



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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**THE PRESIDENCY**

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No. 844.

23 August 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 22 of 2000: National Land Transport Transition Act, 2000.

**GENERAL EXPLANATORY NOTE:**

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)  
(Assented to 17 August 2000.)

# ACT

**To provide for the transformation and restructuring of the national land transport system of the Republic; and to provide for incidental matters.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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- (xxi) "Director-General" means the Director-General of the Department;
- (xxii) "framework" means an outline for the structure within and the form according to which a plan, policy or strategy is determined and developed;
- (xxiii) "grievance procedure" means the procedure laid down in the constitution of an association to resolve an internal grievance raised by a member or a group of members; 5
- (xxiv) "infrastructure", in relation to land transport, means fixed capital equipment and facilities in the land transport system;
- (xxv) "inspector" means an inspector designated under section 123;
- (xxvi) "integrated development plan" means the integrated development plan which, in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), is to be prepared by a municipality; 10
- (xxvii) "integrated transport plan" means an integrated transport plan contemplated in section 27;
- (xxviii) "interim contract" means a contract, not being a current tendered contract, for the operation of a subsidised scheduled service, the term of which expires after the date of the commencement of this Act, and which— 15
- (a) was concluded before that date between the province and the Department on the one hand, and the public transport operator who is to operate that service, on the other hand, and is still binding between them or only binding between the province and that operator; or 20
- (b) is binding between that public transport operator and any transport authority or a core city or a municipality, due to the assignment to it, after the date of commencement of this Act, of the rights and obligations of the province under the contract contemplated in paragraph (a); 25
- (xxix) "interprovincial transport" means a public transport service operating between two or more provinces;
- (xxx) "intraprovincial transport" means a public transport service operating within the boundaries of a province;
- (xxxi) "key performance indicator" means a yardstick or standard established to measure levels of performance and achievement; 30
- (xxxii) "land transport" means the movement of persons and goods on or across land by means of any conveyance and through the use of any infrastructure and facilities in connection therewith;
- (xxxiii) "long-distance service" means a scheduled or unscheduled public transport service operated by road, other than a service for commuting, that is provided beyond the boundary of the area covered by a transport plan, where passengers are charged fares individually; 35
- (xxxiv) "MEC" means the member of the Executive Council of a province who is responsible for public transport in the province in question; 40
- (xxxv) "member" means a member of an association;
- (xxxvi) "metered taxi service" means a public transport service operated by means of a motor vehicle which is designed, or lawfully adapted, in compliance with the Road Traffic Act, 1989 (Act No. 29 of 1989), to carry fewer than nine seated persons, including the driver, where that vehicle— 45
- (a) is available for hire by hailing, by telephone or otherwise;
- (b) may stand for hire at a rank; and
- (c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable;
- (xxxvii) "midibus" means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with the Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from 19 to 35 seated persons, excluding the driver; 50
- (xxxviii) "minibus" means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with the Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver; 55
- (xxxix) "minibus taxi-type service" means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor-car, minibus or midibus, subject to section 31;
- (xL) "Minister" means the Minister of Transport in the national sphere of government; 60
- (xLi) "motor car" means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as those vehicles are defined in the Road Traffic Act,

- 1989, (Act No. 29 of 1989), designed or lawfully adapted by a registered manufacturer to carry not more than eight persons, excluding the driver;
- (xLii) “motor vehicle” and “vehicle” means a motor vehicle as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
- (xLiii) “MTA” means a metropolitan transport area declared and existing under section 3 of the Urban Transport Act, 1977 (Act No. 78 of 1977); 5
- (xLiv) “municipality” includes all municipalities contemplated in section 155(6) of the Constitution, and in the case of a category C municipality contemplated in section 155(1)(c) thereof, also includes the Category B municipalities contemplated in section 155(1)(b) in its area; 10
- (xLv) “municipal transport operator” means a municipality which operates a public transport service or an organisation which operates such a service and in which the majority of the shares or the controlling interest is held by a municipality, or which is otherwise controlled or is owned by a municipality;
- (xLvi) “non-contracted service” means a public transport service other than one operated in terms of a commercial service contract, subsidised service contract, current tendered contract, interim contract or concession agreement; 15
- (xLvii) “non-member” means any person, whether a natural person or a juristic person, who is not a member of an association;
- (xLviii) “operating licence” means a public transport operating licence required by section 33 and granted and issued in accordance with Part 16; 20
- (xLix) “operating licence strategy” means a transport plan consisting of an operating licence strategy contemplated in section 24;
- (L) “organ of state” means an organ of state as defined in section 239 of the Constitution; 25
- (Li) “parastatal transport operator” means an organisation which operates a public transport service and in which the majority of the shares or the controlling interest is held by a province, or which is otherwise controlled or is owned by a province;
- (Lii) “participating municipality” means any municipality that is party to a founding agreement for the establishment of a transport authority; 30
- (Liii) “permit” means a public road carrier permit or similar authority issued under a previous law, and which is in force at the commencement of this Act in terms of section 79;
- (Liv) “persons with disabilities” means all persons whose mobility is restricted by temporary or permanent physical or mental disability, and includes the very young, the blind or partially-sighted, the deaf or hard of hearing; 35
- (Lv) “planning authority” means any body which, in terms of section 20, has to prepare transport plans for its area;
- (Lvi) “prescribed” means prescribed by regulation in terms of this Act, by the Minister or an MEC, as the case may be; 40
- (Lvii) “previous law” means any law the operation and application of which is excluded by or in terms of section 3, and which is superseded by this Act in accordance with that section;
- (Lviii) “provincial department” means the department within the administration of a province that is charged with public transport matters within the province; 45
- (Lix) “provincial land transport framework” means a provincial land transport framework contemplated in section 22;
- (Lx) “provincial law” includes the provisions of Chapter 3 and any other applicable provincial legislation; 50
- (Lxi) “public transport operator” means a person carrying on the business of operating a public transport service;
- (Lxii) “public transport plan” means a public transport plan contemplated in section 26;
- (Lxiii) “public transport service” means a service for the carriage of passengers by road or rail, whether the service is subject to a contract or not, and where the service is provided for a fare or other consideration or reward, including any service that is— 55
- (a) a scheduled service;
- (b) an unscheduled service, which includes a minibus taxi-type service; 60
- (c) a charter service;
- (d) a long-distance service;
- (e) a metered taxi service;

- (f) a rail service;
- (g) a tourist service;
- (h) a staff service,
- except if clearly inappropriate, the term "public transport" must be interpreted accordingly; 5
- (Lxiv) "rail service" means a public transport service operated on a rail track or electro-magnetic guideway;
- (Lxv) "rationalisation plan" means a plan contemplated in section 25;
- (Lxvi) "registered", in relation to any association, the members of any association and any non-members, means their registration in the provincial transport register in accordance with this Act and relevant provincial laws; 10
- (Lxvii) "registered constitution" means an association's constitution, filed in the Registrar's records, pursuant to the association's successful application for provisional or full registration;
- (Lxviii) "registered manufacturer" means a manufacturer of motor vehicles registered under section 5 of the National Road Traffic Act, 1996 (Act No. 93 of 1996); 15
- (Lxix) "Registrar" means the person appointed as the provincial transport Registrar for a province by its MEC in compliance with relevant provincial laws and section 53;
- (Lxx) "replacing provincial law" means a law or a provision of a law of a provincial legislature with regard to matters to which Chapter 3 of this Act applies and which, for all or any of the arrangements made in Chapter 3, substitutes its own arrangements within the framework of the national land transport policy and the scope and ambit of the provisions of this Act; 20
- (Lxxi) "roadworthy certificate" means a certificate certifying the roadworthiness of a motor vehicle in accordance with the requirements of the Road Traffic Act, 1989 (Act No. 29 of 1989); 25
- (Lxxii) "scheduled service" means a public transport service operated by road by a motor car, minibus, midibus or bus on a particular route or routes in accordance with a timetable; 30
- (Lxxiii) "special categories of passengers" means learners, persons with disabilities, tourists, transferring long-distance passengers, the aged, pregnant women and those who are limited in their movements by children with or without pushchairs or prams;
- (Lxxiv) "special event" means a cultural, religious, sporting or recreational event, or any entertainment, conference, exhibition or show, which is to occur or be held on a specific day or a number of specific consecutive days at a predetermined venue; 35
- (Lxxv) "staff service" means a public transport service by road provided by means of a vehicle owned by an employer or a vehicle provided by a public transport operator in terms of a contract with the employer, when used exclusively for the conveyance of the employer's employees; 40
- (Lxxvi) "subsidised service contract" means an agreement, other than an interim contract or a current tendered contract, concluded between a contracting authority and a public transport operator to operate a scheduled service provided for in a public transport plan and in terms of which the public transport operator, in addition to the passenger fares paid, receives financial support in terms of a tendered contract; 45
- (Lxxvii) "this Act" includes any regulation made and in force in terms of section 7 or 64; 50
- (Lxxviii) "timetable" means a published document informing passengers of headways, that is intervals between departures or the passing of vehicles, or times when and places where public transport services are available, indicating at least origin and destination points and significant intermediate locations along the route; 55
- (Lxxix) "tourist service" means a public transport service by road for the carriage of tourists to or from tourist attractions, where the tourists are accompanied by a tour guide registered under section 21 of the Tourism Act, 1993 (Act No. 72 of 1993);
- (Lxxx) "transfer", in relation to an operating licence, means a transfer from the holder of the operating licence to another person; 60
- (Lxxxii) "transport area" means the area of a transport authority, contemplated in section 11;



- (Lxxxii) “transport authority” means an authority contemplated in section 10(1) for a transport area;
- (Lxxxiii) “transport plan” means any plan provided for in section 19;
- (Lxxxiv) “travel demand management” means a system of actions to maximise the capacity of the transport system for the movement of people and goods rather than vehicles, among others, through increasing vehicle occupancy, developing priority measures for public transport, encouraging travel during off-peak periods, shifting demand between modes, restricting the space available for parking, adjusting the price of parking, and other appropriate measures;
- (Lxxxv) “unscheduled service” means a public transport service operated by road on a particular route or routes, or, where applicable, within a particular area, without a timetable, where passengers are charged fares individually.
- (2) Any reference in this Chapter, Chapter 2 or Chapter 4, to Chapter 3 or any part, section or provision of Chapter 3, however expressed, must in the case where there is a replacing provincial law, be regarded as a reference to the corresponding chapter, part, section or provision of that replacing law.

### Purpose and scope of Act

2. (1) This Act provides the measures necessary to—
- transform and to restructure the Republic’s land transport system;
  - give effect to the national policy concerning the first phases of the process; and
  - achieve a smooth transition to the new system applicable nationally.
- (2) Chapter 2 of this Act prescribes those policies, principles, requirements, guidelines, frameworks, norms and standards that necessarily must be the same for all the provinces of the Republic, and other matters contemplated in section 146(2) of the Constitution, in order to achieve and deal effectively with the transformation and restructuring of the land transport system of the Republic nationally, in the process introducing and establishing the new land transport system contemplated in subsection (1), for the Republic as a whole.

### Application of Act in provinces

3. (a) This Chapter, Chapter 2 and Chapter 4 are regarded as provisions contemplated in section 146(2) of the Constitution and apply to the exclusion of any other law that is in force in any province or in the Republic as a whole and which is inconsistent with that Chapter.
- (b) Chapter 3—
- does not apply in a province in so far as it relates to a matter with regard to which there is a replacing provincial law in force in the province concerned, to the extent that such a replacing law deals with the matter;
  - applies to the exclusion of any other law of any province with regard to a matter dealt with in Chapter 3 in so far as the province’s law is inconsistent with Chapter 2.

## CHAPTER 2 MATTERS OF NATIONAL CONCERN

### Part 2

#### *National Land Transport Principles and Policy*

### Principles for national land transport policy

4. (1) The following principles apply with regard to the determination, formulation, development and application of land transport policy in the Republic:
- Public transport services—
    - are aimed at providing affordable transport to the public;
    - are so designed as to achieve—
      - integration of modes;
      - cost-efficiency and service quality;
      - the optimal allocation and utilisation of available resources;
      - market development;
    - are so designed as to have—
      - value to the customer; and

- (bb) the least harmful impact on the environment;
- (iv) are so designed that appropriate modes should be selected and planned for on the basis of where they have the highest impact on reducing the total systems cost of travel, and this decision should be informed by an appropriate assessment of the impact on the customer and anticipated customer reaction to such change; 5
- (v) are planned so that customer needs must be met by facilitating customer reaction to system changes in the planning process and by maximising the integration of such services;
- (vi) are planned where possible so that subsidies are aimed to assist currently marginalised users and those who have poor access to social and economic activity. 10
- (b) All role-players must strive to achieve an effective land transport system through integrated planning, provision and regulation of infrastructure and services and diligent and effective law enforcement. 15
- (c) Public transport services, facilities and infrastructure must be so provided and developed as to integrate the different modes of land transport.
- (d) Safety and effective law enforcement must be promoted as vital factors in land transport management and regulatory systems, and the efforts in this regard of all competent authorities and functionaries must be co-ordinated to prevent duplication. 20
- (e) For the purposes of land transport planning and the provision of land transport infrastructure and facilities, public transport must be given higher priority than private transport.
- (f) Scarce resources available for the provision of land transport must be used optimally. 25
- (g) Investment in infrastructure and operations must promote economic, financial, technical and environmental sustainability.
- (h) Effectiveness and efficiency must be promoted in the provision and operation of land transport services and administering land transport matters. 30
- (i) Co-ordination of institutional functions in land transport must be promoted.
- (j) Land transport functions must be integrated with related functions such as land use and economic planning and development through, among others, development of corridors, and densification and infilling, and transport planning must guide land use and development planning. 35
- (k) The needs of special categories of passengers must be considered in planning and providing public transport infrastructure, facilities and services, and these needs should be met as far as may be possible by the system provided for mainstream public transport.
- (l) The participation of all interested and affected parties, including vulnerable and disadvantaged persons, in transport planning must be promoted, taking into account that people must have the opportunity to develop the understanding, skills and capacity necessary to achieve equitable and effective participation. 40
- (m) The computerised land transport information systems of the national government, provinces, municipalities and transport authorities must be compatible with one another and must be so designed as to allow mutual access as well as access by the systems of the provinces' boards and the systems of planning authorities, subject to section 6. 45
- (n) All spheres of government must promote public transport and the flow of interprovincial transport and cross-border road transport. 50
- (o) The principle of user charging or cost recovery from direct users must be applied wherever appropriate and possible, in that such users should pay for all or most of the costs related to the service or activity in question.
- (2) The following persons must be impartial, have no direct financial or business interest in any sector of the public transport industry, and may not decide or adjudicate on a matter in which they have such an interest: 55
- (a) Members of boards;
- (b) staff of such boards who are directly involved in issuing operating licences;
- (c) members of provincial transport appeal bodies contemplated in section 128; 60
- (d) members of the Transport Appeal Tribunal established by section 3 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998);

- (e) officials of planning authorities directly responsible for the development of operating licences strategies;
- (f) officials directly involved in the management and execution of public transport related law enforcement.

### PART 3

5

#### *Powers and Duties of Minister*

#### **Functions of Minister**

5. (1) The Minister must, after consultation with all the MECs, publish the national land transport policy by notice in the *Government Gazette*.
- (2) The notice may also include— 10
- (a) the government's goals concerning land transport in the Republic;
  - (b) the policy objectives to be pursued to achieve those goals; and
  - (c) the key performance indicators, and the targets to be met, to monitor the implementation of national land transport policy and national norms and standards and to compare them with international norms and standards. 15
- (3) Whenever any proposals relevant to determining or amending the national transport policy are to be considered, the Minister must by notice in the *Government Gazette* publish those proposals and in that notice invite interested parties and the public to comment on the proposals and make representations with regard thereto.
- (4) The Minister must monitor all provincial land transport policies and frameworks and all transport planning required or envisaged by this Act to see that it is developed, prepared and formulated within the ambit of the national transport policy. 20
- (5) The Minister must—
- (a) monitor the implementation of the national land transport policy and, where necessary, any investigations conducted into matters arising from the implementation, and cause any necessary adjustments to be made to that policy; 25
  - (b) facilitate the increased utilisation of public transport;
  - (c) strive to ensure that the money available for land transport matters is applied in an efficient, economic, equitable and transparent manner; 30
  - (d) assist provincial departments that lack the necessary staff or resources, in meeting their responsibilities and performing their functions and duties with regard to land transport;
  - (e) co-ordinate between the three spheres of government with a view to avoid duplication of effort and resources; 35
  - (f) cause to be prepared a national land transport research programme aimed at achieving the objectives of national policy and have it carried out and financed systematically, and assign research projects to persons or institutions considered best equipped to carry out the research;
  - (g) give guidance concerning education, training, and capacity building in connection with land transport matters, and prescribe requirements in this regard, but the Minister— 40
    - (i) may do so only in consultation with the Minister of Education and the Minister of Labour with a view to ensuring that education and training in subjects or training courses relating to land transport, are directed towards complying with the National Qualifications Framework defined in section 1 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995); 45
    - (ii) must thereby promote uniform standards for the relevant subjects and courses in all the provinces; 50
    - (iii) may take measures to promote, facilitate and co-ordinate the provision of training by public and private institutions;
  - (h) in taking any measures relating to public transport—
    - (i) accommodate therein relevant national and international benchmarks and best practice; 55
    - (ii) promote, within overall land transport objectives, the safety of passengers; 55
    - (iii) encourage efficiency and entrepreneurial behaviour on the part of transport operators in the operation of public transport services, and encourage them to tender competitively for contracts and concessions; 60

- (iv) promote a strategic and integrated approach to the provision of public transport;
- (v) promote the efficient use of energy resources, and limit adverse environmental impact in relation to land transport;
- (i) so promote public transport that— 5
  - (i) it is effective in satisfying user needs;
  - (ii) it operates efficiently as regards the use of resources;
  - (iii) the services operated are of an acceptable standard and readily accessible and are operated in conjunction with effective infrastructure provided at reasonable cost; 10
  - (iv) in the operation of public transport services, high priority is given to safety;
- (j) strive to ensure that in the promotion of integrated public transport modes, due consideration is given to the needs of transport users;
- (k) promote effective integrated transport planning; 15
- (l) where this Act requires public consultation and participation before taking any decision or performing any official act, prescribe the procedures to be followed in this regard;
- (m) publish a report annually on the key performance indicators mentioned in subsection (1)(c). 20
- (6) The Minister may—
  - (a) after consultation with the relevant MECs and the relevant public transport operator and, where applicable, after consulting the relevant transport authority, set maximum or minimum fares for subsidised public transport by rail until the Minister has assigned the rail function to another sphere of government; 25
  - (b) after consultation with all of the MECs, by notice in the *Government Gazette*, set norms and standards of a general nature in respect of fares for subsidised public transport services by road or rail with a view to—
    - (i) effective targeting of subsidy in terms of national policy; 30
    - (ii) providing integrated fare and ticketing systems in public transport networks; and
    - (iii) achieving cost recovery by operators;
  - (c) prescribe requirements for integrated fare systems, comprising fare structures, levels and technology, to ensure compatibility between such systems; 35
  - (d) after consultation with all of the MECs, prescribe norms and standards relating to the qualifications and conduct of inspectors;
  - (e) in consultation with the MECs, prescribe criteria and a methodology for the rationalisation of public transport services as contemplated in sections 24, 25 and 51(1)(a); and 40
  - (f) prescribe a process to be followed for offering alternative services in the place of existing services to holders of operating licences or permits under section 51.

#### National integrated land transport information system

6. (1) The Minister must develop, establish and maintain a national information system with regard to land transport, based on sound business processes, and in collaboration with the provinces integrate that system with the information systems kept by provinces. 45

(2) (a) Every MEC, every transport authority, every core city and every municipality must provide the Minister, in the manner and at the times as prescribed by the Minister, with the information so prescribed about their actions or position with regard to matters so prescribed that are relevant to— 50

- (i) the objects and purposes of this Act;
- (ii) the national land transport policy;
- (iii) the utilisation of moneys made available to them by the Department, whether directly or indirectly, for the performance of their functions with regard to land transport in terms of this Act. 55

(b) The provincial department may, in accordance with an agreement between the MEC and a municipality, act on behalf of the municipality for purposes of paragraph (a).

(3) Despite subsection (2), the Minister may at any time by notice in writing require a particular transport authority, core city or municipality to provide the Minister with 60

any information about its actions or position with regard to any non-prescribed matter of the nature mentioned in subparagraph (i), (ii) or (iii) of subsection (2)(a).

(4) The information provided in compliance with subsections (2) and (3) must be used as the basis for monitoring the implementation of national transport policy, as well as planning, and serves to assist all spheres of government in making decisions on investing in public transport. 5

(5) The information required for purposes of paragraph (a) of subsection (2) may be prescribed only after consultation with the MECs, all transport authorities and core cities, and organised local government.

(6) The Minister must have all the information that was provided in terms of subsections (2) and (3), included in the national information system kept in relation to land transport, and may make that information available to interested parties on payment of the prescribed fee, if any, or, where appropriate, by means of any radio or television broadcast or publication in the press or other printed media, subject to subsection (7). 10

(7) Subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Minister may not make information available under subsection (6) which, potentially, is commercially sensitive and may harm the business or commercial interests or viability of any particular person, organisation or entity, or is of a personal nature that may lead to the invasion of the privacy of any person, may not be so included in that system, nor be specified in such a manner that it will lead, directly or indirectly, to the identification of that person, organisation or entity, or to their being so harmed or to their privacy being invaded. 15 20

(8) Where a province, transport authority, core city or municipality fails to provide any information in compliance with subsections (2) or (3), the Minister may withhold any payment to that province, transport authority, core city or municipality, until it has provided the information. 25

#### **Regulations by Minister**

7. (1) The Minister may, after consultation with the MECs, make regulations relating to any matter which may or must be prescribed by way of a regulation under this Act.

(2) The regulations made under this section may provide that any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence, and liable on conviction to a fine or to imprisonment not exceeding three months. 30

(3) A regulation made in terms of any previous law and in force immediately before the commencement of this Act with regard to matters in relation to which the Minister, in terms of subsection (1), is competent to make regulations, is regarded for the purposes of this Act, as a regulation made under that subsection until superseded by a new regulation under this section. 35

#### **Delegations by Minister**

8. (1) The Minister may delegate to any officer in the Department any power or duty of the Minister in terms of this Act, except power to make regulations. 40

(2) Any delegation of a power or duty under this section—

(a) does not prevent the Minister from exercising that power or performing that duty;

(b) must be done in writing; and

(c) may at any time be amended or withdrawn. 45

### **PART 4**

#### ***Functions of MECs***

#### **Functions of MECs**

9. (1) Every MEC must—

(a) monitor the implementation of the provincial land transport policy and, where necessary, any investigations conducted into matters arising from implementation, and cause the necessary adjustments, if any, to be made to that policy; 50

(b) strive to ensure that the money available for land transport matters is applied in an efficient, economic, equitable and transparent manner;

(c) assist planning authorities that lack the necessary staff or resources, in meeting their responsibilities and performing their functions and duties with regard to land transport. 55

- (2) Every MEC must, by notice in the *Provincial Gazette*, from time to time and after consultation with transport authorities and core cities in the province and the relevant provincial organisation contemplated in section 2(1)(b) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), publish provincial land transport policy, including, but not limited to—
- (a) the province's goals concerning land transport;
  - (b) the policy objectives to be pursued to achieve those goals; and
  - (c) the key performance indicators, and the targets to be met, to monitor the implementation of such policy and provincial norms and standards and comparing them with national norms and standards.
- (3) Whenever any proposals relevant to determining or amending the provincial transport policy is to be considered, the MEC must by notice in the *Provincial Gazette* make known those proposals and in that notice invite interested parties and the public to comment on the proposals and make representations with regard thereto.
- (4) Every MEC must prepare a provincial transport framework for the relevant province in accordance with section 22.

## PART 5

### *Transport Authorities: Matters of National Concern*

#### **Principles for establishment of transport authorities for transport areas**

10. (1) Transport authorities may be established for transport areas by a written founding agreement between—
- (a) the MEC and a single municipality; or
  - (b) the MEC and municipalities whose areas of jurisdiction fall wholly or partly within the transport area.
- (2) The Minister must be a party to the founding agreement contemplated in subsection (1) if the Minister provides funding for the transport authority, but only in relation to those issues for which such funding is provided.
- (3) Transport authorities may be established if their effect is to improve transport service delivery in the local sphere of government by grouping transport functions into a single, well-managed and focussed institutional structure.
- (4) Subsection (1)(a) and (b) also apply to municipalities whose areas of jurisdiction or parts thereof are situated in an MTA, in which case the MEC must withdraw the notice under which the area or areas of the municipality or municipalities concerned were included in the MTA under the Urban Transport Act, 1977 (Act No. 78 of 1977).
- (5) The MEC may not unreasonably withhold consent for the establishment of a transport authority.
- (6) The founding agreement must be in writing and reflect the agreement reached between the parties and provide at least for the following:
- (a) The parties to the agreement;
  - (b) the basis for the establishment of a governing body for the transport authority and the structure thereof;
  - (c) operational, financial and procedural arrangements, including voting procedures;
  - (d) a point-to-point description of the boundaries of the transport area or, where such boundaries coincide with municipal boundaries, a reference to such municipal boundaries or a reference to such municipal boundaries as they may change from time to time.
- (7) The MEC must publish founding agreements, after their conclusion, in the relevant *Provincial Gazette* and declare the relevant area as a transport area by such publication.
- (8) A transport authority so established is a juristic person separate from the participating municipality or municipalities.
- (9) Despite the provisions of any other law, a transport authority may not be placed in liquidation.
- (10) A transport authority is governed and controlled by the governing body appointed for it in accordance with its founding agreement, which must consist solely of councillors of the constituent municipality or municipalities, the number of which is determined in the founding agreement.
- (11) The technical, professional, administrative, clerical and other work of a transport authority may be performed by—

- (a) the municipal administration of one of the participating municipalities specified in that agreement;
- (b) any one or more specified departments in the municipal administration of one or more participating municipalities so specified; or
- (c) a transport executive as a separate body under the auspices and subject to the control of the transport authority. 5
- (12) A province may provide staff or other assistance to a transport authority to enable it to perform its professional, technical, administrative and other work.
- (13) Subject to legislation applicable to local government, a transport authority must perform the following functions, as well as those assigned to it by provincial laws: 10
- (a) Subject to section 20(4) and (5), in its capacity as planning authority, prepare transport plans for the transport area, and be responsible for the implementation thereof, and monitor its performance in achieving its goals and objectives;
- (b) develop land transport policy within its area based on national and provincial guidelines, which includes its vision for the area, and incorporate spatial development policies on matters such as densification and infilling as well as development corridors; 15
- (c) perform financial planning with regard to land transport within or affecting the transport area, with particular reference to transport planning, infrastructure, operations, services, maintenance, monitoring and administration; 20
- (d) manage the movement of persons and goods on land by co-ordinating such movement;
- (e) encourage, promote and facilitate public consultation, participation or involvement through hearings, seminars and workshops and any other means that are appropriate to ensure effective communication with customers, communities, organised labour and transport operators, and the Minister may prescribe requirements and procedures in this regard; 25
- (f) subject to section 20(4) and (5), call for tenders for public transport services to be operated in terms of commercial service contracts and subsidised service contracts, prepare tender specifications and documents for that purpose, evaluate the tenders received and the award of the tenders, but this function may be undertaken after the date of declaration of the transport authority under subsection (7), but not later than a date to be determined by the Minister in agreement with the transport authority and the relevant MEC. 30 35
- (14) A transport authority may be dissolved only if all of the parties to the transport authority have entered into an agreement in terms of which proper arrangements are made for dissolution of the authority and for—
- (a) succession to the assets, liabilities and commitments of the transport authority upon dissolution; 40
- (b) the continuation and finalisation of any projects and work commenced by the transport authority before dissolution;
- (c) the responsibilities, obligations and duties of the municipality or each of the municipalities party to the transport authority with regard to the execution or implementation of any other commitment made or decision taken by the transport authority in the exercise or performance of its functions; and 45
- (d) the date on which the dissolution is to take effect.
- (15) The Minister may by notice in the *Government Gazette* publish a *pro forma* founding agreement which sets out minimum terms to be included in all founding agreements. 50

### Factors relevant to determining boundaries of transport areas

11. (1) The MEC and the municipality or municipalities that propose to enter into a founding agreement, must when considering the formation of a transport area, have due regard at least to—
- (a) dominant passenger movements; 55
- (b) economic interdependency between inhabitants;
- (c) integrated land use and transport development potential;
- (d) the extent to which public transport services are provided and operated effectively and efficiently within the area;
- (e) demographic, natural and geographical factors and characteristics; 60
- (f) whether there is a capacity within the area to perform and carry out any

technical or specialised functions or work necessary for or arising from the governance of a transport area in terms of this Act;

- (g) other criteria, if any, that may be prescribed by a law of the province and are not inconsistent with this Act.

(2) The Minister or the MEC may prescribe matters to be considered with a view to determining the boundaries of transport areas in addition to those mentioned in subsection (1), and procedures for such determination. 5

(3) The MEC must consult with the members of the executive council responsible for local government affairs and for finance of the province concerned before a decision is taken as to the formation of a transport area. 10

### Transport areas and transport authorities extending across provincial boundaries

12. (1) Subject to subsection (2) and to the conclusion of a founding agreement that complies with provincial legislation, the MECs of two or more provinces may enter into an agreement which gives authorisation for—

- (a) the formation of a single transport area extending across one or more of the common provincial boundaries and comprised of the jurisdictional areas, or part thereof, of municipalities falling within the respective provinces; and 15

- (b) the establishment of a single transport authority for such a transport area.

(2) Such an authorising agreement may be concluded only if—

- (a) the affected area falling in one province is contiguous to the affected area falling in the other province or, as the case may be, one or more of the other provinces concerned; and 20

- (b) the municipalities concerned have agreed in principle on the establishment of a transport authority for a transport area consisting of their jurisdictional areas jointly; and 25

- (c) those MECs are satisfied that those jurisdictional areas, taken together, meet the requirements for a functional transport area, due regard being had to section 11.

(3) The agreement must further provide that, in relation to the transport area and the transport authority that may be established for it, one of those MECs, who must be identified in the agreement, is the nominated MEC as regards any powers and duties which, in terms of this Act, may be exercised or must be performed by the MEC with regard to a transport area or its transport authority. 30

(4) The MEC may enter into such an agreement only after consultation with the members of the executive council responsible for local government affairs, and for planning, of the provinces concerned. 35

### Finances of transport authorities

13. (1) Every transport authority must—

- (a) conduct its affairs in an effective, economic and efficient manner so as to optimise the use of its resources in addressing the land transport needs of the community in its area and those travelling to and from that area; 40

- (b) conduct its financial affairs in an accountable and transparent manner and have proper accounting records kept in accordance with generally accepted accounting practice;

- (c) prepare a financial plan as an integral part of its transport plans; 45

- (d) structure and manage its planning, administration and budgeting processes in a manner that gives priority to the basic transport needs of the community in its area and those having to be moved to and from that area, and that supports the implementation of national and provincial transport policy;

- (e) manage its financial resources in a manner that enables it to meet its objectives and make them sustainable; and 50

- (f) regularly monitor and assess its progress in achieving the objectives set out in its transport plans.

(2) Subject to the approval of the governing body, the chief executive officer of the transport authority must open an account in the name of the authority with a registered banking institution in which all moneys received by the authority are to be deposited and from which its expenses are to be paid. 55

(3) Every transport authority must establish and maintain an internal audit and control system with a view to ensuring proper financial control.

(4) A transport authority, in awarding contracts for goods and services, must apply a 60



system which is fair, equitable, transparent, competitive and cost-effective, and which is in accordance with the Preferential Procurement Policy Framework Act, 2000 (Act No. 4 of 2000), and relevant provisions of the Local Government Transition Act, 1993 (Act No. 209 of 1993), which will apply with the changes required by the context.

(5) The Minister may, after consulting the Minister of Finance in the national sphere of government and the MECs, prescribe responsibilities and duties of transport authorities concerning financial and fiscal matters. 5

(6) The financial and fiscal matters may, among others, relate to—

- (a) the financial records and accounts to be kept and the financial statements to be prepared; 10
- (b) the auditing of those records, accounts and financial statements which may only be audited by a person registered and practising for own account as a public accountant and auditor;
- (c) the time allowed for the submission of its audited financial statements to the governing body, the participating municipalities and the MEC; 15
- (d) consequences and procedures where persons cause the transport authority financial loss or damage, or where unauthorised expenditure has been incurred;
- (e) procedures to be followed and measures to be taken to remedy the situation where the financial position of a transport authority has unduly deteriorated; 20
- (f) procedures applicable to the preparation and compilation of the budgets of transport authorities;
- (g) procedures and requirements for the procurement of goods and services, subject to subsection (4);
- (h) the investment of the moneys of transport authorities; and 25
- (i) the charging of fees for or the generating of revenue from services rendered by transport authorities.

(7) The financial year of transport authorities must coincide with the municipal financial year.

#### **Use of funds received by transport authorities** 30

14. A transport authority must use moneys—

- (a) received from the Minister under section 15(1)(b);
- (b) received by the relevant province under section 16(1)(b);
- (c) received from its participating municipalities under section 17,

for the performance of that authority's functions in terms of this Act or a replacing provincial law, to meet the expenditure incurred by it in the performance of work arising from or otherwise connected with those functions or the performance thereof and to give effect to the national and provincial land transport policy. 35

### **PART 6**

#### ***Interim Funding Arrangements for Land Transport*** 40

#### **Minister may provide funds for land transport**

15. (1) (a) For the performance of the Minister's functions in terms of this Act and to meet the expenditure incurred by the Department in the performance of work arising from or otherwise connected with those functions, the Minister must use moneys appropriated by Parliament for that purpose. 45

(b) The Minister may, from funds contemplated in paragraph (a), make moneys available to provinces, municipalities or transport authorities to assist them in performing their functions in terms of this Act or replacing provincial laws.

(2) The moneys made available under subsection (1) are to be applied so as to give effect to the national and provincial land transport policy and achieve the objects and purposes of this Act and replacing provincial laws and the Minister may for that purpose impose conditions that are considered fit and are not inconsistent with this Act, including conditions relating to specific purposes for which the moneys are to be utilised. 50

(3) Moneys made available under subsection (1)(b)—

- (a) for use for a particular or specified purpose, may not be used for any other purpose; or 55
- (b) subject to specified conditions, may not be dealt with contrary to those conditions.

**MEC may provide funds for land transport**

16. (1) (a) For the performance of the MEC's functions in terms of this Act or a replacing provincial law and to meet the expenditure incurred by the provincial department in the performance of work arising from or otherwise connected with those functions the MEC must use moneys received from the Minister or appropriated by the relevant provincial legislature for that purpose. 5

(b) The MEC may, from funds received or appropriated under paragraph (a), make moneys available to municipalities or transport authorities to assist them in performing their functions in terms of this Act or replacing provincial laws.

(2) The moneys made available under subsection (1) are to be applied so as to give effect to the national and provincial land transport policy and achieve the objects and purposes of this Act and replacing provincial laws and the MEC may for that purpose impose conditions that are considered fit and are not inconsistent with this Act and replacing provincial laws. 10

(3) Moneys made available under this section— 15

(a) for use for a particular or specified purpose, may not be used for any other purpose; or

(b) subject to specified conditions, may not be dealt with contrary to those conditions.

(4) Where a transport authority is established and becomes responsible for the function mentioned in section 10(13)(f), the MEC must transfer to that transport authority a share, to be determined after consultation with the Minister and the transport authority, of the amount appropriated by Parliament for the relevant province in the Division of Revenue Act for that function for that specific financial year. 20

**Municipalities may provide funds for land transport** 25

17. A municipality may appropriate money to make contributions to the transport authority of which it is a part, for use as contemplated in section 14.

**PART 7****Transport Planning****General principles for transport planning, and its relationship with land development** 30

18. (1) Land transport planning must be integrated with the land development process, and the transport plans required for that purpose by this Act are designed to give structure to the function of "municipal planning" mentioned in Part B of Schedule 4 of the Constitution, and must be accommodated in and form an essential part of integrated development plans, with due regard to section 84(1)(a), 84(2) and 84(3) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and for this purpose— 35

(a) where the relevant planning authority is a municipality contemplated in section 20(1)(c), the plans mentioned in paragraphs (c) to (g) of subsection (1) of section 19 must form the transport component of the integrated development plan of the municipality; 40

(b) where the jurisdictional area of a municipality falls wholly or partly in a transport area or MTA, the plans mentioned in paragraphs (c) to (g) of that subsection constitute the transport component of the integrated development plans of such municipality in respect of that part of its jurisdictional areas that falls within the transport area or MTA. 45

(2) Subject to this section, land transport planning must be so carried out so as to cover both public and private transport and all the modes of land transport relevant in the area concerned, and must focus on the most effective and economic way of moving from one point to another in the system. 50

(3) Transport plans must be developed so as to—

(a) enhance the effective functioning of cities, towns and rural areas through integrated planning of transport infrastructure and facilities, transport operations including freight movement, bulk services and public transport services within the context of those integrated development plans and the land development objectives set in terms of section 27 of the Development 55

- Facilitation Act, 1995 (Act No. 67 of 1995), or, where applicable, land development objectives of that nature set in terms of relevant provincial laws;
- (b) direct employment opportunities and activities, mixed land uses and high density residential development into high utilisation public transport corridors interconnected through development nodes within the corridors, and discourage urban sprawl where public transport services are inadequate; 5
  - (c) give priority to infilling and densification along public transport corridors;
  - (d) give higher priority to public transport than private transport by ensuring the provision of adequate public transport services and applying travel demand management measures to discourage private transport; 10
  - (e) enhance accessibility to public transport services and facilities, and transport functionality in the case of persons with disabilities; and
  - (f) minimise adverse impacts on the environment.
- (4) Transport planning must be viewed as a continuous process by which planning authorities professionally develop and implement integrated public transport services for their areas. 15
- (5) A planning authority must, unless clearly inappropriate or not reasonably practical in the circumstances, in preparing any transport plan, ensure co-ordination and integration within and between land transport modes so as to optimise the accessibility and utilisation of public transport services, facilities and infrastructure. 20
- (6) The MEC must ensure the co-ordination of the planning processes of all planning authorities under the jurisdiction of the province and, in so doing, must ensure that all plans address—
- (a) public transport services operating across the boundaries of the areas of planning authorities; 25
  - (b) road and rail networks;
  - (c) freight movements;
  - (d) the needs of special categories of passengers;
  - (e) rivalry between neighbouring planning authorities that may result in the duplication or over-supply of transport facilities and infrastructure in the region; 30
  - (f) the integration of transport and land use planning within the context of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or any other similar provincial law.

#### Types of plans required by Act 35

19. (1) The following plans are required for the purposes of this Act:
- (a) A national land transport strategic framework provided for in section 21;
  - (b) provincial land transport frameworks provided for in section 22;
  - (c) current public transport records provided for in section 23;
  - (d) operating licences strategies provided for in section 24; 40
  - (e) rationalisation plans provided for in section 25;
  - (f) public transport plans provided for in section 26;
  - (g) integrated transport plans provided for in section 27.
- (2) The relationship and sequence of transport plans which are illustrated in Figures 1 and 2, are as follows: 45
- (a) The Department must prepare a national land transport strategic framework to guide land transport planning countrywide;
  - (b) every province must prepare its initial provincial land transport framework as an overall guide to transport planning within the province;
  - (c) every transport authority and core city, and every municipality required to do so by the MEC, must prepare a public transport plan of which a current public transport record and an operating licences strategy, and, if it has subsidised public transport services, a rationalisation plan, form components; 50
  - (d) transport authorities and core cities, and other municipalities requested by the MEC, must prepare an integrated transport plan of which the public transport plan forms a component; 55
  - (e) every province must prepare subsequent provincial land transport frameworks which, in addition to the provision of subparagraph (ii), must summarise the local plans in the province.
- (3) Subject to section 20(4) and (5), provincial transport frameworks must include the planning of both intraprovincial and interprovincial long-distance services, which must 60

be linked where applicable with other public transport services, and may provide for charter services, staff services and tourist services, and in the case of interprovincial transport, this must be done in consultation with the MEC of the other province or provinces concerned.

(4) (a) The Minister must, as soon as possible after the commencement of this Act, in consultation with the MECs and by notice in the *Government Gazette*, determine a date by which each province must have prepared its provincial land transport framework.

(b) The date for each of the plans mentioned in subsection (1)(c) to (g) must be linked to the provincial land transport framework and be as agreed upon by the MECs.

(5) The planning authority must before or on the date determined in terms of subsection (4) publish a notice in English and at least one other official language in a newspaper circulating in the area of the planning authority making known that the plan in question has been completed and is available for public inspection at a place stated in the notice and the MEC may prescribe procedures to be followed in promoting public participation in the transport planning process.

(6) The Minister and any MEC may provide financial or other assistance for planning to enable authorities to fulfil their obligations under this Part from money appropriated by Parliament or by the relevant provincial legislature, as the case may be.

(7) The content of plans mentioned in subsection (1)(b) to (g) must be as required by this Act, but the Minister may, in consultation with the relevant MEC or MECs, modify the requirements for those plans, in the prescribed manner, in relation to rural areas in particular provinces.

### Planning authorities

20. (1) Plans contemplated in section 19(1)(c) and (d) and, where appropriate, section 19(1)(e), (f) and (g), must be prepared by the following authorities, to be known as planning authorities, subject to subsections (4) and (5), and these plans may be different in respect of rural planning authorities except for those that have subsidised public transport services:

(a) Transport authorities, in respect of their transport areas;

(b) core cities, in respect of their MTAs;

(c) other municipalities, where their jurisdictional areas have not been included wholly or partly in transport areas or MTAs, in respect of their jurisdictional areas and, where such areas are partly included in a transport area or MTA, in respect of that part of such area that is not so included.

(2) (a) A planning authority may enter into an agreement with any other planning authority or the provincial department to assist it in performing its functions in terms of this Part.

(b) Such an agreement does not detract from the planning authority's ultimate responsibility for the functions entrusted to it by this Part.

(3) Every planning authority must supply relevant transport plans to the board and make recommendations to that board about the conversion of permits to operating licences, and about applications for new operating licences, as required by Part 9.

(4) Where there are substantial public transport services between adjacent transport areas, the MEC is responsible for the effective planning of such services, and must ensure that such services are planned jointly with the respective transport authorities and integrated with their transport plans.

(5) A transport authority may apply to the MEC for the transport authority to take over the planning of the services contemplated in subsection (4), and in deciding whether to do so, the MEC must consider primarily—

(a) the extent to which the services are being operated within the transport area concerned; and

(b) the ability of the transport authority to carry out the responsibilities relating to this function.

(6) In the case of a district municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), such a municipality and its relevant local municipalities must agree as to which of them must prepare the plans contemplated in section 19(1)(c) to (g).

### National land transport strategic framework

21. (1) The Minister must annually, by a date to be determined by the Minister after

consultation with the MECs and published by notice in the *Government Gazette*, prepare a national land transport strategic framework for the country for a five-year period corresponding with the Department's financial years, with due regard to subsection (3).

(2) The national land transport strategic framework must serve to guide land transport planning countrywide and must not derogate from the constitutional planning functions of provinces and municipalities. 5

(3) The national land transport strategic framework must—

- (a) set out national policy with respect to land transport;
- (b) promote the integration of national, provincial and local land transport planning; 10
- (c) describe mechanisms to resolve possible conflicts between land use and transport planning and possible conflicts between provinces and municipalities in the land transport context;
- (d) set out a general strategy for freight transport nationwide;
- (e) set out a general strategy for rail transport nationwide, including long-distance passenger rail and a commuter rail concessioning strategy; 15
- (f) set out a general strategy for national roads;
- (g) set out a general strategy for cross-border land transport;
- (h) set out the national key performance indicators;
- (i) set out a general strategy to support tourism; 20
- (j) set out a general strategy for land transport and the environment;
- (k) set out a general strategy for land use restructuring;
- (l) set out a general strategy for interprovincial land transport; and
- (m) set out a general strategy for transporting persons with disabilities.

#### **Provincial land transport frameworks** 25

22. (1) Every MEC must annually prepare a provincial land transport framework for a five-year period in accordance with the requirements prescribed by the Minister after consultation with all the MECs.

(2) The initial provincial land transport framework must serve to guide land transport in the province, including intraprovincial, interprovincial and cross-border transport and any subsequent provincial land transport frameworks must also include summaries of the local plans within the province. 30

(3) The provincial land transport framework must—

- (a) be consistent with the province's vision, policy and objectives;
- (b) specify the changes to the province's land transport policies and strategies since the previous year's five-year plan; 35
- (c) from the second year, include a list reflecting a summary of the transport projects and project segments in order of precedence, that are to be carried out in that five-year period, and the cost of each project and this summary must—
  - (i) also deal with those projects identified in transport plans in the province; 40
  - and
  - (ii) further be prepared with due regard to the relevant integrated development plans prepared in terms of any relevant local government law and the relevant land development objectives set in terms of section 27 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or, where applicable, land development objectives of that nature as set in terms of a law of the province; 45
- (d) describe the measures to be taken by the province with a view to ensuring proper co-ordination between the transport plans of the planning authorities in respect of which the province has jurisdiction; 50
- (e) describe progress with respect to the establishment and functioning of transport authorities in the province;
- (f) include the province's detailed budget with regard to land transport for the relevant financial year, including funding sources, in the format prescribed by the Minister; 55
- (g) describe mechanisms that have been instituted to resolve possible conflicts between provincial transport and land use planning;
- (h) set out a general strategy for the needs of learners and persons with disabilities;
- (i) include the approved spatial plan of the province; 60
- (j) include a road plan for the province;

- (k) include a public transport strategy for the province;
  - (l) set out a general strategy or plan for the movement of hazardous substances contemplated in section 2(1) of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), by road along designated routes, in consultation with the provincial department responsible for environment affairs; 5
  - (m) set out the key performance indicators specified by the Minister, as well as any others specified by the MEC, to be used to measure the performance by the province and planning authorities of their functions and responsibilities in terms of this Act;
  - (n) include details of intraprovincial and interprovincial long-distance services; 10
  - (o) set out a general strategy for tourism; and
  - (p) include details of liaison mechanisms and structures proposed for interprovincial long-distance services.
- (4) The provincial land transport framework submitted to the Minister in terms of this section must be accompanied by copies of all agreements regarding interprovincial transport concluded between the province concerned and other provinces. 15

### Current public transport records

23. (1) Every planning authority must as soon as reasonably possible after the commencement of this Act, but by a date to be determined by the MECs in consultation with the Minister, prepare for its area a current public transport record, which must become part of its public transport plan and constitutes the basis for the development of operating licences strategies, rationalisation plans, public transport plans and integrated transport plans. 20
- (2) The current public transport record must be prepared in accordance with the document titled "Requirements and Format for the Preparation of Current Public Transport Records by Core Cities" as published in the *Government Gazette* on 22 May 1998 under General Notice No. 847 of 1998, or any subsequent amendments thereof published in the *Government Gazette* and agreed to by the MECs. 25
- (3) That public transport record must take into account the changes necessary in the context, except where that document is in conflict with this Act, and showing— 30
- (a) all of the scheduled and unscheduled services that are operated in the area of the planning authority, and taking into account such services to and from the areas of neighbouring planning authorities;
  - (b) all the facilities and infrastructure in place and utilised in the area concerned for the purposes of or in connection with the public transport services mentioned in paragraph (a), as well as the facilities and infrastructure being developed for those purposes or in that connection within the area concerned. 35
- (4) The MEC may prescribe the content of current public transport records in addition to the content prescribed in the document referred to in subsection (2).
- (5) The current public transport records must be submitted to the MEC by the planning authorities not later than the date determined for that purpose by the MECs in consultation with the Minister and made known by the MEC by notice in the *Provincial Gazette*. 40
- (6) The current public transport record must be updated annually, and in updating it, planning authorities must record changes in the supply of public transport services with regard to their respective areas, including the granting and issuing of operating licences and the amendment, transfer, suspension, lapsing, withdrawal and cancellation of operating licences or permits by the board. 45

### Operating licences strategies

24. (1) For the purpose of ensuring that planning authorities' recommendations to the board will enable that board, in disposing of applications regarding operating licences, to achieve a balance between public transport supply and utilisation that is both effective and efficient, every planning authority must prepare a plan known as an operating licences strategy, which must eventually form part of its public transport plan. 50
- (2) An operating licences strategy must contain and set out the planning authority's policy and strategies in relation to at least— 55
- (a) the role of each public transport mode and identification of the preferred road-based mode or modes with regard to its area, including transport into or from the areas of other planning authorities, and interprovincial transport;

- (b) the circumstances in which operating licences or permits authorising the operation of public transport within any part of its area, should be allowed;
- (c) the use of public transport facilities within its area;
- (d) the avoidance of wasteful competition between transport operators;
- (e) the conclusion of commercial service contracts for unsubsidised public transport services; and
- (f) the conditions which should be imposed by the board in respect of operating licences.

(3) Operating licences strategies must be in accordance with the requirements, and in the manner and form as generally prescribed by the Minister in consultation with the MECs, but the MEC may prescribe the content of operating licences strategies in addition to such requirements.

(4) (a) The operating licences strategy must, subject to paragraph (b), be submitted to the MEC for approval.

(b) Such approval must relate only to procedures, financial issues that affect the province, provincial policy and principles, transport across the boundaries of the areas of planning authorities, interprovincial transport and other matters provided for in provincial laws.

(5) In the absence of a public transport plan, a planning authority must ensure that its operating licences strategy is updated on a continuous basis and consolidated at least once a year within two months of completing its current public transport record, or by a date determined by the MEC and made known in the *Provincial Gazette*.

#### Rationalisation plans

25. (1) Where it is proposed that a public transport service being operated in terms of a subsidy be continued after expiry of the basis in terms of which it is currently operated, in terms of a subsidised service contract or concession, every planning authority in whose area the service is operated must prepare a rationalisation plan which must eventually become part of its public transport plan, before the service to be operated in terms of the subsidised service contract is put out to public tendering, with a view to—

- (a) rationalising subsidised services within and between modes;
- (b) determining where and to what extent subsidies should be paid;
- (c) rationalising subsidised services across the borders of planning authorities and in relation to interprovincial transport;
- (d) minimising the level of subsidy;
- (e) minimising competition between subsidised services;
- (f) structuring subsidised service contracts or concessions in such a way as to attract sufficient competitive bidding by qualifying tenderers;
- (g) ensuring that routes and route networks are utilised optimally so as to meet passenger needs effectively and efficiently; and
- (h) facilitating the future development of an integrated public transport system.

(2) The rationalisation plan must contain at least the following:

- (a) The proposed changes to the existing routes or networks, or both;
- (b) the proposed changes to the passenger-carrying capacity of the services operated on the routes or networks, or both;
- (c) the policy proposed for the structuring of contracts or concessions for competitive tendering;
- (d) a statement setting out the potential impact of the rationalisation on the various transport modes;
- (e) an indication of the improvements to be effected for the benefit of passengers;
- (f) an indication of the obstacles foreseen with regard to the implementation of the plan, and the strategies proposed to overcome them.

(3) Rationalisation plans must be in accordance with the requirements, and in the manner and form, as generally prescribed by the Minister in consultation with the MECs, and the MEC may prescribe the content of rationalisation plans in addition to such requirements.

(4) The rationalisation plan must be submitted to the MEC for approval, which approval must relate only to the matters mentioned in section 24(4)(b).

(5) In the absence of a public transport plan, a planning authority that has subsidised public transport services must ensure that its rationalisation plan is prepared or updated and submitted to the MEC at least once a year and within four months of completing its current public transport record, or by a date determined by the MEC and made known in the *Provincial Gazette*.

**Public transport plans**

26. (1) Every transport authority and core city, and every municipality required to do so by the MEC, must, by the date determined by the MEC, prepare a public transport plan with a view to determining and specifying the public transport services that it wishes to have provided in terms of the matters mentioned in section 23(3)(a) and (b). 5

(2) The public transport plan must be prepared with a view to developing and implementing the integration of public transport services and must contain at least the following:

- (a) The planning authority's vision, goals and objectives for public transport in its area; 10
- (b) the planning authority's strategies for—
  - (i) the needs of learners and persons with disabilities;
  - (ii) modal integration and fare systems for public transport, the latter comprising fare structure, level and technology;
- (c) an operational component, including— 15
  - (i) the provisions of the rationalisation plan for contracted services and concessions; and
  - (ii) the operating licences strategy for all public transport services not covered under subparagraph (i).

(3) Public transport plans must be in accordance with the requirements, and in the manner and form, as generally prescribed by the Minister, in consultation with the MECs, but the MEC may prescribe the content of public transport plans in addition to such requirements. 20

(4) The public transport plan must be submitted to the MEC for approval, which approval must relate only to the matters mentioned in section 24(4)(b). 25

(5) Every planning authority must ensure that its public transport plan is updated at least once a year by a date determined by the MEC by notice in the *Provincial Gazette*.

**Integrated transport plans**

27. (1) Transport authorities, core cities and other municipalities required by the MEC to do so, must prepare and submit to the MEC annually by the date determined by the MEC, integrated transport plans which comply with subsection (2) for their respective areas for the five-year period commencing on the first day of that financial year. 30

(2) The integrated transport plan must formulate the planning authority's official vision, policy and objectives, consistent with national and provincial policies, due regard being had to any relevant integrated development planning or land development objectives, and must at least— 35

- (a) specify the changes to the planning authority's land transport policies and strategies since the previous year's five-year plan;
- (b) include a list that must—
  - (i) show, in order of precedence, the projects and project segments to be carried out in that five-year period, and the cost of each project; and 40
  - (ii) be prepared with due regard to relevant integrated development plans, and land development objectives set in terms of section 27 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or, where applicable, in terms of a law of the province; 45
- (c) include all modes and infrastructure, including new or amended roads and commercial developments having an impact on the land transport system, and land transport aspects of airports and harbours;
- (d) include the planning authority's detailed budget, including funding sources, with regard to land transport for the relevant financial year in the format prescribed by the MEC; 50
- (e) include the planning authority's public transport plan;
- (f) set out a general strategy for travel demand management;
- (g) set out a road and transport infrastructure provision, improvement and maintenance strategy; and 55
- (h) set out a general strategy or plan for the movement of hazardous substances contemplated in section 2(1) of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), by road along designated routes, in accordance with the strategy or plan in the provincial transport framework contemplated in section 22(3)(l). 60



(3) An integrated transport plan must be in accordance with requirements and in the manner and form as the Minister may prescribe in consultation with the MECs, but the MEC may prescribe the content of integrated transport plans in addition to such requirements.

(4) The plan must by the date so determined be submitted to the MEC for approval, which approval must relate only to the matters mentioned in section 24(4)(b). 5

(5) A person may not transport hazardous substances contemplated in section 2(1) of the Hazardous Substances Act, 1973 (Act No. 15 of 1973), in the area of a planning authority, except on a route determined under paragraph (h) of subsection (2), where such a route has been determined and published under section 29(1), and any person who does so is guilty of an offence. 10

#### Approval of commuter rail components of transport plans

28. Until the function of commuter rail is devolved from the national to another sphere of government, the transport plans contemplated in section 19(1)(b) to (g) must be submitted to the Minister for approval of the commuter rail component of such plans, within the prescribed manner and time. 15

#### Publication of transport plans and substantial changes in land use and public transport infrastructure and services

29. (1) On approval of the national land transport strategic framework, a provincial transport framework, a public transport plan or an integrated transport plan, the Minister or planning authority, as the case may be, must publish, in the *Provincial Gazette*, or, in the case of the national land transport strategic framework, in the *Government Gazette*, the prescribed particulars of such plans, which must include particulars of routes determined under section 27(2)(h). 20

(2) All persons, including the State and parastatal institutions, agencies and utilities are bound by the provisions of plans published under subsection (1), and— 25

- (a) no substantial change or intensification of land use on any property may be undertaken without the written consent of the relevant planning authority;
- (b) developments on property within a transport area are subject to traffic impact assessments and public transport assessments as prescribed by the MEC; 30
- (c) where new or upgraded transport infrastructure or services are suggested in such a traffic impact assessment or public transport assessment, the costs thereof must be paid as decided by the relevant planning authority;
- (d) no action may be taken that would have the result of substantially decreasing the quantity or availability of land transport infrastructure or services, unless the owner of the land on which the infrastructure is situated, or the holder of the relevant operating licence, as the case may be, has notified the relevant planning authority in writing not less than 30 days before the action is taken. 35

(3) Despite any law to the contrary, any authority with responsibility for approving substantial changes or intensification in land use or development proposals which receives an application for such change or intensification, must— 40

- (a) within 14 days of receipt of such application and prior to considering or ruling on such application, submit such application to the relevant planning authority for its assessment and determination of the impact of the application on transport plans and public transport services; and 45
- (b) ensure that such application is accompanied by the required traffic impact assessment and public transport assessment, and has sufficient information for such authority to assess and determine the impact of the application on transport plans and services.

(4) The planning authority must, within 28 days— 50

- (a) approve or refuse an application for a change or intensification in land use or development proposal submitted in terms of subsection (3); and
- (b) submit its written decision and any objections with respect to such application, including directions or conditions for compliance with the transport plans, to such authority vested under law with responsibility for considering the application. 55

(5) The authority vested with responsibility for consideration of applications for change or intensification in land use or its development may not approve such application—

- (a) prior to the expiry of the 28-day period referred to in subsection (4); or
- (b) which is in conflict with the directions of or conditions required by the planning authority as contemplated in subsection (4)(b), except to the extent that the planning authority's directions or conditions are altered by the development tribunal in terms of subsection (6).

(6) Where any person is aggrieved by any decision of a planning authority in terms of this section, such person may appeal against the decision to the development tribunal established for the relevant province under section 15 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), or replacing provincial legislation, in the manner and within the time prescribed.

(7) Despite any provision to the contrary in the Deeds Registries Act, 1937 (Act No. 47 of 1937), or any other law, conditions imposed in terms of subsection (4)(b) must be registered or endorsed against the relevant title deed.

(8) Despite any provision to the contrary in the Deeds Registries Act, 1937 (Act No. 47 of 1937), or any other law, the registrar of deeds may, with the written approval of the planning authority, cancel any condition which has in terms of subsection (5) been inserted in a deed of transfer or endorsed upon a title deed.

(9) Any person who undertakes a development involving a change or intensification in land use or development proposal without the approval of the planning authority under this section, or contrary to a condition imposed by such an authority, is guilty of an offence and is liable on conviction to a fine or imprisonment for a period not exceeding six months.

(10) Where a building or structure has been erected without the approval of a planning authority in circumstances where such approval should have been obtained under this section, or in conflict with a condition imposed under this section, the relevant planning authority may apply to the High Court having jurisdiction for an order compelling the owner of the property to demolish or remove the building or structure at the owner's cost, or authorising the authority to do so and claim the costs involved from the owner, or making such other order as the Court may consider to be just.

## PART 8

### *Provincial Operating Licencing Boards: Matters of National Concern*

#### **Establishment and functions of provincial boards**

**30.** (1) Subject to subsection (2), every MEC must establish a board for the province and appoint fit and proper persons as members who are characterised by their independence, impartiality and fairness and who further are suitable for membership by reason of their understanding of and expertise in or knowledge of the public transport industry.

(2) A province may provide in provincial laws for the functions of the board to be transferred to similar bodies to be established by transport authorities, in respect of applications relating to transport within their transport areas, but only if the MEC is satisfied that the particular transport authority is competent to do so and is performing the functions contemplated in section 10(13) satisfactorily.

(3) The functions of a board are to receive, consider and decide on or otherwise dispose of, in accordance with this Act and relevant provincial laws—

- (a) applications for the granting of operating licences for intraprovincial transport;
- (b) applications for the granting of operating licences for interprovincial transport involving the province for which the board has been established, subject to the approval of the relevant board of the other province, or of every other province, in which passengers are picked up or set down, as the case may be, subject to subsection (5);
- (c) applications for the renewal, amendment or transfer of operating licences for intraprovincial transport and provincial legislation may, subject to section 36(a), however, limit or prohibit such transfer; and
- (d) applications for the renewal, amendment or transfer of operating licences that had been so granted by it for interprovincial transport, subject to the approval of the relevant board of the other province, or of every other province, in which passengers are picked up or set down, as the case may be, but subject to subsection (3).

(4) In addition, a board, on application made to it by the holder of any permit at any time before the day on which the permit lapses in terms of section 32, may convert the permit to an operating licence in terms of this Act and relevant provincial laws, if, in terms of subsection (3), it would have had jurisdiction if the applicant had applied for an operating licence involving the same kind of transport. 5

(5) (a) If, in the case of any application mentioned in paragraph (b) or (d) of subsection (3), the board considering the application, has not succeeded in obtaining the required approval of another board by the expiry of the period prescribed by the MEC for that purpose, the first-mentioned board may refer the matter for decision to the Transport Appeal Tribunal established by section 3 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998). 10

(b) A board approached for its approval in terms of paragraph (b) or (d) of subsection (3), that fails to communicate its decision before expiry of that prescribed period to the board that requested the approval, must be regarded for the purposes of paragraph (a) of this subsection as having refused its approval. 15

## PART 9

### *Operating Licences: Matters of National Concern*

#### **Types of vehicles which may be used for public transport services**

31. (1) Despite this Act or any other law, from a date to be determined by the Minister by notice in the *Government Gazette*, which may not be earlier than 1 October 2004, operating licences may only be issued for vehicles designed or lawfully adapted by a registered manufacturer in compliance with the Road Traffic Act, 1989 (Act No. 29 of 1989), according to acceptable safety standards, to carry— 20

(a) fewer than nine persons, excluding the driver; or

(b) 18 persons, excluding the driver; or 25

(c) 35 persons, excluding the driver; or

(d) 46 or more persons, excluding the driver,

unless the Minister, in consultation with the MECs, provides otherwise for special categories of vehicles by notice in the *Government Gazette*, to cater for exceptional cases in rural areas, or exceptional cases in relation to tourist or courtesy services. 30

(2) Despite this Act or any other law, from a date to be determined by the Minister by notice in the *Government Gazette*, which may not be earlier than 1 October 2006, no vehicle may be used for the operation of a public transport service, except by a foreign carrier as defined in section 1 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), unless it is a vehicle contemplated in subsection (1) and unless the Minister, in consultation with the MECs, provides otherwise for special categories of vehicles by notice in the *Government Gazette*, to cater for exceptional cases in rural areas, or exceptional cases in relation to tourist or courtesy services. 35

(3) A midibus may be used for the operation of an unscheduled service only where—

(a) there are no existing scheduled services on the same route or on another route in the same corridor; and 40

(b) relevant transport plans allow for its use.

(4) Where a vehicle has been specially adapted to carry wheelchairs, the provisions of this Act regarding vehicle capacity apply, unless the Minister prescribes otherwise.

(5) No standing passengers may be carried in a motor car, minibus or midibus. 45

#### **Continuation and conversion of existing permits**

32. (1) All permits must be converted to operating licences by the date mentioned in subsection (2), failing which they lapse.

(2) (a) The Minister in consultation with the MECs must by notice in the *Government Gazette* determine a date by which all permits must have been converted for the purposes of this section, with due regard among other things to the consideration that operators may not be deprived of their permits through not being able to apply timeously for conversions due to circumstances beyond their control. 50

(b) The Minister, in consultation with the MECs, may defer the date so determined by notice in the *Government Gazette* in respect of a particular province or provinces. 55

(3) Subject to subsections (5) and (6), a permit authorising services by means of a minibus may be converted to an operating licence for a minibus, even if the number of authorised passengers increases, but a conversion under this section may not have the

result that the total number of passengers that may be conveyed in terms of the operating licence is more than fifteen per cent greater than the total number of passengers that could be conveyed under the permit or permits from which the operating licence was converted, unless this Act or relevant transport plans allow for this.

(4) Subject to this Act, an operating licence that has been converted from a permit confers the same authority and has the same status as the permit from which it was converted. 5

(5) (a) Subject to section 31(3), permits for unscheduled services operated by means of minibuses may be converted to operating licences for unscheduled or scheduled services operated by means of midibuses, depending on relevant transport plans, on the basis of one operating licence for the surrender of two permits. 10

(b) Such an operating licence must be issued for an indefinite period if both such permits were issued for an indefinite period, otherwise for a fixed period not exceeding five years.

(c) Such an operating licence must, in addition to the matters mentioned in provincial laws, specify the number of seated passengers that may be carried. 15

(6) Permits for unscheduled services operated by vehicles with a seating capacity of fewer than nine persons, including the driver, may be converted to operating licences—

(a) for unscheduled services operated by means minibuses on the basis of one operating licence for the surrender of two permits and the operating licence must be issued for an indefinite period if both such permits were issued for an indefinite period, otherwise for a fixed period not exceeding five years; or 20

(b) for unscheduled or scheduled services operated by means of midibuses, subject to section 31(3), on the basis of one operating licence for the surrender of four permits, which operating licence must— 25

(i) be issued for an indefinite period if all four such permits were issued for an indefinite period, otherwise for a fixed period not exceeding five years; and

(ii) in addition to the matters mentioned in provincial laws, specify the number of seated passengers that may be carried. 30

#### **Operating licence or permit prerequisite for operation of public transport services**

33. (1) Subject to subsection (2), no person may operate a road-based public transport service without holding the necessary permit or operating licence or, in the case of a special event, a temporary permit issued in terms of section 20 of the Road Transportation Act, 1977 (Act No. 74 of 1977), or an authorisation obtained or completed in terms of a replacing provincial law, for such special event. 35

(2) Subsection (1) does not apply to any person operating a public transport service in the circumstances contemplated in section 1(2) of the Road Transportation Act, 1977 (Act No. 74 of 1977), or a replacing provincial law, subject to section 44, or in the course of conducting— 40

(a) cross-border road transport on the authority of a permit granted and issued to the person in accordance with Part 6 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998); or

(b) cabotage on the authority of a permit mentioned in section 31 of that Act.

#### **Operating licence is not a right** 45

34. (1) Except on the conversion of a permit to an operating licence, no person has a right to be issued with an operating licence.

(2) An operating licence in respect of a minibus taxi-type service may be granted only to a person who is a member of a provisionally or fully registered association, or to a registered non-member, or to a person who has applied for registration as a non-member and has been granted a certificate contemplated in section 113(2). 50

#### **Maximum validity period of operating licences**

35. No operating licence may be issued for longer than five years, except where the operating licence is issued pursuant to the conversion of a permit or permits and this is allowed for in section 32 or 79 or relevant provincial laws. 55

**Board to which application must be made****36. Any application for—**

- (a) the granting, renewal, amendment or transfer of a operating licence for intraprovincial transport, must be made to the board of the province concerned; 5
- (b) the granting of an operating licence for interprovincial transport must be made to the board of the province where the journey originates;
- (c) the renewal, amendment or transfer of an operating licence for interprovincial transport that had been granted by the board of a particular province, must be made to the board of that province. 10

**Notice of applications regarding operating licences**

**37. (1)** A board must by notice in the *Government Gazette*, in the manner and within the time prescribed by the MEC, give notice of receipt of an application for—

- (a) the granting, renewal, amendment or transfer of an operating licence; and
- (b) the conversion of permits to operating licences where the permit is converted from a radius-based or area-based permit to a route-based operating licence, or where there is a conversion to an operating licence for a vehicle which is more than 15 per cent larger, 15

and in that notice state the essential particulars of the applications prescribed by the MEC, subject to subsection (2), and invite interested persons and bodies to comment and make representations with regard thereto by a specified date. 20

(2) In the case of applications contemplated in paragraph (b) of subsection (1), and subsection (2) of section 41, where the applicant has already applied for a permit as contemplated in subsection (2)(c) of that section, the board may, instead of stating such particulars in the notice in the *Government Gazette*, state that such particulars are available for inspection at the board's offices, if it posts the particulars on a notice board at its offices in a prominent position for the relevant period. 25

(3) All comments and representations received in response to and in compliance with that notice and which are relevant to the disposal of that application, must be duly considered by that board in dealing with the application. 30

**Disqualifications with regard to holding of operating licences**

**38.** A person directly involved in the following functions or directly involved in the management thereof, may not hold an operating licence authorising the operation of a public transport service or be engaged in the operation of such a service:

- (a) Evaluating applications relating to, or issuing, operating licences; 35
- (b) preparing operating licences strategies;
- (c) undertaking law enforcement relating to public transport;
- (d) processing applications for registration or provisional registration of associations, members thereof or non-members, or issuing registration certificates or distinguishing marks pursuant thereto; 40
- (e) acting as an assessor contemplated in section 102.

**Operating licences for public transport services provided for in transport plans****39. (1)** Before considering any application for—

- (a) the granting, renewal, amendment or transfer of an operating licence authorising the operation of any public transport service other than a charter service; or 45
- (b) the conversion of a permit to an operating licence that involves a conversion from a radius- or area-based permit to a route-based operating licence, or to an operating licence for a larger vehicle,

in the area of a planning authority, the board must by written notice inform the planning authority of the application with the request to make recommendations with regard to the application, together with any representations, to the board within the period stated in the notice. 50

**(2)** The planning authority must—

- (a) make its recommendations and any representations it considers fit, having due regard to the transport plans prepared for its area, or, if there are no such plans, according to due inquiries and investigations carried out by it; and 55

(b) submit them to the board within the period allowed therefor by the notice issued in terms of subsection (1).

(3) The board may condone the late submission of recommendations and representations under subsection (2).

(4) Subject to section 83, the board, in disposing of an application, must act according to, and may not grant an operating licence contrary to—

(a) those transport plans; and

(b) the recommendations and representations submitted in terms of subsection (2).

(5) Where the planning authority has failed to submit recommendations and representations to the board in response to the latter's request, that board may dispose of and decide the application without any input from the planning authority, by considering the matters mentioned in paragraphs (a) to (f) of section 83(1).

### Operating licences for contracted services

40. (1) (a) Where any commercial service contract or subsidised service contract has been awarded by a competent tender board or authority after completion of a process of public tendering in accordance with law, but subject to section 47(3), the relevant boards may not refuse the application of the relevant public transport operator for the granting or renewal of a operating licence required for the purposes of that service, subject to section 30(3)(b) and 30(5).

(b) Such an application must be made in the manner and form prescribed by the MEC and be accompanied by the fee so prescribed, and that operator must specify in the application every vehicle by means of which the public transport service in terms of such a contract is to be operated.

(2) Upon having applied successfully with regard to such an operating licence, that operator is entitled to be issued with an operating licence for every vehicle by means of which the public transport service in terms of such a contract is to be operated.

(3) Operating licences for the operation of public transport services to be provided in terms of commercial service contracts or subsidised service contracts must be granted only for the duration and subject to the terms and conditions of the contract in question, and may be amended to extend the duration thereof where the duration of the relevant contract is extended.

### Special procedures for legalisation

41. (1) Despite other provisions of this Act, the MEC, in consultation with the Minister, may prescribe regulations providing that the board must grant operating licences to public transport operators for minibus taxi-type services whose associations applied for their registration on or before 30 June 1997, subject to subsection (2), where such operators have not been able to apply for or obtain permits in the past due to reasons beyond their control such as inability of the government to process applications, unfair discrimination or lack of information and understanding of the relevant processes.

(2) Regulations under subsection (1) may provide—

(a) that the board must grant the operating licence if the applicant complies with criteria set by the MEC in the regulations, in consultation with the Minister, but subject to the following:

(i) The board must consider the matters set out in section 83(1);

(ii) the vehicle to which the application relates, must be registered in the name of the applicant;

(iii) the applicant must be a member of a registered or provisionally registered association, which applied for registration on or before 30 June 1997;

(iv) the routes in respect of which the applicant's association was registered, must have been verified in the manner prescribed by the MEC;

(v) the board must submit the application to the relevant planning authority for recommendations on the matters set out in section 83(1)(b), and must consider those recommendations, subject to section 39(5);

(vi) the applicant must have applied for the operating licence on or before a date set by the MEC in the regulations, in consultation with the Minister;

(b) for special procedures and forms in respect of applications contemplated in this subsection;

- (c) that applicants who have already applied for permits before the date of commencement of this Act, need not re-apply if they meet the requirements set in the regulations; and
- (d) that no new operating licences may be granted for minibus taxi-type services in the province, apart from those contemplated in subsection (1), until a date set by the MEC in the regulations, in consultation with the Minister, but that the MEC may grant exemptions from this requirement in respect of specific routes on advice from the relevant planning authority. 5

#### **Withdrawal of operating licences upon termination of contracts**

42. Where a commercial service contract, subsidised service contract, current tendered contract or interim contract has been terminated for any reason, the board must, upon proof of termination furnished by the relevant contracting authority, withdraw the operating licence or permit or, as the case may be, every operating licence or permit, relating to the operation of the public transport service provided in terms of such a contract. 15

#### **Duties of holder of operating licence or permit**

43. The holder of an operating licence or permit must—

- (a) on demand by an authorised officer, produce the operating licence or permit or any authorisation or registration certificate issued in terms of this Act or replacing provincial laws, subject to section 93(1)(b); 20
- (b) display and keep affixed in the manner and form prescribed by the MEC, a distinguishing mark on the vehicle to which the operating licence or permit relates.

