**IMEMORANDAMU MAQONDANA NEZINJONGO ZOMTHETHOSIVIVINYWA WOKUGUQUGUQUKA KWESIMO SEZULU, WEZI-2022**

1. **INHLOSONGQANGI YOMTHETHOSIVIVINYWA**

Inhlosongqangi yoMthethosivivinywa ukwakha kanye nokuqalisa ukusebenza kwendlela esebenza ngempumelelo, kazwelonke, yokusabela ekuguquguqukeni kwesimo sezulu, okuhlanganisa izenzo zokunciphisa nokuzivumelanisa nezimo, ezimelele igalelo elifanelekile leRiphabhulikhi ekusabeleni komhlaba wonke ekuguquguqukeni kwesimo sezulu.

1. **IZINJONGO ZOMTHETHOSIVIVINYWA**

Injongo enkulu yoMthethosivivinywa ukuvumela ukusungulwa nokuthuthukiswa kwendlela esebenza ngempumelelo yokusabela ekuguquguqukeni kwesimo sezulu kanye noguquko lwesikhathi eside olunobulungiswa lokushintshela emnothweni kanye nomphakathi ozokwazi ukumelana nesimo sezulu esixakile futhi okhiqiza ikhabhoni ephansi, kanjalo nokuhlinzekela izindaba ezihlobene nalokho.

1. **UKUHLAZIYWA KOMTHETHO**
   1. **Umshwana 1**

Umshwana 1 uhlinzekela incazelo yamagama athile, amatemu kanye nezinkulumo/amazwi ezisetshenziswe kuMthethosivivinywa.

* 1. **Umshwana 2**

Umshwana 2 uveza obala izinjongo zoMthethosivivinywa.

* 1. **Umshwana 3**

Umshwana 3 uveza obala imigomo ezoqondisa ukuhunyushwa kanye nokusetshenziswa koMthetho.

* 1. **Umshwana 4**

Umshwana 4 uhlinzekela ukuthi uMthethosivivinywa usebenza ngaphakathi kwemingcele yeRiphabhulikhi kanye nokuthi ubophezela zonke izinhlaka zombuso njengoba zichaziwe esigabeni 239 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, we-1996 (‘‘uMthethosisekelo’’). Umshwana uphinde uhlinzekele ukuthi uMqondisi Omkhulu weKhomishana kaMongameli Yesimo Sezulu kufanele ahambise kuNgqongqoshe umbiko omayelana nemisebenzi yeKhomishana kanye nokwenziwa kwemisebenzi yayo kanjalo nochithomali lweKhomishana ekupheleni kwekota ngayinye. Ngaphezu kwalokho, uMqondisi Omkhulu kufanele ahambise izitatimende zezimali zeKhomishana kaMongameli Yesimo Sezulu kanye nombiko wocwaningomabhuku walezo zitatimende kuNgqongqoshe njalo ngonyaka futhi uNgqongqoshe kufanele ethule leyo mibiko kanye nezitatimende eSigungwini Sikazwelonke ePhalamende.

* 1. **Umshwana 5**

Umshwana 5 wenza uMthethosivivinywa ube uMthetho othize wokuphathwa kwemvelo, njengoba kuchaziwe kuMthetho Kazwelonke Wokuphathwa Kwemvelo, we-1998 (uMthetho onguNombolo 107 we-1998) (‘‘NEMA’’), futhi udinga ukuba uMthethosivivinywa ufundwe, uhunyushwe uphinde usetshenziswe ngokuhlanganyela nalowo Mthetho.

* 1. **Umshwana 6**

Umshwana 6 ulawula ukungqubuzana kanye neminye imithetho. Esimweni lapho kukhona nanoma yikuphi ukungqubuzana phakathi kwesigaba soMthetho ohlosiwe kanye nomunye umthetho oqondene ngokukhethekile nokuguquguquka kwesimo sezulu, isigaba soMthetho ohlosiwe yisona esiphuma phambili.

