ISAHLUKO 5

UMONGAMELI NORHULUMENTE WEZWELONKE

UMongameli

83. UMongameli–

(a) uyiNtloko yeLizwe nentloko karhulumente wezwelonke;

(b) makawuxhase, awukhusele kwaye awuhlonele uMgaqo-siseko njengomthetho owongamileyo weRiphablikhi; kwaye

(c) makakhuthaze ubunye belizwe kunye noko okuya kuphucula iRiphablikhi.

Amagunya nemisebenzi kaMongameli

84. (1) UMongameli unamagunya awaphathiswe nguMgaqo-siseko nayimithetho yepalamente, equka lawo ayimfuneko ukuze enze imisebenzi yokuba yiNtloko yeLizwe nentloko karhulumente wezwelonke.

(2) UMongameli unomsebenzi–

ukwamkela nokusayina imiThetho eYilwayo;

(a) wokuvuma iMithetho eYilwayo aze ayityikitye;

(b) wokuphindisa emva kwiNdlu yoWiso-mthetho uMthetho oYilwayo ukuze uqwalaselwe ngokutsha ukuba uyavisisana kusini na noMgaqo-siseko;

(c) wokuthumela kwiNkundla yoMgaqo-siseko uMthetho oYilwayo ukuze yenze isigqibo ngokuvisisana kwawo noMgaqo-siseko;

(d) wokubiza iNdlu yoWiso-mthetho, iBhunga lamaPhondo leZwelonke okanye iPalamente eyibizela ukuba ihlale ngexesha elingelilo eliqhelekileyo ukuze yenze imisebenzi ekhethekileyo;

(e) wokuba amisele abantu ezikhundleni ekufunwa nguMgaqo-siseko okanye ngumthetho wepalamente ukuba abamisele, engakwenzi njengentloko karhulumente wezwelonke;

(f) wokuba amisele iikomishoni zophando;

(g) wokuba amemelele ukuba kwenziwe uvavanyo-zimvo ngokoMthetho wePalamente;

(h) wokuba amkele amagosa ozakuzelwano amanye amazwe kwaye abuvume ubugosa bawo;

(i) wokuba amisele oonozakuzaku, namagosa agunyaziweyo ozakuzelwano;
(j) wokuxolela abonileyo nokucima iifayini, izohlwayo okanye impahla ebithathwe ngokomthetho;
(k) nowokuthi jize amawonga.

[Qaphela: Amazwi okuwonga akuShicilelo-Mithetho LukaRhulumente 24155 lomhla wesi-6 kuDisemba 2002 nakuShicilelo-Mithetho LukaRhulumente 25213 yomhla wama-25 kuJulayi 2003.]

Igunya loburhulumente leRiphablikhi

85. (1) Igunya loburhulumente leRiphablikhi likuMongameli.
(2) UMongameli usebenzisa igunya loburhulumente, ekunye namanye amalungu eKhabhinethi, ngokuthi–
(a) ayenze isebenze imithetho yepalamente yezwelonke ngaphandle kwalapho uMgaqo-siseko okanye uMthetho wePalamente utsho okwahlukileyo;
(b) ayiphuhlise aze ayenze isebenze inkqubo yezwelonke;
(c) alungelelanise imisebenzi yamasebe karhulumente namaziko akhe olawulo;
(d) alungiselele aze awuqalise umthetho oza kuba ngumthetho wepalamente; nangokuthi
(e) enze nawuphi na omnye umsebenzi woburhulumente oxeliweyo kuMgaqo-siseko okanye kwimithetho yepalamente yezwelonke.

Ukunyulwa kukaMongameli

86. (1) Ekuhlaleni kwayo kokuqala emva kovoto, naxa kuyimfuneko ukuvala isithuba, iNdlu yoWiso-mthetho mayinyule umntu olibhinqa okanye oyindoda kumalungu ayo abe nguMongameli.
(2) IJaji eyiNtloko mayongamele ekunyulweni kukaMongameli, okanye ichonge enye ijaji ukuba yenze oko. Kusebenza inkqubo echazwe kwiCandelo A leSihlomelo 3 ekunyulweni koMongameli.

[Isiqendwana (2) sathatyathelw' indawo sisiqendu 6 soMthetho Wesithandathu Wokwenz' Utshintsho KuMgaqo-siseko ka-2001.]

(3) Unyulo lokuvalis' isithuba kwisikhundla sokuba nguMongameli maluqhutywe ngexesha nangomhla ogqitywe yiJaji eyiNtloko, kodwa kungade kuphele iintsuku ezingama-30 sidalekile isithuba eso.

[Isiqendwana (3) sathatyathelw' indawo sisiqendu 6 soMthetho Wesithandathu Wokwenz' Utshintsho KuMgaqo-siseko ka-2001.]

