IRIPHABHULIKHI YASENINGIZIMU AFRIKA

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IMEMORANDAMU YEZIMPOKOPHELO ZOMTHETHOSIVIVINYWA

WOKUCHITSHIYELWA KOMTHETHO WOKUCWANINGWA KOMPHAKATHI, 2018

1. ISINGENISO

1.1 UMthetho wokuCwaningwa koMphakathi, 2004 (uMthetho Nombolo 25 wezi-2004) (okulandela lapha ozobizwa “ngoMthetho oyinhloko”), usebenza esigabeni 188 naku-189 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (“uMthethosisekelo”) ngokusungula nokubeka imisebenzi emikhulu yokucwaninga kuMcwaningi–Jikelele. Uma sibheka ukuhlinzekelwa okuqukethwe kuMthethosisekelo, kufundwa kanye noMthetho oyinhloko, uMcwaningi–Jikelele unenkululeko enkulu, emvumela ukukhetha ngokukhululeka izindlela abona ukuthi zizosebenza kahle ekwenzeni njengokuyalelwa umthethosisekelo.

1.2 Kodwa-ke, uMthetho oyinhloko awuniki uMcwaningi-Jikelele igunya lokusebenzisa izincomo ukuze aphenye imiphumela engemihle yocwaningo noma yokuthola lokhu okulahlekele uMbuso. Kulokhu-ke, uMcwaningi-Jikele uthembela esigungwini ukuthi kube yiso esisebenzisa lezi zincomo.

1.3 Kuleminyaka eyi-13 eyedlule selokhu kwaqala uMthetho oyinhloko, imizamo yoMcwaningi-Jikelele yokubeka imiphumela yokuphathwa budlabha kwezimali nendlela izimali ezisebenze ngayo ngemibiko yocwaningo kube nemiphumela exubile. Unyaka nonyaka uMcwaningi-Jikelele ubika izindodla zezimali ezingagunyaziwe, ezisetshenziswe budlabha nencitho engenasidingo.

2. IZIMPOKOPHELO ZOMTHETHOSIVIVINYWA

Ngakho-ke, inhloso yoMthethosivivinywa wokuChitshiyelwa koMthetho wokuCwaningwa koMphakathi, 2018 (okulandela lapha obizwa “ngoMthethosivivinywa”), uhlose ukuchibiyela uMthetho oyinhloko ukuze, kokunye, uhlinzekele imisebenzi eyengeziwe yoMcwaningi-Jikelele ukuze kutholakale okulahlekele uMbuso kanjalo nokudlulisela imiphumela engemihle ukuze iphenywe; ukucacisa umyalelo woMcwaningi-Jikelele wokwenza ucwaningo lwamazwe kanye nokucwaninga umsebenzi; kanye nokuqondanisa izinhlelo zokungamela zoMcwaningi-Jikelele nokwenza kwamanje okufanele.

3. OKUQUKETHWE UMTHETHOSIVIVINYWA

3.1 Umshwana 1 woMthethosivivinywa ufaka izincazelo ezintsha eMthethweni oyinhloko.

3.2 Umshwana 2 woMthethosivivinywa ufaka isigatshana esisha (3A) esigabeni 4 soMthetho oyinhloko esihlomisa uMcwaningi-Jikelele ukuthi abeke indlela yokwenza ngendlela abona ngayo uma enza ucwaningo okukhulunywa ngalo esigabeni 4(3) soMthetho oyinhloko. Umshwana 2 woMthethosivivinywa uphinde uchibiyele isigaba 4(4) soMthetho oyinhloko ukuhlinzekela uMcwaningi-Jikelele ngokuthi asebenzise ukubona kwakhe naphezu kwanoma imuphi omunye umthetho ophikisayo.

3.3 Umshwana 3 woMthethosivivinywa uchibiyela isigaba 5 ngokuhlinzekela ngemisebenzi eyengeziwe yoMcwaningi-Jikelele.

Umshwana 3 uchibiyela isigaba 5(1) soMthetho oyinhloko ngokufaka okuhlinzekelayo okuyalela uMcwaningi-Jikelele ukuthi enze ucwaningo lomsebenzi bese ehlinzeka ucwaningo nosizo oluthinta ezokucwaninga ezinhlanganweni zamazwe ahlukene, amabhodi, izikhungo noma izinhlangano inqobo uma zihlangabezana nemibandela ethile.

Umshwana 3 nawo ufaka izigatshana ezintsha (1A) kanye no (1B) esigabeni 5 soMthetho oyinhloko. Isigatshana esisha (1A) sihlomisa uMcwaningi-Jikelele ukuze awazi ukudlulisa imiphumela engemihle iye ophikweni olufanele ukuze iphenywe. Isigatshana esisha (1B) sihlomisa uMcwaningi-Jikelele ukuthi athole kumcwaningi mabhuku ezimali, abacwaningi mabhuku ezimali, isiphathimandla sezimali noma iziphathimandla zezimali, lokho okusebenzayo, konke uMbuso olahlekelwe yikho uma ingekho incazelo eyanelisayo yokuthi kungani lokhu kungatholakalanga.

