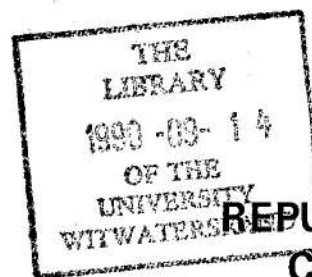
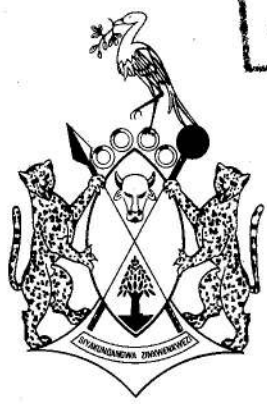


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OFFICE OF THE PRESIDENCY
GOVERNMENT NOTICE No. 74

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS ASSENTED TO THE FOLLOWING ACT
WHICH IS HEREBY PUBLISHED FOR GENERAL INFORMATION:

CISKEIAN ROAD TRAFFIC ACT, 1989
ACT No. 18 OF 1989

ISEBE LIKAMONGAMELI

ISAZISO SIKARHULUMENTE SAMA-74

NGOKWENJENJE KUYAZISWA UKUBA UMONGAMELI UWUVUMILE UMTHETHO OLANDELAYO
NOBHENGZWAYO APHA JUSAZISWA ULUTNU NGOKUBANZI:

UMTHETHO WASECISKEI WEZIHAMBA-NDLELENI, 1989
UMTHETHO NOMBOLO 18 WOVE-1989

CISKEIAN ROAD TRAFFIC ACT, 1989

A C T

To consolidate and amend the laws relating to the registration and licensing of motor vehicles and other vehicles and the drivers thereof and the regulation of traffic on public roads and to provide for certain requirements of fitness and for matters incidental thereto.

(English text signed by the President. Assented to on 5 October 1989)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

ARRANGEMENT OF ACT

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

"ambulance" means a motor vehicle specially constructed or adapted for the purpose of conveying sick or injured persons to or from a place for medical treatment and which is registered as an ambulance;

"articulated motor vehicle" means a combination of motor vehicles consisting of a truck-tractor and a semi-trailer;

"authorized officer" means a traffic officer, an inspector of licences, an examiner of vehicles or an examiner for drivers' licences and includes any other person whom the Minister may from time to time by regulation declare to be an authorized officer;

"breakdown vehicle" means a motor vehicle designed and adapted solely for the purpose of recovering or salvaging motor vehicles and which is registered as a breakdown vehicle;

"bridge", includes a culvert and a causeway;

"bus", means a motor vehicle designed or adapted for the conveyance of more than 16 persons (including the driver);

"by-law" means a by-law contemplated in section 125;

"combination of motor vehicles" means two or more motor vehicles coupled together;

"Convention" means the International Convention relative to Motor Traffic (Paris, 1926), the United Nations Convention on Road Traffic (Geneva, 1949) or the United Nations Convention on Road Traffic (Vienna, 1968) and any subsequent related convention which has been duly ratified and is applicable to a prescribed territory and the Republic of Ciskei and any amendment thereof;

"convoy of motor vehicles" means six or more motor vehicles which are operated in a group on a public road;

"credit grantor" means a credit grantor as defined in section 1 of the Credit Agreements Act, 1980 (Act 75 of 1980);

"cross", or any like expression, means to move on a public road in a direction which intersects the normal course of travel of traffic on such road;

"Department" means the Department of Transport;

"department of State" means a department mentioned in Schedule 1 of the Public Service Act, 1981 (Act 2 of 1981);

"Director-General" means the Director-General: Transport;

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"driver" means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle or who guides any draught, pack or saddle animal or herd or flock of animals and "drive" or any like word has a corresponding meaning;

"driver's licence" means a driver's licence referred to in Chapter 3;

"driver's licence testing centre" means a driver's licence testing centre referred to in section 7;

"examiner for drivers' licences" means an examiner for drivers' licences appointed in terms of section 3;

"examiner of vehicles" means an examiner of vehicles appointed in terms of section 3;

"fire-fighting vehicle" means a motor vehicle designed or adapted solely or principally for fighting fires and which is registered as a fire-fighting vehicle;

"freeway" means a public road or a section of a public road which has been designated as a freeway by an appropriate road traffic sign;

"goods" means any movable property;

"gross combination mass", in relation to a motor vehicle which is used to draw any other motor vehicle, means the maximum mass of any combination of motor vehicles, including the drawing vehicle, and load as specified by the manufacturer thereof or, in the absence of such specification, as determined by the registering authority;

"gross vehicle mass", in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;

"identity document" means an identity document as defined in section 1 of the Ciskeian Registration of Persons Act, 1981 (Act 15 of 1981);

"inspector of licences" means an inspector of licences appointed in terms of section 3;

"instalment sale transaction" means an instalment sale transaction as defined in section 1 of the Credit Agreements Act, 1980;

"instructor" means any person who for direct or indirect reward -

(a) instructs any person in the driving of a motor vehicle;

(b) teaches any other person the rules of the road or road traffic signs in order to obtain a learner's or a driver's licence;

"international driving permit" means an international driving permit issued in terms of a Convention or recognized thereunder;

"intersection" means the area embraced within the prolongation of the lateral boundary lines of two or more public roads, open to vehicular traffic, that join one another at any angle, whether or not one such public road crosses the other;

"learner's licence" means the learner's licence referred to in Chapter 3;

"leasing transaction" means a leasing transaction as defined in section 1 of the Credit Agreements Act, 1980;

"left" means left reckoned by reference to the direction in or towards which the vehicle, animal or person is facing at the material time;

"local authority" means a municipality established or deemed to have been established under the Municipal Act, 1987 (Act 17 of 1987) and includes any other local institution of a like nature declared by the Minister by notice in the *Gazette* to be a local authority for the purposes of this Act;

"magistrate" includes an additional magistrate and an assistant magistrate;

"manufacturer" means a person who, for the purposes of his business of selling motor vehicles, manufactures or assembles new motor vehicles;

"medical practitioner" means any person registered as such under the Health Professions and Related Health Practices Act, 1984 (Act 36 of 1984);

"Minister" means the Minister of Transport;

"mini-bus" means a motor vehicle designed or adapted for the conveyance of more than 9 but less than 17 persons (including the driver);

"motor cycle" means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached;

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"motor dealer" means any person who -

(a) is engaged in the business of buying, selling, exchanging and repairing motor vehicles required to be registered and licensed in terms of this Act or of building permanent structures onto them; and

(b) holds a licence under the Licences Act, 1982 (Act 22 of 1982) where, in terms of that Act, such licence is necessary for any business referred to in paragraph (a);

"motor tricycle" means a motor vehicle, other than a motor cycle or a tractor, which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

"motor vehicle" means any self-propelled vehicle and includes -

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include -

(i) any vehicle propelled by electrical power derived from storage batteries and which is pedestrian-controlled; or

(ii) any vehicle with a mass of not more than 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"operate on a public road", or any like expression, in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

"operator" means the person responsible for the use of a motor vehicle of any class contemplated in Chapter 5 and who has been registered as the operator of such vehicle;

"owner", in relation to a vehicle, includes -

(a) a joint or part owner of that vehicle;

(b) any person who is the purchaser of that vehicle in terms of an instalment sale transaction or who is the lessee of the vehicle in terms of a leasing transaction for a period of not less than 12 months, but does not include the credit grantor or lessor in terms of any such transaction;

(c) any person referred to in paragraph (b), for any period during which such person has failed to return that vehicle to the credit grantor or lessor in accordance with his obligation to do so in terms of the instalment sale transaction or the leasing transaction, as the case may be, but does not during any such period include the credit grantor or lessor in terms of any such transaction; or

(d) a motor dealer who is in possession of a used vehicle for the purpose of sale,

and **"owned"** or any like word has a corresponding meaning;

"park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"pedal cycle" means any bicycle or tricycle designed for propulsion solely by means of human power;

"pedestrian crossing" means -

(a) that portion of a public road at an intersection included within the prolongation or connection of the kerb line and adjacent boundary line of such road, whether such portion is marked or not; or

(b) any other portion of a public road designated as a pedestrian crossing by appropriate road traffic signs;

"prescribe" means to prescribe by regulation and **"prescribed"** shall be construed accordingly;

"prescribed territory" means -

(a) any province of the Republic of South Africa, including any self-governing territory within such province;

(b) any state (other than Ciskei) which previously formed part of the Republic of South Africa; and

(c) any other state or territory declared by the Minister by notice in the *Gazette* to be a prescribed territory;

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"professional driver" means the driver of a motor vehicle in respect of which an operator is registered;

"professional driving permit" means a professional driving permit referred to in Chapter 3;

"province" means a province of the Republic of South Africa;

"public road" means any road, street or thoroughfare or, except for the purposes of section 80, any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes -

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"registering authority" means a registering authority referred to in section 2;

"regulation" means a regulation (other than a by-law) made under this Act;

"road traffic sign" means a road traffic sign prescribed under section 74;

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic and includes those portions commonly known as the shoulders;

"roadworthy" in relation to a vehicle, means a vehicle which complies with the relevant provisions of this Act and is otherwise in a fit condition to be operated on a public road;

"roadworthy certificate", in relation to a motor vehicle, means a certificate issued in terms of section 56;

"roadworthiness disc" means a roadworthiness disc issued in terms of section 56;

"robot" means a road traffic sign which, by means of automatic light signals, alternately directs traffic to stop and permits it to proceed;

"self-governing territory" means a self-governing territory as defined in section 38(1) of the National States Constitution Act, 1971 (Act 21 of 1971) of the Republic of South Africa;

"semi-trailer" means a trailer having no front axle and so designed that at least 15 per cent of its tare is superimposed on and borne by a vehicle drawing such trailer;

"sidewalk" means that portion of a verge intended for the exclusive use of pedestrians;

"tare", in relation to a motor vehicle, means the mass of such vehicle ready to travel on a road and includes the mass of -

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything affixed to such vehicle so as to form a structural alteration of a permanent nature; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of -
 - (i) fuel; and
 - (ii) anything affixed to such vehicle which is not of the nature referred to in paragraph (b) or (c);

"taxi" means a motor car used for the conveyance of persons for hire or reward;

"testing centre" means a driver's licence testing centre;

"testing station" means a motor vehicle testing station established in terms of section 7;

"this Act" includes the regulations;

"tractor" means a motor vehicle designed or adapted mainly for drawing other vehicles and not to carry any load thereon, but does not include a truck-tractor;

"traffic lane" means a longitudinal division of a public road of sufficient width to accommodate the passage of a single line of vehicles;

"traffic officer" means a traffic officer appointed under section 3 and includes any member of the Force as defined in section 1 of the Police Act, 1983 (Act 32 of 1983);

"trailer" means a vehicle which is not self-propelled and which is designed or adapted to be drawn by a motor vehicle, but does not include a side-car attached to a motor cycle;

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"Treasury" means the Minister of Finance and Economic Development and includes any officer in his department acting under his authority;

"truck-tractor" means a motor vehicle designed or adapted -

- (a) for drawing other vehicles; and
 - (b) not to carry any load other than that imposed by a semi-trailer or by ballast,
- but does not include a tractor;

"urban area" means that portion of the area of a local authority which has by actual survey been subdivided into erven or is surrounded by surveyed erven and includes the public roads abutting thereon;

"vehicle" means a device designed or adapted principally to travel on wheels or crawler tracks, other than such a device which -

- (a) moves exclusively on rails; or
- (b) is used -
 - (i) as part of the towing equipment of a motor vehicle designed or adapted for salvaging other motor vehicles and commonly known as a breakdown vehicle; and
 - (ii) to support any axle or all the axles of a motor vehicle which is being salvaged,

but does not include such a device when otherwise used on a public road;

"verge" means that portion of the road, street or thoroughfare which is not the roadway.

CHAPTER 1

REGISTERING AUTHORITIES, OFFICERS, TESTING CENTRES AND TESTING STATIONS

2. Appointment of registering authority. - For the purposes of this Act the magistrate of a district shall be the registering authority for that district.

3. Appointment of officers. - Subject to the provisions of this Act and the Public Service Act, 1981 (Act 2 of 1981), the Minister may for the area comprising Ciskei appoint any person who possesses the prescribed qualifications as -

- (i) a traffic officer;
- (ii) an inspector of licences;
- (iii) an examiner of vehicles; or
- (iv) an examiner for drivers' licences;

Provided that the Minister may appoint a person who is not so qualified if the appointment is made on probation as contemplated in section 12 of the said Public Service Act, 1981:

Provided further that no such appointment shall be confirmed when the period of probation expires unless the person concerned is then qualified as prescribed.

4. Grading of officers. - The Minister shall grade in accordance with his qualifications every person who -

(a) after the coming into operation of this section is appointed permanently in one or other of the posts in the Department referred to in section 3; or

(b) at the time of such coming into operation, holds such a post on the fixed establishment of the Department in a permanent capacity.

5. Identification of officers. - Any person appointed or deemed to have been appointed under section 3 shall -

- (a) be provided with an appropriate certificate of appointment;
- (b) when on duty, be in possession of such certificate; and
- (c) produce such certificate for inspection on the demand of any interested person.

6. Misconduct of officers. - A traffic officer, an inspector of licences, an examiner of vehicles or an examiner for drivers' licences shall be guilty of misconduct within the meaning and for the purposes of Chapter 5 of the Public Service Act, 1981 if -

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(a) in the case of a traffic officer, inspector of licences or examiner for drivers' licences, he acquires or has, either by himself or through his spouse or partner, any pecuniary or related interest (whether direct or indirect) in any driving school or in the instruction, training or supervision of learner drivers; or

(b) in the case of an examiner of vehicles, he acquires or has a pecuniary interest (whether direct or indirect) in the sale, repair, rebuilding, renovation or manufacture of motor vehicles.

7. Drivers' licences testing centres and motor vehicle testing stations. - (1) For the purposes of this Act the Minister may establish, or as the case may be disestablish, drivers' licences testing centres and motor vehicle testing stations.

(2) The establishment or disestablishment of a testing centre or testing station shall be made known by notice in the *Gazette*.

(3) The Minister shall cause all testing centres and testing stations to be inspected by a competent inspector at regular intervals in order to ensure -

(a) that any standards that may have been prescribed therefor are being applied and maintained; and

(b) that the examiners for drivers' licences and examiners of vehicles are properly graded.

8. Powers and duties of inspector of licences. - In addition to the powers and duties conferred on him elsewhere in this Act, an inspector of licences may, subject to the provisions of this Act or any other law -

(a) by notice in writing as prescribed, direct the owner, operator, driver or person in charge of any vehicle, wherever found, which in his opinion does not comply with the requirements for a roadworthy certificate provided for in this Act or in any other law, to produce such vehicle for inspection, examination or testing to a testing station for such class of vehicle at a time and place specified in such notice;

(b) in respect of any motor vehicle, demand from the owner, operator or driver thereof the production of any document required from such person in respect of that motor vehicle in terms of this Act, or any like document issued by a competent authority outside Ciskei;

(c) require from any instructor -

(i) where such instructor is engaged in teaching or instructing another person in the driving of a motor vehicle, forthwith, or

(ii) where such instructor is not so engaged, within seven days, to produce evidence of his registration;

(d) examine any motor vehicle in order to satisfy himself whether it is the motor vehicle in respect of which a document referred to in paragraph (b) was issued;

(e) impound any document referred to in paragraph (b) which appears to be or which the officer suspects to be invalid or which has been or appears to have been unlawfully altered or defaced or which is being put to unlawful use, and where any document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;

(f) require the owner, operator, driver or person in charge of any vehicle forthwith to furnish his name and address and give any other particulars required as to his identification, and where applicable, immediately to produce a professional driving permit;

(g) demand from any person to produce a licence authorizing him to drive a motor vehicle and to produce any other document which he is required to have in respect of any motor vehicle in terms of this Act;

(h) impound any licence or document produced to him in terms of paragraph (g) which in his opinion may afford evidence of a contravention or evasion of any provision of this Act and, where any licence or document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;

(i) require any person, whether or not such person is in any vehicle, to furnish his name and address and to give any other particulars required as to his identification, as well as such information as is within his power to furnish and which may lead to the identification of the owner, operator or driver of such vehicle;

(j) require from any person to furnish him with any information as is within the power of such person to furnish and which may lead to the identification of the driver, owner, operator or person in charge of a vehicle at any time or during any period; or

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(k) at any reasonable time, having regard to the circumstances of the case, without prior notice and in the exercise of any power or the performance of any duty, which in terms of this Act he is authorized or required to exercise or to perform, enter any premises on which he has reason to believe that any vehicle is kept.

9. Powers and duties of examiner of vehicles. - (1) An examiner of vehicles may inspect, examine and test any vehicle in order to determine whether it is roadworthy and for that purpose may dismantle the vehicle or any part thereof or its equipment or accessories: Provided that he shall reassemble any vehicle so dismantled unless he is requested by the person in charge of the vehicle not to do so.

(2) An examiner of vehicles may drive any vehicle when necessary in the performance of his duties if, in the case of a motor vehicle, he is licensed to drive a motor vehicle of the class concerned.

10. Powers and duties of examiner for drivers' licences. - (1) An examiner for drivers' licences shall test any applicant for a learner's licence or driver's licence in the manner and in regard to the matters as prescribed, in order to determine whether such applicant is fit and competent to obtain a learner's or driver's licence for the class of vehicle for which he applies.

(2) No examiner for drivers' licences shall test an applicant for a driver's licence in terms of section 21 unless such examiner himself is licensed to drive a vehicle of the class for which the applicant applies to obtain a driver's licence or of the class as prescribed and has been appropriately graded.

11. Powers and duties of traffic officer. - In addition to the powers and duties conferred on him elsewhere in this Act, a traffic officer may, subject to the provisions of this Act and any other law -

(a) exercise or perform any of the powers or duties conferred upon an inspector of licences in terms of section 8;

(b) when in uniform, require the driver of any vehicle to stop such vehicle;

(c) inspect, test or cause to be inspected and tested by a person whom he considers competent to do so, any part and the functioning of any vehicle and the equipment thereof, with a view to ascertaining whether such vehicle or the functioning thereof and the equipment comply with the provisions of this Act: Provided that no such officer or person instructed by such officer to inspect or test such vehicle shall, in the exercise of the authority hereby conferred upon him, dismantle the mechanism or any working parts of any motor vehicle unless he is also a qualified motor mechanic or has passed an examination for examiners of vehicles as prescribed and, if he has so dismantled such vehicle, he shall reassemble the dismantled mechanism or parts unless he is requested by the person in charge of the vehicle not to do so;

(d) ascertain the dimensions of, the load on, or the mass, axle mass load or axle unit mass load of, any vehicle or the mass of any combination of vehicles, laden or unladen, and, if necessary for the purpose of ascertaining such mass require any vehicle or combination of vehicles to proceed to a massmeter or mass-measuring device and, if the mass of any vehicle or combination of vehicles exceeds the mass allowed in terms of this Act, prohibit the operation of such vehicle or combination of vehicles on a public road until such mass has been reduced or adjusted to comply with this Act: Provided that where the load on a vehicle includes any hazardous substance as contemplated in the Hazardous Substances Act, 1985 (Act 15 of 1985), the reduction and handling of the mass shall be undertaken in terms of that Act;

(e) drive any vehicle when necessary in the performance of his duties if, in the case of any motor vehicle, he is licensed to drive a motor vehicle of the class concerned;

(f) if any person, being the driver or apparently in charge of a vehicle, appears to such officer by reason of his physical or mental condition, howsoever arising, to be incapable for the time being of driving or being in charge of such vehicle, temporarily forbid such person to continue to drive or be in charge of such vehicle and make such arrangements for the safe disposal or placing of the vehicle as in his opinion may be necessary or desirable in the circumstances;

(g) regulate and control traffic upon any public road and give such directions as may, in his opinion, be necessary for the safe and efficient regulation of the traffic and, where he is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route with the vehicle;

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(h) require any person to furnish his name and address and give any other particulars which are required for his identification or for any process if such officer reasonably suspects such person of having committed an offence under this Act or if in the opinion of such officer he is able to give evidence in regard to the commission or suspected commission of any such offence;

(i) in respect of any motor vehicle, demand from the owner, operator or driver thereof to produce any document prescribed in terms of this Act;

(j) impound any document referred to in paragraph (i) produced to him and which in his opinion may afford evidence of a contravention of or failure to comply with any provision of this Act, and where any document is so impounded, the traffic officer shall issue a receipt therefor to the person concerned;

(k) require any professional driver or the operator or owner of any motor vehicle to produce for inspection and to have a copy made of -

(i) any record or document which that person is required in terms of Part 3 of Chapter 3 of this Act to carry or have in his possession or which is required to be affixed to any such motor vehicle; or

(ii) any record which that person is required in terms of Part 3 of Chapter 3 of this Act to preserve;

(l) at any time enter any motor vehicle of an operator and inspect such vehicle and any recording device installed therein for the purpose of Part 3 of Chapter 3 of this Act, and inspect and make a copy of any record regarding the vehicle which has been produced by such recording device;

(m) at any time enter upon any premises on which he has reason to believe that a motor vehicle of an operator is kept or that any record or other document required to be kept in terms of Part 3 of Chapter 3 of this Act is to be found, and inspect such vehicle, and inspect and copy any such record or document, which he finds there;

(n) if he has reason to believe that an offence under Part 3 of Chapter 3 of this Act has been committed in respect of any record or document inspected by him, impound that record or document and, where any document is so impounded, the traffic officer shall issue a receipt therefor to the person concerned;

(o) inspect any motor vehicle or part thereof and impound any document issued in connection with the registration and licensing of such motor vehicle which relates to such motor vehicle, where it is found that the engine or chassis number of such motor vehicle differs from the engine or chassis number as specified on the document, and direct that such motor vehicle be taken, there and then, to any police station specified by such traffic officer for police clearance, and may, after such clearance has been obtained, return the impounded document to any person who is entitled thereto, or notify the owner of the motor vehicle concerned that such vehicle must be re-registered, as the case may be; and

(p) require from the owner, operator or driver of a motor vehicle registered or deemed to be registered in any prescribed territory, police clearance in respect of such motor vehicle before allowing that motor vehicle to be taken across the borders of Ciskei:

Provided that the Minister may exempt any owner, operator or driver in the prescribed manner from having to provide such police clearance:

12. Duty to comply with instruction or direction of traffic officer, inspector of licences or examiner of vehicles. - (1) No person shall -

(a) fail to comply with any instruction or direction given to him by a traffic officer, an inspector of licences or an examiner of vehicles or obstruct, hinder or interfere with any traffic officer, inspector of licences or examiner of vehicles in the exercise of any power or the performance of any duty under this Act;

(b) in order to compel any person referred to in paragraph (a) or (b) to perform or to abstain from performing any act in respect of the exercise of his powers or the performance of his duties or on account of such person having performed or abstained from performing such an act, threaten or suggest the use of violence against or restraint upon such person or any of his relatives or dependants, or threaten or suggest any injury to the property of such person or of any of his relatives or dependants.

(2) Whenever the production of any document which is not required to be affixed to a vehicle or to be kept with him in a vehicle by any person is demanded in terms of section 3(b) or (g) or 8(i), the production thereof at any police station or office set aside by a competent authority for use by a traffic officer, within a period of seven days after being so demanded, shall be deemed to be sufficient compliance with the demand.

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(3) Whenever any document is produced in terms of subsection (2) at any police station or office referred to in that subsection, the officer in charge of such police station or office so set aside shall forthwith notify accordingly the officer who made the demand concerned and shall issue an acknowledgement of production of such document to the person producing it.

(4) Where a document is not produced in terms of subsection (2) and any process is to be handed to or served upon a person in terms of section 54, 56, 72 or 341 of the Criminal Procedure Act, 1977, an inspector of licences, traffic officer or peace officer may require the imprint of the right thumb of the person to whom the process relates on such process, and such person shall be obliged to furnish such imprint in the manner and at the place or places on that document and copies thereof as directed by the inspector, officer or examiner concerned: Provided that if it is not possible to obtain the right thumb print of such person, the imprint of any other finger may be required, in which case the finger thus used shall be identified in writing by the inspector, officer or examiner concerned under each imprint of such finger.

13. Impersonating authorized officer or inducing any such officer to forsake his duty. - Any person -

(a) not being an authorized officer and who by word, conduct or demeanour pretends that he is an authorized officer; or

(b) who connives with or induces or attempts to induce any authorized officer to omit to carry out his duty or to commit an act in conflict with his duty,
shall be guilty of an offence.

CHAPTER 2

REGISTRATION AND LICENSING OF MOTOR VEHICLES

14. Registration and licensing of motor vehicles. - (1) The registration and licensing system of motor vehicles shall be as prescribed by the Minister: Provided that the Minister may at any time after the commencement of this Act by notice in the *Gazette* prescribe the structure and manner of implementation of a central registration and licensing system for motor vehicles in Ciskei and such unified system shall come into operation on a date fixed by the Minister in such notice.

(2) No person shall operate on a public road any motor vehicle which is not registered and licensed by virtue of the provisions of this Chapter.

CHAPTER 3

FITNESS OF DRIVERS

PART 1: LICENSING

15. Driver of motor vehicle to be licensed. - No person shall drive a motor vehicle on a public road except under the authority and in accordance with the conditions of a licence issued to him under this Chapter or of any document deemed to be a licence for the purposes of this Chapter.

16. Licence to drive either learner's or driver's licence. - A licence authorizing the driving of a motor vehicle shall be issued in accordance with the provisions of this Chapter and shall be either -

(a) a provisional licence, to be known as a learner's licence; or

(b) a licence, to be known as a driver's licence,

and, except as otherwise provided in this Chapter, no person shall be examined or tested for the purpose of the issue to him of a driver's licence unless he is the holder of a learner's licence.

17. Classification and extent of learner's or driver's licence to be prescribed. - Subject to the provisions of this Chapter, the Minister shall by regulation prescribe -

(a) the category of a learner's or driver's licence;

- (b) the class of motor vehicle to which each category of such licence relates;
- (c) the authority conveyed by such licence;
- (d) the period of validity of such licence or of any such licence which in terms of any law shall or may be contained in an identity document and is not so contained;
- (e) the procedure to be followed for the substitution of any such licence which is not contained in an identity document;
- (f) the limitations to which the authority conveyed by such licence shall be subject; and
- (g) the form and content of such licence.

18. Disqualification from obtaining or holding learner's or driver's licence. - (1) A person shall be disqualified from obtaining or holding a learner's or driver's licence -

- (a) if he -
 - (i) in the case of any licence for a motor cycle without a sidecar having having an engine with a cylinder capacity not exceeding 50 cubic centimetres or which is propelled by electrical power or which is a vehicle as contemplated in paragraph (b) of the definition of "motor vehicle", is under the age of 16 years;
 - (ii) in the case of a learner's licence for a light motor vehicle, being a motor vehicle not of a class as referred to in subparagraph (i) and the tare of which does not exceed 3 500 kilograms or, where such motor vehicle is -
 - (aa) a bus or goods vehicle, the gross vehicle mass of which does not exceed 3 500 kilograms;
 - (bb) an articulated motor vehicle, the gross combination mass of which does not exceed 3 500 kilograms,
 is under the age of 17 years; or
 - (iii) in the case of any other licence, is under the age of 18 years;
- (b) during any period in respect of which he has been declared by a competent authority to be disqualified from obtaining or holding a licence to drive a motor vehicle, while such disqualification remains in force;
- (c) where the licence to drive a motor vehicle held by him has been suspended by a competent authority, while such suspension remains in force;
- (d) where a licence to drive a motor vehicle held by him has been cancelled by a competent authority, while such cancellation remains in force;
- (e) if such licence relates to a class of motor vehicle which he may already drive under a licence held by him;
- (f) if he is suffering from one or other of the following diseases or disabilities:
 - (i) uncontrolled epilepsy;
 - (ii) sudden attacks of disabling giddiness or fainting due to hypertension or any other cause;
 - (iii) any form of mental illness to such an extent that it is necessary that he be detained, supervised, controlled and treated as a patient in terms of the Mental Health Act, 1986 (Act 23 of 1986);
 - (iv) any condition causing muscular inco-ordination;
 - (v) uncontrolled *diabetes mellitus*;
 - (vi) defective vision ascertained in accordance with a prescribed standard;
 - (vii) any other disease or physical defect which is likely to render him incapable of effectively driving and controlling a motor vehicle of the class to which such licence relates without endangering the safety of the public:

Provided that deafness shall not of itself be deemed to be such a defect;
- (g) if he is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor; or
- (h) in such other circumstances as may be prescribed, either generally or in respect of a particular class of learner's or driver's licence.

(2) The Minister may, if he deems it expedient and on such conditions as he deems it fit, declare that any person shall no longer be subject to any disqualification, suspension or cancellation referred to in subsection (1)(b), (c) or (d), respectively.

19. Failure to disclose disqualification in respect of licence authorizing driving of a motor vehicle. - (1) No person shall, when applying for a learner's or driver's licence, wilfully fail to disclose any disqualification to which he is subject in terms of section 18.

(2) Any person who -

(a) is the holder of a licence authorizing the driving of a motor vehicle in terms of this Chapter, and

(b) becomes aware thereof that he is disqualified from holding such licence, shall within a period of 21 days after having so become aware of the disqualification, submit the licence or, in the case where it is contained in an identity document, such document to the Director-General.

(3) When a licence is submitted in terms of subsection (2) the Director-General shall cancel it and notify the authority which issued it or, in the case where it is contained in an identity document, the Director-General of Internal Affairs of the cancellation: Provided that the licence shall not be cancelled if the Director-General is satisfied that the holder thereof is competent to drive the class of motor vehicle concerned with the aid of glasses, an artificial limb or any other physical aid, in which case the Director-General shall -

(a) endorse the licence accordingly and such endorsement shall be a condition subject to which the licence is held.

(b) return the licence or, in the case where it is contained in an identity document, such document to the holder thereof; and

(c) notify the authority which issued the licence or, in the case where it is contained in an identity document, the Director-General of Internal Affairs, accordingly.

20. Application for and issue of learner's licence. - (1) A person desiring to obtain a learner's licence shall in person apply therefor in the prescribed manner to a driver's licence testing centre.

(2) An application in terms of subsection (1) shall be accompanied by the prescribed fees.

(3) Upon receipt of an application in terms of subsection (1), the driver's licence testing centre concerned shall, if it is satisfied from the information furnished in the application or from such further information as such centre may reasonably request that the applicant is not disqualified from obtaining a learner's licence, determine a day on and time at which the applicant shall present himself to be examined and tested by an appropriately graded examiner for driver's licences in the manner and in respect of the matters as prescribed.

(4) If the examiner for driver's licences is satisfied as to the identity of the applicant and that the applicant has sufficient knowledge of the matters as prescribed in respect of the class of vehicle concerned and is not disqualified in terms of section 18 from obtaining a learner's licence, such examiner shall issue or authorize the issue of a learner's licence in the prescribed manner to such applicant in respect of the appropriate class of motor vehicle.

(5) No person shall wilfully or negligently issue or authorize the issue of a learner's licence contrary to the provisions of this Chapter.

21. Application for and issue of driver's licence. - (1) The holder of a learner's licence who desires to obtain a driver's licence shall apply in the prescribed manner to a driver's licence testing centre for a licence to drive a motor vehicle of a class the driving of which is authorized by his learner's licence.

(2) An application in terms of subsection (1) shall be accompanied by the prescribed fees.

(3) Upon receipt of an application in terms of subsection (1) the driver's licence testing centre concerned shall, if it is satisfied from the information furnished in the application or from such further information as such centre may reasonably request that the applicant is not disqualified from obtaining a driver's licence, determine a day on and time at which the applicant shall present himself to be examined by an examiner for driver's licences in the manner and on the matters as prescribed and for such purpose the applicant shall supply a motor vehicle of the class to which his application relates.

(4) An appropriately graded examiner for driver's licences shall test an applicant for a driver's licence in the manner and in respect of the matters as prescribed after he has satisfied himself as to the identity of the applicant.

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(5) If the examiner for drivers' licences has satisfied himself in terms of subsection (4) that the applicant for a driver's licence is competent as prescribed to drive a motor vehicle of the class to which such applicant's application relates, such examiner shall upon payment by the applicant of the prescribed fees issue or authorize the issue of a driver's licence in the prescribed manner to such applicant in respect of such motor vehicle and the examiner for drivers' licences or the person authorized thereto by him shall -

(a) in the case where the applicant has in terms of subsection (3) provided a motor vehicle equipped with an automatic or semi-automatic transmission, endorse the driver's licence to the effect that authorization is granted only for the driving of a motor vehicle equipped with an automatic or semi-automatic transmission; and

(b) in the case where the applicant is found to be competent to drive with the aid of glasses, an artificial limb or other physical aid, endorse the licence accordingly.

(6) No person shall wilfully or negligently -

(a) issue a driver's licence,

(b) authorize the issue of a driver's licence, or

(c) endorse a driver's licence,

contrary to the provisions of this section.

(7) An examiner for drivers' licences who issues, or authorizes the issue of a driver's licence in terms of subsection (5) shall -

(a) request the person to whom such licence has been issued to sign the original and a duplicate of the licence;

(b) in the case of a driver's licence which is to be included in the identity document of such person -

(i) forward the original of the driver's licence, together with such person's identity document to the Director-General of Internal Affairs in order that the particulars of the driver's licence may be included in the identity document;

(ii) retain the duplicate of the driver's licence; and

(iii) issue a receipt in respect of the driver's licence and the identity document to the person concerned.

(8) Upon receipt of a driver's licence and identity document referred to in subsection (7)(b), the Director-General of Internal Affairs shall, upon being satisfied that the driver's licence is valid and that the identity document relates to the person to whom such licence has been issued -

(a) include the particulars of the driver's licence in the identity document;

(b) forward the identity document to the holder thereof; and

(c) retain the driver's licence for record purposes.

(9) The particulars of a driver's licence which have been included in an identity document shall be deemed to be a driver's licence issued under this Act.

22. Power of Director-General in respect of examination and testing of applicant for learner's or driver's licence. - Notwithstanding anything to the contrary contained in this Act, the Director-General may, whenever he deems it expedient, direct where and by which examiner for drivers' licences an applicant for a learner's or driver's licence shall be examined and tested and at which driver's licence testing centre such applicant may apply for a driver's licence.

23. Holder of licence to drive motor vehicle shall give notice of change of place of residence. - When the holder of a licence to drive a motor vehicle which was issued in terms of this Chapter has changed his place of residence permanently, he shall, within 21 days after such change, notify the Director-General of his new residential and postal address in the prescribed manner.

24. Right of appeal to the Minister. - (1) Any person who is aggrieved at the refusal of an examiner for drivers' licences to issue or authorize the issue to him of a learner's or driver's licence may, within 21 days after such refusal, appeal to the Minister in writing, and such person shall at the same time serve a copy of the appeal on the examiner concerned.

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(2) After receipt of the copy of the appeal referred to in subsection (1) the examiner for drivers' licences concerned shall forthwith furnish the Minister with his reasons for the refusal to which such appeal refers.

(3) For the purposes of deciding an appeal in terms of subsection (1) the Minister may appoint any person to examine and test the appellant as to his competency to drive the class of motor vehicle concerned and may, in addition require each party to the appeal to furnish such information and evidence as he may deem expedient.

(4) The Minister may after considering the appeal give such decision as he may deem fit.

25. When licence not issued in terms of this Act deemed to be driver's licence. -

(1) Subject to the provisions of subsection (2) -

(a) a licence authorizing the driving of a motor vehicle, which -

(i) was issued in a prescribed territory while the holder thereof was permanently or ordinarily resident in such prescribed territory, or

(ii) was issued in any other country or territory while the holder thereof was not permanently or ordinarily resident in Ciskei and contains or has attached thereto the photograph and signature of the holder thereof and provided -

(aa) such licence is in an official language of Ciskei, or

(bb) a certificate of authenticity or validity relating to such licence by a competent authority or a translation of such licence in such official language is attached thereto, and

(b) an international driving permit issued while the holder thereof was not permanently or ordinarily resident in Ciskei,

shall, in respect of the class of motor vehicle to which such licence or permit relates and subject to the conditions thereof, be deemed to be a licence for the purposes of this Chapter: Provided that where such licence is a provisional licence or an international driving permit it shall not authorize the driving of a motor vehicle carrying passengers and for which a professional driving permit is required.

(2) (a) When the holder of a licence referred to in subsection (1)(a)(i) has at the commencement of this Act been permanently or ordinarily resident in Ciskei for a continuous period of not less than six months or on a date thereafter becomes so resident, such licence shall from that date no longer be deemed to be a licence for the purposes of this Chapter.

(b) When the holder of a licence referred to in subsection (1)(a)(ii) becomes permanently or ordinarily resident in Ciskei such licence shall, after such holder has been so resident for a continuous period of six months, no longer be deemed to be a licence for the purposes of this Chapter.

(c) The holder of a licence referred to in subsection (1)(a)(i) or (ii) (not being a provisional licence) may at any time, while he is in possession of or in the process of obtaining an identity document and while such licence is deemed to be a licence for the purposes of this Chapter, apply for a driver's licence to take the place of such licence.

(3) An application in terms of subsection (2)(c) shall be made to a testing centre in the prescribed manner.

(4) (a) On receipt of an application in terms of subsection (3) the testing centre concerned shall, if it is satisfied that the licence accompanying the application is valid and that the applicant is the holder thereof, issue or cause to be issued to the applicant free of charge a driver's licence in the prescribed manner and shall, having regard to the class of motor vehicle to which such licence relates, specify or cause to be specified on such driver's licence the class referred to in the regulations in respect of which it is issued.

(b) If there is a dispute as to the class in respect of which a driver's licence has been issued in terms of paragraph (a), the Director-General shall determine the class.

(5) A person who is the holder of an international driving permit or who was the holder of any such permit may, during the currency of such permit or within six months of the date of the expiration of such permit, apply for a driver's licence to take the place of such permit and for this purpose the provisions of subsections (3) and (4) shall apply.

26. Certain Departments of State may issue learner's or driver's licence but only to person in their employ. - (1) A department of State which in the opinion of the Minister is competent to perform the functions of a driver's licence testing centre may issue a learner's or driver's licence in the prescribed form but only to a person who is in the employment of such department.

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(2) For the purposes of subsection (1) a person who renders service in the Ciskeian Defence Force shall be deemed to be in the employ of the Department of Defence.

(3) A licence authorizing the driving of a motor vehicle and which was issued by a department of State prior to the commencement of this Act shall, subject to the prescribed conditions, confer upon the holder thereof the right to be issued with a driver's licence of the appropriate class in terms of the provisions of this Chapter.

27. Suspension or cancellation by Minister of licence authorizing driving of motor vehicle. - (1) If the Minister is of the opinion that the holder -

(a) of a learner's or driver's licence issued under this Chapter or any prior law is disqualified in terms of section 18 from holding it, he shall cancel such licence; or

(b) of a licence referred to in paragraph (a) would constitute a source of danger to the public by driving a motor vehicle on a public road, he may cancel or suspend such licence.

(2) For the purposes of subsection (1) the Minister may request the holder of the licence concerned to submit himself within such period as the Minister may determine -

(a) to an examination and a test by one or more examiners for drivers' licences nominated by the Minister to determine his competency to drive a motor vehicle of the class to which his licence relates and for the purpose of such examination and test the holder of the licence concerned shall provide a motor vehicle of the class concerned: Provided that the holder of the licence concerned may request that he be submitted to such examination and test to determine his competency to drive a motor vehicle -

- (i) of any other class of which the driving is authorized by his licence; or
- (ii) of a specific prescribed class,

and for the purpose of such examination and test he shall provide a motor vehicle of the class concerned;

(b) to an examination by a medical practitioner nominated by the Minister to determine his physical and mental fitness to drive a motor vehicle; or

(c) to an examination and test contemplated in paragraph (a) and an examination contemplated in paragraph (b).

(3) If the holder of the licence concerned is after the examination and test in terms of subsection (2)(a) found to be competent to drive a motor vehicle in terms of the class provided by him and is not disqualified in terms of section 18, the Minister may direct -

(a) that every licence authorizing the driving of a motor vehicle and of which he is the holder shall be cancelled; and

(b) that a driver's licence in respect of a motor vehicle of the class provided by him shall be issued to him free of charge by an examiner for drivers' licences of the authority authorized thereto by the Minister and for that purpose the provisions of section 21(5)(a) and (b) shall apply *mutatis mutandis*.

(4) The cost of any examination referred to in subsection (2)(b) shall be a charge against the Ciskeian Revenue Fund.

(5) If any person fails to comply with a request in terms of subsection (2), the Minister may forthwith suspend or cancel, as the case may be, the licence concerned unless such person is able to satisfy the Minister within a period determined by the Minister that such failure was due to a reason beyond his control and that such licence should not be so suspended or cancelled.

(6) The suspension or cancellation of a licence in terms of this section shall apply to any other learner's or driver's licence held by the holder of such suspended or cancelled licence and recognized under this Chapter as a valid licence, as the Minister may determine.

(7) When a licence is cancelled or suspended in terms of subsection (1) or is cancelled in terms of subsection (3)(a), the holder thereof shall forthwith submit the licence or, in the case where it is contained in an identity document, such document to the Director-General or an inspector of licences authorized thereto by him, who shall effect an appropriate endorsement thereon and -

(a) where the licence is not contained in an identity document and has been suspended -

- (i) notify the authority which issued it of the suspension;
- (ii) retain the licence for the period of suspension; and
- (iii) return the licence to the holder thereof upon the expiry of the period of suspension; or

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(b) where the licence is not contained in an identity document and has been cancelled, notify the authority which issued it of the cancellation; and

(c) where the licence is contained in an identity document, notify the Director-General of Internal Affairs of the cancellation or suspension, as the case may be.

(8) The Minister may, where he deems it expedient and on such conditions as he may deem fit, reinstate a licence suspended in terms of this section whereupon the Director-General shall notify the competent authority which issued such licence of the reinstatement.

(9) The Minister may, where he deems it expedient and on such conditions as he may deem fit, authorize a person whose licence has been cancelled in terms of this section to apply for a learner's licence and a driver's licence.

(10) A person, whose learner's licence or driver's licence has been cancelled in terms of this Act or any prior law or by any competent authority, shall be deemed to be unlicensed and any person whose licence as aforesaid has been suspended in terms of this Act or any prior law by any competent authority shall, during the period of such suspension, be deemed to be unlicensed.

(11) Where any circumstance arises in relation to the holder of a licence authorizing the driving of a motor vehicle issued in a prescribed territory or a foreign state, which in the opinion of the Minister would have disqualified such person as contemplated in section 18 from obtaining a driver's licence or if such holder would, in the opinion of the Minister, constitute a danger to the public by driving a motor vehicle on a public road, he may inform such person that such licence is of no force or effect within Ciskei and from the date on which such person is so informed the licence shall cease to be of force within Ciskei.

28. Lapsing of endorsement on licence. - (1) An endorsement pursuant to any order of a court effected upon any licence authorizing the driving of a motor vehicle under this Chapter shall lapse after the expiry of a period of three years from the date upon which such endorsement was made, if during such period no further endorsement has been made on that licence: Provided that no other period of suspension of such licence shall be included in the calculation of the period of three years.

(2) Where, in relation to a driver's licence, all endorsements have lapsed in terms of subsection (1), the authority which issued such licence may, upon application by the holder thereof in the prescribed manner and upon payment to such authority of the fees referred to in section 21(2), issue to such holder a driver's licence free from any endorsements.

29. Cancellation or amendment of endorsement on licence. - (1) Where the holder of a licence -

(a) authorizing the driving of a motor vehicle in Ciskei; and

(b) on which an endorsement in terms of section 21 (5) or a similar endorsement by a competent authority in a prescribed territory has been effected,

is of the opinion that there are circumstances justifying the cancellation or amendment of such endorsement, he may apply to the Minister for the cancellation or amendment of such endorsement.

(2) An application in terms of subsection (1) shall be accompanied by -

(a) the licence concerned or, in the case where it is contained in an identity document, such document; and

(b) a statement by the applicant setting forth the reasons for the application.

(3) Upon receipt of an application in terms of subsection (1) the Minister may, for the purpose of the consideration thereof -

(a) require the applicant to submit such further statement or document, or

(b) take such other steps,

as the Minister may deem expedient.

(4) If an application in terms of subsection (1) -

(a) is refused by the Minister; he shall notify the applicant accordingly and return the licence or identity document concerned to him; or

(b) is granted by the Minister, he shall -

(i) cancel or amend, as the case may be, the endorsement concerned and return the licence or identity document concerned to the applicant, and

(ii) notify the authority which issued the licence or, in the case where it is contained in an identity document, the Director-General of Internal Affairs accordingly.

30. Instructor to be registered. - (1) No person shall act as an instructor unless he is registered in terms of section 32.

(2) No person shall employ any other person as an instructor or make use of his services as an instructor unless such person is registered as an instructor in terms of section 32.

31. Application for registration as instructor. - (1) A person desiring to be registered as an instructor shall apply therefor to the Director-General in the prescribed manner.

(2) An application referred to in subsection (1) shall be accompanied by the prescribed fees.

32. Registration and grading of instructor. - If the Director-General is satisfied that an applicant referred to in section 31 fulfills the competency and grading qualifications prescribed for his particular class of application, he shall register and grade the applicant in the prescribed manner, subject to the prescribed conditions.

33. Suspension and cancellation of registration of instructor. - The Director-General may in the prescribed manner suspend for such period as he may deem fit, or cancel, the registration of an instructor if such instructor -

(a) in the opinion of the Director-General is guilty of misconduct in the exercise of his powers or the performance of his duties; or

(b) failed to attend the appropriate refresher course at a training centre approved by the Minister within a prescribed period.

34. Right of appeal to Minister. - (1) Any person who is aggrieved at the refusal of the Director-General to register him as an instructor or with the suspension or cancellation of his registration as an instructor may within 21 days after such refusal, suspension or cancellation in writing appeal to the Minister against such refusal, suspension or cancellation, and such person shall at the same time serve a copy of the appeal on the Director-General.

(2) After receipt of the copy of the appeal referred to in subsection (1), the Director-General shall forthwith furnish the Minister with his reasons for the refusal, suspension or cancellation to which such appeal refers.

(3) The Minister may after considering the appeal give such decision as he may deem fit.

35. Voidness of learner's licence or driver's licence issued contrary to provisions of this Chapter. - A learner's or driver's licence issued contrary to the provisions of this Chapter shall be void and upon the request of the Director-General of Internal Affairs, or the Director-General or the authority which issued such licence or a traffic officer, as the case may be, the holder of such licence shall forthwith submit it or, in the case where it is contained in an identity document, such document to the Director-General of Internal Affairs, the Director-General, the authority which issued it or such traffic officer, as the case may be, who shall cancel the licence: Provided that -

(a) a traffic officer may cancel such licence only with the prior approval of the Director-General;

(b) the Director-General of Internal Affairs or the Director-General, as the case may be, shall forthwith notify the authority which issued the licence of such cancellation;

(c) the Director-General or the authority which issued the licence, as the case may be, shall forthwith notify the Director-General of Internal Affairs of the cancellation in the case where the licence is contained in an identity document.

36. Use of learner's or driver's licence by another person prohibited. - No person who is the holder of a learner's or driver's licence shall allow such licence to be used by any other person.

37. Unlicensed driver not to be employed or permitted to drive motor vehicle. - No person who is the owner or operator, or is in charge or control, of a motor vehicle shall employ or permit any other person to drive such vehicle on a public road unless such other person is licensed under this Chapter to drive the vehicle.

PART 2: PROFESSIONAL DRIVING PERMIT

38. Permit required by professional driver. - (1) No person shall drive on a public road a motor vehicle in respect of which an operator is registered, except in accordance with the conditions of a permit (to be known as a professional driving permit) issued to him under this Chapter and unless he keeps such permit with him in the vehicle: Provided that the provisions of this subsection shall not apply to the holder of a learner's licence who drives such vehicle while he is accompanied by a person registered as a professional driver for such category of vehicle.

(2) A public driving permit referred to in section 80 of the Ciskeian Road Traffic Act, 1977 (Act 10 of 1977) or the corresponding provision of any road traffic ordinance shall, in accordance with the conditions thereof but subject to the provisions of this Act, be deemed to be a professional driving permit for the purposes of subsection (1) while it continues to be valid.

(3) Any document issued by a competent authority in a prescribed territory and serving in such territory a purpose similar to that of a professional driving permit shall, subject to the conditions thereof and to such conditions as may be prescribed, be deemed to be a professional driving permit for the purposes of subsection (1).

39. Classification and extent of professional driving permit to be prescribed. - Subject to the provisions of this Chapter, the Minister shall by regulation prescribe -

- (a) the categories of professional driving permits;
- (b) the authority conveyed by such permits;
- (c) the period of validity of such permits; and
- (d) the form and contents of such permits.

40. Application for professional driving permit. - (1) (a) Any person desiring to obtain a professional driving permit shall, subject to the provisions of this Chapter, apply therefor in the prescribed manner to the registering authority in whose area he permanently or ordinarily resides or, if he has no place of permanent residence in Ciskei or ordinarily resides outside a prescribed territory, to the registering authority for the district of Zwelitsha.

(b) Any person desiring to obtain a professional driving permit and who is in the employment of a department of State contemplated in section 26 may apply therefor in the prescribed manner to such department.

(2) An application referred to in subsection (1) shall be accompanied by the prescribed fees.

(3) If the registering authority or department of State concerned is satisfied that the application referred to in subsection (1) is complete and correct, it shall submit such application to the Director-General.

41. Registration of a professional driver. - If the Director-General is satisfied that the applicant fulfils the prescribed requirements for the issue to him of a professional driving permit, he shall register such applicant as a professional driver in the prescribed manner.

42. Issue of professional driving permit. - After the Director-General has registered an applicant as a professional driver in terms of section 41, he shall issue a professional driving permit to the applicant in the prescribed manner.

43. Suspension or cancellation of professional driving permit by Director-General. -

(1) Where any circumstance arises in relation to the holder of a professional driving permit issued in Ciskei which, in the opinion of the Director-General would entitle him to refuse to issue a professional driving permit to such holder, or if such holder has been convicted of a second or subsequent offence which, in the opinion of the Director-General, relates to the driving of a motor vehicle or a failure to stop after or report an accident, the Director-General may suspend or cancel the professional driving permit held by such person and in such event he shall notify that person accordingly.

(2) If a suspension or cancellation is effected in terms of subsection (1), the person concerned shall forthwith surrender the professional driving permit to the Director-General.

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(3) After the expiry of any period of suspension, the Director-General shall upon request restore to the person entitled thereto the professional driving permit surrendered to him in terms of subsection (2) if the validity thereof has not expired.

(4) Where any circumstance arises in relation to the holder of a professional driving permit or like document issued outside Ciskei which, in the opinion of the Director-General, would have entitled him to refuse to issue a professional driving permit to such holder or if such holder has been convicted of a second or subsequent offence which, in the opinion of the Director-General, relates to the driving of a motor vehicle or a failure to stop after or report an accident, the Director-General may inform such person that such permit is of no force and effect within Ciskei and from the date on which such person is so informed the permit shall cease to be of force within Ciskei.

44. Right of appeal to Minister. - (1) Any person who is aggrieved at the refusal of the Director-General to issue to him a professional driving permit or at the conditions subject to which a professional driving permit has been issued to him may, within 21 days after such refusal or such issue as the case may be, in writing appeal to the Minister against any such refusal or conditions, and such person shall at the same time serve a copy of the appeal on the Director-General.

(2) After receipt of the copy of the appeal referred to in subsection (1) the Director-General shall forthwith furnish the Minister with his reasons for the refusal or the conditions of issue to which such appeal relates.

(3) The Minister may after considering the appeal give such decision as he may deem fit.

45. Driver of motor vehicle in respect of which operator is registered to hold professional driving permit. - No person who is the owner or operator of or is in charge or control of a motor vehicle in respect of which an operator is registered shall employ or permit any driver to drive such vehicle on a public road unless such driver is the holder of a professional driving permit, where such permit is required in terms of this Chapter for that purpose, and no person who is the holder of a professional driving permit under this Chapter shall allow such permit to be used by any other person.

46. Voidness of professional driving permit issued contrary to provisions of this Chapter. - Any professional driving permit issued contrary to the provisions of this Chapter shall be void and the holder thereof shall, on demand by the registering authority or department of State concerned or by a traffic officer, forthwith surrender such permit to such registering authority, department of State or traffic officer.

PART 3: DRIVING HOURS

47. Drivers to comply with driving hours. - (1) No driver of a motor vehicle of a class prescribed by the Minister by regulation for the purposes of this subsection shall drive such motor vehicle on a public road for a period or periods of time exceeding the prescribed period or periods.

(2) No operator or person exercising control over a professional driver shall permit, induce, force or in any other way influence such driver to contravene the provisions of subsection (1).

48. Certain classes of motor vehicles to contain recording devices. - (1) No person shall operate on a public road a motor vehicle of a class contemplated in section 47(1) unless such vehicle is fitted with a prescribed automatic, electronic, electrical or mechanical device whereby the period of time for which such motor vehicle is being driven is recorded.

(2) The driver of a motor vehicle of a class contemplated in section 47(1) shall, when driving such motor vehicle on a public road, use the recording device referred to in subsection (1) in the prescribed manner.

49. Duties of operator and driver of certain class of motor vehicle with regard to records. - The duties of the operator and the driver of a motor vehicle of a class contemplated in section 47(1) in relation to the maintenance and preservation of the records of driving hours produced by the recording device contemplated in section 48(1) shall be as prescribed.

50. Records produced by recording device may be removed and analyzed. - (1) In the event of a motor vehicle being involved in an accident, a traffic officer may remove and analyze or cause to be analyzed the records produced by a recording device contemplated in section 48(1) pertaining to that vehicle.

(2) A record produced by means of a recording device shall *prima facie* be regarded as referring to the motor vehicle to which that recording device is attached and the information recorded by or in such recording device shall *prima facie* be deemed to be correct.

PART 4: GENERAL

51. Production of licence and permit to court. - (1) If any person is charged with any offence under this Act relating to the driving of a motor vehicle or a failure to stop after or to report an accident he shall, at the time of the hearing of the charge, produce to the court every licence and permit of which he is the holder or a duplicate thereof if he is not in possession of the original.

(2) For the purposes of this Part -

(a) "licence" means a learner's or driver's licence;

(b) "permit" means a professional driving permit.

(3) No person referred to in subsection (1) shall, without reasonable excuse, fail to produce in terms of that subsection every licence and permit of which he is the holder.

52. Court may issue order for endorsement, suspension or cancellation of licence or permit or disqualify person from obtaining licence or permit. - (1) A court convicting a person of an offence under this Act or an offence at common law relating to the driving of a motor vehicle or a failure to stop after or to report an accident may, in addition to imposing a sentence, issue an order, if the person convicted is -

(a) the holder of a licence, that particulars of the conviction, sentence and any other order of the court consequent thereupon be endorsed on such licence, and the registrar or clerk of the court concerned shall endorse such licence accordingly;

(b) the holder of a licence or of a licence and permit, that such licence or licence and permit be suspended for such period as the court may deem fit or that such licence or licence and permit be cancelled, and any such order shall be endorsed on such licence as provided for in paragraph (a);

(c) the holder of a licence, or a licence and permit, that such licence or licence and permit be cancelled and that the person convicted be disqualified from obtaining a licence, or a licence and permit, for any class of motor vehicle for such period as the court may deem fit and such order shall be endorsed on the licence as provided in paragraph (a); or

(d) not the holder of a licence, or a licence and permit, declaring him to be disqualified from obtaining a learner's or driver's licence, or such licence and permit, either indefinitely or for such period as the court may deem fit.

(2) The making of an endorsement in terms of subsection (1) may be postponed by the court issuing the order until any appeal against the conviction or sentence or both has been disposed of.

