

UMTHETHO WODLAME LWASEKHAYA

Inombolo 116 we-1998

[Izimiso zomthetho]

[WAMUKELWE MHLAKA 20 NOVEMBA, 1998]

[USUKU OQALA NGALO UKUSEBENZA: 15 DISEMBA, 1999]

(Umbhalo wesiNgisi usayindwe uMongameli)

Lo Mthetho uvuselelwe kuSomqulu kaHulumeni 35018 mhlaka 10 Febhewari, 2012.

njengoba uchitshiyelwe nge-*Judicial Matters Second Amendment Act, No. 55 of*

2003

Jurisdiction of Regional Courts Amendment Act, No. 31 of 2008

[kusuka mhlaka 9 Agasti, 2010] i-*Independent Police Investigative Directorate Act,*

No. 1 of 2011 [kusukela mhlaka 1 Epreli, 2012] izichibiyelo eziphakanyiswe i-

Independent Police Investigative Directorate Act, No. 1 of 2011

(imibandela ayikamenyezelwa) Izichibiyelo eziphakanyisiwe nezigaba

ezizochitshiyelwa

S. 36 soMthetho 1 wezi-2011

S. 18 soMthetho 116 we-1998

UMTHETHO

Uhlizekela ngokukhipha imiyalelo yokuvikela kwabahlukunyezwa udlame lwasekhaya; nezindaba ezihambisana nawo.

ISENDLALELO

UKWAMUKELA ukuthi udlame lwasekhaya lubi kangakanani emphakathini; kunezehlakalo eziningi zodlame lwasekhaya emphakathini waseNingizimu Afrika; abahlukunyezwa udlame lwasekhaya bakulabo abangakwazi ukuzivikela emphakathini; udlame lwasekhaya lunezindlela ezihlukene; udlame lwasekhaya lungaba khona ebudlelwaneni obahlukene basekhaya; izisombululo ezikhona zabahlukunyezwe udlame lwasekhaya kubonakala ukuthi azisebenzi;

NOKUBHEKA uMthethesisekelo waseRiphabhuliki yaseNingizimu Afrika, ikakhulukazi, ilungelo lokulingana, inkululeko nekuvikeleka komuntu; nokuzinikela emhlabeni jikelele nezibophezelo zoMbuso zokuqeda udlame oluqondiswe kubantu besifazane nezingane, kubandakanya izibophezelo ezingaphansi Kwesivumelwano Samazwe Obumbano Sokunqanda zonke Izinhlobo Zokucwasa Abantu Besifazane Namalungelo Abantwana;

KUYINHLOSO yalo Mthetho ukuvikela abahlukunyezwe udlame lwasekhaya ukuvikeleka ekuhlukunyezweni ekhaya umthetho okuhlinzekelayo; nokwethula ikhambi okuhloswe ngalo ukuqikelela ukuthi amagatsha ombuso afanele ayayilandela imibandela yalo Mthetho, futhi adlulisa ukuthi uMbuso uzibophezele ukunqanda udlame lwasekhaya.

NGAKHO-KE UZOMISWA iPhalamende laseRiphabhuliki yaseNingizimu Afrika, ngale ndlela elandelayo:—

UKUHLELWA KWEZIGABA

1. Izincazelo
2. Umsebenzi wokusiza nokwazisa ummangali ngamalungelo akhe
3. Ukuboshwa iphoyisa ngaphandle kwencwadi yemvume
4. Ukufaka isicelo somyalelo wokuvikelwa
5. Ukucutshungulwa kwesicelo nokukhishwa komyalelo wokuvikelwa kwesikhashana
6. Ukukhishwa komyalelo wokuvikelwa
7. Amandla enkantolo mayelana nomyalelo wokuvikelwa
8. Incwadi yemvume yokubopha uma sekukhishwe umyalelo wokuvikelwa
9. Ukudliwa kwezibhamu nezikhali eziyingozi
10. Ukukhipha omunye umyalelo noma ukuchitha umyalelo wokuvikelwa
11. Ukuthamela izithangamu nokunqaba ukushicilela imininingwane ethile
12. Igunya
13. Ukukhipha imiqulu

14. Ukumelwa ummeli
15. Izindleko
16. Ukudlulisa icala nokubuyekeza
17. Amacala
18. Ukusetshenziswa koMthetho igatsha lezokushushisa namalungu oPhiko loMsebenzi wamaPhoyisa waseNingizimu Afrika
19. Izimiso zomthetho
20. Ukuchibiyela isigaba sama-40 soMthetho wama-51 we-1977, njengoba uchitshiyelwe ngesigaba sama-41 soMthetho we-129 we-1993 nesigaba sesi-4 soMthetho we-18 we-1996
21. Ukuchithwa kwemithetho nemvume
22. Isihloko esifingqiwe nokuqala kwawo ukusebenza

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi ibeka ngenye indlela—

"isibhamu" sichaza isibhamu njengoba kuchaziwe esigabeni soku-1(1) noma isikhali njengoba kuchaziwe esigabeni sama-32(1) se-*Arms and Ammunition Act, 1969 (Act No. 75 of 1969)*;

"umabhalane wasenkantolo" uchaza umabhalane wenkantolo oqokwe ngokwemigomo yesigaba se-13 se-*Magistrates' Courts Act, 1944 (Act No. 32 of 1944)*, futhi ubandakanya umsizi kamabhalane wenkantolo oqokiwe;

"ummangali" uchaza umuntu onobudlelwano noma owayenobudlelwane basekhaya nommangalelwa ohlukunyezwa noma ohlukunyezwe noma okusolwa ukuthi

uhlukunyezwa udlame lwasekhaya, kubandakanya nengane enakekelwa ummangali;

"inkantolo" ichaza inkantolo kamantshi yesifunda evezwe ku-*Magistrates' Courts Act, 1944 (Act No. 32 of 1944)*;

