IMITHETHO YEDOLOPHU

ISAZISO ESIKHUTSHWA UMASIPALA WASENGQUSHWA

UMTHETHO WEDOLOPHU OPHATHELELE KUGCINO LWEZINJA NEZINYE IZILWANYANA

UManejala kaMasipala upapasha oku, ngokuphathelele kwiCandelo 13 lobuRhulumente basemaKhaya: Umthetho weeNkqubo zikaMasipala (Umthetho ongunombolo.32 ka2000), funda neCandelo 162 loMthetho okuMgaqo-Siseko weRiphabliki yaseMzantsi Afrika, 1996 (Umthetho No. 108 ka1996), uMthetho weDolophu ophathelele kuGcino lweziNja nezinye izilwanyana.

Injongo yalo mthetho wedolophu

Injongo yalo mthetho wedolophu kukuvusa umdla wofuyo lwezilwanyana nentlalo, ngokulawula inani kwanohlobo lwezilwanyana emazifuywe, kananjalo nemiqathango ekunokuthi izilwanyana ezinjalo zifuywe phantsi kwayo, ukugcinwa nolondolozo, ulungiselelo nothintelo lwezidube-dube ezinokwenzeka ngelixa kufuywe izilwanyana ezinjalo.

ISAHLUKO 1

INGCACISO NOKUSEBENZA KWAWO

Ingcaciso

1. Kulo mthetho wedolophu, amagama esini asetyenzisiweyo esamadoda abandakanya nabafazi, isinye sibandakanya isininzi , ngokufanayo, ngaphandle kokuba kuphawulwe ngenye indlela xa kubhalwa –

   "**isilwanyana**" kusingisele kulo nakusiphi na esikuhlelo lemfuyo elihashe nenkomo, igusha, ibhokhwe, ihagu, inkukhu, inja, ikati, okanye nasiphi na isilwanyana sasekhaya okanye intaka okanye isilwanyana sasendle, intaka yasendle okanye esirhubuluzayo esiselugcinweni okanye esiphantsi kolawulo lomntu;

   "**igosa eligunyazisiweyo**" kusingisele –

   (a) Igosa likamasipala eligunyazisiweyo nguye ukulawula, ukufezekisa nokunyanzelisa ulungiselelo lwale mithetho yedolophu;

   (b) Igosa lendlela elonyuliweyo ngokuphathelele kwiCandelo 3A loMthetho weZendlela onguMthetho weSizwe, 1996 (uMthetho ongumbolo 93 ka1996);

(c) ilungu lenkonzo yamapolisa, njengoko kuchaziwe ngokuphathelele kwiCandelo 1 loMthetho weNkonzo yamaPolisa aseMzantsi Afrika, 1995 (uMthetho onguNombolo 68 ka1995;) okanye

(d) igosa loxolo, elenza ngokuphathelele kwiCandelo 334 loMthetho weNkqubo ejongene nobuNdlobongela, 1977(Umthetho ongunombolo 51 ka1977);

"i**ikati**" kusingisele kwisakhiwo esigcina okanye sofuyo lweekati;

"**ugcino**", ngokuphathelele kwizilwanyana, kuthetha ukuba nezilwanyana ezinjalo, phantsi kolawulo, okanye eluvalelweni, okanye ukukhusela isilwanyana esilolo hlobo;

"**indlu yenja**" kusingisele kwisakhiwo esigcina isilwanyana okanye ufuyo lwezinja;

"**umasipala**" kusingisele kuMasipala waseNgqushwa, owakhiwe ngokuphathelele kwiCandelo 12 lobuRhulumente basemaKhaya; Umthetho weZakhiwo zikaMasipala, umphathi we-ofisi yezopolitiko, uceba, isebe eligunyazisiweyo ngoko okanye nawuphi na umqeshwa ngoko osebenza ngokuphathelele ngalo mthetho wedolophu ngokusegunyeni alinikwe ngumasipala nonikwe loo msebenzi onjalo wezopolitiko, i-ofisi yolawulo lwezopolitiko, uceba okanye isebe okanye umqeshwa;

"**inkathazo**" kusingisele kumsebenzi, ukushiywa okanye imeko apho, ngokombono ocacileyo kamasipala, impilo enobungozi empilweni, okanye ulwaphulo-mthetho, okanye ubungozi, okanye ephazamisana nendlela yokusebenza okanye efanelekileyo yoluntu, okanye echana ngenye indlela ukhuseleko loluntu, okanye ephazamisa inzolo yabamelwane;

"**umnini**", ngokuphathelele kwisilwanyana, kusingisele kuye nawuphi na umntu ogcina isilwanyana, kwaye kubandakanya nawuphi na umntu ekuthi isilwanyana, okanye naziphi na izakhiwo kummandla wolawulo lukamasipala;

"**isilwanyana**" kusingisele kuyo nayiphi na inja, ikati, ihangu, impuku efunyiweyo, umvundla, nembila okanye intaka engagcinelwanga ukufuywa okanye ngeenjongo zoshishino;

"**ukuhlanjwa kwezilwanyana**" kusingisele kwisakhiwo apho izilwanyana zibrashwa khona, zicocwe okanye zigcinwe;

"**ivenkile yezilwanyana**" kusingisele kwisakhiwo esithengisa imveliso yokondla imfuyo okanye ezinye izilwanyana;

"**iphondi**" kusingisele kwindawo ekugcinwa kuyo izilwanyana ezilahlekileyo zisisiwa eluvalelweni, kwaye iqulunqwe ngokuphathelele kuMthetho kaMasipala, 1974(uMthetho kaMasipala waseKapa ongunombolo 20 ka1974) okanye ofana nalowo;

