



competitiontribunal
south africa

UMQULU OKHUTHAZA UKUFINYELELA OLWAZINI

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1 ISENDLALELO NENHLOSO

Ukufinyelela olwazini kuyilingelo lesintu elivikelwe yiSigaba sama-32 soMthethosisekelo weRiphabhiliki yaseNingizimu Afrika, we-1996 (uMthetho onguNombolo 108 we-1996). Ukufeza leli lungelo, sekumenyenzelwe uMthetho Okhuthaza Ukufinyelela Olwazini, wezi-2000 (uMthetho onguNombolo 2 wezi-2000). Lo Mthetho uvikela uqinise amalungelo abantu okufinyelela olwazini. Inhloso yalo Mqulu wukuhlinzeka ulwazi ngamarekhodi agcinwe yiNkantolo Yezokuncintisana (ezobizwa ngeNkantolo ukusukela lapha) kanye nokubeka inqubo yokufinyelela olwazini olugcinwe yiNkantolo, njengokuyalela koMthetho.

2 UMQULU WOMTHETHO OKHUTHAZA UKUFINYELELA OLWAZINI, I-PAIA

ISigaba se-14 salo Mthetho siyalela ukuba iNkantolo ihlanganise okungenani ngezilimi ezintathu ezisemthethweni umqulu oqukethe ulwazi olunqunywe yiSigaba se-14.

3 UMHLAHLANDLELA WEKHOMISHINI YAMALUNGELO ESINTU

IKhomishini Yamalungelo Esintu ihlanganise umhlahlandlela wendlela yokusebenzisa noma ngabe yiliphi ilungelo elicatshangwayo kulo Mthetho njengokuyalela kweSigaba se-10 soMthetho. Lo mhlahlandlela uyatholakala kule Khomishini Yamalungelo Esintu naku-www.sahrc.org.za/

4 IMISEBENZI YENKANTOLO

INkantolo Yezokuncintisana iyinhlango yomphakathi yeShejuli 3A ngokoMthetho Olawula Izimali Zomphakathi, we-1999 (uMthetho onguNombolo 1 we-1999). Le Nkantolo yasungulwa ngokweSigaba sama-26 soMthetho Wezokuncintisana, we-1998 (uMthetho onguNombolo 89 we-1998) kanti imisebenzi yayo ichazwa eSigabeni sama-27(1) kanje:

Le Nkantolo ingenza lokhu okulandelayo:

- ukwahlulela kunoma ngabe yikuphi ukuziphatha okungavumelekile ngokweSahluko sesi-2 soMthetho Wezokuncintisana, we-1998, ithathe isinqumo ngokuthi lokho kuziphatha okungavumelekile kwenzekile yini. Uma kunjalo ibeka ikhambi elihlinzekwa wuMthetho Wezokuncintisana
- ukwahlulela kunoma ngabe yiluphi udaba, ngokoMthetho Wezokuncintisana, engalucabanga, bese ikhipha noma ngabe yimuphi umyalelo ohlinzekelwa wuMthetho Wezokuncintisana
- ukulalela ukwedluliswa kwamacala avela kwabeKhomishini Yezokuncintisana noma ibuyekeze noma ngabe yisiphi isinqumo esiqhamuka kule Khomishini, esinokwedluliselwa kuyo, ngokoMthetho Wezokuncintisana

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- ukuthatha noma ngabe yisiphi isinqumo noma ukukhipha noma ngabe yimuphi umyalelo odingekayo noma ohambisana nemisebenzi eyenzayo ngokoMthetho Wezokuncintisana

5 USIZO OLUHLINZEKWA YINKANTOLO YEZOKUNCINTISANA

Le Nkantolo yahlulela izindaba zokuncintisana ngokoMthetho Wezokuncintisana, we-1998. Yenza umsebenzi wayo kuzo zonke izindawo zaseNingizimu Afrika. Yinkantolo ezimele lena, elawulwa wumthethosisekelo nomthetho. Akufanele icheme, futhi kumele yenze imisebenzi yayo ngaphandle kokwesaba, ukwenzelela nokubandlulula.