53. Procedure subsequent to endorsement, suspension or cancellation of licence or permit. - (1) Where a court has issued an order that a licence, other than a licence issued in terms of section 21(5), be endorsed, or that such licence or any permit be suspended or cancelled, the registrar or clerk of such court shall advise the authority which issued such licence or permit thereof and of the conviction and sentence of the person concerned.

(2) Where a court has issued an order that a licence issued in terms of section 21(5) be endorsed, suspended or cancelled, the registrar or clerk of such court shall advise the Director-General of Internal Affairs thereof.

(3) Where the court has issued an order that a licence, other than a licence issued in terms of section 21(5), or a permit be cancelled, the registrar or clerk of such court shall transmit such licence or permit to the authority which issued the licence or permit.

(4) A licence, other than a licence issued in terms of section 21(5) or a permit which has been suspended as a result of an order of court shall, after it has been endorsed accordingly by the registrar or clerk of the court concerned, be returned to the person entitled thereto.

(5) Whenever a licence is endorsed or a licence and permit are suspended or cancelled in terms of an order of court, the endorsement, suspension or cancellation shall apply to every other licence or licence and permit, as the case may be, held by the person concerned, and every such other licence, or licence and permit shall be endorsed accordingly by the registrar or clerk of the court and thereafter returned to the person entitled thereto.

CHAPTER 4

FITNESS OF VEHICLES

54. Roadworthy certificate required in respect of motor vehicle. - (1) No person shall on a public road operate a motor vehicle which is not in a roadworthy condition.

(2) No person shall operate a motor vehicle on a public road unless the requirements in respect of roadworthiness certification referred to in subsection (3) pertaining to such motor vehicle are complied with and except in accordance with the conditions of such a certificate.

(3) Subject to the provisions of this Chapter the Minister shall by regulation prescribe -

(a) the categories of roadworthy certificates;

(b) the classes in which motor vehicles are classified for the purposes of prescribing the requirements relating to roadworthiness and the requirements for roadworthiness certification applicable to each class of motor vehicle; and

(c) the period of validity of roadworthy certificates and roadworthiness discs.

(4) A valid certificate of fitness referred to in section 79(1) of the Ciskeian Road Traffic Act, 1977 shall, in accordance with the conditions thereof but subject to the provisions of this Act, for the purposes of subsection (2) be deemed to be a roadworthy certificate for the period of validity of such certificate of fitness.

(5) Any document issued by a competent authority in a prescribed territory and serving a similar purpose to that of a roadworthy certificate shall, in accordance with the conditions thereof but subject to the provisions of this Act, be deemed to be a roadworthy certificate for the purposes of subsection (2).

55. Application for roadworthy certificate. - (1) Any person desiring to obtain a roadworthy certificate as referred to in section 54 shall apply in the prescribed manner to a testing station.

(2) An application made in terms of subsection (1) shall be accompanied by the prescribed fees.

56. Examination of motor vehicle and issue of roadworthy certificate and roadworthiness disc. - (1) Upon receipt of an application referred to in section 55, an appropriately graded examiner of vehicles shall test and examine the motor vehicle concerned in the manner and in respect of the features as prescribed.

(2) If the examiner of vehicles, after the examination and testing of such motor vehicle -

(a) is satisfied that the vehicle is roadworthy, he shall, upon payment by the applicant of the prescribed fees, issue or authorize the issue on the prescribed forms of a roadworthy certificate and, where appropriate as proof of the possession thereof, a roadworthiness disc, and the issuer of such certificate shall submit a copy thereof to the registering authority concerned and the Director-General; or

(b) is not so satisfied, he may allow the applicant, within a period fixed by him, but not exceeding 14 days after the date of such examination and testing, to remedy any defect in such vehicle and, if the examiner of vehicles is thereafter so satisfied, he shall act in terms of paragraph (a).

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(3) Where a motor vehicle referred to in subsection (1) has been referred to a testing station under section 8(a) such vehicle shall be examined and tested by an appropriately graded examiner of vehicles and, where it is found that the vehicle is unroadworthy, the roadworthy certificate in force in respect of such vehicle may be cancelled on the prescribed conditions and the roadworthiness disc may be impounded or destroyed by the examiner of vehicles or he may allow the owner, operator or person in charge of such vehicle, within a period fixed by him but not exceeding 14 days after the date of such examination and testing, to remedy any defect in such vehicle, whereupon the vehicle shall be produced to a testing station.

(4) Notwithstanding the provisions of subsection (1), an appropriately graded examiner of vehicles authorized thereto in writing by a testing station may, at any time before the motor vehicle which is being or has been examined and tested with a view to the issue of a roadworthy certificate in respect thereof in terms of that subsection is returned to the applicant, re-examine that motor vehicle and for that purpose -

(a) he shall be deemed to be the examiner of vehicles referred to in subsection (1);

(b) any prior action taken in respect of that vehicle in terms of subsections (1) and (2) shall be of no force and effect.

(5) No person shall wilfully or negligently issue or authorize the issue of a roadworthy certificate or roadworthiness disc which is materially incorrect, or issue or authorize the issue of such certificate or disc in respect of a motor vehicle which does not comply with the prescribed requirements.

(6) No person shall remove or replace the components of a vehicle in respect of which a roadworthy certificate was issued, except in the normal course of maintenance or use of such vehicle.

57. Prohibition against licensing of unroadworthy vehicle.- A motor vehicle which does not comply with the requirements referred to in section 54(3)(b) shall not be licensed or relicensed.

58. Prohibition against holding of more than one roadworthy certificate or roadworthiness disc in respect of the same motor vehicle. - (1) No person shall in respect of the same motor vehicle hold more than one roadworthy certificate or roadworthiness disc, the periods of validity of which coincide or overlap.

(2) When the holder of an unexpired roadworthy certificate in respect of a motor vehicle has applied in terms of section 55 for a new roadworthy certificate in respect of that vehicle he shall, upon the issue of the new roadworthy certificate and roadworthiness disc, deliver such unexpired certificate and any applicable disc to the issuer of the new roadworthy certificate and roadworthiness disc and such issuer shall thereupon cancel the certificate and disc delivered to him.

59. Roadworthiness disc to be affixed to motor vehicle. - (1) Subject to the provisions of subsections (2) and (3), no person shall operate or permit to be operated on a public road a motor vehicle of a prescribed class -

(a) unless a roadworthiness disc is affixed thereto in the prescribed manner; or

(b) if there is affixed thereto a roadworthiness disc -

(i) the period of validity of which has expired; or

(ii) which does not relate to such vehicle.

(2) A disc issued by a competent authority in any prescribed territory and the purpose of which is similar to that of a roadworthiness disc shall, for the purposes of subsection (1), be deemed to be a roadworthiness disc.

(3) Where a document the purpose of which is similar to that of a roadworthy certificate has been issued by a competent authority in any prescribed territory in respect of a motor vehicle, but a disc serving a similar purpose to that of a roadworthiness disc is not required in respect of such motor vehicle in terms of a law of the territory concerned, the provisions of subsection (1)(a) shall not apply to such motor vehicle during the period of validity of such document.

(4) A document referred to in subsection (3), shall during the period of validity thereof, at all times be in or on the motor vehicle concerned while it is operated on a public road in Ciskei.

60. Authority conveyed by roadworthy certificate subject to provisions of Act. - The conditions of a roadworthy certificate relating to a motor vehicle and the authority conveyed thereby shall not be construed as derogating from any provision of this Act and, in the event of any conflict between the conditions of such certificate and any provision of this Act, the latter shall prevail.

61. Effect of alteration of motor vehicle on roadworthy certificate and roadworthiness disc. - (1) Subject to the provisions of subsection (3) a roadworthy certificate and roadworthiness disc in respect of a motor vehicle shall become void where such motor vehicle is altered in such a manner that -

(a) such roadworthy certificate or disc no longer correctly describes the motor vehicle; or

(b) such alteration affects the conditions of that certificate.

(2) Within seven days after a roadworthy certificate and roadworthiness disc have become void in terms of subsection (1) the holder of such certificate and disc shall deliver them to the testing station which issued them and shall apply for a new roadworthy certificate for such motor vehicle.

(3) The provisions of subsections (1) and (2) shall not apply in respect of a motor vehicle of which -

(a) only the engine is replaced, but the owner or operator of such motor vehicle shall, within 21 days after such replacement, submit the roadworthy certificate and roadworthiness disc in respect of such vehicle to the testing station which issued the same and shall at the same time furnish that testing station with the new engine number, whereupon the testing station shall amend its register or records and the roadworthy certificate and roadworthiness disc accordingly and notify the Director-General of the amendment; or

(b) the registration number changes when such motor vehicle is registered in terms of this Act, except when it is registered by virtue of a change in the ownership thereof, but the owner or operator of such motor vehicle shall, when complying with the provisions of this Act in respect of registration, submit the roadworthy certificate and roadworthiness disc of the motor vehicle concerned to the registering authority which registers that motor vehicle, whereupon that registering authority shall amend the registration number on such certificate and disc and, where such certificate and disc were issued by -

(i) a testing station of that registering authority, it shall amend its register or records accordingly; or

(ii) a testing station of another registering authority, it shall notify that other registering authority of the amended registration number, whereupon the latter registering authority shall likewise amend its register or records,

and notify the Director-General accordingly.

62. Right of appeal to Minister. - (1) Any person, who is aggrieved at the refusal of an examiner of vehicles or a testing station to issue a roadworthy certificate in respect of a motor vehicle or to authorize the issue of such certificate to him or at the conditions subject to which such certificate was issued to him, may within 21 days after such refusal or after the issue of the certificate subject to the conditions concerned, in writing appeal against any such refusal or conditions concerned to the Minister and such person shall at the same time serve a copy of the appeal on the examiner or the testing station concerned.

(2) After receipt of the copy of the appeal referred to in subsection (1), the examiner or testing station concerned shall forthwith furnish the Minister with his or its reasons for the decision to which such appeal relates.

(3) For the purpose of deciding an appeal in terms of subsection (1) the Minister may -

(a) where the appeal concerns a roadworthy certificate, cause the motor vehicle concerned to be examined and tested by an examiner of vehicles nominated by him; and

(b) require each party to the appeal to furnish such information and evidence as he may deem necessary.

(4) The Minister may after considering the appeal give such decision as he may deem fit.

63. Voidness of roadworthy certificate or roadworthiness disc issued contrary to provisions of this Chapter. - Any roadworthy certificate or roadworthiness disc issued contrary to the provisions of this Chapter shall be void and the holder thereof shall, on demand by the testing station which issued such certificate or disc or by a traffic officer, forthwith deliver such certificate or disc to such testing station or traffic officer.

64. Suspension or cancellation of roadworthy certificate and roadworthiness disc by Minister. - (1) If the holder of a roadworthy certificate and roadworthiness disc issued in Ciskei is convicted of a second or subsequent offence which, in the opinion of the Minister relates to the roadworthiness of a motor vehicle or to such certificate or disc, the Minister may -

- (a) suspend, for such period as he may determine, or
- (b) cancel,

such roadworthy certificate and roadworthiness disc.

(2) If the Minister suspends or cancels a roadworthy certificate and roadworthiness disc in terms of subsection (1), the person concerned shall forthwith deliver every such certificate and disc to the Director-General.

(3) The Director-General shall notify the testing station or registering authority concerned of every roadworthy certificate and roadworthiness disc suspended or cancelled in terms of subsection (1).

(4) Upon the expiry of the period of suspension contemplated in subsection (1)(a), the Director-General shall upon request restore to the person entitled thereto every roadworthy certificate and roadworthiness disc delivered to him in terms of subsection (2), if the validity thereof has not yet expired.

(5) No person shall without the consent of the Minister obtain a roadworthy certificate and a roadworthiness disc for a motor vehicle -

(a) during the period in which a roadworthy certificate and a roadworthiness disc of which he was the holder are suspended in terms of subsection (1)(a); or

(b) if a roadworthy certificate and roadworthiness disc of which he was the holder have been cancelled in terms of subsection (1)(b).

(6) If the holder of -

(a) a document serving a similar purpose to that of a roadworthy certificate, or

(b) a document contemplated in paragraph (a) and a disc serving a similar purpose to that of a roadworthiness disc,

issued in a prescribed territory, is convicted of a second or subsequent offence which, in the opinion of the Minister, relates to the roadworthiness of a motor vehicle or to such a document or disc, the Minister may inform that person that every such document or disc held by him is no longer of force within Ciskei and, from the date on which that person is so informed, every such document or disc shall cease to be of force within Ciskei.

65. Notice to discontinue operation of motor vehicle. - (1) If, in the opinion of a traffic officer or an examiner of vehicles acting in conjunction with a traffic officer, a motor vehicle is not roadworthy, he may by notice in the prescribed form served on the driver, owner or operator of such vehicle direct that such vehicle shall not be operated on a public road or that such motor vehicle shall only be operated upon the prescribed conditions.

(2) The manner in which and circumstances under which such traffic officer or examiner of vehicles may issue a notice referred to in subsection (1) and the further steps which shall or may be taken in respect of the vehicle concerned shall be as prescribed.

CHAPTER 5

OPERATOR FITNESS

66. Registration of operator. - (1) The owner of a motor vehicle of a class which is prescribed by the Minister by regulation for the purposes of the application of this Chapter, shall be the operator of such motor vehicle and shall be registered as such under subsection (6) unless the owner of such motor vehicle has concluded with another person an agreement providing that the motor vehicle may be operated by such person for a period in excess of three months and such person has been registered as the operator of the motor vehicle.

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(2) The owner of a motor vehicle referred to in subsection (1) shall, in the prescribed manner and upon payment of the prescribed fees, notify the registering authority in whose area he ordinarily resides or where a place of business of his is situated -

(a) upon the registration of such motor vehicle in terms of Chapter 2, or

(b) within seven days after the conclusion or amendment of an agreement or after the vehicle became a vehicle of a class referred to in subsection (1),

which person (hereinafter referred to as the designated person) is to be registered as the operator of such motor vehicle.

(3) The owner of any motor vehicle registered in a prescribed territory or a foreign state shall, unless he is deemed to be the holder of an operator card in terms of section 67(3), before entering Ciskei with such vehicle, upon payment of the prescribed fee, notify the registering authority for the district of Zwelitsha which person (hereinafter referred to as the designated person) shall be registered as the operator of such vehicle.

(4) If the registering authority concerned is satisfied with the notification referred to in subsection (2) or (3), as the case may be, it shall submit the particulars of the designated person to the Director-General within seven days after the receipt thereof.

(5) Unless the owner of the motor vehicle concerned, at the time of the notification contemplated in subsection (2) or (3), is registered as the operator thereof, the registering authority shall issue a temporary operator permit to such owner in the manner and on the conditions as prescribed.

(6) The Director-General shall, if satisfied that the designated person should be registered as the operator, register such person in the prescribed manner as the operator of the motor vehicle concerned.

(7) The Minister may by regulation exempt any operator or category of operators from any provision of this Act.

67. Issue of operator card. - (1) The Director-General shall provide to the registering authority concerned, in respect of each motor vehicle contemplated in section 66, an operator card in the prescribed manner upon payment of the prescribed fee.

(2) The registering authority shall in the prescribed manner issue to the operator concerned the operator card contemplated in subsection (1).

(3) Any document issued by a competent authority in a prescribed territory or a foreign state and serving in such territory or state a purpose similar to that of an operator card shall, subject to the conditions thereof and to such conditions as may be prescribed, be deemed to be an operator card for the purposes of subsection (1).

(4) Where any circumstance arises in relation to the holder of an operator card contemplated in subsection (3), which in the opinion of the Director-General would have entitled him to act under section 71 if such card was issued in Ciskei, the Director-General may inform such holder that such card is of no force and effect within Ciskei and from the date on which such person is so informed such card shall cease to be of force within Ciskei.

68. Operator card to be displayed on motor vehicle. - No person shall operate a motor vehicle of any class contemplated in section 66(1) on a public road unless a valid operator card is displayed on such motor vehicle in the prescribed manner.

69. Proof of certain facts. - If in any prosecution the question arises as to who is the operator of a motor vehicle, an imprint or copy of an operator card shall, upon production thereof, be *prima facie* proof that the person whose name appears as operator on such card was the operator of such vehicle at the time when the offence was committed.

70. Duties of operator. - The operator of a motor vehicle shall -

(a) notify, within seven days -

- (i) the owner, if applicable, of such motor vehicle, and
- (ii) the registering authority concerned,

of any change in the circumstances pertaining to his registration as the operator of such motor vehicle and return the operator card in respect of that motor vehicle to the registering authority concerned;

(b) keep safe and protect from theft an operator card issued to him and if any such card is stolen or lost he shall notify the nearest police station and the registering authority which issued the card within 7 days after such card has been stolen or lost;

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(c) exercise proper control over the driver of such motor vehicle to ensure the compliance by such driver with all the provisions of this Act, in particular the provisions regarding -

- (i) the driving hours referred to in section 47;
- (ii) the requirements in respect of the professional driving permit referred to in section 38; and
- (iii) the loading of vehicles as prescribed under Chapter 11;

(d) ensure that such motor vehicle complies with the fitness requirements contemplated in Chapter 4;

(e) conduct his operations with due care for the safety of the public; and

(f) if hazardous substances are conveyed, ensure that all requirements for the conveyance of such substances, as prescribed in -

- (i) the Hazardous Substances Act, 1985 (Act 15 of 1985); and
 - (ii) any other law pertaining to such substances,
- are complied with.

71. Power of Director-General in respect of motor vehicles, drivers and activities of operators. - (1) The Director-General may, on any evidence as to the state of fitness of a motor vehicle in respect of which an operator is registered produced to him in terms of subsection (4), by written notice -

(a) notify such operator that such motor vehicle is suspected of being unroadworthy and that the operator shall forthwith take adequate steps to ensure its continued roadworthiness in terms of the provisions of Chapter 4;

(b) demand from such operator to indicate in writing what precautions he has taken to ensure the continued roadworthiness of his motor vehicle in terms of the provisions of Chapter 4;

(c) direct such operator to produce such motor vehicle for inspection, examination or testing at a time and place to be specified in such notice; and

(d) suspend the operator card issued in respect of the motor vehicle, if such motor vehicle has been examined or tested in terms of paragraph (c) and found to be unroadworthy in terms of the provisions of Chapter 4, for such period as such motor vehicle is so unroadworthy.

(2) The Director-General may, having regard to the record of a driver of a motor vehicle for which an operator is registered, by written notice -

(a) inform such operator that it is suspected that he does not exercise proper control over the drivers under his authority as required in terms of section 70;

(b) demand from such operator to indicate in writing what precautions he has taken in order to ensure proper control over drivers under his authority;

(c) demand from such operator to produce for examination the records relating to drivers which an operator is required to keep in terms of this Act; and

(d) direct that the driver concerned be retested in terms of section 27.

(3) The Director-General may, if the record of an operator indicates that such operator does not comply with the provisions of this Act, by written notice -

(a) direct such operator to fulfil in a proper manner the duties resting upon him in terms of section 70;

(b) appoint a person, whom he deems fit, to investigate the activities generally or specific activities of such operator and direct the person so appointed to make a written recommendation to him as to what measures should be taken in respect of such operator;

(c) direct such operator to appear before him or before any other person appointed by him, in order to furnish reasons for his failure to fulfil the duties resting upon him in terms of section 70; and

(d) notify such operator -

(i) that an operator card shall only be issued to him on such conditions as the Director-General may deem fit;

(ii) that no further operator card shall be issued to him for such period as the Director-General may specify in the notice; or

- (iii) that all operator cards pertaining to the motor vehicles in respect of which he is registered as the operator are suspended until the Director-General is satisfied that the grounds for such suspension have fallen away:

Provided that -

- (aa) the period of any suspension under subparagraph (iii) shall not exceed 12 months;
- (bb) any decision by the Director-General in terms of this paragraph shall only be taken on the basis of a recommendation by a person appointed in terms of paragraph (b);
- (cc) the Director-General shall, within 21 days after the date of the notice, in writing furnish such operator with the reasons for his decision.

(4) The Director-General may, in the exercise of his powers in terms of this section -

- (a) demand from any operator, subject to any legal objection, to make discovery of documents by way of affidavit or by answering interrogatories on oath and to produce such documents for inspection;
- (b) demand from any operator to allow inspection of any records and documents required to be kept by an operator in terms of this Act;
- (c) appoint a commission to take the evidence of any person in Ciskei or in a prescribed territory or in a foreign country and to forward such evidence to him in the same way as if the commission is a commissioner appointed by the court; and
- (d) at any time require that an enquiry be instituted into the operational activities of an operator by a person appointed by him for that purpose and, if such operator is a company, also into any other company in a group of companies to which the operator belongs or of which the operator is the controlling company.

(5) The Director-General may, if he on reasonable grounds suspects that any person registered as the operator of a motor vehicle is not the *bona fide* operator of such vehicle, demand proof from the owner of the vehicle that the person so registered is in fact the operator of the vehicle concerned and, if it is not proved to the satisfaction of the Director-General that the person so registered is in fact the operator of the vehicle concerned, the owner of the vehicle shall be deemed to be the operator of such vehicle.

72. Appeal to Minister. - (1) Any person who feels aggrieved -

- (a) at the refusal of the Director-General to register him as an operator, or
- (b) at a decision of the Director-General in terms of section 71(3)(d),

may within 21 days after having received notice of such refusal or decision, lodge an appeal in writing against such refusal or such decision, as the case may be, with the Minister and such person shall at the same time serve a copy of the appeal on the Director-General.

(2) After receipt of the copy of the appeal referred to in subsection (1) the Director-General shall forthwith furnish the Minister with his reasons for the refusal or the decision, as the case may be, to which the appeal refers.

(3) The Minister may after considering an appeal in terms of subsection (1) give such decision as he may deem fit.

73. Vicarious liability of operator. - (1) Whenever any manager, agent or employee of an operator commits an act or fails to commit an act and it would have constituted an offence under this Act if an operator had committed the act or failed to commit it, then such operator, unless he proves -

- (a) that he did not connive at or permit such act or omission,
- (b) that he took all reasonable measures to prevent an act or omission of the nature in question, and
- (c) that an act or omission of the nature of the act or omission charged did not under any circumstances fall within the scope of the authority or the course of the employment of such manager, agent or employee,

shall be deemed himself to have committed or failed to commit such act and be liable to be convicted and sentenced in respect thereof, and for the purposes of paragraph (b), the fact that the operator forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he took all reasonable measures to prevent such act or omission.

(2) Whenever any manager, agent or employee of an operator commits or fails to commit any act which would constitute an offence under this Act if such operator had committed or failed to commit it, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he were such operator.

CHAPTER 6

ROAD TRAFFIC SIGNS, GENERAL SPEED LIMIT AND PARKING METERS

74. Minister may prescribe road traffic signs. - (1) The Minister may, subject to the provisions of this Act and for the purpose of prohibiting, limiting, regulating or controlling traffic in general or any particular class of traffic on a public road or a section of such road or for the purpose of designating any public road or section thereof as a public road of a particular class, prescribe such signs, signals, markings or other devices (to be known as road traffic signs) as he may deem expedient, as well as their significance and the conditions and circumstances under which any road traffic sign may be displayed on a public road.

(2) The Minister may, subject to such conditions as he may deem expedient, authorize any person or body to display on a public road any sign, signal, marking or other device for the purpose of ascertaining the suitability of such sign, signal or device as a road traffic sign.

75. Authority to display road traffic sign. - (1) The Minister or any person authorized thereto by him may in respect of any public road cause or permit to be displayed in the prescribed manner such road traffic signs as he may deem expedient.

(2) The Minister or any person authorized thereto by him either generally or specifically may, in respect of any public road not situated within the area of a local authority, cause or permit to be displayed in the prescribed manner such road traffic signs as he may deem expedient.

(3) A local authority or any person in its employment authorized thereto by it generally or specifically may in respect of any public road within the area of that local authority display or cause to be displayed in the prescribed manner such road traffic signs as such authority or person may deem expedient.

(4) Notwithstanding the provisions of subsections (2) and (3), the Minister or any person authorized thereto by him either generally or specifically may, in respect of any public road referred to in subsection (3) and which is a road constructed or maintained by the State, in addition to the road traffic signs referred to in subsection (3), cause or permit to be displayed in the prescribed manner such road traffic signs as he may deem expedient and no local authority may without the consent of the Minister remove or permit to be removed any such road traffic sign.

(5) In the circumstances and subject to such conditions as may be determined by the Road Safety Council established by section 2 of the Road Safety Act, 1984 (Act 21 of 1984), scholars or students may be organized into patrols (to be known as scholar patrols) for the purpose of displaying in the prescribed manner an appropriate road traffic sign so as to ensure the safety of scholars or students crossing a public road.

(6) The Minister may authorize any association or club to display such road traffic signs, subject to such conditions as he may deem expedient, on any public road referred to in subsection (2) or (3) and any such association or club may thereupon in the prescribed manner display a badge or other token of the association or club in conjunction with any such road traffic sign.

(7) The South African Transport Services, or a person in its employment who has either generally or specifically been authorized thereto, may in respect of any railway level crossing on any public road for which such Transport Services is responsible, cause or permit to be displayed in the prescribed manner such road traffic signs as such Transport Services or such person may deem expedient.

(8) Notwithstanding the provisions of subsections (3) and (7), the Minister may direct that any road traffic sign be displayed or removed by a local authority on or along any public road in the area of such local authority or by the South African Transport Services on or along any railway level crossing over a public road for which the said Transport Services is responsible and, if the local authority concerned or the Transport Services fails or fail to comply with the direction, the Minister or any person authorized thereto by him may cause such sign to be displayed or removed, as the case may be, and the Minister shall recover the cost of such display or removal from the local authority concerned or from the Transport Services, as the case may be.

(9) Any road traffic sign displayed at the commencement of this Act in terms of a repealed law and which complies with a road traffic sign referred to in section 74 shall be deemed to be displayed in terms of this Chapter.

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(10) No person shall display any road traffic sign on a public road without having been authorized thereto in terms of this section.

(11) The Minister or within the area of a local authority that local authority, may by notice in writing direct the owner or occupier of any land, on which any road traffic sign or other object resembling a road traffic sign is displayed or on which any object is displayed which obscures or interferes with the effectiveness of any road traffic sign, to remove such sign or object within a period stated in the notice and if the owner or occupier concerned fails to comply with the notice the Minister or local authority, as the case may be, may cause such sign or other object to be removed.

(12) No person shall wilfully or negligently damage any road traffic sign or any other sign, signal, marking or other device displayed in terms of this Chapter or without proper authority remove it or alter the position thereof or the inscription, lettering, colour or design thereof or thereon.

76. Failure to obey road traffic sign. - (1) Subject to the provisions of subsection (3) no person shall, unless otherwise directed by a traffic officer, fail to comply with any direction conveyed by a road traffic sign displayed in the prescribed manner.

(2) In any prosecution for a contravention of or a failure to comply with the provisions of subsection (1) it shall be presumed, until the contrary is proved, that the road traffic sign concerned was displayed by the proper authority pursuant to the powers granted by this Act and in accordance with the provisions of this Act.

(3) The driver of a fire-fighting vehicle or an ambulance or a traffic officer who drives a vehicle in the execution of his duties or any person driving a vehicle while engaged in civil defence may disregard the directions of a road traffic sign which is displayed in the prescribed manner: Provided that -

(a) he shall drive the vehicle concerned with due regard to the safety of other traffic; and

(b) in the case of a fire-fighting vehicle or an ambulance or a vehicle driven by a person while he is engaged in civil defence as aforesaid, such vehicle shall be fitted with a device capable of emitting a prescribed sound or with a bell and with a flashing light, as prescribed, and such device or bell shall be constantly sounded and such light shall be constantly flashing while the vehicle is driven in disregard of the road traffic sign.

77. Speed limit. - (1) The general speed limit -

(a) in respect of every public road or section thereof, other than a freeway, situated within an urban area,

(b) in respect of every public road or section thereof, other than a freeway, situated outside an urban area, and

(c) in respect of every freeway,

shall be as prescribed.

(2) In terms of section 75 an appropriate road traffic sign may be displayed on any public road indicating a speed limit other than the general speed limit which in terms of subsection (1) applies in respect of that road: Provided that such other speed limit shall not be higher than the speed limit prescribed in terms of subsection (1)(c).

(3) The Minister may, in respect of any particular class of vehicle prescribe a speed limit which is lower or higher than the general speed limit prescribed in terms of subsection (1)(b) or (c): Provided that the speed limit so prescribed shall not supersede a lower speed limit indicated in terms of subsection (2) by an appropriate road traffic sign.

(4) No person shall drive a vehicle on a public road at a speed in excess of -

(a) the general speed limit which in terms of subsection (1) applies in respect of that road;

(b) the speed limit indicated in terms of subsection (2) by an appropriate road traffic sign in respect of that road; or

(c) the speed limit prescribed by the Minister in terms of subsection (3) in respect of the class of vehicle concerned.

78. Certain drivers may exceed general speed limit. - Notwithstanding the provisions of section 77, the driver of a fire-fighting vehicle or an ambulance or a traffic officer who drives a vehicle in the execution of his duties or any person driving a vehicle while engaged in civil defence may exceed the applicable general speed limit: Provided that -

(a) he shall drive the vehicle concerned with due regard to the safety of other traffic; and

(b) in the case of a fire-fighting vehicle, an ambulance or a vehicle driven by a person while he is engaged in civil defence as aforesaid, such vehicle shall be fitted with a device capable of emitting a prescribed sound or with a bell and with a flashing light, as prescribed, and such device or bell shall be constantly sounded and such light shall be constantly flashing while the vehicle is driven in excess of the applicable general speed limit.

79. Certain classes of motor vehicle to contain recording device to measure speed. -

(1) No person shall operate on a public road a motor vehicle of a class prescribed by the Minister by regulation unless such vehicle is fitted with a prescribed automatic, electronic, electric or mechanical recording device to record the speed at which such motor vehicle is being driven.

(2) The driver of a motor vehicle of a class contemplated in subsection (1) shall, when driving such motor vehicle on a public road, use the recording device referred to in subsection (1) in the prescribed manner.

80. Power of local authority to instal parking meters. - (1) A local authority may, by resolution, levy fees in respect of the parking of vehicles on any public road or section thereof within its area of jurisdiction and shall, for the purpose of collecting any such fees, instal parking meters.

(2) The fees referred to in subsection (1) may differ in respect of different public roads or sections of the same public road.

(3) A parking meter referred to in subsection (1) shall be installed in conjunction with a demarcated parking place and shall bear thereon a legend indicating the days and hours when payment shall be made for parking and the amount payable for a specific period of parking.

(4) The period of time for which a vehicle may be lawfully parked in a parking place referred to in subsection (3) shall, unless the contrary is proved, be as measured by the parking meter for such place.

(5) Any local authority may establish upon a public road within the area of its jurisdiction ranks or stands (to be known as special parking places) for the parking of passenger-carrying motor vehicles or any class of such vehicles as prescribed and may make by-laws for the regulation and control of the use of those special parking places -

(a) to provide for the issue of permits allocating particular special parking places or subdivisions thereof to particular persons or vehicles for their exclusive use;

(b) to prohibit the use of any special parking place or subdivision so allocated by any other person or vehicle;

(c) levying fees in respect of the use of special parking places; and

(d) providing for matters incidental thereto:

Provided that provision may be made in any permit or in any renewal thereof for the limitation of the hours during which the holder shall have the exclusive use of a particular special parking place and during which the use thereof by any other person or vehicle is prohibited.

(6) In the first allocation of any special parking place or subdivision referred to in subsection (5) the local authority shall as far as possible have regard to the length of time which the applicant therefor has been engaged in the business of transporting passengers for reward by the class of vehicle concerned.

(7) By-laws made in terms of subsection (5) shall provide for the annual renewal, subject to the good conduct of the applicant, of the right to use any such special parking place or subdivision thereof.

(8) All fees collected by a local authority by means of a parking meter or in respect of any special parking place as contemplated in this section shall, except with the approval of the Minister, be used only to defray the cost of, and incidental to, any scheme, work or undertaking for the improvement or regulation of traffic conditions within the area of such local authority, including the costs of installing and maintaining any such parking meter or special parking place.

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(9) The exercise by a local authority of its powers under this section shall not render the authority subject to any liability in respect of the loss of or damage to any vehicle or the contents or fittings of any such vehicle while such vehicle is in a parking place.

CHAPTER 7

RULES OF THE ROAD

81. Vehicle to be driven on left side of roadway. - (1) Any person driving a vehicle on a public road shall do so by driving on the left side of the roadway and, where such roadway is of sufficient width, in such manner as not to encroach on that half of the roadway to his right: Provided that such encroachment shall be permissible -

(a) where it can be done without obstructing or endangering other traffic or property which is or may be on such half and for a period and distance not longer than is necessary and prudent and provided that it is not prohibited by a road traffic sign; or

(b) in compliance with a direction of a traffic officer or a road traffic sign.

(2) The provisions of subsection (1) shall not apply in the case of a public road which is restricted to traffic moving thereon in one direction only.

82. Driving on divided public road. - (1) Whenever any public road has been divided into two or more roadways by means of an intervening space or by a physical barrier or dividing section so constructed as to impede vehicular traffic, no person shall drive a vehicle upon such public road except upon the left-hand roadway, unless directed or permitted by an appropriate road traffic sign or a traffic officer to use another roadway.

(2) No person shall drive a vehicle on, over, across or within any dividing space, barrier or section referred to in subsection (1) except through an opening in such space, barrier or section or at a cross-over or intersection: Provided that no person shall so drive through any such opening or at any such cross-over or intersection where such driving is prohibited by an appropriate road traffic sign or by a traffic officer: Provided further that the provisions of this subsection shall not apply to a traffic officer in the performance of his duties.

83. Passing of vehicle. - (1) Subject to the provisions of subsections (2) and (4) of this section and section 81, the driver of a vehicle intending to pass any other vehicle proceeding in the same direction on a public road shall pass to the right thereof at a safe distance and shall not again drive on the left side of the roadway until safely clear of the vehicle so passed: Provided that, in the circumstances as aforesaid, passing on the left of such vehicle shall be permissible if the person driving the passing vehicle can do so with safety to himself and other traffic or property which is or may be on such road and -

(a) the vehicle being passed is turning to its right or the driver thereof has signalled his intention of turning to his right;

(b) such road is a public road in an urban area and -

(i) is restricted to vehicles moving in one direction; and

(ii) the roadway is of sufficient width for two or more lines of moving vehicles;

(c) such road is a public road in an urban area and the roadway is of sufficient width for two or more lines of moving vehicles moving in each direction;

(d) the roadway of such road is restricted to vehicles moving in one direction and is divided into traffic lanes by appropriate road traffic signs; or

(e) he is driving in compliance with the directions of a traffic officer or he is driving in traffic which is under the general direction of such officer and in accordance with such direction:

Provided further that in no event shall any passing referred to in paragraph (a), (b), (c) or (d) be done by driving on the shoulders of the roadway or on the verge of the public road concerned.

(2) The driver of a vehicle shall not pass other traffic proceeding in the same direction on a public road when approaching -

(a) the summit of a rise;

(b) a curve; or

(c) any other place,

where his view is so restricted that any such passing could create a hazard in relation to other traffic which might approach from the opposite direction, unless -

- (i) he can do so without encroaching on the right-hand side of the roadway; or
- (ii) the roadway of such road is restricted to vehicles moving in one direction.

(3) The driver of a vehicle on a public road shall, except in the circumstances referred to in the first proviso to subsection (1), upon becoming aware of other traffic proceeding in the same direction and wishing to pass his vehicle, cause his vehicle to travel as near to the left edge of the roadway as is possible without endangering himself or other traffic or property on the roadway and shall not accelerate the speed of his vehicle until the other vehicle has passed.

(4) When about to pass oncoming traffic the driver of a vehicle on a public road shall ensure that the vehicle driven by him does not encroach on the roadway to his right in such manner as may obstruct or endanger such oncoming traffic.

(5) The driver of a vehicle intending to pass a stationary bus, mini-bus or taxi on a public road shall do so with due care for the safety of persons who are approaching or leaving or may approach or leave such bus, mini-bus or taxi.

(6) No person shall drive a motor cycle between lines of moving or stationary vehicles or drive a motor cycle abreast of, or overtake or pass, another vehicle within the same traffic lane.

84. Crossing or entering public road or traffic lane. - (1) The driver of a vehicle shall not cross a public road unless the road is clear of moving traffic for a sufficient distance to allow him to cross the road without obstructing or endangering any such traffic.

(2) The driver of a vehicle shall not enter a public road unless he can do so with safety to himself and other traffic.

(3) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs shall not turn from one lane into or across another lane unless he can do so without obstructing or endangering other traffic.

85. Driving signals. - The driver of a vehicle on a public road, who intends to stop such vehicle or suddenly reduce the speed thereof or to turn such vehicle to the left or to the right or to move such vehicle to the left or right on the roadway, shall give a conspicuous signal in the prescribed manner of his intention, visible to any person approaching him from the front or from the rear or from the side and of a duration sufficient to warn any such person of his intention.

86. Right of way at certain road junctions. - The driver of a vehicle on a public road shall, when he intends entering any portion of a public road which constitutes a junction of two or more public roads where vehicular traffic is required to move around a traffic island within such junction, yield the right of way to all vehicular traffic approaching from his right within such junction, unless his entry into such junction is controlled by an instruction given by a traffic officer or a direction conveyed by a road traffic sign requiring him to act differently.

87. Procedure when turning. - (1) The driver of a vehicle on a public road who desires to turn to the left shall, having due regard to the provisions of section 86, before reaching the point at which he intends to turn, indicate in the prescribed manner his intention to turn and shall steer his vehicle as near to the left side of the roadway on which he is travelling as circumstances permit and shall make such turn with due care and merge into such traffic stream as may at the time be proceeding along, towards or into the public road into which he desires to turn.

(2) The driver of a vehicle on a public road who desires to turn to the right shall, having due regard to the provisions of section 86, before reaching the point at which he desires to turn, indicate in the prescribed manner his intention to turn and shall not effect such turning unless he can do so without obstructing or endangering other traffic and -

(a) if he is driving a vehicle on the roadway of a public road which roadway is intended for traffic in both directions -

- (i) he shall steer such vehicle as near as circumstances may permit to the immediate left of the middle of the roadway on which he is travelling; and

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- (iii) where the turn is at an intersection, he shall not encroach on the right half of the roadway into or out of which he intends to turn except in the intersection itself but shall in any event pass to the left of any traffic island in such intersection or comply with the direction conveyed by any appropriate road traffic sign; or
- (b) if he is driving a vehicle on a roadway of a public road where such roadway is intended for traffic in only one direction -
 - (i) he shall steer such vehicle as near as circumstances permit to the right side of such roadway; and
 - (ii) where the turn is at an intersection he shall not encroach on the right half of the roadway into which he intends to turn except in the intersection itself but shall in any event pass to the left of any traffic island in such intersection or comply with the direction conveyed by an appropriate road traffic sign: Provided that where such turn is to be made into a roadway intended for traffic in only one direction, he may encroach on the right half of that roadway.

88. Towing of vehicles. - No person shall operate any vehicle on a public road while towing or drawing another vehicle save in the manner prescribed for the towing or drawing of any vehicle by another vehicle on a public road.

89. Stopping of vehicles. - Except in order to avoid an accident or in compliance with a road traffic sign or with a direction given by a traffic officer or for any cause beyond the control of the driver, no person shall stop a vehicle on the roadway of a public road -

- (a) alongside or opposite an excavation or obstruction on the public road if other traffic would be obstructed or endangered by such stopping;
- (b) within any tunnel or subway or on any bridge or within six metres of any tunnel, subway or bridge;
- (c) on, or within six metres from the beginning or end of, any part of such roadway where the normal width thereof has for any reason been constricted;
- (d) in contravention of any road traffic sign;
- (e) on the right-hand side of such roadway facing oncoming traffic;
- (f) alongside or opposite any other vehicle on such roadway, where such roadway is less than nine metres wide;
- (g) within the railway reserve at a level crossing;
- (h) within nine metres of his approaching side of a pedestrian crossing demarcated by appropriate road traffic signs; or
- (i) in any other place where the stopping of a vehicle would or would be likely to constitute a danger or an obstruction to other traffic.

90. Parking of vehicles. - (1) No person shall park a vehicle on a public road -

- (a) in contravention of any road traffic sign;
- (b) in any place referred to in section 89;
- (c) on the same side as a fire hydrant within an area bounded by the centre line of the roadway and lines at right angles to such centre line one and a half metres on either side of the hydrant, if such hydrant is clearly visible to and recognizable as such by drivers of moving vehicles or if it is indicated by an appropriate road traffic sign;
- (d) in any place where the vehicle would obscure any road traffic sign;
- (e) in such manner as to encroach upon the sidewalk, if any; or
- (f) in such manner as to obstruct any private or public vehicular entrance to such road.

(2) No person shall park a vehicle on any portion of the roadway (excluding the shoulders) of a public road outside an urban area or with any part of such vehicle within one metre of the edge of such roadway except in a parking place demarcated by an appropriate road traffic sign.

(3) No person shall park a vehicle on the roadway of a public road within an urban area —

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(a) within nine metres of the side from which he approaches a pedestrian crossing demarcated by appropriate road traffic signs, unless such parking is permitted by appropriate road traffic signs;

(b) within five metres of any intersection unless such parking is permitted by a road traffic sign;

(c) upon or over the actuating mechanism of a robot;

(d) (i) with the outside of any left-hand wheel thereof more than 450 millimetres within the roadway; or

(ii) where the public road concerned is restricted to vehicles moving in one direction and the vehicle is parked on the right-hand side of the roadway, with the outside of any right-hand wheel thereof more than 450 millimetres within the roadway,

unless such parking is permitted by an appropriate road traffic sign; or

(e) which is less than five and a half metres wide unless the public road concerned is restricted to vehicles moving in one direction and such parking is permitted by appropriate road traffic signs.

(4) No person shall park a motor vehicle on a traffic island or in a pedestrian mall or pedestrian lane.

(5) Whenever a vehicle has been parked in contravention of any provision of this Act or any by-law made under this Act or in contravention of or in disregard of the directions of any road traffic sign or notice board as prescribed, such vehicle may be removed or caused to be removed and impounded by a traffic officer and, unless the vehicle has been so parked in the course of a theft thereof, the owner shall bear the costs of such removal and impoundment.

91. Certain vehicles may be stopped and parked at any place where necessary. - (1) Notwithstanding the provisions of sections 89 and 90, the driver of a fire-fighting vehicle or an ambulance or a traffic officer who drives a vehicle in the execution of his duties or a person who drives a vehicle while he is engaged in civil defence or a person who drives a vehicle while it is used in connection with the construction or maintenance of a public road or the rendering of an essential public service may stop or park the vehicle concerned at any place where it may be necessary to do so.

(2) A vehicle stopped or parked in terms of subsection (1) shall, while such vehicle is so stopped or parked, display prescribed warning signals.

92. Compulsory stops. - The driver of a vehicle on a public road shall stop such vehicle -

(a) in compliance with any direction conveyed by a road traffic sign or given by a traffic officer in uniform; or

(b) at the request or on the signal of a person leading or driving any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich on such road.

93. General duties of driver or passenger of vehicle on public road. - (1) No person driving or having a vehicle on a public road shall -

(a) cause such vehicle to travel backwards unless it can be done in safety or cause it to run backwards for a distance or time longer than may be necessary for the safety or reasonable convenience of any occupant of that vehicle or of other traffic on such road;

(b) follow another vehicle more closely than is reasonable and prudent having regard to the speed of such other vehicle and the traffic on and the condition of the roadway or more closely than is prescribed;

(c) permit any person, animal or object to occupy any position in or on such vehicle which may prevent the driver thereof from exercising complete control over the movements of the vehicle or signalling his intention of stopping, slowing down or changing direction;

(d) when driving such vehicle, permit any person to take hold of or interfere with the steering or operating mechanism of the vehicle;

(e) when driving such vehicle, occupy such position that he does not have complete control over the vehicle or does not have a full view of the roadway and the traffic ahead of such vehicle;

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(f) allow such vehicle to remain unattended on such road without so setting its brake or adopting such other method as will effectively prevent the vehicle from moving from the position in which it is left;

(g) if such vehicle is parked or is stationary at the side of such road, drive the vehicle from that position unless he is able to do so without interfering with moving traffic approaching from any direction and with safety to himself or others;

(h) fail to give an immediate and absolute right of way to a vehicle sounding a device or bell in terms of section 76(3) or 78;

(i) allow any portion of his body to protrude beyond such vehicle while it is in motion on such road except for the purpose of giving any hand signal which he is required or authorized to give in terms of this Act or unless he is engaged in examining or testing or parking such vehicle;

(j) permit any person or animal to occupy the roof, any step or running board or any other place on top of a vehicle while such vehicle is in motion;

(k) cause or allow the engine thereof to run in such manner that it emits smoke or fumes which would not be emitted if the engine were in good condition or ran in an efficient manner;

(l) cause or allow the engine thereof to run while the motor vehicle is stationary and unattended;

(m) negligently or wilfully deposit or cause or permit to be deposited any petrol or other liquid fuel or any oil or grease or other flammable or offensive matter, ashes or other refuse of whatever nature from such vehicle upon or alongside such road; or

(n) cause or allow the engine thereof to run while petrol or other flammable fuel is being delivered into the fuel tank of such vehicle or cause or allow such engine to be started up before the delivery of the petrol or other flammable fuel into the fuel tank of such vehicle has been completed and the cover of such fuel tank has been replaced.

(2) No person, other than the driver, shall take hold of or interfere with the steering or operating mechanism of a vehicle while it is in motion on a public road, unless it may reasonably be inferred that the driver is no longer capable of steering and controlling such vehicle.

(3) No passenger in a vehicle on a public road shall permit any part of his body to protrude beyond such vehicle.

(4) No person shall enter or alight from any vehicle on a public road unless such vehicle is stationary and unless he can do so with safety to himself and other users of the road.

(5) No person shall drive, pull or push a vehicle upon a sidewalk: Provided that the provisions of this subsection shall not apply to a perambulator, invalid chair, baby cart or child's play vehicle.

94. Duties relating to motor cycle or motor tricycle. - (1) No person shall drive a motor cycle or motor tricycle on a public road unless his feet are resting on the front foot-rests suitable for the purpose and, where the design of such motor cycle or motor tricycle makes it possible to do so, he is seated astride on the saddle of such motor cycle or motor tricycle.

(2) No person shall on a public road carry a passenger on a motor cycle unless such cycle has an engine with a cylinder capacity exceeding 50 cubic centimetres and unless such passenger is seated in a side-car or astride on a pillion attached to such cycle and, in such latter event, the feet of the passenger are resting on foot-rests suitable for that purpose.

(3) Subject to the provisions of subsection (2), not more than two persons shall ride upon a motor cycle on a public road, excluding a person riding in a side-car attached to such motor cycle.

(4) Not more than two adult persons shall be carried in a side-car attached to a motor cycle on public road.

(5) No person or animal or object shall be carried on a motor cycle or motor tricycle on a public road in front of the driver thereof: Provided that an object of a non-bulky nature may be so carried if securely attached to the motor cycle or motor tricycle or placed in a suitable carrier fitted thereon for that purpose and carried in such a way as not to obstruct the driver's view or prevent his exercising complete control over such motor cycle or motor tricycle.

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(6) (a) Persons, other than traffic officers in the performance of their duties, driving motor cycles on a public road, shall drive in a single file except in the course of overtaking another motor cycle and two or more persons driving motor cycles shall not overtake another vehicle at the same time: Provided that, where a public road is divided into traffic lanes, each such lane shall for the purposes of this paragraph be regarded as a public road.

(b) For the purposes of paragraph (a) a motor cycle shall include a motor tricycle.

(7) No person driving a motor cycle or motor tricycle on a public road or seated on such motor cycle or motor tricycle shall take hold of any other vehicle in motion.

(8) Any person driving a motor cycle or motor tricycle on a public road shall do so with at least one hand on the handle-bars of such motor cycle or motor tricycle.

(9) Any person driving a motor cycle or motor tricycle on a public road shall do so in such manner that all the wheels of such motor cycle or motor tricycle are in contact with the surface of the road at all times.

95. Vehicle causing excessive noise. - (1) No person shall operate or permit to be operated on a public road a vehicle causing noise -

(a) in excess of the prescribed noise level; or

(b) resulting from the use of methods, accessories or appliances the use of which is prohibited by regulation.

96. Use of hooter. - No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this Act or on the grounds of safety.

97. Riding on pedal cycles. - (1) No person shall ride a pedal cycle on a public road unless he is seated astride on the saddle of such pedal cycle.

(2) Persons riding pedal cycles on a public road shall ride in single file except in the course of overtaking another pedal cycle and two or more persons riding pedal cycles shall not overtake another vehicle at the same time.

(3) No person riding or seated on a pedal cycle on a public road shall take hold of any other vehicle in motion.

(4) No person riding a pedal cycle on a public road shall deliberately cause such pedal cycle to swerve from side to side.

(5) No person riding a pedal cycle on a public road shall carry thereon any person, animal or object which obstructs his view or which prevents him from exercising complete control over the movements of such pedal cycle.

(6) A person riding a pedal cycle on a public road shall do so with at least one hand on the handle-bars of such pedal cycle.

(7) Whenever a portion of a public road has been set aside for use by persons riding pedal cycles, no person shall ride a pedal cycle on any other portion of such road.

(8) A person riding a pedal cycle on a public road or a portion of a public road set aside for use by persons riding pedal cycles shall do so in such manner that all the wheels of such pedal cycle are in contact with the surface of the road at all times.

98. Device running on rails. - (1) Whenever rails laid across any public road are used for the purposes of any locomotive or other device running on rails, whether such device is drawn or propelled, no person driving or being in charge of such locomotive or device shall cause or allow such locomotive or device to cross such public road unless he has given sufficient warning to users of such roadway of the intention to drive, draw or propel the locomotive or device across such road.

(2) No person driving or being in charge of any locomotive or device referred to in subsection (1) shall cause or allow it to be stopped on a public road in such a manner as to obstruct or hinder traffic on such road.

99. Animal on public road. - (1) Subject to the provisions of subsection (2), no person shall leave or allow any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich to be on any section of a public road where that section is fenced or in any other manner closed along both sides and no person shall leave such animal in a place from where it may stray onto such section of a public road.

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(2) The provisions of subsection (1) shall not apply -

(a) to any animal which is being ridden or is being used to draw a vehicle along a public road; or

(b) to any animal which is being driven from one place to another in such manner as not to constitute a source of danger or injury to any person or vehicle using such road.

(3) In any prosecution for a contravention of subsection (1) it shall be presumed, until the contrary is proved, that any animal referred to in subsection (1) was left or allowed to be on the section of the public road or place concerned by the owner of such animal and a section of a public road shall be regarded as fenced along both sides even though there is an opening providing access to such road in the fence or other enclosure.

(4) No person shall drive any animal referred to in subsection (1) -

(a) along a public road during the period from sunset to sunrise, unless a person carrying a red light visible in clear weather for a distance of at least 150 metres tends such an animal or, in the case of a flock or herd of more than 10 animals, a person tending such animals and carrying a light as aforesaid, precedes and another such person carrying a light as aforesaid follows such animals; or

(b) along a public road during any other period, unless a person displaying in a conspicuous manner a red cloth, of not less than 300 millimetres by 300 millimetres, tends such animal or, in the case of a flock or herd of more than 10 animals, a person tending such animals and displaying a cloth as aforesaid precedes and another such person displaying a cloth as aforesaid follows such animals.

(5) A person in charge of an animal on a public road shall tend the animal in such a manner as not to constitute an obstruction or danger to other traffic.

(6) A traffic officer may take charge of any animal referred to in subsection (1) on a public road or take such steps in respect of the animal as may be prescribed.

100. Animal-drawn vehicles. - (1) No person shall operate an animal-drawn vehicle on a public road unless the name and address of the owner thereof is affixed or painted in a conspicuous position on the left side of such vehicle in letters not less than 25 millimetres high: Provided that nothing herein contained shall apply to a vehicle used solely for the conveyance of persons otherwise than for hire or reward.

(2) No person shall operate an animal-drawn vehicle on a public road unless the vehicle and the harness and other equipment thereof are in an efficient and safe condition.

(3) The owner of an animal-drawn vehicle shall not cause or permit such vehicle to be used on a public road by any person who is not competent whether by reason of his age or otherwise to drive and control such vehicle, and

(4) The driver of an animal-drawn vehicle on a public road shall at all times give his undivided attention to the driving of the vehicle under his control and, if the vehicle is standing on a public road, the driver shall not cease to retain control over every animal which is still harnessed to the vehicle unless some other person competent to do so takes charge of every such animal or every such animal is so fastened that it cannot move from the place where it has been left.

(5) No person shall operate on a public road a vehicle drawn by a team of animals not controlled by reins unless there is a person leading the team and exercising control over such team.

(6) The driver or other person in charge of a vehicle drawn by any animal shall not, on a public road outside an urban area, permit such vehicle to follow any other vehicle similarly drawn at a distance of less than 150 metres reckoned from the foremost animal of such first-mentioned vehicle except for the purpose of overtaking a vehicle travelling at a slower speed or when a vehicle travelling at a greater speed, having overtaken such vehicle, is drawing away from it.

101. Pedestrian's right of way in pedestrian crossing. - (1) Where a pedestrian crossing is situated in conjunction with a robot a pedestrian shall not enter such crossing except in accordance with the indications of such robot as prescribed.

(2) In circumstances not referred to in subsection (1) the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a pedestrian crossing when the pedestrian is upon that half of the roadway upon which the vehicle is travelling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

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(3) No pedestrian shall suddenly enter a pedestrian crossing and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield as contemplated in subsection (2).

(4) Whenever any vehicle is stopped at a pedestrian crossing to permit pedestrians to cross the roadway the driver of any other vehicle approaching from the rear shall not pass such stopped vehicle.

102. Duties of pedestrians. - (1) Whenever a sidewalk or footpath abuts on the roadway of a public road, a pedestrian shall not walk on such roadway except for the purpose of crossing from one side of such roadway to the other for some other sufficient reason.

(2) A pedestrian on a public road which has no sidewalk or footpath abutting on the roadway shall walk as near as is practicable to the edge of the roadway on his right-hand side so as to face oncoming traffic on such roadway.

(3) No pedestrian shall cross a public road without satisfying himself that the roadway is sufficiently free from oncoming traffic to permit him to cross the road in safety.

(4) A pedestrian when crossing a public road by means of a pedestrian crossing or in any manner shall not linger on such road but shall proceed with due despatch.

(5) No pedestrian on a public road shall conduct himself in such a manner as to or as is likely to constitute a source of danger to himself or to other traffic which is or may be on such road.

(6) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.

103. Racing and sport on public roads. - (1) For the purposes of this section the expression "race or sport" includes -

(a) any race, speed trial, reliability trial, hillclimbing competition or sports meeting;

(b) any other activity whatsoever -

(i) which may constitute a source of danger to traffic; or

(ii) which may hamper, impede or disrupt the normal flow of traffic.

(2) No person shall organize or take part in any race or sport on a public road, unless the prior consent of the Minister has been obtained or, where the race or sport will take place wholly within the area of a local authority, the prior written consent of such local authority has been obtained.

(3) In granting consent in terms of subsection (2) the Minister or the local authority concerned, as the case may be, may -

(a) in addition to any prescribed requirement, impose such further conditions as he or it may deem expedient;

(b) exempt any person concerned with the race or sport for the duration thereof -

(i) from any provision of this Act regarding any speed limit or determine another speed limit for the road concerned;

(ii) from any other provision of this Act or from any by-law;

(c) levy fees for defraying the expenses incurred by the State or the local authority concerned in connection with the race or sport.

(4) Any consent granted in terms of subsection (2) may be withdrawn at any time.

