



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 590

Pretoria, 29 August
Augustus 2014

No. 37955

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GOVERNMENT NOTICES

DEPARTMENT OF LABOUR

No. 654

29 August 2014

PRESIDENT'S MINUTE NO. 222

In terms of section 18 of the Basic Conditions of Employment Amendment Act, 2013, ("the Act"), I hereby, by means of the accompanying proclamation in English and Afrikaans, declare 1 September 2014 as the date on which the Act shall come into operation:

Given under my Hand and the Seal of the Republic of South Africa at
CAPE TOWN on this 31 day of July Two
Thousand and Fourteen.



J G ZUMA
PRESIDENT

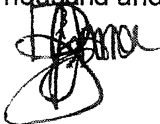



M N OLIPHANT
MINISTER OF THE CABINET

PROCLAMATION*by the**President of the Republic of South Africa***No. 60, 2014****COMMENCEMENT OF THE BASIC CONDITIONS OF EMPLOYMENT AMENDMENT ACT, 2013**

In terms of section 18 of the Basic Conditions of Employment Amendment Act, 2013, ("the Act") I hereby determine 1 September 2014 as the date on which the Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at CAPE TOWN on this 31 day of JULY Two Thousand and Fourteen.

**J G ZUMA****PRESIDENT****By Order of the President-in-Cabinet****M N OLIPHANT****MINISTER OF THE CABINET**

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika*

No. 60, 2014

**INWERKINGTREDING VAN DIE WYSIGINGSWET OP BASIESE
DIENSVOORWAARDES, 2013**

Kragtens Artikel 18 van die Wet op Basiese Diensvoorwaardes, 2013, ("die Wet") bepaal ek hiermee 1 September 2014 as die datum waarop die Wet in werking sal tree.

Gegee onder my Hand en die Sêel van die Republiek van Suid-Afrika te KAPSTAD op hede die 31 dag van JULIE Tweeduisend en Veertien.



J G ZUMA

PRESIDENT

Op las van die President-in-Kabinet:



M N OLIPHANT

MINISTER VAN DIE KABINET



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 582 Cape Town, 9 December 2013 No. 37139
Kaapstad,

THE PRESIDENCY

No. 987 9 December 2013

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

Act No. 20 of 2013: Basic Conditions of Employment Amendment Act, 2013

DIE PRESIDENSIE

No. 987 9 Desember 2013

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No 20 van 2013: Wysigingswet op Basiese Diensvoorwaardes, 2013



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GOVERNMENT GAZETTE, 9 December 2013

Act No. 20 of 2013

Basic Conditions of Employment Amendment Act, 2013

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 4 December 2013)

ACT

To amend the Basic Conditions of Employment Act, 1997, so as to substitute certain definitions; to prohibit employers from requiring employees to make payments to secure employment and from requiring employees to purchase goods, services or products; to prohibit anyone from requiring or permitting a child under the age of 15 years to work; to make it an offence for anyone to require or permit a child to perform any work or provide any services that place at risk the child's well-being; to provide for the Minister to publish a sectoral determination for employees and employers who are not covered by any other sectoral determination; to provide for the Director-General to apply to the Labour Court for an employer to comply with a written undertaking by the employer; to provide for a compliance order; to delete certain obsolete provisions; to provide the Labour Court with exclusive jurisdiction in respect of certain matters; to provide for certain offences and penalties; to increase the penalties for certain offences; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 75 of 1997, as amended by section 40 of Act 65 of 2002, section 26 of Act 68 of 2002 and section 25 of Act 52 of 2003

1. Section 1 of the Basic Conditions of Employment Act, 1997 (hereinafter referred to as the principal Act) is hereby amended—

- (a) by the substitution for the definition of "sector" of the following definition:
 " 'sector' means an industry or a service or part of an industry or a service and, in respect of a sectoral determination made in terms of section 55(8), means the employers and employees covered by that determination;"; and
- (b) by the substitution for the definition of "serve" of the following definition:
 " 'serve' means to send by electronic mail, registered post, telegram, [telex,] telefax or deliver by hand or any prescribed method of service;"

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Insertion of section 33A in Act 75 of 1997

2. The following section is hereby inserted in the principal Act after section 33:

“Prohibited conduct by employer

33A. (1) An employer must not—

- | | |
|--|----|
| (a) require or accept any payment by or on behalf of an employee or potential employee in respect of the employment of, or the allocation of work to, any employee; or | 5 |
| (b) require an employee or potential employee to purchase any goods, products or services from the employer or from any business or person nominated by the employer. | 10 |
| (2) Subsection (1)(b) does not preclude a provision in a contract of employment or collective agreement in terms of which an employee is required to participate in a scheme involving the purchase of specific goods, products or services, if the purchase is not prohibited by any other statute and— | 15 |
| (a) the employee receives a financial benefit from participating in the scheme; or | |
| (b) the price of any goods, products or services provided through the <u>scheme is fair and reasonable.</u> ”. | |

Substitution of section 43 of Act 75 of 1997

20

3. The following section is hereby substituted for section 43 of the principal Act:

“Prohibition of [employment of] work by children

43. (1) [No] Subject to section 50(2)(b), a person [may employ] must not require or permit a child to work, if the child—

- | | |
|--|----|
| (a) [who] is under 15 years of age; or | 25 |
| (b) [who] is under the minimum school-leaving age in terms of any law[, if this is 15 or older]. | |
| (2) [No] A person [may employ] must not require or permit a child [in employment] to perform any work or provide any services— | |
| (a) that [is] are inappropriate for a person of that age; | 30 |
| (b) that [places] place at risk the child’s well-being, education, physical or mental health, or spiritual, moral or social development. | |
| (3) A person who [employs] requires or permits a child to work in contravention of subsection (1) or (2) commits an offence.”. | |

Substitution of section 44 of Act 75 of 1997

35

4. The following section is hereby substituted for section 44 of the principal Act:

“[Employment of] Regulations on work by children [of 15 years or older]

44. (1) Subject to section 43(2), the Minister may, on the advice of the Commission, make regulations to prohibit or place conditions on [the employment of] work by children who are at least 15 years of age and are no longer subject to compulsory schooling in terms of any law.

(1A) The Minister may, on the advice of the Commission, make regulations to give effect to South Africa’s international law obligations dealing with work by children.

(2) A person who [employs] requires or permits a child to work in contravention of [subsection (1)] any regulation made in terms of this section commits an offence.”.

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Substitution of section 45 of Act 75 of 1997

5. The following section is hereby substituted for section 45 of the principal Act:

“Medical examinations

45. The Minister may, after consulting the Commission, make regulations relating to the conduct of medical examinations of children **[in employment] who perform work.**” 5

Amendment of section 46 of Act 75 of 1997

6. Section 46 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) assist **[an employer to employ] any person to require or permit a child to** 10
work in contravention of this Act; or
(b) discriminate against a person who refuses to permit a child to **[be employed]**
work in contravention of this Act.”

Substitution of section 47 of Act 75 of 1997

7. The following section is hereby substituted for section 47 of the principal Act: 15

“Evidence of age

47. In any proceedings in terms of this Act, if the age of **[an employee]**
any person is a relevant factor for which insufficient evidence is available,
it is for the party who alleges that the **[employment] work by that person**
complied with the provisions of this Chapter to prove that it was reasonable 20
for that party to believe, after investigation, that the person was not below
the permitted age in terms of section 43 or 44.”

Amendment of section 55 of Act 75 of 1997, as amended by section 11 of Act of 2002

8. Section 55 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 25
“(1) After considering the report and recommendations of the
Commission contemplated in section 54(4), the Minister may make a
sectoral determination for one or more sector and area **or as contemplated**
by subsection (8).”;
- (b) by the substitution in subsection (4) for paragraph (b) of the following 30
paragraph:
“(b) provide for the adjustment of **remuneration by way of—**
(i) **minimum rates [of remuneration];** or
(ii) **minimum increases;**”;
- (c) by the substitution in subsection (4) for paragraph (g) of the following 35
paragraph:
“(g) prohibit or regulate task-based work, piecework, home work,
sub-contracting and contract work;”;
- (d) by the deletion of the word “and” at the end of paragraph (m) and the addition 40
of the following paragraphs:
“(o) taking into account the provisions of section 21(8) of the Labour
Relations Act, 1995, set a threshold of representativeness at which
a trade union will automatically have the organisational rights
contemplated in sections 12 and 13 of the Labour Relations Act,
1995, in respect of all workplaces covered by the sectoral 45
determination; and
- (p) establish one or more methods for determining the conditions of
service for labour tenants who has a right to occupy and to use a part
of a farm as contemplated in section 3 of the Land Reform (Labour
Tenants) Act, 1996 (Act No. 3 of 1996), for the purpose of section 50
4(3);”;

- (e) by the substitution in subsection (7) for paragraph (b) of the following paragraph:
 “(b) covering employees covered by a collective agreement concluded in a statutory council regulating any matter [in a sector and area in which a statutory council is established and] in respect of which that statutory council has concluded a collective agreement;”; and 5
- (f) by the addition of the following subsection:
 “(8) Subject to the provisions of subsection (7), the Minister may publish a sectoral determination that applies to employers and employees who are not covered by any other sectoral determination.” 10

Amendment of section 68 of Act 75 of 1997, as amended by section 13 of Act 11 of 2002

9. Section 68 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
 “(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act **[must] may** endeavour to secure a written undertaking by the employer to comply with the provision.”; and 15
- (b) by the addition of the following subsection:
 “(3) If an employer fails to comply with a written undertaking given by the employer in terms of this section, the Director-General may apply to the Labour Court for an order in terms of section 73 directing the employer to comply with the undertaking.” 20

Amendment of section 69 of Act 75 of 1997, as amended by section 14 of Act 11 of 2002 25

10. Section 69 of the principal Act is hereby amended—
- (a) by the deletion in subsection (2) of paragraph (d);
- (b) by the insertion after subsection (2) of the following subsection:
 “(2A) A compliance order may also set out the date—
 (a) by which the employer should serve any representations it may wish to make with the Department and the Labour Court; and
 (b) on which, if the employer does not comply with the order, application may be made without further notice to the employer to have the compliance order made an order of the Labour Court in terms of section 73.”; 30
- (c) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
 “(a) A **[labour inspector must serve a]** copy of the compliance order must be served on the employer named in it, and on each employee affected by it [unless] or, if this is impractical, [and] on a representative of the employees.”; and 35
- (d) by the substitution for subsection (5) of the following subsection:
 “(5) An employer must comply with the compliance order within the time period stated in the order **[unless the employer objects in terms of section 71].**” 40 45

Amendment of section 70 of Act 75 of 1997, as amended by section 15 of Act 11 of 2002

11. Section 70 of the principal Act is hereby amended by the substitution for paragraphs (c) and (d) of the following paragraphs, respectively:
- “(c) any proceedings have been instituted for the recovery of that amount **[or, if proceedings have been instituted], unless** those proceedings have been withdrawn; or 50
- (d) that amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to a labour inspector by or on behalf of the employee or, if no complaint was made, the date on which a labour inspector first endeavoured to secure a written 55

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undertaking by the employer in terms of section 68 or issued a compliance order in terms of section 69.”.

Repeal of sections 71 and 72 of Act 75 of 1997

12. Sections 71 and 72 of the principal Act are hereby repealed.

Substitution of section 73 of Act 75 of 1997, as amended by section 16 of Act 11 of 2002

13. The following section is hereby substituted for section 73 of the principal Act:

“Order may be made order of Labour Court

73. (1) The Director-General may apply to the Labour Court on the date specified in the compliance order in terms of section 69(2A)(b) or, with further notice to the employer, on a subsequent date for a compliance order to be made an order of the Labour Court [in terms of section 158(1)(c) of the Labour Relations Act, 1995,] if the employer has not complied with the order [and has not lodged an objection against the order in terms of section 71(1)].

(2) [The Director-General may apply to the Labour Court for an order of the Director-General in terms of section 71(3) to be made an order of the Labour Court in terms of section 158(1)(c) of the Labour Relations Act, 1995, if the employer has not complied with the order and has not appealed against the order in terms of section 72(1)] After considering any representations made to it, the Labour Court may issue an order in terms of subsection (1) requiring—

- (a) the employer to comply with the provisions of this Act;
- (b) subject to section 70(d), the payment of any amount owing to an employee; or
- (c) the payment of a fine calculated in terms of Schedule 2 to this Act.”.

Amendment of section 74 of Act 75 of 1997, as amended by section 17 of Act 11 of 2002

14. Section 74 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“If an employee institutes proceedings for unfair dismissal, the Labour Court or the arbitrator hearing the matter may also determine any claim for an amount that is owing to that employee in terms of this Act if [—] the claim has not prescribed.”;

- (b) by the deletion in subsection (2) of paragraphs (a), (b) and (c); and

- (c) by the insertion after subsection (2) of the following subsection:
“(2A) No compliance order may be issued or enforced and no other legal proceedings may be instituted or enforced in respect of any claim that has been determined in terms of this subsection (2).”.

Amendment of section 77 of Act 75 of 1997

15. Section 77 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) Subject to the Constitution and the jurisdiction of the Labour Appeal Court, and except where this Act provides otherwise, the Labour Court has exclusive jurisdiction in respect of all matters in terms of this Act[, except in respect of an offence specified in sections 43, 44, 46, 48, 90 and 92.”]; and

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) The Labour Court has exclusive jurisdiction to grant civil relief arising from a breach of sections 33A, 43, 44, 46, 48, 90 and 92.”.

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Amendment of section 93 of Act 75 of 1997

16. Section 93 of the principal Act is hereby amended by the substitution for the table of the following table:

“OFFENCES AND PENALTIES

<i>Section under which convicted</i>	<i>Maximum term of imprisonment</i>
Section 33A	<u>3</u> years
Section 43	[3] <u>6</u> years
Section 44	[3] <u>6</u> years
Section 46	[3] <u>6</u> years
Section 48	[3] <u>6</u> years
Section 90(1) and (3)	1 year
Section 92	1 year

Amendment of Schedule two to Act 75 of 1997

17. The principal Act is hereby amended by the substitution for Table One of the following table:

“TABLE ONE: MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT

No previous failure to comply	[R100] R300 per employee in respect of whom the failure to comply occurs
A previous failure to comply in respect of the same provision	[R200] R600 per employee in respect of whom the failure to comply occurs.
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years	[R300] R900 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provision within three years	[R400] R1200 per employee in respect of whom the failure to comply occurs
Four previous failures to comply in respect of the same provision within three years	[R500] R1500 per employee in respect of whom the failure to comply occurs

Short title

18. This Act is called the Basic Conditions of Employment Amendment Act, 2013, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

GOVERNMENT NOTICES

DEPARTMENT OF LABOUR

No. 655

29 August 2014

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

The Minister of Labour has under section 86(1) of the Basic Conditions of Employment Act (No. 75 of 1997), after consulting the Employment Conditions Commission, amended the Regulations in terms of the Basic Conditions of Employment Act, 1997 published in Government Notice 1438 of 13 November 1998 and the Amendments to the Regulations as published in 25 July 2002 and Government Notice 197 of 12 March 2010, as set out in the Schedule.


M N OLIPHANT MP
MINISTER OF LABOUR

04/06/2014

Amendment to A. Index of General Administration Regulations

The index is hereby amended by the deletion of the following—

[Objections to Compliance Order]

Amendment to B. Index of forms annexed to regulations

The index is hereby amended by the deletion of the following —

[BCEA 8A Request to comply with a written undertaking (Section 68(1A)(b))]

[BCEA 13 Notice of objection (Section 71)]

SCHEDULE
REGULATIONS AMENDED

Clause 1(2) of the regulations is hereby amended by the substitution of the clause by the following clause—

Whenever the expression “Department of Labour” or “Chief Director Provincial Operations” appears in the Act or in these regulations, it means—

- (a) In the province of Eastern Cape, the Chief Director Provincial Operations, Department of Labour, Private Bag X9005, East London. 5200;
- (b) In the province of Free State, the Chief Director Provincial Operations, Department of Labour, P O Box 522, Bloemfontein. 9300;
- (c) In the province of Gauteng, the Chief Director Provincial Operations, Department of Labour, P O Box 4560, Johannesburg. 2000;
- (d) In the province of KwaZulu Natal, the Chief Director Provincial Operations, Department of Labour, P O Box 940, Durban. 4000;
- (e) In the province of Limpopo, the Chief Director Provincial Operations, Department of Labour, Private Bag X9368, Polokwane. 0700
- (f) In the province of Mpumalanga, the Chief Director Provincial Operations, Department of Labour, Private Bag X7263, Witbank. 1035
- (g) In the province of Northern Cape, the Chief Director Provincial Operations, Department of Labour, Private Bag X5012, Kimberley. 8300
- (h) In the province of North West, the Chief Director Provincial Operations, Department of Labour, Private Bag X2040, Mmabatho.2735
- (i) In the province of Western Cape, the Chief Director Provincial Operations, Department of Labour, P O B0x 872, Cape Town. 8000

Clause 9 of the principal regulations is amended by the substitution of the following clause for 9—

9. Securing an undertaking

[(1) Any request in writing to comply with an undertaking in terms of section 68(1A)(b) must be in the form of BCEA 8A or contain the information required by that form.]

[2] (1) Any undertaking secured by a labour inspector in terms of section 68(2) of the Act must be in the form of BCEA 9 or contain the information required by that form.

[3] (2) A receipt for any payment in terms of section 68(2)(d) of the Act must be in the form of BCEA 10 or contain the information required by that form.

[4] (3) A receipt for any record, document, article, substance or machinery removed in terms of section 66(3)(b) must be in the form of BCEA 11 or contain the information required by that form.

Clause 11 of the principal regulations is amended by the deletion of the following clause—

[11. Objections to compliance order

- (1) An objection lodged by an employer in terms of Section 71 of the Act must be in the form of BCEA 13 or contain the information set out in that form.**
- (2) The objection must be lodged at any office of the Department of Labour listed in regulation 1(2)]**

Amendment of BCEA 1A to BCEA 1K

BCEA 1A to K is hereby amended by the substitutions of the summaries by the following summaries—

Amendment of BCEA 6 form

BCEA 6 is hereby amended by the substitution of that form by the following form—

Amendment of BCEA 8A form

BCEA 8A is hereby amended by the deletion of that form—

Amendment of BCEA 8 form

BCEA8 is hereby amended by the substitution of that form by the following form—

Amendment of BCEA 9 form

BCEA 9 is hereby amended by the substitution of that form by the following form—

Amendment of BCEA12 form

BCEA 12 is hereby amended by the substitution of that form by the following form—

Amendment of BCEA 13 form

BCEA 13 is hereby amended by the deletion of that form—

(Regulation 2)**BASIC CONDITIONS OF EMPLOYMENT ACT, 1997****SUMMARY TO BE KEPT BY AN EMPLOYER IN TERMS OF SECTION 30**

The following is a summary of the provisions of the most important sections of the Basic Conditions of Employment Act, 1997, as amended.

1. APPLICATION OF THE ACT : SECTION 3

The Act applies to all employees and employers except members of the State Security Agency and unpaid volunteers working for an organisation with a charitable purpose.

The basic conditions of employment contained in the Act form part of the contract of employment of employees covered by the Act. Some, but not all, basic conditions of employment may be varied by individual or collective agreements in accordance with the provisions of the Act. (see paragraph 7 below).

2. REGULATION OF WORKING TIME : CHAPTER TWO**2.1 Application**

This chapter does not apply to senior managerial employees, employees engaged as sales staff who travel and employees who work less than 24 hours a month.

2.2 Ordinary hours of work : Section 9

No employer shall require or permit an employee to work more than—

- (a) 45 hours in any week;
- (b) nine hours in any day if an employee works for five days or less in a week; or
- (c) eight hours in any day if an employee works on more than five days in a week.

2.3 Overtime : Section 10

2.3.1 An employer may not require or permit an employee—

- (a) to work overtime except by an agreement;
- (b) to work more than ten hours' overtime a week.

2.3.2 An agreement may not require or permit an employee to work more than 12 hours on any day.

2.3.3 A collective agreement may increase overtime to fifteen hours per week for up to two months in any period of 12 months.

2.3.4 Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

2.4 Compressed working week : Section 11

- 2.4.1 An employee may agree in writing to work up to 12 hours in a day without receiving overtime pay.
- 2.4.2 This agreement may not require or permit an employee to work—
- (a) more than 45 ordinary hours in any week;
 - (b) more than ten hours' overtime in any week; or
 - (c) more than five days in any week.

2.5 Averaging of hours of work : Section 12

- 2.5.1 A collective agreement may permit the hours of work to be averaged over a period of up to four months.
- 2.5.2 An employee who is bound by such a collective agreement may not work more than—
- (a) an average of 45 ordinary hours in a week over the agreed period;
 - (b) an average of five hours' overtime in a week over the agreed period.

2.6 Meal intervals : Section 14

- 2.6.1 An employee must have a meal interval of 60 minutes after five hours work.
- 2.6.2 A written agreement may—
- (a) reduce the meal interval to 30 minutes;
 - (b) dispense with the meal interval for employees who work fewer than six hours on a day.

2.7 Daily and weekly rest period : Section 15

An employee must have a daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours, which, unless otherwise agreed, must include Sunday.

2.8 Pay for work on Sundays : Section 16

- 2.8.1 An employee who occasionally works on a Sunday must receive double pay.
- 2.8.2 An employee who ordinarily works on a Sunday must be paid at 1.5 times the normal wage.
- 2.8.3 Paid time off in return for working on a Sunday may be agreed upon.

2.9 Night work : Section 17

- 2.9.1 Employees who work at night between 18h00 and 06h00 must be compensated by payment of an allowance or by a reduction of working hours and transport must be available.
- 2.9.2 Employees who work regularly after 23:00 and before 06:00 the next day must be informed—
- (a) of any health and safety hazards; and
 - (b) the right to undergo a medical examination.

2.10 Public holidays : Section 18

- 2.10.1 Employees must be paid their ordinary pay for any public holiday that falls on a working day.
- 2.10.2 Work on a public holiday is by agreement and paid at double the rate.
- 2.10.3 A public holiday may be exchanged with another day by agreement.

3. LEAVE : CHAPTER THREE

3.1 Application

The chapter on leave does not apply to an employee who works less than 24 hours a month for an employer and to leave granted in excess of the leave entitlement under this chapter.

3.2 Annual leave : Sections 20 & 21

- 3.2.1 Employees are entitled to 21 consecutive days' annual leave or by agreement, one day for every 17 days worked or one hour for every 17 hours worked.
- 3.2.2 Leave must be granted not later than six months after the end of the annual leave cycle.
- 3.2.3 An employer must not pay an employee instead of granting leave except on termination of employment.

3.3 Sick leave : Sections 22 – 24

- 3.3.1 An employee is entitled to six weeks' paid sick leave in a period of 36 months.
- 3.3.2 During the first six months an employee is entitled to one day's paid sick leave for every 26 days worked.
- 3.3.3 An employer may require a medical certificate before paying an employee who is absent for more than two consecutive days or who is frequently absent.

3.4 Maternity leave : Sections 25 & 26

- 3.4.1 A pregnant employee is entitled to four consecutive months' maternity leave.
- 3.4.2 A pregnant employee or employee nursing her child is not allowed to perform work that is hazardous to her or her child.

3.5 Family responsibility leave : Section 27

- 3.5.1 Full time employees are entitled to three days paid family responsibility leave per year, on request, when the employee's child is born or sick, or in the event of the death of the employee's spouse or life partner, or the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- 3.5.2 An employer may require reasonable proof.

4. PARTICULARS OF EMPLOYMENT AND REMUNERATION : CHAPTER FOUR

4.1 Application

This chapter does not apply to an employee who works less than 24 hours a month for an employer.

4.2 Written particulars of employment : Section 29

4.2.1 An employer must supply an employee when the employee commences employment, with the following particulars in writing:

- (a) full name and address of the employer;
- (b) name and occupation of the employee, or a brief description of the work ;
- (c) various places of work;
- (d) date of employment;
- (e) ordinary hours of work and days of work;
- (f) wage or the rate and method of calculating;
- (g) rate for overtime work;
- (h) any other cash payments;
- (i) any payment in kind and the value thereof;
- (j) frequency of remuneration;
- (k) Any deductions;
- (l) leave entitlement;
- (m) period of notice or period of contract;
- (n) description of any council or sectoral determination which covers the employer's business;
- (o) period of employment with a previous employer that counts towards the period of employment;
- (p) list of any other documents that form part of the contract, indicating a place where a copy of each may be obtained.

4.2.2 Particulars must be revised if the terms of employment change.

4.3 Informing employees of their rights : Section 30

A statement of employees' rights must be displayed at the workplace in official languages used at the workplace.

4.4 Keeping of records : Section 31

Every employer must keep a record containing the following information:

- (a) employee's name and occupation;
- (b) time worked;
- (c) remuneration paid;
- (d) date of birth if under 18 years of age; and
- (e) any other prescribed information.

4.5 Information about remuneration : Section 33 and 33A

4.5.1 The following information must be given in writing when the employee is paid:

- (a) employer's name and address;
- (b) employee's name and occupation;
- (c) period of payment;
- (d) remuneration in money;

- (e) any deduction made from the remuneration;
- (f) the actual amount paid; and
- (g) if relevant to the calculation of that employee's remuneration-
 - (i) employee's rate of remuneration and overtime rate;
 - (ii) number of ordinary and overtime hours worked during the period of payment;
 - (i) number of hours worked on a Sunday or public holiday during that period; and
 - (ii) if an agreement to average working time has been concluded, the total number of ordinary and overtime hours worked in the period of averaging.

4.5.2 An employer may not:

- (a) require or accept any payment by or on behalf of an employee or potential employee in respect of the employment of, or the allocation of work to, any employee.
- (b) require an employee or potential employee to purchase any goods, products or services from the employer or from any business or person nominated by the employer.

4.6 Deductions and other acts concerning remuneration : Sections 34 and 34A

4.6.1 An employer may not deduct money from an employee's remuneration unless –

- (a) The employee agrees in writing to the deduction of a specific debt;
- (b) The deduction is made in terms of a collective agreement, law, court order or arbitration award

4.6.2 A deduction in respect of damage or loss caused by the employee may only be made with agreement and after the employer has followed a fair procedure

4.6.3 Employers must pay deductions and employer contributions to benefit funds to the fund within seven days.

4.7 Calculation of remuneration and wages : Section 35

4.7.1 Wages are calculated by the number of hours ordinarily worked.

4.7.2 Monthly remuneration or wage is four and one-third times the weekly wage.

4.7.3 If calculated on a basis other than time, or if the employee's remuneration or wage fluctuates significantly from period to period, any payment must be calculated by reference to remuneration or wage during—

- (a) the preceding 13 weeks; or
- (c) if employed for a shorter period, that period.

4.7.4 Employers and employees should consult a schedule published in the Government Gazette to determine whether a particular category of payment forms part of an employee's remuneration for the purpose of calculations made in terms of this Act.

5. TERMINATION OF EMPLOYMENT : CHAPTER FIVE

5.1 Application

This chapter does not apply to an employee who works less than 24 hours in a month for an employer.

5.2 Notice of termination of employment : Section 37

- 5.2.1 A contract of employment may be terminated on notice of not less than—
- (a) one week, if the employee has been employed for six months or less;
 - (b) two weeks, if the employee has been employed for more than six months but not more than one year;
 - (c) four weeks, if the employee has been employed for one year or more, or if a farm worker or domestic worker has been employed for more than six months.
- 5.2.2 A collective agreement may shorten the four weeks notice period to not less than two weeks.
- 5.2.3 Notice must be given in writing except when it is given by an illiterate employee.
- 5.2.4 The notice on termination of employment by an employer in terms of the Act does not prevent the employee challenging the fairness or lawfulness of the dismissal in terms of the Labour Relations Act, 1995 or any other law.

5.3 Severance pay : Section 41

An employee dismissed for operational requirements or whose contract of employment is terminated in terms of section 38 of the Insolvency Act, 1936 is entitled to one week's severance pay for every year of service.

5.4 Certificate of Service : Section 42

On termination of employment an employee is entitled to a certificate of service.

6. PROHIBITION OF EMPLOYMENT OF CHILDREN AND FORCED LABOUR : SECTIONS 43 – 48

- 6.1 It is a criminal offence to require or permit a child to work under 15 years of age.
- 6.2 Children under 18 may not be required or permitted to perform work or provide services that are inappropriate for their age or that place them at risk.
- 6.3 Causing, demanding or requiring forced labour is a criminal offence.

7. VARIATION OF BASIC CONDITIONS OF EMPLOYMENT : SECTIONS 49 – 50

- 7.1 A collective agreement concluded by a bargaining council may replace or exclude any basic condition of employment except the following:
- (a) the duty to arrange working time with regard to the health and safety and family responsibility of employees (S.7,9 and 13);
 - (b) reduce the protection afforded to employees who perform night work(S. 17(3) and (4));
 - (c) reduce annual leave to less than two weeks (S. 20);
 - (d) reduce entitlement to maternity leave (S 25);
 - (e) reduce entitlement to sick leave to the extent permitted (S. 22-24); and
 - (f) prohibition of child and forced labour (S.48).

- 7.2 Collective agreements and individual agreements may only replace or exclude basic conditions of employment to the extent permitted by the Act or a sectoral determination (S.49).
- 7.3 The Minister of Labour may make a determination to vary or exclude a basic condition of employment. This can also be done on application by an employer or employer organisation (S. 50).
- 7.4 A determination may not be granted unless a trade union representing the employees has consented to the variation or has had the opportunity to make representations to the Minister. A copy of any determination must be displayed by the employer at the work place and must be made available to employee's (S.50).

8. SECTORAL DETERMINATIONS : SECTION 51

Sectoral determinations may be made to establish basic conditions for employees in a sector and area.

9. MONITORING, ENFORCEMENT AND LEGAL PROCEEDINGS : SECTIONS 63 – 81

- 9.1 Labour inspectors must advise employees and employers on their rights and obligations in terms of employment laws. They conduct inspections, investigate complaints and may question persons and inspect, copy and remove records and other relevant documents (S. 64 – 66).
- 9.2 An inspector may serve a compliance order on an employer who is not complying with a provision of the Act. The order may be made an order of the Labour Court. S68 – 73)
- 9.3 Employees may not be discriminated against for exercising their rights in terms of the Act (S. 78 – 81).

10. PRESUMPTION AS TO WHO IS AN EMPLOYEE : SECTION 83A

- 10.1 A person who works for, or provides services to, another person is presumed to be an employee if –
- (a) his or her manner or hours of work are subject to control or direction;
 - (b) he or she forms part of the employer's organisation;
 - (c) he or she has worked for the other person for at least 40 hours per month over the previous three months;
 - (d) he or she is economically dependant on the other person;
 - (e) he or she is provided with his or her tools or work equipment; or
 - (f) he or she only works for, or renders service to, one person.
- 10.2 If one of these factors is present, the person is presumed to be an employee until the employer proves that he or she is not.

11. GENERAL

It is an offence to—

- (a) obstruct or attempt to influence improperly a person who is performing a function in terms of the Act;
 - (b) obtain or attempt to obtain any prescribed document by means of fraud, false pretences, or by presenting or submitting a false or forged document;
 - (c) pretend to be a labour inspector or any other person performing a function in terms of the Act;
 - (d) refuse or fail to answer fully any lawful question put by a labour inspector or any other person performing a function in terms of the Act;
 - (e) refuse or fail to comply with any lawful request of, or lawful order by, a labour inspector or any other person performing a function in terms of the Act;
 - (f) hinder or obstruct a labour inspector or any other person performing a function in terms of the Act.
- (S. 92)

(Regulasie 2)**WET OP BASIESE DIENSVOORWAARDES, 1997****OPSOMMING WAT KRAGTENS ARTIKEL 30 DEUR 'N WERKGEWER GEHOU MOET WORD**

Die volgende is 'n opsomming van die bepalings van die belangrikste artikels van die Wet op Basiese Diensvoorwaardes, 1997, soos gewysig.

1. TOEPASSING VAN DIE WET: ARTIKEL 3

Die Wet is van toepassing op alle werknemers en werkgewers, behalwe lede van die Staatsveiligheidsagentskap en onbesoldigde vrywillige werkers wat werk vir 'n organisasie wat 'n liefdadigheidsdoel dien.

Die basiese diensvoorwaardes wat in die Wet vervat word, maak deel uit van die dienskontrak van werknemers wat deur die Wet gedek word. Sommige van die basiese diensvoorwaardes, maar nie almal nie, kan in ooreenstemming met die bepalings van die Wet deur individuele of kollektiewe ooreenkomste gewysig word (sien paragraaf 7 hieronder).

2. REËLING VAN WERKSTYD: HOOFSTUK TWEE**2.1 Toepassing**

Hierdie hoofstuk is nie van toepassing op senior bestuurswerknemers, en werknemers wat in diens is as verkoops personeel wat rondreis en werknemers wat minder as 24 uur per maand werk nie.

2.2 Gewone werkure: Artikel 9

Geen werkgewer mag van 'n werknemer vereis of hom toelaat om meer as -

- (a) 45 uur in 'n week te werk nie;
- (b) nege uur op 'n dag te werk nie indien die werknemer vir vyf dae of minder in 'n week werk; of
- (c) agt uur op 'n dag te werk nie indien die werknemer op meer as vyf dae in 'n week werk.

2.3 Oortyd: Artikel 10

2.3.1 'n Werkgewer mag nie van 'n werknemer vereis of hom of haar toelaat om -

- (a) oortyd te werk nie behalwe ooreenkomstig 'n ooreenkoms;
- (b) meer oortyd te werk nie as tien uur in 'n week.

2.3.2 'n Ooreenkoms mag nie van 'n werknemer vereis of hom of haar toelaat om meer as 12 uur op enige dag te werk nie.

2.3.3 'n Kollektiewe ooreenkoms kan oortyd vir tot twee maande in enige 12-maande-tydperk tot 15 uur per week verhoog.

2.3.2 2.3.4 Oortyd moet teen 1.5 maal die werknemer se gewone loon betaal word of 'n werknemer kan instem om tyd vry te neem met betaling.

2.4 Saamgeperste werkweek: Artikel 11

2.4.1 'n Werknemer mag skriftelik ooreenkom om 12 uur op 'n dag te werk sonder oortyd betaling.

2.4.2 Hierdie ooreenkoms mag nie van die werknemer vereis of hom of haar toelaat om -
(a) meer as 45 gewone werkure in 'n week te werk nie;
(b) meer as 10 uur oortyd in 'n week te werk nie; of
(c) meer as vyf dae in 'n week te werk nie.

2.5 Berekening van gemiddelde werkure: Artikel 12

2.5.1 'n Kollektiewe ooreenkoms kan toelaat dat die werkure as 'n gemiddelde bereken word oor 'n tydperk van tot vier maande.

2.5.2 'n Werknemer wat deur so 'n kollektiewe ooreenkoms gebind word, mag nie meer as -
(a) 'n gemiddelde van 45 gewone werkure per week oor die ooreengekome tydperk werk nie;
(b) 'n gemiddelde van vyf uur oortyd per week oor die ooreengekome tydperk werk nie.

2.6 Etenspouses: Artikel 14

2.6.1 'n Werknemer moet 'n etenspouse van 60 minute na vyf ure se werk neem.

