



**ISEBE LEZAMAHLATHI, EZOKULOBA NEZENDALO**

**UMGAQONKQUBO JIKELELE OSAQULUNQWAYO WOLWABIWO LWAMALUNGELO OKULOBELA  
EZORHWEBO: 2021**

**LO MGAQONKQUBO USAQULUNQWAYO KUFUNeka UFUNDWE KUNYE NEMIGAQONKQUBO  
ESAQULUNQWAYO EGXILE KUSHISHINO LWEZOKULOBA ESEBENZAYO KUNYE  
NOMGAQONKQUBO OSAQULUNQWAYO WOKUDLULISELWA KWAMALUNGELO OKULOBELA  
EZORHWEBO (efumaneka apha [www.environment.gov.za](http://www.environment.gov.za))**

**(In case of any inconsistency, the English text of the Gazetted Draft Policy will prevail).**

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## I. linkcazelo

**“Umfakisicelo”** usingisele kummi waseMzantsi Afrika njengoko kuchaziwe kwiMarine Living Resources Act (uMthetho wooVimba abaPhila eLwandle) 18 ka-1998 ongenise isicelo selungelo lokulobela ezorhwebo kushishino lwezokuloba eligxile kwicandelo elifanele ukwabelwa.

**“Isigaba sexesha lesicelo”** sisingisele kwisigaba sexesha esiqalisa ngokupapashwa “kwesimemo kumaqela anomdla ukuba afake isicelo selungelo lokulobela ukushishina kwicandelo loshishino lwezokuloba” ukuya kutsho kumhla apho ugunyaziwe wezokubhena athatha isigqibo ekugqibeleni ngezibheni kolo shishino lwezokuloba.

**“Abantu okanye umntu aba(o)ntsundu”** ngokwayamene neBroad Based Black Economic Empowerment Act (uMthetho wokuXhotyiswa kwabaNtsundu kwezoQoqosho oluNabileyo), 2003 (uMthetho No. 53 ka-2003 ba(u)singisele kuma-Afrika, amaKhaladi, amaTshayina kunye namaNdiya abangabemi beRiphabliki yoMzantsi Afrika ngokuzalwa okanye ngokomnombi okanye abaye bangabemi beRiphabliki yoMzantsi Afrika ngokunikwa amalungelo obumi phambi kwama-27 ku-Epreli ka-1994; okanye ngomhla okanye emva komhla wama-27 ku-Epreli ka-1994 kwaye abanokuba babe nelungelo lokufumana amalungelo obumi phambi kwaloo mhla kodwa babe bavalelwa ukwenza njalo yimigaqonkqubo yeNgcinezelo.

**“Isidalwa esilotywe kungajongwanga kulotywa sona (By-catch)”** kuthetha ukulotywa kwezidalwa ezingezizo ezo bekujoliswe kuzo kumsebenzi wokuloba njengoko kubalulwe kwimigaqonkqubo egxile kwicandelo. Isidalwa esilotywe kungajongwanga kulotywa sona siquka izidalwa ezingene kwizixhobo zokuloba okanye ezilahliweyo kwakunye nezo zenzakeleyo okanye ezibulewe zizixhobo zokuloba.

**“Isivumelwano sokulotywayo”** sisingisele kwisivumelwano esibophelelayo ngokusemthethweni ekungenwe kuso ngamaqela amabini okanye ngaphezulu esibalula indlela inqanawa yokuloba eza kusetyenziswa ngayo ngamaqela akwisivumelwano esibophelelayo kunye/okanye indlela okulotywayo okuza kwabiwa ngayo phakathi kwamaqela akwisivumelwano esibophelelayo. Isivumelwano sokulotywayo siza kunika inkqubo esemthethweni abantu ekufuneka bathengiselane kwezoshishino kwaye batshintshaniselane ngemali ngoovimba phantsi kwaso, bekhuselekile ngokwazi ukuba umthetho uza kuxhasa izivumelwano zabo kwaye, ukuba kuyafuneka banyanzelise. Umthetho wezezivumelwano ubeka isiseko kushishino lwabucala eMzantsi Afrika kwaye ululawule ngokujongene namarhwebo anobulungisa.

Isivumelwano sokulotywayo kufuneka sinike amakhubalo okungathobeli ajonge mhlawumbi ekuphonyezweni okanye ekubhangisweni okanye ekurhoxisweni kweso sivumelwano.

**“IMithetho neMimiselo yokuSebenza ngokuLungileyo (Codes of Good Practice)”** isingisele kwiMithetho neMimiselo yokuSebenza ngokuLungileyo ye-BEE epapashwe nguMphathiswa wezoRhwebo, uShishino nezoKhuphiswano ngowe-2004 ngokwayamene noMthetho wokuXhotyiswa kwabaNtsundu kwezoQoqosho (Broad-Based Black Economic Empowerment Act), 2003 (uMthetho No. 53 ka-2003).

“Iimpahla ezinexabiso ezihlawulwa kunyaka omnye” zisingisele kwiimpahla ezinexabiso eziguqulelwa kwimali kunyaka omnye okanye kumjikelo wokusebenza oqhelekileyo.

**“Amatyala ahlawulwa kunyaka omnye”** ngamatyala enkampani okanye izibophelelo ezifanele ukuhlawulwa kunyaka omnye okanye kumjikelo wokusebenza oqhelekileyo.

**“Isebe”** lisingisele kwiSebe lezamaHlathi, ezokuLoba nezeNdalo.

**“IQela eliTyunjweyo”** lisingisele kubantu abantsundu, amabhinqa kunye nabantu abaphila nokukhubazeka njengoko kuchaziwe kuMthetho wezoBulungisa kwezeNgqesho (Employment Equity Act), 1998 (uMthetho No. 55 ka-1998).

**“Umandla wezoqoqosho okhethekileyo”** usingisele kummandla wamanzi onxweme kunye nentsele yolwandle ukuya kutsho kwiimayile ezisetyenziswa elwandle ezingama- 200 ukuphumela kunxweme okanye kuqaqa olungaphandle, apho ilizwe elayameneyo linolawulo noxanduva khona.

**“Umgudu”** usingisele kubungakanani bexesha namandla okuloba asetyenziswayo okuloba iintlanzi. Amandla okuloba aquka ubungakanani bezixhobo zokuloba, ubungakanani besikhephe, kunye namandla oxinzelelo.

**“Ushishino lwezokuloba”** lusingisele (1) kwisitokhwe seentlanzi esinye okanye ngaphezulu, okanye nayiphi na imisebenzi yokuloba esekelwe kwezo zitokhwe ezinokuthathwa njengeyunithi ngeenjongo zolondolozo kunye nangeenjongo zolawulo kwaye ezichongwe ngokusekelwe kwiimpawu zenzululwazi ngezelizwe,

inzululwazi ngokuphilayo, zobuchwepheshe, zorhwebo, zokuzonwabisa, zoqoqosho kunye/okanye ezinye iimpawu ezisemxholweni; kunye (2) nakuphi na ukulotywa kwezo zitokhwe.

**“Ukuloba”** kusingisele **(a)** kukukhangela, kukubamba, kukuthatha okanye kukuloba iintlanzi okanye umzamo waloo msebenzi; **(b)** kukuqhuba nawuphi na omnye umsebenzi olindeleke ngokufanelekileyo ukuba ugqibelele ekukhangeleni, ekubambeni, ekuthatheni okanye ekulobeni iintlanzi; **(c)** kukubeka, kukukhangela okanye kukufumana nasiphi na isixhobo sokuqokelela iintlanzi okanye izixhobo zokuloba ezinxulumeneyo, ukuquka neebhikhoni zikanomathotholo; **(d)** nawuphi na umsebenzi oqhutywayo oxhasa okanye olungiselela nawuphi umsebenzi ochazwe kule nkcazelo; okanye **(e)** kukusetyenziswa kwengqwelomoya ngokunxulumene nawuphi na umsebenzi ochazwe kule nkcazelo.

**“Amalungelo okuloba”** asingisele kwilungelo lokubamba izidalwa ezithile ekujoliswe kuzo ngesigaba sexesha esichongiweyo.

**“Usapho”** lusingisele kwiqela lasekuhlaleni elizalana ngegazi (ulwalamano), ukukhulisa umntwana njengowakho, ukondla okanye ubudlelane bomtshato (owakwamantyi, owesintu okanye owenkolo), umtshato wabesini esifanayo okanye ukuhlalisana, kwaye kuyadlulela ekuhlaleni kwindawo enye.

**“Ukukhohlisa ngokobumnini”** kusingisele kukuphepha ngabom okanye ukuzama ukuphepha uMthetho we-B-BBEE nemiThetho nemiMiselo. Ukukhohlisa ngokobumnini ngokuqhelekileyo kubandakanya ukuxhomekeka kwidatha okanye ukubanga ukuthobela ngokusekelwe ekugqwethweni kweenyaniso, nokuba kwenziwe liqela elibanga ukuthobela okanye namphi na omnye umntu.

**“Okulotyweyo okothuliweyo”** kusingisele kwinani okanye ubunzima beentlanzi eziziswa edokisini (kokoshishino) okanye kunxweme (kokokuzonwabisa). Okulotyweyo okothuliweyo okuziwa nako kuxelwa kwiinkalo ekuziswa kuzo iintlanzi elunxwemeni.

**“UMphathiswa”** usingisele kuMphathiswa wezamaHlathi, ezokuLoba nezeNdalo.

**“Oqalayo ukungena”** usingisele kumfakisicelo ongazange, ngokwembali, abe nelungelo lokulobela ezorhwebo kwicandelo loshishino lwezokuloba afake isicelo salo okanye nakwiliphi na icandelo lezokuloba elithile.

**“Ubumnini bemvume ngokwamaphepha”** busingisele kumfakisicelo oza kusebenzisa isabelo okanye ilungelo ngokufumana nje ingeniso engenazinjongo zokutyala imali okanye engenanjongo iphezulu yokwabelana ngemingcipheko okanye ukuthabatha inxaxheba ngokupheleleyo kwicandelo – oko kukuthi uza kuthengisa okanye adlulisele isabelo esiqingqiweyo kwenye inkampani okanye umntu ozimeleyo.<sup>1</sup>

**“Iimpahla ezinexabiso ezisetyenziswa lishishini”** zisingisele kwiimpahla ezinexabiso, ukuquka iimpahla ezinexabiso zomntu othile ongumnini ngokungqalileyo okanye ngokungangqalanga ngobumnini bezabelo zeshishini zohlobo olusetyenziswayo okanye eziluncedo kwishishini elinxulumene neekheyibhuli.

**“Isabelo esiqingqiweyo”** sisingisele kuqingqo lobunzima beentlanzi emazilotywe kwisitokhwe esithile okanye ummandla; uqingqo ngokwengxowa sisabelo esiqingqiweyo (ngokuqhelekileyo ngokwenani leentlanzi ezilotyiweyo) esisetyenziswa ngabalobi abalobela ukuzonwabisa.

**“UMnini weLungelo”** usingisele kumntu onelungelo lokulobela ukurhweba ngokusemthethweni.

**“Izidalwa ekujoliswe kuzo”** zisingisele kwizidalwa okanye intlanganisela yezidalwa ekunikezwe ngazo amalungelo okuloba kwaye okulotywayo okuphambili okanye okugxilwe kuko kwicandelo lezokuloba njengoko kukhankanyiwe kwimigaqonkqubo egxile kweloo candelo.

**“Ukujolisa”** kusingisele ekumiselweni kwezixhobo zokuloba ngendlela ethile ngexesha elifanelekileyo kwindawo efanelekileyo ngenjongo yokubamba izidalwa ezithile okanye intlanganisela yezidalwa.

**“Inani eliVumelekileyo lokuLotywayo kukoNke (i-TAC)”** kusingisele kobona buninzi beentlanzi zohlobo olunye okanye amaqela eentlanzi aveliswayo ngonyaka okanye ngesinye isigaba sexesha esinokumiselwa, ngokulobela ezolonwabo, kwabasakhasayo, ezorhwebo nezangaphandle kwamanye amazwe okanye obona buninzi beentlanzi obuvunyelweyo kushishino lwezokuloba ngokwayamene nesciwangciso solawulo esimiselweyo.

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<sup>1</sup> Bato Star (Pty) Ltd v Minister of Environmental Affairs and Tourism & others 2004(7) BCLR687 (CC)



**“UmGudu oSetyenziswayo/ oVumelekileyo uwoNke (i-TAE)”** usingisele kwelona nani lininzi leenqanawa zokuloba, ubungakanani kunye namandla enjini okanye indlela yokuloba esetyenziswayo ekunokunikezelwa iilayisenisi okanye amaphephamvume zee(ee)nqanawe zokuloba ukuba zilobe iintlanzi zohlobo olunye okanye amaqela eentlanzi zohlobo olunye, okanye elona nani lininzi labantu abakwinqanawe yokuloba ekunokunikezelwa bona iilayisenisi okanye amaphephamvume zo(o)kuloba ukuba balobe iintlanzi zohlobo olunye okanye amaqela eentlanzi zohlobo olunye okanye owona mlinganiselo wexesha mkhulu kunye/okanye amandla okuloba avunyelwayo ukuba asetyenziselwe ukuloba iintlanzi. Amandla okuloba aquka ubungakanani bezixhobo zokuloba, ubungakanani besikhephe, kunye namandla oxinzelelo.

## II. Iiakhronimi

<b>I-CAF</b>	I-Consultative Advisory Forum (IQonga leeNgcebiso lokuBonisana)
<b>I-CPUE</b>	Catch Per Unit Effort (UMgudu wokungaLotywa ngokweYunithi)
<b>I-CRDP</b>	Comprehensive Rural Development Plan (IsiCwangciso soPhuhliso lwamaPhandle oluNabileyo)
<b>I-EEZ</b>	IExclusive Economic Zone (UMmandla wezoQoqosho oKhethekileyo)
<b>I-FTC</b>	Fisheries Transformation Council (iBhunga lezoTshintsho loShishino lwezokuLoba)
<b>I-IGDP</b>	Integrated Growth and development Plan (Uhlumo nesiCwangciso sophuhliso esiHlanganisiweyo)
<b>I-IPAP</b>	Industrial Policy Action Plan (IsiCwangciso sokuSebenza koMgaqonkqubo wezoShishino)
<b>I-MLRA</b>	Marine Living Resources Act, 1998 (Act No. 18 of 1998) (UMthetho wooVimba abaPhila eLwandle, (uMthetho No. 18 ka-1998))
<b>I-MLRF</b>	Marine Living Resources Fund (INgxowamali yooVimba abaPhila eLwandle)
<b>I-NDP</b>	National Development Plan (IsiCwangciso soPhuhliso sesiZwe)
<b>I-NGP</b>	New Growth Path (INdlela yoHlumo eNtsha)
<b>I-PUCL</b>	Precautionary Upper Catch Limit (OkuQingqiweyo kokuLotywayo ngaPhezulu kokuQikelela)
<b>I-RFMO</b>	Regional Fisheries Management Organisation (IQumrhu loLawulo loShishino lwezokuLoba loMmandla)
<b>I-TAC</b>	Total Allowable Catch (Inani eliVumelekileyo lokuLotywayo kukoNke)
<b>I-TAE</b>	Total Applied Effort (ImiGudu eseTyenziswayo iYonke)

## INXENYE A: INTSHAYELELO

### 1. INTSHAYELELO

- 1.1 Lo ***Mgaqonkqubo Jikelele ngoLwabelo lwamalungelo okulobela ezoRhwebo: 2021*** ukhutshwa nguMphathiswa wezamaHlathi, ezokuLoba nezeNdalo (“uMphathiswa”) kwaye kuza kubhekiselelwa kuwo ngolu hlobo ***“2021: UMgaqonkqubo Jikelele”***.
- 1.2 Injongo ye-**2021: UMgaqonkqubo Jikelele** kukukhokela ulwabelo nokunikezelwa kwamalungelo okulobela ezorhwebo okumiselwe licandelo 18 leMarine Living Resources Act 18 of 1998 (uMthetho wooVimba abaPhila eLwandle 18 ka-1998) (“i-MLRA”) kulo lonke ushishino lwezokuLoba njengoko kukhokelwa nguwo ngamnye ***“Umgaqonkqubo ogxile kwicandelo loshishino lwezokuloba”*** ngokwahlukahlukeneyo.
- 1.3 Ulwabelo nokunikwa kwamalungelo njengoko kwandlaliwe licandelo 18 le-MLRA loshishino lwezokuloba ngalinye luza kukhokelwa ***“NguMgaqonkqubo woShishino lwezokuLoba”*** ogxile kwicandelo, okwabizwa ngokuba ***“Yimigaqonkqubo egxile kwicandelo yoshishino lwezokuloba”***.
- 1.4 Imigaqonkqubo Jikelele yoShishino lwezokuLoba egxile kwicandelo yaziswa yiConstitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) (uMthetho woMgaqosiseko weRiphabliki yoMzantsi Afrika, ka-1996 (uMthetho No. 108 ka-1996)) (“uMgaqosiseko”), kwi-MLRA, kwiBroad-Based Black Economic Empowerment Act 53 of 2003 (“the BBBEE Act”) (kuMthetho wokuXhotyiswa kwabaNtsundu kwezoQoqosho okuNabileyo 53 ka-2003) (“uMthetho we-BBBEE”), the National Empowerment Fund Act 105 of 1998 (“the NEFA”) (uMthetho weNgxowamali yokuXhotyiswa yeSizwe 105 ka-1998 (“i-NEFA”)), the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) (“the PAJA”) kuMthetho weNkuthazo yoLawulo lwezobuLungisa, 2000 (uMthetho 3 ka-2000) (“i-PAJA”), the Promotion of Access to Information Act, No. 2 of 2000 (“the PAIA”) (kuMthetho weNkuthazo yokuFikelela kuLwazi, No.2 ka-2000 (“i-PAIA”)), the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) (“the POPI”) (uMthetho woKhuselo loLwazi loBuqu), 2013 (uMthetho No.4 ka-2013) (“i-POPI”), the National Archives Act of South Africa, 1996 (Act No 43 of 1996) (uMthetho weNdawo yokuLondoloza iziBhalo eziBalulekileyo zaseMzantsi Afrika, 1996 (uMthetho No 43 ka-1996) kunye nemigaqonkqubo karhulumente engundoqo, njengesicwangciso soPhuhliso

sesiZwe (the National Development Plan) (i-NDP), isiCwangciso soHlumo noPhuhliso esiHlanganisiweyo sezoLimo (the Integrated Growth and Development Plan) (i-IGDP) for Agriculture, uPhuhliso lwezaMaphandle nokuHlaziywa kwezoMhlaba (Rural Development and Land Reform), iNdlela yoHlumo eNtsha (New Growth Path) (i-NGP), isicwangciso sokuSebenza soMgaqonkqubo wezamaShishini ka-2012 (the 2012 Industrial Policy Action Plan) (i-IPAP) kunye neNkqubo yoPhuhliso lwaMaphandle eNabileyo (the Comprehensive Rural Development Programme) (i-CRDP) ngokunjalo nezixhobo zamazwe ngamazwe ezisemxholweni kwaye nemvumelwano yoMzantsi Afrika (treaties South Africa) ziyinxenye, kwaye ziyasebenza kulwabelo lwamalungelo okulobela ezorhwebo.

