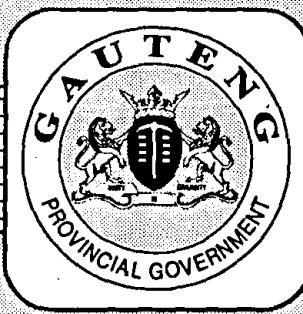


THE PROVINCE OF  
GAUTENG



DIE PROVINSIE  
GAUTENG

# Provincial Gazette Extraordinary Buitengewone Proviniale Koerant

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PRETORIA, 17 DECEMBER 1997  
DESEMBER 1997

No. 430

## GENERAL NOTICE

### NOTICE 3984 OF 1997

In terms of rule 132 (1) (i) of the Standing Rules of the Provincial Legislature the Gauteng Rationalisation of Local Government Affairs Bill is hereby published for general information.

Any person or organisation wishing to comment thereon, may lodge his or her written comment with me within fourteen (14) days from the date of publication hereof by—

(a) posting it to—

The MEC for Development Planning and Local Government  
Private Bag X86  
MARSHALLTOWN  
2107

OR

(b) delivering it to—

17th Floor  
Corner House  
Corner of Commissioner and Sauer Streets  
JOHANNESBURG

OR

(c) Fax to: (011) 355-5401/2.

S. SHICEKA, MEC

Development Planning and Local Government



# RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS BILL, 1997

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

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**BE IT ENACTED** by the Provincial Legislature of Gauteng, Republic of South Africa, as follows —

## CHAPTER 1

### PURPOSE AND APPLICATION

#### 1 PURPOSE

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

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<sup>2</sup> The italicization of words denote that those words have been defined in Section 60.

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

**2****APPLICATION OF THIS ACT**

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

## CHAPTER 2

# STATUS, POWERS, FUNCTIONS & DUTIES OF MUNICIPALITIES

### 3 STATUS OF MUNICIPALITIES

- (1) Subject to *any other law*, every Municipal Council established in terms of the *Local Government Transition Act*, or declared to be established in terms of that *Act*, will —
  - (a) continue to exist and retain its status as a Municipal Council; and
  - (b) be deemed to be a body corporate.
- (2) Subject to *any other law*, a Municipal Council, as a body corporate —
  - (a) continues to exist despite any changes to its area of jurisdiction or composition of its governance structures;
  - (b) is capable of suing or being sued in its own name;
  - (c) may purchase, hold, let or alienate property; and
  - (d) may perform any act concerning a matter reasonably necessary for, or incidental to, the effective performance of its *powers, functions or duties*.

### 4 CITY STATUS OF MUNICIPALITIES

- (1) A Municipal Council that has been declared to be a city in terms of the *Local Government Ordinance* or *any other law*, will retain its status as a city.
- (2) If a metropolitan council has within its area of jurisdiction a metropolitan local council that is declared or deemed to be a city as contemplated in sub-section (1), the metropolitan council acquires —

- (a) the status of a city; and
  - (b) all the powers, obligations, privileges and benefits conferred on a city in terms of *any other law*.
- (3) A Municipal Council that has been declared to be a city as contemplated in sub-section (1) or has acquired city status as contemplated in sub-section (2), may reflect this status —
- (a) in its name; and
  - (b) on any of its documents.

## 5 THE POWERS, FUNCTIONS AND DUTIES OF MUNICIPAL COUNCILS

- (1) In addition to the *powers, functions or duties* of a Municipal Council referred to in the *Constitution* and the *Local Government Transition Act* or *any other law*, a Municipal Council has the *powers, functions or duties* that are conferred, imposed, assigned or delegated to it in terms of *this Act*<sup>3</sup>.
- (2) As a matter of convenience and for ease of reference only, Annexure A & B comprises a summary listing of examples of the *powers, functions or duties* of a Municipal Council referred to in the *Constitution* and the *Local Government Transition Act*, and must not be construed as constituting a definitive list of the *powers, functions or duties* of a Municipal Council.
- (3) A Municipal Council may exercise any power or perform any function or duty concerning a matter reasonably necessary for, or incidental to, the effective performance of its *powers, functions or duties*.
- (4) A Municipal Council may take any step necessary for, or expedient to achieving the purpose of *this Act*.

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<sup>3</sup> In respect of the "transfer" of powers or duties by means of "delegation" or "assignment". Section 10C(2)(b)(i), (ii) and 10D(B)(i) and (ii) of the *Local Government Transition Act* provides that the municipality must first receive sufficient resources to exercise the power or perform the duty on a basis that ensures the sustainability and practicability of that exercise or performance. These provisions do not apply where the power or duty has been "transferred" by way of being "conferred" or "imposed" on the municipality. It is therefore recommended that this problem be addressed by way of amendment to the *Local Government Transition Act*.

- (5) Subject to *any other law*, a Municipal Council on its own initiative may exercise any power or perform any function or duty in respect of any local government<sup>4</sup> matter which is not—
- excluded from its competence; or
  - assigned or delegated to any other sphere of government.
- (6) A Municipal Council may make and administer *by-laws* for the effective —
- performance of its *powers, functions or duties*; and
  - administration of the matters in respect of which it has the right to administer.

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<sup>4</sup> For purposes of this clause Section 151(3) and 152 of the *Constitution* as read with item 26 of Schedule 6, is of relevance.

## CHAPTER 3

### BY-LAWS, STANDARD BY-LAWS AND REGULATIONS

#### (a) BY-LAWS

#### 6 THE PROCEDURE FOR MAKING BY-LAWS

- (1) To make a *by-law*, a Municipal Council must pass a resolution declaring its intention to this effect.
- (2) After the resolution has been passed the Municipal Council must —
  - (a) announce its intention to make the *by-law* by notice in the provincial gazette and other appropriate means of communication;
  - (b) specify the following in the notice —
    - (i) that comment is being sought on a draft *by-law*;
    - (ii) in summarised form, what the draft *by-law* deals with;
    - (iii) the person to whom or place where enquiries relating to the draft *by-law* may be directed;
    - (iv) subject to sub-sections (7) and (8), the place(s), time(s) when and the circumstances and manner in which a copy of the draft *by-law* may be obtained or displayed for inspection;
    - (v) the period for comment on the draft *by-law* which must be no less than one month from the date of the notice; and
    - (vi) the person to whom or place where comments on the draft *by-law* may be lodged;

- (c) at any time before making the *by-law*, consultations with any relevant interest group(s) may be held in any form, including the holding of an enquiry; and
  - (d) the comments received and the content of consultations must be considered before making the *by-law*.
- (3) If a Municipal Council has not made a *by-law* within one year of the announcement referred to in ~~sub-section (1)(b)~~, that *by-law* cannot be made unless the procedure provided for in ~~sub-section (1)~~ is repeated.
- (4) The provisions of ~~sub-section (1)(b) and (2)~~ do not apply in respect of —
  - (a) any *by-law* which the public interest requires to be made without delay; and
  - (b) an amendment to correct a textual error.
- (5) The provisions of ~~sub-sections (1) - (3)~~ apply in respect of amending or repealing any *by-law*, with such changes as may be required by context.
- (6) A *by-law* will come into operation on the date of its publication in the provincial gazette or such other date specified in the provincial gazette.
- (7) A Municipal Council may determine a fee for obtaining a copy of the draft *by-law*.
- (8) The place(s) where the draft *by-law* is displayed must enable all those affected by the *by-law* to be speedily and conveniently informed of its contents.
- (9) Every Municipal Council must develop and implement policies and programmes to assist members of the public to comment on the draft *by-law*.

7

## THE MEC'S POWER TO RECOMMEND THAT A MUNICIPAL COUNCIL MAKE BY-LAWS

- (1) If within a reasonable period after the coming into operation of *this Act* —
  - (a) a Municipal Council has not made, amended or repealed a *by-law* in respect of a matter contemplated in ~~section 5(6)~~; and

- (b) the *MEC* is satisfied that this step is essential for effective and efficient delivery of services to the inhabitants of a Municipal Council;

the *MEC* may request the Municipal Council to submit representations to outline its reasons for this failure.

- (2) A Municipal Council must comply with this request and submit the representations in writing to the *MEC* within one month of receipt of the request.
- (3) If upon considering these representations, the *MEC* is not satisfied with the reasons for the failure, the *MEC* may, by written notice, recommend<sup>5</sup> to the Municipal Council that it make the necessary *by-law* within a reasonable time.
- (4) The notice referred to in ~~sub-section (3)~~ must contain the *MEC*'s reasons for the decision.

## 8 PERIODIC REVIEW OF BY-LAWS

- (1) A Municipal Council must conduct and complete a review of its *by-laws* —
- (a) that are in operation prior to or upon *this Act* coming into effect by no later than a date prescribed by the *MEC*;
- (b) that come into operation after the coming into operation of *this Act* at intervals of no less than 10 years after the coming into operation of that *by-law*.
- (2) If a Municipal Council fails to conduct and complete a review within the time periods specified in ~~sub-section (1)~~, the provisions of ~~Section 7~~ will apply, with the changes that the context requires.
- (3) For purposes of this section "conduct and complete a review" includes —

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<sup>5</sup> A municipality is not obliged to follow the recommendation. However two consequences could flow from this failure/refusal - viz firstly, subject to Sections 151, 154(1) & 156(4) of the Constitution as read with item 26(6) of Schedule 6, the *MEC* could facilitate the promulgation of legislation; or secondly, even if an *MEC* does not take this step, the inevitable public concern may sufficiently influence the municipality to take the appropriate step.

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

## 9 ACCESS TO AND INSPECTION OF BY-LAWS

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

### (b) STANDARD BY-LAWS

## 10 THE MEC'S POWER TO MAKE STANDARD BY-LAWS

For purposes of assisting municipalities, the *MEC* may make a *standard by-law* on any matter contemplated in Section 5.

## 11 PROCEDURE FOR MAKING STANDARD BY-LAWS

The provisions of Section 6 apply to the making of *standard by-laws*, with the changes as may be required by context.

## 12 EFFECT OF A STANDARD BY-LAW

- (1) A *standard by-law* or its amendment or repeal, is only binding on a Municipal Council if it makes<sup>6</sup> a *by-law* to this effect.
- (2) A reference in a *by-law* to a *standard by-law* is sufficient to incorporate the contents of the *standard by-law* in the *by-law*.

<sup>6</sup> The provisions of Section 6 apply to making this *by-law*.

**(c) REGULATIONS**

**13 THE MEC'S POWER TO ISSUE REGULATIONS**

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

**14 CONTENT OF REGULATIONS**

- (1) A regulation may —
  - (a) confer a power or place a duty on a person, body or public authority;
  - (b) contain conditions including restrictions or prohibitions and may provide for exemptions; and
  - (c) be made in respect of —
    - (i) different parts of Gauteng; or
    - (ii) different categories of persons or bodies.
- (2) At any time and with respect to any person, body, organisation or corporation, and subject to the provisions of the regulation concerned, the **MEC** may by notice either in the provincial gazette, or delivered by post or hand, —
  - (a) impose, vary or withdraw any conditions contemplated in the regulation; or
  - (b) grant, vary or withdraw any exemption contemplated in the regulation.
- (3) The **MEC** may not vary or withdraw a condition or exemption imposed or granted in terms of sub-section (2) unless the person or body to

whom it applies has been given an opportunity to make a representation/s on the issue.

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

## **15 PROCEDURE FOR ISSUING REGULATIONS**

When intending to issue any regulation in terms of *this Act*, the provisions of **Section 6** will apply, with the changes as may be required by context.

## CHAPTER 4

### PERSONNEL RELATED MATTERS

16 **APPOINTMENT OF CHIEF EXECUTIVE OFFICER AND OTHER PERSONNEL**

Each Municipal Council must —

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

17 **DUTIES OF CHIEF EXECUTIVE OFFICER**

- (1) In addition to what is provided for in *this Act or any other law*, the duties of the *Chief Executive Officer* are —
  - (a) to act as head of the Municipal Council's personnel and in this capacity to exercise authority over them —
    - (i) so far as this may be necessary for the efficient management and execution of the Municipal Council's *powers, duties or functions*; or
    - (ii) to the extent determined by a Municipal Council.
  - (b) to supervise the efficient and effective implementation of the Municipal Council's programmes and policies and the performance of its *powers, functions or duties*;
  - (c) to ensure that the resources of the Municipal Council are most effectively used to achieve the objectives of the Municipal Council;
  - (d) to ensure that effective and fair personnel related policies are developed and implemented in all departments; and

- (e) to encourage and maintain good relations both in the Municipal Council and with the community it serves.
- (2) The *Chief Executive Officer* will have such other powers, duties and functions —
  - (a) as the Municipal Council considers appropriate; and
  - (b) as may be provided for in *any other law*.

## 18 RATIONALISATION OF TERMS AND CONDITIONS OF EMPLOYMENT

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

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

## 19 MEDICAL AID BENEFITS

- (1) Every Municipal Council —
  - (a) must implement a scheme(s) which confers medical aid benefits to all its employees including its retired employees; and
  - (b) may implement a scheme(s) which confers medical aid benefits to all its councillors.
- (2) The scheme(s) contemplated in sub-section (1) need not be designed in a manner that confers medical aid benefits exclusively on the category of persons contemplated in paragraphs (a) or (b) respectively of sub-section (1).

- (3) The scheme(s) contemplated in sub-section (1) and the rules, obligations and benefits applicable to it, including the contributions to be made by a Municipal Council or the beneficiaries of the scheme(s), must be determined —
- (a) where applicable, in accordance with the procedures specified in any existing collective bargaining procedural agreement; and
  - (b) after consultation with all other potential or affected beneficiaries.
- (4) Any scheme(s) established in terms of the *Local Government Ordinance*, or any other applicable law or collective agreement which confers medical aid benefits to the employees or councillors of a Municipal Council, will continue to exist, and the rules, obligations and benefits applicable to the scheme continue to apply unless replaced or amended —
- (a) in terms of *this Act or any other law*;
  - (b) in terms of its own rules; and
  - (c) in accordance with the procedure contemplated in sub-section (3).
- (5) A replacement or amendment contemplated in sub-section (4) must not place any employee or councillor in a position that is less favourable than that position which existed prior to the replacement or amendment.

## 20 RETIREMENT BENEFITS

- (1) Every Municipal Council —
  - (a) must implement a scheme(s) which confers retirement benefits to all its employees; and
  - (b) must implement a scheme(s) which confers retirement benefits to all its councillors.
- (2) The scheme(s) contemplated in sub-section (1) need not be designed in a manner that confers retirement benefits exclusively to the category of persons contemplated in paragraphs (a) or (b) respectively of sub-section (1).

- (3) The scheme(s) contemplated in sub-section (1) and the rules, obligations and benefits applicable to it, including the contributions to be made by a Municipal Council or the beneficiaries to the scheme(s) must be determined —
- (a) if applicable, in accordance with the procedures specified in any existing collective bargaining procedural agreement, and
- (b) after consultation with all other potential or affected beneficiaries.
- (4) Any scheme(s) established in terms of the *Local Government Ordinance*, or any other applicable law or collective agreement which confers retirement benefits to the employees or councillors of a Municipal Council, will continue to exist, and the rules, obligations and benefits of the scheme continue to apply unless replaced or amended —
- (a) in terms of *this Act* or *any other law*;
- (b) in terms of its own rules; and
- (c) in accordance with the procedure contemplated in sub-section (3).
- (5) Any replacement of amendment contemplated in sub-section (4) must not place any employee or councillor in a position that is less favourable than that position which existed prior to the replacement or amendment.
- (6) Where funds have been established in terms of Section 79 ter and 79 quat of the *Local Government Ordinance*, the Municipal Council concerned must design and implement measures to equalise the benefits of employees belonging to these funds.
- (7) The measures contemplated in sub-section (6) must be undertaken within two years of the commencement of *this Act*.

## TO BE INSERTED AFTER SECTION 20 :

### 20A MISCELLANEOUS PROVISIONS RELATING TO MAYORS

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

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<sup>1</sup> This provision is broad enough to embrace the current "Masakhane" and "Nation-building" campaigns.

## CHAPTER 5

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

#### 21 AUTHORISATION OF DESIGNATED OFFICERS

- (1) The *Chief Executive Officer* may designate any person in the employ of a Municipal Council to be a *designated officer*.
- (2) An authorisation in terms of sub-section (i) may be general or specific.

#### 22 FUNCTIONS OF DESIGNATED OFFICERS

- (1) *Designated officers* may execute work, conduct an inspection and monitor and enforce compliance with *this Act* and *any other law* which authorises a *municipality* to designate a person to execute work, conduct an inspection or monitor and enforce compliance.
- (2) Subject to *any other law*, a *designated officer* must carry out the functions contemplated in this section in accordance with the procedure outlined in Sections 24 and 25.

#### 23 POWERS OF DESIGNATED OFFICERS

- (1) The powers of *designated officers* provided for in this Chapter are —
  - (a) in addition to any power conferred on a *designated officer* in terms of *any other law*; and
  - (b) subject to these laws.
- (2) A *designated officer* who executes work or conducts an inspection may do any of the following things —

- (a) execute work on or inspect land or premises;
  - (b) question a person(s) present on any land or premises in respect of any matter which may be relevant to the work or inspection;
  - (c) question a person(s) whom the *designated officer* believes may have information relevant to the work or inspection;
  - (d) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
  - (e) copy any document referred to in paragraph (d) or if necessary, remove the document in order to copy it;
  - (f) take samples of any substance that is relevant to the work or inspection;
  - (g) monitor and take readings or make measurements;
  - (h) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises; and
  - (i) all things necessary for the execution of work or the conducting of an inspection that a municipality is required to undertake in terms of any other law.
- (3) A *designated officer* who removes anything other than a substance contemplated in sub-section (2)(f) from land or premises being worked upon or inspected, must: —
- (a) issue a receipt for it to the owner of or person in control of the premises; and
  - (b) return it as soon as is practicable after achieving the purpose for which it was removed.

24 **PROCEDURE TO EXECUTE WORK OR CONDUCT AN INSPECTION :  
ENTRY WITH A WARRANT**

- (1) A designated officer may enter any land or premises if a magistrate<sup>7</sup> or a justice has issued a warrant to enter and execute work or inspect the land or premises, and the warrant is still valid.
- (2) A magistrate or a justice may issue a warrant to enter and execute work or inspect any land or premises, if, from information on oath, there are reasonable grounds to believe either —
  - (a) that, in the interest of the public, it is necessary to execute work or obtain information that cannot be obtained without entering the land or those premises; or
  - (b) that there is non compliance with the terms of *this Act* or any other law contemplated in **Section 22** in respect of the land or those premises.
- (3) A warrant in terms of **sub-section (2)** may be issued at any time and must specifically —
  - (a) identify the land or premises that may be entered and worked on or inspected; and
  - (b) authorise the *designated officer* to enter and execute work or inspect the land or premises and to do anything listed in **Section 23(2)**.
- (4) A warrant in terms of **sub-section (2)** is valid until one of the following events occurs —
  - (a) it is executed;
  - (b) it is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;

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<sup>7</sup> The practicalities of who the relevant person should be needs to be considered. Of the two options, the use of a justice (as defined in the Justice of the Peace and Commissioners of Oaths Act, 1963) is preferred. As regards the use of magistrates for this purpose, liaison is needed with the Department of Justice. If the preferred approach is adopted it is suggested that the *Department of Justice* designate a suitable official within a Municipal Council (eg. a *Chief Executive Officer*) as a justice, for this purpose only.

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

25 **PROCEDURE TO EXECUTE WORK OR CONDUCT AN INSPECTION : ENTRY WITHOUT A WARRANT**

- (1) A *designated officer* who does not have a warrant may enter and execute work or inspect —
- (a) any land or premises, with the consent of the owner or person apparently in control of the land or those premises; or

- (b) any land or premises, except residential land or premises<sup>8</sup>, on a routine basis —
  - (i) no more frequently than thrice during a 12 month period; or
  - (ii) more frequently if permitted by any law for the purposes of the work or inspection.
- (2) In addition to the entry permitted in terms of sub-section (1), a *designated officer* may enter any land or premises without a warrant —
  - (a) if authorised to do so by *any other law*; or
  - (b) in respect of which there is an outstanding compliance notice, issued in terms of *Section 31*, for the purpose of determining whether that notice has been complied with.
- (3) Before commencing work or inspecting any land or premises in terms of this section, *designated officers* must identify themselves and explain their authority or furnish proof of their authorisation to the person apparently in control of the land or premises or the person who gave them permission to enter.
- (4) An entry and execution of work or inspection without a warrant must be carried out at a reasonable time in the circumstances.

## 26 OBSERVING FUNDAMENTAL RIGHTS

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

<sup>8</sup> The effect of this provision when read with sub-section (2) is that :

- (a) entry and inspection on residential land or premises require a warrant; but
- (b) a law could provide for other instances of entry without a warrant; and
- (c) follow-up entries and inspections pursuant to a compliance notice issued in terms of *Section 31* do not require a warrant.

**27 USING FORCE TO ENTER**

- (1) A *designated officer* carrying out a warrant in terms of Section 24 may overcome any resistance to entry, execution of work or inspection by using as much force as is reasonably required, including breaking a lock, door or window of the land or premises to be entered.
- (2) Before using force, the person carrying out the warrant must audibly demand admission and must announce their purpose, unless they reasonably believe that doing so may induce someone to destroy, dispose of, or tamper with, an article or document that is the object of the work or inspection,
- (3) The funds of the Municipal Council must be used to compensate anyone who suffers damage because of forced entry during the execution of any work or an inspection when no one responsible for the land or premises was present.
- (4) Subject to any other law or in the case of an emergency, force may not be used to effect an entry to execute work or conduct inspection in terms of Section 25.

**28 DESIGNATED OFFICER MAY BE ACCOMPANIED**

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

**29 DUTY TO PRODUCE DOCUMENTS**

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

**30 DUTY TO ANSWER QUESTIONS AND ASSIST DESIGNATED OFFICERS**

- (1) Any person who is questioned by a *designated officer* in terms of this Chapter must answer truthfully and to the best of their ability.
- (2) An answer or explanation given to a *designated officer* may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to —

- (a) the administration or taking of an oath;
  - (b) the making of false statements; or
  - (c) the failure to answer a lawful question fully and satisfactorily.
- (3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by a *designated officer* to perform their functions effectively.

### 31 COMPLIANCE NOTICES

- (1) A *designated officer* who becomes aware that any provision of *this Act* has not been complied with, may issue a compliance notice to the owner or person apparently in control of the relevant land or premises.
- (2) A *designated officer* who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a compliance notice may issue a compliance certificate to that effect.
- (3) A compliance notice remains in force until a *designated officer* issues a compliance certificate in respect of that notice.
- (4) A compliance notice must set out —
  - (a) the provision that has not been complied with;
  - (b) details of the nature and extent of non-compliance;
  - (c) any steps that are required to be taken and the period within which those steps must be taken; and
  - (d) any penalty that may be imposed in terms of Section 50 in the event of non-compliance with these steps.

### 32 OFFENCES

- (1) It is an offence for any person to —
- (a) refuse to grant a *designated officer* access to land or premises to which that *designated officer* is duly authorised to have access;

- (b) obstruct, interfere or hinder a *designated officer* who is carrying out a duty under *this Act*;
- (c) fail or refuse to provide a *designated officer* with a document or information that the person is required to provide under *this Act*;
- (d) give false or misleading information to a *designated officer*;
- (e) unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of *this Act*;
- (f) pretend to be a *designated officer*;
- (g) falsely alter an authorisation or a warrant, compliance notice or compliance certificate issued in terms of this Chapter;
- (h) falsify an authorisation or a warrant, compliance notice or compliance certificate contemplated in this Chapter;
- (i) fail to comply with a compliance notice issued in this Chapter;
- (j) enter any land or premises without a warrant in circumstances requiring a warrant;
- (k) act contrary to a warrant issued in terms of this Chapter;
- (l) without authority —
  - (i) enter or inspect land or premises;
  - (ii) carry out any act mentioned in Section 23(1) or (2); or
- (m) disclose any information relating to the financial or business affairs of any person, which was acquired in the performance of any function or exercise of any power in terms of *this Act*, except —
  - (i) to a person who requires that information in order to perform a function or exercise a power in terms of *this Act*;
  - (ii) if the disclosure is ordered by a court of law; or
  - (iii) if the disclosure is in compliance with the provisions of any law.

**33 APPLICATION OF THIS CHAPTER**

- (1) The provisions of this Chapter apply to any person or body, including the State.
- (2) A provision of this Chapter conferring a power or imposing a duty applies in respect of —
  - (a) any land or premises;
  - (b) any person or thing on any land or in any premises;
  - (c) the owner or occupier of any land or premises;
  - (d) any matter relating to land, premises, a person or thing.
- (3) For the purposes of this Chapter, the head of a national, provincial or municipal department is deemed to be —
  - (a) the owner and occupier of any land or premises that the department occupies or uses to the exclusion of any other person; and
  - (b) the employer of the persons in the service of that department if, as an employer, the department —
    - (i) bears any duty imposed by *this Act*; and
    - (ii) exercises any power conferred by *this Act*;

## CHAPTER 6

### PROCUREMENT OF GOODS OR SERVICES BY MUNICIPALITIES

#### 34 PROCEDURE FOR PROCURING GOODS OR SERVICES

- (1) For purposes of enabling a municipality to procure or award contracts for goods or services within the framework contemplated in Section 10G(5)(a) of the *Local Government Transition Act*, the *MEC* must prescribe the tender value of the services or goods in respect of which the procurement procedure as contemplated in Section 35 applies.
- (2) Despite the provisions of sub-section (1), the procedure provided for in Section 35 may be dispensed with —
  - (a) in the case where the required goods or services have to be procured —
    - (i) as a matter of emergency;
    - (ii) as a matter of necessity; or
    - (iii) from a sole supplier; and
  - (b) if the procedure as contemplated in Section 36 has been complied with.
- (3) In respect of the procurement of all other goods or services, the procedures contemplated in the financial regulations applicable to a municipality must be complied with.

#### 35 PROCEDURE FOR PROCURING PRESCRIBED GOODS OR SERVICES

- (1) When intending to procure prescribed goods or services, a Municipal Council must comply with the following procedure —
  - (a) the decision to procure the prescribed goods or services must be contained in a notice that is —

- (i) published at least in an appropriate newspaper circulating within the boundaries of the municipality; and
  - (ii) displayed at least at a prominent place that is designated for that purpose by the Municipal Council;
- (b) the notice must state —
- (i) in summarised form the requirements and specifications of the *prescribed* goods or services;
  - (ii) the place(s), and time(s) when and the circumstances or manner in which the document containing the requirements or the specifications of the *prescribed* goods or services will be displayed for inspection or acquisition;
  - (iii) the period within which tender applications could be made for supplying the *prescribed* goods or services, including the cut-off time after which no further tender application will be considered;
  - (iv) the procedure for submitting a tender application including —
    - (aa) the documents to be completed and additional information, documents, samples, materials or monetary deposits that must accompany the application; and
    - (bb) the place where the tender application must be lodged;
  - (v) other information that may be relevant for purposes of considering the tender application; and
  - (vi) the place where all tender applications received will be registered as contemplated in sub-section (4).
- (2) Any person, body, organisation or corporation may submit a tender application by—
- (a) properly completing the appropriate tender application form; and
  - (b) providing all information documents, samples, materials or monetary deposit relevant to the tender application.

- (3) A failure to materially comply with the provisions of sub-section (2) or a misrepresentation in the application may disqualify the application.
- (4) At the cut-off time contemplated in sub-section (i) (b) (iii), the Municipal Council must enter the name and contact details of all tender applicants and their tender value in a register created for this purpose by the Municipal Council.
- (5) In respect of the register contemplated in sub-section (4), any member of the public may —
  - (a) be present to witness the registration process; and
  - (b) inspect the register at place(s), time(s) and in the circumstances and manner that a Municipal Council deems reasonable in the circumstances.
- (6) When considering which tender to accept, a Municipal Council must give due consideration to, amongst other things —
  - (a) the factors specified in *any other law*<sup>9</sup>;
  - (b) policy made by a competent organ of state<sup>10</sup>;
  - (c) only those tender applicants whose names have been entered in the register referred to in sub-section (4) and whose applications have not been invalidated;
  - (d) the promotion of small and medium sized enterprises;
  - (e) the affirmation of those preferred categories of persons, bodies, organisations or corporations as may be determined by the municipality;
  - (f) employment generation or the transfer of skills;
  - (g) effective and efficient delivery of municipal services;
  - (h) the capacity and ability of tender applicants to supply the goods or services; and

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<sup>9</sup> See amongst others Section 217 of the *Constitution* and Section 10G(5)(b) of the *Local Government Transition Act*.

<sup>10</sup> This provision also contemplates policy contained in the current draft national 10 point plan.

- (i) the cost-effectiveness of the application. In this regard the Municipal Council is not obliged to award a tender to an applicant submitting the lowest tender value.
- (7) The decision whether to accept, reject or disqualify a tender application must be taken by the Municipal Council. However, the Municipal Council may assign or delegate this function in respect of certain prescribed goods or services to the committee contemplated in Section 41.
- (8) The decision of the Municipal Council or the committee contemplated in Section 41, is final and binding.
- (9) The Municipal Council or the committee contemplated in Section 41 must convey its decision in writing to the tender applicant and provide reasons for its decision to any tender applicant if —
  - (a) (i) its application is deemed to be disqualified; or
  - (ii) its application is rejected; and
  - (b) the applicant makes a request for these reasons in writing.

### **36 EXPEDITED PROCEDURE FOR PROCURING PRESCRIBED GOODS OR SERVICES**

- (1) If a Municipal Council is satisfied that the circumstances as contemplated in Section 34(2)(a) prevail, it must by resolution—
  - (a) decide to dispense with the procedure specified in Section 35; and
  - (b) appoint the person, body, organisation or corporation to supply the *prescribed* goods or services and convey its decision in writing to the appointee.
- (2) Within one month of this resolution, the matters specified in sub-section (3) must be —
  - (a) published by the municipality at least in an appropriate newspaper circulating within the boundaries of the municipality; and
  - (b) displayed at a prominent place that is designed for that purpose by a municipality.

- (3) The matters to be published or displayed are —
- (a) the reasons for dispensing with the procedure specified in Section 35;
  - (b) a summary of the requirements of the *prescribed* goods or services;
  - (c) the place(s) and time(s) when and the circumstances or manner in which the document containing the requirements or specifications of the *prescribed* goods or service will be displayed for inspection or acquisition; and
  - (d) the details of the person, body, organisation or corporation supplying the goods or services.
- (4) The functions of a Municipal Council in terms of the section may not be assigned nor delegated.

**37 EXTENDING OR VARYING A TENDER AGREEMENT**

- (1) Subject to sub-section (2), a Municipal Council on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods or services to the Municipal Council in terms of this Chapter, may resolve to extend or vary a tender agreement if —
- (a) the circumstances as contemplated in Section 34(2)(a) prevail; or
  - (b) with due regard to administrative efficiency and effectiveness, the council deems it appropriate.
- (2) A Municipal Council may not extend or vary a tender agreement —
- (a) more than once;
  - (b) for a period exceeding the duration of the original agreement; or
  - (c) for an amount exceeding 20 percent of the original tender value.
- (3) Within one month of the resolution referred to in sub-section (1), the matters specified in sub-section (4) must be —

- (a) published by the municipality at least in an appropriate newspaper circulating within the boundaries of the municipality; and
  - (b) displayed at a prominent place that is designed for that purpose by a municipality.
- (4) The matters to be published or displayed are —
- (a) the reasons for dispensing with the procedure specified in ~~Section 35~~;
  - (b) a summary of the requirements of the goods or services; and
  - (c) the details of the person, body, organisation or corporation supplying the goods or services.
- (5) The functions of a Municipal Council in terms of this section may not be assigned nor delegated.

38

### INVALID AND IRREGULAR TENDER APPLICATIONS AND BREACHES OF TENDER AGREEMENTS

- (1) For the purposes of this section —
  - (a) the words "tender application" includes an application to extend or vary a tender; and
  - (b) the word "supplier" means the person, body, organisation or corporation supplying goods or services to the Municipal Council in terms of this Chapter.
- (2) If a Municipal Council is satisfied that a tender application has been accepted, varied or extended in the circumstances specified in ~~sub-section (3)(a) and (b)~~ or that a tender agreement has been breached in the circumstances specified in ~~sub-section 3(c)~~ —
  - (a) it must send the supplier a written notice of the decision and the reasons for that decision; and
  - (b) in that notice, it must inform the supplier that it has 14 days from the date of the notice to submit representations on why the Municipal Council should not take the steps specified in ~~sub-section (5)~~.

- (3) For purposes of ~~sub-section~~ (2), the circumstances are —
- (a) where a supplier —
    - (i) provided false information in any tender application
    - (ii) exerted undue influence on any person involved in considering a tender application; or
    - (iii) provided a financial or other reward, to any person involved in considering a tender application in exchange for securing, varying or extending the tender;
  - (b) where a person involved in the consideration of a tender application has a material interest in the applicant body, organisation or corporation or the outcome of the tender application and this interest had not been disclosed prior to the consideration of the tender application; or
  - (c) where the supplier fails or is unable to satisfactorily comply with the requirements or specifications of the goods or services to be supplied.
- (4) If the tender applicant or supplier has received the notice in terms of ~~sub-section~~ (2) within the 14 day period and does not submit the representations or submits the representations within that time which the Municipal Council considers unacceptable, the Council must take any or a combination of the steps specified in ~~sub-section~~ (5), and in writing notify the supplier of the reasons for the decision.
- (5) For purposes of ~~sub-section~~ (2) & (4), the steps that must be taken are —
- (a) cancelling the tender agreement;
  - (b) recovering any loss incurred or damage suffered by a municipality for having to cancel the tender agreement; or
  - (c) barring the supplier from being considered for any tender for a period to be determined by the Municipal Council.
- (6) A supplier may appeal against the decision of the Municipal Council to take the steps contemplated in ~~sub-section~~ (5) in accordance with the procedure provided for in ~~Section~~ 39.

- (7) The functions of a Municipal Council in terms of this section may not be assigned nor delegated.

39 **APPEALS IN RESPECT OF INVALID AND IRREGULAR TENDERS AND BREACHES OF TENDER AGREEMENTS**

- (1) Any supplier of goods or services to the Municipal Council who has received a notice in terms of Section 38(4), may appeal against the decision taken in terms of that section, by submitting within 14 days of the date of the notice, a notice of appeal setting out the grounds of the appeal to the Procurement Appeals Tribunal. In addition, the notice must accompany the following items —
- (a) the tender application and accompanying documentation;
  - (b) the Municipal Council's notice issued in terms of Section 38(2);
  - (c) details of its response to the Municipal Council's notice; and
  - (d) the Municipal Council's notice in terms of Section 38(4) and reasons for the decision that is the subject matter of the appeal.
- (2) Subject to Sections 40(1) and (2), the Municipal Council must determine the procedures for noting, conducting and considering appeals and must inform the parties to the appeal of these procedures prior to the commencement of the appeal.
- (3) The Procurement Appeals Tribunal must consider the appeal in the manner determined by the Municipal Council and send a written notice of the decision to the supplier that instituted the appeal proceedings and the Municipal Council. If the appeal is not upheld, the notice must include the reasons for the decision.
- (4) The Procurement Appeals Tribunal may make an order for costs if a party, or person who represented that party in the appeal —
- (a) acted in a frivolous, vexatious or unreasonable manner —
    - (i) by proceeding with or opposing the appeal; or
    - (ii) in conducting the appeal; or
  - (b) without good cause fails to attend or remain in attendance during the appeal.

- (5) The decision of the Procurement Appeals Tribunal is final and binding on all parties to the appeal.
- (6) In any appeal proceeding conducted in terms of this Chapter, the following documents constitute the terms of a tender agreement —
  - (a) the document containing the requirements or the specifications of the *prescribed* goods or services as referred to in Sections 35(1)(b)(ii) and 36(3)(c), and if applicable, the terms and conditions contained in a tender application form; and
  - (b) the written notification as contemplated in Sections 35(7) and 36(1)(b) confirming the acceptance of the application or the appointment.

#### 40 **PROCUREMENT APPEALS TRIBUNAL AND PANEL OF ARBITRATORS**

- (1) A Municipal Council must establish a Procurement Appeals Tribunal which must be composed of at least two members from the panel of arbitrators.
- (2) The members of the panel referred to in sub-section (1), may appoint any number of experts to the Procurement Appeals Tribunal either —
  - (i) on their own initiative; or
  - (ii) upon consideration of a written application received from either party to the appeal for the appointment of an expert(s).
- (3) A Municipal Council must approve persons as required to maintain a panel of arbitrators consisting of at least six persons. These persons may not be councillors or employees of the Municipal Council.
- (4) The following procedure applies whenever a Municipal Council is required to appoint a person to the panel of arbitrators —
  - (a) The Municipal Council must publish a notice calling for nominees and stating the criteria for nominations, at least in an appropriate newspaper circulating within the boundaries of the Municipality.
  - (b) The Municipal Council must cause the nominations submitted in response to the notice to be considered and compile a short-list of nominees.

- (c) The Municipal Council must cause the nominees on the short-list to be interviewed and must thereafter make the necessary appointments.
- (5) The terms and conditions of appointment of members of the panel of arbitrators and expert(s) must be determined by the Municipal Council.

#### 41 ESTABLISHMENT OF PROCUREMENT COMMITTEE<sup>11</sup>

- (1) A Municipal Council may establish a procurement committee.
- (2) In addition to its function specified in this Chapter, the committee may —
  - (a) recommend policies, procedures and practices to enable a Municipal Council to exercise its *powers, functions or duties* in terms of this Chapter in an effective, efficient and transparent manner;
  - (b) make recommendations to the Municipal Council concerning —
    - (i) the standardisation and simplification of all tender application processes;
    - (ii) the rendering of advice and other support services to tender applicants;
  - (c) make recommendations concerning the criteria for determining the category(ies) of persons, bodies, organisations or corporations to be affirmed as contemplated in **Section 35(6)(c)**; and
  - (d) perform any function that a Municipal Council deems appropriate for purposes of giving effect to this Chapter, including conducting investigations, making recommendations and reporting on any matter.

<sup>11</sup> The procedure for establishing this committee, the conditions of appointment of committee members and the internal procedures for the committee will be regulated in the general provisions dealing with the committees of a municipality.

## CHAPTER 7

# RESTRICTION OF ACCESS TO PUBLIC PLACES FOR SAFETY AND SECURITY PURPOSES

### 42 A MUNICIPAL COUNCIL'S POWER TO RESTRICT ACCESS

For purposes of enhancing safety and security, a Municipal Council may —

- (a) on its own initiative impose a restriction on access to any *public place* if it complies with the provisions of Section 43; or
- (b) authorise any person(s), body or organisation to restrict access to any *public place* if the provisions of Section 44 have been complied with.

### 43 PROCEDURE FOR MUNICIPAL COUNCILS TO IMPOSE RESTRICTIONS ON ACCESS

- (1) When intending to impose a restriction on access to a *public place*, a Municipal Council must —
  - (a) determine the proposed terms of the restriction after consultation with the South African Police Service;
  - (b) pass a resolution confirming the proposed terms and resolve to impose the restriction; and thereafter,
  - (c) comply with the following procedure —
    - (i) the intention to impose the restriction must be announced by notice in the provincial gazette and any other appropriate means of communication;
    - (ii) the notice must specify —
      - (aa) that comment is being sought on the draft terms of a restriction;
      - (bb) the *public place* affected by the restriction;

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

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

44 **PROCEDURE FOR MUNICIPAL COUNCILS TO AUTHORISE OTHERS TO RESTRICT ACCESS**

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

- (2) After receiving the application, the Municipal Council must arrange for meeting(s) to be convened with the applicant and the South African Police Service for purposes of enabling it to determine —
  - (a) the merits of the application; and
  - (b) the terms and conditions for granting the authorisation<sup>12</sup>.
- (3) If the Municipal Council intends granting the authorisation to restrict access to a *public place* pursuant to a determination made in terms of ~~sub-section~~ (2), the provisions of ~~Section~~ 43 are applicable, with the changes as may be required by context.

45 **DURATION OF RESTRICTION OR AUTHORISATION TO RESTRICT ACCESS**

- (1) Unless otherwise stated in the provincial gazette and subject to this section, a restriction or authorisation to restrict access is valid for no longer than two years.
- (2) A Municipal Council may extend the duration of the restriction or authorisation to restrict if —
  - (a) it or the applicant initiates the procedures referred to in ~~Sections~~ 43 and 44 respectively; and
  - (b) the procedures are initiated at least one month before the expiry of the restriction or authorisation to restrict.
- (3) For purposes of ~~sub-section~~ (2) the procedures are deemed to be initiated when —
  - (a) in respect of restricting of access, a Municipal Council passes the resolution referred to in ~~Section~~ 43(1)(b); and
  - (b) in respect of an authorisation to restrict access, the date on which the application referred to in ~~Section~~ 44(1) is received by a Municipal Council.
- (4) Pending the outcome of the procedures contemplated in ~~sub-section~~ (2), a restriction or authorisation to restrict access remains valid.

<sup>12</sup> The terms and conditions may include the payment of a deposit to recover costs incurred by a Municipal Council for removing any means of restriction.

**46 OFFENCES RELATING TO AUTHORISATION TO RESTRICT ACCESS**

It is an offence for any person, body or organisation to —

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

**47 ACCESS TO AND INSPECTION OF THE TERMS OF A RESTRICTION OR AUTHORISATION TO RESTRICT ACCESS**

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

## CHAPTER 8

### MISCELLANEOUS MATTERS

#### 48 MUNICIPAL COMMISSIONS OF ENQUIRY

- (1) A Municipal Council may establish a Municipal Commission of Enquiry in respect of any local government matter —
  - (a) it considers appropriate and which relate to its powers, functions or duties;
  - (b) of public interest; or
  - (c) in respect of which in terms of any law, a municipality is required to establish a Municipal Commission of Enquiry.
- (2) To establish a Municipal Commission of Enquiry, a Municipal Council must pass a resolution to this effect. This resolution must specify the terms of reference of the Municipal Commission including the time period within which the Municipal Commission must complete its business.
- (3) Within six months of *this Act* coming into effect, the MEC must issue regulations concerning the establishment and conducting of a Municipal Commission of Enquiry, including —
  - (a) the appointment of a commissioner(s);
  - (b) the powers of commissioners; and
  - (c) the procedures for hearing evidence and regulating the proceedings of the Municipal Commission.
- (4) When a Municipal Commission of Enquiry has completed its business, the commissioners must send a report containing its findings and recommendations to the Municipal Council for consideration.
- (5) A Municipal Council may take any steps it considers appropriate to deal with the findings and recommendations of the Municipal Commission of Enquiry.

**49 PUBLIC HEARING**

- (1) A Municipal Council must convene a public hearing for purposes of considering and making recommendations in respect of any *local government matter* of public interest if it receives a petition calling for a public hearing which is signed by at least that number of registered municipal voters as may be determined by the Municipal Council. The number to be determined may not exceed half a percent of the total number of registered municipal voters.
- (2) The petition referred to in sub-section (1) must specify the *local government matter* to be considered.
- (3) A Municipal Council may on its own initiative resolve to convene a public hearing for the purposes specified in sub-section (1).
- (4) Subject to sub-section (5), a Municipal Council must determine the procedure for convening and conducting the public hearing.
- (5) To convene a public hearing, the Municipal Council must —
  - (a) announce its intention to convene the public hearing in the provincial gazette and other appropriate means of communication; and
  - (b) issue a notice specifying —
    - (i) the date of the public hearing which must be at least 14 days after the notice and not later than two months after receipt of the petition referred to in sub-section (1) or the resolution referred to in sub-section (3);
    - (ii) in summarised form, the issues to be considered in the public hearing; and
    - (iii) procedure to be adopted for conducting the public hearing.

**50 THE MEC'S POWER TO ISSUE ADVISORY DIRECTIVES TO A MUNICIPAL COUNCIL**

- (1) If the *MEC* is satisfied that a Municipal Council has —

- (a) failed or has not adequately given effect to the provisions of the *Constitution, this Act or any other law applicable to municipalities;* or
- (b) failed to adopt adequate measures to ensure the effective delivery of municipal services to previously disadvantaged areas that fall within its jurisdiction.

the *MEC* may request the Municipal Council to submit representations to outline its reasons for this failure.

- (2) A Municipal Council must comply with this request and submit the representations in writing to the *MEC* within one month of receipt of the request.
- (3) If upon considering these representations, the *MEC* is not satisfied with the reasons for the failure, the *MEC* may, by written notice, issue an advisory directive to the Municipal Council indicating the measure that should be taken.<sup>13</sup>

## 51 THE MEC'S POWER TO ISSUE GUIDELINES TO MUNICIPAL COUNCILS

The *MEC* may issue guidelines<sup>14</sup> to Municipal Councils to assist them in —

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

<sup>13</sup> See footnote 5.

<sup>14</sup> See footnote 5.

## CHAPTER 9

### GENERAL PROVISIONS

#### 52 PENALTIES

- (1) Any person who is guilty of an offence in terms of *this Act* is liable for a fine or imprisonment, or both a fine and imprisonment.
- (2) In the event that a person is found to be continuously committing the same offence in terms of *this Act*, that person is liable for additional fines or periods of imprisonment in respect of each day on which the commission of the offence continues after the first conviction for that offence.

#### 53 RESTRICTION OF LIABILITY

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

**54 LIMITATION OF LIABILITY**<sup>15</sup>

- (1) A legal proceeding against a municipality or a body or person acting on behalf of a municipality in respect of any act or omission in terms of *this Act*, may only be instituted within 12 months or earlier of —
  - (a) the date the claimant became aware of the act or omission; and
  - (b) the date the claimant might reasonably be expected to have become aware of that act or omission.
- (2) At least one month before instituting legal proceedings contemplated in ~~sub-section (1)~~, a claimant must serve written notice of its intention to institute proceedings on —
  - (a) the *Chief Executive Officer*; and
  - (b) the defendant concerned.
- (3) Notice in terms of ~~sub-section (2)~~ served on the *Chief Executive Officer* is deemed to be notice to the defendant concerned.
- (4) If the *Chief Executive Officer* is the defendant or respondent in any proceedings contemplated in ~~sub-section (1)~~, any process by which those proceedings are initiated, must be served on the *Chief Executive Officer*.
- (5) A court may dispense with the requirements of ~~sub-sections (1) or (2)~~ if the interests of justice so require.

**55 RIGHT TO LEGAL REPRESENTATION**

- (1) In any legal proceeding instituted against councillors or employees of a municipality or any inquest or enquiry in respect of which they have been summoned to attend and testify in circumstances where the proceeding, inquest or enquiry relates to their functions in the municipality, the councillors or employees concerned are entitled to be legally represented and the cost for such representation must be borne by the municipality.

<sup>15</sup> For purposes of this section, regard must be had to the Limitation of Legal Proceedings (Provincial & Local Authorities) Act, 1970.

- (2) The legal representation contemplated in sub-section (1) must be provided in a manner determined by the Municipal Council.

56 **DELEGATIONS AND AGREEMENTS MADE AND ENTERED INTO BY MUNICIPAL COUNCILS**

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

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

- (1) The powers, functions, duties or responsibilities mentioned in ~~Schedule 3~~ of the Premier, the *MEC*, the provincial government or the department responsible for local government matters in the province are assigned or delegated to Municipal Councils to the extent indicated in this schedule.
- (2) Subject to the provisions of *this Act or any other law*, the *MEC* may assign or delegate any other power, function, duty or responsibility conferred in terms of *this Act or any other law* on the Premier, the *MEC*, the provincial government or the department responsible for local

government matters in the province, to a Municipal Council by accordingly amending or making the appropriate entry to Schedule 3<sup>16</sup>.

- (3) An assignment or delegation made in terms of this section may be made in respect of —
  - (a) different municipalities; or
  - (b) different groups or categories of municipalities.

58 **THE MEC'S POWER TO AMEND, REPEAL OR DELETE SCHEDULES, ANNEXURES, PAGE HEADERS, HEADINGS & FOOTNOTES**

- (1) The *MEC* may amend, repeal or delete a schedule, annexure, page header, heading or footnote.
- (2) When intending to amend, repeal or delete a schedule, the *MEC* must comply with the procedure as contemplated in **Section 6**, with the changes as may be required by context.

59 **REPEAL OF LAWS AND TRANSITIONAL ARRANGEMENTS**

- (1) The laws mentioned in Schedule 1 are repealed to the extent indicated in this schedule.
- (2) The transitional arrangements in Schedule 2 must be read and applied as a substantial provision of *this Act*.

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<sup>16</sup> Note that in terms of Section 156(4) of the constitution and Sections 10C(2)(b)(I) - (II) and 10D(1)(b)(I) - (II) of the Local Government Transition Act any assignment or delegation can only be done if the municipality —

- (a) consents;
- (b) would most effectively administer and has the capacity to perform or exercise the power, function, duty or responsibility;
- (c) is provided with the sufficient resources; and
- (d) can sustain and practicably perform or exercise of the power, function or responsibility.

**60 DEFINITIONS**

In *this Act*, unless the context otherwise indicates —

- (a) "**any other law**", includes the common law;
- (b) "**by-laws**", includes a code or procedure;
- (c) "**Chief Executive Officer**", means the Chief Executive Officer appointed in terms of Section 16;
- (d) "**Constitution**", means the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
- (e) "**designated officer**", means the person designated in terms of Section 21;
- (f) "**local government matter**", for purposes of Sections 48 & 49 does not include promoting, opposing or discussing the election of any person to any municipal, provincial or national body, organisation or corporation;
- (g) "**Local Government Ordinance**", means the Local Government Ordinance, 1939 (Act No 17 of 1939), as amended;
- (h) "**Local Government Transition Act**", means the Local Government Transition Act, 1993 (Act No 209 of 1993), as amended;
- (i) "**MEC**", means the relevant member of the Executive Council responsible for Local Government in Gauteng;
- (j) "**powers, functions or duties**", includes the notion of "powers and functions" as contemplated in the *Constitution* and "powers and duties" as contemplated in the *Local Government Transition Act*;
- (k) "**prescribed**", means prescribed by regulation and "**prescribe**" has the corresponding meaning;
- (l) "**public place**", means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, or enclosed space vested in a municipality and includes any road, place or thoroughfare which is in the undisturbed uses of the public or which the public have the right to use;

- (m) "standard by-law", means a *by-law* made by the *MEC* in accordance with the provisions of Sections 10 & 11; and
- (n) "this Act", includes the section numbers, the schedules and any regulation or *by-law* issued or made in terms of *this Act* but does not include the page headers, headings, footnotes and annexures.

61 **SHORT TITLE AND COMMENCEMENT**

This Act is called the *Rationalisation of Local Government Affairs Act, 1997*, and will come into effect on a date to be determined by provincial proclamation published in the provincial gazette.

## ANNEXURE A

### POWERS, FUNCTIONS AND DUTIES OF MUNICIPALITIES IN TERMS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

CHAPTER	SECTION	SECTION TITLE
1	6(3)(b)	Languages
3	41(1); (3) & (4)	Principles of co-operative government and inter-governmental relations
4	43(c)	Legislative authority of the local sphere of government
4	44(i)(a)(iii)	Assignment of national legislative authority
5	99	Assignment of national legislative functions (by a Minister)
6	104(1)(c)	Assignment of provincial legislative authority
6	126	Assignment by MEC to municipal council
7	139	Provincial supervision of local government
7	151 <sup>17</sup>	Status of municipalities
7	152	Objects of local government
7	153	Developmental duties of municipalities
7	154	Municipalities in co-operative government
7	155 <sup>18</sup>	Establishment of municipalities
7	156 <sup>19</sup>	Powers and functions of municipalities
7	157 <sup>20</sup>	Composition and election of Municipal Councils

<sup>17</sup> This section is subject to item 6 of Schedule 6 of the Constitution.

<sup>18</sup> This section is subject to item 6 of Schedule 6 of the Constitution.

<sup>19</sup> This section is subject to item 6 of Schedule 6 of the Constitution.

7	158	Membership of Municipal Councils
7	159	Terms of office of Municipal Councils
7	160	Internal Procedures
7	161	Privilege
7	162	Publication of municipal by-laws
7	163 <sup>21</sup>	Organised local government
7	164 <sup>22</sup>	Other matters
9	188	Functions of Auditor-General
9	190	Functions of the Electoral Commission
10	195(1)&(2)	Basic values and principles governing public administration
13	214 <sup>23</sup>	Equitable shares and allocations of revenue
13	215 <sup>24</sup>	National, provincial and municipal budgets
13	216 <sup>25</sup>	Treasury control
13	217	Procurement
13	218 <sup>26</sup>	Government guarantees
13	219	Remuneration of persons holding public office

<sup>20</sup> This section is subject to item 6 of Schedule 6 of the Constitution.

<sup>21</sup> This section ensures that the relevant national legislation must provide for the recognition and structured role for organised local government.

<sup>22</sup> This section specifies the parameters of national and provincial legislation concerning local government.

<sup>23</sup> The application of this section is limited by section 243(5) of the Constitution.

<sup>24</sup> The application of this section is limited by section 243(5) of the Constitution.

<sup>25</sup> The application of this section is limited by section 243(5) of the Constitution.

<sup>26</sup> The application of this section is limited by section 243(5) of the Constitution.

13	226(3) <sup>27</sup>	Provincial revenue fund
13	227 <sup>28</sup>	National sources of provincial and local government funding
13	229	Municipal fiscal powers and functions
13	230 <sup>29</sup>	Provincial and municipal loans
14	238	Agency and delegation
14	239	Definitions
Schedule 4	Part B	<p>The following local government matters to the extent set out in section 155(6)(a) and (7) —</p> <p>Air pollution;      Building regulations;      Child care facilities;      Electricity and gas reticulation;      Firefighting services;      Local tourism;      Municipal airports;      Municipal planning;      Municipal health services;      Municipal public transport;      Municipal public works only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law;      Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto;      Stormwater management systems in built-up areas;      Trading regulations;      Water and sanitation services limited to portable water supply systems and domestic waste-water and sewage disposal systems.</p>

<sup>27</sup> The application of this section is limited by section 243(5) of the Constitution.

<sup>28</sup> The application of this section is limited by section 243(5) of the Constitution.

<sup>29</sup> The application of this section is limited by section 243(5) of the Constitution.

Schedule 5	Part B	<p>The following local government matters to the extent set out for provinces in section 155(6)(a) and (7)—</p> <p>Beaches and amusement facilities;  Billboards and the display of advertisements in public places;  Cemeteries, funeral parlours and crematoria;  Cleansing;  Control of public nuisances;  Control of undertakings that sell liquor to the public;  Facilities for the accommodation, care and burial of animals;  Fencing and fences;  Licensing of dogs;  Licensing and control of undertakings that sell food to the public;  Local amenities;  Local sport facilities;  Markets;  Municipal abattoirs;  Municipal parks and recreation;  Municipal roads;  Noise pollution;  Pounds;  Public places;  Refuse removal, refuse dumps and solid waste disposal;  Street trading;  Street lighting;  Traffic and parking.</p>
Schedule 6	Item 26	Transitional arrangements

## ANNEXURE B

### **POWERS, FUNCTIONS AND DUTIES OF MUNICIPALITIES IN TERMS OF THE LOCAL GOVERNMENT TRANSITION ACT, 1993**

<b>ITEM A - METROPOLITAN COUNCILS</b>		
<b>PART/ SCHEDULE</b>	<b>SECTION</b>	<b>SECTION TITLE</b>
PART VI A	10C	Powers and duties of metropolitan councils and metropolitan local councils
SCHEDULE 2	1	Levies, Payments and Contributions
	2	Grants and Transfers
	3	Integrated Development Plans
	4	Water <sup>30</sup>
	5	Sewerage <sup>31</sup>
	6	Electricity <sup>32</sup>
	7	Roads <sup>33</sup>
	8	Passenger Transport Services
	9	Traffic Matters <sup>34</sup>
	10	Fresh Produce Markets
	11	Waste Disposal Facilities

<sup>30</sup> This section relates to the bulk supply of this item.

<sup>31</sup> This section relates to the bulk supply of this item.

<sup>32</sup> This section relates to the bulk supply of this item.

<sup>33</sup> This section relates to the construction and maintenance of arterial roads.

<sup>34</sup> This section relates to inter-metropolitan council co-ordination and determination of policy and road engineering.

	12	Cemeteries and Crematoria
	13	Airports
	14	Sport Facilities
	15	Promotion of Tourism
	16	Municipal Health Services
	17	Abattoirs
	18	Fire-fighting Services and Disasters
	19	Libraries
	20	Museums
	21	Environmental Management
	22	Municipal Law Enforcement Agency

<b>ITEM B - METROPOLITAN LOCAL COUNCILS</b>		
<b>PART/ SCHEDULE</b>	<b>SECTION</b>	<b>SECTION TITLE</b>
PART VI	10C	Powers and duties of metropolitan councils and metropolitan local councils
SCHEDULE 2A	1	Recovery of Costs
	2	Integrated Development Plan
	3	Water <sup>35</sup>
	4	Sewerage <sup>36</sup>
	5	Electricity <sup>37</sup>
	6	Roads
	7	Traffic Matters

<sup>35</sup> This section deals with the reticulation of this service.

<sup>36</sup> This section deals with the reticulation of this service.

<sup>37</sup> This section deals with the reticulation of this service.

	8	Waste Disposal
	9	Cemeteries and Funeral Parlours
	10	Airports
	11	Libraries
	12	Amusement Facilities and Beaches
	13	Public Nuisances
	14	Environmental Affairs
	15	Tourism
	16	Municipal Health Services
	17	Billboards and Advertisements
	18	Building Control
	19	Cleansing
	20	Business Licensing
	21	Animals
	22	Markets
	23	Pontoons, Ferries, Jetties, Piers and Harbours
	24	Street Trading
	25	Lighting
	26	Public Places
	27	Fireworks
	28	Child Care Facilities
	29	Municipal Law Enforcement Agency

**ITEM C - DISTRICT COUNCILS, LOCAL COUNCILS, RURAL COUNCILS AND REPRESENTATIVE COUNCILS**

PART/ SCHEDULE	SECTION	SECTION TITLE
PART VI	10D	Powers and duties of district <sup>38</sup> councils, local councils, and councils and representative councils

**ITEM D - ALL MUNICIPALITIES**

PART/ SCHEDULE	SECTION	SECTION TITLE
PART VI	10G	Financial Matters
	10H	Certain acts committed by council members or employees of municipalities and by certain other people, are prohibited
	10I	Furnishing of information

<sup>38</sup> In the Gauteng province this provision applies to service councils and rural councils.

**SCHEDULE 1****LAWS REPEALED BY SECTION 59**

<b>Number and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
58 of 1903	Municipal Corporation Ordinance, 1903	The whole
506 of 1937	Administrators Notice - Local Authorities Depreciation Regulations	The whole
17 of 1939	Local Government Ordinance, 1939	The whole
13 of 1958	Public Bodies (Language) Ordinance, 1958	The whole
21 of 1958	Local Government Control, 1958	The whole
40 of 1960	Local Government (Administration & Elections) Ordinance, 1960	The whole
15 of 1981	Town Council of Midrand, 1981	The whole
24 of 1986	Local Government Areas Ordinance, 1986	The whole
22 of 1988	Administrators Proclamation - Amendment of Ordinance 40 of 1960	The whole
23 of 1988	Administrators Proclamation - Regulations relating to the Establishment of Health Committee	The whole

## SCHEDULE 2

### TRANSITIONAL ARRANGEMENTS

#### 1 LOCAL GOVERNMENT ORDINANCE, 1939

- (1) Despite its repeal, the provisions of the *Local Government Ordinance* will continue to apply until amended or repealed by *this Act* or any other law, except for the following sections —
- 1; 5; 8; 34; 35; 36; 41; 47A; 53; 54; 57; 62; 65; 70; 72; 77; 78; 79 bis; 79 ter; 79 quat; 79 sext; 89; 90; 91; 92; 93; 94; 95; 96; 96 bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118 bis; 119; 120; 121; 122; 123; 124; 125; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 161; 162; 164A; 165; 166; 173.
- (2) Any action taken in terms of the provisions of the *Local Government Ordinance* not referred to in sub-item (1)<sup>39</sup> is deemed to have been taken in terms of *this Act* and will continue to be valid or have force and effect except if it is inconsistent<sup>40</sup> with the *Local Government Transition Act*, *this Act* or any other law.

#### 2 LOCAL GOVERNMENT (ELECTIONS AND ADMINISTRATION) ORDINANCE, 1960

- (1) Despite its repeal, the provisions of the *Local Government (Elections and Administration) Ordinance, 1960*, will continue to apply until amended or repealed by *this Act* or any other law except for the following sections —
- 3 - 50; 51; 62; 62A; 62B; 63(1) - (19) & (20); 63A; 64; 65; 67; 69; 70; 70 bis; 71.

<sup>39</sup> Consequently the relevant provisions are —  
 2:3;4:6:7:9:9A:10:11:12:13:14:15:16:17:18:19:20:21:22:23:24:25:26:27:28:29:30:31:32:33:  
 37:38:38A:39:40:42:43:44:45:46:47:48:48A:49:50:50A:50B:51:52:55:56:58:59:60:61:63:64:65bis:  
 66:67:68:69:71:73:74:75:76:79:79quin:79:79sept:80:80A:80B:81:82:83:83A:84:85:86:87:88:104b  
 is:105:106:107:109:110:111:112:113:130:131:132:133:134:135:136:137:138:139:140:141:142:14  
 3:150:152:153:155:158:159:159 bis:160:163:167:168:169:169bis:170:170ter:171:171bis:  
 171ter:171quat and 172.

<sup>40</sup> Furthermore the action taken cannot be inconsistent with the *Constitution*.

- (2) Any action taken in terms of the provisions of the *Local Government (Elections and Administration) Ordinance, 1960*, not referred to in sub-item (1)<sup>41</sup> is deemed to have been taken in terms of *this Act* and will continue to be valid or have force and effect except if it is inconsistent with the *Local Government Transition Act, this Act or any other law*.

### 3 GENERAL PROVISIONS

- (1) Any other action taken under any provision repealed by Schedule —
- (a) is deemed to have been taken under the corresponding provision of *this Act*; and
  - (b) continues to be valid or have force and effect —
    - (i) except if it is inconsistent with the *Local Government Transition Act, or with this Act; or*
    - (ii) until it is repealed in terms of *this Act, or any other law*.
- (2) For purposes of this item and item 1(2) and 2(2) the words "action taken" includes issuing regulations, making by-laws, taking administrative or other measures, entering into contracts incurring obligations and instituting or defending any criminal or civil or other legal proceedings.

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<sup>41</sup> Consequently the relevant provisions are —  
1;52;53;54;55;56;57;58;59;60;61;63(20);66;68.

**SCHEDULE 3<sup>42</sup>**

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

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

<sup>42</sup> The content of this Schedule is yet to be agreed upon by GALA & where appropriate, specifically affected municipalities.

80B(4)(b)(i)	Determination, amendment or withdrawal of charges by special resolution.	The whole
81(1)(c)	Works for supply of water.	The whole
81(1)(d)	Works for supply of water.	The whole
81(1A)	Works for supply of water.	The whole
81(2)	Works for supply of water.	The whole
83(1)(bis)	Works for supply of light, heat, and power.	The whole
83(3)(a)	Works for supply of light, heat, and power.	The whole
83(4)	Works for supply of light, heat, and power	The whole
83A(1)	Restrictions on use of water and electricity.	The whole
104(bis)	Power of local authority to relax requirements of building by-laws or to waive compliance therewith.	The whole
131(5)	Other special powers for town councils.	The whole
131(17)	Other special powers for town councils.	The whole
133	Power to undertake sewerage and drainage.	The whole
142(1)(b)	Power to execute drainage works on private land or premises or to make advances therefor.	The whole
155(1)	Sanitary control of surface and underground mine workings.	The whole

<b>PART 2 - DELEGATION</b>		
<b>SECTION</b>	<b>SECTION TITLE</b>	<b>EXTENT OF DELEGATION</b>
79(16)	General powers.	The whole
79(17)(e)	General powers.	The whole
79(18)(e)	General powers.	The whole
79(18)(f)(aa)	General powers.	The whole
79(18)(f)(bb)	General powers.	The whole
79(18)(h)(bb)	General powers.	The whole
79(24)(c)	General powers.	The whole
80A(b)(ii)	Incorporation in by-laws of specifications, regulations and other documents by reference.	The whole
83(1)(c)(i)	Works for supply of light, heat, and power.	The whole

<b>ITEM B - LOCAL GOVERNMENT (ADMINISTRATION &amp; ELECTION ORDINANCE, 1960)</b>		
<b>PART 1 - ASSIGNMENT</b>		
<b>SECTION</b>	<b>SECTION TITLE</b>	<b>EXTENT OF ASSIGNMENT</b>
57(6)(b)	Functions of Management Committee	The whole
<b>PART 2 - DELEGATION</b>		
.....	.....	.....

<b>ITEM C - THE CAPITAL DEVELOPMENT FUND ORDINANCE OF LOCAL AUTHORITIES, 1978</b>
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<b>PART 1 - ASSIGNMENT</b>
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SECTION	SECTION TITLE	EXTENT OF ASSIGNMENT
.....	.....	.....
<b>PART 2 - DELEGATION</b>		
3	Utilisation of Fund	The whole

<b>ITEM D - LOCAL AUTHORITIES RATING ORDINANCE, 1977</b>
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<b>PART 1 - ASSIGNMENT</b>
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SECTION	SECTION TITLE	EXTENT OF ASSIGNMENT
7(1)	Appoint a valuer	The whole
7(2)(a)(i)	Appoint a valuer	The whole
14(1)	Constitution of Valuation board for local authority	The whole
14(2) & (3)	Constitution of Valuation board for local authority	The whole
14(10)	Constitution of Valuation board for local authority	The whole
14(11)	Constitution of Valuation board for local authority	The whole
20(4)	Re : hearing by and decision of valuation appeal board	The whole
21(2)	General rate and rebate thereof	The whole

<b>PART 2 - DELEGATION</b>
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**ITEM E - REMOVAL OF GRAVES AND DEAD BODIES ORDINANCE, 1925****PART 1 - ASSIGNMENT**

SECTION	SECTION TITLE	EXTENT OF ASSIGNMENT
2(1)	Bodies not to be removed without authority	The whole

**PART 2 - DELEGATION**

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## EXPLANATORY MEMORANDUM

### BACKGROUND

- 1 At the beginning of this year the Member of the Executive Council (MEC) responsible for local government appointed a Political Task Team which was charged with the responsibility for drafting legislation relating to the local sphere of government. The Political Task Team was composed of members who were drawn from across the political spectrum.
- 2 The Political Task Team had attached to it a Legislative Technical Task Team which was made up of officials from the Department of Planning and Local Government, advisors appointed by the Department of Planning and Local Government and representatives of the Gauteng Association of Local Authorities (GALA). The function of this team was to draft the necessary legislation in accordance with the directives of the Political Task Team.
- 3 At a workshop convened by the Political Task Team in March this year, cognisance was taken of the stated intention of the Minister responsible for Local Government and Provincial Affairs to formulate its white paper by the end of 1997, (with national legislation to follow thereafter) and the need for the development of provincial policy in relation to local government. Accordingly a decision was taken to present for promulgation this year a Bill dealing only with those matters that were immediately affecting the transformation of local government and the delivery of municipal services.
- 4 This Bill is therefore an interim measure (bridging legislation) to rationalise the legislative and administration framework within which municipalities currently operate.
- 5 The Political Task Team and the Legislative Technical Task Team were at all times mindful that there are numerous laws, the application of which has resulted in anomalies, inconsistencies and constitutionally problematic conduct on the part of both provincial government and municipalities. However of these laws, the *Constitution*<sup>1</sup>; *Local Government Transition Act*; *Local Government Ordinance*, and The Local Government (Administration and Elections) Ordinance, 1960 are addressed in this Bill. It must in addition be noted that this Bill deals only with those aspects arising out of the application of these statutes which are relevant to facilitating the process of transformation of the local sphere of government. It is envisaged that all other issues will form the subject

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<sup>1</sup> The italicisation of words denote that those words have been defined in Section 60.

matter of a subsequent and a more embracing piece of legislation which would be informed by the white paper processes both of the national and provincial spheres of government and future national legislation governing municipalities.

- 6 The matters to be addressed in this Bill were agreed to by the Department of Planning and Local Government, the Political Task Team and GALA. The considerations employed in selecting these matters, *inter alia*, were —
  - (a) factors that are retarding the effective integration and consolidation of local government structures;
  - (b) the need to accelerate rationalisation and transformation in the local sphere of government;
  - (c) obstacles to the delivery of municipal services;
  - (d) the need to empower municipalities to regulate matters in respect of which gaps exist in the law; and
  - (e) the need to infuse municipalities with the spirit of the *Constitution* when conducting their affairs.
- 7 What follows below is a summary of the contents of each Chapter.

#### **CHAPTER 1 - PURPOSE AND APPLICATION**

- 8 **Section 1** outlines the purpose of the Bill, viz to rationalise the legislative and administrative framework within which municipalities operate and to facilitate transformation in this sphere of government.
- 9 The purpose clause also "identifies" the specific foci of the Bill and contains a "declaration of intent" which is suggestive of the types of measures to be invoked to facilitate the transformation of municipalities.
- 10 **Section 2** contextualises the provisions of this Bill so as to make its application and interpretation meaningful, constructive and purposeful.

#### **CHAPTER 2 - STATUS, POWERS, FUNCTIONS AND DUTIES OF MUNICIPALITIES**

- 11 **Section 3** ensures the continued existence of all municipalities, irrespective of the laws in terms of which they have been created and consequently paves the

way for the repeal of those laws without affecting the status of a Municipal Council established in terms of those laws. In addition, it concretises the corporate identity of municipalities to enhance their capacity to perform juristic acts.

