DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. 6442 **18 July 2025**

OFFICE OF THE LEGAL SERVICES OMBUD

LEGAL PRACTICE ACT, 2014 (ACT NO. 28 OF 2014)

LEGAL SERVICES OMBUD RULES

The Legal Services Ombud has, in terms of section 95(2) of the Legal Practice Act, 2014 (Act No. 28 of 2014), made the Rules as set out in the Schedule.

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SCHEDULE

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DEFINITIONS

1. In these Rules, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context indicates otherwise-

"**Annual Performance Plan**" means a document that outlines the goals, objectives and performance indicators and targets that the organisation aims to achieve over the course of the year;

"**complaint**" means a complaint made or referred to the Ombud in terms of section 48 of the Act;

"**complainant**" means any person who, or entity which, lodges a complaint with the Ombud in terms of section 48 of the Act;

"**Council**" means the South African Legal Practice Council established in terms of section 4 of the Act;

"**day**" means any day that excludes a Saturday, Sunday, or public holidays;

"**dispute**" means a dispute as referred to in section 48 of the Act;

"**dispute resolution**" means to endeavour to resolve a dispute or rectify any act or omission by means of mediation, conciliation, negotiation, the giving of advice or any other means considered expedient by the Ombud;

"**inquiry**" means the process of obtaining information and documentation as set out in section 48(2) of the Act;

"**investigation**" means an investigation as referred to in sections 14(2) and 48(1)(a) of the Act and may include an inquiry;

"**lay person**" means a person appointed in terms of Section 37(5)(e)(ii) of the Act;

"**parties**" means a complainant, a respondent, witness and any person or entity who may be affected by the outcome of the investigation;

"**referral**" means submitting to the bodies or authorities, as referred to in section 48, any aspect of a complaint which has a bearing on such entity; and

"**the Act**" means the Legal Practice Act, 2014 (Act No. 28 of 2014)

PURPOSE OF RULES AND FUNCTIONS OF THE OMBUD

2. The purpose of the Rules is to regulate the procedure for the execution by the Ombud, of its mandate and functions as referred to in Section 46 of the Act.

PART A

LODGING AND PROCESSING OF COMPLAINTS

3. (1) Every complaint shall—

(a) be in writing on Form 1 in Annexure 1 to these Rules;

(b) set out the complaint in clear and concise terms;

(c) state the material facts on which the complaint is based; and

(d) be signed by the complainant.

(2) The complaint shall be submitted to the Ombud –

(a) by hand delivery during office hours to any of the offices of the Ombud;

(b) by emailing it to OLSOenquiries@justice.gov.za; or

(c) by registered post to Spooral Park Building, 2007 Lenchen Avenue South, Centurion Central, 0157.

(3) The Ombud shall, within five days of receipt of the complaint, register the complaint and issue a reference number to the complainant: Provided that all the information required for assessment is available.

(4) The Ombud shall, within 30 days after the issue of a reference number, assess the complaint to determine whether the complaint falls within its mandate in terms of section 48 (1)(a) of the Act.

(5) The Ombud shall, within 10 days of the assessment referred to in sub-rule (4), inform the complainant in writing of the outcome of the assessment.

(6) If the Ombud is unable to comply with the timeframes set out in sub-rules (3) to (5), the complainant shall be informed of the delay and indicate the period in which the Ombud shall comply.

REFERRALS IN TERMS OF SECTION 48 OF THE ACT

4. If a referral is made in terms of section 48(1)(c) of the Act, the Ombud may –

(a) within 10 days of the referral notify the person or persons whom the Ombud deems advisable, in writing, of the referral; and

(b) notwithstanding the referral, decide whether to proceed with an investigation.

NOTICE TO AFFECTED PARTIES OF DECISION BY OMBUD TO INVESTIGATE

5. (1) The Ombud shall notify all affected parties, in writing, of the decision to investigate within 10 days of such decision.

(2) Should the Ombud become aware of the potential involvement of additional affected parties to the complaint, the Ombud shall notify such parties, in writing, within 10 days of becoming aware of such affected parties.

PROCEDURE FOR INVESTIGATION

6. (1) Unless otherwise determined by the Ombud, the format of the investigation may include the following or any combination thereof:

(a) Communication by telephone, letter, email or any other form of correspondence;

(b) meetings with affected parties or persons reasonably believed to have information relevant to the investigation;

(c) appearance of a person before the Ombud, physically or virtually, for purposes of obtaining or clarifying information or to produce any document in terms of section 48(2) of the Act;

(d) examining and copying records or documents relevant to the investigation which are in possession or under the control of a party; and

(e) a public hearing to obtain input or comment on a subject of general or broad public concern.

(2) The Ombud may, in addition to any other means as he or she may deem fit, obtain information for purposes of the investigation in the following ways or any combination thereof:

(a) A statement by a party, at the request of the Ombud, providing reasons for their act or omission;

(b) a statement, providing information relating to a matter inquired about by the Ombud, by a party or any other person reasonably believed to have information relevant to the matter; and

(c) information obtained by the Ombud in attending any hearing or proceedings relevant to the investigation.

(3) A person summonsed to furnish documents shall appear before the Ombud at a time and place specified in the summons with the book, document or other object requested.

(4) The Ombud must conclude an investigation within 90 days after assessment of the complaint unless there are circumstances justifying a longer period.

(5) The Ombud must, if the investigation cannot be concluded within the period referred to in sub-rule (4), inform the complainant of this fact and of the circumstances justifying a longer period and indicate the time period in which the investigation will be finalised.

