

(Umthetho olawulayo wesi - 2)

**IZIMISO EZIYISISEKELO ZOMTHETHO WOKUQASHA KA 1997**

**IQQO ELIGCINWA NGUMQASHI NJENGOBA KUBEKWE ESIGABENI SAMA-30**

Okulandelayo lapha yiqoqo lemibandela yezigaba ezibalulekile zeZimiso eziyiSisekelo zoMthetho wokuQasha ka 1997, ngokuchitshiyelwa kwawo.

**1. Ukusebenza kwalo Mthetho : Isigaba sesi-3**

LoMthetho usebenza kubo bonke abasebenzi nabaqashi ngaphandle kwalabo abangamalungu oMkhandlu kaZwelonke WeZokuvikela, aboMkhandlu kaZwelonke WezobuChwepheshe, abazemisebenzi yobuNhloli yaseNingizimu Afrika kanye nabantu abasebenza bangakhokhelwa, futhi besebenzela inhlangotho enhloso yayo kungukunikela ngesihle.

esikhona.

**2. UKULAWULWA KWESIKHATHI SOKUSEBENZA: ISAHLUKO SESIBILI**

Lesi sahluko singesetshenziselwe abasebenzi abasezikhundleni eziphezulu zokuphatha, nakulabo abahamba izindawo ngezindawo bethengisa futhi nabasebenza amahora angaphansi kwangama-**24** ngenyanga.

**3. Amahora okusebenza ajwayelekile: Isigaba sesi-9**

Akukho mqashi onokuyalela noma onokuvumela umsebenzi ukuba asebenze isikhathi eseqile:

- (a) kumahora angama-**45** ngesonto;
- (b) kumahora ayisishiyagalolunye kunanoma yingaluphi usuku uma umsebenzi usebenza izinsuku ezinhlanu ngeviki noma ngaphansi; noma
- (c) kumahora ayisishiyagalombili kunanoma yingaluphi usuku uma umsebenzi usebenza izinsuku ezeqile kwezinhlanu ngesonto.

**4. Isikhathi eseqile: Isigaba se-10**

- 4.1 Umqashi akafanele ukuyalela noma ukuvumela umsebenzi ukuba:
  - (a) asebenze isikhathi eseqile ngaphandle uma kungesivumelwano;
  - (b) asebenze isikhathi eseqile:
    - (i) emahoreni amathathu esikhathi eseqile ngosuku; noma
    - (ii) emahoreni ayishumi esikhathi eseqile ngesonto.

4.2 Isikhathi eseqile kufanele sikhokhelwe ngokuphidaphindwe ka-**1.5** eholweni elijwayelekile lomsebenzi noma umsebenzi anikezwe isikhathi sokuhlaba ikhefu ekhokhelwa.

**5. Isonto lamahora aminyanisiwe: Isigaba se-11**

5.1 Umsebenzi angavuma ngokubhala phansi ukuthi uzosebenza amahora afinyelela kwayi-**12** ngosuku ngaphandle kokukhokhelwa iholo lesikhathi eseqile.

5.2 Lesi sivumelwano singedinge noma sivumele umsebenzi ukuba asebenze:  
(a) amahora eqile kwangama-**45** ajwayelekile kunanoma yiliphi isonto;  
(b) amahora eqile kwayishumi esikhathi eseqile kunanoma yiliphi isonto; noma  
(c) izinsuku ezeqile kwezinhlanu kunanoma yiliphi isonto.

**6. Ukulingalinganiswa kwamahora okusebenza: Isigaba se-12**

6.1 Isivumelwano esinguzibuthe singavumela ukuba amahora omsebenzi alingalinganiswe kuze kufinyelele ezinyangeni ezine.

6.2 Umsebenzi ophoqeletwa yilesi sivumelwano esinguzibuthe angesebenze ukweqa:  
(a) amahora ajwayekile angama-**45** evikini esikhathini okuvunyelwane ngaso;  
(b) amahora amahlanu esikhathi eseqile ngeviki esikhathini okuvunyelwane ngaso.

**7. Amakhefu okudla: Isigaba se-14**

7.1 Umsebenzi kufanele afumane ikhefu lokuyodla eliyimizuzu engama-**60** emva kokusebenza amahora amahlanu.

7.2 Isivumelwano esibhalwe phansi:  
(a) singanciphisa isikhathi sekhefu lokudla libe yimizuzu engama-**30**;  
(b) singavumela ukungabikhona kwekhefu uma umsebenzi esebenza amahora angafiki kwayisithupha ngosuku.

