

IGAZETHI KAHULUMENI

IRIPHABHLIKHI YASENINGIZIMU AFRIKA

No. 9654 Igazethi Yokulawula

Umthamo: 559 ePitoli, 6 Januwari 2012 No. 34910

UCINGO LOKUSIZAKALA KWABANENGCULAZI: 0800-0123-22 Ukuvikela yikhona okuyikhambi

Uma kwenzeka kuba nokushayisana okuthile kulesi humusho, lapho-ke kuyosebenza isihumusho sesiNgisi nokuyisona esaphasiswa.

NO. R3

06 Januwari 2012

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995

UKUHOXISWA KWEZAZISO ZIKAHULUMENI

UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI BEMBONI YEZOKUHLELWA KOKUTHUTHWA KANYE NOKUTHUTHWA KWEMPAHLA EMGWAQWENI: ISIVUMELWANO ESIYINGQIKITHI SABAQASHI NABASEBENZI

Mina, MILDRED NELISIWE OLIPHANT, nginguNgqongqoshe Wezabasebenzi ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi ka 1995, ngihoxisa Izaziso Zikahulumeni ezinguNombolo: R 432 kanye no R433 zangomhla ziyi-18 kuFebhuwari 2011 kanye nomhla ziyi-16 kuJanuwari 2012.

MN OLIPHANT

UNGQONGQOSHE WEZABASEBENZI

NO. R4**06 Januwari 2012****UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995**

**UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI
BEMBONI YEZOKUHLELWA KOKUTHUTHWA KANYE NOKUTHUTHWA KWEMPAHLA
EMGWAQWENI: UKWELULWA KWESIVUMELWANO ESIYINGQIKITHI SABAQASHI
NABASEBENZI KULABO ABANGESIYONA INGXYENYE YASO**

Mina, MILDRED NELISIWE OLIPHANT, nginguNgqongqoshe Wezabasebenzi ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi ka 1995, ngazisa ukuthi Isivumelwano phakathi kwabaqashi nabasebenzi esitholakala Kwisheduli yesiNgisi exhunywe lapha, esenziwa nguMkhandlu Kazwelonke Wokuxoxisana Phakathi Kwabaqashi Nabasebenzi Bemboni Yokuhlelwa Kokuthutha kanye Nokuthuthwa Kwempahla Emgwaqweni, ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi ka 1995, esibopha labo abasenzayo, siyobopha bonke abaqashi nabasebenzi kuleyo Mboni kusukela mhla ziyi-16 kuJanuwari 2012 kuze kube umhla zingama-28 kuFebhuwari 2013.

MN OLIPHANT**UNGQONGQOSHE WEZABASEBENZI**

ISHEDULI

UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI BEMBONI YOKUHLELWA KOKUTHUTHA KANYE NOKUTHUTHWA KWEMPAHLA EMGWAQWENI (NBCRFLI)

ngokuhambisana nezimiso zoMthetho Wobudlelwano Kwezabasebenzi, 1995, eyenziwe futhi kwangenwa kuyona phakathi kwe.

ROAD FREIGHT EMPLOYERS' ASSOCIATION (RFEA)

nokuzolokhu kuthiwa uma kukhulunywa ngayo kulesi Sivumelwano "abaqashi" noma "inhlango yabaqashi"

kanye ne

MOTOR TRANSPORT WORKERS' UNION (MTWU)

PROFESSIONAL TRANSPORT AND ALLIED WORKERS' UNION OF SOUTH AFRICA (PTAWU)

SOUTH AFRICAN TRANSPORT AND ALLIED WORKERS' UNION (SATAWU)

TRANSPORT AND ALLIED WORKERS' UNION (TAWU)

(nokuzolokhu kuthiwa uma kukhulunywa ngazo kulesi Sivumelwano "abasebenzi" noma "izinyunyana")

kanti lawa amaqembu abambe iqhaza eMkhandlwini Kazwelonke Wokuxoxisana Phakathi Kwabaqashi Nabasebenzi Bemboni Yokuhlelwa Kokuthutha kanye Nokuthuthwa Kwempahla Emgwaqweni.

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INGXENYE 1: UKUSEBENZA KANYE NESIKHATHI SESIVUMELWANO

1. Ukusebenza Kwesivumelwano

- (1) Lesi Sivumelwano sisebenza **Embonini Yezokuthutha Nokuhlelwa Ukuthuthwa Kwempahla** eRiphabhlikhi yaseNingizimu Afrika.
- (2) Kuye ngalokho okushiwo yisigatshana (3), lesi Sivumelwano sibophezela–
 - (a) kubona bonke abasebenzi abanqunyelwa inani elithile lemali okumele balihole Kwisheduli 5 yalesi Sivumelwano;
 - (b) kubona bonke abaqashi babasebenzi abanqunyelwa inani elithile lemali okumele balihole Kwisheduli 5 yalesi Sivumelwano futhi abangamalungu enhlangano yabaqashi eyingxenywe yalesi sivumelwano;
 - (c) kuzona zonke ezinye izingxenywe zabasebenzi abanganqunyelwe inani lemali encane okumele balihole kodwa nabo abafanele ukwenyuselwa imali uma kwenyuselwa wonke umuntu imali Ngokwesheduli 5. Izimali ezikhokhelwa izinyunyana nezibalulwe kwisigatshana 54 kanye nezindleko zoMkhandlu ezibalulwe kwisigatshana 69 nakho kuyosebenza kubasebenzi abashiwo kulesi sigatshana esincane; kanye
 - (d) nakubasebenzi abanganqunyelwe amanani aphantsi okumele bawahole futhi abasuke bengafanelwe ukukhushulelwa imali uma wonke umuntu ekhushulelwa imali Ngokwesheduli 5 mayelana nezimali ezikhokhelwa inyunyana kwisigatshana 54.
- (3) Kuye ngokwesigatshana (4), lesi Sivumelwano sisebenza nakubanikazi bezimoto okukhulunywe ngazo lapha futhi abangabashayeli bazo.
- (4) Umnikazi wemoto futhi ongumshayeli wayo–
 - (a) ongumqashi kufanele asebenze amahora afanayo kanye nesilinganiso samahora esinqunye kulesi Sivumelwano ukuthi sisetshenzwe ngabasebenzi
 - (b) onemoto eyodwa kuphela futhi engumshayeli waleyo moto ngokugcwele, kudingeka ukuthi ahambisane nezimiso zepharagrafu engaphansi engu (a) kuphela kulesi sigaba kanye nesigatshana 45.

- (5) Ingxenye 10 yalesi Sivumelwano ibeka imiyalelo esebenza ohlotsheni oluthile lwabasebenzi. Le ngxenye–
- (a) ibeka kucace imikhakha yabasebenzi okuyoyina imiyalelo ethile yalesi Sivumelwano esebenza kuyona;
 - (b) ihlinzeka ngezimiso ezisebenza kwimikhakha ethile yabasebenzi ukwengeza ngaphezu kwesivumelwano;
 - (c) ilungisa imiyalelo ethile yalesi Sivumelwano ngenhloso yemikhakha ethile yabasebenzi.
- (6) Ukwelulwa kwalesi Sivumelwano ukuthi sifinyelele nakulabo abangesiyona ingxenye yaso ngokwemibandela Yesigaba 32 soMthetho, angeke kufake izimiso zesigatshana 73 (1) zalesi Sivumelwano.

2. Isikhathi Sesivumelwano

- (1) Lesi Sivumelwano siyoqala sibophezele kubaqashi kanye nabasebenzi ababalulwe Kwisigatshana 1(2) uma uNgqongqoshe Wezabasebenzi eseselulile ngokwemibandela Yesigaba 32 soMthetho kusukela ngosuku oluyonqunywa nguNgqongqoshe.
- (2) Lesi Sivumelwano siyosebenza kuze kube ngumhla ziyi-13 kuFebhuwari 2013.

INGXENYE 2: AMAHORA OKUSEBENZA

3. Amahora okusebenza ejwayelekile

- (1) Amahora ajwayelekile okusebenza angeke aba ngaphezu kwamahora angama-45 ngesonto.
- (2) Kuye ngokwesigatshana (1), amahora ajwayelekile okusebenza ngosuku angeke abe ngaphezulu –
- (a) kwamahora ayisishiyagalolunye kubasebenzi abasebenzi izinsuku eziyisihlanu esontweni
 - (b) kwamahora ayisishiyagalombili kubasebenzi abasebenza izinsuku eziyisithupha esontweni, yinqobo nje uma amahora okusebenza komsebenzi lowo engengaphezulu kwamahora ayisithupha ngoMgqibelo.
- (3) Amahora okusebenza ajwayelekile awazifaki izikhathi zokuhlaba ikhefu lokudla ezihlinzekwa ngokwesigatshana 5.

4. Izinsuku zokusebenza

- (1) Izikhathi zokusebenza ezejwayelekile nsuku zonke ziyosethwa umqashi ngamunye.
- (2) Umqashi angakwazi kuphela ukushintsha isikhathi sokuqala ukusebenza ngosuku olwejwayelekile–
 - (a) oluthinta abasebenzi abangasebenzi ngezimoto asebasebenzele lowo mqashi ofanayo ngosuku olufanayo isikhathi esingamasonto angama-26 noma ngaphezulu, uma umqashi eya wazisa abasebenzi futhi waxoxisana nabo, noma nenyunyana yabo mayelashana noshintsho lolo, okungenani kusasele izinsuku eziyisikhombisa ngaphambi kokuba ushintsho lolo lwenzeke; futhi
 - (b) kubona bonke abasebenzi, uma umqashi lowo eye wanika labo basebenzi isaziso ngomlomo okungenani kusasele amahora ayi-12 ngaphambi kokuba ushintsho lolo lwenzeke.
- (3) Umqashi angakwazi ukushintsha usuku lokuqala ukusebenza esontweni kanye nesikhathi sokusebenza komsebenzi ngokuthi anike umsebenzi lowo isaziso samahora angama-72 esibhalwe phansi nesimayelana noshintsho lolo.
- (4) Kuncike kwizikhathi zokuya ekhefini lokuyokudla nezibalulwe kwisigatshana 5, wonke amahora asetshenzwe ngabasebenzi, ngaphandle kwabasebenzi abayitoho bezinhlango zetho, kunoma yiluphi usuku kufanele alandelane futhi kufanele athathwe ngokuthi awusuku lokusebenza olulodwa (1) oluphelele.

5. Izikhathi zokudla nokuphumula

- (1) Kuye ngokuncike kwisigatshana (2) kanye no (3), umqashi kufanele anike umsebenzi osebenza ngokungamiyo izikhathi ezingamahora angaphezu kwamahlanu, isikhathi sokuyokudla esingekho ngaphansi kwehora elilodwa. Ngokwenhloso yalesi sigatshana esincane, umsebenzi owenziwa ngokungamiyo ngaphandle-ke uma ephazanyiswa isikhawu okungenani semizuzu engama-60.
- (2) Isikhathi samahora amahlanu okukhulunywe ngaso kwisigatshana (1) kungenzeka selulwe siye sifinyelele kwisikhathi esingengaphezulu kwamahora ayisikhombisa ngenhloso yokulayisha noma yokudiliza umthwalo emotweni.
- (3) Isikhathi sokudla singancishiswa ngokuthi kube nesivumelwano esibhalwe phansi phakathi komqashi nomsebenzi, kodwa futhi singabi ngaphansi –
 - (a) kwesigamu sehora; noma
 - (b) imizuzu eyi-15, uma sekuyisikhathi sokudla kwesibili kunoma yiluphi usuku.

- (4) Umsebenzi angeke kudingeke kuye noma avunyelwe ukuthi enze noma yimuphi umsebenzi ngesikhathi sakhe sokudla.
- (5) Isikhathi sokudla asiyona ingxenye yamahora ejwayelekile okusebenza noma yesikhathi esengeziwe sokusebenza, ngaphandle-ke –
- (a) uma isikhathi sokudla siside ngaphezu kwesikhathi esiyihora nekota nokungabe-ke isikhathi esingaphezu kwehora elilodwa nekota kungabe sekuthathwa njengesikhathi esisetshenziwe;
- (b) ngokwesikhathi esengeziwe esisetshenziwe, isikhathi sokudla yisikhathi sokudla kwesibili osukwini.
- (6) Umqashi kufanele avumele umsebenzi ukuthi athole isikhathi sokuphumula okungenani esilinganiselwa emizuzwini eyishumi nokufanele kube yisikhathi esisondelene kakhulu nephakathi lwesikhathi esesisetshenziwe ngalolo lusuku lokusebenza ngalunye. Umsebenzi akudingekile ukuthi noma akavunyelwe ukuthi enze noma yimuphi umsebenzi ngesikhathi sakhe sokuphumula. Lesi sikhathi sokuphumula sithathwa ngokuthi siyingxenye yamahora ajwayelekile okusebenza komsebenzi.
- (7) Imibandela yalesi sigatshana asisebenzi konogada. Kodwa-ke noma ngabe yisiphi isikhathi sokudla esinikezwe unogada sithathwa ngokuthi siyingxenye yamahora ejwayelekile okusebenza kukanogada.
- (8) Isigatshana (6) asisebenzi kumshayeli noma kumsebenzi ophelezela noma owelekelela umshayeli ngenkathi imoto ingekho emagcekeni omqashi.

6. Isikhathi sokuphumula nsuku zonke

- (1) Umqashi kufanele okungenani avumele umsebenzi wakhe ukuthi aphumule amahora ayisishiyagalombili alandelanayo kunoma yisiphi isikhathi esingamahora angama-24 kusukela ngesikhathi umsebenzi eqale ukusebenza kunoma yiluphi usuku.

7. Izinsizakalo zezimo eziphuthumayo

Izigatshana 4(3), 5 kanye no 6 angeke zisebenze uma kwenziwa umsebenzi wezimo eziphuthumayo.

8. Isonto lokusebenza elicinene

- (1) Kuye ngokulandela izigatshana (2) kanye no (3), futhi ngemuva kokunika umsebenzi isaziso esibhalwe phansi okungenani samahora angama-72, umqashi angakwazi ukudinga umsebenzi ukuthi asebenze amahora angaze afinyelele kwayi-15 ngosuku,

kufaka phakathi izikhathi zokudla, ngaphandle kokuthi umsebenzi akhokhelwe imali ngokusebenza isikhathi esengeziwe.

- (2) Umqashi akakwazi ukuthi angadinga ukuthi umsebenzi asebenze isonto elicinene isikhathi esingaphezu kwamasono amabili elandelana esikhathini esiyizinsuku ezinhlanu.
- (3) Umqashi angeke adinge noma avumele umsebenzi ukuthi asebenze –
 - (a) umsebenzi wamahora ajwayelekile angaphezu kwangama-45 kunoma yiliphi isonto;
 - (b) umsebenzi wesikhathi esengeziwe wamahora angaphezu kwama-30 kunoma yiliphi isonto; noma
 - (c) ngezikhathi zakhe zokuphumula ezibalulwe kwisigatshana 6.
- (4) Umqashi ozimisele ukuthi kusetshenzwe isikhathi esiyisonto elicinene kufanele –
 - (a) azise ngokushesha Unobhala Kazwelonke WoMkhandlu ngokubhalwe phansi ngosuku lolo acabanga ukuthi kungenzeka lolu hlobo lokusebenza luqale ngalo futhi alinganise nesikhathi acabanga ukuthi kungenzeka lolu hlobo lomsebenzi luqhubeka ngaso; futhi
 - (b) agcine wonke amakhophi ezaziso aye wazikhipha wazisa kubasebenzi ngokwemibandela yesigatshanyana (1) isikhathi esiyiminyaka emithathu.
- (5) Ukuze umqashi akwazi ukubala inani lezinsuku ezisetshenzwe esontweni elicinene, umqashi kufanele athathe inani lamahora ajwayelekiele okusebenza elisetshenziwe esontweni futhi kufanele ukuthi agixabeze umsebenzi ngosuku lokusebenza olugcwele njalo uma kunamahora ayisishiyagalolunye asetshenziwe ngaphezulu, kuye kufinyelele ezinsukwini eziyisihlanu (5) zokusebenza esontweni ngalinye. Ingxenye ethile yehora esetshenziwe ithathwa ngokuthi iyihora eligcwele elisetshenziwe.

9. Ukulinganiswa kwamahora omsebenzi

- (1) Umqashi kanye nomsebenzi bangasenza isivumelwano esibhalwe phansi ukulinganisa amahora ajwayelekile okusebenza kanye nesikhathi esengeziwe esikhathini esingaye sifinyelele emasontweni amahlanu.
- (2) Umqashi angeke adinge noma avumele umsebenzi ukuthi asebenze –
 - (a) umsebenzi wamahora ajwayelekile angaphezu kwangama-45 kunoma yisiphi isikhathi sokulinganisa;
 - (b) umsebenzi wesikhathi esengeziwe wamahora angaphezu kwama-30 kwisikhathi esilinganisiwe.

- (3) Umqashi kufanele anamathele kwizikhathi zokuphumula ezibalulwe kwisigatshana 6.
- (4) Umqashi oye wenza isivumelwano nabasebenzi bakhe ukuthi basebenze isikhathi esingamahora alinganisiwe kufanele –
 - (a) azise ngokushesha Unobhala Kazwelonke WoMkhandlu ngokubhalwe phansi ngosuku lolo acabanga ukuthi kungenzeka lolu hlobo lokusebenza luqale ngalo futhi alinganise nesikhathi acabanga ukuthi kungenzeka lolu hlobo lomsebenzi luqhubeke ngaso; futhi
 - (b) agcine wonke amakhophi ezaziso aye wazikhipha wazisa kubasebenzi ngokwemibandela yesigatshanyana (1) isikhathi esiyiminyaka emithathu.
- (5) Kuye ngokwesigaba (6), umqashi kufanele ukuthi agixabeze umsebenzi ngezinsuku ezinhlanu (5) zokusebenza kwisonto ngalinye lapho ukulinganiswa kwamahora okwenziwa komsebenzi kuye kwasetshenziswa khona.
- (6) Umqashi angakwazi ukudonsa usuku olulodwa (1) lokusebenza usuku ngalunye lapho khona umsebenzi engekho emsebenzini ngenxa yezizathu ezingachaziwe emgomweni wencazelo “yezinsuku zokusebenza.”

10. Ukuncishiswa kokusetshenzwa kwesikhathi esengeziwe

- (1) Kuye ngokwesigatshanyana (2), umqashi angeke adinge noma avumele umsebenzi ukuthi asebenze isikhathi esengeziwe esingaphezu –
 - (a) kwamahora ayi-6 nganoma yiluphi usuku, ngaphandle koMgqibelo;
 - (b) kwamahora angaphezu kwama-30 kunoma yiliphi isonto kusukela ngoMsombuluko kuya kuMgqibelo, kuhlanganisiwe.
- (2) Ngaphandle-ke uma kwenziwa umsebenzi wezimo eziphuthumayo, amahora amaningi angasetshenzwa ngumsebenzi nganoma yiluphi usuku akumele ege emahoreni ayi-15, kuhlanganisa namahora ajwayelekile okusebenza, amahora esikhathi esengeziwe kanye nezikhathi zokudla konke okubalulwe kulesi Sivumelwano.

11. Umsebenzi wesikhathi esengeziwe

- (1) Uma umsebenzi esebenza isikhathi esengeziwe, umqashi kufanele –
 - (a) akhokhele lowo msebenzi imali engengaphansi kwesilinganiso esingokukodwa nohhafu wemali ebhalwa yilowo msebenzi ngehora mayelana naso sonke isikhathi sesikhathi esengeziwe esisetshenziwe; noma
 - (b) anikeze lowo msebenzi isikhathi sokungabibikho emsebenzini esikhundleni sokumnika imali.

- (2) Uma umsebenzi engekho emsebenzini ngaphandle kwemvume yomqashi ngesikhathi samahora ajwayelikile okusebenza ngosuku olwejwayelekile lokusebenza, amahora ajwayelekile okusebenza lawo umsebenzi angawasebenzanga angadonswa kwisikhathi esengeziwe umsebenzi asisebenze kulelo sonto.
- (3) Isigatshanyana (2) asisebenzi kumsebenzi ongekho emsebenzini ngenxa yezimo ezingaphezu kwamandla akhe lowo msebenzi. Kodwa-ke futhi umqashi angacela umsebenzi ongabe engekho emsebenzini ngoba ethi ubegula, ukuthi akhiphe incwadi kadokotela njengobufakazi bembangela yokungezi kwakhe emsebenzini.
- (4) Umsebenzi okusuke kudonswe kuye amahora ngokwemibandela yesigatshanyana (2) angakwazi ukwedlulisela isikhalazo sakhe, uma enesizathu esibambekayo sokwenza lokho, kuMkhandlu okuyothi-ke wona, ngemuva kokusibhekisisa kahle kanye nokubheka zonke ezinye izinto eziseceleni, bese usiphumelelisa lesi siculo noma usichithe.

12. Isikhathi sokuphumula esikhundleni sokukhokhelwa ngokusebenza isikhathi esengeziwe

- (1) Umqashi onika umsebenzi isikhathi sokuthi ayophumula esikhundleni senkokhelo angakwazi ukwenza okunye kwalokhu –
- (a) ukuthi akhokhele lowo msebenzi ngokwezinga elingengaphansi kwemali esiyisizinda kwisikhathi esengeziwe esisetshenziwe bese enika lowo msebenzi okungenani isikhathi esikhokhelwe esiyimizuzu engama-30 kwihora ngalinye lesikhathi esengeziwe elisetshenziwe; noma
- (b) anike umsebenzi lowo okungenani isikhathi esikhokhelwe esiyimizuzu engama-90 kwihora ngalinye lesikhathi esengeziwe eliye lasetshenzwa.
- (2) Umqashi ozimisele ukufaka uhlelo lokuthi anike abasebenzi isikhathi sokuphumula esikhundleni senkokhelo ngesikhathi esisetshenziwe esengeziwe, kufanele –
- (a) anike labo basebenzi abathintekayo okungenani isaziso samahora angama-72 esibhalwe phansi;
- (b) ngokushesha okukhulu azise Unobhala WoMkhandlu Kazwelonke ngokubhalwe phansi ngosuku acabanga ukuthi lokhu kuyokwenzeka ngalo kanye nokuthi lolu hlelo luyoba yisikhathi esingakanani.
- (3) Lesi sikhathi sokuhlaba ikhefu esikhokhelwayo umsebenzi anikwa sona nokukhulunywe ngaso kwisigatshanyana (1) –
- (a) angeke umsebenzi anikwa sona ngesikhathi sesonto elicinene;

- (b) kufanele umsebenzi anikwe sona zingakapheli izinsuku ezingama-30 kusukela umsebenzi efanelekile ukuthi asithole leso sikhathi sokuphumula futhi esikhokhelwaywo; noma;
 - (c) ngemvume ebhalwe phansi yomsebenzi, kufanele anikwe sona umsebenzi engakapheli amasonto angama-52 kusukela umsebenzi ebe nelungelo lokuthi anikwe leso sikhathi sokuphumula esikhokhelwayo.
- (4) Umqashi kufanele ukuthi, isikhathi esiyiminyaka emithathu, agcine amakhophi –
- (a) azo zonke izizaso ngokwemibandela yesigatshanyana 2 (a); kanye
 - (b) nazo zonke izivumelwano eziye zenziwa ngokwemibandela yesigatshanyana (3)
 - (c).

13. Ukubalwa kwesikhathi sokusebenza esengeziwe

- (1) Isikhathi esengeziwe maqondana nabasebenzi abahola ngesonto, ibalwa ngokwesikhathi esengeziwe esisetshenzwe ngokwesonto, bese kuthi ingxenya ethile yehora ijikwe yona yenziwe ihora eligcwele noma ihlehliswe ibe wuhhafu wehora: yinqobo nje uma isikhathi esengeziwe kubasebasebenzi abasebenza ukushintsha abanye siyobalwa ngokweholo elibalulwe kwisigatshana 62 esifundwa ngokuhlanganyela Nesheduli 5, kuhlanganisa nephrimiyamu eyengeziwe engu-10%.
- (2) Umqashi kufanele akhokhele umsebenzi osebenze isikhathi esengeziwe esikhungweni sezimo eziphuthumayo imali ngokwezinga elingengaphansi kweholo lesonto lomsebenzi eliphindwe kabili, ulehlukanise ngo-45, kwihora ngalinye noma ingxenye yalo esetshenziwe.

14. Ukusebenza ngeSonto

- (1) Uma umqashi edinga ukuthi umsebenzi asebenze ngeSonto, umqashi lowo kufanele–
- (a) akhokhelo lowo msebenzi imali engengaphansi kwemali ephindwe kabili kwimali ayibhala ngehora lowo msebenzi emkhakheni wakhe, noma ingxenye yalokho, okusetshenziwe; noma
 - (b) anikwe lowo msebenzi isikhathi esikhokhelwe esikhundleni sokukhokhelwa imali ngokusebenza ngeSonto.
- (2) Ekubaleni iholo okumele likhokhelwe umsebenzi lowo okudingeka ukuba asebenze nangeSonto –
- (a) umsebenzi osebenza isikhathi esingaphansi kwamahora ayisithupha uyothathwa ngokuthi usebenze amahora ayisithupha;
 - (b) uma usuku olusetshenziwe luwela ekubeni yiSonto kanye nolunye usuku, usuku lonke-ke luyothathwa ngokuthi lusetshenzwe ngeSonto, ngaphandle-ke uma

ingxenye enkulu yosuku lolo isetshenzwe ngolunye usuku, nokuyobe sekusho ukuthi-ke lolo lusuku luyobe lusetshenzwe ngolunye usuku, hhayi ngeSonto.

- (3) Umqashi ozimisele ngokusebenzisa lolu hlelo lokuthi anike umsebenzi isikhathi sokuphumula esikhokhelwe esikhundleni sokumnika imali ngokusebenza ngeSonto kufanele –
- (a) anike lowo msebenzi othintekayo isaziso esibhalwe phansi samahora angama-72;
 - (b) azise Unobhala WoMkhandlu Kazwelonke ngokubhalwe phansi ngosuku acabanga ukuthi lokhu kuyokwenzeka ngalo kanye nobude besikhathi okulindeleke ukuthi lokhu kwenzeka ngaso;
 - (c) agcine amakhophi azo zonke izaziso eziye zakhishelwa abasebenzi ngokwemibandela yepharagrafu (a) isikhathi esiyiminyaka emithathu ngemuva kokushishwa kwazo; futhi
 - (d) agcine amakhophi azo zonke izivumelwano eziye zenziwa ngokwemibandela yesigatshanyana (5) (b) isikhathi esiyiminyaka emithathu.
- (4) Umqashi owenza uhlelo lokuthi abasebenzi bathole isikhathi sokuphumula esengeziwe esikhundleni sokuthi bakhokhelwe imali ngokusebenza ngeSonto kufanele ukuthi anike lowo msebenzi osebenze ngeSonto, isikhathi sokuphumula esikhokhelwayo esiyolingana ncamashi nemali ebingatholwa ngumsebenzi lowo ngokusebenza ngeSonto ngokwesigatshanyana (1).
- (5) Umqashi kufanele ahlinzeke umsebenzi ngesikhathi sokuphumula esikhokhelwe ngokwemibandela yesigatshanyana (4) zingakapheli –
- (a) Izinsuku ezingama-30 kusukela lowo msebenzi efanelekile ukuthi anikwe leso sikhathi sokuphumula esikhokhelwe; noma
 - (b) ngemvume ebhalwe phansi yomsebenzi, kufanele anikwe sona umsebenzi engakapheli amasonto angama-52 kusukela umsebenzi ebe nelungelo lokuthi anikwe leso sikhathi sokuphumula esikhokhelwayo.
- (6) Isikhathi sokuphumula esikhokhelwe nesinikwa umsebenzi esikhundleni senkokhelo eyimali ngokusebenza ngeSonto angeke asinikwa umsebenzi ngesikhathi sesonto elicinene lokusebenza.

