



**LITIKO LETEBASEBENTI BAHULUMENDE NEKUPHATSA
RIPHABHULIKHI YASENINGIZIMU AFRIKA**

**IMANUWALI NGEKULANDZELA SIGABA 14 SEMTSETFO WEKUTFUTFUKISA
KUFINYELELA KUMNININGWANA, 2000 (UMTSETFO NOMBOLO. 2 WANGA 2000)**

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1. INHLOSO YALEMANUWALI

- 1.1 Ngekwesigaba 32(1)seMtsetfosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (ngemuva kwaloko kubhekiswe “njengeMtsetfosisekelo”), wonkhe umuntfu unelilungelo lekufinyelela kunobe nguwuphi umniningwane logcinwe nguHulumende Kanye naleminyane iminingwane legcinwe ngulomunye umuntfu ledzingekako ekusebentiseni nobe ekuvikeleni kunobe nguwuphi emalungelo. Umtsetfo weKutfutukisa Kufinyelela kumniningwane, 2000 (Umtsetfo Nombolo. 2 wanga 2000) (ngemuva kwaloko ubitwa “nge PAIA”), ngabe umtsetfo Wavelonkhe lowashaywa kute kusebente lilungelo lekufinyelela kumniningwane njengoba kubekiwe esigabeni 32 seMtsetfosisekelo.
- 1.2 Ngekuya kwe-PAIA, bonkhe bantfu base Ningizimu Afrika banelilungelo lekufinyelela kumarekhodi lagcinwe nguhulumende, kufaka ematiko ahulumende, Kanye nemitimba yangasese. Lokuladzelako, emkhatsini kwelokunye, nguletinye yetinhloso i- PAIA lefuna kutifeza:
- (a) Kucinisekisa kutsi Umbuso ubamba lichaza ekukhutsateni lisiko lemalungelo eluntfu nebulungiswa betenhlalo;
 - (b) Kukhutsata kuvuleleka nekusungula tindlela noma tinchubo tekutitsandzela neletiphocelako letiniketa emandla lilungelo lekutfo lwati ngendlela lesheshako, lengabiti futsi lesebenta kahle; Kanye
 - (c) Kukhutsata kungafihli lutfo, kubopheleleka Kanye nekubusa lokubentako kwato tonhke tinhlaka tahulumende naletitimele, ngekunika emandla nekufundzisa wonkhe umuntfu kutsi acondze emalungelo akhe ngekwe-PAIA kute asebentise emalungelo akhe macondzana netinhlaka tahulumende naletitimele, kucondza sakhiwo nemsebenti tinhlangano temphakatsi, Kanye nekuhlolisisa nekubamba lichaza ekutsatfweni kwetincumo temphakatsi letintsintsa emalungelo abo.
- 1.3 Ngekwesigaba 9(b)(i) se-PAIA, lilungelo lekutfo umniningwane lencike emikhawulweni levumelekile, kufaka ekhatsi, kodvwa kungagcina lapho, imikhawulo lenhlose kuvikela bumfihlo lobufanele, imfihlo yetebhizinisi Kanye nekubusa lokusebentako kahle. Lenye yetinjongo te-PAIA, kulinganisela lilungelo lekufinyelela kumniningwane ngumfakisicelo, lekwalala loko kufinyelela ngekwesizatfu sekwencaba njengoba kushiwo esahlukweni 4 se-PAIA.
- 1.4 Ngekwesigaba 14 se-PAIA, tonkhe tinhlaka tahulumende tilindzeleke kutsi tihlanganise imanuwali yemininingwane kutosita nobe ngubani lofuna kufinyelela kumarekhodi

ahulumende. Inhloso yaleManuwala kuniketa ngelwati lekusita nekucinisekisa kutsi kutsi tonkhe ticelo tekufinyelela kumniningwane tiphatfwa kahle ngendlela lefanele futsi ngaleyondlela kutfutfukiswe tinhloso temoya we-PAIA

2. TINCHAZELO

kuleManuwali, ligama nobe sisho lesiniketwe inchazelo ngekuya kwe-PAIA, sinenchazelo leniketwe kanjalo futsi ngaphandle uma ingcikitsi isho lokuhlukile—

“**shloka si-datha**” kushiwo umuntfu lemininingawane lecondzene naye;

“**Litiko**” kushiwo Litiko Letebasebenti Bahulumende Netekuphatsa;

“**siphatsimandla semningwana**” kushiwo Umphatsi-Jikelele waleLitiko;

“**i-Manuwali**” kusho kutsi lemanuwali inhlanganiswe ngekuya kwesigaba 14 se-PAIA;

“**umfaki sicelo**” kushiwo umuntfu locelo kufinyelela kulirekhodi lelicuketse umningwane yemuntfu ngalomfakisicelo;

“**lirekhodi**” kushiwo nome ngimuphi umningwane lorekhodiwe, kungakhathselekile kutsi luhlobo luni nobe indlela yekundlulisa umyaleto, losetinhlelweni nobe lelilawula ngulelitiko, kungakhathselekile kutsi lwakhiwe Litiko nobe cha;

“**kucela**” kushiwo sicelo sekufinyelela kumarekhodi aleLitiko;

“**umceli**” kushiwo umuntfu lowenta sicelo sekufinyelela kumarekhodi aleLitiko kufaka nobe ngumuphi umuntfu lowenta egamane laloyo muntfu nobe locelako; kanye

“**SAHRC**” kushiwo Ikhomishini yeMalungelo eBantfu baseNingizimu Afrika

3. IMISEBENTI YALELITIKO

3.1 Lelitiko lisita Indvuna Yetemisebenti taHulumende neKuphatfwa “Indvuna”) etindzabeni leticondzene netinsita temphakatsi, ngekuya kwetidzingo letibekiwe kuMtsetfosisekelo naleminyemisetfolesebentako.