"**isakhiwo**" kusingisele kumhlatyana obhaliswe kwi-ofisi yobhaliso lwezakhiwo njengesiza, ukrozo lwezindlu, iploti, istandi, ukrozo lwezindlu eziyinxalenye yomhlatyana owandlalwe njengelokishi, kodwa ungekabhaliswa, inxalenye yeso sakhiwo, isitandi okanye ukrozo lwezindlu, kwaye kubandakanya nasiphi na isakhiwo sokuhlala esingaphandle kwelokishi, ngaphandle kokuba amasebe aseburhulumenteni, amaziko oshishino okanye imizi-mveliso kunye, nalapho kubhalwe njengemfuneko, izakhiwo ezikweso siza, istandi okanye ukrozo lwezindlu;

"**iindawo ezisesidlangalaleni**" kusingisele kuso nasiphi na isikwere, ipaki, ummandla woluntu lonke, amabala olonwabo, amabala ezemidlalo, isitalato esimxinwa phakathi kwezakhiwo, indawo evulelekileyo okanye evaliweyo egunyaziswe kumasipala okanye nasiphi na isigaba saseburhulumenteni, okanye indawo ephawulwe njengaleyo kushicilelo olwenziwe kuPhando Jikelele, okanye esetyenziswe luluntu okanye eyabiweyo ngolo hlobo ephathelele kwisikimu esifumaneka ngolwabiwo okanye nangaliphi na ixesha elichazwe okanye elisetyenziswe ngolo hlobo ngumasipala okanye naliphi na iziko elisebenzayo;

"**iindlela zikawonke-wonke**" kusingisele kuyo nayiphi na indlela, isitalato okanye indawo ethubelezisayo okanye nayiphi na indawo esetyenziswa rhoqo luluntu, okanye naliphi na icandelo ngoko, okanye apho uluntu, okanye naliphi na icandelo ngoko linemvume yokungena, kwaye kubandakanya –

(a) ekupheleni kwayo indlela enjalo, isitalato okanye indawo ephumelayo;

(b) nayiphi na indlela yeenyawo okanye ipavumente okanye indawana nje yokuhamba kwabantu yendlela ebekiweyo;

(c) nayiphi na ibhulorho, umsinga okanye indlela enqamleza kudonga, isitalato okanye indlela ephumelayo, indlela yeenyawo okanye indledlana esecaleni lendlela; kwaye

(d) nawuphi na umsebenzi okanye into exhomekeke kuloo ndlela, isitalato okanye indawo ephumelayo, indlela yeenyawo okanye indledlana esecaleni lendlela; kwaye

(e) nayiphi na indawnoe okanye engenasakhiwo kuyo, esetyenziswa okanye ebekwe bucala njengendawo

yokupaka kawonke-wonke okanye yokupaka iimoto kawonke-wonke, nokokuba ukufikelela kuloo ndawo yokupaka engahlawulelwayo.

Amalungiselelo alo mthetho wedolophu

2. (a) Amalungiselelo alo mthetho wedolophu aza kusebenza kwinkqubo yokugcinwa zonke izinja kunye nenzinye izilwanyana ezikwimida yalo masipala.

(b) Amalungiselelo ecandelo 11 awazi kusebenza kwinja ethembekileyo esetyenziselwa ukukhokela ngokunyanisekileyo umntu ongaboniyo.

ISAHLUKO II

UKUGCINWA KWEZINJA KWANEZINYE IZILWANYANA

Isicelo esibhalwe phantsi kunye nemirhumo

3. (1) Akukho mntu unako ukugcina okanye avumele ukugcina nakusiphi na isiza okanye indawo yoluntu isilwanyana ngaphandle kwemvume kamasipala.

(2) Imvume enjalo ingahlehliswa ngumasipala nangaliphi na ixesha, ukuba-

(a) ukugcinwa kwesilwanyana eso kubangela okanye kuveza inkathazo nakuwuphi na umntu; okanye

(b) umnini-silwanyana, okanye nawuphi na umntu ogcina isilwanyana, engasivumeli isilwanyana eso ukuba sifumane unonophelo okanye isihoyo, okanye isilwanyana eso asikhathalelwanga; okanye

(c) ulwaphulo lwalo mthetho wedolophu

(3). Ulungiselelo lwecandelwana(1) akuzikusebenza koku –

(a) isiza okanye umhlaba olungiselelwe iinjongo zokulima; kwaye

(b) imfuyo, ngaphandle kwemeko apho imfuyo igciniwe kwindawo okanye esidlangalaleni – apho

(i) imvume kamasipala ebhalwe phantsi iza kufumaneka

(ii) intlawulo yawo nawuphi na umrhumo ofanelekileyo uza kwenziwa, njengoko kuyimfuneko kumasipala

(4) Umasipala anganyanzelisa umrhumo ngogcino lwaso nasiphi na isilwanyana, kukhutshwe ilayisenisi njengesiqinisekiso sentlawulo yomrhumo onjalo ngumntu lowo.

Uxanduva mayela nokugcinwa kwezi zilwanyana

4. Nawuphi na umntu ogcina isilwanyana nakusiphi na isiza okanye indawo yoluntu uza kwenza oko ngokusezingqondweni, nangendlela engaqinisekisa okokuba –

   (a) akukho nkathazo ebangelwa okanye evuswa nakuwuphi na umntu; kwaye

   (b) Isilwanyana silungiselelwe ukutya namanzi, sinikwe indawo yokuhlala efanelekileyo, sivunyelwe ukuzilolonga ngokwaneleyo apho kuyimfuneko, kwaye sifumane inkathalo ngokubanzi.

UMasipala angamisa imiqathango emayela nogcino lwezilwanyana

5. (1) Ngeenjongo zokulawula ugcino lwezilwanyana, umasipala angenza izigqibo ngeemeko eziphathelele –

   (a) inani lezilwanyana ezingagcinwa;

   (b) uhlobo lwesilwanyana esingagcinwa;

   (c) izixhobo ezifunekayo ukugcina izilwanyana; kwaye

   (d) iindawo apho ugcino lwezilwanyana kunga

      (i) kube nemiqathango;

      (ii) kungavunywa okanye

      (iii) zingachaphazeleki nakuluphi na ulungiselelo oluthile lwalo mthetho wedolophu.

