REPUBLIC OF SOUTH AFRICA

IFOMU 8

ISAZISO SOLWAZI ESIYA KUMMANGALI ONGAMELWE UMMELI

[Umthethonqubo 8]
ISIGABA 4(2) SOMTHETHO WODLAME LWASEKHAYA, we-1998 (uMthetho 116 we-1998)

ISAZISO SOLWAZI ESIVELA KUMABHALANE WENKANTOLO

1. Lesi saziso sichaza —
   (a) ukukhululwa okutholakala ngokoMthetho Wodlame Lwasekhaya, we-1998; futhi

   (b) ilungelo lommangali lokufaka isikhalazo sobugebengu mayelana nommangalelwa.

2. Kuzodingeka ukuthi usayine lesi saziso ukuze uqinisekise ukuthi kube nokuthotshelwa kwesigaba 4(2) soMthetho Wodlame Lwasekhaya, we-1998, kanye nomthethonqubo 8 weMithethonqubo Yodlame Lwasekhaya, wezi-2022, owenziwe ngokwalowo Mthetho, futhi obophezela mina -
   (a) ukukunikeza lesi saziso, okumele sibe ngolimi olusemthethweni oluthandayo oluqondayo;
   (b) ukufunda lesi saziso noma ukwenza ukuthi lesi saziso ufundelwe sona uma ungakwazi ukuzifundela lesi saziso;
   (c) ukukubuza ukuthi uyakuqonda yini okuqukethwe yilesi saziso; futhi
   (d) ukuchaza noma iyiphi ingxenye yesaziso ongayiqondi.

3. Ungakwazi -
   3.1 nganoma iluphi usuku nanoma ngasiphi isikhathi, ngokomthetho, noma ingaluphi usuku kanye nangonoma isiphi isikhathi ungafaka isicelo somyalelo wokuvikelwa kudlame lwasekhaya eNkantolo yeMantshi ngaphakathi kwendawo lapho -
      (a) uhlala, ufunda, uqhuba ibhizinisi noma uqashiwe khona unomphela noma okwesikhashana;
      (b) ummangalelwa (okungumuntu owenza isenzo sodlame lwasekhaya) ehlala, efunda, eqhuba ibhizinisi noma eqashiwe khona unomphela noma okwesikhashana; noma
      (c) Kwenzeke khona isenzo sodlame lwasekhaya.

   3.2 ungafaka isicelo somyalelo wokuvikelwa kumuntu osebudlelwaneni basekhaya nawe —
      (a) ngokuthi wayeshade nawe ngaphambilini noma nishade naye manje;
      (b) ngokuba sebudlelwaneni lapho nihlalisene ndawonye, kodwa bengashadile;
      (c) ngokuba umzali enganeni yakho;
      (d) ngokuba ilungu lomndeni wakho ngokwegazi (isb. umama, ubaba noma ingane yakini), ubuhlobo (isb. usingamama noma usingababa) noma ngokutholwa;
      (e) ngokuthi nithembiseni umshado, noma niqomene ngokwesintu; noma
      (f) Ngokuthi nisebudlelwaneni obusondelene.

   3.3 ungaqoka ummeli ozokusiza. Uma ungakwazi ukukhokhela ummeli, ungafaka isicelo sosizo lwezomthetho noma uxhumane nanoma iyiphi inhlangano engekho ngaphansi kukahulumeni ukuze ikusize.

4. Ngiyakwazi ukukunikeza ifomu lesicelo uma ufuna ukufaka isicelo somyalelo onjalo. Akudingekile ukuba uvule icala lobugebengu ukuze uthole umyalelo wokuvikelwa.