- 3.2 uMtsetfosisekelo lofanele neletinye tidzingo temtsetfo lokukhulunywe ngato ngenhla, tivela eSahlukweni 10 seMtsetfosisekelo, letibukene netindzaba letiphatselene nekuphatfwa kwahulumende.
- 3.3 Sahluko 195 saloMtsetfosisekelo siniketa kutsi kuphatfwa kwahulumende kufanele kubuswe timiso tintsandvo yelinyeti kanye nemigomo lebekwe kuMtsetfosisekelo, lilefaka lemigomo leladzelek:
- (a) Lizinga leliphakeme lekutiphatsa kwebungcweti kumele likhutsatwe futsi ligcinwe.
 - (b) Kufanele kukhutsatwe kusetjentiswa kwetinsitakusebenta ngendlela leyongako, futsi lesebentako
 - (c) Kuphatfwa kwahulumende kufanele kube kwentfutfuko.
 - (d) Imisebenti kumele iniketwe ngekungakhetsi, ngebucofwo, ngalokulinganako nangaphandle kwekutsatsa lwehlangotsi.
 - (e) Tidzango tebantfu kumele tiphendvulwe, futsi umphakatsi kufanele ukhutsatwe kutsi ubambe lichaza ekwentweni kwenchubomgomo.
 - (f) Kuphatfwa kwahulumende kufanele kuphendvule.
 - (g) Kusebentela kuba sebaleni kufanele kukhutsatwe ngekuniketa umphakatsi lwati lolufika ngesikhatsi, lolufinyelelako nalelilungile.
 - (h) Kumele kunyuswe kuphatsa lokuhle kwebasebenti kanye netinchubo tekutfufukisa emakhono, kute kwandziswe emandla ebantfu.
 - (i) Kuphatfwa kukahulumende kufanele kumelele kabanti bantfu baseNingizimu Afrika, ngemikhuba yekucashwa nekuphatfwa kwebasebenti lokuncike ekhonweni, ekuhlosweni, ekulungeni, kanye nesidzingo sekulungisa kungalingani kwangaphambilini kute kutfolakale kumelwa lokubanti.
- 3.4 Sahluko 197 seloMtsetfosisekelo sibukane nekutfula kwetinsita tehulumende—
- (a) tinsita tahulumende kumele tisebente, futsi tihleleke, ngekuya kwemtsetfo wavelonkhe;
 - (b) imingomo nemibadzela yemsebenti kutisebenti tahulumende kumele tilawulwe ngumtsetfo wavelonke; futsi
 - (c) bohulumende betifundza babophelekile ekuheheni tisebenti, kucasha, kukhushulwa esikhundleni, kudluliswa Kanye nekucoshwa kwemalunga ebasebenti bahulumende ekuphatfweni kwabo ngekhati kweluhlaka lwetinkambiso nemazinga lafanako lasebenta kubasebenti bahulumende.
- 3.5 Umtsetfo wavelonkhe neluhlakamsebenti lwetinkambiso nemazinga

lamiselwe esahlukweni 197 seMtsetfosisekelo, luvela eMtsetfweni Wetemisebenti taHulumende, 1994 (Simemetelo No. 103 sa -1994) (“PSA”). I-PSA isebenta ngemandla kanye nemisebenti yeNdvuna. I-PSA iniketa iNdvuna emandla nemisebenti —

- (a) misa tinkhambiso nemazinga etindzabeni letiphatselene nemisebenti, emalungiselelo wenhlangano, timo tekusebenta, imikhuba yekucashwa, budlelwano emisebentini, temphilo kanye nekuphila kahle kwebasebenti, kulawula kwelwati, kusebentisa kwe-inthanethi nguhulumende, bucotfo, similo, kutiphatsa, kulwa nenkohlakalo, igucuko ,kugucula kanye nekwentiwa kwetintfo letisha;
- (b) ente tincumo letiphatselene nekudluliswa kwemisebenti kumatiko;
- (c) luleke Mongameli nesiphatsimandla etindzabeni letiphatselene netemisebenti wahulumende, emalungiselelo ebasebenti nobe tinchubo tekucashwa letiphatselene netinhlaka tembuso kanye nemholo nemibandzela yekucashwa kwebaphetse noma nguliphi libhodi, sikhungo nobe umtimba; futsi
- (d) yente imitsetfonchubo, khiphe tincumo kanye nemiyalo.

3.6 Kungeta ku-PSA, Umtsetfo weKulawula Kwetisebenti, 2014 (Umtsetfo Nombolo.11 wanga 2014) (“PAMA”) ufuna ku—

- (a) tfutfukisa timiso nemigomo lefakiwe kusahluko 194 seMtsetfosisekelo;
- (b) kuniketa kutfutfukisa kwendzawo nekucecesha;
- (c) kusungula luPhiko Lwetekutiphatsa Kwebasebenti baHulumende, Bucotfo kanye Nekucondziswa Kwetigwegwe; futsi
- (d) sungula Lihhovisi lemazinga nekubambisana.

3.7 ngekwesahluko 16 se-PAMA, Indvuna inikwe emandla ekukhipha tinkhambo nemazinga kuyo yonkhe imikhakha kahulumende, lokunguhulumende wavelonkhe, wesifundza nawasekhaya, lokufaka, ekhatsi kwalokunye—

- (a) kutfutfukisa kwetimiso nemigomo njengoba kushiwo kusahluko 195(1) seMtsetfosisekelo;
- (b) kutfutfukisa kwendzawo nekucecesha;

- (c) umniningwana netekuchumana ngetekhinoloji ekuphatseni tisebenti;
- (d) bucotfo, similo kanye nekutiphatsa;
- (e) kudalulwa kwetinsishisekelo tetetimali;
- (f) tinyatselo tekwenta ncono kusebenta kahle nelikhono lwetikhungo; futsi
- (g) kudalulwa kwelwati lolumayelana nekucondziswa kwetigwegwe lokulindzile futsi kuphotfulwe inchubo yekucondziswa kwetigwegwe lapho umsebenti atfolwe anelicala.