- 12 In terms of section 23A of Proclamation 5 of 1995, as amended and read with section 10 of the *Local Government Transition Act*, the Premier established both transitional representative councils and local area committees (both of which were located within the jurisdiction of a services council). These local area committees were intended to represent the unique characteristics of the former peri-urban areas. However, a sound basis for their existence in law needs to be further facilitated. This could be done by converting the local areas committees into transitional representative councils. This could not be addressed in *this Act*, given the history of their establishment. Instead the Department of Planning & Local Government intend invoking the provisions of section 10N of the *Local Government Transition Act*. This would entail the amendment of the relevant Proclamation.
- 13 To the extent that the merger and/or amalgamation of "old" towns and cities creates/d anomalies in the inter-relationship of newly constituted municipal entities, **Section 4** is designed to suitably align these inter-relationships.
- 14 When read with the definition of "powers, functions or duties", **Section 5** —
  - (a) consolidates the powers of municipalities;
  - (b) grants municipalities "original powers" in respect of local government matters that are not excluded from its competence or assigned or delegated to another sphere of government. This power however does not constitute an ultimate residual power as it is subject to any other law regulating local government matters.

### **CHAPTER 3 - BY-LAWS, STANDARD BY-LAWS AND REGULATIONS**

- 15 This Chapter sets out the procedures for making and issuing *by-laws*, *standard by-laws* and regulations. The procedures are designed in a way that ensures transparency and encourages public participation in the law-making process. Those responsible for making and issuing *by-laws* and *standard by-laws* are obliged to make them available for comment and to take steps to enable members of the public to make comment.
- 16 Provision is also made in this Bill for provincial government to perform a supportive and supervisory role in relation to municipal law making. In terms

of **Section 7**, the **MEC** may recommend to a Municipal Council that it make a *by-law* if the **MEC** is of the opinion that the *by-law* is essential for the effective and efficient delivery of municipal services.

- 17 In addition, a *by-law* review procedure has been created to encourage and ensure on-going modernisation and adaptation of municipal legislation.

#### **CHAPTER 4 - PERSONNEL RELATED MATTERS**

- 18 The Chapter on personnel related matters obliges a Municipal Council to —
- (a) employ a *Chief Executive Officer*; and
  - (b) rationalise and implement schemes to equalise its terms and conditions of employment and other employment related benefits.

#### **CHAPTER 5 - DESIGNATED OFFICERS, EXECUTION OF WORK, INSPECTIONS, COMPLIANCE PROCEDURES AND OFFENCES**

- 19 This Chapter focuses on the manner in which municipalities operate and applies only if laws authorising the execution of work or inspections do not contain provisions as provided for in this Chapter.
- 20 Existing legislation contain far too many provisions, which if challenged are likely to be struck down for violating constitutional rights. Hence this Chapter sets standards of conduct to ensure compliance with the *Constitution*. This Chapter is likely to have a significant impact on how municipalities conduct these activities and render and maintain levels of service delivery.
- 21 Provision is made in this Chapter for obtaining warrants; limiting conduct taken without a warrant; issuing compliance notices as a corrective measure rather than relying solely on criminalisation.

#### **CHAPTER 6 - PROCUREMENT OF GOODS AND SERVICES BY MUNICIPALITIES**

- 22 This Chapter seeks to better regulate tendering processes. The procedures are designed to ensure transparency and promote development and empowerment.

- 23 Provision is made for the *MEC* to determine the value of the goods and services in respect of which a comprehensive tendering process must be complied with. However in cases of emergency, necessity or sole suppliership, a Municipal Council could decide not to comply with this process, but would nonetheless have to explain to the public why it has chosen to do so.
- 24 The comprehensive tendering process includes publicising the tender, specifying the details of the tender and the time period during which the tender will lie for inspection and permitting the public to scrutinise the process.
- 25 Extensions, variations and the consequences of irregular tenders are also dealt with in this Bill.
- 26 Provision is made for an appeal to a Procurement Appeals Tribunal to deal with all disputes arising out of the procurement process.
- 27 Provision is also made for the establishment of a Procurement Committee. In essence, the function of this Committee is to play a supportive and capacity providing role to a Municipal Council.

**CHAPTER 7 - RESTRICTION OF ACCESS TO PUBLIC PLACES FOR SAFETY AND SECURITY PURPOSES**

- 28 This Chapter addresses one of the most commonly demanded community crime prevention initiatives, viz the restriction of access to public places such as roads, parks, thoroughfares, etc. No legal basis currently exists to deal with this phenomenon. This Chapter has been formulated to appropriately regulate such restrictions by permitting municipalities to restrict access on their own initiative ; or to authorise person(s) bodies or organisations to restrict access provided that the requisite authority has been duly obtained.

**CHAPTER 8 - MISCELLANEOUS MATTERS**

- 29 This Chapter deals with the following matters —
  - (a) the establishing of Municipal Commissions of Enquiry. Section 48 specifies the circumstances when it may be established and provides that the Gauteng Provincial Commissions Act, 1997 is applicable to the Commission;

- (b) the convening of public hearings. Section 49 empowers members of the public to petition the Municipal Council to convene a public hearing. Provision is also made for the Municipal Council to determine the procedures applicable to the public hearing;
- (c) the power of the *MEC* to issue advisory directives in circumstances where Municipal Councils have not been able to give effect to their obligations; and
- (d) the power of the *MEC* to issue guidelines to assist Municipal Councils in exercising their functions.

## **CHAPTER 9 - GENERAL PROVISIONS**

- 30 This Chapter deals with various aspects which are standardly dealt with in most Bills such as penalties, restriction and limitation of liability, legal representation, assignment and delegations, repeals and transitional arrangements, definitions, short-titles, etc.
- 31 In respect of assignments and delegations of powers, functions, duties and responsibilities, Section 57 as read with Schedule 3 continues the process of appropriately locating certain competences to the local sphere of government.
- 32 As regards repeals and transitional arrangements it must be noted that the *Local Government Ordinance* will be repealed. However as a transitional measure various sections will continue to apply pending their subsequent amendment or repeal.

## CLAUSE-BY-CLAUSE DESCRIPTION

### Clause 1

This clause describes the purpose of the Bill, namely to rationalise the legislative and administrative framework for Local Government.

### Clause 2

- (1) The interpretation of the Bill must be in line with its purpose and role.
- (2) The Bill shall be interpreted in a manner that will not bring it into conflict with any other law.
- (3) The provisions of the Bill will prevail in the event of a conflict with any other law except the Constitution and the Local Government Transition Act.

### Clause 3

Every municipal council established in terms of the Local Government Transition Act will retain its status and be deemed to be a body corporate.

### Clause 4

- (1) A municipal council that has been declared a city will retain its status as such.
- (2) A metropolitan council with a declared city within its area of jurisdiction shall have all the powers and obligations of a city in terms of any law.
- (3) A municipal council that has been declared a city may reflect its status in its name and on any of its documents.

### Clause 5

- (1) The powers, functions and duties of a municipal council in terms of this Bill shall be in addition to those conferred by the Constitution and the Local Government Transition Act.
- (2) This clause refers to Annexures A and B which contain some of the powers and duties of municipal councils.
- (3) A municipal council may exercise any power or perform any duty concerning a matter necessary for the effective performance of its duties.
- (4) A municipal council may take any step necessary in order to achieve the purpose of this Bill.

- (5) A municipal council may exercise every power or perform any duty in respect of local government matters which are not excluded from its competence or assigned or delegated to any other sphere of government.
- (6) A municipal council may make and administer by-laws for the effective performance of its powers and duties.

### Clause 6

- (1) In order to make a by-law, a municipal council must pass a resolution declaring its intention to do so.
- (2) (a) The intention must be published by way of notice in the Provincial Gazette and other means of communication.
  - (b) This sub-clause contains specifications as to what the notice should contain.
  - (c) Consultations with any interest group(s) may be held before making the by-law.
  - (d) Comments received must be considered before making the by-law.
- (4) Failure by the Municipal Council to make a by-law within a year of the announcement will nullify the notice.
- (5) The procedures for making a by-law shall not apply where such by-law has to be promulgated without delay and where an error has to be corrected.
- (6) The procedures for making a by-law shall apply also in cases of amendments or repeal of by-laws.
- (7) A by-law comes into operation on the date of its publication in the Provincial Gazette.
- (8) A fee for obtaining a copy of the draft by-law may be determined by the Council.
- (9) A draft by-law must be displayed where it is easily accessible.
- (10) The municipal council shall encourage and assist the public to comment on the draft-by-law.

**Clause 7**

- (1) Where a municipal council has not made, amended or repealed a by-law and the MEC is satisfied that it should have been done, he/she may request the Council to give reasons for such failure.
- (2) The reasons for the failure must be submitted in writing within a month.
- (3) Where the MEC is not satisfied with the reasons he/she may recommend that the necessary by-law be made within a reasonable time.

**Clause 8**

- (1) By-laws must be reviewed by the Municipal Council at intervals of not less than 10 years after coming into operation.
- (2) Failure by a council to conduct and complete the review within the set time limits will make the council/it liable to furnish reasons to the MEC.

**Clause 9**

A municipal council has a discretion as to the manner and circumstances of access to inspect or obtain a copy of any by-law.

**Clause 10**

The MEC may make a standard by-law on any matter falling within the competence of municipal councils.

**Clause 11**

The procedure for making a standard by-law is the same as for a by-law.

**Clause 12**

- (1) A standard by-law is only binding on a municipal council if a by-law was made to that effect.
- (2) The contents of a by-law would include the standard by-law where reference is made to the standard by-law.

**Clause 13**

The MEC has the power to issue regulations on any matter that is necessary to achieve the purpose of this Act.

**Clause 14**

- (1) A regulation may confer power, contain conditions and exemptions in respect of some areas in Gauteng or other persons or bodies.
- (2) The MEC may make changes in the regulations by notice in the Provincial Gazette, but such changes cannot be made without prior knowledge of the persons or bodies concerned.
- (3) If the regulations provide that failure to comply with any restriction shall be an offence the affected person must be notified of such an offence before being subject to criminal liability.

**Clause 15**

The procedure for issuing a regulation is the same as making a by-law.

**Clause 16**

Each municipal council must appoint a Chief Executive Officer and personnel to carry out its powers and duties.

**Clause 17**

The Chief Executive Officer shall act as head of the council, help to implement the council's programs and policies and maintain good relations with the community which it serves. The Chief Executive Officer may have other powers provided for in other Acts and also those given by the municipal council.

**Clause 18**

A merged municipality shall not change the terms and conditions of the employees for the worse in cases where differences in terms or conditions exist.

**Clause 19**

Every municipal council must have a medical aid scheme to the benefit of its employees and may implement such a scheme for councilors.

The rules, obligations and benefits applicable to existing schemes shall continue to apply unless replaced in terms of the Act or its own rules but such a change must place the employees in a better position.

#### **Clause 20**

Every municipal council must have a retirement scheme to benefit its employees and councilors equally.

The rules, obligations and benefits of existing schemes shall continue to apply unless changed by the rules of the scheme or in terms of the Act.

Such changes must not change the position of the employees for the worse.

The council must equalize the benefits of employees in cases of differences within two years of coming into operation of this Act.

#### **Clause 20A**

This clause deals with the appointment of Mayors, their terms of office and if circumstances warrant relieving a mayor of his/her official duties, a municipal council may do so by resolution taken by a two-thirds majority. A municipal council may delegate implementation or monitoring responsibilities of national or provincial programmes to the mayor and authorise a mayor to serve on the executive committee but may determine that he/she has not voting rights

#### **Clause 21**

This clause authorises the Chief Executive Officer to designate generally or specifically any person to be a designated officer.

#### **Clause 22**

Functions and duties of designated officer are laid down in this clause, which are to be executed in compliance with this Bill and in accordance with procedures outlined in Clauses 24 and 25.

#### **Clause 23**

Designated officers are, in addition to the powers provided for in this Bill and any powers conferred on them, given further powers to ensure smooth execution of their functions contemplated in Clause 22, above.

**Clause 24**

The procedure, manner and time of execution and requirements of a valid warrant, in cases where entry is executed in terms of a warrant, are explicitly set out in this clause.

**Clause 25**

Designated officers are authorised to enter any premises or land without a warrant with the consent of the owner or person in control of the land or those premises. If consent is unreasonably withheld, designated officers may enter any land or premises without a warrant by virtue of their additional powers conferred on them by any other law.

**Clause 26**

In executing their work, designated officers must conduct themselves decently and observe stringently the fundamental rights of individuals.

**Clause 27**

The circumstances under which force may be used, the manner in which designated officer must demand admission before using force and compensation for destruction resulting from the force used are set out in this clause. However, force may not be used in terms of Clause 25.

**Clause 28**

A designated officer, may in the execution of his/her work, be accompanied by either a member of the SA Police Service or any person reasonably required to assist in the execution of his/her work.

**Clause 29**

This clause provides for the production of any document requested by a designated officer.

**Clause 30**

Questions by a designated officer must be truthfully answered, which answers may not be admitted in criminal cases subject to certain exceptions.

**Clause 31**

In the event of a breach of the provisions of this Bill a designated officer may issue a compliance notice, which notice remains in force until a compliance certificate has been issued and the requirements of such notice have been complied with.

**Clause 32**

This clause makes provisions for offences which may be committed by any person not duly appointed as a designated officer.

**Clause 33**

In terms of this clause the provisions of the Bill relating to the powers and duties of designated officers are made applicable to any person or body including the state and the power conferring or duty imposing provisions apply in respect of any land, a thing on any land or in any premises.

**Clause 34**

The MEC is empowered to prescribe the tender value of the services or goods for which a municipal council has to comply with the procurement procedure as set out in clause 34 to procure or award contracts. Such procedures can however be dispensed with in cases of emergency and necessity. This procurement procedure must comply with financial regulations.

**Clause 35**

This clause sets out the tender procedures which must be followed by municipal councils for the procurement of prescribed goods or services.

**Clause 36**

A municipal council may, by resolution, dispense with clause 35 procedures in cases of emergency and necessity. Within one month of the resolution, reasons for dispensing with clause 35 and the requirements of the prescribed goods must be published and specified. The functions of a municipal council in terms of this clause may not be delegated.

**Clause 37**

This clause authorises a municipal council to, on its own initiative, resolve to extend or vary a tender agreement if circumstances set out in clause 34(2)(a) prevail. The authority of a municipal council is however limited. The provisions of Clause 36 above apply *mutatis mutandis*.

**Clause 38**

Where a municipal council is satisfied that a tender application has been accepted, varied or extended, or that there has been a breach thereof, it must notify the supplier in writing and give reasons therefor. A municipal council is authorised to cancel a

tender agreement if the supplier does not submit representations as notified. The functions of a municipal council in this respect may not be delegated or assigned.

#### **Clause 39**

A supplier of goods or services who feels aggrieved by a decision of a municipal council to cancel a tender agreement may appeal to the Procurement Appeals Tribunal, according to procedures determined by a municipal council. A decision of the Procurement Appeals Tribunal is final and binding on all parties to the appeal.

#### **Clause 40**

A municipal council must establish a Procurement Appeals Tribunal consisting of at least two arbitrators, who may appoint experts to the Procurement Appeals Tribunal. The panel of arbitrators must be maintained at at least six persons approved by a municipal council, which persons may not be councilors or employees of the municipal council. A Municipal Council must follow the prescribed procedures to appoint a person to the panel of arbitrators.

#### **Clause 41**

This clause empowers a municipal council to establish a procurement committee with certain powers and functions.

#### **Clause 42**

In terms of this clause a municipal council may impose a restriction or authorise any person(s), body or organisation to restrict access to any public place to enhance safety and security.

#### **Clause 43**

This clause outlines the procedures a municipal council must follow when intending to impose restrictions on access to a public place.

#### **Clause 44**

In terms of this clause anyone who applies to a municipal council for authorisation to restrict access to a public place must follow certain prescribed procedures whereafter certain guidelines must be adhered to by a municipal council.

**Clause 45**

In terms of this clause a restriction or authorisation to restrict access is valid for no longer than two years but a municipal council may extend the duration thereof if necessary by following the correct procedures.

**Clause 46**

Under this clause it is an offence for anyone to **restrict access to a public place without having obtained the prescribed authorisation.**

**Clause 47**

This clause empowers a municipal council to determine the circumstances and the manner in which the public may have access to and inspect the terms of a restriction or authorisation to restrict access.

**Clause 48**

In terms of this clause a municipal council is empowered to establish a Municipal commission of Enquiry in respect of any local government matter by passing a resolution that specifies the terms of reference of the commission including the time period such commission must complete its business. The commission must send a report containing its findings and recommendations to the municipal council for consideration and the municipal council may take any steps it deems necessary. However, the MEC must make regulations concerning the establishment and conducting of a municipal enquiries.

**Clause 49**

In the event a municipal council receiving a petition calling for a public hearing in respect of any local government matter, this clause empowers a council to convene a public hearing and in doing so, the municipal council must determine the procedure for convening and conducting the public hearings.

**Clause 50**

This clause empowers the MEC to issue advisory directives to a municipal council who has failed to adequately fulfill its task, after requesting the municipal council to submit written representations to outline its reasons for its failure.

**Clause 51**

This clause empowers the MEC to issue guidelines to municipal councils to assist them in exercising their powers, functions or duties or to give effect to the purpose of this Bill.

**Clause 52**

Any person who is guilty of an offence in terms of the Bill is liable for a fine or imprisonment, or both a fine and imprisonment, and by continuously committing the same offence(s), that person(s) is liable for additional fines or periods of imprisonment.

**Clause 53**

No one in terms of this clause is liable for any damages arising from any act done in good faith or information given in good faith. A municipality is therefore indemnified in respect of any legal proceedings instituted by an injured or aggrieved party against someone acting on behalf of a municipality.

**Clause 54**

In terms of this clause a claimant must institute legal proceedings against a municipality or someone acting on behalf of the municipality in respect of any act or omission within 12 months or earlier of the date the claimant became aware of this act or omission and a written notice must be served on the Chief Executive Officer and the defendant concerned.

**Clause 55**

In any legal proceeding instituted against councilors or employees of a municipality relating to their functions in the municipality this clause makes provision that such councilors or employees be entitled to legal representation and the cost must be borne by the municipality. Such representation must be provided in a manner determined by the municipal council.

**Clause 56**

In terms of this clause a municipal council may in writing, delegate any power, function or duty to any employee, committee, sub-committee, board or body established by the council or to any other municipal council and is entitled to enter into agreements with any public or private provider of goods or services and the council must keep a register of all delegations and agreements.

**Clause 57**

The MEC is empowered to assign or delegate any power, function, duty or responsibility to a municipal council by accordingly amending or making the appropriate entry to Schedule 3 and such assignment or delegation may be made in respect of different municipalities or different groups or categories of municipalities.

**Clause 58**

The MEC is empowered to amend, repeal or delete a schedule, annexure, page header, heading or footnote by complying with the procedure that must be followed.

**Clause 59**

This clause repeals the laws mentioned in Schedule 1 and makes provision that the transitional arrangements in Schedule 2 be read and applied as substantial provisions of the Bill.

**Clause 60**

This clause deals with the meaning of words and terms used in the Bill.

**Clause 61**

In terms of this clause the Bill is called the Gauteng Rationalisation of Local Government Affairs Act, 1997.

**ALGEMENE KENNISGEWING****KENNISGEWING 3984 VAN 1997**

Ingevolge reël 132(1)(i) van die Staande Reëls van die Gautengse Provinciale Wetgewer word die Wetsontwerp op die Rasionalisering van Plaaslike Regeringsaangeleenthede hiermee vir algemene kennisname gepubliseer.

Enige persoon of organisasie wat kommentaar op die gemelde wetsontwerp wil lewer kan sy of haar skriftelike kommentaar binne veertien (14) dae vanaf die datum van publikasie hiervan by my indien deur dit:

(d) te pos aan:

Die LUR vir Ontwikkelingsbeplanning en Plaaslike Regering  
Privaatsak X86  
MARSHALLTOWN  
2107

OF

(e) af te lewer by:

17de Vloer  
Corner House  
H/v Sauer- en Commissionerstrate  
JOHANNESBURG

OF

(f) te faks na (011) 355-5401/2.

**S. SHICEKA, LUR  
ONTWIKKELINGSBEPLANNING EN PLAASLIKE REGERING**

## WETSONTWERP OP DIE RASIONALISERING VAN PLAASLIKE REGERINGSAANGELEENTHEDE, 1997

Om voorsiening te maak vir die rasionalisering van die wetgewende en administratiewe raamwerk vir die plaaslike sfeer van regering, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**DAAR WORD BEPAAL** deur die Provinciale Wetgewer van Gauteng, Republiek van Suid-Afrika, soos volg:-

### **HOOFSTUK 1** **DOEL EN TOEPASSING**

#### **1. DOEL**

- (1) Die doel van *hierdie Wet*<sup>2</sup> is om die wetgewende en administratiewe raamwerk waarin die plaaslike regeringsfeer sy sake kan bestuur, te rasionaliseer met betrekking tot onder andere -
  - (a) die bepaling en standaardisering van die status, *bevoegdhede, funksies en pligte* van 'n munisipale raad;
  - (b) die uitvaardiging en uitreiking van *verordeninge, standaardverordeninge* en regulasies;
  - (c) die harmoniëring van arbeidsverhoudinge; en
  - (d) die in staat stel van munisipaliteite om hulle sake doeltreffend te bestuur, meer in die besonder met betrekking tot die verkryging van goedere en dienste, die verrigting van werk, die hou van inspeksies en die regulering van toegang tot *openbare plekke*.
- (2) Ten opsigte van die aangeleenthede in subartikel (1) bedoel, is *hierdie Wet* daarop gemik om die transformasie van die plaaslike regeringsfeer te faciliteer deur -
  - (a) die vermoë en integriteit van die plaaslike regeringsfeer te bevorder en te versterk;
  - (b) munisipaliteite aan te moedig om toereikende standaarde van beheer en dienslewering te handhaaf en te verbeter;
  - (c) lede van die publiek aan te moedig om tot die beheer van munisipaliteite by te dra; en
  - (d) 'n gees van samewerking en gedeelde verantwoordelikheid in die regering te bevorder.

#### **2. TOEPASSING VAN HIERDIE WET**

- (1) Iemand wat *hierdie Wet* toepas of vertolk moet
  - (a) 'n konstruksie van die bepalings daarvan gee op 'n wyse wat - [Kyk Engels: geen par (b).]

<sup>2</sup> Woorde wat kursief gedruk is, is in artikel 60 omskryf.

- (i) in ooreenstemming is met die doelstellings in artikel 1 uiteengesit; en
  - (ii) ag slaan op die bepaalde doel, rol en omstandighede van die plaaslike regeringsfeer soos beoog in die Grondwet en *enige ander wet*.
- (2) Die bepalings van *hierdie Wet* moet gesien word -
- (a) in die lig van *enige ander wet* wat 'n munisipale raad beheer; en
  - (b) op 'n wyse wat 'n redelike vertolking van die betrokke wette in die hand werk en wat teenstrydigheid tussen hulle vermy oor 'n vertolking wat hulle in stryd bring.
- (3) Indien daar enige teenstrydigheid, betreffende die aangeleenthede wat in *hierdie Wet* hanteer word, ontstaan tussen *hierdie Wet* en die bepalings van *enige ander wet*, uitgesonderd die Grondwet, die Oorgangswet op Plaaslike Regering of enige wet waardeur *hierdie Wet* uitdruklik gewysig word, gee die bepalings van *hierdie Wet* die deurslag.

## HOOFSTUK 2

### STATUS, BEVOEGDHEDE, FUNKSIES EN PLIGTE VAN MUNISIPALITEITE

#### 3. STATUS VAN MUNISIPALITEITE

- (1) Behoudens *enige ander wet* moet elke munisipale raad ingestel ingevolge die Oorgangswet op Plaaslike Regering, of wat verklaar is ingevolge daardie Wet ingestel te wees -
- (a) voorbestaan en sy status as 'n munisipale raad behou; en
  - (b) geag word 'n regspersoon te wees.
- (2) 'n Munisipale raad, behoudens *enige ander wet*, as 'n regspersoon -
- (a) gaan voort om te bestaan ondanks enige veranderinge aan sy reggebied of die samestelling van sy beheerstrukture;
  - (b) is bevoeg om in sy eie naam eisend en verwerend op te tree;
  - (c) kan eiendom koop, hou, verhuur of vervreem; en
  - (d) kan enige handeling verrig rakende 'n aangeleenthed wat redelikerwys nodig is vir, of in verband staan met, die doeltreffende verrigting van sy *bevoegdhede, funksies of pligte*.

#### 4. STADSTATUS VAN MUNISIPALITEITE

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

- (3) 'n Municipale raad wat tot 'n stad verklaar is soos in subartikel (1) beoog of wat stadstatus verkry het soos in subartikel (2) beoog, kan hierdie status weerspieël -  
 (a) in sy naam; en  
 (b) op enige van sy dokumente.

## 5. BEVOEGDHEDE, FUNKSIES EN PLIGTE VAN MUNICIPALE RADE

- (1) Benewens die *bevoegdhede, funksies of pligte* van 'n municipale raad bedoel in die *Grondwet* en die *Oorgangswet op Plaaslike Regering* of *enige ander wet*, het 'n municipale raad die *bevoegdhede, funksies of pligte* wat ingevolge *hierdie Wet* aan hom verleen, opgelê, opgedra of gedelegeer word.<sup>3</sup>
- (2) Bloot geriefshalwe en vir maklike verwysing bevat Aanhangsels A en B 'n saamgevatte lys van voorbeeld van die *bevoegdhede, funksies of pligte* van 'n municipale raad bedoel in die *Grondwet* en die *Oorgangswet op Plaaslike Regering*, en dit moet nie vertolk word dat dit 'n volledige lys van die *bevoegdhede, funksies of pligte* van 'n municipale raad uitmaak nie.
- (3) 'n Municipale raad kan enige bevoegdheid uitoefen of enige funksie of plig verrig rakende 'n aangeleentheid wat redelikerwys nodig is vir of in verband staan met die doeltreffende verrigting van sy *bevoegdhede, funksies of pligte*.
- (4) 'n Municipale raad kan enige stap doen wat nodig of dienstig is vir die bereiking van die doel van *hierdie Wet*.
- (5) Behoudens *enige ander wet* kan 'n municipale raad uit eie beweging enige bevoegdheid uitoefen of enige funksie of plig verrig ten opsigte van enige *plaaslike regeringsangeleentheid*<sup>4</sup> wat nie -  
 (a) uit sy bevoegdheid uitgesluit is nie; of  
 (b) aan enige ander regeringsfeer opgedra of gedelegeer is nie.
- (6) 'n Municipale raad kan *verordeninge* uitvaardig en administreer vir die doeltreffende -  
 (a) verrigting van sy *bevoegdhede, funksies of pligte*; en  
 (b) administrasie van die aangeleenthede ten opsigte waarvan hy die reg het om te administreer.

<sup>3</sup> Ten opsigte van die "oordrag" van bevoegdhede of pligte deur middel van "delegering" of "opdrag" bepaal artikels 10C(2)(b)(i) en (ii) en 10D(1)(b)(i) en (ii) van die *Oorgangswet op Plaaslike Regering* dat die municipaliteit eers voldoende hulpbronne moet ontvang om die bevoegdheid uit te oefen of die plig te verrig op 'n grondslag wat die volhoubaarheid en uitvoerbaarheid van daardie uitoefening of verrigting verseker. Hierdie bepalings is nie van toepassing nie waar die bevoegdheid of plig "oorgedra" is deurdat dit aan die municipaliteit "verleen" of "opgelê" is. Daar word gevoleklik aanbeveel dat hierdie probleem hanteer word deur 'n wysiging van die *Oorgangswet op Plaaslike Regering*.

<sup>4</sup> Vir doeleinades van hierdie klousule is artikel 151(3) en 152 van die *Grondwet*, gelees met item 26 van Bylae 6, tersaaklik.

## HOOFSTUK 3

### VERORDENINGE, STANDAARDVERORDENINGE EN REGULASIES

#### (a) VERORDENINGE

##### 6. DIE PROSEDURE VIR DIE UITVAARDIGING VAN VERORDENINGE

- (1) Om 'n *verordening* uit te vaardig moet 'n munisipale raad 'n resolusie aanneem waarin sy voorneme te dien effekte verklaar word.
- (2) Nadat die resolusie aangeneem is, moet die munisipale raad -
  - (a) sy voorneme om die *verordening* uit te vaardig, aankondig deur kennisgewing in die provinsiale koerant en ander gesikte kommunikasiemiddelle;
  - (b) die volgende in die kennisgewing vermeld:
    - (i) Dat kommentaar op 'n konsepverordening verlang word;
    - (ii) in opgesomde vorm, waaroer die konsepverordening handel;
    - (iii) die persoon aan wie of die plek waar navrae oor die konsepverordening gerig kan word;
    - (iv) behoudens subartikels (7) en (8), die plek(ke) waar, tyd/tye wanneer, omstandighede waarin en wyse waarop 'n eksemplaar van die konsepverordening verkry kan word of vir insae beskikbaar sal wees;
    - (v) die tydperk vir kommentaar op die konsepverordening, wat minstens een maand na die datum van die kennisgewing moet wees; en
    - (vi) die persoon aan wie of die plek waar kommentaar op die konsepverordening ingedien kan word;
  - (c) te eniger tyd voordat die *verordening* uitgevaardig word, oorleg pleeg in enige vorm met enige tersaaklike belangegroep(e), insluitende die hou van 'n ondersoek; en
  - (d) die kommentaar wat ontvang is en die inhoud van oorlegpleging oorweeg voordat die *verordening* uitgevaardig word.
- (3) Indien 'n munisipale raad nie binne een jaar na die aankondiging in subartikel (1)(b) bedoel 'n *verordening* uitgevaardig het nie, kan daardie *verordening* nie uitgevaardig word nie tensy die prosedure in subartikel (1) bedoel, herhaal word.
- (4) Die bepalings van subartikels (1)(b) en (2) is nie van toepassing nie ten opsigte van -
  - (a) enige *verordening* wat in openbare belang sonder versuim uitgevaardig moet word; en
  - (b) 'n wysiging om 'n tekstuele fout reg te stel.
- (5) Die bepalings van subartikels (1) tot (3) is van toepassing ten opsigte van die wysiging of herroeping van enige *verordening*, met die veranderinge wat die samehang vereis.

- (6) 'n Verordening tree in werking op die datum van publikasie daarvan in die provinsiale koerant of op sodanige ander datum as wat in die provinsiale koerant gemeld word.
- (7) 'n Municipale raad kan 'n geld bepaal vir die verkryging van 'n eksemplaar van die konsepverordening.
- (8) Die plek(ke) waar die konsepverordening vertoon word, moet almal wat deur die verordening geraak word, in staat stel om vinnig en gerieflik ingelig te word oor die inhoud daarvan.
- (9) Elke municipale raad moet beleide en programme ontwikkel en implementeer om lede van die publiek by te staan om kommentaar op die konsepverordening te lewer.

## 7. DIE LUR SE BEVOEGDHEID OM AAN TE BEVEEL DAT 'N MUNISIPALE RAAD VERORDENINGE UITVAARDIG

- (1) Indien, binne 'n redelike tydperk na die inwerkingtreding van *hierdie Wet* -
  - (a) 'n municipale raad nie 'n verordening ten opsigte van 'n aangeleentheid in artikel 5(6) beoog, uitgevaardig, gewysig of herroep het nie; en
  - (b) die *LUR* oortuig is dat hierdie stap noodsaaklik is vir doeltreffende en doelmatige dienslewering aan die inwoners van 'n municipale raad;

kan die *LUR* die municipale raad versoek om vertoë te rig om die redes vir sy versuim te skets.

- (2) 'n Municipale raad moet aan hierdie versoek voldoen en moet die vertoë skriftelik aan die *LUR* voorlê binne een maand na ontvangs van die versoek.
- (3) Indien die *LUR* by oorweging van hierdie vertoë nie tevrede is met die redes vir die versuim nie, kan die *LUR* deur 'n skriftelike kennisgewing by die municipale raad aanbeveel<sup>5</sup> dat hy die nodige verordening binne 'n redelike tyd uitvaardig.
- (4) Die kennisgewing in subartikel (3) bedoel, moet die *LUR* se redes vir die besluit bevat.

## 8. PERIODIEKE HERSIENING VAN VERORDENINGE

- (1) 'n Municipale raad moet 'n hersiening hou en afhandel van sy verordeninge -

<sup>5</sup> 'n Municipaliteit is nie verplig om die aanbeveling te volg nie. Daar kan egter twee gevolge voortvloei uit hierdie versuim/weiering, naamlik eerstens, behoudens artikels 151, 154(1) en 156(4) van die Grondwet gelees met item 26(6) van Bylae 6, kan die *LUR* die promulgering van wetgewing fasiliteer; of tweedens, selfs as die *LUR* nie hierdie stap doen nie, kan die onvermydelike openbare aandrang voldoende druk op die municipaliteit uitoefen om die gepaste stap te doen.

- (a) wat voor of ten tyde van die inwerkingtreding van *hierdie Wet* in werking is, voor 'n datum wat deur die *LUR* voorgeskryf word;
  - (b) wat na die inwerkingtreding van *hierdie Wet* in werking tree, met tussenpose van minstens 10 jaar na die inwerkingtreding van daardie *verordeninge*.
- (2) Indien 'n munisipale raad versuim om 'n hersiening binne die tydperke in subartikel (1) vermeld te doen en af te handel, is die bepalings van artikel 7 van toepassing, met die veranderinge wat die samehang vereis.
- (3) Vir doeleindes van hierdie artikel sluit "*n hersiening doen en afhandel*" in
- (a) die evaluering of oorweging van '*n verordening*'; en, indien gepas,
  - (b) die uitvaardiging, wysiging of herroeping van '*n verordening*'.

#### **9. TOEGANG TOT EN INSAE IN VERORDENINGE**

- (1) Benewens enigiets waarvoor daar voorsiening gemaak word in enige regulasie uitgereik ingevolge artikel 13(1)(a), kan 'n munisipale raad die omstandighede bepaal waarin en die wyse waarop die publiek toegang tot enige *verordening* of insae daarin of 'n eksemplaar daarvan kan kry.
- (2) Die bepaling in subartikel (1) bedoel, mag nie 'n geld bepaal vir blote kyk na of insae in '*n verordening*' nie.

#### **(b) STANDAARDVERORDENINGE**

#### **10. DIE LUR SE BEVOEGDHEID OM STANDAARDVERORDENINGE UIT TE VAARDIG**

Ten einde munisipaliteite by te staan kan die *LUR* '*n standaardverordening*' uitvaardig oor enige aangeleentheid in artikel 5 beoog.

#### **11. PROSEDURE VIR DIE UITVAARDIGING VAN STANDAARDVERORDENINGE**

Die bepalings van artikel 6 is van toepassing op die uitvaardiging van *standaardverordeninge*, met die veranderings wat die samehang vereis.

#### **12. EFFEK VAN 'N STANDAARDVERORDENING**

- (1) '*n Standaardverordening*' of die wysiging of herroeping daarvan is bindend vir 'n munisipale raad slegs indien hy '*n verordening*' te dien effekte uitvaardig<sup>6</sup>.
- (2) '*n Verwysing* in '*n verordening*' na '*n standaardverordening*' is voldoende om die inhoud van die *standaardverordening* in die *verordening* op te neem.

#### **(c) REGULASIES**

<sup>6</sup> Die bepalings van artikel 6 is op die uitvaardiging van *hierdie verordening* van toepassing.

**13. DIE LUR SE BEVOEGDHEID OM REGULASIES UIT TE REIK**

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

**14. INHOUD VAN REGULASIES**

- (1) 'n Regulasie kan -
  - (a) 'n bevoegdheid verleen aan of 'n plig plaas op 'n persoon, liggaaam of openbare owerheid;
  - (b) voorwaardes bevat, insluitende beperkings of verbiedinge, en kan voorsiening maak vir vrystellings; en
  - (c) uitgereik word ten opsigte van -
    - (i) verskillende dele van Gauteng; of
    - (ii) verskillende kategorieë persone of liggame.
- (2) Die *LUR* kan te eniger tyd en met betrekking tot enige persoon, liggaaam, organisasie of korporasie, en behoudens die bepalings van die betrokke regulasie, by kennisgewing in die provinsiale koerant of afgelewer per pos of per hand -
  - (a) enige voorwaardes beoog in die regulasie, oplê, wysig of intrek; of
  - (b) enige vrystelling beoog in die regulasie, verleen, wysig of intrek.
- (3) Die *LUR* mag nie 'n voorwaarde of vrystelling opgelê of verleen ingevolge subartikel (2) wysig of intrek nie tensy die persoon of liggaaam op wie dit van toepassing is, 'n geleentheid gebied is om vertoë oor die kwessie te rig.
- (4) 'n Beperking of verbod vervat in die regulasies moet -
  - (a) in verhouding wees tot die oogmerke van daardie regulasie; en
  - (b) die gedrag van persone en liggame so min as wat redelikerwys moontlik is beperk.
- (5) Indien 'n versuim om te voldoen aan 'n beperking of verbod ingevolge enige regulasie 'n misdryf is waarvoor 'n persoon strafregtelik aanspreeklik kan wees, moet daardie regulasie bepaal dat, in soverre dit doenlik is, die persoon kennis gegee moet word van die misdryf en 'n geleentheid gebied moet word om aan die regulasies te voldoen, alvorens hy of sy strafregtelik aanspreeklik word.

**15. PROSEDURE VIR DIE UITREIKING VAN REGULASIES**

Betreffende die voorneme om enige regulasie ingevolge *hierdie Wet* uit te reik, is die bepalings van artikel 6 van toepassing, met die veranderings wat die samehang vereis.

## HOOFSTUK 4

### PERSONEELVERWANTE AANGELEENTHEDE

#### 16. AANSTELLING VAN HOOF UITVOERENDE BEAMPTE EN ANDER PERSONEEL

Elke munisipale raad moet -

- (a) 'n Hoof Uitvoerende Beampte en sodanige ander personeel aanstel as wat nodig is vir die behoorlike verrigting van sy bevoegdhede, funksies of pligte; en
- (b) die Hoof Uitvoerende Beampte en ander personeel aanstel op sodanige bedinge en voorwaardes as wat onderhandel word.

#### 17. PLIGTE VAN HOOF UITVOERENDE BEAMPTE

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

#### 18. RASIONALISASIE VAN BEDINGE EN VOORWAARDES VAN DIENS

In die geval van 'n amalgamasie of samesmelting van munisipaliteite ingevolge enige wet -

- (a) word die werknemers van die voorheen saamgestelde munisipaliteite geag werknemers van die gecombineerde of saamgesmelte munisipale raad te wees;
- (b) moet die bedinge en voorwaardes van diens van die werknemers wat deur die amalgamasie of samesmelting geraak word, te alle tye nie minder gunstig wees nie as dié wat voor die amalgamasie of samesmelting op hulle van toepassing was; en
- (c) moet die gecombineerde of saamgesmelte munisipale raad so gou as wat dit doenlik is, maatreëls ontwerp en implementeer om enige verskille in die bedinge en voorwaardes van diens wat daar moontlik tussen die werknemers van die voorheen saamgestelde munisipaliteite bestaan, gelyk te stel.

## 19. MEDIESE BYSTANDSVOORDEEL

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

## 20. AFTREEVOORDELE

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

## 20A. DIVERSE BEPALINGS RAKENDE BURGEMEESTERS

- (1) **Wanneer 'n burgemeester aangestel word -**
  - (a) kan 'n munisipale raad die ampstermy van die burgemeester bepaal sodat dit saamval met die ampstermy van die munisipale raad; en

- (b) indien die aanstelling gedoen word om 'n vakature te vul wat ontstaan gedurende 'n ampstermyn van die munisipale raad, kan die aanstelling beperk word tot die onverstreke deel van daardie ampstermyn.
- (2) Ten einde 'n burgemeester van sy amp te onthef kan 'n munisipale raad bepaal dat dit gedoen kan word slegs deur 'n resolusie wat deur 'n meerderheid van minstens twee derdes gesteun is.
- (3) 'n Munisipale raad kan aan sy burgemeester die verantwoordelikheid deleer om enige aspek(te) van 'n tersaaklike nasionale of provinsiale program of veldtog<sup>7</sup> te implementeer of die implementering daarvan te moniteer, en hierdie verantwoordelikheid moet uitgeoefen word binne die parameters van die munisipale raad se beleide en procedures.
- (4) 'n Burgemeester kan in 'n uitvoerende komitee of enige ander komitee van 'n munisipale raad dien hetsy -
  - (a) in die gewone hoedanigheid as 'n raadslid; of
  - (b) uit hoofde van die amp van burgemeester.
- (5) 'n Munisipale raad kan bepaal dat 'n burgemeester geen stemreg het nie wanneer hy of sy in die uitvoerende komitee of enige ander komitee dien in die omstandighede in subartikel (4)(b) beoog.
- (6) Indien 'n munisipale raad dit nodig ag om 'n adjunkburgemeester aan te stel, kan die raad die bepalings van subartikels (1) tot (5) op adjunkburgemeesters toepas, met die veranderinge wat die samehang vereis.

## HOOFSTUK 5

### AANGEWESE BEAMPTES, VERRIGTING VAN WERK, INSPEKSIES, NAKOMING VAN PROSEDURES EN VERBANDHOUDENDE MISDRYWE

#### 21. MAGTIGING VAN AANGEWESE BEAMPTES

- (1) Die Hoof Uitvoerende Beampte kan enige persoon in diens van 'n munisipale raad aanwys om 'n aangeweste beampete te wees.
- (2) 'n Magtiging ingevolge subartikel (1) kan algemeen of spesifieker wees.

#### 22. FUNKSIES VAN AANGEWESE BEAMPTES

- (1) Aangeweste beampetes kan werk verrig, inspeksie doen en die nakoming van hierdie Wet en enige ander wet moniteer en afdwing wat 'n munisipaliteit magtig om iemand aan te wys om werk te verrig, inspeksie te doen of nakoming te moniteer en af te dwing.

<sup>7</sup> Hierdie bepaling is breed genoeg om die huidige Maskhane- en Nasiebou-veldtogene in te sluit.

- (2) Behoudens *enige ander wet* moet 'n *aangewese beamppe* die funksies in hierdie artikel beoog, verrig ooreenkomsdig die prosedure in artikels 24 en 25 uiteengesit.

### 23. BEVOEGDHEDE VAN AANGEWESE BEAMPTE

- (1) Die bevoegdhede van *aangewese beamptes* waarvoor daar in hierdie Hoofstuk voorsiening gemaak word, is -
- (a) benewens enige bevoegdheid verleen aan 'n *aangewese beamppe* ingevolge *enige ander wet*; en
  - (b) behoudens daardie wette.
- (2) 'n *Aangewese beamppe* wat werk verrig of 'n inspeksie doen, kan enige van die volgende dinge doen:
- (a) Grond of persele inspekteer of werk daarop verrig;
  - (b) 'n persoon/persone teenwoordig op enige grond of perseel ondervra ten opsigte van enige aangeleentheid wat tersaaklik kan wees vir die werk of inspeksie;
  - (c) 'n persoon/persone ondervra wat die *aangewese beamppe* vermoed beskik oor inligting tersaaklik vir die werk of ondersoek;
  - (d) enige dokument ondersoek wat 'n persoon moet byhou ingevolge enige wet of wat tersaaklik kan wees vir enige werk of inspeksie;
  - (e) enige dokument in paragraaf (d) bedoel kopieer of, indien nodig, die dokument verwijder ten einde dit te kopieer;
  - (f) monsters neem van enige stof wat tersaaklik is vir die werk of inspeksie;
  - (g) lesings moniteer en neem of metings doen;
  - (h) foto's neem of audiovisuele opnames maak van enigiets of enige persoon, proses, handeling of toestand op of betreffende enige grond of perseel; en
  - (i) alle dinge wat nodig is vir die verrigting van werk of die doen van 'n inspeksie wat 'n munisipaliteit ingevolge *enige ander wet* moet doen.
- (3) 'n *Aangewese beamppe* wat enigiets anders as 'n stof beoog in subartikel (2)(f) verwijder van grond of 'n perseel waarop daar gewerk word of wat geïnspekteer word, moet -
- (a) 'n kwitansie daarvoor aan die eienaar of persoon in beheer van die perseel uitrek; en
  - (b) dit so gou doenlik terugbesorg nadat die doel bereik is waarvoor dit verwijder is.

### 24. PROSEDURE OM WERK TE VERRIG OF INSPEKSIE TE DOEN: BETREDING MET 'N LASBRIEF

- (1) 'n *Aangewese beamppe* kan enige grond of perseel betree indien 'n landdros<sup>8</sup> of 'n regter 'n lasbrief uitgereik het om die grond of perseel te

<sup>8</sup> Die praktiese probleme van wie die tersaaklike persoon moet wees, moet oorweeg word. Van die twee opsies word die gebruik van 'n regter (soos omskryf in die Wet op Vrederegters en Kommissarisse van Ede, 1963), verkies. Betreffende die gebruik van landdroste vir hierdie doel, is skakeling met die Departement van Justisie nodig. Indien die verkieslike metode aanvaar word,

- betree en werk daar te verrig of 'n inspeksie daar te doen, en die lasbrief nog geldig is.
- (2) 'n Landdros of 'n regter kan 'n lasbrief uitreik om enige grond of perseel te betree en werk te verrig of 'n inspeksie te doen indien, uit inligting onder eed, daar redelike gronde is om te vermoed dat -
- (a) in belang van die publiek, dit nodig is om werk te verrig of inligting te verkry wat nie verkry kan word sonder om daardie grond of perseel te betree nie; of
  - (b) daar nie-nakoming is van die bepalings van *hierdie Wet of enige ander wet* beoog in artikel 22 ten opsigte van daardie grond of perseel.
- (3) 'n Lasbrief ingevolge subartikel (2) kan te eniger tyd uitgereik word en moet spesifiek -
- (a) die grond of perseel identifiseer wat betree kan word of waarop daar gewerk kan word of wat geïnspekteer kan word; en
  - (b) die aangewese *beamppte* magtig om die grond of perseel te betree en werk te verrig of dit te inspekteer en om enigiets te doen wat in artikel 23(2) gelys is.
- (4) 'n Lasbrief ingevolge subartikel (2) is geldig totdat een van die volgende gebeurtenisse plaasvind:
- (a) Dit uitgevoer word;
  - (b) dit ingetrek word deur die persoon wat dit uitgereik het of, in afwesigheid van daardie persoon, deur 'n persoon met soortgelyke gesag;
  - (c) die doel waarvoor dit uitgereik is, verval het; of
  - (d) drie maande verloop het sedert die datum waarop dit uitgereik is.
- (5) 'n Lasbrief ingevolge subartikel (2) mag net tussen 07:00 en 19:00 uitgevoer word, tensy die landdros of regter wat dit uitreik, skriftelik verklaar dat dit op 'n ander tyd wat in die omstandighede redelik is, uitgevoer kan word.
- (6) Voordat hulle met enige werk of inspeksie begin, moet aangewese *beamptes* wat 'n lasbrief uitvoer -
- (a) indien die eienaar of 'n ander persoon skynbaar in beheer van die grond of perseel teenwoordig is -
    - (i) hulself identifiseer en hulle gesag verduidelik of bewys van hulle magtiging lewer aan daardie persoon; en
    - (ii) 'n afskrif van die lasbrief oorhandig aan daardie persoon of aan 'n persoon daarin vermeld; of
  - (b) indien die eienaar of persoon skynbaar in beheer van die grond of perseel afwesig is of weier of 'n afskrif te ontvang, 'n afskrif van die lasbrief op 'n opvallende en sigbare plek aan die grond of perseel heg.

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word aan die hand gedoen dat die Departement van Justisie 'n geskikte beamppte binne 'n munisipale raad (bv. 'n *Hoof Uitvoerende Beamppte*) as 'n regter aanwys slegs vir hierdie doel.

## 25. PROSEDURE OM WERK TE VERRIG OF INSPEKSIE TE DOEN: BETREDING SONDER 'N LASBRIEF

- (1) 'n Aangewese beamppte wat nie 'n lasbrief het nie, kan -
  - (a) enige grond of perseel betree en dit inspekteer of werk daar verrig met die instemming van die eienaar of persoon skynbaar in beheer van daardie grond of perseel; of
  - (b) enige grond of perseel, uitgesonderd residensiële grond of perseel<sup>9</sup>, op 'n roetinegrondslag betree en dit inspekteer of werk daar verrig -
    - (i) nie meer dikwels nie as drie keer gedurende 'n tydperk van 12 maande; of
    - (ii) meer dikwels indien dit regtens toelaatbaar is vir die doel van die werk of inspeksie.
- (2) Benewens die betreding toegelaat ingevolge subartikel (1) kan 'n aangewese beamppte enige grond of perseel sonder 'n lasbrief betree -
  - (a) indien hy of sy by enige ander wet gemagtig is om dit te doen; of
  - (b) ten opsigte waarvan daar 'n uitstaande nakomingskennisgiving ingevolge artikel 31 uitgereik is, met die doel om vas te stel of daardie kennisgiving nagekom is.
- (3) Alvorens hulle begin werk of enige grond of perseel inspekteer ingevolge hierdie artikel, moet aangewese beamptes hulself identifiseer en hulle gesag verduidelik of bewys van hulle magtiging lewer aan die persoon skynbaar in beheer van die grond of perseel of die persoon wat aan hulle toestemming verleen het om die grond of perseel te betree.
- (4) Betreding en verrigting van werk of inspeksie sonder 'n lasbrief moet gedoen word op 'n tyd wat in die omstandighede redelik is.

## 26. NAKOMING VAN FUNDAMENTELE REGTE

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

## 27. GEBRUIK VAN GEWELD OM TE BETREE

- (1) 'n Aangewese beamppte wat 'n lasbrief ingevolge artikel 24 uitvoer, kan enige weerstand teen betreding, die verrigting van werk of inspeksie oorkom deur soveel geweld te gebruik as wat redelikerwys nodig is,

<sup>9</sup> Die effek van hierdie bepaling gelees met subartikel (2) is -

- (a) dat betreding en inspeksie op residensiële grond of persele 'n lasbrief vereis; maar
- (b) dat 'n wet voorsiening kan maak vir ander gevalle van betreding sonder 'n lasbrief; en
- (c) dat opvolgbetredings en inspeksies ingevolge 'n nakomingskennisgiving ingevolge artikel 31 uitgereik, nie 'n lasbrief vereis nie.

insluitende om 'n slot, deur of venster van die grond of perseel wat betree moet word, te breek.

- (2) Voordat geweld gebruik word, moet die persone wat die lasbrief uitvoer, hoorbaar toegang versoek en hulle doel aankondig, tensy hulle redelikerwys vermoed dat dit sal veroorsaak dat iemand 'n artikel of dokument wat die onderwerp van die werk of inspeksie is, sal vernietig of wegdoen of daar mee lol.
- (3) Die fondse van die municipale raad moet gebruik word om enigiemand te vergoed wat skade ly as gevolg van betreding met geweld tydens die verrigting van enige werk of inspeksie wanneer daar niemand verantwoordelik vir die grond of perseel teenwoordig was nie.
- (4) Behoudens *enige ander wet* of in 'n noodgeval mag geweld nie gebruik word nie om betreding te bewerkstellig om werk te verrig of 'n inspeksie te doen ingevolge artikel 25.

#### **28. AANGEWESE BEAMPTE KAN VERGESEL WORD**

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

#### **29. PLIG OM DOKUMENTE VOOR TE LÊ**

Iemand wat enige dokument het wat tersaaklik is vir die verrigting van enige werk of inspeksie, moet dit op versoek van die *aangewese beampte* voorlê.

#### **30. PLIG OM VRAE TE BEANTWOORD EN AANGEWESE BEAMPTE BY TE STAAN**

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

#### **31. NAKOMINGSKENNISGEWINGS**

- (1) 'n Aangewese beamppe wat daarvan bewus word dat enige bepaling van hierdie Wet nie nagekom is nie, kan 'n nakomingskennisgewing uitreik aan die eienaar of persoon skynbaar in beheer van die betrokke grond of perseel.
- (2) 'n Aangewese beamppe wat oortuig is dat die eienaar of persoon skynbaar in beheer van enige grond of perseel voldoen het aan die bedinge van 'n nakomingskennisgewing, kan 'n nakomingsertificaat te dien effekte uitreik.
- (3) 'n Nakomingskennisgewing bly van krag totdat 'n aangewese beamppe 'n nakomingsertificaat ten opsigte van daardie kennisgewing uitreik.
- (4) 'n Nakomingskennisgewing moet die volgende meld:
  - (a) Die bepaling wat nie nagekom is nie;
  - (b) besonderhede van die aard en omvang van nie-nakoming;
  - (c) enige stappe wat gedoen moet word en die tydperk waarin daardie stappe gedoen moet word; en
  - (d) enige straf wat ingevolge artikel 50 opgelê kan word in die geval van die nie-nakoming van hierdie stappe.

## 32. MISDRYWE

- (1) Dit is 'n misdryf vir enige persoon -
  - (a) om te weier om aan 'n aangewese beamppe toegang te verleen tot grond of 'n perseel ten opsigte waarvan daardie aangewese beamppe behoorlik gemagtig is om toegang te hê;
  - (b) om 'n aangewese beamppe wat 'n plig ingevolge hierdie Wet uitvoer, te verhinder of te dwarsboom of met hom of haar in te meng;
  - (c) om te versuim of te weier om 'n aangewese beamppe te voorsien van 'n dokument of inligting wat die persoon ingevolge hierdie Wet moet verskaf;
  - (d) om valse of misleidende inligting aan 'n aangewese beamppe te verstrek;
  - (e) om die eienaar van enige grond of perseel, of 'n persoon wat vir daardie eienaar werk, onwettig te verhinder om die grond of perseel te betree ten einde 'n vereiste van hierdie Wet na te kom;
  - (f) om voor te gee om 'n aangewese beamppe te wees;
  - (g) om 'n magtiging of 'n lasbrief, nakomingskennisgewing of nakomingsertificaat wat ingevolge hierdie Hoofstuk uitgereik is, valslik te verander;
  - (h) om 'n magtiging of 'n lasbrief, nakomingskennisgewing of nakomingsertificaat in hierdie Hoofstuk beoog, te vervals;
  - (i) om te versuim om te voldoen aan 'n nakomingskennisgewing uitgereik ingevolge hierdie Hoofstuk;

- (j) om enige grond of perseel sonder 'n lasbrief te betree in omstandighede wat 'n lasbrief vereis;
- (k) omstrydig met 'n lasbrief wat ingevolge hierdie Hoofstuk uitgereik is, op te tree;
- (l) om sonder magtiging -
  - (i) grond of persele te betree of te inspekteer;
  - (ii) enige handeling te verrig wat in artikel 23(1) of (2) vermeld word; of
- (m) om enige inligting openbaar te maak rakende die finansiële of sakeaangeleenthede van enige persoon, wat verkry is in die verrigting van enige funksie of die uitoefening van enige bevoegdheid ingevolge *hierdie Wet*, uitgesonderd -
  - (i) aan 'n persoon wat daardie inligting nodig het ten einde 'n funksie te verrig of 'n bevoegdheid uit te oefen ingevolge *hierdie Wet*;
  - (ii) indien die openbaarmaking deur 'n gereghof gelas word; of
  - (iii) indien die openbaarmaking in ooreenstemming met die bepalings van enige wet is.

### 33. TOEPASSING VAN HIERDIE HOOFSTUK

- (1) Die bepalings van hierdie Hoofstuk is van toepassing op enige persoon of liggaam, insluitende die Staat.
- (2) 'n Bepaling van hierdie Hoofstuk wat 'n bevoegdheid verleen of 'n plig ople, is van toepassing ten opsigte van -
  - (a) enige grond of perseel;
  - (b) enige persoon of ding op enige grond of in enige perseel;
  - (c) die eienaar of okkuperer van enige grond of perseel;
  - (d) enige aangeleentheid rakende grond, 'n perseel, 'n persoon of 'n ding.
- (3) Vir doeleindeste van hierdie Hoofstuk word die hoof van 'n nasionale, provinsiale of munisipale departement geag -
  - (a) die eienaar en okkuperer te wees van enige grond of perseel wat die departement okkuper of gebruik, tot uitsluiting van enige ander persoon; en
  - (b) die werkewer te wees van die persone in diens van daardie departement indien, as 'n werkewer, die departement -
    - (i) enige plig het wat by *hierdie Wet* opgelê is; en
    - (ii) enige bevoegdheid uitoeft wat by *hierdie Wet* verleen is.

## HOOFSKU<sup>K</sup> 6 VERKRYGING VAN GOEDERE EN DIENSTE DEUR MUNISIPALITEITE

### 34. PROSEDURE VIR DIE VERKRYGING VAN GOEDERE OF DIENSTE

- (1) Ten einde 'n munisipaliteit in staat te stel om kontrakte vir goedere of dienste te verkry of toe te ken binne die raamwerk beoog in artikel 10G(5)(a) van die *Oorgangswet op Plaaslike Regering*, moet die *LUR* die

tenderwaarde van die goedere of dienste voorskryf ten opsigte waarvan die verkrygingsprosedure soos beoog in artikel 35 van toepassing is.

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

### **35. PROCEDURE VIR DIE VERKRYGING VAN VOORGESKREWE GOEDERE OF DIENSTE**

- (1) Wanneer 'n munisipale raad van voorneme is om voorgeskrewe goedere of dienste te verkry, moet hy die volgende prosedure volg:
  - (a) Die besluit om die voorgeskrewe goedere of dienste te verkry, moet vervat word in 'n kennisgewing wat -
    - (i) gepubliseer word in ten minste 'n gesikte koerant wat binne die grense van die munisipaliteit sirkuleer; en
    - (ii) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipale raad aangewys is.
  - (b) Die kennisgewing moet die volgende vermeld:
    - (i) In opgesomde vorm, die vereistes en spesifikasies van die voorgeskrewe goedere of dienste;
    - (ii) die plek(ke) waar en die tyd/tye wanneer en die omstandighede waaronder of wyse waarop die dokument wat die vereistes of die spesifikasies van die voorgeskrewe goedere of dienste bevat, beskikbaar sal wees vir insae of verkryging;
    - (iii) die tydperk waarin tenderaansoeke ingedien kan word vir die verskaffing van die voorgeskrewe goedere of dienste, insluitende die keertyd waarna geen verdere tenderaansoek oorweeg sal word nie;
    - (iv) die prosedure vir die indiening van 'n tenderaansoek, insluitende -
      - (aa) die dokumente wat ingevul moet word en bykomende inligting, dokumente, monsters, materiaal of geldelike deposito's wat die aansoek moet vergese; en
      - (bb) die plek waar die tenderaansoek ingedien moet word;
    - (v) ander inligting wat tersaaklik kan wees vir die oorweging van die tenderaansoek; en
    - (vi) die plek waar alle tenderaansoeke wat ontvang is, geregistreer sal word soos in subartikel (4) beoog.

- (2) Enige persoon, liggaaam, organisasie of korporasie kan 'n tenderaansoek indien deur -
  - (a) die geskikte tenderaansoekvorm behoorlik in te vul; en
  - (b) alle inligting, dokumente, monsters, materiaal of geldelike deposito's betreffende die tenderaansoek te verskaf.
- (3) Versuim om wesenlik te voldoen aan die bepalings van subartikel (2) of 'n wanvoorstelling in die aansoek kan die aansoek diskwalifiseer.
- (4) Op die keertyd in subartikel (1)(b)(iii) beoog, moet die munisipale raad die naam en kontakbesonderhede van alle tenderaansoekers en hulle tenderwaarde aanteken in 'n register wat vir hierdie doel deur die munisipale raad geskep is.
- (5) Ten opsigte van die register in subartikel (4) beoog, kan enige lid van die publiek -
  - (a) teenwoordig wees om getuie van die registrasieproses te wees; en
  - (b) insae hê in die register op 'n plek(ke) en tyd/tye en in die omstandighede en op die wyse wat 'n munisipale raad redelik ag in die omstandighede.
- (6) Wanneer 'n munisipale raad dit oorweeg watter tender om te aanvaar, moet hy onder andere die volgende dinge behoorlik oorweeg:
  - (a) Die faktore in *enige ander wet vermeld*<sup>10</sup>;
  - (b) beleid gemaak deur 'n bevoegde staatsorgaan<sup>11</sup>;
  - (c) slegs tenderaansoekers wie se name aangeteken is in die register in subartikel (4) bedoel en wie se aansoeke nie ongeldig verklaar is nie;
  - (d) die bevordering van klein en medium ondernemings;
  - (e) die bevestiging van die voorkeurkategorieë persone, liggame, organisasies of korporasies soos deur die munisipaliteit bepaal;
  - (f) die skepping van werkgeleenthede of die oordrag van vaardighede;
  - (g) doeltreffende en doelmatige lewering van munisipale dienste;
  - (h) die kapasiteit en vermoë van tenderaansoekers om die goedere of dienste te lever; en
  - (i) die kostedoeltreffendheid van die aansoek. In hierdie verband is die munisipale raad nie verplig om 'n tender toe te ken aan 'n aansoeker wat die laagste tenderwaarde voorlê nie.
- (7) Die besluit om 'n tenderaansoek te aanvaar, te verworp of te diskwalifiseer moet deur die munisipale raad geneem word. Die munisipale raad kan egter hierdie funksie ten opsigte van sekere voorgeskrewe goedere of dienste opdra of deleger aan die komitee in artikel 41 beoog.
- (8) Die besluit van die munisipale raad of die komitee in artikel 41 beoog, is finaal en bindend.

<sup>10</sup> Kyk onder andere artikel 217 van die *Grondwet* en artikel 10G(5)(b) van die *Oorgangswet op Plaaslike Regering*.

<sup>11</sup> Hierdie bepaling het ook beleid vervat in die huidige konsep nasionale 10-puntplan in die oog.

- (9) Die municipale raad of die komitee in artikel 41 beoog, moet sy besluit skriftelik bekend maak aan die tenderaansoeker en moet redes vir sy besluit aan enige tenderaansoeker verstrek indien -  
 (a) (i) sy aansoek geag word gediskwalifiseer te wees; of  
 (ii) sy aansoek verwerp is; en  
 (b) die aansoeker skriftelik versoek dat hierdie redes verstrek word.

### **36. VERSNELDE PROSEDURE VIR DIE VERKRYGING VAN VOORGESKREWE GOEDERE OF DIENSTE**

- (1) Indien 'n municipale raad oortuig is dat die omstandighede soos beoog in artikel 34(2)(a) geld, moet hy by resolusie -  
 (a) besluit om af te sien van die prosedure in artikel 35 vermeld; en  
 (b) die persoon, liggaam, organisasie of korporasie aanstel om die voorgeskrewe goedere of dienste te verskaf en sy besluit skriftelik aan die aangestelde bekend maak.
- (2) Binne een maand na hierdie resolusie moet die aangeleenthede in subartikel (3) vermeld -  
 (a) deur die munisipaliteit gepubliseer word in ten minste 'n geskikte koerant wat binne die grense van die munisipaliteit sirkuleer; en  
 (b) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipaliteit aangewys is.
- (3) Die aangeleenthede wat gepubliseer of vertoon moet word, is -  
 (a) die redes waarom daar afgesien is van die prosedure in artikel 35 vermeld;  
 (b) 'n opsomming van die vereistes van die voorgeskrewe goedere of dienste;  
 (c) die plek(ke) waar en die tyd/tye wanneer en die omstandighede waarin of die wyse waarop die dokument wat die vereistes of spesifikasies van die voorgeskrewe goedere of dienste bevat, vertoon sal word vir insae of verkryging; en  
 (d) die besonderhede van die persoon, liggaam, organisasie of korporasie wat die goedere of dienste verskaf.
- (4) Die funksies van 'n municipale raad ingevolge hierdie artikel mag nie opgedra of gedelegeer word nie.

### **37. VERLENGING OF VERANDERING VAN 'N TENDEROOREENKOMS**

- (1) Behoudens subartikel (2) kan 'n municipale raad uit eie beweging of by ontvangs van 'n aansoek van die persoon, liggaam, organisasie of korporasie wat ingevolge hierdie Hoofstuk goedere of dienste aan die municipale raad verskaf, besluit om 'n tenderooreenkoms te verleng of te verander indien -  
 (a) die omstandighede soos in artikel 34(2)(a) bedoel, geld; of  
 (b) met behoorlike inagneming van administratiewe doeltreffendheid en doelmatigheid, die municipale raad dit gesik ag.
- (2) 'n Municipale raad mag nie 'n tenderooreenkoms -

- (a) meer as een keer;
  - (b) vir 'n tydperk van langer as die duur van die ooreenkoms; of
  - (c) vir 'n bedrag van meer as 20 persent van die oorspronklike tenderwaarde;
- verleng of verander nie.
- (3) Binne een maand na die resolusie in subartikel (1) bedoel, moet die aangeleenthede in subartikel (4) vermeld -
- (a) deur die munisipaliteit gepubliseer word in ten minste 'n gesikte koerant wat binne die grense van die munisipaliteit sirkuleer; en
  - (b) vertoon word op 'n opvallende plek wat vir daardie doel deur die munisipaliteit aangewys is.
- (4) Die aangeleenthede wat gepubliseer of vertoon moet word, is -
- (a) die redes waarom daar afgesien is van die prosedure in artikel 35 vermeld;
  - (b) 'n opsomming van die vereistes van die goedere of dienste;
  - (c) die besonderhede van die persoon, liggaam, organisasie of korporasie wat die goedere of dienste verskaf.
- (5) Die funksies van 'n munisipale raad ingevolge hierdie artikel mag nie opgedra of gedelegeer word nie.

### **38. ONGELDIGE EN ONREËLMATIGE TENDERAANSOEKE EN VERBREKINGS VAN TENDEROREENKOMSTE**

- (1) Vir doeleindeste van hierdie artikel -
- (a) beteken die woord "tenderaansoek" ook 'n aansoek om 'n tender te verleng of te verander; en
  - (b) beteken die woord "verskaffer" die persoon, liggaam, organisasie of korporasie wat goedere of dienste ingevolge hierdie Hoofstuk aan die munisipale raad verskaf.
- (2) Indien 'n munisipale raad oortuig is dat 'n tenderaansoek aanvaar, verander of verleng is in die omstandighede vermeld in subartikel (3)(a) en (b) of dat 'n tenderooreenkoms verbreek is in die omstandighede vermeld in subartikel (3)(c) -
- (a) moet hy 'n skriftelike kennisgewing van die besluit en die redes vir daardie besluit aan die verskaffer stuur; en
  - (b) moet hy in daardie kennisgewing die verskaffer in kennis stel dat hy 14 dae vanaf die datum van die kennisgewing het om vertoe voor te lê waarom die munisipale raad nie die stappe in subartikel (5) vermeld, moet doen nie.
- (3) Vir doeleindeste van subartikel (2) is die omstandighede -
- (a) waar 'n verskaffer -
    - (i) vals inligting in enige tenderaansoek verstrek het;
    - (ii) onbehoorlike invloed uitgeoefen het op enige persoon betrokke by dieoorweging van 'n tenderaansoek; of

- (iii) 'n finansiële of ander beloning aan enige persoon betrokke by die oorweging van 'n tenderaansoek verskaf het in ruil vir die toekenning, verandering of verlenging van die tender;
  - (b) waar 'n persoon betrokke by die oorweging van 'n tenderaansoek 'n wesenlike belang het by die aansoekerliggaam, organisasie of korporasie of die uitkoms van die tenderaansoek en hierdie belang nie voor die oorweging van die tenderaansoek openbaar gemaak is nie; of
  - (c) waar die verskaffer versuim of nie in staat is nie om bevredigend te voldoen aan die vereistes of spesifikasies van die goedere of dienste wat verskaf moet word.
- (4) Indien die tenderaansoeker of verskaffer die kennisgewing ingevolge subartikel (2) ontvang het binne die tydperk van 14 dae en nie die vertoe voorlē nie of die vertoe voorlē binne die tyd wat die munisipale raad as onaanvaarbaar beskou, moet die munisipale raad enige van of 'n kombinasie van die stappe vermeld in subartikel (5) doen en die verskaffer skriftelik in kennis stel van die redes vir die besluit.
- (5) Vir doeleindes van subartikels (2) en (4) is die stappe wat gedoen moet word -
- (a) om die tenderooreenkoms op te sê;
  - (b) om enige verlies of skade gely deur 'n munisipaliteit as gevolg van die opseggig van die tenderooreenkoms, te verhaal; of
  - (c) om die verskaffer te belet om vir enige tender oorweeg te word vir 'n tydperk wat die munisipale raad bepaal.
- (6) 'n Verskaffer kan teen die besluit van die munisipale raad om die stappe beoog in subartikel (5) te doen, appelleer ooreenkomstig die prosedure waarvoor daar in artikel 39 voorsiening gemaak word.
- (7) Die funksies van die munisipale raad ingevolge hierdie artikel mag nie opgedra of gedelegeer word nie.
- 39. APPÈLLE TEN OPSIGTE VAN ONGELDIGE EN ONREËLMATIGE TENDERS EN VERBREKINGS VAN TENDEROOOREENKOMSTE**
- (1) Enige verskaffer van goedere of dienste aan die munisipale raad wat 'n kennisgewing ingevolge artikel 38(4) ontvang het, kan teen die besluit geneem ingevolge daardie artikel appelleer deur binne 14 dae na die datum van die kennisgewing 'n kennisgewing van appèl aan die Verkrygingsappèltribunaal voor te lê waarin die gronde vir die appèl uiteengesit word. Verder moet die kennisgewing vergesel gaan van die volgende items:
- (a) Die tenderaansoek en gepaardgaande dokumentasie;
  - (b) die munisipale raad se kennisgewing uitgereik ingevolge artikel 38(2);
  - (c) besonderhede van sy reaksie op die munisipale raad se kennisgewing; en

- (d) die municipale raad se kennisgewing ingevolge artikel 38(4) en redes vir die besluit wat die onderwerp van die appèl is.
- (2) Behoudens artikels 40(1) en (2) moet die municipale raad die procedures vir die aantekening, voer en oorweging van appèlle bepaal en moet hy die partye by die appèl voor die begin van die appèl in kennis stel van hierdie procedures.
- (3) Die Verkrygingsappèltribunaal moet die appèl oorweeg op die wyse deur die municipale raad bepaal en moet 'n skriftelike kennisgewing van die besluit stuur aan die verskaffer wat die appèlverrigtinge aanhangig gemaak het en aan die municipale raad. Indien die appèl nie gehandhaaf word nie, moet die kennisgewing die redes vir die besluit vermeld.
- (4) Die Verkrygingsappèltribunaal kan 'n bevel vir koste uitrek indien 'n party, of 'n persoon wat daardie party in die appèl verteenwoordig het -
  - (a) op 'n beuselagtige, kwelsugtige of onredelike wyse opgetree het -
    - (i) deur met die appèl voort te gaan of dit teen te staan; of
    - (ii) in die voer van die appèl; of
  - (b) sonder goeie rede versuim om sy opwagting te maak of gedurende die appèl teenwoordig te bly.
- (5) Die besluit van die Verkrygingsappèltribunaal is finaal en bindend vir alle partye by die appèl.
- (6) In enige appèlverrigtinge ingevolge hierdie Hoofstuk maak die volgende dokumente die bedinge van 'n tenderooreenkoms uit:
  - (a) Die dokument wat die vereistes of die spesifikasies van die voorgeskrewe goedere of dienste soos bedoel in artikels 35(1)(b)(ii) en 36(3)(c) bevat, en indien van toepassing, die bedinge en voorwaardes vervat in 'n tenderaansoekvorm; en
  - (b) die skriftelike kennisgewing ingevolge artikels 35(7) en 36(1)(b) wat die aanvaarding van die aansoek of die aanstelling bevestig.