Uma kulethwa udaba kuyo ngokoMthetho Wezokuncintisana, we-1998, le Nkantolo kumele:

- igunyaze noma yenqabele ukuhlenganiswa kwezinkampani zibe yinkampani enkulu, okuhambisana nemibandela noma ngaphandle kwemibandela
- yahlulele ukwedluliswa kwezinqumo zeKhomishini Yezokuncintisana ngokungenelela ekuhlenganisweni kwezinkampani nokukhululwa ezinkampanini ezihlanganisiweyo
- ithathe isinqumo ngezikhalo zokuziphatha okwenqatshelwe ngokoMthetho Wezokuncintisana, we-1998, ngokunquma ukuthi lokho kuziphatha okwenqatshelwe kwenzekile yini noma cha. Uma kwenzekile ibeka ikhambi elihlinzekelwe wuMthetho.
- ikhiphe umyalelo noma yenqabe ukukhipha umyalelo wosizo lwesikhashana
- ikhiphe umyalelo wezindleko noma yenqabe ukuwukhipha
- ilalele bese ithatha izinqumo ngokwedluliswa kwezinqumo ezithile noma ukubuyekizwa kwazo, ezivela kwabeKhomishini Yezokuncintisana

6 UKUHLELEKA KWENKANTOLO

6.1 Amalungu ENkantolo

Le Nkantolo Yezokuncintisana ingaqakatha uSihlalo kanye nabanye besilisa nabesifazane abathathu noma ngaphezu kwalokho, kodwa bangabi ngaphezu kwabayishumi, abaqokwa nguMengameli, ngokugcwele noma abayitoho, ngokwesincomo sikaNgqongqoshe, okungabantu abavela kwabaqokwe nguNgqongqoshe, ngokohlelo lokucelwa kokuphakanyiswa kwamagama noma ngokuphakanyiswa kwamagama ngoba esuke eceliwe, okumele kushicilelwe kuSomqulu kaHulumeni.

UMengameli uqoka amalungu eNkantolo ewaqokela isikhathi esiyiminyaka emihlanu (5) ngokwesincomo sikaNgqongqoshe Wezokuthuthukiswa Komnotho

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6.2 IKomiti Elikhulu

Ikomiti Elikhulu liqukethe uSihlalo, ilungu leNkantolo elisebenza ngokugcwele, iNhloko yophiko lwezemisebenzi (uphiko i-Corporate Services), iNhloko yezokubhaliswa kanye neNhloko yezocwaningo.

6.3 Izigaba

Imisebenzi yenkundla ihlukaniswe ngezigaba ezinhlanu ezahlukahlukene:: inkantolo/ ihovisi lomphathi lohlelo lwezemisebenzi, iphiko lokwenziwa kwemisebenzi (i-Corporate Services), iphiko lokhuphathwa kwamacala, iphiko lwezokuphathwa kwezimali kanye nelokugcinwa kwamarekhodi.. Isikhulu esiphezulu kwabaphethe sinegunya lokungamela ukusebenza kahle kwezinkundla ezibusa izinqumo zesigungo ezibophayo nezingabophi. .

7 ISIKHULU SEZOLWAZI/ISEKELA LASO

Ngokwesigaba sokuqala sezomthetho, **uSihlalo uyisikhulu Sezolwazi yenkundla, bese kuthi inhloko yezophiko lwamacala isiqokwe njengesekela lesikhulu sezolwazi ngokwesigaba sesikhombisa sezomthetho.**

Imininingwane yokuxhumana neSikhulu Sezolwazi neSekela Lesikhulu Sezolwazi imi kanje:

	Igama	Ikheli le-imeyili
Isikhulu Sezolwazi	Mondo Mazwai	Mondom@comptrib.co.za
Isekela Lesikhulu Sezolwazi	Rietsie Badenhorst	rietsieb@comptrib.co.za

8 IMINININGWANE YONGAXHUMANA NABO NOLWAZI OLWEJWAYELEKILE

Imininingwane yokuxhumana nabeNkantolo neminingwane ejwayelekile imi kanje:

Ikheli Lendawo	Block C The dti Campus 77 Meintjies Street Sunnyside PRETORIA	
Ikheli Laseposini	Private Bag X24 Sunnyside 0132	
Ucingo	+27 12 394 3300	
Iisikhahlamezi	+27 12 394 0169	
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Iwebhusayithi	www.comptrib.co.za
Amahora okubhalisa	08h00 - 15h30

