



**UMASIPALA UMSUNDUZI**

**IMITHETHO KAMASIPALA EMAYELANA  
NEZINDAWO ZOKUNGCWABA KANYE  
NEZOKULOTHISA IZIDUMBU**

## **UMASIPALA WENDAWO UMSUNDUZI**

### **IMITHETHO KAMASIPALA ELAWULA IZINDAWO ZASEMATHUNENI KANYE NEZINDAWO ZOKULOTHISA IZIDUMBU**

UMasipala uMsunduzi usebenza ngokwesigaba 98 soHulumeni Bezindawo: uMthetho Wezinhlelo Zomasipala, wezi-2000 (uMthetho uNo. 32 wezi-2000), ofundwa kanye nesigaba 13 soMthetho okukhulunywa ngawo, ushicilela iMithetho kaMasipala elandelayo, njengalokhu ishaywe uMasipala, le Mithetho kaMasipala iyoqala ukusebenza ngosuku eyoshicilelwa ngalo.

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### **ISAPHLUKO 1**

#### **OKUJWAYELEKILE**

##### **1. IZINCAZELO ZAMAGAMA**

Kulemithetho kamasipala kanye nomongo yendaba ikhombisa lokhu okulandelayo:-

**“umuntu omdala”** kusho umuntu oshonile ongaphezu kweminyaka eyi-12 kanye nanoma yimuphi umuntu ibhokisi lakhe lomngcwabo elingeke lingene emgodini oyi-1,40m ubude kanye nobubanzi obungama-400mm;

**“imali ekhokhwayo uma sekudlule isikhathi somsebenzi”** kusho imali ekhokhwayo enqunywe ngaphezu kwaleyo yokukhokhela ukumngcwaba noma ukulothiswa kwesidumbu ngesikhathi esingale kwaleso esijwayelekile sokusebenza saphakathi neviki, esibekelwe ukulothisa izidumbu noma ukungcwaba, okuthi ngenxa yezenkolo, kwenziwe sekwedlule lawo mahora, kumbe uma kungcatshwa, lapho abazili bafuna ukuvala ithuna;

**“umlotha”** kusho izinsalela zomzimba olothisiwe;

**“UMthetho Wokubhaliswa Kokuzalwa kanye Nokushona ”** kusho uMthetho Wokubhaliswa Kokuzalwa kanye Nokushona, wezi-1992, (uMthetho uNo.51 we-1992);

**“isidumbu”** kusho nanoma yimuphi umzimba womuntu oshonile, kubandakanya nesidumbu sengane ezalwe isishonile;

**“Imiyalelo yokungcwaba”** kusho imiyalelo ekhishwe ngokoMthetho Wokubhaliswa Kokuzalwa kanye Nokushona;

**“ukungcwaba”** kusho ukungcwatshwa, ukugqitshwa enhlabathini kumbe nanoma yiluphi uhlobo lokungcatshwa futhi kubandakanya ithuna kanye nanoma iyiphi enye indlela yokufihlwa kwesidumbu;

**“indawo yokungcwaba”** kusho nanoma yimuphi umhlaba kumbe ingxenye yawo ekumasipala ebekwe eceleni nguMkhandlu kumbe egunyazwe nguMkhandlu yaba yindawo yokungcwaba;

**“ingane”** kusho umuntu oshonile ongeyena umuntu omdala;

**“UMkhandlu”** kusho uMkhandlu kaMasipala uMsunduzi kumbe nanoma yiliphi elinye ikomidi kumbe umsebenzi onikezwe amandla nguMkhandlu kaMasipala uMsunduzi noma iSikhulu Esiphezulu sikaMasipala uMsunduzi esijutshwe ukuba sisebenzise amandla ukuba senze imisebenzi ngokwale mithetho kamasipala;

**“isakhiwo esisemathuneni okugcinwa kuso izinsalela zesidumbu esilothisiwe”** kusho udonga okanye ingadi yesikhumbuzo;

**“ukulothiswa kwesidumbu”** kusho uhlelo lokulothisa isidumbu ngomlilo;

**“isikhulu esibhekele ukulothiswa kwezidumbu”** kusho inhlango, umphakathi, i-trust, kumbe inkampani egunyaziwe ukuthi iphathe futhi ilawule ukusebenza kwansuku zonke kwendawo yokulothisa izidumbu;

**“indawo yokulothisa izidumbu”** kusho indawo yokulothisa izidumbu njengoba ichazwe kusigaba 1 soMthetho Wezindawo Zokungcwaba kanye Nezokulothisa, uNo.12 we-1996 (waKwaZulu-Natali) futhi ubandakanya izakhiwo okwenzelwa kuzona imicimbi kanye nokulothiswa kwezidumbu;

**“ingxenye okulothiselwa kuyo izidumbu”** kusho ingxenye yasemangcwabeni noma yendawo yokulothisa izidumbu ebekwe eceleni nguMkhandlu ukuze kungcatshwe kuyona umlotha;

**“izinsalela zesidumbu esilothisiwe”** kusho zonke izinsalela ezikhona zomlotha emuva kohlelo lokulothisa;

**“ukumbululwa kwesidumbu”** kusho ukukhishwa kwesidumbu ethuneni laso;

**“ingadi yesikhumbuzo”** kusho kusho ingxenye yendawo yasemathuneni noma yalapho kulothiswa khona izidumbu ebekwe eceleni ukuze kwakhiwe indawo eyisikhumbuzo, kubekwe kumbe kusakazwe umlotha kodwa ayibandakanyi isakhiwo esisemathuneni okugcinwa kusho izinsalela zesidumbu esilothisiwe;

**“ithuna”** kusho nanoma iyiphi indawana embelwe ukuba kungcatshwe kuyo endaweni yasemathuneni futhi ibandakanya konke okuqukethwe, ikhandla letshe, noma okunye okubhaliwe kuleyo ndawo kanye nanoma yisiphi esinye isakhiwo esikhona noma esihlangene naleyo ndawo

**“ithuna lomuntu owashonela empini”** kusho ithuna lomuntu owashona ngesikhathi evikela izwe;

**“iqhawe”** kusho umuntu owenzela izwe isenzo ezinobuqhawe uMkhandlu wabe usumchoma uphapse lwegwalagwala;

**“umuntu ohlwempu”** kusho umuntu ontulayo oshone ngenxa yokuba hlwempu , kumbe okungekho sihlobo esitholakalayo kumbe omunye umuntu, inhlango yezenhlalakahle kumbe

inhlangothi engekho ngaphansi kukahulumeni ukuba ithwale izindleko zomngcwabo kumbe zokulothiswa kwalowo muntu oshonile futhi kubandakanya nomuntukazana;

**“usizo kumuntu ohlwempu”** kusho usizo olutholakalayo lokungcwaba kumbe lokulothiswa komuntu ohlwempu;

**imenenja: ezempilo yendawo**” kusho umsebenzi oqashwe nguMkhandlu futhi orejiste ngokufaneleyo waba uchwepheshe kwezenhlanzeko yendawo eMkhandlwini Wongoti Bezempilo baseNingizimu Afrika;

**“indawo ewudonga lwesikhumbuzo”** kusho endaweni yasemathuneni egciniwe ukuthi kwakhiwe izindawo zesikhumbuzo;

**“udonga lwesikhumbuzo”** kusho udonga olusendaweni yasemathuneni noma ingxenye okulothiselwa kuyo izidumbu okubekwa kuyo okusatshe eliqoshiwe eliyisikhumbuzo somuntu ongasekho emhlabeni;

**“itshe lesikhumbuzo”** kusho noma yiliphi itshe lesikhumbuzo engcwabeni, itshe lesikhumbuzo, into eyisicaba yokuhlobisa elengiswa odongeni, kumbe okunye okusetshenziswayo noma okuthile, okugxunyekiwe kumbe okuhloswe ukuba kugxunyekwe kunoma iyiphi indawo esemathuneni kumbe endaweni okulothiselwa kuyo izidumbu okuyisikhumbuzo somuntu ongasekho emhlabeni, futhi kubandakanya unqenqema oluhlukanisa ingcwaba, kanye nokusatshe okwembose ithuna;

**“uNgqongqoshe”** kusho Ilungu Lekhabhinethi elibhekele izindawo zasemathuneni kanye nezokulothiswa kwezidumbu KwaZulu-Natali;

**“indawo kamasipala”** kusho indawo engaphansi koMkhandlu;

**“ingosi”** kusho okusakamelwana elisendaweni okugcinwa kuyo umlotha kumbe ingadi yesikhumbuzo okugcinwa kuyo umlotha;

**“umsebenzi ophethe/umqaphi”** kusho umuntu oqashwe nguMkhandlu okumele ngaso sonke isikhathi alawule izindawo zasemathuneni;

**“okunqunywe”** kusho okunqunywe nguMkhandlu;

**“imali enqunyiwe”** kusho imali equnywe nguMkhandlu ngokwesinqumo sawo kumbe lowo oyongena emva kwawo;

**“umbazi wamatshe”** kusho umuntu oqhuba ibhizinisi lokubaza amatshe;

**“uMthetho”** kusho uMthetho waKwaZulu-Natali Wezindawo Zasemathuneni kanye Nezokulothiswa Kwezidumbu, uNo12 we-1996, njengalokhu uchtshiyelwe ;

**“isisulu sengxabano”** kusho umuntu ochazwe kusigaba 1 soMthetho owaziwa nge-National Heritage Resources Act, we-1999 (uMthetho uNo.25 we-1999).

## **ISAHLUKO 2**

### **UKUSUNGULWA KANYE NOKULAWULWA KWEZINDAWO ZOKUNGCWABA**

#### **2. Ukusungulwa kwezindawo zokungcwaba**

(1) UMkhandlu kumele ngaso sonke isikhathi ubeke eceleni futhi ugcine umhlaba kamasipala ofanelekile omaqondana nokusungulwa kanye nokulawulwa kwamngcwaba omphakathi. UMkhandlu ungamukela uphinde ugunyaze isicelo sokusungulwa kanye nokunakekelwa kwamathuna anabanikazi bawo kumbe indawo okugcinwa kuyo umlotha esemhlabeni onabanikazi bawo ngokwemibandela ebekwe yiwona uMkhandlu.

(2) UMkhandlu ungabeka eceleni, ugcine futhi uklame emathuneni, ngokuhambisana nokuma kwepulani, izindawo uMkhandlu obona ukuthi zingasetshenziswa ngokukhethekile ngamalungu enkolo noma ibandla elithile, kumbe kungcwatshwe kuzo abantu abadala, izingane, amasosha noma amaqhawe ezempi kumbe nanoma yiluphi olunye uhlobo olufanele (ngaphandle kokuhlukaniswa ngokobuhlanga).

(3) Akukho zinsalelo zomzimba okumele:-

(a) zigcatshwe kwenye indawo kwasemangcwabeni kuphela ; noma

(b) zilothiswe ngaphandle uma kusendaweni yokulothisa izidumbu maqondana nomthetho oshayiwe;



(4) Akukho zindawo zokungcwaba kumbe izindawo okulothiselwa kuzo izidumbu okumele zisebenze ngaphandle kwemvume yomkhandlu kanye nesitifiketi esisemthethweni sokurejista;

(5) Akukho mzimba oyongcatshwa ngaphandle kwemvume yesikhulu esiphethe. Leyo mvume angeke inikezwe ngaphandle kokukhishwa komyalelo obhalwe wasayinwa nguMabhalane orejista Abantu Abashonile ohambisana nesaziso yokungcwaba. Esimweni lapho kuhlinzwe isidumbu noma kuhlolwe ukuthi umuntu ufe kanjani incwadi yemvume etholakala kuMantshi iyonikezwa isikhulu esilawulayo kanye nalowo myalelo.