2.6.2 'n Skriftelike ooreenkoms kan -
(a) die etenspouse tot 30 minute verkort;
(b) wegdoen met die etenspouse vir werknemers wat minder as ses uur op 'n dag werk.

2.7 Daaglikse en weeklikse rustye: Artikel 15

'n Werknemer moet 'n daaglikse rusperiode van 12 opeenvolgende ure en 'n weeklikse rusperiode van 36 opeenvolgende ure neem, wat, tensy anders ooreengekom, 'n Sondag moet insluit.

2.8 Betaling vir werk op Sondae: Artikel 16

2.8.1 'n Werknemer wat by geleentheid op 'n Sondag werk, moet dubbelbetaling ontvang.

2.8.2 'n Werknemer wat gewoonlik op Sondae werk, moet 1.5 maal die gewone loon ontvang.

2.8.2 Daar kan ooreengekom word dat werk op 'n Sondag verruil kan word vir tyd vry met betaling.

2.9 Nagwerk: Artikel 17

2.9.1 Werknemers wat nagwerk verrig tussen 18:00 en 06:00, moet vergoed word met betaling van 'n toelaag of deur vermindering van werkure en vervoer moet beskikbaar wees.

- 2.9.2 Werknemers wat gereeld na 23:00 uur en voor 06:00 uur die volgende dag werk verrig, moet ingelig word oor -
- (a) enige gesondheids- of veiligheidsgevaar; en
 - (b) die reg om 'n mediese ondersoek te ondergaan.

2.10 Openbare vakansiedae: Artikel 18

- 2.10.1 Werknemers moet vir enige openbare vakansiedag wat op 'n werksdag val, hulle normale betaling ontvang.
- 2.10.2 Werk op 'n openbare vakansiedag is per ooreenkoms en moet teen dubbel betaling vergoed word.
- 2.10.3 'n Openbare vakansiedag kan volgens ooreenkoms met 'n ander dag uitgeruil word.

3. VERLOF: HOOFSTUK DRIE

3.1 Toepassing

Hierdie hoofstuk is nie van toepassing nie op 'n werknemer wat minder as 24 uur per maand vir 'n werkgewer werk en op verlof toegestaan wat meer is as die verlof waarop die werknemer kragtens hierdie hoofstuk geregtig is.

3.2 Jaarlikse verlof: Artikels 20 & 21

- 3.2.1 Werknemers is geregtig op 21 opeenvolgende dae jaarlikse verlof of, volgens ooreenkoms, een dag vir elke 17 dae gewerk of een uur vir elke 17 ure gewerk.
- 3.2.2 Verlof moet nie later as ses maande na die einde van die jaarlikse verlofsiklus toegestaan word nie.
- 3.2.3 'n Werkgewer moet nie 'n werknemer betaal in plaas daarvan om verlof toe te staan nie, behalwe by die beëindiging van diens.

3.3 Siekteverlof: Artikels 22 - 24

- 3.3.1 'n Werknemer is geregtig op ses weke se betaalde siekteverlof in 'n periode van 36 maande.
- 3.3.2 Gedurende die eerste ses maande is 'n werknemer geregtig op een dag betaalde siekteverlof vir elke 26 dae gewerk.
- 3.3.3 'n Werkgewer kan 'n mediese sertifikaat vereis voordat hy 'n werknemer betaal wat vir meer as twee agtereenvolgende dae afwesig was of iemand wat dikwels afwesig is.

3.4 Kraamverlof: Artikels 25 & 26

- 3.4.1 'n Swanger werknemer is geregtig op vier opeenvolgende maande kraamverlof.
- 3.4.2 'n Swanger werknemer of 'n werknemer wat haar kind borsvoed mag nie toegelaat word om werk te verrig wat vir haar of haar kind gevaarlik is nie.

3.5 Verlof vir gesinsverantwoordelikheid: Artikel 27

3.5.1 Voltydse werknemers is op versoek geregtig op drie dae betaalde verlof per jaar, wanneer die werknemer se kind gebore word of siek is, of in die geval van die dood van die werknemer se gade of lewensmaat of die werknemer se ouer, aangenome ouer, grootouer, kind, aangenome kind, kleinkind of broer of suster.

3.5.2 'n Werkgewer kan redelike bewyse vereis.

4. BESONDERHEDE VAN DIENS EN BESOLDIGING: HOOFSTUK VIER

4.1 Toepassing

Hierdie hoofstuk is nie van toepassing op 'n werknemer wat minder as 24 uur per maand vir 'n werkgewer werk nie.

4.2 Skriftelike besonderhede van diens: Artikel 29

4.2.1 'n Werkgewer moet 'n werknemer by aanvang van sy diens van die volgende skriftelike besonderhede voorsien:

- (a) volle naam en adres van die werkgewer;
- (b) naam en beroep van die werknemer, of 'n bondige beskrywing van die werk;
- (c) verskillende werksplekke;
- (d) datum van indienstreding;
- (e) gewone werkure en werkdae;
- (f) loon of skaal en hoe dit bereken word;
- (g) skaal vir oortyd;
- (h) enige ander kontantbetalings;
- (i) enige betaling in goedere en die waarde daarvan;
- (j) hoe dikwels besoldiging betaal sal word;
- (k) enige aftrekkings;
- (l) verlofgeregtigheid;
- (m) tydperk van kennisgewing of tydperk van kontrak;
- (n) beskrywing van enige raad of sektorale vasstelling wat die werkgewer se besigheid dek;
- (o) tydperk van diens by 'n vorige werkgewer wat tot dienstyd bydra;
- (p) 'n lys van enige ander dokumente wat deel van die dienskontrak uitmaak en waarop aangedui word waar 'n afskrif verkry kan word.

4.2.2 Besonderhede moet hersien word indien die diensooreenkoms verander.

4.3 Verwittiging van werknemers van hulle regte: Artikel 30

'n Staat van die werknemer se regte moet in die amptelike tale wat in die werkplek gepraat word, by die werkplek vertoon word.

4.4 Hou van rekords: Artikel 31

Elke werkgewer moet 'n rekord hou wat die volgende inligting bevat:

- (a) werknemer se naam en beroep;
- (b) tyd gewerk;
- (c) besoldiging betaal;

- (d) geboortedatum indien jonger as 18 jaar; en
- (e) enige ander voorgeskrewe inligting.

4.5 Inligting oor besoldiging: Artikel 33 en 33A

4.5.1 Die volgende inligting moet skriftelik verstrek word wanneer die werknemer betaal word:

- (a) werkgewer se naam en adres;
- (b) werknemer se naam en beroep;
- (c) tydperk van betaling;
- (d) besoldiging in geld;
- (e) enige aftrekkings van die besoldiging;
- (f) die werklike bedrag wat betaal is; en
- (g) indien tersaaklik vir die berekening van die werknemer se besoldiging -
 - (i) die werknemer se besoldigingskoers en oortydskaal;
 - (ii) die getal gewone en oortydure gewerk gedurende die tydperk van betaling;
 - (iii) die getal ure op 'n Sondag of openbare vakansiedag gewerk gedurende die tydperk; en
 - (iv) indien 'n ooreenkoms om gemiddelde werktyd te bereken aangegaan is, die totale getal gewone en oortydure gewerk gedurende die tydperk.

4.5.2 'n Werkgewer moet nie—

- (a) enige betaling deur of namens 'n werknemer of potensiële werknemer vereis of aanvaar ten opsigte van die indiensneming van, of die toewysing van werk aan 'n werknemer nie; of
- (b) vereis dat 'n werknemer of potensiële werknemer enige goedere, produkte of dienste van die werkgewer of van enige besigheid of persoon wat deur die werkgewer benoem, koop nie.

4.6 Aftrekkings en ander handeling betrefsende besoldiging: Artikels 34 en 34A

4.6.1 'n Werkgewer mag nie geld van 'n werknemer se besoldiging aftrek nie, tensy –

- (a) die werknemer skriftelik instem tot die aftrekking van 'n spesifieke skuld;
- (b) die aftrekking ingevolge 'n kollektiewe ooreenkoms, wet, hofbevel of arbitrasietoekenning gedoen word.

4.6.2 'n Aftrekking ten opsigte van skade of verlies wat deur die werknemer veroorsaak is, mag slegs gedoen word met die instemming van die werknemer en nadat die werkgewer 'n regverdigde prosedure gevolg het.

4.6.3 Werkgewers moet aftrekkings en werkgewerbydraes vir bystandsfondse binne sewe dae na die fonds oorbetal.

4.7 Berekening van besoldiging en lone: Artikel 35

4.7.1 Lone word bereken deur die aantal ure gewoonlik gewerk.

4.7.2 Maandelikse besoldiging of loon is vier en 'n derde maal die weeklikse loon.

4.7.3 Indien besoldiging op 'n ander grondslag as tyd bereken word of indien 'n werknemer se besoldiging of loon van tydperk tot tydperk beduidend skommel, moet enige betaling bereken word met verwysing na die werknemer se besoldiging of loon gedurende -

- (a) die voorafgaande 13 weke; of
- (b) indien vir 'n korter tydperk werksaam, daardie tydperk.

4.7.4 Werkgewers en werknemers moet vir die doeleindes van berekeninge wat ingevolge hierdie Wet gedoen word, 'n bylae wat in die Staatskoerant gepubliseer is, raadpleeg om vas te stel of 'n bepaalde kategorie betaling deel van 'n werknemer se besoldiging uitmaak.

5. DIENSBEËINDIGING: HOOFSTUK VYF

5.1 Toepassing

Hierdie hoofstuk is nie van toepassing op enige werknemer wat minder as 24 uur per maand vir 'n werkgewer werk nie.

5.2 Kennisgewing van diensbeëindiging: Artikel 37

5.2.1 'n Dienskontrak mag beëindig word na kennisgewing van minstens -

- (a) een week, indien die werknemer ses maande of korter in diens is;
- (b) twee weke, indien die werknemer al langer as ses maande in diens is, maar nie langer as 'n jaar nie;
- (c) vier weke, indien die werknemer al een jaar of langer in diens is, of indien 'n plaaswerker of 'n huiswerker al langer as ses maande in diens is.

5.2.2 'n Kollektiewe ooreenkoms kan die kennistydperk van vier weke tot nie minder nie as twee weke verkort.

5.2.3 Kennis van beëindiging van diens moet skriftelik gegee word behalwe wanneer dit deur 'n ongeletterde werknemer gegee word.

5.2.3 Kennis van beëindiging van diens deur 'n werkgewer kragtens die Wet weerhou nie die werknemer om die geldigheid of billikheid daarvan te betwis kragtens die Wet op Arbeidsverhoudinge van 1995, of enige ander wet nie.

5.3 Skeidingsloon: Artikel 41

'n Werknemer wie se diens as gevolg van bedryfsvereistes beëindig word of wie se dienskontrak ingevolge artikel 38 van die Insolvensiewet, 1936, beëindig word, is geregtig op 'n skeidingsloon van een week se besoldiging vir elke voltooide jaar van diens.

5.4 Dienssertifikaat: Artikel 42

By diensbeëindiging is 'n werknemer geregtig op 'n dienssertifikaat.

6. VERBOD OP INDIENSNEMING VAN KINDERS EN DWANGARBEID: ARTIKELS 43 - 48

6.1 Dit is 'n kriminele oortreding om 'n kind onder die ouderdom van 15 jaar toe te laat of van te vereis om te werk.

6.2 Kinders onder 18 mag nie toegelaat word of van vereis word om werk te verrig of dienste te verskaf wat ongeskik is vir daardie ouderdom of wat hulle in gevaar stel nie.

6.3 Dit is 'n kriminele oortreding om dwangarbeid te veroorsaak, te vereis of af te dwing.

7. WYSIGING VAN BASIESE DIENSVORWAARDES: ARTIKELS 49 - 50

- 7.1 'n Kollektiewe ooreenkoms wat in 'n bedingingsraad aangegaan is, kan enige basiese diensvoorwaarde behalwe die volgende verander, vervang of uitsluit:
- (a) die plig om werkure te reël met betrekking tot die werknemer se gesondheid, veiligheid en gesinsverantwoordelikhede (A. 7, 9 & 13);
 - (b) om die beskerming verleen aan werknemers wat nagwerk verrig te verminder (A. 17(3) & (4));
 - (c) om jaarlikse verlof na minder as twee weke te verminder (A. 20);
 - (d) om die geregtigheid op kraamverlof te verminder (A. 25);
 - (e) om die geregtigheid op siekteverlof te verminder (A. 22 - 24); en
 - (f) voorkoming van kinder- en dwangarbeid (A. 48).
- 7.2 Kollektiewe ooreenkomste en individuele oorkomste kan slegs basiese diensvoorwaardes vervang of uitsluit in soverre dit by hierdie Wet of 'n sektorale vasstelling toegelaat word (Artikel 49).
- 7.3 Die Minister van Arbeid kan 'n vasstelling doen ter verandering of uitsluiting van 'n basiese diensvoorwaarde. Dit kan ook gedoen word ten opsigte van 'n aansoek deur 'n werkgewer of werkgewersorganisasie (Artikel 50).
- 7.4 'n Vasstelling kan nie toegestaan word nie tensy 'n vakbond wat die werknemers verteenwoordig, tot die verandering ingestem het of die geleentheid gehad het om vertoë tot die Minister te rig (Artikel 50). 'n Afskrif van enige vasstelling moet deur die werkgewer by die werkplek vertoon word en moet aan werknemers beskikbaar gestel word (A. 50).

8. SEKTORALE VASSTELLINGS: ARTIKEL 51

Sektorale vasstellings kan gedoen word om basiese diensvoorwaardes vir werknemers in 'n sektor of gebied te bepaal.

9. MONITERING, AFDWINGING EN GEREGTELIKE VERRIGTINGE: ARTIKELS 63 - 81

- 9.1 Arbeidsinspekteurs moet werknemers en werkgewers omtrent hul regte en verpligtinge ingevolge indiensnemingswette adviseer. Hulle voer inspeksies uit, ondersoek klagtes en kan persone ondervra en rekords en ander toepaslike dokumente ondersoek, kopieer en verwyder (A. 64 - 66).
- 9.2 'n Inspekteur kan 'n nakomingsbevel aan 'n werkgewer wat nie aan die vereistes van die Wet voldoen nie, uitreik. Die bevel kan bevel van die Arbeidshof gemaak word. (A. 68 - 73).
- 9.3 Daar mag nie teen werknemers gediskrimineer word wat hulle regte kragtens die Wet uitoefen nie (Artikel 78 - 81).

10. AANNAME BETREFFENDE WIE 'N WERKNEMER IS : ARTIKEL 83A

- 10.1 'n Persoon wat vir 'n ander persoon werk of aan 'n ander persoon dienste lewer, word geag 'n werknemer te wees indien –
- (a) sy of haar werkwyse of werkure aan beheer of leiding onderworpe is;

- (b) hy of sy deel van die werkgewer se organisasie uitmaak;
- (c) hy of sy oor die vorige drie maande minstens 40 uur per maand vir die ander persoon gewerk het;
- (d) hy of sy ekonomies van die ander persoon afhanklik is;
- (e) hy of sy van sy of haar gereedskap of werktoerusting voorsien word; of
- (f) hy of sy vir slegs een persoon werk of aan slegs een persoon diens lewer.

10.2 Indien een van hierdie faktore aanwesig is, word daar aanvaar dat die persoon 'n werknemer is totdat die werkgewer bewys dat hy of sy nie is nie.

11. ALGEMEEN

Dit is 'n misdryf om:

- (a) 'n persoon wat 'n werksaamheid ingevolge hierdie Wet te verrig, te dwarsboom of te poog om hom of haar onbehoelik te beïnvloed;
- (b) enige voorgeskrewe dokument deur middel van bedrog of valse voorwendels of deur aanbieding of voorlegging van 'n vals of nagemaakte dokument te verkry of te poog om dit te verkry;
- (c) voor te gee om 'n arbeidsinspekteur of enige ander persoon wat 'n funksie kragtens die Wet uitoefen, te wees ;
- (d) te weier of te versuim om enige wettige vraag gestel deur 'n arbeidsinspekteur of 'n ander persoon wat 'n werksaamheid ingevolge hierdie Wet verrig, volledig te beantwoord;
- (e) te weier of te versuim om aan enige wettige versoek van, of wettige bevel deur 'n arbeidsinspekteur of 'n ander persoon wat 'n werksaamheid ingevolge hierdie Wet verrig;
- (f) 'n arbeidsinspekteur of 'n ander persoon wat 'n werksaamheid ingevolge hierdie Wet verrig, te belemmer of te dwarsboom (A. 92).

BCEA 1C

(Molawana 2)

THEO YA MAEMO A MOLAO WA KHIRO WA 1997

KAKARETŠO E BOLOKWANG KE MOTHWADI GO YA KA KAROLO 30

Mo ga latela kakaretšo ya thušo ya dikarolo tše bohlokwa kudu tša Theo ya Maemo a Molao wa Khiri wa 1997, bjalo ka ge o fetošitšwe.

1. Tirišo ya molao : Karolo 3

Molao o, o ama bašomi le beng mošomo bohle kantle le maloko a State Security Agency le bašomi bao e lego baithaupi bao ba sa lefelwego ba šomela mokgathlo wa go se lefele.

Metheo ya go šoma ya theo yeo e lego ka gare ga Molao ke karolo ya kontraka ya thwalo ya badiredi yeo e akaretšwago ke Molao. Tše dingwe, e sego ditlamo kamoka tša thwalo di ka no fetolwa ka dikwano tša go ba tee goba tša sehlopha go ya ka dikgonegišo

2. MOLAWANA WA NAKO YA GO ŠOMA : KGAOLO YA BOBEDI**2.1 Tirišo**

Kgaolo ye ga e šomele bašomedi ba ka godimo ba taolo, bašomedi bao ba sepelago mafelo ka mafelo ba rekiša mme ba šoma diiri tše di ka tlase go **24** ka kgwedi.

2.2. Diiri tša ka tlwaelo tša mošomo : Karolo 9

Ga go mothwadi yo a ka kgopela goba go dumelela mošomedi go šoma go feta:

- (a) diiri tše **45** ka beke le ge ele efe;
- (b) diiri tše **9** ka letšatši le ge ele lefe ge mošomedi a šoma matšatši a mahlano go ba ka tlase mo bekeng; goba
- (c) diiri tše **8** ka letšatši le ge ele lefe ge mošomedi a šoma mo go feta matšatši a mahlano mo bekeng.

2.3. Go šoma ka morago ga nako: Karolo 10

2.3.1 Mothwadi a ka se kgopele goba go dumelela mošomedi:

- (a) go šoma ka morago ga nako ntle le ge e le ka tumelelano;
- (b) go šoma go feta iri tše lesome ka morago ga nako ka beke.

2.3.2 Kwano ga se e swanele go kgopela goba go dumelela modiredi go šoma diiri tša go feta tše 12 ka letšatši ka tšatši lefe goba lefe.

2.3.3 Kwano ya batho kamoka e ka no oketša nako ya phetedi go ba diiri tše lesomehlano ka beke go fihla ka dikgwedi tše pedi lebakeng lefe goba lefe la dikgwedi tše 12.

2.3.4 Go šoma ka morago ga nako go swanetše go lefše makga a 1.5 ka ga tefo ya tlwaelo ya mošomedi a ka dumela go amogela nako ye e lefšago ya go se šome.

2.4 Beke ya mošomo ye e gateletšwego :Karolo 11

2.4.1 Mošomedi a ka dumela ka go ngwala go šoma go fihlela diiri tše 12 ka letšatši ntle le go amogela tefo ya ka morago ga nako.

2.4.2 Kwano ye e no se hloke goba go dumelela mošomedi go šoma:

- (a) go feta diiri tše 45 tša tlwaelo mo bekeng le ge e le efe;
- (b) go feta diiri tše lesome ka morago ga nako bekeng le ge ele efe; goba
- (c) go feta matšatši a mahlano bekeng le ge ele efe.

2.5 Tekanyetšo ya diiri tša mošomo : Karolo 12

2.5.1 Kwano ya kopanelo e ka dumelela diiri tša mošomo go lekanyetšwa go feta nako ya go fihla go kgwedi tše nne.

2.5.2 Mošomedi yo a tlangwago ke tumelelano ya kopanelo a ka se šome go feta:

- (a) tekanyetšo ya diiri tše 45 tša tlwaelo mo bekeng go feta nako ye e dumelwetšwego.
- (b) tekanyetšo ya diiri tše hlano go feta nako mo bekeng ka godimo nako ye go kwanwego ka yona.

2.6 Sebaka sa dijo : Karolo 14

2.6.1 Mošomedi o swanetše go ba le sebaka sa dijo sa metsotso ye 60 ka morago ga diiri tše hlano tša mošomo.

2.6.2 Kwano ye e ngwadilwego e ka:

- (a) fokotša sebaka sa dijo go ya go metsotso ye 30.
- (b) go lesa sebaka sa dijo go badiredi bao ba dirago diiri tše ka tlase go tše tšeletšego ka letšatši.

2.7 Sebaka sa go ikhutša ka letšatši le ka beke : Karolo 15

Mošomedi o swanetše go ba le nako ya go ikhutša ka letšatši sa nako ya diiri tše 12 ka go latelelana le maikhutšo a beke a nako ya diiri tše 36 ka go latelelana, tše, ntle le ge mohlomongwe go dumelelwane, di swanetše go akaretša Sontaga.

2.8 Tefo ya mošomo ka diSontaga : Karolo 16

- 2.8.1 Mošomedi yo a šomago ka sewelo ka Sontaga o swanetše go amogela tefo gabedi.
- 2.8.2 Mošomedi yo a šomago ka tlwaelo ka Sontaga o swanetše go lefša makga a 1.5 go ya ka tefo ya tlwaelo.
- 2.8.3 Tefo ya matšatši a go ikhutša go lefela go šoma ka Sontaga e ka dumelelwa.

2.9. Mošomo wa bošego: Karolo 17

- 2.9.1 Bašomedi bao ba šomago bošego magareng ga 18:00 le 06:00 ba swanetše go bušetšwa ka tefo ya go okeletšwa moputso goba ya go fokoletšwa diiri tša mošomo gomme ba fiwe senamelwa.
- 2.9.2 Bašomedi bao ba šomago ka mehla ka morago ga 23:00 le pele ga 06:00 ka tšatši le le latelago ba swanetše go tsebišwa:
- (a) ka ga bothata bjo bo lego gona ka tša bophelo le tšhireletšo; le
- (b) ka tokelo ya go bona hlahlobo ya tša bongaka.

2.10. Maikhutšo a setšhaba : Karolo 18

- 2.10.1 Bašomedi ba swanetše go lefša mogolo wa bona wa tlwaelo godimo ga maikhutšo a mangwe le a mangwe a setšhaba ao a welago letšatšing la go šoma.
- 2.10.2 Go šoma ka letšatši la maikhutšo a setšhaba go ya ka tumellano gomme go lefša ka go lekana gabedi.
- 2.10.3 Letšatši la maikhutšo a setšhaba le ka no fetolanywa le tšatši le lengwe go ya ka kwano.

3. LIFI: KGAOLO YA BORARO

Kgaolo ka ga lifi ga e šomele mošomedi yo a šomelago mothwadi ka tlase ga diiri tše 24 ka kgwedi, le go lifi yeo e filwego go feta lifi yeo e swanetšego tlase ga kgaolo ye.

3.2. Lifi ya ngwaga : Karolo 20 & 21

- 3.2.1 Bašomedi ba swanetše ke lifi ya ngwaga ya matšatši a 21 ka go latelana, goba ka tumelelano, letšatši le tee matšatšing a 17 ao a šomilwego, goba iri e tee godimo ga diiri tše 17 tše di šomilwego.
- 3.2.2 Lifi e swanetše e se fiwe morago ga dikgwedi tše di tšheletšego morago ga nako ya lifi ya ngwaga.
- 3.2.3 Mothwadi a se ke a lefa mošomedi bakeng la go mofa lifi ntle le ge a mo rodiša modiro.

3.3. Lifi ya bolwetši : Karolo 22 - 24

- 3.3.1 Mošomedi o swanetše ke beke tše tšheletšego tša go lefša ga lifi ya bolwetši ka nako ya dikgwedi tše **36** tše di šomilwego.
- 3.3.2 Mo nakong ya dikgwedi tše tšheletšego tša pele mošomedi o swanetše ke go ba le letšatši la lifi ya bolwetši ye e lefšago godimo ga matšatši a mangwe le a mangwe a **26** ao a šomilwego.
- 3.3.3 Mothwadi a ka kgopela lengwalo la ngaka pele a ka lefa mošomedi yo a ka bago a lofile matšaši a go feta bobedi ka tatelelano goba yo a atišago go se be gona modirong.

3.4. Lifi ya setswetši : Karolo 25 & 26

- 3.4.1 Mošomedi yo a imilego o swanetšwe ke dikgwedi tše nne tše latelanago tša setswetsi.
- 3.4.2 Mošomedi yo a imilego goba mošomedi yo a hlokometšego ngwana wa gagwe ga a dumelelwa go dira mošomo wo o ka bago kotsi go yena goba ngwana wa gagwe.

3.5. Lifi ya boikarabelo bja lapa : Karolo 27

- 3.5.1 Bašomedi ba go šoma ka nako tšohle ba swanetšwe ke matšatši a mararo a go lefša ga lifi ya boikarabelo bja lapa ka ngwaga, ka kgopelo, ge mošomedi a filwe ngwana, goba a lwala, goba ka lebaka la go hlokafalelwa ke mogatšagwe goba molekane, goba motswadi wa mošomedi, motswadi yo a mo godišitšego, koko goba rakgolo wa gagwe, ngwana, ngwana yo a mo hlokometšego, setlogolo goba ngwanabo.
- 3.5.2 Mothwadi a ka kgopela sešupo seo se kgotsofatšago.

4. DITLHALOŠIŠO TŠA BOTHWADI LE DITEFO : KGAOLO YA BONE**4.1 Tirišo**

Kgaolo ye ga e šomele mošomedi yo a šomelago mothwadi ka tlase ga diiri tše **24** ka kgwedi.

4.2. Ditlhalošišo tše di ngwadilwego tša Bothwadi: Karolo 29

- 4.2.1 Mothwadi o swanetše go fa mošomedi ditlhalošišo tše di latelago ge a thoma modiro:
- (a) maina a a tletšego le aterese ya mothwadi;
 - (b) leina le mošomo wa mothwadi, goba kakaretšo ya tlhalošo ya mošomo;

- (c) mafelo a a fapanego a mošomo;
- (d) letšatši la khiro;
- (e) diiri tše di tlwaelegilego tša mošomo le matsatši a mošomo;
- (f) tefo goba tekanyo le mokgwa wa go bala;
- (g) tekanyo ya mošomo wa ka morago ga nako;
- (h) tefo tše dingwe tša go lefa kontane;
- (i) tefo ye nngwe ka mokgwa le mohola fao;
- (j) poeletšo ya tefo;
- (k) diphokoletšo tše dingwe;
- (l) ditshwanelo tša lifi;
- (m) nako ya tsebišo goba nako ya kwano;
- (n) tlhalošo ye ya lekgotla goba sephetho sa karolwana seo se akaretšago kgwebo ya mothwadi;
- (o) nako ya khiro le mothwadi wa pejana yeo e balelwago go ya nakong ya khiro;
- (p) lenaneo la mangwalo a mangwe ao a ka go ba karolo ya kwano, ao a bontšhago felo fa lengwalo le lengwe le le lengwe le ka hwetšwago.

4.2.2 Dithalošišo di swanetše go boeletšwa ge mekgwa ya khiro e fetoga.

4.3. Go tsebiša bašomedi ka ditokelo tša bona : Karolo 30

Taodišo ya ditokelo tša mošomedi e swanetše e bonagatšwe mo lefelong la modiro ka leleme la semmušo leo le šomišwago lefelong la modiro.

4.4. Poloko ya direkoto : Karolo 31

Mothwadi yo mongwe le yo mongwe o swanetše go boloka rekoto yeo e nago le tsebišo ye e latelago:

- (a) leina la mošomedi le mošomo wa gagwe;
- (b) nako yeo a šomilego ka yona;
- (c) tefo yeo a e lefilwego;
- (d) letšatši la tswalo ge eba ale ka tlase ga mengwaga ye **18**; le
- (e) tsebišo ye ngwe fela yeo e ka hlokegago.

4.5. Tsebišo ka ga tefo : Karolo 33 le 33A

4.5.1 Tsebišo ye e latelago e swanetše e fiwe ka go ngwala ge mošomedi a lefša:

- (a) leina le aterese ya mothwadi;
- (b) leina la mošomedi le mošomo wa gagwe;
- (c) nako ya tefo;
- (d) tefo ya tšhelete;
- (e) phokoletšo ye e dirilwego go tšwa tefong;
- (f) palo ye e lefilwego; le
- (g) ge e sepelelana le dipadišišo tša tefo ya mošomedi yoo-
- (i) tekanyo ya mošomedi ya tefo le tekanyo ya ka morago ga nako;

- (ii) palo ya diiri tša tlwaelo le tša ka morago ga nako tšeo di šomilwego ka nako ya tefelo;
- (iii) palo ya diiri tšeo di šomilwego ka Sontaga goba ka letšatši la setšhaba la go ikhutša ka nako yeo; le
- (iv) ge kwano godimo ga palomoka ya nako ya mošomo e feditšwe, palo ka moka ya diiri tša tlwaelo le tša ka morago ga nako di šomilwego ka nako ya palomoka.

4.5.2 Mothwadi ga se a swanela go:

- (a) nyaka goba go amogela tefo gotswa go mošomi goba motho yo a nyakang mošomo gore a fiwe mošomo;
- (b) nyaka gore mošomi a reke diphahlo, ditšweletšwa goba ditirelo gotšwa go yena, kgwebo goba motho yo a kgethilwego ke mothwadi

4.6. Diphokotšo le melao ye mengwe ye e amago tefelo: Dikarolo 34 le 34A

4.1 Mothwadi ga se a swanele go ntšha tšhelete mogolong wa modiredi ka ntle le ge-

4.1.1 Modiredi a dumela ka go ngwala fase gore molato wo itšego o ntšhwe;

4.1.2 Tšhelete yeo e ntšhwago e dirwa bjalo go ya ka kwano ya kopanelo, e le molao, taelo ya kgotla goba poelo ya namolo

4.2 Tšhelete e ka no ntšhwa ka mabaka a tshenyo goba tahlegelo yeo e bakilwego ke modiredi fela morago ga ge go dirilwe kwano le morago ga ge mothwadi a latetše tshepetšo ya nnete.

Bathwadi ba swanetše go lefa ditšhelete tšeo di gogwago le dithušo tša mothwadi go letlotlo la maswanedi lebakeng la matšatši a šupa.

4.7. Palo ya tefo le moputso : Karolo 35

4.7.1 Meputso e balwa go ya ka palo ya diiri tšeo di šomilwego ka tlwaelo.

4.7.2 Tefo ya kgwedi goba moputso ke nne le tee-tharong ($4\frac{1}{3}$) ya moputso wa beke.

4.7.3 Ge o badilwe go ya ka theo ye nngwe go e na le nako, goba ge tefo ya mošomedi goba moputso o sa lekalekane gabotse go tloga nako le nako, tefelo ye nngwe e swanetše go ya ka tefo goba moputšo ka nako:

- (a) pele go beke tše 13; goba
- (b) ge a thapilwe ka nako ye kopano, nakong yeo.

4.7.4 Bathwadi le badiredi ba swanetše go bala šetulo yeo e gatišitšwego ka gare ga Kuranta ya Mmušo go phetha gore na khatekori ya difomo tša ditefo ke karolo ya moputso wa modiredi ka mabaka a dipalo tšeo di dirilwego go ya ka Molao wo.

5. GO FEDIŠWA GA MOŠOMO : KGAOLO YA BOHLANO

Kgaolo ye ga e ame mošomedi yo a šomelago mothwadi diiri tše di ka tlase go **24** ka kgwedi.

5.2 Tsebišo ya phedišo ya mošomo : Karolo 37

5.2.1 Kwano ya mošomo e ka fedišwa fela ka tsebišo yeo e sego ka tlase ga;

- (a) beke e tee, ge modiredi a hirilwe dikgwedi tše tshelela goba ka tlase;
- (b) beke tše pedi, ge modiredi a hirilwe go feta beke tše tshelela, fela e sego go feta ngwaga o tee;
- (c) beke tše nne, ge modiredi a hirilwe ngwaga o tee goba go feta, goba e le mošomedi wa polase goba mošomedi wa lapa yo a bego a hirilwe go feta dikgwedi tše tshelela.

5.2.2 Kwano ya kopanelo e ka no khutsofatša lebaka la tsebišo la dibeke tše dine go ba lebaka la go se be ka fase ga dibeke tše pedi.

5.2.3 Tsebišo e swanetše e fiwe ka go ngwala ntle le ge e fiwa ke mošomedi yo a sa rutegago.

5.2.4 Tsebišo ka ga phedišo ya mošomo ke mothwadi go ya ka molao ga e thibele mošomedi go hlohla go loka goba semolao ga go tlošwa go ya ka Molao wa Dikamano tša Mošomong wa 1995 goba molao wo mongwe.

5.3 Tefo ya go rola mošomo : Karolo 41

Mošomedi, yo a tlogedišitšwego mošomo bakeng la ditlhoko tša tshepedišo ya mošomo goba yoo kontraka ya gagwe ya thwalo e fedišitšwego go ya ka karolo 38 ya Molao wa Botšhoni, 1936 o swanetšwe ke tefo ya tholomodiro ya beke godimo ga ngwaga wo mongwe le wo mongwe wo a o šomilego.

5.4 Lengwalo la mošomo : Karolo 42

Ge a rola modiro, mošomedi o swanetše ke goba le lengwalo la mošomo

6. Kganetšo ya go hirwa ga bana le kgapeletšo ya modiro : Karolo 42 - 48

6.1 Ke go tshela molao go šomisa goba go dumelela ngwna wa ka tlase ga mengwaga ye **15** go šoma.

6.2 Bana ba ka tlase ga mengwaga ye **18** ba ka se dumelelwe go dira mošomo goba ditirelo tsa go feta mengwaga ya bona, goba seo se ka ba beago kotsing.

6.3 Go šomiša mongwe ka kgapeletšo ke go tshela molao.

7. Phetaphetano ya mabaka a theo a khiri : Karolo 49 - 50

- 7.1 Kwano ya mohlakanelwa yeo e feditšwego ke lekgotla la dipoledišano e ka bewa bakeng sa, goba ya tlogela lebaka la theo la khiri ntle le tše di latelago:
- (a) tiro ya go lokiša nako ya mošomo go ya ka tša bophelo le tšhireletšo le maikarabelo a lapa la bašomedi, (Dikarolo 7, 9 & 13);
 - (b) go fokotša tšhireletšo ye e kgonagalago go bašomedi bao ba dirago mošomo wa bošego [Karolo 17 (3) le (4)];
 - (c) go fokotša lifi ya ngwaga go ya go ka tlase ga beke tše pedi (Karolo 20);
 - (d) go fokotša tshwanelo ya lifi ya setswetši (Karolo 25);
 - (e) go fokotša tshwanelo ya lifi ya bolwetši go ya ka tumelelo (Dikarolo 22 - 24);
le
 - (f) thibelo ya khiri ya bana le go šomisa bangwe ka kgapeletšo (Karolo 48).
- 7.2 Kwano ya mohlakanelwa le kwano ya motho ka bonoši e ka ba lebakeng la goba ya tlogela mabaka a theo a khiri go ya go tumelelo ya Molao goba sephetho sa karolwana (Karolo 49).
- 7.3 Tona ya tša Bašomi e ka tšea sephetho go fapana goba go tlogela lebaka la theo la khiri. Se se ka dirwa le ka kgopelo ya mothwadi goba mokgahlo wa bathwadi (Karolo 50).
- 7.4 Sephetho sa karolwana se ka se fiwe ntle le ge mokgahlo wa tša kgwebo wo o emetšego bašomedi o dumeletše phapano goba obile le gona go ka dira dikemelo go Tona. Lengwalo la sephetho le swanetše go bonagatšwa ke mothwadi mafelong a mošomo gomme le hwetšwe ke bašomedi (Karolo 50).