"ukulimaza impahla" kuchaza ukulimaza ngenhloso noma ukulimaza impahla yommangali noma ummangali anentshisekelo ngayo;

"isikhali esiyingozi" sichaza isikhali esichazwe esigabeni soku-1 se-*Dangerous Weapons Act, 1968 (Act No. 71 of 1968)*;

"ubudlelwane basekhaya" buchaza ubudlelwane phakathi kommangali nommangalelwa ngalezi zindlela ezilandelayo—

- (a) abashadene noma babeshadene, kubandakanya umshado ngokomthetho, isiko noma inkolo;
- (b) (bobulili obufanayo noma obungafani) abahlala noma ababehlala ndawonye kulobo budlelwano njengabantu abashadile, noma bengashadile, noma babengashadene, noma bengakwazi ukushadana;
- (c) bengabazali bengane noma kungabantu ababhekele noma ababebhekele leyo ngane (ngesikhathi esisodwa noma ezingafani);
- (d) bengamalungu omndene ahlobene ngegazi, ngokushadiselana noma ukukhulisa ongabazali;
- (e) abaganene noma ababeganene, abathandanayo noma ubudlelwane ngokosiko, ubudlelwane bezocansi obuthatha isikhathi esithile; noma
- (f) abahlala noma abasanda kuhlala ndawonye;

"udlame lwasekhaya" luchaza—

- (a) ukuhlukunyezwa emzimbeni;
- (b) ukuhlukunyezwa ngokocansi;

- (c) ukuhlukunyezwa emoyeni, ngamazwi nokomqondo;
- (d) ukuhlukunyezwa ngezomnotho;
- (e) ukusatshiswa;
- (f) ukuhlupha;
- (g) ukulandela;
- (h) ukulimaza impahla;
- (i) ukungena endawem yommangali ngaphandle kwemvume, uma bengahlali ndawonye; noma
- (j) ukulawula noma ukuhlukumeza ummangali,

futhi leso senzo silimaza, noma singaba imbangela yokulimaza, ukuphepha, impilo noma inhlalakahle yommangali;

"ukhlukumeza kwezomnotho" kubandakanya—

- (a) ukuncisha ngendlela engafanele usizo lwezomnotho noma imali ummangali okufanele ayithole ngaphansi komthetho noma usizo oludingwa ummangali ngoba luyisidingo, kubandakanya izidingo zasendlini zommangali, ukukhokha ibhondi yendlu noma ukurenta endaweni abahlala kuyona bobabili; noma
- (b) ukuphuca ngokungafanele impahla yasendlini noma enye impahla ummangali ayisebenzisayo;

"usizo lwemali olusheshayo" luchaza isinxephezelo semali ekhokhelwa

ummangali ngesikhathi kusakhishwe umyalelo wokuvikela ngesizathu sodlwame

lwasekhaya, kubandakanya—

- (a) ukulahlekelwa umholo;
- (b) izindleko zezempilo nezodokotela bamazinyo;
- (c) izindleko zokuthutha nezokuhlala kwenye indawo; noma
- (d) izidingo zasendlini;

"ukuhlukumeza ngokomoya nangokomqondo" kuchaza uhlelo lokwehlisa isithunzi noma izezo zokuhlambalaza ummangali, kubandakanya—

- (a) ukumthuka uphindelela, ukuhlelisa ngaye noma ukumbiza ngamagama athile;
- (b) ukumsabisa uphindelela ukumzizwa ubuhlungu emphefumulweni; noma
- (c) ukubonisa ukulawula ngokuphindelela noma umona, okungaholela ekuphazamiseni izimfihlo, inkululeko, ubuqotho noma ukuvikeleka kummangali;

"ukuhlupha" kuchaza ukuziphatha okuholela ukuba ummangali asabe ukulinyazwa kubandakanya—

- (a) ukubuka uphindelela, noma ukuzulazula ngaphandle noma eduze kwesakhiwo noma kwendawo lapho ummangali ehlala khona, esebenza khona, eqhuba khona ibhizinisi noma lapho efunda khona;
- (b) ukushayela ummangali ucingo ngokuphindelela noma ukunxenxa omunye umuntu ukuba amshayela ucingo, akhulume noma engakhulumanga;
- (c) ukuthumela, ngokuphindelela, noma ukuthumela ozothumela izincwadi, itelegramu, okuthile, ifaksimeyli, umbikombani noma okunye kummangali;

"ukusabisa" kuchaza ukuphimisa noma ukusabisa, noma ukwenza ummangali athole ukwesatshiswa, ukubangela ukwesaba;

"ilungu loMbuthe wezeMisebenzi yamaPhoyisa waseNingizimu Afrika" lichaza ilungu njengoba kuchaziwe esigabeni soku-1 se-*South African Police Service Act, 1995 (Act No. 68 of 1995)*;

"iphoyisa" lichaza obhekele ukuthula njengoba kuchaziwe esigabeni soku-1 se-*Criminal Procedure Act, 1977 (Act No. 51 of 1977)*;

"ukuhlukumeza emzimbeni" kuchaza isenzo noma isenzo sokusabisa ngokushaya ummangali;

"okunqunyiwe" kuchaza okunqunyiwe ngokwemigomo yezimiso zomthetho ezimiswe ngaphansi kwesigaba se-19;

"umyalelo wokuvikelwa" uchaza umyalelo okhishwe ngokwemigomo yesigaba sesi-5 noma sesi-6 kodwa, esigabeni sesi-6, awubandakanyi umyalelo wokuvikelwa wesikhashana;

"indawo yokuhlala" ibandakanya izikhungo zabantwana, abantu abadala nabantu abakhubazekile;

"ummangalelwa" uchaza umuntu onobudlelwane noma owayenobudlelwane basekhaya nommangali futhi osuse udlame lwasekhaya noma osolwa ngokususa udlame lwasekhaya kummangali;

"ukuhlukumeza ngokocansi" kuchaza isenzo sokuhlukumeza, ukuhlambalaza, ukwehlisa isithunzi noma ukulwisana nobulili bommangali;

"isithunywa" sichaza isithunywa esiqokwe ngokwemigomo yesigaba sesi-2 (1) se-*Sheriffs Act, 1986 (Act No. 90 of 1986)*, noma isithunywa esiyibamba esiqokwe ngokwemigomo yesigaba sesi-5 (1) salo Mthetho;

"ukulandela" kuchaza ukulandela ummangali uphindelela, ukumncenga, noma ukumumisa;

"Io Mthetho" ubandakanya izimiso zomthetho.

