

ISAHLUKO 11**AMAZIKO EZOKUPHEPHA****Imigomo ebusayo**

198. Imigomo elandelayo yengamela ukuphepha kwezwe eRiphabhuliki -
- (a) Ukuphepha kwezwe kufanele kubonise ukuzinikela kwabo bonke abantu baseNingizimu Afrika, njengabantu ngabanye futhi nanjengesizwe, ukuphilisana njengabantu abalinganayo, ngokuthula nokuzwana, ngokungasabi kanye nokufuna impilo engcono.
 - (b) Ukuzinikela ekuphileni ngokuthula nangokuthula nangokuzwana kuvimbela wonke umuntu oyisakhamuzi saseNingizimu Afrika ukuthi abambe iqhaza empini, ngaphakathi ezweni noma namanye amazwe, ngaphandle kwalapho kunokwenzeka khona njengokuhlinzeka koMthethosisekelo noma umthetho kazwelonke.
 - (c) Ukuphepha kwezwe kufanele kuqikelelwe ngendlela ehambisana nomthetho, kumbandakanya umthetho wamazwe ngamazwe.
 - (d) Ukuphepha kwezwe kulawulwa yiPhalamende nomkhandlu ophathe kuzwelonke.

Ukumiswa, ukuhleleka nokuziphatha kwezikhungo zezokuphepha

199. (1) Izikhungo zokuphepha zeRiphabhuliki zakhiwe ngumbutho wokuvikela owodwa, umbutho wamaphoyisa owodwa kanye namaziko obunhloli amiswe ngokoMthethosisekelo.
- (2) Umbutho wezokuvikela yiwona wodwa umbutho ohlomile osemthethweni eRiphabhuliki.
 - (3) Ngaphandle kwamaziko okuphepha amiswe ngokoMthethosisekelo, izinhlangano noma amaziko ahlomile, zingamiswa kuphela ngokusho komthetho kazwelonke.
 - (4) Amaziko okuphepha kufanele akhiwe futhi aqhutshwe ngokomthetho kazwelonke.
 - (5) Amaziko okuphepha kufanele enze, futhi kufanele afundise abuye aphoqelele amalungu awo ukuba enze izinto, ngendlela ehambisana nokushiwo nguMthethosisekelo nomthetho, kumbandakanya umthetho ongamasiko wamazwe ngamazwe kanye nezivumelwano zamazwe ngamazwe ezibophezela iRiphabhuliki.

- (6) Akukho lungu lanoma yiliphi iziko lokuphepha elivunyelwe ukulandela umyalo ophambene ngokusobala nomthetho.
- (7) Amaziko okuphepha, noma yinoma yimaphi amalungu awo, awanakwenza imisebenzi yawo ngendlela –
 - (a) ekhinyabeza izinjongo zeqembu lezombusazwe elisemthethweni ngokoMthethosisekelo; noma
 - (b) eqhuba, ngendlela eqhuba izinjongo zeqembu lezombusazwe elithile.
- (8) Ukuze kufezuke imigomo yokusebenzela obala neyokuziphendulela, amakomiti asePhalamende amele amaqembu amaningi kufanele aqaphe konke ukwenza kwamaziko ezokuphepha ngendlela equnye ngumthetho kazwelonke noma imitheshwana noma imiyalo yePhalamende.

Ezokuvikela

Umbutho wezokuvikela

200. (1) Umbutho wokuvikela kufanele uhleleke futhi uphathwe njengombutho ohlomile onokuzithiba.
- (2) Injongo ebalulekile yombutho wokuvikela ukuvikela nokukhusela iRiphabhuliki, ukuhlonishwa kwemingcele yayo kanye nabantu bayo ngokwemigomo yomthetho wamazwe ngamazwe olawula ukusetshenziswa kwamandla.

Izibopho ngokwezombusazwe

201. (1) Ilungu leKhabhinethi kufanele libheke ukuvikela.
- (2) NguMongameli kuphela, njengehloko yomkhandlu ophethe, ongagunyaza ukuqashwa kombutho wezokuvikela –
 - (a) ngokubambisana nombutho wamaphoyisa;
 - (b) ngenhloso yokuvikela iRiphabhuliki; noma
 - (c) ngokufeza isibopho samazwe ngamazwe.
- (3) Uma iziko lezokuvikela liqashwa nganoma iyiphi inhloso eshiwo kusigatshana sesi (2), uMongameli kufanele azise iPhalamende, ngokushesha futhi abike imininingwane efanele –
 - (a) ngezizathu zokusetshenziswa kombutho wezokuvikela;

- (b) nganoma yiziphi izindawo lapho umbutho usetshenziswa khona;
 - (c) ngenani labantu elithintekayo; kanye
 - (d) nangesikhathi okulindelwe ukuthi umbutho uzosetshenziswa ngaso.
- (4) Uma iPhalamende lingahlangani ezinsukwini zokuqala eziyisikhombisa ngemuva kokuqokwa kombutho wezokuvikela njengokucatshangwa esigatshaneni sesi (2), uMongameli kufanele anikeze ulwazi oludingekile kusigatshana sesi (3) ekomitini eliqaphayo elifanele.

