

PROVINCE OF THE WESTERN CAPE
DEPARTMENT OF PLANNING, LOCAL GOVERNMENT AND HOUSING

RENTAL HOUSING ACT, 1999
(Act 50 of 1999)

UNFAIR PRACTICES REGULATIONS

I, N. E. Hangana, Minister of Housing in the Province of Western Cape, acting in terms of section 15(1)(f) of the Rental Housing Act, 1999 (Act 50 of 1999), make the regulations set out in the Schedule to this notice.

SCHEDULE

UNFAIR PRACTICES REGULATIONS

Definitions

1. In these regulations, unless the context otherwise indicates —

“**services**” means the provision of water, electricity, gas services and refuse removal;

“**the Act**” means the Rental Housing Act, 1999 (Act 50 of 1999);

“**Tribunal**” means the Rental Housing Tribunal established in terms of section 7 of the Act, and

any expression or word defined in the Act when used in these regulations has the meaning assigned thereto by the relevant definition.

Unfair practice

2. A failure to comply with these regulations constitutes an unfair practice contemplated in the definition thereof in section 1 of the Act.

Changing of locks

3. (1) A landlord or tenant may not change any locks providing access to the dwelling concerned —

- (a) unless it is necessary due to fair wear and tear or other reasonable causes;
- (b) without reasonable notice of the proposed change to the other party; and
- (c) unless duplicate keys are provided to the other party immediately upon such change of locks;

provided that the foregoing provision does not apply in the case of an emergency; provided further that a party changing locks must as soon as possible advise the other party and supply the necessary duplicate keys.

Conditions and maintenance

4. (1) A landlord must —

- (a) let a dwelling which at the commencement of the lease is —
 - (i) in a condition reasonably fit for the purpose for which it is let; and
 - (ii) in a condition which does not contravene the provisions of the Act, these regulations, any ordinance, health or safety regulation or any other law.
- (b) keep and maintain the dwelling in compliance with all ordinances, health or safety regulations or any other law;
- (c) during the term of the lease provide all services agreed to in the lease;
- (d) effect repairs for which the landlord is responsible in terms of the lease, and as identified during inspections by the landlord, or on receipt of a notice from a tenant requesting such repairs, except that if the lease makes provision to the contrary, the landlord is not liable for repairs if the tenant, a member of his or her household or a bona fide visitor brought about the state of disrepair; and
- (e) effect repairs as soon as is reasonably possible having regard to the nature of the repairs but not later than 30 days of the inspection or the receipt of the notice contemplated by paragraph (d) or such further period as may be agreed to between the landlord and the tenant.

Reconstruction, refurbishment, conversion or demolition

5. (1) A landlord may only —

- (a) request a tenant to vacate the dwelling if any repairs, conversions or refurbishments are urgently necessary and cannot be properly made while the tenant remains in occupation; or
- (b) cancel the lease and repossess the dwelling, without being liable for damages in terms of the lease, the Act, these regulations or any other law, in circumstances where the dwelling is in a derelict condition or cannot safely be inhabited and must as a result thereof be rebuilt, reconstructed or demolished.

- (2) In the circumstances contemplated by subregulation (1)(a), the landlord must —
- (a) allow the tenant remission of rental for the period during which the tenant is not in occupation;
 - (b) effect the repairs, conversion or refurbishment within a reasonable time so as to cause the tenant as little inconvenience as possible; and
 - (c) ensure that the tenant is able to return to the dwelling as soon as possible after the completion of the repairs, conversion or refurbishment.
- (3) Where the repairs, conversion or refurbishment are necessary only to a part of the dwelling and the tenant continues to occupy the remaining part, the tenant must receive a remission in rental, the amount of which must be proportionate to the extent of the tenant's deprivation.
- (4) When requested by the landlord to vacate the dwelling for the purposes of urgent and necessary repairs, conversions or refurbishments, the tenant may not cancel the lease unless —
- (a) the temporary unfitness of the dwelling would be ruinous to the tenant; or
 - (b) the repairs, conversion or refurbishment could reasonably have been foreseen by the landlord at the time when the lease was entered into.

Entry

6. (1) A landlord may only enter a dwelling on reasonable notice to the tenant —
- (a) to inspect the dwelling;
 - (b) to make repairs to the dwelling;
 - (c) to show the dwelling to a prospective tenant, purchaser, mortgagee or its agents;
 - (d) to inspect the dwelling for damages as contemplated in regulation 5(2) or upon notification by the landlord or the tenant of the intention to terminate the lease;
 - (e) if the dwelling appears to be abandoned by the tenant; or
 - (f) pursuant to a court order.
- (2) A tenant must allow a landlord to enter a dwelling for the purposes or in the circumstances set out in subregulation (1), provided that such entry is carried out at reasonable times.