Umsebenzi wokusiza nokwazisa ummangali ngamalungelo akhe

2. Ilungu loMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika, endaweni okwenzeka khona udlame lwasekhaya noma ngemuva kwalokho, noma uma sekubikwe isigameko sodlame lwasekhaya kufanele—

- (a) lize ummangali ngendlela efanele kuleso sigameko, kubandakanya ukumsiza noma ukwenza amalungiselelo okuba ummangali athole indawo yokukhosela efanele futhi athole ukwelashwa;
- (b) uma kungenzeka lokho, akhiphe isaziso esineminingwane enqunyelwe ummangali ebhalwe ngolimi olukhulunywa ummangali; futhi
- (c) uma engakwazi, achazele ummangali ngokuqokethwe isaziso ngendlela enqunyiwe, kubandakanya usizo angaluthola ngokwemigomo yalo Mthetho nelungelo lokufaka isikhalazo sobulelesi, uma bukhona.

Ukuboshwa iphoyisa ngaphandle kwencwadi yemvume

3. Iphoyisa lingabopha ummangalelwa endaweni yesigameko sodlame lwasekhaya ngaphandle kwencwadi yemvume uma lisola ukuthi wenze icala eliwudlame kummangali.

Ukufaka isicelo somyalelo wokuvikelwa

4. (1) Ummangali angafaka isicelo enkantolo somyalelo wokuvikelwa ngendlela enqunyiwe.

(2) Uma ummangali engamelwe ummeli, umabhalane wasenkantolo kufanele azise ummangali, ngendlela enqunyiwe—

- (a) ngosizo olutholakalayo ngokwemigomo yalo Mthetho; futhi

(b) nangelungelo lokuvulela ummangalelwa icala lezobulelesi, uma ummangalelwa enze necala lezobulelesi.

(3) Nakuba kunemibandela yomunye umthetho, isicelo singafakelwa ummangali sifakwe omunye umuntu, kubandakanya ikhansela, owezempilo, ilungu loMbuthe wezeMisebenzi yamaPhoyisa waseNingizimu Afrika, usonhlalakahle noma uthisha, onentshisekelo ngenhlalakahle kammangali: Inqobo nje uma isicelo sibhalwe ngemvume kammangali, ngaphandle kwezimo lapho ummangali—

(a) eyingane;

(b) egula ngekhandu;

(c) equlekile; noma

(d) kungumuntu inkantolo egculisekile ukuthi akakwazi ukunikeza imvume ngokwakhe.

(4) Nakuba kunemibandela yomunye umthetho, ingane, noma umuntu omele ingane, angafaka isicelo enkantolo somyalelo wokuvikelwa ngaphandle kokusizwa umzali, umqaphi noma omunye umuntu.

(5) Isicelo esivezwe esigatshaneni soku-(1) singafakwa sekudlule isikhathi ezijwayelekile zokusebenza enkantolo noma ngosuku okungelona usuku olujwayelekile lokusebenza enkantolo, uma inkantolo igculisekile ukuthi ummangali angathwala ubunzima uma isicelo singadingidwa ngokushesha.

(6) Isicelo singahamba namanye ama-afidavithi omuntu onolwazi ngalolo daba.

(7) Isicelo nama-afidavithi kufanele kuthunyelwe kumabhalane wasenkantolo okufanele yena athumele isicelo nama-afidavithi enkantolo.

Ukucutshungulwa kwesicelo nokukhishwa komyalelo wokuvikelwa

5. (1) Inkantolo kufanele ngokushesha icubungule isicelo esithunyelwe ngokwemigomo yesigaba sesi-4(7) futhi, ngalokho, ingacubungula nobunye ubufakazi ebona bufanele, kubandakanya nobufakazi obulalelwayo noma ubufakazi be-afidavithi, obuzoba ingxenye yerekhodi lokuqhubekayo.

(1A) Uma isimo sivuma futhi uma uMmeli wamacala asekhaya ekhona, ezimweni ezinganqunywa i- *Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987)*, uma kucutshungulwa isicelo esivezwe esigatshaneni soku-(1), inkantolo ingakhipha umyalelo wokuba uMmeli wamacala asekhaya, ovezwe i- *Mediation in Certain Divorce Matters Act, 1987*, ngokwegunya laleyo nkantolo mayelana nenhlalakahle yengane noma ingane engaphansi komuntu achashazelwa ilokhu okuqhubekayo, kuleso simo imibandela yalowo Mthetho iyasebenza nezinguquko ezifanele zaleyo ngqikithi.

(2) Uma inkantolo igculiseka ukuthi kunobufakazi obubonakalayo bokuthi—

(a) ummangalelwa ususa, noma wasusa udlame lwasekhaya; futhi
 (b) ummangali angahlangabezana nobunzima ngesizathu sodlame lwasekhaya
 uma umyalelo wokuvikelwa ungakhishwa ngokushesha,
 nakuba ummangalelwa engakakhishelwa isaziso sokuqhubekayo okuvezwe esigatshaneni soku-(1), inkantolo kufanele ikhiphele ummangali umyalelo wokuvikelwa wesikhashana, ngendlela enqunyiwe.

