



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



## **GUIDE**

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**ON HOW TO USE THE  
PROMOTION OF ACCESS TO INFORMATION ACT 2 OF  
2000, AS AMENDED**

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# PAIA GUIDE

## FOREWORD BY THE CHAIRPERSON

The Constitution of the Republic of South Africa, 1996<sup>1</sup> (“Constitution”) states that South Africa is a sovereign and democratic state that is founded on the advancement of human rights and an accountable, responsive and transparent system of governance as part of its values. Before South Africa became a constitutional democracy with an enforceable Bill of Rights, the system of Government in South Africa amongst others, resulted in a secretive and unresponsive culture in both public and private bodies which often led to the abuse of power and human rights violations. It is in this regard that section 32(1) of the Bill of Rights in the Constitution, provides for the right of access to information held by the state; and any information held by another person that is required for the exercise or protection of any rights. Section 32(2) of the Constitution in turn provides for the enactment of national legislation that will give effect to this right, by respecting, protecting, promoting and fulfilling this right.

The Promotion of Access to Information Act, No. 2 of 2000 (hereinafter referred to as “**PAIA**”, or “the Act” interchangeably), as amended, is the national legislation which was enacted in accordance with the above-mentioned section 32(2) of the constitution.

The aim of **PAIA**, is to foster a culture of transparency and accountability in public and private bodies. It does that by giving effect to the right of access to information and actively promoting a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights and also to realise South Africa’s goals of an open and participatory democracy.

This **PAIA** Guide has been developed in fulfilment of the Information Regulator’s (“Regulator”) obligation under Section 10 of the **PAIA**, which requires the Regulator to update and make available the existing Guide that has been compiled by the South African Human Rights Commission.

This Guide has been designed to be a guiding, user-friendly and accessible tool for any person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.



**Adv Pansy Tlakula**  
**CHAIRPERSON OF THE INFORMATION REGULATOR**

<sup>1</sup> Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)

## DISCLAIMER

*This Guide does not relieve the user from the responsibility to exercise their own skill and care in relation to the requirement or obligations imposed by any legislation. Furthermore, this Guide does not provide legal advice and is not intended to replace **PAIA** or Regulations issued under **PAIA**. The Regulator accepts no liability for any loss that may be suffered as a result of reliance on this Guide.*

## 1. LIST OF ACRONYMS AND ABBREVIATIONS

<b>CEO</b>	Chief Executive Officer
<b>CFO</b>	Chief Financial Officer
<b>Constitution</b>	Constitution of the Republic of South Africa, Act No. 108 of 1996
<b>DIO</b>	Deputy Information Officer
<b>Doj &amp; CD</b>	Department of Justice and Constitutional Development
<b>IO</b>	Information Officer
<b>Members</b>	Members of the Information Regulator
<b>Minister</b>	Minister of Justice and Correctional Services
<b>PAIA</b>	Promotion of Administrative Justice Act, 2000
<b>PFMA</b>	Public Finance Management Act No. 1 of 1999 as amended
<b>POPIA</b>	Protection of Personal Information Act No. 4 of 2013
<b>Regulator</b>	Information Regulator
<b>SAHRC</b>	South African Human Rights Commission

## 2. USEFUL TERMS EXPLAINED IN AN EASILY COMPREHENSIBLE FORM AND MANNER

Term	Description
<b>Access Fee</b>	This access fee is paid by the requester to the body from which you are requesting the information, to cover the costs of finding and copying the records you require. What can be charged is prescribed by regulation.
<b>Administrator</b>	Is an organ of state or any natural or juristic person taking administrative action.

Term	Description
<b>Administrative Action</b>	<p>Is any decision taken, or any failure to take a decision, by</p> <ul style="list-style-type: none"> <li>(a) an organ of state, when: <ul style="list-style-type: none"> <li>(i) exercising a power in terms of the Constitution or a provincial constitution; or</li> <li>(ii) exercising a public power or performing a public function in terms of any legislation; or</li> </ul> </li> <li>(b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision.</li> </ul> <p>which adversely affects the rights of any person and which has a direct, external legal effect.</p>
<b>Authorised Person</b>	<p>The authorised person is the person who is making a request on behalf of someone else, and who has been properly authorised in writing to do so.</p>
<b>Automatically Available Records</b>	<p>These are records that a public or private body will provide to a requester without them needing to file a request. These records are listed in a 'voluntary disclosure notice', which should be made public.</p>
<b>Data Subject</b>	<p>Is the person to whom personal information relates.</p>
<b>Days</b>	<p>Unless specified as a 'working day' in a section in <b>PAIA</b>, a day is considered to be a calendar day. To calculate time period, the day on which the request is received is excluded, and every day thereafter is included including weekends and public holidays until the final day is counted. If the final day for responding to a request falls on a Sunday or public holiday, the next day is counted as the final day.</p>
<b>Deemed Refusal</b>	<p>If not response is received to a request within the prescribed time, this is defined as a 'deemed refusal'.</p>
<b>Form 2</b>	<p>This form is prescribed by regulation and should be used to request access to information held by a public or private body.</p>
<b>Form 4</b>	<p>This form is prescribed by regulation and should be used when appealing a decision made by a public body in relation to a request for access to information.</p>

**Term****Description****Guide**

This Guide, made in pursuance of section 10 of **PAIA**, as amended which seeks to assist a person who wishes to exercise any right contemplated in **PAIA** and the Protection of Personal Information Act, 2013.

**Information Officer**

The information Officer is the person authorised to handle **PAIA** requests. The following are categories of Information Officers per specific Body -

<b>Public Body or Organ of State</b> (as defined in section 239 of the Constitution)	National Department	Director-General or the person who is acting as such.
	Provincial Administration	Head of Department or the person who is acting as such.
	Municipality	Municipal Manager or the person who is acting as such.
	Public Institutions listed in PFMA Schedule 1, 2, 3A, 3B, 3C & 3D	Chief Executive Officer or the person who is acting as such.
<b>Private Body</b>	Natural Person	Sole proprietor who carries on any trade business or profession, but only in such capacity and not in his personal capacity.
	Partnership	Any partner of the partnership or any person duly authorised by the partnership.
	Political Party	Leader of the political party or any person duly authorised by that leader.

Term	Description	
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<b>Information Officer</b>	<b>Private Body</b>	Juristic Person	Chief Executive Officer or the Managing Director or equivalent officer of the juristic person or any person duly authorised by the leader.  <b>NB:</b> The Chief Executive Officer or equivalent officer may authorise any natural person as information Officer of a Private Body.

**Deputy Information Officer**

The Deputy Information Officer is the person designed or delegated by the Information Officer of a public body to assist the requester with their information request, and to whom the Information Officer can delegate other **PAIA** powers to.

**NB:** Whilst only a public body can designate or delegate a Deputy Information Officer(s), in terms of Section 17(1) of **PAIA**, the Protection of Personal Information Act 2013 ("**POPIA**") extends the power to designate a Deputy Information Officer to the private body in terms of section 56(1) thereof.

**Information Regulator**

The Office of the Information Regulator has been established, in terms of section 39 of **POPIA**, to monitor and enforce compliance with both **POPIA** and **PAIA**. In this Guide the Office of the Information Regulator or the information Regulator is referred to as the Regulator.

**Internal Appeal**

An internal appeal is the process for challenging a decision made in terms of a **PAIA** request to a public body, which must be completed before a challenge can be made to the Regulator or to a court having jurisdiction.

**Private Body**

A private body is a person, company or other kind of juristic entity that carries on trade, business or profession, including a political party.

Term	Description
<b>Public Body</b>	A private body means a government department or other functionary or institution, which is performing a public function. However, with regard to internal appeal, any reference to “public body” has been changed to “Government”, in order to avoid confusion in respect of public bodies in which appeal is not applicable.
<b>Record</b>	A record is any recorded information regardless of the form, including, for example, written documents, audio, digital and video materials. A record requested from a public or private body refers to a record that is in that body’s possession regardless of whether that body created the record.
<b>Regulations</b>	<b>PAIA</b> allows the Minister to issue regulations that supplement the Act, which must be published in the Government Gazette, and covers issues like the forms to be used and fees that may be charged for certain processes.
<b>Relevant Authority</b>	<b>PAIA</b> uses the term the ‘relevant authority’ to define the person within a National, Provincial and Local Government to whom an internal appeal must be lodged, which is generally the political head of the body concerned (this function can be officially delegated).

### 3. CONTACT DETAILS OF THE REGULATOR

#### Information Officer

**Chief Executive Officer:**

**Contact Person:**

**Email:**

Mr. Mosalanyane Mosala

Ms. Pfano Nenweli

[PNenweli@justice.gov.za](mailto:PNenweli@justice.gov.za)

**Deputy Information Officer:**

**Email:**

Ms. Varsha Sewlal

[VarSewlal@justice.gov.za](mailto:VarSewlal@justice.gov.za)

#### Physical Address:

JD House, 27 Stiemens Street  
Braamfontein  
Johannesburg  
2001

#### Postal Address:

P.O. Box 31533  
Braamfontein  
Johannesburg  
2017

**Telephone:**

010 023 5200



## 4. PURPOSE OF THIS PAIA GUIDE

- 4.1 The purpose of this Guide is to provide information that is needed by any person who wishes to exercise any right contemplated in the Promotion of Access to Information Act of 2000 (**PAIA**) and Protection of Personal Information Act, 2013 ("**POPIA**"). Any person, irrespective of citizenship, can apply for access to information under **PAIA**.
- 4.2 This Guide will specifically assist a person, also called a data subject, on how to access his/her personal information in terms of section 23 of **POPIA**. Under **POPIA**, person or data subject has the right to -
  - 4.2.1 request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about them, and
  - 4.2.2 request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information;
  - 4.2.3 request a responsible party to -
    - (a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
    - (b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain.
- 4.3 This guide will also assist any person on how to request access to records under **PAIA**. The Guide will also assist requesters in:
  - 4.3.1 understanding **PAIA**, its benefits and background;
  - 4.3.2 learning the step-by-step process by which to make a request and additional tips for making that process easier;
  - 4.3.3 learning the types of information which can be requested using **PAIA**;
  - 4.3.4 understanding the process by which a requester can challenge a decision taken in relation to their request;

- 4.3.5 being introduced to the changes that will occur to **PAIA** once **POPIA** is fully operational.
- 4.4 This guide will also assist people in understanding how to challenge the granting of access to their records or how to participate in the process of accessing their records.

## 5. ABOUT PAIA

- 5.1 The right to access to information is "one of the most effective ways of upholding the constitutional values of *transparency, openness, participation and accountability*<sup>2</sup>. The above-mentioned constitutional values cannot be attained if the government has a monopoly on the information that informs its actions and decisions. Therefore, access to information is not only fundamental to a properly functioning participatory democracy, but it also increases public confidence in government and enhances its legitimacy. Other benefits of the right to access to information are for instance, that it discourages fraud and corruption, uncertainty and other improper governmental conduct.
- 5.2 When the South African Constitution was being drafted in the period following the fall of Apartheid in the 1990s, various organisations and individuals campaigned for the inclusion of a right of access to information. It was hoped that the inclusion of this right in the Bill of Rights would ensure that atrocities such as Apartheid could never again take place, as the state and private corporations would be obliged to act in an accountable and transparent manner by providing access to information, and therefore, would be unable to hide behind the veil of secrecy. It was seen as a necessary step for helping to create a culture of justification that would lead to fairer relations between people, and those in power. In one of the earliest cases<sup>3</sup> to deal with the question whether an accused person is entitled to access to all the information contained in the police docket. Jones J acknowledged its importance in these terms:

***“The purpose ... is to exclude the perpetuation of the old system of administration, a system in which it was possible for government to escape accountability by refusing to disclose information even if it had bearing upon the exercise or protection of rights of the individual. This is the mischief it is designed to prevent [...] Demonstrable fairness and openness promotes public confidence in the administration of public affairs generally. This confidence is one of the characteristics of the democratically governed society for which the Constitution strives”.***

<sup>2</sup> Hoexter *Administrative Law* 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Section 32 of the Constitution enshrines the right of access to information held by both public and private bodies. Section 32 also states that legislation must be enacted to give effect to the right of access to information by detailing the ways in which information from public and private bodies can be accessed, and by providing grounds on which a public and private body could refuse access to information.
- 5.4 **PAIA** was enacted in response to the above-mentioned constitutional mandate, and came into force in large part in March 2001. Its preamble acknowledges the "secretive and unresponsive culture" of the pre-democratic era, and asserts that one of the objects of **PAIA** is to "foster a culture of transparency and accountability in public and private bodies."
- 5.5 **PAIA** is meant to give effect to a person's rights of access to information and accountability. It is designed to empower people to use the law, and so helps to facilitate requesting access to information in different ways. One does not need a lawyer to make a request for access to information in terms of **PAIA**.

## 6. THE OBJECTS OF PAIA

- 6.1 The objects of **PAIA** are not to replace the constitutional right, but to give effect to the right in section 32 subject to justifiable limitations, and in a way which helps balance all the other rights contained in the Constitution. It hopes to promote a human rights culture and social justice for people, the public sector and the private sector. **PAIA** seeks to promote transparency, accountability and effective governance of all institutions (both public and private) by empowering people to understand their access to information rights, act on them, and both scrutinise, and engage with, decision-making that affects them.
- 6.2 The right of access to information is a very powerful constitutional right, as it helps people realise other rights. A person can use it to help monitor and assess the delivery of government services, or to access historical records that might be of interest.
- 6.3 The objectives of **PAIA** are -
- 6.3.1 to give effect to the constitutional right of access to
    - 6.3.1.1 any information held by the State; and
    - 6.3.1.2 any information that is held by another person and that is required for the exercise or protection of any rights.

- The requirement relating to the protection of rights is confined to information held in private hands. Private bodies are thus subjected to a less stringent standard of transparency than public bodies. The private sector, in other words, is entitled to keep its information to itself, unless that information is needed to protect rights.
- **PAIA** recognises, in terms of Section 8(1) thereof, that a body may be "public" or "private" for the purposes of the Act depending on whether the record in question "relates to the exercise of a power or the performance of a function as a public body or as a private body."

