GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE

NO. 3538 **14 June 2023**

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998)

CODE OF CONDUCT FOR COUNCILLORS REGULATIONS

I, Thembi Nkadimeng, Minister of Cooperative Governance and Traditional Affairs, after consultation with the members of Executive Council's responsible for local government in the provinces, and organised local government representing local government nationally, under section 92 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended, hereby make the Regulations in the Schedule.

MS THEMBI NKADIMENG, MP
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
DATE: 08/06/2023

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SCHEDULE

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1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context indicates otherwise –

"**Act**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended;

"**behaviour**" means verbal or non-verbal communicative conduct, tone of voice, body language and demeanour, deportment, bearing and etiquette relative to one's conduct towards others;

"Chairperson" includes a councillor –
(a) elected as the speaker of the municipal council;
(b) elected as a mayor or deputy mayor, or a councillor presiding over meetings of the executive committee;
(c) elected as the executive mayor or executive deputy mayor;
(d) elected as the chairperson of a metropolitan sub-council; or
(e) appointed as the chairperson of a committee that is established in terms of sections 79, 79A or 80 of the Act;

"Code" means the Code of Conduct for Councillors in Schedule 7 of the Act;

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"committee" means an executive committee established in terms of section 42 of the Act, or a mayoral committee established in terms of section 60 of the Act, or a metropolitan sub-council established in terms of section 61 of the Act, or a committee established in terms of sections 79, 79A or 80 of the Act;

"**Department**" means the Department of Cooperative Governance;

"gift" includes physical offerings, rewards, hospitality (such as breakfast, lunch or dinner), money, sponsorships, commissions or any other benefit or gratification that is received by a councillor;

"meeting" includes meetings that take place in the chambers of the municipal council, any other venue or virtual platform as indicated in the agenda of the council meeting, and includes meetings of a committee of the council;

"MFMA" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"quarter" means any period from 1 January to 31 March, or from 1 April to 30 June, or from 1 July to 30 September, or from 1 October to 31 December, in a calendar year;

"quorum" means a number above 50% of members of the municipal council as envisaged in the Act;

"virtual platform" means an information and communications technology related platform used to convene meetings; and

"walk-out" is an act of leaving a meeting or failing to remain in attendance at that meeting, by a councillor or councillors, without the permission of the chairperson when a vote is taken on any matter, or before the chairperson has adjourned the meeting.

2. Application

These Regulations apply to all councillors and traditional and Khoi-San leaders subject to item 17 of the Code.

3. General conduct of councillors

(1) A councillor must –

(a) perform the functions of office in good faith, honestly and in a transparent manner;

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(b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and

(c) during meetings maintain good and orderly behaviour.

(2) If a councillor's behaviour is unruly, including when such councillor assaults or threatens to assault an official or another councillor or any other person present at the meeting –

(a) the chairperson must order the councillor to immediately leave the meeting; and

(b) if the councillor fails to obey the order, request a law enforcement official employed by the municipality to remove the councillor from the meeting.

(3) If a councillor is known to or have been seen to have orchestrated with a group of members of the public or municipal staff to engage in violent protests or labour unrest against the municipality –

(a) such councillor must be disciplined by the municipal council for breach of the Code; and

(b) criminal charges must be laid with the South African Police Services and any loss or damage suffered by the municipality as a result of such protest or strike must be recovered from the councillor and cannot be written off.

4. Attendance of meetings

(1) The municipal council must convene an ordinary meeting for the transaction of business at least once in every quarter.

(2) A councillor's request for leave of absence contemplated in item 4(a) of the Code may not be unreasonably denied.

(3) A councillor living with a disability must have adequate access and support from the municipality to ensure that such a councillor participates effectively in council proceedings.

(4) A meeting must quorate before any matter may be considered.

(5) *(a)* In the event of no quorum for a meeting, the scheduled meeting may be suspended for no more than 20 minutes, or as provided in the standing rules and orders for meetings of the municipal council concerned.

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(b) If at the expiry of the 20 minutes provided for in paragraph (a) there is still no quorum, the chairperson may suspend the meeting for a further 20 minutes, or as provided in the standing rules and orders for meetings of the municipal council concerned.

(c) If after the expiry of 20 minutes provided for in paragraph (b) there is still no quorum, the chairperson must adjourn the meeting to another date and time.

(6) *(a)* If a councillor or councillors walk-out or are ordered to leave the meeting in terms of regulation 3(2), and the remainder of the councillors constitute a quorum, the business of the meeting must proceed.

(b) A councillor or councillors who walk-out of a meeting or is removed from the meeting by the chairperson in terms of regulation 3(2) is in breach of the Code.

(c) The chairperson may not unreasonably adjourn or close a meeting because of a walk-out or removal of a councillor or councillors if there is still a quorum for the meeting to proceed.

5. Voting at meetings

(1) A councillor who votes in favour of or agrees with a proposed resolution that is before the meeting, which conflicts with any legislation applicable to local government, is in breach of the Code.

