

{Umbhalo weSingisi unyathelwe nguNdunankulu}

**UMTHETHO WOKUQEDA NOKUVIMBELA UKWAKHIWA KABUSHA
KWEMIJONDOLO KWAZULU-NATALI, KA-2007**

(Umthetho No. 6 ka 2007)

Uvunywe mhlaka 2007-07-17

UMTHETHO

Ukuhlinzekela ngendlela eqhubekayo ukuqeda imijondolo esiFundazweni saKwaZulu-Natali; ukuhlinzeka ngezindlela zokuvimbela ukwakhiwa kabusha kwemijondolo; ukuhlinzekela ukuthuthukiswa nokulawulwa kwemijondolo ekhona; kanye nokuhlinzekela nezinye izinto ezixhumene nakho.

ISINGENISO

LAPHO ukunikezela ngezindlu ezingambi eqolo kuzo zonke izakhamizi zaseNingizimu Afrika, ikakhulu lezo zingxenyane zomphakathi ezazincishwe amathuba kwezomnotho nakwezepolitiki kungakabusi uhulumeni wentando yeningi kuleli, kuyinsika ekwakhiweni komphakathi kazwelonke ophilile futhi ongenazinkinga;

FUTHI NALAPHO wonke umuntu enelungelo ngokomthethosisekelo lokuthola indlu engambi eqolo;

FUTHI NALAPHO isigaba 7 soMthetho Wezezindlu, ka-1997 (uMthetho ongunombolo 107 ka-1997), sikhuthaza khona ohulumeni bezifundazwe ukuba, phakathi kokunye, basungule umthetho ozolawula inqubekela phambili ngezinjongo zokunikezela ngezindlu ezanele futhi ezingambi eqolo;

FUTHI NALAPHO uMthetho Wezezindlu KwaZulu-Natali ka-1998 (uMthetho ongunombolo 12 ka-1998), owamiswa wuhulumeni wesifundazwe saKwaZulu-Natali ukuze wonke umuntu walesi sifundazwe afinyelele ekutholeni indlu engambi eqolo;

FUTHI NALAPHO enye yezinjongo zayo yomibili le mithetho, oweZindlu ka-1997 (uMthetho ongunombolo 107 ka-1997), kanye noMthetho Wezezindlu KwaZulu-Natali, ka-1998 (uMthetho ongunombolo 12 ka-1998), wukukhuthaza ukuxoxisana

nokwesekana phakathi kukahulumeni wesifundazwe kanye nowasekhaya ekunikezeleni ngezindlu ezingambi eqolo;

FUTHI NALAPHO kunesidingo sokuthi kuqhanyukwe nezindlela ezizolekelela ekutheni kulawulwe futhi kuqedwe imijondolo, kuphinde kuvinjwe ukwakhiwa kabusha kwayo, ngendlela ethuthukisa iphinde ivikele izinhlelo zokwakhiwa kwezindlu kuhulumeni wesifundazwe nowasekhaya,

NGAKHO-KE KUMELE UMISWE yisiShayamthetho Sesifundazwe SaKwaZulu-Natali, kanje:

UKUHLELWA KWEZINGXENYE

Isigaba

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IZINCAZELO, UKUSETSHENZISWA KOMTHETHO, NEZINJONGO ZAWO

1. Izincazelo
2. Ukusebenza koMthetho
3. Izinjongo zoMthetho

ISAHLUKO 2

UKUNGAVUNYELWA KOKUHLALA NGOKUNGEMTHETHO KANYE
NOKUSETSHENZISWA KWENDAWO YOKUHLALA ESEZINGENI ELIPHANSI

4. Ukungavunyelwa kokuhlala ngokungemthetho endaweni
5. Ukungavunyelwa kokusetshenziswa kwendawo yokuhlala esezingeni eliphansi ukuze kutholakale inzuzo yemali
6. Umthwalo nemfanelo kamasipala ngokusetshenziswa kwendawo yokuhlala esezingeni eliphansi

ISAHLUKO 3

IQHAZA LELUNGU LOMKHANDLU OPHETHE, ELIQONDENE NALO MSEBENZI

7. Ukunikezela ngezindlu ezanele futhi ezingambi eqolo
8. Amandla nemisebenzi yeLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi

