BCEA 1J

(Ummiselo wesi-2)

UMONGO OSISISEKO KWIMEKO ZOMTHETHO WOMSEBENZI KA 1997

ISISHWANKATHELO ESIGCINWA NGUMQESHI NGOKWEZIGQIBO ZECANDELO LAMA-30.

Esi silandelayo sisishwankathelo samagatya ecandelo loMongo osiSiseko kwiMeko zoMsebenzi woMthetho ka 1997, njengoko ulungisiwe

1. **Ukusetyenziswa kwalo mthetho : Icandelo lesi-3.**

Lo Mthetho usetyenziselwa bonke, abaqeshwa nabaqeshi ngaphandle kwamalungu eSebe lezoKhuseleko, iSebe lezeNtlawulo, nelikaRhulumente elinxulumene nobuNtlola kunye nabo basebenza ngokuthanda, nangesisa kumbutho othile.

Iimeko ezisisiseko zengqesho eziqulethwe kumThetho zenza inxenye yokontraki yengqesho yabasebenzi ebandakanywayo ngumThetho. Ezinye, kodwa hayi zonke, iimeko ezisisiseko zengqesho zinokohluka ngokobunye okanye ngengqokelela yezivumelwano ngokungqinelana nemimiselo yomThetho. (Jonga kumhlathi wesi-7 ngasezantsi

2. **UMMISELO WEXESHA LOKUSEBENZA : ISAHLUKO SESIBINI**

2.1 Lomthetho ubhekiswe kobani

Esi sahluko asibamanyi abo baqeshwa bakwinqanaba lokuphatha, nabahamba bethengisa kunye nabasebenza iiyure ezingaphantsi kwama-**24** ngenyanga.

2.2. Iiyure eziqhelekileyo zokusebenza : Icandelo le-9.

Akunamqeshi oyakuthi afune okanye avumele umqeshwa ukuba asebenze ngaphezulu:

(a) kweyure ezingama-**45** kwiveki enye;
(b) kweyure ezilithoba nakuliphi na usuku ukuba umqeshwa usebenza iintsuku ezintlanu okanye ngaphezulu evekini
(c) kweyure ezisibhozo nakuliphina usuku, ukuba umqeshwa usebenza iintsuku ezingaphezulu kwezintlanu evekini.

2.3. Ixesha elongezelelweyo lokusebenza : Icandelo le-10

2.3.1. Umqeshi angangamvumeli umqeshwa ukuba:

(a) asebenze ixesha elongezelelweyo ngaphandle kwesivumelwano;
(b) asebenze ngaphezulu:
    (i) kweyure ezilishumi zexesha elongezelelweyo ngeveki.

2.3.2 Isivumelwano sinokungafuni okanye sivumele umsebenzi ukuba asebenze ngaphezulu kweeyure ezili-12 ngalo naluphi na usuku.

2.3.3 Isivumelwano esihlanganyelweyo sinokulonyusa ixesha elongezelelweyo liye kwiiyure ezilishumi elinesihlanu ngeveki ukuya kwiinyanga ezimbini kulo naliphi na ixesha leenyanga ezili-12.

2.3.4. Intlawulo yexesha elongezelelweyo mayibe si-**1.5** sentlawulo yomvuzo oqhelekileyo, okanye umqeshwa afumane ikhefu.

2.4. Ixesha elixinzelweyo lokusebenza evekini: Icandelo le-11

2.4.1. Umqeshwa angavuma ngokubhala phantsi ukuba angesebenza kufike kwiiyure ezi-**12** ngosuku ngaphandle kwentlawulo yexesha elongezelelweyo.

2.4.2. Esi sivumelwano sinokungafuni okanye sivume ukuba umqeshwa asebenze:
(a) ngaphezulu kweyure ezingama-**45** eziqhelekileyo nakuyiphina iveki;
(b) ngaphezulu kweyure ezili-**10** zexesha elongezelelweyo evekini;
(c) ngaphezulu kwentsuku ezintlanu evekini.

2.5. Ukuzama ukulinganiswa kweyure zomsebenzi : Icandelo le-12

2.5.1. Isivumelwano sabo bonke, singabavumela ukuba iiyure zomsebenzi zisetyenzwe ngokuzama ukulinganisa ngokwesithuba esingangenyanga ezine.