   (2) Xa kuqulunqwa lo msebenzi, njengezo ziqulathwe kwicandelwana (1) umasipala uzakuqwalaselisisa –

   (a) izidube-dube ezikhoyo nezinokubakho ezibangelwe okanye zivuswe ngumntu ogcina nasiphi na isilwanyana; kwaye

   (b) ulondolozo okanye isihoyo esenziwa kwesi silwanyana.

   (3) Phofu kuyimfuneko, ngokwembono elungileyo kamasipala, ukwenza uphando iimeko eziphathelele kugcino lwesilwanyana, ngeenjongo zokuzimisela ngokuphathelele kweli candela, umasipala angonyula okanye enze isicelo segosa elinemvume yokuqhuba

uphando olunjalo.

(4) Naliphi na igosa eligunyazisiweyo elonyulelwe okanye elicelwe okokuba liqhube uphando ngokuphathelele kwicandelwana (3) liza kuqokelela lingenise ingxelo, kwisithuba seentsuku ezingamashumi amathathu lolonyulo okanye lwesicelo, lihlanganise ziphumo zoko likufumanisileyo.

(5) Le ngxelo ihlanganisiweyo yangeniswa ligosa elisemthethweni engeniswe ligosa eligunyaziizeyo iza kuqwalaselwa ngumasipala ngeenjongo zokusebenza kwayo

Inani lezinja

6. (1) Phantsi kolungiselelo olikwiCandelo 5, akukho mntu uvunyelwe ukugcina ngaphezulu kwesibini sezinja nakusiphi na isakhiwo, ngaphandle kokuba -

(a) imvume ebhalwe phantsi ngumasipala ifunyenwe; kwaye

(b) nawuphi na umrhumo ofanelekileyo uhlawulwe.

(2) umgcini-zinja onqwenela okokuba agcine ngaphezulu kwesibini sezinja –

(a) isiza esilungiselelwe iinjongo zolimo, uzakuvunyelwa ukwenza oko kungekho mimiselo; kwaye

(b) isiza esilungiselelwe naziphi na iinjongo ngaphandle kwezolimo, kufuneka ahambisane neemfuno ezilungiselelwe kwicandelwana (1)

(3) Nasiphi na isicelo esithunyelwa kumasipala ngokuphathelel kwicandelwana (1) asizi kuqwalaselwa ngumasipala ngaphandle kokuba aneliseke ngumlinganiselo wesiza apho izinja ziza kugcinwa kuso asizuku

(a) bangela okanye sivuse inkathazo kuye nawuphi na umntu; okanye

(b) kube neziphumo –

(i) ukungavunyelwa okanye ukunganonotshelwa kwezinja; okanye

(ii) naluphi na ulwaphulo lwalo mthetho wedolophu.

(4) Ukwamkeleka kumasipala ngokuphathelele kwicandelwana (1) ukuba kugcinwe ngaphezulu kwesibini sezinja kwisiza kuza kukhutshwa kuphela xa iimeko ezo kunye nemiqathango njengoko umasipala angabona ngako kufanele ukuwufaka.

(5) Umasipala anganako nangaliphi na ixesha ukurhoxisa nakuphi na ukuvunywa okunikezelwe ngokuphathelele kwicandelwana (1), ngaphandle kokuba iimeko ezithile zibe zikho.

Ulawulo lwezilwanyana

7. Akukho mntu uvumelekileyo –

(1) Ukubongoza okanye ukuxhokonxa nasiphi na isilwanyana ukuba sihlasele, siphazamise okanye soyikise nawuphi na umntu okanye esinye isilwanyana, kuphela xa kuyimfuneko oko ukuze kukhuseleke ngokusemthethweni komntu onjalo okhakanyiweyo kuqala, isakhiwo sakhe, okanye isakhiwo sakhe nawuphi na umntu;

(2) ukugcina nasiphi na isilwanyana, ngoku-

a. kukhonkotha, ukwenza intsholo, ukuhawula okanye ukuncwina;

b. ukuleqana neemoto, ezinye izilwanyana, abanye bantu, ngaphandle kwaso nasiphi na isiza egcinwe kuso; okanye

c. ukuziphatha ngayo nayiphi na indlela – iphazamisana nenzolo, kubamelwana okanye kuluntu ngokubanzi;

(3) ukuvumela nasiphi na isilwanyana esigcinwe okanye salo mntu –

(a) sibe nakuyiphi na indlela kawonke-wonke okanye indawo kawonke-wonke ngelixa sichaphazeleka kukhwekhwe okanye nasiphi na isifo esisulelayo okanye esosulelayo);

(b) esinobundlobongela, esikhohlakeleyo sibe singakwiindlela zoluntu, okanye iindawo zoluntu, ngaphandle xa sibotshelelwe sigcinwe kumnxeba siphantsi kolawulo lomtu onjalo, okanye nawuphi na umntu onolo xanduva;

(c) singanqumli kwiindawo zabucala;

(d) singaphazamisani neemoto ezindleleni;

(e) ukuqulatha, okanye sibenobungozi okanye sonakalise nawuphi na umntu ongaphandle kwezakhiwo apho isilwanyana esinjalo sigcinwe khona; okanye

(f) sibe sendlelni kawonke-wonke, okanye indawo kawonke-wonke, kuphela xa siphantsi kolawulo lo mntu onoxanduva.

Ubiyo lwezakhiwo

8. (a) Akukho nawuphi na umntu onokugcina isilwanyana xa isakhiwo eso singabiywanga kakhulu okanye ngendlela efanelekileyo ukuze sibe nokugcina isilwanyana esinjalo phakathi sibotshelelwe ngaphakathi kwisakhiwo esinjalo apho singenamnxeba.