8. Sephetho sa karolwana: Karolo 51

Sephetho sa karolwana se ka dirwa go bopa mabaka a theo ya bašomedi mo karolong le sekgoba.

9. Tabela, kgapeletšo le ditshepetšo tša semolao: Karolo 63 - 81

- 9.1 Bahlahlobi ba tša tiro ba swanetše go eletša bašomedi le bathwadi ka ga ditokelo le dikgapeletšo go ya ka melao ya khiri. Ba sepetša ditlhahlobo, ba nyakišiša dipelaelo gomme ba ka botšiša batho le go hlahloba, go ngwala le go tloša direkoto le mangwalo a mangwe a a ka hlokegago (Karolo 64 - 66).
- 9.2 Mohlahlobi a ka fa mothwadi yo a sa dirego go ya ka dinyakwa tša Molao, taelo ya go latela Molao. Taelo ye e ka dirwa Taelo ya Kgoro tsheko ya tša Bašomi (Karolo 68 -73).
- 9.3 Bašomi ba se kgethollwe ge ba diragatša ditokelo tša bona go ya ka Molao wo (Karolo 78 - 81).

10. KGONONELO YA GORE NA MOŠOMI KE MANG: KAROLO 83A

10.1 Motho yoo a direlago, goba yoo a fago ditirelo go motho yo mongwe o gononelwa go ba modiredi ge e le gore-

- (a) mekgwa ya gagwe goba diiri tša mošomo di a laolwa goba o fiwa ditaetšo;
- (b) mekgwa ya gagwe goba diiri tša mošomo di a laolwa goba o fiwa ditaetšo;
- (c) ke karolo ya mokgatlo wa mothwadi;
- (d) o diretše motho yo mongwe bonyane diiri tše 40 ka kgwedi dikgweding tše tharo tša go feta;
- (e) o itshepile motho yo mongwe ka tša ditšhelete;
- (f) o fiwa dithulusi goba didirišwa tša go šoma
- (g) o direla goba o fa tirelo go motho yo tee fela.

10.2 Ge ye nngwe ya dintlha tše e le gona, motho o gononelwa gore ke mošomi go fihla ge mothwadi a efa bohlatse bja gore ga go bjalo.

11. KAKARETŠO

Ke tlolomolao go:

- (a) thibela goba go leka go huetša motho yo a dirago mošomo, e se ka tshwanelo go ya ka Molao wo;
- (b) hwetša goba go leka go hwetša lengwalo lefe goba ka boradia, ka bofora, goba ka go hlagiša goba go tšweletša lengwalo la bofora goba le lengwalo la bofori;
- (c) dira tše nkego ke mohlalobi wa tša bašomi, goba motho yo mongwe yo a dirago mošomo go ya ka Molao wo;
- (d) gana goba go palelwa go araba ka botlalo potšišo ye nngwe fela ya semolao yeo e botšišwago ke mohlalobi wa tša bašomi goba motho ofe goba ofe yo a dirago mošomo go ya ka Molao wo;
- (e) gana goba go palelwa go dira go ya ka kgopelo ya semolao, goba taelo ya semolao ya mohlalobi wa tša bašomi goba motho ofe goba ofe yo a dirago mošomo go ya ka Molao wo;
- (f) thibela goba go palediša mohlalobi wa tša bašomi goba motho ofe goba ofe yo a dirago mošomo go ya ka Molao wo (Karolo 92).

BCEA 1D**(Molao wa 2)****METHEO E BOHLOKWA YA MOLAO WA KHIRO, 1997****KGUTSUFATSO E LOKELANG HO BOLOKWA KE MOHIRI HO YA KA KAROLO YA 30**

Se latelang ke kgutsufatso ya dikarolwana tsa bohlokwa tsa Metheo e Bohlokwa ya Molao wa Khiri wa 1997, jwalo ka ha o fetotswe.

1. TSHEBEDISO YA MOLAO: KAROLO YA 3

Molao ona o ama basebeletsi le bahiri kaofela ka ntle le maloko a State Security Agency le baithaopi ba sebeletsang mokgatlo o sa leshweng.

Dipehelo tsa bohlokwa tsa khiri tse kentsweng Molaong di bopa karolo ya tumellano ya khiri ya basebetsi e sireleditsweng ke Molao. Tse ding, empa e seng kaofela ha tsona, tsa dipehelo tsena tsa bohlokwa tsa khiri di ka fapangwa ka ho ya ka tumellano ya motho ka mong kapa ya bongata ka ho ya ka ditlhophiso tsa Molao (sheba temana ya 7 ka tlase).

2. TAOLO YA NAKO TSA TSHEBETSO: KGAOLO YA BOBEDI**2.1 Tshebediso**

Kgaolo ena ha e ame basebeletsi ba hodimo ba taolo, basebeletsi ba tsamayang ba rekisa, mme ba dulang ba le maetong, ebile ba sebetsa hora tse ka tlase ho tse 24 ka kgwedi.

2.2 Dihora tse tlwaelehileng tsa mosebetsi: Karolo ya 9

Ho se be le mohiri ya tla batla kapa a dumella mosebeletsi ho sebetsa ho feta:

- (a) dihora tse 45 bekeng efe kapa efe;
- (b) dihora tse 9 letsatsi ka leng haeba mosebeletsi a sebetsa matsatsi a mahlano kapa a tlase ho a mahlano bekeng; kapa
- (c) dihora tse 8 letsatsi ka leng haeba mosebeletsi a sebetsa matsatsi a fetang a mahlano bekeng.

2.3 Nako e ekeditsweng: Karolo ya 10

2.3.1 Ho se be le mohiri ya tla batla kapa a dumella mosebeletsi ho:

- (a) sebetsa nako e ekeditsweng ka ntle le ha ho dumellanwe;
- (b) sebetsa ho feta hora tse leshome tsa nako e ekeditsweng ka beke.

2.3.2 Tumellano ha ya tshwanela ho batla kapa ho dumella mosebeletsi ho sebetsa dihora tse fetang tse 12 letsatsi lefe kapa lefe.

2.3.3 Tumellano ya bongata e ka atolosa nako e ekeditsweng ho ya dihoreng tse leshome le metso e mehlano ka beke ho fihlela dikgweding tse pedi nakong e ka etsang dikgwedi dife kapa dife tse 12.

2.3.4 Tshebetso ya nako e ekeditsweng e lokela ho leshwa ha 1.5 ho feta moputso wa mosebeletsi o tlwaelehileng, kapa mosebeletsi a ka dumela ho fiwa nako ya kgefutso e lefellowang.

2.4 Beke e ngotlilweng: Karolo ya 11

2.4.1 Mosebeletsi a ka dumela ka ho ngola fatshe ho sebetsa ho fihlella dihora tse 12 ka letsatsi a sa fumane moputso wa nako e ekeditsweng.

2.4.2 Tumellano ena e ke ke ya batla kapa ya dumella mosebeletsi ho sebetsa ho feta:

- (a) hora tse 45 tse tlwaelehileng bekeng efe kapa efe;
- (b) hora tse 10 tsa nako e ekeditsweng bekeng efe kapa efe; kapa
- (c) matsatsi a mahlano bekeng efe kapa efe.

2.5 Ho fumana palohare ya dihora tsa mosebetsi: Karolo ya 12

2.5.1 Tumellano ya bongata e ka dumella dihora tsa mosebetsi hore di be palohare ya nako e fihlellang ho kgwedi tse nne.

2.5.2 Mosebeletsi ya tlangwang ke tumellano eo ya bongata a ke ke a sebetsa ho feta:

- (a) palohare ya dihora tse 45 tse tlwaelehileng ho feta nako eo ho dumellanweng ka yona ka beke;
- (b) palohare ya dihora tse hlano tse ekeditsweng ho feta nako eo ho dumellanweng ka yona ka beke.

2.6 Kgefutso ya dijo: Karolo ya 14

2.6.1 Mosebeletsi o lokela ho fumana kgefutso ya metsotso e 60 ho ya ja, kamora hoba a sebetse hora tse hlano.

2.6.2 Tumellano e ngotsweng e ka:

- (a) fokotsa nako ya kgefutso ya ho ja ho fihla ho metsotso e 30;
- (b) qhelela thoko nako ya kgefutso ya dijo bakeng sa basebetsi ba sebetsang dihora tse ka tlase ho tse tshelletseng ka letsatsi.

2.7 Boikgutso ba letsatsi le letsatsi le ba beke le beke: Karolo ya 15

Mosebeletsi o tshwanela ho fumana phomolo ya dihora tse 12 tse latellanang ka letsatsi le letsatsi le ya dihora tse 36 tse latellanang beke le beke, tseo, ka ntle le ha ho dumellanwe, di tshwanelang ho kenyelletsa letsatsi la Sontaha.

2.8 Tefo ya ho sebetsa ka di Sontaha: Karolo ya 16

- 2.8.1 Mosebeletsi ya itshebeletsang ka Sontaha tse itseng, o tshwanela ho leshwa moputso o phetilweng habedi ho o tlwaelehileng.
- 2.8.2 Mosebeletsi ya hlohang a sebetsa ka Sontaha o tshwanela ho leshwa moputso o phetilweng ha 1.5 ho o tlwaelehileng.
- 2.8.3 Ho ka dumellanwa hore mosebeletsi ya sebeditseng ka Sontaha a leshwe ka ho fuwa nako ya kgefutso e lefellowang.

2.9 Ho sebetsa bosiu: Karolo ya 17

- 2.9.1 Basebeletsi ba sebetsang bosiu mahareng a hora ya 18:00 bosiu, ho isa ho hora ya 06:00 hoseng, ba lokela ho lebohwa ka moputso wa tjehelete kapa ho theolelwa dihora tsa ho sebetsa, mme ba fumanelwe le dipalangwa.
- 2.9.2 Basebeletsi ba sebetsang kamora hora ya 23:00 le pele ha hora ya 06:00 letsatsing le latelang, ba lokela ho tsebiswa ka:
(a) dikotsi ka tsa maphelo le tsa tshireletso; le
(b) tokelo ya ho ya hlahlojwa ke ngaka.

2.10 Matsatsi a Phomolo Karolo ya 18

- 2.10.1 Basebeletsi ba tshwanela ho leshwa moputso wa bona o tlwaelehileng bakeng sa letsatsi la phomolo le ketekwang ka letsatsi la mosebetsi.
- 2.10.2 Ho sebetsa ka letsatsi la phomolo ho ka etsuwa ha feela ho dumellanwe, mme tefo yona e phetwe habedi moputso o tlwaelehileng.
- 2.10.3 Letsatsi la phomolo le ka tjhentjhana le letsatsi lefe kapa lefe le leng, ha hona ho etsuwa ka tumellano.

3. MATSATSI A PHOMOLO: KGAOLO YA BORARO

3.1 Tshebediso

Kgaolo ena e buwang ka matsatsi a phomolo ha e ame mosebeletsi ya sebelletsang mohiri dihora tse ka tlase ho tse 24 ka kgwedi, le matsatsi a phomolo ao ho fanwang ka ona ka hodimo ha matsatsi a phomolo ao o lokelang ho a fumana jwalo ka ha ho dumellanwe ka ona ka ho ya ka kgaolo ena.

3.2 Matsatsi a phomolo ya selemo: Dikarolo tsa 20 le 21

- 3.2.1 Basebeletsi ba na le tokelo ya ho nka matsatsi a 21 a latellanang a matsatsi a phomolo ya selemo, kapa, ka tumellano, letsatsi le le leng ho a 17 a sebeditsweng kapa hora e le nngwe ho tse 17 tse sebeditsweng.

3.2.2 Matsatsi a phomolo a lokela ho fuwa pele kgwedi tse tsheletseng di fela kamora sedikadikwe sa matsatsi a phomolo a selemo.

3.2.3 Mohiri ha a tshwanela ho putsa mosebeletsi bakeng sa ho mo neha matsatsi a phomolo, ka ntle le ha a kgaotsa mosebetsing.

3.3 Matsatsi a phomolo ya ho kula: Karolo ya 22 - 24

3.3.1 Mosebeletsi o na le tokelo ya ho fuwa dibeke tse tsheletseng tsa phomolo ya ho kula e lefellowang nakong ya dikgwedi tse 36 tse sebeditsweng.

3.3.2 Kgweding tse tsheletseng tsa pele, mosebeletsi o na le tokelo ya ho fuwa letsatsi le le leng la phomolo ya ho kula bakeng sa matsatsi a 26 a sebeditsweng.

3.3.3 Mohiri a ka kopa lengolo la ngaka pele a ka lefa mosebeletsi ya neng a sa tla mosebetsing matsatsi a mabedi a latellanang, kapa ya tlwaetseng ho se tle mosebetsing.

3.4 Matsatsi a phomolo ya ba mmeleng: Dikarolo tsa 25 le 26

3.4.1 Mosebeletsi ya mmeleng o na le tokelo ya ho fuwa matsatsi a phomolo a kgwedi tse nne a ho ya beleha.

3.4.2 Mosebeletsi ya mmeleng kapa mosebeletsi eo e leng motswetse, ha a tshwanela ho etsa mosebetsi o ka bakang kotsi ho yena kapa ho lesea la hae.

3.5 Matsatsi a phomolo ya maikarabelo a lelapa: Karolo ya 27

3.5.1 Mosebeletsi ya hirilweng ka botlalo, o na le tokelo ya ho kopa matsatsi a phomolo e lefellowang a mararo selemong ho lebana le maikarabelo lelapeng la hae, mme hona ho ka etsuwa ha ho hlahile lesea kapa ha le kula, kapa ha ho hlokaletse mohatsae kapa molekane wa hae wa bophelo, kapa a hlokaletswe ke motswadi kapa mohlokomedi, nkgono kapa nstatemoholo, ngwana wa hae, ngwana eo a mo hlokomelang, setloholo kapa ngwanabo.

3.5.2 Mohiri a ka batla bopaki bo kgolwehang.

DINTLHA TSE AMANG KHIRO LE MOPUTSO: KGAOLO YA BONE

4.1 Tshebediso

Kgaolo ena ha e ame mosebeletsi ya sebeletsang mohiri hora tse ka tlase ho tse 24 ka kgwedi.

4.2 Dintlha tse ngotsweng tsa khiro: Karolo ya 29

4.2.1 Mohiri o tshwanela ho neha mosebeletsi tse latelang mohlang a qala ho sebetsa mme a di ngole fatshe:

- (a) lebitso le felletseng la mohiri le aterese ya hae;
- (b) lebitso le mofuta wa mosebetsi o etsuwang ke mosebeletsi, kapa kgutsufatso ya tlhaloso ya mosebetsi;
- (c) dibaka tse fapaneng tsa mosebetsi;
- (d) letsatsi la ho kenngwa mosebetsing;
- (e) dihora tse tlwaelehileng le matsatsi a mosebetsi;
- (f) moputso kapa tekanyo le mokgwa wa ho o bala;
- (g) tekanyo ya dihora tse ekeditsweng;
- (h) ditefello tse ding tsa tjhelete;
- (i) tefello eo e seng ya tjhelete le boleng ba yona;
- (j) nako ya tefello;
- (k) diphokotso;
- (l) matsatsi a phomolo ao a tla a fumana;
- (m) nako ya tsebiso kapa nako ya konteraka;
- (n) tlhaloso ya lekgotla ka leng kapa setlamo sa karolwana e kenyelletsang kgwebo ya mohiri;
- (o) nako eo mosebeletsi a e sebeditseng mohiring wa pele, ha e kopangwa le nako ya jwale mosebetsing;
- (p) lenane la ditokomane tse ding tseo di leng karolo ya konteraka, tse bontshang tulo moo setshwantsho sa e nngwe le e nngwe se ka fumanwang teng.

4.2.2 Dintho tseo o tshwanelang ho di tseba ka mosebetsi di lokela ho lekolwa haeba tumellano ya khiri e fetoha.

4.3 Ho tsebisa basebeletsi ka ditokelo tsa bona: Karolo ya 30

Tumellano e ngotsweng ya ditokelo tsa basebeletsi, e tshwanela ho bewa pontsheng dibakeng tsa mosebetsi, mme e ngolwe ka maleme a semmuso a sebediswang tulong ya mosebetsi.

4.4 Ho boloka direkoto: Karolo ya 31

Mohiri e mong le e mong o tshwanela ho boloka direkoto tse hlahisang lesedi ka ho latelang:

- (a) lebitso la mosebeletsi le mofuta wa mosebetsi oo a o etsang;
- (b) nako eo a e sebeditseng;
- (c) moputso o lefilweng;
- (d) letsatsi la matswalo haeba a le ka tlase ha dilemo tse 18; le
- (e) lesedi le leng le ka hlokahalang.

4.5 Lesedi mabapi le meputso: Karolo ya 33 le 33A

4.5.1 Lesedi le latelang le tshwanela ho ngollwa mosebeletsi ha a leshwa:

- (a) lebitso la mohiri le aterese ya hae;
- (b) lebitso la mosebeletsi le mofuta wa mosebetsi oo a o etsang;
- (c) nako ya tefo;
- (d) moputso wa tjhelete;

- (e) phokotso e entsweng moputsong;
- (f) moputso oo a o fumaneng letsohong; le
- (g) haeba ho le bohlokwa ha ho balwa moputso wa mosebeletsi, ho tla batleha:
 - (i) tekanyo ya moputso wa mosebeletsi le tekanyo ya moputso wa nako e ekeditsweng;
 - (ii) palo ya dihora tse tlwaelehileng le tse ekeditsweng tse sebeditsweng ka nako ya tefo;
 - (iii) palo ya dihora tse sebeditsweng ka Sontaha kapa ka letsatsi la phomolo ka nako eo; le
 - (iv) palo kaofela ya dihora tse tlwaelehileng le tse ekeditsweng, haeba tumellano ya tshebetso ya nako ya palohare e ne e finyelletswe.

4.5.2 Mohiri ha a tshwanela ho:

- (a) batla kapa ho amohela tefo go mosebeletsi hore a thole mosebetsi;
- (b) batla hore mosebeletsi a reke thoto, dihlahiswa kapa ditshebetso go ene kapa motho ya supilweng ke mohiri

4.6 Diphokotso le ho hong ho mabapi le meputso: Dikarolo tsa 34 le 34A

4.6.1 Mohiri ha a tshwanela ho hula tjhelete moputsong wa mosebeletsi ntle le haebe:

- (a) Mosebeletsi o dumela ka ho ngola fatshe hore ho hulwe tjhelete e itseng bakeng sa sekoloto sa hae;
- (b) Ho hulwa ha tjhelete eo ho etsuwa ka ho ya ka tumellano e kopanetsweng, ka molao, ka taelo ya lekgotla la dinyewe kapa kahlolo ya bonamodi.

4.6.2 Tjhelete e hulwang ya ntho e sentsweng kapa tahlehelo e bakilweng ke mosebeletsi e ka etswa feela ka tumellano le ka mora hoba mohiri a latele mekgwa ya tshebetso e nang le toka.

4.6.3 Bahiri ba tshwanela ho lefa tjhelete eo ba e hulwang mmoho le e ntshwang ke basebeletsi matloleng a dibenefiti matsatsing a supa tjhelete eo e ntshitswe.

4.7 Ho bala meputso le tefo: Karolo ya 35

4.7.1 Moputso o balwa ka dihora tse tlwaelehileng tseo motho a di sebeditseng.

4.7.2 Moputso wa kgwedi kapa tefo di phetwa hane le nngwe ho tharo ($4\frac{1}{3}$) ho moputso o fumantswang ka beke.

4.7.3 Haeba moputso o balwa ka tsela e nngwe ntle le nako e sebeditsweng, kapa haeba tefo ya mosebeletsi e fetofetoha haholo nako le nako, tefo e nngwe le e nngwe e tshwanela ho balwa ka ho lebisana ho moputso kapa tefo ka nako e:

- (a) ka pele ha beke tse 13; kapa
- (b) haeba mosebeletsi a hirilwe mosebetsing nakwana, ka nako eo ya khiro.

4.7.4 Bahiri le basebetsi ba tshwanetse ho sheba shejulu e phatlaladitsweng Koranteng ya mmuso bakeng sa ho bona hore na lenane le itseng la tefello le bopa karolo ya moputso wa mosebeletsi mabapi le dipalopalo tse entsweng ka ho ya ka Molao ona.

5. PHEDISO YA MOSEBETSI: KGAOLO YA BOHLANO

5.1 Tshebediso

Kgaolo ena ha e ame mosebeletsi ya sebeletsang mohiri dihora tse ka tlase ho tse 24 ka kgwedi.

5.2 Tsebiso ya phediso ya mosebetsi: Karolo ya 37

5.2.1 Konteraka ya mosebetsi e ka kgaotswa ha feela ho ka fanwa ka tsebiso ya nako e seng ka tlase ho:

- (a) beke e le nngwe, haeba mosebeletsi a hirilwe mosebetsing kgwedi tse tshelatseng kapa tse ka tlase ho tseo;
- (b) beke tse pedi, haeba mosebeletsi a hirilwe mosebetsing nako e fetang kgwedi tse tshelatseng, empa tse ka tlase ha selemo;
- (c) dibeke tse nne, haeba mosebeletsi a hirilwe mosebetsing selemo se le seng le ho feta, kapa a sebetsa polaseng kapa a sebetsa malapeng a bile a e na le nako e fetang kgwedi tse tshelatseng a sebetsa moo.

5.2.2 Tumellano e kopanetsweng e ka kgutsufatsa nako ya tsebiso ya dibeke tse nne ho ba nakong e ke keng ya ba ka tlase ho dibeke tse pedi.

5.2.2 Tsebiso e tshwanela ho ngolwa fatshe, ka ntle le ha e etswa ho mosebeletsi ya sa tsebeng ho bala le ho ngola.

5.2.3 Tsebiso ya ho kgaotsa mosebetsing e hlomphang Molao mme e tswa ho mohiri, ha e thibelle mosebeletsi ho lwantsha toka, kapa ho ba molaong ka ho kgaotswa ha hae mosebetsing, ho ya ka tumellano ya Molao wa Basebetsi wa 1995, kapa molao o mong le o mong.

5.3 Moputso wa tokollo tshebetsong: Karolo ya 41

Mosebeletsi ya lelekilweng mosebetsing ka baka la ho hlokehang mosebetsing kapa eo konteraka ya hae ya ho sebetsa e fediswang ka ho ya ka karolo ya 38 ya molao wa Ho Hloleha ho Lefa Dikoloto, wa 1936, o na le tokelo ya ho amohela moputso wa tokollo tshebetsong wa beke selemong se seng le se seng seo a se sebeditseng.

5.4 Setifikeiti sa Nako e Sebeditsweng: Karolo ya 42

Ha mosebeletsi a kgaotsa mosebetsing, o tshwanela ho fumana setifikeiti se bontshang dilemo tseo a di sebeditseng.

**6. THIBELO YA HO HIRWA HA BANA LE HO SEBEDISWA KA QOBELLO:
DIKAROLO TSA 43 - 48**

- 6.1 Ke tlolo ya molao ho batla kapa ho dumella ngwana yo tlase ha dilemo tse 15 ho sebetsa.
- 6.2 Bana ba dilemo tse ka tlase ho tse 18 ha ba a tshwanela ho etsa besebetsi e sa tshwaneleng dilemo tsa bona kapa ho etsa seo se ka ba ntshang kotsi.
- 6.3 Ho baka, ho batla le ho kopa hore batho ba bang sebetse ka qobello ke tlolo ya molao.

**7. HO FAPANA HA METHEO E BOHLOKWA YA MOLAO WA KHIRO:
DIKAROLO TSA 29 - 50**

- 7.1 Tumellano e kopanetsweng e fihlelletsweng ke lekgotla la ditherisano, e ka kengwa sebakeng sa, kapa ha qhelelwa thoko motheo o mong wa molao wa khiro, ka ntle le tse latelang:
- (a) tshwanelo ya ho lokisa nako ya mosebetsi ho ya ka tsa bophelo bo botle le tshireletso le maikarabelo a lelapa a basebeletsi (Dikarolo tsa 7, 9 & 13);
 - (b) phokotso ya tshireletso e fuwang basebeletsi ba sebetsang bosiu [Dikarolo tsa 17(3) le (4)];
 - (c) phokotso ya matsatsi a phomolo a selemo ho fihlella a e ba ka tlase ha beke tse pedi (Karolo ya 20);
 - (d) phokotso ya tokelo ya matsatsi a ho ya beleha (Karolo ya 25);
 - (e) phokotso ya tokelo ya matsatsi a phomolo a dumelletsweng ha motho a kula (Dikarolo tsa 22 & 24); le
 - (f) kganyetso ya ho hira bana le ho sebedisa ba bang ka qobello (Karolo ya 48).
- 7.2 Ditumellano tsa seboka le tsa motho a le mong di ka kena sebakeng sa, kapa tsa qhelela thoko motheo o mong wa molao wa khiro ho ya ka Molao kapa ka setlamo sa karolwana (Karolo ya 49).
- 7.3 Letona la tsa Mesebetsi le ka nka setlamo sa karolwana ho fetola kapa ho qhelela thoko motheo o mong wa molao wa khiro. Sena se ka etsuwa hape ka kopo ya mohiri kapa mokgatlo wa bahiri (Karolo ya 50).
- 7.4 Setlamo sena se ke ke sa fumantshwa ka ntle le ha yunione ya kgwebo e emelang basebeletsi e dumellana le phetoho ena kapa e fumane monyetla wa ho tshwara dipuisano le Letona. Setshwantsho sa setlamo sa karolwana se lokela ho bewa pontsheng ke mohiri tulong ya mosebetsi, mme se tshwanela ho fumaneha ha bonolo ha basebeletsi ba se hloka (Karolo ya 50).

8. SETLAMO SA KAROLWANA: KAROLO YA 51

Setlamo sa karolwana se ka nkuwa ha ho hlongwa metheo ya molao wa khiro karolwaneng le sebakeng se itseng.

9. HO DISA, HO KENGWA TSHEBETSONG LE TSAMAISO YA MOLAO: DIKAROLO TSA 63 - 81

- 9.1 Bahlahlobi ba tsa mesebetsi ba tshwanela ho eletsa basebeletsi le bahiri ka ditokelo le ditshwanelo tsa bona ho ya ka ditumellano tsa melao ya khiri. Ba a hlahloba, ba batlisisa ditletlebo, mme ba ka hlafa batho ka dipotso le ho hlahloba, ho etsa ditshwantsho mme ba nke direkoto le ditokomane tse ding tse hlokalalang (Dikarolo tsa 64 - 66).
- 9.2 Mohlahlobi a ka nehela mohiri ya sa hlompheeng Molao lengolo la qoso. Lengolo la qoso le ka nna ya fetisetwa ho Lekgotla la tsa Mesebetsi (Dikarolo tsa 68 - 73).
- 9.3 Basebeletsi ha ba a tshwanela ho kgethollwa ha ba sebedisa ditokelo tsa bona ho ya ka Molao ona (Dikarolo tsa 78 - 81).

10. KA MOO MOTHO A NKUWANG A LE MOSEBELETSI KA TENG: KAROLO YA 83A

- 10.1 Motho ya sebeletsang, kapa ya fanang ka tshebeletso, mothong e mong o nkuwa e le mosebeletsi ha:
- (a) mokgwa kapa dihora tsa ho sebetsa di latela tsamaiso le taolo e itseng;
 - (b) mokgwa kapa dihora tsa ho sebetsa di latela tsamaiso le taolo e itseng;
 - (c) a le karolo ya mokgatlo kapa kgwebo ya mohiri;
 - (d) a sebeleditse motho e mong bonyane dihora tse 40 ka kgwedi dikgweding tse tharo tse fetileng;
 - (e) e be o tshepetse mothong eo e mong ka ditjhelete;
 - (f) a fuwe dithulusu kapa disebediswa tsa hae tsa ho sebetsa; kapa
 - (g) ha a sebeletsa feela, kapa a fana ka tshebeletso, mothong a le mong.
- 10.2 Ha e nngwe ya dintlha tsena e le teng, motho eo o nkuwa e le mosebeletsi ho fihlela mohiri a hlahisa bopaki ba hore ha ho jwalo.

11. Kakaretso:

Ke tlolo ya molao ho:

- (a) thibela kapa ho leka ho susumetsa ka mokgwa o sa nepahalang motho ya etsang mosebetsi wa hae ho ya ka Molao ona;
- (b) fumana kapa ho leka ho fumana tokomane efe kapa efe ka bomenemene, boqitolo, kapa ho bontsha kapa ho fana ka tokomane e hlahlisitsweng ka bonokwane kapa tsela e fosahetseng;
- (c) iketsa eka o mohlahlobi wa tsa mesebetsi kapa motho ofe kapa ofe ya etsang mosebetsi ho ya ka Molao ona;
- (d) hana kapa ho hloleha ho araba ka botlalo potso efe kapa efe e dumelletsweng ke molao, e botswang ke mohlahlobi wa tsa mesebetsi kapa motho ofe kapa ofe ya etsang mosebetsi ho ya ka Molao ona;
- (e) hana kapa ho hloleha ho phethahatsa kopo kapa taelo efe kapa efe e dumelletsweng ke molao, ya mohlahlobi kapa motho ofe kapa ofe ya etsang mosebetsi ho ya ka Molao ona;

- (f) thibela kapa ho sitisa mohlahlobi wa tsa mesebetsi, kapa motho ofe kapa ofe ya phethang mosebetsi ho ya ka Molao ona (Karolo ya 92).

BCEA 1E**(Molawana wa 2)****DINTLHA TSA BOTLHOKWA TSA MOLAO WA THAPO, 1997****TSHOSOBANYO E TSHWANETSE GO TSHOLWA KE MOTHAPI GO YA KA KAROLO 30 YA MOLAO.**

Se se latelang ke tshosobanyo ya dikarolwana tsa Botlhokwa tsa Molao wa Thapo, 1997, jaaka o tlhabolotswe.

1. TIRAGATSO YA MOLAO: KAROLO YA 3

Molao o, o ama badiri le bathapi botlhe kwa ntle ga maloko a State Security Agency, le badiri bao e leng baithaopi ba ba sa duelweng ba ba direlang mokgatlo o o thuang fela.

Dintlha tsa botlhokwa tsa thapo tse di leng mo Molaong di dira jaaka karolo ya tumalano ya thapo ya badiri e e leng mo Molaong. Dingwe tsa dintlha tse, fela e seng tsothe, di ka fetolwa ka bongwe kgotsa ka ditumalano ka kakaretso go latela ditshiamelo tsa Molao (Bona temana ya 7 kwa tlase) .

2. TAOLO YA DINAKO TSA GO DIRA: KGAOLO YA BOBEDI**2.1 Tiragatso**

Kgaolo e ga e ame badiri bagolo ba bolaodi, badiri ba ba dirang jaaka barekisi mme ba tsamaya mafelo ka mafelo, mme dinako tsa bona tsa tiro di le ka fa tlase ga diura tse di 24 ka kgwedi.

2.2. Dinako tsa go dira tsa tlwaelo: Karolo 9

Ga go mothapi yo o tla kopang kgotsa a dumelele modiri go dira go feta:

- (a) diura di le 45 ka beke;
- (b) diura di le robongwe ka letsatsi fa modiri a dira malatsi a matlhano kgotsa ka fa tlase ga botlhano ka beke, kgotsa
- (c) diura di le robedi ka letsatsi lepe fa modiri a dira malatsi a a fetang a matlhano ka beke.

2.3. Nako e e okeditsweng: Karolo 10

2.3.1 Mothapi ga a dumelwa go kopa kgotsa go letlelela modiri go:

(a) dira nako e e tlotseng kwa ntle ga fa go dumelanwe;

(b) dira go feta:

(i) diura tse tharo tsa nako e e okeditsweng ka letsatsi; kgotsa

(ii) diura tse di lesome tsa nako e e okeditsweng ka beke.

2.3.2 Tumulano e ka se batle kgotsa ya letla gore modiri a dire go feta diura di le 12 ka letsatsi lepe.

2.3.3 Tumulano e e utlwanetsweng e ka oketsa nako e e okeditsweng go ya go diura di le 15 ka beke go fitlha dikgwedi tse pedi mo pakeng nngwe le nngwe ya dikgwedi di le 12.

2.3.4 Nako e e okeditsweng e tshwanetse go duelwa ga 1.5 go boeletsa madi a a duelwang ka tlwaelo kgotsa modiri a ka dumela go newa malatsi a khunologo a a duelwang.

2.4. Beke ya tiro e e sosobantsweng: Karolo 11

2.4.1 Modiri a ka dira diura tse di 12 ka letsatsi a sa duelwe madi a nako e e okeditsweng fela fa go le tumalano e e kwetsweng gareng ga gagwe le mothapi.

2.4.2 Tumulano e, e ka se batle kgotsa dumelele modiri go dira go:

(a) feta diura di le 45 ka beke;

(b) feta diura di le lesome tsa nako e e okeditsweng ka beke epe; kgotsa

(c) feta malatsi a le matlhano ka beke.

2.5. Tekatekanyo ya diura tsa tiro: Karolo 12

2.5.1 Tumulano e e tlhakanetsweng e ka dumelela diura tsa tiro go lekalekangwa go fitlha go kgwedi tse nne.

2.5.2 Modiri yo o golegwang ke tumalano ya go nna jalo e e utlwanetsweng ya nako ya go dira, ga a dumelwa go dira go feta:

(a) selekanyo sa diura di le 45 ka beke tsa nako e e tlwaelegileng go nako yotlhe ya tumalano;

(b) selekanyo sa diura di le tlhano tsa nako e e okeditsweng ka beke go nako yotlhe ya tumalano.

2.6. Dinako tsa go ja: Karolo 14

2.6.1 Modiri o tshwanetse go bona nako ya go ja ya metsotso e le 60 morago ga go dira diura di le tlhano.

- 2.6.2 Tumulano e e kwadilweng e ka:
(a) fokotsa nako ya dijo go ya go metsotso e le 30;
(b) nn le nako ya dijo ya badiri ba ba dirang kwa tlase ga diura di le thataro ka letsatsi.

2.7. Dinako tsa go ikhutsa tsa letsatsi lengwe le lengwe le tsa beke: Karolo 15

Modiri o tshwanetse go nna le nako ya go ikhutsa ya diura tse di 12 ka tatelano letsatsi lengwe le lengwe le ya ura tse 36 ka tatelano ka beke go tsenyeletswa letsatsi la tshipi. Letsatsi le, le ka dirisetwa tiro fela fa go dumelanwe.