2.5.2. Umqeshwa obopheleleke kwisivumelwano esinjalo usenokungasebenzi ngaphezulu:
(a) kweyure ezingama-**45** eziqhelekileyo evekini kwixesha ekuvunyelwene ngalo;
(b) kweyure ezintlanu zexesha elongezelelweyo.

2.6. Ixesha lokudla : Icandelo le-14

2.6.1. Umqeshwa makafumane ixesha lokudla lemizuzu engama-**60** emva kokusebenza iiyure ezintlanu.

2.6.1.1. Isivumelwano esibhaliweyo:
(a) singanciphisa ixesha lokudla libe yimizuzu engama-**30**;
(b) singanika imvume yokuba kwahlulwa-hlulwe ixesha lokudla kubasebenzi abasebenza iiyure ezingaphantsi kwezintandathu ngosuku.

2.7. Ithuba lokuphumula usuku okanye iveki : Icandelo le-15

Umqeshwa makafumane ixesha lokuphumula emva kweyure ezili-**12** ezilandelelanayo kunye neveki yokuphumula emva kweeyure ezingama-**36**. Xa kuvunyelwene eli khefu malidibanise nosuku lwangeCawe.

2.8. Intlawulo yokusebenza ngeCawe : Icandelo le -16

2.8.1. Umqeshwa othi ngamanye amaxesha asebenze ngeCawe makafumane intlawulo ephindwe kabini.

2.8.2. Umqeshwa oqhele ukusebenza ngeCawe makafumane intlawulo ephindwe ka-**1.5** yentlawulo yakhe yesiqhelo.

2.8.3. Makube kho isivumelwano sokubuyisela ixesha elisetyenzelwe ngeCawe.

2.9. Ukuphangela ebusuku : Icandelo le -17.

2..9.1. Abaqeshwa abaphangela ebusuku phakathi ko **18:00** no **06:00** mababuyekezwe ngentlawulo okanye kube nesaphulelo samalanga. Kananjalo babonelelwe ngezithuthi.

2.9.2. Abaqeshwa abasebenza njalo emva kweyure yama **23:00** nangaphambi kweyure yesi **06:00** ngosuku olulandelayo mabaziswe:
(a) ngengozi ezikhoyo zezempilo nezokhuseleko, kunye
(b) nelungelo lokuba bangaxilongwa.

2.10. **Iiholide zoluntu lonke : Icandelo le-18**

2.10.1.1. Abaqeshwa kufuneka bahlawulwe umvuzo wabo oqhelekileyo ngayo nayiphi na iholide yoluntu lonke engosuku lokusebenza.

2.10.2. Ukuphangela ngosuku lweholide makube ngokwesivumelwano, ukuze nentlawulo ibe yephindwe kabini.

2.10.3. Iholide isenokutshintshwa ngolunye usuku ngekwesivumelwano.

3. UKUTHABATHA IKHEFU : ISAHLUKO SESI-3

3.1. Lomthetho ubhekiswe kobani

Esi sahluko esingokuthabatha ikhefu asibandakanyi abo baphangela ngaphantsi kweyure ezingama-**24** ngenyanga kumqeshi, kunye nabo bavunyelwa ukuba bathabathe ikhefu lesithuba esingaphezulu kwesibekiweyo ngokwemiqathang yemvume ephantsi kwesi sahluko.

3.2. Ikhefu lonyaka : Amacandelo ama-20 & 21

3.2.1. Abaqeshwa banelungelo leentsuku ezingama-**21** lemvume yekhefu yonyaka. Bazuza usuku ngazo zonke iintsuku ezili-**17** abazisebenzileyo okanye iyure ngeeyure ezili-**17** abazisebenzileyo.