FORMAT AND PROCEDURE FOLLOWED IN RESPECT OF AN INVESTIGATION IN TERMS OF SECTION 14(2) OF THE ACT

7. The procedures as set out in Rule 6 apply in respect of an investigation conducted by the Ombud in terms of Section 14(2) of the Act.

PROCEDURE IN RESPECT OF AN OWN INITIATIVE INVESTIGATION

8. The procedures as set out in Rule 6 apply in respect of an investigation conducted by the Ombud on an own initiative.

REQUEST FOR INFORMATION AND PRODUCTION OF DOCUMENTS

9. (1) The Ombud may request information in writing from a person who has information on the subject of the investigation or who has in his or her possession or under his or her control any book, document or other object relating to the investigation.

(2) Should the person fail to comply with a request in terms of sub-rule (1), the Ombud may issue a summons against that person to ensure compliance.

SUMMONS

10. (1) A summons as contemplated in section 48(3)of the Act shall be in accordance with Form 2 in Annexure 2 to these Rules.

(2) The summons shall state the address of the person required to appear where such summons shall be served.

(3) In the case of an email address, the summons shall state the email address as furnished in the course of the investigation by the person to be summonsed.

(4) Where the information, book, document or other object is required from a juristic entity or trust the summons shall stipulate the director, official or trustee who is required to appear.

SERVICE OF SUMMONS

11. (1) Service of summons may be effected by means of-

(a) delivery by hand by an official of the Office of the Legal Services Ombud at the address for service given in the summons;

(b) electronically by an official of the Office of the Legal Services Ombud, in which event the provisions of Chapter III) of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002) shall apply; or

(c) by the sheriff of the court.

(2) Service as contemplated in sub-rule 1 shall be deemed to be properly effected if service of the summons took place –

(a) by serving a copy of the summons on the person named in the summons, personally-

(i) at the residence or place of business of the person named in the summons to someone not less than 16 years of age and residing on or employed on the premises; or

(ii) at the place of employment of the person named in the summons or to someone not less than 16 years of age and in authority over the person to be served or, in the absence of such person in authority, to someone not less than 16 years of age and in charge at his or her place of employment.

(b) by delivering a copy of the summons to any agent who is duly authorised, in writing, to accept service on behalf of the person upon whom service is to be effected.

(3) Juristic entities or trusts may be served by delivery of the summons at the local office or place of business of such entity or, in the absence of such office or place of business, by service on the director, trustee, chairperson, official or similar officer thereof in any manner prescribed in the Rules.

(4) The person serving a summons shall, on request of the person being served, present the original summons, except where summons is served electronically.

(5) All forms of service shall be effected, as near as possible, between the hours of 7:00 and 17:00.

(6) Summons shall not be served on a Saturday, Sunday or public holiday.

(7) Service on a person called to an inquiry shall be effected within a reasonable time, but no less than 10 days before attendance is required.

SUBSTITUTED SERVICE

12. (1) In the event that the service of a summons, as contemplated in Rule 10, cannot be carried out, and all reasonable avenues to locate a person for service of the summons have been exhausted, service shall be effected by-

(a) placing an advertisement in an English publication circulating in the area in which the person resides; and

(b) where appropriate, in any other official language.

(2) Proof of publication shall be a copy of the whole page containing the advertisement or a cutting thereof indicating the paper and date of publication.

PROCEDURE BEFORE COMMENCEMENT OF AN INQUIRY

13. The Ombud shall explain to a person who has been summonsed before the inquiry-

(a) the purpose of the inquiry;

(b) the inquisitorial nature of the inquiry;

(c) the procedure that will be followed;

(d) the confidentiality of the inquiry; and

(e) that the proceedings will be recorded.

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MEDIATION, CONCILIATION AND NEGOTIATION

14. (1) In mediating the dispute, the Ombud shall facilitate discussions between the parties to enable the parties to arrive at a mutually suitable resolution of the dispute.

(2) In conciliating the dispute, the Ombud shall guide and advise the parties to enable the parties to arrive at a mutually suitable resolution of the dispute.

(3) In negotiating a settlement, the Ombud shall recommend proposals to resolve the dispute.

(4) The Ombud or the parties may propose, either in writing or orally, that the dispute be attempted to be resolved by mediation, conciliation or negotiation, either at the commencement of or during an investigation.

(5) Should the parties agree to attempt to resolve the dispute as referred to in sub-rule (4), the agreement shall be reduced to writing and signed by the parties and confirmed by the Ombud.

(6) Pending finalisation of mediation, conciliation or negotiation between the parties, the investigation shall be suspended: Provided that, should the dispute not be resolved within a reasonable time, to be determined in the sole discretion of the Ombud, or should any party withdraw from the dispute resolution process, the investigation shall resume and continue or the Ombud may deal with the matter by any other means that may be expedient in the circumstances.

SETTLEMENT

15. If a settlement is reached between the parties at any stage of the investigation, whether through mediation, conciliation, or negotiation or otherwise-

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(a) the terms of the agreement shall be reduced to writing, and such agreement shall be signed by the parties;

(b) the agreement shall be concluded and signed under the supervision and direction of the Ombud; and

(c) the original signed agreement shall be kept by the Ombud.

REPORTING OF FINDINGS

16. (1) Upon conclusion of the investigation, the Ombud shall prepare a report, recommendation, finding or point of view.

(2) The Ombud shall, within 30 days after the compilation of the report contemplated in section 48(6)(b), make it available to the complainant and to any person or body implicated thereby

ESTABLISHMENT AND MAINTENANCE OF LAY PERSONS' LIST

17. (1) The Ombud shall establish and maintain the lay persons' list.

(2) The Ombud may, in maintaining the lay persons' list, withdraw the appointment of a lay person if the Ombud becomes aware that the person no longer meets the criteria set by the Ombud or a concern is raised by the Council regarding the conduct of such a lay person.

