

ISAHLUKO 5

UMONGAMELI NEKHABINEDI

UMongameli

83. UMongameli—

- (a) uyiHloko yomBuso neHloko yeKhabinedi;
- (b) kumele asekele, avikele begodu ahloniphe umThethosisekelo njengomThetho omKhulu weRiphabliki; begodu
- (c) uthuthukisa ibumbano lesitjhaba nalokho okuphumelelisa iRiphabhligi.

Amandla Nemisebenzi KaMongameli

84. (1) UMongameli unamandla athwese wona mThethosisekelo nomThetho, okufaka hlangu amandla athloge kaka wokwenza imisebenzi yokuba yiHloko yomBuso begodu neHloko yeKhabinedi.

(2) UMongameli unobuziphendulelo—

- (a) ekwamukelweni nekulikithweni kwemiThethomlingwa;
- (b) ekubuyiselweni emva komThethomlingwa esiBethamthethweni seNarha ukobana uyokuhlolisiswa ngobutjha ukukhambisana kwawo nomThethosisekelo;
- (c) ekudluliselweni komThethosisekelo eKhotho yomThethosisekelo bona ithathe isiqu nto manqophana nokukhambisana kwawo nomThethosisekelo;
- (d) ekubizweni kwesiBethamthetho seNarha, umKhandlu weNarha ongamele iimFunda namkha iPalamende bona izokuhlala ngokungakavami ukobana izokwenza imisebenzi eqakatheke khulu;
- (e) ekuzalisweni kweenkhundlezo umThethosisekelo namkha umThetho othloga bona uMongameli azenze, ngaphandle, kwesikhundla seHloko yeKhabinedi;
- (f) ekubekweni kwamaKomitjhini wePhenyo;
- (g) ekumenyazelweni kwereferendamu yenarha zombebele ngokuya komThetho wePalamende
- (h) ekwamukelweni begodu nekuvumeleni iimvakatjhi zombebele ezijamele iinarha zangaphandle;
- (i) ekubekweni kwabajameli zombebele benarha nabazenda bona bajamele iinarha le eenarheni zangaphandle;

- (j) ekulitjalelweni kwabantu abasele babonwe umlandu begodu ehlise ihlawulo namkha lokho abamukwe khona; begodu
- (k) ekunikelweni ngabonongorwana bokuhlonipha.

[Isaziso esivamileko: Iinkambiso ezikhethekileko zokuthokoza ezivezwa kuGazede kaRhulumente eyinomboro 24155 yamhlana zisi-6 kuNobayeni 2002 nakuGazede kaRhulumente eyinomboro 25213 yamhlana zima-25 kuVelabahlinze 2003.]

Amandla Wokulawula IRiphabliki

85. (1) Amandla welawulo leRiphabliki athweswe uMongameli
- (2) UMongameli usebenzisa amandla wokulawula, namanye amalunga weKhabinedi, ngo—
- (a) kusebenzisa umThetho weNarha ngokwesiquanto ngaphandle kwalokha umThethosisekelo namkha umThetho wePalamende ubeka ngendlela eyehlukileko;
 - (b) kuthuthukisa nokusebenzisa ngokwesiquanto umthethokambiso wenarha;
 - (c) kuthintanisa imisebenzi yemiNyango yomBuso nezokuphatha;
 - (d) kulungisa nokusungula umThetho; begodu
 - (e) nangokwenza omunye nomunye umsebenzi wokulawula otjhiwo mThethosisekelo namkha mThetho weNarha.

Ukukhethwa KukaMongameli

86. (1) Ekuhlaleni kwePalamende kokuthoma ngemva kwamakhetho begodu nanyana kunethlogakalo yokuzalisa isikhundla, isiBethamthetho seNarha kumele sikhethe uMma namkha uBaba hlangana namalunga wawo bona abe nguMongameli.
- (2) IJaji eliKhulu kumele likhambise amakhetho wakaMongameli, namkha likhombela elinye iJaji bona lenze lokho. Indlela yekambiso ebekwe eHlelweni 3 ngayo ezakulandelwa lokha nakukhethwa uMongameli.

[Isigatjana (2) sijanyiselelwe ngesigaba 6 somThethosisekelo oliTjhuguluko lesiThandathu lomThetho womnyaka we-2001.]

- (3) Amakhetho wokuvala isikhala sesikhundla sikaMongameli kumele abanjwe ngesikhathi begodu nangelanga elikhethwe iJaji eliKhulu, kodwana kungeqi amalanga ama-30 ngemva kokuvuleka kwesikhala.

[Isigatjana (3) sijanyiselelwe ngesigaba 6 somThethosisekelo oliTjhuguluko lesiThandathu somThetho womnyaka we-2001.]

