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GENERAL NOTICE

NOTICE 340 OF 2011

DEPARTMENT OF COOPERATIVE GOVERNANCE

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL

The Minister for Cooperative Governance and Traditional Affairs intends introducing the Local Government: Municipal Property Rates Amendment Bill in the National Assembly. The Bill is hereby published for public comment in terms of section 154 (2) of the Constitution. Any person wishing to comment on the Bill is invited to submit written comments to:

The Director-General

Attention: Senior Manager: Municipal Finance and Viability

Department of Cooperative Governance

Private Bag X804

PRETORIA

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Comments may be faxed to (012) 334-4811 or emailed to mpra@cogta.gov.za

No comments which are received after 22 July 2011 will be considered.

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REPUBLIC OF SOUTH AFRICA

**LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT
BILL**

↓

(As introduced in the National Assembly (proposed section 75 Bill);
(The English text is the official text of the Bill)

(Minister for Cooperative Governance and Traditional Affairs)

[B ---2011]

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GENERAL EXPLANATORY NOTE:

[**Words in bold type in square brackets indicate omissions from existing enactments.**]

Words underlined with a solid line indicates insertions in existing enactments.

BILL

To amend the Local Government: Municipal Property Rates Act, 2004, so as to provide for the amendment and insertion of certain definitions; to provide that a rates policy must determine criteria for not only the increase but also for the decrease of rates; to further regulate the categories of property in respect of which rates may be levied; to further regulate the exemption, reduction and rebates to owners of property so as to provide that the rate on a specific category of properties must be limited to an amount in the rand as determined by the Minister with the concurrence of the Minister of Finance; to limit the period within which the Minister may be requested to decide whether a rate is unreasonably prejudicing any of the matters listed in section 16 (1); to provide for sectors of the economy to consult the MEC in terms of section 16(3)(a); to provide for the Minister to make a decision in terms of section 16(5) with the concurrence of the Minister of Finance; to provide for the exclusion from rates of certain categories of public service infrastructure as well as mining rights or mining permits, excluding infrastructure above the surface in respect of mining property; to provide that the exclusion from rates in respect of land belonging to a land reform beneficiary is extended to the spouse and dependants; to provide that an exclusion from rates in respect of the seashore lapses if

any part thereof is alienated; to provide that a municipality may not levy a rate on the first amount of the market value as determined by the Minister with the concurrence of the Minister of Finance of a residential property owned and occupied by a recipient of an older persons grant or a disability grant; to provide that a municipality may levy different rates on residential property not used for the permitted purpose or not used for any purpose; to provide that a municipality may levy different rates on vacant property; to provide that a municipality may not recover rates in respect of a right of exclusive use registered against a sectional title unit from the body corporate; to provide that a person liable for a rate must furnish the municipality with his or her postal address; to provide that municipalities are not required to value properties excluded from rates; to provide for the period of validity of a valuation roll to be five years; to provide for the extension of the period of validity of valuation rolls by the MEC for local government to seven years; to provide that a body corporate is required to provide information to a valuer; to provide that a mining right or a mining permit may not be considered in determining the market value of property; to provide that a valuer must provide reasons for decisions in respect of objections; to delete the requirement for the payment of interest in specific instances; to delete the requirement for the establishment of a valuation appeal board in every district municipality; to provide for an appeal board to include a professional associated valuer without restrictions and with a minimum of ten years experience; to amend the dates on which a supplementary valuation takes effect; to provide for the notification of owners of property affected by a supplementary valuation; to provide for the extension of the provisions the non-compliance of which may not be condoned; to provide for more effective monitoring of municipalities in the implementation of the Act; to extend the Minister's regulatory powers; to provide for the phasing in of

certain regulations; to provide for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure; to provide for transitional arrangements in respect of municipalities that have been affected by a redetermination of municipal boundaries; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of Preamble to Act 6 of 2004

1. The Preamble to the Local Government: Municipal Property Rates Act, 2004 (hereinafter referred to as the "principal Act"), is hereby amended by the substitution for the fourth paragraph of the following paragraph:

"AND WHEREAS income derived from property rates is a major source of general municipal revenue and that revenue is not linked to a specific municipal service or the erection of infrastructure related to that municipal service; "

Amendment of section 1 of Act 6 of 2004

2. Section 1 of the principal Act, is hereby amended by-

(a) the substitution for the definition of **"agricultural purposes"** of the following definition:

"agricultural [purpose] property' [in relation to the use of property,] means a property that is used for gain for the purpose of the cultivation of soils for purposes of planting and gathering of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the

rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism or for the [trading in or hunting of game] accommodation of members of the public for gain; and in respect of property on which game is reared, traded or hunted, it excludes any portion that is used for the accommodation of visitors for gain;”;

- (b) the insertion after the definition of **“assistant municipal valuer”** of the following definition:

“business or commercial property’ means-

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities takes place;”;

- (c) the insertion after the definition of **“date of valuation”** of the following definition:

“day’ means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday;”;

- (d) the insertion after the definition of **“Income Tax Act”** of the following definition:

“**industrial property**’ means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts in respect of which capital and labour are involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;”;

- (e) the substitution for the definition of “**land tenure right**” of the following definition:

“**land tenure right**’ means [an old order right or a new order right]a land tenure right as defined in section 1 of the [Communal Land Rights Act, 2004 (Act 11 of 2004) Upgrading of Land Tenure Rights Act 1991 (Act 112 of 1991);”;

- (f) the insertion after the definition of “**metropolitan municipality**” of the following definition:

“**mining property**’ means a property used for mining operations as defined in the Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);”;

- (g) the substitution for the definition of “**multiple purposes**” of the following definition:

“**multiple purposes**’, in relation to property, means the [use] categories of [a] property referred to in section 8(2)(a) to (g), used, for more than one purpose, subject to section 9;”;

- (h) the insertion after the definition of “**newly rateable property**” of the following definitions:

“office bearer”, in relation to places of public worship, means the primary person who officiates at services at that place of worship;

“official residence”, in relation to places of public worship, means a single property registered in the office of the Registrar of Deeds in the name of a religious community or registered in the office of the Registrar of Deeds in the name of a trust established for the sole benefit of a religious community and used as a place of residence for an office bearer;”.

- (i) the insertion after the definition of “**occupier**” of the following definition:

“organised structures”, in relation to a sector of the economy, means a representative organisation that represents the common interests of a significant proportion of a sector of the provincial or national economy: Provided that in the case of public service infrastructure -

- (a) where there is a significant proportion of owners of a type of public service infrastructure, such owners are deemed to constitute an organised structure; or
- (b) where there is only one owner of that specific type of public service infrastructure, that owner is deemed to constitute an organised structure; or
- (c) where there is only one owner of any of the components of public service infrastructure listed within each type listed in paragraphs (a) to (j) of the definition of public service infrastructure, the sole owner is deemed to constitute an organised structure;”;

- (j) the insertion in the definition of "**owner**"–

(i) after paragraph (b) of the following paragraphs:

"(bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), means–

(i) the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;

(ii) the share block company as defined in the Share Block Control Act, 1980 (Act No. 59 of 1980); or

(iii) the body corporate contemplated in section 36 of the Sectional Titles Act;

(bB) in relation to buildings, other immovable structures and infrastructure referred to section 17(1)(f), means the holder of the mining right or the mining permit;";
and

(ii) after sub-paragraph (vii) of the proviso of the following sub-paragraph:

"(viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right."

- (k) the insertion after the definition of "**person**" of the following definition:

“place of public worship” means-

- (i) a property registered in the name of a religious community and used primarily for the purposes of congregation excluding a structure used for educational instruction in which secular or religious education is the primary instructive medium;
- (ii) a property registered in the name of a trust established for the sole benefit of a religious community and used for the purposes of congregation, excluding a structure used for educational instruction in which secular or religious education is the primary instructive medium, despite the existence of an element of religious instruction;
or
- (iii) a property situated on land in respect of which a land tenure right, as defined in section 1 of the Upgrading of Land Tenure Rights Act 1991 (Act 112 of 1991), applies and is occupied and used by a religious community for the purposes of congregation;”;

- (l) the substitution for paragraph (g) of the definition **“public service infrastructure”** of the following paragraph:

“(g) runways or aprons, including the vacant land surrounding the runways and aprons and the air traffic control towers, at national or provincial airports;”;

- (m) the insertion after the definition of **“public service infrastructure”** of the following definition:

“public service purposes”, in relation to the use of a property, means property used by an organ of state for the rendering of the following services directly to the public:

- (a) health;
- (b) education, including libraries;
- (c) police stations;
- (d) prisons; or
- (e) courts of law,

but excludes property contemplated in the definition of "public service infrastructure";

- (n) the insertion after the definition of "rateable property" of the following definition:

"ratio", in relation to section 19, means the relationship between the cent amount in the Rand applicable to residential properties and non-residential properties: Provided that the two relevant cent amounts in the Rand are inclusive of the compulsory phasing in requirements in section 21, where applicable and any relief measures that amount to rebates of a general application to all properties within a property category;";

- (o) the substitution for the definition of "**residential property**" of the following definition:

"residential property" means property of which the primary use or permitted use is for residential purposes, excluding such property used to accommodate persons other than the owner for gain;";

- (p) the insertion after the definition of "**sectional title unit**" of the following definition:

"sector of the economy" in relation to section 16 means the owners of commercial, business, industrial, agricultural or

mining property as well as public service infrastructure and which forms a distinct part of the economy;"; and

- (q) the insertion after the definition of **"this Act"** of the following definition:

"vacant property" means –

- (a) property on which no immovable improvements have been erected; or
- (b) in the case of property on which immovable improvements are being constructed, where such property cannot be permanently occupied."

Amendment of section 3 of Act 6 of 2004

3. Section 3 of the principal Act is hereby amended by-

the substitution in subsection (3)

- (a) *(b)* for subparagraphs (i) and (iv) of the following subparagraphs:

"(i) levies different rates for different categories of properties determined in terms of section 8;"; and

"(iv) increases or decreases rates;"

- (b) the deletion in subsection (4) of paragraphs *(a)* and *(b)*; and
- (c) the substitution in subsection (4) for paragraph *(d)* of the following paragraph:

“(d) the contribution of agriculture to the social and economic welfare of farm workers and other members of the public.”.

Amendment of section 7 of Act 6 of 2004

4. Section 7 of the principal Act is hereby amended by the substitution in subsection (2) for subparagraph (iii) of paragraph (a) of the following subparagraph:

“(iii) properties referred to in paragraphs (b) or (c) of the definition of ‘property’ in section (1): Provided that this subparagraph only applies to those properties to which a land tenure right applies and on which no industrial, commercial, business, mining or agricultural activities are conducted;”.

Amendment of section 8 of Act 6 of 2004

5. Section 8 of the principal Act is hereby substituted for the following section:

“Differential rates

8. (1) Subject to section 19, a municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, set out in subsection (2), which must be determined according to the-

- (a) use of the property;
- (b) permitted use of the property; or
- (c) a combination of (a) and (b).

(2) Only the following categories of rateable property must, where applicable, be determined in terms of subsection (1):

- (a) Residential properties;
- (b) industrial properties;
- (c) agricultural properties;
- (d) mining properties;
- (e) properties used for public service purposes;
- (f) public service infrastructure;
- (g) properties owned by public benefit organisations and used for specified public benefit activities listed in Item 1 (welfare and humanitarian), item 2 (health care) and Item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act;
- (h) properties used for multiple purposes, subject to section 9; or
- (i) any other category of property as may be determined by the Minister, with the concurrence of the Minister of Finance, by Notice in the Gazette.

(3) In addition to the categories of property listed in subsection (2) a municipality may, where applicable, determine the following property categories -

- (a) property referred to in paragraphs (a) to (e) of subsection (2) which is vacant, not used for any purpose or not used for the permitted purpose; and
- (b) municipal property."

Amendment of section 9 of Act 6 of 2004

6. Section 9 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

"(c) Multiple purposes in terms of section 8(2)~~[(r)]~~(h)."

Amendment of section 11 of Act 6 of 2004

7. Section 11 of the principal Act is hereby amended by—

- (a) the substitution for subsection (2) of the following subsection:

“(2) A rate levied by a municipality on residential properties with a market value below a prescribed valuation level may, instead of a rate determined in terms of subsection (1), be a uniform fixed amount per property.”; and

- (b) the deletion of subsection (3).

Amendment of section 15 of Act 6 of 2004

8. Section 15 of the principal Act is hereby amended by—

- (a) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“When granting in terms of subsection (1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance with section 8(2) and subsection (2A), and when granting exemptions, rebates or reductions in respect of categories of owners of properties, such categories may include—”;

- (b) the insertion after subsection (2) of the following subsection:

“(2A) In addition to the categories of property set out in section 8(2), a municipality may, subject to any ratio

determined in terms of section 19, for the purposes of granting exemptions, rebates and reductions, determine such categories based on-

- (a) properties used for public service purposes;
- (b) properties to which a land tenure right applies and on which no industrial, commercial, business, mining or commercial agricultural activities are conducted; and
- (c) the historical or cultural significance of the property, including the presence on the property of a national monument as contemplated in the National Monuments Act, 1969 (Act No. 28 of 1969), or an institution that has been declared to be subject to the Cultural Institutions Act, 1998 (Act No. 119 of 1998).";

- (c) by the deletion in subsection (3) of subparagraph (ii) and (iii) of paragraph (b).

Amendment of section 16 of Act 6 of 2004

9. Section 16 of the principal Act is hereby amended by-

- (a) the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) If a rate on a specific category of properties, or a rate on a specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister **[after notifying]** with the concurrence of the Minister of Finance, must, by notice in the *Gazette*, give notice to the relevant municipality or municipalities that the rate must be limited to an amount in the Rand specified in the notice.";

- (b) the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) Any sector of the economy, after consulting the relevant municipality or municipalities, **[and]** organised local government and the MEC for local government, may, through its organised structures, request the Minister to evaluate evidence to the effect that the rate on any specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1)."; and

- (c) the insertion in subsection (3) after paragraph (a) of the following paragraph:

"(aA) A request contemplated in paragraph (a) must be submitted to the Minister within 12 months of the date of imposition of the applicable rate."

Amendment of section 17 of Act 6 of 2004

10. Section 17 of the principal Act is hereby amended by-

- (a) the substitution in subsection (1) for paragraph (a) for the following paragraph:

"(a) subject to paragraph (aA) on the first 30% of the market value of public service infrastructure;";

- (b) the insertion in subsection (1) after paragraph (a) of the following new paragraph:

“(aA) on any property referred to in paragraphs (a), (b), (e) (g) and (h) of the definition of “public service infrastructure”;”;

- (c) the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) on [mineral] mining rights or a mining permit within the meaning of [paragraph (b) of the definition of ‘property’ in subsection 1] the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), excluding any building, other immovable structures and infrastructure above the surface of the mining property required for purposes of mining;”;

- (d) the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) on a property belonging to a land reform beneficiary or his or her heirs, dependants or spouse: Provided that this exclusion lapses–

(i) 10 years from the date on which such beneficiary’s title was registered in the office of the Registrar of Deeds; or

(ii) upon alienation of the property by the land reform beneficiary or his or her heirs, dependants or spouse;”;

- (e) by the insertion in subsection (1) after paragraph (i) of the following paragraph:

“(j) on the first amount of the market value as determined by the Minister, with the concurrence of the Minister of

Finance, by notice in the Gazette, of a residential property owned and occupied by a person who is a recipient of an older persons grant or a disability grant in terms of the Social Assistance Act, 2004 (Act No. 13 of 2004);”;

- (f) the insertion after subsection (1) of the following subsection:

“(1A)(a) The exclusion from rates of a property referred to in subsection (1)(b) lapses—

- (a) if the property is alienated or let; or
(b) if the exclusion from rates of a property lapses in terms of paragraph (a), if the new owner or lessee as the case may be, becomes liable to the municipality concerned for the rates that, had it not been for subsection (1)(b), would have been payable on the property, notwithstanding the provisions of section 78, with effect from the date of alienation or lease.”;

- (g) the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(e), would have been payable on the property, notwithstanding the provisions of section 78, during the period commencing from the effective date of the current valuation roll of the municipality. If the property was declared as a protected area after the effective date of the current valuation roll, rates are

payable only from the date of declaration of the property.”;

(h) the insertion after subsection (3) of the following subsection:

“(3A) A municipal manager must, in accordance with the procedure in section 49, inform property owners of the procedures to be followed and supporting documentation to be submitted when applying for an exclusion in terms of subsection (1)(j).”; and

(i) the substitution in subsection (5) for paragraph (b) of the following paragraph:

“(b) If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(i), would have been payable on the property, notwithstanding the provisions of section 78, during the period of one year preceding the date on which the exclusion lapsed.”.

Amendment of section 19 of Act 6 of 2004

11. Section 19 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) different rates on residential properties, except as provided for in sections 11(2), 21 and 89: Provided that this paragraph does not apply to residential property which is vacant, not used for any purpose or not used for the permitted purpose;”.

Amendment of section 20 of Act 6 of 2004

12. Section 20 of the principal Act is hereby amended by–

(a) the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) different kinds of municipalities which may, for the purposes of this section, be defined in the notice either in relation to categories, **[of municipalities within the meaning of the Municipal Structures Act]** types or budgetary size of municipalities or in any other way; or”; and

(b) the insertion after subsection (2) of the following subsection:

“(2A) The Minister may, with the concurrence of the Minister of Finance, and by the notice referred to in subsection (1), delay the implementation of a limit, for a period determined in the notice and in respect of the different kinds of municipalities defined in terms of subsection (2)(b).”.

