e potlakileng hape e theko e tlase ya tharollo ya tseko pakeng tsa batseki kapa bao e ka bang batseki;
- (e) thusa batseki kapa bao e ka bang batseki hore ba fumane esale qalong ya tseko kapa pele ho qaleho ya tseko hore na ho tswelapele ka tseko kapa kopo e hananang ho molemong wa bona kapa tjhe;
- (f) dumella batseki kapa bao e ka bang batseki ho boela tsekong haeba teko ya tharollo e sa atlehe;
- (g) fana ka mokgwatshebetso wa tseko le melao ya bopaki; le
- (h) fa batseki kapa bao e ka bang batseki dikarabelo ho qabang, tse leng ka thoko ho sebaka le matla a basebeletsi ba tsa molao;

Mme moo Letona la Toka le Ntshetsopele ya Molao wa Motheo le laetseng Boto ya Melao ho etsa melao e tsamaisang mokgwatshebetso wa phetisetso ya boithaopo ho tharollo ya sehlomathiso sa lekgotla la diqabang tsa setjhaba, e tla kengwa tshebetsong ka tsela ya teko makgotleng a itseng;

Kahoo Boto ya Melao e entse melao e latelang ho laola mokgwatshebetso bakeng sa tharollo ya boithaopo ya sehlomathiso sa lekgotla ya diqabang tsa setjhaba ho Makgotla a Mmaseterata:

1 Tlhaloso ya mantswe

Melaong ena ntle le ha ditaba di hlalosa ka tsela e nngwe:

'ketso' e bolela tseko e qadilweng ke phano ya disamane;

'tharollo ya mofuta o mong ya qabang' e bolela tshebetso, eo ho yona motho ya ikemetseng ya sa nkeng lehlakore a lekgang ho rarolla qabang pakeng tsa bona, ekaba pele ho kapa kamorao ho qaleho ya tseko;

'kopo' e bolela kopo e qadilweng ke tsebiso ya tshisinyo e tsamayang le afidafite;

'letsatsi' e bolela letsatsi la lekgotla, ho sa kenyeletswe Meqebelo, diSontaha le matsatsi a phomolo a setjhaba;

'mosireletsi' e kenyeletsa moarabi ofe kapa ofe le mang kapa mang ya tla beng a sireletsa qabang haeba tseko e qadilwe;

'ho isa' e bolela ho fana ka tokomane ho lehlakore le leng la tseko le ho boloka originale le mongodisi kapa tlelereke ya lekgotla;

'qabang' e bolela taba e leng lebaka la tseko e leng teng kapa e ka bang teng pakeng tsa mahlakore kapa karolo ya yona;

'ofisiri ya tharollo ya qabang' e bolela motho ya tsamaisang le ho laola mokgwatshebetso wa tharollo e nngwe ya qabang mme eo mesebetsi ya hae e boletsweng melaong ena;

'ofisiri ya molao' e bolela Mmaseterata kapa Mmaseterata wa Tlatsetso kapa Motlatsi wa Mmaseterata kapa Mmaseterata wa Lebatowa.

'motseki' e bolela eo e leng lehlakore tsekong;

'tseko' e bolela ditshebetso tsa lekgotla tse qadilweng ka ketso kapa ditshebetso tsa kopo;

'tharollo' e bolela tshebetso eo ka yona morarolli a thusang mahlakore ho tseko e leng teng kapa e ka bang teng ho raraolla qabang e pakeng tsa bona ka ho tsamaisa dipuisano pakeng tsa mahlakore, a thusa ho supa dintlha, a hlakisa dintlha tsa bohlokwa, a fuputsa moo ho ka dumellanwang teng hape a hlahisa dikgetho tekong ya ho rarolla qabang;

'morarolli' e bolela motho ya kgethilweng, ke mahlakore kapa ke ofisiri ya tharollo ya diqabang ho tswa lenaneng le ho buuwang ka lona ho molao wa 14(2), hore a tsamaise qabang pakeng tsa mahlakore;

'Letona' e bolela Letona la Toka le Ntshetsopele ya Molao wa Motheo;

'tseko e ka bang teng' e bolela tseko e ka hlahang ho tswa ho qabang;

'melao ya lekgotla' e bolela melao ya lekgotla e sebetsa Makgotleng a Mmaseterata;

'setatamente sa tleleime' e bolela setatamente seo ho sona lehlakore le ikemiseditseng ho tleleima thuso efe kapa efe kgahlano le lehlakore le leng le behang ka tsela e hlakileng hape e kgutshwane dintlha tsa bohlokwa tseo ho tsona tleleime ya lehlakore leo e thehilweng ho tsona;

'setatamente sa tshireletso' e bolela karabo e ngotsweng eo ho yona mosireletsi a behang ka tsela e hlakileng hape e kgutshwane dintlha tsa bohlokwa tseo ho tsona boitshireletso bo jwalo bo thehilweng.

2 Tshebediso ya melao ena

- (1) Melao ena e sebetsa ho-
 - (a) kenyo ya boithaopo ya qabang bakeng sa tharollo pele ho qaleho ya tseko Makgotleng a Mmaseterata; le
 - (b) tseko ya hona jwale Makgotleng a Mmaseterata, tlasa maemo ao ho buuwang ka ona ho melao ya 6 le 7 ya Melao ena.
- (2) Melao ena ha e nke sebaka melao efe kapa efe ya Makgotla a Mmaseterata.

3 Phetisetso ho tharollo

- (1) Qabang efe kapa efe e ka fetisetswa tharollong-
 - (a) ke lehlakore lefe kapa lefe pele ho qaleho ya tseko e ka bang teng;
 - (b) ke lehlakore lefe kapa lefe kamorao ho qaleho ya tseko empa pele ho kahlolo: Sena se etsahala feela ka hore moo tseko e seng e qadile mahlakore a lokela ho fumana tumello ya lekgotla;
 - (c) ke ofisiri ya molao ka nako efe kapa efe kamora qaleho ya tseko haeba ofisiri ya molao e dumela hore ho na le lebaka le letle la ho etsa jwalo.

4 Mesebetsi ya ofisiri ya tharollo ya diqabang

- (1) Ofisiri ya tharollo ya diqabang o lokela ho hlaloesetsa mahlakore ohle—
 - (a) lebaka la tharollo e nngwe ya diqabang, moelelo wa yona, maikemisetso le melemo, ho kenyeletswa le poloko ya ditshenyehelo, tsa tharollo; le
 - (b) ditshenyehelo tsa tharollo, ho ipapisitswe le Sehlomathiso sa melao ena.
- (2) Ofisiri ya tharollo ya diqabang o lokela ho bolella mahlakore hore ba ka thuswa ke baemedi ba tsa molao ba kgetho ya bona ka ditshenyehelo tsa bona.
- (3) Ofisiri ya tharollo ya diqabang o lokela ho, kamora puisano le mahlakore, etsa mesebetsi e molaong ona le ho melao ya 5 le 6.
- (4) Ha ho fihlwa pheletsong ya tumellano ya tharollo, ofisiri ya tharollo ya diqabang o lokela ho fa morarolli-

- (a) khophi ya tumellano ya ho rarolla;
- (b) dikhophi tsa setatamente sa tleime le setatamente sa boitshireletso, haeba tharollo e tlo etsahala pele ho qaleho ya tseko;
- (c) dikhophi tsa disamane le thapedi, kapa setatamente sa boitshireletso haeba ho se thapedi e kentsweng, ho ditshebetso tse ketsong; le
- (d) dikhophi tsa motheo, karabelo le diafidafite tse arabang kapa setatamente sa boitshireletso haeba ho se afidafite e arabang e kentsweng, ho ditsebetso tse ketsong.

5 Mokgwatshebetso bakeng sa ho phetisetso ho tharollo pele ho qaleho ya tseko

- 1) Lehlakore le batlang ho fana ka qabang hore e rarollwe pele ho qaleho ya tseko o tlameha ho etsa kopo e ngotsweng ho latela Foromo ya 1, ho ofisiri ya tharollo ya diqabang wa lekgotla eo ka tlwaelo a neng a ka ba le tokelo ya ho mamela taba eo haeba tseko e ne e kentswe
- (2) Kopo e tlameha ho supa—
 - (a) hore na thuso e batlwa ke kapa e batlwa kgahlanong le lehlakore le batlang tharollo;
 - (b) mabitso a felletseng a lehlakore kapa mahlakore a mang kapa lebitso kapa mabitso ao lehlakore kapa mahlakore a mang ho qabang a tsejwang ka ona ho lehlakore le batlang tharollo;
 - (c) diaterese tsa bodulo le tsa poso tsa lehlakore kapa mahlakore a mang a qabang;
 - (d) nomoro ya fekse kapa aterese ya imeile ya lehlakore le batlang tharollo, haeba lehlakore le jwalo le na le nomoro ya fekse kapa aterese ya imeile; le
 - (e) mofuta wa qabang le dintlha tsa bohlokwa tseo qabang e thehilweng hodima tsona.
- (3) Ofisiri ya tharollo ya diqabang o lokela ho bolella mahlakore hore tharollo ya qabang e ya batlwa mme o lokela ho bitsa lehlakore le batlang tharollo le mahlakore ohle a mang a qabang hore a tle sebokeng nakong ya matsatsi a leshome (10), bakeng sa ho fumana hore na mahlakore ohle kapa a mang feela a dumela ho isa qabang ena tharollong.
- (4) Haeba sebokeng seo ho buuwang ka sona ho molawana wa 3 mahlakore a mang kapa mahlakore ohle ao pakeng tsa bona tseko e ka etsahalang, ba dumela ho isa qabang tharollong, ofisiri ya tharollo ya diqabang o lokela ho-

- (a) beha morarolli ka puisano le mahlakore kapa, haeba mahlakore a sa dumellane ka morarolli, ofisiri ya tharollo ya diqabang o lokela ho beha morarolli ya tswang lenaneng leo ho molao wa 14(2);
- (b) buisana le morarolli mme a kgethe mohla, nako le sebaka sa tharollo; le
- (c) ho phethela tumellano e ngotsweng ya tharollo pakeng tsa mahlakore e lokelang ho ba le dintlha tse latelang:
 - (i) dintlha tseo ho builweng ka tsona ho molawana wa 2(b), (c) le (d) tsa molao ona;
 - (ii) hore mahlakore a dumellane ho rarolla qabang e pakeng tsa bona;
 - (iii) mohla, nako le sebaka sa tharollo;
 - (iv) lebitso la morarolli;
 - (v) nako e tla fanwa bakeng sa sehla ka seng sa tharollo;
 - (vi) nako eo ka yona tharollo e tla beng e phethetswe le mokgwa oo ka ona dipheletso tsa nako di ka eketswang;
 - (vii) sephiri le tokelo e hoketsweng ho diphatlatso ho tharollo; le
 - (viii) ditlamorao ho lehlakore lefe kapa lefe ha le sa latele tumellano.
- (5) Lehlakore le etsang tleleime ya thuso le lokela ho kenya setatamente sa tleleime le ofisiri ya tharollo ya diqabang nakong ya matsatsi a lesohome (10) a ho takenwa ha tumellano eo ho buuwang ka yona ho molawana wa 4(c) wa molao ona mme a fetisetse khophi ho mahlakore ohle a ditshebeletso tsa tharollo.
- (6) Lehlakore kapa mahlokore bao thuso e batlwang kgahlano le bona ba lokela ho kenya setatamente sa boitshireletso ho ofisiri ya tharollo ya diqabang nakong ya matsatsi a leshome (10) a ho fumana setatamente sa tleleime, mme a fetisetse khophi ho mahlakore ohle a mang a ditshebeletso tsa tharollo.

6 Phetisetso ho tharollo ke batseki

- (1) (a) Lehlakore lefe kapa lefe ka nako efe kapa efe kamora hore tseko e qale, empa pele ho nyewe, le ka kopa ofisiri ya tharollo ya diqabang, ka lengolo, ho isa qabang tharollong.
 - (b) Ofisiri ya tharollo ya diqabang o lokela ho bolella mahlakore a qabang hore tharollo e ya batlwa mme a bitse lehlakore le batlang tharollo le mahlakore ohle a mang a qabang hore a tle sebokeng nakong ya matsatsi a leshome (10), bakeng

sa ho fumana hore na mahlakore ohle kapa a mang feela a dumela ho isa qabang ena tharolong.

- (2) Kamorao ho qaleho ya nyewe empa pele ho kahlolo lehlakore lefe kapa lefe le ka etsa kopo ho lekgotla ho isa qabang tharolong.
- (3) Haeba lekgotla le fana ka taelo e isang qabang tharolong, dipheho tsa melao ya 4(4); 5(4) le molawana wa (4) wa molao ona o lokela ho sebetsa.
- (4) (a) Ditabeng tsa ketso, haeba dithapedi di se di kwetswe, disamane kapa phatlatso kapa thapedi, jwalo ka ha e boletswe melaong, di tla sebetsa jwalo ka setatamente sa kgetsi le setatamente sa boitshireletso, ka tatellano.

(b) Haeba thapedi e so fanwe, mosireletsi o lokela ho fana ka setatamente nakong ya matsatsi a leshome (10) a ho phethelwa ha tumellano ya ho rarolla.

(c) Ditabeng tsa kopo, afidafite ya motheo e tla sebetsa jwalo ka setatamente sa tleime mme afidafite ya karabelo haeba e tlisistswe, e tla sebetsa jwalo ka setatamente sa boitshireletso.

(d) Haeba ho se afidafite ya karabelo e fanweng, moarebeli o lokela ho fana ka setatamente sa boitshireletso nakong ya matsatsi a leshome (10) a phethelo ya tumellano ya ho rarolla.

7 Phetisetso ho tharollo ke lekgotla

- (1) Lekgotla le ka, pele ho kapa nakong ya nyewe empa pele ho kahlolo, la laela mahlakore ho isa tharolong le ho lebisa qabang ho ofisiri ya tharollo ya diqabang.
- (2) Haeba nakong ya nyewe mahlakore a dumela hore qabang e rarollwe, mahlakore a lokela ho kopa lekgotla hore qabang e lebiswe ho ofisiri ya tharollo ya diqabang.
- (3) Dipheho tsa melao ya 4(4) le 5(4) di lokela ho sebetsa haeba qabang e iswa tharolong tlasa molao ona.

8 Boemo le mesebetsi ya morarolli

- (1) Qalong ya tharollo morarolli o lokela ho bolella mahlakore ka tse latelang—

(a) sepheo sa tharollo le maikemisetso a yona ho tsamaisa tumellano pakeng tsa mahlakore;

(b) mosebetsi wa tsamaiso wa morarolli jwalo ka morarolli ya se nang leeme ya ke keng a etsa diqeto dife kapa dife tsa taba kapa molao mme ya ke keng a tseba bonnete ba motho mang kapa mang ya nkang karolo tharollo;

(c) sebopelo sa dipotso sa tshebetso e jwalo;

(d) melao e laolang tharollo;

(e) hore dipuisano le ditlhahiso tsohle, hore na ke tsa molomo kapa di ngotswe fatshe, tse entsweng nakong ya tharollo ke tsa sephiri mme di ke ke tsa sebediswa jwalo ka bopaki lekgotleng, lekgotlaneng kapa sebakeng sefe kapa sefe se seng, ntle le ha dipuisano le ditlhahiso tseo di rekotilwe tumellanong ya kutlwisisano e tekennweng ke mahlakore, kapa di ka fumaneha ka tsela e nngwe ho latela lekgotla, kapa ho latela molao ofe kapa ofe o mong;

(f) hore morarolli nakong ya tharollo a ka kgothaletsa mahlakore hore a etse ditlhahiso tse fellelseng haeba ka maikutlo a morarolli tlhahiso e jwalo e ka thusa tharollo ya qabang e pakeng tsa mahlakore;

(g) hore ha ho lehlakore le ka susumetswang hore le etse tlhahiso, empa lehlakore le ka etsa ditlhahiso tsa boithaopo ka tshireletso e tshwanang le e ho buuwang ka yona ho molawana wa (1) e);

(h) hore ena o tla thusa ho ngola tumellano ya kutlwisisano haeba qabang e rarollwa; le

(i) haeba qabang e sa rarollwe, morarolli o tla busetsa qabang ho ofisiri ya tharollo ya diqabang, a mo bolelle hore qabang ha e ya kgona ho rarollwa.

(2) Tharollo tsohle, morarolli o lokela hore, nakong ya matsatsi a mahlano (5) a phethelo ya tshebetso ya tharollo, a fane ka tlaleho ho ofisiri ya tharollo ya diqabang a mo bolella ka sephetho sa tharollo.

(3) Morarolli a ka fetola nako ya sehla sa tharollo ha mahlakore a dumela.

9 Phanyeha ya dipheletso tsa nako nakong ya tharollo

Dipheletso tsa nako tse boleltsweng melaong ya lekgotla bakeng sa phano ya dithapedi le ditsebisu, ho kengwa ha diafidafite kapa ho nkwa ha mohato ofe kapa ofe ke motseki ofe kapa ofe di fanyehilwe ho tloha ka nako ya phethelo ya tumellano ya ho rarolla ho fihla ho phethelo ya ditshebetso tsa tharollo.

10 Ditumellano tsa Kutlwisisano

- (1) Ha ho etsahala hore ho fihlelwe kutlwisisano, morarolli o lokela ho thusa mahlakore ho ngola tumellano ya kutlwisisano, e lokelang ho fetisetswa ho ofisiri ya tharollo ya diqabang ke morarolli.
- (2) Haeba kutlwisisano e fihlelwa ditshebetsong tsa tharollo moo qabang e neng e se taba ya nyewe, ofisiri ya tharollo ya diqabang o lokela ho faela tumellano ya kutlwisisano, ha a fumana tumellano ya kutlwisisano ho tswa ho morarolli.
- (3) Haeba kutlwisisano e sa fihlellwe ditshebetsong tsa tharollo ho qabang e neng ese taba ya nyewe, ofisiri ya tharollo ya diqabang o lokela ho faela tlaleho, ha a e fumana ho tswa ho morarolli.
- (4) Haeba kutlwisisano e fihlelwa ditshebetsong tsa tharollo ho qabang e neng e le taba ya nyewe, ha mahlakore a kopa ofisiri ya tharollo ya diqabang le ha ofisiri e fumana tumellano ya kutlwisisano ho tswa ho morarolli, ofisiri ya tharollo ya diqabang o lokela ho beha tumellano ya kutlwisisano pele ho ofisiri ya molao dikamoreng tsa hae hore a lemohe hore qabang e rarollotswe kapa hore a etse tumellano hore ebe taelo ya lekgotla, ha mahlakore a dumellana.
- (5) Haeba kutlwisisano e sa fihlellwe ditshebetsong tsa tharollo ho qabang e neng ele taba ya nyewe, ofisiri ya tharollo ya diqabang o lokela hore, ha a fumana tlaleho ho tswa ho morarolli, a faele tlaleho eo mme a bolelle mongodisi kapa tleleke ya lekgotla ho dumella tseko hore e tswelapele.
- (6) Tumellano e nngwe le e nngwe ya kutlwisisano e lokela ho ngolwa fatshe.

11 Diqabang tse sa rarollwang ka ho phethahala

Haeba ho na le karolo efe kapa efe ya qabang pakeng tsa mahlakore e sa rarollwang, ditaba tseo se sa rarollwang di ka tsekisanwa ke mahlakore.

12 Ditefiso tse lefshwang bararolli

- (1) Ditefiso tse lefshwang bararolli di boletswe tafoleng e ho Sehlomathiso sa A sa melao ena.
- (2) Mahlakore a nkang karolo tshebetsong ya tharollo a lokela ho lefa ditefo tsa morarolli.

- (3) Boikarabello bakeng sa ditefiso tsa morarolli bo lokela ho jarwa ka ho lekana pakeng tsa mahlakore ka bobedi a nkang karolo tshebetsong ya tharollo.

13 Kemelo ya mahlakore tshebetsong ya tharollo

- (1) Mahlakore a ditshebetso tsa tharollo a lokela ho ba teng ditshebetsong ka bo bona mme ba ka emelwa ke baemedi ba tsa molao.
- (2) Moo motho wa molao, kapa kgwebo kapa selekane e le lehlakore ditshebetsong tsa tharollo, motho ya jwalo o lokela ho emelwa ke mosebeletsi ya tswang ho setho seo sa molao, kgwebo kapa selekane, ya lokelang hore a be a fuwe matla a tshwanetseng a ho emela setho se jwalo, ho phethela kutlwisisano le ho tekena tumellano ya kutlwisisano sebakeng sa setho se jwalo.
- (3) Moo mmuso kapa karolo ya mmuso e le karolo ya tshebetso ya tharollo, setho se jwalo se lokela ho emelwa ke mosebeletsi ya thuswang ke leqwetha la mmuso le tlamehang hore le be le fuwe matla a loketseng a ho emela setho seo..

14 Letona le tla fana ka maemo a loketseng a bokgoni le ho etsa lenane la bararolli ba amohetsweng

- (1) Mangolo le maemo a loketseng a bokgoni ba bararolli ho etsa ditharollo tse boletsweng melaong ena di tla bolelwa ke Letona.
- (2) Nako le nako Letona le lokela ho fana ka lenane la bararolli ba amohetsweng hore ba phethise mesebetsi le maikemisetso a melaong ena.

15 Sehlooho se se kgutshwane

Melao ena e tla bitswa Melao ya Lekgotla la Boithaopo-Ya Sehlomathiso ya Makgotla a Mmaseterata.