ISAHLUKO 4

IQHAZA LOMASIPALA

9. Ukuqwashiseka, ngendlela eqhubekayo ngelungelo lokuthola izindlu ezanele futhi ezingambi eqolo
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11. Isethulo ngesimo kanye nemibiko yonyaka kiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi,
12. Umbandela wokunikezela ngenye indawo kumbe isakhiwo
13. Ukusungulwa kwendawo yesikhashana
14. Isaziso kumnikazi noma umuntu obhekele ukuthuthukiswa kwendawo noma isakhiwo

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IMISEBENZI YABANIKAZI KANYE NABANTU ABABHEKELE UMHLABA NOMA

ISAKHIWO

15. Izinyathelo zokuvimbela ukuhlala ngokungemthetho
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ISAPHLUKO 6

IZINDABA EZIVAMILE

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19. Imithetho kaMasipala
20. Amacala

21. Izinhlawulo
22. Imithethonqubo
23. Ukudlulisela amandla okwenza umsebenzi
24. Isihloko Esifishane

ISAPHLUKO 1

IZINCAZELO, UKUSETSHENZISWA KOMTHETHO, NEZINJONGO ZAWO

Izincazelo

1. Kulo Mthetho noma yiliphi igama kumbe umusho ochaziwe eMthethweni Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni kanye Nokuhlala Ngokungemthetho Endaweni, ka-1998 (uMthetho ongunombolo 19 ka-1998), kumele, ngaphandle uma kungasahambisani nesimo, ligcine incazelo yalo, ngaphandle uma lisetshenziselwe ukuchaza enye into –

"umbiko wonyaka" kusho umbiko njengokwesigaba 11;

"isakhiwo" sihlanganisa isakhiwo, iqhugwana, umkhukhu, itende kanye nanoma yiyiphi indawo yokufihla ikhanda yesikhashana, kungakhathalekile ukuthi impahla okwakhiwe ngayo ifanele yini ukwakha indawo yokuhlala abantu;

"uMthethosisekelo" kusho uMthethosisekelo waseNingizimu Afrika, ka-1996;

"umnyango" umnyango kuHulumeni wesiFundazwe saKwaZulu-Natal obhekele ezezindlu;

"unyaka wezimali" kusho isikhathi kusukela mhla lu-1 kuMbasa kunoma yimuphi unyaka kuya kumhla zingama-31 kuNdasa wonyaka olandelayo;

"iGazethi" kusho iGazethi esemthethweni yesiFundazwe saKwaZulu-Natali;

"imijondolo" kusho indawo okwakhiwe kuyo izindlu eziminyene, engahlelekile futhi eyakhiwe ngokungemthetho ehlala abantu abahlwempu, abangenalo ilungelo elisemthethweni lokuhlala kuleyo ndawo, abangenayo ingqalasizinda nohlelo lokuthuthwa kwendle;

"ukuhlelela intuthuko okudidiyelwe" kusho ukuhlelela okwenziwa ngumasipala ngokuhambisana nohlelo olumiswe esigabeni 25 soMthetho Wohulumeni Basekhaya: Izinhlelo Zikamasipala ka-2000 (uMthetho ongunombolo 32 ka-2000), kanye **"nohlelo lwentuthuko oludidiyelwe"** kunencazelo ehambisanayo;

"umhlaba" kusho ingxenye yomhlaba ehlala abantu kumbe esilungele ukuhlala abantu;

"imenenja kamasipala" kusho umuntu oqokwe ngokwesigaba 82 soMthetho Wohulumeni Basekhaya: Izakhiwo Zikamasipala, ka-1998 (uMthetho ongunombolo 117 ka-1998);

"**umasipala**" kusho umasipala njengoba echaziwe esigabeni 155 soMthethosisekelo, ka-1996, futhi owakhiwe ngaphansi kwezigaba 11 no-12 zoMthetho Wohulumeni Basekhaya: Izakhiwo Zikamasipala, ka-1998 (uMthetho ongunombolo 117 ka-1998), zifundwa nezigaba 3, 4 no- 5 zoMthetho Wokuchazwa Kwezinhlobo Zomasipala KwaZulu-Natali, ka-2000 (uMthetho ongunombolo 7 ka-2000);

"**isikhulu**" kusho isikhulu njengoba sichazwe esigabeni 1 soMthetho Wezezindlu KwaZulu-Natali, ka-1998 (uMthetho ongunombolo 12 ka-1998);

"**umthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni kanye Nokuhlala Ngokungemthetho Endaweni**" kusho uMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni kanye Nokuhlala Ngokungemthetho Endaweni, ka- 1998 (uMthetho ongunombolo 19 ka-1998);