Amendment of section 25 of Act 6 of 2004

13. Section 25 of the principal Act is hereby amended by–

(a) the substitution for subsections (1) and (2) of the following subsections:

“(1) A rate levied by a municipality on a sectional title unit is payable by the owner of the unit or the holder of a right contemplated in section 25 or 27 of the Sectional Titles Act.

(2) A municipality may not recover the rate on a sectional title unit, or on a right contemplated in section 25 or 27 of the Sectional Titles Act registered against the sectional title unit, or any part of such rate, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit or the holder of such right.”.

Amendment of section 27 of Act 6 of 2004

14. Section 27 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) A person liable for a rate must furnish the municipality with that person’s postal address.”.

Amendment of section 30 of Act 6 of 2004

15. Section 30 of the principal Act is hereby amended by–

- (a) the substitution for subsection (2) of: the following subsection:

“(2) All rateable properties in the municipality must be valued during a general valuation, including **[all]** those properties **[fully or]** partially excluded from rates in terms of section 17 (1)(a) **[, (e), (g)]** and (h) **[and (i)]**: Provided

that [- **(a)**] properties referred to in section 7(2)(a) must be valued only to the extent that the municipality intends to levy a rate on those properties. **[;and**

(b) the Minister may fully or partially exempt a municipality from the obligation to value properties excluded from rates in terms of section 17(1)(e),(g) and (i) if the municipality can demonstrate that the valuation of those properties is too onerous for it, given its financial and administrative capacity.]"; and

(b) the substitution for subsection (3) of the following subsection:

"(3) All properties valued in terms of subsection (2) must be included in the valuation roll: Provided that properties referred to in **[subsection 2(b) and in]** section 7(2)(a)(i) and (ii) and section 17(1)(e),(g),(i) and (j) must be included in the valuation roll whether **[or not]** they **[were]** have been valued or not."

Amendment of section 32 of Act 6 of 2004

16. Section 32 of the principal Act is hereby amended by–

- (a) the substitution in paragraph (a) of subsection (1) for the expression "four" of the expression "five"; and
- (b) the substitution in subsection (2) for the expression "five" of the expression "seven".

Amendment of section 34 of Act 6 of 2004

17. Section 34 of the principal Act is hereby amended by–

(a) the insertion after paragraph (a) of the following paragraph:

“(aA) subject to section 81(1C), as part of the process towards submitting a valuation roll contemplated in paragraph (b), after appointment and until submission of the certified valuation roll, submit a monthly progress report to the municipal manager on the valuation of properties, regardless of whether properties are valued in terms of section 45(2)(a) or in terms of a combination of section 45(2)(a) and (b);”;

Amendment of section 42 of Act 6 of 2004

18. Section 42 of the principal Act is hereby amended by–

(a) the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) require the owner, tenant or occupier of a property which a valuer must value in terms of this Act, or the agent of the owner, or the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the management association in respect of a property time-sharing scheme to give the valuer access to any document or information in possession of the owner, tenant, occupier, [or] agent, body corporate, share block company or management association which the valuer

reasonably requires for purposes of valuing the property;".; and

(b) the substitution in subsection (1) for paragraph (c) of the following paragraph:

"(c) in writing require the owner, tenant or occupier of the property, or the agent of the owner, or the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the managing association in respect of a property time sharing scheme to provide the valuer, either in writing or orally, with particulars regarding the property which the valuer reasonably requires for purposes of valuing the property."

Amendment of section 46 of Act 6 of 2004

19. Section 46 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) The value of any license, permission, or other privilege granted in terms of legislation in relation to the property, but not a mining right or mining permit granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)".

Amendment of section 53 of Act 6 of 2004

20. Section 53 of the principal Act is hereby amended by

(a) the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) the valuer’s decision in terms of section 51, together with the reasons for such decision, regarding that objection;”; and

(b) the repeal of subsection (2) and (3).

Amendment of section 54 of Act 6 of 2004

21. Section 54 of the principal act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) an objector must be lodged within **[30] 50** days of the date on which the written notice referred to in section 53(1) was sent to the objector **[or, if the objector has requested reasons in terms of section 53(1), within 21 days after the day on which the reasons was sent to the objector];**

Amendment of section 55 of Act 6 of 2004

22. Section 55 of the principal Act is hereby amended by-

(a) the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b)(i) recover from, **[or repay to]** the person liable for the payment of the rate the difference determined in terms of paragraph (a) **[plus interest at a prescribed rate.]** without adding interest on the amount due for rates; and

(ii) repay to the person who made the payment the difference determined in terms of paragraph (a) plus interest at the prescribed rate.”,

(b) the deletion of subsection (3) .

Amendment of section 56 of Act 6 of 2004

23. Section 56 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The MEC for local government must, by notice in the *Provincial Gazette*, establish as many valuation appeal boards in the province as may be necessary, but not fewer than one in each **[district municipality and each]** metropolitan municipality. ”.

Amendment of section 58 of Act 55 of 2004

24. Section 58 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) not fewer than two and not more than four other members with sufficient knowledge of or experience in the valuation of property, of which at least one must be a professional valuer or a professional associated valuer

without restrictions and with a minimum of ten years experience registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000)."

Amendment of section 78 of Act 6 of 2004

25. Section 78 of the principal Act is hereby amended by–

- (a) the insertion in subsection (1) after paragraph (g) of the following paragraph:

"(h) the value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error.";

- (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"For the purposes of subsection (1), the provisions of Part 2 of Chapter 4 and, Chapters 5, 6 and 7, read with the necessary changes as the context may require, are applicable, except that–";

- (c) the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) the supplementary valuation **[roll takes effect on the first day of the month following the completion of the public inspection period required for the supplementary valuation roll in terms of section 49 (as read with this section), and]** remains valid for the duration of the municipality's current valuation roll.";

- (d) the substitution in subsection (4) of the words preceding paragraph (a) of the following words:

"Rates on a property based on the valuation of that property in a supplementary valuation **[roll]** become payable with effect from-";

- (e) the substitution in subsection (4) for paragraph (a) of the following paragraph:

"(a) the first day of the month following the posting of the notice as contemplated in subsection (5) in the case of property referred to in subsection 1(a) or (f);";

- (f) the insertion in subsection (4) after paragraph (a) of the following paragraph:

"(aA) the first day of the month following the posting of the notice as contemplated in subsection (5) in the case of property referred to in subsection 1(e): Provided that in the case of a decrease in value in terms of a property referred to in subsection 1(e), the rates become payable on the date the property was incorrectly valued."; and

- (g) the insertion after subsection (4) of the following subsections:

"(5) (a) A municipal valuer must on completion of the supplementary valuation contemplated in subsection (1)(a) to (g), and following a correction contemplated in subsection 1(h), serve such valuation or correction, by ordinary mail, or if appropriate, in accordance with section 115 of the

Municipal Systems Act, or through any other appropriate means of communication on every owner of property who has been affected by a supplementary valuation contemplated in subsection (1)(a) to (g) and a correction contemplated in subsection 1(h), a notice reflecting the supplementary valuation or correction of the property, as well as the particulars listed in section 48(2);

(b) The notice referred to in paragraph (a) must inform the property owner that he or she may lodge an objection with the municipal manager in writing, within a period of 21 days of the posting of the notice in respect of any matter reflected in or omitted from the supplementary valuation." ;

(6) The municipality must, at least once a year, compile and publish a supplementary valuation roll of all properties included in the supplementary valuations contemplated in subsection (1) during the period in which the supplementary valuations took place and make it public and available for inspection in the manner provided for in section 49."

Amendment of section 80 of Act 6 of 2004

26. Section 80 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Non-compliance with—

(a) section 16(3)(aA), 21, 31 or 32; and

(b) the period specified in the notice referred to in section 4(2)(b)(ii).

may not be condoned in terms of subsection (1)."

Amendment of section 81 of Act 6 of 2004

27. Section 81 of the principal Act is hereby amended by–

(a) the substitution for subsection (1) of the following subsection:

“(1) The MEC for local government in a province must monitor whether municipalities in the province comply with the provisions of this Act, including ensuring that a valuation roll complies with sections 30 and 48.”;

(b) the insertion after subsection (1) of the following subsection:

“(1A) The critical milestones that must guide monitoring by the MEC for local government as contemplated in subsection (1) include, but are not limited to, the following:

- (a) whether the municipality has determined a date of valuation for its general valuation in terms of section 31 ;
- (b) whether a municipality without in-house valuation capacity, has advertised for the appointment of a valuer by a date determined by the Minister by notice in the Gazette;
- (c) whether a municipality has designated a municipal valuer by a date determined by the Minister by notice in the Gazette;
- (d) whether the municipal manager has submitted a project plan as contemplated in subsection 81(1B) ; and

(e) whether the municipal valuer has submitted a certified valuation roll to the municipal manager by the prescribed date.

(1B) The municipal manager must, by a date determined by the Minister by notice in the *Gazette*, submit a project plan to the MEC for local government outlining-

(a) detailed actions for the valuation of all properties in the municipal area indicating when valuation work will commence and when valuations will be finalised as well as the following milestones:

- (i) the date of valuation for the next general valuation and the date by which it will be determined in terms of section 31;
- (ii) the date by which the municipality will advertise for the appointment of a municipal valuer if the municipality has no in-house valuation capacity;
- (iii) the date by which the municipality will designate a municipal valuer;
- (iv) the date by which the municipal manager is to submit quarterly progress reports to the MEC that are based on the municipal valuer's monthly progress reports contemplated in section 34 (aA); and
- (v) the intended date by which the municipal valuer is to submit a certified valuation roll to the municipal manager taking into account the provisions of section 34(d).

(b) The municipal manager must, by no later than 10 days after the date on which each milestone referred to in paragraph (a) should have taken place, submit a report to the MEC for local government regarding the status of that milestone and if the milestone has not been achieved, the remedial actions to rectify the failure to deliver on the milestones in the action plan, as well as any deviation in the action plan that will impact on the delivery date referred to in subsection (1B)(a)(v).

(1C) (a) The Minister may, by notice in the Gazette, determine to which municipalities the provisions of this section apply.

(b) A determination referred to in paragraph (a) may differentiate between municipalities in terms of categories, types, or in terms of budgetary size or in any other manner.

(1D) The municipal manager must submit reports in a format and at such intervals as may be prescribed to such parties as may be prescribed on specific aspects of the implementation of provisions of the Act.

Amendment of section 83 of Act 6 of 2004

28. Section 83 of principal Act is hereby amended by–

(a) the insertion in subsection (1) after paragraph (a) of the following paragraph:

“(aA) the process to be followed and the conditions that must be complied with in order to qualify for the relief contemplated in section 17(1)(j)”;

(b) the substitution for subsection (3) of the following subsection:

- "(3) Regulations in terms of subsection (1) may:-
- (a) treat different categories of properties, or different categories of owners of properties, differently; or
 - (b) differentiate between different kinds of municipalities, which may, for purposes of this section, be defined either in relation to categories, types or budgetary size, or in any other manner."

(c) the insertion after subsection (3) of the following subsection:

- "(4) The Minister may, by notice in the Gazette,-
- (a) delay the implementation of a provision of a regulation made in terms of subsection (1) for a period determined in the notice;
 - (b) where practicalities impede the strict application of a specific provision of a regulation made in terms of subsection (1), exempt any municipality from, or in respect of, such provision for a period, and on such conditions, as determined in the notice."

Repeal of section 88 of Act 6 of 2004

29. Section 88 of the principal Act is hereby repealed.

Insertion of section 89A of Act 6 of 2004

30. The following section is hereby inserted in the principal Act after section 89:

"Transitional arrangements relating to redetermination of municipal boundaries: Use of valuation rolls and supplementary valuation rolls

89A. (1) If, as a result of the redetermination of a municipal boundary in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), an area is included into the existing area of jurisdiction of a municipality, that municipality may—

- (a) continue to use a valuation roll and supplementary valuation roll that was in force in the area that has been included in its area of jurisdiction; and
- (b) levy rates against property values as shown on that valuation roll or supplementary valuation roll,

until it prepares a valuation roll or supplementary valuation roll that includes such area.

(2) If a municipality uses valuation rolls and supplementary valuation rolls in terms of subsection (1), that municipality may, notwithstanding the provisions of section 19(1)(a), impose different rates based on the different valuation rolls or supplementary valuation rolls, so that the amount in the Rand on the market value of the property payable on similarly situated property is more or less the same."

Substitution of section 90 of Act 6 of 2004

31. Section following section is hereby substituted for section 90 of the principal Act:

"Transitional arrangements relating to redetermination of municipal boundaries: Existing rates policies

90. (1) If, as a result of the redetermination of a municipal boundary in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), an area is included into the existing area of jurisdiction of a municipality during the course of a financial year, that municipality may during the financial year in which the inclusion becomes effective –

- (a) continue to use a rating policy that was in force in the area that has been included in its area of jurisdiction; and
- (b) levy rates consistent with that rating policy."

Repeal of sections 91, 92 and 93 of Act 6 of 2004

32. Sections 91, 92 and 93 of the principal Act, are hereby repealed.

Insertion of section 93A in Act 6 of 2004

33. The following section is hereby inserted in the principal Act after section 93:

"Transitional arrangement: Public service infrastructure

93A. (1) The prohibition on the levying of rates on public service infrastructure referred in section 17(1)(aA) must be phased in over a period of three years, with effect from the date of coming into operation of the Local Government: Municipal Property Rates Amendment Act, 2011.

(2) The rates levied on property referred to in subsection (1) must –

- (a) in the first year, be no more than 75 per cent of the rate for that year otherwise applicable to that property;
- (b) in the second year, be no more than 50 per cent of the rate for that year otherwise applicable to that property;
and
- (c) in the third year, be no more than 25 per cent of the rate for that year otherwise applicable to that property.

Transitional arrangements

34. The provisions of section 8 of the Local government: Municipal Property Rates Act, 2004, as amended by section 5 of this Act, takes effect in respect of those municipalities –

- (a) that implemented the Act on 1 July 2006, 1, July 2007 and 1 July 2008, with effect from 1 July 2015;
- (b) that implemented the Act on 1 July 2009, 1 July 2010 and 1 July 2011, with effect from the effective date of the next valuation roll prepared in terms of the Act.

Short title

35. This Act is called the Local Government: Municipal Property Rates Amendment Act, 2011.

MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL, 2011

1. BACKGROUND

Since the first 4 municipalities began valuing and rating in terms of the Local Government: Municipal Property Rates Act ("the Act") on 1 July 2006 municipal practitioners have grappled with the reality of operationalising a piece of legislation that has largely been theoretical since its effective date of 2 July 2005 and became less so as the implementation of its regulatory framework unfolded over the years.

Taking into account lessons learnt from the 27 municipalities that implemented the Act in 2006 and 2007, the Act was amended through the Local Government Laws Amendments Act, 2008 (which commenced operating on 13 October 2009).

Having regard to the experience gained with the additional municipalities that implemented the Act in 2008 and 2009 respectively, it has become clear that these lessons learnt from the monitoring of such implementation necessitate that the Act be amended yet again to render its implementation more seamless and minimise legal and policy misinterpretations that have arisen. In addition certain key policy amendments are proposed and such proposed amendments are informed by lessons learnt from implementing the regulatory framework of the Act, and continuous engaging with key stakeholders, including individual and organised ratepayers, and practitioners on the challenges encountered with the implementation of the Act over the years in the first phase of its implementation.

2. OBJECTS OF THE BILL

The main object of the Bill is to address the problems that have been experienced in the implementation of the Act over the past five years and to promote the effective and efficient implementation of the Act.

3. SUMMARY OF THE BILL

Clause 1 amends the Preamble so as make it clear that the income derived from property rates, in line with general tax principles, is not linked to a specific municipal service or the provision of infrastructure for a specific municipal service but that such income derived is a general revenue source.

Clause 2 inserts various definitions many of which are introduced because of the introduction of the revised property categorisation framework in clause 8 and various other definitions that are inserted to clarify a variety of matters in the Act that have up to now been so open to interpretation that they hinder the effective implementation of the Act; all of these definitions are introduced so as to render the Act simpler, user friendly, and minimise legal and policy misinterpretations.

Clause 3 provides for a consequential amendment to section 3 of the Act flowing from the amendment to section 8 and also provides that a rates policy must determine criteria not only for an increase but also for the decrease in rates. This Clause also provides for the matters that a municipality must take into account when considering criteria in respect of exemptions, rebates and reductions in respect of agricultural properties to be reduced from four to two matters because two of the matters have been taken into account in the "rates ratio" between residential and agricultural properties that was promulgated in terms of section 19 and became effective on 1 July 2009. The clause finally provides that the contribution of agriculture to the social and economic welfare of other members of the

public be recognised in addition to its contribution to the welfare of farm workers.

Clause 4 amends section 7 (2) (a) (iii) of the Act so as to provide that properties to which a land tenure right applies and on which no commercial activities are conducted and on which the municipality does not intend levying rates, that no mandatory requirement is imposed on a municipality to value such properties.

Clause 5 amends section 8 of the Act so as to limit the basis for the categorisation of properties to use and permitted use only. Furthermore the list of property categories that must, where applicable, be determined is now set out in subsection (2), with additional property categories provided for in subsection (3). In order to ensure the effective application of this section all the different categories of property are now defined in section 1 of the Act.

