IMEMORANDAMU MAQONDANA NEZINJONGO ZOMTHETHOSIVIVINYWA WEKHOMISHANA YEMISEBENZI KAHULUMENI, WEZI-2023

1. ISINGENISO

1.1. IKhomishana Yemisebenzi Kahulumeni (iKhomishana) iwuhlaka oluzimele olwasungulwa ngokweSahluko 10 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, we-1996 ("uMthethosisekelo"). UMthethosisekelo uhlobanisa ukuzimela kweKhomishana ngokuqinile nokungachemi kwayo futhi uhlinzekela ukuthi alukho uhlaka lombuso olungaphazamisa ukusebenza kweKhomishana.

1.2. IKhomishana ithola igunya layo ezigabeni 195 kanye no 196 zoMthethosisekelo, eliyethwesa izibopho zokuba yisilulu sokuqapha ukusebenza kweminyango ngokwentshisekelo yokugcinwa kokuphathwa komsebenzi kahulumeni ngendlela enempumelelo negculisayo kanye nezinga eliphezulu lokuziphatha okuhle emsebenzini kahulumeni.

1.3. Isigaba 196(2) soMthethosisekelo sihlinzekela ukuthi iKhomishana kufanele ilawulwe ngomthetho kazwelonke. Isigaba 196(9) soMthethosisekelo sihlinzekela ukuthi uMthetho wePhalamende kufanele ulawule inqubo yokuqokwa kokhomishana.

1.4. Kwalungiselelwa udaba lokwenziwa komsebenzi kanye nokuhlolwa komthelela wenhlalo-mnotho ngokombono ovezwe kuHlelo Lwentuthuko Kazwelonke (ikhasi 412) okhombisa lokhu okulandelayo maqondana neKhomishana:

> *"IHhovisi LeKhomishana Yemisebenzi Kahulumeni, okuwuphiko lokwenziwa komsebenzi lwe-PSC, lincike kancane esigungwini esiphezulu ukuze kuqokwe uMqondisi-Jikelele walo kanye nokwabiwa kwesabelomali salo. Lokhu kuhlinzeka ngemihlomulo ethile ebalulekile okuhlanganisa nobubanzi bokubamba iqhaza kwiQoqo Lokwengamela Nokwenziwa Komsebenzi, kodwa futhi kunethuba lokuthi lezi zixhumanisi zibeke engcupheni ukuzimela kwe-PSC. Lezi yizinkinga ezingase zidinge ukuthi kudlinzwe ngazo ukubheka phambili."*

1.5. UHlelo Lwentuthuko Kazwelonke (NDP) luphinde lwaphawula ukuthi maningi amathuba okuthi isikhundla seKhomishana sokusebenza njengoMnyango Wezemisebenzi Kahulumeni sibeke engcupheni ukuzimela kwayo njengoba abasebenzi beKhomishana bevame ukuba nentshisekelo enkulu kwezinye zezindaba okufanele ngabe baziqaphe ngeso lokhozi.

1.6. IPhalamende lathatha isinqumo, mhla ziyi-15 kuLwezi 2011, sokuthi iKhomishana kumele ibike ngokuqaliswa kokusebenza kwesigaba 195(1) soMthethosisekelo kuphiko lokwenziwa komsebenzi lwazo zonke izigaba zikahulumeni, izinhlaka zombuso kanye namabhizinisi kahulumeni eNingizimu Afrika, minyaka yonke. Umbiko weKhomishana kufanele uqukathwe embikweni wonyaka wesikhungo iKhomishana ebika ngaso minyaka yonke. IKhomishana ihlose ukuqalisa ukusebenza kweSinqumo SePhalamende ekuhloleni ukushaywa

koMthethosivivinywa WeKhomishana Yemisebenzi Kahulumeni, wezi-2023 (“uMthethosivivinywa”).

1.7. Lo Mthethosivivinywa uqalisa ukusebenza kwesigaba 196 soMthethosisekelo ekusungulweni kweHhovisi likaNobhala WeKhomishana, ngokushintsha komsebenzi usuka eMnyangweni Kazwelonke uye kwiHhovisi. Ukususwa kweKhomishana ngaphansi koMthetho Wemisebenzi Kahulumeni, we-1994, kuhloswe ngakho ukuqinisa ukuzimela kweKhomishana njengesikhungo esimiswe ngokomthethosisekelo. Lokhu kuzosiza iKhomishana ngokuphathwa okungcono kwamakhasimende kanye nababambiqhaza, njengoba kususa umbono ongase ube khona wokungqubuzana kwezintshisekelo kubasebenzi bayo bokwenziwa komsebenzi abasebenza eHhovisi likaNobhala.

1.8. Igunya leKhomishana lizoqaliswa ukusetshenziswa ngaphakathi kwemisebenzi kahulumeni kanye nokuphathwa kwemisebenzi kahulumeni ukuze kubandakanye omasipala, izinhlaka zabo, iminyango kazwelonke neyezifundazwe kanye nezinhlaka zikahulumeni.