4.SAKHIWO SALELITIKO

4.1 Lelitiko licuketsi magatja lasihlanu, njengoba kukhonjisiwe ngentasi:

- (a) **Kulawula kuphatfwa Kwebasebenti neKutfufukisa** lekubukene nekuhlelwa kwebasebenti, kucashwa Kanye nekuphatfwa kwetisebenti, kutfufukisa kwebasebenti kanye negucuko, kulawula kwenzawo emsebentini kanye neliHhovisi Lemazinga Nekuhambisana naloko;
- (b) **Tinkhulumiswano, Budlelwane Betisebenti kanye nekulawala kwemiholo** libukene nekuutfufukisa kwenhlangano, kukhushulwa emsebentini, kuhlelwa kwembuso, imiholo, timo tekucashwa (tinzuzo letinkhulu naletijwayelekile), tinhlelo tebasebenti, tinkhulumiswano, budlelwano betebasebenti nekulawula kwetingcabano kanye neluPhiko Lwetekutiphatsa Kwebasebenti Bahulumende, Bucotfo Nekucondziswa Kwetebuchwepheshe;
- (c) **Kufinyelela kutinsita tahulumende nekulawala** libukena nekulawala kwemsebenti, kufinyelela kutinsita, kutfufukisa kwekutfula kwetinsita, budlelwane betakhamuti nendzima ledlalwa mphakatsi;
- (d) **Tinsita Tahulumende te-inthanethi nekulawala kwemniningwane** lebukene nemniningwane nekuchumana kwetheknoloji, tinsita tahulumende te-inthanetha, emandla kanye nemniningwane nekulawula kwetinsitakalo ngekuchumana ngetheknoloji, umniningwane nekulawula kwalababamba lichaza nekulawula kwelwati netintfo letisha; futsi
- (e) **Tekuphatsa** letibukene nekwesekwa kwangekhatsi ekulawuleni kwemasu nekusekelwa lokusetulu, tekuchumana nekulawula kwemniningwane wangekhatsi, tinsitakalo tetemtsetfo, tebasebenti tangekhatsi kanye nekulawula kwenzawo yasemsebentini, imniningwane yangekhatsi, tekuchumana kanye nekulawula kwetheknoloji, budlelwano bemave emhlaba nebachasi betimali, luhlolo mabhuku lwangekhatsi, bungoti, imisebenti yekulawula kwetimali, liHhovisi Lelitimele

leNdvuna, liHhovisi Lelitimele lelisekela leNdvuna Kanye neliHhovisi leMphatsi-Jikelele.

5. IMININGWANE YEKUCHUMANA YESIPHATSIMANDLA SEMNININGWANE NELISEKELA LESIPHATSIMANDLA SEMNININGWANE

Umphatsi-Jikelele weLitiko Letebasebenti Bahulumende Nekuphatsa nguSiphatsimandla seMningwane ngekuya kwe-PAIA. Lisekela leSiphatsimandla Semningwane seLitiko nguMphatsi loMkhulu: Tinsita Temtsetfo.

Likheli leliposi: Private Bag X916
PRETORIA 0001

Likheli lesitaladi: Batho Pele House
546 Edmond Street
ARCADIA

Lucingo: 012-336-1218/1553/006

Likheli lencwadzigezi: PAIA@dpsa.gov.za

6. SELULEKO SEKHOMISHANE YEMALUNGELO EBANTFU BASENINGIZIMU AFRIKA SEKUSEBENTISA LOMTSETFO WE PAIA

Ngekwesahluko 10 se-PAIA, I-SAHRC ilidzeleke kutsi ihlanganise umhlahlandlela, ngato tonkhe tilwimi letisemtsetfweni, lecuketse leyo mininingwane, ngendlela lecondzakala kalula, njengoba kungadzingeka kumuntfu lofisa kusebentisa emalungelo akhe ngekwe-PAIA. Njengoba kukhonjisiwe ngenhla, lomhlahlandlela utosita umuntfu lofisa kusebentisa lilungelo ngekwe-PAIA, kantsi inhloso yeManuwali kusita umuntfu lofisa kutfola kufinyelela kumningwane lophetfwe inhlango yahlumende ngendlela lefanele nalephumelelako. Umhlahlandlela wekutsi ungayisebentisa njani i-PAIA uyatfolakala ku-SAHRC. Imibuto ingentiwa ku-SAHRC ku:

Likheli leliposi: Braampark Forum 3

33 Hoofd Street
Braamfontein

Lucingo : +27 11 877 3600
iwebhusayithi: www.sahrc.org.za
Incwadzigezi : info@sahrc.org.za
Tikhalo : complaints@sahrc.org.za

7. EMAREKHODI

7.1 7.1 INCHAZELO YETINHLOKO LELITIKO LELIPHETSE EMAREKHODI KANYE NETIGABA TEMAREKHODI LAGCINWE NGESIHLOKO NGASINYE

Ngenhloso yekwenta lula sicelo ngeke-PAIA, tihloko Lelitiko leliphetse emarekhodi kuto Kanye netigaba temarekhodi lagcinwe esihlokweni ngasinye tiyaladzela:

A. Kulawula kuphatfwa Kwebasebenti neKutfufukisa

- a. Kuhlelwa Kuphatfwa Kwebasebenti, Umsebenti, neKulawula kweKusebenta
- b. Kutfufukisa Kuphatfwa basebenti
- c. Ingucuko nekulawula kwenzawo yekusebentala

B. Tinkhulumiswano, Budlelwane Betisebenti nekulawula kweMiholo

- a. Kutfufukisa kwesakhiwo, Kukhushulwa Emsebentini, Kanye neKuhlela Kwembuso
- b. Umhlo, Timo teKucasha neTinhlelo teBasebenti
- c. Tinkhulumiswano, Budlelwane Betisebenti neKulawula Kwetigcabano.