104. Convoy on public road. - (1) No person shall operate on a public road a motor vehicle forming part of a convoy of motor vehicles which are being delivered to a motor dealer or other person -

(a) between the hours of 18h00 on a Friday or, in the case where such Friday is a public holiday, the Thursday immediately preceding such Friday and 06h00 on a Monday or, in the case where such Monday is a public holiday, the Tuesday immediately succeeding such Monday; or

(b) between the hours of 18h00 on the day immediately preceding Christmas Day and 06h00 on the day immediately succeeding Boxing Day, to the extent to which such hours do not already fall within a period contemplated in paragraph (a).

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(2) In a prosecution for a contravention of subsection (1), it shall be presumed until the contrary is proved, that the motor vehicle concerned was in the process of being delivered to a motor dealer or other person.

105. Hindering or obstructing traffic on public road. - (1) No person shall wilfully or unnecessarily prevent, hinder or interrupt the free and proper passage of traffic on a public road.

(2) Subject to the provisions of this Act or any other law, no person shall place or abandon or cause to be placed or abandoned on a public road any object that may endanger or cause damage to traffic on such road.

106. Vehicle left or abandoned on public road. - (1) Any vehicle standing on a public road in a position or in circumstances which, in the opinion of a traffic officer, is or are likely to cause danger or an obstruction to other traffic on such road, may be removed forthwith to a safer place by any such traffic officer or person or authority instructed by such officer to remove such vehicle: Provided that such traffic officer or person or authority shall, in removing such vehicle, use such device or devices as may be necessary having regard to the public safety.

(2) Any vehicle -

- (a) parked in a place where -
 - (i) the stopping of a vehicle is prohibited in terms of section 89; or
 - (ii) a vehicle of a class to which such vehicle belongs may not be parked;
- (b) left for a continuous period of more than -
 - (i) 24 hours in the same place on a public road outside an urban area;
 - (ii) seven days in the same place on a public road within an urban area; or
 - (iii) seven days on the site of any testing station; or
- (c) found on a public road and to which -
 - (i) no registration number is affixed or, in the opinion of a traffic officer, a false registration number is affixed; or
 - (ii) no other number or anything else is affixed which may, in the opinion of a traffic officer, serve to identify the owner,

shall be deemed to have been abandoned by the owner and such vehicle may be removed by or on behalf of the authority having jurisdiction over the place or road concerned and such authority shall take all reasonable steps to trace the owner, and the owner shall, except in the case of a stolen vehicle, be liable to such authority for the expenses incurred -

- (aa) in the removal of such vehicle;
- (bb) in keeping the vehicle in custody for a period not exceeding four months; and
- (cc) in connection with the endeavour to trace him,

and such authority may, subject to the provisions of subsection (3), retain possession of such vehicle until such expenses have been paid.

(3) If -

(a) such owner is traced by the authority referred to in subsection (2) and fails to recover the vehicle concerned and pay the expenses referred to in that subsection within 14 days after being requested to do so; or

(b) after the lapse of one month from the date of removal contemplated in subsection (2), the owner cannot be traced,

such vehicle or anything contained therein may be sold in the manner prescribed by any law governing the sale of movable property by such authority and, whenever possible, the authority which registered such vehicle shall be advised of such sale.

(4) The proceeds of any sale referred to in subsection (3) shall be applied firstly to the costs of the removal, custody and sale of the vehicle concerned and all the endeavours made to trace the owner of such vehicle and any balance shall be paid to the owner thereof upon his establishing his claim thereto: Provided that, if no claim can be established within one year from the date of such sale, such balance shall be forfeited to the authority concerned.

(5) If an authority referred to in subsection (2) is unable to sell any vehicle as contemplated in subsection (3) it may dispose of that vehicle in any manner it deems fit and any moneys received as a result of such disposal shall be forfeited to such authority.

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(6) An authority referred to in subsection (2) may delegate, either generally or specifically, any power conferred upon it in terms of that subsection to any person in its employment.

(7) The reasonable exercise by any person or authority of the powers conferred by this section shall not render such person or authority subject to any liability in respect of the loss or theft of or damage to any vehicle or part thereof or of anything therein or thereon.

(8) Subject to the provisions of any other law, no person shall leave a vehicle in the same place on a public road for a continuous period of more than seven days.

107. Damage to public road. - No person shall on a public road -

(a) cause any wheel of any vehicle to drag or spin upon the surface of the roadway, except in the case of an emergency;

(b) make use of chocks or shoes between any wheel of any vehicle moving along the roadway and the surface of such roadway; or

(c) use any vehicle or thing or move any vehicle or thing on the roadway in a manner causing or likely to cause damage thereto.

108. Trading on public roads. - Except on or in premises licensed by a competent authority no person shall sell, display, offer for sale or deliver pursuant to a sale, any goods -

(a) on or alongside a public road inside an urban area, within 180 metres of a railway level crossing or any road traffic sign denoting a blind corner or rise thereon or within 10 metres from any intersection thereon; or

(b) on or alongside any public road outside an urban area;

Provided that, where the State is responsible for the maintenance of a public road inside an urban area, the local authority concerned shall not license premises in such urban area situated alongside such a road without the prior approval of the Minister.

109. Special provisions relating to freeways. - (1) No person shall operate on a freeway -

(a) a vehicle drawn by an animal;

(b) a pedal cycle;

(c) a motor cycle having an engine with a cylinder capacity not exceeding 50 cubic centimetres or which is propelled by electrical power or which is a vehicle as contemplated in paragraph (b) of the definition of motor vehicle;

(d) a motor tricycle;

(e) a vehicle with a mass not exceeding 230 kilograms and specially designed, constructed or adapted for the use of a person suffering from a physical defect or disability; or

(f) a tractor.

(2) No person shall -

(a) be on a freeway on foot except -

(i) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign;

(ii) for a cause beyond his control; or

(iii) in the case of a member of any military force, within an area designated by an appropriate road traffic sign with regard to such member;

(b) leave or allow an animal to be on a freeway except in or on a motor vehicle or within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign or leave an animal in a place from where it may stray onto a freeway;

(c) stop a vehicle on a freeway except -

(i) in compliance with a road traffic sign or a direction given by a traffic officer;

(ii) within an area reserved for the stopping or parking of vehicles by an appropriate road traffic sign;

(iii) for any cause beyond his control; or

(iv) in an area referred to in paragraph (a)(iii) for the purpose of allowing members of any military force there to board or alight from such vehicle;

(d) give a hand signal when driving a motor vehicle on a freeway except for a cause beyond his control.

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(3) In a prosecution for a contravention of subsection (2)(b) it shall be presumed, until the contrary is proved, that an animal was left or allowed on the freeway or place concerned by the owner of such animal.

(4) The provisions of -

(a) subsection (1)(f) shall not apply to a person who operates a tractor in connection with the construction or maintenance of a freeway;

(b) subsection (2)(a) shall not apply to -

- (i) a traffic officer while he is engaged in the performance of his duties;
- (ii) a person while he is engaged in rescue or salvage work;
- (iii) a person while he is engaged in the construction or maintenance of a freeway or the rendering of an essential public service; or
- (iv) a person while he is engaged in civil defence;

(c) subsection (2)(c) shall not apply to -

(i) the driver of -

- (aa) an ambulance or fire-fighting vehicle; or
- (bb) a breakdown vehicle while he is engaged in the salvaging of another motor vehicle;

(ii) a traffic officer who drives a vehicle in the performance of his duties;

(iii) a person who drives a vehicle while it is used in connection with the construction or maintenance of a freeway or the rendering of an essential public service; or

(iv) a person who drives a vehicle while he is engaged in civil defence.

(5) Where the driver of a motor vehicle which is being driven in the right-hand traffic lane or in the traffic lane furthest to the right on a freeway (hereinafter referred to as the first vehicle) is made aware by the driver of another motor vehicle (hereinafter referred to as the second vehicle) that that driver intends to overtake the first vehicle, the driver of the first vehicle shall steer that vehicle to a lane to the left of the one in which he is driving without endangering himself or other traffic or property on the freeway and shall not accelerate the speed of his vehicle until the second vehicle has passed.

(6) For the purposes of subsection (5) the driver of the second vehicle may make the driver of the first vehicle aware that he intends to overtake the first vehicle by giving the driver thereof -

(a) an audible signal by means of a sounding device or hooter; or

(b) a visible signal by means of flashing the headlights of his vehicle.

CHAPTER 8

ACCIDENTS AND ACCIDENT REPORTS

110. Duty of driver in event of accident. - (1) The driver of a vehicle on a public road at the time when such vehicle is involved in or contributes to any accident in which any other person is killed or injured or suffers damage in respect of any property or animal -

(a) shall immediately stop the vehicle;

(b) shall ascertain the nature and extent of any injury sustained by any person;

(c) shall, if a person is injured, render such assistance to the injured person as he may be capable of rendering;

(d) shall ascertain the nature and extent of any damage sustained;

(e) shall, if required to do so by any person having reasonable grounds for so requiring, give his name and address, the name and address of the owner of the vehicle driven by him and, in the case of a motor vehicle, the registration or similar mark thereof;

(f) shall, if he has not already furnished the information referred to in paragraph (e) to a traffic officer at the scene of the accident and unless he is incapable of doing so by reason of injuries sustained by him in the accident as soon as is reasonably practicable and in any case within 24 hours after the occurrence of such accident, report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer and there produce his driver's licence and furnish his identity number and such information as is referred to in that paragraph; and

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(g) shall not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he has complied with the provisions of paragraph (f), where it is his duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer.

(2) No person shall in an urban area remove any vehicle involved in an accident in which another person is killed or injured from the position in which it came to rest, until such removal has been authorized by a traffic officer, except when such accident causes complete obstruction of the roadway of a public road in which event the vehicle involved may, without such authority and after its position has been clearly marked on the surface of the roadway by the person moving it, be moved sufficiently to allow the passage of traffic.

(3) In any prosecution for a contravention of any provision of this section it shall be presumed, until the contrary is proved, that the accused was aware of the fact that the accident had occurred and that he did not report the accident or furnish the information as required by subsection (1)(f).

(4) In this section the word "animal" means any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich.

111. Garage to keep record of motor vehicle involved in accident. - (1) Any person in charge of a garage or other place where motor vehicles are repaired and to which is brought, for the purpose of repair, any motor vehicle showing signs or marks of having been involved in an accident, shall keep a record specifying the nature of such signs or marks, the engine number and the registration or similar mark and, if known, the name and address of the owner and driver of such vehicle.

(2) A person required to keep a record in terms of subsection (1) shall retain such record for a period of three years from the date on which it was made and any such record shall, on demand, be produced to a traffic officer.

CHAPTER 9

RECKLESS OR NEGLIGENT DRIVING, INCONSIDERATE DRIVING, DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A DRUG HAVING A NARCOTIC EFFECT, AND MISCELLANEOUS OFFENCES

112. Reckless or negligent driving. - (1) No person shall drive a vehicle on a public road recklessly or negligently.

(2) Without restricting the ordinary meaning of the word "recklessly" any person who drives a vehicle in wilful or wanton disregard for the safety of persons or property shall be deemed to drive that vehicle recklessly.

(3) In considering whether an offence has been committed under subsection (1) the court shall have regard to all the circumstances of the case including, but without prejudice to the generality of the foregoing provisions of this section, the nature, condition and use of the public road upon which the offence is alleged to have been committed, the amount of traffic which at the time actually was or which could reasonably have been expected to be upon that road and the speed at and manner in which the vehicle was driven.

113. Inconsiderate driving. - No person shall drive a vehicle on a public road without reasonable consideration for any other person using the road.

114. Driving while under the influence of intoxicating liquor or drug having a narcotic effect, or with excessive amount of alcohol in blood. - (1) No person shall on a public road -

(a) drive a vehicle, or

(b) occupy the driver's seat of a motor vehicle the engine of which is running, while under the influence of intoxicating liquor or a drug having a narcotic effect.

(2) No person shall on a public road -

(a) drive a vehicle, or

(b) occupy the driver's seat of a motor vehicle the engine of which is running, while the concentration of alcohol in any specimen of blood taken from any part of his body is not less than 0,08 gram per 100 millilitres.

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(3) For the purposes of subsections (1) and (2) it shall be presumed until the contrary is proved that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked as contemplated in those subsections by a director or servant of the corporate body in the exercise of his powers or in the performance of his duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.

123. Presumption in regard to officers. - In any prosecution under any provision of this Act the fact that any person purports to act or has purported to act as a traffic officer or an inspector of licences, examiner of vehicles or examiner for drivers' licences, shall be *prima facie* evidence of his appointment and authority so to act: Provided that the provisions of this section shall not apply with regard to a prosecution on a charge relating to personation.

CHAPTER 11

REGULATIONS AND BY-LAWS

124. Power of Minister to make regulations. - (1) The Minister may make regulations not inconsistent with the provisions of this Act in respect of any matter contemplated, required or permitted to be prescribed under this Act and generally as to the use of any vehicle on a public road, its construction and equipment and the conditions under which it may be used and in any other respect for the better carrying out of the provisions or objects of this Act and in particular, but without prejudice to the generality of the foregoing provisions, with respect to -

(a) the safety of traffic on a public road, including the restriction of the use of any such road or part thereof by such traffic and the duties of the users of any such road;

(b) the identification of vehicles and, in relation to a motor vehicle, the size, shape, colour and character of the registration mark to be displayed under this Act and the means to be applied to render any such mark easily distinguishable, whether by night or by day, when any such vehicle is operated on a public road;

(c) the width, height and length of any vehicle, and the diameter of the wheels and the width, nature and condition of the tyres of any vehicle when operated on a public road;

(d) the maximum mass, laden or unladen, of any vehicle, the height and width of any load which may be carried by any vehicle, the manner in which any vehicle may be loaded, the extent to which any load may project in any direction and the maximum mass of any vehicle or any part thereof supported by the road or any specified area thereof, when any vehicle referred to in this paragraph is operated on a public road;

(e) the emission of exhaust gas, smoke, fuel, oil, visible vapours, sparks, ash or grit from any vehicle operated on a public road;

(f) excessive noise owing to the design or condition of any vehicle or the loading thereof or to the design, condition or misuse of a silencer or of a hooter, bell or other warning device when any such vehicle is operated on a public road;

(g) the particulars to be marked on any vehicle;

(h) the towing, pushing or drawing of any vehicle by another vehicle on a public road;

(i) the conditions under which any motor vehicle fitted with steering apparatus on the left side may be operated on a public road;

(j) the number, nature and kind of lamps, including reflectors, to be carried by any vehicle operated on a public road, the position in which they shall be carried, the manner, conditions and times of their use and the use of any lamp or lighting device which may endanger public safety and, for the purposes of this paragraph, a reflector may be defined as meaning a retro-reflector which bears a standardization mark as defined in section 1 of the Standards Act, 1962 (Act 33 of 1962), or which bears such other identification mark as may be prescribed;

(k) the number and nature of brakes and for ensuring that brakes, silencers and steering gear shall be efficient and in proper working order, in respect of any vehicle operated on a public road;

(l) the regulation of the use and control of any vehicle on a public road, its construction, equipment, width of tracks, dimensions, mass and use in respect of either chassis and body or chassis, body and load and the conditions under which it may be used;

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(m) in relation to a vehicle operated on a public road, the devices to be fitted for signalling the approach thereof, for enabling the driver thereof to become aware of the approach of another vehicle from the rear, and for intimating any intended movement thereof and the use of any such devices and for ensuring that they shall be efficient and kept in proper working order;

(n) the protection of any public road, the mass, tyres and the load of any vehicle in relation to any specified bridge or ferry, the time when and speed at which any vehicle of a specified mass may be allowed to cross any bridge or ferry, the furnishing of security by any person against damage to any public road by reason of heavy traffic and making good the cost of repairing such damage;

(o) the stopping with and parking of vehicles on public roads;

(p) the furnishing of accident reports and statistics of any nature whatsoever;

(q) the determination of the number of passengers for the transport of which a certain class of motor vehicle is adapted and the number which may be transported, the general safety, comfort and convenience of passengers carried on or by such a motor vehicle and the conduct of the driver, conductor and passengers on such a vehicle;

(r) the specifications for the examination of any vehicle;

(s) any light which, in the opinion of the Minister, is likely to interfere with the proper view of any road traffic sign or to be confused with any such sign;

(t) the method of determining any fact which is required for the purposes of this Act;

(u) any form, process or token which the Minister may deem expedient for the purposes of this Act and the nature and extent of any information to be furnished for the purpose of any such form;

(v) The dress, including insignia, of traffic officers appointed in terms of section 3;

(w) the fees to be charged for any purpose under this Act;

(x) the carriage of persons as passengers on any vehicle which has been constructed or designed solely or chiefly for the carriage of goods and not for the carriage of passengers and their effects; and

(y) the additional duties for operators of specific classes of motor vehicles or operators engaged in activities which require additional safety measures for the protection of the public.

(2) Regulations made by the Minister under subsection (1) with regard to -

(a) specific categories -

(i) of road transport undertakings;

(ii) of industries or trades or occupations concerned with road transport;

(iii) of persons by whom any undertaking or occupation referred to in subparagraphs (i) and (ii) is carried on or exercised; or

(iv) of operators of vehicles concerned with, or new entrants to, any undertaking or occupation referred to in subparagraph (iii);

(b) specific circumstances in which any undertaking or occupation referred to in paragraph (a)(iii) is carried on or exercised; or

(c) specific areas in which any undertaking or occupation referred to in paragraph (a)(iii) is carried on or exercised,

shall be so made by the Minister with due regard to the specific requirements of the category, circumstance or area concerned.

(3) The power to make regulations for any purpose referred to in subsection (1) shall include the power to restrict or prohibit any matter or thing in relation to that purpose either absolutely or conditionally.

(4) Any regulation under this section may be made to apply generally throughout Ciskei or within any specified part thereof or to any specified category of vehicle or person.

(5) A regulation made under subsection (1) may provide for penalties for a contravention thereof and also for different penalties in the case of successive or continuous contraventions, but no penalty shall -

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(a) in the case of a regulation made under subsection (1)(d), (l) or (n), exceed a fine of R8 000 or imprisonment for a period of two years or both such fine and such imprisonment; or

(b) in the case of any other regulation, exceed a fine of R2 000 or imprisonment for a period of six months or both such fine and such imprisonment.

(6) Before the Minister makes any regulation under this section, he may, if he deems it expedient, cause a draft of the proposed regulation to be published in the *Gazette* together with a notice calling upon all interested persons to lodge in writing, and within a period stated in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations which they would like to raise or to make, with the Director-General for submission to the Minister: Provided that, if the Minister thereafter decides to alter the draft regulations as a result of any objections or representations submitted thereanent, it shall not be necessary so to advertise such alterations before the regulations are made.

125. Power of local authority to make by-laws. - (1) Subject to the provisions of any law in relation to the procedure to be followed in the making, approval and promulgation of any by-law by a local authority, any local authority may with the concurrence of the Minister make by-laws not inconsistent with the provisions of this Act in respect of -

(a) the safety of traffic on any public road, the duty of any user of such road and the use of any such road by any vehicle;

(b) the stopping with and parking of any vehicle on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;

(c) the appointment and licensing of parking attendants and the withdrawal of any such licence;

(d) the driver or conductor of, or other person employed in connection with, a vehicle plying for hire or accepting passengers for hire;

(e) any public road which is not to be used by any vehicle, either generally or at specific times;

(f) the relative position on a public road of traffic of differing speeds and classes;

(g) the place where and time when a vehicle may not turn so as to face in the opposite direction to that in which it was proceeding or where it may only so turn under specified conditions;

(h) the loading and off-loading of any vehicle on a public road;

(i) the rules as to priority of entry of certain motor vehicles into a main thoroughfare;

(j) the use of a hooter, bell or other warning device and the conditions under which any such warning device may be used within any specified area, whether at all times or during specified periods;

(k) the appointment of an advisory traffic control board consisting of not fewer than three members to advise the local authority on all questions of traffic control;

(l) the use of any public road by traffic in general;

(m) the limitation of the age of drivers of vehicles drawn by animals;

(n) any form or token which a local authority may deem expedient for the purposes of any by-law and the nature and extent of any information to be furnished for the purpose of any such form;

(o) the fees to be charged for any purpose contemplated in this section;

(p) the enabling of any local authority in the event of any person failing to do anything required of him under any by-law, to do such act and to recover the expenses thereof from the person so in default;

(q) the mass of any goods which or the number of passengers who or animals which may be conveyed on a pedal cycle;

(r) the regulation, restriction, prohibition or control of the parking upon public roads of vehicles owned, kept or used by dealers or which have been placed in their custody or under their control in the course of any dealer's business carried on by them; and

(s) any other matter in regard to which a local authority may make by-laws under this Act.

(2) The power to make by-laws for any purpose referred to in subsection (1) shall include the power to restrict or prohibit any matter or thing in relation to that purpose, either absolutely or conditionally.

(3) Any by-law under subsection (1) may be made to apply generally throughout the area of the local authority or within any specified part thereof or to any specified category of vehicle or person.

(4) In so far as any by-law of a local authority, whether made under this Act or any other law, may be inconsistent with any regulation under this Act, the regulation shall prevail.

(5) Any by-law made under this section may provide for penalties for a contravention thereof, and may also provide for different penalties in case of successive or continuous breaches, but no penalty shall exceed a fine of R2 000 or imprisonment for a period of six months or both such fine and such imprisonment.

CHAPTER 12

REGISTERS AND RECORDS

126. Registers or records to be kept. - (1) The Minister may by regulation prescribe the registers or records to be kept by -

- (a) a driver's licence testing centre;
- (b) a testing station;
- (c) a registering authority;
- (d) any court convicting a person of an offence under this Act;
- (e) any local authority;
- (f) the Director-General;
- (g) a department of State; and
- (h) any person determined by the Minister by notice in the *Gazette* for the purposes of section 14.

(2) The prescribed particulars shall be recorded in the prescribed manner in the registers and records referred to in subsection (1).

(3) Any authority referred to in subsection (1) shall in the manner and at such intervals as are prescribed furnish the Department or any person or body designated by the Minister with information recorded in a register or record of such authority, and the Minister shall from the information so furnished compile or cause to be compiled such register or record as he may deem fit.

(4) The Minister may prescribe that any authority shall keep such additional registers or records as he may deem expedient.

127. Copy of entry in register or record to be in evidence. - (1) A document purporting to be an extract from, or a copy of, any register or record kept in terms of this Act and purporting to be certified as such shall in any court and upon all occasions whatsoever be admissible as evidence and shall be *prima facie* evidence of the truth of the matters stated in such document without the production of the original register or record or any certificate, licence, other document, microfiche, microfilm or computerized record from or of which such extract or copy was made.

(2) The information contained in a register or record kept for the purposes of this Act shall be furnished to -

- (a) a traffic officer or inspector of licences who requires it for the performance of his duties;
- (b) any person authorized thereto by the Minister to demand such furnishing;
- (c) any department of State;
- (d) a competent authority in a prescribed territory; or
- (e) a local authority;

Provided that the consent of the Minister or any person authorized thereto by him shall be obtained before such information is furnished to an authority referred to in paragraph (d).

(3) Any authority keeping a register or a record in terms of section 126 shall, upon payment of the prescribed fees, furnish information from such register or record to any person who, in the opinion of such authority, on reasonable grounds requires such information.

128. Cognizance may be taken of information contained in register or record. - The Minister may, in exercising a discretion or taking a decision in terms of this Act, take cognizance of the information contained in a register or record contemplated in section 126.

CHAPTER 13

GENERAL PROVISIONS

129. Exemption from provisions relating to parking. - Notwithstanding anything to the contrary contained in any law, a local authority may, in such circumstances and subject to such conditions as it may deem expedient, exempt -

- (a) a medical practitioner,
 - (b) a registered nurse or midwife as defined in section 1 of the Nursing Act, 1984 (Act 13 of 1984), or
 - (c) any person who, in the opinion of such local authority, by reason of a permanent disability has substantial difficulty in walking or is unable to walk,
- from the provisions of any law relating to the parking of a motor vehicle in force within its area.

130. Doubt concerning use or classification of motor vehicle. - If for the purposes of this Act doubt arises as to the use to which any vehicle is put or the classification of any vehicle, such matter shall be referred to the Minister and his decision in regard thereto shall be final.

131. Vehicle and load may be exempted from provisions of this Act. - The Minister may, subject to such conditions and upon payment of such fees or charges as he may determine, authorize in writing, either generally or specifically, the use on a public road of a vehicle which does not comply with the provisions of this Act or the conveyance on a public road of passengers or any load otherwise than in accordance with the provisions of this Act.

132. Minister may authorize certain refunds. - (1) With the concurrence of the Treasury the Minister may, if he is satisfied that any amount paid by a person was in excess of the amount properly chargeable under this Act, authorize a refund of such amount or of any part thereof to such person.

(2) The Minister shall not authorize any refund under this section unless the claim therefor is received by the registering authority within three years after the date of the payment concerned.

133. Inspections for ensuring compliance with provisions of this Act. - (1) The Minister may authorize any person to carry out any inspection which the Minister deems necessary in order to ensure that the provisions of this Act are being complied with.

(2) If the Minister delegates the power conferred upon him by subsection (1) to the Director-General, the latter may authorize any officer of the Department to carry out the inspection on his behalf.

(3) No person shall obstruct or hinder any person in the carrying out of an inspection referred to in subsection (1).

134. Variation of prescribed form. - The Minister may, in such circumstances as he may deem expedient, authorize a registering or other authority to use, in substitution for a form prescribed for a particular purpose, a form which varies from such prescribed form and in respect of such authority such varied form shall be deemed to be the prescribed form for that purpose.

135. Duplicate of document or token. - (1) Subject to the provisions of subsection (3) -

- (a) a registering authority which is satisfied that a certificate, licence or other document or token issued in terms of this Act by means of a computer under the control of the State, or

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(b) a registering authority or other authority which is satisfied that a certificate, licence or other document or token, other than a document or token contemplated in paragraph (a), issued by it in terms of this Act,

has been lost, destroyed or defaced or that the figures or particulars thereon have become illegible shall, upon receipt of an application on the prescribed form and upon payment of the prescribed fees, issue a duplicate of such certificate, licence or other document or token to the person who, in the opinion of such authority, is entitled thereto, with the word "DUPLICATE" written thereon: Provided that a duplicate of a learner's licence or a driver's licence not contained in an identity document and which was issued in accordance with section 20(4) or 21(5) or a professional driving permit shall be issued only to the person to whom the original licence or permit was issued.

(2) An application for a duplicate of a licence or a permit referred to in the proviso to subsection (1) shall be accompanied by two copies of a photograph as prescribed of the holder of the licence or permit concerned and the registering authority shall attach one copy of such photograph to the duplicate and retain the other copy for record purposes.

(3) A duplicate of a driver's licence contained in an identity document shall only be issued by the Director-General of Internal Affairs upon payment of such fees as he may determine and only when he deems it necessary.

(4) If, after the issue of a duplicate in terms of subsection (1) or (3) the original certificate, licence or other document or token is found the person to whom the duplicate was issued shall take all reasonable steps to obtain possession thereof and return it forthwith to the authority which issued the duplicate.

136. Issue of document as proof of driver's licence in special circumstances. - (1) Notwithstanding anything to the contrary contained in this Act, the Director-General of Internal Affairs or any person authorized thereto by him may, upon receipt of an application on the prescribed form and upon payment of such fee as that Director-General may determine, issue to any person who is the holder of a driver's licence which is or was contained in an identity document a document certifying that such person is the holder of a driver's licence and that there is no objection against the issue of a driver's licence to such person in a prescribed territory, provided -

(a) the said identity document ceased to be of force and effect in respect of the applicant for the reason that he has ceased to be a citizen of Ciskei; or

(b) the Director-General of Internal Affairs or any person authorized to act on his behalf satisfies himself that the said identity document has been lost or, in so far as it relates to the driver's licence, that it has been destroyed or defaced or the figures or particulars thereon have become illegible.

(2) An application referred to in subsection (1), shall be accompanied by two photographs as prescribed of the applicant and the Director-General of Internal Affairs or any person authorized to act on his behalf shall attach one photograph to such document and retain the other photograph for record purposes.

137. Signature upon documents. - Any person who is unable to sign his name shall, whenever his signature is required upon any document in terms of this Act, impress in place thereof his right thumb print upon the space within which he would otherwise have been required to sign his name and, if his right thumb print is not available, he shall substitute therefor another of his fingerprints and in such latter event the document so marked shall then be endorsed by the officer in whose presence the print was made, identifying the finger used.

138. Service of notices. - (1) Whenever in terms of this Act any notice is authorized or required to be served upon or issued to any person, such notice shall either be served personally upon the person to whom it is addressed or be sent to him by registered post to his last known address: Provided that the address furnished by the holder of a driver's licence at the time of his application for such licence or recorded against his name in a register of drivers' licences or if there is no such record the address recorded against the registration of a vehicle in a register of motor vehicles as the address of the owner of such vehicle shall serve as his domicile of summons and execution for all purposes arising from or for the purposes of this Act for the service of notices, post or processes on such person.

(2) Service by registered post in terms of subsection (1) shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice.

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(3) A certificate by the officer who issued the notice referred to in subsection (1) or by a person subordinate to such officer stating the time, place and manner of issuing such notice shall be evidence that such notice was duly issued, unless and until the contrary is proved.

139. State bound by Act. - This Act shall bind the State and any person in the service of the State: Provided that the Minister may by notice in the *Gazette* exempt the State or any department thereof or any such person from any provision of this Act, subject to such conditions as the Minister may determine.

140. Offences and penalties. - (1) Any person who contravenes or fails to comply with any provision of this Act or with any direction, condition, demand, determination, requirement, term or request thereunder, shall be guilty of an offence.

(2) Any person convicted of an offence in terms of subsection (1) read with section 83(2) or 114(1) or (2) shall be liable to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) Any person convicted of an offence in terms of subsection (1) read with section 12(1), 20(5), 21(6), 56(5), 77(4), 110(2), 115(3) or 117 shall be liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(4) Any person convicted of an offence in terms of subsection (1) read with section 110(1) shall be liable -

(a) in the case of a death of or an injury to a person where it is proved that the person convicted has failed to comply with paragraph (a), (b), (c) or (f) of section 110(1) to a fine not exceeding R4 000 or to imprisonment for a period of not exceeding one year or to both such fine and such imprisonment;

(b) in the case of damage in respect of any property or animal of another person where it is proved that the person convicted has failed to comply with paragraph (a), (d) or (f) or section 110(1), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; or

(c) where it is proved that he has failed to comply with paragraph (e) or (g) of section 110(1), to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) Any person convicted of an offence in terms of subsection (1) read with section 112(1) shall be liable -

(a) in the case where the court finds that the offence was committed by driving recklessly, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; or

(b) in the case where the court finds that the offence was committed by driving negligently, to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(6) Any person convicted of an offence in terms of any other provision of this Act shall be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(7) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall be competent to impose any penalty provided for in this Act.

141. Apportionment of fees. - All fees paid in terms of this Act shall be paid into the Ciskeian Revenue Fund.

142. Apportionment of fines. - (1) Subject to sections 6 and 8 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act 11 of 1977) and section 341(2)(b) of the Criminal Procedure Act, 1977 (Act 51 of 1977), all fines imposed or moneys estreated as bail in respect of any offence in terms of this Act shall be paid into the Ciskeian Revenue Fund.

(2) All fines imposed and moneys estreated as bail in respect of any offence under any by-law made in terms of this Act shall be paid to the authority to which any such by-law is applicable.

143. Delegation of powers or duties. - (1) The Minister may -

(a) delegate to any other person any power conferred upon him by this Act, other than the power conferred by section 124; and

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(b) authorize any other person to perform any duty assigned to the Minister by this Act,
and may effect such delegation or grant such authorization subject to such conditions as he may deem fit.

(2) The Director-General may -

(a) delegate to any other person any power conferred upon him by or under this Act; and

(b) authorize any other person to perform any duty assigned to the Director-General by or under this Act,
and may effect such delegation or grant such authorization subject to such conditions as he may deem fit.

(3) Any delegation effected or authorization granted under subsection (1) or (2) may at any time be withdrawn by the Minister or by the Director-General, as the case may be.

144. Repeal of laws. - (1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.

(2) Any regulation in force and any notice, order, prohibition, authority, appointment, permission, information or document made, issued, imposed, granted or given and any other action taken under any provision of a law repealed by subsection (1) shall be deemed to be in force or to have been made, issued, imposed, granted, given or taken under the corresponding provision (if any) of this Act.

(3) Any person deemed under subsection (2) to be appointed in any capacity or post under this Act but who does not comply with any requirement or possess any qualification demanded or required in terms of this Act for appointment in such capacity or post, shall within such period as the Minister may from time to time determine comply with such requirements or obtain such qualification.

145. Short title and commencement. - (1) This Act shall be called the Ciskeian Road Traffic Act, 1989, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different -

(a) persons or goods or categories of persons or goods transported by means of a motor vehicle;

(b) kinds or classes of motor vehicles used in the transportation of persons or goods; or

(c) persons or categories of persons.

(3) More than one of the elements referred to in paragraphs (a) to (c), inclusive, of subsection (2) may be combined for the purposes of that subsection.

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SCHEDULE

LAWS REPEALED

No. and year of law	Short title	Extent of Repeal
(a) Acts		
Act 10 of 1977	Ciskeian Road Traffic Act, 1977	The whole
Act 11 of 1978	Ciskeian Road Traffic Amendment Act, 1978	The whole
Act 13 of 1980	Ciskeian Road Traffic Amendment Act, 1980	The whole
Act 34 of 1983	Revenue Laws Second Amendment Act, 1983	Sections 10 & 11
Act 9 of 1989	Road Traffic Amendment Act, 1989	The whole
(b) Ordinances		
Ordinance 12 of 1973	Road Traffic Amendment Ordinance, 1973	The whole
Ordinance 4 of 1975	Road Traffic Amendment Ordinance, 1975	The whole
Ordinance 13 of 1975	Road Traffic Second Amendment Ordinance, 1975	The whole
Ordinance 6 of 1976	Road Traffic Amendment Ordinance, 1976	The whole
Ordinance 12 of 1977	Road Traffic Amendment Ordinance, 1977	The whole
Ordinance 10 of 1979	Road Traffic Amendment Ordinance, 1979	The whole
Ordinance 18 of 1980	Road Traffic Amendment Ordinance, 1980	The whole
Ordinance 30 of 1980	Road Traffic Second Amendment Ordinance, 1980	The whole
Ordinance 7 of 1981	Road Traffic Second Amendment Ordinance, 1981	The whole
Ordinance 8 of 1981	Road Traffic Amendment Ordinance, 1981	The whole
Ordinance 10 of 1982	Road Traffic Amendment Ordinance, 1982	The whole
Ordinance 3 of 1983	Road Traffic Amendment Ordinance, 1983	The whole
Ordinance 12 of 1983	Road Traffic Second Amendment Ordinance, 1983	The whole
Ordinance 3 of 1984	Road Traffic Amendment Ordinance, 1984	The whole
Ordinance 8 of 1984	Road Traffic Third Amendment Ordinance, 1984	The whole
Ordinance 18 of 1984	Road Traffic Second Amendment Ordinance, 1984	The whole
Ordinance 8 of 1985	Road Traffic Amendment Ordinance, 1985	The whole
Ordinance 8 of 1986	Road Traffic Second Amendment Ordinance, 1986	The whole
Ordinance 12 of 1986	Road Traffic Amendment Ordinance, 1986	The whole
(c) Proclamation		
Proclamation 25 of 1988	—	The whole

UMTHETHO WASECISKEI WEZIHAMBA-NDLELENI, 1989

UMTHETHO

Ukulungelelanisa nokulungisa imithetho ephathelele ekubhalisweni nasekufakelweni kweelayisenisi kwizithuthi ezizimoto nakwezinye izithuthi nokunikezelwa kweelayisenisi kubaqhubi bezi zithuthi, nokulawulwa kwezithuthi ezihamba ezindleleni ezisetyenziswa nguwonke-wonke, nokubonelela ngeemfuno ezithile zomfaneleko kunye nemicimbi ezalwa koko.

(Okubhalwe ngesiNgesi kusayinwe nguMongameli. Kwavunywa ngomhla we 5 Oktoba 1989)

MAKWENZIWE UMTHETHO yiNdibano yeSizwe yaseCiskei ngolu hlobo lulandelayo:-

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1. Ingcaciso-magama. - Kulo Mthetho, ngaphandle kokuba ingxam yalatha ngakumbi —

“inqwelo yezigulana” ithetha isithuthi esiyimoto esakhiwe ngohlobo oluthile olulodwa esilungiselelwe injongo zokuthwala abantu abagulayo okanye abonzakeleyo ukuya okanye ukusuka kwindawo apho banokuzuza khona unyango, nesibhaliswe njengenqwelo yezigulana;

“isithuthi esiyimoto esixokonyezelelweyo” sithetha intlanganisela yezithuthi ezizimoto ekukho kuyo itrektara ebulo, nento esabusikhotshira;

“igosa eligunyazisiweyo” lithetha igosa lendlela, umhloli weelayisenisi, umhloli wezithuthi okanye umvavanyi wabafuna iilayisenisi zokuqhuba, yaye kubandakanywa nawuphina omnye umntu onokuthi uMphathiswa amaxesha ngamaxesha ambhengeze ngokwemigaqo ethile njengegosa eligunyazisiweyo;

“uSlenge” uthetha isithuthi esiyimoto esenzelwe nesilungiselelwe kuphela injongo zokurhuqa okanye zokuhlangula izithuthi ezizimoto, nesibhaliswe njengoSlenge;

“ibhulorho” ibandakanya ikholvethi kunye nomchankatho;

“ibhasi” ibandakanya isithuthi esiyimoto esenzelwe okanye esilungiselelwe ukuthwala abantu abali-16 nangaphezulu (kubandakanywa nomqhubi);

“ngesinxuluma-mthetho” kuthethwa ± isinxuluma-mthetho ekuthethwe ngaso kwicandelo 125;

“ngomxokelelwane wezithuthi ezizimoto” kuthethwa izithuthi ezizimoto ezibini nangaphezulu ezixokonyezelweyo;

“ngeNkongolo” kuthethwa iNkongolo yeZizwe ngeZizwe ephathelele kwizithuthi zeNdlela (paris, 1926), iNkongolo yaMazwe aManyeneyo yeziHamba ndleleni (Geneva 1949) okanye iNkongolo yaMazwe aManyeneyo engeziHamba ndleleni (Vienna, 1968) nayo nayiphina enye iNkongolo eyeleleyo ebanjwe emva koko nethe yavunywa ngokusesikweni nezigqibo zayo zisebenzayo kummandla omiselweyo nakwiRiphabliki yeCiskei, naso nasiphina isilungiso sayo;

“ngomngcelele wezithuthi ezizimoto” kuthethwa isithandathu nangaphezulu sezithuthi ezizimoto ezihamba zili qela endleleni;

"ngomthengiseli ngetyala" kuthethwa umthengiseli ngetyala, ochazwe kwiCandelo 1 loMthetho weeMvumelwano zokuthenga ngetyala;

"nqumla" okanye nayiphina intetho enjalo, kuthethwa ukuhamba kwindlela kawonke-wonke usiya kwicala elinqamla ukuhamba ngesiqhelo kwezihamba-ndleleni kuloo ndlela;

"iSebe" kuthethwa iSebe loThutho;

"iSebe loMbuso" kuthethwa iSebe elikhankanywe kwiShedyuli 1 yoMthetho weNkonzo yobuRhulumente, 1981 (uMthetho 2 wowe-1981);

"ngoMlawuli Jikelele" kuthethwa uMlawuli Jikelele: ezoThutho;

"ngoMqhubi" kuthethwa nawuphina umntu oqhuba okanye othi azame ukuqhuba nasiphina isithuthi okanye okhwele okanye ozama ukukhwela nayiphina ibhayisekile enyawuzwayo okanye okhokhela nasiphina isilwanyana esitsala umthwalo, esithwele umthwalo nesikhwelweyo okanye nawuphina umhlambi wezilwanyana, yaye ngokuqhuba, okanye naliphina elinye igama eliyeleleyo, likwanentsingiselo ekwafanayo.

"ngelayisenisi yomqhubi" kuthethwa ilayisenisi yomqhubi ekubhekiselelwe kuyo kwiSahluko 3;

"ngeziko lokuvavanya abaqhubi ngeenjongo zokuba bafumane ilayisenisi zokuqhuba" kuthethwa elo ekubhekiselelwe kulo kwicandelo 7; (iziko lokuvavanya abaqhubi ngeenjongo zokuba bafumane ilayisenisi zokuqhuba);

"ngomvavanyi wabenze izicelo zelayisenisi yokuqhuba" kuthethwa umvavanyi wabenze izicelo zelayisenisi yokuqhuba owalathelwe ngokwecandelo 3;

"ngesithuthi sokucima umlilo" kuthethwa isithuthi esiyimoto esenzelwe okanye esilungiselelwe kuphela okanye ubukhulu becala ukucima imililo nesibhaliswe njengesithuthi sokucima umlilo;

"indlela kawonke-wonke" kuthethwa indlela kawonke-wonke okanye inxenye yendlela kawonke-wonke ethe yaxelwa ukuba yindlela kawonke-wonke ngomqondiso ofanelekileyo wezinto ezihamba ngendlela;

"ngempahla" kuthethwa nayiphina ipropati enokufuduseka;

"ngobunzima obudityanisiweyo bubonke" ngokuphathelele kwisithuthi esiyimoto, kuthethwa obona bunzima buphezulu bazo naziphina izithuthi ezizimoto, ezixokonyezelweyo, kubandakanywa nesi sithuthi sitsalayo nomthamo womthwalo njengoko uchaziwe ngumenzi waso, okanye kwimeko apho zingekhoyo iinkcukacha ezilolo hlobo, njengoko kumiselwe ligosa elibhalisayo;

"ngobunzima besithuthi bubonke" kuthethwa obona bunzima buphezulu, beso sithuthi kunye nomthwalo waso, njengoko buchaziwe ngumenzi waso, okanye kwiimeko apho ingekhoyo inkcazelo enjalo, njengoko kumiselwe ligosa elibhalisayo;

"ngesazisi" kuthethwa isazisi njengoko sichaziwe kwicandelo 1 loMthetho woBhaliso lwaBantu waseCiskei, 1981 (UMthetho 15 wowe-1981);

"ngomhloli weelayisenisi" kuthethwa umhloli weelayisenisi owalathelwe ngokwecandelo 3;

"ngentengiso ngezavenge" kuthethwa intengiso ngezavenge njengoko ichaziwe kwicandelo 1 loMthetho weeMvumelwano zokuThenga ngeTyala, 1980;

"ngomhloli" kuthethwa umntu othi ngendlela ethe ngqo okanye ngendlela engathanga ngqo, afumane umvuzo -

(a) ngokufundisa nawuphina omnye umntu ukuqhuba isithuthi esiyimoto;

(b) ngokufundisa nawuphina omnye umntu imithetho yendlela okanye imiqondiso elungiselela ukuba afumane ilayisenisi yabafundayo okanye eyokuqhuba.

"ngephephamvume lokuqhuba nakwamanye amazwe" kuthethwa iphephamvume lokuqhuba nakwamanye amazwe elikhutshwe ngokweNkongolo ethile okanye elivunyiweyo ngokwaloo Nkongolo.

"ngendawo ezinqumlezana kuyo iindlela" kuthethwa ummandla ophakathi kweziphelo zeendlela ezimbini nangaphezulu zikaWonke-wonke, novulelekileyo kwizithuthi ezihamba ngendlela, ezithi zihlangane, nokuba enye kwezo ndlela iyayinqumla enye nokuba ayenjenjalo;

"ngelayisenisi yokufunda ukuqhuba" kuthethwa, ilayisenisi yokufunda ukuqhuba ekubhekiselelwe kuyo kwisahluko 3;

"ngemvumelwano yokuqeshisa" kuthethwa imvumelwano yokuqeshisa njengoko ichazwe kwiCandelo 1 loMthetho weeMvumelwano zokuThengisa ngeTyala, 1980;

"ngokkhohlo" kuthethwa ukhohlo oluqikelelwe ngembekiselelo kwicala elingasekhohlo kulowo uphakathi kwisithuthi okanye kwelo esiya ngakulo isithuthi, isilwanyana okanye umntu ngelo xesha kuthethwa ngalo;

"ngogunyaziwe wendawo" kuthethwa uMasipala osekwe okanye ekuthatyathwa ngokungathi usekwe ngokoMthetho wooMasipala, 1987 (UMthetho 17 wowe-1987), yaye kubandakanywa naliphina elinye iziko laloo eliyeleleyo, nelibhengezwe nguMphathiswa kwiGazethi njengogunyaziwe waloo ndawo, ukulungiselela iinjongo zalo Mthetho;

"ngomantyi" kubandakanywa umantyi ongomnye owongeziweyo, nomantyi olisekela;

"ngomenzi" kuthethwa umntu, othi ngeenjongo zeshishini lakhe lokuthengisa izithuthi ezizimoto, enze okanye adibanise izithuthi ezizimoto ezintsha;

"ngegosa lonyango" kuthethwa nawuphina umntu obhaliswe njalo ngokwaseMthethweni woBungcali-mfundo kwezeMpilo nemiSebenzi yeMpilo eNxulumeneyo, 1984 (UMthetho 36 wowe-1984);

"ngoMphathiswa" kuthethwa uMphathiswa wezoThutho.

"ngebhasana" kuthethwa isithuthi esiyimoto esenzelwe okanye esilungiselelwe ukuthwala abantu abangaphezu kwesi-9, nabangaphantsi kwe-17 (kubandakanywa nomqhubi);

"ngesithuthuthu esiyimoto" kuthethwa isithuthuthu esiyimoto esinamavili amabini, yaye kubandakanywa nasiphina isithuthi esinjalo esinendawo yokufaka impahla;

"ngomthengisi weemoto" kuthethwa nawuphina umntu -

(a) oqhuba umsebenzi wokuthenga, wokuthengisa, wokutshintshisa nowokukhanda izithuthi ezizimoto ekufuneka zibhalisiwe zifakelwe neelayisenisi ngokwalo Mthetho, okanye ofakela iindawo ezithile kuzo; yaye

(b) onelayisenisi ayikhutshelwe ngokoMthetho weeLayisenisi, 1982 (uMthetho 22 wowe-1982) apho, ngokwalo Mthetho, ilayisenisi enjalo iyimfuneko, xa umntu eza kuqhuba nawuphina umsebenzi ekubhekiselelwe kuwo kumhlathi (a);

"ngetrayisekile" kuthethwa isithuthi esiyimoto, ingesiso isithuthuthu okanye itrektara, esinama-vili amathathu, nesenziwa ngendlela yokuba siqhutywe ngohlobo ekuqhutywa ngalo isithuthuthu; **"ngesithuthi esiyimoto"** kuthethwa nasiphina isithuthi esinomxokelelwana wokuhambisa, yaye kubandakanywa -

(a) isikhotshi; kunye

(b) nesithuthi esinemicephe nenjini okanye injini yombane eziyinxenye yaso, okanye oxoko-nyezelelwe kuso nesenzelwe okanye esilungiselelwe ukuba sihanjiswa ngokusebenzisa loo mcephe, okanye injini, okanye zombini ezi ukutsho oko imicephe nenjini okanye nenjini yombane, kodwa akubandakanywa -

(i) nasiphina isithuthi esihanjiswa ngamandla ombane avela kwiibhetri, nesilawulwa ngumntu ohamba ngeenyawo; okanye

(ii) nasiphina isithuthi esibunzima bungekho ngaphezulu kwama-230 kg, esenzelwe nesakhelwe kuphela, ingesiso esilungiselelwe nje, ukusetyenziswa nguye nawuphina umntu olimeleyo okanye okhubazekileyo nesisetyenziswa kuphela nguloo mntu unjalo;

"ngokusebenzisa indlela kawonke-wonke" okanye naliphina ibinza lentetho eliyeleleyo, ngokuphathelele kwisithuthi kuthethwa ukusebenzisa okanye ukuqhuba isithuthi okanye ukuvumela ukuba kusetyenziswe okanye kuqhutywe isithuthi endleleni kawonke-wonke okanye ukuba nephepha-mvume okanye ukuvumela isithuthi ukuba sibe sendleleni kawonke-wonke;

"ngomsebenzisi" kuthethwa loo mntu olusemagxeni akhe uxanduva lokusebenzisa isithuthi salo naluphina udidi ekuthethwe ngalo kwisaHluko 5 nothe wabhaliswa njengomsebenzisi weso sithuthi;

"ngomnini" ngokuphathelele kwisithuthi, kubandakanywa -

(a) abanini abangomahlulelwane okanye umnini ongumlingane weso sithuthi;

(b) nawuphina umntu ongumthengi weso sithuthi ngokwemvumelwano yentengiso yezavenge okanye ongumqeshi weso sithuthi ngokwemvumelwano yokuqeshisa yethuba elingekho ngaphantsi kweenyanga ezili-12, kodwa akubandakanywa onikisa ngetyala okanye umqeshisi ngokwayo nayiphi na imvumelwano eloo hlobo;

(c) nawuphi na umntu ekubhekiselelwe kuye kumhlathi (b) ngalo naliphi na ithuba apho loo mntu athe wasilela ukusibuyisela eso sithuthi kothengisa ngetyala okanye kumqeshisi ngokuhambisana nezibhambathiso zakhe zokwenjenjalo ngokwemvumelwano yaloo ntengiso yeza-venge okanye ngokwemvumelwano yengqeshiso, ngokwemeko leyo, kodwa ngalo naliphina ithuba elinjalo ungabandakanyi othengisa ngetyala okanye umqeshisi ngokwayo nayiphina imvumelwano elolo hlobo; okanye

(d) umthengisi weemoto onesithuthi esikhe sasetyenziswa naza kusithengisa; yaye "ngoyeyomniniyo" okanye naliphina igama eliyeleleneyo, linentsingiselo ekwafanayo; "ngokupaka" kuthethwa ukumisa isithuthi, nokuba kukho abantu ngaphakathi kuso, nokuba abakho, ithuba elidana kunelo belinokufuneka xa kulayishwa okanye kusihliswa abantu okanye imphahla, kodwa kungabandakanywa nakuphina ukumiswa kweso sithuthi ngesizathu esingaphandle kolawulo lomntu esiphantsi kolawulo lwakhe eso sithuthi sinjalo;

"ngebhayisekile enemicephe" kuthethwa nayiphina ibhayisekile okanye itrayisekile eyenzelwe ukuba ihanjiswe kuphela ngamandla omntu;

"ngendawo yokunqumla abahamba ngeenyawo" kuthethwa -

(a) loo nxenye yendlela kawonke-wonke apho kunqumlezana khona iindlela ezimbini nebandakanywe phakathi kongqameko lwenye indlela nesiphelo senye, nokuba loo nxenye iphawulwe nokuba ayiphawulwanga kusinina; okanye

(b) nayiphina enye inxenye yendlela kawonke-wonke ephawulwe njengendawo yokunqumla abahamba ngeenyawo ngemiqondiso efanelekileyo yendlela;

"ngokumisela" kuthethwa ukumisela ngokwemigaqo, yaye "emiselweyo" kuya kuthatyathwa njengegama elikwathetha oko;

"ngommandla omiselweyo" kuthethwa -

(a) naliphina iPhondo leRiphabliki yoMzantsi Afrika, kubandakanywa nawuphina ummandla ozilawulayo okwelo Phondo;

(b) nawuphina umbuso (ingenguwo owaseCiskei) obufudula uyinxenye yeRiphabliki yoMzantsi Afrika;

(c) nawo nawuphina omnye umbuso okanye ummandla obhengezwe nguMphathiswa kwi *Gazethi* njengommandla omiselweyo;

"ngomqhubi oyingcali" kuthethwa umqhubi wesithuthi esiyimoto emsebenzisi waso ubhali-siweyo;

"ngephepha-mvume lokuba ngumqhubi oyingcali" kuthethwa ngephepha-mvume lokuba ngumqhubi oyingcali ekubhekiselelwe kulo kwisahluko 3;

"ngephondo" kuthethwa iPhondo leRiphabliki yoMzantsi Afrika;

"ngendlela kawonke-wonke" kuthethwa nayiphina indlela, isitalato okanye isitalato esinqumlayo, okanye ngaphandle kweenjongo zecandelo 80, nayiphina indawo (nokuba sisitalato esinqumlayo, nokuba akunjalo) esetyenziswa nguwonke-wonke, okanye nayiphina inxenye yakhe, okanye ekuvumelekileyo ukuba uwonke-wonke okanye nayiphina inxenye yakhe ingayisebenzisa, yaye ibandakanya -

(a) isiphelo sayo nayiphina indlela, isitalato okanye isitalato esinqumlayo esinjalo;

(b) nayiphina ibhulorho, ipantu, okanye izibuko elinqunyulezwa yiyo nayiphina indlela, isitalato, okanye isitalato esinqumlayo esinjalo;

(c) nawuphina omnye umsebenzi okanye into eyinxenye, okanye eqhagamshelwe okanye eyiyeyendlela, isitalato okanye isitalato esinqumlayo esinjalo;

"igosa elinegunya elibhalisayo" kuthethwa igosa elinegunya elibhalisayo ekubhekiselelwe kulo kwicandelo 2;

"ngomgaqo" kuthethwa umgaqo (ingesiso isinxuluma-mthetho) owenziwe ngokwalo Mthetho;

"ngomqondiso wezihamba-ndleleni" kuthethwa umqondiso wezihamba-ndleleni omiselwe ngokwecandelo 74;

"ngendlela yemoto" kuthethwa loo nxenye yendlela, yesitalato, okanye yesitalato esinqumlayo elungiselelwe, eyakhelwe eyenzelwe izithuthi ezihamba ngendlela, yaye kubandakanywa ezo ndawo ezaziwa ngokuba ludini;

"ngomfaneleko wokuba sendleleni" ngokuphathelele kwisithuthi, kuthethwa isithuthi esikumgangatho onguwo ngokwamalungiselelo alo Mthetho nesikwimeko elungele ukuba singaqhutywa endleleni kawonke-wonke;

"ngesatifikethi somfaneleko wokuba sendleleni" ngokuphathelele kwisithuthi esiyimoto, kuthethwa isatifikethi esikhutshwe ngokwecandelo 56;

"ngediski yomfaneleko wokuba sendleleni" kuthethwa idiski yomfaneleko wokuba sendleleni ekhutshwe ngokwecandelo 56;

"ngerobhothi" kuthethwa umqondiso wendlela othi ngokusebenza ngendlela yemiqondiso yezibane ezizisebenzelayo uyalele izinto ezihamba ngendlela ukuba zime okanye ukuba zihambe;

"ngommandla onikwe uMakaziphathe" kuthethwa ummandla onikwe uMakaziphathe njengoko uchaziwe kwicandelo 38(1) loMthetho woMgaqo-Siseko wamaZwe aziLawulayo, 1971 (UMthetho 21 wowe-1971) weRiphabliki yoMzantsi Afrika;

"ngento esabusikhotshi" kuthethwa isikhotshi esingena-asi ngaphambili nesenzelwe ukuba ubuncinane i-15% sobunzima baso bukhutshelwe okanye butyatha sisithuthi esirhuqa eso sikhotshi sinjalo;

"ngendledlana esecaleni" kuthethwa loo nxenye yesiphelo sendlela eyenzelwe ukuba kuhambe kuyo kuphela abahamba ngeenyawo;

"ngobunzima" ngokuphathelele kwisithuthi esiyimoto, kuthethwa ubunzima beso sithuthi silungele ukuhamba endleleni, yaye kubandakanywa nobunzima -

(a) bevili elililalela kunye nazo zonke ezinye izixokonyezelwa nezixhobiso ezikhutshwe ngumenzi weso sithuthi njengezifanelekileyo ukuba ziphume nesithuthi solo didi;

(b) bayo nayiphina into ekwakhiwe ngayo eso sithuthi;

(c) bayo na; yiphina into efakelwe kweso sithuthi, neya kuthi yenze inguqulelo eya kuhlala ihleli;

(d) kwanobeebhethi, ukuba isithuthi esinjalo sinemixokelelwane eyenza ukuba sizihambe ngokusebenzisa amandla ombane, kodwa akubandakanywa bunzima -

(i) bamafutha okanye

(ii) bayo nayiphina into efakelwe kweso sithuthi engeyiyo eyodidi olukhankanywe kumhlathi (b) no (c);

"ngokwelakwela" kuthethwa isithuthi esiyimoto esisetyenziselwa ukuthutha abantu ngokuthi bayiqeshe okanye bakhuphe isipho;

"ngeziko lovavanyo" kuthethwa iziko lovavanyo labantu abenze izicelo zeelayisenisi;

"ngesikhululo sovavanyo" kuthethwa isikhululo sovavanyo lwezithuthi ezizimoto esisekwe ngokwecandelo 7;

"ngalo Mthetho" kubandakanywa imigaqo;

"ngetrektara" kuthethwa isithuthi esiyimoto esenzelwe nesilungiselelwe ukutsala ezinye izithuthi, ingekuko ukuthwala nawuphina umthwalo, kodwa kubandakanywa itrektara eyinqwelo;

"ngeleyini yezithuthi ezihamba endleleni" kuthethwa isahlulo sendlela kawonke-wonke esibubanzi banele ukuba kungahamba umtyino omnye wezithuthi;

"ngegosa lendlela" kuthethwa igosa lendlela elinyulelwe esihlalweni ngokwecandelo 3, yaye kubandakanywe naliphi na ilungu loMkhosi njengoko kuchaziwe kwicandelo 1 loMthetho wamaPolisa, 1983 (UMthetho 32 wowe-1983);

"ngesikhotshi" kuthethwa isithuthi esingenamxokelelwane wokwenza ukuba sizihambe nesenzelwe okanye nesilungiselelwe ukutsalwa sisithuthi esiyimoto, kodwa esingabandakanywa ndawo isecaleni yokufaka impahla efakelwe apha ecaleni kwisithuthuthu esiyimoto;

"ngoSondyebo" kuthethwa uMphathiswa wezeMali noPhuhliso loQoqosho, yaye kubandakanywa naliphina igosa leSebe lakhe eliphantsi kwamagunya akhe;

"ngetrektara eyinqwelo" kuthethwa isithuthi esiyimoto esenzelwe okanye esilungiselelwe -

(a) ukutsala ezinye izithuthi; ingekuko

(b) ukuthwala nawuphina umthwalo, ingenguwo lowo ukhutshwe kuyo sisithuthi esisabunqwelo okanye sisizinzisi,

kodwa kungabandakanywa trektara;

"ngommandla wasezidolophini" kuthethwa loo nxenye yommandla wogunyaziwe wendawo ethe ngokuthi icandwe yahlula-hlulwa yaziierfu okanye ejikelezwe ziierfu ezicandiweyo yaye kubandakanywa iindlela zikawonke-wonke ezayame kuwo;

"ngesithuthi" kuthethwa into eyenzelwe okanye elungiselelwe ikakhulu ukuba ihambe ngamavili okanye ngamaqoqo okurhubuluza, ingeyiyo into -

(a) ehamba kuphela ngeziporo; okanye

(b) esetyenziswa -

(i) njengenxenye yezixhobiso zokurhuqa isithuthi esiyimoto eyenzelwe okanye elungiselelwe ukuhlangula ezinye izithuthi ezizimoto, neyaziwa ngentetho yemihla ngemihla njengesithuthi sokutsala izithuthi ezonakeleyo;

(ii) nesetyenziswa ukuxhasa iasi okanye zonke iiasi zeso sithuthi esiyimoto esihlangulwayo,

kodwa akubandakanywa nto injalo xa ithi isetyenziswe ngandlela yimbi endleleni kawonke-wonke;

"ngesiphelo" kuthethwa loo nxenye yendlela yesitalato okanye yesitalato esinqumlayo engekho kule ndawo kuhamba kuyo izithuthi;

ISAHLUKO 1

ABANAMAGUNYA OKUBHALISA, AMAGOSA, AMAZIKO OKUVAVANYA, NEZIKHULULO ZOKUVAVANYA

2. Ukwalathelwa esihlalweni kwabanamagunya okubhalisa. - Ukulungiselela iinjongo zalo Mthetho, uMantyi wesithili iya kuba nguye onegunya lokubhalisa kwisithili sakhe.