5. Umuntu wenza isenzo sodlame lwasekhaya uma lowo muntu—
   (a) ekuhlukumeza ngokomzimba;
   (b) ekuhlukumeza ngokocansi;
   (c) ekuhlukumeza ngokomphefumulo, ngamazwi noma ngokwengqondo;
   (d) ekuhlukumeza ngokomnotho;
   (e) ekusabisa;

(f) ekuhlukumeza;
(g) ekuhlukumeza ngokokuhlobene nocansi;
(h) ehlukumeza umuntu oyisihlobo sakho;
(i) ekuhlukumeza ngokomoya;
(j) elimaza impahla;
(k) ehlukumeza umuntu omdala;
(l) ubandakanyeka ekuziphatheni okudlovayo;
(m) ubandakanyeka ekuziphatheni okulawulayo;
(n) uchaya ingane odlameni lwasekhaya;
(o) ungena endaweni yakho yokuhlala unomphela noma yesikhashana ngaphandle kwemvume yakho, lapho wena nalowo muntu ningahlali endaweni efanayo; noma ungena endaweni yakho yokusebenza noma indawo yokufunda, ngaphandle kwemvume yakho, lapho wena nalowo muntu ningasebenzi endaweni efanayo noma ningafundi endaweni efanayo; noma
(p) ubandakanyeka kunoma yikuphi okunye ukuziphatha okukwesabisayo, okusongelayo, okuhlukumezayo, okwehlisa isithunzi, okudelelayo noma okululazayo kuwe,

lapho ukuziphatha okunjalo kulimaza noma kubonakalisa ngokunomqondo ukuthi usengozini ungase ulimale.

6. Isicelo somyalelo wokuvikelwa odlameni lwasekhaya singenziwa ngomunye umuntu egameni lakho uma umuntu ohlose ukufaka isicelo somyalelo wokuvikelwa enentshisekelo ebonakalayo empilweni yakho. Nokho, leso sicelo kufanele silethwe ngemvume yakho ebhaliwe, ngaphandle kwalapho ungumuntu, ngokubona kwenkantolo, ongakwazi ukunikeza imvume.

7. Noma iyiphi ingane, noma umuntu egameni lengane, angafaka isicelo enkantolo somyalelo wokuvikelwa.

8. Inkantolo izobheka isicelo sakho noma isicelo esilethwe egameni lakho, futhi kufanele—

8.1 uma ubufakazi bufakazela iqiniso lokuthi —
(a) ummangalelwa wenza noma wenze isenzo sodlame lwasekhaya;
(b) uzolimala wena noma omunye umuntu ohlobene ngenxa yalokho kuziphatha uma umyalelo wokuvikelwa ungakhishwa ngokushesha; futhi
(c) isivikelo esizonikezwa umyalelo wokuvikelwa wesikhashana cishe ngeke sifezwe uma isaziso sesicelo sinikezwa ummangalelwa,

khipha umyalelo wokuvikelwa wesikhashana kummangalelwa; futhi

8.2 emva kwalokho uzokhipha umyalelo wesikhashana—
(a) ozoqala ukusebenza kuphela ngemva kokuba usulethwe kummangalelwa (izindleko zako zizokhokhwa uwena ngaphandle uma ungenayo indlela yokuzikhokha); futhi
(b) ozosebenza iskhathi esithile.

9. Umyalelo wokuvikelwa wesikhashana uyaphoqa futhi uyasebenza kusukela ngesikhathi ukhishwa yinkantolo futhi ubukhona nokuqukethwe komyalelo kunikezwe ummangalelwa. Ikhophi yesicelo kanye nobufakazi obuphawulwe ngesikhathi sokufaka isicelo buyonikezwa ummangalelwa, kanye nomyalelo wokuvikelwa wesikhashana, futhi ummangalelwa uzobizwa ukuthi aveze isizathu (anikeze izizathu) ngosuku olubalulwe kumyalelo wokuthi kungani umyalelo wokuvikelwa wesikhashana kungafanele wenziwe owokugcina. Isivikelo esinikezwa umyalelo wokuvikelwa wesikhashana singokwesikhashana futhi sizophelelwa yisikhathi ngosuku lokuqulwa kwecala.