1.5 I-2021: UMgaqonkqubo Jikelele kufuneka ufundwe kunye nale-***“Imigaqonkqubo egxile kwicandelo loshishino lwezokuloba”*** endululwe lushishino lwezokuloba ngalunye.

1.6 Amagunya okwabela nokunika amalungelo okulobela ezorhwebo ngokwayamene necandelo 18 le-MLRA asemagxeni oMphathiswa. UMphathiswa unokuthi, ngokwayamene necandelo 79 le-MLRA, athumele nawaphi na kuloo magunya anikwe yena kulo(wo) nali(wa)phi na igosa le(e)Sebe lezamaHlathi, ezokuLoba nezeNdalo (“iSebe”) ukwabela nokunika amalungelo okulobela ezorhwebo. Njengawo nawaphi na amanye amagunya adluliselweyo, li(a)sakube nje elo(loo)gunya lisetyenzisiwe nguGunyaziwe oThunyiweyo, uGunyaziwe oThunyiweyo akanako ukujonga kwakhona isigqibo sakhe (oko kukuthi iifundiso ye-*functus officio* iyasebenza).

## **2. UKUFAKWA KWESICELO SIKA-2021: UMGAQONKQUBO JIKELELE**

2.1 I-2021: UMgaqonkqubo Jikelele usebenza:

(a) Ukwabelwa kwamalungelo okulobela ezorhwebo kula macandelo okulobela ezorhwebo alandlayo: labhaloni, iDemersal Shark Longline, iHake Deep Sea Trawl, iHake Handline, iHake Inshore Trawl, iHake Longline, iHorse Mackerel, iKwaZulu-Natal Beach Seine, iKwaZulu-Natal Prawn Trawl, iLarge Pelagic Longline, iNetfishing (iiGillnets neBeach Seine), iOysters, iPatagonian Toothfish, iSeaweed, iSmall Pelagics, iSouth Coast Rock Lobster, iSquid, iTraditional Linefish, iTuna Pole-Line, iWest Coast Rock Lobster (Nearshore), iWest Coast Rock Lobster (Offshore), kunye neeWhite Mussels, ngaphandle kokuba icandelo lilawulwa phantsi kwecandelo lokuloba elingelilo icandelo lokulobela ezorhwebo;

- (b) Xa linokuthi naliphi na kumacandelo okuloba labelwe okanye lisiwe kwicandelo lokuloba kwabasaKhasayo, ngoko ke loo macandelo okuloba aza kulawulwa ngokwayamene noMgaqonkqubo wezokuLoba kwabasaKhasayo kunye nemiGaqo enxulumeneyo; kunye
- (c) namashishini ezokuloba anokumiselwa kwaye enziwe abe ngawokurhweba.

2.2 Amagatya ka-2021: UMgaqonkqubo Jikelele kufuneka afundwe kunye nemigaqonkqubo egxile kwicandelo loshishino lwezokuloba. Amagatya ka-2021: UMgaqonkqubo Jikelele aza kukhokela xa kunokuthi kubekho naluphi na ungquzulwano phakathi kwamagatya ka-2021: UMgaqonkqubo Jikelele kunye nemigaqonkqubo egxile kwicandelo loshishino lwezokuloba.

### **3. IPROFAYILI YOSHISHINO LWEZOKULOBA LWASEMZANTSI AFRIKA**

3.1 UMzantsi Afrika unegunya kuMmandla wezoQoqosho oKhethekileyo (Exclusive Economic Zone) (i-EEZ) obandakanya ama-1071 883 km<sup>2</sup>. I-EEZ inobutyebi baselwandle obubalulekileyo ukuquka noshishino lwezokuloba. Ukuloba kuyathintelwa kwiinqanawa zokuloba zaseMzantsi Afrika. Unxweme lwaseMzantsi Afrika lusuka kwi-Orange River (ibhoda yentlango ibe yiNamibia kunxweme lwentshona), emazantsi ngokujikeleze incam yeAfrika, kunye nomntlompuma ukuya kumda waseMozambique, kwaye luphantse lube ngama-3000 km. Inzululwazi ngezolwandle eMzantsi Afrika yenye yezona zinabileyo neziguquguqukayo ehlabathini. Iphenjelelwa ngokuphambili ziziphembeleli ezingundoqo ezibini, uMsinga iAgulhas oshushu, oqukuqela ngokukhawulezayo kunxweme lwempuma nelomzantsi kunye noMsinga iBenguela obandayo, otyebileyo ngezakhamzimba, womda wempuma kunxweme lwentshona.

2.2 Ngokuphathelele kwiphepha elingoShishino lwezokuLoba lwaseMzantsi Afrika kunye nesiVumelwano soBambiswano kwezoQoqosho se-SADC-EU: 2017, icandelo loshishino lwezokuloba lwaseMzantsi Afrika linegalelo elingaphantsi kwe-1% yeMveliso yeliZwe epheleleyo (Gross Domestic Product) (i-GDP), kunye ne-5% ye-GDP yephondo laseNtshona Koloni, kodwa licandelo elinezicwangcisoqhinga ezibalaseleyo eziphathelele kwintlutha, kwingqesho, kunye nempembelelo yezokusingqongileyo. Ubutyebi boshishino lwezokuloba buyazihlaziya, kwaye ukuba bulawulwa ngokwaneleyo ixesha labo alinasiphelo. Icandelo loshishino lwezokuloba laseMzantsi Afrika lixabisa malunga nama-R8 ezigidi zezigidi ngonyaka, kwaye liqesha ngokungqalileyo abantu abangama-28 000 kwaye lingumthombo olungileyo weprotini.

2.3 Amacandelo okuloba okuphila kwiindawo zendalo eMzantsi Afrika abandakanya ukulobela urhwebo lwengingqi, lwabasakhasayo, lokuzonwabisa nolwangaphandle kwelizwe, kwaye alawulwa ngokwayamene ne-MLRA phantsi kwegunya leSebe likaZwelonke. Phantsi kwalo Mthetho, oogunyaziwe abanoxanduva banyanzelekile ukuba balawule la mashishini ezokuloba ngokuthembekileyo nangokuzinzileyo. Ngoko ke balindeleke ukuba basabele kutshintsho olungundoqo nolwexesha elide ekuhanjiseni nakubuninzi bobutyebi ngokulungelelaniswa kwemigaqonkqubo yophando neyolawulo. Oku kuquka uLwabelo lwamaLungelo, ukumiselwa ngokwamaxesha onyaka kwee-TAC nee-TAE ezizinzileyo, kunye nophuhliso lweeNkqubo zoLawulo lokuSebenza (Operational Management Procedures) (ii-OMP), ezivuma ngokwaneleyo ukuthathela ingqalelo ukuhla nokunyuka okunokubakho kobuninzi kwaye mhlawumbi nezinye iimeko ezinje ngoGuquko loBume beZulu. Abafakizicelo abaphumeleleyo banikwa amaLungelo okulobela ezorhwebo okanye okuloba kwabasakhasayo, bazibandakanye ekukhulisweni kwezaselwandle okanye bamisele ukulungiswa kweentlanzi ngokwayamene namagatya eCandelo 18 le-MLRA. Ii-TAC okanye ii-TAE zehlabathi, okanye ngokudibeneyo, zimiselwe kwaye zabelwa kumacandelo okuloba asele ekhona ngokwayamene namagatya ecandelo 14 le-MLRA, zize ii-TAC okanye ii-TAE zezorhwebo zabelwe ngokulinganayo kubanini bamalungelo ezorhwebo asele bekhona. Abanini bamalungelo banikwa kwakhona amaphephamvume ukusebenzisa amalungelo abo rhoqo ngonyaka ngokwayamene namagatya ecandelo 13 le-MLRA, ngokuxhomekeke ekuhlangabezani neemeko ezisemxholweni ezimiselwe nguMphathiswa kweloo phephamvume. Ukukhupha amaphephamvume exesha elizayo kungaliwa apho imiqathango yephephamvume ingathotyelwanga.

2.4 Umngeni wokuphunyezwa kwe-MLRA ibikukuhlaziya ushishino lwezokuloba lwaseMzantsi Afrika ukuba luzinzise ukumelwa ngokobuhlanga kunye nesidingo sokunyusa nokuzinzisa iinzuzo zasekuhlaleni nezoqoqosho zobutyebi boshishino lwezokuloba kwimo yokugqibela yobutyebi kunye nesidingo sokuqinisekisa uzinzo lwezizukulwana zexesha elizayo. Ushishino lwezokuloba luhlaziyiwe ngokunika abaqalayo ukungena abaninzi okanye abantu abavinjwa amathuba ngaphambili ilungelo lokufikelela kushishino lwezokuloba ngokwayamene namagatya ecandelo 18 le-MLRA. Iinkampani zokuloba ezininzi nazo zatshintsha ngaphakathi ukuba zibe nokumelwa ngokobuhlanga ngokuXhotyiswa kwezoQoqosho okuNabileyo (Broad-Based Economic

Empowerment) ('i-BBEE') kunye neziqhelo zobulungisa kwezengqesho, kodwa inkqubo yokuhlaziya ushishino lokuloba iqhubeka nokuya phambili.

2.5 Ngokuphathelele kwiNgxelo ka-2020 yeSimo sooVimba bezoShishino lwezokuLoba eLwandle eMzantsi Afrika, ama-61% ezitokhwe zoovimba boshishino lezokuloba ezaselwandle awaxhalisi (udidi olubhulowu noluluhlaza), ngelixa ama-39% ezitokhwe axhalisayo (iindidi eziozenji nezibomvu). Le mifanekiso ibonakalisa ukuphucuka kwiminyaka esibhozo (8) eyadlulayo, ingama-46% ezitokhwe abonakalise ukungaxhalabisi ngo-2012, ama-49% ngo-2014 nama-52% ngo-2016. Iinkcukacha ngokwayamene neprofayili nganye yoshishino lokulobela ezorhwebo ifumaneka kwimigaqonkqubo egxile kwicandelo loShishino lwezokuLoba.

2.6 ISebe liqaphele ngokuxhalabileyo ngesithuba sexesha elide samalungelo okulobela ezoRhwebo ukuba uluntu lunesikhalo ngoshishino lwezokuloba ngokuphathelele ekuxhotyisweni kwezoqoqosho kwabantu abavinjwa amathuba ngaphambili, isakhono sezoqoqosho sezabelo eziqingqiweyo neentswelabulungisa eluntwini, ekufuneka zilungelelaniswe ngobuchule. Inkqubo yokuhlaziya ushishino lokuloba iyaqhubeka.

#### **4. IINJONGO**

4.1 Iinjongo zika-2021: UMgaqonkqubo Jikelele, kunye nemigaqonkqubo egxile kwicandelo loShishino lwezokuLoba ujonge ukuqalisa injongo ze-MLRA ezidweliswe kwicandelo 2 le-MLRA yonke esemxholweni kulwabelo nasekunikweni kwamalungelo okulobela ezorhwebo.

4.2 Lo mgaqonkqubo uqaphela isidingo sokuqinisekisa usetyenziso loovimba abaphila elwandle olugqibeleleyo, lwexesha elide kunye nolufanelekileyo ngenjongo yokuqinisekisa uphuhliso oluzinzileyo lwecandelo lokuloba ukuphumeza uhlumo lwezoqoqosho oluhlangeneyo, ukwakha isakhono seNgxowamali yooVimba abaPhila eLwandle (Marine Living Resources Fund) (i-MLRF) kunye nokudala ingqesho ezinzileyo ngenjongo zophuhliso lukaRhulumente kaZwelonke. I-MLRA ifuna ukuba abathathizigqibo bathathele ingqalelo isidingo sokulondoloza oovimba abaphila elwandle ukulungiselela izizukulwana zangoku nezexesha elizayo. Impembelelo kwizidalwa ekujoliswe kuzo kunye nobudlelane bokuphilayo nokubungqongileyo ngokupheleleyo, ukuquka nezidalwa ekungajoliswanga kuzo ("izidalwa ezilotywe kungajongwanga kulotywa zona") ukuba zisetyenziswe kufuneka kuthathelwe ingqalelo, njengoko kwandlaliwe kwicandelo 2 le-MLRA.

Injongo yokulondoloza iintlobo ngeentlobo zendalo kunye nesidingo sokunciphisa ungcoliseko lwezaselwandle kufuneka ithathelwe ingqalelo. Umgaqonkqubo ujonge ukuqinisekisa usetyenziso oluzinzileyo loovimba abaphila elwandle, ngokusekelwe kumthethosiseko wezobunzululwazi kunye nezona zenzo zilungileyo. Oku kwenziwa ngokuphambili ngokumiselwa kweNani eliVumelekileyo lokuLotywayo kukoNke (Total Allowable Catch) (i-TAC) ngokwezidalwa ekujoliswe kuzo okanye iqela lazo kummandla othile, imiGudu eSetyenziswayo iyoNke (Total Applied Effort) (i-TAE) yeeyunithi zexesha elichithwayo ekulobeni, izixhobo zokuloba, inqanawa yokuloba okanye abalobi, okanye ezinye izixhobo zolawulo (ezinje ngokuQingqiweyo okuLotywayo ngaPhezulu kokuQikelela- (Precautionary Upper Catch Limit) (i-PUCL)) okanye indibanisela yako. Uluhlu lwezidalwa eziluhlobo olunye ekujoliswe kuzo, ngokunjalo nezidalwa ezilotywe kungajongwanga kulotywa zona ezimiselweyo ezixhalabisayo ziza kuchazwa kwimiGaqonkqubo eGxile kwiCandelo kunye neeMeko zamaPhephamvume asemxholweni. Amanyathelo olawulo ezidalwa ezilotywe kungajongwanga kulotywa zona ayinkxalabo kulondolozo olugxile kushishino lwezokuloba elizimeleyo aza kwandlalwa kwimiGaqonkqubo eGxile kwiCandelo ngokwahlukahlukeneyo.

- 4.3 Le mithamo okanye imilinganiselo emiselwe kumhlathi 4.2 apha ngentla iza kuthathelwa ingqalelo ngokuphambili phambi kokwabelwa kwamalungelo , ukulumkela ukudlulelangaphaya komthamo, ukusetyenziswa ngokugqithisileyo kunye nongquzulwano phakathi kwabasebenzisi bemveliso ngelixa kusomelezwa intlutha, ulawulo olusebenzayo, uhlumo oluzinzileyo kunye nozinzo.
- 4.4 Utshintsho loshishino lokuloba sisinyanzelo somgaqosiseko nesowisomthetho. Indlela ephambili yokukhuthaza utshintsho kushishino lokuloba lwaseMzantsi Afrika nguMthetho wooVimba abaPhila eLwandle (Marine Living Resources Act) ka-1998 (i-MLRA)
  - 4.4.1 I-MLRA ifuna ukuba abathathizigqibo bathathele ingqalelo isidingo sokuhlaziya ushishino lokuloba ngenjongo yokuhlangabezana nokungalingani kwangaphambili kunye nokuphumeza ubulungisa obubonakalayo kumacandelo onke oshishino lokuloba. Utshintsho kwakhona lunyanzelekile ngokomgaqosiseko waseMzantsi Afrika.
  - 4.4.2 UMthetho wokuXhotyiswa kwabaNtsundu kwezoQoqosho oNabileyo (The Broad-Based Black Economic Empowerment Act) 53 ka-2003 (uMthetho we-BBBEE) ngomnye wenani leendlela ezimiswe ngokomthetho ezinika ifuthe kwesi sibophelelo somgaqosiseko. UMthetho we-BBBEE



ubalula ukuba uMphathiswa wezoRhwebo, amaShishini nezoKhuphiswano unokuthi, ngesaziso kwiGazethi, akhuphe imigaqo ebekiweyo yokuqhuba ngokulungileyo ngokuxhotyiswa kwabantsundu kwezoqoqosho. Imigaqo ebekiweyo inceda ekuzinziseni isikokhadi ukuze kulinganiselwe inkqubelaphambili nesimo phakathi kwamashishini kwakunye nokuveliswa oosomqulu bezotshintsho bamacandelo athile ezozoqoqosho ngabachaphazelekayo kulo macandelo.

4.4.3 UMthetho we-BBBEE kunye nemigaqo zathathelwa ingqalelo kuphuhliso lwalo Mgaqonkqubo kunye nolweMigaqonkqubo eGxile kuShishino lwezokuLoba. Ngenxa yemo yenkqubo yolwabelo lwamalungelo okulobela ezoRhwebo kwaye ngenxa yokuba akukho mqaqo ubekiweyo unokuchongwa ngokunxulumene nokunikwa kwamagunya amiswe ngokomthetho ukuloba iintlanzi, uMphathiswa wezamaHlathi, ezokuLoba nezeNdalo uvelise ukwenziwa komlinganiselo namanqaku entelekiso ezimiselwe imigaqo ebekiweyo enxulumene nobumnini nolawulo. Xa kusabelwa amalungelo okulobela ezoRhwebo, uGunyaziwe oTyunjiweyo uyacelwa ukuba athelekise abafakizicelo, kunangenqaku lentelekiso langaphandle.