Clause 6 provides for a consequential amendment to section 9 (1) (c) flowing from the amendment to section 8.

Clause 7 amends section 11 so as to provide that a rate at a uniform fixed amount may be levied on residential properties only.

Clause 8 amends section 15 so as to provide for additional avenues in terms of which a municipality may determine the categories of properties in respect of which a municipality may grant exemptions, rebates or reductions. The clause also removes the obligation on a municipality to annually reflect income foregone in respect of exclusions in terms of various subsections of section 17.

Clause 9 amends section 16 of the Act so as to provide that the limitation of a rate on a specific category of property by the Minister must be determined with the concurrence of the Minister of Finance and that a sector of the economy must also consult the MEC responsible for local

government prior to requesting the Minister to evaluate evidence that a rate on any specific category of properties or a rate on any specific category of properties above a specific amount in the Rand is unreasonably prejudicing any of the matters listed in section 16 (1). The clause in addition limits the period within which such a request may be submitted to the Minister to within 12 months of the date of imposition of the applicable rate.

Clause 10 amends section 17 of the Act which so as to provide-

- for the exclusion from rates of certain categories of public service infrastructure;
- for the exclusion from rates of mining rights or mining permits, excluding infrastructure above the surface in respect of mining property;
- that the exclusion from rates in respect of land belonging to a land reform beneficiary or his or her heirs includes his or her dependents or spouse, and that this exclusion lapses ten years from the date on which such beneficiary's title was registered or upon alienation of the property;
- for the exclusion from rating of the property, the market value of which does not exceed an amount as determined by the Minister with the concurrence of the Minister of Finance, which is owned by a recipient of an older persons grant or disability grant. Subsequent consequential amendments are effected in other sub-sections of section 17 to align with amendments made here; and
- that an exclusion from rates in respect of the seashore lapses if any part thereof is alienated;
- that notwithstanding the provisions of section 78, if a property in respect of which the declaration as a special nature reserve is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1) (e), would have been

payable on the property, during the period commencing from the effective date of the current valuation roll of the municipality;

- that notwithstanding the provisions of section 78, if the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that it not been for the exclusions provided for in section 17, would have been payable on the property, during the period of one year preceding the date on which the exclusion.

Clause 11 amends section 19 of the Act so as to provide that a municipality may levy different rates on residential properties if such properties are vacant, not used for any purpose or not used for the permitted purpose.

Clause 12 amends section 20 of the Act so as to authorise the Minister with the concurrence of the Minister of Finance to set different limits for different kinds of municipalities as may be determined and to delay the implementation of a limit contemplated in that section for a pre-determined period.

Clause 13 amends section 25 so as to provide that the owner of exclusive use areas in a sectional title scheme is liable for payment of rates whether this owner is the Body Corporate or owner of a unit in the sectional title scheme.

Clause 14 amends section 27 to provide that the person liable for a rate must furnish the municipality with his or her postal address.

Clause 15 amends section 30 so as to provide that properties that are fully excluded from rates need not be valued. In addition, the clause provides that certain properties that are excluded from rates must be included in the valuation roll whether they were valued or not.

Clause 16 amends section 32 so as to extend the validity of a valuation roll from four to five years and to provide that the MEC for local government may extend such validity to seven years.

Clause 17 amends section 34 so as to make it a requirement that a municipal valuer submits a monthly progress report to the municipal manager on the valuation of properties.

Clause 18 amends section 42 so as to make it mandatory that the body corporate or the managing association controlling a sectional title scheme and a share block company respectively must give the valuer access to documents or information required by the valuer for the purposes of valuing the property.

Clause 19 amends section 46 so as to provide that a mining right or mining permit is not to be considered for purposes of valuing a property.

Clause 20 amends section 53 so as to require a municipal valuer to notify an objector of the valuer's decision together with the reasons for such decision and repeals the requirement for a property owner to request such reasons in writing at a fee.

Clause 21 amends section 53 so as to extend the period for the lodging of an objection from 30 to 50 days and effects a consequential amendment to section 54 due to the amendment of section 53.

Clause 22 amends section 55 so as to remove the requirement for the payment of interest by a property owner affected by an upward adjustment of the valuation of their property and to provide for the municipality to repay a property owner with interest where there is a downward adjustment of the valuation of a property.

Clause 23 amends section 56 so as to delete the mandatory requirement for the establishment of a valuation appeal board in every district municipality.

Clause 24 amends section 58 so as to provide that the membership of an appeal board may include a professional associated valuer without restrictions and with a minimum of ten years experience.

Clause 25 amends section 78 so as to extend the circumstances under which a supplementary valuation must be made to include a property the value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error; to amend the dates on which a supplementary valuation takes effect and the dates from which rates are payable on properties affected by a supplementary valuation. In addition the clause provides for the notification of owners of properties effected by a supplementary valuation.

Clause 26 amends section 80 so as to extend the provisions, the non compliance of which may not be condoned.

Clause 27 amends section 81 so as to equip an MEC for local government to more effectively monitor municipalities in the implementation of the Act and more especially the process of the compilation of a valuation roll and generally strengthen the monitoring of compliance with the provisions of the Act.

Clause 28 amends section 83 so as to provide for appropriate differentiation in the implementation of the regulatory framework of the Act and to provide for phasing in of the regulatory framework of the Act where necessary and where appropriate exempt any municipality from certain provisions of regulations on the basis of appropriate conditions as may be determined.

Clause 29 repeals section 88 as this section no longer serves any purpose.

Clause 30 inserts a new section 89A, to provide for transitional arrangements regarding the use of valuation rolls and supplementary valuation rolls in instances where there is a redetermination of a municipal boundary.

Clause 31 substitutes section 90 so as to provide for transitional arrangements regarding the use of existing rates policies in instances where there is a redetermination of a municipal boundary.

Clause 32 repeals sections 91, 92 and 93 as these sections no longer serve any purpose.

Clause 33 inserts a new section 93A which provides for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure.

Clause 34 provides that the provisions of section 8, as amended by this Act, take effect on different dates in respect of different municipalities depending on the date by which a municipality implemented the Act for the first time.

Clause 35 contains the short title.

3. PARTIES CONSULTED

The following parties have been consulted:

- National Treasury;
- South African Local Government Association (SALGA);

- Fiscal and Financial Commission (FFC);
- Institute for Municipal Finance Officers;
- The Cooperative Governance and Traditional Affairs MinMEC;
- Public hearings were held in all nine provinces in which ratepayers, stakeholders and general members of the public participated;
- Governance and Administration (FOSAD) Cluster

4. FINANCIAL IMPLICATIONS FOR THE STATE

None envisaged.

5. FINANCIAL IMPLICATIONS FOR PROVINCES

Financial implications are envisaged to the extent that provincial departments responsible for local government will have to augment their establishments in a manner that allows the MEC responsible for local government in a province to perform hands-on monitoring of municipal implementation of the Act taking into account the detailed monitoring provisions expressed in the amendments to section 81 and those connected thereto in particular. It must be emphasised that despite the proposed amendments to the Act, provincial departments responsible for local government should ideally have commensurate establishments if they are to fulfil their constitutional monitoring and support role.

6. FINANCIAL IMPLICATIONS FOR MUNICIPALITIES

It is envisaged that the provisions to exclude certain public service infrastructure (PSI) from rating are the main provisions that will have financial implications that are of significance, in particular for those municipalities that currently rate such PSI. Out of the 257 municipalities

that have the power to levy property rates 71 municipalities that responded to a targeted survey reported rating PSI in the 2009/10 and 2010/11 financial years and the estimated financial implications of excluding PSI from rating would be approximately R73,993,000, about 0.43% of their estimated total rates revenue.

7. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Co-operative Governance are of the opinion that the Amendment Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution. The Bill does not fall within the functional areas listed in Schedule 4 of the Constitution, nor does it provide for legislation envisaged in the sections referred to in section 76(3) of the Constitution.

The State Law Advisers are of the opinion that it may be necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), because although it does not contain provisions pertaining directly to customary law or customs of traditional leaders it does to some extent impact on matters of land tenure in respect of lessees of certain properties to which a land tenure right applies.

IRIPHABHULIKHI YASENINGIZIMU AFRIKA

**UHULUMENI WASEKHAYA: UMTHETHOSIVIVINYWA
OCHITSHIYELWE WENTELA KAMASIPALA
WOBUNINIMHLABA**

(Njengalokhu wethulwe kuShayamthetho sikaZwelonke (isigaba esihlongozwayo sama-75); Iqoqa elichazayo loMthethosivivinywa oshicilelwe kuGazethi engunombolo Wenyanga kowezi-2004)

(Umbhali obhalwe ngolimi lwesiNgisi yiwona osemthethweni ozosetshenziswa kuMthethosivivinywa)

UNgqongqoshe Wezokusebenza Ngokubambisana Ekuphatheni kanye
Nezindaba zoMdabu

[B -----2011]

AMANOTHI AJWAYELEKILE ENCAZELO:

Amagama agqanyisiwe phakathi ezikweleni akhomba okushiye emthethweni omisiwe.

Amagama adwetshelwe ngomugwa akhomba okufakiwe emthethweni omisiwe.

UMTHETHOSIVIVINYWA

Ukuchibiyela kuHulumeni waseKhaya: uMthetho weNtela kaMasipala Yobuninimhlaba, okungumthetho wezi-2004, ukuze kuhlinzekelwe ngezichibiyelo kanye nokufakwa kwezinye izincazelo; ukuhlinzeka ngokuthi umthethomgomo wentela kumele uqagule izindlela hhayi nje kuphela zokwenyusa kodwa nezokwehlisa intela; nokubuye kuhlelwe futhi izinhla zomhlaba/ zezindawo/zezakhiwo okufanele zithelelwe intela; nokubuye kuhlelwe ukungakhokhiswa, ukuncishiswa kanye nokubuyiselwa imali kubanikazi bemihlaba/bezindawo/bezakhiwo ukuze kuhlinzekelwe ukuthi intela ohlwini oluthile lwemihlaba/ lwezindawo/ lwezakhiwo kumele kugcine emalini ebalwa ngokwamaRandi (amaShumi njengalokhu kulawula uNgqongqoshe ebambisene noNgqongqoshe wezeZimali; ukunciphisa isikhathi lapho uNgqongqoshe engacelwa ukuba athathe isinqumo sokuthi intela iyalimaza ngokungenasidingo kunoma yiluphi udaba olusohlwini esigabeni se-16 (1); ukuhlinzekela izindawo eziklanyiwe zohwebo ukuthi zithintane noMEC ngokwesigaba se-16(3)(a); ukuhlinzekela uNgqongqoshe ngokuthi akwazi ukuthatha isinqumo ngokwesigaba se-16 (5) ngokubambisana noNgqongqoshe wezeZimali; ukuhlinzekela ngokungafakwa ohlwelweni lwentela kwezinye izinhlobo eziphathelene nemisebenzi yengqalasizinda yomphakathi ngokunjalo futhi namalungelo okumba noma izimvume zokumba (zokumayina), kungahlanganisi ingqalasizinda engaphezu komhlaba uma kukhulunywa

ngendawo yemayini, ukuhlinzekela ngokuthi ukukhishelwa ngaphandle ekukhokheni intela ngasohlangothini lwabazuzi emhlabeni owenziwe kabusha kuqhutshezelwa kokushadenwe naye nalabo abanelungelo efeni; ukuhlinzekela ukuthi ukungafakwa ohlelweni lwentela esimeni sokunyamalala ogwini lolwandle uma noma iyiphi ingxenye yahlukaniswa; ukuhlinzekela ngokuthi umasipala angathelisi intela emalini yokuqala esilinganisweni semali ngaleso sikhathi njengalokhu kulawula uNgqongqoshe ngokubambisana noNgqongqoshe wezeZimali zezindawo zokuhlala ezingezabantu abadala abathola imali yesibonelelo noma imali eyisibonelelo kwabanokukhubazeka; ukuhlinzeka ngokuthi umasipala ungathelisa intela eyehlukile ezakhiweni zokuhlala ezingasetshenziselwa inhloso evumelekile noma engasetshenziselwa noma iyiphi inhloso; ukuhlinzekela ngokuthi umasipala angathelisa intela eyahlukile endaweni engenalutho; ukuhlinzekela ngokuthi umasipala angeze afuna ukuthola intela kulabo abanelungelo elehlukile lokusebenzisa indawo ebhaliswe ngokusemthethweni okuphikisana nengxenye yendawo eklanyiwe enhlanganweni; ukuhlinzekela ngokuthi umuntu okufanele akhokhe intela kumele alethe kumasipala ikheli lakhe lokuposa, ukuhlinzekela ngokuthi omasipala akudingekile ukuthi benze izilinganisomanani ezehlukene enteleni, ukuhlinzekela ngesikhathi sokuqinisekisa umqulu wezilinganisomanani ukuthi sibe yiminyaka emihlanu, ukuhlinzekela ngokwelulwa kwesikhathi sokuqinisekisa umqulu wohlu lwezilinganisomanani ngu-MEC wohulumeni bezindawo ukuba sibe yiminyaka eyisikhombisa; ukuhlinzekela ngokuthi inhlango kudingeka ihlinzeke ngolwazi umlinganisimanani; ukuhlinzekela ngokuthi ilungelo lokumba (ukumayina) noma imvume yokumayina ingeze yacutshungulwa ukuthi kutholakale isilinganiso sentengo yendawo/yesakhiwo/yomhlaba yangaleso sikhathi; ukuhlinzekela ngokuthi umlinganisimanani kumele ahlinzeke ngezizathu mayelana nezinqumo ezimayelana nokuphikisa;

ukususa izidingo zokukhokha inzuzo ezimeni ezithile; ukususa isidingo sokusungulwa kwebhodi lokwedlulisa izikhalo zezilinganisomanani kubo bonke omasipala bezifunda(district municipalities); ukuhlinzekela ibhodi lokwedlulisa izikhalo ngokuthi libandakanye umlinganisimanani ochwepheshile ngaphandle kwemibandela kanye nonesipiliyoni seminyaka engeqile kweyishumi; ukuchibiyela izinsuku okwenziwe ngazo isilinganisomanani esichitshiyelwe; ukuhlinzekela ngokwazisa abanikazi bemihlaba/bezindawo/bezakhiwo ezithintekayo ezilinganiswenimanani ezichitshiyelwe; ukuhlinzekela ngokwelulwa kwezinhlinzeko zokungagcinwa kwezivumelwano futhi okungeke kwabekezelelwa; ukuhlinzeka ngokuqapha/ngokulandelela okunempumelelo komasipala ekuphumeleliseni uMthetho; ukwelula/ukukhuphula amandla okushaya imithethomigomo nguNgqongqoshe; ukuhlinzeka ngokufakwa kwemithethomigomo ethile; ukuhlinzekela ngokufakwa kokwenqatshelwa kokutheliswa intela kwezinhlobo ezithile zemisebenzi eyingqalasizinda yomphakathi; ukuhlinzekela ngamalungiselelo okuguqulela kwesinye isimo okumayelana nomasipala abathintekayo ekuklameni kabusha imingcele yomasipala; kanye nokuhlinzekela ngezindaba ezihlobene nalokhu.

NJENGALOKHU KUMISWE yiPhalamende laseRiphabhulikhi yaseNingizimu Afrika, njengokulandelayo:-

Ukuchitshiyelwa kwesandulelo eMthethweni ongunombolo 6 wezi-2004

1. Isendlalelo kuHulumeni weNdawo: uMthetho Wentela yoBuninimhlaba kaMasipala, wezi-2004 (lapha owaziwa “njengoMthetho omkhulu”), uyachitshiyelwa ngokufaka ipgaragrafu yesine yephargrafu elandelayo:

“NANOKUTHI INGANI ingeniso/imali engenayo etholakala ngentela yempahla/yendawo/yomhlaba ingumthombo osemqoka

wezimali ezingenayo ezejwayelekile zikamasipala nanokuthi izimali ezingenayo azihlangene nomsebenzi kamasipala/ izinhlinzeko ezithile noma ukwakhiwa kwengqalasizinda ephathelene nomsebenzi/nezinhlinzeko zalowo masipala;”.