C. Kufinyelella kutinsita tahulumende neKutfufukisa

- a. Kulawula Kwemsebenti
- b. Kufinyelela kuTinsita
- c. Tigucuko Ekutfuleni Kwetinsita, Budlelwane Betakhamuti kanye nekungenelela kwemphakatsi

D. Tinsita taHulumende letisebenta nge-inthanethi nekuphatfwa kweminingwane-

- a. Uminingwane Nekuchumana ngeTheknoloji yeMbuso nekulawula
- b. Kulawula tinsita Tesakhiwanchanti Tekuchumana ngeTheknoloji neMningwane kanye tindzawo te-Inthanethi

- c. Umniningwane Nekulawula Kwalababamba lichaza
- d. Kulawula kweLwati neKusungulwa

E. Kuphatfwa

- a. kuphatfwa Kwemasu Nekusekelwa Kwebaphatsi
- b. Kulawula Kwekuchumana neLwati Lwangekhatsi
- c. Tinsita teMtsetfo
- d. Umnyango weBasebenti Wangekhatsi kanye neKulawula Indzawo Yekusebentela
- e. Umniningwane Wangekhatsi, Kulawula Kuchumana neTheknoloji
- f. Budlelwane Betemave neKuchasa kweBanikeli.

F. Lihhovisi leMphatsi-Jikelele

- a. Lihhovis Lemazinga neKubambisana
- b. LuPhiko Lekutiphatsa Kwebasenti, Bucotfo kanye Nekucondziswa Kwetigwegwe
- c. Lucwaningo Lwemabhuku Lwangekhatsi;
- d. Kutiphatsa neKulawula Kwebungoti
- e. Kulawula kwetinsita Tetetimali

7.2 EMAREKHODI LATFOLAKALA NGAPHANDLE KWEKUCELA

7.2.1 Satiso sesishicilelwa mayelana netigaba temarekhodi aleLitiko lakatfokala ngaphandle kwekufaka sicelo sekufinyelela ngekuya ngemingomo ye-PAIP.

7.2.2 Emarekhodi kuwebhusayithi yeleLitiko, www.dpsa.gov.za, ayatfolakala kutsi angabukwa nobe akhishwe ngaphandle kwekutsi umuntfu afake sicelo ngekulandzela uMtsetfo we-PAIA.

7.2.3 Ngekwesigaba 14(1)(e) se-PAIA, leLitiko linetigaba letilandzelako temarekhodi lakatfolakalo ngaphandle kwekucela kutsi wente ikhophi nekuhlola ngaphandle umuntfu (umceli) kumele acele kufinyelela ngekuya kwe-PAIA:

- (a) Umtsetfo, Umtsetfosisekelo neMingomo leshicilelwe nguleLitiko;
- (b) tinchubomngomo letishicilelwe netinkombandlela;
- (c) mafomu ekufaka sicelo;
- (d) sicodzisi sekuchumana;
- (e) kushicilelwa ngegezi;
- (f) tincwanjana nemapheshana lashicilelwe;

- (g) tintfo tekukhangisa letishicilelwe, kufaka tincwanjana tekukhangisa talelitiko;
- (h) maphaphandzatjana leshicilelwe;
- (i) emaposta nemapheshana leshicilelwe;
- (j) imibiko leshicilelwe;
- (k) tihlelo tetinchubo;
- (l) tihlelo tekusebenta temnyaka;;
- (m) imibiko yemnyaka;
- (n) inkhulumo yetetimali;
- (o) emasekhula etikhala temsebenti, futsi
- (p) nesivumelwano sekucocisana ngekuhlanganyela.

7.2.4 Iwubhusithi yaleLitiko ku www.dpsa.gov.za incuketse umningwane lokhonjisiwe kusitandza 7.1 na 7.2 ngetulu, lokufinyeleleka ngco ku inthanethi. Uyacelwa uladzele futsi usebentise lewubhusathi ngaphambi kwekutfumela ticelo, njengoba kuyoba indlela lelula kufinyelela kumarekhodi alelitiko. Ungachumana nalelitiko kute utfola uma umningwana lodzingekako kuyatfolakala, ayatfolakala, nobe uma inchubo yekufinyelela kulemningwana kumele iladzelwe kute ukhone kufinyelele kuletincwajana.

7.2.5 Leminye iminingwane letfolakalako leyikangafakwa kuwebhusayithi yeLitiko ingacela kuleLitiko ngaphandle kwekutfumela sicelo ngekuya nge-PAIA.

7.2.6 Kute lifomu lekungena ngekuya kwe-PAIA kumele incwaliswe kumarekhodi lakakhona ngekuya kwelesitandza. Kodwa, imali yekhophi iyafuneka, lapho kufaneleke khona.

7.3 INCHUBO YEKUCELA

(a) *Ngabe ngicela njani kufinyelela kumarekhodi?*

- Umceli kumele asebentise lifomu A (Lifomu A) lileshicilelwe kuGazette yaHulumende (Satiso saHulumende R187 samhlaka 15 Indlovana 2002).
- Umuntfu locelako kumele akhombise kwekutsi umceli umuntfu ufuna ikhophi yelirekhodi nobe umceli ufuna kungena abuke lirekhodi emahhovisi emtimba wahulumende. Lenye indlela, uma lirekhodi kungesilo umculo weliphepha, lingabukwa ngendlela leceliwe uma kukhonakala.
- Uma umuntfu acela kufinyeleleka efomini lelitsite (sib. ikhophi yeliphepha, ikhophi ye-elektroniki, njalo njalo) ngako-ke umceli kumele afinyeleleke ngaleyo ndlela, ngaphandle uma ngabe kwenta njalo kutawutsikameta kuphatfwa kwemtimba wahulumende, nobe kulimate lirekhodi, nobe kwephule lilungelombhalo lekungesilo lembuso. Uma ngabe ngetizatfu

letibonakalako kufinyeleleka angeke kuniketwe ngendlela leceliwe kodvwa ngalenywe indlela, ngako-ke inhlawulo kumele ihlelwe ngendlela umceli lacale wacela ngayo lirekhodi.