Receipts

7. A landlord must furnish a tenant with a written receipt for all payments made by the tenant to the landlord, in the manner prescribed in section 5(3)(a) and (b) of the Act.

Municipal services

8. (1) A landlord who is obliged by law or in terms of the express or implied terms of the lease to provide services to a tenant, must —
- (a) provide such services;
 - (b) not charge a tenant for more than the exact services consumed in the tenant's dwelling if such dwelling is separately metered; and
 - (c) not fail to comply with any regulation, by-law or any other law regarding the amount to be charged to a tenant for services, if any, if the dwelling concerned is not separately metered for services.
- (2) A landlord may not interrupt the supply of electricity or gas services except in the following circumstances —
- (a) where there is an emergency;
 - (b) to do maintenance, repairs or renovations, and reasonable notice has been given to the tenant, but the services must be resumed as soon as the maintenance, repairs or renovations are completed; or
 - (c) where the tenant is in arrears with the payment of the fees for such services and fails to pay the arrears within 7 days of receipt of a notice from the landlord to do so.
- (3) If a dwelling is separately metered for services and payment must be made directly to the landlord, the landlord must provide the tenant with a monthly statement which must contain at least the following information —
- (a) the names of both the landlord and the tenant as well as the physical address of the dwelling;
 - (b) the name, address and telephone number of each service provider;
 - (c) the previous and current months meter readings;
 - (d) the actual consumption for each service and the amounts charged therefor;
 - (e) the total payment due;

- (f) the date of the next meter reading for each service; and
- (g) the amount of any arrears.

General provisions**9. (1) A landlord may not —**

- (a) intimidate, discriminate or retaliate against a tenant for exercising any right under the Act, these regulations or any other law;
- (b) preclude a tenant from establishing or being a member of a tenants committee or any similar body;
- (c) make a false representation regarding the official nature of any document or refuse to accept any notice lawfully presented or sent by the tenant;
- (d) engage in oppressive or unconscionable conduct towards the tenant;
- (e) fail to comply with the Tribunal complaint procedures or any agreement concluded with the Tribunal or with the tenant through the Tribunal's complaint procedures;
- (f) conduct any activity which unreasonably interferes with or limits the rights of the tenant or which is expressly prohibited under the lease, the Act and these regulations, any ordinance, health or safety regulations or any other law; or
- (g) induce a person to waive his or her rights under the Act, these regulations or any other law, or to withdraw from proceedings before the Tribunal.

(2) A tenant may not —

- (a) cede his or her rights, assign his or her obligations or sublet the dwelling or any part thereof to any other person without the written consent of the landlord;
- (b) allow more than the maximum number of persons specified by the landlord to reside in the dwelling;
- (c) intimidate, discriminate or retaliate against a landlord for exercising any right under the Act, these regulations or any other law;
- (d) make a false representation regarding the official nature of any document or refuse to accept any notice lawfully presented or sent by the landlord;
- (e) engage in oppressive or unconscionable conduct towards the landlord;
- (f) fail to comply with the Tribunal complaint procedures or any agreement concluded with the Tribunal or with the landlord through the Tribunal's complaint procedures;
- (g) conduct any activity which unreasonably interferes with or limits the rights of other tenants or which is expressly prohibited under the lease, the Act and these regulations, any ordinance, health and safety regulations or any other law;
- (h) cause or permit any nuisance upon the dwelling; or
- (i) induce the landlord to waive his or her rights under the Act, these regulations or any other law, or to withdraw from proceedings before the Tribunal.

Short title and commencement**10. These regulations are called the Rental Housing Unfair Practices Regulations, Western Cape, 2002.**

PROVINSIE WES-KAAP
DEPARTEMENT VAN BEPLANNING, PLAASLIKE BESTUUR EN BEHUISING

WET OP HUURBEHUISING, 1999
(Wet 50 van 1999)

REGULASIES OP ONBILLIKE PRAKTYKE

Ek, N. E. Hangana, Minister van Behuising in die Provinsie Wes-Kaap vaardig kragtens artikel 15(1)(f) van die Wet op Huurbehuising, 1999 (Wet 50 van 1999), die regulasies op onbillike praktyke in die Bylae uit.