(b) Nawuphi na umntu ogcina isilwanyana nakusiphi na isakhiwo kumele ahambisane ngamaxesha onke noMthetho woBiyo, 1963 (Umthetho onguNombolo.31 ka1963)

Izilwanyana zingabinabungozi

9. (a) Nawuphi na umntu ogcina isilwanyana nakusiphi na isakhiwo uza kusigcina isilwanyana esinjalo ngendlela eza kwenza singabinabungozi kubasebenzi bakamasipala abangena kweso siza ngeenjongo zokusebenza.

(b) Isaziso sokokuba kuloo ndawo kugcinwa isilwanyana kufaneleke okokuba sikhutshwe sibonakalaliswe kwindawo esekuhleni.

Ukususwa kwezinto ezibonobungozi

10. Ukuba ngaba nayiphi na inja ishiya ilindle kwindawo yoluntu okanye kwizitalato zoluntu, ngoko nawuphi na umntu onoxanduva lwenja leyo kuza kufuneka alisuse ngokulifaka kwiplastiki yenkunkuma okanye kwibhegi yenkunkuma okanye kwisibopheli, alilahle kumgqomo wenkunkuma ukuze lilahlwe.

Izilwanyana ezikwiivenkile ezithengisa ukutya

11. Nawuphi na umntu, nokokuba ngumnini-ndawo okulawulo lwalo ndawo, ivenkile okanye nayiphi na indawo apho kuphekelwa khona, kuthengiswa khona akanakuvumela nasiphi na isilwanyana ukuba sihlale kuloo venkile okanye kuloo ndawo

Izicwangciso zolwakhiwo kunye nolawulo

12. (a) Isicelo semvume ebhalwe phantsi sokugcina izilwanyana, njengoko kuchazwe ngokuphathelele kwicandelo 3(1), siza kukhatshwa sisicwangciso esineenkcukacha zeplani yesakhiwo esibonisa isakhiwo kunye neengcingo, ezikhoyo nezisaza kubakho, kweso siza.

(b) Izicwangciso ezineenkcukacha ezibalulweyo ziza kungeniswa zamkelwe ngumasipala kuqatshelwa zonke izakhiwo apho izilwanyana ziza kugcinwa khona.

(c) Ingcaciso ezeleyo yenani, iintlobo kunye nomlinganiselo kunye

nesini sezilwanyana eziza kugcinwa kweso siza ziza kuhamba ndawonye nesicwangciso

(d) Nangona nayiphi na enye into ephikisana noko kuqulathwe kulo mthetho wedolophu, umasipala angala ukwamkela isicelo kunye nezicwangciso, ukwaba izakhiwo, ngokuphathelele kwiindawo ezikuyo, iziza ezakhiwe kuzo okanye ummandla ezikuwo, ayifanelekanga ngoko ukuba igcine izilwanyana.

Izakhiwo kumele zihambisane kunye neemfuno

13. (a) Zonke izakhiwo zokugcina izilwanyana ziza kwakhiwa ngendlela yesakhiwo sendlu yokuhlala umntu, kwanangezixhobo zokwakha ezivunywe ngumasipala.

(b) Akukho sakhiwo esiza kwakhiwa phakathi komgama oziimitha ezili15m ukususka kumda wesakhiwo esikwisiza somntu, okanye phakathi kweemitha ezisibhozo ukususka kumda wendlela. Umasipala anganako, kuxhomekeka kwiimeko, nangokucinga kwakhe, ayekelele kule mimmandla ichaziweyo.

(c) Konke okuyinxalenye yesakhiwo apho izilwanyana ziza kugcinwa khona kuza kulondolozwa kakuhle kupeyintwe, kangangoko umasipala ebona kuyimfuneko.

(d) Akukho silwanyana siza kugcinwa kwisakhiwo okanye kumhlaba obonwa ngumasipala njengongafanelekanga ngenxa yobume baso, ulwakhiwo lwaso okanye indlela esisetyenziselwa yona.

Iindawo kumele zigcinwe zicocekile

14. (a) Wonke umgquba wezilwanyana uza kugcinwa ngendlela eyamkelekileyo kumasipala, kwaye ulahlwe maxa onke kwindawo evunyiweyo okanye eyokulahla inkunkuma, ukukhusela iinkathazo zingabikho.

(b) Konke ukudla kwezilwanyana kuza kugcinwa kwindawo enophahla oluthintela izikrekrethi zingangeni nebonwa ngumasipala ifanelekile.

(c) Izakhiwo apho izilwanyana zigcinwa khona ziza kugcinwa ngendlela eza kwenza zingatsali okanye zinganiki indawo yokuhlala izikrekrethi.

Izilwanyana zigcinwa ngendlela eyanelisayo

15. (a) Ukuba, kuhamba ngokombono kamasipala, naziphi na zilwanyana okanye imfuyo yasekhaya egcinwe kwisakhiwo, nokokuba isakhiwo eso samkelekile kumasipala phantsi komthetho wedolophu, kuvusa iinkathazo, ngoko ke umasipala anganako, ngokubhala isaziso, afune okokuba umnini-ndlu okanye umhlali waloo ndlu, kwisithuba esiza

kuchazwa kwisaziso esinjalo, kodwa kungekho ngaphantsi kweeyure ezingama24, senze umsebenzi onjalo obonakala kumasipala ufanelekile ukuba udambise iinkathazo.

(b) Xa umnini-ndlu okanye umhlali esala okanye engaphumeleli ukuhambisana neemfuno zesaziso esibhalwe njalo, umasipala angarhoxa kwimvume ayibhale ngokuphathelele kwicandelo 3(1)

Izilwanyana ezibhadulayo

16. (1) Igosa eligunyaziisweyo linganako –

(a) Ukuthabatha nasiphi na isilwanyana esifumaneke kwisakhiwo, kwindawo yoluntu
okanye ezidleleni zikawonke-wonke –

(i) esingekho phantsi kolawulo okanye iliso lomntu;

(ii) kudala okanye kuveza inkathazo;

(b) Ukuthimba okanye ukubangela ukuthinjwa kwezilwanyana ezinjalo ezilugcinweni kwiphondi okanye indawo eyakhiwe ngumasipala ukulungiselela iimeko ezinjalo.