Ukuchitshiyelwa kwesigaba soku-1 soMthetho ongunombolo 6 wezi-2004

2. Isigaba soku-1 soMthetho omkhulu, siyachitshiyelwa-

(a) Ngokufaka esikhundleni sencazelo **“izinhloso zokulima”** lencazelo elandelayo:

“umhlaba [okuhloswe] wokulima” [okuhlobene nokusebenzisa umhlaba,] kusho umhlaba osetshenziselwa ukuzuza ngenhloso yokuthi umhlabathi ulinywe ngezinhlalo zokutshala noma ukuqokelela izithombo; amahlathi engqikithini yokutshala noma yokumilisa izihlahla ngendlela enokusingatheka kanye nelungiselelwe kahle; yokufuya imfuyo kanye nezinyamazane noma ukwandisa kanye nokufuya izinhlanzi, kodwa asikufaki ukusetshenziswa kwendawo/umhlaba ngenhloso yezokuvakasha eziphathelene nemvelo noma [ukuhweba noma ukuzingela izinyamazane] ukugcina amalungu omphakathi ukuze azuze; nanokuthi namayelana nendawo lapho izinyamazane zifuywa khona, kuhwebelwana ngazo noma zizingelwa, asiyifaki noma iyiphi ingxenye esetshenziselwa ukugcinwa kwezivakashi ukuze kuzuzwe ngazo;”;

(b) Ukufaka emva kwencazelo **“umsizi kamlinganisimanani kamasipala”** encazelweni elandelayo:

“ ‘isakhiwo sebhini noma sokuhweba” kusho-

- (a) isakhiwo esisetshenziselwa umsebenzi wokuthenga, wokudayisa noma wokuhweba ngezimpahla noma izidingo zomphakathi nanokuthi kuhlanganisa nanoma yiliphi ihhovisi noma esakhiweni sokuhlala endaweni efanayo, ukusetshenziswa kwayo okuthuka nje kwenzeka kuso umsebenzi ofana nalowo; noma
- (b) indawo lapho kuqhutshwa khona umsebenzi webhizinisi wangasese noma womphakathi;”;
- (c) ukufaka emva kwencazelo **“usuku lokulinganisa amanani”** encazelweni elandelayo:
- “usuku” kusho ukuthi uma noma yiziphi izinsuku zibekelwe ngokusemthethweni ukwenza noma yimuphi umsebenzi kumele zibalwe ngokungahlanganisi usuku lokuqala futhi nokuhlanganisa usuku lokugcina, ngaphandle uma usuku lokugcina luwela ngaphansi koMgqibelo, iSonto noma naluphi usuku oluyiholodi lomphakathi, lapho inamba yezinsuku kumele zibalwe ngokungahlanganisi usuku lokuqala kanye nanoma yimuphi lowo Mgqibeko, iSonto noma iholodi lomphakathi;”;
- (d) ukufaka emva kwencazelo **“uMthetho Wentela Yengeniso”** encazelweni elandelayo:
- “indawo yezimboni” kusho indawo esetshenziselwa ukuhweba noma ukukhiqiza, umkhiqizo, ukuqoqela ndawonye noma ukukhiqizwa kwemikhiqizo eqediwe noma ethi mayiqedwe ezintweni eziphathekayo ezingavuthiwe noma izingxenye ezibunjiwe ezimayelana nokubandakanya imali yokuqhuba umsebenzi kanye nomsebenzi, kanye nokufaka naloma yiluphi

ihhovisi noma enye indawo endaweni efanayo, ukusetshenziswa kwayo okuthuka kwenzeka kulo msebenzi;”;

- (e) ukufaka esikhundleni sencazelo **“ilungelo lokuhlala endaweni”** lencazelo elandelayo:

“ilungelo lokuhlala lendawo’ kuqondwe [ilungelo lohlelo oludala noma ilungelo lohlelo olusha] ilungelo lokuhlala lendawo njengalokhu lichazwe esigabeni soku-1 [soMthetho weLungelo loMhlaba oHlanganyelwe (uMthetho we-11 wezi-2004) ukwenziwa ngcono kwezinga loMthetho waMalungelo okuhlala oMhlaba we-1991 (uMthetho we-112 we-1991);”;

- (f) ukufaka emva kwencazelo **“umasipala wedolobhakazi”** encazelweni elandelayo:

“indawo yokumba/yemayini’, kuqondwe indawo esetshenziselwa imisebenzi yokumba/yokumayina njengalokhu ichazwe eMthethweni wezokuThuthukiswa kweziMbiwa kanye nezoKusaluketshezi, wezi-2002 (uMthetho wama-28 wezi-2002);”;

- (g) ukufaka esikhundleni sencazelo **“isakhiwo semisebenzi eyingxubevange”** yencazelo elandelayo:

“isakhiwo semisebenzi eyingxubevange’, uma kukhulunywa ngesakhiwo, kuqondwe izinhlobo [zokusetshenziswa] [a] kwesakhiwo okukhulunywa ngaso esigabeni sesi-8(2)(a) kuya ku (g), esisetshenziselwa izinhloso ezingaphezu kweyodwa, kuphawuleke nesigaba sesi-9;”;

- (h) ukufaka emva kwencazelo **“indawo esanda kutheliswa intela”** yencazelo elandelayo:

“**umphathi wehhovisi**”, uma kukhulunywa ngezindawo zomphakathi zokukhonza, kuqondwe umuntu ophethe okunguyena ohola izinhlelo zokukhonza;

‘**indawo yokuhlala esemthethweni**’, uma kukhulunywa ngezindawo zomphakathi zokukhonza, kuqondwe indawo eyodwa ebhaliswe ngokusemthethweni ehhovisini loMphathi wezokuBhaliswa kweZakhiwo (Registra of Deeds) egameni lezethenjwa elisungulelwe ukuzuzisa kuphela imiphakathi yezenkolo kanye nesetshenziswa njengendawo yokuhlala labo abaphethe;”,

(i) ukufaka emva kwencazelo “**umhlali**” yencazelo elandelayo:

“**izakhiwo ezihlelekile**”, uma kuqondiswe engxenyeni yezomnotho, kuqondwe inhlango emele intando yeningi yobungako obubonakalayo bendawo eklanyiwe yesifundazwe noma yomnotho wezwe lonke: ngaphandle uma lapho ingqalasizinda yezidingo zomphakathi-

(a) lapho kunobungako obubalulekile babanikazi bohlobo lwengqalasizinda yezinhlelo zomphakathi, laba banikazi bakha isakhiwo esihlelekile; noma

(b) lapho kukhona umnikazi oyedwa kuphela waleyo ngqalasizinda yohlelo lomphakathi, lowo mnikazi eyokwakha isakhiwo esihlelekile; noma

(c) lapho kunomnikazi oyedwa kuphela wanoma iyiphi ingxenye yengqalasizinda yohlelo lomphakathi ulusohlwini olusezinhleni ezihlelwe esiqephwini (a) kuya ku (j) sencazelo yengqalasizinda yohlelo lomphakathi,

lowo mnikazi ongayedwana uyokwakha isakhiwo esihlekile;”;

(j) ukufaka encazelweni “**umnikazi**” –

(i) emva kwesiqephu (b) esiqephini esilandelayo:

“(bA) esimeni lapho kunokubambisana khona njengalokhu kubekwe eMthethweni oLawula ukuBambisana esakhiweni/eNdaweni, we-1983 (okunguMthetho ongunombolo 75 we-1983), kuqondwe-

(i) isigungu sabaphathi esibalulwe kumthethomgomo obekwe ngokwesigaba se-12 soMthethwei oLawula ukuBambisana-esakhiweni/eNdaweni, we-1983, nanjengalokhu kushicilelwe eSazisweni sikaHulumeni u-R327 somhla zingama-24 kuNhlolanja 1984;

(ii) inkampani ebambisene ngokwebhulokhi njengalokhu ichazwe eMthethweni wokuLawula amaBhulokhi, we-1980 (okunguMthetho ongunombolo 59 we-1980; noma inhlangothi esemthethweni njengalokhu kubekwe esigabeni sama-36 soMthetho wokuKlanywa kweziNdawo;

(bB) njengalokhu kubhekiswe ezakhiweni, kwezinye izakhiwo ezingagudluzeki kanye nengqalasizinda njengalokhu kukhulunywa ngakho esigabeni se-17(1)(f), kuqondwe umnikazi onamalungelo okumba (emayini) noma imvume yokumba (yokumayina);”; nokuthi

(ii) emva kwesiqeshana (vii) ngokombandela wesiqeshana esilandelayo:

“(viiA) lowo onemvume yokuqasha, lapho amalungelo okuhlala endaweni esebenza nanokuthi leyo ndawo iqashwe ngumuntu onalawo malungelo.”.

(k) ukufaka emva kwencazelo “**umuntu**” yencazelo elandelayo:

“indawo yomphakathi yokukhonza” kusho-

- (i) indawo ebhaliswe ngokusemthethweni egameni lalelo hlelo lomphakathi nanokuthi lisetshenziselwa ikakhulu izinhloso zesonto lokhu kungahlanganisi isakhiwo sokufundisa lapho isakhiwo noma izifundo zebandla kuyizona kuphela ezifundiswayo;
- (ii) indawo ebhaliswe ngokusemthethweni egameni lenhlangano esungulelwe ukuze kusizakale abezenkolo nanokuthi isetshenziselwe izinhloso zebandla, lokhu kungahlanganisi isakhiwo esisetshenziselwa ukufundisa ezemfundo lapho isakhiwo noma izifundo zezenkolo kuyizona kuphela ezifundiswayo, nakuba ikhona inhlesana yokufundiswa kwezenkolo; noma
- (iii) indawo esendaweni lapho ilungelo lendawo yokuhlala, njengalokhu lichazwe esigabeni soku-1 soMthetho woKwenza kaBusha amaLungelo eNdawo yokuHlala, we-1991 (okunguMthetho we-112 kowe-1991), isebenza futhi inabahlali futhi isetshenziswa abezenkolo ngokwezinhloso zebandla;”;

(l) ukufaka esiqeshini (g) sencazelo “**ingqalasizinda yezidingo zomphakathi**” yencazelo elandelayo:

- “(g) imisele yamanzi noma inkundla yokuphaphisa izindiza /iziphaphamshini, kuhlanganisa nendawo engenalutho ezungeze imisele yamanzi nezinkundla zokuphaphisa izindiza/isiphaphamshini kanye nemiphongolo yokulawula ukucinana komoya, ezikhumulweni zezindiza kuzwelonke nasezifundazweni;”;

(m) ukufaka emva kwencazelo **“ingqalasizinda eyizinhlinzeko zomphakathi”** yencazelo elandelayo:

“ngokwenhloso yezinhlinzeko zomphakathi” uma kukhulunywa ngokusetshenziswa kwendawo, kuqondwe indawo esetshenziswa isakhiwo sombuso ukuletha ngqo izidingo ezilandelayo emphakathini:

(a) ezempilo;

(b) ezemfundo, kuhlanganisa nemitapo yolwazi;

(c) iziteshi zamaphoyisa;

(d) amajele; noma

(e) izinkantolo zomthetho,

kodwa akuhlanganisi izindawo njengalokhu zibalulwe encazelweni “ingqalasizinda yezinhlinzeko zomphakathi”;

(n) ukufaka emva kwencazelo **“indawo ithelelwa intela”** yencazelo elandelayo:

“ubukhulu bokulinganiselwa” uma kubhekwa isigaba se-19, kuqondwe ubudlelwane phakathi isenti lifinyelela eShumini

elisebenza ezindaweni zokuhlala kanye nezindawo okungezona ezokuhlala: ngaphandle uma lelo senti lifinyelela eShumini kuhlenganisa nokufakwa okuphoqeletwa kwezidingo ezisesigabeni sama-21, lapho kusebenza khona kanye nanoma yiziphi izinyathelo zokuhlenga ezifinyelela ekubuyiselweni kwemali yokusebenza okujwayelekile kuzo zonke izindawo ezingaphansi kohlobo lwesandawo;”;

- (o) ukufakwa kwencazelo **“isakhiwo esiyindawo yokuhlala”** yencazelo elandelayo:

“isakhiwo esiyindawo yokuhlala” kuqondwe indawo inhloso enkulu yaso okuwukuyisebenzisela noma imvume yokuyisebenzisa inhloso yokuhlala, kungayifaki indawo esetsheenziselwa ukuhlalisa abantu ekunokuthi umnikazi azuze ngayo;”;

- (p) ukufaka emva kwencazelo **“ingxenye yendawo eklanyiwe”** yencazelo elandelayo:

“ingxenye yendawo yezomnotho” uma kubhekwa isigaba se-16 kuqondwe abanikazi bezindawo zokuhweba, zamabhizinisi, zezimboni, zezolimo noma indawo yokumba (yokumayina) ngokunjalo nengqalasizinda yezidingo zomphakathi ehlanganisa ingxenye yesifunda yezomnotho;”; kanye

- (q) nokufaka emva kwencazelo **“lo Mthetho”** yencazelo elandelayo

“indawo engenalutho’ kuqondwe-

- (a) indawo lapho kungekho khona okwenziwe ngcono kwempahla enganyakazi eyakhiwe; noma

(b) lapho kunempahla eyenziwe ngcono enganyakazi kukhona okwakhiwayo, lapho impahla/indawo kungeke kwahlalwa kuyo unomphela.”.

Ukuchitshiyelwa kwesigaba sesi-3 soMthetho wesi-6 wezi-2004

3. IsiGaba sesi-3 soMthetho omKhulu siyachitshiyelwa-

Ngokufaka esigatshaneni sesi-3

(a) (b) seziqeshana (i) kuya ku (iv) salezi ziqeshana ezilandelayo:

“(i) ukuthelisa izintela ezingefani ezinhlobo ezehlukene zezakhiwo/zomhlaba/zendawo njengalokhu zibalulwe ngokwesigaba sesi-8;’; kanye

“(iv) nokwenyuswa noma ukwehliswa kwezintela (amareyithi);’;

(b) Ukususa isigatshana sesi-(4) sesiqephu (a) no (b); kanye

(c) nokufaka esikhundleni sesigatshana sesi-(4) sesiqephu (d) esiqeshini esilandelayo:

(d) umnikelo wezolimo kunhlakahle yomphakathi kanye nomnotho kubasebenzi basemapulazini kanye namanye amalungu omphakathi.”.

Ukuchitshiyelwa kwesigaba sesi-7 soMthetho ongunombolo 6 wezi-2004

4. Isigaba sesi-7 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sesigatshana sesi- (2) sesiqeshana (iii) sesiqephu (a) esiqeshaneni esilandelayo:

“(iii) izindawo/ imihlaba/izakhiwo okukhulunywe ngazo esiqeshini (b) noma (c) zesicaciso ‘sendawo/somhlaba/sesakhiwo’ esigabeni soku- (1): ngaphandle uma lesi siqeshana sisebenza kuphela kulezo zindawo/mihlaba/zakhiwo lapho ilungelo lokuhlala

emhlabeni/endaweni/esakhiweni esebenza khona kanye nalapho kungekho misebenzi yokuhweba, yamabhizinisi, yokumba noma yokulima eqhutshwa khona;”;

Ukuchitshiyela kwesigaba sesi-8 soMthetho ongunombolo 6 wezi-2004

5. Isigaba sesi-8 soMthetho omkhulu kufakwa esikhundleni isigaba esilandelayo:

“Izintela ezehlukahlukene

8. (1) ngokubheka isigaba ses-19, umasipala ngokwezimiso zakhe zenqubomgomo yakhe yentela angathelisa intela eyehlukene ngokwezinhlobo ezehlukene zezindawo/zemihlaba/zezakhiwo ezinikuthelelwa intela, njengolokhu imiswe esigatshaneni sesi (2), okumele iklanywe-

(a) ngokusetshenziswa kwendawo/komhlaba/kwezakhiwo;

(b) ngokusetshenziswa kwendawo/komhlaba/kwezakhiwo okuvunyiwe; noma

(c) u-(a) no (b) kuhlange.

(2) Izinhlobo ezilandelayo kuphela zendawo/zemihlaba/zezakhiwo ezithelelwa intela okumele, uma kunesidingo, ezingahlonzwa ngokwesigatshana soku- (1):

(a) Izindawo zokuhlala;

(b) Izindawo zezimboni;

- (c) Izindawo zezolimo;
 - (d) Izindawo zokumba (zezimayini);
 - (e) Izindawo ezisetshenziselwa izidingo zomphakathi;
 - (f) Ingqalasizinda yomphakathi;
 - (g) Indawo eyendanyelwe yizinhlangano zomphakathi nanokuthi zisetshenziselwa imisebenzi yomphakathi ezisohlwini olusephuzwini loku-1 (ezenhlalakahle kanye nezinesihawu kubantu), kube iphuzu lesi- 2 (ezihlinzeka ngonanakekelo lwezempilo), kube iphuzu lesi-4 (ezemfundo kanye nokuthuthukiswa) kwengxenye yoku-1 kweSichibiyela sesiShiyagalolunye soMthetho wentela yeNgeniso;
 - (h) Indawo/isakhiwo esetshenziselwa imisebenzi enhlobonhlobo, ngokwesigaba sesi-9; noma
 - (i) Nanoma yiluphi olunye uhlobo lwendawo/lwesakhiwo njengalokhu kulawula uNgqongqoshe, ngokubambisana noNgqongqoshe wezeZimali, ngokweSaziso kuGazethi.
- (3) Ngaphezu kwezinhlobo zezakhiwo/zezindawo ezibalulwe esigatshaneni sesi- (2), umasipala, lapho kufaneleke khona, angaqagula izinhlobo zezindawo/zomhlaba ezilandelayo-
- (a) indawo/umhlaba okukhulunywe ngawo eziqeshini (a) kuya ku (e) sesigatshana sesi- (2) engenalutho, engenanhloso yokusetshenziselwa yona noma engasetshenziselwa inhloso evunyelwe; kanye
 - (b) nendawo/umhlaba kamasipala.”.

Ukuchitshiyelwa kwesigaba sesi-9 soMthetho ongunombolo 6 wezi-2004

6. Isigaba sesi-9 soMthetho somkhulu uyachitshiyelwa ngokufaka esikhundleni sesigatshana soku- (1) sesiqephu (c) sesiqephu esilandelayo:

“(c) isakhiwo semisebenzi enhlobonhlobo njengalokhu kubelwe esigabeni sesi-8 (2) [r] (h).”.