(3) (a) Umyalelo wokuvikelwa wesikhashana kufanele unikezwe ummangalelwa ngendlela enqunyiwe futhi kufanele ucele ummangalelwa ukuba aveze izizathu ngosuku olunqunyiwe oluvezwe umyalelo ukuthi kungani umyalelo wokuvikelwa kufanele ungakhishwa.

(b) Ikhophi yesicelo esivezwe esigatshaneni sesi-4(1) nerekhodi yobufakazi obuveziwe ngokwemigomo yesigatshana soku-(1) kufanele kunikezwe ummangalelwa buhambisana nomyalelo wokuvikelwa wesikhashana.

(4) Uma inkantolo ingawukhiphi umyalelo wokuvikelwa wesikhashana ngokwemigomo yesigatshana sesi-(2), inkantolo kufanele ikhiphele umabhalane wasenkantolo umyalelo wokuba amakhophi afungelwe aleso sicelo nama-afidavithi ukuba kunikezwe ummangalelwa ngendlela enqunyiwe, kuhambisana nesaziso esinqunyiwe futhi kufanele ummangalelwa aveze izizathu ngosuku olunqunyiwe oluvezwe umyalelo ukuthi kungani umyalelo wokuvikelwa kufanele ungakhishwa.

(5) Izinsuku ezinqunyiwe ezivezwe esigatshaneni sesi-(3) (a) neses- (4) akufanele zibe ngaphansi kwezinsuku eziyi-10 uma ummangalelwa esazisiwe: Inqobo nje uma usuku olunqunyiwe oluvezwe esigatshaneni sesi-(3) (a) lungalindelwa ummangalelwa engakapheli amahora angama-24 esaziso esibhalelwe ummangalelwa inkantolo.

(6) Umyalelo wokuvikelwa wesikhashana akufanele uphoqe futhi usebenze uze unikezwe ummangalelwa.

(7) Uma sekuthunyelwe noma uma sekuthunyelwe umyalelo wokuvikelwa wesikhashana, umabhalane wasenkantolo ngemuva kwalokho kufanele aqikelele ukuthi—

(a) ikhophi efungelwe yomyalelo wokuvikelwa wesikhashana; futhi

(b) imvume yokubopha evezwe esigabeni sesi-8(1)(a), kuyathunyelwa kummangali.

Ukukhishwa komyalelo wokuvikelwa

6. (1) Uma ummangalelwa engafiki ngosuku olunqunyiwe oluvezwe esigabeni sesi-5(3) noma sesi-(4), futhi uma inkantolo igculisekile ukuthi—

- (a) kwenziwe okufanele kummangalelwa; futhi
- (b) isicelo sinobufakazi obubonakalayo bokuthi ummangalelwa ususa noma wasusa udlame lwasekhaya,

inkantolo kufanele ikhiphe umyalelo wokuvikelwa ngendlela enqunyiwe.

(2) Uma ummangalelwa efika ngosuku olunqunyiwe ukuzophikisana nokukhishelwa umyalelo wokuvikelwa, inkantolo kufanele iqhubeke nokulalela lolo daba futhi—

- (a) ibheke nobufakazi obutholakele phambilini ngokwemigomo yesigaba sesi-5(1); futhi
- (b) ibheke namanye ama-afidavithi noma ubufakazi obuthulwe ngomlomo ngokomyalelo wayo, obuzoba ingxenye yerekhodi lokuqhutshwayo.

(3) Ngokubona kwayo noma uma icelwe ummangali, futhi uma ibona ukuthi kufanele noma kuhle ukwenza lokho, inkantolo ingakhipha umyalelo wokuba kuhlatshwe ngemibuzo ofakazi, kubandakanya nommangali, ummangalelwa ongenaye ummeli—

- (a) akanalo ilungelo lokubuza ngqo umuntu anobudlelwane basekhaya nommangalelwa; futhi
- (b) kufanele abuze umbuzo lowo fakazi ngokuwuqondisa enkantolo, futhi

inkantolo kufanele iwuphindele ngendlela eyiwo lowo mbuzo kummangalelwa.

(4) Ngemuva kokulalela okuvezwe esigatshaneni sesi-2), inkantolo kufanele ikhiphe umyalelo wokuvikelwa ngendlela enqunyiwe uma ithola, ebufakazini obukhona, ukuthi ummangalelwa ususa noma wasusa udlame lwasekhaya.

(5) Uma sekukhishwe umyalelo wokuvikelwa umabhalane wasenkantolo ngemuva kwalokhu futhi ngendlela enqunyiwe kufanele aqikelele ukuthi—

- (a) ummangalelwa uthunyelelwa lowo myalelo wokuvikelwa; futhi
- (b) ikhophi efungelwe yalowo myalelo, nencwadi yemvume yokubopha evezwe esigabeni sesi-8(1)(a), kuthunyelwa kummangalelwa.

(6) Umabhalane wasenkantolo ngemuva kwalokho ngendlela enqunyiwe kufanele adlulisele amakhophi afungelwe omyalelo wokuvikelwa nencwadi yemvume yokuboshwa evezwe esigabeni sesi-8(1)(a) kudluliselwe esiteshini samaphoyisa esikhethwe ummangali.

(7) Ngokwemibandela yesigaba sesi-7(7), umyalelo wokuvikelwa okhishwe ngokwemigomo yalesi sigaba uzoqhubeka nokusebenza uze umiswe, futhi ukukhishwa kwalo myalelo akufanele kume ngoba kusafakwe isicelo sokubuyekeza.