(2). Umasipala angasithengisa isilwanyana esithinjwe ngokwecandelwana (1) (b), ngaphandle kokuba-

(a) ithuba elingekho ngaphantsi kweentsuku ezingama 30 liphelelwe kususela ngethuba sithinjwa; kwaye

(b) umasipala uthabathe onke amanyathelo abonakalayo ukwazisa umnini-silwanyana ngesilwanyana esithinjiweyo

(3) Nasiphina isilwanyana esithinjiweyo ngokuphathelele kwicandelwana (1) (b) singatshatyalaliswa, nalapho isilwanyana eso –

(a) sithwele isifo esosulelayo okanye esinobungozi; okanye

(b) esinobundlobongela, esikhohlakeleyookanye esinobungozi, kangangokude sibe sivusa ubungozi obukhawulezileyo nobubonakalayo kwimpilo nokhuseleko lwezinye izilwanyana, okanye kuluntu ngokubanzi.

(4) Ukutshatyalaliswa kwaso nasiphi na isilwanyana ngokuphathelele kwicandelwana (3) kufanelekile okokuba kubonakalaliswe ngokufaka isilumkiso ngendlela ebonakalalisayo nenciphisa ukubulaleka kangangoko.

(5) Nasiphi na isilwanyana esithinjiweyo ngokuphathelele kweli candelo singakhutshwa sisiwe kumniniso, xa kuthe kwahlawulwa

imali eqingqwe ngumasipala, ukongeza oko nakuwo nawuphi na umrhumo onokuba lityala kumnini-silwanyana kumasipala ngokuphathelele kweso silwanyana.

(6) Ngokuphathelele kulungiselelo lweli candelo kungaphazamisana noMthetho wogcino lwezilwanyana (Pounds Act), 1984(Ponds Act (Ciskei) No.43 ka 1984, ulungiselelo lwalo mthetho ukhankanywe mva luza kubonakala.

ISAHLUKO III

IZINDLU ZEZINJA KUNYE NEZEEKATI

Iimfuno zezi ndawo

17. Akukho umntu unelungelo lokuba nendlu yenja okanye yekati ngaphandle kokuba iimfuno ezidweliswe ngezantsi abe uzifezile –

(a) Inja nganye okanye ikati igcinwe kwindlu yayo ngokuphathelele kwezi mfuno -

(i) Iza kwakhiwa ngezixhobo ezomeleleyo, kwaye kube lula ukuyicoca

(ii) Umgangatho wakhiwe ngekonkrithi okanye ngezixhoboezingaphazamisekiyo yatyatyekwa ngokugudileyo yaxozwa, ububanzi obuyi 100mm, yande ngobunye ububanzi kumgangatho iqukunjelwe, ikwazi ukuthubelezisa imibhobho yokuthululela okwangasese ngokwenkqubo kamasipala ngophayiphi womhlaba okanye nawuphi na uphayiphi opasisiwe ngokomlinganiselo wedayamitha ubuncinane bube yi 100mm, okanye ngenkqubo eyiyenye yokulahlwa kokwangasese; kwaye

(iii) Umqukumbelo wendlela okuphakama kwawo kuyi 150m kuza kunikezelwa ngobude bokuthubelezisa obukhankanywe kwicandelwana (ii) nasemacaleni ngoko ajongene nongqameko olukummandla ongaphandle ojikelezileyo, ukuthintela amanzi esikhukula kususela kuloo ndawo engenelayo.

(b) Nawuphi na umqukumbelo njengoko kukhanywe ngasentla kwicandelwana (a) uza kuqulatha indlu enophahla yokugcina izinja kunye neekati, kwaye indlu enjalo kufaneleke ihambisane nezi mfuno zilandelayo –

(i) udonga ngalunye luza kwakhiwa ngesitena okanye ikonkrithi okanye izixhobo ezomeleleyo ngaphathe ibe yegudileyo engenazintanda okanye umdibaniso ovulekileyo;

(ii) umgubasi ube ngowekonkrithi, okanye izixhobo ezizezinye ezingatshabalaliyo, eziqukunjelwe ngokugudileyo, zingenazintanda okanye kuqhekeka phakathi kumgubasi iindonga zibe zezakhiwe ngokomeleleyo kwaye

(iii) indlu nganye iza kuba nako ukucoceka lula, kwaye kutshatyalaliswe iintakumba.

(c) Endaweni yendlu, njengoko kukhankayiwe kwicandelo (b), izinja zingalungiselela zibe nendlu yazo enako ukujikeleziswa eyenziwe nge-asbestos ebunjiweyo okanye nasiphi na isixhobo esifanayo, sibekwe kumgubasi owakhiwe ngesiqina esiyikonkriti okanye izixhobo ezingatshabalaliyo iqukunjelwe ngokugudileyo kungekho zintanda okanye kuvuleka. Xa umgubasi waloo ndlu yenja ungenasithinteli samanzi, ngoko ke ibhodi yokulala, iza kubangela okokuba inja ihlale yomile, ibe kwindlu yenja nganye

(d) Isithinteli sekonkrithi esibubanzi obuyimitha ubuncinane siza kukhutshwa ekungeneni kwalo mqukumbelo kangagobubanzi bawo, kwaye isithinteli siza kugreyidwa ukuze amanzi abenokuthubeleza aphume emqukumbelweni.

(e) Amanzi aziswe, alungele ukuselwa nokucoca, abekwe angqamane malunga nokuphela kwayo.

(f) Konke ukutya kuza kugcinwa kwindawo yako ekhuselekileyo kwizinambuzane. Konke ukutya okulula kuza kugcinwa kwizitya ezivalekayo.