4.4.4 UMgaqonkqubo Jikelele ka-2021 ulangazelela ukuqhubeka nokutshintsha nokuphucula amazinga otshintsho asele ephunyeziwe kwishishini lokuloba. Lutshintsho olusemgangathweni kuphela oluza kuqatshelwa, oko kukuthi, utshintsho oluneziphumo zeenzuzo zokwenyani kubantu abavinjwa amathuba ngaphambili njengoko kuchaziwe kuMthetho weNgxowamali yokuXhobisa yeSizwe 105 ka-1998 (the National Empowerment Fund Act 105 of 1998) (i-NEFA).

## **INXENYE B: INKQUBO YOLWABELO LWAMALUNGELO OKULOBELA EZORHWEBO**

### **5. ISICELO SAMALUNGELO OKULOBELA EZORHWEBO**

#### **5.1 Amaqela**

UMphathiswa okanye uGunyaziwe oTyunjiweyo anganyula amaqela kunye/okanye iikomiti eziza kuncedisa ekulawulweni nasekuphunyezweni kwenkqubo yolwabelo lwamalungelo okulobela ezorhwebo.

#### **5.2 Imigaqonkqubo neefomu zesicelo**

5.2.1 UMphathiswa uza kwazisa esidlangalaleni indlela imiGaqonkqubo neeFomu zesiCelo zolwabelo lwamalungelo okulobela ezorhwebo eziza kuqhutywa ngayo nendlela iiFomu zesiCelo eziza kuhanjiswa neziza kungeniswa ngayo.

5.2.2 Abafakizicelo kufuneka baqinisekise ukuba bahlangabezana nazo zonke iimfuneko phambi kokuba bagcwalise kwaye bangenise iifomu zesicelo.

5.2.3 Luxanduva lwabo bonke abafakizicelo abalindelekileyo ukuba baqinisekise ukuba izicelo zabo zigcwaliswe ngokufanelekileyo kwaye zingeniswe kwangexesha.

5.2.4 Izicelo ezingene emva kwexesha aziz'ukwamkelwa.

### **5.3 UMrhumo wesiCelo**

5.3.1 Imirhumo iza kupapashwa ngokwahlukileyo ngokwayamene necandelo 25 le-MLRA kwaye iza kuhlawulwa xa kusenziwa lesicelo.

5.3.2 ImiRhumo yesiCelo iza kuqinisekiswa, phakathi kwezinye:

(a) Yindleko yolawulo lwenkqubo yolwabelo lwamalungelo okulobela ezoRhwebo iyonke, ukuquka uboniswano, ukuhanjiswa, ukubhalwa kwerisithi, ukuhlolwa kwezicelo, ukuqinisekisa, ukujongwa kwakhona kwezibheni nezobulungisa; kunye

(b) Nexabiso elinxulumeneyo lo(loo)vimba ababelwayo.

5.3.3 Abafakizicelo kufuneka bahlawule uMrhumo wesiCelo kwiNgxowamali yooVimba abaPhila eLwandle phambi kokuba bangenise iiFomu zesiCelo zabo kwaye ubungqina bentlawulo bungeniswe neFomu yesiCelo xa kufakwa isicelo selungelo lokuloba. Iinkcukacha zebhanki zezi zilandelayo:

**UMnini weAkhawunti:** Marine Living Resources Fund

**IGama leBhanki:** First National Bank

**INombolo yeAkhawunti:** 62123256382

**IKhowudi yeSebe:** 210554

**INombolo yoQinisekiso:** [Umfakizicelo kufuneka afake inombolo yesicelo selungelo lokulobela ezorhwebo]

5.3.4 UMrhumo wesiCelo awubuyiselwa, ngaphandle kwalapho kukho izizathu ezivakalayo zokubuyiselwa kwemali.

## 5.4 Ulawulo lwezicelo

- 5.4.1 Irekhodi yazo zonke izicelo ezifunyenweyo iza kugcinwa liSebe.
- 5.4.2 Izicelo ziza kuhluzwa kwaye zihlelwe licandelo loshishino lwezokuloba ngokwayamene neendidi zamaqela abafakizicelo ngeshishini lezokuloba ngalinye. Izicelo ziza kuhluzwa ngokwee-entithi nangokwabafakizicelo ngabodwa.
- 5.4.3 Abo bafakizicelo abanamalungelo kushishino lwezokuloba abafakela lona isicelo kwakhona ngelixa lesithuba samalungelo anikiweyo kwinkqubo yolwabelo lwamalungelo yangaphambili kwicandelo elithile, bathathwa ***njengabaFakizicelo beQela A***. Abafakizicelo ababenamalungelo kumacandelo angengawo awoshishino lezokuloba abafakela isicelo lona ngesigaba sexesha sika-2006 ukuya kutsho ku-2020 bathathwa ngokuba ***ngabaFakizicelo beQela B***. Kuza kubakho udidi lweqela lesithathu – ***abaFakizicelo beQela C*** – ababandakanya abafakizicelo abangazange babe nawo amalungelo okulobela ezorhwebo nakwiliphi na kumacandelo ezokulobela ezorhwebo aseMzantsi Afrika. Iqela lesithathu likwabizwa ngokuba ngabafakizicelo “abaqalayo ukungena”.
- 5.4.4 Izicelo zabafakizicelo abazimeleyo abaye basweleka ngelixa lenkqubo yokuhlolwa kwezicelo kwaye xa kuthathwa/okanye phambi kokuba kuthathwe isigqibo ngelungelo lokuzibandakanya kumsebenzi wokulobela ezorhwebo kwicandelo lokuloba ziza kuhlolwa ngokwayamene neendlela zokuhluzza ezimiselweyo. Ukuba umfakisicelo uswelekile emva kokuba elinikiwe ilungelo nguMabi welifa okanye uMmeli wakwaMantyi kuphela, okunyulwa kwakhe kuqinisekiswa nguMantyi weNkundla ePhakamileyo, onokuthi ajongane neeasethi namatyala elifa loswelekileyo.
- 5.4.5 I(ama)lungu lo(o)sapho loswelekileyo li(a)zakwazisa ngoko nangoko iSebe, ngokulibhalela, emva kokuba loo mfakisicelo eswelekile. Kusa kufunyanwa isaziso somfakisicelo oswelekileyo, uGunyaziwe oTyunjiweyo, unokuthi ngokwayamene necandelo 82 le-MLRA ayalele ukuba kuphandwe ngomcimbi lowo.
- 5.4.6 Izicelo ziza kuhlolwa liSebe ngokwayamene neendlela zokuhluzza zokubekelwa bucala nokuzinzisa.

## 6. IINDLELA ZOKUHLUZA ZOKUBEKELWA BUCALA

Ezi ndlela zokuhluzza zokubekelwa bucala zilandelayo ziza kusetyenziswa kuzo zonke izicelo zelungelo kulo ngalinye ishishini lezokuloba.

## **6.1 Iindlela zokuhlaza zokufaka isicelo ngokungafanelekanga**

UGunyaziwe oTyunjiweyo akanalo igunya lokukhuthaza ukubandakanywa kwezicelo ezingeniswe ngokungafanelekanga.

Isicelo siza kuthathwa ngokuba singeniswe ngokungafanelekanga kwaye siza kubekelwa bucala ukuba –

6.1.1 umfakisisicelo ungenise isicelo sakhe emva komhla nexesha wo(lo)kungenisa o(eli)bekiweyo ukungenisa isicelo;

6.1.2 umfakisisicelo akawuhlawulanga umrhumo wesicelo omiselweyo ngokupheleleyo kwaye kwangexesha;

6.1.3 umfakisisicelo ungenisa isicelo sakhe engasebenzisanga ifomu yesicelo emiselweyo kwaye angenise isicelo sakhe ngokuchaseneyo nemiyalelo yeSebe oko kukuthi, njengokungenisa ngefeksi, ngeimeyili, okanye ngeposi;

6.1.4 umfakisisicelo akangommi waseMzantsi Afrika;

6.1.5 isicelo singeniswa ngumntu onelungelo ngokomthetho okhutshiweyo kwirejista okanye umfakisisicelo akayiHlawuli iRhafu

6.1.6 isicelo asingeniswanga ngumfakisisicelo okanye ngummeli wakhe ogunyazisiweyo; kunye

6.1.7 nokuba umfakisisicelo ozimeleyo ungaphantsi kweminyaka eli-18 ubudala.

## **6.2 Iindlela zokuhlaza zezicelo ezineziphene ezininzi**

Isicelo siza kuthathwa ngokuba sineziphene ezininzi kwaye siza kubekelwa bucala ukuba –

- 6.2.1 umfakisisicelo okanye ummeli ogunyazisiweyo womfakisisicelo akayisayinanga ifomu yesicelo kwaye nokuba usayino lwakhe alugunyaziswanga ngokufanelekileyo liGosa eliFungisayo elizimeleyo lwaza lwafakwa isitampu;
- 6.2.2 umfakisisicelo ungenisa isicelo esingaphezulu kwesinye ngelungelo elikwicandelo lokuloba elifanayo;
- 6.2.3 umfakisisicelo ungenisa ulwazi olububuxoki kunye/okanye olulahlekisayo okanye amaxwebhu abubuxoki;
- 6.2.4 umfakisisicelo uyasilela ukubhengeza ulwazi olubalulekileyo ngeenjongo zokuhlola isicelo sakhe; kwaye
- 6.3 umfakisisicelo okanye namphi na kubantu abagunyazisileyo / um(aba)meli uzama ukuphemelela uGunyaziwe oTyunjiweyo okanye uMphathiswa ngokuphathelele kwisicelo sakhe (umz. umfakisisicelo uzama ukuthetha ngqo noMphathiswa okanye uGunyaziwe oTyunjiweyo ngokuphathelele kwisicelo).

Isicelo siza kubekelwa bucala ukuba -

- 6.3.1 umfakisisicelo okanye naliphi na kumalungu alo nabaninizabelo okanye abalawuli abangene kwisibongozo sokuhliselwa isigwebo ngokwayamene necandelo 105A loMthetho weNkqubo yezoLwaphulomthetho (Criminal Procedure Act), uMthetho 51 ka-1977, ngokwaphula i-MLRA, imigaqo, okanye imiqathango yephephamvume kwaye bafumana isigwebo sokungeniswa ejele ngaphandle kokukhethiswa isohlwayo. linkcukacha zesigaba sexesha sokubekelwa bucala ziza kubonakaliswa kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba;
- 6.3.2 umfakisisicelo okanye namphi na kumalungu akhe kunye nabaninizabelo okanye abalawuli othe wagwetywa ngokwayamene ne-MLRA okanye imigaqo yayo okanye imiqathango yephephamvume ukusukela kwisigaba sexesha esimiselwe yimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba (umz. umfakisisicelo okanye namphi na kumalungu akhe nabaninizabelo okanye abalawuli uye wagwetyelwa iziphoso ezingaphezulu kwezibini kwaye wafumana isigwebo esidlulayo kuma-R5000 okanye ukuvalelwa ejele ngaphandle kokukhethiswa isohlwayo);

- 6.3.3 umfakisisicelo ebeneasethi ayincamele kuRhulumente ngokwaphula igatya le-MLRA ;<sup>23</sup>
- 6.3.4 umfakisisicelo ebenelungelo lokuloba okanye iphephamvume eliye lacinywa okanye larhoxiswa ngesigaba sexesha esichazwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba. Kwimeko apho ilungelo lokuloba okanye iphephamvume licinyiwe okanye lirhoxisiwe, isigqibo soMphathiswa okanye uGunyaziwe oTyunjiiweyo sihlala sihleli kude kufike ixesha apho isibheni sijongiweyo kwaye sahlolwa ngugunyaziwe wezibheni ofanelekileyo okanye sajongwa kwakhona ngokusemthethweni yinkundla yomthetho;
- 6.3.5 Ngokuphathelele kubafakizicelo beeQela A kunye neeQela B, umfakisisicelo uza kuthathwa ngokuba usemngciphekweni wobumnini bemvume ngokwamaphepha kwaye abekelwe bucala ukuba uyasilela ukuthi thaca nayiphi na kwezi zilandelayo:
- (a) liAkhawunti zeBhanki
  - (b) liNngxelo zezeMali
  - (c) Uluhlu lweeasethi zokushishina ezisegameni loMfakisisicelo
  - (d) I-inshorensi esegameni loMfakisisicelo
  - (e) Umsebenzi ophantsi kweNgqesho yoMfakisisicelo
  - (f) AmaPhephamvume oThumelompahla kwamanye amazwe akhutshwe ngegama lenkampani
  - (g) IsiCwangciso seShishini [Isicwangciso sokuloba]
  - (h) Ukuba abazange babandakanyeke ngokungqalileyo kuLungiso lweNani leeNtlanzi eziLotyiweyo nokuMaketha iintlanzi zabo ngelixa ebebenelungelo ngalo kwicandelo abafakela lona isicelo.
  - (i) Akafakanga sicelo sePhephamvume leNani leeNtlanzi eziLotyiweyo ngelixa ebenelungelo ngalo kwicandelo afakela lona isicelo.
  - (j) Akakhange othule naziphi na iintlanzi ngelixa ebenelungelo ngalo kwicandelo afakela lona isicelo.
  - (k) Ukuba akaz'ukuloba kwaye othule naziphi na iintlanzi

<sup>2</sup> UGunyaziwe oTyunjiiweyo uza kumisela ukuba umfakisisicelo uyalelwe yinkundla yomthetho ukuncama iasethi. Kukwiimeko yokuphulukana neasethi ngokuyalelwa yinkundla kuphela apho aya kuthi umfakisisicelo ohlwaye phantsi kwalo mqathango wokunika amanqaku.

<sup>3</sup> Abafakizicelo abaye babanjwa okanye bavalelwa okanye abathinjelwe iiasethi zabo, babanjwe okanye bavalelwe kodwa apho kungayalelwan ga ukuba ufunyaniswe enetyala yinkundla yamatyala akaz'ukudlelwa ndlala ngeendlela zokuhlaza zokulinganisela nezokunika amanqaku.

6.3.6 umfakisiselo kuza kuthathwa ngokuba uza nomngcipheko wobumnini bemvume ngokwamaphepha ngokukaGunyaziwe oTyunjiweyo njengoko kuchaziwe nguMgaqonkqubo Jikelele woShishino lwezokuLoba: 2021 ngoku kulandelayo-

- (a) Ukuba kuyabonakala kwisicelo ukuba umfakisiselo wobuninilungelo uyasilela ukubonisa umdla onyanisekileyo ekusetyenzisweni, ekulungisweni kunye/okanye ekumaketheni ilungelo lokuloba analo okanye aza kwabelwa lona. Ukubonakalisa ukuba umfakisiselo wobuninilungelo ubonisa umngcipheko wobumnini bemvume ngokwamaphepha, oku kulandelayo kuza kuthathelwa ingqalelo:
  - (i) Indlela yokuziphatha eqhubekayo yomfakisiselo yobuninilungelo ngexesha lolwabelo lweloo lungelo.
  - (ii) Abafakisiselo sobuninilungelo abasileleyo ukuxhobisa ngemisebenzi, ukususa i(ama)lungelo la(a)bo lo(oku)loba, ukulungisa nokuphucula iintlanzi kunye/okanye ukumaketha nokuthengisa iintlanzi zabo.
- (b) uGunyaziwe oTyunjiweyo uza kumthatha umfakisiselo ngokuba “unomngcipheko wobumnini bemvume ngokwamaphepha” ukuba kuyabonakala kwisicelo ukuba umfakisiselo wobuninilungelo akanazinjongo zicacileyo zokubambisana kulo mngcipheko ngokuthabatha inxaxheba ngokupheleleyo kwicandelo, ingakumbi ukuba kukho ingozi yokuba umfakisiselo ungene kwishishini kodwa wafumana inzuzo ethile yezemali engakhange azibandakanye kwimisebenzi engundoqo enxulumene nokusetyenziswa kwelungelo alinikiweyo. Ukufumanisa ukuba ingaba umfakisiselo ubonisa umngcipheko wobumnini bemvume ngokwamaphepha na, kuthathelwa ingqalelo iiasethi zomfakisiselo nokufumaneka kwemali eyinkunzi kunye nokucwangciswa kweemali zeshishini kunye nokuzibophelela. UGunyaziwe oTyunjiweyo kufuneka azame ukunqanda abafakizicelo bobumnini bemvume ngokwamaphepha ukuba bangene kwishishini lokuloba kuba ubumnini bemvume ngokwamaphepha bujongela phantsi kwaye buthintela iinjongo zenkqubo yolwabelo lwamalungelo okulobela ezorhwebo.
- (c) UGunyaziwe oTyunjiweyo kufuneka athabathe onke amanyathelo afanelekileyo ukuba asuse bonke abafakizicelo bobumnini bemvume ngokwamaphepha abanokuba banikwe amalungelo okulobela ezorhwebo. UGunyaziwe oTyunjiweyo uza kujonga abafakizicelo bobumnini bemvume ngokwamaphepha abanikwe amalungelo okulobela ezorhwebo kodwa ababonakalisa iirekhodi ezibuthathaka okanye ezingekhoyo ezidityaniswe nokungabikho kotyalomali okanye ubandakanyeko olungqalileyo kwishishini lezukuloba.