MONITORING IN TERMS OF SECTION 42 OF THE ACT

18. The Ombud may monitor the following processes by any Investigating Committee:

(a) The procedures followed by Investigating Committees;

(b) the protection of the rights of parties during the investigation; and

(c) the adequacy and fairness of the investigative process.

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GENERAL PROVISIONS

19. (1) All inquiries shall be recorded mechanically unless the circumstances dictate otherwise.

(2) All proceedings during an investigation shall be confidential except where such disclosure is required by law.

PART B

ANNUAL REPORT

20. (1) The organisational performance of the Ombud shall be driven by a five- year strategic plan, the outlined mandate of the Ombud and strategic priorities. This will inform the Annual Performance Plan (APP).

(2) The Annual Performance Plan shall form the basis for the annual reports of accounting officers in terms of section 52 of the LPA as well as section 40(1)(d) and (e) of the PFMA.

SHORT TITLE AND COMMENCEMENT

These Rules shall be called the Legal Services Ombud Rules, and shall come into operation on the date of publication in the *Gazette*.

IHHOVISI LIKAMXAZULULI WEZINSIZAKALO ZEZOMTHETHO: UMBONO NGEMITHETHO KAMXAZULULI WEZINSIZAKALO ZOMTHETHO

Kwenziwe ngaphansi kwegunya lesigaba sama-95(2)

Qaphela futhi ukuthi le Mithetho ichitha futhi ithatha indawo yeMithetho eyashicilelwa mhla ziyi-14 kuMbasa 2022 ngaphansi kweSaziso seGazethi kaHulumeni Ino.: 46242

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1. IZINCAZELO
Kule mithetho ngaphandle uma ingqikithi isho ngenye indlela —

'Uhlelo Lokusebenza Lonyaka' luchaza umqulu oveza izinjongo, izinhloso kanye nezinkomba zokusebenza kanye nemigomo inhlangano ehlose ukuyifinyelela phakathi nonyaka;
'ummeli oqokelwe esikhundleni' kushiwo ummeli njengoba kuchazwe eMthethweni;

'isikhalo' sichaza isikhalazo esenziwe noma esidluliselwe kumxazululi ngokwesigaba sama-48 soMthetho.

'ummangali' kushiwo noma yimuphi umuntu, noma inhlangano, efaka isikhalazo kumxazululi ngokwesigaba sama-48 soMthetho;

'UMkhandlu' kusho uMkhandlu Wokusebenza Kwezomthetho waseNingizimu Afrika osungulwe ngokwesigaba sesi-4 soMthetho.

'usuku' lusho noma yiluphi usuku olungafaki uMgqibelo, iSonto, noma amaholide omphakathi.

'umgwamanda wokuqondisa izigwegwe' kusho umgwamanda wokuqondisa izigwegwe njengoba uchazwe eMthethweni;

'ingxabano' ichaza ingxabano njengoba kushiwo esigabeni 48 soMthetho.

'ukuxazulula ingxabano' kusho ukuzama ukuxazulula ingxabano noma ukulungisa noma yisiphi isenzo noma ukweqiwa ngokulamula, ukubuyisana, ukuxoxisana, ukunikeza izeluleko nanoma iyiphi enye indlela uMxazululi ayibona ifanelekile.

'uphenyo' kusho inqubo yokuthola ulwazi kanye nemibhalo njengoba kubekwe esigabeni sama-48(2) soMthetho

'uphenyo' kushiwo uphenyo njengoba kubhekiswe kulo esigabeni 14(2) kanye no 48(1)(a) soMthetho futhi kungabandakanya uphenyo.

'umuntu ovamile' kushiwo umuntu oqokwe ngokweSigaba sama-37(5)(e)(ii) soMthetho;

'umsebenzi wezomthetho' kusho umsebenzi wezomthetho njengoba kuchazwe eMthethweni;.

'uNgqongqoshe' kusho uNgqongqoshe njengoba echazwe eMthethweni.

'ukuqapha' kusho ukuqapha ngokwesigaba sama-42 soMthetho;

'uMxazululi' kusho uMxazululi Wezinsizakalo Zezomthetho njengoba echazwe eMthethweni futhi kubandakanya nanoma yimuphi umuntu oqokwe uMxazululi;

'izinhlangothi' kushiwo ummangali, ummangalelwa, ufakazi nanoma yimuphi umuntu noma inhlangano engase ithikamezeke ngomphumela wophenyo;

'Umthetho Wokuphathwa Kwezimali Zikahulumeni' kusho uMthetho Wokuphathwa Kwezimali Zikahulumeni, we-1999 (uMthetho 1 we-1999)

'ukudlulisela' kusho ukuhambisa emigwaqweni noma iziphathimandla, njengoba kushiwo esigabeni sama-48, noma iyiphi ingxenye yesikhalazo enomthelela kulelo bhizinisi.

'ummangalelwa' kusho umuntu noma inhlangano okufakwe isikhalo ngaye kuMxazululi.

'imithetho' – ichaza imithetho eyenziwe ngokweSigaba sama-95(2) soMthetho;

'uMthetho' kushiwo uMthetho Wokusebenza Kwezomthetho, wezi-2014 (uMthetho 28 wezi-2014)

2. INHLOSO YEMITHETHO NEMISEBENZI KAMXAZULULI

Inhloso yale Mithetho ukulawula inqubo yokwenziwa nguMxazululi ngegunya nemisebenzi yakhe njengoba kushiwo eSigabeni sama-46 soMthetho, okungukuthi –

a. ukuvikela kanye nokukhuthaza intshisekelo yomphakathi maqondana nokunikezwa kwezinsiza zomthetho njengoba kuhlongozwe kulo Mthetho;
b. ukuqinisekisa uphenyo olunobulungiswa, olusebenzayo nolunempumelelo lwezikhalazo zezinsolo zokungaziphathi kahle kwabasebenzi bezomthetho;
c. ukugqugquzela izinga eliphezulu lobuqotho emsebenzini wezomthetho; futhi
d. ukuthuthukisa ukuzimela komsebenzi wezomthetho.