1.9. Ukwelulwa kokusetshenziswa kwegunya leKhomishana kohulumeni basekhaya kanye nezinhlaka zomphakathi kuhambisana noMthethosisekelo futhi kuthuthukisa indima yokuqapha ukusebenza kweminyango yeKhomishana maqondana -

nokuqaliswa ngendlela efanele kwezinqubo zokuphatha abantu emisebenzini kahulumeni kanye nasekuphathweni kwemisebenzi kahulumeni; kanye

nokwenziwa ngobungcweti kwemisebenzi kahulumeni ekuzuzweni kwemisebenzi kahulumeni enamandla neyenziwa ngenkambiso enhle.

2. IZINJONGO ZOMTHETHOSIVIVINYWA

2.1. Izinjongo zoMthethosivivinywa yilezi ezilandelayo:

- Ukuchitha uMthetho WeKhomishana Yemisebenzi Kahulumeni, we-1997, kanye nokumemezela uMthetho WeKhomishana Yemisebenzi Kahulumeni omusha ozolawula iKhomishana Yemisebenzi Kahulumeni ngokuhambisana nezimiselo zesigaba 196 soMthethosisekelo;
- ukulawula inqubo yokuqokwa kokhomishana beKhomishana;
- ukuhlinzekela ukusungulwa kweHhovisi likaNobhala weKhomishana. IHhovisi leKhomishana Yemisebenzi Kahulumeni, eleseka iKhomishana, lichazwa njengomnyango kwisheduli 1 yoMthetho Wemisebenzi Kahulumeni, we-1994. UMthethosivivinywa uhlose ukusungula ukwesekwa kokuphathwa komsebenzi weKhomishana njengeHhovisi likaNobhala eliholwa yiSiphathimandla Esiphezulu esibika ngqo kwiKhomishana;
- ukuhlinzekela ukuthi iKhomishana ifezekise umsebenzi wayo wangokomthethosisekelo maqondana nohulumeni wasekhaya kanye nezinhlaka zikahulumeni; kanye
- nokuhlinzekela izindaba ezihambisana nalokho.

2.2. Okuseqhulwini kwiHlandla Lesithupha Lokuphathwa Komsebenzi kumayelana nokwakha umbuso kahulumeni onenkambiso enhle, onamandla okuveza okunenani eliphakeme nobugugu, onekhono nothuthukayo. Lo

Mthethosivivinywa uhlose ukufeza inhloso Kahulumeni yokwakha imisebenzi kahulumeni enamandla nehanjiswa ngenkambiso enhle kanye nokuphathwa kwemisebenzi kahulumeni ngokuzuza isiqiniseko ekusetshenzisweni ngokugcwele kwamandla namagunya eKhomishana njengoba kuveziwe esigabeni 195 no 196 soMthethosisekelo.

2.3. UMhlonishwa uMengameli umemezele ukuthi ukuhanjiswa kwezidingo kubantu kuzogxiliswa ezingeni lezifunda zomasipala. IKhomishana izogxila ohlakeni lokuhanjiswa kwezidingo kubantu lwesifunda njengengxenye yokusabela ezidingweni Zikahulumeni ekukhuthazeni ukwenziwa ngobungcweti kwemisebenzi kahulumeni kanye nokuphathwa kwemisebenzi kahulumeni. Ngokwenza kanjalo, iKhomishana izobe isabela ezidingweni zombuso othuthukayo.

2.4. IKhomishana izokweseka omasipala ngokuhambisana nesigaba 154(1) soMthethosisekelo we-1996, ekufezekiseni umyalelo kaMongameli njengoba uveziwe eNkulumweni Mayelana Nesimo Sezwe yowezi-2023, ngale ndlela elandelayo: *"Uhulumeni usebenzisa izindlela zokungenelela eziningana ukuze abhekane nokwehluleka ezingeni lohulumeni basekhaya kanye nokwenza ngcono ukuhlinzekwa kwezidingongqangi eziyisisekelo kubantu.*

> *Lokhu kubandakanya ukuthuthukisa amandla abameleli bomphakathi kanye nezikhulu, ukunakekela nokuthuthukisa ingqalasizinda yendawo, kanye nokucela amandla kahulumeni kazwelonke ukuthi angenelele lapho omasipala behluleka ukufeza izibopho zabo.*
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> *{Umsebenzi kahulumeni owenziwa ngobungcweti, onabasebenzi abanamakhono, abazinikele nabanenkambiso enhle yokuziphatha, ubalulekile kumbuso kahulumeni ophumelelayo futhi oqeda inkohlakalo, ukuxhasa abathile kanye nokumosha.*
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> *Ekuphenduleni iKhomishana Yokuqhwagwa Kwamandla Ombuso futhi ngokuhambisana nohlaka lokwenziwa komsebenzi kahulumeni ngobungcweti, ukuhlolwa kobuqotho kuzoba yimfuneko eyimpoqo uma kuqashwa abantu abazokwenza umsebenzi kahulumeni futhi kuzokwethulwa nezivivinyo zokungena.*
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> *Sichibiyela umthetho futhi siqinisa iqhaza leKhomishana Yemisebenzi Kahulumeni ukuze siqinisekise ukuthi abantu abaqeqeshiwe baqokelwa ezikhundleni zokuphatha eziphezulu futhi siqhubekela ekwakhiweni kwemisebenzi kahulumeni eyinto eyodwa, evumelanayo.*

2.5. UMthethosivivinywa uzoqinisekisa ukuthi iKhomishana iyakwazi ukwenza umsebenzi wayo ngaphandle kokwesaba, ukwenzelela, ukuchema noma ukugxambukela, njengomlondolozi wokubusa okuhle kanye nokukhuthaza ukubusa okunenkambiso enhle ngokuhambisana nezinjongo zikahulumeni eziseqhulwini.