2.8 Tuelo ya go dira ka Sontaga: Karolo 16

- 2.8.1 Modiri yo o dirang ka malatsi mangwe a tshipi, o tshwanetse go duelwa madi a gagwe a tlwaelo gabedi.
- 2.8.2 Modiri yo o dirang ka letsatsi la tshipi ka tlwaelo, o tshwanetswe go duelwa ga 1.5 go feta madi a gagwe a tlwaelo.
- 2.8.3 Modiri yo o dirileng ka letsatsi la tshipi a ka duelwa ka go fiwa letlha la khunologo fa go dumelanwe.

2.9 Go dira bosigo: Karolo 17

- 2.9.1 Badiri ba ba dirang bosigo gare ga ura ya 18:00 bosigo le ya 06:00 mo mesong, ba tshwanetswe go lebogwa ka go okelediwa madi kgotsa go fokolelediwa nako ya go dira le go tlamelwa ka dipalamo.
- 2.9.2 Badiri ba ba dirang ka metlha morago ga 23:00 le pele ga 06:00 tsatsi le le latelang, ba tshwanetse ke go itsesiwe ka:
(a) malwetse le dikotsi tseo di ka ba diragalelang; le
(b) tetlelelo ya go lekolwa ke ngaka.

2.10 Malatsi a boikhutso: Karolo 18

- 2.10.1 Badiri ba tshwanetse go duelwa tuelo ya bone ya tlwaelo tebabg le letsatsi lengwe le lengwe la boikhutso le le welang mo letsatsing la tiro.
- 2.10.2 Go dira ka tsatsi la boikhutso go ka dirwa fela ka tumalano mme go duelwa madi a a tlwaelegileng a letsatsi gabedi.
- 2.10.3 Fa go dumelanwe, letsatsi la boikhutso le ka ananngwa ka le le lengwe ka tumalano.

3. KHUNOLOGO: KGAOLO YA BORARO

3.1 Tiragatso

Kgaolo ya khunologo ga e ame modiri yo o dirang diura tse di ka fa tlase ga tse di 24 ka kgwedi mme le khunologo e e neetsweng go feta e e dumeletsweng mo kgaolong e.

3.2 Khunologo ya ngwaga: Dikarolo 20 & 21

3.2.1 Badiri ba dumeletswe malatsi a a 21 ka tatelano e le malatsi a khunologo ka ngwaga kgotsa, fa go dumelanwa, letlha mo go a a 17 a a dirilweng kgotsa ura e le nngwe go diura di le 17 tse di dirilweng.

3.2.2 Khunologo e tshwanetse go letlelelwa pele ga kgwedi di le tshela morago ga sedikadikwe sa nako ya khunologo se fela.

3.2.3 Mothapi ga a tshwanela go duela modiri go na le go mo letlelela go tsaya nako ya gagwe ya khunologo kwa ntle ga fa a mo koba mo tirong.

3.3 Khunologo ya bolwetse: Dikarolo 22 - 24

3.3.1 Modiri o dumeletswe beke di le tshela tse di duelwang morago ga nako ya kgwedi tse di 36 tsa go dira.

3.3.2 Modiri o dumeletswe letlha le le lengwe la khunologo ya bolwetse e e dueletsweng morago ga go dira malatsi a a 26.

3.3.3 Mothapi a ka kopa lokwalo lwa ngaka jaaka sesupo go modiri yo o ntseng a sa tle tirong lobaka la malatsi a mabedi a a latelanang kgotsa go modiri yo o itlwaeditseng go sa tle tirong, pele a ka mo duela.

3.4 Khunologo ya pelegi: Dikarolo 25 & 26

3.4.1 Modiri yo o mo mmeleng o dumeletswe kgwedi tse nne tse di latelanang tsa khunologo ya pelegi.

3.4.2 Modiri o o mo mmeleng kgotsa yo e leng motsetse ga a dumelelwa go dira tiro e e kotsi mo go ena kgotsa mo ngwaneng wa gagwe.

3.5 Khunologo ya tiro tsa legae: Karolo 27

3.5.1 Badiri bao e seng ba nakwana ba dumelelwa malatsi a mararo a merero ya se legae a a duelelwang ka ngwaga fa modiri a a kopa. Modiri a ka kopa malatsi a a ntseng jaalo fa go belegilwe ngwana wa gagwe kgotsa a lwala, kgotsa fa a tlhokafaletswe ke monna kgotsa mosadi, kgotsa

molekane yo a nnang nae, motsadi wa modiri, motsadi yo e leng molebeledi, ngwana wa gagwe, ngwana yo a mo godisang mme e se wa gagwe, ditlogolo kgotsa bana baabo.

3.5.2 Mothapi a ka kopa bopaki jo bo utlwalang.

4. DINTLHA TSA THAPO LE TUELO: KGAOLO YA BONE

4.1 Tiragatso

Kgaolo e ga e ame modiri yo o dirang ura tse di ka fa tlase ga tse 24 ka kgwedi.

4.2 Ntlha tsa bothapi tse di kwetsweng: Karolo 29

4.2.1 Mothapi o tshwanetse go naya modiri fa a simolola tiro tshedimosetso e e kwetsweng ka ntlha tse:

- (a) maina le aterese e e tletseng ya mothapi;
- (b) leina le maemo a modiri kgotsa tlhaloso ka bokhutshwane ya tiro eo modiri a thapetsweng yona;
- (c) mafelo ao modiri a tsileng go dira go one;
- (d) letlha la thapo;
- (e) diura tsa tiro le malatsi ao modiri a tlang go dira ka ona;
- (f) tuelo le mokgwa o o dirisitsweng go e fitlhelela;
- (g) tuelo ya nako e e okeditsweng;
- (h) tuelo tsa madi tse dingwe tse di fa thoko;
- (i) tuelo tse dingwe tseo e seng tsa madi le boleng jwa tsona;
- (j) tuelo di tla duelwa morago ga nako e kae;
- (k) madi a a gogwang;
- (l) khunologo tsotlhe tseo e leng tshwanelo ya modiri;
- (m) nako ya tsiboso le ntlha tsa tumalano ka ga tiro;
- (n) tlhaloso ya khuduthamaga kgotsa setlamo sa karolwana se se tebang le kgwebo ya mothapi;
- (o) nako eo modiri a dirileng ka yona mo tirelong e nngwe eo e ka tsewang jaaka e e ka tseweletsang pele ngwaga tsa thapo tsa modiri;
- (p) maina a ditokomane tse dingwe tsa modiri tseo di ka tsewang go nna bontlhannngwe jwa tumalano mme di ntse di fana ka felo leo khopi nngwe le nngwe e ka bonwang teng.

4.2.2 Ntlha tsa botlhokwa di tshwanetse go boeletswa sešwa fa bothapi bo fetoga.

4.3 Go itsise badiri ka ga ditshwanelo tsa bona: Karolo 30

Bopaki ka go itsese badiri ditshiamelo tsa bona bo tshwanetse go bewa mo pontsheng mo felong jwa tirelo ka puo tsotlhe tse di diriswang mo tirelong.

4.4 Peo ya makwalo-tsamaiso: Karolo 31

Mothapi mongwe le mongwe o tshwanetse go nna le letatamana le le tshotseng tshedimosetso e e latelang:

- (a) leina la modiri le tiro ya gagwe;
- (b) nako eo a e dirileng;
- (c) madi ao a a duetsweng;
- (d) letlha leo a tsetsweng ka lona fa a le ka fa tlase ga dingwaga di le **18**; le
- (e) tshedimosetso nngwe le nngwe e e tlhokegang.

4.5 Tshedimosetso ka ga tuelo: Karolo 33 le 33A

4.5.1 Tshedimosetso e e latelang e tshwanetse go fiwa modiri e kwetswe fa a duelwa:

- (a) leina la mothapi le aterese;
- (b) leina la modiri le tiro eo a e dirang;
- (c) nako ya tuelo;
- (d) tuelo ka madi;
- (e) tlhagiso ya madi a a gogilweng mo tuelong;
- (f) madi tota ao modiri a a duetsweng;
- (g) dipalo tseo di amanang le tuelo ya modiri di ka bontshwa fa go tlhokega:
 - (i) mokgwa o o dirisitsweng go bala tuelo le go bala madi a a tsentsweng go duela nako ya tiro e e okeditsweng;
 - (ii) lenaane la diura tseo e leng tsa tlwaelo le tsa nako e e okeditsweng;
 - (iii) lenaane la diura tseo di dirilweng ka tsatsi la tshipi kgotsa ka malatsi a boikhutso a nako eo; le
 - (iv) fa go dumelanwe ka mokgwa wa tekatekanyo ya nako tsa go dira, diura tsotlhe tseo di dirilweng di tshwanetse tsa tlhagelela.

4.5.2 Mothapi ga a swanela ho:

- (a) kopa kgotsa ho amohela tuelo ho sa modiri hore a mo neele tiro;
- (b) kopa modiri ho reka thoto, ditlhaliswa kapa ditirelo mo ho yene, kgwebo kapa mang kapa mang yo kgethileng ke yene

4.6 Phokotso le melao e e tebang le dituelo: Dikarolo 34 le 34A

4.1 Mothapi ga a tshwanela go goga madi a tuelo go tswa mo mogolong wa modiri ntle le fa-

4.1.1 Modiri a dumela ka go kwala gore go gogiwe tuelo ya molato o o rileng

4.1.2 Go gogiwa ga tuelo go dirwa ka tumalano e e kopanetsweng, molao, taelo ya kgotlatshekelo kgotsa tsereganyo

4.2 Go gogiwa ga tuelo tebang le tshenyo kgotsa tatlhegelo e e bakilweng ke modiri go ka dirwa fela ka tumalano, mme morago ga fa mothapi a sena go latela thulaganyo e e siameng

4.2 Bathapi ba tshwanetse go duela dituelo tsa madi a a gogilweng le dikabelo tsa bone mo letloleng le le maleba mo sebakeng sa malatsi a le supa.

4.7 Mokgwa wa go bala tuelo le mogolo: Karolo 35

4.7.1 Tuelo e balwa go ya ka diura tseo modiri a di dirileng.

4.7.2 Tuelo ya mogolo e balwa ka go boeletsa tuelo ya beke ka bone le siripa tharong ($4\frac{1}{3}$).

4.7.3 Fa tuelo e balwa ka mokgwa mongwe o e seng nako, kgotsa fa tuelo ya modiri e sa tsepama gonna e fetoga nako nngwe le nngwe, tuelo e tshwanetse go balwa ka go sala morago mokgwa o modiri a duetsweng ka ona jaana:

(a) beke tse 13 tse di fitileng; kgotsa

(b) fa e le gore modiri o thapilwe nako e khutshwane, go tla balwa nako eo fela.

4.7.4 Bathapi le badiri ba tshwanetse go leba lenane le le phasaladitsweng mo Kuranteng ya Mmuso go tlhomamisa fa karolo e e riling ya tuelo e dira bontlhabongwe ba mogolo wa modiri tebang le dipalelo tse di dirilweng go latela Molao o.

5. KGAOLO MO TIRONG: KGAOLO YA BOTLHANO**5.1 Tiragatso**

Kgaolo e ga e akaretse modiri yo o dirileng ura tse di ka fa tlase ga tse di 24 ka kgwedi a direla mothapi.

Tsiboso ya kgaolo mo tirong: Karolo 37

5.2.1 Tiro e e dumelanweng e ka kgaolwa fela fa modiri a neilwe tsiboso ya nako e e seng ka fa tlase ga:

- (a) beke, fa modiri a ntse a thapilwe nako e kana ka dikgwedi tse thataro kgotsa ka fa tlase;
- (b) beke tse pedi, fa modiri a ntse a thapilwe go feta dikgwedi tse thataro mme e seng go feta ngwaga;
- (c) beke tse nne, fa modiri a ntse a thapilwe ngwaga le go feta kgotsa e le modiri mo polaseng kgotsa mo legaeng la mothapi mme e bile a dirile go feta dikgwedi tse thataro.

5.2.2 Tumalano e e kopanetsweng e ka khutshwafatsa kitsiso ya dibeke tse nne go ya go dibeke tse di seng ka fa tlase ga tse pedi.

5.2.3 Tsiboso ya go kgaolwa ga tiro ke mothapi ga e ganele modiri go tsaya kgato tsa semolao kgatlhanong le mothapi ka tlogediso eo, se se dumelelwa ke Molao wa Tsamaiso ya Bothapi wa 1995, kgotsa mo molaong mongwe le mongwe.

5.3 Tuelo ya fa o tlogela tiro: Karolo 41

Modiri yo o tlogedisitsweng tiro kgotsa yo konteraka ya gagwe ya tiro e fedisitsweng go ya ka karolo 38 ya Molao wa Botšhoni, 1936 o tshwanetswe ke go fiwa tuelo ya beke go ngwaga mongwe le mongwe o a o dirileng.

5.4 Lokwalo la bosupi jwa tiro: Karolo 42

Fa modiri a tlogela tiro o tshwanetse go fiwa lokwalo la bosupi jwa tiro.

6. KILETISO YA GO THAPIWA GA BANA LE TIRO KA PATELETISO: DIKAROLO 43 - 48

6.1 Ke tlolomolao go kopa kgotsa go letlelela bana ba ba ka fa tlase ga mengwaga e 15.

6.2 Bana ba mengwaga e e ka fa tlase ga 18 ga ba a tshwanela go go kopiwa kgotsa go letlelela go dira tiro e e fetang mengwaga ya bone kgotsa e e bayang matshelo a bone mo kotsing.

6.3 Go baka, go pateletsa kgotsa go batla gore mongwe a dire ka pateletso ke tlolomolao.

7. Go fetofetolwa ga Metheo e e Botlhokwa ya Molao wa Bothapi: Karolo 49 & 50

7.1 Tumalano ya botlhe eo e dumelanweng ke khuduthamaga ya baemedi e ka tsenya kgotsa ya tlosa motheo o o botlhokwa wa molao wa bothapi kwa ntle ga:

- (a) thulaganyo ya nako ya go dira ya badiri ka ntlha tsa kalafi, tshireletso le mabaka a a tebang le magae a badiri (Karolo 5, 7, 9 & 13);
- (b) go fokotsa tshireletso e e neilweng badiri bao ba dirang bosigo [Karolo 17(3) & (4)];
- (c) go fokotsa nako ya khunologo ya ngwaga gonna tlase ga beke tse pedi (Karolo 20);
- (d) go fokotsa tshwanelo ya go tsaya khunologo ya pelegi (Karolo 25);
- (e) go fokotsa tshwanelo ya go tsaya khunologo ya bolwetse ka moo go dumelelwang ka teng (Karolo 22 - 24); le
- (f) kganelo ya thapo ya bana le tirelo ka pateletso (Karolo 48).

7.2 Tumalano tse di tlhakanetsweng le tsa motho ka nosi di ka tloswa kgotsa tsa dirisiwa boemong jwa metheo e e botlhokwa ya bothapi gontse go tlhokometswe tsepamo go molao kgotsa setlamong sa karolwana (Karolo 49).

7.3 Letona la Ditirelo le ka tsaya tshwetso go fetola kgotsa go tlogela motheo o o botlhokwa wa bothapi. Se se ka dirwa fa mothapi a ka tsenya kopo kgotsa e tsengwa ke lekgotla la bathapi (Karolo 50).

7.4 Setlamo sa karolwana se kanna sa se sekegelwe tsebe fa lekgotla la badiri leo le okametseng badiri le sa dumalane kgotsa le sa newa tshono ya go nna le tshwaelo go Letona. Khopi ya setlamo sa karolwana e tshwanetse go bewa pontsheng mo felong la tiro ke mothapi mme le fitlhelelwe ke badiri (Karolo 50).

8. Setlamo sa karolwana: Karolo 51

Setlamo sa karolwana se ka dirwa go tsibosa badiri ka metheo e e botlhokwa ya molao wa bothapi tirelong le mo tikologong.

9. Mokgwa wa tlhokomelo tsenyo-tirisong le tsamaisong ya molao: Karolo 63 - 81

9.1 Batlhatlhobi ba ditirelo ba tshwanetse go tsibosa badiri le bathapi ka ditokelo le ditlamo tsa bone go ya ka molao o o laolang bothapi. Ba tshwanetse go dira ditlathobho, go batlisisa dilelo, ba ka tlhoma batho ba

ba rileng dipotso, go tlhatlhoba dikwalo le go di tlosa fa go tlokega (Karolo 64 - 66).

- 9.2 Motlhatlhobi a ka neelana ka lokwalo-kgapeletso go mothapi yo o sa diring ka go latela molawana o rileng wa molao ona. Lekwalo-kgapeletso le ka etswa taelo ya lekgotla la bodiri (Karolo 68 - 73).
- 9.3 Badiri ga ba tshwanela go kgethololwa gonne ba dirisa tshwanelo ya bone go ya ka Molao o (Karolo 78 - 81).

10. KE MANG YO O TSEWANG E LE MODIRI: KAROLO 83A

- 10.1 Motho yo o direlang mongwe, kgotsa yo o tlamelang tirelo go mongwe o tsewa e le modiri fa:-
- mokgwa kgotsa diura tsa gagwe tsa go dira di laolwa kgotsa di tlhokomelwa;
 - mokgwa kgotsa diura tsa gagwe tsa go dira di laolwa kgotsa di tlhokomelwa;
 - e le karolo ya mokgatlho wa mothapi;
 - fa a diretse motho mongwe sebaka sa diura di ka nna 40 ka kgwedi mo dikgweding tse tharo tse di fetileng;
 - fa a ikaegile ka motho mongwe tebang le ekonomi;
 - fa a tlamelwa ka didiriswa kgotsa ditlabakelo tsa go dira;
 - fa a direla motho kgotsa a tlamela motho a le mongwe ka tirelo.
- 10.2 Fa nngwe ya dintlha tse e le teng, go tsewa gore motho yoo ke modiri go fitlhela mothapi a netefatsa gore ga se modiri.

11. KAKARETSO:

Ke tlolomolao go:

- kgoreletsa kgotsa go ema motho pele le go mo tsenya mowa o o sa siamang fa a dira tiro go ya ka Molao o;
- bona kgotsa go leka go nna le dikwalo tse di tshotseng tshedimosetso ka mokgwa wa bokhukhuntswane kgotsa ka go neelana ka bopaki kgotsa dikwalo tseo e seng tsa bonnete;
- itira motlhatlhobi wa ditirelo kgotsa motho mongwe yo a nang le maemo a go dira tiro e e rileng go ya ka Molao o;
- gana kgotsa go palelwa go araba ka botlalo potso tsa molao tseo a di bodiwang ke motlhatlhobi wa ditirelo kgotsa motho mongwe yo o neilweng thata ya go dira tiro go ya ka Molao o;
- gana kgotsa go palelwa go dira go ya ka kopo ya semolao ya motlhatlhobi wa ditirelo kgotsa motho mongwe yo o neilweng thata ya go dira tiro go ya ka Molao o;

- (f) tlhokisa kgotsa go kgoreletsa motlhatlhabi wa ditiro kgotsa motho mongwe yo o neilweng thata ya go dira tiro go ya ka Molao o (Karolo 92).

BCEA 1F

(Umtsetfo lolawulako 2)**TIMO LETISISEKELO TEMTSETFO WEKUCASHA, 1997****SIFINYETO LEKUMELE SIGCINWE NGUMCASHI NGEKWESIGABA 30**

Loku lokulandzelako sifinyeto semiyalo yetigaba letibaluleke kakhulu teTimo letiSisekelo teMtsetfo wekuCasha, 1997, njengobe uguculiwe.

1. KUSETJENTISWA KWEMTSETFO: SIGABA 3

Lomtsetfo usebenta kubo bonkhe tisebenti nebacashi ngaphandle kwemalunga eState Security Agency, nemavolontiya langakhokhelwa lasebentela tinhlango letisitako.

Timo letisisekelo tekucasha leticuketfwe ngulomtsetfo tenta incenye yenkontileka yekucashwa kweTisebenti lefakwe kulomtsetfo. Letinye, kodvwa hhayi tonkhe, timo tekucasha tingehlukana ngekwehlukana kwetivumelwano tebantfu nobe telicembu macondzana netimiso teMtsetfo. (buka sigaba 7 ngaphasi).

2. KULAWULA KWESIKHATSI SEKUSEBENTA: SAHLUKO SESIBILI**2.1 Kusetjentiswa**

Lesahluko asisebenti etisebentini letiasetikhundleni letisetulu, tisebenti letitsengisako letihambako netisebenti letisebenta emahora langaphasi kwalangu-24 ngenyanga.

2.2 Emahora ekusebenta latayelekile: Sigaba 2

Akekho umcashi lotawuphokelela nobe avumele sisebenti kwekutsi sisebente emahora lengca lawa lalandzelako:

- (a) emahora l langu-45 ngeliviki;
- (b) emahora layimfica nobe nguliphi lilanga nangabe sisebenti sisebenta emalanga lasihlanu nobe lamancane kunaloko ngeviki; nobe ke
- (c) emahora lasiphohlongo nobe ngaliphi lilanga nangabe sisebenti sisebenta emalanga lengca kulasihlanu ngeliviki.

2.3 Kusebenta sikhatsi lesengetiwe: Sigaba 10

2.3.1 Umcashi kufanele angaphokeleli futsi angavumeli sisebenti sente loku lokulandzelako:

- (a) sisebente sikhatsi lesengetiwe ngaphandle nangabe sisebenti sivumelane nemcashi;
- (b) sisebente emahora lengca lalishumi esikhatsi lesengetiwe ngeliviki.

2.3.2 Sivumelwano angeke sidzinge nobe sivumele kutsi sisebenti sisebente emahora langetulu kwelishumi nakubili nanobe nguluphi lusuku.

2.3.3 Sivumelwano selinyenti ngesikhatsi sekusebenta sikhatsi lesingetiwe singangetelwa kumahora langu-15 ngeliviki esikhatsini lesingaze sifike etinyangeni letimbili kunobe ngusiphi sikhatsi setinyanga letilishumi nakubili.

2.3.4 Sisebenti lesisebenta sikhatsi lesengetiwe kufanele siholelwe ngalokuphindvwe kayi-1.5 kubala kususelwa emholweni wase nobe-ke sikhetsa kutsatsa lilanga.

2.4 Liviki lekusebenta lelifinyetiwe: Sigaba 11

2.4.1 Sisebenti singavumelana nemcashu ngalokubhalwe phasi kwekutsi sitawusebenta emahora langu-12 ngelilanga nobe ngaphandle kwekutfola imali yesikhatsi lesengetiwe.

2.4.2 Lesivumelwano lesi asiphocelili nobei asivumeli kwekutsi sisebenti sisebente ngaletindlela letilandzelako:

- (a) ngetulu kwemahora langu-45 evikini;
- (b) ngetulu kwemahora lalishumi esikhatsi lesengetiwe nobe ngaliphi liviki;
- (c) ngetulu kwemalanga lasihlanu nobe ngaliphi liviki.

2.5 Kubalwa kwemahora emsebenti: Sigaba 12

2.5.1 Sivumelwano sebanfufu labanyenti singavumela kwekutsi emahora abalwe ngemva kwesikhatsi lesingange tinyanga letine.

2.5.2 Sisebenti lesiphocelwa sivumelwano sebanfufu labanyenti lesinjena ngeke sikhone kusebenta ngendlela lelandzelako:

- (a) emahora langu-45 ngeliviki, esikhatsini lekuvunyelwane ngaso;
- (b) emahora lengca kulasihlanu esikhatsini lesengetiwe ngeliviki; kute kuphele sikhatsi lekuvunyelwane ngaso.

2.6 Tikhatsi tekudla: Sigaba 14

2.6.1 Sisebenti kufanele sibe nesikhatsi sekudla imizuzu lengu-60 ngemva kwekusebenta emahora lasihlanu.

2.6.2 Sivumelwano lesibhaliwe:

- (a) singehlisa sikhatsi sekudla siye emizuzwini lengu-30;
- (b) singenta kutsi kungabi khona sikhatsi sekudla kuTisebenti labasebenta sikhatsi lesingaphasi kwemahora lasitfupha ngelilanga.

2.7 Sikhatsi sekuphumula ngelilanga nobe ngeliviki: Sigaba 15

Sisebenti kufanele sitfole sikhatsi lesingangemahora langu-12 lalandzelanako ngelilanga nobe emahora langu-36 lalandzelanako ngeliviki, nasekubalwa neLisontfo, ngaphandle nangabe sisebenti sente sivumelwano lesitsite nemcashi.

2.8 Umholo wekusebenta ngeMasontfo: Sigaba 16

- 2.8.1 Sisebenti lesihle sisebenta ngeLisontfo kumele siholelwe imali lephindwe kabili.
- 2.8.2 Sisebenti lesisebenta njalo ngeLisontfo kumele siholelwe imali lephindwe kayi-1.5 emholweni waso.
- 2.8.3 Kungavunyelwana kutsi sisebenti sitsatse lilanga nangabe sisebente ngeLisontfo.

2.9 Kusebenta ebusuku: Sigaba 17

- 2.9.1 Tisebenti letisebenta ebusuku emkhatsini kwa-18:00 na-06:00 kumele bancesheteliswe ngekukhokhelwa sibonelelo nobe ngekunciphisa emahora esikhatsi sekusebenta nekwekuhamba kumele kube khona.
- 2.9.2 Tisebenti letisebenta njalo kusukela nga-23:00 futsi nangaphambi kwa-06:00 ngelilanga lelindzelako kumele batiswe-:
 - (a) ngetingoti temphilo nekuphepha; futsi
 - (b) nangelilungelo lekuhlolwa ngetemphilo.

2.10 Emaholide esive: Sigaba 18

- 2.10.1 Tisebenti kumele tikhokhelwe liholo laso leletayelekile kunobe nguliphi liholide leliwela ngaphasi kwelilanga lekusebenta.
- 2.10.2 Kusebenta ngeliholide lesive kungentiwa ngemuva kwekuvumelana nemcashi futsi liholo libe nguleliphindwe kabili.
- 2.10.3 Liholide lesive langantjintjiswa ngalelinye lilanga ngekuvumelana.

3. ILIVI: SAHLUKO SESITSATFU

3.2 Kusetjentiswa

Lesahluko lesikhuluma ngelivi asisebenti emmuntfwini losebenta emahora langaphasi kwalangu-24 ngenyanga kanye nelivi leniketwe ngekwecisa imvume yelivi ngaphasi kwalesahluko.

3.2 Ilivi yemnyaka: Sigaba 20 & 21

- 3.2.1 Tisebenti kufanele tibe nelivi emalanga langu-21 lalandzelanako ngemnyaka, nobe ngesivumelwano, lilanga linye ngemuva kwemalanga langu-17 lasetjentiwe nobe lihora linye ngemuva kwemahora langu-17 lasetjentiwe.
- 3.2.2 Ilivi kufanele inikwe kungakendluli tinyanga letisitfupha emva kwekuphela kwesikhatsi selifu yemnyaka.
- 3.2.3 Umcashi akavumeleki kwekutsi aholele sisebenti entele kwekutsi sisebenti singatsatsi ilivi, ngaphandle nangabe sisebenti sesiyayekeliswa kusebenta.

3.3 Ilivi yekugula: Sigaba 22 - 24

- 3.3.1 Sisebenti sinemalungelo elivi yekugula lengemaviki lasitfupha lakhokhelwako etinyangeni letingu-36.
- 3.3.2 Etinyangeni tekucala letisitfupha, sisebenti sivumelekile kwekutsi sitsatse lilanga linye lelivi yekugula lekhokhelwako ngemuva kwemalanga langu-26 lasetjentiwe.
- 3.3.3 Umcashi unelilungelo lekutsi acele incwadzi yadokotela lenebufakazi bekugula ngaphambi kwekuholela sisebenti nangabe silove emalanga lamabili lalandzelanako nobe-ke uma sisebenti sihlala silova njalo nje.

3.4 Ilivi yekuyawubeleka: Sigaba 25 & 26

- 3.4.1 Sisebenti lesitetfwele sinelilungelo lekutfole emalanga ekuphumula langaba tinyanga letine letilandzelanako.
- 3.4.2 Sisebenti lesitetfwele nobe lesesikhulisa umntfwana asikavumeleki kusebenta umsebenti longabangela kwekutsi sibe sengotini nobe umntfwana abe sengotini.

3.5 Ilivi yekunakekela tinkinga temindeni: Sigaba 27

- 3.5.1 Tisebenti leticashwe ngalokugcwele tinelilungelo lekutfole emalanga lamatsatfu ngemnyaka ekutsi tinakekele tinkinga temindeni yato, ngekucela, uma kubelekwe umntfwana wesisebenti nobe agula, nobe esehlakalweni sekushona kwemlingani wesisebenti, nobe umtali, umtali welusiso, mkhulu nobe gogo, umntfwana, umntfwana welusiso, umtukulu nobe umnakabo.
- 3.5.2 Umcashi angadzinga bufakazi lobuvakalako.

4. IMININGWANE YEKUCASHA KANYE NEKUHOLELA TISEBENTI:

SAHLUKO SESINE

4.1 Kusetjentiswa

Lesahluko asisebenti kumuntfu losebenta emahora emahora langaphasi kwa-24 ngenyanga.

4.2 Imininingane lebhalwe phasi yekucasha: Sigaba 29

4.2.1 Umcashi kufanele anikete sisebenti lemininingwano lelandzelako ngalokubhalwe phasi ngaphambi kwekucala kusebenta:

- (a) ligama leliphelile kanye nelikheli lemcashi;
- (b) ligama nesikhundla sesisebenti nobe kuchaza ngalokufishane ngemsebeni;
- (c) tindzawo letahlukene tekubentela;
- (d) lilanga lekucashwa;
- (e) emahora ekusebenta kanye nemalanga ekusebenta lavumelekile;
- (f) imali letawuholwa kanye nendlela yekuyibala;
- (g) lizinga lekukhokhela kusebenta sikhatsi lesengetiwe;
- (h) lokunye lokukhokhelwa ngemali;
- (i) nobe nguyiphi inkhokhelo lengesiyo imali nebungako bayo;
- (j) sikhatsi lesibekiwe sekuholela;
- (k) Imali ledvonswe emholweni.
- (l) kwatisa ngekutsatsa ilivi;
- (m) sikhatsi sekwatisa ngekuyekela umsebeni nobe sikhatsi senkontileka;
- (n) imniningwane ngelibandla nobe ngesincumo sencenye letsite lekungiyona inakekela tidzingo temcashi;
- (o) sikhatsi lesisetjentwe kulenye indzawo lesingabalelwa esikhatsini sekusebenta kwakhe;
- (p) luhla lwanobe nguyiphi imiculu leyiincenye yenkontileka, lubonise indzawo lapho kungatfolakala khona lemiculu.

4.2.2 Imininingane kumele ibukeyetwe uma tivumelwano tekucasha tigucuka.

4.3 Kwatisa tisebenti ngemalungelo: Sigaba 30

Sitatimende semalungelo esisebenti kufanele sikhonjiswe emsebenitini ngetilimi letisemtsetfweni letisetjentiswako.

4.4 Kugcinwa kwemabhuku: Sigaba 31

Wonkhe umcashi kufanele agcine emabhuku lacuketse lemniningwane lolandzelako:

- (a) ligama lesisebenti nesikhundla;
- (b) sikhatsi lesisetjentiwe;
- (c) imali leholelwe;
- (d) lusuku lwekutsalwa nangabe sisebenti singaphasi kweminyaka lengu-18; kanye
- (e) nalokunye lokungabonakala kusidzingo kwekutsi kubhalwe phasi.

4.5 Imininingwane mayelana nemholo: Sigaba 33 na 33A

4.5.1 Lemniningwane lolandzelako kumele ibhalwe phasi uma sisebenti sikhokhelwa:

- (a) libito nelikheli lemcashi;
- (b) libito nesikhundla sesisebenti;
- (c) sikhatsi lesikhokhelwako;
- (d) imali lekhokhwako;
- (e) imali ledvonswe emholweni;
- (f) imali lekhokhelwe sisebenti emva kwekudvonsa.
- (g) uma kuhambisana nekubalwa kwemholo wesisebenti-
 - (i) linani lemholo wesisebenti nelinani lesikhatsi lesengetiwe;
 - (ii) sibalo semahora latayelekile newesikhatsi lesingetiwe lasetjentwe ngesikhatsi semholo;
 - (iii) sibalo semahora lasetjentiwe ngeLisontfo nobe ngeliholide lesive; futsi
 - (iv) uma sivumelwano sesikhatsi sekusebenta lesilingene siphetsiwe, sibalo lesiphelele semahora latayelekile newesikhatsi lesengetiwe lasetjentwe ngesikhatsi sekulinganiswa.

4.5.2 Umcashi akavumeleki :

- (a) Kufuna nobe kwemukela inkhokhelo esisebentini nobe kulomele sisebenti nobe lofuna umsebenti macondzana nekucashwa nobe kunika umsebenti nobe ngusiphi sisebenti.
- (b) Kufuna sisebenti nobe lofuna umsebenti kutsi atsenge imphahla , umkhicito nobe tinsita kumcashi nobe nguyiphi ibhizimisi nobe umuntfu lonconywe ngumcashi.

4.6 Kukhishwa kwemali naletinye tento mayelana nemholo: Tigaba 34 na-34A

- 4.6.1 Umcashi angeke akhokhe umholo wesisebenti ngaphandle kwekutsi-
 - (a) Sisebenti siyavuma ngekubhala ngalokukhokhwa kwesikweleti lesitsite;
 - (b) Kukhokhwa kwemali kwentiwa ngekulandzela sivumelwano selinyenti, ngemtsetfo, ngemyalolo wenkantolo nobe ngesincumo semlamuli.
- 4.6.2 Kudvonswa kwemali ngenca yetintfo letiphulwe nobe lokulahlwe sisebenti kungentiwa kuphela ngekuvumelana futsi emva kwekutsi umcashi alandzela letinchubo letikahle.
- 4.6.3 Bacashi kumele bakhokhe timali labatidvonsile temicombelelo yetikhwama tenzuzo tetisebenti esikhwameni kungakendluli tinsuku letisikhombisa.

4.7 Kubalwa kwemiholo: Sigaba 35

- 4.7.1 Imiholo ibalwa ngesibalo semahora lasetjentiwe;
- 4.7.2 Umholo wenyanga yinye kufanele ube ngulophindwe kane nencenye yinye kuletintsatfu ($4\frac{1}{3}$) emholweni weliviki.
- 4.7.3 Nangabe umholo ubalwa ngalenywe indlela ngaphandle kwesikhatsi, nobe uma umholo ushintjashintja kakhulu etikhatsini letinyenti, nobe nguliphi lihlo kumele libalwe kususela-

- (a) emavikini langu-13 lasetjentiwe; nobe
- (b) Uma acashwe sikhatsi lesifishane, kusukela kuleso sikhatsi.

4.7.4 Bacashi netisebenti kumele bahlole ishejuli leshicelelwe kuGazethi yaHulumende kuncuma kutsi ngabe sigaba lesitsite semholo senta incenye yeliholo lesisebenti ngenhloso yetibalo letentiwe kuloMtsetfo.