**8. Isikhathi sokuphumula sosuku noma seviki: Isigaba se-15**

Umsebenzi kufanele abe nesikhathi sokuphumula esingamahora ayi-**12** alandelanayo ngosuku kanye nesingamahora angama-**36** alandelanayo ngesonto. Lamahora kufanele afakele nosuku lwangeSonto ngaphandle uma kuvunyelwene ngenye indlela.

**9. Ukukhokhelwa kokusebenza ngamaSonto: Isigaba se-16**

9.1 Umsebenzi ongavamile ukusebenza ngeSonto kufanele akhokhelwe iholo eliphindaphindwe kabili.

9.2 Umsebenzi ovame ukusebenza ngeSonto kufanele akhokhelwe iholo elijwayelekile eliphindaphindwe ka-**1.5**.

9.3 Kungavunyelwana ngokuthi ukusebenza ngeSonto kungakhokhelwa ngokunikezwa isikhathi sokuphumula.

10. **Ukusebenza ebusuku: Isigaba se-17**

10.1 Abasebenzi abasebenza ebusuku phakathi kuka **18:00** no **06:00** kufanele bakhokhelwe ngokunikezwa imali eyisibonelelo noma ngokunciphisa amahora okusebenza kanti kufanele babonelelwe ngezinto zokuhamba.

10.2 Abasebenzi abavame ukusebenza emva kuka **23:00** nangaphambi kuka **06:00** ngosuku olulandelayo, kufanele baziswe:

- (a) ngananoma yiziphi izimo eziyingozi ngokwezempilo nangokwezokuphepha; futhi
- (b) ngelungelo labo lokuxilongwa ngudokotela.

11. **Amaholide omphakathi: Isigaba se-18**

11.1 Abasebenzi kufanele bakhokhelwe uma iholide ligujwa ngosuku lomsebenzi.

11.2 Ukusebenza ngeholide kuba ngokwesivumelwano kanti kukhokhelwa ngokuphindaphindwe kabili.

11.3 Iholide lomphakathi kungashintshiswana ngalo ngokwesivumelwano.

12. **UKUHLABA IKHEFU: ISAHLUKO SESITHATHU**

Lesi sahluko esiphathelene nokuhlaba ikhefu singesetshenziselwe umsebenzi osebenza ngaphansi kwamahora angama-**24** ngenyanga kanti singesetshenziswe uma isivumelwano sokuhlaba ikhefu esikhona sinikezela ngezinsuku ezeqile kwezilindelekile ngaphansi kwalesi sahluko.

13. **Ikhefu lonyaka: Izigaba zama-20 & 21**

13.1 Abasebenzi bagunyazekile ukuhlaba ikhefu lezinsuku ezingama-**21** ezilandelanayo ngonyaka noma, ngokwesivumelwano, usuku olulodwa kulezo nalezo zinsuku eziyi-**17** ezisetshenziwe noma bathole ihora elilodwa kulawo nalawo mahora ayi-**17** asetshenziwe.

13.2 Ikhefu kufanele linikezwe kungakapheli isikhathi esiyizinyanga eziyisithupha emva kokuphela kwesikhathi esibekiwe sekhefu.

13.3 Umqashi akafanele ukukhokhela umsebenzi esikhundleni sokuba amnikeze ikhefu ngaphandle-ke uma esepothula emsebenzini.

**14. Ikhefu uma ugula: Izigaba zama-22 - 24**

14.1 Umsebenzi unegunya lokuthatha ikhefu elikhokhelwayo eliyisikhathi esingamaviki ayisithupha ezinyangeni ezingama-**36** asezisebenzile uma egula.

14.2 Ezinyangeni eziyisithupha zokuqala, umsebenzi unegunya lokuthatha ikhefu elikhokhelwayo losuku olulodwa ezinsukwini ezingama-**26** asezisebenzile.

14.3 Umqashi angafuna incwadi kadokotela ngaphambi kokukhokhela umsebenzi oselove izinsuku ezedlula ezimbili ngokulandelana noma ojwayele ukulova.

**15. Ikhefu lokuyobeletha: Izigaba zama-25 & 26**

15.1 Umsebenzi okhulelwe unegunya lokuthatha ikhefu lokuyobeletha lezinyanga ezine ezilandelanayo.

15.2 Umsebenzi okhulelwe noma osengumdezane akavunyelwe ukwenza umsebenzi ongafaka impilo yakhe noma eyengane yakhe engozini.