- Uma ngabe, ngetulu kwemphendvulo lebhaliwe kusicelo sabo selirekhodi, umceli ufuna kutjelwa ufuna kutjelwa ngesincumo ngendlela lehlukile, sib. lucingo, loku kumele kukhonjiswe.
- Uma umuntfu locelako acela umniningwane egameni lalomunye, sikhundla lekwenziwa ngaso sicelo kumele sikhonjiswe.
- Uma umceli bekangakhoni kufundza nobe kubhala, nobe anekukhubateka, ngako-ke sicelo kumele sentiwe ngemlomo. Siphatsimandla semniningwane kumele sigcwalise lifomu egameni lalowo muntfu locelako bese bamniketa ikhophi yelifomu leligcwalisiwe.

(b) *kuniketa nobe kwalelwa kwesicelo*: umfakisicelo kumelwe avunyelwe kufinyelela kulirekhodi limtimba wemphakatsi uma lesicelo sihambisana nalokuladzelako:

- Umceli uhambisana nayo yonkhe imingomo ledzingekako ku-PAIA lehambisana nesicelo sekufinyelela kulelirekhodi; futsi
- kufinyelela kulelorehodi akwalelwa kunobe ngutiphi tindlela tekwala lekukhulunywa ngato ku-PAIA

(c) *Tihlawula letibhadalwako tesicelo nesatiso sesincumo sekufinyelela*

- Umceli lodzinga kufinyeleleka kulirekhodi lelicuketse umniningwane ngemceli akadzingeki kwekutsi abhadale inhlawulo yekucela. Wonkhe lomunye umuntfu locelako kumele abhadale inhlawulo yekucela ya R35.
- Siphatsimandla Semniningwane kumele satise umceli (ngaphandle kwemceli wemniningwane wakhe) ngesatiso, lesicelo kubhadalwa kwenhlawulo lemisiwe (uma ikhona) ngaphambi kwalokunye kulungiswa kwesicelo.
- Umceli angafaka sikhalo sangekhatsi, lapho kudzingeke khona, nobe afake sicelo enkantolo sekuphikisa ithenda nobe kubhadalwa kwenhlawulo.
- Emva kwekutsi siphatsimandla semniningwane sesente sincumo ngesicelo umceli kumele atiswe ngaleso sincumo ngendlela umcele lekafune kwatiswa ngayo.
- Uma sicelo sivunyiwe lenye inhlawulo yekufinyeleleka kumele ibhadalwe

yekukhicitwa kanye nekusesha kanye nekulungiselwa yanobe ngusiphi sikhatsi lesidzingekele sema-awa labaliwe ekusesha kanye nekulungiselelwa kwalelirekhodi lekudzalulwa.

- Kufinyeleleka kulirekhodi kutawugodlwa kute kubhadalwe tinhlawulo.

8. IMININGWANE YELWATI LWEBASEBENTI BAHULUMENDE KANYE NEKWATISWA

Iminingwane lefinyetiwe nobe lengetiwe yebasebenti bahulumende emkhakheni wahulemende wavelonkhe nawesifundza Kumkhakha Wetinhlalo Tekuphatfwa Kwemningwane kuleLitiko. Kungakhatsalekile kutsi lesicelo lesisemtsetfweni lesivela Esikhungweni sihambisane nencwadzi lesemsetfweni enhloko yalencwadzi lesikhungo lelisayinwe ngumuntfu logunyatwe ngalokufanele egameni lesikhungo lesitsintsekako.

9. TINSITA LETIKHONA EMPHAKATSINI

Umsebenti waleLitiko, njengoba kubekiwe endzimeni 3, injengekutsi emaklayenti ayo amvamisa kube ngulamanye matiko ahulumende. Ayitfuli tinsitakalo letikhona emphakatsini. Kodwa, iminingwane letsile lemayelana nekusebentela umphakatsi (sibonelo bukhulu bemsebenti wahulumende kanye nelinani lebasebenti ngelitiko ngalinye) kungacelwa.

10. EMAKHAMBI LAKHONA MACONDZANA NEKUTSATSA TINYATELO NOBE KWEHLULEKA KUTSATSA TINYATSELO

10.1 *Inchubomgomo nemtsetfo*: Uma Lelitiko liphakamisa inchubomgomo lensha nobe umtsetfo ibonisana nabo bonkhe babambimsuka ngekumema imibono kumaphepha lashicelelwe Kanye/nobe kumihlanganosikolo/kutinkomfa. Inchubo yekuhlanganyela iyehluka ngekuya ngeluhlobo lwemklamo Kanye futsi ivame kwatiwa ngaphambi kwekucala kwemklamo nobe emva kwaloko.

10.2 *Sento sekuphatsa*: etehlakalweni lapho khona sento sekuphatfwa sitsikamenta ngemphahla futsi kumatima -

- emalungelo nobe timfuno letisemtsetfweni tanobe ngumuphi umuntfu;
- emalungelo emphakatsi;
- imibhalo lesemsetfweni yesento sekuphatsa ngenchubo lengakhetsi letfolakala kumibandzela yeMntsetfo wekuTfutukisa Bulungisa Bekuphatsa, 2000 (Umtsetfo

Nombolo. 3 wanga-2000)(“PAJA”), itawuladzelelwa. (buka sigaba 4 na 5 se-PAJA, ikakhulukati).