2.6. UMthethosivivinywa uzokwenza ngcono ikhono leKhomishana ekuphenduleni izinkinga zenkohlakalo ebonakala ingenye yezinselelo ezivezwe embikweni

weKhomishana Yokuqhwagwa Kwamandla Ombuso, Inkohlakalo kanye Nokukhwabanisa okwenzeka Emkhakheni Wemisebenzi Kahulumeni kubandakanya Nezinhlaka Zombuso, eyayiholwa uMongameli Wamajaji uZondo. Injolozela yeKhomishana ezindabeni eziphathelene nenkohlakalo nobuqotho izokwenziwa ophikweni lokuphathwa kwemisebenzi kahulumeni lonkana hhayi nje emisebenzini kahulumeni kuphela. IKhomishana izoqhubeka nokulawula ukusebenza kweNombolo Kazwelonke Yokulwa Nenkohlakalo (i-NACH) futhi yenze uphenyo oluphelele futhi ibe ngumnikazi wendawo yokuphatha izikhalo maqondana nabaphathi ophikweni lokuphathwa kwemisebenzi kahulumeni lonkana, okuhlanganisa nemisebenzi kahulumeni.

2.7. Ukuzimela kweKhomishana kuzothuthukiswa ngokunikwa igunya elicacile lokuphathwa kwemisebenzi kahulumeni futhi kubekwe kahle njengesikhungo esimiswe ngokomthethosisekelo esibika ePhalamende. Lokhu kuzoholela ekwenziweni ngcono kwengalo Yokushaya umthetho Yokuqapha Ukusebenza Kweminyango kaHulumeni phezu kwengalo Yesigungu Seziphathimandla, ngosizo lwemibiko yeKhomishana.

3. OKUQUKETHWE UMTHETHOSIVIVINYWA

3.1. Umshwana 1 uhlose ukucacisa ngamagama asetshenziswe kuMthethosivivinywa. Izincazelo ‘‘zikahulumeni wasekhaya’’, ‘‘umasipala’’, ‘‘inhlangano yomphakathi’’, ‘‘ukuphathwa komsebenzi kahulumeni’’, ‘‘Ihhovisi likaNobhala’’ kanye ‘‘neNkundla Yezingxoxo Zamaholo Yekhomishana’ ‘zihlinzekiwe lapha.

3.2. Umshwana 2 ubhekelela ukusetshenziswa koMthetho, futhi uyasho ukuthi uMthetho usebenza ekuphathweni kwemisebenzi kahulumeni kanye nasekuphathweni kukahulumeni.

3.3. Umshwana 3 ubhekelela uMthethosisekelo weKhomishana eyakhiwe ngokhomishana abayi-14 abaqokwe nguMongameli.

3.4. Umshwana 4 ubhekelela ukuqokwa kokhomishana okufanele babe ngabantu abafanelekile nabakulungele ukuqokwa ngokuhambisana nesigaba 196(10) soMthethosisekelo, esihanjelaniswa nezimiselo zomthethosisekelo esigabeni 196(7) kanye no 196(8). Kukhona okhomishana abahlanu ezingeni likazwelonke kanye nokhomishana oyedwa (1) wesifundazwe ngasinye. UMongameli uqoka okhomishana ngokugxila esincomweni sePhalamende noma isishayamthetho sesifundazwe esifanele kanye noNdunankulu.

3.5. Umshwana uhlose ukusiza ekuhlanganiseni inqubo yokuqokwa koKhomishana ngokwethula izinga 8 le-NQF elinconyiwe noma iziqu ezilinganayo kanye nesipiliyoni seminyaka okungenani eyisishiyagalombili emikhakheni efanele. Lokhu kwenzelwa isiqiniseko sokuthi okhomishana bangochwepheshe futhi banamakhono afanelekile okufeza igunya leKhomishana, ngaphakathi kobungoti bohlaka lokwenziwa komsebenzi kahulumeni. Uphinde futhi uhlinzekele ukuthi ilungu lePhalamende, isishayamthetho sesifundazwe, umkhandlu kamasipala noma ibhodi noma omunye umgwamanda olawulayo wenhlangano yomphakathi angeke lisebenze njengokhomishana uma belikuleso sikhundla eminyakeni emibili eyedlule kusukela osukwini lokukhangiswa kwesimemo sezicelo zokhomishana.

3.6. Isifungo sokuthatha isikhundla noma isiqinisekiso sokwethembeka phambi kukaMongameli WamaJaji wophiko olufanele lweNkantolo Ephakeme, noma elinye ijaji, siyethulwa kwisheduli 1 yoMthethosivivinywa ukuqinisekisa ukuthi okhomishana bayazibophezela futhi bayaliqonda iqhaza labo ekuvikeleni uMthethosisekelo, kanye nokukhuthaza izimiso zokuziphatha ngenkambiso ephakeme.