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INGXENYE A

(Lesi sigaba seMithetho senziwa ngokweSigaba sama-95(2)(a) no (c) soMthetho)

3. UKUFAKA NOKUCUBUNGULA IZIKHALAZO

a. Zonke izikhalazo–
   i. zibhalwe kuFomu 1 kuSithasiselo 1 sale mithetho
   ii. zizobeka isikhalazo ngendlela ecacile nefingqiwe;
   iii. zizosho amaqiniso aphathekayo lapho isikhalazo sisekelwe khona; futhi
   iv. zizosayinwa ummangali.

b. Isikhalo sizohanjiswa kuMxazululi ngale ndlela elandelayo:
   i. ngokuletha ngesandla ngesikhathi somsebenzi kunoma yimaphi amahhovisi kaMxazululi; noma
   ii. ngokuthumela imeyili ku- OLSOenquiries@justice.gov.za; noma
   iii. ngeposi elibhalisiwe ku- Spooral Park Building, 2007 Lenchen Avenue South, Centurion Central, 0157.

c. UMxazulu kufanele zingakapheli izinsuku ezi-5 etholile isikhalazo abhalise isikhalazo futhi anike ummangali inombolo yereferensi.

d. Kuncike ekutheni lonke ulwazi oludingekayo ukuze kucutshungulwe luyatholakala, uMxazululi kufanele zingakapheli izinsuku ezingama-30 ngemva kokukhishwa kwenombolo yereferensi ahlole isikhalazo ukuze anqume ukuthi isikhalazo siwela ngaphansi kwegunya laso ngokwesigaba sama-48 (1)(a) soMthetho.

e. UMxazululi kufanele, zingakapheli izinsuku eziyi-10 zokuhlaziya okukhulunywe ngakho emthethweni 3 (d), azise ummangali ngokubhala ngomphumela wokuhlolwa.

f. Uma uMxazululi engakwazi ukuthobela izikhathi ezibekiwe ku-(d) kanye no-(e) ngenhla, ummangali uzokwaziswa ngokubambezeleka futhi asho isikhathi uMxazululi azosithobela ngaso.

4. UKUDLULISELA NGOKWESIGABA SAMA-48 SOMTHETHO

Uma uMxazululi enquma ukuthi ukudluliselwa kuyadingeka, uMxazululi:

a. angadlulisela noma iyiphi ingxenye yesikhalazo ezinhlakeni okukhulunywe ngazo esigabeni sama-48 soMthetho;
b. zingakapheli izinsuku eziyi-10 zokudluliselwa angazisa ngokubhala umuntu noma abantu uMxazululi abona kufanele;
c. naphezu kokudluliselwa, anganquma ukuthi uzoqhubeka yini nophenyo.

5. ISAZISO EZINHLANGOTHINI EZITHINTEKAYO NGESINQUMO SIKAMXAZULULI SOKUPHENYA

a. UMxazululi uzokwazisa ngokubhala zonke izinhlangothi ezithintekayo ngesinqumo sokuphenya zingakapheli izinsuku eziyi-10 zaleso sinqumo.

b. Uma kwenzeka uMxazululi azi ngokubandakanyeka okungenzeka kwezingxenye ezengeziwe ezithintekayo esikhalazweni, uMxazululi uzokwazisa lezo zinhlangothi, ngokubhala phansi ezinsukwini eziyi-10 zokwaziswa ngalezo zinhlangothi ezithintekayo.

6. INQUBO YOKUPHENYA

a. Ngaphandle kwalapho kunqunywe uMxazululi, indlela yophenyo ingase ihlanganise okulandelayo noma iyiphi inhlanganisela yakho;
   i. ukuxhumana ngocingo, incwadi, i-imeyili nanoma yiluphi olunye uhlobo lokuxhumana;
   ii. imihlangano nabathintekayo noma abantu okukholakala ukuthi banolwazi olufanele ophenyweni;
   iii. ukuvela komuntu phambi kukaMxazululi, ngokomzimba noma ngokohleloxhumano, ngenjongo yokuthola noma yokucacisa ulwazi noma ukukhiqiza noma yimuphi umbhalo ngokwesigaba sama-48(2) soMthetho;
   iv. ukuhlola nokukopisha amarekhodi noma imibhalo efanele ophenyweni ephethwe noma engaphansi kokulawulwa uhlangothi; futhi
   v. ukulalelwa kwezimvo zomphakathi ukuze kutholwe imibono noma ukuphawula ngesihloko esikhathaza umphakathi ngokujwayelekile

b. UMxazululi, ngaphezu kwanoma yiziphi ezinye izindlela abona kufanele, angathola ulwazi ngezinjongo zophenyo ngalezi zindlela ezilandelayo nanoma iyiphi inhlanganisela yalokho:
   i. isitatimende sohlangothi, ngesicelo sikaMxazululi, esinikeza izizathu zesenzo salo noma sokweqisa;

ii. isitatimende, esihlinzeka ngolwazi oluphathelene nodaba olubuzwa nguMxazululi, yiqembu nanoma yimuphi omunye umuntu okukholakala ukuthi unolwazi olufanele lolo daba; futhi
iii. ulwazi olutholwe uMxazululi ekwethamele noma yikuphi ukulalelwa kwecala noma ukuqhubeka okuhambisana nophenyo.

c. Umuntu obizelwe ukuzoletha imibhalo kufanele avele phambi kukaMxazululi ngesikhathi nasendaweni eshiwo kumasamanisi nencwadi, idokhumenti noma enye into eceliwe.
d. UMxazululi kufanele aqedele uphenyo zingakapheli izinsuku ezingama-90 ngemuva kokucubungula isikhalazo ngaphandle uma kunezimo ezivuma isikhathi eside.
e. UMxazululi kufanele, uma uphenyo lungenakuphothulwa phakathi nesikhathi esishiwo kwisigatshana somthetho (d), azise ummangali ngaleli qiniso kanye nezimo ezivuma isikhathi eside futhi asho isikhathi uphenyo oluzophothulwa ngaso.