### **3. Amahora asemthethweni**

(1) Yileyo naleyo ndawo yokungcwaba iyovulwa zonke izinsuku zesonto. Izikhathi zokuvulwa kanye nezokuvalwa kwezindawo zokungcwaba ziyonqunywa nguMkhandlu;

(2) Ukungcwaba kuyokwenzeka emini futhi nangamahora anqunywe nguMkhandlu;

(3) UMkhandlu unelungelo lokuvalwa umphakathi indawo yokungcwaba kumbe nanoma iyiphi ingxenye yayo ngezikhathi kanye nangezizathu zawo uMkhandlu futhi akukho mngcwabo noma ukulothiswa kwezidumbu okuyokwenziwa lapho;

(4) Akukho muntu oyokuba noma oyosala emathuneni noma engxenyeni yawo ngaphambi kumbe emva kwesikhathi sokusebenza njengoba kunqume uMkhandlu kumbe nganoma yisiphi isikhathi okuvalwe ngaso, naphandle kokuba athole imvume yomqaphi;

(5) Akukho muntu ongaphansi kweminyaka eyi-12 ubudala ongangena endaweni yokungcwaba ngaphandle uma lowo muntu ebhekwe ngumuntu omdala;

(6) Akukho muntu oyocela ukuba abe nebhizinisi kumbe enze imibukiso, asabalalise, ashiye nanoma yimuphi umucwana, ikhadi lebhizinisi kumbe akhangise ngaphakathi kwanoma iyiphi indawo yasemathuneni noma asebenzise okufanayo ekuhanjiseni kwezimpahla, amaphasela kumbe enye impahla, ngaphandle uma lokho kuhlose ukusetshenziswa kuleyo ndawo yasemathuneni;

(7) Akukho muntu oyohlala, ame noma agibele kumbe ame phezu kwanoma yiliphi itshe lesikhumbuzo, isango, udonga, ucingo kumbe isakhiwo kunanoma iyiphi indawo yasemathuneni;

(8) Akukho muntu oyokwenza noma yini eyinkathazo kumbe aphule umthetho wokuthula noma esebenzise ulimi lokwesabisa, lokuhlukumeza kumbe oluhlambalazayo kunanoma iyiphi indawo yasemathuneni;

(9) Akukho muntu oyofika nenja, ikati, inyoni kumbe esinye isilwane esiyozulazula ngaphakathi kwannaoma iyiphi indawo yasemathuneni. Nanoma yisiphi isilwane esiyotholakala kunoma

iyiphi indawo yasemathuneni. siyothathwa nguMkhandlu ngaphandle ngokuthi umnikazi waso akhokhelwe.

(10) Akukho muntu oyogibela nanoma yisiphi isilwane, isithuthuthu, kumbe ibhayisikili kunoma iyiphi indawo yasemathuneni lapho lokho kugibela kungavunyelwe nguMkhandlu;

(11) Zonke izimoto ezisendaweni yasemathuneni ziyohamba kancane ngaphakathi futhi akukho moto eyodlula eduze kwananoma iyiphi indawo lapho kwenziwa inkonzo yomgcwabo; futhi

(12) Akukho muntu oyokwenza noma oyokuba yingxenye yombukiso kunanoma iyiphi indawo yasemathuneni ngaphandle kwemvume yoMkhandlu.

#### **4. Irejista**

(1) I-rejista yamathuna kanye nemingcwabo liyogcinwa ngumqaphi;

(2) Leyo rejista kumele igcwaliswe ngokushesha emuva kokuba sekungcwatshiwe, maqondana neminingwane enqunyiwe etholakala kumyalelo walowo mngcwabo; futhi

(3) Nanoma iyiphi imvume, isaziso kumbe incwadi ekhishwe nguMkhandlu ngaphansi kwale mithetho kamasipala iyosayinwa yisikhulu esiphethe.

#### **5. Ukufakwa kwezinombolo emathuneni**

(1) Wonke amangcwaba asendaweni yasemathuneni osekungcatshiwe kuwo kumbe osekugunyaziwe ukuba kungcatshwe kuwo ngokwezinhlinzeko zalo mithetho kamasipala uMkhandlu uyozifakwa izinombolo; futhi

(2) Inombolo iyonamathiselwa engcwabeni njengoba kukhonjiswe epulanini eyogcinwa ehhovisi likamqaphi.

#### **6. Ukubekiswa kwamathuna**

(1) Akuvumelekile ukubekiswa kwethuna ngaphandle uma kungokwenhloso yomphakathi; futhi

(2) Ukubekiswa kwamathuna okwenziwe kwase kurekhodwa kumarekhodi asemthethweni oMkhandlu ngokwananoma yimiphi imithetho emidala kamasipala kuyohlala kusemthethweni futhi uMkhandlu uyowahlonipha lawo malungelo.

#### **7. Ukudluliswa kwamalungelo okuba negunya**

(1) Ilungelo eligodliwe njengalokhu kushiwo esigabeni 6(2) angeke ledluliselwe ngaphandle uma kuqale kwatholakala imvume yoMkhandlu;

(2) Izicelo zokwedlulisela lelo lungelo ziyokwenziwa kumqaphi ngokubhalwe phansi ngokuthi kugcwaliswe bese kuhanjiswa ifomu elifanele;

(3) Uma isicelo siphumelele, kuyokhishwa isitifiketi esinikeza lowo okudluliselwa kuye ubunikazi; futhi

(4) Ilungelo eligodliwe lingahoxiswa ngokwesicelo somnikazi futhi uma isicelo sivunywa nguMkhandlu, imali ekhokhwa yilowo onegunya (uma ekhona) kususwa ama- 10% emali ekhokhwayo yokubhalisa, iyobuyiselwa kulowo onegunya.

### **8. Inani lezidumbu ethuneni**

(1) Sisodwa kuphela isidumbu esingcwatshwa ethuneni elinesilinganiso njengalokhu kushiwo kule mithetho kamasipala;

(2) Zimbili kuphela izidumbu ezingcwatshwa emgodini ojule ngokuthe xaxa okalwe ngokwesigatshana 15(4): Inqobo nje uma isicelo sokungcwatshwa kwezidumbu ezimbili senziwe kumqaphi ngokubhalwe phansi ngokuthi kugcwaliswe bese kuhanjiswa ifomu elifanele lokufaka isicelo singakangcwatshwa isidumbu sokuqala;

(3) Ngemuva kokuvulwa kabusha kwethuna ngenhloso yokungcwaba isidumbu sesibili njengoba kuchazwe kwisigatshana 9(2) kulelo thuna, kumele kubekwe ukhonkolo oqinile ongekho ngaphansi kwamamitha angama-22 ubukhulu ngaphezu kwebhokisi ebelivele likhona; kanti futhi

(4) Uma ekuvulweni kabusha kwethuna, imenenja: yezempilo yendawo ithola ukuthi umhlababathi awulungile kumbe ungabanobungozi ezimpilweni zabantu, lolu daba luyolungiswa ngokuxhumana nenenenja: yezempilo yendawo.

### **9. Inani lezidumbu ebhokisini**

(1) Usana oluzalwe lushonile kanye nesidumbu sikamama walo bangangcwatshwa ngebhokisi elilodwa ngenani lemali yokungcwaba umuntu oyedwa osemdala; futhi

(2) Izinsana ezingamawele ezizalwe sezishonile zingangcwatshwa ngebhokisi elilodwa ngenani lemali yokungcwaba ingane eyodwa ezalwe isishonile.

## ISAHLUKO 3

### UKUNGCWABA

#### 10. Ukufaka isicelo sokungcwaba

(1) Isicelo semvume yokungcwaba endaweni yokungcwaba kumele senziwe ngokubhalwe phansi ngokugcwalisa ifomu elinqunyelwe lokhu bese lithunyelwa kumqaphi. Isicelo kumele sihambisane nalokhu:-

- (a) uhlelo olunqunyiwe lomngcwabo;
- (b) imali enqunyiwe; kanye
- (c) nesitifiketi sokubekisa indawo uma kufanele;

(2) Akekho umuntu, ngaphambi kokuba athole imvume ebhalwe phansi ekhishwe uMkhandlu, oyongcwaba, oyodala ukuba kungcwatshwe, noma oyovumela ukuba kungcwatshwe kunanoma iyiphi indawo kaMasipala ngaphandle kwasendaweni yokungcwaba ephethwe uMkhandlu. Lokhu kubandakanya ukungcwatshwa kwesidumbu, komlotha kanye nesidumbu esomisiwe. UMkhandlu kumele wenze inqubomgomo ezinyangeni eziyisithupha kusukela osukwini okushaywe ngalo umthetho mayelana nokungcwatshwa kwezidumbu, komlotha kanye nezidumbu ezomisiwe ezindaweni ezingekho ngaphansi kwamangcwaba aziwayo;

(3) Isicelo semvume yokungcwaba kufanele sihanjiswe kumqaphi okungenani emahoreni angama-24 ngaphambi komngcwabo, uma ofuna ukungcwaba ehluleka ukwenzenjalo, umqaphi angasichitha leso isicelo;

(4) Akekho umuntu okufanele enzele umngcwabo endaweni yokungcwaba ngaphandle uma ethole imvume ebhaliwe phansi, wanikezwa nethuna lokungcwaba kanye nosuku lokungcwaba, futhi sekuhlelwe nesikhathi sokungcwaba nomqaphi;

(5) Ekuqokweni kosuku kanye nesikhathi somngcwabo, umqaphi wendawo yokungcwaba kufanele ahloniphe amasiko oshonelwe kanye nenkolo yakhe;

(6) Ekuqokweni kwethuna kumele umqaphi wendawo yokungcwaba avumele umuntu omele umndeni ukuthi abone ukuma kwepulani yendawo yokungcwaba, futhi avunyelwe ukuthi azikhethele indawo ayithandayo. Ukukhethwa kwethuna kuwumsebenzi womqaphi wendawo yokungcwaba futhi kumele kungcwatshwe kulelo thuna alikhethile;

(7) UMkhandlu ungavuma ukuthi kwenziwe umngcwabo engxenyeni ebekelwe ukungcwaba kungakhokhwe mali uma ubona kufanele.

- (8) Isaziso sokuhoxisa noma sokuhlehlisa umngcwabo kumele sihanjiswe kumqaphi wendawo yokungcwaba okungenani emahoreni amane okusebenza ngaphambi kwesikhathi esinqunyelwe ukungcwaba;
- (9) Ukukhishwa kwemvume yokungcwaba kanye nokuqokwa kwethuna endaweni yokungcwaba akusho ukuthi ofake isicelo, umuntu ogunyaziwe noma omunye umuntu unelungelo lanoma yini kulelo thuna ngaphandle kokungcwaba isidumbu somuntu kulona; futhi
- (10) Akekho umuntu okumele abeke noma avumele ukuthi kubekwe ethuneni ibhokisi elakhiwe nanoma ingani engesilona ukhuni ngaphandle kwemvume yoMkhandlu.