(g) Ubuncinane ziimitha ezintlanu, zendawo engaphazamisekiyo ezishiyiweyo phakathi kwendlu yezilwanyana nganye okanye ekupheleni nakungqameko lwendlu nganye ehlala abantu, okanye indawo nayiphi na esetyenziselwa ukugcina ukutya okanye kulungiselelwe ukutyiwa ngabantu

(h) Izixhobo ezilungiselelwe izinja neekati ezigulayo ziza kubakho ngokweemfuno zikamasipala.

(i) Nxa iikheji zikhona ukulungiselela iikati, iikheji ezo mazibe zezenziwe ngezixhobo ezingatshabalaliyo, kwaye zakhiwe ngendlela eyenza kube lula ukuzicoca.

ISAHLUKO IV

IIVENKILE ZEMFUYO

Iimfuno zezi zindlu

18. Akukho mntu uza kuqhuba ishishini levenkile yemfuyo nakusiphi na isakhiwo, ngaphandle kokuba isakhiwo eso sakhiwe saxhotyiswa

ngokuphathelele kwezi mfuno –

(a) Udonga ngalunye, kubandakanya ipatishini yaso nasiphi na isakhiwo sakhiwe ngezitena, okanye izixhobo ezingonakaliyo, igude ngaphakathi, ipeyintwe ngepeyinti embala ucoceka lula, okanye equkunjelwe ngokugudileyo.

(b) Umgubasi waso nasiphi na isakhiwo uza kwakhiwa ngekonkrithi okanye ngezixhobo ezomeleleyo nezingagugiyo eziqukunjelwe ngokugudileyo.

(c) Uphahla lwesakhiwo ngasinye lwakhiwe ngezixhobo ezingagugiyo, sibe nomqukumbelo ogudileyo, othintela uthuli, ipeyintwe ngepeyinti embala ulula ukucoceka.

(d) Izixhobo zokucoca izindlu zezilwanyana zangasese, zibe zezifanelekileyo njengokufuneka kumthetho wokwakha kwisizwe.

(e) Kuza kubakho indawo yokugcina ekumele ibenophahla oluthintela izinambuzane njengoko kuyimfuno kamasipala.

(f) Izixhobo zokuhlamba iikheji, iitreyi kunye nezinye izixhobo ekulungiselelwe ngazo kwesi sakhiwo, zibe zezonelisayo kumasipala.

(g) Xa kuyimfuneko, kubekho izixhobo zegumbi lokutshintsha okanye indawo etshixwayo kweso sakhiwo, ukonelisa umasipala.

(h) Akukho lucango, fesitile okanye nayiphi na indawo evulekileyo nakuluphi na udonga kwesi sakhiwo eza kuba phakathi kweemitha ezimbini nakuluphi na ucango, ifesitile okanye nayiphi na indawo evulelekileyo ekwesinye isakhiwo apho kuphekelwa khona, kugcinwe ukutya okanye kuthengiswe ukuze kutyiwe ngabantu.

(i) Akuzukufikeleleka ngqo ukusuka kwizakhiwo apho ishishini levekile yemfuyo lingaqhutyelwa kwelinye igumbi lokuhlala, okanye nakuliphi na igumbi apho impahla, okanye ukutya kugcinwa khona.

Iimfuno zoshishino

19. Umntu ngamnye oqhuba ishishini levenkile yemfuyo –

(a) Ukulungiselela izindlu ezahlukeneyo zezilwanyana, ukulungiselela iikheyiji ezithuthekayo ukuhambisana nezi mfuno zilandelayo –

(i) Iikheyiji ziza kwakhiwa ngemethali, okanye ngezixhobo ezomeleleyo ziqiniswe ngetreyi yemethali ephakamisekayo

emgubasini, ukuze kube lula ukucoca;

(ii) Ikheyiji nganye kuza kuba lula ukuyicoca kuba ingayikuba namingxuma, nayiphi na indawo evulekileyo apha kuyo kuvalwe ngaphakathi ngesiciko

(iii) xa imivundla igcinwe kwikheyiji, itreyi yemethali ekhankanywe kwicandelwana(i) iza kuthululela kwindawo ekhongozelayo; kwaye

(iv) ikheyiji nganye iza kufakelwa isitya esokusela esizaliswe ngamanzi, nekulula ukufikeleleka kwizilwanyana ezikwikheyiji;

(b) kufakelwe uphahla oluthintela izinambuzane olwakhiwe ngezixhobo ezingenakuchukunyiswa ezineziciko kwiindawo zokugcinwa kwivenkile yemfuyo, nalapho kuza kugcinwa khona konke ukutya kwemfuyo;

(c) zilondolozwe ezi zakhiwo kwaye ikheyiji nganye, itreyi, isingxobo sokukhongozela, ibhasikithi kunye nazo zonke izixhobo kunye neziqhakamsheli zombane ezisetyenizswayo ngokuphathelele kwivenkile yemfuyo ecocekileyo, iimeko zococeko, zikhuselekile kwiincukuthu, zilungiswe kakuhle;

(d) kuthatyathwe umlinganiselo wokubulala okanye ukuthintela ukugcinwa okanye ukugcwala kweempukane, amakorokoshe, izinambuzane kunye nezinye iincukuthu kwanokuthintela izifafazi ezinganokuchaphazela uluntu ngokugcinwa kwezilwanyan kwezo zakhiwo;

(e) ukuza nempahla enxitywa ngaphezulu eyi-ovaroli okanye naziphi na impahla zokuthintela ukungcola ezinokusetyenziswa ngabantu abasebenza apho ngokungqamene nevekile yemfuyo, kwanokuqinisekisa okokuba zinxitywe ngumsebenzi ngamnye kule venkile xa esemsebenzini;

(f) ngamaxesha onke isilwanyana ngasinye esikwesi sakhiwo sigcinwe ngaphandle xa kukho imvumve kamasipala

(g) ukuzisa izixhobo zokugcina bucala xa kubekho nasiphi na isilwanyana esithe sagula sigcinwe kwesi sakhiwo;

(h) ukuqinisekisa ukuba amanzi asoloko ethuthwa rhoqo kwesi sakhiwo aza kusetyenziselwa ukusela nokucoca;

(i) ukuqinisekisa okokuba izakhiwo ngamaxesha onke zibethwa ngumoya ukuqinisekisa ukuze kuphile izilwanyana; kwaye

(j) kuqinisekiswe okokuba inani lwezilwanyana ngokwekheji nganye ayenzi kube lula ukuthintela ukuhamba-hamba kwesi lwanyana eso.

