

**ISAHLUKO 10****UKUPHATHWA KWEMISEBENZI YOMBUSO****Imigomo nokwamukelwa njengokulungile okuyisisekelo okulawula ukuphatha kombuso**

195. (1) Ukuphatha kombuso kufanele kuhanjiswa ngendlela eyamukelekile njengelungile nangemigomo eqokethwe kuMthethosisekelo, kuhlanganisa imigomo elandelayo -
- (a) kufanele kukhuthazwe futhi kugcinwe izinga eliphezulu lenkambiso elungileyo emisebenzini eyenziwayo;
  - (b) kufanele kukhuthazwe ukusetshenziswa kwemithombo ngendlela ekhombisa ikhono, eyongayo nenomphumela omuhle;
  - (c) Umsebenzi wokuphatha kombuso, kufanele uphokophele ukuthuthukisa;
  - (d) Imisebenzi kufanele ihlinzekelwe ngokungakhethi, ngobuqotho, ngokulingene nangaphandle kokwenzelela;
  - (e) Izidingo zabantu kufanele zibonelelwe, futhi umphakathi kufanele ukhuthazwe ukuthi ubambe iqhaza lapho kwenziwa imigomo;
  - (f) Umbuso kufanele ukwazi ukubikela umphakathi ngendlela ophethe ngayo;
  - (g) Ukusebenza kombuso ngokusobala kufanele kukhuthazwe ngokuhlinzekela umphakathi ngolwazi olutholakala ngokushesha, nokuyilona;
  - (h) Kufanele kukhuthazwe amakhono okuphatha kahle abantu kanye nokuthuthukiswa kwemisebenzi efundelwe, ngenhloso yokuthi abantu benze imisebenzi yezinga eliphezulu;
  - (i) Ukuphatha umbuso kufanele kumele bonke abantu baseNingizimu Afrika, nezinkambiso zokuqasha nokuphatha abasebenzi kufanele zesekelewe ekukhoneneni, ukungakhethi hlangothi, ukungenzeleli, kanye nasesidingweni sokuqeda ukulingalingani kwesikhathi esedlule ukuze kufinyeleloswe ukumelwa okubanzi kwabantu.
- (2) Le migomo engenhla isebenza kokulandelayo—
- (a) ukuphatha kuyo yonke imikhakha kahulumeni;
  - (b) ezingxenyezi zombuso; kanye
  - (c) nakumabhezini kaHulumeni.

- (3) Umthetho kaZwelonke kufanele uqiniseke ukukhuthazwa kwalokho okulungile nemigomo ebalulwe kusigatshana soku (1).
- (4) Ukuqokwa emsebenzini kaHulumeni kwenani labantu ngokuhambisana nemigomo akuvinjelwe, kodwa umthetho kazwelonke kufanele ulawule lokho kuqokwa emisebenzini yombuso.
- (5) Umthetho olawula ukuphatha kombuso ungehlukhanisa phakathi kwemikhakha eyahlukene, iminyango ephethe noma izikhungo.
- (6) Uhlobo nemisebenzi yemikhakha ehlukeneyo, yeminyango ephethe noma izikhungo zokuphathwa kwezombuso ngamaphuzu afanele okufanele acatshangwe emthethweni olawula ukuphathwa kwemisebenzi yombuso.

