

ISAHLUKO 5

UMONGAMELI NEZIPHATHIMANDLA ZIKAZWELONKE

Umongameli

83. UMongameli –
- (a) uyiNhloko yoMbuso nenhloko yomkhandlu kazwelonke Omkhulu;
 - (b) kufanele eseke, avikele, ahloniphe uMthethosisekelo njengomthetho omkhulu kunayo yonke eRiphabhuliki; futhi
 - (c) akhuthaze ubumbano lwesizwe nalokho okuqhubela iRiphabhuliki phambili.

Amandla nemisebenzi kaMongameli

84. (1) UMongameli unamandla awanikezwe nguMthethosisekelo nomthetho, kumbandakanya lawo mandla afanele ukuze enze imisebenzi yeNhloko yoMbuso nenhloko yeziphathimandla zikazwelonke.
- (2) UMongameli ubheke okulandelayo –
- (a) ukwemukela nokusayina iMithethosivivinywa;
 - (b) ukubuyisela uMthethosivivinywa emuva ePhalamende ukuze licibungule kabusha ukuhambisana kwawo noMthethosisekelo;
 - (c) ukwedlulisela uMthethosivivinywa eNkantolo yoMthethosisekelo ukuze ikhiphe isinqumo ngokuhambisana kwawo noMthethosisekelo;
 - (d) ukubizela isiGungu sikaZwelonke, uMkhandlu kaZwelonke weziFundazwe noma iPhalamende emhlanganweni ongajwayelekile ukuze kwenziwe umsebenzi okhethekile;
 - (e) ukuqoka noma yibaphi abazophatha izikhundla ezimiswe kuMthethosisekelo noma ngumthetho, ukuthi kufanele kwenziwe nguMongameli, ngaphandle kokuqoka akwenza njengenhloko yeziphathimandla zikazwelonke;
 - (f) ukuqoka amakhomishana okuphenya;
 - (g) ukubiza inhlolelo kazwelonke ngokomthetho wePhalamende;
 - (h) ukwemukela futhi azise izithunywa zakwamanye amazwe kanye nabamele amanye amazwe;
 - (i) ukuqoka amanxusa, amanxusa agunyaziwe, abaphathelene nezindaba zamazwe kanye nabamele amanye amazwe;

- (j) ukuxolela, noma asindise abagwetshelwe amacala futhi ehlise nanoma iyiphi inhlawulo, izigwebo noma ukudliwa kwempahla; futhi
- (k) aklomlise ngezindondo zokuhlonipha.

[Incazelo ejwayelekile: Ukutswa ngokuhlonishwa okwenziwe kuSomqulu kaHulumeni we 24155 mhlaka 6 Disemba 2002 kanye noSomqulu kaHulumeni we 25213 mhlaka 25 Julayi 2003.]

Igunya lokuphatha eRiphabhuliki

85. (1) Amandla okuphatha eRiphabhuliki abekwe kuMongameli.
- (2) UMongameli usebenzisa amandla okuphatha, ebambisene namanye amalungu eKhabhinethi –
- (a) ngokusebenzisa umthetho kazwelonke ngaphandle kwalapho uMthethosisekelo noma umthetho wePhalamende usho okunye okwehlukile;
 - (b) ngokuthukisa nokusebenzisa izinqubomgomo zikazwelonke;
 - (c) ngokuqondanisa imisebenzi yeminyango yombuso kanye neyezakhiwo zombuso;
 - (d) ngokulungisa nokungenisa umthetho; kanye
 - (e) nokwenza noma yimiphi eminye imisebenzi yokuphatha ehlinzekelwe kuMthethosisekelo noma kumthetho kazwelonke.

Ukukhethwa kukaMongameli

86. (1) Emhlanganweni waso wokuqala ngemuva kokukhethwa kwaso, futhi nalapho kunesidingo sokuvala isikhala, isiGungu sikaZwelonke kufanele sikhethe umuntu wesifazana noma wesilisa phakathi kwamalungu aso ukuthi abe nguMongameli.
- (2) UMongameli weNkantolo yoMthethosisekelo kufanele angamele lolu khetho noma aqoke elinye ijaji ukwenza lokhu. Inqubo elandelwayo ebekwe kuNgxenywe A yeSheduli yesi-3 iyona esebenzayo ekukhethweni kukaMongameli.

[Isigatshana sesi (2) indawo yaso ithathwe yisigaba sesi 6 soMthetho WwesiThupha oChibiyela uMthethosisekelo wezi 2001.]

- (3) Ukhetho lokuvala isikhala esikhundleni sikaMongameli kufanele lubekelwe isikhathi nosuku nguMongameli weNkantolo yoMthethosisekelo, kodwa zingakadluli izinsuku ezingama-30 ngemuva kokuvela kwesikhala.