#### **40. VERKRYGINGSAPPÈLTRIBUNAAL EN PANEEL VAN ARBITERS**

- (1) 'n Municipale raad moet 'n Verkrygingsappèltribunaal instel wat moet bestaan uit ten minste twee lede van die paneel van arbiters.
- (2) Die lede van die paneel in subartikel (1) bedoel, kan enige aantal deskundiges in die Verkrygingsappèltribunaal aanstel -
  - (i) uit eie beweging; of
  - (ii) na oorweging van 'n skriftelike aansoek ontvang van enige party by die appèl vir die aanstelling van 'n deskundige(s).
- (3) 'n Municipale raad moet persone goedkeur wat nodig is om 'n paneel van arbiters te handhaaf wat uit ten minste ses persone bestaan. Hierdie persone mag nie raadslede of werknemers van die municipale raad wees nie.

- (4) Die volgende prosedure is van toepassing telkens wanneer 'n munisipale raad iemand in die paneel van arbiters moet aanstel:
  - (a) Die munisipale raad moet 'n kennisgewing publiseer waarin benoemings gevra word en met vermelding van die maatstawwe vir benoemings, ten minste in 'n gesikte koerant wat binne die grense van die munisipaliteit sirkuleer.
  - (b) Die munisipale raad moet toesien dat die benoemings wat na aanleiding van die kennisgewing voorgelê is, oorweeg word en moet 'n kortlys van benoemdes opstel.
  - (c) Die munisipale raad moet toesien dat onderhoude met die benoemdes op die kortlys gevoer word en moet daarna die nodige aanstellings doen.
- (5) Die bedinge en voorwaardes van aanstelling van lede van die paneel van arbiters en deskundiges moet deur die munisipale raad bepaal word.

#### **41. INSTELLING VAN VERKRYGINGSKOMITEE<sup>12</sup>**

- (1) 'n Munisipale raad kan 'n verkrygingskomitee instel.
- (2) Benewens sy funksie soos in hierdie Hoofstuk vermeld, kan die komitee -
  - (a) beleide, procedures en praktyke aanbeveel om 'n munisipale raad in staat te stel om sy *bevoegdhede, funksies of pligte* ingevolge hierdie Hoofstuk op 'n doeltreffende, doelmatige en deursigtige wyse uit te oefen en te verrig;
  - (b) aanbevelings aan die munisipale raad doen oor -
    - (i) die standaardisering en vereenvoudiging van alle tenderaansoekprosesse;
    - (ii) die gee van advies en ander ondersteuningsdienste aan tenderaansoekers;
  - (c) aanbevelings doen oor die maatstawwe vir die bepaling van die kategorie(ë) persone, liggeme, organisasies of korporasies wat bevestig moet word soos in artikel 35(6)(c) beoog; en
  - (d) enige funksie verrig wat 'n munisipale raad geskik ag ten einde aan hierdie Hoofstuk uitvoering te gee, insluitende die hou van ondersoeke, die doen van aanbevelings en verslagdoening oor enige aangeleentheid.

### **HOOFSTUK 7**

#### **BEPERKING VAN TOEGANG TOT OPENBARE PLEKKE VIR VEILIGHEIDS- EN SEKURITEITSDOELEINDES**

#### **42. 'N MUNISIPALE RAAD SE BEVOEGDHEID OM TOEGANG TE BEPERK**

Ten einde veiligheid en sekuriteit te verbeter kan 'n munisipale raad -

<sup>12</sup> Die prosedure vir die instelling van hierdie komitee, die voorwaardes vir die aanstelling van lede van die komitee en die interne prosedures vir die komitee sal gereguleer word in die algemene bepalings wat oor die komitees van 'n munisipaliteit handel.

- (a) uit eie beweging 'n beperking plaas op toegang tot enige *openbare plek* indien dit in ooreenstemming met die bepalings van artikel 43 is; of
- (b) enige persoon/persone, liggaam of organisasie magtig om toegang tot enige *openbare plek* te beperk indien die bepalings van artikel 44 nagekom is.

### **43. PROSEDURE VIR MUNISIPALE RADE OM BEPERKINGS OP TOEGANG TE PLAAS**

- (1) Wanneer 'n munisipale raad van voorneme is om 'n beperking op toegang tot 'n *openbare plek* te plaas, moet hy -
  - (a) die voorgestelde bedinge van die beperking bepaal na oorleg met die Suid-Afrikaanse Polisiediens;
  - (b) 'n resolusie aanneem wat die voorgestelde bedinge bekratig en besluit om die beperking in te stel; en daarna
  - (c) die volgende prosedure volg:
    - (i) Die voorneme om die beperking in te stel, moet aangekondig word by kennisgewing in die provinsiale koerant en enige ander gesikte kommunikasiemiddel.
    - (ii) Die kennisgewing moet die volgende vermeld:
      - (aa) Dat kommentaar op die konsepbedinge van 'n beperking verlang word;
      - (bb) die *openbare plek* wat deur die beperking geraak word;
      - (cc) die voorgestelde bedinge van die beperking;
      - (dd) die dokumente of skriftelike verslae waarop die munisipale raad gesteun het toe die resolusie aangeneem is;
      - (ee) die persoon aan wie of die plek waar navrae oor die konsepbedinge van die beperking gerig kan word;
      - (ff) behoudens subartikels (6) en (7), die plek(ke), tyd/tye en omstandighede waar, wanneer en waarin 'n afskrif van die dokumente of oorspronklike verslae ter insae vertoon of verkry kan word;
      - (gg) die tydperk vir kommentaar oor die konsepbedinge van die beperking, wat minstens een maand moet wees;
      - (hh) die persoon by wie of die plek waar kommentaar oor die konsepbedinge van die beperking ingediend kan word.
    - (ii) Te eniger tyd voor die instelling van die beperking kan oorleg in enige vorm, insluitende die hou van 'n ondersoek, gepleeg word met enige tersaaklike groep(e).
    - (iv) Kommentaar wat ontvang is en die inhoud van alle oorlegplegings moetoorweeg word alvorens die beperking ingestel word.
  - (2) Indien die munisipale raad nie die beperking ingestel het nie binne vier maande na die aankondiging in subartikel (1)(c)(i) bedoel, mag daardie

beperking nie ingestel word nie tensy die prosedure in subartikel (1) beoog herhaal is.

- (3) 'n Municipale raad kan afsien van die procedures in subartikel (1) vermeld ten opsigte van enige beperking wat in openbare belang sonder versuim ingestel moet word, maar moet hierdie prosedure implementeer binne een maand na die inwerkingtreding van die beperking, by gebreke waarvan die beperking nie meer geldig sal wees nie.
- (4) 'n Beperking tree in werking op die datum van publikasie daarvan in die provinsiale koerant of op sodanige later datum as wat in die provinsiale koerant vermeld word.
- (5) 'n Municipale raad kan die gelde bepaal vir die verkryging van 'n afskrif van enige dokument of skriftelike verslag wat verband hou met die bepaling van die konsepbedinge van die beperking.
- (6) Die plek(ke) waar die dokumente en skriftelike verslae verkry of ter insae vertoon kan word, moet al diegene wat deur die beperking geraak word, in staat stel om spoedig en gerieflik ingelig te word oor die inhoud daarvan.
- (7) Elke municipale raad moet beleide en programme ontwikkel en implementeer om lede van die publiek by te staan om kommentaar oor die konsepbedinge van die beperking te lewer.

#### **44. PROSEDURE VIR MUNISIPALE RADE OM ANDERE TE MAGTIG OM TOEGANG TE BEPERK**

- (1) Enige persoon/persone, liggaam of organisasie kan by 'n municipale raad aansoek doen vir magtiging om toegang tot 'n *openbare plek* te beperk deur -
  - (a) 'n skriftelike aansoek voor te lê met vermelding van -
    - (i) die naam en kontakbesonderhede van die aansoeker;
    - (ii) 'n beskrywing van die *openbare plek* wat die onderwerp van die aansoek is;
    - (iii) 'n beskrywing van die omstandighede wat tot die aansoek aanleiding gegee het;
    - (iv) die kategorie en getal persone wat geraak word deur die omstandighede wat tot die aansoek aanleiding gegee het;
    - (v) die aard en omvang van die beperking ten opsigte waarvan die aansoek gebring word; en
    - (vi) die kategorie en 'n geraamde aantal persone wat geraak kan word deur die beperking ten opsigte waarvan die aansoek gebring word;
  - (b) bewys te verskaf dat ten minste twee derdes van die persone wat geraak word deur die omstandighede wat tot die aansoek aanleiding gegee het, die beperking ten opsigte waarvan die aansoek gebring word, goedkeur; en

- (c) 'n nie-terugbetaalbare administrasiegeld te betaal soos deur die munisipale raad bepaal.
- (2) Na ontvangs van die aansoek moet die munisipale raad reël dat 'n vergadering(s) belê word met die aansoeker en die Suid-Afrikaanse Polisiediens ten einde hom in staat te stel om -
  - (a) die meriete van die aansoek te bepaal; en
  - (b) die bedinge en voorwaardes vir die verlening van die magtiging te bepaal<sup>13</sup>.
- (3) Indien die munisipale raad van voorneme is om die magtiging te verleen om toegang tot 'n *openbare plek* te beperk voortspruitend uit 'n bepaling gemaak ingevolge subartikel (2), is die bepalings van artikel 43 van toepassing, met die veranderings wat die samehang vereis.

#### **45. DUUR VAN BEPERKING OF MAGTIGING OM TOEGANG TE BEPERK**

- (1) Tensy anders verklaar in die provinsiale koerant en behoudens hierdie artikel is 'n beperking of magtiging om toegang te beperk geldig vir hoogstens twee jaar.
- (2) 'n Munisipale raad kan die duur van die beperking of magtiging om toegang te beperk verleng indien -
  - (a) hy of die aansoeker begin met die procedures bedoel in onderskeidelik artikels 43 en 44; en
  - (b) die procedures begin word ten minste een maand voor die verstryking van die beperking of magtiging om te beperk.
- (3) Vir doelendes van subartikel (2) word daar geag met die procedures begin te word wanneer -
  - (a) ten opsigte van die beperking van toegang, 'n munisipale raad die resolusie in artikel 43(1)(b) bedoel, aanneem; en
  - (b) ten opsigte van 'n magtiging om toegang te beperk, die datum waarop die aansoek in artikel 44(1) bedoel, deur 'n munisipale raad ontvang word.
- (4) Afhangende van die uitkoms van die procedures in subartikel (2) beoog, bly 'n beperking of magtiging om toegang te beperk geldig.

#### **46. MISDRYWE BETREFFENDE MAGTIGING OM TOEGANG TE BEPERK**

Dit is 'n misdryf vir enige persoon, liggaam of organisasie om -

- (a) toegang tot 'n *openbare plek* te beperk sonder om magtiging ingevolge *hierdie Wet* of *enige ander wet* te verkry het; of
- (b) homself voor te hou as geldiglik gemagtig om toegang tot 'n *openbare plek* ingevolge *hierdie Wet* te beperk as hy nie aldus gemagtig is nie.

#### **47. TOEGANG TOT EN INSAE IN DIE BEDINGE VAN 'N BEPERKING OF MAGTIGING OM TOEGANG TE BEPERK**

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<sup>13</sup> Die bedinge en voorwaardes kan insluit die betaling van 'n deposito om koste te verhaal wat deur 'n munisipale raad aangegaan is vir die verwydering van enige wyse van beperking.

Ten einde te verseker dat lede van die publiek toegang het tot of insae kan hê in die bedinge van 'n beperking of magtiging om toegang te beperk, is die bepalings van artikel 9 van toepassing, met die wysigings wat die samehang vereis.

## HOOFSTUK 8

### DIVERSE AANGELEENTHEDE

#### 48. MUNISIPALE KOMMISSIES VAN ONDERSOEK

- (1) 'n Municipale raad kan 'n municipale kommissie van ondersoek instel ten opsigte van enige *plaaslike regeringsaangeleentheid* -
  - (a) wat hy gesik ag en wat betrekking het op sy *bevoegdhede, funksies of pligte*;
  - (b) van openbare belang; of
  - (c) ten opsigte waarvan 'n municipaliteit ingevolge enige wet 'n municipale kommissie van ondersoek moet instel.
- (2) Om 'n municipale kommissie van ondersoek in te stel moet 'n municipale raad 'n resolusie te dien effekte aanneem. Hierdie resolusie moet die opdrag van die municipale kommissie vermeld, insluitende die tydperk waarbinne die municipale kommissie sy werk moet afhandel.
- (3) Binne ses maande nadat *hierdie Wet* in werking tree, moet die LUR regulasies uitreik rakende die instelling en hou van 'n municipale kommissie van ondersoek, insluitende -
  - (a) die aanstelling van 'n kommissaris(se);
  - (b) die bevoegdhede van kommissarisse; en
  - (c) die procedures vir die aanhoor van getuienis en die regulering van die verrigtinge van die municipale kommissie.
- (4) Wanneer 'n municipale kommissie van ondersoek sy werk afgehandel het, moet die kommissarisse 'n verslag bevattende sy bevindings en aanbevelings aan die municipale raad stuur vir oorweging.
- (5) 'n Municipale raad kan enige stappe doen wat hy gesik ag om die bevindings en aanbevelings van die municipale kommissie van ondersoek te hanteer.

#### 49. OPENBARE VERHOOR

- (1) 'n Municipale raad moet 'n openbare verhoor belê ten einde aanbevelings te oorweeg en te doen ten opsigte van enige *plaaslike regeringsaangeleentheid* van openbare belang indien hy 'n peticie ontvang wat 'n openbare verhoor vra en wat onderteken is deur ten minste die getal geregistreerde municipale kiesers wat die municipale raad bepaal. Die getal wat bepaal moet word, mag nie meer wees nie as 'n halwe persent van die totale aantal geregistreerde municipale kiesers.

- (2) Die petisie in subartikel (1) bedoel, moet die *p/aaslike regeringsaangeleentheid* vermeld wat oorweeg moet word.
- (3) 'n Municipale raad kan uit eie beweging besluit om 'n openbare verhoor te belê vir die doel in subartikel (1) vermeld.
- (4) Behoudens subartikel (5) moet 'n municipale raad die prosedure bepaal vir die belê en hou van die openbare verhoor.
- (5) Om 'n openbare verhoor te belê, moet die municipale raad -
  - (a) sy voorneme om die openbare verhoor te belê, aankondig in die provinsiale koerant en ander geskikte kommunikasiemiddelle; en
  - (b) 'n kennisgewing uitreik met vermelding van -
    - (i) die datum van die openbare verhoor, wat ten minste 14 dae na die kennisgewing moet wees en nie later nie as twee maande na ontvangs van die petisie in subartikel (1) bedoel of die resolusie in subartikel (3) bedoel;
    - (ii) in opgesomde vorm, die kwessies wat by die openbare verhoor oorweeg moet word; en
    - (iii) procedures wat aangeneem moet word vir die hou van die openbare verhoor.

**50. DIE LUR SE BEVOEGDHEID OM ADVISERENDE AANWYSINGS AAN MUNISIPALE RADE UIT TE REIK**

- (1) Indien die *LUR* oortuig is dat 'n municipale raad -
    - (a) versuim het om uitvoering te gee of nie toereikend uitvoering gegee het nie aan die bepalings van die *Grondwet*, *hierdie Wet* of *enige ander wet* wat op munisipaliteit van toepassing is; of
    - (b) versuim het om toereikende maatreëls aan te neem om die doeltreffende lewering van municipale dienste aan voorheen benadeelde gebiede wat binne sy jurisdisksie val, te verseker;
- kan die *LUR* die municipale raad versoek om vertoë voor te lê om sy redes vir daardie versuim uiteen te sit.
- (2) 'n Municipale raad moet aan hierdie versoek voldoen en moet die vertoë skriftelik aan die *LUR* voorlê binne een maand na ontvangs van die versoek.
  - (3) Indien die *LUR* na oorweging van hierdie vertoë nie met die redes vir die versuim tevrede is nie, kan die *LUR* deur skriftelike kennisgewing 'n adviserende aanwysing aan die municipale raad uitreik waarin die maatreël wat getref moet word, aangedui word.<sup>14</sup>

**51. DIE LUR SE BEVOEGDHEID OM RIGLYNE AAN MUNISIPALE RADE UIT TE REIK**

Die *LUR* kan riglyne<sup>15</sup> aan municipale rade uitreik om hulle by te staan -

<sup>14</sup> Kyk voetnoot 5.

<sup>15</sup> Kyk voetnoot 5.

- (a) met die uitvoering van hulle *bevoegdhede, funksies of pligte*; of
- (b) om uitvoering te gee aan die oogmerke van *hierdie Wet*.

## HOOFSTUK 9

### ALGEMENE BEPALINGS

#### **52. STRAWWE**

- (1) Iemand wat skuldig is aan 'n misdryf ingevolge *hierdie Wet*, is strafbaar met 'n boete of gevangenisstraf of met sowel 'n boete as gevangenisstraf.
- (2) Indien daar bevind word dat iemand aanhoudend dieselfde misdryf ingevolge *hierdie Wet* pleeg, is daardie persoon strafbaar met bykomende boetes of tydperke van gevangenisstraf ten opsigte van elke dag waarop die pleging van die misdryf voortduur na die eerste skuldigbevinding vir daardie misdryf.

#### **53. BEPERKING VAN AANSPREEKLIKHEID**

- (1) Nog 'n werknemer van 'n munisipaliteit nog enige persoon, liggaaam, organisasie of korporasie wat namens 'n munisipaliteit optree nog 'n raadslid is aanspreeklik vir enige skade voortspruitend uit -
  - (a) enige versuum of handeling te goeder trou verrig; of
  - (b) die publikasie of openbaarmaking ingevolge *hierdie Wet* van enige verslag, bevinding, standpunt of aanbeveling wat te goeder trou gegee is.
- (2) 'n Munisipaliteit is gevrywaar ten opsigte van enige regsgeding ingestel deur 'n benadeelde of gegriefde party voortspruitend uit die omstandighede in subartikel (1) beoog waar die persoon, liggaaam, organisasie of korporasie wat namens 'n munisipaliteit optree, 'n onafhanklike kontrakteur is.

#### **54. TYDSBEPERKING VAN AANSPREEKLIKHEID<sup>16</sup>**

- (1) 'n Regsgeding teen 'n munisipaliteit of 'n liggaaam of persoon wat namens 'n munisipaliteit optree ten opsigte van enige handeling of versuum ingevolge *hierdie Wet*, kan ingestel word slegs binne 12 maande [of vroeër? Betekenis?] na -
  - (a) die datum waarop die eiser van die handeling of versuum bewus geword het; en
  - (b) die datum waarop daar redelikerwys verwag kan word dat die eiser van daardie handeling of versuum bewus moes geword het.
- (2) Ten minste een maand voor die instelling van 'n regsgeding in subartikel (1) beoog, moet 'n eiser skriftelike kennis van sy voorneme om 'n regsgeding in te stel, beteken aan -
  - (a) die *Hoof Uitvoerende Beämpte*; en

<sup>16</sup> Vir doeleindes van hierdie artikel moet daar gelet word op die *Wet op Beperking van Regsgedinge (Provinsiale en Plaaslike Besture)*, 1970.

- (b) die betrokke verweerde.
- (3) Kennis ingevolge subartikel (2) wat aan die *Hoof Uitvoerende Beampete* beteken is, word geag kennis aan die betrokke verweerde te wees.
- (4) Indien die *Hoof Uitvoerende Beampete* die verweerde of respondent is in enige geding in subartikel (1) bedoel, moet enige prosesstukke waardeur daardie geding begin word, aan die *Hoof Uitvoerende Beampete* beteken word.
- (5) 'n Hof kan afsien van die vereistes van subartikels (1) of (2) indien dit in belang van geregtigheid nodig is.

#### **55. REG OP REGSVERTEENWOORDIGING**

- (1) In enige regsgeding ingestel teen raadslede of werknemers van 'n munisipaliteit of enige geregtelike doodsondersoek of ondersoek ten opsigte waarvan hulle gedagvaar is om teenwoordig te wees en te getuig in omstandighede waar die geding, geregtelike doodsondersoek of ondersoek betrekking het op hulle funksies in die munisipaliteit, is die betrokke raadslede of werknemers geregtig op regsvteenwoordiging, en die koste van sodanige veteenwoordiging moet deur die munisipaliteit gedra word.
- (2) Die regsvteenwoordiging in subartikel (1) beoog, moet verskaf word op 'n wyse wat die munisipale raad bepaal.

#### **56. DELEGASIES EN OOREENKOMSTE GEDOEN EN GESLUIT DEUR MUNISIPALE RADE**

- (1) Behoudens die bepalings van *hierdie Wet* of *enige ander wet* kan 'n munisipale raad op die bedinge en voorwaardes wat hy geskik ag, enige *bevoegdheede, funksies of pligte* wat by *hierdie Wet* of *enige ander wet* aan die munisipale raad verleen of opgedra is, skriftelik deleger aan -
  - (a) enige persoon in diens van die raad;
  - (b) enige komitee, subkomitee, raad of liggaam ingestel deur die raad; of
  - (c) enige ander munisipale raad.
- (2) 'n Munisipale raad kan ooreenkoms met enige openbare of privaat verskaffer van goedere of dienste sluit om die raad in staat te stel om sy *bevoegdheede, funksies of pligte* uit te oefen en te verrig.
- (3) 'n Munisipale raad moet 'n register hou van alle delegasies en ooreenkoms wat hy ingevolge *hierdie Wet* gesluit het.
- (4) Binne ses maande na ampsaanvaarding moet 'n munisipale raad alle delegasies en ooreenkoms wat hy ingevolge hierdie artikel gesluit het, hersien.

#### **57. OPDRA EN DELEGERING VAN BEVOEGDHEDDE, FUNKSIES, PLIGTE EN VERANTWOORDELIGHED AAN MUNISIPALE RADE**

- (1) Die *bevoegdhede, funksies of pligte* of verantwoordelikhede in Bylae 3 genoem van die Premier, die *LUR*, die provinsiale regering of die departement verantwoordelik vir *plaaslike regeringsaangeleenthede* in die provinsie word opgedra of gedelegeer aan munisipale rade in soverre dit in daardie bylae aangedui word.
- (2) Behoudens die bepalings van *hierdie Wet of enige ander wet* kan die *LUR* enige ander *bevoegdhede, funksies of pligte* of verantwoordelikhed wat ingevolge *hierdie Wet of enige ander wet* aan die Premier, die *LUR*, die provinsiale regering of die departement verantwoordelik vir *plaaslike regeringsaangeleenthede* in die provinsie verleen is, aan 'n munisipale raad opdra of deleger deur die gepaste inskrywing in Bylae 3 te maak of te wysig<sup>17</sup>.
- (3) 'n Opdrag of delegering ingevolge hierdie artikel gedoen, kan gedoen word ten opsigte van -  
 (a) verskillende munisipaliteite; of  
 (b) verskillende groepe of kategorieë munisipaliteite.
- 58. DIE LUR SE BEVOEGDHEID OM BYLAES, AANHANGSELS, BLADSYHOOFDE, OPSKRIFTE OF VOETNOTE TE WYSIG, TE HERROEP OF TE SKRAP**
- (1) Die *LUR* kan 'n bylae, aanhangsel, bladsyopskrif, opskrif of voetnoot wysig, herroep of skrap.
- (2) Wanneer die *LUR* van voorneme is om 'n bylae te wysig, te herroep of te skrap, moet hy voldoen aan die prosedure beoog in artikel 6, met die veranderinge wat die samehang vereis.
- 59. HERROEPING VAN WETTE EN OORGANGSREËLINGS**
- (1) Die wette in Bylae 1 genoem, word herroep in die mate in daardie Bylae aangedui.
- (2) Die oorgangsreëlings in Bylae 2 moet as 'n substansiële bepaling van *hierdie Wet* gelees en toegepas word.
- 60. WOORDOMSKRYWING**

In *hierdie Wet*, tensy dit uit die samehang anders blyk, beteken -

<sup>17</sup> Let daarop dat ingevolge artikel 156(4) van die *Grondwet* en artikels 10C(2)(b)(i) en (ii) en 10D(1)(b)(i) en (ii) van die *Oorgangswet op Plaaslike Regering*, enige opdrag of delegering gedoen kan word slegs indien die munisipaliteit -

(a) daartoe instem;  
 (b) die *bevoegdhede, funksies of pligte* of verantwoordelikhed die doeltreffendste sal administreer en die vermoë het om dit te verrig of uit te oefen;  
 (c) van toereikende hulpbronne voorsien is; en  
 (d) die *bevoegdhede, funksies of pligte* of verantwoordelikhed kan volhou en prakties kan verrig of uitgeoefen.

- (a) "aangewese beampte" die persoon ingevolge artikel 21 aangewys;
- (b) "bevoegdhede, funksies of pligte" ook die begrip "bevoegdhede en funksies" soos in die *Grondwet* beoog en "bevoegdhede en pligte" soos in die *Oorgangswet op Plaaslike Regering* beoog;
- (c) "enige ander wet" ook die gemenerg;
- (d) "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No 108 van 1996);
- (e) "hierdie Wet" ook die artikelnummers, die bylaes en enige regulasie of verordening uitgereik of uitgevaardig ingevolge hierdie Wet, maar nie ook die bladsyhoofde, opskrifte, voetnote en aanhangsels nie.
- (f) "Hoof Uitvoerende Beampte" die Hoof Uitvoerende Beampte ingevolge artikel 16 aangestel;
- (g) "LUR" die betrokke Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering in Gauteng;
- (h) "Oorgangswet op Plaaslike Regering" die Oorgangswet op Plaaslike Regering, 1993 (Wet No 209 van 1993), soos gewysig;
- (i) "openbare plek" enige pad, straat, deurloop, brug, oorhoofse brug, duikweg, sypaadjie, voetpaadjie, looppaadjie, steeg, plein, oop ruimte, tuin, park, paadjie, bus- of taxistaanplek, of ingeslotte ruimte wat by 'n munisipaliteit berus en ook enige pad, plek of deurloop wat vir die ongestoorde gebruik van die publiek is of wat die publiek die reg het om te gebruik;
- (j) "Ordonnansie op Plaaslike Bestuur" die Ordonnansie op Plaaslike Bestuur, 1939 (Wet No 17 van 1939), soos gewysig;
- (k) "plaaslike regeringsaangeleenthed", vir doeleindes van artikels 48 en 49, nie ook die bevordering, opponering of bespreking van die verkiesing van enige persoon in enige munisipale, provinsiale of nasionale liggaam, organisasie of korporasie nie;
- (l) "standaardverordening" 'n verordening deur die LUR ooreenkomsdig die bepalings van artikels 10 en 11 uitgevaardig;
- (m) "verordeninge" ook 'n kode of prosedure; en
- (n) "voorgeskryf" by regulasie voorgeskryf, en het "voorgeskrewe" en "voorskryf" 'n ooreenstemmende betekenis;

## 61. KORT TITEL EN INWERKINGTREDING

Hierdie Wet heet die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1997, en tree in werking op 'n datum wat bepaal word by provinsiale proklamasie wat in die provinsiale koerant gepubliseer word.

## AANHANGSEL A

**BEVOEGDHEDDE, FUNKSIES EN PLIGTE VAN MUNISIPALITEITE INGEVOLGE  
DIE GRONDWET VAN DIE REPUBLIEK VAN SUID-AFRIKA, 1996**

HOOFSTUK	ARTIKEL	TITEL VAN ARTIKEL
1	6(3)(b)	Tale
3	41(1), (3) en (4)	Beginsels van regering van samewerking en interregeringsbetrekkinge
4	43(c)	Wetgewende gesag van die plaaslike regeringsfeer [Nie artikel se titel nie??]
4	44(1)(a)(iii)	Opdrag van nasionale wetgewende gesag [?]
5	99	Opdrag van nasionale wetgewende funksies (deur 'n Minister) [?]
6	104(1)(c)	Opdrag van provinsiale wetgewende gesag [?]
6	126	Opdrag deur LUR aan munisipale raad [?]
7	139	Provinsiale toesig oor plaaslike regering
7	151 <sup>18</sup>	Status van munisipaliteite
7	152	Oogmerke van plaaslike regering
7	153	Ontwikkelingspligte van munisipaliteite
7	154	Munisipaliteite in regering van samewerking
7	155 <sup>19</sup>	Instelling van munisipaliteite
7	156 <sup>20</sup>	Bevoegdhede en funksies van munisipaliteite
7	157 <sup>21</sup>	Samestelling en verkiesing van munisipale rade
7	158	Lidmaatskap van munisipale rade
7	159	Termyne van munisipale rade
7	160	Interne prosedure
7	161	Voorreg
7	162	Publikasie van munisipale verordeninge
7	163 <sup>22</sup>	Georganiseerde plaaslike regering
7	164 <sup>23</sup>	Ander aangeleenthede
9	188	Werksaamhede van Ouditeur-generaal
9	190	Funksies van Verkiesingskommissie
10	195(1) en (2)	Basiese waardes en beginsels wat openbare administrasie beheers
13	214 <sup>24</sup>	Billike verdeling en toekennings van inkomste
13	215 <sup>25</sup>	Nasionale, provinsiale en munisipale begrotings
13	216 <sup>26</sup>	Tesouriebeheer
13	217	Verkryging

<sup>18</sup> Hierdie artikel is onderworpe aan item 6 van Bylae 6 van die Grondwet.

<sup>19</sup> Hierdie artikel is onderworpe aan item 6 van Bylae 6 van die Grondwet.

<sup>20</sup> Hierdie artikel is onderworpe aan item 6 van Bylae 6 van die Grondwet.

<sup>21</sup> Hierdie artikel is onderworpe aan item 6 van Bylae 6 van die Grondwet.

<sup>22</sup> Hierdie artikel verseker dat die betrokke nasionale wetgewing voorsiening moet maak vir die erkenning en gestruktureerde rol van die georganiseerde plaaslike regering.

<sup>23</sup> Hierdie artikel spesifieer die parameters van nasionale en provinsiale wetgewing betreffende plaaslike regering.

<sup>24</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

<sup>25</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

<sup>26</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

13	218 <sup>27</sup>	Regeringswaarborgé
13	219	Besoldiging van persone wat openbare ampte beklee
13	226(3) <sup>28</sup>	Provinsiale inkomstefondse
13	227 <sup>29</sup>	Nasionale befondsingsbronne van provinsiale en plaaslike regering
13	229	Munisipale fiskale bevoegdhede en funksies
13	230 <sup>30</sup>	Provinsiale en munisipale lenings
14	238	Agentskap en delegering
14	239	Woordomskrywings
Bylae 4	Deel B	<p>Die volgende plaaslike regeringsaangeleenthede in die mate in artikel 155(6)(a) en (7) uiteengesit:</p> <p>Bouregulasies          Brandbestrydingsdienste          Elektriesiteits- en gasvoorsieningstelsels          Handelsregulasies          Kindersorggeriewe          Lugbesoedeling          Munisipale beplanning          Munisipale gesondheidsdienste          Munisipale lughawens          Munisipale openbare vervoer          Munisipale openbare werke slegs ten opsigte van die behoeftes van munisipaliteit vir die nakoming van hul verantwoordelikhede om funksies wat kragtens die Grondwet of enige ander wet spesifiek aan hulle opgedra is, te administreer          Plaaslike toerisme          Ponte, veerbote, hawehoofde, piere en hawens, uitgesonderd die reëling van internasionale en nasionale skeepvaart en verwante aangeleenthede          Vloedwaterbestuurstelsels in beboude gebiede          Water- en sanitasdienste, beperk tot stelsels vir die voorsiening van drinkbare water en die wegdoen van huishoudelike afvalwater en rioolvuil</p>
Bylae 5	Deel B	<p>Die volgende plaaslike regeringsaangeleenthede in die mate in artikel 155(6)(a) en (7) vir provinsies uiteengesit:</p> <p>Begraafplase, lykdienstelokale en krematoriums          Beheer oor ondernemings wat drank aan die publiek verkoop          Beheer oor openbare steurnisse          Geraasbesoedeling          Geriewe vir die huisvesting, versorging en begrawe van diere</p>

<sup>27</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

<sup>28</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

<sup>29</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

<sup>30</sup> Die toepassing van hierdie artikel word beperk deur artikel 243(5) van die Grondwet.

		Lisensiëring van en beheer oor ondernemings wat voedsel aan die publiek verkoop Lisensiëring van honde Markte Munisipale abattoirs Munisipale paaie Munisipale parke en ontspanning Omheinings en heinings Openbare plekke Plaaslike geriewe Plaaslike sportgeriewe Reiniging Reklameborde en die vertoon van advertensies op openbare plekke Skutte Straatbeligting Straathandel Strande en vermaaklikheidsgeriewe Verkeer en parkering Vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe
Bylae 6	Item 26	Plaaslike regering

## AANHANGSEL B

**BEVOEGDHEDE, FUNKSIES EN PLIGTE VAN MUNISIPALITEITE INGEVOLGE  
DIE OORGANGSWET OP PLAASLIKE REGERING, 1993**

**ITEM A - METROPOLITAANSE RADE**

DEEL / BYLAE	ARTIKEL	TITEL VAN ARTIKEL
DEEL VI A	10C	Bevoegdhede en pligte van metropolitaanse rade en metropolitaanse plaaslike rade
BYLAE 2	1	Heffings, betalings en bydraes
	2	Toekennings en oordragte
	3	Geïntegreerde ontwikkelingsplan
	4	Water <sup>31</sup>
	5	Riolering <sup>32</sup>
	6	Elektrisiteit <sup>33</sup>
	7	Paaie <sup>34</sup>
	8	Passasiersvervoerdienste
	9	Verkeersaangeleenthede <sup>35</sup>
	10	Varsprodukemarkte
	11	Afvalverwyderingsfasiliteite
	12	Begraafplase en krematoriums
	13	Lughawens
	14	Sportgeriewe
	15	Bevordering van toerisme
	16	Munisipale gesondheidsdienste
	17	Abattoirs
	18	Brandbestrydingsdienste en rampe
	19	Biblioteke
	20	Museums
	21	Omgewingsbestuur
	22	Munisipale wetstoepassingsagentskap

**ITEM B - METROPOLITAANSE PLAASLIKE RADE**

DEEL / BYLAE	ARTIKEL	TITEL VAN ARTIKEL
DEEL VI	10C	Bevoegdhede en pligte van metropolitaanse rade en metropolitaanse plaaslike rade
BYLAE 2A	1	Verhaal van koste
	2	Geïntegreerde ontwikkelingsplan

<sup>31</sup> Hierdie artikel het betrekking op die grootmaatvoorsiening van hierdie item.

<sup>32</sup> Hierdie artikel het betrekking op die grootmaatvoorsiening van hierdie item.

<sup>33</sup> Hierdie artikel het betrekking op die grootmaatvoorsiening van hierdie item.

<sup>34</sup> Hierdie artikel het betrekking op die konstruksie en onderhoud van hoofverkeerspaaie.

<sup>35</sup> Hierdie artikel het betrekking op die koördinering en bepaling van beleid en padverkeersingenieurswese wat meer as een metropolitaanse plaaslike raad raak.

3	Water <sup>36</sup>
4	Riolering <sup>37</sup>
5	Elektrisiteit <sup>38</sup>
6	Paaie
7	Verkeersaangeleenthede
8	Afvalverwydering
9	Begraafplase en lykdienslokale
10	Lughawens
11	Biblioteke
12	Vermaakklikheidsgeriewe en strandte
13	Openbare steurnisse
14	Omgewingsaangeleenthede
15	Toerisme
16	Munisipale gesondheidsdienste
17	Reklameborde en advertensies
18	Boubeheer
19	Skoonmaak
20	Lisensiëring van besighede
21	Diere
22	Markte
23	Ponte, veerbote, hawehoofde, pieres en hawens
24	Straathandel
25	Beligting
26	Openbare plekke
27	Vuurwerke
28	Kindersorggeriewe
29	Munisipale wetstoepassingsagentskap

**ITEM C - DISTRIKRADE, PLAASLIKE RADE, LANDELIKE RADE EN VERTEENWOORDIGENDE RADE**

DEEL / BYLAE	ARTIKEL	TITEL VAN ARTIKEL
DEEL VI	10D	Bevoegdhede en pligte van distrikrade <sup>39</sup> , plaaslike rade, landelike rade en verteenwoordigende rade

**ITEM D - ALLE MUNISIPALITEITE**

DEEL / BYLAE	ARTIKEL	TITEL VAN ARTIKEL
DEEL VI	10G	Finansiële aangeleenthede
	10H	Sekere handelinge verrig deur lede van die raad of werknemers van munisipaliteite, en deur sekere ander persone, is verbode
	10I	Verstrekking van inligting

<sup>36</sup> Hierdie artikel handel oor die retikulering van hierdie diens.

<sup>37</sup> Hierdie artikel handel oor die retikulering van hierdie diens.

<sup>38</sup> Hierdie artikel handel oor die retikulering van hierdie diens.

<sup>39</sup> In die provinsie Gauteng is hierdie bepaling van toepassing op diensterade en landelike rade.

## BYLAE 1

## WETTE HERROEP BY ARTIKEL 59

Nommer en jaar van wet	Kort titel	In hoeverre herroep
58 van 1903	Municipal Corporations Ordinance, 1903	Die geheel
506 van 1937	Administrateurskennisgewing - Plaaslike Besture: Regulasies op Waardevermindering	Die geheel
17 van 1939	Ordonnansie op Plaaslike Bestuur, 1939	Die geheel
13 van 1958	Ordonnansie op Openbare Liggeme (Taal), 1958	Die geheel
21 van 1958	Beheer oor Plaaslike Bestuur, 1958	Die geheel
40 van 1960	Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings), 1960	Die geheel
15 van 1981	Stadsraad van Midrand, 1981	Die geheel
24 van 1986	Ordonnansie op Plaaslike Bestuursgebiede, 1986	Die geheel
22 van 1988	Administrateursproklamasie - Wysiging van Ordonnansie 40 van 1960	Die geheel
23 van 1988	Administrateursproklamasie - Regulasies betreffende die Instelling van Gesondheidskomitees	Die geheel

## BYLAE 2

## OORGANGSREËLINGS

## 1. ORDONNANSIE OP PLAASLIKE BESTUUR, 1939

- (1) Ondanks die herroeping daarvan gaan die bepalings van die *Ordonnansie op Plaaslike Bestuur* voort om van toepassing te wees totdat dit gewysig of herroep word deur *hierdie Wet [reeds herroep in Bylæ 1?]* of *enige ander wet*, uitgesonderd die volgende artikels:

1; 5; 8; 34; 35; 36; 41; 47A; 53; 54; 57; 62; 65; 70; 72; 77; 78; 79bis;  
79ter; 79quat; 79sext; 89; 90; 91; 92; 93; 94; 95; 96; 96bis; 97; 98; 99;  
100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118bis; 119; 120;  
121; 122; 123; 124; 125; 126A; 127; 127A; 128; 129; 144; 145; 146; 147;  
148; 149; 151; 154; 156; 156A; 157; 161; 162; 164A; 165; 166; 173.

- (2) Enige stappe gedoen ingevolge die bepalings van die *Ordonnansie op Plaaslike Bestuur* nie in subitem (1)<sup>40</sup> bedoel nie, word geag gedoen te wees ingevolge *hierdie Wet* en gaan voort om geldig of van krag te wees uitgesonderd indien dit onbestaanbaar<sup>41</sup> is met die *Oorgangswet op Plaaslike Regering, hierdie Wet of enige ander wet*.

## 2. ORDONNANSIE OP PLAASLIKE REGERING (VERKIESINGS EN ADMINISTRASIE), 1960

- (1) Ondanks die herroeping daarvan gaan die bepalings van die *Ordonnansie op Plaaslike Regering (Verkiesings en Administrasie)*, 1960, voort om van toepassing te wees totdat dit gewysig of herroep word deur *hierdie Wet* of *enige ander wet*, uitgesonderd die volgende artikels:

3 - 50; 51; 62; 62A; 62B; 63(1) - (19) en (20); 63A; 64; 65; 67; 69; 70;  
70bis; 71.

- (2) Enige stappe gedoen ingevolge die bepalings van die *Ordonnansie op Plaaslike Regering (Verkiesings en Administrasie)*, 1960, nie in subitem (1)<sup>42</sup> bedoel nie, word geag gedoen te wees ingevolge *hierdie Wet* en gaan voort om geldig of van krag te wees uitgesonderd indien dit onbestaanbaar is met die *Oorgangswet op Plaaslike Regering, hierdie Wet of enige ander wet*.

<sup>40</sup> Gevolglik is die tersaaklike bepalings die volgende:

2; 3; 4; 6; 7; 9; 9A; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30;  
31; 32; 33; 37; 38; 38A; 39; 40; 42; 43; 44; 45; 46; 47; 48; 48A; 49; 50; 50A; 50B; 51; 52; 55; 56;  
58; 59; 60; 61; 63; 64; 65bis; 66; 67; 68; 69; 71; 73; 74; 75; 76; 79; 79quin; 79sept; 80; 80A; 80B;  
81; 82; 83; 83A; 84; 85; 86; 87; 88; 104bis; 105; 106; 107; 109; 110; 111; 112; 113; 130; 131; 132;  
133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 150; 152; 153; 155; 158; 159; 159bis; 160;  
163; 167; 168; 169; 169bis; 170; 170ter; 171; 171bis; 171ter; 171quat en 172.

<sup>41</sup> Verder mag die stappe ook nie onbestaanbaar met die *Grondwet* wees nie.

<sup>42</sup> Gevolglik is die tersaaklike bepalings die volgende:

1; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 63(20); 66; 68.

### 3. ALGEMENE BEPALINGS

- (1) Enige ander stappe gedoen ingevolge enige bepaling herroep by Bylae  
1 -
- (a) word geag gedoen te wees ingevolge die ooreenstemmende bepaling van *hierdie Wet*; en
  - (b) gaan voort om geldig of van krag te wees -
    - (i) tensy dit onbestaanbaar met die *Oorgangswet op Plaaslike Regering* of met *hierdie Wet* is; of
    - (ii) totdat dit ingevolge *hierdie Wet* of *enige ander wet* herroep word.
- (2) Vir doeleindest van hierdie item en items 1(2) en 2(2) beteken die woorde "stappe gedoen" ook die uitreiking van regulasies, die uitvaardiging van verordeninge, die tref van administratiewe of ander maatreëls, die sluit van kontrakte, die aangaan van verpligte en die instel of verdediging van enige strafregtelike of siviele of ander regsgeding.

## BYLAE 3

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

**ITEM A - ORDONNANSIE OP PLAASLIKE BESTUUR, 1939****DEEL 1 - OPDRAG**

ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN OPGEDRA
19(7)	Toelaes aan burgemeester, onderburgemeester en raadslede	Die geheel
64(1)	Afsondering van terreine vir doel van oprigting van publieke of municipale geboue	Die geheel
65bis(4)(b)	Roetes, stilhouplekke en standplase vir publieke voertuie	Die geheel
67(6) en (9)(b)	Permanente sluiting of verlegging van strate	Die geheel
69(1)(a)	Verlening van nommers aan huise en name aan publieke plekke	Die geheel
71(2)	Bevoegdheid om skutte op te rig	Die geheel
79(9) <i>bis</i>	Algemene bevoegdhede	Die geheel
79(10)	Algemene bevoegdhede	Die geheel
79(28)	Algemene bevoegdhede	Die geheel
79(33)	Algemene bevoegdhede	Die geheel
79(42)	Algemene bevoegdhede	Die geheel
79(53)	Algemene bevoegdhede	Die geheel
80B(4)(b)(i)	Vasstelling, wysiging of intrekking van geldte by spesiale besluit	Die geheel
81(1)(c)	Werke vir die lewering van water	Die geheel
81(1)(d)	Werke vir die lewering van water	Die geheel
81(1A)	Werke vir die lewering van water	Die geheel
81(2)	Werke vir die lewering van water	Die geheel
83(1) <i>bis</i>	Werke vir die lewering van lig, hitte en krag	Die geheel
83(3)(a)	Werke vir die lewering van lig, hitte en krag	Die geheel
83(4)	Werke vir die lewering van lig, hitte en krag	Die geheel
83A(1)	Beperking op die gebruik van water en elektrisiteit	Die geheel
104 <i>bis</i>	Bevoegdheid van plaaslike bestuur om vereistes van bouverordeninge te verslap of van voldoening daaraan af te sien	Die geheel
131(5)	Ander spesiale bevoegdhede vir stadsrade	Die geheel
131(17)	Ander spesiale bevoegdhede vir stadsrade	Die geheel
133	Bevoegdheid om riolerings- en dreineringswerk te onderneem	Die geheel
142(1)(b)	Bevoegdheid om dreineringswerke te verrig op private grond of eiendom of om voorskotte daarvoor te verleen	Die geheel
155(1)	Sanitêre beheer oor bo- en ondergrondse mynwerksaamhede	Die geheel

**DEEL 2 - DELEGASIE**

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

**ITEM B - ORDONNANSIE OP PLAASLIKE BESTUUR (ADMINISTRASIE EN VERKIESINGS), 1960****DEEL 1 - OPDRAG**

ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN HERROEP
57(6)(b)	Funksies van bestuurskomitee	Die geheel

**DEEL 2 - DELEGASIE****ITEM C - ORDONNANSIE OP DIE KAPITAALONTWIKKELINGSFONDS VAN PLAASLIKE BESTURE, 1978****DEEL 1 - OPDRAG**

ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN HERROEP
....	....	....

**DEEL 2 - DELEGASIE**

3 Aanwending van Fonds Die geheel

**ITEM D - ORDONNANSIE OP EIENDOMSBELASTING VAN PLAASLIKE BESTURE, 1977****DEEL 1 - OPDRAG**

ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN HERROEP
7(1)	Aanstelling van waardeerdeerder	Die geheel
7(2)(a)(i)	Aanstelling van waardeerdeerder	Die geheel
14(1)	Samestellende van Waarderingsraad vir plaaslike bestuur	Die geheel
14(2) en (3)	Samestellende van Waarderingsraad vir plaaslike bestuur	Die geheel
14(10)	Samestellende van Waarderingsraad vir plaaslike bestuur	Die geheel
14(11)	Samestellende van Waarderingsraad vir plaaslike bestuur	Die geheel
20(4)	Herverhoor deur en beslissing van	Die geheel

	waarderingsappèlraad	
21(2)	Algemene eiendomsbelasting en korting daarop	Die geheel

**DEEL 2 - DELEGASIE**

ITEM E - VERWYDERING VAN DOOIE LIGGAME EN GRAFTE ORDONNANSIE, 1925  
 DEEL 1 - OPDRAG

ARTIKEL	TITEL VAN ARTIKEL	MATE WAARIN HERROEP
2(1)	Geen liggaam sonder magtiging verwyder te word	Die geheel

**DEEL 2 - DELEGASIE**

## VERKLARENDE MEMORANDUM

### AGTERGROND

1. Aan die begin van die jaar het die Lid van die Uitvoerende Raad (*LUR*) verantwoordelik vir plaaslike regering 'n Politieke Taakspan aangestel met die opdrag om wetgewing oor die plaaslike regeringsfeer op te stel. Die Politieke Taakspan het bestaan uit lede wat van dwarsoor die hele politieke spektrum getrek is.
2. Die Politieke Taakspan het 'n Wetgewende Tegniese Taakspan gehad wat bestaan het uit amptenare van die Departement van Beplanning en Plaaslike Regering, adviseurs aangestel deur die Departement van Beplanning en Plaaslike Regering en verteenwoordigers van die Gauteng Vereniging van Plaaslike Owerhede (GVPO). Die funksie van hierdie span was om die nodige wetgewing in ooreenstemming met die aanwysings van die Politieke Taakspan op te stel.
3. Op 'n werkinkel wat in Maart vanjaar deur die Politieke Taakspan gehou is, is daar kennis geneem van die verklaarde voorname van die Minister verantwoordelik vir Plaaslike Regering en Proviniale Sake om teen die einde van 1997 sy witskrif te formuleer (met nasionale wetgewing wat daarop sou volg), en van die behoefte aan die ontwikkeling van provinsiale beleid met betrekking tot plaaslike regering. Gevolglik is 'n besluit geneem om 'n wetsontwerp wat net handel oor die aangeleenthede wat die transformasie van plaaslike regering en die lewering van munisipale dienste onmiddellik raak, aan te bied vir promulgering vanjaar.
4. Hierdie Wetsontwerp is dus 'n tussentydse maatreël (oorbruggingswetgewing) om die wetgewende en administratiewe raamwerk waarbinne munisipaliteite tans funksioneer, te rasionaliseer.
5. Die Politieke Taakspan en die Wetgewende Tegniese Taakspan was te alle tye gedagdig daaraan dat daar talle wette is waarvan die toepassing gelei het tot anomalieë, inkonsekwendhede en grondwetlik problematiese optrede aan die kant van sowel die provinsiale regering as munisipaliteite. Van hierdie wette, naamlik die *Grondwet*<sup>1</sup>, die *Oorgangswet op Plaaslike Regering*, die *Ordonnansie op Plaaslike Bestuur* en die *Ordonnansie op Plaaslike Bestuur (Administrasie en Verkiesings)*, 1960, geniet egter in hierdie Wetsontwerp aandag. Verder dien daarop gelet te word dat hierdie Wetsontwerp slegs handel oor die aspekte voortspruitend uit die toepassing van hierdie statute wat tersaaklik is vir die fasilitering van die proses van transformasie van die plaaslike regeringsfeer. Daar word beoog dat alle ander kwessies die onderwerp sal vorm van 'n latere en meer omvattende stuk wetgewing wat gegrond sal wees op die witskrifprosesse van sowel die nasionale as die provinsiale regeringsfeer en toekomstige nasionale wetgewing oor munisipaliteite.

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<sup>1</sup> Woorde wat kursief gedruk is, is in artikel 60 omskryf.

6. Daar is oor die aangeleenthede wat in hierdie Wetsontwerp aandag moes kry, ooreengekom deur die Departement van Beplanning en Plaaslike Regering, die Politieke Taakspan en die GVPO. Die oorwegings wat by die keuse van hierdie aangeleenthede gegeld het, was onder andere die volgende:
  - (a) Faktore wat die doeltreffende integrering en konsolidering van plaaslike regeringstrukture vertraag;
  - (b) die behoefté om rasionalisering en transformering in die plaaslike regeringsfeer te versnel;
  - (c) hindernisse vir die lewering van munisipale dienste;
  - (d) die behoefté om munisipaliteite te bemagtig om aangeleenthede ten opsigte waarvan daar leemtes in die reg bestaan, te reguleer; en
  - (e) die behoefté om by munisipaliteite die gees van die *Grondwet* by die verrigting van hulle sake in te skerp.
7. Wat hieronder volg, is 'n samevatting van die inhoud van elke hoofstuk.

## HOOFSTUK 1 - DOEL EN TOEPASSING

8. Artikel 1 skets die doel van die Wetsontwerp, naamlik om die wetgewende en administratiewe raamwerk waarbinne munisipaliteite funksioneer, te rasionaliseer en om transformasie in hierdie sfeer van regering te faciliteer.
9. Die doelklousule "identifiseer" ook die bepaalde fokuspunte van die Wetsontwerp en bevat 'n "verklaring van voorneme" wat aanduidend is van die tipes maatreëls wat gebruik staan te word om die transformasie van munisipaliteite te faciliteer.
10. Artikel 2 kontekstualiseer die bepalings van die Wetsontwerp ten einde die toepassing en vertolking daarvan betekenisvol, opbouend en doelgerig te maak.

## HOOFSTUK 2 - STATUS, BEVOEGDHEDE, FUNKSIES EN PLIGTE VAN MUNISIPALITEITE

11. Artikel 3 verseker die voortbestaan van alle munisipaliteite, ongeag die wette ingevolge waarvan hulle geskep is, en baan dus die weg vir die herroeping van daardie wette sonder om die status van 'n munisipale raad wat ingevolge daardie wette ingestel is, te raak.
12. Ingevolge artikel 23A van Proklamasie 5 van 1995, soos gewysig en gelees met artikel 10 van die *Oorgangswet op Plaaslike Regering*, het die Premier sowel verteenwoordigende oorgangsrade as plaaslike gebiedskomitees (wat albei onder die jurisdiksie van 'n diensteraad gevall het) ingestel. Hierdie plaaslike gebiedskomitees was bedoel om die unieke eienskappe van die gewese buitestedelike gebiede te verteenwoordig. 'n Gesonde wetlike grondslag vir hulle bestaan moet egter verder gefasiliteer word. Dit kan gedoen word deur die plaaslike gebiedskomitees te omskep in verteenwoordigende oorgangsrade. Dit kon nie in *hierdie Wet* gedoen word nie, gesien die geskiedenis van die instelling van daardie rade. In plaas daarvan is die Departement van Beplanning en Plaaslike Regering van voorneme om die bepalings van artikel 10N van die *Oorgangswet op Plaaslike Regering* te gebruik. Dit sal die wysiging van die tersaaklike proklamasie behels.

13. In soverre die samesmelting en/of amalgamasie van "ou" dorpe en stede anomalieë skep of geskep het in die onderlinge verhoudinge van nuut saamgestelde munisipale entiteite, is artikel 4 daarop gemik om hierdie verhoudinge op gepaste wyse inlyn te bring.
14. Artikel 5, gelees met die omskrywing van "*bevoegdhede, funksies of pligte*" -
  - (a) konsolideer die bevoegdhede van munisipaliteit; en
  - (b) verleen aan munisipaliteit "oorspronklike bevoegdhede" ten opsigte van *plaaslike regeringsaangeleenthede* wat nie van hulle bevoegdheid uitgesluit of aan 'n ander regeringsfeer opgedra of gedelegeer is nie. Hierdie bevoegdheid maak egter nie 'n absolute inherente bevoegdheid uit nie aangesien dit onderworpe is aan *enige ander wet wat plaaslike regeringsaangeleenthede reguleer*.

### **HOOFSTUK 3 - VERORDENINGE, STANDAARDVERORDENINGE EN REGULASIES**

15. Hierdie Hoofstuk gee 'n uiteensetting van die procedures om *verordeninge, standaardverordeninge en regulasies* uit te vaardig en uit te reik. Die procedures is ontwerp op 'n wyse wat deursigtigheid verseker en openbare deelname aan die wetmaakproses aanmoedig. Diegene wat vir die uitvaardiging en uitreiking van *verordeninge, standaardverordeninge [en regulasies?]* verantwoordelik is, word verplig om dit vir kommentaar beskikbaar te stel en om stappe te doen om lede van die publiek in staat te stel om kommentaar te lewer.
16. Daar word ook in die Wetsontwerp daarvoor voorsiening gemaak dat die provinsiale regering 'n ondersteunende en toesighoudende rol speel met betrekking tot munisipale wetmakery. Ingevolge artikel 7 kan die *LUR* by 'n munisipale raad aanbeveel dat hy 'n *verordening* uitvaardig indien die *LUR* van mening is dat die *verordening* noodsaaklik is vir die doeltreffende en doelmatige levering van munisipale dienste.
17. Voorts word daar 'n prosedure vir die hersiening van *verordeninge* geskep ten einde deurlopende modernisering en aanpassing van munisipale wetgewing aan te moedig en te verseker.

### **HOOFSTUK 4 - PERSONEELVERWANTE AANGELEENTHEDE**

18. Die hoofstuk oor personeelverwante aangeleenthede verplig 'n munisipale raad om -
  - (a) '*n Hoof Uitvoerende Beamppte* in diens te neem; en
  - (b) skemas om sy bedinge en voorwaardes van diens en ander diensverwante voordele gelyk te stel, in te stel en te rasionaliseer.

### **HOOFSTUK 5 - AANGEWESE BEAMPTES, VERRIGTING VAN WERK, INSPEKSIES, NAKOMINGSROSEDURES EN VERBANDHOUDENDE MISDRYWE**

19. Hierdie Hoofstuk fokus op die wyse waarop munisipaliteit funksioneer en is van toepassing slegs indien wette wat die verrigting van werk of inspeksies magtig, nie bepalings bevat waarvoor hierdie Hoofstuk voorsiening maak nie.

20. Bestaande wetgewing bevat veels te veel bepalings wat, indien dit aangeveg sou word, waarskynlik geskrap sal word op grond van die skending van grondwetlike regte. Gevolglik stel hierdie Hoofstuk gedragstandarde om nakoming van die Grondwet te verseker. Hierdie Hoofstuk sal waarskynlik 'n beduidende uitwerking hê op die wyse waarop munisipaliteite hierdie aktiwiteite bedryf en vlakke van dienslewering handhaaf.
21. Daar word in hierdie hoofstuk voorsiening gemaak vir die verkryging van lasbriewe; die beperking van optrede sonder 'n lasbrief; en die uitreiking van nakomingskennisgewings as 'n korrekturelle maatreël eerder as om bloot op kriminalisering staat te maak.

#### **HOOFSTUK 6 - VERKRYGING VAN GOEDERE EN DIENSTE DEUR MUNISIPALITEITE**

22. Hierdie Hoofstuk is daarop gemik om tenderprosesse beter te reguleer. Die procedures is ontwerp om deursigtigheid te verseker en ontwikkeling en bemagtiging te bevorder.
23. Daar word daarvoor voorsiening gemaak dat die *LUR* die waarde bepaal van goedere en dienste ten opsigte waarvan daar 'n omvattende tenderproses gevolg moet word. 'n Municipale raad kan egter in gevalle van nood, noodsak of 'n enkele verskaffer besluit om nie hierdie proses te volg nie, maar hy sal nogtans aan die publiek moet verduidelik waarom hy besluit het om dit te doen.
24. Die omvattende tenderproses sluit in dat die tender geadverteer moet word, met vermelding van die besonderhede van die tender en die tydperk waartydens die tender beskikbaar sal wees vir insae, en met geleentheid vir die publiek om die proses te ondersoek.
25. Verlengings, veranderings en die gevolge van onreëlmatige tenders word ook in hierdie Wetsontwerp behandel.
26. Daar word voorsiening gemaak vir 'n appèl na 'n Verkrygingsappèltribunaal, wat alle geskille voortspruitend uit die verkrygingsproses moet hanteer.
27. Ook word daar voorsiening gemaak vir die instelling van 'n Verkrygingskomitee. Hierdie komitee se funksie is in wese om 'n ondersteunende en vermoëskeppende rol vir 'n municipale raad te speel.

#### **HOOFSTUK 7 - BEPERKING VAN TOEGANG TOT OPENBARE PLEKKE VIR VEILIGHEIDS- EN SEKURITEITSDOELEINDES**

28. Hierdie Hoofstuk handel oor een van die gemeenskapsinisiatiewe vir misdaadvoorkoming waarop daar die meeste aangedring word, naamlik die beperking van toegang tot *openbare plekke* soos paaie, parke, deurgange, ens. Tans bestaan daar geen wetlike grondslag om hierdie verskynsel te hanteer nie. Hierdie Hoofstuk het ten doel om sulke beperkings op gepaste wyse te reguleer deur munisipaliteite toe te laat om toegang uit eie beweging te beperk, of om persone, liggeme of organisasies te magtig om toegang te beperk mits die vereiste magtiging behoorlik verkry is.

## HOOFSTUK 8 - DIVERSE AANGELEENTHEDE

29. Hierdie Hoofstuk handel oor die volgende aangeleenthede:
- (a) Die instelling van munisipale kommissies van ondersoek. Artikel 48 meld die omstandighede waarin sulke kommissies ingestel kan word en bepaal dat die Gauteng Wet op Provinciale Kommissies, 1997, op sulke kommissies van toepassing is.
  - (b) Die hou van openbare verhore. Artikel 49 magig lede van die publiek om 'n petisie aan die munisipale raad te rig om 'n openbare verhoor te hou. Daar word ook bepaal dat die munisipale raad die procedures moet bepaal wat op die openbare verhoor van toepassing is.
  - (c) Die *LUR* se bevoegdheid om adviserende aanwysings uit te reik in omstandighede waar 'n munisipale raad nie in staat is om sy verpligte na te kom nie.
  - (d) Die *LUR* se bevoegdheid om riglyne uit te reik om munisipale rade by te staan met die verrigting van hulle funksies.

## HOOFSTUK 9 - ALGEMENE BEPALINGS

30. Hierdie Hoofstuk handel oor verskeie aspekte wat standaard in die meeste wetsontwerpe hanteer word, soos strawwe, beperking en tydsbeperking van aanspreeklikheid, regsverteenwoordiging, opdrag en delegering, herroeping en oorgangsreëlings, woordomskrywing, kort titel, ens.
31. Ten opsigte van die opdra en delegering van bevoegdhede, funksies, pligte en verantwoordelikhede sit artikel 57, gelees met Bylae 3, die proses voort waarvolgens sekere bevoegdhede op gepaste plekke in die plaaslike regeringsfeer geplaas word.
32. Wat herroeping en oorgangsreëlings betref, dien daarop gelet te word dat die *Ordonnansie op Plaaslike Bestuur* herroep gaan word [reeds by hierdie Wet - Bylae 1]. As 'n oorgangsmaatreël sal sekere artikels egter van toepassing bly hangende latere wysiging of herroeping.

## BESKRYWING PER KLOUSULE

### Klousule 1

Hierdie klousule beskryf die doel van die Wetsontwerp, naamlik om die wetgewende en administratiewe raamwerk vir plaaslike regering te rasionaliseer.

### Klousule 2

- (1) Die vertolking van die Wetsontwerp moet in ooreenstemming met sy doel en rol wees.
- (2) Die Wetsontwerp moet vertolk word op 'n wyse wat dit nie in stryd met *enige ander wet* sal bring nie.
- (3) Die bepalings van die Wetsontwerp geniet voorrang in geval van 'n teenstrydigheid met *enige ander wet*, uitgesonderd die *Grondwet* en die *Oorgangswet op Plaaslike Regering*.

### Klousule 3

Elke munisipale raad ingestel ingevolge die *Oorgangswet op Plaaslike Regering* behou sy status en word geag 'n regspersoon te wees.

### Klousule 4

- (1) 'n Munisipale raad wat tot 'n stad verklaar is, behou sy status as sodanig.
- (2) 'n Metropolitaanse raad met 'n verklaarde stad binne sy regssgebied het al die bevoegdhede en verpligte van 'n stad ingevolge enige wet.
- (3) 'n Munisipale raad wat tot 'n stad verklaar is, kan sy status in sy naam en op enige van sy dokumente weerspieël.

### Klousule 5

- (1) Die *bevoegdhede, funksies of pligte* van 'n munisipale raad ingevolge hierdie Wetsontwerp is benewens dié wat by die *Grondwet* en die *Oorgangswet op Plaaslike Regering* verleen is.
- (2) Hierdie klousule verwys na Aanhangsels A en B, wat sommige van die bevoegdhede en pligte van munisipale rade bevat.
- (3) 'n Munisipale raad kan enige bevoegdheid uitoefen of enige plig verrig rakende 'n aangeleentheid wat nodig is vir die doeltreffende verrigting van sy pligte.
- (4) 'n Munisipale raad kan enige stappe doen wat nodig is om die doel van hierdie Wetsontwerp te bereik.

- (5) 'n Municipale raad kan elke bevoegdheid uitoefen of enige plig verrig ten opsigte van *plaaslike regeringsaangeleenthede* wat nie van sy bevoegdheid uitgesluit of aan 'n ander regeringsfeer opgedra of gedelegeer is nie.
- (6) 'n Municipale raad kan *verordeninge* uitvaardig en administreer vir die doeltreffende uitoefening en verrigting van sy bevoegdhede en pligte.

#### Klousule 6

- (1) Ten einde 'n *verordening* uit te vaardig, moet 'n municipale raad 'n resolusie aanneem waarin sy voorneme om dit te doen, verklaar word.
- (2)
  - (a) Die voorneme moet gepubliseer word deur middel van 'n kennisgewing in die provinsiale koerant en ander kommunikasiemiddele.
  - (b) Hierdie subklousule bevat spesifikasies oor wat die kennisgewing moet bevat.
  - (c) Daar kan met enige belanggroep(e) oorleg gepleeg word voordat die *verordening* uitgevaardig word.
  - (d) Kommentaar wat ontvang is, moet oorweeg word voordat die *verordening* uitgevaardig word.
- (4) Versuim deur die municipale raad om 'n *verordening* uit te vaardig binne 'n jaar na die aankondiging, maak die kennisgewing ongeldig.
- (5) Die procedures vir die uitvaardiging van 'n *verordening* is nie van toepassing nie waar sodanige *verordening* sonder versuim gepromulgeer moet word en waar 'n fout reggestel moet word.
- (6) Die procedures vir die uitvaardiging van 'n *verordening* is ook van toepassing in gevalle van die wysiging of herroeping van *verordeninge*.
- (7) 'n *Verordening* tree in werking op die datum van publikasie daarvan in die provinsiale koerant.
- (8) 'n Geld vir die verkryging van 'n eksemplaar van die konsepverordening kan deur die municipale raad bepaal word.
- (9) 'n Konsepverordening moet vertoon word waar dit maklik toeganklik is.
- (10) Die municipale raad moet die publiek aanmoedig en bystaan om kommentaar op die konsepverordening te lewer.

#### Klousule 7

- (1) Waar 'n municipale raad nie 'n *verordening* uitgevaardig, gewysig of herroep het nie en die *LUR* oortuig is dat dit gedoen moes gewees het, kan hy of sy die municipale raad versoek om redes vir sodanige versuim te verstrek.
- (2) Die redes vir die versuim moet binne 'n maand skriftelik voorgelê word.

- (3) Indien die *LUR* nie tevrede is met die redes nie, kan hy of sy aanbeveel dat die nodige verordening binne 'n redelike tyd uitgevaardig word.

#### Klousule 8

- (1) Verordening moet met tussenpose van minstens 10 jaar na inwerkingtreding daarvan deur die municipale raad hersien word.
- (2) Indien 'n raad versuim om die hersiening binne die gestelde tyd te doen en te voltooi, moet redes daarvoor aan die *LUR* verstrek word.

#### Klousule 9

'n Municipale raad het 'n diskresie betreffende die wyse en omstandighede van toegang om insae in of 'n eksemplaar van 'n verordening te kry.

#### Klousule 10

Die *LUR* kan 'n standaardverordening uitvaardig oor enige aangeleentheid wat binne die bevoegdheid van municipale rade val.

#### Klousule 11

Die prosedure vir die uitvaardiging van 'n standaardverordening is dieselfde as vir 'n verordening.

#### Klousule 12

- (1) 'n Standaardverordening is bindend vir 'n municipale raad slegs indien 'n verordening te dien effekte uitgevaardig is.
- (2) Die inhoud van 'n verordening sluit die standaardverordening in waar daar na die standaardverordening verwys word.

#### Klousule 13

Die *LUR* het die bevoegdheid om regulasies uit te reik oor enige aangeleentheid wat nodig is om die doel van hierdie Wet te bereik.

#### Klousule 14

- (1) 'n Regulasie kan bevoegdhede verleen en voorwaardes en vrystellings bevat ten opsigte van sommige gebiede in Gauteng of ander persone of liggeme.
- (2) Die *LUR* kan veranderings aan die regulasies aanbring by kennisgewing in die provinsiale koerant, maar sulke veranderings mag nie sonder kennis vooraf van die betrokke persone of liggeme aangebring word nie.
- (3) Indien die regulasies bepaal dat versuim om aan enige beperking te voldoen 'n misdryf is, moet die geaffekteerde persoon van daardie misdryf in kennis gestel word voordat hy of sy aan strafregtelike aanspreeklikheid onderwerp word.

**Klousule 15**

Die prosedure vir die uitreiking van 'n regulasie is dieselfde as vir die uitvaardiging van 'n verordening.

**Klousule 16**

Elke munisipale raad moet 'n *Hoof Uitvoerende Beampte* en personeel aanstel om sy bevoegdhede en pligte uit te voer.

**Klousule 17**

Die *Hoof Uitvoerende Beampte* moet as hoof van die raad optree, help om die raad se programme en beleide uit te voer en goeie betrekkinge handhaaf met die gemeenskap wat hy dien. Die *Hoof Uitvoerende Beampte* kan ander bevoegdhede hê waarvoor daar in ander wette voorsiening gemaak word, asook bevoegdhede wat deur die munisipale raad verleen word.

**Klousule 18**

'n Saamgesmelte munisipaliteit mag nie die bedinge en voorwaardes van diens van werknemers verswak nie in gevalle waar daar verskille in bedinge en voorwaardes bestaan.

**Klousule 19**

Elke munisipale raad moet 'n mediese bystandskema hê tot voordeel van sy werknemers en kan so 'n skema vir raadslede implementeer.