### **IKhomishani Ephethe Imisebenzi Kahulumeni**

196. (1) Kukhona iKhomishani eyodwa Ephethe Imisebenzi Kahulumeni yeRiphabhuliki.
- (2) IKhomishani izimele futhi kufanele ingakhethi, futhi kufanele isebenzise amandlaayo ibuye yenze imisebenzi yayo ngaphandle kokwesaba, ukubonelela noma ukubandlulula ngenhloso yokugcina ukuphatha ngempumelelo nangendlela esebenza kahle kanye nezininga eliphakeme lenkambiso elungileyo emsebenzini womphakathi. IKhomishani kufanele ilawulwe ngumthetho kazwelonke.
- (3) Ezinye izingxenye zombuso, ngokusebenzisa umthetho nezinye izinyathelo, kufanele zekelelele futhi zivikele iKhomishani ukuqinisekisa ukuzimela, ukungachemi, isithunzi kanye nokusebenza ngempumelelo kweKhomishani. Akekho umuntu noma ingxenye yombuso engaphazamisa ukusebenza kweKhomishani.
- (4) Amandla kanye nemisebenzi yekhomishani -
- (a) ukugquguzela okuthathwa njengokulungile nemigomo ebekwe esigabeni se 195, kuyo yonke imisebenzi kahulumeni;
  - (b) ukuphenya, ukuqapha nokuhlaziya inhlangano nokuphatha, kanye nokwenziwa ngabasebenzi, kwemisebenzi kahlumeni;
  - (c) ukuphakamisa izinyathelo zokuqinisekisa ukwenziwa komsebenzi ngempumelelo nakangcono emsebenzini kahulumeni;
  - (d) ukukhombisa ukuhloswe ukuqinisekisa ukuthi izinqubo ezilandelwayo ngabasebenzi eziphathelele nokuqasha, ukudlula kwabasebenzi baye kwezinye izindawo, ukukhushulwa ezikhundleni kanye nokuxoshwa

- kwabasebenzi ziyahambisana nokuthathwa njengokungile kanye nemigomo ebekwe esigabeni se 195;
- (e) ukubika mayelana nemisebenzi yayo kanye nokwenziwa kwemisebenzi, kumbandakanya noma yikuphi ekutholile kanye nezinkomba nezeluleko engazinikeza, futhi ihlinzekele ukuhlaziywa ukuthi okuthathwa njengokulungile nemigomo ebekwe esigabeni se-195 ilandelwe yini; kanye
- (f) nangokuthanda kwayo noma ngokuvela kwezikhalo –
- (i) icubungule ibuye ihlaziye izicelo zabasebenzi kanye nezinkambiso zokuphetha umbuso kanye nokubika kusiphathimandla esiphethe kanye nakusishayamthetho;
- (ii) icubungule izikhalo zabasebenzi ngomsebenzi kahulumeni eziphathelene nokwenziwa yiziphathimandla noma amaphutha, kanye nokwenza izincomo ezifanele ngezixazululo;
- (iii) ukuqapha nokuphenya ukulandelwa kwezinqubo ezisebenza emisebenzini kahulumeni; futhi
- (iv) yeluleke izingxenye zombuso zikazwelonke nezezifundazwe mayelana nezenzo zabasebenzi emisebenzini wombuso, kumbandakanya nalokho okuhambisana nokuqasha, ukuqokelwa ezikhundleni, ukushintshelwa kwenye indawo, ukuxoshwa kanye neminye iminxa yemisebenzi yabaqasha emisebenzini kahulumeni.
- (g) ukusebenzisa noma ukwenza amandla noma imisebenzi eyengeziwe ebekwe nguMthetho wePhalamende.

[Indima (g) ingezwe yisigaba sesi 3 soMthetho Wesibili Wokuchibiyela uMthethosisekelo we 1998.]

- (5) IKhomishani ibikela iPhalamende ngokusebenza kwayo.
- (6) IKhomishani kufanele ibike okungenani kanye ngonyaka njengoba kubhalwe kusigatshana sesi (4)(e) –
- (a) ePhalamende; futhi
- (b) namayelana nekwezayo esifundazweni, kusishayamthetho saleso sifundazwe.
- (7) IKhomishani inokhomishani abayi 14 abaqokwe nguMongameli –
- (a) Okhomishani aba 5 abavunywe yiPhalamende ngokwesigatshana sesi (8)(a); kanye