5. KUNCANYULWA KWEMSEBENTI: SAHLUKO SESIHLANU

5.1 Kusetjentiswa

Lesahluko asisebenti kumuntfu losebentela umcashi wakhe emahora langaphasi kulangu-24 ngenyanga.

5.2 Satiso sekuncanyulwa kwemsebenti: Sigaba 37

5.2.1 Inkontileka yekucasha ingancanyulwa nangabe satiso sinikwe ngesikhatsi lesingekho ngaphatsi-

- (a) kweliviki linye, nangabe sisebenti sisebente tinyanga letisitfupha nobe ngaphasi;
- (b) kwemaviki lamabili, nangabe sisebenti sisebente tinyanga letindlula kuletisitfupha kodvwa hhayi ngetulu kwemnyaka;
- (c) kwemaviki lamane, nangabe sisebenti sisebente umnyaka nobe ngetulu, nobe sisebenta lipulazi nobe sisebenti sasemakhishini lesisebente ngetulu kwetinyanga letisitfupha.

5.2.2 Sivumelwano selinyenti singafinyeta sikhatsi sesatiso semaviki lamane sibe ngemaviki langetulu kwalamabili.

5.2.3 Satiso kufanele siniketwe sisebenti ngalokubhalwe phasi ngaphandle nangabe sisebenti singakafundzi.

5.2.4 Satiso sekuncanyulwa kwemsebenti lokwentiwa ngumcashi ngekulandzela uMtsetfo akuvimbeli sisebenti kutsi sicele inseyeya ngebulungiswa bekuyekeliswa ngekulandzela uMtsetfo webuDlelwano bemiTemisebenti, 1995 nobe ngumuphi umtsetfo.

5.3 Umholo wekuyekeliswa emsebentini: Sigaba 41

Sisebenti lesiyekeliswa kusebenta ngekwetidzingo tekusebenta nobe inkontileka yakhe incanyulwa ngekwesigaba 38 seMtsetfo wekuPheliswa kwemsebenti, 1936 ufaneleke kutfola imali yeliviki linye kuyo yonkhe iminyaka layisebentile.

5.4 Sitifiketi sekusebenta: Sigaba 42

Nangabe sisebenti siyekeliswa kusebenta kufanele sinikekwe sitifiketi semsebenti lesisho kutsi usebente sikhatsi lesingakanani.

6. KUNGAVUMELEKI KWEKUCASHWA KWEBANTFWANA KANYE NEKUSEBENTISA NGENKANI: TIGABA 43 - 48.

- 6.1 Kulicala kulindzela nobe kuvumela kutsi umntfwana longaphasi kweminyaka lengu-15 budzala asebente.
- 6.2 Bantfwana labangaphasi kweminyaka lengu-18 abangalindzelwa nobe bavunyelwe kutsi bente umsebenti longetulu kweminyaka yabo nobe longabafaka engotini.
- 6.3 Kubangela, kuphokelela nobe kufuna kusebentisa ngenkani kulicala.

7. KWEHLUKANA KWETIMO LETISISEKELO TEKUCASHA: TIGABA 49 - 50

- 7.1 Sivumelwano selinyenti lesiphetfwe ngumkhandlu wetincumo singavala nobe sikhipe nobe ngusiphi simo lesisisekelo sekucasha ngaphandle kwaloku lokulandzelako:
 - (a) umsebenti wekuhlela sikhatsi sekusebenta mayelana nemphilo nekuphepha kwetisebenti kanye netikhatsi tekubukana netinkinga temndeni (Sigaba 7, 9 & 13).
 - (b) kwehlisa kuvikeleka kwetisebenti letisebenta ebusuku (Sigaba 17(3) & (4));
 - (c) kwehlisa ilivi yemnyaka ibe ngaphasi kwemaviki lamabili (Sigaba 20);
 - (d) kwehlisa lilungelo lelifuyekuyawubeleka (Sigaba 25);
 - (e) kwehlisa lilungelo lelifuyekugula levumelekile (Sigaba 22 24); kanye
 - (f) nekungavumeleki kwekusebenta kwemntfwana nekusebentisa ngenkani (Sigaba 48).
- 7.2 Tivumelwano telinyenti netivumelwano tebantfu tingavala kuphela nobe tikhipe timo letisisekelo tekucasha ngendlela levunyelwe ngulomtsetfo nobe sincumo sesikhungo (S.49).
- 7.3 INdvuna yeTisebenti ingenta sincumo lesingehluka nobe singafaki simo lesisisekelo sekucasha. Loku kungentiwa futsi ngumcashi nobe inhlango yebacashi ngekucela invume (Sigaba 50)
- 7.4 Sincumo singeke sinikwe ngaphandle kwekutsi inhlango yetisebenti lemele tisebenti iyivumele ingucuko nobe itfole litfuba lekubonana neNdvuna. Ikhophi yanobe ngusiphi sincumo ikhonjiswe emsebentini futsi kumele kwentiwa siciniseko sekutsi tisebenti tiyayitfolo (Sigaba 50).

8 TINCUMO TESIKHUNGO: SIGABA 51

Tincumo tesikhungo tingentiwa kutsi kubekwe timo letisisekelo teTisebenti esikhungweni nobe endzaweni.

9 KULANDZELELA, KUPHOCELELA NETINCHUBO TEMTSETFO: SIGABA 63-81

- 9.1 Bahloli betemisebenti kungumsebenti wabo kutsi beluleke bacashi kanye netisebenti ngemalungelo kanye netibopho tabo ngekulandzela lomtsetfo wetekucasha. Benta luhlolo, baphenye ngetikhalo futsi bangabuta bantfu, bahlole, bente emakhophi baphindze batsatse imibhalo kanye naleminyane imiculu (Sigaba 64-66).
- 9.2 Umhloli wetemisebenti anganika umcashi longalandzeli lomtsetfo umyalo wekutsi awulandzele. Lomyalo ungentiwa umyalo weNkantolo yeTisebenti.
- 9.3 Tisebenti angeke tibandlululwe ngekwenta emalungelo ato ngekulandzela uMtsetfo (Sigaba 78 – 81).

10. UMUNTFU LOTSATFWA NJENGESISEBENTI SIGABA 83A

- 10.1 Umuntfu loseebentela, nobe loniketela ngetinsita, kulomunye umuntfu utsatfwa ngekutsi usisebenti uma-
- (a) indlela nobe emahora lawasebentako alawulwa nobe acondziswa;
 - (b) enta incenye yenhlangano yemcashi;
 - (c) asebentele lomunye umuntfu lokungenani emahora lalingana langu-40 etinyangeni letine letindlulile;
 - (d) abuke kulomunye umuntfu ngekwemnotfo;
 - (e) anikwe tintfo tekusebenta; nobe
 - (f) asebentela nobe entela umuntfu munye umsebenti.
- 10.2 Nangabe linye kulamaphuzu likhona, lomuntfu utsatfwa ngekutsi usisebenti aze umcashi akhiphe bufakazi bekutsi akasiso.

11. JIKELELE

Kulicala kwenta loku-

- (a) kuvimbela nobe kuzama kuyenga umuntfu lowenta umsebenti lotsite ngekulandzela uMtsetfo (Sigaba 78 - 81)
- (b) kutfolo nobe kuzama kutfolo umculu lomisiwe ngekukhwabanisa, ngekucamba emanga nobe ngokuveta umculu longemanga nobe lokhwabanisiwe;
- (c) kutenta umhloli wetemisebenti nobe kuzama kutenta umuntfu lowenta umsebenti ngekulandzela lomtsetfo;
- (d) kwala nobe kwehluleka kuphendvula umbuto losemtsetfweni lobutwa ngumhloli wetekucasha nobe ke lomunye umuntfu lowenta umsebenti ngekulandzela uMtsetfo;

- (e) kwala nobe kwehluleka kulandzela sicelo lesisemtsetfweni, nobe umyalo losemtsetfweni, lobekwe ngumhloli wetemisebenti nobe lomunye umuntfu lowenta umsebenti ngekulandzela lomtsetfo;
- (f) kuphazamisa nobe kuvimbela umhloli wetemisebenti nobe lomunye umuntfu lowenta umsebenti ngekulandzela lomtsetfo (Sigaba -92).

BCEA 1G

(Matshimbidzele a mulayo: 2)

MULAYO WA NZUDZANYELE YA MATHOLELE WA 1997**MANWELEDZO ANE A FANELA U TEVHELWA NGA MUTHOLI ZWI TSHI ELANA NA TSHIPIDA TSHA 30**

Zwi tevhelaho ndi manweledzo a mutevhe wa zwinwe zwipida zwa vhuthogwa zwa Mulayo wa Nzudzanyele ya Matholele wa 1997, sa zwe wa khwinisiswa zwone.

1. Mashumele a mulayo uyu: Tshipida tsha 3

Mulayo u kwama vhashumi vhothe na vhatholi nga nda ha vhashumeli vha zwa State Security Agency na vhashumi vho do nekedzaho vha sa badelwiho vha no shuma kha madzangano a vhuthusedzi.

Maga a mutheo a mulayo wa kutholele ane a wanala kha Mulayo ndi tshipida tsha kontiraka ya u thola ya vhashumi yo katelwaho kha Mulayo. Manwe a maga a kutholele a nga fhambana u ya nga thendelano nthihi kana nnzhi u ya nga zwo netshedzwaho kha Mulayo. (Kha vha sedze kha pharagirafu 7 afho fhasi).

2. MATSHIMBIDZELE A TSHIFHINGA TSHA U SHUMA: NDIMA YA VHUVHILI

Ndima iyi a i elani na vhalangi vhahulwane vha vhashumi na vhashumi vha elanaho na zwa u rengisa vha tshimbilaho, vha shumaho fhasi ha dziiri dza **24** nga nwedzi.

2.2 Iri dza u shuma dzo dowelwaho Tshipida tsha 9

A huna mutholi ane a do toda kana a tendela mushumi uri a shume u fhira:

- (a) iri dza **45** kha vhege inwe na inwe;
- (b) iri dza **9** kha duvha arali mushumi a tshi shuma maduvha matanu kana fhasi ha matanu kha vhege; kana;
- (c) iri dza malo kha duvha arali mushumi a tshi shuma u fhirisa maduvha matanu kha vhege.

2.3 Tshifhinga tsho engedzwaho kha tsho teaho (overtime): Tshipida tsha 10

2.3.1 A huna mutholi ane a do toda, kombetshedza kana u tendela mushumi:

- (a) u shuma u fhira tshifhinga tsho engedzwaho kha tsho teaho nga nndani ha musu vho tendelana;
- (b) u shuma u fhira iri dza fumi dza tshifhinga tsho engedzwaho nga vhege.

2.3.2 Thendelano i nga kha di si tode kana u tendela mushumi u shuma iri dzi no fhira 12 nga duvha.

2.3.3 Thendelano ya tshigwada i nga engedzedza tshifhinga tsho engedzedzwaho tsha u shuma tsha vha iri dza fumithanu nga vhege tshifhinga tshine tsha lingana minwedzi mivhili kha tshifhinga tshinwe na tshinwe tsha minwedzi ya fumimbili.

2.3.4 U shuma tshifhinga tsho engedzwaho kha tsho teaho zwi fanela u badelwa nga u andisa muholo nga 1.5 kha muholo wa mushumi kana mushumi a nga tenda u nekedza tshifhinga tsha u sa shuma tshine tsha do badelwa.

2.4 Vhege ya u shuma ine ya vha na tshifhinga tsho kwakwanyiswaho: Tshipida tsha 11

2.4.1 Mushumi a nga tenda nga u tou kwala u shuma u swikela iri dza 12 nga duvha a sa khou wana mbadelo ya tshifhinga tsho engedzwaho kha tsho teaho.

2.4.2 Thendelano iyi a i kombetshedzi kana u tendela mushumi uri a shume:

- (a) u fhirisa iri dza 45 dza ndowelo kha vhege;
- (b) u fhirisa iri dza 10 dza tshifhinga tsho engedzwaho kha tsho teaho kha vhege nangwe hu ifhio, kana
- (c) u fhirisa maduvha matanu kha vhege nangwe hu ifhio.

2.5. Iri dza u shuma dzo lavhelelwaho: Tshipida tsha 12

2.5.1 Thendelano ya gute i nga tendela iri dza u shuma dzo lavhelelwaho ntha ha tshifhinga tsha u swika kha minwedzi mina.

2.5.2 Mushumi ane a vhofohiwa nga thendelano ya tshigwada yeneyo a nga si shume u fhirisa:

- (a) iri dza 45 dza ndowelo dzo lavhelelwaho nga vhege kha mulanga wa tshifhinga tsho vhwaho;
- (b) iri dza 5 dza tshifhinga tsho engedzwaho kha tsho teaho uri ndi iri dzo lavhelelwaho nga vhege kha mulanga wa tshifhinga tsho vhwaho.

2.6. Zwifhinga zwa u la: Tshipida tsha 14

2.6.1 Mushumi u fanela u vha na tshifhinga tsha u la tsha mithethe ya 60 nga murahu ha iri thanu dza u shuma.

2.6.2 Thendelano yo nwalwaho i nga-

- (a) fhungudza tshifhinga tsha u la tsha ya kha mithethe ya 30;
- (b) thutha tshifhinga tsha u la tsha vhashumi vhane vha shuma iri dzi re fhasi ha dza rathi nga duvha.

2.7. Tshifhinga tsha u awela tsha maduvha na tsha vhege: Tshipida tsha 15

Mushumi u fanela u wana iri dza **12** dzi tevhelanaho dza u awela nga duvha na iri dza **36** dzi tevhelanaho dza u awela nga vhege. Iri idzi dzi fanela u katela na Swondaha, nga nndani ha musu hu na thendelano inwe vho.

2.8. Mbadelo ya u shuma nga dzi Swondaha: Tshipida tsha 16

2.8.1 Mushumi ane a shuma tshinwe tshifhinga nga Swondaha u fanela u badelwa kavhili.

2.8.2 Mushumi ane a shuma nga misi ya Swondaha u fanela u badelwa muholo wo lavhelelwaho wo andiswa nga **1.5**.

2.8.3 Hu fanela u vha na thendelano musu mushumi a tshi do newa tshifhinga tsha u sa shuma tshi no badelwa vhudzuloni ha u shuma hawe nga Swondaha.

2.9. U shuma vhusiku: Tshipida tsha 17

2.9.1 Vhashumi vhane vha shuma vhusiku vhukati ha **18:00** na **06:00** vha fanela u lifhiwa nga mbadelo yo vhwaho sa gemo kana nga u fhungudza iri dza u shuma na u todelwa tshiendedzi.

2.9.2 Vhashumi vhane vha shuma tshifhinga tshothe murahu ha **23:00** na phanda ha **06:00** nga duvha li tevhelaho, vha fanela u divhadziwa:

- (a) nga zwine zwa nga vha khombo kha mutakalo na kha tsireledzo;
- (b) na nga pfanelo dza u thathuvhiwa mutakalo.

2.10. Maduvha a dziholodeni dza vhathu vhothe: Tshipida tsha 18

2.10.1 Vhashumi vha fanela u badeliwa muholo wavho wo doweleaho arali vho shuma nga maduvha a holodeni a vhathu vhothe arali hu uri maduvha ayo a wela nga fhasi ha maduvha a u shuma.

2.10.2 U shuma nga maduvha a dzi holodeni dza vhathu vhothe zwi bva kha thendelano na hone zwi fanela u badelwa kavhili.

2.10.3 Duvha la holodeni la vhathu vhothe li nga tshintshisaniwa na linwe duvha arali ho vha na thendelano.

3. LIVI: NDIMA YA 3

3.1 Khumbelo

Ndima ya livi a i kwami mushumi ane a shumela mutholi na livi iri dzi re fhasi ha dza **24** nga nwedzi na livi yo nekedzwaho nga nda ha ha livi yo teaho ine ya netshedzwa kha iyi ndima.

3.2. Livi ya nwaha: Zwipida a zwa 20 na 21

3.2.1 Vhashumi vho tea u wana livi ya nwaha ya maduvha a **21** a no tevhekana, kana arali hu na thendelano i vhe duvha lithihi kha maduvha manwe na manwe a **17** o shumiwaho, kana i vhe iri nthihi kha iri dza **17** dzo shumiwaho.

3.2.2 Livi i fanela u newa hu sa athu u fhela miwedzi ya rathi hu saathu fhela tshifhinga tsha maduvha a livi a nwaha.

3.2.3 Mutholi ha ngo fanela u badela mushumi vhudzuloni ha u mu nea livi. Izwi zwi nga itea fhedzi arali mushumi a tshi khou litshiswa mushumo.

3.3. Duvha la vhuawelo musu wa u lwala: Zwipida zwa 22 - 24

3.3.1 Mushumi o tea u newa vhege dza rathi dzi badelwaho dza u awela musu wa u vhaaisala kha tshifhinga tsha minwedzi ya **36**.

3.3.2 Nga minwedzi ya u thoma ya rathi, mushumi o tea u newa duvha lithihi lla u awela musu wa u vhaaisala nga mbadelo ya maduvha a **26** o shumiwaho.

3.3.3 Mutholi a nga todathanziela ya mutakalo a sa athu u badela mushumi we a lova maduvha a no fhira mavhili kana mushumi o no dzula nga u lova misi yotho.

3.4. Livi ya u vhudzadze: Zwipida zwa 25 na 26

3.4.1 Mushumi o dihwalaho u tea u fhiwa minwedzi mina i tevhekanaho ya vhudzadze.

3.4.2 Mushumi o dihwalaho kana mushumi a ne a khou thogomela nwana wawe (a ne a vha mudzadze) ho ngo fanela u shuma mishumo ine ya nga vhangha khombo khae kana kha nwana wawe.

3.5. Livi ya u thogomela mula: Tshipida tsha 27

3.5.1 Vhashumi vho tholiwaho lwa tshohe vha tea u newa maduvha mararu a badelwaho nga kwaha a u thogomela mita yavho. Maduvha ayo vha newa nga khumbelo. Khumbelo i nga vha ya musu hu tshi khou bebwa nwana wa mushumi, kana musu mufunwa wa tshothe, kana nga mubebi kana mubebi - mufareli, makhulu, nwana o adoptiwaho, muduhulu kana vhana vha mudi muthihi na mushumi.

3.5.2 Mutholi a nga di vha thanzi yo khwathaho.

4. VHUTANZI HA U THOLIWA NA MBADELO: NDIMA YA VHUNA

Ndima iyi a i kwamani na mutholiwa a no shumela mutholi iri dza fhasi ha **24** nga nwedzi.

4.1 Khumbelo

4.2. Vhutanzi ha u tholiwa ho nwalwaho: Tshipida tsha 29

4.2.1 Mutholi u fanela u nekedza mushumi nga vhutanzi ho nwalwaho sa zwi evhelaho musi a tshi thoma mushumo:

- (a) madzina o fhelelaho na diresi ya mutholi;
- (b) madzina na mushumo wa mushumi kana thalutshedzo pfufhi ya mushumo;
- (c) fhethu ho fhambanaho ha mishumo;
- (d) duvha la u tholwa;
- (e) iri na maduvha o doweleaho a u shuma;
- (f) muholo kana tshikalo na ndila dza mbadelo;
- (g) tshikalo tsha mbadelo ya tshifhinga tsho engedzwaho kha tsho teaho;
- (h) dzhinwe ndila dza mbadelo;
- (i) dzinwe ndila dza mbadelo dzine dza si vhe masheleni kana tshelede dzine dza dzhia tshiimo tsha tshelede na uri dzi ita vhugai;
- (j) misi ya mbadelo;
- (k) u fhungudzwa hunwe na hunwe;
- (l) livi yo teaho;
- (m) tshifhinga tsha u divhadzwa kana u newa nothisi kana tshifhinga tsha thendelano;
- (n) talutshedzo ya khoro kana tshipida tsha liga tshine tsha katela vhubindudzi ha mutholi;
- (o) tshifhinga tshine tsha engedzwa kha tshifhinga tsho no shumiwaho musi hu tshi tanganywa na tshifhinga tsho shumiwaho kha mutholi wa phanda ha hoyu wa zwino;
- (p) manwe manwalo a ne a tshimbilelana na thendelano heyi a ne a bula fhethu hune khophi yawo nga nthihi ya nga wanala hone.

4.2.2 Vhutanzi vhu tea u dovhololwa arali zwitenwa zwa u tholiwa zwi tshi shanduka.

4.3. U divhadza vhashumi nga ha pfanelo dzavho: Tshipida tsha 30

Ndivhadzo ya pfanelo dza vhashumi i tea u taniwa mishumoni nga dzinyambo dzo fhambananaho dzi no shumiswa henefho mishumoni.

4.4. U londa dzirekhodo: Tshipida tsha 31

Mutholi munwe na munwe u tea uri a londe dzirekhodo dzo faraho mafhungo a tevhelaho:

- (a) madzina a mushumi na mushumo wawe;
- (b) tshifhinga tsho shumiwaho;
- (c) muholo wo badelwaho;
- (d) duvha la mabebo arali mushumi e nga fhasi ha minwaha ya **18**;
- (e) vhunwe vhutanzi vhune ha todea.

4.5. Mafhungo a muholo: Tshipida tsha 33 na 33A

4.5.1 Vhutanzi vhu tevhelaho vhu tea u tou nwaliwa musu mushumi a tshi holelwa:

- (a) dzina la mutholi na dresi yawe;
- (b) dzina la mushumi na mushumo wawe;
- (c) tshifhinga tsha u badela;
- (d) mbadelo nga masheleni;
- (e) tshelede irwe na irwe yo fhungudzwaho muholoni;
- (f) tshelede yone yone yo badelwaho;
- (g) arali izwi zwi tevhelaho zwi tshi kwamana na mbalo ya muholo wa mushumi, kha zwi sumbedzwe:
 - (i) tshikalo tsha muholo (mbuelo) ya mushumi na tshifhinga tsha mbadelo;
 - (ii) tshivhalo tsha iri dzo dowealeho na dza tshifhinga tsho engedzwaho kha tsho teaho tsho shumiwaho nga tshifhinga tsha mbadelo;
 - (iii) tshivhalo tsha iri dzo shumiwaho nga Swondaha kana nga holodeni ya vhatu vhothe ine ya badelwa nga tshifhinga tshenetsho;
 - (iv) thendelano kha tshifhinga tsho anganyiwaho tsha u shuma yo fhela, thanganyelo ya nomboro ya iri dza u shuma dzo tewaho na dzo engedzwaho kha dzo teaho dzo shumiwaho kha tshifhinga tsho anganyiwaho.

4.5.2 Mutholi ha tei u ita zwitevhelaho:

- (a) u toda kana u tangedza mbadelo itshivha kha mutholiwa kana mutho munwe na munwe ane a khou doda mushumo hu u itela uri a tholiwe
- (b) u kombetshedza mutholiwa u renga thundu, zwibveledzwa na tshumelo u bva khae kana u bva kha bindu kana muthu o khethiwaho ngae.

4.6. Zwi kokodzwaho muholoni na minwe milayo i elanaho na muholo: Zwipida zwa 34 na 34A

4.6.1 Mutholi a nga si kokodze tshelede kha muholo wa mushumi nga nda ha musu -

4.6.1.1 Mushumi u tendelana na u kokodzwa ha tshelede malugana na tshikolodo tshine a vha natsho nga u tou nwala:

4.6.1.2 u kokodzwa ha tshelede hu itwa u ya nga thendelano ya tshigwada, mulayo, ndaela ya khothe na vhulamukanyi:

4.6.1.3 u kokodzwa ha tshelede malugana na u xela kana u tshinyadzwa ha tshithu nga mushumi hu nga itwa fhedzi ho thoma ha vha na thendelano na nga murahu ha musu mutholi o tevhedzela ndila yo teaho.

4.6.1.4 vhatholi vha fanela u badela tshelede yo kokodzwaho na zwibviswa zwa mutholi u itela uri tshelede i dzhene kha tshikwama hu sa athu fhela maduvha a sumbe.

4.7. Thanganyelo ya mbadelo na muholo: Tshipida tsha 35

4.7.1 Muholo u tanganyelwa zwi tshi ya kha iri dzo teaho dzo shumiwaho.

4.7.2 Mbadelo kana muholo wa nwedzi ndi nna na tshararu ($4 \frac{1}{3}$) tsha mbadelo kana muholo wa vhege.

4.7.3 Arali zwo tanganyelwa zwi tshi ya kha tshirwe tshifhinga, kana musu mbadelo kana muholo wa mushumi u tshi tsa u tshi gonya, mbadelo inwe na irwe i tea u tanganyelwa zwi tshi bva kha mbadelo kana kha muholo musu:

- (a) ho thoma ha fhira vhege dza **13**, kana;
- (b) mushumi o tholwa lwa tshifhinganyana;

4.7.4 Vhatholi na vhashumi vha fanela u sedza shedulu yo phabulishiwaho kha Gurannya ya Muvhuso u wanulula arali khethekanyo ya mbadelo i tshipida tsha muholo wa mushumi malugana na u vhaliwa ho itwaho u ya nga uyu Mulayo.

5. U LITSHISWA MUSHUMONI: NDIMA YA VHUTANU

Ndima iyi a i kwami mushumi a no shuma iri dza fhasi ha **24** nga nwedzi.

5.1 Khumbelo

5.2. Ndivhadzo ya u litshiswa mushumo: Tshipida tsha 37

5.2.1 Thendelano ya mushumo i imiswa musu ho itwa ndivhadzo/nothisi kha maduvha a sa fhiriho:

- (a) vhege nthihi, arali mushumi o tholwa lwa mirwedzi ya rathi kana ya fhasi ha yeneyo;
- (b) vhege mbili, arali mushumi o tholwa tshifhinga tshi no fhira minwedzi ya rathi fhedzi tshi sa fhiriho nwaha;
- (c) vhege nna, arali mushumi o vha o tholwa lwa nwaha kana u fhira afho, kana arali mushumi wa bulasini kana wa nduni o vha o tholwa tshifhinga tshi no fhira minwedzi ya rathi.

5.2.2 Thendelano ya tshigwada i nga fhungudza tshifhinga tsha vhege nna tsha ndivhadzo tsha iswa kha tshi sa fhiriho vhege mbili.

5.2.3 Ndivhadzo i fanela u itiwa nga lurwalo, nga nnda ha musu mushumi a sa koni u nwala na u vhala.

5.2.4 Ndivhadzo nga u litshiswa mushumo nga mutholi nga ha matshimbidzele a mulayo a i thivheli mushumi u ita khaedu kha mutholi arali hu songo tshimbidzwa zwithu nga ndila yo teaho kana ine ya si vhe ya mulayo kha thathedzo yawe u ya nga Mulayo wa zwa Vhashumi wa 1995 kana mulayo munwe-vho.

5.3. Mbadelo ya u litsha mushumo nga mune: Tshipida tsha 41

Mushumi o litshiswaho mushumo nga u sa fusha thodea dza kushumele kana ane kontiraka yawe ya vha yo fheliswa u ya nga khethekanyo 38 ya Mulayo wa u kundelwa u badela zwikolodo (Insolvency Act) wa 1936 o tea u badelwa magavhelo lwa vhege nthihi kha nwaha munwe na munwe wa tshumelo yawe.

5.4. Thanziela ya tshumelo: Tshipida tsha 42

Musi mushumi a tshi imiswa u shuma, u na pfanelo dza u newa thanziela dza tshumelo.

6. U thivhelwa ha u tholwa ha vhana na u thola nga khombe-khombe: Zwipida zwa 43 - 48

6.1 Ndi mulandu u kombetshedza kana u tendela nwana wa minwaha ya fhasi ha 15 a tshi shuma.

6.2 Vhana vha fhasi ha minwaha 18 a vho ngo tea u shuma kana u nea tshumeloi sa elani na minwaha yavho..

6.3 U kombetshedza muthu u shuma ndi mulandu.

7. Tshanduko dza nyimele dza mushumo: Zwiipida zwa 49-50

7.1 Thendelano yo katelwaho yo tendelaniwaho na khoro yo tiwaho i nga imela kana i nga bvisela nyimele ya mushumo inwe na inwe ya u tholwa nga nna ha zwi tevhelaho:

- (a) mushumo wa u dzudzanya tshifhinga tsha mushumo ho sedziwa mutakalo na tsireledzo na vhifhinduleli ha muta wa vhashumi (Zwipida zwa 7, 9 na 13);
- (b) u fhungudza tsireledzo ine vhashumi vha vhusiku vha i wana (Zwipida zwa 17 (3) na (4));
- (c) u fhungudza maduvha a livi ya nwaha uri a vhe fhasi ha vhege mbili (Tshipida tsha 20);
- (d) u fhungudza livi ya maduvha a livi ya u yo beba (Tshipida tsha 25);
- (e) u fhungudzai livi ya maduvha a u awela lwa u lwala u swika kha maduvha o tendelwaho (Zwipida zwa 22 - 24)

(f) na u thivhela u tholwa ha vhana na u thola lwa khombe-khombe (Tshipida tsa 48)

7.2 Thendelo yo tanganelaho na thendelo ya muthu e ethe i nga imela kana i nga bvisela nyimelo ya vhuthogwa ya kushumele kwo tendelwaho nga mulayo kana nga tshipida tsha dzangano linwe-vho (Tshipida tsha 49).

7.3 Minista wa zwa Mishumo a nga di ita zwa u shandukisa kana a dzhia budo li fhambanaho na nzulele ya vhuthogwa ya kushumele. Hezwi zwi nga kha di itwa nga u tou nwala khumbelo nga mutholi kana nga dzangano la vhatholi (Tshipida tsha 50).

7.4 Linga li nga si tendelwe nga nndani ha musi dzangano lo imelaho vhashumi li tshi nga tenda kha tshanduko kana u vha na vhuimeleli kha Minista. Khophi ya liga i fanela u sumbedzwa nga mutholi fhethu ha mishumo (mushumoni) nahone i fanela u wanala kha vhashumi vhothe (Tshipida tsha 50).

8. Zwipida zwa u dzhia liga: Tshipida tsha 51

Zwipida zwa u dzhia liga zwi nga itwa uri hu bvedze nyimelo dza vhuthogwa dza vhashumi kha dzangano ha hunwe fhethu.

9. U sedzulusa, u kombetshedza na matshimbidzele a mulayo: Zwipida zwa 63 - 81

9.1 Vhaingameli vha zwa mishumo vha fanela u eletshedza vhashumi na vhatholi malugana na pfanelo dzine vha vha nadzo khathihi na zwo teaho zwi elanaho na milayo ya mishumo. Tshavho ndi u sedzulusa, u tusa zwililo na u vhudzisa mafhungo nga vhudalo kha vathu vha tshi khou todisesa , vha tshi ita dzikhophi na u dzhia dzirekhodo na zwiwe zwo walwaho zwine zwa vha zwa vhuthogwa (Zwipinda zwa 64 - 66).

9.2 Muingameli a nga nea mutholi ane a pfuka mulayo ndaela ya u tevhedza mulayo. Ndaela ya u tevhedza mulayo l nga itwa ndaela ya Khoro Ya Vhashumi (S68 - 73).

9.3 Vhashumi a vho ngo fanela u khethululwa kha u shumisa dzi pfanelo dzavho zwi tshi elana na Mulayo uyu (Zwipida zwa 78 - 81).

10. U HUMBULELA URI MUSHUMI NDI UFHIO : TSHIPIDA TSHA 83A

10.1 Muthu ane a shumela munwe kana ane a netshedza munwe muthu tshumelo u dzhiwa sa mushumi arali –

- (a) kushumele kwawe kana iri dza u shuma zwi nga fhasi ha ndaulo;
- (b) kushumele kwawe kana iri dza u shuma zwi nga fhasi ha ndaulo;
- (c) a murado wa dzangano la vhatholi;

- (d) arali o shumela munwe muthu iri dzi no lingana 40 nga nwedzi kha minwedzi miraru yo fhiraho;
- (e) a tshi wana tshelede nga u shumela munwe muthu;
- (f) o nekedzwa dzithulusi kana zwithu zwa u shuma ngazwo kana
- (g) arali a tshi shumela munwe muthu

10.2 Arali tshithihi tsha zwi re afho ntha tshi hone, muthu onoyo u dzhiwa sa mushumi u swikela mutholi a tshi tanziela a si zwone.

11. Zwinwe -vho:

Ndi vhukhakhi u:

- (a) thithisa kana u lingedza u tutuwedza muthu o khakhaho ane a khou shuma mushumo zwi tshi elana na Mulayo uyu;
- (b) wana kana u lingedza u wana lunwalwo lambedzwaho nga ndila ya vhufhura, ya mazwifhi, kana u disa kana u isa zwidombedzwa zwa mazwifhi kana zwa vhufhura;
- (c) musengulusi wa vhashumi kana munwe muthu ane a shuma mushumo u no tshimbilelana na Mulayo uyu;
- (d) hana kana u balelwa u fhindula nga vhudalo mbudziso inwe na irwe i re mulayoni i vhudziswaho nga musengulusi wa vhashumi kana muthu munwe na munwe ane a khou shuma mishumo zwi tshi elana na Mulayo uyu;
- (e) hana kana u balelwa u di tsisa kha mulayo munwe na munwe nga musengulusi wa mishumo kana muthu munwe na munwe a khou shuma mushumo zwi tshi elana na mulayo uyu;
- (f) thivhela kana u thithisa musengulusi wa zwa mishumo kana munwe muthu ane a khou shuma mushumo zwi tshi elana na Mulayo uyu (Tshipida tsha 92).

BCEA 1H

(Xinawana 2)**NAWU WA MASUNGULO YA XIYIMO XO THOLA, 1997****HI KU LANDZELA XIPHEMU XA 30, NKOMISO WU FANELE KU HLAYISIWA HI MUTHORI**

Laha hansi hi ni nkomiso wa swiphemu swa nkoka swa Nawu wa Masungulo ya Xiyimo xo Thola, wa 1997, hi laha wu hundzuriweke.

1. NTIRHISO WA NAWU : XIPHEMU 3

Nawu lowu wu khumba vatirhi hinkwavo xikan'we ni vathori, handleka swirho swa State Security Agency na mutinyiketi loyi a tirhelaka mahala eka mpfhumba ro karhi leri nga ni xikongomelo xo pfuna.

Nawu lowu i wa nkoka ku tlula mintwanano yin'wana. Swinawana swa masungulo swo thola vatirhi leswi nga kona eka Nawu swi vumba xiphemu xa nkontiraka yo thola vatirhi lava sirheleriweke eka Nawu. Van'wana, kambe ku nga ri hinkwavo, swinawana swa masungulo swo thola vatirhi swi nga hambana ku ya hi munhu kumbe mintwanano yo hengenya ku ya hi provhixini ya Nawu (vona ndzimana ya 7 laha hansi.

2. XINAWANA XA NKARHI WO TIRHA : KAVANYISA KA MBIRHI**2.1 Yi kongomisiwa eka mani**

Xiyenge lexi a xi kongomisi eka vafambisi va le henhla va vatirhi, vatirhi vo fana ni vaxavisi lava fambaka ni lava tirhaka tiawara ta le hansi ka **24** hi n'hwetl.

2.2 Tiawara ta siku na siku to tirha : Xiphemu xa 9

Ku hava muthori loyi a nga ta kombela kumbe ku pfumelela mutirhi ku tirha ku tlula:

- (a) **45** wa tiawara hi vhiki;
- (b) tiawara ta nkaye hi siku, loko mutirhi yaloye a tirha masiku ya ntlhanu hi vhiki kumbe ehansi ka vhiki, kumbe
- (c) tiawara ta nhungu hi siku, loko mutirhi yaloye a tirha masiku yo tlula ntlhanu hi vhiki.