3.2.2. Umqeshwa makanikwe ikhefu zingaphelanga iinyanga ezintandathu kususela kwisithuba sexesha lekhefu lonyaka

3.2.3. Umqeshi makangamhlawuli umqeshwa endaweni yekhefu ngaphandle kokuba kuphela umsebenzi.

3.3. Ikhefu lokugula: Amacandelo ama-22 & 24

3.3.1. Umqeshwa unelungelo leeveki ezintandathu zekhefu lokugula kwisithuba senyanga ezingama-**36** azisebenzileyo.

3.3.2. Kwinyanga ezintandathu zokuqala umqeshwa unelungelo losuku olunye lekhefu lokugula elinentlawulo kwintsuku ezingama-**26** azisebenzileyo.

3.3.3. Umqeshi angafuna isiqinisekiso sikaqhirha phambi kokuba ambhatale umqeshwa obengekho emsebenzini iintsuku ezimbini ezilandelelanayo okanye lowo ongayi kakuhle emsebenzini.

3.4. Ikhefu lokubeleka : Amacandelo ama-25 & 26

3.4.1. Umqeshwa okhulelweyo unelungelo lokuba aye kubeleka iinyanga ezine ezilandelelanayo.

3.4.2. Umqeshwa okhulelweyo okanye okhulisa usana akavumelekanga ukuba asebenze umsebenzi onganobungozi kuye okanye kusana lwakhe.

3.5. Imvume yeemfanelo zosapho : Icandelo 27

3.5.1. Abaqeshwa abasisigxina emsebenzini banemvume yeentsuku ezintathu zokulungisa iimfanelo zentsapho zabo behlawulwa, xa kuzalwa umntwana womqeshwa, okanye xa egula, okanye xa kubhubhe umyeni okanye inkosikazi okanye usofa-silahlane wakhe, umondli wakhe, umakhulu, utatomkhulu, umntwana, umntwana amondlayo, umzukulwane okanye isalamane sakhe.

3.5.2 Umqeshi unelungelo lokufuna ubungqina obufanelekileyo.

4. Inkcukacha zengqesho nomvuzo : Isahluko 4

4.1 Lomthetho ubhekiswe kobani

Esi sahluko asibhekisi kumqeshwa osebenzela umqeshi ngaphantsi kweeyure ezingama-**24** ngenyanga.

4.2. Ukubhalwa kwenkcukacha zengqesho : Icandelo lama-29

4.2.1. Umqeshwa makambhalele ezi nkcukacha zilandelayo phambi kokuba aqale impangelo:

(a) igama elipheleleyo lomqeshi kunye nedilesi;
(b) igama lomqeshwa nomsebenzi awufundeleyo okanye inkcazelo yomsebenzi wakhe;
(c) iindawo ezahlukeneyo aza kusebenza kuzo;
(d) usuku lokuqala ingqesho;
(e) iiyure zokusebenza neentsuku zokuphangela;
(f) intlawulo okanye indlela ekubalwa ngayo intlawulo;
(g) indlela esetyenziswayo yokubala ixesha elongezelelweyo lokuphangela;
(h) nayiphina indlela yentlawulo esetyenziswayo;
(i) naluphina uhlobo lwentlawulo olusetyenziswayo, ingasisisa okanye ngokwexabiso lwaloo nto;
(j) usuku lokufunyanwa kwentlawulo;
(k) ukutsalwa kwemali ethile;
(l) imvume yekhefu;
(m) ithuba lesaziso okanye lesivumelwano;
(n) inkcazelo ngalo naliphina icandelo okanye isigqibo esithi simisele izinto ezimayela noshishino lomqeshi;
(o) isithuba sengqesho asisebenzayo kumqeshi ongaphambili ukuze sibe luncedo kwisithuba sakhe sengqesho yangokhu;
(p) uluhlu lwamaxwebhu ayinxalenye yesivumelwano abonisa apho ikopi ingafunyanwa khona.

4.2.2. Iinkcukacha mazimane ukuphengululwa xa kukho utshintsho ngezengqesho.

4.3. Ukwazisa abaqeshwa ngamalungelo abo : Icandelo lama-30

Inkcazelo yamalungelo abaqeshwa mayibekwe elubala ukuze ibonwe ngabaqeshwa okanye mayibe ngelwimi ezisetyenziswayo ngabaqeshwa.