10.3 *timo tekusebenta tebasebenti bemisebenti yahulumende*: Timo tekusebenta Kanye naletinye letizuzisa bonkhe basebenti bahulumende kumikhandlu yekubonisana leyakhiwe nguMtsetfo weBudlelwane bebasenti, 1995 (Umtsetfo Nombolo. 66 wanga-1995)(“LRA”). Tinyonyana tebasebenti letimele linani lelitsite lebasebenti bahukumende tinga yincenye kulowo mkhandlu wekubonisana. Umkhandlu Wekubonisana Webasebenti Bahulumende ngumtimba lococisana ngato tonkhe tintfo letitsintsa basebenti bahulumende. Kunalemikhandlu yekubonisana yemikhakha:

- (a) Umkhandlu wekuBonisana webaSebenti baHulumende Jikelele;
- (b) Umkhandlu weBudlelwano bebasebenti beteMfundvo;
- (c) Umkhandlu wekuBonisana weMkhakha weteMphilo neteNhlakahle; kanye
- (d) Umkhandlu wekuBonisana weMkhakha wekuPhepha nekuKhuseleka.

11. EMAKHAMBI LAKHONA MACONDZANA NEKUTSATSA TINYATSELO NOBE KWEHLULEKA KUTSATSA TINYATSELO TISEBENTI TAHULUMENDE

Letinchubo letilandzelako tikhona kutsi bantfu babike nobe balungise tento letingakalungi, letingakafaneli nobe letingekho emtsetfweni nobe emaphutsa etisebenti leticashwe nguleLitiko:

11.1 *tinchubo tekubika nobe kufuna kulungisa*:

- (a) Emkhambi macondzana netento nobe kwehluleka kutsatsa tinyatselo ngekulandzela i-PAIA: inchubo yesicelo sengakhats ngeke- PAIA yenta kuniketa licembu lelinekuhlumeteka kutsi lidlulisele tikhalo kuNdvuna (buka sigaba 74 – 77 se-PAIA). Emva kwekwehluleka kwemakhambi ekwendluliswa kwangesikhalo, sicelo singafakwa enkantolo (buka sigaba 78 – 82 se-PAIA).
 - (b) Sisebenti sahumende singafaka tikhalo nobe sikhalo sekuphenya nguKhomishini yetisebenti tahulumense mayalana nesento sesisebenti nobe kukhipha (buka sigaba 35 se-PSA).
 - (c) Umuntfu angafaka sicelo nemholi wetemisebenti macondzana nekwaphulwa kweMtsetfo, njenge LRA Kanye neMtsetfo Webulungiswa Kutekucasha, 1997 (Umtsetfo Nombolo.75 wanga 1997)(“BCEA”).
 - (d) Umuntfu angafaka sicelo nemholi wetemisebenti macondzana nekwaphulwa kweMtsetfo we-BCEA (buka sigaba78(1)(a)), nobe uMtsetfo Webulungiswa

Kutekucasha 1998 (Umtsetfo Nombolo. 55 wanga 1998)(buka sigaba 34(e)).

- (e) Umuntfu angafaka sikhalo neMvikele Wemphakatsi mayelana nesento lesisolelwako lesingekho emtsetfweni nobe liphutsa lesisebenti sahumende. Sahluko 182(1) seMtsetfosisekelo nasigaba 7 seMtsetfo Wemvikeli Wemphakatsi, 1994 (Umtsetfo Nombolo. 23 wanga-1994) tibaluleke ngalokukhetsekile kuloko.
- (f) Umuntfu angafaka sikhalo ne SAHRC mayelana sento nobe kukhishwa ngumsebenti wahulumende losolelwa ngekuhlukunyetwa nome nguliphi lilungelo lemuntfu. Sahluko 15 seMtsetfo wemalungelo eluntfu eNingizimu Afrika, 2013 (Umtsetfo Nombolo. 40 wanga- 2013) iyasebenta kuloku.
- (g) Kute uvikelwe ekukhutweni ngenca yekuhlaba umkhosi macondzana nekutiphatsa lokungemtsetfo nobe lokungatayeleki kwemcasha nobe kwesisebenti, lomuntfu lotsintsekako angalandze tinchubo tekuhlaba umkhosi kuMtsetfo Wekudzalula Lokuvikelekile, 2000 (Umtsetfo Nombolo. 26 wanga- 2000)(“PDA”).
- (h) Lomuntfu lotsintsekako angakhetsa lenye indlela yetemtsetfo njengekubuyeketwa kwetemtsetfo kusinyatselo sekuphatsa ngekwe-PAJA.

11.2 *Lamanye makhambi lasekelako:*

- (a) Umuntfu angacela tizatfu tesinyatselo sekuphatsa ngekulandzela sigaba 5 se-PAJA.
- (b) Umuntfu angacela kufinyelela kulamarekhodi alitiko lahumende noma kulamanye macembu emphakatsi ngekuya kwesahluko 11 semtsetfo we-PAIA.

11.3 *Umsebenti wekubika:*

- (a) Sisebenti sahumende, ngesikhatsi semisebenti yakhe lesemtsetfweni, uphokelelwe ngekweLucwebu Lwekutiphatsa lwetisebenti tahulumende kubika kutiphatsimandla letifanele, kufumbatsisa, inkohlakalo, kucasha, kuphatfwa kabi Kanye naletinye tento letento licala nobe lesingahambisana netimfuno tesive. Sisebenti lesihluleka kutfola loku sinelicala lekungatiphatsi kahle kumele kubukwe tinchubo tekucondzisawa kwetigwegwe letibekwe 16A se-PSA. Umtsetfosimiso 9 weMstetfosimiso weBasebenti baHulumende, 2016 kubalulekile futsi kulesi simo.
- (b) Umtfwalo wabo bonkhe bacasha Kanye nebasebenti wekuhlaba umkhosi ngekutiphatsa kwebugebengu Kanye nalokunye kutiphatsa lokungatayeleki emsebentini. I - PDA ibalulekle kuloku.