10. Ngosuku lokuqulwa kwecala, inkantolo izolalela udaba futhi ingakhipha umyalelo wokuvikelwa unomphela oyosebenza isikhathi esingaziwa, noma leso sikhathi inkantolo esingasinquma ngesizathu esizwakalayo esibonisiwe.

11. Inkantolo ingase, ngokusebenzisa umyalelo wokuvikelwa wesikhashana noma wokugcina, ivimbele ummangalelwa —
(a) ukwenza noma ukuzama ukwenza noma yisiphi isenzo sodlame lwasekhaya;
(b) ukuthola usizo lomunye umuntu ukwenza noma yisiphi isenzo esinjalo;
(c) ukungena endaweni okuhlala kuyo ummangali kanye nommangalelwa: Kuncike ekutheni inkantolo ingabeka lo mthetho kuphela uma kubonakala sengathi kusiza ummangali;
(d) ukungena engxenyeni ethile yaleyo ndawo yokuhlala ehlanganyelwayo;
(e) ukungena endaweni okuhlala kuyo ummangali;
(f) ukungena emsebenzini wommangali noma endaweni yokufunda;
(g) ukuvimbela ummangali ohlala noma owayehlala endaweni ehlanganyelwayo njengoba kuhlongozwe endimeni (*c*) ngenhla, ukuba angene noma ahlale endaweni okuhlalwa kuyona noma ingxenye ethile yendawo okuhlalwa kuyona ehlanganyelwayo;

(h) ukudalula noma yikuphi ukuxhumana nge-inthanethi noma ukwenza kutholakale noma yikuphi ukuxhumana, njengoba kungashiwo kumyalelo wokuvikelwa; noma

(i) ukwenza noma yisiphi esinye isenzo esishiwo kumyalelo wokuvikelwa.

12. Inkantolo ingase futhi ibeke noma yimiphi imibandela eyengeziwe kummangali eyibona idingeka ukuze ivikele futhi ihlinzekele ukuphepha, impilo noma inhlalakahle yommangali.

13. Ngokwesigaba 7(5) soMthetho Wodlame Lwasekhaya, we-1998, ikheli lendawo, lasekhaya, lokufunda nelomsebenzi lommangali noma umuntu ohlobene naye lowo myalelo wokuvikelwa kumele likhishwe kumyalelo wokuvikelwa, ngaphandle uma imigomo yomyalelo wokuvikelwa idinga ukufakwa kwaleyo minininingwane, futhi inkantolo ingakhipha noma yimiphi imiyalelo ukuze iqinisekise ukuthotshelwa kwalomhlinzeko woMthetho.

14. Noma nini lapho inkantolo ikhipha umyalelo wokuvikelwa wesikhashana noma wokugcina, kuyokhishwa incwadi egunyaza ukubopha ummangalelwa, kodwa ukuqaliswa kwencwadi egunyaza ukuthi kukhishwe incwadi egunyazayo kuyomiswa ngokuya ngokuhambisana nanoma yikuphi ukuvinjelwa, umbandela, isibopho noma umyalelo inkantolo engawubeka ukuvimbela izenzo zodlame lwasekhaya kummangali. Uma ummangalelwa ephula noma yikuphi ukwenqatshelwa okushiwo, umbandela, isibopho noma umyalelo oqukethwe kumyalelo wokuvikelwa, ummangali anganikeza ilungu incwadi yemvume egunyaza ukubopha, kanye nencwadi efungelwe, lapho kufanele kubekwe khona ukuthi ummangalelwa wephule umyalelo wokuvikelwa, kwiLungu loMbutho Wamaphoyisa aseNingizimu Afrika ekufanele—

(a) uma kungenzeka ukuthi ummangali uyahlupheka noma angalimala ngenxa yezinsolo zokwephulwa komyalelo wokuvikelwa okwenziwe ummangalelwa, libophe ummangalelwa ngokushesha; noma

(b) uma zingekho izizathu ezanele zokubopha ummangalelwa, masinyane anikeze ummangalelwa isaziso esibhaliwe sokuba avele enkantolo,

ukuphendula icala lobugebengu lokwephula umyalelo wokuvikelwa.