7. IFOMU KANYE NENQUBO ELANDELWAYO MAYELANA NOPHENYO NGEMIBANDELA NGOKWESIGABA SE-14(2) SOMTHETHO

Izinqubo njengoba zibekwe kuMthetho 6(a) kanye no (b) ziyasebenza maqondana nophenyo olwenziwa uMxazululi ngokweSigaba se-14(2) soMthetho.

8. IFOMU KANYE NENQUBO ELANDELWAYO MAYELANA NOPHENYO EZIQALELE LONA

a. UMxazululi angazihlonza ngokwakhe udaba njengoba kukhulunywe ngalo eSigabeni sama-48(1)(a) soMthetho, olungena ngaphansi kwegunya lakhe;

b. Izinqubo njengoba zibekwe kuMthetho 6(a) kanye no (b) ziyasebenza maqondana nophenyo olwenziwa nguMxazululi ngokuzenzela.

9. ISICELO SOKUTHOLA ULWAZI NOKUKHIQIZWA KWAMADOKHUMENTI

a. UMxazululi angacela ulwazi ngokusebenzisa amasamanisi okukhulunywe ngawo kuMthetho we-10 noma ngencwadi evela kunoma yimuphi umuntu njengoba kushiwo esigabeni sama-48(2)(a).

b. Lapho ulwazi noma ukukhiqizwa kwemibhalo kucelwe ngencwadi, leyo ncwadi iyobeka usuku lapho umuntu noma inhlangano kudingeke ukuba inikeze lolo lwazi noma ikhiphe

leyo mibhalo, inqobo nje uma kufanele kunikezwe isaziso esingekho ngaphansi kwezinsuku ezi-5.

c. Uma kwenzeka uhlangothi luhluleka ukuthobela isicelo ngokoMthetho 9(b), uMxazululi angakhipha amasamanisi ukuze aqinisekise ukuthotshelwa kwesicelo.

10. AMASAMANISI

a. Ngemva kokucubungula isikhalazo futhi ethola isidingo sokuqhubeka nophenyo, uMxazululi ngokwesigaba sama-48 (2) soMthetho angabiza noma yimuphi umuntu ongakwazi ukunikeza noma yiluphi ulwazi, incwadi, incwadi noma enye into mayelana nophenyo.

b. Amasamanisi azohambisana neFomu 2 eSithasiselweni sesi-2 sale Mithetho.

c. Amasamanisi azokhombisa imininingwane yodaba oluphenywayo.

d. Amasamanisi kufanele asho ikheli lomuntu okufanele avele lapho lawo masamani ezonikezwa khona.

e. Endabeni yekheli le-imeyili, amasamanisi azosho ikheli le-imeyili njengoba linikeziwe ngesikhathi sophenyo ngumuntu ozobizwa.

f. Lapho ulwazi, incwadi, idokhumenti noma enye into idingeka enkampanini esemthethweni noma i-trust amasamanisi ayobeka umqondisi, isikhulu noma umphathiswa okufanele avele.

g. Amasamanisi ayosayinwa nguMxazululi noma umuntu oqokwe nguye.

11. UKUHANJISWA KWAMASAMANISI

a. Ukuhanjiswa kwamasamanisi kungenziwa ngale ndlela elandelayo:
   i. ukulethwa ngesandla yisikhulu seHhovisi Lomxazululi Wezinsizakalo Zezomthetho ekhelini lomsebenzi elinikezwe kumasamanisi; noma
   ii. nge-elekthronikhi ngesikhulu seHhovisi Lomxazululi Wezinsizakalo Zezomthetho, lapho imihlinzeko yeSahluko III) se-*Electronic Communications and Transactions Act*, 2002 (*Act No.* 25 *of* 2002) izosebenza; noma
   iii. ngosherifu wenkantolo.

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b. Yonke inqubo ehlinzekwa ngesandla noma usherifu izothathwa ngokuthi yenziwe ngendlela efanele uma ihanjiswa ngenye yalezi zindlela ezilandelayo:
   i. ngokuletha ikhophi yakho kumuntu oshiwo mathupha; noma
   ii. endaweni yokuhlala noma endaweni yebhizinisi lalowo muntu kumuntu othile ngokusobala ongekho ngaphansi kweminyaka eyi-16 futhi ngokusobala ehlala noma eqashwe lapho; noma
   iii. endaweni yokuqashwa kwalowo muntu oshiwoyo noma komunye umuntu ngokusobala ongekho ngaphansi kweminyaka eyi-16 futhi ngokusobala enegunya phezu komuntu okufanele ahlinzekwe noma, lapho engekho lowo muntu onegunya, kumuntu ngokusobala ongekho ngaphansi kwe-16 iminyaka yobudala futhi ngokusobala ophethe lapho esebenza khona; noma
   iv. ngokuletha ikhophi yakho kunoma iyiphi i-ejenti egunyazwe ngokusemthethweni ngokubhalwe phansi ukuthi yamukele amasamanisi egameni lomuntu okumele alethwe kuye;
   v. endabeni yezinhlangano ezingokomthetho noma amathrasti, isevisi ingase yenziwe ngokudiliva ehhovisi lendawo noma endaweni yebhizinisi yalelo bhizinisi noma, uma lingekho lelo hhovisi noma indawo yebhizinisi, ngokuhanjiswa kumqondisi, umphathiswa, usihlalo, isikhulu noma isikhulu esifanayo nganoma iyiphi indlela eshiwo ngaphambili.