Amandla enkantolo mayelana nomyalelo wokuvikelwa

7. (1) Inkantolo ingasebenzisa umyalelo wokuvikelwa ovezwe esigabeni sesi-5 noma sesi-6, ukuvimvela ummangelelwa—

- (a) ukususa udlame lwasekhaya;
- (b) ukuthola usizo komunye umuntu ozokwenza lesi senzo;
- (c) ukungena endaweni ehlala ummangali nommangalelwa:

Inqobo nje uma inkantolo ibona ukuthi lokhu kuzosiza ummangali ingavimbela ukuba;

- (d) ukungena engxenyeni ethile yaleyo ndawo yabo bobabili;
- (e) ukungena endaweni yommangali;

- (f) ukungena endaweni lapho kusebenza khona ummangali;
- (g) ukunqabela ummangali ohlala noma obehlala nomuntu njengoba kuveziwe endimani (c) ukuba angene noma ahlale endaweni ahlala kuyona nomuntu noma engxenyeni yendawo ahlala kuyona nomuntu; noma
- (h) ukwenza isenzo esivezwe kumyalelo wokuvikelwa.

(2) Inkantolo ingangeza eminye imibandela ebona ukuthi ifanele ukuvikela nokuhlinzekela ngokuphepha, ezempilo noma inhlalakahle kummangali, kubandakanya nomyalelo—

- (a) wokudla isibhamu noma isikhali esiyingozi sikammangalelwa noma esilawulwa ummangalelwa, njengoba kuveziwe esigabeni sesi-9; futhi
- (b) wokuba iphoyisa kufanele likhaphe ummangali ukuya endaweni ethile ukumsiza ngamalungiselelo okuqoqa impahla yakhe.

(3) Ukuze kukhishwe umyalelo ovimbayo ovezwe esigatshaneni soku-(1)(c), inkantolo ingathwesa ummangalelwa izibophezelo zokukhulula ummangali ukuba angayikhokhi irenti noma ibhondi ngokubheka izidingo zemali namandla kammangali nommangalelwa.

(4) Inkantolo ingakhipha umyalelo wokuba ummangalelwa akhokhe usizo lwemali olusheshayo uma isibheke izidingo zemali zikammangali nommangalelwa, futhi lowo myalelo uzokhishwa ngesinqumo senkantolo kamantshi.

(5) (a) Ikheli likammangali akufanele lifakwe kumyalelo wokuvikelwa, ngaphandle uma umsuka wemigomo yomyalelo uphoqa ukufakwa kwalelo kheli.

(b) Inkantolo ingakhiphe eminye imiyalelo ukuqikelela ukuthi ikheli likammangali alidalulwa ngendlela engabeka engcupheni ukuphepha, impilo noma inhlalakahle kammangali.

(6) Uma inkantolo igculiseka ukuthi lokhu kungasiza ingane inga—

- (a) nqaba ukuba ummangalelwa axhumane naleyo ngane; noma
- (b) khipha umyalelo wokuba ukuxhumana naleyo ngane kube nemibandela eyibona ifanele.

(7) (a) Inkantolo ngeke inqabe—

- (i) ukukhipha umyalelo wokuvikelwa; noma
- (ii) ukuthwesa umbandela noma ukukhipha omunye umyalelo engawuthwesa noma iwenze ngaphansi kwalesi sigaba, ngesizathu nje sokuthi kunolunye usizo lomthetho ummangali angaluthola.

(b) Uma inkantolo ikholelwa ukuthi umbandela womyalelo wokuvikelwa udingida udaba okufanele, ngokwezobulungiswa, ludingidwe kabanzi ngokwemigomo yomunye umthetho oqondene, kubandakanya i-*Maintenance Act, 1998*, inkantolo kufanele ikhiphe umyalelo wokuba lowo mbandela usebenze isikhathi esinqunyiwe esinganqunywa inkantolo, ukuze kunikezwe izinhlangothi ezithintekayo ithuba elanele lokuthola usizo olufanele ngokwemigomo yalowo mthetho.

Incwadi yemvume yokubopha uma sekukhishwe umyalelo wokuvikelwa

8. (1) Noma nini uma inkantolo ikhipha umyalelo wokuvikelwa, inkantolo kufanele ikhiphe umyalelo—

- (a) ogunyaza ukukhishwa kwencwadi yemvume yokubopha ummangalelwa, ngendlela enqunyiwe; futhi

(b) ochitha ukukhishwa kwaleyo ncwadi yemvume ngokulandela okuvinjiwe, umbandela, isibophezelo noma umyalelo othweswe ngokwemigomo yesigaba sesi-7.

(2) Incwadi yemvume yokubopha evezwe esigatshaneni soku-(1)(a) izoqhubeka nokusebenza ngaphandle uma sekuchithwe umyalelo wokuvikelwa, noma usukhanseliwe ngemuva kokuba ukhishwe.

(3) Umabhalane wasenkantolo kufanele anikeze ummangali incwadi yemvume yokubopha yesibili noma enye, uma ummangali ethumela i-afidavithi ngendlela enqunyiwe ebeka ukuthi leyo ncwadi yemvume yokubopha iyadingeka ukuze avikeleke futhi incwadi yemvume yokubopha le ekhona—

(a) isikhishiwe noma isikhanseliwe; noma

(b) yalahleka noma yonakala.

(4) (a) Ummangali angathumela incwadi yemvume yokuboshwa ne-afidavithi ndawonye ngendlela enqunyiwe, lapho izobeka ukuthi ummangali usephule okunqatshiwe, umbandela, isibophezelo noma umyalelo wokuvikelwa, elungwini loMbuthe wezeMisebenzi yamaPhoyisa waseNingizimu Afrika.

(b) Uma kuvela kulelo lungu ukuthi, ngokwesigatshana sesi-(5), kunezizathu ezizwakalayo zezinsolo zokuthi ummangali angalimala ngoba ummangali ephule umyalelo wokuvikelwa, ngokuphazima kweso, lelo lungu kufanele libophe ummangalelwa ngezinsolo zokwenza lelo cala elivezwe esigabeni se-17(a).