Ukuthoma Ukusebenza KwakaMongameli

87. Emva kobana akhethwe abe nguMongameli, umuntu loyo utjhiya phasi ukuba lilunga lesiBethamthetho, begodu kumele, athome ukwenza umsebenzakhe kungakadluli amalanga amahlanu, ngokwenza isifungo, namkha enze isibopho sokuthembeka eRiphabliki nokuthobela umThethosisekelo ngokukhambisana neHlelokambiso 2.

Isikhathi Esibekelwe Ukuba NguMongameli

88. (1) Isikhathi sokuthoma kukaMongameli ukusebenza, sithoma ngelanga athoma ngalo ukusebenza esikhundleni sakhe begodu siphela lokha nakuba nesikhala namkha lokha umuntu okhethwe ukuba nguMongameli olandelako athoma khona ukusebenza.
- (2) Akekho umuntu okumele abe nguMongameli amahlandla adlula kwamabili, kodwana nangabe umuntu ukhethelwe ukuvala isikhundla sikaMongameli, isikhathi esihlangana nokukhethwa kwakhe bekufike amakhetho alandelako kaMongameli asithathwa njengesikhathi sobuMongameli.

Ukususwa KukaMongameli

89. (1) IsiBethamthetho seNarha, ngesiqunto esithethwe ngesekelo lamalunga okungasenani abuncani obubili esithathwini, singamsusa uMongameli esikhundleni sakhe, kwaphela ngemibandela elandelako—
- (a) ukwepulwa komThethosisekelo okudanisako;
- (b) ukuziphatha kumbi okudanisako; namkha
- (c) ukubhalelwa kukwenza umsebenzi wesikhundla sakhe.
- (2) Nanyana ngimuphi umuntu osuswe esihlalweni sikaMongameli ngokuya kwesigatjana (1) (a) namkha (b) angeze athole nanyana ngiyiphi inzuzo yesikhundleso begodu angeze asebenze kunanyana ngiliphi i-ofisi lomphakathi.

UMjaphethe KaMongameli

90. (1) Nangabe uMongameli akekho eRiphabliki namkha nakabhalelwa kukwenza imisebenzi kaMongameli, namkha ngesikhathi kunesikhala sikaMongameli, esinye isiphathiswa ngendlela ehleleke ngenzasi angaba nguMjaphethe kaMongameli:
- (a) iSekela likaMongameli;
- (b) uNgqongqotjhe okhonjwe nguMongameli;
- (c) uNgqongqotjhe okhonjwe ngamanye amalunga weKhabinedi

- (d) uSomlomo, bekufike lapha isiBethamthetho seNarha sikhomba khona omunye wamalungaso.
- (2) UMjaphethe kaMongameli unamandla, ubuziphendulelo nemisebenzi kaMongameli.
- (3) Ngaphambi kobana angathatha amandla, ubuziphendulelo, nemisebenzi kaMongameli, uMjaphethe kaMongameli kumele afunge namkha enze isiqinisekiso sokuthembeka eRiphabliki nokuthobela umThethosisekelo, ngokuya kweHlelokambiso 2.
- (4) Umuntu lowo onguMjaphethe kaMongameli nasele afungile namkha nasele enze isiqinisekiso sokuthembeka eRiphabliki akukameli bona abuyelele ikambiso yokufunga kunanyana ngiliphi elinye ihlandla lokuba nguMjaphathe ngesikhathi esiphela lokha nakuthoma ukusebenza uMongameli omutjha.

[Isigatjana (4) singezelelwe ngesigaba 1 somThethosisekelo oliTjhuguluko lokuThoma lomThetho womyaka we-1997.]

IKhabinedi

91. (1) IKhabinedi ibunjwa nguMongameli njengehloko yeKhabinedi, iSekela likaMongameli naboNgqongqotjhe.
- (2) UMongameli ubeka iSekela likaMongameli naboNgqongqotjhe, abanikele amandla nemisebenzi, begodu unelungelo lokubaqotjha
- (3) UMongameli—
- (a) kumele akhethhe iSekela likaMongameli hlangua namalunga wesBethamthetho seNarha;
- (b) angakhetha nanyana ngisiphi isibalo saboNgqongqotjhe hlangua namalunga wesBethamthetho seNarha; begodu
- (c) angakhetha aboNgqongqotjhe abangadluli kababili abavela ebantwini abangasiwo amalunga wesBethamthetho seNarha.
- (4) UMongameli kumele akhethhe ilunga leKhabinedi bona libemholi wemisebenzi kaRhulumente ngaphakathi kwesiBethamthetho seNarha.
- (5) ISekela likaMongameli kumele lize uMongameli ekwenziweni kwemisebenzi kaRhulumente.