6.3.2 to give effect to that right -

6.3.2.1 subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and

6.3.2.2 in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;

6.3.3 to give effect to the constitutional obligations of the State in promoting a human rights culture and social justice, by including public bodies in the definition of 'requester', and allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

6.3.4 to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and

6.3.5 generally, to promote transparency, accountability and effective governance of all public and private bodies by, including but not limited to, empowering and educating everyone -

6.3.5.1 to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

6.3.5.2 to understand the functions and operation of public bodies; and

6.3.5.3 to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

#### 6.4 The Promotion of Access to Information Amendment Act, 2019

- 6.4.1 In the matter of ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17***, the constitutional court held that *“the State is under an obligation that flows from a proper reading of sections 32, 19 and 7(2) of the Constitution to do everything reasonably possible to give practical and meaningful expression to the right of access to information and the right to vote. The majority further contended that this is so because the exercise of the right to vote must be an informed choice, and there is a vital connection between the proper exercise of the right to vote and the right of access to information. And “without access to information, the ability of citizens to make responsible political decisions and participate meaningfully in public life is undermined”.* The Constitutional Court confirmed the order of constitutional invalidity and ordered Parliament to amend **PAIA** and take any other measure it deems appropriate to provide for the recordal, preservation and facilitation of reasonable access to information on the private funding of political parties and independent candidates within a period of 18 months.
- 6.4.2 In accordance with the above-mentioned constitutional court judgment, the President has, on 3rd June 2019, assented to the Promotion of Access to Information Amendment Act, 2019 (**PAIA amendment Act 2019**)<sup>4</sup>. The **PAIA** amendment Act 2019 includes a political party in the definition of a private body, which effectively means that the leader of the political party or any person duly authorised by that leader is an information officer or head. The **PAIA** amendment Act 2019 now extends the right of access to any records of the political party.
- 6.4.3 The amendment Act provides for information on the private funding of political parties and independent candidates to be recorded, preserved and made available.
- 6.4.4 In terms of section 52A of the **PAIA** amendment Act 2019, the head of a political party must create and keep records of any donation exceeding the prescribed threshold, of **R100 000.00**, that has been made to that political party in any given financial year and the identity of the persons or entities who made such donations. The head of a political party is also required to make the records available on a quarterly basis, as prescribed; and keep the records for a period of at least five years after the records concerned have been created.

<sup>4</sup> Promotion of Access to Information Amendment Act, No. 31 of 2019

6.4.5 This means that whilst the Political Party Funding Act makes provision for mandatory disclosure to the Electoral Commission, the **PAIA** amendment Act 2019 now extends the right of access, to the records of any donation exceeding **R100 000.00**, to any person, that has been made to that political party.

## 6.5 Other legislation that protects the right of access to information

**PAIA** also exists within a whole legal environment, which is designed to create a “culture of justification”. In recognition of this, **PAIA** states that any other law that gives a person an avenue for accessing information that is less onerous than **PAIA**, can be used instead<sup>5</sup>.

### 6.5.1 Companies Act 71 of 2008

6.5.1.1 Section 26(1) of the Companies Act provides a person who holds or has a beneficial interest in any securities issued by a profit company, or who is a member of a non-profit company, has a right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the company.

6.5.1.2 In terms of section 26(7)(b) of the Companies Act, “the rights of access to information set out in this section are in addition to, and not in substitution for, any rights a person may have to access information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)”.

### 6.5.2 The Political Party Funding Act, 2018 (Act No. 6 of 2018)

6.5.2.1 The Political Funding introduces a strict regulatory framework for the private funding of all registered political parties, whether represented in the national and provincial legislatures or not. This includes setting limits for the source, size and use of donated funds by political parties.

6.5.2.2 To ensure transparency and accountability, political parties are required to disclose all donations received above the disclosure threshold of **R100 000.00** to the Electoral Commission regularly every three months (as well as ahead of general elections).

<sup>5</sup> Section 2(1) of PAIA

- 6.5.2.3 Any person or organisation making a donation to a political party which individually or cumulatively exceeds **R100 000.00** per year must report that donation to the Electoral Commission within 30 days of making the donation or within 30 days of when the cumulative donations exceeded **R100 000.00**.
- 6.5.2.4 Lastly, the Political Party Funding Act places an obligation on the Electoral Commission to make public every three months the donations reported by political parties and to report annually to Parliament on all donations made to political parties during the year.
- 6.5.3 Protection of Personal Information Act, 2013 (Act No. 4 of 2013)
- 6.5.3.1 Section 23 of **POPIA** provides the data subject with the right of access to personal information held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.
- 6.5.3.2 This means that whilst access to a record containing personal information about a requester is excluded from **PAIA** in terms Section 11(2) thereof, data subject can request –
- 6.5.3.2.1 access to his/her personal information; and/or
- 6.5.3.2.2 identity of all third parties, and/or categories of third parties, who have, or have had, access to the information.
- 6.5.3.2.3 correction or deletion of personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
- 6.5.3.2.4 the record of his/her personal information that the responsible party is no longer authorised to retain to be destroyed or deleted.
- 6.5.3.3 A responsible party may refuse to disclose any personal information requested, in accordance with the grounds for refusal of access to records, as set out in paragraph 19.4 below.



## 6.5.4 The Promotion of Administrative Justice Act 3 of 2000

- 6.5.4.1 Another important law to remember when considering access to information is the Promotion of Administrative Justice Act (**PAJA**). **PAJA** gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33(2) of the Constitution<sup>6</sup>.
- 6.5.4.2 In terms of section 5(1) of **PAJA**, any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned to furnish written reasons for the action. The administrator to whom the request is made must, within 90 days after receiving the request, give that person adequate reason in writing for the administrative action.

## 7. ESTABLISHMENT OF THE INFORMATION REGULATOR

- 7.1 To ensure the promotion and enhancement of the **PAIA** objectives, which are to give effect to that right of access to information in a manner which enables persons to obtain access to records of public and private bodies as swiftly and inexpensively as reasonably possible, the Information Regulator (“the Regulator”) was established in terms of section 39 of **POPIA**.
- 7.2 In order to ensure that uncomplicated and inexpensive administrative procedures follow when a request for access to information is made, complaints to the Regulator and court applications should be the exception rather than the rule.
- 7.3 **POPIA** amends the role of the **SAHRC** in relation to the **PAIA** mandate. Effective from 30 June 2021, all the functions of the **SAHRC**, as enumerated in **PAIA**, will be handled by the Regulator, which also has additional enforcement powers.
- 7.4 Whilst the **SAHRC** will still maintain its broader constitutional obligations to promote, protect and monitor the rights enshrined in the Bill of Rights, the **SAHRC** and the Regulator will work closely alongside one another.

<sup>6</sup> Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.



## 8. THE ROLE OF THE INFORMATION REGULATOR

- 8.1 The Regulator has a very important role in relation to **PAIA**. The Regulator is mandated by **PAIA**, under Part 4, Chapter 1A and Part 5 and other sections, to:
- 8.1.1 promote the right of access to information and assist the public in using **PAIA** where reasonably possible to do so,
  - 8.1.2 monitor and further the implementation of **PAIA** by public and private bodies (which includes promoting effective ways to make information timeously available),
  - 8.1.3 make recommendations to strengthen **PAIA**, and
  - 8.1.4 report annually to Parliament.
- 8.2 Section 77C (1) and (2) of **PAIA** makes provision for the following powers, duties and functions of the Regulator, to -
- 8.2.1 investigate a complaint made to the Regulator in the prescribed manner;
  - 8.2.2 refer the complaint to the Enforcement Committee established in terms of section 50 of the **POPIA**; or
  - 8.2.3 decide, in accordance with section 77D, to take no action on the complaint or, as the case may be, require no further action in respect of the complaint; and
  - 8.2.4 act, where appropriate, as conciliator in relation to such complaint in the prescribed manner.
- 8.3 The Regulator may, in terms of section 77H(1) of **PAIA**, and on its own initiative, or at the request by or on behalf of information officer or head of a private body or any other person conduct an assessment whether a public or private body generally complies with the provisions of **PAIA**, insofar as its policies and implementation procedures are concerned.
- 8.4 The Regulator is empowered, in terms of section 77F of **PAIA**, to use its best endeavours to secure a settlement of a complaint, if it appears from the complaint, or any written response made in relation thereto that it may be possible to settle the complaint. This means that the Regulator can only try to assist parties to settle their disputes, if there is a complaint lodged with the Regulator, unless it has decided, on its own initiative, to conduct an assessment, as stipulated in paragraph 8.3 above.

## 9. MAKING A REQUEST FOR A RECORD

Please refer to the step-by step process chart flow in paragraph 27 below, on how to request access to the records.

### 9.1 Getting started: **PAIA Manuals**

9.1.1 While this Guide has been published to assist the public from all walks of life to uphold their constitutional right to access to information, there are other sources of information that can also assist a person in making a request to access to records. **PAIA** requires that all public bodies, and private bodies, compile and make available a **PAIA** manual<sup>7</sup>.

9.1.2 Before any person takes steps to access the information or records of a particular body, the **PAIA** Manual is the first tool to read.

9.1.3 At its most basic, the **PAIA** manual is useful for a person to:

9.1.3.1 check the nature of the records which may already be available without the need for submitting a formal **PAIA** request;

9.1.3.2 have an understanding of how to make a request for access to information held by a particular body;

9.1.3.3 access all the relevant contact details of the person who will assist the public with the records any person intends accessing;

9.1.3.4 know all the remedies available from the body to which access to the records is being requested, before approaching the Regulator or the Courts;

9.1.3.5 know the description of the services available to members of the public from the body and how to gain access to those services;

9.1.3.6 know if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;

9.1.3.7 know if the body has planned to transfer or process a person's personal information outside the Republic of South Africa; and

<sup>7</sup> Section 14 and section 51 of PAIA

- 9.1.3.8 know whether the body has appropriate security measures to ensure the confidentiality, integrity and availability of the information which is to be processed.

## 9.2 Where to find PAIA manuals?

### 9.2.1 PAIA Manual of public bodies

- 9.2.1.1 All public bodies must make the **PAIA** Manual easily available in at least three official languages<sup>8</sup>.

- 9.2.1.2 At the very least, they are required to make a copy of a **PAIA** Manual freely available, except if a printed hard copy is requested

- 9.2.1.2.1 on the web site of the public body;

- 9.2.1.2.2 at the head office of the public body for public inspection during normal business hours;

- 9.2.1.2.3 if a person wants a hard copy, the public body must make a copy, but it may request payment of a reasonable fee for the provision of a hard copy; and

- 9.2.1.3.4 to the Regulator upon request.

### 9.2.2 PAIA Manual of private bodies

- 9.2.2.1 Private bodies are also required to compile a **PAIA** manual<sup>9</sup>, but there is no requirement to compile it in more than one language or in a specific language, although it is recommended that the **PAIA** Manuals of private bodies should be at least in English. If a specific body is providing services to majority of people without formal education, the Regulator recommends that the manual of that body may also be in any other official language.

- 9.2.2.2 At the very least, the private bodies are required to make a copy of a **PAIA** Manual freely available<sup>10</sup>, except if a printed hard copy is requested -

- 9.2.2.2.1 on the web site of the private body;

- 9.2.2.2.2 at the principal place of business of the private body for public inspection during normal business hours;

<sup>8</sup> Section 14(1) of PAIA

<sup>9</sup> in terms of section 51 of PAIA

<sup>10</sup> Section 51(3) of PAIA

9.2.2.2.3 if a person wants a hard copy, the private body must make a copy, but it may request the payment of a reasonable fee for the provision of the hard copy; and

9.2.2.2.4 to the Regulator upon request.

9.2.3 The Minister of Justice and Correctional Services has powers to exempt<sup>11</sup> certain private bodies or category of private bodies from the obligation to compile a manual. Currently, and until 31 December 2021, the Minister has exempted<sup>12</sup> all private bodies, except any company which -

- (a) (is not a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008); and
- (b) is a private company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008) which operates within any of the sectors mentioned in column one of the schedule to this Notice and -
  - (i) has 50 or more employees in their employment; or
  - (ii) has a total annual turnover that is equal to or more than the applicable amount mentioned in column 2 of below table,

from compiling the manual contemplated in section 51(1) of the first mentioned Act for a period of six (6) month from **1 July 2021 to 31 December 2021**: -

Sector	Annual Turnover
Agriculture	R 6 million
Mining and Quarrying	R 22.5 million
Manufacturing	R 30 million
Electricity, Gas and Water	R 30 million
Construction	R 15 million
Retail and Motor Trade and Repair Services	R 45 million
Wholesale Trade, Commercial Agents and Allied Services	R 75 million
Catering, Accommodation and other Trade	R 15 million
Transport, Storage and Communications	R 30 million
Finance and Business Services	R 30 million
Community, Special and Personal Services	R 15 million

<sup>11</sup> Section 51(4) of PAIA

<sup>12</sup> Government Gazette no: 39504, 11 December 2015

9.2.4 Due to the significance of the legislative requirement for compiling the **PAIA** Manual, especially the amendment<sup>13</sup> of section 51 of **PAIA** (which come into operation on 30 June 2021), in terms of which the scope of the information that the manual must cover has been widened to include matters relating **POPIA**, private bodies will no longer be exempted from the obligation to compile **PAIA** manual. Therefore, from, 1st January 2022, every private and public body will be required to have their **PAIA** Manual available, as prescribed in paragraph 9.2.2.2 above.

9.2.5 The exemption of private companies from the obligation to compile **PAIA** manual does not exempt those private companies from compliance with **PAIA**. This means that any person can still submit a request for access to information to exempted private body. The exemption just means that those private companies don't have to compile a **PAIA** manual.

9.2.6 Remember too, that not all private bodies are companies, as the definition of private body includes natural person, sole proprietor and partnership. However, it may still be worthwhile checking their website, as some Companies create a **PAIA** manual regardless of the number of their employees or their annual turnover.

### 9.3 Voluntary disclosure and automatic availability of certain records

9.3.1 Automatically available records are those that a public or private body will provide without the need for a requester to submit a **PAIA** request (in other words, a person can just request it without completing the **PAIA** Form 2).

9.3.2 The Information Officer of a public body is required, in terms of section 15(1) of **PAIA**, to make available a list or categories of records that are automatically available, as prescribed in paragraph 9.3.4 below.