KGOTLA YA BOITHAOPO – MELAWANA YA TSEREGANYO E E MAMAETLELETSWENG YA DIKGOTLA TSA BOMAGISERERATA

MATSENO

Ka ntlha ya gore karolo ya 34 ya Molaotheo wa Repaboliki ya Aforikaborwa, 1996 e tlhomamisetša Mongwe le mongwe tshwanelo ya gore kgotlhang epe e e ka rarabololwang ka kopo ya molao e e tseelwang tshwetso mo theetsong ya e e tekano e e nnelang mo pepeneneng fa pele ga Kgotla, kgotsa fa go le lebaneng, kgotla kgotsa foramo e nngwe e e ikemetseng e bile e sa tseye matlhakore;

Le ka ntlha ya gore karolo 6(1) ya Molao wa Boto ya Melawana ya Dikgotla tsa Molao 107 wa 1985 o naya dithatah go Boto ya Melawana ya Dikgotla tsa Molao (Boto ya Melawana)e e tlhomilweng ka fa tlase ga karolo ya 2 ya Moalo oo go lebeleba melawana e e leng teng ya kgotla, go dira melawana ya Kgotlakgolo ya Boikuelo, dikgotlakgolo le dikgotlapotlana tse di laolang tlwaelo le tsamaiso tebang le litigation le go laola ka kakaretso kang epe e e ka tlhokafalang kgotsa e e ka nnang mosola mo go tshwarweng sentle ga ditiro tsa dikgotla tse di boletseng mo ditheetsong tsa baagi le tsa bosenyi;

Gape ka ntlha ya gore Phitlhelelo go Khonferense ya Bosiamisi e e neng e tshwerwe ka Phukwi 2011, ka fa tlase ga boeteledipele jwa ga Moatlhodi Mogolo, e e neng e totile go fitlhelela tlhagiso ya bosiamisi jo bo ka fitlhelelwang e bile jo bo boleng go botlhe, e sweditse gore go tshwanetse ga tsewa dikgato go tlhagisa tharabololo e sele ya dikgotlhang, bogolo tsereganyo e e mamaetleletsweng ke kgotla kgotsa mofuta wa tharabololo ya diphapaang ya mofuta wa CCMA, mo thulaganyong ya kgotla;

Gape ka ntlha ya gore maikaelelo a tsereganyo e le go:

- (a) tswelletsa phitlhelelo ya bosiamisi;
- (b) tswelletsa bosiamisi jo bo busetsang;
- (c) somarela botsalano fa gare ga batho ba ba sekisanang kgotsa batho ba go kgonegang gore ba sekisane, jo bo ka nnang mo diphatseng kgotsa jo bo ka senngwang ke tshekisano ya mofuta wa bobaba;

- (d) bebofatsa tharabololo e e bofefo e bile e somarela ditlhotlhwa ya dikgotlhang fa gare ga basekisani kgotsa batho ba go ka kgonegang gore ba sekisane;
- (e) thusa basekisani kgotsa batho ba go kgonegang gore ba nne basekisani go tlhomamisa go santse go le kwa tshimologong ya tshekisano kgotsa pele ga tshimologo ya tshekisano gore a go tswelala pele ka tsheko kgotsa kopo ya kganetso go ba siametse dikgatlhego tsa bone segolo kgotsa nnyaa;
- (f) letlelela basekisani kgotsa batho ba go kgonegang gore ba nne basekisani go leba kwa tshekisanong fa maiteko a go tsereganya a ka se atlege;
- (g) naya tsamaiso ya tshekisano le melawana ya bosupi; le
- (h) naya basekisani kgotsa batho ba go kgonegang gore e nne basekisani ditharabololo tsa kgotlhang tse di fetileng bogolo jwa dithata tsa batlhankedi ba boatlhodi;

Gape le fa Tona ya Tshiamiso le Tlhabololo ya Molaotheo a laetse Boto ya Melawana go dira melawana e e laolang tsamaiso ya thomelo ya boithaopo go tsereganyo e e mametleletsweng ke kgotla ya dikgotlhang tsa baagi, e e tlaa diragadiwang ka mokgwa wa tekeletso mo dikgotleng tse di rileng;

Boto ya Melawana ka jalo e dirile melawana e e latelang go laola tsereganyo e e mametleletsweng ke Kgotla ya dikgotlhang tsa baagi mo Dikgotleng tsa Bomagisetserata:

1 Dithaloso

Mo melawaneng e kwa ntle ga fa bokao bo supa ka go sele:

'kgato ya tshekisano' e raya tshekisano e e simolotseng ke go fiwa ga samonse;

'tharabololo ya dikgotlhang e sele' go tewa tirego, e mo go yona motho yo o ikemetseng yo e bile a sa tseyeng matlhakore a thusang batho go leka go rarabolola kgotlhang fa gare ga bona, pele kgotsa morago ga tshomologo ya tshekisano;

'tiragatso' go tewa tshekisano e simolotswe ka kitsiso ya kgato e patilwe ke afidafiti;

'letsatsi' go tewa letsatsi la Kgotla, le le sa akaretseng malatsi a Lamatlhatso, Latshipi le malatsi a boikhutso a setšhaba;

'moiphemedi' o akaretsa moikarabedi ope le motho ope yo o tlaa sireletsang kgotlhang fa go ka simololwa tshekisano;

'naya' go tewa go fa ditokomane go motho yo o mo letlhakoreng le sele la tshekisano le go faela ditkomane tsa ntlhantlha le mokwadisi kgotsa mokwaledi wa kgotla;

'kgotlhang' go tewa kgang ya tshekisano ya mmatota kgotsa e go kgonegang gore e nne teng fa gare ga batho (matlhakore) kgotsa e e leng karolo ya bona;

'motlhankedi wa tharabololo ya kgotlhang' go tewa motho yo o tsamaisang le go laola tirego ya tharabololo e sele ya kgotlhang yo gape ditiro tsa gagwe di kwadilweng mo melawaneng e;

'motlhankedi wa tsa katlholo' go tewa Magiseterata kgotsa Magiseterata wa Tlaleletso kgotsa Motlatsa-Magiseterata kgotsa magiseterata wa Kgaolo.

'mosekisani' go tewa mongwe wa batho ba ba sekisanang;

'tshekisano' go tewa dikopano tse di simolotswe ka kgato kgotsa dikopano tsa kopo ;

'tsereganyo' go tewa tirego e ka yona motsereganyi a thusang batho mo tshekisanong ya mmatota kgotsa e go kgonegang gore e nne teng go rarabolola dikgotlhang ka go bebofatsa dipuisano fa gare ga matlhakore, go ba thusa go kaya dikgang, go sedimosa ditlapele, go batla dikarolo tse go ka neelanwang ka tsona le go tla ka ditsela tse di ka tlhophiwang ka maikaelelo a go rarabolola kgotlhang;

'motsereganyi' go tewa motho yo o tlhophilweng, ke matlhakore a a nang le kgotlhang kgotsa ke motlhankedi wa tharabololo ya kgotlhang go tswa mo lenaneng le go buiwang ka ga lona mo molawaneng wa 14(2), gore a tsereganye kgotlhang fa gare ga batho;

'Tona' go tewa Tona ya Bosiamisi le Tsweletso ya Molaotheo;

'tshekisano e e ka kgonegang' go tewa tshekisano e e ka tlhagogang mo kgotlhangng;

'melawana ya Kgotla' go tewa melawana ya Kgotla e e maleba le Dikgotla wa Bomagiseterata;

'polelo ya tatofatso' go tewa polelo e mo go yona motho yo o ikaelelang go sekisa motho yo mongwe a bayang ka mafoko a a phepa dintlha tsa mmatota tsa ditatofatso tsa gagwe;

'polelo ya iphemelo' go tewa karabo e e kwadilweng e mo go yona moikarabedi a bayang ka bophepa dintlha tsa mmatota tse iphemelo e theilweng mo go tsona.

2 Go tsenngwa tirisong ga melawana e

(1) Melawana e e dirisiwa-

(a) go isiwa ka boithaopo ga kgotlhang gore e tseregangwe pele ga tshimololo y atshekisano mo Dikgotleng tsa Bomagiseterata; le

(b) mo tshекisanong ya ga jaana mo Dikgotleng tsa magiseterata, ka fa tlase ga mabaka a a umakilweng mo melawaneng ya 6 le 7 ya Melawana e.

(2) Melawana eno ga e emisetse melawana epe ya Dikgotla tsa Bomagiseterata.

3 Thomelo gore go tseregangwe

(1) Kgotlhang e ka nna ya romelwa gore e tseregangwe-

(a) ke motho wa letlhakore lepe pele ga tshimologo wa tshекisano e e ka kgonegang;

(b) ke motho wa letlhakore lepe morago ga tshomologo ya tshекisano mme morago ga katlholo: Fa fela ele gore koo tshеko e simologileng teng matlhakore a tshwanetse amogela thebolo ya kgotla;

(c) ke motlhankedi wa tsa boatlhodi ka nako epe morago ga tshimologo ya tshекisano fa motlhankedi wa tsa boatlhodi a dumelagore go na le lebaka le le siameng la go dira jalo.

4 Ditiro le dithomo tsa motlhankedi wa tharabololo ya kgotlhang

(1) Motlhankedi wa tharabololo ya kgotlhang o tshwanetse go tthalosetsa matlhakkore otlhe—

(a) maikemosetso a tharabololo ya kgotlhang e sele, tthaloso, maitlhomо, go akaretsa poloko ya ditlhotlhwa, tsa tsereganyo; le

(b) ditlhotlhwa tsa tsereganyo, go theilwemo Mametlelelong ya melawana e.

(2) Motlhankedi wa tharabololo ya kgotlhang o tshwanetse go itsise matlhakore gore ba ka nna ba thusiwa ke baemedi ba semolao o ba mo itlhophetseng ka ditshenyegelo tsa bone.

- (3) Motlhankedi wa tharabololo ya kgotlhang o tshwanetse, ka therisano le matlhakore, go diragatsa ditiro le dithomo tse di mo molawaneng o le mo melawaneng ya 5 le 6.
- (4) Fa go sena go wediwa tumalano ya gore go tsereganngwe, motlhankedi wa tharabololo ya kgotlhang o tshwanetse go fetisetsa kwa go motsereganyi-
 - (a) khopi ya tumalano ya go tsereganya;
 - (b) dikhopi tsa **polelo ya** tatofatso le polelo ya iphemelo, fa e le gore tsereganyo e tlaa diragala pele ga tshimololo ya tshekisano;
 - (c) dikhopi tsa samonse le ikuelo, kgotsa polelo ya iphemelo fa e le gore ga go a faelwa ikuelo epe mo dikopano tsa dikgato tsa tshekisano; le
 - (d) dikhopi tsa diafidafiti tsa motheo, tse di arabang le tse di fetolang, kgotsa polelo ya iphemelo fa afidafiti e e arabang e sa faelwa, mo dikopanong tsa tiragatso.

5 Tsamaiso ya thomelo go ya go tsereganngwa pele ga tshimologo ya tshekisano

- (1) letlhakore le le eletsang gore isa kgotlhang gore e tsereganngwe pele ga tshimologo ya tshekisano le tshwanetse go dira kopo e e kwadilweng go latela Foromo ya 1, go motlhankedi wa tharabololo wa kgotla e ka tlhologo e neng e tlaa nna le taolo go reetsa kgang fa go ne go tlaa nna le tsheko
- (2) Kopo e tshwanetse go kaya—
 - (a) gore a tefo e lopiwa ke kgotsa kgatlhanong letlhakore le le batla go tsereganya;
 - (b) maina ka botlalo a motho kgotsa batho ba bangwe kgotsa leina kgotsa maina a letlhakore le lengwe la kgotlhang a itsiweng ka ona ke motho (letlhakore) le le batlang tsereganyo;
 - (c) diaterese tsa bonno le tsa poso tsa motho kgotsa batho ba letlhakore le lengwe la kgotlhang;
 - (d) nomoro ya fekese kgotsa aterese ya imeile ya motho kgotsa letlhakore le le senkang tsereganyo, fa motho/letlhakore la go nna jalo le na le nomoro ya fekese kgotsa aterese ya imeile; le
 - (e) mofuta wa kgotlhang le dintlha tsa mmatota tse kgotlhang e theilweng mo go tsona.
- (3) Motlhankedi wa tharabolo ya kgotlhang o tshwanetse go itsise matlhakore a mangwe otlhe a kgotlhang gore tsereganyo ya kgotlhang e a batliwa le gone o tshwanetse go ikuela mo mothong yo o batlang tsereganyo le mo matlhakoreng a mangwe otlhe a kgotlhang go tsena khonferense malatsi a le lesome (10) a ise a fete, ka

maikaelelo a go tlhomamisa gore a matlhakore otlhe kgotsa mangwe a dumela go romela kgotlhang gore e tseregannngwe.

(4) Fa kwa khonferenseng e e umakilweng mo molawana-potlaneng wa 3 matlhakore mangwe kgotsa otlhe a go kgonegang gore a tseregannngwe, a ka dumela gore kgotlhang e tseregannngwe, motlhankedi wa tharabololo ya kgotlhang o tshwanetse gore -

(a) ka tirisano le matlhakore a tlhome motsereganyi kgotsa, fa matlhakore a sa kgone go dumelana ka motsereganyi, ke gone motlhankedi wa tharabololo ya kgotlhang tshwanetseng go tlhoma motsereganyi go tswa mo lenaneng le le umakilweng mo molawaneng wa 14(2);

(b) a buisane le motsereganyo le go tlhoma letlha, nako le lefelo la tsereganyo; le gore

(c) a wetse tumalano ya tsereganyo e e kwadilweng fa gare ga matlhakore e e tshwanetseng go nna le dintlha tse di latelang:

(i) dintlha tse di umakiwang mo molawaneng-potlana wa 2(b), (c) le (d) wa molawana o;

(ii) gore matlhakore a dumalane go tseregannngwa ga kgotlhang e e fa gare ga ona;

(iii) letlha, nako le lefelola tsereganyo;

(iv) leina la motsereganyi;

(v) nako e e tlaa fiwang kopano nngwe le nngwe ya tsereganyo;

(vi) nako e mo go yona tsereganyo e tlaa konosediwang le mokgwa o ka ona dipaka dipe kgotsa dinako dipe di ka nnang tsa atolosiwa;

(vii) khupamarama le tshono e e amanang le ditshenolo kwa tharabololong; le

(viii) ditlamorago tsa letlhakore lepe le le sa diragatseng dintlha tsa tumalano.

(5) Letlha kore le le lopang tuelo le tshwanetse go tlhagisa polelo ya topotuelo le motlhankedi wa tharabololo ya dikgotlhang malatsi a a lesome (10) a ise a fete morago ga tshaeno ya tumalano e e umakilweng mo molawana-potlaneng wa 4(c) wa molawana o le go fetisetsa khopi kwa matlhakoreng a mangwe otlhe a dikopano tsa tsereganyo.

(6) Letlhakore kgotsa matlhakore a go batliwang tuelo mo go ona a tshwanetrse go fa polelo ya iphemelo go montlhankedi wa tharabololo ya dikgotlhang malatsi a a lesome (10) a ise a fete morago ga go amogela polelo ya topotuelo, le go fetisetsa khopi kwa matlhakoreng a mangwe otlhe a dikopano tsa tsereganyo.

6 Thomelo ya basekisani ya go ya go tseregannwa

(1) (a) Letlhakore lepe le ka nna ka nako epe morago ga go simolola ga tshekisano, mme pele ga tsheko, la kopa motlhankedi wa tharabololo ya kgotlhang, ka mokwalo, go romela kgotlhang gore e tseregannwa.

(b) Motlhankedi wa tharabololo ya kgotlhang o tshwanetse go itsise matlhakore otlhe a kgotlhang gore go batliwa tsereganyo ya kgotlhang le gone o tshwanetse go ikuela mo letlhakoreng lele batlang tsereganyo le matlhakore a mangwe otlhe a kgotlhang go tsema khonferense malatsi a a lesome (10) a ise a fete ka maikaelelo a go tlhomamisa gore a batho botlhe kgotsa bangwe ba matlhakore ba dumela gore ba tseregannwa.

(2) Morago ga tshimologo ya tsheko mme pele ga katlholo letlhakore lepe le ka nna la ikopela kwa kgotleng gore kgotlhang e romelwe gore e tseregannwa.

(3) Fa kgotla e ka fa taolo e e romelang kgotlhang gore e tseregannwa, ditaolelo tsa melawana ya 4(4); 5(4) le molawana-potlanawa (4) wa molawana o di tshwanetse go tlama.

(4) (a) Mo mererong ya dikgato tsa tshekiso, fa diikuelo di tswetswe, samonse kgotsa polelo le ikuelo, jaaka di umakilwe ke melawana, di tlaa dira jaaka polelo ya tatofatso le polelo ya iphemelo, ka tatelano eo.

(b) Fa ikuelo e ise e tlisiwe, moikarabedi o tshwanetse go fa polelo malatsi a a lesome (10) a ise a wele morago ga go wediwa ga tumalano ya gore go tseregannwa.

(c) Mo mererong ya kopo, afidafiti ya motheo e tlaa dira jaka polelo ya topotuelo le gone afidafiti e e arabang fa e ka fiwa, e tlaa dira jaaka polelo ya iphemelo.

(d) Fa go sa fiwa afidafiti epe e e arabang, moikarabedi o tshwanetse go fa polelo ya iphemelo malatsi a a lesome (1) a ise a fete morago ga go wediwa ga tumalano ya go tsereganya.

7 Thomelo ka Kgotla gore go tseregannwa

(1) Kgotla e ka nna, pele ga kgotsa ka nako ya tsheko mme pele ga katlholo, ya laela matlhakore gore kang ya bona e tseregannwa le go romela kgotlhang kwa go motlhankedi wa tharabololo ya kgotlhang.

- (2) Fa e kare ka nako ya tsheko matlhakore a dumela gore kgotlhang e tseregannngwe, matlhakore a tshwmetse go kopa Kgotla go romela kgotlhang kwa go motlhankedi wa tharabololo ya dikgotlhang.
- (3) ditaello tsa melawana ya 4(4) le 5(4) di tshwanetse go dirisiwa fa kgotlhang e romelwa gore e tseregannngwe ka fa tlase ga molawana o.

8 Thomo le ditiro tsa motsereganyi

- (1) Kwa tshimologong ya tsereganyo motsereganyi o tshwanetse go itsise baganetsani ka ga dilo tse di latelang—
 - (a) maikemisetso a tsereganyo le maikaelelo a yone a go bebofatsa tharabololo fa gare ga baganetsani;
 - (b) thomo ya go bebofata ya motsereganyi jaaka motsereganyi yo o sa tseyeng matlhakore yo o sa kgoneng go tsaya ditshwetso dipe tsa dintlha kgotsa tsa molao yo gape a sa kgoneng go tlhomamisa bommaannete jwa motho ope yo o tsayang karolo mo tsereganyong;
 - (c) tlholego ya potsisiso ya dikopano ts ago nna jalo;
 - (d) melawana e e laolang tsereganyo;
 - (e) gore dipuisano tsotlhe le ditshenolo, di builwe ka molomo kgotsa di kwadilwe, tse di dirilweng ka nako ya tsereganyo ke khupamarama le gone ga di amogelwe jaaka bosupi mo kgotleng, lekgotleng kgotsa foramo epe, kwa ntle ga dipuisano le ditshenolo di rekotilwe mo tumalanong ya phediso ya kgotlha e e saenilweng ke matlhakore, kgotsa ka mogo sele di ka ribololwa go ya ka melawana ya kgotla, kgotsa ka mabaka a molao ope o sele;
 - (f) gore motsereganyi a ka nna – ka nako ya kopano ya tsereganyo – a rotloetsa matlhakore go fa tshenolo yotlhe fa mo kakanyong ya motsereganyi tshenolo ya go nna jalo e ka bebofatsa tharabololo ya kgotlhang fa gare ga matlhakore;
 - (g) gore go se nne le letlhakore lepe le le tlaa patelediwang go senola sepe, mme letlhakore le ka nna la dira tshenolo ya boithaopo ka tshireletso e e tshwanang e e umakilweng mo molawana-potlaneng wa (1) e);
 - (h) gore o tlaa thusa go kwala tlhomo ya tumalano ya phediso ya kgotlhang fa kgotlhang e ka rarabololwa; le
 - (i) fa kgotlhang e sa rarabololwa, motsereganyi o tlaa busetsa kgotlhang gape ka go motlhankedi wa tharabololo ya dikgotlhang, le go mmolelela gore kgotlhang ga e a kgona go tseregannngwa.

- (2) Mo tsereganyong nngwe le nngwe motsereganyi o tshwanetse gore, mo malatsing a matlhano (5) a go wediwa ga tirego ya tsereganyo, a ise pego go motlhankedi wa tharabololo ya dikgotlhang le go mmolelela ka ga se tsereganyo e se fitlheletseng.
- (3) motsereganyi a ka nna a sutisa kopano ya tsereganyo fa matlhakore a dumela.

9 Kemiso ya meelwane ya nako go santse go emetswe tsereganyo

Meelwane ya nako e e umakilweng ke melawana ya kgotla ya go tlisiwa ga diikuelo le dikitsiso, go faelwa ga diafitafiti kgotsa go tsewa ga kgato epe ke mosekisano ope go emisitswe go simolola ka nako ya go wediwa ga tumalano ya go tsereganya go fitlha ka go wediwa ga dikopano tsa tsereganyo..

10 Ditumalano tsa Phediso ya Kgotlhang

- (1) Ka motsi wa gore go fitlhelwe tumalano ya phediso ya kgotlhang, motsereganyi o tshwanetse go thusa matlhakore go kwala tlhomo ya tumalano ya tharabololo ya kgotlhang, e e tshwanetseng go fiwa motlhankedi wa tharabololoya dikgotlhang ke motsereganyi.
- (2) Fa go fitlheletswe tumalano ya phediso ya kgotlhang kwa dikopanong tsa tsereganyo mo kgotlhang e e neng e se sa sekisediwe, motlhankedi wa tharabololo ya dikgotlhang o tshwanetse, fa a sena go amogela tumalano ya tharabololo ya kgotlhang go tswa kwa motsereganying, go faela tumalano ya tharabololo ya kgotlhang.
- (3) Fa go sa fitlhelwa tumalano ya phediso ya kgotlhang kwa dikopanong tsa tsereganyo mo kgotlhang e e neng e sa sekisediwe, motlhankedi wa tharabololo ya kgotlhang, o tshwanetse, fa a sena go amogela pego go tswa kwa motsereganying, go faela repoto.
- (4) Fa tumalano ya phediso ya kgotlhang e ka fitlhelwa kwa dikopanong tsa tsereganyo mo kgotlhang e e neng e sekisediwa, motlhankedi wa tharabololo ya dikgotlhang o tshwanetse gore fa matlhakore a ka kopa le gone fa a sena go amogela tumalano ya phediso ya kgotlhang go tswa kwa go motsereganyi, a beye tumalano ya phediso ya kgotlhang fa pele ga motlhankedi wa tsa katlholo yo o mo diphaposing gore go ele tlhoko gore kgotlhang e rarabolotswe le gore dira gore tummalano e nne taolo ya kgotla, fa matlhakore a sena go dumalana.
- (5) Fa go sa fitlhelwa tumalano ya phediso ya kgotlhang kwa dikopanong tsa tsereganyo mo kgotlhang e e neng se sekelwa, motlhankedi wa tharabololo ya

dikgotlhang o tshwanetse, fa a sena go amogela pego go tswa go motsereganyi , go faela repoto le go itsise mokwadisi kgotsa mokwaledi wa kgotla go kgontsha tshekisano go tswelela pele.

(6) Tumalano nngwe le nngwe ya phediso ya kgotlhang e tshwanetse go bewa mo mokwalong.

11 Dikgotlhang tse di sa rarabololang ka bontlhannngwe

Fa go ka nna le karolo epe ya kgotlhang fa gare ga matlhakore e e tlaa nna e sa rarabololwa, dikgang tse di sa rarabololang di ka nna tsa sekisanelwa ke matlhakore ao.

12 Ditefo tse di duelwang batsereganyi

(1) Ditefo tse di duelwang batsereganyi di tshalositswe mo lenaneong mo Mametlelelong ya A ya melawana e.