Die reëls, verpligtinge en voordele van toepassing op bestaande skemas gaan voort om van toepassing te wees tensy dit ingevolge *hierdie Wet* of sy eie reëls vervang word, maar so 'n verandering moet die werknemers in 'n beter posisie plaas.

**Klousule 20**

Elke munisipale raad moet 'n aftreeskema hê wat sy werknemers en raadslede in gelyke mate bevoordeel.

Die reëls, verpligtinge en voordele van toepassing op bestaande skemas gaan voort om van toepassing te wees tensy dit ingevolge die reëls van die skema of *hierdie Wet* verander word.

Sulke veranderings mag nie die posisie van die werknemers verswak nie.

Die raad moet die voordele van werknemers binne twee jaar na die inwerkingtreding van *hierdie Wet* gelyk stel in gevalle van verskille.

**Klousule 20A**

Hierdie klousule hanteer die aanstelling van burgemeesters en hulle ampstermyne, en indien omstandighede dit regverdig dat 'n burgemeester sy of haar amp moet ontruim,

kan 'n municipale raad dit doen by resolusie wat met 'n meerderheid van twee derdes aangeneem word. 'n Municipale raad kan verantwoordelikheid vir die implementering en monitering van nasionale of provinsiale programme aan die burgemeester deleger en kan die burgemeester magtig om in die uitvoerende komitee te dien maar kan bepaal dat hy of sy nie stemreg het nie.

#### **Klousule 21**

Hierdie klousule magtig die *Hoof Uitvoerende Beamppte* om enige persoon as 'n aangewese *beamppte* aan te wys, hetsy in die algemeen of in 'n bepaalde gevval.

#### **Klousule 22**

Funksies en pligte van aangewese *beamptes* word in hierdie klousule voorgeskryf, en dit moet uitgevoer word in ooreenstemming met hierdie Wetsontwerp en met prosedures uiteengesit in klousules 24 en 25.

#### **Klousule 23**

Benewens die bevoegdhede waaroor hierdie Wetsontwerp voorsiening maak en bevoegdhede wat aan hulle verleen word, word verdere bevoegdhede aan aangewese *beamptes* verleen om die gladde verrigting van hulle funksies in klousule 22 beoog, te verseker.

#### **Klousule 24**

Die prosedure, wyse en tyd van uitvoering en vereistes vir 'n geldige lasbrief, in gevalle waar betreding ingevolge 'n lasbrief geskied, word uitdruklik uiteengesit in hierdie klousule.

#### **Klousule 25**

Aangewese *beamptes* word gemagtig om enige grond of perseel sonder 'n lasbrief te betree met die instemming van die eienaar of persoon in beheer van die grond of perseel. Indien instemming onredelik weerhou word, kan aangewese *beamptes* enige grond of perseel sonder 'n lasbrief betree uit hoofde van hulle bykomende bevoegdhede wat by *enige ander wet* aan hulle verleen is.

#### **Klousule 26**

By die verrigting van hulle werk moet aangewese *beamptes* hulle ordentlik gedra en die fundamentele regte van individue streng in ag neem.

#### **Klousule 27**

Die omstandighede waaronder geweld gebruik kan word, die wyse waarop aangewese *beamptes* toegang moet eis voordat geweld gebruik word en vergoeding vir vernietiging voortspruitend uit die gebruik van geweld word in hierdie klousule uiteengesit. Geweld mag egter nie ingevolge klousule 25 gebruik word nie.

#### **Klousule 28**

'n Aangewese beamppte kan, in die verrigting van sy of haar werk, vergesel word deur 'n lid van die SA Polisiediens of enige persoon wat redelikerwys nodig is om bystand te verleen met die verrigting van sy of haar werk.

#### **Klousule 29**

Hierdie klousule maak voorsiening vir die voorlegging van enige dokument wat deur 'n aangewese beamppte versoek word.

#### **Klousule 30**

Vrae deur 'n aangewese beamppte moet eerlik beantwoord word, en hierdie antwoord mag nie in strafregtelike sake toegelaat word nie, behoudens sekere uitsonderings.

#### **Klousule 31**

In die geval van die verbreking van die bepalings van hierdie Wetsontwerp kan 'n aangewese beamppte 'n nakomingskennisgewing uitreik, welke kennisgewing van krag bly totdat 'n nakomingsertifikaat uitgereik is en daar voldoen is aan die vereistes van daardie kennisgewing.

#### **Klousule 32**

Hierdie klousule maak voorsiening vir misdrywe wat gepleeg kan word deur enige persoon wat nie behoorlik as aangewese beamppte aangestel is nie.

#### **Klousule 33**

Ingevolge hierdie klousule word die bepalings van die Wetsontwerp betreffende die bevoegdhede en pligte van aangewese beamptes van toepassing gemaak op enige persoon of liggaam, met inbegrip van die staat, en die bepalings wat 'n bevoegdheid verleen of 'n plig oplê is van toepassing op enige grond en op 'n ding op enige grond of in enige perseel.

#### **Klousule 34**

Die LUR word gemagtig om die tenderwaarde voor te skryf van die dienste of goedere waarvoor 'n munisipale raad die verkrygingsprosedure soos in klousule 34 uiteengesit, moet volg om kontrakte te verkry of toe te ken. Daar kan egter van sulke procedures afgesien word in gevalle van nood of noodsak. Hierdie verkrygingsprosedure moet in ooreenstemming met finansiële regulasies wees.

#### **Klousule 35**

Hierdie klousule sit die tenderprosedures uiteen wat deur munisipale rade gevolg moet word vir die verkryging van voorgeskrewe goedere en dienste.

#### **Klousule 36**

'n Munisipale raad kan, by resolusie, afsien van klousule 35-prosedures in gevalle van nood of noodsak. Binne een maand na die resolusie moet reeds verstrek word waarom daar van daardie prosedures afgesien is, en die vereistes van die voorgeskrewe

goedere moet gepubliseer en gespesifiseer word. Die funksies van 'n munisipale raad ingevolge hierdie klousule mag nie gedelegeer word nie.

#### **Klousule 37**

Hierdie klousule magtig 'n munisipale raad om uit eie beweging te besluit om 'n tenderooreenkoms te verleng of te verander in die omstandighede in klousule 34(2)(a) uiteengesit. Die magtiging van 'n munisipale raad word egter beperk. Die bepalings van klousule 36 hierbo is mutatis mutandis van toepassing.

#### **Klousule 38**

Waar 'n munisipale raad oortuig is dat 'n tenderaansoek aanvaar, verander of verleng is, of dat daar 'n verbreking daarvan was, moet hy die verskaffer skriftelik in kennis stel en redes daarvoor verstrek. 'n Munisipale raad is gemagtig om 'n tenderooreenkoms op te sê indien die verskaffer nie die nodige vertoë rig nie. Die funksies van 'n munisipale raad in hierdie verband mag nie gedelegeer of opgedra word nie.

#### **Klousule 39**

'n Verskaffer van goedere of dienste wat gegrief voel deur 'n besluit van 'n munisipale raad om 'n tenderooreenkoms op te sê, kan na die Verkrygingsappèltribunaal appelleer volgens procedures wat die munisipale raad bepaal. 'n Besluit van die Verkrygingsappèltribunaal is finaal en bindend vir alle partye by die appèl.

#### **Klousule 40**

'n Munisipale raad moet 'n Verkrygingsappèltribunaal instel, bestaande uit ten minste twee arbiters, wat deskundiges in die Verkrygingsappèltribunaal kan aanstel. Die paneel van arbiters moet gehandhaaf word op ten minste ses persone wat deur 'n munisipale raad goedgekeur is, welke persone nie lede of werknemers van die munisipale raad mag wees nie. 'n Munisipale raad moet die voorgeskrewe procedures volg om 'n persoon in die paneel van arbiters aan te stel.

#### **Klousule 41**

Hierdie klousule magtig 'n munisipale raad om 'n verkrygingskomitee met sekere bevoegdhede en funksies in te stel.

#### **Klousule 42**

Ingevolge hierdie klousule kan 'n munisipale raad 'n beperking instel of enige persoon, liggaam of organisasie magtig om toegang tot enige *openbare plek* te beperk ten einde veiligheid en sekuriteit te verbeter.

#### **Klousule 43**

Hierdie klousule skets die procedures wat 'n munisipale raad moet volg wanneer hy van voorneme is om beperkings op toegang tot 'n *openbare plek* te plaas.

#### **Klousule 44**

Ingevolge hierdie klousule moet enigiemand wat by 'n munisipale raad aansoek doen om magtiging om toegang tot 'n *openbare plek* te beperk, sekere voorgeskrewe procedures volg, waarna die munisipale raad by sekere riglyne moet hou.

#### **Klousule 45**

Ingevolge hierdie klousule is 'n beperking of magtiging om toegang te beperk geldig vir hoogstens twee jaar, maar 'n munisipale raad kan, indien nodig, die duur daarvan verleng deur die korrekte procedures te volg.

#### **Klousule 46**

Ingevolge hierdie klousule is dit 'n misdryf vir enigiemand om toegang tot 'n *openbare plek* te beperk sonder dat die voorgeskrewe magtiging verkry is.

#### **Klousule 47**

Hierdie klousule magtig 'n munisipale raad om die omstandighede te bepaal waarin en die wyse waarop die publiek toegang kan hê tot en insae kan hê in die bedinge van 'n beperking of magtiging om toegang te beperk.

#### **Klousule 48**

Ingevolge hierdie klousule word 'n munisipale raad gemagtig om 'n munisipale kommissie van ondersoek ten opsigte van enige *plaaslike regeringsaangeleentheid* in te stel deur 'n resolusie aan te neem waarin die opdrag van die kommissie vermeld word, insluitende die tydperk waarbinne daardie kommissie sy werk moet afhandel. Die kommissie moet 'n verslag met sy bevindings en aanbevelings aan die munisipale raad stuur vir oorweging, en die munisipale raad kan enige stappe doen wat hy nodig ag. Die *LUR* moet egter regulasies uitvaardig oor die instelling en hou van munisipale ondersoeke.

#### **Klousule 49**

Indien 'n munisipale raad 'n petitie ontvang het vir 'n openbare verhoor ten opsigte van 'n *plaaslike regeringsaangeleentheid*, stel hierdie klousule die munisipale raad in staat om 'n openbare verhoor te belê, en die munisipale raad moet in dié verband die prosedure bepaal vir die voer van die openbare verhoor.

#### **Klousule 50**

Hierdie klousule stel die *LUR* in staat om adviserende aanwysings uit te reik aan 'n munisipale raad wat versuim het om sy taak na behore te verrig, nadat hy die munisipale raad versoek het om skriftelike vertoë te rig om die redes vir sy versuim uiteen te sit.

#### **Klousule 51**

Hierdie klousule stel die *LUR* in staat om riglyne aan munisipale rade uit te reik om hulle te help in die uitvoering van hulle *bevoegdhede, funksies en pligte* of om uitvoering te gee aan die doel van hierdie Wetsontwerp.

#### **Klousule 52**

Enige persoon wat skuldig is aan 'n misdryf ingevolge hierdie Wetsontwerp, is strafbaar met 'n boete of gevangenisstraf, of sowel 'n boete as gevangenisstraf, en indien daardie misdryf voortduur, is daardie persoon strafbaar met bykomende boetes of tydperke van gevangenisstraf.

#### Klousule 53

Ingevolge hierdie klousule is niemand aanspreeklik vir enige skade voortspruitend uit enige handeling wat te goeder trou verrig of inligting wat te goeder trou verstrek is nie. 'n Munisipaliteit is dus gevrywaar ten opsigte van enige regsgeding ingestel deur 'n benadeelde of gegriefde party teen iemand wat namens die munisipaliteit optree.

#### Klousule 54

Ingevolge hierdie klousule moet 'n eiser 'n regsgeding teen 'n munisipaliteit of iemand wat namens die munisipaliteit optree, ten opsigte van enige handeling of versuim instel binne 12 maande na die datum waarop die eiser bewus geword het van daardie handeling of versuim, en 'n skriftelike kennisgewing moet aan die betrokke *Hoof Uitvoerende Beamppe* en die verweerde beteken word.

#### Klousule 55

In enige regsgeding ingestel teen raadslede of werknemers van 'n munisipaliteit rakende hulle funksies in die munisipaliteit bepaal hierdie klousule dat daardie raadslede of werknemers geregtig is op regsverteenvoordiging en dat die koste daarvan deur die munisipaliteit gedra moet word. Sodanige verteenwoordiging moet verskaf word op 'n wyse wat die municipale raad bepaal.

#### Klousule 56

Ingevolge hierdie klousule kan 'n municipale raad enige *bevoegdhede, funksies of pligte* skriftelik deleger aan enige werknemer, komitee, subkomitee, raad of liggaaam ingestel deur die raad of aan enige ander municipale raad en is hy daarop geregtig om ooreenkomste te sluit met enige openbare of privaat verskaffer van goedere of dienste, en die raad moet 'n register hou van alle delegasies en ooreenkomste.

#### Klousule 57

Die *LUR* is gemagtig om enige bevoegdheid, funksie, plig of verantwoordelikheid aan 'n municipale raad op te dra of te deleger deur die toepaslike inskrywing in Bylae 3 te maak of te wysig, en sodanige opdrag of delegering kan gedoen word ten opsigte van verskillende munisipaliteite of verskillende groepe of kategorieë munisipaliteite.

#### Klousule 58

Die *LUR* is gemagtig om 'n bylae, aanhangsel, bladsyhoof, opskrif of voetnoot te wysig, te herroep of te skrap deur te voldoen aan die prosedure wat gevolg moet word.

#### Klousule 59

Hierdie klousule herroep die wette in Bylae 1 genoem en bepaal dat die oorgangsreëlings in Bylae 2 as substansiële bepalings van die Wetsontwerp gelees en toegepas moet word.

**Klousule 60**

Hierdie klousule handel oor die betekenis van woorde en terme wat in die Wetsontwerp gebruik word.

**Klousule 61**

Ingevolge hierdie klousule heet hierdie Wetsontwerp die Gauteng Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1997.

**TSEBISO YA KAKARETŠO****NOMORO YA TSEBISO YA 3984 1997**

Go ya ka molawana wa 132 (1)(i) wa Melao ya go-ya-go-ile ya Lekgotla-theramelao la Probentshe, Molao-kakanywa wa Tekanetšo ya Merero ya Mmušo wa Selegae o phatlalatšwa mo, go fa tshedimošo ya kakaretso.

Motho ofe goba ofe, goba lekgotla leo le nyakago go ntšha maikutlo ka go wona, le ka tliša maikutlo a lona ao a ngwadilwego, go nna, lebakeng la matšatši a lesome-nne (14) go tloga letšatšing la go phatlalatšwa ga wona, ka go:

(a) a romela ka poso go :

Leloko la Lekgotla-phethiši la Peakanyo ya Tlhabollo le Mmušo wa Selegae,  
Private Bag X86  
MARSHALLTOWN  
2107  
GOBA

(b) a iša go:

Lebatong la bo 17  
Corner House  
Magahlanong a Mekgoba ya Commissioner le Sauer  
JOHANNESBRUG

(c) goba a a romela ka fekese go (011) 355-5401/2

**S. SHICEKA, LELOKO LA LEKGOTLA-PHETHIŠI (MEC)  
PEAKANYO YA TLHABOLLO LE MMUŠO WA SELEGAE  
LETŠATŠI:**

# MOLAO-KAKANYWA WA TEKANETŠO YA MERERO YA MMUŠO WA

**SELEGAE, 1997**

Go kgonagatša tekanetšo ya motheo wa go hloma melao le taolo lehlakoreng la selegae la pušo, le go kgonagatša merero yeo e amanago le se.

**SE, SE DIRWE MOLAO** ke Lekgotla-theramelao la Probentshe ya Gauteng, Repabliko ya Afrika Borwa, ka sebopego se .

## KGAOLO 1

### MORERO LE TIRIŠO

1 **MORERO**

- (1) Morero wa *Molao wo'* ke go lekanetša motheo wa go hloma melao le taolo woo ka wona lehlakore la selegae la mmušo le ka sepetšago merero ya lona kamanong le, magareng a tše dingwe -
- (a) go kgontshiša le go lekanetša maemo, *maatla*, *mešomo le maikarabelo* a Lekgotla la Masepala;
  - (b) go dirwa le go ntšhwa ga *melao-selegae*, *melao-selegae ya tlwaelo* le melao-tshepetšo;
  - (c) go kwanantšha melao-tshepetšo ya mešomo; le
  - (d) go dirwa gore bomasepala ba kgone go sepetša merero ya bona ka katlego, kudu-kudu mabapi le go hwetšwa ga diphahlo le ditirelo, go phethagatšwa ga mešomo, le go dirwa ga ditlhahlolo, le go laolwa ga phihlelelo ya mafelo a setšhaba.

(2) Mabapi le merero yeo e hhalositšwego karolwaneng (1), molao wo o nyaka go kgonagatša phetošo ya lehlakore la selegae la mmušo ka -

- (i) go tšweletša le go tuišetša bokgoni le botshepegi bja lehlakroe la selegae la mmušo;
- (ii) go hloholeletša bomasepala go swarelala le go kaonefatša maemo ao a kgotsofatšago a pušo le kabu ya ditirelo;
- (iii) go hloholeletša maloko a setšhaba go ba le seabe pušong ya bomasepala; le
- (iv) go tšweletša moyo wa tirišano le kabelano ya boikarabelo ka gare ga mmušo.

## 2 TIRIŠO YA MOLAO WO

(1) Motho ofe goba ofe yo a dirišago goba a hhalosago *Molao wo* o swanetše -

(a) go fa sebopego sa kabu ya wona ka mokgwa wo o -

- (i) sepelelanago le dipego tša morero tše di hhalositšwego Karolong ya 1; le
- (ii) hlokamelago morero wo o itšego, mošomo le maemo a a lehlakore la selegae la mmušo bjale ka ge a ukangwe ka *Molaong-theo le molaong ofe goba ofe o mongwe*.

(2) Ditaelo tša *molao wo* di swanetše go elwa hloko -

(a) go ya le *molao ofe goba ofe* wo o laolago Lekgotla la Masepala; le

(b) ka mokgwa wo o thekgago tlhalošo ye e kwalago ya melao ya maleba, yeo e efogago thulano magareng ga yona mabapi le tlhalošo yeo e ka dirago gore melao yeo e thulane.

(3) Ge go thulano efe goba efe yeo e amanago le merero yeo go swaranwego le yona *Molaong wo* e ka tsoga magareng a *Molao wo* le ditaelo tša *molao ofe goba ofe o mongwe*, ntle le *Molaontheo, Molao wa Mmušo wa Selegae wa Lebakanyana*, goba *Molao ofe goba ofe* wo o tlogago o fetola *Molao wo*, go tla dirišwa ditaelo tša *Molao wo*.

**KGAOLO 2****MAEMO, MAATLA MEŠOMO LE MAIKARABELO A BOMASEPALA****3 MAEMO A BOMASEPALA**

- (1) Go ya ka *molao ofe goba ofe o mongwe*, Lekgotla le lengwe le le lengwe la masepala leo le hlomilwego go ya ka *Molao wa Mmušo wa Selegae wa Lebakanyana*, goba le goeeditšwe go ba leo le hlomilwego go ya ka *Molao wo*, le tla -
- (a) tšwela pele go ba gona le go gomarela maemo a lona bjale ka Lekgotla la Masepala; le gona le
  - (b) tla tšewa go ba mokgatlo wo o lego karolo ya setlamo.
- (2) Go ya ka *molao ofe goba ofe o mongwe*, Lekgotla la Masepala, bjale ka karolo ya setlamo -
- (a) le tšwela pele go ba gona le ge go ka ba le diphetogo dife goba dife tše di ka bago lefelong leo le welago ka tlase ga taolo ya lona, goba makaleng a lona a taolo;
  - (b) le seemong sa go ka se ka goba go sekishiwa leineng la lona;
  - (c) le ka reka, go swara, go hiriša, goba go ikgaoganya le thoto; le gona
  - (d) le ka dira tiro e nngwe le e nngwe yeo e lego mabapi le morero wo o tlogago o nyakega, goba o le bohlokwa phethagatšong ye e atlegilego ya *maatla, mešomo goba maikarabelo*.

**4 MAEMO A BO-TOROPOKGOLO A BOMASEPALA**

- (1) Lekgotla la Masepala leo le goeeditšwego go ba toropokgolo go ya ka *Molawana wa Mmušo wa Selegae*, goba *molao ofe goba ofe o mongwe*, le tla gomarela maemo a lona bjale ka toropokgolo.
- (2) Ge lekgotla la metse-setoropo le re tikologong yeo e laolwago ke lona, la ba le lekgotla la selegae la metse-setoropo leo le goeeditšwego goba le hialoswa go ba leo le ka bago toropokgolo, bjale ka ge go ukannngwe *karolwaneng* (1), lekgotla la metse-setoropo leo le

tla o le hwetša .

(a) maemo a toropokgolo; le

(b) maatla ka moka! maikarabelo; ditokelo le mehola yeo e fiwago toropokgolo go ya ka molao ofe goba ofe.

(3) Lekgotla la Masepala leo le gooleditšwego go ba toropokgolo bjale ka ge go ukannwe karolwaneng ya (1) goba le hweditše maemo a toropokgolo bjale ka ge go ukannwe karolwaneng (2), le ka jaetša ma a maemo a-

(a) leineng la lona; le

(b) dipampiring dife goba dife tša lona.

## **5 MAATLA, MEŠOMO LE MAIKARABELO A MAKGOTLA A MASEPALA**

(1) Godimo ga *maatla, mešomo goba maikarabelo* a Lekgotla la Masepala, ao a hhalositšwego ka *Molaong-theo* le ka *Molaong wa Mmušo wa Selegae wa Lebakanyana*, goba *molao ofe goba ofe*, Lekgotla la Masepala le na le *maatla, mešomo goba maikarabelo* ao a pharwago, a abelwago goba a rolelwago lona go ya ka *Molao wo*<sup>2</sup>.

(2) Bjale ka taba ya kgonagatšo le nolofatšo ya kgonthišo feela, *Tlaleletšo A le B* di na le kakaretšo ya lenaneo la mehlala ya *maatla, mešomo goba maikarabelo* a Lekgotla la Masepala ao a hhalositšwego ka *Molaong-theo* le ka *Molaong wa Mmušo wa Selegae wa Lebakanyana*, gomme e se ke ya tšewa bjale ka yeo e mago le lenaneo leo le kgonthišitšwego la *maatla, mešomo, goba maikarabelo* a Lekgotla la Masepala.

(3) Lekgotla la Masepala le ka diriša maatla afe goba afe goba la dira mošomo ofe goba ofe goba maikarabelo mabapi le morero wo wo o tlogago o le bohlokwa, goba o amana le phethagatšo ye e atlegago ya *maatla a lona, mešomo goba maikarabelo*.

(4) Lekgotla la Masepala le ka tšeya magato afe goba afe ao a nyakegago, goba ao a tla kgonagatšago go phethagatša morero wa *Molao wo*.

2. Mabapi le go "fetišetšwa" ga maatla goba maikarabelo ka "go rolela". Karolo 10C (2)(b)(i),(ii) le 10D(B)(i) le (ii) ya *Molao wa Mmušo wa Selegae wa Lebakanyana*, e laela gore Masepala o swanetše go amogela pele methodi ye e lekanego go diriša maatla goba go phethagatša maikarabelo motheong wo o kgonthišago go tšwetšwa pele le go kponagala ga magato eo goba mošomo woo. Ditsaelo tše ga di dirišwé moo maatla le maikarabelo a "fetišeditšwego" ka mokgwa wa go "bewa magetleng" a lekgotla goba go "pharwa" go lona. Ka go riale, go ſiſinywa gore bothata bjo bo lebelelwé ka mokgwa wa go fetola *Molao wa Mmušo wa Selegae wa Lebakanyana*.

(5) Go ya ka *molao ofe goba ofe* o mongwe, Lekgotla la Masepala ka matsapa a lona le ka diriša maatla afe goba afe, goba la dira mošomo ofe goba ofe goba maikarabelo afe goba afe, mabapi le merero ya mmušo wa *selegae*<sup>3</sup>, yeo e sego

- (a) yeo e ntšhitšwego bokgonging bija lona; goba  
(b) yeo e filwego goba e roletšwego lehlakore lefe goba lefe la mmušo.

(6) Lekgotla la Masepala le ka dira le go laola *molao-selegae* go ba le katlego -

- (a) phethagatšong ya *maatla a lona, mešomo le maikarabelo*; le  
(b) taolong ya merero yeo e le nago le tokelo ya go e laola.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

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<sup>3</sup> Go swanelana le temana ye Karolo 15(3) le 152 tša *Maletheo* bjale ka ge di balwa mmogo le nthla 26 ya Kkedula 6, ke ya maleba.

**KGAOLO 3**

**MELAO-SELEGAE, MELAO-SELEGAE YA TLWAELO LE MELAO-**  
**TSHEPETŠO**

*(a) MELAO-SELEGAE*

**6      TSELA YA GO DIRA MELAO-SELEGAE**

- (1) Go dira *molao-selegae*, Lekgotla la Masepala le swanetše go fetiša kwano ya go goeletša gore le na le maikemišetšo a mohuta woo.
- (2) Morago ga ge kwano e fetišitšwe Lekgotla la Masepala le swanetše go
  - (a) Tsebagatša maikemišetšo a lona a go dira *molao-selegae* ka tsebišo ye e tšwelelago ka kuranteng ya probentshe, le ka mekgwa e mengwe ya maleba ya dipoledišano.
  - (b) gatelela tše di latelago tsebišong yeo
    - (i) gore go nyakaga maikutlo mabapi le *molao-selegae* wo o akanywago;
    - (ii) go fa kakaretšo ya gore *molao-selegae* wo o akanywago o tla ba mabapi le eng;
    - (iii) motho goba lefelo leo go lona tshedimošo e ka hwetšwago mabapi le *molao-selegae* wo o akanywago.
    - (iv) go ya ka karolwana (7) le (8), lefelo goba mafelo, nako goba dinako tšeо ka tšona le mabaka le mokgwa woo ka wona khophi ya molao-selegae wo o akanywago e ka hwetšwago, goba ya bewa phatlalatša gore e lekolwe.
    - (v) lebaka la go ntšha maikutlo ka ga *molao-selegae* wo o akanywago, leo le sa swanelago go ba ka tlase ga kgwedi e tee, go tloga letšatšing la

tsebišo; le

- (vi) motho goba lefelo leo go lona maikutlo mabapi le *molao-selegae* wo o akanywago, a ka išwago.

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

- (3) Ge Lekgotla la Masepala le se la dira *molao-selegae* lebakeng la ngwaga go tloga mola go dirwago pego yeo e hhalositšwego karolwaneng ya (1)(b), *molao-selegae* woo o ka se dirwe, ntle le gore tsela yeo e filwego karolwaneng ya (1) e boeletšwe.
- (4) Ditaelo tša karolwana (1)(b) le (2) ga di dirišege mabapi le -
  - (a) *molao-selegae* ofe goba ofe woo dikgahlegelo tša setšhaba di nyakago gore o dirwe ntle le tiego; le
  - (b) phetošo ya go kaonefatša phošo yeo e dirilwego ge go ngwalwa.
- (5) Ditaelo tša karolwana (1)-(3) di ka dirišwa ge go fetolwa goba go fedišwa *molao-selegae* ofe goba ofe, ka diphetogo tše di ka nyakegago go ya le mabaka.
- (6) *Molao-selegae* o tla thoma go dirišwa letšatšing la go phatlalatšwa ga wona ka kuranteng ya probentshe, goba letšatšing le lengwe leo le beilwego ka kuranteng ya probentshe.
- (7) Lekgotla la Masepala le ka beya tefelo ya go hwetša khophi ya *molao-selegae* wo o akanywago.
- (8) Mafelo ao go wona *molao-selegae* wo o akanywago o laetšwago, a swanetše go kgontšha batho ka moka bao ba angwago ke *molao-selegae* woo, go sedimošwa ka potlako le gona ntle le mathata, mabapi le dikagare tša *molao-selegae* woo.
- (9) Lekgotla le lengwe le le lengwe la Masepala le swanetše go hlabolla le go hloma maanotshepetšo le mananeo a go thusa maloko a setšhaba go ntsha maikutlo ka ga *molao-selegae* kakanywa.

7 **MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO ŠIŠNYA GORE LEKGOTLA LA MASEPALA LE DIRE MOLAO-SELEGAE**

- (1) Ge lebakeng leo le sa fedišego pelo, morago ga go thoma go dirišwa ga *Molao wo* .
- (a) Lekgotla la Masepala ga se la dira, la fetola, goba la fediša *molao-selegae* mabapi le morero wo o ukangwago karolong 5(6); le gore
- (b) *Leloko la Lekgotla-phethiši* le kgotsofetše gore kgato ye e bohlokwa go tliša kabo ye e atlegago le ye e nago le bokgoni, ya ditirelo go badudi ba ka Lekgotleng la Masepala;

*Leloko la Lekgotla-phethiši* le ka kgopela Lekgotla la Masepala gore le tliše bohlatse bjo bo fago mabaka a go palelwa ke go dira se.

- (2) Lekgotla la Masepala le swanetše go obamela kgopelo ye gomme le tšweletše bohlatse ka go ngwala, go *Leloko la Lekgotla-phethiši*, lebakeng la kgwedi e tee go tloga mola kgopelo e amogelwago.
- (3) Ge le ka re ge le hlokomela bohlatse bjo, *Leloko la Lekgotla-phethiši* la se kgotsofatšwe ke mabaka a go palelwa, *Leloko la Lekgotla-phethiši* le ka re, ka tsebišo ye e ngwadilwego, la šišnya<sup>4</sup> go Lekgotla la Masepala gore le dire *molao-selegae* wo o nyakegago, lebakeng leo le sa fedišego pelo.
- (4) Tsebišo yeo go bolelwago ka yona go karolwana (3) e swanetše go ba le mabaka a *Leloko la Lekgotla-phethiši*, a go dira sephetho se.

8 **TEKOLO YA NAKO LE NAKO YA MELAO-SELEGAE**

- (1) Lekgotla la Masepala le swanetše go sepetša le go phetha tekolo ya *melao-selegae* ya lona .
- (a) yeo e dirišwago pele, goba lebakeng leo *Molao wo* o tlomago godirišwa, letšatšing leo le sego morago ga leo le beilwego ke *Leloko la Lekgotla-phethiši*;

<sup>4</sup> Masepala ga o gapeletšego go latela tshišnyo ye. Le ge go le bjale, go ka ba le ditla-morago tše pedi go tšwa tiragalong ye ya go palelwa goba go gana - sa pele, go ya ka Dikarolo 151, 154(1) le 155 (4) tša *Molaotheo*, bjale ka ge di balwa le ntsha 26(6) ya Skedule 6, *Leloko la Lekgotla-phethiši* le ka kgonagatša go dirwa ga molao, goba, sa bobedi, le ge *Leloko la Lekgotla-phethiši* le sa tšeeye kgato ye, kgahlegelo ya setšhaba, yeo e sa thibelegego, e ka dira ka mo go lekanego gore masepala o tšeeye kgato ya maleba.

- (b) yeo e thomago go dirišwa morago ga go thoma go dirišwa ga *Molao wo*, mabakeng ao a sego ka tlase ga mengwaga e lesome morago ga go thoma go dirišwa ga *molao-selegae* woo.
- (2) Ge Lekgotla la Masepala le palelwa ke go dira le go phetha tekolo lebakeng leo le beilwego **karolwaneng** ya (1), ditaelo tša Karolo 7 di tla dirišwa; le diphetogo tšeou di nyakwago ke mabaka.
- (3) Ka mabaka a karolo ye "go dira le go phetha tekolo" go akaretša -
  - (a) kelo goba kelo-hloko ya *molao-selegae*; gomme ge go le maleba,
  - (b) go dirwa, go fetolwa goba go fedишwa ga *molao-selegae*.

## **9 PHIHELELO LE TLHAHLOBO YA MELAO-SELEGAE**

- (1) Godimo ga seo se ka laelwago molawaneng o mongwe le o mongwe wo o nthišwego go ya ka Karolo 13(1)(a), Lekgotla la Masepala le ka beya mabaka le mokgwa woo ka wona batho ba ka kgonago go fihlelela, go hlahloba, goba go hwetša khophi ya *molao-selegae* ofe goba ofe.
- (2) Peo ya mabaka yeo go bolelwago ka ga yona go karolwana (1) e ka no se beye tefelo ya go bonwa feela goba go hlahlobja ga *molao-selegae*.

### *(b) MELAO-SELEGAE YA TLWAELO*

## **10 MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO DIRA MELAO-SELEGAE YA TLWAELO**

Ka morero wa go thuša bomasepala, *Leloko la Lekgotla-phethiši* le ka dira *molao-selegae* wa *tlwaelo* mabapi le taba e nngwe le enngwe yeo e ukangwago go Karolo 5.

## **11 TSELA YA GO DIRA MELAO-SELEGAE YA TLWAELO**

Ditaelo tša Karolo 6 di dirišwa go hlangweng ga *melao-selegae ya tlwaelo*, ka diphetogo tšeou di ka nyakwago ke mabaka.

## 12 MAATLA A MOLAO-SELEGAE WA TLWAELO

- (1) *Molao-selegae wa tlwaelo goba phetošo ya' wona goba go fedisha ga wona , o tlama Lekgotla la Masepala ge feela o dira<sup>5</sup> molao-selegae mabapi le se.*
- (2) *Tshupetšo ye e lego molao-selegae, ye e lebišwago go molao-selegae wa tlwaelo, e lekane go akaretša dikagare tša molao-selegae wa tlwaelo ka go molao-selegae.*

### *(c) MELAO-TSHEPETŠO*

## 13 MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO NTŠHA MELAO-TSHEPETŠO

- (1) *Lebakeng la ngwaga morago ga gore Molao wo o thome go šoma, Leloko la Lekgotla-phethiši le swanetše go ntsha melao-tsheatšo mabapi le mabaka le mokgwa wo ka wona batho ba ka bago le phihlelelo ya go hlahloba, goba go hwetša khophi ya molao-tsheatšo ofe goba ofe, molao-selegae, molao-selegae wa tlwaelo, tsheatšo goba tsela; le gona*
- (2) *Leloko la Lekgotla-phethiši le ka ntsha melao-tsheatšo mabapi le morero o mongwe le o mongwe wo o lego bohlokwa goba wo o ka kgonagatšago go phethagatšwa ga morero wa Molao wo.*

## 14 DIKAGARE TŠA MELAO-TSHEPETŠO

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

<sup>5</sup>

Ditaelo tša Karolo 6 di a šoma ge go dirwa molao-selegae wo.

- (2) Nakong e nngwe le e nngwe le gona mabapi le motho mang goba mang, mokgatlo, lekgotla goba koporasi, le gona go ya ka ditaelo tša melao-tshepetšo ye e angwago, *Leloko la Lekgotla-phethiši*, le ka re ka tsebišo yeo e ka tšwelelago ka kuranteng ya probentshe goba, ya go sepetšwa ka poso goba ka seatla, -
- (a) la beya, la fotoša, goba la gomiša mabaka afe goba afe ao a ukangwago ka molaong-tshepetšo; goba
- (b) la fa, la fotoša goba la gomiša tlamollo efe goba efe yeo e ukangwago ka molaong-tshepetšo.
- (3) *Leloko la Lekgotla-phethiši* le ka se fotoše goba la gomiša lebaka goba tlamollo yeo e pharilwego goba e filwego go ya ka karolwana (2), ge e se feela lebakeng la ge motho goba mokgatlo wo o angwago, a filwe sebaka sa go tšweletša bohlatsa mabapi le morero woo.
- (4) Lepheko lefe goba lefe goba kiletšo yeo e lego ka molao-tshepetšo, e swanetše go --
- (a) sepelelana le maikemišetšo a molao-tshepetšo woo; le gona
- (b) le fokotše boitshwaro bja batho le mekbatlo gannyane ka mo go ka kgonagalago.
- (5) Ge e le gore go palelwa ke go sepelelana le lepheko goba kiletšo go ya ka molao-tshepetšo ofe goba ofe, ke molato wo o ka dirago gore motho a lebane le tatofatšo ya bosenyi, molao-tshepetšo woo o swanetše go dira gore ge go kgonega, motho yo a angwago tsebišwe pele a ka pharwa molato, ka ga tatofatšo yeo le sebaka sa gore a sepedišane le melao-tshepetšo.

Ge go na le maikemišetšo a go ntšha molao-tshepetšo ofe goba ofe, go ya ka *Molao wo*, ditaelo tša Karolo 6 di tla dirišwa, ka diphetogo tše di ka nyakwago ke mabaka.

**KGAOLO 4****MERERO YEO E AMANAGO LE BADIREDI****16 GO HLONGWA GA MOHLANKEDI-PHETHIŠI MOGOLO LE BADIREDI BA BANGWE**

Lekgotla le lengwe le le lengwe la Masepala le swanetše go .

- (a) hloma *Mohlankedipiethiši Mogolo* le badiredi bao ba nyakegago gore le kgone go phethagatša maatla a lona, mešomo goba maikarabelo ka mokgwa wa maleba; le gona le
- (b) hlome *Mohlankedipiethiši Mogolo* le badiredi ka mabaka ao a ka rerišanwago.

**17 MAIRAKABELO A MOHLANKEDI-PHETHIŠI MOGOLO**

- (1) Godimo ga seo se laetšwego Molaong wo goba molaong o mongwe le o mongwe, maikarabelo a *Mohlankedipiethiši Mogolo* ke -
- (a) go šoma bjale ka hlogo ya badiredi ba Lekgotla la Masepala le go diriša maatla a taolo 'badireding, ka wona maemo a -
  - (i) go ya le ka moo se se ka nyakegago ka gona gore go kgonege go tšweletše taolo ye e atlegilego, le phethagatšo ya *maatla, maikarabelo goba mešomo* ya Lekgotla la Masepala; goba
  - (ii) ka kelo yeo e beilwego ke Lekgotla la Masepala.
- (b) go okamela tirišo ya bokgoni le ya go ba le dipuelo, ya mananeo le maano-tshepetše a Lekgotla la Masepala, le go phethagatšwa ga *maatla, mešomo goba maikarabelo* a lona;
- (c) go kgonthiša gore mehlodi ya Lekgotla la Masepala e dirišwa ka bokgoni go phethagatša maikemišetše a Lekgotla la Masepala;
- (d) go kgonthiša gore maano-tshepetše a go ba le dipuelo le ao a lokilego a go amana

le badiredi a hlabolwa le go tsenywa tirišong ka dikgorong ka moka; le gona

- (e) go hlohlaleletša le go tšwetša pele dikamano tše botse ka Lekgotleng la Masepala le ka setšhabeng seo le le direlago.

(2) *Mohlankedi-phethiši Mogolo* o tla ba le maatla a mangwe gape le maikarabelo le mešomo -

- (a) go ya le ka mo Lekgotla la Masepala le bonago go swanetše; le
- (b) ka mo go ka laelwago ke *molao ofe goba ofe* o mongwe.

#### **18 TEKANETŠO YA DIKWANO LE MABAKA A GO THWALWA**

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

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

#### **19 MEHOLA YA THUŠO YA KALAFO**

(1) Lekgotla le lengwe le le lengwe la Masepala -

- (a) le swanetše go tsenya tirišong sekema goba dikema tše di fago bašomedi ka moka mehola ya thušo ya kalafo, go akaretšwa le bašomedi ka moka bao ba rotšego mediro, le gona
- (b) le ka tsenya tirišong sekema goba dikema tše di fago balekgotla ba lona ka moka mehola ya thušo ya kalafo.

(2) Sekema goba dikema tše di ukangwago karolwaneng (1) ga di a gapeletšega go hlangwa ka mokgwa wo o kgonagatšago mehola ya thušo ya kalafo feela go legoro la batho bao

ba ukangwago temaneng (a) goba (b) ka go latelana, tša karolwana (1).

- (3) Sekema goba dikema tše di ukangwago **karolwaneng** (1) le melawana, maikarabelo le mehola yeo e amago sekema goba dikema tše, go akaretšwa seabe seo se swanetšego go tšwa go Lekgotla la Masepala, goba bao ba holwago ke sekema goba dikema tše, di swanetše go kgonthišwa -
- (a) moo go kgonegago, go ya le ditsela tše di laetšwego dikwanong dife goba dife tše di lego gona, tša go tlišwa ke ditherišano ka ga ditokelo tša bašomì; le gona  
 (b) morago ga ditherišano le batho ka moka bao e ka bago baholwa, goba baholwa bao ba angwago.
- (4) Sekema sefe le sefe seo se hlomilwego go ya ka *Molawana wa Mmušo wa Selegae*, goba molao ofe goba ofe wa maleba, goba kwano ya dihlopha, seo se fago bašomedi goba balekgotla ba Lekgotla la Masepala mehola ya thušo ya kalafo, se tla tšwela pele go ba gona, gomme melao-tshepetšo, maikarabelo le mehola yeo e amago sekema seo e tšwela pele go dirišwa, ge e se feela ge e ka tšeelwa sebaka ke e mengwe, goba ya fetošwa -
- (a) go ya ka *Molao wo*, goba *molao ofe goba ofe o mongwe*;  
 (b) go ya ka melao-tshepetšo ya sona; le gona  
 (c) go sepelelana le tsela yeo e ukangwago **karolwaneng** (3).
- (5) Go tšeelwa sebaka goba go fetošwa go ukangwago **karolwaneng** ya (4) ga se ga swanelo go beya mošomedi goba molekgotla maemong ao a phalwago ke ao a bilego gona pele ga go tšeelwa sebaka goba go photošo yeo.

## 20 MEHOLA YA GO ROLA MODIRO

- (1) Lekgotla le lengwe le le lengwe la Masepala -
- (a) le swanetše go tsenya tirišong sekema goba dikema tše di fago bašomedi ba lona ka moka mehola ya go rola modiro; le gona  
 (b) le swanetše go tsenya tirišong sekema goba dikema tše di fago balekgotla ka moka mehola ya go rola modiro.
- (2) Sekema goba dikema tše di ukangwago **karolwaneng** (1), ga di gapeletšege go go hlangwa ka mokgwa wo e lego gore di fa ditokelo tša go rola modiro feela go legoro la

batho bao ba ukangwago temáneng (a) goba (b) ka go latelana, tša karolwana (1).

- (3) Sekema goba dikema tšeо di ukangwago karolwaneng (1) le melao-tshepetšo, maikarabelo le mehola yeo e sepelelanago le sona, go akaretšwa seabe sa go tšwa go Lekgotla la Masepala goba baholwa ba sekema goba dikema tše, di swanetše go kgonthišwa ..
- (a) ge go kgonega, go ya ka ditsela dife goba dife tšeо di lego gona tša go tlišwa ke ditherišano ka ga ditokelo tša bašomi, le gona
- (b) morago ga ditherišano le batho ka moka bao e ka bago baholwa, goba le baholwa bao ba angwago.
- (4) Sekema sefe le sefe seo se hlomilwego go ya ka *Molawana wa Mmušo wa Selegae*, goba molao o mongwe le o mongwe wa maleba goba dikwano tša dihlopha wo o fago bašomedi goba balekgotla ba Lekgotla la Masepala mehola ya go rola modiro, se tla tšwela pele go ba gona, gomme melao-tshepetšo, maikarabelo le mehola ya sekema e tšwela pele go dirišwa, ge e se feela ge e ka tšeelwa sebaka ke e mengwe goba ya fotošwa .
- (a) go ya ka *Molao wo*, goba molao ofe goba ofe o mongwe;
- (b) go ya ka melao-tshepetšo ya sona; le gona
- (c) go sepelelana le tsela yeo e ukangwago go karolwana (3).
- (5) Go tšeelwa sebaka goba go fotošwa go gongwe le go gongwe go ukangwago karolwaneng (4) ga se ga swanela go beya mošomedi goba molekgotla ofe goba ofe maemong ao a phalwago ke ao a a bilego gona pele ga go tšeelwa sebaka goba photošo yeo.
- (6) Moo go šetšego go hlomilwe dikhwama go ya ka *Karolo 79 ter le 79 quat ya Molawana wa Mmušo wa Selegae*, Lekgotla la Masepala leo le angwago, le swanetše go hlama le go tsenya tirišong magato a go leka-lekanya mehola ya bašomedi bao e lego ba dikhwama tseo.
- (7) Magato ao a ukangwago karolwaneng (6) a swanetše go tšewa pele mengwaga ye mebedi e feta, go tloga ge *Molao wo* o thoma.

20A DITAELO TŠE DI FAPAFAPANAGO TŠEO DI LEGO MABAPI LE BORATOROPO

(1) Ge go hlongwa Ratoropo -

- (a) Lekgotla la Masepala le ka beya lebaka la go šoma la ratoropo gore le sepelelane le la Lekgotla la Masepala; le gona
- (b) ge e le gore go hlongwa ga gagwe ke go tlatša sekgoba seo se bago gona lebakeng la go šoma ga Lekgotla la Masepala, go hlongwa moo go ka fokoletšwa go lebaka leo le sa šetšego la go šoma ga Lekgotla la Masepala.

(2) Ka morero wa go tlošwa ga ratoropo mošomong wa gagwe, Lekgotla la Masepala le ka laela gore se se ka dirwa feela ka sephetho seo se tserwego ke baemedi ba bontši bjo bo segó ka tlase ga pedi-tharong.

(3) Lekgotla la Masepala le ka rolela ratoropo wa lona, boikarabelo bja go hloma goba go lekola go hlongwa ga ntlha efe goba efe ya lenaneo goba lesolo<sup>6</sup> la maleba la setšaba, goba la probentshe, gomme boikarabelo bjo bo swanetša go phethagatšwa go ya ka ditumelelo tša maano-tshepetšo le ditsela tša Lekgotla la Masepala.

(4) Ratoropo a ka šoma komiting ya phethišo goba komiting e nngwe le e nngwe ya Lekgotla la Masepala -

- (a) maemong ao a tlwaelegilego, bjale ka molekgotla; goba
- (b) ka lebaka la maemo a gagwe a go ba mošomong wa ratoropo.

(5) Lekgotla la Masepala le ka laela gore ratoropo ga a na ditokelo tša go bouta ge a šoma komiting ya phethišo goba ka komiting e nngwe le e nnngwe mabakeng ao a ukangwago go karolwana 4(b).

(6) Ge Lekgotla la Masepala le bona go le bohlokwa gore go hlongwe motlatša-ratoropo, Lekgotla le ka diriša ditaelo tša Karolwana (1) go ya go (5) go batlatša-ratoropo ka diphetogo tše di nyakwago go ya le mabaka.

<sup>6</sup>

Taelo ye e phatlaletše ka mo go lekanago go akaretsa masolo a bjale a "Masakhane le "Nation Building"

**KGAOLO 5****BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO,****PHETHAGATŠO YA MOŠOMO, DITEKOLO, DITSELA TŠA GO****OBAMELA MELAO LE MELATO YEO E AMANAGO LE TŠONA****21 GO FIWA MAATLA GA BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO**

- (1) *Mohlankedi-phethiši Mogolo a ka fa motho ofe goba ofe yo a šomelago Lekgotla la Masepala, maemo a go ba mohlankedi yo a filwego maemo a itšego.*
- (2) Go fiwa ga maatla go ya ka karolwana ye, e ka ba ga kakaretšo goba go šupago motho yo a itšego.

**22 MEŠOMO YA BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO**

- (1) *Bahlankedi bao ba filwego maemo a itšego ba ka phethagatša mošomo, ba dira lekolo ba be ba hlapetša le go gapeletša kobamelo ya Molao wo le molao ofe goba ofe o mongwe wo o fago masepala maatla a go fa motho boikarabelo bja go phethagatša mošomo, go dira lekolo goba go hlapetša le go gapeletša kobamelo.*
- (2) Go ya ka molao ofe goba ofe o mongwe, mohlankedi yo a filwego maemo a itšego, o swanetše go dira mešomo yeo e ukangwago karolong ye, go ya ka tsela yeo e halositšwego Dikarolong 24 le 25.

**23 MAATLA A BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO**

- (1) Maatla a bahlankedi bao ba filwego maemo a itšego, ao a laelwago Kgaolong ye ke -  
  - (a) ao a tlago godimo ga maatla ao a filwego mohlankedi wa maemo a itšego go ya ka molao ofe goba ofe o mongwe; le gona

(b) go ya ka molao ye.

(2) *Mohlankedī yo a filwego maemo a itšego, yo a phethagatšago mošomo goba yo a dirago tekolo, a ka dira e nngwe le e nngwe ya dilo tše di latelago -*

- (a) go phethagatša mošomo goba go lekola mabu, goba lefelo;
- (b) go botšiša motho goba batho bao ba lego gona mabung goba lefelong, mabapi le taba e nngwe le e nngwe yeo e ka amanago le mošomo goba tekolo;
- (c) go botšiša motho goba batho bao mohlankedī yo a filwego maemo a itšego a ka dumelago gore o na le tshedimošo yeo e amanago le mošomo goba tekolo yeo e dirwago;
- (d) go hlahloba sengwalwa sefe le sefe seo motho a swanetšego go se hlokomela go ya ka molao ofe goba ofe wo o ka amanago le mošomo goba tekolo;
- (e) go ngwalolla sengwalwa sefe goba sefe seo se hhalositšwego karolwaneng (d), goba ge go nyakega, go šuthiša sengwalwa gore se ngwalollwe;
- (f) go tšeya mehlala ya selo se sengwe seo se amanago le mošomo goba tekolo;
- (g) go okamela le go bala dimethara, goba go tšeya dikelo;
- (h) go tšeya diswantšho goba go dira dikgatišo tša medumo le diswantšho, tša selo se sengwe le se sengwe, goba motho yo mongwe le yo mongwe, lenaneo, tiro goba mabaka a mangwe le a mangwe ao a lego mabung goba ao a amanago le mabu goba lefelo lefe goba lefe; le gona
- (i) dilo ka moka tše di nyakegago go phethagatša mošomo goba go dirwa ga tekolo efe goba efe, yeo masepala o swanetšego go e dira go ya ka *molao ofe goba ofe o mongwe*.

(3) *Mohlankedī yo a filwego maemo a itšego, yo a šuthišasgo selo se sengwe le se sengwe ntle le seo se ukangwago karolwaneng (2)(f) go tloga mabung goba lefelong leo le šongwago goba le lekolwago, o swanetše: -*

- (a) ntšha rasiti ya yonago mong goba motho yo a laolago lefelo leo; le gona
- (b) a se bušetše ka pēla ka mo go ka kgonegago, morago ga go phetha mošomo wo se šuthišeditšwego wona.

**24 TSELA YA GO PHETHAGATŠA MOŠOMO GOBA GO DIRA TEKOLO: GO TSENA KA LENGWALO LA GO FA TUMELELO**

- (1) *Mohlankedi yo a filwego maemo a itšego a ka tsena mabung afe goba afe goba lefelong lefe goba lefe ge magistrata<sup>7</sup> goba moahlodi a ntšhitšhe lengwalo la go fa tumelelo ya go tsena le go phethagatša mošomo, goba go lekola mabu goba lefelo, gomme lengwalo leo le sa na le maatla.*
- (2) Magistrata goba moahlodi a ka ntšha lengwalo la tumelelo ya go tsena le go phethagatša mošomo goba go lekola mabu afe goba afe, goba lefelo lefe goba lefe, ge go ya ka tshedimošo yeo e filwego ka kano, go na le mabaka ao a kwalago a go kgolwa gore -
  - (a) go ya ka dikgahlegelo tša setšhaba, go bohlokwa go phethagatša mošomo goba go hwetša tshedimošo yeo e ka se hwetšagalego ntle le go tsena ka mabung ao goba ka lefelong leo; goba
  - (b) gona le go se hlomphe mabaka a *Molao wo*, goba *molao ofe goba ofe* o mongwe wo o ukangwago **Karolong 22** mabapi le mabu goba mafelo ao.
- (3) Lengwalo la go fa tumelelo go ya ka karolwana (2) le ka ntšhwa nako e ngwe le e nngwe, gomme le swanetše go tloga le -
  - (a) šupa mabu goba mafelo ao a ka tsenwago le go šongwa goba go lekolwa; le
  - (b) go fa *mohlankedi yo a filwego maemo a itšego*, maatla a go tsena le go phethagatša mošomo, goba go lekola mabu goba mafelo le go dira selo se sengwe le se sengwe seo se beilwego **Karolong 23(2)**.
- (4) Lengwalo la go fa tumelelo go ya ka karolwana (2) le na le maatla go fihlela ge e nngwe ya ditiragalo tše di latelago e eba gona -
  - (a) le phethagaditšwe;
  - (b) le khantshetšwe ke motho yo a le ntšhitšego, goba ge motho yoo a se gona, ke motho yo a nago le maatla a go swana le ao;
  - (c) morero woo le ntšheditšwego wona o fetile; goba

Dintsha tša gore motho wa maleba e swanetše go ba mang, di swanetše go elwa hloko. Go dikgetho tša pedi, tirišo ya moahlodi (bjale ka ge e hialositšwe Molaoing wa Moahlodi wa Khutšo le Bomagistrata ba Dikano, 1963), ke yona e bewago pele. Mabapi le go dirišwa ga bomagistrata mošomong wo, go nyakega dikgokagano le Kgoro ya Toka. Ge go dirišwa mokgwa wo o beilwego pele, go šišinywa gore Kgoro ya Toka e hlome mohlankedi wa maleba go tšwa ka Lekgotleng la Masepala (ka mohlala, *Mohlankediphethisi Mogolo*) bjale ka moahlodi, go dira mošomo wo feela.

(d) go fetile dikgwedi tše tharo go tloga letšatšing leo le ntšhitšwego ka lona.

- (5) Lengwalo la go fa tumelelo go ya ka karolwana (2) le ka dirišwa feela magareng a 07h00 le 19h00, ge e se feelsa ge magistrata goba moahlodi yo a le ntšhitšego a hhalosa ka go ngwala, gore le ka dirišwa ka nako ye e fapanago le ye, e lego yeo e kwagalago go ya ka maemo.
- (6) Pele ba ka thoma ka mošomo ofe le ofe, goba tekolo, bahlankedi bao ba filwego maemo, bao ba dirišago lengwalo la go fa tumelelo, ba swanetše gore -
- (a) ge mong wa mabu goba motho yo go bonalago a laola mabu goba lefelo a le gona -
- (i) ba itsebagatše gomme ba hhalose maatla a bona go motho yo, goba ba fe bohlatse bja maatla ao ba a filwego; le gona
- (ii) ba fetišetše khophi ya lengwalo la go fa tumelelo go motho yoo, goba go motho yo a ngwadilwego ka go lona; goba
- (b) ge mong wa mabu goba motho yo go bonalago a na le taolo ya mabu goba lefelo leo a se gona, goba a gana go amogela khophi, ba gomaretša khophi ya lengwalo la go fa tumelelo mabung goba lefelong leo, ka moo le tlago bonala gabotse le le phatlalatša.

## 25 TSELA YA GO PHETHAGATŠA MOŠOMO GOBA GO DIRA TEKOLO: GO TSENA NTLE LE LENGWALO LA GO FA TUMELELO

- (1) *Mohlankedi yo a filwego maemo a itšego yo a se nago lengwalo la go fa tumelelo, a ka tsena gomme a phethagatša mošomo goba a lekola -*
- (a) mabu afe goba afe, goba lefelo lefe goba lefe, ka tumelelo ya mong, goba ya motho yo a bonalago a na le taolo ya mabu goba lefelo leo; goba
- (b) mabu afe goba afe, goba lefelo lefe goba lefe, ge e se feelsa mabu goba lefelo leo go dulwago go lona<sup>8</sup>, e le tiragalo ye e tlwaetšwego -

<sup>8</sup>

Maatla a taelo ye ge e balwa le karolwana (2) ke gore

(a) go tsena le go dira ditekolo ka mabung goba lefelong leo go dulago batho go nyaka lengwalo la tumelelo; eupša  
 (b) molao o ka fa ditaelo tša mabaka a mangwe a go tsena ntle le lengwalo la go fa tumelelo; le gona  
 (c) matseno a go boelatšwa le a go dira ditekolo go ya ka tshedimoša ya kobamelo ya molao yeo e ntšhitšwego go ya ka Karolo 31, ga a nyake lengwalo la go fa tumelelo.

- (i) makgeng ao a sa fetego a mararo lebakeng la dikgwedi tše 12; goba
  - (ii) makgeng a mantšinyana ge go dumelwa ke *molao ofe goba ofe* ka morero wa go šoma goba go dira tekolo.
- (2) Godimo ga tumelelo ya go tsena, go ya ka *karolwana* (1), *Mohlankedi yo a filwego maemo a itšego* a ka tsena ka mabung goba ka lefelong lefe goba lefe ntle le lengwalo la go fa tumelelo .
- (a) ge a filwe maatla a go dira bjale ke *molao ofe goba ofe* o mongwe; goba
  - (b) ge go na le tshedimošo ye e šetšego ya kobamelo ya taelo, yeo e ntšitšwego go ya ka *Karolo 31*, ka morero wa go kgonthiša ge e ba tshedimošo yeo e ile ya obamelwa.
- (3) Pele mošomo o ka thongwa goba mabu afe goba afe, goba lefelo lefe goba lefe, le ka lekolwa go ya ka karolo ye, *bahlankedi bao ba filwego maemo* ba swanetše go itsebagatša, gomme ba hhalose maatla a bona goba ba tšweletše bohlatse bja maatla a bona go motho yo a bonalago a laola mabu goba lefelo leo, goba motho yo a ba filego tumelelo ya go tsena.
- (4) Matseno le phethagatšo ya mošomo goba tekolo ntle le lengwalo la go fa tumelelo, di swanetše go dirwa ka nako yeo e swanelanago le mabaka.

## **26 GO HLOKOMELA DITOKELO TŠA MOTHEO**

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

## **27 GO DIRIŠA MAATLA GO TSENA**

- (1) *Mohlankedi yo a filwego maemo a itšego*, yo a dirišago lengwalo la go fa tumelelo go ya ka *Karolo 24*, a ka fenza twantšho e nngwe le e nngwe ya go ganetše matseno, phethagatšo ya mošomo, goba tekolo, ka go diriša maatla a mantši go ya ka mo go nyakegago, go akaretšwa le go roba sekgonyo, lemati, goba lefasetero leo le lego mabung goba lefelong leo go swanetšego go tsenwa go lona.
- (2) Pele a ka diriša maatla, motho yo a dirišago lengwalo la go fa tumelelo, o swanetše gore ka mo go kwalago a nyake go amogelwa, gomme a bege morero wa gagwe, ntle le ge a

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

- (3) Ditšelete tša Lekgotla la Masepala di swanetše go dirišwa go lefela mang goba mang yo a bago le ditshenyegelo ka lebaka la tiragalo ya go tsena ka tirišo ya maatla, lebakeng la phethagatšo ya mošomo ofe goba ofe, goba tekolo, lebakeng la ge go be go se na motho yo a nago le boikarabelo tlhokomelang ya mabu goba lefelo leo.
- (4) Go ya ka *mola ofe goba ofe* o mongwe, goba mabakeng a tšhogonetšo, maatla ga a swanelo go dirišwa go tsena go kgonagatša go phethagatša mošomo, goba go dira tekolo go ya ka Karolo 25.

#### **28 MOHLANKEDI YO A FILWEGO MAEMO A ITŠEGO A KA FELEGETŠWA**

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

#### **29 BOIKARABELO BJA GO TŠWELETŠA MANGWALO**

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

#### **30 BOIKARABELO BJA GO ARABA DIPOTŠIŠO LE GO THUŠA BAHLINKEDI BAO BA FILWEGO MAEMO A ITŠEGO**

- (1) Motho yo mongwe le yo mongwe yo a botššwago ke *mohlankedidi yo a filwego maemo*, go ya ka Kgaolo ye, o swanetše go araba ka nnete le ka bokgoni bja gagwe ka moka.
- (2) Karabo goba tlhaloso yeo e filwego *mohlankedidi yo a filwego maemo*, ga se ya swanelo go dirišwa goba ya amogelwa ditshekong tša bosenyi, kgahlanong le motho ye a e fago, ntle le magatong ao a lego kgahlanong le motho yoo, ditatofatšong tše di lego mabapi le -
  - (a) taolo goba go dirwa ga kano;
  - (b) go dirwa ga dipego tše di fošagetšego; goba
  - (c) go se arabe potšišo yeo e lego molaong ka botlalo le ka mo go kgotsofatšago.

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

### 31 DITSEBIŠO TŠA KOBAMELO

- (1) *Mohlankedi yo a filwego maemo* yo a lemogago gore taelo efe goba efe ya *Molao wo* ga se ya obamelwa, a ka ntšha tsebišo ya kobamelo go mong wa mabu goba go motho yo a bonalago a na le taolo ya mabu ao a angwago, goba lefelo.
- (2) *Mohlankedi yo a filwego maemo*, yo a kgotsofetše gore mong wa mabu goba motho yo a bonalago a na le taolo ya mabu goba lefelo o kgotsofaditše dinyakwa tša tsebišo ya kobamelo, a ka ntšha setifikeiti sa kobamelo mabapi le taba ye.
- (3) Tsebišo ya kobamelo e tla no dula e šoma, go fihlela ge *mohlankedi yo a filwego maemo* a ntšha setifikeiti sa kobamelo mabapi le tsebišo yeo.
- (4) Tsebišo ya kobamelo e swanetše go hhalosa -
- (a) taelo yeo e se ya obamelwago;
  - (b) dintilha ka ga sebopego le bogolo bja thokego ya kobamelo;
  - (c) magato afe goba age ao a nyakegago gore a tšewe le lebaka leo ka lona magato ao a swanetše go tšewa; le
  - (d) kotlo efe goba efe yeo e ka bewago go ya ka Karolo 50 lebakeng la ge magato a a sa obamelwe.

### 32 MELATO

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

- motho yoo a swanetšego go e aba go ya ka *Molao wo*;
- (d) a fe *mohlankedi yo a filwego maemo tshedimošo* ye e fošagetšego, goba yeo e timetšago;
- (e) a re ntle le tumelelo ya molao, a thibele mong wa mabu afe goba afe, goba wa lefelo, goba motho yo a ſomelago mong yoo, go tsena ka mabung goba ao ka lefelong leo, gore a kgone go kgotſofatša dinyakwa tša *Molao wo*;
- (f) a itire *mohlankedi yo a filwego maemo a itšego*;
- (g) a re ka mo go fošagetšego, a fotoše lengwalo la go fa maatla (warrant) goba lengwalo la go fa tumelelo, tsebišo ya kobamelo goba setifikeiti sa kobamelo, tše di ntšitšwego go ya ka Kgaolo ye;
- (h) a fošagatše lengwalo la go fa maatla goba lengwalo la go fa tumelelo, tsebišo ya kobamelo goba setifikeiti sa kobamelo, tše di ukangwago Kgaolong ye;
- (i) a šitwe ke go obamela tsebišo ya kobamelo yeo e ntšitšwego ka Kgaolong ye;
- (j) a tsene ka mabung afe goba afe, goba ka lefelong lefe goba lefe, ntle le lengwalo la go fa tumelelo, mabakeng ao a nyakago lengwalo la go fa tumelelo;
- (k) a dire ka mokgwa wo o Iwantšhago lengwalo la go fa tumelelo, leo le ntšitšwego go ya ka Kgaolo ye;
- (l) a re ntle le tumelelo .
- (i) a tsene goba a lekole mabu goba lefelo;
- (ii) a dire tiro efe goba efe yeo e hialositšwego Karolong 23(1) goba (2); goba
- (m) a utolle tshedimošo efe goba efe yeo e lego mabapi le merero ya ditšhelete goba ya kgwebo, ya motho ofe goba ofe, e lego yeo e hweditšwego lebakeng la ge go phethagatšwa mošomo ofe goba ofe, goba tirišo ya maatla afe goba afe go ya ka *Molao wo*, ntle le .
- (i) go motho yo a nyakago tshedimošo yeo gore a phethagatše mošomo o mongwe goba a diriše maatla go ya ka *Molao wo*;
- (ii) ge kutullo yeo e laetšwe ke kgoro-tsheko ya molao; goba
- (iii) ge kutullo yeo e obamela taelo ya *molao ofe goba ofe*.

33 **TIRIŠO YA KGAOLO YE**

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

**KGAOLO 6**

**GO HWETŠWA GA DIPHAHLO LE DITIRELO KE  
BOMASEPALA**

**34 TSELAYA GO HWETŠA DIPHAHLO GOBA DITIRELO**

- (1) Ka morero wa go dira gore bomasepala ba hwetše, goba ba abelwe dikontraka tša go hwetše diphahlo le ditirelo motheong wo o ukantšwego Karolong 10G(5)(a) ya *Molao wa Mmušo wa Selegae wa Lebakanyana, Leloko la Lekgotla-phethiši* le swanetše go fa taelo mabapi le boleng bja thendara ya tirelo goba diphahlo tše di angwago ke ditsela tša go di hwetše, bjale ka ge di ukangngwe Karolong 35.
- (2) Go sa šetšwe ditaelo tša karolwana (1), tsela yeo e filwego Karolong 35 e ka dirišwa .
  - (a) lebakeng la ge diphahlo goba ditirelo tše di nyakegago di swanetše go hwetšwa .
    - (i) e le taba ya tšhoganetšo;
    - (ii) e le tše di nyakegago; goba
    - (iii) di etšwa go moabi yo a lego nnoši; le gona
  - (b) ge tsela yeo e ukangwago Karolong 36 e obametšwe.
- (3) Mabapi le go hwetšwa ga diphahlo goba ditirelo tše dingwe ka moka, tsela yeo e ukangwago melaong-tshepetšo ya tše di amago masepala, e swanetše go obamelwa.

**35 TSELAYA GO HWETŠA DIPHAHLO LE DITIRELO TŠE DI LAETŠWEGO**

- (1) Ge le na le maikemišetšo a go hwetše diphahlo goba ditirelo *tše di laetšwego*,

Lekgotla la Masepala le swanetše go obamela tsela ye e latelago .

- (a) sephetho sa go hwetša diphahlo goba ditirelo *tše di laetšwego* se swanetše go ba ka tsebišong yeo
  - (i) e phatlaladitšwego le ge e ka ba ka kuranteng ya maleba, yeo e sepetšwago ka mellwaneng ya masepala; le gona
  - (ii) e pepentšitšwego le ge e ka ba ka lefelong leo le bonalago, leo le diretšwego morero woo ke Lekgotla la Masepala.
- (b) tsebišo yeo e swanetše go hhalosa .
  - (i) ka mokgwa wo o akareditšwego, dinyakwa le tlhaloso ya diphahlo goba ditirelo *tše di laetšwego*;
  - (ii) mafelo le dinako le mabaka le mokgwa wo ka wona sengwalwa seo se nago le dinyakwa tša dithhaloso tša diphahlo goba ditirelo *tše di laetšwego* di tla pepentshwago ka gona, gore di lekolwe, goba di hwetšwe;
  - (iii) lebaka leo ka lona dikgopelo tša dithendara di ka dirwago, tša go aba diphahlo goba ditirelo *tše di laetšwego*, go akaretšwa nako yeo ka yona go ka se sa amogelwago dikgopelo tša dithendara;
  - (iv) tsela ya go tšweletša dikgopelo tša dithendara, go akaretšwa-
  - (aa) dingwalwa tše di swanetšego go tlaleletša le tshedimošo ya tlaleletšo, dingwalwa, mehlala, didirišwa goba ditšelete tše di swanetšego go sepetšwa le dikgopelo tša dithendara; le
  - (bb) lefelo leo dikgopelo tša dithendara di swanetšego go išwa go lona;
  - (v) Tshedimošo e nngwe yeo e ka bago maleba mererong ya go hlokomba dikgopelo tša dithendara; le
  - (vi) lefelo leo dikgopelo ka moka tša dithendara tše di amogetšwego di

tla ngwadišwago bjale ka ge go ukangwa karolwaneng (4).

- (2) Motho ofe goba ofe, mokgatlo, lekgotla goba koropasi a ka tsenya kgopelo ya thendara ka -
- (a) go tlatša foromo ya kgopelo ya thendara ka mokgwa wa maleba;
  - (b) go fa dingwalwa tša tshedimošo ka moka, mehlala, didirišwa le ditšelete tše di amanago le kgopelo ya thendara.
- (3) Go šitwa ke go obamela dinyakwa tša didirišwa tša karolwana (2) goba go fa tlhaloso yeo e fošagetšego ka kgopelong, go ka dira gore kgopelo yeo e se elwe šedi.
- (4) Ge lebaka la dikgopelo le tswalelwabjale ka ge go ukangwa karolwaneng (b)(iii), Lekgotla la Masepala le swanetše go tsenya leina le dintlha tša go ikopanya le badira-dikgopelo ka moka ba dithendara, le boleng bja dithendara tša bona ka registareng yeo e diretšwego morero woo ke Lekgotla la Masepala.
- (5) Mabapi le registara yeo e ukangwago karolwaneng (4), leloko le lengwe le le lengwe la setšhaba le ka -
- (a) ba gona go hlatsela lenaneo la go ngwadišwa; le go
  - (b) lekola registara ka mafelong, dinakong le mabakeng, le mokgwa woo ka wona Lekgotla la Masepala le ka bonago o kwagala go ya le mabaka.
- (6) Ge le hlokomedišwa thendara yeo e swanetšego go amogelwa, Lekgotla la Masepala le swanetše go fa šedi e kgolwane, magareng a tše dingwe, go -
- (a) dintlha tše di hhalositšwego *molaong ofe goba ofe wo mongwe*<sup>9</sup>;

<sup>9</sup>

Bona magareng a tše dingwe, Karolo 217 ya *Molaotheo* le Karolo 10(G)(5)(b) ya *Molao wa Mmušo wa Selegae wa Lebakanyana*.