9.3.3 Automatically available records of a private body may also be made available, in terms of section 52(1) of **PAIA**, but on a voluntary basis in accordance with paragraph 9.3.4 below.

9.3.4 A description of the categories of automatically available records must be made available -

- (a) to the Information Regulator;
- (b) on the website of a body; and
- (c) for inspection, at the offices of a body concerned during normal office hours.

<sup>13</sup> Section 110 of POPIA

- 9.3.5 Please note that the Regulator will upload the description of automatically available records of a public body on its website.
- 9.3.6 This list includes records that might be required to be made available by other laws, and any other records that a body chooses to include. In order to avoid the formality of complying with the **PAIA** request process, a requester is advised to check the **PAIA** Manual of the public or private body concerned. Should a person wish to access records that fall within the body's list of automatically available records, that person may merely request access to them without needing to complete **PAIA** Form 2.
- 9.3.7 Political Party Funding Act 6 of 2018 introduces some changes through **PAIA**, in terms of which the heads of political parties are required to record and preserve records of private donations, which will need to be made public without a person having to file a **PAIA** request.

## 10. CONTACT DETAILS OF INFORMATION OFFICERS

- 10.1 Although the contact details of the Information Officers of every public body are required to be published in every telephone directory, in terms of section 16 of **PAIA**, the Regulator has specific contact details of all Information Officers (including Deputy Information Officers, designated in terms of section 17 and 56 of **PAIA** and **POPIA** respectively) registered with it in terms of section 55(2) of **POPIA**.
- 10.2 Whilst getting the correct contact details may often be a very challenging part of making a **PAIA** request, as roles change frequently in the public sector and **PAIA** manual may not necessarily be up-to-date, the first place to find contact details should be the body's **PAIA** Manual. However, if a requester cannot find the manual, calling the switchboard of the body to ask for the relevant details may also assist.
- 10.3 For Municipalities, the South African Local Government Association (**SALGA**) places the contact details for all Municipalities at this link:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Government communication also provides national and provincial contacts as well as the contact details of State-Owned Enterprises under this link:  
<https://www.gov.za/about-government/contact-directory>. Always remember that the definition of the Information Officer helps to identify whose contact details are needed to identify the Information Officer.

## 11. PROCESS FOR MAKING A REQUEST FOR INFORMATION

### 11.1 The forms of request

- 11.1.1 A request for access to information can be made to both public and private bodies.
- 11.1.2 **PAIA** requires that if you want to make such a request, you have to submit the request on the required form (these forms are prescribed by Regulations). There are two forms that can be used in pursuing the right to access to information

Form 2	Form 4
This form can only be used if you want to request access to the records of a public or private body.	This form can only be used if you want to submit an internal appeal against the decisions of the Information Officers or that of the Deputy Information Officers of a National, Provincial or Local Sphere of Government to which an internal appeal is applicable.

- 11.1.3 These forms can be obtained on the Regulator's website at <https://www.justice.gov.za/inforeg/>

### 11.2 Deciding whether a request relates to information held by a private or public body

- 11.2.1 A public body performs a public function, such as providing electricity or water to the public. So, a public body is not just a National, Provincial or Local Government Department- it would include state-owned enterprises or Organs of State such as the Regulator, **Eskom**, or **PRASA**, however, a distinction must be made regarding a public body for purpose of internal appeal, which only refers to National, Provincial or Local Government.
- 11.2.2 A private body performs a private function. Such a body (which can be a person) carries on a trade, business or profession. It is very important to note that when submitting a **PAIA** request to a private body a person must state which right he is protecting or exercising by asking for this information. With regard to any information that is held by another person, Streicher JA summed up the position as follows, in **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) para 28 at 1026F-G



*“Information can only be required for the exercise or protection of a right if it will be of assistance in the exercise or protection of the right. It follows that, in order to make out a case for access to information in terms of section 32, an applicant has to state what the right is that he wishes to exercise or protect, what the information is which is required and how that information would assist him in exercising or protecting that right”.*

11.2.3 Sometimes the question of whether a record is a public or private record can be complicated and the public are advised to seek legal advice. For example, if a public body appoints a private body to render certain services on its behalf, such as installation of water metres in certain communities, access to the numbers of installed metres, even if such information is held by such private body, will be treated as information of a public body.

11.3 How does a person explain the right he is hoping to exercise or protect?

11.3.1 When explaining which right one is hoping to exercise when making a request to a private body, one cannot refer to the right of access to information. One has to explain how the record one is asking for is reasonably required for one to protect, or exercise, another right. This could include rights that are not just constitutional rights.

11.3.2 One may for example require the master plans from a company that has the potential to impact the pollution levels in a community, in order to help protect one’s right to the environment through monitoring its activities. Or one may require records, which will help one determine if one has the right to file a civil claim against an entity. One therefore needs to:

11.3.2.1 Specifically identify the right one hopes to protect or exercise, and then

11.3.2.2 Explain clearly why the *record* one is asking for is reasonably required to help one with that right.

11.3.3 In contrast, when submitting a **PAIA** request to a public body, one does not have to have a reason for requesting the information.

## 12. WHO CAN MAKE A PAIA REQUEST?

12.1 Any person, whether South African or non-South African, is allowed to make a request under **PAIA**. The requester can be a natural person or juristic person.



12.2 A public body is considered a juristic person and may make a request for access to records held by private bodies, but only if the public body is -

12.2.1 acting in the interests of the public, and

12.2.2 if the records are required to fulfil or protect any rights other than those of the public body.

12.3 Under **PAIA** a requester cannot request access to a record, of the public body, containing personal information about the requester from the public body<sup>15</sup>, however the requester or data subject can, in terms of section 23(1)(b) of **POPIA**, request from a responsible party the record or a description of the personal information about the data subject held by the responsible party. This means that any person can now request access to their personal information held by the public or private body upon production of adequate proof of identity. The personal information that a requester may request from the responsible body may include information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.

12.4 In terms of section 50(1) of **POPIA**, any person can request access to a record, of a private body, containing personal information about the requester or the person on whose behalf the request is made.

### 13. TO WHOM CAN A REQUEST BE MADE TO?

13.1 The Information Officer of a public body is required to designate a Deputy Information Officer(s), who must ensure that access to the records of the public body is as reasonably accessible as possible. Although this was not a requirement with regard to the private body under **PAIA**, a private body may designate the above-mentioned Deputy Information Officer, in terms of section 56 of **POPIA**.

13.2 The request for access to information, although it may be directed to the Information Officer, can be submitted to the Deputy Information Officer. Particulars of Deputy Information Officer(s) can be obtained in the **PAIA** manual of that particular body or from the Regulator.

### 14. COMPLETING THE FORM

14.1 Form 2 - request for access to a record of a public or private body:

14.1.1 In order to complete the **PAIA** form, a person needs to provide sufficient detail to allow the Information Officer or Deputy Information Officer to identify the records the requester seeks.

<sup>15</sup> Section 11(2) of PAIA

- 14.1.2 **PAIA** Regulations specify the form to be used, which must be sent to the Information Officer, or Deputy Information Officer of the body.
- 14.1.3 Requesters who are unable to read or write can make verbal requests to the Information Officer or Deputy Information Officer of a public body, who is then responsible for completing the form 2 on behalf of the requester. The current form will require you to complete the following sections:

Information Required	Description
<b>Particulars of public private body</b>	This section should contain the relevant email and fax number of the Information Officer and/or Deputy Information Officer.
<b>Particulars of person requesting access to records</b>	This should contain enough information about the requester to make the requester reasonably easy to identify, including the contact details of the requester: postal address, email address, fax and/or telephone number in South Africa. It also asks for your identity number to authenticate your identity. If you are requesting the information on behalf of someone else, proof of the capacity in which you are making the request must be provided (as the 'authorised person').
<b>Particulars of record requested</b>	Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to the form. All additional pages must be signed.
<b>Type of record</b>	This should contain enough information about the record to make it reasonably easy to identify. If the information required cannot fit in the space provided in the form, additional typed or handwritten page may be used to give more detail of the request, as long as each additional page is signed

Information Required	Description
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	and attached to the request form. You might, for example, include an extract from a report or news story that references the record you are looking for. It allows you to include a reference number for the record, if it is applicable.
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**Fees**

The body, to which a requester intends submitting a request for access to a record, including record containing personal information about his or herself, may request that you pay request fee (access fee) or deposit fee, but that amount must not be excessive, as the fees must be for the reasonable time required to search for and prepare a record. The Minister may by notice in the Gazette exempt the payment of fees as listed on paragraph 51.1 below.

A space is provided for the requester to indicate why he believes he or she should be exempted from paying any fees. The reason may include, for example, that he or she is unemployed.

**Form of access to record**

This section allows you to note with an "X" your preferences for the form of access to the record may be provided in a printed copy of record and/or flash drive and/or compact disc drive.

**Manner of access**

Under this section you are required to note your preference in relation to which language the record should be in (this may not be possible in relation to all records, but you should still indicate your preference). The manner of access of the record may contribute to a refusal of access due to higher fees. For example, if a requester wants document in your preferred language,

Information Required	Description
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fees for changing the documents to your preferred language may become payable. However, if the record is not available in the language you prefer, access may be granted in the language in which the record is available. The manner of access to record may include personal inspection of record, record sent by email, or fax or courier or postal.

<p><b>Notice of decision regarding request for access</b></p>	<p>A space is provided for the requester to describe the manner in which he wishes to be informed about the decision to grant or deny the request. The requester can specify for instance that he would prefer to be contacted by email or by telephone or the response can be posted or couriered to him.</p>
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<p><b>Particulars of right to be exercised or protected</b></p>	<p>When requesting information from a private body a requester is required to describe the “particulars of right to be exercised or protected”. Here he must state the right he is relying on (such as his right to a healthy environment) and how the record he is requesting will help you either exercise, or protect, that right. He must show a connection between the record he wants, and the exercise or protection of the right.</p>
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Unfortunately, unlike the request for access to record of a public body, he cannot access a record of the private body unless he specifies the right(s) he intends protecting or exercising should access for information be granted. This can include the fact that after he gains access to records, he will then exercise his right to equal protection and benefit of the law<sup>16</sup> by suing that body for damages that he may have suffered.

<sup>16</sup> Section 9(1) of the constitution of the Republic of South Africa, Act 108 of 1996

14.1.4 If for any reasons his request does not comply with the requirements listed above, the Information Officer may not just refuse his request, unless he notified the requester that he intends to refuse the request and the reasons are provided. The Information Officer must also notify that he will assist the requester or give him an opportunity to correct the error.

## 15. THE FEES INVOLVED

15.1 Generally, fees need to be paid both for making a request, but also to cover the cost of providing access to records in terms of a request. There are, however, some exceptions. If the requester is granted access to the records he or she requested and he or she is not exempted from paying any fees, as indicated in paragraph 15.2 below, the Information Officer or Deputy Information Officer of a public or private body can charge the prescribed fees relating to the following categories -

**NB: The fee structure in respect of fees payable to the Public and Private Bodies can be accessed on the Regulator’s website.**

Item	Description
1	The request fee payable by every requester
2	Photocopy of A4 size page
3	Printed copy of A4 size page
4	For a copy in a computer-readable form on: <ul style="list-style-type: none"> <li>(i) Flash drive (to be provided by requestor)</li> <li>(ii) Compact disc               <ul style="list-style-type: none"> <li>• If provided by requestor</li> <li>• If provided to the requestor</li> </ul> </li> </ul>
5	For a transcription of visual images per A4 size page
6	Copy of visual images
7	Transcription of an audio record, per A4 size page
8	Copy of an audio record on: <ul style="list-style-type: none"> <li>(i) Flash drive (to be provided by requestor)</li> <li>(ii) Compact disc               <ul style="list-style-type: none"> <li>• If provided by requestor</li> <li>• If provided to the requestor</li> </ul> </li> </ul>
9	To search for and prepare the record for disclosure for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation. To not exceed a total cost of the prescribed maximum amount
10	Deposit: If search exceeds 6 hours
11	Postage, e-mail or any other electronic transfer

15.2 The requester does not need to pay an access fee<sup>17</sup> to a public body if:-

15.2.1 He is a single person whose annual income, after permissible deductions, such as **PAYE** and **UIF**, is less than **R14 712.00** a year, or

15.2.2 He is married and the joint income with his partner, after permissible deductions, such as **PAYE** and **UIF**, is less than **R27 192.00** per year.

15.3 Please note that the public or private body can request, in Form 4 to the Regulations, a deposit from the requester, but only if they believe that the information or records requested will take more than six (6) hours to search, but the deposit amount cannot be more than one-third of the prescribed fee.

## 16. WILL THE INFORMATION OFFICER HELP THE REQUESTER MAKE A PAIA REQUEST?

16.1 The role of the Information Officers and/or Deputy Information Officers of both public and private bodies is to, in so far as it relates to the processing of requests for access to records:

16.1.1 receive the **PAIA** or **POPIA** request;

16.1.2 coordinate the processing of the request within the body;

16.1.3 make a decision as to whether to grant or refuse access to the records being requested;

16.1.4 liaise with the requester (e.g. they may need to ask the requester for more details or they may need to request an extension of time to deal with the request, etc.);

16.1.5 Advise the requester of the outcome of their **PAIA** request, which advice must be given as soon as is reasonably possible but within 30 days after receiving the request. The initial period of 30 days may be extended once for a further period of not more than 30 days, if for example, the requester has agreed to the extension or the request requires a search for records that cannot reasonably be completed within the original period;

16.1.6 provide the requester with reasons for the decision to refuse access. It is very important that the reasons given for a refusal are clear and detailed and must include reference to the specific sections of **PAIA** (see paragraph 19.4 below, regarding the grounds for refusal of access to records<sup>18</sup>);

<sup>17</sup> as per Government Notice R991 of 14 October 2005

<sup>18</sup> Section 33 to 46 of PAIA

- 16.1.7 inform relevant third parties through the third-party notification process, in terms of section 47 of **PAIA**; and
- 16.1.8 if access to the records is granted, provide the requester with a copy of the record.
- 16.2 When notifying the requester about the decision, also outline the forms of recourse available and the relevant time-lines (the recourse available is different for public and private bodies).
- 16.3 The additional role and responsibilities of the Information Officers and/or Deputy Information Officers are those detailed in the Guidance Note on Information Officers and Deputy Information Officers which Guidance Note is available at <https://www.justice.gov.za/infoereg/docs.html>
- 16.4 Because the role of the Information Officers and/or Deputy Information Officers is to facilitate the request for access to information, this also means they have a variety of duties to those making a request.
- 16.5 The Information Officers and/or Deputy Information Officers must provide the assistance for free.
- 16.6 The Information Officers and/or Deputy Information Officers of a public body have the following special tasks:

Duties of Information Officers	Description
<b>Assist with completing the form</b>	The Information Officer must provide reasonable assistance to the requester in completing their <b>PAIA</b> form, and may not refuse to accept a form that is not properly completed unless they have either given that help, or offered that help and the assistance or help has been refused.
<b>Provide relevant information</b>	If it is reasonably possible, the Information Officer must provide the requester with any other information that may be relevant, even if not specifically requested.
<b>Transfer the request</b>	This is a very important duty. When a <b>PAIA</b> request is made to the wrong public body, the Information Officer must transfer the

Duties of Information Officers	Description
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request to the correct public body within **14 days** of receiving the request and must inform the requester in writing of having done so. Once transferred, the correct Information Officer must then respond with a decision within **30 days**.