- (d) UGunyaziwe oTyunjiweyo uza kubekela bucala kwakhona abafakizicelo “abangumngcipheko wobumnini bemvume ngokwamaphepha” abathathwa ngokuba “bakhohlisa ngobumnini” ukuze kuzokuxhamla abanye. Ukukhohlisa ngokobumnini kwenzeka , ngenjongo yokuphazamisa injongo yomgaqonkqubo, xa isicelo singeniswa ngenye ientithi ethobela imigaqo. Ngokuqhelekileyo oku kubandakanya ukuxhomekeka kwidatha okanye ukuxoka ngokuthobela umthetho ngokusukela ekuvezweni kokungeyonyani, nokuba ngaba kwenziwa ngulowo uthi uthobele umthetho okanye nguye namphi na omnye umntu. Umzekelo sisicelo esifakwe yientithi ekhohlisa ngokuthi itshintshile ngenjongo yokuba iinzuzo ezingundoqo ziza kungena kwientithi engatshintshanga okanye kubantu abangafanelekanga. Omnye umzekelo kulapho ientithi yangaphandle kwelizwe okanye umntu esebenzisana ngokuyimfihlo nomntu waseMzantsi Afrika ngokungabhengezi oyena/abona m(ba)nini unguye/bangabo ngqo we(be)nqanawe yokuloba, umfakizicelo ayichaze njengokuba yinqanawe yokuloba yakhe ngelixa angenisa isicelo selungelo ngoko ke ephazamisa inkqubo yolwabelo lwamalungelo.
- (e) ISebe liza kusebenzisa iinkqubo zecandelo 28 ngokwayamene ne-MLRA kubanini bamalungelo abathe kanti bangabanini bezabelo ngokwamaphepha okanye abakhohlisa ngokuba bangabanini.
- (f) ISebe lingarhoxisa amalungelo okulobela ezorhwebo anikwe abanini bamalungelo aboyiswayo kukusebenzisa amalungelo abo kwiminyaka emibini yokuqala emva kokuba benikwe amalungelo abo.

6.3.7 Umfakizicelo woyisakele ukusebenzisa naliphi na kumalungelo akhe okuloba, kwicandelo lokuloba elifanayo nelo ekufakwe isicelo selungelo ngalo, ngexesha lelungelo lokulobela ezorhwebo elinikwe yena okanye lona nge-LTRAMP2005 ne-FRAP 2013.<sup>4</sup>

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<sup>4</sup> AbaFakizicelo zobuMnini bamaLungelo bangaphambili abasileleyo ukurekhoda okothuliweyo kushishino lwezokuloba ngelixa lesigaba sexesha eside (2007-2020), baza kubekelwa bucala ngokusilela kwimfuno ebalulekileyo.



## **7. IINDLELA ZOKUHLUZA ZOKUZINZISA**

Izicelo ezidlula kwiindlela zokuhluzwa zokubekelwa bucala ziza kuqhubeka zihlolwe futhi zingene kwiindlela zokuhluzwa zokunikwa amanqaku okulinganisela okanye iindlela zokuhluzwa zokuzinzisa ukufumanisa abafakizicelo abaphumeleleyo kulo ngalinye kumacandelo okuloba. Iindlela zokuhluzwa zokunikwa kwamanqaku okulinganisela ziza kuphuhliswa kwaye ziyilelwe abafakizicelo bamaQela A, B kunye no-C. Ukulinganisela ngokwendlela yokuhluzwa nganye kuza kumiselwa ngokwepesenti ethile ngokusekelwe kukubaluleka kwako ukuqinisekisa ukuba imiba eyandlalwe kwisaHluko 4 kuhlantatyezwana nayo. Iindlela zokuhluzwa eziza kulinganiselwa kwaye zinikwe amanqaku zezi zilandelayo:

### **7.1 Iindlela zokuhluzwa zokuzinzisa: Iqela A / abafakizicelo abangabanini bamalungelo bangaphambili**

Abafakizicelo, ngokwayamene nemigaqonkqubo egxile kwicandelo nefomu yabo yesicelo, baza kunikwa inqaku lokulinganisela ngokusekelwe: –

#### **7.1.1 kuBandakanyeko kumacandelo amaninzi**

- (a) Inani lamacandelo okuloba umfakizicelo abandakanyeka kuwo kunye nokubandakanyeka komfakizicelo kumacandelo okuloba ngaphandle kwecandelo lokuloba afakela isicelo lona liza kuthathelwa ingqalelo ngenjongo yokubeka phambili ukunatyiswa kofikelelo, utshintsho, kunye nophuhliso lwezozoqosho oluqukayo loshishino lokuloba lwaseMzantsi Afrika.
- (b) Ubungakanani bolwabelo kumacandelo abanamalungelo kuwo.

#### **7.1.2 Amava okuloba nolwazi ngokunjalo**

- (a) inani leminyaka umfakizicelo abanelungelo lokulobela ezorhwebo ngayo kwicandelo afakela isicelo selungelo lona;
- (b) inani leminyaka umfakizicelo abanelungelo lokulobela ezorhwebo ngayo kumacandelo okuloba ngaphandle kwecandelo lokuloba afakela isicelo selungelo lona; kunye
- (c) inani leminyaka umfakizicelo abebandakanyeke ngayo kumzila wenguqulelo ekrwada woshishino lokuloba lwaseMzantsi Afrika (ukuloba, ukulungisa, ukumaketha nokulawulwa kwezimali).

#### **7.1.3 Utyalomali**

- (a) Ixabiso elifanelekileyo lokuloba okuhlawulwa kwixesha elingaphezulu konyaka kunye namatyala neempahla ezinexabiso ezinxulumene nokuloba noshishino lwezokuloba ezibhaliswe phantsi kwegama lomfakisicelo. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka kunye neemveliso ezisetyenziswa lishishini zichazwa njengezihlawulwa ngaphezulu konyaka – ezingalindelekanga ukuba zifunyanwe okanye zihlawulwe ngonyaka omnye. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka zibandakanya kodwa zingaphelelanga apho ipropati, iplanti kunye nezixhobo (ukuquka nenqanawa yokuloba), ipropati yotyalomali, iimpahla ezingaphathekiyo kunye notyalomali ezinikwa ixabiso kusetyenziswa indlela yezixhobo zotyalomali kwiimarike zemali.
- (b) Ixabiso elifanelekileyo lokuloba okuhlawulwa ngonyaka omnye kunye namatyala neempahla ezinexabiso ezinxulumene nazo ezibhaliswe phantsi kwegama lomfakisicelo. Iimpahla ezinexabiso ezihlawulwa ngonyaka omnye kunye namatyala ahlawulwa ngonyaka omnye zezexesha elifutshane kwaye zisebenza njengenxenyane yenkqubo yokusebenza kweshishini. Kuqikelelwa ukuba zifunyanwa okanye zihlawulwa ngekheshi kunyaka omnye. Iimpahla ezinexabiso ezihlawulwa ngonyaka omnye ziquka kodwa zingaphelelanga apho uluhlu lweempahla, urhwebo kunye nezinye izinto ezifunyanwayo, imali kunye nokulingana nemali.

#### **7.1.4 Ukuthembela**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe —
  - (i) kwingeniso ngokwepesenti (%) efunyenwe kwi(kuma)candelo okuloba aseMzantsi Afrika; kunye
  - (ii) nengeniso ngokwepesenti (%) efunyenwe kwi(kuma)candelo okuloba angaphandle koMzantsi Afrika.

#### **7.1.5 Ukuthobela**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe koku—

- (i) Ukunyhasha umgaqo okungephi: - umfakisiselo ubekwe ityala phantsi kwe-MLRA, okanye imigaqo okanye iimeko zephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
  - (ii) Ukunyhasha umgaqo okungephi: - umfakisiselo uhlawule isohlwayo sentlawulo sokuvuma ityala kuphela ngenxa yokwaphula i-MLRA, imigaqo, okanye iimeko zephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba. Ezi ntlobo zokunyhasha ziza kugqibelela kwisohlwayo sokunyitywa kwamanqaku okungephi ngelixa lesigaba sokuzinzisa.
  - (iii) Ukunyhasha umgaqo okungephi: - umfakisiselo ebenelungelo lokuloba okanye iphephamvume elinqunyanyisiweyo okanye elincitshisiweyo ngokwesigaba sexesha esichazwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
  - (iv) Ukunyhasha umgaqo okubalaseleyo: - umfakisiselo ungene kwisibongozo sokuhliselwa isigwebo phantsi koMthetho weNkqubo yezoLwaphulomthetho 51 ka-1977 (Criminal Procedure Act 51 of 1977), ngokwaphula i-MLRA, okanye imigaqo, okanye iimeko zephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba. Ezi ntlobo zokunyhasha ziza kugqibelela kwisohlwayo sokunyitywa kwamanqaku okubalaseleyo ngelixa lesigaba sokuzinzisa kothelekiso kwimeko yolwaphulomthetho olunye. Kwimeko yokunyhasha i-MLRA ngokuphindayo ngumfakisiselo, umfakisiselo uza kubekelwa bucala.
  - (v) Ukunyhasha okubalaseleyo: - inqanawa yokuloba, imoto, umhlaba zomfakisiselo okanye naziphi na iimpahla ezinexabiso zomfakisiselo ezithinjwe phantsi kwe-MLRA okanye aphulukene nazo phantsi koMthetho wokuNqandwa uLwaphulomthetho oluCwangcisiweyo (Prevention of Organised Crime Act) 121 ka-1998 ngokwesigaba sexesha esimiselweyo kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba. Ezi ntlobo zokunyhasha ziza kugqibelela kwiso(kwizo)hlwayo so(zokunyitywa kwamanqaku okubalaseleyo ngelixa lesigaba sokuzinzisa kothelekiso kwimeko yolwaphulomthetho olunye. Kwimeko yokunyhasha i-MLRA ngokuphindayo ngumfakisiselo, umfakisiselo uza kubekelwa bucala.
- (b) Abafakizicelo abanamatyala asaqhubekayo baza kuhlolwa kwaye bavavanywe ngendlela efanayo njengabo bonke abanye abafakizicelo. Xa banokuthi aba bafakizicelo baphumelele amalungelo aza kunikwa kodwa agodlwe kude kugqitywe ezo ngxoxo zamatyala. Ukuba umfakisiselo uliwinile ityala kwezo ngxoxo zamatyala, umfakisiselo lowo uza kuvunyelwa

ukuba alisebenzise ilungelo elo. Ukuba akaliwini ityala, ilungelo liza kwabiwa ngokulinganayo phakathi kwabo bonke abafakisicelo abaphumeleleyo abakwiqela elinye.

#### **7.1.6 Ukufikelela kwinqanawa efanelekileyo**

- (a) Abafakizicelo, ngokuxhomekeka kwifomu yomfakisicelo kunye nakumgaqonkqubo ogxile kwicandelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe koku -
  - (i) umfakisicelo unayo okanye unako ukufikelela kwinqanawa yokuloba efanelekileyo; kwaye
  - (ii) iinqanawa zokuloba ezichongwe ngumfakisicelo ziyathobelana na nokhuseleko elwandle kunye neenkukacha zenqanawa yokuloba ngokwayamene neMerchant Shipping Act 57 of 1951, iSouth African Maritime Safety Authority (“i-SAMSA”) Act 5 of 1998, iMarine Traffic Act 2 of 1981 kunye nemiGaqo yayo.
  
- (b) Inqanawa yokuloba efanelekileyo iza kuchazwa kumgaqonkqubo ogxile kwicandelo loshishino lwezokuloba ekubhekiselelwe kulo, kodwa ukuze nayiphi na inqanawa yokuloba isebenze kushishino lokuloba laseMzantsi Afrika, inqanawa yokuloba kufuneka:
  - (i) ibe yinqanawa yokuloba eneflegi yaseMzantsi Afrika (ngaphandle kokuba kwenziwe ngokukodwa kumgaqonkqubo ogxile kwicandelo loshishino lwezokuloba);
  - (ii) ingeniswe kwinqubo yokubeka iliso ekusebenzeni kwenqanawa yokuloba eyamkelwe lisebe (i-VMS) (ngaphandle kokuba oko kukhululwe liSebe);
  - (iii) ibhaliswe liQumrhu loKhuseleko lwezaseLwandle (the South African Maritime Safety Association) (i-SAMSA) njengefanelekileyo ukuba ilobe; kwaye
  - (iv) ingabi kuluhlu lweenqanawa zokuloba ezinegama elibi kumaQumrhu oLawulo loShishino lwezokuLoba oMmandla (Regional Fisheries Management Organisations) (i-RFMO) kunye/okanye kwiziVumelwano.

#### **7.1.7 Indlela ekulotywa ngayo**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwini lamaxesha onyaka okuloba umfakisicelo asebenzise ngawo ilungelo lakhe lokuqhuba umsebenzi wokulobela ezorhwebo kwicandelo lokuloba apho umfakisicelo afake isicelo solwabelo kwakhona lwelungelo.

- (ii) kwinxenye yenani leentlanzi ezilotyiweyo ezothulwe ngumfakisicelo kwicandelo lokuloba umfakisicelo afakele isicelo lona.
- (iii) kukuloba ngokugqithisileyo koko akwabelweyo ngaphezulu kwepesenti ethile emiselweyo kuMgaqonkqubo oGxile kwiCandelo loShishino lwezokuLoba ngalo naliphi na ixesha lonyaka lokuloba kunye nakwixesha lonyaka lokugqibela phambi kokwabelwa amalungelo okulobela ezorhwebo.

### 7.1.8 Utshintsho

- (a) Kwinkqubo yolwabelo lwamalungelo, uhlanga, isini kunye nobudala zabafakizicelo, kwaye nakwimeko yabantu abanelungelo ngokusemthethweni, uhlanga, isini kunye nobudala zabaninizabelo okanye bamalungu omfakisicelo, iziphathamandla, abanikinkonzo kunye nabasebenzi, nabo baza kuthathelwa ingqalelo. Ukongeza koko, utyalomali lwequmrhu lwezentlalo luza kuthathelwa ingqalelo.
- (b) Kuza kuhlolwa futhi kwaye kuza kuthathelwa ingqalelo ukuzuzisa ngokobunini babafakizicelo kuphela abavinjwa amathuba ngaphambili, ngokubanika amalungelo okuvota angenasithintelo kunye nomdla kwezoqoqosho onxulunyaniswa nobunini bezixhobo zotalomali kwiimarike zemali. Ukufumanisa ukuba amalungelo okuvota kunye nomdla kwezoqoqosho “akuthintelwa”, uGunyaziwe oTyunjweyo angathathela ingqalelo uMgaqo 100 woMthetho we-BBBEE. UMgaqo 100 nguMlinganiselo weNxenye yoBumnini yokuXhotyiswa kwabaNtsundu kwezoQoqosho okuNabileyo.
- (c) Abafakizicelo abaphumeleleyo baza kunikwa amanqaku ngokuxhobisa abasebenzi babo ngezikim zobumnini, ngaphandle kokuba abafakizicelo bangabonisa ukuba abasebenzi babo bafumana iinzuzo zokwenene (ezinje ngezahlu kunye nokulawula ngokuhlangeneyo) kwisikim kwaye nokuba ezo nzuzo zinako ukuqinisekiswa. Kuza kuthathelwa ingqalelo inani labantu abavinjwa amathuba ngaphambili kubaphathi abaphezulu okanye kwiziphathamandla kwientithi yeshishini lokuloba yomfakisicelo. Abaphathi abaphezulu okanye iziphathamandla ngokuqhelekileyo ngabo bantu banoxanduva lokukhokela imisebenzi yezicwangcisoqhinga zokusebenza kwinkampani nabaphantsi ngqo mhlawumbi kwintloko elawulayo okanye kwiBhodi.
- (d) Xa kuhlolwa kwaye kunikwa izicelo amanqaku, kwaye naxa kusabelwa iinxenye ze-TAC kubafakizicelo abaphumeleleyo, uGunyaziwe oTyunjweyo angakhetha abafakizicelo ngokusekelwe kwiindlela ezisetyenziswayo zotshintsho. Xa kunikwa inqaku lemilinganiselo

yotshintsho, okanye kusabelwa iinxenye ze-TAC, uGunyaziwe oTyunjiweyo angathathela ingqalelo: iinkcukachamanani zobalobantu okanye olunye ulwazi olunikwa Zezeenkucachamanani zoMzantsi Afrika ngokuphathelele kulwaxhiwo lwabantu belizwe baseMzantsi Afrika, kunye nepesenti yabo bantu belizwe eyenziwa ngamaqela eenkcukachamanani zabemi awohlukeneyo; isidingo sokuqinisekisa ukuqondwa kunye nokuthabatha inxaxheba okululutho okufanelekileyo kwishishini lokuloba lwaBantu abavinjwa amaThuba ngaPhambili (ii-HDI) kunye nemigaqo yokusebenza ngokulungileyo phantsi koMthetho oLungisiweyo wokuXhotyiswa kwezoQoqosho okuFikelela ngokuNabileyo (Broad Based Economic Empowerment Amended Act).

- (e) Abafakizicelo, ngokwayamene nemigaqonkqubo egxile kwicandelo kunye neefomu zezicelo zabo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwiprofayili yomfakizicelo ngokuphathelele kuhlanga, isini kunye nobudala babantu;
  - (ii) kwiprofayili yenkampani yabantu abantsundu abangabanini;
  - (iii) kwiprofayili yokuxhotyiswa yomfakizicelo kunye nerekhodi yenkonzo yokusebenza yomsebenzi ngokuphathelele kubantu abantsundu, ibhinqa, ulutsha, abantu abaphila nokhubazeko kunye neminyaka yenkonzo yokusebenza;
  - (iv) kwipesenti yemiRholo yee-HDI kuMrholo we-HDI uwonke;
  - (v) Ukuhlawulwa kwabaninizabelo okanye amalungu izahlulo kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulwahlulwa ngokohlanga nangokwesini kwabaxhamli;
  - (vi) kwizaHlulo ezihlawulwe kwiTrasti yabaSebenzi kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulwahlulwa ngokohlanga nangokwesini kwabaxhamli;
  - (vii) kwipesenti yenzuzo emva kweendleko yomfakizicelo echithwa kutyalomali lwequmrhu lwezentlalo;
  - (viii) ukuba ingaba umfakizicelo wenza inkqubo yeentengo nokufumana abanikinkonzo yeempahla/iinkonzo kwi(kwii)nkampani ya(za)abantu abantsundu abasisininzi na;
  - (ix) ukuba ingaba umfakizicelo ngumqeshi otyunjiweyo na njengoko kuchaziwe kwiCandelo 1 loMthetho woBulungisa kwezeNgqesho 55 ka-1998 (Section 1 of the Employment Equity Act 55 of 1998);
  - (x) ukuba ingaba umfakizicelo uwuthobele na uMthetho woBulungisa kwezeNgqesho 55 ka-1998 (the Employment Equity Act 55 of 1998);
  - (xi) ukuba ingaba umfakizicelo usiphuhlile na isicwangciso sobulungisa kwezengqesho;

- (xii) ukuba ingaba umfakisisicelo uwuthobele na uMthetho woPhuhliso lwezaKhono 97 ka-1998 (Skills Development Act 97 of 1998);
- (xiii) ukuba ingaba umfakisisicelo uzihlawule na iilevi ngokwayamene noMthetho weeLevi woPhuhliso lwezaKhono 9 ka-1999 (Skills Development Levies Act 9 of 1999);
- (xiv) ukuba ingaba umfakisisicelo umqeshile na umbhexeshi wophuhliso lwezakhono;
- (xv) ukuba ingaba umfakisisicelo uphuhlise waza waphumeza isicwangciso sezakhono sasemsebenzini na;
- (xvi) ukuba ingaba umfakisisicelo uyayithabatha na inxaxheba kwiinkqubo zokufundela umsebenzi kwingqesho;
- (xvii) ukuba ingaba umfakisisicelo uqhube iiprojekthi zophuhliso loshishino na ukuhlangabezana nobumnini obandayo babantu abantsundu, ulawulo nezakhono kurhwebo lwezoshishino olutsha, oluquka iinkqubo zotyalomali kunye nofikelelo kwizimali;
- (xviii) kwisixamali sokwenene nepesenti echithiweyo kwiimpahla neenkonziso ngaphakathi nangaphandle kwaseMzantsi Afrika;
- (xix) ukuba ingaba umfakisisicelo uqalise imisebenzi eyinzuzo kwicandelo elithile/ushishino lwezokuloba asebenza kulo na;
- (xx) ukukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokuphathelele kumazibuko ekothulelwe kuwo iintlanzi ezilotyiweyo kwaye zalungiswa; kunye
- (xxi) nokukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokwenza izibophelelo ngokuphathelele kumazibuko ekothulelwe kuwo iintlanzi ezilotyiweyo kwaye zalungiswa.