- (b) leano-tshepetšo leo le dirilwego ke lefapa la mmušo leo le nago le bokgoni<sup>10</sup>;
- (c) badira-dikgopelo feela bao maina a bona a tsentšwego ka registareng yeo e hlalositšwego karolwaneng ya (4) le bao dikgopelo tša bona di sa paledišwago;
- (d) tšweletšo ya dikgwebo tše nnyane le tša magareng;
- (e) tiisetšo ya magoro ao a kgethwago a batho, mekgatlo, makgotla goba dikorporasi, bjale ka ge go ka kgonthišwa ke masepala;
- (f) go bulwa ga dikgoba tša mošomo goba go fetišetšwa ga bokgoni;
- (g) kabu ya ditirelo tša masepala ye e nago le dipuelo le bokgoni;
- (h) temogo le bokgoni bja badira-dikgopelo tša dithendara bja go aba diphahlo le ditirelo; le
  
- (i) go ba le dipuelo tša ditsenyagalelo ga kgopelo yeo. Mabapi le taba ye, Lekgotla la Masepala ga se la gapeletšega go fa modira-kgopelo yo thendara ya gagwe e lego ya boleng bja boleng bja tlase-tlase.
  
- (7) Sephetho sa go amogela, go gana goba go palediša kgopelo ya thendara se swanetše go tšewa ke Lekgotla la Masepala. Le ge go le bjale, Lekgotla la Masepala le ka fa, goba la rolela mošomo wo, mabapi le diphahlo goba ditirelo tše dingwe *tše di laetšwego* go komiti yeo e ukangwago Karolong 41.
- (8) Sephetho sa Lekgotla la Masepala goba komiti yeo e ukangwago Karolong 41 ke sa mafelelo, le gona se a tlama.
- (9) Lekgotla la Masepala, goba komiti yeo e ukangwago Karolong 41 le swanetše go fetišetša sephetho sa lona ka go ngwala, go modira-kgopelo ya thendara, gomme le fe mabaka a sephetho sa lona go modira-kgopelo yo mongwe le yo mongwe wa thendara ge .

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<sup>10</sup> Taelo ye e ukama gape leano-tshepetšo leo le lego leanong la bjale leo le ukangwago la setšhaba, la dintlhla tše 10.

- (a)(i) kgopelo e šwanetše go paledišwa; goba
- (ii) kgopelo e ganngwe; le ge
  
- (b) modira-kgopelo a kgopela go fiwa mabaka ka go ngwala.

**36 TSELA YE E KGONAGADITŠWEGO YA GO HWETŠA DIPHAHLO GOBA DITIRELO TŠE DI LAETŠWEGO**

- (1) Ge Lekgotla la Masepala le kgotsofetše gore mabaka ao a ukangwago Karolong 34(2)(a) a gona, le swanetše gore ka kwano, le -
  - (a) tšeye sephetho go diriša tsela yeo e hhalositšwego Karolong 35; le
  - (b) go hloma motho, mokgatlo, lekgotla, goba koporasi ya go aba diphahlo goba ditirelo *tše di laetšwego* le go fetišetše sephetho sa lona ka go ngwala, go motho yo a hlomilwego.
- (2) Lebakeng la kgwedi morago ga go tšeya sephetho se, merero yeo e hhalositšwego karolwaneng (3) e swanetše go -
  - (a) phatlalatšwa ke masepala le ge e ka ba ka kuranteng yeo e sepetšwago ka mellwaneng ya masepala; le gona
  - (b) se pepentšhwe lefelong leo le bonalago, leo le diretšwego morero wo ke masepala.
- (3) Merero yeo e swanetšego go phatlalatšwa le go pepentšhwa ke -
  - (a) mabaka a go diriša ditsela tše di hhalositšwego Karolong 35;
  - (b) kakaretšo ya dinyakwa tša diphahlo le ditirelo *tše di laetšwego*;
  - (c) mafelo le dinako le mabaka goba mokgwa woo ka wona sengwalwa seo se nago le dinyakwa goba ditlhaloso tša diphahlo goba ditirelo *tše di laetšwego*, di tla pepentšhwago ka gona, gore di lekole goba di hwetšwe, le

- (d) dintlha tša motho, mokgatlo, lekgotla goba koporasi yeo e abago diphahlo goba ditirelo.
- (4) Mešomo ya Lekgotla la Masepala go ya ka karolo, ye e ka se fiwe goba ya rolelwā.

37 **KATOLOŠO GOBA PHETOŠO YA KWANO YA THENDARA**

- (1) Go ya ka **karolwana** (2), Lekgotla la Masepala ka matsapa a goba morago ga go amogela kgopelo go tšwa go motho, lekgotla, mokgatlo goba koporasi yeo e abago diphahlo goba ditirelo go Lekgotla la Masepala go ya ka Kgaolo ye, le ka fediša, goba la katološa, goba la fotoša kwano ya thendara, ge -
- (a) mabaka ao a ukangwago **Karolong 34(2)(a)** a le gona; goba
- (b) ge go elwa hloko bokgoni le mohola wa taolo, e le tšeо lekgotla le di bonago e le tša maleba.
- (2) Lekgotla la Masepala le ka se katolose goba la fotoša a kwano ya thendara -
- (a) go feta gatee;
- (b) lebakeng leo le fetago lebaka la kwano ya mathomo; goba
- (c) ka palo ye e fetago diphesente tše 20 tša boleng bja mathomo bja thendara.
- (3) Lebakeng la kgwedi e tee la kwano yeo e halositšwego **karolwaneng** (1), merero yeo e halositšwego **karolwaneng** ya (4) e swanetše -
- (a) phatlalatšwa ke masepala, le ge e ka ba ka kurateng ya maleba, yeo e sepetšwago ka mellwaneng ya masepala; goba
- (b) bewa ka lefelong leo le bonalago, leo le diretswego morero woo ke masepala.

- (4) Merero yeo e swanetšego go phatlalatšwa goba go laetšwa ke -
- (a) mabaka a go hlokomologa tsela yeo e hhalositšwego Karolong 35;
  - (b) kakaretšo ya dinyakwa tša diphahlo goba ditirelo; le
  - (c) dintilha tša motho, mokgatlo, lekgotla goba koropasi yeo e abago diphahlo goba ditirelo.
- (5) Mešomo ya Lekgotla la Masepala go ya ka karolo ye, ga se tša swanelo go fiwa motho yo mongwe goba go rolelwa.

**38 DIKGOPERO TŠE DI SA DUMEELWEGO LE TŠEO DI SA SEPELELANEGO LE MOLAO TŠA DITHENDARA; LE DITLHOKOMOLOGO TŠA DIKWANO TŠA DITHENDARA**

- (1) Ka merero ya karolo ya -
- (a) mantšu "kgopelo ya thendara" a akaretša kgopelo ya go katološa goba go fetoša thendara; gomme
  - (b) lentšu "moabi" le ra motho, mokgatlo, lekgotla goba koropasi yeo e abago diphahlo goba ditirelo go Lekgotla la Masepala go ya ka Kgaolo ye.
- (2) Ge Lekgotla la Masepala le kgotsofetše gore kgopelo ya thendara e amogetšwe, e fotošitšwe goba e katološitšwe mabakeng ao a hhalositšwego karolwaneng (3)(a) le (b) goba le kgotsofetše gore kwano ya thendara e hlokomologilwe mabakeng ao a hhalositšwego karolwaneng (3)(c) -
- (a) le swanetše go romela moabi tsebišo yeo e ngwadilwego ka ga sephetho le mabaka a sephetho seo; gomme
  - (b) ka tsebišong yeo, le swanetše go sedimoša moabi gore o na le matšatši a lesome-nne go tloga letšatšing la tsebišo yeo, go tšweletša bohlatse ka ga mabaka ao Lekgotla la Masepala le sa swanelago go tšeya mabaka ao a hhalositšwego karolwaneng (5).
- (3) Ka morero wa karolwana (2), mabaka ao ke -

- (a) **moo moabi .**
- (i) a filego tshedimošo ye e fošagetšego go modira-kgopelo ofe goba ofe ya thendara;
  - (ii) go ba le khuetšo yeo e sa nyakegego go motho yo mongwe le yo mongwe yo a amanago le le go go hlokolela kgopelo ya thendara; goba
  - (iii) a abile mpho ya tšelete goba e nngwe le e nngwe, go motho ofe goba ofe yo a amanago le go hlokomela kgopelo ya thendara, e le gore a hwetše, a fotoše goba a katološe thendara;
- (b) **moo motho yo a amanago le go hlokomela ga kgopelo ya thendara a na le kgahlegelo ya tseo di bonalago go mokgatlo wo o dirago kgopelo, lekgotla goba koropasi, goba dipolo tša kgopelo ya thendara, gomme kgahlego ye e se ya ka ya utollwa pele ga hlokomelo ye ya thendara; goba**
- (c) **ge moabi a palelwa goba a a sa kgone go kgotsofatša dinyakwa goba ditlhhaloso tša dithoto goba ditirelo tseo di swanetšego go abja.**
- (4) **Ge modira-kgopelo ya thendara goba moabi a amogetše tsebišo go ya ka karolwana (2) lebakeng la matšatši a 14, gomme a sa tšweletše bohlatse, goba a tsweletša bohlatse lebakeng leo Lekgotla la Masepala le le tšeya gore ga le amogetše, Lekgotla le swanetše go tšeya kgato efe goba efe, goba go kopanya magato ao a hlalositšwego karolwaneng (5), gomme le swanetše go tsebiša moabi ka go nwala, mabaka a sephetho seo.**
- (5) **Ka merero ya karolwana (2) le (4), magato ao a swanetšego go tšewa ke .**
- (a) **go khantshelwa ga kwano ya thendara;**
  - (b) **go lokišwa ga tobo efe goba efe yeo e hweditšwego, goba tshenyo yeo e diragetšego go masepala ka lebaka la ge o khantshetše kwano ya thendara; goba**
  - (c) **go iletša moabi tlhokomelong ya thendara efe goba efe lebakeng leo le tla bewago ke Lekgotla la Masepala.**

- (6) Moabi a ka dira aphili kgahlanong le sephetho sa Lekgotla la Masepala sa go tšeya magato ao a ukangwago **karolwaneng (5)** go ya ka tsela yeo e laetšwego Karolong 39.
- (7) Mešomo ya Lekgotla la Masepala go ya ka karolo ye, e ka se fiwe goba ya rolelwa.

**39 GO DIRA DIAPHILI MABAPI LE DITHENDARA TŠEO DI SA DUMEELWEGO LE TŠEO DI SA SEPELELANEGO LE MOLAO TŠA DITHENDARA LE DITLHOKOMOLOGO TŠA DIKWANO TŠA DITHENDARA**

- (1) Moabi ofe goba ofe wa diphahlo goba ditirelo go Lekgotla la Masepala, yo a amogetšego tsebišo go ya ka Karolo 38(4), a ka dira aphili kgahlanong le sephetho seo se fihletšwego go ya ka karolo yeo, ka go tšweletša, lebakeng la matšatši a lesome-nne la go ntšhwa ga tsebišo yeo, tsebišo ya aphili, yeo e hhalosago mabaka a aphili go Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo. Godimo ga moo, tsebišo yeo e swanetše go felegetšwa ke tše di latelago .
  - (a) kgopelo ya thendara le dingwalwa tše di sepelago le yona;
  - (b) tsebišo ya Lekgotla la Masepala, yeo e ntšhitšitšwego go ya ka Karolo 38(2);
  - (c) dintilha tša go ikarabela ga yona go tsebišo ya Lekgotla la Masepala; le
  - (d) tsebišo ya Lekgotla la Masepala go ya ka Karolo 38(4) le mabaka a sephetho seo aphili e lego ka ga sona.
- (2) Go ya ka Karolo 40(1) le (2), Lekgotla la Masepala le swanetše go kgonthiša ditsela tša go tšeya dintilha, go sepetša le go ela šedi diaphili, gomme le swanetše go tsebiša mahlakore ao a angwago ke diaphili tše ka ga ditsela tše, pele go ka thongwa ka aphili.
- (3) Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo, le swanetše go ela šedi diaphili ka mokgwa wo o beilwego ke Lekgotla la Masepala, gomme le romele tsebišo ye e ngwadilwego ya sephetho seo go moabi yo a tlilego ka aphili yeo le lekgotla la Masepala. Ge aphili e sa atlega, tsebišo yeo e swanetše go akaretša mabaka a sephetho seo.
- (4) Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo le ka dira taelo ya ditshenyagalelo, ge lehlakore, goba motho yo a emetšego lehlakore leo aphiling .

- (a) a šomile ka mokgwa wo o sa kwišisegego, wo o sa tshepegego le wo o sa kgwagalego -
- (i) ka go tšwela pele ka aphili, goba go e ganetša; goba
  - (ii) tshepetšong ya aphili; goba
- (b) ntle le lebaka le lebotse a se ke a ba gona, goba a se dule lebaka ka moka, aphiling.
- (5) Diphetho tša Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo ke tša mafelelo, le gona di tlama mahlakore ka moka ao a angwago ke aphili yeo.
- (6) Bohlatseng bjo bongwe le bjo bongwe bja aphili, bjo bo sepetšwago go ya ka Kgaolo ye, dingwalwa tše di latelago di dira dikwano tša tumelelano ya thendara -
- (a) dingwalwa tše di nago le dinyakwa goba dithhaloso tša diphahlo le ditirelo *tše di laetšwego bjale ka ge go boletšwe ka ga tšona Dikarolong 35(1)(b)(ii) le 36(3)(c)*, gomme ge go le maleba, dikwano le mabaka ao a lego ka foromong ya kgopelo ya thendara; le
  - (b) tsebišo ye e ngwadilwego bjale ka ge e ukangwa Karolong 35(7) le 36(1)(b), tše di tišeletšago kamogelo ya kgopelo goba ya go hlongwa.

#### **40 LEKGOTLA LA DIAPHILI TŠA KHWETŠO YA DIPHAHLO LE DITIRELO LE SEHLOPHASA BANAMODI**

- (1) Lekgotla la Masepala le swanetše go hloma Lekgotla la Diaphili tša Hwetšo ya Diphahlo le Ditirelo, leo le swanetšego go hlangwa ka maloko a palo ye e sego ka tlase ga pedi, go tšwa sehlopheng sa banamodi.
- (2) Maloko a sehlopha seo se boletšwego karolwaneng (1), a ka hloma leloko lefe goba lefe la ditsebi, go Lekgotla la Diaphili -
- (i) ka matsapa a bona; goba
  - (ii) morago ga kelo-hloko ya kgopelo yeo e ngwadilwego, yeo e amogetšwego

go tšwa go lehlakore lefe goba lefe leo le angwago ke aphili ye, mabapi le go hlongwa ga setsebi goba ditsebi.

- (3) Lekgotla la Masepala le swanetše go amogela batho ka mo go nyakegago go dira sehlopha sa banamodi seo se hlamilwego ka batho ba palo yeo e sego ka tlase ga tshela. Batho bao ga se ba swanela go ba balekgotla goba bašomedi ba Lekgotla la Masepala.
- (4) Tsela ye e latelago e dirišwa ge Lekgotla la Masepala le swanetše go hloma motho sehlopheng sa banamodi .
  - (a) Lekgotla la Masepala le swanetše go phatlalatša tsebišo yeo e dirago boipiletšo bja go hlophiwa ga, gomme e hlalosa dinyakwa tša dihlopho, le ge e ka ba ka kuranteng ya maleba yeo e sepetšwago ka mellwaneng ya Masepala.
  - (b) Lekgotla la Masepala le swanetše go dira dihlopho tše di tlišitšwego e le go ikarabela tsebišong yeo, di elwe šedi, gomme le beakanye lenaneo la bao ba hlophilwego.
  - (c) Lekgotla la Masepala le swanetše go dira gore bao ba hlophilwego lenaneong leo, ba swarišwe dipoledišano, gomme morago ga moo le dire dihlongo tša maleba.
- (5) Dikwano le mabaka a go hlongwa ga maloko a sehlopha sa banamodi le ditsebi, di swanetše go bewa ke Lekgotla la Masepala.

#### **41 GO HLONGWA GA KOMITI YA KHWETŠO YA DIPHAHLO LE DITIRELO<sup>11</sup>**

- (1) Lekgotla la Masepala le ka hloma komiti ya khwetšo ya Dipahlo le Ditirelo.
- (2) Godimo ga mešomo ya yona yeo e hlalositšwego ka Kgaolong ye, komiti e ka -

<sup>11</sup> Tsela ya go hloma komiti ye, mabaka a hlongo ya maloko a komiti le ditsela tša ka gare tša komiti, di tla laolwa ditaelong tša kakaretšo tše di amanago le dikomiti tša masepala.

- (a) šišinya maano-tshepetšo, ditsela le ditlwaelo, tša go dira gore Lekgotla la Masepala le phethagatše *maatla* a lona, *mešomo* le *maikarabelo*, go ya ka Kgaolo ye ka mokgwa wo o na go le dipuelo, bokgoni le ponagalo;
- (b) dira ditšhišinyo go Lekgotla la Masepala, mabapi le -
- (i) tekanetšo le nolofatšo ya mananeo ka moka a dikgopelo tša dithendara;
- (ii) go fa keletšo le ditirelo tše dingwe tša thekgo go badira-dikgopelo tša dithendara;
- (c) go dira ditšhišinyo tše di amago mekgwa ya go kgonthiša magoro a batho, mekgatlo , makgotla goba dikoporasi tše di swanetšego go tiisetšwa bjale ka ge go ukangwa Karolong 35(6)(c); le
- (d) go dira mošomo ofe goba ofe woo Lekgotla la Masepala le bonago o le maleba ka merero ya fa Kgaolo ye maatla, go akaretšwa go dirwa ga dinyakišišo, go dirwa ga ditšhišinyo le go begwa ga taba efe goba efe.

**KGAOLO 7**

**MAPHEKO A PHIHLELELO YA MAFELO A SETŠHABA KA  
MABAKA A POLOKEGO LE TŠHIRELETŠEGO**

**42 MAATLA A LEKGOTLA LA MASEPALA A GO HLOMA MAPHEKO**

*Ka mabaka a go kgonthiša poloego le tshireletšego, Lekgotla la Masepala le ka -*

- (a) *beya dikiletšo ka matsapa a lona, phihlelelong ya lefelo lefe goba lefe la setšhaba, ge e sepelelana le ditaelo tša Karolo 43; goba*
- (b) *go fa motho ofe goba ofe, mokgatlo goba lekgotla maatla a go beya mapheko lefelong le lefe goba lefe la setšhaba ge ditaelo tša Karolo 44 di obametšwe.*

**43 TSELA YA MAKGOTLA A BOMASEPALA YA GO BEYA MAPHEKO A PHIHLELELO**

- (1) *Ge le na le maikemišetšo a go beya lepheko la phihlelelo ya lefelo la setšhaba, Lekgotla la Masepala le swanetše go -*
  - (a) *kgonthiša mabaka ao a šišinywago a lepheko morago ga ditherišano le Tirelo ya Afrika Borwa ya Sephodisa;*
  - (b) *fetiša kwano yeo e tiišeletšago mabaka ao a šišinywago le maikemišetšo a go hloma lepheko; gomme morago ga moo*
  - (c) *latele tsela ye e latelago -*
    - (i) *maikemišetšo a go hloma lepheko a swanetše go begwa ka tsebišo ka kuranteng ya probentshe le mokgwa ofe goba ofe wa maleba wa dikgokagano;*

## (ii) tsebišo yeo e swanetše go hhalosa .

- (aa) gore go yakega maikutlo ka ga mabaka ao a ukangwago a lepheko;
  - (bb) *lefelo la setshaba leo le angwago ke lepheko;*
  - (cc) mabaka ao a šišinywago a lepheko;
  - (dd) dingwalwa goba dipego tše di ngwadilwego, tše Lekgotla le di dirišitšego go fetiša kwano;
  - (ee) motho goba lefelo leo dinyakišišo di ka lebišwago go yena mabapi le mabaka ao a šišinywago a lepheko;
  - (ff) go ya ka karolwana (6) le (7), mafelo, dinako le mabaka ao ka wona khophi ya dingwalwa goba dipego tša mathomo di ka hwetšwago goba tša pepentšha gore di lekolwe;
  - (gg) lebaka la go ntšhwa ga maikutlo ka ga mabaka ao a ukangwago a mapheko, e lego leo le sa swanelago go ba ka tlase ga kgwedi; le
  - (hh) motho goba lefelo leo maikutlo a ka lebišwago mabapi le mabaka ao a ukangwago a lepheko.
- (iii) nako efe le efe pele go hlongwa lepheko, ditherisano le dihlopha dife goba dife tša maleba di ka swarwa ka sebopego sefe goba sefe, go akaretšwa go swarwa ga nyakišišo.
- (iv) maikutlo ao a amogetšwego le dikagare tša ditherisano ka moka di swanetše go hlokomelwia pele go ka hlongwa lepheko.
- (2) Ge Lekgotla la Masepala le se la beya lepheko lebakeng la dikgwedi tše nne go tloga pegong yeo e boletšwego karolwaneng 1(c)(i), lepheko leo le ka se dirwe, ge e se feela ge tsela yeo e laetšwego karolwaneng (1) e boeleditšwe.
- (3) Lekgotla la Masepala le ka diriša ditsela tše di hhalositšwego karolwaneng (1) mabapi le lepheko lefe goba lefe leo, ka dikgahlegelo tša batho, le

swanetšego go hlongwa ntle le go senya nako, eupša le swanetše go diriša tsela ye lebakeng la kgwedi morago ga gore lepheko le thome go dirišwa, gomme ge se se ka se dirwe, lepheko le ka se sa ba la maleba.

- (4) Lepheko le tla thoma go dirišwa letšatšing la phatlalatšo ya lona ka kuranteng ya probentshe, goba letšatšing le lengwe leo le ka bewago ka kuranteng ya probentshe.
- (5) Lekgotla la Masepala le ka beya tefelo ya go hwetša khophi ya sengwalwa sefe goba sefe goba pego ye e ngwadilwego yeo e lego maleba le le go kgonthiša mabaka a lepheko leo le ukangwago;
- (6) Mafelo ao dingwalwa le dipego tše di ngwadilwego di ka hwetšwago gona, goba tša pepentšhwa gore di lekolwe, a swanetše go dira gore batho ka moka bao ba angwago ke lepheko ba sedimošwe ka ga dikagare tša tšonā ka potlako le ka go se šitišege.
- (7) Lekgotla le lengwe le le lengwe la Masepala le swanetše go hlabolla le go hloma maano-tshepetšo le mananeo go thuša maloko a setšhaba go ntšha maikutlo ka ga mabaka ao a ukangwago a kiletšo.

#### **44 TSELÀ YA MAKGOTLA A BOMASEPALA YA GO FA BA BANGWE MAATLA A GO BEYA MAPHEKO A PHIHLELELO**

- (1) Motho ofe goba ofe, mokgatlo goba lekgotla a ka dira kgopelo go Lekgotla la Masepala gore a fiwe maatla a go beya mapheko a phihlelelo ka *lefelang la setšhaba* ka
  - (a) go tšweletša kgopelo ye e ngwadilwego, yeo e hlilosago
    - (i) leina le dintlha tša go ikopanya le modira-kgopelo;
    - (ii) hlaloso ya *lefelo la setšhaba* leo kgopelo yeo e lago ka ga lona;
    - (iii) tlhaloso ya mabaka ao a bakilego kgopelo yeo;
    - (iv) legoro le palo ya batho bao ba angwago ke mabaka ao a bakilego kgopelo yeo;
    - (v) mohuta le kelo ya lepheko leo le direlwago kgopelo; le

- (vi) legoro le kakanyo ya palo ya batho bao ba ka angwago ke lepheko leo le direlwago kgopelo;
  
- (b) go tšweletša bohlatse bja gore kelo ye e sego ka tlase ga pedi-tharong ya batho bao ba angwago ke mabaka ao a bakilego kgopelo yeo, ba dumelela lepheko leo le direlwago kgopelo; le go
  
- (c) tefelo yeo e sa bušetšwego ya taolo go ya le ka moo go tla bewago ke Lekgotla.
  
- (2) Morago ga go amogela kgopelo, Lekgotla la Masepala le swanetše go beakanya dikopano tše di tlago swarwa le modira-kgopelo le Tirelo ya Afrika Borwa ya Sephodisa, ka morero wa go dira gore le kgone go kgonthiša -
  
- (a) tshwanelego ya kgopelo; le
  
- (b) dikwano le mabaka a go fa maatla<sup>12</sup>.
  
- (3) Ge Lekgotla la Masepala le na le maikemišetšo a go fa maatla a go beya mapheko ka *lefelong la setšhaba* go ya ka tiišo ye e dirilwego go ya ka *karolwana* (2), ditaelo tša Karolo 43 di a dirišega, ka diphetogo tše di ka nyakegago go ya le mabaka.

#### **45 LEBAKA LA LEPHEKO GOBA GO FIWA MAATLA A GO BEYA LEPHEKO LA PHIHLELELO**

- (1) Ntle le ge go hhalositšwe ka kuranteng ya probentshe, le gona go ya ka karolo ye, lepheko goba go fiwa maatla a go beya lepheko la phihlelelo go šoma lebaka leo le sa fetego mengwaga e mebedi.
  
- (2) Lekgotla la Masepala le ka katološa lebaka la lepheko goba go fiwa ga maatla a go beya lepheko ge -
  
- (a) Iona goba modira-kgopelo le thoma magato ao a **hhalositšwego Dikarolong 43 le 44** ka go latelana; gomme

<sup>12</sup> Dikwano le mabaka di ka akaretša gfo lefela ga peeletšo go e le ya go lefela ditshenyagalelo tše di hweditšwego ke Lekgotla la Masepala ge go tlošwa mekgwa efe goba efe ya lepheko.

(b) ditsela tše di thongwa lebakeng leo le sego ka tlase ga kgwedi pele lebaka la lepheko goba go fiwa ga maatla, le feela.

(3) Ka mabaka a karolwana (2) ditsela di tšewago ba tše di thomilwego ge .

(a) ka mabaka a go beya mapheko a phihlelelo, Lekgotla la Masepala le fetiša kwano yeo e hhalositšwego Karolong ya 43(1)(b); le ge

(b) ka lebaka la go fa maatla a go beya mapheko a phihlelelo, letšatši leo ka lona kgopelo yeo e hhalositšwego Karolong 44(1) e amogelwa ke Lekgotla la Masepala.

(4) Ge go sa letetšwe dipolo tša ditsela tše di ukangwago karolwaneng (2), lepheko goba go fiwa maatla a go beya lepheko, le dula le šoma.

#### **46 MELATO YEO E AMANAGO LE GO FIWA MAATLA A GO BEYA MAPHEKO A PHIHLELELO**

Ke molato go motho ofe goba ofe, mokgatlo goba lekgotla go .

(a) beya mapheko *lefelong la setšhaba* ntle le go hwetša maatla go ya ka *Molao wo* goba *molao ofe goba ofe o mongwe*; goba

(b) go iponagatša bjale ka yoo a filwego maatla a go beya mapheko ka *lefelong la setšhaba* go ya ka *Molao wo*, mola a se a fiwa maatla ao.

#### **47 PHIHLELELO LE TEKOLO YA MABAKA A LEPHEKO GOBA GO FIWA MAATLA A GO BEYA MAPHEKO A PHIHLELELO**

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

**KGAOLO 8****MERERO YE E FAPAFAPANEKO**

48

**DIKHOMIŠENE TŠA MASEPALA TŠA DINYAKIŠIŠO**

- (1) Lekgotla la Masepala le ka hloma Khomisene ya Masepala ya Dinyakišišo mabapi le morero ofe goba ofe wa mmušo wa selegae -
  - (a) wo le o tšeyago go ba wa maleba le woo o amanago le *maatla a lona, mešomo goba maikarabelo*;
  - (b) e le woo batho ba nago le kgahlegelo go wona; goba
  - (c) woo go ya ka *molao ofe goba ofe*, Masepala o swanetšego go hloma Khomisene ya Masepala ya Dinyakišišo.
- (2) Go hloma Khomisene ya Masepala ya Dinyakišišo, Lekgotla la Masepala le swanetše go fetiša kwano yeo e amanago le seo. Kwano ye e swanetše go hlalosa mabaka ao ka wona Khomisene ya Masepala e hlongwago, go akaretšwa le lebaka la nako yeo ka yona Khomisene ya Masepala e swanetšego go rumu mošomo wa yona.
- (3) Lebakeng la dikgwedi tše tshelelago tša go thoma go šoma ga *Molao wo, Leloko la Lekgotla-phethiši* le swanetše go ntšha melao-tshepetšo yeo e lego mabapi le go hlongwa le tshepetšo ya Khomisene ya Masepala ya Dinyakišišo, go akaretšwa -
  - (a) go hlongwa ga mokomišenare goba bakomišenare;
  - (b) maatla a bakomišenare;
  - (c) ditsela tša go kwa bohlatse le go laola go šoma ga Khomisene ya Masepala.
- (4) Ge Khomisene ya Masepala ya Dinyakišišo e rumile mošomo wa yona, bakomišenare ba swanetše go romela pego yeo e nago le tše di hweditšwego ke Khomisene le ditšhišinyo tša yona go Lekgotla la Masepala gore le di e le hloko.

- (5) Lekgotla la Masepala le ka tšeaya magato afe goba afe ao le bonago e le a maleba go šomana le tše di hweditšwego ke Khomišene ya Masepala ya Dinyakišišo, le ditšhišinyo tša yona.

#### **49 BOHLATSE BJA PHATLALATŠA**

- (1) Lekgotla la Masepala le swanetše go bitša pitšo ya phatlalatša ka merero ya go elwa hloko le go dira ditšhišinyo mabapi le *morero ofe goba ofe wa mmušo wa selegae wa batho ba nago* le kgahlegelo go wona ge le ka amogela lengwalo la dinyakwa (phetišene) leo le dirago boipiletšo bja gore go be le bohlatse bja phatlalatša, leo le saennwego ke batho ba palo yeo e tlago bewa ke Lekgotla la Masepala ya bakgethi bao ba ngwadišitšwego. Palo yeo e tla bewago ga se ya swanelo go feta seripagare sa phesente ya palo-moka ya bakgethi bao ba ngwadišitšwego ba masepala.
- (2) Lengwalo la dinyakwa, leo le boletšwego karolwaneng (1) le swanetše go hhalosa *morero wa mmušo wa selegae*, wo o swanetšego go elwa hloko.
- (3) Lekgotla la Masepala, ka matsapa lona, le ka tšeaya sephetho sa go bitša pitšo ya phatlalatša ka merero yeo e hhalositšwego karolwaneng (1).
- (4) Go ya ka karolwana (5), Lekgotla la Masepala le swanetše go beya tsela ya go bitša le go sepetša bohlatse bja phatlalatša.
- (5) Go bitša pitšo ya phatlalatša, Lekgotla la Masepala le swanetše -
- (a) go tsebagatša maikemišetšo a lona a go bitša theeletšo ya bohlatse bja phatlalatša ka kuranteng ya probentshe le mekgwa ye mengwe ya maleba ya dikgokagano; le gona
- (b) le ntšhe tsebišo yeo e hhalosago
- (i) letšatši la bohlatse bja phatlalatša, leo le swanetšego gore le se ke la ba ka tlase ga matšatši a 14 morago ga tsebišo yeo, gomme e se ke ya ba morago ga dikgwedi tše pedi morago ga go amogela lengwalo la dinyakwa leo le hhalositšwego karolwaneng (1) goba kwano yeo e boletšwego karolwaneng (3);
- (ii) ka sebopego se se akareditšwego, merero yeo e swanetšego go elwa šedi go pitšong ya bohlatseng bja phatlalatša; le

- (iii) tsela yeo e swanetšego go dirišwa ge go sepetša bohlatse bja phatlalatša.

50 **MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO NTŠHETŠA LEKGOTLA LA MASEPALA MELAETŠO YA KELETŠO**

- (1) Ge *Leloko la Lekgotla-phethiši* le kgotsofetše gore Lekgotla la Masepala le -
- (a) le šitilwe goba le sa le diriša ditaelo tša *Molaotheo, Molao wo goba molao ofe goba ofe* wo o lego maleba le bomasepala, ka mokgwa wa mohola; goba
  - (b) le šitilwe ke go diriša magato ao a lekanego go kgonthiša kabo ya mohola ya ditirelo tša masepala ka mafelong ao a dikilego a hlokišitšwe dibaka, ao a welago taolong ya lona.

*Leloko la Lekgotla-phethiši* le ka kgopela Lekgotla la Masepala go tšweletša bohlatse go hhalosa mabaka a go šitwa goo.

- (2) Lekgotla la Masepala le swanetše go obamela kgopelo ye, gomme le iše bohlatse ka go ngwala, go *Leloko la Lekgotla-phethiši* lebakeng la kgwedi morago ga go amogelwa ga kgopelo yeo.
- (3) Ge le ka re morago ga go hlokomela bohlatse bjo, *Leloko la Lekgotla-phethiši* la se kgotsofatšwe ke mabaka a go šitwa goo, *Leloko la Lekgotla-phethiši* le ka re ka tsebišo ya go ngwalwa, la ntšha molaetša wa keletšo go Lekgotla la Masepala, gomme la laetša magato ao a swanetšego go tšewa<sup>13</sup>.

<sup>13</sup> Bona tlhaloso 5

<sup>14</sup> Bona tlhaloso 5

51 **MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO NTŠHETŠA MAKGOTLA A BOMASEPALA DITSELA TŠA TLHAHLO**

*Loloko la Lekgotla-phetiši le ka ntsha ditsela tša tlhahlo go Makgotla a Bomasepala go a thuša go:*

- (a) *diriša maatla a wona, mesomo goba maikarabelo; goba*
- (b) *phethagatša merero ya Molao wo.*

**KGAOLO 9****DITAELO TŠA KAKARETŠO****52 DIKOTLO**

- (1) Motho ofe goba ofe yo a hwetšwago molato go ya ka *Molao wo*, o tla lebanwa ke kotlo ya tefišo goba ya kgolego, goba tefišo le kgolego ka bobedi bja tšona.
- (2) Lebakeng la ge motho a hwetšwa a tšwela pele ka go dira molato o tee go ya ka *Molao wo*, motho yo o tla lebanwa ke dikotlo tša tefišo tše di okeditšwego, goba mabaka ka kgolegong go ya ka letšatši le lengwe le le lengwe leo ka lona go obja ga molato go tšwelago pele morago ga kahlolo ya mathomo ya molato woo.

**53 MAPHEKO A BOIKARABELO**

- (1) Ga go modiredi wa Masepala, goba motho ofe goba ofe, mokgatlo, lekgotla goba koporasi, yo a šomago legatong la Masepala goba molekgotla, yo a tla rwešwago molato tshenyong efe goba efe yeo e bakilwego ke .
  - (a) tlhokomologo ya tiro, goba tiro yeo e dirilwego kgopolole e botse; goba
  - (b) phatlalatšo goba kutullo go ya ka *Molao wo*, ya pego efe goba efe, kgopolole ka ga tše di hweditšwego goba tšišinyo yeo e fiwago ka kgopolole e botse.
- (2) Masepala o šireletšwa tatofatšong go ya ka tshepetšo efe goba efe ya molao yeo e tlišitšwego ke lehlakore leo le gobetšego goba le kwišitšwego bohloko ka lebaka la mabaka ao a ukangwago **karolwaneng** (1) moo motho, mokgatlo, lekgotla goba koporasi ye e šomago legatong la masepala e lego mokontraki yo a ikemetšego.

54

**GO FOKOTŠWA GA BOIKARABELO<sup>15</sup>**

- (1) Magato a molao kgahlanong le masepala goba mokgatlo, goba motho yo a šomago legatong la masepala mabapi tiro efe goba efe, goba tlhokomologo ya tiro go ya ka *Molao wo*, a ka dirišwa feela lebakeng la dikgwedi tše 12 goba pejana, tša -
- (a) letšatši leo ka lona mmelaedi a thomilego go lemoga tiro goba tlhokomologo ya tiro yeo; le
- (b) letšatši leo ka lona mmelaedi a ka re ka mo gokwagalago, a letelwa go ba a lemogile tiro yeo goba tlhokomologo ya tiro,
- (2) Lebaka leo le sego ka tlase ga kgwedi pele go ka tšewa magato a molao ao a ukangwago **karolwaneng** (1), mmelaedi o swanetše go tšweletša tsebišo ya go ngwalwa, ka ga maikemišetšo a gagwe a go tšeya magato a molao go -
- (a) *Mohlankediphethiši Mogolo*; le
- (b) moikemeledi yo a angwago.
- (3) Tsebišo go ya ka **karolwana** (2) yeo e filwego *Mohlankediphethiši Mogolo* e tšewa go ba tsebišo yeo e yago go moikemeledi yo a angwago.
- (4) Ge *Mohlankediphethiši Mogolo* e le moikemeledi goba moiphetoledi magatong afe goba afe ao a ukangwago **karolwaneng** (1), lenaneo le lengwe le le lengwe leo ka lona magato a a tšewago le swanetše go dirišwa go *Mohlankediphethiši Mogolo*.
- (5) Kgoro e ka šoma ka dinyakwa tša **karolwana** (1) goba (2) ge dikgahlegelo tša toka di nyaka bjale.

<sup>15</sup>

Ka mabaka a karolo ye go swanetše go biokomelwa Molao wa Mapheko a Magato a Molao (Dipušo tša Probentshe le tša Selegae), 1970

55 **TOKELO YA GO EMELWA MOLAONG**

- (1) Magatong afe goba afe a molao, ao a tšerwego kgahlanong le balekgotla goba badiredi ba masepala, goba dinyakišišo dife goba dife tšeо ba laetšwego ka ga tšona gore ba tle ba fe bohlatse mabakeng ao magato goba, dinyakišišo di amago mešomo ya bona go masepala, balekgotla goba badiredi bao ba angwago ba na le ditokelo tša go emelwa molaong gomme ditshenyagalelo tša boemedi bjoo di swanetše go rwalwa ke masepala.
- (2) Boemedi bja semolao bjo bo ukangwago karolwaneng (1) bo swanetše go fiwa ka mokgwa wo o beilwego ke Lekgotla la Masepala.

56 **GO ROLELANA MAIKARABELO LE DIKWANO TŠEO DI DIRILWEGO LE GO TSENELWA KE MAKGOTLA A BOMASEPALA**

- (1) Go ya ka ditaelo tša *Molao wo*, goba molao ofe le ofe wo mongwe, Lekgotla la Masepala, ka go ngwala, le ka rolela boikarabelo go ya ka dikwano le mabaka ao le bonago a le maleba, *maatla afe goba afe, mešomo goba maikarabelo* ao a beilwego go Lekgotla ke *Molao wo*, goba *molao ofe goba ofe*, go -
  - (a) motho ofe goba ofe yo a šomelago Lekgotla;
  - (b) komiti efe goba efe, komiti ya ka tlase, boto goba mokgatlo wo o hlomilwego ke Lekgotla; goba
  - (c) lekgotla lefe goba lefe la Masepala.
- (2) Lekgotla la Masepala le ka tsenela dikwano le moabi ofe goba ofe wa mmušo goba wa poraebe, wa dipahlo goba ditirelo, go dira gore Lekgotla le kgone go phethagatša le go diriša *maatla a lona, mešomo le maikarabelo*.
- (3) Lekgotla la Masepala le swanetše go ba le registara ya ditholelo ka moka tša maikarabelo le dikwano tšeо di dirilwego le go tsenelwa go ya ka *Molao wo*.
- (4) Lebakeng la dikgwedi tše tshelelago tša go thoma go Lekgotla la Masepala le swanetše go lebelela gape ditholelo ka moka tša boikarabelo le dikwano tšeо di dirilwego le go tsenelwa ke lona go ya karolo ye.

57

**GO FIWA LE GO ROLELWA GA MAATLA, MEŠOMO LE MAIKARABELO GO MAKGOTLA A BOMASEPALA**

- (1) *Maatla, mešomo, le maikarabelo* ao a boletšwego **Skeduleng 3** sa Molekgotla-mogolo, *Leloko la Lekgotla-phethiši*, mmušo wa probentshe goba kgoro yeo e nago le boikarabelo bja merero ya mebušo ya selegae ka probentsheng, a fiwa goba a rolelwa Makgotla a Bomasepala ka kelo yeo e laeditšwego ka skeduleng se.
- (2) Go ya ka ditaelo tša *Molao wo*, goba *molao ofe goba ofe* o mongwe, *Leloko la Lekgotla-phethiši* le ka fa, goba la rolela maatla afe goba afe, mošomo, goba maikarabelo ao a filwego go ya ka *Molao wo*, goba *molao ofe goba ofe* go Molekgotla-mogolo, *Leloko la Lekgotla-phethiši*, mmušo wa probentshe goba kgoro yeo e rwelego boikarabelo bja mmušo wa selegae ka probentsheng, go Lekgotla la Masepala ka go fetola goba go tsenya ntlha ya maleba go **Skedule 3<sup>16</sup>**.
- (3) Go fiwa goba go rolelwa boikarabelo go ya ka karolo ye go ka dirwa mabapi le -
  - (a) bomasepala ba ba fapafapanego; goba
  - (b) dihlopha tše di fapafapanego, goba magoro a bomasepala.

58

**MAATLA A LELOKO LA LEKGOTLA-PHETHIŠI A GO FETOLA, GO FEDIŠA GOBA GO PHUMOLA DISKEDULE, DITLALELETŠO, DIHLOGO TŠA MATLAKALA, DIHLOGO TŠA DITABA LE DITLHALOSO**

- (1) *Leloko la Lekgotla-phethiši* le ka fetola, la fediša, goba la phumola skedule, tlaleletšo hlogo ya letlakala, dihlogo tša ditaba, goba tlhaloso.

<sup>16</sup>

Hlokomela gore go ya ka Karolo 156(4) ya Molaotheo le Dikarolo 10C(2)(b)(i)-(ii) le 10D(1)(b)(i)-(ii) tša Molao wa Mmušo wa Selegae wa Lebakanyana, go fiwa go rolelwa go gongwe le go gongwe ga maikarabelo go ka dirwa feela ge masepala -

- (a) o dumela;
- (b) o tla laola ka mokgwa wo o nago le dipelo kudu gomme o na le bokgoni bja go dira šoma goba go diriša maatla, mošomo goba maikarabelo;
- (c) o tlamilwe ka dinyakwa tše di lekanego; le gona
- (d) o ka tšwetša pele le go šoma ka mo go kgonegago goba go diriša *maatla, mošomo goba boikarabelo*.

- (2) Ge a na le maikemišetšo a go fetola, go fediša goba go phumola skedule, *Leloko la Lekgotla-phethiši* le swanetše go latela tsela yeo e ukangwago Karolong 6, ka diphetogo tše di ka nyakwago ke mabaka.

## 59 GO FEDIŠWA GA MELAO LE DIPEAKANYO TŠA LEBAKANYANA

- (1) Melao yeo e boletšwego **Skeduleng 1** e boeletšwa go ya ka kelo yeo e laeditšwego skeduleng se.
- (2) Dipeakanyo tša lebakanyaneng **Skeduleng 2** di swanetše go balwa le go dirišwa bjale ka taelo e kgolwane ya *Molao wo*.

## 60 DITLHALOSO

Molaong wo, ntle le gore go be le ditlhaloso tše dingwe go ya le mabaka .

- (a) "molao ofe goba ofe o mongwe" e akaretša molao wa setšo wa tlwaelo;
- (b) "melao-selegae" e akaretša mokgwa wa tshepetšo, goba tsela ya go šoma;
- (c) "*Mohlankedi-phethiši Mogolo*" e ra *Mohlankedi-phethiši Mogolo* yo a hlomilwego go ya ka Karolo 16;
- (d) "*Molaotheo*" e ra Molaotheo wa Repabliki ya Afrika Borwa, 1996 (Molao No 108 wa 1996);
- (e) "*mohlankedi yo a filwego maemo a itšego*" e ra motho yo a filwego maemo go ya ka Karolo 21;
- (f) "*morero wa mmušo wa selegae*", ka mabaka a Dikarolo 48 le 49, ga e akaretše go hlatloša, go ganetša goba go rerišana ka ga go kgethwa ga motho ofe goba ofe go lekgotla goba koporasi efe goba efe ya masepala, probentshe goba ya mmušo wa gare.
- (g) "*Molawana wa Mmušo wa Selegae*" e ra Molawana wa Mmušo wa Selegae, 1939 (Molao No 17 wa 1939), bjale ka ge o fetotšwe.
- (h) "*Molao wa Mmušo wa Selegae wa Lebakanyana*" e re Molao wa Mmušo wa Selegae wa Lebakanyana, 1993 (Molao 209 wa 1993), bjale ka ge o fetotšwe.

- (i) "Leloko la Lekgotla-phethiši", e ra leloko la maleba la Lekgotla-phethiši leo le rwelego boikarabelo bja Mmušo wa Selegae ka Gauteng.
- (j) "maatla, mešomo goba maikarabelo" e akaretša kgopolu ya "maatla le mešomo" bjale ka ge e ukangwa ka *Molaong-theo*, gomme "maatla le maikarabelo" bjale ka ge e ukangwa ka *Molaong wa Mmušo wa Selegae wa Lebakanyana*;
- (k) "laetšwego" e ra se se laetšwego go ya ka molao-tshepetšo gomme "laela" e na le tlhaloso yeo e swanago le yeo;
- (l) "lefelo la setšhaba", e ra tsela efe goba efe, mokgoba, lefelo la go feta, leporogo, leporogo la ka godimo, tsela ya ka tlase, moo go sepelago ba dinao, tsejana ya dinao, karolo yaa tsela, sekwaere, lefelo leo le bulegilego, serapa, phaka, tsejana, boema-pese goba boema-thekisi, goba lefelo leo le tswaleletšwego leo le laolwago ke masepala gomme le akaretša tsela efe goba efe, lefelo goba lefelo la go feta leo batho ba sa šitišwego go le diriša, goba leo batho ba nago le tokelo ya go le diriša;
- (m) "Molao-selegae wa tlwaelo", e ra *molao-selegae* wo o dirilwego ke *Leloko la Lekgotla-phethiši* go ya ka ditaelo tša Karolo 10 le 11; gomme
- (n) "Molao wo" e akaretša dinomoro tša karolo, diskedule le molao-tshepetšo ofe goba ofe, goba *molao-selegae* wo o ntšhitšitšwego goba o dirilwego go ya ka *Molao wo*, eupša ga e akaretše dihlogo tša matlakala, dihlogo tša ditaba, ditlhaloso le ditlaleletšo.

## 61 HLOGO E KOPANA LE GO THOMA

*Molao wo* o bitšwa *Molao wa Tekanetšo ya Merero ya Mmušo wa Selegae, 1997*, gomme o tla thoma go dirišwa letšatšing leo le tla bewago ka kgoeletšo ya probentshe, yeo e tla phatlalatšwago ka kuranteng ya probenthse.

# TLAELETŠO A

**MAATLA, MEŠOMO LE MAIKARABELO A BOMASEPALA GO  
YA KA MOLAOTHEO WA REPUBLIKI YA AFRIKA BORWA,**

**1996**

<b>KGAOLO</b>	<b>KAROLO</b>	<b>HLOGO YA KAROLO</b>
1	6(3)(b)	Maleme
3	41(1); (3) & (4)	Dintlha tša mmušo wa tirišano le dikamano magareng a mebušo
4	43(c)	Maatla a go dira melao a lehakore la mmušo wa selegae
4	44(i)(a)(iii)	Go fiwa maatla a go dira melao ya setšhaba
5	99	Go fiwa mošomo wa go dira melao ya setšhaba (ke ton)
6	104(1)(c)	Go fiwa maatla a go dira melao ya probentshe
6	126	Leloko la lekgotla-phethiši le fa lekgotla la masepala mošomi
7	139	Kobamelo ya mmušo wa selegae ke probentshe
7	151 <sup>17</sup>	Maemo a bomasepala
7	152	Dinepo tša mmušo wa selegae
7	153	Mešomo ya bomasepala ya tlhabollo
7	154	Bomasepala mmušong wa tirišano
7	155 <sup>18</sup>	Go hlongwa ga bomasepala

<sup>17</sup> Karolo ye e ya le ntlha 6 ya Skedule 6 sa Molaotheo

<sup>18</sup> Karolo ye e ya le ntlha 6 ya Skedule 6 sa Molaotheo

7	156 <sup>19</sup>	Maatla le mešomo ya bomasepala
7	157 <sup>20</sup>	Go bopa le go kgethwa ga Makgotla a Bomasepala
7	158	Maloko a Lektola la Masepala
7	159	Mabaka a mošomo a Makgotla a Bomasepala
7	160	Ditsela tša ka gare
7	161	Ditokelo
7	162	Go phatlalatšwa ga <i>melao-selegae</i> ya masepala
7	163 <sup>21</sup>	Mmušo wo o beakantšwego wa selegae
7	164 <sup>22</sup>	Merero e mengwe
9	188	Mešomo ya Molekodi-kakaretšo wa Dipuku
9	190	Mešomo ya Khamišene ya Dikgetho
10	195(1)&(2)	Mehola ya metheo le dintlha tšeо di laolago pušo ya setšaba
13	214 <sup>23</sup>	Karolelano ye e lekanago ya ditseka le kabelano
13	215 <sup>24</sup>	Ditekanyetšo tša mmušo wa gare, probentshe le bomasepala
13	216 <sup>25</sup>	Taolo ya tšelete
13	217	Tefelo ya batho bao ba swerego mešomo ya setšaba

<sup>19</sup> Karolo ye e ya le ntlha 6 ya Skedule 6 sa Molaotheo

<sup>20</sup> Karolo ye e ya ka ntlha 6 ya Skedule 6 sa Molaotheo.

<sup>21</sup> Karolo ye e kgonthiša gore melao ya maleba ya setšaba e swanetše go hlokomela temogo le mešomo yeo e lekaneditšwego ya mmušo wa selegae wo o beakantšwego ga botse.

<sup>22</sup> Karolo ye e hhalosa mellwane ya melao ya mmušo wa gare le wa probentshe mabapi le mmušo wa selegae.

<sup>23</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

<sup>24</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

<sup>25</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

13	218 <sup>26</sup>	Ditiišetšo tša mmušo
13	219	Tefelo ya bátho bao ba swerego mešomo ya setšhaba
13	226(3) <sup>27</sup>	Sekhwama sa Probentshe sa ditseka
13	227 <sup>28</sup>	Mehlodi ya Setšhaba ya ditseka tša mebušo ya probentshe le ya selegae
13	229	Maatla a taolo ya ditšhelete a Masepala, le mešomo
13	230 <sup>29</sup>	Melao ya probentshe le ya masepala
14	238	Go ba le mafapha le tholelo
14	239	Dithhaloso

<sup>26</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

<sup>27</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

<sup>28</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

<sup>29</sup> Tirišo ya karolo ye e fokotšwa ke karolo 243(5) ya Molaotheo.

Skedule 4	Karolo B	<p><b>Merero ye e latelago ya mmušo wa selegae, go ya ka kelo yeo e beilwego ka karolong 155(6)(a) le (7) -</b></p> <p><b>Tšhilafatšo ya moyo;</b>  <b>Melao-tshepetšo ya go aga;</b>  <b>Ditlabelo tša tlhokomelo ya bana;</b>  <b>Tshepetšo ya motlagase le kgase;</b>  <b>Ditirelo tša boraditima-mollo;</b>  <b>Boeti bja selegae;</b>  <b>Maema-fofane a masepala;</b>  <b>Peakanyo ya masepala;</b>  <b>Ditirelo tša masepala tša maphelo;</b>  <b>Dinamelwa tša setšhaba tša masepala;</b>  <b>Ditirelo tša setšhaba tša masepala tše di amago feela yinyakwa bomasepala go phethagatšweng ga maikarabelo a tšona a go laola mešomo yeo e tlogago e filwe bomasepala bao go ya ka Molaotheo wo, goba molao ofe goba ofe o mongwe;</b>  <b>Dithibela-meetse, diketswana, taolo ya kelelo ya meetse le maema-kepe, go sa akaretšwe taolo ya dikepe tša boditšhaba-tšhaba le tša setšhaba le merero yeo e amanago le tšona;</b>  <b>Taolo ya mananeo a tshepetšo ya meetse a pula ka mafelong ao a pitlaganego;</b>  <b>Melao ya kgwebo;</b>  <b>Ditirelo tša meetse le tša maphelo tše di fihlago ka kabomananeo a ya meetse a go rwalwa le meetse ao a šetšego a dirišitšwe ka magae, le mananeo a kelela-tšila.</b></p>
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Schedule 5	Karolo B	<p>Merero ye e latelago ya mmušo wa selegae go ya ka kelo yeo e beetšwego diprobentshe karolong 155(6)(a) le (7) -</p> <p>Dinolofatši tša Boitapološo le Mabopo; Dipapetla tša dipapatšo le ditaetšo tša dipapatšo ka mafelong a setšhaba; Dirapa tša bahu, mafelo a go boloka bahu le mafelo a go lorafatša bahu; Tlhwekišo; Taolo ya ditšhitšitišo tša setšhaba; Taolo ya bao ba rekišetšago setšhaba bjålwa; Dinolofatši tša go phutha, go hlokomela le go epelwa ga diphooftolo; Go dira magora; Dilaesentshe tša dimpša; Dilaesentshe le taolo ya bao ba rekišetšago setšhaba dijo; Dinolofatša tša dipapadi tša selegae; Mebaraka; Mahlabelo a masepala; Diphaka le mafelo a boitapološo a masepala; Ditsela tša masepala; Lešata; Bolotelo bja difatanaga; Mafelo a setšhaba; Go tlošwa ga ditlakala, go lahlwa ga ditlakala le go tlošwa ga tšhila; Kgwebo ya mekgobeng; Mabone a mekgobeng; Sephethepheth le go paka.</p>
Schedule 6	Ntliha 26	Dipeakanyo tša lebakanyana

# TLALELETŠO B

## MAATLA, MEŠOMO LE MAIKARABELO A BOMASEPALA GO YA KA MOLAO WA MMUŠO WA SELEGAE WA LEBAKANYANA, 1993

NTLHA A - MAKGOTLA A METSE-SETOROPA		
SERIPA/ SKEDULE	KAROLO	HLOGO YA KAROLO
SERIPA VI A	10C	Maatla le maikarabelo a makgotla a metse-setoropo le makgotla a metse-setoropo ya selegae
SKEDULE 2	1	Makgetho, Ditefelo le Dikabelo
	2	Dimpho le Diphetišetšo
	3	Maano a Kopantšwego a Tlhabollo
	4	Meetse <sup>30</sup>
	5	Kelela-tšhila <sup>31</sup>
	6	Motlagase <sup>32</sup>
	7	Ditsela <sup>33</sup>
	8	Ditirelo tša Tshepetšo ya Banamedi
	9	Merero ya Sephethephethe <sup>34</sup>
	10	Mebaraka ya Ditšweletšwa tše Foreše
	11	Dinolofatši tša go Lahla Ditlakala

<sup>30</sup> Karolo ye e amana le kabo ya senyakwa se ka bontši.

<sup>31</sup> Karolo ye e amana le kabo ya senyakwa se ka bontši.

<sup>32</sup> Karolo ye e amana le kabo ya senyakwa se ka bontši.

<sup>33</sup> Karolo ya senyakwa se e amana le go agwa le go hlokomelwga ditsela tše di tšwago goba di yago go tše kgolo.

<sup>34</sup> Karolo ye e amana le tomaganyo ya magareng a makgotla a metse-setoropo le go bewa ga maano-tshepetšo le boentšeneere bja ditsela.

	12	Dirapa tša bahu le mafelo a go lorafatša bahu
	13	Maema-fofane
	14	Dinolofatši tša Dipapadi
	15	Tšweletšo ya tša Boeti
	16	Ditirelo tša Masepala tša Maphelo
	17	Mahlabelo
	18	Ditirelo tša Boraditima-mollo le Masetlapelo
	19	Makgobapuku
	20	Dimusiamo
	21	Taolo ya Tikologo
	22	Mokgatlo wa Tirišo ya Molao wa Masepala

**NTLHA B - MAKGOTLA A METSE-SETOROPA A SELEGAE**

SERIPA/ SKEDULE	KAROLO	HLOGO YA KAROLO
SERIPA VI	10C	Maatla le maikarabelo a makgotla a metse-setoropo le metse-setoropo ya selegae
SKEDULE 2A	1	Go lokišwa ga ditshenyagalelo
	2	Leano leo le Kopantšwego la Tlhabolo
	3	Meetse <sup>35</sup>
	4	Kelela-tšhila <sup>36</sup>
	5	Motlagase <sup>37</sup>
	6	Ditsela
	7	Merero ya Sephethephethe
	8	Go Lahlwa ga Ditlakala
	9	Dirapa tša Bahu le Bolota-bahu
	10	Maema-fofane
	11	Makgobapuku

<sup>35</sup> Karolo ye e amana le mararankodia tirelo ye.

<sup>36</sup> Karolo ye e amana le mararankodia tirelo ye.

<sup>37</sup> Karolo ye e amana le mararankodia tirelo ye.

	12	Dinolofatši tša Boitapološo le Mabopo
	13	Ditšitišo tša Setšhaba
	14	Merero ya Tikologo
	15	Boeti
	16	Ditirelo tša Masepala tša Maphele
	17	Dipapetla tša Ditaetšo le Dipapatšo
	18	Taolo ya Meago
	19	Tlhwekišo
	20	Dilaesentshe tša Dikgwebo
	21	Diphoofolo
	22	Mebaraka
	23	Dithibela-meetse, Disepetša-meetse le Mabopo
	24	Kgwebo ya Mekgobeng
	25	Mabone
	26	Mafelo a Setšhaba
	27	Dithuthupi tša go Laetša Mello
	28	Dinolofatši tša Tlhokomelo ya Bana
	29	Mokgatlo wa Tirišo ya Molao wa Masepala

**NTLHA C - MAKGOTLA A DITEREKE, MAKGOTLA A SELEGAE,  
MAKGOTLA A DINAGA-SELEGAE LE MAKGOTLA A  
BAEMEDI**

SERIPA/ SKEDULE	KAROLO	HLOGO YA KAROLO
SERIPA VI	10D	Maatla le maikarabelo a makgotla a ditereke <sup>38</sup> , makgotla a selegae, le makgotla a baemedi

**NTLHA D - BOMASEPALA KA MOKA**

SERIPA/ SKEDULE	KAROLO	HLOGO YA KAROLO
SERIPA VI	10G	Merero ya Ditšelete
	10H	Ditiro tše dingwe tša maloko a lekgotla goba badiredi ba bomasepala le tša batho ba bangwe gape, di a iletšwa
	10I	Go fiwa ga tshedimošo

<sup>38</sup>

Ka probentsheng ya Gauteng taelo ye dirišwa go makgotla a ditirelo le makgotla a dinaga-magae.

**SKEDULE 1****MELAO YE E FEDISITŠWEGO KA****KAROLO 59**

<b>Nomoro le ngwaga wa molao</b>	<b>Hlogo e kopana</b>	<b>Bogolo bja phedišo</b>
58 wa 1903	Molawana wa Koporasi ya Masepala, 1903	Ka moka
506 wa 1937	Tsebišo ya Balaodi - Melao-tshepetšo ya Dipušo tša Selegae ya Konalo	Ka moka
17 wa 1939	Molawana wa Mmušo wa Selegae, 1939	Ka moka
13 wa 1958	Molawana wa Mekgatlo ya Setšaba (Leleme), 1958	Ka moka
21 wa 1958	Taolo ya Mmušo wa Selegae	Ka moka
40 wa 1960	Molawana wa Mmušo wa Selegae (Taolo le Dikgetho), 1960	Ka moka
15 wa 1981	Lekgotla-toropo la Midrand, 1981	Ka moka
24 wa 1986	Molawana wa Ditikologo tša Mmušo wa Selegae, 1986	Ka moka
22 wa 1988	Kgoeletšo ya Taolo - Phetošo ya Molawana 40 wa 1960	Ka moka
23 wa 1988	Kgoeletšo ya Taolo - Melao-tshepetšo yeo e lego mabapi le go hlongwa ga Komiti ya Maphele	Ka moka

## SKEDULE 2

### DIPEAKANYO TŠA LEBAKANYANA

#### 1 MOLAWANA WA MMUŠO WA SELEGAE, 1939

- (1) Le ge o fedišitšwe, ditaelo tša *Molawana wa Mmušo wa Selegae* di tla tšwela pele go šoma, go fihla ge o fotošwa goba di fedišwa ke *Molao wo*, goba *molao ofe goba ofe* o mongwe, ntle le dikarolo tše di latelago -

1; 5, 8; 34; 35; 36; 41; 47A; 53; 54; 57; 62; 65; 70; 72; 77; 78 79; bis; 79 ter; 79 quat; 79 sext; 89; 90; 91; 92; 93; 94; 95; 96; 96 bis; 97; 98; 99 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118 bis 119; 120; 121; 122; 123; 124; 125; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 161; 162; 164A; 165; 166; 173.

- (2) Kgato e nngwe le e nngwe yeo e tšewago go ya ka ditaelo tša *Molawana wa Mmušo wa Selegae* tše go sa bolelwago ka ga yona ntlhaneng ya (1)<sup>39</sup> e tšewa go ba ye e tšerwego go ya ka *Molao wo*, gomme e tla tšwela pele go ba ya maleba goba ba le maatla le khuetšo, ntle le ge e sa sepelelane<sup>40</sup> le *Molao wa Mmušo wa Selegae wa Lebakanyana, Molao wo, goba molao ofe goba ofe*.

#### 2 MOLAWANA WA MMUŠO WA SELEGAE (DIKGETHO LE TAOLO), 1960

- (1) Le ge o fedišitšwe, ditaelo tša *Molawana wa Mmušo wa Selegae (Dikgetho le Taolo)*, 1960, di tla tšwela pele go dirišwa go fihla ge di fotošwa goba di di fedišwa ke *Molao wo*, goba *molao ofe goba ofe o mongwe*, ntle le dikarolo tše di latelago - 3-50; 51 62; 62A; 62B; 63(1)-{19} le (20); 63A; 64; 65; 67; 69; 70; 70 bis; 71.

<sup>39</sup> Ka lebaka leo ditaelo tša maleba ke -  
2; 3, 4; 6; 7; 9; 9A; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 37; 38; 38A; 39; 40; 42; 43; 44; 45; 46; 47; 48; 48A; 49; 50; 50A; 50B; 51; 52; 55; 56; 58; 59; 60; 61; 63; 64; 65bis; 66; 67; 68; 69; 71; 73; 74; 75; 76; 79; 79quin; 79; 79sept; 80; 80A; 80B; 81; 82; 83; 83A; 84; 85; 86; 87; 88; 104bis; 105; 106; 107; 109; 110; 111; 112; 113; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 150; 152; 153; 155; 158; 159; 159bis; 160; 163; 167; 168; 169; 169bis; 170; 170ter; 171; 171bis; 171ter; 171quat; le 172.

<sup>40</sup> Go feta moo, magato ao a tšerwego e ka sebe ao a sa sepelelanego le Molaotheo.

- (2) Kgato e nngwe le e nngwe yeo e tšewago go ya ka ditaelo tša *Molawana wa Mmušo wa Selegae (Dikgetho le Taolo)*, 1960, tšeо go sa bolelwago ka ga tšona ntłhaneng (1)<sup>41</sup> e tšewa bjale ka yeo e tšerwego go ya ka *Molao wo*, gomme e tla tšwela pele go ba ya maleba goba ya ba le maatla le dipuelo, ntłe le ge e sa sepelelane le *Molao wa Mmušo wa Selegae wa Lebakanyana*, *Molao wo*, goba *molao ofe goba ofe o mongwe*.

### **3 DITAELO TŠA KAKARETŠO**

- (1) Kgato efe goba efe e nngwe yeo e tšerwego go ya ka taelo efe goba efe yeo e boeletšwago ke *Skedule 1* -
- (a) e tšewa go ba yeo e tšerwego go ya le taelo yeo e sepelelanago le ýona, ya *Molao wo*; le gona
  - (b) e tšwela pele go ba ya maleba le go ba le dipuelo -
  - (i) ntłe le ge e sa sepelelane le *Molao wa Mmušo wa Selegae wa Lebakanyana*, goba le *Molao wo*; goba
  - (ii) go fihla ge o fedišwa go ya ka *Molao wo*, goba *molao ofe goba ofe o mongwe*.
- (2) Ka mabaka a ntłha ye le ntłha 1(2) le 2(2) mantšu "magato ao a tšerwego" a akaretša go ntšha melao-tshepetšo, go dira *melao-selegae*, go tšeya magato a taolo goba a mangwe, go tsenela dikwano tšeо di tlišago boikarabelo le go tšeya goba go emelela magato afe goba afe a semolao, ao a amago melato ya bosenyi goba ya leago, goba magato afe goba afe a mangwe.

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Ka lebaka leo ditaelo tša maleba ke -  
1;52;53;54;55;56;57;58;59;60;61;63(20);66;68.

## SKEDULE 3<sup>42</sup>

# GO FIWA LE GO ROLELWA GA MAATLA, MEŠOMO LE MAIKARABELO GO MAKGOTLA A BOMASEPALA

NTLHA A - MOLAWANA WA MMUŠO WA SELEGAE, 1939		
SERIPA 1 - MOŠOMO		
KAROLO	HLOGO YA KAROLO	BOGOLO BJA MOŠOMO
19(7)	Diputseletšo tša ratoropo motlatša-ratoropo le balekgotla	Ka moka
64(1)	Go beela ditsha thoko ka morero wa go aga meago ya setšhaba goba meago ya masepala	Ka moka
65(bis)(4)(b)	Ditsela tša difatanaga tša setšhaba, mafelo a go ema le ditsha	Ka moka
76(6) & (9)(b)	Go tswalelwa mokgoba go-ya-go-ile goba go fapošwa ga mokgoba	Ka moka
69(1)(a)	Go bewa dinomoro ga dintlo le go rewa maina ga mafelo a setšhaba	Ka moka
71(2)	Maatla a go hloma mafelo a bobolokelo bja difatanaga tše di thopilwego	Ka moka
79(9)(bis)	Maatla ka kakaretšo	Ka moka
79(10)	Maatla ka kakaretšo	Ka moka
79(28)	Maatla ka kakaretšo	Ka moka
79(33)	Maatla ka kakaretšo	Ka moka -ntle le 79(33)(b)(ii)
79(42)	Maatla ka kakaretšo	Ka moka
79(53)	Maatla ka kakaretšo	Ka moka

<sup>42</sup> Dikagare tša Skedule se di sa ile go amogelwa ke GALA, le mo go lego maleba ke bomasepala bao ba angwago.

80B (4)(b) (i)	Peo, phetošo goba kgomišo a tatofatšo ka kwano ye e sego ya mehleng.	Ka moka
81(1)(c)	Mešomo ya kabo ya meetse	Ka moka
81(1)(d)	Mešomo ya kabo ya meetse	Ka moka
81(1A)	Mešomo ya kabo ya meetse	Ka moka
81(2)	Mešomo ya kabo ya meetse	Ka moka
83(1)(bis)	Mešomo ya kabo ya mabone, phišo, le maatla	Ka moka
83(3)(a)	Mešomo ya kabo ya mabone, phišo, le maatla	Ka moka
83(4)	Mešomo ya kabo ya mabone, phišo, le maatla	Ka moka
83A(1)	Mapheko a tirišo ya meetse le motlagase	Ka moka
104(bis)	Maatla a pušo ya selegae a go bebefatša dinyakwa tša melao-selegae ya go aga, goba go efoga kobamelo ya tšona	Ka moka
131(5)	Maatla a mangwe ao e sego a mehleng a makgotla a ditoropo	Ka moka
131(17)	Maatla a mangwe ao e sego a mehleng a makgotla a ditoropo	Ka moka
133	Maatla a go go sepetša kelela-tšhila le meetse ao a elago	Ka moka
142(1)(b)	Maatla a go phethagatša mešomo ya kelelo ya meetse mabung a poraebete goba lefelong, goba go dira ditšhišinyo mabapi le tšeо	Ka moka
155(1)	Taolo ya tsa maphelo mešomong ya ka godimo goba ka tlase ga meepo	Ka moka

**SERIPA 2 - THOLELO**

<b>KAROLO</b>	<b>HLOGO YA KAROLO</b>	<b>BOGOLO BJA THOLELO</b>
79(16)	Maatla ka kakaretšo	Ka moka
79(17)(e)	Maatla ka kakaretšo	Ka moka
79(18)(e)	Maatla ka kakaretšo	Ka moka
79(18)(f)(aa)	Maatla ka kakaretšo	Ka moka
79(18)(f)(bb)	Maatla ka kakaretšo	Ka moka
79(18)(h)(bb)	Maatla ka kakaretšo	Ka moka
79(24)(c)	Maatla ka kakaretšo	Ka moka
80A(b)(ii)	Go akaretšwa ka melaong-selegae, ga ditlhaloso, melao-tshepetšo le dingwalwa tše dingwe ka taetšo	Ka moka
83(1)(c)(i)	Mešomo ya kabo ya mabone, phišo le maatla	Ka moka

**NTLHA B - MMUŠO WA SELEGAE (MOLAWANA WA TAOLO LE DIKGETHO), 1960****SERIPA 1- GO FIWA GA MOŠOMO**

<b>KAROLO</b>	<b>HLOGO YA KAROLO</b>	<b>BOGOLO BJA GO FIWA GA MOŠOMO</b>
57(6)(b)	Mešomo ya Komiti ya Mešomo	Ka moka

**SERIPA 2 - THOLELO**

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**NTLHA C - MOLAWANA WA SEKHWAMA SA DITSEKA TŠA  
TLHABOLLO YA DIPUŠO TŠA SELEGAE, 1978****SERIPA 1 - GO FIWA GA MOŠOMO**

KAROLO	HLOGO YA KAROLO	BOGOLO BJA GO FIWA GA MOŠOMO
....	....	....