15. Ukusebenza ngamaholide omphakathi

- (1) Uma iholide lomphakathi lingosuku umsebenzi obekungadingeka ukuthi asebenze ngokwejwayelekile ukuba bekungelona iholide, umqashi kufanele –
- (a) akhokhele umsebenzi lowo ongasebenzi ngosuku oluyiholide lomphakathi, okungenani iholo lowo msebenzi obengalithola ngomsebenzi awenze ngalolo lusuku; futhi

- (b) akhokhele lowo msebenzi owenza umsebenzi ngosuku oluyiholide lomphakathi –
 - (i) iholo eliphindwe kabili kunalelo lo msebenzi abengalithola ngomsebenzi angabe ewenze ngalolo lusuku; noma
 - (ii) uma imali izoba nkulu kakhulu, inani lemali lo msebenzi ongabe ulitholile ngokusebenza ngalolo lusuku, kuhlanganisa nenani lemali elenziwe ngumsebenzi ngehora ngalinye alisebenzile ngalelo hora, noma ingxenyeyalo, esetshenzwe ngalelo langa; noma
 - (c) anike umsebenzi lowo osebenza ngehohide lomphakathi isikhathi sokuphumula esikhokhelwe, nokungabe-ke lapho sekusebenza imiyalelo yezigatshanyana (3) – (6) zesigatshana 14, nezinguquku ezifanele.
- (2) Umsebenzi osebenza ngehohide lomphakathi kufanele agixabezwe ngosuku olulodwa (1) lokusebenza.
 - (3) Umsebenzi akanalo ilungelo lokufuna ukusebenza ngenkani ngosuku oluyiholide lomphakathi.
 - (4) Uma iholide lomphakathi kwenzeka liba ngosuku oluyiSonto, lapho-ke uMsombuluko olandelayo uyothathwa ngokuthi uyiholide lomphakathi kanti uma Usuku Oluyizibethe ZikaKhisimuzi lungoMsombuluko, oLwesibili olulandelayo luyothathwa ngokuthi luyiholide lomphakathi.
 - (5) Isikhathi sekhefu lonyaka lomsebenzi kufanele lelulwe ngosuku olulodwa kwiholide lomphakathi ngalinye eliba ngosuku lokuhlaba ikhefu futhi umqashi kufanele–
 - (a) akhokhele umsebenzi iholo lakhe elejwayelekile ngosuku lweholide lomphakathi ngalinye ngaphezu kwenkokhelo umsebenzi lowo okusuke kumele ayithole ngesikhathi sokuhlaba ikhefu ngasinye; futhi
 - (b) agixabeze umsebenzi ngosuku olulodwa lokusebenza ngehohide ngalinye lomphakathi ngenhloso yokubala isikhathi sokufaneleka komsebenzi ukuthi ahlinzekwe ngesikhathi sokuhlaba ikhefu ngonyaka olandelayo.
 - (6) Isigatshanyana 1 (a) asisebenzi kubasebenzi abasebenza ukuphumuza abanye abasebenzi.

16. Ukusebenza ebusuku

- (1) Umqashi angadinga noma avumele umsebenzi ukuthi asebenze ebusuku kuphela, uma umsebenzi lowo –
 - (a) eyokhokhelwa imali yokusebenza ebusuku, nebalulwe Kwisheduli 5; futhi

- (b) ikhona into yokumthutha umsebenzi lowo phakathi kwalapho umsebenzi lowo ehlala khona kanye nendawo yomsebenzi ekuqaleni kanye nasekupheleni kosuku lokusebenza komsebenzi.
- (2) Umqashi odinga ukuthi umsebenzi enze umsebenzi njalo ngemuva kuka-23:00 kanye nangaphambi kuka-06:00 ngosuku olulalanelayo, kufanele –
- (a) azise umsebenzi lowo ngokubhalwe phansi, noma ngomlomo, uma umsebenzi engakwazi ukuqonda okubhalwe phansi, ngolimi umsebenzi lowo aluqonda kahle –
- (i) nganoma ngaziphi izingozi zezempilo nezokuphepha ezimataniswa nomsebenzi lowo umsebenzi okulindeleke ukuthi awenze; futhi
- (ii) ngamalungelo omsebenzi okuthi ahlolwe ngokwezempilo ngokwemibandela yeparagrafu (b);
- (b) ngokwesicelo somsebenzi, avumele umsebenzi lowo ukuthi ahlolwe ngokwezempilo ngudokotela oqokwe futhi okhokhelwe ngumqashi, mayelana nobungozi bezempilo kanye nokuphepha okungenzeka kube khona –
- (i) ngaphambi kokuba umsebenzi lowo aqale ukusebenza lapho, noma singakapheli isikhathi esithile esiphusile umsebenzi lowo eqalile, ukwenza lowo msebenzi; futhi
- (ii) kanye nangezikhathi ezifanele kusukela umsebenzi eqalile ukwenza lowo msebenzi.
- (c) adlulisele umsebenzi lowo emsebenzini owejwayelekile esikhathini esiphusile uma –
- (i) umsebenzi lowo kwenzeka ehlaselwa yisimo sokugula esimataniswa nokwenza kwakhe umsebenzi wasebusuku; futhi
- (ii) kube kuyinto elula ukuthi umqashi angayenza leyo.
- (3) Irekhodi lokuhlolwa ngudokotela nokwenziwe ngokwemibandela yalesi sigatshana kufanele ligcinwe liyimfihlo futhi lingatholakala kuphela –
- (a) ngokulandela imiyalelo kanye nemigomo yokusebenza kodokotela;
- (b) uma lidingwa ngumthetho noma lidingeka ngokomyalelo wenkantolo; noma
- (c) uma umsebenzi eye wavuma naye ngokubhalwe phansi ukuthi lolo lwazi lungakhululwa.
- (4) Ngokwezinhloso zesigatshanyana (2), umsebenzi usebenza ngokuvamile uma esebenza isikhathi esingaphezu kwehora elilodwa ngemuva kuka-23:00 ngaphambi kuka-6:00 okungenani izikhawu ezinhlano ngenyanga noma izikhathi ezingama-50 ngonyaka.
- (5) Umsebenzi obuye athole imali yokudla nokuthenga izinto ezincane akafanelekile ukuthi abuye athole imali ethile ngokusebenza ebusuku.

17. Ukuncishiswa konke kwamahora okusebenza

Umqashi akakwazi ukuthi angadinga noma angavumela umsebenzi ukuthi asebenze amahora angaphezu kwangama-90 kunoma yiliphi isonto, kufaka phakathi amahora ejwayelekile okusebenza, amahora esikhathi esengeziwe kanye namahora asetshenzwe ngeSonto noma ngeholidi lomphakathi.

INGXENYE 3: IKHEFU

18. Ikhefu lonyaka

- (1) Kulesi sigatshana, isiyingi sekhefu lonyaka siyosho isikhathi sokuqashwa komsebenzi esiyizinyanga eziyi-12, esebenzela umqashi oyedwa ngokushesha kulandela –
 - (a) ukuqala ukusebenza komsebenzi ukusebenza; noma
 - (b) ukuphela kwesiyingi somsebenzi sangaphambilini.

- (2) Umsebenzi uyofaneleka ukuthi anganikwa isikhathi sokuhlaba ikhefu ngokuhambisana nesikhathi asesisebenze kwinkampani leyo ngale ndlela elandelayo:
 - (a) osenesikhathi esingaphansi kweminyaka emi-5 esebenzela lowo mqashi izinsuku ezingama-21 zilandelana esekhefini; noma
 - (b) oseqede iminyaka emi-5 esebenza ngokunganqamukiyo, kodwa oneminyaka engaphansi kweyi-10 uthola ikhefu lezinsuku ezingama-23 zilandelana; noma
 - (c) iminyaka eyi-10 kanye nangaphezulu esebenza ngokunganqamukiyo, uthola izinsuku zokuhlaba ikhefu ezilandelanayo ezingama-26.

- (3) Wonke umqashi uyokhokha imali ethile ayifake esiKhwameni i-Leave Pay Fund kungaze kwedlule umhla zingama-20 kwinyanga ngayinye, eyikhokhela umsebenzi ngamunye, oqashwe nguye, kwinyanga engaphambili, kanti iyobalwa ngale ndlela elandelayo:
 - (a) abasebenzi asebenesikhathi esingaphansi kweminyaka emi-5 besebenza isikhathi esinganqamukiyo, bafakelwa imali engu-25% weholo labo elejwayelekile ngesonto
 - (b) abasebenzi asebeqede isikhathi esiyiminyaka emi-5 besebenza ngokunganqamukiyo, kodwa abaneminyaka yokusebenza engaphansi kweyi-10, bafakelwa imali engu-28% wemali eyejwayelekile abayithola ngesonto; futhi

- (c) abasebenzi asebasebenze iminyaka eyi-10 kanye nangaphezulu bafakelwa imali engu-33.3% weholo labo elejwayelekile.
- (4) Ikhefu lonyaka kufanele umsebenzi ahlinzekwe ngalo futhi lithathwe ngesikhathi esiyonqunywa ngumqashi –
- Zingakapheli izinyanga ezi-4 kusukela kuphela isiyingi sesikhathi sokuhlaba ikhefu; noma
 - Ngokwesivumelwano esibhalwe phansi phakathi komqashi nomasebenzi, zingakapheli ezinye izinyanga ezimbili ngemuva kwesikhathi sezinyanga ezi-4 okukhulunywe ngazo kwipharagrafu (a).
- (5) Isikhathi sokuhlaba ikhefu lonyaka singathathwa esikhathini esingaye sifinyelele ezinyangeni ezimbili ngaphambi kokuphela kwesiyingi sesikhathi sekhefu lonyaka–
- Ngokwesivumelwano phakathi komqashi nomsebenzi; noma
 - Uma izimo eziphuthumayo zokusebenza komqashi zidinga ukuthi isikhathi sokuhlaba ikhefu sithathwe masinyane noma kusesekuseni.
- (6) Umqashi odinga ukuthi umsebenzi athathe isikhathi sokuhlaba ikhefu ngaphambi kokuphela kwesiyingi sesikhathi sokuhlaba ikhefu, kufanele –
- anikeze lowo msebenzi isikhathi esigcwele sokuhlaba ikhefu nokuyisikhathi umsebenzi lowo obengabe usinikiwe vele ngemuva kokuphuthula isiyingi sokuhlaba ikhefu; futhi
 - akhokhe umsebenzi imali egcwele ngaleso sikhathi sokuhlaba ikhefu.
- (7) Uma ukuqashwa komsebenzi okudingeka ukuthi ahlabe ikhefu ngokwesigatshanyana (6) kunqanyulwa ngaphambi kokuphela kwesiyingi sesikhathi sokuhlaba ikhefu, umqashi angamkhokhisa noma yisiphi isikhathi sekhefu umsebenzi asinikiwe naye wasisebenzisa kube kade kungafanele ukuba asithole, kanti lokhu kukhokhiswa kwenziwa ngokuthi kubanjwe izimali ezithile eholweni umsebenzi lowo okusuke kufanele alithole.
- (8) Ikhefu lonyaka angeke lathathwa ngesikhathi esisodwa nesifanayo nanoma yisiphi isikhathi–
- esiyikhefu lokugula elihlinzekwe ngokwemibandela yesigatshana 19; noma
 - sokuhlinzeka ngesaziso sokushiya emsebenzini ngokwemibandela yesigatshana 40.
- (9) Umqashi angakwazi ukunciphisa amandla okuthola isikhathi sokuhlaba ikhefu lonyaka komsebenzi ngenani lezinsuku umsebenzi anikwe zona njengesikhathi sokuhlaba ikhefu elithe gqwa gqwa lapho umsebenzi eye wanikwa leso sikhathi sokuhlaba ikhefu kodwa wakhokhelwa ngokugcwele ngalokho, lokhu

kuyokwenzeka ngokuthi umsebenzi afake isicelo esibhalwe phansi ngesikhathi sesiyingi sekhefu; kodwa-ke futhi umsebenzi kufanele anikwezwe okungenani isikhathi sokuhlaba ikhefu esingamasonto amabili alandelayo unyaka nonyaka.

(10) Ngesikhathi sekhefu lonyaka lomsebenzi, umsebenzi kungenzeka adingeke noma avunyelwe ukuthi –

- (a) enze umsebenzi wakhe owejwayelekile wokuba ngumsebenzi; noma
- (b) asebenze noma yikuphi lapha ngaphakathi ezweni.

(11) Akukho zimali eziyobanjwa kwiholo lokuhlaba ikhefu komsebenzi ukukhokha noma yiziphi izimali umsebenzi azikweleta umqashi, ngaphandle kwezimiso zemibandela yesigatshana 40 (2) (b).

19. Isikhwama Sokugula kanye Nokungabibikho Emsebenzini

- (1) Wonke umqashi uyokhokha izimali ezithile KwisiKhwama Sokugula kanye Nokungabibikho Emsebenzini ungakedluli umhla zingama-20 kwinyanga ngayinye, egameni lomsebenzi ngamunye amqashile.
- (2) Izimali zikhokhwa ziye eMkhandlwini kungakhathalekile inani lezinsuku umsebenzi lowo asuke ezisebenzile enyangeni ethile, kodwa konke kwencike kwisigatshana 24(3) kanye no-(3).
- (3) Kulesi sigatshana “isiyingi sekhefu lokugula” kusho isikhathi sokuqashwa esiyizinyanga ezingama-36, usebenzela umqashi ofanayo ngokushesha kulandela –
 - (a) ukuqala ukusebenza komsebenzi; noma
 - (b) ukuphothulwa kwesiyingi sokugula ngumsebenzi lowo.
- (4) Ngaso sonke isiyingi sekhefu lokugula, umqashi unelungelo lokuthola inani elithile lemali elaziwa ngokuthi ngelekhefu lokugula elikhokhelwayo nelilingana nezinsuku zokusebenza ezingama-36.
- (5) Nakuba kukhona isigatshanyana (4), ngezinyanga zokuqala eziyisithupha zokuqashwa, umsebenzi unelungelo lokunikwa usuku olulodwa lokugula ezinsukwini ezingama-26 azisebenzile.
- (6) Ngesikhathi sokuqala sesiyingi sekhefu lokugula komsebenzi, umqashi engakwazi ukunciphisa ilungelo lomsebenzi lokuba nesikhathi esiyikhefu lokugula ngokwemibandela yesigatshanyana (4) ngenani lezinsuku zekhefu lokugula ezithathwe ngokwemibandela yesigatshanyana (5).

- (7) Kuye ngokwesigatshana (4), uMkhandlu unamandla okukhokhela umsebenzi ikhefu lokugula imali elingana nemali umsebenzi obevele ezoyithola ngalelo langa engakapheli amahora angama-48 kusukela kutholwe isicelo esifanele.
- (8) UMkhandlu akudingekile ukuthi ukhokhele umsebenzi ikhefu lokugula elithathwa ngezikhathi ezahlukene ngokwemibandela yesigatshanyana (7) uma –
- (a) Umsebenzi lowo kade elove emsebenzini izinsuku ezingaphezu kwezimbili zilandelana noma kwizikhathi ezingaphezulu kwalokho ngesikhathi esingamasonto ayisishiyagalombili; futhi
- (b) umsebenzi ehluleka ukukhipha incwadi yokugula kadokotela eshofo ukuthi umsebenzi lowo ubengeke akwazi ukusebenza ngaleso sikhathi sokugula kwakhe ngenxa yakho njalo belu ukugula, ngisho noma ngabe umqashi wakhe ubemcela ukuthi asebenze.
- (9) Incwadi yokugula kadokotela okukhulunywe ngayo kwisigatshanyana (8) kufanele ikhishwe futhi isayinwe ngudokotela uqobo noma-ke yimuphi omunye umuntu onikezwe iziqu zokuthi akwazi ukuhlonza ukugula okuthile futhi enikwe namandla okwelapha iziguli futhi kube ngumuntu obhalise nomkhandlu osemthethweni nowasungulwa ngokoMthetho wasePhalamende.
- (10) Uma kuwukuthi amathuba abengekho okuthi umsebenzi othile ohlala emagcekeni omqashi ukuthi ubengakwazi ukuthola incwadi yokugula kadokotela, lapho-ke uMkhandlu ungeke-ke wayibamba imali yomsebenzi ngokwesigatshanyana (7) ngaphandle-ke uma umqashi enike lowo msebenzi usizo olwanele nolufanele ukuthi akwazi ukuthola incwadi yokugula kadokotela.
- (11) Inkokhelo Eyibhonasi Yekhefu Lokugula
- (a) Uma umsebenzi eseqede isiyingi seminyaka emithathu eqalile ukusebenza noma kusukela ngosuku lokuphela kwesiyingi sekhefu lokugula saphambilini, uMkhandlu uyokhokha ibhonasi yekhefu lokugula kumsebenzi kuye nokwezimali ezitholakele kukhishwe izinsuku zekhefu lokugula aye wakhokhelwa ngazo umsebenzi lowo kwisiyingi seminyaka emithathu esedlule.
- (b) Umsebenzi oshiya emsebenzini wakhe uyothola inkokhelo eyolingana nezimali ezikhokhiwe nezitholakele bese kukhishwa izinsuku zekhefu lokugula lowo msebenzi aye wakhokhelwa ngaso ngesikhathi sokuqashwa kwakhe.
- (12) Izicelo zamakhefu okugula kanye nezincwadi zokugula zodokotela, uma kufanele, kumele zifike eMkhandlwini zingakapheli izinsuku ezi-5 zokusebenza ngemuva kokuba umsebenzi ebuyele emsebenzini.

20. Ukungakwazi ukusebenza ngenxa yokulimala emsebenzini noma isifo

Ukungabibikho komsebenzi emsebenzini ngenxa yokungakwazi ukusebenza okubangelwe yingozi noma yisifo umsebenzi asithole emsebenzini njengalokhu sichazwe eMthethweni Wokulimala Emsebenzini kanye Nezifo, okungoMthetho ka 1993, akusiyona ingxenye yekhafu lokugula umsebenzi angakwazi ukulithola ngokwemibandela yesigatshana 19 ngaphandle kwanoma yisiphi isikhathi lapho khona kungekho sinxephezelo esikhokhiwe ngokwemibandela YoMthetho Wokulimala Emsebenzini kanye Nezifo, okungoMthetho ka 1993.

21. Ikhefu lokuyofunda

- (1) Umqashi kufanele ahlinzeke abasebenzi, ngaphandle kwabasebenzi abakhulula abanye kanye nabasebenzi abayitoho abangaphansi kwensizakalo yokuqasha yesikhashana, ikhefu elikhokhelwe elingekho ngaphansi kwezinsuku zokusebenza ezimbili isifundo ngasinye kuye kufinyelele kwizifundo ezine ngonyaka. Ukuhlinzekwa ngekhefu lokufunda kuncike kule mibandela elandelayo –
 - (a) isicucu esifundelwayo kufanele ukuthi siphasiswe ngumqashi;
 - (b) isicu esifundelwayo kufanele ukuthi kube ngesiphasiswe yi-Transport Education and Training Authority noma iyiphi-ke i-SETA;
 - (c) ikhefu lokuyofunda umsebenzi anikwe lona kufanele lufake phakathi usuku okubhalwa ngalo isivivinyo sokuhlolwa; futhi
 - (d) umsebenzi lowo kufanele ukuthi asiphumelele lesi sivivinyo.
- (2) Uma izimo ezibalulwe kwipharagrafu (a) kanye no (b) zesigatshanyana (1) kulangatshezwe nazo, lapho-ke umqashi kufanele ukuthi, okwesikhashana –
 - (a) amnike umsebenzi ikhefu lokufunda;
 - (b) agixabeze umsebenzi ngosuku olulodwa lokusebenza ngosuku lokufunda ngalunye; futhi
 - (c) akhokhele umsebenzi iholo lakhe elejwayelekile ngalezo zinsuku ezimbili ngosuku lokuqala lokuhola kulandela isivivinyo lesi.
- (3) Uma esithole imiphumela yesivivinyo sakhe abesibhala umsebenzi lowo, kufanele ukuthi anike umqashi wakhe ngomfuziselo (ikhophi) wemiphumela yezivivinyo zakhe.
- (4) Uma umsebenzi efeyila isivivinyo sakhe, umqashi walowo msebenzi angakwazi ukwenza lokhu –
 - (a) ukuthola inkokhelo yesikhashana eyenziwe ngokwesigatshanyana (2) eholweni lomsebenzi lowo; futhi
 - (b) adonse izinsuku zokusebenza lowo msebenzi abenikwe zona ngokwemibandela yesigatshanyana (2).

22. Ikhefu lokubhekana nezinto zomndeni

- (1) Ngokwenhloso yalesi sigatshana –
 - (a) “ilungu lomndeni ondelene nalo” kusho umlingani wothando womsebenzi noma uphathina wempilo, umntwana, umntwana otholiwe ngokusemthethweni ukuthi abe ngowomndeni, umzukulu, umzali, usingamzali, ugoto/umkhulu, umuntu enizalwa ngumzali oyedwa naye, noma abazali bakho basemzini/basekhweni lakho;
 - (b) “uphathina wempilo” kusho umuntu obambisene nomsebenzi ebudlelwaneni bokuthandana kwabantu bobulili obehlukene noma babantu bobulili obubodwa ngokwenhloso yokuthi lobo budlelwano bube obukhona unomphelo, kanti akumfaki noma yimuphi omunye umuntu kanti kufaka phakathi ukuhlala ndawonye naye lo muntu noma ukukupita.

- (2) Umqashi kufanele ukuthi ahlinzeke umsebenzi, kuhlenganisa nomsebenzi ongaqashiwe ngokugcwele, isikhathi esingaye sifinyelele ezinsukwini eziyisihlanu ngonyaka, eholo iholo eligcwele, uma kwenzeka noma yisiphi isigameko kulezi ezilandelayo –
 - (a) ukushona/ukufa noma ukugula okubi kwelungu lomndeni elisondelene kakhulu nomsebenzi;
 - (b) ukuzalwa komntwana ezalwa yilowo msebenzi – ngamanye amazwi lowo msebenzi engubaba womntwana.

- (3) Umsebenzi kufanele ukuthi ahlinzeke umqashi wakhe ngobufakazi obenelisayo ngesigameko ngasinye, nokungaba yisitifiketi sokufa, incwadi yokugula kadokotela noma isitifiketi sokuzalwa, kuye ngokuthi yini eyenzakele.

- (4) Uma umqashi engabemukeli ubufakazi besigameko esenzakele, lapho-ke umsebenzi engakwazi, uma enesizathu esizwakalayo, ukwedlulisela ukungeneliseki kwakhe eMkhandlwini. Kungathi-ke uma uMkhandlu usukubheke konke okumayelana nalolo ludaba, bese kuba kuwona-ke uMkhandlu ukuthi ngabe uthi ibambe ngakho, noma uyasihlehlisa isinqumo somqashi.

- (5) Umsebenzi kufanele ukuthi agixabezwe ngosuku olulodwa lokusebenza ngosuku lwekhefu aluhlinzekiwe ngalunye ngokwemibandela yesigatshanyana (2).

23. Ikhefu lokuyobeletha

- (1) Umsebenzi unelungelo lokunikwa ikhefu lokuyobeletha okungenani eliyizinyanga ezine ezilandelanayo.

- (2) Umsebenzi osebenze isikhathi okungenani esiyizinyanga eziyisithupha zilandelana esebenzela umqashi oyedwa, futhi ewuhlobo lomsebenzi olubalulwe Kwisheduli 5, nokunqunywe ukuba athole isilinganiso seholo elithile, ufanelwe ukuthi akhokhelwe amaphesenti angama-33 eholo lakhe elejwayelekile ngenkathi ehlabhe ikhefu lokuyobeletha. Le mali kufanele ikhokhwe ngumqashi masonto onke ngosuku olwejwayelekile lokuhola.
- (3) Umsebenzi angaqala ahlabe ikhefu lokuyobeletha –
- (a) nganoma yisiphi isikhathi kusukela kusele amasonto amane ukuba abelethe, ngaphandle-ke uma kuvunyelwane ngenye indlela; noma
 - (b) nganoma yiluphi usuku udokotela ayothi noma umbelethisi ayothi kubalulekile ukuthi umsebenzi ahlabe ngalo ikhefu ukubhekelela impilo yomsebenzi lowo noma impilo yomntwana ongakazalwa.
- (4) Akukho msebenzi ongasebenza emasontweni ayisithupha okuqala kusukela ethole umntwana, ngaphandle-ke uma udokotela noma umbelethisi eqinisekisa ukuthi lowo msebenzi ufanelekile ukuthi engenza njalo.
- (5) Umsebenzi ophuphunyelwe yisisu esesesigabeni sesithathu sokukhulelwa noma othwele umntwana ozalwa eseshonile, unelungelo lokunikwa ikhefu lokuyobeletha elingamasonto ayisithupha ngemuva kokuphuphunyelwa yisisu noma ngemuva kokubeletha umntwana eseshonile, lokhu kungakhathalekile ukuthi lowo msebenzi ngabe ubesevele esesekhefini lokuyobeletha yini ngenkathi ephuphunyelwa yisisu noma ebeletha umntwana eseshonile.
- (6) Umsebenzi kufanele azise umqashi wakhe ngokubhalwe phansi, ngaphandle-ke uma umsebenzi engakwazi ukukwenza lokho, ngosuku lapho khona umsebenzi lowo ehlose ngalo–
- (a) ukuqala ukuhlaba ikhefu lokuyobeletha; kanye
 - (b) ukubuyela emsebenzini ngemuva kwekhefu lokuyobeletha.
- (7) Isaziso ngokwemibandela yesigatshanyana (6) kufanele sinikezwe –
- (a) Okungenani kusasele amasonto amane wonke ngaphambi kokuba umsebenzi lowo aqale ukuhlaba ikhefu lokuyobeletha; noma
 - (b) uma amathuba okuthi lokhu kwenzeka, ekhona, ngokushesha okukhulu ngesikhathi lokhu okungenzeka ngaso.
- (8) Umqashi angeke akwazi ukuthi adinge noma avumele umsebenzi ukuthi asebenze ngesikhathi sakhe sokuhlaba ikhefu lokuyobeletha.

- (9) Umsebenzi obuyela emsebenzini ngemuva kwesikhathi sekhefu lokuyobeletha, unelungelo lokuthi aqale umsebenzi esikhundleni ayekade evele ekuso futhi ngaphansi kwemigomo nemibandela efanayo neyayisebenza kuyena ngokushesha ngaphambi kokuba ahlabe ikhefu lokuyobeletha, yinqobo nje uma lowo msebenzi –
- (a) ebuyela emsebenzini zingakapheli izinyanga ezinhlanu kuqale isikhathi sokuhlaba ikhefu lokuyobeletha; noma
- (b) eveza kumqashi wakhe, incwadi kadokotela eqinisekisa ukuthi kusenesidingo sokuthi angabibikho emsebenzini.

INGXENYE 4: IZIKHWAMA ZEMIHLOMULO

24. Ukuqhubeka kwezikhwama zemihlomulo

- (1) Lezi ziKhwama ezilandelayo kuyaqhutshekwa nazo –
- (a) IsiKhwama Sokukhokhela Ikhefu nesasungulwa ngaphansi Kwesaziso Sikahulumeni esinguNo. R.41 sangomhlaka 15 Januwari 1971;
- (b) IsiKhwama Sokukhokhela Ibhonasi Yeholide nesasungulwa ngaphansi kwezimiso Zesivumelwano esashicilelwa ngaphansi Kwesaziso Sikahulumeni esinguNo. R.41 sangomhlaka 15 Januwari 1971;
- (c) IsiKhwama Sokugula nesasungulwa ngaphansi Kwesaziso Sikahulumeni esinguNo. R. 1238 sangomhlaka 15 Juni 1953 futhi saqhubeka saze sabizwa nangokuthi YisiKhwama Sokugula Nokungabibikho Emsebenzini ngaphansi Kwesaziso Sikahulumeni esinguNo. R 559 nesavela Kwigazethi Kahulumeni enguNo. 30041 yomhlaka 6 Julayi 2007.
- (2) Ukubalwa kanye nokukhokhelwa kweziKhwama zemihlomulo, nezifaka phakathi IsiKhwama Sokukhokhela Ikhefu, IsiKhwama Sokukhokhela Ibhonasi Yeholide kanye NesiKhwama Sokugula Nokungabibikho Emsebenzini angeke manje zisamataniswa nezikhathi zokungena uma usebenza ezingama-252;
- (3) Umqashi kudingeka ukuthi kube nezimali azikhokhayo kuzona zonke iziKhwama zemihlomulo eMkhandlwini njengalokhu kubaluliwe. Umqashi unelungelo lokuhambisa isicelo sokuthi naye afune ukukhokhelwa ingxenye yezimali azikhokhile ezikhokhela umsebenzi othile nganoma iyiphi inyanga uma kwenzekile lowo msebenzi evele wangabibikho nje emsebenzini ngaphandle kwemvume, njengalokhu kuchaziwe. Lokho kufuna ukukhokhelwa komqashi kufanele kube ngokubhalwe phansi futhi kuphelezwe nawubufakazi obanele.

25. Imiyalelo evamile emayelana nokufakwa kwezimali ezikhwameni Zemihlomulo kanye nokufuna ukukhokhelwa kulezi zikhwama Zemihlomulo

- (1) Odabeni lwezimali ezikhokhwayo nokufanele ngabe sezikhokhiwe ngokwemibandela yeziKhwama zemihlomulo ezibalulwe kwisigatshana 24, abaqashi kufanele –
- (a) bakhokhe lezo zimali okufanele bazikhokhe engakedluli umhla zingama-20 kwinyanga ngayinye;
 - (b) bakhokhe imali iye Kunobhala Kazwelonke WoMkhandlu;
 - (c) bahambise Kunobhala Kazwelonke WoMkhandlu, ungakedluli umhla zingama-20 wenyanga elandelayo, ukusebenza kwezimali ngaleyo nyanga nokungabe kukalwe nguMkhandlu ngokwale nhloso.

