REPUBLIC OF SOUTH AFRICA

IFOM 8

ISAZISO SOLWAZI SOMMANGALI ONGAMELWANGA LIGQWETHA

[Umqathango 8]
ISOLOTYA 4(2) LOMTHETHO WODUSHE LWASEKHAYA, KA-1998 (uMthetho No. 116 ka-1998)

ISAZISO SOLWAZI SIKANOBHALA WENKUNDLA

1. Esi saziso sicacisa—
   (a) isiqabu esifumanekayo ngokwemimiselo yoMthetho woDushe lwaseKhaya, ka-1998; kunye
   (b) nelungelo lommangali lokuvula ityala lolwaphulo-mthetho ngakummangalelwa.

2. Kuza kufuneka usityikitye esi saziso ukuze uqinisekise ukuba lithotyelwe isolotya 4(2) loMthetho woDushe lwaseKhaya, ka-1998, kwaye umqathango 8 wemiqathango yodushe lwasekhaya, ka-2022, owenziwe ngokwemimiselo yaloo Mthetho, nondinyanzelayo ukuba-
   (a) ndidlulisele esi saziso kuwe, nekumele sibe ngolwimi olusemthethweni olukhethayo noluvayo;
   (b) ndikufundele okanye ndenze ufundelwe esi saziso ukuba awukwazi kusifunda isaziso;
   (c) ndibuze kuwe ukuba ingaba uyawuqonda na umongo wesi saziso; kwaye
   (d) ndikucacisele nayiphi na indawo ongayiqondiyo kwesi saziso.

3. Unako—
   3.1 nangoluphi na usuku kwaye nangeliphi na ixesha, ngokwemimiselo yomthetho, ukufaka isicelo sesithintelo senkundla kudushe lwasekhaya kwiNkundla kaMantyi ekwingingqi apho -
      (a) uhlala, ufunda, uqhuba ishishini okanye uqeshwe khona isigxina okanye ithutyana;
      (b) ummangalelwa (lowo ke ngulo mntu owenza isenzo sodushe lwasekhaya) ahlala, afunda, aqhuba ishishini okanye aqeshwe khona isigxina okanye ithutyana; okanye
      (c) isenzo sodushe lwasekhaya sehle khona.
   3.2 ukufaka isicelo sesithintelo senkundla ngakumntu onobudlelwane basekhaya naye ngokuba—
      (a) wayetshatile nawe okanye usatshatile nawe;
      (b) niyahlalisana, kodwa anitshatanga;
      (c) ngumzali womntwana wakho;
      (d) lilungu losapho lwakho ngegazi (e.g. ngumama, ngutata okanye ngumntakwenu), ngeenkomo (e.g. umama omtsha okanye utata omtsha) okanye ngokukhulela kuloo mzi;
      (e) ulotyolwe kuba kuza kutshatwa, okanye kuyathandanwa okanye bubudlelwane besintu; okanye
      (f) bubudlelwane obusondeleneyo.
   3.3 ukutyumba igqwetha eliza kunceda. Ukuba awunamali yokuhlawula igqwetha, ungafaka isicelo elegal aid okanye uqhakamshelane nombutho ongengokarhulumente ukuze akuncede.

4. Ndinako ukukunika ifom yokufaka isicelo ukuba ufuna ukufaka isicelo sesithintelo esinjalo. Akunyanzelekanga ukumangala ukuze ufumane isithintelo senkundla.

5. Umntu wenza isenzo sodushe lwasekhaya xa loo mntu—
   (a) ekuxhaphaza emzimbeni;
   (b) ekuxhaphaza ngokwesondo;
   (c) ekuxhaphaza ngokwasemphefumleni, ngamazwi okanye ngengqondo;
   (d) ekuxhaphaza ngezoqoqosho;
   (e) ekugrogrisa;
   (f) ekundlandlathekisa;
   (g) ekundlandlathekisa ngokwesondo;

(h) exhaphaza umntu ohlobene nawe;
(i) ekuxhaphaza ngokomoya;
(j) esonakalisa izinto zakho;
(k) exhaphaza umntu omdala;
(l) enomkhwa wokunyanzelisa;
(m) enomkhwa wokulawula;
(n) eveza umntwana kudushe lwasekhaya;
(o) engena kwikhaya lakho elisisigxina okanye elethutyana ngaphandle kwemvume yakho, nalapho wena naloo mntu ningahlali kunye; okanye kwindawo osebenza okanye ofunda kuyo ngaphandle kwemvume yakho, nalapho wena naloo mntu ningafundi okanye ningasebenzi kunye; okanye
(p) eyinxalenye yako nakuphi na ukugrogrisa, ukusongela, ukuxhaphaza, ukwenyelisa okanye ukumenya ngakuwe,

Nalapho ukuziphatha okunjalo kulimaza okanye kunika inkolelo engathandabuzekiyo yokulinyazwa okunokwenzeka kuwe.