4.4. Ukugcinwa kwengxelo ebhaliweyo : Icandelo lama-31

Abaqeshi mabagcine ingxelo ebhaliweyo ngezi zinto zilandelayo:
(a) igama lomqeshwa nomsebenzi wakhe;
(b) isithuba asisebenzileyo;
(c) intlawulo ayifumanayo;
(d) unyaka wokuzalwa xa eneminyaka engaphantsi kweli-**18**; kunye
(e) nayiphi na into engathi ibe luncedo ukuze sibe nolwazi oluphangaleleyo ngomqeshwa.

4.5. Ukwaziswa ngentlawulo : Icandelo lama-33

Umqeshwa makabhalelwe ukwaziswa xa efumana umvuzo wakhe ngezi zinto zilandelayo:
(a) igama nedilesi yomqeshi;

(b) igama lomqeshwa kunye nomsebenzi wakhe;
(c) ithuba ekufunyanwa ngalo intlawulo;
(d) uhlawulwa malini;
(e) nayiphina imali ethe yancitshiswa kumvuzo wakhe;
(f) owona mvuzo awufumanayo;
(g) nokuphathelene nendlela ekubalwa ngayo intlawulo:
    (i) indlela umqeshwa ahlawulwa ngayo nangexesha elongezelelweyo;
    (ii) amatyeli eeyure ezisetyenziweyo nezexesha elongezelelweyo ngethuba lokufumana intlawulo;
    (iii) amatyeli eeyure ezisetyenziweyo ngeCawe okanye ngeholide;
    (iv) nesivumelwano ukuba ngaba sikhona ngexesha lokusebenza, nalo lonke ixesha elisetyenziweyo nexesha elongezelelweyo kwisithuba sokubala.

4.6. Unciphiso lwemali nemithetho engentlawulo : amaCandelo lama-34 kunye nelama-34A

4.6.1. Umqeshi akanakutsala imali kumvuzo womsebenzi ngaphandle kokuba:

(a) Umsebenzi uvuma ngembalelwano ukuba kutsalwe imali yetyala elithile;
(b) Utsalo lwenziwa ngokwemiqathango yesivumelwano esihlanganyelweyo, ngomthetho, umyalelo wenkundla okanye ngokolamlo.

4.6.1 Utsalo mali ngenxa yomonakalo okanye ilahleko ebangwe ngumsebenzi lunokwenziwa kuphela ngesivumelwano kunye nasemva kokuba umqeshi elandele inkqubo efanelekileyo
4.6.2 Abaqeshi mabaluhlawule utsalo kunye nemirhumo yabasebenzi kwingxowa-mali yoncedo kwiintsuku ezisixhenxe.

4.7 Ukubalwa kwentlawulo nomvuzo : Icandelo lama-35

4.7.1 Umvuzo ubalwa ngokwenani leeyure ezisetyenziweyo.

4.7.2 Intlawulo okanye umvuzo uphindwe kane kunye nesinye esithathwini **($4^{1}/_{3}$)** kumvuzo weveki.

4.7.3 Xa ungabalwa ngokusebenzisa ixesha umvuzo womqeshi uya kumana utshintsha minyaka le, ukanti umvuzo kufuneka ubalwe kujoliswe kwintlawulo ngokwendlela etyunjiweyo:
(a) weeveki ezili-**13** ezingaphambili; okanye
(b) ukuba ebesebenza kwisithuba esifutshane, makubhekiswe kweso sithuba.

4.7.4 Abaqeshi kunye nabasebenzi kufuneka ukuba bajonge ishedyuli epapashwe kwiPhepha lasebuRhulumenteni ukubona ukuba ngaba udidi oluthile lwentlawulo lwenza inxenye yomvuzo womsebenzi ngokwenjongo yobalo olwenziwe ngokwemiqathango yalo mThetho.

5 UKUPHELA KOMSEBENZI : ISAHLUKO SESI-5

5.1. Lomthetho ubhekiswe kobani

Esi sahluko asibhekisi kumqeshwa osebenza ngaphantsi kweeyure ezingama-**24** ngenyanga.

