UMTHETHOSIVIVINYWA WOKUCHITHA UMTHETHO WEZEMISEBENZI YESISHAYAMTHETHO SESIFUNDAZWE SASEGAUTENG, wezi-2025

(Njengoba uhlongozwe yiKomidi Lemithetho Engenakuguquka)
(umbhalo wesiNgisi yiwona ongumbhalo osemthethweni walo Mthethosivivinywa)

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UMTHETHOSIVIVINYWA

UMthethosivivinywa uhlose ukuhlinzekela ukuchithwa koMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wesi-5 wonyaka we-1996; kanye nokuhlinzekela izindaba ezihlobene nalokho.

NGAKHO-KE KUMELE USHAYWE yiSishayamthetho Sesifundazwe SaseGauteng ngale ndlela elandelayo:

Ukuchithwa koMthetho wesi-5 wonyaka we-1996
1. Ngalokhu, uMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, we-1996 (uMthetho wesi-5 wonyaka we-1996) uyachithwa.

Izinhlelo Zesikhashana Namalungiselelo Okubhekana Noguquko Oluzokwenzeka
2.(1) Imisebenzi namandla eBhodi Lezemisebenzi Yesishayamthetho avezwe kwiSigaba 8(1) soMthetho Wezemisebenzi Yesishayamethetho Sesifundazwe SaseGauteng, wonyaka we-1996 (uMthetho wesi-5 wonyaka we-1996) ochithiwe, azosetshenziswa yiSiphathimandla Esiphezulu njengoba kuhlosiwe kwiSigaba 5 soMthetho Wezokuphathwa Kwezimali Zephalamande Nezishayamthetho Zezifundazwe, we-10 wonyaka wezi-2009 (njengoba uchitshiyeliwe). Ukusetshenziswa kwamandla lawo yiSiphathimandla Esiphezulu kuzokwenziwa ngokulandela iSigaba 4 soMthetho Wezokuphathwa Kwezimali Zephalamande Nezishayamthetho Zezifundazwe, we-10 wonyaka wezi-2009 (njengoba uchitshiyeliwe).

Isihloko Esifushane
3. Lo Mthetho ubizwa ngokuthi uMthetho Wokuchitha Umthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka wezi-2025.

IMEMORANDAMU ECHASISAYO – UMTHETHOSIVIVINYWA WOKUCHITHA UMTHETHO WEZEMISEBENZI YESISHAYAMTHETHO SESIFUNDAZWE SASEGAUTENG, wezi-2025

I. ISINGENISO

1.1. Isishayamthetho Sesifundazwe SaseGauteng sihlose ukwethula futhi siphasise uMthethosivivinywa Wokuchitha Umthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng wonyaka wezi-2025. Lo Mthethosivivinywa uhlose ukuchitha uMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka we-1996 (uMthetho wesi-5 wonyaka we-1996) futhi uhlinzekela izinhlelo zesikhashana namalungiselelo okubhekana noguquko oluzokwenzeka kanye nezindaba ezihlobene nalokho.

II. ISENDLALELO

2.1. Amandla namagunya okushaya umtheto ophathelene nohlaka lokuphathwa kwezimali, ukuphathwa kwemisebenzi yansukuzonke kanye nokuhlela, oluqondene nezifundazwe eNingizimu Afrika awela ngaphansi kwemithetho kazwelonke. Lokhu kubonakala ngokucacile kwiSinqumo Senkantolo YoMthethosisekelo *ecaleni elabe liphakathi kukaNdunankulu Wesifundazwe SaseLimpopo NoSomlomo Wesifundazwe SaseLimpopo Nabanye*[1]. Kulesi sinqumo okukhulunywa ngaso lapha iNkantolo YoMthethosisekelo, phakathi kokunye, yakusho kwagcwala umlomo ukuthi uMthetho Wezokuphathwa Kwezimali Zesishayamthetho Sesifundazwe SaseGauteng (uMthetho wesi-7 wonyaka wezi-2009) awuhambisani neze noMthethosisekelo, futhi ngenxa yalokho-ke uyinto eyize leze.[2] Lona nguMthetho owabe uvumela iSishayamthetho Sesifundazwe SaseGauteng, phakathi kokunye, ukuthi sizilawulele ngokwaso umsebenzi wokuphathwa kwezimali kanye nezindaba eziphathelene nokuphathwa kwemisebenzi yansukuzonke eyenziwayo. Lesi sinqumo senkantolo esishiwo lapha ngenhla sakubeka kwacaca ukuthi amagunya namandla ezishayamthetho okushaya imithetho, ngokungafani nalawo ePhalamende Likazwelonke, lona elinamandla okuthatha izinqumo ngokungenamkhawulo, aphelela kuphela kulokho okuqukethwe kuSheduli 4 no-5 woMthethosisekelo ngokunjalo futhi nasezimweni lapho uMthethosisekelo ukuvumela ngokucacile ukushaywa kwemithetho