6. Isicelo sesithintelo senkundla kudushe lwasekhaya singafakwa ngomnye umntu egameni lakho ukuba lowo ufaka isicelo unenkathalo yentlalo-ntle yakho. Kodwa ke, eso sicelo kufuneka sibe neleta yakho evumayo, ngaphandle xa kukwiimeko apho engumntu, ngokwembono zenkundla, ongenako ukunika imvume ngokwakhe.

7. Nawuphi na umntwana, okanye umntu omele lo mntwana, angafaka isicelo enkundleni sesithintelo senkundla.

8. Inkundla iza kusiqwalasela isicelo sakho okanye isicelo esiziswe egameni lakho, kwaye kumele—

8.1 ukuba ubungqina buyayingqina into yokuba—

(a) ummangalelwa wenza okanye wenza isenzo sodushe lwasekhaya;

(b) uyonzakala okanye usengonzakala okanye umntu ohlobene nawe ngenxa yoko kuziphatha ukuba isithintelo asikhutshwanga ngokukhawuleza; kwaye

(c) ukhuselo ekumele lunikwe sisithintelo senkundla sethutyana lungengenzeki ukuba isaziso sokuqala sesicelo sisazokunikwa ummangalelwa,

khupha isithintelo senkundla sethutyana; kwaye

8.2 emva koko kukhutshwe umyalelo wethutyana oza—

(a) kusebenza kuphela emva kokuba sifikile kummangalelwa (neendleko ekuza kumele uzibhatale ngaphandle kokuba awunayo indlela yokuzibhatala); kwaye

(b) siza kuhlala sisebenza ixesha elithile.

9. Isithintelo senkundla sethutyana siyanyanzelisa kwaye siyasebenza ukusukela ngala mhla sakhutshwa ngawo yinkundla kwaye ubukho baso nomongo wesithintelo ube ugqithisiwe kummangalelwa. Ikopi yesicelo nobungqina obubhalwe ngexesha lesicelo buza kunikwa ummangalelwa, kunye nesithintelo senkundla, kwaye ummangalelwa uza kubizwa ukuba aze kubonisa (kunika izizathu) ngomhla oqingqiweyo kwisithintelo ukuba kutheni esi sithintelo kumele singenziwa esokugqibela. Ukhuselo olunikwa sisithintelo senkundla sethutyana lolwexeshana ngendalo kwaye luyaphelelwa ngomhla wokumanyelwa kwentyala.

10. Ngomhla wokumanyelwa kwetyala, inkundla iza kuwumamela lo mba ize ikhuphe isithintelo sokugqibela nesiza kuhlala sikhona ixesha elingaqingqwanga, okanye elo xesha liya kuthi liqingqwe yinkundla ngezizathu ezivakalayo.

11. Inkundla inako, ngesithintelo sethutyana okanye ngesokugqibela, ukwalela ummangalelwa ukuba—

(a) enze okanye azame ukwenza isenzo sodushe lwasekhaya;
(b) asebenzise uncedo lomnye umntu lokwenza isenzo esinjalo;
(c) angene kwindlu abelana ngayo nommangali: Phofu lo umyalelo inkundla ingawunika kuphela xa ibona ukuba kusemdleni wommangali;
(d) angene kwindawo ethile ecacisiweyo kule ndawo bahlala kuyo;
(e) angene kwindlu yommangali;
(f) angene emsebenzini okanye apho afunda khona ummangali;
(g) athintele ummangali odla ngokuhlala okanye obekade ehlala naye nanjengoko kutshiwo kumhlathi *(c)* ngasentla, ukuba angene okanye ahlale kuloo ndlu ababelana ngayo okanye loo ndawana icacisiweyo kuloo ndlu abahlala kuyo kunye;
(h) aveze esidlangalaleni incoko yabo kubuchwepheshe bale mihla, nanjengoko buza kube bucacisiwe kwisithintelo senkundla; okanye

(i) enze nasiphi na isenzo esicaciswe kwisithintelo senkundla.

12. Inkundla inako ukunyanzelisa neminye imibandela eyongezelekileyo kummangalelwa nebona kufanelekileyo ukuze ikhusele kwaye inike ukhuseleko, impilo okanye intlalo-ntle kummangali.

13. Ngokwemimiselo yesolotya 7(5) loMthetho woDushe lwaseKhaya, ka-1998, idilesi yasekhaya, eyendawo afundayo kuyo neyendawo asebenza kuyo ummangali okanye umntu onxulumeneyo nesithintelo senkundla sinxulumene naye kumele isuswe kwisithintelo senkundla, ngaphandle kokuba imimiselo yesithintelo iyanyanzelisa ukuba ziqukwe iinkcukacha ezinjalo, kwaye inkundla ingakhupha nawuphi na umyalelo wokuqinisekisa ukuba uyathotyelwa lo Mthetho.