Ukuchitshiyelwa kwesigaba se-11 soMthetho ongunombolo 6 wezi-2004

7. Isigaba se-11 soMthetho omkhulu uyachitshiyelwa-

(a) Ngokufaka esikhundleni sesigatshana sesi- (2) sesigatshana esilandelayo:

“(2) intela etheliswe ngumasipala ezindaweni zokuhlala ngokohlelo lwenani lemali yangaleso sikhathi engaphansi kwesilinganisomanani esisemthethweni, ngokwentela eklanye ngokwesigatshana soku- (1), ingenziwa ibe yintela efanayo emile isakhiwo ngesakhiwo/indawo ngendawo/umhlaba ngomhlaba.”; kanye

(b) Nokususa isigatshana sesi- (3).

Ukuchitshiyelwa kwesigaba se-15 soMthetho ongunombolo 6 wezi-2004

8. Isigaba se-15 soMthetho omkhulu uyachitshiyelwa-

(a) Ngokufaka esikhundleni sesigatshana sesi- (2) samagama andulela isiqephu (ipharagrafu) (a) samagama alandelayo:

“uma ngokwesigatshana soku (1) unikeza ilungelo lokungakhokhi, lokubuyiselwa imali noma lokunciphisa kulabo abangabanikazi bezinhlobo zezindawo/zezakhiwo/zomhlaba, umasipala angaqagula lezo zinhlobo njengalokhu kulawula isigaba sesi- (8) (2) kanye nesigatshana

sesi- (2A), nanokuthi ngesikhathi kunikezwa lelo lungelo lokungakhokhi, lokubuyiselwa imali noma lokunciphisa ngasohlangothini lwezinhlobo zezakhiwo/zemihlaba/zezindawo zabanikazi, izinhlobo ezinjalo zingafaka phakathi-“;

(b) Ukufaka emva kwesigatshana sesi- (2) sesigatshana esilandelayo:

“(2A) ngaphezu kwezinhlobo zezakhiwo/zezindawo/zemihlaba ezibalulwe esigabeni sesi- 8(2), umasipala angaqagula, kodwa ngokubhekela ubukhulu bokulinganiselwa obubalulwe esigabeni se-19, ngenhloso yokunikeza ilungelo lokungayikhokhi intela, lokubuyiselwa imali kanye nelokuncishiselwa, angaqagula izinhlobo ngaphansi kwalokhu-

(a) Impahla/umhlaba/isakhiwo esisetshenziselwa izinhloso zomphakathi;

(b) Impahla/umhlaba/isakhiwo lapho ilungelo lomhlala lisebenza khona nanokuthi kungekho okuhambelana nokusebenza izimboni, ukuhwebelana, amabhizinisi, ukumba (ukumayina) noma imisebenzi yokuhwebelana ngezolimo okuqhutshwa khona; nanokuthi

(c) ukubaluleka kwendawo ngokomlando nangokwasiko, kuhlenganisa ubukhona bendawo enatshe ezikhumbuzo ezisezingeni likazwelonke njengalokhu kubekwe eMthethweni kaZwelonke wamaTshe eziKhumbuzo, we-1969 (uMthetho ongunombolo 28 we-1969), noma isikhungo esebekwe ngokusemthethweni ngaphansi koMthetho weziKhungo zezaMasiko, we-1998, (uMthetho ongunombolo 119 we-1998.)”;

(c) ngokususa esigatshaneni sesi-(3) sepharagrafu (ii) no (iii) sepharagrafu (b).

Ukuchitshiyelwa kwesigaba se-16 soMthetho ongunombolo 6 wezi-2004**9. Isigaba se-16 soMthetho omkhulu siyachitshiyelwa-s**

(a) ngokufaka esikhundleni sesigatshana sesi-(2) sepharagrafu (a) yepharagrafu elandelayo:

“(a) uma untela yohlobo oluthile lwesakhiwo/lwendawo, noma uhlobo oluthile lwesakhiwo/indawo lungaphezulu kwenani ngokwamaRandi, lulimaza ngokungenasidingo noma yikuphi phakathi kwezinto ezisohlwini olusesigatshanane soku- (1) uNgqongqoshe [emva kokubona lokho] ngokubambisana noNgqongqoshe wezeZimali, kumele ngokwesaziso soMthetho, akhiphe isaziso kulabo basipala abathintekayo noma omasipala okufanele intela igcine enanini ngokwamaRandi elibalulwe esazisweni.”;

(b) ukufaka esikhundleni sesigatshana sesi- (3) ipharagrafu (a) yepharagrafu elandelayo:

“(a) noma iyiphi ingxenye yezomnotho, emva kokuxhumana nomasipala ofanele noma omasipala; [kanye] nohulumeni wendawo ohlelekile kanye ne-MEC yohulumeni bezindawo, ngokusebenzisa izakhiwo zawo ezihlelekile, ngokusebenzisa izakhiwo zawo ezihlelekile, angacela uNgqongqoshe ukuba acubungule ubufakazi bokuthi intela kunoma yiluphi uhlobo lwezakhiwo olungaphezulu kwenani elithile ngokwamaRandi, iyalimaza yini ngokungenasidingo nangendlela ephathekayo kunoma yiziphi izinto ezisohlwini esigatshaneni soku- (1).; kanye

(c) nokufaka esigatshaneni sesi- (3) emva kwepharagrafu (a) yepharagrafu elandelayo:

“(aA) Isicelo njengalokhu simiswe kupharagrafu (a) kumele sithunyelwe kuNgqongqoshe zingekapheli izinyanga eziyi-12 kusukela osukwini okuphakanyiswe ngalo intela esebenzayo.”.

Ukuchitshiyelwa kwesigaba se-17 soMthetho ongunombolo 6 wezi-2004

10. Isigaba se-17 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka esikhundleni sesigatshana (a) sepharagrafu elandelayo:

“(a) ngokubheka kupharagrafu (aA) amaphesenti okuqala angama-30 emali esebenza ngaleso sikhathi kungqalasizinda yezidingo zomphakathi;”;

(b) ngokufaka phakathi esigatshaneni soku- (1) emva kwepharagrafu (a) yepharagrafu entsha elandelayo:

“(aA) kunoma iyiphi indawo okukhulunywe ngayo kupharagrafu (a), (b), (e), (g) no (h) yencazelo yengqalasizinda eyizidingo zomphakathi”;

(c) ukufaka esikhundleni sesigatshana soku- (1) sepharagrafu (f) sepharagrafu elandelayo:

“(f) amalungelo okumba [ezimbiwa] noma imvume yokumba ngaphansi kwezinhloko zencazelo [zepharagrafu (b) yencazelo “yendawo” esigatshaneni soku- (1) uMthetho weziMbiwa nokuThuthukiswa kweziZinda zokusaLuketshezi, wezi 2002 (uMthetho ongunombolo 28 wezi-2002), zingafakiwe izakhiwo zanoma yiluphi uhlobo, ezinye izakhiwo ezingagudluzeki kanye

- nengqalasizinda engaphezu komhlabathi endaweni yokumba enezinhloso zokuthi kuyambiwa kuyo;”;

(d) ngokufaka esikhundleni sesigatshana soku- (1) sepharagrafu (g) sepharagrafu elandelayo:

“(g) indawo engeyomzuzi eyenziwe kabusha noma okuyifa lakhe, izindlalifa noma okuganenze naye: ngaphandle uma lokho kungafaki phakathi ukwedlula kwesikhathi-

- (i) esiyiminyaka eyi-10 kusukela incwadi yefa yabhaliswa ngokusemthethweni ehhovisini loMphathi elikhipha izincwadi zezibopho (ama-deed); noma
- (ii) lapho kwehlukaniwa impahla ngumzuzi (umbhenefithi) yehlukaniswa kabusha noma izindlalifa, abayozuza noma okuganenze naye;”;

(e) ngokufaka phakathi esigatshaneni soku- (1) emva kwepharagrafu (i) yepharagrafu elandelayo:

“(j) enanini lokuqala lobungakanani bemihlaba/bezindawo/bezakhiwo (market value) esebenza ngaleso sikhathi, njengalokhu iklanywe kwisaziso soMthetho nguNgqongqoshe, ebambisene noNgqongqoshe wezeZimali, ethelelwa indawo yokuhlala engeyomuntu futhi ahlala kuyo futhi kungabantu abathola imali yesibonelelo sabadalà noma abathola imali yesibonelelo yabanokukhubazeka njengalokhu kulawula uMthetho wezoSizo eMphakathini, wezi-2004 (okunguMthetho ongunombolo 131 wezi-2004);”;

(f) ngokufaka emva kwesigatshana soku-(1) sesigatshana esilandelayo:

“(1A (a) ukungatheliswa intela ezindaweni okukhulunywe ngazo esigatshaneni soku- (1) (b) kuyaphela-

(a) uma indawo yehlukaniswa noma iqashiswa, noma

(b) uma ukungafakwa ohlelweni lokuthelela indawo intela kuphelelwa yisikhathi njengalokhu kubikwe kupharagrafu (a), uma umnikazi omusha noma othenga sakuqasha, njengalokhu kungenzeka, engena ohlelweni lwalowo masipala lokuthela intela, okwakungeyikho isigatshana soku- (1)(b), bekufanele ukuba ikhokhelwe indawo, noma kunjalo izinhlinzeko zesigaba sama-78 ziyosebenza, kusukela ngosuku lokwahlukanisa noma sokuqasha(shisa).”;

(g) ngokufaka esikhundleni sesigatshana sesi- (2) sepharagrafu (b) sepharagrafu elandelayo:

“(b) uma indawo lapho ukumenyezelwa kwayo kuhoxiswa yenganyelwa ngumuntu ozimele, umnikazi, emva kokuhoxiswa kwezimemezelo, iyobe isibuyela kumasipala othintekayo ngasohlangothini lwanoma iyiphi intela, obengebe kusigtshana (i) (e), okwakufanele ikhokhelwe indawo, nakuba kunjalo izinhlinzeko zesigaba sama-78 ziyasebenza, kusukela ngosuku lokuqala kokusebenza komqulu wohlu lwezilinganisomanani zikamasipala zangaleso sikhathi. Uma indawo yayimenyezelwe njengendawo evikelekile emva kosuku lokuqala kokusebenza komqulu wohlu lwezilinganisomanani olusebenza ngaleso sikhathi, intela ikhokhwa kuphela kusukela ngosuku okuyomenyezelwa ngalo indawo.;;

- (h) ukufaka phakathi emva kwesigatshana sesi-(3) sesigatshana esilandelayo:

“(3A) Imenenja kamasipala, ngokwenqubo yesigaba sama-49, kumele yazise abanikazi bendawo inqubo okumele ilandelwe nanokuthi amadokhyumenti (document) asekela lokho athunyelwe uma kufakwa isicelo sokushiya ngaphandle njengalokhu kulawula isigatshana soku-(1) (j).”;
kanye

- (i) nokufaka kusigatshana sesi-(5) sepharagrafu (b) sepharagrafu elandelayo:

“(b) uma ukungafakwa ohlwini lwentela yendawo esetshinziswayo njengendawo yokuhlala esemthethweni isikhathi sakho siphela, umphathi webandla owengamele leyo ndawo kuba nguyena okumele abike kulowo masipala othintekayo mayelana nanoma iyiphi intela okwakufanele ikhokhwe ngaphansi kwesigatshana soku- (1) (i) nakuba izinhlinzeko zisigaba sama-78 sisebenza, ngesikhathi esingangonyaka esandulela usuku ukungafakwa ohlelweni lwaphela.”.

Ukuchitshiyelwa kwesigaba se-19 soMthetho ongunombolo 6 wezi-2004

- 11.** Isigaba se-19 soMthetho omkhulu siyachitshiyelwa ngokufaka kusigatshana soku- (1) sepharagrafu (a) sepharagrafu elandelayo:

“(a) zintela ezehlukene ezindaweni zokuhlala, ngaphandle kwalokhu okuhlinzekwe ezigabeni okungesi-11 (2), kune esama-21 nesama-89: Ngaphandle uma le pharagrafu ingasebenzi endaweni yokuhlala engakhe lutho, engasetshenziswa noma ngabe

kunhlosoni noma engasetshenziselwa kwanoma yiphi inhloso egunyaziwe;”.

Ukuchitshiyelwa kwesigaba sama-20 soMthetho ongunombolo 6 wezi-2004

12. Isigaba sama-20 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka kusigatshana sesi- (2) sepharagrafu (a) sepharagrafu elandelayo:

“(a) izinhlobo ezehlukene zomasipala, ngenhloso yalesi sigaba, zingachazwa ngokwesaziso okungaba ngokwezinhla, **[zomasipala ngaphansi kwencazelo yoMthetho weZiseko zoMasipala]** ngokwezinhlobo noma ngobukhulu besabelomali somasipala noma nanoma ngayiphi enye indlela; noma”; kanye

(b) nokufaka emva kwesigatshana sesi- (2) sesigatshana esilandelayo:

“(2A) UNgqongqoshe, ngokuvumelana noNgqongqoshe wezeZimali, nanokukhipha isaziso okukhulunywe ngaso esigatshaneni soku- (1), angabambezela ukuqalisa kokusebenza komkhawuko, isikhathi esinqunywe esazisweni kanye nangokwezinhlobo ezehlukene zomasipala njengalokhu zichazwe esigatshaneni sesi- (2) (b).”.

Ukuchitshiyelwa kwesigaba sama-25 soMthetho ongunombolo 6 wezi- 2004

13. Isigaba sama-25 soMthetho omkhulu sichitshiyelwa-

(a) ngokufaka esikhundleni sezigatshana okungeso – (1) nesesi- (2) sezigatshana ezilandelayo:

“(1) intela etheliswa ngumasipala engxenyeni yendawo eklanyiwe ikhokhwa ngumnikazi waleyo ngxenye noma lowo onelungelo layo njengalokhu kubekwe esigabeni sama-25 noma sama-27 soMthetho weZindawo eziKlanyiwe.

(2) umasipala engeze afuna intela ezingxenyeni zezindawo eziklanyiweyo, noma elungelweni njengalokhu kubekwe esigabeni sama-27 soMthetho weZindawo eziKlanyiweyo ezingabhalisiwe engxenyeni yezindawo eziklanyiweyo, noma nayiphi ingxenye yaleyo ntela, yenhlangotho elawula isikimu sendawo eklanyiwe, ngaphandle uma inhlangotho ingumnikazi wanoma iyiphi ingxenye yendawo eklanyiwe noma engumnikazi walelo lungelo.”.

Ukuchitshiyelwa kwesigaba sama-27 soMthetho ongunombolo 6 wezi-2004

14. Isigaba sama-27 soMthetho omkhulu siyachitshiyelwa ngokufaka emva

kwesigatshana soku- (1) sesigatshana esilandelayo:

“(1A) Umntu okufanele akhokhe intela kumele anikeze umasipala ikheli lakhe lokuposa.”.

Ukuchitshiyelwa kwesigaba sama-30 soMthetho ongunombolo 6 wezi-2004

15. Isigaba sama-30 soMthetho omkhulu siyachitshiyela-

(a) ngokufaka esikhundleni sesigatshana sesi- (2) sesigatshana esilandelayo:

“(2) Zonke izakhiwo ezikhokhelwa intela kumasipala kumele kwenziwe izilinganisomanani kuzo ngesikhathi kwenziwa izilinganisomanani okwejoywayeleke, kuhlenganisa [**zonke**] lezo

zakhiwo [ngokugcwele noma] ezikhishelwe mbijana ngaphandle ekukhokheni izintela njengalokhu kulawula isigaba se-17 (1)(a) [, (e), (g) kanye no (h) [**kanye no (i)**]: Ngaphandle kokuthi [- (a)] izindawo okukhulunyengazo esigabeni sesi- 7 (2) (a) kumele kwenziwe kuzo izilinganisomanani ngenhloso kuphela yokuthi umasipala ufuna ukuzithelisa lezo zindawo.]; **nanokuthi**

(b)UNgqongqoshe engehlisa umthwalo wokukhokha ngokuphele noma ngokungaphelele kumasipala ezibopheni zokwenza izilinganisomanani ezingafakiwe ezinteleni njengalokhu kulawula isigaba sesi- 17 (1) (e), (g) kanye no (i) uma umasipala engakhombisi ukuthi ukwenziwa kwezilinganisomanani kulezo ndawo kungaphezu kwamandla uma kubhekwa isimo sezimali kanye nokuphatha,]”; kanye

(b) nokufaka esikhundleni sesigatshana sesi – (3) sesigatshana esilandelayo:

“(3) Zonke izakhiwo okwenziwe kuzo izilinganisomanani njengalokhu kulawula isigatshana sesi- (2) kumele zifakwe ohlwini lwezilinganisomanani: Ngaphandle uma izindawo okukhulunywa ngazo [**isigatshana sesi- 2 (b) kanye nase**] esigabeni sesi- 7 (2) (a) (i) no (ii) kanye nesigaba se- 17 (1) (e), (g), (i) no (j) kumele zifakwe ohlwini lwezilinganisomanani noma ngabe [noma cha] [zaze] zenzelwe izilinganisomanani noma azenzelwanga.”.

Ukuchitshiyelwa kwesigaba sama-32 soMthetho ongunombolo 6 wezi-2004

16. Isigaba sama-32 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka kupharagrafu (a) wesigatshana soku- (1) segama “okune” nesegama “okuyisihlanu”, kanye

(b) nokufaka kusigatshana sesi- (2) segama “okuyisihlanu” egameni “okuyisikhombisa”.