**16. Ikhefu lokufeza izibopho zezomndeni: Isigaba sama-27**

16.1 Abasebenzi abaqashwe ngokuphelele banegunya lokuthatha ikhefu elikhokhelwayo lezinsuku ezintathu ngonyaka ukufeza izibopho zezomndeni ezinjengokuzalwa noma ukugula kwengane yomsebenzi, noma uma kushone umlingani noma lowo ongu sofa-silahlane womsebenzi, noma umzali, umondli, uogogo noma umkhulu, ingane, ingane ayondlayo, umzukulu noma iselamani sakhe.

16.2 Umqashi angafuna ubufakazi obufanelekile ukuqinisekisa lokhu.

**17. IMINININGWANE YOKUQASHWA NOKUHOLELWA: ISAHLUKO SESINE**

Lesi sahluko asiphathelene nomsebenzi osebenzela umqashi amahora angaphansi kwangama-**24** ngenyanga.

**18. Imininingwane ebhalwe phansi yomsebenzi: Isigaba sama-29**

18.1 Umqashi kufanele anikeze umsebenzi oqala ukusebenza lemininingwane engezansi ngokuyibhala phansi:

- (a) amagama ngokugcwele kanye nekheli lomqashi;
- (b) igama kanye nomsebenzi ozokwenziwa ngumsebenzi, noma incazelo ngamafuphi yomsebenzi azowenza lowo oqashiwe;
- (c) izindawo ezahlukeni lapho kuzosetshenzelwa khona;
- (d) usuku lokuqashwa;

- (e) amahora okusebenza ajwayelekile kanye nezinsuku zokusebenza;
- (f) iholo noma ukubalwa kweholo nendlela yokukhokhelwa;
- (g) ukukhokhelwa kokusebenza isikhathi eseqile;
- (h) ezinye izimali ezikhokhelwayo;
- (i) okunye ukukhokhelwa okungeyona imali kanye nokulinganiswa kwakho;
- (j) isikhathi sokukhokhelwa;
- (k) imali engadonswa;
- (l) ikhefu elivumelekile;
- (m) isikhathi senothisi noma isikhathi sesivumelwano;
- (n) incazelo yomkhandlu noma izinqumo zengxenye ethile;
- (o) isikhathi esisetshenziwe kumqashi wangaphambilini nesibalelwa njengesikhathi sokuqashwa;
- (p) uhlu lwezinye izincwadi eziyingxenye yesivumelwano nolukhomba indawo lapho kungatholakala khona ikhophi.

18.2 Leminingwane kufanele ibuyekwezwe uma izimo zokuqashwa ziguquka.

19. **Ukwazisa abasebenzi ngamalungelo abo: Isigaba sama-30**

Incazelo ngamalungelo abasebenzi kufanele ibekwe obala endaweni yokusebenzela futhi ibhalwe ngezilimi zonke ezisetshenziswayo emsebenzini.

20. **Ukugcinwa kwamabhuku: Isigaba sama-31**

Umqashi ngamunye kufanele agcine amabhuku analemningwane:

- (a) igama lomsebenzi kanye nomsebenzi awenzayo;
- (b) isikhathi esisetshenziwe;
- (c) iholo elikhokhelweyo;
- (d) usuku lokuzalwa uma umsebenzi eneminyaka engaphansi kweyi-18; kanye
- (e) neminye iminingwane efanelekile.

21. **Ulwazi ngezamaholo: Isigaba sama-33**

Lolu lwazi olundelayo kufanele lubhalwe phansi futhi lunikezelwe umsebenzi lapho ekhokhelwa:

- (a) igama lomqashi kanye nekheli;
- (b) igama lomsebenzi kanye nomsebenzi awenzayo;
- (c) isikhathi sokuholelwa;
- (d) imali ayikhokhelwayo;
- (e) imali edonsiwe eholweni uma ikhona;
- (f) inani lemali ekhokhiwe;
- (g) uma kukhona okuthintene nokubalwa kweholo lomsebenzi kufanele kukhonjiswe kahle:
  - (i) indlela yokubala imbuyiselo noma isikhathi eseqile;

- (ii) inani lamahora ajwayelekile kanye neqile asetshenziwe kuleso sikhathi esikhokhelwayo;
- (iii) inani lamahora asetshenziwe ngeSonto noma ngeholid e lomphakathi kuleso sikhathi esikhokhelwayo; futhi
- (iv) uma kukhona isivumelwano sokulingalinganisa isikhathi esisetshenziwe, inani lesikhathi sonke esejwayelelekile kanye neseqile esisetshenziwe kuleso sikhathi sokulingalinganisa.