"**umuntu obhekele**" kusho umuntu onamandla kumbe oba namandla asemthethweni ngesikhathi esithile okunikeza imvume kubantu yokuthi bangene kumbe bahlale endaweni noma esakhiweni;

"**isiFundazwe**" kusho isiFundazwe saKwaZulu-Natali njengoba sichaziwe esigabeni 103 soMthethosisekelo, 1996;

"**uHulumeni Wesifundazwe**" kusho uHulumeni Wesifundazwe saKwaZulu-Natali;

"**iNqubo Yohlelo Lwezezindlu Esifundazweni**" kusho iNqubo Yohlelo Lwezezindlu Esifundazweni njengoba iveziwe esigabeni 34 soMthetho Wezezindlu KwaZulu-Natali, ka-1998 (uMthetho ongunombolo 12 ka-1998);

"**isikhwama sokuthuthukiswa kwezindlu esiFundazweni**" kusho isikhwama sesifundazwe sokuthuthukiswa kwezindlu njengoba kuchaziwe esigabeni 12(2) soMthetho Wezezindlu, ka-1997 (umthetho ongunombolo 107 ka-1997);

"Isishayamthetho" kusho isiShayamthetho sesiFundazwe saKwaZulu-Natali;

"imithethonqubo" kusho imithethonqubo ngokwesigaba 22;

"iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi" kusho iLungu Lomkhandlu Ophethe Esifundazweni saKwaZulu-Natali elibhekele ezezindlu;

"imijondolo" kusho indawo enezindlu eziminyene ehlala abantu abaningi abampofu abangenalo ilungelo elisemthethweni lokuhlala kuleyo ndawo, abangenayo ingqalasizinda kumbe uhlelo lokuthuthwa kwendle, kanti

"imibandela yemijondolo" kunencazelo ehambisanayo;

"uhlelo lokuqeda imijondolo" kusho uhlelo oluqukethwe yisimo kanye nombiko wonyaka kamasipala onikezelwa ngokwesigaba 11;

"umbiko ngesimo" kusho umbiko njengoba kubekiwe esigabeni 11;

"Io Mthetho" ufaka imithethonqubo;

"umkhandlu wobuholi bendabuko" kusho umkhandlu wobuholi bendabuko owasungulwa ngokwesigaba 6 soMthetho Wobuholi Bendabuko Nokuphatha KwaZulu-Natali, ka-2005 (uMthetho ongunombolo 5 ka-2005);

"indawo yokugcina impahla okwesikhashana" kusho noma iyiphi indawo kumbe isakhiwo esitholwe noma esisetshenziswa ngumasipala ukugcina noma ukuhlalisa okwesikhashana abantu abasuke besuswe emijondolo.

Ukusebenza koMthetho

2.(1) Lo Mthetho usebenza kukho konke okumayelana nokuthuthukisa kanye nokuvimbela ukuhlala kwabantu ngokungemthetho ezindaweni nasezakhiweni esiFundazweni.

(2) Lapho lo Mthetho ungasho lutho ngokuthuthukisa nokuvimbela ukuhlala kwabantu ngokungemthetho, kusebenza izihlinzeko zoMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala Ngokungemthetho Endaweni.

Izinjongo zoMthetho

3. Izinjongo zalo Mthetho yilezi –

- (a) ukuqeda imijondolo;
- (b) ukuvimbela ukwakhiwa kabusha kwemijondolo;
- (c) ukuthuthukisa ukusebenzisana phakathi komnyango nomasipala ekuqedeni imijondolo;
- (d) ukuthuthukisa ukusebenzisana phakathi komnyango nomasipala ekuqedeni ukwakhiwa kabusha kwemijondolo;
- (e) ukuqapha ukusebenza komnyango nomasipala ekuqedeni nasekuvimbeleni ukwakhiwa kabusha kwemijondolo; kanye
- (f) nokuthuthukisa izimo zempilo emiphakathini, esifundazweni.

ISAHLUKO 2

UKUNGAVUNYELWA KOKUHLALA NGOKUNGEMTHETHO KANYE NOKUSETSHENZISWA KWENDAWO YOKUHLALA ESEZINGENI ELIPHANSI

Ukungavunyelwa kokuhlala ngokungemthetho endaweni

4. (1) Akekho umuntu oyohlala endaweni kumbe esakhiweni ngaphandle kwemvume yomnikazi noma yomuntu obhekele leyo ndawo noma isakhiwo.

(2) Noma ngubani ophikisana nesigatshana (1) maqondana nezindawo zokuhlala, uyokhishwa kuleyo ndawo noma isakhiwo emva kokulandelwa kwenqubo ebekwe ezigabeni 4, 5 no-6 zoMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala Ngokungemthetho Endaweni.