BYLAE

REGULASIES OP ONBILLIKE PRAKTYKE

Woordomskrywing

1. In hierdie regulasies, tensy dit uit die samehang anders blyk, beteken —

“**dienste**” die voorsiening van water-, elektrisiteit- en gasdienste en die verwydering van vullis;

“**die Wet**” die Wet op Huurbehuising, 1999 (Wet 50 van 1999);

“**Tribunaal**” die Huurbehuisingtribunaal ingestel kragtens artikel 7 van die Wet, en

enige uitdrukking of woord wat in die Wet omskryf is, het die betekenis wat aldus daaraan geheg is wanneer dit in hierdie regulasies gebruik word.

Onbillike praktyk

2. Nie-nakoming van hierdie regulasies maak ’n onbillike praktyk uit soos bedoel in die omskrywing daarvan in artikel 1 van die Wet.

Verandering van slotte

3. (1) Die verhuurder of die huurder mag geen slotte wat toegang tot die betrokke woning verleen, verander nie —

(a) tensy dit nodig is as gevolg van slytasie of ander redelike oorsake;

(b) sonder redelike kennisgewing van die voorgestelde verandering aan die ander party; en

(c) tensy duplikaatsleutels onmiddellik na sodanige verandering van slotte aan die ander party verskaf word;

met dien verstande dat die voorgaande bepaling nie in ’n noodgeval geld nie; voorts met dien verstande dat ’n party wat die slotte verander so gou as moontlik die ander party in kennis moet stel en die nodige duplikaatsleutels moet voorsien.

Voorwaardes en instandhouding

4. (1) ’n Verhuurder moet —

(a) ’n woning verhuur wat by die aanvang van die huurkontrak —

(i) in ’n toestand is wat redelikerwys geskik is vir die doel waarvoor dit verhuur word; en

(ii) in ’n toestand is wat nie die bepalings van die Wet, hierdie regulasies, enige verordening, gesondheids- of veiligheidsregulasie of enige ander wet oortree nie;

(b) die woning in ooreenstemming met alle ordonnansies, gesondheids- of veiligheidsregulasies of enige ander wet hou en in stand hou;

(c) gedurende die termyn van die huurkontrak alle dienste verskaf waarop daar in die huurkontrak ooreengekom is;

(d) herstelwerk doen waarvoor die verhuurder ingevolge die huurkontrak verantwoordelik is en soos geïdentifiseer tydens inspeksies deur die verhuurder, of by ontvangs van ’n kennisgewing van ’n huurder wat sodanige herstelwerk versoek, behalwe dat tensy die huurkontrak vir die teendeel voorsiening maak, die verhuurder nie vir herstelwerk aanspreeklik is nie indien die huurder, ’n lid van sy of haar huishouding of ’n bona fide-besoeker die swak toestand teweeg gebring het; en

(e) herstelwerk doen so gou dit redelikerwys moontlik is met inagneming van die aard van die herstelwerk, maar hoogstens 30 dae na die inspeksie of ontvangs van die kennisgewing by paragraaf (d) bedoel of sodanige verdere tydperk as waarop daar tussen die huurder en die verhuurder ooreengekom word.

Herbouing, opknapwerk, ombouing of sloping

5. (1) ’n Verhuurder kan —

(a) ’n huurder versoek om die woning te ontruim slegs indien enige herstelwerk, ombouing of opknapwerk dringend noodsaaklik is en nie behoorlik gedoen kan word terwyl die huurder die woning okkupeer nie; of

(b) die huurkontrak beëindig en die woning terugneem, sonder om ingevolge die huurkontrak, die Wet, hierdie regulasies of enige ander

wet aanspreeklik te wees vir skadevergoeding, slegs in omstandighede waar die woning in 'n bouvallige toestand is of nie met veiligheid bewoon kan word nie en as gevolg daarvan herbou of gesloop moet word.

- (2) In die omstandighede by subregulasie (1)(a) beoog, moet die verhuurder—
- (a) die huurder kwytsteld van huurgeld vir die tydperk waartydens die huurder die woning nie okkupeer nie;
 - (b) die herstelwerk, ombouing of opknapwerk binne 'n redelike tyd doen ten einde vir die huurder so min ongerief as moontlik te veroorsaak; en
 - (c) seker maak dat die huurder na die woning kan terugkeer so gou moontlik na voltooiing van die herstelwerk, ombouing of opknapwerk.
- (3) Waar die herstelwerk, ombouing of opknapwerk aan net 'n deel van die woning nodig is en die huurder voortgaan om die oorblywende deel te okkupeer, moet die huurder se huurgeld verminder word, en die bedrag moet in ooreenstemming wees met die omvang van die deel waarvan die huurder ontleem is.
- (4) Wanneer die huurder deur die verhuurder versoek is om die woning te ontruim vir die doel van dringende en noodsaaklike herstelwerk, ombouing of opknapwerk, mag die huurder die huurkontrak nie beëindig nie tensy —
- (a) die tydelike ongeskiktheid van die woning vir die huurder onbekostigbaar sal wees; of
 - (b) die herstelwerk, ombouing of opknapwerk redelikerwys deur die verhuurder voorsien kon gewees het toe die huurkontrak aangegaan is.