26. Imiyalelo evamile ngokuphathwa kwezikhwama zemihlomulo

- (1) Zonke izimali eziye zakhokhwa kunoma yisiphi isiKhwama kulezi ziKhwama zemihlomulo okukhulunywe ngazo kwisigatshana 24, kufanele ukuthi zifakwe kwi-akhawunti yasebhangе eyisipesheli neyovulwa egameni lesiKhwama somhlumulo futhi ivulelwa sona.
- (2) Noma iyiphi imali esiKhwameni somhlomulo eyobe ingadingeki ukuthi isetshenziswe ngokushesha ngaleso sikhathi, ingatshalwa nguMkhandlu isikhathi nesikhathi ngokwemibandela yesigaba 53 (5) soMthetho.
- (3) Inzalo eyokwenziwa yizimali ezitshaliwe iyongena esiKhwameni soMkhandlu.
- (4) Noma yiziphi izimali eziye zakhokhwa zaya esiKhwameni somhlomulo, kodwa futhi ezingabiziwe noma futhi ezingasetshenzisiwe ngokusemthethweni ingakapheli iminyaka emihlanu kusukela zitholakele, ziyodliwa bese zingena ngaphansi kwesamba sezimali ezivamile zoMkhandlu.
- (5) Mayelana nodaba lwesiKhwama semihlomulo ngasinye, uMkhandlu kufanele uqoke umcwaningimabhuku obhalisiwe ukuthi–
- (a) acwaninge ama-akhawunti esiKhwama esifanele okungenani kanye ngonyaka; futhi
 - (b) alungise isitatimende esibonisa zonke izimali ezitholakele kanye nezindleko eziye zaba khona ngaphansi kwazo zonke izihloko ngonyaka wezimali lowo kuze kufinyelele ekupheleni kukaFebhuwari kuhlenganisa ne-*balance sheet* ebonisa izimali ezikhona kanye nezikweletu zesiKhwama ngaleso sikhathi.
- (6) Isitatimende esicwaniyiwe kanye ne-*balance sheet* kwesiKhwama ngasinye, nokungabe kuphinde kwasayinwa nanguSihlalo woMkhandlu, kuhlenganisa nanoma yimiphi-ke eminye imibiko eyenziwe ngumcwaningimabhuku ngalokho –

- (a) kufanele ukuthi kubekwe obala ukuze kuhlolwe emahhovisi oMkhandlu; futhi
 (b) ikhophi eqinisekisiwe yalokho kufanele ihanjiswa kuNobhala Wezobudlelwano Nabasebenzi zingakapheli izinyanga ezintathu kivalwe leso sikhathi okukhulunywe ngaso kulowo mbiko.
- (7) Esimweni lapho khona kwenzeka uMkhandlu uhlakazwa noma uma uMkhandlu usuma usuyeka ukusebenza, ngesikhathi sokusebenza kwalesi Sivumelwano, uNobhala Wezobudlelwano Nabasebenzi angaqoka ikomidi, noma amakomidi, anamalungu alinganayo amele abaqashi kanye namele abasebenzi embonini ngokwenhloso yokuthi alawule iziKhwama zemihlomulo.
- (8) Noma ngabe yiziphi izikhala eziba khona ekomidini noma emakomidini okukhulunywe ngawo kwisigatshana 7, zingagcwaliswa nguNobhala Wezobudlelwano Nabasebenzi ngokuthi athathe kulabo abamele abaqashi nalabo abamele abasebenzi embonini, kuye ngokuthi kushoda ngakuluphi uhlangothi. Esimweni lapho khona ikomidi lingakwazi khona noma lingathandi ukwenza imisebenzi yalo khona, uNobhala angaqoka i-trustee eyodwa noma ngaphezu kwalokho ukuthi kube yiyona noma yiwona awenza lowo msebenzi wesiKhwama semihlomulo. Ikomidi noma i-trustee noma ama-trustee aqokwe kanjalo kufanele abe namandla aseMkhandlwini ngokwenhloso yokulawula leso siKhwama.
- (9) Uma kungekho Mkhandlu okhona ngaleso sikhathi sokuphela kwalesi Sivumelwano, iziKhwama zemihlomulo lezo kufanele zenze okukodwa kulokhu okulandelayo –
 (a) ziqhubeke nokulawulwa yikomodi noma i-trustee okanye ama-trustee abesebenza ngaleso sikhathi bese kuthi noma iyiphi imali esele nokumele ukuthi ingene esiKhwameni esithile, kufanele ukuthi yabiwe ngokwemibandela yesigaba 59 (5) soMthetho kube sengathi iyingxenywe yezimali zoMkhandlu;
 (b) zivalwe ngokwemibandela yesigatshana 27.
- (10) Uma kwenzeka uMkhandlu ukhokha imali ngokungafanele iya kumsebenzi othile noma iya kumqashi othile, ivela esiKhwameni somhlomulo ngenxa yesizathu sokwehluleka komqashi ukuhambisana nanoma yiziphi izimiso zalesi Sivumelwano, noma ngenxa yephutha elenziwe yinoma yimuphi umuntu, uMkhandlu ungakwazi ukuvukela leso simiso Zesivumelwano Sokunikwa Amalungelo Athile kanye Nokusombulula Ukungaboni Ngaso Linye Ngokubambisana ukuze ukwazi ukubuyelwa yilezo zimali ezikhokhwe kungafanele.
- (11) Uma leyo nokhelo engafanele yenziwe nokukhulunywe ngayo kwisigatshanyana (10) yenzeka ngenxa yephutha ngasohlangothini lomqashi, lapho-ke umqashi uyena oyokhokha zonke izindleko uMkhandlu oye wangena kuzo ekubuyelweni yileyo mali.

27. Ukuvalwa kweziKhwama zemihlomulo

- (1) IsiKhwama semihlomulo kufanele sivalwe uma –
- (a) lesi Sivumelwano, noma esinye isengezelo saso noma ukuvuselelwa kabusha kwalesi Sivumelwano, siphelelwa yisikhathi ngokuhamba kwesikhathi noma ngenxa yesinye isizathu; futhi
 - (b) singakapheli isikhathi esiyizinyanga eziyi-12 kusukela ngalolo suku lokuphela kwaleso sikhathi
 - (i) kuye kwaba nesinye isivumelwano soMkhandlu esihlinzeka ngokuthi kube nokuqhubeka kokuxoxisana ngokuba khona kwaleso siKhwama somhlomulo; noma
 - (ii) isiKhwama somhlomulo singedlulisiwe nguMkhandlu sayiswa ngaphansi kwesinye isiKhwama esakhelwe inhloso efanayo nesiKhwama semihlomulo.
- (2) IsiKhwama semihlomulo kufanele ukuthi silawulwe nguMkhandlu –
- (a) esikhathini esiyizinyanga eziyi-12 okukhulunye ngaso kwisigatshanyana (1) (b); noma
 - (b) esikhathini esifanele esincane uma Isivumelwano esilandela lapho esiye senziwa noma isiKhwama sedluliselwe kwesinye isiKhwama njengalokhu kushiwo yisigatshanyana (1) (b).
- (3) Uma kungekho Mkhandlu okhona ngaleso sikhathi sokuphela kwalesi Sivumelwano, isiKhwama semihlomulo kufanele sivalwe ngokushesha okukhulu.
- (4) Uma isiKhwama semihlomulo sesivaliwe, imali eyobe isele ngaphakathi kuleso siKhwama kuyofanele ukuthi –
- (a) iqale isetshenziselwe ukukhokha zonke izimali/izikweletu isiKhwama obekufanele ngabe siyazikhokha, kuhlanganisa nezindleko zokulawula isiKhwama leso kanye nezindleko zokusonga/ukuvala isiKhwama;
 - (b) uma uMkhandlu usekhona, imali eyosala lapho kuyofanele ukuthi ikhokhwe esiKhwameni sikawonkewonke soMkhamdlu;
 - (c) uma uMkhandlu ungasekho, futhi nazo zonke izindaba zomkhandlu seziphothuliwe futhi izimali ezikhona ebezisele sezabiwe, noma iyiphi imali eyobe isasele esiKhwamani kufanele ukuthi yabiwe ngokulandela isigaba 59(5) soMthetho, kube sengathi lezi zimali ziyizimali zoMkhandlu bezivele zikhona.

28. Imiyalelo yokuphathwa kwezinkokhelo ezenziwa kwisikhwama Sokukhokhela ikhefu kanye Nesikhwama Sokukhokhela Ibhonasi Yeholide

- (1) Umqashi kufanele ukuthi unyaka nonyaka, okungenani kusasele izinsuku eziyishumi nanhlanu ngaphambi kokuba kuphuthulwe isiyingi sekhefu lonyaka lomsebenzi

esibalulwe kwisigatshana 18 (1) agcwalise Ivawusha Yokukhela Izinsuku Zelivu ibe ngamakhasi amathathu kwifomu elinqunywe nguMkhandlu ukuze lisetshenziselwe le nhloso (Okunanyathiselwe A6), futhi bese –

- (a) egcina ikhophi eyodwa;
- (b) anike umsebenzi enye ikhophi eyodwa;
- (c) athumele enye ikhophi iye KuNobhala Kazwlonke WoMkhandlu kuhlanganisa nanoma yiziphi ezinye izimali ezikhokhwe KwisiKhwama Sokukhokhela Izinsuku Zekhefu maqondana nalowo msebenzi kwisiyingi sekhefu lonyaka esifanele nesisuke singakhokhiwe eMkhandlwini; futhi
- (d) izicelo zesiKhwama Sokukhokhela Ikhefu ezingezesikhathi esingahlangane kufanele zifinyelele eMkhandlwini okungenani kusasele izinsuku zokusebenza ezinhlanu ngaphambi kokuba umsebenzi aqale ukuyohlaba ikhefu.

- (2) Ukukhokhelwa kwezinsuku zokuhlaba ikhefu kwenziwa nguMkhandlu, kwencike –
 - (a) ekutheni umsebenzi aphothule isiyingi sekhefu okukhulunywe ngaso kwisigatshana 18 (1);
 - (b) ekutheni uMkhandlu ubambe izimali okumele kugixabezwe ngazo umsebenzi esiKhwameni Sokukhokhela Ikhefu; kanye
 - (c) nasekutheni umqashi afake isicelo sokuthi akhokhelwe Kumabhalane WoMkhandlu Kazwelonke ngokuhambisana nesigatshanyana (1).
- (3) Uma sekutholakale isicelo ngokulandisa kwalesi sigatshana, uMkhandlu kufanele ukhokhe imali elingana nezimali ebezikhokhelwa ikhefu neziye zemukelwa yisiKhwama ngesikhathi sesiyingi sokuhlaba ikhefu, nokuqondene nalowo msebenzi udaba olungaye.
- (4) Inkokhelo eqondene nokukhokhela isikhathi sekhefu kufanele ikhokhwe uma umsebenzi esahlabe ikhefu –
 - (a) iqonde ngqo kuyena umsebenzi lowo; noma
 - (b) uma kuvunyelwene nomsebenzi othintekayo kanye nomqashi wakhe, ifakwe ingene kumqashi ngqo bese kuthi ngokuhamba kwesikhathi umqashi ayedlulisele kumsebenzi.
- (5) UMkhandlu kufanele ukhokhe ibhonasi yokuba seholidini (okuthiwa yisheke lika-13) kumsebenzi ngamunye kuDisemba wonyaka ngamunye, kodwa kuncike ekutheni –
 - (a) uMkhandlu unayo imali oyibambile egameni lomsebenzi lowo esiKhwameni sokukhokhela ibhonasi.

29. IsiKhwama sokukhokhela ikhefu

- (1) Izimali ezikhokhwa zingene EsiKhwameni Sokukhokhela Ikhefu –

- (a) kufanele ukuthi zikhokhelwe wonke umsebenzi oqashwe ngumqashi kumazinga 1 kuya ku 6 ngenyanga eyedlule –
- (b) kanti lezi zimali zibalwa ngale ndlela elandelayo:
- (i) abasebenzi asebenesikhathi esingaphansi kweminyaka emi-5 besebenza isikhathi esinganqumukiyo, bafakelwa imali engu-25% weholo labo elejwayelekile ngesonto
 - (ii) abasebenzi asebeqede isikhathi esiyiminyaka emi-5 besebenza ngokunganqamukiyo, kodwa abaneminyaka yokusebenza engaphansi kweyi-10, bafakelwa imali engu-28.34% wemali eyejwayelekile abayithola ngesonto; futhi
 - (iii) abasebenzi asebesenze iminyaka eyi-10 kanye nangaphezulu bafakelwa imali engu-33.3% weholo lapho elejwayelekile.
- (c) Izimali ezikhokhwayo zikhokhwa ziye eMkhahlwini kungakhathalekile ukuthi zingaki izinsuku eziye zasetshenzwa ngumsebenzi lowo inyanga ngayinye, kodwa konke kwencike kwimiyalelo yesigatshana 24(2) kanye no (3).
- (2) Esikhundleni sezimali okufanele ngabe ziyafakwa ngokwemibandela yesigatshanyana (1), laba baqashi abalandelayo bangakwazi ukuthi umqashi ngamunye akhokhele umsebenzi obaluliwe inani lemali elithile lokho ekususela kwisigatshanyana (3) –
- (a) isikhungo sokuqasha abetoho nesiqondene nabasebenzi abayitoho;
 - (b) umqashi wabasebenzi abasebenza ngokungagcwele nabasebenza isikhathi esingaphansi kwamahora ayi-15 ngesonto;noma
 - (c) umqashi wabasebenzi abasebenza ukukhulula abanye nokungabasebenzi abasuke beqashwe isikhathi esingaphezu kwezinsuku ezingama-90 esikhathini esingamasonto angama-52.
- (3) Indlela okumele isetshenziswe ukukhokha esikhundleni sezimali eziya esiKhwameni Sokukhokhela Ikhefu, isebenza kuwona wonke amahora ajwayelekile okusebenza noma ingxenye yehora elisetshenziwe emkhakheni womsebenzi owenziwayo ngamunye –
- $$\frac{25}{100} \times \frac{\text{Iholo lesonto lilonke}}{195}$$
- (4) Umqashi womsebenzi osebenza ngokungagcwele kodwa osebenza okungenani isilinganiso samahora ayi-15 noma ngaphezulu ngesonto kufanele, mayelana nezimali okufanele azifake esiKhwameni ngokwesigatshanyana (1), abale kwiholo lomsebenzi elejwayelekile langesonto, esebenzisa le ndlela elandelayo–
- $$\text{Iholo elejwayelekile lesonto} = \frac{\text{Iholo lesonto lilonke lenyanga leyo}}{13} \times \frac{3}{13}$$

30. IsiKhwama Sokukhokhela Ibhonasi Yeholide

(1) Kuncike ngokuthi lesi sigatshana sithini, bonke abasebenzi abasembonini banelungelo lokuthola isheke le-13 nelilingana namasonto angu-4.33 ehlo eliyisizinda lonyaka neliyokhokhwa ngemuva kwezinyanga eziyi-12 zokusebenza okuqhubekayo nokunganqamukiyo, umsebenzi esebenzela umqashi oyedwa. Leli sheke lika-13th liyokhokhwa liqonde ngqo kumsebenzi ngoDisemba wawo wonke unyaka kanti ngonyaka wokuqala angeke kube yisamba esigcwele kodwa kuyoba yisamba esiyobheka ukuthi umsebenzi lowo unesikhathi esingakanani eqashwe yilowo mqashi. Izimali eziya esiKhwameni Sokukhokhela Ibhonasi Yeholide –

- (a) kufanele ukuthi zikhokhelwe wonke umsebenzi oqashwe ngumqashi kumazinga 1 kuya ku 6 ngenyanga eyedlule;
- (b) kanti zilingana nesilinganiso esingu-36.08% weholo elejwayelekile lesonto neliholwa ngumsebenzi; futhi
- (c) kufanele zikhokhwe zinyanga zonke uma umsebenzi eye wasebenza ngenyanga edlule.
- (d) kufanele zikhokhwe ziye eMkhandlwini kungakhathalekile inani lezinsuku umsebenzi aye walisebenza ngesikhathi esiyinyanga ethile, konke kwenziwe kuncike kwisigatshana 24 (2) kanye no (3).

(2) Esikhundleni sezimali okufanele ngabe ziyafakwa ngokwemibandela yesigatshanyana, laba baqashi abalandelayo bangakwazi ukuthi umqashi ngamunye akhokhele umsebenzi obaluliwe inani lemali elithile lokho ekususela kwisigatshanyana (3) –

- (a) isikhungo sokuqasha abetoho nesiqondene nabasebenzi abayitoho;
- (b) umqashi wabasebenzi abasebenza ngokungagcwele nabasebenza isikhathi esingaphansi kwamahora ayi-15 ngesonto;noma
- (c) umqashi wabasebenzi abasebenza ukukhulula abanye nokungabasebenzi abasuke beqashwe isikhathi esingaphezu kwezinsuku ezingama-90 esikhathini esingamasonto angama-52.

(3) Indlela okumele isetshenziswe ukukhokha esikhundleni sezimali eziya esiKhwameni Sokukhokhela Ikhefu, isebenza kuwona wonke amahora ajwayelekile okusebenza noma ingxenye yehora elisetshenziwe emkhakheni womsebenzi owenziwayo ngamunye–

$$\frac{36.08}{100} \times = \underline{\text{Iholo lesonto lilonke}}$$

- (4) Umqashi womsebenzi osebenza ngokungagcwele kodwa osebenza okungenani isilinganiso samahora ayi-15 noma ngaphezulu ngesonto kufanele, mayelana nezimali okufanele azifake esiKhwameni ngokwesigatshanyana (1), abale kwiholo lomsebenzi elejwayelekile langosonto, esebenzisa le ndlela elandelayo –

$$\text{Iholo elejwayelekile lesonto} = \frac{\text{Iholo lesonto lilonke lenyanga leyo} \times \frac{3}{13}}{1}$$

1

- (5) Akukho zimali ezingabanjwa kwibhonasi yokukhokhela elihode ngoba kuthiwa kukhokhwa isikweletu umsebenzi anaso nomqashi wakhe.

INGXENYE 5: UMHOLO

31. Ukukhokhwa komholo ukhokhelwa abasebenzi abangesibona Abasebenzi abangena ezikhaleni zabasebenzi abangekho emsebenzini

- (1) Ngokwenhloso yalesi sigatshana, uma sikhuluma ngomholo, sikhuluma ngehlo lomsebenzi, izimali ezikhokhelwa ukusebenza isikhathi esengeziwe, yizimali ezitholwa ngumsebenzi ngokwenza okuthile kanye nazo zonke nje-ke izimali ezingena kumsebenzi
- (2) Umqashi kufanele akhokhele umsebenzi umholo –
- (a) oyimali engukheshi masonto onke ngamahora okusebenza ajwayelekile ngosuku umsebenzi lowo avame ukuholelwa ngalo;
- (b) bese kuthi ngemvume yomsebenzi ebhalwe phansi
- (i) oyimali engukheshi zinyanga zonke ngamahora okusebenza ajwayelekile ngosuku umsebenzi lowo avame ukuholelwa ngalo;
- (ii) noma ngabe umsebenzi lowo ukhokhelwa njalo ngesonto noma njalo ngenyanga, imali ingene kwi-akhawunti yasebange yomsebenzi lowo, ngosuku noma ngaphambi kosuku umsebenzi avame ukukhokhelwa ngalo.
- (c) uma esenqamula isivumelwano sokuqashwa komsebenzi ngosuku olwejwayelekile lokuhola.
- (d) Imihlo ekhokhwa ingukheshi noma ekhokhwa ngesheke kufanele ukuthi ifakwe emvilophini evalwe thaqa noma kwenye into nje-ke kodwa nayo evalekayo.
- (3) Imvilophi yehlo noma enye into evalekayo okufakwa kuyo iholo lomsebenzi, nokukhulunywe ngayo kwisigatshanyana (d) ngenhla, kufanele ukuthi irekhode le

mininingwane elandelayo, noma kufanele ukuthi iphelezwe yisititimende esiqoshwe lolu lwazi olulandelayo –

- (a) igama lomqashi;
- (b) igama lomsebenzi noma inombolo yakhe yasemsebenzini kanye nohlelo angina ngaphansi kwalo;
- (c) inani lamahora ajwayelekile omsebenzi, nasetshenzwe nguyena umsebenzi;
- (d) inani lamahora esikhathi esengeziwe asetshenzwe ngumsebenzi
- (e) iholo eliqondile lomsebenzi;
- (f) imininingwane yanoma yiziphi ezinye izinkokhelo nezikhokhwe ngenxa yokuqashwa komsebenzi ngumqashi;
- (g) imininingwane yezimali ezibanjiwe;
- (h) inani eliqondile lemali okuyiyona ekhokhelwe umsebenzi;
- (i) isikhathi okuyisona imali leyo ekhokhwayo okungeyaso, kanti imvilophi noma enye into evalekayo leyo lapho yonke le mininingwane irekhodwe khona, noma isitatimende lapho le mininingwane ikhonjiswe khona, umnikazi wakho kuyoba ngumsebenzi.

- (4) Uma umholo womsebenzi ukhokhwa ufakwe ungene kwi-akhawunti yasebhange yalowo msebenzi, umqashi kufanele ahlinzeke umsebenzi –
 - (a) ngeresidi ebonisa ubufakazi bokukhokhwa kwemali leyo; kanye
 - (b) nesitatimende okukhulunywe ngaso kwisigatshanyana (3).
- (5) Imininingwane ebalulwe kwisigatshanyana (3) ingarekhodwa ngekhodi ethile yinqobo nje uma leyo khodi ibhalwe yachazwa kahle kwisaziso –
 - (a) esiphelezela inkokhelo leyo; noma
 - (b) sigcinwa siphanyekwe endaweni ecacile endaweni lapho khona abasebenzi bonke abathintekayo beyokwazi ukusibona khona.
- (6) Uma umsebenzi engekho emsebenzini ngosuku oluvamile lokuhola, lowo msebenzi kufanele ukuthi akhokhelwe engakapheli amahora angama-24 kusukela ebuyeleli emsebenzini noma endaweni lapho kuholelwa khona.
- (7) Uma zingakapheli izinsuku eziyi-14 kusukela umsebenzi eholile, lowo msebenzi usuke engakwazi ukubuza umbuzo kumqashi wakhe mayelana –
 - (a) nanoma yimiphi imininingwane ebhalwe kwimvilophi noma kwenye into evalekayo, noma kwisititimende esihambisana nehlo
 - (b) nemali umsebenzi akhokhelwe yona.
- (8) Uma umsebenzi engenelisekile ngempendulo yomqashi embuzweni angabe ewubuzile ngokwemibandela yesigatshana (7), umsebenzi usuke esengawedlulisela

umbuzo wakhe eMkhandlwini, kanti lesi simangalo kufanele semukelwe nguMkhandlu engakapheli amasonto angama-26 kusukela ngosuku lokuhola.

32. Imiyalelo nokubanjwa kwezimali okungavunyelwe

- (1) Kuye ngokuthi omunye umthetho uthini, akukho nkokhelo eyokwenziwa eyokwenziwa egameni lomsebenzi neyokwemukelwa ngumqashi ngokuqondile noma ngokungaqondile, emayelana nokuqashwa noma nokuqeqeshwa kwalowo msebenzi;
- (2) Umqashi angeke adinge umsebenzi ukuthi athenge izimpahla ezithile kuye umqashi noma kwelinye ibhizinisi noma kumuntu oqokwe ngumqashi.
- (3) Kuye ngokuthi uthini omunye umthetho, umqashi akavumelekile ukuthi acele umsebenzi ukuthi amukele indawo yokuhlala, ukudla noma izibonelelo eziyimikhangezo efuze leyo kumqashi wakhe noma komunye umuntu nom a kwenye indawo eqokwe ngumqashi.
- (4) Umqashi akanalo ilungelo lokuzitapela emalini yomsebenzi ngoba ekhokha noma ngabe yisiphi isikweletu umsebenzi anaso, ngaphandle-ke uma lokho ekwenza ngokwezigatshana 37, 38 no 39.

33. Amaholo

- (1) Kuye ngokwesigatshana 31 (2), bonke abasebenzi abangesibona abasebenzi abasebenza ukushintsha noma ukukhulula abanye noma abasebenzi abaqashwe ngokwenkampani eqasha abasebenzi betoho kufanele bakhokhelwe masonto wonke.
- (2) Isheduli 5 yalesi Sivumelwano ibalula amaholo angesonto kubasebenzi nokungamaholo ahambisana nalesi Sivumelwano.
- (3) Uma umsebenzi eholelwa ngenyanga, imali yenyanga lowo msebenzi ayoholelwa yona iyobalwa ngokwezikhathi eziphindwe kane kanye nokuthathu ngaphezulu (4, 333) –
 - (a) bese kuba amaholo angesonto omqashi njengalokhu ebalulwe Kwisheduli 5; noma
 - (b) yiliphi elinye iholo langesonto elithe ukuba ngaphezudlwana kwemali evame ukukhokhelwa umsebenzi.

- (4) Umsebenzi, ngaphandle komsebenzi oyitoho noqashwe ngokwenhlangano eqasha abantu betoho, othola ukukhokheleka imali enkulu nengaphezu kwaleyo ebalulelwa kulesi Sivumelwano maqondana nemali yomsebenzi okulelo zinga elifanele, lowo msebenzi kufanele ukuthi aqhubeke nokuthola lelo holo eliphezulu yinqobo nje uma esaqashwe ngumqashi emsebenzini ofanayo, ngaphandle-ke uma umqashi enikwa amandla athile njengokulandisa ngokwesigatshana 74.
- (5) Umsebenzi akavumelekile ukuthi amukele umholo ophansi kunomholo obalulwe kulesi Sivumelwano ikakhulukazi kumsebenzi osezingeni lakhe lowo msebenzi.
- (6) Ngokwenhloso yalesi sigatshana, "Isivumelwano" sifaka phakathi noma yiziphi izichibiyelo Kwisivumelwano.

34. Amaholo ehlukele

- (1) Kuye ngokwesigatshanyana (2), umsebenzi, ngaphandle komsebenzi oyitoho noqashwe ngokwenkampani yabetoho, owenza umsebenzi ezingeni lapho khona kufanele ukuba anike iholo eliphezulu ngokubalula kwalesi Sivumelwano, nelingaphezu kweholo elejwayelekile lomsebenzi kunoma yiluphi usuku, kufanele akhokhelwe iholo eliphezulu ngalolu lusuku lonke.
- (2) Umsebenzi oshintsha noma okhulula abanye abasebenzi nowenza umsebenzi osezingeni onamaholo ehlukele abalulwe kuwo ngokwalesi Sivumelwano nganoma yiluphi usuku, kufanele ukuthi akhokhelwe imali ephezulu yangalelo langa, kuhlenganisa nezinye izimali eziyiphrimiyamu eyengeziwe engu-10% kwiholo eliphezulu.

35. Umsebenzi omuhle/omningi owenziwe nodinga ukubongwa ngemali

- (1) Umqashi unelungelo lokuthi engethula uhlelo lokuthi umsebenzi owenze umsebenzi omuhle abongwe ngemali nokusho ukuthi umholo walowo msebenzi ungabe usugxile kakhulu ekutheni lowo msebenzi wenze umsebenzi ongakanani noma ususelwe kwigalelo lomsebenzi lowo, kodwa uma—
 - (a) lolo luhlelo luhambisana nalesi sigatshana futhi luphasiswe nguMkhandlu;
 - (b) amarejista abalulwe kwizigatshana 50 no 51 zalesi Sivumelwano egcinwa ngendlela efanele
 - (c) umsebenzi oyingxenye yalolu hlelo, engakhokhelwa imali ephansi kunemali vele umsebenzi obekufanele ngabe ukhokhelwa yona ngokwemibandela yezigatshana 11, 14, 15, 16 kanye no 36 Zesheduli 5.
- (2) Umqashi ofisa ukwethula uhlelo lokuklomelisa labo basebenzi abenza kahle, kufanele aqale asungule ikomidi elinamalungu alinganayo amele abaphathi nalawo

aqokwe ngabasebenzi ukuthi amele izimfuno zabasebenzi ukuze leli komidi likwazi ukuxoxa futhi livumelane ngemigomo nemibandela yalolu hlelo.

- (3) Imigomo yalolu hlelo lokuklommelisa abasebenzi –
- (a) kufanele lubhalwe phansi futhi lusayinwe yiwona wonke amalungu ekomidi elihlanganise labo abamele abasebenzi nalabo abamele abaqashi; futhi
 - (b) lolu hlelo angeke lushintshwe noma luqedwe yinoma yiluphi uhlangothi ngaphandle-ke uma lolo luhlangothi –
 - (i) luye lwanika zonke ezinye izinhlangothi ezithintekayo isaziso ngokubhalwe phansi njengalokhu zingabe zivumelene zonke izinhlangothi ezahlukene neziyingxenywe yesivumelwano;
 - (ii) luhambisane nazo zonke ezinye izibopho ezazibalulwe kwenziwa lolu hlelo nezimayelana nokushintshwa kanye nokunqanyulwa kohlelo.