**22. Imali edonswayo kanye neminye imithetho ephathelene nokukhokhelwa: Isigaba sama- 34**

Akukho kudonswa kwemali okungekho emthethweni okungenziwa ngaphandle kwemvume ebhalwe phansi.

**23. Ukubalwa kwembuyiselo kanye neholo: Isigaba sama-35**

23.1 Iholo libalwa ngamahora ajwayelekile asetshenziwe.

23.2 Imbuyiselo noma iholo lenyanga liyaye liphindwe kane kanye nokukodwa kwisithathu ( $4\frac{1}{3}$ ) kulelo lesonto.

23.3 Uma ukubalwa kweholo kwenziwa ngenye indlela okungeyona ehlanganisa isikhathi esisetshenziwe, noma uma iholo liguquguquka kakhulu njalo isikhathi ngesikhathi, noma yiliphi iholo kufanele libalwe ngokubhekisa imbuyiselo noma iholo esikhathini:

- (a) amasonto ayi-13 angaphambili; noma
- (b) uma eqashwe isikhathi esifushane kunalesi, kube ngokwaleso sikhathi.

**24. UKUNQUNYANISWA EMSEBENZINI: ISAHLUKO SESIHLANU**

Lesi sahluko asiphathelene nomsebenzi osebenzela umqashi amahora angaphansi kwangama-24 ngenyanga.

**25. Isaziso sokunqunyaniswa emsebenzini: Isigaba sama-37**

25.1 Isivumelwano somsebenzi singanqunyaniswa kuphela ngesaziso esingekho ngaphansi:

- (a) kwesonto elilodwa, uma umsebenzi eqashwe isikhathi esingaphezu kwamasonto amane noma ngaphansi;
- (b) kwamasonto amabili, uma umsebenzi eqashwe isikhathi esingamasonto amane kodwa ngaphansi konyaka owodwa;
- (c) kwamasonto amane, uma umsebenzi eqashwe unyaka owodwa nangaphezulu, noma engumsebenzi wasepulazini noma wasemakhishini osesebenze isikhathi esedlulile emasontweni amane.

- 25.2 Isaziso kufanele sibhalwe phansi ngaphandle uma sifakwa ngumsebenzi ongafundile.
- 25.3 Isaziso sokuphelelwa ngumsebenzi esivela kumqashi, ngokwezimiso zaloMthetho, asimvimbeli umsebenzi ukuba abuzisise ngobuqotho noma ngokuba semthethweni kokuxoshwa kwakhe emsebenzini ngokoMthetho Wenkambiso yeZomsebenzi ka 1995 noma ngokomunye umthetho.

**26. Inhlawulo yokunqunyaniswa emsebenzini: Isigaba sama-41**

Umsebenzi oxoshiwe emsebenzini ngezizathu zezidingo zenqubo yomsebenzi, unegunya lokukhokhelwa inhlawulo yokunqunyaniswa engeyeviki elilodwa kulowo nalowo nyaka asewusebenzile.

**27. Isitifiketi somsebenzi: Isigaba sama-42**

Umsebenzi onqunyanisiwe emsebenzini unelungelo lokuthola isitifiketi somsebenzi.

**28. UkweNqatshelwa KokuQashwa KweZingane kanye NokuSetshenziswa Ngempopo: Izigaba zama-43 - 48**

- 28.1 Kungukwephula umthetho ukuqasha ingane engaphansi kweminyaka eyi-15 ubudala.
- 28.2 Izingane ezineminyaka engaphansi kweyi-18 akufanele ziqashelwe ukwenza umsebenzi ongalingani neminyaka yazo noma lowo ozibeka esimeni esibucayi.
- 28.3 Ukusebenzisa omunye ngempopo kungukwephula umthetho.

**29. Ukuguqulwa Kwezimiso Eziyisisekelo Zomthetho Wokuqasha: Izigaba zama-49 - 50**

- 29.1 Isivumelwano esinguzibuthe okufinyelelwe kuso ngumkhandlu wokuvumelana ngempatho kwezimisebenzi singasetshenziswa esikhundleni noma sichithe izimiso eziyisisekelo zomthetho wokuqasha, ngaphandle kwalezi ezilandelayo:
- (a) umsebenzi wokuhlela isikhathi sokusebenza mayelana nezempilo nezokuphepha kanye nezibopho ezibhekene nomndeni wabasebenzi (Izigaba zesi-7, 9 & 13).
  - (b) ukuncishiswa kokuvikeleka okunikezwa abasebenzi abasebenza ebusuku (Izigaba ze-17(3) & 4).
  - (c) ukuncishiswa kwekhefu lonyaka libe ngaphansi kwamasono amabili (Isigaba sama-20)
  - (d) ukuncishiswa kwegunya lekhefu lokubeletha (Isigaba sama-25).
  - (e) ukuncishiswa kwegunya lekhefu lokugula lize lifinyelele esikhathini esivunyelwe (Izigaba zama-22 - 24).