* 1. **Umshwana 7**

Umshwana 7 ubeka isibopho esingokomthetho phezu kwanoma yiluphi uhlaka lombuso ukuba ludidiyele futhi luvumelanise izinqubomgomo zalo ezihlukahlukene, amasu, imithetho, izinhlelo, izinqumo, kanye nezinqubo zokuthathwa kwezinqumo ezimayelana nokuguquguquka kwesimo sezulu, ukuze uqinisekise ukuthi ubungozi bemithelela yokuguquguquka kwesimo sezulu kanye nobuthakathaka obuhlobene nakho buyacutshungulisiswa bese uqalisa ukusebenza kwemigomo kanye nezinjongo eziveziwe kuMthetho ohlosiwe.

* 1. **Umshwana 8**

Umshwana 8 udinga ukuba izithangami zikaNdunankulu zohulumeni abahlukahlukene ezikhona njengamanje ezasungulwa ngokoMthetho Wohlakakusebenza Lobudlelwano Phakathi Kohulumeni Abahlukahlukene, we-2005 (uMthetho onguNombolo 13 we-2005) (‘‘IGRFA’’), ziphinde zisebenze njengeZithangami Zezifundazwe Zokuguquguquka Kwesimo Sezulu. Isithangami Sesifundazwe Sokuguquguquka Kwesimo Sezulu sethwese umsebenzi wokudidiyela/ukuxhumanisa izenzo zokuguquguquka kwesimo sezulu esifundazweni esifanele bese sibika kuMkhandlu Wokudidiyela kaMongameli ngokwesigaba 20*(a)* se*-*IGRFA.

* 1. **Umshwana 9**

Umshwana 9 uhlinzekela ukuthi zonke izithangami zesifunda zohulumeni abahlukahlukene, ezisungulwe ngokwe-IGRFA, ziphinde zisebenze njengeZithangami Zomasipala Zokuguquguquka Kwesimo Sezulu. Isithangami Sikamasipala Sokuguquguquka Kwesimo Sezulu sethwese umsebenzi wokudidiyela/ukuxhumanisa izenzo zokuguquguquka kwesimo sezulu kumasipala ofanele bese sibika kwiSithangami Sesifundazwe Sokuguquguquka Kwesimo Sezulu.

* 1. **Umshwana 10**

Umshwana 10 uhlinzekela ukusungulwa kweKhomishana kaMongameli Yokuguquguquka Kwesimo Sezulu ebandakanya uhulumeni, izinyunyana zabasebenzi, izinhlangano zomphakathi, abaholi bendabuko, Inhlangano Yohulumeni Basekhaya yaseNingizimu Afrika, kanye nosomabhizinisi ukuba yeluleke maqondana nokusabela kweRiphabhulikhi ekuguquguqukeni kwesimo sezulu. Ikhomishana kaMongameli Yesimo Sezulu ebekhona ngokushesha ngaphambi kokuqala koMthetho ohlosiwe isaqhubeka nokuba khona futhi okhomishana bazosebenza kwiKhomishana kaMongameli Yesimo Sezulu kuze kuphele isikhathi esisasele sokusebenza kwabo.

* 1. **Umshwana 11**

Umshwana 11 uhlinzeka ngemisebenzi yeKhomishana kaMongameli Yesimo Sezulu, ebandakanya ukuhlinzeka ngezeluleko maqondana nokusabela kweRiphabhulikhi ekuguquguqukeni kwesimo sezulu ukuqinisekisa ukufezekiswa kombono wendlela esebenza ngempumelelo yokusabela ekuguquguqukeni kwesimo sezulu kanye noguquko lwesikhathi eside olunobulungiswa lokushintshela emnothweni kanye nomphakathi ozokwazi ukumelana nesimo sezulu esixakile futhi okhiqiza ikhabhoni ephansi. Ikhomishana kaMongameli Yesimo Sezulu ingasungula amakomidi azosiza ekwenzeni kwayo imisebenzi yayo.

* 1. **Umshwana 12**

Umshwana 12 uhlinzekela inqubo yokuqokwa kwamalungu eKhomishana kaMongameli Yesimo Sezulu.

* 1. **Umshwana 12A**

Umshwana 12A uhlinzekela ukuqokwa kukaMqondisi Omkhulu weKhomishana kaMongameli Yesimo Sezulu.