**36. Imali yokudla nezindleko ezincanyana kanye neyokusebenza
Ngaphandle kwakuleli**

- (1) Lesi sigatshana asisebenzi kubaqashi kanye nakubasebenzi Abasembonini Yangaphakathi Kamoba.
- (2) Isheduli 5 yalesi Sivumelwano ibeka inani lemali okumele likhokhwe njengemalo yokudla nezindleko ezincanyana.
- (3) Imali yokudla nezindleko ezincanyana –
 - (a) kufanele ikhokhelwe abasebenzi okuthi, lapho benza imisebenzi yabo, bangabibikho endaweni abahlala kuyo noma endaweni yomqashi wabo isikhathi esingaba yinoma esingakanani esiye siwelele nasesikhathini esiyimpoqo yokuthi umsebenzi aphumule ngemuva kwamahora ayisishiyagalolunye njengalokhu kubalulwe kwisigatshana 6 (1);
 - (b) ikhokhwa ngaphezu komholo okusuke kufanele ukuthi utholwe ngumsebenzi;
 - (c) ikhokhwa zingakapheli izinsuku eziyisikhombisa zohamba olungabe lukhokhelwa leyo mali;
 - (d) ikhokhwa uhambo lungakaqalwa kumsebenzi okusuke kudingeke ukuthi athathe uhambo olufaka phakathi ukungabibikho emsebenzini isikhathi esingamahora angama-48 noma ngaphezulu. Esimweni esifuze lesi, ubude bokungabibikho emsebenzini kufanele buqagelwe futhi umsebenzi kufanele ukuthi abuyisele umqashi imali ethile okusuke kwenzeke ukuthi umsebenzi ukhokhelwe yona yaze yeqa esibalweni obekufanele ukuthi akhokhelwe sona ngohambo lolo.

- (4) Umsebenzi ofanelekayo ukuthi athole imali yokudla nezindleko ezincane futhi ayithole, usuke kungasafanele ukuthi anikwe imali yokusebenza ebusuku.

37. Ukubanjwa kwemali ngenxa yokulahlekile noma okulimele

- (1) Ngaphandle kwasezimweni lapho kubuye kwabekwa khona ngenye indlela kuso kanye lesi Sivumelwano, abasebenzi abavunyelwe ukuthi bavume ukuthi kube nezimali eziyobanjwa emiholweni yabo ngenxa yokuthi umqashi ulahlekelwe noma ulinyalelwe yimpahla yakhe ethile, ngaphandle-ke –
- (a) uma lokho kulahleka noma kulimala kwenzeke umsebenzi enza umsebenzi wakhe futhi kuyiphutha lakhe umsebenzi lowo;
 - (b) uma leyo mali ebanjwayo ingaphansi kwenani lika R100,00; futhi
 - (c) isivumelwano sokuthi kuyobanjwa lezo zimali singesibhalwe phansi futhi nomsebenzi esisayina lesi Sivumelwano kukhona omunye umsebenzi asebenza naye, futhi oyobe ekhethwe ngumsebenzi lowo siqu sakhe.
- (2) Uma umsebenzi engavumi ukuthi kube nemali ebanjwa eholweni lakhe, noma esimweni lapho khona imali ebanjwayo ingaphezu kuka R1000,00, umqashi angayibamba kuphela leyo mali uma ethole ukuthi umsebenzi lowo waba budedengu ngalokho kulahleka noma kulimala kwempahla yomqashi, futhi lokho kutholakala komsebenzi ebudedengu kwenziwe kulandelwa indlela engachemile noma engavuni luhlangothi futhi umsebenzi eye wanikwa ithuba eliphusile lokuthi kungani leyo mali kufanele ukuthi ibanjwe eholweni lakhe.
- (3) Inani eliphelele lazo zonke izimali ezingabanjwa ngokulahleka noma ngokulimala kwempahla yomqashi –
- (a) akuvumelekile ukuthi libe ngaphezu inani lento elahlekile noma elimele futhi akukho zimali okuyomele zibanjwe kumsebenzi uma lokho kubanjwa kwezimali kuyogcina kwenze ukuthi umqashi agcine esekhokheleka kabili ngokulahleka noma ngokulimala kwento eyodwa;
 - (b) futhi angeke libe ngaphezulu kwekota eyodwa (25%) womholo wonke womsebenzi usuhlangene.
- (4) Kunoma yisiphi isikhathi samasonto angama-52, izimali ezibanjelwa ukulahlekelwa noma ukulinyalelwa komqashi yimpahla ethile, akufanele zibe ngaphezu kuka-20% weholo lonyaka lomsebenzi.

38. Ukubanjwa kwemali ngenxa yezikweletu umsebenzi anazo eceleni

- (1) Uma kuziwa ngasodabeni lwanoma yisiphi isikweletu okungenzeka ukuba umsebenzi unaso, umqashi akavumelekile ukuthi abambe noma yiziphi izimali eholweni lomsebenzi, ngaphandle-ke –

- (a) uma lokho kubanjwa kwemali kuyisidingo ngenxa yomthetho, isivumelwano esisayinwe yizona zonke izinhlangothi ezithintekayo, umyalelo wenkantolo noma umyalelo ophume kuxazululwa ngokusemthethweni; noma
 - (b) uma umsebenzi ezivumela yena ngokwakhe ngokubhalwe phansi ukuthi kube khona izimali ezibanjwayo ukuze kukhokhwe isikweletu esithile nesishiwo sacaciswa kuleso sivumelwano;
 - (c) uma isivumelwano leso mayelana nanoma yiziphi izimpahla ezithengwe ngumsebenzi zichaza ukuthi luhlobo luni lwezimpahla lezo futhi bezingakanani.
- (2) Umqashi obamba imali eholweni lomsebenzi ukuze akhokhele omunye umuntu oseceleni kufanele akhokhe leyo mali ngokulandela isikhathi kanye nezinye izidingo ezibalulwe kwisivumelwano leso, noma ezibalulwe emthethweni, kwisivumelwano esisayinwe yizona zonke izinhlangothi ezithintekayo, kumyalelo wenkantolo noma kumayalelo ophume kuxazululwa ngokusemthethweni.

39. Ezinye izimali ezibanjwayo

- (1) Umqashi angeke kudingeke noma avumele umsebenzi ukuthi –
- (a) akhokhe noma yimuphi umholo, ngaphandle ezimweni lapho khona umsebenzi eye wakhokhelwa imali engaphezu kwemali obekufanele ayithole ngokwedlule, lokho kwenziwa ngumqashi nokuholela ekutheni kube nephutha ekubalweni komholo womsebenzi; noma
 - (b) asho ukuthi uyavuma ukuthi imali ayitholile ingaphezu komholo obekufanele ngabe uwutholile.
- (2) Ngaphandle-ke uma kuye kwabekwa ngenye indlela kulesi Sivumelwano, umqashi unelungelo lokuthi angabamba izimali, emholweni womsebenzi osuke engekho emsebenzini, ngaphandle-ke uma kusho yena umqashi ukuthi umsebenzi lowo engezi emsebenzini, kanti inani lemali elingabanjwa –
- (a) kufanele lilingane noma lihambisane nesikhathi umsebenzi abengekho ngaso emsebenzini;
 - (b) kufanele libalwe kususelwa kwiholo lomsebenzi alithola ngokusebenza amahora ajwayelekile okusebenza ngesikhathi umsebenzi lowo engekho emsebenzini.
- (3) Kuye ngokuthi uMkhandlu uyavuma yini, umqashi angakwazi ukuthi abambe izimali ezithile emholweni womsebenzi –
- (a) kodwa kube yimali umsebenzi aye wayinikwa ngumqashi singakashayi isikhathi sokuthi umsebenzi ahole;
 - (b) nokungaba yizimali zezimpahla zokuthi umsebenzi avikeleke uma esebenza, izimali zamathuluzi noma zezinto zokusebenza umsebenzi aye wanikwa zona ngaphandle kokukhokhiswa kodwa yena umsebenzi wangabe esazibuyisela kumqashi lezo zinto, uma ecelwa ukuthi azibuyise.

- (4) UMkhandlu uyohlinzeka ngemvume yawo kuphela ukuthi kube nezimali ezibanjwayo emholweni womsebenzi uma kulahleke amathuluzi noma izinto zokusebenza okutholakala ukuthi –
- (a) zazikhishwe zanikwa umshayeli yena siqu sakhe nokufanela ukuthi ngabe zahlala zikuyena umshayeli lowo ngaso sonke isikhathi uma umshayeli esemsebenzini;
 - (b) kufanele zihlale zisemotweni futhi kufanele ukuthi zinamathiselwe emotweni noma zikhiyelwe emotweni.
- (5) Umsebenzi ozithola esekhalaza ngokubanjwa kwemali emholweni wakhe, angakwazi, kodwa uma enesizathu esizwakalayo sokwenza lokho, ukwedlulisela isikhalazo sakhe eMkhandlwini, nokungabe sekufanele ukuthi uMkhandlu lowo ubheke zonke izinhlangothi zodaba lolo bese usemukela leso sicelo noma usichithe.

INGXENYE 6: UKUPHELA KOMSEBENZI

40. Isaziso kanye nenkokhelo esikhundleni sesaziso

- (1) Kuye ngokulandela isigatshanyana (2), umqashi noma umsebenzi ngaphandle komsebenzi oshintsha noma okhulula abanye noma umsebenzi oyitoho wenhlangano eqasha abetoho, unelungelo lokuthi angaqamula isivumelwano sokusebenza uma esekhiphe isaziso esingekho ngaphansi –
- (a) kwesonto elilodwa, uma umsebenzi lowo esesebenze isikhathi esingamasonto angama-26 noma angaphansi kwalokho;
 - (b) kwamasonto amabili, uma umsebenzi esesebenze isikhathi esingaphezu kwasonto angama-26 kodwa angekho ngaphezu kwamasonto angama-52;
 - (c) kwamasonto amane, uma umsebenzi esesebenze isikhathi isikhathi esingaphezu kwamasonto angama-52.
- (2) Esikhundleni sesaziso –
- (a) umqashi unelungelo lokuthi angakhokhela umsebenzi umholo umsebenzi obezowuthola ngesikhathi sesaziso;
 - (b) umqashi angakwazi ukuthi avume ukuthi kube nezimali ezithathwayo/ezibanjwayo kuye nokuyizimali abezozithola ukuba ubesebenzile nangesikhathi sokufaka isaziso.
- (3) Isiziso sokunqanyulwa kwesivumelwano sokuqashwa noma sokusebenza kufanele kube ngesibhalwe phansi njengalokho kwenziwe Kokunanyathiselwe A7.
- (4) Akukho okuqukethwe kulesi sigatshana okuthikameza –

- (a) ilungelo lomqashi noma lomsebenzi lokuthi anqamule isivumelwano sokusebenza ngaphandle kwesaziso ngenxa yanoma yisiphi isizathu umthetho osithatha ngokuthi sanele; noma
- (b) noma yisiphi isivumelwano phakathi komqashi kanye nomsebenzi nesihlinzeka ngesaziso sesikhathi eside ukunesikhathi esishiwo kwisigatshanyana (1), yinqobo nje –
 - (i) uma isaziso esidingekayo okudingeka ukuba sihlizekwe ngumqashi kanye nomsebenzi siyisikhathi esifanayo nesilinganayo;
 - (iii) uma inkokhelo esikhundleni sesaziso ilingana neni lemali ebelizokwenziwa ngesikhathi sokufaka isaziso nokuyisikhathi esibalulwe kwisivumelwano.

41. Amadokhumenti okumele anikwe umsebenzi uma sekuphele Umsebenzi

- (1) Umqashi kufanele ahlinzeke lowo ukuqashwa kwakhe osekunqanyulwa, ngesitifiketi sesikhathi esisetshenziwe ngendlela okubekwe ngayo Kokunanyathiselwe A3.
- (2) Ikhophi yesikhathi esisetshenziwe kufanele ukuthi yedluliselwe ngumqashi iye eMkhandlwini ungakedluli umhla zingama-20 kwinyanga elandelayo kulandela ukunqanyulwa kwesivumelwano sokusebenza komsebenzi.
- (3) Lesi sigatshana kodwa asisebenzi kulaba abalandelayo –
 - (a) umsebenzi ovela ashiye nje emsebenzini azihambe engaziwa;
 - (b) umsebenzi osebenza ukushintsha noma ukukhulula abanye; noma
 - (c) umsebenzi oyitoho oqashwe ngokwenhlangano eqasha abetoho.

42. Inkokhelo etholwa ngumsebenzi uma esetshelwe ukuthi akayeke

Inkokhelo etholwa ngumsebenzi uma esetshelwe ukuthi akayeke emsebenzini iyolawulwa Yisigaba 189 soMthetho kanye Nesigaba 14 soMthetho Onqala Wokuqashwa Kwabantu, uMthetho onguNo. 75 ka 1997.

43. Inkokhelo yesikhathi sekhefu esingabanga sisathathwa

- (1) Uma sekunqanyulwe isivumelwano sokusebenzisana, umsebenzi kufanele akhokhelwe –
 - (a) nganoma yiziphi izinsuku zokuhlaba ikhefu akangabange esazithatha; futhi
 - (b) esimweni lapho khona isiyingi sokuhlaba ikhefu lakhe singabange sisaqedwa, inani lemali elingekho ngaphansi kwesikalo senani lezinsuku ngokwemibandela yesigatshanyana 18 (2).
- (2) Inkokhelo okusuke kufanele ukuthi itholwe ngumsebenzi ngokwesigatshanyana (1) –
 - (a) kufanele ikhokhwe ngendlela iholo lomsebenzi lowo ebelikhokhwa ngayo ngaphambi kokuba kunqanyulwe isivumelwano sokusebenza;

- (b) ingancishiswa uma umsebenzi eshiya emsebenzini ngaphandle kokuhlinzeka ngesaziso esidingekayo kusigatshana 40, kodwa sincishiswe ngenani lemali eliyolingana nemali umsebenzi angabe ubezoyithola ukuba ubesebenzile nangesikhathi sesaziso sokushiya emsebenzini, ngaphandle-ke uma umqashi eye wathi kulungile noma umsebenzi engamnikanga isaziso sokushiya emsebenzini.
- (3) Uma isivumelwano sokusebenza somsebenzi siqanyulwa ngaphambi kokuba lowo msebenzi afanelwe ukuthola isikhathi sokuhlaba ikhefu lonyaka ngokwemibandela yesigatshana 18 –
- (a) umqashi kufanele agcwalise Ivawusha Eyisiliphu Salokho Umsebenzi Okumfanele Ngaleso Sikhathi ibe ngamakhasi amathathu kwifomu elinqunywe nguMkhandlu ukuze lisetshenziselwe le nhloso (Okunanyathiselwe A5), futhi bese –
- (i) enika umsebenzi enye ikhophi eyodwa;
 - (ii) ethumela enye ikhophi iye KuNobhala Kazwlonke WoMkhandlu engakapheli amahora angama-24 kusukela isivumelwano somsebenzi siqanyuliwe; bese
 - (iii) enika umsebenzi enye ikhophi ukuze akwazi ukuyisebenzisela ukuthi uma esefuna ukukhokhelwa izimali zakhe;
- (b) umsebenzi unelungelo lokuthi angahambisa incwadi yokucela ukuthi akhokhelwe nguMkhandlu –
- (i) izimali zensizuku zekhefu eziye zakhulela umsebenzi;
 - (ii) ibhonasi yeholide eye yakhulela umsebenzi;
 - (iii) ibhonasi yesiKhwama sokugula eye yakhulela umsebenzi.
- (4) Ekubaleni izimali okufanele zitholwe ngumsebenzi ngokwemibandela yesigatshanyana (4) (b), kuyofanele kusetshenziswe lokhu okulandelayo –
- (a) imali yesikhathi sekhefu eye yakhula ibalwa ngokwemibandela yesigatshana 18 (2);
- (b) imali yesikhathi sekhefu kanye nebhonasi yesikhathi seholidi ibalwa kusukela –
- (i) ngosuku ngosuku umsebenzi aqale ngalo ukusebenzela umqashi; noma
 - (ii) ngosuku lwekhefu lokugcina lonyaka lomsebenzi; kanye noma ngenkokhelo yokugcina yebhonasi yeholide.
- (c) Izimali zensizuku zekhefu eziye zakhulela umsebenzi kanye nebhonasi yeholide eye yakhulela umsebenzi kubalwa ngemuva kokuba umsebenzi egixabezwe ngezinsuku zokusebenza ezilinganiswe nesikhathi sekhefu umsebenzi okufanele ngabe uzitholile ngokwemibandela yesigatshanyana (1) (b), kulandelwa le ndlela yokubala elandelayo:

Inani lezinsuku umsebenzi okumele agixabezwe ngalo = $\frac{X}{12} \times \frac{15}{1}$

nalapho khona u-X = innani leziyingi eziye zaphothulwa nezihlinzekwe kwizigatshana 29 (1) (b) kanye no 30 (1) (c) zozimbili kusukela umsebenzi eqale ukusebenza noma eqale isikhathi sakhe sokugcina sekhefu lakhe noma sokukhelwa kwebhonasi yeholide.

- (5) Izimali zensizuku zekhefu eziye zakhulela umsebenzi ngokwemibandela yeisgatshanyana (1) akufanele zinikwe umsebenzi noma zamukelwe ngumsebenzi othintekayo, kodwa kufanele ukuthi, ngemuva kokunqanyulw akwesivumelwano sokusebenzelana, zedluliselwe Kunobhala Kazwelonke WoMkhandlu. Inkokhelo yezimali zezinsuku zekhefu eziye zakhulela umsebenzi kanye nebhonasi yeholide eye yakhulela umsebenzi nokuyokwenziwa ngumqashi, angeke kunike umqashi igunya lokungazihloniphi izibopho zakhe zokwedlulisela inani lemali liye eMkhandlwini kanti futhi angeke kwavunyelwa ukuthi umqashi azibambe lezi zimali zomsebenzi ngoba ethi uyazikhokhisela.
- (6) Izimali zensizuku zekhefu eziye zakhulela umsebenzi kanye nebhonasi yeholide eye yakhulela umsebenzi kufanele kukhokhwe –
- (a) kuye kumsebenzi sekwedlule amasonto amane ngemuva kokuba sesinqanyuliwe isivumelwano sokusebenza somsebenzi noma ngemuva kwamasonto amane ngemuva kokuba umsebenzi eseshiye indawo abe yisebenzela khona embonini, uma kuwukuthi kunesimo esinjalo;
- (b) ngokushesha okukhulu, ziye kumsebenzi, uma umsebenzi exoshiwe emsebenzini ngenxa yezizathu zokuthi angeke akwazi ukwenza umsebenzi noma ngenxa yokwehlulwa ngumsebenzi; noma
- (c) ngokushesha okukhulu, ifakwe iqonde ngqo efeni lomsebenzi, uma umsebenzi eye washona.

44. Inqubo yokudilizwa kwabasebenzi

- (1) Izingqubo zokudilizwa kwabasebenzi nezibalulwe eMthethweni ziyosebenza kunoma yikuphi ukudilizwa kwabasebenzi
- (2) Umsebenzi odiliziwe kufanele anikwe–
- (a) isitifiketi sokusebenza kwakhe ngendle abalulwe Kokunanyathiselwe A3; kanye
- (b) nencwadi eqinisekisa ukuthi umsebenzi lowo udiliziwe emsebenzini.
- (3) Kufanele kuthi engakapheli amahora angama-72 ngemuva kokuba umsebenzi esazisiwe ukuthi ukhethelwe ukuthi adilizwe, umqashi kufanele ukuthi azise uMkhandlu ngokubhalwe phansi mayelana nalokho kudilizwa.

- (4) Uma kwenzeka umqashi ecabanga ngokudiliza abasebenzi okungena ngaphansi kwesigaba 189A soMthetho, uMkhandlu kufanele uqoke umxazululi oyokwazi ukusiza izinhlangothi ezithintekayo zikwazi ukuxoxisana kahle ngendlela eyakhaya mayelana nokudilizwa okuhlongozwayo, uma –
- (a) umqashi eye wacela lolu sizo kwisaziso sakhe ngokulandela imibandela yesigaba 189 (3) soMthetho; noma
 - (b) izinhlangothi okuxoxiswana nazo nezimele iningi labasebenzi umqashi acabanga ukubadiliza, ziye zacela ukuthi kube nomxazululi futhi ziwazisile uMkhandlu zingakapheli izinsuku eziyi-15 kusukela zithole isaziso okukhulunywe ngaso kwisigaba 189 (3) soMthetho.
- (5) Uma uMkhandlu uceliwe ukuthi ulethe umxazululi, uMkhandlu kufanele ukuthi ukwenze lokho ngokwemibandela –
- (a) yesigaba 189A soMthetho; kanye
 - (b) nangokwanoma yimiphi imitheshwana emiswe ngokwemibandela yesigaba 189A (6) soMthetho.

INGXENYE 7: IZIBOPHO ZABAQASHI

45. Ukubhaliswa kwabaqashi kanye neminingwane okumele Ihlinzekwe ngabaqashi

- (1) Wonke umshayeli, kuhlangukisa nomnikazi wemoto ozishayelelayo kufanele, zingakapheli izinsuku ezingama-30 kusukela senziwe lesi Sivumelwano, noma zingakapheli izinsuku ezingama-30 engenile Embonini, noma ngabe yikuphi-ke okwenzekayo, anike uMkhandlu isitatimende sendawo yonke asebenzela kuyo ngendlela eboniswe Kokunanyathiselwe A.1, nokuyindlela enqunywe ukuthi ibe njalo nguMkhandlu, kanti kufanele sibonise –
- (a) igama lokuhweba lenkampani leyo;
 - (b) inombolo yokubhaliswa yenkampani leyo;
 - (c) inombolo yeVAT yokubhaliswa kwaleyo nkampani;
 - (d) iminingwane yokubhenka yomqashi;
 - (e) izinombolo zefekisi/zocingo / iminingwane ye-imeyili;
 - (f) umuntu okuxhunyanisa naye;
 - (g) ikheli leposi;
 - (h) ikheli lendawo lapho kusetshenzelwa khona
 - (i) isifunda sikamantshi/ isifundazwe;
 - (j) amagama aphelele omqashi, inombolo kamazisi kanye nekheli lasekhaya, noma iminingwane yalabo abambisene nabo, i-*trustee*, umqondisi noma ilungu uma kuwukuthi umqashi uyi-*partnership*, i-*trust* noma inkampani;

- (k) igama le-*partnership*, i-*trust* noma inkamapani;
 - (l) imininingwane yesiKhwama sayo sempesheni noma sokonga (uma sikhona);
 - (m) izinombolo zokubhaliswa kwezimoto ezisetshenziswayo kanye nesisindo semoto ngayinye;
 - (n) isibongo kanye nama-inishiyeli abasebenzi, izinombolo zomazisi babo, izinsuku abaqala ngazo ukusebenza, imiholo abayiholayo ngesonto/ngenyanga kanye nobulungu benyunyana (uma beyiwona).
- (2) Isigatshanyana (1) asidingi umqashi ukuthi ahlinzeke ngolwazi asevele ehlinzekile ngalo ngokwemibandela Yesivumelwano sangaphambilini soMkhandlu, ngaphandle-ke uma imininingwane isiyashintsha.
- (3) UMKhandlu kungenzeka udinge ukuthi umqashi akhiphe noma aveze isitifiketi sokubhaliswa kwemoto uma uMkhandlu unesizathu esizwakalayo sokukholwa ukuthi isisindo semoto leyo sibhalwe ngokungesikhona kwifomu lokubhalisa.
- (4) Uma uMkhandlu usuyitholile imininingwane okukhulunywe ngayo kwisigatshanyana (1), uMkhandlu kufanele unikeze umqashi Isitifiketi Sokubhaliswa ngendlela ebalulwe Kokunanyathiselwe A.2.
- (5) Noma yimuphi umqashi obhalisiwe kufanele azise uMkhandlu zingakapheli izinsuku ezingama-30, ngokubhalwe phansi, nganoma yiziphi izinguquko kwimininingwane ayihlinzekile ngesikhathi ebhalisa.

46. Abaqashi kufanele babe nalawa madokhumenti kubona

- (1) Abaqashi kufanele baqinisekise ukuthi ngaso sonke isikhathi, banenqwaba yalawo madokhumenti alandelayo–
- (a) Okunanyathiselwe A3 – isitifiketi sokusebenza;
 - (b) Okunanyathiselwe A4 – izimali ezinikelwayo kanye nezimali eziya eMkhandlwini zinyanga zonke;
 - (c) Okunanyathiselwe A5 – ivawusha yeshifthu elinganisiwe;
 - (d) Okunanyathiselwe A6 – ivawusha yenkokhelo yonyaka;
 - (e) Okunanyathiselwe A7 – isaziso sokuphela komsebenzi;
 - (f) Okunanyathiselwe A8 – izecelo zemihlomulo yokuhlaba ikhefu lokugula.

47. Imifaniswano kanye nezimpahla zokuvikela

- (1) Umqashi kufanele ahlinzeke abasebenzi bakhe nganoma yimuphi umfaniswano wasemsebenzini, mahhala, okungaba yi-ovaloli, amabhuzu, ikapisi noma ezinye

izimpahla zokuvikela nokudingeka ukuthi umqashi, ngokomthetho, awuhlinzeke abasebenzi noma umfaniswano okudingeka ukuthi abasebenzi, ngokomthetho, bawugqoke.

- (2) Umqashi ovele asuke, ngokucacile noma ngokungacacile, adinge abasebenzi ukuthi bagqoke izimpahla zokuvikela okungakhulunyiwe ngazo kwisigatshanyana (1) kufanele abahlinzeke yena ngokwakhe ngalezo zimpahla abasebenzi mahhala.
- (3) Noma yiziphi izimpahla zokuvikela eziye zahlinzekwa umsebenzi mahhala, ziyohlala kuyizimpahla zomqashi.
- (4) Ikhwalithi kanye nobungakho bezimpahla zokuvikela abasebenzi kumele kuxoxwe ngazo endaweni okusetshenzelwa kuyo noma ezingeni lenkampani leyo ehlinzeka ngalezo zimpahla kubasebenzi bayo.

48. Ukuba nenkampani enye enesivumelwano ngaphansi komqashi

- (1) Umqashi ozimisele ngokusebenzisa usonkontileka ozoba ngaphansi kwakhe, kufanele amukele izinqubo ezibalulwe kwisigatshanyana (2), uma ukuqashwa kwalowo sonkontileka kungenzeka kuholele –
 - (a) ekutheni kudilizwe abantu abathile; noma
 - (b) kube nezinguquko ezinkulu kwimigomo nemibandela yokuqashwa kwabasebenzi.
- (2) Le nqubo elandelayo kufanele ukuthi ilandelwe ngaphambi kokuba kuze kuqashwe inkampani ezoba nenkontileka ngaphansi komqashi uma izimo ezibalulwe kwisigatshanyana (1) kwenzeka zigcine sezenzeka ekugcineni –
 - (a) umqashi kufanele anikeze inyunyana noma izinyunyana ezimele abasebenzi abathintekayo noma abasebenzi abathintekayo ngokwabo kulabo basebenzi abangamelwe yizinyunyana, okungenani isaziso samasonto amane esibhalwe phansi mayelana nenhloso yakhe umqashi yokuthi aqashe inkampani ezoba ngaphansi kwakhe; futhi
 - (b) kufanele ukuthi kube nomhlangano obizwayo phakathi kwezinhlaka ezithintekayo ngesikhathi izinhlaka ezithintekayo eziyovumelana ngaso zingakapheli izinsuku eziyisikhombisa kusukela osukwini lokwamukelwa kwesaziso okukhulunywe ngaso kupharagrafu (a);
 - (c) emhlanganweni, izinhlaka ezithintekayo kufanele zixoxisane mayelana nesidingo kanye nezizathu zalokho kuqashwa kwenkontileka okucatshangwayo.

- (3) Umqashi okhipha umsebenzi ongena ngaphansi komsebenzi obhalisiwe woMkhandlu, lowo mqashi uyothweswa icala ngokuhlanganyela nosonkontileka wakhe lowo ongaphansi kwakhe, uma kwenzeka usonkontileka ayobe emqashile, ehluleka ukuhambisana nezimiso zalesi Sivumelwano.

49. Umsebenzi omele abasebenzi eMkhandlwini

Umsebenzi omele abasebenzi eMkhandlwini kufanele anikwe yonke into efanele ukuthi angayisebenzisa, ngumqashi ukuze akwazi ukumela ngendlela efanele nephusile abasebenzi eMkhandlwini.

50. Amarejista

- (1) Wonke umqashi kufanele abe nerejista eyodwa noma engaphezu kweyodwa kanti leyo rejista kufanele ukuthi ibe neminingwane eshiwo ngokwemibandela yalesi sigatshana futhi –
- (a) aqinisekise ukuthi konke okubhaliwe kumarejista kubhalwe ngoyinki ongasuseki;
 - (b) kuthi ngaso sonke isikhathi lawa marejista awagcine awagcine etholakala ukuthi ahlolwe emagcekeni ache; bese
 - (c) egcina amarejista agcwalisiwe isikhathi esiyiminyaka emithathu kusukela ngosuku lokugcina okwabhalwa kuyo kwirejista.
- (2) Bese kuthi ekuqaleni kokuqashwa komsebenzi, umqashi kufanele ukuthi abhale le mininingwane elandelayo kwirejista –
- (a) amagama aphelele, isibongo, inombolo yomazisi womsebenzi;
 - (b) izinga lomsebenzi owenziwa ngumsebenzi; kanye
 - (c) nosuku lokuqala ukusebenza komsebenzi.
- (3) Umqashi kufanele agcine –
- (a) isikhathi kanye nerejista yeholo eneminingwane ebalulwe kwisigaba 31 (1), (2) kanye no (3) soMthetho Onqala Wokuqashwa Kwabantu, uMthetho onguNo. 75 ka 1997, kanye neminye imitheshwana eye yenziwa ngokwemibandela yoMthetho, izimali eziholwe ngumsebenzi ngamkanye, isikhathi esisetshenziwe ngumsebenzi ngamunye;
 - (b) futhi arekhode zonke izikhathi zokuhlaba ikhefu ezithathwe ngumsebenzi kuleyo rejista noma kwenye irejista yokuhlaba ikhefu kwabasebenzi eseceleni neyehlukile kulena.