Ukuchitshiyelwa kwesigaba sama-34 soMthetho ongunombolo 6 wezi-2004

17. Isigaba sama-34 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka emva kwepharagrafu (a) yepharagrafu elandelayo:

“(aA) ngokubheka isigaba sama-81 (1C), njengengxenye yenqubo yokulethwa kohlu lwezilinganisomanani okukhulunywe ngazo kupharagrafu (b) emva kokuqokwa nanokuthi kuze kulethwe/kuthunyelwe uhlu lwezilinganisomanani oluqinisekisiwe, kumele kulethwe imibiko yokusebenza yanyanga zonke kumenenja kamasipala ngokwenziwa kwezilinganisomanani zezindawo, ngokubhekisele ukuthi izilinganisomanani kuzo lezo ndawo zenziwe njengalokhu kubekwe esigabeni sama- 45 (2) (a) noma ngokwenhlanganisela yesigaba sama- 45 (2) (a) kanye no (b);”;

Ukuchitshiyelwa kwesigaba sama-42 soMthetho ongunombolo 6 wezi-2004

18. isigaba sama-42 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka esikhundleni sesigatshana soku- (1) sepharagrafu (a) sepharagrafu elandelayo-

“(a) kudingeka umnikazi, umqashi noma ohlala endaweni okufanele umlinganisimanani enze izilinganisomanani ngokwalo Mthetho, noma lowo omele umnikazi, noma

inkampani elawula isikimu sendawo eklanyiwe noma inhlango ebambisene ebhulokhini noma inhlango yabaphathi ephathelene nesikimu sengxenywe yendawo yokuphumula esetshenziswa ngokubambisana ukunika ithuba lokufinyelela kunoma iyiphi idokhyumentu noma ulwazi olusezandleni zomnikazi, umqaphi, ohlezi esakhiweni; [noma] umqaphi wendawo, inkampani esemthethweni, inkampani ebambisene ebhulokhini noma inhlango yabaphathi lapho umlinganisimananiezidinga lezi zinto ezibalwe ngenhla ngezinhloso zokwenza izilinganisomanani esakhiweni;” kanye

(b)_nokufaka esikhundleni sesigatshana soku- (1) sepharagrafu (c) yepharagrafu elandelayo:

“(c) ngokubhalwe phansi kudingeka umnikazi, umqaphi noma ohlala esakhiweni, noma oqaphe isakhiwo somnikazi, noma inkampani esemthethweni okuyiyona elawula isikimu sengxenywe yendawo eklanyiwe noma inkampani ebambisene ebhulokhini noma inkampani yabaphathi ephathelene nesikimu sendawo yokuphumula esetshenziswa ngokubambisana banike umlinganisimanani ngendlela ebhalwe phansi noma ngomlomo, imininingwane emayelana nesakhiwo/indawo umlinganisimanani ayidingayo ngenhloso yokwenza izilinganisomanani esakhiweni,”.

Ukuchitshiyelwa kwesigaba sama-46 soMthetho ongunombolo 6 wezi-2004

19. Isigaba sama-46 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sepharagrafu (a) sesigatshana sesi – (2) sepharagrafu elandelayo:

“(a) Ivelu (value) yanoma iyiphi ilayisense, imvume, noma elinye ilungelo elinikezwe ngokusemthethweni elimayela nendawo, kodwa okungesilona ilungelo lokumba (lokumayina) noma imvume yokumba (yokumayina) enikezwe ngokoMthetho Wezokumba kanye nokuThuthukiswa kweZinsiza zokuSaluketshezi wezi-2002 (uMthetho ongunombolo 28 wezi-2002)”.

Ukuchitshiyelwa kwesigaba sama-53 soMthetho ongunombolo 6 wezi-2004

20. Isigaba sama-53 soMthetho omkhulu siyachitshiyelwa

(a) ngokufaka esikhundleni sesigatshana soku- (1) sepharagrafu (a) sepharagrafu elandelayo:

“(a) isinqumo somlinganisimanani ngokulawula kwesigaba sama-51, kuhlanganisa nezizathu zaleso sinqumo, mayelana nalokho kuphikisa;” kanye

(b) nokuchithwa kwesigatshana sesi- (2) neses- (3)

Ukuchitshiyelwa kwesigaba sama-54 soMthetho ongumbolo 6 wezi-2004

21. Isigaba sama-54 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sesigatshana sesi- (2) sepharagrafu (a) sepharagrafu elandelayo”

“(a) Ophikisayo kumele afake isiphikiiso zingakapheli [ezingama-30] izinsuku ezingama-50 kusuka ngosuku isaziso esibhalwe phansi okukhulunywe ngaso esigabeni sama-53 (2) sathunyelwa kumphikisi [noma] uma umphikisi ecele izizathu ngokwesigaba sama-53 (1),

esikhathini esiyizinsuku ezingama-21 emva kosuku izizathu ezathunyelwa ngalo kumphikisi];

Ukuchitshiyelwa kwesigaba sama-55 soMthetho ongunombolo 6 wezi-2004

22. Isigaba sama-55 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka esigatshaneni sesi- (2) sepharagrafu (b) sepharagrafu elandelayo:

“(b) (i) ukukhokhisa, [okanye ukukhokhela] umuntu okufanele akhokhe intela umehluko njengalokhu kulawula ipharagrafu (a) [kuhlanganisa nenzuzo yentela esemthethweni.] ngaphandle kokwengeza inzuzo emalini okumele ikhokhelwe izintela okusuke sekufanele zikhokhwe,”

(ii) ukubuyisela inkokhelo kumuntu okhokhe imali engafani nemali enqunywe ngokwepharagrafu (a) kuhlanganisa nenzalo yaleyo ntela esemthethweni.”.

(b) ukususa/ukucisha isigatshana sesi- (3).

Ukuchitshiyelwa kwesigaba sama-56 soMthetho ongunombolo 6 wezi-2004

23. Isigaba sama-56 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sesigatshana soku- (1) sesigatshana esilandelayo:

“(1) U-MEC wohulumeni beziNdawo kumele, ngokoshicilelo kuGazethi yesiFundazwe, asungule amabhodi amaningi okwedlulisa izikhalo ezimayelana nezilinganisomanani esifundazweni njengalokhu kuyobe kudingekile, kodwa lingabi ngaphansi kwelilodwa

esifundazweni ngasinye [umasipala wesifunda kanye noyedwa] namasipala wedolobhakazi.”.

Ukuchitshiyelwa kwesigaba sama-58 soMthetho ongunombolo 6 wezi-2004

24. Isigaba sama-58 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sesigatshana soku- (1) sepharagrafu (b) sepharagrafu elandelayo:

“(b) amalungu anolwazi olwenele noma inkulalwazi (isipiliyoni) ekulinganisweni kwamanani ezakhiwo/omhlaba akumele abe ngaphansi kwababili futhi angabi ngaphezulu kwamane, okungenani elilodwa kumele kube uchwepheshe okufundele ukwenza izilinganisomanani noma umlinganisimanani ochwepheshe ekwenzeni izilinganisomanani futhi ezingenamingcele futhi enesipiliyoni okungenani seminyaka eyishumi ebhaliswe ngokusemthethweni njengalokhu kulawula uMthetho Wezobuchwepheshe kwezeZilinganisomanani kwezeMihlaba/kwezeZindawo, wezi-2000 (uMthetho ongunombolo 47 wezi-2000).”

Ukuchitshiyelwa kwesigaba sama-78 soMthetho ongunombolo 6 wezi-2004

25. Isigaba sama-78 soMthetho ongunombolo 6 wezi-2004 siyachitshoyelwa-

(a) ngokufaka phakathi esigatshaneni soku- (1) emva kwepharagrafu (g) sepharagrafu elandelayo:

“(h) ivelu eyaqopheka (recorded) ngokungaqondile ngesikhathi esedlule kusomqulu wohlu lwezilinganisomanani ngenxa yesizathu sokuqopheka

(sokubhaleka) noma ukubhala komshini wokuthayipha okwaba nephutha.”;

(b) ukufaka esigatshaneni sesi- (2) samagama andulela ipharagrafu

(a) amagama alandelayo:

“ngokwezinjongo zesigatshana soku- (1) izinhlinzeko zeNgxenye yesi- (2) zeSahluko sesi- 4 kanye, neZahluko esesi-5, esesi-6 kanye nesesi-7, zifundwa nezinguquko ezidingekayo njengalokhu kuyobe kulawula ingqikithi, ziyasebenza ngaphandle-“;

(c) ngokufaka esigatshaneni sesi- (2) sepharagrafu (b) sepharagrafu elandelayo:

“(b) uhlu lwezilinganisomanani oluchitshiyelwe [umqulu uqala ukusebenza osukwini lokuqala lwenyanga olulandela ukuphothulwa kwesikhathi sokuhlolwa kwalo ngumphathi okuyisikhathi esidingekayo sokuhlolwa komqulu owuhla lwezilinganisomanani oluchitshiyelwe njengalokhu kulawula isigaba sama-49 (njengalokhu kufundwa nalesi sahluko), kanye] luyohlala lusebenza ngesikhathi somqulu wangaleso sikhathi wohlu lwezilinganisomanani zikamasipala.”;

(d) ukufakwa esigatshaneni sesi- (4) samagama andulela ipharagrafu (a) amagama alandelayo:

“Izintela (amareyithi) endaweni ethelelwa intela ezigxile ezilinganiswenimanani zaleyo ndawo ezilinganiswenimanani ezichitshiyelwe [umqulu wohlu] zikhokhwa kusukela-“;

(e) ukufaka esigatshaneni sesi- (4) sepharagrafu (a) sepharagrafu elandelayo:

“(a) usuku lokuqala lwenyanga olulandela ukukhishwa kwesaziso njengalokhu kubikwe esigatshaneni sesi- (5) kulezo ndawo okukhulunywe ngazo esigatshaneni soku- (1) (a) noma (f); “;

(f) ukufaka phakathi esigatshaneni sesi- (4) emva kwepharagrafu (a) sepharagrafu elandelayo:

“(aA) usuku lokuqala enyangeni olulandela ukuchonywa kwesaziso njengalokhu kubikwe esigatshaneni sesi- (5) kulezo ndawo okukhulunywe ngazo esigatshaneni soku- 1 (e): kodwa esimeni lapho ivelu yehla endaweni njengalokhu kubekwe esigatshaneni soku- 1 (e), izintela (amareyithi) ziyokhokhwa ngosuku indawo okwenziwe kuyo izilinganisomanani ngalo okungahambanga ngendlela eqondile.”; kanye

(g) nokufaka emva kwesigatshana sesi- (4) sezigatshana ezilandelayo:

“(5) (a) umlinganisimanani kamasipala kumele uma eseqedile ukwenza izilinganisomanani ezichitshiyelwe njengaba kubekwe esigatshaneni soku- (1) (a) kuya ku- (g), nanokuthi emva kokulungiswa njengalokhu kubekwe esigatshaneni soku- 1 (h), athumele lezo zilinganiso noma uma kufanelekile, ngokuhambisa ngokwesigaba se-115 soMthetho woHulumeni baseKhaya, noma nanoma ngayiphi enye indlela yezokuxhumana nomuntu ongumnikazi wendawo obethintekile ngezilinganisomanani

ezichitshiyelwe ezibalulwe esigatshaneni soku- (1) (a) kuya ku (g) kanye nokulungiswa okubhalwe esigatshaneni soku- 1 (h), isaziso esibonisa izilinganisomanani ezichitshiyelwe noma ukulungiswa kwendawo, ngokunjalo neminingwane esohlwini esigabeni sama- 48 (2);

(b) isaziso okubhekiswe kuso kupharagrafu (a) kumele sazise umnikazi wendawo ukuthi angafaka isiphikiso kumenenja kamasipala ngokwesaziso esibhalwe phansi, zingakapheli izinsuku ezingama-21 sokuchonywa kwesaziso mayelana nanoma yiluphi udaba olusezilinganisweni samanani ezichitshiyelwe noma udaba olushiyeke ezilinganiswenimanani ezichitshiyelwe.”;

(6) umasipala, okungenani kanye ngonyaka, kumele ahlele aphinde ashicilele umqulu wohlu lwezilinganisomanani ezichitshiyelwe zazo zonke izakhiwo kuhlenganisa nezilinganisomanani ezichitshiyelwe ezibekwe esigatshaneni soku- (1) ngesikhathi izilinganisomanani ezichitshiyelwe zenziwa futhi zaziswe emphakathini futhi zitholakala ekutheni zingahlolwa ngendlela ehlinzekwe esigabeni sama- 49.”.

Ukuchitshiyelwa kwesigaba sama-80 soMthetho ongunombolo 6 wezi-2004

26. Isigaba sama-80 soMthetho omkhulu siyachitshiyelwa ngokufaka esikhundleni sesigatshana sesi- (2) sesigatshana esilandelayo”

“(2) ukungalandeli imiyalo=

(a) yesigaba se-16 (3) (aA), nesama-21, nesama-31 noma esama-32, kanye

(b) yesikhathi esiqagulwe esazisweni okukhulunywe ngaso esigabeni sesi- 4 (2) (b) (ii),

ngeke kwaxolelwa njengalokhu kulawula isigatshana soku- (1).”.

Ukuchitshiyelwa kwesigaba sama-81 soMthetho ongunombolo 6 wezi-2004

27. Isigaba sama-81 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka esikhundleni sesigatshana soku- (1) sesigatshana esilandelayo:

“(1) U-MEC wohulumeni bezindawo esifundazweni kumele alandelele ukuthi omasipala esifundazweni bayahambisana yini nezinhlinzeko zalo Mthetho, kuhlanganisa nokuqinisekisa ukuthi uhlu lomqulu wezilinganisomanani luyahambisana nesigaba sama-30 kanye nesama-48.”.

(b) ukufaka phakathi emva kwesigatshana soku- (1) sesigatshana esilandelayo:

“(1A) Izindlela ezisemqoka okumele ziqondise ukulandelela kukaMEC (uNgqongqoshe wesifundazwe) oqondene nohulumeni bezindawo njengalokhu kubekwe esigatshaneni soku- (1) kuhlanganisa, kodwa okungasho ukuthi kuphelele lapho, lokhu okulandelayo:

(a) noma ngabe umasipala ulugagulile usuku lwezilinganisomanani njengosuku lwezilinganisomanani eziwayelekile njengalokhu kulawula isigaba sama-31;

(b) noma ngabe umasipala ongenawo amandla okusebenza olwawo uhlu lwezilinganisomanani ngaphakathi, kube ukuthi usikhiphile isikhangiso sokuqashwa komlinganisimanani ngoduku oluqagulwe nguNgqongqoshe ngokwesaziso kuGazethi;

(c) noma ngabe umasipala ukhethe umlinganisimanani kamasipala usuku oluqagulwe nguNgqongqoshe ngesaziso kuGazethi;

(d) noma ngabe imenenja kamasipala ithumele uhlelo lwephrojekthi njengalokhu kubekwe esigatshaneni sama-81 (1B); kanye

(e) nanoma ngabe umlinganisimanani kamasipala uthumelile umqulu wohlu lwezilinganisomanani oqinisekisiwe kumenenja kamasipala ngosuku olunqunyiwe.

(1B) Imenenja kamasipala, ngosuku olunqunywe nguNgqongqoshe ngokwesaziso kuGazethi, kumele ithumele uhlelo lwephrojekthi ku-MEC wohulumeni bezindawooluchaza-

(a) Iminyakazo eneminingwane yezilinganisomanani zazo zonke izakhiwo endaweni engaphansi kukamasipala ekhomba ukuthi umsebenzi wezilinganisomanani uyoqala nini nanokuthi uhlelo lwezilinganisomanani luyophothulwa nini ngokunjalo nalo magxathu alandelayo:

(i) usuku lwezilinganisomanani lukawonkewonke olulandelayo kanye nosuku eziyonqunywa ngalo njengokulawula kwesigaba sama-31;

(ii) usuku umasipala ayokhangisa ngalo ukuqokwa komlinganisimanani kamasipala uma umasipala engenaye ngaphakathi kuwo okwazi ukwenza lo msebenzi;

(iii) usuku umasipala eyokhetha khona umlinganisimanani kamasipala;

(iv) usuku lapho imenenja kamasipala iyothumela khona imibiko mayelana nenqubekelaphambili njalo emva kwezinyanga ezintathu ku-MEC, imibiko eyobe igxile emibikweni yenqubekelaphambili kamasipala yanyanga zonke njengalokhu kubekwe esigabeni sama-34 (Aa), kanye

(v) nosuku oluhlongozwayo umlinganisimanani kamasipala okufanele athumele ngalo kumenenja kamasipala umqulu wohlu lwezilinganisomanani eziqinisekisiwe kube kubhekwa izinhlinzeko zesigaba sama-34 (d).

(b) Imenenja kamasipala kumele zingakapheli izinsuku eziyi-10 emva kosuku lapho isigaba nesigaba sokwenza okukhulunywe ngazo kupharagrafu (a)

kumele sezenzekile athumele umbiko ku-MEC
wohulumeni bezindawo omayelana nesimo salezo
zigaba zokwenza kanye nokuthi uma lezo zigaba
zokwenza zingaphumelelanga, aqagule izinhlelo
azibekile zokuhlenga izimo zokwehluleka
ukuphumelelisa lezo zigaba zokwenza ezisohlwini
lokusebenza futhi nezichibiyelo zeminyakazo
eziyoba namandla okuphumelelisa okufanele
kwenziwe njengalokhu lukhonjiswe esigatshaneni
(1B) (a) (v).