(2) A councillor who commits a criminal offence in terms of section 173(4) and (5) of the MFMA, read with the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014 and section 174 of the MFMA, is in breach of the Code.

6. Prescribed value of gifts received by councillor

(1) Gifts received by a councillor must be declared in writing to the municipal manager in terms of item 8(1) of the Code where –

(a) the value of a gift exceeds R1,000.00 or a higher amount as may be determined by the Minister from time to time; and
(b) the value of gifts received from a single source in any calendar year exceeds the threshold of R1,000.00 or the amount determined by the Minister in terms of sub-regulation *(a)*.

(2) A declaration of gifts received by a councillor must –

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(a) contain a description of the gifts; and
(b) indicate the value and source of such gift or gifts.

(3) Failure to declare a gift(s) in terms of sub-regulations (1) and (2) is a breach of the Code.

(4) Gifts received by a councillor above the prescribed amount must be recorded in a designated council's gifts register that must be developed by the municipality, which must include the following –

(a) full names, address and contact number of the person or organisation from whom the gift was accepted;
(b) value of the gift received or of all gifts received with a value greater than R1,000.00 or cumulative gifts received from the same person or organisation over a period of twelve-months; and
(c) the relationship between the councillor accepting the gift and the person or organisation providing the gift.

(5) A councillor accepting the gift must also make the person or organisation providing the gift aware that their details will be included in the gifts register of the council subject to the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

(6) A councillor must ensure that any gift declared on the gifts register is recorded within ten working days of receipt thereof.

(7) A councillor must ensure that the details recorded in the gifts register are true and correct.

(8) A municipality must ensure that a gifts register is kept for councillors to declare their interests as provided for in item 8 of the Code.

(9) The municipal council must determine which of the financial interests must be made public having regard to the need for confidentiality and the public interest for disclosure.

7. Duty of speaker

(1) The speaker must ensure that each councillor and traditional and Khoi-San leader is in receipt of a copy of the Code and is familiar with the content of such Code.

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(2) A councillor and traditional and Khoi-San leader in receipt of a copy of the Code, must familiarise themselves with such Code.

8. Breaches of Code

(1) If a councillor is alleged to have breached a provision of the Code, such alleged breach must be investigated in terms of items 15 and 16 of the Code.

(2) If there are any alleged breaches of the Code that has occurred in a committee of the council, the chairperson of the committee must within 7 days of the alleged breach report the breach to the speaker for further action.

9. Councillor in arrears to the municipality for rates and service charges

(1) The municipal manager must in writing immediately inform the councillor when the councillor is in arrears to the municipality for rates and service charges for a period that is longer than two months, even if the councillor has been newly elected to the municipal council concerned, and request the councillor to settle the account and any arrears without further delay in accordance with the credit control policy of the municipality.

(2) The municipal manager must immediately submit details of those councillors that are in arrears to the municipality for rates and service charges over a period of three months to the speaker.

(3) A councillor who is in arrears to the municipality for rates and service charges for a period longer than three months is in breach of the Code, and the speaker must, upon receipt from the municipal manager of the details contemplated in sub-regulation (2), ensure that the arrears is recovered from the councillor.

10. Reporting

(1) The speaker must submit a report bi-annually on the compliance with the Code to the MEC for local government within 30 days from the beginning of January and July of a calendar year.

(2) The MEC for local government must, within 30 days of receipt of the report referred to in sub-regulation (1), submit a consolidated report on the compliance of municipalities with the Code to the Minister.

(3) The reports contemplated in sub-regulations (1) and (2) must be in accordance with a reporting template developed by the Department.

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11. Repeal of Regulations

The Local Government: Municipal Systems Regulations published by Government Notice R459 of 2001, in *Government Gazette* 22328 of 25 May 2001, are hereby repealed.

12. Short title and commencement

These Regulations are called the Code of Conduct for Councillors Regulations, 2023, and takes effect on the date of publication hereof.

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DEPARTEMENT VAN SAMEWERKENDE REGERING

NO. 3538 **14 Junie 2023**

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998 (WET NO. 117 VAN 1998)

REGULASIES OOR GEDRAGSKODE VIR RAADSLEDE

Ek, Thembi Nkadimeng, Minister van Samewerkende Regering en Tradisionele Sake, vaardig hierby ná oorleg met die lede van Uitvoerende Rade verantwoordelik vir plaaslike regering in die provinsies, en georganiseerde plaaslike regering wat plaaslike regering nasionaal verteenwoordig, kragtens artikel 92 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 11 van 1998), soos gewysig, die Regulasies in die Bylae uit.