3. Ukwalathelwa esikhundleni kwamagosa. - Ngokulawulwa ngamalungiselelo alo Mthetho noMthetho weeNkonzo zasebuRhulumenteni, 1981, (UMthetho 2 wowe-1981) uMphathiswa angathi ukulungiselela loo mmandla uyiCiskei alathele nawuphina umntu onazo ezo zimiselo zomfaneleko -

(i) njengegosa lezendlela;

(ii) njengomhloli weelayisenisi;

(iii) njengomvavanyi wezithuthi; okanye

(iv) njengomvavanyi wabantu abenze izicelo zeelayisenisi zokuqhuba;

Phantsi kwento ethi uMphathiswa angathi alathele esikhundleni umntu ongafanelekanga ngolo hlobo ukuba ukwalathelwa kwakhe esikhundleni kukwisithuba sexesha lokulingwa njengoko kuxeliwe kwicandelo 12 loMthetho weeNkonzo zasebuRhulumenteni wowe-1981: Phantsi kwento ethi ngaphezulu oko kwalathelwa sikhundleni kunjalo kuya kuqinisekiswa ekupheleni kwexesha lokulingwa, ngaphandle kokuba loo mntu uchaphazelekayo sele efanelekile ngokwendlela leyo imiselweyo.

4. Ukuhlelwa ngokwamabakala kwamagosa. - UMphathiswa uya kulela ngokwamabakala nangokomfaneleko wakhe umntu ngamnye -

(a) othi emva kokuba liqalisile ukusebenza eli candelo alathelwe esihlalweni isigxina kuso nasiphina isikhundla seSebe ekubhekiselelwe kulo kwicandelo 3; okanye

(b) othi ngelo thuba lokuqalisa ukusebenza, abe usesikhundleni selo Sebe isigxina.

5. Indlela aya kuphawulwa ngayo amagosa. - Nawuphina umntu owalathelwa okanye ekuthatyathwa ngokungathi walathelwe esihlalweni ngokwecandelo 3 uya kuthi -

(a) abonelelwe ngesatifikethi esifanelekileyo seso sihlalo alathelwe kuso;

(b) xa esemsebenzini asiphathe kuye eso satifikethi; ze

(c) asiveze ukuze sikhangelwe nguye nabani na onomdla onokuthi afune ukusibona.

6. Intswela-kuziphatha yamagosa. - Igosa lendlela, umhloli weelayisenisi, umvavanyi wezithuthi okanye umvavanyi wabenze izicelo zeelayisenisi uya kubekwa ityala lentswela-kuziphatha ngokokwentsingiselo nangokweenjongo zeSahluko 5 soMthetho weeNkonzo zasebuRhulumenteni, 1981; ukuba -

(a) kwimeko yegosa lezendlela, yomhloli weelayisenisi okanye yomvavanyi wabenze izicelo zeelayisenisi zokuqhuba uthi afumane okanye ngokunokwakhe, okanye ngokusebenzisa indoda (okanye umfazi) okanye umlingane abe nenzuzo ayifumanayo yemali okanye yayo nayiphina into enxulumeneyo (nokuba kungendlela ethe ngqo okanye engathanga ngqo) kuso nasiphina isikolo sokuqhuba, okanye ekufundisweni, ekuqeqeshweni okanye kulawulo lwabaqhubi abangabafundi; okanye

(b) kwimeko yomvavanyi wezithuthi uthi afumane okanye abe nenzuzo eyimali ayifumayo (nokuba kungendlela ethe ngqo okanye engathanga ngqo) ekuthengisweni, ekulungisweni, ekwakhiweni kwakhona, ekuhlaziyweni okanye ekwenziweni kwezithuthi ezizimoto.

7. Amaziko ovavanyo lwabantu abenze izicelo zeelayisenisi zokuqhuba nezikhululo zovavanyo lwezithuthi ezizimoto. - (1) Ngokweenjongo zalo Mthetho, uMphathiswa angathi aseke okanye ngokwemeko leyo achithe amaziko ovavanyo lwabantu abenze izicelo zeelayisenisi zokuqhuba nezikhululo zovavanyo lwezithuthi ezizimoto.

(2) Ukusekwa okanye ukuchithwa kwamaziko ovavanyo lwabantu abenze izicelo zeelayisenisi zokuqhuba okanye kwezikhululo zovavanyo lwezithuthi ezizimoto kuya kwaziswa ngesaziso esiya kukhutshwa kwi-*Gazethi*;

(3) UMphathiswa uya kwenza ukuba onke amaziko ovavanyo nazo zonke izikhululo zovavanyo zihlolwe rhoqo ngumhloli onolwazi oluphangaleleyo ngazo ukwenzela ukuqinisekisa -

(a) ukuba nawuphina umgangatho wengqibelelo ebe kumiselwe ukuba zifikelele kuwo, uhlale ugciniwe;

(b) nokuba abavavanyi abenze izicelo zeelayisenisi zokuqhuba nabavavanyi bezithuthi babekwe ngokwamabakala ngendlela echanekileyo.

8. Amagunya nemisebenzi yomhloli weelayisenisi. - Ngaphezulu kwamagunya nemi-sebenzi ebekwe phezu kwamagxa akhe, kwenye indawo apha kulo Mthetho, umhloli weelayisenisi angathi, ngokulawulwa ngamalungiselelo alo Mthetho, okanye awo nawuphi na omnye umthetho -

(a) ngesaziso esibhaliweyo njengoko kumiselwe, angathi ayalele umnini, umsebenzisi, umqhubi okanye umntu esiselugcinweni lwakhe nasiphina isithuthi, naphina apho sithe safumane-
neka khona, sithi ngokokubona kwakhe singabikho kumgangatho wokuba sifumane isatifikethi somfaneleko wokuba sendleleni ekwenziwe amalungiselelo okuba sikhutshwe kulo Mthetho, okanye kuwo nawuphina omnye umthetho, ukuba asizise ukuze sibe nokuhlolwa okanye sibe nokuvavanywa eso sithuthi kwisikhululo sovavanyo solo didi lwesithuthi ngexesha nakwindawo emiselwe kweso saziyo;

(b) ngokuphathelele kuso nasiphina isithuthi esiyimoto, agunyazise umnini, umsebenzisi, okanye umqhubi waso ukuba akhuphe naluphina uxwebhu olufunwayo kuye ngokwalo Mthetho, okanye naluphina olunye uxwebhu oluyeleleyo olukhutshwe ngumntu onegunya ongaphandle kweCiskei;

(c) afune ukuba nawuphina umntu ofundisayo -

- (i) apho loo mntu ufundisayo esenza umsebenzi wokufundisa okanye wokuhlola omnye umntu ngokuqhuba isithuthi esiyimoto, ngoko nangoko; okanye
- (ii) apho lowo ufundisayo engenzi loo msebenzi kwisithuba seentsuku ezisixhenxe, aveze ubungqina bokubhaliswa kwakhe;

(d) aphonononge nasiphina isithuthi esiyimoto ukwenzela ukuba azanezise ngokuba ingaba eso sithuthi siso ngenene na esikhutshelwe uxwebhu ekubhekiselelwe kulo kumhlathi (b);

(e) athimbe naluphina uxwebhu ekubhekiselelwe kulo kumhlathi (b) elikhangeleka okanye elirhaneleka kuye linobuqhophololo okanye eliguqulwe okanye elikhangeleka liguqulwe ngokungekho mthethweni okanye elicinyiweyo okanye elisetyenziswa ngokungekho mthethweni, yaye lowo kuthinjwe kuye naluphina uxwebhu, uya kukhutshelwa irisithi yalo nguloo mhloli;

(f) afune ukuba umnini, umsebenzisi, umqhubi, okanye umntu esiselugcinweni lwakhe nasiphina isithuthi ngoko nangoko axele igama nedilesi yakhe, anike naziphina iinkcukacha ezizezinye ezifunwayo ukuze abe nokwaziwa, yaye apho isebenzayo, aveze nephepha-mvume lokuba ngumqhubi oqeshiweyo;

(g) ayalele nawuphina umntu ukuba aveze ilayisenisi emgunyazisa ukuba aqhube isithuthi esiyimoto, ze aveze naluphina olunye uxwebhu ekulindeleke ukuba abe unalo, ngokuphathelele kuso nasiphina isithuthi esiyimoto ngokwalo Mthetho;

(h) athimbe nayiphina ilayisenisi okanye uxwebhu alunikwe ngokomhlathi (g) olunokuthi ngokokubona kwakhe lube bubungqina botyeshelo okanye ukungathobeli nawaphina amalungiselelo alo Mthetho, yaye apho kuthe kwathinjwa njalo nayiphina ilayisenisi okanye uxwebhu, umhloli uya kukhuphela loo mntu uchaphazelekayo irisithi yayo;

(i) afune nawuphina umntu, nokuba loo mntu uphakathi kuso nasiphina isithuthi nokuba akunjalo, ukuba axele igama nedilesi yakhe, aze anikezele ngazo naziphina ezinye iinkcukacha ezifunwayo nezingqina ukuba nguye lowo, kwanezo zikhokelela ekubeni kwaziwe okanye kufunyanwe umnini, umsebenzisi okanye umqhubi weso sithuthi;

(j) afune ukuba nawuphina umntu amnike naziphina iinkcukacha ekusemandleni akhe ukuba angazikhupha nezingathi zikhokelele ekufunyanweni komqhubi, komnini, komsebenzisi okanye komntu esiselugcinweni lwakhe ngalo naliphina ixesha ngalo naliphina ithuba; okanye

(k) ngalo naliphina ixesha elifanelekileyo, eziqaphele kananjalo iimeko zetyala, ngaphandle kokwazisa, nasekusebenziseni kwakhe nawaphina amagunya, nasekwenzeni kwakhe nawuphina umsebenzi, ekuthi ngokwalo Mthetho abe ugunyazisiwe okanye kufuneka ukuba awasebenzise okanye awenze angene kuzo naziphina iintendezele anezizathu zokukholelwa ukuba kukho nasiphina isithuthi kuzo;

9. Amagunya nemisebenzi yomvavanyi wezithuthi. - (1) Umvavanyi wezithuthi angathi ahlale, aphonononge ze avavanye nasiphina isithuthi ukulungiselela ukuba aqonde ukuba ingaba sikufanele na ukuhamba endleleni, yaye ukulungiselela ezo njongo angathi asiqhaqhe isithuthi okanye nayiphina inxenye yaso, okanye izixhobiso okanye izixokonyezelwa zaso: Phantsi kwento ethi uya kuzibuyisela kwiindawo zazo ezo zinto aziqhaqhileyo, ngaphandle kokuba umntu esiselugcinweni lwakhe eso sithuthi umcele ukuba angakwenzi oko.

(2) Umvavanyi wezithuthi angathi aqhube nasiphina isithuthi xa kuyimfuneko ekwenzeni kwakhe umsebenzi wakhe, ukuba kwimeko yesithuthi esiyimoto, unelayisenisi yokuqhuba isithuthi esiyimoto solo didi luchaphazelekileyo.

10. Amagunya nemisebenzi yabavavanyi babantu abenze izicelo zeelayisenisi. - (1) Umvavanyi wabantu abenze izicelo zeelayisenisi zokuqhuba uya kumvavanya nawuphina umceli ngeenjongo zokuba afumane ilayisenisi yokufunda ukuqhuba okanye ilayisenisi yokuqhuba ngokwendlela okanye ngokuphathelele kwimicimbi njengoko imiselwe, ukuze abe nokuqonda ukuba loo mceli ukufanele na ukufumana ilayisenisi yokufunda ukuqhuba okanye ilayisenisi yokuqhuba yolo didi lwesithuthi ayifunela sona.

(2) Akukho mvavanyi wabenze izicelo zeelayisenisi zokuqhuba uya kuvavanya umceli ngeenjongo zokuba afumane ilayisenisi yokuqhuba ngokwecandelo 21 ngaphandle kokuba loo mvavanyi ngokwakhe unelayisenisi yokuqhuba isithuthi solo didi umceli enzele lona izicelo selayisenisi, okanye sodidi njengoko kumiselwe nothe wahlelwa ngokufanelekileyo.

11. Amagunya nemisebenzi yamagosa endlela. - Ukongeza kwimisebenzi namagunya abekwe phezu kwakhe kwenye indawo apha kulo Mthetho, igosa lendlela lingathi, ngokulawulwa ngamalungiselelo alo Mthetho, nawawo nowuphina omnye uMthetho -

(a) lisebenzise nawaphina amagunya okanye liqhube nawuphina umsebenzi ongowo-mhloli weelayisenisi ngokwakwicandelo 8;

(b) xa linxibe iyunifomu, limyalele umqhubi waso nasiphina isithuthi ukuba asimise eso sithuthi;

(c) lisihlole, lisivavanye, okanye lenze ukuba kuhlolwe kuvavanywe ngumntu elicinga ukuba unomfaneleko wokwenza oko nayiphina indawo, kwanokusebenza kwaso nasiphina isithuthi, nezixhobiso zaso, ngeenjongo zokuqonda ukuba ingaba eso sithuthi okanye ukusebenza kwaso nezixhobiso zaso kuyahambisana na namalungiselelo alo Mthetho: Phantsi kwento ethi akukho gosa okanye mntu oyalelwe lelo gosa ukuba ahlale okanye avavanye isithuthi esinjalo, liya kuthi ekusebenziseni loo magunya liwanikiweyo liqhaqhe naziphina iindawo ezisebenzayo zaso nasiphina isithuthi esiyimoto ngaphandle kokuba ukwangumkhandi weemoto owufundileyo umsebenzi wakhe okanye uthe waphumelela uviwo lwabavavanyi bezithuthi njengoko kumiselwe, yaye, ukuba uthe wasiqhaqha eso sithuthi, uya kuzibuyisela endaweni yaso ezo ndawo aziqhaqhileyo, ngaphandle kokuba ucelwe nguloo mntu siselugcinweni lwakhe eso sithuthi ukuba angakwenza oko;

(d) liqinisekise ubukhulu, umthwalo, okanye ubunzima, ubunzima bomthwalo weasi, okanye ubunzima bomthwalo weyunithi yeasi baso nasiphina isithuthi okanye bazo naziphina izithuthi ezihlanganisiweyo, zithwele okanye zingathwelanga, yaye ukuba kuyimfuneko ngeenjongo zokuqinisekisa obo bunzima lifune nasiphina isithuthi okanye izithuthi ezihlanganisiweyo ukuba ziye kwimitha yobunzima okanye kwisixhobiso sokulinganisa ubunzima, yaye ukuba ubunzima baso nasiphina isithuthi okanye bazo naziphina izithuthi ezihlanganisiweyo bungaphezulu kobunzima obuvumelekileyo ngokwalo Mthetho, likuthintele ukusebenza kweso sithuthi okanye kwezo zithuthi zihlanganisiweyo kwindlela kawonke-wonke, de bube obo bunzima buphungulwe okanye bulungisiwe ukuze buhambisane nalo Mthetho: Phantsi kwento ethi apho umthwalo waso nasiphina isithuthi ubandakanya nayiphina into enobungozi njengoko kuchaziwe kuMthetho weziNto ezinobuNgozi, 1973 (UMthetho 15 wowe-1973), ukuphungulwa noku-shenxiswa kobo bunzima kuya kwenziwa ngokwaloo Mthetho;

(e) liqhube nasiphina isithuthi apho kuyimfuneko ekuqhubeni kwalo imisebenzi yalo ukuba kwimeko yaso nasiphina isithuthi esiyimoto linelayisenisi yokuqhuba eso sithuthi esiyimoto solo didi luchaphazelekayo;

(f) ukuba nawuphina umntu, ongumqhubi okanye esiselugcinweni lwakhe isithuthi, okhangeleka kwelo gosa, ngesizathu semeko yomzimba okanye yengqondo yakhe, nokuba ibangelwe yintoni na, engekho kwimeko yokuba angasiqhuba okanye angasigcina eso sithuthi okwelo xesha, limyalele loo mntu ukuba anqumame ekusiqhubeni okanye ekusigcineni eso sithuthi okwexeshana, aze enze loo malungiselelo okuhanjiswa okanye okubekwa kweso sithuthi ngendlela ekhuselekileyo anokuthi ekuboneni kwakhe abe yimfuneko okanye anqweneleke kwiimeko ezinjalo;

(g) lilungelelanise lilawule izihamba-ndleleni kawonke-wonke, ze linike loo miyalelo ethi, ngokokubona kwalo ibe yimfuneko ukwenzela ukuba izihamba-ndleleni zihambe kakuhle, yaye apho, ngokokubona kwakhe kukho umqhubi wesithuthi esiyimoto ophazamisayo okanye oxabe endleleni yezinye izihamba-ndleleni kawonke-wonke amyalele umqhubi ukuba asishenxise eso sithuthi kuloo ndlela aze aladele enye indlela ngaso;

(h) lifune ukuba nawuphina umntu ukuba anike igama nedilesi yakhe anike nazo naziphina ezinye iinkcukacha ezifunekayo nezimchazayo ukuba nguyeyi, okanye ukulungiselela nayiphina enye into ukuba elo gosa linomrhano wokuba loo mntu, wenze isenzo sokwaphula umthetho phantsi kwalo Mthetho, okanye, ukuba ngokokubona kwelo gosa loo mntu unakho ukunika ubungqina ngokuphathelele kwisenzo okanye kurhaneleko lwesenzo sokwaphulwa komthetho;

(i) ngokuphathelele kuso nasiphina isithuthi esiyimoto, limyalele umnini, umsebenzisi okanye umqhubi waso ukuba aveze naluphina uxwebhu olumiselweyo ngokwalo Mthetho;

(j) lithimbe naluphina uxwebhu ekubhekiselelwe kulo kumhlathi;

(i) olunikwe lona, nolunokuthi ngokokubona kwalo linike ubungqina botyeshelo-mthetho okanye ukusilela ukulandela nawuphina amalungiselelo alo Mthetho, yaye apho kuthe kwathinjwa ngolo hlobo naluphina uxwebhu, igosa lindlela liya kukhuphela loo mntu uchaphazelekayo irisithi yalo;

(k) kuyalela nawuphina umqhubi oyingcali okanye umsebenzisi okanye umnini waso nasiphina isithuthi esiyimoto ukuba aveze ngeenjongo zokuba ahlolwe okanye kwenziwe ikopi yayo -

(i) nayiphina irekhodi okanye uxwebhu loo mntu anyanzelekileyo ngokweSiquendu 3 seSahluko 3 salo Mthetho ukuba abe soloko eluphethe okanye lukho kuye, okanye ekulindlele ukuba lube luncanyathiselwe kuso nasiphina isithuthi esiyimoto esilolo hlobo; okanye

(ii) nayiphina irekhodi loo mntu anyanzelekileyo ngokweSiquendu 3 seSahluko 3 lalo Mthetho ukuba ayigcine;

(l) ngalo naliphina ixesha angene kwisithuthi esiyimoto esisesomsebenzisi aze asihlole, nawo nawuphina umxokelelwana wokurekhoda ofakelwe kuso ngeenjongo zeSiquendu 3 neSahluko 3 salo Mthetho, ze ahlole enze nekopi yayo nayiphina irekhodi ephathelele kweso sithuthi eveliswe nguloo mxokelelwana wokurekhoda;

(m) ngalo naliphina ixesha lingene kuzo naziphina iintendekezo apho aneliseke sisizathu sokukholelwa ukuba isithuthi esiyimoto somsebenzisi sigcinwe okanye ukuba nayiphina irekhodi okanye olunye uxwebhu ekufuneka lugcinwe ngokweSiquendu 3 seSahluko 3 salo Mthetho lunokufumaneka khona, lize lisihlole eso sithuthi, ze lihlole lenze nekopi yaloo rekhodi okanye yolo xwebhu lunjalo, elithi liyifumane apho;

(n) ukuba linezizathu zokukholelwa kukho isenzo sokwaphulwa komthetho esithe senziwa phantsi kweSiquendu 3 seSahluko 3 salo Mthetho ngokuphathelele kuyo nayiphina irekhodi okanye naluphina uxwebhu oluthe lwahlolwa nguyeyi, liyithimbe loo rekhodi okanye olo xwebhu, yaye apho kuthe kwathinjwa naluphina uxwebhu olunjalo, igosa lindlela liya kumkhuphela irisithi yalo loo mntu uchaphazelekayo;

(o) lihlole nasiphina isithuthi esiyimoto okanye inxenye yaso, ze lithimbe naluphina uxwebhu olukhutshwe ngokunxulumene nokubhaliswa nokufakwa kwelayisenisi yeso sithuthi siyimoto silolo hlobo noluphathelele kweso sithuthi siyimoto apho kuthi kufumaniseke ukuba inombolo nani yenjini okanye eyetshesi yeso sithuthi siyimoto ayifani naleyo yenjini okanye eyetshesi njengoko ichaziwe apho kolo xwebhu, ze liyalele ukuba eso sithuthi siyimoto sithatyathwe ngoko nangoko sisiwe kuso nasiphina isikhululo samapolisa esimiselwe lelo gosa lindlela ukuze sibe nakho ukukhululwa ngamapolisa, yaye lingathi emveni kokuba sihe sakhululwa, libuyisele loo maxwebhu ebe liwathimbile kuye nawuphina umntu onelungelo kuwo, okanye limazise umnini weso sithuthi sichaphazelekayo ukuba eso sithuthi kufuneka sibhaliswe okutsha, ngokwemeko leyo; ze

(p) lifune kumnini, msebenzisi okanye mqhubi wesithuthi esiyimoto esibhaliswe okanye esithatyathwa njengesibhaliswe kuwo nawuphina ummandla omiselweyo, ukuba amapolisa asiphonononge ukuba asichaphazeleki tyaleni kusini na eso sithuthi siyimoto, phambi kokuba avumele ukuba eso sithuthi siwezwe imida yeCiskei: Phantsi kwento ethi uMphathiswa unokuthi akhululele nawuphina umnini, umsebenzi, okanye umqhubi ngendlela emiselweyo ekubeni aveze olo xwebhu lubonakalisa ukuba amapolisa athe ukuba ayichaphazeleki tyaleni.

12. Imfanelo yokuthobela imiyalelo okanye imiqondiso yegosa lendlela, umhloli weelayisenisi, okanye umvavanyi wezithuthi. - (1) Akukho mntu uya -

(a) kusilela ukuthubela nayiphina imiyalelo okanye isalathiso ayinikwe ligosa lendlela, ngumhloli weelayisenisi okanye ngumvavanyi wezithuthi, okanye axabe okanye aphazamise naliphina igosa lendlela, umhloli weelayisenisi okanye umvavanyi wezithuthi ekusebenziseni kwakhe nawaphina amagunya okanye ekwenzeni kwakhe nawuphina umsebenzi nawuphina umsebenzi phantsi kwalo Mthetho;

(b) ukwenzela ukunyanzela nawuphina umntu ekubhekiselelwe kuye kumhlathi (a) okanye (b) ukuba enze okanye ayeke ukwenza nasiphina isenzo ngokuphathelele ekusebenziseni amagunya akhe okanye ekwenzeni imisebenzi yakhe okanye ekubeni loo mntu ethe wenza okanye akasenza isenzo esinjalo, ngokuthi aqobise okanye afune ukusebenzisa ubundlobongela, okanye uthintelo kuloo mntu unjalo okanye kuzo naziphina izihlobo zakhe okanye abaxhomekeke kuye, aqobise okanye afune ukwenzakalisa nakanjani na ipropati yaloo mntu okanye eyazo naziphina izihlobo zakhe okanye ezixhomekeke kuye;

(2) Naninina apho kuthi kufunwe naluphina uxwebhu ekungalindelekanga ukuba lube kwisithuthi okanye ukuba luba lusoloko lugcinwe phakathi kwisithuthi nguye nawuphina umntu ngokwecandelo 3(1) okanye (g) okanye 8(i), ukuziswa kuso nasiphina isikhululo samapolisa okanye iofisi ebekelwe bucala ngumntu onamagunya ukuze ibe nokusetyenziswa ligosa lendlela, kwisithuba seentsuku ezisixhenxe emva kokuba libiziwe, kuya kuthatyathwa njengomqondiso owaneleyo wokuthotyelwa kwaloo myalelo.

(3) Naninina apho naluphina uxwebhu luthi luvezwe ngokwecandelwana (2) okanye kuso nasiphina isikhululo samapolisa okanye iofisi ekubhekiselelwe kuyo kwelo candelwana, elo gosa longamele eso sikhululo samapolisa okanye loo ofisi ibekelwe bucala liya kuthi ngoko nangoko lilazise elo gosa belifune olo xwebhu, kwaye liya kukhuphela loo mntu uveza olo xwebhu iphetshana elixela ukuba ulufumene;

(4) Apho umntu athe wasilela ukuveza uxwebhu ngokwecandelwana (2) de kunyanzeleke ukuba loo mntu anikwe nokuba ziisamani ngokwecandelo 54, 56, 72 okanye 341 loMthetho weNkqubo yamaTyala eSizi, 1977, umhloli weelayisenisi, igosa lendlela, okanye igosa loxolo, lingathi lifuna ukuba loo mntu ashicilele ubhontsi wakhe wasekunene, yaye loo mntu uya kunyanzeleka ukuba olo shicilelo alubonise ngaloo ndlela nakuloo ndawo okanye kwezo ndawo kolo xwebhu, kwakunye neekopi zalo njengoko umhloli, igosa okanye umvavanyi ayalele: Phantsi kwento ethi, ukuba akukwazeki ukufumana ushicilelo lukabhontsi wasekunene waloo mntu, ushicilelo lwawo nawuphina umnwe luya kufuneka, ze kwimeko elolo hlobo loo mnwe uthe wasetyenziswa ngokuthi ubhalwe ngumhloli, ligosa okanye umvavanyi ochaphazelekayo ezantsi koshicilelo ngalunye lwaloo mnwe.

13. Ukuzenza igosa elinamagunya okanye ukwenza naliphina igosa elinjalo ukuba liwutyeshela umsebenzi walo. - Nawuphina umntu -

(a) ongelilo igosa eligunyazisiweyo, nothi ngokuthetha, ngokwenza nangokuziphatha, akhohlise abantu ngokuthi uligosa eligunyazisiweyo; okanye

(b) othi adibane ngobuqhophololo okanye athundeze okanye azame ukuthundeza naliphina igosa eligunyazisiweyo ukuba liwutyeshela umsebenzi walo okanye lenze isenzo esichaseneyo nomsebenzi walo, uya kubekwa ityala lokwaphula umthetho.

ISAHLUKO 2

UBHALISO NOKULAYISENSWA KWEZITHUTHI EZIZIIMOTO

14. Ukubhaliswa nokulayisenswa kwezithuthi ezizimoto. - (1) Inkqubo yokubhaliswa nokulayisenswa kwezithuthi ezizimoto iya kumiselwa nguMphathiswa: Phantsi kwento ethi uMphathiswa unokuthi nangaliphina ixesha emva kokuqalisa kwalo Mthetho ngesaziso esikwi-Gazethi amisele imo nendlela yokuphunyezwa kobhaliso olongameleyo kunye nenkqubo yokulayiseniswa kwezithuthi ezizimoto eCeskei yaye inkqubo leyo imanyweyo iya kuqalisa ukusebenza ngomhla oya kumiselwa nguMphathiswa kwisaziso eso.

(2) Akukho mntu uya kuhamba kwindlela kawonke-wonke ngaso nasiphina isithuthi esiyimoto esingabhaliswanga kwaye singalayiseniswanga ngokwamalungiselelo esi sahluko.

ISAHLUKO 3

UMFANELEKO WABAQHUBI

ISIQENDU 1 : UKULAYISENSA

15. Umqhubi wesithuthi esiyimoto makabe nelayisensi. - Akukho mntu uya kuqhuba isithuthi esiyimoto kwindlela kawonke-wonke ngaphandle kwaphantsi kwegunya kwaye ngo-kweemeko zelayisensi ekhutshelwe yena phantsi kwesi Sahluko okanye naluphina uxwebhu oluthatyathwa ukuba yilayisensi ngeenjongo zesi Sahluko.

16. Ilayisensi yokuqhuba yilayisensi yokufunda ukuqhuba okanye yilayisensi yokuqhuba. - Ilayisensi egunyazisa ukuqhuba isithuthi esiyimoto iya kukhutshwa ngokwama-lungiselelo esi Sahluko kwaye iya kuba -

(a) yilayisensi yokubambisa, eya kwaziwa njengelayisensi yokufunda ukuqhuba; okanye

(b) ilayisensi, eya kwaziwa njengelayisensi yokuqhuba, kwaye, ngaphandle kwanjengoko kulungiselelwe kwesi Sahluko, akukho mntu uya kuviwa okanye avavanywe ngeenjongo zoku-khutshelwa ilayisensi ngaphandle kokuba unelayisensi yokufunda ukuqhuba.

17. Ukuhlelwa nethuba lelayisensi yokufunda ukuqhuba okanye ilayisensi yoku-qhuba liya kumiselwa - (a) udidi lweleyisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba;

(b) uhlobo lwesithuthi esiyimoto oluthi ngalunye lweleyisensi leyo lunxulumane nayo;

(c) igunya elinikwa yilayisensi leyo;

(d) ithuba lokusetyenziswa kwelayisensi leyo okanye nayiphina ilayisensi enjalo ngo-kwawo nawuphi na umthetho iya kuba okanye ingathi ibe nokuba kwincwadana yesazisi kwaye engekho kuyo;

(e) inkqubo emayilandelwe ukufakela endaweni yayo nayiphi na ilayisensi leyo engekho kwiincwadana yesazisi;

(f) imiqathango apho igunya elinikwa yilayisensi leyo eliya kulawulwa yiyo; kunye

(g) nohlobo nokuqulathwe yilayisensi leyo.

18. Ukwalelwa ekubeni ufumane okanye ube nelayisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba. - (1) Umntu uya kwalelwa ukuba afumane okanye abe nelayisensi yokufunda ukuqhuba -

(a) ukuba yena -

(i) kumbandela wayo nayiphina ilayisensi yesithuthuthu esingenamato esecaleni esinenjini enesilinda engekho ngaphezu kweetyubhiki ezingama-50 eesentimitha okanye esiqhutywa ngombane okanye sisithuthi njengoko sichaziwe kumhlathi (b) wengcaciso-gama wesichazi isithuthi esiyimoto, uphantsi kweminyaka eli-16 ubudala;

(ii) kumbandelo welayisensi yokufunda ukuqhuba isithuthi esiyimoto esikha-phu-kaphu, esisithuthi esiyimoto esingelulo udidi njengoko kubhekiswe kuso kumhlathana (1) nobunzima obungekho ngaphezulu kwama-3 500 eekilogram okanye, apho isithuthi esiyimoto eso -

(aa) siyibhasi okanye isithuthi sempahla, ubunzima bubonke xa budibene apho bungahlulanga kuma-3 500 eekilogram;

(bb) sisithuthi esimzimba utsalwa yintloko, esibunzima bubonke xa budibene apho bungahlulanga kuma-3 500 eekilogram, ungaphantsi kweminyaka eli-17 ubudala; okanye

(iii) kumbandela wayo nayiphi na ilayisensi, ungaphantsi kweminyaka eli-18 ubudala;

(b) Ngalo naliphina ithuba ekuthe ngokunxulumene nalo wabhengezwa sisiphatha-mandla esifanelekileyo njengowalelweyo ukuba afumane okanye abe nelayisensi yokuqhuba isithuthi esiyimoto, ngexa ukwalelwa oko kusasebenza;

(c) apho ilayisensi anayo yokuqhuba isithuthi esiyimoto iye yaxhonywa sisiphatha-mandla esifanelekileyo, ngexa ukuxhonywa oko kusebenza;

(d) apho ilayisensi yokuqhuba isithuthi esiyimoto anayo iye yarhoxiswa sisiphatha-mandla esifanelekileyo, ngexa ukurhoxiswa oko kusasebenza;

(e) ukuba ilayisensi leyo inxulumene nohlobo lwesithuthi esiyimoto ekunokuba sele esiqhuba phantsi kwelayisensi anayo;

- (f) ukuba ngaba unesinye sezi zifo okanye ubulima obulandelayo -
 - (i) isathuthwane esingalawulekiyo;
 - (ii) ukuhlaselwa ngesiquphe yincilikithi okanye ukufa isiqaa ngenxa yoxinzelelo-gazi oluphezulu okanye nakuphi na okubangwe koko;
 - (iii) nasiphina isifo sengqondo kangangokuba kuyimfuneko ukuba agcinwe, ajongwe, alawulwe kwaye anyangwe njengesigulana ngokoMthetho weMpilo yokuGula ngeNgqondo wowe-1986 (UMthetho 23 wowe-1986);
 - (iv) nayiphina imeko ebanga ukungalungelelanisi kwezihlunu;
 - (v) ukungalawuleki *kwesifo seswekile*;
 - (vi) ukungaboni kakuhle okuqinisekiswa ngokomgangatho omiselweyo;
 - (vii) nasiphina esinye isifo okanye ubulima obunokuthi bumenze angakwazi kakuhle ukuqhuba nokulawula isithuthi esiyimoto sohlobo apho ilayisensi leyo inxulumene naso ngaphandle kokubeka esichengeni ukhuseleko loluntu.

Phantsi kwento ethi ubuthulu abusayi kuthatyathwa njengobulima obo;

(g) ukuba likhoboka laso nasiphi na isiyobisi esisetyenziswayo esozelisayo okanye ukusetyenziswa ngokugqithisileyo kwesiselo esinxilisayo; okanye

(h) kwenye imeko leyo njengoko inokumiselwa, ngokubanzi okanye malunga nodidi oluthile lwelayisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba.

(2) UMphathiswa unokuthi, ukuba ucingela kuyimfuneko kwaye kwiimeko ezo njengoko enokucingela kufanelekile, abhengeze ukuba nawuphi na umntu akasayi kube abe phantsi kwako nakuphina ukwalelwa, ukuxhonywa okanye ukurhoxiswa ekubhekiswa kuko kwicandelwana (1) (b), (c) okanye (d), ngokulandelelana.

19. Ukungaphumeleli ukuxela ukwalelwa malunga nelayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto - (1) Akakho umntu oya kuthi xa esenza isicelo selayisensi yokufunda ukuqhuba okanye selayisensi yokuqhuba, athi ngabom angaphumeleli ukuxela nakuphina ukwalelwa aphantsi kwako ngokwecandelo 18.

(2) Nawuphina umntu -

(a) onelayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto ngokwesi sahluko; kwaye

(b) othiakugonde oko ukuba walelwe ukuba nelayisensi enjalo, uya kuthi, ngethuba leentsuku ezimangama-21 emva kokuba ekuqondile ukwalelwa, anikezele ilayisensi okanye, kumbandela apho ikwincwadana yesazisi, anikezele incwadana leyo kuMlawuli-Jikelele.

(3) Xa ilayisensi ithi yanikezelwa ngokwecandelwana (2) uMlawuli-Jikelele uya kuyirhoxisa kwaye azise iziphatha-mandla eziyikhuphileyo okanye, kumbandela apho ikwincwadana yesazisi, uMlawuli Jikelele weSebe leMicimbi yaNgaphakathi ngorhoxiso olo: Phantsi kwento ethi ilayisensi ayisayi kurhoxiswa ukuba UMlawuli Jikelele wanelisekile ukuba lowo unayo unako ukuqhuba udidi lwesithuthi esiyimoto eso ngoncedo lweendondo zamehlo, ilungu elenziweyo okanye naluphi na olunye uncendo oluphathekayo; apho ke uMlawuli Jikelele eya kuthi -

(a) afakele ezo ngombolo kwilayisensi ngokufanelekileyo kwaye okubhaliweyo oko kuya kuba yimeko eya kuthi ilayisensi iphathwe phantsi kwayo;

(b) abuyise ilayisensi okanye, kumbandela apho ikwincwadana yesazisi, incwadana leyo kumntu wayo; kwaye

(c) azise isiphatha-mandla esikhuphe ilayisensi okanye, kumbandela apho ikwincwadana yesazisi uMlawuli Jikelele weSebe leMicimbi yaNgaphakathi ngokufanelekileyo.

20. Isicelo nokukhutshwa kwelayisensi yokufunda ukuqhuba - (1) Umntu onqwenela ukufumana ilayisensi yokufunda ukuqhuba uya kuthi ubuqu enze isicelo ngoko ngendlela emiselweyo kwiziko lokuvavanyela ilayisensi yokuqhuba.

(2) Isicelo ngokwecandelwana (1) siya kukhatshwa ziimali ezimiselweyo.

(3) Xa kwamkelwa isicelo ngokwecandelwana (1), iziko elo lokuvavanyela ilayisensi yokuqhuba liya kuthi, ukuba lanelisekile yingxelo enikiweyo kwisicelo okanye kwenye ingxelo leyo njengoko iziko elo linokucela ngokufanelekileyo ukuba umenzi wesicelo akalelwanga ekufumaneni ilayisensi yokufunda ukuqhuba, limisele usuku kunye nexesha ekunokuthi umenzisicelo abe nakho ngalo ukuba abe nokuvavanyelwa aviwele ngumvavanyi ofanelekileyo osemgangathweni ilayisensi yokuqhuba ngendlela kwaye malunga nemicimbi njengoko imiselwe.

(4) Ukuba umvavanyi weelayisensi zokuqhuba wanelisekile sisazisi somenzi wesicelo kwaye umenzi wesicelo unolwazi olwaneleyo lwemicimbi njengoko imiselwe malunga nodidi lwesithuthi eso kwaye akalelwanga ngokwecandelo 18 ekufumaneni ilayisensi yokufunda ukuqhuba, umvavanyi lowo uya kukhupha okanye agunyazise ukukhutshwa kwelayisensi yokufunda ukuqhuba ngendlela emiselweyo kumenzi wesicelo lowo malunga nodidi olufanelekileyo lwesithuthi esiyimoto.

(5) Akukho mntu uya kuthi ngabom okanye ngokungakhathali akhuphe okanye agunyazise ukukhutshwa kwelayisensi yokufunda ukuqhuba ngokuchasene namalungiselelo esi Sahluko.

21. Isicelo selayisensi yokuqhuba nokukhutshwa kwayo. - (1) Umntu onelayisensi yokufunda ukuqhuba onqwenela ukufumana ilayisensi yokuqhuba uya kwenza isicelo ngendlela emiselweyo kwiziko lokuvavanya ilayisensi yokuqhuba ukwenzela ilayisensi yokuqhuba isithuthi esiyimoto sodidi ukuqhutywa kwaso kugunyaziswe yilayisensi yokufunda ukuqhuba.

(2) Isicelo ngokwecandelwana (1) siya kukhatshwa ziimali ezimiselweyo.

(3) Xa kwamkelwe isicelo ngokwecandelwana (1) iziko lokuvavanya ilayisensi yokuqhuba elo liya kuthi ukuba lanelisekile yingxelo enikiweyo kwisicelo okanye kwenye ingxelo leyo njengoko iziko elo linokucela ngokufanelekileyo ukuba umenzi wesicelo akalelwanga ekufumaneni ilayisensi yokuqhuba, limisele usuku kunye nexesha ekunokuthi umenzi sicelo abekho ngalo abe nokuvavanywa ngumvavanyi weelayisensi zokuqhuba ngendlela kwaye ngemicimbi njengoko imiselwe kwaye ke ngezo njongo umenzi wesicelo uya kuza nesithuthi esiyimoto sodidi olo isicelo sakhe sinxulumene nalo.

(4) Umvavanyi weelayisensi zokuqhuba ofanelekileyo ngokomgangatho uya kuvavanyela umenzi wesicelo ilayisensi yokuqhuba ngendlela kwaye malunga nemicimbi njengoko imiselwe emva kokuba ezanelisile ngesazisi somenzi wesicelo.

(5) Ukuba umvavanyi weelayisensi zokuqhuba uye wazanelisa ngokwecandelwana (4) ukuba umenzi wesicelo selayisensi yokuqhuba unakho njengoko kumiselweyo ukuqhuba isithuthi esiyimoto sodidi olo isicelo somenzi sinxulumene nalo, umvavanyi lowo uya kuthi ekhuhlalwulweni ngumenzi wesicelo kweemali ezimiselweyo akhuphe okanye agunyazise ukukhutshwa kwelayisensi yokuqhuba ngendlela emiselweyo kumenzi-sicelo lowo malunga nodidi olo lwesithuthi esiyimoto kwaye umvavanyi weelayisensi zokuqhuba okanye umntu ogunyaziselwe oko nguye oya kuthi -

(a) kumbandela apho umenzi wesicelo athe ngokwecandelwana (3) weza nesithuthi esiyimoto esixhotyiswe ngemigqala yeothomatiki okanye ebuothomatiki, abhale kwilayisensi yokuqhuba ukuba ugunyaziso lunikelwe kuphela ekuqhubeni isithuthi esiyimoto esixhotyiswe ngemigqala yeothomatiki okanye ebuothomatiki; kwaye

(b) kumbandela apho umenzi wesicelo egunyaniswe enakho ukuqhuba ngoncedo lweendondo zamehlo, ilungu elenziweyo okanye olunye uncendo oluphathekayo, abhale kwilayisensi ngokufanelekileyo.

(6) Akukho mntu uya kuthi ngabom okanye ngokungakhathali -

(a) akhuphe ilayisensi yokuqhuba;

(b) agunyazise ukukhutshwa kwelayisensi yokuqhuba; okanye

(c) asayine ilayisensi yokuqhuba, ngokuchaseneyo namalungiselelo eli candelo.

(7) Umvavanyi weelayisensi zokuqhuba okhupha, okanye ogunyazisa ukukhutshwa kwelayisensi yokuqhuba ngokwecandelwana (5) uya -

(a) kucela umntu lowo okhutshelwe ilayisensi asayine ilayisensi yokuqala nekopi yayo;

(b) kumbandela welayisensi yokuqhuba ekumelwe ibe kwincwadana yesazisi yomntu lowo -

(i) athumele ilayisensi yokuqhuba yokuqala, kunye nencwadana yesazisi yomntu lowo kuMlawuli-Jikelele weMicimbi yaNgaphakathi ukuze iinkcukacha zelayisensi yokuqhuba zibe nokufakwa kwincwadana yesazisi;

(ii) agcine ikopi yelayisensi yokuqhuba; kwaye

(iii) akhuphe irisiti malunga nelayisensi yokuqhuba kunye nencwadana yesazisi kumntu lowo.

(8) Xa ethe wamkela ilayisensi yokuqhuba nencwadana yesazisi ekubhekiswa kuzo kwicandelwana (7)(b), uMlawuli-Jikelele weMicimbi yaNgaphakathi uya kuthi akwaneliseka ukuba ilayisensi yokuqhuba iyasetyenziswa kwaye incwadana yesazisi inxulumene nomntu lowo ilayisensi ikhutshelwe yena -

- (a) abhale iinkcukacha zelayisensi yokuqhuba kwincwadana yesazisi;
- (b) athumele incwadana yesazisi kumntu wayo; kwaye
- (c) agcine ilayisensi yokuqhuba ngeenjongo zokuba igcinwe ezincwadini.

(9) Iinkcukacha zelayisensi yokuqhuba ezibhalwe kwincwadana yesazisi ziya kuthatyathwa njengelayisensi yokuqhuba ekhutshwe phantsi kwalo Mthetho.

22. Igunya loMlawuli-Jikelele malunga noviwo lomenzi wesicelo selayisensi yokufunda ukuqhuba okanye yokuqhuba. - Nakubeni kukho nantoni na echasene nokuqulathwe kulo Mthetho, uMlawuli-Jikelele unokuthi, ngalo lonke ixesha ebona kuyimfuneko, ayalele apho kwaye nanguwuphina umvavanyi weelayisensi zokuqhuba umenzi wesicelo selayisensi yokufunda ukuqhuba okanye yokuqhuba aya kuvavanywa kwaye aviwe nguye neziko lokuviwela ilayisensi yokuqhuba umenzi wesicelo lowo anokwenza isicelo selayisensi yokuqhuba kulo.

23. Umntu onelayisensi yokuqhuba isithuthi esiyimoto uya kunika isaziso sokutshintsha indawo yokuhlala. - Xa umntu onelayisensi yokuqhuba isithuthi esiyimoto ekhutshwe ngokwesiSahluko eye watshintsha indawo yakhe yokuhlala isigxina, uya kuthi ngethuba leentsuku ezingama-21 emva kotshintsho olo, azise uMlawuli-Jikelele ngedilesi yakhe entsha yendawo ahlala kuyo neyokuposa ngendlela emiselweyo.

24. Ilungelo lokubhenela kuMphathiswa. - (1) Nawuphina umntu okhathazwe kukwalelwa ngumvavanyi weelayisensi zokuqhuba ukunika okanye ukugunyazisa ukunika yena ilayisensi yokufunda ukuqhuba okanye yokuqhuba unokuthi, ngethuba leentsuku ezingama-21 emva kokwalelwa, abhenele kuMphathiswa ngokumbhalela, kwaye umntu lowo uya kuthi kwangeli xesha linye anike ikopi yokubhenela umvavanyi lowo uchaphazelekayo.

(2) Emva kokwamkela ikopi yokubhena ekubhekiswa kuyo kwicandelwana (1) umvavanyi weelayisensi zokuqhuba ochaphazelekayo uya kuthi kwangoko anike uMphathiswa izizathu zokwala ekubhekiswa kuzo sisibheni eso.

(3) Ngeenjongo zokwenza isigqibo ngesibheni ngokwecandelwana (1) uMphathiswa unokwalathela nawuphina umntu aye kwaye avavanye lowo ubhenayo ngokufaneleka kwakhe ukuqhuba udidi lwesithuthi esiyimoto eso kwaye angathi, ukongeza afune umntu ngamnye onenxaxheba kwisibheni anike ingxelo leyo kunye nobungqina njengoko enokubona kufanelekile.

(4) UMphathiswa unokuthi emva kokuqwalasela isibheni anike ubungqina obo njengoko enokubona kufanelekile.

25. Xa ilayisensi ingakhutshwanga ngokwalo Mthetho ithatyathwa njengelayisensi yokuqhuba - (1) kulawula amalungiselelo ecandelwana (2) -

- (a) ilayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto, eyathi -
 - (i) yakhutshwa kummandla omiselweyo ngexa umntu onayo wayehlala isigxina okanye ngokuqhelekileyo kummandla lowo umiselweyo; okanye
 - (ii) yakhutshwa nakuliphi na elinye ilizwe okanye ummandla ngexa umntu onayo wayengengomhlali usisigxina okanye uqhelekileyo eCiskei kwaye iqulethe okanye kuncanyathiselwe kuyo ifoto kunye nesignitsha yomntu wayo kananjalo phantsi kwento ethi -
 - (aa) ilayisensi leyo ingolwimi lwaseMagunyeni lwaseCiskei; okanye
 - (bb) isatifiketi sobunyani okanye sokusebenza esinxulumene nelayisensi leyo esenziwe sisiphathamandla esifanelekileyo okanye uguqulolwimi lwelayisensi leyo ibe ngolwimi olusemagunyeni olo luqhotyoshelwe kuyo; kwaye

(b) imvume yokuqhuba yamazwe ngamazwe ekhutshwe ngexa umntu wayo waye engahlali isigxina okanye ngokuqhelekileyo eCiskei.

iya kuthi, malunga nodidi lwesithuthi esiyimoto ilayisensi leyo okanye imvume enxulumene noko kwaye phantsi kweemeko zoko, ithatyathwe njengelayisensi ngeenjongo zesi Sahluko: Phantsi kwento ethi apho ilayisensi leyo ilayisensi yokubambisa okanye iyimvume yokuqhuba yamazwe ngamazwe ayisayi kugunyazisa ukuqhutywa kwesithuthi esiyimoto esikhwelise abantu kwaye nofuna imvume yokuqhuba ngoyingcali.

(2) (a) Xa umntu onelayisensi ekubhekiswa kuyo kwicandelwana (1)(a)(i) ethe ekuqalishweni kwalo Mthetho waba ngumhlali osisigxina okanye oqhelekileyo eCiskei ilayisensi leyo iya kuthi, emva kokuba umntu wayo lowo ube ngumhlali osisigxina okanye oqhelekileyo eCiskei ithuba eliqhubayo elingekho ngaphantsi kweenyanga ezintandathu okanye emva komhla lowo uba ngumhlali, ilayisensi leyo iya kuthi ukususela kuloo mhla ingathatyathwa njengelayisensi ngeenjongo zesi Sahluko.

(b) Xa umntu onelayisensi ekubhekiswa kuyo kwicandelwana (1)(a)(ii) esiba ngumhlali osisigxina okanye oqhelekileyo eCiskei ilayisensi leyo iya kuthi, emva kokuba umntu lowo unayo ebe ngumhlali ithuba elithe gqolo leenyanga ezintandathu, ingathatyathwa njenge-layisensi ngeenjongo zesi Sahluko.

(c) Umntu onelayisensi ekubhekiswa kuyo kwicandelwana (1)(a)(i) okanye (ii) (engeyolayisensi yokubambisa) unokuthi ngalo naliphi na ixesha, ngexa enencwadana yesazisi okanye ekwilixa lokuyifumana kwaye ngexa ilayisensi yokuqhuba ukuze ithabathe indawo yelayisensi leyo.

(3) Isicelo ngokwecandelwana (2)(c) siya kwenziwa kwiziko lokuvavanya ngendlela emiselweyo.

(4) (a) Ukwamkelwa kwesicelo ngokwecandelwana (3) iziko lokuvavanya elo liya kuthi, ukuba lanelisekile ukuba ilayisensi ekhapha isicelo iyasebenza ngokwaseMthethweni kwaye umenzi wesicelo ngumntu wayo, likhuphe okanye libange kukhutshelwe umenzi wesicelo ilayisensi yokuqhuba simahla ngendlela emiselweyo kwaye liya kuthi, lise iso. Uddi lwesithuthi esiyimoto esinxulumene nelayisensi leyo, licacise okanye libange kucaciswe kwilayisensi yokuqhuba leyo uddi ekubhekiswa kulo kwimigaqo ekhutshwe ngokuphathelele kuyo.

(b) Ukuba kukho impikiswano ngokwakudidi malunga nokukhutshwa kwelayisensi yokuqhuba ngokomhlathi (a), uMlawuli Jikelele uya kumisela uddi.

(5) Umntu onemvume yokuqhuba yamazwe ngamazwe okanye wayenayo nayiphina imvume enjalo unokuthi, ngethuba lokusetyenziswa kwemvume leyo okanye ngethuba leenyanga ezintandathu ukususela kumhla wokuphelelwa kwemvume leyo, enze isicelo selayisensi yokuqhuba ukuze ithabathe indawo yemvume leyo kwaye ngezi njongo amalungiselelo amacandelwana (3) no (4) aya kusebenza.

26. AmaSebe athile oMbuso anokukhupha ilayisensi yokufunda ukuqhuba okanye yokuqhuba kodwa kusenzelwa umntu okwingqesho yawo kuphela. - (1) ISebe loMbuso elifanelekileyo ngokwembono yoMphathiswa ukwenza imisebenzi yeziko lokuvavanyela ilayisensi yokuqhuba linokukhupha ilayisensi yokufunda ukuqhuba ngendlela emiselweyo kodwa ke kumntu oqeshwe liSebe kuphela.

(2) Ukulungiselela iinjongo zecandelwana (1) umntu okwinkonzo yoMkhosi woKhuselo weCiskei uya kuthatyathwa njengoqeshwe liSebe lezoKhuselo.