(2) Matlhakore a a tsayang karolo mo tiregong ya tsereganyo ba tshwanetse go duela tefo ya motsereganyi.

(3) maikarabelo a ditefo tsa motsereganyi a tshwanetse go sikarwa ka mo go lekanang ke matlhakore a a ganetsanang a a tsayang karolo mo tiregong ya tsereganyo.

13 Go emelwa ga matlhakore kwa dikopanong tsa tsereganyo

(1) Batho ba matlhakore a dikopano tsa tsereganyo ba tshwanetse go tsena dikopano tsa go nna jalo ka namana le gone ba ka nna ba emelwa ke baemedi ba semolao.

(2) Fa motho wa semolao kgotsa feme kgotsa bagwebisani ba le karolo ya dikopano tsa tsereganyo motho/letlhakore la go nna jalo o tshwanetse go emelwa ke motlhankedi yo o tswang kwa mothong yoo wa semolao, feme kgotsa kgwebisano, yo a tshwanetseng go rebolwa ka semolao go emela setheo seo go wetsa tuemlo le go saena tumalano ya phediso ya kgotlhang mo boemong jwa setheo sa go nna jalo.

- (3) Foo Puso kgotsa setheo sa puso se leng bontlhanngwe jwa ditirego tsa tsereganyo setheo sa go nna jalo se tshwanetse go emelwa ke motlhankedi yo o thusiwang ke agente ya puso e e rebotsweng sentle go emela setheo seo.

14 Tona o tlaa baya maemo a go itekanela le gone o tlaa kwala lenane la batsereganyi ba ba nang le makwalotetla a thebolo

- (1) Dithutego le maemo a go tshwanela ga batsereganyi go dira tsereganyo, tse go buiwang ka ga tsona mo melawaneng e di tshwanetse go bewa/tlhomamisiwa ke Tona.
- (2) Tona o tshwanetse gore ka fa lenane la batsereganyi ba ba makwaloitshup a go diragatsa ditiro le maikaelelo a melawana e.

15 Setlhogo se sekhutshwane

Melawana eno e tlaa bidiwa Melawana ya Tsereganyo e e Mametleletsweng ke Kgotla ya Dikgotla tsa Bomagiseterata.

IMIYALO YEKUTIKHETSELA YEKULAMULA LEYELULWE TINKHANTOLO

YETINKHANTOLO TABOMANTJI

SENDLALELO

Sigaba 34 seMtsetfo-sisekelo waseNingizimu Afrika, 1996 sicinisekisa wonkhe umuntfu kutsi unelilungelo lekutsi noma ngabe nguyiphi inhlobo yemphikiswano lengasonjululwa ngekusebetisa umtsetfo ilalelwe etitsebani letisobala tenkhantolo, kumbe nakufanele ilalelwe kulenye inkhundla letimele nalengavuni hlangotsi;

Futsi kusenjalo, sigaba 6(1) seLibhodi Lemiyalo yeMtsetfo 107 wanga1985 wetiNkhantolo siniketa Libhodi Lemiyalo yetiNkhantolo (Libhodi Lemiyalo) lelabunjwa ngaphasi kwesigaba 2 salowo Mtsetfo, emandla ekubuyeketa imiyalo yenkhantolo lesebentako ngaleso sikhatsi, kwakha imiyalo yeNkhantolo Lenkhulu Yekubuyeketa Tigwebo, yeTinkhantolo Letiphakeme kanye neyetinkhantolo letincane letilawula kusebenta kwetinkhantolo netinchubo malungana nekulalelwa kwetimangalo, naletiphindze tilawule noma ngabe ngutiphi tindzaba letidzingekele kumbe letingaba lusito ekutiphatseni ngemfanelo emisebentini yato letinkhantolo letigagulilwe natilalela emacala asenhlalweni kanye newebugebengu.

Kantsi ngalokunjalo Ingcugcutsela yeKutfolakala kweBulungiswa leyabanjwa ngaKholwane (July) 2011 ngaphasi kwebuholi beNdvuna Yemajaji, emtameni wekusondzeta bulungiswa lobusecophelweni lelisetulu kubo bonkhe bantfu, yancuma kutsi kufute kutsatfwe tinyatselo tekwetfula tindlela tekusombulula timphikiswano, kakhulukati kulamula lokwelulwe tinkhantolo, kumbe kulamula lokunye kweluhlobo lweCCMA etinkhantolo temacala.

Tinjongo letibaluleke kakhulu tekulamula timphikiswano ngunati:

- (a) kutfutukisa kutfolakala kwebulungiswa;
- (b) kutfutukisa bulungiswa lobubuyisela simo endzaweni yaso;
- (c) kulungisa budlelwano ekhatsi kwalabamangalelene kumbe labangase bamangalelane lobungoniwa butsa bekumangalelane;
- (d) kwelekelela ekutfoleni sisombululo ngekushesha nangendlela lenganciphisa tindleko ekhatsi kwalabamangalelene kumbe labangase bamangalelane;
- (e) kusita labamangalelene kumbe labangase bamangalelane kungakachubeki kakhulu kulalelwa kwelicala labo kumbe kusengakacali sanhlobo kulalelwa kwelicala kuze babone kutsi basenaso yini sidzingo sekuchubeka nelicala noma badzinga lenye indlela yekusebentisa umtsetfo leyehlukile lengaba lusito kuto totimbili tinhlangotsi letimikisene enkhantolo;
- (f) kuniketa labamangalelene litfuba lekubuyela enkhantolo nakungenteka imitamoyekulamula ingabi yimphumelelo;
- (g) kuniketwa litfuba lekulalelwa kwelicala nekusebentisa imiyalo lefanele yebufakazi; kanye
- (h) nekuniketa tisombululo temphikiswano kulabamangalelene kumbe labangase bamangalelane, letingetulu kwemandla etikhulu tenkhantolo;

Kusenjalo Indvuna yeteBulungiswa nekuTfutfukiswa kweMtsetfo-sisekelo iyale Libhodi Lemiyalo kutsi lakhe imiyalo yekulawula inchubo yekusetjentiswa ngekutikhetsela kulamula lokuncunywa tinkhantolo emacaleni asenhlalweni, kute isetjentiswe etinkhantolo letitsite njengendlela yekuhlola kutsi itawusita nobe cha;

Libhodi Lemiyalo ngako-ke lente lemiyalo lelandzelako yekulawula inchubo yekusetjentiswa ngekutikhetsela kulamula kwetinkhantolo emacaleni asenhlalweni eTinkhantolo taboMantji:

1 Tinchazelo

Kulemiyalo lena, ngaphandle kwanangabe ligama lisetjentiswe kusho lokunye:

'sinyatselo' sisho licala lelisungulwe ngekukhishwa kwemasamanisi;

'lokunye kusionjululwa kwemphikiswano' kusho inchubo lapho umuntfu lotimele nalongavuni hlangotsi elekelela labamikisene enkhantolo emtameni wekusombulula ingcabano yabo ngembi kwekucala noma selicalile kulalelwa licala labo;

'siculo' sisho licala lelisungulwe ngesiphakamiso lesipheleketelwa yincwadzi lefungelwe;

'lusuku' lisho lilanga lekungena kwelicala, ngaphandle kweMigcibelo, emaSontfo nemaholide lasemtsetfweni;

'ummangalelwa' kushiwo noma ngabe ngubani lotfweswe licala kanye neluhlangotsi lolumelwe ngulabatawulivikela ecaleni nasekucalile kutsetfwa kwalo;

'kukhishelwa' kusho kumikiselwa kwalobekwe licala incwadzi lembitela enkhundleni kanye nekumikiswa kwaleyo ncwadzi lefanako lekhishwe ekucaleni kumabhalane wenkhantolo kute igcinwe;

'imphikiswano' isho sihloko sendzaba letawutsetfwa emkhatsini walabamangalelene noma luhlangotsi lwaleyo ndzaba;

'sikhulu sekusombulula imphikiswano' ngumuntfu lophetse aphindze alawule lenchubo yekusombulula imphikiswano, umsebenti wakhe lochazwe kahle kulemiyalo;

'sikhulu setebulungiswa' sisho Mantji nobe Mantji Lowengetwako kumbe uMelekeleli waMantji noma Mantji Wesigodzi;

'ummangali/ummangalelwa' kushiwo lomele luhlangotsi ecaleni;

'licala' lisho inchubo yekulalelwa kwemphikiswano lecaliswe sinyatselo lesitsetfwe luhlangotsi noma yinchubo yesicelo;

'kulamula' kusho inchubo lapho umlamuli elekelela tinhlangotsi letimikisene enkhantolo nasekutekwa licala kumbe esimeni lesingaholela ekutekisaneni licala kute kusombululeke imphikiswano ngendlela yekukhulumisana ekhatsi kwaletinhlangotsi letitsintsekako, asite kubonisa letinhlangotsi tintfo letitsite, achaze lokubalulekile, ahlole ematfuba ekunikela ngekulahlekelwa yinzuzo aphindze avete lokungasita kucatulula imphikiswano;

'umlamuli' kushiwo umuntfu lokhetfwe ngulabatsintseka emphikiswaneni, kumbe ngulosikhulu sekusombulula imphikiswano eluhlwini lolukhonjwa ngumyalo 14(2), kutsi alamule imphikiswano lesekhatsi kwetinhlangotsi letitsintsekako;

'indvuna' kushiwo Indvuna yeteBulungiswa nekuTfutfukiswa kweMtsetfo-sisekelo;

'lokungahle kugcine kulicala' kusho licala lelingavetwa yimphikiswano;

'imiyalo yenkhantolo' isho imiyalo yenkhantolo lesebenta etiNkhantolo taboMantji;

'sitatimende sekukhokhelwa' kusho sicelo lesibekwe ngemagama lacacile nalacondze ngco lesikhishwa luhlangotsi lolufuna kuhlawulwa ngulolunye luhlangotsi lolutsintseka ecaleni, lesiveta emaphuzu lesisuselwa kuwo lesicelo;

'sitatimende sekutivikela' kusho imphendvulo lebhale phansi lapho lomangalelwe acacisa khona emaphuzu ekutivikela kwakhe.

2 Kusebenta kwalemiyalo

(1) Lemiyalo lena isebenta nangabe:

- (a) kuletfwa ngekutikhetsela siphakamiso sekucela kulanyulwa kwemphikiswano lingakacali kutekwa licala etiNkhantolo taboMantji; kanye
- (b) nalapho sekuchubeka kutekwa kwelicala etiNkhantolo taboMantji ngaphasi kwetimo letibalulwa miyalo 6 na 7 yaleMiyalo.

(2) Lemiyalo lena ayiyitsatsi indzawo yaleminyane imiyalo yetiNkhantolo taboMantji.

3 Kufakwa kweticelo tekulamula

(1) Imphikiswano ingamikiswa kute ilanyulwe-

- (a) ngunoma ngabe nguluphi luhlangotsi ngembi kwekucala kwekutekwa kwelicala;
- (b) ngunoma nguluphi luhlangotsi emva kwekube sekucalile kutekwa kwelicala kepha ngembi kwekukhishwa kwesigwebo, kepha kuphela nje nakutfolakele ligunya lenkhantolo;
- (c) sikhulu setebulungiswa noma ngabe kunini selicalile kutekwa licala nangabe nje lesikhulu senkhantolo setsembe kutsi kunesizatfu lesifanele sekwenta njalo.

4 Imisebenti nalokusemahlombe etikhulu tekusombulula imphikiswano

(1) Sikhulu sekusombulula imphikiswano kufute sichazele tinhlangothi letitsintsekako-

- (a) inhloso yalenyane indlela yekusombulula imphikiswano, lokushiwo ngulindlela lenye yekucazulula, tinjongo nalokutawuzuzwa, kufaka ekhatsi konga tindleko kanye;
- (b) netindleko tekulamula njengekuchaza kweselulo salemiyalo.

(2) Sikhulu sekusombulula imphikiswano kufute satise tinhlangothi letitsintseka ecaleni kutsi tingalutfole lusito lwetati temtsetfo letingakhetfwa ngito ngetindleko tato natitsandza.

- (3) Sikhulu sekusombulula imphekiswano ngekubonisana netinhlangothi letitsintseka ecaleni, kufute siyente yonkhe imisebenti netidzingo talomyalo naletikumiyalo 5 na 6.
- (4) Nasekuphotfulwe sivumelwano sekulanyulwa, sikhulu sekusombulula imphekiswano kufute
- (5) sedlulisele kumlamuli-
 - (a) ikhophi yesivumelwano sekulamula;
 - (b) emakhophi esitatimende sekukhokhelwa nesitatimende sekutivikela nangabe kulamula kutawenteka kungakacali kutekwa kwelicala ;
 - (c) emakhophi emasamanisi nekuvuma kumbe kuphika licala, nobe sitatimende sekutivikela nangabe kuvuma kumbe kuphika licala kungakavetwa ekuchubekeni kwekutekwa kwelicala; besekuba
 - (d) ngemakhophi esifungo sekucala simangalo, sifungo sekutiphendvulela nesekuphindzisa imphendvulo,, kumbe sitatimende sekutivikela nangabe singekho sifungo sekutiphendvulela esicelweni sekuchutjwa kwelicala.

5 Inhubo yekufaka sicelo sekulamula ngembi kwekucala kwekutekwa kwelicala

- (1) Luhlangothi lolufisa kufaka sicelo sekulanyulwa kwemphikiswano ngembi kwekucala kwekutekwa kwelicala kufanele lusibhale phansi lesi sicelo njengekulandzela sidzingo saForm 1, lesi sicelo lusedlulisele esikhulwini senkhantolo sekusombulula imphekiswano, lesitakuba nemandla ngalokwetayelekile ekulalela lendzaba nangabe licala beselivuliwe
- (2) Lesicelo kufute sivete-
 - (a) kutsi sikhona nobe cha sincepheteliso noma inhlawulo lefunwa ngulofaka lesicelo nobe lefunwa kulofaka lesi sicelo;
 - (b) emagama laphelile alolomelele nobe labamelele lololunye luhlangothi lolutsintseka kulemphikiswano;
 - (c) likheli lendzawo neliposi lalolomelele nobe labamelele lololunye luhlangothi kulemphikiswano;
 - (d) inombolo yefeksi nelikheli le-imeyili lalolofaka sicelo sekulamula nangabe lolohlangothi lunayo ifeksi kumbe ne-imeyili.
- (3) Sikhulu sekusombulula imphekiswano kufute satise tonkhe tinhlangothi letitsintseka kulemphikiswano kutsi sekunesicelo sekulanyulwa, siphindze sibite lolofake lesicelo sekulanyulwa kanye nabo bonkhe labatsintseka kulemphikiswano kutsi bahambe ingcungcutsela yekuhlola kutsi bonkhe kumbe labatsite kulemphikiswano bayavuma yini kutsi sifakwe lesicelo sekulanyulwa kungakapheli tinsuku letilishumi.
- (4) Nangabe kulengcungcutsela lebalwe kumyalo 3 labanye kumbe bonkhe labatsintseka kulemphikiswano bayavuma kutsi sifakwe sicelo sekulanyulwa, sikhulu sekusombulula imphekiswano kufute-

- (a) ngekubambisana nato tonkhe tinhlangotsi, sikhetswe umlamuli, kumbe nangabe letinhlangotsi ativumelani sikhulu sekusombulula imphikiswano kufanele sikhetswe umlamuli kuloluhlu lolukumyalo 14(2);
 - (b) sihlebe nemlamuli loyo babeke lusuku, sikhatsi nendzawo yekulamula imphikiswano leyo; phindze
 - (c) siphofule sivumelwano lesibhaliwe sekulamula ekhatsi kwetinhlangotsi, lekufute sibe nanayi imininingwane lelandzelako ekhatsi:
 - (i) imininingwane lebalwe kumyalo 2(b)
 - (ii) kutsi tinhlangotsi tivumelene ngekulamula imphikiswano;
 - (iii) lusuku, sikhatsi nendzawo yekulamula;
 - (iv) libito lemlamuli;
 - (v) sikhatsi lesitawujutjelwa sigcawu ngasinye sekulamula;
 - (vi) sikhatsi lesitawudvonswa ngulokulamula kanye nendlela letitakwelulwa ngayo tikhatsi;
 - (vii) bumfihlo nemagunya ekuveta lwati ngesikhatsi sekulamula; kanye
 - (viii) nalokutawuba ngumphumela eluhlangotsini lolutawuphula imibandzela yesivumelwano sekulanyulwa.
- (5) Luhlangotsi lolutawufaka sitatimende sekukhokhelwa esikhulwini sekusombulula imphikiswano kufute lwente njalo kungakapheli tinsuku letilishumi (10) emva kwekusayinda sivumelwano lesibalwe kumyalo 4(c) walomyalo bese lwedlulisela ikhophi yalesitatimende kuto tonkhe tinhlangotsi letitsintseka kulenchubo yekulamula.
- (6) Luhlangotsi lekufunwa kulo inkhokhelo kufanele lufake sitatimende sekutivikela esikhulwini sekusombulula imphikiswano kungakapheli emalanga lalishumi lwemukele sitatimende sekufuna kukhokhelwa, bese lwedlulisela ikhophi yesitatimende sekutivikela kuto tonkhe tinhlangotsi letitsintseka kulenchubo yekulamula.

6 Kufaka sicelo sekulanyulwa ngulabatsintseka ecaleni

- (1) (a) Noma ngabe nguluphi luhlangotsi lungafaka sicelo esikhulwini sekusombulula imphikiswano sekudlulisela imphikiswano esigcawini sekulamula noma ngabe kunini licala selivuliwe kepha lingakacali kutekwa.
- (b) Sikhulu sekusombulula imphikiswano kufute satise tonkhe tinhlangotsi letitsintseka emphikiswaneni kutsi sekunesicelo sekulamula, siphindze sibite lolofake lesicelo sekulanyulwa kanye nabo bonkhe labatsintseka emphikiswaneni kutsi bahambeke ingcungcutsela yekuhlola kutsi bonkhe kumbe labatsite kulemphikiswano bayavuma yini kutsi sifakwe lesicelo sekulamula kungakapheli tinsuku letilishumi (10).

- (2) Emva kwekucala kwekutekwa kwelicala kepha ngembi kwekukhishwa kwesigwebo, noma nguluphi luhlangotsi lungasifaka sicelo enkhantolo sekudlulisela impikiswano ekulanyulweni.
- (3) Nangabe inkhantolo isikhipha sincumo sekudlulisela impikiswano ekulanyulweni kutawubese kusebenta emagunya emiyalo 4(4); 5(4) nemyalo lomncane (4) kulomyalo.
- (4) (a) Etindzabeni tesinyatselo lesitsetfwe ngekukhishwa kwemasamanisi, nangabe kuvuma kumbe kuphika licala sekuvaliwe, emasamanisi nobe tifungo kutawusebenta njengesitatimende selicala bese kutsi kuvuma kumbe kuphika licala kusebenta njengesitatimende selicala, njengobe kubekiwe kulemiyalo.
 - (b) Nangabe kuvuma kumbe kuphika licala kungakakhishwa, ummangalelwa kufute akhiphe sitatimende kungakapheli tinsuku letilishumi (10) kuphotfulwe sivumelwano sekudlulisela impikiswano ekulamuleni.
 - (c) Etindzabeni tesinyatselo lesitsetfwe ngekukhishwa kwemasamanisi incwadzi lefungelwe yekucala itawusebenta njengesitatimende sekukhokhelwa, bese kutsi incwadzi lefungelwe yekutiphendvulela isebente njengesitatimende sekutivikela.
 - (d) Nangabe incwadzi lefungelwe yekutiphendvulela ingakakhishwa, ummngalelwa kufute akhiphe sitatimende sekutivikela kungapheli tinsuku letilishumi (10) kuphotfulwe sivumelwano sekudlulisela impikiswano ekulamuleni.

7 Kudluliselwa yinkhantolo kwempikiswano ekulamuleni

- (1) Ngembi kwekucala kumbe ngesikhatsi kusachubeka kutekwa kwelicala kepha ngembi kwekukhipha sigwebo, inkhantolo ingaticebisa tinhlangotsi letimangalelene kutsi tifake sicelo sekwedlulisela impikiswano esikhulwini sekusombulula impikiswano.
- (2) Nangabe ngesikhatsi kusatekwa licala tinhlangotsi letitsintseka ecaleni tivumelana ngekulanyulwa kufute ticele inkhantolo yedlulisele licala esikhulwini sekusombulula impikiswano.
- (3) Emagunya laniketwa ngumyalo 4(4) na 5(4) atawusebenta nangabe impikiswano yedluliselwa kumlamuli ngaphasi kwalomyalo.

8 Indzima nemisebenti yemlamuli

- (1) Nakucala sigcawu sekulamula umlamuli kufute atise tonkhe tinhlangotsi naku lokulandzelako—
 - (a) tinhloso tekulamula nalokuhloswe kuzuzwa ngalokucazulula ingcabano lesekhatsi kwaletinhlangotsi letitsintsekako;

- (b) umsebenti wemlamuli njengalotakwelekelela letinhlangothi letinempikiswano ngaphandle kwekuvuna luhlangothi nekutitsatsela tincumo ngekubona emaphuzu kumbe ngelwati lwemtsetfo, futsi nalongeke ancume kwetsembeka kumbe kungetsembeki kwanoma ngubani lotsintseka kulokulamula;
 - (c) simo sekucubungula lwati kwalesigcawu sekulamula;
 - (d) imitsetfo letawulandzelwa kulokulamula;
 - (e) kutsi tonkhe tinkhulumiswano nalokutawuvetwa kulokulamula ngemagama emlomo kumbe ngembhalo kutawuba yimfihlo futsi ngeke kwemukelwe njengebufakazi kunoma ngabe nguyiphi inkhantolo kumbe inkhundla yemacala, ngaphandle kwanangabe letinkhulumiswano kumbe lokuvetiwe kushicilelwe esivumelwaneni sekusombulula impikiswano lesisayindwe ngito tonkhe tinhlangothi, kumbe kutfolakele ngekwemitsetfo yenkhantolo, kumbe ngekulandzela leminyane imitsetfo;
 - (f) kutsi umlamuli ngesikhatsi sekulalelwa kwekulamula angagcugcutela tinhlangothi kutsi tivete konkhe latakubona kungaba lusito ekusombululeni impikiswano ekhatsi kwaletinhlangothi;
 - (g) kutsi kute luhlangothi lolutawuphocolwa kutsi luvete ngenkhani lwati tsite, kepha luhlangothi lungativetela lolo lwati ngaphasi kwekuvikelwa ngumyalo lomncane (1)(e);
 - (h) kutsi utawelekelela kubhala sivumelwano sekuvisisana nangabe impikiswano isombululekile; nekutsi
 - (i) nangabe impikiswano ayikasombululeki, umlamuli utayibuyisela emuva esikhulwini sekusombulula impikiswano lendzaba, asatise kutsi impikiswano ayikasombululeki.
- (2) Kuko konkhe kulamula umlamuli utawedlulisela umbiko esikhulwini sekusombulula impikiswano, asatise ngemphumela wemtamo wekulamula, kungakapheli tinsuku letisihlanu (5) kuphotfulwe umtamo wekulamula.
- (3) Umlamuli angasihlehlisa sigcawu sekulamula nangabe tinhlangothi tivuma.