Ukukhuzwa kombutho wokuvikela

202. (1) UMongameli, njengenhloko ephethe ezweni unguMkhuzi oMkhulu wombutho wezokuvikela, futhi kufanele aqokele esikhundleni abaKhuzi Bempi bombutho wezokuvikela.
- (2) Ukukhuzwa kwombutho wezokuvikela kufanele kwenziwe ngendlela ehambisana nokuyalela kwelungu leKhabhinethi elibhekene nezokuvikela, ngaphansi kokugunyazwa nguMongameli.

Isimo sezokuvikelwa kwezwe

203. (1) UMongameli njengenhloko ephethe ezweni angakhipha isimemezelo sokuthi kunesimo sokuvikela izwe, futhi kufanele azise iPhalamende ngokushesha futhi anikeze imininingwane efanele –
- (a) ngezizathu zesimemezelo;
 - (b) nganoma iyiphi indawo lapho kusetshenziswa khona umbutho; kanye
 - (c) nangenani labantu abathintekayo.
- (2) Uma lingahlangene iPhalamende ngesikhathi kumenyezelwa isimo sokuvikela izwe, uMongameli kufanele abizele iPhalamende emhlanganweni ongewjwayelekile zingakapheli izinsuku eziyisikhombisa senziwe isimemezelo.
- (3) Isimemezelo sesimo sokuvikela izwe siyaphela ngaphandle kwalapho semukelwe yiPhalamende zingakapheli izinsuku eziyisikhombisa senziwe.

Abasebenzela ukuvikela umphakathi abangamalungu omphakathi

204. Kufanele umthetho kazwelonke umise iziko labasebenzela ezokuvikela bengewona amalungu ombutho kodwa bengamalungu ajwayelekile omphakathi, azosebenza ngaphansi kwelungu leKhabhinethi elibheke ezokuvikela.

Amaphoyisa

Iziko lezamaphoyisa

205. (1) Iziko lezamaphoyisa likazwelonke kufanele lihleleke ngendlela yokuba lisebenze emikhakheni kazwelonke, eyezifundazwe futhi, lapho kufanele, ezingxenyeni zohulumeni basekhaya.
- (2) Umthetho kazwelonke kufanele umise amandla nemisebenzi yeziko lamaphoyisa futhi uvumele amaphoyisa ukuba enze umsebenzi wawo ngendlela enempumelelo, enaka isidingo zezifundazwe.
- (3) Izinjongo zeziko lezamaphoyisa ukuvimbela, ukulwisa nokuphenya ubelelesi, ukugcina ukuthula emphakathini nokuvikela nokuphepha abahlali baseRiphabhuliki nempahla yabo, kanye nokuphakamisa nokupoqelela umthetho.

Izibopho ngokwezombusazwe

206. (1) Ilungu leKhabhinethi kufanele libheke ukwenziwa komsebenzi wobuphoyisa, futhi kufanele linqume inqubomgomo kazwelonke yomsebenzi wobuphoyisa ngemuva kokubonisana nohulumeni bezifundazwe nangokuqaphela izidingo zobuphoyisa kanye nezidingongqangi zezifundazwe ngokwesinqumo sabaphethe isifundazwe.
- (2) Inqubo yobuphoyisa kazwelonke ingabekela izinqubomgomo ezehlukene imibandela mayelana nezifundazwe ezahlukene ngemuva kokucabangela izidingo zobuphoyisa kanye nezidingongqangi zalezo zifundazwe.
- (3) Isifundazwe ngasinye sinelungelo –
- lokuqapha ukuziphatha kwamaphoyisa;
 - lokubeka iso ekusebenzeni ngempumelelo kweziko lamaphoyisa , kumbandakanya nokwemukela imibiko ngeziko lamaphoyisa;
 - lokuthuthukisa ubudlelwane obuhle phakathi kwamaphoyisa nomphakathi;
 - lokubhekisa impumelelo yokwenza umsebenzi wamaphoyisa ngokusobala; kanye
 - nelokuxhumana nelungu leKhabhinethi elibhekene nomsebenzi wobuphoyisa mayelana nobelelesi kanye nokusebenza kwamaphoyisa esifundazweni.
- (4) Abaphethe esifundazweni banesibopho sokubheka imisebenzi yobuphoyisa –
- egunyazwe yilesi Sahluko;
 - egunyazwe ngokomthetho kazwelonke; kanye