<b>Deferral of release</b>	The Information Officer may decide to defer the release of a record to a requester if that record will be published within <b>90 days</b> or if the record is required by law to be published but is yet to be.
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16.7 With both public and private bodies, the Information Officer must, if they are unable to find the particular records requested or believe that the records do not exist, submit a detailed affidavit or affirmation<sup>19</sup> to the requester giving notice that the records in question do not exist or cannot be found, but also outline the steps they took to locate them.

## 17. ASSISTANCE AVAILABLE FROM THE INFORMATION REGULATOR IN TERMS OF PAIA AND POPIA

17.1 The Information Officer of a public body has an obligation to render such reasonable assistance<sup>20</sup>, free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 of the **PAIA** and section 23 of **POPIA**.

17.2 However, should the Information Officer fail to comply with his/her duty, referred in paragraph 17.1 above, a requester or a data subject can may lodge a complaint with the Regulator and the Regulator may, upon investigation, issue an Enforcement Notice directing the Information Officer to provide the reasonable assistance.

17.3 The Regulator may, if reasonably possible, on request, assist any person wishing to exercise any right contemplated in **PAIA** and **POPIA**<sup>21</sup>, and this includes providing reasonable assistance, free of charge, as is necessary to enable that requester or data subject to comply with the manner of access as contemplated in sections 18 and 53 of the **PAIA** and section 23 of **POPIA**.

17.4 The above includes providing guidance on how to complete a request for access form or completing a form on behalf of an illiterate or blind person.

<sup>19</sup> Section 23(1) and 51(1) of PAIA

<sup>20</sup> Section 19(1) of PAIA

<sup>21</sup> Section 83(3)(c) of PAIA



## 18. CAN THE INFORMATION OFFICER EXTEND THE TIMELINES INVOLVED?

- 18.1 An outline of the process and the key time-lines involved are contained in the diagram of the **PAIA** request process, in paragraph 27 below. Having specific time-lines is an important part of **PAIA**, as it fosters the effective management of requests for access to records.
- 18.2 As a reminder, once you have submitted your request correctly the Information Officer or Deputy Information Officer, to whom the request is made or transferred, must respond to you as soon as is reasonably possible but in any event **within 30 days**<sup>22</sup>. However, the Information Officer of a public or private body can request a single **30 day extension**<sup>23</sup>, but only if:
- 18.2.1 the request is for a large number of records or requires that a large number of records are searched and, without an extension, this search would interfere with the normal activities of the body concerned;
  - 18.2.2 the request requires a search through records in an office of that body not situated in the same city or town and could thus not be completed **within the 30 days**; and/or
  - 18.2.3 it requires a level of consultation in order to act on the request, which cannot reasonably be completed **within just 30 days**.
- 18.3 The Information Officer must notify the requester of his or her intention to extend the initial time period, and indicate the period of extension, the reason for the extension, and notify the requester of his or her or its right to -
- 18.3.1 Appeal to the relevant authority;
  - 18.3.2 complain to the Regulator; or
  - 18.2.3 launch proceedings in court against the extension as the case may be.
- 18.4 The Information Officer must also inform the requester of the process for each of the above-mentioned rights in the notice<sup>24</sup>.

## 19. RESPONSES TO A REQUEST FOR INFORMATION

- 19.1 **PAIA** has provided the public with the right to request access to records from any public or private body. It is often described as the law that keeps citizens in the know about their government. Public bodies are required to disclose any information requested under the **PAIA** unless it falls under one of **twelve (12)**

<sup>22</sup> Section 25(1) of PAIA

<sup>23</sup> Section 26(1) of PAIA

<sup>24</sup> Section 26(3) of PAIA - the extension notice must state that the requester may lodge an internal appeal, complaint to the Information Regulator or an application with a court, as the case may be, against the extension, and the procedure (including the period) for lodging the internal appeal, complaint to the Information Regulator or application, as the case may be.

**exemptions** or reasons why access to records of a public body may or must not be granted<sup>25</sup> and seven (7) exemptions or reasons why access to records of private body may or must not be granted<sup>26</sup>. The nineteen (19) exemptions provided for in **PAIA** are intended to protect interests such as personal privacy, national security, and law enforcement.

19.2 The guiding principle underlying the administration of **PAIA** is the presumption of openness. This means that any reason for limiting this openness must be justifiable. Public bodies should also consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they must sever or redact the information that cannot be disclosed and disclose the rest.

19.3 Types of responses to requests

19.3.1 When a request for access to a record is made, the Information Officer or Deputy Information Officer must, if a request for access to a record is granted or refused, inform the requester of -

- (a) his or her decision; and
- (b) the fees payable, if any,

on a form that corresponds substantially with **Form 3** of Annexure A to the Regulations:

19.3.2 However, **PAIA** provides a list of reasons or grounds (exemptions) (see paragraphs 19.4 and 19.6 below) why the request may or must be refused. This is important, as the request can only be refused on the basis of one of these listed grounds for refusal of access to records.

19.3.3 Despite the above-mentioned reasons for refusal of access to records, the Information Officer of a public body must grant a request for access to a record of the body if the public interest in the disclosure of the record clearly outweighs the harm contemplated in the listed reasons for refusal<sup>27</sup>. This means the requester can rely on public interest whenever any of the grounds of refusal of access to records is being invoked.

19.3.4 In short, the reasons behind why information cannot be disclosed relate to whether the disclosure of the information would cause more harm than non-disclosure would. There are two different types of listed grounds for refusal for access to records of a body:

<sup>25</sup> Chapter 4 of PAIA- grounds for refusal of access to records (section 34-45 of PAIA)

<sup>26</sup> Chapter 4 of PAIA -grounds for refusal of access to records (section 63-69 of PAIA)

<sup>27</sup> Section 46 of PAIA

## 19.4 Mandatory grounds of refusal (grounds of exemption)

19.4.1 With mandatory grounds, the Information Officer or Deputy Information Officer must refuse a request because they apply to the record.

19.4.2 There are more mandatory grounds than discretionary grounds. The following are the mandatory grounds of refusal, and the Information Officer or Deputy Information Officer must refuse a request because they apply to the record –

### 19.4.2.1 **Mandatory protection of privacy of third party who is a natural person;**

The Information Officer of a public or private body must not allow a requester access to the personal information of another person if it amounts to ‘an unreasonable disclosure’. The sections themselves indicate a few reasons when this does not apply, like when records are already in the public knowledge, or where a person has given consent. The consent issue is particularly important as it connects to another part of the process the requester should be aware of, which relates to third party notifications, in terms of chapter 5 of **PAIA**.

### 19.4.2.2 **Mandatory protection of certain records of the South African Revenue Service;**

The Information Officer of **SARS** must not allow a requester access to records obtained, or held, by **SARS** for its revenue collection purposes. However, records obtained or held by **SARS** may not be refused if a request is done by personal requester or the person on whose behalf the request is made.

### 19.4.2.3 **Mandatory protection of commercial information of third party;**

The Information Officer of a body must not allow a requester access to the commercial information of another person (in other words, who is not the requester or requestee. This would include information like trade secrets, or that might threaten that third party’s commercial interests. For example, **KFC** use certain recipes, including some ingredients manufactured by a third party, which are the trade secrets of that third party and its disclosure might threaten the commercial interests of that third party.

19.4.2.4 **Mandatory protection of certain confidential information, and protection of certain other confidential information, of a third party;**

The Information Officers of both a public and private body must not allow a requester access to a record if its release would amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

19.4.2.5 **Mandatory protection of safety of individuals, and protection of property;**

The Information Officer of both a public or private body must not allow a requester access to a record if its release could reasonably be expected to compromise the safety of an individual. In the same sections, it also states that the Information Officer of a body may refuse access if it would be likely to impair the security of a building or property.

19.4.2.6 **Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings;**

The Information Officer of a public body must not allow a requester access to records like bail proceeding records that are already protected by section 60 of the Criminal Procedure Act. In the same section, it also states that an Information Officer of a public body may refuse access to records of law enforcement that reveal its methods, techniques, procedures for prevention of crimes, or prosecution of crimes, as well as certain other records relevant to legal proceedings that are happening.

19.4.2.7 **Mandatory protection of records privileged from production in legal proceedings;**

The Information Officer of a private body must not allow a requester access to a record if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

19.4.2.8 **Mandatory protection of research information of third party, and protection of research information of public or private body.**

The Information Officer of a body must not allow a requester access to a record if the record relates to research that is, or will be, undertaken by the body in question and its release would be likely to expose the researcher, the third party or the matter under research to a serious disadvantage.

19.4.3 Please note that the above mandatory grounds for refusal of access to records are somewhat the same for public and private bodies, except for the mandatory protection of certain records of South African Revenue Service, of police dockets in bail proceedings, of law enforcement and of legal proceedings, which are only applicable to public bodies.

19.4.4 If only part of the record is linked to an exemption ground, the Information Officer or Deputy Information Officer of both a public or private body is under an obligation to consider whether partial disclosure of information is possible whenever they determine that full disclosure is not possible and they should take reasonable steps to sever or redact that part that cannot be released to the requester and grant access to the rest of the record.

## 19.5 Deemed refusal of request<sup>28</sup>

19.5.1 A failure to respond properly to a request within the correct timeframe is considered to be a 'deemed refusal'. This is important, because **PAIA** allows the requester to challenge a decision when no decision has been made and the request has been ignored. The requester would merely state in the internal appeal that no response was received.

19.5.2 Request for access to records is deemed to be a refusal after the expiry of 30 days or any extended period and the public or private body fails to respond.

## 19.6 Discretionary grounds of refusal

19.6.1 With discretionary grounds, an Information Officer or Deputy Information Officer may consider whether or not to refuse a request because the grounds apply to the record requested. Because it is a discretion, the Information Officer must apply his/her mind objectively when considering the different grounds, which are:

### 19.6.1.1 **South Africa's defence, security and international relations:**

The Information Officer may refuse access if the release of the information could reasonably be expected to threaten the defence or security of the country. This could also apply where the release of the information might harm South Africa's relations with another country, such as revealing records supplied in confidence.

### 19.6.1.2 **Economic, financial and commercial interests:**

The Information Officer may refuse access if its release will be harmful to the economic and financial status of the Republic;

<sup>28</sup> Section 27 and 58 of PAIA

19.6.1.3 **Operations of public bodies:** The Information Officer of a public body may refuse access if the release of the information could reasonably hamper operations, for example if it is trying to formulate policy, or deliberate on an issue;

19.6.1.4 **Manifestly frivolous or vexatious requests:** The Information Officers may refuse a request for information if they are of the opinion that processing requests will be unreasonably time consuming and lead to a waste of resources. In addition, they may refuse access to a record if the request is seen to be made by a requester to unnecessarily annoy or provoke.

## 20. MANDATORY DISCLOSURE OF RECORDS IN THE PUBLIC INTEREST

20.1 Even if a discretionary or mandatory ground for refusal exists in relation to a request for access to records of public or private bodies, there is always the possibility that the public interest in the disclosure of the record is more important than the harm created by the release of the record.

20.2 Where the importance of the public interest exists as stated above and the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with, the law; or an imminent and serious public safety or environmental risk, then the Information Officer of a body must grant a request for access to a record despite the existence of the exemption grounds listed above.

## 21. THIRD PARTY NOTIFICATION PROCESS<sup>29</sup>

21.1 An Information Officer or Deputy Information Officer of a body is required, in terms of sections 47 and 71 of **PAIA**, to take all reasonable steps to inform a third party about a request for his or records that might be a record that contains either personal information,

21.1.1 a SARS record;

21.1.2 trade secrets;

21.1.3 Information the release of which could constitute grounds for an action for breach of a duty of confidence; or research information that could expose someone or the subject matter to serious damage.

21.2 The notice to the third party whose records or Information are subject of request should invite the third party to -

<sup>29</sup> Section 47 and 71 of PAIA

- 21.2.1 make written or oral representations to the Information Officer why the request for access should be refused; or
- 21.2.2 give written consent for the disclosure of the record to the requester.
- 21.3 Importantly for the requester, **PAIA** says that the written notices to the third party must be sent to the third party within 21 days of the request being received, and that the Information Officer or Deputy Information Officer must inform the requester that a notice has been sent to the third party.
- 21.4 Once that notification has been sent, the Information Officer or Deputy Information Officer must then make a final decision on whether or not to release the records **within 30 days** of that notice being sent.
- 21.5 The third party must be notified about the decision taken and adequate reasons for granting the request must also be provided. The third party must also be informed about the right and the procedure to challenge the decision as indicated in paragraph 22 below.