Ukungavunyelwa kokusetshenziswa kwendawo yokuhlala esezingeni eliphansi ukuze kutholakale inzuzo yemali

5. Umnikazi kumbe umuntu obhekele isakhiwo angeke avumele abantu ukuthi basebenzise lesi sakhiwo njengendawo yokuhlala nokuthi basisebenzisele ukuzuza imali ngaso uma lesi sakhiwo singaphasiswanga ngumasipala ngokwemithetho emiswe ngaphansi koMthetho Kazwelonke Wemithethonqubo Yezakhiwo Kanye Namaqophelo Ezakhiwo, ka-1977 (uMthetho ongunombolo 103 ka-1977), noma kucaca ukuthi lesi sakhiwo asikho esimweni sokuhlala abantu ngenxa yokuthi lesi sakhiwo—

- (a) sisendaweni emnyama engangeni ukukhanya kwelanga;
- (b) asinalo uhlelo lwamanzi athunyelwa kuyo;
- (c) asinalo uhlelo lwezindlu zangasese olukhona;
- (d) sichazwa njengendawo engenampilo ngokuchaza koMthetho Kazwelonke Wezempilo (uMthetho ongunombolo 61 ka-2003); noma
- (e) sisesimweni sokunganakwa kumbe esingeke silungiseke.

Umthwalo nemfanelo kamasipala ngokusetshenziswa kwendawo yokuhlala ezisezingeni eliphansi

6.(1) Umasipala owengamele indawo lapho isakhiwo sikhona njengoba kuchazwa esigabeni 5, kumele ukhiphe isaziso esibhalwe phansi siye kumnikazi noma umuntu obhekele lesi sakhiwo akhiphe, esikhathini esibekwe kuleso saziso, imiyalelo yokukhishwa kwabantu abahlala kuleyo ndawo.

(2) Uma umnikazi kumbe umuntu obhekele isakhiwo ehluleka ukuhambisana nesaziso okukhulunywe ngaso esigatshaneni 1, umasipala ungakhipha imiyalelo yokukhishwa kwabantu abahlala kuleso sakhiwo njengoba kuchaziwe esigabeni 6 soMthetho

Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala
Ngokungemthetho Endaweni.

ISAHLUKO 3

IQHAZA LELUNGU LOMKHANDLU OPHETHE, ELIQONDENE

Ukunikezela ngezindlu ezanele futhi ezingambi eqolo

7. Ngokwezinhlinzekelo zoMthetho Wezezindlu, ka-1997 (uMthetho ongunombolo 107 ka-1997), iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, kumele lithuthukise futhi lilawule ukunikezelwa kwezindlu ezanele esifundazweni sonke singakapheli isikhathi esinqunyiwe kwinqubomgomo kazwelonke yokuthuthukiswa kwezindlu.

Amandla nemisebenzi yeLungu Lomkhandlu Ophethe, eliqondene

8.(1) Ngokwenhloso yesigaba 7, iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, kumele –

(a) liqinisekise ukuthi uhlelo lokuqeda imijondolo olwamukelwa ngumasipala luyahambisana –

(i) nezinjongo zenqubomgomo yesifundazwe maqondana nokuthuthukiswa kwezindlu; kanye

(ii) nohlelo lwaminyaka yonke lokuqaliswa kwezinhlelo zezezindlu kuzwelonke nasesifundazweni, njengoba kuchaziwe esigabeni 2B(3) soMthetho Wezezindlu KwaZulu-Natali, ka-1998 (uMthetho ongunombolo 12 ka- 1998)

(b) nokuqapha inqubekela phambili eyenziwa ngomasipala ezinhlelweni zabo zokuqeda imijondolo ezindaweni ezingaphansi kwabo;

(c) nokulawula ukuqedwa kwemijondolo neminye imisebenzi ehambisana nakho esifundazweni ;

(d) nokuthathwa kwezinyathelo ezifanele ukwesekela omasipala emizamweni yabo eqhubekayo yokuqeda imijondolo; kanye

(e) nokuphatha uhlelo lwezezindlu esifundazweni futhi ngokwale njongo, ngokuhambisana nalolo hlelo kanye nemitheshwana etholakala kwiNqubo Yohlelo Lwezezindlu Esifundazweni, kuphasisa –

(i) noma yimuphi umklamo ophakanyiswe ngumasipala ukuba uthuthukise futhi usimamise imijondolo esendaweni oyengamele;

(ii) noma yimuphi umklamo owemukelwe ngumasipala ukuba ufake ezindaweni ezintsha abantu abahlala emijondolo esendaweni oyengamele; kumbe

(iii) ukunikezela ngemali emiklamweni okukhulunywe ngakho ezindinyaneni (i) no-(ii) ethathwe emalini ekhishwa yiSikhwama Sezezindlu KwaZulu-Natali esasungulwa ngokwesigaba 11 soMthetho Wezezindlu KwaZulu-Natali, ka-1998 (uMthetho ongunombolo 12 ka-1998).