ISAHLUKO V

IINDAWO ZOKUHLAMBA IZILWANYANA

Iimfuno zezi zakhiwo

20. Akukho mntu uza kuqhuba ishishini lokuhlamba izilwanyana okanye nakusiphi na isakhiwo, ngaphandle kokuba isakhiwo sibe sakhiwe saxhotyiswa ngokuphathelele kwezi mfuno zilandelayo –

(a) kuza kubakho igumbi elinomgangatho omlinganiselo ubuncinane buyi 6.5 (isithandathu esinesiqingatha) ngokweemitha zesikwere ukulungiselela ukuhlanjwa, ukoma nokucetywa kwezilwanyana

(b) Umgangatho welo gumbi uza kwakhiwa ngendlela yekonkrithi okanye ngezinye izixhobo ezingonakaliyo, eziqukunjelwe kakuhle zaphuculwa kwitshaneli ehluzwe ngokuphathelele kumthetho wokwakha wesizwe.

(c) Isithuba esiphakathi komgangatho nodonga lwelo gumbi siza kuvalwa kwaye isigqubuthelo eso sibe nomlinganiselo ubuncinane ongama75mm

(d) Udonga ngalunye olungaphakathi luza ktyabekwa lupeyintwe ngepeyinti embala ulula ibe nokuhlambeka lula.

(e) Igumbi liza kuxhotyiswa ngoku kulandelayo –

(i) iibhafu okanye isixhobo esifanayo esinamanzi aphuma rhoqo ashushu nabandayo, ahluzwe ngokomthethowezakhiwo wesizwe;

(ii) itafile emphezulu wayo ungachukumisekiyo kwaye

(iii) izixhobo zokulahla inkunkuma ezakhiwe ngemathiriyeli engachukumisekiyo nehlala ithuba elide, yakhiwe ukuze icoceke lula

(f) Ukuba iikheyiji okanye izindlu zezinja zikhutshwe ukuze zigcine izilwanyana, ezo kheji okanye izindlu zezilwanyana mazibe zezezixhobo ezingagugiyo, zakhiwe ngendlela eyenza kube lula ukuzicoca

Iimfuno zeshishini

21. Umntu ngamnye oqhuba ishishini lokuhlamba izilwanyana kufuneka

    (a) aqinisekise okokuba ikheji nganye, kubandakanya isisekelo sayo, sakhiwe ngemethali, kwaye sinako ukuthutheka;

    (b) ukuqinisekisa okokuba amalungiselelo ezitshabalalisa izinambuzane, kunye nezinto ezisetyenziswayo ukulungiselela ukuhlamba izilwanyana nezixhobo zokucoca zigcinwa kwikhadibhodi eyahlukeneyo eyimethali;

    (c) ukuqinisekisa okokuba zonke iitafile zokomisa nokugcina izilwanyana zenziwe ngemethali, zinomphezulu owomeleleyo nongachukumisekiyo;

    (d) ukulondoloza ezi zakhiwo kwaye ikheji nganye, itreyi, isisekelo, ibhasikithi kunye nezixhobo neziqhagamsheli ezisebenza kule ndlu yezilwanyana zicocekile kwaye zilungiswe kakuhle kwaye zikhuselekile kwivermin;

    (e) kugcina ngamaxesha onke isilwanyana ngasinye esikwisakhiwo esikwisiza eso, ngaphandle kokuba kube kuvunywe ngaphambili ngumasipala

    (f) kubekho iireceptacles zokugcina ezithuthekayo ezenziwe ngezixhobo ezivalekayo, ukuze kugcinwe inkunkuma yezinja okanye yeekati; kwaye

    (g) kulahlwe yonke inkunkuma, nezinye izinto ezinokulahlwa ezisuka kweso sakhiwo ubuncinane kanye kwisithuba seeyure ezingam24, ifakwe kwizisekelo ezikhankanywe kwicandelwana (f).

ISAHLUKO VI

EZINYE IZINTO

Uxanduva

22. Umasipala akanakukwazi ukuthabatha uxanduva ngayo nayiphi na ingozi eyehlayo okanye ngesifo esosulelayo esibangelwa yiyo nayiphi na inja, imfuyo okanye esinye isilwanyana, ngexesha okanye ngenxa yokuthatyathwa ukuthinjwa, ukubanjwa ukutshatyalaliswa, ngokuphathelele kulo mthetho wedolophu, ngaphandle kokuba umenzakalo, isifo okanye umonakalao ubangelwa kukungakhathaleli umasipala.

Isigwebo solwaphulo-mthetho

23. Nawuphi na umntu owophula lo mthetho, okanye ongahambisani nawo, nako nakuphi na okuqulathwe kulo mthetho wedolophu uza kufunyaniswa enetyala lokuba agwetywe ngesenzo solwaphulo-mthetho kwaye abenoxanduva xa ethe wabanjwa lokuba ahlawule isigwebo sakhe -

    (a) isigwebo esingamaR60 000, okanye avalelwe kangangesithuba seenyanga ezili12, okanye ngokuvalelwa entolongweni kungenziwa ntlawulo okanye agwetywe intlawulo avalelwe;

    (b) kwimeko apho ulwaphulo-mthetho luye lusanda, kongezelelwe intlawulo yemali enagamR600, okanye kongezelelwa iinstuku zokuvalela usuku, okanye isigwebo sibe sesokuvalelwa kungenziwa ntlawulo, okanye zombini kongezwe intlawulo kunye novalelo, ngosuku ngalunye xa kuphinde kwabakho ukona; kwaye

    (c) imali eyongeziweyo elingana neendleko kunye nenkcitho efunyenwe yinkundla izindleko zikamasipala ngenxa yolwaphulo-mthetho olo okanye ngokungenziwa komthetho lowo.