Toegang

6. (1) 'n Verhuurder mag 'n woning met redelike kennisgewing betree slegs —
- (a) om die woning te inspekteer;
 - (b) om herstelwerk aan die woning te doen;
 - (c) om die woning aan 'n voornemende huurder, koper, verbandhouer of sy of haar agente te toon;
 - (d) om die woning te inspekteer vir skade soos bedoel in regulasie 5(2) of by kennisgewing deur die verhuurder of die huurder van die voorneme om die huurkontrak op te sê;
 - (e) indien die woning skynbaar deur die huurder verlaat is; of
 - (f) ingevolge 'n hofbevel.
- (2) 'n Huurder moet 'n verhuurder toelaat om 'n woning te betree vir die doeleindes in subregulasie (1) uiteengesit op voorwaarde dat sodanige betreding op redelike tye geskied.

Kwitansies

7. 'n Verhuurder moet 'n huurder voorsien van 'n skriftelike kwitansie vir alle betalings deur die huurder aan die verhuurder gedoen, op die wyse in artikel 5(3)(a) en (b) van die Wet voorgeskryf.

Munisipale dienste

8. (1) 'n Verhuurder wat regtens of ingevolge die uitdruklike of geïmpliseerde bepalings van die huurkontrak verplig is om dienste aan 'n huurder te voorsien —
- (a) moet sodanige dienste voorsien;
 - (b) moet die huurder nie meer laat betaal nie as vir die presiese dienste wat in die huurder se woning verbruik is, indien sodanige woning afsonderlik gemeter word; en
 - (c) moet nie versuim om enige regulasie, verordening of enige ander wet na te kom nie met betrekking tot die bedrag wat van 'n huurder gevra moet word vir dienste, indien wel, indien 'n woning nie afsonderlik vir dienste gemeter word nie.
- (2) 'n Verhuurder kan nie die verskaffing van elektrisiteits- of gasdienste onderbreek nie, behalwe in die volgende omstandighede:
- (a) in 'n noodgeval;
 - (b) om instandhouding, herstelwerk of opknapwerk te doen en daar redelike kennis aan die huurder gegee is, maar die dienste moet so gou moontlik na die afhandeling van die instandhouding, herstelwerk of opknapwerk hervat word; of
 - (c) waar die huurder agterstallig is met die betaling van gelde vir sodanige dienste en in gebreke bly om dit te betaal binne 7 dae na ontvangs van 'n kennisgewing van die verhuurder om die gelde te betaal.
- (3) Indien 'n woning afsonderlik vir dienste gemeter word en betaling regstreeks aan die verhuurder gedoen moet word, moet die verhuurder die huurder voorsien van 'n maandelikse staat wat minstens die volgende inligting moet bevat:
- (a) die name van sowel die verhuurder as die huurder, asook die fisiese adres van die woning;
 - (b) die naam, adres en telefoonnommer van elke diensverskaffer;
 - (c) die vorige en die huidige maand se meterlesings;

- (d) die werklike verbruik vir elke diens en die bedrae wat daarvoor gehef word;
- (e) die totale betaling verskuldig;
- (f) die datum van die volgende meterlesing vir elke diens; en
- (g) enige agterstallige bedrae.