c. Umuntu owahambisayo kufanele, ngokufunwa ngumuntu onikezwe amasamanisi, abonise lowo muntu i-orijinali yenqubo, ngaphandle kwalapho amasamanisi enikezwa nge-elekthronikhi.

d. Zonke izinhlobo zesevisi zizokwenziwa eduze ngangokunokwenzeka phakathi kwamahora ka-7:00 no-17:00 kumuntu oshiwoyo noma kwi-ejenti wakhe egunyazwe ngokufanele.

e. Amasamanisi ngeke anikezwe ngoMgqibelo, ngeSonto noma ngeholide lomphakathi.

f. Isevisi yomuntu obizelwe ophenyweni izokwenziwa ngesikhathi esifanele, kodwa kungabi ngaphansi kwezinsuku eziyi-10 ngaphambi kokuba abekhona.

12. UKUNIKEZWA KWAMASAMANISI LAPHO UMUNTU ENGAFINYELELEKI KHONA

a. Esimeni lapho kwenziwa isevisi ngokomthetho 11 ngenhla kungenzeki nganoma yisiphi isizathu futhi uMxazululi esesebenzise zonke izindlela eziphusile ukuze athole abathintekayo ukuze banikeze amasamanisi, iseveisi iyokwenziwa ngokuthi;
   i. ngesikhangiso eshicilelwe ngolimi lwesiNgisi esizungeza endaweni lapho umuntu ehlala khona; futhi
   ii. lapho kufanele, ngolimi olusetshenziswa kakhulu endaweni ahlala kuyo.

b. Ubufakazi bokushicilelwa buzoba ikhophi yekhasi lonke eliqukethe isikhangiso noma ukusika kwaso okubonisa iphepha nosuku lokushicilelwa.

13. UKWEHLULEKA UKUHAMBISANA NAMASAMANISI KANYE/NOMA UKUBAMBA IQHAZA OPHENYWENI NGAPHANDLE KWESIZATHU ESANELE

Uma umuntu obizwe ngokwamasamanisi ehluleka ukuvela noma ehluleka ukubambisana nophenyo njengoba kuchazwe eSigabeni sama-93(5) soMthetho, uMxazululi:

a. angafaka isicelo eNkantolo Ephakeme ukuze athole usizo olufanele;

b. Angabika ukungahambisani namasamanisi noma ukwehluleka ukubamba iqhaza ophenyweni njengoba kuchazwe eSigabeni sama-93(5) soMthetho Wombutho Wamaphoyisa aseNingizimu Afrika.

14. UKUMELWA NGOKOMTHETHO OPHENYWENI

a. Umuntu obizwe ngokwamasamanisi angasizwa ummeli ngesikhathi sophenyo.

b. Umuntu obizwe ngokwamasamanisi unegunya lokukhokhelwa imali yofakazi ngokweTharifi yezibonelelo zofakazi boMbuso ekuqulweni kwamacala obugebengu eNkantolo Yezimantshi.

15. INQUBO NGAPHAMBI KOKUQALA UPHENYO

UMxazululi kufanele achazele umuntu onikezwe amasamanisi ngaphambi kophenyo:

a. inhloso yophenyo;
b. uhlobo lokubuza lophenyo;
c. inqubo ezolandelwa;
d. ukugcinwa kuyimfihlo kophenyo;
e. ukuthi alikho ilungelo lokuzibophezela;
f. ukuthi ukuqulwa kwamacala kuzoqoshwa.

16. INQUBO NGESIKHATHI SOPHENYO

a. UMxazululi angathola ubufakazi ngaphansi kwesifungo noma isiqinisekiso esivela kumuntu obizwe ngokwamasamanisi ngokweSigaba sama-48(2); ummangali nanoma yimuphi omunye umuntu ogunyazwe uMxazululi ukuba avele ngaphambi kophenyo.

b. Ubufakazi buzothathwa ngomlomo noma ngokukhiqizwa kwemibhalo, ama-athikili noma izinto.

c. UMxazululi angahlola noma agcine izincwadi ezifanele, imibhalo, noma into enikezwe ubufakazi futhi ezobuyiswa ekupheleni kophenyo.

17. UKULAMULA, UKUBUYISANA KANYE NOKUBONISANA

a. UMxazululi angase azame ukuxazulula izingxabano phakathi kwezinhlangothi:
   i. ngokusebenza njengomlamuli; noma
   ii. ngokusebenza njengomuntu owakha ukubuyisana; noma
   iii. ngokubonisana ngesixazululo.

b. Noma yiluphi ulwazi noma imibhalo edalulwe ngesikhathi sokulamula, ukubuyisana noma ukubonisana ngobuqotho angeke isetshenziswe njengobufakazi kunoma iyiphi inkantolo esemthethweni, inkantolo noma izinqubo zoMxazululi.

c. Ekulamuleni ingxabano, uMxazululi uzoqhuba izingxoxo phakathi kwezinhlangothi ukuze izinhlangothi zikwazi ukufinyelela esixazululweni esifanele sokungaboni ngaso linye kwazo.