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[1] [2012] ZACC 3; 2012 (4) SA 58 (CC); 2012 (6) BCLR 583 (CC). (*Ndunankulu: Limpopo II*)

[2] Kwindinyana 17 iNkantolo YoMthethosisekelo yanquma yathi—

> "Ngokubona imibono nezindlelakucabanga zamaqembu abandakanyekayo kulolu daba, akudingekile ukuthi silokhu sisho okuningi ngalolu daba. Kucace bha ukuthi imithetho ephambi kwethu, ngaphandle koMthetho WaseNyakatho Ntshonalanga, yonke iyafana kakhulu noMthethosivivinywa waseLimpopo mayelana nenhloso kanye nesakhiwo sayo, okubekwe ngokucacile. Le mithetho ibhalwe ngamagama acishe afane ncimishi futhi ihlose ukulawula ukuphathwa kwezimali zezishayamthetho zezifundazwe. Yonke ibonisa ukuthi amagama asetshenziswe kuyona acashunwe kuMthethosivivinywa ohlanganisa konke owenziwe yiNhlangano yoSomlomo. Ngakho-ke, kwanele ukusho ukuthi ngenxa yezizathu ezifanayo ezashiwo ku-Limpopo I, siphuma nesinqumo esithi le mithetho ayihambisani neze noMthethosisekelo."

yezifundazwe noma lapho iPhalamende Likazwelonke linikeza isishayamthetho sesifundazwe amandla lawo.

2.2. Umthetho kazwelonke okukhulunywe ngawo ngenhla nguMthetho Wezokuphathwa Kwezimali Zephalamende Nezishayamthetho Zezifundazwe, we-10 wonyaka wezi-2009 (njengoba uchitshiyeliwe).

2.3. Empeleni uhlanganisa futhi ufingqe wonke amaphuzu asemqoka ohlaka lwemithetho elawula uhlaka lokuphathwa kwezimali, ukuphathwa kwemisebenzi yansukuzonke kanye nokuhlela, okuwuhlaka oluqondene nephalamende kanye nezishayamthetho.

2.4. Ngonyaka we-1996, iSishayamthetho SaseGauteng saphasisa uMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka we-1996 owaphasiswa ngaphambidlana nje kancane koMthethosisekelo WeRiphabhulikhi YaseNingizimu Afrika, wonyaka we-1996. Lo Mthetho wabe uhlose, phakathi kokunye, ukuhlinzekela *“ukusungulwa koPhiko Lwezemisebenzi Yesishayamthetho, ukusungulwa kweBhodi Lezemisebenzi Yesishayamthetho, ukuhlelwa nokuphathwa koPhiko Lwezemisebenzi, ukunquma ngesabelomali soPhiko Lwezemisebenzi, kanye nezindaba ezihlobene nalokho”.*