9 Kumiswa kwemikhawulo yetikhatsi nakusalindvwe umphumela wekulamula

Imikhawulo yetikhatsi letibekwe mitsetfo yenkhantolo kuze kukhishwe tincumo tekuphika kumbe kuvuma licala netatiso, kufakwa nekugcinwa kwetincwadzi letifungelwe kumbe kutsatfwa kwanoma ngusiphi sinyatselo ngunoma nguluphi luhlangothi, itawumiswa kusukela lapho tinhlangothi tivumelanga ngekwedlulisela impikiswano ekulamuleni kuze kube ngulapho kuphotfulwa khona umtamo wekulamula.

10 Tivumelwano tekusombululeka kwempikiswano

- (1) Nakwenteka imphikiswano isombululeka, umlamuli kufanele elekelele tinhlangotsi ekudvwebeni sivumelwano sekucazululeka kwemphikiswano, lekufute sedluliselwe esikhulwini sekusombulula imphikiswano ngumlamuli.
- (2) Nangabe kufinyelelwa esivumelwaneni sekusombululeka kwemphikiswano lebe ingasiwo umsuka welicala sikhulu sekusombulula imphikiswano kufute kutsi nasemukela lowo mbiko kumlamuli siwugcine efayeleni.
- (3) Nangabe akufinyelelwa esivumelwaneni sekusombululeka kwemphikiswano lebe ingasiwo umsuka welicala sikhulu sekusombulula imphikiswano kufute kutsi nasemukela lowo mbiko kumlamuli siwugcine efayeleni.
- (4) Nangabe kufinyelelwa esivumelwaneni sekusombululeka kwemphikiswano lebe ingumsuka welicala sikhulu sekusombulula imphikiswano ngekucelwa tinhlangotsi letimangalelene, nakawemukela umbiko wesivumelwano sekusombululeka kwemphikiswano kumlamuli, kufute siwubeke embi kwesikhulu setebulungiswa egunjini lenkhantolo kuze sikhulu setebulungiswa sitibonele kutsi imphikiswano isombululekile kumbe atokwenta kube ngumyalo wenkhantolo kuvumelana kwetinhlangotsi leto.
- (5) Nangabe akufinyelelwa esivumelwaneni sekusombululeka kwemphikiswano lebe ingumsuka welicala sikhulu sekusombulula imphikiswano kufute kutsi nasemukela lombiko kumlamuli siwugcine efayeleni bese satisa umbhalisi kumbe mabhalane wenkhantolo kuze akwati kucinisekisa kuchubeka kwelicala.
- (6) Tonkhe tivumelwano tekusombululeka kwetimpikiswano kufute tibhalwe phasi.

11 Timphikiswano letingamange tisombululeka ngalokuphelele

Nakwenteka kuba nencenye yemphikiswano ekhatsi kwetinhlangotsi lesala ingakasombululeki, leyo ncenye seyingatekwa njengelicala ekhatsi kwetinhlangotsi letitsintsekako.

12 Timali letikhokhelwa balamuli

- (1) Timali letikhokhelwa balamuli tibekwe eluhlwini loluSelulo A salemiyalo.
- (2) Tinhlangotsi letitsintseka kulemitamo yekulamula kufute tikhokhe tindleko tebalamuli.
- (3) Bungako betindleko tebalamuli kufute tetfwalwe ngalokulinganako ngito tonkhe tinhlangotsi letitsintseka emtameni wekulamula.

13 Kumelelwa kwetinhlangotsi etiwombeni tekulamula

- (1) Tinhlangotsi letitsintseka emtameni wekulamula kufanele tibe khona sicu sato nakuchubeka umtamo wekulamula, kepha tingamelelwa tati temtsetfo.

(2) Nangabe inhlango lebhaliwe ngalokusemtsetfweni, inkhapani kumbe inhlangoisela yemabhizinisi iluhlangotsi lolutsintseka emtameni wekulamula, lowo mtimba kufanele umelelwe ngumuntfu logunyatwe ngalokufanele kuwumela, lekufanele abekhona nakuphotfulwa sivumelwano asayinde sivumelwano sekusombulula imphikiswano egameni lalowo mtimba.

(3) Lapho uMbuso kumbe umtimba lositfo seMbuso uluhlangotsi lolutsintseka emtameni wekulamula lowo mtimba kufute umelelwe sikhulu leselekelelwa ngummeli weMbuso lekufanele abe agunyatwe ngalokufanele kemelela lowo mtimba.

14 Indvuna inemandla ekubalula kufaneleka yente neluhla lwebalamuli labagunyatiwe

(1) Kucecesheka nelicophelo lekufaneleka kwebalamuli labelekelela emitameni yekulamula lekukhulunywa ngako kulemiyalo kubalulwa yiNdvuna.

(2) Indvuna kufute njalo emva kwesikhatsi lesitsite ishicilele luhlu lwebalamuli labagunyatiwe labatawusita ekusebentiseni letinjongo nemisebenti lekulemiyalo.

15 Sihloko lesifishane

Lemiyalo lena itawatiwa njengeMiyalo Yekutikhetsela Yekulamula Leyelulwe Tinkhantolo Yetinkhantolo taboMantji.

SWINAWANA SWA VULAMURI BYO TINYIKELA LESWI ENGETERIWEKE HI KHOTO YA TIKHOTO TA MAJISITARATA

MANGHENELO

Ku karhi ku tekeriwa enhlokweni mhaka ya leswaku xiyenge xa 34 xa Vumbiwa bya Rhiphabuliki ya Afrika-Dzonga, 1996 xi tiyisisa leswaku munhu un'wana na un'wana u na mfanelo ya ku endla leswaku nkwetlembetano wihi kumbe wihi lowu wu nga ololoxiwaka hi ku tirhisiwa ka nawu xi ahluriwa eka nhlengeletano yo twa miehleketo ya vaaki leyi nga voyameliki etlhelo leyi nga emahlweni ka khoto, kumbe laha swi faneleke, huvo kumbe foramu yin'wana leyi tiyimelaka kumbe leyi nga tekiki tlhelo;

Na ku va ku karhi ku tekeriwa enhlokweni mhaka ya leswaku xiyenge xa 6(1) xa Nawu wa Bodo ya Swinawana ya Milawu ya Tikhoto wa 107 wa 1985 wu havaxerisa matimba eka Bodo ya Swinawana ya Tikhoto ta Nawu (Bodo ya Swinawana) leyi yi tumbuluxiweke ehansi ka xiyenge xa 2 xa Nawu lowu ku kambisisa swinawana leswi nga kona swa khoto, ku endla swinawana swa Khotonkulu ya Aphili, Tikhoto ta le Henhla na tikhoto ta le hansi leti ti lawulaka matirhelo na maendlelo hi mayelana na ku mangalelana naswona leswi hi ntolovelo swi lawulaka mhaka yihi kumbe yihi leyi yi nga vaka ya nkoka kumbe leyi pfunaka eka maendlelo lama faneleke ya mitirho ya tikhoto leti vuriweke eka mafambiselo ya milandzu ya mikwetlembetano exikarhi vanhu xikan'we na mafambiselo ya milandzu ya vugevenga;

Na ku va ku karhi ku tekeriwa enhlokweni mhaka ya leswaku Mfikelelo eka Khomferense ya Vululami leyi yi khomiweke hi Mawuwani 21011, ehansi ka vurhangeri bya Muavanyisinkulu, eka ku fikelelela mphakelo wa vululami lebyi fikelelekaka na ku va bya xiyimo xa le henhla eka hinkwavo, yi bohile leswaku magoza lama ya faneleke ku tekiwa ku sungula matshunxelo man'wana ya nkwetlembetano, ngopfungopfu vulamuri lebyi engeteriweke hi khoto kumbe muxaka wa CCMA wa matshunxelo man'wana ya nkwetlembetano, eka sisiteme ya khoto;

Na ku va ku karhi ku tekeriwa enhlokweni mhaka ya leswaku swikongomelonkulu swa vulamuri i ku:

- (a) kondletela mfikelelo eka vululami;

- (b) kondletela vululami lebyi kongomisaka eka swilaveko swa vamangalelani xikan'we na muganga wa vona hi ku angarhela;
- (c) hlayisa vuxaka exikarhi ka vamangalelani kumbe lava nga tshukaka va mangalelana lebyi vaka byi kamanyetiwiwe kumbe ku onhiwa hi muxaka vulala ya mangalelana;
- (d) fambisa matshunxelo ya nkwetlembetano lama ya hatlisaka na ku va ya nga durhi exikarhi ka vamangalelani kumbe lava nga tshukaka va mangalelana;
- (e) pfuna vamangalelani kumbe lava nga tshukaka va mangalelana ku boha ka ha ri eku sunguleni ku mangalelanana kumbe ku nga si sunguriwa ku mangalelana loko ku va emahlweni na mutengo kumbe xikombelo xo kaneta nandzu xi ri lexi nga ta va vuyerisa kumbe swi nga ri tano;
- (f) pfumelela vamangalelani kumbe lava nga tshukaka va mangalelana ku vuyela eka ku mangalelana loko ku ringetiwa ka vulamuri swi nga fambi kahle;
- (g) fambisa hi vutihlamuleri endlelo ro mangalelana na swinawana swa vumbhoni; na
- (h) nyika vamangalelani kumbe lava nga tshukaka va mangalelana swintshunxo swa nkwetlembetano, leswi swi weliki eka mitirho kumbe matimba ya vaofisiri va vuavanyisi;

Na ku va ku tekeriwa enhlokweni mhaka ya leswaku Holobye wa Vululami na Nhluvukiso wa Vumbiwa u lerisile Bodo ya Swinawana ku endla swinawana ku lawula manedlo ya vukongomisi byo tinyikela eka vulamuri lebyi engeteriweke hi khoto bya mikwetlembetano ya vanhu, ku va yi tirhisiwa hi endlelo ro phayilota eka tikhoto to karhi;

Hikokwalaho Bodo ya Swinawana yi endlile swinawana leswi landzelaka ku lawula endlelo ra vulamuri byo tinyikela lebyi engeteriweke hi khoto eka mikwetlembetano ya vanhu eka Tikhoto ta Majisitarata:

1 Tinhlamuselo

Eka swinawana leswi handle ka loko mbangu wu kombisa swin'wana swo hambana:

'goza ro mangalelana' swi vula leswaku ku mangalelana swi sungurile hi ku humesiwa ka samanisi;

'matshunxelo man'wana ya nkwetlembetano' swi vula phurosese, leyi eka yona munhu loyi a tiyimelaka na ku va a nga voyameli etlhelo a pfunaka vanhu lava

khumbekaka ku ringeta ku ololoxa nkwetlembetano exikarhi vona, ku nga va ku nga si sungula ku mangalelana kumbe endzhaku ka swona;

'xikombelo xo tsariwa' swi vula leswaku ku mangalelana swi sungurile hi xitiviso xa moxini lowu fambaka swin'we na afidavhiti;

'siku' swi vula siku ra khoto, leri ri nga katsiki Migqivela, Misonto kumbe tiholideyi ta mani na mani;

'muhehliwa' swi katsa muhlamuri wihi kumbe wihi na munhu wihi kumbe wihi loyi a ta sirhelela nkwetlembetano loko ku mangalelana a swi sunguriwile;

'fikisa' swi vula ku yisa dokhumente eka munhu loyi a khumbekaka loyi a kanetaka eka ku mangalelana yisa dokhumente ya masungulo eka mutsarisi kumbe matsalani wa khoto;

'nkwetlembetano' swi vula mhakankulu ya ku mangalelana ka xiviri kumbe ku mangalelana loku nga tshukaka ku endleka exikarhi ka vanhu lava khumbekaka kumbe xiphemu xa yona;

'muofisiri wa matshunxelo ya nkwetlembetano' swi vula munhu loyi a fambisaka na ku lawula phurosese ya matshunxelo man'wana ya nkwetlembetano naswona loyi mitirho ya yena hi hlamuseriwke eka swinawana leswi;

'muofisiri wa vuavanyisi' swi vula Majisitarata kumbe Majisitarata wo Engetela kumbe Majisitarata wo Pfuneta kumbe Majisitarata wa Xifundzatsongo.

'mumangalelani' swi vula munhu loyi a khumbekaka eka ku mangalelana;

'ku mangalelana' swi vula mafambiselo ya khoto lama ya sunguriweke hi mafambiselo ya goza ro mangalelana kumbe ku ngenisiwa ka xikombelo xo tsariwa;

'vulamuri' swi vula phurosese leyi mulamuri a pfunaka hayona vanhu lava khumbekaka eka ku mangalelana ka xiviri kumbe loku nga tshukaka ku endleka ku ololoxa nkwetlembetano exikarhi ka vona hi ku fambisa mikanerisano exikarhi ka vanhu lava khumbekaka, ku va pfuna eka ku kuma timhaka ta nkoka, ku humesela erivaleni swirhangana, ku valanga tindhawu leti va nga pfumelelanaka ku va ti hundza tano na ku ta na tindlela tin'wana hi ku ringeta ku ololoxa nkwetlembetano wa kona;

'mulamuri' swi vula munhu loyi a hlawuriweke, hi vanhu lava khumbekaka kumbe hi muofisiri wa matshunxelo ya nkwetlembetano ku suka eka nxaxamelo lowu wu vuriweke eka xinawana xa 14(2), ku lamula nkwetlembetano exikarhi vanhu lava khumbekaka;

'Holobye' swi vula Holobye wa Vululami na Nhluvukiso wa Vumbiwa;

'ku mangalelana loku nga tshukaka ku endleka' swi vula ku mangalelana loku ku tumbulukaka hikwalaho ka nkwetlembetano;

'swinawana swa khoto' swi vula swinawana swa khoto leswi swi tirhisiwaka eka Tikhoto ta Majisitarata;

'xitatimente xa xikoxo' swi vula xitatimente lexi eka xona munhu loyi a khumbekaka loko a kunguhataka ku koxa ku ku rhuliwa ndzhwalo hi munhu un'wana loyi a khumbekaka a hlamuselaka swipimelo swo twisiseka na ku va leswi komeke leswi kongomaka timhaka ta nkoka leti nga eku langutisisiweni leti xikoxo xa munhu loyi xi simekiweke ehenhla ka tona;

'xitatimente xa vusirheleri' swi vula nhlamulo yo tsariwa leyi eka yona muhehliwa a hlamuselaka swipimelo swo twisiseka na ku va leswi komeke leswi kongomaka mhaka ya koka leyi nga eku langutisisiweni leyi vusirheleri byi simekiweke ehenhla ka yona.

2 Matirhiselo ya swinawana leswi

(1) Swinawana leswi swi tirha eka-

(a) ku titisa ko tinyikela eka vulamuri ku nga si sungula ku mangalelana eka Tikhoto ta Majisitarata; na

(b) ku mangalelana ka sweswi eka Tikhoto ta Majisitarata, ehansi ka swiyimo leswi swi vuriweke eka swinawana swa 6 na 7 swa Swinawana leswi.

(2) Swinawana leswi a swi sivi swihi kumbe swihi swa swinawana swa Tikhoto ta Majisitarata.

3 Ku kongomisiwa eka vulamuri

(1) Nkwetlembetano wu nga kongomisiwa eka vulamuri-

(a) hi munhu wihi kumbe wihi ku nga si sungula ku mangalelana loku tshukaka ku endleka;

(b) hi munhu wihi kumbe wihi endzhaku ka ku sungula ka ku mangalelana kambe ku nga si va na vuahluri: Ntsena loko laha mutengo wu nga sungula vanhu lava khumbekaka va fanele ku kuma mpfumelelo wa khoto;

(c) hi muofisiri wa vuanvanyisi eka nkarhi wihi kumbe wihi endzhaku ka ku sungula ka ku mangalelana loko muofisiri wa vuavanyisi a tshemba leswaku ku na xivangelo xa kahle xo endla tano.

4 Mitirho na vutihlamuleri bya muofisiri wa matshunxelo ya nkwetlembetano

- (1) Muofisiri wa matshunxelo ya nkwetlembetano u fanele ku hlamusela vanhu lava khumbekaka hinkwavo—
 - (a) xikongomelo xa matshunxelo man'wana ya nkwetlembetano, nhlamuselo, swikongomelo na mivuyelo, ku katsa na ku hlayisa tihakelo, ta vulamuri; na
 - (b) tihakelo ta vulamuri, leti ti simekiweke eka Xiengetelwa xa swinawana leswi.
- (2) Muofisiri wa matshunxelo ya nkwetlembetano u fanele ku tivisa vanhu lava khumbekaka leswaku va ta pfuniwa hi vayimeri va xinawu lava va tsakelaka hi ku va va tihakelela.
- (3) Muofisiri wa matshunxelo ya nkwetlembetano u fanele, hi ku tirhisana na vanhu lava khumbekaka, a endla mitirho na vutihlamuleri lebyi nga eka xinawana lexi na le ka swinawana swa 5 na 6.
- (4) Loko ku fikeleriwa ntwanano wa ku lamula, muofisiri wa matshunxelo ya nkwetlembetano u fanele ku yisa eka mulamuri-
 - (a) khopi ya ntwanano wa ku lamula;
 - (b) tikhopi ta xitatimente xa xikoxo na xitatimente xa vusirheleri, loko vulamuri bya kona byi ta humelela ku nga si sungula ku mangalelana;
 - (c) tikhopi ta samanisi na nhlamulo eka xihehlo, kumbe xitatimente xa vusirheleri loko nhlamulo eka xihehlo yi nga nghenisiwangi, eka mafambiselo ya magoza yo mangalelana; na
 - (d) tikhopi ta tiafidavhiti ta masungulelo, ta nhlamulo ya muanguri na ta nhlamulo mumangari, kumbe switatimente swa vusirheleri loko tiafidavhiti ta nhlamulelo muanguri ti nghenisiwile, eka mafambiselo ya xikombelo xo tsariwa.

5 Endlelo ro kongomisa eka vulamuri ku nga si sungula ku mangalelana

- (1) Munhu loyi a khumbekaka loyi a tsakelaka ku yisa nkwetlembetano eka vulamuri ku nga si sungula ku mangalelana u fanele ku endla xikombelo hi ku tsala hi fambisana na Fomo ya 1, eka muofisiri wa matshunxelo ya nkwetlembetano wa khoto loyi hi ntolovelolo a nga na matimba ya ndhawu yaleyo ku twa mhaka ya kona loko ku mangalelana swi nga si endliwa.

- (2) Xikombelo xi fanele ku komba—
- (a) loko ku rhuliwa ndzhwalo swi karhi swi koxiwa hi kumbe ehenhla ka munhu loyi a lavaka ku lamuriwa;
- (b) mavito hi xitalo ya munhu lowun'wana a khumbekaka kumbe vanhu lava khumbekaka kumbe vito kumbe mavito lama munhu lowun'wana a khumbekaka kumbe vanhu lava khumbekaka va tivekaka hawona eka munhu loyi a khumbekaka loyi a lavaka vulamuri;
- (c) tiadirese ta ndhawu na poso ya munhu lowun'wana a khumbekaka kumbe vanhu lava khumbekaka eka nkwetlembetano;
- (d) nomboro ya fekisi kumbe adirese ya imeyili ya munhu loyi a khumbekaka loyi a lavaka vulamuri, kumbe loko munhu yaloye a khumbekaka a ri na nomboro ya fekisi kumbe adirese ya imeyili; na
- (e) muxaka wa nkwetlembetano na timhaka ta nkoka leti nkwetlembetano lowu wu simekiweke ehenhla ka tona.
- (3) Muofisiri wa matshunxelo ya nkwetlembetano u fanele a tivisa hinkwavo vanhu van'wana lava khumbekaka leswaku vulamuri byi le ku laviweni naswona u fanele ku vitana munhu loyi a khumbekaka loyi a lavaka vulamuri naswona hinkwavo vanhu van'wana lava khumbekaka va fanele ku ta eka khomferense leyi eka nkarhi wa khume (10) ra masiku, hi swikongomelo swa ku kuma loko hinkwavo kumbe van'wana va vanhu lava khumbekaka va twanana ku yisa nkwetlembetano lowu eka vulamuri.
- (4) Loko eka khomferense leyi yi vuriweke eka xinawanatsongo xa 3 van'wana kumbe hinkwavo ka vanhu lava khumbekaka lava exikarhi ka vona vulamuri byi kotekaka, va pfumela ku yisa nkwetlembetano lowu eka vulamuri, muofisiri wa matshunxelo ya nkwetlembetano u fanele ku-
- (a) thola hi ku tirhisana na vanhu lava khumbekaka mulamuri kumbe, loko vanhu lava khumbekaka va nga twanani hi mulamuri wo karhi, kutani muofisiri wa matshunxelo ya nkwetlembetano u fanele ku thola mulamuri ku suka eka nxaxamelo lowu wu vuriweke eka xinawana xa 14(2);
- (b) kanerisana na mulamuri kutani va veka siku, nkarhi na ndhawu ya vulamuri; na
- (c) fikelela ntwanano wo tsariwa wa vulamuri exikarhi ka vanhu lava khumbekaka lowu wu faneleke ku va na vuxokoxoko lebyi landzelaka:
- (i) vuxokoxoko lebyi vuriweke eka xinawana xa 2(b), (c) na (d) xa xinawana lexi;
- (ii) leswaku vanhu lava khumbekaka va twananile ku lamula nkwetlembetano exikarhi ka vona;

- (iii) siku, nkarhi na ndhawu ya vulamuri;
 - (iv) vito ra mulamuri;
 - (v) nkarhi lowu wu nga ta nyikiwa eka xiyenge xin'wana na xin'wana xa vulamuri;
 - (vi) nkarhi lowu vulamuri byi nga fikisiwa emakumu hawona na ndlela leyi mimpimo ya mikarhi yi nga engeteriwa hayona;
 - (vii) xihundla na nkateko leswi swi khumbaka mimpaluxo eka vulamuri; na
 - (viii) switandzhaku swa munhu wihi kumbe wihi loyi a khumbekaka loyi a nga landzeleriki ntwanano.
- (5) Munhu loyi a khumbekaka loyi a koxaka ku rhuliwa ndzhwalo u fanele ku nghenisa xitatimente xa xikoxo eka muofisiri wa matshunxelo ya nkwetlembetano eka nkarhi wa khume (10) xa nsayino wa ntwanano lowu wu vuriweke eka xinawanatsongo xa 4(c) xa xinawana lexi na ku yisa khopi eka hinkwavo vanhu van'wana lava khumbekaka eka mafambiselo ya vulamuri.
- (6) Munhu loyi a khumbekaka kumbe vanhu lava khumbekaka lava ku rhuliwa ndzhwalo swi nga eku koxiweni ehenhla ka vona va fanele ku nghenisa xitatimente xa vusirheleri eka muofisiri wa matshunxelo ya nkwetlembetano eka nkarhi wa khume (10) ra masiku loko va kuma xitatimente xa xikoxo, kutani va yisa khopi eka hinkwavo vanhu van'wana lava khumbekaka eka mafambiselo ya vulamuri.