3.7. Umshwana 5 ubhekelela ukuhoxiswa ekuqokweni njengoKhomishana ngokuhambisana nezimiselo zoMthethosisekelo.

3.8. Umshwana 6 ubhekelela ukunqindwa amandla kokhomishana ekwenzeni omunye umsebenzi, inqubo yokuvuselela isikhathi sokuba sesikhundleni kokhomishana kanye nokuphuma kokhomishana ezikhundleni. Isikhathi sokuba sesikhundleni kukakhomishana kuba iminyaka emihlanu, okungenzeka ivuselelwe ngeminye iminyaka emihlanu ngokwesincomo seKhomishana futhi ngokwesekwa ukhomishana. Ukhomishana kufanele ahlale engumuntu ofanelekile futhi onomqondo ophusile futhi agcine izinga lokusebenza eligculisayo maqondana nemisebenzi yakhe ukuze isikhathi sakhe sizovuselelwa isikhathi esengeziwe sokuba sesikhundleni seminyaka emihlanu.

3.9. Ngokwalo mshwana ukhomishana akumele abe yilungu lohlaka lwanoma yiliphi iqembu lezepolitiki noma inhlangano yezepolitiki. Ukhomishana akufanele enze umsebenzi owengeziwe ngesikhathi esaqokwe njengokhomishana ngaphandle uma ethole imvume kuMongameli ohloniphekile. Ukhomishana angasuswa esikhundleni ngenxa yokungaziphathi kahle, ukungakwazi ukusebenza kahle noma ukungakwazi ukwenza okufanele ngokuhambisana nemithetho yesishayamthetho sesifundazwe esithintekayo noma isiGungu sikaZwelonke, njengoba kungaba njalo, inqobo nje uma ukhomishana enikezwa ithuba lokuziphendulela ngezinsolo ezibhalwe phansi.

3.10. Umshwana 7 uhlinzekela ukuthi uMongameli aqoke usihlalo kanye nesekela likasihlalo weKhomishana. Lo mshwana uphinde ubhekelele ukuqokwa kwebamba likasihlalo noma lesekela likasihlalo uma kwenzeka usihlalo kanye nesekela likasihlalo bengekho ehhovisi noma bengakwazi ukusebenza.

3.11. Lo mshwana uhambisana nomshwana 7(3) woMthetho Wokuchitshiyelwa kwe-PSC, wezi-2019, owawuthi, ‘‘uma bobabili usihlalo kanye nesekela likasihlalo bengekho, noma nganoma yisiphi isizathu bengakwazi ukusebenza njengosihlalo, uMongameli uzoqoka ukhomishana oyedwa ozobamba njengosihlalo weKhomishana isikhathi esingeqile ezinsukwini ezingama-30’’.

3.12. Lokhu kwenzelwa ukuqinisekisa ukuthi kukhona ukuqokwa kukakhomishana uma bobabili usihlalo kanye nesekela likasihlalo bengekho ehhovisi, kanye nokuqinisekisa ukuthi inqubo iyaqashelwa njalo ngemuva kwezinsuku ezingama-30 ukuze kunqunywe ngesinyathelo esifanelekile.

3.13. Umshwana 8 uhlinzekela ukuthi amaholo okhomishana ayonqunywa uMongameli, izikhathi ngezikhathi, ngokufaka isaziso kuSomqulu Kahulumeni, ngemuva kokucubungula izincomo zeKhomishana Ezimele Yabasebenzi Basehhovisi Likahulumeni. Kubalulekile ukuziqhelelanisa nokufuna ukuthi amaholo okhomishana afane neholo likaMqondisi-Jikelele eminyangweni

kahulumeni, njengoba lokhu kufana nokulinganisa okhomishana nezikhulu zikahulumeni.

3.14. IKhomishana Ezimele Yamaholo Abasebenzi Basehhovisi Likahulumeni kumele, lapho icubungula amaholo okhomishana ixoxisane nelungu leKhabhinethi elibhekele ezeziMali.

3.15. Izinga lomholo elehlukile linganconywa kuSihlalo, iPhini likaSihlalo kanye nabanye okhomishana beKhomishana. Umshwana 8(6) uveza ukuthi amaholo oKhomishana angeke ehliswe, futhi imibandela yokuqokwa angeke ishintshwe ngendlela engafanele ngesikhathi sikaKhomishana sokuba sesikhundleni, kuhlanganisa nanoma yikuphi ukuvuselelwa kwalokho kuqokwa.

3.16. Umshwana 9 uhlinzekela ukuhlolwa kanye nophenyo olwenziwa yiKhomishana. IKhomishana ingenza ukuhlolwa ngokuzifikela mathupha noma ngokuhlola amarekhodi futhi ingase icele ukuhlinzekwa ngamarekhodi noma ulwazi iminyango nezikhungo zikahulumeni ezingaphansi kokuphathwa komsebenzi kahulumeni abaphoqelekile ukuba bawalethe.

3.17. Umshwana 10 uhlinzeka ngokuthi iKhomishana inegunya lokwenza uphenyo ngaphakathi kweminyango, kwezinye izingxenye zenhlangano ngaphakathi kwemisebenzi kahulumeni kanye nokuphathwa kwemisebenzi kahulumeni. IKhomishana kufanele ifinyelele kumarekhodi afanele kanye nolwazi oluzoyisiza ekwenzeni imisebenzi yayo, okuhlanganisa nohulumeni wasekhaya kanye nenhlangano kahulumeni.