## **22. LEGAL REMEDIES AVAILABLE AGAINST A DECISIONS OR FAILURE TO TAKE A DECISION BY THE INFORMATION OFFICER OR DEPUTY INFORMATION OFFICER**

- 22.1 Action to take once a decision is made on a request
  - 22.1.1 A requester can make a follow-up action in writing, on the pending decision of an Information Officer or Deputy Information Officer. It is encouraged that all correspondence between a requester and the Information Officer or Deputy Information Officer must be in writing for future reference purposes.
  - 22.1.2 There are different processes for public and private bodies, especially regarding internal appeals. For instance, with regard to a request for access to a record of a public body, the requester must first submit an internal appeal before approaching the Regulator or Court. However, there is no internal appeal against a decision (whether granting or refusal to grant access to records) or deemed refusal of access to records of a private body.
  - 22.1.3 This section will explain the legal remedies available to requesters who wish to challenge such decisions, which include internal appeals, lodging a complaint to the Regulator and applications to Court. See also diagram of **PAIA** request process flow, in paragraph 27 below.



22.1.4 A requester may, amongst others, challenge the following decision of a private and/or public body -

22.1.4.1 the tender or payment of the request fee;

22.1.4.2 the tender or payment of a deposit;

22.1.4.3 the access fee to be paid is too excessive;

22.1.4.4 the form of access granted;

22.1.4.5 the refusal of the request;

22.1.4.6 the procedure (including the period) for lodging the internal appeal;

22.1.4.7 inappropriate time extension taken to respond to a request for access;

22.1.4.8 failure to disclose records;

22.1.4.9 the granting of a request for access to a record;

22.1.4.10 refusal to grant request to waive the fees;

## 22.2 Internal remedies

22.2.1 How does a requester appeal internally against a public body's decision?

22.2.1.1 An internal appeal can only be lodged, in terms of section 74 of **PAIA**, with the relevant authority of the national or provincial sphere of government or any municipality in the local sphere of government as the case may be<sup>30</sup>.

22.2.1.2 So for example, the City of Johannesburg is an example of a local sphere of government against which an internal appeal can be submitted. The Road Accident Fund or the Regulator is an example of a public body which is not part of the national, provincial or local sphere of government as it is set up by legislation, and therefore an internal appeal may not be lodged against it.

<sup>30</sup> Section 74(1) of PAIA



22.2.1.3 When a requester or a third party is unhappy with a decision made by the Information Officer or Deputy Information Officer of a national, provincial or local sphere of government, the requester or a third party has the right to file an internal appeal, in terms of section 74(1) or (2) of **PAIA**. The process for lodging an appeal is prescribed in the **PAIA** manual of that particular body and the manner for lodging an internal appeal is also detailed herein below.

22.2.1.4 If the response from the national, provincial or local sphere of government is a deemed refusal, in another words, it has failed to respond to a request within 30 days or any extended period, the requester may file an internal appeal, as per the processes outlined herein, before the requester may approach the Regulator or a Court.

### 22.3 **Preservation of records until final decision on request has been finally determined**

22.3.1 The Information Officer of a National, Provincial or Local sphere of government to which an internal appeal is applicable is required, in terms of section 21 of **PAIA**, to take appropriate steps that are reasonably necessary to preserve the record and cannot delete or destroy any re-requested record, until such time as all or any proceedings in an internal appeal or a complaint to the Regulator or an application to court, as the case may be, are finally determined.

22.3.2 This means that the information officer cannot delete or destroy any information requested, pending any process prescribed in paragraph 22.3.1. above.

### 22.4 **To whom should the internal appeal be directed to?**

22.4.1 Although the appeal will be considered by the relevant authority, an internal appeal must be delivered or sent to the Information Officer of the National, Provincial or Local Sphere of Government, as the case may be, at his address, fax number or electronic mail address<sup>31</sup>, the contact details of which can be found in the **PAIA** manual or as may be obtained from the Regulator.

22.4.2 The Information Officer of the national, provincial or local sphere of government, as the case may be, has a specific obligation, in terms of section 75(4) of **PAIA**, to submit the appeal to the

<sup>31</sup> Section 75(1)(b) of PAIA

appeal authority, together with his reasons for the decision under appeal. The submission of the appeal to the relevant authority must be done within 10 working days after receipt of the appeal.

## 22.5 Who is the relevant authority?

22.5.1 The relevant authority, herein referred to as “appeal authority” is generally the political head of the body concerned (although this function can be officially delegated) and specifically refers to the following person.

<b>Public body ("Government")</b>	<b>Relevant Authority ("Appeal Authority")</b>
<b>Office of the Presidency</b>	The person designated in writing by the President, if any, otherwise the President is the appeal authority.
<b>National Department</b>	Minister responsible for that department or the person designated in writing by that Minister.
<b>Office of a Premier</b>	The person designated in writing by the Premier.
<b>Provincial Department</b>	Member of the Executive Council (MEC) responsible for that Provincial Department or the person designated in writing by the MEC;
<b>Municipality</b>	The Mayor, the Speaker or any other person designated in writing by the Municipal Council of that municipality;

22.5.2 Any other case, where it is not the office of the premier: the member of the executive who is responsible for that public body or the person designated in writing by that member.

22.5.3 If the appeal authority approves the Information Officers’ decision, then the internal appeal is denied and the original

22.5.4 decision of the Information Officer stands. However, should the appeal authority disagree with the Information Officer's decision, then the appeal is granted and the original decision is overturned.

## 22.6 Who can lodge an internal appeal?

22.6.1 Any requester whose **PAIA** request for access to the records of National, Provincial or Local sphere of Government, as the case may be, has been refused, and believes that one of the appeal grounds listed in paragraph 22.2.4 above is applicable to their request, has the right to file an internal appeal.

22.6.2 Third parties can also file internal appeals against the decision made by an Information Officer to grant access to a record that concerns them. If the internal appeal involves a third party, the appeal authority who received the internal appeal is required to notify those third parties (so the responsibility shifts from the Information Officer to the appeal authority).

## 22.7 Period within which to lodge an appeal

22.7.1 An internal appeal must be lodged-

22.7.1.1 within **60 days**<sup>32</sup> after the decision was taken;

22.7.1.2 within **30 days**<sup>33</sup> after notice is given to the third party of the decision appealed against

22.7.2 Lodging an internal appeal after the above-mentioned period (late) may not be allowed, unless a valid reason for being late is provided to the appeal authority. An example, such as being hospitalised for more than 60 days may be accepted as valid reasons for being late.

22.7.3 If the appeal authority does not accept the late lodging of an internal appeal, it must provide you with reasons for rejecting the appeal and provide guidance of any additional information, if any, required in order to accept the appeal. The appeal authority must also advise you about the process to lodge a complaint against their decision with the Regulator or a court.

<sup>32</sup> Section 75(1)(a)(i) of PAIA

<sup>33</sup> Section 75(1)(a)(ii) of PAIA

22.7.4 As indicated above, your appeal must be submitted by the Information Officer to the appeal authority within 10 working days after receipt of an internal appeal<sup>34</sup>.

## 22.8 Notice of appeal by appeal authority to the requester or third party

22.8.1 The appeal authority must, as soon as is reasonably possible but in any event within **30 days** after the receipt of the internal appeal<sup>35</sup>, notify -

22.8.1.1 the third party to whom or which the record under appeal belongs, or

22.8.1.2 the requester about the internal appeal against the granting of a request for access.

22.8.2 A requester or a third party to whom or which notice is given, may within **21 days** after that notice is given, make written representations to the appeal authority why the request for access should or should not be granted.

## 22.9 Decision on internal appeal and notice thereof<sup>36</sup>

22.9.1 The appeal authority must decide the internal appeal as soon as reasonably possible but in any event within 30 days:

22.9.1.1 after the internal appeal is received by the Information Officer of a body;

22.9.1.2 after a third party is informed, as indicated in paragraph 22.8.1 above.

22.9.2 The decision of the appeal authority must be communicated to the appellant, third party and the requester. The decision of the appeal authority must be accompanied by adequate reasons for the decision, including the provision of **PAIA** or **POPIA** relied upon.

22.9.3 If the appeal authority fails to give notice of the decision on an internal appeal to the appellant within 30 days, the appeal is deemed to have been dismissed and the requester can proceed to lodge a complaint to the Regulator or approach the Court for appropriate relief<sup>37</sup>.

<sup>34</sup> Section 75(4) of PAIA

<sup>35</sup> Section 76(2)(a) of PAIA

<sup>36</sup> Section 77 of PAIA

<sup>37</sup> Section 77(7) of PAIA

## 22.10 Completing the internal appeal - Form 4

- 22.10.1 In order to appeal against any decision by a National, Provincial or Local sphere of Government, the requester must lodge his internal appeal by completing Form 4. Form 4 must be submitted to the Information Officer of the sphere of government concerned, who is then required to forward it to the appeal authority, as stated above.
- 22.10.2 Form 4 is available on the Regulator's website, <https://www.justice.gov.za/inforeg/>, as well as in the website of the sphere of Government concerned.
- 22.10.3 The Information Officer or Deputy Information Officer of the sphere of Government concerned is not under an express obligation to help the requester complete the internal appeal form; however, the requester may still request the Information Officer to assist him in this regard.
- 22.10.4 Below is the step-by-step process to complete the internal appeal form -

Information Required	Description
<b>Particulars of public body</b>	This section should contain the name of the National, Provincial for Local sphere of Government concerned, and the name and surname of the Information Officer.
<b>Particulars of appellant who lodges the internal appeal</b>	This section should be completed by the appellant, whether in representative capacity or not. The full names and surname, identity number and the capacity, in which an internal appeal is lodged on behalf of another person, if relevant, must be provided. If the appeal is being in a personal capacity, such capacity must be recorded. Additional information required includes the contact details of the requester:

Information Required	Description
	<p>postal address, email address, fax and/or telephone number. This information should be the same as in the original request. If the person filling in the form is the representative of the requester, proof of the capacity in which appeal is lodged must be attached to this form.</p>
<p><b>Particulars of person on whose behalf request is made (If lodged by a third party)</b></p>	<p>This section only needs to be completed by a person who is requesting information for another person. If the person submitting the internal appeal is not the person who originally requested the information, the particulars of the requester must be provided herein. If the request is in one's personal capacity this section need not be completed.</p>
<p><b>The decision against which the internal appeal is lodged</b></p>	<p>The form provides space for the requester to indicate with an "x", which of the listed appeal grounds applies to the appeal.</p>
<p><b>Grounds for appeal</b></p>	<p>Under this section, the requester is required to describe in detail why he thinks the appeal grounds apply. He is required to provide reasons(s) why he thinks the decision of the Information Officer is incorrect. He also needs to attach any documents which support the appeal. The list of reasons supplies in support of the appeal can be outlined in greater detail on a separate page, if the space provided in the form is not sufficient. The additional pages submitted should be signed.</p>

Information Required	Description
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There must be sufficient reasons and supporting information to enable the appeal authority makes an informed decision. Therefore, one must also include an outline of everything that has happened in the run-up to the internal appeal. On the separate page, one can refer to specific sections of **PAIA** as a basis for the appeal.

<p><b>Notice of decision on appeal</b></p>	<p>A space is provided for a description of the manner in which the decision must be sent, for example by post, couriered or facsimile or e-mail. Please select the preferred manner of notification.</p>
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22.10.5 Whilst there is no prohibition against getting a lawyer to assist at any stage of the request for information, the various **PAIA** processes are meant to be user-friendly removing the need for a lawyer and for legal fees to be incurred.

**23. COMPLAINT TO THE INFORMATION REGULATOR**

23.1 A requester or third party may only submit a complaint to the Regulator after that requester or third party has exhausted the internal appeal procedure against a decision of the Information Officer of a national, provincial or local sphere of government. This means that one can only submit one’s complaint, against a particular sphere of government to the Regulator if one is not happy with the decision of the appeal authority. The Regulator will reject the complaint if an appeal process to the relevant sphere of government has not been completed.

23.2 However, with regard to a public body (in respect of which an internal appeal is not applicable) and a private body, a requester or third party may submit a complaint to the Regulator, if not satisfied by the decision of the body concerned.

23.3 A complaint to the Regulator by a requester or third party must be lodged within 180 days of receipt of the decision from the body.



23.4 A requester may lodge a complaint with the Regulator, if not happy with -

23.4.1 the outcome of an internal appeal to the appeal authority of any sphere of government;

23.4.2 a decision of the appeal authority to disallow the late lodging of an internal appeal;

23.4.3 a decision of the Information Officer of a public body that is not part of any sphere of government to -

23.4.3.1 refuse a request for access; or

23.4.3.2 extend the period to deal with request; or

23.4.3.3 grant access in a particular form.

23.4.4 a decision of the head of a private body to -

23.4.4.1 refuse a request for access; or

23.4.4.2 demand payment of the request fee, or a deposit of the access fee; or

23.4.4.3 extend a period to deal with request; or

23.4.4.4 grant access in a particular form.

23.5 A third party may lodge a complaint with the Regulator, if not happy with -

23.5.1 the outcome of an internal appeal to the appeal authority of the relevant sphere of government;

23.5.2 a decision of the Information Officer of a public body that is not part of any sphere of government to grant a request for access; or

23.5.3 a decision of the head of a private body to grant a request for access to a record of that body,

## 23.6 How does one complain to Regulator?

- 23.6.1 complaint to the Regulator must be made in writing and a complaint form must be completed, either manually or online. A complaint form, Form 5, can be downloaded from the Regulator's website, <https://www.justice.gov.za/inforeg/>
- 23.6.2 This means that the Regulator will not accept a complaint telephonically; however, the Regulator is required to provide reasonable assistance to any person who wishes to make a complaint and this includes assistance regarding completing a complaint form.
- 23.6.3 If one is challenging the decision of the Information Officer of a private body, one must provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s). Access to the records of a private body can only be granted if one can prove that one intends exercising or protecting any other right(s) with the record requested.

## 23.7 What happens after receipt of the complaint?

- 23.7.1 Upon receipt of one's complaint, the Regulator must -
- 23.7.1.1 investigate the complaint and refer its findings to the Enforcement Committee for a decision; or
  - 23.7.1.2 take no action on the complaint due to the fact that -
    - 23.7.1.2.1 The complaint has not been submitted within the period of 180 days and there are no reasonable grounds to condone the late submission of a complaint;
    - 23.7.1.2.2 the complaint is frivolous or vexatious or not made in good faith; or
    - 23.7.1.2.3 having regard to all the circumstances of the case, any further action is unnecessary or inappropriate. For example, the information requested has been made publicly available.
  - 23.7.1.3 Where appropriate conciliate or use its best endeavours to secure such a settlement or assist the parties to settle their dispute(s); and

23.7.1.4 Advise the complainant and the Information Officer, to whom the complaint relates, of the course of action to be undertaken.