* 1. **Umshwana 12B**

Umshwana 12B uhlinzekela ukwenziwa komsebenzi wokuphathwa kwezimali zeKhomishana kaMongameli Yesimo Sezulu.

* 1. **Umshwana 13**

Umshwana 13 uhlinzekela ukuthi iKhomishana kaMongameli Yesimo Sezulu kufanele ihambise imibiko yayo, izincwaningo, amaqhingasu, izincomo, kanye nolwazi oluhlobene nalokho eSigungwini Sikazwelonke ePhalamende kanye nakoNgqongqoshe abafanele.

* 1. **Umshwana 14**

Umshwana 14 uhlinzekela ukuqokwa kanye nezibopho zehhovisi likanobhala weKhomishana kaMongameli Yesimo Sezulu.

* 1. **Umshwana 15**

Umshwana 15 udinga uNgqongqoshe Wesifundazwe (MEC) obhekelele Ezemvelo, noma uSodolobha Kamasipala Wesifunda noma Womkhandludolobha, okungaba yinoma yimuphi kulaba, ukuba enze ukuhlolwa kwendlela yokusabela kanye nezidingo zokuguquguquka kwesimo sezulu onyakeni owodwa wokushicilelwa kweSu kanye Neqhingasu Lokuzijwayeza Nezimo Likazwelonke. Uphinde futhi udinge ukuba isu lokuqalisa ukusebenza kwendlela yokusabela ekuguquguqukeni kwesimo sezulu lisungulwe eminyakeni emibili yokwenziwa kokuhlolwa kwendlela yokusabela kanye nezidingo zokuguquguquka kwesimo sezulu. Umshwana uveza ngokusobala okuqukethwe okunqunyiwe okuphakathi kokuhlolwa kwendlela yokusabela kanye nezidingo zokuguquguquka kwesimo sezulu kanye nesu lokuqalisa ukusebenza kwendlela yokusabela ekuguquguqukeni kwesimo sezulu. Uphinde futhi udinge ukuba isu lokuqalisa ukusebenza kwendlela yokusabela ekuguquguqukeni kwesimo sezulu lihlanganiswe noma lifakwe kwisu elifanele lokuqalisa ukusebenza kwezemvelo leSifundazwe noma isu elididiyelwe lentuthuko elifanele leSifunda noma likaMasipala Wesifunda noma Womkhandludolobha.

* 1. **Umshwana 15A**

Umshwana 15A uhlinzekela indlela yezezimali okumele inqunywe nguNgqongqoshe ukuze yeseke futhi ixhase ngezimali ukusabela kweRiphabhulikhi ekuguquguqukeni kwesimo sezulu.

* 1. **Umshwana 16**

Umshwana 16 uhlinzekela ukusungulwa kwezinjongo zokuzivumelanisa nezimo kwiRiphabhulikhi. Injongo ukuqondisa indlela yokusabela ekuzivumelaniseni nezimo okumele iphelezelwe yizinkomba zokulinganisa noma ukukala inqubekelaphambili. UNgqongqoshe kudingeka ukuba aphinde anqume usuku okufanele izinjongo zihlanganiswe noma zifakwe ngalo emathuluzini okuhlela kazwelonke, izinqubomgomo kanye nezinhlelo.

* 1. **Umshwana 17**

Umshwana 17 udinga uNgqongqoshe ukuba asungule futhi athuthukise izimo zokuzijwayeza ezilindele imithelela engase ibe khona yokuguquguquka kwesimo sezulu kwiRiphabhulikhi esikhathini esifushane, esiphakathi nendawo kanye neside. Izimo kufanele zithuthukiswe onyakeni owodwa wokuqala ukusebenza koMthetho ohlosiwe. Unquma ukucutshungulwa okufanelekile kanye nokuqukethwe okuncane kwezimo zokuzijwayeza.

* 1. **Umshwana 18**

Umshwana 18 uhlinzekela ukuthi uNgqongqoshe, ngokubonisana nabanye oNgqongqoshe ababhekelele imisebenzi esohlwini lukaSheduli 2 yoMthetho ohlosiwe, kudingeka asungule Isu kanye Neqhingasu Lokuzijwayeza Nezimo Likazwelonke ngokwalo mushwana. Umshwana uveza obala inhlosongqangi yeSu Neqhingasu Lokuzijwayeza Nezimo Likazwelonke kanye nokuqukethwe kulona.