- (c) nabayabelwe ngokwenqubomgomo kazwelonke yezamaphoyisa.
- (5) Ukuze isifundazwe sikwazi ukwenza imisebenzi ebekwe kusigatshana sesi (3) –
- (a) singacubungula, noma siqoke ikhomishani yophenyo, nganoma yiziphi izikhalo zokungasebenzi ngokugculisa kwamaphoyisa noma ukunqamuka kobudlelwane phakathi kwamaphoyisa kanye nanoma yimuphi umphakathi; futhi
- (b) kufanele senze izincomo elungwini leKhabhinethi elibheke ezamaphoyisa.
- (6) Ngemuva kokwamukela kwesikhalo esifakwe ngabaphethe isifundazwe, inhlango yezamaphoyisa ezimele yezikhalo emiswe ngumthetho kazwelonke kufanele iphenye noma yikuphi ukungaziphathi kahle okusolwayo, noma icala okusolwa ukuthi lenziwe, yilungu labasebenzela amaphoyisa esifundazweni.
- (7) Umthetho kazwelonke kufanele uhlinzeke ngohlaka lokwakhiwa, lamandla, lemisebenzi kanye nokulawulwa komsebenzi wamaphoyisa kamasipala.
- (8) Ikomiti elakhiwe ngamalungu eKhabhinethi kanye namalungu oMkhandlu Omkhulu obheke umsebenzi wamaphoyisa kufanele lakhiwe ukuze kuqikelelwe ukusebenza ngempumelelo kwamaphoyisa kanye nokubambisana okuyimpumelelo neminye imikhakha kahulumeni.
- (9) Isishayamthetho sesifundazwe singadinga ukuthi ukhomishani wesifundazweavele ngaphambi kwaso noma kunoma yiliphi elinye lamakomiti aso ukuphendula imibuzo.

Ukulawulwa kweziko lamaphoyisa

207. (1) UMongameli njengenhloko yabaphethe kuzwelonke kufanele aqokele esikhundleni umuntu wesifazane noma wesilisa njengoKhomishani Kazwelonke wamaphoyisa, ukuze alawule futhi apathe amaphoyisa.
- (2) UKhomishani kaZwelonke kufanele alawule futhi apathe amaphoyisa ngendlela ehambisana nemigomo kazwelonke yokwenza umsebenzi wamaphoyisa kanye nezinyalelo zelungu leKhabhinethi elibhekene nomsebenzi wobuphoyisa.
- (3) UKhomishani Kazwelonke, ngokuvumelana nabaphethe isifundazwe, kufanele aqokele esikhundleni umuntu wesifazane noma wesilisa njengokhomishani waleso sifundazwe, kodwa uma uKhomishani Kazwelonke kanye nabaphethe isifundazwe behluleka ukuvumelana ngokuqoka lowo muntu, ilungu leKhabhinethi

elibhekene nomsebenzi wamaphoyisa kufanele lilamule phakathi kwamaqembu ezombusazwe.

- (4) OKhomishani besifundazwe banesibopho kwezamaphoyisa ezifundazweni zabo –
 - (a) njengoba kubekwe ngumthetho kazwelonke; kanye
 - (b) nangokuhlonipha amandla kaKhomishana Kazwelonke okulawula nokuphatha umsebenzi wamaphoyisa njengokusho kwesigatshana sesi (2).
- (5) UKhomishani wesifundazwe kufanele abike kusishayamthetho sesifundazwe minyaka yonke ngomsebenzi wobuphoyisa esifundazweni, futhi kufanele athumele ikhophi yombiko kuKhomishani Kazwelonke.
- (6) Uma ukhomishani wesifundazwe engasabethemi abaphethe isifundazwe, labo baphathi bangamisa inqubo efanele yokususa noma ukushintshwa, noma ukuthathela izinyathelo zoqondisa izigwegwe, lowo khomishani, ngokulandela umthetho kazwelonke.

Abasebenzela amaphoyisa bengamalungu omphakathi

208. Kufanele kumiswe iziko labasebenzela amaphoyisa abangamalungu omphakathi, ngomthetho kazwelonke ukuthi basebenze ngokuyalelwa yilungu leKhabhinethi elibheke umsebenzi wobuphoyisa.

Ubunhloli

Ukumiswa nokulawulwa kwemisebenzi yobunhloli

209. (1) Noma yimiphi imisebenzi yobunhloli, ngaphandle kwengxenywe yobunhloli engaphansi kombutho wezokuvikela, ingamiswa kuphela nguMongameli, njengenhloko ephethe kuzwelonke, futhi kuphela njengokusho komthetho kazwelonke.
- (2) UMongameli njengenhloko ephethe kuzwelonke kufanele aqokele esikhundleni umuntu wesifazane noma wesilisa njengenhloko yezomsebenzi ngamunye wobunhloli, omiswe ngokwesigatshana soku-(1), futhi kufanele athathe isibopho ngokwezombusazwe mayelana nokulawulwa nokuyalelwa kwanoma yimiphi yale misebenzi noma aqoke ilungu leKhabhinethi okuyilona elizothatha lesa sibopho.

Amandla, imisebenzi kanye nokuqapha

210. Umthetho kazwelonke kufanele ulawule izinjongo, amandla kanye nemisebenzi yobunhloli, kumbandakanya nanoma iluphi uphiko lobunhloli lombutho wezokuvikela noma wezamaphoyisa, futhi kufanele uhlinzekele –
- (a) ukuqondaniswa kwayo yonke imisebenzi yobunhloli; kanye
 - (b) nokuqaphelwa kwamalungu omphakathi kwezenzo zaleyo misebenzi yenhloli eqokelwe esikhundleni nguMongameli, njengenhloko ephethe kuzwelonke, futhi kwamukelwe ngesinqumo sePhalamende esesekwe yivoti lamalungu amabili kwamathathu okungenani.