(2) ILungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ngokuvamile lingenza konke okufanele ukufeza izinjongo zalo Mthetho njengoba zibekiwe esigabeni 3 futhi lenze yonke imisebenzi yalo njengoba ichaziwe esigatshaneni (1).

ISAHLUKO 4

IQHAZA LOMASIPALA

Ukuqwashisa ngendlela eqhubekayo ngelungelo lokuthola izindlu ezanele futhi ezingambi eqolo

9.(1) Umasipala, njengengxenywe yohlelo lwawo lokuhlelela intuthuko edidiyelwe nangokusebenzisa izinsizakusebenza ezikhona, ungenza lokhu okulandelayo -

(a) ungathatha izinyathelo eziqotho ukwenza abantu abawakhele babone ngokuphelele ukuthi banelungelo lokuthola izindlu ezanele njengoba kusho isigaba 26 soMthethosisekelo;

(b) ungagqugquzela ukwakhiwa, ukuthuthukiswa kanye nokunakekelwa kwemiphakathi ngokwenhlalo nangokomnotho kanye nesimo senhlalo esiphephile futhi esinempilo ukuqinisekisa ukuqedwa nokuvimbelwa kwemijondolo kanye nezimo ezinjalo;

(c) ungakhuthaza agqugquzele ukuthuthukiswa kwezindlu nomnotho ezindaweni zasemakhaya ezingaphansi kwawo ukuze kunqandwe ukuthutheleka kwabantu emadolobheni okugcina ngokuthi kube nemijondolo;

(d) komasipala abangena ngaphansi kweNgxenywe B, bahlangana nabangaphansi kweNgxenywe C kulezo zindawo abazengamele, ukuqalisa uhlelo lokunikezela ngezindlu endaweni ephhephile futhi enempilo ukuze abantu balawuleke ngokwesifunda; futhi

(e) ezindaweni ezenganyelwe wumkhandlu wobuholi bendabuko, kumele umasipala axoxisane nomkhandlu wobuholi bendabuko othintekayo ngenhloso yokuthi kube nokuvumelana ngezindlela ezingasetshenziswa ukuqeda isimo semijondolo esivele sikhona endaweni.

(2) Kuzoya ngokwesigatshana (3), iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, lizothi ngokubhekela ukuphepha nempilo, emva kokuxoxisana nomasipala abathintekayo, lingacela umasipala osondele kumbe umasipala ongena ngaphansi kweNgxenywe C ebe enendawo ayengamele engaphansi kweNgxenywe B ukuba anikezele ngezidingo eziphathelene nempilo noma ezinye izidingo kubantu abahlala emijondolo kumbe ezindaweni zokugcina abantu okwesikhashana ezingaphansi kwalowo masipala ongena ngaphansi kweNgxenywe B. Uma ngokubona kweLungu Lomkhandlu Ophethe,

umasipala osondele kumbe umasipala ongaphansi kweNgxenywe C othintekayo engakwazi ukunikezela ngalezo zidingo zempilo noma ezinye izidingo kubantu abahlala emijondolo noma endaweni egcina abantu okwesikhashana.

(3) Umasipala odingwa ngiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ukuba unikezele ngezidingo zempilo kumbe ezinye izidingo ngokwesigatshana (2) kumele ubheke lapho ungathola khona imali ezikhwameni zengqalasizinda ezikhona ukuze ukwazi ukunikezela ngalezo zidingo.

Ukukhishwa ngumasipala

10. Umasipala, ngokwesigaba 6 soMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala Ngokungemthetho Endaweni, uMthethosisekelo kanye neminye imithetho evikela amalungelo abantu maqondana nezezindlu, angalandela imigudu elandelwayo ukukhipha abangene ngokungemthetho endaweni kumbe esakhiweni esingaphansi kwendawo eyenganyelwe yilowo masipala uma lokho kuwuthinta umphakathi.