#### **11. Ukungcwatshwa kwesidumbu**

- (1) Onke amathuna kufanele ahlinzekwe ngobhekele ukungcwaba ngaphandle kwalawo asekelwe ngezitini noma unqenqema lukakhonkolo, futhi lowo msebenzi wokufaka izitini noma ukhonkolo kufanele wenziwe ngumuntu ongumngcwabi ebhekwe ngumqaphi wendawo yokungcwaba futhi ngokuhambelana neminingwane yemiyalelo ebekelwe lawo mathuna ajwayelekile;
- (2) Kufanele okungenani inhlabathi ibe yi-1.4 m ukusuka phezulu kuya ebhokisini lomuntu omdala, bese kuba inhlabathi engama-900 mm ukusuka phezulu kuya phansi ebhokisini lengane;
- (3) Zonke izidumbu kumele zifakwe ebhokisini ukuze zingcwatshwe, ngaphandle uma kuyizizathu zenkolo;
- (4) Akekho umuntu, ngaphandle kokuthola kuqala imvume kamqaphi wendawo yokungcwaba, okufanele enze umcimbi wezenkolo noma umsebenzi ohambisana nokholo kunanoma iyiphi ingxenye yokungcwaba ebekwe eceleni uMkhandlu ngokwezihlinzeko zalo mthetho kamasipala, ngenhloso yokuthi leyo ndawo kwenzelwe kuyona inkonzo ethile;
- (5) Akekho umuntu okumele agunyaze imoto yesidumbu ukuthi isuke emgwaqeni ebekelwe wona, futhi zonke izimoto zezidumbu kumele zisuke endaweni yokungcwaba uma sesingcwatshiwe isidumbu ekade zisilethile;
- (6) Yilowo nalowo muntu ohambele umngcwabo noma umcimbi othile kumele alandele imiyalelo yomqaphi wendawo yokungcwaba uma emchazela ngendlela okufanele ayilandele ngaphakathi endaweni yokungcwaba;
- (7) Akekho umuntu ovumeleke ukuba aveze noma athwale isidumbu noma izingxenye zaso ngendlela engabukeki kahle emgwaqeni, endaweni yokungcwaba noma endaweni yomphakathi;

- (8) Yileso naleso sicelo kanye nezincwadi eziphathelene nomngcwabo othile kumele zifakwe izinombolo ezihambisana nalezo ezibhalwe kwirejista okukhulunywa ngazo esigabeni- 4 bese efakwa kumafayela agcinwe uMkhandlu isikhathi esingekho ngaphansi kweminyaka eyishumi;
- (9) Yilelo nalelo bhokisi noma umzimba osuke uzofakwa ethuneni kumele, umbozwe ngenhlabathi eyi- 1.4 m; futhi
- (10) Akekho umuntu okumele aphazamise isidumbu noma inhlabathi emaqondana naso kunanoma iyiphi indawo yokungcwaba, ngaphandle uma lokho kuphazamisa kugunyazwe imithetho kamasipala noma umyalelo wenkantolo.

## **12. Ukungcwatshwa komlotha**

- (1) Umlotha ungangcwatshwa ngebhokisi futhi amabhokisi amabili kuphela anomlotha angangcwatshwa emgodini ongaphansi kwalowo omkhulu; ngokuqinisekisa ukuthi ibhokisi alisidluli isisindo esijwayelekile somzimba esingama- 70 kg, kanye nokuthi ithuna liyalungiseka libe ukushona kanye nesikali esibekiwe;
- (2) Akekho umuntu okumele enze umngcwabo kumbe ukungcwatshwa komlotha endaweni yokungcwaba, ngaphandle uma ethole imvume ebhaliwe egunyaza lokho, ithuna eselibekelwe ukwenza lo msebenzi futhi umqaphi wendawo yokungcwaba esenqume nosuku nesikhathi sokwenziwa kwalo mngcwabo;
- (3) Isicelo sokungcwatshwa komlotha ngokwesikhathi esithile noma kwangunaphakade kumbe sokuba ubekwe ngendlela eyoba yisikhumbuzo ngesitsha esigunyaziwe ukuba sifakwe esakhiweni noma obondeni lwesikhumbuzo noma kusetshenziswe uhlobo oluthile, siyokwenziwa ngokubhalwe phansi kumqaphi wendawo yokungcwaba ngokuthi kugcwaliswe bese kuhanjiswa ifomu elinqunyelwe ukusetshenziselwa lokhu,;
- (4) Umqaphi wendawo yokungcwaba uyokwaba izingosi zomlotha ngokulandela umyalelo wesicelo esifakiwe futhi azikho ezinye eziyobekiswa ukulinda ukuthi zibuye zisetshenziswe;
- (5) Isicelo semvume yokungcwaba kumele sithunyelwe ngaphambi kokuthi kuphele amahora angama-24 okusebenza ungakenziwasichitha isicelo semvume;
- (6) Isitsha noma ikhasikhethi elayishwe umlotha ebekwe esakhiweni, obondeni lwesikhumbuzo, noma olunye uhlobo kumele ingasuswa kuze kube umqaphi wendawo yokungcwaba ukhipha imvume ebhaliwe egunyazayo;

- (7) Yileyo naleyo ngosi ezilayishe umlotha kumele ivalwe ngesivalo esigunyazwe uMkhandlu futhi kumele ivulwe kuphela uma kukhishwa isitsha noma ikhasikhethi ukuze umlotha ufakwe kwenye indawo, noma uma kushintshwa isitsha noma ikhasikhethi isazobuyiselwa lapho kade kufakwe khona leyo eshintshwayo;
- (8) Isicelo sokuvula ingosi kumele senziwe kumqaphi wendawo yokungcwaba ngokugcwalisa ifomu elinqunyelwe ukusetshenziselwa lokhu.
- (9) Akekho umuntu okumele aqhamuke nohlobo oluthile lokufaka obondeni lwesikhumbuzo ngenhloso yokwakha noma yokufaka nanoma yisiphi isitsha sesikhumbuzo ngaphandle uma noma kuze kube ukuthi:-
- (a) uMkhandlu usugunyazile ukwenziwa kwalowo mngcwabo;
  - (b) uMkhandlu usugunyazile ukufakwa kwaleso sitsha sesikhumbuzo; futhi,
  - (c) seyikhokhiwe imali yesicelo eyonqunywa uMkhandlu izikhathi ngezikhathi;
- (10) Nanoma ubani owenza umsebenzi wobonda lwesikhumbuzo, kumele lowo msebenzi awenze ngendlela ezogculisa umqaphi wendawo yokungcwaba, futhi lowo msebenzi kumele wenziwe ngesikhathi sokusebenza endaweni yokungcwaba;
- (11) Izimbali, amakha anhlolonhlobo noma imihlobiso akufanele kubekwe unomphela obondeni lwesikhumbuzo;
- (12) Indawo yobonda lwesikhumbuzo ingavakashelwa nsuku zonke emini ngezikhathi okusetshenzwa ngazo endaweni yokungcwaba njengalokhu kunqume uMkhandlu; futhi
- (13) Amatshe amathuna kumele enziwe ngohlobo lwezinto ezigunyazwe uMkhandlu futhi kumele afakwe ndawonye nalapho kubekwe khona umlotha zingakapheli izinsuku ezingama-30 kukhishwe imvume.

### **13. Ukungcwatshwa kwesidumbu esomisiwe**

Izinsalela zesidumbu ekade sisetshenziswa esikhungweni semfundo ukufundisa abafundi, ngokujwayelekile ezibizwa ngesidumbu esomisiwe, singangcwatshwa ebhokisini elilodwa bese kuthi amabhokisi amabili afake lezidumbu angcwatshwe ethuneni elijule kakhulu njengoba kushiwo kwisigatshana 15(4): Ngokuqinisekisa ukuthi ibhokisi alisidluli isisindo esingama-70 kg somzimba esijwayelekile, kanye nokuthi ithuna liyalungiseka libe ukushona kanye nesikali esibekiwe.

**14. Abantu abashonele ngaphandle kwendawo kamasipala**

Izihlinzeko zale mithetho kamasipala ziyosebenza *ngokufanayo* kunanoma yimuphi umngcwabo womuntu oshonele engaphandle kwendawo yalo masipala

**15. Izilinganiso zethuna**

(1) Ukumbiwa kwethuna lomuntu omdala kumele okungenani lijule ngokungama-1820 mm, ubude obungama-2300 mm, kanye nobubanzi obungama-760 mm;

(2) Ukumbiwa kwethuna lengane kumele okungenani lijule ngokungama-1370 mm, ubude obungama-1520 mm, kanye nobubanzi obungama-610 mm;

(3) Nxa kudingeka umgodi ojule kakhudlwana, omujana noma onobubanzi obungaphezulu kwalesi silinganiso esingenhla, kumele kwenziwe isicelo esihambisana nemali eyengeziwe, kuthunyelwe kumqaphi wendawo yokungcwaba kuhambisane nesicelo semvume yokungcwaba;

(4) Ukumbiwa komgodi ojule kakhudlwana wokungcwaba izidumbu ezimbili kumele okungenani ujule ngokungama-2400 mm, ubude obungama-2300 mm, kanye nobubanzi obungama-760 mm;

(5) Ukushintsha kwezilinganiso zamathuna kumele kube ngale ndlela elandelayo:

Ububanzi obengeziwe : ama-2300 mm ubude  
: ama-840 mm ububanzi

Ubude obengeziwe : ama-2530 mm ubude  
: ama-760 mm ububanzi

Izinhlangothi ezilingana ngambili ezincane : ama-2300 mm ubude  
: ama-900 mm ububanzi



Izitini ezisekelile : ama-2600 mm ubude  
: ama-1050 mm ububanzi

- (6) Indawo yethuna lomuntu omdala eliwunxande (rectangular) kumele ububanzi balo bube ngama-1500 mm ububanzi nama- 2600 mm ubude;
- (7) Indawo yethuna lomuntu kumele ububanzi balo bube ngama-1210 mm nama-2430 mm ubude; kanye
- (8) Indawo yethuna lengane kumele ububanzi bayo bube ngama-1210 mm nama-1520 mm ubude. Uma ibhokisi lilikhulu kakhulu lomzimba, kumele ithuna lilingane nelomuntu omdala.