3.18. Umshwana uphinde ubhekelele izikhalazo zabasebenzi ezinhlanganweni zikahulumeni nakomasipala.

3.19. Umshwana 11 ubhekelela ukubizwa kofakazi ukuba bavele phambi kweKhomishana noma baveze noma yiliphi irekhodi noma into engaba yimfuneko ekwenzeni imisebenzi yeKhomishana esemthethweni. Ihlinzeka ngokuthi ukwehluleka kukafakazi ukuthobela izimiselo zalesi sigaba kuyicala.

3.20. Umshwana 12 uhlinzekela ukuthi umbiko weKhomishana maqondana nophenyo noma isikhalazo kumele wenziwe utholakale ezinhlangothini ezithintekayo uma umbiko usuphothuliwe futhi wahanjiswa esigungwini esiphezulu esithintekayo nanoma yimuphi omunye umuntu. Umbiko wophenyo ungase futhi uhlinzekwe ngemvume yomunye umuntu noma abantu njengoba kungaba njalo futhi ulwazi oluthile lungasuswa engxenyeni yombiko noma ingxenye ephathelene nanoma yimuphi omunye umuntu.

3.21. Umshwana 13 ubalula ukuthi umnyango, isikhungo sikahulumeni noma umasipala othola umbiko weKhomishana oyalela ukuthi wenze okuthile ngaphansi komthetho othile, kumele uthathe isinyathelo esifanelekile ngokuthi uhlinzeke iKhomishana ngohlelo-kusebenza lokuqalisa ukusebenza kwezeluleko, iziqondiso noma izincomo zeKhomishana kungakapheli izinsuku ezingama-60, kumbe isikhashana esingaphansana noma esingaphezudlwana kwalokho esibekwe yiKhomishana embikweni ofanelekile.

3.22. Uma kwenzeka isiphathimandla esiphezulu sihluleka ukuqalisa ukusebenza kwesinqumo ngenxa yezizathu ezizwakalayo, kumele sibuyele emuva

kwiKhomishana nezizathu zalokho noma sidlulisele umbiko weKhomishana enkantolo ukuze ubuyekezwe uma kunezizathu ezinohlonze futhi ezizwakalayo zalokho. Lesi simiselo siqondene noSodolobha kanye noMkhandlu Ophetheyo kaMasipala noma iziPhathimandla Eziphezulu, oSihlalo, amabhodi noma abaPhathi Abakhulu bezikhungo zikahulumeni.

3.23. Umshwana 14 uyalela ukuthi uKhomishana ngokunjalo futhi nelungu labasebenzi elishiwo kumshwana 16 kumele benze umsebenzi wabo ngokuzimela futhi ngaphandle kovalo nokwenzelela ekuqaliseni ukusebenza kwegunya leKhomishana. Lo mshwana uphinde futhi wenqabele iHhovisi likaNobhala weKhomishana noma ukhomishana ukuthi ahlinzeke ngosizo mayelana nanoma yiluphi udaba okungenzeka abe nentshisekelo kulona.

3.24. Umshwana 15 ubhekelela ukuvinjelwa kweKhomishana ekusebenziseni amandla ayo noma ekwenzeni imisebenzi yayo. Noma yimuphi umuntu oyotholwa enecala lokuvimbela umsebenzi weKhomishana kungenzeka agqunywe ejele isikhathi esiyizinyanga eziyi-12 noma agixatshezwe ngenhlawulo engafinyelela kwizi-R50 000.00.

3.25. Umshwana 16 ubhekelela ukusungulwa kweHhovisi likaNobhala weKhomishana elizohlinzeka ngomsebenzi wokulawula nokweseka umsebenzi weKhomishana. Abasebenzi beHhovisi LeKhomishana Yezemisebenzi Kahulumeni kuthathwa ngokuthi baqokelwe ukusebenza eHhovisi likaNobhala weKhomishana. Imigomo nezimo zabo zokusebenza kuzobe sekudluliselwa eHhovisi likaNobhala ngokusebenzisa uhlelo lokudluliswa kwemisebenzi eyenziwayo isuswa ophikweni oluthile isiwe kolunye. Inhloko yeHhovisi likaNobhala nguMphathi Omkhulu okunguyena othweswe umsebenzi wokuphatha nokwengamela izindaba zeKhomishana futhi oqokwe yiKhomishana. Umphathi Omkhulu wethweswe isibopho sokubika nokuphendula ngemisebenzi yakhe kwiKhomishana noSihlalo wayo futhi kulesi sikhundla uzohlala isikhathi esiyiminyaka emihlanu okungenzeka sivuselelwe ngelinye ihlandla lokuphatha elengeziwe elilodwa kuphela eliyiminyaka emihlanu.

3.26. Umshwana 17 uhlinzekela ukuthi iKhomishana idlulisele amandla ayo kunoma yiliphi ikomidi noma amakomidi kakhomishana oyedwa noma ngaphezulu ngaphansi kwemigomo nemibandela ezonqunywa yiKhomishana. IKhomishana ayivumelekile ukudlulisa amandla ayo okushaya iMithetho. Futhi ukudluliswa kwanoma yimaphi amandla eKhomishana akusho neze ukuthi iKhomishana seyiphuciwe amandla lawo. Lo mshwana ubalula futhi ukuthi uSihlalo weKhomishana uvumelekile ukudlulisela kuMphathi Omkhulu noma yimaphi amandla ashiwo kumshwana 16(2).