- (4) Umqashi okhetha ukuthi ufisa ukuqala uhlelo –
- (a) lwamasonto okusebenza acinene ngokwemibandela yesigatshana 8, kufanele arekhode izinsuku kanye namahora okusetshenzwe ngumsebenzi ngamunye oyingxenywe yalolo luhlelo kwirejista;
 - (b) lwesikhathi esikhokhelwayo umsebenzi engekho emsebenzini, ngomsebenzi owenziwe ngeSonto noma ngeholidi lomphakathi ngokwemibandela yezigatshana 14 kanye no 15, noma ngomsebenzi owengeziwe nowenziwe ngumsebenzi ngokwemibandela yesigatshana 11, kufanele ukuthi agcine irejista ebalula ngokugcwele –
 - (i) izinsuku kanye namahora angeSonto, angeholide lomphakathi noma angesikhathi esengeziwe nokwenziwe ngumsebenzi ngokwemibandela yohlelo lolo okungabe kuvunyelwene ngalo;
 - (iii) ukubalwa kwesikhathi esikhokhelwayo umsebenzi ngamunye othintekayo engekho emsebenzini; kanye
 - (iii) nezinsuku kuhlanganisa nezikhathi zokungabibikho emsebenzini komsebenzi ngamunye othinyekayo.
- (5) Umqashi oye wenza isivumelwano nabasebenzi sokuthi abe nohlelo lokulinganisa amahora asetshenzwayo ngokwemibandela yesigatshana 9, kufanele ukuthi agcine irejista ebalula –
- (a) izinsuku kanye namahora okusetshenzwe ngumsebenzi ngamunye obambe iqhaza kulolu hlelo; futhi
 - (b) kubalwe ukuthi ngabe amahora okusebenza ayelinganiswe kanjani kuleso sikhathi maqondana nomsebenzi ngamunye.

51. I-logbook yansuku zonke

- (1) Umqashi kufanele ahlinzeke bonke abashayeli, abasebenzela kude nalapho behlala khona futhi abakude nendawo yomqashi wabo futhi besohambeni oluze lwedlule esikhathini sabo sokuhlaba ikhefu esiyimpoqo okungamahora ayisishiyagalolunye alandelanayo nesibalulwe kwisigatshana 6 (1), ngama-logbook ansuku zonke nayohlangabezana nalezi zidingo ezilandelayo –
- (a) amaphepha okubhala ngaphakathi kwi-logbook kufanele ukuthi abe yiphepha elithambile futhi ahambe ngamabili futhi abe nezinombolo zokuwabeka uphawu;
 - (b) igama loMkhandlu, ikheli lendawo kanye nekheli leposi kanye nenombolo yocingo yehhovisi loMkhandlu eliseduzane nendawo yokusebenzela umsebenzi nokuyindawo yomqashi, konke lokhu kufanele ukuthi kuvele kwikhophi yomshayeli kwiphepha le-logbook;
 - (c) igama lomqashi kufanele ukuthi livele kwikhasi ngalinye lepheshana okubhalelwa kulo;

(d) lokhu okulandelayo kufanele ukuthi kuqoshwe phansi kwiphepha okubhalwe kulo ngalinye –

- (i) usuku;
- (ii) igama lomshayeli;
- (iii) igama lanoma yimuphi omunye umsebenzi owenza umsebenzi ongatheni, unogada, noma yimuphi nje-ke umsebenzi ophelazela imoto leyo;
- (iv) isignesha yomshayeli kanye neyomqashi noma yalowo omelet umqashi ngokugunyaziwe;
- (v) inombolo yokubhaliswa kwemoto kanye naleyo yenqola edonswaywo;
- (vi) ukufundeka kwesivini sejubane kwi-odomitha kusukela ngokuqala kosuku lokusebenza kuya ekupheleni kosuku lokusebenza;
- (vii) ukuqala kosuku lokusebenza kanye nezikhathi zokuqeda ukusebenza;
- (viii) ukuqala kanye nokuphuthulwa kwazo zonke izikhathi zokudla;
- (ix) ukuqala kanye nokuphuthulwa kwazo zonke izikhathi zokuphumula;
- (x) inani lamahora ajwayelekile asetshenziwe;
- (xi) inani lamahora ajwayelekile asetshenziwe;
- (xii) inani lamahora asetshenzwe ngeSonto kanye nangamaholide omphakathi; futhi
- (xiii) kufanele kwenziwe indawo yokuthi umshayeli akwazi ukurekhoda ukuphawula kwakhe okuthile okumayelana nomsebenzi wakhe futhi akwazi nokubhala noma nganbe yiphi okungalungile ngemoto ayishayelayo noma ngenqola ayidansayo.

(2) Umshayeli kufanele ukuthi, mayelana nomsebenzi ngamunye wosuku nosuku –

- (a) arekhode kwi-logbook imininingwane edingekayo ngokwemibandela yesigatshanyana (1); bese kuthi
- (b) ekupheleni kosuku lokusebenza osukwini ngalunye, noma ngokushesha okukhulu ukusukela ngaleso sikhathi, ahambise iphepha lokubhala le-logbook elingesiwona umfuziselo kumqashi wakho bese yena egcina iphepha eliyikhophi.

(3) Umshayeli akanalo ilungelo lokuthi abhale ulwazi oluyiphutha kwi-log book futhi nomqashi akanalo ilungelo lokuthi angadinga noma avumele umshayeli ukuthi abhale ulwazi olungesilona kwi-logbook.

(4) Uma umshayeli ehambela endaweni eseduzane nasendaweni lapho kuzinze khona nkampani yakhe futhi engekho kude neze nalapho esebenzela khona esohambeni oluyomthatha isikhathi isikhathi esingaphezu kwesikhathi sokuphumula okukhulunywe ngaso kwisigatshanyana (1), umqashi angakwazi ukusebenzisa irejista yokuba khona komsebenzi emsebenzini esikhundleni se-logbook yansuku zonke nokukhulunywe ngayo kwisigatshanyana (1).

- (5) Irejista yokuba khona komsebenzi emsebenzini noma amapheshana agcwalisiwe e-logbook yansuku zonke kufanele kugcinwe ngumqashi endaweni yakhe yokusebenzela ebhalisiwe isikhathi esiyiminyaka emithathu kulandela usuku irejista leyo noma iphepha lelo eligcwalisiwe.

52. Ukubekwa obala kwesivumelwano nezaziso

- (1) Ikhophi efundekayo yalesi Sivumelwano, okungenani ebhalwe ngezilimi ezimbili ezisemthethweni, kufanele ukuthi igcinwe ngumqashi –
- (a) emagcekeni lapho izimoto zomqashi zivame ukuthi zipakwe khona; kanye
 - (b) nasendaweni lapho kuvame ukukhokhelwa khona amaholo.
- (2) Amakhophi alesi Sivumelwano, nokukhulunywe ngawo kwisigatshanyana (1) kufanele atholakale ngokushesha kubona bonke abasebenzi.
- (3) Umqashi kufanele ukuthi, agcine, endaweni ebonakalayo nokulula ukuthi abasebenzi bafinyelele kuyo, isaziso esibalula usuku lwesonto, noma, kuye ngokuthi imiyalelo yesigatshana 31 (2) (b), sithini, usuku lwenyanga, kanye nesikhathi kanye nendawo lapho imiholo ivame ukukhokhelwa khona. Uma imiholo yabasebenzi ikhokhwa ezindaweni ezingaphezu kweyodwa, isaziso kufanele ukuthi siqukathe imininingwane yendawo ngayinye.

53. Izimali ezinikelwayo zinyanga zonke

- (1) Wonke umsebenzi kufanele ahambisane nezigatshana 19, 29, 30, 54, 69, IsiKhwama Sempilo njengalokho sihlinzekwe Kwisheduli 4 yalesi Sivumelwano kanye Nesivumelwano Sokuthi Labo Basebenzi Abangesiyonga Ingxenye Yezinyunyana Kube Nezimali Abazikhokhayo Ngoba Nabo Bayahlomula Kwimivuzo Etholwa Yinyunyana (Isaziso R. 1323 evela Kwigazethi Kahulumeni 31681 yangomhlaka 12 Disemba 2008) ngokuthi agcwalise futhi ahambise, izimali ezinikelwayo zinyanga zonke ngendlela ebalulwe Kokunanyathiselwe A4 futhi ngokukhokhela uMkhandlu inani lemali elifanele ngokuhambisana nalelo fomu ngosuku okufanele kwenziwe lokho.
- (2) Umqashi kuyothiwa uhambisene nezimiso zesigatshana (1) esingenhla, uma uMkhandlu sewamukele umbhalo ngezimali ezisetshenziwe zinyanga zonke futhi nenkokhelo seyenziwe ngosuku olufanele.

- (3) Ngemuva kokuthula imvume ebhalwe phansi Kanobhala Kazwelonke WoMkhandlu, umqashi angakwazi ukuphinda futhi akhiqizwe umbhalo wezimali ezisetshenziwe zinyanga zonke nokufanele ukuthi uhambisane, ngayo yonke indlela, Nokunanyathiselwe A4.
- (4) Uma umqashi ehambisa umbhalo wezimali ezisetshenziwe zinyanga zonke ongashayi khona noma ongagcwele kahle, uNobhala Kazwelonke WoMkhandlu noma isikhulu esinikwe amandla nguNobhala Kazwelonke, singawuphindisela emuva kumqashi uhambisana nenkokhelo ebihambisana nalowo mbhalo futhi–
- (a) umqashi uyothathwa ngokuthi wehlulekile ukuhambisana nezimiso zesigatshana noma zezigatshana ezifanele nokukhulunywe ngazo kwisigatshanyana (1);
 - (b) nokulahleka kwesikhathi okuyobangelwe yilokhu kubuyiselwa emuva kwalo mbhalo wezimali ezisetshenziwe zinyanga zonke kanye nenkokhelo kumqashi, kanye futhi nokuphinda kuhanjise kabusha lokhu eMkhandlwini, konke lokhu kuyothathwa ngokuthi kuyiphutha lo mqashi.
- (5) Ngokwezinhloso sesigatshanyana (4), umbhalo wezimali ezisetshenziwe zinyanga zonke uyothathwa ngokuthi awusebenzi noma awugcwele uma –
- (a) ungahambisani nakho konke okubalulwe Kokunanyathiselwe A4;
 - (b) ungafundeki kahle, ngokombono Kanobhala Kazwelonke WoMkhandlu;
 - (c) ungayibonisi ngendlela efanele imininingwane yomqashi kanye nemininingwane yabasebasebenzi balowo mqashi njengalokhu kudingekile lapho;
 - (d) ungabonisi kahle noma ungachazi kahle lapho kudingeka khona, yonke imininingo edingekayo lapho;
 - (e) ungabonisi kahle into eyodwa noma ezingaphezulu nokufanele zenziwe ngokwemibandela yezimiso okukhulunywe ngazo kwisigatshanyana (1)
 - (f) ongazihlanganisi ngendlela efanele izinombolo; noma
 - (g) ongahambisani ngokwezibalo nezinkokhelo noma nezimali uMkhandlu oye wazithola mayelana nalezo zimali ezisetshenziwe.

- (6) Kusukela esikhathini lapho lesi Sivumelwano senziwe khona, bonke abaqashi Abasembonini kufanele balethe imibhalo yezimali ezisebenzile zinyanga zonke, bezifake nge-inthanethi ohlelweni loMkhandlu.

INGXENYE 8: UKUXOXISANA NGOKUBAMBISANA

54. Izimali ezikhokhelwa inyunyana

- (1) Izimali ezikhokhelwa inyunyana nokusuke kufanele ukuthi zidonswe emiholweni yabasebenzi kufanele ukuthi ziphasiswe nguNobhala Wobudlelwano Babasebenzi futhi zizungeziswe kubona bonke abaqashi ngezikhathi ezahlukene, lokho kwenziwa nguNobhala Kazwelonke WoMkhandlu.
- (2) Isonto nesonto noma inyanga nenyanga, umqashi kufanele –
- (a) adonse izimali ezithile emiholweni yabasebenzi abangamalungu enyunyana ethile neyingxenye yalesi Sivumelwano, nokuyizimali zenyunyana okukhulunywe ngazo njengamanje kwisigatshanyana (1); futhi
- (b) ukuthi ayithathe yonke leyo mali ayidonse kubasebenzi, kuhlenganisa nombhalo wezimali ezisetshenzisiwe kuleyo nyanga (Okunanyathiselwe A4) ngendlela okubalulwe ngayo nguMkhandlu ngokwale nhloso, ayedlulisele kuNobhala Kazwelonke WoMkhandlu, ungakedluli umhla zingama-20 kwinyanga ngayinye, nokungabe kuyinyanga yonke leyo mali engabe idonswe ngayo.
- (3) UNobhala Kazwelonke WoMkhandlu kufanele, ungakedluli umhla ziyi-10 kwinyanga ngayinye, edlulisele kwizinyunyana zabasebenzi, zonke izimali eziye zatholwa nguMkhandlu ngokemibandela yesigatshanyana (2) (b) kwinyanga elandela lapho.

55. Izimali ezikhokhelwa izinhlango zabaqashi

- (1) Izimali ezikhokhelwa izinhlango zabaqashi kufanele ukuthi ziphasiswe nguNobhala Wobudlelwano Babasebenzi.
- (2) Uma kwenzeka ukuthi Inhlango Yabaqashi icela uNobhala WoMkhandlu ngokubhalwe phansi ukuthi aqoqe izimali ezithile egameni layo, lapho-ke bonke abaqashi abangamalungu enhlango yabaqashi neyiyingxenye yalesi Sivumelwano, kufanele ukuthi edlulisele izimali okufanele ziye kwizinhlango zabaqashi, kuNobhala Kazwelonke WoMkhandlu zonke izimali ezi, ungakedluli umhla zingama-20 kwinyanga ngayinye, nokungabe kuyinyanga yonke leyo mali engabe idonswe ngayo.

- (3) UNobhala Kazwelonke WoMkhandlu kufanele, ungakedluli umhla ziyi-10 kwinyanga ngayinye, edlulisele kwihlangano yabaqashi, zonke izimali eziye zatholwa nguMKhandlu ngokemibandela yesigatshanyana (2) kwinyanga elandela lapho.

56. Uphiko lokuxoxisana

- (1) Uphiko lokuxoxisana lusho bonke abasebenzi abaqashwe ngaphansi kweminyanga yokusebenza, kweyokugcinwa kwempahla, kweyokubhasojwa kwezimoto kanye nakweyokuphatha, kodwa akubafaki abaphathi abanamandla okuthatha izinqumo zokuqasha noma ukuqondisa izigwegwe abasebenzi, kodwa kufaka phakathi osuphavayza, kanye namakhontrola (izinduna) kungakhathalekile ukuthi ngabe bayazithatha yinzi izinqumo zokuqashwa kanye nokuqondiswa izigwegwe kwabasebenzi.
- (2) Ukuze kuqinsekiswe ukuma kwemikhakha yemisebenzi njengamanje, futhi kuphindwe kuhlonzwe eminye imikhakha yemisebenzi ngaphansi kophiko lokuxoxisana oluchaziwe, ithimba loMkhandlu elimisiwe liyoqokwa ukuze –
- (a) liqinisekise ukuthi ikhona incazelo emfushane yomkhakha ngamunye; futhi
 - (b) liqinisekise ukuthi ukukalwa kwamazinga omsebenzi ngamunye kuleyo misebenzi ethile ehlonziwe ngokwemibandela yokubekwa kwemisebenzi ezingeni elithile ngokusho kukaPatterson, kuyenziwa; futhi
 - (c) kusungulwe inani elithile lapho amaholo eqala khona kuleyo misebenzi ehlonziwe embonini ngokwamaholo atholakalayo njengamanje; futhi
 - (d) liqinisekise ukuthi umhlinzeki ngensizakalo ethile uyaqokwa ukuze enze imisebenzi echazwe kwisigatshanyana (a) kuya ku (c) ngenhla.
 - (e) Lengamele, ngokubambisana noMkhandlu, ukuqoqwa kolwazi oludingekayo ukuze kuqinsekiswe, ukumeleleka kwezinhloko eMkhandlwini ophikweni lokuxoxisana, nguMnyango Wezabasebenzi ngokwemibandela Yesigaba 49 soMthetho.
 - (f) Abaqashi abasembonini baphoqelekile ukuthi balethe ulwazi mayelana nalokho okushiwo ku (e) ngenhla, inyanga nenyanga kubona bonke abasebenzi abangena ngaphansi kwencazelo Yophiko Lokuxoxisana ngokwemibandela yalesi sigatshana. Ulwazi lolo kufanele lulethwe kwimibhalo ebalula izimali ezinikelwayo inyanga nenyanga, bese lushicilelwa nguMkhandlu.

57. Amazinga okuxoxisana

- (1) UMkhandlu yiwona kuphela inkundla yokuxoxisana kanye nalapho kwenziwa khona izivumelwano ngezindaba ezinqala eziphakathi kwabaqashi nezinhlangano zabaqashi ngakolunye uhlangothi bese kuba izinyunyana zabasebenzi ngakolunye.

- (2) Ngaphandle kwesigatshanyana (1), labo abamele abasebenzi noma izinyunyana ezimele abasebenzi zinelungelo lokuxoxisana nomqashi ezingeni lenkampani ngezimo eziqala ezithinta ukuqashwa nokuqasheka kwabasebenzi, izinqubo zokwenza umsebenzi, amabhonasi noma ngezinhlelo zokubongwa kwabasebenzi ngomsebenzi wabo nokungabe kuthinta ngqo inzuzo noma umkhiqizo okanye kokubili. Udaba okukhulunywe ngalo kulesi sigatshanyana angeke kwaxoxiswana ngalo eMkhandlwini.
- (3) Esimweni lapho khona izingxoxo sezifinyelele kwangqingetshe khona odabeni olubalulwe kwisigatshanyana (2), izimiso Zesivumelwano Sokunikwa Amalungelo Athile kanye Nokusombulula Ukungaboni Ngaso Linye kungenzeka zivukelwe noma zingabe zisalandelwa.
- (4) Akukho nyunyana noma nhlangotho yabasebenzi engamemezela ukuthi makube nesiteleka noma umbhikiso wabasebenzi noma-ke nje yingayiphi enye indlela bafune ukuphoqa noma ukugolombisa izingxoxo ngezindaba okukhulunywe ngazo kwisigatshanyana (1) kunoma yiliphi elinye izinga ngaphandle kwasezingeni loMkhandlu.
- (5) Noma ngabe yisiphi isivumelwano sokuxoxisana ngokuhlanganyela esiphakathi komqashi oyilungu lenhlangano yabaqashi kanye nenyunyana yabasebenzi eyingxenye yaleso sivumelwano, nokuyotholakala ukuthi izimiso zaleso sivumelwano azihambisani nalesi Sivumelwano –
- (a) kuyofanele ukuthi sithathwe yizinhlangothi ezithintekayo njengesivumelwano esichitshiyelwe ukuze sikwazi ukuthi sihambisane nalesi sigatshana; futhi
- (b) asibophezeli ezimweni lapho khona imiyalelo yaso ishayisana nalesi sigatshana.

INGXENYE 9: UKUQASHWA OKUNGAVUNYELWE

58. Ukuqashwa okungavunyelwe

- (1) Umqashi angeke akwazi ukuthi–
- (a) aqashe noma ngabe yimuphi umuntu oneminyaka engaphansi kweyi-15; futhi
- (b) ethi ebe azi, aqashe umuntu oyisifika namthwalo esingayo invume yokuba kuleli.

INGXENYE 10: IZIMISO EZISEBENZA KWIMIKHAKHA ETHILE YABASEBENZI

59. Abashayeli

- (1) Ngaphandle-ke uma okubhaliwe kunomunye umqondo owehlukile, abashayeli bayakuboshezela yilesi sigatshana kanye naso sonke lesi Sivumelwano.

- (2) Ngaphezu kwanoma yiziphi ezinye izidingo ezibalulwe yilesi Sivumelwano, noma ngumthetho, abashayeli abathutha impahla eyingozi noma imikhiqizo ebhubhiseka kalula, bangabamba iqhaza emibhikishweni kuphela ngemuva kokuba –
- (a) sebeyithulile ngokuphepha imithwalo yabo abayithwele futhi kwamoto leyo sebeyiphindisele emagcekeni omqashi; noma
 - (b) sebenike umqashi wabo isaziso esibhalwe phansi okungenani kusasele izinsuku eziyisikhombisa nesichaza ngenhloso yabo yokubamba iqhaza embhikishweni uma umbhikisho lowo uyokwenziwa ngesikhathi beyobe bedingeka ngaso ukuthi bathathe uhambo olufaka phakathi ukuthwala nokuthutha izinto eziyingozi noma imikhiqizo ebhubhiseka kalula.
- (3) Uma ikilayente lomqashi linciphisa amahora okusebenza komshayeli liwasusa kwinqanaba eliphezulu lamahora angasetshenzwa nayi-15 liwayisa kwangaphansi kwalokho ngosuku lokusebenza, umshayeli kuyofanele ukuthi athathwe ngokuthi yena usebenze usuku olugcwele futhi kuyofanele ukuthi akhokhelwe –
- (a) amahora okusebenza ajwayelekile kuhlenganisa nesikhathi esengeziwe ngokwemibandela yalesi Sivumelwano;
 - (b) imali ethile eyilungelo lomshayeli nebalulwe Kwisheduli 5.
- (4) Ukukhokhelwa komshayeli imali ngokwemibandela yesigatshanyana (3) kuyokwenziwa ngaphansi kwemigomo ethile –
- (a) njengokuthi ukukhokhwa kwaleyo mali kungabe kuwukukhokha ngoba kulandelwa umgomo wokuthi kunxeshezela umshayeli kwesinye isimo esifanayo; futhi
 - (b) nomshayeli uma enganqabi ukufakwa ukuthi asebenze ezindaweni ezithile ezahlukene.
- (5) Ngokwenhloso yalesi sigatshana “umshayeli wezimpahla eziyingozi” kusho umshayeli oye wathola izicucu ezifanele ukuthi kuthiwe ungumshayeli wezimpahla eziyingozi futhi *one-Professional Driving Permit* efanele kanye nesitifiketi sokuthutha izimpahla eziyingozi futhi oye waqashwa yinkampani eqashelwa khona kanye ukuthutha izimpahla– futhi inkampani leyo kufanele kube yinkampani ebhaliswe njengenkampani ethutha izimpahla eziyingozi.
- (6) Abashayeli kufanele baqinisekise ukuthi banama-*Professional Driving Permits*.
- (7) Umqashi womshayeli –
- (a) kufanele abuyisele umshayeli imali yakhe, uma elethe ubufakazi bokukhokha, yezindleko zezimali ezinqunyiwe zokuvuselela i-*Professional Driving Permit* kanye nemali yezindleko zokuya kodokotela kanye nezokuthathwa iminwe, uma

kuwukuthi zonke lezi zinto umsebenzi wazenza ngoba zazidingeka ngokusemthethweni;

(b) angakwazi ukuthi abuyelwe noma yiziphi izimali zakhe yize-ke noma zingeke zagcwala, ngokwemibandela yalesi sigatshanyana, ngokuthi azidonse emholweni womshayeli, uma umshayeli lowo evela eshiya emsebenzini zingakapheli izinyanga eziyisithupha kusukela evuselele i-*Professional Driving Permit* yakhe.

(8) Isigatshana 5 (6) salesi Sivumelwano asisebenzi kumshayeli noma kumsebenzi ophelezela noma osiza umshayeli emotweni leyo moto ingekho endaweni yokusebenzela yomqashi.

60. Abasebenzi be-HAZCHEM

(1) Kufanele kube khona imali yengozi ekhokhelwa abasebenzi be-HAZCHEM. Imali leyo iyoba ngu-0,5% noyosuselwa ekukalweni kwenani lamaholo e-HAZCHEM nokungamanani akalwe ngokwaholo esonto kulabo basebenzi abaholelwa ngesonto noma akalwe ngokwenyanga kulabo basebenzi abahola abahola ngenyanga.

(2) Ngokwenhloso yalesi sigatshana, “umsebenzi we-HAZCHEM” kusho umshayeli oqeqeshwe ngokufanele futhi oye wathola izicucu ezifanele ukuthi kuthiwe Ungumshayeli Wezimpahla Eziyingozi futhi onemvume efanele Yezimpahla Eziyingozi kanye nomsizi womshayeli ophelezela umshayeli futhi bobabili abaqashwe yinkampani beqashelwa khona kanye ukuthutha izimpahla– futhi inkampani leyo kufanele kube yinkampani ebhaliswe njengenkampani ethutha izimpahla eziyingozi.

61. Abasebenzi abangaqashiwe ngokugcwele

(1) Ngaphandle-ke uma lokhu okubhaliwe kukhombisa ukuthi kusho okunye, abasebenzi abangaqashiwe ngokugcwele bayobophezelwa yilesi sigatshana kanye naso sonke Isivumelwano. Uma kukhona ukushayisana phakathi kwalesi sigatshana kanye nesinye isigatshana Kwisivumelwano, lesi sigatshana yisona esiyosetshenziswa.

(2) Isivumelwano sokuqashwa esibhalwe phansi kubasebenzi abangaqashiwe ngokugcwele kufanele siwacacise amahora okuyodingeka ukuthi abasebenzi bawasebenze usuku nosuku, isonto nesonto, inyanga nenyanga.

(3) Isilinganiso seholo lomsebenzi ongaqashiwe ngokugcwele siyobalwa njengengesilinganiso samaholo esibalulwe Kwisheduli 5 ngohlobo lomsebenzi oyokwenziwa yilowo msebenzi.