#### **7.1.9 Ukudalwa kwamathuba emisebenzi**

- (a) Injongo ebalulekileyo yolwabelo lwamalungelo okulobela ezorhwebo kukudala imekobume efanele ukudalwa kwamathuba emisebenzi, ingakumbi, ukudalwa kwemisebenzi ekumgangatho ongcono('yonyaka wonke') nesisigxina kushishino lokuloba.
- (b) Kuza kuthathelwa ingqalelo imisebenzi edalwe ngabafakizicelo abanamalungelo okulobela ezorhwebo kunye nokwanda kwemisebenzi ngenxa yolwabelo lwamalungelo okulobela ezorhwebo ekuhambeni kwexesha.
- (c) Ukudalwa kwengqesho esisigxina (unyaka jikelele) kuyakhethwa kunengqesho yamaxesha athile onyaka kwaye ingqesho yamaxesha athile onyaka iyakhethwa kunengqesho yekontraki(yexesha elifutshane).

- (d) Ngoko ke, abafakizicelo, ngokuxhomekeka kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwinani labasebenzi abasisigxina (unyaka jikelele), abexesha lonyaka kunye nabekontraki (ixesha elifutshane) ngokuphathelele koonyakamali njengoko kuchaziwe kwimigaqo egxile kwicandelo loshishino lokuloba;
  - (ii) ukuba umfakizicelo uyazithobela na iimeko zokusebenza zengqesho kwiinqanawa zokuloba nakwimizimveliso, ukhuseleko elwandle, impilo nokhuseleko ngokwayamene noMthetho wezeMpilo & noKhuseleko eMsebenzini (Occupational Health & Safety Act) 85 ka-1993 kunye noMthetho weMbuyekezo yoMenzakalo eMsebenzini & neziFo (Compensation for Occupational Injuries & Diseases Act) 130 ka-1993; kunye
  - (iii) umrholo ohlawulwa abasebenzi.

#### **7.1.10 Amanqaku okuhluzo**

- (a) ukuba kukho abafakizicelo abanamanqaku alinganayo, uGunyaziwe oTyunjiweyo angasebenzisa imilinganiselo yamanqaku okuhluzo ngenjongo yokukhetha phakathi kwabafakizicelo abanamanqaku alinganayo.
- (b) amanqaku okuhluzo aza kuba nganengqiqo, nganobulungisa kwaye abe ngangakhethi cala kwaye angabandakanya imilinganiselo enganikwanga manqaku okanye kunikwe amanqaku imilinganiselo elinganiselwe ngokwahlukeneyo ukuze kunikwe ifuthe kwiinqanaba nemithethosiseko ye-MLRA.

## **7.2 Imilinganiselo yokuzinzisa: Abafakizicelo beQela B**

Abafakizicelo, ngokwayamene nemigaqonkqubo egxile kwicandelo neefomu zabo zezicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe apha: –

### **7.2.1 Ubandakanyeko kumacandelo amaninzi**

- (a) Inani lamacandelo okuloba umfakizicelo abandakanyeka kuwo kunye nokubandakanyeka komfakizicelo kumacandelo okuloba ngaphandle kwecandelo okuloba afakela isicelo lona nazo zingathathelwa ingqalelo ngenjongo yokubeka phambili ukunatyiswa kofikelelo, utshintsho, kunye nophuhliso lwezoqoqosho oluqakayo loshishino lokuloba lwaseMzantsi Afrika.



- (b) Ubungakanani bolwabelo kumacandelo abanamalungelo kuwo

### 7.2.2 Amava okuloba nolwazi ngokunjalo

- (a) inani leminyaka umfakisicelo abenelungelo lokulobela ezorhwebo ngayo kuloo macandelo;
- (b) inani leminyaka umfakisicelo abebandakanyeke ngayo kumzila wenguqulelo ekrwada woshishino lokuloba lwaseMzantsi Afrika (ukuloba, ukulungisa, ukumaketha nokulawulwa kwezimali).

### 7.2.3 Utyalomali

- (a) Ixabiso elifanelekileyo lokuloba okuhlawulwa kwixesha elingaphezulu konyaka kunye namatyala neempahla ezinexabiso ezinxulumene nokuloba noshishino lwezokuloba ezibhaliswe phantsi kwegama lomfakisicelo. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka kunye neemveliso ezisetyenziswa lishishini zichazwa njengezihlawulwa ngaphezulu konyaka – ezingalindelekanga ukuba zifunyanwe okanye zihlawulwe ngonyaka omnye. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka zibandakanya kodwa zingaphelelanga apho ipropati, iplanti kunye nezixhobo (ukuquka nenqanawe yokuloba), ipropati yotyalomali, iimpahla ezingaphathekiyo kunye notyalomali ezixatyiswa kusetyenziswa indlela yezixhobo zotyalomali kwiimarike zemali.
- (b) Ixabiso elifanelekileyo lokuloba okuhlawulwa ngonyaka omnye kunye namatyala nempahla enexabiso ezinxulumene nazo ezibhaliswe phantsi kwegama lomfakisicelo. Iimpahla ezinexabiso ezihlawulwa ngonyaka omnye kunye namatyala ahlawulwa ngonyaka omnye zezexesha elifutshane kwaye zisebenza njengenxenyane yenkqubo yokusebenza kweshishini. Kuqikelelwa ukuba zifunyanwa okanye zihlawulwa ngekheshi kunyaka omnye. Iimpahla ezinexabiso zexesha elifutshane ziquka kodwa zingaphelelanga kuluhlu lweempahla, urhwebo kunye nezinye izinto ezifunyanwayo, imali kunye nokulingana nemali.

### 7.2.4 Ukuthembela

Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe kwipesenti (%) yengeniso efunyenwe:

- (a) kwi(kuma)candelo umfakisicelo anelungelo lokulobela ezorhwebo kulo.
- (b) ezinye iindawo kwicandelo lokuloba ngaphandle kwakwicandelo umfakisicelo anelungelo kulo.

- (c) i(ama)candelo lo(o)kuloba angaphandle kwaseMzantsi Afrika.

### **7.2.5 Ukuthobela**

Abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe koku—

- (a) umfakizicelo ugwetyelwe ityala phantsi kwe-MLRA, okanye imigaqo okanye iimeko zephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (b) umfakizicelo ungene kwisibongozo sokuhliselwa isigwebo phantsi koMthetho weNkqubo yezoLwaphulomthetho 51 ka-1977 (Criminal Procedure Act 51 of 1977), ngokwaphula i-MLRA, okanye imigaqo, okanye imiqathango yephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (c) umfakizicelo uhlawule isohlwayo sentlawulo sokuvuma ityala kuphela ngenxa yokwaphula i-MLRA, imigaqo, okanye imiqathango yephephamvume ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (d) inqanawa yokuloba, imoto, umhlaba onesakhiwo womfakizicelo okanye naziphi na iimpahla ezinexabiso zomfakizicelo ezithinjwe phantsi kwe-MLRA okanye aphulukene nazo phantsi kwePrevention of Organised Crime Act (uMthetho wokuNqandwa koLwaphulomthetho oluCwangcisiweyo) 121 ka-1998 ngokwesigaba sexesha esimiselweyo kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.

Abafakizicelo abanamatyala asaqhubekayo baza kuhlolwa kwaye bavavanywe ngendlela efanayo njengabo bonke abanye abafakizicelo. Xa banokuthi aba bafakizicelo baliwine ityala amalungelo aza kunikwa kodwa agodlwe kude kugqitywe ezo ngxoxo zamatyala. Ukuba umfakizicelo uliwinile ityala kwezo ngxoxo zamatyala, umfakizicelo lowo uza kuvunyelwa ukuba alisebenzise ilungelo elo. Ukuba akaliwini ityala, ilungelo liza kwabiwa ngokulinganayo phakathi kwabo bonke abafakizicelo abaphumeleleyo abakwiqela elinye.

### **7.2.6 Ukufikelela kwinqanawe efanelekileyo**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe kukuba -
  - (i) umfakizicelo unayo na inqanawa yokuloba efanelekileyo okanye unako ukufikelela kuyo.

- (ii) iinqanawa zokuloba ezichongwe ngumfakisicelo ziyathobelana na nokhuseleko elwandle kunye neenkukacha zenqanawa yokuloba ngokwayamene neMerchant Shipping Act 57 of 1951, iSouth African Maritime Safety Authority (“i-SAMSA”) Act 5 of 1998 (“uMthetho”), iMarine Traffic Act 2 ka-1981 kunye nemiGaqo yayo.
- (b) Inqanawa yokuloba efanelekileyo iza kuchazwa kumgaqonkqubo ogxile kushishino lwezokuloba ekubhekiselelwe kuwo, kodwa ukuze nayiphi na inqanawa yokuloba isebenze kushishino lokuloba laseMzantsi Afrika, inqanawa yokuloba kufuneka:
  - (i) ibe yinqanawa yokuloba eneflegi yaseMzantsi Afrika (ngaphandle kokuba kutshiwo ngokuhlukileyo kumgaqonkqubo ogxile kushishino lwezokuloba);
  - (ii) ingeniswe kwinkqubo yokubeka iliso ekusetyenzisweni kwenqanawa yokuloba eyamkelwe lisebe (i-VMS) (ngaphandle kokuba oko kukhululwe liSebe);
  - (iii) ibhaliswe liQumrhu loKhuseleko lwezaseLwandle (the South African Maritime Safety Association) (i-SAMSA) njengefanelekileyo ukuba ilobe; kwaye
  - (iv) ingabi kuluhlu lweenqanawa zokuloba ezinegama elibi kuyo nayiphi na i-RFMO kunye/okanye kwiziVumelwano.

### 7.2.7 Indlela ekulotywa ngayo

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwinani lamaxesha onyaka okuloba umfakisicelo asebenzise ngawo ilungelo lakhe lokuqhuba umsebenzi wokulobela ezorhwebo kwicandelo lokuloba umfakisicelo afakele lona isicelo solwabelo kwakhona lwelungelo.

### 7.2.8 Utshintsho

- (a) UMgaqonkqubo Jikelele ka-2021 ulangazelela ukuqhubeka nokutshintsha nokuphucula amazinga otshintsho asele ephunyeziwe kwishishini lokuloba. Utshintsho olusemgangathweni kuphela oluza kuqatshelwa, oko kukuthi, utshintsho oluneziphumo zeenzuzo zokwenyani kubantu abavinjwa amathuba ngaphambili njengoko kuchaziwe kuMthetho weNgxowamali yokuXhobisa yeSizwe 105 ka-1998 (the National Empowerment Fund Act 105 of 1998) (i-NEFA). Ngokwayamene ne-NEFA “abantu abavinjwa amathuba ngaphambili” bathetha abo bantu okanye amaqela abantu abathi, phambi kokuba

urhulumente wentando yesininzi owaziwa ngokuvelisa nokuphunyezwa koMthetho woMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 (uMthetho No. 108 ka-1996), bathi bavinjwa amathuba ngokucalucalulwa ngokungenabulungisa ngenxa yobuhlanga kwaye kuquka abantu abanelungelo ngokusemthethweni okanye imibutho yabo bantu kwaye abayilawulayo.

- (b) Abo bantu bavinjwa amathuba ngaphambili kushishino lokuloba ngokusekelwe kuhlanga abalulo nesini sabo, ingakumbi ngokuphathelele kufikelelo lwamalungelo okulobela ezoRhwebo. Kufanelekile ngokunjalo ukukhuthaza ukuthabatha inxaxheba kwabo bantu bathe bavinjwa amathuba ngaphambili kuwo onke amasebe kushishino lwezokuloba. Kufanelekile kwakhona ukuhlangabezana nokungalingani kwangaphambili kwaye kuphunyezwe ubulungisa kushishino lokuloba.
- (c) Kwinkqubo yolwabelo lwamalungelo, uhlanga, isini kunye nobudala zabafakizicelo, kwaye nakwimeko yabantu abanelungelo ngokusemthethweni, uhlanga, isini kunye nobudala zabaninizabelo okanye bamalungu omfakisicelo, iziphathamandla, abanikinkonzo kunye nabasebenzi, nabo baza kuthathelwa ingqalelo. Ukongeza koko, utyalomali lwequmrhu lwezentlalo luza kuthathelwa ingqalelo.
- (d) Kuza kuhlolwa futhi kwaye kuza kuthathelwa ingqalelo ukuzuza ngokobunini babafakizicelo kuphela abavinjwa amathuba ngaphambili, ngokubanika amalungelo okuvota angenasithintelo kunye nomdla kwezoqoqosho onxulunyaniswa nobunini bezixhobo zotalomali kwiimarike zemali. Ukufumanisa ukuba amalungelo okuvota kunye nomdla kwezoqoqosho “akuthintelwa”, uGunyaziwe oTyunjiweyo angathathela ingqalelo uMgaqo 100 woMthetho we-BBBEE. UMgaqo 100 nguMlinganiselo weNxenye yoBumnini yokuXhotyiswa kwabaNtsundu kwezoQoqosho okuNabileyo.
- (e) Amanqaku aza kwabelwa abafakizicelo abaphumeleleyo ukuxhobisa abasebenzi babo ngezikum zobumnini zabasebenzi, ukuba abafakizicelo bangabonakalisa ukuba abasebenzi bafumene iinzuzo zokwenene (ezinje ngezahlulo kunye nolawulo ngokuhlangeneyo) kwisikim kwaye nokuba ezo nzuzo zinako ukuqinisekiswa. Inani labantu abavinjwa amathuba ngaphambili kulawulo oluphezulu okanye lwabaphathi kwientithi yeshishini lokuloba yomfakisicelo liza kuthathelwa ingqalelo. Abaphathi abaphezulu okanye iziphathamandla ngokuqhelekileyo ngabo bantu banoxanduva lokukhokela imisebenzi yezicwangcisoqhingana zokusebenza kwinkampani nabaphantsi ngqo mhlawumbi kwintloko elawulayo okanye kwiBhodi.

- (f) Xa kuhlolwa kwaye kunikwa izicelo amanqaku, kwaye naxa kusabelwa iinxenye ze-TAC kubafakizicelo abaphumeleleyo, uGunyaziwe oTyunjiweyo angakhetha abafakizicelo ngokusekelwe kwiindlela ezisetyenziswayo zotshintsho. Xa kukhutshwa inqaku lendlela esetyenziswayo, okanye kusabelwa iinxenye ze-TAC, uGunyaziwe oTyunjiweyo angathathela ingqalelo: iinkcukachamanani zobalobantu okanye olunye ulwazi olunikwa Zezeenkukachamanani zoMzantsi Afrika ngokuphathelele kulwakheko lwabantu belizwe baseMzantsi Afrika, kunye nepesenti yabo bantu belizwe eyenziwa ngamaqela eenkcukachamanani zabemi awohlukeneyo; isidingo sokuqinisekisa ukuhlonitshwa nokuthabatha inxaxheba ngokululutho kwishishini lokuloba kwaBantu abaVinjwa amaThuba ngaPhambili (ii-HDI) kunye nemigaqo yokusebenza ngokulungileyo phantsi koMthetho oLungisiweyo wokuXhotyiswa kwezoQoqosho okuFikelela ngokuNabileyo (Broad Based Economic Empowerment Amended Act).
- (g) Abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
- (i) kwiprofayili yomfakizicelo ngokuphathelele kuhlanga, isini kunye nobudala babantu ngokuzimeleyo.
  - (ii) kwiprofayili yokuba ngumnini ontsundu yomfakizicelo kwiinkampani.
  - (iii) kwiprofayili yokuxhotyiswa yomfakizicelo kunye nerekhodi yenkonzo yokusebenza yomsebenzi ngokuphathelele kubantu abantsundu, ibhinqa, ulutsha, abantu abaphila nokhubazeko kunye neminyaka yenkonzo yokusebenza.
  - (iv) ipesenti yoMrholo we-HDI yoMrholo oPheleleyo.
  - (v) kwizaHlulo ezihlawulwe abaninizabelo okanye amalungu kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulwahlulwa kwabaxhamli ngokohlanga nangokwesini.
  - (vi) kwizaHlulo ezihlawulwe kwiTrasti yabaSebenzi kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulahlulwa kwabaxhamli ngokohlanga nangokwesini.
  - (vii) kwipesenti yenzuzo emva kweendleko yomfakizicelo echithwa kutyalomali lwequmrhu lwezintlalo.
  - (viii) ukuba ingaba umfakizicelo wenza inkqubo yeentengo nokufumana abanikinkonzo yeempahla/iinkonzo kwi(kwii)nkampani ya(za)abantu abantsundu abasisininzi na.