MS THEMBI NKADIMENG, LP
MINISTER VAN SAMEWERKENDE REGERING EN TRADISIONELE SAKE

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1. Woordomskrywing

In hierdie Regulasies het enige woord of uitdrukking waaraan ’n betekenis in die Wet toegewys is, daardie betekenis en, tensy die samehang andersins aandui, beteken—

“**Departement**” die Departement van Samewerkende Regering;

“**gedrag**” verbale of nieverbale kommunikerende gedrag, stemtoon, liggaamstaal en handelswyse, houding en etiket in verband met ’n persoon se gedrag teenoor andere;

“**geskenk**” ook fisieke aanbiedinge, belonings, gasvryheid (soos ontbyt, middagete of aandete), geld, borgskappe, kommissies of enige ander voordeel of gratifikasie wat deur ’n raadslid ontvang word;

“**Kode**” die Gedragskode vir Raadslede in bylae 7 by die Wet;

“**komitee**” ’n uitvoerende komitee ingestel ingevolge artikel 42 van die Wet, of ’n burgerlike komitee ingestel ingevolge artikel 60 van die Wet, ’n metropolitaanse subraad ingestel ingevolge artikel 61 van die Wet, of ’n komitee ingevolge artikels 79, 79A of 80 van die Wet ingestel;

“**kwartaal**” enige tydperk vanaf 1 Januarie tot 31 Maart, of vanaf 1 April tot 30 Junie, of vanaf 1 Julie tot 30 September, of vanaf 1 Oktober tot 31 Desember, in ’n kalenderjaar;

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"**kworum**" meer as 50% van lede van die munisipale raad soos in die Wet beoog;

"**MFB-wet**" die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003);

"**uitstap**" is 'n handeling waarin 'n raadslid of raadslede, sonder die toestemming van die voorsitter wanneer oor enige aangeleentheid gestem word, of voordat die voorsitter die vergadering verdaag het, 'n vergadering verlaat of versuim om by daardie vergadering teenwoordig te bly;

"**vergadering**" ook vergaderings wat in die kamers van die munisipale raad, enige ander venue of virtuele platform plaasvind soos in die agenda van die raadsvergadering aangedui, en sluit ook vergaderings van die komitee in;

"**virtuele platform**" 'n platform wat met inligtings- en kommunikasietegnologie verband hou wat gebruik word om vergaderings saam te roep;

"**Voorsitter**" ook 'n raadslid—

(a) wat as die speaker van die munisipale raad verkies is;

(b) wat as 'n burgermeester of onderburgermeester verkies is, of 'n raadslid wat voorsit oor vergaderings van die uitvoerende komitee; en

(c) wat as die uitvoerende burgemeester of uitvoerende onderburgemeester verkies is; of

(d) wat as die voorsitter van 'n metropolitaanse subraad verkies is; of

(e) wat as die voorsitter verkies is van 'n koomitee wat ingevolge artikel 79, 79A of 80 van die Wet ingestel is; en

"Wet" die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), soos gewysig.

2. Toepassing

Hierdie Regulasies is van toepassing op alle raadslede en tradisionele en Khoi-San-leiers behoudens item 17 van die Kode.

3. Algemene gedrag van raadslede

(1) 'n Raadslid moet–

(a) die werksaamhede van die amp te goeder trou, eerlik en op ’n deursigtige wyse verrig;

(b) te alle tye in die beste belang van die munisipaliteit en op so ’n wyse handel dat die geloofwaardigheid en integriteit van die munisipaliteit nie in die gedrang gebring word nie; en

(c) tydens vergaderings goeie en ordelike gedrag handhaaf.

(2) Indien ’n raadslid se gedrag onordelik is, met inbegrip van wanneer sodanige raadslid ’n beampte of ’n ander raadslid of enige ander persoon wat by die vergadering teenwoordig is aanrand of met aanranding dreig—

(a) moet die voorsitter die raadslid beveel om die vergadering onmiddellik te verlaat; en

(b) indien die raadslid versuim om die bevel te gehoorsaam, ’n wetstoepassingsbeampte in diens van die munisipaliteit versoek om die raadslid uit die vergadering verwyder.

(3) Indien dit bekend is of indien waargeneem is, dat ’n raadslid met ’n groep of lede van die publiek of munisipale personeel georkestreer het om aan gewelddadige oproer of arbeidsonrus teen die munisipaliteit mee te doen—

(a) moet sodanige raadslid deur die munisipale raad gedissiplineer word vir verbreking van die Kode; en

(b) strafregtelike aanklagte moet by die Suid-Afrikaanse Polisiediens aanhangig gemaak word en enige skade of verlies deur die munisipaliteit gelei as gevolg van sodanige protesaksie of staking, moet van die raadslid verhaal word en kan nie afgeskryf word nie.

4. Bywoning van vergaderings

(1) Die munisipale raad moet ten minste een keer elke kwartaal ’n gewone vergadering saamroep vir die doen van sake.

(2) ’n Raadslid se versoek om van ’n vergadering verskoon te word soos in item 4*(a)* van die Kode beoog, mag nie onredelik geweier word nie.

(3) ’n Raadslid wat met ’n gestremdheid saamleef, moet voldoende toegang en ondersteuning van die munisipaliteit hê om te verseker dat sodanige raadslid doeltreffend aan raadsverrigtinge deelneem.

(4) ’n Vergadering moet ’n kworum hê voordat enige aangeleentheid oorweeg kan word.