- (4) Inani labasebenzi abangaqashiwe ngokugcwele abaqashwe ngumqashi, ngokwesilinganiso, alikwazi ukuthi lingeqa u-30% wenani labo bonke abasebenzi abaqashwe ngumqashi esikhathini esingaphezu kwezinyanga eziyi-12.
- (5) Umqashi kufanele agixabeze umsebenzi ongaqashiwe ngokugcwele ngosuku lonke lokusebenza ngalo lonke usuku olusetshenziwe, kungakhathalekile inani lamahora elisetshenziwe, ngaphandle-ke uma lowo msebenzi engekho emsebenzini ngezizathu ezingabaluliwe kwincazelo yegama elithi “usuku lokusebenza” kunoma yiluphi usuku okungabe kudingeka ngalo ukuthi umsebenzi asebenze.
- (6) Ngokwezinhloso zokubala izimali ezikhokhwa kwisiKhwama semihlomulo okukhulunywe ngakho Kwingxenye 4 yalesi Sivumelwano kanye nezindleko zezimali ezikhokhwa nguMkhandlu, nokuyizimali ezibalulwe kwisigatshana 69 yalesi Sivumelwano, inani elejwayelekile leholo langesonto eliqondene nomsebenzi ongaqashiwe ngokugcwele kodwa osebenza okungenani isikhathi esingaba amahora ajwayelekile ayi-15 noma ngaphezulu ngesonto, liyobalwa ngale ndlela elandelayo –
- $$\text{Iholo elejwayelekile lesonto} = \frac{\text{Iholo lesonto lilonke lenyanga leyo} \times 3}{13}$$

1

62. Abasebenzi abasiza uma kushoda

- (1) Ngaphandle-ke uma lokhu okubhaliwe kukhombisa ukuthi kusho okunye, abasebenzi abasebenza ukusiza uma kushoda noma abasebenza ukushintsha abanye, bayabophezelwa yilesi sigatshana kanye naso sonke lesi Sivumelwano. Uma kukhona ukushayisana phakathi kwalesi sigatshana kanye nesinye isigatshana kwisivumelwano, lesi sigatshana yisona esiyosetshenziswa.
- (2) Inani labasebenzi abasebenza ukusiza uma kushoda noma abasebenza ukushintsha abanye abasebenzi abaqashwe ngumqashi, ngokwesilinganiso, alikwazi ukuthi lingeqa u-30% wenani labo bonke abasebenzi abaqashwe ngumqashi esikhathini esingaphezu kwezinyanga eziyi-12.
- (3) Abasebenzi abasebenza ukusiza uma kushoda noma abasebenza ukushintsha abanye kufanele bakhokhelwe –
- (a) umholo wesonto ongengaphansi kokukodwa kokuhlanu eholweni lesonto elinqunyelwe abasebenzi abakulelo zinga usuku nosuku ngalunye lapho besebenze khona amahora ayisithupha noma ngaphezulu; noma
- (b) umsebenzi wamahora ayisithupha uma besebenze isikhathi esingaphansi kwamahora ayisithupha kunoma yiluphi nje usuku; kanye

- (c) nephrimiyamu yokwengeza engu-10% wanoma yimuphi umholo okhokhwe ngokwemibandela yamapharagrafu (a) noma (b).
- (4) Umsebenzi osebenza ukusiza uma kushoda owenza uhlobo lomsebenzi olukhokhelwa amaholo ehluke njengalokhu kushiwo Kwisheduli 5 nganoma yiluphi usuku kufanele ukuthi akhokhokhelwe imali okuyiyona inkulu ekhokhelwa lowo msebenzi awenzayo ngalolo suku, kuhlenganisa nephrimiyamu eyengeziwe engu-10% walelo holo elikhulu.
- (5) Umsebenzi osebenza ukusiza uma kushoda bese esebenza izinsuku ezingaphezu kwezingama-90 esikhathini esingamasonto angama-52 –
- (a) usuke engasafanelekile ukuthi athole iphrimiyamu ka-10% kumholo obalulwe kwisigatshanyana (3)(c), kodwa usuke efanelwe yimihlomulo ebalulwe ngokwemibandela yesigatshana 24 salesi Sivumelwano kanye nesigatshana 7 (1) (d) (iii) Sesivumelwano sesiKhwama Sokonga;
- (b) kufanele agixabezwe ngosuku lokusebenza lwanoma yingaluphi usuku umsebenzi asebenza ngalo, kungakathalekile ukuthi mangaki amahora awasebenzile;
- (c) kufanele akhokhelwe esikhundleni sekhefu lonyaka, inani lemali eliyobalwa kusetshenziswa le ndlela elandelayo kwihora ngalinye lokusebenza okwejwayelekile, noma ingxenye yehora, esetshenziwe:
- $$\frac{25}{100} \times \frac{\text{Iholo lesonto lilonke}}{195}$$
- (6) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi bese esebenza izinsuku ezingaphezu kweziyi-144 esikhathini esingamasonto angama-52 kufanele aqashwe ngokugcwele futhi ahole ngendlela efanele.
- (7) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi kufanele ukuthi akhokhelwe ngokheshi–
- (a) ngosuku lokucina lokuqashwa kwakhe uma lowo msebenzi esebenze izinsuku ezimbili noma ngaphansi kwalokho; noma
- (b) ngosuku olwejwayelekile lokuhola ngesonto lapho enkampanini, uma lo msebenzi okukhulunywa ngaye lapha esebenze isikhathi esingaphezu kwezinsuku ezimbili.

- (8) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi akavumelekile ukuthi angasebenza isikhathi esingaphezu kwamahora ayisishiyagalolunye nganoma yiluphi usuku lokusebenza.
- (9) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi futhi esebenza ngeholidi lomphakathi kufanele akhokhelwe ngokwemibandela yesigatshana 15, kanti umholo wakhe kufanele ukuthi ubalwe –
- (a) ngokwamahora ngendlela okuvunyelwane ngayo ukuthi umsebenzi okulela zinga uyohola kanjalo, kwihora ngalinye noma ingxenye yehora esetshenziwe, bese kuthi iqhuzwana lehora lona livele lenziwe isikhathi esiphezulu noma esiphansi esisondelene nohhafu wehora;
- (b) ngokwamaholo ashiwo kwisigatshanyana (3), kuhlanganisa nokufakwa phakathi kwephrimiyamu ka-10%.
- (10) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi futhi esebenza ngosuku lwangeSonto kufanele akhokhelwe ngokwemibandela yesigatshana 14.
- (11) Umsebenzi osebenza ukusiza uma kushoda noma osebenza ukushintsha abanye abasebenzi futhi esebenza isikhathi esengeziwe kufanele ukuthi akhokhelwe ngokwemibandela yesigatshanyana 11, nokuyobalwa ngokuthi –
- (a) kubhekwe umsebenzi owenziwe ngosuku kwisikhatjo esengeziwe esisetshenziwe, bese kuthi iqhuzwana lehora lona livele lenziwe isikhathi esiphezulu noma esiphansi esisondelene nohhafu wehora; kanye
- (b) namaholo abalulwe kwisigatshanyana (3), kuhlanganisa nephrimiyamu eyengeziwe engu-10%.
- (12) Ukukhokhwa kwemali yesikhathi esengeziwe kufanele labo basebenzi abasebenza ukushintsha abanye abasebenzi, bakhokhelwe ngalo lolo lusuku abasuke beyisebenze ngalo.

63. Abasebenzi abasebenza ngezikhathi ezithile kuphela (abasebenzi abasembonini yezokuthutha kashukela)

- (1) Ngaphandle-ke uma lokhu okubhaliwe kukhombisa ukuthi kusho okunye, abasebenzi abasebenza ngezikhathi ezithile kuphela (abasebenzi abasembonini yezokuthutha kashukela) nabo bayobophezelwa yilesi sigatshana kanye naso sonke nje-ke lesi Sivumelwano.

- (2) Abasebenzi abasebenza ngezikhathi ezithile kuphela (abasebenzi abasembonini yezokuthutha kashukela) kufanele ukuthi bakhokhelwe ngesikhathi sokungabibikho kwesivuno, imali elingana –
- (a) no-66,6% womholo wabo owejwayelekile kumasonto okuqala ayi-15, bese kuthi ngemuva kwalokho bakhokhelwe u-40% olingana nehlo labo elejwayelekile.
- (3) Imali okufanele bakhokhelwe yona ngokwemibandela yesigatshanyana (2) ayikhokhwa nganoma yisiphi isikhathi lapho khona umsebenzi ehlabhe ikhefu lonyaka.
- (4) Abasebenzi abasebenza ngezikhathi ezithile kuphela abakhokhelwa le mali esishiwo ngokwemibandela yalesi sigatshana –
- (a) akudingekile ukuthi baye emsebenzini ngokwejwayelekile; kodwa
- (b) kufanele bahlale belindele noma yinini ukuthi bangabizwa ukuthi bezoqala umsebenzi yinqobo nje uma benikwe isaziso esiphusile.
- (5) Abasebenzi abasebenza ngezikhathi ezithile kuphela (abasebenzi abasembonini yezokuthutha kashukela) ababizwayo ukuthi bezokwenza umsebenzi owejwayelekile ngesikhathi sokungabibikho kwesivuno futhi abehlulekayo ukuthi bazobika emsebenzini, bayolahlekelwa yimali okukhulunywe ngayo kwisigatshanyana (2) ngesikhathi bengekho emsebenzini ngaphandle kwemvume.
- (6) Abasebenzi abasebenza ngezikhathi ezithile kuphela (abasebenzi abasembonini yezokuthutha kashukela) abaqashwe Embonini Kashukela, futhi abenza umsebenzi wasebusuku –
- (a) kufanele ukuthi bakhokhelwe imali yokusebenza ebusuku ebalulwe Kwisheduli 5, ubusuku ngabunye obusetshenziwe, ngaphandle-ke uma izikhathi ezimbili zifanelwa yimali yokusebenza ebusuku ngesikhathi samahora angama-24 ziqala phakathi kwamabili, kuyoba yilabo basebenzi kuphela abasebenze isikhathi sasebusuku sokuqala abayothola ukukhokhelwa imali ngokusebenza ebusuku;
- (b) akumele bathole imali yokusebenza ebusuku uma kukhona imali yokuziphilisa nokuthenga izinto ezincane abayitholayo.
- (7) Abasebenzi kufanele bakhokhelwe izimali esezihlanganisiwe zinyanga zonke, nezishiwo Kwisheduli 5, nekhokhwa zinyanga zonke, ukukhokhela noma yikuphi ukusebenza ebusuku okube khona noma ezinye izimali ezibhekile ezikhokhelwa labo basebenzi. Esimweni lapho khona ukuqashwa kwabasebenzi kuqala noma kuphela maphakathi nenyanga, izimali ezihlanganisiwe kufanele zikhokhwe ngokulingana nesikhathi esisetshenziwe ngaleyo nyanga ekhokhelwayo.
- (8) Uma imali yokusebenza ebusuku etholwa ngumsebenzi isiyonke, yedlula zonke izimali okumele zitholwe ngumsebenzi uma sezihlanganisiwe, umsebenzi lowo

kuyofanele ukuthi akhokhelwe lezo zimali zakhe esezihlanganisiwe kuhlanganisa nenye imali eyobe ingaphandle ngaphezu kwalokho.

64. Isikhathi esifushane Emkhakheni Wokuthuthwa Kwefenisha

- (1) Lesi sigatshana sisebenza kubasebenzi Emkhakheni Wokuthuthwa Kwefenisha kodwa asisebenzi kubasebenzi abasebenza ukushintsha abanye noma kubasebenzi besikhashana besikhungo esiqasha abasebenzi okwesikhashana.
- (2) Ngokwenhloso yalesi sigatshana, isikhathi esifushane kusho ukuncishiswa kwesikhashana kwamahora ejwayelekile okusebenza ngenxa yesimo sezulu, ukungabibikho komsebenzi, ukushoda kwezimpahla okumele zithuthwe, ukwephuka/ukufa kwezimoto, ukufa kwemishini, ukuwa kwezakhiwo noma ukuba sengcupheni kokuwa kwezakhiwo.
- (3) Uma amahora ejwayelekile omsebenzi encishiswa ngenxa yesikhathi esifushane, umqashi usuke engakwazi ukubamba imali engengaphezulu kwenani lemali elilingana nemali encane –
 - (a) yeholo eliyimali yamahora okusebenza omsebenzi mayelana nehora ngalinye umsebenzi aye walisebenza esikhathini esifushane; noma
 - (b) okukodwa kokuthathu eholweni lesonto lomsebenzi, kungakhathalekile ukuthi mangaki amahora esikhathi esifushane.
- (4) Uma umqashi engabaniki abasebenzi isaziso ngosuku olwandulela usuku lokusebenza, esibatshela ukuthi sekuzoqala ukusebenza isikhathi esifushane, akukho zimali eziyobanjwa –
 - (a) kwisikhathi esifushane esenziwe ukungabibikho komsebenzi noma ukuba kuncane kwezimpahla; noma
 - (b) ngehora lokuqala lokusebenza isikhathi esifushane ngenxa yesimo sezulu, ukungabibikho komsebenzi, ukushoda kwezimpahla okumele zithuthwe, ukwephuka/ukufa kwezimoto, ukufa kwemishini, ukuwa kwezakhiwo noma ukuba sengcupheni kokuwa kwezakhiwo.

65. Imiyalelo esebenza emkhakheni we-CIT

- (1) Amahora okusebenza omsebenzi angalinganiswa ngokwesigatshana 9 ngemvume ebhalwe phansi yomsebenzi.
- (2) Labo basebenzi abeza emsebenzini ngokugcwele ngesikhathi esingamahora ajwayelekile okusebenza abanikwe wona enyangeni basuke befanelwe ukuthi banikwe usuku olulodwa bengekho emsebenzini kanti lolo lusuku olulandelayo kuyoba wusuku lokusebenza umqashi nomsebenzi abayovumelana ngalo. Isikhathi

esengeziwe sokusebenza kwabasebenzi siyoqhubeka nokuqala ngemuva kokuba umsebenzi esesebenze amahora angama-45 omsebenzi wamahora ajwayelekile.

- (3) Uma umsebenzi esebenza ngosuku okumele ngabe uphumule ngalo njengalokhu kuvunyelwene ngakho kwisigatshana (1), umqashi angakwazi ukwenza lokhu:
 - (a) ukunika umsebenzi lowo olunye usuku lokuphumula olwengeziwe ngenyanga elandelayo; noma
 - (b) akhokhele umsebenzi lowo imali yangalolo lusuku esebenzisa imali ukumkhokhela imali ejwayelekile yokusebenza ngehora.
- (4) Isikhathi esengeziwe sabasebenzi abasebenza emkhakheni we-CIT–
 - (a) kufanele sibalulwe ngokwesikhathi esengeziwe kodwa kubhekelle imikhawulo yezikhathi ezengeziwe ezisetshenziwe kwisigatshana 10;
 - (b) singakhokhiswa kuphela ngokushoda kwamahora ejwayelekile okusebenza uma umsebenzi evuma ngokubhalwe phansi noma uma ukungabibikho komsebenzi emsebenzini kuyinto engagunyaziwe njengalokhu kubaluliwe kwincazelo yamagama athi “usuku lokusebenza”.

66. Abasebenzi bezikhungo zokuqashwa kwabasebenzi betoho

- (1) Umsebenzi wesikhungo esiqasha abasebenzi betoho ohlinzekwe kwikilayente elithile noma kumakilayente athile ngaphakathi embonini isikhathi –
 - (a) esingaphezu kwezinyanga ezimbili uthathwa ngokuthi ungumsebenzi owejwayelekile futhi zonke izimiso ezifanele zalesi Sivumelwano ziyosebenza kulowo msebenzi;
 - (b) esingaphansi kwezinyanga ezimbili uyothathwa ngokuthi ungumsebenzi wetoho waleso sikhungo esiqasha abasebenzi betoho, futhi kuyoba yizimiso zalesi sigatshana kuphela, kanye nesigatshanyana 69 kanye nesigatshana 2 (1) (a) Kweshuduli 4 yalesi Sivumelwano okuyosebenza kulabo basebenzi.
- (2) Ukuqashwa ngokwenkontileka komsebenzi wesikhungo esiqasha abasebenzi betoho kuyothathwa ngokuthi kuyinkontileka yesonto ngaphandle-ke uma umsebenzi lowo kungumsebenzi wetoho wesikhungo leso esiqasha abasebenzi betoho, nokuyothi-ke esimweni esifuze les obese inkontileka leyo iyothathwa ngokuthi iyinkontileka yosuku nosuku.
- (3) Uma isikhungo sokuqashwa kwabasebenzi betoho sephula izimiso zalesi Sivumelwano noma singakwenzi okufanele sikwenze siphuma eceleni kunoma yisiphi isibopho esihlinzekiwe ngokwemibandela yalesi Sivumelwano, umsebenzi usuke engathwesa icala umqashi asuke enikelwe kuyena, ngokuthi akahambisananga nezibopho ezifanele.
- (4) Akukho mqashi ongasebenzisa izinsizakalo zesikhungo esiqasha abasebenzi betoho ngaphandle uma isikhungo esiqasha abasebenzi betohon –

- (a) kuyisikhungo esibhaliswe noMkhandlu;
- (b) sihlizeka ngobufakazi obanele kumqashi, bokuthi sona sihambisana nazo zonke izibopho ezifanele ngokwemibandela koMthetho Womshuwalense Wokungasebenzi, uMthetho Wokunxeshezela Ngokulimala Emsebenzini kanye Nezifo;
- (c) sihlizeka ngobufakazi obanele bokuthi sihambisane nazo zonke izidingo kuMnyango Wokuqoqwa Kwentela eNingizimu Afrika futhi sinaso Nesitifiketi Sentela okungu-IT 30.

- (5) Uma isikhungo esihlizeka ngabasebenzi betoho sihlizeka umqashi ngomsebenzi oyedwa noma ngabasebenzi, umqashi lowo kufanele ukuthi azise uMkhandlu ngalokho ngokubhalwe phansi esebenzisa ifomu elifanele. Ukwazisa lokho kufanele ukuthi kuhanjisiwe eMkhandlwini enyangu elandelayo kusukela abasebenzi lawo kade besetshenziwe.
- (6) Inani labasebenzi elihlizekwa yisisikhungo esihlizeka ngabasebenzi betoho kumqashi angeke noma ngasiphi isikhathi bedlule u-30% wabo bonke abasebenzi abaqashwe ngumqashi lowo nabangaphansi Kwesivumelwano.

67. Abasebenzi betoho bezikhungo zokuqashwa kwabasebenzi betoho

- (1) Akukho lutho kulesi Sivumelwano okuvimbela isikhungo sokuqashwa kwabasebenzi betoho ukuthi sithole umsebenzi wetoho ukuthi enze umsebenzi wamazanga ehlukeno nonamaholo athile ehlukeno anqunyiwe.
- (2) Kuye ngokuthi isigatshana (9) sithini, umsebenzi wesikhungo esiqasha abasebenzi betoho osebenza isikhathi esengeziwe kufanele ukuthi akhokhelwe ngokwesigatshana 11.
- (3) Uma umsebenzi wesikhungo esiqasha abasebenzi betoho esebenza isikhathi esengeziwe kwimikhakha yemisebenzi emibili noma ngaphezulu ngesonto lokuhola, lowo msebenzi kufanele ukuthi akhokhelwe isikhathi esengeziwe kwizinga elithile emkhakheni ngamunye, futhi kufanele leyo nkokhelo ibalwe ngokwenani lamahora asetshenziwe emkhakheni ngamunye, bese kuthi iqhuzwana lehora lona livele lenziwe isikhathi esiphezulu noma esiphansi esisondelene nohhafu wehora ogcwele.
- (4) Inkokhelo yesikhathi esengeziwe okufanele ukuthi abasebenzi betoho bezikhungo esiqasha abasebenzi betoho bayithole, kumele bayinikwe ngosuku abasuke besebenze ngalo isikhathi esengeziwe.

- (5) Umsebenzi wesikhungo esiqasha abasebenzi betoho okudingeka ukuthi asebenze ngosuku lwangeSonto noma ngeholidi lomphakathi kufanele ukuthi akhokhelwe ngokwezimiso zezigatshana 14 kanye no 15.
- (6) Umsebenzi wesikhungo esiqasha abasebenzi betoho uyothola usuku lokusebenza uma esebenze ihora elilodwa noma amahora angaphezulu kwelilodwa nokungamahora ajwayelekile okusebenza ngalolo suku.
- (7) Amahora okusebenza omsebenzi wesikhungo esiqasha abasebenzi betoho akudingekile ukuthi kuze kube amahora alandelayo.
- (8) Esikhundleni sekhefu lonyaka , isikhungo esiqasha abasebenzi betoho kufanele sikhokhele umsebenzi ngamunye inani lemali elibalwa kusetshenziswa le ndlela elandelayo kuwona wonke amahora ajwayelekile asetshenziwe ohlotsheni ngalunye lomsebenzi:

$$\frac{25}{100} \times \frac{\text{Iholo eliyisizinda lesonto lelo}}{195}$$

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- (9) Umsebenzi oyitoho wesikhungo esiqasha abasebenzi abayitoho abasebenzi emikhakheni yemisebenzi emibili noma ngaphezulu ngesonto lokuhola, kufanele akhokhelwe imali engengaphansi kwemali enqunywe Kwisheduli 5 ngamahora aye wawasebenza ngempela emkhakheni ngamunye.
- (10) Ukunqanyulwa kwenkontileka yokusebenza yomsebenzi oyitoho kufanele ukuthi kulawulwe ngokuthi kubhalwe phansi kwidokhumenti eyonikwa umsebenzi lowo uma lowo msebenzi enikwa ikilayente ekuqaleni okusuke kufanele asebenze nalo.

INGXENYE 11: UKUPHATHWA KWESIVUMELWANO

68. Ukuphathwa kwesivumelwano

UMkhandlu yiwona osebenza lesi Sivumelwano futhi ungakwazi ukuthi, ukuze abaqashi nabasebenzi bathole umhlahlandlela, ukhiphe izinqumo, yinqobo nje uma lezo zinqumo zihambisana nalesi Sivumelwano kanye noMthetho.

69. Izindleko zoMkhandlu

- (1) Izindleko zoMkhandlu kufanele ukuthi zikhokhelwe ngezimali eziye zatholakala ngokwemibandela yalesi sigatshana.

- (2) Labo basebenzi abanqunyelwe ukuthi bahole izimali ezisezingeni eliphansi kakhulu, kunenani lemali ethile elilingana nephesenti elingu-0,4 ngesonto losuku lokusebenza okuyofanele ukuthi libanjwe eholweni lawo wonke umsebenzi, kuhlenganisa ngisho nomsebenzi osebenza isikhathi esingagcwele, umsebenzi oshintsha abanye abasebenzi uma kushoda kanye nomsebenzi oyitoho wesikhungo esiqasha abasebenzi betoho, osebenza isikhathi esingangosuku olulodwa noma ezimbili esontweni. Lelo nani lemali elibanjwe kanjalo, umqashi naye ngokwakhe kudinga ukuthi afake okunye okuyimadlana evela kuyena uqobo bese eyikhokha yonke isihlanganisiwe ungakedluli umhlaka 20 wosuku lwenyanga ngalunye kulandela usuku le mali engabe ilukhokhela, bese le mali yedluliselwa ehhovisi eliyinhloko loMkhandlu e-Road Freight House, 31 De Korte Street, Braamfontein, Johannesburg.
- (3) Abanye abasebenzi abasesigungwini sokuxoxisana kodwa bona abasuke benganqunyelwe imali ephansi okungamele bayihole, kodwa abasuke befanelekile ukuthi nabo bakhushulelwe imali Ngokwesheduli 5, umqashi kubona uyobamba imali elingana no-00,75 kumholo wabo bonke abasebenzi, kuhlenganisa ngisho nomsebenzi osebenza isikhathi esingagcwele, umsebenzi oshintsha abanye abasebenzi uma kushoda kanye nomsebenzi oyitoho wesikhungo esiqasha abasebenzi betoho, osebenza isikhathi esingangosuku olulodwa noma ezimbili esontweni. Lelo nani lemali elibanjwe kanjalo, umqashi naye ngokwakhe kudinga ukuthi afake okunye okuyimadlana evela kuyena uqobo bese eyikhokha yonke isihlanganisiwe ungakedluli umhlaka 20 wosuku lwenyanga ngalunye kulandela usuku le mali engabe ilukhokhela, bese le mali yedluliselwa ehhovisi eliyinhloko loMkhandlu e-Road Freight House, 31 De Korte Street, Braamfontein, Johannesburg.
- (4) Umqashi angakwazi ukwenza uhlelo lwezimali ezisetshenzisiwe zinyanga zonke nolugaywe ngekhompyutha, yinqobo nje uma ukuma kwalolo luhlelo kuhambisana Nokunanyathiselwe A4, kanti ukwehluleka ukwenza lokho kuyosho ukuthi uNobhala Kazwelonke woMkhandlu unalo lonke igunya lokulichitha leli fomu athunyelelwe lona ngendlela yena abona kufanele enze ngakhona.

70. Amasheke angashintsheki

- (1) Uma umqashi ekhokha imali eya eMkhandlwini ngokwemibandela yalesi Sivumelwano nganoma ngayiphi indlela ngaphandle kokheshi futhi lokho kukhokhwa kwemali kungabe kusahlonishwa noma kungakhokheki ngenxa yanoma yisiphi isizathu, uMkhandlu unelungelo lokuthi lowo mqashi ungamhlawulisa inhlawulo elinani elilingana no-1,5% walelo linani lemali. Noma iyiphi inhlawulo okumele itholwe nguMkhandlu ngokwemibandela yalesi sigatshanyana iyokhokhwa uma isifunwa.

- (2) Uma ibhange lomqashi lingalikhokheli isheke elenziwe egameni lalo ukuze kukholwe uMkhandlu noma ngabe iyiphi imali uMkhandlu okumele ukhokhelwe yona ngokwemibandela yalesi Sivumelwano, phezu kokufaka inhlawulo ngokwemibandela yesigatshanyana (1), uNobhala Kazwelonke WoMkhandlu kungenzeka axuzulule ngokuthi athi zonke izimali okuyodingeka ukuthi zikhokhelwe uMkhandlu ngomuso, zikhokhwa yilowo mqashi, kuyofanele ukuthi zikhokhwe kusetshenziswa ukheshi noma kusetshenziswa isheke eligarantwe yibhange, ama-*postal order* noma zikhokhe nge-*electronic fund transfer*.

71. Ukuphoqwa kokuhlonishwa Kwesivumelwano

- (1) Uma kufanele noma kunesidingo esiphuthumayo sokuthi uMkhandlu ufake isimangalo kunoma iyiphi inkundla efanele ukuze ukwazi ukuthola izimali zawo okufanele zize kuwo zikhokhwa yinoma yimuphi umqashi, umqashi lowo uyena oyothwala zonke izindleko lezo uMkhandlu oyongena kuzo ekutheni ukwazi ukuthola izimali zawo, kuhlanganisa nezindleko zabameli uma kwenzekile uMkhandlu waze waqasha ngisho nommeli imbala ukuthi kube nguyena oqoqa leyo mali.
- (2) Isigatshanyana (1) sisebenza –
- (a) kunoma yiliphi inani lemali elibanjwe ngumqashi kunoma yiziphi izimali okufanele zitholwe ngumsebenzi kodwa zangakhokhwa eMkhandlwini;
 - (b) kunoma yiliphi inani lemali okufanele libanjwe kubasebenzi bese likhokhwa eMkhandlwini, likhokhwa ngumqashi kodwa libe lingabanjiwe;
 - (c) kunoma yiziphi ezinye izimali okuyodingeka ukuthi umqashi azikhokhe eMkhandlwini ezikhokha egameni labasebenzi, kodwa yena ehluleka ukukwenza lokho.

72. Inzalo

- (1) Inzalo iyokhokhwa kunoma iyiphi imali ekhokhelwa uMkhandlu ngokwemibandela yalesi Sivumelwano futhi ibe ingakhokhiwe ngesikhathi esifanele.
- (2) Inzalo ibalwa kusukela ngosuku okufanele ngabe imali ikhokhwe ngalo kuze kube wusuku mhla sekukhokhwa ngezinga lika-2% ngenyanga noma ingxenye yenyanga.

73. Labo abamele uMkhandlu

- (1) Umuntu oyedwa noma abangaphezulu okufanele ukuthi baqokwe ukuthi babe seMkhandlwini njengabantu abawumele ukuze balekelele ekutheni izimiso zawo zisetshenziswe kwizivumelwano zawo okusuke kuvunyelwano ngazo yiningi.

- (2) UMkhandlu unelungelo lokucela uNgqongqoshe Wezabasebenzi ukuthi aqoke noma ngabe yimuphi umuntu ukuthi abe ngomele uMkhandlu ngokuhleliwe ngokwemibandela yesigaba 33 soMthetho.
- (3) Umuntu oqokiwe ngokuhleliwe unawo wonke amandla anikwa abantu abamele okuthile abaqokwe Ngokwesheduli 10 yoMthetho.

74. Ushwele onikwa nguMkhandlu

- (1) Izicelo zokuthi zingalandelwa izimiso ezithile zalesi Sivumelwano kufanele zihambisane nezidingo ezibalulwe kwizimiso Zesivumelwano Sokunikwa Amalungelo Athile kanye Nokusombulula Ukungaboni Ngaso Linye Ngokubambisana nezishicilelwe ngaphansi Kwesaziso Sikahulumeni R.1143 nesivela Kwigazethi Kahulumeni yangomhlaka 7 Disemba 2007, njengalokhu sichitshiyelwe futhi sanwetshwa ngezikhathi ezahlukene.
- (2) Isikhungo Esizimele esisungulwe nguMkhandlu ngokwemibandela yoMkhandlu ngokweSigaba soMthetho kufanele sibheke ukwedluliswa kwezicelo okuye kwenziwa ngokunqaba okwenziwe Yisikhungo SoMkhandlu esinika amandla, ukunikezela ngalawo mandla.

75. Ukusonjululwa kokungaboni ngaso linye

- (1) Ukungaboni ngaso linye mayelana nokuhunyushwa, ukusetshenziswa noma ukwenziwa kokuthi lesi Sivumelwano sisebenze kufanele kusonjululwe ngokulandela inqubo yezimiso Zesivumelwano Sokunikwa Amalungelo Athile kanye Nokusombulula Ukungaboni Ngaso Linye Ngokubambisana nezishicilelwe ngaphansi Kwesaziso Sikahulumeni R.1143 nesivela Kwigazethi Kahulumeni yangomhlaka 7 Disemba 2007, njengalokhu sichitshiyelwe futhi sanwetshwa ngezikhathi ezahlukene.

Isayinwe eGoli, isayinelwa futhi isayinwa egameni lezinhlaka eziyingxenye yoMkhandlu ngalolu suku lwangomhlaka 25 Agasti 2011.