- (ix) ukuba ingaba umfakisisicelo ngumsebenzi otyunjweyo na njengoko kuchaziwe kwiCandelo 1 loMthetho woBulungisa kwezeNgqesho 55 ka-1998 (Section 1 of the Employment Equity Act 55 of 1998).
- (x) ukuba ingaba umfakisisicelo uyawuthobela na uMthetho woBulungisa kwezeNgqesho 55 ka-1998 (the Employment Equity Act 55 of 1998).
- (xi) ukuba ingaba umfakisisicelo unaso na isicwangciso sobulungisa kwezengqesho.
- (xii) ukuba ingaba umfakisisicelo uwuthobele na uMthetho woPhuhliso lwezaKhono 97 ka-1998 (Skills Development Act 97 of 1998).
- (xiii) ukuba ingaba umfakisisicelo uzihlawule na iilevi ngokwayamene noMthetho weeLevi woPhuhliso kwezaKhono 9 ka-1999 (Skills Development Levies Act 9 of 1999).
- (xiv) ukuba ingaba umfakisisicelo umqeshile na umbhexeshi wophuhliso lwezakhono.
- (xv) ukuba ingaba umfakisisicelo unaso na isicwangciso sezakhono sasemsebenzini.
- (xvi) ukuba ingaba umfakisisicelo uyayithabatha na inxaxheba kwiinkqubo zokufundela umsebenzi kwingqesho.
- (xvii) ukuba ingaba umfakisisicelo uyaziqhuba na iiprojekthi zophuhliso loshishino ukuhlangabezana nobumnini obandayo babantu abantsundu, ulawulo nezakhono kurhwebo lwezoshishino olutsha, oluquka iinkqubo zotyalomali kunye nofikelelo kwizimali.
- (xviii) isixamali ngqo nepesenti echithiweyo kwiimpahla neenkondo eMzantsi Afrika nangaphandle.
- (xix) ukuba umfakisisicelo usungule imisebenzi eyenza inzuzo kwicandelo elithile/ushishino lokuloba asebenzakulo.
- (xx) ukukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokuphathelele kumazibuko apho iintlanzi ezilotyiweyo zothulwe khona zaza zalungiswa.
- (xxi) ukukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokwenza izibophelelo ngokuphathelele kumazibuko apho iintlanzi ezilotyiweyo zothulwe khona kwaye zalungiswa.

### **7.2.9 Ukudalwa kwamathuba emisebenzi**

- (a) Injongo ebalulekileyo yolwabelo lwamalungelo okulobela ezoRhwebo kukudala imekobume efanele ukudalwa kwamathuba emisebenzi, ingakumbi, ukudalwa kwamathuba emisebenzi ekumgangatho ongcono nesisigxina kushishino lokuloba.

- (b) Imisebenzi edalwe ngabafakizicelo abanamalungelo okulobela ezorhwebo kunye nokwanda kwemisebenzi ngenxa yolwabelo lwamalungelo okulobela ezorhwebo ngokuye ixesha lihamba, iza kuthathelwa ingqalelo.
- (c) Ukudalwa kwamathuba engqesho esisigxina kuyakhethwa kunengqesho yamaxesha athile onyaka kwaye ingqesho yamaxesha athile onyaka iyakhethwa kunengqesho engaphantsi kwesivumelwano sengqesho.
- (d) Ngoko ke, abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwinani labasebenzi abasisigxina ngokuphathelele kunyakamali ngamnye ilungelo elinikwe ngawo.
  - (ii) ukuba umfakizicelo uyayithobela na imiqathango yokusebenza yengqesho kwiinqanawa zokuloba nakwimizimveliso, ukhuseleko elwandle, impilo nokhuseleko ngokwayamene neOccupational Health & Safety Act (noMthetho wezeMpilo & noKhuseleko eMsebenzini) 85 ka-1993 kunye neCompensation for Occupational Injuries & Diseases Act (noMthetho wokuBuyekezwa uMenzakalo eMsebenzini & neziFo) 130 ka-1993.

#### **7.2.10 Amanqaku okuhluzisa**

- (a) ukuba kukho abafakizicelo abanamanqaku alinganayo, uGunyaziwe oTyunjweyo angasebenzisa imilinganiselo yamanqaku okuhluzisa ngenjongo yokukhetha phakathi kwabafakizicelo abanamanqaku alinganayo.
- (b) amanqaku okuhluzisa aza kuba nganengqiqo, nganobulungisa kwaye abe ngangakhethi cala kwaye angabandakanya imilinganiselo enganikwanga manqaku okanye kunikwe amanqaku imilinganiselo elinganiselwe ngokwahlukeneyo ukuze kunikwe ifuthe kwiinjongo nemithethosiseko ye-MLRA.

### **7.3 Iindlela ezisetyenziswayo zokuzinzisa: Iqela C / abafakizicelo abaqalayo ukungena**

Abafakizicelo, ngokwayamene nemigaqonkqubo egxile kwicandelo nefomu yomfakizicelo, baza kunikwa inqaku lelilinganiselweyo ngokusekelwe: –

#### **7.3.1 Amava okuloba nolwazi ngokunjalo**

Inani leminyaka umfakisisicelo esebenza okanye ebandakanyeke kwimisebenzi enxulumene nokuloba (umz. ukuloba, ukuba lilungu labasebenzi abasebenza enqanaweni, ukuba ngumsebenzi womzimveliso, ukumaketha okanye ukuthengisa iintlanzi njalo njalo) kwaye kwiinkampani, inani leminyaka abaninizabelo besebenza kushishino lwezokuloba.

### **7.3.2 Utyalomali**

- (a) Ixabiso elifanelekileyo lokuloba okuhlawulwa kwixesha elingaphezulu konyaka kunye namatyala neempahla ezinexabiso ezinxulumene nokuloba noshishino lwezokuloba ezibhaliswe phantsi kwegama lomfakisisicelo. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka kunye neemveliso ezisetyenziswa lishishini zichazwa njengezihlawulwa ngaphezulu konyaka – ezingalindelekanga ukuba zifunyanwe okanye zihlawulwe ngonyaka omnye. Iimpahla ezinexabiso ezihlawulwa ngexesha elingaphezulu konyaka zibandakanya kodwa zingaphelelanga apho ipropati, iplanti kunye nezixhobo (ukuquka nenqanawe yokuloba), ipropati yotyalomali, iimpahla ezingaphathekiyo kunye notyalomali ezinikwa ixabiso kusetyenziswa indlela yezixhobo zotyalomali kwiimarike zemali.
  
- (b) Ixabiso elifanelekileyo lokuloba okuhlawulwa ngonyaka omnye kunye namatyala nempahla enexabiso ezinxulumene nazo ezibhaliswe phantsi kwegama lomfakisisicelo. Iimpahla ezinexabiso ezihlawulwa ngonyaka omnye kunye namatyala ahlawulwa ngonyaka omnye zezexesha elifutshane kwaye zisebenza njengenxenyane yenkqubo yokusebenza kweshishini. Kuqikelelwa ukuba zifunyanwa okanye zihlawulwa ngekheshi kunyaka omnye. Iimpahla ezinexabiso ezihlawulwa ngonyaka omnye ziquka kodwa zingaphelelanga apho uluhlu lweempahla, urhwebo kunye nezinye izinto ezifunyanwayo, imali kunye nokulingana nemali.

### **7.3.3 Ukuthembela**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe —
  - (i) kwingeniso ngokwepesenti (%) efunyenwe kwi(kuma)candelo okuloba aseMzantsi Afrika.
  - (ii) nengeniso ngokwepesenti (%) efunyenwe kwi(kuma)candelo okuloba angaphandle koMzantsi Afrika.



#### **7.3.4 Ukuthobela**

Abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe kukuba–

- (a) umfakizicelo ubekwe ityala phantsi kwe-MLRA, okanye imigaqo okanye ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (b) umfakizicelo ungene kwisibongozo sokuhliselwa isigwebo phantsi koMthetho weNkqubo yezoLwaphulomthetho 51 ka-1977 (Criminal Procedure Act 51 of 1977), ngokwaphula i-MLRA, okanye imigaqo, ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (c) umfakizicelo uhlawule isohlwayo sentlawulo sokuvuma ityala ngenxa yokwaphula i-MLRA ngokwesigaba sexesha esimiselwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
- (d) inqanawa yokuloba yomfakizicelo, imoto yakhe, umhlaba onesakhiwo wakhe okanye naziphi na iimpahla ezinexabiso zomfakizicelo ezithinjiwe phantsi kwe-MLRA okanye aphulukene nazo phantsi kwePrevention of Organised Crime Act (uMthetho wokuNqandwa koLwaphulomthetho oluCwangcisiweyo) 121 ka-1998 ngokwesigaba sexesha esimiselweyo kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.

Abafakizicelo abanamatyala asaqhubekayo izicelo zabo ziza kujongwa ekugqityweni kwezoo ngxoxo. Ukuba umfakizicelo uliwinile ityala kwezo ngxoxo zamatyala, umfakizicelo lowo uza kuvunyelwa ukuba alisebenzise ilungelo elo. Ukuba akaliwini ityala, ilungelo liza kusasazwa ngokulinganayo phakathi kwabo bonke abafakizicelo abaphumeleleyo abakwiqela elinye.

#### **7.3.5 Ukufikelela kwinqanawe efanelekileyo**

- (a) Abafakizicelo, ngokuxhomekeke kwifomu yomfakizicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe kukuba ingaba -
  - (i) umfakizicelo unayo na inqanawa yokuloba efanelekileyo okanye unako ukufikelela kuyo.
  - (ii) iinqanawa zokuloba ezichongwe ngumfakizicelo ziyaluthobela na ukhuseleko elwandle neenkukacha zenqanawa yokuloba ngokwayamene neMerchant Shipping Act 57 of 1951, iSouth African Maritime Safety Authority (“i-SAMSA”) Act 5 of 1998, iMarine Traffic Act 2 of 1981 kunye nemiGaqo yayo.

- (b) Inqanawa yokuloba efanelekileyo iza kuchazwa kumgaqonkqubo ogxile kwicandelo loshishino lwezokuloba ekubhekiselelwe kulo, kodwa ukuze nayiphi na inqanawa yokuloba isebenze kushishino lokuloba laseMzantsi Afrika, inqanawa yokuloba kufuneka:
  - (i) ibe yinqanawa yokuloba eneflegi yaseMzantsi Afrika (ngaphandle kokuba kutshiwo ngokuhlukileyo kumgaqonkqubo ogxile kushishino lwezokuloba);
  - (ii) ingeniswe kwinkqubo yokubeka iliso ekusebenzeni kwenqanawa yokuloba eyamkelwe lisebe (i-VMS) (ngaphandle kokuba oko kukhululwe liSebe);
  - (iii) ibhaliswe liQumrhu loKhuseleko lwezaseLwandle (the South African Maritime Safety Association) (i-SAMSA) njengefanelekileyo ukuba ilobe; kwaye
  - (iv) ingabi kuluhlu lweenqanawa zokuloba ezinegama elibi kuyo nayiphi na i-RFMO kunye/okanye kwiziVumelwano.

### 7.3.6 Utshintsho

- (a) UMgaqonkqubo Jikelele ka-2021 ulangazelela ukuqhubeka nokutshintsha nokuphucula amazinga otshintsho asele ephunyeziwe kwishishini lokuloba. Lutshintsho olusemgangathweni kuphela oluza kuqatshelwa, oko kukuthi, utshintsho oluneziphumo zeenzuzo zokwenyani kubantu abavinjwa amathuba ngaphambili njengoko kuchaziwe kuMthetho weNgxowamali yokuXhobisa yeSizwe 105 ka-1998 (the National Empowerment Fund Act 105 of 1998) (i-NEFA). Ngokwayamene ne-NEFA “abantu abavinjwa amathuba ngaphambili” bathetha abo bantu okanye amaqela abantu abathi, phambi kokuba urhulumente wentando yesininzi owaziwa ngokuvelisa nokuphunyezwa koMthetho woMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 (uMthetho No. 108 ka-1996), bathi bavinjwa amathuba ngokucalucalulwa ngokungenabulungisa ngenxa yobuhlanga kwaye kuquka abantu abanelungelo ngokusemthethweni okanye imibutho yabo bantu kwaye abayilawulayo.
- (b) Abo bantu bavinjwa amathuba ngaphambili kushishino lokuloba ngenxa yobuhlanga nesini sabo, ingakumbi ngokuphathelele kufikelelo lwamalungelo okulobela ezoRhwebo. Kufanelekile ngokunjalo ukukhuthaza ukuthabatha inxaxheba kwabo bantu bathe bavinjwa amathuba ngaphambili kuwo onke amasebe kushishino lwezokuloba. Kufanelekile kwakhona ukuhlangabezana nokungalingani kwangaphambili kwaye kuphunyezwe ubulungisa kushishino lokuloba.

- (c) Kwinkqubo yolwabelo lwamalungelo, uhlanga, isini kunye nobudala zabafakizicelo, kwaye nakwimeko yabantu abanelungelo ngokusemthethweni, uhlanga, isini kunye nobudala zabaninizabelo okanye bamalungu omfakisicelo, iziphathamandla, abanikinkonzo kunye nabasebenzi, nabo baza kuthathelwa ingqalelo. Ukongeza koko, utyalomali lwequmrhu lwezentlalo luza kuthathelwa ingqalelo.
- (d) Kuza kuhlolwa futhi kwaye kuza kuthathelwa ingqalelo ukuzuza ngokobunini babafakizicelo kuphela abavinjwa amathuba ngaphambili, ngokubanika amalungelo okuvota angenasithintelo kunye nomdla kwezoqoqosho onxulunyaniswa nobunini bezixhobo zotyalomali kwiimarike zemali. Ukufumanisa ukuba amalungelo okuvota kunye nomdla kwezoqoqosho “akuthintelwa”, uGunyaziwe oTyunjiweyo angathathela ingqalelo uMgaqo 100 woMthetho we-BBBEE.
- (e) Abafakizicelo abaphumeleleyo baza kunikwa amanqaku ngokuxhobisa abasebenzi babo ngezikim zobumnini, ngaphandle kokuba abafakizicelo bangabonisa ukuba abasebenzi babo bafumana iinzuzo zokwenene (ezinje ngezahlulo kunye nokulawula ngokuhlangeneyo) kwisikim kwaye nokuba ezo nzuzo zinako ukuqinisekiswa. Kuza kuthathelwa ingqalelo inani labantu abavinjwa amathuba ngaphambili kubaphathi abaphezulu okanye kwiziphathamandla kwientithi yeshishini lokuloba yomfakisicelo. Abaphathi abaphezulu okanye iziphathamandla ngokuqhelekileyo ngabo bantu banoxanduva lokukhokela imisebenzi yezicwangcisoqhinga zokusebenza kwinkampani nabaphantsi ngqo mhlawumbi kwintloko elawulayo okanye kwiBhodi.
- (f) Xa kuhlolwa kwaye kunikwa izicelo amanqaku, kwaye naxa kusabelwa iinxenye ze-TAC kubafakizicelo abaphumeleleyo, uGunyaziwe oTyunjiweyo angakhetha abafakizicelo ngokusekelwe kwiindlela ezisetyenziswayo zotshintsho. Xa kukhutshwa inqaku lendlela esetyenziswayo, okanye kusabelwa iinxenye ze-TAC, uGunyaziwe oTyunjiweyo angathathela ingqalelo: iinkcukachamanani zobalobantu okanye olunye ulwazi olunikwa Zezeenkukachamanani zoMzantsi Afrika ngokuphathelele kulwakheko lwabantu belizwe baseMzantsi Afrika, kunye nepesenti yabo bantu belizwe eyenziwa ngamaqela eenkcukachamanani zabemi awohlukeneyo; isidingo sokuqinisekisa ukuhlonitshwa nokuthabatha inxaxheba ngokululutho kwishishini lokuloba kwaBantu abavinjwa amaThuba ngaPhambili (ii-HDI) kunye nemigaqo yokusebenza okulungileyo phantsi koMthetho oLungisiweyo wokuXhotyiswa kwezoQoqosho okuFikelela ngokuNabileyo (Broad Based Economic Empowerment Amended Act).