* 1. **Umshwana 19**

Umshwana 19 uhlinzekela ukuthi okungenani onyakeni owodwa wokushicilelwa kweSu Neqhingasu Lokuzijwayeza Nezimo Likazwelonke, uNgqongqoshe obhekelele umsebenzi osohlwini lukaSheduli 2 kufanele enze ukuhlolwa kobungozi/ubuthakathaka balo ekuguquguqukeni kwesimo sezulu aphinde anqume izinyathelo zokuphendula noma ukusabela kulokho. UNgqongqoshe ofanele kufanele abe esesungula aphinde aqalise ukusebenza kweSu Neqhingasu Lokuzijwayeza Lomkhakha eligxile ekuhlolweni kobungozi/ubuthakathaka. UNgqongqoshe ofanele uphinde abe nesibopho sokuhanjiswa kwemibiko yenqubekelaphambili maqondana nokuqaliswa kokusebenza kweSu Neqhingasu Lokuzijwayeza Lomkhakha kuNgqongqoshe. Lo mshwana uphinde uhlinzekele ukubuyekezwa ngezikhathi ezithile, kanye nokuchitshiyelwa uma kudingeka, kweSu Neqhingasu Lokuzijwayeza Lomkhakha.

**3.23 Umshwana 20**

Umshwana 20 unikeza uNgqongqoshe amandla okucela nokufumana idatha kanye nolunye ulwazi olusezandleni zanoma yimuphi omunye umuntu oludingekayo ngezinhloso zokufezekisa izinjongo zoMthetho ohlosiwe. UNgqongqoshe uphinde abe nesibopho sokuhlanganiswa kanye nokushicilelwa koMbiko Wokuzijwayeza Okuhlanganisiwe.

**3.24 Umshwana 21**

Umshwana 21 unikeza uNgqongqoshe amandla, ngokuxoxisana neKhabhinethi, okunquma, ngokufaka isaziso *kuSomqulu Kahulumeni*, umzila kazwelonke wokukhishwa kwesisi esibamba ukushisa kweRiphabhulikhi. Kuze kufike isikhathi lapho uNgqongqoshe eshicilela khona umzila kazwelonke wokukhishwa kwesisi esibamba ukushisa, Umnikelo Onqunyelwe Uzwelonke (Nationally Determined Contribution) obuyekezwe kamuva uzosebenza njengomzila. Umshwana uhlinzekela ukubuyekezwa ngempoqo komzila njalo ngemuva kweminyaka eyisihlanu kanjalo nokubuyekezwa noma kunini uma kukhona izimo eziphoqayo.

**3.25 Umshwana 22**

Umshwana 22 unikeza uNgqongqoshe amandla okubhala uhlu lwemikhakha kanye nemikhakha emincane engaphansi kwesabelo esihloselwe izisi ezikhishwa yizimboni kanti futhi lolo luhlu kufanele luveze iphrofayili yomzila kazwelonke wokukhishwa kwesisi esibamba ukushisa. Ngemuva kokushicilela lolo luhlu, uNgqongqoshe kufanele anqume izisi ezikhishwa yizimboni ezisophiwe zemikhakha kanye nemikhakha emincane ebaliwe. Izisi ezikhishwa yizimboni ezisophiwe kufanele zihanjelaniswe nomzila kazwelonke wokukhishwa kwesisi esibamba ukushisa ngokuqaphela ukuthi inani elikhulayo lokuncishiswa kwesisi esibamba ukushisa okuyisona izisi ezikhishwa yizimboni ezisophiwe ezisimelele, liqinisekisa ukuthi iphrofayili kazwelonke yokukhishwa kwesisi esibamba ukushisa igcinwa ngaphakathi komzila kazwelonke wokukhishwa kwesisi esibamba ukushisa. Izisi ezikhishwa yizimboni ezisophiwe ziyabuyekezwa njalo ngemuva kweminyaka emihlanu kusukela ekushicilelweni kwazo okokuqala. Umshwana uphinde udinge oNgqongqoshe abafanele ukuba babike njalo ngonyaka Ehhovisi likaMongameli maqondana nenqubekelaphambili ekufezekiseni izisi ezifanele ezikhishwa yizimboni ezisophiwe. UNgqongqoshe kufanele ayihlanganise ndawonye le mibiko bese ehambisa imibiko yonyaka yenqubekelaphambili esiyenziwe maqondana nezisi ezikhishwa yizimboni ezisophiwe kwiKhabhinethi.