Ukuziphendulela Neembompho

92. (1) ISekela likaMongameli naboNgqongqotjhe banobuzibophelelo emandleni nemisebenzini yeKhabinedi abanikelwe yona nguMongameli.
- (2) Amalunga weKhabinedi anobuziphendulelo ngokuhlanganyela begodu nangamunye ePalamende ekusebenziseni amandlabo nekwenziweni kwemisebenzabo.
- (3) Amalunga weKhabinedi kumele—
- asebenze ngokuya komThethosisekelo; begodu
 - ethulele iPalamende imibiko ezeleko nevamileko ephathelene neendaba ezingaphasi kwelawulo labo.

AmaSekela WaboNgqongqotjhe

93. (1) UMongameli angakhetha—
- nanyana mangaki amaSekela kaMongameli kumalunga wesiBethamthetho seNarha; begodu
 - amaSekela angadluliko kwamabili ebantwini abavela ngaphandle kweBethamthetho seNarha, ukwenzela bona basize amalunga weKhabinedi, begodu unelungelo lokubaqotjha.
- (2) AmaSekela waboNgqongqotjhe akhethwe ngokuya kwesigatjana (1)(b) anobuziphendulelo ePalamende ngokusetjenziswa kwamandlawo nekwenziweni kwemisebenzawo.

[Isigaba 93 sijanyiselewe ngesigaba 7 somThethosisekelo oliTjhuguluko lesiThandathu lomThetho womnyaka we-2001.]

Ukuragela Phambili KweKhabinedi Emva Kwamakhetho

94. Nangabe amakhetho wesiBethamthetho seNarha abanjiwe, iKhabinedi, iSekela likaMongameli, aboNgqongqotjhe begodu nanyana ngimaphi amaSekela bahlala banamandla wokusebenza bekufike lapha umuntu lowo okhethelwe ukuba nguMongameli siBethamthetho esilandelako, uthoma ukusebenza.

Ukufunga Namkha Ukuqinisekisa

95. Ngaphambi kobana iSekela likaMongameli, aboNgqongqotjhe begodu nanyana ngimaphi amaSekela, bathome ukusebenza eenkhundleni zabo, kumele bafunge namkha benze iinqinisekiso, zokuthembeka kwabo kuRiphabliki nokuthobela kwabo umThethosisekelo, ngokuya kweHlelokambiso 2.

Ukuziphatha Kwamalunga WeKhabinedi NamaSekela KaMongameli

96. (1) Amalunga weKhabinedi namaSekelabo kumele aziphathe ngendlela eyamukelekako yokuziphatha ebekwe mThetho weNarha.
- (2) Amalunga weKhabinedi namaSekelawo angeze bavunyelwa bona—
- benze nanyana ngimuphi omunye umsebenzi obhadelelwako ngaphandle;
 - benze nanganyana ngiyiphi indlela engakhambisani neenkhundla zabo namkha bazibeke ebujameni lapho kunobungozi bokutjhayisana phakathi kwemisebenzabo kaRhulumende neenrhuluphelo zabo zangeqadi; namkha
 - basebenzise iinkhundla zabo namkha nanyana ngiliphi ilwazi abalithole ngebanga leenkhundla zabo ukuzingenisela imali namkha benzele nanyana ngimuphi umuntu inzuzo ngendlela ephambene nokulunga.

Ukudluliswa Kwemisebenzi

97. UMongameli, angadlulisela elungeni leKhabinedi ngesimemezeliso—
- ukuphathwa kwananyana ngimuphi umThetho onikelwe elinye ilunga; namkha
 - nanyana ngimaphi amandla namkha umsebenzi onikelwe elinye ilunga ngegunya lomThetho.

Ukunikelwa Kwemisebenzi Kwesikhatjhana

98. UMongameli anganikela ilunga leKhabinedi nanyana ngimaphi amandla namkha umsebenzi weline ilunga elingekho emsebenzini namkha elingaphumeleliko ukufezekisa amandlalo namkha ukwenza umsebenzalo.

Ukunikelwa Kwemisebenzi

99. Ilunga leKhabinedi linganikela nanyana ngimaphi amandla umsebenzi okumele wenziwe ngokuya komThetho wePalamende elungeni lomKhandlu wesiFunda wezokuphatha namkha kumKhandlu kaMasipala. Ukunikelwa komsebenzi—
- kumele kube ngokuya kwesivumelwano hlangu nelunga elifaneleko leKhabinedi nelunga lomKhandlu wezokuPhatha namkha umKhandlu kaMasipala;
 - kumele kukhambisane nomThetho wePalamende osetjenziswako nangabe amandla namkha umsebenzi ofaneleko kumele wenziwe; begodu
 - uthoma ukusebenza ngesikhattheso omenyezelwa ngaso nguMongameli.