Algemene bepalings

9. (1) 'n Verhuurder mag nie —

- (a) 'n huurder intimideer of vergeld of teen hom diskrimineer vir die uitoefening van enige reg ingevolge die Wet, hierdie regulasies of enige ander wet nie;
- (b) 'n huurder belet om 'n huurderskomitee of enige soortgelyke liggaam te stig of 'n lid daarvan te wees nie;
- (c) 'n valse voorstelling met betrekking tot die amptelike aard van enige dokument doen nie of weier om enige kennisgewing te aanvaar wat wettig deur die huurder aangebied of gestuur word nie;
- (d) onderdrukkende of onredelike gedrag teenoor die huurder openbaar nie;
- (e) versuim om aan die Tribunaal se klagteprosedures of enige ooreenkoms wat deur middel van die Tribunaal se klagteprosedures met die Tribunaal of met die huurder gesluit is, te voldoen nie;
- (f) enige aktiwiteit bedryf nie wat op onredelike wyse met die regte van die huurder inmeng of sodanige regte beperk of wat uitdruklik verbied word ingevolge die huurkontrak, die Wet en hierdie regulasies, enige ordonnansie, gesondheids- en veiligheidsregulasies of enige ander wet; of
- (g) 'n persoon oorreed om van sy of haar regte ingevolge die Wet, hierdie regulasies of enige ander wet afstand te doen of om aan verrigtinge voor die Tribunaal te onttrek nie.

(2) 'n Huurder mag nie —

- (a) sy of haar regte sedeer, sy of haar verpligtinge oordra of die woning of enige deel daarvan onderverhuur aan enige ander persoon sonder die skriftelike toestemming van die verhuurder nie;
- (b) meer as die maksimum getal persone wat deur die verhuurder bepaal is, toelaat om in die woning te woon nie;
- (c) 'n verhuurder intimideer of vergeld of teen hom diskrimineer vir die uitoefening van enige reg ingevolge die Wet, hierdie regulasies of enige ander wet nie;
- (d) 'n valse voorstelling met betrekking tot die amptelike aard van enige dokument doen nie of weier om enige kennisgewing te aanvaar wat wettig deur die verhuurder aangebied of gestuur word nie;
- (e) onderdrukkende of onredelike gedrag teenoor die verhuurder openbaar nie;
- (f) versuim om aan die Tribunaal se klagteprosedures of enige ooreenkoms wat deur middel van die Tribunaal se klagteprosedures met die Tribunaal of met die verhuurder gesluit is, te voldoen nie;
- (g) enige aktiwiteit bedryf nie wat op onredelike wyse met die regte van ander huurders inmeng of sodanige regte beperk of wat uitdruklik verbied word ingevolge die huurkontrak, die Wet en hierdie regulasies, enige ordonnansie, gesondheids- en veiligheidsregulasies of enige ander wet;
- (h) enige oorlas by die woning veroorsaak of toelaat nie; of
- (i) die verhuurder oorreed om van sy of haar regte ingevolge die Wet, hierdie regulasies of enige ander wet afstand te doen of om aan verrigtinge voor die Tribunaal te onttrek nie.

Kort titel en inwerkingtreëding

10. Hierdie regulasies heet die Regulasies op Onbillike Praktyke by Huurbehuising, Wes-Kaap, 2002.

P.N. 22/2002

1 UFebruwari 2002

IPHONDO LENTSHONA-KOLONI
ISEBE LOCWANGCISO, LOORHULUMENTE BENGINGQI NEZINDLU
UMTHETHO WEZINDLU EZIQASHISWAYO, 1999
IMIGAQO ECETYWAYO EMALUNGA NEZENZO EZINGENABULUNGISA

Mna N. E. Hangana, uMphathiswa wezeZindlu kwiPhondo leNtshona-Koloni, phantsi kwecandelo 15(1)(f) loMthetho wezeZindlu eziQashiswayo, 1999 (UMthetho 50 we-1999), ndiceba ukumisela iMigaqo ngokwale Shedyuli ilandelayo.

ISHEDYULI

IZENZO EZINGENABULUNGISA

Inkcazo-magama

1. Kule migaqo naliphi na ibinzana intsingiselo iya kuba njengoko inikiwe, ngaphandle kokuba oko kubhekiswe kuko kuchaza nto yimbi —
 “**iinkonzo**” ligama elithetha ubonelelo ngamanzi, umbane, irhasi nokuthuthwa kwenkunkuma;
 “**uMthetho**” ligama elithetha uMthetho wezeZindlu eziQashiswayo (UMthetho 50 we—1999);
 “**iBhunga**” libinzana lamagama elithetha iBhunga leZindlu eziQashiswayo esekwe ngokwecandelo 7 laloo Mthetho.

Intsebenziswano egwenxa

2. Nabani na otsiba kuyo nayiphi na imiqathango yale migaqo wenza isenzo esigwenxa njengoko kuchaziwe phaya kwicandelo 1 lalo Mthetho.