(c) Uma lelo lungu likholelwa ukuthi izizathu azanele zokubopha ummangalelwa ngokwemigomo yendima (b), kufanele lithumelele ummangalelwa ngokushesha isaziso—

(i) esiveza igama, ikheli nomsebenzi noma nesikhundla sommangalelwa;

- (ii) licele ummangalelwa ukuba avele enkantolo, ngosuku nangesikhathii, esivezwe isaziso, ngecala elivezwe esigabeni se-17(a); futhi
- (iii) esinesitifiketi esisayindwe ilelo lungu esiveza ukuthi linikeze ummangalelwa isaziso futhi lachaza nokubaluleka kwaso kummangalelwa.

(d) Lelo lungu kufanele ngokushesha lidlulisele ikhophi yaleso saziso evezwe endimeni (c) kumabhalane wasenkantolo ofanele, futhi ukuveza leyo khophi yesaziso enkantolo kufanele kube ubufakazi bokuthi isaziso sangempela sathunyelwa kummangalelwa.

(5) Uma kubhekwa ukuthi ngabe ummangali angathola ukulimala, njengoba kuveziwe esigatshaneni sesi-(4)(b), ilungu loMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika kufanele libheke—

- (a) ingcuphe yokuphepha, impilo noma inhlalakahle yommangali;
- (b) ubunzulu besenzo kuhlenganisa nezinsolo zokuphula umyalelo wokuvikelwa; kanye
- (c) nobude besikhathi kusukelwa kwaba nezinsolo zokwaphula umyalelo wokuvikelwa.

(6) Noma nini uma incwadi yemvume yokubopha ikhishwa ilungu loMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika ngokwemigomo yesigatshana sesi-(4)(a), lelo lungu kufanele lazise ummangali ngelungelo lakhe lokuvula icala lezobulelesi kummangalelwa, uma likhona, futhi lichazele ummangali ukuthi angalivula kanjani lelo cala.

Ukudliwa kwezibhamu nezikhali eziyingozi

9. (1) Inkantolo kufanele ikhiphe umyalelo wokuba ilungu loMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika lidle isibhamu noma isikhali esiyingozi sikammangalelwa noma esilawulwa ummangalelwa, uma inkantolo igculiseka ngobufakazi enabo, kubandakanya ama-afidavithi aseka isicelo esivezwe esigabeni sesi-4(1), sokuthi—

- (a) ummangalelwa usabise noma uzwakalise inhloso yokuzibulala noma yokuzilimaza yena noma omunye umuntu anobudlelwane naye, ngaleso sibhamu noma ngesikhali esiyingozi noma ngenye indlela; noma
- (b) ukuba naleso sibhamu noma leso sikhali esiyingozi kuyingozi kummangalelwa noma komunye umuntu anobudlelwane basekhaya naye, ngesizathu sikammangalelwa—
 - (i) sesimo somqondo;
 - (ii) ukuthanda udlame; noma
 - (iii) ukusebenzisa utshwala noma izidakamizwa.

(2) Isibhamu esidliwe ngokwemigomo yesigatshana soku-(1) kufanele sinikezwe osesikhundleni soMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika njengoba kuveziwe esigabeni se-11(2)(b) se-*Arms and Ammunition Act, 1969 (Act No. 75 of 1969)*, futhi inkantolo kufanele ikhiphele umabhalane wasenkantolo umyalelo wokudlulisela ikhophi yerekhodi yobufakazi obufanele kuKhomishana kaZwelonke woMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika ukuba ayicubungule ngokwemigomo yesigaba se-11 se-*Arms and Ammunition Act, 1969*.

- (3) Isikhali esiyingozi esidliwe ngokwemigomo yesigatshana soku-(1)—

- (a) kufanele sinikezwe uphawu oluhlukile sigcinwe amaphoyisa isikhathi esithile esinqunywe inkantolo; noma
- (b) kufanele siphindiswe kummangalelwa kuphela, uma ummangalelwa engeyena umnikazi wesikhali esiyingozi, kumnikazi waso, ngomyalelo wenkantolo nangemibandela enganqunywa inkantolo:

Inqobo nje—

- (i) uma, ngokubona kwenkantolo, inani lesikhali esiyingozi esidliwe singaphansi kwama-R200; noma
- (ii) uma ukubuyiswa kwesikhali esiyingozi kungakenziwa ezinyangeni eziyi-12 ngemuva kokuba sadliwa; noma
- (iii) uma inkantolo igculiseka ukuthi kuzosiza ukuphephisa noma ubani oqondene, inkantolo ingakhipha umyalelo wokuba isikhali esiyingozi sidliwe uMbuso.

Ukukhipha omunye umyalelo noma ukuchitha umyalelo wokuvikelwa

10. (1) Ummangali noma ummangalelwa, uma omunye wabo esebhalelwe isaziso futhi inkantolo eqondene, yafaka isicelo, sokukhipha omunye noma sokuhoxisa umyalelo wokuvikelwa ovezwe esigabeni sesi-6 ngendlela enqunyiwe.

(2) Uma inkantolo igculisekile ngezizathu eziveziwe zokukhiphi omunye noma zokuchitha umyalelo wokuvikelwa, ingakhipha umyalelo walokhu: Inqobo nje uma inkantolo ingeke ivume isicelo kummangali ngaphandle uma igculisekile ukuthi isicelo usenze ngokukhululeka futhi ngokwakhe.

(3) Umabhalane wasenkantolo kufanele adlulisele isaziso esinqunyiwe kummangali nommangalelwa uma umyalelo wokuvikelwa uguquliwe noma uchithiwe njengoba kuveziwe esigatshaneni soku-(1).