Ukungena esikhundleni kukaMongameli

87. Xa umntu enyulelwe ukuba nguMongameli uyayeka ukuba lilungu leNdlu yoWiso-mthetho kwaye makuthi, zingaphelanga iintsuku ezintlanu, angene esikhundleni ngokufunga okanye ngokubhambathisa ukuthi uza kuthembeka kwiRiphablikhi aze athobele uMgaqo-siseko, ngokuvumelana neSihlomelo 2.

Ixesha lokuba sesikhundleni kukaMongameli

88. (1) Ixesha lokuba sesikhundleni kukaMongameli liqala ekungeneni kwakhe esikhundleni lize liphele kusakudaleka isithuba okanye xa umntu olandelayo onyulelwe ukuba nguMongameli engena esikhundleni.

(2) Akukho mntu uvumelekileyo ukuba sesikhundleni sokuba nguMongameli ixesha elingaphezu kwezihlandlo ezibini, kodwa xa umntu enyulelwe ukuvala isithuba sokuba nguMongameli, ithuba eliphakathi koko kunyulwa nokunyulwa okulandelayo kukaMongameli alithathwa njengesihlandlo.

Ukushenxiswa kukaMongameli

89. (1) INdlu yoWiso-mthetho, ngesigqibo esithathwe ngevoti exhasayo ubuncinane yesibini kwisithathu samalungu ayo, inokumshenxisa uMongameli esikhundleni kuphela ngezizathu zokuba:

(a) uwaphule kakhulu uMgaqo-siseko okanye umthetho;

(b) wenze into embi kakhulu; okanye

(c) akakwazi ukuyenza imisebenzi yesikhundla sakhe.

(2) Nabani na oshenxisiweyo kwisikhundla sokuba nguMongameli ngokwesiqendwana (1)(a) okanye (b) akavumelekanga ukuba afumane amaqithiqithi eso sikhundla, kwaye akavumelekanga ukuba akhonze nakusiphi na isikhundla saseburhulumenteni.

UMongameli oliBambela

90. (1) Xa uMongameli engekho kwiRiphablikhi okanye ngandlel' ithile engakwazi ukufeza imisebenzi kaMongameli, okanye xa kukho isithuba kwisikhundla sikaMongameli, umntu onesikhundla kulandelelwano olungezantsi uthi abambele njengoMongameli:
(a) uSekela-Mongameli;
(b) uMphathiswa ochongwe nguMongameli;
(c) UMphathiswa ochongwe ngamanye amalungu eKhabhinethi;
(d) uSihlalo wePalamente, de iNdlu yoWiso-mthetho ichonge elinye ilungu kwamanye amalungu ayo.

(2) UMongameli oliBambela uneembopheleleko, namagunya nemisebenzi kaMongameli.

(3) Ngaphambi kokuba athabath' iimbopheleleko, namagunya nemisebenzi yokuba nguMongameli, uMongameli oliBambela makafunge okanye enz' isibhambathiso sokuthembeka kwiRiphablikhi nokuthobela uMgaqo-siseko, ngokuvumelana neSihlomelo 2.

(4) Umntu othe njengoMongameli oliBambela wafunga okanye wenz' isibhambathiso sokuthembeka kwiRiphablikhi akukho mfuneko yokuba ayiphinde inkqubo yokufunga okanye yokwenz' isibhambathiso kwixesha elizayo lokuba nguMongameli oliBambela kwithuba lexesha eliphela xa umntu olandelayo onyulelwe ukuba nguMongameli engena esikhundleni.

[Isiqendwana (4) songezwa sisiqendu 1 soMthetho Wokuqala Wokwenz' Utshintsho KuMgaqo-siseko ka-1997.]

IKhabhinethi

91. (1) IKhabhinethi nguMongameli, njengentloko yeKhabhinethi, nguSekela-Mongameli naBaphathiswa.

(2) UMongameli umisela uSekela-Mongameli naBaphathiswa, ababele amagunya abo nemisebenzi, kwaye unokubagxotha.

(3) UMongameli–
(a) makakhethe uSekela-Mongameli kumalungu eNdlu yoWiso-mthetho;
(b) unokukhetha aBaphathiswa nokuba bangaphi na kumalungu eNdlu yoWiso-mthetho; kwaye

(c) unokukhetha aBaphathiswa abangengaphezulu kwesibini ebakhetha ngaphandle kweNdlu yoWiso-mthetho.

(4) UMongameli makamisele ilungu leKhabhinethi ukuba libe yinkokeli yemisebenzi karhulumente kwiNdlu yoWiso-mthetho.

(5) USekela-Mongameli makancedise uMongameli ekwenzeni imisebenzi karhulumente.