Isethulo ngesimo kanye nemibiko yonyaka kwiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi

11.(1) Umasipala ngamunye kumele ezinyangeni eziyisithupha lo Mthetho uqalile ukusebenza, uzilungiselele ukuletha kwiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, umbiko ngesimo -

(a) ochaza kabanzi ngenani lemijondolo ekhona nokuthi yakhiwe kuphi endaweni lowo masipala oyengamele, kanye neminingwane ngohlelo onalo lokuqeda imijondolo kanye nezinkomba ezisemqoka zenqubekela phambili yokuqaliswa kwalolo hlelo;

(b) ochaza kabanzi, ngomjondolo ngamunye ukuthi ngokabani, unjani futhi bangaki abantu abahlala kuwo;

(c) oveza kabanzi ngabantu abahlala ngokungemthetho kuleyo mikhukhu, ukuthi -

(i) labo bantu sebehlale lapho isikhathi esingaphezu kwezinyanga eziyisithupha yini;

(ii) indawo kumbe isakhiwo kungatholakala yini noma kungenziwa ngumasipala kumbe noma yiyiphi ingxenye kahulumeni noma umnikazi wendawo noma isakhiwo lapho bengayiswa khona, ikakhulu uma sebehlale isikhathi esingaphezu kwezinyanga eziyisithupha; futhi

(iii) isilinganiso sezindleko, uma sikhona, mayelana nokutholwa kwendawo kumbe isakhiwo lapho bezofakwa khona labo ababengene ngokungemthetho; futhi

(d) umbiko ube nezincomo ezenziwe ngumasipala maqondana nokuthi yimiphi imijondolo, uma ikhona, efanele ukuthuthukiswa nokusinyanyiswa ukubhekana nenkinga yokuntuleka kwezindlu, kanye nesilinganiso sezindleko zokuthuthukisa nokusimamisa.

(2) Umasipala ngamunye, emva kokuletha umbiko ngesimo njengoba kuchaziwe esigatshaneni (1), kumele alungise ezinyangeni ezintathu emva kokuphela konyaka wezimali, umbiko wonyaka walowo nyaka wezimali oveza –

(a) izinyathelo ezithathiwe maqondana nokutholakala kohlelo lwawo lokuqeda imijondolo ngonyaka wawo wezimali, kanye nentuthuko eyenzekile ezimweni zempilo kubantu abathintekayo;

(b) ukuqhathaniswa kwenqubekela phambili okukhulunywe ngayo endimeni (a) nezimiso ezenziwe ezinkombeni ezisemqoka okukhulunywe ngazo esigatshaneni (1)(a) kanye nokwenziwe onyakeni odlule wezimali; kanye

(c) nezinyathelo ezithathwe ngumasipala ukugqugquzela inqubekela phambili ekhona ukwenza ihambisane nezimiso ezenziwe ezinkombeni ezisemqoka zokusebenza.

Umbandela wokunikezela ngenye indawo noma isakhiwo

12. Esimweni lapho umasipala enquma ukukhipha enye indawo kumbe isakhiwo abangafakwa kuso abahlala emijondolo, lowo masipala kumele athathe izinyathelo ezinqala, ngokwezinsiza onazo ukuqinisekisa ukuthi leyo ndawo kumbe isakhiwo siseduzane nezikhungo zomnotho.

Ukusungulwa kwendawo yesikhashana

13.(1) Umasipala angahlonza kumbe afune indawo noma isakhiwo ngaphansi kwendawo ayengamele ngenhloso yokwakha indawo ezogcina abantu okwesikhashana ukuze kuhlaliswe okwesikhashana labo abakhishwe emijondolo besalinde ukutholakala kwendawo abazofakwa kuyo ngokuphelele.

(2) Umasipala kumele ngesikhathi esafuna indawo okukhulunywe ngayo esigatshaneni

(1) aqinisekise ukuthi leyo ndawo kumbe isakhiwo –

(a) sikulungele ukuhlalisa abantu; futhi

(b) inazo zonke izidingongqangi zengqalasizinda kanye nezidingo zempilo, ngaphambi kokuthi kufakwe abantu abathintekayo.

Isaziso kumnikazi kumbe umuntu obhekele ukuthuthukiswa kwendawo noma isakhiwo

14.(1) Umasipala, uma kubonakala ukuthi leyo ndawo kumbe isakhiwo esingaphansi kwendawo oyengamele–

- (a) sisesimweni esingahlanzekile;
- (b) sisesimweni esingalungisiwe; noma
- (c) esingahle sibe ngumjondolo,

Kumele akhiphe isaziso esibhaliwe asiqondise kumnikazi kumbe umuntu obhekele leyo ndawo, enxusa ukuba kulungiswe kwakhiwe kabusha leyo ndawo kumbe isakhiwo, kuqedwe isimo esingenahlanzeko esisuke sikhona ngaleso sikhathi.