9 AMAREKHODI AGCINWE YINKANTOLO

ISigaba se-14 soMthetho siyalela ukuba incazelo yezihloko inhlangotho egcine ngazo amarekhodi kanye nezigaba amarekhodi agcinwe ngazo kuleso naleso sihloko kufakwe eMqulwini. Le Nkantolo igcine amarekhodi alandelayo:

9.1 Amarekhodi Azidalulekayo

Lolu lwazi olulandelayo luyatholakala kuwebhusayithi yeNkantolo. Ngakho-ke lusesigabeni solwazi oluzidalulekayo:

Igunya leNkantolo nemithetho yenqubo	Imithetho emisiweyo neyeNkantolo
Izinqumo zeNkantolo emacaleni okuncintisana	Imiyalelo, okutholakele, izinqumo nezizathu
Amarekhodi enkantolo angalawulwa yimibango yobumfihlo ¹	Ukufaka izicelo, izaziso, izincwadi ezifungelwe, ukubhalelana, izinhloko zempikiswano
Eminye imibhalo eshicilelwe	INkundla yeNkantolo nezinkulomo
INkantolo yokwedluliswa kwezinqumo zezokuncintisana	Izinqumo
Imibiko	Umbiko wonyaka

9.2 Ukuvikelwa Kolwazi Okugunyaziwe Lwesigaba Sama-37

Isikhulu sezolwazi:

- kumele senqabele isicelo sokufinyelela kumarekhodi uma ukudaluleka kwawo kungasho ukwepulwa kwesibopho sokwethembeka kumuntu wesithathu ngokwesivumelwano.
- singasenqabela isicelo sokufinyelela kumarekhodi uma lawo marekhodi equkethe imininingwane eyahlinzekwa ngumuntu wesithathu, ngokwethemba labo abawamukelayo –

¹ ISigaba sama-45 soMthetho Wezokuncintisana, we-1998, sihlizeka ukuthi umuntu ocela ukufinyelela olwazini olulawulwa wumbango wobumfihlo, angafaka isicelo eNkantolo Yezokuncintisana ngendlela nangohlobo olunqunywe yimithetho ngokoMthetho Wezokuncintisana, we-1998. INkantolo Yezokuncintisana inganquma ukuthi lolu lwazi luyimfihlo yini noma cha, kanti uma ithola ukuthi luyimfihlo, ikhipha umyalelo ofanele ngokufinyelela kulolu lwazi oluyimfihlo.

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- okudalulwa kwayo kungalindeleka ukuba kuthikamaze ukuhlinzekwa kolwazi olufanayo esikhathini esizayo, noma kuthikamaze ulwazi oluvela emthonjeni owodwa;
- nalapho kungasizakala khona umphakathi uma ulwazi olufanayo noma ulwazi oluvela emthonjeni owodwa kumele luqhubeke nokuhlinzekwa.

Amarekhodi akanakwenqatshelwa ngokwezimo ezingenhla uma equkethe ulwazi:

- umphakathi osuvele unalo
- ngomuntu wesithathu osevumele ukutholakala kwalo ngokwesigaba sama-48 noma osevume ngandlela thize ngokubhala ukuba ludalulelwe lowo ofake isicelo salo.

10 INQUBO YOKUFAKA ISICELO

Le nqubo elandelayo yokufaka isicelo njengoba inqunywe yiSigaba se-18 soMthetho izolandelwa kuzo zonke izicelo zolwazi, akukhathaleki ukuthi hlobo luni lokufinyelela olwazini olucelwayo:

- Isicelo esibhaliweyo kumele sibhekiswe eSikhulwini Sezolwazi ngokusebenzisa imininingwane yokuxhumana naso ebekiwe esigabeni sesi-7 salo Mqulu.
- Ofaka isicelo kumele:
 - abhale igama lalowo ofaka isicelo nemininingwane yokuxhumana naye
 - ahlinzeke imininingwane eyanele yokuhlonza amarekhodi okuzofinyelelwa kuwo. Uma kucelwa amarekhodi ecala kumele kuhlinzekwe nenombolo yecala. Uma kuwukuthi ifayili yecala yahlonzwa njengefayili eyimfihlo yiNkantolo, imininingwane yobumfihlo iyokuswa ngaphambi kokudedelwa kwefayili.
 - asho uhlobo lokufinyelela olwazini olucelwayo – bheka iSithasiselo A.
 - asho ukuthi lawo marekhodi uwadinga ngaluphi ulimi
 - alisho ikheli laseposini noma inombolo yesikhahlamezi kwalowo ofaka isicelo eRiphabhliki
 - uma, ngaphezu kwempendulo ebhaliweyo, ofaka isicelo efisa ukwaziswa ngesinqumo ngenye indlela, akayisho leyo ndlela, anikeze imininingwane yaleyo ndlela yokwaziswa
- Uma isicelo sifakwa egameni lomunye umuntu, lowo ofaka isicelo kumele ethule ubufakazi besikhundla acela ngaso, ngendlela ezogculisa iSikhulu Sezolwazi
- Uma kuwukuthi ofaka isicelo akafundile noma ukhubazekile, okusho ukungakwazi ukufaka isicelo njengoba kuchaziwe kulesi sigaba, isikhulu sesolwazi sizobhala phansi isicelo esethulwa ngomlomo njengoba kuchaziwe kulesi sigaba, bese sinika ofaka isicelo ikhophi yaso.

11 UKUBAMBA KOMPHAKATHI IQHAZA ESIGABENI SE-14(G)

Izithangami zeNkantolo zibanjwa esidlangaleni ngokwemigomo engenakho ukuchema. Lezi zithangami zingahanjelwa yinoma ngabe yiliphi ilungu lomphakathi, ukuzozibonela

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okwenzekayo. Kodwa amalungu omphakathi angacelwa ukuba asuke kulesi sithangami uma sekwethulwa noma kuxoxwa ngolwazi oluyimfihlo.

Umuntu onokuzuzisa into ephathekayo odabeni oluphambi kweNkantolo ngokweSigaba sama-53 soMthetho Wezokuncintisana, we-1998, angavunyelwa ukungenelela kulolo daba uma kuwukuthi azokuzuzisa kuseMthethweni, uma kungekho omunye umuntu omele lokho kuzuzisa ohlelweni oluqhubekayo. Ekwamukeleni isicelo sokungenelela, iNkantolo kumele yenze isithangami sezingxoxo, yamukele noma yenqabele lesicelo. INkantolo inganqumela umuntu ongenelelayo ubungako bokungenelela noma uhlobo lwakho.

Imininingwane ngezithangami zeNkantolo nezinqumo kuyatholakala kuwebhusayithi yayo ethi www.comptrib.co.za

12 IZIXAZULULO

Le Nkantolo ayinayo inqubo yangaphakathi yokwedlulisa izinqumo. Kungayiwa ezinkantolo ezejwayelekile kwedluliswe khona okwenziwe yiNkantolo noma lokho ehluleke ukukwenza ngokoMthetho.

13 UKUTHOLAKALA KWALO MQULU

Lo Mqulu utholakala mahhala ukuba uhlolwe ekhelini elibhalisiwe elibalulwe eSigabeni sesi-8 ngenhla.

Kungafinyelelwa futhi kulo Mqulu ngewebhusayithi yeNkantolo ethi www.comptrib.co.za

Ikhophi yawo iyatholakala futhi kwabeKhomishini Yamalungelo Esintu:

Ikheli	Private Bag 2 700 Houghton 2041
Ucingo	(011) 484 8300
Isikhahlamezi	(011) 484 0582
Iwebhusayithi	www.sahrc.org.za
I-imeyili	PAIA@sahrc.org.za

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ISITHASISELO A UHLOBO LOKUFINYELELA OLWAZINI

OLUCELWAYO

Amarekhodi	Uhlobo lokufinyelela kuwo
Abhaliweyo	Ikhophi yamarekhodi/ukuhlolwa kwamarekhodi
Angabhaliwe	Uma kuyimifanekiso ebonwayo noma kuyimifanekiso ethathwe kwenye indawo, anokukhiqizwa futhi – yenza amalungiselelo okubona leyo mifanekiso noma ukuhlinzekwa ngamakhophi noma leyo mifanekiso
	Amazwi noma ulwazi olunokukhiqizeka futhi ngemishini eqopha imisindo - ngokwenza amalungiselelo okulalela leyo misindo noma ukuhlinzekwa ngaleyo misindo ebhaliweyo
Asekhompyutheni noma ngohlobo olufundwa ngomshini	Ikhophi yalawo marekhodi ebhaliweyo noma ingxenye yawo noma ulwazi oluthathwe kulawo marekhodi

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