d. Ekulungiseni ukungaboni ngaso linye, uMxazululi uzoqondisa futhi eluleke izinhlangothi ukuze izinhlangothi zikwazi ukufinyelela esixazululweni esifanele sokungaboni ngaso linye kwazo.

e. Ekuxoxisaneni ngesixazululo, uMxazululi uzoncoma iziphakamiso zokuxazulula ingxabano.

f. UMxazululi noma abathintekayo bangaphakamisa, ngokubhala noma ngomlomo, ukuthi ingxabano izanywe ukuxazululwa ngokulamula, ukubuyisana noma ukuxoxisana, kungaba ekuqaleni noma ngesikhathi sophenyo.

g. Uma izinhlangothi zivuma ukuzama ukuxazulula ingxabano njengoba kushiwo emthethweni 17 (f) ngenhla, isivumelwano siyobhalwa phansi futhi sisayinwe yizinhlangothi futhi siqinisekiswe uMxazululi.

h. Kusalindwe ukuphothulwa kokulamula, ukubuyisana noma ukuxoxisana phakathi kwezinhlangothi, uphenyo luyomiswa, inqobo nje uma ingxabano ingaxazululeki ngesikhathi esifanele, kunqunywe ngokubona kukaMxazululi, noma uma kukhona uhlangothi oluhoxile engxabanweni. Isixazululo, uphenyo luzophinda luqhubeke futhi luqhubeke noma uMxazululi angabhekana nodaba nganoma iyiphi enye indlela engase ifaneleke ngaphansi kwezimo.

i. Phakathi nokuqulwa kwamacala, ummeli wezomthetho wezinhlangothi angabakhona futhi anikeze iseluleko sezomthetho.

18. ISIXAZULULO

a. Uma kufinyelelwa esivumelwaneni phakathi kwezinhlangothi kunoma yisiphi isigaba sophenyo, kungaba ngokulamula, ukubuyisana, noma ukuxoxisana noma ngenye indlela: -
   i. imigomo yesivumelwano izobhalwa phansi, futhi leso sivumelwano siyosayinwa yizinhlangothi;
   ii. isivumelwano siyoqedwa futhi sisayinwe ngaphansi kokuqashwa nokuqondisa kukaMxazululi; futhi
   iii. isivumelwano sokuqala esayiniwe sizogcinwa nguMxazululi.

b. Naphezu kwanoma yisiphi isivumelwano esiphethwe phakathi kwezinhlangothi, amandla kaMxazululi ngaphansi kwesigaba sama-48(1)(c) soMthetho awanqunyelwe nganoma iyiphi indlela.

19. UKUBIKA NGOKUTHOLAKELE

a. Ekupheleni kophenyo, uMxazululi uzolungisa umbiko, izincomo, okutholiwe noma umbono.

b. UMxazululi kufanele zingakapheli izinsuku ezingama-30 ngemuva kokuhlanganiswa kombiko, izincomo, okutholiwe noma umbono enze ukuba utholakale kummangali kanye nanoma yimuphi umuntu noma umgwamanda othintekayo ngalokho.

20. UKUSUNGULA NOKUGCINA UHLU LWABANTU ABAVAMILE

a. UMxazululi uzosungula futhi agcine uhlu lwabantu abavamile.

b. UMxazululi uzosungula indlela yokuqashwa kwabantu abavamile.

c. UMxazululi, ekulondolozeni uhlu lwabantu abavamile angahoxisa ukuqokwa komuntu nje kuphela uma uMxazululi eqaphela ukuthi lowo muntu akasahlangabezani nenqubo ebekwe uMxazululi noma udaba oluvezwe nguMkhandlu mayelana nokuziphatha kwalowo muntu ovamile.

21. UKUQAPHA NGOKWESIGABA SAMA-42 SOMTHETHO

a. UMxazululi uzoba nelungelo lokusebenzisa amandla ngaphansi kweSigaba sama-42 soMthetho lapho ethola isikhalazo noma ngokuzenzela kwakhe.

b. UMxazululi uzokwazisa uMkhandlu ngokubhala phansi zingakapheli izinsuku ezingama-20 ngemuva kwesinqumo sawo sokuqapha ngokweSigaba 42 soMthetho.

c. UMxazululi, ngokubhala, angacela kuMkhandlu: -
   i. amakhophi awo wonke amarekhodi afanelekile kanye nemibhalo ehlobene nokuqulwa kwecala lokuqondiswa kwezigwegwe;
   ii. izinsuku zokulalelwa kwanoma yiziphi izinyathelo zokuqondiswa kwezigwegwe.

d. UMxazululi uzoba nelungelo lokwenza uphenyo oluvela ohlelweni lokuqapha.

e. Uma kwenzeka uMkhandlu wehluleka ukuthobela noma yisiphi isicelo esingaphansi kuka-(b) ngenhla, uMxazululi angase alethe isicelo eNkantolo Ephakeme ukuze uthole usizo olufanele.

22. UKUQASHWA KOPHENYO OLWENZIWA UMKHANDLU

Ngaphandle kokunciphisa amandla anikezwe uMxazululi ngaphansi kweSigaba sama-42 soMthetho, uMxazululi angaqapha lezi zinqubo ezilandelayo nganoma yiliphi iKomidi Eliphenyayo loMkhandlu:

a. izinqubo ezilandelwa amaKomidi Aphenyayo;
b. ukuthi amalungelo ezinhlangothi avikelwe ngesikhathi sophenyo;
c. ukwanela kanye nokungachemi kwenqubo yophenyo.