#### **Conveyance of learners, students, teachers and lecturers**

44. The conveyance of learners, students, teachers or lecturers to and from a school or other educational institution on a daily basis, is regarded as a public transport service. 25

#### **Minimum information to be contained in operating licences**

45. The Minister, in consultation with the MECs, may prescribe minimum information to be contained in operating licences issued by a provincial board.

#### **Interaction between public transport and cross-border road transport** 30

46. (1) Where on trips involving cross-border road transport, a domestic public transport operator picks up or sets down passengers within the Republic after leaving the point of origin and before crossing the relevant international border, such operator must be in possession of the necessary operating licence or permit as required by this Act.

(2) No one may set down passengers at or near to an international border, where it is clear that such passengers intend to cross the border into another state, unless that person is the holder of the necessary permit required by the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998). 35

### **PART 10**

#### ***Regulated Competition*** 40

#### **Subsidised service contracts**

47. (1) After the expiry of any interim contract or current tendered contract, if the public transport service that had been operated in terms thereof will continue to be subsidised, that service must be operated in terms of a subsidised service contract.

(2) Only a provincial department, a transport authority and a core city may enter into a subsidised service contract with a public transport operator, and, subject to subsection

(3), only if—

- (a) the service to be operated in terms thereof, has been put out to public tendering in accordance with a procedure prescribed by or in terms of a law of the province; 50

- (b) the tender has been awarded by the tender authority in accordance with that procedure; and
- (c) the contract is entered into with the successful tenderer.
- (3) The Minister may in terms of procedures prescribed, in consultation with the MEC and the relevant transport authority, if any, grant exemption from the requirements of subsection (2) and allow that a contract be negotiated with an operator, once only, in respect of a service or part of a service if—
- (a) the negotiation of such a contract, in the opinion of the Minister, is necessary—
- (i) to promote the economic empowerment of small business, or of persons disadvantaged by unfair discrimination; or
- (ii) to facilitate the restructuring of a parastatal or municipal transport operator to enable it to—
- (aa) comply with section 48 or to discourage monopolies; and
- (bb) promote the economic empowerment of small business, or of persons disadvantaged by unfair discrimination; and
- (b) the negotiation of such contract will not lead to—
- (i) a substantial increase in the services being provided by the relevant parastatal or municipal transport operator;
- (ii) more than the prescribed percentage of the total value of subsidised service contracts in the transport area or province in question being subjected to negotiated contracts under this subsection; and
- (iii) the cost of the negotiated contract, calculated in the prescribed manner, being substantially higher than what would have been the case were the service subjected to competitive tendering under similar terms and conditions;
- (c) the service for which the negotiated contract is contemplated is not at the relevant time, and has not previously been, the subject of a current tendered contract or a contract negotiated under this subsection;
- (d) the contract to be negotiated complies with all requirements prescribed under subsection (4)(a), is substantially in the form of the model contract documents contemplated in subsection (4)(b) and has a maximum validity period of five years;
- (e) the provincial department, transport authority or core city, as the case may be, prepares a business plan that—
- (i) sets out how the negotiated contract will be implemented; and
- (ii) states how the requirements of this section have been complied with; and
- (f) the public transport operator concerned may not for a period of such negotiated contract calculated as 80 per cent of that period, beginning on the date of commencement thereof, be party to any other current tendered contract or subsidised service contract, or another contract negotiated under this subsection; and
- (g) the contract provides that the operator must, by a date stated in the contract, which may not be later than two years after the date of commencement thereof, be majority-owned by persons disadvantaged by unfair discrimination.
- (4) The Minister must, in consultation with the MECs—
- (a) prescribe requirements for tender and contract documents to be used for subsidised service contracts which will be binding on contracting authorities unless the Minister agrees that an authority may deviate from the requirements in a specific case;
- (b) provide model tender and contract documents, and publish them in the *Government Gazette*, for subsidised service contracts as a requirement for contracting authorities, who may not deviate therefrom unless this is agreed to by the Minister.
- (5) In performing their functions under subsidised service contracts, public transport operators must comply with all applicable labour legislation and industry agreements, road traffic legislation and other relevant laws, and the model tender and contract documents mentioned in subsection (4) must provide for sanctions to enforce such compliance.
- (6) Where the Minister wishes to act under subsection (3), the Minister must give notice in the *Government Gazette* of the intention to do so, with particulars relating to



the proposed action, and allow interested persons to make comments or representations relating thereto within a time specified in the notice.

(7) The Minister must consider any comments and representations received before deciding to proceed with the proposed action.

#### **Requirements to qualify as tenderer for commercial service contract or subsidised service contract** 5

48. (1) To qualify as a tenderer for a commercial service contract or a subsidised service contract, an operator and, where appropriate, any person or entity exercising ownership control over an operator, or performing services on behalf of, or in the capacity as agent of, an operator— 10
- (a) in the case of an unscheduled service must be registered with the Registrar of the province in which the relevant contract is to be performed, where this Act or a replacing provincial law requires such registration; and
  - (b) must conduct public transport operations according to business principles with financial ringfencing; and 15
  - (c) must be liable to pay income tax, subject to subsection (2), and furnish proof to the satisfaction of the competent tender board or authority that the operator is registered as a taxpayer under the Income Tax Act, 1962 (Act No. 58 of 1962).
- (2) A municipal or parastatal transport operator who does not comply with subsection (1)(c) may qualify to be awarded a subsidised service contract, once only in respect of a particular service, where— 20
- (a) the service was operated by such operator on 1 October 1996; and
  - (b) the service was not previously subject to an interim contract or a current tendered contract. 25
- (3) The Minister may prescribe additional requirements or qualifications for public transport operators to qualify as tenderers for subsidised service contracts or commercial service contracts.
- (4) For the purposes of subsection (1)(b), an operator is financially ringfenced if— 30
- (a) the business of the operator's undertaking is conducted separately from that of another entity or undertaking or any other organisation;
  - (b) the operator keeps separate accounting records, in accordance with generally accepted accounting practice and procedures, of its assets, liabilities, income, expenditure, profits and losses;
  - (c) the operator's undertaking is financially sustainable in terms of its financial statements; and 35
  - (d) the operator has no unfair advantage as regards access to financial or other support or resources from any organ of state, unless such advantage is part of a scheme which applies generally, approved by the Minister, to protect or advance public transport operators disadvantaged by unfair discrimination. 40
- (5) For the duration of a commercial service contract or subsidised service contract, an operator and, where appropriate, any person or entity exercising ownership control over an operator, or performing services on behalf of or in the capacity as agent of an operator, must—
- (a) keep separate record, in accordance with generally accepted accounting practices and procedures, of his or her or its financial position, performance, flow of funds and change in financial position; 45
  - (b) undergo an annual audit by a person registered in terms of section 15 of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), as an accountant and auditor, and engaged in public practice as such; 50
  - (c) comply with the requirements of subsection (1);
  - (d) not enjoy an unfair advantage emanating from an organ of state, but that any advantage emanating from a subsidised service contract is not deemed to be an unfair advantage for the purposes of this section.
- (6) For the purpose of this section— 55
- (a) "ownership control" means the ability to exercise or to influence substantially the exercise, of any of the financial and operating policies of an operator so as to obtain a benefit from its activities; and
  - (b) "unfair advantage" means, but is not limited to— 60
    - (i) the receipt by an operator of any direct or indirect benefit, including funds, resources, donations, grants, consideration or other advantage,

- whether financial or otherwise, which is not available on the same terms and conditions to all other potential operators;
- (ii) the direct or indirect guarantee or honouring of any of the obligations of the operator, including the arrangement or facilitation of the granting of any such loan; 5
  - (iii) the direct or indirect provision of a loan bearing no interest, or interest at a substantially lower rate than would be available commercially to a similar operator under similar conditions, or a loan in respect of which interest payments are deferred for a period of more than six months, including the arrangement or facilitation of the granting of any such loan; 10
  - (iv) allowing an operator to make use, or failing to prevent an operator from making use, of any public resources, including infrastructure, property, facilities, assets, human resources, systems, expertise or intellectual property, or facilitating such action, which would not be available to another similar operator on the same terms and conditions. 15

#### **Involvement of municipalities and transport authorities in public transport services**

49. (1) A transport authority may not operate any public transport service, but may own movable or immovable assets relating to such a service which are leased or otherwise made available to public transport operators, if such assets are made available to operators with due regard to the transport plans of such authority and to sections 9 and 217(1) and (2) of the Constitution. 20

(2) Unless it complies with section 48—

- (a) a municipality that is a party to a transport authority may not conclude a subsidised service contract with that transport authority; 25
- (b) no municipality may conclude a subsidised service contract with any other transport authority, a province or any other municipality; and
- (c) no body established by a municipality to conduct public transport operations may tender for any commercial service contract or subsidised service contract.

(3) Subject to section 47(3), no moneys made available for the purposes of this Act may be used in connection with the operation of a public transport service by a municipal transport operator or parastatal transport operator otherwise than in accordance with a commercial service contract or a subsidised service contract. 30

(4) Subsections (2) and (3) do not preclude any municipality from operating a municipal public transport service at its own cost. 35

#### **Commercial service contracts**

50. A planning authority may, by notice in the *Provincial Gazette* and in a newspaper generally circulating in the area where a public transport service is to be operated, invite tenders from public transport operators for the operation of that service in terms of a commercial service contract. 40

#### **Withdrawal of operating licence or permit in rationalisation of public transport services**

51. (1) (a) When a planning authority proposes to rationalise the operation of the public transport services in its area or where a transport plan reveals that there is a surplus of public transport services on a particular route, as a result of which an existing non-contracted public transport service is no longer required, the planning authority must use its best endeavours to offer the holder of the operating licence or permit in question any viable alternative service or services in the place of the existing service. 45

(b) Such an offer may not be refused unreasonably by that holder.

(c) Where the offer of any viable alternative service or services has been accepted— 50

- (i) the holder of the existing operating licence or permit must apply forthwith to the board in accordance with this Act and applicable provincial laws for the granting of the necessary operating licence or operating licences with regard to the alternative service or services;
- (ii) the planning authority must forthwith furnish its recommendations to the board; 55

- (iii) that holder must surrender the operating licence or permit for the existing service to the board when it has decided the application.
- (2) (a) If the planning authority is unable to offer any viable alternative service or services to the holder of the existing operating licence, or such holder has refused to accept such alternative service, that authority may apply to the board to withdraw the operating licence. 5
- (b) The board, upon receipt of such an application, in writing, must notify the holder of the existing operating licence accordingly, and request the holder to furnish reasons, within the time mentioned in the notification, why the existing operating licence should not be withdrawn. 10
- (c) If, after having considered the application and the reasons and representations, if any, furnished by the holder of the existing operating licence, the board is satisfied that the operation of the public transport service to which the existing operating licence or permit relates, is inconsistent with the proposed new public transport plan, the board may withdraw the existing operating licence or permit. 15
- (d) The effective date of such withdrawal is when the relevant plan becomes operative or a date six months as from the date of the board's decision, whichever occurs last, and the board must by written notice inform the holder of the existing operating licence or permit accordingly.
- (3) Where an operating licence or permit is withdrawn in terms of subsection (2), the planning authority is liable to pay fair compensation to the person who was the holder of that operating licence at the time of its withdrawal, for loss suffered as a result of the withdrawal, unless— 20
- (a) that holder unreasonably refused the offer of an alternative service;
- (b) there are other grounds which, in terms of this Act, justify the withdrawal of that operating licence; 25
- (c) the public transport service to which that operating licence relates on the route or routes in question, is supported financially or operated by a municipal transport operator that is not yet financially ringfenced or is funded wholly or partly by the State; or 30
- (d) that holder has failed to register as a taxpayer in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), where such holder is required by that Act so to register.
- (4) That compensation must be calculated in accordance with guidelines determined by the Minister in consultation with the MECs, and published by notice in the *Government Gazette*, and must be best suited to the circumstances and conditions prevailing in the province, and the Minister in consultation with the MECs must prescribe a minimum amount of such compensation. 35
- (5) A notice in terms of subsection (2)(c) must be sent to the holder of the withdrawn operating licence or permit within the period and in the manner as prescribed by the MEC so as to give that holder sufficient opportunity to submit a claim for compensation and which must, in the manner so prescribed, set out in detail the manner in which the claimed amount is calculated and substantiate the amount claimed. 40
- (6) (a) The planning authority and such a holder must use their best endeavours to reach agreement on the amount of the compensation within the guidelines determined by the Minister in terms of subsection (4). 45
- (b) Should the parties fail to reach agreement as to such an amount, they may approach any competent court having jurisdiction to decide the matter.

## PART 11 Registrations

50

### National Transport Register

52. (1) The Minister must designate an officer in the Department to keep and maintain a National Transport Register.
- (2) In such Register must be recorded the information about associations, public transport services and operators, the vehicles used for operating those services and any other relevant information derived from the provincial registers, that may be prescribed by the Minister from time to time. 55
- (3) The purpose of the National Transport Register is to serve as a data base to monitor the implementation of formalisation of the public transport industry and to serve as input to the government's programme of economic assistance to that industry. 60

(4) (a) Subject to subsection (7) of section 6, which applies with the changes required by the context, the information recorded in the National Transport Register is open to inspection by the public during the Department's normal office hours.

(b) At the request of any interested person and on payment of the fee, if any, that has been prescribed by the Minister, that official must furnish the person with a certified copy of or extract from any record contained in the Register. 5

### **Appointment of Registrars**

53. (1) Every MEC must appoint a fit and proper person as the Registrar for the province on terms and conditions agreed to between the MEC and the member of the executive council responsible for finance, by a date determined by the Minister in consultation with the MECs. 10

(2) The Registrar so appointed is responsible for receiving, considering and deciding upon applications for the registration of associations and their members, and of non-members, and related matters, at least in respect of the minibus taxi industry as provided for in this Part and Part 17. 15

(3) Subject to subsection (4), a Registrar must perform the functions of that office independently, fairly and impartially.

(4) Despite the provisions of this Act, any person appointed as a Registrar before the commencement of this Act may continue in office until expiry of the period for which such Registrar was appointed, or for three years after such date of commencement, whichever is the shorter. 20

## **PART 12**

### ***Registrations and Other Matters relating to Minibus Taxi Industry***

#### **Functions of Registrar**

54. A Registrar— 25

(a) receives and, in accordance with this Act and applicable provincial laws, considers and decides on applications for the registration or provisional registration of associations based in the province and their members, and of any non-members so based;

(b) in the circumstances determined in this Act, decides on and effects the suspension or cancellation of such a registration of any association or any of its members or any non-member in accordance with such laws; 30

(c) keeps records of all other information required to maintain the National Transport Register.

#### **Registration of association or non-member in one province only** 35

55. (1) (a) An association and any of its members or any non-member that undertakes interprovincial services may not at any time be registered or provisionally registered in more than one province in respect of a particular route.

(b) For the purposes of paragraph (a) and section 57(b)(i), associations and non-members must select the province where they are based and once a selection has been made, it may in the case of an association, be changed only in accordance with a resolution adopted by the members of the association at an annual general meeting of its members in accordance with the association's constitution. 40

(2) A registration or provisional registration of an association and any of its members and of any non-member, who undertake interprovincial transport in a province while registered in another province, is without any legal force. 45

(3) After having registered or provisionally registered any association whose members undertake interprovincial transport, in accordance with this section, the Registrar concerned must forward a copy of that association's registration certificate or certificate of provisional registration to the Registrar of each other province to or from which public transport services are operated by that association's members. 50

### Provisional registration and full registration of associations and non-members registered under provincial laws

56. (1) Any association and any non-member which, immediately before the commencement of this Act, was registered in terms of any provincial law, is regarded as an association or non-member registered provisionally for a period ending on a date to be determined by the MEC by notice in the *Provincial Gazette* after consulting the Minister and the other MECs. 5

(2) The provisional registration of an association or non-member in terms of subsection (1), lapses on whichever one of the following events takes place first:

- (a) When the period mentioned in subsection (1) expires; 10
- (b) when the provisional registration is converted to full registration in terms of provincial laws.

(3) The provisional registration of a non-member may not be converted to full registration unless the non-member—

- (a) has had each permit held by that non-member converted to an operating licence; and 15
- (b) holds an operating licence for each vehicle by means of which the non-member operates a public transport service; and
- (c) has subscribed to the Code of Conduct applicable in the province.

### Direct full registration of associations 20

57. Associations qualify for full registration only if—

- (a) every member of the association—
  - (i) holds an appropriate operating licence for each vehicle by means of which the member operates a public transport service; and
  - (ii) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the authorisation conferred by the operating licence; 25
  - (iii) has had all permits held by that member converted to operating licences;
  - (iv) has subscribed to a constitution that complies with this Act;
- (b) the association's application for registration has been made— 30
  - (i) to the Registrar of the province where it is based; and
  - (ii) by the association's authorised representatives in the manner provided for in this Act and applicable provincial laws;
- (c) the association complies with relevant provincial laws in all other respects.

### Registration of members 35

58. Where an association has been provisionally or fully registered, the Registrar must register every member thereof in respect of which the required information has been provided in the relevant application form, as a provisional or full member of that association, as the case may be.

### Issuing of certificates and distinguishing marks upon registration or provisional registration 40

59. (1) The Registrars must liaise with one another so as to ensure that the registration numbers allocated by each of them to associations, their members, and non-members are unique.

(2)(a) Where a member or non-member that is registered, is engaged in interprovincial transport, the Registrar must in addition issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the registered member or non-member that is used under the authority of an appropriate operating licence to operate the interprovincial transport. 45

(b) Where a member or non-member that is provisionally registered is engaged in interprovincial transport, the Registrar must in addition issue, in the manner and form prescribed by the Minister, a distinguishing mark for each vehicle of the provisionally registered member or non-member— 50

- (i) that is so used under the authority of an appropriate operating licence or permit; or 55
- (ii) in respect of which the provisionally registered member or non-member has made application for an appropriate operating licence in accordance with this Act and relevant provincial laws.

(3) The Minister may, in consultation with the MECs, prescribe the minimum particulars to be contained in any registration certificate or certificate of provisional registration to be issued for interprovincial transport.

#### **Requirements for constitutions of associations**

60. The constitution of an association must for the purposes of full registration 5  
comply with the minimum requirements, if any, prescribed by the Minister in  
consultation with the MECs.

#### **Minister to determine minimum requirements for codes of conduct**

61. Every MEC must prescribe a Code of Conduct for operators of minibus taxi-type 10  
services in the province, and the Minister may, in consultation with the MECs, prescribe  
the matters which, as a minimum, must be included in such a code of conduct.

#### **Benefits of registration**

62. (1) Only registered or provisionally registered associations, members and 15  
non-members may receive financial assistance from any organ of state in any sphere of  
government or from any transport authority or core city, for the purposes of establishing  
or operating a co-operative for minibus taxi operators.

(2) Only registered members and registered non-members are eligible to be awarded  
a commercial service contract or a subsidised service contract.

(3) An organ of state, a transport authority and a core city may not render financial 20  
assistance for any purpose relating to public transport to any operators of minibus  
taxi-type services who are not registered or provisionally registered members or  
non-members, or to any associations that are not so registered, except assistance relating  
to training or instruction.

### **CHAPTER 3 MATTERS OF PROVINCIAL CONCERN**

25

#### **PART 13 *Functions of MEC***

#### **Functions of MEC**

63. (1) The MEC must, in addition to the functions contemplated in section 9—
- (a) facilitate the increased utilisation of public transport for the province; 30
  - (b) take the necessary steps to promote co-ordination between transport  
authorities and other planning authorities in the province, or between such  
authorities and the province, with a view to avoiding duplication of effort;
  - (c) in taking any measures to promote public transport—
    - (i) further, within overall land transport objectives, the reasonable safety of 35  
passengers;
    - (ii) encourage efficient and commercial conduct on the part of transport  
operators in their provision of public transport services, and encourage  
competitive tendering for contracts and concessions;
    - (iii) further a strategic and integrated approach to the provision of public 40  
transport;
    - (iv) further or encourage the efficient use of energy resources, and limit or  
reduce adverse environmental impacts to the minimum;
  - (d) promote public transport so that—
    - (i) it is effective in meeting user needs; 45
    - (ii) it operates efficiently as regards the use of resources;
    - (iii) the services provided, are of an acceptable quality and are readily  
accessible and are operated in conjunction with effective infrastructure  
provided at reasonable cost;
    - (iv) in the operation of public transport services, high priority is given to 50  
safety;
  - (e) strive to ensure that in the promotion of integrated transport due consideration  
is given to the needs of transport users;

- (f) promote the performance of integrated transport planning in the province and cause to be prepared a provincial transport framework in accordance with section 22;
- (g) where this Act requires public consultation and participation before taking any decision or performing any official act, prescribe the procedures to be followed in this regard. 5

(2) Where at the commencement of this Act, the province has been undertaking planning of public transport, other than of services contemplated in section 20(4), which in terms of the Constitution should be undertaken by municipalities, the MEC and the planning authorities concerned must make arrangements for the transfer of the planning functions to the planning authorities concerned. 10

#### Regulations by MEC

64. (1) The MEC may make regulations with regard to any matter which, in terms of this Act, may or must be prescribed by an MEC under this Act.

(2) The regulations may, in appropriate cases, provide that any person who contravenes a provision thereof or fails to comply therewith, is guilty of an offence and on conviction is liable to imprisonment not exceeding three months or a fine. 15

(3) Any regulation made in terms of any previous law and in force immediately before the commencement of this Act with regard to matters in relation to which the MEC, in terms of subsection (1), is competent to make regulations, is regarded for the purposes of this Act, as regulations made in terms of that subsection until such time as the MEC makes a superseding regulation under this section. 20

(4) The MEC may—

- (a) set maximum or minimum fares for subsidised public transport by rail, if the Minister has assigned the rail function to the province concerned; 25
- (b) by notice in the *Provincial Gazette*, set norms and standards in respect of matters relating to the operation of subsidised public transport services by road that are subsidised from the provincial budget, and related infrastructure, to the extent that this function has been assigned to the province.

#### PART 14

#### *Transport Authorities: Matters of Provincial Concern*

#### Agreements for formation of transport areas and transport authorities

65. (1) Transport authorities may be established for transport areas, only as provided for in this Part and Part 5 and only if the functions of such authority in relation to the functions of the municipalities involved complies with the Constitution and with sections 84 and 85 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998). 35

(2) The parties to a founding agreement may agree to amend the boundaries of the transport area concerned, provided that should such amendment involve the area of an additional municipality, the transport authority, if already established, must be dissolved in terms of section 71 and reconstituted. 40

#### Declaration of transport areas, and concomitant establishment of transport authorities

66. (1) Not later than 14 days after the conclusion of an agreement mentioned in section 65, the MEC must, by notice in the *Provincial Gazette*— 45

- (a) publish the founding agreement, which must comply with the requirements of section 67;
- (b) declare the area concerned to be a transport area, and assign to it the name provided for in that agreement;
- (c) where applicable, withdraw, in the manner provided for in section 3(1)(c) of the Urban Transport Act, 1977 (Act No. 74 of 1977), the notice by which the area or areas of the municipality or municipalities concerned had been included in the relevant MTA under paragraph (a) or (b) of section 3(1) of that Act; and 50

(d) in accordance with and subject to the founding agreement, establish for that transport area a transport authority with effect from the date specified for that purpose in the founding agreement.

(2) A founding agreement, upon having been so published, has the force of law, and no amendment thereof has any legal force or effect until the amendment is published by notice in the *Provincial Gazette* by the MEC. 5

#### Requirements for founding agreements

67. The founding agreement must be in writing and provide at least for the following:

- (a) A declaration by the contracting parties affirming their agreement on the establishment of a transport authority for the transport area concerned; 10
- (b) the name to be assigned to the transport area;
- (c) the date with effect from which that transport authority is to be established;
- (d) the establishment and structure of a governing body for that transport authority, the number of its members and the manner in which they are to be designated and appointed, but, only a person who serves as a councillor of a municipality party to the founding agreement (hereafter called a participating municipality), may be designated and appointed a member of the governing body; 15
- (e) the designation and appointment of a chairperson and deputy chairperson for the governing body; 20
- (f) voting procedures and members' voting rights at meetings of the governing body and any committee thereof, where applicable, and mechanisms and procedures for breaking deadlocks in decision-making;
- (g) the appointment or designation of a chief executive officer for that transport authority, and the responsibilities, functions and powers attached to that office; 25
- (h) the powers of the governing body that may be delegated to any of its members or to the chief executive officer of that transport authority;
- (i) the venue for the head office of that transport authority and for meetings of its governing body; 30
- (j) the physical address for delivering, sending or serving all correspondence, documents, notices and court process directed to the transport authority;
- (k) in the case where the transport area consists of the jurisdictional areas, or parts of the jurisdictional areas, of two or more participating municipalities—
  - (i) the contribution of each participating municipality to the funding of that transport authority; 35
  - (ii) the performance of the professional, technical, administrative, clerical, secretarial and other work arising from, necessary for, or relevant or incidental to, the exercise and performance by that transport authority of its powers and functions in terms of this Act; 40
  - (iii) subject to this Act, the requirements to be observed and procedures to be followed by any participating municipality that wants to withdraw from that transport authority, and its responsibilities, duties and obligations with regard to the then current or outstanding commitments and liabilities of that authority; and 45
  - (iv) the procedures to be followed for and pursuant to the voluntary dissolution of that transport authority, subject to section 10(13);
- (l) the arrangements made for the performance of the professional, technical, administrative, clerical and other work of the transport authority in terms of section 75, if not already covered under paragraph (k)(ii). 50

#### Functions and competencies of transport authorities

68. (1) Subject to legislation applicable to local government, a transport authority must perform the functions assigned to it by this Act and may, with the agreement of the MEC or, where applicable, MECs—

- (a) promote security in public transport; 55
- (b) encourage and promote the optimal use of the available travel modes so as to enhance the effectiveness of the transport system and reduce travelling time and costs;
- (c) develop, operate and maintain a land transport information system;



- (d) market and promote and assume responsibility for publicity associated with the public transport system;
- (e) provide information to users or potential users of public transport;
- (f) in the case of subsidised services, determine fare structures and fare levels, and concessionary fares for special categories of passengers, and periodically adjust fares in consultation with stakeholders, if the MEC has entrusted the subsidy function to the transport authority; 5
- (g) in the case of unsubsidised public transport services, set minimum fares;
- (h) make payments to public transport operators operating public transport services in terms of subsidised service contracts and concessionary fare agreements to which it is a party, if the MEC has entrusted this function to the authority; 10
- (i) institute and conduct investigations into the financial circumstances and operating practices of—
- (i) persons who, at the time, are existing or potential operators of public transport services in relation to or in the transport area; or 15
- (ii) the holders of operating licences who, at the time, are operating public transport services in relation to or in that area, and, if the holder is a company belonging to a group of companies, also into those circumstances and practices of any other company in that group of companies; 20
- (j) introduce or establish, or assist in or encourage, promote and facilitate the introduction or establishment of integrated ticketing systems and determine or prescribe measures for the regulation and control of revenue-sharing among the operators involved in that system;
- (k) exercise control over service delivery through— 25
- (i) the setting of operational and technical standards, and monitoring compliance therewith; and
- (ii) the monitoring of contracts and concessions;
- (l) develop, implement and monitor a strategy to prevent, minimise or reduce any adverse impacts of the land transport system on the environment; 30
- (m) in agreement with relevant participating municipalities—
- (i) take over functions relating to municipal roads;
- (ii) apply measures to limit damage to the road system in that part of the transport area.
- (2) The MEC and a transport authority may agree— 35
- (a) that different functions be undertaken in rural areas as opposed to urban areas in the transport area concerned; or
- (b) in the case of a district municipality being a participating municipality that is a Category C municipality contemplated in section 155(1)(c) of the Constitution, that different functions may be undertaken within the areas of jurisdiction of the Category B municipalities in the area concerned, as opposed to areas outside of such areas. 40
- (3) The transport authority must, with a view to ensuring co-ordinated transport law enforcement within its area, liaise on a continuous basis with the South African Police Service, the relevant provincial and municipal law enforcement authorities or agencies, and the inspectors appointed and serving under the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998). 45
- (4) A transport authority may, with the agreement of a participating municipality, assume co-responsibility for or assist the participating municipality in the application of traffic management techniques aimed at improving road traffic movement in that part of the transport area that coincides with the jurisdictional area of that participating municipality. 50
- (5) (a) Whenever a transport authority—
- (i) fails to perform its functions in terms of subsection (1);
- (ii) having undertaken a voluntary function contemplated in subsection (2), fails to perform it; or 55
- (iii) fails to perform such a function properly and effectively in accordance with this Act and applicable provincial laws,
- the MEC, by notice in writing addressed to the transport authority through the latter's governing body or chief executive officer, may order that authority to remedy its default and perform the function concerned, or, as the case may be, to perform it properly and effectively, not later than the date stated in the notice. 60

(b) Thereupon the governing body and the chief executive officer are responsible to ensure that authority's speedy compliance with that direction.

(c) If the transport authority fails to remedy its default within the period allowed therefor in the notice, the MEC may—

- (i) intervene by taking steps to have the function performed by the provincial department or any other body or person that has the capacity to do so, subject to section 139 of the Constitution; and 5
- (ii) use moneys from the provincial revenue fund that are earmarked for allocation to the transport authority, to pay the costs arising from taking those steps, or recover those costs from the transport authority. 10

#### Ancillary powers of transport authorities

69. (1) A transport authority may enter into an agreement with a municipality that is not a participating municipality in terms of which the transport authority is to exercise or perform on behalf of that municipality, any power or function entrusted to the municipality by or in terms of this Act or applicable provincial laws. 15

(2) The transport authority may only enter into such an agreement if it is competent in terms of this Act and applicable transport legislation to exercise or perform the same or a similar power or function with regard to its transport area.

(3) An agreement in terms of subsection (1) may involve the utilisation of funds of a transport authority outside of its transport area, if the MEC and the member of the executive council responsible for finance both agree. 20

(4) In addition to the powers conferred on it by or in terms of this Act and by or in terms of any provincial laws, a transport authority may perform any legal act or do anything which a juristic person is competent in law to perform or do, except in so far as may be inconsistent with this Act. 25

#### Governance of transport authorities

70. (1) A transport authority is governed and controlled by the governing body established for it in accordance with the founding agreement in force in respect of that authority, which must consist of councillors of the constituent municipalities.

(2) The governing body represents the transport authority, and all acts performed by the governing body or anyone duly authorised by that body to act in its place, are the acts of that authority. 30

#### Dissolution of transport authorities

71. (1) (a) Subject to paragraph (b) of this subsection, a transport authority may be dissolved only as provided for in this section. 35

(b) Paragraph (a) does not affect the capacity of any MEC for local government, when acting in terms of section 14 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), to make any arrangements having the opposite effect, nor does it detract from the legal force and effect of any arrangements so made.

(2) A transport authority must be dissolved in terms of subsection (1) if the following requirements have been met: 40

- (a) Where there is only one municipality party to the transport authority, it has decided to terminate its participation in the transport authority and has notified the MEC in writing of the decision;
- (b) where there are two or more municipalities party to the transport authority— 45
  - (i) the municipalities concerned have agreed in principle that the transport authority be dissolved, and have so notified the MEC of that fact;
  - (ii) one or some, as the case may be, of those municipalities has or have decided to terminate its or their participation in that transport authority as the case may be, and every municipality that has so decided, has so notified the MEC and the other municipality, or, each of the other municipalities as the case may be, of the decision; 50
- (c) the MEC, within 30 days after having been so notified, has—
  - (i) by notice published in the *Provincial Gazette* and a newspaper generally read in the transport area affected by that notification, made known the proposed dissolution of the transport authority concerned; 55

- (ii) invited interested parties to comment and make representations with regard thereto; and
- (iii) requested them to furnish those comments and representations, in writing, to the MEC by the date specified in that notice, but a period of at least 30 days must be allowed for that purpose; 5
- (d) if all the parties to the transport authority have entered into an agreement in terms of which arrangements are made, with due regard to the comments and representations, if any, furnished in response to the MEC's notice in terms of paragraph (c), with regard to the matters listed in section 10(13) but the date of dissolution must be so determined as to allow opportunity for sufficient notice being given in accordance with subsection (4). 10
- (3) If the MEC and the municipality or the municipalities, as the case may be, party to that authority fail to reach agreement on any of the matters mentioned in subsection (2)—
- (a) the matter or matters concerned must be determined by arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965), and the arbitrator's determination is final and binding; 15
- (b) the arbitrator's determination is regarded for the purposes of subsection (2) as being part of the agreement contemplated in paragraph (d) of that subsection or, where applicable, as constituting that agreement. 20
- (4) The MEC must, within 30 days of the date of an agreement contemplated in subsection (2) or (3), by notice in the *Provincial Gazette* and a newspaper generally read in the transport area concerned, make known the dissolution of the transport authority and publish the terms of that agreement, but the date of dissolution must be so determined as to allow opportunity for sufficient notice being given. 25

#### Finances of transport authorities

72. (1) (a) The chief executive officer of a transport authority must have proper accounting records kept in accordance with generally accepted accounting practice and procedures so as to fully reflect the income and expenditure of that authority and the state of its financial affairs. 30
- (b) The accounting records must include a revenue account which must be credited with all moneys which accrue to and are received by the transport authority, and must be debited with the expenses incurred by that authority.
- (2) (a) Each transport authority must, not later than three months before the end of each financial year, prepare a statement of estimated income and expenditure for the next financial year, which must be submitted to the participating municipality or municipalities for approval by the date to be determined by the MEC, but that authority may at any time during the course of the current financial year submit a supplementary budget for that financial year to the municipality or municipalities for approval. 35
- (b) The transport authority may not incur any expenditure in excess of the total amount, including a supplementary amount of the budget as approved by the municipality or municipalities in terms of paragraph (a). 40
- (c) A transport authority may establish a reserve fund for any purpose connected with its functions in terms of this Act, which has been approved by the MEC, and allocate to the reserve fund the moneys made available for that purpose in the budget, including any supplementary budget approved under paragraph (a). 45

#### Delegations by governing body

73. (1) The governing body of a transport authority may delegate any of its powers or functions in terms of this Act, except the power of governance contemplated in section 70 and the power conferred by this subsection, to any member of that governing body. 50
- (2) Any delegation of a power or function in terms of this section does not prevent the governing body from exercising that power or performing that function.

#### Provisions applicable to delegations

74. (1) A delegation by the governing body under section 73—
- (a) may be made on and subject to any conditions determined by the governing body; 55

- (b) may be given together with the power to subdelegate, on and subject to any conditions so determined, if any;
- (c) must be in writing and must contain full particulars of the matters being delegated and of any conditions attached to the delegation, and, where the power of subdelegation is conferred, must state that fact as well as any conditions attached. 5
- (2) The governing body may at any time—
  - (a) amend or revoke a delegation made under section 73;
  - (b) withdraw any decision made by the delegatee with regard to a delegated matter, and decide the matter itself but a decision made by a delegatee may not be withdrawn where it confers a right or entitlement on any third party. 10
- (3) If the MEC is satisfied that the interests of land transport in the province or the transport area so require, the MEC may by notice in the *Provincial Gazette*—
  - (a) prohibit the delegation of any particular power or function, whether generally or in the circumstances specified in the notice; 15
  - (b) limit the circumstances in which any particular power or function may be delegated;
  - (c) prescribe conditions for the delegation of any particular power or function;
  - (d) in relation to any power or function specified in the notice, prohibit sub-delegation in the event of the governing body delegating that power or function. 20

### Transport executives

- 75. (1) The parties to a founding agreement may provide therein—
  - (a) that the professional, technical, administrative, clerical and other work arising from, necessary for, associated with or incidental to the functioning of the transport authority in terms of this Act or the exercise or carrying out of its powers and functions thereunder, is to be performed for the transport authority by the municipal administration of one of the participating municipalities specified in that agreement or any one or more specified departments in the municipal administration of one or more participating municipalities so specified, and in the latter case the relevant provisions of the Local Government Transition Act, 1993 (Act No. 209 of 1993), apply; or 25
  - (b) for the establishment by the transport authority of a body under its auspices and subject to its control (hereafter called a transport executive), to perform all work of that nature or any specified type or category of that work for the transport authority. 30
- (2) Where the founding agreement provides for the establishment of a transport executive—
  - (a) provision may also be made in that agreement that the transport authority, if requested thereto by another transport authority, may make its transport executive available to perform work of that nature for that other authority—
    - (i) in terms of a written agreement entered into between the transport authorities concerned; 40
    - (ii) for a fee or against payment of an amount specified in that agreement; and 45
    - (iii) in accordance with and subject to—
      - (aa) the standard terms and conditions, if any, stipulated in the founding agreement; and
      - (bb) the terms and conditions specially stipulated in that agreement; and
  - (b) provision must be made at least for the following: 50
    - (i) Where not all the professional, technical, administrative, clerical and associated work of the transport authority is to be performed by the transport executive, specification of the type or category of work for the performance of which the transport executive is to be responsible;
    - (ii) the place where the offices of the transport executive will be situated; 55
    - (iii) the manner in or procedure according to which the staff establishment of the transport executive is to be determined; and
    - (iv) the repository of the power to appoint and dismiss its staff.

**Joint transport executives**

76. (1) The MEC and any two or more transport authorities authorised thereto by their respective participating municipalities may enter into an agreement providing for the formation of a transport executive under the auspices of those transport authorities jointly, to perform, for each of them, the professional, technical, administrative, clerical and other work arising from, necessary for, associated with or incidental to its functioning as a transport authority in terms of this Act and exercising or carrying out its powers and functions thereunder (hereafter called a joint transport executive). 5
- (2) In such an agreement provision must further be made for at least—
- (a) the matters mentioned in section 75(2)(b), which, with the changes required by the context, apply in relation to a joint transport executive; 10
  - (b) the powers of the participating transport authorities with regard to the exercise of supervision and control over their joint transport executive;
  - (c) the contribution of each participating transport authority to the funding of their joint transport executive. 15

**PART 15*****Provincial Operating Licencing Board: Matters of Provincial Concern*****Appointment of members of board**

77. (1) The board consists of the number of members determined by the MEC by notice in the *Provincial Gazette*. 20
- (2) Section 5 of the Road Transportation Act, 1977 (Act No. 74 of 1977), or replacing provincial laws, applies to members of the board.
- (3) (a) Any interested person may make a written request to the board that a board member recuse himself or herself where the person has reason to believe that the member has or could reasonably be expected to have such a financial or other conflict of interest, and such a request must specify detailed reasons. 25
- (b) The member concerned must give due regard to such a written request and decide whether or not to recuse himself or herself in the relevant circumstances.

**Duties of board**

78. (1) The board must exercise or perform its powers and functions independently, free from governmental, political or other outside influence, and impartially, without fear, favour or prejudice. 30
- (2) The board must meet as often as may be necessary to conduct its business expeditiously and efficiently.
- (3) The board must keep minutes of its proceedings and keep records of all applications that have been made to it. 35
- (4) Every board must—
- (a) keep at its place of business a duplicate original of every operating licence issued by it, which includes, for the purpose of this paragraph, the duplicate original of such an operating licence as renewed, amended or transferred from time to time; and 40
  - (b) have the prescribed particulars of each operating licence, which includes, for the purposes of this paragraph, an operating licence as renewed, amended or transferred from time to time, and of its holder and the vehicle to which it relates, entered on the Land Transport Permit System as prescribed by the Minister. 45

**PART 16*****Operating Licences: Matters of Provincial Concern*****Continuation and conversion of existing permits**

79. (1) Subject to this Part, any permit issued for an indefinite period and any permit issued for a definite period which, on the commencement of this Act, has not yet expired, remains in force temporarily as provided for in this section. 50
- (2) The holder of such a permit may have it converted to an operating licence in accordance with this Part by applying for the conversion, in the manner prescribed by the MEC— 55
- (a) in the case of a permit for an indefinite period, before the expiry of the period determined by the Minister under section 32(2);

- (b) in the case of a permit for a definite period, before the expiry of the definite period or the period contemplated in paragraph (a), whichever occurs first.
- (3) A permit mentioned in subsection (1) lapses—
- (a) where such an application for conversion has not been made—
- (i) in the case of a permit for an indefinite period, on the expiry of the period mentioned in paragraph (a) of subsection (2); 5
- (ii) in the case of a permit for a definite period, on the expiry of the definite period or the period mentioned in that paragraph, whichever occurs first; or
- (b) where such an application has been made, upon the conversion of the permit to an appropriate operating licence in accordance with this Act. 10
- (4) The authority conferred by a permit may not be renewed, amended or transferred unless the permit has first been converted to a operating licence in accordance with this Part. 15

#### Conversion of permits not allowed in certain circumstances

15

80. (1) A permit may not be converted to an operating licence unless the transport service that it authorises, has been provided on a regular basis for a period of at least 180 days before the date on which application is made for conversion, except where the permit was issued less than 180 days before the date of such application.

(2) The applicant must furnish proof to the satisfaction of the board that the requirement set by subsection (1) has been met, by supplying written confirmation from the relevant planning authority, or by such other method as the board deems sufficient. 20

#### Manner of converting permits to operating licences

81. (1) Subject to this Act, an operating licence issued in place of a permit pursuant to the conversion contemplated in section 79, must confer the same authority as that which had been conferred by the permit, except that route descriptions that are considered by the board to be vague or inadequate, may be improved. 25

(2) In the case of the conversion of a permit for a scheduled service—

(a) that authorises the operation of that service within a defined area, the operating licence to which that permit is converted, must authorise the operation of that service according to one or more routes that are specified in detail, based on the holder's actual operations for the period of 180 days prior to the date of application, and must set out the timetable for that route or each of them, as the case may be; 30

(b) where that service is provided in terms of an interim contract or current tendered contract, the operating licence to which that permit is converted, must be made specific to that contract. 35

(3) In the case of the conversion of a permit for an unscheduled service—

(a) which is not a metered taxi service, that authorises the operation of that service within a defined area, the operating licence to which that permit is converted, must— 40

(i) authorise the operation of that service according to one or more routes, based on the holder's actual operations for the period of 180 days prior to the date of application; and

(ii) specify the route or routes in detail, except in circumstances where the board on reasonable grounds finds the non-detailed specification of the route or routes justified; 45

(b) that authorises operation within a particular radius, the operating licence to which that permit is converted—

(i) must authorise the operation of that service according to one or more routes that must be specified in detail, based on the holder's actual operations for the period of 180 days prior to the date of application, subject to subparagraph (ii); 50

(ii) may, where the board finds on reasonable grounds that circumstances exist to justify such action, authorise operation of the transport service in a particular area that is described in detail. 55

(4) In the case of the conversion of a permit for a metered taxi service, the operating licence to which that permit is converted, must describe the particular area within which passengers may be picked up in the operation of that service.

(5) Except where the permit to be converted already authorises public transport services on a particular route or routes, the board must request each planning authority in whose area the services are operated to make any representations and recommendations it considers fit with regard to the route or routes, or, where applicable, the area, to be specified in the operating licence to which that permit is to be converted. 5

(6) Permits issued in terms of the Venda Road Transportation Act, 1979 (Act No. 13 of 1979), and the Ciskei Road Transportation Control Act, 1982 (Act No. 4 of 1982), that are renewable annually, but are otherwise not limited to a period of validity, are regarded for the purposes of conversion to operating licences as permits issued for an indefinite period. 10

(7) A permit converted to an operating licence in terms of this section may not be issued to a person as the nominee of another person.

(8) No compensation is payable to the holder of a radius- or area-based permit by virtue of its conversion to a route-based operating licence in terms of this section.

### **Conversion of permits to operating licences for larger vehicles** 15

82. Application for the conversion of a permit to an operating licence for a larger vehicle under section 32(5) or (6) must be made in the manner and form prescribed by the MEC.

### **Disposing of applications with regard to operating licences for non-contracted services** 20

83. (1) Where any application is made for the granting, renewal, amendment or transfer of an operating licence in respect of a non-contracted service, the board may grant or refuse the application only after having considered, subject to subsection (2) and section 30(3)(b) and (5)—

- (a) whether the vehicle by means of which the service is to be operated is suitable for that purpose; 25
- (b) the availability of ranks or terminals or other facilities or spaces for boarding or alighting from and for holding or parking vehicles engaged in the operation of that service, and the recommendations with regard thereto of the relevant planning authority or municipality and of any other planning authority and municipality with an interest in the matter; 30
- (c) the existence of any by-law, regulation, prohibition, limitation or restriction by a municipality that has relevance to the transport service that the applicant proposes to operate under the authority of the operating licence to which the application relates; 35
- (d) whether the applicant has any previous conviction for an offence of the type and seriousness prescribed by the MEC, committed within the period so prescribed before the date of the application;
- (e) the ability of the applicant to operate the service for which the operating licence is sought, in a manner satisfactory to the public; 40
- (f) recommendations or representations duly submitted in connection with the application by the planning authority or any other interested party.

(2) An application for an operating licence relating to the operation of a non-contracted service on any particular route or routes in the area of a planning authority, may not be granted if the public transport requirements for the particular route or routes are adequately served by a then existing public transport service of a similar nature, standard or quality provided in terms of a commercial service contract or subsidised service contract or in terms of operating licences as shown by relevant transport plans. 45

(3) Such an application must be made in the manner prescribed by the MEC and be accompanied by the prescribed application fee. 50

(4) (a) The board may grant an application for the granting, renewal, amendment or transfer of an operating licence subject to any conditions, determined by it, that are not inconsistent with this Act or with relevant provincial laws or transport plans.

(b) A condition may be so imposed only after consideration of the matters which, in terms of subsection (1) and, where applicable, subsection (2) and relevant provincial laws, are to be taken into consideration for the purpose of deciding the application. 55

### Cancellation of operating licences not brought into use

84. (1) Where it comes to the notice of the board that an operating licence converted from a permit has not been brought into use within 180 days, the board must, by notice in writing, call on the holder to advance good reasons, to the satisfaction of that board and within the period stated in the notice, for not having commenced operating the public transport service to which that operating licence relates, and, accordingly, why that board should not cancel that operating licence. 5

(2) Where the board is satisfied with the reasons advanced, the holder of that operating licence must be allowed a further period specified by that board, but not more than 180 days, to commence the operation of that service, and the holder must be informed in writing accordingly. 10

(3) If not so satisfied, or where the holder has failed to advance reasons within the time allowed therefor in the notice, the board must cancel the operating licence and in writing inform the holder accordingly and direct the holder to surrender that operating licence, together with the distinguishing marks with regard thereto, to the board within seven days after the date of the notice. 15

### Issue of operating licences, and contents thereof

85. (1) An operating licence may not be issued unless—

- (a) the person requiring it has applied therefor in accordance with this Act and applicable provincial laws; 20
- (b) the successful applicant has furnished proof to the satisfaction of the board that the applicant is registered as a taxpayer under the Income Tax Act, 1962 (Act No. 58 of 1962), or, in terms of that Act, is not required so to register.

(2) Any operating licence granted, renewed, amended or transferred in accordance with this Act or applicable provincial laws, must be issued, in the manner and form prescribed by the MEC, by an official of the board designated by the latter for that purpose. 25

(3) An operating licence may not be issued in terms of this section unless the successful applicant for—

- (a) the granting, renewal, amendment or transfer of the operating licence has submitted to that official a current roadworthy certificate which was issued for the vehicle to which the operating licence relates not earlier than a point in time to be prescribed by the MEC, or a duly certified copy of such a certificate; and 30
- (b) the renewal, amendment or transfer of an operating licence has returned to the board the relevant operating licence that was issued previously for the same public transport service. 35

(4) An operating licence must state the following:

- (a) The name and address of the public transport operator and, where applicable, particulars of the operator's registration as a member of an association or a non-member as the case may be; 40
- (b) the registration number, make, vehicle identification number, year of manufacture, type and seating or passenger capacity of the vehicle for which the operating licence was granted;
- (c) the types of service for which the operating licence has been granted; 45
- (d) whether the operating licence has been granted for an indefinite or a fixed period, and, if the latter, the period for which it has been granted;
- (e) in the case of an operating licence for a public transport service to be operated in terms of a commercial service contract or a subsidised service contract— 50
  - (i) the type of contract;
  - (ii) the contract reference number;
  - (iii) the names and addresses of the parties to the contract; and
  - (iv) where part of such a service in terms of such a contract is to be operated by a subcontractor on behalf of the holder of an operating licence, the name and address of the subcontractor who is the owner of the vehicle by means of which that part of the service is to be operated; 55
- (f) a detailed description of the route or routes on which, or, where applicable, the particular area in which, the vehicle is to be used for the operation of the service to which the operating licence relates, through specification of the relevant street names, road numbers, beacons or land marks for each city, suburb, town, village or settlement; 60



- (g) the authorised ranks or terminals and other points for picking up and setting down passengers, where applicable;
- (h) in the case of scheduled services, the relevant timetables;
- (i) the conditions imposed by the board, if any; and
- (j) all other particulars that may be prescribed.

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(5) Operating licences for long-distance services must specify the route or routes, the ranks or terminals for the picking up and setting down of passengers and any other points along the route or routes where passengers may be picked up or set down.

#### Authority conveyed by operating licence

86. An operating licence granted and issued under this Act— 10
- (a) does not authorise the holder of the operating licence to undertake transport on or over a public road in the jurisdictional area of any municipality or in a transport area if it is unlawful to do so in terms of any national or provincial law in force with regard to the municipality, or in terms of any by-law of the municipality; 15
  - (b) does not exempt the holder from the obligation to comply with any requirement or condition imposed by or in terms of any law, licence or permit issued by any other competent authority.

#### Persons who may hold operating licences

87. An operating licence may only be issued to and held by the person registered, in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), as the owner or operator of the vehicle, as defined in that Act, and specified in the operating licence, except where the operating licence relates to the operation of a public transport service in terms of a commercial service contract or a subsidised service contract, and the public transport operator party to the contract has subcontracted another operator to operate part of that service on behalf of the first-mentioned operator, and in such a case— 20
- (a) the subcontracted operator must be the so registered owner or operator of the vehicle used by the latter for operating that service on behalf of the operator party to the commercial service contract or subsidised service contract; and 25
  - (b) that vehicle must be specified in the operating licence as the vehicle to be so used for operating that service. 30

#### Rules applicable with regard to various operating licences

88. (1) In determining the period of operating licences for non-contracted public transport services, due regard must be had to—
- (a) current and envisaged trends in utilisation on the route or routes, or, where applicable, in the particular area, concerned; 35
  - (b) the efficiency of the proposed services in meeting user needs;
  - (c) where applicable, the likelihood that, in future, the public transport service with regard to which application concerning an operating licence is made, may no longer be required in terms of the public transport plan; 40
  - (d) the likelihood that the public transport service with regard to which application concerning an operating licence is made, may become the subject of a commercial service contract or a subsidised service contract.
- (2) In the case of operating licences for long-distance services, the board—
- (a) must determine the routes, ranks, terminals and picking up and setting down points, and may specify the days of the week or month and time of day for departure from the authorised starting point of the route; and 45
  - (b) when determining the picking up and setting down points for a long-distance service in the case of a minibus taxi-type service, must impose the condition that passengers may not be picked up or set down *en route* unless the operator has reached agreement in this regard with the relevant transport authorities and municipalities and with the taxi associations operating locally in the area concerned. 50
- (3) In the case of operating licences for staff services to be provided on a regular basis, the board must specify the route or routes authorised. 55
- (4) Operating licences for charter services, long-distance services, staff and tourist services must be granted for a fixed period determined by the board, subject to section 35.

(5) In the case of an application for the granting, renewal or amendment of an operating licence relating to a long-distance service, due regard must be had to the provisions of any transport plans prepared by the relevant planning authority and of any applicable provincial laws and, subject to this—

- (a) the extent to which the service to be provided by the applicant is necessary or desirable in the public interest; 5
- (b) the requirements of the public for the service along the route or routes on which or the particular area in which the applicant proposes to operate;
- (c) the existing transport facilities available to the public on that route or those routes or in that area; 10
- (d) the need to ensure co-ordination of all forms of transport, including transport by rail, to achieve an economically sound balance between the transport modes with due regard to the public interest;
- (e) in the case of a minibus taxi-type service, the recommendations of any taxi associations that have an interest in the matter. 15

#### **Use of same vehicle for long-distance and other public transport services**

89. (1) (a) The planning authority may authorise a particular vehicle specified in an operating licence to be operated for a long-distance service, despite the fact that such a vehicle is specified in the operating licence to be used for a public transport service provided for in a transport plan. 20

(b) The planning authority may not grant such an authorisation where the operation of the long-distance service will or is likely to be detrimental to the operation, by means of that vehicle, of the public transport services provided for in that transport plan.

(2) A vehicle specified in an operating licence to provide a long-distance service may not also be specified in the operating licence as being the vehicle by means of which a public transport service provided for in a transport plan is to be operated, except if the planning authority has agreed thereto. 25

#### **Amendment of operating licence: Replacement of specified vehicle**

90. (1) Where the holder of an operating licence for the operation of any public transport service wishes to replace the vehicle that is specified in that operating licence for the operation of that public transport service with another vehicle with the same passenger capacity, the holder must apply for the replacement, in the manner prescribed by the MEC, to a member or official of the board whom the board has authorised in writing to dispose of the matter, provided the nature of the replacing vehicle and the quality and standard of the service are not affected by the replacement. 30 35

(2) The authorised member or official of the board must allow the replacement and issue an amended operating licence to the holder, if satisfied that—

- (a) the replacing vehicle has the same passenger capacity, or less, and is of the same nature as the vehicle which it replaces and that the quality and standard of the service which is authorised by the operating licence will not be affected by the replacement; 40
- (b) the replacing vehicle is otherwise suitable for the operation of the public transport service authorised by that operating licence, has been certified as roadworthy in compliance with road traffic laws and is properly licensed; and
- (c) the applicant for replacement has provided the information necessary to establish the requirements of this section. 45

(3) Where a subcontractor operates any part of the public transport service to which an operating licence relates, on behalf of the holder of the operating licence, the subcontractor may rely on the provisions of this section to replace any vehicle of which the latter is the registered owner and which is specified in that operating licence, in all respects as if the subcontractor were the holder of that operating licence. 50

#### **Special conditions relating to metered taxi and staff services**

91. (1) In the case of a metered taxi service, the vehicle specified in the operating licence authorising the operation of that service may—

- (a) leave the area described in the operating licence or permit if, on the return journey, it is to carry the same passengers as those it carries on the outward journey or the vehicle is to return to that area empty; 55

- (b) operate any particular journey at a fare not determined by operating the meter fitted to that vehicle if the fare for the particular journey has been agreed upon between the driver and the passenger or passengers concerned before the journey begins.

(2) The MEC may, in addition to the provisions of this Act, prescribe the circumstances in which a operating licence may be granted for staff services. 5

### Courtesy services

92. No operating licence is required for the operation of a courtesy service.

### Duties of holder, of operating licence or permit

93. (1) The holder of an operating licence must— 10
- (a) in operating the public transport service to which the operating licence relates, comply with the terms of the authorisation conferred by the operating licence and the conditions to which it is subject, and, where that service is one provided for in a public transport plan, operate that service in accordance with that plan; 15
- (b) keep the original operating licence or a duplicate original in the vehicle specified in the operating licence, and, where the vehicle so specified is temporarily replaced under provincial laws, keep the operating licence and the temporary authorisation issued for the replacing vehicle in that vehicle for the duration of the temporary replacement, but the board may direct in writing that the annexures to an operating licence do not have to be kept in such vehicle where they are too bulky to allow for this; 20
- (c) if a member of an association registered in terms of this Act, or a non-member so registered, keep in such a vehicle the registration certificate issued to the holder in terms of section 114; 25
- (d) on demand by an authorised officer, produce that operating licence, authorisation or registration certificate;
- (e) keep the operating licence and any duplicate original thereof in such a condition that the letters and figures thereon are clearly legible and, if the operating licence is damaged or ceases to be clearly legible, apply for a duplicate original in the manner prescribed by the MEC; 30
- (f) cause the name, address and nature of the business of the holder to be displayed on the vehicle to which the operating licence relates, in a conspicuous place in the manner prescribed by the MEC;
- (g) display on or in that vehicle the other particulars as prescribed in any condition determined by the board; 35
- (h) display and keep affixed in the manner prescribed by the MEC, a distinguishing mark on the vehicle to which the operating licence relates;
- (i) except in the case of an operating licence granted for an indefinite period, apply timeously for renewal of the operating licence; 40
- (j) at all times keep the vehicle to which the operating licence relates in a safe and roadworthy condition and—
- (i) have that vehicle examined for roadworthiness by not later than the time allowed therefor in the Road Traffic Act, 1989 (Act No. 29 of 1989); and 45
- (ii) submit the new roadworthy certificate issued after every such examination to the board within 30 days after it has been issued;
- (k) return an operating licence that has lapsed or has been withdrawn or cancelled to the board within seven days;
- (l) comply with this Act and with any other requirements imposed by a relevant law of any province to whose jurisdiction the holder, in or through the operation of the service to which the operating licence relates, may be subject at any given time. 50
- (2) (a) The authority conferred by an operating licence may not—
- (i) be ceded or otherwise alienated by the holder of the operating licence, and no person may be a party to such a cession or alienation, except where the operating licence is transferred in accordance with this Act; 55
- (ii) be hired out by the holder of the operating licence or be hired by any other person.

(b) A transaction concluded in contravention of paragraph (a) has no legal force.

(3) From a date determined by the MEC by notice in the *Provincial Gazette*, the holder of an operating licence for the operation of any public transport service in the province, must—

- (a) by not later than 21 days after the last day of each calendar month, submit to the board returns in the form prescribed by the MEC on the recommendation of the board, in which must be shown the number of passengers conveyed during the previous calendar month by means of the vehicle to which the operating licence relates and the distance, in kilometres, which was covered on the route or routes or, where applicable, in the area, specified in the operating licence, during that previous calendar month;
- (b) where no passengers were carried during a calendar month, notify the board thereof and state the reasons therefor not later than 10 days after the end of such a month; and
- (c) in the vehicle to which the operating licence relates, keep for each trip made by means of that vehicle an accurate record showing the number of passengers carried during the trip.

(4) The information necessary for the purposes of subsection (3), must be recorded by the driver of the vehicle, or by the conductor if one is on duty, at the end of each forward and return journey.

(5) Where any subcontractor operates any part of the public transport service to which an operating licence relates, on behalf of the holder of the operating licence, this section, except subsection (1)(i) and (k), applies to the subcontractor, with the changes required by the context, in all respects as if the subcontractor were the holder of that operating licence.

(6) For the purposes of this section, “operating licence” includes “permit”.

#### Temporary replacement of specified vehicle

94. (1) (a) The board or a member of that board duly authorised by it may, on application by the holder of the operating licence or permit, grant written authorisation, where the vehicle specified in that operating licence or permit has become defective temporarily, for the holder to use another vehicle in place of the defective one, subject to subsections (2), (3) and (6).

(b) Where a vehicle contemplated in paragraph (a) belongs to a subcontractor mentioned in section 87, such an authorisation may also be granted to such a subcontractor.

(2) The written authorisation must be in the form as prescribed by the MEC, and must specify at least the following:

- (a) With regard to the holder, the personal particulars mentioned in paragraph (a) of section 85(4) if the vehicle belongs to such a subcontractor, that authorisation must in addition contain, with regard to that subcontractor, the particulars mentioned in section 85(4)(e)(iv).
- (b) With regard to the replacing vehicle, the particulars mentioned in paragraph (b) of section 85(4).
- (c) The period for which the replacing vehicle may be used for the operation of the public transport service to which the holder’s operating licence relates, but the period so specified may not be longer than 21 days calculated with effect from the date on which the authorisation is issued.

(3) (a) The passenger capacity of the replacing vehicle preferably must be equal to that of the vehicle specified in the relevant operating licence, but may—

- (i) be smaller; or
- (ii) exceed that capacity by not more than 20 per cent.

(b) The replacing vehicle must be suitable for the operation of that public transport service and, except in so far as this section provides otherwise, must comply in all other respects with the requirements and conditions that apply and are in force in terms of this Act with regard to the vehicle so specified in the operating licence.

(4) The written authorisation must be kept in the replacing vehicle to which it relates, together with the operating licence applicable to the replaced vehicle for the duration of the period of replacement provided for in that authorisation.

(5) The replacing vehicle must, during the authorised period of replacement, be regarded in all respects as the vehicle operated under the operating licence specifying the replaced vehicle.

(6) The board or such member may refuse a second or subsequent application under subsection (1) in respect of the same vehicle, if it appears that the applicant is abusing such written authorisations.

## PART 17

### *Registrations and Other Matters relating to Minibus Taxi Industry*

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#### **Appointment of Registrar**

95. (1) Subject to section 53, the MEC must appoint a Registrar for the province to exercise the powers and perform the functions and duties conferred and imposed on the holder of that office by this Part and Part 12.

(2) (a) The Registrar receives the salary and allowances and is entitled to the benefits determined by the MEC with the agreement of the member of the executive council responsible for finance in the province. 10

(b) The salary, allowances and benefits so determined must be specified in the Registrar's letter of appointment.

(3) The head of the provincial department must, subject to the laws governing the public service, provide the staff necessary to assist the Registrar in the performance of the functions and duties of that office. 15

(4) When the office of Registrar is vacant or the Registrar is unable to act due to any temporary physical or mental disability, the MEC may appoint any fit and proper person who is not subject to any disqualification mentioned in section 96, to act as Registrar and exercise or perform the powers, functions and duties of that office until the vacancy is filled or the incumbent of that office has resumed duty, as the case may be. 20

#### **Disqualifications for holding Registrar's office**

96. (1) A person may not be appointed or remain in office as Registrar— 25

- (a) if subject to any legal disability;
- (b) upon having been elected or appointed as a member of Parliament or a provincial legislature or a municipal council;
- (c) if at any time removed from a public office on account of misconduct;
- (d) upon being declared insolvent or the person's estate being or having been handed over to creditors, or where the person has been declared insolvent and is not yet rehabilitated; 30
- (e) if convicted of any offence—
  - (i) of which dishonesty is an element;
  - (ii) for which a sentence of imprisonment without the option of a fine has been imposed; 35
  - (iii) in terms of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), or this Act; or
  - (iv) in terms of section 127 or convicted before the commencement of this Act of any offence in terms of a previous law, if that offence is similar to any offence mentioned in section 127; 40
- (f) who, subject to section 53(4), has any direct financial or business interest in any sector of the public transport industry. 45

(2) When the appointment of any person as Registrar is considered, the person may be required to disclose to the MEC, in writing, any interests which the person may have in the minibus taxi industry or any other part of the public transport industry. 45

#### **Resignation of Registrar, and removal from office**

97. (1) The Registrar may resign by giving one month's written notice to the MEC.

(2) The MEC may at any time remove the Registrar from office—

- (a) for failing—
  - (i) to perform the duties of the Registrar fairly and impartially; or 50
  - (ii) to perform those duties diligently and efficiently.
- (b) for misconduct; or
- (c) if, because of any physical or mental illness or disability, the Registrar has become incapable of performing the Registrar's duties or performing them efficiently. 55

**Vacation of office**

98. (1) The Registrar must vacate office—

- (a) if the Registrar becomes subject to a disqualification mentioned in section 96;
- (b) in the case where the Registrar has resigned, when the resignation takes effect in terms of section 97; or
- (c) upon removal from office under section 97(2).

5

(2) When the office of Registrar has become vacant, the MEC must take immediate steps to fill the vacancy by the appointment, in accordance with section 95, of a fit and proper person who is not subject to a disqualification mentioned in section 96, which applies, with the changes required in the context, to such an appointment.

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**Functions of Registrar**

99. (1) The Registrar must—

- (a) receive and consider and decide upon, applications for the registration of associations and their members, and of non-members, as provided for in Part 12 and this Part; 15
- (b) advise the MEC on matters falling within the scope of Part 12 and this Part, and provide the MEC with information on matters of public importance acquired in the course of performing the functions of that office in terms of those Parts;
- (c) take all reasonable steps to monitor and acquire information with regard to the compliance or non-compliance— 20
  - (i) by registered associations, with their respective constitutions;
  - (ii) by registered members and by registered non-members, with the Code of Conduct;
  - (iii) of the registered associations' constitutions, with section 117; 25
- (d) assist in the promotion of professional practices by registered associations and their members and by non-members;
- (e) take any steps that are reasonably necessary with a view to encouraging associations to register in accordance with Part 12 and this Part, and provide advice and assistance to enable them to apply successfully for registration; 30
- (f) consider and decide on the suspension or cancellation of the registration of an association or any member thereof or of any non-member;
- (g) evaluate proposed amendments to the constitutions of registered associations in order to ensure that the amendments are consistent with the requirements of section 117, and liaise with associations with a view to preventing the adoption of amendments that are not so consistent, or inform them of the inconsistency of amendments adopted by them, and call on them to abandon such amendments. 35
- (h) keep a provincial transport register in which is recorded, in the manner prescribed, the name of every association, member of an association or non-member whose application for such a registration has been granted, together with the prescribed information about the taxi service or services rendered by the association, member of the association or non-member so registered, and the vehicles used for operating those services; and 40
- (i) keep records of all other information required to maintain the National Transport Register. 45

(2) (a) The information recorded in the provincial register is open to inspection by the public during the provincial department's normal office hours.

(b) At the request of any interested person and on payment of the fee, if any, that has been prescribed by the MEC, the Registrar must furnish the person with a certified copy of or extract from any record contained in the provincial transport register, subject to subsection (7) of section 6. 50

(3) In dealing with any matter contemplated in subsection (1)(a) or (f), the Registrar may—

- (a) allow a person affected by or interested in the matter, or the duly authorised representative of such a person, to appear before the Registrar and— 55
  - (i) give evidence or make oral representations relevant to the matter;
  - (ii) call witnesses and lead evidence on any question concerning a matter relevant to the proceedings before the Registrar;
  - (iii) question a person who testifies as a witness in those proceedings; 60

- (b) issue a subpoena in the form prescribed by the MEC requiring a person to appear before the Registrar to give evidence or to produce any book, plan, document or other record, or any article, item or object, in the possession or under the control of the person, and have it served in the manner so prescribed;
- (c) order any person present in or at the place where the proceedings are conducted, to appear before the Registrar to give evidence or to produce any book, plan, document or other record, or any article, item or object, which is in the physical possession of the person in or at that place; 5
- (d) question any person appearing as a witness;
- (e) require that any oral evidence be given under oath or affirmation and, for that purpose, administer an oath to or take down an affirmation from any witness; 10
- (f) refuse to hear any oral evidence or representations from any person unless the person has been sworn in or has made an affirmation as a witness.
- (4) Any party affected by any decision made or given by the Registrar may require the Registrar to furnish reasons for that decision in writing, whereupon the Registrar must do so without delay. 15
- (5) For the purposes of this section, “registration” and “registered” includes a reference to “provisional registration” and “provisionally registered”, respectively.

#### **Registrar required to disclose commercial and pecuniary interests**

- 100.** (1) The Registrar may not attend to and dispose of any matter in which the Registrar has a direct commercial or pecuniary interest which is greater than that which a member of the general public has in that matter. 20
- (2) If at any stage it appears that the Registrar has or may have an interest which in terms of subsection (1) may preclude the Registrar from disposing of the matter, the Registrar must forthwith— 25
- (a) disclose the interest to the MEC with a view to the latter deciding the issue; and
- (b) suspend attendance to and disposal of the matter pending the MEC’s decision.
- (3) (a) The MEC must without delay, in writing, notify the Registrar of the decision taken on the issue. 30
- (b) Where the MEC finds—
- (i) such an interest not to exist, the MEC in that notification must inform the Registrar accordingly and direct the Registrar to proceed with the matter that was so suspended; or
- (ii) such an interest to exist, the MEC must appoint another suitable person in accordance with section 95 to dispose of the matter that was so suspended. 35
- (4) Any act performed by the Registrar in disposing of a matter contrary to subsection (1) has no legal force.

#### **Registrar to report annually**

- 101.** (1) The Registrar must annually, as soon as possible after the end of the province’s financial year, submit to the MEC a report on— 40
- (a) the functioning of the Registrar’s office;
- (b) the functioning of the panel of assessors, and its role and contributions in assisting the Registrar in the performance of the functions of that office in terms of Part 12 and this Part; 45
- (c) matters concerning the registration of associations, the members thereof, and non-members; and
- (d) other topical matters in connection with or arising from the application of this Part and Part 12.
- (2) The MEC must table the Registrar’s report in the provincial legislature within 21 days of receipt, if the legislature is then sitting, or if it is not then sitting, within 21 days of the beginning of its next session. 50

#### **Establishment and functions of panel of assessors**

- 102.** (1) The MEC, after consultation with the Registrar, may by notice in the *Provincial Gazette* establish a panel of assessors consisting of the number of assessors specified in the notice, but not fewer than five and not more than seven, of whom— 55
- (a) one must have special knowledge of the minibus taxi industry in the province;

- (b) at least one must have special knowledge of the needs and interests of those inhabitants of the province who rely on the services operated in the minibus taxi industry for their transport;
  - (c) at least one must have a formal qualification in law;
  - (d) at least one must have special knowledge of the functioning and operations of transport authorities and municipalities in the province or under its jurisdiction. 5
- (2) The functions of the panel of assessors are—
- (a) to advise the Registrar with regard to any matter which may be referred to it by the Registrar and which relates to the exercise or performance of the Registrar's powers and duties under Part 12 and this Part; 10
  - (b) to make recommendations to the Registrar in connection with any matter falling within the scope of those powers and duties; and
  - (c) at the request of and subject to the directions of the Registrar, to undertake any investigation and report its findings and recommendations to the Registrar. 15

### Appointment, remuneration and conditions of service of assessors

103. (1) Subject to subsection (2), the MEC must appoint the number of assessors specified in terms of section 102(1).

- (2) Before appointing persons as assessors, the MEC must—
- (a) make known his or her intentions to appoint them by notice in the *Provincial Gazette* and invite comments or objections relating to the appointment within a time stated in the notice; 20
  - (b) consider any comments or objections received pursuant to such a notice.
- (3) In so doing, the MEC must appoint fit and proper persons who are characterised by their impartiality, but may not appoint any person as an assessor if the person is disqualified from being appointed Registrar. 25
- (4) An assessor is appointed—
- (a) for a period specified in the assessor's letter of appointment but not exceeding two years, on the expiry of which the person concerned is eligible for reappointment for not more than one term; and 30
  - (b) on general terms and conditions specified in the assessors' letter of appointment.
- (5) Each of the assessors is entitled to—
- (a) remuneration for each day or part of day in any month on which the assessor performed the work of the panel of assessors in terms of this Part, at a daily rate determined by the MEC with the concurrence of the MEC responsible for finance; and 35
  - (b) be reimbursed, in accordance with a tariff so determined, for all reasonable travelling and subsistence expenses necessarily incurred while the assessor performed work of that panel. 40

### Meetings of panel of assessors

104. (1) (a) The panel of assessors meets as often as may be necessary to conduct its business expeditiously and efficiently.

(b) For that purpose, any meeting of the panel of assessors is held at the place and time determined by its chairperson or as decided by that panel at a previous meeting but its first meeting will be held at the place and time determined by the Registrar and at that meeting, which must be attended by all the assessors, they must elect one of their number as the chairperson. 45

(c) All the assessors must be given notice in writing of any meeting of the panel.

(2) A majority of the total number of assessors forms a quorum at any meeting of that panel. 50

(3) (a) A decision of a majority of the assessors present at a meeting constitutes a decision of the panel of assessors, subject to subsection (2).