2.3 Ku tirha ku tlurisa nkarhi wa ntwanano: Xiphemu xa 10

- 2.3.1 Muthori a nge swi koti ku kombela kumbe ku pfumelela mutirhi k):
- (a) tirha ku tlurisa nkarhi lowu faneleke hanleka ntwanano;
 - (b) tirha ku tlula;
 - (i) tiawara tinharhu ehenhla ka ntirho wa yena wa siku hi siku rin'we; kumbe
 - (ii) tiawara ta khume hi vhiki ehenhla ka ntirho wa yena wa siku na siku.
- 2.3.2 Ntwanano a wu nge koxiwi kumbe ku pfumelela muthoriwa ku tirha ku tlula 12 wa tiawara eka siku rin'wana na rin'wana.
- 2.3.3 Ntwanano wo hlengenyela wu nga andzisa nkarhi wa ntirho wo tlula mpimo ku fika khume-ntlhanu wa tiawara hi vhiki ku fikelela tin'hwetitimbirhi e ka nkarhi wa mpimo wa 12 wa tin'hwetit.
- 2.3.4 Ku tirha ku tlurisa nkarhi wa ntwanano, swi fanele ku hakela mutirhi mali yo tlula muholo wa yena ka 1.5, kumbe mutirhi a nga ha endla ntwanano wa leswaku a va ni nkarhi wo wisa lowu hakeleriwaka.

2.4 Nkomiso wa ntirho wa vhiki : Xiphemu xa 11

- 2.4.1 Mutirhi a nga endla ntwanano hi ku tsala ehansi leswaku u pfumela ku tirha tiawara ta 12 hi siku handleko hakeriwa mali yo tirha ku tlula nkarhi wa ntwanano.
- 2.4.2 Ntwanano lowu wu nge kombeli kumbe ku pfumelela mutirhi ku tirha;
- (a) ku tlurisa tiawara ta 45 hi vhiki;
 - (b) ku tlurisa tiawara ta 10 ehenhla ka ntirho wa yena lowu pfumeleriweke wa vhiki; kumbe
 - (c) ku tlurisa masiku ya ntlhanu evhikini.

2.5 Mpimo wa tiawara ta ntirho : Xiphemu xa 12

- 2.5.1 Ntlawa wa ntwanano wu nga pfumelela leswaku tiawara ta ntirho ti pimiwa hi nkarhi lowu nga fikaka eka tin'hwetit ta mune.
- 2.5.2 Mutirhi loyi a bohiwaka hi ntwanano wo hlengenyela wo tano, a nga ka a nga tirhi ku tlula;
- (a) Mpimo wo ringana 45 wa tiawara hi vhiki eka nkarhi lowu ku twananiweke hi wona.
 - (b) Mpimo wo ringana tiawara ta ntlhanu ehenhla ka ntirho wa yena wa vhiki, eka nkarhi lowu ku twananiweke hi wona.

2.6 Nkarhi wo khomisa nyoka : Xiphemu xa 14

2.6.1 Mutirhi u fanele ku va ni nkarhi wo ringana **60** wa timinete endzaku ka ntlhanu wa tiawara tin'wana ni tin'wana wo khomisa nyoka.

2.6.2 Ntwanano lowu tsariweke wu nga:

- (a) hunguta nkarhi wo khomisa nyoka ku fikela eka **30** wa timinete;
- (b) susa nkarhi wo dya eka vatirhi lava va tirha tiawara leti nga ehansi ka ntsevu hi siku.

2.7 Nkarhi wo wisa wa siku ni wa vhiki : Xiphemu xa 15

Mutirhi u fanele a va ni tiawara to ringana khumbe mbirhi hi siku to wisa ni **36** wa tiawara hi vhiki hi ku landzelelana, leswi swi katsa siku ra Sonto, handleka loko ku endlwile

2.8 Muholo wa ntirho wa Sonto : Xiphemu xa 16

2.8.1 Mutirhi loyi minkarhi yin'wana a tirhaka hi Sonto, u fanele ku holeriwa muholo lowu andzisiweke kambirhi.

2.8.2 Mutirhi loyi a talaka ku tirha hi Sonto, u fanele ku hakeriwa **1.5** ya muholo wa yena lowu toloveriweke.

2.8.3 Ku fanele ku twananiwa hi nkarhi wo chayisa hi Sonto lowu hakeleriwaka.

2.9 Ntirho wa vusiku : Xiphemu xa 17

2.9.1 Vatirhi lava tirhaka vusiku bya le xikarhi ka nkarhi wa **18:00** wa tiawara na **06:00** wa tiawara, va fanele ku hlanguriwa mihloti hi ku engeteleriwa miholo kumbe ku tsemeriwa tiawara ta ntirho no kumeriwa swo famba.

2.9.2 Vatirhi lava talaka ku tirha endzhaku ka awara ya **23:00** ni loko ku nga se ba nkarhi wa **06:00** siku leri landzelaka va fanele ku tivisiwa:

- (a) tinghozi ta rihanyo ni nsirhelelo;
- (b) timfanelo to ya hlahluviwa hi vadokodela.

2.10 Tiholodeyi ta tiko : Xiphemu xa 18

2.10.1 Vatirhi va fanele ku holeriwa muholo ya vona ya ntolovelo hi tiholodeyi leti va ka kona hi masiku yo tirha.

2.10.2 Ku tirha hi siku ya holodeyi swi fanele swi landzela ntwanano wo karhi naswona mutirhi u fanele ku holeziwa muholo lowu andzisiweke kambirhi.

2.10.3 Hi ku landzelela ntwanano, siku ra holodeyi ya tiko ri nga cincana ni siku rin'wana.

3. NKARHI WO WISA : KAVANYISA KA NRHARHU

3.1 Yi kongomisiwa eka mani

Xiphemu xa nkarhi wa ku wisa a xi khumbi mutirhi loyi a tirhaka tiawara leti nga ehansi ta **24** hi n'hweti, ni loko ntwanano wu pfumelela ku nyika nkarhi wo wisa lowu tlulaka lowu pfumeleriweke eka xiyenge lexi.

3.2 Nkarhi wo wisa elembeni : Swiphemu swa 20 & 21

3.2.1 Vatirhi va fanele ku va ni masiku ya **21** yo wisa hi ku landzelelana hi lembe kumbe hi ntwanano, siku rin'we ra masiku ya **17** lawa ya tirhiweke kumbe awara ya **17** wa tiawara.

3.2.2 Nkarhi wo wisa wu fanele ku nyikiwa ku nga se hela tin'hweti ta ntsevu endzhaku ka ku hela ka ndzhendzheleko wo wisa.

3.2.3 Muthori a nga fanelanga ku xava mutirhi hi ku n'wi nyika muholo leswaku a nga teki nkarhi wo wisa ematshan'weni yo n'wi nyika mfanelo leyi, handleka loko munhu a tshika ntirho.

3.3 Ku wisa hikokwalaho ka vuvabyi : Swiphemu swa 22 - 24

3.3.1 Mutirhi u ni timfanelo ta mavhiki ya ntsevu lawa ya hakeriwaka, yo wisa hikokwalaho ka vuvabyi eka tin'hweti ta **36**.

3.3.2 Eka tin'hweti ta ntsevu to sungula, mutirhi u na siku rin'we leri holeriwaka loko a vabya eka masiku man'wana ni man'wana ya **26** lama a ma tirheke.

3.3.3 Muthori a nga kombela vumbhoni bya nhlahluvo eka mutirhi loyi a nga xwa entirhweni masiku yo tlula mambirhi hi ku landzelelana, a nga se n'wi holela kumbe eka munhu loyi a nga tolovela ku xwa entirhweni.

3.4 Ku wisa ko ya tintshuxa : Swiphemu swa 25 - 26

3.4.1 Mutirhi loyi a biheke emirini u ni mfanelo ya tin'hweti ta mune hi ku landzelelana ta ku wisa a kurisa n'wana.

3.4.2 Mutirhi loyi a biheke emirini kumbe loyi a nga ku hlayiseni ka ricece a nga fanelanga ku tirha ntirho lowu nga ni nghozi eka yena kumbe n'wana wa yena.

3.5 Ku wisa mayelana ni timfanelo ta ndyangu : Xiphemu xa 27

3.5.1 Munhu loyi a nga ta tirha vutomi bya yena hinkwabyo entirhweni, u pfumeleriwile ku teka masiku manharhu yo wisa hi lembe, loko a lava ku lulamisa swa ndyangu. Masiku lawa ya nga komberiwa ku fana hi loko ku humelerile leswi landzelaka; loko n'wana wa mutirhi a velekiwa kumbe loko a vabya, loko va humeleriwile hi rifu ra nsati kumbe nuna hambu ku ri xihungatisi lexi mi tshamaka swin'we, mutswari, mutswari loyi u n'wi hlayiseke, kokwana, n'wana, kumbe n'wana loyi u n'wi hlayiseke, ntukulu kumbe makwenu.

3.5.2 Muthori u ni mfanelo yo kombela vumbhoni bya nkoka.

4. VUXOKO-XOKO BYA NTIRHO NI MIHOLO : KAVANYISA KA MUNE

4.1 Yi kongomisiwa eka mani

Xiyenge lexi a xi kongomisi eka vatirhi lava tirhelaka muthori tiawara leti nga hansa ka 24 hi n'hweti.

4.2 Vuxoko-xoko lebyi tsariweke bya ntirho : Xiphemu xa 29

4.2.1 Muthori u fanele ku nyika mutirhi leswi landzelaka swi tsariwile ehansi, loko mutirhi a sungula ku tirha:

- (a) vito ro helela ra muthori ni adirese ya yena;
- (b) vito ni ntirho wa mutirhi, kumbe nkomiso wa ntirho lowu munhu a nga wu tirha;
- (c) tindzhawu to hambana ta mintirho;
- (d) siku ro thoriwa;
- (e) jiwara ta ntirho ni masiku yo tirha;
- (f) muholo kumbe mpimo ni endlelo ro hlayela muholo;
- (g) mpimo wo tirha endzhaku ka tiawara ta ntwanano wa ntirho;
- (h) tindlela tin'wana to holela hi khexe/mali;
- (i) maholele man'wana ni nkoka wa wona;
- (j) nkarhi wa maholelo;
- (k) leswi susiwaka;
- (l) timfanelo ta nkarhi wo wisa;
- (m) nkarhi wa switiviso kumbe nkarhi wa ntwanano;
- (n) nhlamuselo ya huvo yin'wana ni yin'wana kumbe xiboho xo tsema mhaka xa swiyenge lexi sirhelelaka bindzu ra muthori;
- (o) nkarhi wa wena wa ntirho ni muthori loyi u humaka eka yena lowu hlayiwaka eka nkarhi lowu u wu tirheke;
- (p) nongonoko wa mapapila man'wana lawa ya vumbaka xiphemu xa ntwanano wa n'wina, lowu kombisaka laha xiphemu xa papila rin'wana ni rin'wana ri nga kumekaka kona.

4.2.2 Vuxoko-xoko byi fanele ku pfuxetiwa loko milawu ya mintirho yi cinca.

4.3 Ku tivisa vatirhi hi timfanelo ta vona : Xiphemu xa 30

Nhlamuselo ya timfanelo ta vatirhi yi fanele ku kombisiwa entirhweni yi tsariwile hi tindzimi leti tirhisiwaka endzhawini yaleyo.

4.4 Ku hlayisa nxaxameto wa ntirho : Xiphemu xa 31

Muthori un'wana ni un'wana u fanele ku hlayisa nxaxameto wa ntirho lowu wu nga ni mahungu lama landzelaka:

- (a) vito ra mutirhi ni ntirho;
- (b) nkarhi lowu tirhiweke;
- (c) muholo lowu hakeriweke;
- (d) siku ra ku velekiwa loko mutirhi a ri ehansi ka malembe ya **18**; ni
- (e) mahungu man'wana lama faneleke.

4.5 Timhaka ta miholo : Xiphemu xa 33 na 33A

4.5.1 Timhaka leti landzelaka ti fanele ti nyikiwa hi ndlela you tsala ehansi, loko mutirhi a holeriwa:

- (a) vito ra muthori na adirese;
- (b) vito ra mutirhi na ntirho;
- (c) nkarhi wo hakeriwa;
- (d) maholele hi mali;
- (e) leswi susiweke eka muholo;
- (f) muholo loko wu nga susiwanga nchumu; ni
- (g) loko swi fanerile eka hlayelo ra muholo wa mutirhi:
 - (i) mpimo wa muholo wa mutirhi ni mpimo wa ntirho lowu endliweke endzhaku ka tiawara leti ku twananiweke ha tona;
 - (ii) nhlayo ya tiawara leti mutirhi a tirhaka ni nhlayo ya tiawara ta le ndzhaku ka nkarhi lowu ku twananiweke hi wona leti tirhiweke hi nkarhi wa muholo;
 - (iii) nhlayo ya tiawara leti tirhiweke hi Sonto kumbe hi nkarhi wa holodeyi ya tiko; ni
 - (iv) loko ntwanano wu fikeleriwile wa mpimo wa nkarhi wo tirha, nhlayo ya tiawara ta ntirho, leti tirhiweke hi mpimo wa nkarhi wo karhi.

4.5.2 Muthori angaka anga:

- (a) kombeli kumbe ku amukela ntsengo kusuka ka muthoriwa kumbe munhu unwana na unwana loyi alavaku ntirho kuri akota ku thoriwa
- (b) kombeli muthoriwa kumbe munhu unwani na unwani loyi alavaku ntirho ku xava nhundu, mihandzu kumbe vukorhokeri kusuka ka muthori kumbe bindzu kumbe munhu unwana na unwana loyi anga hlawuriwa hi muthori.

4.6 Leswi susiwaka ni milawu yin'wana mayelana ni miholo : Swiphemu swa 34 na xa 34A

- 4.6.1 Mutholi a nga fanelanga ku koka mali eka muholo wa muthoriwa handle ka loko-
(a) Muthoriwa a pfumela hi ku tsala eka ku kokeriwa xikweleti xo karhi..
(b) Ku kokeriwa muholo swi endliwa ntsena ku ya hi ntwanano wo hlengenyela , nawu, ndzeriso wa khoto kumbe nyiketo wa vungheneleri.
- 4.6.2 Ku kokeriwa muholo hikwalaho ko onha kumbe ku lahlekeriwa loku ku vangiweke hi muthoriwa ku nga endliwa ntsena loko ku twananiwile naswona endzhaku ka loko muthori a landzelerile maendlelo lama faneleke.
- 4.6.3 Vatholi va fanele ku hakelela mali leyi kokiweke ni ya mpfuneto wa muthori wa nkwama wa mbuyelo eka nkwama ku nga si hela nkombo wa masiku.

4.7 Mahlayelelo ya muholo : Xiphemu xa 35

- 4.7.1 Miholo yi hlayeriwa mayelana ni tiawara ta ntirho leti ku twananiweke ha tona.
- 4.7.2 Muholo wa n'hweti wu hlayeriwa ka mune ni n'we ka kanharhu ($4\frac{1}{3}$) ka muholo wa vhiki.
- 4.7.3 Loko muholo wu hlayeriwa hi ku tirhisa masungulo man'wana ku nga ri nkarhi ni nkarhi, muholo wu fanele wu hlayeriwa ku landzela;
(a) mavhiki lamo rhanga ya **13**; kumbe
(b) loko u thoriwile nkarhinyana kutani u hakeriwa nkarhi wolowo.
- 4.7.4 Vathori na vathoriwa va fanele ku burisana xedulu leyi kandziyisiweke eka Gazette ya Hulumende ku pima loko muxaka wo karhi wa hakelo wu vumba xiphemu xa muholo wa muthoriwa ku endlela tinhlayo leti endliweke ku ya hi Nawu lowu.

5. KU TSHIKA NTIRHO : KAVANYISA KA NTLHANU

5.1 Yi kongomisiwa eka mani

Xiyenge lexi a xi kongomisi eka mutirhi loyi a tirhelaka muthori(tiawara ta le hansa ka **24** hi n'hweti.

5.2 Xiviko xo tshika ntirho : Xiphemu xa 37

5.2.1 Xiboho xa ntirho xi nga tsemiwa loko mutirhi a endla xiviko lexi nga riki ehansi ka:

- (a) vhiki rin'we, loko muthoriwa a thoriwile tsevu wa tin'hweti kumbe ehansi;
- (b) mavhiki mambirhi, loko muthoriwa a thoriwile ku tlula tsevu wa tin'hweti kambe swi nga tluli lembe;
- (c) mavhiki ya mune, loko muthoriwa a thoriwile nkarhi wo ringana lembe kumbe ku tlula, kumbe mutirhi wa purasi loyi a thoriweke nkarhi wo tlula tsevu wa tin'hweti.

5.2.2 Ntwanano wo hlengenyela wu nga komisa xiviko xa nkarhi wo ringana mune wa mavhiki ku nga vi ehansi ka mavhiki mambirhi.

5.2.3 Xiviko xo tshikisiwa ntirho hi muthori, ku ya hi nawu a xi siveli mutirhi ku ntlontlha xihlawu-hlawu kumbe ku landzela nawu wo hlongola mutirhi ku ya hi Nawu wa Vuxaka wa Ntirho, 1995 kumbe nawu wun'wana.

5.3 Mali leyi mutirhi a nyikiwaka loko a tshika ntirho : Xiphemu xa 41

Loko mutirhi a hlongoriwa entirhweni kumbe loyi kontiraka yo thoriwa yi herisiwile ku ya hi xiphemu xa 38 xa Nawu wa Insolvente wa 1936 u ni mfanelo yo kuma muholo wa vhiki wa lembe rin'wana ni rin'wana ra ku tirha ka yena endzhawini yaleyo.

5.4 Vumbhoni bya ntirho: Xiphemu xa 42

Loko mutirhi a tshika ntirho u ni mfanelo yo kuma papila ra vumboni bya ntirho.

6. KU SIVELA KU TIRHISIWA KA VANA NI KU TIRHA HI NSINDZISO : SWIPHEMU SWA 43 - 48

6.1 I xidyoho ku tirhisa kumbe ku pfumelela nwana la anga hansi ka **15** wa malembe ku tirha.

6.2 Vana lava nga ehansi ka **18** wa malembe a va fanelanga ku tirhisiwa mintirho leyi nga lulamelangiki malembe ya vona kumbe leyi nga vekaka vutomi bya vona ekhombyeni.

6.3 Ku vanga ndzeriso kumbe ku lava nsindziso wa ntirho i xidyoho.

7. KU HAMBANA KA MASUNGULO YA SWIYIMO SWA MINTIRHO : SWIPHEMU SWA 49-50

- 7.1 Ntlawa wa mintwanano leyi ku twananiweke hi yona ni huvo yo bindzurisa yi nga siva kumbe ku siya masungulo ya swiyimo swin'wana ni swin'wana swa ntirho handleka leswi landzelaka:
- (a) Ntirho wo lulamisa nkarhi wo tirha hi ku landzela rihanyo ni nsirhelelo ni timfanelo ta ndyangu wa mutirhi (Swiphemu swa 5, 7, 9, & 13);
 - (b) Ku hunguta nsirhelelo lowu nyikiwaka vatrhi va ni vusiku [Swiphemu swa 5, 17 (3), ni 4)];
 - (c) Ku hunguta nkarhi wo wisa elembeni wu va ehansi ka mavhiki mambirhi (Xiphemu xa 25);
 - (d) Ku hunguta timfanelo ta nkarhi wo tintshunxa (Xiphemu xa 25);
 - (e) Ku hunguta timfanelo to wisa hikokwalaho ka vuvabyi ku fika eka nkarhi lowu pfumeleriweke (Swiphemu swa 22 - 24); ni
 - (f) Ku sivela ku tirhisiwa ka vana ni nsindziso wa ntirho (Xiphemu xa 48).
- 7.2 Ntlawa wa mintwanano ni mintwanano ya munhu yi nga siviwa kumbe ku susiwa ka masungulo ya swiyimo swa ntirho ku fikela laha Nawu wu pfumelaka ku fika kona kumbe ku tsema mhaka (Xiphemu xa 49).
- 7.3 Holobye wa Ntirho a nga endla xiboho xo tsema mhaka ku hambanisa kumbe ku susa masungulo ya xiyimo xa ntirho. Leswi swi nga endliwa hi ku landzela xikombelo xa muthori kumbe mpfumba ra muthori (Xiphemu xa 50).
- 7.4 Xiboho a xi fanelanga ku nyikiwa handleka loko nhlango lowu yimelaka vatrhi wu pfumerile eka ku hambana kumbe wu vile ni nkateko wo endla vuyimeri eka holobye. Nt{ariso wa xiboho wu fanele ku kombisiwa hi muthori entirhweni naswona wu fanele ku nyikiwa mutirhi un'wana ni un'wana (Xiphemu xa 50).

8. XIBOHO XO TSEMA MHAKA XA SWIYENGE: XIPHEMU XA 51

Xiboho xo tsema mhaka xa swiyenge xi nga endliwa ku dzima masungulo ya swiyimo swa vatrhi eka xiyenge ni ndzhawu.

9. KU LANGUTISA, NSIDZISO WO LANDZELA NAWU NI KU YISA NAWU EMAHLWENI : SWIPHEMU SWA 63 - 81

- 9.1 Vakamberi va ntirho va fanele ku tsundzuxa vatrhi ni vathori hi timfanelo ta vona ku ya hi milawu ya ntirho. Va kambela, va endla ndzavisiso wa swiphico naswona va nga vutisa vanhu van'wana swivutiso no va kambela, va endla ntsariso no susa nxaxameto wa ntirho ni mapapila man'wana ya nkoka (Swiphemu swa 64 - 66).

- 9.2 Mukamberi a nga pfuna ku endla papila leri bohaka leswaku muthori loyi a nga landzeleriki nawu a wu landzela. Papila ra xiboho ringa endliwa Xiboho xa Huvo ya Mintirho (Swiphemu swa 68 - 73).
- 9.3 Vtirhi a va fanelanga ku hlawuriwa loko va kombisa timfanelo ta vona hi ku landzela Nawu (Swiphemu swa 78 - 81).

10. NKUMBETELO LESWAKU HI WIHI MUTHORIWA: XIPHEMU XA 83A

- 10.1 Munhu loyi a tirhelaka kumbe a pfunetaka hi ntirho eka un'wana munhu u vuriwa muthoriwa loko –
- (a) matikhomelo yakwe kumbe tiawara to tirha ta lawuriwa kumbe ku komba ndlela;
 - (b) matikhomelo yakwe kumbe tiawara to tirha ta lawuriwa kumbe ku komba ndlela;
 - (c) a ri un'wana a xiphemu xa vtirhi;
 - (d) a tirherile un'wana munhu ku ringana 40 wa tiawara hi n'hweti ku ringana tin'hweti tinharhu leti ti hundzeke;
 - (e) a tshembele eka un'wana munhu hi tlhelo ra swa timali;
 - (f) a nyikiwile switirho swakwe swa ntirho; kumbe
 - (g) a tirhela kumbe a pfuneta hi swa ntirho eka munhu un'we ntena
- 10.2 Loko xin'we xa swihlawulekiso leswi munhu u vuriwa muthoriwa ku kala muthori a seketela leswaku la hi muthoriwa.

11. SWIN'WANA LESWI NGA NGHENISIWAKA

I xidyoho ku:

- (a) sivela kumbe ku ringeta ku kucetela munhu hi ndlela leyi nga fanelangiki ku endla ntirho ku ya hi Nawu;
- (b) kuma kumbe ku ringeta ku kuma papila ro karhi hi vuxisi, ku endla munhu a ku tshemba, kumbe hi ku nyika kumbe ku yisa mapapila ya vunwa;
- (c) xisetela leswaku u mukamberi wa ntirho wo karhi ku ya hi Nawu;
- (d) ala kumbe ku tsanzeka ku hlamula swivutiso swa nawu hi ku hetiseka, leswi vutisiwaka hi mukamberi wa ntirho kumbe munhu un'wana loyi a endlaka ntirho wa yena ku landzela Nawu;
- (e) ala kumbe ku tsandzeka ku landzela xikombelo xa nawu lexi komberiwaka hi mukamberi wa ntirho, kumbe munhu un'wana loyi a nga ku tirheni ka ntirho hi ku landzela Nawu;
- (f) pfala kumbe ku sivela mukamberi wa ntirho kumbe munhu un'wana loyi a nga ku tirheni ka ntirho hi ku landzela Nawu (Xiphemu xa 92).

(UmThetjhwana 2)**AMAJAMO AQAKATHEKILEKO WOMTHETHO WOKUSEBENZA KA 1997.****ISIRHUNYEZO EKUFUZE SIBE KUMQATJHI NGOKWESIGATJANA 30.**

Lokhu okulandelako kusirhunyezo salokho okutjhiwo ziingatjana eziqakathekileko zamaJamo athogekako womThetho wokuSebenza ka 1997, njengokutjhugululwa kwawo.

1. Ukusebenza komthetho: Isigaba 3

UmThetho usebenza kibo boke abasebenzi nabaqatjhi ngaphandle kwamalunga weState Security Agency nabazinikela ekurhelebheni simahla iinhlango ezirhelebha abatlhagako.

Amajamo aqakathekileko wokusebenza amumethwe kilomThetho akha ingxenywe yesivumelwano sabasebenzi sokuqatjha esibalwe emThethweni. Amanye amajamo aqakathekileko wokusebenza, kungasiwo woke, angahluka kancani ngokuya kweemvumelwano zomuntu ngamunye nanyana ngokuhlanganyela, ngokukhambisana neenjamiso zomThetho (qala indima 7, ngenzasi).

2. UKULAWULWA KWESIKHATHI SOKUSEBENZA : ISAHLUKO SESIBILI**2.1. Ukusebenza**

Lesisahluko asisebenzi eensebenzini eziphetheko, iinsebenzi ezikhamba zithengisa begodu nezisebenza ama-iri angaphasi kwama-24 ngenyanga.

2.2. Ama-iri avunyelwe ukusetjenzwa: Isigaba 9

Akunamqatjhi ozakubawa nanyana avumele isisebenzi sisebenze ukweqa:

- (a) ama-iri ma-45 evekeni nanyana ngiyiphi;
- (b) ama-iri abunane elangeni elinye nelinye nangabe isisebenzi sisebenza amalanga amahlanu ukuya ngaphasi evekeni; nanyana
- (c) ama-iri alithoba ngelanga elinye nelinye nangabe isisebenzi sisebenza amalanga angaphezulu kwamahlanu evekeni.

2.3. Isikhathi eseqileko: Isigaba 10

2.3.1. Umqatjhi akukafuzi abawe nanyana avumele isisebenzi bonyana:

- (a) sisebenze isikhathi eseqileko ngaphandle kwesivumelwano;

(b) sisebenze ukweqa:

- (i) ama-iri amathathu wesikhathi eseqileko ngelanga; nanyana
- (ii) ama-iri alitjumi wesikhathi eseqileko ngeveke.

2.3.2. Isivumelwano kungenzeka bona singafuni nanyana sivumele umsebenzi ukusebenza ama-iri angaphezu kwe- 12 ngelanga.

2.3.3. Isivumelwano esenziwe ngokuhlanganyela singandisa ama-iri wokusebenza eqileko ukufikelela etjhumini nahlanu ngeveke eenyangeni ubunengi bazo kungezimbili, kwesinye nesinye isikhathi seenyanga ezili- 12.

2.3.4. Isikhathi eseqileko kufuze sirholelwe i-1.5 ebuyelelweko emrholweni ojayelekileko wesisebenzi nanyana isisebenzi singavunyelwa ukurholelwa ngesikhathi sokuphumula.

2.4. Ukubuthelelwa kweveke yokusebenza: Isigaba 11

2.4.1 Isisebenzi singavuma ngokutlola phasi ukusebenza ema-irini ali-12 ngelanga ngaphandle kokurholelwa imali yesikhathi eseqileko.

2.4.2. Isivumelwano lesi ngekhe sidinge nanyana sivumele isisebenzi sisebenze:

- (a) ama-iri angaphezulu kwama-45 ajayekileko evekeni enye nenye;
- (b) ngaphezulu kwama-iri alitjumi evekeni enye nenye; nanyana
- (c) ukwedlula amalanga amahlanu evekeni enye nenye.

2.5. Ukulinganiswa kwama-iri womsebenzi: Isigaba 12

2.5.1. Isivumelwano ngokuhlanganela singavumela ama-iri wokusebenza bona alinganiswe isikhathi esingangeenyanga ezine.

2.5.2. Isisebenzi esibotjhwe kuzwana okunjalo komuntu wo ke asikwazi ukusebenza ukudlula:

- (a) isilinganiso sama-iri ama-45 ajayelekileko ngeveke ngesikhathi ekuvunyelenwe ngaso;
- (b) isilinganiso sama-iri amahlanu eqileko wesikhathi okuvunyelenwe ngaso ngeveke.

2.6. Isikhathi sokudla: Isigaba 14

2.6.1. Isisebenzi kufuze sibe nesikhathi sokudla esingaba mizuzu ema-60 ngemva kokusebenza ama-iri amahlanu.

2.6.2. Isivumelwano esitlolweko singa:

- (a) phungula isikhathi sokudla sibe mizuzu ema-30;
- (b) phelisa isikhathi sokudla ebasebenzini abasebenza ama-iri amancani kunasithandathu ngelanga.

2.7. Isikhathi sokuphumula ngamalanga nangeveke: Isigaba 15

Isisebenzi sifanele ukuba nesikhathi sokuphumula esima-iri ali-12 alandelanako ngelanga nesikhathi esima-iri ama-36 alandelanako wokuphumula ngeveke, ngaphandle kokobana kuvunyelenwe ngenye indlela, kufanele kufakwe uSondo.

2.8. Ukubhadelwa kokusebenza ilanga langoSondo: Isigaba 16

2.8.1. Isisebenzi esisebenza ngabanye aboSondo kufuze sirholelwe ngokubuyelelwe kabili emrholweni ojayekekileko.

2.8.2. Isisebenzi esisebenza ngokujayekekileko ngaboSondo kufanele sirholelwe ngokubuyelelweko nge 1.5 emrholweni ojayekekileko.

2.8.3. Ngokwesivumelwano, ukusebenza ngoSondo kungarholelwa ngokunikelwa isikhathi sokuphumula.

2.9. Ukusebenza ebusuku: Isigaba 17

2.9.1. Isisebenzi ezisebenza hlangana nama-iri we 18:00 ne 6:00 kufuze zibhadalwe umrholo ongaphezulu nanyana ngokuphungulwa kwama-iri wokusebenza begodu nezinto zokukhwela kufanele zibe khona.

2.9.2. Isisebenzi ezisebenza njalo ngemva kwe 23:00 nanyana ngaphambi kwe 6:00 ngelanga elilandelako kufanele zitjelwe:

- (a) ngengozi yepilo kanye neeyeleliso sokuphepha;
- (b) nelungelo lokupopolwa ziinyanga zesikhuwa.

2.10. Amaholideyi: Isigaba 18

2.10.1. Isisebenzi kufuze zirholelwe umrholwazo ojayekekileko ngokusebenza ngeholidi enye nenye ewela ngaphasi kwelanga lomsebenzi;

2.10.2. Ukusebenza ngeholidi kuya ngesivumelwano begodu kufanele kurholelwe ngokubuyelelwe kabili emrholweni ojayekekileko;

2.10.3. Iholidi ingathengwa (ingaroyilwa) ngelinye ilanga elijayekekileko lomsebenzi, ngokwesivumelwano.

3. ISIKHATHI SOKUPHUMULA: ISAHLUKO SESITHATHU**3.1. Ukusebenza kwayo**

Isikhathi sokuphumula asisebenzi kubasebenzi abasebenza ama-iri angaphasi kwama-24 ngenyanga kumqatjhi begodu nemalangeneni wokuphumula anikelwe ngaphezulu kwamalanga wokuphumula anikelwe umuntu ngokuya kwalesahluko.

3.2. Isikhathi sokuphumula sonyaka: Isigaba 20 nesa 21

- 3.2.1. Iinsebenzi zivunyelwe amalanga wokuphumula ama-21 alandelanako ngonyaka, nanyana ngesivumelwano selanga linye emalangeneni ali-17 asetjenziweko nanyana i-iri elilodwa ema-irini ali-17 asetjenziweko.
- 3.2.2. Isikhathi sokuphumula kufanele sinikelwe kungakapheli iinyanga ezisithandathu emva kokuphela komzombelezo wesikhathi sonyaka sokuphumula.
- 3.2.3. Umqatjhi akakafuzi ukurholela isisebenzi esikhundleni sokusinikela isikhathi sokuphumula ngaphandle kobanyana asukele umsebenzi.

3.3. Isikhathi sokuphumula ngokugula: Isigaba 22 - 24

- 3.3.1. Isisebenzi sivunyelwe iimveke ezisithandathu ezirholelwako ngesikhathi sokuphumula agula, eenyangeni ezima-36 azisebenzileko.
- 3.3.2. Eenyangeni ezisithandathu zokuthoma isisebenzi sivunyelwe ilanga linye elirholelwako lokuphumula agula emalangeneni amatjumi amabili nesithandathu awasebenzileko.
- 3.3.3. Umqatjhi angafuna incwadi ebuya enyangeni yesikhuwa, ngaphambi kobanyana arholele isisebenzi esingakasebenzi amalanga amabili alandelanako, nanyana njalo nje, emsebenzini.

3.4. Isikhathi sokuphumula sokuyokubeletha: Isigaba 25 & 26

- 3.4.1. Isisebenzi esisebantwini sivunyelwe iinyanga ezine ezilandelanako zesikhathi sokuphumula.
- 3.4.2. Isisebenzi esisebantwini nanyana isisebenzi esithhogomela umntwanaso asikavunyelwa ukusebenza umsebenzi oyingozi nanyana emntwaneni wakhe.

3.5. Isikhathi sokuphumula sokuyokuthhogomela umndeni: Isigaba 27

- 3.5.1. Iinsebenzi eziqatjhelwe kwasafuthi zivunyelwe amalanga amathathu arholelwako wesikhathi sokuthhogomela umndeni ngonyaka, ngesibawo nangabe umntwana wesisebenzi uyokubelethwa nanyana uyagula, nanyana isisebenzi sibhujelwe mlingani waso nanyana umzali, nanyana umzali wokuphiwa, ubabamkhulu nogogo, umntwana wokunikelwa, isizukulwani namkha umntwana wakwabo.
- 3.5.2. Umqatjhi angafuna isiqiniseko esizwakalako.

4. OKUMAYELANA NOMSEBENZI KANYE NOMRHOLO: ISIGABA 4

4.1. ukusebenza

Isahlukwesi asisebenzi esisebenzini esisebenza ngaphasi kwama-iri ama-24 ngenyanga emqatjhini.