## 23.8 Regulator's first communication to the complainant and Information Officer regarding the complaint lodged

23.8.1 If the Regulator decides not to take any further action on the complaint, the Regulator will inform the requester of that decision and the reasons for not taking further action on the complaint.

23.8.2 If the Regulator decides to investigate a complaint, the requester will receive a letter advising him that the Regulator has decided to conduct an investigation.

23.8.3 Upon receipt of a complaint, the Regulator will forward the details of the complaint to the Information Officer of the relevant body, and request him to submit to the Regulator, a written response to the complaint.

## 23.9 Investigative powers of the Regulator

23.9.1 The Regulator has powers, in terms of section 77G(2) of **PAIA**, to -

23.9.1.1 use its best endeavours to secure such a settlement;

23.9.1.2 summon and enforce the appearance of persons before the Regulator;

23.9.1.3 compel them to give oral or written evidence on oath and to produce any records;

23.9.1.4 receive and accept any evidence and other information, whether on oath, by affidavit;

23.9.1.5 enter and search any premises occupied by a responsible party;

23.9.1.6 conduct a private interview with any person in any premises entered; and

23.9.1.7 carry out in those premises any inquiries that the Regulator deems fit.

## 23.10 **Assessment of compliance with the provisions of PAIA**

- 23.10.1 The Regulator may conduct an assessment on whether a public or private body generally complies with the provisions of this **PAIA**.
- 23.10.2 The Regulator may randomly conduct a compliance assessment on a body, of its own volition, however, the Regulator can also conduct the compliance assessment upon request by or on behalf of the Information Officer of a body or any other person. This means that any person may request the Regulator to conduct compliance assessment on a body. A person can also submit an anonymous request to conduct a compliance assessment, by indicating that he or she request to remain anonymous.
- 23.10.3 The Regulator will provide the person who requested the assessment with the assessment report and a recommendation of action to be undertaken, if any.

## 23.11 **Information Notice**

The Regulator may serve the Information Officer of a body with an Information Notice requiring said party to furnish the Regulator with information specified in the notice. For example, if a complaint lodged with the Regulator relates to a refusal of access based on any of the exempted grounds, the Regulator may request, in an Information Notice, copies of the records to which access has been refused in order to determine if the reasons for refusal are valid or not.

## 23.12 **Establishment of Enforcement Committee**

- 23.12.1 The Regulator is required to establish an Enforcement Committee<sup>38</sup>, which has powers to -
- 23.12.1.1 consider all matters referred to it by the Regulator in terms PAIA and make a finding in respect thereof; and
  - 23.12.1.1 make any recommendation to the Regulator regarding any action that should be taken against the Information Officer of a body.

## 23.13 **Enforcement Notice**

- 23.13.1 The Regulator may, after having considered the recommendations of the Enforcement Committee, serve the Information Officer of a body with an Enforcement Notice -

<sup>38</sup> Section 50 of POPIA

23.13.1.1 confirming, amending or setting aside the decision which is the subject of the complaint; or

23.13.1.2 Requiring the Information Officer to take such action or to refrain from taking such action as the Information Regulator has specified in the notice.

#### 23.14 **What are consequences for non-compliance with Enforcement Notices?**

23.14.1 An Information Officer of a body who refuses to comply with an enforcement notice is guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three years or to both such a fine and such imprisonment.

23.14.2 Section 77K of **PAIA** signifies the importance of the right of access to Information or records. This section also strengthens the importance of the Regulator in so far as promotion of right of access to information is concerned.

### 24. APPLICATION TO COURT

#### 24.1 **Who can file an application to court against a decision?**

24.1.1 requester or third party may only apply to a court for appropriate relief in terms of section 82 in the following circumstances:

24.1.1.1 After that requester or third party has exhausted the internal appeal process referred to in paragraph **22.3** above; or

24.1.1.2 After that requester or third party has exhausted the complaints procedure referred to in section 77A.

24.1.2 In terms of section 78(1) of **PAIA**, a requester or a third party has two options, either to refer a decision, listed in paragraphs 22.2.4, 23.4 and 23.5 above, to the Regulator or the Court. Whilst one is not compelled to approach the Regulator before approaching the Court, it is advisable that one should consider approaching the Regulator, as the Regulator has extensive and quick dispute resolution mechanisms, as opposed to the Court.

24.1.3 However, for the Court to have jurisdiction to adjudicate the matter, a requester or a third party must -

24.1.3.1 be aggrieved by either of the decisions, listed in paragraph 22.2.4, 23.4 or 23.5 above; or

24.1.3.2 have exhausted the complaints procedure with the Regulator or withdraw the complaint to the Regulator. This means that one cannot approach the Court if one's complaint is still pending with the Regulator.

24.1.4 If one is challenging the decision of an Information Officer of a private body, one needs to provide sufficient evidence to prove that the record requested is required for the exercise or protection of any other right(s).

## 24.2 **When can one file an application to Court against a decision of a body or Regulator?**

24.2.1 An application to Court by a requester or third party, who is either unsuccessful in an internal appeal to the appeal authority of the relevant sphere of government or aggrieved by a decision of the Information Officer of a body (listed in 22.2.4, 23.4 or 23.5 above) or that of the Regulator must be filed within 180 days from the date of the applicable event.

24.2.2 The Information Officer of a body or appeal authority of a Government, as the case may be, aggrieved by a decision of the Regulator may apply to a court for appropriate relief in terms of section 82, within 180 days<sup>39</sup>.

24.2.3 A requester, third party, or a body, may apply to court to have any of the decisions they are aggrieved by reviewed by the Court.

24.2.4 An application to Court under **PAIA** is done through civil proceedings, and should be used as a last resort.

24.2.5 Cases for access to information can be heard before the Magistrate's Courts, as a court of first instance<sup>40</sup>, and the High Court having jurisdiction.

24.2.6 Failing to bring the application within a period of 180 days may be condoned by the Court if one shows that the interests of justice so require. This means that the court may accept the late application if the issue to be adjudicated is found to be in the interests of justice.

<sup>39</sup> Section 78(4) of PAIA

<sup>40</sup> Section 91A of PAIA and Promotion of access to information Rules, 2019

If the records to which access is requested will assist one in applying for an appeal against imprisonment or assist one in getting further medical attention, for example, the court is likely to grant condonation in this regard.

24.2.7 An application may be brought in accordance with the procedure set out in rule 53 of the High Court Rules or in terms of rule 55 of the Magistrates' Court Rules if no records have or an incomplete record has been furnished by the administrator.

24.2.8 If the record has already been furnished, the application shall be brought in terms of rule 55 Magistrates' Court Rules, provided that where there is reason for the applicant to believe that the full record of proceedings may not have been provided by the administrator, the applicant may proceed in accordance with the procedure set out in Rule 53 of the High Court Rules, at its election, but shall indicate in its founding affidavit why there is reason to believe that the full record has not been provided<sup>41</sup>.

### 24.3 **What is the legal status of the Regulator's decision pending the decision of the Court?**

The Regulator's powers are mainly sourced from the Constitution, **POPIA** and **PAIA**. As a result, the enforcement notice issued by the Regulator has legal consequences and is therefore binding until such time as the court of law has decided otherwise. The Regulator's decisions are therefore effective and enforceable unless directed otherwise by the relevant Court.

### 24.4 **What are orders the Court hearing an application may grant?**

24.4.1 The court (either Magistrates' or High Court) hearing an application may make the following orders -

24.4.4.1 confirm, amend or set aside the decision of either the Information Officer, or Appeal Authority or Information Regulator;

24.4.4.2 require the Information Officer or Appeal Authority to take such action or to refrain from taking such action as the Court considers necessary within a period mentioned in the order;

24.4.4.3 grant an interdict, interim or specific relief, a declaratory order or an order for compensation;

<sup>41</sup> Rule 4 Promotion of access to information Rules, 2019

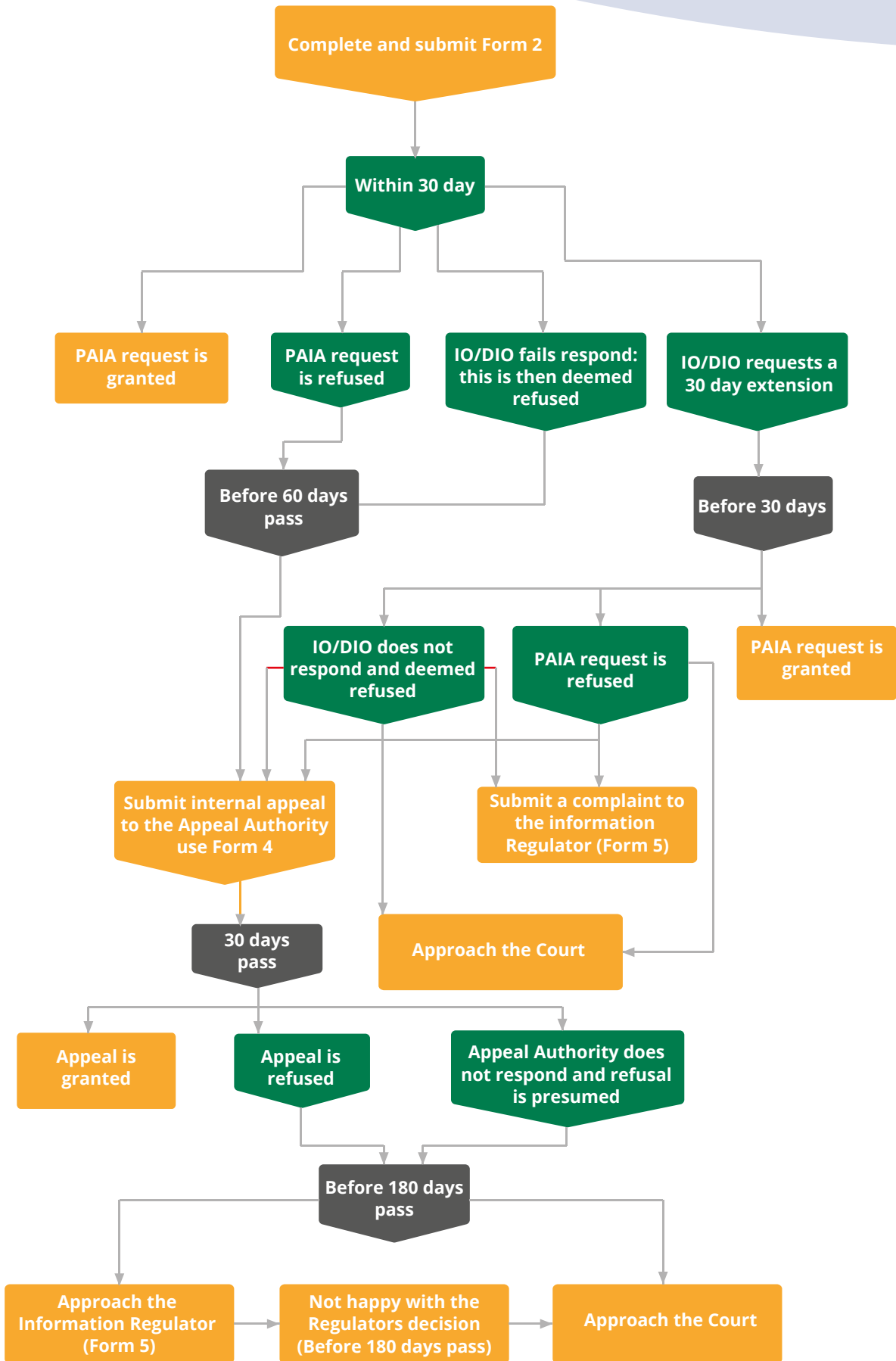


24.4.4.4 make an order of costs against any party;

24.4.4.5 in the interests of justice, condone non-compliance with the 180-day period within which to bring an application. As indicated above, sufficient grounds for failure to adhere to the prescribed period must be explained in detail in the accompanying application for condonation.

## 25. DIAGRAM OF PAIA REQUEST PROCESS

Please refer to the step-by step process chart flow, on the processes to be followed when exercise the right of access to information.



## 26. REGULATIONS MADE IN TERMS OF SECTION 92 OF PAIA

26.1 In accordance with section 92(1) and 92(4) of **PAIA**, Minister made Regulations relating to the Promotion of Access to Information, covering the following matters

26.1.1 Obligations of Information Regulator (**Regulation 2**)

26.1.2 Obligations of information officer (**Regulation 3**)

26.1.3 Automatic availability of certain records of public body (**Regulation 4**)

26.1.4 Voluntary disclosure and automatic availability of certain records of

26.1.5 Availability of records of political parties (**Regulation 6**)

26.1.6 Request for access to information (**Regulation 7**)

26.1.7 Outcome of request and fees payable (**Regulation 8**)

26.1.8 Internal appeal against decision of information officer of public body (**Regulation 9**)

26.1.9 Lodging of complaints (**Regulation 10**)

26.1.10 Procedure regarding investigation of complaints (**Regulation 11**)

26.1.11 Settlement of matter (**Regulation 12**)

26.1.12 Conciliation of matter (**Regulation 13**)

26.1.13 Assessment (**Regulation 14**)

26.1.14 Electronic communication (**Regulation 15**)

26.1.15 Offences and penalties (**Regulation 16**)

26.2 In accordance with section 79(1) of **PAIA**, the Rules Board for Courts of Law, with the approval of the Minister, made rules of procedure for -

26.2.1 a court in respect of applications in terms of section 78 of **PAIA**; and

26.2.2 a court to receive representations ex parte referred to in section 80(3)(a)

## 27. KEY LEGISLATIONS, REGULATIONS, NOTICES AND ACKNOWLEDGEMENT

### Legislations, As May Be Amended From Time To Time

Promotion of Access to Information Act, Act 2 of 2000

Promotion of Administrative Justice Act, Act 3 of 2000

Promotion of Access to Information Amendment Act, Act 54 of 2002

Protection of Personal Information Act, Act 4 of 2013

Promotion of Access to Information Amendment Act, Act 31 of 2019

Political Party Funding Act, Act 6 of 2018

### Regulations and Notices

Government Notice	Date of Publications	Subject and Description
<b>Government Notice R.757 in GG No 45057</b>	27 August 2021	Regulations relating to the Promotion of Access to Information, 2021
<b>Government Notice R.991 in GG 28107</b>	14 October 2005	Regulations that prescribe the grounds under which a person is exempt from having to pay fees.
<b>Government Notice 397 in GG No. 44785</b>	30 June 2021	Exemption of certain private bodies from compiling <b>PAIA</b> Manual.
<b>Government Notice 1217 in GG 42717</b>	19 September 2019	Designation of Magistrate Courts as having the capacity to hear <b>PAIA</b> matters.
<b>Government Notice R.1284 in GG 42740</b>	4 October 2019	Rules of procedure for applications to be made in terms of <b>PAIA</b> before High Court or Magistrates Court.