#### **ISAPHLUKO 4**

#### **UKUMBIWA KABUSHA KWAMATHUNA KANYE NOKUMBULULWA KWEZIDUMBU**

#### **16. Ukumbululwa kwezidumbu**

- (1) Akekho umuntu okumele avumbulule noma avumele ukuba kuvunjululwe isidumbu ngaphandle kwemvume yalaba -
  - (a) UNgqongqoshe kanye noMkhandlu noma
  - (b) Ngokomyalelo wenkantolo ebhekele lezi zindaba;
- (2) Ngaso sonke isikhathi uma kuzombululwa isidumbu, umsebenzi owengamele kumele azise uKhomishana wesiFundazwe woMbutho wezaMaphoyisa eNingizimu Afrika;
- (3) Ilungu loMbutho waMaphoyisa eNingizimu Afrika kanye nomsebenzi osebenza ngokongiwa kwemvelo kumele ngaso sonke isikhathi babe khona uma kumbululwa isidumbu;
- (4) Ukumbululwa kwesidumbu akumele kwenziwe uma kukhona umphakathi osendaweni yokungcwaba futhi kumele kwenziwe ngaphansi kweso lomsebenzi owengamele indawo yokungcwaba;
- (5) Nxa kuzombululwa izinsalela zesidumbu kunanoma yiliphi ithuna, abangcwabi kuphela okumele benze lowo msebenzi futhi bawenze ngaphansi kweso lomsebenzi owengamele indawo yokungcwaba;

- (6) (a) Uma kuzombiwa ithuna elinesidumbu, umsebenzi owengamele kumele anikezwe isaziso engakapheli amahora angama-48 ngaphambi kokwenziwa kwalowo msebenzi, futhi  
(b) Kufanele kube khona imvume okukhulunywa ngayo endimeni (1) (d) kulesi Sigaba kanye nemali enqunyiwe ehambisana nokwenziwa komsebenzi;
- (7) Umuntu ofisa ukumbulula izinsalela zesidumbu zomuntu ohlwempu kumele akhokhe izindleko uMkhandlu owangena kuzona ngesikhathi ungcwaba lowo muntu, kuMphathi Wendawo Yokungcwaba;
- (8) Umuntu owenza umsebenzi wokumbululwa kwesidumbu kumele aqinisekise ukuthi isidumbu kanye nethuna akulimali futhi anqande iphunga lesidumbu;
- (9) UMbutho waMaphoyisa eNingizimu Afrika kumele -  
(a) lusimbe ngokushesha isidumbu uma kunobufakazi bokuthi sangcwatshwa ngokungekho emthethweni; bese  
(b) lusiyisa emakhazeni kahulumeni ukuze kwenziwe uphenyo ngaso;
- (10) Amathuna ezisulu ezashona ngesikhathi sodlame kanye nalawo aseneminyaka engaphezulu kwengama-60 angambiwa kuphela ngemvume yeSikhungo Esibhekele Ukugcinwa Kwamagugu Nomlando eNingizimu Afrika (South African Heritage Resources Agency); kanti
- (11) Amathuna Abashona Ngesikhathi Sezimpi (Commonwealth war) angambiwa kuphela ngokulandelwa kwesigaba 3 soMthetho obizwa nge-Commonwealth War Graves Act, we-1992;
- (12) UMkhandlu, ungasimbulula isidumbu uma singcwatshwe ngendlela engahambisani nemithetho kamasipala bese usingcwaba kabusha kwelinye ithuna;
- (13) Izihlobo zalowo muntu owashona kumele -  
(a) zaziswe ngalokhu kumbiwa nokungcwatshwa kabusha okuzokwenziwa; futhi  
(b) zivunyelwe ukuthi zibe khona uma sekumbululwa isidumbu.
- (14) Isicelo esitholakala kwisigatshana (1) esingenhla kumele senziwe yisihlobo segazi somuntu oshonile okuhloswe ukuba kumbiwe izinsalela zakhe noma ngemvume yaso ebhalwe phansi, inqobo nje uma uNgqongqoshe noma uMkhandlu bevumelana ngaleso sicelo:-  
(a) ezimweni lapho leyo mvume ingatholakali; noma  
(b) uma imvume yesihlobo segazi ingatholakali ekubeni ukumbululwa kwesidumbu kuyosiza umphakathi ngokubona kukaNgqongqoshe noma uMkhandlu.

- (15) Isicelo okukhulunywa ngaso kwisigatshana (1) ngenhla kumele sibe noma sihambisane nalokhu:-
- (a) imininingwane ephathelene noshonile njengalokhu inganqunywa, kubandakanya:-
    - (i) indawo kanye nembangela yokufa;
    - (ii) izizathu zokumbululwa okuphakanyiswayo kanye nokususwa kwezinsalela zesidumbu, kubandakanya, uma kufanele, imininingwane yemizamo eyenziwe ukuthola imvume ebhalwe yisihlobo segkanye nokususa izinsalela zesidumbu, okudinga ukuqashelwa ukuze kugwemeke noma ibuphi ubungozi empilweni kanye necala elingenzeka;
    - (iv) indawo ehlongozwayo yokungcwaba kabusha;
  - (b) isitifiketi sokuxilongwa ngembangela yokushona noma ikhophi esemthethweni, noma uma leyo khophi ingatholakali, obunye ubufakazi ngembangela yokushona ukwanelisa uNgqongqoshe kanye noMkhandlu; kanye
  - (c) nemvume ebhalwe umkhandlu wendawo yokungcwaba lapho izinsalela zesidumbu zingcwatshwe khona nalapho ezizongcwatshwa khona kabusha;
- (16) Ngaphandle kwalapho kufanele kususwe khona izinsalela zesidumbu ethuneni ziyiswe kwelinye ithuna endaweni yokungcwaba efanayo noma zibuyiselwe ethuneni elifanayo, uNgqongqoshe kanye noMkhandlu akumele, ngaphandle uma kuyizimo ezikhethekile, ukhiphe imvume yokumbululwa kwezinsalela zesidumbu kuze kudlule okungenani iminyaka emibili kwangcwatshwa futhi uma ngabe umuntu ebulawe isifo esithelelanayo kuze kudlule iminyaka emine angcwatshwa.
- (17) Lapho imvume ikhishwe ngokwalesi sigaba, umfakisicelo kumele asebenzise izindleko zakhe:-
- (a) zokumba, ukuhanjiswa kwesidumbu endaweni entsha yokungcwaba uma kufanele kanye nokungcwaba kabusha izinsalela ezimbiwe; kanye
  - (b) nalapho izinsalela zesidumbu zizongcwatshwa khona kabusha endaweni ehlukile, ukususwa, ukuhanjiswa kanye nokwakhiwa kwetshe lesikhumbuzo endaweni yethuna elisha kanye nokukhonka obekwenziwe endaweni yethuna;
- (18) Lapho imvume yesihlobo segazi isitholakele ngokwesigatshana (3) ngenhla, umfakisicelo kumele athathe zonke izinyathelo ezifanele ukwazisa isihlobo segazi sikamufi ukuthi izinsalela zakhe zimbiwe nanokuthi lezo zinsalela zingcwatshwe kuphi.

## **17. Ukusithwa kwethuna ngesikhathi kumbiwa**

(1) Ithuna lapho kuzombiwa khona kumele lisithwe kungaboni umphakathi uma sekumbiwa; futhi

(2) Umuntu ombayo kufanele anikwe okokufaka isidumbu ngasinye noma izinsalela.

#### **18. Ukusetshenziswa kabusha kwethuna**

(1) Ingcwaba lingambiwa kufakwe ezinye izinsalela zesidumbu zomunye umuntu ohlukile, inqobo nje uma:

(a) isihlobo segazi sikamufi izinsalela zesidumbu sakhe ebezisanda kungcwatshwa kulelo ngcwaba sivuma ngokubhalwe phansi ukuthi asiphikisani nalokho kumbiwa kanye nokusetshenziswe kabusha kwengcwaba noma uma singekho isihlobo segazi esingatholakalayo kanye nosuku olutholakala olushiwo endimeni (b)(aa) kumbe iminyaka eyishumi, nanoma yisiphi isikhathi esifika kamuva, kade sadlula kusukela ekungcwabeni kwakwamuva kulelo ngcwaba, owengamele ekhangisile, ngendlela enqunywe ngayo ngokoMthetho, inhloso yawo yokumba kabusha kanye nokusebenzisa kabusha lelo ngcweaba, futhi kungekho ukuphikiswa kwalokho kumbiwa kabusha kanye nokusetshenziswa kabusha kwengcwaba okuvela esihlotsheni segazi;

(b) owengamele ethole futhi wagcina umyalelo obhalwe phansi okuvela:-

(i) kwiMenenja yoMkhandlu: ebhekele ezempilo kwezemvelo,  
nokuyilapho imenenja : ebhekele ezempilo kwezemvelo:-

(aa) iyonikeza khona usuku oluseduze, ngokombono wayo, okuyombiwa ngalo kabusha lelo ngcwaba kumbe iqoqo labangcwaba ahlonziwe ngaphandle kokubeka engozini ngaphandle impilo yomphakathi; iphinde

(bb) ingathatha izinqumo eziphathelele nezempilo okumele zilandelwe ekumbiweni kabusha kwengcwaba;

(c) ngaphambi kokumbiwa kabusha kwananoma yiliphi ingcwaba, kumele kuthathwe zonke izinyathelo eziphusile ukuze kutholwe ukuthi zikhona yini noma azikho izinsalela zesidumbu ngaphandle kwamathambo omuntu ethuneni;

(d) uma kwenzeka kuba khona izinsalela zesidumbu ezingesiwona amathambo omuntu engcwabeni elimbiwe kabusha ngenhloso yokuthi lisetshenziswe kabusha, lokho kumbiwa kabusha kumele kuyekwe bese kubuyiselwa inhlabathi khona manjalo kulelo ngcwaba;

(e) nanoma yimaphi amathambo omuntu atholakala engcwabeni elimbiwe kabusha ngezinhloso zokuthi lisetshenziswe kabusha kumele angcwatshwe kabusha kulelo ngcwaba; kanti-ke

(f) nanoma yikuphi ukumbiwa kwengcwaba, ukungcwatshwa kabusha kwanoma yimaphi amathambo omuntu atholwe kulelo thuna, kanye nokungcwatshwa kwezinsalela zesidumbu esehlukile kulelo ngcwaba kumele kwenziwe ngaphansi kweso:-

(i) Lomuntu ongcwabayo oqeqeshiwe; noma

(ii) Lekomidi elilawula leyo ndawo yokungcwaba, lapho ikomidi lisungulwe ngenhloso yokulawula, ukubheka imingcwabo kanye nokuvunjululwa kuleyo ndawo yokungcwaba; noma

(iii) Lomuntu ogunyazwe ngophethe kuleyo ndawo.

(2) Nanoma ubani onesikhalo ngomyalelo otholakala endimeni (b) yesigatshana (1) kumele abe nelungelo lokudlulisa izikhalo zakhe kuNgqongqoshe ngendlela eshiwo.

(3) Ekucubungu isikhalo esishiwo kusigatshana (2), uNgqongqoshe, ngokubona kwakhe:-

(a) angaqinisekisa, ashintshe noma abeke eceleni lowo myalelo;

(b) angazisa uMenenja ngalolu daba: obhekele ezempilo kwezemvelo amnikeze nemiyalelo yokuxazulula nanoma iyiphi inkinga noma udaba ngendlela uNgqongqoshe afisa ngayo; noma

(c) angafuna obunye ubufakazi bese ethatha izinyathelo ngokwendima (a) noma (b).

## ISAPHELA 5

### INDAWO OKUSHISELWA KUYO IZIDUMBU

**19. Imibandela emayelana nemvume yokusebenzisa noma ukulawula indawo okushiselwa kuyona izidumbu**

(1) UMkhandlu ungagunyaza nanoma yinanoma yisiphi isiphathimandla sokushiswa kwezidumbu ukuba sisebenzise siphinde silawule nanoma iyiphi indawo yokushisa isidumbu eyakhiwe endaweni yokungcwaba ephethwe kumbe elawulwa uMkhandlu.