- (b) nokhomishani oyedwa ngesifundazwe ngasinye oqokwe nguNdanankulu wesifundazwe ngokwesigatshana sesi (8)(b).
- (8) (a) Ukhomishani oqokwe ngokwesigatshana sesi (7)(a) kufanele –
- aphakanyiswe yikomiti lesiGungu elakhiwe ngamalungu azo zonke izinhlangano ezimelwe kusiGungu; futhi
  - avunywe yisiGungu ngesiphakamiso esithathwe ngokwesekwa ngamavoti eningi lamalungu aso.
- (b) Ukhomishani oqokwe nguNdanankulu wesifundazwe kufanele –
- aphakanyiswe yikomiti lesishayamthetho sesifundazwe elakhiwe ngamalungu azo zonke izinhlangano ezimelwe kusishayamthetho; futhi
  - avunywe yisishayamthetho ngesiphakamiso esithathwe ngokwesekwa ngamavoti eningi lamalungu aso.
- (9) UMthetho wePhalamende kufanele wakhe inqubo elandelwayo yokuqasha okhomishani.
- (10) Ukhomishani uqokelwa isikhathi esiyiminyaka emihlanu, esivuselelwa isikhathi esisodwa kuphela, kanti kufanele abe ngowesifazane noma owesilisa –
- oyisakhamuzi saseNingizimu Afrika; futhi
  - ongumuntu ophilile futhi okulungele ukuqokwa onolwazi, noma ongumakadebona, ekulawulweni, ekuphatheni nasekuhlinzekweni kwezidingo zomphakathi.
- (11) Ukhomishani angasuswa esikhundleni sakhe kuphela –
- ngenxa yokuziphatha kabi, ukungabi sesimweni sokusebenza noma ukungasebenzi ngendlela efanele;
  - ngenxa yokuthathwa kwesinqumo ngalokho yikomiti lesiGungu Sikazwelonke noma, uma kungukhomishani oqokwe nguNdanankulu wesifundazwe, yikomiti lesishayamthetho laleso sifundazwe; kanye
  - ngokuvunywa yiPhalamende noma yisishayamthetho sesifundazwe esithintekile, kwesiphakamiso esesekwe ngamavoti eningi lamalungu aso efuna kususwe esikhundleni ukhomishani.
- (12) UMongameli kufanele asuse esikhundleni ukhomishani lapho –
- iPhalamende livuma isiphakamiso esithi ukhomishani lowo akasuswe esikhundleni; noma
  - kunesaziso esibalwe phansi nguNdanankulu esamukelwe yisishayamthetho sokuthi kususwe ukhomishani.

- (13) Okhomishani okuphawulwe ngabo kusigatshana sesi (7)(b) bangasebenzisa amandla futhi benze imisebenzi yeKhomishani ezifundazweni zabo njengoba kubekiwe emthethweni kazwelonke.

### **Abasebenzi bakaHulumeni**

197. (1) Ngaphakathi kokuphathwa kombuso kukhona abasebenzi beRiphabhuliki, okufanele basebenze, bahlelwe, ngokwezimiso zomthetho kazwelonke, futhi benze ngokwethembeka ekwenzeni izinqubomgomo ezisemthethweni kahulumeni wangaleso sikhathi.
- (2) Izimiso nemibandela yokuqashwa emsebenzini kahulumeni kufanele ilawulwe ngumthetho kazwelonke. Abasebenzi banelungelo lokuthola impesheni efanele njengoba ilawulwa ngumthetho kazwelonke.
- (3) Akukho muntu osebenzela uhulumeni okufanele avunwe noma abandlululwe ngenxa yokuthi lowo muntu weseka iqembu noma inkolelo ethile yezombusazwe.
- (4) Ohulumeni bezifundazwe babhekene nokufuna abasebenzi, ukuqasha, ukukhushulwa ezikhundleni, ukushintshela kwenye indawo umsebenzi kanye nokuxosha amalungu abasebenzi bakahulumeni emahhovisi okuphatha ngaphakathi kohlaka lwemigomo efanayo namazinga asetshenziswayo kubasebenzi bakahulumeni.