Phezu kwalokho, umshwana 3 uchibiyela isigaba 5(2) soMthetho oyinhloko ngokuhlinzekela ukusungulwa nemisebenzi yekomidi lemiholo.

3.4 Umshwana 4 woMthethosivivinywa uchibiyela isigaba 7(1A) soMthetho oyinhloko ngokuhlinzekela ukuthi iKhomishana Ezimele, uma ibheka umholo woMcwaningi-Jikelele, kumele iphinde ixhumane nekomidi lemiholo elisha elisunguliwe.

3.5 Umshwana 5 woMthethosivivinywa uchibiyella isigaba 10 soMthetho oyinhloko ngokuhlinzekela ukuthi uMcwaningi-Jikelele manje sekumele athumele imibiko ngocwaningo lokusebenza kanye nocwaningo lwamazwe ahlukene, okungase manje kwenziwe, kuthunyelwe imibiko ngezindaba ezidluliselwe ebhodini elifanele ukuze ziphenywe, kuthunyelwe imibiko ngezitifiketi ezikhishiwe ukuze kutholakale lokhu obekulahlekile kanjalo nakumininingwane yezimali ezitholakele nezimali ezidiphozithiwe esiKhwameni semali kaHulumeni kanye nesiKhwama semali yesiFundazwe.

3.6 Umshwana 6 woMthethosivivinywa uchibiyela isigaba 20(2) soMthetho oyinhloko ukuze ubuyekeze okuqukethwe umbiko wocwaningo mayelana nezitatimende zezimali.

3.7 Umshwana 7 woMthethosivivinywa uchibiyela isigaba 23 soMthetho oyinhloko ngokuhlinzekela isivumelwano ngenani elikhulu noma iphesenti lezindleko zokucwaninga okumele zikhokhwe esabelweni sesiKhwama sikaZwelonke.

3.8 Umshwana 8 woMthethosivivinywa uchibiyela isigaba 34 soMthetho oyinhloko ukuze sihlinzekele ukuthi uMcwaningi-Jikelele kumele, uma ebheka iholo, izinkokhelo kanye nezinzuzo zabasebenzi, abheke izincomo zekomidi lemiholo.

3.9 Umshwana 9 woMthethosivivinywa uchibiyela isigaba 40(1) soMthetho oyinhloko ngokuhlinzekela ukuthi uMcwaningi-Jikelele, esikhundleni seSekela loMcwaningi-Jikelele, kumele asungule aphinde akhethe amalungu ekomidi locwaningo.

3.10 Umshwana 10 woMthethosivivinywa uchibiyela isigaba 52 soMthetho oyinhloko ngokucacisa izigaba zomthetho-mgomo okumele noma ongenziwa uMcwaningi-Jikelele.

3.11 Umshwana 11 uhlinzekela isihloko esifishane kanye nosuku lokuqala.

4. UMTHELELA ENKAMPANINI NAKUBASEBENZI

Kubonakala sengathi kuzodineka ukuthi kuqashwe abanye abasebenzi abathathu ukuze kusebenze le eminye imisebenzi eyengeziwe.

5. UMTHELELA KWEZEZIMALI ZOMBUSO

Isilinganiso sezindleko zokuqalisa ukusebenzisa amandla engeziwe oMcwaningi-Jikelele silinganiselwe ku-R33 956 979 ngonyaka eminyakeni yokuqala emithathu yonyakamali elandelayo emva kokuqala kokusebenza koMthethosivivinywa. Lesi sibalo sizolungiswa uma izinqubo ezintsha ziya zivuthwa ngokuhamba kwesikhathi. Ukuchibiyela okusele angeke kube nazindleko kuMbuso.

6. IMINYANGO, AMABHODI NOMA ABANTU OKUXHUNYANWE NABO

Kwaxhunyana nalaba babambiqhaza abalandelayo:

- UMcwaningi-Jikelele;
- Isikhwama seziMali sikaZwelonke

7. INQUBO YEPHALAMENDE

7.1 IKomidi liphakamisa ukuthi uMthethosivivinywa kumele usetshenzwe ngokwenqubo eyasungulwa isigaba 75 soMthethosisekelo njengoba singenakho okuhlinzekela ukusebenza kwalezi zinqubo ezisesigabeni 74 noma 76 zoMthethosisekelo.

7.2 IKomidi libona ukuthi asikho isidingo sokudlulisa lo Mthethosivivinywa uye eNdlini kaZwelonke yabaHoli beNdabuko ngokwesigaba 18(1)(a) soMthetho woHlaka lokusebenza lobuHoli nokuBusa kweNdabuko, 2003 (uMthetho Nombolo 41 wezi-2003), njengoba ungenakho ukuhlinzekela okumayelana nomthetho wendabuko noma wamasiko omphakathi womdabu.