Ukuthamela izithangamu nokunqaba ukushicilela imininingwane ethile

11. (1) (a) Akekho umuntu okufanele abe khona ngesikhathi sezithangamu ngokwemigomo yalo Mthetho ngaphandle—

- (a) kwabasebenzi basenkantolo;
- (b) abathintekayo kulezo zithangamu;
- (c) umuntu ofakele ummangali isicelo ngokwemigomo yesigaba sesi-4(3);
- (d) ummeli omele abathintekayo;
- (e) ofakazi;
- (f) abantu abangadlulile kwabathathu abazoseka ummangali;
- (g) abantu abangadlulile kwabathathu abazoseka ummangalelwa; futhi
- (h) nomunye umuntu ovunyelwe inkantolo ukuba abe khona:

Inqobo nje uma inkantolo, igculiseka ukuthi kuzosiza ubulungiswa, ingakhipha noma ubani owethamele izithangamu.

(b) Akukho kulesi sigaba okukhawula amandla enkantolo okulalela ngasese noma ukunqabela umuntu ukuthamela izithangamu.

(2) (a) Akekho umuntu okufanele ashicilele imininingwanene engase iveze umuntu oyingxenywe yalezi zithangamu.

(b) Inkantolo, uma igculiseka ukuthi kuzosiza ubulungiswa, ingakhipha umyalelo wokuba eminye imininingwane yalezi zithangamu ezibanjiwe ingashicilelwa: Inqobo nje uma ungekho umyalelo ngokwemigomo yalesi sigatshana osebenza ekushicileleni umbiko wezomthetho ongavezi amagama noma ongavezi abayingxenywe yezithangamu noma ufakazi.

Igunya

12. (1) Inkantolo esendaweni lapho—

- (a) kuhlala khona ngokugcwele noma okwesikhashana ummangali, aqhuba khona ibhizinisi noma aqashwe khona;
- (b) endaweni lapho kuhlala khona ummangalelwa, aqhuba khona ibhizinisi noma aqashwe kuyona; noma
- (c) okwenzeka kuyona isigameka,

inegunya lokukhipha umyalelo wokuvikelwa ovezwe kulo Mthetho.

(2) Awukho umkhawulo wesikhathi odingekayo mayelana nesigatshana soku-(1)(a).

(3) Umyalelo wokuvikelwa ubophezelekile eRiphabhuliki.

Ukukhipha imiqulu

13. (1) Ukukhipha umqulu ngokwemigomo yalo Mthetho kufanele kwenziwe ngendlela enqunyiwe umabhalane wasenkantolo, isithunywa senkantolo noma iphoyisa, noma othunyelwe inkantolo.

(2) Izimiso zomthetho ezivezwe esigabeni se-19 kufanele zibeke umbandela wosizo lwemali oluvela kuMbuso kummangali noma kummangalelwa ongakwazi ukuzikhokhela usizo ngokwemigomo yalo Mthetho.

Ukumelwa ummeli

14. Oyingxenye yalezi zithangamu ngokwemigomo yalo Mthetho kufanele amelwe ummeli.

Izindleko

15. Inkantolo ingakhipha kuphela umyalelo wokubo olunye uhlangothi lubhekane nezindleko zolunye uhlangothi uma igculisekile ukuthi lolo hlangothi aluziphathanga ngendlela efanele, ludale inking noma okungenaso isidingo.

Ukudlulisa icala nokubuyekeza

16. Imibandela yokudlulisa icala nokubuyekeza evezwe i-*Magistrate's Courts Act, 1944 (Act No. 32 of 1944)*, ne-*Supreme Court Act, 1959 (Act No. 59 of 1959)*, isebenza ezinyathelweni zomthetho ngokwemigomo yalo Mthetho.

Amacala

17. Nakubo kunemibandela yomunye umthetho, umuntu—

(a) owaphula okungavunyelwe, umbandela, isibophezelo noma umyalelo othweswe ngokwemigomo yesigaba sesi-7;

(b) owaphula imibandela yesigaba se-11(2)(a);

(c) ohluleka ukulandela umyalelo ngokwemigomo yesigaba se-11(2)(b); noma

(d) ku-afidavithi evezwe esigabeni sesi-8(4)(a), obhale isitatimende okungesona ngenhloso ngalolo daba,

unecala futhi uma elahlwa icala elivezwe endimeni (a) uzobhekana nokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emihlanu noma abhekana nakho kokubili inhlawulo nokuboshwa, futhi uma elahlwa icala elivezwe

endimeni (b), (c), noma (d), uzobhekana nokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili noma abhekane nenhlawulo futhi aboshwe.

**Ukusetshenziswa koMthetho igatsha lezokushushisa namalungu oPhiko
lwezeMisebenzi yamaPhoyisa waseNingizimu Afrika**

18. (1) Akekho umshushisi okufanele—

(a) anqabe ukushushisa; noma

(b) ahoxise icala,

uma kuphulwe isigaba se-17(a), ngaphandle uma egunyaziwe kulokho, ecaleni elijwayelekile noma ecaleni elithile, uMqondisi wezokuShushiswa koMphakathi njengoba kuveziwe esigabeni se-13(1)(a) se-*National Prosecuting Authority Act, 1998 (Act No. 32 of 1998)*, noma ilungu eliphezuu loPhiko lwezokushushisa eliqokelwe lokho ngenchwadi uMqondisi.

(2) UMqondisi wezokuShushiswa koMphakathi kuZwelonke ovezwe esigabeni se-10 se-*National Prosecuting Authority Act, 1998*, ngokuxoxisana noNgqongqoshe wezoBulungiswa futhi ngemuva kokuxoxisana nabaQondisi bezokuShushiswa koMphakathi, kufanele anqume inqubomgomo yezokushushisa futhi akhiphe imiyalelo yenqubomgomo emayelana necala elibangelwe udlame lwasekhaya.