(2) Umuntu onikezwe isaziso ngokwesigatshana (1), ezinyangeni ezintathu, kumele alungise kumbe akhe kabusha leso sakhiwo kumbe indawo ingabi sesimweni esingahlanzekile esuke ikuso ngaleso sikhathi.

(3) Noma ngubani owehluleka ukuhambisana nezihlinzeko ezisesigatshaneni (2) unecala.

ISAHLUKO 5

IMISEBENZI YABANIKAZI KANYE NABANTU ABABHEKELE UMHLABA NOMA ISAKHIWO

Izinyathelo zokuvimbela ukuhlala ngokungemthetho

15.(1) Umnikazi kumbe umuntu obhekele umhlaba ongenalutho kumbe isakhiwo kumele, ezinyangeni eziyishumi nambili kuqale ukusebenza lo Mthetho, athathe izinyathelo ezingqala ukuvimbela ukungena kwabantu ngokungemthetho kuleyo ndawo kumbe isakhiwo.

(2) Esimweni lapho umnikazi kumbe umuntu obhekele leyo ndawo engenamuntu kumbe isakhiwo, ehluleka ukuhambisana nesigatshana (1), umasipala leyo ndawo kumbe isakhiwo esingaphansi kwawo kumele akhiphe isaziso esibhalwe phansi esiqondiswe kumnikazi kumbe umuntu obhekele leyo ndawo noma isakhiwo, esithi kumele ezinsukwini ezingama-30 ethole isaziso –

(a) ahambisane nezihlinzekelo zesigatshana (1); noma

(b) anikeze izizathu zokwehluleka ukuhambisana nomthetho.

ukwehluleka komnikazi kumbe umuntu obhekele leyo ndawo kumbe isakhiwo esingenamuntu ukuhambisana nokushiwo yisaziso esikhishwe ngokwesigatshana (2) kuyomenza abe necala.

Ukukhishwa kwabahlala ngokungemthetho

16.(1) Umnikazi kumbe umuntu obhekele indawo kumbe isakhiwo, okuthe ngokuqala kokusebenza kwalo Mthetho sabe sesivele sinabantu abahlala kuso ngokungemthetho, kumele esikhathini esiyoshiwo yiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ngokwesaziso esiyokhishwa kwiGazethi, ngokulandela indlela ebekwe esigabeni 4 noma 5 soMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala Ngokungemthetho Endaweni, athathe izinyathelo zokukhishwa kwalabo bantu abangena ngokungemthetho.

(2) Esimweni lapho umnikazi kumbe umuntu obhekele indawo kumbe isakhiwo ehluleka ukuhambisana nokushiwo yisaziso esikhishwe yiLungu Lomkhandlu Ophethe ngokwesigatshana (1), umasipala owengamele leyo ndawo kumele alandele izihlinzeko zesigaba 6 soMthetho Wokuvimbela Ukuxoshwa Ngokungemthetho Endaweni Kanye Nokuhlala Ngokungemthetho Endaweni.

ISAHLUKO 6 IZINDABA EZIVAMILE

Umbiko oya kwiSishayamthetho Sesifundazwe owenziwe yiLungu Lomkhandlu Ophethe

17.(1) ILungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, kumele ezinyangeni ezinhlanu emva kokuphela konyaka wezimali, lenze isethulo kwisiShayamthetho Sesifundazwe ngombiko odidiyelwe maqondana nemibiko yonyaka elethwe ngomasipala ngokwesigaba 11.

(2) Umbiko okukhulunywe ngawo esigatshaneni (1) kumele phakathi kokunye uveze lokhu -

(a) inqubekela phambili eyenziwe ngomasipala ekuqedeni imijondolo, kanye nasezinhlalweni zokuthuthukisa ezenziwe ezimweni zempilo yabantu abahlala ezindaweni abazengamele;

(b) izinselelo, uma zikhona, ababhekane nazo omasipala ekusebenziseni izinhlelo zokuqeda imijondolo, kanye nezixazululo ezaphakanyiswa yiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ukubhekana nalezi zinselelo; kanye

(c) nayinoma yiluphi ulwazi iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, elingafisa ukulazisa kwisiShayamthetho Sesifundazwe maqondana nokuqedwa kwemijondolo.