6 Ku kongomisa eka vulamuri hi vamangalelani

- (1) (a) Munhu wihi kumbe wihi loyi a khumbekaka eka nkarhi wihi kumbe wihi endzhaku ka ku va ku mangalelana swi sungurile, kambe ku nga si va na mutengo, a nga ha kombela muofisiri wa matshunxelo ya nkwetlembetano, hi ku tsala, ku kongomisa nkwetlembetano lowu eka vulamuri.
- (b) Muofisiri wa matshunxelo ya nkwetlembetano u fanele ku tivisa hinkwavo vanhu van'wana lava khumbekaka leswaku vulamuri bya nkwetlembetano lowu byi le ku laviweni naswona u fanela ku vitana munhu loyi a khumbekaka loyi a lavaka vulamuri na hinkwavo vanhu van'wana lava khumbekaka ku ta eka khomferense eka nkarhi wa khume (10) ra masiku hi swikongomelo swa ku kuma loko hinkwavo kumbe van'wana va vanhu lava khumbekaka va twanana ku ya eka vulamuri.
- (2) Endzhaku ka ku sungula ka mutengo kambe ku nga si va na vuahluri munhu wihi kumbe wihi loyi a khumbekaka a nga ha kombela eka khoto ku kongomisa nkwetlembetano eka vulamuri.

- (3) Loko khoto yi nyika xileriso ku kongomisa nkwetlembetano eka vulamuri, swipimelo swa swinawana swa 4(4); 5(4) na xinawanatsongo xa (4) xa xinawana lexi xi fanele ku tirha.
- (4) (a) Eka timhaka ta magoza yo mangalelana, loko ku nyika xitatimente xa ximfumo xo hlamula swi pfarile, samanisi kumbe xitiyisiso na nhlamulo eka xihehlo, tanihilaha swi vuriweke hakona eka swinawana leswi, swi ta tirha tanihi xitatimente xa nandzu na xitatimente xa vusirheleri, hi ku landzelelana.

(b) Loko nhlamulo eka xihehlo yi nga fikisiwangi, muhehliwa u fanele ku fikisa xitatimente eka nkarhi wa khume (10) ra masiku ya ku fikeleriwa ka ntwanano wa ku lamula.

(c) Eka timhaka to nghenisa xikombelo xo tsariwa, afidavhiti ya masungulelo yi ta tirha tanihi xitatimente xa xikoxo naswona afidavhiti ya nhlamulo ya muanguri loko yi fikisiwa, yi ta tirha tanihi vusirheleri.

(d) Loko afidavhiti ya nhlamulo ya muanguri yi nga fikisiwangi, muanguri u fanele ku fikisa xitatimente xa vusirheleri eka nkarhi wa khume (10) ra masiku ya ku fikeleriwa ka ntwanano wa ku lamula.

7 Ku kongomisa eka vulamuri hi khoto

- (1) Khoto yi nga ha kongomisa vanhu lava khumbekaka eka vulamuri na ku kongomisa nkwetlembetano wa kona eka muofisiri wa matshunxelo ya nkwetlembetano ku nga si va na mutengo kumbe hi nkarhi wa mutengo kambe ku nga si va na vuahluri.
- (2) Loko eka nkarhi wa mutengo vanhu lava khumbekaka va pfumelela ku va nkwetlembetano wu lamuriwa, vanhu lava khumbekaka va fanele ku kombela khoto ku kongomisa nkwetlembetano lowu eka muofisiri wa matshunxelo ya nkwetlembetano.
- (3) Swipimelo swa swinawana swa 4(4) na 5(4) swi fanele ku tirha loko nkwetlembetano wu kongomisiwa eka vulamuri ehansi ka xinawana lexi.

8 Xiave na mitirho ya mulamuri

- (1) Emasungulweni ya vulamuri mulamuri u fanele a tivisa vanhu lava khumbekaka hi leswi landzelaka—

(a) swikongomelo swa vulamuri na xikongomelo xa byona ku fambisa xintshunxo ekaxikarhi ka vanhu lava khumbekaka;

(b) xiave xa ku fambisa tanihi mulamuri loyi a nga voyameliki etlhelo loyi a nga kotiki ku endla swiboho swihi kumbe swihi swa mhaka kumbe nawu naswona loyi a nga kotiki ku kuma vutshembiki bya munhu un'wana na un'wana loyi a tekaka xiave eka vulamuri;

(c) muxaka wa vukonanisi bya mafambiselo yalawo;

(d) swinawana leswi swi fumaka vulamuri;

(e) leswaku mikanerisano na mimpaluxo hinkwayo, hambi yi nyikiwile hi nomo kumbe hi ku tsala, leyi yi endliweke hi nkarhi wa vulamuri i ya xihundla na ku va yi nga tirhiseki tanihi vumbhoni eka khoto yihi kumbe yihi, huvo kumbe foramu yin'wana, handle ka loko mikanerisano na mimpaluxo yi rhekodiwile eka ntwanano wo ololoxa lowu sayiniweke hi vanhu lava khumbekaka, kumbe yi kumeka eka xiyimo xo hambana hi ku landza swinawana swa khoto, kumbe hi ku landza nawu wihi kumbe wihi;

(f) leswaku mulamuri a nga khuthaza eka nkarhi wa vulamuri vanhu lava khumbekaka ku endla mimpaluxo hi xitalo loko hi ku vona ka mulamuri ku paluxa koloko ku nga ha tisa xintshunxo xa nkwetlembetano exikarhi ka vanhu lava khumbekaka;

(g) leswaku a ku na munhu loyi a khumbekaka a nga ha boheleriwaka ku endla mpaluxo wihi kumbe wihi, kambe munhu loyi a khumbekaka a nga ha endla mimpaluxo hi ku tinyikela a ri na nsirhelelo wo fana lowu wu vuriweke eka xinawanatsongo (1) e);

(h) eka hinkwavo vanhu van'wana lava khumbekaka eka mafambiselo ya vulamuri leswaku u ta pfuna ku pfapfarhuta ntwanano wa xintshunxo loko nkwetlembetano wu ololoxiwa ; na

(i) loko nkwetlembetano wu nga ololoxiwangi, mulamuri u fanele a kongomisa nkwetlembetano wu tlhelela eka muofisiri wa matshunxelo ya nkwetlembetano, a n'wi tivisa leswaku nkwetlembetano a wu ololoxekangi.

(2) Eka vulamuri byin'wana na byin'wana mulamuri u fanele a yisa xiviko eka muofisiri wa matshunxelo ya nkwetlembetano a n'wi tivisa hi mbuyelo wa vulamuri eka nkarhi wa ntlhanu (5) wa masiku ya ku hetlwa ka phurosese ya vulamuri.

(3) Mulamuri a nga ha tlherisela endzhaku nkarhi wa vulamuri loko vanhu lava khumbekaka va twanana.

9 Ku yimisiwa ka mimpimo ya nkarhi loko ka ha yimeriwile vulamuri

Mimpimo ya nkarhi leyi lerisiweke hi swinawana swa khoto ku va ku fikisiwa switatimente swa ximfumo swa nkwetlembetano na switiviso, ku tatisiwa ka tiafidavhiti kumbe ku tekiwa ka goza rihi kumbe rihi hi mumangalelani wihi kumbe wihi swa yimisiwa ku suka eka nkarhi wa ku fikeleriwa ka ntwanano wa ku lamula ku fika leka ku fikeleriwa ka mafambiselo ya vulamuri.

10 Mitwanano ya swintshunxo

- (1) Loko ku tshuka ku fikeleriwa xintshunxo, mulamuri u fanele ku pfuna vanhu lava khumbekaka ku pfapfarhuta ntwanano wa xintshunxo, lexi xi faneleke ku hundziseriwa eka muofisiri wa matshunxelo ya mikwetlembetano hi mulamuri.
- (2) Loko xintshunxo xi fikeleriwa eka mafambiselo ya vulamuri eka nkwetlembetano wo karhi lowu a wu nga ri mhaka ya ku mangalelana, muofisiri wa matshunxelo ya nkwetlembetano u fanele ku ngenisa ntwanano wa kona wa xitshunxo loko a kuma ntwanano lowu wa xintshunxo ku suka eka mulamuri.
- (3) Loko ntwanano wu nga fikeleriwi eka mafambiselo ya vulamuri eka nkwetlembetano lowu a wu nga ri mhaka ya ku mangalelana, muofisiri wa matshunxelo ya nkwetlembetano u fanele ku ngenisa xiviko loko a kuma ntwanano lowu wa xintshunxo ku suka eka mulamuri.
- (4) Loko xintshunxo xi fikeleriwa eka mafambiselo ya nkwetlembetano lowu a wu ri mhaka ya ku mangalelana, muofisiri wa matshunxelo ya nkwetlembetano u fanele hi ku komberiwa hi vanhu lava khumbekaka na loko a kuma ntwanano wa xintshunxo ku suka eka mulamuri, a ngenisa ntwanano wa xintshunxo lexi nga emahlweni ka muofisiri wa vuavanyisi eka tihuvo leswaku swi ta tiveka leswaku nkwetlembetano wu ololoxiwile kumbe ku endla ntwanano lowu wu va xileriso xa khoto, loko vanhu lava kumbekaka va fikelela ntwanano.
- (5) Loko xintshunxo xi nga fikeleriwi eka mafambiselo ya vulamuri eka nkwetlembetano lowu a wu ri mhaka ya ku mangalelana, muofisiri wa matshunxelo ya nkwetlembetano u fanele a ngenisa xiviko kutani tivisa mutsarisi kumbe matsalani wa khoto ku endlela leswaku ku mangalelana swi ya emahlweni loko a kuma xiviko ku suka eka mulamuri.
- (6) Ntwanano wun'wana na wun'wana wa xintshunxo wu fanele ku komisiwa hi ku tsala.

11 Mikwetlembetano leyi nga ololoxiwangiki swi hetiseka

Loko ku tshuka ku va na xiphemu xin'wana xa nkwetlembetano exikarhi ka vanhu lava khumbekaka xi tama xi nga ololoxekangi, timhaka leti nga ololoxiwangiki ti nga mangariwa hi vanhu lava khumbekaka.

12 Tihakelo leti ti hakeriwaka eka valamuri

- (1) Tihakelo leti ti hakeriwaka eka valamuri ti leriwile eka tafula leri nga eka Xiengetelwa xa A eka swinawana leswi.
- (2) Vanhu lava va khumbekaka lava nga eku tekeni ka xiave eka phurosese ya vulamuri va fanele ku hakela tihakelo ta mulamuri.
- (3) Ndzhwalo wa tihakelo ta mulamuri wu fanele ku byariwa hi ku ringana exikarhi ka vanhu lava khumbekaka lava kanetanaka lava nga ku tekeni ka xiave eka phurosese ya vulamuri.

13 Vuyimeri bya vanhu lava khumbekaka eka mafambiselo ya vulamuri

- (1) Vanhu lava khumbekaka eka mafambiselo ya vulamuri va fanele ku va kona eka mafambiselo ya kona hi voxwe naswona va nga ha yimeriwa hi vayimeri va xinawu.
- (2) Laha vandla ra vanhu kumbe feme kumbe xinakulobye ku nga vanhu lava khumbekaka vandla ro tano ri fanele ku yimeriwa hi ofixiyali leyi ku suka eka vandla rero ra vanhu, feme kumbe xinakulobye, leyi yi faneleke ku va yi pfumeleriwile hilaha swi faneleke hakona ku yimela vandla ra kona, ku fikelela xintshunxo kutani yi sayina ntwanano wa kona wa xintshunxo hi ku yimela vandla ra kona.
- (3) Laha Mfumo kumbe xiyenge xa mfumo xi nga munhu loyi a khumbekaka eka mafambiselo ya vulamuri vandla ro tano ri fanele ku yimeriwa hi ofixiyali leyi yi pfuniwaka hi gqwethankulu ra mfumo leri ri faneleke ku va ri pfumeleriwile hilaha swi faneleke hakona ku yimela vandla ra kona.

14 Holobye u ta boha switandadi swa ku ringanela na ku hlengeleta nxaxamelo wa valamuri lava nga mpfumelelo wo tirha

- (1) Vufikeleri na switandadi swa ku ringanela ka valamuri ku endla vulamuri lebyi byi vuriweke eka swinawana leswi swi fanele ku bohiwa hi Holobye.
- (2) Holobye u fanele nkarhi na nkarhi a nyika nxaxamelo wa valamuleri lava nga na mpfumelelo wo tirha ku endla mitirho na swikongomelo leswi nga eka swinawana leswi.

15 Vito ro koma

Swinawana leswi swi ta vuriwa tanihi Swinawana swa Vulamuri byo Tinyikela lebyi Engeteriweke hi Khoto swa Tikhoto ta Majisitarata.

**MILAYO YA TSENGO YA U KONANYA YA U TOU FUNA YA KHOTHE DZA
MADZHISIṬARAṬA**

MARANGAPHANḌA

Musi khethekanyo ya 34 ya Ndayotewa ya Riphabuḷiki ya Afrika Tshipembe, ya 1996 i tshi khwaṭhisedza pfanelo ya muthu muṅwe na muṅwe ya u vha na phambano inwe na inwe ine ya nga tandululwa nga u shumisa mulayo zwo tsheiswa kha dzulo ḷa u thetshesela ḷi pfeseseaho ḷa nnyi na nnyi khothe kana, hune zwa fanela, tsengoni kana kha foramu yo ḍi imisaho nga yoṭhe i sa dzhiho sia;

Musi khethekanyo ya 6(1) ya Bodo ya Milayo ya Mulayo wa Milayo ya Khothe wa 107 wa 1985 i tshi ṅea maanḍa Bodo ya Khothe dza Mulayo (Bodo ya Milayo) yo thomiwaho nga fhasi ha khethekanyo ya 2 ya Mulayo u itela u sedzulusa milayo ya khothe ine ya vha hone, u sika milayo ya Khothe Khaṭhululi, Khothe Khulwane na khothe dza fhasi u laula maitete na matshimbidzele zwi tshi kwamana na mupikisano na u laula nga u angaredza mafhungo maṅwe na maṅwe ane a nga vha a ndeme kana a na mushumo kha kushumele kwa mishumo kwo teaho kwa khothe dzo bulwaho kha tsengo dza milandu ya vhadzulapo na ya vhutshinyi/vhugevhenga;

Musi Khuvhangano ya Tswikelelo kha Vhulamukanyi yo farwaho nga ṅwedzi wa Fulwana 2011, nga fhasi ha vhurangaphanḍa ha Muhaṭuli Muhulu, yo livhiswa kha u swikelela ṅḍisedzo ya vhulamukanyi vhu swikeleleaho havhuḍi kha vhoṭhe, yo tendelana zwauri hu fanela u dzhiwa maga a u ḍivhadza inwe ṅḍila ya u tandulula phambano kha sisteme ya khothe, nga maanḍa ho sedzwa tsengo ya u konanaya kana luṅwe lushaka lwa u tandulula phambano lwa CCMA;

Musi ndivho khulwane dza u konanya hu u:

- (a) tuṭuwedza tswikelelo kha vhulamukanyi;
- (b) tuṭuwedza vhulamukanyi ha mbuedzedzo;
- (c) vhulunga vhushaka vhukati ha vhapikisani kana vhapikisani vhane vha nga vha hone vhune ha nga hoṭefhala kana u tshinyala nga mulandu wa masiandaitwa a si avhuḍi a mupikisano;
- (d) tuṭuwedza thandululo ya phambano nga u ṭavhanya nahone i sa ḍuri vhukati ha vhapikisani kana vhapikisani vhane vha nga vha hone;
- (e) thusa vhapikisani kana vhapikisani vhane vha nga vha hone u vhona mathomoni a mupikisano kana phanḍa ha musi mupikisano u tshi thoma arali u bvela phanḍa na tsengo kana khumbelo i hanedzanaho zwi tshi vha fusha kana hai;
- (f) tendela vhapikisani kana vhapikisani vhane vha nga vha hone u humela murahu kha mupikisano arali ndingedzo dza u konanya dzi songo bvelela;
- (g) langula matshimbidzele a mupikisano na milayo ya vhuṭanzi; na u
- (h) ṅetshedza vhapikisani kana vhapikisani vhane vha nga vha hone thandululo dza phambano, dzine dza vha ṅṭha ha mushumo na maanḍa a vhaofisiri vha zwa vhulamukanyi;

Musi Miniṣṭa wa Vhulamukanyi na Mveledziso ya Ndayotewa vho laela Bodo ya Milayo u sika milayo ine ya ḍo laula matshimbidzele a u fhirisa nga u tou funa kha tsengo ya u konanya ya phambano dza vhadzulapo, ine ya ḍo shumiswa nga u tou nanguludza kha dziṅwe khothe;

Zwenezwo Bodo ya Milayo yo sika milayo i tevhelaho u itela u laula matshimbidzele a tsengo ya u konanya ya u tou funa ya phambano dza vhadzulapo Khothe dza Madzhisiṭaraṭa:

1 **Ṭhalutshedzo**

Kha milayo iyi nga nṅḁa ha musī mafhungo o sumbedza nga iṅwe nḁila:

'**vhukando**' zwi amba mupikisano wo thomiwaho nga u ṅetshedzwa ha samanisi;

'**iṅwe thandululo ya phambano**' zwi amba maitete, ane muthu o ḁi imisaho nga eṭhe a sa dzhiho sia a thusa zwigwada u lingedza u tandulula phambano vhukati hazwo, hu nga vha phanḁa ha musī mupikisano u tshi thoma kana nga murahu hawo;

'**u thoma u shumiwa**' zwi amba mupikisano wo no thomaho nga nḁivhadzo ya tsho i fheletshedzwaho nga afidaviti;

'**ḁuvha**' zwi amba ḁuvha ḁa khothe, ḁine ḁa si katele Migivhela, Swondaha na maḁuvha a u awela a nnyi na nnyi;

'**muhwelelwa**' hu katelwa na muvhudziwa na tshigwada tshinwe na tshinwe tshine tsha ḁo vha tshi tshi khou imelela phambano arali mupikisano wav ha wo no thomiwa;

'**u ṅetshedza**' zwi amba u ṅetshedza maṅwalo kha tshinwe tshigwada tshine tsha vha tshipiḁa tsha mupikisano na u faila maṅwalo a u thoma na mulangakhothe kana mabalane wa khothe;

'**phambano**' zwi amba mafhungo ane a khou pikisaniwa ngao kana ane a nga pikisaniwa ngao vhukati ha zwigwada kana tshipiḁa tshao;

'mutshea mafhungo' zwi amba muthu ane a langula maitete mañwe a u tandulula phambano ane mishumo yawe yo sumbedzwa kha milayo iyi;

'muofisiri wa vhulamukanyi' zwi amba Madzhisiṭaraṭa kana Madzhisiṭaraṭa wa u engedzela kana Muthusa Madzhisiṭaraṭa kana Madzhisiṭaraṭa wa Dzingu

'mupikisi' zwi amba tshigwada kha mupikisano;

'mupikisano' zwi amba matshimbidzele a khothe o thomiwaho nga u dzhia vhukando;

'vhukonanyi' zwi amba maitete ane mukonanyi a thusa zwigwada zwine zwa khou pikisana kana kha mupikisano une wa nga vha hone u tandulula phambano vhukati hazwo nga u ṭuṭuwedza nyambedzano vhukati ha zwigwada, a tshi khou vha thusa u topola thaidzo, u bvisela khagala zwine zwa vha zwa ndeme, u wana fhethu hune zwa nga kona u konḑelelana na u bveledza maga kha ndingedzo dza u tandulula phambano;

'mukonanyi' zwi amba muthu o nangiwaho, nga zwigwada kana nga mutshea mafhungo u bva kha mutevhe wo buliwaho kha mulayo wa 14(2), uri a konanye phambano vhukati ha zwigwada;

'Minisṭa' zwi amba Minisṭa wa Vhulamukanyi na Mveledziso ya Ndayotewa;

'mupikisano une wa nga vha hone' zwi amba mupikisano une wa nga bvelela nga nṭhani ha phambano;

'milayo ya khothe' zwi amba milayo ya khothe ine ya shuma Khothe dza Madzhisiṭaraṭa;

'tshitamennde tsha mbilo' zwi amba tshitamennde tshine tshigwada tshine tsha khou ṭoḑou vhila u awedzwa huñwe na huñwe kha tshiñwe tshigwada tsha vhekanya

mafhungo ane mbilo ya khou ɔi sendeka ngao nga ndila ine ya vha khagala nahone nga u tou pfufhifhadza;

'tshitatamennde tsha u ɔi imelela' zwi amba phindulo yo tou nwaliwaho ine muhwelelwa a bvisela khagala nyimele ya mafhungo awe ane u ɔi imelela uho ha khou ɔi tika ngao.

2 U shumiswa ha milayo iyi

(1) Milayo iyi i shuma kha-

(a) u kumedzela phambano kha vhukonanyi nga u tou funa phanda ha musu mupikisano u tshi thoma Khothe dza Madzhisiṭaraṭa; na

(b) kha mupikisano une wa vha hone zwino Khothe dza Madzhisiṭaraṭa, nga fhasi ha nyimele dzo sumbedzwaho kha milayo ya 6 na 7 ya Milayo iyi.

(2) Milayo iyi a i imeli milayo miṅwe na miṅwe ya Khothe dza Madzhisiṭaraṭa.

3 U fhirisela phambano kha vhukonanyi

(1) Phambano i nga fhiriselwa kha vhukonanyi-

(a) nga tshigwada tshiṅwe na tshiṅwe phanda ha musu hu tshi nga thoma mupikisano une wa nga vha hone;

(b) nga tshigwada tshiṅwe na tshiṅwe nga murahu ha musu mupikisano wo no thoma fhedzi phanda ha khaṭhulo: Tenda hune tsengo ya vha yo no thoma, zwigwada zwa vha zwo wana thendelo ya khothe;

(c) nga muofisiri wa vhulamukanyi tshifhinga tshinwe na tshinwe nga murahu ha musu mupikisano wo no thoma arali muofisiri wa vhulamukanyi a tshi tenda uri hu na zwiitisi zwi pfallaho zwauri hu itiwe ngauralo.