(1C) (a) UNgqongqoshe, ngokwesaziso kuGazethi,
anganquma ukuthi yibaphi omasipala okungasebenzi kubo
izinhlinzeko zalesi sigaba;

(b) ukunquma okukhulunywe ngakho

kupharagrafu (a) kungehluka ngokomasipala
ngokwezinhla, izinhloso, noma ngokubheka
ubukhulu besabelomali noma nanganoma iyiphi
indlela.

(1D) Imenenja kamasipala kumele ithumele imibiko
ngokufometha kanye nangezikhathi ezithile njengalokhu
kuyobe kubekwe ngokomthetho kulabo ababambe iqhaza
njengalokhu kungaba kubekwe ngokomthetho
ezibonakalisweni ezithile zokuphumelelisa izinhlinzeko
zoMthetho.

Ukuchitshiyelwa kwesigaba sama-83 soMthetho omkhulu siyachitshiyelwa-

28. Isigaba sama-83 soMthetho omkhulu siyachitshiyelwa-

(a) ngokufaka esigatshaneni soku- (1) emva kwepharagrafu (a) yepharagrafu elandelayo”

“(aA) Inqubo okufanele ilandelwe kanye nemibandela okumele ilandelwe ukuze kufaneleke ukukhululeka njengalokhu kubekwe esigabeni se-17 (i) (j)”;

(b) ngokufaka esikhundleni sesigatshana sesi- (3) sesigatshana esilandelayo:

“(3) Imithethomigomo ngokwesigatshana soku- (1)-

(a) ingabandlulula izinhla ezechukene zezindawo, noma izinhla ezechukene zabanikazi bezindawo, ngokungefani; noma

(b) ingehlukanisa phakathi kwezinhlobo ezechukene zomasipala, ngenhloso yalesi sahluko, ngokwezinhla noma izinhlobo noma ubukhulu besabelomali noma nanoma ngayiphi indlela.”;

(c) ngokufaka emva kwesigatshana sesi- (3) sesigatshana esilandelayo:

“(4) UNgqongqoshe, ngokwesaziso kuGazethi,

(a) angabambezela ukuqaliswa kwezinhlinzeko zomthethomgomo owenziwe ngokwesigatshana soku- (1) ngesikhathi esinqunywe esazisweni’

(b) lapha izimo zempela zikuvimbela ukusetshenziswa kesigatsha esithile esihlongozwe phantsi komthethomgomo owakhiwe ngokwesigatshana soku- (1) angakhulula umasipala kulolo hlinzeko isikhathi, nangaphansi kwaleyo mibandela, njengalokhu kunquywe esazisweni.”.

Ukuchithwa (ukupheliswa) kwesigaba sama-88 soMthetho ongunombolo 6 wezi-2004

29. Isigaba sama-88 soMthetho omkhulu siyachithwa.

Ukufakwa kwesigaba sama-89A soMthetho ongunombolo 6 wezi-2004

30. isigaba esilandelayo siyafakwa eMthethweni omkhulu emva kwesigaba sama-89:

“Amalungiselelo okuguqulela kwesinye isimo aphaathelene nokunqunywa kwemingcele kamasipala: ukusetshenziswa komqulu wohlu wezilinganisomanani kanye nemiqulu yezinhla zezilinganisomanani ezichitshiyelwe

89A (1) Uma, ngenxa yemiphumela yokunqunywa komngcele komasipala ngokohulumeni bezindawo: uMthetho Wokuklanywa Kwemingcele kaMasipala, we-1998 (uMthetho ongunombolo 27 we-1998), indawo ifakwa ngaphakathi endaweni elawulwa umasipala, lowo masipala-

(a) angaqhubeka asebenzise umqulu wohlu lwezilinganisomanani kanye nomqulu wohlu lwezilinganisomanani oluchitshiyelwe owawusebenza endaweni efakwe ngaphansi kwendawo elawulwa ngumasipala lowo, kanye

(b) nokuthi angathelisa intela ezinsaweni ezikhonjeswe kulowo mqulu wohlu lwezilinganisomanani noma umqulu wohlu lwezilinganisomanani oluchitshiyelwe;

kuze kube umasipala ulungisa umqulu wohlu lwezilinganisomanani noma umqulu wohlu lwezilinganismanani oluchitshiyelwe ofaka naleyo ndawo.

(2) uma umasipala esebenzisa imiqulu yezinhla zezilinganisomanani kanye nalowo ochitshiyelwe ngokwesigatshana soku- (1), lowo masipala, nakuba kunezinhlinzeko zesigaba se-19 (1) (a), anganquma izintela ezingefani ezigxile emiqulwini yezinhla eyehlukene noma kuleyo miqulu echitshiyelwe, ukuze inani lemali ngokweRandi njengalokhu lisebenza ngaleso sikhathi endaweni ekhokhwa ezakhiweni ezifanayo kungenzeka icishe ifane.”.

Ukufaka esikhundleni sesigaba sama-90 soMthetho ongunombolo 6 wezi-2004

31. Isigaba esilandela isigaba sifakwa esikhundleni sesigaba sama-90 soMthetho omkhulu:

“Amalungiselelo okuguqulela kwesinye isimo aphathelene nokunqunywa kwemingcele kamasipala: izinqubomigomo ezisebenzayo

90. (1) Uma, ngenxa yemiphumela yokunqunywa komngcele komasipala ngokohulumeni bezindawo: uMthetho Wokuklanywa Kwemingcele kaMasipala, we-1998 (uMthetho ongunombolo 27 we-1998), indawo ifakwa ngaphakathi endaweni elawulwa umasipala ngesikhathi sokusebenza kwezimali zalowo nyaka, lowo masipala ngaleso sikhathi sonyaka wezimali lapgo ukufakwa kuqala khona-

(a) angaqhubeka nokusebenzisa inqubomgomo yokuthelisa leyo eyayisebenza endaweni esifakwe ngaphansi kolawulo lwalowo masipala; nanokuthi

(b) angathelisa izintela ezihambisanayo naleyo ngubomgomo yokuthelisa intela.:

Ukuchithwa (ukucishwa) kwesigaba sama-91, kube esama-92, kanye nesama-93 soMthetho ongunombolo 6 wezi-2004

32. Izigaba okungesama-91, kube esama-92 kanye nesama-93 soMthetho omkhulu ziyachithwa (ziyacishwa).

Ukufakwa kwesigaba sama-93A eMthethweni ongunombolo 6 wezi-2004

33. Isigaba esilandelayo siyafakwa eMthethweni ongunombolo 6 wezi-2004

“Amalungiselelo okuguqulela kwesinye isimo: ingqalasizinda yezidingo zomphakathi

93A. (1) Ukwenqatshelwa kokutheliswa kwentela kungqalasizinda yezidingo zomphakathi okukhulunywe ngakho esigabeni se-17 (1) (aA) kumele kufakwe isikhathi esiyiminyaka emithathu, kusukela ngosuku okuqal ngalo ukusebenza koMthetho WoHulumeni Bezindawo: uMthetho kaMasipala Wentela Yezindawo Ochitshiyelwe, wezi-2011.

(2) Intela ethelelwa indawo okukhulunywe ngayo esigatshaneni soku- (1) kumele-

(a) onyakeni wokuqala, okungafanele kube ngaphezulu kwamaphesenti angama-75 entela yalowo nyaka ngaphandle uma lokho kusebenza kuleyo ndawo;

(b) onyakeni wesibili, okungafanele kube ngaphezulu kwamaphesenti angama-50 entela yalowo nyaka ngaphandle uma lokho kusebenza kuleyo ndawo; kanye

(c) nanokuthi onyakeni wesithathu, okungafanele kube ngaphezulu kwamaphesenti angama-25 entela yalowo nyaka ngaphandle uma lokho kusebenza kuleyo ndawo.

Amalungiselelo okuguqulela kwesinye isimo

34. Izinhlinzeko zesigaba sesi-8 soMthetho wohulumeni bezindawo: uMthetho kaMasipala Wentela Yezindawo, wezi- 2004, njengalokhu uchitshiyelwe ngesigaba sesi-5 salo Mthetho, zisebenza kulabo masipala-

(a) ukuthi umthetho uqalisa ukusebenza lulu-1 kuNtulikazi (uJulayi) 2006, lulu-1 kuNtulikazi 2007, kanye nalapho lulu-1 kuNtulikazi 2008, kusukela lulu-1 kuNtulikazi 2015;

(b) ukuthi umthetho uqalisa ukusebenza lulu-1 kuNtulikazi (uJulayi) 2009, lulu-1 kuNtulikazi 2010, kanye nalapho lulu-1 kuNtulikazi 2011, kusukela ngosuku lokuqala kokusebenza komqulu wezilinganisomanani olandelayo olungiswe (ohlelwe) ngokoMthetho.

Isihloko Ngokufingqiwe

35. Lo Mthetho ubizwa ngoMthetho Wohulumeni Bezindawo: uMthetho kaMasipala Wentela Yezindawo Ochitshiyelwe, wezi- 2011.

IMEMORANDAMU YEZINJOGO ZOHULUMENI BEZINDAWO: UMTHETHOSIVIVINYWA OCHITSHIYELWE WENTELA KAMASIPALA YOBUNINIMHLABA, WEZI-2011

1. ISENDLALELO

Kusukela omasipala aba-4 baqala ukwenza izilinganisomanani kanye nokuklama izinhlelo zentela njengalokhu kulawula uMthetho woHulumeni Bezindawo: uMthetho Wentela kaMasipala Yobuninimhlaba "uMthetho" lulu-1 kuNtulikazi 2006 abasebenzi bakamasipala basukumile batikatikana nobuqiniso balolu hlelo basebenzisa isiqeshana somthetho esikhathini esiningi obekulokhu kukhulunywa ngaso kusukela ngosuku owaqala ngalo okungumhla zi-2 kuNtulikazi 2005 kwabuye kwancishiswa ukuze kuphunyeleliswe uhlaka lomthethomgomo lwawo kancane kancane iminyaka eyisihlanu.

Uma sibheka kabanzi esikufunde komasipala abangama-27 okuyibona baqala ukusebenzisa lo Mthetho ngonyaka wezi-2006 kanye nangowezi-2007, uMthetho wachitshiyelwa ngokwezichibiyelo zoMthetho weMithetho yoHulumeni beZindawo, wezi-2008 (owaqala ziyi-13 kuMfumfu/ku-Okthoba 2009).

Ngokwesipiliyoni 9ngokwenkulalwazi) esitholakale ngabanye omasipala abengeziwe abaqalisa/abaphumelelisa uMthetho ngonyaka wezi-2008 kanye nowezi-2009 ngokulandelana kwayo, kuyacaca ukuthi lezi zifundo ezifundwe ngokulandelela ukuqaliswa/ukuphumeleliswa kudale ukuthi kube nesidingo sokuthi uMthetho uphinde uchitshiyelwe ukuze ukwazi ukuphumeleliseka kahle futhi kunciphe ukuhunyushwa kwawo okungaqondile okude kuqhamuka kanye nenqubomgomo. Ngaphezu kwalokho kunokuchitshiyelwa okusemqoka okuhlongoziwe kunqubomgomo nanokuthi lokho kuchitshiyelwa okuhlongoziwe kususwe okufundiwe ngesikhathi kuqaliswa uhlaka lwemithethomigomo yoMthetho, kanye nokuqhubeka nokuxhumana nababambiqhaza abasemqoka, kuhlenganisa umuntu ngayedwana kanye nabakhokhi bentela abahlelekile, kanye nabenzi bemisebenzi

mayelana nezinselelo okuhlangatshazanwe nazo ngesikhathi kuqhutshwa umsebenzi wokuphumelelisa uMthetho eminyakeni eyedlule esigabeni sokuqala sokuphumelelisa lo Mthetho.

2. IZINJONGO ZOMTHETHOSIVIVINYWA

Injongo enkulu yoMthethosivivinywa ukusombulula izinkinga okuhlangatshazanwe nazo ngesikhathi kuqaliswa uMthetho esikhathini esiyiminyaka eyisihlanu edlule kanye nokuqguqguzela ukuqalisa/ukuphumelelisa lo Mthetho ngendlela enempumelelo kanye negculisayo.

3. IQOQA LOMTHETHOSIVIVINYWA

Isigatshana somthetho soku-1 sichibiyela isendlalelo ngenhloso yokucacisa ukuthi ingeniso (imali engenayo) etholakale ngentela yobuninimhlaba, ngokuhambisana nemigomo yentela ejwayelekile, engahlangene nohlinzeko oluthile lukamasipala noma uhlinzeko lwengqalasizinda yomsebenzi othile kamasipala kodwa leyo ngeniso etholakale ingumthombo ojwayelekile wezimali ezingenayo.

Isigatshana somthetho sesi-2 sifaka izincazelo ezehlukene iningi lazo ezethulwayo ngenxa yokwethulwa kohlaka lwezinhlobo zemihlaba ezibuyekeziwe kusigatshana somthetho sesi-8 kanye nezinye izincazelo ezehlukene ezifakwe ngenhloso yokucacisa izindaba ezehlukene eziseMthethweni okuze kube yimanye bezilokhu zivuleleke ekutheni zihumusheke ngezindlela ezehlukene okugcina sekudale izihibe ekuphumeleliseni ngendlela enempumelelo uMthetho; zonke lezi zincazelo zethulwe ngenhloso yokwenza lula uMthetho, ziwenze ukuthi usebenziseke kalula, nanokunciphisa ukuhumusheka komthetho kanye nenqubomgomo ngendlela engaqondile.

Isigatshana somthetho sesi-3 sihlinzeka ngokuchibiyela okunohlelo olulandelanayo esigabeni sesi-3 soMthetho kwehle kusuka ekuchitshiyelweni kuya esigabeni sesi-8 kanye nokuhlinzeka ukuthi inqubomgomo yezintela kumele inqume izindlela zokuthi

kungabi ukwenyuswa kwezintela nje kuphela kodwa kubhekelwe futhi nokwehliswa kwazo. Lesi sigatshana somthetho siphinde sihlizwe nangezindaba umasipala okufanele azibheke uma akha izindlela zokuxolela, imalimbuyiselo kanye nokunciphisa ngasohlangothini lwezindawo zezolimo zincishiswa kusuka kokune kuya kokubili ngenxa yokuthi okubili sekuvele sekubhekelwe "ebukhulwini bezilinganiso" phakathi kwezindawo zokuhlala kanye nezokulima ezamanyezelwa ngokwesigaba se-19 futhi saqala ukusebenza lulu-1 kuNtulikazi 2009. Isigatshana somthetho ekugcineni sihlizwe ngokuthi umnikelo wezolimo kunhlalakahle yomphakathi kanye neyezomnotho wamanye amalungu omphakathi aziswe ngaphezu komnikelo wawo kunhlalakahle yabasebenzi basemapulazini.

Isigatshana somthetho sesi-4 sichibiyela isigaba sesi-7 (2) (a) (iii) soMthetho ngenhloso yokuhlizwe ngokuthi izindawo lapho kunelungelo lokuhlala khona uyasebenza nanokuthi lapho kungekho ezohwebo eziqhubekayo khona nanokuthi umasipala engenazo izinhloso zokuthelisa intela kuzo, lapho singekho isidingo segunya esibekwe kumasipala sokwenza izilinganisomanani kulezo zindawo.

Isigatshana somthetho sesi-5 sichibiyela isigaba sesi-8 soMthetho ngenhloso yokwenza umkhawuko ngokwezinhlobo zezindawo okufanele zisetshenziswe kanye neziniwe imvume yokusetshenziswa kuphela. Ngaphezu kwalokho uhlu lwezinhlobo zezindawo okumele, lapho kunokwenzeka khona, zinqunywe/ziklanywe manje sezihlelwe esigatshaneni sesi- (3). Ukuqinisekisa ukuthi lesi sigaba sisebenza ngempumelelo zonke izinhlobo ezehlukene zezindawo manje sezichazwe esigabeni soku- (1) soMthetho.

Isigatshana somthetho sesi-6 sihlizwe ngokuchitshiyelwa okulandelananyo kwesigaba sesi- 9 (1) (c) kusukela ekuchibiyeleni kuya esigabeni sesi- 8.

Isigatshana somthetho sesi-7 sichibiyela isigaba se-11 ngenhloso yokuhlizwe ngokuthi inani lentela elimile elifanayo lingatheliswa kuphela ezindaweni zokuhlala.

Isigatshana somthetho sesi-8 sichibiyela isigaba se-15 ngenhloso yokuhlinzekela ngezindlela ezithe xaxa lapho umasipala enganika ilungelo lokungakhokhi, lokuhleshuliwe emalini noma kuzaphulelo. Isigatshana somthetho siphinde sisuse isibopho kumasipala njalo ngonyaka ezibonisa ingeniso (imali engenayo) eshiyiwe emayelana ngokukhishelwa ngaphandle njengalokhu kubekwe ezigatshaneni ezehlukene zesigaba se-17.