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(5) *(a)* Indien daar nie ’n kworum by ’n vergadering is nie, kan die geskeduleerde vergadering met hoogstens 20 minute of soos in die staande reëls en orders vir vergaderings van die betrokke munisipale raad bepaal, uitgestel word.

(b) Indien daar ná afloop van die 20 minute waarvoor in paragraaf *(a)* voorsiening gemaak word, steeds nie ’n kworum is nie, kan die voorsitter die vergadering uitstel met nog 20 minute of soos in die staande reëls en orders vir vergaderings van die betrokke munisipale raad bepaal.

(c) Indien daar ná afloop van die 20 minute waarvoor in paragraaf *(b)* voorsiening gemaak word, nog steeds geen kworum is nie, moet die voorsitter die vergadering verdaag na ’n ander datum en tyd.

(6) *(a)* Indien ’n raadslid of raadslede uitstap of beveel word om die vergadering te verlaat ingevolge regulasie 3(2), en die oorblywende raadslede stel ’n kworum daar, moet die sake van die vergadering voortgaan.

(b) ’n Raadslid of raadslede wat uit ’n vergadering uit stap of deur die voorsitter uit die vergadering verwyder word ingevolge regulasie 3(2), verbreek die Kode.

(c) Die voorsitter kan nie ’n vergadering onredelik verdaag of afsluit omdat ’n raadslid of raadslede uitgestap het of verwyder is nie indien daar steeds ’n kworum is vir die vergadering om voort te gaan.

5. Stemming by vergaderings

(1) ’n Raadslid wat vir ’n voorgestelde resolusie wat voor die vergadering is, stem of daarmee saamstem, wat in stryd is met enige wetgewing wat op plaaslike regering van toepassing is, verbreek die kode.

(2) ’n Raadslid wat ’n strafregtelike misdryf pleeg ingevolge artikel 173(4) en (5) van die MFB-wet, gelees met die Munisipale Regulasies oor Finansiële Wangedrag Prosedures en Strafregtelike Verrigtinge, 2014, en artikel 174 van die MFB-wet, verbreek die kode.

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6. Voorgeskrewe waarde van geskenke deur raadslid ontvang

(1) Geskenke wat deur ’n raadslid ontvang word, moet ingevolge item 8(1) skriftelik aan die munisipale bestuurder verklaar word waar–

(a) die waarde van ’n geskenk R1 000,00 of ’n hoër bedrag soos van tyd tot tyd deur die Minister bepaal, oorskry; en

(b) die waarde van geskenke wat in enige kalenderjaar van ’n enkele bron ontvang is, die drempel van R1 000,00 of die bedrag ingevolge subregulasie *(a)* deur die Minister bepaal, oorskry.

(2) ’n Verklaring van geskenke deur ’n raadslid ontvang, moet–

(a) ’n beskrywing van die geskenke bevat; en
(b) die waarde en bron van sodanige geskenk of geskenke aandui.

(3) Versuim om n geskenk(e) in gevolge sub-regulasie (1) and (2) te verklaar is n oortreding van die Kode en moet ondersoek word soos in die Kode en die staande reels en orders van die raad uiteengesit.

(4) Geskenke deur ’n raadslid ontvang wat die voorgeskrewe bedrag oorskry, moet in ’n aangewese raad se geskenkregister aangeteken word wat deur die munisipaliteit ontwikkel moet word, wat die volgende moet insluit:

(a) volle name, adres en kontaknommer van die persoon of organisasie van wie die geskenk aanvaar is;
(b) waarde van die geskenk ontvang of van alle geskenke tot ’n waarde van meer as R1 000,00 of kumulatiewe geskenke van dieselfde persoon of organisasie ontvang oor ’n tydperk van twaalf maande; en
(c) die verhouding tussen die raadslid wat die geskenk aanvaar en die persoon of organisasie wat die geskenk voorsien.

(5) ’n Raadslid wat die geskenk aanvaar, moet ook die persoon of organisasie wat die geskenk voorsien, daarvan bewus maak dat hulle besonderhede in die raad se geskenkregister ingesluit sal word, behoudens die bepalings van die Wet op Beskerming van Persoonlike Inligting, 2013 (Wet No. 4 van 2013).

(6) ’n Raadslid moet verseker dat enige geskenk wat in die geskenkregister verklaar is, binne tien dae sedert ontvangs daarvan, aangeteken word.

(7) ’n Raadslid moet verseker dat die besonderhede in die geskenkregister aangeteken waar en korrek is.

(8) ’n Munisipaliteit moet verseker dat ’n geskenkregister gehou word vir raadslede om hulle belange te verklaar soos in item 8 van die Kode voor voorsiening gemaak.

(9) Die munisipale raad moet vasstel watter van die finansiële belange openbaar gemaak moet word, met inagneming van die nodigheid vir vertroulikheid en die openbare belang by openbaarmaking.

7. Plig van speaker

(1) Die speaker moet verseker dat elke raadslid en tradisionele en Khoi-San-leier ’n afskrif van die Kode het en vertroud is met die inhoud van sodanige Kode.