12. LEMINYE EMNININGWANE LEBEKIWE NGEKUYA KWESIGABA 14(1)(i) SE-PAIA

Leminye imniningwana ngekuya kwesigaba 14(1)(i) se-PAIA, itoba khona njengoba futsi ibekiwe nguNdvuna Wetebulungiswa neKutfufukisa kweMtsetfosisekelo.

13. UMTSETFO WEKUVIKELE KWEMNININGWANE WEMUNTFU, 2013 (UMTSETFO NO. 4 WA 2013) (“POPIA”)

13.1 Ngekuya kwesahluko 2 se- POPIA, lenye yetinhloso letinkulu te-POPIA kwenta kusebente lilungelo lemtsetfosisekelo lebumfihlo, ngekuvikela imininingwane yemuntfu lapho kusentjetwa licembu lelibukene naloko, ngekuya ngemikhawulo levumelekile njengoba kumisiwe esahlukweni 36 seMtsetfosisekelo. Ligama lelitsi "imininingwane yemuntfu" njengoba lichazwe esigabeni 1 se-POPIA, lisho imininingwane lephatselene nemuntfu lokhonjwa ngekwemvelo noma ngekwemtsetfo, lengafaka ekhatsi kwalokunye imininingwane lephatselene nebuhlanga, bulili, bulili, buve, buhlanga noma imvelaphi yemuntfu, umlandvo wetemfundvo, wetekwelapha, wetetimali, webugebengu noma wekucashwa kwemuntfu. Sahluko 13 se-POPIA sibeka sibopho lesisemtsetfweni kulelitiko sekucubungula imininingwane yemuntfu ngenhloso letsite futsi lesemntsetfweni kuphela. Kudluliswa kwemniningwane wemuntfu ngeke-POPIA kufaka ekhatsi, lokunye, kucocwa, kugcinwa, kubuyiswa, kusatjalaliswa noma kucekelwa phansi kwemininingwane.

13.2 Sahluko 3 se-POPIA sichaza tidzingo letiphansi tekundlulisa ngalokusemtsetfweni kwemininingwane yemuntfu nguleLitiko. Leti tidzingo kungenteka tingabukelwa phansi, ngaphandle uma kusebenta kukhishwa lokutsite.. Inhloso yekucubungula imininingwane yemuntfu, imikhakha yetihloko tedatha kanye neluhlobo lelwati nguleLitiko, bamukeli bemininingwane yemuntfu, kugeleta kwemininingwane lecondzene nekuncamula imincele, kanye netinyatselo tekuphepha letichazwe ngentansi.

13.3 inhloso yekundlulisa

Imininingwane yemuntfu ingandluliswa kuphela ngenhloso letsite. Tinhloso leltiko letindlulisa ngalo imininingwanane yemuntfu tiyaladzela:

(a) Yetisebenti:

- (i) Kucinisekisa umniningwane wemfakisicelo ngesikhatsi yenchubo yekucasha;
- (ii) kucinisekisa umniningwane lomayelana nesisebenti lesenta ibhizinisi nahulumende;

- (iii) tindzaba letijwayelekile letiphatselene nebasebenti letifaka:
 - o tinzuzo letijwayelekile;
 - o IPesheni;
 - o Emarekhodi elusito letekulapha;
 - o Umholo;
 - o Kucondziswa tigwegwe; Kanye
 - o Kucecesha;
- (iv) noma nguyiphi lenye inhloso ledzingeka kahel lephatselene nemsebenti noma nebudlelwane bekucashwa lobutobakhona
 - (b) Batsengisi /Nebaphakeli betinsita

- (i) kucinisekisa umningwane nekwenta ireferensi nalamanye emasheke lancunyiwe;
- (ii) tinhloso letiphatselene nesivumelwano nobe budlelwane bebhizinisi nobe sivumelwano lesisedvute nobe budlelwane bebhizinisi ekhatsini kwemacembu.
- (iii) kukhokhwa kwema-invoyisi;
- (iv) kuhambisana netibopho teLitiko naletinye tibopho; futsi
- (v) noma nguyiphi lenye inhloso ledzingekile lephatselene nelibhizinisi leLitiko.

13.4 Tigaba tetinhloko tedatha netinhloko temningwane yemuntfu lendluliswako

Lokuladzelako tigaba setinhloko tedatha nemningwane yemuntfu lapho leLitiko lihlela:

(a) Yetisebenti:

- (i) Ligama kanye nemningwana yekuchumana;
- (ii) Inombolo yamatisi netincwadzi tamatisi letifaka ipasipoti ;
- (iii) umlandvo wemsebenti nemarefensi;
- (iv) Iminingwane yetesebhange netimali;
- (v) Iminingwane yekubhadalwa kubantfu besitsatfu (kukhipha emholweni);
- (vi) emakotileka emsebenti;
- (vii) tinhlelo tekulingana emsebentini;
- (viii) emarekhodi elusito lwetekulapha;
- (ix) emarekhodi etimali tepeshini;
- (x) emarekhodi emiholo;
- (xi) kuhlolwa kwekusebenta;
- (xii) emarekhodi ekucondzisa tigwegwe;

- (xiii) emarekhodi ekuhamba uyophumula; kanye
- (xiv) emarekhodi ekucecesha.