(3) UKhomishana kaZwelonke woMbuthe wezeMisebenzi yamaPhoyisa waseNingizimu Afrika kufanele akhiphe imiyalelo kazwelonke njengoba kuveziwe esigabeni sama-25 se-*South African Police Service Act, 1995 (Act No. 68 of 1995)*, okufanele amalungu awo alandele ukuqhutshwa

komsebenzi wawo ngokwemigoo yalo Mthetho, futhi imiyalelo ekhishiwe kufanele ishicilelwe kuSomqulu.

(4) (a) Uma ilungu loMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika lihluleka ukulandela isibophezelo esithwesiwe ngokwemigomo yalo Mthetho noma imiyalelo kazwelonke evezwe esigatshaneni sesi-(3), lokhu kuwukungaziphathi ngendlela efanele njengoba kuveziwe i-*South African Police Service Act, 1995*, futhi iHhovisi likaNobhala, elisungulwe ngokwemigomo yesigaba sesi-4(1) se-*Civilian Secretariat for Police Service Act, 2010*, ngemuva kwalokhu laziswe ngalokho kuhluleka okubikwe eMbuthweni wezeMisebenzi yamaPhoyisa waseNingizimu Afrika.

(b) UMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika kufanele uthathele lelo lungu elisolwa ngokuhluleka ukulandela isibophezelo esivezwe endimeni (a) izinyathelo zokuqondisa izigwegwe, ngaphandle uma iHhovisi likaNobhala likhipha omunye umyalelo kulelo cala.

(5) (a) UMqondisi kaZwelonke wezokuShushiswa koMphakathi kufanele athumele ePhalamende inqubomgomo yokushushisa nemiyalelo yenqubomgomo enqunyiwe noma okukhishwe ngokwemigomo yesigatshana sesi-(2), futhi inqubomgomo yokuqala nemiyalelo enqunyiwe noma okukhishiwe, kufanele kuthunyelwe ePhalamende zingakapheli izinyanga eziyisithupha lo Mthetho uqale ukusebenza.

(b) UKhomishana kaZwelonke woMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika kufanele athumele imiyalelo kazwelonke ekhishwe ngokwemigomo yesigatshana sesi-(3) ePhalamende, futhi naleyo miyalelo yokuqala ekhishiwe, kufanele ithunyelwe ePhalamende zingakapheli izinyanga eziyisithupha lo Mthetho uqalile ukusebenza.

(c) IHhovisi likaNobhala kufanele njalo ezinyangeni eziyisithupha, lithumele umbiko ePhalamende omayelana nenani neminingwane yezindaba ezibikiwe ngokwemigomo yesigatshana sesi-(4)(a), futhi oveza iziphakamiso ezenziwe mayelana nalezo zindaba.

(d) UKhomishana kaZwelonke woMbutho wezeMisebenzi yamaPhoyisa waseNingizimu Afrika njalo ezinyangeni eziyisithupha, kufanele athumele umbiko ePhalamende omayelana—

- (i) nenani neminingwane ngezikhhalazo ezibikiwe ngamalungu awo mayelana nokuhluleka ukulandela izibophezelo ezivezwe esigatshaneni sesi-(4)(a);
- (ii) izinyathelo zokuqondiswa kwezigwegwe ezenziwe mayelana nalokho kanye nezinqumo ezithathwe kulezo zinyathelo; kanye
- (iii) nezinyathelo ezithathiwe ngeziphakamiso ezenziwe iHhovisi likaNobhala.

Izimiso zomthetho

19. (1) UNgqongqoshe wezoBulungiswa angamisa izimiso zomthetho ezimayelana—

- (a) nokufanele kunqunywe ngokwemigomo yalo Mthetho;
- (b) udaba okufanele lunqunywe ngokwemigomo yalo Mthetho; kanye
- (c) nodaba uNgqongqoshe abona lunesidingo noma lufanele ukunqunywa ukuze kuzuzwe izinjongo zalo Mthetho.

(2) Izimiso zomthetho ezimisiwe ngaphansi kwesigatshana soku-

(1)—

- (a) kufanele zithunyelwe ePhalamende ngaphambi kokuba zishicilelwe kuSomqulu;

- (b) ezingadala izindleko kuMbuso, kufanele zimiswe ngokuxoxisana noNgqongqoshe wezeziMali; futhi
- (c) zingabeka ukuthi noma ubani owaphula umbandela wazo noma ohluleka ukuzilandela unecala futhi uma elahlwa icala uzobhekana nokukhokha inhlawulo noma aboshwe isikhathi esingadlulile onyakeni owodwa.

Ukuchibiyela isigaba sama-40 soMthetho wama-51 we-1977, njengoba uchitshiyelwe ngesigaba sama-41 soMthetho we-129 we-1993 nesigaba sesi-4 soMthetho we-18 we-1996

20. Sichibiyela isigaba sama-40 (1) se-*Criminal Procedure Act, No. 51 of 1977*, ngokwengeza indima (q).

Ukuchithwa kwemithetho nemvume

21. (1) Isigaba soku-1, 2, 3, 6 neses-7 se-*Prevention of Family Violence Act, 1993 (Act No. 133 of 1993)*, kuchitshiyelwe.

(2) Isicelo esifakiwe, izinyathelo zomthetho ezifakiwe noma umyalelo wokuvimbela okhishiwe ngokwemigomo yoMthetho ovezwe esigatshaneni soku-(1) kufanele kuthathwe ngokuthi kwenziwe, noma kwamukelwe ngokwemigomo yalo Mthetho.

Isihloko esifingqiwe nokuqala kwawo ukusebenza

22. Lo Mthetho uzobizwa ngokuthi uMthetho Wodlame Lwasekhaya, 1998, futhi uzoqala ukusebenza ngosuku olunqunywe uMongameli ngesimemezelo kuSomqulu.