4 Mishumo ya mutshea mafhungo

(1) Mutshea mafhungo u fanela u tšalutshedza zwigwada zwothe —

(a) ndivho ya inwe thandululo ya phambano, zwine vhukonanyi ha amba zwone, ndivho khathihi na mbuelo dza hone, hu tshi katelwa u vhulunga masheleni; na

(b) mbadelo dza vhukonanyi, zwi tshi ya nga Tshipidanyengedzedzwa tsha milayo iyi.

(2) Mutshea mafhungo u fanela u dikhadza zwigwada zwothe zwauri zwi nga thusiwa nga vhaimeleli vha zwa mulayo vhane vha tou di nangela vhone vho sedza mitengo yavho.

(3) Mutshea mafhungo u fanela u ita mishumo ine ya vha kha mulayo uyu na kha milayo ya 5 na 6 o kwamana na zwigwada zwothe.

(4) Musi ho no fhedziwa thendelano ya vhukonanyi, mutshea mafhungo u fanela u rumela mukonanyi-

(a) khophi ya thendelano ya u konanya;

(b) khophi ya tshitatamennde tsha mbilo na ya tshitatamennde tsha u di imelela, arali vhukonanyi vhu tshi khou ya u itiwa phanḁa ha musu mupikisano u tshi thoma;

(c) khophi dza samanisi na phindula mulandu, kana tshitatamennde tsha u di imelela arali hu si na phindula mulandu yo failiwaho, kha tsengo ya mbilo; na

(d) khophi dza afidaviti dza vhuṭanzi ha mathomo, dza u fhindula, kana tshitatamennde tsha u ḡi imelela arali hu si na afidaviti ya u fhindula yo swikiswaho, tsengoni.

5 Matshimbidzele a u fhirisela kha vhukonanyi phanḡa ha musi mupikisano u tshi thoma

(1) Tshigwada tshine tsha khou tama u swikisa phambano kha vhukonanyi phanḡa ha musi mupikisano u tshi thoma tshi fanela u ita khumbelo nga u tou nṱwala hu tshi khou tevhedza Fomo ya 1, kha mutshea mafhungo wa khothe ine ya nga vha na maanḡa a u thetshesela mafhungo ayo arali ha nga thomiwa mupikisano

(2) Khumbelo i fanela u sumbedza—

(a) arali hu tshi khou vhiliwa u ṱoḡa u awedzwa nga kana kha tshigwada tshine tsha khou ṱoḡa vhukonanyi;

(b) madzina nga vhuḡalo a tshinṱwe tshigwada kana zwinṱwe zwigwada kana dzina kana madzina ane tshinṱwe tshigwada kana zwinṱwe zwigwada zwine zwa kwamea kha phambano zwa ḡivhiwa ngao nga tshigwada tshine tsha khou ṱoḡa vhukonanyi;

(c) ḡiresi ya fhethu (vhudzulo) na ya poswo ya tshinṱwe tshigwada kana zwinṱwe zwigwada zwine zwa kwamea kha phambano;

(d) nomboro ya fekisi kana ḡiresi ya imeilji ya tshigwada tshine tsha khou ṱoḡa vhukonanyi, arali tshigwada tshenetsho tshi na nomboro ya fekisi kana ḡiresi ya imeilji; na

(e) lushaka lwa phambano na vhuṭanzi vhu fareaho vhune phambano ya khou ḡi sendeka ngaho.

(3) Mutshea mafhungo u fanela u ḡivhadza zwinṱwe zwigwada zwoṱthe zwine zwa kwamea kha phambano zwauri ho ṱoḡiwa vhukonanyi nga ha phambano nahone u fanela u ramba tshigwada tshine tsha khou ṱoḡa vhukonanyi na zwinṱwe

zwigwada zwothe uri zwi dzhenele khuvhangano hu sa athu u fhela maduvha a fumi (10), u itela u tshea arali zwigwada zwothe kana zwiwe zwa zwigwada zwi tshi khou tenda u swikisa phambano kha vhukonanyi.

(4) Arali kha khuvhangano yo buliwaho kha mulayo mutuku wa 3 zwiwe zwa zwigwada kana zwigwada zwothe zwine ha nga vha na khonadzeo ya vhukonanyi, zwa tenda u swikisa phambano kha vhukonanyi, mutshea mafhungo u fanela u-

(a) nanga mukonanyi a tshi khou shumisana na zwigwada kana, arali zwigwada zwi sa koni u tendelana nga mukonanyi, zwenezwo mutshea mafhungo u fanela u nanga mukonanyi u bva kha mutevhe wo buliwaho kha mulayo wa 14(2);

(b) kwamana na mukonanyi a dzudzanya datumu, tshifhinga na fhethu hune mafhungo a u konanya a do farelwa hone; na

(c) u dadza thendelano ya u konanya yo tou nwaliwaho ine ya fanela u angaredza zwidombedzwa zwi tevhelaho:

(i) zwidombedzwa zwo buliwaho kha mulayo mutuku wa 2(b), (c) na (d) wa mulayo uyu;

(ii) zwauri zwigwada zwo tenda uri hu konanyiwe phambano ine ya vha vhukati hazwo;

(iii) datumu, tshifhinga na fhethu hune vhukonanyi ha do itelwa hone;

(iv) dzina la mukonanyi;

(v) tshifhinga tshine tsha do vhetshelwa dzulo liwe na liwe la vhukonanyi;

(vi) tshifhinga tshine vhukonanyi ha do vha ho no fhela na ndila ine zwifhinga zwo tiwaho zwa nga engedzedzwa;

(vii) tshiphiri tshi livhanaho na u bviselwa khagala ha mafhungo nga tshifhinga tsha vhukonanyi; na

(viii) masiandaitwa a tshigwada tshinwe na tshinwe tshine tsha do vha tshi sa khou tevhedza thendelano.

(5) Tshigwada tshine tsha khou toda u awedzwa tshi fanela u swikisa tshitamennde tsha mbilo kha mutshea mafhungo hu sa athu fhela maduvha a fumi (10) u bva tshe ha sainiwa thendelano yo buliwaho kha mulayo mutuku wa 4(c) wa mulayo uyu na u rumela khophi kha zwinwe zwigwada zwothe zwine zwa kwamea nga mafhungo a vhukonanyi.

(6) Tshigwada kana zwigwada zwine u awedzwa ha khou vhlwa khazwo zwi fanela u swikisa tshitamennde tsha u di imelela kha mutshea mafhungo hu sa athu u fhela maduvha a fumi (10) musi zwo tangedza tshitamennde tsha mbilo, na u rumela khophi kha zwinwe zwigwada zwothe zwine zwa kwamea nga mafhungo a vhukonanyi.

6 U fhisela kha vhukonanyi nga vhapikisani

(1) (a) Tshigwada tshinwe na tshinwe tshi nga kona u hambela mutshea mafhungo nga u tou nwala, u fhisela phambano kha vhukonanyi tshifhinga tshinwe na tshinwe nga murahu ha musi mupikisano wo no thoma, fhedzi phanda ha tsengo.

(b) Mutshea mafhungo u fanela u divhadza zwinwe zwigwada zwothe zwine zwa kwamea nga phambano zwauri ho todiwa vhukonanyi nahone u fanela u ramba tshigwada tshine tsha khou toda vhukonanyi na zwinwe zwigwada zwothe zwine zwa kwamea nga phambano uri zwi dzhenele khuvhangano hu sa athu u fhela maduvha a fumi (10) u itela u wana arali zwigwada zwothe kana zwinwe zwa zwigwada zwi tshi khou tenda u kumedzela kha vhukonanyi.

- (2) Nga murahu ha musu tsengo yo no thoma fhedzi phanda ha khatulo tshigwada tshinwe na tshinwe tshi nga ita khumbelo kotho ya u fhirisela phambano kha vhukonanyi.
- (3) Arali kotho ya nga netshedza ndaela ya u fhirisela phambano kha vhukonanyi, hu fanela u shuma zwo netshedzwaho kha milayo ya 4(4); 5(4) na mulayo mutuku wa (4) wa mulayo uyu.
- (4) (a) Kha mafhungo a vhukando, arali phindula mulandu dzo no valiwa, samanisi kana khwahisedzo na phindula mulandu, sa zwe zwa sumbedziswa zwone kha milayo iyi, zwi do shuma sa tshitamennde tsha u di imelela, u ya nga u fhambana hazwo.
- (b) Arali phindula mulandu i songo swikiswa, muhwelelwa u fanela u swikisa tshitamennde hu sa athu fhela maduvha a fumi (10) musu ho tendelaniwa u ita zwa vhukonanyi.
- (c) Kha mafhungo a u thoma u shuma, afidaviti ya mafhungo a mathomo i do shuma sa tshitamennde tsha mbilo nahone afidaviti ya u fhindula arali yo swikiswa, i do shuma sa tshitamennde tsha u di imelela.
- (d) Arali hu songo swikiswa afidaviti ya u fhindula, muvhudziswa u fanela u swikisa tshitamennde tsha u di imelela hu sa athu fhela maduvha a fumi (10) musu ho tendelaniwa u ita zwa vhukonanyi.

7 U fhiriselwa kha vhukonanyi nga kotho

- (1) Kotho i nga, phanda ha tsengo kana nga tshifhinga tsha tsengo fhedzi phanda ha khatulo, laela zwigwada uri zwi di kumedzele kha vhukonanyi ya fhirisela phambano kha mutshea mafhungo.

- (2) Arali nga tshifhinga tsha tsengo zwigwada zwa tenda uri hu konanyiwe phambano, zwigwada zwi fanela u humbela kotho uri i fhirisele phambano kha mutshea mafhungo.
- (3) Zwo netshedzwaho kha milayo ya 4(4) na 5(4) zwi fanela u shuma arali phambano yo fhiriselwa kha vhukonanyi nga fhasi ha mulayo uyu.

8 Mishumo ya mukonanyi

- (1) Mathomoni a vhukonanyi, mukonanyi u fanela u divhadza zwigwada zwothe zwi tevhelaho—
 - (a) ndivho dza vhukonanyi na tshipikwa tshaho tsha u tũtuwedza nzudzanyo vhukati ha zwigwada;
 - (b) mushumo wa u tshimbidza wa mukonanyi sa mukonanyi a sa dzhiho sia ane a sa kone u dzhia tsheo kha mafhungo kana mulayo nahone ane a nga si kone u tshea u fhulufhedzea ha muthu muñwe na muñwe ane a khou shela mulenzhe kha vhukonanyi;
 - (c) tshidzumbe tsha matshimbidzele eneo;
 - (d) milayo ine ya khou langa vhukonanyi;
 - (e) zwauri maambiwa othe na zwine zwa do dzumbululwa, hu nga vha nga u tou amba kana zwo tou nwalihaho, nga tshifhinga tsha u konanya ndi zwa tshiphiri nahone zwi dzhiwa sa vhuñanzi vhu sa tũanganedzeiho kotho inwe na inwe, tsengoni kana kha foramu inwe na inwe, nga nũda ha musu maambiwa na zwo dzumbululwaho zwo rekhodiwa kha thendelano ya nzudanyo yo sainiwaho nga zwigwada, kana zwa tou vha zwi waneaho u ya nga milayo ya kotho, kana u ya nga muñwe mulayo vho;

(f) zwauri mukonanyi a nga tšutšuwedza zwigwada uri zwi dzumbulule mafhungo nga tshifhinga tsha dzulo la vhukonanyi arali a tshi vhona uri u dzumbulula honoho hu nga tšutšuwedza thandululo ya phambano vhukati ha zwigwada;

(g) zwauri a huna tshigwada tshine tsha nga kombetshedzwa u dzumbulula mafhungo mañwe na mañwe, fhedzi tshigwada tshi nga tou dzumbulula nga u tou funa nga fhasi ha tsireledzo yo bulwaho kha mulayo mutšuku wa (1) e);

(h) zwauri u do thusa u ita mveta mveto ya thendelano ya nzudzanyo arali phambano ya nga tandululwa; na uri

(i) arali phambano ya vha i songo tandululwa, mukonanyi u do humisela murahu phambano kha mutshea mafhungo, a mu divhadza zwauri phambano a yo ngo tandululwa.

(2) Kha vhukonanyi vhuñwe na vhuñwe mukonanyi u fanela u swikisa muvhigo kha mutshea mafhungo a tshi khou mu divhadza mvelelo dza vhukonanyi hu sa athu fhela maḍuvha maḵanu (5) nga murahu ha musu ho fhedziwa mushumo wa vhukonanyi.

(3) Mukonanyi a nga fhirisela phanḁa dzulo la vhukonanyi arali zwigwada zwo tenda.

9 U fahewa ha tshifhinga tsho tewaho musu hu tshi kha ḁi itwa zwa u konanya

Tshifhinga tsho tewaho tsho randelwaho nga milayo ya khothe tsha u swikisa phindula milandu na ndivhadzo, u swikisa afidaviti kana u dzhia lḁa lḁiñwe na lḁiñwe nga mupikisi tshi a fahewa u bva tshifhinga tshe thendelano ya u konanya ya fhedziwa ngatsho u swika tshifhinga tsha musu hu tshi fhedzwa tsengokhonanyi.

10 Thendelano dza nzudzanyo

- (1) Kha nyimele ine ha vha ho swikelelwa nzudzanyo, mukonanyi u fanela u thusa zwigwada u ita mveta mveto ya thendelano ya nzudzanyo, ine ya fanela u fhiriselwa kha mutshea mafhungo.
- (2) Arali ho swikelelwa nzudzanyo kha tsengokhonanyi ya kha phambano ye ya si vhuye ya pikisaniwa ngayo, mutshea mafhungo, u fanela u faela thendelano ya nzudzanyo musi a tshi tou țanganedza thendelano ya nzudzanyo u bva kha mukonanyi.
- (3) Arali hu songo swikelelwa nzudzanyo kha tsengokhonanyi kha phambano ye ya si vhuye ya pikisaniwa ngayo, mutshea mafhungo u fanela u faela muvhigo musi a tshi tou țanganedza muvhigo u bva kha mukonanyi.
- (4) Arali ho swikelelwa nzudzanyo kha tsengokhonanyi kha phambano ye ya si vhuye ya pikisaniwa ngayo mutshea mafhungo, o humbelwa nga zwigwada musi a tshi tou țanganedza thendelano ya nzudzanyo u bva kha mukonanyi u fanela u swikisa thendelano ya nzudzanyo phanđa ha muofisiri wa vhulamukanyi khothe u itela uri a vhone zwauri phambano yo tandululwa kana uri a ite thendelano yeneyo ndaela ya khothe zwi tshi bva kha thendelano ya zwigwada.
- (5) Arali hu songo swikelelwa nzudzanyo kha tsengokhonanyi kha phambano ye ya si vhuye ya pikisaniwa ngayo, mutshea mafhungo u fanela u faela muvhigo a đivhadza mulangakhothe kana mabalane wa khothe u itela uri mupikisano u bvele phanđa musi a tshi tou țanganedza muvhigo u bva kha mukonanyi.
- (6) Thendelo ya nzudzanyo inwe na inwe i fanela u fhungudziwa nga u tou nwaliwa.

11 Phambano dzi songo dzudzanywaho dza fhelela

Tshipiḁa tshinwe na tshinwe tsha phambano vhukati ha zwigwada tsha sala tshi songo tandululwa, maffungo a songo tandululwaho a nga pikisaniwa ngao nga zwigwada.

12 Mbadelo dzine dza badelwa vhakonanyi

- (1) Mbadelo dzine dza badelwa vhakonanyi dzo randelwa kha mbekanyo ine ya vha kha Tshipiḁanyengedzedzwa tsha A tsha milayo iyi.
- (2) Zwigwada zwine zwa khou shela mulenzhe kha maitete a vhakonanyi zwi fanela u badela mbadelo dza mukonanyi.
- (3) Vhudiḁhinduleli ha mbadelo dza mukonanyi vhu fanela u kovhekanywa nga u lingana vhukati ha zwigwada zwine zwa khou hanedzana zwine zwa khou shela mulenzhe kha maitete a vhakonanyi.

13 U imelwa ha zwigwada kha tsengokhonanyi

- (1) Zwigwada zwine zwa khou shela mulenzhe kha tsengokhonanyi zwi fanela u dzhenela matshimbidzele eneo nga zwone zwiḁe nahone zwi nga imelwa nga vhaimele vha zwa mulayo.
- (2) Hune muthu tshimulayo kana ḁimaga kana khamphani ya vha tshipiḁa tsha tsengokhonanyi tshiimiswa tshenetsho tshi fanela u imelwa nga muofisiri a bvaho kha muthu tshimulayo, ḁimaga kana khamphani, ane a ḁo vha o tendelwa lwa mulayo u imela tshiimiswa tshenetsho, uri hu itiwe nzudzanyo na u saina thendelano ya nzudzanyo o imela tshiimiswa tshenetsho.

(3) Hune muvhuso kana tshiimiswa tsha muvhuso tsha vha tshipiḁa tsha tsengokhonanyi tshiimiswa tshenetsho tshi fanela u imelwa nga muofisiri a tshi khou thusiwa nga axenḁe wa muvhuso ane a fanela u vha o tendelwa u imela tshiimiswa.

14 Miniṣṭa u ta zwilinganyo zwa u fanela ha vhakonanyi na u dzudzanya mutevhe wa vhakonanyi vho themendelwaho

(1) Ndalukano na zwilingano zwa u fanela ha vhakonanyi u tshimbidza vhukonanyi ho bulwaho kha milayo iyi zwi fanela u tiwa nga Miniṣṭa.

(2) Miniṣṭa u fanela u ḁetshedza mutevhe wa vhakonanyi vho themendelwaho nga murahu ha tshifhinga tsho tiwaho uri vha ite mishumo na ndivho dza milayo iyi.

15 Dzina nga u pfufhifhadza

Milayo iyi i ḁo vhidzwa upfi Milayo ya Tsengo ya u konanya ya u tou funa ya Khothe dza Madzhisiṭaraṭa.

IMITHETHO EYONGEZELELWEYO YEENKUNDLA ZIKAMANTYI YOKUZIKHETHELA UKULANYULELWA

INTSHAYELELO

Nangona icandelo lama-34 lomGaqo siseko weloMzantsi Afrika, ngowama-1996 liqinisekisa ukuba wonke ubani unelungelo lokubanaso nasiphi na isikhalazo esinokuthi sisonjululwe ngokubandakanywa komthetho ngokugqitywe kumanyelwe nguwonke wonke kwinkundla yomthetho kungenjalo, apho kufanelekileyo kwelinye iqumrhu elizimeleyo.

Nangona icandelo le- 6(1) nelingomthetho we-107 wama- 1985 ongeQumrhu eliqukunqa imiGaqo yeeNkundla zemiThetho unika amandla iQumrhu eliqukunqa imiGaqo yeeNkundla zemiThetho eyaqulunqwa phantsi kwecandelo lesi-2 loMthetho wokuphononongwa kwemithetho ekhoyo yenkundla ukuze kwenziwe imithetho yeNkundla ePhakamileyo, i yeziBheni, iNkundla ePhakamileyo kunye neenkundla ezincinane ezisezantsi ezimisela ukusebenza nendlela ezisebenza ngayo malunga namatyala nokumisela ngokubanzi nayo nayiphi na into ebalulekileyo ekwenziweni ngendlela eyiyo yemisebenzi yeenkundla ezixeliweyo ngokunjalo neendlela iinkundla eziwaqhuba ngayo amatyala.

Kanti ukufikelela kwiNkomfa yezoBulungisa eyayibanjwe kweyeKhala ngonyaka wama-2011, phantsi kubunkokheli beJaji Mongameli, ukuze kuphunyezwe ukufikeleliswa kwezobulungisa ezikwinqanaba eliphezulu kumntu wonke. Kwafikelelwa kwisigqibo sokuba makuthatyathwe amanyathelo okuqaliswa ngezinye iindlela sokusombulula izikhalazo kubhekiselwe kwiingxoxo ezihlonjwe kwinkundla okanye kusetyenziswa uhlobo oluthi lusetyenziswe ngabeCCMA xa besombulula izikhalazo enkundleni;

Nanjengoko iinjongo eziphambili zokungenelela kwiingxoxo ikoku kulandelayo:

- (a) ukuqinisekisa ukuba wonke ubani uyafikelela kubulungisa;
- (b) ukukhuthazwa kobulungisa obukwinqanaba eliphezulu;
- (c) ukugcinwa kobuhlobo obububo phakathi kwabo sele bemangele kunye nabo basezakumangala nobunokuthi buphazamiseke kungenjalo bonakale ngenxa yobume betyala elo;
- (d) ukungenelela ukuze uthobe iindleko zetyala elo labamangali;
- (e) ukuncedisa abamangali ukuqinisekisa kwasekuqaleni kwetyala okanye phambi kokuba liqale ukuba ukuqhubeka netyala elo okanye isicelo esiphikisiweyo kuyakubaluncedo na kubo okanye hayi;

- (f) ukuvumela abamangali ukuba babuyele etyaleni nje ukuba iinzame zokungenelela kwenkundla zingaphumeleli;
- (g) ukwazisa ngemigaqo yokumangala kunye nemithetho yobungqina;
- (h) ukunika abamangali izisombululo zezikhalazo, ezingaphaya kwamandla amagosa ezomthetho;

Nanjengoko uMphathiswa wezoBulungisa nokuPhuculwa komGaqo-siSeko ekhokhele iQumrhu eliqulunqa imiGaqo yeNkundla ukwenza imithetho exhasa imigaqo yokuziyela kwinkundla yokuzikhethelela ukuze kusonjululwe izikhalazo zokuhlala, neyakusetyenziswa ngokungesosigxina kwiinkundla ezithile.

IQumrhu eliqulunqa imiGaqo yeNkundla lenze imithetho elandelayo neyakubasisikhokhelo ngendlela eziyakuthi zisebenze ngayo iinkundla zokuzikhethelela ukuze kusonjululwe izikhalazo zokuhlala kwiiNkundla zooMantyi:

1 linkcazelo zazo

Kulemithetho ngaphandle kokuba itolikwe ngolunye uhlobo emxholweni:

'inyathelo' ithetha ukuba isimangalo siqale ngokukhutshwa komsila wengwe.