4.2. Imininingwana etlolweko yomsebenzi: Isigaba 29

4.2.1. Umqatjhi kufuze anikele isisebenzi lokhu okulandelako lokha sithoma ukusebenza:

- (a) igama elipheleleko nendawo yokuhlala yomqatjhi;
- (b) igama nomsebenzi wesisebenzi, nanyana ihlathululo efitjhani yomsebenzi;
- (c) iindawo ezehlukeneko zomsebenzi;
- (d) ilanga lokuqatjhwa;
- (e) ama-iri ajayelekileko namalanga wokusebenza;
- (f) umrholo nendlela okubalwa ngayo umrholo;
- (g) indlela okubalwa ngayo isikhathi eseqileko somsebenzi;
- (h) ezinye iimali ezibhadalwa esandleni;
- (i) enye nanye imali ebhadalwako nobungakho bayo;
- (j) isikhathi sokurholelwa;
- (k) ukuphungulwa kwemali okhunye nokhunye;
- (l) ilungelo lokuphumula;
- (m) isikhathi sokwaziswa nanyana isikhathi sekontraga;
- (n) ihlathululo yebandla nanyana isiqu nto ngengcanye ethileko yebubulo lomqatjhi;
- (o) isikhathi somsebenzi nomqatjhi waphambili esibalelwa esikhathini sokuqatjha;
- (p) ihlelo lezinye iincwadi eziyengcanye yekontraga ezitjengisa lapho zingafunyanwa khona.

4.2.2. Nangabe kukhona ukuthuguluka okuthileko okutlolwe ngokuqatjhwa kufuze kubuyezwe.

4.3. Ukwazisa iinsebenzi ngamalungelo wazo: Isigaba 30

Istatimende samalungelo weensebenzi kufuze sibekwe lapho abasebenzi bangasibona khona begodu sitlolwe ngamalimi asetjenziswa emsebenzini.

4.4 Ukutlhogonyelwa kwamarekhodi: Isigaba 31

Boke abaqatjhi kumele babe namarekhodi aphele okulandelako:

- (a) igama nomsebenzi wesisebenzi;
- (b) isikhathi esisetjenziweko;

- (c) umrholo;
- (d) ilanga lokubelethwa nangabe isisebenzi sineminyaka engaphasi kwe-18; nanyana
- (e) ngisiphi isaziso esibekelweko.

4.5. Isaziso ngomrholo: Isigaba 33

Okulandelako kufuze kunikelwe ngokutlolweko nangaba isisebenzi siyarholelwa:

- (a) igama nendawo yomqatjhi;
- (b) igama nomsebenzi wesisebenzi;
- (c) isikhathi arholelwa ngaso;
- (d) umrholo awurholelwako;
- (e) okhunye nokhunye okuphunguliweko emrholweni;
- (f) umrholo njengobana ungako ungakaphungulwa; begodu
- (g) umrholo awukhambelane nokubaliweko, kufanele kucalwe okulandelako:
 - (i) indlela isisebenzi sirholelwa ngakho nokurholelwa kwesikhathi eseqileko;
 - (ii) inani lama-iri ajayelekileko nama-iri eqileko asetjenzwe ngesikhathi sokurholelwa;
 - (iii) inani lama-iri asetjenzweko ngoSondo nanyana ngeholidayi yesikhathi lesa;
 - (iv) nangabe kunesivumelwano sokulinganisa isikhathi, ama-iri woke wesikhathi esijayelekileko neseqileko esisebenzweko ngesikhathi lesa.

4.6. Ukuphungulwa nokhunye okumayelana nomrholo: Isigaba 34 no- 34A

- 4.6.1. Umqatjhi akavunyelwa ukuphungula (ukudosa) imali emrholweni womsebenzi ngaphandle-
 - (a) umsebenzi utlola bona uyavumelana nokudoswa kwesikolodo esithileko emrholwenakhe;
 - (b) ukudoswa lokho kwenziwa ngesivumelwano esithethwe ngokuhlanganyela, umthetho, isiyalelo sekhotho nanyana ngokulandela isiyalelo somlamuli.
- 4.6.2. Ukudoswa emrholweni ngamabanga wokulimala nanyana ukulahlekelwa okubangwe msebenzi, kungenziwa kwaphela ngokwesivumelwano nangemva kobana umqhatjhi alandele ikambiso elungileko.
- 4.6.3. Abaqhatjhi bafanele babhadele iindleko kunye neemali ezikhutjiswa basebenzi eenkhwanyeni zokubarhelelwa, eenkhwanyenezo emalangenali alikhomba.

4.7. Ukubalwa komrholo: Isigaba 35

- 4.7.1. Umrholo ubalwa ngama-iri asetjenzweko ajayelekileko.
- 4.7.2. Umrholo wenyanga ubuyelelwe kane nengcenyane yesithathu ($4 \frac{1}{3}$) kiloyo weveke.

4.7.3. Umrholo mawusetjenzwe mayelana nesikhathi nanyana nangabe umrholo wesisebenzii uphenduphenduka okubonakalako ukuya ngesikhathi, umrholo omunye nomunye kumele ubalwe ukuya ngomrholo ngesikhathi:

- (a) esingaphambili kweemveke ezilitjhumi nesithathu; noma
- (b) akaqatjhwe isikhathi esifitjhani, ngesikhathi lesa.

4.7.4. Abaqatjhi nabasebenzi bafanele bona bahlole itjheduli egadangiswe ePhephandabeni lakaRhulumende ukuthola bona ihlobo elithileko lembadelo liwela ngaphasi komrholo womsebenzi ngomnqopho wokwenza iimbalo ngokuya kwalomThetho.

5. UKUSUKELA (UKULISA)UMSEBENZI: ISAHLUKO SESIHLANU

5.1. Ukusebenza

Lesisahluko asikhambelani nesisebenzi esisebenze ngaphasi kwama-iri ama-24 enyangeni emqatjhini.

5.2. Isaziso sokuyekela umsebenzi: Isigaba 37

5.2.1. Ikontraga yomsebenzi ingayekelwa kwaphela nangabe isaziso singaphasi:

- (a) kweveke yinye, nangabe umsebenzi sele aneenyanga ezisithandathu nangaphasi aqhatjhiwe;
- (b) kweemveke ezimbili nangabe umsebenzi sele aneenyanga ezingaphezu kwesithandathu aqhatjhiwe;
- (c) kweemveke ezine nangabe umsebenzi sele anonyaka nangaphezulu aqhatjhiwe, nanyana nangabe kumsebenzi wemapulasini nanyana osebenza ngendlini sele asebenze ngaphezu kweenyanga ezisithandathu.

5.2.2. Isivumelwano esenziwe ngokuhlanganyela singaphungula isikhathi seemveke ezine zesaziso siye phasi, kodwana kungasi ngaphasi kweemveke ezimbili.

5.2.3. saziso kumele sinikelwe ngokutlolwa ngaphambi kobanyana sinikelwe isisebenzi esingakafundi.

5.2.4. Isaziso sokuyekeliswa umsebenzi mqatjhi ukuya ngomthetho sisekelo asivimbeli isisebenzi ukuqalisisa iqiniso nanyana umthetho osetjenzisiwe mayelana nokuqotjhwa kwesisebenzi ukuya ngomthetho sisekelo weensebenzi ka 1995 nanyana imithetho eminye neminye.

5.3. Umrholo wokulisiswa emsebenzini: Isigaba 41

Isisebenzi esiqotjhwe ngokutlhoga iindingo zomsebenzi nanyana ikontraga yaso ipheliswa ngokuya kwesigaba 38 somThetho wokuTjhona (Insolvency Act) ka 1936,

sivunyelwe ukurholelwa umrholo weveke wokulisiswa emsebenzini, unyaka omunye nomunye esiwusebenzileko.

5.4. Isitifikedi sesikhathi esisetjenzweko: Isigaba 42

Isisebenzi nangabe siyekela umsebenzi sinelungelo lokuthola isitifikedi sesikhathi esisisebenzileko.

6. Ukuvimbela ukusetjenziswa kwabantwana nokusetjenziswa ngokukatelelwa: Isigaba 43 - 48

- 6.1. Kuliqala ukuqatjha umntwana oneminyaka engaphasi kweminyaka eli-15;
- 6.2. Abantwana abangaphasi kwe-18 abakavunyelwa ukwenza umsebenzi ongakafaneli iminyaka yabo nanyana ongabafaka engozini.
- 6.3. Ukwenza umonakalo, ukufuna nanyana ukugandelela ukusebenza ngokukatelelwa, kumlandu wobulelesi.

7. Ukuhlukahlukana kwamaJamo aqakathekileko womThetho wokuSebenza: Isigaba 49 - 50

- 7.1 Isivumelwano esibandakanya woke umuntu esenziwe mkhandlu wokubonisana singajamela nanyana singatjhiya isisekelo esinye nesinye sobujamo ngaphandle kokulandelako:
 - (a) umsebenzi wokulungisa isikhathi sokusebenza mayelana nezepilo nokuphepha nokutjheja umndeni weensebenzi (Isahluko 5, 7, 9 no 13);
 - (b) ukuphugulwa kokuphepha okunikelwe iinsebenzi ezisebenza ebusuku [Isahluko 17 (3) no(4)];
 - (c) ukuncitjhiswa kwesikhathi sokuphumula sonyaka sibe ngaphasi kweemveke ezimbili (Isahluko 20);
 - (d) ukuncitjhiswa kwamalungelo wesikhathi sokubeletha (Isahluko 25);
 - (e) ukuncitjhiswa kwelungelo lesikhathi sokugula kufikela ezingeni elibekiweko (Isahluko 22 - 24);
 - (f) nokuvimbela ukusebenzisa abantwana nokusebenzisa ngokukatelelwa (Isahluko 49).
- 7.2. Iimvumelwano ezibandakanya woke umuntu neemvumelwano ezenziwe muntu munye zingajamela nanyana zingatjhiya isisekelo sobujamo sokusebenza ngokuya ngomthetho nanyana isiqu nto sengcenywe.
- 7.3. UNgqongqotjhe wezemisebenzi angenza isiqu nto ukuphendula nanyana ukusukela isisekelo somthetho wobujamo bomsebenzi. Lokhu kungenziwa ngokubawa umqatjhi nanyana inhlango yomqatjhi. (Isahluko 50).
- 7.4. Isiqu nto angeze sinikelwe ngaphandle kobanyana inyonyana ephethe abasebenzi ivunyelwe ukuphendula nanyana ibe nethuba lokuzijamela

ngaphambi koNgqongqotjhe. Isifanekiso sesiqunto sifanele sibekwe etjhatjhalazini endaweni yokusebenza futhi kufanele sinikelwe abasebenzi (Isahluko 50).

8. Isiqunto sengcenywe ethileko yebubulo: Isigaba 51

Isiqunto sengcenywe ethileko yebubulo singenziwa ukuthama isisekelo sobujamo babasebenzi kileyongcenywe nanyana kileyondawo.

9. Ukuthogomela, ukusebenzisa begodu nendlela yomthetho: Isigaba 63 - 81

9.1 Abahloli bemisebenzi kufanele bazise iinsebenzi nabaqatjhi ngamalungelo wabo ukuya ngomthetho wokusebenza. Bayahlola, bahlolisise iinlilo zabasebenzi, bangabuzwa abantu nanyana bahlole, bangenza umfanekiso nanyana basuse amarekhodi nezinye iincwadi eziqakathekileko (Isahluko 64 - 66).

9.2 Umhloli angasebenza ukuthumela umqatjhi ongavumelani nomthetho wesisekelo incwadi ekatelela ukuvuma komqatjhi ongazweleli umthetho. Umqatjhi angaphikisana nalencwadi kumQophisi wezemisebenzi, emva kobanyana alalele iinlilo, angavumelana nanyana aphenyule nanyana abekele eqadi incwadi leyo. Isililo lesi singasiwa ekhotho yeensebenzi (Isahluko 68 - 73).

9.3 Abasebenzi abakafaneli ukubandlululwa ekwenzeni amalungelo wabo amayelana nalomthetho (Isahluko 78 - 81).

10. UKUTHATHELWA BONA NGUBANI OSISEBENZI: ISIGABA 83A

10.1 Umuntu osebenzela, nanyana owenzela omunye umuntu uthathwa njengesisebenzi nangabe:

- (a) ama-iri wakhe wokusebenza ayalawuleka nanyana ayazwisiseka;
- (b) ama-iri wakhe wokusebenza ayalawuleka nanyana ayazwisiseka;
- (c) uyingxenywe yehlangano yomqatjhi;
- (d) usebenzele loyo muntu ama-iri ama- 40 ubuncani bakhona ngenyanga, esikhathini seenyanga ezintathu;
- (e) uthembele kiloyo muntu kwezomnotho;
- (f) unikelwe amathulusi nanyana kokusebenza; nanyana
- (g) usebenza nanyana usebenzela umuntu munye.

10.2. Nangabe kunye kwalokhu okubaliweko kukhona, loyo muntu uzakuthathwa njengesisebenzi kuze kube ngesikhathi umqatjhi aveza nanyana afakazela bona akusinjalo.

11. OKUVAMILEKO:

Kumlandu uku:

- (a) linga ukuvimbela nanyana ukulinga ukwenzisa ngokungakafaneli umuntu owenza isenzo esimayelana nalomthetho;
- (b) ukuthola nanyana ukulinga ukuthola incwadi yomthetho ngendlela yokukhohlisa, ukuzenzisa okungasikho nanyana ukunikela incwadi yokukhohlisa nanyana okungasiyo yeqiniso;
- (c) ukuzenza umhloli weensebenzi noma omunye umuntu owenza umsebenzi mayelana nalomthetho;
- (d) ukwala nanyana ukungaphumeleli ukuphendula ngokupheleleko umbuzo obuzwa mhloli weensebenzi nanyana ngabe ngubani owenza umsebenzi mayelana nalomthetho;
- (e) ukwala nanyana ukungaphumeleli ukuvumelana nesibawo somthetho nanyana umthetho obekwe mhloli weensebenzi nanyana ngabe ngubani owenza umsebenzi mayelana nalomthetho;
- (f) ukuvimbela umhloli weensebenzi nanyana ngubani owenza umsebenzi mayelana nalomthetho (Isahluko 92).

BCEA 1J

(Ummiselo wesi-2)**UMONGO OSISISEKO KWIMEKO ZOMTHETHO WOMSEBENZI KA 1997****ISISHWANKATHELO ESIGCINWA NGUMQESHI NGOKWEZIGQIBO ZECANDELO LAMA-30.**

Esi silandelayo sisishwankathelo samagatya ecandelo loMongo osiSiseko kwiMeko zoMsebenzi woMthetho ka 1997, njengoko ulungisiwe

1. Ukusetyenziswa kwalo mthetho : Icandelo lesi-3.

Lo Mthetho usetyenziselwa bonke, abaqeshwa nabaqeshi ngaphandle kwamalungu eState Security Agency kunye nabo basebenza ngokuthanda, nangesisa kumbutho othile.

Iimeko ezisisiseko zengqesho eziqulethwe kumThetho zenza inxenye yokontraki yengqesho yabasebenzi ebandakanywayo ngumThetho. Ezinye, kodwa hayi zonke, iimeko ezisisiseko zengqesho zinokohluka ngokobunye okanye ngengqokelela yezivumelwano ngokungqinelana nemimiselo yomThetho. (Jonga kumhlathi wesi-7 ngasezantsi

2. UMMISELO WEXESHA LOKUSEBENZA : ISAHLUKO SESIBINI**2.1 Lomthetho ubhekiswe kobani**

Esi sahluko asibamanyi abo baqeshwa bakwinqanaba lokuphatha, nabahamba bethengisa kunye nabasebenza iiyure ezingaphantsi kwama-24 ngenyanga.

2.2. Iiyure eziqhelekileyo zokusebenza : Icandelo le-9.

Akunamqeshi oyakuthi afune okanye avumele umqeshwa ukuba asebenze ngaphezulu:

- (a) kweyure ezingama-45 kwiveki enye;
- (b) kweyure ezilithoba nakuliphi na usuku ukuba umqeshwa usebenza iintsuku ezintlanu okanye ngaphezulu evekini
- (c) kweyure ezisibhozo nakuliphina usuku, ukuba umqeshwa usebenza iintsuku ezingaphezulu kwezintlanu evekini.

2.3. Ixesha elongezelelweyo lokusebenza : Icandelo le-10

2.3.1. Umqeshi angangamvumeli umqeshwa ukuba:

- (a) asebenze ixesha elongezelelweyo ngaphandle kwesivumelwano;
- (b) asebenze ngaphezulu:
 - (i) kweyure ezilishumi zexesha elongezelelweyo ngeveki.

2.3.2 Isivumelwano sinokungafuni okanye sivumele umsebenzi ukuba asebenze ngaphezulu kweeyure ezili-12 ngalo naluphi na usuku.

2.3.3 Isivumelwano esihlanganyelweyo sinokulonyusa ixesha elongezelelweyo liye kwiinyure ezilishumi elinesihlanu ngeveki ukuya kwiinyanga ezimbini kulo naliphi na ixesha leenyanga ezili-12.

2.3.4. Intlawulo yexesha elongezelelweyo mayibe si-1.5 sentlawulo yomvuzo oqhelekileyo, okanye umqeshwa afumane ikhefu.

2.4. **Ixesha elinxelweyo lokusebenza evekini: Icandelo le-11**

2.4.1. Umqeshwa angavuma ngokubhala phantsi ukuba angesebenza kufike kwiinyure ezi-12 ngosuku ngaphandle kwentlawulo yexesha elongezelelweyo.

2.4.2. Esi sivumelwano sinokungafuni okanye sivume ukuba umqeshwa asebenze:

- (a) ngaphezulu kweyure ezingama-45 eziqhelekileyo nakuyiphina iveki;
- (b) ngaphezulu kweyure ezili-10 zexesha elongezelelweyo evekini;
- (c) ngaphezulu kwentsuku ezintlanu evekini.

2.5. **Ukuzama ukulinganiswa kweyure zomsebenzi : Icandelo le-12**

2.5.1. Isivumelwano sabo bonke, singabavumela ukuba iinyure zomsebenzi zisetyenzwe ngokuzama ukulinganisa ngokwesithuba esingangenyanga ezine.

2.5.2. Umqeshwa obopheleleke kwisivumelwano esinjalo usenokungasebenzi ngaphezulu:

- (a) kweyure ezingama-45 eziqhelekileyo evekini kwixesha ekuvunyelwene ngalo;
- (b) kweyure ezintlanu zexesha elongezelelweyo.

2.6. **Ixesha lokudla : Icandelo le-14**

2.6.1. Umqeshwa makafumane ixesha lokudla lemizuzu engama-60 emva kokusebenza iinyure ezintlanu.

2.6.1.1. Isivumelwano esibhaliweyo:

- (a) singanciphisa ixesha lokudla libe yimizuzu engama-30;
- (b) singanika imvume yokuba kwahlulwa-hlulwe ixesha lokudla kubasebenzi abasebenza iinyure ezingaphantsi kwezintandathu ngosuku.

2.7. **Ithuba lokuphumula usuku okanye iveki : Icandelo le-15**

Umqeshwa makafumane ixesha lokuphumula emva kweyure ezili-12 ezilandelelanayo kunye neveki yokuphumula emva kweeyure ezingama-36. Xa kuvunyelwene eli khefu malidibanise nosuku lwangeCawe.

2.8. Intlawulo yokusebenza ngeCawe : Icandelo le -16

- 2.8.1. Umqeshwa othi ngamanye amaxesha asebenze ngeCawe makafumane intlawulo ephindwe kabini.
- 2.8.2. Umqeshwa oqhele ukusebenza ngeCawe makafumane intlawulo ephindwe ka-1.5 yentlawulo yakhe yesiqhelo.
- 2.8.3. Makube kho isivumelwano sokubuyisela ixesha elisetyenzelwe ngeCawe.

2.9. Ukuphangela ebusuku : Icandelo le -17.

- 2.9.1. Abaqeshwa abaphangela ebusuku phakathi ko **18:00** no **06:00** mababuyekezwe ngentlawulo okanye kube nesaphulelo samalanga. Kananjalo babonelelwe ngezithuthi.
- 2.9.2. Abaqeshwa abasebenza njalo emva kweyure yama **23:00** nangaphambi kweyure yesi **06:00** ngosuku olulandelayo mabaziswe:
- (a) ngengozi ezikhoyo zezempilo nezokhuseleko, kunye
 - (b) nelungelo lokuba bangaxilongwa.

2.10. Iiholide zoluntu lonke : Icandelo le-18

- 2.10.1.1. Abaqeshwa kufuneka bahlawulwe umvuzo wabo oqhelekileyo ngayo nayiphi na iholide yoluntu lonke engosuku lokusebenza.
- 2.10.2. Ukuphangela ngosuku lweholide makube ngokwesivumelwano, ukuze nentlawulo ibe yephindwe kabini.
- 2.10.3. Iholide isenokutshintshwa ngolunye usuku ngekwesivumelwano.

3. UKUTHABATHA IKHEFU : ISAHLUKO SESI-3**3.1. Lomthetho ubhekiswe kobani**

Esi sahluko esingokuthabatha ikhefu asibandakanyi abo baphangela ngaphantsi kweyure ezingama-24 ngenyanga kumqeshi, kunye nabo bavunyelwa ukuba bathabathe ikhefu lesithuba esingaphezulu kwesibekiweyo ngokwemiqathang yemvume ephantsi kwesi sahluko.

3.2. Ikhefu lonyaka : Amacandelo ama-20 & 21

- 3.2.1. Abaqeshwa banelungelo leentsuku ezingama-21 lemvume yekhefu yonyaka. Bazuza usuku ngazo zonke iintsuku ezili-17 abazisebenzileyo okanye iyure ngeeyure ezili-17 abazisebenzileyo.

3.2.2. Umqeshwa makanikwe ikhefu zingaphelanga iinyanga ezintandathu kususela kwisithuba sexesha lekhefu lonyaka

3.2.3. Umqeshi makangamhlawuli umqeshwa endaweni yekhefu ngaphandle kokuba kuphela umsebenzi.

3.3. Ikhefu lokugula: Amacandelo ama-22 & 24

3.3.1. Umqeshwa unelungelo leeveki ezintandathu zekhefu lokugula kwisithuba senyanga ezingama-36 azisebenzileyo.

3.3.2. Kwinyanga ezintandathu zokuqala umqeshwa unelungelo losuku olunye lekhefu lokugula elinentlawulo kwintsuku ezingama-26 azisebenzileyo.

3.3.3. Umqeshi angafuna isiqinisekiso sikaqhirha phambi kokuba ambhatale umqeshwa obengekho emsebenzini iintsuku ezimbini ezilandelelanayo okanye lowo ongayi kakuhle emsebenzini.

3.4. Ikhefu lokubeleka : Amacandelo ama-25 & 26

3.4.1. Umqeshwa okhulelweyo unelungelo lokuba aye kubeleka iinyanga ezine ezilandelelanayo.

3.4.2. Umqeshwa okhulelweyo okanye okhulisa usana akavumelekanga ukuba asebenze umsebenzi onganobungozi kuye okanye kusana lwakhe.

3.5. Imvume yeemfanelo zosapho : Icandelo 27

3.5.1. Abaqeshwa abasisigxina emsebenzini banemvume yeentsuku ezintathu zokulungisa iimfanelo zentsapho zabo behlawulwa, xa kuzalwa umntwana womqeshwa, okanye xa egula, okanye xa kubhubhe umyeni okanye inkosikazi okanye usofa-silahlane wakhe, umondli wakhe, umakhulu, utatomkhulu, umntwana, umntwana amondlayo, umzukulwane okanye isalamane sakhe.

3.5.2. Umqeshi unelungelo lokufuna ubungqina obufanelekileyo.

4. Inkcukacha zengqesho nomvuzo : Isahluko 4

4.1 Lomthetho ubhekiswe kobani

Esi sahluko asibhekisi kumqeshwa osebenzela umqeshi ngaphantsi kweeyure ezingama-24 ngenyanga.

4.2. Ukubhalwa kwenkcukacha zengqesho : Icandelo lama-29

4.2.1. Umqeshwa makambhalele ezi nkukacha zilandelayo phambi kokuba aqale impangelo:

- (a) igama elipheleleyo lomqeshi kunye nedilesi;
- (b) igama lomqeshwa nomsebenzi awufundeleyo okanye inkcazelo yomsebenzi wakhe;
- (c) iindawo ezahlukeneyo aza kusebenza kuzo;
- (d) usuku lokuqala ingqesho;
- (e) iiyure zokusebenza neentsuku zokuphangela;
- (f) intlawulo okanye indlela ekubalwa ngayo intlawulo;
- (g) indlela esetyenziswayo yokubala ixesha elongezelelweyo lokuphangela;
- (h) nayiphina indlela yentlawulo esetyenziswayo;
- (i) naluphina uhlobo lwentlawulo olusetyenziswayo, ingasisisa okanye ngokwexabiso lwaloo nto;
- (j) usuku lokufunyanwa kwentlawulo;
- (k) ukutsalwa kwemali ethile;
- (l) imvume yekhefu;
- (m) ithuba lesaziso okanye lesivumelwano;
- (n) inkcazelo ngalo naliphina icandelo okanye isigqibo esithi simisele izinto ezimayela noshishino lomqeshi;
- (o) isithuba sengqesho asisebenzayo kumqeshi ongaphambili ukuze sibe luncedo kwisithuba sakhe sengqesho yangokhu;
- (p) uluhlu lwamaxwebhu ayinxalenye yesivumelwano abonisa apho ikopi ingafunyanwa khona.

4.2.2. Iinkukacha mazimane ukuphengululwa xa kukho utshintsho ngezengqesho.

4.3. Ukwazisa abaqeshwa ngamalungelo abo : Icandelo lama-30

Inkcazelo yamalungelo abaqeshwa mayibekwe elubala ukuze ibonwe ngabaqeshwa okanye mayibe ngelwimi ezisetyenziswayo ngabaqeshwa.

4.4. Ukugcinwa kwengxelo ebhaliweyo : Icandelo lama-31

Abaqeshi mabagcine ingxelo ebhaliweyo ngezi zinto zilandelayo:

- (a) igama lomqeshwa nomsebenzi wakhe;
- (b) isithuba asisebenzileyo;
- (c) intlawulo ayifumanayo;
- (d) unyaka wokuzalwa xa eneminyaka engaphantsi kweli-18; kunye
- (e) nayiphi na into engathi ibe luncedo ukuze sibe nolwazi oluphangaleleyo ngomqeshwa.

4.5. Ukwaziswa ngentlawulo : Icandelo lama-33

Umqeshwa makabhalelwe ukwaziswa xa efumana umvuzo wakhe ngezi zinto zilandelayo:

- (a) igama nedilesi yomqeshi;

- (b) igama lomqeshwa kunye nomsebenzi wakhe;
- (c) ithuba ekufunyanwa ngalo intlawulo;
- (d) uhlawulwa malini;
- (e) nayiphina imali ethe yancitshiswa kumvuzo wakhe;
- (f) owona mvuzo awufumanayo;
- (g) nokuphathelene nendlela ekubalwa ngayo intlawulo:
 - (i) indlela umqeshwa ahlawulwa ngayo nangexesha elongezelelweyo;
 - (ii) amatyeli eeyure ezisetyenziweyo nezexesha elongezelelweyo ngethuba lokufumana intlawulo;
 - (iii) amatyeli eeyure ezisetyenziweyo ngeCawe okanye ngeholidi;
 - (iv) nesivumelwano ukuba ngaba sikhona ngexesha lokusebenza, nalo lonke ixesha elisetyenziweyo nexesha elongezelelweyo kwisithuba sokubala.

4.6. Unciphiso lwemali nemithetho engentlawulo : amaCandelo lama-34 kunye nelama-34A

4.6.1. Umqeshi akanakutsala imali kumvuzo womsebenzi ngaphandle kokuba:

- (a) Umsebenzi uvuma ngembalelwano ukuba kutsalwe imali yetyala elithile;
- (b) Utsalo lwenziwa ngokwemiqathango yesivumelwano esihlanganyelweyo, ngomthetho, umyalelo wenkundla okanye ngokolamlo.

4.6.1 Utsalo mali ngenxa yomonakalo okanye ilahleko ebangwe ngumsebenzi lunokwenziwa kuphela ngesivumelwano kunye nasemva kokuba umqeshi elandele inkqubo efanelekileyo

4.6.2 Abaqeshi mabaluhlawule utsalo kunye nemirhumo yabasebenzi kwingxowa-mali yoncedo kwiintsuku ezisixhenxe.

4.7 Ukubalwa kwentlawulo nomvuzo : Icandelo lama-35

4.7.1 Umvuzo ubalwa ngokwenani leeyure ezisetyenziweyo.

4.7.2 Intlawulo okanye umvuzo uphindwe kane kunye nesinye esithathwini ($4\frac{1}{3}$) kumvuzo weveki.

4.7.3 Xa ungabalwa ngokusebenzisa ixesha umvuzo womqeshi uya kumana utshintsha minyaka le, ukanti umvuzo kufuneka ubalwe kujoliswe kwintlawulo ngokwendlela etyunjiweyo:

- (a) weeveki ezili-13 ezingaphambili; okanye
- (b) ukuba ebesebenza kwisithuba esifutshane, makubhekiswe kweso sithuba.

4.7.4 Abaqeshi kunye nabasebenzi kufuneka ukuba bajonge ishedyuli epapashwe kwiPhepha lasebuRhulumenteni ukubona ukuba ngaba udidi oluthile lwentlawulo lwenza inxenye yomvuzo womsebenzi ngokwenjongo yobalo olwenziwe ngokwemiqathango yalo mThetho.

5 UKUPHELA KOMSEBENZI : ISAHLUKO SESI-5**5.1. Lomthetho ubhekiswe kobani**

Esi sahluko asibhekisi kumqeshwa osebenza ngaphantsi kweeyure ezingama-24 ngenyanga.

5.2 Isaziso sokuphela komsebenzi : Icandelo lama-37

5.2.1 Isivumelwano somsebenzi singapheliswa wakwaziswa ngesithuba esingaphezu:

- (a) kweveki, ukuba umsebenzi usebenze iinyanga ezintandathu nangaphantsi,
- (b) kweveki ezimbini, ukuba umsebenzi usebenze isithuba esingaphezu kweenyanga ezintandathu nangaphantsi konyaka;
- (c) kweveki ezine, ukuba umsebenzi usebenze unyaka nangaphezulu, okanye ungumsebenzi wasefama okanye umsebenzi wasemakhitshini osebenze ngaphezulu kweenyanga ezintandathu.

5.2.2 Isivumelwano esihlanganyelweyo sinokusishunqulela isaziso seeveki ezine ukuya kwiiveki ezingekho ngaphantsi kwesibini..

5.2.3. Isaziso sokuphela komsebenzi masibhalwe phantsi ngaphandle kokuba unikwa umqeshwa ongafundanga.

5.2.4. Isaziso sokuphela komsebenzi esenziwa ngumqeshi ngokoMthetho, asimthinteli umqeshwa ukuba afune ubungqina ukuzanelisa ngokufaneleka nangokomthetho, ukuba ukuyekiswa kwakhe kuhambelana neZimiselo zoMthetho waBasebenzi ka-1995 kwaneminye imithetho ngokunjalo.

5.3. Intlawulo ngokunqunyanyiswa emsebenzini : Icandelo lama-41

Umqeshwa othe wagxothwa ngesizathu sokuhlenga-hlengisa okanye okontraki yakhe yengqesho ipheliswayo ngokwemiqathango yecandelo lama-38 lomThetho wokungakwazi ukuhlawula amatyala ka-1936 uyakuba nelungelo lentlawulo yokunqunyanyiswa. Uyakuhlawulwa iveki enye ngonyaka ngamnye awusebenzileyo.

5.4. Isatifiketi somsebenzi : Icandelo lama-42

Xa eyeka umsebenzi umqeshwa unelungelo lesatifiketi somsebenzi.

6. Isithintelo sokusebenza kwabantwana nokusetyenziswa ngesinyanzeliso : Amacandelo ama-43 - 48

6.1.Kulityala ukuqesha umntwana ominyaka ingaphantsi kwe-15.

6.2. Abantwana abaminyaka engaphantsi kwe-18 mabangaqeshelwa imisebenzi enganobungozi kubo.

6.3. Ukubangela, ukubanga okanye ukucela ukuba kusetyenziswe ngesinyanzeliso kukwaphula umthetho.

7. Iindlela ezahlukileyo ezingumongo wengqesho : Amacandelo ama-49 - 50

7.1. Isivumelwano ekuvunyelwene ngaso kwibhunga elenza izigqibo lisenokuthabatha indawo ethi ingqesho ixhomeke kuyo, okanye lisenokusithintela (esosivumelwano) ngaphandle kwezi zilandelayo:

- (a) umsebenzi wokumiswa kwexesha lomsebenzi malunga nempilo nokhuseleko kunye nemfanelo zosapho labaqeshwa (Amacandelo esi-5,7,8,9 & 13);
- (b) ukuthotywa kwesisekelo esilungiselelwe abaqeshwa abenza umsebenzi wasebusuku [Amacandelo esi-5,17(3), & (4)];
- (c) ukuncitshiswa kwekhefu leminyaka ukuba libe ngaphantsi kweeveki ezimbini (Icandelo lama-20);
- (d) ukuncitshiswa kwelungelo lekhefu lokubeleka (Icandelo lama-25).
- (e) ukuncitshiswa kwelungelo lekhefu lokugula elivumelekileyo emthethweni (Amacandelo ama-22 - 24);
- (f) isithintelo sokusebenza kwabantwana nokusetyenziswa ngesinyanzeliso (Icandelo lama-48).

7.2. Isivumelwano sabo bonke nesivumelwano soyedwa sinokuthabatha indawo okanye sithintele umongo osisiseko kwimeko zomthetho womsebenzi ngokwendlela evumelekileyo emthethweni okanye kwicandelo lokuthabatha isigqibo (Icandelo lama-50).

7.3. UMphathiswa wezeMisebenzi angathabatha isigqibo sokutshintsha okanye sokuthintela owona mongo osisiseko sengqesho. Oku kungenziwa futhi ngencwadi yesicelo ngumqeshi okanye umbutho wabaqeshi (Icandelo lama-50).

7.4. Esi sigqibo sinokungamkeleki ngaphandle kokuba amalungu omnyango wabasebenzi anike imvume okanye abenesithuba sokwenza inkcazelo kuMphathiswa. Ikopi yesigqibo esenziweyo mayibekwe elubala ukuze ibonwe ngabaqeshwa nanini na (Icandelo lama-50).

8. Ukuthabatha izigqibo : Icandelo lama-51

Ukuthatyathwa kwezigqibo kuxhomekeke kumongo wesimo sabaqeshwa belo candelo okanye loo ndawo.

9. Ukucebisa, isinyanzeliso kunye nenkqubo zomthetho : Amacandelo angama-63 - 81

- 9.1. Abahloli bezomsebenzi mabacebise abaqeshwa nabaqeshi ngamalungelo kunye neemfanelo zabo zemithetho yengqesho. Ekuhloleni kwabo bathi baphengulule izikhalazo ngokubuza, baphenye nencwadi baze babhale ingxelo. Bayakuthabatha okuthi kube luncedo kuphando lwabo (Amacandelo angama-64 - 66).
- 9.2. Umhloli angathumela umyalelo kumqeshi ongathobelanga igatya elithile lomthetho wabasebenzi. Umyalelo wamhloli usenokwenziwa usigunyazisi senkundla yezabasebenzi (Amacandelo angama-68 - 73)
- 9.3. Abaqeshwa mabangacalu-calulwa ngokusebenzisa amalungelo abo ngokwaloMthetho (Amacandelo angama-78-81).