(2) ’n Raadslid en tradisionele leier of Khoi-San-leier wat ’n afskrif van die Kode ontvang, moet sigself vertroud maak met daardie Kode.

8. Verbrekings van Kode

(1) Indien ’n raadslid na bewering ’n bepaling van die Kode verbreek het, moet sodanige beweerde verbreking ingevolge item 15 en 16 van die Kode ondersoek word.

(2) Indien enige beweerde verbrekings van die Kode in ’n komitee van die raad voorgekom het, moet die voorsitter van die komitee binne 7 dae vanaf die beweerde verbreking, die verbreking by die speaker aanmeld vir verdere stappe.

9. Raadslid agterstallig by munisipaliteit vir eiendomsbelasting en diensgelde

(1) Die munisipale bestuurder moet die raadslid onmiddellik skriftelik inlig wanneer die raadslid by die munisipaliteit agterstallig is vir eiendomsbelasting en diensgelde vir ’n tydperk van langer as twee maande, selfs as die raadslid nuut tot die betrokke munisipale raad verkies is, en vra dat die raadslid die rekening en enige agterstallige gelde onverwyld skik ooreenkomstig die kredietbeheerbeleid van die munisipaliteit.

(2) Die munisipale bestuurder moet onmiddellik besonderhede van daardie raadslede wat met meer as drie maande by die munisipaliteit agterstallig is met eiendomsbelasting en diensgeld by die speaker indien.

(3) ’n Raadslid wat met meer as drie maande by die munisipaliteit agterstallig is vir eiendomsbelasting en diensgelde verbreek die Kode en die speaker moet, by ontvangs van die munisipale bestuurder van die besonderhede in subregulasie (2) beoog, verseker dat die agterstallige bedrag van die raadslid verhaal word.

10. Verslagdoening

(1) Die speaker moet twee keer ’n jaar ’n verslag stuur oor voldoening aan die Kode aan die LUR vir plaaslike regering binne 30 dae vanaf die begin van Januarie en Julie van ’n kalenderjaar.

(2) Die LUR vir plaaslike regering moet, binne 30 dae vanaf ontvangs van die verslag in subregulasie (1) bedoel, ’n gekonsolideerde verslag oor die voldoening van munisipaliteite aan die Kode aan die Minister voorlê.

(3) Die verslae in subregulasies (1) en (2) beoog, moet volgens die sjabloon deur die Departement ontwikkel, saamgestel word.

11. Herroeping van Regulasies

Die Plaaslike Regering: Munisipale Stelselregulasies gepubliseer in Goewermentskennisgewing R459 van 2001, in *Staatskoerant* 22328 van 25 Mei 2001, word hierby herroep.

12. Kort titel en inwerkingtreding

Hierdie Regulasies heet die Regulasies oor Gedragskode vir Raadslede, 2023, en tree in werking by publikasie hiervan.

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SATISO SAHULUMENDE

LITIKO LETIKUBUSA NEKUBAMBISANA

No. R. 2023

HULUMENDE WASEKHAYA: UMTSETFO WETAKHIWO TAMASIPALA, 1998 (UMTSETFO NO. 117 WANGA-1998)

IMINGOMO YEKUTIPHATSA YENCHUBO YEMAKHANSELA

Mine, Thembi Nkadimeng, Ndvuna Wetekubusa Ngekubambisana Kanye Netendzabuko, ngemuva kwekubonisana nemalunga eMkhandlu loPhetse lobukene nabohulumende basekhaya etifundzeni, futsi nekuhleleka kwabohulumende basekhaya labamele bohulumende basekhaya kuvelonkhe, ngaphansi kwesigaba 92 saHulumende Basekhaya: Tinhlaka Tamasipala. UMtsetfo, 1998 (uMtsetfo No. 117 wanga-1998), njengoba kulungisiwe, ngaloku ushicilela iMitsetfonchubo eHlelweni.

THEMBI NKADIMENG, MP

INDVUNA YELITKO LETEKUBUSA NGEKUBAMBISANA KANYE NETENDZABUKO

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1. Tinchazelo

Kule Mitsetfonchubo, noma ngiliphi ligama noma sisho lesiniketwe inchazelo eMtsetfweni sinaleyo nchazelo futsi, ngaphandle uma ingcikitsi isho lokuhlukile–

“**Umtsetfo”** kushiwo Huhulumende Wasekhaya: uMtsetfo Wetinhlaka Tamasipala, 1998 (uMtsetfo No. 117 wanga-1998), njengoba kulungisiwe;

"Kutiphatsa" kusho kutiphatsa kwekukhuluma noma lokungakhulumi, liphimbo, lulwimi lwemtimba kanye nekutiphatsa, kanye nendlela yekutiphatsa lehlobene nendlela umuntfu atiphatsa ngayo kulabanye;

“Sihlalo” kufaka likhansela-

(a) lelicokwe njengasomlomo wemkhandlu wamasipala;