## **ACKNOWLEDGEMENT**

This updated Guide on how to use **PAIA** was originally compiled by the South African Human Rights Commission (**SAHRC**) and the Regulator hereby acknowledges the original work of the **SAHRC**, including all its sources.

Issued by

**INFORMATION REGULATOR**



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



# **GIDS**

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**VIR DIE GEBRUIK VAN  
DIE WET OP BEVORDERING VAN TOEGANG  
TOT INLIGTING, WET 2 VAN 2000, SOOS GEWYSIG**

**AFRIKAANS**

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# PAIA GID



## VOORWOORD DEUR DIE VOORSITTER

Die Grondwet van die Republiek van Suid-Afrika, 1996<sup>1</sup> (“Grondwet”) bepaal dat Suid-Afrika 'n soewereine demokratiese staat is, wat gegrond is op die bevordering van menseregte en 'n verantwoordelike, responsiewe en deursigtige stelsel van bestuur as deel van sy waardes. Voordat Suid-Afrika 'n grondwetlike demokrasie met 'n afdwingbare Handves van Regte geword het, het die regeringstelsel in Suid-Afrika, onder andere, ontaard in 'n geheimsinnige en onresponsiewe kultuur in beide die openbare en private liggame, wat dikwels tot die misbruik van mag en die skendings van menseregte gelei het. Dit is in hierdie verband dat artikel 32(1) van die Handves van Regte in die Grondwet voorsiening maak vir die reg van toegang tot inligting wat deur die staat gehou word; en enige inligting wat deur 'n ander persoon gehou word wat nodig is vir die uitoefening of beskerming van enige regte. Artikel 32(2) van die Grondwet maak op sy beurt voorsiening vir die verordening van nasionale wetgewing om gevolg aan hierdie reg te gee, deur die respektering, beskerming, bevordering en vervulling van hierdie reg.

Die Wet op Bevordering van Toegang tot Inligting, no. 2 van 2000 (Hierna na verwys as “die **PAIA**”, of “die Wet” afgewissel), soos gewysig, is die nasionale wetgewing wat verorden is in ooreenstemming met bogenoemde artikel 32(2) van die Grondwet.

Die doel van die **PAIA**-wet, is om 'n kultuur van deursigtigheid en verantwoordbaarheid in openbare en private liggame te vestig. Dit word gedoen deur magtiging te verleen aan die reg van toegang tot inligting en bevorder aktief 'n samelewing waarin die mense van Suid-Afrika effektiewe toegang tot inligting geniet om hul in staat te stel om hul regte meer omvattend uit te oefen en beskerm en ook om Suid-Afrika se doelwitte van 'n oop en deelnemende demokrasie te verweselik.

Hierdie **PAIA**-gids is ontwikkel ter vervulling van die Inligtingsreguleerder (“Reguleerder”) se verpligting ingevolge artikel 10 van die **PAIA**-wet, wat vereis dat die Reguleerder die bestaande gids, wat opgestel is deur die Suid-Afrikaanse Menseregtekommissie, opdateer en beskikbaar maak.

Hierdie Gids is ontwerp om 'n leidende, gebruikersvriendelike en toeganklike meganisme te wees vir enige persoon wie beoog om enige reg wat in die **PAIA** en die Wet op Beskerming van Persoonlike Inligting, 2000, 2013, vervat word, uit te oefen.



**Adv Pansy Tlakula**

**DIE VOORSITTER VAN DIE INLIGTINGSRE GULEERDER**

<sup>1</sup> Grondwet van die Republiek van Suid-Afrika, Wet No.

## VRYWARINGSKENNISGEWING

Hierdie Gids verlos nie die gebruiker van die verantwoordelikheid om hul eie vaardigheid en sorg met betrekking tot die vereistes of verpligtinge opgelê deur enige wetgewing nie. Bowendien, voorsien hierdie Gids nie regsadvies nie en is nie bedoel om die **PAIA** of Regulasies wat kragtens die **PAIA** uitgereik is, te vervang nie. Die Reguleerder aanvaar geen verantwoordelikheid vir enige verlies wat gely mag word as gevolg van staat wat gemaak is op hierdie Gids nie.

### 1. LYS VAN AKRONIEME EN AFKORTINGS

<b>HUB</b>	Hoof-Uitvoerende Beampte
<b>HFB</b>	Hoof-Finansiële Beampte
<b>Grondwet</b>	Grondwet van die Republiek van Suid-Afrika, Wet No. 108 of 1996
<b>AIB</b>	Adjunk-inligtingsbeampte
<b>Doj &amp; CD</b>	Departement van Justisie en Grondwetlike Ontwikkeling
<b>IB</b>	Inligtingsbeampte
<b>Lede</b>	Lede van die Inligtingsreguleerder
<b>Minister</b>	Minister van Justisie en Korrektiewe Dienste
<b>PAIA</b>	Die Wet op Bevordering van Toegang tot Inligting, Wet 2 van 2000, soos gewysig
<b>PAJA</b>	Wet op Bevordering van Administratiewe Geregtigheid, 2000
<b>WOFB</b>	Wet op Bestuur van Openbare Finansies, No. 1 van 1999, soos gewysig
<b>POPI-WET</b>	Beskerming van Persoonlike Inligting, Wet No.4 van 2013
<b>Reguleerder</b>	Inligtingsreguleerder
<b>SAMRK</b>	Die Suid-Afrikaanse Menseregte Kommissie

### 2. NUTTIGE TERME OP 'N MAKLIK VERSTAANBARE VORM EN WYSE VERDUIDELIK

Term	Beskrywing
<b>Toegangsfooi</b>	Hierdie toegangsfooi word deur die aansoeker aan die liggaam vanwaar U die inligting aanvra, betaal. Dit is om die kostes verbonde aan die opsporing en kopiëring van die rekords wat U benodig te dek. Wat gedebiteer kan word, word deur die regulasie voorgeskryf.
<b>Administrateur</b>	Is 'n staatsorgaan of enige natuurlike of regspersoon wat administratiewe aksie neem.

Term	Beskrywing
<b>Administratiewe aksie</b>	<p>Is enige besluit wat geneem is, of enige versuim om 'n besluit te neem, deur</p> <p>(a) 'n staatsorgaan wanneer:</p> <p>(i) 'n mag uitgeoefen word kragtens die Grondwet of 'n provinsiale grondwet; of</p> <p>(ii) wanneer 'n openbare mag uitgeoefen word of 'n openbare funksie uitgevoer word kragtens enige wetgewing; of</p> <p>(b) deur 'n natuurlike- of regspersoon, anders as 'n staatsorgaan, wanneer 'n openbare mag uitoefen of 'n openbare funksie uitgevoer word ingevolge 'n bemaagtigende bepaling.</p> <p>wat die regte van enige persoon nadelig beïnvloed en wat 'n direkte, eksterne regsgevolg het.</p>
<b>Gemagtigde Persoon</b>	<p>Die gemagtigde persoon is die persoon wat 'n versoek namens iemand anders rig, en wie skriftelik behoorlik gemagtig is om dit te doen.</p>
<b>Outomaties Beskikbare Rekords</b>	<p>Dit is die rekords wat 'n openbare of privaat liggaam aan 'n versoeker beskikbaar sal maak sonder dat hulle 'n versoek hoef te rig. Hierdie rekords word in 'n 'vrywillige openbaarmakingskennisgewing' gelys, wat openbaar gemaak moet word.</p>
<b>Betrokkene</b>	<p>Is die persoon tot wie persoonlike inligting betrekking het.</p>
<b>Dae</b>	<p>Tensy aangedui as 'n 'werksdag' in 'n artikel in die <b>PAIA</b>-wet, word 'n dag as 'n kalender dag geag. Om die tydperk te bereken, word die dag waarop die versoek ontvang is, uitgesluit, en elke dag daarna word ingesluit, insluitende naweke en openbare vakansiedae totdat die finale dag getel word. Indien die laaste dag om 'n versoek te reageer op 'n Sondag of 'n openbare vakansiedag val, word die volgende dag as die laaste dag getel.</p>
<b>Vermeende Weiering</b>	<p>Indien geen respons ontvang is op 'n versoek binne die voorgeskrewe tyd, word dit as vermeende weiering geag.</p>
<b>Vorm 2</b>	<p>Hierdie vorm word volgens regulasie voorgeskryf en moet gebruik word om toegang tot inligting wat deur 'n openbare of privaat liggaam gehou word, aan te vra.</p>
<b>Vorm 4</b>	<p>Hierdie vorm word volgens regulasie voorgeskryf en moet gebruik word wanneer appèl aangeteken word teen 'n besluit wat deur 'n openbare liggaam geneem is met betrekking tot 'n versoek om toegang tot inligting.</p>

**Term****Beskrywing****GIDS**

Hierdie gids, gemaak ter nastrewing van Artikel 10 van die **PAIA**-wet, soos gewysig, het ten doel om 'n persoon te help wat beoog om enige reg uit te oefen wat in die **PAIA**-wet en die Beskerming van Persoonlike Inligting Wet, 2013 oorweeg is.

**Inligtingsbeampte**

Die Inligtingsbeampte is die persoon wat gemagtig is om **PAIA**-versoeke te hanteer. Die volgende is kategorieë van inligtingsbeamptes per spesifieke liggaam -

<b>Openbare liggaam of staatsorgaan</b> (soos omskryf in artikel 239 van die Grondwet)	Nasionale Departement	Direkteur-generaal of die persoon wat sodanig optree
	Provinsiale Administrasie	Die Hoof van die Departement of die persoon wat sodanig optree.
	Munisipaliteit	Munisipale bestuurder of die persoon sodanig optree
	Openbare instellings gelys in WOFB Bylae 1, 2, 3A en 3B, 3C en 3D	Hoof-uitvoerende beampte of die persoon wat sodanig optree
<b>Privaat liggaam</b>	Natuurlike persoon	Alleeneienaar wat enige bedryf, beroep of profesie beoefen, maar slegs in sodanige hoedanigheid en nie in sy persoonlike hoedanigheid nie
	Vennootskap	Enige vennoot van die vennootskap of enige persoon wat behoorlik gemagtig is deur die vennootskap.
	Politieke party	Die leier van die politieke party of enige persoon wat behoorlik gemagtig is deur daardie leier.

Term	Beskrywing	
<b>Inligtingsbeampte</b>		<p>Regspersoon</p> <p>Hoof- uitvoerende beampte of die besturende direkteur of ekwivalente beampte van die regspersoon of enige persoon wat behoorlik gemagtig is deur daardie beampte.</p> <p><b>NB:</b> Die Hoof- uitvoerende beampte of ekwivalente beampte mag enige natuurlike persoon as inligtingsbeampte van 'n privaatliggaam magtig.</p>
<b>Adjunk-inligtingsbeampte</b>	<p>Die Adjunk-Inligtingsbeampte is die aangewese persoon of gedeleger deur die Inligtingsbeampte van 'n openbare liggaam om die versoeker met hul inligtingsversoek te help, en aan wie die inligtingsbeampte <b>PAIA</b>-magte kan deleger.</p> <p><b>NB:</b> Terwyl slegs 'n openbare liggaam 'n Adjunk-Inligtingsbeampte(s), kragtens artikel 17(1) van die <b>PAIA</b>-wet mag aanstel of deleger, verleen die wet op Beskerming van Persoonlike Inligting, 2013 ("<b>POPI</b>-wet") magtiging aan die privaat liggaam om 'n Adjunk-inligtingsbeampte aan te wys kragtens Artikel 56(1) daarvan.</p>	
<b>Inligtings-reguleerder</b>	<p>Die kantoor van die Inligtingsreguleerder is gevestig, ingevolge artikel 39 van die <b>POPI</b>-wet om voldoening aan beide die <b>POPI</b>- en <b>PAIA</b>-wet af te dwing en te monitor. In hierdie Gids word die Kantoor van die Inligtingsreguleerder of die Inligtingsreguleerder na verwys as die Reguleerder.</p>	
<b>Interne Appèl</b>	<p>'n Interne appèl is die proses om 'n beslissing wat ingevolge 'n <b>PAIA</b>-versoek aan 'n openbare liggaam uit te daag, dit moet voltooi wees voordat 'n wraking aan die Reguleerder of 'n hof met jurisdiksie gerig kan word.</p>	
<b>Privaat Liggaam</b>	<p>'n Privaat liggaam is 'n persoon, maatskappy of ander soort regspersoon wat 'n ambag, besigheid of beroep bestuur, insluitend 'n politieke party.</p>	

Term	Beskrywing
<b>Openbare Liggaam</b>	Desnieteenstaande, met betrekking tot interne appèl, is enige verwysing na 'n "openbare liggaam" verander na "Regering", ten einde enige verwarring te vermy ten opsigte openbare liggame waarop die appèl nie van toepassing is nie.
<b>Rekord</b>	'n Rekord is enige opgetekende inligting, ongeag die vorm, met inbegrip van, byvoorbeeld, geskrewe dokumente, oudio-, digitale- en video opnames. 'n Rekord wat versoek word van 'n openbare of privaat liggaam verwys na 'n rekord wat in daardie liggaam se besit is, ongeag of daardie liggaam die rekord geskep het.
<b>Regulasies</b>	Die <b>PAIA</b> -wet maak voorsiening vir die Minister om regulasies wat die Wet aanvul uit te reik, dit moet in die Staatskoerant gepubliseer word, en kwessies soos die vorms moet gebruik moet word en foie wat hef kan word vir sekere prosesse, dek.
<b>Relevante Owerheid</b>	Die <b>PAIA</b> -wet gebruik die term 'betrokke owerheid' om die persoon binne 'n Nasionale, Provinsiale en Plaaslike Regering te definieer, aan wie 'n interne appèl gerig moet word, wat algemeen die politieke hoof van die betrokke liggaam is (hierdie funksie kan amptelik gedelegeer word).