T.C. SHORT

USihlalo WoMkhandlu

M. GWEDASHE

USekela-Sihlalo WoMkhandlu

J. LETSWALO

UNobhala WoMkhandlu

AMASHEDULI**ISHEDULI 1: INDAWO LAPHO KUYOSEBENZA KHONA ISIVUMELWANO ESIKHULU**

1. IRiphabhlikhi yaseNingizimu Afrika

ISHEDULI 2: IZINCAZELO

1. Amatemu aqavile

Ngaphandle-ke uma kukhona lapho lokhu kushayisana khona nokushiwo ngumqondo walokho okumumethwe, noma yiliphi igama noma itemu elisetshenziswe Kwisivumelwano Esikhulu nesichazwe eMthethweni Wobudlelwano Babasebenzi, uMthetho onguNo 66 ka 1995, linomqondo ofanayo nalokho elikusho kulowo Mthetho, kanti futhi, igama elithi –

“uMthetho” lisho uMthetho Wobudlelwano Babasebenzi, uMthetho onguNo 66 ka 1995;

“isonto lokusebenza elicinene” kusho isonto lokusebenza elicinene nokukhulunywe ngalokwisigatshana 8;

“UMkhandlu” kusho uMkhandlu Kazwelonke Wokuxoxisana Wemboni Yezokuthutha Nokuhlelwa Ukuthuthwa Kwempahla;

“usuku” ngokwenhloso yokubala imali okumele itholwe ngumsebenzi ngokusebenza ebusuku, kusho isikhathi samahora angama-24 kusukela phakathi kwamabili ebusuku kuya phakathi kwamabili ebusuku, bese kuthi ngasodabeni losuku olwejwayelekile lokusebenza noma yomsebenzi osebenza amashifithi, kusho isikhathi samahora angama-24 nasuselwe kusukela ngesikhathi sokuqala umsebenzi.

“ukushayela” kufaka Phakathi –

- (a) zonke izikhathi zokushayela
- (b) zonke izikhathi lapho khona umshayeli wemoto ephoqelekile ukuthi ahlale endaweni yakhe yokulindela ukuthi angashayela imoto noma yinini; kanye
- (c) nanoma yisiphi isikhathi esichithwa ngumshayeli mayelana nemoto yakhe noma nomthwalo wayo;

“izinsizakalo zezimo eziphuthumayo” kusho noma yimuphi umsebenzi, okuthi, ngenxa yezimbangela ebezingalindelekile, ezifana nomlilo, isichotho, ingozi, izenzo zodlame noma zokweba, kusuke kufanele ukuthi wenziwe ngaphandle kokubambezeleka futhi ufaka Phakathi –

- (a) umsebenzi obalulekile ukuthi kube khona ukukhanya, ugesi noma amanzi noma izinsizakalo zokuhlazeka kanye nokusebenza kwezingcingo;
- (b) ukuthuthwa kwemishini ethile noma enye into ukuvimbela noma yikuphi ukuphazamiseka okukhulu kokuusebenza kwemboni, kohwebo noma komsebenzi kuhlanganisa nokuthuthwa Kwabombutho Wamaphoyisa waseNingizimu Afrika noma ngokwezinhloso zokuvikelwa kwezwe;
- (c) ukuqedela ukuthuthwa kwasendleleni kanye nokuthululwa kwemikhiqizo eshabalala kalula ukuvimbela ukuthi kungonakali;

“umqashi” kusho noma ngabe yimuphi umuntu (ngaphandle komnikazi wemoto ozishayelela yena ngokwakhe) –

- (a) oqasha noma ohlinzeka ngomsebenzi kunoma yimuphi omunye umuntu bese emholela lowo muntu noma osho ngokucacile noma ngokungacacile ukuthi uyazibophezela ukuthi uzomholela lowo muntu;
- (b) ovumela noma ngabe yimuphi omunye umuntu ukuthi amsize ekuqhubeni ibhizinisi lakhe; kanti amagama athi “ukuqasha” kanye nelithi “ukuqashwa” anomqondo ofanayo;

“indawo yokusebenzela” kusho yinoma yimaphi amagceke lapho khona umsebenzi oyedwa noma abasebenzi abangaphezu koyedwa beqashwe khona Embonini Yezokuthutha Nokuhlelwa Ukuthuthwa Kwempahla;

“Imoto eyesinda kakhulu ngokwedlulele (enezinqola eziningi)” kusho imoto (enezinqola eziningi), okutholakala ukuthi isisindo sayo yonke nje uma sesihlanganisiwe singaphezu kuka-16 000 kg kodwa esingeqi ku-25 000 kg;

“Imoto eyesinda kakhulu ngokwedlulele (eyejwayelekile)” kusho imoto (eyejwayelekile), okutholakala ukuthi isisindo sayo singaphezu kuka-16 000 kg kodwa esingeqi ku-25 000 kg;

“ukusebenza kwangaphakathi emahlathini” kusho indawo lapho kugencwa khona izihlahla ziyiswa lapho zigaywa khona;

“umkhakha wokuthuthwa kwefenisha” kusho bonke abasebenzi abaqashi bezokuthutha abasebenza emkhakheni walowo Mkhandlu nosebenza ukuthutha kuphela kanye nokugcina ifenisha entsha noma engamasekeni noma izinto zasendlini ziya kwimizi ethile noma kumabhizinisi athile;

“izimpahla” kusho noma iyiphi impahla ephathekayo, kuhlenganisa, kodwa futhi kungesizona kuphela lezi, into ethile, intwana ebalulekile noma into ebambekayo efana nesihlabathi, umhlabathi, umgubane, itshe, ilahle, amanzi noma okunye okuluketshezi, okusagesi noma okuqinile futhi kufaka phakathi neziqokathi noma izimpahla ezikwiziqokathi;

“isisindo esihlanganisiwe sesisonke” mayelana nodaba lwemoto (ngokushiwo) esetshenziswa ukudonsa enye imoto kusho isisindo esiphezulu esihlanganisa lezo zimoto, kuhlenganisa nesisindo saleyo moto edonswayo kanye nomthwalo wayo njengalokhu kucaciswe ngumakhi wayo noma, uma kungekho lokho kuchazwa kwayo, sekungaba ngokubhaliswa kwayo yisikhungo esifanele;

“isisindo sesisonke” mayelana nodaba lwemoto (ngokuqinile) kusho isisindo esiphezulu esihlanganisa leyo moto, kuhlenganisa nomthwalo wayo njengalokhu kucaciswe ngumakhi wayo noma, uma kungekho lokho kuchazwa kwayo, sekungaba ngokubhaliswa kwayo yisikhungo esifanele;

“izinto eziyingozi” kusho izinto ezichazwe emithethweni ekuthuthweni kwezinto ngaphansi koMthetho Wezinto Zobungozi, uMthetho onguNo. 15 ka 1973;

“imoto esindayo (ngokushiwo)” kusho imoto (enezinqola eziningi), okutholakala ukuthi isisindo sayo yonke nje uma sesihlanganisiwe singaphezu kuka-9 000 kg kodwa esingeqi ku-16 000 kg;

“imoto esindayo (ngokuqinile)” kusho imoto (enezinqola eziningi), okutholakala ukuthi isisindo sayo uma sesihlanganisiwe singaphezu kuka-9 000 kg kodwa esingeqi ku-16 000 kg;

“iholo lokusebenza ngehora” kusho iholo langesonto lehlukaniwe ngenani lamahora adestshenzwe ngumsebenzi ngesonto elilodwa;

“amahora okusebenza” kufaka phakathi zonke izikhathi zokushayela kanye nanoma yisiphi isikhathi esichithwa ngumshayeli, unogada noma omunye nje-ke umqashi komunye umsebenzi ohlobene nemoto noma nomthwalo kanye nazo zonke izikhathi lapho khona umsebenzi kuphoqekele ukuthi abe sendaweni yakhe yokusebenzela elindele ukuthi angasebenza noma yinini kudingeka ukuthi enze njalo, kodwa akufaki phakathi izikhathi ezingamakhefu okudla anqunywe ngokwemibandela yesigatshana 5 noma yisiphi isikhathi esikhokhelwa imali ethile, ikhokhelwa umsebenzi lowo ngokwesigatshana 36, uma kuwukuthi ngalelo khefu noma ngaleso sikhathi umsebenzi lowo akenzi omunye umsebenzi ngaphandle kokuphatha imoto leyo kanye nomthwalo wayo, uma ukhona okhona, kokubheka imoto kanye nomthwalo wayo, uma ikhona ekhona;

“imoto yangaphakathi” kusho imoto esetshenziswa emagcekeni noma ngaphakathi endaweni yokusebenzela;

“umthetho” ufaka phakathi ngisho nomthetho owaziwayo nojwayelekile, isib ukweba, ukubulala;

“imoto encane” kusho imoto, enesisindo sayo esiphelele noma isisindo sayo esihlanganisa konke esingengaphezulu kuka-3 500 kg;

“imoto ephakathi nendawo (okushiwo)” kusho imoto (enezinqola eziningi), enesisindo sayo esiphelele noma isisindo sayo esihlanganisa konke esingaphezu kuka-3 500 kg kodwa esingeqile ku-9 000 kg;

“inyanga” kusho inyanga yekhalenda;

“iholo lenyanga” kusho iholo lesonto lomsebenzi liphindwaphindwe kane kanye nengxenye yokuthathu (4, 333)

“imoto” kusho noma iyiphi imoto ezigwedlayo esetshenziselwa ukuthutha izimpahla noma izinto kanti ifaka phakathi iloli ezishaya sagandaganda, isithuthuthu kanye nogandaganda kodwa akufaki noma yini nje ehambayo;

“imoto (ngokushiwo)” kusho inhlanganisela yesisindo sezimoto okuba yimoto kanye nokunye okuthi akube yinqola noma inqola noma izinqola;

“imoto (ngokuqinile)” kusho imotonje eyejwayelekile;

“umsebenzi wasebusuku” kusho umsebenzi owenziwe ngemuva kwehora lesi-18h00 kanye nangaphambi kwehora lesi-6h00 ngosuku olulandelayo;

“amahora omsebenzi ajwayelekile” kusho amahora okusebenza anqunywe ngokwesigaba 3 (2) noma, uma ngokwesivumelwano phakathi komqashi nomsebenzi, umsebenzi esebenza amahora angaphansi kwamahora ajwayelekile okusebenza, lawo mahora angaphansi kwamahora a jwayelekile okusebenza;

“isikhathi esengeziwe” kusho, kuye ngokwemibandela yesigatshana 11(2), wonke amahora asetshenzwe ngaphezu kwamahora ejwayelekile okusebenza nabalulwe kwisigatshana 3(1), ngaphandle kweSonto noma iholide lomphakathi;

“iholide lomphakathi” kusho iholide lomphakathi eligagulwe Kwisheduli 1 yoMthetho Wamaholide Omphakathi, uMthetho onguNo. 35 ka 1994 kanye nanoma yiluphi usuku okunqunywe ukuthi lube yiholide ngaphansi Kwesigaba 2A salowo mthetho;

“Imboni Yezokuthutha Nokuhlelwa Ukuthuthwa Kwempahla noma Imboni” kusho umkhakha lapho khona abaqashi kanye nabasebenzi abasondelene nokwenza omunye noma eminye yale misebenzi elandelayo ngoba eqashiwe noma ukuze athole umvuzo:

- (a) ukuthuthwa kwezimpahla ngento yokuthutha eyimoto;
- (b) ukugcinwa kwezimpahla kuhlanganisa ukwamukela, ukuvula, ukuqaqa, ukupakisha, ukukhipha kanye nokususa, noma ukuphendula ngale misebenzi ezenziwayo kanye nalokho okwenzeka kupharagrafu (a) kanye
- (c) nokuqashwa kwenkampani yabasebenzi betoho enabasebenzi betoho ukuthi benze imisebenzi noma izinto ezenziwayo obekungathi ngokwejwayelekile noma ngokwemvelo kube ngaphansi kokuthuthwa noma kokugcinwa kwezimpahla njengalokhu kushiwo kumapharagrafu (a) kanye no (b) ale ncazelo;

“ukulungisa imoto” kusho ukulungiswa kwemoto kanye nezingxenye zayo nezingalungiswa ngumshayeli, unogada wezinga 1, noma umsebenzi owejwayelekile esebenzisa amathuluzi avame ukuthi ahlinzekwe ngumakhi wemoto leyo, nokufaka phakathi amathuluzi ajwayelekile adingekayo ukushintsha noma ukufutha ithayi, izikudrayva, izindlawu, ama-*globe* ezipele, kanye nezipanele ezishintshekayo;

“okuzishaya sanqola” kusho inqola engenayo insimbi eyi-axle yaphambili futhi eyakhelwe noma eyenzelwe ukuthi ikwazi ukudonswa yiloli elisagandaganda;

“izindaba ezinqala” kusho zonke izindaba ezimayelana nezindleko futhi okuthinta amaphakethe abasenzi;

“umkhakha wemboni kashukela” kusho leyo ngxenye yomkhakha wemboni kashukela lapho khona abaqashi kanye nabasebenzi behlangene nokuphatha kanye nokuthuthwa komoba kanye nemikhiqizo ehambisana nalokho phakathi kwamasimu kanye nasezigayweni ngoba beqashiwe noma kunomvuzo;

“ukusebenza kwangaphakathi emobeni” kusho ukusebenza phakathi kwesikhathi sokuvunwa komoba kanye nesigayo somoba;

“umholi wethimba” kusho umsebenzi okuthi ngaphansi kolawulo lokubhasojwa, apha the elinye iqembu labasebenzi futhi kungenzeka agcine amarekhodi abawenzayo bese futhi naye enze umsebenzi ofanayo;

“umsebenzi wesikhashana wesikhungo esiqasha abasebenzi betoho” kusho umsebenzi wesikhashana wesikhungo esiqasha abasebenzi betoho okukhulunywe ngabo kwisigatshana 66 Sesivumelwano futhi ohlinzeka ngomsebenzi kwikilayente elisebenzela embonini futhi okungumsebenzi ongena ngaphansi komkhakha woMkhandlu;

“isikhungo esiqasha abasebenzi betoho” kusho noma yimuphi umuntu noma umuntu oqasha omunye umuntu ukuze amnike omunye umuntu ukuze amsebenzele bese ngalokho ethola umvuzo othile;

“ugandaganda” kusho imoto eyenziwe noma ekhandelwe ukuthi ikwazi ukudonsa ezinye izimoto hhayi ukuthi ithwale noma yimuphi umthwalo;

“inqola” kusho imoto engakwazi ukuzidumela yona ngokwayo kodwa yenzelwe ukuthi idonswe yimoto;

“iloli elizishaya sagandaganda” kusho imoto eyenzelwe ukuthi ikwazi ukudonsa ezinye izimoto futhi ayakhelwe ukuthi ithwale umthwalo ngaphandle kwenqola kuphela, okuzishaya sanqola noma okusabheseni okwakhelwe kuyo kodwa alisiwona ugandaganda;

“imoto eyesinda ngokwedlulele” kusho imoto , enesisindo sayo noma isisindo sayo esihlangene esingaphezu kuka 25 000 kg;

“ukungabibikho emsebenzini ngokungenamvume” kusho ukungezi emsebenzini ekubeni ungenayo imvume yokwenza lokho (AWOL), ikhefu elingakhokhelwa noma ikhefu lokugula elingakhokhelwa;

“iholo” kusho –

(a) inani lemali elikhokhelwa umsebenzi njengeholo Ngokwesheduli 5 ngokwamahora ajwayelekile okusebenza umsebenzi lowo aye wawasebenza; noma

(b) inani elikhudlwana elibalulwe Kwisheduli 5 umqashi avame ukulikhokhela umsebenzi ngokwamahora ajwayelekile okusebenza umsebenzi lowo;

“irejista yeholo” kusho irekhodi elidingekayo ukuthi ligcinwe ngumqashi ngokwesigatshana 50(3);

“usuku lokusebenza” kusho noma yisiphi isikhathi sokusebenza esilandelanayo, nesibekwe ngumqashi ukuthi silandelwe ngumsebenzi amsebenzelayo, kodwa asifaki phakathi noma yisiphi isikhathi esengeziwe kanti lokhu okulandelayo kuyothathwa njengosuku olulodwa (1) lokusebenza;

(a) usuku lwangoSonto ngalunye okusuke kudingeke ukuthi umsebenzi alusebenze;

(b) usuku lwangoMgqibelo ngalunye lapho khona umsebenzi esebenza okungenani amahora engeziwe ayisishiyagalombili;

(c) usuku lokusebenza ngalunye lapho khona umsebenzi engekho khona emsebenzini, esekhefini, esekhefini lokugula, ehlabhe ikhefu lokubhekana nezinto zomndeni, ikhefu lokuyofunda noma ngemuva kokunikwa umyalelo othile ngemvume yomqashi

“unyaka” mayelana nomsebenzi lokhu kusho noma yisiphi isikhathi sokuqashwa embonini nokuyisikhathi esiluleka sibe ngaphezu kwezinyanga eziyi-12.

2. Imikhakha yemisebenzi

Ngaphandle-ke uma incazelo isho okunye kodwa lezi zincazelo ezilandelayo ziyosebenza kwimikhakha yemisebenzi –

“umsizi kamakhenikha” kusho umsebenzi osiza noma olekelela umenzi womsebenzi othile ngokwenza imisebenzi ethile enqala efana nokususa amakhava, ukuhlukanisa izimoto kanye nokwakha izimoto ngaphansi kweso lomphathi esebenzisa izinsimbi ezinqala ezifanele, esebenzisa amathuluzi anqala kanye nezinye izinsimbi futhi esiza ukuhlanza indawo okusetshenzelwa kuyo;

“umhloli, izinga 1” kusho umsebenzi ohlola ukuhlanganiswa, ukupakishwa, ukudilizwa, ukukalwa, ukulayishwa, ukwethulwa kwezimpahla noma imithwalo ethile futhi kube umuntu ohlola afake amarekhodi athile alezo zimpahla ngesandla noma nge-elektroniki;

“umgcini” kusho umsebenzi oshayela imoto futhi obambe iqhaza ekugadeni kanye nasekuphatheni ukheshi, nezinto ezifana nemali ezithuthwayo nokungenzeka kudingeke ukuthi apathe isibhamu futhi ofaka izimali emshinini wokukhipha imali

“umabhalane okhipha izinto” kusho umsebenzi–

- (a) othweswe umthwalo wokwamukela, ukupakisha kanye nokukhipha izimpahla noma iziqukathi esitolo, kwindawo yokugcina izimpahla;
- (b) kungenzeka abe ngusuphavayza futhi ahlole umsebenzi womhloli izinga I noma II noma umsebenzi owenza omunye nje umsebenzi omncane
- (c) usebenzisa ulwazi kanye nedatha okugcinwe ngumuntu noma okugcinwe ngokwekhompyutha;

“umshayeli” kusho umsebenzi osebenza ukushayela imoto;

“oshayela u-crane, izinga I” kusho umsebenzi osebenza ukushayela u-crane onesisindo sokuphakamisa esingaphezu kuka-6 000 kg; noma osebenza ukuwujikisa engekho kuwona ngaphakathi

“oshayela u-crane, izinga II” kusho umsebenzi osebenza ukushayela u-crane onesisindo sokuphakamisa esingengaphezulu kuka-6 000 kg; noma osebenza ukuwujikisa engekho kuwona ngaphakathi

“umsebenzi ovamile” kusho umsebenzi owenza omunye wale misebenzi elandelayo:

- (a) ukuvula, ukuvala, ukuthunga, ukubopha, ukuthulula, ukugcwalisa amathini namabhokisi;
- (b) osiza ekulayishweni nasekwethulweni kweziqukathi;
- (c) ekususweni koseyili;
- (d) ukuvula amaphasela, izincwadi, noma ukuzithutha ezihambisa ngonyawo;
- (e) ukuthwala, ukuthwala, ukuthutha, ukuphusha izinqola
- (f) ukufaka amalebula ezintweni/ezimpahleni
- (g) ukufaka amaphasela, ukubopha izimpahla
- (h) ukushintsha amathawula, insipho kanye nephepha endlini yangasese;
- (i) ukuhlanza izimpahla noma iziqukathi;
- (j) ukwehlukana amakhadibhodi noma iziqukathi ezifanele;
- (k) ukushova amatshe, inhlabathi, nomgubane;
- (l) ukubhola izindawo ezithile ngesandla;
- (m) ukugada izimoto, izimpahla noma imithwalo ezimotweni;

- (n) ukusebenzisa o-crane abasetshenziswa ngezandla;
- (o) ukusiza omakhenikha ngezinye izindlela ngaphandle kokusebenzisa amathuluzi;
- (p) ukuhlanza ama-ovaroli, amayunifomu, imifaniswano, nezingubo;
- (q) ukusebenza emotweni, enqoleni noma ukuyiphelezela uma iphumile iyosebenzela ngaphandle;
- (r) ukulungisa amakesi okuthwala izinto ezithile zenkampani ngesandla;
- (s) ukuhlanza amagceke, izimoto kanye nemishini ethile
- (t) ukwenza izinto ezincane ezinjengokulungisa itiye, iziphuzo wenzela abasebenzi noma
- (u) wenzele umqashi itiye noma izivakashi zakhe;
- (v) ukusebenzisa irabha noma ezinye izitembu lapho kungadingekile ukukhetha khona;
- (w) ukuvula nokuvala amaloli ezitimela;
- (x) ukupenda izinqola;
- (y) ukukhipha noma ukushintsha amasonto ezimotweni ezinqoleni, emabhaleni, noma kwezinye izinto ezisamoto ezidonswa ngesandla; noma
- (z) ukwenza noma yimuphi umsebenzi owenziwa ngezandla;

“umsebenzi owejwayelekile; indawo yokulungisa izinto” kungasho umsebenzi oqashelwe ukusiza umakhenikha ngokuthi enze imisebenzana emincane efana nokuthwala amathuluzi, ukuhlanza indawo okusetshenzelwa kuyo nanokusiza lapho kudingeka khona;

“umlayishi, izinga I” kusho umsebenzi oshayela into elayishayo edumayo ekwazi ukuthwala into enomthamo ongu 6 000 kg, nesetshenziswa ekulayisheni, ekususeni noma ekudilizeni inhlabathi, isihlabathi, amatshe, umgubane kunoma yisiphi isiqukathi;

“umlayishi, izinga II” kusho umsebenzi oshayela into elayishayo edumayo ekwazi ukuthwala into enomthamo ongaphezulu kuka 6 000 kg, nesetshenziswa ekulayisheni, ekususeni noma ekudilizeni inhlabathi, isihlabathi, amatshe, umgubane kunoma yisiphi isiqukathi;

“oshayela ucrane ozihambelayo, izinga I” kusho umsebenzi oshayela into engu-crane ozihambelayo nodumayo okwazi ukuthwala into enomthamo ongu 6 000 kg, nesetshenziswa ekulayisheni, ekususeni noma ekudilizeni inhlabathi, isihlabathi, amatshe, umgubane kunoma yisiphi isiqukathi;

“oshayela ucrane ozihambelayo, izinga II” kusho umsebenzi oshayela into engu-crane ozihambelayo nodumayo okwazi ukuthwala into enomthamo ongaphezulu kuka 6 000 kg, nesetshenziswa ekulayisheni, ekususeni noma ekudilizeni inhlabathi, isihlabathi, amatshe, umgubane kunoma yisiphi isiqukathi;

“ezinye izinhlobo zabasebenzi” kusho bonke nje abasebenzi abaqashwe kwezokusebenza, kwezokugcinwa kwempahla, kwezokuphathwa kwezimoto kodwa abafakwa abaphathi balezo zindawo abathatha izinqumo zokuqasha, zokuqondisa izigwegwe kubasebenzi kodwa-ke kufaka phakathi nosuphawayza nokhontrola kungakhathalekile ukuthi ngabe nabo bayaqasha yini babuye baqondise izigwegwe kubasebenzi;

“umshayeli ongumnikazi wemoto” kusho lowo mshayeli ophinde abe ngumnikazi ngokungagcwele noma aphinde abe ngumebokisi wemoto ukuze azitholele umvuzo ngalokho futhi leyo moto isetshenziswa ekuthuthweni impahla futhi lowo muntu ubuye azishayelele yena leyo moto ngenhloso yokuthutha izimpahla;

“upheka/umlayishi izinga I” kusho umsebenzi owenza umsebenzi wokupakisha ifenisha kunoma yisiphi isiqukathi noma ngaphakathi emotweni noma umuntu osebenza ukudiliza leyo fenisha;

“upheka/umlayishi izinga II” kusho umsebenzi owenza umsebenzi wokupakisha ifenisha kunoma yisiphi isiqukathi noma ngaphakathi emotweni noma umuntu osebenza ukudiliza leyo fenisha futhi usebenza nokuba yinduna kumsebenzi owejwayelekile;

“umsebenzi wesikhathi esingagcwele” kusho umsebenzi ongasebenzi amahora omsebenzi agcwele kodwa osebhaliwe emsebenzini nokusuke kudingeka ukuthi asebenze amahora athile kuphela ngosuku, ngesonto noma ngenyanga;

“umsebenzi osebenza ukushintsha abanye” kusho umsenenzi okungesiyena umsebenzi oyitoho kodwa oqashwe ngumqashi ofanayo isikhathi esingekho ngaphezu kwezinsuku eziyi-16 esikhathini esiyizinsuku ezingama-30 futhi ongasebenzi izinsuku ezingaphezu kweziyi-144 kumasonto angama-52;

“umsebenzi osebenza ngezikhathi ezithile kuphela (Emkhakheni Wemboni Kashukela” kusho umsebenzi oqashiwe wabhaliswa kodwa embonini kashukela kodwa okudingeka ukuthi eze ezosebenza mhla edingeka ukuthi abe khona;

“unogada” kusho umsebenzi owenza eminye yale misebenzi: ukugada, ukuvikela, noma ukuzulazula endaweni ethile, kwizakhiwo ezithile kanye nezinye izinto ezingahambiyo noma ezihambayo kungakhathalekile yini noma uphathainja noma cha ekwenzeni kwakhe lowo msebenzi;

“unogada oyi-security, I” kusho umsebenzi oshayela imoto ethwala imali futhi ogada imoto ethwala imali futhi usebenza ukugada imali kanye nezinye izinto ezibalulekile ezisuke zisemgwaqweni futhi kungenzeka kube nesidingo sokuthi apha the isibhamu;

“unogada oyi-security, II” kusho umsebenzi ogada imoto ethwala imali futhi usebenza ukugada imali kanye nezinye izinto ezibalulekile ezisuke zisemgwaqweni futhi kungenzeka kube nesidingo sokuthi aphaathe isibhamu;

“unogada oyi-security, III” kusho umsebenzi ogada imoto ethwala imali futhi usebenza ukugada imali kanye nezinye izinto ezibalulekile ezisuke zisemgwaqweni futhi ezisuke zithwele onogada abangama-security amazinga I no II, kanti naye lo kusuke kungenzeka kube nesidingo sokuthi aphaathe isibhamu;

“umakhenikha ongagcwele” kusho umsebenzi okuthi yize esasebenza ngaphansi kweso lomphathi, okwazi ukuzisebenzela ngokwakhe ukuthi enze umsebenzi kodwa akanawo amandla okuthi ayekelelwe ngokugcwele ngomsebenzi futhi –

- (a) ukwazi ukukhanda izinto eziyinkinga impela emotweni, usebenzisa imishini ekwazi ukuthola amaphutha, ukwazi ukukhetha indlela ethile yokwenza umsebenzi; futhi
- (b) usuke engakagcwali ngokuphelele ukuthi usengaba umakhenikha kodwa futhi kusuke sekusele kancane ukuthi ayobhala ukuhlolwa kwakhe akwazi ukuba ngumakhenikha ngokugcwele;

“osebenza esitolo (e-workshop)” kusho umsebenzi okunguyena owemukela abhalise izipele okusuke kuyokhandwa ngazo izinto ezilimele;

“osebenza esitolo (e-warehouse)” kusho umsebenzi okunguyena osuke ephethe isitokwe esikhona futhi wemukela abhalise izipele okusuke kuyokhandwa ngazo izinto ezilimele futhi usebenza ukuthulula izimpahla kwi-warehouse noma kwezinye izindawo zokugcina izimpahla;

“unogada wemoto” kusho umsebenzi osebenza ukuhlinzeka unogada oyi-security ngokuvikeleka akudingayo akwazi ukubheka indawo lapho kuthathwa noma kuthuthwa khona imali.

ISHEDULI 3: IZIMALI EZINIKELWAYO ZINYANGA ZONKE AMANOTHI OKUGCWALISA OKUNANYATHISELWE A4

Imibhalo yezimali eziye zasetshenziswa nehanjiswa eMkhandlwini ngokwemibandela yalesi Sivumelwano kufanele ihambisane nalokhu okulandelayo –

1. Ikholumu yokubhala iholo kufanele ibonise –
 - (a) iholo elejwayelekile langesonto kumsebenzi ongaqashiwe ngokugcwele, nebalwe ngokwesigatshana 61(3);
 - (b) iholo lesonto lilonke eliholwa ngumsebenzi osebenza ukushintsha abanye abasebenzi, kuhlanganisa no-10% lona okusuke kufanele ukuthi ufakwe; kanye
 - (c) neholo lonkana eliholwa abasebenzi betoho besikhungo esiqasha abantu betoho ngenyanga.

2. Ikhohomu “yezinsuku zokusebenza ezisetshenziwe” kufanele ukuthi ibonise –
 - (a) inani lezinsuku zokusebenza ezisetshenzwe ngumsebenzi osebenza ukushintsha abanye abasebenzi ngenyanga;
 - (b) inani lezinsuku elisetshenzwe ngumsebenzi oyitoho wesikhungo esiqasha abantu betoho ngenyanga.