2.5. Kodwa-ke, sekube nongabazane nokungagculiseki kahle ngokuthi ngempela lo Mthetho uyahambisana yini noMthethosisekelo. Okokuqala, njengoba kubonisiwe lapha ngenhla, lo Mthetho washaywa ngaphambi koMthethosisekelo WeRiphabhulikhi YaseNingizimu Afrika wonyaka we-1996 futhi wabe ulandela uMthethosisekelo Wesikhashana wonyaka we-1993. Ngakho-ke, ukushaywa kwalo Mthetho, nakuba kwabe kunezinhloso ezinhle, kwabe kungaphandle kwegunya namandla esishayamthetho okushaya imithetho. Lokhu kwabe kungahambisani noMthethosisekelo, wonyaka we-1996 kanye noMthetho Wezokuphathwa Kwezimali Zephalamende Nezishayamthetho Zezifundazwe, we-10 wonyaka wezi-2009 (njengoba uchitshiyeliwe).

2.6. Okwesibili, iningi lezimiselo zoMthetho azihambisani noMthethosisekelo kanye nohlaka lwemithetho lukazwelonke njengoba kubekwe ngokucacile lapha ngenhla. Izimiselo ezigqamile yilezo okuthiwa yizona ezisungula isishayamthetho, imisebenzi yaso kanye neBhodi Lezemisebenzi Yesishayamthetho, zonke ezingahambisani neze noMthethosisekelo kanye noMthetho Wezokuphathwa Kwezimali Zephalamende Nezishayamthetho Zezifundazwe, we-10 wonyaka wezi-2009 (njengoba uchitshiyeliwe). IBhodi Lezemisebenzi Yesishayamthetho linikezwa amandla eSiphathimandla Esiphezulu ngenkathi lingaphansi kwesandla sikaSomlomo njengoSihlalo walo, futhi ngokoMthethosisekelo kanye nohlaka lwemithetho lukazwelonke uSomlomo nguyena kanye oyiSiphathimandla Esiphezulu. Futhi uMthetho unezimiselo eziphathelene, ukwenza nje isibonelo, neBhodi Lamathenda Lesifundazwe okuthiwa yilona elibhekene nezindaba eziphathelene nokuthengwa kwempahla nezinsizakalo, okuyizimiselo osekudala zaphelelwa yisikhathi njengoba esikhundleni sazo sekunohlaka lwemithetho lukazwelonke okuyilona olusebenzayo.

2.7. Kuyacaca-ke ekugcineni ukuthi lo Mthetho awuhambisani noMthethosisekelo futhi ukuqhubeka nokuwusebenzisa ngeke neze kube nezithelo ezinhle.

2.8. Ngakho-ke, yiso lesi simo nezizathu okwenza ukuthi iSishayamthetho Sesifundazwe SaseGauteng sifune ukuwuchitha uMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka we-1996 ngokwethula wona lo Mthethosivivinywa Wokuchitha Ukusebenza Komthetho.

III. INGXOXO NGOMSHWANA NOMSHWANA

Umshwana 1

3.1. Lo mshwana uhlose ukuhlinzekela ukuchithwa koMthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka we-1996 (uMthetho wesi-5 wonyaka we-1996).

Umshwana 2

3.1. Lo mshwana uhlinzekela izinhlelo zesikhashana namalungiselelo okubhekana noguquko oluzokwenzeka.

Umshwana 3

3.4. Umshwana 3 uqukethe isihloko esifushane. Ubalula ukuthi lo Mthetho ubizwa ngoMthetho Wokuchitha Umthetho Wezemisebenzi Yesishayamthetho Sesifundazwe SaseGauteng, wonyaka wezi-2025.

IV. IMITHELELA YEZIMALI

UMthethosivivinywa Wokuchitha Ukusebenza Komthetho awunayo imithelela ephathelene nezimali.

V. IMITHELELA KUBABAMBIQHAZA

5.1. Kwaxhunywana futhi kwaboniswana nababambiqhaza abalandelayo – wonke amaqembu ezepolitiki amelwe e-GPL ngokunjalo futhi namalungu azimele eBhodi Lezemisebenzi Yesishayamthetho kanye namakomijana angaphansi kwalo. Kulindeleke ukuthi ziqhubeke izingxoxo nababambiqhaza ngenkathi kucutshungulwa uMthethosivivinywa Wokuchitha Ukusebenza Komthetho.