(b) locokwe njenge-meya noma lisekela-meya, noma likhansela lelengamele imihlangano yelikomidi lelisetulu;

(c) lecokwe njenge-meya lephetse noma lisekela lemeya;

(d) locokwe njengasihlalo wemkhandlu lomncane welidolobha; noma

(e) locokwe njengasihlalo welikomidi lelisungulwe ngekwetigaba 79, 79A noma 80 teMtsetfo;

“Likhodi” kushiwo Imingomo Yekutiphatsa Kwemakhansela Eluhlelweni 7 leMtsetfo;

“ikomidi” lichaza ikomidi leliphezulu lelisungulwe ngekwesigaba 42 seMtsetfo, noma likomidi lemeya lelisungulwe ngekwesigaba 60 seMtsetfo, noma umkhandlu lomncane wedolobha lelisungulwe ngekwesigaba 61 seMtsetfo, noma likomidi lelisungulwe ngekwetigaba 79, 79A noma 80 teMtsetfo;

“**Litiko”** kushiwo Litiko Letekubusa Ngekubambisana;

“sipho” sihlanganisa iminikelo lebonakalako, imiklomelo, umoya wekungenisa tihambi (njengesidlo sasekuseni, sidlo sasemini noma sakusihlwa), imali, luchaso, emakhomishini nanoma ngiyiphi lenye inzuzo noma kutenelisa lokutfolwa likhansela.

“umhlangano” kuhlanganisa imihlangano leba khona etindlini temkhandlu wamasipala, nanoma ngiyiphi lenye indzawo noma inkundla lebonakalako njengoba kukhonjisiwe eluhlelweni lemhlangano wemkhandlu, futsi kufaka nemihlangano yelikomidi lemkhundlu;

“i-MFMA” ichaza uMtsetfo Wekuphatfwa Kwetimali taMasipala kuHulumende Wasekhaya, wa-2003 (uMtsetfo No. 56 wanga-2003);

“ikota” kushiwo noma ngisiphi sikhatsi kusukela mhlaka 1 Bhimbidvwane kuya kumhlaka 31 Indlovulenkhulu, noma kusukela mhlaka 1 kuMbasa kuya mhlaka 30 Inhlaba, noma kusukela ngeti-1 kuKholwane kuya ku-30 Inyoni, noma kusukela mhlaka 1 Imphala kuya mhlaka 31 ingongo, emnyakeni wekhalenda;

“ikhoramu” isho sibalo lesisetulu kwemaphesenti langu-50 emalungu emkhandlu wamasipala njengoba kuhlongotwe eMtsetfweni;

"inkundla lebonakalako" kushiwo inkundla lehlobene nelwati nebuchwepheshe betekuchumana lesetjentiselwa kubita imihlangano; futsi

“Kuphuma” sento sekushiya umhlangano noma kwehluleka kuhlala kulowo mhlangano, likhansela noma emakhansela, ngaphandle kwemvume yasihlalo uma kuvotwa kunoma ngiluphi ludzaba, noma ngaphambi kwekuba sihlalo awuhlehlisile umhlangano.

2. Sicelo

LeMitsetfonchubo isebenta kuwo onkhe emakhansela kanye nebaholi bendzabuko noma bemaKhoi-San ngekuya ngeliphuzu lesise-17 leKhodi.

3. Kutiphatsa lokujwayelekile kwemakhansela

(1) Likhansela kufanele -

(a) ente imisebenti yesikhundla ngekwetsembeka, nalecacile nangendlela lesobala;
(b) ngaso sonkhe sikhatsi asebente ngendlela lezuzisa masipala nangendlela yekutsi kwetsembeka nebucotfo bamasipala kungaphatamiseki; futsi
(c) ngesikhatsi semihlangano yemkhandlu gcine kutiphatsa lokuhle nalokuhlelekile, lokuhlanganisa nekulalela imiyalelo wasihlalo.

(2) Uma kutiphatsa kwelikhansela kungalawuleki, lokuhlanganisa uma lelo khansela lihlasela noma lisabisa ngekushaya sikhulu noma lelinye likhansela nanoma ngimuphi lomunye umuntfu lokhona emhlanganweni -

(a) Sihlalo kufanele ayalele likhansela kutsi liphume ngekushesha emhlanganweni; futsi
(b) uma likhansela lehluleka kutfobela umyalelo, licele sisebenti semtsetfo lesicashwe ngumasipala kutsi sikhiphe likhansela emhlanganweni.

(3) Uma likhansela latiwa noma libonakala lisebentisana nelicembu lemalunga emphakatsi noma basebenti bamasipala kuba lihlanganyele emibhikishweni lelineludlame noma lutfutfuva letebasebenti letimelene namasipala –

(a) lelo khansela kumele licondziswe tigwegwe ngumkhandlu wamasipala ngekwephula iKhodi; futsi
(b) emacala ebugebengu kumele abekwe ePhikweni Lwetemaphoyisa aseNingizimu Afrika futsi noma ngikuphi kulahlekelwa noma umonakalo lodalwe ngumasipala ngenca yalowo mbhikisho noma siteleka kufanele utfolakale ekhanseleni futsi angeke asulwe.