5.2 Isaziso sokuphela komsebenzi : Icandelo lama-37

5.6.1 Isivumelwano somsebenzi singapheliswa wakwaziswa ngesithuba esingaphezu:

(a) kweveki, ukuba umsebenzi usebenze iinyanga ezintandathu nangaphantsi,
(b) kweeveki ezimbini, ukuba umsebenzi usebenze isithuba esingaphezu kweenyanga ezintandathu nangaphantsi konyaka;
(c) kweeveki ezine, ukuba umsebenzi usebenze unyaka nangaphezulu, okanye ungumsebenzi wasefama okanye umsebenzi wasemakhitshini osebenze ngaphezulu kweenyanga ezintandathu.

5.2.2 Isivumelwano esihlanganyelweyo sinokusishunqulela isaziso seeveki ezine ukuya kwiiveki ezingekho ngaphantsi kwesibini..

5.2.3. Isaziso sokuphela komsebenzi masibhalwe phantsi ngaphandle kokuba unikwa umqeshwa ongafundanga.

5.2.4. Isaziso sokuphela komsebenzi esenziwa ngumqeshi ngokoMthetho, asimthinteli umqeshwa ukuba afune ubungqina ukuzanelisa ngokufaneleka nangokomthetho, ukuba ukuyekiswa kwakhe kuhambelana neZimiselo zoMthetho waBasebenzi ka-1995 kwaneminye imithetho ngokunjalo.

5.3. Intlawulo ngokunqunyanyiswa emsebenzini : Icandelo lama-41

Umqeshwa othe wagxothwa ngesizathu sokuhlenga-hlengisa okanye okontraki yakhe yengqesho ipheliswayo ngokwemiqathango yecandelo lama-38 lomThetho wokungakwazi ukuhlawula amatyala ka-1936 uyakuba nelungelo lentlawulo yokunqunyanyiswa. Uyakuhlawulwa iveki enye ngonyaka ngamnye awusebenzileyo.

5.4. Isatifiketi somsebenzi : Icandelo lama-42

Xa eyeka umsebenzi umqeshwa unelungelo lesatifiketi somsebenzi.

6. Isithintelo sokusebenza kwabantwana nokusetyenziswa ngesinyanzeliso : Amacandelo ama-43 - 48

6.1.Kulityala ukuqesha umntwana ominyaka ingaphantsi kwe-**15**.

6.2. Abantwana abaminyaka engaphantsi kwe-**18** mabangaqeshelwa imisebenzi enganobungozi kubo.

6.3. Ukubangela, ukubanga okanye ukucela ukuba kusetyenziswe ngesinyanzeliso kukwaphula umthetho.

7. Iindlela ezahlukileyo ezingumongo wengqesho : Amacandelo ama-49 - 50

7.1. Isivumelwano ekuvunyelwene ngaso kwibhunga elenza izigqibo lisenokuthabatha indawo ethi ingqesho ixhomeke kuyo, okanye lisenokusithintela (esosivumelwano) ngaphandle kwezi zilandelayo:

(a) umsebenzi wokumiswa kwexesha lomsebenzi malunga nempilo nokhuseleko kunye nemfanelo zosapho labaqeshwa (Amacandelo esi-5,7,8,9 & 13);
(b) ukuthotywa kwesisekelo esilungiselelwe abaqeshwa abenza umsebenzi wasebusuku [Amacandelo esi-5,17(3), & (4)];
(c) ukuncitshiswa kwekhefu leminyaka ukuba libe ngaphantsi kweeveki ezimbini (Icandelo lama-20);
(d) ukuncitshiswa kwelungelo lekhefu lokubeleka (Icandelo lama-25).
(e) ukuncitshiswa kwelungelo lekhefu lokugula elivumelekileyo emthethweni (Amacandelo ama-22 - 24);
(f) isithintelo sokusebenza kwabantwana nokusetyenziswa ngesinyanzeliso (Icandelo lama-48).

7.2. Isivumelwano sabo bonke nesivumelwano soyedwa sinokuthabatha indawo okanye sithintele umongo osisiseko kwimeko zomthetho womsebenzi ngokwendlela evumelekileyo emthethweni okanye kwicandelo lokuthabatha isigqibo (Icandelo lama-50).

7.3. UMphathiswa wezeMisebenzi angathabatha isigqibo sokutshintsha okanye sokuthintela owona mongo osisiseko sengqesho. Oku kungenziwa futhi ngencwadi yesicelo ngumqeshi okanye umbutho wabaqeshi (Icandelo lama-50).