**SERIPA 2 - THOLELO**

3	Tirišo ya Sekhwama	Ka moka
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**NTLHA D - MOLAWANA WA KELO YA DIPUŠO TŠA SELEGAE, 1977****SERIPA 1 - GO FIWA GA MOŠOMO**

KAROLO	HLOGO YA KAROLO	BOGOLO BJA GO FIWA GA MOŠOMO
7(1)	Go hloma modiri wa kelo	Ka moka
7(2)(a)(i)	Go hloma modiri wa kelo	Kamoka
14(1)	Go hlamela pušo ya selegae Boto ya Dikelo	Ka moka
14(2) & (3)	Go hlamela pušo ya selegae Boto ya Dikelo	Ka moka
14(10)	Go hlamela pušo ya selegae Boto ya Dikelo	Ka moka
14(11)	Go hlamela pušo ya selegae Boto ya Dikelo	Ka moka
20(4)	Mabapi le: theeletšo le sepetho sa boto ya diaphili tša dikelo	Ka moka
21(2)	Tekanyo ya kakaretšo le pušetšo ya yona	Ka moka

**SERIPA 2 - THOLELO**

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**NTLHA E - MOLAWANA WA GO TLOŠWA GA MABITLA LE DITOPO,  
1925****SERIPA 1 - GO FIWA GA MOŠOMO**

KAROLO	HLOGO YA KAROLO	BOGOLO BJA GO FIWA GA MOŠOMO
2(1)	Ditopo ga se tša swanelo go tlošwa ntłe le tumelelo	Ka moka

**SERIPA 2 - THOLELO**

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# MEMORANDAMO WA DITLHALOSO

## TŠEO DI AMAGO MEMORANDAMO

- 1 Mathomong a ngwaga wo, *Leloko la Lekgotla-phethiši* (MEC), leo le rwelego boikarabelo bja merero ya mmušo wa selegae le ile la hloma Sehlopha-tšhomo la Sepolitiki, seo se ilego sa fiwa boikarabelo bja go hlama molao wo o lego mabapi le lehlakore la selegae la mmušo. Sehlopha-tšhomo sa Sepolitiki se be se hlamilwe ka maloko ao a hweditšwego go tšwa mahlakoreng ao a fapafapannego a dipolitiki.
- 2 Sehlopha-tšhomo sa Sepolitiki se ile sa ba le Sehlopha-tšhomo sa go Hlama Melao sa Botegniki, seo se hlamilwego ka bahlankedi ba go tšwa Kgorong ya Peakanyo le Mmušo wa Selegae, baeletši bao ba hlomilwego ke Kgoro ya Peakanyo le Mmušo wa Selegae, le baemedi ba Mokgatlo wa Gauteng wa Dipušo tša Selegae (Gauteng Association of Local Authorities - GALA). Mošomo wa sehlopha se e bile go hlama molao wa maleba go ya ka ditaelo tša Sehlopha-tšhomo sa Sepolitiki.
- 3 Kopanong ya mošomo yeo e bego e biditšwe ke Sehlopha-tšhomo sa Sepolitiki ka Matše lenyaga, go ile gwa lemogwa maikemišetšo ao a hlalositswego, a Tona yeo e rwelego boikarabelo bja Mmušo wa Selegae le Merero ya Diprobentshe, a go hlama leano la yona go ya mafelelong a 1997, (gomme molao wa setšhaba o tla latela morago ga moo) le bohlokwa bja tlhabollo ya leano-tshepetšo la probentshe mabapi le mmušo wa selegae. Go ya le seo, go ile gwa tšewa sephetho sa gore go dirwe kgopelo ya tsebagatšo ya Molao-kakanywa wo o swaraganego feela le merero yeo e bego e ama ka bjako photošo ya mmušo wa selegae le go abja ga ditirelo tša masepala.
- 4 Ka go riale, Molao-kakanywa wo ke magato a lebakanyana (molao wa phetišetšo) go lekanetša motheo wa hlamo ya melao le taolo, woo bomasepala ba šomago ka gare ga wona, ga bjale.
- 5 Sehlopha-tšhomo sa Sepolitiki le Sehlopha-tšhomo sa go Hlama Melao sa Botegniki di be di gopola ka mabaka ka moka gore go na le melao e mentši, yeo tirišo ya yona e tlišitšego diphošo, go se šome ka kgopoło e tee, le boitshwaro bja mathata go ya ka molaotheo lehlakoreng la mebušo ya diprobentshe le bomasepala. Le ge go le bjale, melaong ye, *Molaotheo<sup>43</sup>*, *Molao wa Mmušo wa Selegae wa Lebakanyana*, *Molawana wa Mmušo wa Selegae*, le Molawana wa Mmušo wa Selegae (Taolo le Dikgetho), 1960, e elwa šedi Molaong-kakanywa wo. Godimo ga moo go swanetše go lemogwa gore Molao-kakanywa wo, o swaragane feela le merero yeo e bago gona ka lebaka la tirišo ya melao yeo e amanago le kgonagatšo ya lenaneo la photošo ya lehlakore la selegae la mmušo. Go lebeletšwe gore

merero ka moka e mengwe e tla dira seo go rerwago ka ga yona melaong yeo e latelago e lego yeo e akaretšago merero e mentši gomme e le yeo e hhaloswago ke mananeo a maano a mmušo e le a mahlakore a probentshe le a ka moso a go hloma melao ya setšhaba yeo e bušago bomasepala.

6. Merero yeo go swanetšego go swaraganwa le yona ka Molaong-kakanywa wo e dumelatšwe ke Kgoro ya Peakanyo le Mmušo wa Selegae, Sehlopha-tšhomo sa Sepolitiki le GALA. Dintlha tše di ilego tša elwa šedi ge go go kgethwa merero ye, *magareng a tše dingwe*, e bile
  - (a) dintlha tše di diegišago kopanyo ya mohola le momagantšo ya dikarolo tša mmušo wa selegae;
  - (b) nyakego ya go oketša lebelo la tekanetšo le diphethošo ka lehlakoreng la selegae la mmušo;
  - (c) ditšhitiošo kabong ya ditirelo tša masepala;
  - (d) nyakego ya go fa bomasepala maatla a go laola merero yeo go se nago melao yeo e e laolago; le
  - (e) nyakego ya tsenya bomasepala moyo wa *Molaotheo* ge ba sepetsa merero ya bona.
7. Se se latelago ka mo tlase ke kakaretšo ya dikagare tša Kgaolo e nngwe le e nngwe.

### **KGAOLO 1**

### **MORERO LE TIRIŠO**

8. Karolo 1 e hhalosa morero wa Molao-kakanywa, e lego go lekanetšamoteho wa go hlama melao le taolo, woo bomasepala ba šomago ka go wona, le go kgonagatša diphetogo lehakoreng le la mmušo.
9. Temana ya morero e "tsebagatša" gape le tebelelo ye e itšego ya Molao-kakanywa gomme e na le "kgoeletšo ya maikemišetšo" yeo e fago kgopoloy a mehuta ya magato ao a tla tšewago go kgonagatša diphetošo tša bomasepala.
10. Karolo 2 beya ditaelo tša Molao-kakanywa wo ka mokgwa wo e lego gore tirišo ya wona le tlhaloso ya wona di a kwala, di a aga le gona di na le morero.

**KGAOLO 2 MAEMO, MAATLA, MEŠOMO LE MAIKARABELO A  
BOMASEPALA**

- 11 Karolo 3 e kgonthiša go ba gona go go tšwelago pele ga bomasepala ka moka, go sa setšwe melao yeo ka yona e hlamilwego gomme ka lebaka la seo e lokiša tsela ya go fedišwa ga melao yeo ntle le go ama maemo a Lekgotla la Masepala leo le hhlomilwego go ya ka melao yeo. Godimo ga moo e tiisetša boitsebišo bja bomasepala bja go kgora go dira mešomo ya bona ya melao.
- 12 Go ya karolo 23A ya Kgoeletšo 5 ya 1995, bjale ka ge e fetotšwe, gomme e balwa le karolo 10 ya Molao wa *Mmušo wa Selegae wa Lebakanyana*, Molekgotla-mogolo o hlomile makgotla ka bobedi a lebakanyana a baemedi le dikomiti tša mafelo a selegae (ao ka bobedi bja wona a bego a beilwe ka tlase ga taolo ya lekgotla la tirelo). Dikomiti tše tša mafelo a selegae di be di hlometšwe go emela dikwa tša moswana-nnoši tša makgotla a peleng a metsesetoropo (Peri-urban areas). Le ge go le bjale, motheo wo o kwalago wa go tšwela pele ga tšona ka molao go swanetše go kgonagatšwa go ya pele. Se se ka dirwa ka go fetosetša dikomiti tša mafelo a selegae go makgotla a lebakanyana a baemedi. Se, se be se ka se elwe šedi Molaong wo, ka lebaka la history ya go hlongwa ga tšona. Lebakeng la moo, Kgoro ya Peakanyo le *Mmušo wa Selegae* e na le maikešetšo a go diriša thušo ya ditaelo tša karolo 10N tša *Molao wa Mmušo wa Selegae wa Lebakanyana*. Se, se tla ama go fetoswa ga Kgoeletšo ye e angwago.
- 13 Go ya le ka moo kopanyo goba go momaganywa ga ditoropo tša "kgale" le ditoropokgolo e bakilego mabošaedi dikamanong tša magareng a bomasepala ba baswa, Karolo 4 e hlameršwe go beakanya dikamano tše ka mokgwa wa maswanedi.
- 14 Ge e balwa le tlhaloso ya "*maatla, mešomo goba maikarabelo*", Karolo 5 .
- (a) e bopaganya maatla a bomasepala;
- (b) e fa bomasepala "maatla a setlogo" mabapi le merero ya mmušo wa selegae yeo e sa tlogelwago bokgoning bja yona goba ya fiwa goba ya rolelwaa lehlakore le lengwe la mmušo. Le ge go le bjale, maatla a ga a bope maatla-magolo a mafelelo ka ge a laolwa ke molao o mongwe wo o laolago merero ya mmušo wa selegae.

**KGAOLO 3 MELAO-SELEGAE MELAO-SELEGAE, YA TLWAELO LE MELAO-TSHEPETŠO**

- 15 Kgaolo ye e hlalosa tsela ya go dira le go ntšha *melao-selegae*, *melao-selegae* ya *tlwaelo* le melaotshepetšo. Ditsela tše di dirilwe ka mokgwa wo o kgonthišago ponagalo le gona wo o hlohlaleletšago go kgatha tema ga batho lenaneong la go dira melao. Bao ba rwelego

boikarabelo bja go dira le go ntšha *molao-selegae le molao-selegae ya tlwaelo* ba gapeletšega go dira gore e hwetšagale, gore batho ba kgone go ntšha maikutlo a bona le gona ba swanetše tšeya magato a go dira gore maloko a setšaba a kgone go ntšha maikutlo.

- 16 Go dirilwe gape tokisetšoka Molaong-kakanywa wo, ya gore mmušo wa probentshe o kgathe tema ya thekgo le ya tekolo mabapi le molao yero e direlwago bomasepala. Go ya ka **Karolo 7, Leloko la Lekgotla-phethiši** le ka šišinya go Lekgotla la Masepala gore le dire *molao-selegae*, ge **Leloko la Lekgotla-phethiši** le na le kgopolo ya gore *molao-selegae* woo o bohlakwa kgabong ye e atlegago le ya bokgoni, ya ditirelo tša masepala.
- 17 Godimo ga moo, tsela ya go seka-seka *molao-selegae* e butšwe go hlolleletša le go gonthiša mpshafatšo le phetošo ye e tšwelago pele ya molao ya masepala.

#### **KGAOLO 4**

#### **MERERO YE E AMANAGO LE BAŠOMEDI**

- 18 Kgaolo ye e lego mabapi le merero ye e amanago le bašomedi e gapeletša Lekgotla la Masepala go
  - (a) thwala *Mohlankedi-phethiši Mogolo*; le
  - (b) go lekanetša le go hloma dikema tša go leka-lekanyetša dikwano le mabaka a lona a go thwala bašomi le mehola e mengwe ya thwalo ya bašomi.

#### **KGAOLO 5**

#### **BAHLANKEDI BAO BA FILWEGO MAEMO A ITŠEGO, GO PHETHAGATŠWA GA MOŠOMO, DITEKOLO, DITSELA TŠA KOBAMELO LE MELATO**

- 19 Kgaolo ye e lebelela mokgwa woo ka wona bomasepala ba šomago, gomme e šoma feela ge melao yeo e fago tumelelo ya go phethgatšwa ga mošomo goba tekolo ga e na ditokišetšo, bjale ka ge di laetšwe ka Kgaolong ye.
- 20 Melao ye e lego gona e na le ditaelo tše ntši kudu, tšeо e lego gore ge di ka hloliwa , di ka phumolwa ka mabaka a go gataka ditokelo tša molaotheo. Ke ka lona lebaka leo kgaolo ye e beyago maemo a boitshwaro, go kgonthiša tshepelelano le molaotheo. Go bonala kgaolo ye e tla ba le khuetšo ye e bonalago mabapi le ka moo bomasepala ba sepetšago ditiro tše, go aba ditirelo le go di beya maemong ao a nyakegago.
- 21 Go dirilwe ditokišetšo ka Kgaolong ye, tša go hwetša mangwalo a go fa tumelelo, go fokotša

magato ao a tšewago ntle le mangwalo a go fa tumelelo, go ntšhwa ga ditsebišo tša kobamelo bjale ka kgato ya tokiso, e sego go ithekga feela ka go tšeya kgopolu ya gore batho ke disenyi.

**KGAOLO 6****GO HWETŠWA GA DIPHAHLO LE DITIRELO KE BOMASEPALA**

- 22 Kgaolo ye e nyaka go laola ka bokaone mananeo a dithendara. Ditsela tša yona di bewakanyeditšwe go kgonthiša ponagalo le go tšweletša tlhabollo le maatlafatso.
- 23 Go dirilwe ditokišetšo tša gore *Leloko la Lekgotla-phethiši* le beye boleng bja diphehlo le ditirelo tšeо ka tšona lenaneo la kgoparara la dira dithendara le swanetšego le obamelwe. Le ge go le bjale, mabakeng a tšhoganetšo, nyakego goba go ba le moabi a nnoši, Lekgotla la Masepala le ka tšeya sephetho sa go se obamele lenaneo le, eupša le tla swanela ke go hhalosetša batho lebaka leo ka lona le kgethilego go dira bjale.
- 24 Lenaneo la kgoparara la go dira dithendara le akaretša go kwalakwatša ga dithendara, go hhalosa dintla tša dithendara ka botlalo le lebaka leo ka lona thendara e tla dulago gore e lekolwe le go dumelela batho go lekodiša lenaneo leo.
- 25 Dikatološo, diphetošo le ditla-morago tša badira-dithendara bao ba sa sepelelanego le mabaka a beilwego, le bona ba a lebeledišwa ka Molaong-kakanywa wo.
- 26 Go dirilwe tokisetšo ya go dira aphili go Lekgotla la Diaphili tša Khwetšo ya Dipahlo le Ditirelo, go swaragana le diphaphano ka moka tšeо di tsogago mabapi le lenaneo la khwetšo ya dipahlo le ditirelo.
- 27 Go dirilwe gape tokisetšo ya go hlongwa ga Komiti ya Khwetšo ya Dipahlo le Ditirelo. Ga botse-botse, mošomo wa Komiti ye ke go kgatha tema ya thekgo le ya go kgonagatša bokgoni bja Lekgotla la Masepala.

**KGAOLO 7****MAPHEKO A PHIHLELELO YA MAFELU A SETŠHABA KA MERERO A POLOKEGO LE TŠHIRELETŠEGO**

- 28 Kgaolo ye e swaragane le a mangwe a matsapa ao a nyakegago kudu thibelong ya bosenyi, e lego go beya mapheko a phihlelelo ka mafelong a setšhaba, go swana le ditsela, diphaka, mafelo a go feta, bjale, bjale. Ga bjale ga go motheo wa molao wo o lego gona, woo taba ye e ka šongwago ka wona. Kgaolo ye e hlamilwe go laola ka maleba mapheko a mohuta woo ka go dumelela bomasepala go beya mapheko a phihlelelo go ya ka matsapa a bona;

goba go fa batho, mekgatlo goba makgotla maatla a go beya mapheko, ge e le gore go hweditšwe maatla ao a nyakegago a hweditšwe ka mokgwa wa maleba.

**KGAOLO 8****MERERO YE E FAPAFAPANEKO**

29 Kgaolo ye e swaragane le merero ye e latelago -

- (a) go hlongwa ga Khomišene ya Masepala ya go dira Dinyakišišo. Karolo 48 e hhalosa mabaka ao ka wona e ka hlongwago gomme e laela gore Molao wa Probentshe ya Gauteng wa Dikhomišene, 1997, o diriše ga Khomišeneng.
- (b) go bitšwa ga theeletšo ya bohlatse ya phatlalatša. Karolo 49 e fa maloko a setšhaba maatla a go laela Lekgotla la Masepala go bitša theeletšo ya bohlatse bja phatlalatša.

Go dirilwe gape tokišetšo ya gore *Lekgotla la Masepala* le beye ditsela tše di lego maleba theeletšong yeo ya phatlalatša.

- (c) maatla a *Leloko la Lekgotla-phethiši* go ntšha ditaelo tša keletšo mabakeng ao Makgotla a Bomasepala a sa kago a kgora go phethagatša maikarabelo a wona; le
- (d) maatla a *Leloko la Lekgotla-phethiši* a go ntšha ditsela tša tlhahlo tša go thuša Makgotla a Bomasepala go diriša maatla a wona a go šoma.

**KGAOLO 9****DITAELO TŠA KAKARETŠO**

- 30 Kgaolo ye e swaragane le dintlha tše di fapafapanego tše di šongwago ka go lekana ka Melaong-kakanywa e mentši, go swana le dikotlo, mapheko le phokotšo ya boikarabelo, boemedi bja molao, go fiwa mešomo le go rolelwa mešomo, diphedišo le dipeakanyo tša lebakanyana, ditlhaloso, dihlogo tše kopana, bjale- bjale.
- 31 Mabapi le go fiwa mešomo goba go rolelwa *maatla, mešomo le maikarabelo*, Karolo 57 bjale ka ge e balwa le Skedule 3, e tšwetša pele lenaneo la go beya bokgoni bjo bonwe ka maleba go lehlakore la selegae la mmušo.
- 32 Mabapi le diphedišo le dipeakanyo tša magareng, go swanetše go hlokomelwra gore *Molawana wa Mmušo wa Selegae* o tla fedišwa. Le ge go le bjale, bjale ka magato a lebakanyana, dikarolo tše di fapafapanego di tla tšwela pele go dirišwa, ge go sa letetšwe go fetošwa, goba go fedišwa ga tšona.

## TLHALOSO YA TEMANA-KA-TEMANA

### **Temana 1**

Temana ye e hhalosa morero wa Molao-kakanywa, e lego go lekanetša motheo wa go dira melao le wa taolo wa Mmušo wa Selegae.

### **Temana 2**

(1) Thaloso ya Molao-kakanywa e swanetše go sepelelana le morero le mohola wa wona.

(2) Molao-kakanywa wo o tla hhaloswa ka mokgwa wo o ka se o thulantšego le molao ofe goba ofe o mongwe.

(3) Ditaelo tša Molao-kakanywa wo di tla dirišwa lebakeng la thulano le molao ofe goba ofe o mongwe, ntle le Molaotheo le Molao wa Mmušo wa Selegae wa Lebakanyana.

### **Temana 3**

Lekgotla le lengwe le le lengwe la masepala, leo le blomilwego go ya ka Molao wa Mmušo wa Selegae wa Lebakanyana le tla gomarela maemo a lona gomme la tšewa bjale ka leo le ikemetšego.

### **Temana 4**

(1) Lekgotla la masepala leo le goeleditšwego bjale ka toropokgolo le tla gomarela maemo ona ao.

(2) Lekgotla la metse-setoropo leo le nago le toropokgolo yeo e goeleditšwego ka tikologong yeo e welago taolong ya lona, le tla ba le maatla ka moka le maikarabelo a toropokgolo go ya ka molao ofe goba ofe.

(3) Lekgotla la masepala leo le goeleditšwego bjale ka toropokgolo le ka laetša maemo a lona leineng la lona le dingwalweng dife goba dife tša lona.

### **Temana 5**

(1) Maatla, mešomo le maikarabelo a lekgotla la masepala go ya ka Molao-kakanywa wo, a tla ba godimo ga ao a filwego ke Molaotheo le Molao wa Mmušo wa Selegae wa Lebakanyana.

- (2) Temana ye e šupa Dittaleletšo A le B tšeо di nago le a mangwe a maatla le maikarabelo a makgotla a bomasepala.
- (3) Lekgotla la masepala le ka diriša maatla afe goba afe goba la dira mošomo ofe goba ofe mabapi morero wo o lego bohlokwa gore le kgone go phetha maikarabelo a lona ka mohola.
- (4) Lekgotla la masepala le ka tšeya kgato efe goba efe yeo e lego bohlokwa go fihlelela morero wa Molao-kakanywa wo.
- (5) Lekgotla la Masepala le ka diriša maatla ka moka goba la dira mošomo ofe goba ofe mabapi le merero ya mmušo wa selegae yeo e sa ntšhwago mešomong yeo e filwego goba e roletšwego lehlakore lefe goba lefe la mmušo.
- (6) Lekgotla la masepala le ka dira le go laola melao-selegae go le kgone go diriša maatla a lona le maikarabelo ka mohola.

### **Temana 6**

- (1) Gore le dire molao-selegae, lekgotla la masepala le swanetše go fetiša kwano yeo e tsebagatšago maikemišetšo a lona a go dira bjale.
- (2)
  - (a) Maikemišetšo ao a swanetše go phatlalatšwa ka mokgwa wa tsebišo ka Kuranteng ya Probentshe le ka mekgwa e mengwe ya dikgokagano.
  - (b) Temana ye e nnyane e na le ditthaloso mabapi le seo se swanetšego go ba ka tsebišong yeo.
  - (c) Ditherišano le dihlopha dife goba dife tšeо di nago le kgahlego di ka swarwa pele go ka dirwa molao-selegae woo.
  - (d) Maikutlo ao a amogetšwego a swanetše go elwa šedi pele go ka dirwa molao-selegae.
- (4) Go šitwa ga Lekgotla la Masepala go dira molao-selegae lebakeng la **ngwaga morago** ga tsebagatšo yeo go tla dira gore tsebišo yeo e se sa ba le mohola.
- (5) Ditsela tša go dira molao-selegae di ka se dirišwe moo molao-selegae woo o swanetšego go hlangwa ntle le tiego le moo phošo e swanetšego go lokišwa.
- (6) Ditsela tša go dira molao-selegae di tla šoma gape le ge go na le diphetošo goba diphedišo tša molao-selegae.
- (7) Molao-selegae o thoma go šoma letšatšing la go phatlalatšwa ga wona ka Kuranteng ya

**Probentshe.**

- (8) Tefelo ya go hwetša khophi ya molao-selegae wo o ukangwago e ka bewa ke Lekgotla.
- (9) Molao-kakanywa wo o ukangwago o swanetše go laetšwa moo o tla fihlelwago ga bonolo.
- (10) Lekgotla la masepala le tla hlohlleletše le go thuša batho go ntšha maikutlo ka ga molao-selegae wo o ukangwago.

**Temana 7**

- (1) Ge lekgotla la masepala le se la dira, la fotoša, goba la fedisha molao-selegae, gomme Leloko la Lekgotla-phethiši le kgotsofetše gore tše di be di swanetše go ba di dirilwe, le ka kgopela Lekgotla go fa mabaka a go šitwa goo.
- (2) Mabaka a go šitwa a swanetše go fiwa ka go ngwala, lebakeng la kgwedi.
- (3) Ge Leloko la Lekgotla-phethiši le se la kgotsofala ka ga mabaka ao le ka šišinya gore molao-selegae woo o nyakegago o dirwe lebakeng leo le sa fedisego pelo.

**Temana 8**

- (1) Melao-selegae e swanetše go seka-sekwa ke Lekgotla la Masepala mabakeng ao a sego ka tlase ga mengwaga e lesome morago ga go thoma go šoma ga yona.
- (2) Go šitwa ga lekgotla go sepetše le go phetha tsheka-tsheko ka nako yeo e beilwego, go tla dira gore lekgotla leo le gapeletšege go fa Leloko la Lekgotla-phethiši mabaka.

**Temana 9**

Lekgotla la masepala le na le boikgethelo mabapi le mokgwa le mabaka a phihlelalo ya go lekola, goba go hwetša khophi ya molao-selegae ofe goba ofe.

**Temana 10**

Leloko la Lekgotla-phethiši le ka dira molao-selegae wa tlwaelo mabapi le morero ofe goba ofe wo o welago tlase ga maatla a makgotla a bomasepala.

**Temana 11**

Tsela ya go dira molao-selegae wa tlwaelo e swana le ya go dira molao-selegae.

**Temana 12**

- (1) Molao-selegae wa tlwaelo o tlama feela lekgotla la masepala, ge molao-selegae o diretšwe morero woo.
- (2) Dikagare tša molao-selegae di tla akaretša molao-selegae wa tlwaelo ge go šupša molao-selegae wa tlwaelo.

**Temana 13**

Leloko la Lekgotla-phethiši le na le maatla a go ntšha melao-tshepetšo morerong o mongwe le o mongwe wo o nyakegago gore go fihlelwe maikemišetšo a Molao wo.

**Temana 14**

- (1) Molao-tshepetšo o ka no fa maatla, wa beya mabaka le ditlemollo mabapi le ditikologo tše dingwe ka Gauteng, goba batho ba bangwe goba mekgatlo.
- (2) Leloko la Lekgotla-phethiši le ka dira diphetogo melaong-tshepetšo, ka tsebišo ye e tšwelelago ka Kuranteng ya Probentshe, eupša diphetogo tša mohuta woo di ka se dirwe ntle le go tsebiša pele batho goba mekgatlo ye e angwago.
- (3) Ge melao-tshepetšo yeo e laela gore go šitwa ke go sepelelana le lepheko lefe goba lefe e tla ba molato, motho yo a angwago o swanetše go tsebišwa ka ga molato woo, pele ga ge a ka latofatšwa ka bosenyi.

**Temana 15**

Tsela ya go ntšha molao-tshepetšo e swana le ya go dira molao-selegae.

**Temana 16**

Lekgotla le lengwe le le lengwe la masepala le swanetše go hloma Mohlankedidi-phethiši Mogolo le bašomedi go phethagatša maatla le maikarabelo a lona.

**Temana 17**

Mohlankedi-phethiši Mogolo o tla šoma bjale ka hlogo ya lekgotla, a thuša ka go diriša lenaneo la lekgotla le maano-tshepetšo, le go tšwetša pele dikamano tše botse le setšhaba seo le se šomelago. Mohlankedi-phethiši Mogolo a ka ba le maatla a mangwe ao a lokišeditšwego ka Melaong e mengwe, le yeo e filwego ke lekgotla la masepala.

**Temana 18**

Masepala yo a kopantšwego a ka se fetole dikwano le mabaka a badiredi gore a phalwe ke a peleng, moo go na go le diphapano tša mabaka.

**Temana 19**

Lekgotla le lengwe le le lengwe la masepala le swanetše go ba le sekema sa thušo ya kalafo, go hola badiredi, gomme le ka hloma sekema sa mohuta woo sa balekgotla. Melao-tsepheetšo, maikarabelo le mehola yeo e amago dikema tše di lego gona, e tla tšwela pele go dirišwa, ntle le ge e tšeetšwe sebaka ke e mengwe go ya ka Molao wo, goba mela-tshepetšo ya wona, eupša phetogo ya mohuta woo e swanetše go beya badiredi maemong a kaone.

**Temana 20**

Lekgotla le lengwe le le lengwe la masepala le swanetše go na le sekema sa go rola modiro, go hola badiredi ba lona le balekgotla ka go lekana.

Melao-tshepetšo, maikarabelo le mehola ya dikema tše di lego gona, e tla tšwela pele go dirišwa, ntle le ge e fotošitšwe ke melao-tshepetšo ya sekema, goba go ya ka Molao wo.

Diphetogo tša mohuta woo, ga di a swanelo go fetola maemo a modiredi ka moo a tla phalwago ke a peleng.

Lekgotla le swanetše go leka-lekanya mehola ya badiredi moo go nago le diphaphano lebakeng la mengwaga e mebedi morago ga go thoma go šoma ga Molao wo.

**Temana 20A**

Temana ye e swaragane le go hlongwa ga Boratoropo, mabaka a bona a mošomo, gomme ge mabaka a dumelela go ntšhwa ga ratoropo mošomong wa gagwe, lekgotla la masepala le ka dira seo ka kwano yeo e amogetšwego ke bontši bja pedi-therong. Lekgotla la masepala le ka rolela maikarabelo a tirišo goba tlhapetšo ya lenaneo la setšhaba goba la probentshe go ratoropo gomme la fa ratoropo

maatla a go šoma komiting-phethišing ya lona, eupša le ka beya gore ga a na maatla a go bouta.

### **Temana 21**

Temana ye e fa Mohlankedi-phethiši Mogolo maatla a go hloma motho yo mongwe goba yo mongwe gore a šome bjale ka mohlankedi yo a filwego maemo a itšego.

### **Temana 22**

Mešomo le maikarabelo a mohlankedi yo a filwego maemo a itšego, a beilwe temaneng ye, gomme a swanetše go dirišwa ka go sepelelana le Molao-kakanywa wo, le gona go ya ka ditsela tšeou di hhalositšwego Temaneng 24 le 25.

### **Temana 23**

Bahlankedi bao ba filwego maemo, ba filwe gape, godimo ga maatla ao a lokišeditšwego ka Molaong-kakanywa wo le maatla a mangwe gape ao ba a filwego, maatla a go tšwela pele go kgonthiša phethagatšo ya mešomo ya bona yeo e ukangwago Temaneng 22 ya ka godimo, ka mokgwa wo o se nago mathata.

### **Temana 24**

Tsela, mokgwa le nako ya phethagatšo le dinyakwa tša lengwalo la go fa tumelelo, leo le amogelegago, mabakeng ao ka wona go tsenwago go ya ka lengwalo la go fa tumelelo, di hhaloswa ka botlalo ka temaneng ye.

### **Temana 25**

Bahlankedi bao ba filwego maemo a itšego, ba filwe maatla a go tsena ka lefelong lefe goba lefe, goba mabung, ntle le lengwalo la go fa tumelelo, ka kwano le mong, goba motho yo a laolago mabu goba lefelo leo. Ge tumelelo e ganwe ntle le mabaka ao akwagalago, bahlankedi bao ba filwego maemo ba ka tsena ka mabung afe goba afe goba ka lefelong, ntle le lengwalo la go fa tumelelo, ka lebaka la maatla a bona ao a okeditšwego, ao ba a filwego ke *molao ofe goba ofe* o mongwe.

### **Temana 26**

Ge ba phethagatša mošomo wa bona, bahlankedi bao ba filwego maemo a itšego, ba swanetše go itshwara ka seriti, gomme ba ele hloko ka botlalo, ditokelo tša batho.

**Temana 27**

Mabaka ao ka wona go ka dirišwago maatla, mokgwa woo ka wona bahlankedi bao ba filwego maemo a itšego ba ka nyakago tumelelo pele ba ka diriša maatla, le phunola-megokgo ya tshenyo yeo e bakilwego ke maatla ao a dirišitšwego, di hhaloswa temaneng ye. Le be go le bjale, maatla a ka se dirišwe, go ya ka Temana 25.

**Temana 28**

Mohlankedi yo a filwego maemo a ka re phethagatšong ya mošomo wa gagwe, a felegetšwa ke leloko la Tirelo ya Afrika Borwa ya Sephodisa gobā motho ofe goba ofe yo ka mo go kwagalago , a nyakwago gore a thuše phethagatšong ya mošomo wa gagwe.

**Temana 29**

Temana ye e lokišetša tšweletšo ya sengwalwa sefe goba sefe, seo se kgopetšwego ke mohankedi yo a filwego maemo a itšego.

**Temana 30**

Dipotšišo tša mohlankedi yo a filwego maemo a itšego, di swanetše go arabja ka therešo, gomme dikarabo tšeо ga se tša swanelo go amogelwa ditshekong tša bosenyi, ntle le mabakeng a mangwe.

**Temana 31**

Mabakeng a ge ditaelo tša Molao-kakanywa wo di hlokologwa, mohlankedi yo a filwego maemo a ka ntšha tsebišo ya kobamelo, e lego tsebišo yeo e tla šomago go fihla ge setifikeiti sa kobamelo se ntšhitšwe, gomme dinyakwa tša tsebišo yeo di kgotofaditšwe.

**Temana 32**

Temana ye e lokišetša melato yeo e ka dirwago ke motho ofe goba ofe yo a sa hlongwago semolao go ba mohlankedi yo a filwego maemo a itšego.

**Temana 33**

Go ya ka temana ye ditaelo tša Molao-kakanywa, tšeо di lego mabapi le maatla le maikarabelo a

bahlankedi bao ba filwego maemo a itšego, di dirišwa go motho ofe goba ofe goba mokgatlo, go akaretšwa le mmušo, gomme taelo ya go fa maatla goba go rweša maikarabelo, e dirišwa mabapi le mabu afe goba afe, selo seo se lego mabung afe goba afe goba ka lefelong lefe goba lefe,

### **Temana 34**

Leloko la Lekgotla-phethiši le filwe maatla a go beya boleng bja thendara ya ditirelo goba diphahlo tseo lekgotla la masepala le swanetšego go obamela tsela ya go di hwetša, bjale ka ge e hlalositšwe temaneng ya 34, go hwetša kwano ya kabelo. Le ge go le bjale ditsela tša mohuta wo di ka hlokologwa mabakeng a nyakego le tšhoganetšo. Tsela ye ya go hwetša diphahlo goba ditirelo e swanetše go dumelana le melao-tshepetšo ya ditšelete.

### **Temana 35**

Temana ye e hlalosa ditsela tša dithendara, tseo di swanetšego go latelwa ke makgotla a bomasepala, go hwetša diphahlo le ditirelo tše di laetšwego.

### **Temana 36**

Lekgotla la masepala le ka re ka kwano, la hlokologa temana 35 mabakeng a tšhoganetšo le nyakego. Lebakeng la kgwedi e tee morago ga kwano yeo, mabaka a go hlokologale temana 35 le dinyakwa tša tša diphahlo tseo di laetšwego, di swanetše go phatlalatšwa gomme di hlaloswe. Mešomo ya lekgotla la masepala go ya ka temana ye, ga se ya swanelo go rolelwa

### **Termana 37**

Temana ye e fa lekgotla la masepala maatla a gore ka matsapa a lona, le kwane go katološa goba go fetošakwano ya thendara, ge mabaka ao a hlalositšwego temaneng 34(2)(a) a le gona. Maatla a lekgotla la masepala, le ge go le bjale, a fokoditšwe. Ditaelo tša temana 36 ka godimo, di šoma go ya le ka moo mabaka a laelago.

### **Temana 38**

Ge lekgotla la masepala le kgotsofetše gore kgopelo ya thendara e amogetšwe, e fetošitšwe goba e katološitšwe, goba gore go bile le tlhokologo ya kgopelo yeo, le swanetše go tsebiša moabi ka go ngwala, gomme le fe mabaka a seo. Lekgotla la masepala le filwe maatla a go fedisa kwano ya thendara ge moabi a sa tšweletše bohlatse bjale ka ge go nyakega. Mošomo wa Lekgotla la Masepala tabeng ye ga se wa swanelo go rolelwa goba fiwa motho yo mongwe.

**Temana 39**

Moabi wa diphahlo goba ditirelo, yo a kwago a šitetšwe ke sephetho sa lekgotla la masepala sa go fediša kwano ya thendara a ka dira aphili go Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo, go ya ka ditsela tše di beilwego ke lekgotla la masepala. Sephetho sa Lekgotla la Diaphile tša Khwetšo ya Diphahlo le Ditirelo ke sa mafelelo, e bile se a tlama go mahlakore ka moka ao a angwago ke aphili yeo.

**Temana 40**

Lekgotla la masepala le swanetše go hloma Lekgotla la Diaphili tša Khwetšo ya Diphahlo le Ditirelo, leo le nago le banamodi ba o ba sego ka tlase ga ba babedi, bao ba ka hlomago ditsebi Lekgotleng la Diaphili tša Khwetšo ya Diphahlo le Ditirelo. Sehlopha sa banamodi se swanetše go bewa palong ya batho bao ba sego ka tlase ga tshela, ba dumelšwego ke lekgotla la masepala, gomme batho bao ga se ba swanela go ba balekgotla goba badiredi ba lekgotla la masepala. Lekgotla la Masepala le swanetše go latela ditsela tše di beilwego go hloma motho sehlopheng sa banamodi.

**Temana 41**

Temana ye e fa lekgotla la masepala maatla a go hloma komiti ya khwetšo ya diphahlo le ditirelo yeo e nago le maatla a itšego, le mešomo.

**Temana 42**

Go ya ka temana ye, lekgotla la masepalale ka beya lepheko, goba la fa motho ofe goba ofe, lekgotla goba mokgatlo, maatla a beya mapheko a phihlelelo ka lefelong lefe goba lefe la setšhaba, go tiišetša polokego le tshireletšego.

**Temana 43**

Temana ye e hhalosa ditsela tše di swanetšego go latelwa ke lekgotla la masepala, ge le na le maikemišetšo a go hloma mapheko a phihlelelo ka lefelong la setšhaba.

**Temana 44**

Go ya ka temana ye, motho ofe goba ofe yo a kgopelago lekgotla la masepala go hwetša maatla a go beya mapheko a phihlelelo ka lefelong la setšhaba, o swanetše go latela ditsela tše dingwe tše di beilwego, gomme morago ga moo ditsela tše dingwe tša tlhahlo di swanetše go gomarelwa ke

lekgotla la masepala.

#### **Temana 45**

Go ya ka temana ye, lepheko goba maatla a go beya lepheko la phihlelelo, le šoma lebaka la go se be ka godimo ga mengwaga e mebedi, eupša lekgotla la masepala le ka katološa lebaka leo ge go nyakega, ka go latela ditsela tše di nepagetšego.

#### **Temana 46**

Go ya ka temana ye, ke molato gore motho mang goba mang a beye lepheko la phihlelelo ka lefelong la setšhaba, ntle le go hwetša tumelelo yeo e laetšwego.

#### **Temana 47**

Temana ye e fa lekgotla la masepala maatla a go beya mabaka le mokgwa wo ka wona batho ba ka bago le phihlelelo le tekolo ya mabaka a lepheko, goba tumelelo ya go beya lepheko la phihlelelo.

#### **Temana 48**

Go ya ka temana ye, lekgotla la masepala le filwe maatla a go hloma Khamišene ya Masepala ya go dira Dinyakišo ka ga morero ofe goba ofe wa mmušo wa selegae, ka go fetiša kwano yeo e hlilosago seo khomišene e swanetšego go se hlokomela, go akaretšwa le nako yeo khomišene e swanetšego go rumo mošomo ka yona. Khamišene e swanetše go romela pego yeo e nago le seo e se lemogilego, le ditšhišinyo tša yona go lekgotla la masepala gore le hlokomele, gomme lekgotla la masepala le ka tšeya magato afe goba afe ao le bonago a nyakega. Le ge go le bjale, Leloko la Lekgotla-phethiši le swanetše go dira melao-tshepetšo yeo e amago go hlongwa le go sepetswa ga dinyakišo tša masepala.

#### **Temana 49**

Lebakeng la ge lekgotla la masepala le ka amogela boipiletšo bja gore go be le theeletšo ya bohlatsa bja phatlalatša mabapi le morero ofe goba ofe wa mmušo wa selegae, temana ye e fa lekgotla maatla a go bitša theeletšo ya phatlalatša, gomme ge le dira bjale, lekgotla la masepala le swanetše go beya tsela ya go bitša le go sepetsa ditheeletšo tša phatlalatša.

**Temana 50**

Temana ye e fa Leloko la Lekgotla-phethiši maatla a go ntšha taelo ya keletšo go lekgotla la masepala leo le šitilwego go phetha mošomo woo ka mo go lekanego, morago ga go kgopela lekgotla la masepala go tšweletša bohlatse bjo bo ngwadilwego, go hhalosa mabaka a go palelwa ga lona.

**Temana 51**

Temana ye e fa leloko la Lekgotla-phethiši maatla a go ntšha ditsela tša tlhahlo go makgotla a bomasepala, go a thuša go diriša maatla a tšona, mešomo goba maikarabelo, goba go dira Molao-kakanywa wo o šome.

**Temana 52**

Motho ofe goba ofe yo a bonwago molato go ya ka Molao-kakanywa wo, o tla lebanwa ke tefo goba kgolego, goba tefo le kgolego ka bobedi bja tšona, gomme ge a ka tšwela pele a boeletša molato woo, motho yoo o tla lebanwa ke ditefo tše di okeditšwego, goba mabaka a kgolego.

**Temana 53**

Go ya ka temana ye, ga go motho yo a ka bewago molato wa tshenyo efe goba efe yeo e bakwago ke tiro efe goba efe yeo e dirwago ka kgopolole e botse, goba tshedimošo yeo e filwego ka kgopolole e botse. Ka tsela ye masepala o lokollwa magatong afe goba afe a molao ao a tšewago ke lehlakore leo le gobetšego goba leo le šitetšwego kgahlanong le motho yo a emetšego masepala.

**Temana 54**

Go ya ka temana ye, mmelaedi o swanetše go tšeya magato a molao kgahlanong le masepala goba motho yo mongwe yo a emetšego masepala, mabapi le tiro efe goba efe go tlhokomologo ya tiro lebakeng la dikgwedi tše 12 goba pelenyana ga letšatši leo ka lona mmelaedi a lemogilego tiro ye, goba tlhokomologo ya tiro, gomme tsebišo yeo e ngwadilwego e swanetše go lebišwa go Mohlankediphethiši Mogolo le moikemeledi yo a angwago.

**Temana 55**

Kgatong efe goba efe ya molao, yeo e tšerwego kgahlanong le balekgotla goba badiredi ba masepala, mabapi le mešomo ya bona ka go masepala, temana ye e lokišetša gore balekgotla bao goba badiredi bao ba hwetše boemedi bja molao gomme ditshenyagalelo di swanetše go rwalwka ke masepala. Boemedi bja mohuta woo bo swanetše go fiwa ka mokgwa woo o beilwego ke lekgotla la masepala.

**Temana 56**

Go ya ka temana ye, lekgotla la masepalale ka re ka go ngwala, la rolela maatla afe goba afe, mešomo goba maikarabelo go modiredi ofe goba ofe, komiti, komiti ya tlasana, boto goba mokgatlo wo o hlomiwego ke lekgotla, goba go lekgotla lefe goba lefe la masepala, gomme le na le tokelo ya go tsenela dikwano le moabi ofe goba ofe wa diphahlo le ditirelo, wa mmušo goba wa setšaba, gomme lekgotla le swanetše go ba le registara ya ditholelo ka moka le dikwano.

**Temana 57**

Leloko la Lekgotla-phethiši le fiwe maatla go fa goba go rolela maatla afe goba afe, mošomo le maikarabelo go lekgotla la masepala ka go fetola ka maleba goba go tlaleletša Skedule 3, gomme go fiwa moo ga mošomo goba tholelo yeo, go ka dirwa mabapi le bomasepala ba ba fapafapanego, goba dihlopha tše di fapafapanego, goba magoro a bomasepala.

**Temana 58**

Leloko la Lekgotla-phethiši le filwe maatla a go fetoša, go fedisha goba go phumola skedule, tlaleletšo hlogo ya letlakala, hlogo ya taba goba tlhaloso, ka go obamela tsela yeo e swanetšego go latelwa.

**Temana 59**

Temana ye e fedisha melao yeo e boletšwego Skeduleng 1 gomme e dira tokišetšo ya gore dipeakanyo tša lebakanyana go Skedule 2 di balwe di be di dirišwe bjale ka ditaelo tše kgolwane tša Molao-kakanywa.

**Temana 60**

Temana ye e swaragane le ditthaloso tša mantšu le mareo ao a dirišitšwego ka Molaong-kakanywa wo.

**Temana 61**

Go ya ka temana ye, Molao-kakanywa wo o bitšwa Molao wa Tekanetšo ya Merero ya Mmušo wa Selegae wa Gauteng, 1997.

## ISAZISO ESEJWAYELEKILE

ISAZISO SE 3984 SIKA 1997

Ngokomthetho 132 (1)(ii) wemiThetho eMiyo yesiShayamthetho sesiFunda saseGauteng, uMthethosivivinywa WokuHlelwa kabuSha kweziNdaba zoHulumeni baseKhaya, ushicilelwwe ukwazisa umphakathi.

Noma ngubani noma yiyiphi inhlango ethanda ukuphawula ngalokhu, kufanele inikezele ngalezo zimvo ngokubhaliwe ezinsukwini eziyishumi nane kusukela osukwini lokushicilelwwe kwalo Mthetho :

(a) ungawuposela lapha:

The MEC for Development Planning and Local Government  
Private Bag X86  
MARSHALLTOWN  
2107

**NOMA**

(b) uyidilive lapha:

17th Floor  
Corner House  
Corner of Commissioner and Sauer Streets  
JOHANNESBURG

**NOMA**

(c) uyithumele ngefeksi (011) 355-5401/2

**S. SHICEKA, UMPHATHISWA (MEC)**  
**UKUHLELELA EZENTUTHUKO NOHULUMENI WASEKHAYA**  
**USUKU:**

**UMTHETHOSIVIVINYO WOKUHLELWA KABUSHA  
KWEZINDABA ZOHULUMENI BASEKHAYA WASEGAUTENG**

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# UMTHETHOSIVIVINYO WOKUHLELWA KABUSHA

## KWEZINDABA ZOHULUMENI BASEKHAYA KA-1997

Ubhekela ukuguqulwa kohlaka lezo mthetho nokuphatha ezingeni lasekhaya likahulumeni nokubhekela ezinye izindaba ezihlangene nalokho.

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**UMISWE** yisiShayamthetho sesiFunda saseGauteng, eRiphabliko yaseNingizimu Afrika ngalendlela elandelayo -

### **ISAHLUKO 1**

### **INJONGO NOKUSETSHENZISWA**

#### 1 **INJONGO**

- (1) Injongo *yalo Mthetho*<sup>1</sup> ngukuguqula uhlaka lezomthetho nokuphatha izinga likahulumeni wasekhaya elingayiphatha ngalo imicimbi *yalo ngokuphathelene* nalokhu, phakathi kwezinye izinto -
- (a) ukusho nokumisa isikhundla, *amandla, imisebenzi nezibopho zoMkhandlu kaMasipala;*
  - (b) ukwenza nokukhipha *imithetho eyenziwa ngumasipala, imithetho emiyo eyenziwa ngumasipala* kanye *nezimiso;*
  - (c) ukulungisa ubudlelwano nabasebenzi; kanye

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1

Ukubhalwa kwamagama ngokungama italics kukhombisa ukuthi lawo magama achaziwe eSigaben 60.

(d) nokugunyaza omasipala ukuba benze imisebenzi yabo ngendlela, ikakhulukazi ngasekutholeni izinto zokusebenza kanye nemisebenzi, ukwenziwa kwemisebenzi kanye nokwenziwa kokuhlolola, kanye nokuphathwa kokungena ezindaweni zomphakathi.

(2) Ngokuphathelene nezindaba ezishiwo **esigatshaneni (1)** *lo Mthetho* ubhekela ukuguqulwa kohlaka lukahulumeni wasekhaya -

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

## **2 UKUSETSHENZISWA KWALO MTHETHO**

(1) Noma ngubani osebenzisa futhi atolike *lo Mthetho* kufanele -

(a) anikezele izimiselo zawo ngendlela yokuthi -

- (i) Kuyahambelana nezitativende zenhoso ezishiwo **eSigaben 1**; futhi
- (ii) ziyayibhekela ikakhulukazi injongo, iqhaza kanye nezimo zesigaba sohulumeni basekhaya njengoba kubhekelwe **kuMthethosisekelo** kanye **nanoma yimuphi omunye umthetho**.

(2) Izimiselo *zalo Mthetho* kufanele ziqashelwe

- (a) *kunoma yimuphi omunye umthetho* ophethe uMkhandlu kaMasipala;

- (b) ngendlela ehambisana ngokuyikho ngokutolikwa kwemthetho eyiyo nevimbela ingxabano phakathi kwayo ngokutohikwa okuletha ingxabano.
- (3) Uma kuqubuka ingxabano, ephathelene nezindaba okukhulunywa ngazo *kulo Mthetho*, phakathi *kwalo Mthetho* kanye nezimiselo *zanoma yimuphi omunye umthetho*, ngaphandle *koMthethosisekelo, uMthetho wesikhashana woHulumeni baseKhaya noma yimphi omunye umthetho ochibiyela lo Mthetho*, izimiselo *zaMthetho zizosebenza*.

## ISAHLUKO 2

### ISIKHUNDLA, AMANDLA, IMISEBENZI KANYE NEZIBOPHO

#### ZOMASIPALA

##### 3 IZIKHUNDLA ZOMASIPALA

- (1) Ngokuhambisana *nanoma yimuphi umthetho*, lowo nalowo Mkhandlu kaMasipala omiswe ngokuhambisana *noMthetho wesiKhashana woHulumeni baseKhaya*, noma omenyezelwe njengomiswe ngokuhambisana *nalo Mthetho*,
- (a) uzothathwa nokuba khona futhi nesikhundla sawo njengoMkhandlu kaMasipala; futhi
- (b) uzothathwa njengosemthethweni.
- (2) Ngokuhambisana *nanoma yimuphi omunye umthetho*, uMkhandlu kaMasipala, njengosemthethweni .
- (a) uyaqhubeka nokuba khona kungakhathaleki ngoguquko endaweni oyiphethe noma ukuma kwezinhlaka zavo zokuphatha;
- (b) uyakwazi ukufaka icala noma wona ufkwe icala egameni lawo;
- (c) ungathenga, uphathe, uthelise noma uthengise indawo; futhi
- (d) ungenza noma yimuphi umsebenzi omayelana noma ohambisana nokusetshenziswa ngokuyikho *kwamandla, imisebenzi kanye nezibopho* zavo.

#### **4 IZIKHUNDLA ZOMASIPALA EDOLOBHENI**

- (1) UMkhandlu kaMasipala osumiswe ngokuthi uydolobha ngokuhambisana *noMthetho woHulumeni baseKhaya* noma *yimuphi omunye umthetho*, uzoqhubeka nokuba kulelozinga.
- (2) Uma umkhandlu wedolobhakazi unomkhandlu wendawo ngaphansi kwawo nalowomkhandlu osumiswe njengedolobha ngokuhambelana nesigatshana (1), umkhandlu wedolobhakazi uthola-
  - (a) isikhundla sokuba yidolobha; futhi
  - (b) wonke amandla, izibopho, amalungelo kanye nemivuzo okunikezelwe edolobheni nganoma *yimuphi omunye umthetho*.
- (3) UMkhandlu kaMasipala osumiswe njengedolobha njengokuqondisa **kwasigatshana (1)** noma osuthole isikhundla sokuba yidolobha njengoba kubekwe **esigatshaneni (2)**, ungasikhombisa lesisikhundla -
  - (a) egameni lawo; kanye
  - (b) nakunoma yiziphi izincwadi zawo

#### **5 AMANDLA, IMISEBENZI KANYE NEZIBOPHO ZEMIKHANDLU YOMASIPALA**

- (1) Ngokwengezelela *emandleni, imisebenzi kanye nezibopho zemikhandlu yomasipala* okuvezwе *kuMthethosisekelo* kanye *noMthetho wesikhashana woHulumeni baseKhaya* noma *yimuphi omunye umthetho*, uMkhandlu kaMasipala unamandla, imisebenzi noma izibopho ophiwe, wathwaliswa, wanikezelwa noma wehliselwa khona ngokwezimiso *zalo Mthetho*<sup>2</sup>.

2

Ngokumayelana "nokweduluisela" amandla noma izibopho ngendlela "yokuphathisa" noma "ukunikezela", iSigaba 10C(2)(b)(i),(ii) kanye no 10D(B)(i) kanye no (ii) woMthetho wesikhashana woHulumeni baseKhaya umsela ngokuthi umasipala kufanelu athole kuqala imithombo eyenele yokusebenzia lawo mandla noma enze umsebenzi ngezinga lokugqinisekisa ukughubekka nokukwazi ukwenzeka kwaLowo msebenzi noma ukwenza. Lezi zimiselo azisebenzi lapho amandla noma isibopho "seseduluiselwe" ngendlela yokunikezela noma "ukumisa" kumasipala. Ngakho-ke kuphakanyiswa ukuba lenkinga kuLangatshezwane nayo ngokuchibiyela uMthetho wesikhashana woHulumeni baseKhaya.

- (2) Njengento yokwenza lula nokubonisa nje kuphela, Izengezo A no B zinikeza isamari yeziboniso zamandla, imisebenzi nezibophelelo zoMkhandlu kaMasipala ashiwo *kuMthethosisekelo* kanye *noMthetho wesiKhashana woHulumeni baseKhaya*, kanti akufanele, kuthathwe njengohla oluphelele *lwamandla*, *imisebenzi kanye nezibopho* zoMkhandlu kaMasipala.
- (3) UMkhandlu kaMasipala ungaba namandla noma wenze noma *yimuphi umsebenzi noma isibopho* esiphathelene noma esihambisana nokusebenzisa ngokuyikho *amandla*, *imisebenzi nezibopho* zawo.
- (4) UMkhandlu kaMasipala ungathatha noma yisiphi isinyathelo esidingekile noma esiyiso ekufezeni izinjongo *zalo Mthetho*.
- (5) Ngokuhambisana *nanoma yimuphi omunye umthetho*, uMkhandlu kaMasipala ungawasebenzisa amandla awo noma wenze noma yimuphi umsebenzi ngokuphathelene nemisebenzi *yohulumeni<sup>3</sup>* basekhaya -
- (a) okungavinjelwe emandleni awo; noma
  - (b) okunikezelwe noma kwehliselwa kunoma *yiliphi elinye* izinga likahulumeni.
- (6) UMkhandlu kaMasipala ungenza noma uphathe umthetho oshaywe yiwo ukuze kwenzeke ngendlela -
- (a) ukusebenzisa *amandla, imisebenzi noma izibopho*; kanye
  - (b) nokuphatha izindaba onelungelo lokuziphatha.

<sup>3</sup>

Ngokomsebenzi walesi sigatshana seSigaba 151(3) kanye no 152 soMthethosisekelo ngokufundwa nephuzu 26 leSheduli 6, kubalulekile.

**ISAHLUKO 3****IMITHETHO YOMASIPALA,****IMITHETHO EMISIWE YOMASIPALA KANYE NEZIMISO****(a) IMITHETHO YOMASIPALA****6 UHLELO OKUFANELE LULANDELWE EKUSHAYWENI KOMTHETHO KAMASIPALA**

- (1) Ukushaya *umthetho kamasipala*, uMkhandlu kaMasipala kufanele uphasise isiphakamiso esimemezela inhloso yokwenza njalo.
- (2) Uma isiphakamiso sesiphasisiwe uMkhandlu kaMasipala kufanele -
  - (a) umemezele inhloso yokushaya *umthetho* ngokubeka isaziso kusomqulu kahulumeni wesifunda kanye nezinye izindlela eziyizo zokuxhumana;
  - (b) ukhombe lokhu okulandelayo kuleso saziso -
    - (i) ukuthi kucelwa ukuphawula ngohlaka *lo Mthetho kamasipala*;
    - (ii) ngendlela efingqiwe, ukuthi loluhlaka *lo Mthetho* lumayelana nani;
    - (iii) umuntu okungabuzwa kuye noma indawo lapho kungabuzwa khona mayelana nohlaka *lo Mthetho*;
    - (iv) ngokuhambisana *nesigatshana (7) no (8)*, indawo noma izindawo, isikhathi noma izikhathi, nini, nazimo kanye nandlelani okungatholakala ngayo ikhophi yohlaka *lo Mthetho* noma lapho lukhonjiswe khona ukuba luholwe;
    - (v) isikhathi esibekelwe ukuphawula ngohlaka *Iwesikhashana lo Mthetho* nokungafanele sibe ngaphansi kwenyanga eyodwa kusukela osukwini Iwesaziso; kanye

- (vi) umuntu noma indawo lapho izimvo eziveziwe ngohlaka *lo Mthetho* zinganikezelwa khona.
- (c) kunoma yisiphi isikhathi ngaphambi kokwenza *umthetho kamasipala*, ukubonisana nalawo maqembu athintekile kungenziwa nganoma yiyiphi indlela, kuhlanganisa nokwensiwa kophenyo; futhi
- (d) izimvo ezitholakele kanye nalokho okuvele ekubonisaneni kufanele kubhekelwe ngaphambi kokushaywa *komthetho kamasipala*.
- (3) Uma uMkhandlu kaMasipala ungawushayanga umthetho esikhathini esingunyaka kwensiwa isimemezelo esishiwo **esigatshaneni (1)(b)**, lowo mthetho awusenakushaywa ngaphandle kokuthi indlela emisiwe **esigatshaneni (1)** iphindwe kabusha.
- (4) Izimiselo **zesigatshana (1)(b) no (2)** azisebenzi ngokumayelana
- (a) *nomthetho kamasipala* okusidingo somphakathi sicindezela ukuba wenziwe ngaphandle kokubambezeleka; kanye
- (b) nesichibiyelo sokulungisa iphutha lokubhala.
- (5) Izimiselo **zezigatshana (1)** kuya ku (3), zisebenza ekuchitshiyelweni nasekwesulweni kunoma yimuphi *umthetho kamasipala*, nalezo zinguquko okungenzeka zidingakale ngenxa yesimo.
- (6) *Umthetho kamasipala* uyoqala ukusebenza osukwini oshicilelwe ngalo kusomqulu kahulumeni wesifunda noma ngalolo lusuku olumiswe kusomqulu kahulumeni wesifunda.
- (7) Umkhandlu kaMasipala ungamisela ngemali okufanele ikhokhwe uma kuzotholakala ikhophi yohlaka *lo Mthetho*.
- (8) Indawo noma izindawo lapho loluhlaka *lo Mthetho* lubekwe khona kufanele lwenzele lula labo obathintayo lowo mthetho ukuba baziswe ngokushesha nakalula ngokuqukethwe *yilovo Mthetho*.
- (9) Yonke iMikhandlu yoMasipala kufanele yenze futhi imisele imigomo nezinhlelo zokusiza amalungu omphakathi ukuba akwazi ukuphawula ngohlaka *lo Mthetho* kamasipala.

**7 AMANDLA OMPHATHISWA UKUPHAKAMISA UKUTHI UMKHANDLU KAMASIPALA  
USHAYE IMITHETHO YOMASIPALA**

- (1) Emva kwesikhathi esenele sokuqala kokusebenza *kwalo Mthetho* -
- (a) uMkhandlu kaMasipala awukenzi, uchibiyele noma wesule *umthetho* omayelana nodaba olubhekeliwe **esigabeni 5(6)**; futhi
  - (b) *uMphathiswa* wenelisekile ngokuthi lesi sinyathelo sisemqoka ekuphakelweni ngendlela enhle neyiyo kwemisebenzi kwizakhamuzi zoMkhandlu kaMasipala;

*uMphathiswa* angacela ukuba uMkhandlu kaMasipala ulethe izethulo zawo ukuveza izizathu zokwehluleka kwawo ukwenza lokho.

- (2) UMkhandlu kaMasipala kufanele uhambisane nalesi sicelo futhi ulethe izethulo ezibhalwe phansi *kuMphathiswa* esikhathini esiyinya emva kokutholwa kwaleso sicelo.
- (3) Uma *uMphathiswa* enganelisekile ngezizathu zokwehluleka, emva kokuzicubungula lezo zathulo<sup>4</sup>, *uMphathiswa* angaphakamisa ukuba uMkhandlu kaMasipala wenze lowo *mthetho* odingekayo esikhathini esibekiwe.
- (4) Isaziso esishiwo esigatshaneni (3) kufanele sisho izizathu zesinqumo soMphathiswa.

**8 UKUBUYEKEZWA KWAZIKHATHI KWEMITHETHO YOMASIPALA**

- (1) UMkhandlu kaMasipala kufanele wenze futhi uphothule ukubuyekezwa *kwemithetho* yawo -
- (a) esebezena ngaphambi noma ekuqaleni kokusebenza *kwalo Mthetho* singakedluli isikhathi esimiswe *nguMphathiswa*;

4

Umasipala akacindezelekile ukulandela iziphakamiso. Nokho ke kunemiphumela emibili engenzeka ngenxa yalokhu kwahluleka noma ukwenqaba okungukuthi, okokuqala, ngokubhekela iZigaba 151, 154(1) kanye no 156(4) zo*Mthethosisekelo* ngokufundwa nephuzu 26(6) leSheduli 6, *uMphathiswa* angalungisela ukumiswa komthetho; noma okwesibili, nakuba *uMphathiswa* engasithathi lesi sinyathelo, ukukhathazeka komphakathi okuzokwenzeka kungawupoqa umasipala ukuthatha isinyathelo esidingekile.

- (b) eqala ukusebenza emva kokuqala ukusebenza *kwalo Mthetho ekushiyaneni ngesikhathini esingaphansi kweminyaka eyishumi waqala ukusebenza lowo mthetho kamasipala.*
- (2) Uma uMkhandlu kaMasipala wehluleka wukwenza futhi uphothule ukubuyekezwa esikhathini esimiswe **esigatshaneni (1)**, izimiselo **zesigaba 7**, ziyosebenza, ngoguquko ushintsho olumisile.
- (3) Ngokubonelela lesi sigaba "ukwenza nokuphothula ukubuyekeza" kuhlanganisa .
- (a) ukuhlolwa noma ukubhekwa *koMthetho kamasipala*; uma kunesidingo,
- (b) kwensiwe, kuchitshiyelwe noma kwesulwe *umthetho kamasipala*.

## **9 UKUFINYELEKA NOKUHLOLWA KWEMITHETHO KAMASIPALA**

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

### ***(b) IMITHETHO EMIYO YOMASIPALA***

## **10 AMANDLA OMPHATHISWA OKUSHAYA IMITHETHO EMIYO YOMASIPALA**

Ngokomsebenzi wokusiza omasipala, *uMphathiswa* angashaya *umthetho omiyo kamasipala* nganoma yiluphi udaba olubhekelwe **kwiSigaba 5**.

## **11 UHLELO OLULANDELWAYO UMA KUSHAYWA IMITHETHO EMIYO YOMASIPALA**

Izimiselo ezibekwe **kwiSigaba 6** ziyasebenza nasekwakhiweni *koMthetho omiyo kamasipala* kanye nezinguquko ezingadingeka ngokwesimo.

**12 UMPHUMELA WOMTHETHO OMIYO WOMASIPALA**

- (1) *Umtetho omiyo kamasipala noma isichibiyelo sawo noma ukwesulwa kwavo, kubophelela kuMkhandlu kaMasipala uma wenza<sup>5</sup> umtetho osho lokho.*
- (2) *Ukushiwu komthetho kamasipala emthethweni kamasipala omiyo, kwenele ukuhlanganisa okuqukethwe ngumthetho kamasipala omiyo emthethweni kamasipala.*

***(c) IZIMISELO*****13 AMANDLA OMMPHATHISWA OKUBEKA IZIMISELO**

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

**14 OKUQUKETHWE YIZIMISELO**

- (1) **Isimiselo**
  - (a) *singanikezela amandla noma sibeke isibopho kumuntu, enhlanganweni noma emkhandlwini womphakathi;*
  - (b) *singaba nezimiso kuhlanganisa nemibandela noma ukuvinjelwa kanti singasho nokuxolelw; futhi*

- (c) singenziwa ngokuphatelene .
  - (i) nezingxeny ezahlukene zeGauteng; noma
  - (ii) nézinhlobo ezahlukene zabantu nezinhlangano.
  
- (2) Nganoma yisiphi isikhathi kanye nokuphatelene namuphi umuntu, uhlaka, inhlangano noma inkampani kanye nokubhekela izimiselo zemithetho ephathelene nalokho, **UMphathiswa** angenza lokhu okulandelayo ngesaziso emqulwini kahulumeni wesifunda noma ngokulethwa ngeposi noma ngesandla, .
  - (a) angabeka, aguqule noma asuse noma yimuphi umbandela obhekkelwe yisimiselo; noma
  - (b) anikezele, aguqule noma asuse noma yikuphi ukuxolelw a okubhekkelwe esimiselweni.
  
- (3) **UMphathiswa** angeze aguqla noma asuse umbandela noma ukuxolelw a okubekwe noma kwanikezelwa ngokuhambisana **nesigatshana** (2) ngaphandle kokuba umuntu noma uhlaka okusebenza kuwo, bathole ithuba lokwenza isethulo noma izethulo ngokodaba.
  
- (4) Noma yisiphi isithiyo noma ukuvinjelwa okuqukethwe yisimiselo kufanele .
  - (a) kuhambelane nezinjongo zaleso simiselo; futhi
  - (b) kuvimbele ukusebenza kwalabo bantu noma izinhlaka ngokuzithiba okukhulu
  
- (5) Uma ukwehluleka ukuhambisana nesithiyo noma isivimbalo ngokuphatelene nesimiso esithile kungaholela ekubekweni icala kulowo muntu, lesi simiselo kufanele simisele ukuba lowo muntu anikwe isaziso secala kanye nethuba lokuhambisana nesimiselo ngaphambi kokuba abekwe icala.

## **15 UHLELO OLULANDELWAYO LOKUKHISHWA KWEZIMISELO**

Uma kunesidingo sokukhishwa kwesimiselo esithile ngokumayelana *nalo Mthetho*, imiyalelo eseSigabeni 6 kuzofanele isebeenze, kube nezinguquko lapho isimo sidinga khona.

**ISAHLUKO 4****IZINDABA EZIPHATHELENE NABASEBENZI****16 UKUQOKWA KWESIKHULU ESIYINHLOKO KANYE NABANYE ABASEBENZI**

Yonke iMikhandlu yoMasipala kufanele -

- (a) iqoke *iSikhulu esiyiNhloko* kanye nalabo basebenzi abangadingeka ekusebenziseni amandla, imisebenzi nezibopho; futhi
- (b) iqoke *iSikhulu esiyiNhloko* kanye nabasebenzi ngezivumelwano nezimiselo zokusebenza okungaxoxiswana ngazo.

**17 IMISEBENZI YESIKHULU ESIYINHLOKO**

- (1) Ngokwengezelela kulokho okumiswe *kulo Mthetho* noma *yimuphi omunye uMthetho*, imisebenzi *yeSikhulu esiyiNhloko* yilena -
  - (a) ukusebenza njengenhloko yabasebenzi boMkhandlu kaMasipala kanti ngalesisikhundla abe namandla phezu kwabo -
    - (i) lapho kunesidingo khona ngokuphatha okuyikho kanye nasekusetshenzisweni ngendlela *kwamandla, imisebenzi noma izibopho*; noma
    - (ii) ngemingcele ebekwe nguMkhandlu kaMasipala.
  - (b) ukuhlola ukusebenza ngendlela nangokuyikho kwezinhlelo nemigomo yoMkhandlu kaMasipala kanye nokusetshenziswa *kwamandla, imisebenzi nezibopho*;
  - (c) ukuqinisekisa ukuthi imithombo yoMkhandlu kaMasipala isetshenziswa

ngokuyikho ekufezeni izinjongo zoMkhandlu kaMasipala;

- (d) ukuqinisekisa ukuthi kumiswa futhi kusetshenziswa imigomo eyiyo neqotho kuyoyonke iminyango; futhi
- (e) kugqugquzelwa kuzinziswe ubudlelwano obuhle ngaphakathi eMkhandlwini kaMasipala kanye nasemphakathini okusetshenzwa kuwo.

**(2) *ISikhulu esiyiNhloko sizoba nawo amanye amandla, imisebenzi kanye nezibopho -***

- (a) njengokubona koMkhandlu kaMasipala ngokuthi afanele; kanye
- (b) nalawo angamiselwa *kunoma yimuphi omunye umthetho*.

**18 UKUGUQLWA KWEZIVUMELWANO NEZIMISELO ZOKUSEBENZA**

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

- (a) abasebenzi bemikhandlu ebikhona phambilini bathathwa ngokuthi sebengabasebenzi boMkhandlu kaMasipala ohlanganisiwe noma olunjanisiwe;
- (b) izimiselo nezimo zokusebenza zabasebenzi abathintekile ngokuhlanganiswa noma ngokulunjaniswa kufanele ngazozonke izikhathi zingabi ngezingezinhle kunalezo ababenazo ngaphambi kokuhlanganiswa noma ukulunjaniswa; futhi
- (c) kufanele uMkhandlu kaMasipala ohlanganisiwe noma olunjanisiwe umise futhi usebenzise izindlela zokulinganisa noma yikuphi ukwahlukana ezivumelwaneni nasezimiseweni zokusebenza okungenzeka kube khona phakathi kwabasebenzi bomasipala abebekhona phambilini.