(3) Ilayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto kwaye eyayikhutshwe liSebe loMbuso phambi kokuqalisa kwalo Mthetho, iya kuthi kulawula iimeko ezimiselweyo, inike umntu wayo ilungelo lokukhutshelwa ilayisensi yokuqhuba yodidi olufanelekileyo ngokwamalungiselelo esi Sahluko.

27. Ukunqunyanyiswa okanye ukurhoxiswa nguMphathiswa kwelayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto. - (1) Ukuba uMphathiswa unembono yokuba umntu -

(a) onelayisenisi yokufunda ukuqhuba okanye yokuqhuba ekhutshwe phantsi kwesi Sahluko okanye nawuphina umthetho ongaphambili walelwe ngokwecandelo 18 ekubeni abenayo, uya kurhoxisa ilayisensi leyo; okanye

(b) onelayisensi ekubhekiswa kuyo kumhlathi (a) uya kuba ngunobangela wengozi eluntwini ngokuqhuba isithuthi esiyimoto kwindlela kawonke-wonke, unokuyirhoxisa okanye ayinqumamise ilayisenisi leyo.

(2) Ukulungiselela iinjongo zecandelwana (1) uMphathiswa unokucela umntu onelayisensi leyo aye ngethuba elo njengoko linokumiselwa nguMphathiswa -

(a) kuviwo kunye novavanyo lomvavanyi omnye okanye ngaphezulu lweelayisenisi zokuqhuba ezikhethwe nguMphathiswa ukuqinisekisa ukufaneleka kwakhe ukuqhuba isithuthi esiyimoto sodidi olunxulumene nelayisenisi yakhe kwaye ukulungiselela iinjongo zoviwo kunye novavanyo olo umntu onayo ilayisenisi leyo uyakuza nesithuthi esiyimoto sodidi olo: Phantsi kwento ethi umntu onelayisenisi leyo unokucela ukuba aye kuviwo novavanyo olo ukumisela ukufaneleka kwakhe ukuqhuba isithuthi esiyimoto:-

(i) salo naluphina olunye uddi ukuqhuba ekugunyaziselwe kona yilayisenisi yakhe; okanye

(ii) sodidi oluthile olumiselweyo,

kwaye ngeenjongo yoviwo kunye novavanyo olo uya kuza nesithuthi esiyimoto sodidi olo;

(b) kuvavanyo lukagqirha onyulwe nguMphathiswa ukuqonda ukuphila kwakhe ngokwasemzimbeni nangokwasengqondweni ekuqhubeni isithuthi esiyimoto; okanye

(c) kuvavanyo kunye noviwo ngokucetywa kumhlathi (a) kunye novavanyo ngokucetywa kumhlathi (b).

(3) Ukuba umntu onelayisensi leyo uthe emva kovavanyo noviwo ngokwecandelwana (2)(a) ufunyaniswe efanele ukuqhuba isithuthi esiyimoto sodidi aze nalo kwaye akalelwanga ngokwecandelo 18, uMphathiswa unokuyalela —

(a) ukuba zonke ilayisensi ezigunyazisa ukuqhutywa kwesithuthi esiyimoto kwaye eyeyakhe ziya kurhoxiswa; kwaye

(b) ukuba ilayisensi yokuqhuba enxulumene malunga nesithuthi esiyimoto sodidi aze nalo uya kuyikhutshelwa simahla ngumvavanyi weelayisensi zokuqhuba zegunya eligunyaziselwe oko nguMphathiswa kwaye ke ngezo njongo amalungiselelo ecandelo 21(5)(a) no (b) aya kusebenza *neenguqulelo eziyimfuneko*.

(4) Iindleko zalo naluphi na uvavanyo ekubekiswa kulo kwicandelwana (2)(b) ziya kuhlawulwa yiNngxowa-mali yeNgeniso yeCiskei.

(5) Ukuba ngaba nawuphi na umntu uyasilela ukuthobela isicelo ngokwecandelwana (2), uMphathiswa unokuthi kwangoko axhome okanye anqumamise, ngokwemeko leyo, ilayisensi leyo ngaphandle kokuba umntu lowo unako ukwanelisa uMphathiswa ngethuba elimiselwe nguMphathiswa ukuba ukusilela oko kwakungenxa yesizathu esingaphaya kwamandla akhe kwaye ilayisensi leyo mayinganqunyanyiswa okanye mayingarhoxiswa.

(6) Ukunqunyanyiswa okanye ukurhoxiswa kwelayisensi ngokweli candelo kuya kusebenza kuyo nayiphi na ilayisensi yokufunda ukuqhuba okanye yokuqhuba eyeyomntu welayisensi enqunyanyisiweyo okanye erhoxisiweyo kwaye eyaziwa phantsi kwesi Sahluko njengelayisensi esebenzayo, njengoko uMphathiswa enokumisela.

(7) Xa ilayisensi irhoxisiwe okanye inqunyanyisiwe ngokwecandelwana (1) okanye irhoxisiwe ngokwecandelwana (3)(a), umntu wayo uya kuthi kwangoko ase ilayisensi okanye, kumbandela apho ikwincwadana yesazisi, incwadana leyo kuMlawuli-Jikelele okanye umhloli weelayisensi ogunyaziselwe oko nguye, oya kufakela iingcombolo ngokufanelekileyo kwaye —

(a) apho ilayisensi ingekho kwincwadana yesazisi kwaye inqunyanyisiwe —

(i) azise isiphathamandla esiyikhuphileyo ngokunqunyanyiswa kwayo;

(ii) agcine ilayisensi ithuba lokunqunyanyiswa kwayo; kwaye

(iii) abuyisele ilayisensi kumntu wayo kwakuphela ithuba lokunqunyanyiswa kwayo; okanye

(b) apho ilayisensi ingekho kwincwadana yesazisi kwaye irhoxisiwe, azise isiphathamandla esiyikhuphileyo ngokurhoxiswa kwayo; kwaye

(c) apho ilayisensi ikwincwadana yesazisi, azise uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi ngokurhoxiswa okanye ukunqunyanyiswa kwayo, ngokwemeko leyo.

(8) UMphathiswa unokuthi, apho ebona kuyimfuneko nakwimeko ezo njengoko enokubona kufanelekile, abuyisele ilayisensi enqunyanyisiweyo ngokweli candelo apho uMlawuli Jikelele eya kwazisa isiphathamandla esifanelekileyo esiyikhuphileyo ilayisensi leyo ngokubuyiselwa kwayo.

(9) UMphathiswa unokuthi, xa ebona kuyimfuneko nakwimeko ezo njengoko enokubona kufanelekile, agunyazise umntu onelayisensi erhoxisiweyo ngokweli candelo ukuba enze isicelo selayisensi yokufunda ukuqhuba nelayisensi yokuqhuba.

(10) Umntu onelayisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba erhoxisiweyo ngokwalo Mthetho okanye nawuphi na uMthetho ongaphambili okanye siso nasiphi na isiphathamandla esifanelekileyo, uya kuthatyathwa njengongenayo ilayisensi kwaye nawuphi na umntu onelayisensi njengoko kutshiwo ngaphambili enqunyanyisiweyo ngokwalo Mthetho okanye nawuphi na umthetho wangaphambili siso nasiphi na isiphathamandla iya kuthi ngethuba lokuxhonywa kwayo elo, athatyathwe njengongenayo ilayisensi.

(11) Apho kuthi kuvele nayiphi na imeko enxulumene nomntu onelayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto ekhutshwe kummandla omiselweyo okanye ilizwe lasemzini, enokuthi ngokwembono yoMphathiswa yayinokwalela umntu lowo ngokucetywa kwicandelo 18 ekubeni afumane ilayisensi yokuqhuba okanye ukuba umntu lowo unayo uya kuthi ngokwembono yoMphathiswa, angenza ingozi kuluntu ngokuqhuba isithuthi esiyimoto kwindlela kawonke-wonke, unokwazisa umntu lowo ukuba ilayisensi leyo ayisebenzi okanye ayinakusetyenziswa eCiskei kwaye ukususela kumhla umntu lowo aziswe ngawo ilayisensi iya kuyeka ukusebenza eCiskei.

28. Ukuphelelwa kweengcombolo ezibhalwe kwilayisensi. - (1) Iingcombolo ezibhalweyo ezingqinelana nawuphina umyalelo wenkundla ezibhalwe kuyo nayiphi na ilayisensi egunyazisa ukuqhutywa kwesithuthi esiyimoto phantsi kwesi Sahluko ziya kuphelelwa emva kokuphela kwethuba leminyaka emithathu ukususela kumhla apho oko kubhaliweyo kwenziwa, ukuba ngaba ngethuba ukususela kumhla apho oko kubhaliweyo kwenziwa, ukuba ngaba ngethuba elo akukho okungokunye okubhaliweyo kwenziwayo kwilayisensi leyo: Phantsi kwento ethi alikho elinye ithuba loku nqunyanyiswa kwelayisensi leyo liya kufakwa ekubalweni kwethuba leminyaka emithathu.

(2) Apho, ngokunxulumene nelayisensi yokuqhuba, konke okubhaliweyo kuphelelwe ngokwecandelwana 1(1), isiphathamandla esikhuphe ilayisensi leyo sinokuthi, ekwenziweni kwesicelo ngumntu wayo ngendlela emiselweyo kwaye akuba ehlawule kwisiphathamandla eso iimali ekubhekiswa kuzo kwicandelo 21(2), akhuphele umntu lowo wayo ilayisensi yokuqhuba engabhalwanga naziphina iingcombolo.

29. Ukurhoxiswa okanye ukuhlonyelwa kokubhaliweyo kwilayisensi. - (1) Apho umntu onelayisensi —

(a) egunyazisa ukuqhutywa kwesithuthi esiyimoto eCiskei; kwaye

(b) apho okubhaliweyo ngokwecandelo 21(5) okanye okubhaliweyo okufanayo sisiphathamandla esifanelekileyo kummandla omiselweyo kwenziwe,

enembono yokuba kukho iimeko ezigunyazisa ukurhoxiswa okanye ukuhlonyelwa kokubhaliweyo oko, unokwenza isicelo kuMphathiswa sokurhoxiswa okanye sokuhlonyelwa koko kubhaliweyo.

(2) Isicelo ngokwecandelwana (1) siya kukhatshwa —

(a) yilayisensi leyo okanye, kumba apho ikwincwadana yesaziso, incwadana leyo; kunye

(b) nenkcazelo ngumenzi wesicelo ebeka izizathu zesicelo.

(3) Akufumana isicelo ngokwecandelwana (1) uMphathiswa unokuthi, ukulungiselela ukusiqwalasela —

(a) afune umenzi wesicelo eze nenye inkcazelo okanye incwadana, okanye

(b) athabathe amanye amanyathelo,

njengoko uMphathiswa enokubona kuyimfuneko.

(4) Ukuba isicelo ngokwecandelwana (1) —

(a) saliwe nguMphathiswa, uya kwazisa umenzi wesicelo ngokufanelekileyo aze abuyisele ilayisensi okanye incwadana yesazisi leyo kuye okanye

(b) sivunyiwe nguMphathiswa, uya —

(i) kurhoxisa okanye ahlomele, ngokwemeko leyo, oko kubhaliweyo aze abuyisele ilayisensi okanye incwadana leyo yesazisi kumenzi wesicelo; kwaye

(ii) azise isiphathamandla esikhuphe ilayisensi okanye, kumbandela apho ikwincwadana yesazisi, uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi ngokufanelekileyo.

30. Umhlohli makabhaliswe. - (1) Akukho mntu uya kusebenza njengomhlohli ngaphandle kokuba ubhalisiwe ngokwecandelo 32.

(2) Akukho mntu uya kuqesha nawuphina omnye umntu njengomhlohli okanye amsebenzise njengomhlohli ngaphandle kokuba umntu lowo ubhalisiwe njengomhlohli ngokwecandelo 32.

31. Isicelo sokubhalisa njengomhlohli. - (1) Umntu onqwenela ukubhaliswa njengomhlohli uya kwenza isicelo soko kuMlawuli-Jikelele ngendlela emiselweyo.

(2) Isicelo ekubhekiswa kuso kwicandelwana (1) siya kukhatshwa ziimali ezimiselweyo.

32. Ukubhalisa nokuhlelwa umhlohli. - Ukuba uMlawuli Jikelele wanelisekile ukuba umenzi wesicelo ekubhekiswa kuye kwicandelo uya kuwuphumeza umfaneleko nokuhlelwa okumiselwe udidi lwakhe ngokukodwa lwesicelo, uya kumbhalisa ahlele umenzi wesicelo ngendlela emiselweyo, kulawule iimeko ezimiselweyo.

33. Ukunqunyanyiswa nokurhoxiswa kokubhaliswa komhlohli. - Umlawuli Jikelele unokuthi ngendlela emiselweyo anqumamise ithuba elo njengoko enokubona kufanelekile, okanye arhoxise, ukubhaliswa komhlohli ukuba umhlohli lowo —

(a) ngokokubona koMlawuli-Jikelele unetyala lentswela-kuziphatha ekusebenziseni amagunya akhe okanye ekwenzeni imisebenzi yakhe; okanye

(b) akaphumelelanga ukuya kwizifundo zokuhlaziya ezifanelekileyo kwiziko lokuqeqesha elivunye nguMphathiswa ngethuba elimiselweyo.

34. Ilungelo lokubhenela kuMphathiswa. - (1) Nawuphina umntu okhathazwe kukwalelwa nguMlawuli-Jikelele ukumbhalisa njengomhlohli okanye kukunqunyanyiswa okanye ukurhoxiswa kokubhaliswa kwakhe njengomhlohli unokuthi ngeentsuku ezingama-21 emva kokwalelwa, ukunqunyanyiswa okanye ukurhoxiswa oko ngokubhala abhenele kuMphathiswa ngokwalelwa, ukunqunyanyiswa okanye ukurhoxiswa oko, kwaye umntu lowo uya kuthi kwangalo eli xesha anike ikopi yokubhena uMlawuli-Jikelele.

(2) Emva kokwamkela ikopiyokubhena ekubhekiswa kuyo kwicandelwana (1) uMlawuli-Jikelele uya kuthi kwangoko anike uMphathiswa izizathu zokwalelwa, zokunqunyanyiswa okanye zokurhoxiswa isibheni eso esibhekisa kuzo.

(3) UMphathiswa unokuthi emva kokuqwalasela isibheni anike isigqibo eso njengoko enokubona kufanelekile.

35. Ukungasebenzi kwelayisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba ekhutshwe ngokuchaseneyo namalungiselelo esi Sahluko. - Ilayisensi yokufunda okanye ilayisensi yokuqhuba ekhutshwe ngokuchaseneyo namalungiselelo esi Sahluko ayisayi kusebenza kwaye ngokwesicelo soMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi, okanye uMlawuli-Jikelele okanye isiphathamandla esikhuphe ilayisensi leyo okanye igosa lendlela, ngokwemeko leyo, umntu onayo ilayisensi leyo uya kuthi kwangoko ayizise okanye, kumbandela apho ikwincwadana yesazisi, azise incwadana leyo kuMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi, kuMlawuli-Jikelele, kwisiphathamandla esiyikhuphelelyo okanye igosa lendlela elo ngokwemeko leyo, eliya kuyirhoxisa ilayisensi: Phantsi kwento ethi —

(a) igosa lendlela linokuyirhoxisa ilayisensi leyo ngemvume kwangaphambili yoMlawuli-Jikelele kuphela;

(b) uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi okanye uMlawuli-Jikelele, ngokwemeko leyo, uya kuthi kwangoko azise isiphathamandla esikhuphe ilayisensi leyo ngolo rhoxiso;

(c) uMlawuli-Jikelele okanye isiphathamandla esikhuphe ilayisensi, ngokwemeko leyo, uya kuthi kwangoko azise uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi ngorhoxiso kumbandela apho ilayisensi ikwincwadana yesazisi.

36. Ukusetyenziswa kwelayisensi yokufunda ukuqhuba okanye ilayisensi yokuqhuba ngomnye umntu akuvumelekanga. - Akukho mntu onelayisensi yokufunda ukuqhuba okanye yokuqhuba oya kuvumela ilayisensi leyo ukuba isetyenziswe nguye nawuphina omnye umntu.

37. Umqhubi ongenalayisensi akanakuqeshwa okanye avunyelwe ukuba aqhuba isithuthi esiyimoto. - Akukho mntu ongumnikazi okanye umsebenzisi, okanye ojonge okanye olawula isithuthi esiyimoto oya kuqesha okanye avumele nawuphina omnye umntu ukuba aqhuba isithuthi eso kwindlela kawonke-wonke ngaphandle kokuba omnye umntu unelayisensi phantsi kwesi Sahluko yokuqhuba isithuthi.

ISIQENDU 2: IPEMETE YOKUQHUBA KOQEQESHIWEYO

38. Imvume efunwa ngumqhubi oqeqeshiweyo. - (1) Akukho mntu oya kuqhuba kwindlela kawonke-wonke isithuthi esiyimoto ekubhaliswe ngaso umsebenzisi, ngaphandle kokungqinela nemiqathango yepemete (eyakwaziwa njengepemete yokuqhuba koqeqeshiweyo) ekhutshelwe yena phantsi kwesi Sahluko kwaye ngaphandle kokuba ugcina ipemete leyo kuye kwisithuthi: Phantsi kwento ethi amalungiselelo eli candelwana akasayi kusebenza kumntu onelayisensi yokufunda ukuqhuba oqhuba isithuthi eso ngexa ekhatshwe ngumntu onelayisensi njengomqhubi oqeqeshiweyo kudidi olo lwesithuthi.

(2) Ipemete yokuqhubela uwonke-wonke ekubhekiswa kuyo kwicandelo 80 loMthetho weziHamba-ndleleni weCiskei wowe-1977 (UMthetho 10 wowe-1977) okanye ilungiselelo elimgqinelelanayo nawo nawuphina umthetho wephondo weziHamba-ndleleni uya kuthi ngokuvumelana nemiqathango yoko kodwa phantsi kwamalungiselelo alo Mthetho,

ithatyathwe njengemvume yokuqhuba okuqeqeshelweyo ngeenjongo zecandelwana (1) ngexa iqhuba ukusetyenziswa.

(3) Nayiphi na incwadana ekhutshwe sisiphathamandla esifanelekileyo kummandla omiselweyo kwaye isebenza kummandla lowo injongo efanayo naleyo yemvume yokuqhuba okuqeqeshelweyo iya kuthi phantsi kweemeko zoko nakwiimeko ezo njengoko zinokumiselwa, ithatyathwe njengemvume yokuqhuba okuqeqeshelweyo ngeenjongo zecandelwana (1).

39. Ukuhlelwa nexesha lemvume yokuqhuba okuqeqeshelweyo emayimiselwe. - Phantsi kwamalungiselelo esi Sahluko, uMphathiswa uya kuthi ngokomgaqo amisele —

- (a) iindidi zeemvume zokuqhuba okuqeqeshelweyo;
- (b) igunya elinikwa ziimvume ezo;
- (c) ithuba lokusetyenziswa kweemvume ezo;
- (d) nobume kunye neziqulatho zeemvume ezo.

40. Isicelo semvume yokuqhuba okuqeqeshelweyo. - (a) Nawuphina umntu onqwenela ukufumana imvume yokuqhuba okuqeqeshelweyo uya kuthi, phantsi kwamalungiselelo esi Sahluko, enze isicelo ngoko ke ngendlela eyiyo kwisiphathamandla esibhalisayo ahlala kummandla waso isigxina okanye ngokuqhelekileyo okanye ukuba akanandawo yakuhlala esisigxina eCiskei okanye ohlala ngokuqhelekileyo ngaphandle kommandla omiselweyo, kwisiphathamandla esibhalisayo kwisithili sakuZwelitsha.

(b) Nawuphi na umntu onqwenela ukufumana imvume yokuqhuba okuqeqeshelweyo kwaye oqeshwe liSebe loMbuso ngokucingwe kwicandelo 26 unokwenza isicelo ngoko ke ngendlela emiselweyo kwiSebe elo.

(2) Isicelo ekubhekisele kuso kwicandelwana (1) siya kkuhamba nemirhumo emiselweyo.

(3) Ukuba igunya elibhalisayo okanye iSebe likaRhulumente elichaphazelekayo liyaneliseka ukuba isicelo ekubhekiselele kuso kwicandelwana (1) siphelele kwaye sichanekile, liya kungenisa isicelo esinjalo kuMlawuli-Jikelele.

41. Ubhaliso lomqhubi oyingcaphephe. - Ukuba uMlawuli-Jikelele uya neliseka ukuba umceli uyazizalisekisa iimfuneko ezimiselweyo zokuba anikwe iphepha-mvume lokuqhuba lobungcaphephe, uya kubhalisa umceli onjalo njengomqhubi oyingcaphephe ngendlela emiselweyo.

42. Ukukhutshwa kwephepha-mvume lokuqhuba lobungcaphephe. - Emva kokuba uMlawuli-Jikelele ebhalise umceli njengomqhubi oyingcaphephe ngokwecandelo 41, uya kunika iphepha-mvume lokuqhuba lobungcaphephe umceli ngendlela emiselweyo.

43. Ukurhoxiswa okanye ukutshitshiswa kwephepha-mvume lokuqhuba lobungcaphephe nguMlawuli-Jikelele. - (1) Apho nayiphina imeko ivela ngokunxulumene nomnini wephepha-mvume lokuqhuba lobungcaphephe elikhutshwe eCiskei ethi, ngokokucinga koMlawuli-Jikelele imnike ilungelo lokwala ukunika iphepha-mvume lokuqhuba lobungcaphephe umnini onjalo okanye ukuba umnini onjalo ufunyenwe enetyala kulwaphulo-mthetho lwesibini okanye olulandelayo oluthe, ngokokucinga koMlawuli-Jikelele angarhoxisa okanye atshitshise iphepha-mvume lokuqhuba lobungcaphephe lomntu onjalo kwaye kwisiganeko esinjalo uya kwazisa loo mntu ngokufanelekileyo.

(2) Ukuba ukurhoxiswa okanye ukutshitshiswa kwenziwe ngokwecandelwana (1), umntu ochaphazelekayo uya kuthi kwangoko anikezele iphepha-mvume lokuqhuba lobungcaphephe kuMlawuli-Jikelele.

(3) Emva kokuphela kwalo naliphina ithuba lokurhoxiswa uMlawuli-Jikelele ngesicelo uya kubuyisela kumntu onelungelo loko, iphepha-mvume lokuqhuba lobungcaphephe alinikezelwe ngokwecandelwana (2) ukuba, ukuba semthethweni koko akuphelelwa.

(4) Apho nayiphina imeko ivela ngokunxulumene nomnini wephepha-mvume lokuqhuba lobungcaphephe okanye uxwebhu olunjalo olukhutshwe ngaphandle kweCiskei ethi, ngokokucinga koMlawuli-Jikelele, ibe nokumnika ilungelo lokwala ukunika iphepha-mvume lokuqhuba lobungcaphephe umnini onjalo okanye ukuba umnini onjalo ufunyenwe enetyala lolwaphulo-mthetho lwesibini okanye olulandelayo oluthe, ngokokucinga koMlawuli-Jikelele, lwanxulumana nokuqhuba isithuthi esiyimoto okanye ukungemisi emva kwengozi okanye ukuchaza ingozi, uMlawuli-Jikelele angamxelela umntu onjalo ukuba iphepha-mvume elinjalo alisebenzi ngaphakathi eCiskei kwaye ukususela kumhla umntu onjalo axelelwe ngokufanelekileyo ngawo iphepha-mvume liya kupheza ukusebenza ngaphakathi eCiskei.

44. Ilungelo lokubhena kuMphathiswa. - (1) Nawuphina umntu ohlungisiweyo kukwala koMlawuli-Jikelele ukumnika iphepha-mvume lokuqhuba lobungcaphephe okanye ziimeko ekulawula zona ekunikweni kwakhe iphepha-mvume lokuqhuba lobungcaphephe, ngaphakathi kweentsuku ezingama-21 emva kokwala okunjalo okanye ukunikwa okunjalo ngokwemeko leyo, angabhala isibheni esiya kuMphathiswa ukuchasa nakuphina ukwala okunjalo okanye iimeko, kwaye umntu onjalo kwangelo xesha linye uya kunika ikopi yesibheni kuMlawuli-Jikelele.

(2) Emva kokufumana ikopi yesibheni ekubhekiselelwa kuso kwicandelwana (1) uMlawuli-Jikelele kwangoko uya kunika uMphathiswa izizathu zakhe zokwala okanye iimeko zokukhupha isibheni esinjalo esinxulumene nazo.

(3) UMphathiswa emva kokuqwalasela isibheni anganika isigqibo esinjalo njengoko ebona kufanelekile.

45. Umqhubi wesithuthi esiyimoto esibhaliswe njengomsebenzisi ukuba abe nephepha-mvume lokuqhuba lobungcaphephe. - Akukho mntu ongumnini okanye umsebenzisi okanye ophethe okanye olawula isithuthi esiyimoto esibhaliswe ngomsebenzisi uya kuqesha okanye avumele nawuphina umqhubi ukuba aqhuba isithuthi esinjalo kwindlela kawonke-wonke ngaphandle kokuba umqhubi onjalo ungumnini wephepha-mvume lokuqhuba lobungcaphephe, apho iphepha-mvume elinjalo lifunekayo ngokwesi Sahluko ngaloo njongo, kwaye akukho mntu ungumnini wephepha-mvume lokuqhuba lobungcaphephe phantsi kwesi Sahluko uya kuvumela ukuba iphepha-mvume elinjalo lisetyenziswe nguye nawuphina omnye umntu.

46. Ukungasebenzi kwephepha-mvume lokuqhuba lobungcaphephe elikhutshwe ngokuchasene namalungiselelo esi Sahluko naliphina iphepha-mvume lokuqhuba lobungcaphephe elikhutshwe ngokuchasene namalungiselelo esi Sahluko liya kungasebenzi kwaye umnini woko uya kunika kwangoko, xa libizwa ligunya elibhalisayo okanye iSebe likaRhulumente elichaphazelekayo okanye ligosa lindlela, iphepha-mvume elinjalo kwigunya elibhalisayo elinjalo, iSebe likaRhulumente okanye igosa lindlela.

ISIQENDU 3: IIYURE ZOKUQHUBA

47. Abaqhubi mabathobele iiyure zokuqhuba. - (1) Akukho mqhubi wesithuthi esiyimoto sodidi olumiselwe nguMphathiswa ngomgaqo ngeenjongo zeli candelwana uya kuqhuba isithuthi esiyimoto esinjalo kwindlela kawonke-wonke ithuba okanye amathuba exesha angadlulanga kwithuba okanye amathuba amiselweyo.

(2) Akukho msebenzisi okanye mntu onolawulo kumqhubi oyingcaphephe uya kuvumela, akhuthaze, anyanzele okanye nangeyiphina enye indlela aphembelele umqhubi onjalo ukuba aphule amalungiselelo ecandelwana (1).

48. Iindidi ezithile zezithuthi ezizimoto ziza kuba nezixhobo ezirekhodishayo. -

(1) Akukho mntu uya kuqhuba kwindlela kawonke-wonke isithuthi esiyimoto sodidi ekujongwe kulo kwicandelo 47(1) ngaphandle kokuba isithuthi esinjalo sifakwe isixhobo esizenzelayo, esine-elektroniki, umbane okanye esingumatshini esimiselweyo apho ithuba lexesha esiqhutywe ngalo isithuthi esiyimoto esinjalo iirekhodishwayo.

(2) Umqhubi wesithuthi esiyimoto sodidi ekujongwe kulo kwicandelo 47(1) uya kusebenzisa, xa eqhuba isithuthi esiyimoto esinjalo kwindlela kawonke-wonke, isixhobo esirekhodishayo ekubhekiselelwa kuso kwicandelwana (1) ngendlela emiselweyo.

49. Imisebenzi yomsebenzisi nomqhubi wodidi oluthile lwesithuthi esiyimoto ngokuphathelele kwiirekhodi. - Imisebenzi yomsebenzisi nomqhubi wesithuthi esiyimoto sodidi ekujongwe kulo kwicandelo 47(1) ngokunxulumene nolondolozo nokugcinwa kwee-rekhodi zeeyure zokuqhuba eziveliswe sisixhobo sokurekhodisha ekujongwe kuso kwicandelo 48(1) iya kuba njengoko imiselwe.

50. Irekhodi eziveliswe sisixhobo sokurekhodisha zingasuswa zize zihlahlelwe. - (1) Kwimeko yesithuthi esiyimoto esifumene ingozi, igosa lindlela lingasusa lize lihlahlele okanye libangele ukuba kuhlahlelwe irekhodi eziveliswe sisixhobo sokurekhodisha ekujongwe kuso kwicandelo 48(1) ngokuphathelele kweso sithuthi.

(2) Irekhodi eziveliswe ngendlela yesixhobo esirekhodishayo iya kuthatyathwa *prima facie* njengebhokiselela kwisithuthi esiyimoto esincanyathiselwe kuyo isixhobo esirekhodishayo kwaye ingcaciso erekhodishwe sisixhobo okanye kwisixhobo esirekhodishayo esinjalo iya kuthatyathwa *prima facie* ukuba ichanekile.

ISIQENDU 4: NGOKUBANZI

51. Ukuveliswa kwelayisensi nephepha-mvume enkundleni. - (1) Ukuba nawuphina umntu umangalelwe ngalo naluphina ulwaphulo-mthetho phantsi kwalo Mthetho ngokunxulumene nokuqhuba isithuthi esiyimoto okanye ukungemisi emva kwengozi okanye ukuchaza ingozi uya kuvelisa, ngethuba lokuxoxwa kwesimangalo, enkundleni yonke ilayisensi nephepha-mvume analo okanye ikopi yoko ukuba akanayo eyakuqala.

(2) Ngeenjongo zesi Siqendu —

(a) "ilayisensi" kuthethwa ilayisensi yokufunda ukuqhuba okanye yomqhubi;

(b) "iphepha-mvume" kuthethwa iphepha-mvume lokuqhuba lobungcaphephe.

(3) Akukho mntu ekubhekiselelwa kuye kwicandelwana (1) uya kungaphumeleli, ngaphandle kwesizathu esifanelekileyo, ukuvelisa ngokwelo candelwana zonke ilayisensi okanye iphepha-mvume analo.

52. Inkundla ingakhupha umyalelo wokubhalwa, ukurhoxiswa kweelayisensi okanye iphepha-mvume okanye yaleleumntu ukuba afumane ilayisensi okanye iphepha-mvume. - (1) Inkundla efumanisa umntu enetyala lolwaphulo-mthetho phantsi kwalo Mthetho okanye ulwaphulo-mthetho lomthetho wesithethe olunxulumene nokuqhuba isithuthi esiyimoto okanye ukungemisi emva kwengozi okanye ukuchaza ingozi ingakhupha, ukongeza ekuwiseni isigwebo, umyalelo, ukuba umntu ofunyenwe enetyala —

(a) ngumnini welayisensi, nokuba iinkcukacha zokufunyanwa enetyala, isigwebo nawo nawuphina omnye umyalelo wenkundla obangelwe koko ubhalwe kwilayisensi enjalo, kwaye umbhalisi okanye unobhala wenkundla ochaphazelekayo uya kubhala ilayisensi enjalo ngokufanelekileyo;

(b) ngumnini welayisensi okanye welayisensi nephepha-mvume, ukuba ilayisensi enjalo okanye ilayisensi nephepha-mvume zirhoxisiwe ithuba elinjalo njengoko inkundla ibona kufanelekile okanye ukuba ilayisensi enjalo okanye ilayisensi nephepha-mvume zitshitshiswe, kwaye nawuphina umyalelo onjalo uya kubhalwa kwilayisensi enjalo njengoko kulungiselelwe kumhlathi (a);

(c) ngumnini welayisensi, okanye welayisensi nephepha-mvume, ukuba ilayisensi enjalo okanye ilayisensi nephepha-mvume zitshitshiswe nokuba umntu ofunyenwe enetyala alelwe ukuba afumane ilayisensi, okanye ilayisensi nephepha-mvume, yalo naluphina udidi lwesithuthi esiyimoto ithuba elinjalo njengoko inkundla kufanelekile kwaye umyalelo onjalo uya kubhalwa kwilayisensi njengoko kulungiselelwe kumhlathi (a); okanye

(d) akangomnini welayisensi okanye iphepha-mvume, ombhengeza ukuba alelwe ukufumana ilayisensi yokufunda ukuqhuba okanye yomqhubi, okanye ilayisensi nephepha-mvume elinjalo, nokuba lithuba elingacaciswanga okanye ithuba elinjalo njengoko inkundla inokubona kufanelekile.

(2) Ukwenziwa kokubhalwa ngokwecandelwana (1) kungamiselwa elinye ixesha yinkundla ekhupha umyalelo de nasiphina isibheni sokuchasa ukufunyaniswa unetyala okanye isigwebo okanye zombini sibe sigqityiwe.

53. Inkqubo elandela ukubhalwa, ukurhoxiswa okanye ukutshitshiswa kwelayisensi okanye iphepha-mvume. - (1) Apho inkundla ikhuphe umyalelo wokuba ilayisensi ngaphandle kwelayisensi ekhutshwe ngokwecandelo 21(5), ibhalwe, okanye wokuba ilayisensi enjalo okanye naliphi na iphepha-mvume lirhoxiswe okanye litshitshiswe, umbhalisi okanye unobhala wenkundla enjalo uya kuchazela igunya elikhuphe ilayisensi enjalo okanye iphepha-mvume ngoko nokufunyanwa enetyala nesigwebo somntu ochaphazelekayo.

(2) Apho inkundla ikhuphe umyalelo wokuba ilayisensi ekhutshwe ngokwecandelo 21(5) ibhalwe, irhoxiswe okanye itshitshiswe, umbhalisi okanye unobhala wenkundla enjalo uya kuchazela uMlawuli-Jikelele weMicimbi yaNgaphakathi ngoko.

(3) Apho inkundla ikhuphe umyalelo wokuba ilayisensi ngaphandle kwelayisensi ekhutshwe ngokwecandelo 21(5), okanye iphepha-mvume itshitshiswe, umbhalisi okanye unobhala wenkundla enjalo uya kugqithisela ilayisensi enjalo okanye iphepha-mvume kwigunya elalikhuphe ilayisensi okanye iphepha-mvume.

(4) Ilayisensi, ngaphandle kwelayisensi ekhutshwe ngokwecandelo 21(5) okanye iphepha-mvume elirhoxisiweyo ngenxa yomyalelo wenkundla liya kubuyiselwa, emva kokuba libhaliwe ngokunjalo ngumbhalisi okanye unobhala wenkundla ochaphazelekayo, kumntu, onelungelo loko.

(5) Naninina ilayisensi ibhaliwe okanye ilayisensi nephepha-mvume zirhoxisiwe okanye zitshitshiwe ngokomyalelo wenkundla, ukubhalwa, ukurhoxiswa okanye ukutshitshiswa kuya kusebenza kuyo yonke enye ilayisensi enjalo okanye ilayisensi nephepha-mvume ziya kubhalwa ngokunjalo ngumbhalisi okanye unobhala wenkundla kuze emva koko zibuyiselwe kumntu onelungelo loko.

ISAPHLUKO 4

UKUFANELEKA KWEZITHUTHI

54. Isatifikethi sokufaneleka endleleni esifunekayo malunga nezithuthi eziziimoto. -

(1) Akukho mntu uya kuqhuba isithuthi esiyimoto kwindlela kawonke-wonke esingekho kwimeko yokufaneleka endleleni.

(2) Akukho mntu uya kuqhuba isithuthi esiyimoto kwindlela kawonke-wonke ngaphandle kokuba iimfuneko malunga nesiqinisekiso sokufaneleka endleleni ekubhekiselelwa kuzo kwicandelwana (3) eziphathelele kwisithuthi esiyimoto esinjalo zithotyelwe kwaye ngaphandle kokuba zingqamane neemeko zesatifikethi esinjalo.

(3) Kulawula amalungiselelo esi Sahluko uMphathiswa uya kumisela ngomgaqo. - (a) iindidi zesatifikethi sokufaneleka endleleni;

(b) iindidi ezihlelwa ngazo izithuthi eziziimoto ngeenjongo zokumisela iimfuneko ezinxulumene nokufaneleka endleleni neemfuneko zokuqinisekisa ukufaneleka endleleni ezisebenzayo kudidi ngalunye lwesithuthi esiyimoto; kunye

(c) nethuba lokusebenza kwezatifikethi sokufaneleka endleleni kunye neediski sokufaneleka endleleni.

(4) Isatifikethi sokufaneleka esisebenzayo ekubhekiselelwa kuso kwicandelo 79(1) loMthetho weZihamba-Ndleleni weCiskei, wowe-1977 siya kuthatyathwa, ngokungqamene neemeko zoko kulawula amalungiselelo alo Mthetho, ngeenjongo zecandelwana (2) ukuba sisatifikethi sokufaneleka endleleni sethuba lokusebenza kwesatifikethi sokufaneleka esinjalo.

(5) Naluphina uxwebhu olukhutshwe ligunya elifanelekileyo kummandla omiselweyo kwaye lisenza umsebenzi ofanayo nalowo wesatifikethi sokufaneleka endleleni luya kuthatyathwa, ngokungqamene neemeko zoko kodwa kulawula amalungiselelo alo Mthetho, ukuba sisatifikethi sokufaneleka endleleni ngeenjongo zecandelwana (2).

55. Isicelo sesatifikethi sokufaneleka endleleni. - (1) Nawuphina umntu ofuna ukufumana isatifikethi sokufaneleka endleleni ekubhekiselelwa kuso kwicandelo 54 uya kucela ngendlela emiselweyo kwisitishi esivavanyayo.

(2) Isicelo esenziwe ngokwecandelwana (1) siya kukhatshwa yimirhumo emiselweyo.

56. Uxilongo lwesithuthi esiyimoto nokukhutshwa kwesatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni. - (1) Ekufunyanweni kwesicelo ekubhekiselelwa kuso kwicandelo 55, umxilongi zithuthi ohlelwe ngokufanelekileyo uya kuvavanya aze axilonge isithuthi esiyimoto esichaphazelekayo ngendlela nangokumalunga neempawu ezimiselweyo.

(2) Ukuba umxilongi zithuthi, emva kokuxilonga nokuvavanya isithuthi esiyimoto esinjalo —

(a) uyaneliseka ukuba isithuthi sifanelekile endleleni, uya kukhupha, emva kokuhlawulwa ngumceli imirhumo emiselweyo okanye agunyazise ukukhutshwa kwiifomu ezimiselweyo zesatifikethi sokufaneleka endleleni, kwaye, apho kufanelekileyo njengobungqina bokuba ubani unako, idiski yokufaneleka endleleni, kwaye umkhuphi wesatifikethi esinjalo uya kungenisa ikopi yoko kwigunya elibhalisayo elichaphazelekayo noMlawuli-Jikelele; okanye

(b) akaneliseki ngolo hlobo, angavumela umceli, ngaphakathi kwethuba elimiswe nguye, kodwa elingadlulanga kwiintsuku ezili-14 emva komhla wokuxilonga onjalo novavanyo, ukuba alungise nasiphina isiphene kwisithuthi esinjalo kwaye, ukuba umxilongi zithuthi emva koko wanelisekile ngolo hlobo, uya kwenza ngokomhlathi (a).

(3) Apho isithuthi esiyimoto ekubhekiselelwa kuso kwicandelwana (1) sibhekiselelwe kwisitishi sovavanyo phantsi kwecandelo 8(a) isithuthi esinjalo siya kuxilongwa size sivavanywe ngumxilongi wezithuthi ohlelwe ngokufanelekileyo kwaye, apho kufunyaniswe ukuba isithuthi asifanelekanga endleleni, isatifikethi sokufaneleka endleleni esisebenzayo malunga nesithuthi esinjalo singatshitshiswa ngokweemeko ezimiselweyo ize idiski yokufaneleka endleleni ibe nokuthinjwa okanye itshatyalaliswe ngumxilongi wezithuthi okanye angavumela umntu, umsebenzisi okanye umntu ophethe isithuthi esinjalo, ngaphakathi kwethuba elimiswe nguye kodwa elingadlulanga kwiintsuku ezili-14 emva komhla wokuxilonga novavanyo olunjalo, ukuba alungise nasiphina isiphene kwisithuthi esinjalo, apho ngoko isithuthi siya kuveliswa kwisitishi sovavanyo.

(4) Nakubeni kukho amalungiselelo ecandelwana (1), umxilongi wezithuthi ohlelwe ngokufanelekileyo ogunyaziswe ngoko ngokubhaliweyo sisitishi sovavanyo angaxilonga ngokutsha, nangaliphina ixesha phambi kokuba isithuthi esiyimoto esivavanywayo nesixilongwayo okanye ebesixilongiwe saza savavanywa ngenjongo yokukhupha isatifikethi sokufaneleka endleleni malunga naso ngokwela candelwana sibuyiselwe kumceli, eso sithuthi siyimoto kwaye ngaloo njongo —

(a) uya kuthatyathwa ukuba ngumxilongi wezithuthi ekubhekiselelwa kuye kwicandelwana (1);

(b) naliphina inyathelo langaphambili elithatyathwe malunga neso sithuthi ngokwe-engcandelwana (1) nele-(2) aliya kusebenza.

(5) Akukho mntu uya kukhupha ngabom okanye ngokungakhathali okanye agunyazise ukukhutshwa kwesatifikethi sokufaneleka endleleni okanye idiski yokufaneleka endleleni engachanekanga ngokubalulekileyo, okanye akhuphe okanye agunyazise ukukhutshwa kwesatifikethi okanye idiski enjalo malunga nesithuthi esiyimoto esingazifezekisiyo iimfuneko ezimiselweyo.

(6) Akukho mntu uya kususa okanye kufaka endaweni yamalungu esithuthi ekwakhutshwe malunga naso isatifikethi sokufaneleka endleleni, ngaphandle kwakwindlela yesiqhelo yokulondoloza okanye ukusetyenziswa kwesithuthi esinjalo.

57. Uthintelo lokulayisensa isithuthi esingafanelekanga endleleni. - Isithuthi esiyimoto esingazifezekisiyo iimfuneko ekubhekiselelwa kuzo kwicandelo 54(3)(b) asiya kulayisenswa okanye silayisense ngokutsha.

58. Uthintelo lokuba nesatifikethi sokufaneleka endleleni okanye idiski yokufaneleka endleleni ezingaphezulu kwesinye malunga nesithuthi esiyimoto esinye. - (1) Akukho mntu uya kuba nesatifikethi sokufaneleka endleleni malunga nemoto enye ezingaphezulu kwesinye, amathuba okusebenza azo angexesha elinye.

(2) Xa umnini wesatifikethi sokufaneleka endleleni esingaphelelanga malunga nesithuthi esiyimoto ecele ngokwecandelo 55 isatifikethi sokufaneleka endleleni esitsha malunga neso sithuthi uya kunikezela, kwakukhutshwa isatifikethi sokufaneleka endleleni esitsha nediski yokufaneleka endleleni, isatifikethi esingaphelelwanga esinjalo kunye nayiphina idiski esebenzayo kumkhuphi wesatifikethi sokufaneleka endleleni kwaye umkhuphi onjalo uya kutshitshisa ngoko isatifikethi nediski esiwe kuye.

59. Idiski yokufaneleka endleleni mayincanyathiselwe kwisithuthi esiyimoto. -

(1) Kulawula amalungiselelo eengcandelwana (2) nele-(3), akukho mntu uya kuqhuba okanye avumele kuqhutywe kwindlela kawonke-wonke isithuthi esiyimoto sodidi olumiselweyo —

(a) ngaphandle kokuba idiski yokufaneleka endleleni incanyathiselwe kuso ngendlela emiselweyo; okanye

(b) ukuba kuncanyathiselwe kuso idiski yokufaneleka endleleni —

(i) ithuba lokusebenza kwayo liphelile; okanye

(ii) engaxulumenanga nesithuthi esinjalo.

(2) Idiski ekhutshwe ligunya elifanelekileyo nakowuphina ummandla omiselweyo enjongo yayo ifanayo naleyo yediski yokufaneleka endleleni iya kuthatyathwa ngeenjongo zecandelwana (1) ukuba yidiski yokufaneleka endleleni.

(3) Apho uxwebhu olunjongo yalo ifanayo naleyo yesatifikethi sokufaneleka endleleni lukhutshwe ligunya elifanelekileyo nakowuphina ummandla omiselweyo malunga nesithuthi esiyimoto esinjalo ngokomthetho wommandla ochaphazelekayo, amalungiselelo ecandelwana (1)(a) akayi kusebenza kwisithuthi esiyimoto esinjalo ngethuba lethuba lokusebenza koxwebhu olunjalo.

(4) Uxwebhu ekubhekiselelwa kulo kwicandelwana (3), luya kuba ngaphakathi okanye kwisithuthi esiyimoto esichaphazelekayo, ngethuba lokusebenza koko ngelixa siqhutywa kwindlela kawonke-wonke eCiskei.

60. Igunya elinikwa sisatifikethi sokufaneleka endleleni kulawula amalungiselelo oMthetho. - limeko zesatifikethi sokufaneleka endleleni ezinxulumene nesithuthi esiyimoto negunya elinikwa koko aziya kuchazwa njengezithoba naluphina ulungiselelo lwalo Mthetho kwaye, xa kukho naluphina ungquzulwano phakathi kweemeko zesatifikethi esinjalo nalo naluphina ulungiselelo lwalo Mthetho, okukhankanywe mva kuya kuhlala kumi.

61. Isiphumo sokutshintshwa kwesithuthi esiyimoto kwisatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni. - (1) Kulawula amalungiselelo ecandelwana (3) isatifikethi sokufaneleka endleleni malunga nesithuthi esiyimoto ziya kungasebenzi apho isithuthi esiyimoto esinjalo sitshintshwe kangangendlela yokuba —

(a) isatifikethi sokufaneleka endleleni esinjalo okanye idiski ayisachazi ngokuchane-kileyo isithuthi esiyimoto; okanye

(b) utshintsho olunjalo luchaphazela iimeko zeso satifikethi.

(2) Ngaphakathi kweentsuku ezisixhenxe emva kokuba isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ziye zangasebenzi ngokwecandelwana (1) umnini wesatifikethi esinjalo nediski uya kuzizisa kwisitishi sokuavavanya esasizikhuphile kwaye uya kucela isatifikethi sokufaneleka endleleni esitsha sesithuthi esiyimoto esinjalo.

(3) Amalungiselelo eengcandelwana (1) nele-(2) akayi kusebenza malunga nesithuthi esiyimoto esithe —

(a) kwatshintshwa injini kuphela, kodwa umnini okanye umsebenzisi wesithuthi esiyimoto esinjalo uya kungenisa, ngaphakathi kweentsuku ezingama-21 emva kotshintsho olunjalo, isatifikethi sokufaneleka endleleni nediski yokufaneleka malunga nesithuthi esinjalo kwisitishi sokuavavanya esasizikhuphile kwaye uya kunika kwangelo xesha linye eso sitishi sokuavavanya inombolo entsha yenjini, apho ngoko isitishi sokuavavanya siya kulungisa irejista yaso okanye iirekhodi nesatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ngokunjalo size sazise uMlawuli-Jikelele ngesilungiso; okanye

(b) inombolo yokubhaliswa iyatshintsha xa isithuthi esiyimoto esinjalo sibhaliswe ngokwalo Mthetho, ngaphandle kwaxa sibhaliswa ngenxa yokutshintsha komnini waso, kodwa umnini okanye umsebenzisi wesithuthi esiyimoto esinjalo uya kungenisa, xa ethobela amalungiselelo alo Mthetho malunga nobhaliso, isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni yesithuthi esiyimoto esichaphazelekayo kwigunya elibhalisayo elibhalisa eso sithuthi esiyimoto, apho ngoko elo gunya libhalisayo liya kulungisa inombolo yokubhaliswa kwisatifikethi esinjalo nediski kwaye, apho isatifikethi esinjalo nediski zazikhutshwe —

(i) sisitishi sokuavavanya selo gunya libhalisayo, liya kulungisa irejista yalo okanye iirekhodi ngokufanelekileyo; okanye

(ii) sisitishi sokuavavanya selinye igunya lokubhalisa, liya kwazisa elinye elo igunya lokubhalisa ngenombolo yokubhaliswa elungisiweyo, apho ngoko igunya lokubhalisa elikhankanywe mva liya kulungisa ngokunjalo irejista zalo okanye iirekhodi, lize lazise uMlawuli-Jikelele ngokufanelekileyo.

62. Ilungelo lokubhena kuMphathiswa. - (1) Nawuphina umntu, ohlungisiweyo kukwala komxilongi wezithuthi okanye isitishi sokuavavanya ukukhupha isatifikethi sokufaneleka endleleni malunga nesithuthi esiyimoto okanye ukugunyazisa ukukhutshwa kwesatifikethi esinjalo kuye okanye kulawula iimeko isatifikethi esinjalo sakhutshelwa yena, angabhena ngokubhala, ngaphakathi kweentsuku ezingama-21 emva kokwala okunjalo okanye emva kokukhutshwa kwesatifikethi kulawula iimeko ezichaphazelekayo, ukuchasa nakuphina ukwala okunjalo okanye iimeko ezichaphazelekayo kuMphathiswa kwaye umntu onjalo kwangelo xesha linye uya kunika ikopi yesibheni umxilongi okanye isitishi sokuavavanya esichaphazelekayo.

(2) Emva kokufumana ikopi yesibheni ekubhekiselelwa kuyo kwicandelwana (1), umxilongi okanye isitishi sokuavavanya esichaphazelekayo siya kunika kwangoko uMphathiswa izizathu zakhe okanye zaso ngesigqibo esinxulumene nesibheni esinjalo.

(3) Ngenjongo zokugweba isibheni ngokwecandelwana (1) uMphathiswa —

(a) apho isibheni sichaphazela isatifikethi sokufaneleka endleleni, angenza isithuthi esiyimoto esichaphazelekayo sixilongwe size sivavanywe ngumxilongi wezithuthi owalathelwe nguye; kwaye

(b) angafuna iqela ngalinye kwisibheni ukuba linike ingcaciso enjalo nobungqina njengoko enokubona kuyimfuneko.

(4) UMphathiswa emva kokuqwalasela isibheni anganika isigqibo esinjalo njengoko enokubona kufanelekile.

63. Ukuphutha kwesatifikethi sokufaneleka endleleni okanye idiski yokufaneleka endleleni ekhutshwe ngokuchasene namalungiselelo esi Sahluko. - Nasiphina isatifikethi sokufaneleka endleleni okanye idiski yokufaneleka endleleni ekhutshwe ngokuchasene namalungiselelo esi Sahluko siya kuphutha kwaye umnini waso uya kusa, xa sibiziwe sisitishi sokuavavanya ebesikhuphe isatifikethi esinjalo okanye idiski okanye ligosa lezihamba-ndleleni, kwangoko isatifikethi esinjalo okanye idiski kwisitishi sokuavavanya esinjalo okanye igosa lezihamba-ndleleni.

64. Ukurhoxiswa okanye ukutshitshiswa kwesatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni nguMphathiswa. - (1) Ukuba umnini wesatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ezikhutshwe eCiskei ufunyenwe enetyala kulwaphulo-mthetho lesibini okanye elilandelayo oluthe, ngokokucinga kukaMphathiswa lunxulumana nokufaneleka endleleni kwesithuthi esiyimoto okanye isatifikethi esinjalo okanye idiski, uMphathiswa —

(a) angarhoxisa, ithuba elinjalo njengoko enokumisela; okanye

(b) atshitshise isatifikethi sokufaneleka endleleni esinjalo nediski yokufaneleka endleleni.

(2) Ukuba uMphathiswa urhoxisa okanye utshitshisa isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ngokwecandelwana (1), umntu ochaphazelekayo uya kusa kwangoko zonke izatifikethi ezinjalo nediski kuMlawuli-Jikelele.

(3) Umlawuli-Jikelele uya kwazisa isitishi sokuvavanya okanye igunya elibhalisayo elichaphazelekayo ngazo zonke izatifikethi zokufaneleka endleleni nediski yokufaneleka endleleni erhoxisiweyo okanye etshitshisiweyo ngokwecandelwana (1).

(4) Ekupheleni kwethuba lokurhoxiswa ekuthethwa ngalo kwicandelwana (1)(a), uMlawuli-Jikelele uya kubuyisela xa eceliwe kumntu onelungelo loko zonke izatifikethi nokufaneleka endleleni zinikwe yena ngokwecandelwana (2), ukuba ukusebenza koko akukapheli.

(5) Akukho mntu uya kufumana ngaphandle kwemvume yoMphathiswa isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni yesithuthi esiyimoto —

(a) ngethuba lethuba apho isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ebengumnini waso zirhoxisiwe ngokwecandelwana (1)(a); okanye

(b) ukuba isatifikethi sokufaneleka endleleni nediski yokufaneleka endleleni ebengumnini wazo zitshitshisiwe ngokwecandelwana (1)(b).

(6) Ukuba umnini —

(a) woxwebhu olusebenza umsebenzi ofanayo nalowo wesatifikethi sokufaneleka endleleni; okanye

(b) woxwebhu ekuthethwa ngalo kumhlathi (a) nediski esebenza umsebenzi ofanayo nalowo wediski yokufaneleka endleleni, olukhutshwe kummandla omiselweyo ufunyenwe enetyala kulwaphulo-mthetho lwesibini okanye olulandelayo oluthe, ngokokucinga kukaMphathiswa, lanxulumana nokufaneleka endleleni kwesithuthi esiyimoto okanye noxwebhu olunjalo idiski, uMphathiswa angazisa loo mntu ukuba lonke uxwebhu olunjalo okanye idiski anayo ayisebenzi ngaphakathi eCiskei kwaye, ukususela kumhla loo mntu waxelelwa njalo ngawo, lonke uxwebhu olunjalo okanye idiski iya kupheza ukusebenza ngaphakathi eCiskei.

65. Isaziso sokuyeka ukusetyenziswa kwesithuthi esiyimoto. - (1) Ukuba, ngokokucinga kwegosa lendlela okanye umxilongi wezithuthi esebenzisana negosa lendlela, isithuthi esiyimoto asifanelekanga endleleni, ongayalela ngesaziso kwifomu emiselweyo enikwe umqhubi, umnini okanye umsebenzisi wesithuthi esinjalo ukuba isithuthi esinjalo asisayi kuqhutywa kwindlela kawonke-wonke okanye ukuba isithuthi esiyimoto esinjalo siya kuqhutywa kuphela ngokweemeko ezimiseliweyo.

(2) Indlela neemeko igosa lendlela elinjalo okanye umxilongi wezithuthi angakhupha phantsi kwazo isaziso ekubhekiselelwa kuso kwicandelwana (1) namanyathelo angaphezulu aya kuthatyathwa okanye angathatyathwayo malunga nesithuthi esichaphazelekayo aya kuba njengoko kumiselwe.

ISAHLUKO 5

UKUFANELEKA KOMSEBENZISI

66. Ukubhaliswa komsebenzisi. - (1) Umnini wesithuthi esiyimoto sodidi olumiselwe nguMphathiswa ngomgaqo ngeenjongo zokusetyenziswa kwesiSahluko, iya kuba ngumsebenzisi wesithuthi esiyimoto esinjalo kwaye uya kubhaliswa ngokunjalo phantsi kwecandelwana (6) ngaphandle kokuba umnini wesithuthi esiyimoto esinjalo wenze nomnye umntu imvumelwano elungiselela ukuba isithuthi esiyimoto singaqhutywa ngumntu onjalo ithuba eligqithileyo kwiinyanga ezintathu kwaye umntu onjalo ubhaliswe njengomsebenzisi wesithuthi esiyimoto.