Ukuphendula neembopheleleko

92. (1) USekela-Mongameli naBaphathiswa banembopheleleko yokusebenzisa amagunya nokwenza imisebenzi yoburhulumente abayabelwe nguMongameli.

(2) Amalungu eKhabhinethi aphendula kwiPalamente xa ewonke kwanomntu ngamnye ngokusebenzisa kwawo amagunya awo nangokwenza kwawo imisebenzi yawo.

(3) Amalungu eKhabhinethi–

(a) makenze ngokuvumelana noMgaqo-siseko; kwaye

(b) makanike iPalamente ingxelo epheleleyo ethe rhoqo ngemicimbi ephantsi kolawulo lwawo.

OoSekela-Mphathiswa

93. (1) UMongameli usenokumisela-

(a) ooSekela-Mphathiswa nokuba bangaphi na ebakhetha kumalungu eNdlu yoWiso-mthetho; kwaye

(b) ooSekela-Mphathiswa abangekho ngaphezu kwesibini abakhethe ngaphandle kweNdlu, ukuze bancedise amalungu eKhabhinethi, kwaye unokubagxotha.

(2) OoSekela-Mphathiswa abamiselwe ngokwesiqendwana (1)(b) baphendula kwiPalamente ngokusebenzisa kwabo amagunya abo nangokwenza kwabo imisebenzi yabo.

[Isiqendu 93 sathatyathelw' indawo sisiqendu 7 soMthetho Wesithandathu Wokwenz' Utshintsho KuMgaqo-siseko ka-2001.]

Ukuqhubeka kweKhabhinethi emva kovoto

94. Xa kuthi kubekho unyulo lweNdlu yoWiso-mthetho, iKhabhinethi, uSekela-Mongameli, aBaphathiswa kunye nooSekela-Mphathiswa baqhubeka benalo igunya lokusebenza de umntu onyulelwe ukuba nguMongameli yiNdlu elandelayo angene esikhundleni.

Isifungo okanye isibhambathiso

95. Ngaphambi kokuba uSekela-Mongameli, aBaphathiswa kunye nooSekela-Mphathiswa baqalise ukwenza imisebenzi, mabafunge okanye benz' isibhambathiso sokuthembeka kwiRiphablikhi nokuthobela uMgaqo-siseko, ngokuvumelana neSihlomelo 2.

Ukuziphatha kwamalungu eKhabhinethi nooSekela-Mphathiswa

96. (1) Amalungu eKhabhinethi nooSekela-Mphathiswa mabaziphathe ngokwemigqaliselo yokuziphatha etshiwo yimithetho yepalamente yezwelonke.

(2) Amalungu eKhabhinethi nooSekela-Mphathiswa abavumelekanga ukuba–

(a) benze nawuphi na omnye umsebenzi ohlawulelwayo;

(b) benze ngendlela engavisisaniyo nesikhundla abakuso, okanye bazibeke kwimeko esenokwenza kubekho ungquzulwano phakathi kweembopheleleko zabo zaseburhulumenteni nemicimbi yabo yangasese; okanye

(c) basebenzise isikhundla sabo okanye ingcombolo abayiphathisiweyo, beyisebenzisela ukuzityebisa okanye ukuzuzisa omnye umntu ngendlela engafanelekanga.

Ukufuduswa kwemisebenzi

97. UMongameli unokuthi ngokwenza isihlokomiso afudusele kwilungu leKhabhinethi–

(a) ukusingathwa komthetho wepalamente okuphathiswe elinye ilungu; okanye

(b) naliphi na igunya okanye umsebenzi ophathiswe elinye ilungu ngokomthetho wepalamente.

Ukuphathiswa imisebenzi okwexeshana

98. UMongameli unokuphathisa ilungu leKhabhinethi naliphi na igunya okanye umsebenzi ongowelinye ilungu leKhabhinethi elingekhoyo emsebenzini okanye elingakwaziyo ukusebenzisa elo gunya okanye ukwenza loo msebenzi.

Ukuphathiswa kwemisebenzi

99. Ilungu leKhabhinethi lisenokuphathisa naliphi na igunya okanye umsebenzi ekuligunya emalisetyenziswe okanye ekungumsebenzi omawenziwe ngokoMthetho wePalamente, liwuphathise uMphathiswa wephondo okanye iBhunga likaMasipala. Ukuphathisa oko–

(a) makube ngokwesivumelwano phakathi kwelo lungu leKhabhinethi noMphathiswa wephondo okanye iBhunga likaMasipala;

(b) makuvisisane noMthetho wePalamente elisetyenziswa ngokwaloo Mthetho igunya elo, okanye owenziwa ngokwaloo Mthetho umsebenzi lowo; kwaye

(c) kuqalisa ukusebenza kusakuhlokonyiswa nguMongameli.