(2) Leyo mvume kumele inikezwe ngokubhalwe phansi futhi iyosetshenziswa kwemibandela kanye nemithetho ebekwe uMkhandlu. Le migomo elandelayo ngeminye eyosebenza kuleyo mvume:

(a) Isiphathimandla sokushiswa kwezidumbu kumele sihambisane nomthetho oshayiwe esifundazweni maqondana nalokhu;

(b) Uma kwenzeka isiphathimandla sokushiswa kwezidumbu kungumphakathi kumbe i-trust, kumele ikhophi yomthethosisekelo noma i-trust deed eqinisekisiwe, kumele ilethwe kumsbenzi ophethe.

(c) Akukho ukushiswa kwesidumbu somuntu okumele kwenziwe ngezikhathi ezinganqunyiwe uMkhandlu.

(d) Isiphathimandla sokushiswa kwezidumbu noma labo abasimele ngokusemthethweni kumele bazise ophethe ngesifiso sokushisa izinsalela zesidumbu, ngokunikeza igama, ubulili, iminyaka, ubuzwe kanye nendawo ashone ehlala kuyona: kanye nesaziso okungenani kusasele amahora amabili ngaphambi kokushiswa kwesidumbu;

(e) Akukho ukushiswa kwezinsalela zesidumbu okuyokwenziwa kwenye indawo ngaphandle kwasendaweni yokushisa isidumbu; futhi

(f) Izikhathi ezibekwe umsebenzi ophethe kumele zigcinwe kanti nomcimbi ophathelene nokushiswa kwesidumbu kumele wenziwe ngokwemiyalelo yomsebenzi ophethe.

(g) Nanoma yisiphi isidumbu esifakwe iwashi lenhliziyo noma ikuphi noma okunye okufakeliwe okungabangela ukuqhuma noma ubungozi kufanele kukhishwe ngaphambi kokuba isidumbu sishiswe.

(h) Uma kushiswa isidumbu kufanele sibe sebhokisini.

(i) Ibhokisi elinesidumbu esishisiwe kufanele kube elakhiwe ngokhuni noma ngempahla engenabungozi.

(j) Ibhokisi lokushisa izidumbu kumele lipendwe ngovanishi, upende, noma okokunamathisela okungenabungozi.

(k) Uma kushiswa isidumbu, ebhokisini kumele nezinto ezikwaziyo ukusha kuphela, okubandakanya izingubo, izicathulo kanye nokunye kokuhlobisa noma ngabe ikuphi, kanti uMkhandlu unelungelo lokukhipha okungashi okusebhokisini.

(l) Ngaphambi kokuba kuvunyelwe ukushiswa kwesidumbu sishiswe, umfakisicelo noma lowo ommele kuyodingeka ukutba aveze isitifiketi esisemthethweni sokuthi ibhokisi liyahambisana nezigatshana (i) kanye (j) ngenhla.

(m) Asikho isidumbu okufanele sikhishwe ebhokisini ngenhloso yokushiswa futhi ibhokisi akufanele livulwe endaweni yokushisa isidumbu ngaphandle uma kukhona imvume yoMkhandlu, okungafanele igodlwe ngokungafanele.

## **20. Ukuhoxiswa kwemvume**

UMkhandlu ungahoxisa imvume yokusebenzisa indawo yokushisa izidumbu, uma isiphathimandla esibhekele ukushiswa kwezidumbu sehluleka ukulandela imibandela engenhla.

## ISAHLUKO 6

### EZIXUBILE

#### 21. Imibandela eyisipesheli

(1) Akekho umuntu ovumeleke —

- (a) ukuzihlanganisa noma aqale inkathazo endaweni yokungcwaba noma lapho kushiswa khona izidumbu
- (b) ukugibela isilwane, ibhayisekile, ibhodi elinamasondo, ngenhloso yokuzijabulisa noma yezemidlalo endaweni yokungcwaba kumbe lapho kushiswa khona izidumbu, ngaphandle uma egunyazwe uMkhandlu.
- (c) ukuletha isilwane noma avumele isilwane sigcaluze endaweni yokungcwaba noma lapho kushiswa khona izidumbu ngaphandle kwaleso somuntu oyimpuputhe, izinja ezikhulekwe ngentambo zizovunyelwa ngaphandle uma kwenzeka konke ngemvume yoMkhandlu;
- (d) ukutshala, ukunquma, ukuthatha noma ukususa isihlahla, isitshalo, izihlahlana kumbe izimbali ngaphandle kwemvume yoMkhandlu;
- (e) ukubamba umbikisho kunanoma iyiphi indawo yokungcwaba noma lapho kushiswa khona izidumbu
- (f) ukuphazamisa noma ukuhlakaza —
  - (i) umsebenzi owenziwa yiziphathimandla zikamasipala noma umuntu oqashwe uMkhandlu
  - (ii) umgcwabo oqhubekayo emangcwabeni
- (g) ukumisa, ukunqaba, noma ukuphikisana nophethe emangcwabeni ngomsebenzi wakhe, kumbe onqaba ukuthobela umthetho noma okushiwo umphathi okuvumelana nomthetho kamasipala ukuba kwenziwe;
- (h) ukubeke umaka, ukudweba, ukubhala, ukupenda noma ukubeka okuthile odongeni, ukwakha, ukubiyela, ukufaka isango, umsebenzi wesikhumbuzo kumbe nanoma yikuphi okunye okungenziwa endaweni yokungcwaba kungekho emthethweni;
- (i) ukusebenzisa amanzi achelele ingadi ngaphandle kwemvume yoMkhandlu;
- (j) ukushiya imfuza, umhlabathi, amatshe, imfucuza esakazekile, udoti noma ukulahla izibi emangcwabeni;



- (k) ukudicilela phansi nanoma yini, ukona noma ukungcolisa nanoma iyiphi ingxenye yendawo yokungcwaba noma-ke yini engaphakathi;
- (l) ukungena noma ukuphuma endaweni yokungcwaba, ngaphandle kwalapho kungenwa khona noma kuphunywa khona;
- (m) acele noma enze ibhizinisi, uhlelo oluthile, umbukiso, akhiphe kumbe ashiye amapheshana okuthile, anikezele ngamakhadi ebhizinisi kumbe ukukhangisa okuthile emangcwabeni, ngaphandle kwezindawo zoMkhandlu ezivulelwe ukukwenza lokhu futhi ngemvume yoMkhandlu;
- (n) ukungahloniphi ingcwaba noma umcimbi wesikhumbuzo, okufana nokugibela kumbe uhlale engcwabeni;
- (o) ukungena ehhovisi ehhovisi, ebholidini noma endaweni ebiyelwe emangcwabeni ngaphandle uma ezokwenza umsebenzi osemthethweni;
- (p) ukuveza obala isidumbu kumbe ingxenye yaso emangcwabeni;
- (q) ukugijima ngesivinini esingaphezu kwama-20 km ngehora emangcwabeni;
- (r) ukusebenzisa nanoma iyiphi ingxenye esemathuneni ibeyindlela yokuhamba.
- (s) ukuvumela noma ukungenisa nanoma yisiphi isilwane endaweni yokungcwaba ngaphandle uma kungumsebenzi ophethe, ohlala kuleyo ndawo futhi efunye izilwane ngemvume yoMkhandlu.
- (t) ukuphatha utshwala kumbe ukuphuza utshwala emangcwabeni noma ukuqhumisa isibhamu ngaphandle uma kungcwatshwa iphoyisa, noma kungumngcwabo osingethwe umbuso kumbe uhulumeni;
- (u) ukuqala noma ukokhela umlilo endaweni yokungcwaba ngaphandle kokuthola imvume yoMkhandlu kuqala;
- (v) ukuzingela noma ukulimaza nanoma yiziphi izilwane kumbe izinyoni;
- (w) ukwelusela imfuyo endaweni engasetshenziswa emangcwabeni noma;
- (x) ukuletha izinto zokumba, isaha noma izinto ezikwazi ukuqagula okusansimbi, ngaphandle kwemvume yoMkhandlu; kanye
- (y) nokufundisela ukushayela endaweni yokungcwaba.
- (2) Akuvumelekile ukuba ilungu lomphakathi kanye nesiphathimandla soMkhandlu benze isivumelwano sokwenza umsebenzi othize emangcwabeni egameni lalalo lungu, okungaba ukumba ingcwaba noma ukwenza umsebenzi othile ophathelene namathuna.
- (3) Umkhandlu ungaphawunda isilwane esitholakale kunanoma yimaphi amangcwaba.
- (4) Amatende amakhulu kunamamitha amabili ngokuthathu akuvumelekile afakwe

emangcwabeni ngaphandle kokuthola imvume yoMkhandlu kuqala.

## **22. Ukulimala kanye nomonakalo**

(1) Umuntu osebenzisa indawo yokungcwaba noma indawo yokushisa izidumbu ukwenza lokhu ngokwakhe, futhi uMkhandlu awunakubekwa cala uma lowo muntu elimala lapho noma ekulahlekelweni kumbe ekucekelweni phansi kwempahla yalowo muntu kumbe kuba khona umonakalo odalekayo ngemuva komsebenzi obuwenziwa emangcwabeni; futhi

(2) Umuntu osebenzisa indawo yokungcwaba uyena oyomelana nanoma iziphi izingozi, ukudicilelwa phansi kwempahla kumbe ukulimala okungenzeka ngaleso sikhathi noma ngemuva kwalowo msebenzi obuwenziwa endaweni yokungcwaba futhi uMkhandlu, nanomalungu awo, abasebenzi noma ama-ejenti, okungaba awomuntu oyedwa kumbe obhekelele umsebenzi, angeke abekwe icala kuzona zonke izikhalo eziyoqhamuka nanoma ingaluphi uhlobo ngalowo muntu kumbe abantu abangaphansi kwesandla sakhe noma omunye-ke umuntu oqhamuka eceleni uma kunokulahlekile okuthinta amafa, ukudicilela phansi izinto ezisemqoka noma ukulimala komuntu okungenzeka kumbe kudaleke ngenxa yomsebenzi obuwenziwa endaweni yokungcwaba. Isivikelo secala siyabalwa naso kubasebenzi abalimele boMkhandlu ngesikhathi besemsebenzini endaweni yokungcwaba noma endaweni ekushiswa khona izidumbu, kanye nokudicilelwa phansi kwempahla yoMkhandlu endaweni yokungcwaba nokushisa izidumbu.

## **23. Izibhamu kanye nezikhali zendabuko**

Azivumelekile izibhamu noma izikhali zendabuko emangcwabeni kumbe endaweni yokushisa izidumbu..

## **24. Amacala kanye nezijeziso**

(1) Nanoma ubani owephula noma owehluleka ukulandela le mithetho kamasipala; noma

(2) owenze isifungo esingelona iqiniso ngenhloso osayina isitifiketi mbumbulu maqondana kumbe ngenhloso yokungcwaba, ukumba kabusha isidumbu noma ukushiswa kwananoma yiziphi izinsalela zesidumbu, noma

(3) osabisa, onqaba, ogxambukela noma ophazamisa isiphathimandla kumbe umsebenzi womkhandlu ekwenzeni umsebenzi wakhe ngaphansi kwale mithetho kamasipala,

uyobekwa icala futhi inkantolo imthola enecala uyokhokha engeqile kuma-R 60 000, kumbe abhadle ejele isikhathi esingeqile eminyakeni emithathu kumbe akwenze kokubili, noma enye inhlawulo kumbe isikhathi sokubhadla ejele esiyonqunywa nguNgqongqoshe Wezobulungiswa ngokulandela isigaba 92 soMthemtho Wenkantolo Kamantshi (uMthetho uno. 32 we-1944).