**3.26 Umshwana 23**

Umshwana 23 uhlinzekela ukuthi uNgqongqoshe kufanele ashicilele uhlu lwezisi ezibamba ukushisa uNgqongqoshe akholelwa kakhulu ukuthi zibanga noma zisemathubeni okubanga noma okubhebhethekisa ukuguquguquka kwesimo sezulu. UNgqongqoshe kufanele aphinde ashicilele uhlu lwemisebenzi ekhipha, noma enamandla okukhipha, isisi esisodwa noma ezingaphezulu kwezisi ezibamba ukushisha ezibaliwe.

**3.27 Umshwana 24**

Umshwana 24 udinga uNgqongqoshe ukuba akhiphe isabelomali sekhabhoni kuwo wonke umuntu owenza umsebenzi obaliwe ohlwini. Umshwana uchaza ngokukhethekile izidingo eziphansi okumele zicutshungulwe lapho kwenziwa isabelomali sekhabhoni kanye nokuqukethwe ngaphathi kusona. Umuntu owabelwe isabelomali sekhabhoni kudingeka ukuba ahlanganise aphinde ahambise kuNgqongqoshe isu lokunciphisa isisi esibamba ukushisa. Isu lokunciphisa isisi esibamba ukushisa kufanele lithobele zonke izidingo ezivezwe kulo mshwana njengoba kungenzeka zinqunywe nguNgqongqoshe.

**3.28 Umshwana 25**

Umshwana 25 udinga uNgqongqoshe ukuba ahlonze amagesi abamba ukushisa okwenziwa okufanele aqedwe nya noma ehliswe. Lo mshwana unikeza uNgqongqoshe amandla, ngokuxoxisana noNgqongqoshe abafanele kanye nanoma yimuphi omunye umuntu othintekayo, okusungula uhlelo lokuqeda nya noma ukwehlisa igesi ebamba ukushisa yokwenziwa. Uhlelo kufanele luthobele izidingo ezivezwe kumshwana futhi kufanele lubuyekezwe luphinde luvuselelwe njalo ngemuva kweminyaka emihlanu. Umshwana uphinde unikeze uNgqongqoshe amandla okwaba izabelomali zekhabhoni kubantu abenza imisebenzi ekhuphula izisi zamagesi abamba ukushisa okwenziwa.

**3.29 Umshwana 26**

Umshwana 26 uhlinzekela ukusungulwa koHlu Oluphelele Lukazwelonke Lwegesi Ebamba Ukushisa kanye nokuhlanganiswa koMbiko Wohlu Oluphelele Lukazwelonke Lwegesi Ebamba Ukushisa njalo ngonyaka.

**3.30 Umshwana 27**

Umshwana 27 unikeza uNgqongqoshe amandla okuthuthukisa imithethonqubo emayelana nokuqalisa ukusebenza koMthetho ohlosiwe. Ngaphezu kwalokho, noma yimiphi imithethonqubo eyenziwe ngokwesigaba 15A kufanele yethulwe ePhalamende ezinsukwini ezingama-30 ngaphambi kokushicilelwa kwayo *kuSomqulu Kahulumeni*.