Ukutshintshwa kwamaqhaga

3. (1) Umnini-ndawo nomqashi abafanele kuwatshintsha nawaphi na amaqhaga okutshixa iminyango yendlu;
 - (a) ngaphandle kwaxa kukho imfuneko yoko ngenxa yokonakala kwawo okanye ngenxa yezinye izizathu ezivakalayo.
 - (b) bengazisananga ngokufanelekileyo ngotshintsho olo lucetywayo, kananjalo
 - (c) ngaphandle kokuba banikene isitshixo sesibini ngokukhawuleza emva kokutshintswa kwamaqhaga lawo
 ngaphandle kokuba akukho miqathango ibekiweyo elungiselelwe ukujongana neemeko ezingxamisekileyo; ngaphandle kokuba ke abo bachaphazelekayo ekutshintshweni kwamaqhaga baya kuthethana banikane ezinye izitshixo.

Imo nenkathalo

4. (1) Umnini-ndawo kufuneka —
 - (a) indlu ayiqashisayo, ekuqaleni kokusebenza kwesivumelwano soqashiselwano, ibe —
 - (i) kwimo efanele injongo leyo iqashelwa yona, kananjalo
 - (ii) ibe yekwimo ehambelana nemiqathango yaloo Mthetho, eyale migaqo, eyawo nawuphi na umthetho kamasipala, imigaqo yezempilo nokhuseleko okanye nawuphi na umthetho ongomnye
 - (b) indlu leyo ayigcine, ayikhathalele ngokwayo yonke imithetho kamasipala, imigaqo yezempilo nokhuseleko okanye ngokwawo nawuphi na umthetho ongomnye;
 - (c) abonelela ngazo zonke iinkonzo ekuvunyelwene ngazo kwisivumelwano soqashiselwano ngeli xesha sisasebenza eso sivumelwano;
 - (d) alungise undonakele oluxanduva lomnini-ndawo ngokwesi sivumelwano soqashiselwano, kwanondonakele ophawuleke xa umnini-ndawo ebehlola-hlola indlu leyo, okanye akufumana isaziso esivela kumqashi nesithi makulungiswe undonakele okhoyo. Phofu ngaphandle kokuba isivumelwano soqashiselwano sinamiqathango yimbi ephikisana noko, njengaxa umnini-ndawo engenakubekwa ityala lokulungisa undonakele, xa umqashi okanye omnye wabo ahlala nabo okanye xa iindwendwe zakhe zokwenene izizo ezenze umonakalo; kwaye
 - (e) amlungise ngokukhawuleza kangangoko kunokwenzeka undonakele, kodwa kunikwe ingqwalaselo uhlobo lomonakalo lowo phofu ulungiswe kungagqithanga iintsuku ezingama-30 ukususela kumhla ekuhlolwe ngawo indlu okanye umhla wesaziso eso sichazwe kumhlathi (d) okanye nokuba kungaliphi na elinye ixesha ekunokuvunyelwana ngalo ngumnini-ndawo nomqashi.

Uhlenga-hlengiso, uphuculo, uguqulo okanye uchitho

5. (1) Umnini-ndawo —
 - (a) angamcela kuphela umqashi ukuba aphume kwindlu leyo xa kukho imfuneko engxamisekileyo yokulungisa, yokuguqula okanye yokuphucula indlu leyo naxa oko kungenakwenziwa kakuhle ngeli xesha umqashi esahlala apho endlwini;
 - (b) angasicima isivumelwano soqashiselwano aphinde ayithabathele kuye indlu leyo kwaye akayi kubekwa tyala lokuhlalulela umonakalo ngokwesi sivumelwano soqashiselwano, loo Mthetho, le migaqo okanye nawuphi na umthetho ongomnye, kwiimeko apho

indlu leyo ikwimo engasenakulungiseka okanye xa ingenakuhlalwa ngokukhuselekileyo kangangokuba kufanele ukuba yakhiwe ngokutsha okanye ichithwe.