3.27. Umshwana 18 uqondene nezimali kanye nokuphendula kweKhomishana ngemisebenzi yayo. Ngokwalo mshwana, uSihlalo nguyena oyiSiphathimandla Esiphezulu seKhomishana. Isabelomali seKhomishana kumele sabiwe ngokusebenzisa izimali ezabiwe yiPhalamende eziqondene neKhomishana njengesikhungo esisungulwe ngokomthethosisekelo.

3.28. UMphathi Omkhulu nguyena oyisikhulu esiphendulayo seKhomishana ngokuhambisana nesigaba 36 soMthetho Wezokuphathwa Kwezimali

Zikahulumeni, we-1999 (i-"PFMA"). Imisebenzi yesikhulu esiphendulayo ihambisana nezibopho zakhe ngokwesigaba 38 se-PFMA.

3.29. Isikhulu esiphendulayo yisona esethweswe, ngokwesigaba 40 se-PFMA, isibopho sokuthumela yonke imibiko, izitatimende zezimali, izaziso kanye nolunye ulwazi okumele siluqoqe futhi siluhlanganise bese siluletha kwiSiphathimandla Esiphezulu ukuze lugunyazwe ngokusemthethweni ngaphambi kokuba kuthunyelwe umbiko kuMgcinimafa Kazwelonke, uMcwaningimabhuku-Jikelele, iPhalamende kanye nanoma iyiphi inhlangano yangaphandle noma isikhungo.

3.30. IKhomishana iyona ezozilawulela i-akhawunti yayo yasebhange, futhi isabelomali sayo sonyaka sifaka phakathi izimali ezabelwe yiPhalamande ukuze yenze imisebenzi yayo kanye nezimali ezivela kwiminikelo noma izibonelelo, noma izimali zokuphathwa kokubuyiswa kwezindleko koqobo emiklamweni ethile okungenzeka yenziwe emuva kokuthola isicelo esivela kwisikhungo sombuso. Izilinganisonani eziqondene nalokhu zizoshicilelwa kuSomqulu Kahulumeni.

3.31. Lokhu kuyadingeka njengoba iKhomishana izoqalisa ukusebenza kwegunya layo maqondana nezikhungo zikahulumeni kanye nohulumeni bezindawo ngokwezingasilinganiso elikhulayo, futhi ngokusekelwe ezinsizeni ezikhona. IHhovisi Lekhomishana Yezemisebenzi Kahulumeni lizofudukela eHhovisi likaNobhala weKhomishana nesabelomali salo samanje futhi lesi simiselo sizosetshenziswa yiHhovisi likaNobhala. Isabelomali esengeziwe futhi esikhulayo sizodingeka ekuqalisweni kokusebenza kwegunya eliluliwe kwizikhungo zikahulumeni kanye nohulumeni bezindawo.

3.32. Umshwana 19 uhlinzekela izinyathelo zomthetho ezithathwa yiKhomishana noma ezithathelwa iKhomishana. Ubalula ukuthi iKhomishana iyisikhungo esisemthethweni esinelungelo lokumangalela umuntu noma inhlangano ethile futhi nayo kungenzeka imangalelwe. UMthetho Wesibopho Sombuso Esingokomthetho, we-1957 (uMthetho onguNombolo 20 we-1957, yiwona osebenzayo maqondana neKhomishana.

3.33. Umshwana 20 uhlinzekela amandla eKhomishana okwenza imithetho ngokuthi ikhiphe isaziso kuSomqulu Kahulumeni maqondana nezikhalazo, izikhalo, ukukhishwa kwamasamanisi, izimali ezikhokhelwa izinsizakalo okungenzeka zihlinzekwe yiKhomishana, kanye nanoma yiluphi olunye udaba okuvumelekile ukuthi lulawulwe ngaphansi komthetho.

3.34. Umshwana 21 uhlinzekela ukuchithwa nokushicilelwa kwemithetho.

3.35. Umshwana 22 uhlinzekela izinhlelo zokubhekana nesimo sesikhashana lapho kwenzeka izinguquko maqondana neKhomishana.

3.36. Umshwana 23 uhlinzekela isihloko esifushane kanye nokuqaliswa kokusebenza koMthetho. Lo mshwana uhlinzekela ukuthi uMongameli anqume usuku lokuqaliswa kokusebenza koMthetho ngokwenza iSimemezelo esisemthethweni kuSomqulu Kahulumeni. UMongameli uphinde futhi anikwe amandla okunquma izinsuku ezihlukahlukene ukuqinisekisa ukuqaliswa kancane kancane ngokuqhubekayo kokusebenza kwegunya leKhomishana maqondana —

- nomasipala noma izigaba zomasipala; kanye
- nezikhungo zikahulumeni noma izigaba zezikhungo zikahulumeni.

4. IMITHELELA EQONDENE NENHLANGANO KANYE NABASEBENZI

4.1. Kulindeleke ukuthi kungabi nemithelela engeziwe ezokwenzeka kwiKhomishana maqondana nenhlangano kanye nabasebenzi njengoba uhlaka lwenhlangano lwamanje luzofudukela eHhovisi likaNobhala weKhomishana elisha elisanda kusungulwa. Lokhu kuzokwenziwa ngokudluliswa kwemisebenzi yeHhovisi elikhona njengamanje idluliselwe eHhovisi likaNobhala, kubandakanya izinsiza ezikhona njengamanje kanye nesabelomali ngaphandle kokuthi kube noguquko esakhiweni nesimo senhlangano kanye nenani labasebenzi.