(3) Nanoma yiziphi izindleko uMkhandlu ongene kuzona ngenxa yomuntu owephule imithetho kamasipala ebekiwe noma ongakwenzanga lokho ayalelwe ukuba akwenze ngokwale mthetho kamasipala, uMkhandlu ungazibuyisa ngokukhokhisa lowo muntu owephule umthetho noma owehlulekile ukwenza okufanele.

## **25. Izikhalo**

Nanoma ubani ofisa ukufaka isikhalo angasifaka ngokubhalela iMenenja kaMasipala.

## **26. Izimali ezikhokhwayo**

UMkhandlu unelongulo lokunquma, ukunyusa kanye nokuqoqa izikweletu, izimali okumele zikhokhwe kanye nezinye izinkokhelo ngokwesigaba 75A soMthetho Wohulumeni Bezindawo kaMasipala: uMthetho Wezinhlaka zoMasipala. Izimali ezikhokhwayo kumele zikhokhwele uMkhandlu ngaphambi kokuba kweziwe umsebenzi ngaphandle uma kunqunywe ngenye indlela.

## **27. Amalungelo maqondana namathuna**

Akekho umuntu okumele anikezwe ilungelo lokusebenzisa nanoma iyiphi ingxenye noma ithuna ngokuthanda kwakhe kunoma iyiphi indawo yokungcwaba njenalokhu kusho imithetho kamasipala..

## **28. Izimvume, Izaziso kanye Nemiyalelo**

Nanoma iyiphi imvume ebhaliwe, saziso kumbe imiyalelo ekhishwe nguMkhandlu ngaphansi kwe mithetho kamasipala, iyokuba ngubufakazi bokuqala obuqukethwe yileyo mvume, saziso kumbe miyalelo..

## **29. Ukufaka isicelo sokungcwaba**

(1) Akekho umuntu ovunyelwe ukungcwaba isidumbu nanoma ikanjani ngaphandle kwendlela egunyazwe nguMasipala uMsunduzi ngokwale mithetho kamasipala, umuntu ofisa ukungcwaba

isidumbu kumele athole imvume yoMkhandlu ebhalwe phansi ngaphambi kokuba angcwabe isidumbu, futhi kumele agcine izimiso zoMkhandlu.

(2) Umuntu ofisa ukuthola imvume njengoba kucacisiwe kusigatshana (1) kumele athumelele isiphathimandla isicelo esibhalwe phansi esihambisana nalokhu okulandelayo-

(a) ubufakazi bokukhokhwa kwemali enqunyiwe;

(b) isitifiketi sokushona saleso sidumbu;

(c) umyalelo wokungcwaba okhishwe ngaphansi koMthetho Wokubhaliswa Kwabazelwe kanye Nabashonile we-1992 (uMthetho uNo. 51 we-1992);

(d) maqondana nabangcwabi, kufanele kuvezwe isitifiketi sokukwazi ukwenza umsebenzi esikhishwa ngaphansi kwale mithetho kamasipala bese kuthi esimweni lapho umyalelo wokungcwaba ukhishwe ngabangcwabi, kumele kuvezwe ubufakazi bokugunyazwa ngokwesigaba 4 soMthetho Wokubhaliswa Kwabazelwe kanye Nabashonile we-1992 (uMthetho uNo. 51 we-1992);

(e) incwadi efungelwe yezihlobo zegazi zikamufi, noma ezinye izihlobo eziseduze, evumela ukuba kungcwatshwe isidumbu ngendlela okucelwe ukuba singcwatshwe ngayo;

(f) uma umuntu -

(i), eshone ngenxa yesifo esithathelanayo, kumele lokhu kuvezwe esicelweni esifakiwe;

(ii) ebenewashi lenhliziyo ekushoneni kwakhe, lokho nakho kumele kuvezwe esicelweni esifakiwe.

(g) imininingwane yamasiko noma yezenkolo ehambisana nomngcwabo.

(3) Isiphathimandla singavuma isicelo ngokulandela imibandela ebekiwe, noma sisichithe leso isicelo.

(4) Isicelo sokungcwaba kumele sithunyelelwe uMkhandlu lingakashayi ihora lesi-15:00 ngaphambi kosuku lomngcwabo noma, lapho umgodi wengcwaba wedlula owejwayelekile, kumele kungabi ngemuva kwehora lesi-15:00 ezinsukwini ezimbili ngaphambi komngcwabo.

(5) Uma kukhona izinguquko ezithize ezenziwayo ngalolo suku noma sekusele ihora kwenziwe umngcwabo, noma umngcwabo ungasezokuba khona, lapho uMkhandlu kunguwona okumele umbe umgodi wengcwaba, isaziso soshintsho kumele sinikezwe umbheki wendawo yokungcwaba okungenani emahoreni ayisishagalombili ngaphambi kokuba kuqale lowo umngcwabo.

(6) Ayikho imali ezobuyiswa emalini esikhokhiwe ngokuvulwa kwethuna.

(7) UMkhandlu unelungelo lokubheka okusebhokisini lomngcwabo ngaphambi kokuba kungcwatshwe.

(8) UMkhandlu ungamunqaba nemvumo yokungcwaba kumuntu, kubalwa nomngcwabi, uma imininingwane edingwa uMkhandlu ingalethiwe ngaphambi kokuba kungcwatshwe.

(9) Umuntu ongcwaba isidumbu ngaphandle kwemvumo yoMkhandlu ebhaliwe kuyobe wenza icala.

### **30. Imicimbi Yezenkolo**

(1) Amalungu ananoma yiliphi ibandla lezenkolo avumelekile ukwenza imicimbi yezenkolo ephathelene nanoma yimuphi umngcwabo noma inkonzo yesikhumbuzo ngokulandela izimiso kanye nemitho kamasipala ebekwe uMkhandlu; futhi

(2) Akuvumelekile ukuhlathshwa kwesilwane emangcwabeni nanoma ngabe kwenziwa hlobo luni lomcimbi okungaba udinga ukuba kuhlathshwe isilwane.

### **31. Izimoto ezithwala izidumbu kanye nezimoto Emangcwabeni**

(1) Yileyo naleyo moto yezidumbu noma leyo naleyo moto kumele ihambe ngomzila oshiwo umqaphi emangcwabeni; futhi

(3) Indawo yokungcwaba iyindawo yomphakathi ngakho-ke yonke imithetho ebekelwe ukushayelwa kwezimoto kanye nokusetshenziswa kwemigwaqo yomphakathi iyosetshenziswa nangaphakathi endaweni yokungcwaba.

### **32. Ukuvulwa Kwezidumbu**

Akekho umuntu ovumeleke ukuthwala isidumbu esingamboziwe kunanoma yimuphi umgwaqo, indawo yokungcwaba kumbe endaweni yomphakathi.

### **33. Umyalelo Womuntu onguMqaphi wendawo yokungcwaba**

Wonke umuntu oyingxenywe yomngcwabo oqhubekayo kumbe umcimbi kumele alandele imiyalelo yomqaphi wendawo yokungcwaba uma lowo muntu esendaweni yokungcwaba.

### **34. Umculo Emangcwabeni**

Kuyovunyelwa amaculo ezenkolo kuphela endaweni yokungcwaba, ngaphandle uma kungumngcwabo wamaphoyisa kanye nezokuvikela ngaphandle futhi uma kuvume umqaphi wendawo yokungcwaba.

### **35. Imingcwabo Ehanjelwe ngabantu abaningi**

Kunanoma yisiphi isimo lapho kungenzeka umngcwabo uhanjelwe ngabantu abaningi kumele ngosuku olwandulela umngcwabo, lowo muntu okhipha isaziso salowo mngcwabo azise umqaphi wendawo yokungcwaba kusasele usuku ngaphambi komngcwabo.

### **36. Abantu Abahlwempu**

(1) Umuntu ofaka isicelo sokungcwatshelwa umuntu ohlwempu, kumele asho lokho aphinde alethe nobufakazi obubhalwe phansi beKhansela lewadi obuqinisekisa ukuthi isimo sezimali sinjani kulowo muntu okuthiwa uhlwempu.

(2) Umuntu ohlwempu angangcwatshwa ngokwenqubomgomo yoMkhandlu emaqondana nabantu abahlwempu.

### **37. Imingcwabo yabahluphekayo**

Umthethonqubo wemingcwabo yabahluphekayo kumele unqunywe ngenqubomgomo eyamukelwe uMkhandlu.

## **ISIHLUKO 7 ABANGCWABI**

### **38 Ukulungiswa kwezidumbu**

Akekho umuntu ovumeleke ukulungisa futhi/noma ukugcina isidumbu ngaphandle kwasendaweni yabangcwabi abanesitifiketi sokuqhuba lo msebenzi, ngaphandle uma lo mthetho kamasipala ukuvumela lokho.

### **39 Ukufaka isicelo sokukhishwa noma ukwedluliswa kwesitifiketi sokungcwaba**

(1)(a) Nanoma yimuphi umuntu ofisa ukufaka isicelo sesitifiketi sokungcwaba esebenzisa indawo entsha, kumele athumelele uMkhandlu leso sicelo zingakadluli izinsuku ezingama-21 ukuze isicelo sakhe sishicilelwe ngesiNgisi kanye nesiZulu, ephephandabeni lendawo lapho lawo mangcwaba ekhona.

(b) Lesi saziso kumele sibe neminingwane eveza obala ukuthi isicelo sokukhishwa kwesitifiketi semvumo yokungcwaba ngaphansi kwale mithetho kamasipala kanye neminye imithethonqubo yokusebenza kumele sithunyelelwe uMkhandlu kanye nokuthi uma kukhona umuntu ofisa ukuphikisana nalokhu angafaka isicelo sakhe, nesethulo esimfazelayo, ngokubhalela uMkhandlu zingakapheli izinsuku ezingama-21 isaziso sishicilelwe.

(2) Isicelo semvumo yokungcwaba kumele senziwe ngokugcwalisa ifomu elikhishwe uMkhandlu lihambisane nalokhu -

(a) incazelo yendawo nokuthi ilaphi; kubandakanya nempahla, izindawo zokugcina impahla yokusebenza, izindawo zokugcina impahla, izindawo zokulungiselela kanye nezindlu zangasese.

(b) ipulani ephelele yesakhiwo esihlongozwayo noma ibhilidi elivele likhona ngokwesilinganiso esiwu-1:100 kubandakanya nohlelo lokulahlwa kwemfucuzo.

(c) ipulani yendawo lapho inyakatho ikhombisa izindawo ezincikile ezivele zisetshenziswa umfakisisicelo kumbe abanye abantu kanye nezinto lezo zindawo ezisetshenziselwa zona kumbe ezizosetshenziselwa zona;

(d) Imininingwane yanoma yimuphi umuntu ngaphandle kofake isicelo noma yibaphi abasebenzi abazolungiselela kumbe balungise izidumbu endaweni;

(e) uhlelo oluyosetshenziswa ukugcina izidumbu uma kungase kugcime iziqandisi noma uma indlu ebandayo ingasebenzi; kanye

(f) nohlelo lokuhlaza kanye nokubulala amagciwane.