Ilungelo lomasipala lokudla umhlaba

18. Ngokwezihlinzeko zoMthetho Wempango, ka-1975 uMthetho ongunombolo 63 ka-1975), uMthetho Womaziphathe Bendawo, ka-1974 (i-Odinensi engunombolo 25 ka-1974), nanoma yimuphi omunye umthetho, umasipala ungadla umhlaba kumbe ilungelo lomhlaba, kungaba ngokwesikhashana noma ngenye indlela, efunwa yiwo ngenhloso yokwakha indawo yokuhlalisa abantu okwesikhashana, noma indawo yokuhlalisa abantu abakhishwe emijondolo ngokuphelele.

Imithetho kamasipala

19. Umkhandlu kamasipala, kuya ngokoMthethosisekelo kanye nemithetho kazwelonke, ungamukela imithetho kamasipala ehambisana nalo Mthetho ukuze ufeze uhlelo lwawo lokuqeda imijondolo kanye nezihlinzeko zalo Mthetho.

Amacala

20. Noma ngubani ophazamisa ngokungemthetho izinyathelo ezinqala ezamukelwa ngumnikazi kumbe umuntu obhekele indawo kumbe isakhiwo ukuvimbela ukuhlala ngokungemthetho kuleyo ndawo noma isakhiwo, wenza icala.

Izinhlawulo

21. Noma ngubani otholwa enecala ngokwesigaba 20, kanye namanye amacala abekwe kulo Mthetho, angahlawuliswa isamba senani elingekho ngaphezu kwe-R20 000 noma agqunywe ejele iminyaka engevile kwemi – 5 kumbe kwenziwe kokubili.

Imithethonqubo

22.(1) ILungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, lingathi ngokwesaziso esikwiGazethi, lenze imithethonqubo kumbe likhiphe imihlahlandlela ehambisana nalo Mthetho kumbe nanoma yimuphi umthetho kazwelonke maqondana –

- (a) nokuthuthukiswa kwemijondolo esifundazweni
- (b) nokuqukethwe yisimo kanye nemibiko yonyaka ezohanjiswa ngumasipala kwiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ngokwalo Mthetho;
- (c) okudingekayo ngaphambi kokuthi kukhishwe imali ukuxhasa noma yimiphi imiklamo eyemukelwe ngomasipala ukuthuthukisa kumbe ukwakhiwa kwezindawo ezintsha zabahlala emijondolo esiFundazweni;
- (d) ukuphathwa kwanoma yiziphi izimali uHulumeni Wesifundazwe angazikhiphela omasipala ngaphambi kokuba kuqalwe umsebenzi ngenhloso yokuxhasa izinhlelo zokuqeda imijondolo;
- (e) inzuzo yanoma yiyiphi indawo kumbe isakhiwo esihlonzwe ngumasipala ukuze kuhlaliswe abantu abakhishwe emijondolo; kanye
- (f) noma yikuphi ukuphathwa kumbe inqubo, edingekayo ukuze kuphumelele izihlinzeko ezikulo Mthetho.

(2) ILungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, lingathi ngokomthetho omiswe ngokokulawula kwesigatshana (1) limemezele ukungavumelani kumbe ukwehluleka ukuhambisana nomthethonqubo oqondene nalelo cala.

Ukudlulisela amandla okwenza umsebenzi

23.(1) ILungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, lingabela noma yisiphi isikhulu, umsebenzi noma ngubani osebenza emnyangweni amandla noma umsebenzi osuke unikwe iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, yilo Mthetho, ngaphandle –

(a) kwamandla okwenza imithetho njengoba kubekiwe esigabeni 22; kanye

(b) nomsebenzi wokwethula umbiko odidiyelwe phambi kwesiShayamthetho Sesifundazwe ngokwesigaba 17.

(2) Ukuba yisithunywa okukhulunywe ngakho esigatshaneni (1) –

(a) kumele kube ngokubhalwe phansi;

(b) akuvimbeli iLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi, ekusebenziseni amandla alo kumbe ekwenzeni imisebenzi yalo; futhi

(c) kungahoxiswa noma yinini kumbe kuchitshiyelwe ngokubhala phansi, yiLungu Lomkhandlu Ophethe, eliqondene nalo msebenzi.

Isihloko Esifishane

24. Lo Mthetho waziwa ngokuthi wuMthetho Wokuqeda Nokuvimbela Ukwakhiwa Kabusha Kwemijondolo, ka-2007.