4. Kuba khona emihlanganweni

(1) Umkhandlu wamasipala kumele ubite umhlangano lojwayelekile wekuchutjwa kwelibhizinisi lokungenani kanye njalo ngekota,

(2) Sicelo selikhansela sekuphumula lesihlongotwe eluphuzwini lesi-4 (a) leKhodi angeke salelwe ngalokungakafaneli.

(3) Likhansela leliphila nekukhubateka kumele likwati kufinyelela nekwesekwa ngalokwanele kumasipala kute kucinisekise kutsi lelo khansela libamba lichaza ngempumelelo etincubeni temkhandlu.

(4) Umhlangano kufanele ukhokhe ngaphambi kwekuba kucatjangelwe noma nguluphi ludzaba.

(5) *(a)* Uma kwenteka ingekho ikhoramu yemhlangano, umhlangano lohleliwe ungamiswa sikhatsi lesisetulu kwemizuzu lengu-20, noma njengoba kuniketiwe emitsetfweni lemisiwe nemiyalelo yemihlangano yemkhandlu wamasipala lotsintsekako;

(b) Uma ekupheleni kwemizuzu lengu-20 leshiwo endzimeni (a) ingekho ikhoramu, sihlalo angawumisa umhlangano ngaleminye imizuzu lengu-20, noma njengoba kuniketiwe emitsetfweni lemisiwe nemiyalelo yemihlangano yemkhandlu wamasipala lotsintsekako;

(c) Uma ngemva kwekuphela kwemizuzu lengu-20 leshiwo endzimeni (b) ingasekho ikhoramu, sihlalo kufanele awuhlehlisele kulelunye lilanga nesikhatsi.

(6) *(a)* Uma likhansela noma emakhansela aphuma noma ayalwa kuba aphume emhlanganweni ngekwemtsetfonchubo 3(2), bese kutsi incenye lesele yemakhansela ihlanganise ikhoramu, umsebenti wemhlangano kumele uchubeke.

(b) Likhansela noma emakhansela laphuma emhlanganweni noma likhishwa ngusihlalo emhlanganweni ngekwemtsetfonchubo wesi-3(2) lephula iKhodi.

(c) Sihlalo angeke ahlehlise noma avale umhlangano ngalokungakafaneli ngenca yekuphuma noma kususwa kwelikhansela noma emakhansela uma kusekhona ikhoramu kute umhlangano uchubeke.

5. Kuvota emihlanganweni

(1) Likhansela lelivotela noma lelivumelana nesincumo lesihlongotwako lesiphambi kwemhlangano, lesingcubutana nanoma ngimuphi umtsetfo losebenta kuhulumende wasekhaya, lephula iKhodi.

(2) Likhansela lelenta licala lebugebengu ngekwesigaba 173(4) na (5) se-MFMA, sifundvwa neMitsetfonchubo yaMasipala Yetinchubo Tekungatiphatsi Kahle Etimalini kanye Nekutsetfwa Kwemacala Ebugebengu, 2014 kanye nesigaba 174 se-MFMA, lephula YeKhodi.

6. Linani lelincunyiwe letipho letitfolwe likhansela

(1) Tipho letitfolwe likhansela kumele tibhalwe phansi kumphatsi wamasipala ngekweliphuzu lesi-8(1) leKhodi lapho –

(a) Linani lesipho lidlula R1 000.00 noma linani lelingetulu kwaloko lelingancunywa nguNdvuna ngetikhatsi letitsile; futsi
(b) Linani letipho letitfolwe endzaweni leyodvwa kunoma ngimuphi umnyaka wekhalenda lengca umkhawulo wa-R1 000.00 noma linani lelincunywe nguNdvuna ngekwemtsetfonchubo longaphansi*(a)*.

(2) Simemetelo setipho letitfolwe likhansela kufanele–

(a) ticuketse inchazelo yetipho, futsi
(b) akhombise linani kanye nemtfombo waleso sipho noma tipho.

(3) Kwehluleka kumemetela tipho ngekwesigatjana semtsetfonchubo (1) na (2) kuwukwephula iKhodi.

(4) Tipho letitfolwe likhansela ngetulu kwelinani lelincunyiwe kufanele tibhalwe kurejista yetipho yemkhandlu lecokiwe lokumele itfutfukiswe ngumasipala, lokumele ihlanganise loku lokulandzelako–

(a) emagama laphelele, likheli kanye nenombolo yekuchumana yemuntfu noma inhlangano lokwamukelwe kuyo sipho;

(b) linani lesipho lesitfoliwe noma lato tonkhe tipho letitfolwe ngelinani lelikhulu ku-R1,000.00 noma tipho leticociwe letitfolwa kumuntfu lofanayko noma inhlangano esikhatsini lesitinyanga letishumi nakubili; futsi

(c) budlelwano emkhatsini kwelikhansela lelitfola sipho kanye nemuntfu noma inhlangano leniketa lesipho.