(2) Umnini wesithuthi esiyimoto ekubhekiselelwa kuye kwicandelwana (1) uya kwazisa, ngendlela emiselweyo naxa kuhlawulwe imirhumo emiselweyo, igunya elibhalisayo elikummandla ahlala kuwo ngokwesiqhelo okanye apho indawo yoshishino yakhe ikhoyo —

(a) xa kubhaliswa isithuthi esiyimoto esinjalo ngokwesahluko 2; okanye

(b) ngaphakathi kweentsuku ezisixhenxe emva kokwenziwa okanye ukulungiswa kwemvumelwano okanye emva kokuba isithuthi sibe sisithuthi sodidi ekubhekiselelwa kulo kwicandelwana (1), umntu (apha kamva ekubhekiselelwa kuye njengomntu owalathelweyo) oza kubhaliswa njengomsebenzisi wesithuthi esiyimoto esinjalo.

(3) Umnini waso nasiphina isithuthi esiyimoto esibhaliswe kummandla omiselweyo okanye kwilizwe langaphandle uya kwaziswa, ngaphandle kokuba uthatyathwe njengomnini wekhadi lomsebenzisi ngokwecandelo 67(3) phambi kokungena eCiskei ngesithuthi esinjalo, xa kuhlawulwe umrhumo omiselweyo, igunya elibhalisayo lesithili saseZwelitsha umntu (apha kamva ekubhekiselelwa kuye njengomntu owalathelweyo) oza kubhaliswa njengomsebenzisi wesithuthi esinjalo.

(4) Ukuba igunya elibhalisayo elichaphazelekayo liyaneliseka ngokwaziswa ekubhekiselelwa kulo kwicandelwana (2) okanye (3) ngokwemeko leyo, liya kungenisa iinkcukacha zomntu owalathelweyo kuMlawuli-Jikelele ngaphakathi kweentsuku ezisixhenxe emva kokufunyanwa koko.

(5) Ngaphandle kokuba umnini wesithuthi esiyimoto esichaphazelekayo, ngexesha lokwaziswa ekuthethwa ngalo kwicandelwana (2) okanye (3) ubhaliswe njengomsebenzisi woko igunya elibhalisayo liya kukhupha iphepha-mvume lomsebenzisi lethutyana kumnini onjalo ngendlela nangeemeko njengoko kumiselwe.

(6) Umlawuli-Jikelele uya kubhalisa, ukuba uyaneliseka ukuba umntu owalathelweyo makabhaliswe njengomsebenzisi umntu onjalo ngendlela emiselweyo njengomsebenzisi wesithuthi esiyimoto esichaphazelekayo.

(7) Umpathiswa angakhulula ngomgaqo nawuphina umsebenzi okanye udidi lwabasebenzisi kulo naliphina ilungiselelo lalo Mthetho.

67. Ukukhutshwa kwekhadi lomsebenzi. - (1) Umlawuli-Jikelele uya kubonelela igunya elibhalisayo elichaphazelekayo, malunga nesithuthi esiyimoto ngasinye ekuthethwa ngaso kwicandelo 66, ngekhadi lomsebenzisi ngendlela emiselweyo xa kuhlawulwe umrhumo omiselweyo.

(2) Igunya elibhalisayo liya kunika ngendlela emiselweyo umsebenzisi ochaphazelekayo ikhadi lomsebenzisi ekuthethwa ngalo kwicandelwana (1).

(3) Naliphina uxwebhu elikhutshwe ligunya elifanelekileyo kummandla omiselweyo okanye ilizwe langaphandle kwaye lisebenza kummandla onjalo okanye ilizwe umsebenzi ofanayo nalowo wekhadi lomsebenzisi liya kuthatyathwa, kulawulo limeko zoko neemeko ezinjalo njengoko zinokumiselwa, njengekhadi lomsebenzisi ngeenjongo zecandelwana (19).

(4) Apho nayiphina imeko ivela ngokunxulumene nomnini wekhadi lomsebenzisi ekuthathwa ngalo kwicandelwana (3) ethi ngokucinga koMlawuli-Jikelele ibe ibinokumnika ilungelo lokwenza phantsi kwecandelo 71 ukuba ikhadi elinjalo alikhutshwanga eCiskei, uMlawuli-Jikelele angazisa umnini onjalo ukuba ikhadi elinjalo alisebenzi ngaphakathi eCiskei kwaye ukususela kumhla umntu onjalo waziswa ngokunjalo ikhadi elinjalo liya kupheza ukusebenza ngaphakathi eCiskei.

68. Ikhadi lomsebenzisi maliboniswe kwisithuthi esiyimoto. - Akukho mntu uya kuqhuba isithuthi esiyimoto salo naluphina udidi ekuthethwa ngalo kwicandelo 66(1) kwindlela kawonke-wonke ngaphandle kokuba ikhadi lomsebenzisi elisemthethweni liboniswe kwisithuthi esiyimoto esinjalo ngendlela emiselweyo.

69. Ubungqina bezinto ezithile. - Ukuba nakuphina ukuthethwa kwetyala umbuso uyavela ukuba ngubanina umsebenzisi, wesithuthi esiyimoto, ushicilelo okanye ikopi yekhadi lomsebenzisi, ekuvelisweni kwayo, iya kuba bubungqina *prima facie* bokuba umntu onegama elivela njengomsebenzisi kwikhadi elinjalo yayinguye umsebenzisi wesithuthi esinjalo ngexesha ulwaphulo-mthetho lwalusenziwa.

70. Imisebenzi yomsebenzisi. - Umsebenzisi wesithuthi esiyimoto uya —

(a) kwazisa, ngaphakathi kweentsuku ezisixhenxe —

(i) umnini, ukuba kuyenzeka, wesithuthi esiyimoto esinjalo, kunye

(ii) negunya elibhalisayo elichaphazelekayo ngalo naluphina utshintsho kwimeko eziphathelele kubhaliso lwakhe njengomsebenzisi wesithuthi esiyimoto esinjalo;

(b) kugcina ngokukhuselekileyo aze akhusele ukubiwa kwekhadi lomsebenzisi elinikwe yena ukuba naliphina ikhadi elinjalo libiwe okanye lilahlekile uya kwazisa isitishi samapolisa esikufutshane negunya elibhalisayo ebelikhuphe ikhadi ngaphakathi kweeyure emva kokuba ikhadi elinjalo libiwe okanye lilahlekile;

(c) kusebenzisa ulawulo olufanelekileyo kumqhubi wesithuthi esiyimoto esinjalo ukuqinisekisa ukuthobela komqhubi onjalo onke amalungiselelo alo Mthetho, ingakumbi amalungiselelo aphathelele —

(i) kwiiyure zokuqala ekubhekiselelwa kuzo kwicandelo 47;

(ii) iimfuneko malunga nephepha-mvume lokuqhuba lobungcaphephe ekubhekiselelwa kuzo kwicandelo 38, kunye

(iii) nokulayishwa kwezithuthi njengoko kumiselwe phantsi kwesahluko 11;

(d) kuqinisekisa ukuba isithuthi esiyimoto esinjalo siyazithobela iimfuneko zokufaneleka ekuthethwa ngazo kwisahluko 4;

(e) kwenza imisebenzi yakhe ngononophelo olufanelekileyo ukwenzela ukhuseleko loluntu, kwaye

(f) ukuba kuhanjiswa izinto ezinobungozi, kuqinisekisa ukuba zonke iimfuneko zokuhanjiswa kwezinto ezinobungozi, njengoko zimiselwe —

(i) kuMthetho wezinto ezinobungozi, 1973 (uMthetho 15 wowe-1973), kunye

(ii) nawuphina omnye umthetho ophathelele kwizinto, ezinjalo, ithotyelwe.

71. Igunya loMlawuli-Jikelele malunga nezithuthi ezizimoto, abaqhubi nemisebenzi yabasebenzisi. - (1) Umlawuli-Jikelele, ngabo nabuphina ubungqina ngemeko yokufaneleka kwesithuthi esiyimoto malunga naso esibhaliswe ngomsebenzisi buvelisiwe kuye ngokwecandelwana (4) ngesaziso esibhaliweyo —

(a) angazisa umsebenzisi onjalo ukuba isithuthi esiyimoto esinjalo sirhanelwa ngokungafaneleki endleleni nokuba umsebenzisi makathabathe amanyathelo afanelekileyo kwangoko ukuqinisekisa ukufaneleka endleleni rhoqo kwaso ngokwamalungiselelo esahluko 4;

(b) angafuna kumsebenzisi onjalo ukuba abonise ngokubhala ukuba uthathe awaphina amanyathelo enx'engaphambili ukuqinisekisa ukufaneleka endleleni okuqhubayo kwesithuthi esiyimoto sakhe ngokwamalungiselelo eSahluko 4;

(c) angayalela umsebenzisi onjalo ukuba ase isithuthi esiyimoto esinjalo kuhlobo, uxilongo okanye uvavanyo ngexesha nendawo eya kucaciswa kwisaziso esinjalo; kwaye

(d) angarhoxisa ikhadi lomsebenzisi elikhutshwe malunga nesithuthi esiyimoto ukuba isithuthi esiyimoto esinjalo sixilongiwe okanye sivavanyiwe ngokomhlathi (e) saza safunyaniswa singafanelekanga endleleni ngokwamalungiselelo eSahluko 4 ithuba elinjalo njengoko isithuthi esiyimoto esinjalo singafanelekanga endleleni ngokunjalo.

(2) Umlawuli-Jikelele, ethathela ingqalelo irekhodi yomqhubi wesithuthi esiyimoto esibhaliswe ngomsebenzisi ngesaziso esibhaliweyo —

(a) angazisa umsebenzisi onjalo ukuba kurhanelwa ukuba akenzi lawulo lufanelekileyo kubaqhubi abaphantsi kwegunya lakhe njengoko kufuneka ngokwecandelo 70;

(b) angafuna kumsebenzisi onjalo ukuba abonise ngokubhala ukuba uthathe awaphina amanyathelo enx'engaphambili ukwenzela ukuqinisekisa ulawulo olufanelekileyo kubaqhubi abaphantsi kwegunya lakhe;

(c) angafuna kumsebenzisi onjalo ukuba avelise iirekhodi ukuba zixilongwe ezinxulumene nabaqhubi ekufuneka umsebenzisi azigcine ngokwalo Mthetho; kwaye

(d) angayalela ukuba umqhubi ochaphazelekayo avavanywe ngokutsha ngokwecandelo 27.

(3) Umlawuli-Jikelele, ukuba irekhodi yomsebenzi ibonisa ukuba umsebenzi onjalo akawathobeli amalungiselelo alo Mthetho, ngesaziso esibhaliweyo —

(a) angayalela umsebenzi onjalo azalisekise ngendlela efanelekileyo imisebenzi ebekwe phezu kwakhe ngokwecandelo 70;

(b) angalathela umntu ofanelekile, ukuba aphande imisebenzi jikelele okanye imisebenzi ecacisiweyo yomsebenzisi onjalo aze ayalele umntu owalathelwe njalo ukuba enze icebiso elibhaliweyo kuye ukuba ngawaphina amanyathelo amakathatyathwe malunga nomsebenzi onjalo;

(c) angayalela umsebenzisi onjalo ukuba avela phambi kwakhe, nawuphina omnye umntu owalathelwe nguye, ukwenzela ukuba anike izizathu zokungaphumeleli kwakhe ukufekisa imisebenzi ebekwe phezu kwakhe ngokwecandelo 70; kwaye

(d) angazisa umsebenzisi onjalo —

- (i) ukuba ikhadi lomsebenzisi uya kulinikwa kuphela ngokweemeko ezinjalo njengoko uMlawuli-Jikelele angabona kufanelekile;
- (ii) ukuba akukho khadi lomsebenzisi limbi aya kulinikwa ithuba elinjalo njengoko uMlawuli-Jikelele enokucacisa kwisaziso; okanye
- (iii) ukuba onke amakhadi omsebenzi aphanthelele kwizithuthi ezizimoto ezibhaliswe ngaye njengomsebenzisi arhoxiswe de uMlawuli-Jikelele aneliseke ukuba imihlaba yokurhoxiswa okunjalo iphelile ukuba ngaba —
 - (aa) ithuba lako nakuphina ukurhoxiswa phantsi komhlathana (iii) aliya kudlula kwiinyanga ezili-12;
 - (bb) nasiphina isigqibo soMlawuli-Jikelele ngokwalo mhlathi siya kuthatyathwa kuphela ngokwesiseko secebiso lomntu owalathelwe ngokomhlathi (b);
 - (cc) uMlawuli-Jikelele, ngaphakathi kweentsuku ezingama-21 emva komhla wesaziso, uya kunika ngokubhala umsebenzisi onjalo izizathu zesigqibo sakhe.

(4) Umlawuli-Jikelele, xa esebenzisa amagunya akhe ngokweli candelo —

(a) angafuna nakuwuphina umsebenzisi kulawulo nakuyiphina inkcaso yase-mthethweni, enze kufumaneka amaxwebhu ngengxelo efungelweyo okanye ukuphendula imibuzo phantsi kwesifungo nokuveza loo maxwebhu ukuze ahlolwe.

(b) Angafuna nakuwuphina umsebenzisi enze ukuba kubekho uhlobo lwazo nazi-phina iirekhodi okanye amaxwebhu ekufuneka egciniwe ngumsebenzisi ngokomgaqo walo mthetho.

(c) Angalathela ikhomishini eza kuthabatha ubungqina bakhe nawuphina umntu oseCiskei okanye okummandla omiselweyo okanye kwilizwe lasemzini ukuze agqithise obo bungqina kuloo mntu ngendlela enye ngokungathi ikhomishini ngumkhomishinali obekwe yinkundla; kwakhona

(d) nangaliphina ixesha afune ukuba uphando luqhutywe kwimisebenzi yomsebenzisi ngokwenziwa nguloo mntu walathelwe nguye ukulungiselela oko, kwaye ukuba lo msebenzisi uyikampani, kwakhona nakuyo nayiphina enye ikampani kwiqela leekampani akuzo umsebenzisi apho umsebenzisi okanye apho umsebenzisi eyikampani elawulayo.

(5) Umlawuli-Jikelele unokuthi ukuba ngesizathu esibambekayo urhana ukuba nawuphina umntu obhaliswe njengomsebenzisi sithuthi akanguye onyanisekileyo afune into ebubungqina kumnini-sithuthi sokuba umntu lowo ubhalwe phantsi ngumsebenzisi sithuthi esixeliweyo kwaye ukuba ayiqondakali ncam kuMlawuli-Jikelele ukuba umntu obhalwe phantsi nguyena msebenzisi-sithuthi ekuthethwa ngaye umnini-sithuthi uya kunyanzeleka abe ngumsebenzisi weso sithuthi.

72. Isibheni kuMphathiswa. - (1) Nawuphina umntu oziva engonwabanga —

(a) ngokwalelwa nguMlawuli-Jikelele ukuba abe ngumsebenzisi obhalwe phantsi okanye;

(b) ngokwesigqibo soMlawuli-Jikelele ngokwemigaqo yecandelo 71(3)(d) unokuthi zingaphelanga iintsuku ezinga-23 emva kokufumana isaziso esinjalo esimalelayo okanye esingqibelayo abhene ebhale malunga neso salelo okanye isigqibo esinjalo ngokwemeko leyo athumele uMphathiswa kwaye loo mntu uya kuthi ngelo xesha linye ase ikopi yesibheni kuMlawuli-Jikelele.

(2) Emva kokufumana loo kopi yesibheni exelwe kwicandelwana (1) uMlawuli-Jikelele unokuthi azise uMphathiswa ngezizathu zokwala okanye zesigqibo sakhe ngokwemeko leyo, ezibhekiselele kwisibheni.

(3) UMphathi unokuthi akugqiba ukuqwalasela isibheni ngokwemigaqo yecandelwana (1) anike isigqibo esinjalo abona sifanelekile.

73. Imfanelo egameni lomsebenzisi. - (1) Nangaliphina ixesha nawuphina uManejala i-arhente okanye umqeshwa womsebenzisi esenza isenzo okanye esilula ukusenza isenzo kwaye ibinokuba lulwaphulo-mthetho, kwalo phantsi kwalo mthetho ukuba umsebenzisi ebenze isenzo okanye esilele ukwenza isenzo, ngoko umsebenzisi lowo, ngaphandle unika ubungqina bokuba —

(a) akakhange abenaxheba okanye avumele eso senzo okanye ukungenziwa kwaso;

(b) wenze zonke iinzame zokuqonda esi senzo okanye ukungenziwa kwesenzo ekuthethwa ngaso; kwaye

(c) ukuba isenzo okanye ukungenziwa kwesenzo sohlobo lwesenzo okanye ukungenziwa kwesenzo okumangalelwayo akukhange kuthi phantsi kwazo naziphina iimeko kube phantsi komhlaba wegunya okanye kwimida yengqesho yemanejala, enjalo i-arhente okanye umqeshwa, kuya kuthatyathwa ngokuba usenze okanye akasenzanga ngokwakhe eso senzo aze ke abe nokubekwa ityala aze agwetywe ngokubhekiselele apho kwaye ngokweenjongo ezikumhlathi (b) into yokuba athi umsebenzisi asale isenzo okanye ukungenziwa kwesenzo ekuthethwa ngaso ayisayi kuthatyathwa ngokunokwayo njengobungqina obaneleyo bokuba uthabathe onke amanyathelo afanelekileyo yokunqanda eso senzo okanye ukungenziwa kwaso.

(2) Naninina nayiphina imanejala, i-arhente, okanye umqeshwa womsebenzisi esenza okanye esilela ukwenza nasiphi na isenzo esinokuba lulwaphulo-mthetho phantsi kwalo mthetho, ukuba loo msebenzisi ebesenzile okanye wasilela ukwenza into umanejala onjalo, i-arhente okanye umqeshwa uya kumela ukuba ebekwe ityala aze agwetywe ngokubhekiselele koko ngokungathi nguloo msebenzisi.

ISIAHLUKO 6

IMIQONDISO YEZENDLELA, USIKELO-MDA WESANTYA JIKELELE NEEMITHA ZOKUPAKISHA

74. UMphathiswa unokumisela imiqondiso yezendlela. - (1) UMphathiswa unokuthi, ngokulawulwa ngamalungiselelo alo Mthetho nangenjongo zokuthintela zosikelo-mda, zokuphatha nezokulawula izihamba-ndleleni jikelele okanye naluphina udidi lwezihamba-ndleleni kwindlela kawonke-wonke okanye icandelo laloo ndlela ukulungiselela ukwalathela nayiphina indlela kawonke-wonke okanye icandelo layo njengendlela kawonke-wonke yodidi oluthile amisele loo miqondiso, izalathisi iimpawu okanye ezinye izixhobiso, (eza kwaziwa njengemiqondiso yezendlela) njengoko enokubona kufanelekile, ngokunjalo nokubaluleka kwazo, kunye nemiqathango neemeko apho imiqondiso yezendlela iboniswe kwindlela kawonke-wonke.

(2) UMphathiswa unokuthi, ngokulawulwa zimeko ezinjalo azibone ukuba zifanelekile agunyazise nawuphina umntu okanye umbutho ubonise nawuphina umthetho kawonke-wonke umqondiso isalathiso, uphawu okanye esinye isixhobiso ngeenjongo zokuqononondisa ukulunga kwalo mqondiso okanye isixhobiso njengomqondiso wendlela.

75. Igunya lokubonisa umqondiso wezendlela. - (1) UMphathiswa okanye nawuphina umntu ogunyaziswe nguye angathi ngokubhekiselele kuyo nayiphina indlela kawonke-wonke abangele okanye avumele ukuba kubekwe ngendlela emiselweyo imiqondiso yezendlela njengoko ebona kufanelekile.

(2) UMphathiswa okanye nawuphina umntu ogunyaziswe nguye nokuba kungokubanzi okanye ngokukodwa unokuthi, ngokubhekisele kuyo nayiphina indlela kawonke-wonke engekho kummandla wegunya lesiphaluka, abangele okanye avume kubekwe ngendlela emiselweyo imiqondiso yezendlela abona ifanelekile.

(3) Igunya lesiphaluka okanye nabanina oqeshwa lilo ogunyaziswe lilo ngokubanzi ngokukodwa angathi ngokubhekiselele kuyo nayiphina indlela kawonke-wonke ekummandla wesiphaluka abeke, okanye abangele kubekwe ngokwendlela emiselweyo imiqondiso enjalo ngokubona kufanelekile.

(4) Nakubeni ekho amalungiselelo ecandelwana (2) no (3) uMphathiswa okanye nabani na ogunyaziswe nguye nokuba kungokubanzi okanye ngokukodwa unokuthi ngokubhekiselele kuyo nayiphi na indlela kawonke-wonke ekubhekiselelwe kuyo kwicandelwana (3) kwaye eyindlela okanye elondolozwe nguMbuso, ukongeza kwimiqondiso yezendlela ekubhekiselwa kuyo kwicandelwana (3) abangele okanye avumele kubekwe imiqondiso yezendlela emiselweyo njengoko ebona kufanelekile kwaye akukho gunya lesiphaluka elinokuthi ngaphandle kwemvume yoMphathiswa lisuse okanye livume kususwe nawuphina umqondiso wendlela onjalo.

(5) Kwiimeko nangokulawulwa yimiqondiso enokumiselwa liqumrhu lokhuseleko ezindleleni elisekwe licandelo (2) loMthetho woKhuseleko eZindleleni ka 1984 (uMthetho wama-21 wowe-1984) abafundi bangaqokelelwa babe ziipatroli (zaziwe njengabafundi abazi-patroli) ngenjongo yokubonisa ngendlela emiselweyo umqondiso wendlela ofanelekileyo ukuqinisekisa ukhuseleko lwabafundi xa banqumla indlela kawonke-wonke.

(6) UMphathiswa unokugunyazisa nayiphi na imanyano okanye umbutho ubonise umqondiso wezendlela onjalo, ngokulawulwa ziimeko abona zifanele oko nakweyiphi na indlela kawonke-wonke ekubhekiswa kuyo kwicandelwana (2) okanye nelesi (3) kwaye nayiphi na imanyano enjalo okanye umbutho unokuthi ngoko ubonise ngokwendlela emiselweyo ibheji okanye omnye umqondiso wendlela.

(7) Iinkonzo zoThutho zoMzantsi Afrika, okanye umntu okwingqesho zazo oye wagunyaziswa nokuba ngokubanzi okanye ngokukodwa, unokuthi ngokubhekiselele kuwo nawuphi na umgaqo kaloliwe ekunqunyulwa kuwo kuyo nayiphina indlela kawonke-wonke ezijongene nazo ezi Nkonzo zoThutho akhangele okanye avumele kubekwe ngokwendlela emiselweyo loo miqondiso yezendlela anokuthi umntu okanye iinkonzo zothutho zibone zifanelekile.

(8) Nakubeni ekhona amalungiselelo amacandelwana esi-(3) nawesi-(7) uMphathiswa unokuyalela ukuba nawuphi na umqondiso wendlela ubekwe okanye ususwe ligunya lesiphaluka kwindlela okanye ecaleni kwayo nayiphina indlela kawonke-wonke kummandla welo gunya lesiphaluka okanye ziinkonzo zoThutho zoMzantsi-Afrika kwindlela okanye ngakuwo nawuphi na umgaqo kaloliwe onqumlisayo kwindlela kawonke-wonke apho ezi nkonzo zoThutho zixeliweyo zijongene nawo kwakhona ukuba igunya lesiphaluka elichaphazelekayo okanye iinkonzo zoThutho ziyasilela ukuthobela loo myalelo, uMphathiswa okanye nawuphi na umntu ogunyaziswe nguye unokubeka loo miqondiso okanye awususe ngokwemeko leyo, kwaye uMphathiswa uya kuzibiza iindleko zolo boniso lunjalo okanye ususo kwigunya lesiphaluka ekuthethwa ngalo okanye kwiiNkonzo zoThutho, ngokwemeko leyo.

(9) Nawuphi na umqondiso wendlela oboniswe ekuqalekeni kwalo Mthetho ngokwemigaqo yoMthetho otshitshisiweyo nothi uvumelane nomqondiso wendlela ekubhekiswa kuwo kwicandelo lama-74 uya kuthatyathwa njengokuba uboniswa ngokwemigaqo yesi sahluko.

(10) Akukho mntu unokubonisa nawuphi na umqondiso wendlela kwindlela kawonke-wonke engagunyaziswanga ngokwemigaqo yeli candelo.

(11) UMphathiswa okanye phakathi kummandla wegunya lesiphaluka, elo gunya lesiphaluka, linokuthi ngesaziso esibhaliweyo liyalele umntu okanye umhlali wawo nawuphi na umhlaba, apho nawuphi na umqondiso wendlela okanye nayiphina enye into efana nophawu lwendlela lubonisiwe okanye iphazamise ukubonakala kakuhle, kwawo nawuphi na umqondiso wendlela awususe loo miqondiso unjalo okanye loo nto kwisithuba esixelwe kwisaziso kwaye ukuba umntu okanye umhlali ekuthethwa ngaye akaphumeleli ukwenza into exelwe kwisaziso uMphathiswa okanye igunya lesiphaluka linokuthi ngokwemeko leyo, lenze ukuba loo miqondiso okanye nantoni na isuswe.

(12) Akukho mntu uya konakalisa ngabom okanye ngokungakhathali nawuphi na umqondiso wendlela okanye nawuphi na omnye omqondiso, isilathisi, uphawu okanye ayisuse ngaphandle kwemvume efanelekileyo okanye aguqule indlela eme ngayo okanye umbhalo, amagama, umbala, okanye uhlobo esenziwe ngayo.

76. Ukusilela ukuthobela imiqondiso yezendlela. - (1) Kulawule amalungiselelo eacandelwana lesi-(3) akukho mntu unokuthi ngaphandle kokuba uyalelwe ligosa lendlela, asilele ukuthobela nawo nawuphi na umyalelo oboniswa ngumqondiso wendlela omiselweyo.

(2) Kuko nakuphi na ukuxoxwa ngotyeshelo okanye ukusilela ukuthobela amalungiselelo eacandelwana (1) kuya kuthatyathwa ngokuba, de kubekho ubungqina obuchasene noko nawuphi na umqondiso ekuthethwa ngawo ububekwe ligunya elililo ngokufumana amandla kulo Mthetho ngokokulungelelana namalungiselelo alo Mthetho.

(3) Umqhubi wesithuthi sokucima umlilo okanye inqwelo yezigulana okanye igosa lendlela eliqhuba isithuthi lisemsebenzini walo okanye nawuphi na omnye umntu oqhuba isithuthi ngexesha ekumsebenzi wokhuselo lwabantu unokungayihoyi imiyalelo yemiqondiso yezendlela eboniswa ngokwendlela emiselweyo: Phantsi kwento ethi —

(a) uya kusiqhuba isithuthi ekuthethwa ngaso eluhoyile ukhuseleko lwezinye izihamba-ndleleni; kwakhona

(b) kwimeko yesithuthi sokulwa umlilo okanye inqwelo-zigulana okanye ngumntu oqhuba ekumsebenzi wokukhusela abantu oxelwe ngasentla, isithuthi esinjalo siya kuthi sifakelwe isixhobo esiza kukwazi ukuba nesandi esimiselweyo okanye sibenentsimbi kunye nesibane esidanyazayo kwaye eso sixhobo okanye intsimbi iya kuhlala ikhala kwaye isithuthi siqhutywa ingahoywanga imiqondiso yendlela.

77. Umlinganiselo wesantya. - (1) Umlinganiselo wesantya jikelele —

(a) ngokubhekiselele kuyo yonke indlela kawonke-wonke okanye icandelo layo, ngokungaphandle kwendlela kayivulele, eyenziwe kummandla wedolophu;

(b) ngokubhekiselele kuyo yonke indlela kawonke-wonke okanye icandelo layo, ngokungaphandle kwendlela kayivulele, eyenziwe emaphandleni; kwakhona

(c) ngokubhekiselele kuyo yonke indlela kayivulele, uya kuba njengoko kumiselwe.

(2) Ngokwemigaqo yecandelo lama-75 umqondiso ofanelekileyo wezendlela unokubekwa kuyo nayiphina indlela kawonke-wonke obonisa umlinganiselo wesantya ngokungaphandle komlinganiselo wesantya jikelele othi ngokwemigaqo yecandelwana (i) usebenze ngokubhekiselele kuloo ndlela: Phantsi kwento ethi omnye umlinganiselo wesantya onjalo awukuba ngaphezulu komlinganiselo wesantya omiselwe ngokwemigaqo yecandelwana loku (1)(c).

(3) UMphathiswa unokuthi ngokubhekiselele kulo naluphina udidi oluthile lwesithuthi amisele umlinganiselo wesantya osenokuba ngaphantsi okanye nangaphezulu komlinganiselo wesantya jikelele omiselwe ngokwemigaqo yecandelwana loku (1)(b) okanye u-(c): Phantsi kwento ethi umlinganiselo wesantya omiselweyo awunakuthatha indawo yomlinganiselo wesantya esisezantsi oboniswe ngumqondiso ofanelekileyo wezendlela ngokwemigaqo yecandelwana (2).

(4) Akukho mntu makahube isithuthi kwindlela kawonke-wonke ngesantya esingaphezulu —

(a) komlinganiselo wesantya jikelele osebenza ngokubhekiselele kuloo ndlela, ngokwemigaqo yecandelwana loku (1);

(b) komlinganiselo wesantya oboniswe ngokwemigaqo yecandelwana lesi (2) ngumqondiso ofanelekileyo wezendlela ngokubhekiselele kuloo ndlela; okanye

(c) komlinganiselo wesantya omiselwe nguMphathiswa ngokwemigaqo yecandelwana lesi (3) ngokubhekiselele kudidi lwesithuthi ekuthethwa ngaso.

78. Abanye abaqhubi banokuwugqitha umlinganiselo wesantya jikelele. - Nangona ekhona amalungiselelo ecandelo lama-77, umqhubi wesithuthi sokucima umlilo okanye inqwelo yezigulana, okanye igosa lendlela eliqhuba isithuthi ngexesha lisemsebenzini walo okanye nawuphina umntu oqhuba isithuthi ekumsebenzi wokukhusela abantu angawudlula umlinganiselo wesantya jikelele osebenzayo: Phantsi kwento ethi —

(a) uya kusiqhuba eso sithuthi sichaphazelekayo enenjongo yokukhusela ezinye izihambandloleni; kwakhona

(b) kwimeko yesithuthi sokucima umlilo, inqwelo yezigulana okanye isithuthi esiqhutywa ngumntu ngexesha ekumsebenzi wokukhusela abantu njengoko kuxeliwe ngasentla, isithuthi esinjalo siya kufakwa isixhobo esikwaziyo ukukhupha isandi esimiselweyo okanye sibe nentsimbi kunye nesibane esidanyazayo, njengoko kumiselwe, kwaye eso sixhobo okanye intsimbi mayisoloko ivakala neso sibane sihlale sidanyaza ngexesha isithuthi siqhutywa ngaphezulu komlinganiselo wesantya jikelele osebenzayo.

79. Iindidi ezithile zezithuthi eziziimoto mazibe nezixhobiso zokurekhoda umlinganiselo wesantya. - (1) Akukho mntu unokuhambisa kwindlela kawonke-wonke isithuthi esiyimoto sodidi olumiselwe nguMphathiswa ngomgaqo ngaphandle kokuba eso sithuthi sinesixhobo esimiselweyo sokurekhoda esizihambelayo, ese-elektronikhi, esombane okanye esomatshini sokurekhoda isantya isithuthi esiqhutywa ngaso.

(2) Umqhubi wesithuthi esiyimoto sodidi ekuthethwa ngalo kwicandelwana (1) uya kuthi xa eqhuba isithuthi esiyimoto esinjalo kwindlela kawonke-wonke, asebenzise isixhobo sokurekhoda esixelwe kwicandelwana loku-(1) ngendlela emiselweyo.

80. Amagunya egunya lesiphaluka lokufakela iimitha zokupakisha. - (1) Igunya lesiphaluka linokuthi, ngokwesigqibo lirlafise ngokubhekiselele ekupakisheni kwezithuthi kuyo nayiphina indlela kawonke-wonke okanye kwicandelo layo elikummandla wolawulo, kwaye liya kuthi ngenjongo zokuqokelela loo mirhumo, lifakele iimitha zokupakisha.

(2) Imirhumo ekuthethwa ngayo kwicandelwana (1) inokwahlukana ngokubhekiselele kwiindlela zikawonke-wonke okanye kumacandelo ahlukeneyo endlela enye kawonke-wonke.

(3) Iimitha zokupakisha ekuthethwa ngazo kwicandelwana (1) ziya kufakelwa ngokunxulumene nendawo yokupakisha ecandiweyo kwaye kuzo kuya kubakho umbhalo oxela iintsuku neeyure ekuya kuhlawulelwa ukupakisha ngazo nemali eya kuhlawulelwa ithuba elithile lokupakisha.

(4) Ixesha esinokuthi isithuthi esiyimoto sipakishwe ngokusemthethweni ngalo kwindawo yokupakisha exelwe kwicandelwana (3) liya kuthi ngaphandle kokuba kubekho ubungqina obuchaza oko, libe njengoko libaliwe yimitha yokupakisha yaloo ndawo.

(5) Naliphina igunya lesiphaluka linokuseka iirenki okanye izitandi eziya kwaziwa njengeendawo zokupakisha ezizodwa ukulungiselela ukupakisha kwezithuthi eziziimoto ezithutha abantu okanye naluphina udidi lwezo zithuthi njengoko zimiselwe kwaye linokwenza izinxulumamthetho zokulawula nokongamela ukusetyenziswa kwezo ndawo zokupakisha zizodwa —

(a) ukubonelela ngokukhutshwa kweepemethe ezabele iindawo zokupakisha ezizodwa okanye izahlulwana abantu abathile okanye izithuthi ezithile ukuze zizisebenzisele zona ngokukodwa;

(b) ukuthintela ukusetyenziswa kwendawo eyodwa yokupakisha okanye isahlulwana esabiwe ngolo hlobo nguye nawuphina omnye umntu okanye isithuthi;

(c) ukurhafisa ngokubhekiselele ekusetyenzisweni kweendawo ezizodwa zokupakisha; kwakhona

(d) ngokubonelela ngemicimbi ezalwa koko:

Phantsi kwento ethi amalungiselelo anokwenziwa nakweyiphipha ipemethe okanye nakukuphina ukuhlaziywa kwayo okumisela iiyure aya kuthi ngazo umnini-ndawo abenokuzisebenzisela yedwa indawo eyodwa yokupakisha kananjalo nezo ukusetyenziswa kwazo nguye nawuphi na omnye umntu okanye isithuthi kungavumelekanga.

(6) Kulwabiwo lokuqala lwayo nayiphina indawo eyodwa okanye isahlulwana ekuthe-thwa ngaso kwicandelwana (5) igunya lesiphaluka liya kuthi kangangoko kunokwenzeka litha-bathele ingqalelo ubungakanani bexesha umceli ekwishishini lokuthutha abantu ukufuna imbuyekezo ngodidi lwesithuthi esichaphazelekayo.

(7) Izinxuluma-mthetho ezenziwe ngokwemigaqo yecandelwana (5) ziya kubonelela ngokuhlaziywa minyaka le, kulawula ukuziphatha kakuhle komceli, ilungelo lokusebenzisa nayiphina indawo enjalo eyodwa yokupakisha okanye isahlulwana soko.

(8) Yonke imali eqokelelwe ligunya lesiphaluka kwimitha zokupakisha okanye ngokubhekiselele kuyo nayiphi na indawo eyodwa yokupakisha ngokuqulunqwa leli candelo iya kuthi ngaphandle kokuba kuvume uMphathiswa isetyenziswe kuphela kwintlawulo yendleko yaso nezalwa siso nasiphi na isikimu, umsebenzi okanye ilinge lokuphawula okanye ulawulo lweemeko zeziquhuba-ndleleni kummandla wegunya lesiphaluka eso kubandakanywa neendleko zokufakela nokulondoloza nayiphi na imitha enjalo yokupakisha, okanye indawo eyodwa yokupakisha.

(9) Ukusebenzisa kwegunya lesiphaluka amagunya alo phantsi kweli candelo akusayi kubanga igunya libe namandla nobutyala malunga nelahleko okanye umonakalo kuso nasiphi na isithuthi okanye esikuqulethweyo okanye imifakelwa yaso nasiphi na isithuthi ngethuba eso sithuthi sipakishiwe.

ISAHLUKO 7

IMITHETHO YENDLELA

81. Isithuthi masiqhutywe kwicala lasekhohlo endleleni. - (1) Nawuphina umntu oqhuba isithuthi kwindlela kawonke-wonke uya kwenza oko ngokuthi aqhube kwicala lasekhohlo endleleni kwakhona, apho indlela ibanzi ngokwaneleyo, yokuba angangena kwelo cala lindlela lisekunene phantsi kwento ethi oko kungena kunjalo kuya kuvuneleka —

(a) apho kungenzeka ngaphandle kokuphazamisa okanye ukubeka engozini ezinye izihamba-ndleleni okanye ipropati ekwelo, okanye enokuba kwelo cala, kwaye kangangesithuba nomgama ongemdanga kunokuba kuyimfuneko kwaye kububulumko kwakhona phantsi kwento ethi akuthintelwanga ngumqondiso wendlela; okanye

(b) Xa kuthotyelwa umyalelo wegosa lindlela okanye umqondiso wendlela.

(2) Amalungiselelo ecandelwana (1) akusayi kusebenza apho indlela kawonke-wonke ilungiselelwe ukuhamba kwezithuthi kwicala elinye kuphela.

82. Ukuqhuba kwindlela eyahlulweyo kawonke-wonke. - (1) Naninina indlela kawonke-wonke yahlulwe kabini okanye nangaphezulu ngesiqithi esahlulayo ngomqobo obonakalayo okanye icandelo elahlulayo kangangokuba lide lithintele izihamba-ndleleni, akukho mntu uya kuqhuba izihamba-ndleleni kwindlela enjalo kawonke-wonke ngaphandle nokuba yindlela ehamba kwicala lasekhohlo, ngaphandle kokuba ukhokelwe okanye uvunyelwe ngumqondiso ofanelekileyo wendlela okanye ligosa lindlela ukuba asebenzise loo ndlela.

(2) Akukho mntu unokuqhuba isithuthi phezu, ngaphaya okanye ngaphakathi kwesithuba esahlulayo, umqobo okanye kwicandelo ekuthethwe ngalo kwicandelwana (1) ngaphandle kokuba kukho ikroba kweso sithuba sivulekileyo umqobo okanye icandelo okanye kwindawo enqumlayo okanye ekudibaneni kweendlela, phantsi kwento ethi akukho mntu unokuqhuba agqithe kwikroba elinjalo, okanye nakweyiphi na indawo enqumla ngaphaya, okanye ekudibaneni kweendlela apho ukuqhuba okunjalo kunqandwe ngumqondiso ofanelekileyo wendlela okanye ligosa lindlela phantsi kwento ethi kusekhona amalungiselelo eli candelwana awasayi kusebenza kwigosa lindlela elisemsebenzini walo.

83. Ukugqitha kwesithuthi. - (1) Ngokulawulwa ngamalungiselelo eengcandelwana (2) no-(4) zeli candelo necandelo 81, umqhubi wesithuthi ofuna ukugqitha nasiphina esinye isithuthi esibheka kwicala elinye nesinye kwindlela kawonke-wonke siya kugqitha kwicala lasekunene sithi cebu kuhle kwaye asisayi kuphinda sihambe kwindlela ekwicala lasekhohlo de sigqithe mpela kwisithuthi esizigqithelayo: Phantsi kwento ethi kwiimeko esezixeliwe ukudlula kwesithuthi esinjalo kwicala lasekhohlo kuya kuvunyelwa ukuba umntu lowo uqhuba isithuthi esigqithayo unokwenza njalo ekhuselekile yena kunye nezinye izihamba-ndleleni okanye ipropati esendleleni okanye enokuba sendleleni enjalo kananjalo ukuba —

(a) isithuthi esidlulwayo sibheka kwicala lasekunene okanye umqhubi waso ubona-kalise ukuba unenjongo yokuya kwicala lasekunene;

(b) loo ndlela yindlela kawonke-wonke ekummandla wedolophu kwakhona —

(i) ilungiselelwe ukuba kuhambe izithuthi eziya ecaleni elinye; kwakhona

(ii) indlela yezithuthi inobubanzi obaneleyo bezithuthi ezimbini nangaphezulu ezihambayo.

(c) indlela leyo yindlela kawonke-wonke ekummandla osedolophini kwaye indlela yezithuthi inobubanzi obanela imigca emibini nangaphezulu yezithuthi ezibheka kwicala ngalinye;

(d) indlela yezithuthi yendlela enjalo ihamba izithuthi eziya ecaleni elinye qha kwaye yahlulwe yazindledlana ngemiqondiso efanelekileyo yendlela; okanye

(e) uqhuba ngokuthobela imiyalelo yegosa lendlela okanye uqhuba kwindlela ephantsi komyalelo welo gosa kwaye ngokumayela nalo myalelo: Phantsi kwento ethi kwakhona akukho phantsi kwayo nayiphina apho ukudlula ekusingiselwe kuko kumhlathi (a), (b), (c) okanye u-(d) kuya kwenziwa ngokuqhuba kungqameko lwendlela okanye ekupheleni kwendlela kawonke-wonke exeliweyo.

(2) Umqhubi wesithuthi akanakudlula ezinye izithuthi eziya kwicala elinye kwindlela kawonke-wonke xa esiya —

(a) kwincopho yeqhina;

(b) kwigophe; okanye

(c) nakweyiphi enye indawo apho engaboni kakuhle kangangokuba ukugqitha okunjalo kungadala ingozi ngokuphathelele kwezinye izihamba-ndleleni ezinokuthi gqi kwelinye icala, ngaphandle kokuba —

(i) angakwenza oko engangenelelanga kwicala lasekunene lendlela; okanye

(ii) umgaqo waloo ndlela ulungiselelwa izithuthi eziya calanye.

(3) Umqhubi wesithuthi kwindlela kawonke-wonke uya kuthi; ngaphandle kwakwiimeko ezixelwe kumalungiselelo okuqala ecandelwana (i) xa ebona ezinye izihamba-ndleleni zisiza kwelicala akulo kwaye zifuna ukudlula esi sakhe isithuthi, enze isithuthi sakhe sihambe kufutshane kangangoko kunokwenzeka kwisiphelo sasekhohlo engazibekanga sichengeni yena okanye ezinye izihamba-ndleleni okanye ipropati esemgaqweni, kwaye angasinyusi isantya sesithuthi sakhe de sibe esinye isithuthi sigqithile.

(4) Xa eza kugqitha isithuthi esiza ngaphambili umqhubi wesithuthi esikwindlela kawonke-wonke uya kuqinisekisa ukuba isithuthi esiqhutywa nguye asiweleli kumgaqo oseku-nene kuye ngendlela apha enokuphazamisa okanye ibeke engozini izithuthi eziza ngaphambili.

(5) Umqhubi wesithuthi ofuna ukugqitha ibhasi emileyo, iminibhasi, okanye iteksi kwindlela kawonke-wonke uya kwenza oko elunonophele ukhuseleko lwabantu abezayo okanye abemkayo okanye abanokuza okanye abanokushiya loo bhasi, iminibhasi okanye iteksi.

(6) Akukho mntu uya kuqhuba isithuthuthu phakathi kwimigca yezithuthi ezihambayo okanye ezimileyo okanye aqhube isithuthuthu silungelelane, okanye sigqithe okanye sidlule esinye isithuthi kumgaqo omnye wendlela.

84. Ukunqumla okanye ukungena kwindlela kawonke-wonke okanye ukungena kumgaqo wezithuthi. - (1) Umqhubi wesithuthi akanakunqumla indlela kawonke-wonke ngaphandle kokuba akukho zithuthi zihamba endleleni isithuba esaneleyo esinokwenza ukuba anqumle endleleni engaphazamisanga okanye abeke engozini nasiphi na isithuthi.

(2) Umqhubi wesithuthi akanakungena kwindlela kawonke-wonke ngaphandle kokuba angakwenza oko ezikhusele yena kunye nezinye izithuthi.

(3) Umqhubi wesithuthi kwindlela kawonke-wonke eyahlulwe ngemigca yezithuthi ngokwemiqondiso yendlela efanelekileyo akayi kusuka komnye umgaqo okanye anqumle omnye umgaqo ngaphandle kokuba unokwenza oko engaphazamisi okanye abeke engozini ezinye izihamba-ndleleni.

85. Imiqondiso yokuqhuba. - Umqhubi wesithuthi kwindlela kawonke-wonke, ofuna ukumisa eso sithuthi okanye ofuna ukuthoba isantya ngokukhawuleza okanye ofuna ukujika eso sithuthi siye kwicala lasekhohlo okanye lasekunene okanye ahambisele isithuthi eso kwicala lasekhohlo okanye lasekunene uya kwenza umqondiso obonakalayo ukubonisa iinjongo zakhe ngokwendlela emiselweyo, obonakala kuye nabani na umntu oza ngaphambili, okanye ngasemva okanye evela ecaleni okanye kubekho ixesha elaneleyo lokulumkisa loo mntu ngeenjongo zakhe.

86. Ilungelo lokungena kwiziphambuka ezithile. - Umqhubi wesithuthi kwindlela kawonke-wonke uya kuthi, xa efuna ukungena kuyo nayiphina indawo kwindlela kawonke-wonke ekudibana kuyo iindlela zikawonke-wonke ezimbini okanye ngaphezulu apho izihamba-ndleleni ezizithuthi kufuneka zijikeleze isangqa sendlela kwisiphambuka eso, anikezele ilungelo lokungena kuzo zonke izithuthi eziza kwicala lasekunene kweso siphambuka, ngaphandle kokuba ukungena kwakhe kweso siphambuka, kulawulwa ngumyalelo wegosa lendlela okanye sisikhokelo esixelwe ngumqondiso wezendlela esifuna ukuba enze ngolunye uhlobo.

87. Inkqubo xa kujikwa. - (1) Umqhubi wesithuthi ofuna ukujika aye kwicala lasekhohlo kwindlela kawonke-wonke uya kuthi eqaphele amalungiselelo ecandelo lama-86, phambi kokufika kwindawo aza kujika kuyo, abonise ukuba ufuna ukujika ngokwendlela emiselweyo kwaye uya kuthi isithuthi sakhe asiqhubele kufutshane ngecala lasekhohlo lomgaqo ahamba kuwo kangangoko iimeko zivuma yaye uyakuthi ajike ngononophelo olufanelekileyo aze angenelele kwezo zihamba-ndleleni zinokuba ngeloxesha ziyahamba, ukuya okanye ukungena kwindlela kawonke-wonke anqwenela ukujikela kuyo.

(2) Umqhubi wesithuthi kwindlela kawonke-wonke ukujikela kwicala lasekunene unokuthi, aqaphele amalungiselelo ecandelo 86, phambi kokuba kwindawo afuna ukujika kuyo abonakalise iinjongo zakhe zokujika ngokwendlela emiselweyo kwaye akanakujika ngaphandle kokuba unokukwenza oko ngaphandle kokuphazamisa okanye ukubeka engozini ezinye izithuthi kwakhona —

(a) Ukuba uqhuba isithuthi kumgaqo wendlela kawonke-wonke mgaqo lowo ulungiselelwe izithuthi eziya macala omabini —

- (i) uya kusiqhubela eso sithuthi kufutshane kangangoko iimeko zimvumela kwicala elikufutshane lasekhohlo lombindi womgaqo ahamba kuwo; kwakhona
- (ii) xa apho indawo ejikayo isekudibaneni kwendlela akayi kungena phakathi kwicala lasekunene lomgaqo anqwenela ukungena okanye aphume kuwo ngaphandle kwasekudibaneni kweendlela kanye, kodwa nakanjanina uya kugqithela kwicala lasekhohlo kuso nasiphina isiqithi sezithuthi kwiindlela ezidibanayo, okanye athobele umyalezo ogqithiswa ngumqondiso wendlela ofanelekileyo; okanye

(b) Ukuba uqhuba isithuthi kumgaqo kawonke-wonke apho loo mgaqo ulungiselelwe izithuthi eziya ecaleni elinye —

- (i) uya kusiqhubela eso sithuthi kufutshane kangangoko iimeko zivuma kwicala lasekunene lalo mgaqo; kwakhona
- (ii) xa indawo yokujika isekudibaneni kweendlela akasayi kungenelela kwicala lasekunene lomgaqo afuna ukujikela kuyo ngaphandle kwakwiindlela ezidibanayo kanye kodwa nakanjanina iya kugqitha ekhohlo laso nasiphina isiqithi kuloo ndawo kudibana kuyo iindlela okanye athobele umyalelo womqondiso wendlela ofanelekileyo; Phantsi kwento ethi apho oko kujika kwenziwa kumgaqo owenzelwe izithuthi eziya kwicala elinye unokungenelela kwicala lasekunene kuloo mgaqo.

88. Ukutsalwa kwezithuthi. - Akukho mntu uya kusebenzisa isithuthi kwindlela kawonke-wonke ngethuba etsala okanye erhuqa esinye isithuthi ngendlela emiselweyo yokutsala okanye ukurhuqa nasiphina esinye isithuthi kwindlela kawonke-wonke.

89. Ukumiswa kwezithuthi. - Akukho mntu uya kumisa isithuthi kwindlela yezithuthi kawonke-wonke ngaphandle kokuba uphepha ukwenzeka kwengozi okanye ngokuvunyelwa ngumqondiso wezendlela okanye ngokwesikhokelo asinikwe ligosa lendlela, okanye nasiphina esinye isizathu esingekho kulawulo lomqhubi —

(a) ecaleni okanye ngokumelene nomngxuma okanye isithinteli kwindlela kawonke-wonke ukuba ezinye izithuthi ziya kuthinteleka okanye zenzakale koko kuma;

(b) ngaphakathi kwitonela okanye kwindlela ephuma ngaphantsi okanye kuyo nayiphina ibhulorho okanye ngokumalunga nemitha ezintandathu ukuya kwitonela, indlela ephuma ngaphantsi okanye ebhulorhweni;

(c) ngaphezulu okanye ngaphakathi kwiimitha ezintandathu ukusuka ekuqaleni okanye ekupheleni kwalo naliphina icala laloo ndlela yezithuthi apho ububanzi obuqhelekileyo buthe ngaso nasiphina isizathu bafinyezwa;

(d) ukwaphula nawuphina umqondiso wendlela;

(e) kwicala lasekunene laloo mgaqo elijonge izihamba-ndleleni eziza ngaphambili;

(f) ecaleni okanye ngokumelene naso nasiphina esinye isithuthi kuloo mgaqo, apho loo mgaqo ungaphantsi kweemitha ezisithoba ububanzi;

(g) ngaphakathi kwiindawo ekunqumla kuyo uloliwe;

(h) kangangeemitha ezisithoba xa esiya kwicala lokunqumla abahamba ngeenyawo elinemida enemiqondiso efanelekileyo yendlela okanye;

(i) nakuyiphi na enye indawo apho ukuma kwesithuthi kuya okanye kunokubanga ingozi okanye kuphazamise ezinye izithuthi.

90. Ukupakishwa kwezihamba-ndleleni. - (1) Akukho mntu uya kupakisha isithuthi kwindlela kawonke-wonke —

(a) ukutyeshela nawuphina umqondiso wendlela;

(b) kuyo nayiphi na indawo ekuthethwe ngayo kwicandelo 89;

(c) kwicala elinye nombhobho wokucima umlilo ngaphakathi kummandla osikelwe umda ngumgca osembindini womgaqo kwaye omi budolo-xande kuloo mgca imitha enesiqingatha macala omabini ombhobho, ukuba loo mbhobho ubonakala kakuhle kwaye uyaqondwa ngabo baqhubi bezithuthi ezihambayo okanye ukuba uboniswe ngumqondiso wendlela ofanelekileyo;

(d) nakuyiphina indawo apho izithuthi zinokusithelisa umqondiso wezendlela;

(e) ngendlela engenelela kwicala leenyawo, ukuba likhona; okanye

(f) ngendlela ethintela nayiphina indawo yokungena izithuthi eprayivethi okanye ekawonke-wonke kuloo ndlela;

(2) Akukho mntu uya kupakisha isithuthi kuso nasiphina isiqephu somgaqo (ngaphandle kongqameko) sendlela kawonke-wonke kummandla ongekho dolophini okanye nayiphina inxalenye yisithuthi esingaphakathi kwimitha enye yisiphelo somgaqo lowo ngaphandle kwakwindawo yokupakisha eyahlulwe ngumqondiso ofanelekileyo wendlela.

(3) Akukho mntu uya kupakisha isithuthi kumgaqo kawonke-wonke kummandla osedolophini —

(a) ngaphakathi kwiimitha ezisithoba zecala xa esiya kwindawo ekunqumla kuyo abahamba ngeenyawo eyahlulwe yimiqondiso efanelekileyo yendlela, ngaphandle kokuba oko kupakisha kuvunyelwe yimiqondiso efanelekileyo yendlela;

(b) ngaphakathi kwiimitha ezintlanu zazo naziphina iindlela ezinqumlanayo ngaphandle kokuba oko kupakisha kuvunyelwe ngumqondiso wezendlela;

(c) phezu komatshini wokusebenzisa irobhothi;

(d) i) umphandle walo naliphina ivili lecala lasekhohlo lingaphezu kweemilimitha ezingama-450 emgaqweni; okanye

(ii) apho indlela kawonke-wonke ekubhekiswa kuyo ilungiselelwe izithuthi eziya caleni linye kwaye isithuthi eso sipakishwe kwicala lasekunene lomgaqo, ivili langaphandle elikwicala lasekunene lingaphezu kweemitha ezingama-450 emgaqweni;

ngaphandle kokuba oko kupakisha kuvunyelwe ngumqondiso ofanelekileyo wendlela; okanye

(e) ingaphantsi kweemitha ezintlanu ezinesiqingatha ububanzi ngaphandle indlela kawonke-wonke ekubhekiswa kuyo ilungiselelwe izithuthi eziya caleni linye kwaye loo ndawo yokupakisha kuvunyelwe yimiqondiso efanelekileyo yezendlela.

(4) Akukho mntu uya kupakisha isithuthi esiyimoto kwisiqithi sendlela okanye kwindlela yabahamba ngeenyawo okanye iindlelana zabahamba ngeenyawo.

(5) Naninina isithuthi sipakishwa kutyeshelwa amalungiselelo alo Mthetho okanye nasiphi na isinxuluma-mthetho esenziwe phantsi kwalo Mthetho okanye kutyeshelwa okanye kungahoywanga izikhokelo zomqondiso wezendlela okanye ibhodi yesaziso njengoko kumiselwe, eso sithuthi sinokususwa okanye kwenziwe ukuba sisuswe size sithinjwe ligosa lendlela kwaye ngaphandle kokuba isithuthi sipakishwe ngolohlobo ngethuba besibusa ngalo, umnini isithuthi uya kuhlawula iindleko zoko kususwa nokuthinjwa.

91. Izithuthi ezithile zinokumiswa zize zipakishwe naphina apho kuyimfuneko. -

(1) Nakubeni kungekho amalungiselelo amacandelo 89 nele 90, umqhubi wesithuthi sokucima umlilo okanye inqwelo yezigulana, okanye igosa lendlela eliqhuba isithuthi ngexesha lisemsebenzini walo okanye umntu oqhuba isithuthi ngexesha ekhusela uluntu okanye umntu oqhuba isithuthi sisetyenziselwa ukulungiswa okanye ukulondolozwa kwendlela kawonke-wonke okanye esenza umsebenzi ofuneka eluntwini unokuma apakishe isithuthi ekuthethwa ngaso nakuyiphina indawo apho kuyimfuneko ukuba kwenziwe oko.

(2) Isithuthi esime okanye esipakishwe ngokwemigaqo yecandelwana (1) sinokuthi, ngexesha eso sithuthi simileyo okanye sipakishiwe sibonise imiqondiso yokulumkisa emiselweyo.