(b) In the event of an equality of votes on any matter, the chairperson has a casting vote in addition to a deliberative ordinary vote. 55

(4) No decision taken or given and no other act performed by the panel of assessors is invalid merely by reason—



(a) of a vacancy in that panel; or  
 (b) of the fact that any person not entitled to sit as an assessor sat as an assessor or participated in the proceedings of that panel when the decision was taken, if that decision was taken or that act was authorised by the required majority of the assessors who were entitled to sit and participate as members of that panel. 5

(5) (a) The panel of assessors must keep minutes of the proceedings at its meetings.

(b) The minutes of any meeting of the panel of assessors, when confirmed at a next meeting and signed by the person who presides over the latter meeting, are, in the absence of proof of error, regarded as a true and correct record of the proceedings and matters at the meeting which they purport to minute, and are sufficient evidence of those proceedings and matters at any proceedings before a court of law or any tribunal or commission of inquiry. 10

#### **Panel of assessors may co-opt in certain circumstances**

**105.** (1) The panel of assessors may, with the approval of the Registrar, co-opt to that panel one or two persons who are not disqualified in terms of section 103(3), for the purpose of assisting that panel with any matter before it which falls within such a person's particular field of expertise or specialisation. 15

(2) Such a co-opted person may address the panel of assessors and participate in the panel's discussion of the matter, but may not take part in any voting thereon.

(3) Section 104(4) applies, with the changes required by the context, also where any person has been co-opted in terms of this section. 20

#### **Resignation and removal from and vacation of office by assessors**

**106.** Sections 97 and 98 relating to the Registrar's resignation and removal from and vacation of office and to the filling of a vacancy in that office, apply, with the changes required by the context, to the resignation and removal from office and vacation of office of an assessor and the filling of a vacancy in the panel of assessors. 25

#### **Disclosure of assessors' commercial and pecuniary interests**

**107.** (1) An assessor may not attend or participate in any meeting of the panel where the proceedings at the meeting entail the discussion of or voting on any matter in which the assessor has a direct commercial or pecuniary interest which is greater than that which a member of the general public has in that matter. 30

(2) If, at any stage during any proceedings of the panel of assessors it appears that an assessor has or may have an interest which in terms of subsection (1) may preclude the assessor from participating in the proceedings—

(a) the assessor must forthwith and fully disclose the nature of the interest and leave the venue of the meeting so as to enable the remaining members of that panel to discuss the matter and to determine whether the assessor concerned is so precluded; and 35

(b) that assessor's disclosure and the remaining assessors' determination in terms of paragraph (a) must be recorded in the minutes of the meeting concerned. 40

(3) If an assessor fails to disclose any interest in compliance with subsection (2) when that panel considers and deals with any matter to which the interest relates, or if such an assessor otherwise contravenes or fails to comply with subsections (1) or (2), the proceedings affected by the non-disclosure, contravention or non-compliance are without any legal force and effect, and the assessor concerned is guilty of misconduct. 45

#### **Provisional and full registration of associations and non-members previously registered**

**108.** (1) (a) For the purposes of section 56, the Registrar, if satisfied that an association or non-member qualifies for provisional registration in terms of that section, must register the association or non-member provisionally, subject to section 55(1)(a), by entering the latter's name and the required particulars as prescribed by the MEC in the provincial transport register. 50

(b) The onus rests on the association or non-member to ensure that provisional registration occurs in terms of paragraph (a).

(2) The provisional registration of an association or non-member in terms of subsection (1) lapses on whichever one of the following events take place first:

- (a) When the period mentioned in section 56(1) expires; or
- (b) when the provisional registration is converted to full registration in terms of subsection (3).

(3) The Registrar must register an association which, before the expiry of the period of its provisional registration, has applied to the Registrar to convert its provisional registration to full registration and has satisfied the Registrar—

- (a) that its members no longer hold any current permits under the authority of which they would be entitled, in terms of section 79, to operate their respective public transport services, due to either the one or the other or both of the following:
  - (i) The conversion of those permits to operating licences as provided for in this Act and applicable provincial laws;
  - (ii) the termination of the membership of any member who is the holder of such a permit and has failed to have that permit so converted to an operating licence;
- (b) that it has terminated the membership of every member who, as at the date of the application, does not hold an appropriate operating licence for each vehicle by means of which a public transport service is operated by the member; and
- (c) that it meets the requirements of section 110, which applies with the changes required by the context.

(4) The Registrar must register any non-member who, before the expiry of the period of provisional registration, has applied to the Registrar to convert the non-member's provisional registration to full registration and has satisfied the Registrar that the non-member complies with section 113.

(5) This section does not preclude an association whose provisional registration has lapsed in terms of subsection (2)(a) from applying for registration in terms of section 110.

#### **Provisional registration of associations not qualifying directly for full registration**

109. (1) An association may be provisionally registered if—

- (a) the association has been in existence for a period not less than the period determined by the MEC by notice in the *Provincial Gazette*.
- (b) the number of its membership as at the date of application is not less than the minimum number as determined by the MEC by notice in the *Provincial Gazette*;
- (c) all its members have subscribed at least to those provisions of the code of conduct that are specified by the MEC by notice in the *Provincial Gazette*;
- (d) the association has a constitution—
  - (i) which has been subscribed to by all its members, and in terms of which any breach of those specified provisions of the code of conduct by any member may result in the imposition of an appropriate penalty or sanction by a standing disciplinary committee after due inquiry; and
  - (ii) which complies with those provisions of section 117 as determined by the MEC by notice in the *Provincial Gazette*.

(2) An association may not be provisionally registered if its joining fees and membership fees exceed the maximum amounts prescribed by the MEC by notice in the *Provincial Gazette*.

(3) The Registrar, if satisfied that an applicant association meets the requirements for provisional registration imposed by subsection (1), must register it provisionally, by entering its name and the particulars prescribed by the MEC in the provincial transport register, subject to this section, and must issue to the association an appropriate registration certificate in the form so prescribed.

#### **Direct full registration of associations**

110. An association qualifies for registration and, upon having applied therefor, must be registered, if—

- (a) the association complies with the requirements of section 57;
- (b) the association has been in existence for a period not less than the period determined by the MEC by notice in the *Provincial Gazette*;

- (c) the number of its membership as at the date of the application is not less than the minimum number as so determined by the MEC;
- (d) the application fee prescribed by the MEC, if any, has been paid;
- (e) the amounts of the joining fee and membership fee of the association do not exceed the maximum amounts as so determined; and 5
- (f) the association is not disqualified in terms of an order issued under section 118(5) from being registered.

### Application and registration procedure

111. (1) An association applies for registration or provisional registration or for conversion of provisional registration to full registration, by submitting to the Registrar— 10

- (a) an application in the form prescribed by the MEC for that purpose, that has been duly completed and is signed by the association's authorised representatives;
- (b) a copy of the association's constitution as signed by all its paid-up members; 15
- (c) a copy of its membership record reflecting the names of its members and, in relation to each of those members, the particulars which the MEC has prescribed for the purposes of this paragraph;
- (d) such other proof of the applicant's compliance with the requirements of this Act as may be prescribed by the MEC; and 20
- (e) any other information that may assist the Registrar in determining whether the requirements for registration imposed by this Act, or, the requirements for conversion to full registration, as the case may be, have been met.

(2) The Registrar, if satisfied that the applicant association meets those requirements, must register the association concerned or convert the association's provisional registration to such a full registration, or provisionally register the association by entering its name and the required particulars as prescribed by the MEC, in the provincial taxi register. 25

(3) Upon having registered, converted the registration or provisionally registered any association in accordance with subsection (2), all persons found by the Registrar to be members of that association and to meet the requirements of this Act, must be registered or provisionally registered as members by entering in the provincial taxi register their names and the required particulars as prescribed by the MEC for the purposes of this subsection. 30

(4) A non-member applies for registration by submitting to the Registrar— 35

- (a) an application in the form prescribed by the MEC for that purpose that has been duly completed and signed by the applicant or, in the case of a non-member that is a juristic person, by the latter's duly authorised representative;
- (b) a statement under oath or affirmation whereby the applicant subscribes to the code of conduct; and 40
- (c) such other proof of the applicant's compliance with the requirements of this Act as may be prescribed by the MEC.

(5) The Registrar may require further information in support of any application made in accordance with this section. 45

### Registration or provisional registration of members

112. (1) Where an association has been registered, every member of the association who has subscribed to its constitution and to the code of conduct applicable in the province where that association is registered, and who complies with the other requirements of this Act and provincial laws, must be registered as a member 50

(2) (a) (i) Where any association has been provisionally registered, every person who is a member of the association and holds an appropriate operating licence or permit for each vehicle by means of which the member operates a public transport service or has applied for the appropriate operating licence or permit, must be registered as a member provisionally for a period ending when that association's provisional registration lapses. 55

(ii) The onus rests on any member of an association which has been provisionally registered, who seeks provisional registration in terms of paragraph (a), to take the steps necessary with a view to ensuring that the member's provisional registration takes place in terms of subparagraph (i).

(b) Where the provisional registration of an association has been converted to full registration, every member of the association who has subscribed to the association's constitution and to the code of conduct applicable in the province where that association is registered, must be registered as a member.

(3) (a) Within one month after the admission of a new member to any association mentioned in subsection (1) or (2)(b), its executive committee or body, or any member thereof or office-bearer of the association authorised thereto by that committee or body, must apply to the Registrar, in the manner prescribed by the MEC, for the new member's registration as a member. 5

(b) A new member on behalf of whom such an application has been made, must be registered or provisionally registered, as the case may be, as a member if the Registrar is satisfied that— 10

(i) the new member—

(aa) holds an appropriate operating licence for each vehicle by means of which the member operates a public transport service; and 15

(bb) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence;

(ii) the new member has subscribed to the constitution of the association concerned and to the code of conduct applicable in the province where that association is registered. 20

### Registration of non-members

113. (1) A non-member qualifies for registration and, upon having applied therefor, must be registered, where—

(a) the non-member has paid the application fee prescribed by the MEC; 25

(b) the non-member, if a juristic person—

(i) has been in existence for a period not less than the period determined by the MEC by notice in the *Provincial Gazette*; and

(ii) has members which, in the case of a company or close corporation incorporated or registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), or the Close Corporations Act, 1984 (Act No. 69 of 1984), respectively, do not include two or more persons who, at the time of formation of the company or close corporation, or at any time thereafter, were the operators of public transport services which are substantially the same as those operated by that company or close corporation; 35

(c) the non-member has subscribed to the code of conduct applicable in the province where registration is sought;

(d) the non-member—

(i) holds an appropriate operating licence or permit for each vehicle by means of which the non-member operates a public transport service; and 40

(ii) operates the public transport service to which such an operating licence relates, in compliance with the terms of, and conditions attached to, the operating licence;

(e) The applicant's registration as a non-member is ascribable to the following causes: 45

(i) There is no registered association with regard to the route or routes or, if applicable, in the area where the applicant's public transport service is operated; or

(ii) where there is such a registered association, if—

(aa) the applicant has been refused membership of the association; or 50  
(bb) the association's requirements for admission to membership are unfair; or

(cc) in view of the prevailing circumstances, the applicant reasonably cannot be expected to become a member of the association; or

(dd) the applicant, if admitted to membership of the association, will be subjected to unfair discrimination. 55

(2) An operating licence may not be granted to a non-member unless the non-member submits to the board a certificate from the Registrar certifying that he or she complies with the requirements of subsection (1)(b), (c) and (e), and the Registrar must issue such a certificate to a non-member who qualifies on payment of the prescribed fee. 60

**Certificates of registration and distinguishing marks**

114. (1) The Registrar must upon having registered or provisionally registered any association, any member or any non-member, allocate a unique registration number to the association, member or non-member concerned and issue to the association, member or non-member a registration certificate or a certificate of provisional registration in the manner and form and containing the particulars as prescribed by the MEC, subject to section 59. 5

(2) Subject to section 59, where the member or non-member is registered or provisionally registered, the Registrar must, with effect from a date determined by the MEC, by notice in the *Provincial Gazette*, issue, in the manner and form prescribed by the MEC— 10

- (a) a distinguishing mark for every vehicle of the registered member or non-member that is used, under the authority of an appropriate operating licence or permit;
- (b) a distinguishing mark for every vehicle of the provisionally registered member or non-member— 15
  - (i) that is so used under the authority of an appropriate operating licence or permit; or
  - (ii) in respect of which the provisionally registered member or non-member has made application for an appropriate operating licence in accordance with this Act. 20

(3) Subject to section 59, the Registrar must also issue such a distinguishing mark for each vehicle used by any registered or provisionally registered member, and any registered or provisionally registered non-member, whose registration took place before the date of that notice, upon mere submission to the Registrar of— 25

- (a) the registration certificate of the registered member or non-member concerned, and a current operating licence or permit for each vehicle so used by that registered member or non-member;
- (b) the relevant certificate of provisional registration of the provisionally registered member or non-member, and— 30
  - (i) a current operating licence or permit for each vehicle used by the provisionally registered member or non-member; or
  - (ii) proof, to the satisfaction of the Registrar, that the provisionally registered member or non-member has made application for such an operating licence. 35

**Duties of registered and provisionally registered associations and non-members**

115. (1) A registered association must—

- (a) take all steps that are reasonably necessary to prevent any breaches of the code of conduct and any other misconduct on the part of its members and their drivers, and to take disciplinary steps against members whenever necessary; 40
- (b) inform the Registrar expeditiously and timeously of the outcome of all disciplinary proceedings against members and grievance procedures by members;
- (c) inform the MEC of any impending or current conflict with any other association or associations; 45
- (d) inform the Registrar expeditiously and timeously of any changes—
  - (i) in its membership; and
  - (ii) with regard to the information furnished by it to the Registrar in compliance with this Part and Part 12;
- (e) inform the Registrar of the termination or temporary suspension of the membership of any registered member, within seven days after the termination or suspension; 50
- (f) timeously give the Registrar notice of all general meetings of members, and allow the Registrar or the Registrar's representative to attend such a meeting as an observer; 55
- (g) inform the Registrar timeously of any amendment proposed to its constitution and the nature and effect thereof;
- (h) if requested thereto by any organ of state, transport authority or core city which has rendered financial assistance to the association or its members for a particular purpose, supply the requested information as to the application of the funds received from that source. 60

- (2) Every registered or provisionally registered non-member must—
- (a) inform the Registrar expeditiously and timeously of any changes with regard to the information furnished by the non-member to the Registrar in compliance with this Part and Part 12;
  - (b) if requested thereto by any organ of state, transport authority or core city which has rendered financial assistance to the non-member for a particular purpose, supply the requested information as to the application of the funds received from that source. 5
- (3) Subsection (1) applies, with the changes required by the context, to any provisionally registered association. 10

#### Standard minimum constitution and code of conduct

- 116.** (1) The MEC must, as soon as possible after the commencement of this Act, by notice in the *Provincial Gazette* prescribe—
- (a) a model constitution for associations, to be known as the standard minimum constitution, which complies with the requirements of section 117; and 15
  - (b) a code of ethics, to be known as the code of conduct, providing for at least the matters provided for in section 117.
- (2) The standard minimum constitution sets a yardstick for the preparation of a constitution for an association with a view to enabling the registration of associations in accordance with this Part and Part 12, provided the other requirements for registration are met. 20
- (3) The code of conduct constitutes the set of ethical norms in accordance with which any minibus taxi-type service is to be operated.

#### Requirements for constitutions of associations

- 117.** (1) The constitution of an association must, for the purposes of full registration, comply with the minimum requirements, if any, prescribed by the Minister in terms of section 60, and— 25
- (a) state the association's full name and postal and physical addresses, and declare that it is an association not for gain;
  - (b) set out its aims and objects, and state where it is based; 30
  - (c) prescribe qualifications for, and admission to, membership of the association, and the rights, benefits and duties associated therewith, and require the names of all members to be entered on a membership list;
  - (d) establish the circumstances in which a member is no longer entitled to the benefits of membership, and provide for the termination of membership and the circumstances in which membership may be terminated; 35
  - (e) stipulate conduct that constitutes misconduct and give rise to disciplinary proceedings against offending members, prescribe the disciplinary steps to be taken against the members and the procedures to be followed in that regard, and establish a standing disciplinary committee for that purpose; 40
  - (f) provide for appeals against the findings of the disciplinary committee, and any penalty or sanction imposed by it, or against loss of the benefits of membership or the termination of membership, prescribe a procedure for those appeals and determine the body to which those appeals may be made;
  - (g) provide for membership fees and the method for determining membership fees and other payments by members; 45
  - (h) prescribe rules for the convening and conducting of an annual general meeting of members and special meetings of members, including the quorum required for, and the keeping of minutes of, any such meeting;
  - (i) describe the manner in which decisions are made at any meeting; 50
  - (j) establish a governing body to represent and manage the affairs of the association and its members and act on its behalf, and define the powers and duties of the governing body in that regard;
  - (k) describe the manner in which decisions are to be made by the governing body;
  - (l) establish the office of secretary and define the functions attached thereto; 55
  - (m) provide for other office-bearers on that body and define their respective functions;
  - (n) prescribe a procedure for nominating and electing the members of that body;

- (o) establish the circumstances and manner in which members of that body may be removed from office;
- (p) provide for appeals against their removal from office, and prescribe a procedure for those appeals and determine the body to which those appeals may be made; 5
- (q) establish the circumstances and manner in which a ballot must be conducted;
- (r) provide for a grievance procedure, and the establishment of a standing grievances committee;
- (s) stipulate the requirements for amalgamation with any other association;
- (t) require proper accounting records to be kept and financial statements prepared in accordance with generally accepted accounting practice and procedures, and establish a standing financial committee; 10
- (u) determine a date for the end of its financial year;
- (v) provide for the appointment of an accounting officer, for financial control and responsibility, and for the annual audit of the association's accounts and statements by a person registered and practising for own account as a public accountant and auditor; 15
- (w) provide for the opening of a banking account for the association, and the banking of its money;
- (x) establish the purposes for which the association's money may be used. 20
- (y) prescribe a procedure for changing its constitution; and
- (z) prescribe a procedure by which it may be decided to dissolve the association.
- (2) The constitution also, in making provision in terms of subsection (1) for—
- (a) special meetings of members, must provide for members to call a special general meeting if a stipulated number or percentage of the members indicate that they so require such a meeting; 25
- (b) the election of members of the executive committee or body, must not allow members to be elected thereto for a single term longer than two years.
- (c) the annual general meeting, must require that the election of the members of the governing body and of the association's office-bearers be held, and its audited financial statements and budget for the following financial year be considered and disposed of, at that general meeting; 30
- (d) the matters mentioned in paragraph (q) of subsection (1), must provide that the election of the members of the executive committee or body and of the three standing committees must be conducted by secret ballot; 35
- (e) the matters mentioned in paragraph (t) of subsection (1), must require interim financial statements to be prepared quarterly for scrutiny by members;
- (f) joining fees and membership fees, must allow those fees to be determined and to be re-determined or adjusted only at the annual general meeting of members; 40
- (g) the matters mentioned in paragraphs (s), (y) and (z) of subsection (1), must require that a decision to amalgamate with another association, to amend the constitution or to dissolve the association be carried only with the support of at least two thirds of the members present at the meeting, provided there is a quorum; 45
- (h) the qualifications for membership, must provide that an application for admission to membership will be refused unless the applicant has subscribed to the code of conduct;
- (i) the circumstances in which membership may be terminated, must provide for the termination of the membership of any member operating a public transport service without the necessary operating licence, or, where applicable, the necessary permit, for each vehicle by means of which the service is operated; 50
- (j) matters that constitute misconduct, must declare the following to be misconduct:
- (i) the breach of the code of conduct by any member; 55
- (ii) a member's employment of a driver who has not subscribed to the code of conduct;
- (iii) the continued employment by the member of any driver who repeatedly has breached the code of conduct;
- (iv) failure on the part of the association's governing body or any member thereof or office-bearer of the association authorised by that body to comply with the requirements of section 112(3)(a). 60

**Non-compliance with registered constitution, and breach of code of conduct**

118. (1) (a) Where the Registrar on reasonable grounds suspects that a registered association has failed to comply with any provision of its registered constitution that is material for the application of Part 12 or this Part, or that a registered non-member has breached the code of conduct, the Registrar must conduct an investigation into the matter. 5

(b) In conducting such an investigation, the Registrar must give the association or non-member an opportunity to make representations or give evidence with regard to the alleged non-compliance or breach.

(c) In deciding the matter, the representations and evidence made, given or furnished 10 by the association or non-member must be taken into consideration.

(2) Where in terms of this Act, the specific act of non-compliance or breach constitutes an offence and the association or non-member has been charged with such an offence, the Registrar may postpone the investigation until the criminal proceedings against the accused have been finalised or withdrawn. 15

(3) (a) If the Registrar finds such an association or non-member guilty of such a non-compliance or breach, the Registrar must, by notice in writing, direct the association or non-member to remedy the non-compliance or breach within the period stated in the notice, and set out the steps to be taken for that purpose.

(b) An association or non-member to whom such a notice has been given, may 20 approach the Registrar's office for assistance in taking the steps specified in the notice.

(4) Upon failure to comply with such a notice, the Registrar may impose a fine not exceeding an amount as prescribed by the MEC for the specific non-compliance or breach, or cancel the registration of the association or non-member or suspend the registration temporarily, as dictated by the gravity of the non-compliance or breach and the circumstances relevant thereto. 25

(5) (a) Where a registered association's non-compliance with such a material provision of its registered constitution or the breach of the code of conduct by a registered non-member cannot be remedied, the Registrar must impose one of the penalties provided for in subsection (4), and may, in severe cases where the penalty so imposed involves the cancellation of the registration of the association or non-member, issue an order in terms of which the association or non-member is disqualified from being registered at any time during a specified period which may not be longer than one year. 30

(b) Where the registration of an association has been terminated or suspended temporarily in terms of paragraph (a), the registrations of all its members will be cancelled or suspended, as the case may be, for the same period. 35

(6) Upon being notified by a registered association that it has terminated or temporarily suspended the membership of a registered member for non-compliance with its registered constitution or breach of the code of conduct, the Registrar must cancel that member's registration or suspend it for the same period, respectively. 40

(7) The Registrar must, within one week after having acted in terms of subsection (4), (5) or (6) against any registered association, member or non-member, by written notice, notify the MEC, the Registrar of every other province and every planning authority in the province or under its jurisdiction, of the action so taken. 45

(8) (a) The Registrar by written notice must inform any association, member or non-member of cancellation or temporary suspension of registration, and direct the association, member or non-member, as the case may be, to return the latter's registration certificate to the Registrar within seven days of the date of the notice.

(b) Where an association's registration has been cancelled or suspended temporarily, the Registrar must further direct the association to ensure that all its members' registration certificates are returned to the Registrar within the period specified in that notice. 50

(9) The preceding provisions of this section apply, with the changes required by the context, to any provisionally registered association or non-member, subject to the relevant provisions of this Act. 55

**Cancellation or temporary suspension of registration or provisional registration of associations, members and non-members**

119. (1) The Registrar must cancel the registration or provisional registration of—

(a) an association—



- (i) which has ceased to exist or is no longer based in the province; or
- (ii) if it has secured registration or provisional registration through fraudulent conduct;
- (b) a member in respect of a particular association where—
  - (i) the registration or provisional registration of that association is cancelled; 5
  - (ii) membership of that association has been duly terminated in accordance with its constitution;
- (c) a non-member—
  - (i) who is no longer based in the province; 10
  - (ii) who, if a juristic person, has ceased to exist; or
  - (iii) who does not hold an appropriate operating licence or permit for each vehicle used by the non-member to operate a public transport service;
- (d) a member of an association provisionally registered who does not hold an appropriate operating licence or permit for each vehicle used by such a member to operate a public transport service, or has not applied for such an operating licence. 15

(2) An association, member or non-member whose registration or provisional registration has been cancelled or temporarily suspended as provided for in this section or a provincial law, must return the registration certificate or certificate of provisional registration and the distinguishing marks, if any, issued with regard to the registration or provisional registration so cancelled or suspended to the Registrar within the time prescribed by the MEC. 20

(3) The Registrar may, where an association has terminated membership due to a member's breach of the code of conduct, if justified in the circumstances, cancel that member's registration or provisional registration in respect of any other association of which the former is a member, after having given the member sufficient opportunity to make representations and advance reasons why that should not be done. 25

(4) The Registrar may cancel, or suspend temporarily for a period not exceeding one year, the registration or provisional registration of— 30

- (a) any association for failure to comply with any provision of its registered constitution that is material for the application of this Part and Part 12;
- (b) any member—
  - (i) whose membership of an association has been suspended temporarily; or
  - (ii) of an association whose registration or provisional registration has been suspended temporarily; 35
- (c) any non-member for having breached the code of conduct;
- (d) any member or non-member who has been convicted of an offence mentioned in section 127.

**Effect of lapsing or cancellation of registration on holding of permit or operating licence 40**

**120.** (1) Where the full registration of an association lapses or is cancelled, all permits and operating licences held by the members of that association which relate to the route or routes in question, lapse on a date calculated as 90 days after such lapsing or cancellation, unless— 45

- (a) the association has been re-registered provisionally or fully, and the member is still a member thereof;
- (b) the member has obtained membership of another registered or provisionally registered association operating on the route or routes in question; or
- (c) the member has obtained registration as a non-member in respect of the route or routes in question. 50

(2) Where the registration of a non-member lapses or is cancelled, all permits and operating licences held by the non-member which relate to the route or routes in question lapse on a date calculated as 180 days after such lapsing or cancellation, unless— 55

- (a) the non-member has obtained membership of a registered or provisionally registered association operating on the route or routes in question; or
- (b) the non-member has obtained re-registration as a non-member in respect of the route or routes in question.

### Registration or provisional registration no bar to prosecution for unauthorised operation of public transport

121. The registration or provisional registration of any member or any non-member, is no bar to the prosecution of such a member or non-member for an offence mentioned in section 127(1)(a).

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## PART 18 Law Enforcement

### Land transport law enforcement

122. (1) In addition to the measures provided for in this Act with regard to law enforcement, the MECs, transport authorities and municipalities, including municipalities in their capacity as core cities of their MTAs, must take active steps to develop systems to improve land transport law enforcement in their respective jurisdictions. 10

(2) Despite the provisions of any other law—

- (a) an MEC;
- (b) a transport authority; 15
- (c) a municipality,

called in this section an enforcement authority, may enter into an agreement in terms of which—

- (i) land transport law enforcement functions are undertaken by one enforcement authority in the area of jurisdiction of another; 20
- (ii) authorised officers of one such authority may be seconded to another authority temporarily;
- (iii) land transport law enforcement functions are undertaken jointly, or by a public or private sector agency on behalf of the authority,

on terms and conditions set out in the agreement, including conditions as to which authority must bear the costs involved. 25

### Appointment of inspectors

123. (1) (a) The MEC may designate employees in the provincial department, or of transport authorities, who are fit and proper persons, as inspectors for the purposes of matters which, in terms of this Act, fall under the jurisdiction of the province or the transport authority, as the case may be. 30

(b) The head of the provincial department must issue to every inspector so appointed a certificate of appointment and official proof of identity in the prescribed form.

(2) The functions of inspectors so appointed are to monitor compliance with this Act in the province or transport area concerned and to assist with the investigation and prevention of offences contemplated in section 127 which have been committed within the province, subject to provincial laws and the directions of the MEC and the head of the provincial department. 35

(3) In performing those functions, an inspector will have all the powers conferred on an authorised officer by or in terms of this Act. 40

(4) When performing any function or duty or exercising any power in terms of this Act, an inspector must on demand by any person in relation to whom the power, function or duty is exercised or performed, produce the certificate of appointment.

### Impoundment of vehicles

124. (1) An authorised officer who is satisfied on reasonable grounds that a motor vehicle is being used by any person for the operation of public transport without the necessary operating licence or permit or contrary to the conditions imposed with regard thereto, may impound the vehicle pending the investigation and prosecution of that person for an offence mentioned in section 127(1)(a) or (b). 45

(2) A vehicle impounded under subsection (1) must be delivered to the head of the depot contemplated in subsection (4), who must retain the vehicle in the depot and release it to the person concerned only— 50

- (a) when the criminal charges against the person have been withdrawn or the person has been acquitted of the offence charged; or
- (b) in the case where the person is convicted of the offence charged, and unless 55

the court has ordered otherwise, on payment to the head of the depot of the amount determined by the MEC.

(3) Upon the second or subsequent impoundment of a vehicle which had been previously impounded, subsection (2) applies, with the changes required by the context, except that the impoundment fee will be increased in accordance with the scale so determined. 5

(4) (a) The MEC or a municipality, by notice in the *Provincial Gazette*, may designate any place defined in the notice to be a depot for the purposes of this section, and may in the same manner amend or withdraw such a notice at any time.

(b) The MEC or, where applicable, the relevant municipality, must appoint an inspector or an authorised officer in the service of the municipality as the person in charge of the depot. 10

### Presumptions and proof of certain facts

125. (1) A document which purports to be an operating licence issued under this Act, or a permit issued under a previous law or a copy of such an operating licence or permit certified to be a true copy, is on mere production in any prosecution for an offence mentioned in section 127(1), where the possession or contents of such an operating licence or permit may be relevant, admissible in evidence as proof that it is such an operating licence or permit which had been lawfully issued, or that it is a true copy thereof, as the case may be, and of the truth and accuracy of the particulars thereof. 15 20

(2) A document which states that the motor vehicle described therein is registered, under the relevant law, in the name of a person specified therein as the owner, and which purports to have been issued under such a law by an employee of the registering authority for motor vehicles of the place where the vehicle was so registered, is on mere production in a prosecution under this Act, admissible as sufficient proof of that person's registered ownership of the vehicle and of the truth and accuracy of the particulars contained therein. 25

### Powers of authorised officers

126. (1) In addition to the functions and duties imposed on an authorised officer by or in terms of this Act, an authorised officer may— 30

- (a) cause a motor vehicle to be stopped in the manner prescribed by the MEC, and enter such a vehicle in order to establish if it is used for public transport or monitor compliance with any provision of this Act, or with the terms of any operating licence or permit, and may for those purposes examine or inspect the vehicle and any documentation that may be relevant; 35
- (b) require from the driver to furnish the latter's full name and residential address, and documentary proof thereof, as well as the name and address of the owner of the vehicle, and particulars of the business in connection with which the vehicle is being used;
- (c) require that the driver or other person in charge of the vehicle forthwith produce for inspection any documents or other records that are in or on the vehicle in the possession of the driver or that person that relate to the persons being conveyed on such vehicle; 40
- (d) require that any person on a motor vehicle suspected on reasonable grounds to be used for public transport, or a person suspected on reasonable grounds to have been on such a vehicle recently, furnish the latter's full name and address and documentary proof thereof and state if the latter has paid or has to pay any consideration for conveyance on the vehicle, and furnish the name and address of the person to whom the payment has been made or will have to be made; 45 50
- (e) to require that the records to be kept in or on the vehicle in terms of this Act, be produced by the driver of the vehicle or by the conductor, if any, for inspection;
- (f) enter or enter upon any business premises at any reasonable time to monitor compliance with this Act, and— 55
  - (i) question any person who, in the opinion of the authorised officer, may be able to furnish any information required for that purpose;

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- (ii) may require such a person to produce, for examination or inspection, any books and documents, and any other records, that may be relevant for monitoring purposes;
  - (iii) make extracts therefrom or copies thereof; and
  - (iv) demand an explanation of any entries in such a book, document, or other record; 5
  - (g) require that the driver or other person in charge of a motor vehicle used for public transport, produce any documents whatsoever, that were issued by a competent authority, in terms of this Act, or a previous law, with regard to the vehicle or the public transport for which it may be used terms of this Act, or the previous law, as the case may be, and which, in terms of this Act or that law have to be kept on that vehicle; 10
  - (h) upon the order of a board, attach an operating licence or permit that has expired or lapsed or has been withdrawn temporarily in terms of this Act, and hand it over to that board. 15
- (2) A person questioned or required to furnish an explanation under paragraph (f) of subsection (1), is entitled to all the privileges to which any person testifying before a court of law is entitled.
- (3) (a) Where an authorised officer finds a vehicle used for public transport under the authority of an operating licence or permit to be so defective as to be a danger to persons or property, the authorised officer may order the driver or other person in charge of the motor vehicle to surrender that operating licence or permit, as well as all distinguishing marks relating to the vehicle, and prohibit that driver or person forthwith to use the vehicle for public transport. 20
- (b) The operating licence or permit so surrendered, must be retained by the officer until the holder of the operating licence or permit has satisfied the officer that the defects have been remedied and that the vehicle is in a roadworthy condition, the onus of proving which rests on the holder of the operating licence or permit. 25

**Offences and penalties**

- 127.** (1) A person is guilty of an offence— 30
- (a) if the person operates a public transport service in contravention of section 33;
  - (b) if the person operates or undertakes a public transport service contrary to the terms and conditions of an operating licence, or, where applicable, a permit;
  - (c) if the person contravenes any other provision of this Act;
  - (d) if, being the holder of an operating licence or permit or the agent or employee of such a holder, the person allows someone else to use that operating licence or permit for a vehicle other than the vehicle specified in the operating licence or permit; 35
  - (e) if the person applies for or obtains an operating licence knowing that a current operating licence has already been issued with regard to the same vehicle; 40
  - (f) if the person, with the intent to deceive, forges, alters, defaces, damages or adds to any operating licence or other official document issued under this Act, or any permit;
  - (g) if, knowing that a document is not an operating licence or permit, or such other official document or that it has been altered, defaced, damaged or added to, utters or uses the document; 45
  - (h) if the person furnishes or gives false information in or with regard to any application made to a board or a Registrar, or in the course of appearing in any proceedings, investigation or inquiry before such a board or any Registrar;
  - (i) if the person impersonates an authorised officer; 50
  - (j) if the person wilfully obstructs or hinders an authorised officer who is discharging the duties attached to the office concerned;
  - (k) if the person refuses or fails to comply with any lawful order, direction or demand made by an authorised officer in the discharge or performance of any function or duty entrusted to the officer by or in terms of this Act; 55
  - (l) if the person fails to return a registration certificate or certificate of provisional registration, or a distinguishing mark to the Registrar if required to do so by this Act;
  - (m) if the person, without good reason—
    - (i) refuses or fails to appear before a board or Registrar in compliance with an order or subpoena issued under this Act; 60

- (ii) refuses or fails to answer, or to answer to the best of the person's knowledge and ability, any question lawfully put to the person by any member of the board or by the Registrar, as the case may be; or
- (iii) refuses or fails to produce any book, document or plan or any other record of any nature or kind whatsoever, or any article, in compliance with such an order or subpoena; 5
- (n) if, where the person is conveyed as a passenger on a vehicle in the course of the operation of a public transport service, the person—
  - (i) fails to pay the fare due for the journey when payment is requested by the driver or conductor of the vehicle concerned; 10
  - (ii) smokes or drinks liquor on that vehicle in contravention of a notice on the vehicle which forbids smoking or drinking;
  - (iii) wilfully acts in a manner that inconveniences a fellow passenger;
  - (iv) disobeys a reasonable instruction issued by the driver or conductor of that vehicle for the purpose of maintaining order or ending a disturbance or controlling any emergency arising or existing on that vehicle; or 15
  - (v) wilfully performs any act in or on that vehicle that could cause injury to or endanger the life of any person or cause damage to any property;
- (o) if the person, being the holder of a operating licence or permit or the driver of a vehicle to which that operating licence or permit relates, fails to comply with any duty or obligation imposed on such a holder or driver by or in terms of this Act; 20
- (p) if the person sets down passengers at or near an international border in contravention of section 46(2);
- (q) if the person uses a vehicle for a public transport service in contravention of section 31. 25
- (2) Where a person is convicted of any one of the offences mentioned in—
  - (a) paragraphs (a), (b), (d), (e) or (p) of subsection (1), a term of imprisonment not exceeding two years, or a fine not exceeding R100 000, may be imposed;
  - (b) any other paragraph of that subsection, a term of imprisonment not exceeding three months or a fine not exceeding R5 000 may be imposed. 30
- (3) Whenever a manager, agent or employee of the holder of a operating licence or permit performs or omits to perform any act which, if the holder of a operating licence or permit had performed or omitted to perform that act personally, would have constituted an offence in terms of subsection (1), that holder is guilty of that offence if— 35
  - (a) the holder—
    - (i) connived at or knowingly permitted the act or omission concerned; or
    - (ii) did not take all reasonable measures to prevent that act or omission; and
  - (b) an act or omission of the nature of the act or omission charged, whether legal or illegal, fell within the scope of the authority or the course of the employment of the manager, agent or employee. 40

## CHAPTER 4 GENERAL MATTERS

### PART 19 *General Matters*

45

#### Appeals in general

**128.** (1) Any province may establish a provincial transport appeal body to hear appeals relating to applications in connection with intraprovincial transport and where such a body is not established, such appeals must be noted with the Transport Appeal Tribunal established by section 3 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998), in terms of this section. 50

(2) Such a provincial transport appeal body must exercise or perform its powers, functions and duties independently, fairly and impartially.

(3) A person who has any direct financial or business interest in any sector of the public transport industry may not be appointed or remain as a member of such an appeal body. 55

(4) A member of such an appeal body must recuse himself or herself in any matter or proceeding where he or she has or could reasonably be expected to have a financial or other conflict of interest in the outcome of any decision by the appeal body.

(5) (a) Any interested person may make a written request that a member of such an appeal body recuse himself or herself where the person has reason to believe that the member has or could reasonably be expected to have such a financial or other conflict of interest and such a request must specify detailed reasons.

(b) The member must give due regard to such a written request and decide whether or not to recuse himself or herself in the relevant circumstances. 5

(6) Appeals concerning interprovincial transport must be noted with the Transport Appeal Tribunal in terms of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998).

(7) Bodies considering appeals in terms of this section are bound by applicable transport plans. 10

### Appeals to Transport Appeal Tribunal

**129.** (1) Subject to section 128, and unless otherwise provided in this Act, the following persons may appeal to the Tribunal against an act, direction or decision of a board, in the manner and within the time prescribed, if they are affected thereby: 15

(a) A person who has applied to that board for the grant, renewal, amendment or transfer of a operating licence;

(b) the holder of a operating licence issued by that board;

(c) a person who has submitted representations to that board objecting to or supporting an application published by that board under section 37. 20

(2) In considering an appeal in terms of subsection (1), the Tribunal is bound by applicable transport plans.

### Amendment of Act 78 of 1977

**130.** Section 104 of the Urban Transport Act, 1977, is hereby amended by the addition after paragraph (f) of the following paragraph: 25

“(g) Make a grant or loan to a transport authority, as defined in section 1 of the National Land Transport Transition Act, 2000, to enable it to perform its functions under that Act.”.

### Amendment of Act 29 of 1989

**131.** Section 1 of the Road Traffic Act, 1989, is hereby amended by the substitution for the definition of “bus” of the following definition: 30

“bus” means a motor vehicle designed or adapted for the conveyance of more than [16] 35 persons [including] excluding the driver (if any);”.

### Amendment of Act 93 of 1996

**132.** Section 1 of the Road Traffic Act, 1996, is hereby amended by the substitution for the definition of “bus” of the following definition: 35

“bus” means a motor vehicle designed or adapted by a manufacturer registered in compliance with section 5, for the conveyance of more than [16] 35 persons [including] excluding the driver (if any);”.

### Amendment of Act 45 of 1998

**133.** Sections 3, 4, 5 and 6 of the National Land Transport Interim Arrangements Act, 1998, are hereby repealed. 40

### Transitional provisions

**134.** Where, at any time before the commencement of this Act—

(a) a person was convicted, in terms of any previous law, of an offence which is an offence in terms of this Act, the person is, where relevant for the purposes of this Act, regarded as a person who had committed a corresponding offence provided for in this Act; and 45

(b) any distinguishing mark issued in terms of any previous law for a vehicle in relation to which a permit had been issued thereunder, is regarded for purposes of this Act, until such time as that permit lapses, is converted to a 50

operating licence, or is withdrawn or cancelled in terms of this Act, as a distinguishing mark issued under this Act.

#### **Act binds State**

**135.** This Act binds the State.

#### **Short title and commencement**

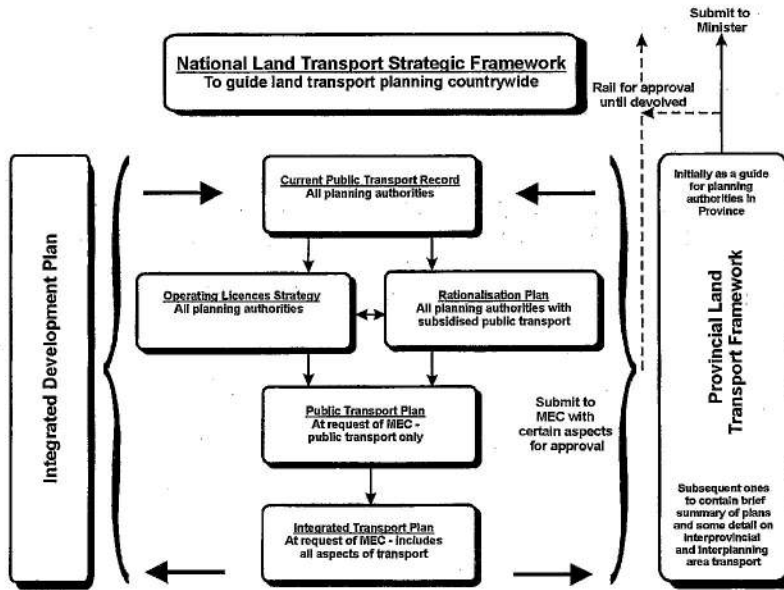
5

**136.** (1) This Act is called the National Land Transport Transition Act, 2000, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different provinces.

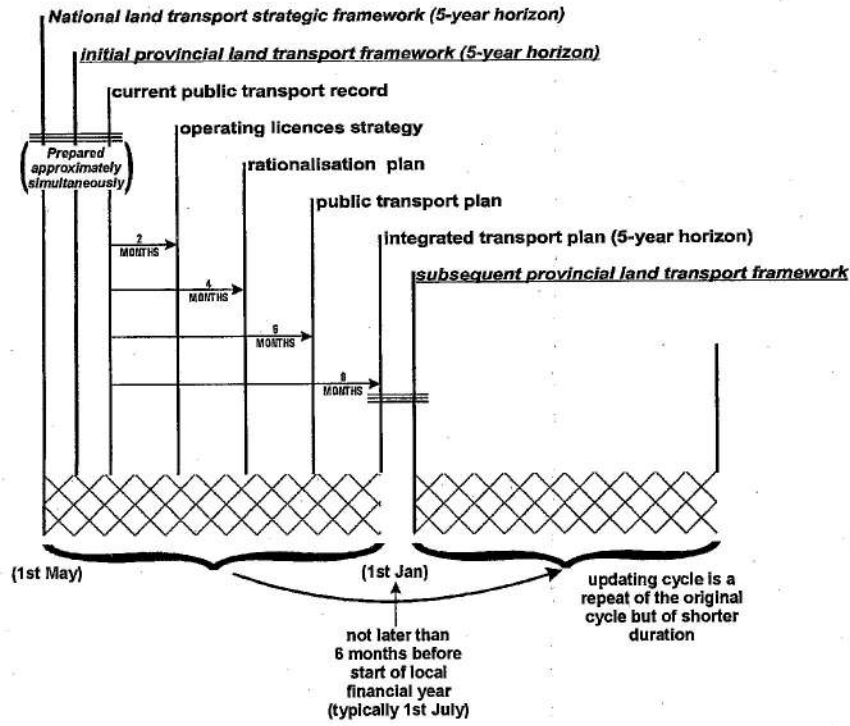
10

**FIGURE 1: INTERRELATIONSHIP BETWEEN TRANSPORT PLANS**





**FIGURE 2: SEQUENCE & TYPICAL TIMING OF TRANSPORT PLANS**





**IRIPHABILIKI YASENINGIZIMU AFRIKA**

# **IPHEPHANDABA LEZAZISO LIKAHULUMENI**

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*Libhaliswe ehovisi lePosi njenge Phephandaba*

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Ivolume 422

EKAPA, 23 AGOSTI 2000

Ino. 21493

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## **IHHOVISI LIKAPRESIDANTI**

Ino. 844.

23 Agosti 2000

Ngalokhu kwaziswa ukuthi uMongameli uvumelana nalomthetho olandelayo nokumele ukuthi ushicilelwe ukuze ube ulwazi jikelele:—

Ino. 22 ka 2000: uMthetho kaZwelonke wokuGuqula iziThuthi ezisebenzisa umgwaqo, 2000.



**Ingxenywe 5*****Izigungu zezokuPhatha zezokuThutha : Izinto eziThinta uZwelonke kuphela***

- 10 Imigomo yokusungula izigungu zokuphatha ezindaweni zokuthutha  
 11 Izinto eziqondene nokunquma imingcele yezindawo zokuthutha  
 12 Izindawo zokuthutha kanye nezigungu zokuphatha eziwelela emingceleni 5  
 yezinye izifundazwe  
 13 Izimali zesigungu zokuphatha ezokuthutha  
 14 Ukusetshenziswa kwezimali ezamukelwe izigungu zokuphatha ezokuthutha

**Ingxenywe 6*****Izinhlelo zesiKhashana zokuxhasa zikaZwelonke zeziThuthi eziHamba phansi*** 10

- 15 UNgqongqoshe angase ahlinzeke ngezimali zezokuthutha zikazwelonke  
 zezithuthi eziHamba phansi  
 16 UNgqongqoshe angase ahlinzeke ngezimali zezokuthutha zikazwelonke  
 zezithuthi eziHamba phansi  
 17 Omasipala bangase bahlinzeke ngezimali zezokuthutha zikazwelonke 15  
 zezithuthi eziHamba phansi

**Ingxenywe 7*****Ukuhlela ezokuThutha***

- 18 Imigomo ebanzi yezokuhlela ezokuthutha kanye nokuxhumana kwayo  
 nokuthuthukiswa komhlaba 20  
 19 Izinhlobo zezinhlelo ezidingwa uMthetho  
 20 Izigungu zokuhlela  
 21 Uhlaka kazwelonke lwesu lwezokuthutha zezithuthi eziHamba phansi.  
 22 Izinhlobo zesifundazwe zezokuthutha zezithuthi eziHamba phansi  
 23 Amarekhodi amanje luzokuthutha umphakathi 25  
 24 Amasu amayelana nezimvume  
 25 Izinhlelo zokuhlela kabusha  
 26 Izinhlelo zezokuthutha umphakathi  
 27 Izinhlelo ezihlangene zezokuthutha  
 28 Ukuvunywa kwezixenywe zokuthutha abantu ngololiwe ezinhlelweni 30  
 zokuthutha  
 29 Ukushicilelwe kwezinhlelo zezokuthutha kanye nezinguquko ezinqala  
 zokusebenzisa umhlaba kanye nengqalasizinda yezokuthutha umphakathi  
 kanye nemisebenzi

**Ingxenywe 8*****AmaBhodi eziFundazwe: Izinto eziThinta uZwelonke kuphela*** 35

- 30 Ukusungulwa kanye nemisebenzi yamabhodi ezifundazwe

**Ingxenywe 9*****Amalaysensi okwenza umsebenzi : Izinto eziPhathelene zeZwe loNkana***

- 31 Uhlobo lwesithuthi esingasetshenziselwa imisebenzi yokuthutha umphakathi 40  
 32 Ukuqhubeka nokuguqula izimvume ezikhona njengamanje  
 33 Okudingeka ngaphambi kwelaysensi yokwenza umsebenzi noma iphemithi  
 yokwenza imisebenzi yokuthutha umphakathi  
 34 Ilaysensi yokwenza umsebenzi ayilona ilungelo  
 35 Isikhathi esiphelele sokuba imvume yamukeleke ngokusemthethweni 45  
 36 Amabhodi lapho isicelo kumele senziwe khona  
 37 Isaziso sezicelo mayelana namalaysensi okwenza umsebenzi  
 38 Izithiyi mayelana nokuba nelaysensi yokwenza umsebenzi  
 39 Amalaysensi okwenza umsebenzi wezokuthutha umphakathi ezihlinzekwe  
 ezinhlelweni zezokuthutha 50  
 40 Amalaysensi okwenza umsebenzi wokuqashwa  
 41 Izinguquko eziyisipesheli zokushaywa koMthetho  
 42 Ukuhoxiswa kwamalaysensi okwenza umsebenzi nxa sekuphele  
 isivumelwano

uMthetho Ino. 22, 2000

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- 43 Imisebenzi yalowo onelayisensi yokwenza umsebenzi  
 44 Ukuthuthwa kwabafundi izitshudeni, amathisela kanye nothisha bezikhungo zemfundo ephakeme  
 45 Ulwazi olusemqoka okufanele lube kumalayisensi okwenza omsebenzi  
 46 Ukuxhumana phakathi kwezokuthutha umphakathi kanye nezokuthutha emgwaqeni ezeqa imingcele 5

**Ingxenywe 10*****UkuNcintisana okuHlelekile***

- 47 Imisebenzi yokuqashwa exhasiwe  
 48 Izidingo zokwamukeleka njengofaka ithenda lesivumelwano somsebenzi wokuhweba noma isivumelwano somsebenzi oxhasiwe 10  
 49 Ukumbandakanyeka komasipala kanye nezigungu zokuphatha ezokuthutha ekusetshenzisweni  
 50 Izivumelwano zomsebenzi wokuhweba  
 51 Ukuhoxiswa kwelayisensi yokwenza umsebenzi noma iphemithi ngenxa yokuhlelwa kabusha kwemisebenzi yezokuthutha 15

**Ingxenywe 11*****Ukurejistwa***

- 52 Ukurejistwa kwezokuThutha kaZwelonke  
 53 Ukuqokwa koNobhala 20

**Ingxenywe 12*****Ukurejistwa kanye nezinye izinto eziphathelele nembali yamathekisi angamakhumbi***

- 54 Umsebenzi kaNobhala  
 55 Ukubhalisa kukasosesheni kanye nongelona ilunga esifundeni esisodwa kuphela 25  
 56 Ukubhalisa kwesikhashana kanye nokubhalisa okuphelele kanye nabangewona amalunga bebhaliswa phansi kwemithetho yesifunda  
 57 Ukubhalisa kukasoseshini okuphelele  
 58 Ukubhaliswa kamalunga 30  
 59 Ukukhishwa kwezitifiketi kanye nezimpawu ezitshengisayo uma kurejistwa noma kurejistwa okwesikhashana  
 60 Izidingo zemithethosisekelo yoseseshini  
 61 UNgqongqoshe ozonquma inhloso izidingo ezisemqoka zendlela yokuziphatha 35  
 62 Imihlomulo yokurejista

**ISIAHLUKO 3****IZINDABA EZIPHATHELENE NEZIFUNDAZWE****Ingxenywe 13*****Imisebenzi kaNgqongqoshe wesiFundazwe*** 40

- 63 Imisebenzi kaNgqongqoshe wesiFundazwe  
 64 Imitheshwana ngoNgqongqoshe wesiFundazwe

**Ingxenywe 14*****Izigungu zezokuThutha : Izinto eziThinta isiFundazwe kuphela***

- 65 Izivumelwano zokusungula izindawo zokuthutha kanye nezigungu zezokuthutha 45  
 66 Ukumenyezela izindawo zokuthutha kanye nokuqanjwa kwezigungu zezokuthutha  
 67 Izidingo zokwakha izivumelwano  
 68 Imisebenzi kanye nendima yokusebenza kwezigungu zokuphatha 50  
 69 Amandla alekelelayo ezigungu zokuphatha  
 70 Ukuphathwa kwezigungu zokuphatha ezokuthutha  
 71 Ukuhlakazwa kwezigungu zokuphatha ezokuthutha

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- 72 Izimali zezigungu zokuphatha ezokuthutha  
73 Ukwabiwa kwamandla yibhodi ephethe  
74 Izihlinzeko ezisetshenziswayo ekwabiweni kwamandla  
75 Izikhulu eziphethe ezokuthutha  
76 Izikhulu zokuphatha ezokuthutha ezihlangene 5

**Ingxenye 15*****Ibhodi lesiFundazwe : Izinto eziThinta iziFundazwe kuphela***

- 77 Ukuqokwa kwamalunga ebhodi  
78 Imisebenzi yebhodi

**Ingxenye 16*****Ilayisensi yokwenza umsebenzi : Izinto eziThinta isiFundazwe kuphela***

- 79 Ukuqhubeka nokuguqulwa kwezimvume ezikhona okwamanje  
80 Ukuguqulwa kwezimvume ezingavumelekile phansi kwezimo ezithile  
81 Indlela yokuguqulwa kwamaphemithi abe amalayisensi okwenza umsebenzi  
82 Ukuguqulwa kwamaphemithi abe amalayisensi okwenza umsebenzi 15  
ezithuthwini ezinkudlwana  
83 Ukuchitha izicelo mayelana nelayisensi yokwenza umsebenzi emisebenzini  
engeyona eyokuqashwa  
84 Ukusulwa kwezimvume ezithile ezingasetshenziswa  
85 Ukukhishwa kwamalayisensi okwenza umsebenzi, kanye nokuqokethwe 20  
kuzona  
86 Igunya eliqukethwe yilayisensi yokwenza umsebenzi  
87 Abantu abangaba nelayisensi yokwenza umsebenzi  
88 Imitheshwana ephathelene namalayisensi okwenza imisebenzi enhlobonhlobo  
89 Ukusebenza kwesithuthi esisodwa sisetshenziselwa amabanga amade kanye 25  
neminye imisebenzi yokuthutha umphakathi  
90 Ukuchibiyela imvume : Ukufaka isithuthi esithile endaweni yesinye  
91 Izimo ezithile mayelana namthekisi anewashi kanye nemisebenzi yabasebenzi  
92 Imisebenzi yesihle  
93 Imisebenzi yalowo onelayisensi yokwenza umsebenzi 30  
94 Ukushintshwa kwesikhashana kwesithuthi esibaluliwe.

**Ingxenye 17*****Ukurejista kanye nokunye okuphathelene neMboni yamaMinibhasi angamaTekisi***

- 95 Ukuqokwa kukaNobhala  
96 Izithiyo zokungabambi isikhundla sokuba nguNobhala 35  
97 Ukusula kukaNobhala kanye nokususwa kwakhe esikhundleni asiphethe  
98 Ukushiya isikhundla  
99 Imisebenzi kaNobhala  
100 UNobhala kumela adalule ukuthinteka kwakhe ngokwezohwebo kanye  
nangokwezimali 40  
101 UNobhala kumele abike njalo ngonyaka  
102 Ukusungulwa kanye nemisebenzi yeThimba labaHlaziyi  
103 Ukuqokwa, namaholo kanye nezimo zomsebenzi wabahlaziyi  
104 Imihlangano yeThimba labaHlaziyi  
105 Ithimba labaHlaziyi lingenyula elinye noma amanye amalunga ezimweni 45  
ezithile ukuba babe yingxenye yabo  
106 Ukuhoxa, ukususwa nokushiya isikhundla  
107 Ukudalula ukuthinteka kwabahlaziyi ngokwezohwebo kanye nalabo  
abathinteka ngokwezimali  
108 Ukurejista kwesikhashana nokurejista okuphelele kososeshini abarejiste 50  
ngaphambilini  
109 Ukurejista kwesikhashana kososeshini abangenagunya ngqo lokurejistwa  
ngokugcwele  
110 Ukurejistwa kososeshini okuqonde ngqo okugcwele  
111 Isicelo kanye nenqubo yokurejista 55  
112 Ukurejista kwesikhashana kwamalunga  
113 Ukurejista kwabangewona amalunga

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- 114 Izitifiketi zokurejista kanye nezimpawu ezihlukanisayo  
115 Imisebenzi yososeshini kanye nalabo nabarejistwe okwesikhashana nabangewona amalunga  
116 I-Minimum Standard Constitution kanye nendlela yokuziphatha  
117 Izidingo zemithethosisekelo yososeshini 5  
118 Ukungacini imigomo yomthethosisekelo orejistiwe kanye nokwephula indlela yokuziphatha  
119 Ukwesula noma ukuhoxiswa okwesikhashana kokurejistwa noma ukurejistwa okwesikhashana kukasoseshini, amalunga noma abangewona amalunga  
120 Umphumela wokuphelelwa isikhathi noma ukusulwa kokurejistwa ukuba umnini wephemithi noma invume 10  
121 Ukurejista noma ukurejistwa okwesikhashana akuvimbi ukushushiswa ngokusebenza umsebenzi wokuthutha umphakathi ngaphandle kokugunyazwa

**Ingxenywe 18**

***Ukuqinisekiswa kokuSebenza koMthetho***

15

- 122 Ukuqinisekiswa kokusebenza komthetho wezokuthutha zikazwelonke zezithuthi ezihamba phansi  
123 Ukuqokwa kwabahloli  
124 Ukufakwa kwezithuthi esikidi  
125 Ukucabangela kanye nobufakazi bamaphuzu athile 20  
126 Amandla eziphathimandla ezigunyaziwe  
127 Amacala nezijeziso

**ISIAHLUKO 4  
AMAPHUZU AVULEKILE**

**Ingxenywe 19**

***Amaphuzu avulekile***

25

- 128 Izikhalazo ezivulekile  
129 Izikhalazo ezibhekiswe esiGcawini sokuKhalaza sezokuThutha  
130 Ukuchitshiyelwa koMthetho 78 ka 1977  
131 Ukuchitshiyelwa koMthetho 29 ka 1989 30  
132 Ukuchitshiyelwa koMthetho 93 ka 1996  
133 Ukuchitshiyelwa koMthetho 45 ka 1998  
134 Izihlinzeko zesiKhashana  
135 UMthetho ubophezela uHulumeni  
136 Isihloko esifushane kanye nokuqala ukusebenza kwaso 35

**ISIAHLUKO 1  
ISINGENISO SEZINHLINZEKO**

**Ingxenywe 1**

***Isingeniso sezinhlinzeko***

**Izincazelo** 40

1. (1) Kulo Mthetho, ngaphandle uma kungukuthi akuhambisani nesimo—  
(i) “usoseshini” uchaza noma yiliphi iqembu elakhiwe ngesizathu sokuqhuba amaminibhasi ohlobo oluyitekisi, futhi—  
(a) ongakhelwanga ngokuhambisana nokwakha inzuzo;  
(b) onhloso yawo kungufeza izinto ezifunwa ngamalunga awo; futhi 45  
(c) ozimali zawo zizosetshenziselwa ukufeza izinto ezifunwa ngamalunga;  
(ii) “isikhulu esigunyaziwe” sichaza—  
(a) iphoyisa elibalulwe kwisigaba 123;  
(b) ilunga le-South African Police Services, kanye nelunga lomsebenzi wamaphoyisa kamsipala njengokuba kuchazwe kwisigaba 1 se-South African Police Service Act, 1995 (Act No 68 of 1995); 50  
(c) umuntu okwihhovisi lomnyango wesifundazwe noma likamasipala omsebenzi wakhe kungukuhlola izithuthi noma amalayisensi ezithuthi noma ukulawula izithuthi;

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- (d) iphoyisa lomgwaqo elichazwe kwisigaba 39 se-Cross-Border Road Transport Act, 1998 (Act No 4 of 1998);
- (iii) “ibhodi” lichaza ibhodi lamalayisensi okwenza umsebenzi wokuthutha umphakathi elasungulelwa isifundazwe ngokuhambisana nesigaba 30 ukwenza imisebenzi echazwe kulesi sigaba; 5
- (iv) “ibhasi” lichaza isithuthi esakhiwe noma esishintshwe ngokomthetho ngabakhiqizi abarejistiwe, ngokuhambisana ne-Road Traffic Act, 1989, (Act No 29 of 1989) elakhiwe ngendlela yokuthi likwazi ukuthwala abantu abangaphezu kuka 35, ngaphandle komshayeli, ngokombandela wesigaba 31;
- (v) “ukuhlomisa ngolwazi” kuchaza ukutshalwa kolwazi okwenziwa ngenhloso yokugxilisa amandla wabantu nezinhlangano ukuze bazuze amaphupho abo ezentuthuko; 10
- (vi) izithuthi eziqashiwe zichaza umsebenzi wokuthutha umphakathi emgwaqeni ohlanganisa ukuqashwa kwesithuthi nomshayeli ozothatha uhambo ngezinhlawulo ezihlelwe ngaphambili nomnikazi wesithuthi lapho— 15
- (a) umnikazi nomshayeli abangenalungelo lokuhlululisa abagibeli imali ngamunye;
- (b) umuntu oqasha isithuthi anelungelo lokuthatha isinqumo sendlela ezothathwa, usuku nesikhathi sohambo; futhi
- (c) abagibeli bazodilizwa endaweni eyodwa; 20
- (vii) “Indlela yokuziPhatha” ichaza indlela yokuziphatha enqunyelwe isifundazwe nguNgqongqoshe wesifundazwe ngaphansi kwesigaba 116;
- (viii) “isivumelwano semisebenzi yezohwebo” sichaza isivumelwano phakathi kwesigungu sokuqashisa nomnikazi wesithuthi sokuthutha umphakathi, ngokombandela wokuthi— 25
- (a) umnikazi wesithuthi uzoqhuba umsebenzi wokuthutha umphakathi, ohlinzekwe kuhlelo lokuthutha umphakathi;
- (b) isicubungulo somnikazi sinezimali zokuhlululisa ezizikhokhwa abagibeli abathwelwe nalapho abagibeli bakhokha izimali ezehlisiwe nezinkhokhelo ezikhokhwe yisigungu sokuqashisa kulowo mnikazi; futhi 30
- (c) umnikazi akatholi uxhaso noma ezinye izimali zokwelekelela kunoma isiphi isigaba noma yimuphi umkhakha kahulumeni nangezinhloso zalesi sigaba, izinkhokhelo ezenziwe kumnikazi wesithuthi ngokumayelana nezimali ezehlisiwe, azithathwa njengoxhaso noma izimali zokwelekelela; 35
- (ix) “ukuhamba ngesithuthi” kuchaza ukuhamba njalo usuka ekhaya uya emsebenzini ngokusebenzisa izithuthi zokuthutha umphakathi “nomgibeli” uchaza lowo osebenzisa isithuthi ukuya emsebenzini;
- (x) “isivumelwano” sichaza noma yisiphi isivumelwano esenziwe nesigungu sokuqashisa esimayelana nomsebenzi wokuthutha umphakathi kulayini kajantshi noma kwinxakanxaka yojantshi— 40
- (a) ngokuhambisana nohlelo lwezokuthutha umphakathi; kanye
- (b) nangentela, nangezinga lokwenziwa komsebenzi elihlinzekelwe kulesa sivumelwano, noma ngabe umnikazi wesithuthi sokuthutha umphakathi ngokombandela wesivumelwano, uyadingeka ukuba akhe, alondoloze noma agcine inqalasisinda nenye impahla esetshenziswe ngokuxhumana nalowo msebenzi; 45
- (xi) “imali eyehlisiwe” imali ekhokhwa umgibeli engena ngaphansi kwesigaba esiyisipesheli; 50
- (xii) “Umthethosisekelo” uchaza uMthethosisekelo waseNingizimu Afrika, 1996 (Act No 108 of 1996);
- (xiii) “isigungu sokuqashisa” sichaza uMnyango, noma yimuphi umnyango wesifundazwe, isigungu sezokuthutha umphakathi, umasipala othintekayo noma iliphi idolobha elimqoka, elibophezeleke kwinkontileka noma kwisivumelwano esenziwe nomnikazi wesithuthi sokuthutha umphakathi; 55
- (xiv) “ukusebenzisana” kuchaza ukusebenzisana njengoba kuchazwa kwisigaba 1 se-Co-operatives Act, 1981 (Act no 91 of 1981);
- (xv) “idolobha elimqoka” lichaza umasipala obalulwe ngaphansi kwesigaba 4 se-Urban Transport Act, 1977 (Act No 78 of 1977) njengedolobha elimqoka le-MTA, futhi lifaka noma yimuphi umasipala okuthi emva kokuqalisa kwalo Mthetho seliqokiwe 60
- (xvi) “umsebenzi wesihle” uchaza umsebenzi wokuthutha wamakhasimende noma



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- wabagibeli ohlinzekwe yinhlangano engenzi umsebenzi wokuthutha umphakathi lapho leyonhlangano ihlinzeka ngesithuthi sayo noma isithuthi esihlinzekwe ngumnikazi ngokombandela wesivumelwano naleyonhlangano;
- (xvii) “isithuthi somgwaqo esinqamula imingcele” sichaza isithuthi somgwaqo esingqamula imingcele njengoba sichazwe kwisigaba 1 se-Cross-Border Road Transport Act, 1998 (Act No 4 of 1998); 5
- (xviii) “amarekhodi amanje ezokuthutha umphakathi” achaza uhlelo lokuthutha olubalulwe kwisigaba 23;
- (xix) “isivumelwano samanje ngamathenda” sichaza isivumelwano esiphethwe ngaphambi kosuku lokuqalisa kwalo Mthetho mayelana nomsebenzi wokuthutha umphakathi esenziwe phakathi koMnyango noma esifundazwe, ohlangothini olulodwa, kanye nomnikazi wesithuthi sokuthutha umphakathi, ngakolunye uhlangothi, okuyilapho ithenda mayelana nokuhlinzeka komsebenzi laklonyeliswa yiBhodi lamaThenda likaHulumeni noma ibhodi lamathenda lesifundazwe noma isigungu ngokuhambisana nomtheho osababophezela bobabili, osikhathi sawo siphela kuphela emva kosuku lokuqalisa kwalo Mthetho, oluhlanganisa isivumelwano esibophezela phakathi— 15
- (a) komnikazi wesithuthi sokuthutha umphakathi nesifundazwe ngenxa yokuthi uMnyango ugcizelela amalungelo awo nezibopho zawo kwesifundazwe noma ngabe ukugcizelelwa kwenzeka ngaphambi noma emva kosuku lokuqalisa kwalo Mthetho; noma 20
- (b) komnikazi wesithuthi sokuthutha umphakathi nesigungu sezokuthutha umphakathi noma umasipala othintekayo noma idolobha elimqoka, isifundazwe, emva kosuku lokuqaliswa kwalo Mthetho singabe sesi— 25
- (i) gcizelele amalungelo aso nezibopho zawo; noma
- (ii) gcizelele amalungelo aso nezibopho ezigcizelelwe nguMnyango ngokombandela wesigaba (a);
- (xx) “UMnyango” uchaza uMnyango wezokuThutha kumkhakha kaZwelonke kahulumeni; 30
- (xxi) “UMqondisi-Jikelele” uchaza uMqondisi-Jikelele woMnyango;
- (xxii) “uhlaka” kusho amabala engwe mayelana nomkhakha kanye nesimo uhlelo, umgomo noma isu okuzogugulwa ngaso noma luthuthukiswe;
- (xxiii) “inqubo yokukhononda” ichaza inqubo ebekiwe kuMthethosisekelo kasoseshini ukuxazulula izinkonondo zangaphakathi eziphakanyiswe ilunga noma iqembu lamalunga; 35
- (xxiv) “inqalasisizinda” ngokuhambisana nezokuthutha ezihamba phansi ichaza izinto—ezingagudluki zokusebenza ezinkulu nezikhungo kuhlelo lwezokuthutha lwezithuthi ezihamba phansi;
- (xxv) “iphoyisa” lichaza iphoyisa elibalulwe ngaphansi kwesi sigaba 123; 40
- (xxvi) “uhlelo oluhlangene lentuthuko” lichaza oluhlangene lentuthuko, ngokombandela we-Local Government : Municipal Structures Act, 1998 (Act No 117 of 1998), oluzohlelwa umasipala;
- (xxvii) “uhlelo lwezokuthutha oluhlangene” luchaza uhlelo lwezokuthutha oluhlangene uhlelo olubalulwe kwisi sigaba 27; 45
- (xxviii) “isivumelwano sesikhashana” sichaza isivumelwano, hhayi isivumelwano samanje ekusanda kukhishwa ithenda yaso, ukuba kwenziwe umsebenzi ohleliwe oxhasiwe, isikhathi sawo esiphela emva kosuku lokuqala kwalo Mthetho, futhi—
- (a) esaphothulwa ngaphambi kwalolosuku phakathi kwesifundazwe kanye noMnyango kolunye uhlangothi, kanye nomnikazi wezokuthutha umphakathi ozokwenza lowo msebenzi, ngakolunye uhlangothi, futhi sisababopha bobabili noma sibopha isifundazwe kanye nalowo mnikazi; noma 50
- (b) siyabophezela phakathi kwalowo mnikazi wezokuthutha umphakathi kanye nesigungu sezokuthutha noma idolobha elimqoka noma umasipala, emva kosuku lokuqala kwaloMthetho, kwamalungelo nezibopho zesifundazwe ngaphansi kwesivumelwano esibalulwe esigabeni (a) 55
- (xxix) “ezokuthutha ezisebenza nakwezinye izifundazwe” zichaza izithuthi ezokuthutha umphakathi, ezisebenza phakathi kwezifundazwe ezimbili noma ngaphezulu; 60
- (xxx) “izithuthi ezithutha umphakathi ezisebenza maphakathi kwesifundazwe”

- zichaza izithuthi zokuthutha umphakathi ezisebenza phakathi kwemingcele yesifundazwe;
- (xxxi) "izinkomba zokwenza umsebenzi ezinkulu" zichaza isikali noma izinga elisunguliwe lokukala amazanga okwenziwa kwemisebenzi nezinzuzo;
- (xxxii) "ezokuthutha ezihamba phansi" zichaza ukugudluka kwabantu nezimpahla emhlabeni ngokwesithuthi nangokusebenzisa noma yiyiphi inqalasisizinda nezikhungo ezixhumene nalowomsebenzi;
- (xxxiii) "umsebenzi wokuthutha wamabanga amade" uchaza umsebenzi wokuthutha umphakathi ohleliwe nongahleliwe emgwaqeni, ngaphandle komsebenzi wokuhamba njalo, ohlinzekwe ngale komgcele wendawo efakwe uhlelo lwezokuthutha, lapho abagibeli bakhokhiswa ngamunye;
- (xxxiv) "Ungqongqoshe wesiFundazwe" uchaza ilunga lesiGungu esiKhulu lesiFundazwe elibhekene nomsebenzi nezokuthutha umphakathi kwisifundazwe esithintekayo;
- (xxxv) "ilunga" lichaza ilunga likasoseshini;
- (xxxvi) "amatekisi angamamitha" achaza umsebenzi wezokuthutha umphakathi osebenzisa isithuthi esakhiwe, noma esakhiwe ngokomthetho, ngokuhambisana ne-Road Traffic Act, 1989 (Act No 29 of 1989) esithwala abantu abangeqile kwabayisishiyagalolunye, kuhlangele nomshayeli, lapho leso sithuthi—
- (a) singaqashwa, ngokusebenzisa ucingo noma okunye;
- (b) singaqashwa erenki; futhi
- (c) sinemitha enanyathiselwe, esesimweni esihle esisebenzayo, ngenhloso yokunquma imali okufanele ikhokhwe;
- (xxxvii) "imidibhasi" ichaza isithuthi esakhiwe noma esakhiwe ngokomthetho ngabakhiqizi ngokuhambisana ne-Road Traffic Act, 1989 (Act No 29 of 1989) esithwala abantu abangu 19 ukuya ku 35 ngaphandle komshayeli;
- (xxxviii) "iminibhasi" ichaza isithuthi esakhiwe noma esakhiwe ngokomthetho ngabakhiqizi ngokuhambisana ne-Road Traffic Act, 1989 (Act No 29 of 1989) esithwala abantu abangu 9 ukuya ku 18 ngaphandle komshayeli;
- (xxxix) "iminibhasi eyitekisi" ichaza umsebenzi wokuthutha umphakathi ongahlelelwe isikhathi osebenza kumzila noma imizila ethile, noma osebenza endaweni ethile, ngokusebenzisa isithuthi esincane, iminibhasi noma imidibhasi, kuncike kwisigaba 31;
- (xL) "UNgqongqoshe" uchaza uNgqongqoshe wezokuThutha kumkhakha kwaZwelonke kahulumeni;
- (xLi) "isithuthi esincane" sichaza imoto encane, ngaphandle kwesithuthi, isithuthi esinamasondo amathathu, isithuthi esinamasondo amane njengokuba lezo zimoto zichazwa kwi-Road Traffic Act, 1989 (Act No 29 of 1989), ezakhiwe noma ezishintshwe ngokoMthetho ukuthwala abantu abangaphezu kuka 8 ngaphandle komshayeli;
- (xLii) "isithuthi esincane nesithuthi" sichaza isithuthi njengokuba sichazwe kwisisigaba 1 se-Road Traffic Act, 1989 (Act No 29 of 1989);
- (xLiii) "MTA" ichaza indawo yezokuthutha yedolobha elikhulu enkulu ebekiwe futhi ekhona ngaphansi kwisisigaba 3 se-Urban Transport Act, 1977 (Act No 78 of 1977);
- (xLiv) "umasipala" uchaza bonke omasipala ababulwe kwisisigaba 155(6) soMthethosisekelo, nakwisisigaba C somasipala ababalulwe kwisisigaba 155(1)(c), abahlanganisa nesi-siGaba B somasipala ababalulwe kwisisigaba 155(1)(b) endaweni yabo;
- (xLv) "umasipala obhekene nomsebenzi wezokuthutha" uchaza umasipala obhekene nomsebenzi wezokuthutha umphakathi noma inhlango ebhekene nomsebenzi wezokuthutha umphakathi futhi okuthi amasheya amaningi noma inzuzo yawo ingaphansi kukamasipala noma ilawulwa umasipala;
- (xLvi) "umsebenzi ongaqashisiwe" uchaza umsebenzi wezokuthutha umphakathi ngaphandle kwalowo osebenza ngokombandela wesivumelwano somsebenzi wezokuhweba, isivumelano somsebenzi oxhasiwe, isivumelwano samanje samathenda, isivumelwano sesikhashana nesivumelwano sokwehliselana imali;
- (xLvii) "ongelona ilunga" uchaza noma yimuphi umuntu noma ngabe ojwayelekile noma umuntu womthetho, ongelona ilunga likasoseshini;