[Isigatshana sesi (3) indawo yaso ithathwe yisigaba sesi 6 soMthetho wesiThupha oChibiyela uMthethosisekelo wezi 2001.]

Ukuqala ukusebenza kukaMongameli

87. Uma esekhethwe njengoMongameli, umuntu uyayeka ukuba yilungu lesiGungu sikaZwelonke futhi, zingakapheli izinsuku eziyisihlanu, kufanele aqale umsebenzi wokweNgamela ngokufunga noma aqinisekise ukwethembeka eRiphabhuliki nokuthobela uMthethosisekelo, ngokuhambelana neSheduli yesi 2.

Isikhathi sesikhundla sikaMongameli

88. (1) Isikhathi esibekelwe isikhundla sikaMongameli siqala kusukela eqala umsebenzi futhi siphela lapho kuvela isikhala noma uma umuntu olandelayo okhethelwe esikhundleni sokuba nguMongameli eqala umsebenzi.
- (2) Akekho umuntu ovunyelwe ukuba sesikhundleni njengoMongameli isikhathi esingaphezulu kwamahlandla amabili, kodwa uma umuntu ekhethelwe ukuthi agcwalise isikhala abe uMongameli, isikhathi esiphakathi kokugcwalisa isikhala nokhetho olulandelayo, asithathwa njengesikhathi soBungameli.

Ukususwa kukaMongameli esikhundleni

89. (1) IsiGungu sikaZwelonke, ngesinqumo esekwe ngababili kwabathathu bamalungu aso, singamsusa kuphela uMongameli esikhundleni ngezizathu –
- zokwepulwa okubucayi koMthethosisekelo noma komthetho;
 - zokungaziphathi kahle ngendlela embi kakhulu; noma
 - zokungakwazi ukwenza imisebenzi yesikhundla.
- (2) Noma ngubani osuswe esikhundleni sikaMongameli ngokwesigatshana soku 1(a) noma u (b) angeke athole izinzuzo zaleso sikhundla futhi akavunyelwe ukumela ukhetho lwesikhundla somphakathi.

IBamba likaMongameli

90. (1) Uma uMongameli engekho eRiphabhuliki noma engakwazi ukufeza izidingo zomsebenzi kaMongameli ngenxa yokuthile; noma uma kunesikhala kuleso sikhundla, iziphathimandla zingambambela njengoMongameli ngalokhu kulandelana –
- IPhini likaMongameli.
 - UNgqongqoshe ojutshwe nguMongameli.

- (c) UNGqongqoshe ojutshwe ngamanye amalungu eKhabhinethi.
- (d) USomlomo, isiGungu sikaZwelonke size sijube omunye wamalungu aso.
- (2) IBamba likaMongameli linezibopho, amandla nemisebenzi kaMongameli.
- (3) Ngaphambi kokuthatha izibopho, amandla nemisebenzi kaMongameli iBamba likaMongameli kufanele lifunge noma liqinisekise ukwethembeka kuRiphabhuliki nokuthobela uMthethosisekelo, ngokweSheduli yesi 2.
- (4) Umuntu okuthe njengeBamba likaMongameli wafunga noma waqinisekisa ukwethembeka kuRiphabhuliki akudingeki ukuthi aphinde inqubo elandelwayo yokufungiswa nokuqinisekisa esikhathini esilandelayo sokuba yiBamba likaMongameli esikhathini esilandelayo uma eba iBamba likaMongameli ngesikhathi kuphela isikhathi lapho umuntu okhethelwe ukuba nguMongameli engena esikhundleni.

[Isigatshana sesi (4) esengezwe yisigaba soku 1 soMthetho wokuQlala oChibiyela uMthethosisekelo we 1997]

Ikhabinethi

91. (1) IKhabhinethi yakhiwe uMongameli, njengenhloko yeKhabhinethi, iPhini likaMongameli kanye noNgqongqoshe.
- (2) UMongameli uqoka iPhini likaMongameli kanye noNgqongqoshe, abanike amandla nemisebenzi yabo, futhi angabasusa esikhundleni.
- (3) UMongameli –
- (a) kufanele akhethe iPhini likaMongameli phakathi kwamalungu esiGungu sikaZwelonke;
 - (b) angakhetha nanoma yiliphi inani loNgqongqoshe phakathi kwamalungu esiGungu sikaZwelonke; futhi
 - (c) angakhetha oNgqongqoshe abangeqile kwababili abavela ngaphandle koMkhandlu.
- (4) UMongameli kufanele aqoke ilungu leKhabhinethi elizoba umholi womisebenzi kahulumeni esiGungwini sikaZwelonke.
- (5) IPhini likaMongameli kufanele lize uMongameli ekwenzeni imisebenzi kahulumeni.