**19 IZINUZO ZEZEMPILO**

**(1) *Yonke iMikhandlu yoMasipala -***

- (a) kufanele imise uhlelo noma izinhlelo ezinikezela izinzuko zezempiro kubobonke abasebenzi bayo kuhlanganisa nalabo basebenzi asebathatha umhlalaphansi; futhi

- (b) ingamisa uhlelo noma izinhlelo ezinikezela izinzuko zezempiro kuwowonke amakhansela.
- (2) Uhlelo noma izinhlelo ezibhekeliwe esigatshaneni (1) akudingekile ukuthi zihlelwe ngendlela enikezela izinzuko zezempiro eqoqwani labantu ababhekeliwe yiziqephu (a) noma (b) nkokulandelana ngokwesigatshana (1).
- (3) Uhlelo noma izinhlelo ezibhekeliwe esigatshaneni (1) kanye nemithetho, izibophezelo kanye nezinzuco okuhambisana nakho, kuhlanganisa neminikelo okufanele yenziwe eMkhandlwini kaMasipala noma labo abahlomulayo ngalolo luhlelo noma izinhlelo, kufanele kunqunywe -
- (a) lapho kufanele khona, ngokuhambisana nezindlela ezimisiwe kunoma yisiphi isivumelwano esihlanganisayo sokubonisana; futhi
- (b) emva kokubonisana nalabo abazuzayo okungenzeka bathintek kanye nabalabo abathintekayo.
- (4) Noma yiluphi uhlelo olumiswe ngokulandela *uMthetho woHulumeni baseKhaya* noma ngabe *yimuphi omunye umthetho* ongasebenza noma isivumelwano sokubonisana esihlanganisayo esinikezela izinzuko zezempiro kubasebenzi noma amakhansela oMkhandlu kaMasipala, uzoqhube ka usebenze kanti imithetho, izibopho kanye nezinzuco ezisebenzayo kulo luhlelo zizoqhube ka usebenze ngaphandle-ke uma zisusiwe noma zachitshiyelwa -
- (a) ngokuhambisana nalo Mthetho noma yimuphi omunye umthetho;
- (b) ngokwemithetho yalo; kanye
- (c) nokuhambisana nohlelo olubhekeliwe esigatshaneni (3).
- (5) Umfakelelo noma isichibiyelo esibhekeliwe yisigatshana (4) akufanele kubeke noma yimuphi umsebenzi noma ikhansela esimweni esingesihle kunaleso esasiyikho ngaphambi kokufakelelo noma ukuchitshiyelwa.

20 **IZINUZO ZOMHLALAPHANSI**

- (1) Yonke imiKhandlu kaMasipala kufanele .
- (a) Imisele uhlelo noma izinhlelo ezinikezela izinzuko zomhlaphansi kubobonke abasebenzi bayo; futhi
  - (b) imisele uhlelo noma izinhlelo ezinikezela ngeinzuko zomhlaphansi kuwowonke amakhansela awo.
- (2) Uhlelo noma izinhlelo ezibhekeliwe **esigatshaneni** (1) akudingekile ukuthi zihlelwe ngendlela enikezela izinzuko zomhlaphansi eqoqweni labantu ababhekeliwe **yiziqephu** (a) noma (b) ngokulandelana **ngokwesigatshana** (1).
- (3) Uhlelo noma izinhlelo ezibhekeliwe **esigatshaneni** (1) kanye nemithetho, izibophezelo kanye nezinzuza okuhambisana nakho, kuhlanganisa neminikelo okufanele yenziwe eMkhandlwini kaMasipala noma labo abahlomulayo ngalolo luhlelo noma izinhlelo, kufanele kunqunywe .
- (a) lapho kufanele khona, ngokuhambisana nezindlela ezimisiwe kunoma yisiphi isivumelwano esihlanganisayo sokubonisana; futhi
  - (b) emva kokubonisana nalabo abazuzayo okungenzeka bathintekе kanye nabalabo abathintekayo.
- (4) Noma yiluphi uhlelo olumiswe ngokulandela *uMthetho woHulumeni baseKhaya* noma ngabe *yimuphi omunye umthetho* ongasebenza noma isivumelwano sokubonisana esihlanganisayo esinikezela izinzuko zomhlaphansi kubasebenzi noma amakhansela oMkhandlu kaMasipala, uzoqhube ka usebenze kanti imithetho, izibopho kanye nezinzuza ezisebenzayo kuloluhlelo zizoqhube ka usebenze ngaphandle-ke uma zisusiwe noma zachitshiyelwa .
- (a) ngokuhambisana *nalo Mthetho* noma *yimuphi omunye umthetho*;
  - (b) ngokwemithetho yalo; kanye
  - (c) nokuhambisana nohlelo olubhekeliwe **esigatshaneni** (3).

- (5) Umfakelelo noma isichibiyelo esibhekelenwe **yisigatshana** (4) akufanele kubeke noma yimuphi umsebenzi noma ikhansela esimweni esingesihle kunaleso esasiyikho ngaphambi kokufakelelwea noma ukuchitshiyelwa.
- (6) Lapho izikhwama zimiswe ngokulandela **iSigaba 79 ter no 79 quat koMthetho woHulumeni baseKhaya**, uMkhandlu kaMasipala othintekayo kufanele uqambe futhi umise izindlela zokulinganisa izinzuso zabasebenzi abangamalungu alezizikhwama.
- (7) Lokhu okubhekelenwe **esigatshaneni** (6) kufanele kwensiwe esikhathini esiyiminyaka emibili ekuqaleni kokusebenza **kwalo Mthetho**.

## **20A IZIMISELO EZIYINGXUBE NGOKUPHATHELENE NEZIMEYA**

- (1) **Uma kuqokwa imeya -**
  - (a) uMkhandlu kaMasipala umise isikhathi sokuphatha semeya ukuze kuhambisane nesikhathi sokuphatha koMkhandlu kaMasipala; futhi
  - (b) uma lokho kuqokwa kungokokuvala isikhewu esivele ngesikhathi sokuphatha koMkhandlu kaMasipala, lokho kuqokwa kungamiselwa isikhathi esisasele salokho kuphatha.
- (2) Ngokwenhloso yokususa imeya esikhundleni, uMkhandlu kamasipala unganquma ukuthi lokhu kwensiwe ngesiphakamiso esinqunywe okungenani ngubuningi bokubili kokuthathu.
- (3) UMkhandlu kaMasipala unganikezela emeyeni isibopho sokumisa noma ukuhlola ukumiswa kwanoma yiliphi iphuzu noma amaphuzu ohlelo noma umkhankaso<sup>6</sup> wesifunda kanti lesisibopho kufanele senziwe ngaphakathi kwezimiso zemigomo nezindlela zokusebenza zoMkhandlu kaMasipala.
- (4) **Imeya ingaba yilungu lekomidi elikhulu noma yiliphi elinye ikomidi loMkhandlu kaMasipala -**
  - (a) njengelungu elejwayelekile njenekhansela; noma

<sup>6</sup>

Lesi simiselo sibanzi ngokwanele ukufaka imikhankaso eqhubekayo njengamanje uMasakhane kanye "Nokwakhiwa kwesizwe"

- (b) ngokuba yisikhulu esiyimeya.
- (5) UMkhandlu kaMasipala unganquma ukuthi imeya ayinawo amalungelo okuvota uma iyilungu lekomidi elikhulu noma yiliphi elinye ikomidi ngaphansi kwezimo ezishiwo esigatshaneni 4(b).
- (6) Uma uMkhandlu kaMasipala ubona ukuthi kufanele uqoke iphini lemeya, uMkhandlu ungasebenzisa izimiselo **zesigatshana (1)** kuya ku (5) ngokuphatelene namaphini ezimeya nezinguuko ezidingekile ngenxa yesimo.

**ISAHLUKO 5**

(b)

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

**21 IGUNYA LEZIKHULU EZIBEKIWE**

- (1) *Isikhulu esiyiNhloko singaqoka noma ngubani osebenzela uMkhandlu kaMasipala njengesikhulu esibekiwe.*
- (2) Igunya ngokuhambisana nalesi sigatshana lingaba ngelivulekile noma libe ngeliqondiswe ngqo kothile.

**22 IMISEBENZI YEZIKHULU EZIBEKIWE**

- (1) Izikhulu ezibekiwe zingenza umsebenzi, zenze inhlolo, ziqaphe futhi zicindezele izimiselo zalo *Mthetho* noma *yimuphi omunye umthetho* onikezela igunya *umasipala* ukuqoka umuntu ukuba enze umsebenzi, enze inhlolo, aqaphe futhi acindezele izimiselo zomthetho.
- (2) Ngokuhambisana nanoma *yimuphi omunye umthetho*, *isikhulu esibekiwe* kufanele senze yonke imisebenzi ebhekkelwe kulesi sigaba ngokuhambisana nohlelo olumiselwe eZigabeni 24 no 25.

**23 AMANDLA EZIKHULU EZIBEKIWE**

- (1) Amandla *ezikhulu ezibekiwe* abhekkelwe kulesi Sahluko -
  - (a) ayengezelela kulawo mandla anikezwe *isikhulu esibekiwe* ngokuhambisana

*nanoma yimuphi omunye umthetho; futhi*

- (b) ayahambisana nalemithetho

(2) *Isikhulu esibekiwe esenza umsebenzi noma esenza inhlolo singenza noma yini kulokhu okulandelayo -*

- (a) singenza umsebenzi noma senze inhlolo endaweni noma ezakhiweni;
  - (b) singafaka imibuzo umuntu noma abantu abakuleyondawo noma izakhiwo nganoma yiluphi udaba oluphathelene nomsebenzi noma inhlolo;
  - (c) singabuza umuntu noma abantu lesi *sikhulu esibekiwe* esikholwa ngukuthi banolwazi ophathelene nomsebenzi noma nokuhlola;
  - (d) singahlola noma yimuphi umbhalo umuntu okudingkeke ukuthi ahlale ewenzile ngophathelene nanoma yimuphi umthetho noma ophathelene nanoma yimuphi umsebenzi noma ukuhlola;
  - (e) singakopisha noma yimuphi umbhalo okukhulunywe ngawo **esigatshaneni** (d) noma uma kunesidingo angawuthatha lowo mbhalo ukuze awukopishe;
  - (f) singathatha amasampula anoma sici sini esiphathelene nomsebenzi noma ukuhlola;
  - (g) singahlola futhi sibhale phansi okufundwayo futhi sikale;
  - (h) singathatha izithombe noma siqophe ngesiqophi noma yini noma ngubani, umsebenzi, isenzo noma isimo kuleyo ndawo noma isakhiwo; kanye
  - (i) nazozonke izinto ezibalulekile ekwenziweni komsebenzi noma ekwenziweni kohlolo umasipala angadinga ukukwenza ngokuphathelene *nanoma yimuphi omunye umthetho*.
- (3) *Isikhulu esibekiwe* esisusa noma yini ngaphandle kwasici esibhekewi **esigatshaneni** (2)(f) endaweni noma esakhiweni okwenziwa kukho umsebenzi noma esihlolwayo, kufanele: -

- (a) sinikezele ngerisithi ngaleso senzo kumnikazi noma umuntu ophethe lezo zakhiwo; futhi

- (b) sikubuyisele lokho okwathathwa ngokushesha emva kokufeza injongo okwakuthathelwe yona.

**24 UHLELO OLULANDELWAYO UKWENZA UMSEBENZI NOMA UKWENZA INHLOLO: UKUNGENA NGENCWADI EVUMELAYO**

- (1) *Isikhulu esibekiwe singangena kunoma yiyphi indawo noma izakhiwo uma imantshi<sup>7</sup> noma ovezobulungisa enikezele ngencwadi evumela ukungena futhi kwenziwe umsebenzi noma ukuhlola kuleyo ndawo noma isakhiwo futhi leyo ncwadi ibe isasebenza.*
- (2) *Imantsi noma ovezobulungisa anganikezelwa incwadi evumela ukungena futhi kwenziwe umsebenzi noma ukuhlola kunoma yiyphi indawo noma izakhiwo uma, ngokolwazi olunikezelwe ngokulufungela, kunezizathu eziqinile zokukholwa ukuthi*
- (a) *ngokubhekela inhlalakahle yomphakathi, kubalulekile ukwenza lowo msebenzi noma ukuthola ulwazi olungenakutholakala ngaphandle kokungena kuleyo ndawo noma kulezo zakhiwo; noma*
- (b) *uma kunokungahambisani nezimiso zalo Mthetho nanoma yimuphi omunye umthetho obhekelwe eSigaben 22 ngokuphathelene naleyo ndawo noma izakhiwo;*
- (3) **Incwadi yokuvumela ngokwesigatshana (2) inganikezelwa nganoma yisiphi isikhathi kanti kufanele iqondize ngqo**
- (a) *iyichaze leyo ndawo noma izakhiwo okungangenwa kuzo kwenziwe umsebenzi noma ukuhlola; futhi*
- (b) *inikezele igunya isikhulu esibekiwe ukungena nokwenza umsebenzi noma ukuhlola indawo noma izakhiwo nokwenza noma yini eshiwo eSigaben 23 (2).*

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Izinkingo zokusho ukuthi ngubani umuntu ongye kudingeka kubhekwe. Kokubili okungenziwa, ukusebeniza umuntu wobulungiswa (njengoba echa ZweMthethweni woKhomishani bezifungo ka-1963) uyakhethwa. Ngokubhekela ukusebeniza izimantshi ngalo msebenzi, ukuxhumana noMnyango wezoBulungiswa. Uma indlela ekhethiwe isetshenziswa kuphakanyiswa ukuba uMnyango wezoBulungiswa uqoke isikhulu esiyiso ngaphakathi eMkhandlwini kaMasipala (isib. iSikhulu esiyiNhloko) njengomuntu wezobulungiswa ngokwalmsebenzi kuphela.

- (4) Incwadi evumelayo ngokwesigatshana (2) iba semthethweni kuze kube kwenzeka okunye kwalokhu .
- (a) iyasetshenziswa;
- (b) iyakhanselwa ngumuntu oyinikezelile noma uma lowo muntu engekho, ngumuntu onegunya elifanayo;
- (c) uma injongo ebinekelelwwe yona seyedlulelwwe yisikhathi; noma
- (d) sekwedlule izinyanga ezintathu selokhu yakhishwa.
- (5) Incwadi eyimvume ngokwesigatshana (2) ingasetshenziswa phakathi kuka-07h00 no 19h00, ngaphandle-ke uma imantshi noma ovezobulungisa oyikhiphayo esho ngokubhalwe phansi ukuthi ingasetshenziswa ngesinte isikhathi esizwakalayo phansi kwezimo ezikhona.
- (6) Ngaphambi kokuqalisa umsebenzi noma ukuhlola, *izikhulu ezibekiwe ezisebenzisa incwadi evumelayo kufanele zenze lokhu* .
- (a) uma umnikazi noma umuntu ophethe leyo ndawo noma izakhiwo ekhona .
- (i) zizazise futhi zichaze igunya lazo kulowo muntu noma zinikezele ngobufakazi bokugunyaziswa; futhi
- (ii) zinikezele ngekhophi yencwadi eyimvume kulowo muntu noma kumuntu obhalwe kuyona; noma
- (b) uma umnikazi noma umuntu ophethe indawo noma izakhiwo engekho noma enqaba ukwamukela ikhophi, namathisela ikhophi yencwadi eyimvume kuleyo ndawo noma ezakhiweni endaweni esobala futhi egqamile.

**25 UHLELO OLULANDELWAYO UKWENZA UMSEBENZI NOMA UKWENZA INHLOLO:  
UKUNGENA NGAPHANDLE KWEMVUME**

(1) *Isikhulu esibekiwe esingenayo incwadi eyimvume singangena futhi senze umsebenzi noma sihlole -*

(a) *noma yiyiphi indawo noma izakhiwo, ngemvume yomnikazi noma umuntu ophethe leyo ndawo noma lezo zakhiwo; noma*

(b) *noma yiyiphi indawo noma izakhiwo, ngaphandle kwendawo okuhlalwa kuyo noma izakhiwo<sup>8</sup>, ngokuvamisa*

(i) *kungabi ngaphezu kwamahlandla amathathu esikhathini esiyizinyanga eziyishumi nambili; noma*

(ii) *ngokuvamisa uma sivunyelwe yinoma yimuphi umthetho ngokwezizathu zokusebenza noma ukuhlola.*

(2) *Ngokwengezelela ekuvunyelweni ukungena ngokwesigatshana (1), isikhulu esibekiwe singangena noma kuyiphi indawo noma izakhiwo ngaphandle kwencwadi eyimvume -*

(a) *uma singunyaziwe ukwenze njalo yinoma yimuphi umthetho; noma*

(b) *uma kunesaziso esimiyo sokuphoqelela ukuhambisana nomthetho, ekhishwe ngokuhambisana neSigaba 31, ngokwesizathu sokubona ukuthi isaziso sekuanjisiwene yini naso.*

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Umphumela walesi simiso uma sifundwa nesigatshana (2) ngukuthi:

(a) ukungena nokuhlola indawo yokuhlala noma izakhiwo kudinga incwadi eyimvume; futhi umthetho ungazisho ezinye izimo lapho kungangenwa ngaphandle kwemvume  
 (b) ukungena okulandelayo kanye nokuhlola ngokubhekela ukuhambisana nesaziso esinikwe ngokwezimiselo zeSigaba 31 ayidingezi incwadi eyimvume.  
 (c)

- (3) Ngaphambi kokuqalisa ukusebenza noma ukuhlola noma yiyiphi indawo noma izakhiwo ngokwalesi sigaba, *izikhulu ezibekiwe* kufanele zizazise futhi zichaze igunya lazo noma zinikezele ngesiqinisekiso sokugunyazwa kulowo muntu obonakala okungathi nguye opethe indawo noma izakhiwo noma kumuntu ozinikeze imvume yokungena.
- (4) Ukungena wenze umsebenzi noma ukuhlola ngaphandle kwencwadi eyimvume kufanele kwensiwe ngesikhathi esamukelekayo ngaphansi kwezimo.

## **26 UKUBHEKELA AMALUNGELO ANGAGUQUI**

*Izikhulu ezibekiwe* ezingena zenze umsebenzi noma zihlole noma yiyiphi indawo noma izakhiwo ngokwezimiselo zalesi Sahluko, kufanele ziziphatho ngokuqaphela ikakhulukazi ukuhlonipha nokulunga kanye nokubhekela amalungelo esintu omuntu ngamunye kuhlanganisa nelungelo lesithunzi, inkululeko, ukuvikeleka kanye nobuwena.

## **27 UKUSEBENZISA INDLUZULA UKUNGENA**

- (1) *Isikhulu esibekiwe* esisebenzisa incwadi yokungena **ngokweSigaba 24** singangena ngenkani uma senqatshelwa ukungena, ukwenza umsebenzi noma ukuhlola ngokusebenzisa indluzula edingekile, kuhlanganisa nokwaphula isihluthulelo, umnyango noma ifasitele laleyo ndawo noma izakhiwo okungenwa kuzo.
- (2) Ngaphambi kokusebenzisa indluzula, lowo muntu osebenzisa incwadi yokungena kufanele asho ngokuzwakalayo ukuthi ufuno ukuvulelwu futhi kufanele asho nenjongo, ngaphandle-ke uma ekholwa ngukuthi lokho kungaholela ekutheni othile esule, asuse noma athinte leyonto noma umbhalo okuyiwona okufanele isetshenzwe noma ihlolwe.
- (3) Izikhwama zoMkhandlu kaMasipala kufanele zisetshenziselwe ukunxephezelwa noma ngubani othola ukulimala ngenxa yokungena okunendluzula ngesikhathi kwensiwa noma yimuphi umsebenzi noma ukuhlola ngesikhathi kungekho muntu obheke leyo ndawo noma izakhiwo.
- (4) Ngokuhambisana *nanoma yimuphi umthetho* noma ezimeni eziphuthumayo, indluzula kungadingeka ukuba isetshenziswe ukungena ukuze kwensiwe umsebenzi noma kwensiwe ukuhlola **ngokweSigaba 25**.

## **28 ISIKHULU ESIBEKIWE SINGAPHELEZELWA**

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

**29 ISIBOPHO SOKUVEZA IMIBHALO**

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

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**30 ISIBOPHO SOKUPHENDULA IMIBUZO NOKUSIZA IZIKHULU EZIBEKIWE**

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

**31 IZAZISO ZOKUHAMBISANA NEZIMFUNO**

- (1) *Isikhulu esibekiwe* esithola ukuthi kunesimiselo *salo Mthetho* okungahanjiswananga naso, singanikezela ngesaziso sokuhambisana kumnikazi noma umuntu obonakala ephethe leyo ndawo noma izakhiwo.
- (2) *Isikhulu esibekiwe* esenelisekile ukuthi umnikazi noma umuntu obonakala ephethe kunoma yiyiphi indawo noma izakhiwo usehlangabezeno nemiyalelo yesaziso sokuhambisana, singanikezela ngesitifiketi sokuhambisana nomyalelo esisho lokho.
- (3) Isaziso sokuhambisana sihlale simile kuze kube *isikhulu esibekiwe* sinikezela ngesitifiketi mayelana naleso saziso.
- (4) Isaziso sokuhambisana kufanele sisho lokhu .

- (a) isimiselo okungahanjiswa nasa;
- (b) imininingwane ngendlela nezinga lokungahambisan;
- (c) yinoma yiziphi izinyathelo okuzodingeka zithathwe kanye nesikhathi esimiselwe ukuba lezo zinyathelo zithathwe ngaso
- (d) yinoma yisiphi isijeziso okungenzeka simiswe **ngokwe Sigaba 50** uma kungahanjiswa nala zinyathelo

**32 AMACALA**

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

- eyimvume; ezimweni ezidinda imvume;
- (k) ukwenza ngokungahambisani nencwadi eyimvume ekhishwe ngokwezimiso zalesi Sahluko;
  - (l) ngaphandle kwegunya -
    - (i) lokungena noma uhloje indawo noma izakhiwo;
    - (ii) ukwenza noma yini ebalwe eSigaben 23(1) noma (2); noma  - (m) ukuveza ulwazi olumayelana nezindaba zezimali noma zamabhizinisi zanoma yimuphi umuntu, nokwatholakala ekwenzeni noma yimuphi umsebenzi noma kusetshenziswa noma yimaphi amandla ngezimiso *zalo Mthetho*, ngaphandle -
    - (i) komuntu odinga lolo lwazi ukuze enze umsebenzi noma asebenzise amandla ngokumayelana *nalo Mthetho*;
    - (ii) uma ngabe lokho kuvezwa kunqunywe yinkantolo yomthetho; noma
    - (iii) uma lokho kuvezwa kuhambisana nezimiso zanoma yimuphi umthetho.

### **33 UKUSETSHENZISWA KWALESI SAHLUKO**

- (1) Izimiselo zalesi Sahluko zisebenza kunoma yimuphi umuntu noma uhlaka, kuhlanganisa noMbuso.
- (2) Isimiselo salesi Sahluko esinikezelu amandla noma ukunikezelu ngesibopho simayelana
  - (a) nanoma yiyiphi indawo noma izakhiwo;
  - (b) nanoma ngubani noma into nanoma kuyiphi indawo noma kuziphi izakhiwo;
  - (c) kumnikazi noma umhlali wanoma yiyiphi indawo noma izakhiwo;
  - (d) kunoma yiluphi udaba oluphatelene nendawo, izakhiwo, umuntu noma into.

(3) Ngokuhambisana nomsebenzi walesi Sahluko, inhloko yomnyango kazwelonke, wesifunda noma kamasipala uthathwa

- (a) njengomnikazi kanye nomhlali wanoma yiyphi indawo noma izakhiwo lwo mnyango chleli kuzo noma ozisebenzisa ngokwawo kungahlanganisi abanye abantu; futhi
- (b) ungumqashi wabantu abasebenzela lwo mnyango uma, njengomqashi, umnyango
  - (i) unesibopho esibekwe *yilo Mthetho*; futhi
  - (ii) usebenzisa amandla anikezelwe *ngokwalo Mthetho*;

# ISAHLUKO 6

## UKUTHOLAKALA KWEZIMPAHLA

## NEMISEBENZI NGAWOMASIPALA

### 34 UHLELO OLULANDELWAYO EKUTHOLWENI KWEZIMPAHLA NOMA IMISEBENZI

- (1) Ngokwenjongo yokulungiselela umasipala ukuba akwazi ukuthola noma ukunikezela ngezinkontileka zezimpahla noma imisebenzi ngaphansi kohlaka olubekelwe eSigabeni 10G (5)(a) *soMthetho weSikhashana woHulumeni baseKhaya, uMphathiswa angabeka inani lethenda lemisebenzi noma izimpahla ngokuphatelene nohlelo lokutholwa njengoba kumiselwe eSigabeni 35.*
- (2) Ngaphandle kwezimiselo eziseSigatshaneni (1), uhlelo olumisiwe eSigabeni 35 lungeze Iwasetshenziswa.
  - (a) lapho izimpahla noma imisebenzi kufanele zitholakale
    - (i) ngokushesha;
    - (ii) kunesidingo esikhulu; noma
    - (iii) kunomfakeli oyedwa; futhi
  - (b) uma loluhlelo olumiswe kwiSigaba 36 kuhlangatshezwene nalo.
- (3) Ngokuphatelene nokutholakala kwazozonke ezinye izimpahla noma imisebenzi, uhlelo olubekwe ezimiselweni zezimali nezisebenza kubobonke omasipala kufanele lulandelwe.

**35      UHLELO OLULANDELWAYO EKUTHOLENI KWEZIMPAHLA NOMA IMISEBENZI OKUMISELWE**

- (1) Uma uMkhandlu kaMasipala ufuno ukuthola izimpahla noma imisebenzi *ukumiselwe*, kufanele uhambisane naloluhlelo olulandelayo -
- (a) isinqumo sokutholwa kwezimpaahl noma imisebenzi *emiselwe* kufanele sishiwo esazisweni -
- (i) esishicilelwe okungenani ephephandaben elitholakala phakathi kwemingcele yalowo masipala; futhi
- (ii) sivezwe okungenani endaweni egqamile nebekelwe lowo msebenzi nguMkhandlu kaMasipala;
- (b) leso saziso kufanele sisho lokhu -
- (i) sisho ngokufingqiwe izidingo nezincasiselo ngezimpahla nemisebenzi *okumiselwe*;
- (ii) indawo noma izindawo, isikhathi noma izikhathi kanye nezimo noma indlela umqulu ophethe izidingo nezincasiselo ngezimpahla noma ngemisebenzi *emisiwe* okuzokhonjisa ngayo ukuze kuhlolwe noma kutholakale;
- (iii) isikhathi okufanele izicelo zamathenda okunikezela ngezimpahla noma imisebenzi *okumiselwe* zifakwe ngaso, kuhlanganisa nesikhathi esingujuqu emva kwaso okungeke kusemukelwa zicelo zamathenda;
- (iv) indlela okufanele ilandelwe ekulethweni kwezicelo zamathenda kuhlanganisa -
- (aa) izincwadi okufanelwe zigcwaliswe kanye nolwazi lokwengezelela, izincwadi, amasampula, izinto zokusebenza noma amadiphozithi ezimali okufanele ahambisane nesicelo; kanye
- (bb) nendawo lapho izicelo zamathenda okufanele zifakwe khona;

- (v) olunye ulwazi okungenzeka lube semqoka maqondana nomsebenzi wokucubungula isicelo; kanye
  - (vi) nendawo lapho zonke<sup>9</sup> izicelo zamathenda ezitholakele zingabhaliswa khona njengoba kubhekewa eSigatshaneni (4).
- (2) Noma ngubani, uhlaka, inhlango noma inkampani ingasifaka isicelo sethenda
- (a) ngokugcwalisa ngokuyikho ifomu okuyilo lethenda; kanye
  - (b) nokunikezela ngazozonke izincwadi zolwazi, amasampula, izinto zokusebenza noma idiphozithi yemali engadingeka ngokufaka isicelo sethenda.
- (3) Ukweluleka ukuhambisana nezimiselo sesigatshana (2) noma ukusho okungeyikho esicelweni kungasifenyisa isicelo.
- (4) Esikhathini esingujuqu nesibhekewa esigatshaneni (b)(iii), uMkhandlu kaMasipala kufanele ufake igama nemininingwane yokuxhumana yabobonke abafake izicelo zamathenda kanye nenani lethenda kwirejista eyenzelwe lomsebenzi nguMkhandlu kaMasipala.
- (5) Ngokuphathelene nerejista ebhekewa esigatshaneni (4), noma yiliphi ilungu lomphakathi
- (a) lingaba khona ukufakazisa ngohlelo lokubhalisa; kanye
  - (b) nokuhlola irejista endaweni noma ezindaweni, ngesikhathi noma ngezikhathi kanye nasezimeni nangendlela uMkhandlu kaMasipala abona ukuthi ifanele kulezo zimo.
- (6) Uma sekucutshungulwa ukuthi yiyiphi ithenda okufanele yamukelwe, uMkhandlu kaMasipala kufanele unake kakhulu lokhu, phakathi kwezinye izinto -
- (a) amaphuzu achasiswe *kunoma yimuphi omunye umthetho*<sup>9</sup>;

<sup>9</sup> Bheka phakathi kokunye iSigaba 217 zoMthethosisekelo kanye neSigaba 10G(5)(b) zoMthetho wesiKhashana woHulumeni baseKhaya.

- (b) inqubomgomu emiswe nguhlaka oluyilo loMbuso<sup>10</sup>;
- (c) yilabo bafaki zicelo abamagama abo afakwe kwirejista okukhulunywe ngayo kwisigatshana (4) nabazicelo zabo zingazange zichithwe;
- (d) ukugquguzelwa kwamabhizinisi amancane namaphakathi nendawo;
- (e) ukuvunywa kwalezo zinhla ezinconywayo zabantu, izinhlaka, izinhlangano noma izinkampani ezingashiwo ngumasipala;
- (f) ukuvezwa kwamathuba emisebenzi noma ukudlulisela kwamakhono;
- (g) ukuphakelwa ngokuyikho nangendalela kwemisebenzi kamasipala;
- (h) amandla okukwazi ukunikezela ngezimpahla nemisebenzi kwalabo abafake izicelo zamathenda; kanye
- (i) ukongeka kwemali ngesicelo. Ngokuphathelene nalokhu uMkhandlu kaMasipala awuphoqelekile ukunikezela ithenda kofake isicelo obize imali encane kunazonke izicelo.
  
- (7) Isinqumo sokwamukelwa, ukuchithwa nokwenqatshelwa kwesicelo sethenda kufanele sithathwe nguMkhandlu kaMasipala. Nokho-ke uMkhandlu kaMasipala ungawedlulisela ekomidini elibhekelwe eSigaben 41 lomsebenzi ngokuphathelene nezinye izimpahla nemisebenzi *emiselwe*.
- (8) Isinqumo soMkhandlu kaMasipala noma ikomidi elibhekelwe eSigaben 41, singujuqu futhi siyabophezel.
- (9) Umkhandlu kaMasipala noma ikomidi elibhekelwe eSigaben 41 kufanele bazise ngesinqumo sabo ngokubhalwe phansi kulowo ofake isicelo sethenda futhi unikeze nezizathu ngesinqumo sanoma yiyiphi ithenda uma .
  - (a) (i) isicelo sithathwe ngokuthi senqatshelwe; noma
  - (ii) uma isicelo sichithiwe; futhi

<sup>10</sup>

Lesi simiselo sibhekela inqubomgomu equkethwe eswini elisahlelwa likazwelonke lamaphuzu ayishumi.

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

### **36 UHLELO OLUSHESHISWAYO LOKUTHOLA IZIMPAHLA NOMA IMISEBENZI EMISELWE**

- (1) Uma uMkhandlu kaMasipala wenelisekile ngokuthi izimo ezibhekeliwe eSigabeni 34(2)(a) zikhona, kufanele -
- (a) unqume ngokulususa uhlelo olumiswe eSigabeni 35; futhi
  - (b) uqoke umuntu, uhlaka, inhlangano noma inkampani ngokuba ufaele ngezimpahla noma imisebenzi *okumiselwe* futhi wazise ngalesisinqumo ngokubhaliwe kulowo oqokiwe.
- (2) Ngaphakathi kwasikhathi esiyinyanga kwensiwe lesisinqumo, izindaba ezibhekeliwe esigatshaneni (3) kufanele
- (a) zishicilelwwe ngumasipala okungenani ephephandaben elitholakala phakathi kwemingcele yalowo masipala; futhi
  - (b) zivezwe okungenani endaweni egqamile nebekelwe lowo msebenzi ngumasipala.
- (3) Izindaba okufanele zishicilelwwe noma zikhonjiswe yilezi -
- (a) izizathu zokushiya ukusebenzia uhlelo olumiswe eSigabeni 35;
  - (b) kushiwo ngokufingqiwe izidingo nezincasiselo ngezimpahla nemisebenzi *okumiselwe*
  - (c) indawo noma izindawo, isikhathi noma izikhathi kanye nezimo noma indlala umqulu ophethe izidingo nezincasiselo ngezimpahla noma ngemisebenzi *emisiwe* okuzokhoniswa ngayo ukuze kuhlolwe noma kutholakale; futhi
  - (d) imininingwane yomuntu, uhlaka, inhlangano noma inkampani ezofakela ngezimpahla noma imisebenzi.
- (4) Imisebenzi yoMkhandlu kaMasipala ngokuphathelene nalesisigaba akunakudluliselwa noma kunikezelwe kwabanye.

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**UKWANDISWA NOKUGUQLWA KWESIVUMELWANO SETHENDA**

- (1) Ngokuhambisana nesigatshana (2), uMkhandlu kaMasipala ngokuzenzela ngokwawo noma emva kokuthola isicelo kumuntu, uhlaka, inhlango noma inkampani efakela ngezimpahla noma ngemisebenzi eMkhandlwini kaMasipala ngokuphathelene nalesiSahluko, unganquma ukwandisa noma uguqule isivumelwano sethenda uma -
- (a) izimo ezibhekewa eSigabeni 34(2)(a) zikhona; noma
  - (b) uma kubhekewa ukusebenza kokuphatha ngokuyikho uma umkhandlu ukubona lokho kunesidingo.
- (2) UMkhandlu kaMasipala ungeze wasandisa noma usiguqule isivumelwano sethenda
- (a) ngaphezu kwehlandla elilodwa;
  - (b) ngaphezu kwesikhathi ebekwe ngokwesivumelwano saphambilini; noma
  - (c) ngesamba esingaphezulu ngamaphesenti angamashumi amabili enani lethenda laphambilini.
- (3) Ngaphakathi kwesikhathi esiyinyanga kwensiwe lesisinqumo, izindaba ezibhekewa esigatshaneni (1) izindaba ezichazwe esigatshaneni (4) kufanele
- (a) zishicilelwe ngumasipala okungenari ephephandaben elitholakala phakathi kwemingcele yalowo masipala; futhi
  - (b) zivezwe okungenani endaweni egqamile nebkelwe lowo msebenzi ngumasipala.
- (4) Izindaba okufanele zishicilelwe noma zikhonjiswe yilezi -
- (a) izizathu zokushiya ukusebenzia uhlelo olumiswe eSigabeni 35;
  - (b) kushiwo ngokufingqiwe izidindo nezincasiselo ngezimpahla noma imisebenzi; futhi

- (c) imininingwane yomuntu, uhlaka, inhlango noma inkampani ezofakela ngezimpahla noma imisebenzi.
  
- (5) Imisebenzi yoMkhandlu kaMasipala ngokuphathelene nalesisigaba akunakudlulisewa noma kunikeyelwe kwabanye.

**38 IZICELO EZINGEKHO EMTHETHWENI KANYE NEZINGAQONDILE KANYE NOKWAPHULWA KWEZIVUMELWANO ZAMATHENDA**

- (1) Ngokuhambisana nomsebenzi walesisigaba -
  - (a) amagama athi "isicelo sethenda" kufanele afakwe esicelweni sokwandisa noma sokuguqula ithenda; futhi
  - (b) negama elithi "umfakeli" lisho umuntu, uhlaka, inhlango noma inkampani efakela ngezimpahla noma imisebenzi kuMkhandlu kaMasipala ngokwezimiso zalesiSahluko.
  
- (2) Uma uMkhandlu kaMasipala wenelisekile ngokuthi isicelo sethenda samukelwe, saguqulwa noma sandiswa ngaphansi kwezimo ezbekwe esigatshaneni (3)(a) kanye no (b) noma uma isivumelwano sethenda sesaphuliwe ngaphansi kwezimo ezivezwu esigatshaneni (3)(c) .
  - (a) kufanele uthumele umfakeli isaziso esibhaliwe mayelana nesinqumo kanye nezizathu zaleso sinqumo; futhi
  - (b) kuleso saziso kufanele wazise umfakeli ukuthi unezinsuku eziyishumi nane kusukela ngosuku lwesaziso ukwenza isethulo sokuthi kungani uMkhandlu kaMasipala kungafanele uthathe izinyathelo ezbekwe esigatshaneni (5).
  
- (3) Ngokubhekela isigatshana (2), izimo yilezi
  - (a) lapho umfakeli
    - (i) enikezele ngolwazi olungamanga kunoma yimupi umfaki sicelo wethenda;

- (ii) efake ithonya elingafanelekile kunoma ngubani onesandla ekucutshungulweni kwesicelo sakhe sethenda; noma
  - (iii) enikezele ngomvuzo wemali noma wani; kumuntu onesandla ekucubunguléni isicelo sakhe sethenda ukuze athole, aguqule noma andiselwe ithenda;
  - (b) lapho umuntu onesandla ekucutshungulweni kwethenda eyingxene ye ohlakeni olufake isicelo, enhlanganweni noma enkampanini noma emphumeleni wesicelo sethenda kanti lokho kuba yingxene kungaziswanga ngaphambili kokucutshungulwa kwesicelo sethenda; noma
  - (c) uma umfakeli ehlulekile noma engaphumeleli ukuhambisana nezidingo nezincasiselo zezimpahla noma imisebenzi ezizofakelwa.
- (4) Uma lowo ofake isicelo sethenda noma umfakeli esethole isaziso ngokuphatelene **nesigatshana (2)** ezinsukwini eziyishumi nane futhi angezi nezethulo noma lezo zathulo ezethulwe ngaphakathi kwaleso sikhathi uMkhandlu kaMasipala ungazemukeli, uMkhandlu kufanele uthathe esinye salezi zinyathelo ezichazwe **esigatshaneni (5)**, kanye nokubhaliwe kwaziswe umfakeli ngezizathu zesinqumo.
- (5) Ngokubhekela **isigatshana (2)** no **(4)**, izinyathelo okufanele zithathwe yilezi -
- (a) ukukhanselwa kwesivumelwano sethenda;
  - (b) ukubuyiselwa ngokulahlekelwa noma ukulimala okutholwe ngumasipala ngenxa yokukhanselwa kwesivumelwano sethenda; noma
  - (c) ukuvinjelwa komfakeli ukuba abhekewo esicelweni sethenda isikhathi esizobekwa nguMkhandlu kaMasipala.
- (6) Umfakeli angafaka isikhala ngesinqumo soMkhandlu kaMasipala ekuthatheni izinyathelo ezibhekwele **esigatshaneni (5)** ngokuphatelene nohlelo olumiselwe **eSigaben 39**.
- (7) Imisebenzi yoMkhandlu kaMasipala ngokwemiyalelo yalesisigaba ayinakwedluliselwa noma inikezelwe kwabanye.

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**UKUZIKHALELA MAYELANA NEZICELO ZAMATHENDA EZINGAVUNYELWE  
NEZINGEKHO EMTHETHWENI KANYE NOKWAPHULWA KWEZIVUMELWANO  
ZAMATHENDA**

- (1) Noma yimuphi umfakeli wezimpahla, noma imisebenzi eMkhandlwini kaMasipala osethole isaziso ngokwezimiselo zeSigaba 38(4), angafaka isikhala zo ngesinqumo esithathwe ngokwezimiso zaleso sigaba, zingakapheli izinsuku eziyishumi nane, ngokufaka isaziso sokukhalaza esiveza jizizathu zokukhalaza eSigungwini sokuziKhalela ngokuTholwa kwezinto zokusebenza. Ngokwengezelela, isaziso kufanele siphelezelo lezizinto ezilandelayo.
- (a) isicelo sethenda kanye nezincwadi eziphelezelo;
- (b) isaziso soMkhandlu kaMasipala esakhishwa ngokwezimiso zeSigaba 38(2);
- (c) imininingwane yempendulo yakhe esazisweni soMkhandlu kaMasipala; kanye
- (d) nesaziso soMkhandlu kaMasipala ngokwezimiso zeSigaba 38(4) kanye nezizathu zesinqumo okuyilonia ludaba olukhalazelwe.
- (2) Ngokuhambisana neSigaba 40(1) no (2), uMkhandlu kaMasipala kufanele uchaze indlela ezelandelwa ekuvumeni, ekubambeni nasekubhekeleni izikhala zo kanye nokwazisa lawo maqembu athintekile kuleso sikhala zo ngokumayelana nalezizindlela ngaphambi kokuqala kwesikhala zo.
- (3) ISigungu sokuziKhalela ngokuTholwa kwezinto zokusebenza kufanele sibheke isikhala zo ngendlela emiswe nguMkhandlu kaMasipala futhi sithumele isaziso esibhaliwe ngesinqumo kumfakeli oqale uholelo lokuzikhalela kanye naseMkhandlwini kaMasipala. Uma ngabe singaphumeleli isicelo sokukhalaza, isaziso kufanele sihlanganise izizathu zaleso sinqumo.
- (4) ISigungu sokuziKhalela ngokuTholwa kwezinto zokusebenza singanquma ukuba kubuyiswe izindleko uma leloqembu, noma umuntu obemele leloqembu esikhala zweni -
- (a) eziphathe ngendlela engenanhlonipho, ebeyinkinga noma ukungabi nangqondo;
- (i) ngokuqhube ka noma nokuphikisana nesikhala zo; noma
- (ii) ngokubhekela ka noma

- (b) ehlulekile ukufika noma nokwehluleka ukuqhubeka nokubakhona ngesikhathi kulalelwe isikhala zo ngaphandle kwsizathu esizwakalayo.
- (5) Isinqumo seSigungu sokuziKhalela ngokuTholakala kwezinto zokusebenza singujuqu futhi siyabophezela kuwowonke amaqembu abekhona ekuhlalelwani kwsikhala zo.
- (6) Kunoma yikuphi ukulalelwa kwsikhala zo okuhanjiswe ngokwezimiso zalesi Sahluko, lezizincwadi ezilandelayo ziysisakhiwo zesivumelwano sethenda -
- (a) incwadi ephethe izidingo noma izincasiselo zeziimpahla noma imisebenzi emiselwe nokukhulunywa ngakho eZigabeni (35(1)(b)(ii) kanye naku 36(3)(c), kanti uma kusebenza, izimiso nemiqobo okufakwe kwifomu yesicelo sethenda; kanye
- (b) nesaziso esibhaliwe njengoba kubhekeliwe eSigabeni 35(7) kanye no 36(1)(b) ukuqinisekisa ukuvunywa kwsicelo noma ukuqokwa.

#### **40 ISIGUNGU SOKUZIKHALELA NGOKUTHOLWA KWEZINTO ZOKUSEBENZA KANYE NETHIMBA LABALAMULI**

- (1) UMkhandlu kaMasipala kufanele umise iSigungu sokuziKhalela ngokuTholwa kwezinto zokusebenza okufanele sibe namalungo okungenani amabili ethimba labalamuli.
- (2) Amalungu ethimba okukhulunywa ngalo esigatshaneni (1), angaqoka noma yiliphi inani lochwepheshe babe ngamalungu eSigungu sokuziKhalela ngokuTholwa -
- (i) ngokuzikhethela kwabo; noma
- (ii) uma sekubhekeliwe isicelo esibhaliwe esitholwe sivele kunoma yiliphi iqembu eliyixenye yohlelo lokulalelwa kwsikhala zo nelicela ukuqokwa kukachwepheshe noma ochwepheshe.
- (3) UMkhandlu kaMasipala ungabavuma abantu njengoba kufanelekile ukuze kube nethimba labalamuli elinabantu okungenani abayisithupha. Labo bantu angeze baba ngamakhansela noma abasebenzi boMkhandlu kaMasipala.
- (4) Lendlala elandelayo isebeza noma nini uma uMkhandlu kaMasipala kudingeka uqoke umuntu ekubeni yilungu lethimba labalamuli -
- (a) UMkhandlu kaMasipala ushicilela isaziso esicela iziphakamiso zamagama

nesisho imibandela yokuphakamisa igama, okungenani ephephandabeni elifanele nelitholakala ngaphakathi kwemingcele yalowo Masipala.

- (b) UMkhandlu kaMasipala kufanele kube yiwo owenza ukuba kulethwe iziphakamiso ngokulandela isaziso bese uhlola iziphakamiso bese wenza uhlu olufushane lwalabo abaphakanyisiwe.
- (c) UMkhandlu kaMasipala kufanele labo abasohlwini olufushane ubabizele esigcawini sokubabuza emva kwalokho uqoke labo abafanele.
  
- (5) Izimiso nezimo zokuqokwa kwamalungu ethimba labalamuli kanye nochwepheshe noma ochwepheshe kufanele kumiswe nguMkhandlu kaMasipala.

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#### **UKWESEKWA KWEKOMIDI LOKUTHOLWA KWEZINTO ZOKUSEBENZA<sup>11</sup>**

- (1) UMkhandlu kaMasipala ungamisa ikomidi lokuthola izinto zokusebenza.
- (2) Ngokwengezelela emisebenzini ethile yalo emiswe kulesiSahluko, ikomidi -
  - (a) lingaphakamisa izinqubomigomo, izindlela zokusebenza kanye nokwenza ukusiza uMkhandlu kaMasipala ukuba usebenzise *amandla* awo, wenze *imisebenzi* kanye *nezibophezelo* ngokuphathelene nalesi Sahluko ngokuyikho nangendlela ebonakalayo yokusebenza;
  - (b) lingenza iziphakamiso eMkhandlwini kaMasipala ngokuphathelene
    - (i) ngokumiswa kwamazinga nokwenza kube lula ukuqonda izinhlelo zezicelo zamathenda;
    - (ii) ukunikezelwa kwezaluleko kanye nemisebenzi yokwesekela kulabo abafake icicelo zamthenda;
  - (c) ukwenza iziphakamiso ngokumayelana nezingcaciso okuyizo ezizomisa uhla noma izinhla zabantu, izinhlaka, izinhlangano noma izinkampani okufanele ziqinisekiswa ngokubhekewi eSigaben 35(6)(c); futhi

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Izindlela ezilandelwe ekumiseni leli komidi, izimo zokuqokwa kwamalungu ekomidi kanye nezindlela zangaphakathi ekomidini kuzophathwa ngezimiselo ezejwayelekile ngokuphathelene namakomidi kamaspala.

- (d) ingenza noma yimuphi umsebenzi uMkhandlu kaMasipala obona kufanele wenziwe ukufeza lesi Sahluko, kuhlanganisa nokwenziwa kwezinhlolo, ukwenziwa kweziphakamiso kanye nokubikwa kwanoma yiluphi udaba.

# ISAHLUKO 7

## IMIKHAWULO YOKUNGENA EZINDAWENI

### ZOMPHAKATHI NGEZOKUBHEKELA

### UKUPHEPHA NOKUVIKELEKA

**42 AMANDLA OMKHANDLU KAMASIPALA UKUBEKA IMIKHAWULO NGOKUNGENA**

Ngokubhekela ezokuphepha nokuvikeleka, uMkhandlu kaMasipala -

- (a) ungabeka imikhawulo ngokwawo ekungeneni kunoma yiyiphi *indawo yomphakathi* uma lokho kuhambisana nezimiselo zeSigaba 43; noma
- (b) ugynyaze noma yimuphi umuntu noma abantu, uhlaka noma inhlangano ukubeka umkhawulo ekungeneni kunoma yiyiphi *indawo yomphakathi* uma izimiselo zeSigaba 44 kuhanjiswa nazo.

**43 INDLELA ELANDELWAYO YOKUBA IMIKHANDLU YOMASIPALA EBEKA NGAYO  
IMIKHAWULO YOKUNGENA**

- (1) Uma ufuna ukubeka umkhawulo ekungeneni *endaweni yomphakathi*, uMkhandlu kaMasipala kufanele -

- (a) uphakamise izimiselo zomkhawulo emva kokubonisana noMbutho wamaPhoyisa aseNingizimu Afrika;
- (b) uphasise isiphakamiso esiqinisekisa izimiselo ezenziwe futhi unqume ukumisa lowo mkhawulo; bese kuthi emva kwalokho
- (c) uhambisane nalolu hlelo olulandelayo -

- (i) inhoso yokumisa umkhawulo kufanele imenyezelwe ngesaziso kusomqulu wesifunda kanye nanoma yiyiphi enye indlela yokuxhumana;
  - (ii) isaziso kufanele sichaze .
    - (aa) ukuthi kufuneka uvo mayelana nezimiselo zomkhawulo eziphakanyisiwe;
    - (bb) *indawo yomphakathi* ezothinteka yilowo mkhawulo;
    - (cc) izimise zomkhawulo eziphakanyisiwe;
    - (dd) izincwadi noma imibiko ebhaliwe nokuyiyo esize uMkhandlu ukuba uphasise leso siphakamiso;
    - (ee) umuntu noma indawo lapho imibuzo emayelana neziphakamiso ezenziwe ezingathunyelwa khona;
    - (ff) ngokuhambisana **nesigatshana (6) no (7)**, indawo noma izindawo, isikhathi noma izikhathi kanye nezimo lapho ikhophi yezincwadi noma imibiko yokuqala kungatholakala khona noma kukhonjiswe ukuze kuhlolwe;
    - (gg) isikhathi esibekelwe izimvo ngokuphathelene nezimiselo eziphakanyisiwe esingeke saba ngaphansi kwesikhathi esiyinyanga; kanye
    - (hh) umuntu noma indawo lapho izimvo ngokwezimiselo ezphakanyisiwe kunganikelwa khona;
  - (iii) nganoma yisiphi isikhathi ngaphambi kokumisa umkhawulo, ukubonisana nanoma ngobani abathintekile kungenziwe yinoma ngayiphi indlela, kuflanganisa nokubanjwa kwesigcawu somphakathi; futhi
  - (iv) izimvo ezitholakale kanye nalokho okuvele kukho konke ukubonisana kufanele kubhekelwe ngaphambi kokubekwa komkhawulo.
- (2) Uma uMkhandlu kaMasipala ungawubekanga umkhawulo esikhathini esiyizinyanga ezine kwenziwe isimemezelo esishiwo **esigatshaneni 1(c)(i)**, lovo mkhawulo ungeke

wenziwa ngaphandle kokuba indlela emiswe esigatshaneni (1) iphindwe kabusha.

- (3) UMkhandlu kaMasipala ungeze wazisebenzisa izindlela ezimiswe esigatshaneni (1) ngokuphathelene noma yimuphi umkhawulo uma isidingo somphakathi sokuba ubekwe sidinga ukuba lokho kwensiwe ngaphandle kokuchithwa kwesikhathi, nokho kufanenele ulandele lendlela ngaphansi kwesikhathi esiyinyanga lowo mkhawulo uqalile ukusebenza kanti uma kungenziwanga lokho lowo mkhawulo ungeke usaba semthethweni.
- (4) Umkhawulo uyoqala ukusebenza ngelanda oshicilelwwe ngalo emqulwini wesifunda noma ngalolo lusuku olushiwo kumqulu wesifunda.
- (5) UMkhandlu kaMasipala ungayisho imali okufanele ikhokhwe ngokutholakala kwekhophi yanoma yiypifi incwadi noma umbiko obhaliwe nobalulekile ekwenziweni kwezimiselo zomkhawulo;
- (6) Indawo noma izindawo lapho lezi zincwadi kanye nemibiko ebhaliwe kungatholakala khona noma kuboniswe ukuze kuhlolwe kufanele kuniikeze bonke labo abathintekile ngalowo mkhawulo ithuba lokwaziswa kabanzi ngokuqukethe.
- (7) Yonke iMikhandlu yoMasipala kufanele imise futhi yenze izinqubomigomo nezinhlelo zokusiza amalungu omphakathi ukuba akwazi ukuphawula ngezimiso ezenziwe mayelana nomkhawulo.

44

#### **INDLELA ELANDELWAYO YOKUBA IMIKHANDLU YOMASIPALA BANIKEZE ABANYE IGUNYA LOKUBEKA UMKHAWULO WOKUNGENA**

- (1) Noma yimuphi umuntu noma abantu, uhlaka noma inhlango ingasifaka isicelo eMkhandlwini kaMasipala ukuthola igunya lokumisa umkhawulo wokunena *endaweni yomphakathi* -
  - (a) ngokunikezela ngesicelo esibhaliwe nesichaza -
    - (i) igama nemininingwane yalovo ofaka isicelo;
    - (ii) ukuchazwa kwaleyo ndawo yomphakathi nokuyiyo okufakwe ngayo isicelo;
    - (iii) ukuchazwa kwezimo eziholele ekufakweni kwesticelo;
    - (iv) iqoqo nesibhalo sabantu abathintekile ngalezi zimo eziholele esicelweni;

- (v) ubunjalo kanye nobukhulu bomkhawulo ngokumayelana nesicelo esifikwayo; futhi
  - (vi) iqoqo kanye nesibhalo esihlawumbiselwe sabantu okungenzeka bathinteku ngalowo mkhawulo okufakwe isicelo ngawo.
  - (b) ukunikezelwa kobufakazi bokuthi okungenani izingxenye ezimbili kwezintathu kubantu abazothinteka ngezimo eziholele esicelweni bayawuvuma umkhawulonofakelwe lesi sicelo; kanye
  - (c) nokukhokhwa kwemali engabuyi yokuphatha lomsebenzi nenganqunywa nguMkhandlu.
- (2) Emva kokuthola isicelo, uMkhandlu kaMasipala kufanele ulungiselele ukuba kubanjwe umhlangano noma imihlangano nalowo ofake isicelo kanye noMbutho wamaPhoyisa waseNingizimu Afrika ukuze kubhekelwe -
- (a) amaphuzulu esicelo; kanye
  - (b) nezimiselo nezimo zokunikezelwa lelo gunya<sup>12</sup>.
- (3) Uma uMkhandlu kaMasipala uzimisele ngokunikezela igunya lokubeka umkhawulo ekungeneni *endaweni yomphakathi* ngokwesinqumo esenziwe ngokwezimiselo zesigatshana (2), izimiso zeSigaba 43 ziyasebenza, kube nezinguqulo ezingadingwayisimo.

#### **45 ISIKHATHI ESIMISELWE UMKHAWULO NOMA IGUNYA LOKUMISA UMKHAWULO WOKUNGENA**

- (1) Ngaphandle uma kushiwo kumqulu wesifunda futhi ngokuhambisana nalesi sigaba, umkhawulo noma igunya lokubeka umkhawulo wokungena akunakuba semthethweni isikhathi esingaphezu kweminyaka emibili.
- (2) UMkhandlu kaMasipala ungasandisa isikhathi somkhawulo noma igunya lokumisa umkhawulo -

<sup>12</sup> Izimiselo nezimo zokusebenza zingahlanganisa ukukhokhwa kwediphizi ukuze kuvinjelwe izindleko ezingatholwa nguMkhandlu kaMasipala ngokususa noma ngandeleni yokuvimba.

- (a) uma lowo ofake isicelo eqalisa ngendlela eshiwo eZigabeni 43 no 44 ngokulandelana; futhi
  - (b) lokhu kwensiwe okungenani kusale isikhathi esingangenyanga ngaphambi kokuphela kwesikhathi sesimiselo noma igunya lokuvimbela.
- (3) **Ngokubhekela iSigatshana (2), izindlela ezibekiwe kuthathwa ngokuthi zenziwe -**
- (a) uma ngokumayelana nokubeka umkhawulo wokungena, uMkhandlu kaMasipala uphasisa isiphakamiso esibekwe eSigabeni 44(1)(b); futhi
  - (b) ngokuphathelene nesigunyaziso sokubeka umkhawulo wokungena, usuku isicelo esishiwo eSigabeni 44(1) esitholwa ngaso nguMkhandlu kaMasipala.
- (4) **Uma kusamelwe umphumela wezindlela ezibekwe esigatshaneni (2), umkhawulo noma igunya lokubeka umkhawulo liqhubeaka nokuba semthethweni.**

#### **46 AMACALA APHATHELENE NEKUGUNYAZWA UKUBEKA IMIKHAWULO YOKUNGENA**

Kuyicala kunoma ngumuphi umuntu, uhlaka noma inhlangano -

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

#### **47 UKUNGENA NOKUHLOLA IZIMISELO ZOMKHAWULO NOMA IGUNYA LOKUBEKA UMKHAWULO WOKUNGENA**

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

**ISAHLUKO 8****AMAPHUZU AYINGXUBE****48 AMAKHOMISHANI OPHENYO KAMASIPALA**

- (1) UMKhandlu kaMasipala ungamisa iKhomishani yoPhenyo kaMasipala ngokuphathelene nanoma yiluphi udaba lohulumeni wasekhaya -
- (a) obona ukuthi lufanele nolumayelana *namandla* awo, *imisebenzi* kanye *nezibopho*;
  - (b) olubhekelle inhlalakahle yomphakathi; noma
  - (c) ngokumisa kwanoma yimuphi umthetho, umasipala kudingeka amise iKhomishani yoPhenyo kaMasipala.
- (2) Ukumisa iKhomishani yoPhenyo kaMasipala, uMkhandlu kaMasipala kufanele uphasise isiphakamiso salokho. Leso siphakamiso kufanele sichaze amaphuzu okuzophenywa phezu kwawo yiKhomishani kaMasipala kuhlanganisa nesikhathi esimiselwe leyo Khomishani kaMasipala ukuba iphothule umsebenzi wayo.
- (3) Phakathi kwezinyanga eziyisithupha zokuqala ukusebenza *kwalo Mthetho, uMphathiswa* kufanele amise imithetho yokumiswa nokusebenza kweKhomishani yoPhenyo kaMasipala, kuhlanganisa -
- (a) ukuqokwa kukakhomishani noma okhomishani;
  - (b) amandla okhomishani; kanye
  - (c) nendlela yokulalelwu kobufakazi kanye nokuphathwa kokusebenza kweKhomishani kaMasipala.
- (4) Uma iKhomishani yoPhenyo kaMasipala seyiphothule umsebenzi wayo, okhomishani

kufanele bathumele umbiko ophethe lokho abakufumene kanye neziphakamiso eMkhandlwini kaMasipala ukuze uwucubungule.

- (5) UMkhandlu kaMasipala ungathatha noma yiziphi izinyathelo obona ukuthi zifanele ukubhekana nokufunyenwe nokuphakanyiswe yiKhomishani yoPhenyo kaMasipala.

#### **49 IZIGCAWU ZOMPHAKATHI**

- (1) UMkhandlu kaMasipala kufanele ubize isigcawu somphakathi ukuzobhekela nokwenza iziphakamiso ngokumayelana *nanoma yiluphi udaba lukahulumeni wasekhaya* nolubalulekile emphakathini uma uthola incwadi yezikhala zo ecela isigcawu somphakathi nesayindwe okungenani yilelo nani labavoti bakamasipala elingamiswa nguMkhandlu kaMasipala. Inani elingamiswa alinakuba ngaphezulu ngesigamu samaphesenti abavoti ababhalisile kulowo masipala.
- (2) Incwadi yezikhala zo eshiwo **esigatshaneni (1)** kufanele ichaze *udaba lukahulumeni wasekhaya* oluzocutshungulwa.
- (3) UMkhandlu kaMasipala wona ngokwawo unganquma ukubiza isigcawu somphakathi ngokubhekela lokho okuchazwe **esigatshaneni (1)**.
- (4) Ngokuhambisana **nesigatshana (5)**, uMkhandlu kaMasipala unganquma indlela ezolandelwa ekubizweni nasekuphathweni kwesigcawu somphakathi.
- (5) Ukubiza isigcawu somphakathi, uMkhandlu kaMasipala -
- (a) ungamemezela inhloso yawo yokubiza isigcawu somphakathi kusomqulu wesifunda kanye nezinye izindlela eziyizo zokuxhumana; futhi
- (b) ukiphe nesaziso esichaza
- (i) usuku lwasigcawu somphakathi nokufanele sibanjwe okungenani ezinsukwini eziyishumi nane emva kwesaziso futhi kungabi ngemuva kwezinyanga ezimbili emva kokutholakala kwencwadi yezikhala zo eshiwo **esigatshaneni (1)** noma isiphakamiso esishiwo **esigatshaneni (3)**;
- (ii) ngendlela efingqiwe, izindaba ezizoxoxwa esigcawini somphakathi; kanye
- (iii) nendlela ezolandelwa ekuphathweni kwesigcawu somphakathi.

**50 AMANDLA OMPHATHISWA OKUNIKEZELA NGEZIQONDISO ZOKWALULEKA  
EMIKHANDLWINI KAMASIPALA**

9

(1) Uma *uMphathiswa* enelisekile ngukuthi uMkhandlu kaMasipala

- (a) wehlulekile noma awuzange uzibhekele ngokwanele izimiselo zoMthethosisekelo, lo Mthetho noma yimuphi omunye umthetho osebenza komasipala; noma
- (b) wehlulekile ukaza namasu enele ukuqinisekisa ukuphakelwa kwemisebenzi yomasipala ezindaweni zemiphakathi eyayingawatholanga amathuba phambilini nezingaphansi kwalowo masipala;

*uMphathiswa* angacela ukuba uMkhandlu kaMasipala ulethe izethulo ezichaza izizathu zokwahluleka kwawo.

- (2) UMkhandlu kaMasipala kufanele uhambisane nalesi sicelo bese uletha izethulo ezibhaliwe ko*Mphathiswa* esikhathini esiyinyanga ekutholeni leso sicelo.
- (3) Uma, emva kokubheka lezo zethulo, *uMphathiswa* akenelisekile ngezizathu ezinikeziwe ngalokho kwehluleka, *uMphathiswa* ananika isaziso esibhaliwe, anike isiqondiso sokwaluleka eMkhandlwini kaMasipala asho izinto okufanele zenziwe<sup>13</sup>.

**51 AMANDLA OMPHATHISWA OKUNIKEZELA NGEZIQONDISO EMIKHANDLWINI  
YOMASIPALA**

*UMphathiswa* angakhipha iziqondiso<sup>14</sup> eMkhandlwini kaMasipala ukuwusiza

- (a) ekusebenziseni *amandla* awo, ukwenza *imisebenzi nezibopho*; noma
- (b) ukunika amandla izinjongo *zalo Mthetho*.

<sup>13</sup>

Bona isichasiso 5.

<sup>14</sup>

Bona isichasiso 5.

**ISAHLUKO 9****IZIMISELO EZIVAMILE****52 IZIJEZISO**

- (1) Noma yimuphi umuntu otholakala enecala ngokwezimiselo *zalo Mthetho* uzobhekana nenhlawulo noma ukuboshwa noma kokubili inhlawulo nokuboshwa.
- (2) Uma umuntu etholakala elokhu eqhubeka nokwenza icala elifanayo ngokwezimiselo *zalo Mthetho*, lowo muntu uzozithola ebhekene nezinhlawulo ezengeziwe noma izikhathi zokudonsa isigwebo sokuboshwa ngokosuku nosuku lokho kona obekulokhu kuqhubeka emva kokugwetshwa kokuqala ngaleso saphulo.

**53 UKUVIMBELA UKUBEKWA ICALA**

- (1) Akukho msebenzi kamasipala noma yimuphi-ke umuntu, uhlaka, inhlango noma inkampani esezenza egameni likamasipala noma ikhansela; angavekwa icala ngomonakalo ongenzeka ngenxa
  - (a) yokungavezwa kokuthile noma isenzo esenziwe ngokuyikho; noma
  - (b) ukushicilelwu noma ukuvezwa kwezimiselo *zalo Mthetho*, kwanoma yimuphi umbiko, ukuthola uvo noma isiphakamiso esinikezelwe ngokuyikho.
- (2) Umasipala akanacala mayelana nonoma yiziphi izinyathelo zomthetho ezithathwe yiqemba elilimele noma eloniweyo ngokubhekela izimo ezibhekewu **esigatshaneni** (1) lapho umuntu, uhlaka, inhlango noma inkampani esezenza umasipala isezenza njengenkontileka ezimele.

54 **UMKHAWULO WOKUBEKWA ICALA<sup>15</sup>**

- (1) Isinyathelo sezomthetho esithathelwa umasipala noma uhlaka noma umuntu osebenzela umasipala ngokumayelana nanoma yisiphi isenzo noma ukungavezwa okuthile ngokwezimiso *zalo Mthetho*, zingathathwa kuphela esikhathini esiyizinyanga eziyishumi nambili noma ngaphambili -
- (a) kosuku lokuba lowo ofake icala azi ngaleso senzo noma ukungavezwa kokuthile; kanye
  - (b) nosuku lowo ofake icala angalindeleke ngalo ukuba abe esazi ngaleso senzo noma ukungavezwa kokuthile.
- (2) Okungenani kusasele isikhathi esingangenyanga ngaphambi kokuqalisa uhlelo Iwezinyathelo zomthetho ezibhekewi esigatshaneni (1), lowo ofake isicelo anganikezelwa ngesaziso esibhaliwe ngenjongo yakhe yokuthathela izinyathelo zomthetho -
- (a) *iSikhulu esiyiNhloko*; kanye
  - (b) nalowo obekwe icala.
- (3) Isaziso ngokwezimiso zesigatshana (2) ezinikezelwe *iSikhulu esiyiNhloko* sithathwa ngokuthi yisaziso esibhekiswe kulowo obhekene necala.
- (4) Uma kungabe *iSikhulu esiyiNhloko* kuyiso esibhekene necala noma kuyiso esizophendula kunoma yiluphi udaba Iwezomthetho okubhekewi esigatshaneni (1), noma yiluphi uhlelo olulandelwayo ekuqaliseni lawo macala, kufanele kunikezelwe *eSikhulwini esiyiNhloko*.
- (5) Inkantolo ingazeqa ngaphezulu izidingo zesigatshana (1) noma (2) uma izidingo zobulungiswa zifuna lokho.

<sup>15</sup>

Ngokomsebenzi walesi sigaba, kufanele kubhekewi uMthetho wokuVimbela izinHlelo zezoMthetho ka-1970 (Izifunda neMikhandlu yokuPhatha).

**55 ILUNGELO LOKUMELELWA NGOKWASEMTHETHWENI**

- (1) Kunoma yiluphi uhlelo lwezomthetho oluthathelwa amakhansela noma abasebenzi bakamasipala noma kuliphi udaba lokuphenya ngokufa noma uphenyo mayelana nalokho ababizelwe khona futhi bafakaze ezimweni iapho lokho kuhlala, uphenyo ngokufa noma uphenyo kuphathelene nemisebenzi yabo kumasipala, amakhansela noma abasebenzi abathintekile banelungelo lokumelelwa ngokusemthethweni kanti izindleko zalezo zathulo kufanele zibhekane nomasipala.
- (2) Ukumelelwa ngokusemthethweni okubhekelwe esigatshaneni (1) kufanele kwenziwe ngendlela emiswe nguMkhandlu kaMasipala.

**56 IZITHUNYWA NEZIVUMELWANO EZENZIWE ZAVUNYWA YIMIKHANDLU YOMASIPALA**

- (1) Ngokuhambisana nezimiselo zalo *Mthetho* noma *yimuphi omunye umthetho*, uMkhandlu kaMasipala, ngokubhalwe phansi, ungaphathisa kulabo abazimiselo nezimo zokusebenza kwabo okubona kufanele, noma *yimaphi amandla, umsebenzi noma isibopho* esinikezelwe eMkhandlwini *yilo Mthetho* noma *yimuphi omunye umthetho*.
  - (a) kunoma yimuphi umuntu oqashwe nguMkhandlu;
  - (b) kunoma yiliphi ikomidi, ikomidi elincane, ibhodi noma uhlaka olumiswe nguMkhandlu; noma
  - (c) kunoma yimuphi uMkhandlu kaMasipala.
- (2) UMkhandlu kaMasipala ungenza izivumelwano nanoma yimuphi umfakeli wombuso noma ozimele wezimpahla noma wemisebenzi ukwenza ukuba uMkhandlu ukwazi ukufeza usebenzise *amandla* awo, *imisebenzi noma izibopho*.
- (3) UMkhandlu kaMasipala kufanele ugcine irejista yakho konke ukuphathisa ngamandla kanye nezivumelwano ezenziwe ngokwezimiso zalo *Mthetho*.
- (4) Ngaphakathi kwezinyanga eziyisithupha ungene ezintanjeni zokuphatha, uMkhandlu kaMasipala kufanele ubuyekeze konke ukuphathiswa obekwenziwe kanye nezivumelwano ezenziwa kwavunyelwana ngazo yiwo ngokwezimiselo zalesisigaba.

**57 UKUNIKWA NOKUPHATHISWA AMANDLA, IMISEBENZI NEZIBOPHO EMIKHANDLWINI YOMASIPALA**

- (1) *Amandla, imisebenzi kanye nezibopho noma izibophezelo okushiwu kwiSheduli 3 kaNdunankulu, uMphathiswa, uhulumeni wesifunda noma umnyango obhekele izindaba zohulumeni basekhaya esifundeni kunikezelwa noma kupathiswe iMikhandlu yoMasipala ngalelo zinga elishiwu kwiSheduli.*
- (2) *Ngokuhambisana nezimiso zalo Mthetho noma yimuphi omunye umthetho, uMphathiswa anganika noma aphathise noma yimaphi amandla, umsebenzi, isibopho noma isibophezelo esinikezelwe ngokwezimiso zalo Mthetho noma yimuphi omunye umthetho kuNdunankulu, uMphathiswa, uhulumeni wesifunda noma umnyango obhekele izindaba zohulumeni basekhaya esifundeni, eMkhandlwini kaMasipala ngokuchibiyela ngokuyikho noma ukufaka okuyikho kwiSheduli 3<sup>16</sup>.*
- (3) **Ukunikwa noma ukupathiswa okwenziwe ngokwezimiso zalesi sigaba kungenziwa -**
  - (a) *ngomasipala abehlukene; noma*
  - (b) *amaqembu ehlukene noma amaqoqo omasipala.*

**58 AMANDLA OMPHATHISWA OKUCHIBIYELA, UKUSUSA NOMA UKWESULA AMASHEDULI, IZENGEZO, IZIHLOKO ZAMAKHASI, IZIHLOKWANA NOMA OKOKUCACISA**

- (1) *UMphathiswa angachibiyela, asuse noma esule isheduli, isengezo, isihloko sekhasi, isihlokwana noma okokucacisa.*
- (2) *Uma ehlose ukuchibiyela, ukususa noma ukwesula isheduli, uMphathiswa kufanele ahambisane nohlelo olumiswe eSigaben 6, ngokwenza izinguqko lapho isimo sidina khona.*

<sup>16</sup> Bheka ukuthi ngokwezimiselo zeSigaba 156(4) zoMthethosisekelo kanye neZigaba 10C(2)(b)(i)-(ii) kanye no 10D(1)(b)(i)-(ii) woMthetho wesiKhashana woHulumeni baseKhaya noma yikuphi ukunikezelwa nokupathiswa kungenziwa kuphela uma umasipala.