(g) imininingwane yabezempilo abaqoqa imfucuzo, abayithuthayo kanye nabayilahlayo

(3) UMkhandlu, ekucubunguleni kwawo isicelo sokukhishwa kwesitifiketi sokungcwaba, ungacela neminye imininingwane kumfakisisicelo kumbe kunanoma ubani omunye nanma yiluphi ulwazi oludingekayo.

(4) UMkhandlu angeke ukhiphe noma udlulise isitifiketi sokungcwaba ngaphambi kokuthi indawo ezosetshenziswa ihlolwe ngokuphelele ngumsebenzi wezemvelo oqokwe uMkhandlu kanye nombiko wakhe walokhu kuhlolwa, obandakanya nezincomo zokukhishwa noma ukwedluliswa kwaleso sitifiketi sewusezandleni zoMkhandlu.

#### **40 Ukukhishwa noma ukwedluliswa kwesitifiketi sokungcwaba**

(1) Uma uMkhandlu wenelisekile ukuthi indawo ethintekayo—

(a) ihambisana nayo yonke imithetho ebekiwe ngaphansi kwale mithetho kamasipala kanye neminye imithetho eshayiwe ethintekayo;

(b) ikufanele ukulungiselelwa kwezidumbu; futhi

(c) angeke ihlukumeze abahlala eduze kwaleyo ndawo, uyokhipha isitifiketi sokungcwaba egameni lomfakisicelo ngendlela obona nayo, noma wedlulisele isitifiketi sokungcwaba esivele sikhona kumnikazi omusha.

#### **41 Ukuba semthethweni kanye nokudluliswa kwesitifiketi sokungcwaba**

Isitifiketi sokungcwaba, ngaphandle kwesitifiketi sokungcwaba sesikhashana, emva kokugunyaza koMkhandlu, singadluliselwa siye kumnikazi omusha kanti futhi lesi sitifiketi uma kugunyazwa kanjalo, singaqala ukusebenza ngosuku esiphume ngalo kuze kube ukuthi siyohoxiswa noma simiswe ngokwalo mthetho kamasipala.

#### **42. Ukukhishwa kwesitifiketi sokungcwaba sesikhashana**

(a) Nanoma ngabe kuvela ukuthi uMkhandlu awenelisekile ngokwesigaba 40 mayelana nendawo yomngcwabi ecelelwa isitifiketi sokungcwaba, uMkhandlu ungakhapha isitifiketi sokungcwaba sesikhashana, maqondana nendawo yomngcwabi evele ikhona, ngokulandela izimiso ezibekwe nguMkhandlu.

(b) Isitifiketi okukhulunywa ngaso kusigatshana (a) siyokhishwa kuphela uma uMkhandlu wenelisekile ukuthi ukusetshenziswa kwaleyo ndawo yomngcwabi akusidali futhi ngeke kudale isicefe, futhi siyosebenza izinyanga eziyisithupha ukuze umfakisicelo akwazi ukulungisa indawo yakhe ikwazi ukuhambelane nezimiso zalo m thetho kamasipala.

(c) Uma, emva kwesikhathi esishiwo kusigatshana (b), le ndawo ingahambisani nezimiso zalo mthetho kamasipala, uMkhandlu ungasihoxisa isitifiketi sokungcwaba sesikhashana.

#### **43. Okulindeleke kumnikazi wesitifiketi sokungcwaba**

(1). (a) Umnikazi wesitifiketi sokungcwaba kumele azise uMkhundlu ngokushesha ngokubhalwe phansi uma kukhona ushintsho eminingwaneni noma okunye okuthile ayekuthumelele uMkhandlu ngesikhathi efaka isicelo sesitifiketi sokungcwaba.



- (b) Umngcwabi akumele angcwabe isidumbu nanoma ikuphi ngaphandle kwasendaweni yokungcwaba noma endaweni yokushisa izidumbu ebhalisiwe ngokoMthetho Wezindawo Zokungcwaba Nokushiswa Kwezidumbu KwaZulu Natali, we-1996 (uMthetho uNo. we-1996).
- (c) Umnikazi wesitifiketi kumele alandele izimiso zalo mthetho kamasipala, imithetho eshayiwe ethintekayo kanye nanoma yimiphi eminye imiyalelo ebekwe uMkhandlu.

#### **44. Ukumiswa noma ukuchithwa kwesitifiketi sokungcwaba kumbe isitifiketi sokungcwaba sesikhashana.**

(1) UMkhandlu ungayimisa imvumo yesitifiketi uma ukholelwa ukuthi kunezizathu ezanele zokwenza njalo, ngokombiko wophenyo kanye/ noma izincomo zemenenja: yezempilo yezemvelo kumbe umsebenzi wezemvelo maqondana nokuthi,—

- (a) izindawo zabangcwabi ezithintekayo zisetshenziswa ngendlela edala isicefe noma sekuke kwadaleka izimo ezibanga isicefe endaweni yabangcwabi okukhulunywa ngayo; noma
- (b) lezi zindawo zisetshenziswa ngokwephula izihlinzeko zoMthetho Wezempilo, wezi-2003 (uMthetho uNo.61 wezi-2003), lo mthetho kamasipala noma eminye imithetho eshayiwe kumbe nanoma yimiphi imibandela ebekwe yisitifiketi sokuncwaba noma isitifiketi sokungcwaba sesikhashana, uMkhandlu—

- (i) ungachitha isitifiketi sokungcwaba noma isitifiketi sokuncwaba sesikhashana esithintekayo;
- (ii) ungamisa ukusebenza kwesitifiketi sokungcwaba noma isitifiketi sokuncwaba sesikhashana esithintekayo isikhathi esinqunywe uMkhandlu, ukuze umnikazi wesitifiketi akwazi ukugcina imigomo ehambelana nemithetho eshayiwe kanye/ noma imibandela ebekiwe yokusebenza futhi/noma izimo ezibekiwe; kanti-ke uma umnikazi wesitifiketi ehluleka ukuhambisana nezimiso kuleso sikhathi esibekwe ngokwesaziso sokumiswa, uMkhandlu ungachitha leso sitifiketi ngaphandle kokukhipha esinye isaziso.

(2) Isaziso esikhishwa wuMkhandlu ngokwesigaba 71(b)(ii) kumele kube ngesibhaliwe, bese sinikezwa umnikazi wesitifiketi.

(3) Ukumiswa kumbe ukuchithwa kwesitifiketi sokungcwaba noma isitifiketi sokungcwaba sesikhashana ngokwalo mthetho kamasipala kuyoqala ukusebenza, kusukela ngosuku okukhishwe ngalo isaziso sokumiswa noma sokchithwa kwesitifiketi—

- (a) akuvumelekile ukulungiswa kwezidumbu kuleyo ndawo ethintekayo;
- (b) akuvumelekile ukwamukelwa kwezidumbu ngenhloso yokuzilungiselela kuleyo ndawo; futhi
- (c) akuvumelekile ukugcinwa kwezidumbu kuleyo ndawo ngakho-ke zonke izidumbu kumele zisuswe ngokushesha ziyiswe emakhazeni alawulwa uHulumeni, uhulumeni wesifundazwe

noma iKhansela kumbe kunanoma iyiphi indawo yabangcwabi, inqobo nje uma le mithetho kamasipala ingeke isebenze futhi nesaziso okukhulunywa ngaso akumele sihumushwe ngendlela evimbela eminye imisebenzi eyenziwayo ephathelene nokungcwaba kubandakanya ukudayiswa kwamabhokisi omngcwabo kanye nezimishuwalense.

(4) Uma uMkhandlu ubona ukuthi isimo esaholela ekuchithweni kwesitifiketi sokungcwaba njengalokhu kushiwo kulo mthetho kamasipala salungiswa emva kwalokho kuchithwa, ungakuhoxiswa ukuchithwa kwaleso sitifiketi, ngesicelo esibhalwe phansi esenziwe ngumnikazi noma esenziwe egameni lomnikazi.

#### **45. Okudingekayo maqondana nezindawo zabangcwabi**

(1) Izindawo zabangcwabi kumele zihlinzeke ngalokhu okulandelayo-

(a) igumbi lapho kulungiswa khona izidumbu;

(b) amagumbi okushintshela, ahlukene ngokobulili, ukuze asetshenziswe ngabasebenzi abaqashiwe kulezi zindawo;

(c) iziqandisi ezizobandisa izidumbu;

(d) izindawo zokuwasha kanye nokuhlaza izitsha kanye nempahla esetshenziwayo ngaphakathi ebhilidini;

(e) izindawo zokuhlaza izimoto endaweni yabangcwabi; kanye

(f) nezindawo yokulayisha kanye nokwehlisa izidumbu njengalokhu kushiwo kusigatshana 72(6).

(2) Alikho igumbi endaweni yabangcwabi okumele lisetshenziselwe eminye imisebenzi okungeyona yokusebenza kwalo.

(3) Igumbi lokulungiswa kwezidumbu —

(a) kumele lihlelwe ngendlela yokuthi —

(i) lihlukanisiwe kuwona wonke amanye amagumbi kule ndawo futhi kube ukuthi akungeneki kalula kulo futhi awukwazi ukulibona nanoma ngabe ukuliphi ihhovisi kumbe igumbi lokuthengisa: inqobo nje uma igumbi lokulungiswa kwezidumbu endaweni yabangcwabi evela ikhona lakhiwe ngale ndlela, umnyango ongenela kulona kumele usitheke ngendlela yokuthi ingaphakathi lalo alibonakali kunanoma ubani okunanoma yiliphi ihhovisi eliseduze kumbe igumbi lokuthengisa;

(ii) alinalo iphunga elinuka kabi kanti futhi nesisi esiphuma khona akufanele sizwakale; futhi

(iii) kumele lingenise umoya kanye nokukhanya okwanele.