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- (xLviii) “amalayisensi okwenza umsebenzi” achaza amalayisensi okwenza umsebenzi wokuthutha umphakathi adingwa yisigaba 33 akhishwe ngokuhambisana neNgxenywe 16;
- (xLix) “isu lamalayisensi okwenza umsebenzi” lichaza uhlelo lwezokuthutha oluqukethe isu lamalayisensi elisebenzayo elichazwe kwisigaba 24; 5
- (L) “umkhakha kahulumeni” uchaza umkhakha kahulumeni njengokuba uchazwe kwisigaba 239 soMthethosisekelo;
- (Li) “umnikazi wezokuthutha ongaphansi kukaHulumeni kodwa ozimela” uchaza inhlango ebhekene nomsebenzi wezokuthutha futhi amasheya ayo amaningi noma inzuzo yayo iphethwe yisifundazwe noma ilawulwa yisifundazwe; 10
- (Lii) “umasipala obamba iqhaza” uchaza umasipala oyingxenywe yesivumelwano sokuqala sokusungula isigungu sezokuthutha;
- (Liii) “iphemithi” ichaza iphemithi yokuthutha umphakathi emgwaqeni noma igunya elifanayo elikhishwe ngaphansi komthetho wangaphambilini, futhi osebenzayo ekuqaleni kwalo Mthetho ngokombandela wesigaba 79; 15
- (Liv) “abantu abakhubazekile” kuchazwa abantu ukunyakaza kwabo kuvinjwe ukukhubazeka okwesikhashana noma okungunomphelo ngokomzimba noma ngokwengqondo, kulangene nabancane, abangaboni noma ababona kancane, abangezwa ezindlebeni noma abezwa kancane; 20
- (Lv) “isigungu sokuhlela” sichaza isigungu ngokoMthetho 20, okufanele sihlele izinhlelo zokuthutha endaweni yaso;
- (Lvi) okunqunyiwe” kuchaza umthetho onqunyiwe ngokombandela walo Mthetho, nguNgqongqoshe noma nguNgqongqoshe wesiFundazwe;
- (Lvii) “umthetho wangaphambilini” uchaza noma yimuphi umthetho ukusebenza kwawo kwahlukile ngokombandela wesigaba 3 futhi oqitshwa yilo Mthetho ukusebenza ngaphansi kwalo Mthetho ngokuhambisana nalesosigaba; 25
- (Lviii) “umnyango wesifundazwe” uchaza umnyango ongaphakathi kwezokuphatha zesifundazwe obhekene nezinto zezokuthutha umphakathi maphakathi nesifundazwe; 30
- (Lix) “uhlaka lwezokuthutha ezihamba phansi lwesifundazwe” luchaza uhlaka lwezokuthutha ezihamba phansi lwesifundazwe olubalulwe kwisigaba 22;
- (Lx) “umthetho wesifundazwe” ohlanganisa izihlinzeko zesiGaba 3 neminye imithetho yesishayamthetho sesifundazwe;
- (Lxi) “umnikazi wesithuthi sokuthutha umphakathi” uchaza umuntu obhekene nomsebenzi wokuthutha umphakathi; 35
- (Lxii) “uhlelo lokuthutha umphakathi” luchaza uhlelo lokuthutha umphakathi oluchazwe kwisigaba 26;
- (Lxiii) “umsebenzi wokuthutha umphakathi” uchaza umsebenzi wokuthutha abagibeli ngokusebenzisa umgwaqo noma uloliwe, lapho umsebenzi lowo uhlinzekwe ngokuba ukhokhelwe noma ngokunye ukucubungula noma umklomelo, kulangene nomunye umsebenzi— 40
- (a) osebenza ngokombandela wesivumelwano somsebenzi wezohwebo;
- (b) osebenza ngokombandela wesivumelwano sokuqashiselana;
- (c) umsebenzi wezokuthutha oqashisayo; 45
- (d) umsebenzi wokuthutha abantu wamabanga amade;
- (e) umsebenzi wamatekisi wamamitha;
- (f) umsebenzi wokuthutha kaloliwe;
- (g) umsebenzi wezokuvakasha;
- (h) umsebenzi wabasebenzi; 50
- ngaphandle uma kungalungile igama “ezokuthutha umphakathi” kufanele lichazwe ngokufanele;
- (Lxiv) “umsebenzi kaloliwe” uchaza ezokuthutha umphakathi ezisebenza kumzila kaloliwe noma ngendlela elawulwa umkhombandlela kagesi;
- (Lxv) “uhlelo lokwenza okuthile ngesizathu” luchaza uhlelo olubalulwe kwisigaba 25; 55
- (Lxvi) “orejistiwe” ngokuhambisana nanoma yimuphi usoseshini amalunga anoma yimuphi usoseshini, nalabo abangewona amalunga kuchaza ukuthi ukurejistwa yezokuthutha yesifundazwe ngokuhambisana nalo Mthetho nemithetho yesifundazwe efanele; 60
- (Lxvii) “umthethosisekelo orejistiwe” uchaza umthethosisekelo kasoseshini ogcinwe kumarekhodi kaNobhala kulandela isicelo esiyimpumelelo sokurejistwa ngokugcwele noma okwesikhashana;

- (Lxviii) “umkhiqizi uchaza” umkhiqizi wezithuthi orejistwe ngaphansi kwesigaba 5 se-National Road-Traffic Act, 1996 (Act No 93 of 1996);
- (Lxix) “UNobhala” uchaza umuntu oqokwe njengoNobhala wezo kuthutha wesifundazwe nguNgqongqoshe wesiFundazwe ngokuhambisana nemithetho yesifundazwe efanele nesigaba 53; 5
- (Lxx) “ominye umthetho wesifundazwe” uchaza umthetho noma izihlinzeko zomthetho wesishayamthetho sesifundazwe ngokumayelana nezindaba ezisebenza kwisiGaba3 salo Mthetho siyasebenza futhi ngawowonke noma yimaphi amalungiselelo enziwe esahlukweni 3, ushintsha amalungiselelo awo ngaphakathi kohlaka lwenqubomgomo yezo kuthutha kazwelonke yezithuthi ezihamba phansi kanye nokusabalala kanye nokulawula kwezihlinzeko zalomthetho, 10
- (Lxxi) “isitifiketi sokulungela ukuhamba engwaqeni” sichaza isitifiketi esiphasisa ukuthi isithuthi sikulungele ukuhamba emgwaqeni ngokwezidingo ze-Road Traffic Act, 1989 (Act No 29 of 1989); 15
- (Lxxii) “umsebenzi wokuthutha ohlelelwe isikhathi” uchaza umsebenzi wokuthutha umphakathi wasemgwaqeni ngemoto encane, iminibhasi nemidibhasi noma ibhasi kumzila noma imizila ethile ngokuhambisana nezikhathi ezibekiwe;
- (Lxxiii) “izigaba ezithile zabagibeli” zichaza abafundi abavakashi abahamba amabanga amade, agagule, abesifazane abakhulelwe nalabo ukunyakaza kwabo kuvinjwe ngabantwana abangenawo nabanezihlalo ezidonswayo; 20
- (Lxxiv) “imicimbi ekhethekile” ichaza imicimbi yamasiko, yenkolo, yezemidlalo neyokungebeleka noma ukuzijabulisa, ingqungquthela, umbukiso, umkhangiso ozokuba ngosuku oluthile noma izinsuku ezilandelayo kwizindawo ezinqunyiwe; 25
- (Lxxv) “umsebenzi wokuthutha abasebenzi” uchaza umsebenzi woku thutha ngomgwaqo ohlinzekwe ngesithuthi somqashi noma isithuthi esihlinzekwe ngumnikazi wesithutha sokuthutha umphakathi ngokwesivumelwano nomqashi, uma sisetshenziswa ukuthutha abaqashwa bomqashi;
- (Lxxvi) “isivumelwano somsebenzi oxhasiwe” sichaza isivumelwano, ngaphandle kwesivumelwano sesikhashana noma isivumelwano sethenda esanda kukhishwa, ephothulwe phakathi kwesigungu esiqashisayo kanye nomnikazi wezo kuthutha umphakathi ukuba enze umsebenzi ohleliwe ohlinzekelwe ohlelweni lwezo kuthutha umphakathi kanye nangendlela umnikazi wezo kuthutha umphakathi, phezu kwemali ekhokhwe abagibeli, othola ukusekelwa ngezimali ngokwemibandela yenkontileka esanda kukhishwa. 30
- (Lxxvii) “loMthetho” uhlanganisa noma yimuphi umthetho owenziwe ngokombandela wesigaba 7 noma 64; 35
- (Lxxviii) “ithebula yesikhathi” ichaza umqulu owazisa abagibeli ngezinkomba okusho, ukuhlukana phakathi kokusuka noma izithuthi ezidlulayo, noma izikhathi kanye nezindawo lapho imisebenzi yezo kuthutha umphakathi itholakala khona, elibonisa okungenani umsuka nendawo yokuphela kohambo kanye nezindawo ezibalulekile ezitholakala kulo womzila, 40
- (Lxxix) “umsebenzi woku thutha abavakashi” sichaza umsebenzi woku thutha emgwaqeni woku thwala abavakashi baya kwizindawo zokuvakasha lapho abavakashi baphelezela umqaphi wezivakashi ngaphansi kwesigaba 21 se-Tourism Act, 1993 (Act No 72 of 1993); 45
- (Lxxx) “ukudluliswa” ngokuphathelene nomvume kuchaza ukudluliselwa kwemvume isuka kumuntu oyedwa iya komunye;
- (Lxxxi) “indawo yezokuthutha” kuchaza indawo yesigungu sezo kuthutha ebalulwe kwisigaba 11; 50
- (Lxxxii) “isigungu sezo kuthutha” sichaza isigungu esibalulwe kwisigaba 10(1) mayelana nendawo yezo kuthutha;
- (Lxxxiii) “uhlelo lwezo kuthutha” luchaza noma yiluphi uhlelo oluhlinzekwe kwisigaba 19; 55
- (Lxxxiv) “ukusingathwa kwezidingo zohambo” kusho uhlelo lokusebenza lokusiza uhlelo lwezo kuthutha lokuhambisa abantu kanye nezimpahla kune zithuthi, phakathi kwezinye izinto, ngokwandisa isibalo sabagibeli, kuthuthukiswe izindlela zokubeka phambili ezokuthutha umphakathi, kukhuthazwa ukuhamba ngezikhathi ezingebhizi, kushintshwa izinhlobo zezithuthi, kuncishiswa isikhathi esikhona sendawo yokupaka izimoto, kunyuswe izimali zokupaka, kanye nezinye izinyathelo ezifanele, 60

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(Lxxxv) “imisebenzi engahleliwe” isho umsebenzi wezokuthutha umphakathi owenziwa ngomgwaqo emzileni noma emizileni ethile noma lapho, kungenzeka khona, endaweni ethile, ngaphandle kwethabula yesikhathi, lapho abagibeli bekhokhiswa izimali zokugibela ngabodwana.

(2) Noma yikuphi okushiwo kulesi Sahluko, iSahluko 2 noma iSahluko 4, iSahluko 3 noma yiphi ingxenye, isigaba noma isihlinzeko sesahluko 3, noma ngabe kubekeke kanjani, kufanele esimweni lapho kunomunye umthetho wesifundazwe, kuthathwe njengokushiwo kulezi ezinye izahluko, ingxenye, isigaba noma isihlinzeko salowo omunye umthetho.

### Inhloso nokusabalala koMthetho

2. (1) Lo mthetho uhlinzeka izinyathelo ezidingekayo ukuze—

(a) kuguqulwe futhi kuhlelwe kabusha uhlelo lwezokuthutha lwezithuthi ezihamba phansi lweRiphabulikhi;

(b) ukuqalisa inqubo-mgomo kazwelonke emayelana nezigaba zokuqala zohlelo; kanye

(c) nokuphumelelisa uguquko olusiwelelisa ohlelweni olusha okumanje luyasebenza ezweni lonke.

(2) Isahluko 2 salo Mthetho sigagula lezozinqubomgomo, imigomo, izidingo, imihlahlandlela, izinhloko, izinkambiso namazinga okufanele ukuthi afane kuzo zonke izifundazwe zaseRiphabulikhi, kanye nezinye izinto ezibalulwe esigabeni 146(2) soMthethosisekelo, ukuze kuphonyeleliswe futhi kubhekwane ngendlela enempumbelelo noguquko kanye nokuhlelwa kabusha kohlelo lwezokuthutha lwezithuthi ezihamba phansi lweRiphabulikhi yonkana, enqubweni yokuqalisa futhi yokusungula uhlelo olusha lwezokuthutha lwezithuthi ezihamba phansi olubalulwe esigatshaneni (1), kwiRiphabulikhi yonkana.

### Ukusebenza koMthetho ezifundazweni

3. (a) Lesi Sahluko, iSahluko 2 kanye neSahluko 4 zithathwa njengezihlinzeko ezibalulwe esigabeni 146 (2) woMthethosisekelo futhi zisebenza esikhundleni sanoma yimiphi eminye imithetho esebenzayo esifundazweni noma kwiRiphabulikhi yonkana futhi esikhundleni semithetho engahambisani nalesi Sahluko.

(b) Isahluko 3—

(i) asisebenzi esifundazweni, uma nje sihlobana nodaba lapho kukhona khona umthetho osebenzayo esifundazweni esithintekayo kangangoba lowomthetho okhona ubhekana nodaba lolo ngqo;

(ii) sisebenza esikhundleni sanoma yimuphi omunye umthetho wanoma yisiphi esinye isifundazwe mayelana nodaba okubhekwane nalo eSahlukweni 3 ikakhulukazi uma umthetho wesifundazwe uphambana neSahluko 2.

## ISAPHELA 2

### IZINTO EZITHINTANA NOZWELONKE KUPHELA

#### Ingxenye 2

*Imigomo neNqubomgomo yezokuThutha kaZwelonke yeziThuthi eziHamba phansi*

*Imigomo yenqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi*

4. (1) Lemigomo elandelayo iyasebenza ngokumayelana nokunqunywa, ukwakhiwa, ukuthuthukiswa kanye nokwenziwa kwenqubomgomo yezokuthutha ezihamba phansi kwiRiphabulikhi:

(a) Ezokuthutha umphakathi—

(i) inhloso yazo ukuhlinzeka ngezokuthutha ezingabizi kakhulu kumphakathi;

(ii) zakhiwe ukuze zifeze—

(aa) ukuhlanganisa ezokuthutha ezinhlobonhlobo;

(bb) umsebenzi wezokuthutha ongambi eqolo noseqophelweni eliphezulu;

(cc) ukwabiwa okuyikho nokusetshenziswa kwemithombo ekhona;

(dd) ukuthuthukiswa kwendawo yokwenziwa komsebenzi;

(iii) zakhiwe ukuze zibe—

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- (aa) nosizo kubasebenzisi bazo; futhi
- (bb) zingabi nobungozi kwimvelo nendalo;
- (iv) zakhiwe ngendlela yokuthi izithuthi ezinhlobonhlobo kufanele ziqokwe futhi zihlelwe ngendlela yokuthi ikuphi lapho zinomphumela omkhulu ekwehliseni izinhlelo zonke zezindleko zokuhamba, futhi lesisinqumo kufanele sisuselwe ocubungulweni oluyilonalona lomphumela ongabakhona kubasebenzisi bezithuthi kanye nokungalindeleka kubasebenzisi bezithuthi mayelana naloluguquko; 5
- (v) zakhiwe ngendlela yokuthi izidingo zomphakathi kufanele kuhlangatshezwane nazo ngokulungiselela indlela abasebenzisi bezithuthi bezobeka ngayo uvo lwabo mayelana nokushintsha kwalezizinhlelo ohlelweni lokwakha kanye nangokukhuthaza ukuhlanganiswa kwalemisebenzi; 10
- (vi) zihlelwe ngendlela yokuthi imixhaso iqondiswe ekusizeni abaasebenzi okwamanje abakhishwe inyumbazane kanye nalabo abangakwazi ukubamba iqhaza ezintweni zenhlalo kanye nezomnotho. 15
- (b) Bonke ababambi qhaza kufanele ukuba bakhuthazele ukufeza uhlelo lwezokuthutha lwezithuthi ezihamba phansi ngohlelo oluhlangene, ngokuhlinzeka nokuhlela kahle ingqalasizinda kanye nemisebenzi kanye nokuqinisekiswa kokusebenza komthetho okunempumelelo nekuthalo. 20
- (c) Imisebenzi yokuthutha umsebenzi, izikhungo kanye nengqalasizinda kufanele kuhinzeke futhi kuthuthukiswe ukuze kuhlanganise izinhlobo ezechukile zokuthutha zezithuthi ezihamba.
- (d) Ukuphepha kanye nokuqinisekiswa kokusebenza komthetho ngempumelelo kufanele kukhuthazwe njengephuzu elisemqoka ekuphathweni kwezokuthutha ezihamba phansi kanye nezinhlelo zokuhlela kahle, futhi imizamo mayelana nalokhu yazo zonke izigungu nemisebenzi efanele kufanele ididiyelwe ndawonye ukwenzela ukugwema ukuphindaphinda kwemisebenzi. 25
- (e) Ngezinhlalo zokuhlela ezokuthutha zezithuthi ezihamba phansi kanye nokuhlinzeka izikhungo kanye nengqalasizinda yezokuthutha yezithuthi ezihamba phansi, ezokuthutha umphakathi kufanele zibhekelwe kakhulu kunezokuthutha zangasese. 30
- (f) Imithombo emincane ekhona ukuze kuhlinzeke ezokuthutha zezithuthi ezihamba phansi kufanele isetshenziswe ngokucophelela. 35
- (g) Ukutshala izimali kwingqalasizinda kanye nasekwenzeni umsebenzi kufanele kuqhakambise ukusimama kwezomnotho, kwezezimali, kwezokuchwepheshe kanye nezemvelo nendalo.
- (h) Impumelelo nokwenza kahle kufanele kuqhakambiswe ekuhlinzekweni nasekwenzeni imisebenzi yeozokuthutha yezithuthi ezihamba phansi kanye nasekuphathweni kwezindaba zezokuthutha zezithuthi ezihamba phansi. 40
- (i) Ukudidiyelwa ndawonye kwemisebenzi yezakhiwo ezithile kwezokuthutha kwezithuthi ezihamba phansi kufanele kukhuthazwe.
- (j) Imisebenzi yezokuthutha yezithuthi ezihamba phansi kufanele ihlanganise neminye imisebenzi efana nayo njengokusetshenziswa komhlaba kanye nokuhlelwa nokuthuthukiswa komnotho; ngokuthi phakathi kwezinye izinto, kuthuthukiswe imigudu kanye nokusondelanisa kanye nokugcwalisa lapho kushoda khona, futhi ukuhlelwa kwezokuthutha kufanele kulawule ukusetshenziswa komhlaba kanye nokuhlelwa kwentuthuko. 45
- (k) Izidingo zezigaba ezithile zabagibeli kufanele zibhekelwe nxa kuhlelwa futhi kuhlinzeka ingqalasizinda yezokuthutha umphakathi, izikhungo kanye nemisebenzi, futhi lezidingo kufanele zifezwe noma kanjani uma kungenzeka ngohlelo oluhlinzekwe emkhakheni wonke wezokuthutha umphakathi. 50
- (l) Ukubamba iqhaza kwabobonke abantu abanentshisekelo futhi abathintekayo, kubandakanya lapha abantu abangenalutho nababencishiwe amathuba, ekuhlelweni kwezokuthutha kufanele kukhuthazwe, kubhekelwe kodwa ukuthi abantu kufanele babe nethuba lokwandisa ukuqonda kangcono, amakhono kanye nolwazi oludingekayo ukuze kufezwe ukubamba iqhaza okulinganayo nokunempumelelo. 55
- (m) Izinhlelo zolwazi zekhomputa zezokuthutha zezithuthi ezihamba phansi 60

- zikhulumeni kazwelonke, zezifundazwe, zomasipala kanye nezigungu zezokuthutha kufanele zifane futhi zihambisane futhi kufanele zakhiwe ukuba zikwazi ukusebenziseka zikwazi ukusetshenziswa amabhodi ezifundazwe kanye nayizinhlelo zezigungu zokuhlela, ngokulandela isigaba 6.
- (n) Yonke imikhakha kahulumeni kufanele iqhakambise ezokuthutha umphakathi kanye nokuhamba ngokukhululeka kwezithuthi kuzozonke izifundazwe kube khona nezokuthutha emgwaqeni eziwelele nasemingceleni yezinye izindawo. 5
- (o) Umgomo wokukhokhisa umsebenzi noma wokuthola izindleko zomsebenzi ngqo kumsebenzisi kufanele usetshenziswe noma ikuphi nala kungenzeka khona, ngendlela yokuthi labobasebenzisi kufanele bakhokhele zonke izindleko ezimayelana nomsebenzi okukhulunywa ngawo. 10
- (2) Lababantu abalandelayo kufanele bangachemi, bangathinteki ngqo ngokwezimali noma ngokwebhizinisi kunoma yimuphi umkhakha wemboni yezokuthuthwa komphakathi, futhi abavunyelwe ukuthatha izinqumo noma bahlulele odabeni lapho benokuthinteka khona ngokwezimali noma ngokwebhizinisi: 15
- (a) Amalunga amabhodi;
- (b) abasebenzi balawo mabhodi abambandakanyeka ngqo ekukhishweni kwezimvume;
- (c) amalunga amabhodi okudlulisa izikhalazo ngezokuthutha esifundazweni abalulwe esigabeni 128; 20
- (d) amalunga eBandla lokudlulisa iziKhalazo mayelana nezokuthutha elasungulwa ngesigaba 3 seTransport Appeal Tribunal Act, 1998 (Act no 39 of 1998);
- (e) iziphathimandla zesigungu sezokuhlela eziqondene ngqo nokuthuthukiswa kwamasu ezimvume; 25
- (f) iziphathimandla ezibandakanyeka ngqo ekuphathweni nasekuqinisekiseni kokugcinwa komthetho omayelana nezokuthuthwa komphakathi.

### INGXENYE 3

#### *Amandla nomiSebenzi kaNgqongqoshe*

#### **Imisebenzi kaNgqongqoshe** 30

5. (1) UNgqongqoshe kufanele emva kokuxhumana nabobonke oNgqongqoshe besiFundazwe, ashicilele inqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi ngesaziso kwiGazethi kaHulumeni.

(2) Isaziso singafaka futhi—

- (a) izinhlosö zikhulumeni ezimayelana nezokuthutha zezithuthi ezihamba phansi eRiphabliki; 35
- (b) izinjongo-mgomo okufanele zilandelwe ukuze kufezwe lezo zinhlosö; kanye
- (c) izinkomba zokwenziwa komsebenzi ezibalulekile, imigomo ekufanele ifezwe, ukwelusa ukuqaliswa kwenqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi kanye nezinkambiso zikazwelonke kanye namazinga kanye nokuwaqhathanisa nezinkambiso namazinga amazwe omhlaba. 40

(3) Noma yini lapho noma yiziphi iziphakamiso ezibalulekile ekunqumeni noma ekuchibiyeleni inqubomgomo yezokuthutha kazwelonke kufanele zizocutshungulwa, uNgqongqoshe kufanele ngesaziso kwiGazethi kaHulumeni ashicilele lezo ziphakamiso futhi kuleso saziso ameme wonke amqembu athintekayo kanye nomphakathi ukuba baphawule ngalezo ziphakamiso futhi ubeke imibono yawo mayelana nazo. 45

(4) UNgqongqoshe kufanele eluse imigomo nezinhlaka zazo zonke zezokuthutha zezithuthi ezihamba phansi zazozonke izifundazwe nakho konke ukhululeka kwezokuthutha okudingwa noma okufunwa yilo Mthetho ukuqinisekisa ukuthi ziyathuthukiswa, ziyalungiswa futhi zakhiwe ngaphakathi kwemibandela yenqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi. 50

(5) Ungqongqoshe kufanele—

- (a) eluse ukuqaliswa kwenqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi futhi lapho kudingeka khona, eluse noma uluphi uphenyo olenziwe ezintweni ezisukela ekuqalisweni komgomo, futhi enze noma yiziphi izinguquko ezidingekayo ukuba zenziwe kuleyo nqubomgomo; 55
- (b) akhuthaze ukusetshenziswa kakhulu kwezokuthutha zomphakathi;

- (c) alwele ukuqinisekisa ukuthi imali ebekelwe izinto zezokuthutha zezithuthi ezihamba phansi isetshenziswa ngendlela eqotho, enokonga, elinganayo nesobala;
- (d) asize iminyango yesifundazwe eshoda ngabasebenzi noma imithombo edingekayo, ekuhlangabezani izibopho zayo nasekwenzeni imisebenzi yayo emayelana nezokuthutha yezithuthi ezihamba phansi; 5
- (e) abe ngumdiyeli phakathi kwemikhakha emithathu kaHulumeni ngenhloso yokugwema ukuphindaphindana kwemisebenzi;
- (f) enze ukuba kwakhiwe uhlelo lokucubungula kwezokuthutha zikazwelonke zezithuthi ezihamba phansi okuwuhlelo oluqonde ekuzuzeni izinjongo zenqubomgomo kazwelonke futhi enze ukuba lenziwe futhi luxhaswe ngezimali ngendlela ehlelekile, futhi anikezele izinhlelo zokucubungula kubantu noma izakhiwo ezithathwa njengezinezidingo zonke ezifanele ukwenza ucubungulo lolo; 10
- (g) aluleke ezintweni ezimayelana nezemfundo, ezokuqeqesha, kanye nokufundisa umphakathi mayelana nezinto ezithinta ezokuthutha zezithuthi ezihamba phansi, futhi agagule izidingo zalokho, kodwa uNgqongqoshe— 15
- (i) angakwenza lokhu kuphela ngokuxoxisana noNgqongqoshe wezeMfundo kanye noNgqongqoshe wezeMisebenzi ngenhloso yokuqinisekisa ukuthi ezemfundo kanye nokuqeqesha ezifundweni ezimayelana nezokuthutha zezithuthi ezihamba phansi, zibhekiswe ekuhambisaneni ne-National Qualification Framework echazwe esigabeni I se-South African Qualifications Authority Act, 1995 (Act No 58 of 1995); 20
- (ii) fanele ngaleyo ndlela akhuthaze amazinga afanayo ezifundo lezo kuzozonke izifundazwe; 25
- (iii) angathatha izinyathelo zokukhuthaza, zokulungiselela nezokudidiyela izihlinzeko zokuqeqesha ezizokwenziwa izakhiwo zomphakathi nezangasese, 30
- (h) ekuthatheni noma yiziphi izinyathelo ezimayelana nezokuthuthwa komphakathi— 30
- (i) kufanele abhekelele ngaphakathi kwezinhlelo ezibalulekile zikazwelonke nezomhlaba jikelele kanye nokwenziwa kwazo ngendlela esezingeni eligculisayo;
- (ii) akhuthaze ngaphakathi kwezinjongo zonke zezokuthutha zezithuthi ezihamba phansi, ukuphepha kwabagibeli; 35
- (iii) akhuthaze ukuziphatha okuqotho nokunobubhizinisi ohlangothini lwabanikazi bezithuthi ekuqhutshweni kwemisebenzi yezokuthuthwa komphakathi futhi abakhuthaze ukuba bafake izicelo zamathenda ngendlela enobuchule ukuze bazuze izinkontileka namalaysensi okwenza umsebenzi; 40
- (iv) akhuthaze indlela enamasu nehlangene yokuhlinzeka ezokuthutha umphakathi;
- (v) akhuthaze ukusetshenziswa ngendlela eqotho kwemithombo yamandla, futhi anqande imiphumela emibi kwimvelo nendalo engabangwa ezokuthutha zezithuthi ezihamba phansi; 45
- (i) uyokhuthaza ezokuthuthwa komphakathi ngendlela yokuthi—
- (i) zikwazi ekuhlangabezana nezidingo zomphakathi;
- (ii) zisebenze ngendlela egculisayo nxa kukhulunywa ngokusetshenziswa kwemithombo; 50
- (iii) imisebenzi eyenziwayo esezingeni elamukelekayo futhi iyatholakala futhi yenziwa kanye nengqalasizinda ehlinzekwe ngezindleko ezingambi eqolo;
- (iv) ekwenzeni imisebenzi yezokuthutha umphakathi ezokuphepha izona ezibhekwa kakhulu, 55
- (j) azame ukuqinisekisa ukuthi ngesikhathi kukhuthazwa ukusetshenziswa kwezinhlobo zokuthutha umphakathi ezihlangene, kuyabhekelwa kakhulu izidingo zabasebenzisi bezithuthi;
- (k) akhuthaze uhlelo oluyimpumelelo lwezokuthutha ezihlangene;
- (l) lapho uMthetho udinga ukuba kubekhona ukuxhumana nokubamba iqhaza komphakathi ngaphambi kokuthi kuthathwe noma iziphi izinqubo noma kwenziwe noma yimuphi umsebenzi osemthethweni, kuyodinga ukuba ugagule izinqubo okufanele zilandelwe mayelana nalezinto esezibaluliwe; 60



(m) ashicilele umbiko minyaka yonke mayelana nezinkomba zokuthi umsebenzi uhamba kanjani konke lokhu kubalulwe esigatshaneni (1)(c).

(6) Ungqongqoshe angathi—

- (a) emva kokuxhumana noNgqongqoshe besiFundazwe abathintekayo kanye nabanikazi bezithuthi abathintekayo futhi, lapho kunesidingo, emva kokuxhumana nesigungu sokuphathwa kwezokuthuthwa, agagule ezilinganiso ezinkulu noma ezincane ezingakhokhwa abagibeli ezithuthwini zomphakathi zikaloliwe ezixhaswe ngemali kuze kube yisikhathi lapho uNgqongqoshe enikezela khona umsebenzi kaloliwe komunye umkhakha kahulumeni; 5 10
- (b) emva kokuxhumana nabo bonke oNgqongqoshe besiFundazwe, ngesaziso kwiGazethi kaHulumeni, agagule izinkambiso namazinga ajwayelekile amayelana nezimali zokugibela zemisebenzi yokuthutha umphakathi exhaswe ngezimali yezithuthi ezihamba emgwaqweni noma kujantshi ngenhloso yo— 15
- (i) kuthola ngempumelelo uxhaso ngokulandela imibandela yenqubomgomo kazwelonke;
- (ii) kuhlinzeka izinhlelo zemali yokugibela nolwamathikithi oluhlangene emikhakheni yezokuthuthwa komphakathi; futhi,
- (iii) kuthi abanikazi bezithuthi bakwazi ukuthola futhi izimali ezibalahlekele kulmsebenzi wezokuthutha. 20
- (c) yokunquma ngezidingo zezinhlelo ezihlangene zezimali zokugibela, ezinezinhlelo zezimali zokugibela, amazinga nobuchwepheshe, ukuqinisekisa ukulingana phakathi kwalezi zinhlelo; futhi
- (d) emva kokuxhumana nabo bonke oNgqongqoshe besiFundazwe, kuyofanele anqume ngezinkambiso kanye namazinga amayelana nolwazi lwezokuqeqesha kanye nokuziphatha kwabahloli; 25
- (e) ekuxoxiseni noNgqongqoshe besiFundazwe, neqhinga elizosetshenziswa ekuhleni kabusha imisebenzi yezokuthutha umphakathi ebalulwe ezigabeni 24, 25 no 51 (1)(a); futhi 30
- (f) anqume ngohlelo oluzolandelwa lokunikezwa komunye umsebenzi esikhundleni semisebenzi ekhona kubanikazi bamalayisensi noma amaphemithi asebenzayo ngaphansi kwesigaba 51.

#### Uhlelo lolwazi oluhlangene lwezokuthutha zikazwelonke lwezithuthi ezihamba phansi 35

6. (1) UNgqongqoshe kufanele athuthukise asungule, futhi alondoloze uhlelo lolwazi mayelana nezokuthutha zezithuthi ezihamba phansi alususile kwizinqubo zokwenza umsebenzi eziphusile, futhi nangokubambisana nezifundazwe, ahlanganise lolohlelo nezinhlelo zolwazi ezigcinwe izifundazwe.

(2) (a) Bonke oNgqongqoshe, bezifunda, zonke izigungu zokuphathwa kwezokuthutha, noma iliphi idolobha elimqoka kanye nomasipala kufanele bahlinzeke uNgqongqoshe, ngendlela nangezikhathi ezinqunyiwe nguNgqongqoshe, ngolwazi oludingekayo mayelana nezenzo olumayelana nezinto ezonqunywe nguNgqongqoshe ezithinta—

- (i) izinjongo nezinhloso zalo Mthetho; 45
- (ii) inqubomgomo yezokuthutha kazwelonke yezithuthi ezihamba phansi;
- (iii) nokusetshenziswa kwezimali abazinikezwe nguMnyango, ngokuqondile noma ngokungaqondile, ukuze benze imisebenzi yabo emayelana nezokuthutha zezithuthi ezihamba phansi ngokwemibandela yalo Mthetho.

(b) UMnyango wesifundazwe ngokuhambisana nesivumelwano phakathi kukaNgqongqoshe kanye nomasipala, ungathatha izinyathelo egameni likamasipala ngokwezinhloso zesigaba (a). 50

(3) Ngaphandle kwesigatshana (2), uNgqongqoshe noma ngasiphi isikhathi angabhala isaziso esidinga isigungu sabaphethe ezokuthutha, idolobha elimqoka, noma umasipala ukuba ahlinzeke uNgqongqoshe nganoma yiluphi ulwazi olumayelana nezenzo zawo mayelana nanoma yiluphi udaba okungekho sinqumo ngalo lohlobo okukhulunywe ngalo esigatshaneni (i) noma (iii) wesigatshana (2)(a). 55

(4) Ulwazi oluhlinzekwe ngokuhambisana nezigatshana (2) no (3) kufanele kusetshenziswe njengesizathu sokwelusa ukuqaliswa kwenqubomgomo yezokuthutha kazwelonke, neyezokuhlela, futhi kusetshenziswe ukusiza yonke imikhakha 60

kahulumeni ekuthatheni izinqumo ezimayelana nokutshalwa kwezimali kwezokuthuthwa komphakathi.

(5) Ulwazi oludingeka ngezinhloso zesigaba (a) sesigatshana (2) kungathathwa izinqumo ngalo kuphela emva kokuxhumana nabo bonke oNgqongqoshe beziFundazwe, izigungu eziphethe ezokuthutha kanye namadolobha asemqoka, kanye nohulumeni basekhaya abahlelekile. 5

(6) UNgqongqoshe kufanele abe nalo lonke ulwazi olwahlizekwa ngokwemibandela yezigatshana (2) no (3), olusohlelweni lolwazi lukazwelonke olugcinelwe ukusetshenziselwa izinto ezimayelana nezokuthutha zezithuthi ezihamba phansi, futhi angenza ukuthi lolu wazi lutholakale kubantu abathintekayo emva kokukhokhwa imali enqunyiwe, uma ikhona enqunyiwe, noma, lapho kufanele, ekwenza lokho ngomsakazo noma ngokusakazwa kuthelevishini noma ngokushicilelwa ephepheni, noma ngolunye uhlobo lokushicilela, konke lokhu kuncike esigatshaneni (7). 10

(7) Ngokulandela i-Promotion of Access to Information Act, 2000 (Act No 2 of 2000) uNgqongqoshe angeke anikezele ngolwazi ngaphansi kwesigatshana (6) okungenzeka, lube ingozi kwezohwebo futhi olungalimaza ibhizinisi noma ezohwebo noma ukusimama kwanoma yimuphi umuntu othile, inhlango noma umkhakha, noma lubhekiswe kumuntu ngqo okungenzeka liholele ekugxambukeleni ezimfihlweni zanoma yimuphi umuntu, angeke lufakwe kulolo hlelo, noma lubalulwe ngendlela engaholela, ngokuqondile noma ngokungaqondile ekuveleni obala kwalowo muntu, kwenhlangano noma umkhakha okungawulimaza kakhulu noma kugxambukele ezimfihlweni zawo. 20

(8) Lapho isifundazwe, isigungu sokuphathwa kwezokuthutha, idolobha elimqoka noma umasipala uhluleka ukuhlinzeka noma yiluphi ulwazi oluhambisana nezigatshana (2) noma (3), uNgqongqoshe angabamba noma yiphi inkokhelo okufanele ikhokhelwe leso sifundazwe, isigungu sokuphathwa kwezokuthutha, idolobha elimqoka noma umasipala, kuze kube isikhathi lapho uhlinzeka khona lolulwazi. 25

#### **Imitheshwana eshaywe nguNgqongqoshe**

7. (1) UNgqongqoshe, emva kokuxhumana noNgqongqoshe beziFundazwe, angashaya imitheshwana ephathelene nanoma yini okunganqunywa ngayo noma okuzonqunywa ngayo ngendlela yokuba kushaywe umtheshwana ngaphansi kwalo Mthetho. 30

(2) Imitheshwana eshaywe ngaphansi kwalesi sigatshana ingahlinzekwa ukuthi noma yimuphi umuntu ophula isihlinzeko okukhulunywa ngaso noma ohluleka ukuhambisana naso unecala lokuphula umthetho futhi angahlwa yicala elingaholela ekutheni akhokhe inhlawulo noma aboshwe isikhathi esingeqile ezinyangeni ezintathu. 35

(3) Umtheshwana oshaywe ngokwemibandela yanoma imuphi umthetho odlule futhi osebenzayo manje ngaphambi kokuqalwa kwalo Mthetho omayelana nezinto uNgqongqoshe, ngokwemibandela yesigatshana (1) angunya lokushaya imitheshwana, wenzelwe izinhloso zalo mthetho; njengomtheshwana oshaywe ngaphansi kwalesi sigatshana kuze kube isikhathi lapho indawo yawo izothathwa khona umtheshwana omusha ngaphansi kwalesi sigaba. 40

#### **Ukwabiwa kwemisebenzi nguNgqongqoshe**

8. (1) Ungqongqoshe angabela noma yisiphi isiphathimandla eMnyangweni noma yimaphi amandla noma umsebenzi kaNgqongqoshe ngokwemibandela yalo Mthetho ngaphandle kwamandla okushaya imitheshwana. 45

(2) Noma yikuphi ukwabiwa kwamandla noma umsebenzi ngaphansi kwalesi sigaba—

(a) akuvimbeli uNgqongqoshe ukuba asebenzise lawo mandla noma enze lowo umsebenzi; 50

(b) kufanele kwenziwe ngokubhalwe phansi; futhi

(c) kungachitshiyelwa noma kungahoxiswa nganoma yisiphi isikhathi.

#### **INGXENYE 4**

##### ***Imisebenzi yoNgqongqoshe besiFundazwe***

**Imisebenzi yoNgqongqoshe besiFundazwe** 55

9. (1) Bonke oNgqongqoshe kufanele—

- (a) beluse ukwenziwa kwenqubomgomo yezokuthutha ezihamba phansi zesifundazwe futhi lapho kudingeke khona, beluse noma iluphi uphenyo olwenziwe ezintweni eziqhamuka kulokho kwenziwa, futhi babangele ukuba kwenziwe ukuba kubekhona okulungiswayo, uma kukhona okuzokwenziwa kuleyo nqubomgomo; 5
- (b) balwele ukuqinisekisa ukuthi imali ekhona yezinto zezokuthutha zezithuthi ezihamba phansi zisetshenziswa ngendlela ekahle, enokulondoloza, elinganayo nesobala;
- (c) basize izingungu zokuhlela ezintula izisebenzi noma imithombo edingekayo ekuhlangabezani nezibopho zabo nasekwenzeni imisebenzi yabo emayelana nezokuthutha zezithuthi ezihamba phansi. 10
- (2) Bonke oNgqongqoshe kufanele ngesaziso kwiGazethi kaHulumeni, ezikhathini ezithile nangemuva kokuxoxisana nezigungu zezokuthutha kanye namadolobha amqoka esifundazweni kanye nenhlangano yesifundazwe ethintekayo ekukhulunywe ngayo esigabeni (2)(b) we-Organised Local Government Act, 1997 (Act No 52 of 1997), bashicilele inqubomgomo yezokuthutha yezithuthi ezihamba phansi embandakanya, kodwa engapheleli kuphela— 15
- (a) kwizinjongo zesifundazwe ezimayelana nezokuthutha zezithuthi ezihamba phansi;
- (b) izinhloso zenqubomgomo okufanele zilandelwe ukukwazi ukufeza lezo zinjongo; kanye 20
- (c) nezinkomba zokwenziwa komsebenzi, nezimpokophelo zifezwe, ukwelusa ukwenziwa kwaleyo nqubomgomo kanye nezinkambiso namazinga esifundazwe futhi siwaqhathanise nezinkambiso namazinga kazwelonke.
- (3) Noma yinini lapho iziphakamiso ezimayelana ngokunquma noma ukuchibiyela inqubomgomo yezokuthutha yesifundazwe zizocubungulwa, uNgqongqoshe wesiFundazwe kufanele ngesaziso kwiGazethi yesiFundazwe enze lezo ziphakamiso ukuba zaziwe futhi kuleso saziwo ameme amaqembu athintekayo kanye nomphakathi ukuba uphawule ngalezo ziphakamiso futhi wenze izethulo ngazo. 25
- (4) Bonke oNgqongqoshe kufanele bakhe uhlaka lwezokuthutha lwesifundazwe esithintekayo ngokuhambisana nesigaba 22. 30

## INGXENYE 5

### *Izigungu zezokuphatha zokuthutha : Izinto ezithinta uZwelonke kuphela*

#### **Imigomo yokusungulwa kwezigungu zokuphatha ezindaweni zokuthutha**

10. (1) Izigungu zokuphatha ezokuthutha zingasungulwa ezindaweni zezokuthutha ngesivumelwano esisunguliwe esibhalwe phakathi— 35
- (a) kukaNgqongqoshe wesiFundazwe nomasipala oyedwa; noma
- (b) kukaNgqongqoshe wesiFundazwe nomasipala ozindawo abazilawulayo zingena ngokuphelele noma ingxenye ngaphakathi kwendawo yezokuthutha
- (2) UNgqongqoshe kufanele abe yingxenye yesivumelwano esisunguliwe okukhulunywa ngaso esigatshaneni (1) uma uNgqongqoshe kunguye ohlinzeka izimali zesigungu sokuphatha ezokuthutha, kodwa kuphela kulezo zinto ezihlinzekwe ngaleyomali. 40
- (3) Izigungu zokuphatha ezokuthutha zingasungulwa uma ukuba khona kwazo kuzo kwenza ngcono umsebenzi wokuhlinzeka ezokuthutha emkhakheni kahulumeni wendawo ngokuhlanganisa imisebenzi yezokuthutha ibe uhlaka oluyisakhiwo esinezinjongo ezicacile, olulodwa futhi oluphethwe kahle. 45
- (4) Isigatshana (1)(a) no (b) siyasebenza futhi komasipala ozindawo abazilawulayo noma izingxenye zabo zikuma-MTA, nokuyilapho uNgqongqoshe wesiFundazwe kufanele ahoxise khona isaziso ngaphansi kwayo indawo noma izindawo zikamasipala noma omasipala abathintekayo zafakwa kwi-MTA ngaphansi kwe-Urban Transport Act, 1977 (Act No 78 of 1977). 50
- (5) UNgqongqoshe wesiFundazwe angeke ngokungenasizathu agodle imvume yokusungulwa kwezigungu zokuphatha ezokuthutha.
- (6) Isivumelwano esisunguliwe kufanele sibhalwe phansi futhi sibonise isivumelwano amaqembu afinyelele kuso futhi sihlinzeke okungenani lokhu okulandelayo: 55
- (a) amaqembu akhona esivumelwaneni;
- (b) isizathu sokusungulwa komgwamanda wokulawula izigungu zokuphatha ezokuthutha kanye nezinhloko zazo; 60

- (c) amalungiselelo okwenza umsebenzi kanye nezinqubo, okukhona kuzo nezinqubo zokuvota;
- (d) incazelo ecacile yemingcele yezindawo zokuthutha noma lapho lemingcele ingqubuzana nemingcele kamasipala, kukhulunywe ngale mingcele kamasipala noma njengoba ingashintsha esikhathini esithile. 5
- (7) Ungqongoshe wesiFundazwe kufanele ashicilele izivumelwano ezisunguliwe, emva kokuqedwa kweGazethi yesiFundazwe emayelana nalolu daba futhi aguqule ngaleso sishicilelo izindawo ezithintekayo njengezindawo zezokuthutha.
- (8) Isigungu sokuphatha ezokuthutha esisungulwe kanjalo singumuntu olawula leyo ndawo. 10
- (9) Ngale kwezihlinzeko zomunye umthetho, isigungu sokuphatha ezokuthutha kungenzeka ukuba singabikhona ngenxa yokuhluleka ukukhokha izikweletu zaso.
- (10) Isigungu sokuphatha ezokuthutha siphethwe futhi silawulwa umgwamanda olawulayo oqokelwe sona ngokwesivumelwano esisunguliwe, okufanele sibe namakhansela kuphela aphuma kulowo masipala omasipala, onombolo yawo inqunywe isivumelwano esisunguliwe. 15
- (11) Umsebenzi wobuchwepheshe, wezobungoti, wezokuphatha, wezobubhalane noma imuphi omunye umsebenzi wesigungu sokuphatha ezokuthutha ungenziwa—
- (a) ezokuphatha zikamasipala zomunye womasipala ababalulwe esivumelwaneni;
- (b) yinoma imuphi umnyango owodwa noma abaningi kwezokuphatha 20 kukamasipala owodwa noma abaningi ababaluliwe esivumelwaneni; noma
- (c) umkhandlu wezokuthutha kodwa ozokwenza lo msebenzi njengomgwamanda ozimele ngaphansi kolawulo nemithetho yesigungu sokuphatha ezokuthutha
- (12) Isifundazwe singahlinzeka izisebenzi noma olunye usizo kwisigungu sokuphatha ezokuthutha lokhu sikwenzela ukusiza isigungu ukuthi sikwazi ukwenza 25 umsebenzi waso wobungoti, wezobuchwepheshe, wezokuphatha kanye nomunye umsebenzi.
- (13) Ngokulandela umthetho osebenza kuhulumeni wendawo, isigungu sokuphatha ezokuthutha kufanele senze le misebenzi elandelayo, kanye naleyo esiyinikezwe imithetho yesifundazwe: 30
- (a) Ngokulandela isigaba 20(4) no (5), sisebenzisa amandla aso njengesigungu sokuhlela, singakha izinhlelo zokuthutha zezindawo zokuthutha, futhi kube umsebenzi waso ukuqalisa lezozinhlelo, futhi seluse ukusebenza kwaso ekufezeni izinhloso nezinjongo zaso;
- (b) sithuthukise inqubo-mgomo yokuthutha yezithuthi ezihamba phansi 35 ngaphakathi kwendawo yaso esekelwe kwimihlahlandlela kazwelonke neyesifundazwe, efaka iphupho noma umbono waso ngendawo, efaka izinqubomgomo zentuthuko esabalele emayelana nezinto eziphathelene nokusondelana kanye nokugcwaliswa kwemigudu yezentuthuko;
- (c) sihlele ezizimali ezimayelana nezokuthutha zezithuthi ezihamba phansi 40 ngaphakathi noma ezithinta indawo yezokuthutha, ikakhulukazi kwezokuhlela ezokuthutha ingqalasizinda, imisebenzi, amahhovisi, ukulondolozwa, ukwelusa kanye nezokuphatha;
- (d) sangamele ukuthuthwa kwabantu nempahla ezweni ngokudidiyela lokhu kuthuthwa; 45
- (e) sikhuthaze, siqhakambise futhi sihlele ukuxhumana nomphakathi, ukubamba iqhaza nokumbandakanyeka emihlanganweni evulekile, emihlanganweni yokuqeqeshana nokufundisana kanye nezinye izindlela ezifanele ukuqinisekisa ukuxhumana okuyimpumelelo nabasebenzi bezithuthi, imiphakathi kanye nabanikazi bezithuthi futhi uNgqongqoshe anganquma 50 izidingo nezinqubo mayelana nalezinto;
- (f) ngokulandela isigaba 20(4) no (5), sibize amathenda emisebenzi yezokuthutha umphakathi ozokwenziwa ngokwemibandela yezivumelwano zemisebenzi yohwebo kanye nezivumelwano zemisebenzi exhasiwe, sakhe izinto ezidingwa ithenda namabhuku aleyonhloso, sicubungule amathenda 55 atholakele, kanye nokunikezwa kwamathenda, kodwa lomsebenzi ungenziwa emva kosuku lokugagulwa kwesigungu sokuphatha ezokuthutha ngaphansi kwesigatshana (7) kodwa lungakadluli usuku oluzonqunywa nguNgqongqoshe evumelene nesigungu sokuphatha ezokuthutha kanye noNgqongqoshe wesiFundazwe othintekayo. 60
- (14) Isigungu sokuphatha ezokuthutha singahlakazwa kuphela uma bonke abathintekayo esigungwini sokuphatha ezokuthutha bangene esivumelwaneni

ngokwemibandela okungayo amalungelo afanele enziwe ukuze kuhlakazwe isigungu futhi ukuze—

- (a) kudluliswe kwabanye impahla, izikweletu kanye nemisebenzi yesigungu sokuphatha ezokuthutha nxa sesihlakaziwe;
- (b) kuqhutshekwe futhi kuphothulwe noma iluphi uhlelo nomsebenzi oqalwe isigungu sokuphatha ezokuthutha ngaphambi kokuhlakazwa; 5
- (c) isidingo, isibopho nemisebenzi kamasipala noma neminye yomasipala abayingxenywe yesigungu sokuphatha ezokuthutha mayelana nokuqalisa ukwenza eminye imisebenzi eyenziwe; noma
- (d) usuku ukuhlakazwa okuzokwenziwa ngalo. 10

(15) Ungqongqoshe ngesaziso kwiGazethi kaHulumeni angashicilela isivumelwano esisunguliwe esibeke imibandela emqoka okufanele ifakwe kuzo zonke izivumelwano ezakhiwe.

### Izinto ezibalulekile mayelana nokunqunywa kwezindawo zezokuthutha

11. (1) Ungqongqoshe wesifundazwe kanye nomasipala abahlongoza ukungena esivumelwaneni esisungulwayo, kufanele ngesikhathi becubungula ukwakhiwa kwezindawozokuthutha baqikelele okungenani lokhu—

- (a) ukuhanjiswa kaningi kwabagibeli;
- (b) ukudingana kwabahlali ngokomthetho;
- (c) ukusetshenziswa komhlaba okuhlangene kanye namathuba okuthuthukisa ezokuthutha; 20
- (d) indlela imisebenzi yezokuthutha umphakathi futhi owenziwa ngayo ngempumelelo nangobuchule ngaphakathi;
- (e) izibaluli kanye nezinto ezibonisa ukwakheka komphakathi ngokwemikhakha ehlukeneyo, indalo nemvelo kanye nokuma kwendawo; 25
- (f) ukuthi akhona yini amandla ngaphakathi endaweni okwenza noma imiphi imisebenzi yobuchwepheshe noma edinga ulwazi oluthile noma umsebenzi odingekayo noma ovela kuphathweni kwendawo yezokuthutha ngaphakathi kwendawo;
- (g) ezinye izinto, uma zikhona ezinganqunywa ngoMthetho wesiFundazwe futhi ezingaphikisani nalo Mthetho. 30

(2) Ungqongqoshe noma uNngqongqoshe wesifundazwe anganquma izinto okufanele zicutshungulwe ngenhloso yokunquma ngemingcele yezindawo zezokuthutha ngaphezu kwalezo ezibalulwe esigatsheni (1), futhi anqume ezizolandelwa uma kwenziwa lokhu kunqunywa. 35

(3) Ungqongqoshe kufanele abonisane namalunga omkhandlu omkhulu oqondene nezindaba zohulumeni basekhaya nangezimali zesifundazwe ezithintekayo ngaphambi kokuba kuthathwe isinqumo mayelana nokwakhiwa kwendawo yezokuthutha.

### Izindawo zokuthutha kanye nezigungu zokuphatha eziwelela emingceleni yezinye izifundazwe 40

12. (1) Kuncike kwisigatshana (2) nasesiphethweni sesivumelwano sangaphambilini esihambisana nomthetho wesifundazwe, oNngqongqoshe bezifundazwe ezimbili noma ezingaphezulu bangangena esivumelwaneni esigunyaza lokho—

- (a) ukwakhiwa kwendawo yokuthutha eyodwa ewelela kumngcele wesifunda owodwa noma ongaphezu kowodwa futhi ehlanganisa izindawo ezilawulwa omasipala abangena ngaphansi kwalezo zifundazwe; kanye 45
- (b) nokusungulwa kwendawo eyodwa yesigungu sokuphathwa kwezokuthutha kulendawo yezokuthutha.

(2) Lesivumelwano sokugunyaza singaphasiswa kuphela uma—

- (a) indawo ethintekile engaphansi kwesifundazwe esisodwa iwela kwenye indawo ethintekile engaphansi kwesinye isifundazwe noma kwesinye isifundazwe noma izifundazwe ezithintekayo; kanye 50
- (b) nomasipala abathintekayo bakuvumile ukwakhiwa kwesigungu sokuphathwa kwezokuthutha kwindawo yezokuthutha ehlanganisa izindawo ezingaphansi kwabo ngokuhlanganyela; kanye 55
- (c) noNngqongqoshe bagculisekile ukuthi lezo zindawo eziphethwe yibona uma zihlanganiswa ndawonye, zihlangabezana nezidingo zendawo yezokuthutha esebenzayo, ngokubuka isigaba 11.

(3) Isivumelwano kufanele siqhubeke sihlinzeke, ngokumayelana nendawo yokuthutha kanye nesigungu sokuphathwa kwezokuthutha esingakhelwa yona, uNgqongqoshe oyedwa koNgqongqoshe abakhona, okufanele abe yingxenye yesivumelwano, unguNgqongqoshe oqokelwe noma imaphi amandla nemisebenzi, ngokombandela waloMthetho angasetshenziswa noma kufanele enziwe uNgqongqoshe ngokumayelana nendawo yezokuthutha noma isigungu sayo sezokuthutha. 5

(4) UNgqongqoshe angangena esivumelwaneni emva kokuxhumana namalunga esigungu esikhulu abhekene nemicimbi yohulumeni basekhaya kanye nokuhlelwa kwesifundazwe ezithintekayo.

### Izimali zesigungu zezokuthutha 10

#### 13. (1) Isigungu sezokuthutha kufanele—

- (a) senze umsebenzi waso ngendlela enempumelelo, eyongayo, nekahle ukuze sandise ukusetshenziswa kwemithombo yaso ekubhekaneni nezidingo zezokuthutha zezithuthi ezihamba phansi zomphakathi endaweni yaso nalabo abahamba beya noma bebuya kuleyo ndawo; 15
- (b) siphathe izindaba zezimali zaso ngendlela ethembekile nesobala futhi sibe namarekhodi afanele kwezimali eyamukelekile ngokujwayelekile;
- (c) sakhe uhlelo lwezimali njengengenye emqoka yezinhlelo zaso zezokuthutha,
- (d) sihlele futhi siphathe izinhlelo zaso zokuhlela, zokuphatha nezokwaba imali ngendlela ebeke phambili izidingo ezimqoka zezokuthutha zomphakathi endaweni yaso kanye nezalabo okufanele bathuthwe beya noma bebuya kuleyo ndawo, nolusekela ukuqaliswa kwenqubo-mgomo yezokuthutha zikazwelonke nezesifundazwe; 20
- (e) siphathe imithombo yaso yezimali ngendlela esenza ukuba sikwazi ukufeza izinjongo zaso futhi yenze ukuba zifezwe isikhathi eside; futhi, 25
- (f) seluse futhi sihlale njalo inqubekela phambili yaso mayelana nokufeza izinjongo ezibalulwe ezinhlelweni zaso zezokuthutha.

(2) Kuncike ekuphasisweni ngumgwamanda, isiphathimandla esikhulu esiphethe sesigungu sezokuthutha kufanele sivule i-akhawunti egameni lesigungu ebhange elirejistwe okulapho zonke izimali ezamukelwe yisigungu zizolondolozwa khona nalapho izindleko zaso zizokhokhwa khona. 30

(3) Isigungu sezokuthutha kufanele sakhe futhi sigcine uhlelo lwangaphakathi lokucwaninga amabhuku nokuqapha ukusebenza kwezimali ngenhloso yokuqinisekisa ukuqapha kokusebenza kwezimali okuyikho.

(4) Isigungu sezokuthutha, ekunikezeni izinkontileka zezimpahla nemisebenzi yezokuthutha, kufanele sisebenzise uhlelo oluneqiniso, olulinganayo, olusobala, olusezingeni eliphezulu, nalungambi eqolo, futhi oluhambisana ne-Preferential Procurement Policy Framework Act, 2000 (Act No 4 of 2000) kanye nezihlinzeko ezimayelana nalokhu ze-Local Government Transition Act, 1993 (Act No 209 of 1993), ezizosebenza nezinguquko ezidingwa yisimo. 40

(5) Ungqongqoshe, emva kokuxhumana noNgqongqoshe wezeziMali emkhakheni kazwelonke likaHulumeni kanye noNgqongqoshe beziFundazwe, anganquma imisebenzi nezibopho zezigungu zezokuthutha ezimayelana nezindaba zezimali zokusetshenziswa kwazo ngendlela eyongayo.

- (6) Izindaba zezimali nokongiwa kwayo, phakathi kokunye ziphathelene— 45
  - (a) namarekhodi ezimali kanye nama-akhawunti okufanele agcinwe kanye nezitatimende okufanele zilungiswe;
  - (b) ukucwaningwa kwalowo marekhodi, ama-akhawunti kanye nezitatimende zemali okufanele zicwaningwe kuphela ngumuntu orejistwe futhi owenzayo lomsebenzi njengocwaningo wezimali namabhuku womphakathi; 50
  - (c) isikhathi esivunyelwe ukuletha izitatimende zaso zezimali emgwaqeni ophethe, komasipala ababambe iqhaza kanye noNgqongqoshe wesiFundazwe;
  - (d) imiphumela nezinqubo lapho abantu bebangela isigungu ukuba silahlekelwe izimali noma umonakalo, noma lapho ukusetshenziswa kwezimali okungagunyaziwe kwenzeka khona; 55
  - (e) izinqubo okufanele zilandelwe nezinyathelo okufanele zithathwe ukulungisa isimo lapho isimo sezimali zesigungu sezokuthutha sibasibi ngokungafanele;
  - (f) izinqubo ezisebenzayo nxa kulungiswa futhi kwakhiwa izabelo zezimali zezigungu zezokuthutha; 60

- (g) izinqubo kanye nezidingo zokwabiwa kwempahla nemisebenzi, ngokulandela isigatshana (4);
- (h) ukutshalwa kwezimali zezigungu zezokuthutha; kanye,
- (i) nokubizwa kwezimali ukuze kwandiswe imali ephuma emisebenzini eyenziwa yizigungu zezokuthutha. 5
- (7) Unyaka wezimali wezigungu zezokuthutha kufanele sihambisane nonyaka wezimali kamasipala.

#### Ukusetshenziswa kwezimali ezamukelwe izigungu zokuphatha ezokuthutha

14. Isigungu sokuphatha kwezokuthutha kufanele sisebenzise imali evela—
- (a) kuNgqongqoshe kaZwelonke ngaphansi kwesigaba 15(1)(b); 10
- (b) kwisifundazwe esifanele ngaphansi kwesigaba 16(1)(b);
- (c) komasipala babo abazibandakanyayo ngaphansi kwesigaba 17,
- ngokokwenziwa komsebenzi wesigungu ngokombandela walo Mthetho noma umthetho wesifundazwe ongena esikhundleni sawo, ukuhlangabezana nokusetshenziswa kwezimali yiso ngesikhathi senza umsebenzi oqhamuka noma ohlangene naleyo 15
- misebenzi yaso nokunikeza isigqi kwinqubomgomo yezokuthutha ezihamba phansi ezisifundazwe nezikazwelonke.

### INGXENYE 6

#### *Izinhlelo zesiKhashana zokuXhasa zikaZwelonke zezithuthi ezihamba phansi*

#### UNgqongqoshe angahlinzeka ngezimali kwezokuthutha ezihamba phansi 20

15. (1) (a) Ukuze uNgqongqoshe enze umsebenzi wakhe ngokombandela walo Mthetho futhi ahlangebezane nokusetshenziswa kwezimali nguMnyango ekwenzeni umsebenzi wawo oqhamuka noma ohlangene naleyomisebenzi, uNgqongqoshe kufanele asebezise izimali ezikhishwe yiPhalamende ngenhloso yalokho.
- (b) UNgqongqoshe ngezimali ekucatshangelwa kuzona kwisigaba (a), angenza 25
- ukuthi lezimali zinikezwe izifundazwe, omasipala noma izigungu zokuphatha kwezokuthutha ukuze zibasize ekwenzeni umsebenzi yazo ngokombandela walo Mthetho noma umthetho wesifundazwe ongene esikhundleni salo mthetho.
- (2) Izimali ekukhulunywe ngazo ngaphansi kwesigatshana (1) kuzofanele zisebenze ukuze zenze ukuba inqubomgomo yezokuthutha ezihamba phansi zikazwelonke 30
- nezisifundazwe isebenze ngempumelelo futhi kufinyelelwe kwizinjongo nezinhloso zaloMthetho kanye nemithetho yesifundazwe engena esikhundleni salomthetho noNgqongqoshe ngaleyonhloso angabeka imibandela ebonakala njengefanele ehambisana naloMthetho, kuhlangene nombandela ehlobene nezinhloso ezicacisiwe ezisosetshenziselwa lezimali. 35
- (3) Izimali ekukhulunywe ngazo ngaphansi kwesigatshana (1)(b)—
- (a) ezisosetshenziselwa inhloso ethile, angeke zisetshenziselwe enye inhloso; noma
- (b) zincike kwimibandela ebekiwe, ngeke zisetshenziswe ngokuphikisana 40
- nemibandela ebekiwe.

#### UNgqongqoshe angahlinzeka ngezimali zezokuthutha zikazwelonke zezithuthi ezihamba phansi

16. (1) (a) Ukuze uNgqongqoshe enze umsebenzi wakhe ngokombandela walo Mthetho futhi ahlangebezane nokusetshenziswa kwezimali nguMnyango ekwenzeni umsebenzi wawo oqhamuka noma ohlangene naleyomisebenzi, uNgqongqoshe 45
- wesifundazwe kufanele asebenzise izimali ezivela kuNgqongqoshe noma ezikhishwe isishayamthetho sesifundazwe esifanele ngenhloso yalokho.
- (b) UNgqongqoshe ngezimali azitholile noma ekukhulunywe ngazo ngaphansi kwesigaba (a), angazinikeza omasipala noma izigungu zokuphatha kwezokuthutha ukuze zizisize ekwenzeni umsebenzi wazo ngokombandela walo Mthetho noma 50
- imithetho yesifundazwe.
- (2) Izimali ekukhulunywe ngazo ngaphansi kwesigatshana (1) kuzofanele zisebenze ukuze zenze ukuba inqubomgomo yezokuthutha ezihamba phansi zikazwelonke nezisifundazwe isebenze ngempumelelo futhi kufinyelelwe kwizinjongo nezinhloso zalo Mthetho kanye nemithetho yesifundazwe engena esikhundleni salo mthetho 55

noNgqongqoshe ngaleyo nhloso angabeka imibandela ebonakala njengefanele ehambisana nalo Mthetho nemithetho yezifundazwe.

(3) Izimali ekukhulunywe ngazo ngaphansi kwalesigaba—

- (a) ezizosetshenziselwa inhloso ethile, angeke zisetshenziselwe enye inhloso; noma
- (b) zincike kwimibandela ebekiwe, ngeke zisetshenziswe ngokuphikisana nemibandela ebekiwe.

(4) Lapho isigungu sezokuthutha sisunguliwe futhi sibhekane nomsebenzi obalulwe kwisigaba 10(13)(f), uNgqongqoshe wesiFundazwe kufanele adlulisele kulesosigungu sezokuthutha ingxenye yenzuzo ethile, ezonqunywa emva kokuthintana noNgqongqoshe kanye nesigungu sezokuthutha, eyisamba esizokwabiwa iPhalamende lisabela isifundazwe esithintekayo kwi-Division of Revenue Act sinikezelwa lowomsebenzi walowonyaka wezimali.

**Omasipala bangahlizeka ngezimali zezokuthutha zikazwelonke zezithuthi ezihamba phansi**

17. Umasipala angakhipha imali njengomnikelo kwisigungu zokuphathwa kwezokuthutha oyingxenye yaso, ukuze isetshenziswe njengokuba kuchazwe kwisigaba 14.

**INGXENYE 7**  
**Ukuhlela ezokuThutha**

**Imigomo ebanzi yezokuhlela ezokuthutha kanye nokuxhumana kwayo nokuthuthukiswa komhlaba**

18. (1) Ukuhlela ezokuThutha ezihamba phansi kufanele kuhlenganiswe nenqubo yokuthuthukiswa komhlaba, nezinhlelo zezokuthutha ezidingakalayo ngenhloso yalokho ngokwalo Mthetho zakhiwe ngendlela yokunikeza isakhiwo kumsebenzi “wokuhlelwa kukamasipala” ochazwe kwisiGaba B sesiJobelelo 4 soMthethosisekelo, futhi kufanele uhlenganiswe wakhe ingxenye ebalulekile yohlelo lwentuthuko oluhlangene, ngokusebenzisa izigaba 84(1)(a), 84(2), 84(3) zikaHulumeni waseKhaya: Municipal Structures Act, 1998 (Act No 117 of 1998) nangalenhloso—

- (a) lapho isigungu sokuhlela esifanele singumasipala okukhulunywe ngawo kwisigaba 20(1)(c), izinhlelo ekukhulunywe ngazo kwizigaba (c) ukuya ku (g) zesigatshana (1) sesigaba 19 kufanele sakhe ingxenye yezokuthutha yohlelo lwentuthuko oluhlangene lukamasipala;
- (b) lapho indawo elawulwa ngumasipala ingena yonke noma ingxenye yayo kwindawo yokuthutha noma ku-MTA, izinhlelo ezichazwe kwizigaba (c) ukuya ku (g) zesigatshana zihlenganisa ingxenye yezokuthutha yohlelo lwentuthuko oluhlangene lalowo masipala ngokumayelana naleyongxenye yezindawo ezilawulwa wuye ezingena ngaphansi kwendawo yokuthutha noma u-MTA.

(2) Kuncike kulesigaba, uhlelo lwezokuthutha ezihamba phansi kufanele lwenziwe ukuze luhlenganise ndawonye ezokuthutha zomphakathi nezabazimele kanye nazozonke izinhlobo zezithuthi zokuthutha ezihamba phansi esisetshenziswa kuleyo ndawo ekukhulunywa ngayo, futhi kufanele zigxile kwindlela enempumelelo yomnotho yokusuka kule ndawo iye kwenye ohlelweni.