Isigatshana somthetho sesi-9 sichibiyela isiagaba se-16 soMthetho ngenhloso yokuhlinzeka ngokuthi umkhawuko wentela ohlotsheni oluthile lwendawo owenziwe nguNgqongqoshe kumele anqume ngokubambisana noNgqongqoshe wezeZimali nanokuthi ingxenye yomnotho kumele ixhumane no-MEC oqondene nohulumeni bezindawo ngaphambi kokucela uNgqongqoshe ukuba ahlolisise ubufakazi bokuthi intela ohlotsheni lwendawo noma intela ohlotsheni oluthile lwendawo engaphezulu kwenani ngokweRandi iyalimaza yini ngokungenasidingo kunoma yiluphi udaba olusohlwini olusesigabeni se-16 (1). Isigatshana somthetho ngaphezu kwalokho senza umkhawuko (limit) esikhathini okumele kuthunyelwe ngaso lesi siculo kuNgqongqoshe okuyisikhathi esiphakathi kwezinyanga eziyi-12 kusukela osukwini okufakwe ngalo intela ezosebenza.

Isigatshana somthetho se-10 sichibiyela isigaba se-17 soMthetho ngenhloso yokuhlinzekela-

- Ukungafakwa ohlelweni lwentela kwezinhlobo ezithile zengqalasizinda yezinsiza zomphakathi;
- Ukungafakwa ohlelweni lwentela kwamalungelo okumba (okumayina) noma izimvume zokumba, kungahlanganisi ingqalasizinda engaphezu komhlabathi uma kubhekiswe endaweni yokumba;
- Ukungafakwa ohlelweni lwentela umhlaba okungowomzuzi wefa lomhlaba owenziwe kabusha noma indalifa yakhe ifaka phakathi nabazuzi efeni noma

- okuganenze naye, kanye nokuthi lokhu kungafakwa kuphela eminyakeni eyishumi kusukela ngosuku lapho itayitela lomzuzi labhalwa ngokusemthethweni noma lapho kwehlukani indawo/umhlaba/impahla;
- Ukungafakwa ohlelweni lokuthelisa indawo/umhlaba/impahla, imali ekhokhwa ngaleso sikhathi engedluli enanini njengalokhu linqunywe nguNgqongqoshe ngokubambisana noNgqongqoshe wezeZimali, okungeyomnikazi othola isibonelo sobudala sikhulumeni noma abathola isibonelelo sabanokukhubazeka. Izichibiyelo ezilandelayo zenziwe kwezinye izigatshana zesigaba se-17 ukuze zihambisane nezichibiyelo ezenziwe lapha; kanye
- Nokungafakwa ohlelweni lwentela ekupheleni kosebe uma noma iyiphi ingxenye yehlukanisiwe;
- Nakuba kunjalo izinhlinzeko zesigaba sama-78, uma indawo/umhlaba lapho ukubekwa kwayo ngokusemthethweni kuqedwa, kumele kuwele kulowo masipala wanoma iyiphi intela, obekungesiyona eyesigatshana soku- (1) (e) okwakufanele ngabe ikhokhwe endaweni/empahleni ngesikhathi siqala ngosuku lokuqala lwalo hlu lwezilinganisomanani zangaleso sikhathi sikamasipala;
- Nokuthi nakuba kunjalo izinhlinzeko zesigaba sama-78, uma ukungafakwa ohlelweni lwentela yendawo/umhlaba olusetshenziselwa indawo yokuhlala kuphela, sokuthi umphakathi ongamakholwa owengamele indawo kufanele ubhekane nalowo masipala nganoma iyiphi intela ebingafakiwe ohlelweni oluhlinzekwe esigabeni se-17, yayingabe ikhokhelwe indawo/umhlaba, esikhathini esingangonyaka owodwa owandulela usuku lokungafakwa.

Isigatshana somthetho se-11 sichibiyela isigaba se-19 soMthetho ngenhloso yokuhlinzeka ngokuthi umasipala angathelisa izintela ezehlukene ezindaweni

zokuhlala uma lezo ndawo zingahlali muntu, futhi zingenanhloso yokusetshenziselwa utho oluthile noma zingasetshenziselwa inhloso egunyaziwe.

Isigatshana somthetho se-12 sichibiyela isigaba sama-20 soMthetho ngenhloso yokugunyaza uNgqongqoshe ngokubambisana noNgqongqoshe wezeZimali ukuba amise imikhawuko eyehlukene ezinhlotsheni ezehlukene zomasipala njengalokhu kunganqunywa futhi kungabanjezelwa ukuwuqalisa umkhawuko njengalokhu kubekwe kuleso sigaba isikhathi esinqunywe ngaphambili.

Isigatshana somthetho se-13 sichibiyela isigaba sama-25 soMthetho ngenhloso yokuhlinzeka ngokuthi umnikazi wezindawo ezisetshenziswa ngokwehlukile esikimini sezingxenye yendawo eklanyiweyo (*sectional title scheme*) kufanele akhokhe intela ngaphandle kokubheka ukuthi lo mnikazi yinhlangano emisiwe (*body corporate*) noma ngumnikazi wengxenye yesikimu sengxenye yendawo eklanyiweyo (*sectional title scheme*).

Isigatshana somthetho se-14 sichibiyela isigaba sama-27 soMthetho ngenhloso yokuhlinzekela ukuthi umuntu okulindeleke ukuba akhokhe intela kumele anikeze umasipala imininingwane yakhe yekheli lokuposa.

Isigatshana somthetho se-15 sichibiyela isigaba sama-30 soMthetho ngenhloso yokuhlinzekela ngokuthi izindawo ezingafakiwe ngokugcwele ohlelweni lokukhokha izintela akumele kwenziwe kuzo izilinganisomanani. Ngaphezu kwalokho, isigatshana somthetho sihlizenzekela ngokuthi izindawo ezithile ezingafakiwe ngaphansi kohlelo lwentela kumele zifakwe kusomqulu wohlu lwezilinganisomanani kungakhathaleki noma zazenziwe kuzo izilinganisomanani noma cha.

Isigatshana somthetho se-16 sichibiyela isigaba sama-32 soMthetho ngenhloso yokuhlinzekela ukuqinisekisa ukusebenza komqulu wohlu lwezilinganisomanani kusukela eminyakeni emine kuya kweyisihlanu kanye nokuhlinzekela ngokuthi u-MEC kahulumeni wezindawo anganweba lesi siqinisekiso sokusebenza kuze kufinyelele eminyakeni eyisikhombisa.

Isigatshana somthetho se-17 sichibiyela isigaba sama-34 soMthetho ngenhloso yokwenza kube isidingo (umyalelo) ukuthi umlinganisimanani kamasipala athumele umbiko wokusebenza njalo ngenyanga kumenenja kamasipala, okuwumbiko wezilinganisomanani zezindawo.

Isigatshana somthetho se-18 sichibiyela isigaba sama-42 soMthetho ngenhloso yokugunyaza ukuthi inhlango emisiwe noma inhlango ephethe elawula isikimu sendawo eklanyiwe kanye nenkampani ebambisene yebhulokhi ngokulandelana kumele banike umlinganisimanani ilungelo lokuthola imiqulu (amadokhyumenti) noma ulwazi oludingwa ngumlinganisimanani ngenhloso yokwenza izilinganiso endaweni.

Isigatshana somthetho se-19 sichibiyela isigaba sama-46 soMthetho ngenhloso yokuhlinzekela ukuthi ilungelo lokumba (lokumayina) noma imvume yokumba ingacutshungulwa ngezinhloso zokwenza izilinganisomanani endaweni.

Isigatshana somthetho sama-20 sichibiyela isigaba sama-53 soMthetho ngenhloso yesidingo sokuthi umlinganisimanani kamasipala azise umphikisi (umuntu ofaka isiphikiso) ngesinqumo somlinganisimanani kanye nezizathu zaleso sinqumo kanye nokuchitha isidingo somnikazi wendawo sokucela lezo zizathu ngendlela ebhalwe phansi nangokukhokha imali ethile.

Isigatshana somthetho sama-21 sichibiyela isigaba sama-53 soMthetho ngenhloso yokunweba isikhathi sokufaka isikhalo sokuphikisa phakathi kwezinsuku ezingama-30 kuya kwezingama-50 kanye nokuqalisa isichibiyelo sokulandelela esigabeni sama-54 ngenxa yesichibiyelo sesigaba sama-53.

Isigatshana somthetho sama-22 sichibiyela isigaba sama-55 ngenhloso yokususa isidingo sokukhokhwa kwenzuzo (interest) ngumnikazi wendawo ethinteki ngenxa yokwenyuka kwezilinganisomanani ezindaweni zabo kanye nokuhlinzekela umasipala ngokuthi aphinde akhokhele umnikazi wendawo inzuzo lapho kube nokwehla khona kwezilinganisomanani endaweni.

Isigatshana somthetho sama-23 sichibiyela isigaba sama-56 ngenhloso yokususa isidingo segunya (*mandatory requirement*) lokusungula ibhodi okwedluliselwa kulo izikhalo ngezilinganisomanani kubo bonke omasipala bezindawo.

Isigatshana somthetho sama-24 sichibiyela isigaba sama-58 ngenhloso yokuhlinzekela ngokuthi ubulungu bebhodi okwedluliselwa kulo izikhalo bungafaki phakathi inhlango yochwepheshe kwezokulinganiswa kwamanani engenamikhawuko futhi enenkulalwazi (isipiliyoni) yeminyaka eyishumi.

Isigatshana somthetho sama-25 sichibiyela isigaba sama-78 ngenhloso yokunweba (ukukhulisa) izimo lapho izilinganisomanani ezichitshiyelwe kumele zenziwe zikwazi ukufaka indawo lapho izilinganisomanani zazingarekhodekile ngendlela kusomqulu wezilinganisomanani ngenxa yephutha lehhovisi noma lokubhala komshini okunamaphutha; ukuchibiyela izinsuku okuqalwe ngazo ukuchibiyela izilinganisomanani kanye nezinsuku izintela ezindaweni ezikhokhwa ngazo, okuyizindawo ezithintekayo kuzilinganisomanani ezichitshiyelwe. Ngaphezu kwalokho isigatshana somthetho sihlizenzeka ngokwazisa abanikazi bezindawo ezithintekayo ezilinganiswenimanani ezichitshiyelwe.

Isigatshana somthetho sama-26 sichibiyela isigaba sama-80 ngenhloso yokunweba (yokukhulisa) izinhlinzeko, ukungahambisani nomyalelo futhi okungeke kwaxolelwa.

Isigatshana somthetho sama-27 sichibiyela isigaba sama-81 ngenhloso yokuhlomisa u-MEC wohulumeni bezindawo ngokuthi alandelele (*monitor*) ngendlela enempumelelo kakhulu omasipala ekuphumeleliseni uMthetho kanye nokuthi ikakhulukazi nasenqubeni yokuhlanganisa (*compilation*) umqulu wohlu lwezilinganisomanani kanye nokuqinisekisa izindlela zokuhambisana nezinhlinzeko zoMthetho zemiyalelo yokulandelela.

Isigatshana somthetho sama-28 sichibiyela isigaba sama-83 ngenhloso yokuhlinzekela ngezindlela ezehlukene zokuphumelelisa uhlaka lomthethomgomo woMthetho kanye nokuhlinzekela ngokufakwa kohlaka lomthethomgomo woMthetho lapho kudingeka khona kanye nalapho kunokuxegiswa khona

kwezinhlinzeko ezithile zemithethomigomo kunoma yimuphi umasipala ngaphansi kwesisekelo esifanele semibandela njengalokhu kungabe kunqunywe.

Isigatshana somthetho sama-29 sichitha isigaba sama-88 njengalokhu singenanhloso kulokhu.

Isigatshana somthetho sama-30 sifaka isigaba esisha okungesama- 89A, ukuhlinzekela ngamalungiselelo okuguqulela kwesinye isimo mayelana nokusetshenziswa kosomqulu bezilinganisomanani kanye nosomqulu bezilinganisomanani ezichitshiyelwe ezimeni lapho kunokuklanywa khona kabusha komngcele kamasipala.

Isigatshana somthetho sama-31 sifakwa esikhundleni sesigaba sama-90 ngenhloso yokuhlinzeka ngamalungiselelo okuguqulela kwesinye isimo mayelana nokusetshenziswa kwezinqubomgomo zentela ezisebenza ezimeni lapho kunokuklanywa khona kabusha komngcele kamasipala.

Isigatshana somthetho sama-32 sichitha izigaba ezilandelayo, okuyisigaba sama-91, kube esama-92 kanye nesama-93 njengalokhu lezi zigaba zingasenzinhloso.

Isigatshana somthetho sama-33 sifaka isigaba esisha sama-89A esihlinzekela ngokufakwa kokwenqabela ukuthelisa intela ezinhlobeni ezithile zengqalasizinda yezinsisa zomphakathi.

Isigatshana somthetho sama-34 sihlizekela ngokuthi izinhlinzeko zesigaba sesi-8, njengalokhu sichitshiyelwe yilo Mthetho, uqala ukusebenza ngezinsuku ezehlukene ngokomasipala abehlukene lokhu okuncike osukwini umasipala aqalise ngalo ukuphumelelisa lo Mthetho okokuqala.

Isigatshana somthetho sama-35 siqukethe isihloko esifinqiwe.

3. IZINHLAKA OKUXHUNYANWE NAZO

Lezi zinhloko ezilandelayo kuxhunyanwe nazo:

- UMgcinimafa kaZwelonke;

- INhlangano YaseNingizimu Afrika yoHulumeni BeziNdawo;
- iKhomishana Yesikhwama seZimali zikaHulumeni;
- Indlu yaBabhekele izimali zikaMasipala;
- ISigungu soNgqongqoshe beZifundazwe zeMinyango eyehlukahlukene (IMinMEC) kwezokuBuswa ngokubambisana kanye neZindawo zoMdabu;
- Izimbizo zokuzwa uvo lomphakathi zabanjwa kuzo zonke izifundazwe eziyisishiyagalolunye lapho abakhokhintela, ababambiqhaza kanye namalungu ajwayelekile omphakathi babamba iqhaza kulo mshikashika;
- Umbimbi kwezokusebenza ngokubambisana kanye nokuphatha (FOSAD)

4. IZIMALI EZINGASE ZIDINGEKE KUMBUSO

Akukho okufanekiswayo.

5. IZIMALI EZINGASE ZIDINGEKE EZIFUNDAZWENI

Izimali ziyadingeka kangangokuthi leyo minyango yezifundazwe okuyiyona ebhekele uhulumeni wezindawo kuyodingeka ikhulise izakhiwo zayo ngendlela ezovumela ukuthi u-MEC wohulumeni bezindawo esifundazweni akwazi ukulandelela ngqo ukuqaliswa koMthetho komasipala ngokubheka izinhlinzeko (*provisions*) ezineminingwane yokulandelela njangalokhu kubekwe esigabeni se-18 kanye nalezo ikakhulukazi ezixhumekeke lapho. Kumele kugcizelelwe ukuthi nakuba kukhona ukuchitshiyelwa okuhlongoziwe koMthetho, iminyango yezifundazwe ebhekele ohulumeni bezindawo kufanele babe nezakhiwo ezifanele uma befuna ukuphumelelisa ukulandelela kanye nokwesekela ngokomthethosisekelo.

6. IZIMALI EZINGASE ZIDINGEKE NGASOHLANGOTHINI LOMASIPALA

Kusobala ukuthi isidingo sezinhlizwe zezimali kulezo ngqalazizinda zezinsiza zomphakathi yizona zinhlinzeko ezisemqoka eziyodinga imali, ikakhulukazi labo masipala njengamanje abathelisa intela kungqalasizinda yezinsiza zomphakathi (PSI). Komasipala abangama-257 abanamandla okuthelisa intela yezindawo/yobuninimhlaba abangama-71 kubo abakwazi ukuhlangabezana

nomklamo obubekelwe ukuthelisa intela yengqalasizinda yezinsiza zomphakathi (PSI) eminyakeni yezimali okungowezi-2009/2010 kanye nowezi-2010/2011 kanye nokuthi izimali eziyizihlawumbiselo (*estimates*) ingafakiwe ingqalasizinda yezinsiza zomphakathi ekukhokheni intela zazilinganiselwa ezigidini ezingama-R73, 993, 000, okuthi akube ngamaphesenti ayi- 0,43 (0,43%) ezimali zentela sezizonke okulinganiselwa ekuthini ziyangena.

7. INQUBO YEPHALAMENDE

Abeluleki bezoMthetho Bombuso kanye noMnyango wezokuBusa NgokuBambisana banombono wokuthi uMthethosivivinywa ochitshiyelwayo kumele kuxoxwe ngawo ngokwenqubo ebekwe ngokusemthethweni esigabeni sama-75 soMthethosisekelo. UMthethosivivinywa awuweli ngaphansi kwezindawo zokusebenza njengalokhu zibalulwe kuSheduli yesi-4 yoMthethosisekelo, kanti futhi awuhlinzeki uMthetho oboniswe esigabeni okukhulunywe ngazo esigabeni sama-76 (3) soMthethosisekelo.

Abeluleki BezoMthetho Bombuso banombono wokuthi kuyobaluleka ukwedlulisela lo Mthethosivivinywa eNdlini yobuHoli boMdabu kaZwelonke njengalokhu kulawula isigaba se-18 (1) soHlaka loMthetho WobuHoli boMdabu, wezi-2003 (okunguMthetho ongunombolo 41 wezi-2003) ngoba noma ungaqukethe izinhlinzeko eziphathelele ngqo nemithetho yomdabu noma imithetho yomdabu yabaholi bomdabu inawo ngandlela thize umthelela ezindaweni eziphathelele nomhlaba wokuhlala uma kubhekwa ukuqashwa kwezindawo ezithile lapho kusebenza khona ilungelo lokuhlala endaweni.