'enye indlela yokusonjululwa kwetyala' ithetha ukuba umntu ozimeleyo okanye ongabandakanyekiyo etyaleni uncedisa abo babandakanyekayo ukuze basombulule isikhalazo esiphakathi kwabo, phambi okanye emva kokuba isimangalo sifakiwe;

'isicelo' ithetha ukuba isimangalo siqale ngesaziso sesicelo size silandelwe sisifungo esibhaliweyo okanye iafidavithi;

'usuku' ithetha ukuthi usuku lokuhlala kwenkundla, nolungabandakanyi imiGqibelo, iiCawa kunye neeholide zikawonke wonke;

'ummangalelwa' kuquka nawuphi na othe wamangalelwa aze abe wenza iinzame zokuzikhusela etyaleni akube emangalelwe;

'ukudlulisa' ithetha ukuhambisa incwadana ekotshiwewayo kulowo umangalelwayo ukuze ugcine kuvimba woluhlu okanye unobhala wenkundla incwadi leyo ingundoqo;

'isikhalazo' sithetha into leyo ummangali nommangalelwa baphikisana ngayo;

‘igosa elisombulula isikhalazo’ kubhekiselwe emntwini ojongana nezinye iindlela zokusombulula isikhalazo kwaye imisebenzi yakhe ixeliwe kulemigaqo;

‘igosa lezomthetho’ ibhekisele kuMantyi okanye uMantyi owoNgezelelweyo okanye uMncedisi kaMantyi okanye uMantyi ophethe isithili eso

‘ummangali’ ibhekisele kulowo umangeleyo;

‘isimangalo’ ibhekisele kukuchotshelwa kwetyala emva kokuba ummangali elazisile kwabongamela ezomthetho;

‘mediation ‘ukulanyulwa’ yindlela apho umlamli aye ancedise ummangali nommangalelwa kwisimangalo eso sifakiweyo okanye sisezakufakwa ukusombulula isikhalazo phakathi kwabo ngokuquzelela iingxoxo, ebanceda ukuze bachonge basombulule izinto ezibalulekielyo kunezinye, bafumane nezinto abanokuthi bahlangabezane ngazo kwaye ebabonisa ezinye iindlela abanokuzisebenzisa ukusombulula isikhalazo esi;

‘umlamli’ ithetha umntu owonyuliweyo ngabo babandakanyekayo okanye ligosa elisombulula izikhalazo nelikuluhlu ekujoliswe kulo kumthetho we- 14(2), ukulamla isikhalazo esiphakathi kwaba babini;

‘uMphathiswa’ kuthetha uMphathiswa wezoBulungisa nokuPhuculwa koMgaqo siSeko;

‘isimangalo esinokubakho’ sitheths isimangalo esinokuvela kwisikhalazo;

‘imithetho yenkundla’ ithetha imithetho yenkundla esetyenziswa kwiiNkundla zikaMantyi;

‘inkcazo yofak’ ibango’ inkcazo enikwa ngummangali ebanga kwaye ebeka ngokucacileyo izinto eziphathekayo ezinokulinganiswa nebango elo;

‘inkcazo yokuzikhusela’ ithetha okubhaliweyo apho ummangalelwa acacisa ngokuthe gca ukuba kutheni ukuba kutheni ezikhusela etyaleni;

2 Ukusetyenziswa kwale mithetho

(1) Le mothetho isetyenziswa-

(a) xa ubani ethe wavuma ngokuzikhethelela ukuba kubekho ukulanyulwa kwesikhalazo phambi kokuba isimangalo siqale kwiNkundla kaMantyi;

(b) isimangalo esiqhubekayo kwiNkundla kaMantyi, phantsi kweemeko ekubhekiselwe kuzo kumthetho wesi-6 nowesi-7.

(2) Le mithetho ayithathi ndawo yayo nayiphi na imithetho yeeNkundla zikaMantyi.

3 Ukuthunyelwa kwetyala kulanyulo

(1) Ityala linokuthunyelwa kulanyulo-

(a) nangubani na phambi kokuba kubekho isimangalo;

(b) ngangubani na emva kokuba isimangalo siqalile phambi kokuwiswa kwesigwebo: Oku kuvumeleke ukuba ityala sele liqalile abo babandakanyekayo bangafumana igunya lokuqhubeka enkundlelni;

(c) ligosa lezomthetho nanini na emva kokuba lingenile ityala ukuba igosa lezomthetho likholelwa ukuba kukho isizathu esibambekayo nesibalulekileyo sokwenza oko.

4 Imisebenzi neemfanelo zegosa elisombulula izikhalazo

(1) Igosa elisombulula izikhalazo kufuneka licacisele bonke ababandakanyekayo;

(a) injongo yeendlela ezahlukeyo zokusombulula ityala, intsingiselo yazo nonokufumana kuzo nokuquka ukunciphisa iindleko zolamlo lwetyala;

(b) amaxabiso okusonjululwa kwetyala nasekelwe kwisihlomele salemithetho.

(2) Igosa elisombulula izikhalazo malazise ababandakanyekayo ukuba bangancediswa ngabameli bezomthetho ababakhethileyo besebenzisa imali ephuma kwezabo iipokotho.

(3) Igosa elisombulula izikhalazo, ngokuqhakamshelana nababandakanyekayo malenze imisebenzi neemfanelo ezibandakanywe kwimithetho yesi-5 nowesi-6.

(4) Ekuququmbeleni isigqibo sokulamla igosa elisombulula izikhalazo malisigqithisele kumlamli-

(a) ikopi yesigqibo sokulamla;

(b) ikopi yenkcazo yofak' ibango nenkcazo yokuzikhusela ukuba ityala lizakulanyulwa phambi kokuba kufakwe isimangalo.

(c) iikopi zemisila yengwe nezezicelo okanye inkcazo yokuzikhusela ukuba akukho sicelo sifakiweyo ukuze ityala lingaqhubekeli phambili;

(d) iikopi zokufunyanwa nokuphendulwa kwezifungo okanye inkcazo yokuzikhusela ukuba akukho mpendulo kwizifungo ethe yagcinwa;

5 Indlela elandelwayo ukuthunyelwa kwetyala kulanyulo phambi kokuba kufakwe isimangalo enkundleni.

(1) Ubani onqwenela ukufaka isikhalazo kulamlo phambi kokuqala kwetyala enkundleni makenze isicelo esibhaliweyo esebenzisa iFomu yoku-1. Makathumele lefomu kwigosa lukulamla izikhalazo zasenkundleni onegunya lokwazi ngetyala ukuba nje isimangalo singenile enkundleni

(2) Isicelo eso masibonakalise oku-

(a) ukuba ngaba lowo ufuna ukukhululeka ngocele ukulanyulelwa okanye lowo uphikisana nalowo ucele ukulanyulelwa

(b) Amagama agcweleyo ababandakanyekayo okanye amagama abaziwa ngawo ngabo basetyaleni kwabo bafuna ukulanyulelwa.

(c) idilesi zababandakanyeka etyaleni neziquka leyo athunyelwa kuyo iposi naleyo ahlala kuyo

(d) inombolo yefeksi okanye idilesi yeimeyili yalowo ufuna ukulanyulelwa ityala.

(e) udidi lwesikhalazo okanye ityala kwakunye nazo zonke iinkcukacha ezilijikelezileyo.

(3) Igosa elisombulula izikhalazo malazise bonke ababandakanyekayo etyaleni ukuba kufakwe isicelo sokulanyulwa kwezikhalazo kwaye makameme ababandakanyekayo kwinkomfa ezakuthatha ixesha kwixesha leentsuku ezili-10, iinjongo zoku kukuqinisekisa ukuba ngaba bonke ababandakanyekayo bayavuma ukufaka isikhalazo sokulanyulwa kwetyala.

(4) ukuba inkomfa le kubhekiselwe kuyo kumthetho ongaphantsi kowesi-3 abanye babo okanye onke amaqela abandakanyekayo phakathi kwabo ulwamlo luzakuqhubeka bayavuma ukufaka isikhalazo sokulanyulwa, igosa elilamla izikhalazo mali-

(a) ngokubambisana namaqela abandakanyekayo mabanyule umlamli okanye ukuba ababoni ngasolinye malunga noku igosa elisombulula izikhalazo malinyule umlamli ngokuxelwe kuluhlu ekumgaqo we-14 (2)

(b) makabaxoxe nomlamli baze babekele ecaleni umhla, ixesha nendawo leyo ukuqalisa kokulanyulwa kwetyala kuyakuqhubeka khona;

(c) aququmbele isigqibo solamlo olubhaliweyo phakathi kwamaqela abandakanyekayo nekufuneka iquke oku kulandelayo: conclude a written mediation agreement between the parties which must contain the following particulars:

(i) iinkcukacha ezibhekisele kumthetho ongaphanti kowesi-2(b) naku- (d) walo mthetho ;

(ii) ukuthi ababandakanyekayo bavumile ukubanomlamli wetyala eliphakathi kwabo;

(iii) umhla, ixesha nendawo yolalmo;

(iv) igama lomlamli;

(v) isiqendu ngasinye soxolelaniso siyakunikwa ixesha elithile; the period of time that will be allocated for each mediation session;

(vi) ubungakanani bexesha eliyakuthathwa ukulanyulwa ityala nendlela eziyakusetyenziswa ezinokukhokhelela ekuncipheni kwexesha nokunokuthi kwandiswe.

(vii) ukugcinwa kweenkcukacha zilihlebo kwakunye nenyhweba yokufakelela ukwaziswa kukuqhubekileyo ngelixa loxolelwaniso;

(viii) iziphumo zalo naliphi na iqela elingasithobeliyo isivumelwano;

(5) ubani ofuna isaphulelo kufuneka afake inkcazo yokufak'ibango kwigosa elisombulula izikhalazo kwisithuba seentsuku ezilishumi (10) emva kokuba esayinele isivumelwano ngokubhekisele kumthetho u4(c) ongaphantsi kwalo mthetho aze athumele ikopi kubo bonke abo babandakanyekayo kule ndima yoxolelaniso.

(6) ubani okanye abo abangahambisaniyo nesaphulelo esi banokufaka eyabo inkcazo yokuzikhusela kwigosa elisombulula izikhalazo kwisithuba seentsuku ezilishumi (10) emva kokuba befumene inkcazo yokufak'ibango, kwaye bathumele ikopi kubo bonke abo babandakanyekayo kwindima yoxolelaniso.

6 Ukuthunyelwa kwabamangali kulamlo.

(1) (a) nabani na nangaliphi ixesha emva kokuba ityala lifikelele kwinkundla yomthetho kodwa lingekaxoxwa angafaka isicelo esibhaliweyo kwigosa lokusombulula izikhalazo esibhekisele ekulanyulweni kwesikhalazo

(b) igosa lokusombulula izikhalazo kufuneka lazise bonke abo babandakanyekayo ukuba kukho ubani ofuna ukulanyulelwa ityala. Kufuneka ebize lowo ufake isicelo sokulanyulelwa ityala ukuze aye kwinkomfa kwiintsuku ezilishumi (10) ngeenjongo zokuqinisekisa ukuba bonke okanye abanye babo bayavuma ukulanyulelwa ityala;

- (2) emva kokuba ityala liqalile kodwa phambi kokuba isigwebo siwiswe nabani na unokufaka isicelo kwinkundla esibhekiselele ekuphikiseni ukulanyulwa kwetyala
- (3) ukuba inkundla iyavumelana nesicelo sokubhena ukuba ubani afumane ukulanyulelwa ityala, iziqulatho zemithetho 4(4); 5(4) kunye nemithetho ongaphantsi kowesi (4) walomthetho kufuneka usetyenzisiwe.
- (4) (a) Apho kuthathelwe khona unyawo ukuba izicelo sele zivaliwe, imisila yengwe okanye izifungo nezicelo, ngokubhekisele kwimithetho zingasetyenziswa nje ngenkcazelo yetyala elo okanye inkcazo yokuzikhusela ngaxeshanye.

(b) ukuba isicelo asihanjiswa, lowo umangalelweyo kufuneka ehambise inkcazelo kwixesha leentsuku ezilishumi (10) emva kokuba kugqitywe kwisivumelwano solamlo

(c) Apho ubani efaka isicelo isifungo esifunyenweyo siyakusetyenziswa njengenkcazelo yebango kunye nesifungo esiyimpendulo ukuba sihanjiswe ngethuba singasetyenziswa nje ngenkcazelo yokuzikhusela.

(d) Ukuba akukhange kubekho sifungo esiyimpendulo esihanjisiweyo, umphenduli kufuneka esithumele kwisithuba seentsuku ezilishumi (10) emva kokuba kugqitywe ngesivumelwano sokulamla ityala.

7 Ukuthunyelwa kulamlo yinkundla

- (1) inkundla ingathumela abo babandakanyekayo phambi okanye emva kwetyala ukuba ukuba bavumele ukulanyulelwa kwaye athumele ityala eli kwigosa lokulamla izikhalazo.
- (2) Ukuba kuthe ngelixa letyala abo bafuna ukulanyulelwa, banokucela inkundla ukuba ithumele ityala kwigosa lokulamla izikhalazo
- (3) Iziqulatho zemithetho 4(4) kunye no 5(4) kufuneka zisetyenzisiwe ukuba isikhalazo sisiwe kulamlo phantsi kwalo mthetho.

8 Imisebenzi yomlamli

- (1) ekuqaleni kolamlo umlamli kufuneka azise abo babandakanyekayo oku kulandelayo-

(a) iinjongo zolamlo kunye neenjongo zalo zokuququzelela ukovana kwamaqela abandakanyekayo;

(b) indima edlalwa ngumlamli yokuququzelela ityala eli engathathi zigqibo zomthetho kwaye engaqinisekisi kuthembeka kwaye namnye ubani othatha inxaxheba kulamlo

(c) indlela yokufumana iinkcukacha ngokuye kuqhubeka;

(d) imithetho yokuphatha ulamlo;

(e) zonke iingxoxo neenkukacha ezinokuthiwa thaca nokuba zenziwe ngomlomo okanye ngembalelwano mazigcinwe ziyimfihlelo kanga ngoko njengoko zisenokuba bubungqina basenkundlelani okanye kwamanye amaqumrhu ngaphandle kokuba iingxoxo neengxelo zishicilelwe kwisivumelwano sokubona ngasonye samaqela abandakanyekayo esisayinwe ngamaqela la, okanye kungenjalo sifumaneki ngokwemithetho yasenkundleni ngokuphathelele kuwo nawuphi na umthetho

(f) umlamli unokuthi ngexesha lolamlo akhuthaze amaqela la ukuba abhentsise zonke iimbono zomlamli ezombono zingancedisa ukufumana isisombululo setyala eliphakathi kwababandakanyekayo.

(g) akukho namnye unyanzelekileyo ukuba adandalazise zinkcukacha kodwa ubani angazichaza iinkcukacha ezo kuba yena ethanda kwaye enokhuselo olufanayo nolo lubhekiselwe kumthetho u (1) e

(h) angancedisa ukusungula isigqibo ukuba isikhalazo esi siye sasombululeka; kwaye that he or she will assist to draft a settlement agreement if the dispute is resolved; and

(i) ukuba isikhalazo asisombululekanga umlamli uyakubhekisela isikhalazo esi kwigosa elisombulula izikhalazo elazisa ukuba isikhalazo esi asikwazi kusombululeka.

(2) Kulo naluphi na ulamlo umlamli kufuneka kwisithuba seentsuku bezintlanu (5) zokuqukunjelwa kokulanyulwa kwetyala angenise ingxelo kwigosa elisombulula izikhalazo elazisa ngesiphumo solamlo.

(3) Umlamli angakumisa ukulanyulwa kwetyala ukuba abo babandakanyekayo bayavuma.

9 Ukumiswa kwezithinteli xesha kulanyulo olusezakubakho

Ukuncipha kwamaxesha ngokuxelwa yimithetho yenkundla okuhambisa izicelo nezaziso, ukugcinwa kwezifungo okanye ukuthathwa kwamanyathelo ngummangali ayanqunyanyiswa ngexesha lokufinyezwa kwesigqibo sokulamla ukuya ekusongweni kokulanyulwa kwetyala lilonke.

10 Ukumiselwa kwezigqibo zokusombulula ityala

- (1) Apho kufikelelwe khona kwisisombululo, umlamli makancedise amaqela abandakanyekayo ukuba enze isivumelwano sokusombulula ityala nekufuneka sidluliselwe kwigosa lokusombulula izikhalazo ngumlamli.
- (2) Ukuba kufikelelwe kwisigqibo sokusombulula ityala ngelixa lokulanyulwa kwetyala kwityala ebelingaxhomekekanga ekumangalweni igosa lokusombulula izikhalazo malithi lakufumana isigqibo sokusombulula ityala kumlamli lisigcine kwifayile yezigqibo zokusombulula amatyala.
- (3) ukuba akufikelelwanga kwisisombululo ngelixa kulanyulwa ityala kwityala ebelingaxhomekekanga kwisimangalo, igosa lokusombulula izikhalazo malithi lakufumana ingxelo liyigcine kwifayile yokugcina iingxelo
- (4) Ukuba isisombululo sifumanekile ngelixa lolamlo lwetyala ebelingaxhomekekanga kwisimangalo igosa lokusombulula izikhalazo malithi ngokucelwa ngabo babandakanyekayo nasekufumaneni isigqibo sokusombulula ityala kumlamli lise isigqibo sokusombulula ityala kwigosa lomthetho ukuze lona liqwalasele ukuba utyala lisonjululwe kungenjalo lenze isivumelwano esingumyalelo wenkundla emveni kokuba evumelene amaqela abandakanyekayo.
- (5) Ukuba isisombululo asifumanekanga ngelixa lolamlo lwetyala ebelixhomekeke kumangalo, igosa lokusombulula izikhalazo malithi lakufumana ingxelo kumlamli liyigcine kwifayile lize lazise unobhala wenkundla ukuze isimangalo siqhubekeke.
- (6) Nasiphi sigqibo sesisombululo masibhalwe phantsi.

11 Amatyala angagqitywanga ncam

Nje ukuba ityala eliphakathi kwabo bathile libe aligqibekanga , zonke izinto ezingagqibekanga mazimangalelwe ngabo babandakanyekayo.

12 Imirhumo eyenziwa kubalamli

- (1) Imirhumo ekufuneka ibhatalwe kubalamli ichazwe ngokubhaliweyo kwisihlomelo A sale mithetho.
- (2) Abo babandakanyekayo kulamlo mababhatale umrhumo womlamli.

- (3) limali ekufuneka zibhatelwe ziluxanduva lamaqela omabini ebandakanyeka ngelixa kulanyulwa ityala.

13 Ukumelwa kwamaqela kulamlo lwetyala

- (1) Amaqela abandakanyeka kulamlo lwetyala mawabekhona ngelixa ulamlo luqhubeka okanye amelwe ngabamelo bomthetho.
 - (2) Apho umntu womthetho okanye inkampani yezomthetho imele obandakanyekayo mayimelwe ngumntu owaziyo umthetho ngokufanelekileyo kwaye mayibengumntu ogunyazisiweyo ukwenza lo msebenzi wokumela ukuze agqibe isivumelwano aze asisayine endaweni yenkampani leyo yezomthetho.
- (3) Apho urhulumente okanye lowo umele urhulumente nguye obandakanyekayo kulamlo lwetyala loo nkampani mayimelwe ligosa lincediswa liggwetha likarhulumente eligunyazisiweyo ukuba limele inkampani le.

14 Umphathiswa uqinisekisa izinga lokufanela ukwenza lomsebenzi kwaye abenoluhlu yabalami abaqinisekisiweyo

- (1) Ezemfundo kunye nezinga lokumela ukwenza umsebenzi lwabalami ukuze bakwazi ukwenza lo msebenzi ngokubhekisele kwimithetho emayiqinisekisewe nguMphathiswa.
- (2) UMphathiswa makamane esizisa uluhlu lwabo bafanele ukwenza lomsebenzi wokulamla.

15 Igama elifinyeziweyo

Le mithetho iyakubizwa ngokuba yimiThetho eyoNgezelelweyo yeeNkundla zikaMantyi yokuziKhethela ukuLanyulelwa .

**IMITHETHO YENQUBO YEZOKULAMULA NGOKUTHANDA ESINGETHWE YINKANTOLO
EZINKANTOLO ZEZIMANTSHI**

ISISHAYELELO

Njengoba isigaba 34 soMthethosiseko WeRiphabhuliki YaseNingizimu Afrika ka 1996 uqinisekisa ilungelo lawo wonke umuntu lokuthi noma iyiphi ingxabano engaxazululeka ngokusebenzisa umthetho, kuthathwe isinqumo ngayo enkundleni enobuqotho phambi kwenkantolo noma, lapho lokho kufaneleke khona, kwenye inkundla ezimele, engachemile;

Nanjengoba isigaba 6(1) seBhodi Yemithetho Yenqubo Yezinkantolo Zomthetho ongunombolo 107 ka 1985 sinikeza amandla iBhodi Yemithetho Yenqubo Yezinkantolo Zomthetho (iBhodi Yemithetho Yenqubo), esungulwe ngokwesigaba 2 salowo Mthetho ukuze kubuyekezwe imithetho yenqubo yezinkantolo ekhona njengamanje, ukwakha imithetho yenqubo yeNkantolo Enkulu Yokudlulisela Amacala, yeziNkatolo Eziphakeme nezinkantolo eziphansi ezilawula ukusebenza nenqubo mayelana nokufaka isimangalo, kanye nokulawulwa kwanoma iluphi olunye udaba okungadingeka noma okungasiza ekuziphatheni ngendlela efanele kwalezo zinkantolo ekuthethweni kwamacala obugebengu nawokuhlawulisa;

Nanjengoba iNgqungquthela Yokufinyelela Kubulungiswa eyayibanjwe ngoJulayi 2011 ngaphansi kobuholi beJaji Elingumphathi, eyayimaqondana nokufinyelela kwezomthetho ngokusezingeni elikahle kwabo bonke abantu, yenza isinqumo sokuthi makuthathwe izinyathelo zokuqalisa ezinye izindlela zokuxazulula izingxabano, okungaba ukulamula okusingethwe yinkantolo noma ezinye izindlela ezifana neze-CCMA zokuxazulula izimpikiswano, ekusebenzeni kwezinkantolo;

Nanjengoba izinhloso eziqavile zokulamula kuyilezi:

- (a) ukukhuthaza ukufinyelela kubulungiswa;
- (b) ukukhuthaza ubulungiswa bokuyibuyisana nokubuyiselwa esimweni sangaphambilini;
- (c) ukulondoloza ubudlelwano phakathi kwalabo abamangalelene noma abangahle bamangalelane, okungenzeka bube nobuhixihixi noma bubhidlizwe ukubangisana okudalwa yikhona ukumangala;

- (d) ukwenza kusheshe futhi kungabizi ukuxazulula ingxabano phakathi kwabamangali noma phakathi kwabangahle bamangalelane;
- (e) ukusiza abamangali noma abangahle bamangalelane ukuthola, kungakahambi sikhathi ekumangaleni noma ngaphambi kokuqala kwecala, ukuthi ngabe ukuqhubeka necala noma nesicelo esiphikisiwe kuyinto engabasiza yini noma cha;
- (f) ukuvumela labo abangabamangali noma abangahle bamangalelane ukuthi babuyele ekufakeni icala uma imizamo yokulamula ingaphumelelanga;
- (g) ukwehlukana nemigudu yokumangala kanye nemithetho yenqubo yobufakazi; kanye
- (h) nokunikeza abamangali noma labo abangahle bamangalele izixazululi kuleyo ngxabano, ezingaphandle kwendima namandla eziphathimandla kwezomthetho;

Nanjengoba uNgqongqoshe Wezobulungiswa Nokuthuthukiswa KoMthethosisekelo ekhiphe isiqondiso wasibhekisa kwiBhodi Yezemithetho Yenqubo ukuba ibumbe imithetho yenqubo ezosingatha imigudu yokudlulisela ngokuthanda, kube kudluliselwa izingxabano zamacala okuhlawulisa asesingethwe yinkantolo, ukuze iqaliswe ngokokuhlola ukusebenziseka kwayo ezinkantolo ezithile;

Ngakho-ke iBhodi Yemithetho Yenqubo isibumbe le mithetho yenqubo elandelayo yokulawula imigudu yenqubo yokulanyulwa ngokuthanda kwezingxabano zamacala okuhlawulisa asuke esesingethwe yinkantolo, eZinkantolo Zezimantshi:

1 Izincazelo

Kule mithetho yenqubo, ngaphandle uma isimo sisho okunye okwehlukile:

‘isinyathelo somthetho’ kusho ukufakwa kwesimangalo esiqaliswe ngokukhishwa kwamasamanisi;

‘ukuxazulula ingxabano ngezinye izindlela’ kusho indlela yokwenza izinto lapho umuntu ozimele futhi ongachemile esiza khona labo abathintekayo ukuzama ukuxazulula ingxabano phakathi kwabo, ngaphambi kokuvulwa kwesimangalo noma emuva kokuqala kwaso;

‘isicelo esiyisaziso’ kusho ukumangala okuqaliswe ngesaziso sesiphakamiso esihambisana nencwadi efungelwe (i-affidavit);

'usuku' kusho usuku lwasenkantolo, okungabaliwe kulo iMigqibelo, aMasonto kanye namaholidi kawonkewonke;

'ummangalelwa' usho noma ubani nanoma iluphi uhlangothi olungaphikisa kwingxabano uma kungaqala ukuvulwa kwecala;

'ukuletha' kusho ukuletha idokumente kulolo hlangothi oluphikisayo kulokho kumangala kanye nokuhambisa idokumente yokuqala (original) kunobhala noma kumabhalane wenkantolo;

'ingxabano' isho lolo daba oluvulelwe icala noma olungahle luvulelwe icala phakathi kwezinhlangothi ezimbili noma ingxenye yalokho;

'oxazulula ingxabano ngezinye izindlela' kusho umuntu ophethe futhi olawula indlela yokuxazulula izingxabano ngezinye izindlela futhi umsebenzi wakhe obekiwe kule mithetho yenqubo;

'ogunyazwe ngamandla omthetho' kusho iMantshi noma iMantshi Yokwengezela noma iPhini Lemantshi noma iMantshi Yesifunda.