(5) Likhansela lelamukela sipho kufanele lente umuntfu noma inhlangano leniketa lesipho sati kutsi imininingwane yabo itofakwa ebhukwini letincwadzi tesipho

temkhundlu ngekuya ngekuniketa ngeMtsetfo Wekuvikela Lwati Lemuntfu, 2013 (uMtsetfo No. 4 wanga-2013).

(6) Likhansela kufanele licinisekise kutsi noma ngisiphi kurejista yetipho leticokiwe sicoshwa tingakapheli tinsuku letimashumi tekusebenta sitfolakele.

(7) Likhansela kufanele licinisekise kutsi imininingwane lebhalwe kurejista yetipho iliciniso futsi ilungile.

(8) Masipala kumele ucinisekise kutsi irejista yetipho igcinelwe emakhansela kudzalula tinshisekelo tawo njengoba kuniketiwe ephuzwini lesi-8 leKhodi.

(9) Umkhandlu wamasipala kumele uncume kutsi ngikuphi lokuhlomula ngetetimali lokufanele kuvetwe emphakatsini ngekubhekelela sidzingo sekugcinwa kwemfihlo kanye netinshisekelo temphakatsi tekudzalulwa.

7. Umsebenti wasomlomo

(1) Somlomo kumele acinisekise kutsi likhansela ngalinye kanye nemholi wendzabuko noma wemaKhoi-San utfola ikhophi yeKhodi.

(2) Likhansela noma umholi wendzabuko noma umholi wemaKhoi-San lapho atfola ikhophi yeKhodi, atijwayete neKhodi.

8. Kwephulwa Kwekhodi

(1) Uma ikhansela kusolwa kutsi lephule umbandzela waleKhodi, loko kusolwa kwekwephula kumele kuphenywe ngekwemibandzela 15 kanye na-16 yeKhodi.

(2) Uma kukhona tinsolo tekwephulwa kweMtsetfo lokwenteke ekomitini lemkhandlu, sihlalo welikomidi kumele tingakapheli tinsuku letiyi-7 ngemuva kwetinsolo tekwephulwa abike kusomlomo ngekwephulwa kwesincumo kute atsatselwe tinyatselo letengetiwe.

9. Likhansela lelisilele emuva kumasipala ngemanani kanye netindleko tetinsita

(1) Mphatsi wamasipala kumele yatise likhansela ngekushesha ngekubhala phansi uma likhansela lisalele emuva ngentsela yamasipala kanye netindleko tetinsita sikhatsi lesingetulu kwetinyanga letimbili, noma ngabe likhansela lisandza

kukhetfwa kuba libe semkhandlwini wamasipala lotsintsekako, futsi licele likhansela kutsi likhokhe i-akhawunti kanye nanoma ngitiphi tikweleti letikweletwako ngaphandle kwekubambeleleka lokwengetiwe ngekuhambisana nenchubomgomo yekulawula tikweletu tamasipala.

(2) Umphatsi wakamasipala kumele ngekushesha iletse imininingwane yalawo makhansela lasalele emuva kumasipala ngetindleko tentsela kanye netindleko tetinsita lesimkhatsini letinyanga letintsatfu kuSomlomo.

(3) Likhansela lelisilele emuva kumasipala ngemanani kanye netindleko tensita sikhatsi lesingetulu kwetinyanga letintsatfu lephula iKhodi, futsi somlomo kufanele, lapho atfola kumphatsi wamasipala imininingwane lehlongotwe kusigatshana semtsetfonchubo (2), acinisekise kutsi imali lekweletwako iyatfolwa ekhanseleni.

10. Kubika

(1) Somlomo kufanele aletse umbiko kabili ngemnyaka mayelana nekutfotjelwa kweliKhodi kuNdvuna nabohulumende basekhaya, tingakapheli tinsuku letingu-30 kusukela ekucaleni kwaBhimbidvwane naKholwane emnyakeni wekhalenda.

(2) INdvuna yabohulumende basekhaya kufanele, tingakapheli tinsuku letingu-30 awutfolile umbiko lokukhulunywe ngawo esigatjaneni semtsetfonchubo (1), atfumele umbiko lohlanganisiwe mayelana nekulandvelwa kwamasipala neKhodi kuNdvuna.

(3) Imibiko lehlongotwe emitsetfwaneninchubo (1) na (2) kufanele ihambisane nesifanekiso sekubika lesitfutfukiswe Litiko.

11. Kuchitswa Kwemitsetfonchubo

Hulumende Wasekhaya: Imitsetfonchubo Yetinhlelo Tamasipala leshicilelwe ngeSatiso Sahulumende R459 sa-2001, *kuGazethi Yahulumende* 22328 yamhlaka 25 ku-Inkhwekhweti 2001, ngaloku iyachitfwa.

12. Tinhloko letifishane kanye nekucaliswa

LeMitsetfonchubo libitwa ngeNdlela Yekutiphatsa Yemakhansela, 2023, futsi icala kusebenta ngelusuku lekushicilelwe ngalo.