(f) ukunqatshelwa kokuqashwa kwezingane kanye nokusetshenziswa ngempoqo (Isigaba sama-48)

29.2 Izivumelwano ezinguzibuthe kanye nezivumelwano zomuntu ngamunye zingasetshenziswa esikhundleni noma zichithe lezo izimiso eziyisisekelo zomthetho wokuqasha ukufinyelela lapho kugunyazwe khona nguMthetho noma ngokwezinqumo zengxenywe ethile (Isigaba sama-49).

29.3 UNgqongqoshe WeZemisebenzi angathatha isinqumo sokuguqula noma ukuchitha isimiso esiyisisekelo somthetho wezokuqasha. Lokhu kuchithwa kungenziwa ngumqashi noma inhlango yabaqashi uma nje kungafakwa isicelo sokwenza lokhu (Isigaba sama-50).

29.4 Isinqumo singemukeleke ngaphandle kokuthi inyunyana emele abasebenzi ivumelane nezinguquko ezenziwayo noma ibe nethuba lokufakana imilomo noNgqongqoshe. Ikhophi yanoma yiziphi izinqumo ezithathiwe kufanele umqashi ayibeke obala endaweni yomsebenzi, kanti futhi nabasebenzi kufanele bakwazi ukuzitholela yona kalula (Isigaba sama-50).

### 30. **Izinqumo zezingxenywe: Isigaba sama-51**

Izinqumo ngezingxenywe zingathathwa ukuze kuphakanyiswe izimiso eziyisisekelo zabasebenzi engxenyeni kanye nasendaweni ethize.

### 31. **Ukulandelisisa, ukuphoqelelwa kanye nenqubo yomthetho: Izigaba zama-63 - 81**

31.1 Abahloli bezemisebenzi kufanele bacebise abasebenzi nabaqashi ngamalungelo kanye nezibopho zabo ngokwemithetho yokuqasha. Umsebenzi wabahloli ngukuhlola, ukuphenya izikhalo kanti futhi bangafaka abantu imibuzo, bahlole izincwadi, bathathe amakhophi ezincwadi kanye nezinye izincwadi ezithintene nophenyo nokuhlola abakwenzayo (Izigaba zama-64 - 66).

31.2 Umhloli anganika umqashi incwadi yempoqo uma etholwa engahloniphi izimiso zaloMthetho. Umqashi angaphikisa lencwadi kuMqondisi-Jikelele WeZemisebenzi, yena ongathi, emuva kokulalela isikhalo somqashi, aqinisekise, aguquguqule noma achithe okushiwo yilencwadi. Isikhalazo ngalesi sinqumo singadluliselwa eNkantolo YezeMisebenzi (Izigaba zama-68 - 73).

31.3 Abasebenzi bangebandlululwe ngenxa yokusebenzisa kwabo amalungelo abanawo ngokwaloMthetho.

### 32. **Izimiso jikelele**

Kuyicala ukwenza lokhu:

- (a) ukuvimbela noma ukuzama ukuwunga ngokungeyikho omunye umuntu owenza umsebenzi ngokulandela loMthetho;
- (b) ukuthola noma ukuzama ukuthola noma yimaphi amabhuku agciniwe ngendlela yokukhwabanisa, yobuphixiphixi, noma ngokuveza noma ukunikela ngencwadi engeyona noma leyo yokuzilumbuzisa;
- (c) ukuzenza umhloli wezemisebenzi noma ukuzenza omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (d) ukwenqaba noma ukwehluleka ukuphendula ngokugcwele nanoma namiphi imibuzo evumelekile ngokomthetho ebuzwa ngumhloli wezemisebenzi noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (e) ukwenqaba noma ukwehluleka ukuhlonipha nanoma yisiphi isicelo esivumelekile ngokomthetho, noma inqubo esemthethweni enikezwa ngumhloli noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho;
- (f) ukuvimbela noma ukuthikameza umhloli noma omunye nje umuntu owenza lomsebenzi ngokwalo Mthetho (Isigaba sama-92).