(b) Kulabo labatoba ngebasebenti:

- (i) Liposi kanye/nobe likheli lesitaladi'inombolo yekuchumana ne/noma incwandzigezi;
- (ii) buhlanga;
- (iii) umlandvo wemsebenti;
- (iv) umnyaka;
- (v) bulili;
- (vi) simo semshado;
- (vii) buve bakho;
- (viii) lulwimi;
- (ix) imininingwana yetetimali;
- (x) matisi nepasipoti; ne
- (xi) tinkundla tekuchumana.

(c) Batsengisi /baphakele batinsiti:

- (i) Ligama nemniningwana yekuchumana;
- (ii) matisi kanye/nobe umniningwane wekampani kanye nemniningwane webancodzisi;
- (iii) imininingwana yasebhange netetimali;
- (iv) imniningwane mayelana nemikhicito netinsita; kanye
- (v) lomunye umniningwane lengakabekwe kepha luyadzingeka ngalokufanelekile kutsi indluliswa ekusebenteni kwelibhizinisi.

13.5 *bamukeli nobe tigaba tebamukeli labanganiketwa imininingwane yabo*

Lelitiko legcina Imininingwane esikhundleni saHulumende futsi ayiniketi imininingwane yemuntfu kunobe ngusiphi sikhungo nobe umtimba ngaphandle kwemantiko ahulumende nobe tikhungo. Leminye imininingwane anga, kodwva, iniketwe kulabamukeli balemininigwane yemuntfu:

- (a) tiphatsimandla letilawulako nobe i-ombudsmen, kufaka ekhatsi Sikhungo Semalingena saseNingizimu Afrika, lapho liTiko linesipopho ngekwemtsetfo sekwebalena ngemniningwane;
- (b) bantfu besitsatfu labakhokhelwa basebenti; kanye
- (c) tikhungo letifanele kuphatsa kuchutjwa kwemtsetfo.

13.6 *Kuhamba kwemningwane yemuntfu lehleliwe ngemincele*

13.6.1 Lelitiko aliniketi ngemningwane yemuntfu ngaphasheya kwemincele, ngaphandle kwalapho lowo mningwane uyadzingeka ngenhloso yekwenta kwemsebenti emsebentini nobe ngenhloso levela esinyatselweni kanye nebubanti bekucashwa kwesisebenti. Uma kunjalo, leLitiko kufanele licinisekise kutsi-

- (a) live lelamukelako linganikela ngelizinga lelifanele lekuvikelwa lelingana kakhulu nelizinga lekuvikelwa lelicatjangwe ku-POPIA; nobe
- (b) sihloko sedatha sivuma kudluliselwa kwemningwane yemuntfu; nobe
- (c) kudluliswa kuyadzingeka kute kwentiwe sibopho senkontileka emkhatsini kwesihloko sedatha nelicembu lelibukene naloko.

13.6.2 Lapho umningwane yemuntfu ungagcinwa kumaseva edatha labanjwe ngaphandle kwaseNingizimu Afrika, Litiko kumele, nakungenteka, ucinisekise kutsi bamukeli (labo) balomningwane wemuntfu batotsatsa tonkhe tinyatselo letifanele kuvikela idatha neminingwane yemuntfu lotsintsekile.

13.7 *Tindlela Tekuvikela Umniningwane*

Lelitiko kumele libeke imigomo yekuphepha kute uvikela umningwane yemuntfu ekufinyeleleni ngalokungemtsetfo. Lelitiko libuke kwenta ncono kwetinyatselo tekuphepha kwemningwane ngalendlela lelandzelako:

- (a) Ngekucinisekisa kutsi kuhlukaniswa kwemningwane lekulungile kuyarekhodwa njengoba iminingwane yabasebenti itobekwa 'njengeminingwane yemuntfu' nobe umningwane lokhetsekile;
- (b) kucinisekisa kutsi tivumelwano tekuphepha tiyatfufukiswa kuvikelwa kufinyeleleka lokungaka gunyatwa kwemningwane ngekusebentisa tindlela tekuphepha temakhompiyutha netenethiwekhi njengemaphasiwedi, kufaka kuvikelwa kwema-antivirus, kucinisekisa kuvikelwa kwedatha ngekubetselwa kwedatha nekwabiwa kabusha kwemningwane yemuntfu, kuvikela ema-laptops nemakhompiyutha ngekusebentisa emaphasiwedi nobe ema-biometric nekuvikela Inethiwekhi Yangasese Yabongcondvomshini (VPN);
- (c) imigomo yekwatisa basebenti nobe labanye bantfu lapho iminingwane yabo isengotini, nobe lapho kwephulwa bumfihlo mancondzana neminingwane yemuntfu letsintsekako; futsi

(d) ngekucinisekisa kutsi imitsetfo levikelekile yekuphepha iyamukelwa kuvimba kufinyelela kwebantfu besitsatfu, indzawo yesehhovisini, inethiwekhi yamakhompiyutha, luhlelo, luhlelo lwabongcondvomshini lekusebenta, idatha noma lenye insita.

Kuvuselelwa nekutfolakala kwale Manuwali njengoba kuhlongotwe esigabeni 14(2) se PAIA

Ngekwesigaba 14(2) se-PAIA, lemanuwali kumele, lapho kudzingeka khona, ivuselelwe ngeminyaka yonkhe futsi kumele itfolakala njengoba kushiwo kusigaba 14(2) se-PAIA, kufaka nekuyitfumela kuwebhusayithi elsemthethweni yaleLitiko ku- www.dpsa.gov.za. Nekwenta emakhophi wManuwali latfolakala uma lecelwa Sikhulu Semniningwane, kumininingwane yekuchumana leniketwe esigabeni 5 ngenhla.

Ingunyatwe ngaleli

lilanga le

2021.

MS YOLISWA MAKHASI

MPHATSI- JIKELELE/ SIKHULU SIMNININGWANE

LITOKO LETEBASEBENTI BAHULUMENDE NEKUPHATSA