Imithwalo kanye nokulindelekile

92. (1) IPhini likaMongameli kanye noNgqongqoshe babheke amandla nemisebenzi yeziphathimandla abaqokelwe yona nguMongameli.
- (2) Amalungu eKhabhinethi anezibopho ewonke kanyekanye nangokwelungu ngalinye ePhalamende mayelana nokusetshenziswa kwamandla nokwenziwa kwemisebenzi yawo.
- (3) Amalungu eKhabhinethi kufanele –
- asebenze ngokuhambisana noMthethosisekelo; futhi
 - anikeze iPhalamende imibiko ephelele njalo ngemuva kwezikhathi ezejwayelekile maqondana nezindaba ezilawulwa yiwo.

AmaPhini oNgqongqoshe

93. (1) UMongameli angaqoka –
- nanoma yiliphi inani lamaPhini oNgqongqoshe phakathi kwamalungu esiGungu sikaZwelonke; kanye
 - namaPhini oNgqongqoshe angekho ngaphezulu kwamabili aqhamuka ngaphandle kwesiGungu, ukuba asize amalungu eKhabhinethi, futhi angawasusa esikhundleni.
- (2) AmaPhini oNgqongqoshe aqokwe ngokwemigomo yesigatshana soku (1)(b) anesibopho ePhalamende sokusebenzisa amandla awo kanye nokwenza imisebenzi yawo.

[Isigaba sama 93 indawo yaso ithathwe yisigaba sesi 7 soMthetho wesiThupha oChibiyela uMthetho-sisekelo wezi 2001.]

Ukuqhubeka kweKhabhinethi emuva kokhetho

94. Uma kubanjwe ukhetho lwesiGungu sikaZwelonke, iKhabhinethi, iPhini likaMongameli, oNgqongqoshe kanye nanoma yiliphi iPhini likaNgqongqoshe baqhubeka nokusebenza aze athathe isikhundla njengoMongameli umuntu okhethwe yisiGungu sikaZwelonke esilandelayo.

Isifungo noma isiqinisekiso

95. Ngaphambi kokuthi iPhini likaMongameli, oNgqongqoshe kanye namaPhini oNgqongqoshe baqale imisebenzi yezikhundla zabo, kufanele bafunge noma

baqinisekise ukuthi bazokwethembeka kuRephabhliki futhi bathobele uMthethosisekelo, ngokweSheduli yesi 2.

Ukuziphatha kwamalungu eKhabhinethi namaPhini oNgqongqoshe

96. (1) Amalungu eKhabhinethi kanye namaPhini oNgqongqoshe kufanele aziphathe ngendlela ehambisana nohlelo lokuziphatha olubekwe ngumthetho kazwelonke.
- (2) Amalungu eKhabhinethi namaPhini oNgqongqoshe akufanele –
- (a) enze omunye umsebenzi okhokhelwayo;
 - (b) aziphathe noma ngayiphi indlela engahambisani nezikhundla zawo, noma azibeke kunoma yisiphi isimo esingadala ukuthi babonakale benobunzima bokwehlukana phakathi kwezintshisekelo zabo zomsebenzi nezintshisekelo zomuntu zangasese;
 - (c) asebenzise izikhundla zawo noma ulwazi lwanoma uluphi uhlobo olunikezelwe wona, ukuzinithisa noma ukwenzela omunye inzuzo ngendlela engafanele.

Ukudluliswa kwemisebenzi

97. UMongameli angadlulisela kwilungu leKhabhinethi ngesimemezelo esishicilelwe –
- (a) ukwengamelwa kwanoma yimuphi umthetho onikezwe elinye ilungu; noma
 - (b) ngamaphi amandla noma umsebenzi onikezwe elinye ilungu ngokomthetho.

Ukunikezwa kwemisebenzi okwesikhashana

98. UMongameli anganikeza ilungu leKhabhinethi noma yimaphi amandla noma umsebenzi welinye ilungu leKhabhinethi elingekho noma elingakwazi ukusebenzisa lawo mandla noma ukwenza lowo msebenzi.

Ukwabiwa kwemisebenzi

99. Ilungu leKhabhinethi lingabela ilungu loMkhandlu Omkhulu wesifundazwe noma loMkhandlu Kamasipala noma yimaphi amandla noma umsebenzi okufanele wenziwe ngokoMthetho Wephalamende. Ukwabiwa –
- (a) kufanele uhambanane nesivumelwano phakathi kwelungu leKhabhinethi elithintekile kanye nelungu loMkhandlu Omkhulu noma loMkhandlu Kamasipala;

- (b) kufanele uhambisane nomthetho wePhalamende ophathelene nokusetshenziswa kwalawo mandla noma ukwenziwa kwalowo msebenzi; futhi
- (c) kuqala ukusebenza lapho kumenyezela nguMongameli.