15. *(a)* Ungakwazi ngesikhathi esifanayo lapho ufaka isicelo somyalelo wokuvikelwa noma ngemva kwalokho ufake isicelo sesaziso sokuqapha ukuphepha, uma uhlala endaweni eyodwa nommangalelwa. Lesi sicelo sizodinga ukuthi kwenziwe umyalelo wokuthi isikhulu samaphoyisa sihlole ukuphepha kwakho njalo ngocingo noma mathupha, lokho kuzokwenziwa isikhathi esithile.

(b) Ngingakunika amafomu okufaka isicelo somyalelo wokuvikelwa kanye nesaziso sokuqapha ukuphepha uma ufuna, noma ungathola lawa mafomu ku-inthanethi (ngena ku-www.justice.gov.za).

16. Ngaphezu kwesicelo somyalelo wokuvikelwa, unelungelo futhi lokufaka isikhalazo sobugebengu mayelana nommangalelwa, esiteshini samaphoyisa sasendaweni ohlala kuyo, ofunda kuyo, osebenza kuyo, oqhuba ibhizinisi kuyo noma lapho ukuhlukunyezwa kwenzeke khona, isenzo sodlame lwasekhaya silingana necala lobugebengu. Akudingekile nokho ukuvula icala lobugebengu ukuze uthole umyalelo wokuvikelwa.

17. **ISIXWAYISO:**

17.1 Kuyicala lobugebengu ukwenza isitatimende esingamanga —

(a) kwisicelo somyalelo wokuvikelwa;

(b) kwisicelo sesaziso sokuqapha ukuphepha; futhi

(c) kwincwadi efungelwe yokuthi ummangalelwa wephule umyalelo wokuvikelwa.

17.2 Inkantolo ingakhipha umyalelo mayelana nezindleko ezibhekiswe kumuntu uma yeneliseka ukuthi umuntu okukhulunywa ngaye wenze izinto ezingathi shu, ngendelelo noma ngokungenangqondo.

(*Susa noma yikuphi okungadingeki)

Inombolo yesicelo: ...../20..... Usuku: .....

Igama nesibongo sikamabhalane wenkantolo: .....

Igama nesibongo *sommangali/*somuntu ofaka isicelo somyalelo wokuvikelwa egameni lommangali:

.....

.....

*Isiginesha/*isithupha /*umaka wommangali/* komuntu ofaka isicelo somyalelo wokuvikelwa egameni lommangali

ISIQINISEKISO SOKUTHOLWA KWEFOMU 8

(Ukufaka efayeleni lasenkantolo uma ummangali noma umuntu ofaka isicelo somyalelo wokuvikelwa egameni lommangali eqhubeka nesicelo)

(*Susa noma yikuphi okungadingeki)

Inombolo yesicelo: ...../20..... Usuku: .....

Igama nesibongo *sommangali/*somuntu ofaka isicelo somyalelo wokuvikelwa egameni lommangali:

.....

Ngiyaqinisekisa ukuthi—

(a) nginikeziwe isaziso solwazi;

(b) bekungolimi olusemthethweni oluthandwa imina;

(c) *ngifundeliwe/ ngizifundelile;

(d) gibuziwe ukuthi ngiyakuqonda yini okuqukethwe isaziso; futhi

(e) noma iyiphi ingxenye yesaziso ebengingayiqondi ngichazeliwe yona.

.....
*Isiginesha/*isithupha /*umaka wommangali/* komuntu ofaka isicelo somyalelo wokuvikelwa egameni lommangali

Igama nesibongo sikamabhalane wenkantolo: .....

.....
Isiginesha:

Isitembu sikamabhalane wenkantolo