14. Rhoqo inkundla ikhupha isithintelo sethutyana okanye esisigxina, umyalelo wokubanjwa kommangalelwa uza kukhutshwa nawo, kodwa ukukhutshwa kwesigunyaziso sokubanjwa kuza kumiswa ngokuxhomekeka ekuthobeleni naziphi na izithintelo, imibandela, imiqathango okanye imiyalelo ebekwe yinkundla ngelokuthintela ukwenzeka kwesinye isiganeko sodushe lwasekhaya kummangali. Ukuba ummangalelwa uthe wophula nasiphi na isithintelo, imibandela, imiqathango okanye imiyalelo equlathwe sisithintelo senkundla, ummangali angakhupha isigunyaziso sokubanjwa, sikhatshwe yi-affidavit, nalapho kuza kufuneka kutshiwo kuyo ukuba ummangalelwa uthe wawophula umyalelo wenkundla, kwilungu leNkonzo yesiPolisa yoMzantsi Afrika ekumele—

(a) ukuba kungenzeka ukuba ummangali uyaxhaphazeka okanye usengozini yomonzakalo ngenxa yokophulwa kwemiyalelo yesithintelo senkundla ngummangalelwa, ngokukhawuleza limbambe ummangalelwa; okanye

(b) ukuba azonelanga izizathu zokubamba ummangalelwa, ngokukhawuleza anike ummangalelwa isaziso esibhaliweyo ukuze aye kuvela enkundleni,

ayokuphendule kwityala lokwaphula isithintelo senkundla.

15.*(a)* Unako kwangaxeshanye xa ufaka isicelo sesithintelo senkundla okanye emva koko ukufaka isicelo sesaziso sokugadwa, ukuba uhlala ndawonye nommangalelwa. Esi sicelo siza kufuna ukuba wenziwe umyalelo wokuba ipolisa likujonge rhoqo ngomnxeba kwaye liye kujonga ngeenyawo ngamaxesha athile.

(b) Ndingakunika iifom zesicelo sesithintelo senkundla kwakunye neyesaziso sokugadwa ukuba uyafuna, okanye ungazifumana ezi fom kwi-intanethi (ngena ku-www.justice.gov.za).

16. Ukongeza kwisicelo sesithintelo senkundla, unalo nelungelo lokuvula ityala ngakummangalelwa, esikhululweni samapolisa salapho uhlala, ufunda, usebenza okanye uqhubela ishishini khona okanye apho senzeke khona isehlo sokuxhatshazwa, ukuba isenzo sodushe lwasekhaya sifikelela kulwaphulo-mthetho. Kodwa ke akunyanzelekanga ukuvula ityala ukuze ufumane isithintelo senkundla.

17. **ISILUMKISO:**

17.1 Kululwaphulo-mthetho ukwenza ingxelo engeyonyaniso—

(a) kwisicelo sesithintelo senkundla;

(b) kwisicelo sesaziso sokugadwa; kwakunye

(c) nakwi-affidavit yokuba ummangalelwa uye wophula umthetho wesithintelo senkundla.

17.2 Inkundla ingenza umyalelo womdliwo kuloo mntu eyanelisekileyo ukuba nguye owenze isenzo sokungakhathali okanye esokungaqiqi.

(*Cima nayiphi na into engangeni ndawo)

Inombolo yeSicelo: ...../20..... Umhla: .....

Igama nefani kanobhala wenkundla: .....

Igama nefani *lommangali/* laloo mntu othe wafaka isicelo sesithintelo senkundla egameni lommangali:

.....

.....

*Umtyikityo/*umnwe /*uphawu *ummangali/*umntu othe wafaka isicelo sesithintelo senkundla egameni lommangali

ISINGQINISO SOKUFUNYANWA KWEFOM 8

(Ukubeka kwifayile yenkundla ukuba ummangali okanye umntu ofaka isicelo sesithintelo senkundla endaweni yommangali uyaqhubeka nesicelo)

(*Cima nayiphi na into engangeni ndawo)

INombolo yeSicelo: ...../20..... Umhla: .....

Igama nefani *lommngali/umntu ofaka isicelo sesithintelo senkundla egameni lommangali:

.....

Ndiyangqina ukuba—

(a) isaziso solwazi ndiye ndasinikwa;

(b) besingolwimi olusemthethweni endilukhethileyo;

(c) ndiye *ndasifundelwa/ ndazifundela;

(d) ndibuziwe ukuba ingaba ndiyawuqonda na umongo wesaziso; kwaye

(e) ingaba zikhona na iindawo zesaziso endingaziqondanga, ndazicaciselwa.

.....
*Umtyikityo/*umnwe /*uphawo *lommangali/*umntu ofaka isicelo endaweni yommangali

Igama nefani likanobhala wenkundla: .....

.....
Umtyikityo

Istampu sikanobhala wenkundla