Ukubeka Ilihlo KweKhabinedi Kwezokuphatha ZesiFunda

[Isihloko sitjhugululwe ngesigaba 2 (a) somThethosisekelo oliTjhuguluko leTjhumini nanye lomThetho womnyaka we-2003.]

100. (1) Nangabe isiFunda sibhalelwa namkha singakwazi ukufeza imisebenzi yezokuphatha esibotjhelelwe yona ngokuya komThetho weNarha namkha umThethosisekelo, iKhabinedi ingangena phakathi ngokuthatha amagadango afaneleko ukuqinisekisa ukufezekiswa kwemisebenzi leyo, okufaka hlangu—
- (a) ukukhutjiswa kwesinqophiso somKhandlu wesiFunda wezokuPhatha ohlathulula izinga labo lokubhalelwa kufezekisa iimbopho zabo, begodu nokuveza nanyana ngimaphi namagadango okumele athathwe ukufezekisa iimbopho; begodu
- (b) ubeke emahlombawo ukwenziwa komsebenzi ofaneleko esiFundeneso ukufikela ezingeni elitlhogekako uku—
- (i) ragela phambili ngezinga eliqakathekileko leNarha namkha ukuhlangabezana nezinga elitlhogekako ekwethulweni komsebenzi;
- (ii) ragela phambili ibumbano kwezomnotho;
- (iii) ragela phambili ukuvikeleka kwenarha; namkha
- (iv) ukuvimbela isiFundeso ekuthatheni amagadango afaneleko angalimaza iinrhuluphelo zesinye isiFunda namkha zeNarha yoke.

[Isigatjana (1) sitjhugululwe ngesigaba 2 (b) somThethosisekelo oliTjhuguluko leTjhumini nanye lomThetho womnyaka we-2003.]

- (2) Nangabe umKhandlu weNarha ungena hlangu endabeni yesiFunda ngokuya kwesigatjana (1)(b)—
- (a) kumele unikele isiyeleliso esitloliweko somnqopho wokulamula komKhandlu weNarha ongamele iimFunda phakathi kwamalanga ali-14 emva kokusungula kwehlelo lokulamula;
- (b) ukulamulokho kumele kuphele ngaphandle nangabe umKhandlu weNarha ongamele iimFunda ungakuvumi lokho phakathi kwamalanga ali-180 emva kokuthoma kwehlelo lokulamula namkha ekupheleni kwesikhatheso ihlelo lokulamula alikabi ukuvunyelwa ; begodu
- (c) umKhandlu weNarha ongamele iimFunda kumele kuthi ngesikhathi ukulamula kuragela phambili wona ikhisibe uhlolisise ihlelo lokulamula begodu ungenza nanyana ngisiphi isiphakamiso esifaneleko kuKhabinedi.

[Isigatjana (2) sijanyiselelwe ngesigaba 2 (c) somThethosisekelo oliTjhuguluko leTjhumini nanye lomThetho womnyaka we-2003.]

- (3) UmThetho weNarha ungalawula ikambiso esungulwe esigabenesi.

[Isigatjana, 100 sitjhugululwe ngokwesigaba 2 (a) somThethosisekelo olitjhuuguluko leTjhumini nanye lomThetho womnyaka we-2003.]

linqunto ZeLawulo

101. (1) Isiqunto sikaMongameli kumele sibe ngendlela etloliweko nangabe—
 (a) sithethwe ngokuya komThetho; namkha
 (b) nasinemiphumela yangokomThetho.
- (2) Isiqunto esitloliweko sikaMongameli kumele sitlikitlwe godu ngelinye ilunga leKhabinedi nangabe isiquntweso sithinta umsebenzi onikelwe ilungelo leKhabinedi.
- (3) Iimemezelo, imithetjhwana begodu nezinye iintlabagelo zomThetho omncani kumele zifinyeleleke emphakathini.
- (4) umThetho weNarha ungabeka indlela nezinga okumele bona iintlabangelo ezitjhiwo esigatjaneni (3)—
 (a) zethulwe ngayo ngaphambi kwePalamende; begodu
 (b) zivunyelwe yiPalamende.

lintjhukumiso Zokungathembani

102. (1) Nangabe isibethamthetho seNarha ngevwudu yenengi lamalungalo liphasisa ivowudu yokuzwakalisa ukungabi nethemba kuKhabinedi ngaphandle kukaMongameli, uMongameli kumele abumbe kabutjha iKhabinedi.
- (2) Nangabe isibethamthetho seNarha, ngevwudu yenengi lamalungalo liphasisa ivowudu ezwakalisa ukungabi nethemba kuMongameli, uMongameli namanye amalunga weKhabinedi, begodu nanyana ngimaphi amaSekela waboNgqongqotjhe kumele bathokoze umsebenzi.