23. UKUQAPHA UKUZIPHATHA KWAMAKOMIDI OKUQONDISA IZIGWEGWE KANYE NAMABHODI OKUDLULISWA KWEZIKHALO NGESIKHATHI SOKULALELWA KODABA

Ngaphandle kokunciphisa amandla anikezwe uMxazululi ngaphansi kweSigaba sama-42 soMthetho, uMxazululi angaqapha ukuziphatha ezigcawini zokuqondiswa kwezigwegwe nezinkantolo zezikhalo ezingase zihlanganise ukuhambisana nezidingo zomthetho nezinqubo.

24. IMIHLINZEKO EJWAYELEKILE

a. Ukuqoshwa kophenyo - yonke imibuzo izoqoshwa ngomshini ngaphandle uma izimo zisho okuhlukile.

b. Indlela ulimi olusetshenziswa ngayo ngesikhathi sophenyo
   i. Ulimi lokuxhumana, noma ngabe ngomlomo noma ngokubhaliwe, lukaMxazululi kuyoba isiNgisi;
   ii. Umuntu ongakwazi ukukhuluma ngesiNgisi futhi odinga usizo likatolika wolimi waseNingizimu Afrika uzokwazisa uMxazululi ngokumbhalela kusasele izinsuku eziyi-15 ngaphambi kophenyo lapho-ke uMxazululi ngezindleko zakhe uyohlinzeka ngotolika wolimi waseNingizimu Afrika ogunyaziwe ukuze enze uphenyo lwakhe.

c. Ukugcinwa kuyimfihlo - zonke izinyathelo ngesikhathi sophenyo zizoba yimfihlo ngaphandle kwalapho lokho kudalulwa kudingwa ngumthetho.

INGXENYE B

(Lesi sigaba seMithetho senziwa ngokweSigaba sama-95(2)(b) esifundwa kanye neSigaba sama-52 soMthetho.)

25. UKUBIKA NGEZEZIMALI (UMBIKO WONYAKA)

a. **UHlaka Lwesu Lwamaphakathi Nonyaka**

i. Unyaka wezimali weHhovisi likaMxazululi uyoqala mhla ziyi-1 kuMbasa kunoma yimuphi unyaka ukuya zingama-31 kuNdasa onyakeni olandelayo njengoba kubekwe esigabeni sama-51 soMthetho.

ii. Ukusebenza kwenhlangano kuyoqhutshwa yisu leminyaka emihlanu, umgomo obaluliwe woMxazululi kanye namasu abalulekile. Lokhu-ke kuzobe sekwazisa uHlelo lokuSebenza loNyaka.

iii. UHlelo lokuSebenza loNyaka luyoba yisisekelo semibiko yaminyaka yonke yezikhulu zokuhlelwa kwamabhuku ezimali ngokwesigaba sama- 52 se-LPA kanye nesigaba sama-40(1)(d) kanye no (e) se-PFMA.

b. **UHlaka Lwemalinsebenzo Yamaphakathi Nonyaka**

i. IHhovisi likaMxazululi njengebhizinisi elixhaswe uMnyango Wezezimali Kazwelonke lizothobela izimfuneko ze-PFMA kanye neziqondiso zoMgcinimafa.

ii. UMqondisi (i-CEO) uzogcina amarekhodi aphelele nafanele ezindabeni zezezimali zeHhovisi likaMxazululi ngezinjongo zokucwaningwa kwamabhuku nokubalwa kwezimali okufanele.

iii. UMqondisi (i-CEO) weHhovisi likaMxazululi uzogcina izinhlelo ezisebenzayo, ezisebenza kahle nezingafihli lutho zokulawulwa kwezezimali nezinhlekelele, kanye nokulawula kwangaphakathi.

iv. UMqondisi (i-CEO) weHhovisi likaMxazululi uzoba nesibopho sokuphatha ihhovisi, okuhlanganisa nokuvikela ukugcinwa kwempahla nokuphathwa kwezinkinga zehhovisi.

v. Umqondisi (i-CEO) uzolungisa izitatimende zezimali zonyaka wezimali ngamunye ngokuhambisana ne*Generally Recognised Accounting Practice* (GRAP). Izitatimende zezimali zizothunyelwa zingakapheli izinyanga eziyisithupha (6) ngemva kokuphela konyaka wezimali.

vi. Umbiko wonyaka kanye nezitatimende zezimali zizokwethula isimo sezindaba zikaMxazululi, imiphumela yakhe yezezimali, ukusebenza kwenhlangano

kuqhathaniswa nezinjongo zohlelo lokusebenza lonyaka kanye nesimo sakhe sezezimali ekupheleni konyaka wezimali onikeziwe.

vii. Umbiko wonyaka kanye nezitatimende zezimali zizofaka

1. noma yikuphi ukulahlekelwa kwezinto ezibonakalayo ngokuziphatha kobugebengu, ukusetshenziswa kwemali ngendlela engafanele, ukusetshenziswa kwemali okungenanzuzo nokumosha okwenzeka phakathi nonyaka wezimali;
2. noma yiziphi izinyathelo zobugebengu noma zokuqondiswa kwezigwegwe ezithathwe ngenxa yalokho kulahlekelwa noma ukusetshenziswa kwemali ngendlela engafanele noma ukusetshenziswa kwemali okungenanzuzo nokumoshayo;
3. noma yikuphi ukulahlekelwa okutholiwe noma okusuliwe;
4. noma yiluphi usizo lwezezimali olutholwe eMnyangweni wezobuLungiswa nokuThuthukiswa koMthethosisekelo kanye nezibopho ezenziwa uhulumeni egameni lawo; kanye
5. nanoma yiziphi ezinye izindaba ezingahle zinqunywe kubandakanya nezitatimende zezimali zanoma yiziphi izinkampani ezingaphansi.