- (g) Abafakizicelo, ngokuxhomekeke kwifomu yomfakisicelo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwiprofayili yomfakisicelo ngokuphathelele kuhlanga, isini kunye nobudala babantu;
  - (ii) kwiprofayili yenkampani yabantu abantsundu abangabanini;
  - (iii) kwiprofayili yokuxhotyiswa komfakisicelo kunye nerekhodi yokusebenza yabasebenzi ngokuphathelele kubantu abantsundu, amabhinqa, ulutsha, abantu abaphila nokukhubazeka kunye neminyaka yokusebenza;
  - (iv) kwipesenti yemiRholo yee-HDI kuMrholo we-HDI uwonke;
  - (v) Ukuhlawulwa kwabaninizabelo okanye amalungu izahlulo kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulwahlulwa ngokohlanga nangokwesini kwabaxhamli;
  - (vi) kwizaHlulo ezihlawulwe kwiTrasti yabaSebenzi kunye neavareji yokuphuma nokungena kwemali kubaxhamli, ukuquka nokwahlulahlulwa ngokohlanga nangokwesini kwabaxhamli;
  - (vii) kwipesenti yenzuzo emva kweendleko yomfakisicelo echithwa kutyalomali lwequmrhu lwezentlalo;
  - (viii) ukuba ingaba umfakisicelo wenza inkqubo yeentengo nokufumana abanikinkonzo yeempahla / iinkonzo kwi(kwii)nkampani ya(za)abantu abantsundu abasisininzi na;
  - (ix) ukuba ingaba umfakisicelo ngumqeshi otyunjiweyo njengoko kuchaziwe kwiCandelo 1 loMthetho woBulungisa kwezeNgqesho 55 ka-1998 (Section 1 of the Employment Equity Act 55 of 1998);
  - (x) ukuba ingaba umfakisicelo uyawuthobela na uMthetho woBulungisa kwezeNgqesho 55 ka-1998 (the Employment Equity Act 55 of 1998);
  - (xi) ukuba ingaba umfakisicelo unaso na isicwangciso sobulungisa kwezengqesho;
  - (xii) ukuba ingaba umfakisicelo uwuthobele na uMthetho woPhuhliso lwezaKhono 97 ka-1998 (Skills Development Act 97 of 1998);
  - (xiii) ukuba ingaba umfakisicelo uzihlawule na iilevi ngokwayamene noMthetho weeLevi woPhuhliso lwezaKhono 9 ka-1999 (Skills Development Levies Act 9 of 1999);
  - (xiv) ukuba ingaba umfakisicelo umqeshile na umbhexeshi wophuhliso lwezakhono;
  - (xv) ukuba ingaba umfakisicelo unaso na isicwangciso sezakhono sasemsebenzini;
  - (xvi) ukuba ingaba umfakisicelo uyayithabatha na inxaxheba kwiinkqubo zokufundela umsebenzi kwingqesho;

- (xvii) ukuba ingaba umfakisiselo uyazibandakanya na kwiiprojekthi zokuphuhlisa ushishino ukuhlangabezana nokwandisa ubumnini babantu abantsundu, ulawulo kunye nezakhono kumarhwebo ezoshishino amatsha, oluquka iinkqubo zotyalomali kunye nofikelelo kwinkxasomali.
- (xviii) kwisixamali sokwenene nepesenti echithiweyo kwiimpahla neenkono ngaphakathi nangaphandle kwaseMzantsi Afrika;
- (xix) ukuba ingaba umfakisiselo usungule imisebenzi eyinzuzo kwicandelo elithile/kushishino lokuloba asebenza kulo;
- (xx) ukukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokuphathelele kumazibuko ekothulelwe kuwo iintlanzi ezilotyiweyo kwaye zalungiswa; kunye
- (xxi) nokukhuthazwa kophuhliso lwezoqoqosho lwengingqi ngokwenza izibophelelo ngokuphathelele kumazibuko ekothulelwe kuwo iintlanzi ezilotyiweyo kwaye zalungiswa.

### **7.3.7 Ukudalwa kwamathuba emisebenzi**

- (a) Injongo ebalulekileyo yolwabelo lwamalungelo okulobela ezoRhwebo kukudala imekobume efanele ukudalwa kwamathuba emisebenzi, ingakumbi, ukudalwa kwamathuba emisebenzi ekumgangatho ongcono nesisigxina kushishino lokuloba.
- (b) Kuza kuthathelwa ingqalelo imisebenzi edalwe ngabafakizicelo abanamalungelo okulobela ezorhwebo kunye nokwanda kwemisebenzi ngenxa yolwabelo lwamalungelo okulobela ezorhwebo ekuhambeni kwexesha.
- (c) Ukudalwa kwamathuba engqesho esisigxina kuyakhethwa kunengqesho yamaxesha athile onyaka kwaye ingqesho yamaxesha athile onyaka iyakhethwa kunengqesho engaphantsi kwesivumelwano sengqesho.
- (d) Ngoko ke, abafakizicelo, ngokuxhomekeka kwifomu yomfakisiselo, baza kunikwa inqaku elilinganiselweyo ngokusekelwe –
  - (i) kwinani labasebenzi abasisigxina ngokuphathelele kunyakamali ophela ngomhla okhankanywe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba.
  - (ii) ukuba ingaba umfakisiselo uyayithobela na imiqathango yokusebenza kwiinqanawa zokuloba nakwimizimveliso, yokukhuseleka elwandle, imithetho yezempilo nokukhuseleka ngokwayamene noMthetho wezeMpilo & nezokhuseleko eMsebenzini (Occupational Health & Safety Act) 85 ka-1993 kunye noMthetho weMbuyekezo ngokweNzakala nokuFumana iziFo eMsebenzini (Compensation for Occupational Injuries & Diseases Act 130) ka-1993.

## **7.2.8 Amanqaku okuhluzo**

7.2.8.1 ukuba kukho abafakizicelo abaninzi kakhulu abanamanqaku alinganayo, uGunyaziwe oTyunjiweyo angasebenzisa iindlela ezisetyenziswayo zamanqaku okuhluzo ngenjongo yokukhetha phakathi kwabafakizicelo abanamanqaku alinganayo.

7.2.8.2 amanqaku okuhluzo angabandakanya imilinganiselo engalinganiselwanga okanye imilinganiselo elinganiselwe ngokwahlukeneyo.

## **8 UKUNIKWA KWAMALUNGELO OKULOBELA EZORHWEBO**

### **8.1 Inani eliVumelekileyo lokuLotywayo kukoNke (i-TAC), Imigudu eSetyenziswayo iyoNke (i-TAE) okanye indibanisela yazo**

8.1.1 UMphathiswa okanye uGunyaziwe oTyunjiweyo unamagunya okumisela, ngokwayamene necandelo 14 le-MLRA kwi-TAC yehlabathi jikelele, i-TAE okanye indibanisela yazo ukuba isetyenziswe ngonyaka kushishino lwezokuloba ngalunye.

8.1.2 I-TAC, i-TAE okanye indibanisela yazo zimiselwa nguGunyaziwe oTyunjiweyo ngokujonga, phakathi kwezinye izinto, ingxelo yokuhlolwa kweentlanzi ezithile zecandelo loshishino lwezokuloba yakutshanje, imbali, abasebenzisi bezixhobo, uzinzo lwemisebenzi lwabanini bamalungelo kunye nokusebenza koshishino lwezokuloba. UGunyaziwe oTyunjiweyo uza kwaba isabelo sorhwebo sengingqi esimiselweyo se-TAC, i-TAE okanye indibanisela yazo kubanini bamalungelo ngokusekelwe kwinxenye enikwe umfakisicelo ophumeleleyo ngamnye ngexesha lenkqubo yolwabelo lwamalungelo okulobela ezorhwebo. Ulwabelo lomnini welungelo lungancipha okanye lwande ukuba nje iinxenye zorhwebo lwengingqi zonyaka ze-TAC, ze-TAE okanye indibanisela yazo emiselweyo ingancipha okanye yande ngokwahlukahlukeneyo. Ngokwayamene necandelo 14(4) le-MLRA, ukuba okulotyelwe urhwebo oluvumelekileyo ngokuphathelele kumalungelo okulobela ezorhwebo akhoyo kuyanda, ubungakanani bokwanda buza kufumaneka ukuze uMphathiswa enze ulwabelo.

- 8.1.3** Inxenye yezorhwebo ye-TAC, i-TAE okanye indibanisela yazo ingagodlwa ngokwentando yoMphathiswa okanye uGunyaziwe oTyunjiweyo wakhe ngezibheni okanye nawu(yi)phi na o(emi)nye um(imi)cimbi o(e)phambili wo(yo)kwenza umsebenzi wokukhuthaza ukufezekiswa kweenjongo ze-MLRA ezandlalwe kwicandelo 2.
- 8.1.4** Ngokuphathelele kwizibheni, inxenye eshiyekileyo ye-TAC, i-TAE okanye indibanisela yazo, ekhankanywe ku-8.1.3 apha ngentla, emva kokugqitywa kwenkqubo yezibheni kunye neengxoxo zenkundla ezilandela izibheni ezingakhange ziphumelele okanye ukuba khange kubekho zibheni zifakiweyo, iza kwabiwa ngokulinganayo kubafakizicelo abaphumeleleyo okanye abanini bamalungelo abakhoyo.
- 8.1.5** Xa kunokuthi kanti inxenye ye-TAC, ye-TAE egodlwe inkqubo yezibheni ibe ayonelanga, ngokusekelwe kwiziphumo zesigwebo senkundla ngomcimbi omnye, inxenye enokufunyanwa ngabafakizicelo abaphumeleleyo iza kulungiswa ngokuyehlisa ukuze ingadluli kwi-TAC, kwi-TAE eyamkelweyo okanye indibanisela yazo. Ukuphunyezwa kwezilungiso kuza kujongwana nako kwimigaqonkqubo egxile kwicandelo loShishino lwezokuloba.
- 8.1.6** UMphathiswa angathi, ngokuphathelele kulo naluphi na ushishino lwezokuloba, amisele, emva kokubonisana neQonga leeNgcebiso lokuBonisana (Consultative Advisory Forum), iinxenye ze-TAC, i-TAE, okanye indibanisela yazo, eyabelwa kuwo nawuphi na unyaka abalobi abasakhasayo, abalobela ezorhwebo lwengingqi kunye nokuloba kwamanye amazwe, kwaye amalungelo anikwe ngokuphathelele koko, aza kuncitshiswa.

## **8.2 IFisheries Transformation Council (iBhunga lezoTshintsho loShishino lwezokuLoba**

Lisakube limiselwe, uMphathiswa angabela amalungelo okulobela ezorhwebo kwiBhunga loTshintsho loShishino lwezokuLoba (“iBhunga) ngokwayamene necandelo 31 le-MLRA. IBhunga, lisakube limiselwe, liza kuqeshisa ngamalungelo ngokwayamene nendlela esetyenziswayo emiselwe nguMphathiswa ebantwini bamacandelo asekuhlaleni abavinjwa amathuba ngaphambili nakumashishini amancinci nasakhulayo kwinqanaba eliphakathi.

## **8.3 Ukuthathwa kwesigqibo sethutyana kunye nokwaziswa kwaso**

**8.3.1** UGunyaziwe oTyunjiweyo angakhupha uluhlu lwethutyana ukuze kuphawulwe ngawo nawuphi na umba onxulumene nesi(nezi)celo kulo naliphi na icandelo lokuloba.

**8.3.2** UGunyaziwe oTyunjiweyo angacela ukuba kuphawulwe ngalo naluphi na ulwazi olunikiweyo ngumfakisicelo kwaye ngokusekelwe kumanqakwana afunyenweyo athathe isigqibo sokugqibela.

**8.3.3** UGunyaziwe oTyunjiweyo angamema abantu bazokuthi thaca okuphathelele kuhlobo lwezicelo phambi kokuthatha isigqibo sokugqibela.

#### **8.4 Ulwazi omaluthathelwe ingqalelo**

**8.4.1** Indlela emiswe apha ngezantsi iza kusetyenziswa nguGunyaziwe oTyunjiweyo ngokuphathelele kulwazi omaluthathelwe ingqalelo ukuhlola izicelo:

(a) **linxenye zefomu yesicelo ezingagcwaliswanga**

Ngaphandle kwalapho kubonisiweyo, ukuba inxenye yefomu ayigcwaliswanga, kuza kuqikelelwa ukuba inxenye yefomu ayibhekiseleli kumfakisicelo. Ukuba icandelo linamanqaku amahle anxulumene nempendulo, akukho manqaku aza kukhutshwa kwaye ukuba icandelo linenqaku elingalihlanga elinxulumene nempendulo, kuza kukhutshwa amanqaku angamahlanga.

(b) **Ulwazi olufike emva kwexesha**

Ulwazi olungeniswe emva komhla wokuvalwa kwezicelo aluz'ukuthathelwa ngqalelo.

(c) **Ulwazi lwemithombo yangaphandle**

Ulwazi oludlela indlela ngesicelo esifunyenwe kwimithombo yangaphandle aluz'ukuthathelwa ngqalelo ngugunyaziwe otyunjiweyo ngaphandle kokuba isicelo sinikwa ithuba lokuba sithiwe thaca ngokuphathelele koloo lwazi.

UGunyaziwe oTyunjiweyo angalusebenzisa ulwazi olukwidathabheyisi yamaSebe kaRhulumente okanye ee-Entithi zakhe ngelixa lenkqubo yolwabelo lwamalungelo xa kuvavanywa kwaye kuhlolwa izicelo.

(d) **Ukusetyenziswa kwedathabheyisi yeSebe**



Ugunyaziwe otyunjiweyo angalusebenzisa ulwazi olukwidathabheyisi yeSebe ngqo ngelixa lenkqubo yolwabelo lwamalungelo, kodwa oko kuza kwenziwa kuphela xa abafakizicelo benikwa ithuba lokuthi thaca ngokuphathelele kukuchaneka kwedatha.

(e) **Ukusetyenziswa kolwazi loMnini weLungelo**

Ugunyaziwe otyunjiweyo angafuna ukuba abafakizicelo bangenise ulwazi oluphicothiweyo noluninisekisiweyo ngelixa lenkqubo yolwabelo lwamalungelo. Ugunyaziwe otyunjiweyo uza kufuna ukuba abafakizicelo abaphumeleleyo ukuba ngabaNini bamaLungelo bagcine ulwazi ngesithuba selungelo.

(f) **Ukungeniswa kolwazi olububuxoki okanye amaxwebhu kunye nokungabhengezi**

(i) Abafakizicelo okanye abameli babo abagunyazisiweyo balindeleke ukuba bafungele isibhengezo phambi kwegosa lokufungisa besithi, phakathi kwezinye izinto, abangenisanga lwazi lububuxoki okanye amaxwebhu kwaye nokuba abasilelanga ukubhengeza ulwazi olubambekayo.

(ii) Ukungeniswa kolwazi olububuxoki okanye amaxwebhu abubuxoki okanye ukusilela ukubhengeza ulwazi olubambekayo kuza kuthathwa ngokuba kusionzathu esizimeleyo sokwala isicelo. Kuza kuthathwa ngokuba umfakizicelo unike ulwazi olububuxoki ukuba kukho ukungahambelani okubonakalayo phakathi kolwazi olunikwe ngumfakizicelo nolo lukwidathabheyisi nolukwiirekhodi zeSebe kwaye apho kungenakwenzeka ukuba zombini iinguqulelo zibe zichanekile.

(iii) Ukunika ubungqina obububuxoki kwisibhengezo esifungelweyo, usazi ukuba oko bubuxoki, kulityala lolwaphulomthetho.

## **8.5 Izicelo zolunye ulwazi, uphando nokubonisana**

**8.5.1** UGunyaziwe oTyunjiweyo angamema abafakizicelo ukuba benze izingeniso ngomlomo okanye bathi thaca olunye ulwazi ngokubhala ukuba kukho intandabuzo ngokubhekiselele kumba obonakalayo kwinani elikhulu lezicelo. Ukuba kubanjwe iintlanganiso zomamelozimvo, abameli abasemthethweni baza kuvunyelwa ukuba bajongane noGunyaziwe oTyunjiweyo.

**8.5.2** UGunyaziwe oTyunjiweyo angacela iQela loQinisekiso lamalungelo okulobela ezorhwebo ukuba liphande nawuphi na umcimbi, ukuquka nokuchaneka kolwazi olunikiweyo.

**8.5.3** Abafakizicelo kufuneka bathobele imiqathango nemimiselo yeQela loQinisekiso lwamalungelo okulobela ezorhwebo (umzekelo, ngokungenisa iimpindulo kwangexesha ngokwezicelo ezibhaliweyo zolwazi okanye iinkcazelo, ukungena iintlanganiso nabaphandi, ukuphendula imibuzo ngokwanelisayo kwezo ntlanganiso, kwaye apho kunokwenzeka, ngokuvumela abaphandi ukuba bafikelele kubaninizabelo, abasebenzi, umhlaba onesakhiwo, iinqanawa zokuloba namaxwebhu). Ukusilela ukuthobela oku kungasisizathu esizimeleyo sokwaliwa kwsicelo.

## **8.6 Ukubandakanyeka komfakizicelo kunye nobudlelane nabanye abafakizicelo**

### **8.6.1 Ukubandakanyeka kwee-entithi kunye neenkampani ezingaphantsi kwazo**

Inkampani kunye naleyo(nezo) i(zi)ngaphantsi kwayo(kwazo) zinganganikwa ngaphezulu kwelungelo elinye kwicandelo ekufakelwe lona isicelo, ukulumkela ukukhohlisa ngobumnini kunye noxhamlowedwa kunye nokunabisa ufikelelo koovimba baselwandle. Abafakizicelo kungafunwa ukuba babhengeze ubudlelane babo nabanye abafakizicelo ngolwabelo lwamalungelo kweli candelo, kunye nakwamanye amacandelo ezorhwebo ngokunjalo. Ukuba ientithi kunye neenkampani ephantsi kwayo zombini zifaka isicelo selungelo kweli candelo, inkampani eyongameleyo kuza kukhethwa yona kunayo nayiphi na inkampani engaphantsi kwenye.

### **8.6.2 UkuSebenzisana kweeNkampani zaNdawonye**

Ukuba iinkampani ezimbini nangaphezulu ezizezabo kwaye ezilawula ngabaninizabelo abafanayo zifaka isicelo selungelo lokulobela ezorhwebo kulo naliphi na icandelo lokuloba, uGunyaziwe oTyunjiweyo uza kuthathela ingqalelo ukwabela ilungelo lokuloba kwenye yeenkampani ukuba ezimbini okanye ngaphezulu kweenkampani zandawonye zililungele ilungelo lokuloba kwelo candelo lithile. UGunyaziwe oTyunjiweyo angathathela kwakhona ingqalelo yokwahlula ilungelo lokuloba elinye phakathi kweenkampani zandawonye ukuba zonke zililungele ilungelo lokuloba kwicandelo lokuloba ekufakelwe lona isicelo.

### **8.6.3 Abantu abahlala ndawonye**

Abantu abahlala ndawonye abanakunikwa ngaphezulu kwelungelo elinye kushishino lwezokuloba ekufakelwe lona isicelo, ukulumkela ubumnini obuyinkohliso kunye noxhamlowedwa kunye nokunabisa ufikelelo. Abafakizicelo kufuneka babhengeze ubudlelane babo nabanye abafakizicelo abakwamanye amashishini okulobela ezorhwebo. Ukuba kukho umntu ongaphezulu komnye ofake

isicelo selungelo emzini omnye, iSebe lingabonisana nabafakizicelo kwaye emva koko limisele ukuba ngubani phakathi kwabo oza kuba ngumfakisicelo ophumeleleyo. UGunyaziwe oTyunjiweyo angathathela ingqalelo kwakhona yokwahlula ilungelo lokuloba elinye phakathi kwabafakizicelo abaphumeleleyo ukuba bonke balilungele ilungelo lokuloba kwicandelo lokuloba abafakele lona isicelo.