(3) Izinhlelo zezokuthutha kufanele zakhiwe ukuze—

- (a) zigcizelele impumelelo yomsebenzi wamadolobha amakhulu, namancane nezindawo zasemaphandleni ngokuhlela uhlelo oluhlangene lwezinqalasisinda nezikhungo zokuthutha, nomsebenzi wokuthutha ohlenganisa ukuhanjiswa kwempahla, umsebenzi wokuthutha izinto ezinkulu kanye nomsebenzi wokuthutha umphakathi ngaphansi kwesimo salezo zinhlelo zentuthuko ezihlangene kanye nezinhloso zentuthuko yendawo ezakhiwe ngokwemibandela yesigaba 27 se-Development Facilitation Act (Act No 67 of 1995), noma lapho kungenzeka khona, izinjongo zokuthuthukisa kwendawo zalolu hlobo ezibekwe ngokwemibandela yemithetho yezifundazwe efanele;
- (b) ziveze amathuba emisebenzi, ukusetshenziswa komhlaba okuxubile, nokuthuthukiswa kwezindawo zokuhlala ezisondelene zibe yimigudu esetshenziswa kakhulu kwezokuthutha umphakathi exhunywe ngezinhlobo



- ezahlukahlukene nentuthuko engaphakathi kwaleyo migudu, futhi engakhuthazi ukugqagqana ezindaweni zasedolobheni lapho imisebenzi yezokuthuthwa komphakathi inganele khona;
- (c) zinake kakhulu ukugcwala nokwandisa ezentuthuko eduze kwemigudu yezokuthutha umphakathi; 5
- (d) zinake ikakhulukazi izithuthi zomphakathi kunezithuthi zangasese ngokuqinisekisa ukuhlinzekwa kwemisebenzi yezokuthuthwa komphakathi eyanele kanye nokusebenzisa izindlela zokwangamela ezokuvakasha ukuze kungakhuthazwa ukusetshenziswa kwezithuthi zangasese;
- (e) zandise ukuvuleleka kwemisebenzi kanye nezikhungo zezokuthuthwa komphakathi, nomsebenzi wokuthutha ikakhulukazi abantu abakhubazekile; futhi 10
- (f) zinciphise imiphumela engemihle emvelweni nasendalweni.
- (4) Ukuhlela ezokuthutha kufanele kuthathwe njengohlelo oluqhubekayo ngalo izigungu zokuhlela ezingogoti ezingathuthukisa futhi ziqalise imisebenzi yezokuthutha umphakathi ezindaweni zazo. 15
- (5) Isigungu sezokuhlela kufanele, ngaphandle uma kungafanele noma kungeke kwenzeka ngokwezimo, ekuhleleni noma yiluphi uhlelo lwezokuthutha siqinisekise ukuxhumana nokuhlanganiswa ngaphakathi kwezinhlobo ezehlukene zezokuthutha zezithuthi ezihamba phansi ukuze kuqinisekise ukuvuleleka nokusetshenziswa kwemisebenzi yezokuthutha umphakathi, izikhungo kanye nenqalasisinda. 20
- (6) UNgqongqoshe wesifundazwe kufanele aqinisekise ukudidiyelwa kwezinhlelo zokuhlela zazo zonke izigungu zokuhlela ngaphansi kwendawo elawulwa yisifundazwe futhi ekwenzeni njalo, kufanele aqinisekise ukuthi zonke izinhlelo ziyabhekana—
- (a) nemisebenzi yezokuthutha umphakathi esebenza ngale kwe imingcele yezindawo zezigungu zokuhlela; 25
- (b) nemikhakha yezemigwaqo nololiwe;
- (c) ukuthuthwa kwezimpahla;
- (d) izidingo zemikhakha ethile yabagibeli;
- (e) umbango ophakathi kwezigungu ezakhelene zokuhlela ongaholela ekuphindaphindweni noma ekuhlinzekweni okweqile kwezikhungo nengqalasisinda yezokuthutha esifundeni; 30
- (f) ukuhlanganiswa kwezokuthutha kanye nokuhlela ezokusetshenziswa komhlaba ngaphakathi kwesimo se-Development Facilitation Act, (Act No 67 of 1995), noma eminye imithetho yesifundazwe efana nalo Mthetho. 35

### Izinhlobo zezinhlelo ezidingwa wuMthetho

19. (1) Izinhlelo ezilandelayo ziyadingeka ngokwezinhloso zalo Mthetho:
- (a) Uhlaka lwamasu ezokuthutha zikazwelonke zezithuthi ezihamba phansi oluhlinzekwe esigabeni 21;
- (b) izinhlelo zezokuthutha zesifundazwe zezithuthi ezihamba phansi ezihlinzekwe esigabeni 22; 40
- (c) amarekhodi amanje ezokuthutha umphakathi ahlinzekwe esigabeni 23;
- (d) amasu ezimvume ahlinzekwe esigabeni 24;
- (e) izinhlelo zokuhlelwa kabusha ezihlinzekwe esigabeni 25;
- (f) izinhlelo zezokuthutha umphakathi ezihlinzekwe esigabeni 26; 45
- (g) izinhlelo zezokuthutha ezihlangene ezihlinzekwe esigabeni 27;
- (2) Ubudlelwane kanye nokulandelana kwezinhlelo zokuthutha eziboniswe eziBonisweni (1) no (2) zimi kanje:
- (a) UMnyango kufanele wakhe uhlaka lwesu lwezokuthutha lukazwelonke lwezithuthi ezihamba phansi ukuze luhole ezokuhlelwa kwezokuthutha lwezithuthi ezihamba phansi ezweni jikelele; 50
- (b) Zonke izifundazwe kufanele zakhe uhlaka lwazo lokuqala lwezokuthutha zesifundazwe zezithuthi ezihamba phansi njengomkhobandlela wazo zonke ezokuhlelwa kwezokuthutha ngaphakathi esiFundazweni;
- (c) izigungu zokuthutha namadolobha amqoka, nabobonke omasipala abadingwa uNgqongqoshe wesiFundazwe ukwenzenjalo, kufanele zakhe uhlelo lwezokuthutha umphakathi okungukuthi ezokuthutha umphakathi zamanje ziyalurekhoda nesu lezimvume, futhi uma zixhase izinsiza zokuthutha umphakathi, uhlelo lokunikeza izizathu zokwenza lokho, lwakha izingxenywe; 55
- (d) izigungu zokuphathwa kwezokuthutha namadolobha amqoka, nabanye omasipala abacelwe nguNgqongqoshe wesiFundazwe, kufanele bahlele 60

- uhlelo oluhlangene lwezokuthutha okungukuthi uhlelo lwezokuthutha umphakathi lwakha ingxenye yalo;
- (e) zonke izifunda kufanele zakhe izinhlaka zezokuthutha ezihamba phansi zesifundazwe okungukuthi ngaphezu kwezihlinzeko sesigatshana (ii), kufanele ziqoqele ndawonye izinhlelo zendawo kwisifundazwe. 5
- (3) Kuncike kwisigaba 20(4) no (5), izinhlaka zezokuthutha zesifundazwe kufanele zihlanganise ndawonye ukuhllelwa kwezithuthi ezihambela izindawo ezikude maphakathi nesifundazwe nakwezinye izifundazwe, zona okufanele zixhumaniswe nezinye izithuthi zokuthutha umphakathi, futhi zingahlinzeka ngezithuthi ngemvume yokuqasha izithuthi ezindiza emoyeni nezihamba emanzini, izithuthi ezithwala abasebenzi nezithuthi ezithwala izivakashi, futhi kwisimo sezithuthi ezihambela kwezinye izindawo ezingaphandle kwesifundazwe, lokho kufanele kwenziwe ngokuxhumana noNgqongqoshe wesinye isifundazwe noma nalezo zifundazwe ezithintekayo. 10
- (4) (a) UNgqongqoshe kufanele ngokushesha emva kokuba lo Mthetho usuqalile ukusebenza, ngokuxhumana noNgqongqoshe beziFundazwe nangesaziso kwi*Gazethi kaHulumeni*, anqume usuku okufanele ukuba isifundazwe ngasinye sesakhile uhlaka lwaso lwezokuthutha ezihamba phansi. 15
- (b) Usuku lwaso zonke izinhlelo ekukhulunywe ngazo kwisigatshana (1)(c) ukuya ku (g) kufanele luxhunywe kuhlaka lwezokuthutha ezihamba phansi zesifundazwe futhi kube yilolo oluvunywe ngoNgqongqoshe. 20
- (5) Izigungu zokuhlela kufanele ngaphambi noma ngosuku olunqunywe ngokombandela wesigatshana (4) zishicilele isaziso seziNgisi kanye noma oluphi olunye ulimi olulodwa olusemthethweni kwiphephandaba elizozungeza kwindawo yezigungu zokuhlela kwaziswe ukuthi uhlelo okukhulunywa ngalo selufeziwe futhi luyatholakala ukuze luhlolwe umphakathi endaweni echazwe yisaziso noNgqongqoshe wesifundazwe angabeka izinqubo okufanele zilandelwe ekukhuthazeni ukuzibandakanya komphakathi kwinqubo yokuhlelwa kwezokuthutha. 25
- (6) UNgqongqoshe noNgqongqoshe wesiFundazwe bangahlinzeka ngosizo lwezimali noma ngolunye usizo lokuhlela ukwenzela izigungu ukuba zigcwalise izibopho zazo ngaphansi kwalesiGaba ngezimali ezivela ePhalamende noma ngesishayamthetho sesifundazwe esithintekayo. 30
- (7) Okuqukethwe izinhlelo ekukhulunywe ngazo kwisigatshana (1)(b) ukuya ku(g) kufanele kube yilezo ezidingwa nguMthetho, kodwa uNgqongqoshe ngokuxhumana noNgqongqoshe othintekayo noma oNgqongqoshe abathintekayo, angenza izinguquko ezithile kwizidingo zalezo zinhlelo, ngendlela enqunyiwe, ngokumayelana nezindawo zasemaphandleni kwizifundazwe ezithile. 35

### Izigungu zokuhlela

20. (1) Amapulani abalulwe kwisigaba 19(1)(c) no (d) nalapho kufanele khona, isigaba 19(1)(e), (f) no (g), kufanele ahlelwe yizigungu ezilandelayo, ezizokwaziwa njengezigungu zokuhlela, kuncike kwizigatshana (4) no (5), futhi lezinhlelo zingahluka ngokumayelana nezigungu zokuhlela zasemaphandleni ngaphandle kwalezo ezaxhasa izinsiza zokuthutha umphakathi: 40
- (a) Izigungu zezokuthutha, ngokumayelana nezindawo zazo zokuthutha;
- (b) amadolobha amqoka, ngokumayelana no-MTA babo; 45
- (c) abanye omasipala, lapho izindawo ezilawulwa yibona zingafakwanga ngokuphelele noma ngokungaphelele kwizindawo zokuthutha noma ze-MTA ngokumayelana nezindawo ezilawulwa yibona, futhi lapho lezindawo zingafakwanga ngokugcwele kwizindawo zokuthutha noma ku-MTA, ngokumayelana naleyo ngxenye yaleyo ndaawo engafakwanga. 50
- (2) (a) Izigungu sokuhlela singangena esivumelwaneni nanoma yisiphi esinye isigungu sokuhlela noma nomnyango wesifunda ukusisiza ukuba senze umsebenzi waso ngokombandela walesiGaba.
- (b) Leso sivumelwano asiphazamisi umsebenzi onikezwe lesigungu sokuhlela esiwunikezwe yilesiGaba. 55
- (3) Zonke izigungu zokuhlela kufanele zihlinzeke ngezinhlelo zezokuthutha ezifanele kwibhodi, futhi zenze izincomo kulelo bhodi mayelana nokuguqulwa kwamaphemithi ukuba abe amalayisensi okwenza umsebenzi, kanye nezicelo ezintsha zamalayisensi okwenza umsebenzi, njengokuba kudingwa yisiGaba 9.
- (4) Lapho kunezinsiza eziningi zokuthutha umphakathi phakathi kwezindawo zokuthutha ezincikene, uNgqongqoshe wesifundazwe kungumthwalo wakhe ukuba 60

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ahlele ngokunempumelelo lezozinsiza, futhi kufanele aqinisekise ukuthi lezo zinsiza zihlelwe ngokuhlanganyela nezigungu zezokuthutha ezithintekayo futhi zahlanganiswa nezinhlelo zazo zezokuthutha.

(5) Isigungu sezokuthutha singafaka isicelo kuNgqongqoshe wesifundazwe ukuze isigungu sezokuthutha sikwazi ukuthatha umsebenzi wokuhlela kwezinsiza obalulwe kwisigatshana (4), futhi ekunqumeni ukwenza kanjalo, uNgqongqoshe wesifundazwe kufanele acubungule—

(a) ukuthi lezi zithuthi zisebenza kangakanani kwindawo yokuthutha ethintekayo; kanye

(b) namandla esigungu esikhulu okwenza imisebenzi ehlobene nalo msebenzi

(6) Ngokukamasipala wesifunda njengokuba kuchazwa kwi-Local Government: Municipal Structures Act, 1998, (Act No. 117 of 1998), lowo masipala kanye nabanye omasipala abathintekayo kufanele bavumelane ukuthi omuphi kubona okufanele ahlele izinhlelo ezibalulwe kwisigaba 19(1)(c) ukuya ku (g).

### **Uhlaka lukazwelonke lwesu lwezokuthutha lwezithuthi ezihamba phansi**

**21.** (1) UNgqongqoshe kufanele minyaka yonke, ngosuku oluzonqunywa nguNgqongqoshe emva kokuthintana noNgqongqoshe bezifundazwe lona oluzoshicilelwa ngesaziso kwi*Gazethi kaHulumeni*, akhe uhlaka lukazwelonke lwesu lwezokuthutha lwezithuthi ezihamba phansi alakhele izwe lwesikhathi esiyiminyaka emihlanu ehambisana neminyaka yezimali yoMnyango, ngokubonela kwisigatshana (3).

(2) Uhlaka lukazwelonke lwesu lwezokuthutha lwezithuthi ezihamba phansi kufanele lubengumkhombandlela wohlelo lwezokuthutha ezihamba phansi ezweni jikelele futhi lungagudluki kwimisebenzi yokuhlela yomthethosisekelo wezifundazwe nomasipala.

(3) Uhlaka lukazwelonke lwesu lwezokuthutha lwezithuthi ezihamba phansi kufanele—

(a) lunqume inqubomgomo kazwelonke ngokumayelana nezokuthutha ezihamba phansi;

(b) lukhuthaze ukuhlangana kohlelo lwezokuthutha lwezithuthi ezihamba phansi zikazwelonke, zezifundazwe nezindawo zasekhaya;

(c) luchaze amasu okuxazulula ukungqubuzana okungase kwenzekke phakathi kokusetshenziswa komhlaba nokuhlelwa kwezokuthutha kanye nokungqubuzana okungase kwenzekke phakathi kwezifundazwe nomasipala kwisimo sezokuthutha sezithuthi ezihamba phansi;

(d) lunqume amasu avulekile mayelana nezokuthutha zezithuthi ezithwala impahla ezweni lonke;

(e) lunqume amasu avulekile mayelana nezokuthutha zezithuthi zikaloliwe ezweni lonke, kuhlanganisa nezithuthi zikaloliwe ezithutha abantu ezihamba amabanga amade kanye namasu emvume yokuthutha abahambi abasebenzisa izithuthi zikaloliwe;

(f) lunqume amasu avulekile mayelana nemigwaqo kazwelonke;

(g) lunqume amasu avulekile mayelana nezokuthutha zezithuthi ezihamba phansi ezinqamula imingcele;

(h) lunqume izinkomba zokwenziwa komsebenzi ezibalulekile;

(i) lunqume amasu avulekile okwesekela ezokuvakasha;

(j) lunqume amasu avulekile mayelana nezokuthutha zezithuthi ezihamba phansi kanye;

(k) lunqume amasu avulekile mayelana nokuhlela kabusha kokusetshenziswa komhlaba;

(l) lunqume amasu avulekile mayelana nezokuthutha zezithuthi ezihamba phansi ezihambela ngaphandle kwesifundazwe; futhi

(m) lunqume amasu avulekile mayelana nokuthuthwa kwabantu abakhubazekile.

### **Izinhlelo zesifundazwe zezokuthutha zezithuthi ezihamba phansi**

**22.** (1) Bonke oNgqongqoshe kufanele njalo ngonyaka bakhe uhlaka lwesifundazwe lwezokuthutha lwezithuthi ezihamba phansi lwesikhathi esiyiminyaka emihlanu ngokuhambisana nezidingo ezinqunywe nguNgqongqoshe wesifundazwe emva kokuthintana nabobonke oNgqongqoshe.

(2) Uhlaka lokuqala lwezokuthutha lwezithuthi ezihamba phansi lwesifundazwe

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- kufanele lube ngumkhombandlela wezokuthutha lwezithuthi ezihamba phansi kwisifundazwe, kuhlange nezezokuthutha ezithutha maphakathi nesifundazwe, nezokuthutha ezithutha kwezinye izindawo ngaphandle kwesifundazwe kanye nezokuthutha ezinqamula imingcele kanye nanoma yiziphi izinhlaka zezokuthutha zezithuthi ezihamba phansi zesifundazwe kufanele ziphinde zifake izinhlelo zendawo yasekhaya eziqoqelwe ndawonye ngaphakathi kwesifundazwe. 5
- (3) Uhlaka lwesifundazwe lwezokuthutha lwezithuthi ezihamba phansi kufanele—
- (a) luvumelane nemibono, inqubomgomo nezinhloso zesifundazwe;
- (b) lucacise izinguquko kwizinqubomgomo namasu ezokuthutha zezithuthi ezihamba phansi zesifundazwe kusukela kuhlelo lwangaphambilini lweminyaka emihlanu; 10
- (c) kusukela kunyaka wesibili, lufake uhla oluveza imisebenzi yezokuthutha eqoqelwe ndawonye kanye nezingxenyane zomsebenzi ngokulandelana kwazo ngokubaluleka, okufanele zenziwe kulesikhathi esiyiminyaka emihlanu, nezindleko zomsebenzi ngamunye futhi leliqoqo lemisebenzi kufanele— 15
- (i) liphinde libhekane naleyomisebenzi ebalulwe kwizinhlelo zezokuthutha kwisifundazwe; futhi
- (ii) liphinde lihlele ngokwezinhlelo zentuthuko ehlangene ezihlelwe ngokombandela wanoma yimuphi umthetho wohulumeni wasekhaya othintekayo kanye nezinhloso zentuthuko yomhlaba ezithintekayo ezibalulwe ngokombandela wesigaba 27 se-Development Facilitation Act, 1995 (Act No. 67 of 1995), noma lapho kungenzeka khona, izinhloso zentuthuko yomhlaba zalolo hlobo njengokuba zibalulwe ngokombandela womthetho wesifundazwe; 20
- (d) lichaze izinyathelo ezizothathwa yisifundazwe ngenhloso yokuqinisekisa ukuxhumana okufanele phakathi kwezinhlelo zezokuthutha zezigungu zokuhlela mayelana nokuthi isifundazwe yisona esilawulayo; 25
- (e) lichaze inqubekela-phambili ngokumayelana nokwakhiwa nokusebenza kwezigungu zezokuphathwa kwezokuthutha kwisifunda;
- (f) lifake uhlahlomali lwesifunda olunayo yonke imininingwane mayelana nezokuthutha zezithuthi ezihamba phansi kunyaka wezimali ofanele, kuhlange nemithombo yezimali zoxhaso, ngendlela enqunye nguNgqongqoshe; 30
- (g) lichaze amasu asetshenziwe ukuxazulula ukungqubuzana okungase kwenzeke phakathi kwezokuthutha kwesifundazwe kanye nohlelo lokusetshenziswa komhlaba; 35
- (h) linqume isu elivulekile mayelana nezidingo zabafundi nezabantu abakhubazekile;
- (i) lifake nohlelo lokuhlwelwa kwesifundazwe oluphasisiwe;
- (j) lifake nohlelo lwemigwaqo lwesifundazwe; 40
- (k) lifake isu lezokuthutha umphakathi lesifundazwe;
- (l) linqume isu noma uhlelo oluvulekile lokugudluzwa koketshezi oluyingozi olubalulwe kwisigaba 2(1) lwe-Hazardous Substances Act, 1973 (Act No. 15 of 1973), emigwaqeni engakwizindlela ezichaziwe, ngokuthintana nomnyango wesifundazwe obhekene nemicimbi yezemvelo; 45
- (m) linqume izinkomba zemisebenzi ebalulekile echazwe nguNgqongqoshe, kanye nezinye ezichazwe nguNgqongqoshe wesifundazwe, ezizosetshenziswa ukukala imisebenzi eyenziwa yisifundazwe kanye nezigungu zokuhlela ngemisebenzi yazo ngokombandela walo Mthetho;
- (n) lifake yonke imininingwane yezithuthi ezihamba amabanga amade ezihamba maphakathi nesifundazwe nangaphandle kwesifundazwe; 50
- (o) linqume amasu avulekile okuvakasha; futhi
- (p) linqume imininingwane yamasu okuxhumana nezinhlaka ezihlongozwayo zezithuthi ezihamba amabanga amade ezihamba maphakathi nangaphandle kwesifundazwe. 55
- (4) Uhlaka lwezokuthutha lwezithuthi ezihamba phansi zesifundazwe kufanele lwethulwe kuNgqongqoshe wesifundazwe ngokombandela walesigaba futhi kufanele luhambe namakhophi wazo zonke izivumelwano ezimayelana nezokuthutha zangaphakathi kwesifundazwe okuvunyelwano ngazo phakathi kwesifundazwe esithintekayo nezinye izifundazwe. 60

**Amarekhodi amanje ezokuthutha umphakathi**

23. (1) Zonke izigungu zokuhlela kufanele ngokushesha okukhulu emva kokuqala kwalo Mthetho, kodwa ngosuku olusazonqunywa ngoNgqongqoshe bezifundazwe emva kokuxhumana noNgqongqoshe, zakhele izindawo zazo irekhodi lesikhathi samanje lezokuthutha umphakathi, okufanele libe ingxenye yohlelo lwazo lwezokuthutha umphakathi futhi lube nezizathu zokuthuthukiswa kwamasu ezimvume, izinhlelo zokuhlela kabusha, izinhlelo zezokuthutha umphakathi kanye nezinhlelo ezihlangene zezokuthutha. 5

(2) Irekhodi lamanje lezokuthutha umphakathi kufanele lakhiwe ngokuhambisana nebhuku elisihloko salo sithi "Requirements and Format for the Preparation of Current Public Transport Records by Core Cities" njengoba sishicilelwe kwiGazethi kaHulumeni ngomhlaka 22 Meyi 1998 ngaphansi kweGeneral Notice No. 847 of 1998, noma ngaphansi kwezichibiyelo ezilandelile ezishicilelwe kwiGazethi kaHulumeni futhi zavunywa ngoNgqongqoshe bezifundazwe. 10

(3) Ukuthi irekhodi lezokuthutha umphakathi kufanele libhekelele izinguquko ezidengekile ukuba zenzeke ngenxa yesimo, ngaphandle uma lelo bhuku liphikisana nalo Mthetho, futhi likhombisa— 15

(a) yonke imisebenzi ehleliwe nengahleliwe eyenziwa endaweni yesigungu sokuhlela, kuqashelwe ukuthi leyo misebenzi eya nesuka ezigungwini zokuhlela ezingomakhelwane; 20

(b) zonke izikhungo kanye nengqalasizinda ekhona nesetshenziswayo endaweni ethintekayo ngenhloso emayelana nemisebenzi yezokuthutha umphakathi ebalulwe esigabeni (a), kanye nezikhungo nengqalasizinda ethuthukiselwa izinhloso ezimayelana nendawo ethintekayo. 25

(4) Ungqongqoshe wesifundazwe anganquma ukuthi yini okufanele iqukathwe amarekhodi amanje ezokuthutha umphakathi ngaphezu kokuqokethwe ebhukwini okukhulunywa ngalo esigatshaneni 2. 30

(5) Amarekhodi amanje ezokuthutha umphakathi kufanele anikezwe uNgqongqoshe wesifundazwe yizigungu zokuhlela lungakadluli usuku olunqunyelwe leyo nhloso nguNgqongqoshe wesifundazwe emva kokubonisana noNgqongqoshe futhi olaziswe nguNgqongqoshe wesifundazwe kwiGazethi yesiFundazwe. 30

(6) Irekhodi lamanje lezokuthutha umphakathi kufanele lilungiswe minyaka yonke, futhi ngesikhathi lilungiswa, izigungu zokuhlela kufanele zirekhode izinguquko ezenzekile mayelana nokuhlinzekwa kwemisebenzi yezokuthutha umphakathi zigxile kakhulu ezindaweni ezingaphansi kwazo, lokhu kufaka ukunikezwa nokukhishwa kwamalaysensi okwenza umsebenzi kanye nezichibiyelo, ukudlulisa, ukumiswa, ukuphela, ukuhoxiswa kanye nokuqedwa kwamalaysensi okwenza umsebenzi noma amaphemithi ibhodi. 35

**Amasu ezimvume**

24. (1) Mayelana nezinhloso zokuqinisekisa ukuthi izincomo zezigungu zokuhlela ezibhekiswe ebhodini izosiza lelo bhodi ekukhipheni izicelo ezimayelana namalaysensi okwenza umsebenzi, ukuze zikwazi ukubhekelela ukuhlinzekwa kwezokuthutha umphakathi kanye nesidingo sazo kokubili okuzosebenza futhi kube impumelelo, zonke izigungu zokuhlela kufanele zakhe uhlelo olwaziwa njengesu lezimvume, okufanele ekugcineni libe ingxenye yohlelo lazo lezokuthutha umphakathi. 40 45

(2) Isu lezimvume kufanele liqukathe futhi libalule ngokusobala amasu nenqubomgomo yesigungu sokuhlela okungenani amayelana—

(a) neqhaza lohlobo ngalunye lwezokuthutha umphakathi kanye nokugagulwa kohlobo lomgwaqo oqokwayo noma eqokwayo mayelana nendawo yaleso sigungu, eya nesuka ezindaweni zezinye igungu zokuhlela, kanye nezokuthutha ezihambela nakwezinye izifundazwe; 50

(b) izimo zamalaysensi okwenza umsebenzi noma amaphemithi agunyaza ukwenziwa komsebenzi wokuthutha umphakathi ngaphakathi kwanoma iyiphi ingxenye yesigungu sokuhlela, okufanele zivunywe ngaphansi kwazo; 55

(c) ukusetshenziswa kwezikhungo zezokuthutha umphakathi ngaphakathi kwendawo yesigungu sokuhlela; 55

(d) ukugwenywa kokuncintisana okungenesidingo phakathi kwabanikazi bezithuthi; 60

(e) ukuphothulwa kwezivumelwano zomsebenzi wokuweba wezemisebenzi yezokuthutha engaxhasiwe ngezimali, kanye 60

- (f) imibandela okufanele ibekwe ibhodi mayelana nokukhishwa kwamalayisensi okwenza umsebenzi.
- (3) Amasu ezimvume kufanele ahambisane nezidingo, futhi nangendlela ngokujwayelekile evame ukunqunywa nguNgqongqoshe emva kokuxhumana noNgqongqoshe bezifundazwe, kodwa uNgqongqoshe wesifundazwe anganquma ngokufanele kuqakathwe amasu ezimvume ngaphezu kwezidingo ezinqunywe nguNgqongqoshe. 5
- (4) (a) Isu lezimvume kufanele, ngokulandela isigaba (b), kufanele sinikezwe uNgqongqoshe wesifundazwe ukuba asiphasise.
- (b) Lokhu kuphasiswa kufanele kuphatelane kuphela nezinqubo, ezezimali ezithinta isifundazwe, imigomo nenqubomgomo, ezokuthutha eziwelela ngaphandle kwemingcele yezindawo zesigungu sokuhlela, ezokuthutha ezihambela nakwezinye izifundazwe kanye nezinye izinto ezihlinzekelwe emithethweni yesifundazwe. 10
- (5) Lapho kungekho khona uhlelo lwezokuthutha umphakathi, isigungu sokuhlela kufanele siqinisekise ukuthi isu lezimvume lihambisana nezikhathi ngaso sonke isikhathi futhi lwenziwa ngcono okungenani kanye ngonyaka esikhathini esiyizinyanga ezimbili zokuphuthula irekhodi laso lwezokuthutha umphakathi, noma ngosuku olunqunywe nguNgqongqoshe wesifundazwe futhi olwaziswe kwiGazethi yesifundazwe. 15
- Izinhlelo zokuhlela kabusha** 20
25. (1) Lapho kuhlangezwe khona ukuthi umsebenzi wezokuthutha umphakathi owenziwa ngokombandela woxhaso awuqhubeke emva kokuphelelwa isikhathi okumanje zisebenza ngaphansi kwaso, ngokwemibandela yesivumelwano somsebenzi oxhasiwe, zonke izigungu zokuhlela ondawo yazo umsebenzi wenziwa kuzo kufanele sakhe uhlelo lokuhlela kabusha okufanele ekugcineni lube yingxeny e yohlelo lwezokuthutha umphakathi, ngaphambi kokuthi umsebenzi ozokwenziwa ngokwemibandela yesivumelwano somsebenzi oxhasiwe sikhishelwe ngaphandle ukuba umphakathi ufake izicelo zamathenda, ngenhloso— 25
- (a) yokuhlela kabusha imisebenzi exhasiwe ngaphakathi kwezinhlobo ezahlukene zezokuthutha; 30
- (b) yokunquma ukuthi kuphi nokuthi uxhaso oluzokhokhwa kufanele kube ngolungakanani;
- (c) yokuhlela imisebenzi exhasiwe ewelela ngale kwemingcele yezigungu zokuhlela futhi emayelana nezokuthutha ezihambela nakwezinye izifundazwe; 35
- (d) yokungciphisa izinga lokuxhaswa;
- (e) yokungciphisa ukuncintisana phakathi kwemisebenzi exhasiwe;
- (f) yokuhlela kahle izivumelwano zomsebenzi oxhasiwe ngendlela yokuthi iheha ukuqhudelana okwanele phakathi kkwabakulungele ukufaka amathenda;
- (g) yokuqinisekisa ukuthi imigwaqo nengqalasizinda yemigwaqo isetshenziswa ngendlela efanele ngenhloso yokuhlangabezana nezidingo zabagibeli ngempumelelo nangokugculisayo; kanye 40
- (h) ukulungiselela intuthuko yesikhathi esizayo yohlelo oluhlangene lwezokuthutha umphakathi;
- (2) Uhlelo lokuhlela kabusha kufanele luqakathe okungenani lokhu okulandelayo: 45
- (a) Izinguquko ezihlongozwayo kwimigwaqo noma ingqalasizinda ekhona njengamanje noma kokubili;
- (b) Izinguquko ezihlongozwayo mayelana nesibalo sabagibeli abazothuthwa, izithuthi ezisetshenziswa emizileni noma kwingqalasizinda yemizila, noma kokubili; 50
- (c) inqubomgomo ehlongozwayo yokuhlela izivumelwano zokuncintisana ngamathenda;
- (d) isitatimende esinquma umphumela ongabakhona wohlelo lokuhlela mayelana nezinhlobo zokuthutha ezihlukene;
- (e) inkomba ngokwenziwa ngcono okufanele kwenziwe ukuthi kuhlomule abagibeli; 55
- (f) inkomba yezikhubekiso ezibonakalayo ezimayelana nokuqaliswa kohlelo kanye namasu ahlongozwayo okuzinqoba,
- (3) Izinhlelo zokuhlela kabusha kufanele zihambisane nezidingo kanye nendlela, ngokujwayelekile evame ukunqunywa ngungqongqoshe emva kokubonisana noNgqongqoshe beziFundazwe, futhi uNgqongqoshe anganquma ngokufanele 60

kuqukathwe yizinhlelo zokuhlelwa kabusha ngaphezu kwezidingo ezinqunywe nguNgqongqoshe.

(4) Uhlelo lokuhlela kabusha kufanele lunikezwe uNgqongqoshe ukuze aluphasise, okuphaphiswa lokho kufanele kuphathelane kuphela nezinto ezibalulwe esigabeni 24(4)(b). 5

(5) Lapho uhlelo lwezokuthutha omphakathi lungekho khona isigungu sezokuhlela esixhase imisebenzi yezokuthutha umphakathi kufanele siqinisekise ukuthi uhlelo lwaso lokuhlela kabusha lwakhiwe futhi lalungiselwa ukuthi luhambisane nesikhathi samanje futhi lunikezwe uNgqongqoshe okungenani kanye ngonyaka futhi ezinyangeni ezine zokuphathulwa kwerekhodi laso lezokuthutha umphakathi, noma ngosuku olunqunywe nguNgqongqoshe wesiFundazwe futhi olwaziswe kwiGazethi yesiFundazwe. 10

### Izinhlelo zezokuthutha umphakathi

26. (1) Izigungu zokuthutha namadolobha amqoka, kanye nabobonke omasipala abadingwa uNgqongqoshe wesiFundazwe ukwenzenjalo, kufanele ngosuku olunqunywe nguNgqongqoshe wesiFundazwe, zakhe uhlelo lwezokuthutha umphakathi ngenhloso yokunquma nokubalula imisebenzi yezokuthutha umphakathi ezifisa ukuthi ngabe uyahlinzekwa ngokwemibandela yezinto ezibalulwe esigabeni 23(3)(a)(b). 15

(2) Uhlelo lwezokuthutha umphakathi kufanele lakhiwe ngenhloso yokuthuthukisa nokuqalisa imisebenzi ehlangene yezokuthutha umphakathi futhi kufanele luqakathe okungenani lokhu okulandelayo: 20

- (a) Iphupho noma umbono, izinjongo nezinhloso zesigungu sokuhlela mayelana nezokuthutha umphakathi endaweni yazo;
- (b) amasu esigungu sokuhlela mayelana—
  - (i) nezidingo zalaba abafundela ukushayela kanye nabantu abakhubazekile, 25
  - (ii) ukuhlenganiswa kwezithuthi ezahlukahlukene kanye nezinhlelo zezimali zokugibela ezikhokhwa abagibeli, mayelana nezokuthutha umphakathi, lezi zinhlelo zinohlaka olufaka imali yokugibela izinga nezobuchwepheshe;
- (c) ingxenye yokwenza umsebenzi, efaka— 30
  - (i) izihlinzeko zohlelo lokuhlela kabusha, imisebenzi okuvunyelwane ngayo;
  - (ii) isu lezimvume layo yonke imisebenzi yezokuthutha umphakathi okungakhulunywa ngayo ngaphansi kwesigatshana (i).

(3) Izinhlelo zezokuthutha umphakathi kufanele zihambisane nezidingo kanye nendlela, ngokujwayelekile evame ukunqunywa ngungqongqoshe emva kokubonisana noNgqongqoshe beziFundazwe, futhi uNgqongqoshe anganquma ngokufanele kuqukathwe yizinhlelo zokuhlelwa kabusha ngaphezu kwezidingo ezinqunywe nguNgqongqoshe. 35

(4) Uhlelo lokuhlela kabusha kufanele lunikezwe uNgqongqoshe ukuze aluphasise, okuphaphiswa lokho kufanele kuphathelane kuphela nezinto ezibalulwe esigabeni 24(4)(b). 40

(5) Zonke izigungu zokuhlela kufanele ziqinisekise ukuthi uhlelo lwaso lwezokuthutha umphakathi lulungiselwe ukuhambisana nezikhathi zamanje okungenani kanye ngonyaka ngosuku olunqunywe nguNgqongqoshe wesiFundazwe ngesaziso kwiGazethi yesiFundazwe. 45

### Izinhlelo ezihlangene zezokuthutha

27. (1) Izigungu, amadolobha amqoka kanye nabanye omasipala abadingwa nguNgqongqoshe wesiFundazwe ukuba benze njalo, kufanele bakhe futhi banikeze uNgqongqoshe wesiFundazwe minyaka yonke ngosuku olunqunywe nguNgqongqoshe wesiFundazwe, izinhlelo zezokuthutha ezihlangene ezihambisana nesigatshana (2) sezindawo zazo isikhathi esiyiminyaka eyisihlanu eqala ngosuku lokuqala lalowo nyaka wezimali. 50

(2) Uhlelo oluhlangene lwezokuthutha kufanele lakhe iphupho noma umbono osemthethweni inqubomgomo nezinhloso zesigungu sokuhlela ezihambisana nezinqubomgomo zikazwelonke nezesifundazwe, ngasikhathi sinye kubhekelelwe noma iluphi uhlelo lwentuthuko oluhlangene noma izinhloso zentuthuko yomhlaba, futhi kufanele ukuba— 55

- (a) lubalule izinguquko ezisemigomweni nakumasu esigungu sokuhlela

- ezokuthutha ezokuthutha zezithuthi ezihamba phansi selokhu kwabakhona uhlelo olwedlule lweminyaka eyisihlanu;
- (b) lufake uhla okufanele—
- (i) lubonise, ngokulandela, izinhlelo kanye nezigaba zohlelo okufanele zenziwe kuleso sikhathi esiyiminyaka eyisihlanu, kanye nezindleko zohlelo ngalunye; futhi 5
- (ii) lwakhiwe ngokubhekela izinhlelo ezihlangene zentuthuko ezithintekayo, kanye nezinjongo zokuthuthukisa indawo ezakhiwe ngokwemibandela yesigaba 27 se-Development Facilitation Act, 1995 (Act No 67 of 1995), noma lapho kusebenza khona, ngokombandela womthetho wesifundazwe, 10
- (c) lufake zonke izinhlelo zezithuthi, nezingqalasizinda, kuhlangene nemigwaqo emisha noma echitshiyelwe kanye nokuthuthukiswa kwezohwebo okunomphumela ohlelweni lwezokuthutha lwezithuthi ezihamba phansi zasezikhumulweni zezindiza nasechwebeni lemikhumbi; 15
- (d) lufake ibhajethi eneminingwane yesigungu sokuhlela, esihlanganisa imithombo yezimali, mayelana nezokuthutha zezithuthi ezihamba phansi zonyaka othintekayo ngendlela enqunywe nguNgqongqoshe wesifundazwe; 20
- (e) lufake uhlelo lwezokuthutha umphakathi lwesigungu sokuhlela;
- (f) lunqume amasu avulekile amayelana nezokuphathwa kwezokuvakasha; futhi 20
- (g) lunqume isihlinzeko sengqalasizinda somgwaqo nezokuthutha, amasu okwenza ngocono nawokulondoloza;
- (h) lunqume amasu noma uhlelo oluvulekile lokugudluzwa koketshezi oluyingozi olubalulwe kwisigaba 2(1) se-Hazardous Substances Act, 1973 (Act No 15 of 1973), ngakumgwaqo oseduze nemizila, ngokuhambisana nesu noma nohlelo kuhlaka lwezokuthutha lwesifundazwe olubalulwe kwisigaba 22(3)(l); 25
- (3) Uhlelo oluhlangene lwezokuthutha kufanele luhambisane nezidingo nangendlela enqunywe nguNgqongqoshe ngokuthintana noNgqongqoshe bezifundazwe, kodwa uNgqongqoshe anganquma okufanele kuqakathwe yizinhlelo zezokuthutha ezihlangene ngaphezu kwalezo zidingo. 30
- (4) Uhlelo kufanele ngosuku olunqunywe lwethulwe kuNgqongqoshe wesifundazwe ukuba aluphasise, ukuphasiswa kwalo kufanele kuhlobane nezindaba ezibalulwe kwisigaba 24(4)(b).
- (5) Umuntu akufanele athuthe uketshezi olunobungozi olubalulwe kwisigaba 2(10) se-Hazardous Substances Act, 1973 (Act No 15 of 1973), kwindawo yesigungu sokuhlela, ngaphandle komzila onqunywe ngaphansi kwesigaba (h) sesigatshana (2), lapho lowomzila usunqunywe washicilelwa ngaphansi kwesigaba 29(1), noma yimuphi owenza lokho uzobekwa icala. 35
- Ukuvunywa kwezingxenye zokuthutha abantu ngololiwe ezinhlelweni zokuthutha** 40
28. Kuze kube umsebenzi wokuthutha abantu ngololiwe ususwa kuzwelonke udluliselwa kwenye ingxenye kahulumeni, izinhlelo zezokuthutha ezichazwe kwisigaba 19(1)(b) ukuya ku (g) kufanele zethulwe kuNgqongqoshe ukuze aphasise ingxenye yezokuthutha abantu ngololiwe yalezo zinhlelo, ngokwendlela nesikhathi esibekiwe.
- Ukushicilelwa kwezinhlelo zezokuthutha kanye nezinguquko ezinqala zokusebenzisa umhlaba kanye nengqalasizinda yezokuthutha umphakathi kanye nemisebenzi** 45
29. (1) Ekuphasisweni kohlaka lwamasu ezokuthutha ezihamba phansi zikazwelonke, uhlaka lwesifundazwe lwezokuthutha, uhlelo lwezokuthutha umphakathi noma uhlelo oluhlangene lwezokuthutha, uNgqongqoshe noma isigungu sokuhlela, kufanele sishicilele kwiGazethi yesifundazwe, noma kuhlangothi lohlaka lwamasu ezokuthutha ezihamba phansi zikazwelonke, kufanele kushicilelwe kwiGazethi kaHulumeni, yonke iminingwane enqunywe yalezo zinhlelo, okufanele zifake iminingwane yemizila enqunywe ngaphansi kwesigaba 27(2)(h). 50
- (2) Wonke umuntu, kuhlangene noHulumeni nezakhiwo ezingaphansi kukahulumeni kodwa ezizimele, nabamele lezi zakhiwo nezinye izihlangano zibophezelekile ngokwezihlinzeko zezinhlelo ezishicilelwe kwisigatshana (1), futhi— 55



- (a) azikho izinguquko ezinqala noma ukukhuthaza ukusetshenziswa komhlaba kunoma yiyiphi indawo okuvunyelwe ukwenziwa ngaphambi kokuba kutholakale imvume ebhaliwe yesigungu sokuhlela esithintekayo;
- (b) intuthuko kwizindawo eziseduze nendawo yezokuthutha incike ekuhlolweni kwezinga lezithuthi kanye nokuhlolwa kwezokuthutha umphakathi njengokuba kunquma uNgqongqoshe wesiFundazwe; 5
- (c) lapho ingqalasizinda nezinsiza ezintsha nezenziwe kangcono ziphakanyiswa kuloko kuhlolwa kwezinga lezithuthi noma ukuhlolwa kwezokuthutha umphakathi, izindleko zalokho kufanele zikhokhelwe ngokwesinqumo sesigungu sokuhlela esithintekayo; 10
- (d) asikho isinyathelo esizothathwa esizoholela ekwehleni kwenani noma ukutholakala kwengqalasizinda noma imisebenzi yezokuthutha umphakathi, ngaphandle uma umninindawo lapho leyo ngqalasizinda ekhona, noma umnikazi waleyolayisensi yokwenza umsebenzi edingekayo, njengoba kungase kubenjalo, wazisile isigungu sokuhlela esithintekayo ngokusibhalela esikhathini esingekho ngaphansi kwezinsuku ezingu 30 ngaphambi kokuba kuthathwe izinyathelo. 15
- (3) Ngaphandle uma kukhona omunye umthetho ophikisana nalona, noma yisiphi isigungu esinomsebenzi wokuphasisa izinguquko ezinqala noma ukusetshenziswa komhlaba kakhulu noma iziphakamiso zokuthuthukisa ezithola izicelo zalokho kuguqulwa noma ukusetshenziswa kakhulu komhlaba, kufanele— 20
- (a) ezinsukwini ezingu 14 zokutholakala kwalesi sicelo nangaphambi kokusicubungula noma ukuthatha isinqumo ngalesisicelo silethe lesosicelo kwisigungu sokuhlela esithintekayo ukuba sisicubungule futhi sinqume futhi ngomphumela waleso sicelo kwizinhlelo zezokuthutha kanye nemisebenzi yezokuthutha umphakathi; futhi 25
- (b) siqinisekise ukuthi leso sicelo sihambisana nocubungulo lomphumela kwezokuthutha nocubungulo lomphumela kwezokuthutha umphakathi oludingekayo, futhi sinolwazi olwanele lokuba sikwazi ukucubungula futhi sinqume ngomphumela waleso sicelo kwizinhlelo nemisebenzi yezokuthutha. 30
- (4) Isigungu sokuhlela kufanele ezinsukwini ezingu 28—
- (a) siphase noma sivume isicelo sokuguqula noma sokusebenzisa kakhulu umhlaba noma isiphakamiso sokuthuthukisa esethulwe ngokwemibandela yesigatshana (3); futhi
- (b) sethule isinqumo saso esibhalwe phansi kanye nanoma yiziphi iziphikiso ezimayelana naleso sicelo, kuhlange neziqondiso noma imibandela emayelana nokuhambisana nezinhlelo zezokuthutha, ezibhekiswe kulesosigungu esinikezwe amandla ngaphansi komthetho ahambisana nokucubungula leso sicelo. 35
- (5) Isigungu esinikezwe amandla ahambisana nomsebenzi wokucubungula izicelo ukuze kushintshwe noma kuqiniseke kakhulu ukusetshenziswa komhlaba noma sokuwuthuthukisa singaphasisa leso sicelo— 40
- (a) ngaphambi kosuku luka 28 okukhulunywa ngalo esigatshaneni (4); noma
- (b) esiphikisana neziqondiso noma imibandela edingwa isigungu sokuhlela njengoba kubalulwe esigatshaneni (4)(b), ngaphandle uma kuwukuthi iziqondiso nemibandela yesigungu sokuhlela iyashintshwa yisigcawu esibhekene nezindaba zentuthuko ngokwemibandela yesigatshana (6). 45
- (6) Lapho noma yimuphi umuntu onganelisiwe yinoma yisiphi isinqumo sesigungu sokuhlela esithathwe ngokwemibandela yalesisigaba, lowo muntu angakhalaza ngaleso sinqumo kwisigcawu esimayelana nezentuthuko esisungulelwe isifundazwe esithintekayo ngaphansi kwesigaba (15) se-Development Facilitation Act, 1995 (Act No 67 of 1995), noma umthetho wesifundazwe ngendlela nangesikhathi esinqunyiwe. 50
- (7) Ngaphandle uma kubakhona esinye isihlinzeko esiphikisana nalokhu, kwi-Deeds Registries Act, 1937 (Act No 47 of 1937), noma yimuphi omunye umthetho, imibandela ebekwe ngokwemibandela yesigatshana (4)(b) kufanele urejistwe noma uphasiswe ngokuhambisana nesivumelwano sokudlulisa kwamatayitela athintekayo. 55
- (8) Ngaphandle uma kuba khona esinye isihlinzeko esiphikisana nalokhu kwi-Deeds Registries Act, 1937 (Act No 47 of 1937), noma yimuphi omunye umthetho, unobhala wezokudluliswa kwezinto ngokusemthethweni, ngokwemvume ebhalwe phansi yesigungu sokuhlela, angakhansela noma yimuphi umbandela ethe ngokwemibandela yesigatshana (5) yafakwa esivumelwaneni sokudluliswa noma sokuphasiswa kwetayitela. 60
- (9) Noma yimuphi umuntu ombandakanyeka entuthukweni embandakanya

ukuguqulwa noma ukuqiniswa kokusetshenziswa komhlaba noma isiphakamiso sokuthuthukisa ngaphandle kwemvume yesigungu sokuhlela ngaphansi kwalesisigaba, noma okuphikisana nombandela obekwe yilesi sigungu, unecala lokuphula umthetho futhi angaboshwa ngokuhlululwa inhlawulo noma ukuyodonsa ejele isikhathi esingeqile ezinyangeni eziyisithupha. 5

(10) Lapho ibhilidi noma isakhiwo sesiphakanyisiwe ngaphandle kwemvume yesigungu esikhulu ezimweni lapho leyo mvume kwakufanele itholakale khona ngaphansi kwalesi gaba, noma ngokuphikisana nombandela obekwe ngaphansi kwesigaba, isigungu sokuhlela esithintekayo singafaka isicelo kwiNkantolo ePhakeme enamandla okuphoqa umninindawo ukuba acekele noma asuse ibhilidi noma isakhiwo ngezindleko zakhe, noma enamandla okugunyaza isigungu ukuba senze njalo futhi sifune izindleko zokwenza lokho kumninindawo, noma enamandla okukhipha eminye imiyalo iNkantolo engayibona ifanele. 10

## INGXENYE 8

### *Amabhodi eziFundazwe : Izinto eziThinta uZwelonke kuphela*

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#### **Ukusungulwa kanye nemisebenzi yamabhodi zesifundazwe**

**30.** (1) Ngokulandela isigatshana (2) bonke oNgqongqoshe besiFundazwe kufanele bakhe amabhodi esifundazwe futhi baqoke abantu abafanele futhi nabaqotho njengamalunga aziwa ngokuzimela, ngokungachemi kanye nokuba neqiniso futhi akulungele ukuba ngamalunga ngenxa yezizathu zokuqonda kanye nokuba nekhono noma nolwazi lwemboni yezokuthutha umphakathi. 20

(2) Isifundazwe singahlinzeka imithetho yesifundazwe emayelana nemisebenzi yebhodi ukuba idluliselwe kwizinhlangano ezifana nebhodi okufanele zisungulwe izigungu zezokuthutha, mayelana nezicelo eziphathelene nezokuthutha endaweni yazo yezokuthutha, kodwa uma kuphela uNgqongqoshe wesiFundazwe egculiseka ukuthi isigungu esithile sezokuthutha siyakwazi ukwenze njalo futhi senza imisebenzi okukhulunywa ngayo esigabeni 10(13) ngokugculisayo. 25

(3) Imisebenzi yamabhodi ukwamukela, ukucubungula kanye nokunquma noma ukukhishwa, ngokuhambisana nalo Mthetho kanye nemithetho yesifundazwe esithintekayo— 30

- (a) izicelo zokunikezwa kwamalaysensi okwenza umsebenzi wezokuthutha ngaphakathi kwesifundazwe;
- (b) izicelo zokunikezwa kwamalaysensi okwenza umsebenzi wezokuthutha ezihambela nezinye izifundazwe ezibandakanya isifundazwe ibhodi eyasungulelwa sona, lokhu kuncike ekuvunyweni amabhodi athintekayo ezinye izifundazwe, noma isiphi esinye isifundazwe ngasodwana, lapho abagibeli bethathwa khona noma behliswa khona njengoba kungaba njalo, ngokulandela isigatshana (5); 35
- (c) izicelo zokuvuselelwa, zokuchitshiyelwa, zokudluliswa kwamalaysensi okwenza umsebenzi wokuthutha wezokuthutha esifundazweni ngaphakathi kanye nomthetho wesifundazwe kuncike esigabeni 36(a), zingangavimbela noma zinqande lokhu kudluliswa; kanye 40
- (d) nezicelo zokuvuselelwa, zokuchitshiyelwa noma ukudluliswa kwamalaysensi okwenza umsebenzi ebezinikezwe yibhodi mayelana nezokuthutha ezihambela nakwezinye izifundazwe, konke lokhu kuncike ekuvunyweni yibhodi ethintekayo yezinye izifundazwe, noma esinye isifundazwe ngasodwana, okuyilapho abagibeli bethathwa khona noma behliswa khona njengoba kungaba njalo ngokulandela isigatshana (3). 45

(4) Ukunezezela ibhodi, ngokwesicelo esenziwe kuyona ngumnikazi wenye iphemithi nganoma yisiphi isikhathi ngaphambi kosuku lokuphelelwa yisikhathi kwaleyo phemithi ngokwemibandela yesigaba (32) ingaguqula iphemithi ibe yilaysensi yokwenza umsebenzi ngokwemibandela yalo mthetho kanye nomthetho wesifundazwe esithintekayo, uma ngokwemibandela yesigatshana (3) ibizoba namandla uma ubefake isicelo selaysensi yokwenza umsebenzi embandakanya uhlobo olufanayo lwezokuthutha. 55

(5) (a) Uma, esimweni sanoma yisiphi isicelo okukhulunywa ngaso esigabeni (b) noma (d) wesigatshana (3) ibhodi ekubhekeni kwayo isicelo leso, ayizange iphumelele ukuthola imvume edingekayo yelinye ibhodi ngaphambi kokuphela kwesikhathi esinqunywe nguNgqongqoshe wesiFundazwe mayelana naleyo nhloso, ibhodi okukhulunywe ngayo kuqala ingadlulisa udaba ukuze kuthathwe isinqumo kwi- 60

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Transport Appeal Tribunal esungulwe ngesigaba (3) se-Transport Appeal Tribunal Act, 1998 (Act No 39 of 1998).

(b) Ibhodi okucelwe imvume yayo ngokwemibandela yesigaba (b) noma (d) wesigatshana (3) ehluleka ukwazisa ngesinqumo sayo ngaphambi kokudlula kwesikhathi esinqunyelwe ibhodi ecele imvume kufanele ibhekwe ngokwezinhloso sesigaba (a) zalesi gatshana njengesingathi isicelo sayo senqatshiwe. 5

### INGXENYE 9

#### *IziMvume : Izinto eziThinta uZwelonke kuphela*

#### **Izinhlobo zezithuthi ezingasetshenziswa ukuthutha umphakathi**

**31.** (1) Ngaphandle kwalo Mthetho noma nomuphi omunye umthetho, kusukela kusuku oluzonqunywa nguNgqongqoshe ngesaziso kwiGazethi kaHulumeni, engeke ikhishwe ngaphambi komhlaka 1 Oktoba 2004, amalayisensi okwenza umsebenzi angakhishwa kuphela kwizithuthi ezakhiwe noma ezishintshwe ngokusemthethweni ngumkhqizi orejistwe ngokuhambisana ne-Road Traffic Act, 1989 (Act No 29 of 1989), ngokwamazinga avumelekile ezokuphepha, ukuthwala abantu— 10 15

(a) abangeqile kwabayisishiyagalolunye, engabalwa umshayeli; noma

(b) abangu 18, engabalwa umshayeli; noma

(c) abangu 35, engabalwa umshayeli; noma

(d) abangu 46, noma ngaphezulu, engabalwa umshayeli,

ngaphandle kokuthi uNgqongqoshe, ngokuthintana noNgqongqoshe beziFundazwe ahlinzekele izigaba ezithile zezithuthi ngesaziso kwiGazethi kaHulumeni ukuze zibhekelele izimo ezithile ezindaweni zasemaphandleni, noma izimo ezithile ezimayelana nemisebenzi yezokuvakasha noma yesihle. 20

(2) Ngaphandle kwalo Mthetho noma yimuphi omunye umthetho kusukela osukwini oluzonqunywa nguNgqongqoshe ngesaziso kwiGazethi kaHulumeni, olungeke lube ngaphambi komhlaka 1 Oktoba 2006, akukho sithuthi esiyosetshenziselwa ukwenza umsebenzi wokuthutha umphakathi, ngaphandle kwesithuthi esivela kwamanye amazwe njengokuba kuchazwa kwisigaba 1 se- Cross-Border Road Transport Act, 1998 (Act No.4 of 1998), ngaphandle uma kuyisithuthi esichazwe kwisigatshana (1) futhi ngaphandle uma uNgqongqoshe, ngokuthintana noNgqongqoshe beziFundazwe ahlinzekele izigaba ezithile zezithuthi ngesaziso kwiGazethi kaHulumeni ukuze zibhekelele izimo ezithile ezindaweni zasemaphandleni, noma izimo ezithile ezimayelana nemisebenzi yezokuvakasha noma yesihle. 25 30

(3) Imidibhasi ingasetshenziselwa umsebenzi wezokuthutha ongahleliwe kuphela lapho— 35

(a) kungekho khona ezokuthutha ezihleliwe emzileni ofanayo noma komunye umzila emgudwini owodwa; kanye

(b) izinhlelo zezokuthutha ezithintekayo zivumela lokhu kwenziwa komsebenzi

(4) Lapho isithuthi sesishintshwe ngendlela ethile ukuba sithwale izinqola zabakhubazekile, izihlinzeko zalo Mthetho mayelana nesibalo sabangathwalwa isithuthi ziyasebenza, ngaphandle uma uNgqongqoshe enquma okuhlukile kulokhu. 40

(5) Akukho bagibeli abamile abayothwalwa isithuthi esincane, iminibhasi, noma imidibhasi.

#### **Ukuqhubeka nokuguqula izimvume ezikhona njengamanje**

**32.** (1) Wonke amaphemithi kufanele aguqulwe abe amalayisensi okwenza umsebenzi ngosuku olubalulwe esigatshaneni (2) uma kungenzeki lokho aphelelwa yisikhathi. 45

(2) (a) UNgqongqoshe ngokuxoxisana noNgqongqoshe beziFundazwe kufanele ngesaziso kwiGazethi kaHulumeni anqume usuku ngalo wonke amaphemithi okufanele abe eseguqulwe izinhloso zalesi sigaba, kubhekwe phakathi kwezinye izinto ukuthi abanikazi bezithuthi angeke baphucwe amaphemithi abo ngenxa yokungakwazi ukufaka isicelo kusenesikhathi sokuba kuguqulwe izithuthi zabo ngenxa yezimo ezingaphezu kwamandla abo. 50

(b) UNgqongqoshe, ngokuxoxisana noNgqongqoshe beziFundazwe, angahlehlisa usuku olunqunywe ngesaziso kwiGazethi kaHulumeni olumayelana nesifundazwe esithile noma izifundazwe ezithile. 55

(3) Ngokulandela isigatshana (5) no (6), iphemithi egunyaza imisebenzi eqhutswa ngamaminibhasi ingaguqulwa ibe ilayisensi esebenzayo yamaminibasi, noma ngabe

inani labaibeli eligunyaziwe likhuphuka, kodwa ukuguqulwa okwenzeke ngaphansi kwalesi sigaba angeke kube nomphumela wokuthi inani labagibeli sebebonke abangathuthwa ngokwaleyo layisensi yokwenza umsebenzi bangaphezu ngamaphesenti angu 15 kunenombolo yabagibeli sebebonke abangathuthwa ngaphansi kwepthemithi noma amaphemithi ilayisensi yokwenza umsebenzi eyaguqulwa ngawo, ngaphandle uma loMthetho noma izinhlelo zokuthutha ezithintekayo zikuvumela lokhu. 5

(4) Ngokulandela lo Mthetho ilayisensi yokwenza umsebenzi eshintshiwe isuka kwipthemithi inegunya elifanayo futhi iyalingana ngokwezinga nephemithi eyaguqulwa isuka kuyona.

(5) (a) Ngokulandela isigaba 31(3), amaphemithi ezokuthutha ezingahleliwe ezenziwa ngamaminibhasi angaguqulwa abe amalayisensi okwenza umsebenzi wezokuthutha ezingahleliwe noma ezihleliwe ezenziwa ngamamidibhasi, kodwa lokhu kuncike kwizinhlelo zezokuthutha ezithintekayo, ngombandela wokuthi uthola ilayisensi yokwenza umsebenzi eyodwa ngokuletha amaphemithi amabili. 10

(b) Le layisensi yokwenza umsebenzi kufanele ikhishelwe isikhathi esingenamkhawulo uma omabili amaphemithi ayekhishelwe isikhathi esingenamkhawulo, ngale kwalokho akhishelwe isikhathi esinqunyiwe esingeqi eminyakeni eyisihlanu. 15

(c) Le layisensi yokwenza umsebenzi kufanele, ngaphezu kwezinto ezibalulwe emithethweni yesifundazwe agagule inombolo yabagibeli abazothwalwa abahleli phansi. 20

(6) Amaphemithi ezokuthutha ezingahleliwe asebenza ngezithuthi ezithwala abantu abangaphansi kwesishiyagalolonye abahleli phansi, sekuhlangene nomshayeli angaguqulwa abe amalayisensi okwenza umsebenzi—

(a) Umsebenzi wezokuthutha ongahleliwe owenziwa ngamaminibhasi, lokhu kususelwa embandeleni wokuthola ilayisensi yokwenza umsebenzi eyodwa ngokuletha amaphemithi amabili futhi ilayisensi yokwenza umsebenzi kufanele ikhishelwe isikhathi esingenamkhawulo uma womabili amaphemithi ayekhishelwe isikhathi esingenamkhawulo, ngale kwalokho akhishelwe isikhathi esinqunyiwe esingeqi eminyakeni eyisihlanu; noma 25 30

(b) Ezokuthutha ezingahleliwe noma ezihleliwe ezenziwa ngomsebenzi wamamidibhasi ngokulandela isigaba 31(3), ngokulandela umbandela welayisensi yokwenza umsebenzi eyodwa ngokuletha amaphemithi amane, olayisensi yokwenza umsebenzi leyo kufanele—

(i) ikhishelwe isikhathi esingenamkhawulo uma womane amaphemithi ayekhishelwe isikhathi esingenamkhawulo ngale kwalokho akhishelwe isikhathi esinqunyiwe esingeqi eminyakeni eyisihlanu, futhi 35

(ii) ngaphezu kwezinto ezibalulwe emithethweni yesifundazwe igagule inombolo yabagibeli abahleli phansi abangathwalwa.

### **Okudingeka ngaphambi kwelayisensi yokwenza umsebenzi noma iphemithi 40 yokwenza imisebenzi yokuthutha umphakathi**

33 (1) Ngokulandela isigatshana (2) akukho muntu oyokwenza umsebenzi wezithuthi zomphakathi ezihamba emgwaqeni ngaphandle kokuba nephemithi noma ilayisensi yokwenza umsebenzi noma, ezimweni ezithile iphemithi yesikhashana ekhishwe ngokwesigaba (20) se-Road Transportation Act (Act No 74 of 1997), noma 45 ngesigunyazwa esitholakale noma esiphothulwe ngokwemibandela yomthetho wesifundazwe, esimayelana naleso simo esithile.

(2) Isigatshana (1) asisebenzi kunoma yimuphi umuntu owenza umsebenzi wezokuthutha umphakathi ezimweni ezibalulwe esigabeni 1 (2) se-Road Transportation Act, (Act No 74 of 1977), noma uMthetho wesiFundazwe ngokulandela isigaba 43 noma ngesikhathi kwenziwa— 50

(a) ezokuthutha ezizwela kweminye imingcele ngokwegunya yepthemithi ekhishwe noma enikezwe umuntu ngokuhambisana nesiGaba 6 se-Cross-Border Road Transport Act, 1998 (Act No 4 of 1998); noma

(b) ezokuthutha zasemanzini nasemoyeni yepthemithi ebalulwe esigabeni 31 salowo Mthetho. 55

### **Ilayisensi yokwenza umsebenzi ayisilona ilungelo**

34 (1) Ngaphandle uma kuguqulwa iphemithi iba yilayisensi yokwenza umsebenzi, akukho muntu onelungelo lokunikezwa ilayisensi yokwenza umsebenzi.

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(2) Ilayisensi yokwenza umsebenzi emayelana nomsebenzi wohlobo lweminibhasi esatekisi inganikezwa kuphela kumuntu oyilunga likasoseshini orejiste isikhashana noma ngokuphelele, noma kumuntu orejistile ongaselona ilunga noma kumuntu ofake isicelo sokurejistwa njengongelona ilunga futhi onikezwe isitifiketi okukhulunywa ngaso esigabeni 113 (2).

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**Isikhathi esiphelele sokuba ilayisensi yokwenza umsebenzi yamukeleke ngokusemthethweni**

**35** Akukho layisensi yokwenza umsebenzi eyokhishwa isikhathi esingaphezu kweminyaka eyisihlanu, ngaphandle kwalapho lelayisensi yokwenza umsebenzi ikhishwe khona ngoba kushintshwa iphemithi noma amaphemithi futhi lokhu kuvunyelwe ukuba kwenziwe esigabeni 32 sika 79 noma emthethweni wesifundazwe esithintekayo.

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**Amabhodi lapho isicelo kumele senziwe khona**

**36** Noma isiphi isicelo—

- (a) Sokukhishwa, sokuvuselelwa, sokuchitshiyelwa noma sokudluliswa kwelayisensi yokwenza umsebenzi yezokuthutha ngaphakathi kwesifundazwe, kufanele senziwe kwibhodi yesifundazwe esithintekayo;
- (b) ukunikezwa kwelayisensi yokwenza umsebenzi wezokuthutha ezihambela kwezinye izifundazwe kufanele kwenziwe kwibhodi yesifundazwe salapho uhambo luqala khona;
- (c) yokuvuselelwa, yokuchitshiyelwa, noma yokudluliswa kwelayisensi yokwenza umsebenzi wezokuthutha ezihambela nezinye izifundazwe enikezwe yibhodi yesifundazwe esithile, kufanele yenziwe kwibhodi yesifundazwe yaleso sifundazwe.

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**Isaziso sezicelo mayelana nezimvume**

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**37** (1) Ibhodi kufanele ngesaziso kwiGazethi kaHulumeni ngendlela nangesikhathi esinqunywe nguNgqongqoshe wesiFundazwe, inikeze isaziso sokuthola isicelo—

- (a) sokunikeza, sokuvuselela, sokuchitshiyelwa, noma sokudluliswa kwelayisensi yokwenza umsebenzi; futhi
- (b) ukuguqulwa kwamaphemithi abe ilayisensi yokwenza umsebenzi lapho iphemithi esebenza kwindawo ezungezile iguqulwe yaba ilayisensi yokwenza umsebenzi esebenza kuyo yonke imizila noma lapho kunoguquko kwimvume mayelana nesithuthi esingaphezu kwamaphesenti angu15 ngobukhulu,

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futhi kuleso saziso kuchazwe imininingwane ebalulekile yezicelo ezinqunyiwe nguNgqongqoshe wesiFundazwe, kuncike kwisigatshana (2), futhi ameme abantu abafisayo namabhodi ukuba baphawule futhi babeke imibono mayelana nalokhu ngosuku olunqunyiwe.

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(2) Esimweni sezicelo ezichazwe kwisigaba (b) sesigatshana (1), nesigatshana (2) sesigaba 41, lapho umfaki sicelo esefake khona isicelo sephemithi njengoba kuchazwe kwisigatshana (2)(c) saleso sigaba, ibhodi kunokuba ibalule leyomininingwane kwisaziso seGazethi kaHulumeni, kufanele ibalule ukuthi leyomininingwane ikhona ukuba ingahlolwa kumahhovisi webhodi, uma ixhoma imininingwane kwibhodi yezaziso emahhovisini alongendlela eqqamile ngesikhathi esidingekayo noma esifanele.

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(3) Konke ukuphawula nemibono etholakele ekuphenduleni nangokuhambisana nalesosaziso okuhambisana nokuchithwa kwalesiyasicelo, kufanele kucutshungulwe yileliyabhodi ekubhekaneni nesicelo.

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**Izithiyo mayelana nokuba nelayisensi yokwenza umsebenzi**

**38** Umuntu ombandakanyeka ngqo kule misebenzi elandelayo noma ombandakanyeka ekuphathweni kwale misebenzi, angeke akwazi ukuthola ilayisensi yokwenza umsebenzi emgunyaza ukuba athuthe umphakathi noma abe ngumnikazi wesithuthi sokuthutha umphakathi:

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- (a) Ekucubunguleni izicelo ezimayelana nalokho, noma ukukhishwa kwamalayisensi okwenza umsebenzi;
- (b) ukuhlela amasu ezimvume;

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- (c) ukuthatha izinyathelo zokugcizelela umthetho omayelana nezokuthutha umphakathi;
- (d) ukuphasisa izingcingcingi zokurejista noma ukurejista kwesikhashana kososeshini, amalunga awo noma abantu abangewona amalunga, noma ukukhishwa kwezitifiketi zokurejista noma izimpawu ezitshengisayo ukurejista; 5
- (e) ukusebenza njengomcubunguli obalulwe kwisigaba 102.

#### Amalaysensi okwenza umsebenzi wezokuthutha umphakathi ezihlinzekwe ezihlelweni zezokuthutha

- 39 (1) Ngaphambi kokucubungula noma yisiphi isicelo esimayelana— 10
- (a) nokunikezwa, ukuvuselelwa, ukuchibiyelwa noma ukudluliselwa kwelayisensi yokwenza umsebenzi egunyaza ukwenziwa komsebenzi wokuthutha umphakathi ohlukile kumsebenzi emsebenzini ongewona wokuthutha umphakathi; noma
  - (b) ukuguqulwa kwephemithi ibe yilayisensi yokwenza umsebenzi embandakanya ukuguqulwa kwephemithi esebenza kuleyondawo ukuba ibe yilayisensi yokwenza umsebenzi esebenza emzileni, noma ilayisensi yokwenza umsebenzi yokusebenzisa isithuthi esikhulu, 15
- kwindawo yesigungu esikhulu, ibhodi lezimvume kufanele ngesaziso esibhaliwe lazise isigungu esikhulu mayelana nesicelo sokucela ilayisensi yokwenza umsebenzi yokwenza izincomo ngokumayelana nesicelo, kuhlangene nanoma yimuphi umbono, kwibhodi esikhathini esibekwe kwisaziso. 20
- (2) Isigungu sokuhlela kufanele—
- (a) enze izincomo zaso kanye nemibono yaso esiyicabanga njengefanele, ngokubukela izinhlelo zokuthutha ezihlelelwe indawo yaso, uma zingekho izinhlelo ezinjalo, ngokwemibuzo nophenyo olweziwe yisona; futhi 25
  - (b) sizethule kwibhodi esikhathini esibekwe yisaziso esikhishwe ngokombandela wesigatshana (1).
- (3) Ibhodi lingazamukela izincomo ezifike emva kwesikhathi kanye nemibono ngaphansi kwesigatshana (2). 30
- (4) Kuncike kwisigaba 83, ibhodi, ekuchitheni isicelo, kufanele lenze ngokwesinqumo 'salo futhi akufanele linikeze imvume ephikisana—
- (a) nalezo zinhlelo zezithuthi; kanye
  - (b) nezincomo nemibono eyethulwe ngokombandela wesigatshana (2).
- (5) Lapho isigungu sokuhlela sihlulekile ukwethula izincomo nemibono kwibhodi ekuphenduleni lesicelo, lelobhodi lingachitha futhi lithathe isinqumo ngale sisicelo ngokucubungula lezinto ezibalulwe kwisigaba (a) ukuya ku (f) wesigaba 83(1). 35

#### Amalaysensi okwenza imisebenzi yokuqashwa

- 40(1)(a) Lapho noma yimiphi imisebenzi yokuqashwa yezokuhweba noma imisebenzi yokuqashwa exhasiwe iklonyelisewe ibhodi lamathenda eliwaziyo umsebenzi noma isigungu emva kokuphethwa kwenqubo yokukhethwa kwamathenda omphakathi ngokuhambisana nomthetho, kodwa okuncike kwisigaba 47(3) amabhodi athintekayo angeke angavumi ukufakwa kwesicelo salowo mnikazi wesithuthi sezokuthutha umphakathi sokunikezwa noma ukuvuselelwa kwe layisensi yokwenziwa komsebenzi edingakalayo ngezinhloso zalowo msebenzi wokuthutha, kuncike kwisigaba 30(3)(b) no 30(5). 45
- (b) Leso sicelo kufanele senziwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe futhi kufanele siphelzelwe yimali enqunyiwe, futhi nalowo mnikazi wesithuthi kufanele acacise kwisicelo sakhe zonke izithuthi ngendlela lezozithuthi zokuthutha umphakathi ezizosebenza ngayo ngo kmbandela waleyo mvume. 50
- (2) Ekufakweni kwesicelo ngempumelelo ngokwaleyolayisensi yokwenza umsebenzi, lowo mnikazi unelungelo lokunikezwa ilayisensi yokwenza umsebenzi yaso sonke isithuthi ngendlela lezozithuthi zokuthutha umphakathi ezizosebenza ngayo ngokombandela waleyo layisensi yokwenza umsebenzi.
- (3) Amalaysensi okwenza umsebenzi asetshenziswa kwezithuthi ezithutha umphakathi ezizohlinzekwa ngokombandela wezivumelwano zemisebenzi yezokuhweba noma izivumelwano zemisebenzi exhasiwe kufanele zikhishwe isikhathi esibekiwe kuphela futhi nangokwemibandela nemigomo yesivumelwano 55

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okukhulunywe ngaso, futhi zizochitshiyelwa ukuze kwelulwe isikhathi, lapho isikhathi sesivumelwano seluliwe.

### Izinguquko eziyisepheheli zokushaywa komthetho

41 (1) Ngaphandle kwezinye izihlinzeko zalo Mthetho, uNgqongqoshe wesiFundazwe, emva kokuxoxisana noNgqongqoshe, anganquma imithethshana ohlinzeka ukuthi ibhodi kufanele inikeze amalayisense okwenza umsebenzi kubanikazi bezokuthutha umphakathi bemisebenzi yohlobo lwamatekisi angamaminibhasi ososeshini bawo bafaka isicelo sokurejistwa ngo noma ngaphambi komhlaka 30 Juni 1997, ngokulandela isigatshana (2), lapho lababanikazi bengakwazanga khona ukufaka isicelo noma amaphemithi esikhathini esedlule ngenxa yezizathu ezingaphezu kwamandla azo njengokungakwazi kukahulumeni ukucubungula lezozicelo, ngenxa yokubandlululwa noma ngenxa yoshoda kolwazi nokuqonda uhlelo okufanele lulandelwe. 5 10

(2) Imitheshwana ngaphansi kwesigatshana (1) ingahlinzeka—

- (a) ukuthi ibhodi kufanele inikeze ilayisensi yokwenza umsebenzi uma umfaki sicelo ezihambisana nemibandela ebekwe nguNgqongqoshe wesiFundazwe emitheshwaneni, emva kulokhu okulandelayo: 15
- (i) Ibhodi kufanele ibheke izinto ezibalulwe esigabeni 83(1);
  - (ii) isithuthi isicelo esimayelana naso, kufanele sirejistwe ngegama lomfaki sicelo; 20
  - (iii) umfaki sicelo orejistwe okwesikhashana, owafaka isicelo sokurejistwa ngo noma ngaphambi komhlaka 30 Juni 1997;
  - (iv) imizila usoseshini womfaki sicelo orejista kusebenza kuyona, kufanele ibe seyihloliwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe;
  - (v) Ibhodi kufanele ilethe isicelo kwisigungu sokuhlela esithintekayo ukuze iyenze izincomo ezindabeni ezibalulwe esigabeni 83(1)(b) futhi kufanele sicubungule lezo, ngokulandela isigaba 39(5); 25
  - (vi) Umfaki sicelo kufanele ngabe abe esefake isicelo selayisense yokwenza umsebenzi ngo noma ngaphambi kosuku olubekwe nguNgqongqoshe wesiFundazwe emitheshwaneni, emva kokubonisana noNgqongqoshe, 30
- (b) mayelana nezinqubo ezisipesheli kanye namafomu amayelana nezicelo okukhulunywe ngazo kulesisigatshana;
- (c) ukuthi umfaki sicelo obesefake isicelo sezimvume ngaphambi kosuku lokuqala kwaloMthetho, akudingi ukuba aphinde afake esinye isicelo uma ehlangabezana nezidingo ezibalulwe kulemitheshwana; futhi 35
- (d) nokuthi akukho malayisense okwenza umsebenzi amasha azonikezelwa kwimisebenzi yohlobo lwamatekisi angamaminibhasi esifundazweni, ngaphandle kwalowo abalulwe esigatshani (1) kuze kube usuku olunqunywe nguNgqongqoshe, kodwa uNgqongqoshe wesiFundazwe anganikeza izixegiselo kuesidingo mayelana nemizila ethile ekwenza lokhu ngokululekwa isigungu sokuhlela esithintekayo. 40

### Ukuhoxiswa kwezimvume uma sekuphele izivumelwano

42. Lapho isivumelwano somsebenzi wokuhweba, isivumelwano somsebenzi oxhasiwe, isivumelwano sethenda samanje noma isivumelwano sesikhashana sesiphelile ngesizathu esithile, ibhodi lezimvume kufanele ngokuthola ubufakazi bokuthi sesiphelile esikhishwa yisigungu sezivumelwano esithintekayo, sihoxise imvume noma iphemithi noma zonke izimvume namaphemithi ahlobene nomsebenzi ngokombandela walesivumelwano. 45

### Imisebenzi yalowo onelayisensi yokwenza umsebenzi noma iphemithi

43. Lowo onelayisensi yokwenza umsebenzi noma iphemithi kufanele— 50
- (a) ngokuphoqwa isikhulu esinamagunya, aveze imvume noma iphemithi noma yisiphi isitifiketi segunya noma sokurejista esakhishwa ngokombandela walo Mthetho noma eminya imithetho yesifundazwe ngokwesigaba 93(1)(b);
  - (b) akhangise anamathisele ngendlela enqunywe nguNgqongqoshe wesiFundazwe, uphawu olufanele kwisithuthi lesi asinikezelwe ilayisensi yokwenza umsebenzi noma iphemithi yaso. 55

**Ukuthuthwa kwabafundi, izitshudeni, othisha kanye nothisha bezikhungo zemfundo ephakeme**

44. Ukuthuthwa kwabafundi, izitshudeni, othisha kanye nothisha bezikhungo zemfundo ephakeme zinsuku zonke, kuthathwa njengomsebenzi wokuthutha umphakathi.