(b) iphansi kumele limbozeke okungenani indawo engekho ngaphansi kwama-6 m2 etafuleni lokuqala okukhulunywa ngalo kusigaba 72(3)(e) kanye nama-8m2 etafuleni ngalinye elengeziwe; kwakhiwe ngokhonkolo noma okuthile okuwuhlobo olungangenwa ngamanzi kungasheleli futhi kube lula ukuwasheka, kube khona indawo eyehlelayo ezoqinisekisa ukuthi noma yini egobhozayo kuzongena endaweni yokulahla egunyazwe uMkhandlu; futhi uma ishintshwe noma ibekwe ngemuva kokuqalisa ukusebenza kwale mithetho kamasipala, kumele kube yindawo ewumsele oncike odongeni -

(i) ibe nengaphakathi lodonga elibushelelezi futhi zibe nopende ogqamile owashekayo noma ikuphi okunye okubushelelezi, okuvimbela amanzi, okunopende ogqamile futhi okuwashekayo;

(ii) kumele kube khona uphahla lwangaphakathi endlini olungekho ngaphansi kwama-2,4m ukusuka phansi, lolu phahla kumele lunganamathelwa wuthuli futhi lupendwe ngopende ogqamile futhi owashekayo;

(iii) kumele kube khona amatafula ensimbi noma acwebezelayo enziwe ngokufanele, eyenzelwe yaba nonqenqema ngaphandle, umpompi onamanzi abandayo onepayipi elithambile ongakwazi ukulixhuma emapayipini asemthethweni ahambisa amanzi angcolile;

(iv) kumele kube khona obheseni abangaphezulu kowodwa etafuleni ngalinye, abenziwe ngensimbi noma okunye okufanele, nendawo yokusebenzela eyakhiwe ngokufanayo, nompompi abanamanzi ashisayo nabandayo kanye nentuba yokuhambisa amanzi exhunywe emapayipini asemthethweni ahambisa amanzi angcolile, kube khona amathawula alahlwayo emva kokuwasebenzisa, ibhulashi lokuhlikihla kanye nensipho;

(v) kumele kube khona ompompi bamanzi abangaphezu kowodwa kanye nepayipi, elide ngokwanele ukufika kuwo wonke amakhona egumbi, likwazi ukuxhunywa likhuculula phansi ngaphakathi; futhi

(vi) kumele kube neminyango evulekayo engekho ngaphansi kwama-0,82m ukuvuleka kanye nama-2,00m ubude ukuze izidumbu zifakwe noma zikhishwe egunjini ngaphandle kwezinkinga.

(4) Igumbi lokushintsha ngalinye kumele okungenani libe nalokhu okulandelayo —

(a) ubheseni wokugeza izandla onamanzi ahambayo ashisayo kanye nabandayo wabasebenzi abayisithupha noma ingxenye yabo;

(b) amathawula alahlwayo emva kokusetshenziswa, insipho, amabhulashi okuhlikihla izinzipho ngokunjalo nesibulalimagciwane; kanye

(c) nezindlu zangasese zibe ngaphezu kweyodwa kubasebenzi besilisa abayi-15 noma ingxenye yalokho ngokunjalo nakwabesifazane abasebenza kuleyo ndawo yabangcwabi, kanti uma kundawo yabesilisa yokuchama eyehlukanisiwe eyingxenye yalei sakhiwo, kumele kube

khona indlu yangasese eyodwa kanye nendawo yokuchama ehlukenasiwe yabesilisa abangama-30 kumbe ingxenye yabo.

(5) Iziqandisi okungaba amafriji noma amagumbi abandayo okugcinwa kuwo izidumbu, kumele kube kufakwe kumbe kube seduze kwendawo lapho kulungiselwa khona izidumbu kanti —

(a) indawo yamafriji, kumele yakhiwe ngempahla engawumunci umswakama, kube namathileyi akhiphekayo futhi enziwe ngendlela yokuthi kubelula ukuwahlanza futhi achithele emapayipini asemthethweni ahambisa amanzi;

(b) kumele ukuthi isidumbu sigcinwe endaweni enokushisa okungadluli kuma-5°C ngesikhathi silungiswa. Ithemometha esebenza kahle kumele ibe semafrijini noma emagumbini abandayo futhi kumele isetshenziswe ngazo zonke izikhathi.

(c) Esimweni lapho kusetshenziswa khona amagumbi ababandayo, kumele kuhambisane nesigaba 10(3)(a)(ii), (b)(ii),(c),(d) kanye no(h) futhi kumele kube namashalofu akhiwe ngempahla engawumunci umswakama futhi kube lula ukuyihlanza; futhi

(d) Izidumbu akumele zibekwe phezu kwezinye kodwa kumele isidumbu ngasinye sifakwe ethileyini noma eshalofini laso.

(6) Indawo yokuhlanza, indawo yokulayisha nokwehlisa izidumbu kumele ibe nendawo ekhonkiwe, efihlekile kubantu, nendawo ehambisa amanzi ewumsele oxhumene nepayipi lendle egunyazwe uMkhandlu.

(7) Ukulayishwa nokwehliswa kwezidumbu kanye nokuhlanzwa kwezimoto akumele kwenziwe kunanoma iyiphi indawo ngaphandle kwendawo okukhulunywa ngayo kusigaba 72(6).

(8) Indawo yabangcwabi kumele ivikeleke emagundaneni.

#### **46. Ukuthuthwa Kwezinsalela Zomuntu Oshonile**

Akekho umuntu ovumeleke ukuthutha izinsalela zomuntu oshonile —

(a) ngaphandle uma lezo zinsalela zivalelwe entweni engawungenisi umoya futhi zabekwa endaweni engabonakali, enganyakazi, ebhokisini lomngcwabo elivalekile; noma

(b) alikho ibhokisi lomngcwabo elinezinsalela zomuntu elibekiwe okumele lithuthwe ngaphandle uma —

(i) ingaphandle lalelo bhokisi lomngcwabo noma okufakwe kukho isidumbu kungaconsi kumbe kungakhiphi lutho okuyizinsalela zomuntu oshonile; futhi

(ii) lingekho iphunga elinuka kabi elizozwakala.

## 47. Inhlanzeko

(1) Konke ukungcola okudalekayo kumele kugcinwe, kususwe, kuhanjiswa futhi kulahlwe ngokweMithetho kaMasipala Yezempilo Yomphakathi noma eminye imithetho eshayiwe ebekwe uMkhandlu.

(2) Yilowo nalowo mnikazi wesitifiketi sokungcwaba esimaqondana nezindawo zabangcwabi kumele—

(a) ahlinzeke ngezimpahla zokugqoka ezihlanzekile ezivikelayo okumagilavu, amadadla, amaphinifa epulasitiki enziwe ngendlela yokuthi ingaphambili lawo limboza ingaphezulu lamadadla, izifonyo kanye namabhantshi/i-ama-avaloni kubona bonke abasebenzi kanye nabo bonke abathintekayo ekulungisweni kwezidumbu noma abahlonza imbangela yokufa, futhi laba basebenzi kumele bagqoke lezi zinto ngaso sonke isikhathi uma benza besemsebenzini;

(b) ngaso sonke isikhathi bagcine lezi zindawo zingenazo izinambuzane kanye nezilwanyana ezincane;

(c) bahlanze indawo ekade kulungiswa kuyo isidumbu ngokushesha, balungise zonke izindawo zokusebenza noma lapho kulungiswa khona izidumbu;

(d) bawashe baphinde bafake izibulalimagciwane ngokushesha kuzo zonke izimpahla zokusebenza ebezisetshenziselwa ukulungisa izidumbu;

(e) bawashe, bahlanze baphinde bafake izibulalimagciwane kuzo zonke izimpahla zokugqoka ekade zigqokwe endaweni okulungiswa kuyo izidumbu nsuku zonke;

(f) bagcine lezi zindawo zihlanzekile ngaso sonke isikhathi; futhi

(g) uma isidumbu sihanjiswa ngaphandle kwento yokusimboza evimbela umswakama, kumele bawashe baphinde bafake izibulalimagciwane endaweni ebekufakwe kuyo isidumbu emotweni uma sesikhishiwe lesi sidumbu.

## ISAHLUKO 8

### UKUVALWA KWEZINDAWO ZOKUNGCWABA

48. Ukuvalwa kwezindawo zokungcwaba

(1)(a) Ngale kwananoma yiziphi izihlinzeko zalo mthetho kamasipala kanye nezihlinzeko zesigatshana (f) uMkhandlu ungasebenzisa nanoma iyiphi indawo yokungcwaba noma ingxenye yayo, okungaba yisiphathimandla sendawo yasemathuneni, osekuphele isikhathi esiyiminyaka engengaphansi kwengama-20 ingasetshenziswa futhi ingeke iphazamiseke inhlabathi yayo kanye nezinsalela zabantu asebashona noma amatshe esikhumbuzo kulawo mangcwaba.

(b) Ngale kwananoma yiziphi izihlinzeko zalo mthetho kamasipala kanye nezihlinzeko zesigatshana (f) uMkhandlu ungavala nanoma iyiphi indawo yokungcwaba noma ingxenye yayo, osekuphele isikhathi esiyiminyaka engengaphansi kwengama-20 ingasetshenziswa, noma uma kunesizathu esizwakalayo sokuvalwa kwalawo mangcwaba.

(c) ) Ngale kwananoma yiziphi izihlinzeko zalo mthetho kamasipala kanye nezihlinzeko zesigatshana (f) uMkhandlu ungasebenzisa indawo yokungcwaba noma ingxenye yayo, ebisetshenziselwa enye inhloso ngokwesigatshana (a), noma uvule kabusha indawo yokungcwaba noma ingxenye yayo, ebivaliwe ngokwesigatshana (b).

(d) UMkhandlu, ngokwesigatshana (f), ungasusa izinsalela zesidumbu, amatshe esikhumbuzo kanye nezinye izinto ezisendaweni yokungcwaba eseyavalwa kumbe esineminyaka engengaphansi kwengama-20 ingasetshenziswa futhi esigunyazwe yisiphathimandla noma iziphathimandla ezifanele ukuba isetshenziselwe okunye.

(e) Ayomiswa onke amalungelo umuntu anawo maqondana nezindawo zokungcwaba acacisiwe kusigatshana (a) kanye (b).

(f) Ngaphambi kokuba uthathe izinyathelo ngokwesigatshana (a), (b), (c) kanye (d) uMkhandlu kumele ukhiphe isaziso sokwenza lokho.

## ISAHLUKO 9

### UKUCHITHWA KWEMITHETHO KAMASIPALA

#### **49. Ukuchithwa kwemithetho kamasipala ebele ikhona kanye nokushayisana noMthetho Wezindawo Zokungcwaba kanye Nezokulothisa Izidumbu, 12 we-1996 (KwaZulu Natali)**

(1) Lapha kuchithwa iMithetho kaMasipala yeZindawo Zokungcwaba ekhona njengamanje eyashicilelwa ngaphansi Kwezaziso Zesifundazwe uNo. 403 kowe-1945, 80 kowe-1947, 242 kowe-1948, 588 kowe-1950, 703 kowe-1954, 166 kowe-1963 kanye no- 23 kowe-1965 ngokunjalo nanoma yimiphi eminye imithetho kamasipala ekhona elawula izindawo zokungcwaba nezokulothisa izidumbu ezisebenzayo njengamanje ezindaweni ezingaphansi kukaMasipala uMsunduzi.

(2) Akukho lutho kule mithetho kamasipala okuyophazamisa izihlinzeko noMthetho Wezindawo Zokungcwaba kanye Nezindawo Nezokulothisa Izidumbu, 12 we-1996 (KwaZulu Natali) kanye nanoma yimiphi imithethonqubo ehambisana nawo. Uma kukhona ukushayisana phakathi kwale mithetho kamasipala kanye noMthetho oshiwo ngenhla ngokunjalo nemithethonqubo ehambisana nawo, kuyosebenza lo Mthetho kanye nemithethonqubo ehambisana nawo.

#### **50. Isihlokwana esicacisayo kanye nokuqala kokusebenza kwalo Mthetho kaMasipala**

Le mithetho kamasipala ibizwa ngokuthi umthetho kamasipala omayelana Nezindawo Zokungcwaba kanye Nezokulothisa Izidumbu, yowezi-2015, futhi iyoqala ukusebenza ngosuku eyoshicilelwa ngalo kwiGazethi yesiFundazwe.