Ukungenelela kukarhulumente wezwelonke kulawulo lwephondo

[Lo mxholwana wenziwa utshintsho sisiqendu 2(a) soMthetho Weshumi Elinanye Wokwenz' Utshintsho KuMgaqo-siseko ka-2003.]

100. (1) Xa iphondo lingakwazi ukuyifeza okanye lingayifezi imbopheleleko yoburhulumente engokoMgaqo-siseko okanye engokomthetho wepalamente wezwelonke, urhulumente wezwelonke usenokungenelela ngokuthabatha nawaphi na amanyathelo afanelekileyo ukuqinisekisa ukuba iyafezekiswa loo mbopheleleko, kuquka–

(a) ukukhupha umyalelo uye kwisigqeba sephondo esinolawulo oluphezulu, nokukhupha umyalelo oya kurhulumente wephondo, ochaza ubungakanani bokusilela ukufezekisa iimbopheleleko zakhe, kwaye uchaza namanyathelo afunekayo ukuze kufezekiswe iimbopheleleko zakhe;

(b) nokuyithathela kuye imbopheleleko kwelo phondo ngokwendlela efunekayo ukuze–

(i) kuhlale kukho imilinganiselo eyimfuneko yezwelonke okanye kubekho imilinganiselo eyeyona iphantsi yokuba kwenziwe oko kufuneka kwenziwe;

(ii) kuhlale kukho ubunye kuqoqosho;

(iii) kuhlale kukho ukhuseleko lwezwelonke; okanye

(iv) kuthintelwe elo phondo ekuthatheni inyathelo elingabhadlanga elinobungozi kwelinye iphondo okanye elizweni lonke.

[Isiqendwana (1) senziwa utshintsho sisiqendu 2(b) soMthetho Weshumi Elinanye Wokwenz' Utshintsho KuMgaqo-siseko ka-2003.]

(2) Ukuba urhulumente wezwelonke uyangenelela kwiphondo ngokwesiqendwana (1)(b)–

(a) makanike iBhunga lamaPhondo leZwelonke isaziso esibhaliweyo sokungenelela kwakhe zingaphelanga iintsuku ezili-14 luqalile ungenelelo;

(b) ungenelelo maluphele ukuba iBhunga liyaluchasa ungenelelo kwisithuba seentsuku ezili-180 luqalile, okanye ukuba liphela elo thuba lexesha lungadanga luvunywe ungenelelo; kananjalo

(c) ngoxa luqhubeka ungenelelo, iBhunga maliman' ukuluqwalasela ngokutsha ungenelelo kwaye lisenokwenza naziphi na iziphakamiso ezifanelekileyo kurhulumente wezwelonke.

[Isiqendwana (2) sathatyathelw' indawo sisiqendu 2(c) soMthetho Weshumi Elinanye Wokwenz' Utshintsho KuMgaqo-siseko ka-2003.]

(3) Umthetho wepalamente wezwelonke usenokuyilawula inkqubo emiselwe sesi siqendu.

[Isiqendu 100 senziwa utshintsho sisiqendu 2 soMthetho Weshumi Elinanye Wokwenz' Utshintsho KuMgaqo-siseko ka-2003.]

Izigqibo ezisuka phezulu

101. (1) Isigqibo esenziwe nguMongameli masibhalwe phantsi ukuba–

(a) senziwe ngokomthetho wepalamente; okanye

(b) sineziphumo ezibandakany' umthetho.

(2) Isigqibo esibhaliweyo esenziwe nguMongameli masityikitywe nalelinye ilungu leKhabhinethi ukuba eso sigqibo sichaphazela umsebenzi owabelwe elo lungu leKhabhinethi.

(3) Izihlokomiso, imimiselo nokunye okuyimithethwana, malukwazi ukukufumana uluntu.

(4) Umthetho wepalamente wezwelonke usenokuxela indlela, nokuthi kangakanani, emayithi imithethwana ekhankanywe kwisiqendwana (3)–

(a) ithiwe thaca ePalamente; ize

(b) ivunywe yiPalamente.

Izindululo zokungabathembi

102. (1) Ukuba iNdlu yoWiso-mthetho, ngevoti exhaswa sisininzi samalungu ayo, iphumeza isindululo sokungabi sayithemba iKhabhinethi, ingaquki noMongameli, uMongameli makayitshintshe iKhabhinethi.

(2) Ukuba iNdlu yoWiso-mthetho, ngevoti exhaswa sisininzi samalungu ayo, iphumeza isindululo sokungabi samthemba uMongameli, uMongameli namanye amalungu eKhabhinethi kunye nooSekela-Mphathiswa mabaphume ezikhundleni.