'ummangali' kusho olunye uhlangothi kulokho kuvulwa kwecala;

'isimangalo' kusho inqubo yokuvulwa kwecala enkantolo ngokuthatha isinyathelo sezomthetho noma ngesicelo esiyisaziso sokuvulwa kwecala;

'ukulamula' kusho indlela yokusebenza komlamuli ngokusiza izinhlangothi ezikuleso simangalo noma ezingahle zibe kusona ukuze kuxazululwe ingxabano ngokuvula ithuba lezingxoxo phakathi kwazo, ngokusiza ukubalula lokho okuyilona daba olusezithebeni, ukucacisa izinto ezisemqoka, ukuhlola izinto okuvunyelwana ngazo kanye nokuveza okunye okungaba yizisombululi emizamweni yokuxazulula leyo ngxabano;

'umlamuli' kusho umuntu okhethwe yizinhlangothi noma yilowo olawula ukuxalulwa kwezingxabano kulolo luhla olushiwo kumthetho wenqubo 14(2), ukuze alamule ingxabano ephakathi kwezinhlangothi;

'UNgqongqoshe' kusho uNgqongqoshe Wezomthetho Nokuthuthukiswa KoMthethosisekelo;

'isimangalo esingaba khona' kusho isimangalo esingaqhamuka kwingxabano;

'imithetho yenqubo yasenkantolo' isho imithetho yenqubo yasenkantolo esebenza eZinkantolo Zezimantshi;

'isitatimende sokufuna ukubhekelwa' kusho isitatimende lapho uhlangothi olufuna ukubhekelwa ngolunye uhlangothi luye lusho ngokucacile amaphuzu aqonde ngqo ayisisekelo salokho kufuna ukubhekelwa;

'isitatimende sokuphikisa' kusho impendulo ebhaliwe lapho ummangalelwa esho khona ngokucacile amaphuzu aqonde ngqo okusekelwe phezu kwawo lokho kuphikisa.

2 Ukusetshenziwa kwale mithetho yenqubo

(1) Le mithetho yenqubo isebenza kulezi zimo-

(a) ukungena ngokuthanda ohlelweni lokulamula ingxabano ngaphambi kokuqala kwesimangalo eNkantolo Yemantshi; kanye

(b) nakwisimangalo esivulwe eZinkantolo Zezimantshi, ngaphansi kwalezo zimo okukhulunywe ngazo kwimithetho 6 no 7 yale Mithetho Yenqubo.

(2) Le mithetho ngeke ithathe indawo yemithetho yenqubo yeZinkantolo Zezimantshi.

3 Ukudluliselwa ekulamuleni

(1) Ingxabano ingadluliseleka ekulanyulweni-

(a) yinoma iluphi uhlangothi ngaphambi kokuqala kwesimangalo esingahle sibe khona;

(b) yinoma uluphi uhlangothi emuva kokuqala kwesimangalo kodwa ngaphami kokuphuma kwesinqumo senkantolo: Kuye ngokuthi lapho sekuqaliwe ukuqulwa kwecala, izinhlangothi kudingeka zithole ukugunyazwa yinkantolo;

(c) yilowo ogunyazwe ngamandla omthetho kunoma yiziphi izikhathi emuva kokuqala kwesimangalo uma lowo onikwe amandla ezomthetho ekholwa ukuthi kunesizathu esihle sokwenza kanjalo.

4 Imisebenzi yalowo ogunyazwe ukuxazulula izingxabano

(1) Lowo onamagunya okuxazulula izingxabano kumele achazele zonke izinhlangothi—

- (a) inhloso yokuxazulula izingxabano ngezinye izindlela; incazelo yokulamula, izinjongo nemihlomulo, okubalwe kukho nokunciphisa izindleko; kanye
 - (b) nezindleko zokulanyulwa, ngokweSithasiselo esikule mithetho yenqubo.
- (2) Lowo onamagunya okuxazulula izingxabano kufuneka azise izinhlangothi ukuthi kungenzeka zisizwe yilabo ezibakhethele ukuthi bazimele kwezomthetho ngezindleko zazo.
 - (3) Lowo ogunyazwe ukuxazulula ingxabano kumele, ngokubonisana nalabo abathintekayo, enze imisebenzi ekulo mthetho wenqubo nakwimithetho 5 no 6.
 - (4) Lapho sesiphethiwe isivumelwano sokulamula, lowo ogunyazwe ukuxazulula ingxabano kudingeka athumele kumlamuli-
 - (a) ikhophi yesivumelwano sokulanyulwa;
 - (b) amakhophi esitatimende sokufuna ukubhekelwa nawesitatimende sokuphikisa, uma ukulamula kuzokwenziwa ngaphambi kokuqala kwesimangalo;
 - (c) amakhophi amasamanisi nempendulo (plea), noma isitatimende sokuphikisa uma kungekho mpendulo elethiwe, kwizinyathelo zokuvula icala; kanye
 - (d) namakhophi ezincwadi ezifungelwe okusekelwe phezu kwazo, eziphendulayo noma isitatimende sokuphikisa uma ingalethiwe incwadi efungelwe ephendulayo, ekuvulweni kwecala.

5 Inqubo yokudluliselwa ekulanyulweni phambi kokuqala kwesimangalo

- (1) Uhlangothi olufuna ukuthi ingxabano ilanyulwe ngaphambi kokuqala kwesimangalo kudingeka lwenze isicelo esibhaliwe ngokuhambelana neFomu 1, esiqondiswe kulowo ogunyazwe ukuxazulula ingxabano wakuleyo nkantolo okuyiyona ebingaba negunya lokulalela lolo daba uma isimangalo besifakiwe
- (2) Leso sicelo kudingeka sikhombise—
 - (a) ukuthi ngabe ukubhekelwa kufunwa yilolo hlangothi olufuna ukulanyulwa noma kuqondiswe kulona;
 - (b) amagama aphelele alolu olunye uhlangothi noma izinhlangothi noma igama noma amagama uhlangothi noma izinhlangothi ezaziwa ngawo kulolo hlangothi olufuna ukulanyulwa;
 - (c) amakheli endawo naweposi alolu olunye uhlangothi noma izinhlangothi kuleyo ngxabano;

(d) inombolo yefeksi noma ikheli le-imeyili lohlangothi olufuna ukulanyulwa, uma lolo hlangothi lunayo inombolo yefeksi noma ikheli le-imeyili; kanye

(e) nohlobo lwengxabano namaphuzu asemqoka okususelwa kuwo leyo ngxabano.

(3) Lowo ogunyazwe ukuxazulula izingxabano kudingeka azise zonke izinhlangothi ezithinteka kuleyo ngxabano ukuthi kufuneka ilanyulwe leyo ngxabano futhi kudingeka azise lolo hlangothi olufuna ukulanyulwa nazo zonke izinhlangothi ezithintekayo ukuthi zize emhlanganweni zingakadluli izinsuku eziyi 10, ngenhloso yokuthola ukuthi ngabe zonke noma ezinye zezinhlangothi ziyavuma yini ukuthi leyo ngxabano ilanyulwe.

(4) Uma kulowo mhlango okukhulunywe ngawo kumthetho wenqubo wesigatshana 3, ezinye noma zonke izinhlangothi ezingakwamukela ukulanyulwa zivuma ukuletha leyo ngxabano ekulanyulweni, lowo ogunyazwe ukuxazulula ingxabano kudingeka-

(a) ngokubambisana nezinhlangothi, aqoke umlamuli noma, uma izinhlangothi zingavumelani ngomlamuli, uma kunjalo-ke lowo ogunyazwe ukuxazulula kudingeka aqoke umlamuli kulolo luhla okukhulunywe ngalo kumthetho wenqubo 14(2);

(b) abonisane nomlamuli bese bebeka usuku, isikhathi nendawo yokulamula; futhi

(c) aphothule isivumelwano esibhaliwe esizoba phakathi kwezinhlangothi okudingeka siqukathe le mininingwane elandelayo:

(i) imininingwane okukhulunywe ngayo kuzigatshana 2(b), (c) kanye no (d) zalo mthetho wenqubo;

(ii) ukuthi izinhlangothi sezivumelene ngokulanyulwa kwengxabano ephakathi kwazo;

(iii) usuku, isikhathi, nendawo yokulamula;

(iv) igama lomlamuli;

(v) ingxenye yenkathi ezonikezwa isigaba ngasinye somhlangano wokulamula;

(vi) isikhathi okuzophothulwa ngaso ukulamula kanye nendlela okunganwetshwa ngayo isikhathi noma imikhawulo yenkathi;

(vii) ubumfihlo nokungakudaluli lokho okumayelana nezinto ezidalulwe ekulamuleni; kanye

(viii) nemiphumela yesimo lapho noma iluphi uhlangothi lungasilandelanga isivumelwano.

- (5) Uhlangothi olufuna ukulanyulelwa kufuneka lulethe isitatimende sokufuna ukubhekelwa kogunyazwe ukuxazulula ingxabano zingakapheli izinsuku eziyishumi (10) emuva kokusayinwa kwesivumelwano okukhulunywe ngaso ku 4(c) walo mthetho wenqubo bese ethumela ikhophi kuzo zonke ezinye izinhlangothi ezithintekayo ekulanyulweni.
- (6) Uhlangothi noma izinhlangothi okufunwa kulo ukubhekelwa kudingeka lufake isitatimende sokuphendula lusilethe kogunyazwe ukuxazulula zingakapheli izinsuku eziyishumi (10) emuva kokwamukela isitatimende sokufuna ukubhekelwa, bese ehambisa ikhophi kuzo zonke izinhlangothi zalokho kulanyulwa.

6 Ukudlulisela kwabamangali ekulamuleni

- (1) (a) Noma iluphi uhlangothi, noma yingasiphi isikhathi emuva kokuqala kwesimangalo, kodwa ngaphambi kokuthethwa kwecala, lungacela ukuthi lowo ogunyazwe ukuxazulula ingxabano, ngokubhala, adlulisele ingxabano ekulanyulweni.
- (b) Lowo ogunyazwe ukuxazulula izingxabano kudingeka azise zonke izinhlangothi ezithintekayo kuleyo ngxabano ukuthi kufunwa ukulanyulwa kwaleyo ngxabano futhi kudingeka azise lolo hlangothi olufuna ukulanyulwa nazo zonke izinhlangothi ezithintekayo ukuthi zibe khona emhlanganweni zingakadluli izinsuku eziyi 10, ngenhloso yokuthola ukuthi ngabe zonke noma ezinye zezinhlangothi ziyavuma yini ukulanyulwa.
- (2) Ngemuva kokuqala kwecala kodwa ngaphambi kokukhishwa kwesinqumo, noma iluphi uhlangothi lungasifaka isicelo enkantolo sokudlulisela leyo ngxabano ekulanyulweni.
- (3) Uma inkantolo ikhipha umyalelo wokudlulisela leyo ngxabano ekulanyulweni, izihlinzeko 4(4); 5(4) kanye nesigatshana (4) salo mthetho wenqubo kudingeka zisebenze.
- (4) (a) Kulawo macala anamasamanisi, uma amaphuzu empikiswano esephethiwe, amasamanisi, izethulo kanye nempendulo, njengalokho kushiwo kwimithetho yenqubo, kuzosebenza njengesitatimende sodaba nesitatimende sokuphendula, ngokuhambelanayo.
- (b) Uma impendulo ingalethiwe, ummangalelwa kufuneka alethe isitatimende zingakapheli izinsuku eziyishumi (10) emuva kokufinyelela kwesivumelwano sokulanyulwa.

(c) Kulolo daba olunamasanisi, incwadi efungelwe okusekelwe phezu kwayo izosebenza njengesitatimende sokufuna ukubhekelwa futhi nencwadi efungelwe ephendulayo, uma ilethiwe, izosebenza njengesitatimende sokuphendula.

(d) Uma incwadi efungelwe ephendulayo isilethiwe, ummangalelwa kufuneka alethe isitatimende sokuphendula zingakapheli izinsuku eziyishumi (10) emuva kokufinyelela kwisivumelwano sokulanyulwa.

7 Ukudluliselwa yinkantolo ekulamuleni

- (1) Inkantolo, ngaphambi kwecala noma ngesikhathi liqhubeka icala kodwa ngaphambi kokukhishwa kwesinqumo, ingawukhipha umyalelo iwuqondise ezinhlangothini ukuthi ziye ekulanyulweni futhi idlulisele leyo ngabano kulowo ogunyazwe ukuxazulula izingxabano.
- (2) Uma ngesikhathi secala ezinhlangothi zivumelana ngokuthi ingxabano ilanyulwe, ezinhlangothi kudingeka zicele inkantolo ukuthi leyo ngxabano iyidlulisele kulowo ogunyazwe ukuxazulula izingxabano.
- (3) Izihlinzeko zomthetho wenqubo 4(4) no 5(4) kufuneka zisebenze uma impikiswano idluliselwe ekulanyulweni ngaphansi kwalo mthetho wenqubo.

8 Iqhaza nomsebenzi womlamuli

- (1) Ekuqaleni kokulamula, umlamuli kudingeka azazise ezinhlangothi lokhu okulandelayo—
 - (a) inhloso yokulamula kanye nezinjongo zakho ekulungiseleni ukuphetha udaba phakathi kwezinhlangothi;
 - (b) iqhaza lomlamuli lokulungiselela, njengomlamuli ongachemile ongeke enza noma yiziphi izinqumo zomthetho futhi ongeke akwazi ukulawula ubuqotho banoma imuphi umuntu obambe iqhaza kulokho kulamula;
 - (c) ukuba yinkundla yokubuza imibuzo kwalokho;
 - (d) imithetho yenqubo ephethe ukulawula;
 - (e) ukuthi zonke izingxoxo kanye nokudalula, okushiwo ngomlomno noma okubhaliwe, okwenziwe lapho kulanyulwa, kuyimfihlo futhi ngeke kwamukeleke njengobufakazi kunoma iyiphi inkantolo, ethimbeni nakunoma imuphi umhlangano, ngaphandle uma lezo zingxoxo nokudalula kubhaliwe

kwisivumelwano sokuphothula esisayinwe yizinhlangothi, noma okungatholakala ngokwemithetho yenqubo yenkantolo, nangokwanoma imuphi omunye umthetho;

(f) ukuthi umlamuli kungenzeka ngenkathi yokulamula agqugquzele izinhlangothi ukudalula ngokuphelele uma, ngokubona komlamuli, lokho kudalula kungenza kuxazululeke leyo ngxabano ephakathi kwezinhlangothi;

(g) ukuthi akukho luhlangothi olungaphoqelelwa ukudalula, kodwa uhlangothi lungadalula ngokuthanda kwalo ngaphansi kokuvikeleka okufanayo nalokho okukhulunywe ngakho kusigatshana (1)(e) somthetho wenqubo;

(h) ukuthi yena uzosiza ekubhaleni isivumelwano sokuphothula uma leyo ngxabano ixazululeka; kanye

(i) nokuthi uma ingxabano ingaxazululeki, leyo ngabano umlamuli uzoyibuyisela kulowo ogunyazwe ukuxazulula, amtshele ukuthi ayixazululekanga.

- (2) Kukho konke ukulamula, umlamuli kudingeka, zingakapheli izinsuku eziyisihlanu (5), emuva kokuphothulwa kwalokho kulamula, alethe umbiko kulowo ogunyazwe ukuxazulula lapho emazisa khona ngomphumela walokho kulamula.
- (3) Umlamuli angawuhlehlisa umhlangano wokulamula uma izinhlangothi zivumelana.

9 Ukumiswa kwemikhawulo yesikhathi lapho kusalanyulwa

Imikhawulo yesikhathi ebekwe ngokwemithetho yenqubo yenkantolo maqondana nokulethwa kwamaphuzu empikiswano nezaziso, ukulethwa kwezincwadi ezifungelwe nanoma ukuthi ukuthathwa kwezinyathelo okwenziwa yinoma umuphi ummangali kuyamiswa kusukela ekuphethweni kwesivumelwano sokulamula kuze kuphothulwe ukulamula.

10 Izivumelwano Zokuphothula

- (1) Uma kufikwe esivumelwaneni sokuphetha, umlamuli kudingeka asize izinhlangothi ekubhaleni isivumelwano sokuphothula, okudingeka sithunyelwe kulowo ogunyazwe ukuxazulula.
- (2) Uma kuvunyelwana ezingxoxweni zokulamula ingxabano obekungeyona eyesimangalo, ogunyazwe ukuxazulula kumele ukuthi, lapho amukela isivumelwano sokuphothula esivela kumlamuli, asikhweze ngokomthetho leso sivumelwano sokuphothula.

- (3) Uma kungavunyelwananga ezingxoxweni zokulamula ingxabano obekungeyona eyesimangalo, ogunyazwe ukuxazulula kumele ukuthi, lapho amukela umbiko ovela kumlamuli, awukhweze ngokomthetho lowo mbiko.
- (4) Uma kufinyelelwa ekuvumelaneni ezingxoxweni zokulamula ingxabano obekungeyesimangalo, ogunyazwe ukuxazulula kumele, lapho ecelwa yizinhlangothi futhi lapho esethole isivumelwano sokuphetha esivela kumlamuli, leso sivumelwano asethule phambi kwalowo onamandla omthetho egumbini lenkantolo ukuze abhale ukuthi leyo ngxabano seyixazululiwe noma ukuze enze leso sivumelwano sibe ngumyalelo wenkantolo, lapho izinhlangothi sezivumelene.
- (5) Uma kungavunyelwananga ezingxoxweni zokulamula ingxabano yesimangalo, ogunyazwe ukuxazulula kumele ukuthi, lapho amukela umbiko ovela kumlamuli, awukhweze ngokomthetho lowo mbiko bese azisa unobhala noma umabhalane wenkantolo ukuze isimangalo siqhubeke.
- (6) Noma yisiphi isivumelwano sokuphuthula kumele sibhalwe phansi.

11 Izingxabano ezingaphothuliwe ngokuphelele

Uma kukhona noma iyiphi ingxenye yengxabano engaphothuliwe phakathi kwezinhlangothi, izinhlangothi zingasifaka isimmangalo ngalokho okungaxazululiwe.

12 Izimali ezikhokhelwa abalamuli

- (1) Izimali ezikhokhelwa abalamuli zibekiwe ngokomthetho ethebuleni leSithasiselo A sale mithetho yenqubo.
- (2) Izinhlangothi ezibambe iqhaza ekulamuleni kumele zizikhokhe izimali ezikhokhelwa umlamuli.
- (3) Ukukhokhwa kwalezo zimali zomlamuli kumele kube semahlombe ezinhlangothi eziphikisanayo ngokulinganayo, kulokho kulamula.

13 Ukumelwa kwezinhlangothi ezingxoxweni zokulamula

- (1) Izinhlangothi zezingxoxo zokulamula kudingeka zibe khona ngokwazo qobo kulezo zingxoxo futhi kungenzeka zimelwe ngabameli bezomthetho.

(2) Lapho umuntu ongokomthetho noma ifemu noma i-partnership iwuhlangothi ezingxoxweni zokulanyulwa, kudingeka imelwe umuntu ogunyaziwe ukuyimela leyo ndawo ewumuntu ngokomthetho, ifemu noma i-partnership, okudingeka abe egunyazwe ngokufanele ukuyimela, ukuze aphothule isivumelwano futhi asisayine isivumelwano sokuphuthula egameni laleyo ndawo.

(3) Lapho umbuso noma isikhungo sombuso siwuhlangothi lwezingxoxo zokulanyulwa, kudingeka simelwe ogunyaziwe, ebe esizwa ummeli kahulumeni oyigqwetha, okudingeka abe ngogunyazwe ngokufanele ukumela leyo ndawo.

14 UNgqongqoshe uzolawula izinga lokufaneleka futhi enze nohla lwabalamuli abamelekile

(1) Ukuvumeleka namazinga okufaneleka kwabalamuli ukuze bengamele ukulamula okukhulunywe ngakho kule mithetho yenqubo kumele kulawulwe nguNgqongqoshe.

(2) Ngezikhathi nezikhathi uNgqongqoshe kumele enze uhla lwabalamuli abavumeleke ukwenza le misebenzi nezinjongo ezikule mithetho yenqubo.

15 Igama elifushane

Le mithetho yenqubo izobizwa ngokuthi yiMithetho Yenqubo Yokulamula Ngokuthanda Esingethwe Yinkantolo, Ezinkantolo Zezimantshi.