4.2. Lapho igunya leKhomishana seliqalisiwe ukusebenza ukuze libandakanye ukuphathwa kwezikhalazo, ukuphathwa kwezikhalo, ukuqapha nokuhlola omasipala nezikhungo zikahulumeni ezingeni lohulumeni basekhaya kanye nasezingeni likazwelonke nelezifundazwe, iKhomishana izodinga abasebenzi abengeziwe. Ezigabeni zokuqala, umsebenzi omusha oqondene nomasipala nezikhungo zikahulumeni ungenziwa ngokuthi kwabiwe kabusha izinsiza ezikhona njengamanje ngokubeka eqhulwini imisebenzi esemqoka okumele ibhekelelwe kuqala. Kuzoqaliswa ukusebenza kohlelo oluzofakwa ngokukhulayo, ngokwezigaba nezigaba.

4.3. Kungenzeka kudingeke izinsiza ezengeziwe zezimali kanye nabasebenzi lapho kufanelekile ukuze kubhekwane nokukhula okulindelekile kwenani labasebenzi beHhovisi likaNobhala weKhomishana futhi lokho kuzoncika ekugunyazweni kwezabelomali ezengeziwe. Igunya eleluliwe kungenzeka liqaliswe ngokusebenzisa abasebenzi besikhashana noma izinsiza zesikhashana ngokomklamo nomklamo kuze kufike isikhathi lapho iHhovisi likaNobhala selihlinzekwe ngezinsiza ezanele ukuqalisa igunya layo ngokuphelele komasipala kanye nasezikhungweni zikahulumeni.

5. IMITHELELA YEZIMALI EQONDENE NOMBUSO

5.1. Umbhalo ofakazela isidingo sokuqaliswa komklamo uhlinzeka ngezizathu ezeseka ukudluliswa kwemisebenzi isuswa ehhovisi elikhona njengamanje isiwe eHhovisi likaNobhala, kubandakanya izinsiza ezikhona njengamanje kanye nesabelomali. Kuzoba nemisebenzi eyenziwayo nezinyathelo zokulungiselela lokhu futhi kuthuthukiswe nezinhlelo ezidingekayo ukubhekelela ufuduko ophikweni lwezemisebenzi kahulumeni kanye nokusetshenziswa kwezinhlelo zolwazi ezahlukahlukene ezihlobene nalokhu, lapho zitholakala khona izinhlelo ezinjengalezo. Isilinganisonani sokukhula kwesabelomali onyakeni wokuqala wokusungulwa kweHhovisi likaNobhala silinganiselwa kwisamba semali eyizi-R15 780 960 futhi izinsiza zezimali zizoqhamuka ngaphakathi.

5.2. Uma uMthethosivivinywa usuphasisiwe waba umthetho, lizoqiniswa futhi linwetshwe igunya leKhomishana maqondana nohulumeni basekhaya kanye nezikhungo zikahulumeni. Kunegatsha elengeziwe elifakiwe ohlakeni lwesabelomali, okuwuPhiko 5: Imisebenzi Yansukuzonke Eyenziwayo Yesifundazwe ukuqinisekisa ukuhanjelaniswa kahle kwemisebenzi ukuze kufezekiswe igunya leKhomishana ezingeni lesifundazwe. Izindleko eziyisisekelo zoMthethosivivinywa we-PSC ku-MTEF zimi kanje:

Ukuhlukaniswa Ngononina Kwemisebenzi Yezomnotho	2024/2025 Imali-sisekelo R'000	2025/2026 Imali-sisekelo R'000	2026/2027 Imali-sisekelo R'000
Amaholo abasebenzi nezibonelelo	84 194	89 245	94 600
Izimpahla nezinsizakalo	40 930	29 749	30 525
Imishini nobuxhakaxhaka bokusebenza	2 916		1 009
Isamba Esiphelele Sokuhlukaniswa Ngononina Kwemisebenzi Yezomnotho	**128 040**	**118 994**	**126 134**

Imiphumela: izinguquko ezithile kubabambiqhaza (okungukuthi labo abahlomulayo) ukuziphatha, ulwazi, amakhono, isimo kanye namandla nobunyoninco bokusebenza:

5.3. Izindleko ezilindelekile zokuqaliswa ukusebenza kwegunya leKhomishana komasipala nasezikhungweni zikahulumeni zizohambelana nokukhula okulindelekile kwenani labasebenzi beKhomishana njengesikhungo esisungulwe ngokomthethosisekelo futhi zizoncika ekugunyazweni kwezabelomali ezengeziwe.

5.4. Ukuqaliswa ukusebenza kwegunya leKhomishana komasipala nasezikhungweni zikahulumeni kuhlelwa ukuthi kwenzeke ngokwezigaba ngezigaba, ngokusekelwe ekutholakaleni kwezinsiza kanye namathuba okubuyiswa kwezindleko/ukuphathwa kwezimali eziqondene nemiklamo ethile, lapho kufakwa isicelo salokho.