- (2) Kwiimeko ezifana nezo zichazwe kumhlathi (1)(a), umnini-ndawo kufuneka —
- (a) amxolele umqashi ngakwicala lokuhlawula irenti yethuba elo umqashi aza kube engahlali ngalo apho endlwini;
 - (b) ayilungise, ayiguqule okanye ayiphucule kwixeshana elifanelekileyo indlu leyo ukwenzela ukuba umqashi angabinakupazamiseka kangako; kananjalo
 - (c) aqinisekise ukuba umqashi uyakwazi ukubuyela kwindlu leyo ngokukhawuleza kangangoko emva kokuba igqitywe ukulungiswa, ukuguqulwa okanye ukuphuculwa.
- (3) Xa kukho imfuneko yokuba kulungiswe, kuguqulwe okanye kuphuculwe elinye icala le ndlu leyo abe umqashi ehlala kwelinye icala umqashi uya kuba nelungelo lokuxolelwa kwicala lokuhlawula irenti, ahlawule intlawulo ngokobungakanani bokubandezeleka kwakhe.
- (4) Xa umqashi ecelwe ngumnini-ndawo ukuba aphume kwindlu leyo ngenxa yokulungiswa, ukuguqulwa okanye ukuphuculwa kwayo okungxamisekileyo nokuyimfuneko umqashi akanako ukusicima isivumelwano soqashiselwano ngaphandle kokuba —
- (a) ukungabikho kwindlu leyo kumgangatho olungele ukuhlalwa, okwethutyana, kungadala umonakalo kumqashi okanye
 - (b) imfuneko yokuyilungisa, yokuyiguqula okanye yokuyiphucula bekusele kuboniwe ngumnini-ndawo kwangalaa xesha kusenziwa isivumelwano soqashiselwano.

Ukungena

6. (1) Umnini-ndawo angangena kwindawo ekuhlalwa kuyo xa athe wanika isaziso esifanelekileyo sokwenza oko —
- (a) xa efuna ukuyihlola indlu leyo;
 - (b) xa efuna ukuyilungisa indlu;
 - (c) xa efuna ukuyibonisa umntu okanye iarhente yomntu ofuna ukuyiqasha, ukuyithenga okanye ukuyithenga ngemali-mboleko indlu leyo;
 - (d) xa efuna ukuyihlola ukubona umonakalo njengoko kuchazwe kumgaqo 5(2) okanye xa umnini-ndawo okanye umqashi ekhuphe isaziso sokufuna ukucima isivumelwano sokuqashiselana;
 - (e) xa indlu leyo ibonakala njengengasahlalwayo okanye eshiyiweyo ngumqashi, okanye
 - (f) emva kokukhutshwa komyalelo webhunga.
- (2) Umqashi kufuneka amvumele umnini-ndawo ukuba angene kwindawo leyo ngeenjongo ezichazwe kumgaqwana (1), kodwa kufuneka angene ngamaxesha afanelekileyo.

Iirisiti

7. Umnini-ndawo kufuneka amkhuphele irisiti ebhaliweyo umqashi ebonakalisa yonke imali ehlawulwe ngumqashi kumnini-ndawo, oko kusenziwa ngendlela eyalelwe kwicandelo 5(3)(a) no(b) waloo Mthetho.

Iinkozo zakwaMasipala

8. (1) Umnini-ndawo onyanzelekileyo ukubonelela umqashi ngeenkono ngokomthetho okanye ngokwemiqathango ecaciswe phandle okanye engacaciswanga phandle yesivumelwano soqashiselwano kufuneka —
- (a) abonelele ngezo nkonzo;
 - (b) angamhlawulisi mali ingaphezulu kwelingana ncam neenkono ezo umqashi azisebenzise kwindlu yakhe ukuba loo ndlu inemithara yayo yodwa;
 - (c) angawutyesheli nawuphi na umgaqo, umthetho kamasipala okanye omnye umthetho omalunga nemali umqashi afanele ukuyihlawulela iinkono, ukuba ikho, ukuba indlu leyo ayinamitha yayo yodwa.
- (2) Umnini-ndawo akafanelanga kuzirhoxisa iinkono zombane okanye ezerhasi ngaphandle kokuba kukwezi meko zilandelayo —
- (a) xa kukho ingxaki;
 - (b) xa umqashi aziswe kwangexesha elifanelekileyo ngokuza kusebenza, ukuza kulungisa okanye ukuza kuhlaziya, phofu oko kungenziwa xa ezo nkonzo ziza kuphinda zivuselelwe ngokukhawuleza, okanye
 - (c) xa umqashi esemva ngentlawulo naxa umnini-ndawo emazise kwangethuba elifanelekileyo ukuba kukho intlawulo asemva ngayo.
- (3) Xa indlu inemitha yeenkonzo zayo zodwa naxa iinkono ezo kufanele zihlawulwe kumnini-ndawo ngqo, umnini-ndawo kufuneka abonelele umqashi ngengxelo yenyanga ekufanele iqulathe ubuncinane ezi nkukacha zilandelayo —
- (a) amagama omnini-ndawo nawomqashi kwanedilesi yalapho ikhoyo loo ndlu;
 - (b) igama, idilesi neenombolo zefowuni zomboneleli ngeenkono ngamnye;
 - (c) umlinganiselo womyinga wokusetyenzisweyo njengoko uchazwe kwimitha;

- (d) umlinganiselo ochanekileyo wokusetyenzisiweyo yinkonzo nganye kwanemali ebiziweyo ngezo nkonzo;
- (e) iyonke imali efanele kuhlawulwa;
- (f) umhla ekuza kufundwa ngawo imitha yenkonzo nganye; kunye
- (g) nayo yonke imali asemva ngayo.