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**Ulwazi olusemqoka okufanele lube kumalaysensi okwenza umsebenzi**

45. UNgqongqoshe, ngokuthintana noNgqongqoshe besiFundazwe, anganquma ulwazi olusemqoka okufanele luqakathwe amalaysensi okwenza umsebenzi azokhishwa yibhodi lesifundazwe.

**Ukuxhumana phakathi kwezokuthutha umphakathi kanye nezokuthutha emgwaqeni ezeqa imingcele**

46. (1) Lapho uhambo olumbandakanya ezokuthutha emgwaqeni ezeqa imingcele, umnikazi wesithuthi sokuthutha umphakathi uthatha abagibeli kwiRiphabliki emva kokushiya indawo yabo futhi ngaphambi kokweqa umgcele ophumela kwamanye amazwe, lowo mnikazi kufanele abe nelaysensi yokwenza umsebenzi noma iphemithi njengokunquma nguMthetho.

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(2) Akukhomnikazi ozothutha abagibeli abase ngakumngcele oweqela kawmanyane amazwe, lapho kucace khona ukuthi labo bagibeli bazimisele ukweqa umngcele beya kwelinye ilizwe, ngaphandle kokuthi lowomgibeli unephemithi efanele edingwa yi-Cross Border Road Transport Act 1998, (Act No 4 of 1998).

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**INGXENYE 10*****UkuNcintisana okuHlelekile*****Imisebenzi yokuqashwa exhasiwe**

47. (1) Emva kokuphelelwa isikhathi kwanoma yisiphi isivumelwano sesikhashana noma isivumelwano samathenda samanje, uma isithuthi sokuthutha umphakathi esasisebenza ngokwaleyo mibandela sisazoqhubeka nokuxhaswa, lesi sithuthi kufanele sisebenze ngokombandela wesivumelwano somsebenzi oxhasiwe

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(2) Umnyango wesifundazwe, isigungu sezokuthutha nedolobha elimqoka kuphela abazongena esivumelwaneni sezithuthi ezixhasiwe nabanikazi bezithuthi zokuthutha umphakathi, futhi lokho kuncike kwisigatshana (3), uma kuphela—

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(a) umsebenzi ozokwenziwa ngokwemibandela, usukhishwe kumathenda omphakathi ngokuhambisana nenqubo enqunyiwe ngokombandela womthetho wesifundazwe;

(b) ithenda seliklonyelisewe yisigungu samathenda ngokuhambisana naleyo nqubo; futhi

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(c) isivumelwano kungenwe kusona nosomathenda onempumelelo.

(3) UNgqongqoshe ngokwezinqubo anganquma, ngokuxhumana noNgqongqoshe wesiFundazwe nezigungu zezokuthutha ezithintekayo uma zikhona, akhiphe okuthile kwizidingo zesigatshana (2) avumele ukuthi isivumelwano kuxoxiswane ngaso nomshayeli uma kuphela ngokumayelana nomsebenzi noma ingxenye yomsebenzi uma—

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(a) ukuxoxisana ngaleso sivumelwano, ngokombono kaNgqongqoshe kunesidingo—

(i) sokukhuthaza ukunikezwa kwamandla ezomnotho amabhizinisi amancane noma abantu ababencishwe amathuba ngenxa yobandlululo; futhi

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(ii) sokugququzela ukwakiwa-busha kwezithuthi zokuthutha zikamasipala ukuze zi—

(aa) hambisane nesigaba 48 singakhuthazi ukwenziwa komsebenzi ngomuntu noma ngenkampani eyodwa; futhi

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(bb) khuthaze ukunikezwa kwamandla ezomnotho amabhizinisi amancane noma abantu ababencishwe amathuba ngenxa yobandlululo; kanye

(b) ukuxoxisana ngaleso sivumelwano ngeke kuholele—



- (i) ekukhuleni okunqala kwemisebenzi ehlinzekwa isakhiwo esingaphansi kukahulumeni kodwa esizimele noma umnikazi wezokuthutha zikamsipala;
- (ii) ngaphezu kwephepsi elinqunyiwe lenani lesivumelwano somsebenzi oxhasiwe endaweni yezokuthutha noma esifundazweni okukhulunywa ngaso esizoxoxwa ezivumelwaneni ngaphansi kwalesi sigatshana; kanye 5
- (iii) izindleko zesivumelwano esixoxiwe, ezibalwe ngendlela enqunyiwe, ezinkulu ngaphezu kokungaba okujwayelekile kwakwiyimisebenzi eyadlula kumathenda ngaphansi kwesimo nemibandela efanayo;
- (c) umsebenzi wesivumelwano ekuxoxiswane ngaso awenzeki ngesikhathi esifanele, futhi nangaphambilini awenzekanga ngesikhathi esifanele; 10
- (d) isivumelwano okuzoxoxiswana ngaso zihambisana nezidingo ezinqunywe ngaphansi kwesigatshana (4)(a), futhi singumfanekiso wamaphepha esivumelwano obalulwekwisigatshana (4)(b) futhi sinesikhathi esiyiminyaka emihlanu; 15
- (e) umnyango wesifundazwe, isigungu sezokuthutha nedolobha elimqoka, zihlela uhlelo lwezamabhizinisi olu—
- (i) nquma ukuthi izivumelwano ekuxoxiswana ngazo zizokwenziwa; futhi (ii) chaza ukuthi izidingo zalesigaba sekuhlangabezwane nazo; futhi
- (f) umnikazi wesithuthi sokuthutha othintekayo— 20
- angeke esikhathini sesivumelwano ekuxowe ngaso esibalwe ngamaphepsi angu 80 alesosikhathi, kusukela osukwini lokuqalisa kwesivumelwano, azibandakanye nonoma yisiphi esinye isivumelwano sethenda noma isivumelwano somsebenzi oxhasiwe, noma esinye isivumelwano ekuxoxwe ngaso ngaphansi kwalesigatshana; futhi 25
- (g) isivumelwano sihlizeka ngokuthi umnikazi kufanele, ngosuku olunqunywe kwisivumelwano, okufanele sidlule iminyaka emibili emva kokuqaliswa kwaso silawulwe ngabantu ababencishwe amathuba ngenxa yobandlululo.
- (4) UNgqongqoshe, ngokuthintana noNgqongqoshe kufanele— 30
- (a) anqume izidingo zamaphepha amathena nezivumelwano azosetshenziselwa izivumelwano zomsebenzi oxhasiwe ezizobe zibophezela kwizigungu zezivumelwano ngaphandle kokuthi uNgqongqoshe avuma ukuthi isigungu singangenzi ngokwezidingo ezimweni ezithile;
- (b) ahlinzeke ngethenda elingumfanekiso namaphepha esivumelwano, akushicilele kwiGazethi kaHulumeni, mayelana nezivumelwano zemisebenzi exhasiwe njengesidingo zezigungu zezivumelwano, ezingasoze zagudluka kulokhu ngaphandle kokuthi lokhu kuvunyelwane ngakho noNgqongqoshe. 35
- (5) Ekwenzeni imisebenzi yayo ngaphansi kwezivumelwano zemisebenzi exhasiwe, abanikazi bezithuthi zokuthutha umphakathi kufanele bahambisane nayo yonke imithetho yabasebenzi nezivumelwano zembali, imithetho emayelana nezokuthutha emgwaqeni neminye imithetho ethintekayo, nethenda namaphepha esivumelwano abalulwe esigatshaneni (4) kufanele ahlinzeke ngamandla, namagunya okuqinisekisa ukuhambisana naleyo mithetho. 40
- (6) Lapho uNgqongqoshe efisa khona ukuthatha izinyathelo ngaphansi kwesigatshana (3), uNgqongqoshe kufanele akhiphe isaziso kwiGazethi kaHulumeni yenhloso yokwenze njalo, ehambisana nemininigwane ephathelene nesinyathelo esihlongozwayo futhi avumele, abantu abathintekayo ukuba baphawule noma babeke imibono yabo kuyena ngesikhathi esigagulwe esazisweni. 45
- (7) Ungqongqoshe kufanele acubungule noma yikuphi ukuphawula kanye nemibono etholakele ngaphambi kokunquma ukuqhubeka nesinyathelo esihlongozwayo. 50

#### **Izidingo zokwamukeleka njengofaka ithenda lesivumelwano somsebenzi wokuhweba noma isivumelwano somsebenzi oxhasiwe**

48 (1) Ukwamukeleka njengomfaki wethenda yesivumelwano sokwenza umsebenzi wezohwebo noma isivumelwano sokwenza umsebenzi oxhasiwe, umnikazi wesithuthi kanye nomunye umuntu noma yinhlangano ephethe lowo mnikazi, noma eyenza imisebenzi egameni noma njengesithunywa, somnikazi wesithuthi— 55

- (a) mayelana nomisebenzi engahleliwe kufanele arejiste kuNobhala wesiFundazwe lapho leso sivumelwano ekukhulunywa ngaso sizokwenziwa khona, lapho lo Mthetho noma uMthetho wesiFundazwe udinga khona lokhu kurejistwa; futhi 60

- (b) kufanele enze umsebenzi wezokuthutha umphakathi ngokulandela imigomo yebhizinisi ehambisana nesimo sokuphathwa kwezimali; futhi
- (c) kofanele akhokhe intela yemali engenayo, ngokulandela isigatshana (2); futhi ahlinzeke ubufakazi balokho ngendlela egculisa ibhodi yamathenda efanele noma isigungu umnikazi wesithuthi arejiste kuso njengomkhokhi wentela ngaphansi kwe-Income Tax Act, 1962 (Act No 58 of 1962). 5
- (2) Umasipala noma umnikazi wezithuthi zezokuthutha ongaphansi kukahulumnei kodwa ozimele engahambisani nesigatshana (1)(c) angakulungela ukunikezwa isivumelwano somsebenzi oxhasiwe, kanye mayelana nalo lohlobo lo msebenzi, lapho— 10
- (a) umsebenzi owenziwa khona ilomnikazi wesithuthi ngomhlaka 1 Oktoba 1996; kanye
- (b) nokuthi umsebenzi awuzange esikhathini esidlule wenziwe ngesivumelwano sesikhathana noma ngesivumelwano sethenda yamanje.
- (3) UNgqongqoshe anganquma ezinye futhi izidingo noma ukwamukeleka ukuze abanikazi bezithuthi zokuthutha umphakathi balungele ukuba ngabafaka izicelo zamathenda zezivumelwano zomsebenzi oxhasiwe noma isivumelwano somsebenzi wokuhweba. 15
- (4) Ngezinhlalo zesigatshana (1)(b) umnikazi wesithuthi ungophethe kahle izimali uma— 20
- (a) ibhizinisi owenziwa umnikazi wesithuthi wenziwa ngokuhlukana nalowo womunye umkhakha noma ngenye inhlango;
- (b) umnikazi wesithuthi ugcina amarekhodi ezimali ahlukene, ngokuhambisana nezindlela nezinqubo ezijwayelekile zokugcinwa kwezimali, izimpahla zakhe, isikweletu, imali engenayo, imali ayisebenzisayo, inzuzo nokulahlekelwa; 25
- (c) umsebenzi womnikazi wesithuthi ungosimeme ngokwezimali ngokwezitatimende zezimali zakhe; futhi
- (d) umnikazi unethuba abanye abangenalo uma kukhulunywa ngokukwazi ukuthola izimali, noma olunye uxhaso noma imithombo kunom yimuphi omunye umkhakha kahulumeni, ngaphandle uma lelohuba liyingxeny yohlelo olusebenza ngokusabalele, oluphasiswe nguNgqongqoshe, ukuvikela noma ukuthuthukisa abanikazi bezithuthi zezokuthutha umphakathi ababencishwe amathuba wubandlululo olungamukelekile. 30
- (5) Ngesikhathi sesivumelwano somsebenzi wezohwebo noma isivumelwano somsebenzi oxhasiwe ngumnikazi wesithuthi kanye, lapho kudingakala khona noma imuphi umuntu noma umkhakha ophethe lo mnikazi wesithuthi noma owenza umsebenzi egameni lakhe noma njengesithunywa somnikazi wesithuthi, kufanele— 35
- (a) agcine amarekhodi ahlukene, ngokuhambisana nezindlela nezinqubo ngokujwayelekile ezivumelekile, zesimo sakhe sezimali zokwenza kwakhe umsebenzi zokusetshenziswa kwezimali kanye nokushintsha kwesimo sakhe sezimali; 40
- (b) enze ucwaningo lonyaka alwenzele ngumuntu orejiste ngokwesigaba 15 se-Public Accountants' and Auditors' Act, 1991 (Act No 80 of 1991), njengomcwaningi zimali nomcwaningi mabhuku, futhi abavele bewenza lomsebenzi; 45
- (c) ahambisane nezidingo zesigatshana (1);
- (d) angabi nethuba abanye abangenalo, eliphuma emkhakheni kahulumeni, kodwa noma iliphi ithuba eliphuma esivumelwaneni somsebenzi oxhasiwe alithathwa njengethuba abanye abangenalo ngokwenhloso yalesi sigaba. 50
- (6) Ngenhloso yalesisigaba—
- (a) “ubunikazi” usho amandla okusebenzisa noma okuba nezwi lokusebenzisa lamandla, anoma imiphi imigomo yezimali noma yokusebenza kumnikazi wesithuthi ukuze ahlomule kuleyo misebenzi yakhe; futhi
- (b) “ukuba nethuba abanye abangenalo” kusho, kodwa akugcini kuphela— 55
- (i) ekutholweni ngumnikazi wesithuthi noma imiphi imihlomulo ayithola ngokuqondile noma ngokungaqondile kuhlangele nezimali, imithombo, iminikelo, imixhaso, ukubhekelelwa noma elinye ithuba, noma elemali noma ololunye uhlobo, elingatholakali ngendlela nemibandela efanayo kwabanye abanikazi bezithuthi; 60
- (ii) ukuqinisekiswa noma ukuhlonishwa kwanoma yiziphi izibopho zomnikazi wesithuthi okuqondile noma okungaqondile, okufaka amalungiselelo noma ukuhlelwa kokunikezwa noma yiyiphi imali ebolekisayo;

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- (iii) ukuhlinzekwa ngokuqondile noma ngokungaqondile kwemali-mboleko engenayo inzuzo noma enzuzo yakhona iphansi kakhulu uma iqhathaniswa naleyo yezohwebo yokuxhasa omunye umnikazi wesithuthi ngaphansi kwemibandela efanayo, noma imali-mboleko okungukuthi ukukhokhelwa kwenzuzo yayo kuyamiswa isikhathi esingangezinyanga eziyisithupha, kuhlangele namalungiselelo nokuhlelwa kokunikezwa kwaleyo mali-mboleko; 5
- (iv) ukuvumela umnikazi wesithuthi ukusebenzisa, noma ukuhluleka ukuvimbela umnikazi wesithuthi ekusebenziseni, noma yimiphi imithombo yomphakathi, kuhlangele nengqalazizinda, indawo, izikhungo, impahla, imithombo engabantu, izinhlelo, amakhono noma nobuhlakani, noma ukuhlela lokho, okungeke kwaba khona komunye umnikazi wesithuthi ngemibandela nangendlela efanayo. 10

#### Ukumbandakanyeka komasipala kanye nezigungu zokuphatha ezokuthutha ekusetshenzisweni 15

49. (1) Isigungu sezokuthutha angeke senza noma yimuphi umsebenzi wezokuthutha umphakathi, kodwa singaba abanikazi bempahla ehambayo noma engahambi ephathelene nalowo msebenzi eqashisiwe noma ngandlela thize enikezwe abanikazi bezithuthi zezokuthutha umphakathi, uma lempahla inikezwe abanikazi bezithuthi ngokubhekelela izinhlelo zezokuthutha zalesosigungu kanye nezigaba (9) no 217(1) no (2) woMthethosisekelo. 20

(2) Ngaphandle uma sihambisana nesigaba 48—

- (a) umasipala oyingxenywe yesigungu sezokuthutha angeke aphothula isivumelwano somsebenzi oxhasiwe naleso sigungu sezokuthutha; 25
- (b) akukho masipala oyophothula isivumelwano sokwenza umsebenzi oxhasiwe nanoma yisiphi isigungu sezokuthutha, isifundazwe, noma omunye umasipala; futhi
- (c) akukho nhlango eyakhiwe ngumasipala ukuba yenze umsebenzi wezokuthutha umphakathi eyofaka ithenda yesivumelwano sanoma yimuphi umsebenzi wezohwebo noma isivumelwano somsebenzi oxhasiwe. 30

(3) Ngokulandela isigaba 47(3), akukho mali ekhishelwe izinhloso zalo Mthetho eyosetshenziswa mayelana nokwenziwa komsebenzi wezokuthutha umphakathi ngumnikazi wezithuthi zezokuthutha zikamasipala noma umnikazi wezithuthi zezokuthutha zesakhiwo esingaphansi kukahulumeni kodwa esizimele, ngaphandle uma zihambisana nesivumelwano somsebenzi wezokuhweba noma isivumelwano somsebenzi oxhasiwe. 35

(4) Izigatshana (2) no (3) azivimbeli noma yimuphi umasipala ekutheni enze umsebenzi wezokuthutha umphakathi zikamasipala ngezindleko zawo.

#### Izivumelwano zomsebenzi wokuhweba

50. Isigungu sokuhlela ngesaziso seGazethi yesiFundazwe nangamaphephandaba ngokujwayelekile ajikeleza endaweni lapho umsebenzi wezokuthutha umphakathi wenziwa khona, singamema amathenda aphuma kubasebenzisi bezithuthi zezokuthutha umphakathi okwenza lowo msebenzi ngokwemibandela yesivumelwano sokwenza umsebenzi wezohwebo.

#### Ukuhoxiswa kwelayisensi yokwenza umsebenzi noma iphemithi ngenxa yokuhlelwa kabusha kwemisebenzi zezokuthutha 45

51. (1) (a) Uma isigungu sokuhlela sihlangoza ukuhlela kabusha ukwenziwa komsebenzi wezokuthutha umphakathi endaweni yaso noma lapho uhlelo lwezokuthutha lubonisa ukuthi kunomsebenzi omningi kakhulu kwezokuthutha umphakathi emzileni othile, okungathi ngesizathu salokho ezomsebenzi zokuthutha umphakathi okungena sivumelwano ngawo ungabe usadingeka, isigungu sokuhlela kufanele senze yonke imizamo yaso ukunikeza umnikazi welayisensi yokwenza umsebenzi noma iphemithi okukhulunywa ngayo omunye umsebenzi noma eminye imisebenzi esimeme esikhundleni somsebenzi okhona njengamanje. 50

(b) Lokunikezwa angeke kwanqatshwa ngokungenasizathu ngumnikazi wemvume noma iphemithi. 55

(c) Lapho ukunikezwa komunye umsebenzi noma imisebenzi esimeme kuvunywe khona—

- (i) umnikazi welayisensi yokwenza umsebenzi noma iphemithi ekhona njengamanje kufanele afake isicelo kwibhodi ngokuhambisana nalo Mthetho kanye neMithetho yesiFundazwe esebenzayo njengamanje yokunikeza ilayisensi yokwenza umsebenzi noma amalayisensi okwenza umsebenzi ngokumayelana nomunye umsebenzi noma eminye imisebenzi; 5
- (ii) isigungu sokuhlela kufanele sihlizwe izincomo zaso kwibhodi;
- (iii) lowo mnikazi kufanele ahlizwe ngelayisensi yokwenza umsebenzi noma ngephemithi mayelana nomsebenzi okhona njengamanje kwibhodi uma isithathe isinqumo ngesicelo. 10

(2)(a) Uma isigungu sokuhlela sihluleka ukuhlizwe ngomunye umsebenzi noma ngeminye imisebenzi esimeme kumnikazi welayisensi yokwenza umsebenzi ekhona njengamanje, noma lowo mnikazi welayisensi yokwenza umsebenzi enqaba umsebenzi anikezwa wona, lesosigungu singafaka isicelo kwibhodi yokuhoxisa leyo layisensi yokwenza umsebenzi. 15

(b) Ibhodi ekutholeni kwayo leso sicelo, ngokubhalwe phansi kufanele yazise umnikazi welayisensi yokwenza umsebenzi ekhona njengamanje ngalesosicelo sesigungu sokuhlela, bese icela umnikazi welayisensi yokwenza umsebenzi ukuba anikeze izizathu esikhathini esibalulwe esazisweni, sokuthi kungani ilayisensi yokwenza umsebenzi yakhe ingenakuhoxiswa. 20

(c) Uma emva kokucubungula isicelo kanye nezizathu nemibono, uma ikhona ebekiwe, ehlinzeke umnikazi welayisensi yokwenza umsebenzi ekhona njengamanje, ibhodi yaneliseka ukuthi umsebenzi wezokuthutha umphakathi ilayisensi yokwenza umsebenzi leyo noma iphemithi ephathelene nawo, awuhambisani nohlelo olusha lwezokuthutha umphakathi oluhlongozwayo, ibhodi ingahoxisa ilayisensi yokwenza umsebenzi noma iphemithi ekhona. 25

(d) Usuku lokuqala kokusebenza kwalokukuhoxiswa ingesikhathi uhlelo okukhulunywa ngalo luqala ukusebenza noma usuku lwenyanga yesithupha olusukela esinqumeni sebhodi, kuye ngokuthi yikuphi okwenzeka kamuva, futhi ibhodi kufanele ngesaziso esibhaliwe yazise umnikazi welayisensi yokwenza umsebenzi noma iphemithi ekhona njengamanje mayelana nosuku lokuqala kwalokukuhoxisa. 30

(3) Lapho ilayisensi yokwenza umsebenzi noma iphemithi ihoxiswa ngokwesigatshana (2), isigungu sokuhlela kufanele sikhokhele isinxephezelo esigculisayo kumuntu okade engumnikazi wemvume ngesikhathi sokuhoxiswa kwayo, ngokulahlekelwa okwenzeke ngenxa yalokukuhoxiswa ngaphandle uma— 35

- (a) umnikazi wemvume ngokungenasizathu enqaba ukunikezwa omunye umsebenzi;
- (b) kunezizathu, ngokoMthetho, ezivumela ukuhoxiswa kwelayisensi yokwenza umsebenzi; 40
- (c) umsebenzi wezokuthutha umphakathi ilayisensi yokwenza imisebenzi leyo emayelana nawo, kumzila noma kwimizila ekukhulunywa ngayo uxhaswe ngokwezimali futhi wenziwa ngumasipala obhekene nemisebenzi yezokuthutha ongakasimami ngezimali futhi uxhaswe ngokugcwele noma ngokungagcwele nguHulumeni; noma 45
- (d) umnikazi wemvume ehluleka ukurejista njengomkhokhi-ntela ngokwemibandela ye-Income Tax Act, 1962 (Act No 58 of 1962), lapho lomnikazi edingwa khona uMthetho ukuba arejistwe. 50

(4) Leso sinxephezelo kufanele sibalwe ngokulandela imihlahlandlela enqunywe nguNgqongqoshe emva kokubonisana noNgqongqoshe beziFundazwe, futhi eshicilelwe ngesaziso kwiGazethi kaHulumeni, futhi kufanele sihambisane nemibandela nezimo zakuleso sifundazwe, noNgqongqoshe ngokuthintana noNgqongqoshe beziFundazwe kufanele anqume isamba salesosinxephezelo. 55

(5) Isaziso ngokombandela wesigatshana (2)(c) kufanele sithunyelwe kumnini wesithuthi mayelana nokuhoxiswa kwemvume nephemithi ngesikhathi futhi nangandlela enqunywe nguNgqongqoshe wesiFundazwe ukuze kunikezwe lowo mnikazi wesithuthi ithuba elanele lokuletha izimfuno zakhe zokunxeshelwa futhi okufanele, zibe ngandlela enqunyiwe, zisho ngokusabalele indlela lesamba esifunwayo esibalwe ngayo futhi asekele isamba semali ayifunayo. 60

(6) (a) Isigungu sokuhlela nalo mnikazi wemvume kufanele benze imizamo yokufunyelela esivumelwaneni mayelana nesamba sokunxeshelwa lokhu bakwenze ngokulandela umhlahlandlela onqunywe nguNgqongqoshe ngokwesigatshana (4). 60

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(b) uma kwenzeka amaqembu omabili ehluleka ukufinyelela esivumelwaneni mayelana nesamba, lawo maqembu angadlulela enkantolo efanele enamandla okunquma ngalo ludaba.

**INGXENYE 11***Ukurejistwa*

5

**Urejista lezokuThutha kaZwelonke**

52 (1) UNgqongqoshe kufanele aqoke isiphathimandla emnyangweni wakhe esizogcina futhi silondoloze irejista yezokuthutha kazwelonke.

(2) Kule rejista kufanele kurekhodwe ulwazi ngososeshini, imisebenzi yezokuthutha umphakathi kanye nabanikazi bezithuthi, izithuthi ezisetshenziswa ukwenza lowo msebenzi nokunye ulwazi oludingekayo olutholakala kumarejista esifundazwe, olunganqunywa nguNgqongqoshe ngezikhathi ezithile. 10

(3) Inhloso yeRejista, ezokuThutha kaZwelonke ukuba ibe yisizinda sokugcina ulwazi lokwelusa ukuqaliswa kokuhlelwa kahle kwemboni yezokuthutha umphakathi nokuba isize ekubeni negalelo ohlelweni lukahulumeni lokusiza le mboni ngezomnotho. 15

(4) (a) Ngokulandela isigatshana (7) sesigaba 6 esisebenza ngokuguquka okudingwa yisimo, ulwazi olurekhodwe kwiRejista yezokuThutha kaZwelonke luvulelekile ukuba luhlolwe umphakathi ngesikhathi zomsebenzi zoMnyango.

(b) Ngokwesicelo sanoma yimuphi umuntu othintekayo kanye nasekukhokhweni imali, uma kukhona ekhokhwayo, enqunywe nguNgqongqoshe, leso siphathimandla kufanele sihlizzeke lowomuntu ngekhophi efakazisiwe noma ngepheshana elikhishwe kunoma yeliphi irekhodi eliqukethe yiRejista. 20

**Ukuqokwa koNobhala**

53 (1) Bonke oNgqongqoshe beziFundazwe kufanele baqoke umuntu olungele umsebenzi nofanele njengoNobhala beziFundazwe, ngendlela nangemibandela okuvunyelwene ngazo phakathi kukaNgqongqoshe nelunga nesigungu esikhulu somkhandlu esibhekene nezimali, ngosuku olunqunywe nguNgqongqoshe emva kokubonisana noNgqongqoshe beziFundazwe. 25

(2) UNobhala oseqokiwe unomsebenzi wokwamukela, wokucubungula nokunquma emva kokuthola izicelo zokurejistwa zososeshini kanye namalunga abo, nezalabo abangesiwona amalunga nezinye izinto eziphathelele nalokhu okungenani ezimayelana nembali yamaminibhasi angamatekisi njengoba kuhlinzekelwe lokho kule Ngxenyeni naseNgxenyeni 17. 30

(3) Ngokulandela isigatshana (4) uNobhala kufanele enze imisebenzi yaleso sikhundla ngokukhululeka, ngeqiniso nangokungachemi. 35

(4) Ngaphandle kwezihlizeko zalo Mthetho, noma yimuphi umuntu oqokwe njengoNobhala ngaphambi kokuqala kwalo Mthetho angaqhubeka esikhundleni kuze kufike isikhathi sokuphela kwesikhathi sokuqokwa kwakhe, noma iminyaka emithathu emva kwalolu suku, noma yikuphi okufishane phakathi kwalezinto ezimbili.

**INGXENYE 12**

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*Ukurejista kanye nezinye izinto eziPhathelene neMboni yamaMinibhasi  
angamaTekisi***Imisebenzi kaNobhala****54. UNobhala—**

- (a) wamukela futhi ngokuhambisana nalo mthetho neminye imithetho yesifundazwe esebenzayo, ucubungula futhi anqume ngezicelo zokurejistwa okwesikhashana kososeshini abasesifundazweni kanye namalunga abo, kanye nalokho kwanoma yibaphi abantu abangewona amalunga basesifundazweni; 45
- (b) ezimweni ezinqunwe kulo Mthetho, anqume ngokuqala kokusebenza kokumiswa noma kokuqedwa kwaloku kurejistwa kwanoma yimuphi usoseshini noma imuphi wamalunga awo noma ibaphi abantu abangasiwona amalunga ngokuhambisana nalo mthetho; 50
- (c) agcine amarekhodi alolonke ulwazi oludingekayo lokulondoloza irejista yezokuthutha kazwelonke.

**Ukurejistwa kukashoseshini kanye nongelona ilunga esifundeni esisodwa kuphela**

55. (1) (a) Usoseshini kanye nanoma yimaphi amalunga awo noma imuphi umuntu ongesilona ilunga owenza umsebenzi osabalalela nakwezinye izifundazwe angeke noma ingasiphi isikhathi arejiste noma arejiste okwesikhashana ezifundazweni ezingaphezu kwesisodwa mayelana nomzila othile. 5

(b) ngezinhlalo zesigaba (a) nesigaba 57(b)(i) ososeshini nabangasiwona amalunga kasoseshini kufanele bakhethe isifundazwe abakusona futhi sebeke bakhetha kungenzeka esimweni sikasoseshini, ishintshwe kodwa kuphele ngesinqumo esivunye amalunga kasoseshini emhlanganweni ovulelekile wonyaka wamalunga awo ngokulandela umthethosisekelo kasoseshini. 10

(2) Ukurejistwa noma ukurejistwa okwesikhashana kukasoseshini nokwamalunga awo kanye nokwabangasiwona amalunga abenza umsebenzi wokuthutha ohambela nakwezinye izifundazwe esifundazweni ngesikhathi berejistwe kwesinye isifundazwe, lokho kurejistwa akusebenzi ngokomthetho noma ngokusemthethweni. 15

(3) Emva kokuba usurejiste okwesikhashana noma yimuphi usoseshini omalunga awo enza umsebenzi wezokuthutha ohambela nakwezinye izifundazwe, ngokuhambisana nalesi sigaba, uNobhala othintekayo kufanele athumele ikhophi yesitifiketi sokurejistwa kwalowo soseshini noma isitifiketi sokurejistwa okwesikhashana kuNobhala weziFundazwe ngazinye lapho imisebenzi yezokuthutha umphakathi eya ibuya kuzona yenziwa ngamalunga alowososeshini 20

**Ukurejista okwesikhashana kanye nokurejista okuphelele kanye nabangewona amalunga berejistwa phansi kwemithetho yesifunda**

56 (1) Noma yimuphi usoseshini nomuntu ongelona ilunga okuthi ngaphambi kokuqala kwalo Mthetho, wayerejistwe ngokombandela wanoma yimuphi umthetho wesifundazwe, uzothathwa njengososeshini noma umuntu ongelona ilunga elirejistwe okwesikhashana esikhathini esiphela kusuku oluzonqunywa nguNgqongqoshe wesifundazwe ngesaziso kwiGazethi kaHulumeni emva kokuthintana noNgqongqoshe kanye nabanye oNgqongqoshe beziFundazwe. 25

(2) Ukurejistwa okwesikhashana kukasoseshini noma umuntu ongelona ilunga ngokombandela wesigatshana (1), kuyaphela uma okukodwa kwalezizinto ezilandelayo zenzeka uma: 30

(a) Isikhathi esibalulwe kwisigatshana (1) siphela;

(b) ukurejistwa okwesikhashana kuguqulwa kuba ukurejista okugcwele ngokombandela wemithetho yesifundazwe.

(3) Ukurejista okwesikhashana komuntu ongelona ilunga ngeke kwaguqulwa kube ukurejista okugcwele ngaphandle kokuthi lowomuntu ongelona ilunga— 35

(a) lowo muntu unephemithi eyaguqulwa yaba yilayisensi yokwenza umsebenzi; futhi

(b) unelayisensi yokwenza umsebenzi yesithuthi ngasinye ngendlela yokuthi lowomuntu ongelona ilunga ungumnikazi wesithuthi sokuthutha umphakathi; futhi 40

(c) ubhalise ngaphansi koMthetho wokuziPhatha walesosifundazwe.

**Ukurejista kukasoseshini ngokuphelele**

57. Ososeshini barejistwa ngokuphelele kuphela uma—

(a) wonke amalunga kasoseshini— 45

(i) anelayisensi yokwenza umsebenzi esemthethweni yesithuthi ngasinye ngendlela yokuthi lelolunga lingumnikazi wesithuthi sokuthutha umphakathi; futhi

(ii) angabanikazi bezithuthi zokuthutha umphakathi ngokwelayisensi yokwenza umsebenzi, ngokuhambisana ngokwemibandela enanyathelise kumagunya anikezwe yilayisensi yokwenza umsebenzi; 50

(iii) anamaphemithi aguqulwa aba amalayisensi okwenza umsebenzi;

(iv) abhalise kumthethosisekelo ohambisana nalo Mthetho;

(b) isicelo sikasoseshini sokurejista sesenziwe—

(i) kuNobhala wesifundazwe lapho sitholakala khona; futhi 55

(ii) yilabo abanikezwe amagunya abamele usoseshini ngendlela ehlinzekwe kuloMthetho kanye nakweminye imithetho yesifundazwe;

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- (c) usoseshini ahambisana nemithetho ethintekayo yesifundazwe kuyo yonke imikhakha.

### Ukurejistwa kwamalunga

58. Lapho usoseshini urejistwe ngokungagcwele noma ngokugcwele, uNobhala kufanele arejiste wonke amalunga awo ngokumayelana nokuthi ulwazi oludingakalayo seluhlinzekiwe kwifomu lokufaka isicelo elifanele, njengelunga lesikhashana noma elirejistwe ngokugcwele lalowososeshini. 5

### Ukukhishwa kwezitifiketi kanye nezimpawu ezitshengisayo uma usurejistile noma ukurejistwa okwesikhashana

59. (1) ONobhala kufanele baxhumane ukuze baqinisekise ukuthi izinombolo zokurejista ezikhishwe ngamunye wabo kososeshini, namalunga abo, nalabo abangewona amalunga ziyafana. 10

(2) (a) Lapho ilunga noma umuntu ongelona ilunga elirejistiwe, ezibandakanya kwezokuthutha zangaphakathi kwesifundazwe, uNobhala ngaphezu kwalokho kufanele akhiphe, ngendlela enqunywe nguNgqongqoshe, uphawu olutshengisayo lwesithuthi ngasinye selunga elirejistiwe nesalowo muntu ongelona ilunga esisetshenziswa ngaphansi kwegunya lemvue efanele yokusebenza isithuthi sokuthutha umphakathi phakathi nesifundazwe. 15

(b) Lapho ilunga noma umuntu ongelona ilunga orejistwe okwesikhashana ezibandakanya kwezokuthutha zangaphandle kwesifundazwe, uNobhala kufanele ngokwengeza akhiphe ngendlela enqunywe nguNgqongqoshe, uphawu olutshengisayo lwesithuthi ngasinye selunga elirejistwe okwesikhashana noma umuntu ongelona ilunga— 20

(i) olusetshenziswa ngaphansi kwegunya lelayisensi yokwenza umsebenzi noma iphemithi efanele; noma 25

(ii) ngokumayelana nokuthi ilunga elirejistwe okwesikhashana noma umuntu ongelona ilunga ufake isicelo selayisensi yokwenza umsebenzi efanele ngokuhambisana nalo Mthetho neminye imithetho yesifundazwe ethintekayo.

(3) UNgqongqoshe ngokuthintana noNgqongqoshe beziFundazwe, anganquma imininingwane edingakalayo ekufanele iqukathwe kunoma yisiphi isitifiketi sokurejista noma isitifiketi sokurejista okwesikhashana esingakhishwa mayelana nezokuthutha ngaphandle kwesifundazwe. 30

### Izidingo zemithethosisekelo yososeshini

60. Umthethosisekelo kasoseshini kufanele ngokwezinhloso zokurejista ngokugcwele uhambisane nezidingo, uma zikhona, ezinqunywe nguNgqongqoshe ngokuthintana noNgqongqoshe beziFundazwe. 35

### UNgqongqoshe ozonquma izidingo zomthetho wokuziphatha

61. Bonke oNgqongqoshe beziFundazwe kufanele banqume uMthetho wokuziphatha wabanikazi bamaminibhasi angamatekisi kwisifundazwe, futhi noNgqongqoshe ngokuthintana noNgqongqoshe beziFundazwe, anganquma izinto okufanele zifakwe kulowo mthetho wokuziphatha. 40

### Imihlomulo yokurejista

62. (1) Ososeshini abarejistiwe noma abarejistwe okwesikhashana, amalunga nabantu abangewona amalunga kuphela, abangathola uxhaso lwezimali oluvela kunoma yimuphi umkhakha kahulumeni noma kwisigungu sezokuthutha noma idolobha elimqoka, ngezinhloso zokusungula noma zokuhlanganyela umsebenzi wamaminibhasi. 45

(2) Amalunga arejistiwe nabantu abangewona amalunga abarejistiwe kuphela abafanele ukuklonyeliswa isivumelwano somsebenzi wokuhweba noma isivumelwano somsebenzi oxhasiwe. 50

(3) Umkhakha kahulumeni, isigungu sezokuthutha nedolobha elimqoka ngeke bakwazi ukuzisa ngezimali ngokwenhloso ehlobene nezokuthutha umphakathi kunoma yibaphi abanikazi bamaminibhasi angamatekisi abangarejistwanga noma

abangamalunga angrejistwanga okwesikhashana noma abantu abangewona amalunga, noma kunoma ngomuphi usoseshini ongarejistwanga, ngaphandle kosizo oluhlobene nokuqeqesha noma ukuyalela.

### ISAHLUKO 3 IZINDABA EZIPHATHELENE NEZIFUNDA

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#### INGXENYE 13 *Imisebenzi kaNgqongqoshe wesiFundazwe*

#### Imisebenzi kaNgqongqoshe

63. (1) UNgqongqoshe kufanele ngaphezu kwemisebenzi ebalulwe engxenyeni 9—
- (a) agququzele ukwanda kokusetshenziswa kwezokuthutha umphakathi; 10
  - (b) athathe izinyathelo ezidingekayo ukuqhakambisa ukubambisana phakathi kwezigungu zezokuthutha futhi nezinye izigungu zokuhlela esifundeni, noma phakathi kwalezo zigungu kanye nesifundazwe, ngenjongo yokuvikela ukuphindaphindeka komsebenzi;
  - (c) ekuthatheni noma iziphi izinyathelo zokuqhakambisa ezokuthutha umphakathi— 15
    - (i) aqhubekisele phambili, phakathi kwazo zonke izinjongo zezokuthutha, zezithuthi ezihamba phansi, ukuphepha kwabagibeli;
    - (ii) agququzele indlela enekhono neyokubhekela uhwebo ngasohlangothini lwabanikazi bezithuthi zezokuthutha ekuhlinzekeni kwabo imisebenzi yezokuthutha umphakathi, futhi agququzele ukufaka amathenda nezimali ezehlisiwe ngendlela yokuncintisana; 20
    - (iii) aqhubele phambili indlela enamasu athile futhi ehlangene ekuhlinzekeni ezokuthutha umphakathi;
    - (iv) aqhubele phambili noma agququzele ukusebenzisa ngendlela enekhono imithombo yamandla, futhi anqinde noma anciphise kakhulu ukunukubezeka kwendalo. 25
  - (d) ukuqhakambisa ezokuthutha zomphakathi ngendlela yokuba—
    - (i) kuyaphumelela ekubhekaneni nezimfuno zabagibeli;
    - (ii) zisebenza ngokwanelisayo mayelana nemithombo esetshenziswayo; 30
    - (iii) imisebenzi ehlinzekiwe iyancomeka kakhulu futhi kuyafinyeleleka kalula kuyo futhi isetshenzwa ngokwengqalasizinda ehlinzekwe ngezimali nokho ezamukelekile;
    - (iv) ekusebenzeni imisebenzi yezokuthutha umphakathi, ukuphepha kunikwa ukunakwa okusezingeni eliphezulu; 35
  - (e) asebenzele ukuqinisekisa ukuthi ekuqhakambiseni ezokuthutha ezihlangene izidingo zabasebenzisi bezokuthutha bayacatshangelwa ngokufanele;
  - (f) ukuqhakambisa ukusebenza kokuhlela ezokuthutha ezihlangene esifundazweni futhi enze ukuba uhlaka lwezokuthutha esifundazweni luyalungiswa ngokuhambisana nesigaba 22; 40
  - (g) lapho lo Mthetho udinga ukuba kuxoxiswane nomphakathi futhi umphakathi umbandakanyeke ngaphambi kokuthatha noma isiphi isinqumo noma ukuwenza umsebenzi osemthethweni, anqume izinqubo ekumele zilandelwe kulokhu. 45
- (2) lapho ekuqaleni kokusebenza kwalo Mthetho, isifunda kade senza umsebenzi wokuhlela kwezokuthutha umphakathi ngaphandle kwemisebenzi ehloswe esigabeni 20(4) ngokwemibandela yoMthethosisekelo kumele wenziwe omasipala, uNgqongqoshe wesiFundazwe kanye nezigungu zokuhlela ezithintekayo kumele ukuba benze amalungiselelo okudlulisela imisebenzi yokuhlela ezigungwini zokuhlela ezithintekayo. 50

#### Imitheshwana eshaywe nguNgqongqoshe wesiFundazwe

64. (1) Ungqongqoshe wesiFundazwe angenza imitheshwana mayelana nanoma yiphi into ngokwemibandela yalo Mthetho, engase noma okumele inqunywe nguNgqongqoshe wesiFundazwe ngaphansi kwalo Mthetho.

(2) Imitheshwana, ezimweni lapho kudingekile khona, ihlinzeka ukuthi noma imuphi umuntu ophula izihlinzeko zawo noma okuhluleka ukuhambisana nawo, unecala 55



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lokuphula umthetho futhi unokuboshwa isikhathi esingeqile ezinyangeni ezintathu noma ahlawuliswe.

(3) Noma imuphi umtheshwana owenziwe phansi kwemiyalelo yanoma imuphi umthetho osewadlula futhi osebenzayo ngaphambi kokuqala ukusebenza kwalo Mthetho mayelana nezindaba eziphathelene nokuthi uNgqongqoshe wesiFundazwe, phansi kwemiyalelo yesigatshana (1), unamadla okwenza imitheshwana, uthathwa ngezinhloso zalo Mthetho, njengemitheshwana eyenziwe phansi kwemibandela yalesosigatshana kuze kufike isikhathi lapho uNgqongqoshe wesiFundazwe enza umtheshwana ongena esikhundleni sawo phansi kwalesi sigaba.

(4) Ungqongqoshe wesiFundazwe anga—

- (a) gagula izimali zokugibela ezincane nezinkulu kwezokuthutha umphakathi ezixhasiwe zikaloliwe, uma uNgqongqoshe enikezele umsebenzi kaloliwe esifundazweni esithintekayo;
- (b) ngesaziso kwiGazethi yesiFundazwe, agagula izinkambiso namazinga mayelana nezindaba eziphathelene nokusebenza imisebenzi yezokuthutha umphakathi exhasiwe ngomgwaqo futhi exhaswe ngesikhwama sesabelo-mali sesifundazwe, kanye nengqalasizinda ethintekayo, kangoba lo msebenzi sewabelwe isifundazwe.

#### INGXENYE 14

#### IZIGUNGU ZEZOKUTHUTHA: IZINDABA EZITHINTA ISIFUNDAZWE KUPHELA

##### Izivumelwano zokusungula izindawo zokuthutha kanye nezigungu zokuthutha

65. (1) Izigungu zokuthutha zingasungulwa zisungulelwa izindawo zokuthutha, kuphela njengoba kuhlinzekwe kule Ngxenywe kanye neNgxenywe 5 futhi kuphela uma imisebenzi yalesosikhungo mayelana nemisebenzi kamasipala othintekayo ihambisana noMthethosisekelo futhi nezigaba 84 kanye no 85 zikaHulumeni weNdawo ze-Municipal Structures Act, 1998 (Act No 117 of 1998).

(2) Amaqembu athintekayo esivumelwaneni esisunguliwe angavumelana ukuguqula imingcele yendawo yokuthutha ethintekayo, lokhu kuye ngokuthi lesisichibiyelo simbandakanya indawo enye indawo kamasipala, isigungu sezokuthutha, uma sesivele sisunguliwe, kumele sihlakazwe ngokwemibandela yesigaba 71 futhi siphinde sakhiwe kabusha.

##### Ukuqagula izindawo zokuthutha kanye nokuqanjwa kwezigungu zezokuthutha

66. (1) Zingakadluli izinsuku ezingu 14 emva kokwenza isivumelwano okukhulunywe ngaso esigabeni 65, uNgqongqoshe, kufanele ngesaziso kwiGazethi kaHulumeni—

- (a) ashicilele isivumelwano, okufanele sihambisane nezidingo zesigaba 67;
- (b) amemezele indawo ethintekayo njengendawo yezokuthutha, futhi ayinikeze igama elihlinzekwe esivumelwaneni;
- (c) lapho kunesidingo khona, ahoxise ngendlela ehlinzekwe esigabeni 3(1)(c) se-Urban Transport Act, 1977 (Act No 74 of 1977), isaziso ngaso indawo noma izindawo zikamasipala noma omasipala abathintekayo bafakwe kwi-MTA efanele ngaphansi kwesigaba (a) noma (b) wesigaba 3(1) salo Mthetho; futhi
- (d) ngokuhambisana nanokulandela isivumelwano asungulele leyo ndawo yezokuthutha isikhungo sezokuthutha esiyoqala ukusebenza ngosuku olunqunyiwe sisebenzela inhloso okuvunyelwane ngayo esivumelwaneni.

(2) Isivumelwano emva kokuba sesishicilelwe, singamandla angokomthetho, kunjalo nje akukho sichibiyelo kusona esingabasemthethweni noma sisebenze kuze kube isikhathi lapho lesosichibiyelo sishicilelwa khona ngesaziso kwiGazethi yesiFundazwe nguNgqongqoshe.

##### Izidingo zokwakha izivumelwano ezisunguliwe

67. Isivumelwano esisunguliwe kumele ukuba ngesibhaliwe futhi kufanele sihlinzeke okungenani lokhu okulandelayo—

- (a) Isimemezelo ngamaqembu athintekayo esivumelwaneni eqinisekisa ukuvumelana kwawo mayelana nokusungula isigungu sezokuthutha sendawo ethintekayo;

- (b) Igama elinikewe indawo yezokuthutha;
- (c) Usuku isigungu sezokuthutha esizosungulwa ngalo;
- (d) Ukusungula futhi nokwakha umgwamanda wokuphatha walesosigungu sezokuthutha, inani lamalunga kanye nendlela azokhethwa futhi aqokwe ngayo. Kodwa-ke, umuntu osebenza njengekhansela likamasipala kuphela ongaba yingxenywe yesivumelwano esisunguliwe (osuzobizwa lapha ngokuthi umasipala obambe iqhaza), angakhethwa futhi aqokwe njengelunga lomgwamanda wokuphatha; 5
- (e) Ukukhethwa nokuqokwa kukasihlalo kanye nebamba likasihlalo bomgwamanda wokuphatha; 10
- (f) Izingqubo zokukhetha kanye namalungelo okukhetha amalunga emihlanganweni yomgwamanda wokuphatha kanye nanoma iliphi ikomiti lawo lapho kungasebenza khona, kanye nezindlela futhi nezinqubo zokuzazulula ongqingetshe ekuthathweni kwezinqumo;
- (g) Ukuqokwa futhi nokukhethwa kwesiphathimandla esikhulu saleso sigungu sokuphatha ezokuthutha kanye nezibophezelo, imisebenzi futhi namandla ahlalene naleso sikhundla; 15
- (h) Amandla omgwamanda wokuphatha angase abelwe kunoma iliphi ilunga lawo noma esiphathimandleni esikhulu saleso sigungu sokuphatha sezokuthutha; 20
- (i) Indawo yehovisi elikhulu laleso sigungu sezokuthutha kanye nemihlangano yomgwamanda wokuphatha;
- (j) Ikheli lendawo ukuze kulethwe, kuhanjiswa noma kushiywe lonke iposi, amabhuku, izaziso futhi nezincwadi zasenkantolo eziqondiswe esigungwini sezokuthutha; 25
- (k) Lapho indawo yokuthutha inezindawo ezingaphansi kwayo noma ingxenywe yalezo zindawo, zomasipala ababambe iqhaza ababili noma ngaphezulu—
- (i) umnikelo walowo nalowo masipala obambe iqhaza ekuxhasweni ngezimali kwaleso sigungu sezokuthutha;
- (ii) ukusebenza kobungcweti, ubuchwepheshe, ukuphatha, owokubhala, owonobhala kanye nomunye umsebenzi osukela kuleyo misebenzi, omayelana nemisebenzi yokwenziwa kwayo yilesosigungu sezokuthutha ngamandla nangemisebenzi yaso ngokwemibandela yalo Mthetho; 30
- (iii) ngokulandela lo Mthetho, izidingo okumele zinakwe futhi izingqubo okumele zilandelwe ngumasipala obambe iqhaza ofuna ukuhoxisa kuleso sigungu sezokuthutha, nasekubophezelekeni kwawo, nemisebenzi, mayelana nokuzinikela kwamanje nokungakenzeki futhi nezibopho zalesosigungu; kanye 35
- (iv) nezinqubo ezizolandelwa futhi ezimayelana nokuhlakazwa kwaleso sigungu sezokuthutha ngokungenampoqo kulandelwa isigaba 10 (13); 40
- (l) amalungiselelo okwenza umsebenzi wobungcweti, ubuchwepheshe, ukuphatha, owokubhala, owonobhala kanye nomunye umsebenzi wesigungu sezokuthutha phansi kwemiyalelo yesigaba 75, uma ungabhekelelwe njengamanje ngaphansi kwesigabeni (k) (ii). 45

### Imisebenzi kanye namandla ezigungu zezokuthutha

68. (1) Ngokulandela umthetho osebenza kuhulumeni wasekhaya, isigungu sezokuthutha kumele senze imisebenzi eyabelwe kusona ilo Mthetho futhi ngokuvuma kukaNgqongqoshe wesiFundazwe noma lapho kungasebenza khona, oNgqongqoshe beziFundazwe— 50
- (a) baqhakambise ukuphepha kwezokuthutha umphakathi;
- (b) bagququzele futhi baqhakambise ukusetshenziswa kwezinhlobo ezahlukene zezokuthutha ukuze kuthuthukiswe ukusebenza kohlelo lwezokuthutha futhi kuncishiswe isikhathi sokuhamba kanye nezindleko;
- (c) bathuthukise, basebenzise futhi balondoloze uhlelo lolwazi lwezokuthutha lwezithuthi ezihamba phansi; 55
- (d) bathengise futhi baqhakambise futhi benze imisebenzi wokwazisa ehlangene nohlelo lezokuthutha umphakathi;
- (e) bahlinzeke ngolwazi kulabo basebenzisi noma abangase babe ngabasebenzisi bezokuthutha umphakathi; 60

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- (f) mayelana nemisebenzi exhasiwe, banqume imikhakha yezimali futhi namazinga ezimali zokugibela, kanye nezimali ezikhokhwayo ezehlisiwe zomkhakha wabagibeli, futhi njalo bahlele izimali zokugibela bekwenza lokho ngokubonisana nalabo abathintekayo, uma uNgqongqoshe wesiFundazwe esephathise isigungu sezokuthutha umsebenzi wokuxhasa; 5
- (g) lapho kuyimisebenzi yezokuthutha umphakathi engaxhasiwe, bagagule imali encane yokugibela;
- (h) bakhokhele abanikazi bezithuthi zomphakathi abasebenza imisebenzi yezokuthutha umphakathi ngokwemibandela yezivumelwano zomsebenzi oxhasiwe futhi nezivumelwano zezimali ezehlisiwe zokugibela, lapho isigungu sezokuthutha siyingxenywe khona naso, uma uNgqongqoshe wesuFundazwe esephathise lomsebenzi esigungwini; 10
- (i) baqalise futhi benze uphenyo mayelana nesimo sezimali kanye nemikhuba yokusebenza—
- (i) yabantu, ngaleso sikhathi, bangabanikazi noma bangaba abanikazi bemisebenzi yezokuthutha umphakathi emayelana noma esendaweni yezokuthutha; noma 15
- (ii) abanini bezimvume, ngaleso sikhathi, basebenza imisebenzi yezokuthutha umphakathi, mayelana noma kuleyondawo, futhi uma umnini kuyinkampani ingeyedlanzana lezinkampani, futhi kulezozimo kanye nemikhuba yanoma iyiphi enye inkampani kulelo dlanzana lezinkampani; 20
- (j) baqalise noma basungule, noma basize noma bagqugquzele, baqhakambise ukuqaliswa noma ukusungulwa kwezinhlelo ezihlangene amathikithi futhi banqume noma baqagule izindlela zomthetho futhi nokuqondisa ukucazelana ngemali etholakalayo phakathi kwabanikazi bezithuthi abambandakanyeka kulolo hlelo; 25
- (k) basebenzise amandla ekwenziweni komsebenzi—
- (i) ngokunquma amazinga okusebenza nawobuchwepheshe nokwalusa ukuthi lokhu kuyagcinwa; futhi 30
- (ii) ukwalusa izivumelwano kanye nezimali ezehlisiwe;
- (l) basungule, basebenzise isu futhi baleluse ukuvikela, ukunciphisa noma imiphi imiphumela emibi yezinhlelo zezokuthutha ezihamba phansi kwimvelo;
- (m) ngokuvumelana nomasipala ababamba iqhaza—
- (i) bathathe imisebenzi eqondene nemigwaqo yomasipala; 35
- (ii) bathathe izinyathelo zokunciphisa umonakalo ohlelweni lomgwaqo kuleyo ngxenye yendawo yezokuthutha.
- (2) Ungqongqoshe wesiFundazwe futhi nesigungu sezokuthutha bangavuma—
- (a) ukuthi imisebenzi enhlobonhlobo yenziwe ezindaweni ezisamakhaya kunokuba wenziwe ezindaweni zasedolobheni ezindaweni zokuthutha ezithintekayo; noma 40
- (b) lapho kungumasipala wesigodi ongumasipala obambe iqhaza ongumasipala ongu-Category C obalulwe esigabeni 155(1)(c) soMthethosisekelo, lezinhlobonhlobo zemisebenzi zingenziwa phakathi kwezindawo ezingaphansi komasipala baka-Category B ezindaweni ezithintekayo, 45 kunezindawo ezingaphandle kwalezo zindawo.
- (3) Isigungu sezokuthutha kufanele ngenhloso yokuqinisekisa ukugcinwa komthetho wezokuthutha okudidiyelwe phakathi kwendawo yaso, sixhumane zikhathi zonke namaphoyisa e-South African Police Service, izigungu noma izithunywa zokugcinwa komthetho esifundazweni nakumasipala othintekayo nabahloli abaqokiwe nabasebenza phansi komthetho i-Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998). 50
- (4) Isigungu sezokuthutha singase, ngokuvumelana nomasipala obambe iqhaza, sithathe umsebenzi noma sisize umasipala obambe iqhaza ekusebenziseni amasu okuphatha ezokuthutha okuqonde ngawo ukwenza ngcono, ukuhamba kwezinto zokuhamba emgwaqeni kuleyo ngxenye yendawo yokuthutha eqondana nendawo engaphansi komasipala obambe iqhaza. 55
- (5) (a) Njalo lapho isigungu sezokuthutha—
- (i) sehluleka ukwenza imisebenzi yaso phansi ngokemibandela yesigatshana (1);
- (ii) noma sithathe umsebenzi ngokwaso obalulwe esigatshaneni (2), sehluleka ukwenza umsebenzi; noma; 60
- (iii) sehluleka ukwenza ngendlela efanele nenempumelelo umsebenzi ngokuhambisana nalo Mthetho kanye nemithetho yesifunda esebenzayo, uNgqongqoshe, ngesaziso esibhaliwe esiqondiswe esigungwini sokuthutha ngendlela

edlula kumgwamanda wokuphatha noma isiphathimandla esikhulu, angase akhiphe umyalelo wokuthi isigungu silungise iphutha laso futhi senze umsebenzi othintekayo, noma njengoba kungenzeka, siwenzekahle futhi ngendlela efanele futhi enempumelelo, ngaphambi kosuku olubekwe esazisweni.

(b) Ngenxa yalokho umgwamanda wokuphatha nesiphathimandla babophezelekile ukuqinisekisa ukuthi isigungu siyahambisana ngokushesha naleso siqondiso. 5

(c) Uma kwenzeka ukuba isigungu sezokuthutha sehluleka ukulungisa iphutha phakathi kwesikhathi esibekwe esazisweni, uNgqongqoshe angase—

- (i) agxambukele ngokuthutha izinyathelo zokwenza ukuba umsebenzi usetshenzwe ngumnyango wesifunda noma iliphi elinye ibandla noma ngumuntu onamandla okwenza lokhu, ngokulandela isigaba 139 somthethosisekelo; futhi 10
- (ii) asebenzise izimali eziphuma esikhwameni sesifunda ezibekelwe ukuba zabelwe isigungu sezokuthutha, ukuba akhokhe izindleko ezivele ngenxa yokuthutha isinyathelo, noma azifune lezi zindleko esigungwini sezokuthutha. 15

### Amandla alekelelayo ezigungu zokuthutha

69. (1) Isigungu sezokuthutha singase singene esivumelwaneni nomasipala ongumasipala obambe iqhaza ngokwemibandela yokuthi isigungu sezokuthutha sizokwenza umsebenzi senzele lowo masipala, noma yimaphi amandla noma umsebenzi ophathiswe umasipala ngokwalo mthetho noma umthetho kamasipala osebenzayo. 20

(2) Isigungu sezokuthutha singangena ngaphansi kwaleso sivumelwano uma sinamandla afanele ngokwaloMthetho kanye nomthetho wezokuthutha okwenza noma okusebenzisa amandla afanayo ngokuphathelene nendawo yaso yezokuthutha.

(3) Isivumelwano phansi ngokwemibandela yesigatshana (1) singambandakanya ukusetshenziswa kwezimali zesigungu sezokuthutha esingaphandle kwendawo yaso yokuthutha, uma uNgqongqoshe kanye nelunga lesigungu esikhulu esibhekene ezimalini uma bobabili bevuma. 25

(4) Phezu kwamandla athweswe kusona phansi kwemibandela yalo Mthetho futhi phansi kwemibandela yanoma imiphi imithetho yesifundazwe, isigungu sezokuthutha singenza noma isiphi isenzo esisemthethweni, noma senze noma yini umuntu ngokomthetho ngaphandle uma lesa senzo singangqubuzana nalo Mthetho. 30

### Ukuphathwa kwezigungu zezokuthutha

70. (1) Isigungu sezokuthutha sibuswa futhi silawulwa umgwamanda wokuphatha osungulelwe sona ngokuhambisana nesivumelwano esisunguliwe mayelana naleso sigungu, okumele ukuba sibe namakhansela eziceme zikamasipala. 35

(2) Umgwamanda ophethe umele isigungu sezokuthutha, futhi nazo zonke izenzo ezenziwa umgwamanda wezokuthutha noma ngubani ogunyazwe ngokusemthethweni yilowo mngwamanda ukuba enze esikhundleni sawo, lezo zenzo ezaleso sigungu.

### Ukuhlakazwa kwezigungu zezokuthutha

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71. (1) (a) Ngokulandela isigaba (b) salesi sigatshana, isigungu sezokuthutha singahlakazwa kuphela njengokuhlinzekelwe kulesi sigaba.

(b) Isigaba (a) asiwachaphazeli amandla kanoma yimuphi uNgqongqoshe wesiFundazwe wohulumeni basekhaya, uma enza umsebenzi phansi kwemibandela yesigaba 14 se-Local Government : Municipal Structures Act, 1998, (Act No 117 of 1998) ukwenza noma imaphi amalungiselelo anomphumeke ongemuhle, futhi angeke sihxise ukusebenza komthetho kanye nokufezwa kwanoma imaphi amalungiselelo enziwe. 45

(2) Isigungu sezokuthutha kufanele sihlakazwe ngokombanndela wesigatshana (1) uma izidingo ezilandelayo sezifeziwe: 50

- (a) Lapho kukhona umasipala owodwa kuphela oyingxenywe yesigungu sezokuthutha, sekunqunywe ukuba kuqedwe ukubamba iqhaza kwawo esigungwini sezokuthutha futhi sekwaziswe uNgqongqoshe wesiFundazwe ngendlela yokubhala mayelana nesinqumo;
- (b) lapho kukhona omasipala ababili noma abevile abayingxenywe yesigungu sezokuthutha— 55
  - (i) omasipala abathintekayo sebevumile ngokomgomo ukuthi isigungu sezokuthutha sihlakazwe, futhi sebazise uNgqongqoshe ngalelophuzu;

- (ii) umasipala oyedwa noma abanye njengoba kungaba njalo, balabo masipala benqume ukuqeda ukubamba kwabo iqhaza kulesi sigungu sezokuthutha njengoba kungaba njalo, kanye nabobonke omasipala abanqume ukwenze njalo, bazise uNgqongqoshe wesiFundazwe nabanyomasipala, noma omunye wabanye omasipala njengoba kungabanjalo, ngesinqumo; 5
- (c) Ungqongqoshe wesiFundazwe, phakathi kwezinsuku ezingu-30 emuva kokuba azisiwe—
- (i) ushicilele ngesaziso kwiGazethi yesiFundazwe nakwiphephandaba okuyilona ngokujwalekile elifundwa endaweni yokuthutha ethintekayo yileso saziso, azise ngokuhlakazeka kwesigungu sezokuthutha esithintekayo; 10
- (ii) ameme amaqembu athintekayo ukuba aphawule futhi enze izikhalo mayelana nalokhu; futhi
- (iii) acele ukuba ukuphawula lokho kanye nezikhalo bazethule ngendlela yokubhala, kuNgqongqoshe wesiFundazwe ngosuku olubekwe kuleso saziso. Kodwa-ke isikhathi okungenani esiyizinsuku ezingu-30 kumele sivunyelwe leyo nhloso. 15
- (d) Uma onke amaqembu esigungu sezokuthutha esengene esuvumelwaneni phansi ngokwemibandela yokuba kwenziwe amalungiselelo, mayelana nokuphawula kanye nezikhalo (uma zikhona) ezethuliwe ngokuphendula isaziso sikaNgqongqoshe ngokwesigaba (c) mayelana nezindaba uhla lwazo olusesigabeni 10(13). Kodwa-ke usuku lokuhlakazwa kumele lunqunywe ngendlela yokuthi livumele ithuba elanele lokukhipha isaziso elinikezwe ngokuhambisana nesigatshana (4). 20 25
- (3) Uma uNgqongqoshe wesiFundazwe nomasipala noma omasipala, njengoba kungabanjalo abayingxenye yalesosigungu behluleka ukufinyelela esivumelwaneni kunoma iluphi udaba oluthintwe esigatshaneni (2)—
- (a) udaba noma izindaba ezithintekayo kumele ukuba zinqunywe ngendlela yokulanyulwa ngokwesigaba se-Arbitration Act, 1965 (Act No. 42 of 1965), futhi isinqumo somlamuli singumqamlajuqu futhi siyabophezela; 30
- (b) isinqumo somlamuli siyothathwa njegezinjongo zesigatshana (2) njengengxenye yesivumelwano esibalulwe esigabeni (d) saleso sigatshana noma, lapho kusebenza, khona njengesakha lesi sivumelwano.
- (4) Ungqongqoshe wesiFundazwe kumele, phakathi kwezinsuku ezingu-30 kusuka osukwini lwesivumelwano esibalulwe esigatshaneni (2) noma (3), ngesaziso esishicilelwe kwiGazethi yesiFundazwe kanye nephephandaba okuyilona ngokujwayelekile elifundwa endaweni yokuthutha ethintekayo, azise ngokuhlakazeka kwesigungu sezokuthutha futhi ashicilele imibandelela yaleso sivumelwano, kodwa-ke usuku lokuhlakazwa kumele lunqunywe ngendlela yokuba kunikwe ithuba lesikhathi sokwazisa elanele. 35 40

### Izimali zezigungu zezokuthutha

72. (1) (a) Isiphathimandla esikhulu sesigungu sezokuthutha kumele ukuba sibe nemilando eyiyo yezimali egcinwe njengokuhambisana nemigimo emukelekile yezimali kanye nezinqubo ukuze itshengise kahle izimali ezingenayo kanye nezisetshenziswayo zaleso sigungu kanye nesimo sazo sezimali. 45

(b) Imilando yezimali kumele ukuba ihlanganise i-akhawunti yezimali okumele ukuba kuyo kufakwe zonke izimali ezingena ngokuzala noma ezamukelwa isigungu sezokuthutha, futhi kumele ukuba zikhishelwe izindleko ezihlangabezana naleso sigungu. 50

(2)(a) Isigungu sezokuthutha ngasinye kumele ukuba, phakathi kwesikhathi esingekho ngaphansi kwezinyanga ezintathu ngaphambi kokuphela konyaka wezimali ngamunye silungise isitatimende esilinganisayo semali engenile futhi ephumile (lokho-ke, uhlahlomali) sonyaka olandelayo wezimali, okumele ukuba sethulwe kumasipala obamba iqhaza noma omasipala ukuba sivunyelwe ngosuku oluzonqunywa nguNgqongqoshe wesiFundazwe, kodwa-ke, isigungu leso singase noma ngasiphi isikhathi usaqhubeka unyaka wezimali ophezulu, sethule uhlahlomali lokwengeza lwalowo nyaka kumasipala noma omasipala ukuze luvunyelwe. 55

(b) Isigungu sezokuthutha singase singangeni ezindlekweni ezingaphezulu kwenani lemali isiyonke (kuhlangene nemali yokwengeza) yohlahlomali oluvunyelwe ngumasipala noma omasipala phansi ngokwemibandela yesigaba (a). 60

(c) Isigungu sezokuthutha singase sisungule isikhwama esiseceleni sanoma iyiphi inhloso ehlangene nemisebenzi yaso ngokwemibandela yalo Mthetho, esivunywe ngu-Ngqongqoshe wesiFundazwe futhi sabe izimali esikhwameni esiseceleni eyenziwe yaba khona ngaleyo nhloso ohlahlwenimali, (kuhlanganisa noma iluphi uhlahlomali lokwengeza) oluvunywe phansi kwesigaba (a).

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#### Ukwabiwa kwamandla omgwamanda wokuphatha

73. (1) Umgwamanda wokuphatha wesigungu sezokuthutha ungaba noma imaphi amandla noma imisebenzi yawo ngokwemibandela yalomthetho ngaphandle kwamandla okuphatha abalulwe esigabeni 70 kanye namandla anikezwe ngalesisigatshana, kunoma eliphi ilunga lomgwamanda.

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(2) Noma ikuphi ukwabiwa kwamandla noma umsebenzi ngokwemibandela yalesisigaba akuvimbela umgwamanda ukuba usebenzise amandla noma wenze lowomsebenzi.

#### Izinhlizeko esebenzayo ngokwabiwa kwamandla

74. (1) Ukwaba komgwamanda wokuphatha ngaphansi kwesigatshana 73— 15

(a) kungenziwa phansi kwanoma isiphi isimiselo esinqunywe umgwamanda wokuphatha;

(b) linganikwa kuhlangene namandla okwaba futhi, kwanoma imibandela enqunyelwe lokhu uma ikhona;

(c) kumele ukuba zaziswe kulowo owabelwayo ngendlela ebhaliwe. Isaziso esibhaliwe kumele ukuba sibe nayo yonke imininingwane ephathelene nezindaba okuyizona ezabiwayo futhi nanoma imiphi imibandela nokwabiwa, futhi, lapho amandla okubuye kwabiwe edlulisiwe, kumele libekwe leliphuzu kanye nayo yonke imibandela ehambisana nalokhu.

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(2) Umgwamanda wokuphatha kungathi nanoma ngasiphi isikhathi— 25

(a) uchibiyele noma uchithe ukwabiwa okwenziwe ngaphansi kwesigaba 73;

(b) uhoxise noma isiphi isinqumo esenziwe umuntu owabelwe mayelana nodaba olwabiwe, futhi ukhiphe isinqumo odabeni ngokwawo qobo. Kodwa-ke isinqumo esenziwe umuntu owabelwe ngeke sihoxiswe lapho sinika ilungelo noma ukufaneleka kunoma imuphi umuntu wesithathu.

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(3) Uma uNgqongqoshe wesiFundazwe eneliswa ukuthi izidingo zezokuthutha zezithuthi ezihamba phansi esifundazweni noma endaweni yokuthutha, uNgqongqoshe wesiFundazwe ngesaziso kwiGazethi yesiFundazwe—

(a) angavimbela ukwabiwa kwanoma imaphi amandla, noma umsebenzi, noma ngokusabalele noma ezimweni ezibalulwe esazisweni;

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(b) angakhawulisa izimo phansi kwazo noma imaphi amandla athile noma umsebenzi ongabiwa;

(c) angaquma imibandela yokwaba noma imaphi amandla noma umsebenzi;

(d) mayalena nanoma imaphi amandla noma umsebenzi ogagulwe esazisweni, angavimbele ukwabiwa futhi uma kwenzeka ukuthi umgwamanda wokuphatha waba lawo mandla noma lowo msebenzi

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#### Izikhulu eziphethwe ezokuthutha

75. (1) Amaqembu esivumelwaneni esisunguliwe ahlinzeke kuso—

(a) ukuthi umsebenzi wobungcweti, wobuchwepheshe, wokuphatha, owomabhalane futhi nanoma imuphi umsebenzi osukela futhi odingekile, ohlangene noma oncikene nokusebenza kwesigungu sezokuthutha phansi wemiyalelo yalo Mthetho noma ukusebenza noma ukusebenzisa amandla awo futhi nemisebenzi, ezokwenziwela isigungu sezokuthutha ngumnyango wezokuphatha womunye womasipala ombandakanyekayo ochazwe esivumelwaneni nomake noma imuphi umnyango owodwa noma eyevile emnyangweni wezokuphatha kamasipala, kamasipala owodwa noma abevile ababambe iqhaza abachazwe ngaleyo ndlela, ngokwephuzu eligcinile, elimayelana nezinhlizeko ze-Local Government Transitions Act, 1993 (Act No 209 of 1999) ziyasebenza; noma

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(b) ukusungulwa yisigungu sezokuthutha komgwamanda ngaphansi kwaso futhi ophethwe yiso obizwa ngesigungu sezokuthutha (ukuba senze wonke

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- umsebenzi walolohlobo noma iluphi ohlobo noma isigaba esigaguliwe salowomsebenzi wesigungu sezokuthutha.
- (2) Lapho isivumelwano sihlinzeka ngokusungula isigungu esikhulu sezokuthutha—
- (a) isihlinzeko singase futhi senziwe kuleso sivumelwano ukuthi isigungu sezokuthutha, uma sicelwa esinye isigungu sezokuthutha, singase senze ukuba isigungu sezokuthutha esikhulu sibekhona ukwenza umsebenzi walolo hlobo siwenzela lesa sigungu—
- (i) phansi kwemiyalelo yesivumelwano esibhaliwe ekungenwe kuso isigungu sezokuthutha esithintekayo;
- (ii) kubekhona imali ekhokhwayo noma inkokhelo isamba sayo echaziwe kuleso sivumelwano; futhi
- (iii) ngokuhambisana nangokulandela—
- (aa) imiyalelo emile nemibandela uma ikhona okulayezelwe ngazo esivumelwaneni;
- (bb) nemiyalelo nemibandela okuyalezelwe ngayo ngokucacile kuleso sivumelwano; futhi
- (b) izinhlinzeko kumele zenziwe okungenani mayelana nokulandelayo okulandelayo:
- (i) Lapho kungeyona yonke imisebenzi yobungcweti, yobuchwepheshe, yokuphatha, yomabhalane futhi nomsebenzi ohlangene nalokhu wesigungu sezokuthutha uzokwenziwa isigungu sezokuthutha esikhulu, ukubalulwa kohlobo noma isigaba somsebenzi ozokwenziwa isigaba esikhulu sezokuthutha esizobhekana nawo;
- (ii) Indawo lapho amahhovisi esigungu sezokuthutha esikhulu azoba khona;
- (iii) Indlela noma inqubo abasebenzi besigungu sezokuthutha esikhulu okuzoqashwa ngayo; kanye
- (iv) Namandla abekiwe okuqoka futhi nokuxosha abasebenzi baso.