92. Izitopu ezinyanzelekileyo umqhubi sithuthi uya kusimisa isithuthi kwindlela kawonke-wonke. - (a) ngokuvumelana naso nasiphina isikhokelo esixelwe ngumqondiso wendlela okanye esikhutshwe ligosa lendlela elinxibe i-uniform okanye;

(b) ngesicelo okanye kumqondiso womntu okhokela okanye oqhuba nasiphi na isilwanyana esifana nenkomo, ihashe, i-esile, imeyile, igusha, ibhokwe, ihagu, inciniba, kuloo ndlela.

93. Imisebenzi yomqhubi ngokubanzi okanye umkhweli-sithuthi kwindlela kawonke-wonke. - (1) akukho mntu oqhuba okanye onesithuthi kwindlela kawonke-wonke uya kuthi —

(a) enze eso sithuthi ukuba sibuye umva ngaphandle kokuba kwenziwe oko ngononophelo kwaye angayibuyisa umva umgama okanye ixesha elidana kunokuba yimfuneko ukulungiselela ukhuselo okanye ukulungiselela ngokufanelekileyo nasiphi na isithuthi esikuloo ndlela;

(b) kuthi nca emva kwesithuthi kakhulu kunokuba kufanelekile kwaye ibubulumko kwaye esise eso isantya seso sithuthi kunye nezithuthi nemeko yendlela yesithuthi okanye kakhulu kunoko kumiselweyo;

(c) avumele nawuphina umntu, isilwanyana okanye into ithabathe nayiphi na indawo kweso sithuthi nokuthi ithintele umqhubi ekulawuleni ngokupheleleyo inyshukumo yesithuthi okanye ekwenzeni umqondiso weenjongo zakhe zokumisa, zokuthoba isantya okanye zokutshintsha indlela;

(d) avumele nawuphina umntu abambe okanye aphazamisane nevili lokuqhuba okanye izinto ezenze ukuba isithuthi sihambe, xa eqhuba eso sithuthi;

(e) athathe indawo angazikukwazi ukulawula isithuthi ngokupheleleyo kuyo okanye ayibone indlela yesithuthi kunye nezithuthi ezingaphambili kweso sithuthi, xa eqhuba isithuthi esinjalo;

(f) avumele eso sithuthi sihlale singahoywanga kuloo ndlela engafakanga iziqhobosho okanye asebenzise ezinye iindlela eziza kukwazi ukuqonda isithuthi singasuki kwindawo esishiywe kuyo;

(g) ukuba eso sithuthi sipakishwe okanye simiswe ecaleni laloo ndlela aqhuba isithuthi ukusuka kuloo ndawo ngaphandle kokuba uyakwazi ukwenza oko engangqubani nezithuthi eziza kulo naliphina icala kwaye ekhuselekile yena nezinye izithuthi;

(h) asilele ukuvumela ngoko nangoko ngokupheleleyo isithuthi esisebenzise isixhobo esivakalayo okanye intsimbi ngokwemigaqo yecandelo lama-76(3) okanye lama-76;

(i) avumele ukuba kubekho indawana yamalungu omzimba wakhe evela ngaphaya kweso sithuthi lo mzuzu isithuthi sihambe kuloo ndlela ngaphandle kokuba ukhupha umqondiso wesandla ofanelekileyo okanye agunyaziswe ukuba wenziwa ngokwemigaqo yalo Mthetho ngaphandle usemsebenzini wokuxilonga okanye wokuvavanya okanye wokupakisha eso sithuthi;

(j) avumele nawuphina umntu okanye isilwanyana sikhwele kuphahla, naliphi na inqwanqwa, okanye nayiphina enye indawo ekumphezulu wesithuthi lo mzuzu isithuthi eso sihambe;

(k) abangele okanye avumele i-enjini yaso isebenze kangangendlela yokuba ide ikhuphe umsi okanye umqhumo ebezinokungabikho ukuba i-enjini ibikwimeko elungileyo okanye ibisebenza kakuhle;

(l) abangele okanye ayeke i-enjini isebenze lo mzuzu isithuthi simileyo okanye singabanjwanga.

(m) ngokungakhathali okanye ngabom alahle abangele okanye avume ukuba kulahlwe nayiphi ipetroli okanye esinye isibaso ulwelo okanye nayiphi i-oyile okanye igrisi okanye enye into etshisayo okanye into ehluphayo, uthuthu okanye enye inkunkuma yalo naluphi na uhlobo isuka kwisithuthi esinjalo endleleni okanye ecaleni kwaloo ndlela; okanye

(n) abangele okanye enze ukuba i-injini ihambe lo mzuzu ipetroli okanye ezinye ezitshisayo zigalelwa kwitanki lepetroli leso sithuthi okanye abangele okanye enze loo injini iqalise ukusebenza phambi kokuba ukugalelwa kwepetroli okanye esinye isibaso esitshisayo kwitanki yesibaso yeso sithuthi kugqitywe kwaye nesiciko setanki yesibaso leyo sihe savalwa.

(2) Akukho mntu, ngokungaphandle komqhubi uyakubamba okanye aphazamise ivili lokuqhuba okanye indawo ehambisa isithuthi lo mzuzu sihamba endleleni kawonke-wonke ngaphandle kokuba kuyabonakala ngokufanelekileyo ukuba umqhubi akasakwazi kusebenzisa ivili lokuqhuba okanye akasakwazi kulawula eso sithuthi.

(3) Akukho mkhweli kwisithuthi kwindlela kawonke-wonke uya kuthi avumele nayiphi na inxenye yomzimba wakhe ukuba ivele ngaphandle kweso sithuthi.

(4) Akukho mntu uya kuthi angene okanye ehlike kuso nasiphi na isithuthi kwindlela kawonke-wonke ngaphandle kokuba eso sithuthi simile kwaye nangaphandle kokuba unokuthi enze njalo ngokufanelekileyo kuye nakwabanye abasebenzisi bendlela.

(5) Akukho mntu uya kuthi aqhube atsale okanye atyhale isithuthi kwindlela yenyawo esecaleni lendlela: Phantsi kwemeko yokuba amalungiselelo eli candelwana awayi kusebenza kwinqwelana yosana, isitulo sesilima, inqwelo yomntwana okanye isithuthi sokudlala abantwana.

94. Imisebenzi ephathelele kwisithuthuthu okanye izithuthuthu ezimavili mathathu. - (1) Akukho mntu uya kuthi aqhube isithuthuthu okanye isithuthuthu esimavili mathathu kwindlela kawonke-wonke ngaphandle kokuba iinyawo zakhe ziphumle kwindawo zokuphumza iinyawo ezingaphambili ezilungele ezi njongo kwaye, apho ukwenziwa kwesithuthuthu esilolu hlobo okanye isithuthuthu esimavili mathathu sithi senze ukuba oku kube nokwenzeka, uhleli ngohlobo lokungxabalaza kwisali yesithuthuthu esilolu hlobo okanye isithuthuthu esimavili mathathu.

(2) Akukho mntu uya kuthi kwindlela kawonke-wonke akhwelise ipasenja kwisithuthuthu ngaphandle kokuba eso sithuthuthu sinenjini enesilanda enobukhulu obungaphezulu kuma-50 esentimitha eziphindaphindwe ngesithuthu kwaye ngaphandle kokuba loo pasenja ithe yahlaliswa kwindawo yokukhwela esecaleni okanye yangxabalaza kwisihlalo somkhweli wesibini esakhelwe kweso sithuthuthu kwaye kule meko yesibini, iinyawo zepasenja ziphumle kwiindawo zokuphumza iinyawo ezilungele le njongo.

(3) Ngokulawulwa ngamalungiselelo ecandelwana (2) abayi kuba ngaphezulu kwesibini abantu abaya kuthi bakhwele isithuthuthu kwindlela kawonke-wonke ngaphandle komntu okhwele kwindawo yokukhwela eyakhelwe ecaleni leso sithuthuthu.

(4) Abayi kugqitha kwisibini abantu abadala abaya kuthi bakhweliswe kwindawo yokukhwelisa eyakhelwe kwisithuthuthu kwindlela kawonke-wonke.

(5) Akukho mntu okanye silwanyana okanye nto iya kuthi ithwelwe ngesithuthuthu okanye isithuthuthu esimavili mathathu kwindlela kawonke-wonke phambi komqhubi waso: Phantsi kwemeko yokuba into engaquvanga inokuthi ithwalwe ngohlobo ukuba ithe yabotshelelwa ngokuqinileyo kweso sithuthuthu okanye isithuthuthu esimavili mathathu okanye ithe yabekwa kwindawo yokuthwala efanelekileyo eyakhelwe kuso ukulungiselela loo meko kwaye ithi ithwalwe ngendlela ethi ingamsithi umqhubi okanye ingamthinteli ekubeni abe nolawulo olupheleleyo kweso sithuthuthu okanye isithuthuthu esimavili mathathu.

(6) (a) Abantu, ngaphandle kwamagosa endlela aqhuba umsebenzi wawo abaqhuba izithuthuthu kwindlela kawonke-wonke, baya kuthi balandelelane ngaphandle kwaxa isithuthuthu sidlula kwesinye kwaye abantu ababini okanye abangaphezulu abaqhuba izithuthuthu abayi kudlula kwesinye isithuthi kwangelo xesha linye: Phantsi kwemeko yokuba, apho indlela yoluntu ithe yahlulwa yaba ziindledana, indledana nganye elolo hlobo iya kuthi ngokweenjongo zalo mhlathi ithatyathwe ngokuba yindlela kawonke-wonke;

(b) ngokweenjongo zomhlathi (a) isithuthuthu siya kuthi sibandakanye isithuthuthu esimavili mathathu.

(7) Akukho mntu uqhuba isithuthuthu okanye isithuthuthu esimavili mathathu kwindlela kawonke-wonke okanye ohleli kweso sithuthuthu okanye isithuthuthu esimavili mathathu uya kuthi abambelele kuso nasiphi na esinye isithuthi esihambayo.

(8) Nawuphi na umntu oqhuba isithuthuthu okanye isithuthuthu esimavili mathathu kwindlela kawonke-wonke uya kuthi enze njalo ubuncinane isandla esinye sikwiimpondo zeso sithuthuthu.

(9) Nawuphina umntu oqhuba isithuthuthu okanye isithuthuthu esimavili mathathu kwindlela kawonke-wonke uya kuthi enze njalo ngendlela eya kwenza ukuba onke amavili eso sithuthuthu okanye isithuthuthu esimavili mathathu ahlale ehleli phezu komphezulu wendlela ngawo onke amaxa.

95. Isithuthi esenza ingxolo enkulu. - Akukho mntu uya kuthi aqhube okanye avumele ukuba kuqhutywe kwindlela kawonke-wonke isithuthi esenza ingxolo —

(a) egqithisileyo kumlinganiselo wengxolo omiselweyo; okanye

(b) ebangelwa kukusetyenziswa kweendlela ezithile, izixhobiso okanye izixhobo ukusetyenziswa kwazo okungavumelekanga ngokomgaqo.

96. Ukusetyenziswa kwehuta. - Akukho mntu uya kuthi kwindlela yoluntu asebenzise isixhobo sokuvakalisa isandi okanye ihuta yesithuthi ngaphandle kwaxa olo setyenziso luyimfuneko ukuthobela amalungiselelo alo Mthetho okanye ngezizathu zokhuseleko.

97. Ukukhwela ibhayisekile. - (1) Akukho mntu uya kuthi akhwele ibhayisekile kwindlela kawonke-wonke ngaphandle kokuba uhleli ngokungxabalaza kwisali yaloo bhayisekile.

(2) Abantu abakhwele ibhayisekile kwindlela kawonke-wonke baya kuthi balandelelane ngaphandle kwaxa bedlula kwenye ibhayisekile kwaye abantu ababini okanye nangaphezulu abakhwele ibhayisekile abayi kudlula kwesinye isithuthi ngexesha elinye.

(3) Akukho mntu okhwele okanye ohleli kwibhayisekile kwindlela kawonke-wonke uya kuthi abambelele kuso nasiphina esinye isithuthi esihambayo.

(4) Akukho mntu ukhwele ibhayisekile kwindlela kawonke-wonke uya kuthi ngabom abangele ukuba loo bhayisekile izulazule igqibe indlela.

(5) Akukho mntu ukhwele ibhayisekile kwindlela kawonke-wonke uya kuthi akhwelise kuyo nawuphina umntu isilwanyana okanye into ethi imsithe angaboni kakuhle okanye ethi imthintele ekubeni alawule ngokugqibeleleyo iintshukumo zaloo bhayisekile.

(6) Umntu okhwele ibhayisekile kwindlela kawonke-wonke uya kuthi enze njalo ubuncinane isandla esinye sisezimpondweni zaloo bhayisekile.

(7) Naninina xa inxenye yendlela kawonke-wonke itha yabekwa bucala ukuze isetyenziswe ngabantu abakhwela ibhayisekile akukho mntu uya kuthi akhwele ibhayisekile kuyo nayiphina enye inxenye yaloo ndlela.

(8) Umntu okhwele ibhayisekile kwindlela kawonke-wonke okanye kwinxenye yendlela yoluntu etha yabekwa bucala ukuze isetyenziswe ngabantu abakhwele ibhayisekile uya kuthi akwenze oko ngendlela ethi yenze ukuba onke amavili aloo bhayisekile ahlale ehleli phezu komphezulu wendlela ngawo onke amaxesha.

98. Isithuthi esibaleka esiporweni. - (1) Naninina xa isiporo esithe sanqunyuliswa nayiphina indlela kawonke-wonke siithe sasetyenziswa ngeenjongo zakhe nawuphina uloliwe okanye nasiphina isithuthi esibaleka esiporweni, nokuba eso sithuthi siyarhuqwa, okanye siyaqhutywa, akukho mntu uqhubayo okanye ulawula loo loliwe okanye eso sithuthi ukuba siqumle loo ndlela yoluntu ngaphandle kokuba uthe walumkisa ngokwaneleyo abasebenzisi baloo ndlela ngenjongo yokuqhuba, yokutsala okany, ukuqhuba eso sithuthi okanye uloliwe ukunqumla loo ndlela.

(2) Akukho mntu oqhuba okanye olawula nawuphina uloliwe okanye isithuthi ekubheki-selelwe kuso kwicandelwana (1) uya kuthi abangele okanye avumele ukuba simiswe kwindlela kawonke-wonke ngendlela ethi ithintele okanye iphazamise izithuthi kwindlela elolo hlobo.

99. Izilwanyana kwindlela kawonke-wonke. - (1) Ngokulawulwa ngamalungiselelo ecandelwana (2) akukho mntu uya kuthi ashiye okanye avumele ukuba nayiphina inkomo, ihashe, iesile, imeyile, igusha, ibhokhwe, ihagu, okanye inciniba ukuba ibe kuyo nayiphi na inxenye yendlela kawonke-wonke apho leyo nxenye itha yabiyelwa okanye ngayo nayiphi na enye indlela yabiywa amacala omabini kwaye akukho mntu uya kuthi asishiye eso silwanyana kwindawo esinokuthi kuyo sibhadulele kwelo candelo lendlela kawonke-wonke.

(1) La malungiselelo ecandelwana (1) awayi kusebenza —

(a) Kuso nasiphi na isilwanyana esikhwelweyo okanye esisetyenziselwa ukutsala isithuthi kwindlela kawonke-wonke, okanye;

(b) Kuso nasiphi na isilwanyana esiqhutywa ukusuka kwenye indawo ukuya kwenye ngendlela ethi ingenzi ngozi okanye kwenzakala kuye nawuphi na umntu okanye isithuthi esithi sisebenzise loo ndlela.

(3) Kulo naluphina utshutshiso ngolwaphulo lwecandelwana (1) kuya kuthi kuthelwelelwe, de kube kufunyaniswe okuchaseneyo noku, ukuba nasiphi na isilwanyana ekubhekiselelwe kuso kwicandelwana (1) sithe sashiywa okanye savunyelwa ukuba kwelo candelo lendlela kawonke-wonke okanye indawo echaphazelekayo ngumnini weso silwanyana kwaye icandelo lendlela kawonke-wonke liya kuthi lithatyathwe ngokuba libiyiwe okanye livaliwe macala omabini nangona kuthe kwabakho ithuba elithi livumele ukuba isilwanyana sifikelele kuloo ndlela apha elucingweni okanye olunye uthango.

(4) Akukho mntu uya kuthi aqhube nasiphi na isilwanyana ekubhekiselelwe kuso kwicandelwana (1) —

(a) Kwindlela kawonke-wonke ngethuba lasemva kokutshona kwelanga ukuya kutsho ukuphuma kwelanga, ngaphandle kokuba umntu ophethe isibane esibomvu esithi sibonakale kakuhle kwimozulu ecacileyo umgama obuncinane ozimitha ezili-150 uthi asijonge eso silwanyana okanye, kwimeko yomhlambi weegusha okanye weenkomo onezilwanyana ezingaphezulu kwi-10, umntu othi azijonge ezo zilwanyana nophethe isibane njengoko sele kutshiwo apha ngasentla uthi akhokele kuze omnye umntu ophethe isibane njengoko sele kutshiwo apha ngasentla alandele ezo zilwanyana; okanye;

(b) ecaleni lendlela kawonke-wonke ngalo naliphina elinye ithuba, ngaphandle kokuba umntu ophethe ilaphu elibomvu elibonakala ngokucacileyo, elingekho nganeno kunee-milimitha ezingama-300 ubude nobubanzi, uthi ajongane neso silwanyana okanye kwimeko yomhlambi weegusha okanye iinkomo ongaphezulu kwizilwanyana ezili-10, umntu ojongene nezo zilwanyana kwaye ephethe eli laphu njengoko kuthe kwakhankanywa apha ngasentla uthi akhokele kuze omnye ololo hlobo ophethe ilaphu elisele lichaziwe alandele ezo zilwanyana.

(5) Umntu oqhuba isilwanyana kwindlela kawonke-wonke uya kuthi asijonge esi silwanyana singabangeli isiphazamiso okanye ingosi kwezinye izithuthi.

(6) Igosa lendlela linokuthi lithabathe amanyathelo ngaso nasiphi na isilwanyana ekubhekiselelwe kuso kwicandelwana (1) kwindlela kawonke-wonke okanye lithabathe loo manyathelo ngokuphathelele kweso silwanyana njengoko anokuthi amiselwe.

100. Izithuthi ezitsalwa zizilwanyana. - (1) Akukho mntu uya kuthi asebenzise isithuthi esitsalwa sisilwanyana kwindlela kawonke-wonke ngaphandle kokuba igama kunye nedilesi lomnini waso lithe laqhotyoshelwa okanye lapeyintwa kwindawo ebonakalayo kwicala lasekhohlo leso sithuthi ngoonobumba abangekho nganeno kunama-25 eemilimitha ukuphakama: Phantsi kwemeko yokuba akukho nto equlethwe apha iya kuthi isebenze kwisithuthi esisetyenziselwa kuphela uthutho lwabantu ngenye indlela engeyiyo ingqesho okanye engenantlawulo.

(2) Akukho mntu uya kuthi asebenzise isithuthi esitsalwa zizilwanyana kwindlela kawonke-wonke ngaphandle kokuba eso sithuthi kunye nemikhala kunye nezinye izixhobo zoko zikwimeko elungileyo nekhuselekileyo.

(3) Umnini wesithuthi esitsalwa zizilwanyana akayikubangela okanye kuvumela ukuba eso sithuthi sisetyenziswe kwindlela kawonke-wonke nguye nawuphi na umntu ongakufanelanga oku nokuba kungenxa yobudala okanye ngenxa yenye into ukuba aqhube kwaye alawule eso sithuthi.

(4) Umqhubi wesithuthi esitsalwa zizilwanyana kwindlela kawonke-wonke uya kuthi onke amaxa anike uqwalaselo olupheleleyo ekuqhutyweni kweso sithuthi siphantsi kolawulo lwakhe kwaye ukuba esi sithuthi simi kwindlela kawonke-wonke, umqhubi akayi kuyeka ukulawula zonke ezi zilwanyana zibotshelwe ngeentambo kwesi sithuthi ngaphandle kokuba omnye umntu okufaneleyo ukwenza oku uthi athabathele kuye ulawulo lwesilwanyana ngasinye esilolo hlobo okanye isilwanyana ngasinye esilolo hlobo sibotshelwe ngendlela yokuba asinako ukusuka kuloo ndawo sithe sashiywa kuyo.

(5) Akukho mntu uya kuthi asebenzise kwindlela kawonke-wonke isithuthi esitsalwa liqela lezilwanyana ezingalawulwa ngemikhala ngaphandle kokuba kukho umntu okhokela eli qela nothi alilawule elo qela.

(6) Umqhubi okanye omnye umntu olawula isithuthi esitsalwa siso nasiphi na isilwanyana okanye kuthi, kwindlela kawonke-wonke ngaphandle kommandla wedolophu, avumele ukuba eso sithuthi silandele nasiphi na esinye isithuthi esithi sitsalwe ngolohlobo umgama onganeno kune-150 iimitha ukususela kwizilwanyana esisesona siphambili seso sithuthi sithe sakhananywa kuqala ngaphandle kokuba kukho injongo yokudlula kusithuthi esihamba ngesantya esingakhawuleziyo okanye xa isithuthi esihamba ngesantya esikhudlwana, emva kokuba sithe sadlula kweso sithuthi, siye sibhekela kuso.

101. Ilungelo lendlela lomhambi ngeenyawo kwindledlana enqumlayo yabahamba ngeenyawo. - (1) Apho indawo yokunqumla yabahamba ngeenyawo ithe yaba secaleni le-robhoti, umhambi ngeenyawo akayi kunqumla kuloo ndledlana ngaphandle kokuba uthi athobele imiqondiso yaloo robhoti njengoko ithe yamiselwa.

(2) Kwiimeko ekungabhekiselelwanga kuzo kwicandelwana (1) umqhubi wesithuthi uya kuthi anikezele ilungelo lendlela, acothe okanye eme ukuba kufuneka anike ilungelo lendlela, kumhambi ngeenyawo onqumla indlela ngaphakathi kwindledlana yokunqumla abahambi ngeenyawo xa umhambi ngeenyawo ekwisiqingatha sendlela esihamba kuyo isithuthi okanye xa umhambi ngeenyawo esondela kakhulu evela kwesinye isiqingatha sendlela kangangokuba abe sengozini.

(3) Akukho mhambi ngeenyawo uya kuthi angene ngokukhawuleza kwindledlana yokunqumla abahamba ngeenyawo kwaye ahambe okanye abalekele kule ndlela yemoto isondela kakhulu kangangokuba kungabi nakwenzeka ukuba umqhubi anike ilungelo lendlela njengoko kusithi kutshiwo kwicandelwana (2).

(4) Nanini na xa nasiphina isithuthi sisithi simiswe kwindledlana yokunqumla ukuvumela ukuba abahamba ngeenyawo banqumle indlela umqhubi waso nasiphina esinye isithuthi esivela ngasemva akayi kudlula kweso sithuthi simileyo.

102. Imisebenzi yabahambi ngeenyawo. - (1) Nanini na xa indledlana esecaleni okanye indledlana yeenyawo isithi yayamane nomgaqo kwindlela kawonke-wonke, umhambi ngeenyawo akayi kuhamba kuloo mgaqo ngaphandle kokuba uneenjongo zokunqumla ukusuka kwelinye icala ukuya kwelinye laloo mgaqo okanye ngenxa yesinye isizathu esivakalayo.

(2) Umhambi ngeenyawo kwindlela kawonke-wonke engena ndledlana esecaleni okanye indledlana yeenyawo ethi yayamane nomgaqo uya kuthi ahambele kufutshane kangangoko kwisiphelo sendlela kwicala langasekunene ukuze abe nokujongana nezithuthi eziza ngaphambili kuloo mgaqo.

(3) Akukho mhambi ngeenyawo uya kuthi anqumle indlela kawonke-wonke engakhange azanelise ngokuba indlela ayinazo ngokwaneleyo izithuthi ezihambayo ukumvumela ukuba ayinqumle indlela ngokukhuselekileyo.

(4) Umhambi ngeenyawo xa enqumla indlela kawonke-wonke ngendledlana yokunqumla abahambi ngeenyawo okanye ngayo nayiphina enye indlela akayi kulibazisa kuloo ndlela koko uya kuqhubeka ukuhamba ngokufanelekileyo.

(5) Akukho mhambi ngeenyawo kwindlela kwawonke-wonke uya kuthi aziphathe ngendlela eya kuthi okanye enokuthi ibe ngunobangela wengozi kwisiqu sakhe okanye kwezinye izihamba-ndleleni zikuyo okanye ezinokuba kuyo loo ndlela.

(6) Umhambi ngeenyawo unokuthi anqumle indlela yoluntu kuphela kwindawo yokunqumla abahambi ngeenyawo okanye kwindawo eziphambana kuyo iindlela okanye kumgama ongaphezulu kweemitha ezingama-50 ukusuka kuloo ndawo yokunqumla abahambi ngeenyawo okanye impambana-ndlela.

103. Ukhuphiswano ngokubaleka nemidlalo kwiindlela zikawonke-wonke. - (1) Ngo-kweenjongo zeli candelo intetho "ukhuphiswano lokubaleka okanye imidlalo" lubandakanya —

(a) naluphina ukhuphiswano lokubaleka, ukhuphiswano ngamendu, ukhuphiswano ngokomelela, ukhuphiswano ngonyuko lwenduli okanye intlangano yemidlalo;

(b) nasiphina isenzo nesiluhlobo luni na —

(i) esinokuthi sibe ngunobangela wengozi kwizithuthi; okanye

(ii) esinokuthi siphazamise, sithintele okanye sichithachithe ukuhamba kwesiqhelo kwezithuthi.

(2) Akukho mntu uya kuthi aququzelele okanye athabathe inxaxheba kulo naluphi na ukhuphiswano lokubaleka okanye umdlalo kwindlela kawonke-wonke, ngaphandle kokuba imvumelwano yakwangaphambili ebhaliweyo yoMphathiswa ithe yazuzwa okanye, apho olu khuphiswano okanye umdlalo uza kuthi uqhutywe wonke kummandla kagunyaziwe wenqila, imvumelwano yakwangaphambili ebhaliweyo yaloo gunyaziwe wenqila ithe yazuzwa.

(3) Xa anika imvume ngokwemigaqo yecandelwana (2) uMphathiswa okanye ugunyaziwe wenqila ochaphazelekayo, ngokwemeko leyo, unokuthi —

(a) ukongeza kuyo nayiphina imfuno emiselweyo, awise imiqathango eyongezelelweyo njengoko anokuthi okanye linokuthi libone kufanelekile;

(b) likhululele nawuphi na umntu ochaphazelekayo lolu khuphiswano okanye imidlalo ngalo lonke ithuba lalo —

- (i) kuwo nawaphina amalungiselelo alo Mthetho ngokuphathelele kulo naluphi na uthintelo lwesantya okanye aqingqe esinye isantya esisesona siphakamileyo ngokuphathelele kuloo ndlela ichaphazelekayo;
- (ii) kuso nasiphi na esinye isibonelelo salo Mthetho okanye kuso nasiphi na isinxuluma-mthetho.

(c) arhafise iimali zokuhlulwa iindleko ekuthe kwangenwa kuzo nguMbuso okanye ugunyaziwe wenqila ochaphazelekayo ngokuphathelele kolo khuphiswano lokubaleka okanye umdlalo.

(4) Nayiphina imvume ethe yanikwa ngokwecandelwana (2) inokuthi irhoxiswe ngalo naliphi na ilixa.

104. Umngcelele wesithuthi kwindlela kawonke-wonke. - (1) Akukho mntu uya kuthi asebenzise kwindlela kawonke-wonke isithuthi esiyimoto esithi senze inxenye yomngcelele wezithuthi ezizimoto ezithi zihanjiswe ukuya kumthengisi zimoto okanye umntu —

(a) phakathi kweeyure ze-18h00 ngolwesiHlanu okanye, ulweSine ongaphambi kwaloo lwesiHlanu kunye neye-07h00 ngoMvulo okanye, kwimeko apho loo Mvulo uyiholide yoluntu, ulwesiBini olandela emva kwaloo Mvulo; okanye

(b) phakathi kweeyure ze-18h00 ngomhla kanye ophambi komhla weKrisimesi neye-06h00 ngomhla kanye olandela umhla wempinda-Krisimesi (Boxing Day), ukuya kutsho kwixesha apho ezo yure zingathi zibe ngethuba ekubhekiselelwe kulo kumhlathi (a).

(2) Kutshutshiso olubangelwa lulwaphulo lwecandelwana (1), kuya kuthi kuthlekelelwe de kufunyanwe ubungqina obuchasene nobu, ukuba esi sithuthi siyimoto sichaphazelekayo besikwindlela esihambisayo ukusisa kumthengisi zimoto okanye omnye umntu.

105. Ukuphazamisa okanye ukuthintela izihamba-dleleni kwindlela kawonke-wonke. - (1) Akukho mntu uya kuthi ngabom okanye ngokungeyomfuneko athintele aphazamise okanye anqumamise ukugqitha ngokukhululekileyo nangokufanelekileyo kwezihamba-ndleleni kwindlela kawonke-wonke.

(2) ngokulawulwa ngamalungiselelo alo Mthetho okanye nawuphi na omnye umthetho akukho mntu uya kuthi abeke okanye ashiye okanye abangele ukuba kubekwe okanye kushiye kwindlela kawonke-wonke nayiphina into enokuthi ibangele ingozi umonakalo kwizihamba-ndleleni kuloo ndlela.

106. Isithuthi esithe sashiywa okanye salahlwa kwindlela kawonke-wonke. -

(1) Nasiphina isithuthi esimi kwindlela kawonke-wonke kwindawo okanye kwiimeko ezithingokoluvo lwegosa lendlela esithi sibange ingozi okanye ezinokuthi zibangele ingozi okanye iziphazamiso kwezinye izithuthi ezikuloo ndlela, sinokuthi sisuswe kwangoko sisiwe kwindawo ekhuselekileyo lilo naliphi na elinye igosa lendlela okanye umntu okanye isiphatha-mandla othe wayalelwa lelo gosa ukuba asuse eso sithuthi: Phantsi kwemeko yokuba elo gosa lendlela okanye umntu okanye ugunyaziwe liya kuthi xa lisusa eso sithuthi, lisebenzise isixhobo okanye izixhobo ezinokuthi zibe yimfuneko ezithi zilulwalasele ukhuseleko loluntu.

(2) Nasiphi na isithuthi —

(a) esipakishwe kwindawo apho —

- (i) ukumiswa kwesithuthi kuthintelweyo ngokwem igaqo yecandelo 89, okanye
- (ii) isithuthi sodidi eso sithuthi esikulo singenako ukupakishwa;

(b) esishiywe ithuba elide elingaphezulu —

- (i) kweeyure ezingama-24 kwindawo enye kwindlela kawonke-wonke ngaphandle kommandla wedolophu;
- (ii) iintsuku ezisixhenxe kwindawo enye kwindlela kawonke-wonke ngaphakathi kommandla wedolophu; okanye
- (iii) iintsuku ezi-7 kwisiza salo naliphina iziko lokuvavanya, okanye

(c) esithe safunyanwa kwindlela kawonke-wonke nekuthi kuso —

- (i) kungabikho nombolo yobhaliso ithe yaqhotyoshelwa, okanye ngokoluvo lwegosa lendlela, isebenze ukuphawula umnini;
- (ii) akukho enye inombolo okanye nayiphi na enye into ethe ukuphawula umnini,

siya kuthatyathwa ngokuba sithe salahlwa ngumnini kwaye eso sithuthi sinokuthi sisuswe nguye okanye egameni lakhe ugunyaziwe onolawulo kuloo ndlela ichaphazelekayo kwaye loo gunyaziwe uya kuthi athabathe onke amanyathelo afanelekileyo ukulanda umnini kwaye umnini uya kuthi, ngaphandle kwakwimeko yesithuthi esibiweyo, abe nobutyala kuloo gunyaziwe ngeendleko ekuthe kwangenwa kuzo —

- (aa) ekususweni kweso sithuthi;
- (bb) ekugcinweni kweso sithuthi, ithuba elingekho ngaphezulu kwiinyanga ezine; kunye
- (cc) nangokuphathelele kwimigudu yokukhangela, kwaye loo gunyaziwe unokuthi, ngokulawulwa ngamalungiselelo ecandelwana (3), asigcine eso sithuthi de ezo ndleko zibe zihlawulwe.

(3) Ukuba —

(a) loo mnini uthi alandwe nguloo gunyaziwe kubhekiselelwe kwicandelwana (2) aze angisithathi esi sithuthi sichaphazelekayo kwaye ahlawule iindleko ekubhekiselelwe kuzo kwelo candelwana zingadlulanga iintsuku ezili-14 emva kokuba ethe wacelwa ukuba enze njalo; okanye

(b) emva kokuphela kwenyanga enye ukususela ngomhla wokususwa ekujongiswe kuko kwicandelwana (2) umnini akanakulandeka,

eso sithuthi okanye nakuphi na okuqulethwe apho kuso sinokuthi sithengiswe ngendlela emise-lweyo nguwo nawuphi na umthetho olawula intengiso yepropathi enokushenxiswa nguloo gunyaziwe kwaye, nanini na xa kunokwenzeka, loo gunyaziwe uthe wabhalisa eso sithuthi uya kuthi aziswe ngaloo ntengiso.

(4) Okuthe kwazuzwa kuyo nayiphi na intengiso ekubhekiselelwe kuyo kwicandelwana (3) kuya kuthi kusetyenziswa okokuqala kwiindleko zofuduso, ugcino nentengiso yesi sithuthi esichaphazelekayo kunye nayo yonke imigudu ethe yenziwa ukulanda umnini weso sithuthi kunye nayo nayiphi na intsalela iya kuthi ihlawulwe kumnini waso akuba ethe wenza ubizo mbuyekazo: Phantsi kwemeko yokuba, ukuba akukho bizo mbuyekazo luthi lufunyaniswe ungedlulanga unyaka ukususela kumhla waloo ntengiso, intsalela leyo iya kuthi ingene kuloo gunyaziwe uchaphazelekayo.

(5) Ukuba ugunyaziwe ekubhekiselwe kuye kwicandelwana (2) akakwazi ukuthengisa nasiphi na isithuthi njengoko kujongwe njalo kwicandelwana (3) unokuthi asichithe eso sithuthi ngayo nayiphi na indlela ayibona ifanelekile kunye naziphi na imali ezithe zazuzwa ngenxa yolo chitho ziya kuthi zinikezelwe kuloo gunyaziwe.

(6) Nawuphina ugunyaziwe ekubhekiselelwe kuye kwicandelwana (2) unokuthi anikezele ngokubanzi okanye ngokuthe ngqo nawuphi na amagunya abekwe phezu kwakhe ngokwelo candelwana kuye nawuphina umntu oqeshwe nguye.

(7) Ukusetyenziswa ngokufanelekileyo nguye nawuphi na umntu okanye ugunyaziwe kwamagunya abekwe phezu kwakhe leli candelo akayi kumenza loo mntu okanye loo gunyaziwe abe nabo nabuphi na ubutyala ngokuphathelele kwilahleko okanye ubusela okanye umonakalo kuso nasiphi na isithuthi okanye inxenywe yaso okanye ngayo nayiphi na into elapho ngaphakathi okanye ngaphezulu kwaso.

(8) Ngokulawulwa ngamalungiselelo awo nawuphi na omnye umthetho, akukho mntu uya kuthi ashiye isithuthi kwindawo enye kwindlela kawonke-wonke ithuba elide okanye iintsuku ezingaphezulu kwesixhenxe.

107. Umonakalo kwindlela kawonke-wonke akukho mntu uya kuthi kwindlela kawonke-wonke. - (a) abangele ukuba naliphi na ivili laso nasiphina isithuthi lirhuqeke okanye libaleke ndawonye apha kumphezulu wendlela, ngaphandle kwakwimeko yokuxakeka;

(b) asebenzise iziqobo zokuqhobosha okanye izihlangu phakathi kwalo naliphi na ivili lesithuthi esihamba endleleni kunye nomphezulu waloo ndlela; okanye

(c) asebenzise nasiphina isithuthi okanye into okanye, ahambise nasiphi na isithuthi okanye into endleleni ngendlela ethi ibangele okanye enokuthi ibangele umonakalo kuyo.

108. Urhwebo kwindlela kawonke-wonke. - Ngaphandle kwakwiintendezezo ezithe zakhutshelwa ilayisensi ngugunyaziwe ofanelekileyo akukho mntu uya kuthi athengise abona-kalise abhengeze intengiso okanye azise emva kokuthengisa nayiphi na impahla —

(a) kuyo okanye ecaleni lendlela kawonke-wonke ngaphakathi kummandla wedolophu, kwiimitha ezili-180 ukusuka kwisiporo sikaloliwe okanye nawuphi na umqondiso wendlela obonakalisa igophe elinobungozi okanye iqhina okanye nganeno kuneemitha, ezili-10 ukusuka kuyo nayiphi na impambana-ndlela ekuyo; okanye

(b) kuyo okanye ukunxusa nayiphi na indlela kawonke-wonke ngaphandle kommandla wedolophu: Phantsi kwemeko yokuba, apho uMbuso inguwo ojongene nogcino lwendlela kawonke-wonke ngaphakathi kummandla wedolophu, ugunyaziwe wenqila ochaphazelekayo akayi kunika ilayisensi kwiintendezezo ezikuloo mmandla wedolophu zisekwe zinxusa loo ndlela ngaphandle kwemvume yakwangaphambili yoMphathiswa.

109. Amalungiselelo awodwa apha thelele koo hola beendlela. - (1) Akukho mntu uya kuthi asebenzise kuhola wendlela —

- (a) isithuthi esirhuqwa sisilwanyana;
- (b) ibhayisekile;
- (c) isithuthuthu esinenjini enomthamo wesilinda engekho ngaphezulu kwama-50 eesentimitha eziphindwe kathathu okanye esiqhutywa ngamandla ombane okanye esisisithuthi njengoko kujongwe njalo kumhlathi (b) wenkcazo-gama isithuthi esiyimoto;
- (d) isithuthuthu esimavili mathathu;
- (e) isithuthi esibunzima obungekho ngaphezulu kweekhilogramu ezingama-230 senziwe ngokukodwa sakhiwa okanye salungiselelaniswa ukuze sisetyenziswe ngumntu onobulima ngokwasemzimbeni okanye ongenakuzenzela; okanye
- (f) itrektara.

(2) Akukho mntu uya kuthi —

- (a) abe kuhola wendlela ngenyawo ngaphandle kokuba —
 - (i) uphakathi kommandla obekelwe bucala ukuba okwexeshana okanye ukuma ithuba elide kwezithuthi ngumqondiso wendlela ofanelekileyo;
 - (ii) ngezizathu ezingaphaya kwamandla akhe; okanye
 - (iii) kwimeko yelungu lawo nawuphi na umkhosi, ngaphakathi kommandla othe waphawulwa ngumqondiso wendlela ofanelekileyo ngokuphathelele kwelo lungu;
- (b) Ashiye okanye avumele isilwanyana ukuba sibe kuhola wendlela ngaphandle kwakwisithuthi esiyimoto okanye ngaphakathi kommandla obekelwe ukuma ixesha elifutshane okanye ukuma ixesha elide kwezithuthi ngumqondiso wendlela ofanelekileyo okanye ashiye isilwanyana kwindawo apho sinokuthi sibhadule siye kutsho kuhola wendlela;
- (c) amise isithuthi kuhola wendlela ngaphandle —
 - (i) kokuba uthi athobele umqondiso wendlela okanye isalathiso esithe sanikwa ligosa lendlela;
 - (ii) ngaphakathi kommandla obekelwe ukuma okanye ukupakisha kwezithuthi ngumqondiso wendlela ofanelekileyo;
 - (iii) ngaso nasiphi na izizathu esingaphezulu kwamandla akhe; okanye
 - (iv) kummandla ekubhekiselelwe kuwo kumhlathi (iii) ngenjongo, yokuvumela amalungu awo nawuphi na umkhosi ukuba akhwele okanye ehle kweso sithuthi;
- (d) anike umqondiso wezandla xa aqhuba isithuthi esiyimoto kuhola wendlela ngaphandle kokuba kukho izizathu esingaphezulu kummandla wakhe.

(3) Kutshutshiso ngolwaphulo lwecandelwana (2)(b) kuya kuthi kuthalekelelwe de kube kuthe kwafunyaniswa okuchasene noku, ukuba isilwanyana sithe sashiywa okanye savunyelwa ukuba sibe kuhola wendlela okanye indawo echaphazelekayo ngumnini weso silwanyana.

(4) Amalungiselelo —

- (a) ecandelwana (1)(f) awayi kusebenza kumntu osebenzisa itrektara ngokunxulumene nolwakhiwo okanye ulondolozo lukahola wendlela;
- (b) icandelwana 2(a) aliyi kusebenza —
 - (i) kwigosa lendlela ngethuba liqhuba umsebenzi walo;
 - (ii) kumntu oqhuba umsebenzi wakhe wokusindisa okanye ukuhlangua;
 - (iii) kumntu oqhuba ulwakhiwo okanye ulondolozo lukahola wendlela okanye ubonelelo ngenkonzo yoluntu eyimfuneko; okanye
 - (iv) kumntu ngethuba akhusela uluntu;
- (c) Icandelwana (2)(c) aliyi kusebenza —
 - (i) kumqhubi —
 - (aa) wenqwelo yezigulana okanye isithuthi sokulwa umlilo; okanye
 - (bb) wesithuthi esingusilenga ngethuba ahlangua esinye isithuthi esiyimoto;
 - (ii) Igosa lendlela eliqhuba isithuthi ngethuba liqhuba umsebenzi walo;
 - (iii) umntu oqhuba isithuthi ngethuba sisetyenziselwa ulwakhiwo okanye ulondolozo lukahola wendlela okanye ubonelelo ngenkonzo eyimfuneko;
 - (iv) umntu othi aqhube isithuthi ngethuba akhusela ngalo uluntu.

(5) Apho umqhubi wesithuthi esiyimoto esiqhutywa kwileyini yendlela yangasekunene okanye kwileyini yendlela eyeyona ikude ngasekunene kuhola wendlela (apha ngasezantsi esibizwa ngokuba sisithuthi sokuqala) uthi aziswe ngumqhubi wesinye isithuthi esiyimoto (apha ngasezantsi esibizwa ngokuba sisithuthi sesibini) ukuba loo mqhubi ujonge ukugqitha kwisithuthi sokuqala uya kuthi ayikhwelele ngeso sithuthi aye kwileyini esekhohlo kuleyo ebeqhuba kuyo engakhange azifake engozini okanye afake engozini ezinye izithuthi okanye ipropathi ekuhola wendlela kwaye akasayi kusiphakamisa isantya sesithuthi sakhe de sibe isithuthi sesibini sidule.

(6) Ngokweenjongo zecandelwana (5) umqhubi wesithuthi sesibini amenze umqhubi wesithuthi sokuqala ukuba azi ukuba ujonge ukudlula kwisithuthi sokuqala ngokuthi amnike umqhubi waso —

- (a) umqondiso ovakalayo ngesixhobo esithi senze isandi okanye uphondo; okanye
- (b) umqondiso obonakalayo ngokutshawuza ngezibane ezinkulu zesithuthi sakhe.

ISAHLUKO 8

IINGOZI NEENGXELO ZENGOZI

110. Umsebenzi womqhubi kwimeko yengozi. - (1) Umqhubi wesithuthi kwindlela kawonke-wonke ngexesha eso sithuthi sisithi sibandakanyeke kwingozi okanye sisithi sibe ngomnye wonoobangela bayo nayiphina ingozi ekuthi kuyo nawuphi na omnye umntu abulawe okanye enzakale okanye onakalelwe yiyo nayiphi na ipropathi okanye isilwanyana —

- (a) uya kuthi kwangoko asimise eso sithuthi;
- (b) uya kuthi aqinisekise ubunjani nobungakanani bako nakuphi na ukwenzakala okuthe kwafunyanwa nguye nawuphi na umntu;
- (c) uya kuthi ukuba umntu wenzakele, anike uncedo kuloo mntu wenzakeleyo anokuthi abe nako ukulunika;
- (d) uya kuthi aqinisekise ngemeko nobungakanani bengozi ethe yafunyanwa;
- (e) uya kuthi ukuba kuthe kwafunwa ukuba enze njalo, nguye nawuphi na umntu onezizathu ezifanelekileyo zokuba afune njalo, anike igama nedilesiyakhe. Igama nedilesiyom nini weso sithuthi siqhutywa nguye kunye, kwimeko yesithuthi esiyimoto, nenombolo yobhaliso okanye uphawu olukwanjalo;
- (f) uya kuthi, ukuba akasele ayinikile ingcaciso ekubhekiselelwe kuyo kumhlathi (e) kwigosa lendlela kuloo ndawo yengozi kwaye ngaphandle kokuba akanamandla okwenza oko ngenxa yokwenzakala athe wakufumana kule ngozi ngokukhawuleza kangangoko kunokuthi kwenzeke kwaye phantsi kwayo nayiphi na imeko zingedlulanga iiyure ezingama-24 emva kokuhla kwaloo ngozi, bayazise le ngozi kulo naliphi na igosa lamapolisa kwiziko lamapolisa okanye bucala nguye nawuphi na ugunyaziwe ofezekileyo ukuba isetyenziswe ligosa lendlela aze apho avelise ilayisensi yakhe yokuqhuba aze avelise inombolo yesazisi yakhe kunye nengcaciso ekuthe kwabhekiselelwa kuyo kuloo mhlathi; kwaye
- (g) akayi kuthi, ngaphandle kokuba uthe wayalelwa okanye xa oko kusenziwa ngugqirha kwimeko yokwenzakala okanye ukothuka, athabathe nabuphi na utywala okanye amachiza athi ayobise ngaphandle kokuba uthe wawathobela amalungiselelo omhlathi (f), apho kungumsebenzi wakhe ukwenza oko, kwaye uthe waxilongwa ngugqirha ukuba olo xilongo luthi lufunwe ligosa lendlela.

(2) Akukho mntu uya kuthi kummandla wedolophu asuse nasiphi na isithuthi esibandakanyeka kwingozi ekuthe kuyo omnye umntu wasweleka okanye wenzakala kwindawo esithe saya kuma kuyo, de kube ukuyisusa kuthe kwagunyaziswa ligosa lendlela, ngaphandle kwaxa loo ngozi isithi ibangele ukuvaleka ngokupheleleyo kwendlela kawonke-wonke ekunokuthi kuloo meko eso sithuthi sichaphazelekayo, kungathana kwagunyaziswa oko kwaye emva kokuba ukuma kwaso kuthe kwaphawulwa ngokucacileyo apha kumphezulu womhlaba ngulo mntu usisusayo, sisuswe ngokwaneleyo ukuvumela ukugqitha kwezihamba-ndleleni.

(3) Kulo naluphi na utshutshiso ngolwaphulo lwawo nawuphi na amalungiselelo eli candelo kuya kuthi kuthelekelelwe, de kube kuthe kwafunyaniswa okuchasene noku, ukuba ummangalelwa ube enolwazi lokuba le ngozi ithe yehla kwaye akakhange ayixele le ngozi okanye anike ingcaciso njengoko ifunwa licandelwana (1)(f).

(4) Kweli candelo igama "isilwanyana" lithetha nasiphi na isilwanyana esiyinkomo, ihashe, iesile, imeyile, igusha, ibhokhwe, ihagu okanye inciniba.

111. IGaraji kufuneka igcine irekhodi yesithuthi esichaphazelekayo kwingozi. -

(1) Nawuphi na umntu ongumnini garaji okanye enye indawo apho izithuthi ezizimoto zithi zilungiswe kuyo nalapho kuthi kuziswe ngenjongo zolungiso, nasiphi na isithuthi esiyimoto esibonakalisa iimpawu okanye imiqondiso yokuba sikhe sabandakanyeka kwingozi uya kuthi agcine irekhodi ethi ichaze ubume bezu mpawu okanye imiqondiso, inombolo yenjini kunye nenombolo yobhaliso okanye uphawu olukwanjalo kwaye, ukuba liyaziwa, negama nedilesi yomnini nomqhubi weso sithuthi.

(2) Umntu ekufuneka egcine irekhodi ngokwecandelwana (1) uya kuthi ayigcine loo rekhodi ithuba elingangeminyaka emithathu ukususela ngomhla ethe yenziwa ngawo kwaye nayiphina irekhodi elolo hlobo uya kuthi, xa ifunwa, iveliswe kwigosa lendlala.

ISAHLUKO 9

UKUQHUBA NGOKUNGENANKATHALO OKANYE NOKUNGANONOPHELI UKUQHUBA NGOKUNGENALUQWALASELO, UKUQHUBA UPHANTSI KWEEMPEMBELELO ZOTYWALA OBUNXILISAYO OKANYE ICHIZA ELIYOBISAYO, KUNYE NOLWAPHULO-MTHETHO OLUZIINTLOBO NGEENTLOBO

112. Ukuqhuba ngokungenankathalo okanye ngokunganonopheli. - (1) Akukho mntu uya kuthi aqhube isithuthi kwindlela kawonke-wonke ngokungenankathalo okanye ngokunganonopheli.

(2) Singathanga sayibophelela intsingiselo yesiqhelo yegama "ngokungenankathalo" nawuphina umntu oqhuba isithuthi esiyimoto othi ngabom okanye ngaphandle kwesizathu angabi nankathalo ngokhuseleko lwabantu okanye ipropathi uya kuthatyathwa ngokuba usiqhuba eso sithuthi ngokungenankathalo.

(3) Xa iqwalasela ukuba ulwaphulo-mthetho luthe lwaqhubeka na phantsi kwecandelwana (1) inkundla iya kuthi iqaphele zonke iimeko zeli tyala kubandakanywa, kodwa kungadlwa ndlela ububanzi bala malungiselelo angaphambili eli candelo, imo imeko nokusetyenziswa kwale ndlela yoluntu ekuthe olu lwaphulo mthetho lwaqhubeka kuyo, ubungakanani bezihamba-ndleleni ekuthe ngelo xesha zaba khona okanye ebezinokulindeleka ukuba zibe khona kuloo ndlela kunye nesantya kunye nendlela eso sithuthi ebesiqhutywa ngaso.

113. Ukuqhuba ngokungenaluqwalaselo. - Akukho mntu uya kuthi aqhube isithuthi kwindlela yoluntu ngokungenaluqwalaselo lwakhe nawuphi na omnye umntu osebenzisa le ndlela.

114. Ukuqhuba uphantsi kweempembelelo zotywala obunxilisayo okanye ichiza eliyobisayo, okanye une-alkhoholi egqithisileyo egazini. - (1) Akukho mntu uya kuthi kwindlela kawonke-wonke —

(a) aqhube isithuthi, okanye

(b) athabathe isihlalo somqhubi wesithuthi esiyimoto esinenjini edumayo, ngethuba aphantsi kweempembelelo zotywala obunxilisayo okanye ichiza eliyobisayo.

(2) Akukho mntu uya kuthi kwindlela kawonke-wonke —

(a) aqhube isithuthi, okanye

(b) athabathe isihlalo somqhubi sesithuthi esiyimoto elixa injini yaso iduma,

ngethuba ubungakanani be-alkhoholi kweso silinganiselo segazi sithe sathatyathwa kulo naliphi na ilungu lomzimba wakhe bungekho nganeno kune 0,08 yeegremu ngeemilimitha ezili-100.

(3) Ukuba kulo naluphi na utshutshiso ngolwaphulo lwamalungiselelo ecandelwana (2) kuthe kwafunyaniswa ukuba ubungakanani be-alkhoholi kuso nasiphi na isilinganiselo segazi esithe sathatyathwa kulo naliphi na ilungu lomzimba womntu lowo uchaphazelekayo bube bungekho ngeneno kune-0,08 iigremu nge 100 leemilimitha ngalo naliphi na ixesha zingedlulanga iiyure ezimbini emva kolo lwaphulo mthetho kutyholwa ngalo, kuya kuthatyathwa ngokuba, de kubekho ubungqina obuchasene noko, ubungakanani obo babungekho ngaphantsi kune-0,08 iigremu nge-100 leemilimitha ngexesha lolwaphulo-mthetho ekutyholwa ngalo.

(4) Apho kulo naluphina utshutshiso phantsi kwaloo Mthetho ubungqina buthi bunikwe bocalucalulo lwesilinganiselo segazi sakhe nawuphina umntu kuya kuthi kuthelekelelwe, de kube kufunyenwe okuchasene noku, ukuba nasiphina isirinjini esithe sasetyenziswa ukuzuza esi silinganiselo kunye nemvaba esithe eso silinganiselo sagalelwa kuyo ukuze sithunyelwe kumcalucaluli bezicocekile zingenayo nayiphina into okanye ukungcola okunokuthi kuchaphazele iziphumo zolo calucalulo.

115. Izenzo ezingagunyaziswanga ngokuphathelele kwisithuthi. - (1) Akukho mntu uya kuthi ngaphandle kwesizathu esifanelekileyo okanye ngaphandle kwemvume yomnini, umsebenzisi okanye umntu onolawulo ngokusemthethweni lwesithuthi —

- (a) ahambise umashini waso;
- (b) asifake eso sithuthi egiyerini;
- (c) athi ngayo nayiphina indlela aphaathe umashini imifakelwa okanye amalungu eso sithuthi; okanye
- (d) angene okanye akhwele kweso sithuthi;

(2) Akukho mntu uya kuthi akhwele okanye aqhube isithuthi ngaphandle kwemvume yomnini, umqhubi okanye umntu onolawulo ngokusemthethweni waso.

(3) Akukho mntu uya kuthi engenazizathu zasemthethweni aphaathe isithuthi okanye naliphina ilungu lesi sixhobo okanye imifakelwa yaso nasiphina isithuthi okanye asonakalise ngabom okanye agibisele nayiphina into kweso sithuthi.

(4) Akukho mntu uya kuthi ngaphandle kwemvume ebhaliweyo kagunyaziwe obhalisayo aguqule, acime okanye onakalise inombolo yenjini okanye inombolo yetshesi yesithuthi esiyimoto okanye avumele ukuba iguqulwe, icinywe okanye yonakaliswe.

116. Uniko lwengcaciso ebubuxoki. - Singathanga saphambuka kuwo nawaphina amalungiselelo alo Mthetho, akukho mntu uya kuthi —

- (a) ngokuphathelele kuso nasiphina isicelo phantsi kwalo Mthetho okanye;
- (b) ngokuphathelele ekunikweni kwayo nayiphina ingcaciso eza kuthi ngokolwazi lwakhe okanye enokuthi isetyenziswe nayiphina injongo phantsi kwalo Mthetho, abhengeze okanye anike ingxelo ngokolwazi lwakhe ebubuxoki okanye ngayo nayiphi na indlela elahlekisayo.

117. Izenzo ezingekho mthethweni ngokuphathelele kwinombolo yobhaliso, uphawu lobhaliso okanye amanye amaxwebhu. - (1) Akukho mntu uya kuthi —

(a) asbhale ubuxoki okanye okungumfuziselo okanye, ngenjongo yokulahlekisa, afake endaweni, aguqule, akhuhle okanye onakalise okanye ongeze nayiphina into kwinombolo yobhaliso okanye uphawu lobhaliso okanye inombolo ekwanjalo okanye uphawu oluthe lwakhutshwa ngugunyaziwe ofanelekileyo ongaphandle kweCiskei; okanye

(b) abe naloo nombolo okanye uphawu oluthe lwaguqulwa okanye kwenziwa umfuziselo walo okanye kwafakelwa endaweni yalo, lwaguqulwa, lwakhuhlwa, okanye lonakaliswa okanye ekuthe kulo kongezwa nayiphina into.