Imiqathango ngokubanzi

9. (1) Umnini-ndawo akafanele —

- (a) kumxhalisa, amcalucalule umqashi okanye aziphindezele kuye ngenxa yokusebenzisa kwakhe naliphi na ilungelo analo phantsi koMthetho okanye phantsi kwale migaqo okanye phantsi kwawo nawuphi na omnye umthetho;
- (b) kumthintela umqashi ekusekeni okanye ekubeni lilungu lekomiti yabaqashi okanye nawuphi na omnye umbutho ofana nalowo;
- (c) kuchaza ubuxoki ngokuba semthethweni koxwebhu oluthile okanye ale ukwamkela nasiphi na isaziso asinikwe okanye asithunyelelwe ngokusemthethweni ngumqashi;
- (d) kuzibandakanya kwizenzo zengcinezelo okanye ezingabonakalisi kubanesazela;
- (e) kungazithobeli iinkqubo zeNkundla yeziKhalazo okanye nasiphi na isivumelwano esigqitywe neNkundla leyo okanye nomqashi lowo ngokweenkqubo zeNkundla yeziKhalazo;
- (f) kwenza nantoni na enokuphazamisa ngokungafanelekanga okanye enokuthintela amalungelo omqashi okanye nantoni na engavumelekanga ngaphantsi kwesi sivumelwano soqashiselwano, loo Mthetho nale migaqo okanye nawuphi na umthetho kamasipala okanye imigaqo yempilo nokhuseleko okanye nawuphi na omnye umthetho; kwaye akafanele
- (g) kunyanzelisa umntu ukuba angawasi so amalungelo akhe aphantsi kwaloo Mthetho okanye aphantsi kwale migaqo okanye nawuphi na omnye umthetho okanye arhoxe kwiinkqubo zeBhunga.

(2) Umqashi akafanele —

- (a) kugqithisele amalungelo okanye agqithisele uxanduva lwakhe okanye aqashisele omnye umntu indlu leyo okanye elinye icala layo ngaphandle kwemvume ebhaliweyo yomnini-ndawo;
- (b) kuvumela ukuba kuhlale apho endlwini abantu abangaphezu kwenani eliqingqwe ngumnini-ndawo;
- (c) kumxhalisa, amcalu-calule umnini-ndawo okanye aziphindezele kuye ngenxa yokusebenzisa kwakhe naliphi na ilungelo analo phantsi kwaloo Mthetho okanye phantsi kwale migaqo okanye phantsi kwawo nawuphi na omnye umthetho;
- (d) kuchaza ubuxoki ngokuba semthethweni koxwebhu oluthile okanye ale ukwamkela nasiphi na isaziso asinikwe okanye asithunyelelwe ngokusemthethweni ngumnini-ndawo;
- (e) kuzibandakanya kwizenzo zengcinezelo okanye ezingabonakalisi kubanesazela;
- (f) kungazithobeli iinkqubo zeBhunga okanye nasiphi na isivumelwano esigqitywe nebhunga elo okanye nomnini-ndawo ngokweenkqubo zeBhunga leziKhalazo;
- (g) kwenza nantoni na enokuphazamisa ngokungafanelekanga okanye enokuthintela amalungelo abanye abaqashi okanye nantoni na engavumelekanga ngaphantsi kwesi sivumelwano soqashiselwano, loo Mthetho nale migaqo okanye nawuphi na umthetho kamasipala okanye imigaqo yempilo nokhuseleko okanye nawuphi na omnye umthetho; kwaye;
- (h) kuba ngunobangela okanye ukuvumela iinkathazo apho endlwini; kwaye akafanele
- (i) kunyanzelisa umntu ukuba angawasi so amalungelo akhe aphantsi kwaloo Mthetho okanye phantsi kwale migaqo okanye nawuphi na omnye umthetho okanye amrhoxise kwiinkqubo zeBhunga.

Isihloko kunye nokusungulwa komgaqo

10. Le migaqo ibizwa ngokuba yimigaqo yeNtshona Koloni, 2002, emalunga nezenzo ezigwenxa.

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