Imithetho

24. (1) Umasipala angawisa umthetho ngokuphathelele

    (a) kunikezelo lwemvume ebhalwe phantsi yokugcinwa kwezilwanyana, ukurhoxiswa kwemvume leyo, kunye nokukhutshelwa ecaleni kumalungiselelo ecandelo3(1);

    (b) ukunyanzeliswa kwentlawulo yemirhumo nokukhutshwa kwelayisenisi, njengoko kuchazwe ngokuphathelele kwicandelo3(1);
    (c) ukusetyenziswa kwamagunya ngokuphathelele kwicandelo 5, kubandakanya –

    (i) ukumiswa kwemiqathango ngokuphathelele kwinani nohlobo lwezilwanyana ezinokugcinwa, izixhobo ezifunekayo, neendawo apho ukugcinwa kwezi zilwanyana kunokufakwa umthetho, kuthintelwe kulungiselelo naluphi na lwalo mthetho wedolophu;

    (ii) ukumiswa kohlobo oluthile lwalo naluphi na ulungiselelo lwalo mthetho wedolophu apho indawo ethile inokukhutshelwa bucala ukuba ungenziwa, njengoko kuchaziwe ngokuphathelele kkwicandelo5 (1) d (iii);

    (iii) Ukuqulunqwa kohlobo uphando olunokwenziwa ngalo; kwaye

(iv) ulungiso lwexesha elisikiweyo ngokuphathelele ekuqokokelelweni nasekungenisweni kwengxelo;

(d) inani lezinja ezinokugcinwa nakusiphi na isakhiwo, ukunikezelwa kwemvume ebhalwe phantsi, kwnentlawulo yayo nayiphi na imirhumo, njengoko kuchazwe ngokwecandelo 6(1);

(e) ukwamkeleka kwesicelo nezicwangciso ezichazwe ngokuphathelele kwicandelo 12(b);

(f) iinkcukacha zeemfuno, kwanokunyanzeliswa okanye ukuphunyuzwa(relaxation) ngoko, kuqulathwe ngokuphathelele kumacandelo 13, 14, 17, 18, 19, 20 kunye no21;

(g) ukukhutshwa kwesaziso esibhalwe phantsi ngokuphathelele kwicandelo 15, kunye neziphumo zokungaphumeleli ukuhambisana nesaziso esinjalo;

(h) ukuthatyathwa, ukuvalelwa, nokubanjwa, ukuthengiswa okanye ukutshatyalaliswa kwezilwanyana ezizula-zulayo, njengoko kuchaziwe ngokomthetho wecandelo 16, kubandakanya –

(i) ukongezelelwa kwamagunya anokunikwa amagosa athile, eneze loo msebenzi wokuthabatha okanye ukuvalela izilwanyana;

(ii) ukumiswa kwendawo yokuvalela okanye nasiphi na esinye isakhiwo ekunokuthi isilwanyana sibe nokuvalelwa kuyo;

(iii) ukumiswa kwemithetho wokuthengiswa okanye wokutshatyalaliswa kwesilwanyana, neemeko ezihamba noko, njengoko kuchaziwe ngokuphathelele kwamacandelo 16(3)-(5); kunye

(iv) ukwenziwa kwentlawulo ukuze kukhululwe isilwanyana sibuyiselwe kumniniso;

(i)(i) ukwaziswa kwentlawulo yamatyala echaziweyo ngokuphathelele kumacandelo 23; kunye

(ii) ukulungiswa kweentawulo ezinjalo ngamaxa onke;

(j) nawuphi na umcimbi onokuchazwa ngokuphathelele kulo mthetho wedolophu, nawuphi na umba onokunceda ekusetyenzisweni kwalo mthetho.

(2) (a) Umasipala uzakuthi, kungekho ngaphantsi kwenyanga phambi kokuba akhuphe umthetho obhengeziweyo ophathelele kwicandelwana (1), ayile lo mthetho ukuze usasazwe kuluntu emakhaya upapashwe ngokuphathelele kwicandelo 21 kunye no21A lobuRhulumente basemaKhaya, uMthetho weNdlela yoLawulo, 2000 (uMthetho

onguNombolo 32 ka2000), ndawonye nesaziso esichaza iinjongo zikamasipala zokukhupha umthetho onjalo nokumema uluntu ukuba luhlabe amadlala okanye luphakamise izimvo.

(b) ukuba umasipala ugqiba kwelokuba atshintshe uyilo lwalo mthetho ngenxa yeembono nezimvo zabantu ezifunyenweyo emva kweso simemo, ngoko ke kuza kuba yimfuneko ukunxibelelana kwaziswe uluntu phambi kokuba kwenziwe utshintsho nanjengoko sele kuchaziwe.

Ukurhoxiswa komthetho wedolophu

25. Nawuphi na umthetho wedolophu ophathelele kugcino lwezinja kunye nezinye izilwanyana, owamkelweyo ngumasimapala okanye nayiphi ikansile kamasipala equlathe icandelo lolawulo lukamasipala, uza kukhatywa kususela kumhla lo mthetho okhutshwe ngawo.

ITayitile emfutshane

26. Lo mthetho wedolophu ubizwa ngokuba nguMthetho weDolophu oPhathelele kuGcino lweZinja kunye neZinye iziLwanyana, 2004, usebenza ngomhla ogqitywe ngumasipala ngokuchazwa kwiGazethi yePhondo