(2) Akukho mntu uya kuthi —

(a) abhale ubuxoki okanye okungumfuziselo okanye ngenjongo yokulahlekisa, afakele, aguqule, akhuhle okanye onakalise okanye ongeze nayiphina into kwisiqiniso, ilayisensi okanye olunye uxwebhu olukhutshwe okanye oluvunyiweyo ngokwemigaqo yamalungiselelo alo Mthetho; okanye

(b) abe naloo nombolo okanye uphawu oluthe lwaguqulwa okanye kwenziwa umfuziselo walo okanye kwafakelwa endaweni yalo, lwaguqulwa, lwakhuhlwa, okanye lonakaliswa okanye ekuthe kulo kongezwa nayiphina into.

(2) Akukho mntu uya kuthi —

(a) abhale ubuxoki okanye okungumfuziselo okanye ngenjongo yokulahlekisa, afakele, aguqule, akhuhle okanye onakalise okanye ongeze nayiphina into kwisiqiniso, ilayisensi okanye olunye uxwebhu olukhutshwe okanye oluvunyiweyo ngokwemigaqo yamalungiselelo alo Mthetho; okanye

(b) abe neso siqiniso, ilayisensi okanye olunye uxwebhu oluthe lwabhalwa ubuxoki okanye kwenziwa umfuziselo walo okanye kwafakelwa endaweni yalo, lwaguqulwa, lwakhuhlwa okanye lonakaliswa okanye kongezwa kulo nayiphina into.

(3) Akukho mntu uya kuthi —

(a) asebenzise isiqiniso, ilayisensi okanye olunye uxwebhu oluthe lwakhutshwa okanye lwavunywa ngokwamalungiselelo alo Mthetho nangenguye umnini walo; okanye

(b) avumele ukuba eso siqiniso, ilayisensi okanye olunye uxwebhu angumnini walo ukuba lusetyenziswe nguye nawuphina omnye umntu.

(4) Apho kutshutshiso ngolwaphulo lwamacandelwana (1)(b) okanye (2)(b) kuthe kwaqinisekiswa ukuba umntu uthe wafunyaniswa enenombolo yobhaliso okanye uphawu lobhaliso okanye inombolo okanye uphawu okanye uxwebhu olulolo hlobo oluthe lwaguqulwa lwabubuxoki okanye kwenziwa umfuziselo walo okanye kwafakelwa, elinye endaweni yalo, lwaguqulwa, lwakhuhlwa okanye lonakaliswa okanye kongezwa nayiphina into kuya kuthi de kube kufunyenwe okuchasene noko, kuthalekelelwa ukuba loo mntu ubesazi ukuba —

(a) loo nombolo, uphawu okanye uxwebhu ithe —

- (i) yaguqulwa yabubuxoki okanye kwenziwa umfuziselo wayo; okanye
- (ii) kuthe kwafakwa enye endaweni yayo, yaguqulwa, yakhuhlwa okanye yonakaliswa ngenjongo yokulahlekisa, okanye

(b) nantoni na eyathi yongezwa kuloo nombolo uphawu okanye uxwebhu ithe yongezwa ngenjongo yokulahlekisa.

(5) Akukho mntu uya kuthi —

(a) ngenjongo yokulahlekisa, aguqule inombolo yenjini okanye inombolo yetshesi yesithuthi esiyimoto; okanye

(b) ngaphandle kwesizathu esisemthethweni abe nesithuthi esiyimoto esine-nombolo yenjini yaso okanye inombolo ethe yaguqulwa.

(6) Apho kutshutshiso ngenxa yolwaphulo lwecandelwana (5) kuthe kwaqinisekiswa ukuba umntu uthe wafunyaniswa enesithuthi esiyimoto esinenombolo yenjini okanye yetshesi ethe yaguqulwa kuya kuthi, de kufunyanwe okuchasene noku, kuthalekelelwe ukuba loo mntu ubesazi ukuba loo nombolo ithe yaguqulwa ngenjongo yokulahlekisa.

ISAHKUKO 10

IINTELEKELELO KUNYE NENKQUBO YASEMTHETHWENI

118. Intelekelelo ngokuphathelele kwindlela kawonke-wonke uholo wendlela kunye nendlela kawonke-wonke ekummandla wedolophu. - (1) Apho, kulo naluphi na utshutshiso phantsi kwalo Mthetho kuthe kwenziwa isityholo sokuba ulwaphulo mthetho luthe lwaqhutywa kwindlela kawonke-wonke, loo ndlela ichaphazelekayo iya kuthi de kufunyanwe okuchasene noko kuthalekelelwe ukuba yindlela kawonke-wonke.

(2) Apho nakukuphina ukutshutshiswa phantsi kwalo Mthetho kutyholwa ukuba kuthe kwenziwa ulwaphulo-mthetho kuhola wendlela, indlela echaphazelekayo iya kuthi ithatyathwe njengokuba nguholo wendlela de kuboniswe okuchasene noko.

(3) Apho kuthi nakuluphina utshutshiso phantsi kwalo Mthetho kutyholwa ukuba kuthe kwakho ulwaphulo-mthetho owenziwayo kwindlela kawonke-wonke kummandla osezidolophini, indlela echaphazelekayo iya kuthi ithatyathwe njengokuba yindlela kawonke-wonke kummandla wasezidolophini de kuboniswe ngokuchasene noko.

119. Intelekelelo ngokuphathelele kubunzima obuqinisekiswa ngendlela yebhlorho elinganisela ubunzima okanye esinye isixhobo sokulinganisela ubunzima. - Apho, nakuziphina iinkqubo zamatyala esizi avela ngenxa yokutyholwa ngokutyeshela lo Mthetho, ubungqina bokubonisa utyeshelo olunjalo bunikwa nakubuphina ubunzima obuqinisekisiwe ngohlobo lwebhlorho yokulinganisela ubunzima okanye esinye isixhobo sokulinganisela ubunzima, ubunzima obunjalo buya kuthatyathwa ngokuba buchanekile de kuboniswe okuchaseneyo noko.

120. Intelekelelo ngokuphathelele kubunzima besithuthi bubonke besithuthi esiyimoto. - Apho nakukuphina ukutshutshiswa phantsi kwalo Mthetho kutyholwa ukuba ulwaphulo mthetho lwathilwenziwa ngokunxulumene nobunzima besithuthi bubonke besithuthi esiyimoto, ubunzima obutyholwa njalo buya kuthi, xa kungekho bungqina njengoko kujongwe kwicandelo 121, bucingelwe de kuboniswe okuchasene noko ukuba bubunzima besithuthi bubonke besithuthi esinjalo.

121. Ubungqina bobunzima besithuthi bubonke besithuthi esiyimoto. - Naluphina uxwebhu oluthi lukhutshwe ngumvelisi noluchaza ukuba ubunzima besithuthi bubonke balo naluphi na udidi oluthile lwesithuthi esiyimoto eyenziwe nguye buya kuba bubungqina *prima facie* njengakubunzima besithuthi bubonke bodidi lunjalo.

122. Ukucingela ukuba umnini uthe waqhuba okanye wapakisha isithuthi. - Apho kuthi nakuluphina utshutshiso phantsi komthetho wesithethe onxulumene nokuqhutywa kwesithuthi kwindlela kawonke-wonke okanye phantsi kwalo-mthetho kululutho ukubonisa phandle ukuba ibingubani na umqhubi wesithuthi, kuya kucingelwa ukuba isithuthi esinjalo sibe siqhutywa ngumniniso de kuboniswe okuchaseneyo noko.

(2) Nanini na isithuthi sipakishwe ngokutyeshela naliphina ilungiselelo lalo Mthetho okanye isinxuluma-mthetho esiphantsi kwawo, kuya kucingelwa ukuba isithuthi esinjalo besipakishwe ngumniniso de kuboniswe okuchaseneyo noko.

(3) Ukulungiselela iinjongo zeengcandelwana (1) ne-(2) kuya kucingelwa de kuboniswe ngokuchasene noko ukuba, apho umnini wesithuthi ochaphazelekayo ingumbutho omanyeneyo, isithuthi esinjalo sathi saqhutywa okanye sapakishwa njengoko kujongwe kwezo ngcandelwana ngumlawuli okanye isicaka sombutho omanyeneyo esebenzisa amagunya akhe okanye isicaka esinjalo okanye ekuqhubeleni okanye ekuzameni ukuqhubela phambili okuluncedo kumbutho omanyeneyo.

123. Intelekelelo ngokuphathelele kumagosa. - Nakuluphina utshutshiso oluphantsi kwalo naliphina ilungiselelo lalo Mthetho into yokuba nawuphina umntu ozenze okanye ezenze ngathi uzenza igosa lezihamba-ndleleni okanye umhloli weelayisensi, umvavanyi wezithuthi okanye umvavanyi weelayisensi zokuqhuba, iya kuba bubungqina obu *prima facie* bolwalathelo negunya lakhe lokusebenza njalo: Phantsi kwento ethi amalungiselelo elicandelo awayi kusebenza ngokuphathelele ekutshutshisweni ngesityholo esinxulumene nokuzenza omnye umntu.

ISAHLUKO 11

IMIGAQO NEZINXULUMA-MTHETHO

124. Igunya loMphathiswa lokwenza imigaqo. - (1) UMphathiswa angathi enze imigaqo engazi kungangqinelana namalungiselelo alo Mthetho ngokubhekiselele kuwo nawuphina umcimbi ekujongwe kuwo, ofunekayo okanye ovunyelwayo ukuba umiselwe phantsi kwalo Mthetho nangokubanzi njengokusetyenziswa kwaso nasiphina isithuthi kwindlela kawonke-wonke, ukwakhiwa kwaso nezixhobiso zaso kunye neemeko esithi sisetyenziswe phantsi kwayo nangokubhekiselele kuyo nayiphina enye into ukulungiselela ukuqhutyelwa phambili okungcono kwamalungiselelo okanye iinjong zalo Mthetho kwaye ingakumbi, kodwa ngaphandle komkethe kububanzi bala malungiselelo angaphambili, ngokubhekiselele —

(a) Kukhuseleko lwezihamba-ndleleni kwindlela kawonke-wonke, kubandakanya nezibophelelo zosetyenziso lwayo nayiphina indlela enjalo okanye inxenye yayo zizihamba-ndleleni ezinjalo kunye nemisebenzi yabasebenzisi bayo nayiphina indlela enjalo;

(b) Ukuphawulwa kwezithuthi kunye, ngangokunxulumene nesithuthi esiyimoto, ubungakanani, ukumila, umbala, uhlobo lophawu lwenombolo uhlobo emayiboniswe phantsi kwalo Mthetho kunye nendlela emayisetyenziswe ukwenza ukuba olu phawu lubonakale ngokulula, nokuba kusebusuku okanye emini, xa nasiphina isithuthi esinjalo sisetyenziswa kwindlela kawonke-wonke;

(c) ububanzi umphakamo nobude baso nasiphina isithuthi, kunye nedayamitha yamavili nobubanzi, uhlobo nemeko yamatayari aso nasiphina isithuthi xa sisetyenziswa kwindlela kawonke-wonke;

(d) obona bunzima buphezulu, bunomthwalo okanye ngaphandle komthwalo, waso nasiphina isithuthi, umphakamo nobubanzi bawo nawuphina umthwalo onokuthi uthwalwe siso nasiphina isithuthi, indlela esinokuthi nasiphina isithuthi sithwale umthwalo, ukunabela kwawo nawuphina umthwalo kulo naliphina icala nobunzima obuphezulu baso nasiphina isithuthi okanye nayiphina inxalenye yaso exhaswe yindlela okanye nawuphina ummandla ocacisiweyo waso, xa sithe nasiphina isithuthi ekusingiselwe kuso, kulo mhlathi sasetyenziswa kwindlela kawonke-wonke;

(e) ukukhutshwa kwegesi ye-ekzosi umsi, isibaso, i-oyile, umphunga obonakalayo iintlantsi, uthuthu okanye ukungcola kuso nasiphina isithuthi esisebenza kwindlela kawonke-wonke;

(f) ingxolo engathethekiyo ebangelwa luhlobo okanye yimeko yaso nasiphina isithuthi okanye ukuba nomthwalo kwaso okanye uhlobo, imeko okanye ukusetyenziswa kakubi kwesithuthi ingxolo okanye ihuta, ibheli okanye esinye isixhobo sokulumkisa xa nasiphina isithuthi esinjalo sisetyenziswa kwindlela kawonke-wonke;

(g) iinkcukacha emaziphawulwe kuso nasiphina isithuthi;

(h) ukutsalwa, ukutyholwa okanye ukurhuqwa kwaso nasiphina isithuthi sesinye kwindlela kawonke-wonke;

(i) iimeko ekuthi phantsi kwazo nasiphina isithuthi esiyimoto esifakelwe izixhobo zokuqhuba kwicala elingasekhohlo singathi sisetyenziswe ngazo kwindlela kawonke-wonke;

(j) inani, uhlobo, nodidi lwezibane, kubandakanywa nezibonisi, emazibekho kuso nasiphina isithuthi esisetyenziswa kwindlela kawonke-wonke, indawo eziya kuba kuzo, indlela, iimeko namaxesha okusetyenziswa kwaso nasiphina isibane okanye isixhobo sokulayita esinokubeka engozini ukhuseleko loluntu kwaye, ukulungiselela iinjongo zalo mhlathi, isibonisi singachazwa njengokuba sithetha isibonisi-ngemva esinophawu olwam kelekileyo njengoko kuchazwe kwicandelo (1) loMthetho weMigangatho, 1962 (uMthetho 33 wowe-1962) okanye sibonise olunye uphawu lokwenziwa olunjalo njengoko kungathi kumiselwe;

(k) inani nohlobo lweziquhoboshi nokuqinisekisa ukuba iziquhoboshi, izithulisi-ngxolo nesixhobo sokujija ivili ziya kusebenza yaye zikwimeko esebenzayo ngokufanelekileyo, ngokubhekisele kuso nasiphina isithuthi esisetyenziswa kwindlela kawonke-wonke;

(l) umgaqo wokusetyenziswa nokulawulwa kweso nasiphina isithuthi kwindlela kawonke-wonke, ukwakhiwa kwaso, izixhobiso, ububanzi bemizila, imilinganiso, ubunzima nokusetyenziswa ngokubhekisele nokuba kukwitshesi yemoto nomzimba okanye itshe, umzimba nomthwala kunye nemeko esinokusetyenziswa phantsi kwazo;

(m) ngokunxulumene nesithuthi esisetyenziswa kwindlela kawonke-wonke, izixhobiso ekufuneka zifakelwe zokubonisa ukuza kwaso, zokwenza ukuba umqhubi waso akubone ukuza kwesinye isithuthi ngasemva, nokubonisa nayiphina intshukumo eza kwenziwa siso nokusetyenziswa kwazo naziphina izixhobiso ezinjalo nokuqinisekisa ukuba ziya kufezeka kwaye zigcinwe zisebenza kakuhle ngokufanelekileyo;

(n) ukhuselo lwayo nayiphina indlela kawonke-wonke, ubunzima, amatayari nomthwalo waso nasiphina isithuthi ngokunxulumene nayo nayiphina ibhlorho okanye izibuko elicacisiweyo, ixesha apho nesantya esithi nasiphina isithuthi esibunzima buchaziweyo sibe nokuvunyelwa ukunqumla nayiphina ibhlorho okanye izibuko, kokhuseleko nguyi nawuphina umntu kumonakalo onokwenziwa nakuyiphina indlela kawonke-wonke ngesizathu sezihamba-ndleleni ezinemithwalo emikhulu nokwenza kulunge iindleko zokulungisa umonakalo onjalo;

(o) ukumiswa nokupakishwa kwezithuthi kwiindlela zikawonke-wonke;

(p) ukunikwa kwengxelo zeengozi neenkukacha zamanani zalo naluphina uhlobo;

(q) ukumiselwa kwenani labantu abathuthwayo apho kuthi kulungiselelwe udiri oluthile lwesithuthi esiyimoto nenani emalithuthwe ukhuseleko jikelele, ukukhululeka nokuhlala ngokupholileyo kwabantu abathuthwayo abathwelwe sisithuthi esiyimoto esinjalo nesimilo somqhubi, umqokeleli mali nabantu abakhwelelo kwisithuthi esinjalo;

(r) iinkukacha ezithe ngqo zokuvavanywa kwaso nasiphina isithuthi;

(s) nasiphina isibane esithi, ngokucinga koMphathiswa, esisenokuphazamisana nokubonakala okufanelekileyo kwalo naluphina uphawu lwezihamba-ndleleni okanye ukubhidaniswa kwalo naluphina uphawu olunjalo;

(t) indlela yokumisela nayiphina into efuneka ngeenjongo zalo Mthetho;

(u) nayiphina imo, inkqubo okanye isiboniso angathi uMphathiswa athabathe ukuba sifanelekile ngeenjongo zalo Mthetho nohlobo nendima yayo nayiphina ingcaciso emayinikwe ukulungiselela injongo yayo nayiphina imo enjalo;

(v) isinxibo, kubandakanya nophawu lwesikhundla lwamagosa ezendlela alathelwe ngokwecandelo 3;

(w) imirhumo emayihlawulwe ukulungiselela nayiphina injongo phantsi kwalo Mthetho;

(x) ukuthuthwa kukhweliswa abantu njengepasenjani kuso nasiphina isithuthi esakhelwe okanye esiyilelwe kuphela okanye ikakhulu ukuthwalwa kweempahla ingekuko ukukweliswa kweepasenjani nempahla yazo; kunye

(y) nemisebenzi eyongezelekileyo yabasebenzi beendidi ezithile zezithuthi ezizimoto okanye abasebenzisi abenza imisebenzi efuna amanyathelo okhuseleko awongezelekileyo ukulungiselela ukhuseleko loluntu.

(2) Imigaqo eyenziwe nguMphathiswa phantsi kwecandelwana (1) ngokuphathelele —

(a) kudidi oluthile —

(i) lwemisebenzi yothutho lwezindlela;

(ii) lwamashishini okanye urhebo okanye imisebenzi enxulumene nothutho lwezindlela;

(iii) lwabantu abaza kuthi nawuphina umsebenzi okanye ilinge ekusingiselwe kulo kwimihlathana (i) no-(ii) bawuqhubele phambili okanye bawusebenze; okanye

- (iv) lwabasebenzisi bezithuthi ezichaphazelekayo kunye, okanye nabangeneleli abatsha, kuwo nawuphina umsebenzi okanye ilinge ekusingiselwe kulo kumhlathana (iii);
 - (b) iimeko ezithile ekuthi kuzo naliphina ilinge okanye umsebenzi ekusingiselwe kuwo kumhlathi (a)(iii) uqhutyelwe phambili okanye wenziwe; okanye
 - (c) imimandla ethile ekuthi kuyo naliphina ilinge okanye umsebenzi ekusingiselwe kuwo kumhlathi (a)(iii) uqhutyelwe phambili okanye wenziwe, uya kwenziwa njalo nguMphathiswa ngokunxenye neemfuneko ezithile zolo didi, imeko okanye ummandla ochaphazelekayo.
 - (3) Igunya lokwenza imigaqo ukulungiselela nayiphina injongo ekubhekiselelwe kuyo kwicandelwana (1) liya kubandakanya igunya lokusikela imida okanye lokuthintela nawuphina umcimbi okanye into ngokunxulumene nalo njongo nokuba kungokupheleleyo okanye phantsi kwemeko ezithile.
 - (4) Nawuphina umgaqo phantsi kweli candelo ungathi wenziwe usebenze jikelele kwi-Ciskei iphela okanye ngaphakathi kuyo nayiphina inxenye echaziweyo yoko okanye naluphina udidi oluchaziweyo lwesithuthi okanye lomntu.
 - (5) Umgaqo owenziwe phantsi kwecandelwana (1) ungathi ubonelele ngezohlwayo zokutyeshela kwawo lowo kananjalo nezohlwayo ezahlukeneyo kwimeko yotyeshelo oluqhubayo okanye olulandelelanayo, kodwa akukho sohlwayo siya kuthi —
 - (a) kwimeko yomgaqo owenziwe phantsi kwecandelwana (1)(d)(i) okanye (n), sidlule kwifayini yama-R8 000 okanye ukuvallelwa entolongweni kangangethuba leminyaka emibini okanye zombini ifayini enjalo novalelo entolongweni olunjalo; okanye
 - (b) kwimeko yawo nawuphina umgaqo ongomnye, sidlule kwifayini yama-R2 000 okanye ukuvallelwa entolongweni kangangethuba leenyanga ezintandathu okanye zombini ifayini enjalo nokuvalelwa entolongweni okunjalo.
 - (6) Phantsi kokuba uMphathiswa enze nawuphina umgaqo phantsi kweli candelo, angathi, ukuba ubona kufanelekile abange ukuba okuqulunqwayo ukuba lupapashwe *kwiGazethi* kunye nesaziso esimemela bonke abantu abachaphazelekayo ukuba bafake ngokubhaliweyo, nakwisithuba esixeliweyo kwisaziso, kodwa kungekho nganeno kweeveki ezine ukususela kumhla wopapasho lwesaziso, naziphina iimpikiswano okanye ukumelwa abangathanda ukuwenza okanye ukukwelisa, kuMlawuli-Jikelele ukulungiselela ukudluliselwa kuMphathiswa: Phantsi kwento ethi, ukuba uMphathiswa emva koko ugqiba ekubeni atshintshe imigaqo equlunqwayo ngenxa yazo naziphina iimpikiswano okanye ukumelwa okuthe kwangeniswa emva koko, akusayi kuba yimfuneko ukwazisa iinguqu ezinjalo phambi kokuba kwenziwe imigaqo.
- 125. Igunya leGunya lesiphaluka lokwenza izinxulumana-mthetho.** - (1) Kulawula amalungiselelo awo nawuphina umthetho ngokunxulumene nenkqubo emayilandelwe ekwenziweni ekunikelweni nasekuphunyenzweni kwaso nasiphina isinxulumana-mthetho ligunya lendawo, naliphina igunya lesiphaluka lingathi ngokunxulumene noMphathiswa lenze izinxulumana-mthetho engachasenanga namalungiselelo alo Mthetho ngokubhekiselele —
- (a) kukhuseleko lwezihamba-ndleleni kuyo nayiphina indlela kawonke-wonke, umsebenzi wakhe nawuphina umsebenzisi wendlela enjalo nokusetyenziswa kwayo nayiphina indlela enjalo siso nasiphina isithuthi;
 - (b) kukumisa nokupakisa kwaso nasiphina isithuthi kuyo nayiphina indlela kawonke-wonke okanye inxenye yayo, kubandakanywa izinxulumana-mthetho enxulumene ekufakelweni, ukuhamba ngomgaqo impatho ukugcinwa nolawulo lweemitha zokupakisha kunye neendawo zokupakisa;
 - (c) ukwalathelwa nokulayiseniswa kwabakhangelana nopakisho nokurhoxiswa kwayo nayiphina ilayisenisi enjalo;
 - (d) umqhubi okanye ikondaktha yaso, okanye omnye umntu oqeshwe ngokunxulumene nesithuthi esifuna ukuqeshisa okanye esamkela abantu abafuna ukukhwela ngokuqeshisa;
 - (e) nayiphina indlela kawonke-wonke ekungafuneki isetyenziswe siso nasiphina isithuthi, nokuba jikelele okanye ngamaxesha athile;
 - (f) kwindawo echanekileyo kwindlela kawonke-wonke yezihamba-ndleleni ezihamba ngesantya ezahlukeneyo kunye neendindidi;
 - (g) kwindawo apho nexesha esithi ngalo isithuthi singabi nakujika ukuze sijonge kwakwicala ebesivela ngakulo okanye apho singathi sijike njalo phantsi kweemeko ezicacisiweyo;
 - (h) kukulayishwa nokothulwa kwaso nasiphina isithuthi kwindlela kawonke-wonke;

(i) imigaqo ngokumayela nokungena kuqala kwezithuthi ezizimoto ezithile kwindlela enqumlayo enkulu;

(j) kusetyenziso-huta, ibheli okanye nasiphina esinye isixhobo sokulumkisa kunye neemeko ekuthi phantsi kwazo isixhobo sokulumkisa esinjalo sibe singasetyenziswa ngaphakathi kummandla omiselweyo, nokuba ngamaxesha onke okanye ngamathuba amiselweyo;

(k) kukwalathelwa kwebhodi ecebiso yolawulo zihamba-ndleleni enamalungu angekho nganeneo kwesithathu ukucebisa igunya lesiphaluka ngayo yonke imiba yolawulo lwezihamba-ndleleni;

(l) ukusetyenziswa kwayo nayiphina indlela kawonke-wonke zizihamba-ndleleni jikelele;

(m) kusikelo-mda lobudala babaqhubi bezithuthi ezitsalwa zizilwanyana;

(n) nayiphi na imo okanye isiboniso elingathi igunya lendawo lifumanise singxamisekile ukulungiselela iinjongo zaso nasiphi na isinxuluma-mthetho nohlobo nendawo yayo nayiphina ingcaciso ekufuneka ingenisiwe ngenjongo yayo nayiphina imo enjalo;

(o) kwimirhumo emayihlawulwe ngazo naziphi na iinjongo ekujongwe kweli-candelo

(p) kukunikwa igunya kwalo naliphina igunya lesiphaluka kwisithuba apho nawuphi na umntu athe wasilela ukwenza nayiphina into efunekayo kuye phantsi kwaso nasiphina isinxuluma-mthetho, ukwenza isenzo esinjalo nokufumana kwakhona inkcitho zoko kumntu okwintsilelo enjalo;

(q) kubunzima bazo naziphina iimpahla ezithe okanye inani labantu abakhweleyo abathe okanye izilwanyana ezingathi zihanjiswe ngebhayisekile enyawuzayo;

(r) kumgaqo, ubekelo-mda okanye ulawulo lopakisho kwiindlela zikawonke-wonke lwezithuthi ezimnini wazo, ezigcinwa okanye ezisetyenziswa ngabathengisi okanye ezibekwe phantsi kogcino lwabo okanye phantsi kolawulo lwabo ngethuba lokuqhuba imicimbi komthengisi; kunye

(s) nawuphina omnye umbandela elingathi ngokuphathelele kuwo igunya lesiphaluka lenze isinxuluma-mthetho phantsi kwalo Mthetho.

(2) Igunya lokwenza isinxuluma-mthetho ukulungiselela nayiphina injongo ekubhekiselelwe kuyo kwicandelwana (1) liya kubandakanya igunya lokusikela umda okanye lokuthintela nawuphina umbandela okanye into ngokunxulumene nalo njongo, nokuba kungokupheleleyo okanye phantsi kwemeko ezithile.

(3) Nasiphina isinxuluma-mthetho phantsi kwecandelwana (1) singathi senziwe ukuba sisebenze jikelele kummandla uphela wegunya lesiphaluka okanye ngaphakathi kulo naluphina udidi lwesithuthi olucacisiweyo okanye umntu.

(4) Apho isinxuluma-mthetho segunya lesiphaluka, nokuba senziwe phantsi kwalo Mthetho okanye nawuphina omnye uMthetho, sithi singangqinelani nawo nawuphina umgaqo uya kuhlala uhleli.

(5) Nasiphina isinxuluma-mthetho esenziwe phantsi kweli candelo singabonelela ngezohlwayo zokutyeshelwa koko, yaye kananjalo singabonelela ngezohlwayo ezahlukeneyo kwimeko yokwaphulwa komthetho okulandelelanayo okanye okuthe gqolo, kodwa akukho sohlwayo siya kudlula kwifayini yama-R2 000 okanye ukuvalelwa entolongweni isithuba seenyanga ezintandathu okanye zombini ifayini enjalo nokuvalelwa entolongweni okunjalo.

ISAHLUKO 12

IIREJISTA NEEREKHODI

126. Iirejista okanye iirekhodi emazigcinwe. - (1) UMphathiswa angathi ngokomgaqo amisele ukuba iirejista okanye iirekhodi mazigcinwe —

(a) liziko lokuvavanya ilayisenisi yomqhubi;

(b) sisikhululo sokuvavanya;

(c) igunya lokubhalisa;

(d) nayiphina inkundla egweba umntu ngolwaphulo-mthetho phantsi kwalo Mthetho;

- (e) naliphina igunya lesiphaluka;
- (f) noLawulo-Jikelele;
- (g) iSebe loMbuso; kunye
- (h) nawuphina umntu omiselwe nguMphathiswa ngesaziso *kwiGazethi* ukulungiselela iinjongo zecandelo 14.

(2) linkcukacha ezimiseliweyo ziya kubhalwa ngendlela emiselweyo kwirejista neerekhodi ekusingiselwe kuzo kwicandelwana (1).

(3) Naliphina igunya ekusingiselwe kulo kwicandelwana (1) liya kuthi ngendlela nange-thuba ezimiseliweyo linike isebe okanye nawuphina umntu okanye umbutho otyunjwe nguMphathiswa nengcaciso ebhalwe phantsi kwerejista okanye kwirekhodi zegunya elinjalo, yaye noMphathiswa uya kuthi kwingcaciso engenisiweyo enjalo aqulunqe okanye enze ukuba kuqulunqwe irejista okanye irekhodi enjalo njengoko anokubona kufanelekile.

(4) UMphathiswa angathi amisele ukuba naliphina igunya libe nokugcina ezo rejista okanye iirekhodi zingagqibelelanga njengoko anokuthi abone kufanelekile.

127. Ikopi yokungeniswa kwirejista okanye kwiirekhodi ibe bubungqina. - (1) Uxwebhu olubanga ukuba sisicatshulwa esisuka, okanye ikopi yayo nayiphina irejista okanye irekhodi egcinwe ngokwalo mthetho noluthethwa ngokungathi liqinisekisiwe ngolo hlobo siya kuthi nayiphina inkundla nakuzo zonke iimeko konke lamkeleke njengobungqina kwaye liya kuba bubungqina obu *prima facie* benyaniso yemibandela echazwe kuxwebhu olunjalo ngaphandle kokuveliswa kwerejista okanye irekhodi yokuqala okanye isatifikethi, ilayisenisi, olunye uxwebhu, isishunqu sefoto yefilimu ifilimu enamaxwebhu okanye irekhodi efakwe kwikhompyutha esuka okanye esithe isicatshulwa esinjalo okanye ikopi yaba yenziwe kulo.

(2) Ingcaciso equlethwe kwirejista okanye irekhodi egcinwe ngeenjongo zalo Mthetho ziya kunikwa —

(a) igosa lezihamba-ndleleni okanye umhloli weelayisenisi ofuna yona ngethuba lokwenza umsebenzi walo;

(b) nawuphina umntu ogunyaziselwe oko nguMphathiswa ukuba afune ukunikwa iinkcukacha ezinjalo;

(c) naliphina iSebe loMbuso;

(d) igunya lesiphaluka;

Phantsi kwento ethi ukuvuma koMphathiswa okanye nawuphina umntu ogunyaziselwe ngoko nguye kuya kufunyanwa phambi kokuba kunikwe ingcombolo enjalo kwigunya ekusingiselwe kulo kumhlathi (d).

(3) Naliphina igunya eligcine irejista okanye irekhodi ngokwecandelo 126 liya kuthi, ekubeni kuhlawulwe imirhumo emisiweyo, linike ingcaciso ephuma kwirejista okanye kwirekhodi kuye nawuphina umntu othi, ngokwengcinga yegunya elinjalo ngezizathu ezivakalayo afune ingcaciso enjalo.

128. Ingqwalaselo ingathi ithatyathwe ngengcaciso equlethwe kwirejista okanye kwirekhodi. - UMphathiswa angathi, ekusebenziseni ukuqonda kwakhe okanye ethabatha isigqibo ngokwalo Mthetho, athabathele ingqalelo ingcaciso equlethwe kwirejista okanye kwirekhodi ekujongwe kuyo kwicandelo 126.

ISAHLUKO 13

AMALUNGISELELO JIKELELE

129. Ukhululelo kumalungiselelo abhekisele ekupakisheni. - Nakubeni kungekho nantoni na echaseneyo nokuqulathwa nakuwuphina umthetho, igunya siphiluka lingathi, kwiimeko ezinjalo yaye kulawula iimeko ezinjalo njengoko lingathi, kwiimeko ezinjalo yaye kulawula iimeko ezinjalo njengoko lingathi libone kufanelekile likhululele —

(a) ugqirha wonyango;

(b) umongikazi obhalisiweyo okanye umbeleki njengoko kuchaziwe kwicandelo 1 loMthetho woKonga, 1984 (uMthetho 13 wowe-184); okanye

(c) nawuphina umntu othi, ngokokucinga kwegunya lesiphaluka elinjalo, ngesizathu sokulimala okusigxina abe nobunzima obubonakalayo, kumalungiselelo awo nawuphina umthetho ophathelele ekupakisheni kwesithuthi esiyimoto osebenzayo ngaphakathi kumandla wawo.

130. Ukuthandabuza okungqamene nosetyenziso okanye ukuhlelwa kwesithuthi esiyimoto. - Ukuba ukulungiselela iinjongo zalo Mthetho ukuthandabuza kuyavela malunga nosetyenziso lwaso nasiphina isithuthi, umbandela onjalo uya kubhekiswa kuMphathiswa yaye isigqibo sakhe ngakoko asiya kuphikiswa.

131. Isithuthi nomthwalo singakhululelwa kumalungiselelo alo Mthetho. - UMphathiswa angathi, kulawula iimeko ezinjalo nasekuhlawulweni kwemirhumo enjalo okanye iintlawulo anokuzimisela, agunyazise ngokubhaliweyo, nokuba jikelele okanye ngokukodwa, usetyenziso kwindlela kawonke-wonke kwisithuthi esingathobelaniyo namalungiselelo alo Mthetho okanye ukuhanjiswa kwindlela kawonke-wonke kwabantu abakhweleyo okanye nawuphina umthwalo ngenye indlela kunangokungqamene namalungiselelo alo Mthetho.

132. UMphathiswa angagunyazisa iimbuyiselo ezithile. - (1) Ngokuvumelana neziko loLawulo-Ndyebo yeSizwe uMphathiswa angathi, ukuba uyaneliswa kukuba nasiphina isixa-mali esihlawulwe ngumntu sibe sidlule kwisixa-mali esihlawulwa ngokufanelekileyo phantsi kwalo Mthetho, agunyazise iimbuyiselo yesixa-mali esinjalo okanye nayiphina inxenye yaso eso kumntu onjalo.

(2) UMphathiswa akayi kugunyazisa nayiphina iimbuyiselo phantsi kweli candelo ngaphandle kokuba ibango loko libe lifunyenwe ligunya elibhalisayo kwisithuba seminyaka emithathu emva komhla wokuhlawulwa okuchaphazelekayo.

133. Ukuhlolwa okuqinisekisa ukuthotyelwa kwamalungiselelo alo Mthetho. -

(1) UMphathiswa angagunyazisa nawuphina umntu ukuba aqhube uhlobo athi uMphathiswa alifumanise luyimfuneko ukwenzela ukwenzela ukuqinisekisa ukuba amalungiselelo alo Mthetho ayathotyelwa.

(2) Ukuba uMphathiswa unikezela igunya elinikwe yena licandelwana (1) kuMlawuli-Jikelele, lo wokugqibela angagunyazisa naliphina igosa leSebe ukuba liqhube uhlobo egameni lakhe.

(3) Akukho mntu uya kuthi athintele okanye abe ngumqobo kuye nawuphina umntu ekuqhubeni uhlobo ekusingiselwe kulo kwicandelwana (1).

134. Ukuguqulwa kwefomu emiselweyo. - UMphathiswa angathi, kwiimeko ezinjalo njengoko anokufumanisa kufanelekile, agunyazise igunya elibhalisayo okanye elinye igunya ukuba lisebenzise, endaweni yefomu emiselweyo ukulungiselela injongo ethile ifomu eyahlukileyo kwifomu emiselweyo enjalo nangokubhekisele kwigunya elinjalo ifomu eyahluke njalo iya kuthatyathwa ukuba yifomu emiselweyo ukulungiselela loo njongo.

135. Ikopi yexwebhu okanye isiboniso. - (1) Kulawula amalungiselelo ecandelwana (3) -

(a) igunya elibhalisayo elanelisekileyo ukuba isatifikethi, ilayisensi okanye olunye uxwebhu okanye isiboniso esikhutshwe ngokwalo Mthetho ngohlobo lwekhompyutha phantsi kolawulo lombuso; okanye

(b) igunya elibhalisayo okanye elinye igunya elanelisekileyo ukuba isatifikethi, ilayisensi okanye olunye uxwebhu okanye isiboniso, ngele koxwebhu okanye isiboniso, elujongwe kuso kumhlathi (a), esikhutshwe lilo ngokwalo Mthetho,

sihe salahleka, satshatyalaliswa okanye sonakaliswa okanye abe amanani okanye iinkcukacha ezikuso zabe azicacanga liya kuthi, ekufumaneni isicelo kwifomu emiselweyo nasekuhlawulweni kwemirhubo eqingqiweyo, likhuphe ikopi yesatifikethi esinjalo, ilayisensi okanye olunye uxwebhu okanye isiboniso kumntu, ngokwengcinga yegunya elinjalo, onelungelo kulo, kubekho "Ikopi" ebhalwe kuyo: Phantsi kwento ethi ikopi yelayisensi yokufundela ukuqhuba okanye ilayisensi yokuqhuba engaqulethwanga kuxwebhu lwesazisi nolwathi lwakhutshwa ngokungqamene necandelo 20(4) okanye 21(5) ipemethe yokuqhuba yobungcali iya kukhutshwa kuphela kumntu othe wakhutshelwa ilayisensi okanye ipemethe yokuqhuba.

(2) Isicelo sekopi yelayisensi okanye ipemethe ekubhekiselwe kuyo kwisixhomekeko meko kwicandelwana (1) siya kukhatshwa ziikopi ezimbini zefoto njengoko kumiselwe yonelayisensi okanye ipemethe ochaphazelekayo negunya elibhalisayo liya kuthi nca ikopi enye yefoto enjalo kwikopi ze ligcine enye ikopi ngeenjongo zokugcina irekhodi.

(3) Ikopi yelayisensi yokuqhuba equlethwe kwincwadi yesazisi iya kukhutshwa kuphela nguMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi ekuhlawulweni kwemirhumo enjalo njengoko angathi amisele naxa ebona kuphela kuyimfuneko.

(4) Ukuba, emva kokukhutshwa kwekopi ngokwecandelwana (1) okanye (3) isatifikethi sakuqala, ilayisensi okanye olunye uxwebhu okanye isiboniso siyafunyanwa umntu othe wakhutshelwa ikopi uya kuthabatha onke amanyathelo afanelekileyo okuyifumana aze ayibuyisele ngoko nangoko kwigunya elikhupha ikopi.

136. Ukukhutshwa koxwebhu njengento ebonisa ubukho belayisensi yokuqala kwiimeko ezizodwa. - (1) Nakubeni kungekho nantonina echaseneyo equlethwe kulo Mthetho uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi okanye nawuphina umntu onegunya loko alinikwe nguye angathi, akuba efumene isicelo kwifomu eqingqiweyo nasekuhlawulweni komrhumo onjalo njengoko uMlawuli-Jikelele angathi amisele, akhuphe kuye nawuphina umntu onelayisensi yokuqhuba kuye equlethwe okanye eyayiqulethwe kwincwadi yesazisi uxwebhu oluqinisekisa ukuba umntu onjalo ngonelayisensi yokuqhuba yaye akukho mpikiso ekukhutshweni kwelayisensi yokuqhuba kumntu onjalo kummandla omiselweyo ukuba ngeba —

(a) incwadi yesazisi echaziweyo yathi yayeka ukusebenza ngokubhekisele kumceli ngesizathu sokuba uthe wayeka ukuba ngummi waseCiskei; okanye

(b) uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi okanye nawuphina umntu ogunyaziswe ukuba asebenze egameni lakhe uyazanelisa ngokuba incwadi yesazisi echaziweyo ithe yalahleka okanye, kangangokuba iphathelele kwilayisensi yokuqhuba, ukuba ithe yatshatyalaliswa okanye yonakaliswa okanye amanani okanye iinkcukacha ezikuyo zithe azacaca.

(2) Isicelo ekusingiselwe kuso kwicandelwana (1) siya kukhatshwa ziifoto ezimbini zomceli njengoko kumiselwe yaye uMlawuli-Jikelele weSebe leMicimbi yaNgaphakathi okanye nawuphina umntu ogunyaziswe ukuba asebenze egameni lakhe uya kuncamathisela kuxwebhu olunjalo ze agcine enye ifoto ukulungiselela iinjongo zokugcinwe kweerekhodi.

137. Isignitsha emaxwebhini. - Nawuphina umntu ongakwaziyo ukusayina igama lakhe uya kuthi, nangaliphina ithuba ifuneka isignitsha yakhe kulo naluphina uxwebhu ngokwalo Mthetho, ashicilele endaweni yayo umzila kabhontsi wakhe wasekunene kwisithuba ebekumele ukuba ngenye indlela usayina igama lakhe kuso kwaye, ukuba umzila nobhontsi wakhe wasekunene awufumaneki, uya kufakela endaweni yawo ngoko omnye wemizila yeentupha zakhe kwaye kwesi sithuba salo mba wamva uxwebhu olunophawu olunjalo liya kuqinisekiswa ligosa ekuthe kwenziwa umzila onjalo likho, lixela umnwe osetyenzisiweyo.

138. Ukunikezelwa kwesaziso. - Naninina ngokwalo Mthetho nasiphina isaziso sigunyazisa okanye kufuneka sinikezelwe okanye sikhutshelwe nawuphina umntu, isaziso esinjalo siya kuthisidluliswe nokuba kungesandla kumntu esibhalelwe yena okanye sithunyelwe kuye ngeposi kwidilesi yakhe yokugqibela eyaziwayo: Phantsi kwento ethi idilesi enikwe ngonelayisensi yokuqhuba ngethuba lokwenza kwakhe isicelo selayisensi enjalo okanye ebhalwe ecaleni kwegama lakhe kwirejista yelayisensi zabaqhubi okanye ukuba akukho rekhodi injalo idilesi ebhalwe ngakwinombolo-mbhalo yesithuthi kwirejista yezithuthi ezizimamoto njengedilesi yomnini wesithuthi esinjalo iya kuthatyathwa njengendawo anokuthunyelwa kuyo iisamani nokuqhutywa kwamatyala ukulungiselela zonke iinjongo ezisukela okanye ngeenjongo zalo Mthetho ukulungiselela ukukhutshwa kwesaziso, iposi okanye iinkqubo eziya kumntu onjalo.

(2) Uncedo olufumaneka ngeposi ngokwecandelwana (1) luya kuthatyathwa ukuba lwenziwe ngosuku lweshumi emva komhla oshicilelweyo kwirisithi yobhaliso ekhutshwe yiposofisi ethe yamkela isaziso.

(3) Isatifikethi ligosa elithe lakhupha isaziso ekubhekiselwe kuso kwicandelwana (1) okanye ngumntu ongaphantsi kwigosa elinjalo esixela ixesha indawo yokhupho saziso esinjalo siya kuba bubungqina bokuba isaziso esinjalo sikhutshwe ngokufanelekileyo, ngaphandle kokuba yaye de kuboniswe okuchaseneyo noku.

139. Umbuso ubotshelwa nguMthetho. - Lo Mthetho uya kububophelela ubuRhulumente naye nawuphina umntu okwinkonzo kaRhulumente: Phantsi kwento ethi uMphathiswa angathingesaziso *kwiGazeth* akhululele uMbuso okanye naliphina isebe lawo okanye nawuphina umntu onjalo kulo naliphina ilungiselelo lalo Mthetho, kulawula iimeko anokuthi uMphathiswa azimisele.

140. Ulwaphulo-mthetho nezohlwayo. - (1) Nawuphina umntu otyeshela osilela ukuthobela naliphina ilungiselelo lalo Mthetho okanye nawuphina umyalelo, imeko, imfuno, ummiselo, imfuneko, umqathango okanye isicelo ngaphakathi kwawo, uya kuba netyala lokwaphula umthetho.

(2) Nawuphina umntu ofunyenwe enetyala ngolwaphulo-mthetho ngokwecandelwana (1) elifundwe necandelo 83(2) okanye 114(1) okanye (2) uya kufanela ukuhlawula ifayini engadlulanga kuma-R8 000 okanye ukuvalelwa entolongweni kangangethuba elingadlulanga kwiminyaka emibini okanye zombini ifayini enjalo kunye nokuvalelwa entolongweni okunjalo.

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(3) Nawuphina umntu ofunyenwe enetyala ngokwaphula umthetho ngokwecandelwana (1) elifundwa necandelo 12(1), 20(5), 21(6), 56(5), 77(4), 110(2), 115(3) okanye 117 uya kufanela ukukhululwa ifayini engadlulanga kuma-R4 000 okanye ukuvallelwa entolongweni kangangethuba elingadlulanga unyaka okanye zombini ifayini enjalo nokuvallelwa entolongweni okunjalo.

(4) Nawuphina umntu ofunyenwe enetyala ngokwaphula umthetho ngokwecandelwana (1) elifundwa necandelo 110(1) uya kufanela ukukhululwa —

(a) kwimeko yokufa okanye ukwenzakala komntu apho kuthi kuboniswe ukuba umntu ofunyenwe enetyala uye wasilela ukuthobela umhlathi (a), (b), (c) okanye (f) wecandelo 110(1) ifayini engadlulanga kuma-R4 000 okanye ekuvallelweni entolongweni kangangethuba elingadlulanga kunyaka omnye okanye kuzo zombini ifayini enjalo nokuvallelwa entolongweni okunjalo;

(b) kwimeko yomonakalo ngokubhekisele kuyo nayiphina ipropati okanye isilwanyana somnye umntu apho kuthe kwaboniswa ukuba umntu ofunyenwe enetyala uye wasilela ukuthobela umhlathi (a), (d) okanye (f) wecandelo 110(1), ifayini engadlulanga kuma-R4 000 okanye ekuvallelweni entolongweni kangangethuba elingadlulanga kunyaka omnye okanye kuzo zombini ifayini enjalo nokuvallelwa entolongweni okunjalo; okanye

(c) apho kuthe kwaboniswa ukuba uthe wasilela ukuthobela umhlathi (e) okanye (g) wecandelo 110(1), ifayini engadlulanga kuma-R2 000 okanye ekuvallelweni entolongweni kangangethuba elingadlulanga iinyanga ezintandathu okanye kuzo zombini ifayini enjalo nokuvallelwa entolongweni okunjalo.

(5) Nawuphina umntu ofunyenwe enetyala ngokwaphulo-mthetho ngokwecandelwana (1) elifundwa necandelo 112(1) uya kufanela ukukhululwa —

(a) kwimeko apho inkundla ifumanisa ukuba ulwaphulo-mthetho lwenziwe ngokuqhuba ngokungakhathali, ifayini engadlulanga kuma-R8 000 okanye ekuvallelweni entolongweni kangangethuba elingadlulanga kunyaka omnye okanye kuzo zombini ifayini enjalo nokuvallelwa entolongweni okunjalo; okanye

(b) kwimeko apho inkundla ifumanisa ukuba ulwaphulo-mthetho luthe lwenziwa ngokuqhuba ngaphandle kononophelo, ifayini engadlulanga kuma-R4 000 okanye ekuvallelweni entolongweni kangangethuba elingadlulanga kunyaka omnye okanye kuzo zombini ifayini enjalo kunye nokuvallelwa entolongweni.

(7) Nakubeni kungakho nantonina echaseneyo equlethwe kuwo nawuphina umthetho, inkundla kamantyi iya kufaneleka ukuwisa nasiphina isohlwayo ekubonelelwe ngaso kulo Mthetho.

141. Ukwabiwa kwemirhumo. - Kulawula amalungiselelo ecandelwana (2) yonke imirhumo ethe yahlawulwa ngokwalo Mthetho iya kuhlulwa kwiNgxowa-mali yeNgeniso yaseCiskei.

142. Ukwabiwa kweefayini. - (1) Kulawula iingcandelo 6 nelesi-8 zoMthetho woZinziso weMithetho yoHlengahlengiso lweZimali neMali, 1977 (uMthetho 11 wowe-1977) necandelo 341(2)(6) loMthetho weNkqubo kumaTyala eSizi, 1977 (uMthetho 51 wowe-1977), zonke iifayini eziwisiweyo okanye iimali ezincanyuweyo eziyibheyle ngokubhekisele kulo naluphina ulwaphulo-mthetho ngokwalo mthetho ziya kuhlulwa kwiNgxowa-mali yaseCiskei.

(2) Zonke iifayini ezimisiweyo neemali ezincanyuweyo eziyibheyle ngokubhekiselele kulo naluphina ulwaphulo-mthetho phantsi kwaso nasiphina isinxuluma-mthetho esenziwe ngokwalo Mthetho ziya kuhlulwa kwiNgxowa-mali yaseCiskei.

143. Ukunikezelwa kwamagunya okanye iimfanelo. - (1) UMphathiswa angathi —

(a) anikezele kuye nawuphina omnye umntu naliphina igunya elibekwe phezu kwakhe ngulo mthetho, ngaphandle kwegunya elibekwe licandelo 124; aze

(b) agunyazise nawuphina omnye umntu ukuba enze nawuphina umsebenzi onikwe uMphathiswa ngulo Mthetho.

yaye unokwenza kusebenze oko kunikezelwa okanye anike olo gunyaziso kulawula iimeko anokuzithabatha zilungile.

(2) Umlawuli-Jikelele angathi —

(a) anikezele kuye nawuphina omnye umntu naliphina igunya elibekwe phezu kwakhe ngulo okanye phantsi kwalo mthetho; yaye

(b) agunyazise nawuphina omnye umntu ukuba enze nawuphina umsebenzi ophathiswe uMlawuli-Jikelele ngulo okanye phantsi kwalo Mthetho,

yaye unokwenza kusebenze oko kunikezelwa okanye anike olo gunyaziso kulawula ezo meko anokuzithabatha njengoko zifanelekile.

(3) Nakuphina ukunikezelwa okwenziweyo okanye ugunyaziso olunikwe phantsi kwecandelwana (1) okanye (2) kungathi nangaliphina ixesha kurhoxiswe nguMphathiswa okanye nguMlawuli-Jikelele, ngokwemeko leyo.

144. Ukutshitshiswa kwemithetho. - (1) Kulawula amalungiselelo ecandelwana (2) imithetho ecacisiweyo kwiShedyuli ngokwenjenje iyatshitshiswa kangangoko kuboniswe kuluhlu lwesithathu lweShedyuli.

(2) Nawuphina umgaqo osebenzayo naso nasiphina isaziso, umyalelo, uthintelo, igunya ulwalathelo, imvume, ingcaciso okanye uxwebhu oluthe lwenziwa lwakhutshwa, lwamiselwa, lwanikezelwa okanye lwanikwa kwaye naso nasiphina isenzo esithe sathathwa phantsi kwalo naliphina ilungiselelo lomthetho otshitshiswe licandelwana (1) liya kuthathwa ukuba liyasebenza okanye lithe laba lenziwe, lakhutshwa, lamiselwa, lanikezelwa, lanikwa okanye lathathelwa phantsi kwelungiselelo elihambelanayo nalo (ukuba likho) lalo Mthetho.

(3) Nawuphina umntu othatyathwa phantsi kwecandelwana (2) ukuba walathelwe nakusiphina isithuba okanye isikhundla phantsi kwalo Mthetho kodwa ongahambisaniyo nayo nayiphina imfuneko okanye onawo nawuphina umfaneleko ngokwemfundo ofunwa okanye ofuneka ngokwalo Mthetho ukulungiselela ukwalathelwa kwisithuba okanye isikhundla esinjalo uya kuthi kwisithuba esinjengeso angathi uMphathiswa amaxesha ngamaxesha amisele, athobele ezo mfuneko okanye afumane ezo zigqibo ngokwasemfundweni.

145. Intloko emfutshane nokuqaliswa. - (1) Lo Mthetho uya kubizwa ngokuba nguMthetho weZihamba-Ndleleni waseCiskei, 1989 yaye uya kusebenza ngomhla oya kuba umiselwe nguMongameli ngesihlokomiso *kwiGazethi*.

(2) Imihla eyahlukeneyo ingathi imiswe ngokubhekiselele kumalungiselelo ahlukkeneyo alo Mthetho, yaye imihla emiswe njalo ingathi yahluke ngokubhekiselele —

(a) kubantu abahlukeneyo okanye iimpahla okanye amanqanaba abantu okanye iimpahla ezithuthwa ngesithuthi esiyimoto;

(b) kwiindidi ezahlukeneyo okanye iintlobo ezahlukeneyo zezithuthi ezizimoto ezisetyenziswayo ekuthuthweni kwabantu okanye kweempahla; okanye

(c) kubantu abahlukeneyo okanye iindidi zabantu ezahlukeneyo.

(3) Ngaphezu kwezinye zezinto ekubhekiselwe kuzo kwimihlathi (a) ukuya ku-(c), zibandakanywa, yecandelwana (2) ingathi idityaniswa ukulungiselela iinjongo zelo candelwana.

ISHEDYULI

IMITHETHO ETSHITSHISIWEYO

INo. noNyaka woMthetho	Intloko emfutshane	Ithuba loku- tshitshiswa
	(a) Imithetho	
UMthetho 10 wowe-1977	UMthetho weZihamba-Ndleleni waseCiskei, 1977	Uwonke
UMthetho 11 wowe-1978	UMthetho osisiHlomelo weZihamba-Ndleleni wase- Ciskei, 1978	Uwonke
UMthetho 13 wowe-1980	UMthetho osisiHlomelo weZihamba-Ndleleni wase- Ciskei, 1980	Uwonke
UMthetho 34 wowe-1983	UMthetho osisiHlomelo sesiBini weMithetho yeNge- niso, 1983	lingcandelwana 10 no-11
—	UMthetho osisiHlomelo weZihamba-Ndleleni, 1989	Uwonke
	(b) Imithetho yamaPhondo	
UMthetho wePhondo 12 wowe-1973	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1973	Uwonke
UMthetho wePhondo 4 wowe-1975	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1975	Uwonke
UMthetho wePhondo 13 wowe-1975	UMthetho wePhondo osisiHlomelo sesiBini seZiha- mba-Ndleleni, 1975	Uwonke
UMthetho wePhondo 6 wowe-1976	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1976	Uwonke
UMthetho wePhondo 12 wowe-1977	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1977	Uwonke
UMthetho wePhondo 10 wowe-1979	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1979	Uwonke
UMthetho wePhondo 18 wowe-1980	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1980	Uwonke
UMthetho wePhondo 30 wowe-1980	UMthetho wePhondo osisiHlomelo sesiBini weZi- hamba-Ndleleni, 1980	Uwonke
UMthetho wePhondo 7 wowe-1981	UMthetho wePhondo osisiHlomelo osesiBini weZi- hamba-Ndleleni, 1981	Uwonke
UMthetho wePhondo 8 wowe-1981	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1981	Uwonke
UMthetho wePhondo 10 wowe-1982	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1982	Uwonke
UMthetho wePhondo 3 wowe-1983	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1983	Uwonke
UMthetho wePhondo 12 wowe-1983	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1983	Uwonke
UMthetho wePhondo 3 wowe-1984	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1984	Uwonke
UMthetho wePhondo 8 wowe-1984	UMthetho wePhondo osisiHlomelo wesiThathu we- Zihamba-Ndleleni, 1984	Uwonke
UMthetho wePhondo 18 wowe-1984	UMthetho wePhondo osisiHlomelo sesiBini weZi- hamba-Ndleleni, 1984	Uwonke
UMthetho wePhondo 8 wowe-1985	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1985	Uwonke
UMthetho wePhondo 8 wowe-1986	UMthetho wePhondo osisiHlomelo sesiBini weZi- hamba-Ndleleni, 1986	Uwonke
UMthetho wePhondo 12 wowe-1986	UMthetho wePhondo osisiHlomelo weZihamba- Ndleleni, 1986	Uwonke
	(c) Isihlokomiso	
Isihlokomiso 25 sowe-1988	—	Sisonke

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