#### Izigungu ezinkulu zezokuthutha ezihlangene

76. (1) UNgqongqoshe wesiFundazwe futhi nanoma iziphi ezinye izigungu zezokuthutha ezimbili noma ezeqile kwezimbili ezigunyaziwe ngomasipala obamba iqhaza bangangena esivumelwaneni esihlinzeka ngokusungulwa kwesigungu sezokuthutha esikhulu phansi kwekhwapha lalezo zigungu ngokuhlanganyela, ukwenza, zenzelane umsebenzi wobungcweti, wobuchwepheshe, wokuphatha, owomabhalane futhi nanoma imuphi umsebenzi osukela futhi odingekile, ohlangene noma oncikene nokusebenza kwesigungu sezokuthutha ngokombandela walo Mthetho noma ukusebenza noma ukusebenzisa amandla kanye nemisebenzi kwaso (ebizwa ngesigungu sezokuthutha esikhulu esihlangene).

- (2) Kuleso sivumelwano esinjalo esihlinzeko kufanele okungenani senziwe futhi—
- (a) ezindabeni ezithintwe esigabeni 75(2)(b), okuthi, kanye nezinguquko ezidingekayo esimweni, zisebenza mayelana nesigungu sezokuthutha esikhulu esihlangene;
- (b) amandla ezigungu zezokuthutha ezibandakanyekayo mayelana nokubhekela futhi nokuqondisa phezu kwesigungu sezokuthutha esikhulu esihlangene;
- (c) ukunikela kwesigungu sezokuthutha esibandakanyekayo ngasinye esikhwameni sesigungu sezokuthutha esikhulu esihlangene.

#### INGXENYE 15

##### *Ibhodi lesiFundazwe : Izinto eziThinta isiFundazwe kuphela*

#### Ukuqokwa kwamalunga ebhodi

77. (1) Ibhodi linaamalunga inani lawo elinqunywe nguNgqongqoshe ngesaziso kwiGazethi yesiFundazwe.

(2) Isigaba 5 se-Road Transportation Act, 1977 (Act No 74 of 1977), neminye imithetho yesifundazwe, kuyasebenza kumalunga ebhodi.

(3) (a) Noma yimuphi umuntu othintekayo angenza isicelo esibhalwe phansi asibhekise kwibhodi ukuthi ilunga lebhodi lizihoxise okwesikhashana emhlanganweni esimweni lapho lomuntu ekholelwa ukuthi ilunga lelo lingaba nokuthinteka ngokwezimali noma lithinteke ngandlela thize odabeni okuxoxwa ngalo futhi isicelo sokucela ukuba ilunga lihoxe kufanele sihambisane nezizathu ezisabalele.

(b) Ilunga elithintekayo kufanele ukuthi licubungule isicelo esibhaliwe bese emva kwalokho linquma ukuthi liyazihoxisa yini noma alizihoxisi kulezo zimo ezibhekene nalolo daba.

### Imisebenzi yebhodi

78. (1) Ibhodi kufanele lisebenzise amandla alo nemisebenzi yalo ngokukhululeka, likhululekile ekucindezelweni ngemibono nguhulumeni, ezezipolitiki noma ezinye izimo zangaphandle, futhi ngokungachemi, ngokungesabi, nangokungenzeleli noma ngokubandlulula. 5
- (2) Ibhodi kufanele lihlngane kaningana ukuze likwazi ukwenza umsebenzi walo ngokushesha nangempumelelo. 10
- (3) Ibhodi kufanele ligcine amaminithi emihlangano yalo futhi ligcine amarekhodi azozonke izicelo ezifakwe kulona.
- (4) Wonke amabhodi kufanele—
- (a) agcine ezindaweni zawo zokusebenza ikhophi yanoma yiyiphi ilayisensi yokwenza umsebenzi yangempela ekhishwe yiwona, abandakanya, ngokwenhloso yalesisigaba ikhophi yalelayisensi yokwenza umsebenzi yangempela esiyenziwe kabusha, echitshiyelwe noma edlulisiwe ngesikhathi esithile; futhi 15
- (b) babe neminingwane ebaluliwe yelayisensi yokwenza umsebenzi ngayinye, ebandakanya ngokwezinhloso zalesi sigaba, ilayisensi yokwenza umsebenzi eyenziwe kabusha echitshiyelwe noma edlulisiwe ngesikhathi esithile, kanye neyomnikazi wayo kanye nesithuthi esithintene nalokhu, leyo miningwane ifakwe kwi-Land Transport Permit System ngendlela enqunywe nguNgqongqoshe. 20

### INGXENYE 16

#### *Amalaysensi okwenza umsebenzi : Izinto eziThinta isiFundazwe kuphela*

#### **Ukuqhubeka nokuguqulwa kwamlayisensi okwenza umsebenzi akhona okwamanje**

79. (1) Ngokulandela leNgxenywe, noma yiyiphi iphemithi ekhishelwe isikhathi esingenamkhawulo kanye nanoma yiyiphi iphemithi ekhishelwe isikhathi esinqunyiwe, okuzothi ngokuqala kwalo mMthetho, ibe ingakaphelelwa isikhathi, iyaqhubeka ukusebenza okwesikhashana njengokuhlinzekwe kulo mthetho. 30
- (2) Umnikazi walephemithi angayiguqula ibe yilayisensi yokwenza umsebenzi ngokuhambisana nalengxenywe ngokufaka isicelo sokuba iguqulwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe— 35
- (a) Esimweni sephemithi yesikhathi esingenamkhawulo, ngaphambi kokuphela kwesikhathi esinqunywe uNgqongqoshe ngaphansi kwesigatshana 32(2);
- (b) esimweni sephemithi enqunyelwe isikhathi ngaphambi, kokuphela kwesikhathi noma isikhathi okukhulunywa ngaso esigabeni (a), kuye ngokuthi yikuphi okwenzeka kuqala. 40
- (3) Iphemithi ekukhulunywe ngayo esigatshaneni (1) iyaphela—
- (a) lapho leso sicelo sokuguqulwa kwayo besingazange senziwe—
- (i) esumweni sephemithi yesikhathi esingenamkhawulo ekupheleni kwesikhathi esigagulwe esigabeni (a) sesigatshana (2);
- (ii) esimweni sephemithi yesikhathi esinqunyiwe, ekupheleni kwesikhathi esinqunyiwe noma isikhathi esigagulwe kuleso sigaba, noma kuye ngokuthi yikuphi okwenzeka kuqala; noma 45
- (b) lapho isicelo lesi besenziwe, ngesikhathi kuguqulwa iphemithi iba ilayisensi yokwenza umsebenzi efanele ngokuhambisana nalo mthetho.
- (4) Igunya elinikezwa iphemithi angeke livuselelwe, angeke lichitshiyelwe noma lidluliselwe komunye ngaphandle uma iphemithi kuqala iguqulelwe elayisensini yokwenza umsebenzi ngokuhambisana naleNgxenywe. 50

#### **Ukuguqulwa kwezimvume ezingavumelekile phansi kwezimo ezithile**

80. (1) Iphemithi angeke ivunyelwe ukuba iguqulelwe ekubeni ilayisensi yokwenza umsebenzi, ngaphandle uma umsebenzi wezokuthutha ewugunyazayo ubuhlinzekwa 55



zinsuku zonke isikhathi okungenani esiyizinsuku ezingu 180 ngaphambi kosuku isicelo sokuguqulwa kwephemithi esenziwa ngalo, ngaphandle kwalapho lephemithi yakhishwa khona yaba eyezinsuku ezingaphansi kwezinsuku ezingu 180 ngaphambi kosuku lwaleso sicelo.

(2) Umfaki sicelo kufanele anikeze ubufakazi obuzogculisa ibhodi ukuthi isidingo esibalulwe isigatshana (1) kuhlantshezwene naso, ngokuletha isiqinisekiso esibhalwe phansi esiphuma kwisigungu sokuhlela esithintekayo, noma ngezinye nje izindlela ibhodi engazibona zifanele. 5

### Indlela yokuguqulwa kwamaphemithi abe amalayisensi okwenza imisebenzi

81. (1) Ngokulandela lo mthetho, ilayisensi yokwenza umsebenzi enikeziwe isikhundleni sephemithi kulandelwa ukuguqulwa okukhulunywa ngakho esigabeni 79, kufanele inikeze igunya elifanayo nalelo ekade linikezwe iphemithi, ngaphandle kokuthi ukuchazwa kwemizila ebonwa yibhodi ukuthi ayinamqondo noma ayanele, ingenziwa ngcono. 10

(2) Esimweni sokuguqulwa kwephemithi eguqulelwa umsebenzi ohleliwe— 15

(a) Egunyaza ukwenziwa kwalowo msebenzi phakathi kwendawo egaguliwe, ilayisensi yokwenza umsebenzi iphemithi eguqulelwe kuyo kufanele igunyaze ukwenziwa kwalo msebenzi ngokomzila owodwa noma ongaphezulu kweyodwa ebalulwe ngokusabalele, esuselwa ekwenziweni komsebenzi ngempela ngumnikazi wemvume kwisikhathi esiyizinsuku eziwu 180 ngaphambi kosuku lokufakwa kwesicelo, futhi kufanele kwakhe isikhathi sokusetshenziswa kwalo mzila noma komzila ngamunye njengoba kwesinye isikhathi kungaba njalo; 20

(b) lapho lomsebenzi uhlinzekwa khona ngokwesivumelwano sesikhashana noma ngokwesivumelwano sethenda ekhona njengamanje, ilayisensi yokwenza umsebenzi iphemithi eguqulelwe kuyo kufanele yenziwe ihambisane nalesosivumelwano. 25

(3) Esimweni sokuguqulwa kwephemithi iguqulelwa umsebenzi ongahleliwe—

(a) ongewona umsebenzi wamatekisi anewashi, ovumela ukwenziwa kwalowomsebenzi ngaphakathi kwendawo egaguliwe, ilayisensi yokwenza umsebenzi iphemithi eguqulelwe kuyo kufanele— 30

(i) igunyaze ukwenziwa kwalo msebenzi ngokomzila owodwa noma eminingi, encike emsebenzini owenziwa umnikazi wayo isikhathi esiyizinsuku ezingu 180 ngaphambi kosuku lwesicelo; futhi

(ii) ibalule umzila noma imizila ngokusabalele, ngaphandle kwezimo lapho ibhodi ngezizathu ezizwakalayo ithola khona ukuthi ukugagulwa kwemizila ngokungasabalele kulungile. 35

(b) okugunyaza ukwenziwa komsebenzi ngaphakathi kwamabanga akhona endawo egaguliwe, ilayisensi yokwenza umsebenzi iphemithi eguqulelwe kuyo— 40

(i) kufanele igunyaze ukwenziwa kwalowo msebenzi ngokomzila owodwa noma eminingi okufanele igagulwe ngokusabalele, encike emsebenzini eyenziwa ngumnikazi wemvume isikhathi esiyizinsuku ezingu 180 ngaphambi kosuku lwaleso sicelo ngokulandela isigatshana (ii);

(ii) lapho ibhodi lithola ngezizathu ezizwakalayo ukuthi izimo ezikhona ziyavumeke isinyathelo esinjengalesi, lingagunyaza ukwenziwa komsebenzi wezokuthutha endaweni ethile echazwe ngokusabalele. 45

(4) Esimweni sokuguqulwa kwephemithi yomsebenzi wamatekisi anewashi, ilayisensi yokwenza umsebenzi okugululelwe kuyo iphemithi kufanele ichaze indawo ethile kuyona abagibeli abazothathwa kuyo ngesikhathi kwenziwa lowomsebenzi. 50

(5) Ngaphandle uma iphemithi ezoguqulwa ivele igunyaza imisebenzi yezokuthutha umphakathi kumzila othile noma emizileni ethile, ibhodi kufanele icele isigungu ngasinye sezokuhlela ondawo yaso yilapho umsebenzi wenziwa khona ukuba senze noma yiziphi izethulo kanye nezincwadi esibona sifanele mayelana nomzila noma imizila leyo noma lapho kungenzeka khona, indawo, ukuba igagulwe kwilayisensi yokwenza umsebenzi leyo phemithi ezoguqulelwa kuyo. 55

(6) Amaphemithi akhishwe ngokwe-Venda Road Transportation Act, 1979 (Act No 13 of 1979), ne-Ciskei Road Transportation Control Act, 1982 (Act No 4 of 1982), lawa avuselelwa minyaka yonke, kodwa angakalelwe ukuba abesemthethweni ngokwesikhathi esinqunyiwe, athathwa ngokwenzinhloso zokuguqulelwa kwizimvume njengamaphemithi akhishelwe isikhathi esingenamkhawulo. 60

(7) Iphemithi eguqulelwe kwilayisensi yokwenza umsebenzi ngokwalesi sigaba angeke yanikezwa kumuntu njengomuntu omele omunye umuntu.

(8) Akukho sinxephezelo esikhokhelwa umnikazi welayisensi yokwenza umsebenzi yephemithi encike noma yendawo ethile ngokuguqulwa kwayo ukuthi ibe yimvume yemizila ngokwalesi sigaba.

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#### Ukuguqulwa kwamaphemithi abe amalayisensi okwenza umsebenzi ezithuthwini ezinkudlwana

82. (1) Isicelo sokuguqulwa kwephemithi ibe ilayisensi yokwenza umsebenzi yezimoto ezinkulu ngaphansi kwesigaba 32(5) noma (6) kufanele senziwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe.

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#### Ukuchitha izicelo mayelana nezimvume emisebenzini engeyona yokuqashwa

83. (1) Lapho noma yisiphi isicelo senziwe sokuba kunikezwe, kuvuselelwe, kuchitshiyelwe noma kudluliselwe imvume emayelana nomsebenzi ongaqashisiwe, ibhodi inganikeza nima inqabe isicelo kuphela emva kokusicubungula, ngokulandela isigatshana (2) kanye nesigaba 30(3)(b) kanye no (5)—

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(a) ukuthi isithuthi okuzokwenziwa ngaso umsebenzi siyayilungela yini leyo nhloso;

(b) ukutholakala kwamarenti noma ezinye izikhungo noma izindawo zokwehla nokugibela kanye nokupaka izithuthi ezenza lowo msebenzi, kanye nezincwadi zesigungu sokuhlela noma umasipala othintekayo kanye nanoma yisiphi esinye isigungu sokuhlela kanye nomasipala othintekayo kulolu daba;

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(c) ukuba khona komthetho nokubakhona kwanoma yimuhli omunye umthetho kamasipala, umtheshwana, ukuvinjelwa, ukunqindwa noma ukunqandwa ngumasipala othintanayo nomsebenzi wokuthutha umfaki-sicelo ahlongoza ukwenza umsebenzi wakhe ngaphansi kwegunya lelayisensi yokwenza umsebenzi, isicelo sakhe esiphathelene naye;

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(d) ukuthi umfaki sicelo ngabe ukewaboshwa eboshelwa uhlobo lwecala nobukhulu balo obubalulwe nguNgqongqoshe wesiFundazwe obenziwe esikhathini esinqunyiwe ngaphambi kosuku lwesicelo;

(e) ukukwazi kumfaki sicelo ukwenza umsebenzi ilayisensi yokwenza umsebenzi ekhishelwe wona ngendlela eyanelisa umphakathi;

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(f) izithulo ezithulwe ngokusemthethweni ezimayelana nesicelo sesigungu sokuhlela noma isincwadi noma yiliphi iqembu elithintekayo.

(2) Isicelo semvume esimayelana nokwenziwa komsebenzi ongaqashisiwe emzileni noma emizileni ethile endaweni yesigungu sezokuhlela, angeke sanikezwa uma izidingo zokuthutha umphakathi zomzila noma imizila ethile zihlangatshezwa ngokwanele yezokuthutha umphakathi ezikhona zohlobo olufanayo, noma izinga noma iqophelo elihlinzekwe ngokwesivumelwano somsebenzi wezohwebo noma isivumelwano somsebenzi oxhasiwe noma ngokwezimvume eziboniswe izinhlelo zezokuthutha ezithintekayo.

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(3) Isicelo lesi kufanele senziwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe futhi kufanele sihambisane nemali enqunyiwe yokufaka isicelo.

(4) (a) Ibhodi ingavumela isicelo esifakiwe sokunikeza, sokuvuselela, sokuchibiyela noma sokudlulisa ilayisensi yokwenza umsebenzi lokhu kuncike kunoma yimiphi imibandela, enqunywe yiyo imibandela leyo engashayisani noma imithetho yesifundazwe esithintekayo, noma izinhlelo zezokuthutha.

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(b) Umbandela ungabekwa kuphela emva kokucubungulwa kodaba, ngokwesigaba (1) kanye lapho kudingeke khona, isigatshana (2) kanye nemithetho yesifundazwe esithintekayo okufanele icutshungulwe ngenhloso yokuthutha isinqumo ngokumayelana nesicelo.

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#### Ukusulwa kwamalayisensi okwenza umsebenzi othile angasetshenziswa

84. (1) Lapho kufika ekwaziweni yibhodi ukuthi ilayisensi yokwenza umsebenzi eshintshwe isuka kwiphemithi ayizange isetshenziswe ezinsukwini ezingu 180 ibhodi, ngesaziso esibhalwe phansi ingabiza umnikazi wemvume ngokuba abeke izizathu ezizwakalayo ezizokwanelisa ibhodi futhi ngesikhathi esigagulwe kwisaziso, sokuthi kungani engazange aqalise ukwenza umsebenzi wezokuthutha umphakathi ilayisensi

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yokwenza umsebenzi yakhe emayelana nawo, futhi nokuthi kungani ibhodi ingesule leyo layisensi yokwenza umsebenzi.

(2) Lapho ibhodi yaneliswa izizathu ezibekiwe, umnikazi welayisensi yokwenza umsebenzi kufanele avunyelwe esinye isikhathi esinqunywe ileyo bhodi kodwa esingeqile ezinsukwini ezingu 180 ukuba aqale ukwenza lowo msebenzi, futhi umnikazi 5  
leyo kufanele aziswe ngalokho ngokubhalwe phansi.

(3) Uma linganelisekile, noma lapho umnikazi wemvume ehluleke khona ukuletha izizathu ngesikhathi ebesivunyelwe ukwenza lokho kwisaziso, ibhodi kufanele yesule ilayisensi yokwenza umsebenzi futhi ngokubhalwe phansi yazise umnikazi welayisensi yokwenza umsebenzi ngalokho futhi yale umnikazi welayisensi yokwenza umsebenzi 10  
ukuba alethe leyo layisensi yokwenza umsebenzi, ihambisana nezimpawu ezihambisana naleyo mvume, kwibhodi ezinsukwini eziyisikhombisa emva kosuku lokukhishwa kwesaziso.

### Ukukhishwa kwamalayisensi okwenza umsebenzi nokuqokethwe kuwona

85. (1) Ilayisensi yokwenza umsebenzi ngeke ikhishwe ngaphandle— 15

(a) kokuthi umuntu oyidingayo usefake isicelo ngokuhambisana noMthetho kanye nemithetho efanele yesifundazwe;

(b) umfaki-sicelo uhlinzeke ngakho konke ubufakazi obugculisa ibhodi bokuthi umfaki-sicelo urejistwe njengomkhokhi wentela ngaphansi kwe-Income Tax Act, 1962 (Act No. 58 of 1962), noma ngokombandela walowoMthetho, 20  
akudingeki ukuba arejiste.

(2) Noma iyiphi ilayisensi yokwenza umsebenzi enikeziwe evuselelwe, echitshiyelwe noma edlulisiwe ngokuhambisana noMthetho noma imithetho yesifundazwe esebenzayo kufanele ikhishwe, ngendlela enqunywe nguNgqongqoshe wesiFundazwe, isiphathimandla sebhodi esiqokwe nguNgqongqoshe wesiFundazwe 25  
ukuba senze lowomsebenzi.

(3) Ilayisensi yokwenza umsebenzi angeke ikhishwe ngokwalesi sigaba ngaphandle uma umfaki sicelo ocele—

(a) ukunikezwa, ukuvuselelwa, ukuchitshiyelwa noma ukudluliswa kwelayisensi yokwenza umsebenzi elethe kulesosiphathimandla isitifiketi esikhona 30  
njengamanje esibonisa ukulungela kwesithuthi ukusetshensiswa emgwaqeni esakhishelwa isithuthi ilayisensi yokwenza umsebenzi ehlobene naso hhayi ngaphambi kwesikhathi esinqunywe nguNgqongqoshe wesiFundazwe, noma ikhophi efakaziswe ngokusemthethweni yaleso sitifiketi; kanye

(b) ukuvuselelwa, ukuchitshiyelwa noma ukudluliswa kwelayisensi yokwenza 35  
umsebenzi ubuyisele ebhodini ilayisensi yokwenza umsebenzi ethintekayo eyakhishwa ngokwedlule ukuba yenze umsebenzi ofanayo wezokuthutha umphakathi.

(4) Ilayisensi yokwenza umsebenzi kufanele isho lokhu okulandelayo:

(a) igama nekheli lomnikazi wezokuthutha umphakathi futhi lapho kusebenza 40  
khona imininingwane yokurejista komnikazi njengelunga likasoseshini noma lalowo engesilona ilunga;

(b) inombolo yokurejista, uhlobo lwesithuthi, inombolo ebonisa isithuthi, unyaka wokwakhiwa kweso, uhlobo nenombolo yabagibelayo esithuthwini ilayisensi yokwenza umsebenzi ekhishelwe sona; 45

(c) uhlobo lomsebenzi ilayisensi yokwenza umsebenzi ekhishelwe lona;

(d) ukuthi ilayisensi yokwenza umsebenzi ikhishelwe isikhathi esingenamkhawulo noma isikhathi esinqunyiwe, futhi uma kuyisikhathi esinqunyiwe, okuyisikhathi esanqunyelwa lelayisensi yokwenza umsebenzi;

(e) esimweni selayisensi yokwenza umsebenzi wezokuthutha owenziwa 50  
ngokwesivumelwano somsebenzi wezohwebo noma isivumelwano somsebenzi oxhasiwe—

(i) uhlobo lwesivumelwano;

(ii) inamba eyinkomba yesivumelwano;

(iii) amagama kanye namakheli wamaqembu athintekayo esivumelwaneni; 55  
kanye

(iv) nalapho ingxenye yalo msebenzi ngokwemibandela yalesi sivumelwano izokwenziwa khona inkontilela encane yenza yenzela umnikazi welayisensi yokwenza umsebenzi, igama kanye nekheli lenkontileka encane engumnikazi wesithuthi ingxenye yalo msebenzi ezokwenziwa 60  
ngaso;

- (f) ukuchazwa okusabalele komzila noma imizila lapho, noma lapho kungenzeka khona indawo ethile lapho, isithuthi sizosetshenziselwa umsebenzi omayelana nelayisensi yokwenza umsebenzi, ngokuchazwa kwamagama emigwaqo ethintekayo, izinombolo zemigwaqo, omaka bedolobhakazi ngalinye, bedolobhana, bedolobha besigodi noma bendawo yokuhlala; 5
- (g) indawo zokuma izithuthi ezigunyaziwe kanye nezindawo zokuthatha kanye nokwehlisa abagibeli lapho kungenzeka khona;
- (h) esimweni semisebenzi ehleliwe, uhlelo lwezikhathi oluthintekayo;
- (i) imibandela ebekwe yibhodi yezimvume uma ikhona kanye;
- (j) yonke imininingwane enganqunywa. 10
- (5) Amalaysensi wokwenza imisebenzi yebanga elide kufanele zigagule umzila noma imizila, izindawo zokuma izithuthi uma zithatha futhi zehlisa abagibeli kanye nezinye izindawo ezisemzileni noma emizileni lapho abagibeli bengehliswa khona noma bengathathwa khona.

### Igunya eliqukethwe yilayisensi yokwenza umsebenzi

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86. Ilayisensi yokwenza umsebenzi enikeziwe futhi yakhishwa ngokwalomthetho—

- (a) ayigunyazi umnikazi wemvume ukuba asebenzise isithuthi emgwaqeni womphakathi endaweni engaphansi kwanoma yimuphi umasipala noma endaweni yezokuthutha uma kungekho emthethweni ukwenze njalo ngokwemibandela wanoma yimuphi umthetho kazwelonke noma wesifundazwe osebenzayo othintana nomsipala, noma ngokwemibandela wanoma yimuphi umthetho kamasipala; 20
- (b) ayixegiseli umnikazi welayisensi yokwenza umsebenzi isibopho sokuba ahambisane nanoma yiziphi izidingo noma umbandela obekwe ngokwemibandela yanoma imuphi umthetho, ilayisensi noma iphemithi ekhishwe ngenye yezigungu ezifanele. 25

### Abantu abangaba namalaysensi okwenziwa komsebenzi

87. Ilayisensi yokwenza umsebenzi ingakhishwa kuphela futhi ibe ngeyomuntu orejistiwe, ngokwemibandela ye-Road Traffic Act, 1989 (Act No 29 of 1989), njengomnikazi wesithuthi njengoba kuchazwe kulowo mthetho futhi kubalulwe emvumeni, ngaphandle kwalapho ilayisensi yokwenza umsebenzi imayelana nokwenziwa komsebenzi wezokuthutha umphakathi ngokwesivumelwano somsebenzi wokuhweba noma isivumelwano somsebenzi oxhasiwe futhi nalapho eqashisele omunye umnikazi wesithuthi sokuthutha umphakathi ukuba enze ingxenye yomsebenzi egameni lomnikazi wesithuthi okukhulunywe ngaye ekuqaleni futhi esimweni esinjalo— 30

- (a) umnikazi oqashiselwe umsebenzi kufanele abe ngumnikazi wesithuthi orejistiwe wesithuthi ebesisetshenziswa ngomunye umnikazi ukwenza lowomsebenzi egameni lomnikazi oyingxenye yesivumelwano somsebenzi wezohwebo noma yisivumelwano somsebenzi oxhasiwe; futhi 40
- (b) lesosithuthi kufanele sibalulwe kwilayisensi yokwenza umsebenzi njengesithuthi esizosetshenziselwa lowomsebenzi.

### Imithetho ephathelene namalaysensi okwenza umsebenzi anhlobonhlobō

88. (1) Ekunqumeni isikhathi selayisensi yokwenza umsebenzi yomsebenzi wezokuthutha umphakathi ongaqashisiwe, lokho okulandelayo kufanele kubhekwe— 45
- (a) izinkomba zamanje nezicatshangwayo ezimayelana nobuningi bezithuthi emzileni noma emizileni, noma lapho kungenzeka khona, endaweni ethile ethintekayo;
- (b) ukusebenza ngempumelelo kwaleyo misebenzi ehlongozwayo ukuhlangabezana nezidingo zabasebenzisi bezithuthi; 50
- (c) lapho kudingeka khona, okungase kwenzeka esikhathini esizayo, umsebenzi wezokuthutha umphakathi omayelana nesicelo esimayelana nelayisensi yokwenza umsebenzi esenziwe angeke usadingeka ngokwemibandela yohlelo lwezokuthutha umphakathi;
- (d) uma kwenzeka ukuthi umsebenzi wezokuthutha umphakathi omayelana nesicelo esenziwe esimayelana nelayisensi yokwenza umsebenzi eyenziwe, 55

ungaba wongaphansi kwesivumelwano somsebenzi wezokuhweba noma ongaphansi kwesivumelwano somsebenzi oxhasiwe.

- (2) Esimweni samalaysensi okwenza umsebenzi wamabanga amade, ibhodi—
- (a) kufanele inqume ngemizila, izindawo zokuma izithuthi kanye nezindawo zokuthatha nokwehlisa abagibeli futhi lingagagula izinsuku zesonto noma inyanga nesikhathi sosuku lokusuka endaweni egunyaziwe yomzila; futhi
- (b) ngesikhathi linquma izindawo zokuthatha nokwehlisa abagibeli bezokuthutha zamabanga amade lapha sikhuluma ngomsebenzi wamaminibhasi anamatekisi, kufanele libeke imibandela lokuthi abagibeli angeke bathathwa noma behliswa emzileni ngaphandle uma umnikazi wesithuthi efinyelele esivumelwaneni mayelana nalokhu nezigungu nomasipala abathintekayo kanye nososeshini wamatekisi osebenza kuleyondawo ethintekayo.
- (3) Esimweni samalaysensi okwenza umsebenzi wezokuthutha abasebenzi ohlizekwa njalo, ibhodi kufanele igagule umzila noma imizila egunyaziwe.
- (4) Amalaysensi okwenza umsebenzi wezithuthi eziqashisayo, imisebenzi yezokuthutha yamabanga amade, imisebenzi yezokuthutha abasebenzi nabavakashi kufanele inikezwe isikhathi esinqunyelwe esinqunye yibhodi lezimvume, ngokulandela isigaba 35.
- (5) Esimweni sesicelo sokunikeza, sokuvuselela noma sokuchibiyela ilaysensi yokwenza umsebenzi emayelana nemsebenzi wezokuthutha wamabanga amade kufanele kubhekelelwe izihlinzeko zanoma yiziphi izinhlelo zezokuthutha ezilungiswe isigungu sokuhlela esithintekayo kanye nezihlinzeko zomthetho wesifundazwe futhi ngokulandela lesisi gaba—
- (a) ukuthi umsebenzi ozohlinzekwa umfaki-sicelo uyadingakala noma uzobawusizo emphakathini;
- (b) izidingo zomphakathi zalo msebenzi emzileni noma emizileni yendawo ethile yalapho umfaki-sicelo ehlongoza khona ukwenza umsebenzi;
- (c) izikhungo zezokuthutha ezikhona ezivuleleke emphakathini kulowo mzila noma imizila noma kuleyo ndawo;
- (d) isidingo sokuhlanganisa zonke izinhlobo zezokuthutha, kuhlange nezokuthutha zikaloliwe, ukukwazi ukufeza isimo somnotho esilinganyo phakathi kwezinhlobo zezokuthutha lapha sibhekelela kakhulu izidingo zomphakathi;
- (e) ezimweni zomsebenzi wezokuthutha wamaminibhasi asamatekisi, izincomo zanoma imuphi usoseshini wamatekisi onentshisekelo kulo msebenzi.

#### **Ukusetshenziswa kwesithuthi esisodwa sisetshenziselwa amabanga amade kanye neminye imisebenzi yokuthutha umphakathi**

89. (1) (a) Isigungu sokuhlela singagunyaza isithuthi esithile esibalulwe kwilaysensi yokwenza umsebenzi esizosetshenziselwa umsebenzi wezokuthutha wamabanga amade, naphezu kwephuzu lokuthi leso sithuthi esibalulwe emvumeni esizosetshenziselwa umsebenzi wokuthutha umphakathi esihlinzekelwe wona ohlelweni lwezokuthutha.

(b) Isigungu sokuhlela angeke sinikeze lelo gunya lapho ukwenziwa komsebenzi wezokuthutha wamabanga amade ungakhinyabeza khona umsebenzi, lowomsebenzi ukhinyabezwa isithuthi leso somsebenzi wezokuthutha umphakathi ohlinzekelwe sona ohlelweni lwezokuthutha.

(2) Isithuthi esibalulwe kwilaysensi yokwenza umsebenzi ukuba sihlinzekwe umsebenzi wezokuthutha wamabanga amade angeke futhi sibalulwe emvumeni njengesithuthi umsebenzi wezokuthutha umphakathi ohlinzekelwe sona ohlelweni lwezokuthutha ozokwenziwa ngaso, ngaphandle uma isigungu sokuhlela sikuvumela ukwenziwa kwalo msebenzi.

#### **Ukuchitshiyelwa kwamalaysensi okwenza umsebenzi: ukufaka esinye isithuthi endaweni yesinye**

90. (1) Lapho umnikazi welayisensi yokwenza umsebenzi wanoma yimuphi umsebenzi wezokuthutha umphakathi efisa ukushintsha isithuthi esibaluliwe kuleyo layisensi yokwenza umsebenzi wezokuthutha umphakathi ngesinye isithuthi esithwala inani labagibeli elifanayo, umnikazi wesithuthi kufanele afake isicelo sokushintsha isithuthi sakhe, ngendlela enqunye nguNgqongqoshe wesiFundazwe kwilunga noma kwisiphathimandla sebhodi, ibhodi esigunyaze ngokubhalwe phansi

ukuba sibhekene naloludaba kuye ngokuthi uhlobo lwesithuthi esishintshiwe kanye nezinga neqophelo lomsebenzi akuphazanyiswa yilokukushintsha.

(2) Ilunga eligunyaziwe noma isiphathimandla sebhodi lezimvume kufanele sivumele ukushintsha futhi sinikeze imvume echitshiyelwe kumnikazi wesithuthi uma saneliswa ukuthi—

- (a) sithuthi esingena endaweni yesithuthi sokuqala sithwala inani elifanayo labagibeli noma inani elincane futhi siwuhlobo olufanayo nesithuthi esithathe indawo yaso nokuthi iqophelo nezinga lomsebenzi ogunyazwe ilayisensi yokwenza umsebenzi luphazanyiswe yilokukhushintsha;
  - (b) isithuthi esingena endaweni yesithuthi sokuqala ngandlela thize sikulungele ukwenza umsebenzi wezokuthutha umphakathi ogunyazwe yileyo layisensi yokwenza umsebenzi, siqinisekise njengesikulungele ukuba semgwaqeni ngokuhambisana nemithetho yezomgwaqo futhi sinelayisensi esemthethweni, kanye nokuthi ;
  - (c) umfaki-sicelo sokushintsha kwesithuthi uhlinzeke ngolwazi oludingekayo ukuze kuhlangele shezwane nezidingo zalesi sigaba.
- (3) Lapho oqashiselwe isithuthi enza noma iyiphi ingxenye yomsebenzi wezokuthutha umphakathi ohlobene nelayisensi yokwenza umsebenzi, ewenzela umnikazi welayisensi yokwenza umsebenzi, oqashiselwe umsebenzi angathembela kwizihlinzeko zalesi sigaba ukukwazi ukushintsha noma isiphi isithuthi lapho yena engumnikazi orejistiwe waso futhi esibalulwe kuleyo layisensi yokwenza umsebenzi, ngazonke izindlela kube sengathi oqashiselwe lesi sithuthi nguyena ongumnikazi waleyo layisensi yokwenza umsebenzi.

#### Izimo ezithile mayelana namatekisi anewashi kanye nemisebenzi yabasebenzi

91. (1) Esimweni somsebenzi wokuthutha wamatekisi anewashi, isithuthi esibalulwe kwilayisensi yokwenza umsebenzi esigunyaza ukwenziwa kwalowomsebenzi—
- (a) singashiya indawo echazwe kwimvume noma kwiphemithi uma, ohambweni olubuyayo, sizothwala abagibeli abafana nalabo esibathwalile ohambweni oluphuthumayo noma isithuthi sizobuyela kuleyondawo singenamuntu ogibele kusona;
  - (b) singasebenzisa noma iluphi uhambo, ngemali yokugibela enganqunyiwe ngokusebenzisa iwashi elixhunyiwe kuleso sithuthi uma imali yokugibela yohambo oluthile bese kuvunyelwene ngayo phakathi komshayeli nomgibeli noma abagibeli abathintekayo ngaphambi kokuqala kohambo.
- (2) Ungqongqoshe wesiFundazwe phezu kwezihlinzeko zalo Mthetho, anganquma izimo ezingaholela ekutheni ilayisensi yokwenza umsebenzi wokuthutha abasebenzi ukuba inikezwe.

#### Imisebenzi yesihle

92. (1) Akukho layisensi yokwenza umsebenzi edingekayo yokwenza umsebenzi wesihle.

#### Imisebenzi yalowo onelayisensi yokwenza umsebenzi noma iphemithi

93. (1) Umnikazi welayisensi yokwenza umsebenzi kufanele—
- (a) ekwenzeni kwakhe umsebenzi wezokuthutha umphakathi ilayisensi yokwenza umsebenzi ehlobene nawo ahambisane nemibandela yokugunyazwa enikezwe imvume kanye nemibandela lokugunyazwa okubekelwe yona, futhi lapho lo msebenzi uhlinzekelwe khona ohlelweni lokuthutha umphakathi, umnikazi lowo kufanele enze umsebenzi ngokuhambisana nalolo hlelo;
  - (b) agcine imvume yokuqala noma ikhophi yelayisensi yokwenza umsebenzi yokuqala yesithuthi esibalulwe kwilayisensi yokwenza umsebenzi, futhi lapho isithuthi esibalulwe sishintshwa khona okwesikhashana ngaphansi kwemithetho yesifundazwe agcine ilayisensi yokwenza umsebenzi kanye nokugunyazwa kwesikhashana okukhishelwe isithuthi esithathe indawo yesithuthi esidala, kuleso sithuthi isikhathi saloku kushintshwa okwesikhashana kodwa ibhodi ingayala ngokubhala phansi ukuthi izijobelelo ezikwelayisensi yokwenza umsebenzi akudingekile ukuthi zigcinwe

- kuleso sithuthi uma lezozijobelelo zingumqingo kakhulu ukuba zivumele ukuba lokhu kwenziwe;
- (c) uma ilunga likasoseshini orejistwe ngokwalomthetho, noma lowo ongesilona ilunga kodwa orejistwe, egcina isitifiketi sokurejista saleso sithuthi esikhishelwe umnikazi ngokwesigaba 114; 5
- (d) ngokudingwa yisiphathimandla esigunyaziwe, aveze leyo layisensi yokwenza umsebenzi, lokokugunyazwa noma isitifiketi sokurejistwa; 5
- (e) agcine ilayisensi yokwenza umsebenzi nanoma iyiphi ikhophi yelayisensi yokwenza umsebenzi yokuqala ngendlela yokuthi okubhaliwe kuyona kuyafundeka ngokucacile futhi, uma ilayisensi yokwenza umsebenzi yonakele noma ingasakwazi ukufundeka ngokucacile afake isicelo sokuthola ikhophi yelayisensi yokwenza umsebenzi yokuqala ngendlela enqunywe nguNgqongqoshe wesiFundazwe; 10
- (f) abangele ukuthi igama, ikheli kanye nohlobo lomsebenzi umnikazi welayisensi yokwenza umsebenzi ukuba liqhakambiswe esithuthini esihlobene naleyo layisensi yokwenza umsebenzi, endaweni esobala enqunywe nguNgqongqoshe wesiFundazwe; 15
- (g) aqhakambise kwisithuthi eminye imininingwane ngendlela echazwe kunoma yiyiphi imibandela enqunywe ibhodi; 15
- (h) aqhakambise futhi anamathelise ngendlela enqunywe nguNgqongqoshe wesiFundazwe umaka ochazayo kwisithuthi ilayisensi yokwenza umsebenzi emayelana naso; 20
- (i) ngaphandle kwesimo lapho ilayisensi yokwenza umsebenzi inikezelwe khona isikhathi esingenamkhawulo afake kusenesikhathi isicelo sokuba ilayisensi yokwenza umsebenzi ivuselelwe; 25
- (j) ngaso sonke isikhathi agcine isithuthi ilayisensi yokwenza umsebenzi emayelana naso esimweni esiphephile nesilungele ukusetshenziswa emgwaqeni futhi—
- (i) enze ukuba isithuthi sihlolwe ukulungela ukusetshenziswa emgwaqeni singakadluli isikhathi esivunyelwe ukwenzela lokho kwi-Road Traffic Act, 1989 (Act No 29 of 1989); futhi 30
- (ii) alethe isitifiketi esisha sokulungela ukusetshenziswa kwesithuthi emgwaqeni esikhishwe emva kokuhlolwa lokho asilethe kwibhodi ezinsukwini ezingu 30 emva kokuba sesikhishiwe; 30
- (k) abuyise ilayisensi yokwenza umsebenzi esiphelelwe isikhathi noma ehoxisiwe noma esuliwe kwibhodi ezinsukwini eziyisikhombisa; 35
- (l) ahambisane nalo mthetho kanye nezinye izidingo ezibekwe ngumthetho wanoma yisiphi isifundazwe esithintekayo umnikazi wemvume angena ngaphansi kwaso ngokwenza umsebenzi ilayisensi yokwenza umsebenzi emayelana nawo, okuyimithetho nganoma ngasiphi isikhathi azokuba ngaphansi kwayo. 40
- (2)(a) Igunya elinikezwe ngelayisensi yokwenza umsebenzi angeke—
- (i) lanikezelwa noma labelwe omunye omuntu ngumnikazi welayisensi yokwenza umsebenzi, futhi akukho muntu ongaba yingxenywe yaloko kunikezelwana noma ukwabelana, ngaphandle kwalapho ilayisensi yokwenza umsebenzi idluliswe komunye umuntu ngokuhambisana nalo Mthetho; 45
- (ii) angeke yaqashiswa ngumnikazi welayisensi yokwenza umsebenzi noma iqashwe omunye umuntu.
- (b) ukuvumelana okwenziwe kodwa okuphambana nesigaba (a) akunazibopho zomthetho. 50
- (3) Ngosuku olunqunywe nguNgqongqoshe wesiFundazwe ngesaziso kwigazethi yesifundazwe umnikazi welayisensi yokwenza umsebenzi wokuthutha wanoma yiziphi ezokuthutha, kwisifundazwe kufanele—
- (a) zingakadluli izinsuku ezingu 21 emva kosuku lokugcina lwenyanga ngayinye, alethe kwibhodi yezimvume inzuzo kwifomu enqunywe nguNgqongqoshe ngokwesincomo sebhodi okufanele kuyona kuboniswe inani labagibeli ebathuthwe enyangeni edlule ngalesi sithuthi ilayisensi yokwenza umsebenzi emayelana naso kanye nebanga, ngokwamakhilomitha, elahanjwayo emzileni noma emizileni, lapho kungenzeka khona, endaweni ebalulwe ilayisensi yokwenza umsebenzi, ngalesosikhathi senyanga edlule; 60

- (b) lapho kwakungathwelwe khona bagibeli ngaleyonyanga azise ibhodi ngalokho futhi abeke izizathu zalokho zingakadluli izinsuku ezingu 10 emva kokuphela kwaleyo nyanga; futhi
- (c) esithuthwini ilayisensi yokwenza umsebenzi emayelana naso, agcine ngohambo ngalunye aluhambile ngalesosithuthi irekhodi eqondile ekhombisa inani labagibeli abathwaliwe ngesikhathi sohambo. 5
- (4) Ulwazi okudingekayo mayelana nezinhloso zesigatshana (3), kufanele lurekhodwe ngumshayeli wesithuthi noma ngumsizi wakhe uma kukhona osebenzayo ekupheleni kohambo ngalunye oluphumayo nolubuyayo.
- (5) Lapho noma yimuphi oqashiselwe isithuthi enza noma yiyiphi ingxenywe yomsebenzi wezokuthutha umphakathi imvume emayelana nawo, ewenzela umnikazi welayisensi yokwenza umsebenzi, lesi sigaba ngaphandle kwesigatshana (1)(i) no (k), siyasebenza kumqashiselwa, sihambisana nezinguquko ezidingwa yisimo, ngazo zonke izindlela kube sengathi umqashiselwa nguyena umnikazi waleyo layisensi yokwenza umsebenzi. 10 15
- (6) Ngezinhlalo zalesigaba, “ilayisensi yokwenza umsebenzi” ifaka “iphemithi”.

### Ukushintshwa kwesikhashana kwesithuthi esibaluliwe

94. (1) (a) Ibhodi noma ilunga laleyobhodi eligunyazwe ngokusemthethweni yibhodi ekufakweni kwesicelo ngumnikazi welayisensi yokwenza umsebenzi noma wephemithi, linganikeza igunya elibhalwe phansi, ngesikhathi isithuthi esibaluliwe kuleyo mvume noma kwiphemithi singasebenzi okwesikhashana, ukuba umnikazi welayisensi yokwenza umsebenzi asebenzise esinye isithuthi endaweni yalesi esingasebenzi, lokhu kwenziwe ngokulandela isigatshana (2) (3) no (6). 20
- (b) Lapho isithuthi ekukhulunywe ngaso esigabeni (a) singaphansi kwenkontilaka encane ekukhulunywe ngayo esigabeni 87 lemume inganikezwa futhi nakuyona inkontileka encane. 25
- (2) Igunya elibhalwe phansi kufanele libe kwifomu enqunywe nguNgqongqoshe wesiFundazwe futhi kufanele libalule okungenani lokhu okulandelayo:
- (a) Mayelana nomnikazi wemvume, imininingwane ebalulwe esigabeni (a) sesigaba 85 (4), uma isithuthi singaphansi kwenkontileka encane, lokhu kugunyazwa kufanele kuqakathwe ngaphezulu, mayelana naleyo nkontileka, imininingwane ebalulwe esigabeni 85(4)(e)(iv). 30
- (b) Mayelana nesithuthi esingene endaweni yesinye imininingwane ebalulwe esigabeni (b) sesigaba 85(4).
- (c) Isikhathi isithuthi esingene endaweni yesinye esizosetshenziswa ngaso ukwenza umsebenzi wokuthutha umphakathi ilayisensi yokwenza umsebenzi yomnikazi emayelana nawo kodwa isikhathi okukhulunywa ngaso akumele ukuba sibe ngaphezu kwezinsuku ezingu 21 ezibalwe ukuthi ziqala ngosuku igunya lelo elakhishwa ngalo. 35
- (3)(a) Inani labagibeli lesithuthi esingene endaweni yesinye kufanele lilingane nalelo lesithuthi esibalulwe emvumeni okukhulunywa ngayo, kodwa singaba— 40
- (i) sincane kunaso; noma
- (ii) sidlule lelonani ngamaphesenti angeqile kwangu 20.
- (b) Isithuthi esingene endaweni yesinye kufanele sikulungele ukwenza umsebenzi wezokuthutha umphakathi futhi ngaphandle uma lesi sigaba sihlinzeka okunye, kufanele ngazonke izindlela zihambisane nezidingo kanye nemibandela esebenza ngokwemibandela kulo mthetho mayelana nesithuthi esibalulwe kwilayisensi yokwenza umsebenzi. 45
- (4) Imvume ebhalwe phansi kufanele igcine isithuthi esithathe indawo yesinye isithuthi leligunya elimayelana naso, ligcinwe kanye nelayisensi yokwenza umsebenzi emayelana nesithuthi esingene endaweni yesinye isikhathi salokhu kushintshwa esihlinzekwe kulelo gunya. 50
- (5) Isithuthi esingene endaweni yesinye ngesikhathi esigunyaziwe salokhu kushintshwa kufanele sithathwe ngokuthi siyisithuthi esisebenza ngaphansi kwelayisensi yokwenza umsebenzi ebalula izithuthi ezishintshiwe. 55
- (6) Ibhodi noma ilunga linganqaba isicelo sesibili noma esilandelayo ngaphansi kwesigatshana (1) mayelana nesithuthi esisodwa, uma kubonakala ukuthi umfaki sicelo uxhaphaza lelo gunya elibhalwe phansi.



**INGXENYE 17*****Ukurejista kanye nezinye iZinto eziPhathelene neMboni yamaMinibhasi angamaTekisi*****Ukuqokwa kukaNobhala**

95. (1) Ngokulandela isigaba 53, uNgqongqoshe wesiFundazwe angaqoka uNobhala wesiFundazwe ukuba asebenzise amandla futhi enze imisebenzi enikezwe futhi ebekwe phezu komnikazi waleso sikhathi ngale Ngxenye neNgxenye 12. 5
- (2) (a) Unobhala uthola iholo nezibonelo futhi unelungelo lokuthola imihlomulo enqunywe nguNgqongqoshe wesiFundazwe evumelana nelunga lo mkhandlu omkhulu ophathelene nezimali esifundazweni. 10
- (b) Iholo izibonelelo kanye nemihlomulo enqunyiwe kanjalo kufanele ibalulwe encwadini yokuqokwa kukaNobhala.
- (3) Inhloko yomnyango wesifundazwe, kufanele ngokuncike emithethweni elawula imisebenzi yomphakathi ahlinzeke ngezisebenzi ezidingekayo ukuba zisize uNobhala ekwenzeni imisebenzi yaleso sikhundla. 15
- (4) Ngesikhathi isikhundla engakwazi ukusebenza ngenxa yanoma ikuphi ukukhinyabezeka komzimba noma kwengqondo, uNgqongqoshe wesiFundazwe, angagqoka noma imuphi umuntu okulungele futhi ofanele ongeke angagunyazeki ngendlela ebalulwe esigabeni 96, ukuba abambe njengoNobhala, futhi asebenzise noma enze amandla, imisebenzi yaleso sikhundla kuze kube yisikhathi lapho isikhala sigcwaliswa khona noma umuntu osiphethe aphinde siqale ukusebenza, njengoba kungaba njalo. 20

**Izithiyo zokungabambi isikhundla sokuba nguNobhala**

96. (1) Umuntu ongeke aqokwe noma ahlale esikhundleni njengoNobhala—
- (a) uma engekho esimweni esikahle ngomthetho; 25
- (b) uma ekhethwa noma eqokwa njengelunga lePhalamende noma lesishayamthetho sesifundazwe noma lo mkhandlu wesifundazwe;
- (c) uma nganoma yisiphi isikhathi esuswa esikhundleni ngezi zathu zokungaziphathi kahle;
- (d) uma kumenyezela ukuthi unezikweletu eziningi angasakwazi ukuzikhokha, noma impahla yakhe seyinikezwe laba abakweletayo, noma lapho umuntu emenezelwe njengonezikweletu eziningi angasakwazi ukuzikhokha futhi engakasizwa; 30
- (e) uma eboshelwe noma yiliphi icala—
- (i) lapho ukungathembeki kube yikona okugqamile noma okube yisizathu sokuboshwa kwakhe; 35
- (ii) lapho isigwebo anikwe sona singamnikezi ithuba lokukhokha inhlawulo;
- (iii) ngokwemibandela ye-Cross Border Road Transport Act, 1998 (Act No 4 of 1998), noma lo mthetho; noma
- (iv) ngokwesigaba 127 noma elahlwe yicala ngaphansi kwalo Mthetho lanoma yikuphi ukuphulwa komthetho ngokomthetho edlule, uma loku kwepulwa komthetho kufana nanoma yikuphi ukuphulwa komthetho okubalulwe esigabeni 127; 40
- (f) ngokwesigaba 53(4), unokuthinteka ngqo kunoma yiziphi zezimali noma ibhizinisi kunoma yimuphi umkhakha wemboni yezokuthuthwa umphakathi. 45
- (2) Ngesikhathi ukuqokwa kwanoma yimuphi umuntu ukuba abe nguNobhala, kucutshungulwa, umuntu angadingeka ukuba adalule kuNgqongqoshe wesiFundazwe ngokubhalwe phansi noma yikuphi ukuthinteka umuntu angabanakho embonini yamaminibhasi angamatekisi noma enye ingxenye yemboni yezokuthutha umphakathi.

**Ukusula kukaNobhala kanye nokususwa kwakhe esikhundleni**

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97. (1) UNobhala angasula esikhundleni ngokunikeza isaziso esibhalwe phansi senyanga eyodwa kuNgqongqoshe.

(2) UNgqongqoshe wesiFundazwe nganoma yisiphi isikhathi angasusa uNobhala esikhundleni—

(a) ngokuhluleka—

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- (i) ukwenza imisebenzi kaNobhala ngendlela nangokungachemi; noma
- (ii) ukwenza leyo misebenzi ngokukhuthala nangempumelelo.

- (b) ngokungaziphathi kahle; noma
- (c) uma, ngenxa yokugula noma ukukhinyabezeka emzimbeni nasengqondweni, uNobhala akazikwazi ukwenza imisebenzi eyenziwa nguNobhala noma ayenze ngempumelelo

**Ukushiya isikhundla**

5

**98. (1) Unobhala kufanele ashiye isikhundla—**

- (a) Uma uNobhala eba wumuntu ongakufanele ukuba kuleso sikhundla ngendlela ebalulwe esigabeni 96;
  - (b) esimweni lapho uNobhala esula khona, uma ukusula lokho kwenzeka ngokwemibandela yesigaba 97; noma 10
  - (c) uma esuswa esikhundleni ngaphansi kwesigaba 97(2);
- (2) Uma isikhundla sikaNobhala sesingenamuntu, uNgqongqoshe wesiFundazwe kufanele athathe izinyathelo eziphuthumayo zokugcwalisa lesi sikhala ngokuqoka ngendlela ehambisana nesigaba 95, umuntu okulungele nofanele ongeke athathwe ongeke akhishwe esikhundleni ngendlela ebalulwe esigabeni 96 esisebenzayo 15 nezinguquko ezidingwa yisimo, kulokho kuqokwa.

**Imisebenzi kaNobhala****99. (1) UNobhala kufanele—**

- (a) athole futhi acubungule futhi anqume, ngezicelo zokurejistwa kososeshini kanye namalunga abo, nokurejistwa kwangabesiwona amalunga kasoseshini njengoba kuhlizekelwe eNgxenyeni 12 nakule Ngxenyeni; 20
  - (b) aluleke uNgqongqoshe wesiFundazwe ngezinto ezingena ngaphansi kweNgxenyeni 12 kanye nale Ngenye futhi ahlinzeke uNgqongqoshe wesiFundazwe ngolwazi ezintweni ezibalulekile emphakathi olutholakale ngenkathi enza imisebenzi yaleso sikhundla ngokwemibandela yalezo zinNgxenyeni; 25
  - (c) athathe zonke izinyathelo ezifanele ukwelusa nokuthola ulwazi mayelana nokuhambisana noma ukungahambisani—
    - (i) ngososeshini abarejistiwe, nemithethosisekelo yabo;
    - (ii) ngamalunga arejistiwe kanye namalunga angarejistiwe neNdlela yokuziPhatha; 30
    - (iii) kwemithethosisekelo yososeshini abarejistiwe nesigaba 117;
  - (d) asize ekuqhakambisweni kwemisebenzi yobungoti eyenziwa ngososeshini kanye namalunga abo kanye nalabo abangesiwona amalunga;
  - (e) athathe noma yiziphi izinyathelo azibona zifanele ngenhloso yokukuthaza ososeshini ukuba barejiste ngokuhambisana nengxenyeni 12 kanye nale ngxenyeni, futhi ahlinzeke iseluleko kanye nosizo okubasiza ukuba bafake izicelo zokurejistwa ngempumelelo; 35
  - (f) acubungule, anqume ngokumiswa noma ukwesulwa kokurejistwa kukasoseshini noma enye yamalunga awo noma yimuphi umuntu ongesilona ilunga; 40
  - (g) ahlaziye izichibiyelo ezihlongozwayo kwemithethosisekelo yososeshini abarejistiwe ukuze aqinisekise ukuthi izichibiyelo ziyahambisana nezidingo zesigaba 117, futhi axhumane nososeshini ngenhloso yokuvimbela ukwamukela kwezichibiyelo eziphikisanayo, noma abazise ngo unagahambisani kwezichibiyelo ezamukelwe yibona, futhi abatshele ukuba bayeke lezo zichibiyelo; 45
  - (h) agcine irejista yezokuthutha esifundazweni ezirekhodwe kuyona, ngendlela enqunywe, yigama lawo wonke ososeshini yilunga likasoseshini noma ongesilona ilunga osicelo sakhe sokuba arejistiwe sivunyiwe, sihambisana nolwazi olunqunywe mayelana nomsebenzi wezokuthutha wamatekisi noma imisebenzi eyenziwa ngusoseshini, ilungal ikasoseshini noma ongesilona ilunga kodwa orejistiwe futhi isithuthi esisetshenziswa ukwenza leyo misebenzi; futhi 50
  - (i) agcine amarekhodi alonke olunye ulwazi oludinga ukulondolozwa kwe-National Transport Register. 55
- (2) (a) Ulwazi olurekhodwe kwirejista yesifundazwe luvulelekile ukuba luhlolwe ngumphakathi ngesikhathi zomsebenzi zomnyango wesifundazwe.
- (b) ekucceleni kwanoma yimuphi umuntu othintekayo kanye nasekukhokhweni

kwemali, uma ikhona ekhokhwayo, enqunywe nguNgqongqoshe wesiFundazwe, uNobhala kufanele ahlinzeke lowo muntu ngekhophi efakazelwe noma ngokucashunwe kunoma yiliphi irekhodi eliqukethwe yirejista yezokuthutha yesifundazwe, lokhu kwenziwe ngokulandela isigatshana (7) wesigaba 6.

(3) Ekubhekaneni nanoma yiluphi olunye udaba okukhulunywa ngalo esigatshaneni 5  
(1)(a) noma (f) uNobhala—

- (a) angavumela umuntu othintekayo kulolu daba, noma oyisithunywa esigunyaziwe salowo muntu, ukuba avele ngaphansi kukaNobhala futhi—  
(i) anikeze ubufakazi noma enze izethulo ngomlomo mayelana nodaba athinteka kulo; 10  
(ii) abize ofakazi futhi ahole ubufakazi kunoma yiyiphi imibuzo emayelana nodaba olumayelana nomhlangano phambi kukaNobhala;  
(iii) aphenye umuntu ofakaza njengofakazi kuleyomihlangano;
- (b) akhiphe umsila wengwe ngendlela enqunywe nguNgqongqoshe wesiFundazwe, edinga lomuntu ukuba avele ngaphambi kukaNobhala ukuba 15  
anikeze ubufakazi noma ukuba aveze noma yiliphi ibhuku, uhlelo, umqulu, noma yelinye irekhodi, noma yimuphi umbhalo, into, engeyakhe noma elawulwa umuntu, futhi enze lokho ngendlela enqunywe;
- (c) ayale noma yimuphi umuntu okhona endaweni lapho kuhlangene khona, ukuba avele ngaphambi kukaNobhala ukuba anikeze ubufakazi noma aveze 20  
noma yiyiphi incwadi, uhlelo, umqulu noma yelinye irekhodi, into, esezandleni zalowo muntu okuleyondawo;
- (d) aphenye noma yimuphi umuntu ovela njengofakazi;  
(e) adinge ukuba noma yikuphi ubufakazi obethulwa ngomlomo obenziwe ngaphansi kwesifungo, futhi ngenxa yaleyo nhloso, angamele isifungo 25  
esenziwa yinoma imuphi ufakazi;
- (f) enqabe ukulalela noma yibuphi ubufakazi obethulwa ngomlomo noma izethulo eziphuma kunoma yimuphi umuntu ngapandle uma umuntu efungile njengofakazi.

(4) Noma imuphi umuntu othintekile yinoma yisiphi isinqumo esenziwe nguNobhala 30  
angadinga ukuba uNobhala ahlinzeke izizathu ngokubhalwe phansi saleso sinqumo, emva kwalokho uNobhala kufanele akwenze lokho ngaphandle kokuchitha isikhathi.

(5) Lezi nhloso zalesigaba, “ukurejistwa” kanye “norejistiwe” kumbandakanya “ukurejistwa” okwesikhashana kanye “nokurejista” okwesikhashana, ngokufanayo.

**UNobhala kumele adalule mayelana nokumbandakanyeka kwakhe 35  
ngakwezohwebo kanye nangezimali**

**100.** (1) Unobhala angeke abhekane nanoma yiluphi udaba anokuthinteka kulo ngqo ngokwezohwebo noma ngokwezimali ukuthinteka lokho okungaphezulu kokuthinteka kwelunga elijwayelekile lomphakathi kulolu daba.

(2) Uma esigabeni esithile kuvela ukuthi uNobhala unokuthinteka noma angaba 40  
nokuthinteka okungukuthi ngokwesigatshana (1) kungavimbela uNobhala ukuba abhekane nalolu daba, uNobhala kufanele ngokunganazi—

- (a) adalule ukuthinteka kwakhe kuNgqongqoshe wesiFundazwe ngenhloso yokuthi uNgqongqoshe akwazi ukuthatha isinqumo ngalolu daba; futhi  
(b) amise ukubhekana kwakhe nodaba kuze kuphume isinqumo 45  
sikaNgqongqoshe wesiFundazwe.

(3) (a) uNgqongqoshe wesiFundazwe kufanele ngaphandle kokuchitha isikhathi ngokubhala, azise uNobhala ngesinqumo esithathiwe odabeni.

(b) lapho uNgqongqoshe wesiFundazwe ethola khona—

- (i) ukuthi lokukuthinteka akukho, uNgqongqoshe wesiFundazwe kuleso 50  
saziso kufanele azise uNobhala ngalokho futhi ayale uNobhala ukuba aqhubeke nodaba olwalumisiwe; noma  
(ii) ukuthi lokukuthinteka kukhona, uNgqongqoshe wesiFundazwe kufanele aqoke omunye umuntu ofanele ngokuhambisana nesigaba 95 ukuba abhekane nodaba olwalumisiwe. 55

(4) Noma yini eyenziwa nguNobhala ukubhekana nodaba ephikisana nesigatshana (1) ayinasibopho ngokomthetho.

**UNobhala kumele abike njalo ngonyaka**

- 101.** (1) UNobhala kufanele minyaka yonke, ngokushesha okukhulu emva kokuphela konyaka wezimali wesifundazwe, alethe kuNgqongqoshe wesiFundazwe umbiko—
- (a) omayelana nokusebenza kwehhovisi likaNobhala;
  - (b) ngokusebenza kwethimba labahlaziyi, kanye neqhaza labo nelikwenzile ekusizeni uNobhala ekwenzeni imisebenzi yalelo hhovisi ngokwemibandela yeNgxenywe 12 kanye neyaleNgxenywe; 5
  - (c) izinto ezimayelana nokurejista kososesheni, namalunga awo kanye nabangewona amalunga; futhi
  - (d) mayelana nezinto ezimayelana noma ezisukela ekwenziweni kwaleNgxenywe neNgxenywe 12. 10
- (2) UNgqongqoshe wesiFundazwe kufanele athule umbiko kaNobhala kwisishayamthetho sesifundazwe ezinsukwini ezingu 21 zokuthola lowo mbiko, uma isishayamthetho sihlala, noma singahlali, ezinsukwini ezingu 21 zokuqala kokuhlala kwaso okulandelayo. 15

**Ukusungulwa kanye nemisebenzi yeThimba labaHlaziyi**

- 102.** (1) Ungqongqoshe wesiFundazwe emva kokuxhumana noNobhala ngesaziso kwiGazethi yesiFundazwe angasungula ithimba labahlaziyi ababalulwe esazisweni, kodwa abangengaphansi kwayisihlamu futhi abangeqile kwabayisikhombisa,—
- (a) oyedwa wabo kufanele abe nolwazi olukhethekile lwemboni yamaminibhasi angamatekisi esifundazweni; 20
  - (b) okungenani kufanele abe nolwazi olukhethekile lwezidingo nezifiso zabantu abahlala esifundazweni abathembele emisebenzini eyenziwe imboni yamaminibhasi angamatekisi ukuba abathuthe;
  - (c) okungenani oyedwa kufanele abe noqeqesho olusemthethweni kwezomthetho; 25
  - (d) okungenani oyedwa kufanele abe nolwazi olukhethekile lwemisebenzi nokusebenza kwezigungu zezokuthutha kanye nomasipala esifundazweni noma ngaphansi kwendawo yazo.
- (2) Imisebenzi yethimba labahlaziyi yilena— 30
- (a) ukululeka uNobhala mayelana nanoma iluphi udaba okungadluliselwa kuyena futhi oluhlobene nokusebenzisa noma ukwenza amandla kaNobhala kanye nemisebenzi yakhe ngaphansi kweNgxenywe 12 kanye naleNgxenywe;
  - (b) ukwenza izincomo lizibhekise kuNobhala mayelana nanoma iluphi udaba olungena ngaphansi kwalowomandla nemisebenzi; futhi 35
  - (c) ekucelweni noma nangemiyala kaNobhala, lenze noma iluphi uphenyo futhi lubike elikutholile futhi lenze izincomo lizibhekise kuNobhala.

**Ukuqokwa, namaholo kanye nezimo zomsebenzi wabahlaziyi**

- 103.** (1) Ngokulandela isigatshana (2) uNgqongqoshe wesiFundazwe kufanele aqoke inani labahlaziyi eligagulwe ngokwesigaba 102 (1). 40
- (2) Ngaphansi kokuqoka abantu babe ngabahlaziyi, uNgqongqoshe kufanele—
- (a) enze kwaziwe izinhloso zakhe zokubaqoka ngesaziso kwiGazethi yesiFundazwe, futhi ameme ukuphawula neziphikiso ezimayelana nokuqoka ngesikhathi esigagulwe kwisaziso;
  - (b) acubungule noma ikuphi ukuphawula nokuphikisa okutholakele emva kwalesosaziso. 45
- (3) Ekwenzeni lokho, uNgqongqoshe wesiFundazwe kufanele aqoke abantu abafanele abaziwa ngokungachemi, kodwa angeke aqoke noma yimuhle umuntu ukuba abe ngumhlaziyi uma lowo muntu engavunyelwe ukuba aqokelwe ukuba nguNobhala.
- (4) Umhlaziyi uqokwa— 50
- (a) Isikhathi esigaguliwe encwadini yokuqokwa kwakhe kodwa esingekhe seqe iminyaka emibili, ekupheleni kwesikhathi salowo muntu okukhulunywa ngaye lowo muntu ukulungele ukuphinde aqokwe isikhathi esingeki kwesodwa; kanye
  - (b) isikhathi esivulelekile kanye nemibandela ebalulwe encwadini yokuqokwa kwakhe umhlaziyi. 55
- (5) Umhlaziyi ngamunye unelungelo—

- (a) lomholo wosuku ngalunye noma iNgxenye yosuku kunoma yiyiphi inyanga lapho umhlaziyi enze noma yimuphi umsebenzi wethimba labahlaziyi ngokwemibandela yaleNgxenye ngesikali esinqunywe uNgqongqoshe wesifundazwe evumelana noNgqongqoshe wesifundazwe obhekene nezezimali, futhi lokubuyiselwa, ngokwesikali esinqunyiwe, zonke izindleko zokuhamba nezokudla azenzile ngesikhathi enza umsebenzi walelo thimba; futhi 5
- (b) futhi lokubuyiselwa, ngokwesikali esinqunyiwe, zonke izindleko zokuhamba nezokudla azenzile ngesikhathi enza umsebenzi walelo thimba.

**Imihlangano yeThimba labaHlaziyi**

10

104. (1) (a) Ithimba labaHlaziyi lihlangana njalo ngendlela elingayibona idingakala ukwenza umsebenzi walo ngokushesha nangempumelelo.

(b) ngaleyo nhloso, noma imiphi imihlangano yethimba labahlaziyi ibanjwa endaweni futhi nangesikhathi esinqunywe ngusihlalo wayo noma endaweni enqunywe yithimba emhlanganweni owedlule kodwa umhlangano walo wokuqala uyobanjelwa endaweni nangesikhathi esinqunywe nguNobhala kulowo mhlangano, okufanele uhanjelwe yibo bonke abahlaziyi, kulowo mhlangano kufanele bakhethe omunye wamalunga abo ukuba abe ngusihlalo. 15

(c) bonke abahlaziyi kufanele banikwe isaziso ngokubhalwe phansi sanoma yimuphi umhlangano wethimba. 20

(2) Iningi lenani labahlaziyi sebebonke lakha isibalo esidingekayo kunoma yimuphi umhlangano wethimba.

(3) (a) Isinqumo seningi labahlaziyi abakhona emhlanganweni siba yisinqumo sethimba labahlaziyi, ngokulandela isigatshana (2).

(b) esimweni lapho kunokulingana kwamavoti kunoma yiluphi udaba, usihlalo unelinye ivoti ngaphezu kwevoti elijwayelekile. 25

(4) Akukho sizathu esinikeziwe futhi akukho omunye umsebenzi owenziwe ithimba labahlaziyi othathwa njengongasebenzi ngesizathu—

(a) sokuvuleka kwesikhala kulelo thimba; noma

(b) sephuzu lokuthi umuntu ongefanele ukuhlala njengomhlaziyi uhlalile njengomhlaziyi noma ubambe iqhaza emhlanganweni walelo thimba ngesikhathi kwakuthathwa isinqumo, 30

uma leso sinqumo sathathwa noma leso senzo sasigunyazwe yiningi elidingekayo labahlaziyi ababengunya lokuhlala futhi babambe iqhaza njengamalunga alelo thimba.

(5) (a) Ithimba labahlaziyi kufanele ligcine amaminithi okuqhubekayo emhlanganweni yalo. 35

(b) amaminithi anoma yimuphi umhlangano ethimba labahlaziyi uma eseqinisekisiwe emhlanganweni olandelayo futhi asayinwa umuntu ongusihlalo omhlangano odlule, engenamaphutha, athathwa njengerekhodi leqiniso nokuyilonalona lokwenzekayo futhi izindaba emhlanganweni ezifakwe kumaminithi futhi ziwubufakazi obanele bokwenzekayo kanye nanoma yiziphi izinto ezaqhubekayo ngaphambi kwenkantolo yomthetho noma yisiphi isigcawu noma ikhomishana yophenyo. 40

**Imisebenzi kaNgqongqoshe wesifundazwe**

105. (1) Ithimba labahlaziyi ngemvume kaNobhala bangafaka umuntu oyedwa noma ababili ukuba abe yingxenye yethimba okungabantu abangavinjelwe ukuba bafakwe ngokombandela wesigaba 103(3), ngenhloso yokusiza lelo thimba kunoma uluphi uluphi udaba oluphambi kwalo olungena ngaphansi komkhakha wezokuqeqeshwa noma wolwazi walowo muntu. 45

(2) Lowo muntu ofakiwe angakhuluma emhlanganweni wethimba futhi angabamba iqhaza ezingxoweni zethimba ezixoxa udaba, kodwa angeke abe yingxenye yabavoti nxa seluvotelwa. 50

(3) Isigaba 104(4) siyasebenza, sihambisana nezinguquko ezidingakalayo isimo, nalapho noma imuphi umuntu efakiwe ethimbeni ngokwemibandela yalesi sigaba.

**Ukuhoxa, ukususwa nokushiya isikhundla**

106. Izigaba 97 no 98 ezimayelana nokuhoxa noma ukususwa kukaNobhala esikhundleni kanye nokushiya isikhundla kanye nokugcwaliswa isikhala saleso sikhundla, siyasebenza, sihambisana nalezo zinguquko esidingwa kanye nesikhala 55

sesikhundla labahlaziyi kanye nokugcwaliswa kwesikhala esikhona ethembeni labahlaziyi.

#### Ukudalula kwabahlaziyi ukuthinteka kwabo ngakwezohwebo nangokwezimali

107. (1) Umhlaziyi angeke aye noma abambe iqhaza kunoma imuphi umhlangano wethimba lapha okwenzeka emhlanganweni kufaka ingxoxo noma ukuvotela udaba umhlaziyi ethinteka ngqo ngokwezohwebo noma ngokwemali ikakhulukazi uma ukuthinteka lokho kungaphezu kokuthinteka ilunga elijwayelekile lomphakathi elingakho odabeni. 5

(2) Uma, ngonoma isiphi isigaba sonoma imuphi umhlangano wethimba labahlaziyi kubonakala ukuthi umhlaziyi uyathinteka noma angathinteka ngokwemibandela yesigatshana (1) engavimbela umhlaziyi ekutheni abambe iqhaza emhlanganweni— 10

(a) umhlaziyi kufanele ngokungananazi futhi ngokuphelele adalule uhlobo lokuthinteka futhi ashiye indlu lapho umhlangano ubanjelwe khona ukunikeza ithuba amalunga asele alelothemba ukuba axoxe udaba nokuthi anqume ukuthi engabe umhlaziyi ukuthinteka kwakhe kwamvimba noma akumvimbela ukuba abambe iqhaza emhlanganweni; kanye 15

(b) nokuthi ukudabula kukamhlaziyi nesinqumo sabahlaziyi abasele ngokwesigaba (a) kufanele siqoshwe amaminithini amhlangano lowo.