**3.31 Umshwana 28**

Umshwana 28 uphathelene nenqubo yokuxoxisana uNgqongqoshe, uMphathiswa (MEC) noma uSodolobha okufanele bayilandele lapho besebenzisa amandla ngokoMthetho ohlosiwe. Lokhu kuxoxisana kufanele kuhambelane nezimo futhi esimweni sikaNgqongqoshe kubandakanya ukuxoxisana nabo bonke oNgqongqoshe imisebenzi nezibopho zabo ezizothinteka ngenxa yokusetshenziswa kwamandla kanye noMphathiswa ofanele esifundazweni ngasinye ozothinteka ngenxa yokusetshenziswa kwamandla. Esimweni sikaMphathiswa, kubandakanya ukuxoxisana namalungu eSigungu Esiphezulu imisebenzi kanye nezibopho zawo ezizothinteka ngenxa yokusetshenziswa kwamandla kanjalo noNgqongqoshe kanye nazo zonke izinhlaka zombuso zikazwelonke ezizothinteka ngenxa yokusetshenziswa kwamandla.

**3.32 Umshwana 29**

Umshwana 29 uveza obala inqubo yokubandakanywa komphakathi okufanele uNgqongqoshe, uMphathiswa noma uSodolobha bayilandele lapho besebenzisa amandla abhalwe kumshwana.

**3.33 Umshwana 30**

Umshwana 30 unikeza uNgqongqoshe kanye noMphathiswa amandla okudlulisa amandla abekwe phezu kwabo ngokoMthetho ohlosiwe ngokuhambelana nezimiselo ezifanele zeNEMA.

**3.34 Umshwana 31**

Umshwana 31 uphathelene nelungelo lokuthola ulwazi futhi uhlinzeka ngokuthi ulwazi kufanele luhlinzekwe kuncike ezimiselweni zoMthetho Wokukhuthaza Ukutholakala Kolwazi, wezi-2000 (uMthetho onguNombolo 2 wezi-2000), kanye noMthetho Wokuvikela Ulwazi Lomuntu Siqu, wezi-2013 (uMthetho onguNombolo 4 wezi-2013).

**3.35 Umshwana 32**

Umshwana 32 uhlinzekela amacala kanye nezinhlawulo ngaphansi koMthetho ohlosiwe.

**3.36 Umshwana 33**

Umshwana 33 uhlinzekela ukuthi noma yimuphi umuntu angadlulisela icala kuNgqongqoshe noma kuMphathiswa ephikisana nesinqumo esithathwe yinoma yimuphi umuntu osebenza ngaphansi kwamandla ajutshwe nguNgqongqoshe noma uMphathiswa uphinde futhi uhlinzekele ukuthi lokho kudluliswa kwecala kufanele kucutshungulwe ngokwesigaba 43 seNEMA.

**3.37 Umshwana 34**

Umshwana 34 uphathelene nokonga kanye nezimiselo zesikhashana ezihlobene neSimemezelo Samagesi Abamba Ukushisa Njengezinto Ezingcolisa Umoya Eziseqhulwini, Imithethonqubo Kazwelonke Yezinhlelo Zokuvimbela Ukungcola kanye neMithethonqubo Kazwelonke Yokubika Ukukhishwa Kwegesi Ebamba Ukushisa eyashicilelwa ngokoKuphathwa Kwemvelo Kazwelonke: uMthetho Wezinganhle Lomoya, wezi-2004 (uMthetho onguNombolo 39 wezi-2004). Umthetho oncikile okukhulunywa ngawo ngenhla uzohlala usebenza futhi usebenza njengemithethonqubo ngaphansi koMthetho ohlosiwe kuze kube uyachitshiyelwa, ushintshwa ngomunye noma uyachithwa. Lo mshwana uphinde uhlinzekele isichibiyelo kwiNEMA ngokuhambelana neSheduli 3 kuMthetho ohlosiwe.

**3.38 Umshwana 35**

Umshwana 35 uhlinzekela isihloko esifushane kanye nokuqala ukusebenza koMthetho ohlosiwe.