10. NGUBANI OTHATHWA NJENGOMSEBENZI: ICANDELO 83A

- 10.1 Umntu osebenzela, okanye onika iinkonzo komnye umntu uthathwa njengomsebenzi ukuba:-
 - (a) indlela yakhe yokuziphatha okanye iiyure zokusebenza zixhomekeke kulawulo okanye kwicala;
 - (b) indlela yakhe yokuziphatha okanye iiyure zokusebenza zixhomekeke kulawulo okanye kwicala;
 - (c) wakha inxenye yombutho womqeshi;
 - (d) usebenzele omnye umntu okungenani iiyure ezingama-40 ngenyanga kwiinyanga ezintathu ezidlulileyo;
 - (e) ngokwezoqoqosho uxhomekeke komnye umntu;
 - (f) unikwe izixhobo zakhe okanye izixhobo zomsebenzi; okanye
 - (g) usebenzela, okanye uzinika iinkonzo zakhe, kumntu omnye.
- 10.2 Ukuba enye yezi meko ikhona, umntu uthathwa njengomsebenzi de abe umqeshi abe nobungqina bokuba ayinguye.

11. IZINTO-JIKELELE

Kulityala:

- (a) Ukuthintela okanye ukuzama ukuphembelela umntu ngendlela engalunganga xa esenza umsebenzi ngokwaloMthetho;
- (b) Ukufumana okanye ukuzama ukufumana umbhalo olu xwebu otyunjiweyo ngendlela zobuqhetseba, nezobuxoki okanye ukunikela ngombiko ongubuxoki;
- (c) Ukuzenza ngathi ungumhloli wezemisebenzi okanye nokuba ngubani na owenza umsebenzi onxulumene naloMthetho;
- (d) Ukungavumi okanye ukwahluleka ukunika impendulo ngokupheleleyo ezimayelana nemithetho yezemisebenzi wakubuzwa ngumhloli wezemisebenzi okanye nokuba ngubani na osebenza ngokwaloMthetho;

- (e) Ukwala kuphele okanye ukwahluleka ukuthobela isicelo esimalunga nomthetho owunikwayo ngumhloli wezemisebenzi okanye nabani na osebenza ngokwaloMthetho;
- (f) Ukuthintela okanye uphazamise umhloli wezemisebenzi nokuba ngubani na owenza umsebenzi onxulumene nalo Mthetho (Icandelo lama-92).

BCEA 1K

(Umthetho olawulayo wesi - 2)**IZIMISO EZIYISISEKELO ZOMTHETHO WOKUQASHA KA 1997****IQOQO ELIGCINWA NGUMQASHI NJENGOBA KUBEKWE ESIGABENI SAMA-30**

Okulandelayo lapha yiqoqo lemibandela yezigaba ezibalulekile zeZimiso eziyiSisekelo zoMthetho wokuQasha ka 1997, ngokuchitshiyelwa kwawo.

1. Ukusebenza kwalo Mthetho : Isigaba sesi-3

Lomthetho usebenza kubobonke abasebenzi kanye nabaqashi ngaphandle kwamalunga eState Security Agency, kanye nabantu abenza umsebenzi ngokuzinikela bengalindele ukukhokhelwa, besebenzela izinhlangano ezinenhloso yokunikela ngesihle.

Izimo eziyisiqalo zomsebenzi eziqukethwe kulomthetho zakha inqenye yesivumelwano sabasebenzi esisuselwa kulomthetho. Kwezinye izimo zokusebenza, zingathi ukuhlukahluka kodwa hayi zonke, kuye ngalowo muntu noma ngesivumelwano ezithathwe nguye wonke umuntu ngokulandela lomthetho. (Bheka isigaba sesi 7 lapha ngenzansi.)

2. UKULAWULWA KWESIKHATHI SOKUSEBENZA: ISAHLUKO SESIBILI

Lesi sahluko singesetshenziselwe abasebenzi abasezikhundleni eziphezulu zokuphatha, nakulabo abahamba izindawo ngezindawo bethengisa futhi nabasebenza amahora angaphansi kwangama-**24** ngenyanga.

3. Amahora okusebenza ajwayelekile: Isigaba sesi-9

Akukho mqashi onokuyalela noma onokuvumela umsebenzi ukuba asebenze isikhathi eseqile:

- (a) kumahora angama-**45** ngesonto;
- (b) kumahora ayisishiyagalolunye kunanoma yingaluphi usuku uma umsebenzi usebenza izinsuku ezinhlanu ngeviki noma ngaphansi; noma
- (c) kumahora ayisishiyagalombili kunanoma yingaluphi usuku uma umsebenzi usebenza izinsuku ezeqile kwezinhlanu ngesonto.

4. Isikhathi eseqile: Isigaba se-10

4.1 Umqashi akafanele ukuyalela noma ukuvumela umsebenzi ukuba:

- (a) asebenze isikhathi eseqile ngaphandle uma kungesivumelwano;
- (b) asebenze isikhathi eseqile:

- (i) emahoreni amathathu esikhathi eseqile ngosuku; noma
- (ii) emahoreni ayishumi esikhathi eseqile ngesonto.

4.2 Isikhathi eseqile kufanele sikhokhelwe ngokuphidaphindwe ka-**1.5** eholweni elijwayelekile lomsebenzi noma umsebenzi anikezwe isikhathi sokuhlaba ikhefu ekhokhelwa.

5. Isonto lamahora aminyanisiwe: Isigaba se-11

5.1 Umsebenzi angavuma ngokubhala phansi ukuthi uzosebenza amahora afinyelela kwayi-**12** ngosuku ngaphandle kokukhokhelwa iholo lesikhathi eseqile.

5.2 Lesi sivumelwano singedinge noma sivumele umsebenzi ukuba asebenze:

- (a) amahora eqile kwangama-**45** ajwayelekile kunanoma yiliphi isonto;
- (b) amahora eqile kwayishumi esikhathi eseqile kunanoma yiliphi isonto; noma
- (c) izinsuku ezeqile kwezinhlanu kunanoma yiliphi isonto.

6. Ukulingalinganiswa kwamahora okusebenza: Isigaba se-12

6.1 Isivumelwano esinguzibuthe singavumela ukuba amahora omsebenzi alingalinganiswe kuze kufinyelele ezinyangeni ezine.

6.2 Umsebenzi ophoqeletwa yilesi sivumelwano esinguzibuthe angesebenze ukweqa:

- (a) amahora ajwayekile angama-**45** evikini esikhathini okuvunyelwane ngaso;
- (b) amahora amahlanu esikhathi eseqile ngeviki esikhathini okuvunyelwane ngaso.

7. Amakhefu okudla: Isigaba se-14

7.1 Umsebenzi kufanele afumane ikhefu lokuyodla eliyimizuzu engama-**60** emva kokusebenza amahora amahlanu.

7.2 Isivumelwano esibhalwe phansi:

- (a) singanciphisa isikhathi sekhefu lokudla libe yimizuzu engama-**30**;
- (b) singavumela ukungabikhona kwekhefu uma umsebenzi esebenza amahora angafiki kwayisithupha ngosuku.

8. Isikhathi sokuphumula sosuku noma seviki: Isigaba se-15

Umsebenzi kufanele abe nesikhathi sokuphumula esingamahora ayi-**12** alandelanayo ngosuku kanye nesingamahora angama-**36** alandelanayo ngesonto. Lamahora kufanele afakele nosuku lwangaSonto ngaphandle uma kuvunyelwene ngenye indlela.

9. Ukukhokhelwa kokusebenza ngamaSonto: Isigaba se-16

9.1 Umsebenzi ongavamile ukusebenza ngeSonto kufanele akhokhelwe iholo eliphindaphindwe kabili.

9.2 Umsebenzi ovame ukusebenza ngeSonto kufanele akhokhelwe iholo elijwayelekile eliphindaphindwe ka-**1.5**.

9.3 Kungavunyelwana ngokuthi ukusebenza ngeSonto kungakhokhelwa ngokunikezwa isikhathi sokuphumula.

10. Ukusebenza ebusuku: Isigaba se-17

10.1 Abasebenzi abasebenza ebusuku phakathi kuka **18:00** no **06:00** kufanele bakhokhelwe ngokunikezwa imali eyisibonelelo noma ngokunciphisa amahora okusebenza kanti kufanele babonelelwe ngezinto zokuhamba.

10.2 Abasebenzi abavame ukusebenza emva kuka **23:00** nangaphambi kuka **06:00** ngosuku olulandelayo, kufanele baziswe:

(a) ngananoma yiziphi izimo eziyingozi ngokwezempilo nangokwezokuphepha; futhi

(b) ngelungelo labo lokuxilongwa ngudokotela.

11. Amaholide omphakathi: Isigaba se-18

11.1 Abasebenzi kufanele bakhokhelwe uma iholide ligujwa ngosuku lomsebenzi.

11.2 Ukusebenza ngeholide kuba ngokwesivumelwano kanti kukhokhelwa ngokuphindaphindwe kabili.

11.3 Iholide lomphakathi kungashintshiswana ngalo ngokwesivumelwano.

12. UKUHLABA IKHEFU: ISAHLUKO SESITHATHU

Lesi sahluko esiphathelene nokuhlaba ikhefu singesetshenziselwe umsebenzi osebenza ngaphansi kwamahora angama-**24** ngenyanga kanti singesetshenziswe uma isivumelwano sokuhlaba ikhefu esikhona sinikezela ngezinsuku ezeqile kwezilindelekile ngaphansi kwalesi sahluko.

13. Ikhefu lonyaka: Izigaba zama-20 & 21

13.1 Abasebenzi bagunyazekile ukuhlaba ikhefu lezinsuku ezingama-**21** ezilandelanayo ngonyaka noma, ngokwesivumelwano, usuku olulodwa kulezo nalezo zinsuku eziyi-**17** ezisetshenziwe noma bathole ihora elilodwa kulawo nalawo mahora ayi-**17** asetshenziwe.

13.2 Ikhefu kufanele linikezwe kungakapheli isikhathi esiyizinyanga eziyisithupha emva kokuphela kwesikhathi esibekiwe sekhefu.

13.3 Umqashi akafanele ukukhokhela umsebenzi esikhundleni sokuba amnikeze ikhefu ngaphandle-ke uma esepothula emsebenzini.

14. Ikhefu uma ugula: Izigaba zama-22 - 24

14.1 Umsebenzi unegunya lokuthatha ikhefu elikhokhelwayo eliyisikhathi esingamaviki ayisithupha ezinyangeni ezingama-**36** asezisebenzile uma egula.

14.2 Ezinyangeni eziyisithupha zokuqala, umsebenzi unegunya lokuthatha ikhefu elikhokhelwayo losuku olulodwa ezinsukwini ezingama-**26** asezisebenzile.

14.3 Umqashi angafuna incwadi kadokotela ngaphambi kokukhokhela umsebenzi oselove izinsuku ezedlula ezimbili ngokulandelana noma ojwayele ukulova.

15. Ikhefu lokuyobeletha: Izigaba zama-25 & 26

15.1 Umsebenzi okhulelwe unegunya lokuthatha ikhefu lokuyobeletha lezinyanga ezine ezilandelanayo.

15.2 Umsebenzi okhulelwe noma osengumdezane akavunyelwe ukwenza umsebenzi ongfaka impilo yakhe noma eyengane yakhe engozini.

16. Ikhefu lokufeza izibopho zezomndeni: Isigaba sama-27

16.1 Abasebenzi abaqashwe ngokuphelele banegunya lokuthatha ikhefu elikhokhelwayo lezinsuku ezintathu ngonyaka ukufeza izibopho zezomndeni ezinjengokuzalwa noma ukugula kwengane yomsebenzi, noma uma kushone umlingani noma lowo ongu sofa-silahlane womsebenzi, noma umzali, umondli, ugoto noma umkhulu, ingane, ingane ayondlayo, umzukulu noma iselamani sakhe.

16.2 Umqashi angafuna ubufakazi obufanelekile ukuqinisekisa lokhu.

17. IMINININGWANE YOKUQASHWA NOKUHOLELWA: ISAHLUKO SESINE

Lesi sahluko asiphathelene nomsebenzi osebenzela umqashi amahora angaphansi kwangama-**24** ngenyanga.

18. Imininingwane ebhalwe phansi yomsebenzi: Isigaba sama-29

18.1 Umqashi kufanele anikeze umsebenzi oqala ukusebenza lemininingwane engezansi ngokuyibhala phansi:

- (a) amagama ngokugcwele kanye nekheli lomqashi;
- (b) igama kanye nomsebenzi ozokwenziwa ngumsebenzi, noma incazelo ngamafuphi yomsebenzi azowenza lowo oqashiwe;
- (c) izindawo ezahlukene lapho kuzosetshenzelwa khona;
- (d) usuku lokuqashwa;
- (e) amahora okusebenza ajwayelekile kanye nezinsuku zokusebenza;
- (f) iholo noma ukubalwa kweholo nendlela yokukhokhelwa;
- (g) ukukhokhelwa kokusebenza isikhathi eseqile;
- (h) ezinye izimali ezikhokhelwayo;
- (i) okunye ukukhokhelwa okungeyona imali kanye nokulinganiswa kwakho;
- (j) isikhathi sokukhokhelwa;
- (k) imali engadonswa;
- (l) ikhefu elivumelekile;
- (m) isikhathi senothisi noma isikhathi sesivumelwano;
- (n) incazelo yomkhandlu noma izinqumo zengxenye ethile;
- (o) isikhathi esisetshenziwe kumqashi wangaphambilini nesibalelwa njengesikhathi sokuqashwa;
- (p) uhlu lwezinye izincwadi eziyingxenye yesivumelwano nolukhomba indawo lapho kungatholakala khona ikhophi.

18.2 Leminingwane kufanele ibuyekwezwe uma izimo zokuqashwa ziguquka.

19. Ukwazisa abasebenzi ngamalungelo abo: Isigaba sama-30

Incazelo ngamalungelo abasebenzi kufanele ibekwe obala endaweni yokusebenzela futhi ibhalwe ngezilimi zonke ezisetshenziswayo emsebenzini.

20. Ukugcinwa kwamabhuku: Isigaba sama-31

Umqashi ngamunye kufanele agcine amabhuku analemininingwane:

- (a) igama lomsebenzi kanye nomsebenzi awenzayo;
- (b) isikhathi esisetshenziwe;
- (c) iholo elikhokhelweyo;
- (d) usuku lokuzalwa uma umsebenzi eneminyaka engaphansi kweyi-18; kanye
- (e) neminye imininingwane efanelekile.

21. Ulwazi ngezamaholo: Isigaba sama-33

Lolu lwazi olundelayo kufanele lubhalwe phansi futhi lunikezelwe umsebenzi lapho ekhokhelwa:

- (a) igama lomqashi kanye nekheli;
- (b) igama lomsebenzi kanye nomsebenzi awenzayo;

- (c) isikhathi sokuholelwa;
- (d) imali ayikhokhelwayo;
- (e) imali edonsiwe eholweni uma ikhona;
- (f) inani lemali ekhokhiwe;
- (g) uma kukhona okuthintene nokubalwa kweholo lomsebenzi kufanele kukhonjiswe kahle:
 - (i) indlela yokubala imbuyiselo noma isikhathi eseqile;
 - (ii) inani lamahora ajwayelekile kanye neqile asetshenziwe kuleso sikhathi esikhokhelwayo;
 - (iii) inani lamahora asetshenziwe ngeSonto noma ngeholidi lomphakathi kuleso sikhathi esikhokhelwayo; futhi
 - (iv) uma kukhona isivumelwano sokulingalinganisa isikhathi esisetshenziwe, inani lesikhathi sonke esejwayelekile kanye neseqile esisetshenziwe kuleso sikhathi sokulingalinganisa.

22. Imali edonswayo kanye neminye imithetho ephathelene nokukhokhelwa: Isigaba sama- 34

Akukho kudonswa kwemali okungekho emthethweni okungenziwa ngaphandle kwemvume ebhalwe phansi.

23. Ukubalwa kwembuyiselo kanye neholo: Isigaba sama-35

23.1 Iholo libalwa ngamahora ajwayelekile asetshenziwe.

23.2 Imbuyiselo noma iholo lenyanga liyaye liphindwe kane kanye nokukodwa kwisithathu ($4\frac{1}{3}$) kulelo lesonto.

23.3 Uma ukubalwa kweholo kwenziwa ngenye indlela okungeyona ehlanganisa isikhathi esisetshenziwe, noma uma iholo liguquguquka kakhulu njalo isikhathi ngesikhathi, noma yiliphi iholo kufanele libalwe ngokubhekisa imbuyiselo noma iholo esikhathini:

- (a) amasonto ayi-13 angaphambili; noma
- (b) uma eqashwe isikhathi esifushane kunalesi, kube ngokwaleso sikhathi.

24. UKUNQUNYANISWA EMSEBENZINI: ISAHLUKO SESIHLANU

Lesi sahluko asiphathelene nomsebenzi osebenzela umqashi amahora angaphansi kwangama-24 ngenyanga.

25. Isaziso sokunqunyaniswa emsebenzini: Isigaba sama-37

25.1 Isivumelwano somsebenzi singanqunyaniswa kuphela ngesaziso esingekho ngaphansi:

- (a) kwesonto elilodwa, uma umsebenzi eqashwe isikhathi esingaphezu kwamasonto amane noma ngaphansi;
- (b) kwamasonto amabili, uma umsebenzi eqashwe isikhathi esingamasonto amane kodwa ngaphansi konyaka owodwa;
- (c) kwamasonto amane, uma umsebenzi eqashwe unyaka owodwa nangaphezulu, noma engumsebenzi wasepulazini noma wasemakhishini osebenze isikhathi esedlulile emasontweni amane.

25.2 Isaziso kufanele sibhalwe phansi ngaphandle uma sifakwa ngumsebenzi ongafundile.

25.3 Isaziso sokuphelelwa ngumsebenzi esivela kumqashi, ngokwezimiso zaloMthetho, asimvimbeli umsebenzi ukuba abuzisise ngobuqotho noma ngokuba semthethweni kokuxoshwa kwakhe emsebenzini ngokoMthetho Wenkambiso yeZomsebenzi ka 1995 noma ngokomunye umthetho.

26. Inhlawulo yokunqunyaniswa emsebenzini: Isigaba sama-41

Umsebenzi oxoshiwe emsebenzini ngezizathu zezidingo zenqubo yomsebenzi, unegunya lokukhokhelwa inhlawulo yokunqunyaniswa engeyeviki elilodwa kulowo nalowo nyaka asewusebenzile.

27. Isitifiketi somsebenzi: Isigaba sama-42

Umsebenzi onqunyanisiwe emsebenzini unelungelo lokuthola isitifiketi somsebenzi.

28. UkweNqatshelwa KokuQashwa KweZingane kanye NokuSetshenziswa Ngempopo: Izigaba zama-43 - 48

28.1 Kungukwephula umthetho ukuqasha ingane engaphansi kweminyaka eyi-15 ubudala.

28.2 Izingane ezineminyaka engaphansi kweyi-18 akufanele ziqashelwe ukwenza umsebenzi ongalingani neminyaka yazo noma lowo ozibeka esimeni esibucayi.

28.3 Ukusebenzisa omunye ngempopo kungukwephula umthetho.

29. Ukuguqulwa Kwezimiso Eziyisisekelo Zomthetho Wokuqasha: Izigaba zama-49 - 50

29.1 Isivumelwano esinguzibuthe okufinyelelwe kuso ngumkhandlu wokuvumelana ngempatho kwezimisebenzi singasetshenziswa esikhundleni noma sichithe izimiso eziyisisekelo zomthetho wokuqasha, ngaphandle kwalezi ezilandelayo:

- (a) umsebenzi wokuhlela isikhathi sokusebenza mayelana nezempilo nezokuphepha kanye nezibopho ezibhekene nomndeni wabasebenzi (Izigaba zesi-7, 9 & 13).
- (b) ukuncishiswa kokuvikeleka okunikezwa abasebenzi abasebenza ebusuku (Izigaba ze-17(3) & 4).
- (c) ukuncishiswa kwekhefu lonyaka libe ngaphansi kwamasono amabili (Isigaba sama-20)
- (d) ukuncishiswa kwegunya lekhefu lokubeletha (Isigaba sama-25).
- (e) ukuncishiswa kwegunya lekhefu lokugula lize lifinyelele esikhathini esivunyelwe (Izigaba zama-22 - 24).
- (f) ukunqatshelwa kokuqashwa kwezingane kanye nokusetshenziswa ngempopo (Isigaba sama-48)

29.2 Izivumelwano ezinguzibuthe kanye nezivumelwano zomuntu ngamunye zingasetshenziswa esikhundleni noma zichithe lezo izimiso eziyisisekelo zomthetho wokuqasha ukufinyelela lapho kugunyazwe khona nguMthetho noma ngokwezinqumo zengxenywe ethile (Isigaba sama-49).

29.3 UNgqongqoshe WeZemisebenzi angathatha isinqumo sokuguqula noma ukuchitha isimiso esiyisisekelo somthetho wezokuqasha. Lokhu kuchithwa kungenziwa ngumqashi noma inhlangano yabaqashi uma nje kungafakwa isicelo sokwenza lokhu (Isigaba sama-50).

29.4 Isinqumo singemukeleke ngaphandle kokuthi inyunyana emele abasebenzi ivumelane nezinguquko ezenziwayo noma ibe nethuba lokufakana imilomo noNgqongqoshe. Ikhophi yanoma yiziphi izinqumo ezithathiwe kufanele umqashi ayibeke obala endaweni yomsebenzi, kanti futhi nabasebenzi kufanele bakwazi ukuzitholela yona kalula (Isigaba sama-50).

30. **Izinqumo zezingxenywe: Isigaba sama-51**

Izinqumo ngezingxenywe zingathathwa ukuze kuphakanyiswe izimiso eziyisisekelo zabasebenzi engxenyeni kanye nasendaweni ethize.

31. **Ukulandelisisa, ukuphoqelelwa kanye nenqubo yomthetho: Izigaba zama-63 - 81**

31.1 Abahloli bezemisebenzi kufanele bacebise abasebenzi nabaqashi ngamalungelo kanye nezibopho zabo ngokwemithetho yokuqasha. Umsebenzi wabahloli ngukuhlola, ukuphenya izikhalo kanti futhi bangafaka abantu imibuzo, bahlole izincwadi, bathathe amakhophi ezincwadi kanye nezinye izincwadi ezithintene nophenyo nokuhlola abakwenzayo (Izigaba zama-64 - 66).

31.2 Umhloli anganika umqashi incwadi yempoqo uma etholwa engahloniphi izimiso zaloMthetho. Incwadi yempoqo ingenziwa isigunyazisi senkundla yabasebenzi. (Izigaba zama-68 - 73).

31.3 Abasebenzi bangebandlelulwe ngenxa yokusebenzisa kwabo amalungelo abanawo ngokwaloMthetho.

32. **Izimiso jikelele**

Kuyicala ukwenza lokhu:

- (a) ukuvimbela noma ukuzama ukuwunga ngokungeyikho omunye umuntu owenza umsebenzi ngokulandela loMthetho;
- (b) ukuthola noma ukuzama ukuthola noma yimaphi amabhuku agciniwe ngendlela yokukhwabanisa, yobuphixiphixi, noma ngokuveza noma ukunikela ngencwadi engeyona noma leyo yokuzilumbuzisa;
- (c) ukuzenza umhloli wezemisebenzi noma ukuzenza omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (d) ukwenqaba noma ukwehluleka ukuphendula ngokugcwele nanoma namiphi imibuzo evumelekile ngokomthetho ebuzwa ngumhloli wezemisebenzi noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (e) ukwenqaba noma ukwehluleka ukuhlonipha nanoma yisiphi isicelo esivumelekile ngokomthetho, noma inqubo esemthethweni enikezwa ngumhloli noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (f) ukuvimbela noma ukuthikameza umhloli noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho (Isigaba sama-92).

BCEA 6

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 50(1)(b)

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form is an application for a Ministerial determination to replace or exclude certain provisions of the Act or a Sectoral Determination.

WHO FILLS IN THIS FORM?

The employer.

WHERE DOES THIS FORM GO?

The Provincial Executive Manager

INSTRUCTIONS

- The sections of the Act or Sectoral Determination for which variation is sought must be mentioned.
- Proof of any consent to the application by the registered trade union(s) in terms of section 50(7)(a) must be attached to this form.
- If no consent is obtained, proof of service on registered trade union(s) and proof of reasonable steps to bring the application to the notice of employees must be attached.
- Shift roster must be included if applicable.

NOTE

A Department of Labour official may conduct an inspection to verify the information or seek more information in relation to your application.

If there is insufficient space on the form use separate piece of paper.

National applications and applications to vary prescribed minimum wages must be forwarded to the Executive Manager, Employment Standards, P/Bag X117, Pretoria. 0001

DEPARTMENT OF LABOUR

APPLICATION FOR MINISTERIAL DETERMINATION

N.B. ALL APPLICABLE FIELDS MUST BE COMPLETED

A. EMPLOYER PARTICULARS

1. FULL NAME OF EMPLOYER OR COMPANY TRADING NAME

.....

UIF REFERENCE NUMBER :.....

SARS NUMBER :.....

COMPANY REGISTRATION NUMBER :.....

COMPENSATION FUND REGISTRATION

NUMBER :.....

2. NATURE OF BUSINESS CONDUCTED

.....

3. CONTACT PERSON(S)

.....

4. POSTAL ADDRESS

.....

.....

.....

POSTAL CODE

TEL. NO. (.....) **FAX. NO. (.....)**

E-MAIL:

PROVINCE: Eastern Cape Free State Gauteng

KwaZulu-Natal Limpopo Mpumalanga

Northern Cape North-West Western Cape

2.

5. STREET ADDRESS

.....
.....

TOWN/ SUBURB:.....**POSTAL CODE :**.....

- PROVINCE:** Eastern Cape Free State Gauteng
 KwaZulu-Natal Limpopo Mpumalanga
 Northern Cape North-West Western Cape

B. DETAILS OF APPLICATION

1. VARIATION IS APPLIED FOR IN RESPECT OF THE FOLLOWING SECTION(S) OF THE ACT OR CLAUSE(S) OF THE FOLLOWING SECTORAL DETERMINATION(S):

.....
.....
.....
.....

2. AREA AND PROJECT FOR WHICH VARIATION IS SOUGHT:

.....

3. PERIOD FOR WHICH VARIATION IS SOUGHT:

.....
.....

4. TOTAL NUMBER OF EMPLOYEES:

5. NUMBER OF EMPLOYEES AFFECTED BY APPLICATION:

5.

ADDRESSES OF PROVINCIAL EXECUTIVE MANAGERS

<p>In the province of Eastern Cape: The Chief Director Provincial Operations Department of Labour Private Bag X9005 EAST LONDON 5200</p> <p>TEL: (043) 701 3128 FAX: (043) 722 1012</p>	<p>In the Province of the Free State: The Chief Director Provincial Operations Department of Labour PO Box 522 BLOEMFONTEIN 9300</p> <p>TEL: (051) 505 6200/6203 FAX: (051) 447 5329</p>
<p>In the province of Gauteng: The Chief Director Provincial Operations Department of Labour P O Box 4560 JOHANNESBURG 2000</p> <p>TEL: (011) 853 0302 FAX: (011) 853 0470</p>	<p>In the province of KwaZulu/Natal: The Chief Director Provincial Operations Department of Labour P O Box 940 DURBAN 4000</p> <p>TEL: (031) 336 2022 FAX: (031) 305 9540</p>
<p>In the Limpopo Province: The Chief Director Provincial Operations Department of Labour Private Bag X9368 POLOKWANE 0700</p> <p>TEL: (015) 290 1607 FAX: (015) 290 1608</p>	<p>In the Province of Mpumalanga: The Chief Director Provincial Operations Department of Labour Private Bag X7263 WITBANK 1035</p> <p>TEL: (013) 655 8700/8701 FAX: (013) 655 8838</p>
<p>In the province of Northern Cape: The Chief Director Provincial Operations Department of Labour Private Bag X5012 KIMBERLEY 8300</p> <p>TEL: (053) 838 1502 FAX: (053) 832 9386</p>	<p>In the province of North-West: The Chief Director Provincial Operations Department of Labour Private Bag X2040 MMABATHO 2735</p> <p>TEL: (018) 387 8101 /(018) 3878102 FAX: (018) 384 2597</p>
<p>In the Province of the Western Cape: The Chief Director Provincial Operations Department of Labour P O Box 872 CAPE TOWN 8000.</p> <p>TEL: (021) 441 8110/8112 TEL: (021) 441 8000 FAX: (021) 441 8136 FAX: (021) 441 8111</p>	<p>Head Office The Director Employment Standards P/Bag X117 PRETORIA 0001</p> <p>Tel; 309 4000/3094119 FAX: 012 3094709</p>

BCEA 8

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 66(1)

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

To subpoena information or a person who has such information to make it available to the Director-General or a duly authorised representative.

WHO FILLS IN THIS FORM?

The Department of Labour.

WHERE DOES THIS FORM GO?

To the person who has the information.

NOTE

Failure to comply with the subpoena may result in the committal of an offence.

DEPARTMENT OF LABOUR

Enquiries:
Tel. no:
Cell no:
Fax no:
E-mail:
Ref no:

SUBPOENA

Subpoena in terms of Regulation 8

Name of Employer/ Company:

Name of person subpoenaed:

Full address:

..... Postal Code:

You are required to appear in person before labour inspector

Name:

at:
(physical address)

..... Postal Code:

on at and
(date) (time)

on any subsequent day to which the investigations may be postponed.

You are subpoenaed in terms of section 66 of the Act read together with regulation 8 of the Act:

For questioning

To produce any book, document or object

To give evidence

You must bring and produce the books, documents or objects listed below:–

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Failure to appear and penalty

NOTE:

Please take note that should you fail to appear at the place, date and time indicated in this subpoena, you will be committing an offence in terms of section 92 of the Act which is punishable in terms section 93 of the Act.

Please take further note that on conviction the Magistrate Court may impose a fine or imprisonment.

.....
.....

SIGNED at on this the day of

Labour Inspector

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 68

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

To record an undertaking by the employer to comply with a provision of the Act.

WHO FILLS IN THIS FORM?

The labour inspector.

WHERE DOES THIS FORM GO?

The employer.

INSTRUCTIONS

May be issued when:

- An agreement is concluded on amounts owed to employee.
- An employer undertakes to perform or cease acts agreed to.
- Failure to comply with the written undertaking will result in a in the written undertaking being made an order of the Labour Court in terms of section 73 of the Act.

DEPARTMENT OF LABOUR

WRITTEN UNDERTAKING

Enquiries:

Tel. no:

Cell no:

Fax no:

E-mail:

Ref no:

(Delete that which is not applicable)

1. I / We (state name of employer/ representative(s)) ID No..... a duly authorised representative (s) of (state name of business) Reg No.....(state CIPC registration number) situated at (physical address) Tel no: Fax no: Cell no: undertake to comply with the following—

2. Section(s) of the Act

2.1 Sectoral Determination no: Clause(s)

2.2 Other (specify)

AND / OR

3. To perform / cease the following acts:

.....

.....

.....

4. Payment undertaking (specify)

.....

.....

.....

- 5. I further undertake to provide the Department of Labour with proof of compliance of the above requirements of this written undertaking not later than (date)
- 6. I furthermore understand fully that failure to comply with the requirements of this undertaking and to provide proof of compliance thereof within the prescribed time to the Department of Labour, the Director General: Labour may apply to the Labour Court for an order in terms of section 73 of the Act, directing the employer to comply with the undertaking.
- 7. I acknowledge the contents of this written undertaking, I signed it voluntarily and free from any form of duress. The consequences of non-compliance with its contents have been explained to me and I fully understand and abide by them.
- 8. I acknowledge that costs as a result of non-compliance with this written undertaking will be incurred by me.

SIGNED AT (PLACE) ON THIS DAY OF
 20.....

.....

EMPLOYER

SIGNED: LABOUR INSPECTOR

.....

.....

WITNESS 1

WITNESS 2

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 69

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form is to enforce compliance with a provision of the Act

WHO FILLS IN THIS FORM?

The labour inspector.

WHERE DOES THIS FORM GO?

Order must be delivered to employer named in it, and to employee(s) affected by it or, if this is impractical, to a representative of the employee(s) including registered trade union(s).

INSTRUCTIONS

- The employer must display a copy of this order prominently at a place accessible to the affected employee(s) at each workplace named in it.
- An employer must comply with the order within the time period stated.
- Failure to comply could result the order made an order of the Labour Court in terms section 73 of the Act and in a fine.

**DEPARTMENT OF LABOUR
COMPLIANCE ORDER**

Enquiries:
 Tel. no:
 Cell no:
 Fax no:
 E-mail:
 Ref no:

1. Name of employer:

2. Physical address:

3. You have failed to comply with the following sections of the Act or clauses of a Sectoral Determination:

Sections:

Sectoral Determination no: Clauses:

4. You have not complied with requirements of the Act/Sectoral Determination to the following extent:

4.1

.....

4.2

.....

4.3

.....

5. You are hereby ordered to comply with paragraph 4.1 to 4.3 and provide proof of compliance not later than (date)

6. Non-compliance

Failure to comply with **paragraph 4.1 to 4.3** of this Compliance Order and to provide proof of compliance thereof within the prescribed time frame the Director General: Labour through its representative will apply to the Labour Court in terms of section 73 of the Act to make this Compliance Order an Order of the Court.

5. Fines

Despite compliance with this Compliance Order the Director General: Labour may recommend to the Labour Court to impose a fine of R..... per employee/.....% (delete what is not applicable) in accordance with table one/two (delete what is not applicable) of Schedule 2 of the Act.

TABLE ONE:**Maximum permissible fine not involving an underpayment**

No previous failure to comply	R300 per employee in respect of whom the failure to comply occurs
A previous failure to comply in respect of the same provision	R600 per employee in respect of whom the failure to comply occurs
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years	R900 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provision within three years	R1200 per employee in respect of whom the failure to comply occurs
Four previous failures to comply in respect of the same provision within three years	R1500 per employee in respect of whom the failure to comply occurs

TABLE TWO:**Maximum permissible fine involving an underpayment**

No previous failure to comply	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within three years	50% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within a year, or two provisions to comply in respect of the same provision within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provision within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order

GIVEN UNDER MY HAND ON THIS DAY OF 20... AT (PLACE)

.....

LABOUR INSPECTOR

NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 GeneralEnquiries@gpw.gov.za
 - Maps : 012 748 6061/6065 BookShop@gpw.gov.za
 - Debtors : 012 748 6060/6056/6064 PublicationsDebtors@gpw.gov.za
 - Subscription : 012 748 6054/6055/6057 Subscriptions@gpw.gov.za
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at www.gpwonline.co.za for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

Publications: Tel: (012) 748 6052, 748 6053, 748 6058

Advertisements: Tel: (012) 748 6205, 748 6208, 748 6209, 748 6210, 748 6211

Subscriptions: Tel: (012) 748 6054, 748 6055, 748 6057

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001

Publikasies: Tel: (012) 748 6052, 748 6053, 748 6058

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