(3) Uma umhlaziyi ehluleka ukuhlaziyi noma ikuphi ukuthinteka ngokuhambisana nesigatshana (2) ngesikhathi lelo thimba licubungula futhi lixoxa nganoma iluphi udaba, ukuthinteka komhlaziyi okumayelana nalo, noma uma umhlaziyi ngandlela thize ephula noma ehluleka ukuhambisana nezigatshana (1) no (2), umhlangano othintwa yilokho kungadalulwa, ukwaphulwa noma ukungahambisani nezigatshana, umhlangano lowo awukho emthethweni futhi awunamsebenzi walutho, futhi nomhlaziyi othintekayo unecala lokungaziphathi ngendlela. 20 25

#### Ukurejista kwesikhashana nokurejista okuphelele kososeshini ababerejisitile ngaphambilini

108. (1) (a) Ngezinhlalo zesigaba 56, uNobhala uma egculiseka ukuthi usoseshini noma umuntu ongelona ilunga uyakulungela ukurejistwa kwesikhashana ngokwemibandela yalesi sigaba, kufanele arejiste usoseshini noma umuntu ongelona ilunga okwesikhashana, ngokulandela isigaba 55(1)(a), ngokufaka igama lalowo muntu kanye neminingwane edingekayo njengoba inqunywe nguNgqongqoshe wesiFundazwe. 30

(b) Umthwalo usemahlombe kasoseshini noma umuntu ongesilona ilunga ukuqinisekisa ukuthi ukurejista ngokwesifundazwe kuyenzeka ngokwemibandela yesigaba (a). 35

(2) Ukurejistwa ngokwesifundazwe kukasoseshini noma umutnu ongesilona ilunga ngokwemibandela yesigatshana (1) kuyaphelwa isikhathi uma noma isiphi isimo kulezi ezilandelayo senzeka kuqala :

(a) Uma isikhathi esibaluliwe esigabeni 56(1) siphela; noma 40

(b) Uma ukurejistwa kwesikhashana kushintshwa kwenziwa okugcwele ngokwemibandela yesigatshana (3).

(3) UNobhala kufanele arejiste usoseshini, okuthi ngaphambi kokuphela kwesikhathi sokurejista kwawo okwesikhashana ngokwesifundazwe, ufake isicelo kuNobhala sokushintsha ukurejista kwawo okwesikhashana ekurejistenini okugcwele futhi ugculise uNobhala— 45

(a) ukuthi amalunga awo awusebona abanikazi bamaphemithi akhona njengamanje ngaphansi kwesigungu abakade begunyazwe ukuba nawo, ngokwemibandela yesigaba 79, ukwenza imisebenzi yezokuthutha umphakathi, ngenxa yalokhu okukodwa, noma okunye noma kokubili kwalokhu okulandelayo: 50

(i) ukuguqulwa kwalawo maphemithi abe amalayisensi okwenza umsebenzi njengoba kuhlinzekwe kulo Mthetho kanye nakwimithetho esebenzayo yeifundazwe (kuqedwa kwalowo maphemithi abe izimvume njengoba kuhlinzekwe kuloMthetho kanye nakwimithetho esebenzayo yesifundazwe; 55

(ii) ukuqedwa kobulunga banoma iliphi ilunga elingumnikazi walephemithi futhi ohlulekile ukuba leyo phemithi iguqulwe kwilayisensi yokwenza umsebenzi;

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- (b) ukuthi uqede ubulunga banoma iliphi ilunga okuthe ngosuku lokufaka isicelo, langaba nelayisensi yokwenza umsebenzi efanele yesithuthi ngasinye ngaso umsebenzi woku thutha umphakathi wenziwa ilunga; kanye
- (c) nokuthi uyahlangabezana nezidingo zesigaba 110, ezisebenza zihambisana nezinguquko ezidingwa isimo. 5
- (4) Unobhala kufanele arejiste noma ubani ongelon ilunga, elithe ngaphambi kokuphela kwesikhathi sokurejista kwesikhashana, lafaka isicelo kuNobhala sokuguqula ukubhaliswa okongesilona ilunga ekubhalisweni okugcwele futhi wazise uNobhala ukuthi umuntu ongelona ilunga uhambisana nesigaba 113.
- (5) Lesigaba kasimvimbeli usoseshini okubhaliswa kwawo kwesikhashana 10 sekuphelile ngokwesigatshana (2)(a) ukuba afake isicelo sokurejista ngokwegaba 110.

### Ukurejista kwesikhashana kososeshini abangakulungele ngqo ukurejista ngokugcwele

- 109.** (1) Usoseshini angarejista okwesikhashana uma—
- (a) usoseshini ubekhona isikhathi esingengephansi kwesikhathi esinqunywe nguNgqongqoshe wesiFundazwe ngesaziso kwiGazethi yesiFundazwe. 15
- (b) inani lamalunga awo kusukela osukwini lokufaka isicelo alikho ngaphansi kwenani elincane elinqunywe nguNgqongqoshe wesiFundazwe ngesaziso kwiGazethi yesiFundazwe;
- (c) wonke amalunga awo okungenani ayahambisana nalezo zihlinzeko zendlela yokuziphatha ezibalulwe nguNgqongqoshe ngesaziso kwiGazethi yesiFundazwe; 20
- (d) usoseshini unomthethosisekelo—
- (i) olandelwa yiwo wonke amalunga awo, kanye nangomabandela wokuthi nanoma ikuthi ukuphulwa kwalezo zihlinzeko ezibaluliwe zendlela yokuziphatha yinoma yiliphi ilunga kungaholela ekuhlawulisweni okufanele noma libizwe yikomidi elimile lokuqondiswa kwezigwegwe emva kokwenziwa kophenyo; futhi 25
- (ii) ohambisana nezihlinzeko zesigaba 117 njengoba sinqunywe nguNgqongqoshe wesiFundazwe ngesaziso kwiGazethi yesiFundazwe. 30
- (2) Usoseshini angeke urejistwe okwesikhashana uma izimali zokujoyina nezobulunga zeqa izamba ezinkulu ezinqunywe nguNgqongqoshe wesiFundazwe kwiGazethi yesiFundazwe.
- (3) UNobhala, uma eneliswa ukuthi usoseshini ofake isicelo uyahlangabezana nezidingo zokurejista okwesikhashana okubekwe isigatshana (1), kufanele awarejiste kwesikhashana, ngokufaka igama lawo neminingwane yawo enqunywe nguNgqongqoshe wesiFundazwe kwirejista yezokuthutha yesifundazwe ngokulandela lesi sigaba, futhi kufanele anikeze lo soseshini isitifiketi sokurejista ngendlela enqunyiwe. 35

### Ukurejista kososeshini okuqonde ngqo okugcwele 40

- 110.** Usoseshini ulungela ukurejista emva kokufaka isicelo leso, kufanele urejistwe, uma—
- (a) usoseshini uhambisana nezidingo zesigaba 57;
- (b) usoseshini usubekhona isikhathi esingengaphansi kwesikhathi esinqunywe nguNgqongqoshe kwiGazethi yesiFundazwe; 45
- (c) inani lamalunga awo kusukela osukwini lokufaka isicelo lingengaphansi kwenani elincane elinqunywe nguNgqongqoshe wesiFundazwe;
- (d) imali yokufaka isicelo enqunywe nguNgqongqoshe wesiFundazwe uma ikhona ekhokhwayo isikhokhiwe;
- (e) imali yokujoyina kanye namali yobulunga kusoseshini ingeqi izamba ezinqunyiwe; 50
- (f) usoseshini awukulungele ukurejista ngokombandela womyalo wesigaba 118(5).

### Isicelo senqubo yokurejista

- 111.** (1) Usoseshini ofake isicelo sokurejista noma sokurejista okwesikhashana noma sokuguqulwa kokurejista kwesikhashana kube ukurejista okugcwele, ngokuletha kuNobhala— 55

- (a) isicelo ngendlela enqunywe nguNgqongqoshe wesiFundazwe mayelana naleyo nhloso, esigcwaliswe ngokusemthethweni futhi sasayinwa ngabamele usoseshini abagunyaziwe;
- (b) ikhophi yemithethosisekelo kasoseshini osayinwe yiwo wonke amalunga akhokhile kasoseshini; 5
- (c) ikhophi yerekhodi yamalunga alo ebonisa amagama amalunga awo kanye, uma sikhuluma ngelunga ngalinye, imininingwane uNgqongqoshe ayinqumile yezinhloso zalesi sigaba;
- (d) nobunye ubufakazi bokuhambisana komfakisicelo nezidingo zalo Mthetho njengoba kunganqunywa nguNgqongqoshe; 10
- (e) nanoma yiluphi olunye ulwazi ekunqumeni ukuthi ingabe izidingo zokurejistwa ezibekwe yilo mthetho, noma izidingo zokuguqulela ekurejistweni okugcwele, njengoba kungenzeka, kuhlangatshewene nazo.
- (2) UNobhala uma aneliswa ukuthi usoseshini ofake isicelo uyahlangabezana nalezo zidingo, kufanele arejiste kusoseshini othintekayo noma aguqule ukurejista kwesikhashana kukasoseshini kube ukurejistwa okugcwele noma arejiste usoseshini okwesikhashana ngokufaka igama lawo nemininingwane edingekayo ngendlela enganqunywa nguNgqongqoshe kwirejista yamatekisi yesifundazwe. 15
- (3) Uma usurejistile usuguqule ukurejistwa noma ukurejistwa okwesikhashana kwanoma yimuphi usoseshini ngokuhambisana nesigaba (2), bonke abantu abatholwe nguNobhala ukuthi bangamalunga kalowo soseshini futhi bahlangabezana nezidingo zalo mthetho kufanele barejistwe okwesikhashana njengamalunga ngokungena kwirejista yamatekisi esifundazwe kwamagama abo kanye nemininingwane edingekayo enqunywe nguNgqongqoshe ngezinhlolo zalesi sigatshana. 20
- (4) Ongesilona ilunga ofaka isicelo sokurejistwa ngokuhambisa kuNobhala— 25
- (a) isicelo ngendlela enqunywe nguNgqongqoshe yalezo zinhloso egcwaliswe ngokusemthethweni futhi yasayinwa umfaki sicelo noma esimweni salowo ongelona ilunga ongumuntu womthetho, ngomele umfakisicelo ogunyaziwe;
- (b) isitatimende ngaphansi kwesifungo lapho umfaki sicelo ehambisana khona nendlela yokuziphatha; kanye 30
- (c) nanoma yibuphi ubufakazi bomfakisicelo nezidingo zoMthetho njengoba kunganqunywa nguNgqongqoshe wesiFundazwe.
- (5) UNobhala angadinga olunye ulwazi lokusekela noma yisiphi isicelo esihambisana nalezi sigaba.

### Ukurejista noma ukurejista kwesikhashana kwamalunga 35

112. (1) Lapho usoseshini sowurejistile, wonke amalunga kasoseshini ahambisana nomthethosisekelo wawo kanye nendlela yokuziphatha esebenzayo esifundazweni lapho lo soseshini urejistwe khona, futhi elihambisana nezinye izidingo zalo Mthetho kanye nemithetho yesifundazwe kufanele lirejistwe njengelunga.

(2) (a)(i) lapho noma yimuphi usoseshini eserejistwe khona okwesikhashana wonke umuntu oyilunga likasoseshini futhi onemvume noma iphemithi efanele yesithuthi ngasinye ngaso ilunga elenza umsebenzi wokuthutha umphakathi noma elifake isicelo semvume noma iphemithi efanele kufanele lirejistwe njengelunga lesikhashana isikhathi esiphela ngesikhathi ukurejistwa kukasoseshini isikhashana kuphela. 40

(ii) umthwalo osemahlombe anoma yiliphi ilunga elirejistwe okwesikhashana ukuba lifune ukurejista okwesikhashana ngokwesigaba (a), ukuthatha izinyathelo ezifanele ngenhloso yokuqinisekisa ukuthi ukurejista ilunga isikhashana kuyenzeka ngokwesigatshana (i). 45

(b) Lapho ukurejistwa kukasoseshini kwesikhashana sekushintshelwe ekurejisteni okugcwele, wonke amalunga kasoseshini ahambisana nomthethosisekelo kasoseshini kanye nendlela yokuziphatha ekhona esifundazweni lapho loseshini arejistwe khona, kufanele lirejistwe njengelunga. 50

(3)(a) Esikhathini esiyinyanga emva kokwamukelwa kwelunga elisha kunoma yimuphi usoseshini okukhulunywe ngawo esigatshaneni (1) noma (2)(b) ikomidi lesigungu sawo elikhulu noma ibhodi noma iliphi ilunga lalo noma oyisikhulu sikasoseshini ogunyazwe ukwenze njalo yilelo komidi noma yibhodi kufanele afake isicelo kuNobhala ngendlela enqunywe nguNgqongqoshe, esifakela ukurejistwa kwelunga elisha ukuba libe yilunga. 55

(b) Ilunga elisha egameni laso lesisicelo senziwe, kufanele lirejistwe noma lirejistwe okwesikhashana njengoba kungabanjalo libe yilunga uma uNobhala eneliswa ukuthi— 60

(i) ilunga elisha—



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- (aa) linelayisensi yokwenza umsebenzi efanele isithuthi ngasinye elenza ngaso umsebenzi wokuthutha umphakathi; futhi
- (bb) lenza umsebenzi wokuthutha umphakathi imvume emayelana nawo ngokuhambisana nemibandela ehambisana nelayisensi yokwenza umsebenzi; 5
- (ii) ilunga elisha lihambisana nomthethosisekelo kasoseshini othintekayo kanye nendlela yokuziphatha esebenzayo esifundazweni lapho lososeshini urejiste khona.

### Ukurejista kwabangewona amalunga

**113.** (1) Ongelona ilunga ukulungele ukurejistwa futhi, emva kokufaka isicelo leso, 10  
kufanele arejistwe, lapho—

- (a) ongelona ilunga esekhokhe khona imali yokufaka isicelo enqunywe nguNgqongqoshe;
- (b) ongelona ilunga uma engumuntu womthetho—
- (i) ubelokhu ekhona isikhathi esingengaphansi kwesikhathi esinqunywe 15  
nguNgqongqoshe ngesaziso kwiGazethi yesiFundazwe; futhi
- (ii) linamalunga lapha uma sikhuluma ngenkampani noma inhlanganisela noma erejiste ngokwemibandela ye-Companies Act, 1973 (Act No 61 of 1973), noma i-Close Corporations Act, 1984 (Act No 69 of 1984) engafaki abantu ababili noma abangaphezulu, abathi ngesikhathi 20  
sokwakhiwa kwenkampani noma inhlanganisela, noma ngasiphi isikhathi emva kwalokho babengabanikazi bomsebenzi wezokuthutha umphakathi ofana ngokunqala nalowo owawenziwa yileyo nkampani noma inhlanganisela;
- (c) ongelona ilunga ohambisana nendlela yokuziphatha esebenzayo 25  
esifundazweni lapho ukurejistwa kufunwa khona,
- (d) ongelona ilunga—
- (i) enemvume noma iphemithi efanele yesithuthi ngasinye lowo ongelona ilunga enza ngaso umsebenzi wokuthutha umphakathi, futhi
- (ii) elenza umsebenzi wokuthutha umphakathi ilayisensi yokwenza 30  
umsebenzi emayelana nawo, elandela imibandela ehambisana nelayisensi yokwenza umsebenzi,
- (e) Ukurejistwa komfakisicelo ngongesilona ilunga kubangelwa ilezinto ezilandelayo:
- (i) Akukho usoseshini orejistiwe omayelana nomzila noma imizila noma, 35  
uma kungenzeka, endaweni lapho umsebenzi wokuthutha umphakathi womfakisicelo wenziwa khona; noma
- (ii) lapho kunososeshini orejistiwe uma—
- (aa) umfakisicelo enqatshelwe ukuba yilunga likasoseshini noma
- (bb) izidingo zokwamukelwa ekubeni yilunga likasoseshini 40  
zingenabulungiswa; noma
- (cc) ngokombono nowezimo ezikhona, umfakisicelo ngezizathu ezizwakalayo angeke akwazi ukuba yilunga likasoseshini; noma
- (dd) umfakisicelo, uma amukelwe ekutheni abe yilunga likasoseshini, 45  
uzothola ukubandlululwa obungenabulungiswa.
- (2) Imvume angeke yanikezwa ongesilona ilunga ngaphandle kokuthi ongelona ilunga alethe kwibhodi isitifiketi esiphuma kuNobhala esifakazayo ukuthi uyahambisana nezidingo zesigatshana (1)(b), (c) no (e), futhi uNobhala kufanele anikeze isitifiketi leso kulowo ongelona ilunga olungele ukuba asithole uma nje esekhokhe imali enqunyiwe. 50

### Izitifiketi zokurejista kanye nomaka ohlukanisayo

**114.** (1) UNobhala kufanele emva kokurejista noma ukurejista noma yimuphi usoseshini okwesikhashana, noma iyiphi ilunga noma imuphi ongelona ilunga, anikeze izinamba ezehlukile zokurejistwa kusoseshini, kwilunga noma ongesilona ilunga othintekayo futhi anikeze usoseshini, ilunga noma ongelona ilunga isitifiketi sokurejista 55  
noma isitifiketi sokurejistwa okwesikhashana ngendlela futhi eneminingwane enqunywe nguNgqongqoshe wesiFundazwe ngokulandela isigaba 59.

(2) Ngokulandela isigaba 59, lapho ilunga noma ongelona ilunga erejistiwe noma erejistwe okwesikhashana, uNobhala kufanele, kusukela ngosuku olunqunywe

nguNgqongqoshe wesiFundazwe, ngesaziso kwiGazethi yesiFundazwe anikeze ngendlela enqunywe nguNgqongqoshe wesiFundazwe—

(a) umaka ohlukanisayo waso sonke isithuthi selunga noma ongasilona ilunga orejistile esisetshenziswayo ngaphansi kwegunya lelayisensi yokwenza umsebenzi efanele noma iphemithi; 5

(b) umaka ohlukanisayo waso sonke isithuthi selunga noma ongelona ilunga orejistwe okwesikhashana—

(i) esisetshenziswayo ngaphansi kwegunya lelayisensi yokwenza umsebenzi noma yephemithi efanele; noma

(ii) mayelana nokuthi ilunga noma ongelona ilunga orejistwe okwesikhashana wenze isicelo selayisensi yokwenza umsebenzi efanele ngokuhambisana nalo mthetho. 10

(3) Ngokulandela isigaba 59, uNobhala kufanele anikeze labomaka abahlukanisayo isithuthi ngasinye esisetshenziswa yinoma yiliphi ilunga elirejistile noma elirejiste okwesikhashana futhi noma yimuphi ongelona ilunga orejiste isikhashana, ukurejista kwakhe okwenzeke ngaphambi kosuku lwaleso saziso ngokuletha kuNobhala— 15

(a) isitifiketi sokurejistwa selunga noma ongelona ilunga othintekayo orejistile kanye nelayisensi yokwenza umsebenzi noma iphemithi ekhona njengamanjeyesithuthi ngasinye esisetshenziswa yilelo lungu noma ongelona ilunga orejistile; 20

(b) isitifiketi esifanele sokurejistwa kwesikhashana kwelunga noma ongelona ilunga orejistwe okwesikhashana, kanye

(i) ilayisensi yokwenza umsebenzi noma iphemithi yesikhashana yasosonke isithuthi esisetshenziswa ilunga noma ongelona ilunga elirejiste okwesikhashana; noma 25

(ii) ubufakazi, obanelisa uNobhala, ukuthi ilunga noma ongelona iunga orejiste okwesikhashana wenzile isicelo saleyolayisensi yokwenza umsebenzi.

**Imisebenzi yososeshini kanye nabangewona amalunga abarejistiwe kanye nabarejistwe isikhashana 30**

**115. (1) Usoseshini orejistiwe kufanele—**

(a) athathe izinyathelo ezifanele ukuvimbela noma yikuphi ukuphulwa kwendlela yokuziphatha kanye nanoma yikuphi okunye ukungaziphathi kahle ohlangothini lwamalunga awo kanye nabashayeli bawo, futhi uthathe izinyathelo zokuqondisa izigwegwe lawo malunga lapho kufanele khona ukuba kwenziwe lokho; 35

(b) wazise uNobhala ngokushesha nangokuphuthumayo ngomphumela wokuqondiswa kwezigwegwe zamalunga awo kanye nezinqubo zokukhalaza ezilandelwa ngamalunga;

(c) wazise uNgqongqoshe wesiFundazwe nanoma yikuphi ukungqubuzana okungaase kwenzeke noma okukhona nomunye usoseshini noma ososeshini; 40

(d) wazise uNobhala ngokuphuthumayo nangesikhathi nganoma yiziphi izinguquko—

(i) emalungeni awo; kanye

(ii) nangokumayelana nolwazi olulethwe yiwo kuNobhala ngokuhlanbisana naleNgxenyane neNgxenyane 12; 45

(e) wazise uNobhala ngokuqedwa noma ukumiswa okwesikhashana kobulunga kwanoma iliphi ilunga elirejistiwe, ezinsukwini eziyisikhombisa emva kokuqedwa noma kokumiswa;

(f) unikeze ngesikhathi uNobhala isaziso sayoyonke imihlangano evulelekile yamalunga, futhi uvumele uNobhala noma isithunywa sikaNobhala ukuba sihambele leyo mihlangano njengenqapheli; 50

(g) wazise uNobhala kusenesikhathi ngezichibiyelo ezihlongozwayo emthethwenisisekelo wawo kanye nohlobo nokuqala kwazo;

(h) uma ucelwa yinoma yimuphi umkhakha kahulumeni, isigungu sezokuthutha noma idolobha elimqoka elisize usoseshini ngezimali noma amalunga awo ngenhloso ethile, udlulise ulwazi oluceliwe kanjalo nesicelo sezimali ezitholakale kulowomthombo. 55

(2) Noma yimuphi ongelona ilunga orejiste okwesikhashana kufanele—

(a) azise uNobhala ngokukhulu ukushesha nangesikhathi nganoma yiziphi 60

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izinguquko ezimayelana nolwazi olwalethwa ngongelona ilunga kuNobhala ngokuhambisana nale Ngxenyane kanye neNgxenyane 12;

- (b) uma ucelwa yinoma yimuphi umkhakha kahulumeni, isigungu sezokuthutha noma idolobha elimqoka elisize usoseshini ngezimali noma amalunga awo ngenhloso ethile, udlulise ulwazi oluceliwe kanjalo nesicelo sezimali ezitholakale kulowo mthombo. 5

(3) Isigatshana (1) siyasebenza, sihambisana nezinguquko ezidingwa yisimo kunoma yimuphi usoseshini orejistwe okwesikhashana.

### **I-Minimum Standard Constitution kanye neNdlela yokuziPhatha**

**116.** (1) Ungqongqoshe wesiFundazwe kufanele ngokukhulu ukushesha emva kokuqala kwalo Mthetho, ngesaziso kwiGazethi yesiFundazwe anqume— 10

(a) uhlobo lomthethosisekelo wososeshini oluzokwaziwa njenge-Standard Minimum Constitution, ehambisana nezidingo zesigaba 117; kanye

(b) (code of ethics), ezokwaziwa njengendlela yokuziphatha, ehlinzekela okungenani izinto ezihlinzekwe esigabeni 117. 15

(2) I-Standard Minimum Constitution inikeza esingakala ngakho ukuhlelwa komthethosisekelo kososeshini ngenhloso yokusiza ososeshini abarejistiwe ngokuhambisana nale Ngxenyane neNgxenyane 12, kuye ngokuthi ezinye izidingo zokurejista kuhlangukshewene nazo.

(3) Indlela yokuziphatha ifaka iqoqo lezinkambiso ezimayelana nokuziphatha ngokumayelana nanoma yimuphi umsebenzi weminibhasi esatekisi ozokwenziwa. 20

### **Izidingo zemithethosisekelo yososeshini**

**117.** (1) Umthethosisekelo kasoseshini, kufanele ngokwezinhloso zokurejista okugcwele uhambisane nezidingo ezincinyane, uma zikhona ezinqunywe nguNgqongqoshe ngokwesigaba 60, futhi— 25

(a) usho igama eligcwele likasoseshini kanye nekheli leposi nelendawo kasoseshini, futhi lisho ukuthi lona ngusoseshini ongesiwna owokwakha inzuzo;

(b) ubeke izinhloso nezinjongo zawo, futhi usho ukuthi wakhelwe phezu kwani;

(c) unqume ngokumayelana nokulungela, nokwamukelwa, ebulungeni bukasoseshini, kanye namalungelo imihlomulo nemisebenzi ehambisana nalokho futhi udinge amagama onke amalunga ukuba afakwe ohleni lwamalunga; 30

(d) usungule izimo lapho ilunga lingasavumelekile ukuba lihlomule njengelunga futhi uhlinzeke ukuqedwa kobuluga kanye nezimo lapho ubulunga bungaqedwa khona; 35

(e) ubalule indlela yokuziphatha ethathwa njengokungaziphathi kahle futhi eholela ekutheni kube khona izinyathelo zokuqondiwa kwezizigwegwe ezithathelwa amalunga angaziphathi kahle kunqunywe ngezinyathelo okufanele zithathelwe amalunga kanye nezinqubo ezizolandela mayelana nalolu daba, futhi usungule ukomidi elimile lokuqondiswa kwezizigwegwe; 40

(f) uhlinzekele ukudluliswa kwezikhalazo mayelana nezinqumo zekomidi lokuqondiswa kwezizigwegwe kanye nanoma iyiphi inhlawulo noma isinqumo esithathwe yilo, noma ngokulahlekelwa imihlomula yokuba yilunga noma yokunqanyulwa kobulunga unqume inqubo yalezo zikhalazo futhi unqume ngebhodi lapho lezo zikhalazo zizokwenziwa khona; 45

(g) uhlinzekele ukukhokhwa kwezimali zobuluga kanye nendlela ezolandelwa ekunqumeni lezo zimali kanye nezinye izimali ezikhokhwa ngamalunga; 50

(h) unqume ngemithetho yokubiza noma yokubamba imihlangano yonyaka evulekile yamalunga kanye nemihlangano eyisipesheli yamalunga; kuhlangene nenani elidingekayo lokukwazi ukubamba umhlangano kanye nokugcinwa kwamaminithi anoma yimuphi umhlangano; 55

(i) uchaze indlela izinqumo ezenziwa ngayo emhlanganweni;

(j) usungule ibhodi lokuphatha elizomela futhi lisingathe izindaba zikasoseshini nezamalunga futhi wenze izinto egameni lawo, futhi uchaze amandla nemisebenzi yebhodi mayelana nalezinto; 55

(k) uchaze indlela izinqumo ezizothathwa ngayo ibhodi yokuphatha;

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- (l) usungule isikhundla sikaNobhala futhi uchaze imisebenzi ehambisana naleso sikhundla;
- (m) uhlinzeke ukuba khona kwabanye abaphathi sikhundla kuleyobhodi futhi uchaze imisebenzi yabo ngabanye;
- (n) unqume inqubo ezolandelwa yokuqoka kanye nokukhetha amalunga alelobhodi; 5
- (o) usungule izimo nendlela amalunga aleyobhodi angagudluzwa ngayo ezikhundleni;
- (p) uhlinzeke indlela yokukhalaza ngalokho kususwa ezikhundleni futhi unqume inqubo ezosetshenziswa yalezozikhalazo futhi unqume ibhodi lapho lezozikhalazo zizokwenziwa khona; 10
- (q) usungule izimo nendlela ukhetho oluzokwenziwa ngayo;
- (r) uhlinzeke ngezinqubo zokukhalaza kanye nokusungulwa kwekomidi elimile lezikhalazo;
- (s) ubalule izidingo sokuhlenganiswa nanoma yimuphi omunye usoseshini; 15
- (t) udinge amarekhodi okugcinwa kwezimali okufanele ukuba kugcinwe kanye nezitatimende zezimali ezilungiswe ngendlela nangenqubo ejwayelekile yokubala izimali, futhi usungule ikomidi elimile lezezimali;
- (u) unqume usuku sokuphela konyaka wezimali;
- (v) uhlinzekele ukuqokwa kwesiphathimandla sezokuphathwa kwezimali, ukuze kube khona ukulawulwa nokuziphendulela ngokwezimali, kanye nokucubungulwa kwamabhuku kwaminyaka yonke kwama-akhawunti kasoseshini kanye nezitatimende konke lokhu okuzokwenziwa umuntu orejistiwe nowenzayo lomsebenzi ewenza njengomcwaningizimali kanye nanjengomcwaningimabhuku; 20
- (w) uhlinzeke ukuthi kuvulwe i-akhawunti ebhange kasoseshini, nokuthi izimali zawo zifakwe ebhange; 25
- (x) usungule izihloso izimali zikasoseshini ezizosetshenziselwa zona;
- (y) unqume ngenqubo ezolandelwa yokushintsha umthethosisekelo wawo; futhi
- (z) unqume inqubo ezolandelwa ngayo ukuzonqunywa ukuhlakaza usoseshini. 30
- (2) Umthethosisekelo futhi, ekwenzeni isihlinzeko ngokwesigatshana (1)—
- (a) semihlangano ephuthumayo yamalunga kufanele sihlinzeke amalunga ukuba abize umhlangano ophuthumayo uma inani noma iphesenti elinqunyiwe lamalunga libonisa ukuthi liyawudinga lowo mhlango; 35
- (b) ukukhethwa kwamalunga ekomidi elikhulu, kufanele kuvumele amalunga akhethelwe kulona ukuba abe khona isikhathi esingeqile eminyakeni emibili;
- (c) imihlangano yonyaka evulekile, kufanele idinge ukuthi ukhetho lwamalunga ebhodi yokuphatha kanye nabazoba sezikhundleni kusoseshini ukuba ubanjwe, nokuthi izitatimende zemali zawo ezicutshunguliwe kanye nesabelo sezimali sonyaka wezimali olandelayo sicutshungulwe futhi kuphuthulwe ngaso, kulowo mhlango; 40
- (d) izinto ezibalulwe esigabeni (q) wesigatshana (1) kufanele uhlinzeke ukuthi ukhetho lamalunga esigungu sekomidi noma ibhodi enkulu nolwamakomidi amathathu amile lwenziwe ngokhetho oluyimfihlo;
- (e) izinto ezibalulwe esigabeni (t) wesigatshana (1), kufanele udinge ukuba isitatimende zezimali zesikhashana zilungiswe njalo ngekwata yonyaka ukuze zihlaziye ngamalunga; 45
- (f) imali yokujoyina nemali yokulunga kufanele ivumele ukuba lezozimali zinqunye futhi ziphinde zinqunye noma zihlelwe kabusha kuphela emhlanganweni wonyaka wamalunga evulekile; 50
- (g) izinto ezibalulwe ezigabeni (s), (y) no (z) zesigatshana (1) kufanele zidinge ukuthi isinqumo sokuhlengana nomunye usoseshini ukuchibiyela umthethosisekelo noma ukuhlakaza usoseshini kwenziwe kuphela uma kuxhaswa ngamalunga akhona emhlanganweni okungenani ayizingxenywe ezimbili kokuthathu, kuye ngokuthi isibalo esifanele somhlangano sikhona (quorum); 55
- (h) ukulungela ubulunga, kufanele kuhlinzeke ukuthi isicelo sokuba yilunga singanqatshwa ngaphandle uma umfakisicelo ehambisana nendlela yokuziphatha;
- (i) izimo lapho ubulunga bungaqedwa khona kufanele zihlinzeke ukuqedwa kobulunga banoma iliphi ilunga elenza umsebenzi wezokuthutha umphakathi ngaphandle kwemvume edingakalayo noma lapho kusebenza khona 60

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- iphemithi edingakalayo yesithuthi ngasinye umsebenzi lowo owenziwa ngaso;
- (j) izinto ezakha ukungaziphathi kahle kufanele zisho lokhu okulandelayo ukuthi kuwukungaziphathi kahle:
- (i) Ukuphulwa indlela yokuziphatha yinoma yiliphi ilunga; 5
  - (ii) ukuqasha kwelunga umshayeli ongahambisani nendlela yokuziphatha;
  - (iii) ukuqhubeka kokuqashwa yilunga kwanoma yimuphi umshayeli oqhubeka njalo nokuphula indlela yokuziphatha;
  - (iv) ukuhluleka ohlangothini lwebhodi ephethe usoseshini noma iliphi elinye ilunga lawo usoseshini noma abasezikhundleni bakasoseshini abagunyazwe yileyo bhodi okuhambisana nezidingo zesigaba 112(3)(a). 10

**Ukungagcini imigomo yomthethosisekelo orejistiwe kanye nokwephula indlela yokuziphatha**

**118.** (1) (a) Lapho uNobhala ngezizathu ezizwakalayo esola ukuthi usoseshini orejistiwe uhlulekile ukuhambisana nezihlinzeko zomthethosisekelo wawo orejistiwe omayelana nokwenziwa kweNgxenywe 12 noma leNgxenywe, noma ukuthi ongelona ilunga orejistiwe uphule indlela yokuzophatha uNobhala kufanele enze uphenyo kulolodaba. 15

(b) Ekwenzeni uphenyo lolu uNobhala kufanele anikeze usoseshini noma ongelona ilunga ithuba lokwenza izethulo noma lokunikeza ubufakazi mayelana nokungahambisani noma ukuphula asolwa ukuthi ukwenzile. 20

(c) Ekunqumeni udaba, izethulo kanye nobufakazi obenziwe, noma obunikeziwe ngusoseshini noma ongelona ilunga kufanele bubhekwe.

(2) Lapho ngokemibandela yalo Mthetho, isenzo esithile sokungahambisani nomthethosisekelo noma sokuphulwa kwawo siba ukwephula umthetho futhi usoseshini noma ongesilona ilunga esebekwe icala mayelana nokuphula lowo mthetho, uNobhala angahlehlisa uphenyo kuze kube yisikhathi lapho amacala obugebengu abekwe abamangalelwa esephothuliwe noma ahoxiswe. 25

(3) (a) Uma uNobhala ethola ukuthi lososeshini noma ongelona ilunga unecala lokungahambisani noma lokuphula umthethosisekelo, uNobhala kufanele, ngesaziso esibhaliwe, ayale usoseshini noma ongelona ilunga ukuba alungise lokungahambisani noma ukwephula umthethosisekelo esikhathini esibalulwe kwisaziso, futhi asho nezinyathelo ekufanele zithathwe mayelana nalolodaba. 30

(b) Usoseshini noma ongelona ilunga isaziso esanikezwa yena, angaxhumana nehovisi likaNobhala ukuze limsize ekuthatheni izinyathelo ezibalulwe kwisaziso (4) Ekuhlulekeni ukuhambisana nalesosaziso, uNobhala angakhokhisa inhlawulo engeqile kwisamba esinqunywe nguNgqongqoshe mayelana ngokungahambisani noma ngokuphulwa lokho komthethosisekelo, noma esule ukurejistwa kukasoseshini noma amise ukurejistwa okwesikhashana, kuyoya ngesisindo sokungahambisani noma sokuphulwa umthethosisekelo kanye nezinye izimo ezimayelana nalolodaba. 40

(5) (a) Lapho ukungahambisani ngusoseshini orejistiwe nezihlinzeko ezibalulekile zomthethosisekelo noma ukuphulwa kwendlela yokuziphatha yilowo ongelona ilunga orejistile kungenakulungiswa, uNobhala kufanele abeke enye yezinhlawulo ezihlinzekwe esigatshaneni (4), futhi, ezimweni ezinzima lapho inhlawulo ebekiwe imbandakanya ukukhanselwa ukurejistwa kukasoseshini noma kwalowo ongelona ilunga angakhipha umyalo ngawo usoseshini noma ongelona ilunga abazophucwa ngalo ilungelo lokurejistwa nganoma yisiphi isikhathi sesikhathi esinqunyiwe esingeki saba ngaphezu konyaka; 45

(b) Lapho ukurejistwa kukasoseshini kuqedwe khona noma kumise okesikhashana ngokwesigaba (a), ukurejistwa kwawowonke amalunga awo kuyogedwa noma kumiswe njengoba kungabanjalo isikhathi esifanayo naleso sikasoseshini. 50

(6) Lapho amalunga kasoseshini esazisiwe ngusoseshini orejistiwe ukuthi uqede noma umise okwesikhashana ukubulunga belunga elirejistile ngenxa yokungahambisani nomthethosisekelo wawo orejistiwe noma yokuphula indlela yokuziphatha, uNobhala kufanele aqede ukurejistwa kwalelolunga noma akumise isikhathi esifanayo. 55

(7) UNobhala kufanele, esontweni elilodwa emva kokuba esethathe izinyathelo ngokwesigatshana (4), (5) noma (6) ezithathela noma yimuphi usoseshini orejistiwe ilunga noma ongelona ilunga, ngesaziso esibhaliwe azise uNgqongqoshe wesiFundazwe, oNobhala bazozonke ezinye izifunda kanye nazozonke izigungu 60

zokuhlela esifundazweni noma ezingaphansi kwazo, mayelana nesinyathelo esithathiwe.

(8) (a) Unobhala ngesaziso esibhaliwe kufanele azise noma yimuphi usoseshini, ilunga noma ongelona ilunga mayelana nokuqedwa noma ukumiswa kwesikhashana ukurejistwa futhi ayale usoseshini, ilunga noma ongelana ilunga, njengoba kungabanjalo ukuba alethe isitifiketi sikasoseshini kuNobhala ezinsukwini eziyisikhombisa zosuke lwesaziso. 5

(b) Lapho ukurejistwa kukasoseshini sekuqediwe noma kumisiwe okwesikhashana uNobhala kufanele aphinde ayale usoseshini ukuba uqinisekise ukuthi zonke izitifiketi zokurejista zamalunga awo zibuyiselwa kuNobhala ngesikhathi esibalulwe kulesosaziso. 10

(9) Izihlinzeko ezandulelayo zalesi sigaba ziyasebenza, zihambisana nezinguquko ezidingwa yisimo kunoma yimuphi usoseshini noma ongelona ilunga orejistwe okwesikhashana, konke lokhu kuncike ezihlinzekweni ezithintekayo zalo mthetho.

### **Ukwesula noma ukumiswa okwesikhashana kokurejistwa noma ukurejistwa okwesikhashana kososeshini, amalunga kanye nabangasiwona amalunga 15**

**119. (1) UNobhala kufanele esule ukurejistwa kwesikhashana—**

(a) kukasoseshini—

(i) ongasekho noma ongasasebenzi esifundazweni, noma  
(ii) uma uthole ukurejistwa noma ukurejistwa okwesikhashana ngezindlela ezinomgunyathi; 20

(b) ilunga elimayelana nososeshini othile lapho—

(i) ukurejista noma ukurejista okwesikhashana kwalowo soseshini kwesuliwe;  
(ii) ubulunga balowo soseshini buqedwe ngokusemthethweni ngokuhambisana nomthethosisekelo wawo; 25

(c) ongelona ilunga—

(i) ongasasebenzeli esifundazweni;  
(ii) uma engumuntu womthetho, eseyekile ukuba khona; noma  
(iii) ongenayo ilayisensi yokwenza umsebenzi noma iphemithi efanele yesithuthi ngasinye esisetshenziswa ongelona ilunga ukwenza umsebenzi wokuthutha umphakathi; 30

(d) ilunga likasoseshini elirejistwe okwesikhashana elingenayo ilayisensi yokwenza umsebenzi noma iphemithi efanele yesithuthi ngasinye esisetshenziswa yilelilunga ukwenza umsebenzi wokuthutha umphakathi noma elingazange lifake isicelo salemvume. 35

(2) Usoseshini, ilunga noma ongelona ilunga okubhaliswa kwakhe noma ukubhaliswa kwakhe okwesikhashana kwesuliwe noma kumisiwe okwesikhashana, ngendlela ehlinzekwe kulesi sigaba noma emthethweni wesifundazwe, kufanele ubuyise isitifiketi sokurejista noma isitifikethi sokurejista okwesikhashana kanye nomaka abahlukanisayo, uma bekhona, abanikezwa mayelana nalokho kurejistwa noma ukurejistwa okwesikhashana osekusuliwe noma okumisiwe kuNobhala esikhathini esinqunywe nguNgqongqoshe wesiFundazwe. 40

(3) UNobhala, lapho usoseshini uqede ubulunga ngenxa yokuphula kwelunga indlela yokuziphatha, uma evumeleka ngaphansi kwezimo, angesula ukurejistwa kwalelo lungu noma ukurejista kwalo kwesikhashana okumayelana nanoma yimuphi omunye usoseshini ilunga leli eliyilunga lawo, emva kokunikeza ilunga ithuba elanele lokwenza izethulo futhi libeke izizathu zokuthi kungani lokukumiswa noma lokwesula kungenziwe. 45

(4) UNobhala angesula, noma amiswe okwesikhashana isikhathi esingeqi onyakeni owodwa ukurejistwa noma ukurejista okwesikhashana— 50

(a) kwanoma yimuphi usoseshini ohluleke ukuhambisana nanoma yisiphi isihlinzeko somthethosisekelo wawo orejistiwe ohlobene kakhulu nokufezwa kwaleNgxenye kanye neNgxenye 12,

(b) noma yiliphi ilunga— 55

(i) ubulunga balokusoseshini obumisiwe okwesikhashana; noma  
(ii) likasoseshini ukurejistwa kwalo noma ukurejistwa kwalo kwesikhashana okumisiwe okwesikhashana;

(c) noma ubani ongelona ilunga ophule indlela yokuziphatha;

(d) noma yiliphi ilunga noma ongelona ilunga olahlewe yicala lokuphula umthetho okukhulunywa ngalo esigabeni 127. 60

**Umphumela wokuphelelwa isikhathi noma ukusulwa kokurejistwa ukuba umnini wephemithi noma welayisensi yokwenza umsebenzi**

120. (1) Lapho ukurejistwa okugcwele kukasoseshini kuphelelwa isikhathi noma kusulwa, wonke amaphemithi kanye nezimvume akumalunga alowososeshini omayelana nomzila noma imizila okukhulunywa ngayo, aphelelwa isikhathi ngosuku olubalwe njengezinsuku ezingu 90 emva kwalokhu kuphelelwa isikhathi noma ukwesulwa, ngaphandle uma—

- (a) usoseshini ephinde warejistwa okwesikhashana noma ngokugcwele, futhi ilunga liseyilunga lawo lowo soseshini;
- (b) ilunga selithole ubulunga bomunye usoseshini orejistile noma orejistwe okwesikhashana osebenza emzileni noma emizileni okukhulunywe ngayo; noma
- (c) ilunga selithole ukurejistwa ngengongelona ilunga mayelana nomzila noma imizila okukhulunywe ngayo.

(2) Lapho ukurejistwa kongesilona ilunga kupelelwa isikhathi noma kusulwa, wonke amaphemithi namalayisensi okwenza umsebenzi akulabo abangewona amalunga amayelana nomzila noma imizila okukhulunywa ngawo azophelelwa isikhathi ngosuku olubalwe njengezinsuku ezingu 180 emva kwalokho kuphelelwa isikhathi noma ukwesulwa, ngaphandle uma—

- (a) ongelona ilunga ethole ubulunga bukasoseshini orejistile noma orejistwe isikhashana osebenza emzileni noma emizileni okukhulunywa ngayo; noma
- (b) ongelona ilunga ethole ukurejistwa futhi njengongelona ilunga mayelana nomzila noma imizila okukhulunywa ngayo.

**Ukurejistwa noma ukurejistwa kwesikhashana akuvimbi ukushushiswa ngokwenza umsebenzi wokuthutha umphakathi ngaphandle kokugunyazwa**

121. Ukurejistwa noma ukurejistwa kwesikhashana kwanoma iluphi ilunga noma ongesilona ilunga, akuvimbi ukushushiswa kwalelolunga noma ongesilona ilunga ngokwephula umthetho obalulwe esigabeni 127(1)(a).

**INGXENYE 18*****Ukuqinisekiswa kokuSebenza koMthetho*****Ukuqinisekiswa kokusebenza komthetho wezothutha wezithuthi ezihamba phansi**

122. (1) Phezu kwezinyathelo ezihlinzekwe kuloMthetho mayelana nokuqinisekisa ukusebenza komthetho, oNgqongqoshe besiFundazwe, izigungu zezokuthutha nomasipala, kuhlangele nomasipala bama-MTA, kufanele bathathe izinyathelo eziqala zokwakha izinhlelo zokwenza ngocono ukusebenza komthetho kwezokuthutha kwezithuthi ezihamba phansi ezindaweni ezilawula yibo.

(2) Ngale kwezihlinzeko zanoma imuphi omunye umthetho—

- (a) uNgqongqoshe wesiFundazwe;
- (b) isigungu sezokuthutha;
- (c) umasipala,

obizwa kulesisigaba ngesigungu sokuqinisekisa ukusebenza komthetho, angangena esivumelwaneni ngaso—

- (i) imisebenzi yokuqinisekiswa kokusebenza komthetho kwezokuthutha kwizithuthi ezihamba phansi yenziwa ngesinye isigungu sokuqinisekisa ukusebenza komthetho endaweni elawulwa esinye isigungu;
- (ii) iziphathimandla ezigunyaziwe zesinye salesisigungu singathunyelwa okwesikhashana kwesinye isigungu;
- (ii) imisebenzi yokuqinisekiswa kokusebenza komthetho kwezokuthutha kwezithuthi ezihamba phansi yenziwa ngokuhlanganyela, noma inkampani yomphakathi noma inkampani ezimele egameni lesigungu, ngemibandela kanye nemigomo ebalulwe esivumelwaneni, kubandakanya imibandela yokuthi isiphi isigungu esizothwala izindleko ezihambisana nokwenziwa kwalomsebenzi.

**Ukuqokwa kwabahloli**

123. (1) (a) Ungqongqoshe angaqoka izisebenzi emnyangweni wesifundazwe, noma

zezigungu zezokuthutha, okungabantu abakahle nabafanele, njengabahloli ngezinhloso zezinto ngokwalo Mthetho, zingena ngaphansi kolawulo lwesifundazwe noma lwesigungu sezokuthutha, njengoba kungase kube njalo.

(b) Ophethe umnyango wezo kuthutha wesifundazwe kufanele anikeze wonke umhloli oqokiwe isitifiketi sokuqokwa kanye nomazisi owubufakazi osemthethweni, osemfomini enqunyiwe. 5

(2) Imisebenzi yabahloli abaqokiwe ukuba beluse ukuhlonishwa kwalo Mthetho esifundazweni noma endaweni yezokuthutha ethintekayo nokuthi basize ngokuphenya nokuvimbela ukuphulwa komthetho okubalulwe esigabeni 127 okwenziwe ngaphakathi esifundazweni, bekwenza lokhu ngokulandela imithetho yesifundazwe kanye nemiyalo kaNgqongqoshe wesiFundazwe kanye nenhloko yomnyango wesifundazwe. 10

(3) Ekwenzeni leyomisebenzi, umhloli uyoba nawo wonke amandla anikezwe isiphathimandla esigunyaziwe ngokwalo Mthetho.

(4) Ngesikhathi enza noma imuphi umsebenzi noma esebenzisa noma imaphi amandla ngokwalo Mthetho, umhloli kufanele ngokudingwa yinoma imuphi umuntu kuyena amandla, noma umsebenzi asetshenziswa noma enziwayo, aveze isitifiketi somsebenzi aqokelwe wona. 15

### Ukufakwa kwezithuthi esikidi

124. (1) Isiphathimandla esigunyazwe esanelisekile ngezizathu ezizwakalayo ukuthi isithuthi esisetshenziswa yinoma imuphi umuntu ukwenza umsebenzi wezokuthutha umphakathi ngaphandle kwamalayisensi okwenza umsebenzi noma iphemithi edingekayo noma ngokuphikisana nemibandela abekelwe lowomsebenzi, singafaka isithuthi esikidi kusalindelwe ukuphenywa nokushushiswa kwalowo muntu ngokuphula umthetho obalulwe esigabeni 127(1)(a) noma (b). 20

(2) Isithuthi esifakwe esikidi ngaphansi kwesi sigatshana (1) kufanele siyiswe kwinhloko yedepho okukhulunywe ngalo esigatshaneni (4), okufanele agcine isithuthi edepho futhi asikhululele kumuntu othintekayo kuphela— 25

(a) uma amacala abekwe lowo muntu esehoxisiwe noma umuntu ekhishwe phambili ecaleni abekwe lona; noma

(b) esimweni lapho umuntu elahlwe yicala abekwe lona, futhi ngaphandle uma inkantolo inquma okunye, emva kokukhokhelwa kwenhloko yedepho isamba esinqunywe nguNgqongqoshe wesiFundazwe. 30

(3) Ekufakweni esikidi kwesibili noma okufakwa okunye kwesithuthi esikidi esikade ngokwedlule sifakwe esikidi isigatshana (2) uyasebenza, ngezinguquko esidingwa isimo ngaphandle kokuthi imali yokufakwa esikidi izokushulwa ngokuhambisana nesikali esinqunyiwe. 35

(4) (a) Ungqongqoshe noma umasipala ngesaziso kwiGazethi yesiFundazwe, angaqoka noma iyiphi indawo echazwe kwisaziso ukuba ibe idepho ngezinhloso zalesi sigaba, futhi ngendlela efanayo angachibiyela noma ahoxise lesa saziso nganoma isiphi isikhathi. 40

(b) Ungqongqoshe noma, lapho kusebenza khona, umasipala othintekayo kufanele uqoke umhloli noma isiphathimandla esigunyaziwe osebenza kumasipala njengomuntu ophethe idepho.

### Ukucabangela kanye nokufakazi bamaphuzu athile

125. (1) Iphepha elinelayisensi yokwenza umsebenzi nobufakazi bamaphuzu athile kwaloMthetho, noma iphemithi ekhishwe ngaphansi kwalo Mthetho, noma iphemithi ekhishwe ngaphansi komthetho odlule noma ikhophi yaleyo layisensi yokwenza umsebenzi noma iphemithi efakazelwe ukuthi iyikhophi yangempela, ivezwa kunoma ikuphi ukushushiswa ecaleni elibalulwe esigabeni 127(1) lapho okuqukethwe yilelayisensi yokwenza umsebenzi noma iphemithi kungaba nosizo, kwamukelwe ebufakazini njengobufakazi bokuthi imvume noma iphemithi eyakhishwa ngokusemthethweni noma yikhophi yangempela yemvume noma yephemithi njengoba kungaba njalo, kanye nobuqiniso nokushaya emhlozeni kwemininingwane yemvume noma iphemithi. 50

(2) Iphepha elisho ukuthi isithuthi esichazwe lapha sirejistile, ngaphansi komthetho othintekayo, egameni lomuntu ogagulwe lapa njengomnikazi, futhi elithathwa njengelikhishwe ngaphansi kwalomthetho isisebenzi sesigungu esirejistayo esirejista izithuthi zendawo isithuthi esarejistwa khona, livezwa khona ekushushisweni ngaphansi kwalo Mthetho, lamukelwa njengokubafakazi obanele bobunikazi besithuthi 55



oburejistwe balowomuntu nobobuqiniso nobushaya emhlozeni kweminingwane ekuthwe kuwona.

### Amandla eziphathimandla ezigunyaziwe

- 126.** (1) Phezu kwemisebenzi ebekwe phezu kwesiphathimandla esigunyaziwe ngokwalo Mthetho, isiphathimandla esigunyaziwe— 5
- (a) singabangela ukuba isithuthi simiswe ngendlela enqunywe nguNgqongqoshe wesiFundazwe futhi singene kuleso sithuthi ukuze sithole ukuthi uma sisetshenziselwa ezokuthutha umphakathi, noma ahlose ukuhambisana kwaso nanoma isihlinzeko salo Mthetho, noma nemibandela yanoma iyiphi ilayisensi yokwenza umsebenzi noma iphemithi, futhi ngalezo zinhloso angabheka noma ahlole isithuthi kanye nanoma imaphi amaphepha angadingeka; 10
- (b) singadinga kumshayeli ukuba asihlinzeke ngegama lahe eligcwele kanye nekheli lalapho ehlala khona kanye namaphepha afakazela lokho, kanjalo negama nekheli lomnikazi wesithuthi, kanye neminingwane yomsebenzi isithuthi esisetshenziselwa wona; 15
- (c) singadinga ukuba umshayeli noma omunye umuntu ongumnikazi wesithuthi aveze ukuze ahlolwe noma imaphi amaphepha noma amanye amarekhodi asesithuthwini esishayelwa yilomshayeli noma lowo muntu mayelana nabantu abahanjiswa yilesi sithuthi; 20
- (d) singadinga ukuthi noma imuphi umuntu osesithuthwini oselekayo ngezizathu ukuthi usetshenziselwa ezokuthutha umphakathi, noma umuntu oselekayo ngezizathu ezizwakalayo ukuthi khona maduze nje ukuba waba kulesi sithuthi, ahlinzeke igama lakhe nekheli namaphepha afakazela akushoyo futhi asho ukuthi ukhokhile noma uzokhokha mayelana nalokhu okuhanjiswa ngesithuthi, futhi ahlinzeke igama nekheli lomuntu ukukhokhwa ekwenziwe kuyena noma okuzokwenziwa kuye; 25
- (e) singadinga ukuthi amaekhodi afanele ukuba agcinwe esithuthwini ngokwalo Mthetho, avezwe ngumshayeli wesithuthi noma umsizi womshayeli, uma ekhona ukuze ahlolwe; 30
- (f) singangena noma singena kunoma iyiphi indawo yebhizinisi nganoma isiphi isikathi esifanele ukuzohlola ukuhambisana nalo Mthetho, futhi—
- (i) sibuze noma imuphi, ngokombono wesiphathimandla esigunyaziwe, angakwazi ukhlinzeke noma iluphi ulwazi okudingekela leyo nhloso; 35
- (ii) singadinga lowo muntu ezeve ukuze kubekwe noma kuhlolwe, noma iyiphi incwadi kanye namaphepha, kanye nanoma imaphi amanye amarekhodi, angadingeka ngezinhloso zokuhlola; 40
- (iii) singacaphuna kuwo noma senze amakhophi alo; futhi
- (iv) singafuna incazelo nganoma yini ekulelibhuku, iphepha, noma amanye amarekhodi; 45
- (g) singadinga ukuthi umshayeli noma omunye umuntu ongumnikazi wesithuthi esisetshenziselwa ezokuthutha umphakathi, aveze noma imaphi amaphepha anoma yini, akhishwa isigungu esisemthethweni, ngokwalo Mthetho, noma ngoko mthetho odlule, mayelana nesithuthi noma ezokuthutha umphakathi esingasetshenziselwa khona ngokwalo Mthetho, noma ngokomthetho odlule, njengoba kungaba njalo, futhi ngokwalo Mthetho, noma lowomthetho kufanele agcinwe kuleso sithuthi; 50
- (h) ngokomyalo wamabhodi, anamathisele ilayisensi yokwenza umsebenzi noma iphemithi esiphelele isikhathi noma esiphelile noma ehoxiswe okwesikhashana ngokwalo Mthetho, futhi ayiyise kulelo bhodi. 50
- (2) Umuntu obuzwayo noma odingwa ukuba ahlinzeke incazelo ngaphansi kwesigaba (f) wesigatshana (1) unelungelo lawo wonke amalungelo anikezwa noma imuphi umuntu ofakaza ngaphambi kwenkantolo.
- (3) (a) Lapho isiphathimandla esigunyaziwe sithola isithuthi esisetshenziselwa ezokuthutha umphakathi ngaphansi kwegunya lelayisensi yokwenza umsebenzi noma lephemithi inezinto eziningi kubantu noma empahleni, isiphathimandla esigunyaziwe singayala umshayeli noma omunye umuntu ongumnikazi wesithuthi ukuba abuyise leyo layisensi yokwenza umsebenzi noma iphemithi, kanye nomaka abahlukanisayo baleyo moto, futhi sivimbele umshayeli waleso sithuthi noma omunye umuntu khona lapho ukuba asebenzise isithuthi ukuthutha umphakathi, 60
- (b) ilayisensi yokwenza umsebenzi ebuyisiwe kufanele igcinwe isiphathimandla kuze kube yisikhathi lapho umnikazi wemvume noma iphemithi yanelisa isiphathimandla

ukuthi okungalungile sekulungisiwe nokuthi isithuthi sikulungele ukuba semgwaqeni, umthwalo wokubonisa konke lokhu usemahlombe omnikazi welayisensi yokwenza umsebenzi noma iphemithi.

### Amacala nezijeziso

127. (1) Umuntu ongonecala— 5
- (a) uma umuntu enza umsebenzi wo kuthutha umphakathi ngokuphambene nesigaba 33;
- (b) uma enza umsebenzi wokuthutha umphakathi ngokuphambene nemibandela yelayisensi yokwenza umsebenzi, noma lapho kusebenza khona, yephemithi;
- (c) uma umuntu ephambana nanoma yiziphi izihlinzeko zalo Mthetho; 10
- (d) uma, engumnikazi welayisensi yokwenza umsebenzi noma iphemithi noma omele umnikazi noma isisebenzi salowo mnikazi, umuntu evumela umuntu ukuba asebenzise leyo layisensi yokwenza umsebenzi noma iphemithi kwisithuthi okungesona esibalulwe kwilayisensi yokwenza umsebenzi noma iphemithi; 15
- (e) uma umuntu efaka isicelo noma ethola ilayisensi yokwenza umsebenzi azi ukuthi ilayisensi yokwenza umsebenzi ekhona njengamanje isivele ikhishelwe isithuthi esisodwa;
- (f) uma umuntu, ngenhloso yokukhohlisa, egunyatha, eshintsha, onakalisa, ecekela phansi noma enezelela kunoma iyiphi ilayisensi yokwenza umsebenzi noma elinye iphepha elisemthethweni elikhishwe ngaphansi kwalo Mthetho, noma iyiphi iphemithi; 20
- (g) uma, azi ukuthi iphepha aliyona ilayisensi yokwenza umsebenzi noma iphemithi, noma iliphi elinye iphepha elisemthethweni, noma ukuthi lishintshiwe, lonakalisiwe, licekelwe phansi, noma kunezelelwe kulo, uyalisebenzisa; 25
- (h) uma umuntu ehlinzeka noma enikeza ulwazi okungamanga mayelana nanoma isiphi isicelo esenziwe kwibhodi yama layisensi okwenza umsebenzi noma kuNobhala, noma uzovela kunoma imuphi umhlangano, uphenyo ngaphambi kwaleyo bhodi noma imuphi uNobhala; 30
- (i) uma umuntu ezenza isiphathimandla esigunyaziwe;
- (j) uma umuntu ngenhloso evimbela noma enqanda isiphathimandla esenza imisebenzi ephathelene nomsebenzi waso;
- (k) uma umuntu enqaba noma ehluleka ukuhambisana nanoma imuphi umyalo; isiqondiso esenziwe yisiphathimandla esenza noma imuphi umsebenzi onikezwe isiphathimandla ngokwalo Mthetho; 35
- (l) uma umuntu ehluleka ukubuyisa isitifiketi sokurejistwa noma sokurejistwa okwesikhshana, noma umaka ohlukanisayo kuNobhala uma edingakala ukwenza njalo nguMthetho;
- (m) uma umuntu, ngaphandle kwesizathu esizwakalayo— 40
- (i) enqaba noma ehluleka ukuvela ngaphambi kwebhodi yezimvume noma uNobhala ngokuhambisana nomyalo noma umsila wengwe okhishwe ngaphansi kwalo Mthetho;
- (ii) enqaba noma ehluleka ukuphendula, noma ukuphendula ngendlela azi ngayo, noma imuphi umbuzo obhekiswe kuye ngokusemthethweni yinoma iliphi ilunga lebhodi yezimvume noma nguNobhala, njengoba kungaba njalo; noma 45
- (iii) enqaba noma ehluleka ukuveza noma iliphi ibhuku, iphepha noma uhlelo noma iliphi elinye irekhodi lanoma iluphi uhlobo lwanoma yini, noma yini, ngokuhambisana nalomyalo noma umsila wengwe; 50
- (n) uma lapho umuntu ehambisa abagibeli abase sithuthini ngesikhathi sokwenziwa komsebenzi wokuthutha umphakathi, umuntu—
- (i) ehluleka ukukhokha imali yohambo ngesikhathi imali ecelw ngumshayeli noma umsizi kamshayeli wesithuthi esithintekayo;
- (ii) ebhema noma ephuza utshwala kuleso sithuthi ephambana nesaziso esikuleso sithuthi esinqabela ukubhema noma ukuphuza; 55
- (iii) ngenhloso eziphatha ngendlela ephazamisa abany abagibeli;
- (iv) engahloniphi umyalo ofanele okhiswe ngumshayeli noma umsizi wakhe kuleso sithuthi ngenhloso yokugcina ukuthula noma ukuqeda noma ukunqanda noma isimo esingesihle esenzeka kuleyo moto; noma 60
- (v) ngenhloso owenza noma isiphi isenzo kuleso sithuthi esingabanga

- ukulimala kubantu noma sifake ingozini impilo yanoma imuphi umuntu noma sidale umonakalo kunoma iyiphi impahla;
- (o) uma umuntu okungumnikazi wemvume noma iphemithi noma umshayeli wesithuthi invume noma iphemithi ehlobene emayelana naso, ehluleka ukuhambisana nanoma imuphi umsebenzi noma isibopho esibekwe lowo mnikazi noma umshayeli ngokwalo Mthetho; 5
- (p) uma umuntu ehlisa abagibeli emgceleni wamanye amazwe omhlaba noma eduze kwawo ngokuphambene nesigaba 46(2);
- (q) uma umuntu esebenzisa isithuthi ukwenza umsebenzi wezo kuthutha umphakathi ngokuphambene nesigaba 31. 10
- (2) Lapho umuntu elahlwa ical ngenxa yelinye lalamacala abalulwe—
- (a) ezigabeni (a), (b), (d), (e) noma (p) wesigatshana (1) isikhathi sokuboshwa esingeqi eminyakeni emibili, noma inhlawulo engeqi ku R100 000, ingabekwa;
- (b) noma isiphi esinye isigaba saleso sigatshana, isikhathi sokuboshwa esingeqi ezinyangeni ezintathu noma inhlawulo engeqi ku R5 000 ingabekwa. 15
- (3) Lapho imeneja, omele imeneja noma isisebenzi somnikazi welayisensi yokwenza umsebenzi noma iphemithi enza noma engenzi noma isiphi isenzo okungathi, uma umnikazi welayisensi yokwenza umsebenzi noma iphemithi esenzile noma engasenzanga yena mathupha, besingaba icala ngokwesi sigatshana (1), sokuthi umnikazi unecala uma— 20
- (a) umnikazi—
- (i) edibane noma ngokwazi evumele isenzo noma ukungenzi okukhulunywa ngakho; noma
- (ii) engazange athathe izinyathelo ezifanele zokuvimbela lesosenzo noma lokho kungenzi; kanye 25
- (b) isenzo noma ukushiywa kohlobo lwesenzo noma ukushiywa kufakwe icala ngakho, ngokusemthethweni noma ngokungekho emthethweni, kungena ngaphansi kwegunya analo noma ekuqashweni kwemenenja, omele imenenja noma isisebenzi. 30

#### ISAHLUKO 4 AMAPHUZU AVULELEKILE

##### INGXENYE 19 *Amaphuzu avulelekile*

#### Izikhhalazo ezivulekile 35

128. (1) Noma isiphi isifundazwe singasungula isigcawu sokukhala zezo kuthutha esifundazweni ukuzolalela izikhhalazo ezimayelana nezicelo eziphathele nezo kuthutha ngaphakathi esifundazweni futhi lapho lesisigcawu singasunguliwe khoa, lezizi khalazo kufanele zethulwe kwi-Transport Appeal Tribunal esungulwe ngesigaba 3 we-Transport Appeal Tribunal Act, 1998 (Act No 39 of 1998), ngokwalesi sigaba. 40

(2) Lesisigcawu sizikhhalazo sezokuthutha esifundazweni kufanele sesebenzise amandla aso noma senze imisebenzi yaso ngokuzimela, ngeqiniso nangokungachemi.

(3) Umuntu onokuthinteka ngqo ngokwezimali noma ngokwebhizinisi kunoma imuphi umkhakha wemboni yezokuthutha umphakathi angeke aqokwe noma ahlale njengelunga lalesi sigcawu sokudluliswa kwezikhhalazo. 45

(4) Ilunga lasesigcawu sokukhalaza kufanele lizihoxise kunoma iluphi udaba noma umhlangano lapho kungenzeka khona ukuba libenokuthintekayo ngokwezimali noma okunye ukuthinteka emphumeleni wanoma isiphi isinqumo esenziwe isigcawu sezikhhalazo.

(5) (a) Noma imuphi umuntu othintekayo angenza isicelo esibhaliwe sokuthi ilunga laleso sogcawu sokukhalaza lizihoxise lapho ekutheni ilunga lingalindeleka ukuba libe nokuthinteka ngokwezimali noma okunye ukuthinteka futhi lesisicelo kufanle sigagule izizathu ezineminingwane. 50

(b) ilunga kufnaele licubungule lesi sicelo esibhaliwe bese linquma ukuthi ezimweni ezinjengalezi liyahoxisa yini noma alihoxisi. 55

(6) Izikhhalazo ezimayelana nezokuthutha ezihambela nakwezinye izifundazwe kufanele zethulwe kwisiGcawu sezi Khalazo ezimayelana nezokuthutha ngokwe-Transport Appeal Tribunal Act, 1998 (Act No 39 of 1998).

(7) Izigawu ezicubungula izikhalazo ngokwalesisigaba ziboshwe izinhlelo zezokuthutha ezisebenzayo.

#### Izikhalazo ezibhekiswe esiGcawini sokukhalaza sezokuThutha

129. (1) Ngokulandela isigaba 128 ngaphandle uma kuhlinzekwe ngenye indlela kulo Mthetho, lababantu abalandelayo bangadlulisa izikhalazo zabo kwisi Gcawu soku 5  
Khalaza bekhalaza ngomthetho, umyalele noma isinqumo sebhodi, ngendlela nangesikhathi esinqunyiwe, uma bethintwa yiso okungaba—

(a) umuntu ofake isicelo kuleyo bhodi ukuze anikezwe, avuselele, achibiyele noma adlulise ilayisensi yokwenza umsebenzi;

(b) umnikazi welayisensi yokwenza umsebenzi ekhishwe yibhodi; 10

(c) umuntu owethule imibono yakhe ebhodini ephikisa noma esekela isicelo esashicilelwa ibhodi ngaphansi kwesigaba 37.

(2) Ekucubunguleni lesisi khakazo ngokwesigaba (1), isiGcawu soku Khalaza, sibophezelwe izinhlelo zezokuthutha ezisebenzayo.

#### Ukuchitshiyelwa koMthetho 78 ka 1977

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130. Isigaba 104 se-Urban Transport Act 1977, sichitshiyelwe ngokwengezwa kwesigaba (f) salesigaba esilandelayo:

“(g) Ukwenziwa kwesicelo sokuboleka imali kwisigungu sezokuthutha, njengokuba kuchazwe kwisigaba 1 se-National Land Transport Act, 2000, ukuze sikwazi ukwenza umsebenzi waso ngaphansi kwalo Mthetho.”

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#### Ukuchitshiyelwa koMthetho 29 ka 1989

131. Isigaba 1 se-Road Traffic Act, 1989, sichitshiyelwe ngokuba kunikezwe incazelo yegama “ibhasi”:

“‘ibhasi’ lichaza imoto yokuthutha eyakhiwe ukuthwala abantu abangaphezu [16] kuka 35 [kuhlanganisa] kungahlanganisi nomshayeli (uma ekhona);”

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#### Ukuchitshiyelwa koMthetho 93 ka 1996

132. Isigaba 1 se-Road Traffic Act, 1996 sichitshiyelwe ngokuba kunikezwe incazelo yegama “ibhasi”:

“‘ibhasi’ lichaza imoto eyakhiwe ngumkhiqizi orejistwe ngokuhambisana nesigaba 5, ukuba lithwale abantu abaphezu [16] kuka 35 [kuhlangene] kungahlanganisi nomshayeli (uma ekhona);”

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#### Ukuchitshiyelwa koMthetho 45 ka 1998

133. Izigaba 3, 4, 5 no 6 ze-National Land Transport Interim Arrangements Act, 1998, ziyasulwa.

#### Izihlinzeko zezikhashana

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134. Lapho, noma ngasiphi isikhathi ngaphambi kokuqala kwalo Mthetho—

(a) umuntu wayelahlwe icala, ngokwanoma imuphi umthetho odlule, ngecala eliyicala ngokwaloMthetho, umuntu, lapho kudingeka ngokwalo Mthetho, umuntu lapho kudingeka khona ngokwezinhloso zaloMthetho; uthathwa njengomuntu owenze icala elifanayo elihlinzekelwe kulo Mthetho; kanye 40

(b) nanoma imuphi umaka ohlukanisayo okhishwe ngokwanoma imuphi umthetho odlule ukhishelwa isithuthi esimayelana naphemithi ekhishelwa sona, uthathwa ngokwezinhloso zalo Mthetho, kuze kube isikhathi lapho lephemithi iphelelwe khona isikhathi, ishintshwa khona iba ilayisensi yokwenza umsebenzi, noma ihoxiswa noma yesulwa ngokwalomthetho, 45  
njengomaka ohlukanisayo okhishwe ngaphansi kwalo Mthetho.

#### Umthetho ubophezela uHulumeni

135. Lo Mthetho ubophezela uHulumeni.

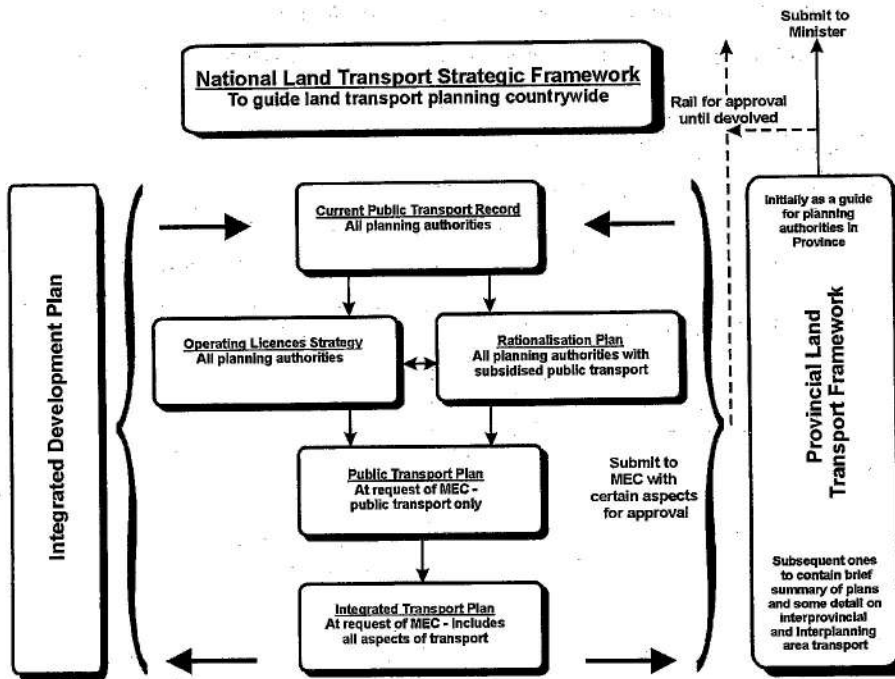
**uMthetho Ino. 22, 2000** UMTHETHO KAZWELONKE WOKUGUQULA  
IZITHUTHI EZISEBENZISA UMGWAQO, 2000

**Isihloko esifushane nokuqala ukusebenza**

**136.** (1) Lo Mthetho ubizwa umthetho kaZwelonke wokuGuqula iziThuthi ezisebenzisa umgwaqo, 2000, futhi uqala ukusebenza ngosuku oluzonqunywa nguMongameli ngesimemezelo kwiGazethi.

(2) Izinsuku ezahlukahlukene zinganqunywa ngokuhambisana nezihlinzeko ezahlukene zaloMthetho, nalezozinsuku ezinqunyiwe zingahlukahlukana ngokwezi-  
fundazwe ezahlukahlukene. 5

**ISIFANEKISO 1: INTERRELATIONSHIP BETWEEN TRANSPORT PLANS**



**ISIFANEKISO 2: UKULANDELANA NOKUHLELWA KWESIKHATHI  
OKUVAMILILE KWEZINHLELO ZOKUTHUTHA**