1. **IMINYANGO OKUBONISWANE NAYO**

Iminyango kazwelonke kanye neyezifundazwe ebhekelele imisebenzi elandelayo kwaboniswana nayo:

* + - Ezokuhlaliswa Kwabantu, Ezamanzi kanye Nokuthuthwa Kwendle;
    - Ezemfundo Ephakeme, Isayensi Nobuchwepheshe;
    - EzoLimo, Izinguquko Kwezomhlaba kanye Nokuthuthukiswa Kwezindawo Zasemakhaya
    - Ezohwebo, Izimboni Nokuncintisana;
    - Ezobudlelwano Bamazwe Ngamazwe kanye Nokusebenzisana;
    - Ezokuphatha Ngokubambisana kanye Nezindaba Zomdabu;
    - Ezamahlathi, Ezezinhlanzi, kanye Nezemvelo;
    - Ezezimbiwa Phansi Namandla;
    - Ezamabhizinisi Kahulumeni;
    - Ezokuthuthukiswa Kwamabhizinisi Amancane;
    - Ezempilo;
    - Ezokuthutha;
    - Ezokuvakasha;
    - Umgcinimafa;
    - yonke iminyango yezifundazwe ebhekelele izindaba zezemvelo ngokusebenzisa Umhlangano woNgqongqoshe kanye Namalungu Emikhandlu Yeziphathimandla (MINMEC) kanye nemihlangano yokucobelelana ngolwazi kwababambiqhaza yezifundazwe; kanye
    - nabo bonke omasipala ngokusebenzisa imihlangano yokucobelelana ngolwazi kwababambiqhaza yezifundazwe kanye neNhlangano Yohulumeni Basekhaya yaseNingizimu Afrika.

1. **IMITHELELA YEZIMALI EQONDENE NOMBUSO**

UMthethosivivinywa uzodala isibopho sezezimali soMbuso ngendlela yezindleko zokuqalisa ukusebenza eziphathelene nalokhu okulandelayo:

* + - Ukusungulwa kwendlela yokusabela ekuguquguqukeni kwesimo sezulu kanye namasu okuqalisa ukusebenza ezinhlaka Zikahulumeni; Isu Neqhingasu Lokuzijwayeza Lomkhakha elisungulwa ngoNgqongqoshe abafanele kanye nokuchitshiyelwa kwezinqubomgomo ezikhona njengamanje kanjalo nezinhlelo zokucabangela okuphokophelwe yizisi ezikhishwa yizimboni;
    - Ukusungulwa kweSu Neqhingasu Lokuzijwayeza Nezimo Likazwelonke;
    - Ikhono lomnyango wezabasebenzi lokweseka ukuthuthukiswa kanye nokuqaliswa kokusebenza kwazo zonke izinhlelo, amaqhingasu kanye nezinhlaka ngaphansi koMthethosivivinywa; kanye
    - Ikhono lomnyango wezabasebenzi lokuqapha nokuphoqelela ukuthotshelwa kwemithetho.

1. **INQUBO YASEPHALAMENDE**
   1. Abeluleki Bombuso Bezomthetho kanye noMnyango banombono wokuthi uMthethosivivinywa kufanele kubhekwane nawo ngokuhambisana nenqubokusebenza esungulwe esigabeni 76 soMthethosisekelo.
   2. Isahluko 4 soMthethosisekelo sichaza ngokucacile indlela okumele umthetho ushaywe ngayo yiPhalamende. Ibeka izinqubokusebenza ezehlukene zeMithethosivivinyo, kubandakanya neMithethosivivinywa ejwayelekile engathinti izifundazwe (inqubokusebenza yesigaba 75), kanye neMithethosivivinywa ejwayelekile ethinta izifundazwe (inqubokusebenza yesigaba 76). Ukunqunywa kwenqubo ezolandelwa ekucubunguleni uMthethosivivinywa kubizwa ngokuthi ukumaka (*tagging*). Ngokwesigaba 76(3) soMthethosisekelo, uMthethosivivinywa kufanele kubhekwane nawo ngokuhambelana nesigaba 76 uma ungena ngaphansi kwendawo yokusebenza esohlwini lukaSheduli 4. ISheduli 4 yoMthethosisekelo ibala izindawo zokusebenza ezinamandla okushaya umthetho kazwelonke nowesifundazwe ngesikhathi esisodwa.
   3. Esinqumweni seNkantolo YoMthethosisekelo ecaleni *likaMongameli Owayeyingxenye YeRiphabhulikhi yaseNingizimu Afrika Maqondana: Umthethosisekelo woMthethosivivinywa Wotshwala*[[1]](#footnote-1) (‘‘isinqumo *soMthethosivivinywa Wotshwala*’’), uCameron AJ wabeka lokhu okulandelayo:

‘‘*[27] Kumele kukhunjulwe ukuthi isigaba 76 siqanjwe ngokuthi ‘iMithethosivivinywa ejwayelekile ethinta izifundazwe’. Lona ngumbono wami, siyinkomba enamandla yombhalo yokuthi isigaba 76(3) kufanele siqondwe njengesidinga ukuthi nanoma yimuphi uMthethosivivinywa onezimiselo zawo eziwela ngesilinganiso esikhulu endaweni yokusebenza esohlwini lukaSheduli 4 kubhekwane nawo ngaphansi kwesigaba 76.*

. . .

*[29] Uma uMthethosivivinywa ungena ngaphansi kwendawo yokusebenza esohlwini lukaSheduli 4, akumelanga kubhekwane nawo ngokwesigaba 75, kodwa ngokwesigaba 76 (1) noma inqubo yesigaba 76(2). . .*’’*.*

6.4 Ngemuva kwesinqumo *soMthethosivivinywa Wotshwala*, iNkantolo Yomthethosisekelo ecaleni *likaTongoane kanye Nabanye lapho babemangalele khona uNgqongqoshe Wezolimo kanye Nezindaba Zomhlaba kanye Nabanye*[[2]](#footnote-2) (‘‘icala lika*Tongoane*’’) yaqinisekisa lokhu okulandelayo:

‘‘*[59] . . . isivivinyo sokumaka sigxile kuzona zonke izimiselo zoMthethosivivinywa ukuze sinqume izinga ezithinta ngalo kakhulu izindawo zokusebenza ezisohlwini lukaSheduli 4, hhayi ekutheni noma yiziphi izimiselo zawo kungenzeka zihambisane nengqikithi yawo*’’.

6.5 Ngaphezu kwalokho, iNkantolo Yomthethosisekelo yakubeka kwacaca ukuthi*:*

‘‘*[66] . . . izivikelanqubo zenzelwe ukunikeza isisindo esengeziwe ezwini lezifundazwe emthethweni ozithinta kakhulu. . .zibalulekile kakhulu endimeni ye-NCOP ekuqinisekiseni ukuthi izintshisekelo zezifundazwe ziyabhekelelwa emkhakheni kahulumeni kazwelonke. . .*’’.

6.6 Njengoba iNkantolo yakuveza ecaleni *likaTongoane*, uMthethosivivinywa kufanele umakwe njengoMthethosivivinywa wesigaba 76 uma izimiselo zawo ngesilinganiso esikhulu zibhekene nendawo yokusebenza esohlwini lukaSheduli 4. Ngalokho-ke sinombono wokuthi uMthethosivivinywa kumele uhlukaniswe njengoMthethosivivinywa wesigaba 76, okuwuMthethosivivinywa ojwayelekile othinta isifundazwe, njengoba izimiselo zawo ngesilinganiso esikhulu zingena ngaphansi kwendawo yokusebenza esohlwini lukaSheduli 4 kuMthethosisekelo, oku ‘‘Ezemvelo’’.

6.7 ABeluleki Bombuso Bezomthetho banombono wokuthi asikho isidingo sokudlulisela uMthethosivivinywa eNdlini Kazwelonke Yabaholi Bendabuko kanye Nabohlanga lwama-Khoi-San ngokwesigaba 39(1)*(a)*(i) soMthetho Wobuholi Bendabuko kanye Nabohlanga lwama-Khoi San, wezi-2019 (uMthetho onguNombolo 3 wezi-2019), njengoba ungaqukethe nanoma yiziphi izimiselo ezithinta ngokuqonde ngqo imiphakathi yendabuko noma yohlanga lwama-Khoi-San noma izimiselo eziphathelene nomthetho wesintu noma amasiko emiphakathi yendabuko noma yamaKhoi-San.

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1. . (CCT/12/99) [1999] ZACC 15. [↑](#footnote-ref-1)
2. . 2010 (8) BCLR 741 (CC). [↑](#footnote-ref-2)