7.4. Esi sigqibo sinokungamkeleki ngaphandle kokuba amalungu omnyango wabasebenzi anike imvume okanye abenesithuba sokwenza inkcazelo kuMphathiswa. Ikopi yesigqibo esenziweyo mayibekwe elubala ukuze ibonwe ngabaqeshwa nanini na (Icandelo lama-50).

8. Ukuthabatha izigqibo : Icandelo lama-51

Ukuthatyathwa kwezigqibo kuxhomekeke kumongo wesimo sabaqeshwa belo candelo okanye loo ndawo.

9. Ukucebisa, isinyanzeliso kunye nenkqubo zomthetho : Amacandelo angama-63 - 81

9.1. Abahloli bezomsebenzi mabacebise abaqeshwa nabaqeshi ngamalungelo kunye neemfanelo zabo zemithetho yengqesho. Ekuhloleni kwabo bathi baphengulule izikhalazo ngokubuza, baphenye nencwadi baze babhale ingxelo. Bayakuthabatha okuthi kube luncedo kuphando lwabo (Amacandelo angama-64 - 66).

9.2. Umhloli angathumela umyalelo wesivumelwano kumqeshi ongathobelanga igatya elithile lomthetho wabasebenzi. Umqeshi usengawuchasa lo myalelo ngokwazisa uMongameli-Jikelele weZemisebenzi. Akuba efumene inkcazelo, angavuma, ukutshintsha okuthile okanye abeke umyalelo othile. Esi sigqibo sinokuya enkundleni yamatyala emisebenzi (Amacandelo angama-68 - 73)

9.3. Abaqeshwa mabangacalu-calulwa ngokusebenzisa amalungelo abo ngokwaloMthetho (Amacandelo angama-78-81).

10. NGUBANI OTHATHWA NJENGOMSEBENZI: ICANDELO 83A

10.1 Umntu osebenzela, okanye onika iinkonzo komnye umntu uthathwa njengomsebenzi ukuba:-

(a) indlela yakhe yokuziphatha okanye iiyure zokusebenza zixhomekeke kulawulo okanye kwicala;
(b) indlela yakhe yokuziphatha okanye iiyure zokusebenza zixhomekeke kulawulo okanye kwicala;
(c) wakha inxenye yombutho womqeshi;
(d) usebenzele omnye umntu okungenani iiyure ezingama-40 ngenyanga kwiinyanga ezintathu ezidlulileyo;
(e) ngokwezoqoqosho uxhomekeke komnye umntu;
(f) unikwe izixhobo zakhe okanye izixhobo zomsebenzi; okanye
(g) usebenzela, okanye uzinika iinkonzo zakhe, kumntu omnye.

10.2 Ukuba enye yezi meko ikhona, umntu uthathwa njengomsebenzi de abe umqeshi abe nobungqina bokuba ayinguye.

11. IZINTO-JIKELELE

Kulityala:
(a) Ukuthintela okanye ukuzama ukuphembelela umntu ngendlela engalunganga xa esenza umsebenzi ngokwaloMthetho;
(b) Ukufumana okanye ukuzama ukufumana umbhalo olu xwebu otyunjiweyo ngendlela zobuqhetseba, nezobuxoki okanye ukunikela ngombiko ongubuxoki;
(c) Ukuzenza ngathi ungumhloli wezemisebenzi okanye nokuba ngubani na owenza umsebenzi onxulumene naloMthetho;
(d) Ukungavumi okanye ukwahluleka ukunika impendulo ngokupheleleyo ezimayelana nemithetho yezemisebenzi wakubuzwa ngumhloli wezemsebenzi okanye nokuba ngubani na osebenza ngokwaloMthetho;

(e) Ukwala kuphele okanye ukwahluleka ukuthobela isicelo esimalunga nomthetho owunikwayo ngumhloli wezemisebenzi okanye nabani na osebenza ngokwaloMthetho;
(f) Ukuthintela okanye uphazamise umhloli wezemisebenzi nokuba ngubani na owenza umsebenzi onxulumene nalo Mthetho (Icandelo lama-92).