## **8.7 Ukuthathwa kwesigqibo sokugqibela kunye nokwaziswa kwaso**

**8.7.1** “Amalungelo okulobela ezorhwebo” awabelwayo phantsi kwe-MLRA ayingawo amalungelo epropati kwaye kufuneka kuqondwe njengemvume emiswe ngokomthetho ukuloba uvimba ophila elwandle ngesigaba sexesha esichongiweyo. Ngokukwanjalo, ukucinywa okanye ukurhoxiswa akubandakanyi ukuhluthwa kwelungelo lepropati kwintsingiselo yecandelo 25 loMgaqonkqubo weRiphabliki yoMzantsi Afrika, 1996 okanye uMthetho wokuHluthwa (the Expropriation Act) 63 ka-1975. Oku kuyacaca kwicandelo 18(6) le-MLRA, elibalula ukuba ilungelo lokuloba lisemthethweni ngokwesigaba sexesha esimiselwe nguMphathiswa (okanye umthunywa wakhe), emva koko elithi libuyele ngokuzenzekelayo kuRhulumente.

**8.7.2** UGunyaziwe oTyunjiweyo uza kunika amalungelo kubafakizicelo abaphumeleleyo ngokwayamene namagatya ecandelo 18 le-MLRA, uMgaqonkqubo Jikelele: 2021 kunye nomgaqonkqubo osemxholweni ogxile kushishino lwezokuloba emva kokuhlolwa kwezicelo nokuthathelwa ingqalelo igalelo okanye amanqakwana ngokuphathelele kwizintlu zethutyana.

**8.7.3** Emva kokuba uGunyaziwe oTyunjiweyo ethathe izigqibo zokugqibela kulwabelo lwamalungelo kunye nobungakanani okanye umgudu, iSebe liza kwazisa bonke abafakizicelo ngokubabhalela kwiidilesi zabo zequmrhu abazibhalisileyo ngokuthathwa kwezigqibo zokugqibela ngokuphathelele kwizicelo zabo.

**8.7.4** Asakube uGunyaziwe oTyunjiweyo ethathe kwaye wazisa isigqibo sokugqibela ngolwabelo lwamalungelo okulobela ezorhwebo kwishishini elithile lezokuloba okanye azise isigqibo sokugqibela ngokunikwa kwabafakizicelo amalungelo koloo shishino luthile lwezokuloba, isigunyaziso sikaGunyaziwe oTyunjiweyo ukwabela amalungelo okulobela ezorhwebo koloo shishino lwezokuloba aza kuphelelwa kwaye awanakuphinde avulelwe kwakhona nguGunyaziwe oTyunjiweyo ngaphandle kokuba uGunyaziwe oTyunjiweyo wenze impazamo ekunikeneni ilungelo

ekufuneka ilungisiwe. Ngamanye amagama, uGunyaziwe oTyunjiweyo uza kuba *ligosa eliphelelwe lixesha* kushishino lwezokuloba oluthile zisakube iziphumo zokugqibela zolwabelo lwamalungelo okuloba zaziswe abafakizicelo kweloo shishino lwezokuloba ngaphandle kokuba kukho impazamo efuna ukulungiswa.

## **8.8 UkuQhubeka kokunikwa kwamaLungelo okuLobela ezoRhwebo**

Xa kunokuthi ilungelo lokulobela ezorhwebo lirhoxiswe ngokwayamene necandelo 28 le-MLRA okanye naliphi na elinye ilungelo emva kokugqitywa naziphi na iingxoxo zokujongwa kwakhona okusemthethweni eziqalisiweyo, ilungelo lingabelwa kumfakisicelo ofake isicelo ngexesha lenkqubo yolwabelo eyiyeyona yamva kweloo candelo lokuloba lithile, wahlangabezana nazo zonke iindlela ezisetyenziswayo zokubekelwa bucala waza wafumana amanqaku ngokwaneleyo phakathi kwabafakizicelo abangaphumelelanga njengoko kurekhodiwe kwiGeneral Published Reasons zokugqibela nguMphathiswa okanye uGunyaziwe oTyunjiweyo wakhe. Aba bafakizicelo baza kubekwa kuluhlu lokulindela kwaye baza kwabelwa ilungelo xa lithe lavela kungakhange kubekho sidingo sokumema okanye sesimemo sezinye izicelo.

Kungenjalo uMphathiswa unokwabela loo malungelo okulobela ezorhwebo iBhunga ngokwayamene necandelo 31 le-MLRA elinokuthi iBhunga, lisakube lifumanisile, liqeshise ngamalungelo ngokuphathelele kwiindlela ezisetyenziswayo ezimiselwe nguMphathiswa kubantu bamacandelo oluntu abavinjwa amathuba ngaphambili nakumashishini amancinci nakushishini asakhulayo kwinqanaba eliphakathi.

## **8.9 Ifomu yabaNini baMalungelo**

**8.9.1** Icandelo 18 le-MLRA libalula ukuba ngabemi baseMzantsi Afrika kuphela abanokuthi babe namalungelo okulobela ezorhwebo.

**8.9.2** Ngokuthathela ingqalelo imeko yokusebenza neyokufikelela koovimba, ngaba bem baseMzantsi Afrika balandelayo kuphela njengoko kuchaziwe kwi-MLRA njengoko kubalulwe kwimiGaqonkqubo eGxile kwiCandelo loShishino lwezokuLoba abaza kunikwa amalungelo okulobela ezorhwebo:

- (a) ummi waseMzantsi Afrika;
- (b) inkampani;
- (c) iqumrhu eliqingqiweyo;
- (d) ookopoletyeni; kwaye

(e) ITrasti

## **8.10 Ixesha elimisiweyo lelungelo**

**8.10.1** Amalungelo okulobela ezorhwebo aza kunikwa onke amacandelo isigaba sexesha esingadlulanga kwiminyaka eli-15.

**8.10.2** Isithuba sexesha samalungelo siza kumiselwa nguGunyaziwe oTyunjiweyo kuthathelwa ingqalelo, phakathi kwezinye izinto, izinga lotshintsho kushishino lwezokuloba, isidingo senkunzi eninzi kushishino lwezokuloba, isidingo sokukhuthaza olunye utyalomali nohlumo lwezozoqosho, ulwazi lwangoku lwesimo senzukulwazi ngokuphilayo sezidalwa zohlobo olunye ekugxilwe kuzo kunye nokusebenza kwabathabathinxaxheba kushishino lwezokuloba.

## **8.11 Izibheno**

**8.11.1** UGunyaziwe oTyunjiweyo uza kuthi, apho kuyimfuneko kwaye kufanelekile, abekele bucala inxenye ye-TAC, i-TAE okanye indibanisela yazo ukulungiselela izibheno. Inxenye engabelwanga ye-TAC, i-TAE okanye indibanisela yazo ebekelwe bucala ukulungiselela izibheno, ukuba kukho naziphi na, iza kwabelwa ngokulinganayo kubo bonke abafakizicelo abaphumeleleyo nababheni. Ulwabelo lwabafakizicelo abaphumeleleyo nalo lunganyenyiswa ngokuxhomekeke kwisiphumo senkqubo yezibheno.

**8.11.2** UGunyaziwe oTyunjiweyo uza kwazisa bonke abafakizicelo ngemihla ebekelwe izibheno.

**8.11.3** Namphi na umfakisicelo okanye umntu ochaphazelekayo okanye onomdla uza kuba nelungelo lokubhena ngezigqibo ezithathwe nguGunyaziwe oTyunjiweyo. Isibheno singangeniswa ngokuchasene nokwalelwa ukunikwa ilungelo okanye ngokuchasene nesigqibo esithathiweyo, inkqubo, ulwazinkqubo ngobungakanani bokufunekayo okanye ngemigudu.

**8.11.4** UMphathiswa, njengogunyaziwe wezokubhena, uza kuthathela ingqalelo iinyaniso njengoko bezinjalo ngomhla wokuvalwa kwezicelo kwaye akaz'ukuthathela ingqalelo iinyaniso ezivele emva koko. Umzekelo, ukuba umfakisicelo wenze utyalomali kwinqanawa yokuloba emva komhla wokuvalwa kwezicelo, loo nyaniso ayizu'ukuthathelwa ingqalelo xa kujongwa isibheno.

**8.11.5** Sisakube sithathiwe isigqibo, obhenayo uza kwaziswa ngesigqibo sikagunyaziwe wezokubhena ngokubhalelwa.

**8.11.6** Emva kwesigqibo esithathiweyo sikagunyaziwe wezokubhena, ababhenayo bangaya ezinkundleni ukujongwa kwakhona kobulungisa kwiintsuku ezingama-180 emva kokuba obhenayo azisiwe ngesigqibo esithathwe ngugunyaziwe wezokubhena.

## **8.12 Ukuhlawulwa komrhumo wokunikwa kwamalungelo**

**8.12.1** ISebe liza kumisela umrhumo wokunikwa kwamalungelo ohlawulelwa ushishino lwezokuloba ngalunye emva kokubonisana ngokufanelekileyo. Umrhumo wokunikwa amalungelo woshishino lwezokuloba ngalunye uza kumiselwa nguMphathiswa ngokubonisana noMphathiswa wezeMali.

**8.12.2** Umrhumo wokunikwa kwelungelo uhlawulwa ngabo bonke abafakizicelo abaphumeleleyo ngokunikwa amalungelo okulobela ezorhwebo. Umrhumo wokunikwa kwamalungelo kufuneka uhlawulwe ngokupheleleyo kwiintsuku ezingama-60 kusakube kufunyenwe ileta yokunikwa kwamalungelo. ISebe aliz'ukwamkela nasiphi na isicelo kwaye sinike amaphephamvume/iilayisenisi kubanini bamalungelo abaphumeleleyo ude ube umrhumo wokunikwa kwelungelo uhlawulwe. Ukuba umnini welungelo uyasilela ukuhlawula umrhumo wokunikwa kwelungelo kumaxesha abekiweyo, iSebe liza kuthi, ngokwayamene necandelo 28 le-MLRA, liqalise iingxoxo zecandelo 28 ngaloo mnini welungelo.

## **8.13 Ukudluliselwa kwelungelo lokuloba**

**8.13.1** Ukudluliselwa kwelungelo lokuloba elinikiweyo ngokwayamene ne-MLRA kuza kujongwana nako ngokwayamene noMgaqonkqubo woDluliselo lweLungelo lokuLoba kunye nemigaqonkqubo egxile kushishino lwezokuloba.

**8.13.2** Ngeenjongo zenkqubo yolwabelo lwamalungelo yangoku, ukudluliselwa kwezabelo kunye/okanye izaziso zokutshintsha kobumnini bezabelo kunye/okanye imidla yelungu kwiinkampani kunye/okanye amaqumrhu aqingqiweyo awakukhululelwayo ngokwayamene necandelo 81 le-MLRA, makungagqibeleli ekubeni umfakizicelo azuze ngenxa yoko kudluliselwa emva kokuphelelwa kwamalungelo abo.

## **8.14 Ukusetyenziswa kwelungelo lokuloba**

**8.14.1** Icandelo 13 le-MLRA libalula ukuba “Akukho mntu uza kusebenzisa naliphi na ilungelo elinikiweyo ngokwayamene necandelo le-MLRA ngaphandle kokuba uMphathiswa ukhuphele loo mntu iphephamvume ukuba asebenzise elo lungelo okanye aqhube loo msebenzi”.

**8.14.2** Amaphephamvume okuqhuba amalungelo okulobela ezorhwebo aza kunikwa abanini bamalungelo ngokwayamene namagatya ecandelo 13 le-MLRA -

(a) Ngesigaba sexesha esithile esingadlulanga kunyaka omnye;

(a) Ngokuxhomekeke kwiimeko ezimiselwe nguMphathiswa kwiphephamvume; kwaye

(b) Ngokwentlawulo yayo nayiphi na imirhumo emiselwe nguMphathiswa ngokwayamene necandelo 25 le-MLRA.

**8.14.3** Ilungelo lokulobela ezorhwebo lingasetyenziswa kuphela kusakube kukhutshwe iphephamvume lokuloba nguGunyaziwe oTyunjiweyo ofanelekileyo.

**8.14.4** Iphephamvume lokuqhuba ilungelo lokulobela ezorhwebo linokwaliwa ukuba imiqathango yephephamvume elalikhutshiwe ngaphambili ngokwayamene ne-MLRA ayizange ithotyelwe.

## **8.15 Ukuhlawulwa kweelevi**

**8.15.1** Abafakizicelo abaye banikwa amalungelo okulobela ezorhwebo kwiinkqubo zangaphambili zolwabelo lwamalungelo kuza kufuneka banike ubungqina bokuba bazihlawule bazigqiba iilevi zabo ngeentlanzi ezothuliweyo ngomhla wokungeniswa kwezicelo zabo.

**8.15.2** Iilevi ezihlawulelwa iintlanzi ezothulwe ngesigaba sexesha sokuqinisekiswa kwelungelo elinikiweyo kule nkqubo yolwabelo lwamalungelo ziza kumiselwa nguMphathiswa.

## **8.16 Ukucinywa nokunqunyanyiswa kwamalungelo, ilayisenisi kunye namaphephamvume**

**8.16.1** Ilungelo, ilayisenisi kunye namaphephamvume akhutshiweyo ngokwayamene ne-MLRA zingarhoxiswa, zinganqunyanyiswa, zingacinywa, zingaguqulwa okanye zincitshiswe ngokwayamene namagatya ecandelo 28 le-MLRA.

**8.16.2** Ukwaphulwa kwamagatya e-MLRA, imiGaqo ebhengezwe ngezantsi kunye okanye imiqathango yamaphephamvume ngumnini welungelo okanye umnini wephephamvume okanye umnini welayisenisi, abasebenzi bakhe/bayo (nokuba ngaba kungokusisigxina okanye kungokwethutyana), iikhontraktha, iiarhente, abacebisi okanye abaphathi bezikhephe kungagqibelela ekuqalisweni kweengxoxo zamatyala ezomthetho, ezinnokubandakanya iingxoxo zamatyala zecandelo 28 kunye okanye iingxoxo zolwaphulomthetho.

## **9 UKUFIKELELA KULWAZI**

**9.1** Izicelo zokufikelela kulwazi olunxulumene neerekhodi zolwabelo kunye neenkqubo zezibheni kuza kujongwana nazo ngokwayamene nemimiselo namagatya oMthetho wokuKhuthaza nokuFikelela kuLwazi (the Promotion of Access to Information Act), 2000 (uMthetho No. 2 ka-2000) kunye noMthetho wokuKhusela uLwazi loBuqu (the Protection of Personal Information), 2013 (uMthetho No. 4 ka-2013).

**9.2** Iifomu zezicelo kunye neemfuneko zokufikelela kulwazi olunxulumene neerekhodi zolwabelo neenkqubo zokubhena ezisezandleni zeSebe ziyafumaneka kwiZiko leeNkonzo zeeKhastoma, eliseGround Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town, 8001. Ngolwazi oluthe vetshe ngokuphathelele kwinkqubo yokufakwa kwezicelo yokufikelela kwiirekhodi zeSebe, kungaqhagamshelwana neSebe ngomnxeba wokhathalelo lweekhastoma apha 086 000 3474 (iShare Call).

## **INXENYE C: UMHLA WOKUQALISA NOKUHLOLWA KOMGAQONKQUBO**

### **10 UMHLA WOKUQALISA**

Lo mgaqonkqubo uza kuqalisa ngomhla ogazethwe ngawo nguMphathiswa.

### **11 UKUBEKWA KWELISO NOKUHLOLWA KOMGAQONKQUBO**

**11.1** Ukuqinisekisa ukusebenza kuka-2021: UMgaqonkqubo Jikelele kunye nemiGaqonkqubo eGxile kwezokuLoba ukuhlangabezana nezidingo zezasekuhlaleni nezoqoqosho zoshishino lokuloba kunye nabalobi abachaphazelekayo kunye nozinzo lweikholoji yoovimba, iSebe liza kubeka iliso kwaye lihlole umgaqonkqubo ngokuqalisa imisebenzi yokulinganisa ukusebenza ezisesikweni



ngesithuba sexesha leminyaka eli-15. Kuyaqikelelwa ukuba iSebe lingaqalisa imisebenzi yokulinganisa ukusebenza emininzi ngeloo xesha kufuneka ngalo.

- 11.2 Nangona iSebe liza kugqiba imiqathango ngqo abanini bamalungelo abaza kulinganiswa ngayo emva kolwabelo lwamalungelo okulobela ezorhwebo - kwaye nasemva kokubonisana nabanini bamalungelo - le miqathango inxulumene nokusebenza inabileyo ingasetyenziswa:
- (a) Utshintsho;
  - (b) Utyalomali; kwaye
  - (c) Ukuthobela ukuncitshiswa kwezidalwa ezilotywe kungajongwangwa zona ngemithetho nemigaqo esebenzayo.
- 11.3 Uphando kunye nokubeka iliso okuqhubekayo liSebe kunye nangabachaphazelekayo ziza kudlala indima ebalulekileyo ekuchongeni izikhewu, ukusilela neziphene kwimigaqonkqubo kunye nokuphunyezwa kwayo.
- 11.4 ISebe liza kunika ingxelo yempendulo encedayo, ethembekileyo nekhawulezayo ngokusebenza kwemigaqonkqubo kubo bonke abachaphazelekayo abafanelekileyo.
- 11.5 Ngelixa lomsebenzi wokulinganiswa kokusebenza, namphi na uMnini wamaLungelo ofunyaniswe esaphula nawuphi na umqathango iLungelo elinikelwe wona, kungagqibelela ekuqalisweni kweengxoxo zamatyala ezomthetho, (okunokuquka ukuqaliswa kweengxelo zamatyala zecandelo 28 ngokwayamene ne-MLRA kunye/okanye iingxoxo zolwaphulomthetho).

## **USAYINO LOKWAMKELA**

(As English version Gazetted)

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**IGAMA:** (Ms) B CREECY, MP

**SIKHUNDLA:** UMPHATHISWA WEZAMAHLATHI, EZOKULOBA NEZENDALO