3. Bese kukhohomu edinga ukuthi kubhalwe imikhakha –
 - (a) abasebenzi abangasebenzi ngokugcwele kufanele babonakale ngokuthi kubhalwe ukuthi “P” eduzane kwabo
 - (b) abasebenzi abasebenza ukushintsha abanye kufanele babonakale ngokuthi kubhalwe ukuthi “R” eduzane kwabo
 - (c) abasebenzi abayitoho nabasebenzela isikhungo esiqasha abasebenzi betoho bona kubhalwe eduzane kwabo ukuthi “T”.

ISHEDULI 4: ISIKHWAMA SEMPILO

1. Uhlelo olunqala lokuqwashisa nge-HIV/AIDS

(1) UMkhandlu uye

- (a) wenza ucwaningo olunzulu, waxoxisana futhi wafakana imilomo nabathile abathintekayo kwase kuthi ngemuva kwalokho wavela necebo lokuthi akukho luhlelo olukhona njengamanje olusebenza ngaphansi kohlelo lokubhekelela abasebenzi ngakwezokuvikeleka kwenhlalo, kwezempilo, impesheni noma kwezokwelashwa nolusebenza ngendlela okusho ngayo umthetho nokuthi kuhlinzekwe ngosizo olubanzi okumanje ludingwa yimboni kakhulu futhi ikakhulukazi ukukwazi nokubhekana nezinselelo ezibhekene nokudlavazwa yi-HIV/AIDS kwemboni yethu;
- (b) wabona kufanele ukuthi ngenxa yalo lonke-ke lolu hlelo olwenziwe kupharagrafu (a) ngenhla, ukuthi kuqhanyukwe necebo elisebenzayo eliyokwenza ukuthi abasebenzi baqwashiswe futhi bahlinzekwe ngezinsizakalo zokuthi bakwazi ukuthola ukusizakala okukhulu kulezi zinhlelo zethu ikakhulukazi labo basebenzi okutholakale ukuthi sebehaqwe yi-HIV, noma labo abazithola sebehlukumezekile ngenhla ye-AIDS;
- (c) uye wasungula indlela ethile ezokwenza ukuthi loluhlelo lusebenze

2. Amaqhaza okumele abanjwe ngumqashi nomsebenzi ekwenzeni leli cebo ukuthi lisebenze

- (1) Izindleko eziyoba yingxenywe yokuthi leli cebo lisebenze kanye nanoma yiziphi ezinye izichibiyelo kuhlelo lolu, ziyobanjwa ezimalini eziyobe ziqoqwe ngele ndlela elandelayo:
 - (a) inani lemali elilingana no-0,5% ngesonto eholweni lomsebenzi elejwayelekile nokuyimali okuyofanele ukuthi ibanjwe ngumqashi eholweni lawo wonke umsebenzi omsebenzelayo izinsuku ezimbili noma ngaphezulu ngesonto kuhlanganisa ngisho nabasebenzi abangaqashiwe ngokugcwele, abasebenzi abashintsha abanye kanye nabasebenzi betoho besikhungo esihlinzeka abasebenzi ngetoho;
 - (b) inani lemali elikhokhwe ngumqashi, nelilingana no-1% weholo lonke lomsebenzi elihlanganisiwe.
- (2) Umqashi kufanele ukuthi –
 - (a) akhokhe izimali okukhulunywe ngazo odabeni lwesigatshanyana (1) eMkhandlwini ungakedululi umhla zingama-20 kwinyanga ngayinye kulandela inyanga lapho imali yayisuke idonswe ngayo;
 - (b) ahambise kuNobhala Kazwelonke WoMkhandlu, uhlelo oluseceleni lwazo zonke izimali ezinikelwayo zinyanga zonke (Okunanyathiselwe A4) kukhulume ngebhizinisi ngalinye

lomqashi. Ifomu elichaza ngezimali ezisetshenziwe kufanele ukuthi kube yifomu elibalulwe nguMkhandlu futhi lenzelwe yona le nhloso futhi kufanele ukuthi lifake phakathi izinto ezifana namagama aphelele omqashi, isibongo kanye nenombolo kamazisi. Abasebenzi abangaqashiwe ngokugcwele kanye nalabo abasebenza ukushintsha abanye abasebenzi kufanele ukuthi bachazwe kanjalo ngokuthi ufake u-“P” kanye no “R” ngaphambi kokubhala umkhakha womsebenzi lapho kubhalwe khona ukuthi “Umkhakha”. Esimweni lapho khona umqashi amaphepha ache ashiyo ukuthi yimalini esetshenziwe, indlela konke okubhalwe ngayo kufanele ukuthi kuhambisane Nokunanyathiselwe A4, kanti uma kwehlulekeka ukwenza lokho, uMkhandlu unelungelo lokuchitha lelo fomu.

- (3) Ngokwenhloso yokubala inani lemali elidonsiwe ngokwemibandela yeparagrafu (a) yesigatshanyana (2) –
- (a) indlela enqala yabasebenzi abakhulula abanye ithathwa ngokuthi ayiyufaki iphrimiyamu ka-10%
 - (b) iholo elinqala labasebenzi abangasebenzi amahora agcwele libalwa ngokulandela indlela ekwisigatshana 61(6) Sesivumelwano futhi kukhonjisiwe esikhaleni seholo esihlinzekiwe efomini eligcwaliswaywo (Okunanyathiselwe A4).

3. Ilungelo lokungakwenzi okufanele ukwenze ngokwalesi sigatshana

- (1) Noma yimuphi umqashi oye wenza lolu hlelo noma ohlela ukwenza lolu hlelo oluhlinzeka le mihlomulo elandelayo, noma imihlomulo ethi mayifane kakhulu nale mihlomulo elandelayo, angakwazi ukufaka isicelo ngokwemibandela yesigatshana 74 Sesivumelwano uktuhi anikwe ilungelo lokungayilandeli eminye imiyalelo noma yonke imiyalelo yalesi sigatshana –
 - (a) ukungenelela ngezinhlelo zokufundisa nge-HIV kanye nokuziphatha;
 - (b) ukuhlolwa ngokuzithandela kanye nokwelulekwa
 - (c) ukudanjiswa kwayo kanye nokwesekwa kwalabo abathintekayo;
 - (d) umshuwalense onqala.
- (2) Umqashi onikwa amandla okuthi angakwenzi lokhu abanye abakwenzayo angeke abambe imali yabasebenzi engaphezu kwaleyo eshiwo kunombolo 2(1) yale Sheduli emholweni womsebenzi ngokwenhloso yokuthi ufisa ukwenza lolu hlelo.

4. IsiKhwama sempilo

- (1) Ukuphathwa kanye nokulawulwa kwalesi siKhwama kusezandleni Zekomidi Lempilo eliqokwe nguMkhandlu ngokwemibandela yesigatshana 17 soMthethosisekelo woMkhandlu. Ikomidi lelo kufanele ukuthi libe nabantu okungenani abayishumi, okuyothi kubo abahlanu kube ngabamele umqashi bese abanye abahlanu kube ngabamele abasebenzi. Kumuntu ngamunye osekomidini, kufanele ukuthi uMkhandlu uqoke abanye abantu okuyothi uma kukhona ongeke abe khona ekomidini bese bevala izikhala.
- (2) Labo abamele abantu abaqokiwe kanye nalabo abasuke beqokelwe ukuvala izikhala bayobasezikhundleni isikhathi esiyizinyanga eziyishumi nambili futhi bayobe besakulungele ukuthi basengaphinda bakhethwe futhi uma bayobe besathanda.
- (3) Ekwenzeni umsebenzi walo Ikomiti leli linamandla okuthi lingasayina izivumelwano zokusebenzisana nabahlinzeki ngezinsizakalo ezithile, okungaba ezokushicilela, ezokweseka umsebenzi owenziwayo, ukuqeqesha, ukweluleka, ukwethula izinkulumo ezithile kanye nanoma yiziphi ezinye izinsizakalo ikomiti elingazibona zibalulekile ukuthi likwazi ukuqhuba icebo lalo, kuhlenganisa nezinhlalo zokuthola izinqubomgomo ezithile kwizikhungo ezibhalise noNobhala Wemishwalense Yesikhathi Esifushane.
- (4) Ikomidi kufanele ukuthi, kodwa uma lokho kuphasiswe nguMkhandlu kuqala, liqondise inqubomgomo yesiKhwama futhi liphathe nokusebenza kwesiKhwama ngokulandela imithetho elawula lokho.
- (5) Uma kwenzeka kuba nenkinga noma yingasiphi isikhathi mayelana nokuphathwa kwesiKhwama bese kutholakala ukuthi namalungu eKomiti ahlukeno phakathi, lolo daba kuyofanele ukuthi lwedluliselwe eMkhandlwini ukuze uthathe isinqumo ngalokho.
- (6) Uma Ikomiti leli lingakwazi ukwenza umsebenzi walo ngenxa yezizathu ezithile, uMkhandlu yiwona okuyofanele ukuthi wenze umsebenzi wekomiti lelo.

5. Ukulawulwa Kwezimali ZesiKhwama Sempilo

- (1) Ikomidi Elikhulu LoMkhandlu kufanele liqoqe yonke imali yesiKhwama bese liyidiphozitha yonke leyo etholakale ngaleyo ndlela, iye kwi-akhawunti yasebhange engabe ivulwe egameni lesiKhwama.
- (2) Ukudonswa kwezimali esiKhwameni kufanele kwenziwe ngamasheke futhi Ikomidi Elikhulu kuyofanele ukuthi liqoke abantu okuyibona abayosayina futhi besayinela le nhloso.
- (3) UMkhandlu kufanele uqoke umncwaningimabhuku obhalisiwe kanye ngonyaka futhi yiwona kanye okufanele unqume izimali eziyokhokhelwa lowo mcwaningimabhuku.

- (4) Umcwaningimabhuku oqokiwe kufanele –
- (a) acwaninge ama-akhawunti esiKhwama okungenani kanye ngonyaka; bese
 - (b) enza izitatimende ezibonisa zonke izimali eziye zangena esiKhwameni kanye nezindleko isiKhwama esiye sabhekana nazo ezinyangeni eziyi-12 ezedlule nokulindeleke ukuthi ziphele ngomhlaka 28/29 Febhuwari wonyaka olandelayo, bese kuba khona ne-*balance sheet* ebonisa izimali zesiKhwama ezikhona, kanye nezikweletu isiKhwama okungenzeka ukuthi sinazo ngaleso sikhathi
- (5) Isitatimende esicwaniwe kanye ne-*balance sheet* kwesiKhwama, nokungabe kusayinwe futhi nanguSihlalo woMkhandlu, kuhlenganisa neminye imibiko eminingi engabe yenziwe ngumncwaningimabhuku –
- (a) kufanele ukuthi kuhlale emahhosisini oMkhandlu, bese
 - (b) kuthi ikhophi yawo esayiniwe yedluliswe kuyisiwe kuNobhala Wezobudlelwano Kwezabasebenzi zingakapheli izinyanga ezintathu kuphele isikhathi okukhulunywe ngaso kulowo mbiko
- (6) Noma iyiphi imali engadingeki ukuthi kuhlangezwe nokukhokhwa kwezinto ezithile kanye nezindleko zesiKhwama kufanele ukuthi zitshalwe–
- (a) kuma-akhawunti okonga, kumasheya okungawesiKhwama unomphelo, noma ifakwe kwidiphozithi yesikhathi eside kunoma yiliphi ibhange elibhalisiwe noma kwisikhungo sezezimali esibhalisiwe;
 - (b) kumastokhi abhalisiwe ngaphakathi njengalokhu kukhulunywe ngawo kwisigaba 21 soMthetho wamaSheke, ka 1975 (uMthetho onguNo. 66 ka 1975);
 - (c) i-unit trust ebhalisiwe, noma
 - (d) nanoma iyiphi enye indlela ephasise nguNobhala Wezokuxhumana Nabasebenzi.
- (7) Imali engenayo netholakele kwizimali ezitshaliwe ikhulela uMkhandlu ukuze ukhokheleke ngezindleko nawo oye wangena kuzo egameni lesiKhwama.

6. Imithetho YesiKhwama Sempilo

Ikomidi Elikhulu linamandla, kodwa nawo liyowanikwa nguMkhandlu, okwenza, okuchibiyela noma okuhoxisa imithetho elawula ukusebenza nokusetshenzwa kwesiKhwama, yinqobo nje uma leyo mithetho kanye nanoma yikuphi ukuchitshiyelwa kwayo okwenzekile lapho kuhambisana nezimiso zalesi Sivumelwano kanye nanezimiso zanoma yimuphi umthetho.

Ikhophi yemithetho leyo kufanele ukuthi yedluliselwe kuMqondisi-Jikelele WoMnyango Wezabasebenzi.

7. Ukufinyelela kwizindawo zokusebenzela

- (1) Uma uMkhandlu noma inyunyana okuyiyona emele abasebenzi abaningi endaweni yokusebenzela, umqashi kufanele ukuthi avumele labo abanikwe igunya ngendlela efanele, abamele abathile, izikhulu ezithile, abaqeqeshi noma abazokwethula okuthile, imvume yokuthi bakwazi ukungena ngaphakathi emagcekeni ayindawo yokusebenzela ngenhloso yokuzoqwashisa abasebenzi kanye nokuhlinzeka ngezinhlelo zemfundo,
- (2) Umqashi unelungelo lokuvumela ukuthi kungenwe endaweni yakhe yokusebenzela uma kulethwa noma yimiphi imibandela ngaphambili, yinqobo nje uma lokho kuyokwenziwa ngesikhathi kanye nasendaweni ephusile futhi efanelwe ukuthi ingakwazi ukuvikela impilo kanye nempahla futhi uma lokho kungeke kwaphazamisa ukuqhubeka komsebenzi.

8. Ukwelulwa KwesiKhwama Sempilo

IsiKhwama sempilo lapha siyelulwa ukuthi sifake phakathi umshuwalense onqala wempilo isikhathi esiyiminyaka emibili nokuyosho ukuthi abaqashi nabasebenzi angeke baze bakhokhe lutho bona ngalokho.

ISHEDULI 5: UMHOLO KANYE NEMINYE IMIHLOMULO YEZEZIMALI**1. (a) Amaholo Okuqalwa Kuwo**

(1) Esikhathini esingaye sifinyelele kumhlaka 29 Febhuwati 2012, inani lezimali zokuqala mayelana namahora ajwayelekile omsebenzi yizona eziyokhokhwa ngumqashi kwilungu ngalinye lezinga elishiwo lapha ngezansi, nokuyoba abasebenzi abaqashwe nguyena umqashi ngale ndlela elandelayo:

(a) Amaholo amasonto onke

Ezokuthutha ezejwayelekile, Imboni Yomkhakha Kashukela, Abasebenza ngaphakathi Emasimini kanye Nabasebenza Ukuthutha Ifenisha:

**ITHEBULA LOKUQALA: AMAHOLO OKUQALA KANYE NOKWENYUKA KWAMAHOLO : IZINGA 1 KUYA KU 6:
Awesikhathi esiphela ngomhlaka 29 Febhuwari 2012**

1	2	3	4	5	6
Ikhodi Yomkhakha	Ikilasi	Izinga	Izinga ngokukaPatterson	Inani lemali elishan gesont o	Ukukhulakwemali kuwonkewonke
142327	Umsebenzi ojwayelekile Umsebenzi ojwayelekile, ekukhenikheni Umlayishi/umpakishi, izinga 1 Unogada oyi-security	1.	Izinga A Izinga A Izinga A Izinga A	R747.76	9%
56	Umshayeli wesithuthuthu Umshayeli wemoto	2.	B1 B1	R845.24	9%

2	encane		B1		
22	UKhontrola, izinga 1		B1		
24	Umlayishi, izinga II		B1		
46	Osebenza ngento esa-crane ohambayo, izinga 11 Umpakishi/umalayishi, izinga II		B1		
7	Umshayeli wemoto ophakathi (enezinqola eziningi)	3.	B2		
8	Umshayeli wemoto ophakathi (eyejwayelekile)		B2		
44			B2		
19	Umsizi kamakhenikha		B2		
23	Oshayela u-crane, izinga 1		B2		
47			B2		
21	Osebenzisa u-crane ozihambelayo, izinga 1		B2	R1041.7 7	9%
20			B1		
26	UKhontrola, izinga II		B2		
15	Osebenzisa okokulayisha, izinga 1 Oshayela u-crane, izinga II Osebenza esitolo (umsebenzi wasesitolo)		B2		

	Umholi wethimba				
50	Unogada wezimoto	3.	B2	R1648.70	9%
10	Umshayeli wemoto eyesindayo	4.	B3	R1193.90	9% (kwencike kwisigatshana 1(2) lapha ngezansi
11	(enezinqola eziningi)		B3		
12	Umshayeli wemoto eyesindayo (eyejwayelekile)		B3		
13	Umshayeli wemoto eyesinda kakhulu (enezinqola eziningi)		B3		
18	Umshayeli wemoto eyesinda kakhulu (eyejwayelekile) Umabhalane okhipha izimpahla		B3		

14	Umshayeli wemoto esinda ngokwedlulele	5.	B4	R1384.73	9% (kwencike kwisigatshana 1(2) lapha ngezansi
45	Umakhenikha ongagcwele kahle		B4		
49	Osebenza esitolo (endlini yezimpahla)		B4		
51	Umgcini	5.	B4	R1921.15	9%
41	Unogada, III	6.	B3	R1372.25	9%

40	Unogada, II		B3	R1646.70	
39	Unogada, I		B3	R1646.70	

- (2) Mayelana nabasebenzi abakumazinga 4 no 5 labo basebenzi abathola ukukhushulelwa ngemali okuye kwafinyelela ku-3% ngenxa yamaholo asemkhakheni othile nokumele aholwe ngabasebenzi kusukela ngomhlaka 28 Febhuwari 2011, kuyoba khona ukuhlanganiswa kwezimali ukuze zikhokhane ngo-2% kwi-ATB.
- (3) Ukukhuliswa kwemali kuwona wonke umsebenzi ababevele besebenzela umqashi ngaphambi kokushicilelwa kwale sheduli engenhla yezimali okumele ziholwe, bayokhushulelwa izimali okuyomele bazihole ngo-9% kwimiholo yabo eqondile.

- 1.(b) Esikhathini esiphakathi komhlaka 1 Mashi 2012 kuya kumhlaka 28 Febhuwari 2013 isilinganiso semali okumele ikhokhwe ngesonto nokuyizimali okumele ziholwe ngokwamahora ajwayelekile omsebenzi naye asetshenzwa, kuyokhokhwa ngabaqashi bekhokhela abasebenzi babo abasebenza bengaphansi kwalawa mazinga ashiwo ngezansi, kanti ukukhokhelwa kwalabo basebenzi kuyoma kanje:

1	2	3	4	5	6
Ikhodi Yomkhakha	Ikilasi	Izinga	Izinga ngokuk aPatter-son	Inani lemali elisha ngesonto	Ukukhula kwemali kuwonkewonke
1	Umsebenzi ojwayelekile	1.	Izinga A		
42	Umsebenzi ojwayelekile, ekukhenikheni		Izinga A	R807.58	8.5%
3	Umlayishi/umpakishi, izinga 1		Izinga A		
27	Unogada oyisecurity		Izinga A		
5	Umshayeli wesithuthuthu	2.	B1		
6	Umshayeli wemoto encane		B1		
2	UKhontrola, izinga 1		B1		
22	Umlayishi, izinga II		B1	R912.86	8.5%
24	Osebenza ngento esa-crane ohambayo, izinga 11		B1		
46	Umpakishi/umalayishi, izinga II		B1		

7	Umshayeli wemoto ophakathi (enezingqola eziningi)	3.	B2		
8	Umshayeli wemoto ophakathi (eyejwayelekile)		B2		
44	Umsizi kamakhenikha		B2		
19	Osebenzisa u-crane, izinga 1		B2		
23	Osebenzisa u-crane ozihambelayo, izinga 1		B2	R1125.11	8.5%
47	UKhontrola, izinga II		B2		
21	Osebenzisa okokulayisha, izinga 1		B2		
20	Oshayela u-crane, izinga II		B1		
26	Osebenza esitolo (umsebenzi wasesitolo)		B2		
15	Umholi wethimba		B2		
50	Unogada wezimoto	3.	B2	R1786.57	8.5%
10	Umshayeli wemoto eyesindayo (enezingqola eziningi)	4.	B3		
11	Umshayeli wemoto eyesindayo (eyejwayelekile)		B3		8.5%
12	Umshayeli wemoto eyesinda kakhulu (enezingqola eziningi)		B3	R1289.41	(kuncike kwisigatshana 1(2) lapha ngezansi
13	Umshayeli wemoto eyesinda kakhulu (eyejwayelekile)		B3		
18	Umabhalane okhipha izimpahla		B3		
14	Umshayeli wemoto esinda ngokwedlulele	5.	B4		
45	Umakhenikha ongagcwele kahle		B4	R1495.50	8.5%
49	Osebenza esitolo (endlini yezimpahla)		B4		

51	Umgcini	5.	B4	R2084.15	8.5%
41	Unogada, III	6.	B3	R1488.99	8.5%
40	Unogada, II		B3	R1786.67	
39	Unogada, I		B3	R1786.57	

1.(c) Ukukhuliswa kwemali kuwona wonke umsebenzi kweminye imikhakha:

Esikhathini esiyoye siphela ngomhlaka 29 Febhuwari 2012 kanye nomhlaka 28 Febhuwari 2013 ngokulandelana kwazo, kuyoba khona lokhu kukhula kwezimali okulandelayo kulabo basebenzi okuyotholakala ukuthi imiholo yabo akushiwongo ukuthi iqala kumalini kodwa bebe bengaphansi kwencazelo yophiko lokuxoxisana ngokwemibandela yesigatshana 56 Sesivumelwano Sokuxoxisana.

(i) Ezokuthutha ezejwayelekile, Imboni Yomkhakha Kashukela, Abasebenza ngaphakathi Emasimini kanye Nabasebenza Ukuthutha Ifenisha:

Umunxa	Isikhathi esiphela mhlaka 29/02/2012	Isikhathi esiphela mhlaka 28/02/2013
(i) Abasebenzi abahola imali engaphansi kuka-R6000.00 ngenyanga	100% ka 7%	100% ka 7%
(ii) Abasebenzi abahola phakathi kuka R6001.00 kanye no R8000.00 ngenyanga	87.5% ka 7%	87.5% ka 7%
(iii) Abasebenzi abahola phakathi kuka R8001.00 kanye no R10000.00 ngenyanga	80% ka 7%	80% ka 7%

(ii) Abasebenza ukuthutha imali

Umunxa	Isikhathi esiphela mhlaka 29/02/2012	Isikhathi esiphela mhlaka 28/02/2013
Eminye imikhakha, isibonelo (Umqaphi Wendlu Enamabhokisi), Ukhontrola Womsakazo, Isikhulu	7%	7%

Eseseka Ezimweni Ezibucayi, Umholi Wethimba kanye Nabasebenza Endlini Okubalwa Kuyo (Othela)		
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- (iii) Ukukhuliswa kwemali okubalulwe ku (i) kanye naku (ii) ngenhla kuyokhokhelana nanoma yikuphi ukukhuliswa kwezimali okwenziwe yinkampani kulezi zinyanga eziyi-12 ezedlule. Kodwa lokho kukhokhelana kuyosebenza kuphela ekukhulisweni kwezimali kwangonyaka ka 2011 kubona bonke abasebenzi. Esimweni lapho khona umsebenzi ophikweni lokuxoxisana yena eye wakhushulela iholo lakhe ngemali enkulu kunaleyo eshiwo ku (i) kanye no (ii) ngenhla, umqashi akayokuba nalo ilungelo lokufuna ukubuyiselwa lezo zimali iholo lalowo msebenzi eliye lakhuliswa ngazo.
- (iv) Ukukhuliswa kwemali okubalulwe ku (i) kanye no (ii) ngenhla kuyosebenza ngesikhathi kusasebenza lesi Sivumelwano sawo wonke umuntu kanti futhi akukho zimiso ezinye Zesivumelwano sawo wonke umuntu eziyosebenza kweminye imikhakha yabasebenzi ngaphandle-ke kwezigatshana 54 kanye no 69 Kwesivumelwano Sawo wonke umuntu.

2. Imali yokusebenza ebusuku

- (1) Imali yokusebenza ebusuku kulabo basebenza abasebenza ngezikhathi ezithile kuphela Abasemkhakheni Wokuthuthwa Komoba ngu-R11.50 ngobusuku ngabunye obusetshenziwe.
- (2) Umsebenzi, ngaphandle komsebenzi okukhulunywe ngaye kusigatshana sokubalwayo ku (1), nowenza umsebenzi ongaphezu kwehora elilodwa kube kungumsebenzi wasebusuku, kufanele lowo msebenzi anxeshazelwe ngokuthi –
- (a) kune nemali ayitholayo engu-R6.08 engale kwehora bese kuba futhi ngu-R1.22 kwihora ngalinye eliyosetshenzwa lapho ngaphezulu; noma
- (b) kuvele kuncishiswe amahora ajwayelekile okusebenza.

3. Izimali okumele zitholakale ezihlanganisiwe

Izimali ezihlanganisiwe nokufanele ukuthi zikhokhwe ngokwemibandela yesigatshana 63(7), ngu-R100 ngenyanga.

4. Imali yokuthenga izinto ezincane kanye Nokusebenza ngaphesheya komngcele

Imali yokuziphilisa eyokhokhwa ngokwemibandela yesigatshana 36 Sesivumelwano Esikhulu, kufanele okungenani ime kanje –

- (a) R22.54 isikhathi ngasinye umsebenzi engaphakathi komngcele weRiphabhlikhi yaseNingizimu Afrika;
- (b) R31.56 isikhathi ngasinye umsebenzi engaphandle komngcele weRiphabhlikhi yaseNingizimu Afrika ;

- (c) R19.53 ngokuphazamiseka ngakunye kwezikhathi ezintathu zokudla ngesikhathi sokungabibikho komsebenzi lowo.

5. Izimali ezitholakala ngokushona kanye nezinye izipesheli

Izimali ezitholakala ngokushona kanye nezinye izipesheli nokusuke kufanele ukuthi zitholwa ngabasebenzi ngonyaka ngamunye wokusebenza abasuke bewuphothulile, kuye kufinyelele eminyakeni engama-30, nokusuke kuyisikhathi lapho khona kunezimali ezisuke zifakwe egameni lomsebenzi ngale ndlela elandelayo –

- (a) Abashayeli kanye nonogada, izinga I nezinga II: R150.00 unyaka ngamunye wokusebenza kade kufakwa izimali egameni lomsebenzi lowo;
- (b) Bonke abanye abasebenzi: R100.00 unyaka ngamunye wokusebenza kade kufakwa izimali egameni lomsebenzi ngamunye.

6. Imikhawulo Kwizimali Zabashayeli Abashayela Izimpahla Eziyingozi

Izimali okusuke kufanele ukuba zikhokhelwe Abashayeli Abashayela Izimpahla Eziyingozi ngokwemibandela yesigatshana 60 Sesivumelwano Esikhulu yilena –

- (a) R76.65 uma ikilayente lithi amahora okumele asetshenzwe ngumshayeli kumele abe yi-12 noma ngaphansi kwalawo;
- (b) R49.28 uma ikilayente lithi amahora okumele asetshenzwe ngumshayeli kumele abe yi-13 noma ngaphansi kwalawo kodwa angabi ngaphansi kwayi-12.
- (c) R27.38 uma ikilayente lithi amahora okumele asetshenzwe ngumshayeli kumele abe yi-14 noma ngaphansi kwalawo kodwa angabi ngaphansi kwayi-13.

Isayinwe eGoli, isayinelwa futhi isayinwa egameni lezinhlaka eziyingxenye yoMkhandlu ngalolu suku lwangomhlaka 25 Agasti 2011.

[isignesha]

T.C. SHORT

USihlalo WoMkhandlu

[isignesha]

M. GWEDASHE

USekela-Sihlalo WoMkhandlu

[isignesha]

J. LETSWALO

UNobhala WoMkhandlu

ISHEDULI 6: AMAFOMU ANQUNYIWE**AMAFOMU ANQUNYIWE**

1. OKUNANYATHISELWE A.1 - ISITATIMENDE SOKUBHALISWA NOMKHANDLU
2. OKUNANYATHISELWE A.2 - ISITIFIKETI SOKUBHALISWA
3. OKUNANYATHISELWE A.3 - ISITIFIKETI SOKUSEBENZA
4. OKUNANYATHISELWE A.4 - IZIMALI EZINIKELWAYO KANYE NEZIMALI EZIYA
EMKHANDLWINI ZINYANGA ZONKE
5. OKUNANYATHISELWE A.5 - IVAWUSHA YESHIFTHU ELINGANISIWE
6. OKUNANYATHISELWE A.6 - IVAWUSHA YENKOKHELO YONYAKA
7. OKUNANYATHISELWE A.7 - ISAZISO SOKUPHELA KOMSEBENZI
8. OKUNANYATHISELWE A.8 - IZICELO ZOKUHLABA IKHEFU LOKUGULA

Iphrintwe futhi iyatholakala kwiPhrinta kaHulumeni, Bosman Street, Private Bax X85, Pretoria, 0001

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