Ukungenelela kukazwelonke ekubusweni kwesifundazwe

[Isihloko sichibiyelwe yisigaba sesi 2(a) soMthetho weShumi nanye oChibiyela uMthethosisekelo wezi 2003.]

100. (1) Uma isifundazwe singakwazi noma singafezi izibopho zaso zokuphatha ezibekwe nguMthethosisekelo noma ngumthetho, isigungu esiphethe singalungena udaba ngokuthatha izinyathelo ezifanele ukuqinisekisa ukufezwa kwezibopho, kumbandakanya –
- (a) ukukhipha isiyalelo esiya kumkhandlu omkhulu wesifundazwe esichaza indlela esehluleka ngayo ukufeza izibopho zaso futhi sisho izinyathelo okufanele zithathwe ukuze kufezwe izibopho zaso; kanye
 - (b) nokuzithathela umsebenzi wokubhekela lezo zibopho ezithintekile kuleso sifunda ngezina elidingekile ukuze –
 - (i) kugcinwe amazanga abalulekile ngokukazwelonke noma kuhlangatshezwane namazinga okungafanele ehliswe okwethula izidingo;
 - (ii) kugcinwe ubumbano lwezomnotho;
 - (iii) kugcinwe ukuphepha kwezwe; noma
 - (iv) kuvinjwe leso sifundazwe ukuze singathathi izinyathelo ezingafanele ezikhinyabeza izintshisekelo zezinye izifundazwe noma zezwe lonke.

[Isigatshana soku (1) sichibiyelwe yisigaba sesi 2(b) soMthetho weShumi naNye oChibiyela uMthethosisekelo wezi 2003.]

- (2) Uma isigungu esiphethe singena udaba esifundazweni ngokwesigatshana(1)(b) –
- (a) isaziso esibhaliwe sokulungena udaba kufanele sifakwe phambi koMkhandlu kaZwelonke weziFundazwe zingakapheli izinsuku eziyi 14 ngaphambi kokungenelela udaba;
 - (b) ukungenelela udaba kufanele kuyekwe uma uMkhandlu ungakwemukeli ukungenelela zingakapheli izinsuku eziyi 180 ngemuva kokungenelelwa kodaba noma uma kuphela leso sikhathi kungakagunyazwa;

- (c) uMkhandlu kufanele, ngenkathi ukungenelela udaba kuqhubeka, ubukeze njalo ukungenelela udaba futhi wenze noma yiziphi izincomo ezifanele esiGungwini sikazwelonke.

[Isigatshana sesi (2) indawo yaso ithathwe yisigaba sesi 2(c) soMthetho weShumi naNye oChibiyela uMthethosisekelo wezi 2003.]

- (3) Umthetho kazwelonke ungalawula uhlelo olumiswe yilesi sigaba.

[Isigaba se 100 sichibiyelwe yisigaba sesi 2(a) soMthetho weShumi naNye oChibiyela uMthethosisekelo wezi 2003.]

Izinqumo zesigungu esiphethe

101. (1) Isinqumo sikaMongameli kufanele sibhalwe phansi uma –
(a) sithathwe maqondana nomthetho; noma
(b) sinemiphumela esemthethweni.
- (2) Isinqumo esibhalwe phansi nguMongameli kufanele sisayinwe ngelinye lamalungu eKhabhinethi uma leso sinqumo sixhumene nomsebenzi owabelwe lelo lungu leKhabhinethi.
- (3) Izimemezelo, imitheshwana kanye neminye imithombo yemithetho engaphansi kweminye kufanele umphakathi ukwazi ukufinyeleleka kuyo.
- (4) Umthetho kazwelonke ungacacisa indlela, kanye nebanga izinto ezishiwo kusigatshana sesi (3) okufanele –
(a) zethulwe ngayo phambi kwePhalamende;
(b) zamukelwe ngayo yiPhalamende.

Iziphakamiso zokungethembeki

102. (1) Uma isiGungu sikaZwelonke semukela ngevoti elesekwe yiningi lamalungu aso, isiphakamiso sokungalethembi iKhabhinethi, ngaphandle kokubala uMongameli, uMongameli kufanele alakhe kabusha iKhabhinethi.
- (2) Uma isiGungu sikaZwelonke samukela ngevoti elesekwe yiningi lamalungu aso, isiphakamiso sokungamethembi uMongameli, uMongameli namanye amalungu eKhabhinethi kanye nanoma yimaphi amaPhini oNgqongqoshe kufanele bashiye izikhundla.