- (a) *evuma*
- (b) *engaphatha ngokuyikho futhi unawo amandla okwenza umsebenzi noma ukusebenzia amandla, ukwenza umsebenzi, isibopho nesibophezelo;*
- (c) *enikiwe ngezinsiza nemithombo eyenele; nokuthi*
- (d) *ungaqhubeke nokwenza ngendlela umsebenzi nokusebenzia amandla, umsebenzi noma isibopho.*

**59 UKWESULWA KWEMITHETHO KANYE NEZINHLELO ZESIKHASHANA**

- (1) Imithetho eshiwo kuSheduli 1 iyesulwa ngobubanzi obuvezwe kule Sheduli.
- (2) Izinhlelo zesikhashana ezikuSheduli 2 kufanele zifundwe futhi zisetshenziswe ngokubeka *kwalo Mthetho*.

**60 IZICHASISO**

*Kulo Mthetho, ngaphandle uma isimo sichazwe ngokunye .*

- (a) "noma yimuphi omunye umthetho", uhlanganisa nomthetho oweiwayelekile;
- (b) "imithetho yomasipala", ihlanganisa inhlanganisela yemithetho ehleliwe noma uhlelo olulandelwayo;
- (c) "Isikhulu esiyiNhloko", sisho iSikhulu esiyiNhloko esiqokwe ngokwezimiso zeSigaba 16;
- (d) "UMthethosisekelo", usho uMthethosisekelo weRiphabliki yaseNingizimu Afrika ka-1996 (uMthetho 108 ka-1996);
- (e) "isikhulu esiqokiwe", kusho umuntu oqokwe ngokweSigaba 21;
- (f) "udaba lukahulumeni wasekhaya", ngokubhekisele eZigaben 48 no 49 akuhlanganisi ukugqugquzela, ukuphikisana noma ukuxoxa ngokukhethwa kwanoma yimuphi umuntu kunoma yimuphi umasipala, uhlaka Iwesifunda noma lukazwelonke, inhlango noma inkampani;
- (g) "UMthetho woHulumeni baseKhaya", usho umthetho walelogama ka-1939 (uMthetho 17 ka-1939, njengoba uchibiyelwe);
- (h) "UMthetho wesiKhashana woHulumeni baseKhaya", usho uMthetho wesiKhashana woHulumeni baseKhaya ka-1993 (uMthetho 209 ka-1993), njengoba uchibiyelwe;
- (i) "UMphathiswa", kusho ilungu loMkhandlu oMkhulu wesiFunda neliphethe oHulumeni baseKhaya eGauteng;
- (j) "amandla, imisebenzi noma izibopho", kuhlanganisa umcabango wamandla nemisebenzi njengokubhekewa kuMthethosisekelo kanye "namandla nezibopho" njengoba kubhekewa eMthethweni wesiKhashana woHulumeni baseKhaya.

- (k) "okumiselwe", kusho ukumiselwa ngokomthetho kanti "ukumiselwa" kusho into efanayo.
- (l) "indawo yomphakathi", isho noma yimuphi umgwaqo, isitaladi, indawo yokudlula, ibhuloho, ibhuloho elihamba phezulu, ibhuloho elihamba ngaphansi, iphevumente yezinyawo, indlela yezinyawo, indawo yokuhamba eseceleni komgwaqo, ungwengwe, isikwele, indawo evulekile, ingadi, ipaki, indlela, irenke yamabhasi noma amatekisi, noma indawo evalelekile ephethwe ngumasipala nehlanganisa noma yimuphi umgwaqo, indawo, indawo yokudlula nesendaweni engaphazanyiswa yokusetshenziswa ngumphakathi noma leyo umphakathi onelungelo lokuyisebenzisa;
- (m) "umthetho kamasipala omiyo", usho *umthetho kamasipala* oshaywe *nguMphathiswa* ngokubhekelela izimiselo zeZigaba 10 no 11; kanye
- (n) "lo Mthetho", uhlanganisa izinombolo zesigaba, amasheduli kanye nanoma yimuphi umthetho noma *umthetho kamasipala* obekwe noma wenziwa ngokwezimiselo *zaLo Mthetho* nokho ezingahlanganisi izihloko zamakhasi, izihlokwana, okokucacisa kanye nezengezo.

## **61 IGAMA ELIFINGQIWE NOKUQALA UKUSEBENZA KOMTHETHO**

*Lo Mthetho ubizwa ngokuthi *nguMthetho WokuHlelwakabuSha kweziNdaba zoHulumeni baseKhaya ka-1997* kanti uyoqala ukusebenza osukwini oluyoshiwo kwisimemezelo sesifunda nesiyoshicilelwakusomqulu wesifunda.*

**ISENGEZO A**

**AMANDLA, IMISEBENZI NEZIBOPHO  
ZAWOMASIPALA NGOKOMTHETHOSISEKELO  
WERIPHABLIKI YASENINGIZIMU  
AFRIKA KA-1996**

<b>ISAHLUKO</b>	<b>ISIGABA</b>	<b>IGAMA LESIGABA</b>
1	63(3)(b)	Izilimi
3	41(1); (3) & (4)	Imigomo kahulumeni osebenza ngokubambisana kanye nobudlelwano phakathi kohulumeni
4	43(c)	Igunya lokushaya umthetho emazingeni ohulumeni basekhaya
4	44(i)(a)(iii)	Ukunikezelwa kwegunya likazwelonke lokushaya umthetho
5	99	Ukunikezelwa kwegunya likazwelonke lokushaya umthetho (elinikezelwa nguNgqongqoshe)
6	104(1)(c)	Ukunikezelwa kwegunya lokushaya umthetho wesifunda
6	126	Ukunikeze koMphathiswa kuMkhandlu kamasipala
7	139	Ukuqapha kukahulumeni wesifunda kohulumeni basekhaya
7	151 <sup>17</sup>	Izinga lomasipala
7	152	Izinjongo zohulumeni basekhaya
7	153	Izibopho zentuthuko zomasipala

7	154	Omasipala kuhulumeni osebenza ngokubambisana
7	155 <sup>18</sup>	Ukumiswa komasipala
7	156 <sup>19</sup>	Amandla nemisebenzi yomasipala
7	157 <sub>20</sub>	Ukuhlanganiswa nokuqokwa kweMikhandlu yoMasipala
7	158	Ubulungu beMikhandlu yoMasipala
7	159	Izikhathi ezibekelwe iMikhandlu yoMasipala
7	160	Izindlela okuqhutshwa ngazo ngaphakathi
7	161	Ilungelo
7	162	Ukushicilelwa kwemithetho yomasipala
7	163 <sup>21</sup>	Uhulumeni wasekhaya ohleliwe
7	164 <sup>22</sup>	Ezinye izindaba
	188	Imisebenzi yoMcwaningi Jikelele wamaBhuku eziMali zoMbuso
9	190	Imisebenzi yeKhomishani yoKhetho
10	195(1) & (2)	Amagugu ayizesekelo kanye nemigomo ebusa umsebenzi womphakathi
13	214 <sup>23</sup>	Ukwabiwa ngokulinganayo kanye nokuphakelwa kwezimali
13	215 <sup>24</sup>	Izabiwomali zikazwelonke, zesifunda nezomasipala
13	216 <sup>25</sup>	Ukuphathwa kwezimali
13	217	Ukutholakala kwezimpahla nemisebenzi
13	218 <sup>26</sup>	Iziqinisekiso zikahulumeni
13	219	Ukukhokhelwa kwabantu abanezikhundla emphakathini

<sup>18</sup> Lesi sigaba sibuswa yiphuzu 6 leSheduli 6 *yoMthethosisekelo*.<sup>19</sup> Lesi sigaba sibuswa yiphuzu 6 leSheduli 6 *yoMthethosisekelo*.<sup>20</sup> Lesi sigaba sibuswa yiphuzu 6 leSheduli 6 *yoMthethosisekelo*.<sup>21</sup> Lesi sigaba siqinisekisa ukuthi umthetho oyiwo kazwelonke ulungiselala ukuba kuqondwe futhi kuhlelwie iqhaza likahulumeni wasekhaya ohleliwe.<sup>22</sup> Lesi sigaba sichaza imingcele yomthetho kazwelonke nowesifunda ngohulumeni basekhaya.<sup>23</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.<sup>24</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.<sup>25</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.<sup>26</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.

13	226(3) <sup>27</sup>	Isikhwama sesifunda sezimali
13	227 <sup>28</sup>	Imithombo kazwelonke yezimali zohulumeni besifunda nabasekhaya
13	229	Amandla nemisebenzi yezimali komasipala
13	230 <sup>29</sup>	Imithetho yesifunda neyomasipala
14	238	Ukuphathela nokunikezela
14	239	Izichasiso

<sup>27</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.

<sup>28</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.

<sup>29</sup> Ukusetshenziswa kwalesi sigaba kunomkhawulo ngokwesigaba 243(5) *soMthethosisekelo*.

Isheduli 4	Ingxenye B	<p>Lezizindaba zohulumeni basekhaya njengoba zibekwe eSigaben 155 (6)(a) no (7) -</p> <p>Ukunukubezeka komoya;      Imithetho emayelana nezakhiwo;      Izindawo zokunakekela izingane;      Ukuphakelwa kogesi negesi;      Imisebenzi yokulwa nemililo;      Ezokuvakasha zendawo;      Izikhumulozindiza zomasipala;      Ukuhlelo komasipala;      Imisebenzi yezipilo yomasipala;      Imisebenzi yokuthutha umphakathi yomasipala;      Imisebenzi yokwakha yomphakathi kuphela ngokuphathelene nezidingo zomasipala ekufezeni izibophezelo zawo zokuphatha imisebenzi enikezelwe bona ngaphansi kwalo Mthethosisekelo noma <i>yimuphi omunye umthetho</i>;</p> <p>Amazibuko antantayo, izikebhe, izakhiwo zokukhuleka izikebhe, amaphiya kanye namachweba, kungahlanganiswa ukuphathwa kokuthutha ngemikhumbi kwamazwe omhlaba kanye nokukazwelonke kanye nezindaba ezithintene nalokho;</p> <p>Izinhlelo zokuphathwa kwamanzi ezikhukhula ezindaweni ezakhelwe;</p> <p>Imithetho yokuhweba;</p> <p>Imisebenzi yamanzi nokukhculula ebhekeli izinhlelo zamanzi asetshenziswayo kanye namanzi emfucuza asemakhaya kanye nezinhlelo zokukhculula indle.</p>
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Isheduli 5	Ingxenye B	<p>Izindaba ezilandelayo zohulumeni basekhaya ngokunikezelwa kwezfunda ngokwesigaba 155(6)(a) no (7) -</p> <p>Amabhishi kanye nezinto zokungcebeleka Amabhodi okukhangisa kanye nokuvezwa kwezinkangiso ezindaweni zomphakathi; Amathuna, izindawo zokugcina izidumbu kanye nezindawo zokushisa izidumbu; Ukukhucululwa; Ukuphathwa kwezinkinga eziphazamisa umphakathi; Ukuphathwa kwezindawo ezithengisela umphakathi utshwala; Izindawo zokukhoselisa, ukunakekelwa nokungcwatshwa kwezilwane; Ukubiyelanofenisi; Ukunikwa kwamalayisense ezinja; Ukunikwa kwamalayisense kwezindawo ezithengisela umphakathi ukudla; Izakhiwo zendawo; Izakhiwo zemidlalo zendawo ; Izimakethe; Amadele kamasipala; Amapaki nezokungcebeleka zikamasipala; Imigwaqo kamasipala; Ukunukubezeka ngomsindo; Amaphawundi; Izindawo zomphakathi; Ukuthuthwa kodoti, izindawo zemfukuza kanye nokulahlwa kukadoti omkhulu; Ukuhweba emigwaqweni; Ukukhanyiswa kwemigwaqo; Izinqola nokupaka;</p>
Sheduli 6	Iphuzu 26	Izinhlelo zesikhashana

**ISENGEZO B**

**AMANDLA, IMISEBENZI NEZIBOPHO  
ZOMASIPALA NGOKOMTHETHO  
WESIKHASHANA WOHULUMENI BASEKHAYA  
KA-1993**

**IPHUZU A -IMIKHANDLU YAMADOLOBHAKAZI**

INGXENYE/ ISHEDULI	ISIGABA	IGAMA LESIGABA
INGXENYE VI A	10C	Amandla nezibopho zemikhandlu yamadolobhakazi kanye nemikhandlu yezindawo yamadolobhakazi
ISHEDULI 2	1	Izinhlawulo, izinkokhelo kanye neminikelo
	2	Izabelo kanye nezimali ezidlulisiwe
	3	Izinhlelo ezihanganisiwe zentuthuko
	4	Amanzi <sup>30</sup>
	5	Indle <sup>31</sup>
	6	Ugesi <sup>32</sup>
	7	Imigwaqo <sup>33</sup>
	8	Imisebenzi yokuthutha abagibeli
	9	Izindaba zezingola <sup>34</sup>
	10	Izimakethe zeztshalo
	11	Izindawo zokulahla udoti

<sup>30</sup> Lesi sigaba siphathelene nokuphakelwa ngobuningi balento.

<sup>31</sup> Lesi sigaba siphathelene nokuphakelwa ngobuningi balento.

<sup>32</sup> Lesi sigaba siphathelene nokuphakelwa ngobuningi balento.

<sup>33</sup> Lesi sigaba siphathelene nokwakhiwa nokugcinwa kwemigwaqo eyimingenelo.

<sup>34</sup> Lesi sigaba siphathelene ngokubambisana nokumiswa kwenqubomgomu phakathi komasipala kanye nobunjiniyela bomgwaqo.

12	Amangcwaba kanye nezindawo zokushisela izidumbu
13	Izikhumulozindiza
14	Izindawo zezemidlalo
15	Ukuthuthukiswa kwezokuvakasha
16	Imisebenzi kamasipala yezempilo
17	Amadele
18	Imisebenzi yokulwa nemililo nezinhlakelele
19	Imitapo yezincwadi
20	Izindawo zemilando
21	Ukupathwa kwemvelo
22	Uhlaka lokucindezela imithetho kamasipala

**IPHUZU B - IMIKHANDLU YEZINDAWO YAMADOLOBHAKAZI**

INGXENYE/ ISHEDULI	ISIGABA	IGAMA LESIGABA
INGXENYE VI	10c	Amandla nezibopho zemikhandlu yamadolobhakazi kanye nemikhandlu yezindawo yamadolobhakazi
ISHEDULI 2A	1	Ukubuyelwa yizindleko
	2	Uhlelo oluhlanganisiwe lwentuthuko
	3	Amanzi <sup>35</sup>
	4	Indle <sup>36</sup>
	5	Ugesi <sup>37</sup>
	6	Imigwaqo
	7	Izindaba zezinqola

<sup>35</sup> Lesi sigaba siphathelene nokuhlelwa kwalomsebenzi.

<sup>36</sup> Lesi sigaba siphathelene nokuhlelwa kwalomsebenzi.

<sup>37</sup> Lesi sigaba siphathelene nokuhlelwa kwalomsebenzi.

8	Ukulahlwa kwemfucuza
9	Amangcwaba kanye nezindawo zokugcina izidumbu
10	Izikhumulozindiza
11	Imitapo yezincwadi
12	Izindawo zokungcebeleka kanye namabhishi
13	Izinto eziphazamisa umphakathi
14	Izindaba zezemvelo
15	Ezokuvakasha
16	Imisebenzi kamasipala yezempilo
17	Amabhodi amakhulu okukhangisa kanye nokuvezwa kwesinkangiso
18	Ukuphathwa kwezakhiwo
19	Ukuhlanzwa
20	Ukunikezelwa kwamalayisense kwabamabhizinisi
21	Izilwane
22	Izimakethe
23	Amazibuko antantayo, izikebhe, izakhiwo zokukhuleka izikebhe, amaphiya kanye namachweba
24	Ukuhweba emigwaqweni
25	Ukukhanyisa
26	Izindawo zomphakathi
27	Iziqhume
28	Izindawo zokunakekela izingane
29	Uhlaka lokucindezela imithetho kamasipala

<b>IPHUZU C IMIKHANDLU YEZFUNDA, IMIKHANDLU YEZINDAWO, IMIKHANDLU YASEMAPHANDLENI KANYE NEMIKHANDLU YEZHUNYWA</b>		
<b>INGXENYEI ISHEDULI</b>	<b>ISIGABA</b>	<b>IGAMA LESIGABA</b>
INGXENYE VI	10D	Amandla kanye nezibopho zemikhandlu <sup>38</sup> yezifunda, imikhandlu yezindawo kanye nemikhandlu yezithunywa

<b>IPHUZU D BONKE OMASIPALA</b>		
<b>INGXENYEI ISHEDULI</b>	<b>ISIGABA</b>	<b>IGAMA LESIGABA</b>
INGXENYE VI	10G	Udaba Iwezimali
	10H	Izenzo ezithile zamalungu omkhandlu noma abasebenzi bomasipala kanye nabantu-abathile, kuvinjelwe
	10I	Ukunikezela ngolwazi

38

Esifundeni saseGauteng lesisimiselo sisebenza emikhandlwini nasemikhandlwini yasemaphandleni.

**ISHEDULI 1****IMITHETHO EYESULWA YISIGABA 59**

Inombolo kanye nonyaka womthetho	Igama elifingqiwe	Izinga lokwesulwa
58 wa 1903	UMthetho wokuHlanganiswa koMasipala ka-1903	Wonke
506 wa 1937	Isaziso sabaPhathi - Izimiselo zokweHliswa kwaMandla abaPhathi beziNdawo	Wonke
17 wa 1939	UMthetho woHulumeni baseKhaya ka-1939	Wonke
13 wa 1958	UMthetho wezinHlaka zoMphakathi (Izilimi) ka-1958	Wonke
21 wa 1958	Ukuphathwa koHulumeni baseKhaya ka-1958	Wonke
40 wa 1960	UMthetho woHulumeni baseKhaya (Ezokuphatha Nezokhetho) ka-1960	Wonke
15 wa 1981	UMkhandlu weDolobha waseMidrand ka-1981	Wonke
24 wa 1986	UMthetho weziNdawo koHulumeni baseKhaya ka-1986	Wonke
22 wa 1988	IsiMemezelo sezokuPhatha - iSichibiyelo soMthetho 40 ka-1960	Wonke
23 wa 1988	IsiMemezelo sabaPhathi ngokuphathelene nokumiswa kweKomidi lezeMpilo	Wonke

## ISHEDULI 2

### IZINHLELO ZESIKHASHANA

#### **1 UMTHETHO WOHULUMENI BASEKHAYA KA-1939**

- (1) Nakuba sewesuliwe, izimiselo *zoMthetho woHulumeni baseKhaya* uzoqhubeka nokusebenza kuze kube usuchibiyelwe noma wesuliwe *yilo Mthetho* noma *yimuphi omunye umthetho*, ngaphandle kwalezi zigaba ezilandelayo -

1, 5, 8, 34, 35, 36, 41, 47A, 53, 54, 57, 62, 65, 70; 72; 77; 78; 79bis; 79ter; 79quat; 79sext; 89; 90; 91; 92; 93; 94; 95; 96, 96bis; 97; 98; 99; 100; 101; 102; 103; 104; 108; 114; 115; 116; 117; 118; 118bis; 119; 120; 121; 122; 123; 124; 125; 126A; 127; 127A; 128; 129; 144; 145; 146; 147; 148; 149; 151; 154; 156; 156A; 157; 161; 162; 164A; 165; 166; 173.

- (2) Noma yisiphi isenzo esithathwe ngokwezimiselo *zoMthetho woHulumeni baseKhaya* okungashiwongo esigatshaneni (1)<sup>39</sup> kuzothathwa ngokuthi kwenziwe *ngalo Mthetho* kanti uzoqhubeka nokuba semthethweni noma ube namandla ngaphandle-ke uma ungahambisan<sup>40</sup> *noMthetho wesiKhashana woHulumeni baseKhaya*, *lo Mthetho noma yimuphi omunye umthetho*.

#### **2 UMTHETHO WOHULUMENI BASEKHAYA KA-1960 (UKHETHO KANYE NOKUPHATHWA)**

- (1) Nakuba sewesuliwe, izimiselo *zoMthetho woHulumeni baseKhaya ka-1960 (Ukhetho nokuphathwa)*, uzoqhubeka nokusebenza uze ube sewuchibiyelwe noma sewesuliwe *yilo Mthetho* noma *yimuphi omunye umthetho* ngaphandle kwalezi zigaba ezilandelayo - 3-50; 51; 62; 62A; 62B; 63(1)-(19) no (20); 63A; 64; 65; 67; 69; 70; 70bis; 71.

<sup>39</sup> Ngenxa yalokho-ke lezo zimiselo yilezi - 2; 3; 4; 6; 7; 9; 9A; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 37; 38; 38A; 39; 40; 42; 43; 44; 45; 46; 47; 48; 48A; 49; 50; 50A; 50B; 51; 52; 55; 56; 58; 59; 60; 61; 63; 64; 65BIS; 66; 67; 68; 69; 71; 73; 74; 75; 76; 79; 79quin; 79; 79sept; 80; 80A; 80B; 81; 82; 83; 83A; 84; 85; 86; 87; 88; 104B; 105; 106; 107; 109; 110; 111; 112; 113; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 150; 152; 153; 155; 158; 159; 159bis; 160; 163; 167; 168; 169; 169bis; 170; 170ter; 171; 171bis; 171ter; 171quat kanye no 172.

<sup>40</sup> Ngokwédlula lapho isinyathelo esithathwayo asinakungahambisan noMthethosisekelo.

- (2) Noma yisiphi isenzo esenziwa ngokubhekela izimiselo *zoMthetho woHulumeni baseKhaya (Ukhetho nezokuPhathwa) ka-1960*, okungashiwongo lutho ngaso *esigatshaneni* (1)<sup>41</sup>, sithathwa ngokuthi sithathwe ngokubhekela *lo Mthetho* ngakho uzoqhubeka nokuba semthethweni noma ube namandla ngaphandle uma unghambisan *noMthetho wesiKhashana woHulumeni baseKhaya, lo Mthetho noma yimuphi omunye umthetho*.

### **3 IZIMISELO EZIVAMILE**

- (1) Noma yisiphi isinyathelo esithathwa ngaphansi kwanoma yisiphi isimiselo esesulwe ngu-Sheduli 1 -
- (a) sithathwa ngokuthi sithathwe ngaphansi ngesimiselo esifanayo *salo Mthetho*; futhi
  - (b) siyaqhubeka nokuba semthethweni noma sibe namandla omthetho -
- (i) ngaphandle uma singahambisan *noMthetho wesiKhashana woHulumeni baseKhaya, noma nalo Mthetho*; noma
  - (ii) uze ube sewesuliwe ngokwezimiso *zalo Mthetho* noma *yimuphi omunye umthetho*.
- (2) Ngokwenhloso yaleliphu zu kanye nephuzu 1(2) kanye no 2(2) amagama athi "isenzo esenziwe" ahlanganisa ukumiswa kwemithetho, ukweziwa *kwemithetho yomasipala*, ukulungisela izindaba zokuphatha noma okunye, ukuvumelana ngezinkontileka nokuthola izibopho kanye nokufaka noma ukuvika noma yiluphi uhlelo *lo Mthetho* ngokwamacala obugebengu noma omphakathi.

<sup>41</sup>

Ngenxa yalokho-ke izimiselo eziyizo yilezi -  
1; 52; 53; 54; 55; 56; 57; 58; 60; 61; 63(20); 66; 68

# ISHEDULI 3<sup>42</sup>

**UKUNIKWA NOKUPHATHISWA AMANDLA, IMISEBENZI NEZIBOPHO EMIKHANDLWINI YOMASIPALA**

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

80B(4)(b)(i)	Ukuvezwa, ukuchibiyelwa noma ukuhoxiswa kwamacala ngesiphakamiso esiyisipesheli	Sonke
81(1)(c)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(1)(d)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(1A)	Imisebenzi yokuphakelwa kwamanzi	Sonke
81(2)	Imisebenzi yokuphakelwa kwamanzi	Sonke
83(1)(bis)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83(3)(a)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83(4)	Imisebenzi yokuphakelwa ngokukhanyisa, ukufudumeza kanye namandla	Sonke
83A(1)	Imiqobo ngokusethenziswa kwamanzi kanye nogesi	Sonke
104(bis)	Amandla oHulumeni baseKhaya okuxegisa izidingo zokwakha imithetho yomasipala noma ukususa ukuhambisana nalokho	Sonke
131(5)	Amanye amandla ayisipesheli emikhandlu yamadolobha	Sonke
131(17)	Amanye amandla ayisipesheli emikhandlu yamadolobha	Sonke
133	Amandla okwenza umsebenzi wokuthuthwa kwendle nemfucuza	Sonke
142(1)(b)	Amandla okwenza umsebenzi wokuthuthwa imfucuza endaweni yomuntu noma ezakhiweni zomuntu noma ukufuna ukwenza lokho	Sonke
155(1)	Ukuphatha ezokuhlanzekwa kwemisebenzi yangaphezulu nangaphansi kwezimayini.	Sonke

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

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

<b>IPHUZU C - UMTHETHO WESIKHWAMA SEZIMALI ZENTUTHUKO ZEMIKHANDLU YOKUPHATHA KA-1978</b>		
<b>INGXENYE 1 - UKUNIKWA</b>		
<b>ISIGABA</b>	<b>IGAMA LESIGABA</b>	<b>IZINGA LOKUNIKWA</b>
....	....	....
<b>INGXENYE 2 - UKUPHATHISWA</b>		
3	Ukusetshenziswa kwesikhwama	Sonke

**IPHUZU D - UMTHETHO WOKUMISWA KWAMAZINGA EMIKHANDLU  
YOKUPATHA KA-1997**

**INGXENYE 1 - UKUNIKWA**

ISIGABA	IGAMA LESIGABA	IZINGA LOKUNIKWA
7(1)	Ukuqokwa komlinganisi zimali	Sonke
7(2)(a)(i)	Ukuqokwa komlinganisi zimali	Sonke
14(1)	Ukuhlanganisa kwebhodi lokulinganisa labaphathi basekhaya	Sonke
14(2) & (3)	Ukuhlanganisa kwebhodi lokulinganisa labaphathi basekhaya	Sonke
14(10)	Ukuhlanganisa kwebhodi lokulinganisa labaphathi basekhaya	Sonke
14(11)	Ukuhlanganisa kwebhodi lokulinganisa labaphathi basekhaya	Sonke
20(4)	Ukulalelwu kanye nesinqumo sebhodi lokukhalaza nalokulinganisa	Sonke
21(2)	Izinga lezimali kanye nokubuyiselwa kwalezo zimali	Sonke

**INGXENYE 2 - UKUPHATHISWA**

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**IPHUZU E - UMTHETHO WOKUGUDLUZWA KWAMANGCWABA KANYE  
NEMIZIMBA YABAFILE KA-1925**

**INGXENYE 1 - UKUNIKWA**

ISIGABA	IGAMA LESIGABA	IZINGA LOKUNIKWA
2(1)	Imizimba ayinakugudluzwa ngaphandle kwegunya	Sonke

**INGXENYE 2 -UKUPHATHISWA**

.....	.....	.....
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# IMEMORANDAMU YEZINCAZELO

## UMLANDO

- 1 Ekuqaleni kwalonyaka uMphathiswa (MEC) ubhekele izindaba zoHulumeni baseKhaya yaqoka iThimba lokuSebenza lezePolitiki (Political Task Team) elanikwa umsebenzi wokubhala uhlaka lo Mthetho ophathelene nomkhakha kahulumeni wasekhaya. IThimba lokuSebenza lezePolitiki yakhiwa ngamalungu avela ezinhlakeni ezelukene zezopolitiki.
- 2 IThimba lokuSebenza lezePolitiki yafakwa yajoyina iThimba lokuSebenza eliBhekhelele ukuShaywa koMthetho neyayakhiwe yizikhulu zoMnyango wezokuHlela noHulumeni baseKhaya, abeluleki abaqokwe nguMnyango wezokuHlela noHulumeni baseKhaya kanjalo nezithunywa ezimele iNhlangano yemiKhandlu yokuPhatha yaseGauteng (iGauteng Association of Local Authorities - iGALA). Umsebenzi walelithimba wukubhala umthetho ngokulandela imiyalelo yiThimba lokuSebenza lezePolitiki (Political Task Team).
- 3 Emhlanganweni wokushiyalana ngolwazi owawubizwe yiThimba lokuSebenza lezePolitiki ngoMashi wanonyaka, kwabhekkelwa kakhulu inhoso kaNgqongqoshe obhekele izindaba zoHulumeni baseKhaya nezeziFunda zokuba kube sekubhalwe uMhlahlandlela wokubonisana ngasekupheleni kuka-1997, (nomthetho kazwelonke ozolandela ngemuva kwalokho), kanye nesidingo sokuthuthukiswa komgommo wesifunda ngokulandela ohulumeni basekhaya. Ngokunjalo kwabe sekuthathwa isinqumo sokwethula uMthethosivivinywa ozomenyezelwa emphakathini nonyaka.
- 4 Lo Mthethosivivinywa ngakho uyinto yesikhashana (umthetho wokwedlulela) ukunciphisa uhlaka lo Mthetho nezokuphatha nokusebenza ngaphansi kwawo omasipala.
- 5 IThimba lokuSebenza lezePolitiki kanye neThimba lokuSebenza eliBhekhelele ukuShaywa koMthetho ngaso sonke isikhathi bebekuqaphele ukuthi bekunemithetho eminingi, ukusebenza kwayo okwenze kwaba nokungahambi ngokufanale, ukungenzeki kwezinto ngendlela efanayo, kanye nezinkinga zokuziphatha ngokweyamene nomthethosisekelo ohlangothini lukahulumeni wesifunda kanye nakumasipala. Kodwa kule mithetho, *uMthethosisekelo, uMthetho wesiKhashana woHulumeni baseKhaya, uMthetho woHulumeni baseKhaya ka-1960*, kuyakhulunywa ngayo kulo Mthethosivivinywa<sup>43</sup>. Kumele kuqashelwe ukuthi lo Mthethosisivinywa ukhuluma kuphela

<sup>43</sup> Ukubhalwa kwamagama ngokungama italics kuhombisa ukuthi lawo magama achaziwe eSigabeni 60.

ngalawo maphuzu aphathelenenokusetshenziswa kwale mithetho nangaphathelene nokulethwa kwezinguquko emkhakheni wohulumeni bendawo. Kucatshangwa ukuthi onke amanye amaphuzu azoba yingxene yomthetho ozolandela nozofaka okuningi. Lowo mthetho uyokwakhiwa ususelwa emsebenzini wokubhalwa komhlahlandlela wokubonisana (white paper) ezingeni likazwelonke kanye nelesifunda kanjalo nasemthethweni kazwelonke wangomuso olawula ohulumeni bakamasipala.

- 6 Amaphuzu okuyiwona adingidwa kulo Mthethosivivinywa avunywa nguMnyango wezokuHlela noHulumeni bezifunda, avunywa yiThimba lokuSebenza lezePolitiki kanye neGALA. Izinto ezabhekwa ekukhetheni lamaphuzu zifaka phakathi kokunye -
- (a) izinto eziyizithiyo ekuhlanganisweni ngendlela efanele kwezinhlaka zohulumeni bendawo;
  - (b) isidingo sokusheshisa ukuncishiswa kanye nokulethwa kwezinguquko emkhakheni wohulumeni bendawo;
  - (c) izingqinamba ezikhona ekwenziweni komsebenzi kamasipala;
  - (d) isidingo sokunika omasipla amandla okuphatha lawo maphuzu akhombisa ukuba nezikhala emthethweni; kanye
  - (e) isidingo sokuvuselela omasipala ngomoya woMthethosisekelo lapho kwensiwa imisebenzi eqondene nabo.
- 7 Okulandela ngezansi yisamari yokuqukethwe yiSahluko ngasinye.

### **ISAHLUKO 1 - INJONGO NOKUSETSHENZISWA**

- 8 **ISigaba soku-1** sinika incazelo ngenhloso yoMthethosivivinywa okuwukuhlela kabusha ngenhloso yokunqanda ukulahlekelwa kohlaka lo Mthetho kanye nokuphatha okusebenza ngaphansi kwalo omasipala kanye nokuqhuba ukulethwa kwezinguquko kulo mkhakha kahulumeni.
- 9 Isigatshana senhloso siphinde "siveze" amandla omthethosivivinyo kanti siqukethe "isimemezelu senhloso" nesiphakamiso izinyathelo okumele zithathwe ukuletha izinguquko komasipala.
- 10 **ISigaba 2** sibeka izimiso zomthethosivivinywa esimweni sangempela ukwenzela ukuthi

ukusetshenziswa kanye nokutolikwa kwazo kube ngokuphusile, okwakhayo, nokunenhoso.

**ISAHLUKO 2 - ISIKHUNDLA, AMANDLA IMISEBENZI KANYE NEZIBOPHO ZOMASIPALA**

- 11 Isigaba 3 siqinisekisa ukuqhube ka kokuba khona kwabobonke omasipala kungakhathalekile ukuthi basungulwe ngaphansi kwayiphi imithetho, ngakho sihlahla indlela ebange ekwesulweni kwaleyo mithetho ngaphandle kokuphazamisa amagunya oMkhandlu kaMasipala osungulwe ngokulandela leyo mithetho. Ngaphezu kwalokho siqinisa ukuziggaja komasipala ukwandisa ukusebenza kwabo.
- 12 Ngokwesigaba 23A sesiMemezelo sesiHlanu sika-1995 (Proclamation 5 of 1995) njengoba sichibiyelwe futhi sifundwa kanye nesigaba 10 *soMthetho wesiKhashana woHulumeni baseKhaya*, uNdunankulu wasungula kokubili imikhandlu yesikhashana kanye namakomidi endawo (kokubili okungaphansi komngcele womkhandlu wemisebenzi). Lamakomidi kwakuhloswe ngawo ukuba amele izimpawu ezehlukile zezindawo ezazifana namadolobha (Peri-urban). Yize kunjalo isizathu sobukhona kwavo sidinga ukuqiniswa. Lokhu kungenziwa ngokuthi kuguqulwe amakomidi ezindawo abe *yimikhandlu yesikhashana*. Lokhu akukwazi ukuthi kungavezwa *kulo Mthetho* ngenxa yomlando wokusungulwa kwavo. Esikhundleni salokho uMnyango wezokuHlela noHulumeni baseKhaya uhlongoza ukuba usebenzise izimiselo zesigaba 10N *soMthetho wesiKhashana woHulumeni baseKhaya*. Lokhu kuzobandakanya ukuchitshiyelwa kwesiMemezelo esithintekayo.
- 13 Ngokuthi ukuhlanganiswa kwamadolobha amadala kanye namadobhakazi kudalaqwadala ukungahambi kahle ebudlewaneni bangaphakathi ezakhiweni ezintsha zikamasipala. Isigaba 4 senzelwe ukulungisa lobo budlelwane bangaphakathi.
- 14 Uma sifunda incazel "amagunya, imisebenzi kanye nezibopho", iSigaba 5
  - (a) siqinisa amandla omasipala;
  - (b) sinika omasipala amagunya ayiwona (original) ngokuphatelene namaphuzu uhulumeni wendawo ngokuphatelene namaphuzu angafakiwe ekusebenzeni kwavo kumbe anikwe omunye umkhakha kahulumeni. Lamagunya nokho awafaki amagunya agcina esele njengoba kwenzeka kweminye imithetho elawula izindaba zohulumeni bendawo.

**ISAHLUKO 3 IMITHETHO ESHAYWA NGOMASIPALA, IMITHETHO EMISIWE  
ESHAYWA NGOMASIPALA KANYE NEZIMISO**

- 15 Lesi Sahluko siveza inqubo elandelwayo lapho kwenziwa imithetho eshaywa ngomasipala, imithetho emisiwe eshaywa ngomasipala kanye nezimiso. Inqubo yensiwe ngendlela eqinisekisa ukusebenza ngendlela evulekile nengqungquzelu ukuzibandakanya komphakathi ezinhlelweni zokwensiwa komthetho. Labo abenza futhi abasungula imithetho yendawo banesibopho sokuba baveze ithuba lokuba kuphawulwe ngayo baphinde bathathe izinyathelo ezipokwenza umphakathi ukwazi ukunika uvo lwano.
- 16 Kulo Mthethosivivinywa kuphinde kwenziwe isibonelelo sokuba uhulumeni wesifunda eseke futhi adlale indima yokweluleka lapho kushaywa *imithetho kamasipala*. Ngokwe Sigaba 7, ilungu loMkhandlu omkhulu noma *iMEC* ingenza izincomo eMkhandlwini kaMasipala ukuthi ashaye umthetho kamasipala uma kuwukuthi *iMEC* leyo ibona kunesidingo somthetho kamasipala ukuze imisebenzi kamasipala yensiwe ngendlela eyiyo nefanele.
- 17 Ngaphezu kwalokho kusungulwe inqubo yokubuyekeza *umthetho kamasipala* ukugqungquzelu nokuqinisekisa ukuguqula ngokuhambisana nesikhathi kanye nokufaneleka komthetho kamasipala.

**ISAHLUKO 4 IZINDABA EZIPHATHELENE NABASEBENZI**

- 18 Isahluko sezindaba eziphathelene nabasebenzi siphoqeleta uMkhandlu kaMasipala ukuba

- (a) uqashe *iSikhulu esiyiNhloko* (Chief Executive Officer) kanye
- (b) unciphise ngenhloso yokusebenza ngendlela efanele futhi kusetshenziswe izinhlelo zokuletha ukulingana ngokuphathelene nezimo zokuqashwa kanjalo nakwezinye izibonelelo eziqondene nomsebenzi.

**ISAHLUKO 5 . IZIKHULU EZIBEKIWE, UKWENZIWA KOMSEBENZI UKUHLOLA,  
IZINDLELA ZOKUSEBENZISANA KANYE NAMACALA  
AHAMBISANA NALOKHO**

- 19 Lesi Sahluko sigxile kakhulu endleleni omasipala okumele basebenze ngayo kanti sisebenza kuphela lapho imithetho elawula ngokwenziwa komsebenzi kumbe ukuhlola kwawo ingenazo izimiso njengoba zivezwe kulesi Sahluko.
- 20 Umthetho okhona unezimiso eziningi okungathi lapho kubhekwanu nazo kutholakale ukuthi kazifanelekile ngoba zihlukumeza amalungelo avezwa ngumthethosisekelo. Ngakho lesi Sahluko sinika indlela okumele ilandelwe nokuqinisekisa ukuthi okwenziwayo kuyahambisana

*noMthethosisekelo.* Lesi Sahluko singaba nomthelela omkhulu endleleni yokuziphatha komasipala lapho benza imisebenzi kanti sinika futhi sigcine amazinga okwenziwa komsebenzi.

- 21 Kulesi Sahluko kunikwa isibonelelo sokutholakala kwamawaranti; esibeka imikhawulo esenzweni esenziwa ngaphandle kwamawaranti; ukukhishwa kwezaziso njengomzamo wokulungisa isimo kunokwethembela ekwethwesenii amacala.

#### **ISAHLUKO 6 - UKUTHOLAKALA KWEZINTO ZOKUSEBENZI KANYE NEMINYE IMISEBENZI NGAWOMASIPALA**

- 22 Lesi Sahluko kuhloswe ngaso ukwengamela ngendlela eyiyo uhlelo Iwamathenda. Inqubo elandelwayo yensiwe ngendlela evumela ukwenza izinto ngendlela esobala kanjalo nengqungquzela intuthuko kanye nokunika amagunya okwenza.
- 23 Kwenziwa isibonelelo *kwiMEC* ukuba inqume inani lezimpahla kanye nemisebenzi okumele ihambelane nohlelo olunzulu lokunikwa kwethenda. Kodwa ezimeni eziphuthumayo, ezimeni zokudinga nalapho kuthenjelwe emthonjeni owodwa ekutheleni leyonto, uMkhandlu kaMasipala unganquma ukuba ungalulandeli uhlelo, yize kuzomelle uchazele umphakathi ukuthi kungani ukhethe ukwenze njalo.
- 24 Uhlelo olunzulu lwethenda lubandakanya ukwazisa ngethenda emphakathini, ukunika imininingwane yethenda kanye nesikhathi lapho ithenda izobekwa khona kulabo abafisa ukuyihlolola kanjalo nokuvumela umphakathi ukuba uhlolisise kahle uhlelo lwethenda.
- 25 Kulo Mthethosivivinywa kuphinde kukhulunye ngokwelulwa, ukwehlukahluka kanye nemiphumela yamathenda angalandeli indlela efanayo.
- 26 Kunikwa isibonelelo sokwedlulisela izikhala zo esigcawini iSigungu sokuziKhalela ngokuTholwa kweZinto zokuSebenza (Procurement Appeals Tribunal) esungulelwwe ukubhekana nezingxabano ezsukela ohlelweni lokunikwa kwempahla kanye nemisebenzi.
- 27 Kunikwa isibonelelo futhi sokusungulwa kweKomidi lokuTholwa kweZinto zokuSebenza. Ngokufingqiwe umsebenzi waleli Komidi wukweseka kanye nokulekelela uMkhandlu kaMasipala.

#### **ISAHLUKO 7 - IMIKHAWULO YOKUNGENA EZINDAWENI ZOMPHAKATHI NGEZOKUBHEKELELA UKUPHEPHA NOKUVIKELEKA**

- 28 Lesi Sahluko simayelana nezinye zezindlela ezifunwa kakhulu zokunqanda ubugebengu okungukwenqabela ilungelo lokufinyelela ezindaweni zomphakathi ezifana nemigwaqo, amapaki, izindawo zokudlula njill. Njengamanje asikho isizinda sezomthetho sokubhekana nalenkinga. Lesi Sahluko simiselwe ngendlela yokuba asiphathe leyo mikhawulo yokuvumela omasipala ukuba babebe imikhawulo ngokuzibonela kwabo noma ngokugunyaza umuntu noma abantu,

izinhlaka noma izinhlangano ukumisa imikhawu ekungeneni kuye ngokuthi ingabe igunya elidingakalayo litholakele na.

### **ISAHLUKO 8 - AMAPHUZU AYINGXUBE**

29 Lesi Sahluko sikhulumma ngamaphuzu alandelayo -

- (a) ukusungulwa kwamaKhomishane kaMasipala oPhenyo. ISigaba 48 siveza izimo lapho ingasungulwa khona uphinde uyalele ukuthi uMthetho ka-1997, iGauteng Provincial Commissions Act yiwona osebenza kwiKhomishane;
- (b) ukubizwa kwezigcawu zomphakathi. ISigaba 49 sineka amandla amalungu omphakathi ukufaka incwadi yezikhala yokucela uMkhandlu kaMasipala ukuba ubize isigcawu somphakathi. Kuphinde kube nesimiselo sokuba uMkhandlu kaMasipala usho izindlela ezisebenza ezigcawini zomphakathi;
- (c) amandla ***oMphathiswa*** okunikezela iziqondiso zokwaluleka ezimweni lapho uMkhandlu kaMasipala ungakwazanga ukuhlangabezana nezibophezelo zavo; kanye
- (d) namandla ***oMphathiswa*** ukunikezela ngeziqondiso zokusiza iMikhandlu yoMasipala ekwenzeni imisebenzi yabo.

### **ISAHLUKO 9 - IZIMISELO EZIVAMILE**

- 30 Lesi Sahluko sikhulumma ngamaphuzu ehlukene nokuvamise ukuba kukhulunywe ngawo eMithethwenisivinywa eminingi njengezinhlawulo, imikhawulo kanye nokuvinjelwa kokubekwa icala, ukumelelwa ngezomthetho, ukunikezela nokunika umsebenzi, ukwesulwa kanye nezinhlelo zesikhashana, izichasiso, amagama amafushane, njll.
- 31 Ngokuphathelene nokunikezela nokunikwa ***kwamandla, imisebenzi, izibopho kanye nezibophezelo, iSigaba 57*** ngokufundwa ndawonye noSheduli 3 luqhuba uhlelo olucishe lumise amandla athile emkhakheni wohulumeni basekhaya.
- 32 Ngokubhekela ukwesulwa nezinhlelo zesikhashana kufanele kuqaphelwe ukuthi uMthetho woHulumeni baseKhaya obizwa ***ngomthetho woHulumeni baseKhaya***, uzokwesulwa. Nokho njengohlolo lwasikhashana, izigaba ezahlukene zizoqhubeka nokusebenza kusalindelwe ukuchitshiyelwa noma ukwesulwa kwazo.

## UKUCHAZWA KWESIGATSHANA NGESIGATSHANA

### **Isigatshana 1**

Lesi sigatshana sichaza umsebenzi walo Mthethosivivinyo, okungukuthi ngukumiswa kabusha kohlelo lo Mthetho nokuphatha loHulumeni basekhaya.

### **Isigatshana 2**

- (1) Ukutolikwa koMthethosivivinyo ngokuhambisana nomsebenzi neqhaza lawo.
- (2) UMthethosivivinyo uzotolikwa ngendlela yokuthi awuzukushayisana nanoma *yimuphi omunye umthetho*.
- (3) Izimiselo zoMthethosivivinyo zizosebenza uma kuba khona ukushayisana nanoma *yimuphi omunye umthetho* ngaphandle koMthethosisekelo kanye noMthetho wesiKhashana woHulumeni baseKhaya.

### **Isigatshana 3**

Lowo nalowo mkhandlu kamasipala omiswe ngokubhekela uMthetho wesiKhashana woHulumeni baseKhaya uzoqhubeka ezingeni lawo futhi uzothathwa njengohlaka lwezomthetho.

### **Isigatshana 4**

- (1) Umkhandlu kamasipala osumenyezelwe njengedolobha elikhulu uyaqhubeka kulelozinga.
- (2) Umkhandlu wedolobhakazi osunedolobha elikhulu elimenyezelwe ngaphansi kwavo uzoba namandla nezibopho zedolobha elikhulu ngezimiselo zanoma *yimuphi umthetho*.
- (3) Umkhandlu kamasipala osumenyezelwe njengedolobha elikhulu ungakukhombisa lokho egameni lawo nakunoma yiziphi izincwadi zavo.

### **Isigatshana 5**

- (1) Amandla, imisebenzi kanye nezibopho zomkhandlu kamasipala ngokuhambisana nalo Mthethosivivinyo azobe engezezelwe kulawo anikezelwe nguMthethosisekelo kanye noMthetho wesiKhashana woHulumeni baseKhaya.

- (2) Lesi sigatshana sibhekise eSengezweni A no B neziqukethe amanye amandla nezibopho zemikhandlu yomasipala.
- (3) Umkhandlu kamasipala ungawasebenza noma yimaphi amandla noma wenze umsebenzi ophathelene nezindaba ezidingekile ngokwenziwa ngokuyikho komsebenzi nezibopho.
- (4) Umkhandlu kamasipala ungathatha noma yisiphi isinyathelo esidingekile ukuze kufezwe izinjongo *zalo Mthetho* sivivinyo.
- (5) Umkhandlu kamasipala ungawasebenza wonke amandla noma wenze noma yimuphi umsebenzi ngokuphathelene nezindaba zohulumeni basekhaya okungakhishwanga emandleni awo noma angaphathiswanga noma anganikezwanga kunoma yiliphi izinga likahulumeni.
- (6) Umkhandlu kamasipala ungenza noma usebenzise imithetho yomasipala ukuze usebenzise ngokuyikho amandla awo kanye nezibopho.

### **Isigatshana 6**

- (1) Ukuze kwenziwe *umthetho kamasipala*, umkhandlu kamasipala kufanele uphasise isiphakamiso esisho inhoso yokwenza lokho.
- (2)
  - (a) Inhoso kufanele ishicilelwwe ngesaziso kusoMqulu wesiFunda nangezinye izindlela zokuxhumana.
  - (b) Lesi sigatshana siqukethe izincasiso zalokho isaziso okufanele kusiqukathe.
  - (c) Ukubonisana nanoma yiliphi iqembu noma amaqembu athintekile kungabanjwa ngaphambi kokwenziwa komthetho kamasipala.
  - (d) Izimvo ezitholakele kufanele zibhekewwe ngaphambi kokwenziwa komthetho.
- (4) Ukwahluleka koMkhandlu kaMasipala wokwakha umthetho esikhathini esingunyaka kwenziwe isimemezelo kuyasifenyisa leso saziso.
- (5) Izindlela ezilandelwayo uma kwenziwa *umthetho kamasipala* zingeke zisebenze lapho lowo mthetho kufanele uphasiswe ngaphandle kokuchithwa kwesikhathi nalapho kudingeka kulungiswe iphutha.
- (6) Izindlela zokwakha *umthetho kamasipala* ziyosebenza nalapho kwenziwe izichibiyelo noma ukwesulwa kwemithetho.
- (7) *Umthetho kamasipala* uqala ukusebenza ngosuku oshicilelwwe ngalo eMqulwini wesiFunda.

- (8) Imali ekhokhelwa ukuthola ikhophi yomthetho osahelwa ingaqoshwa nguMkhandlu.
- (9) Umthetho osahelwa kufanele uboniswe lapho ungatholakala kalula.
- (10) Umkhandlu kamasipala uyogqugquzela futhi usize umphakathi ukuphawula ngomthetho osahelwa.

**Isigatshana 7**

- (1) Lapho uMkhandlu kaMasipala ungenzanga, wachibiyela noma wesula umthetho kamasipala futhi uMphathiswa ebe enelisekile ukuthi bekufanele wenziwe, angacela ukuba uMkhandlu umnike izizathu zalokho kwehluleka.
- (2) Izizathu zalokho kwehluleka kufanele zilethwe zibhaliwe esikhathini esiyinyanga.
- (3) Uma uMphathiswa enelisekile yizizathu angenza iziphakamiso zokuthi lowo mthetho odingekayo wenziwe ngesikhathi esithile.

**Isigatshana 8**

- (1) Imithetho yomasipala kufanele ibuyekezwu nguMkhandlu kaMasipala ezikhathini ezingengaphansi kweminyaka eyishumi emva kokuqala ukusebenza.
- (2) Ukwehluleka komkhandlu ukwenza nokuphothula isibuyekezo esikhathini esibekiwe lokho sekuyokwenza ukuthi kudingkeke utshele izizathu kuMphathiswa.

**Isigatshana 9**

Umkhandlu kamasipala unelungelo ngendlela nezimo zokutholakala nokuhlola nokuthola ikhophi yomthetho kamasipala.

**Isigatshana 10**

UMphathiswa angenza umthetho kamasipala omiyo nganoma yiluphi udaba okusemandleni emikhandlu kamasipala.

**Isigatshana 11**

Indlela elandelwayo yokwakha umthetho kamasipala omiyo iyefana naleyo yomthetho.

**Isigatshana 12**

- (1) Umthetho kamasipala usebenza kuphela emkhandlwini kamasipala uma lowo mthetho wenziwelwa lokho.
- (2) Lokho okuqukethwe ngumthetho kamasipala kuhlanganisa nomthetho kamasipala omiyo lapho kubhekiswa emthethweni kamasipala omiyo.

**Isigatshana 13**

**Umphathiswa unamandla okunika imiyalelo kunoma yiluphi udaba abona ukuthi lubalulekile ukufenza izinhloso zalo Mthetho.**

**Isigatshana 14**

- (1) Umyalelo unganika amandla, ube nezimiselo kanye nokukhiphela ngaphandle ngokuphathelene nezindawo ezithile eGauteng noma abantu noma izinhlaka.
- (2) **UMphathiswa angazenza izinguuko emiyalelweni ngokwazisa kusoMqulu wesiFunda, nokho lezo zinguuko azinakwenziwa ngaphandle kokwaziswa kuqala abantu noma izinhlaka ezithintekile.**
- (3) Uma imiyalelo isho ukuthi ukwehluleka ukuhambisana nanoma yimuphi umkhawulo lokho kuyoba yicala kulowo muntu othintekile kufanele aziswe ngalelocala ngaphambi kokuboshezelwa ngecalo.

**Isigatshana 15**

**Uhlelo lokumiswa komyalelo kuyefana nalokho kokwenziwa komthetho kamasipala**

**Isigatshana 16**

**Umasipala ngamunye kufanele aqoke iSikhulu esiyiNhloko kanye nabasebenzi bokwenza umsebenzi nezibopho.**

**Isigatshana 17**

**Isikhulu esiyiNhloko sisebenza njengenhloko yoMkhandlu, sisize ukusebenza izinhlelo nezinqubomgomozoMkhandlu bese siqinisekisa ubudlelwano obuhle nomphakathi esisebenza nawo. Isikhulu esiyiNhloko singaba nawo amanye amandla anikezelwe ngokweminye imithetho kanye nalawo anikezelwe**

nguMkhandlu kaMasipala.

### **Isigatshana 18**

Umkhandlu olunjanisiwe ungeke uziguqule izimiso nezimo zokusebenza zabasebenzi zizenze zimbi lapho kunomehluko ezimisweni zezimo zokusebenza.

### **Isigatshana 19**

Umkhandlu kamasipala ngamunye kufanele ube nohlelo Iwezinuzo zemithi ukuhlomulisa abasebenzi bawo futhi ungalwenzela namakhansela uhlelo olunjalo.

Izimiso, izibopho kanye nezinuzo ezitholwa ohlelweni oluvelo lukhona ziyoqhubeka ukusebenza ngaphandle uma zishintshwe ngokuhambisana nalo Mthetho noma uma imithetho yawo nokho lolo luguquku kufanele zibeke abasebenzi esimweni esingcono.

### **Isigatshana 20**

Umkhandlu kamasipala ngamunye kufanele ube nohlelo lomhlalaphansi ukuzuzisa abasebenzi bawo kanye namakhansela awo ngokufanayo.

Izimiso, izibopho nezinuzo zezinhlelo kuzoqhubeka ukusebenza ngaphandle uma kunezinguquko emithethweni yohlelo noma ngokumisa kwalo Mthetho.

Lezo zinguquku akufanele zishintshe isimo sabasebenzi sibe sibi.

Umkhandlu kufanele ulinganise izinzuso kubasebenzi lapho kunomehluko esikhathini esiyiminyaka emibili uqalile ukusebenza lo Mthetho.

### **Isigatshana 20A**

Lesi sigatshana sikhulumwa ngokuqokwa kwezimeya, izikhathi zokubamba kwazo izikhundla kanti uma izimo zikudinga ukususwa kwemeya emisebenzini yakhe, umkhandlu kamasipala ungakwenza lokho ngokuthatha isiphakamiso esinobuningi bokubili kokuthathu. Umkhandlu kamasipala unganikezela ngezibopho zokubhekela ukusetshenziswa nokuhlolwa kwezinhlelo zikazwelonke noma ezesifunda emeyeni bese ugynyaza imeya ukuba ibe yilungu lekomidi elikhulu, kodwa unganquma ukuba angabi namalungelo okuvota.

**Isigatshana 21**

Lesi sigatshana sigunyaza iSikhulu esiyiNhloko ukuba siqoke ngokuvamile noma umuntu ngqo njengesikhulu esibekiwe.

**Isigatshana 22**

Imisebenzi nezibopho zezikhulu ezibekiwe zishiwo kulesi sigaba nokufanele yenziwe ngokuhambisana nalo Mthethosivivinyo nangokulandela izindlela ezibekwe eZigatshaneni 24 no 25.

**Isigatshana 23**

Izikhulu ezibekiwe ngokwengezelela emandleni abekwe kulo Mthethosivivonyo kanye nanoma yimaphi amandla ezinikezwе wona, banikwa amanye amandla ukuqinisekisa ukwenza kahle umsebenzi wabo njengoba ishiwo eSigatshaneni 22 ngaphezulu.

**Isigatshana 24**

Izindlela ezilandelwayo, ukuziphatha nesikhathi sokusebenzisa incwadi eyiyo eyimvume yokungena, lapho ukungenza kwensiwa ngaleyoncwadi kushiwo ngokucacile kulesi sigaba.

**Isigatshana 25**

Izikhulu ezibekiwe zinelungelo lokungena kunoma yiziphi izakhiwo noma indawo ngaphandle kwencwadi eyimvume ngokuvuma komnikazi wendawo noma umuntu ophethe leyo ndawo noma lezo zakhiwo. Uma senqatshelwa ukungena ngokungenasizathu, izikhulu ezibekiwe zingangena kunoma yiyiphi indawo ngaphandle kwencwadi eyimvume ngokusebenzisa amandla engeziwe noma ngamuphi umthetho.

**Isigatshana 26**

Ekwenzeni umsebenzi wazo, izikhulu ezibekiwe kufanele ziziphathe ngokuyikho futhi zibhekelle amalungelo angaguquki abantu.

**Isigatshana 27**

Izimo lapho indluzula ingasetshenziswa khona, indlela izikhulu ezibekiwe okufanele zifuna ngayo ukungena ngaphambi kokusebenzisa indluzula kanye nesinxephezelo ngokulimala okungavela ngenxa yendluzula kubekiwe kulesi sigaba. Nokho-ke indluzula angeke yasetshenziswa ngokumisa kweSigatshana 25.

**Isigatshana 28**

Isikhulu esibekiwe singaphelezelwa uma senza umsebenzi waso yilungu lamaPhoyisa aseNingizimu Afrika noma *yimuphi omunye* umuntu ongadingeka ukuba asize ekwenziweni komsebenzi.

**Isigatshana 29**

Lesi sigaba simisela ngokukhishwa kwanoma yiyiphi incwadi engadingwa yisikhulu esibekiwe.

**Isigatshana 30**

Imibuzo yesikhulu esibekiwe kufanele iphendulwe ngokuyiqiniso, kanti lezo zimpendulo angeke zasetshenziswa emacaleni asenkantolo nokho kuya ngokubhekela okuthile.

**Isigatshana 31**

Uma kwephulwa imiyalelo yalo Mthethosivivinyo, isikhulu esibekiwe singanikezela ngesaziso sokuhambisana kanti leso saziso sisebenza kuze kube kunikezelwe ngesitifiketi sokuhambisana kanti nezidingo zaleso saziso sekuanjisiwene nazo.

**Isigatshana 32**

Lesi sigaba sinemiyalelo yamacala angenziwa yimoma yimuphi umuntu ongaqokwanga ngokusemthethweni njengesikhulu esibekiwe.

**Isigatshana 33**

Ngokuhambisana nalesi sigatshana, izimiselo zoMthethosivivinyo ngokuphathelene namandla nemisebenzi yezikhulu ezimisiwe zisebenza kunoma yimuphi umuntu noma uhlaka oluhlanganisa umbuso kanye nezimiselo ezinikeza amandla nezibopho okusebenza kunoma yimuphi umhlaba, into nanoma yiyiphi indawo.

**Isigatshana 34**

*Umpathiswa* unikeziwe amandla okumisa inani lethenda ngemisebenzi nezimpahla okufanele umkhandlu kamasipala uhambisane nohlelo lokuthola izimpahla njengoba kubekiwe eSigaben 34 ukuthola umsebenzi noma ukunikezela ngenkontileka. Lezo zindlela zingayekwa nokho ezimeni eziphuthumayo noma lapho kunesidingo. Lendlela yokuthola izimpahla kufanele ihambisane nezimiso zezimali.

**Isigatshana 35**

Lesi sigatshana sibeka izindlela ezilandelwayo zamathenda okufanele zilandelwe yimikhandlu yomasipala ngokutholwa kwezimpahla nemisebenzi okumiselwe.

**Isigatshana 36**

Umkhandlu kamasipala, ngesiphakamiso ungezisebenzise izindlela ezibekwe ngeSigatshana 35 ezimweni eziphuthumayo nezinesidingo. Esikhathini esiyinyanga kwensiwe isiphakamiso, izizathu zokuyeka isigatshana 35 kanye nezidingo zezimpahla ezimiselwe kufanele zishicilelw futhi zichazwe. Imisebenzi yomkhandlu kamasipala ngokumayelana nalesi sigatshana angeke kwanikezelwa komunye.

**Isigatshana 37**

Lesisigatshana sinikezela igunya umkhandlu kamasipala ukuba uzenzele ngokwawo, uphakamise ukwandisa noma uguqule isivumelwano sethenda uma izimo ezimiswe esiGatshaneni 34(2)(a) zikhona. Igunya lomkhandlu kamasipala nokho linomkhawulo. Izimiselo zeSigatshana 36 ngaphezulu zisebenza ngokwehlukana kwezimo.

**Isigatshana 38**

Uma umkhandlu kamasipala wenelisekile ngokuthi isicelo sethenda sesivuniwe, siguquliwe noma sandiswa, noma sekube khona ukwaphulwa kwasho, kufanele sazise umfakeli ngokubhalwe phansi futhi kunikezelwe nezizathu zalokho. Umkhandlu kamasipala unelungelo lokukhansela isivumelwano sethenda uma umfakeli enganikezeli ngezethulo njengoba azisiwe.

**Isigatshana 39**

Umfakeli wezimpahla noma wemisebenzi obona ukuthi ulinyaziwe ngesinqumo somkhandlu kamasipala sokukhansela isivumelwano sethenda angedlulisela udaba Iwakhe eSigungwini sokuKhalaza ngokuTholwa kwezimpahla noma imisebenzi, ngokwezindlela ezimiswe ngumkhandlu kamasipala.

Isinqumo sesiGungu sokuKhalaza ngokuTholwa izimpahla noma imisebenzi singujuqu futhi siyabophezela kuwowonke amaqembu esedluliso.

#### **Isigatshana 40**

Umkhandlu kamasipala kufanele umise iSigungu sokuKhalaza ngokuTholwa kwezimpahla noma imisebenzi nesinabalamuli ababili okungenani, abangaqoka ochwepheshe ukuba ngamatlungu eSigungu sokuKhalaza ngokuTholwa kwezimpahla noma imisebenzi. Ithimba labalamuli kufanele ligcinwe linamatlungu okungenani ayisithupha abavunye ngumkhandlu kamasipala, kanti labo bantu angeke kwaba ngabangamakhansela noma abasebenzi bomkhandlu kamasipala. Umkhandlu kaMasipala kufanele ulandele izindlela ezimisiwe zokuqoka umuntu ekubeni yilungu lethimba labalamuli.

#### **Isigatshana 41**

Lesi sigatshana sinikeza amandla umkhandlu kamasipala ukuba umise ikomidi lokutholwa kwemisebenzi nezimpahla nelinamandla nemisebenzi ethile.

#### **Isigatshana 42**

Ngokuphatelene nalesi sigatshana, umkhandlu kamasipala ungabeka umkhawulo noma ugynyaze noma yimuphi umuntu noma abantu, uhlaka noma inhlango ukubeka umqobo wokungena kunoma yiyiphi indawo yomphakathi ukubhekela ukuphepha nokuvikeleka.

#### **Isigatshana 43**

Lesi sigatshana sibeka izindlela okufanele zilandelwe ngumkhandlu kamasipala uma kunenhoso yokubeka imikhawulo ngokungena endaweni yomphakathi.

#### **Isigatshana 44**

Ngokwezimiso zalesi sigatshana noma ngubani ofaka isicelo emkhandlwini kamasipala ngokunikwa igunya lokubeka umkhawulo ngendawo yomphakathi kufanele alandelza izindlela ezithize ezibekiwe emva kwalokho kube neziqondiso ezithile okufanele zilandelwe ngumkhandlu kamasipala.

#### **Isigatshana 45**

Ngokwezimiso zalesi sigatshana, umkhawulo noma isigunyazo sokubeka umkhawulo wokungena asibi semthethweni ngokungaphezu kweminyaka emibili kodwa umkhandlu kamasipala ungasandisa isikhathi salowo mkhawulo uma kunesidingo ngokulandela izindlela eziyizo.

**Isigatshana 46**

Ngaphansi kwaesi sigatshana kuyicala kunoma ngubani obeka umkhawulo ekungeneni endaweni yomphakathi ngaphandle kokuthola igunya elimisiwe.

**Isigatshana 47**

Lesi sigatshana sinika igunya umkhandlu kamasipala ukumisa izimo kanye nendlela lapho umphakathi ungathola futhi uhlole izimiselo zomkhawulo noma igunya lokubeka umkhawulo wokungena.

**Isigatshana 48**

Ngokwalesi sigatshana umkhandlu kamasipala unikwe amandla okumisa iKhomishani yoPhenyo kaMasipala ngokuphathelene nanoma yiluphi udaba lukahulumeni wasekhaya ngokuphasisa isiphakamiso esichaza amaphuzu okuzophenywa ngawo kuhlanganisa isikhathi ebekelwe sona ukuphetha umsebenzi wayo. Ikhomishani kufanele ithumele umbiko oqukethe imiphumela yawo kanye neziphakamiso emkhandlwini kamasipala ukuwuxazulula kanti umkhandlu kamasipala ungathatha noma yiziphi izinyathelo obona zifanele. Nokho-ke, *uMphathiswa* kufanele enze izimiselo ezimayelana nokumiswa nokwenziwa kophenyo lukamasipala.

**Isigatshana 49**

Uma ngabe umkhandlu kamasipala uthola incwadi yezikhala zo ecela isigcawu somphakathi nganoma yiluphi udaba lukahulumeni wasekhaya, lesi sigatshana sinikeza amandla umkhandlu ukuba ubize isigcawu somphakathi kanti ekwenzeni lokho, umkhandlu kamasipala kufanele ubeke indlela yokubiza nokubanjwa kwalezo zigcawu zomphakathi.

**Isigatshana 50**

Lesi sigatshana sinikeza amandla *uMphathiswa* iziqondiso zokwaluleka umkhandlu kamasipala owehlulekile ukufeza ngokuyikho umsebenzi wawo, emva kokucela umkhandlu kamasipala ukunikezela ngezethulo zokuchaza izizathu zalokho kwehluleka.

**Isigatshana 51**

Lesi sigatshana sinikeza *uMphathiswa* amandla okunikezela iziqondiso emikhandlwini yomasipala ukubasiza ekusebenziseni amandla ayo, imisebenzi yawo kanye nezibopho noma ukwenza inhloso yalo Mthethosivivinyo.

**Isigatshana 52**

Nanoma yimuphi umuntu olahlwe yicala ngokwemigomo yoMthethosivivinywa uyokhokhiswa inhlawulo kumbe aboshwe noma athole kokubili ukukhokhiswa inhlawulo nokuboshwa futhi lapho lowo muntu eqhubeka nokwenza icala kumbe amacala afanayo, uyobhekana nenhlawulo engeziwe noma kwelulwe isikhathi sokuboshwa kwakhe.

**Isigatshana 53**

Ngokwezimiso zalesi sigatshana akekho ongabekwa icala ngokulimala okungenzeka ngenxa yesenzo esenziwe ngobuqotho noma uma lolo lwazi lunikezelwe ngobuqotho. Umasipala ngakho-ke uvikelwe ngokumayelana nezinhlelo zezomthetho ezifakwe yilowo olimele noma ophatheke kabi kulowo owenze leso senzo egameni likamasipala.

**Isigatshana 54**

Ngokwalesi sigatshana lowo ofake isicelo kufanele afake uhlelo Iwezomthetho kumasipala noma lowo osebenzela umasipala ngokumayelana nesenzo noma nokungenzi esikhathini esiyizinyanga eziyishumi nambili noma ngaphambi kwalolo lusuku lowo ofake isicelo azi ngalesi senzo noma lokho kungenzi kanye nesaziso esibhaliwe kufanele sinikezelwe eSikhulwini esiyiNhloko kanye nalowo ozivikelayo.

**Isigatshana 55**

Kunoma yiluphi uhlelo Iwezomthetho olufakelwe amakhansela noma abasebenzi bakamasipala abaphathelene nemisebenzi yabo kumasipala, lesi sigaba sibeka ukuthi amakhansela nabasebenzi banelungelo lokumelelwa ngokwezomthetho, kanti izindleko kufanele zibhekewwe ngumasipala. Lezo zethulo kufanele zinikezelwe ngendlela ezoshiwo ngumkhandlu kamasipala.

**Isigatshana 56**

Ngokwezimiselo zalesi sigatshana, umkhandlu kamasipala ngokubhalwe phansi, unganikezela nganoma *yimaphi amandla*, *imisebenzi kanye nesibopho* kunoma yimuphi umsebenzi, ikomidi, ikomidi elincane, ibhodi noma uhlaka olumiswe ngumkhandlu noma kunoma yimuphi omunye umkhandlu kamasipala

kanti unelungelo lokwenza izivumelwano eziphatelene nomfakeli womphakathi noma ozimele wezimpahla noma imisebenzi kanti umkhandlu kufanele ugcine irejista yazozonke izithunywa kanye nezivumelwano.

### Isigatshana 57

UMphathiswa unamagunya okunika kumbe ukwedlulisela nanoma *yimaphi amandla, imisebenzi kanye nesibopho* emkhandlwini kamasipala ngokuthi ichibiyele noma ngokufaka ulwazi oluyilo kuSheduli 3, kanti lokho kunikwa kumbe ukudlulisela kungenziwa ngokubhekiswe komasipala abehlukene, noma amaqembu ehlukene, kumbe izigaba ezehlukene zomasipala.

### Isigatshana 58

UMphathiswa unegunya lokuchibiyela, ukuchitha, noma ukwesula isheduli, isengezo, isihloko sekhasi, isihloko noma umbalo wencazelo, ngokuthi ulandele umgomo okumele ulandelwe.

### Isigatshana 59

Lesi sigatshana sichitha imithetho ebekwe kuSheduli 1 futhi sibhekela ukuthi amalungiselelo esikhashana aku-Sheduli 2 afundwe futhi assetshenziswe njengezimiso ezinohlonze zoMthethosivivinywa.

### Isigatshana 60

Lesi sigatshana simayelana nezincazelo zamagama kanye nezimiselo ezisetshenziswe kuMthethosivivinywa.

### Isigatshana 61

Ngokwalesi sigatshana uMthethosivivinywa ubizwa ngoMthetho ka-1997 WokuHlelwa kabuSha kweziNdaba zoHulumeni baseKhaya (Gauteng Rationalisation of Local Government Affairs Act).

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