6. IZIKHUNGO ZIKAHULUMENI KANYE NABANTU OKUBONISWANE NABO

6.1. Umbhalo ofakazela isidingo sokuqaliswa komklamo kanye nokuhlolwa komthelela kwinhlalo-mnotho kwaphothulwa ngenhloso yokuhlinzeka ngezizathu ezifakazela isidingo soMthetho nokusungulwa kweHhovisi likaNobhala ukuze kuthuthukiswe ukuzimela kweKhomishana.

6.2. Ukubonisana ngohlaka loMthethosivivinywa ohlongozwayo kwenzeka ezigcawini zohlelo lwamasu ezahlukahlukene ezabanjwa yiKhomishana phakathi kowezi-2018 nowezi-2023. UMthethosivivinywa wethulwa eSigcawini Sokuxoxisana seKhomishana nakubasebenzi beKhomishana, futhi kwaboniswana nabanye ababambiqhaza abaningana. Zonke izikhungo ezeseka intando yabantu, i-DPSA, uMgcinimafa Kazwelonke, iSikhwama Sempesheni Sabasebenzi Bakahulumeni (i-GEPF), iHhovisi Lezikhungo Ezeseka Intando Yabantu, iHhovisi Lomvikeli Womphakathi, iHhovisi LoMcwaningimabhuku-Jikelele, kwaboniswana nazo. UMthethosivivinywa washicilelwa kuSomqulu Kahulumeni mhla ziyisi-9 kuNhlangulana ukuze umphakathi uphawule ngawo, futhi washicilelwa ngendlela ehlinzeka izinhlaka ezihlelekile zohulumeni basekhaya ezinjenge-SALGA, omasipala kanye nabanye abantu abanentshisekelo ngethuba lokwenza izethulo maqondana nohlaka loMthethosivivinywa ohlongozwayo. Imibono yababambiqhaza eyatholwa ezigcawini zokuxoxisana nayo yafakwa

kuMthethosivivinywa, futhi ezethulweni eziyi-16 ezibhalwe phansi ezahlinzekwa ngababambiqahaza zintathu kuphela ezazingaweseki ngokuphelele uMthethosivivinywa.

6.3. Kwaboniswana futhi neQembu Lokusebenza Elijutshwe Ukubhekana Nomsebenzi Wokuphathwa Kukahulumeni kanye Nobudlelwano Phakathi Kwezinhlaka Zikahulumeni. UMthethosivivinywa, ngokuhambisana nesigaba 154(2) soMthethosisekelo, kwaboniswana futhi ngawo ne-SALGA esifundazweni saseNtshonalanga Kapa kanye ne-SALGA esifundazweni saseLimpopo.

7. IMITHELELA EQONDENE NOMTHETHOSISEKELO

7.1. UMthethosivivinywa uhlose ukuqalisa ukusebenza kohlaka lwemithetho nolwesikhungo oluhambelanisa futhi lugqugquzele ukuzimela, ukungachemi kanye nokusebenza ngendlela enobuqotho nobumnene ekuqalisweni kokusebenza kwegunya leKhomishana Yemisebenzi Kahulumeni ngokwesigaba 195 no 196 soMthethosisekelo.

7.2. Ukugqugquzelwa kombuso olandela inkambiso elungileyo nobuqotho, osebenza ngobunyoninco nobungcweti futhi othuthukisayo kuzofezekiswa emkhakheni wonkana wezemisebenzi kahulumeni nasophikweni lokuphathwa kukahulumeni. Lokhu kuzonciphisa ukungasebenzi kahle emkhakheni wezemisebenzi kahulumeni futhi kugqugquzele ukusebenza ngendlela ehambelana kahle kanye nobunyoninco nobungcweti kwezokuphathwa kukahulumeni.

8. INQUBO YASEPHALAMENDE

8.1. Ukunquma ukuthi uMthethosivivinywa unguMthethethosivivinywa wesigaba sama-76 kwenziwa ngokuhambisana noluhlu olucace bha lwezindaba zomthetho eziqukethwe kwisigaba 76(3)(a) kuya ku-(f) soMthethosisekelo, futhi kwenziwa nangokubuka ukuthi izimiselo zoMthethosivivinywa zingena kakhulu kangakanani ngaphansi kohlaka lwemithetho yesifundazwe olusekelwe phezu kokuvumelana.

8.2. Isigaba 76(3)*(e)* soMthethosisekelo siyalela ukuthi noma yimuphi umthetho oshiwo kwisigaba 196 soMthethosisekelo kumele uphasiswe ngokulandela inqubo equkethwe kwisigaba 76. Ngokubheka lokhu, uMthethosivivinywa kumele ucutshungulwe ngokwesigaba 76 soMthethosisekelo, okusho ukuthi kuzodingeka ukuthi uMthethosivivinywa kubhungwe ngawo eSigungwini Sikazwelonke kanye nase-NCOP njengoba ungumthetho kazwelonke othinta imisebenzi kanye namagunya/namandla okusebenza ezifundazwe.

8.3. UMthethosivivinywa kungase kudingeke ukuthi udluliselwe eNdlini Kazwelonke Yabaholi Bendabuko Nabama-Khoi-San ngokuhambisana nesigaba 39(1)*(b)* soMthetho Wobuholi Bendabuko Nobama-Khoi-San, wezi-2019 (uMthetho wesi-3 wezi-2019), njengoba uphathelene nezindaba ezishiwo kwisigaba 154(2) soMthethosisekelo.

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