### 3. KONTAKBESONDERHEDE VAN DIE REGULEERDER

#### Inligtingsbeampte

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010 023 5200

## 4. DOEL VAN HIERDE PAIA-GIDS

- 4.1 Die doel van hierdie gids is om inligting te verskaf wat benodig word deur enige persoon wat beoog om enige reg uit te oefen wat in die Wet op Bevordering van Toegang tot inligting van 2000 (**PAIA-wet**) en Die Beskerming van Persoonlike Inligting, 2013 ("**POPI-wet**") vervat word. Enige persoon ongeag van burgerskap, kan aansoek doen om toegang tot inligting ingevolge die **PAIA-wet**.
- 4.2 Hierdie gids sal 'n persoon, wat ook na verwys word as 'n betrokkene, help oor hoe om toegang tot sy / haar persoonlike inligting kragtens artikel 23 van die **POPIA-wet** te verkry. Onder die **POPI-wet**, het 'n persoon of betrokkene die reg om -
- 4.2.1 'n verantwoordelike party te versoek om gratis, te bevestig of die verantwoordelike party persoonlike inligting oor hulle besit of nie, en
- 4.2.2 om van 'n verantwoordelike party die rekord of 'n beskrywing van die persoonlike inligting oor die betrokkene wat deur die verantwoordelike party gehou word aan te vra, waaronder inligting oor die identiteit van alle derde partye, of kategorieë van derde partye, wat toegang tot die inligting het of reeds gehad het;
- 4.2.3 'n verantwoordelike party versoek om -
- (a) persoonlike inligting oor die betrokkene in sy besit of onder sy beheer wat verkeerd, irrelevant, oormatig, verouderd, onvolledig, misleidend of onwettig verkry is te korrigeer of uit te wis; of
- (b) om 'n rekord wat persoonlike inligting oor die betrokkene bevat wat die verantwoordelike party nie meer gemagtig is om te behou nie, te vernietig of uit te wis.
- 4.3 Hierdie Gids sal ook enige persoon help oor hoe om aansoek te doen om toegang tot rekords ingevolge die **PAIA-wet** te verkry. Die gids sal Versoekers ook help om:
- 4.3.1 die **PAIA-wet**, sy voordele en agtergrond te verstaan;
- 4.3.2 die stapsgewyse proses waardeur 'n versoek gerig word en bykomende wenke wat die proses vergemaklik te leer;
- 4.3.3 die soorte inligting wat deur die gebruik van die **PAIA-wet** bekom kan word, te leer;
- 4.3.4 begrip te hê van die proses waardeur 'n versoeker 'n beslissing wat in verband met hul versoek gemaak is, te daag;

4.3.5 vergewissing van die veranderinge wat in die **PAIA**-wet sal plaasvind sodra die **POPIA**-wet ten volle in werking tree.

4.4 Hierdie gids sal ook mense help om te verstaan hoe om die verlening van toegang tot hul rekords te daag of hoe om deel te neem aan die proses om toegang tot hul rekords te verkry.

## 5. OOR PAIA

5.1 Die reg op toegang tot inligting is "een van die mees effektiewe wyses waarop die grondwetlike waardes van deursigtigheid en openheid, deelname en aanspreeklikheid gehandhaaf word".<sup>2</sup> Die bogenoemde grondwetlike waardes kan nie bereik word indien die regering 'n monopolie het op die inligting wat sy aksies en besluite dryf, het nie. Dus, is toegang tot inligting nie net fundamenteel tot 'n behoorlik funksionerende, deelnemende demokrasie nie, maar dit verhoog ook die openbare vertroue in die regering en verskerp die regmatigheid daarvan. Ander voordele van die reg op toegang tot inligting is byvoorbeeld dat dit bedrog en korrupsie, onsekerheid en ander onbehoorlike regeringsoptredes ontmoedig.

5.2 Toe die Suid-Afrikaanse Grondwet in die tydperk na die val van Apartheid in die 1990's opgestel is, het verskillende organisasies en individue veldtogte geloods vir die insluiting vir 'n reg van toegang tot inligting. Daar is gehoop dat die insluiting van hierdie reg in die Handves van Regte sou verseker dat gruweldade soos Apartheid nooit weer sou kon plaasvind nie, aangesien die staat en privaat maatskappye verplig sou wees om op 'n verantwoordbare en deursigtige wyse op te tree deur die voorsiening van toegang tot inligting, en sou dus nie kon wegkruip agter die dekmantel van geheimhouding nie. Dit was beskou as 'n noodsaaklike stap om te help om 'n kultuur van regverdiging te skep, wat sou lei tot regverdiger verhoudings tussen mense, en diegene in gesagsposisies. In een van die vroegste sake wat handel oor hoe om die vraag te hanteer of 'n beskuldigde geregtig is op toegang tot al die inligting vervat in die polisie akte, het<sup>3</sup> Jones J die belangrikheid daarvan in hierdie terme erken:

***“Die doel ... is om die ewigdurendheid van die ou administrasiesetel uit te sluit, 'n stelsel waarin dit moontlik was vir die regering aanspreeklikheid te ontsnap deur te weier om inligting te openbaar, selfs al het dit betrekking gehad op die uitoefening of beskerming van die regte van die individu. Dit is die misstand wat dit ontwerp is om te verhoed [...] Aantoonbare eerlikheid en openheid bevorder openbare vertroue in die administrasie van openbare sake oor die algemeen. Hierdie vertroue is een van die kenmerke van die demokraties regerende samelewing waarvoor die Grondwet hom beywer”.***

<sup>2</sup> Hoexter Administratiewe Wet 94

<sup>3</sup> 1994 (1) SACR 635 (E)



- 5.3 Artikel 32 van die Grondwet verskans die reg van toegang tot inligting wat gehou word deur beide openbare en private liggame. Artikel 32 bepaal ook dat wetgewing verorden moet word om uitvoering te gee aan die reg van toegang tot inligting deur oor die maniere waarop inligting verkry van openbare en privaat liggame kan verkry word, en deur die verskaffing van gronde waarop 'n openbare en private liggaam kan weier om toegang tot inligting.
- 5.4 Die **PAIA**-wet is uitgevaardig in reaksie op die bogenoemde grondwetlike mandaat, en groot deel daarvan is in Maart 2001 in werking gestel. Die aanhef erken die "geheimsinnige en onresponsiewe kultuur" van die pre-demokratiese era, en beweer dat een van die oogmerke van die **PAIA**-wet is om "'n kultuur van deursigtigheid en verantwoordbaarheid in openbare en privaat liggame te kweek."
- 5.5 Die **PAIA**-wet het ten doel uitvoering te verleen aan 'n persoon se regte op toegang tot inligting en aanspreeklikheid. Dit is ontwerp om mense te bemagtig om die wet te gebruik, en op die wyse help dit om toegang tot inligting op verskillende wyses te versoek. 'n Mens hoef nie 'n prokureur aan te stel om 'n versoek om toegang tot inligting ingevolge die **PAIA**-wet te rig nie.

## 6. DIE OOGMERKE VAN DIE PAIA-WET

- 6.1 Die oogmerke van die **PAIA**-wet is nie om die grondwetlike reg te vervang nie, maar is om die regte in artikel 32 ten uitvoering te bring, onderhewig aan verdedigbare verjaringstermyne, en op so 'n wyse al die ander regte vervat in die Grondwet te help balanseer. Dit beoog om 'n kultuur van menseregte en maatskaplike geregtigheid vir die mense, die openbare sektor en die private sektor te bevorder. Die **PAIA**-wet beoog om deursigtigheid, verantwoordingspligtigheid en doeltreffende bestuur van alle instansies (beide openbaar en privaat) te bevorder deur die bemagtiging van mense hul regte tot toegang tot inligting te verstaan, daarvolgens op te tree en om besluite wat hulle raak te ondersoek en oorweeg.
- 6.2 Die reg van toegang tot inligting is 'n baie kragtige grondwetlike reg, omdat dit mense help om hul ander regte te verwesenlik. 'n Persoon kan dit gebruik om die lewering van regeringsdienste te help monitor en assesseeer, of om toegang te verkry tot historiese rekords wat van belang kan wees.
- 6.3 Die oogmerke van die **PAIA**-wet is -
- 6.3.1 om grondwetlike regte ten uitvoering te bring om
    - 6.3.1.1 enige inligting wat deur die staat gehou word; en
    - 6.3.1.2 enige inligting wat deur 'n ander persoon gehou word en wat nodig is vir die uitoefening of beskerming van enige regte.

- Die vereiste met betrekking tot die beskerming van regte is beperk tot inligting wat in private hande geberg word. Private liggame is dus onderhewig aan 'n lakser deursigtigheidstandaard as openbare liggame. Met ander woorde, die privaat sektor is daarop geregtig om die inligting vir homself te hou, tensy daardie inligting benodig word vir die beskerming van die regte.
- Die **PAIA**-wet erken, kragtens artikel 8(1) daarvan dat 'n liggaam "openbaar" of "privaat" mag wees vir die doeleindes van die Wet, afhangend van of die rekord ter sprake "verband hou met die uitoefening van 'n mag of die verrigting van 'n funksie as 'n openbare liggaam of privaatliggaam."

### 6.3.2 om uitvoering te gee aan daardie reg -

6.3.2.1 onderhewig aan verdedigbare verjaringstermyne, met inbegrip van, maar nie beperk tot, die verjaringstermyne wat gemik is op die regverdige beskerming van privaatheid, kommersiële vertroulikheid en doeltreffende, effektiewe en goeie regering; en

6.3.2.2 op 'n wyse wat daardie reg met enige ander regte, insluitend die regte vervat in die Handves van Regte in Hoofstuk 2 van die Grondwet balanseer;

6.3.3 uitvoering te gee aan die grondwetlike verpligtinge van die staat om 'n menseregtekultuur en sosiale geregtigheid te bevorder, deur openbare liggame by die omskrywing van 'aansoeker' in te sluit, en hulle onder meer toe te laat om toegang tot inligting van privaatliggame te verkry na voldoening aan die vier vereistes in hierdie Wet, insluitend 'n bykomende verpligting vir sekere openbare liggame in sekere gevalle om in die openbare belang op te tree;

6.3.4 om vrywillige en verpligte meganismes of prosedures in te stel om daardie reg uit te voer op 'n wyse wat persone in staat stel om so vinnig, goedkoop en moeiteeloos as redelikerwys toegang tot rekords van openbare en private liggame te verkry; en

6.3.5 om oor die algemeen deursigtigheid, aanspreeklikheid en effektiewe bestuur van alle openbare en private liggame te bevorder deur, insluitend maar nie beperk nie tot, die bemagtiging en opvoeding van almal -

6.3.5.1 om hul regte met betrekking tot hierdie Wet te verstaan ten einde hul regte met betrekking tot openbare en private liggame uit te oefen;

6.3.5.2 om die funksies en werking van openbare liggame te verstaan; en

6.3.5.3 om besluitneming deur openbare liggame wat hul regte beïnvloed, effektief te ondersoek en daaraan deel te neem.

#### 6.4 Die Bevordering van Toegang tot Inligting Wysigingswet, 2019

- 6.4.1 In die saak van ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17***, het die Konstitusionele Hof voorgehou dat die Staat 'n verpligting het wat voortspruit uit lees van artikels 32, 19 en 7(2) van die Grondwet en is onderhewig daaraan om als redelik moontlik te doen om die reg om toegang tot inligting en die reg om te stem verwesenlikbaar te maak. Die meerderheid het verder voorgehou dat dit so is omdat die reg om te stem 'n ingeligte keuse moet wees, en daar 'n kern verband is tussen die behoorlike uitoefening van die reg om te stem en die reg om toegang tot inligting is. En "sonder toegang tot inligting, word die vermoë van burgers om verantwoordelike politieke besluite te neem en op 'n betekenisvolle wyse in die samelewing deel te neem, ondermyn. Die Konstitusionele Hof het die bevel van grondwetlike ongeldigheid bevestig en die Parlement beveel om die **PAIA**-wet te wysig en enige ander stappe wat dit nodig ag te neem om te voorsien vir die beskerming van rekords en om redelikerwyse toegang tot inligting oor die private befondsing van politieke party en onafhanklike kandidate binne 'n periode van 18 maande te fasiliteer.
- 6.4.2 In ooreenstemming met die bogenoemde beslissing van die Konstitusionele Hof, het die President op 3 Junie 2019, die Wet op Bevordering van Toegang tot Inligting, 2019, (**PAIA**-wysigingswet 2019), bekragtig.<sup>4</sup> Die **PAIA**-wysigingswet 2019, sluit 'n politieke party in die definisie van 'n privaat liggaam in, wat uiteindelik beteken dat die leier van 'n politieke party of enige persoon wat behoorlik gemagtig is deur daardie leier, 'n Inligtingsbeampte of hoof is. Die **PAIA**-wysigingswet 2019 verleen nou ook die reg om toegang tot enige rekords van die politieke party.
- 6.4.3 Die gewysigde Wet maak voorsiening vir inligting oor die privaat befondsing van politieke partye en onafhanklike kandidate om genotuleer, bewaar en beskikbaar gemaak te word.
- 6.4.4 Kragtens Artikel 52A van die **PAIA**-wysigingswet 2013, moet die hoof van 'n politieke party rekords skep en hou van enige skenkings wat die voorgeskrewe drempel van **R100 000.00** oorskry, wat aan die politieke party in enige gegewe finansiële jaar gemaak is asook die identiteite van die persone of entiteite wat sulke skenkings gemaak het. Die hoof van 'n politieke party word ook verplig om dié rekords op 'n kwartaallikse basis beskikbaar te maak, soos voorgeskryf; en die rekords vir 'n periode van minstens vyf jaar nadat die betrokke rekords geskep is, te hou.

<sup>4</sup> Bevordering van Toegang tot Inligting Wysigingswet, No. 31 van 2019

6.4.5 Dit beteken dat terwyl die Politieke Partye Befondsingswet voorsiening maak vir die verpligte bekendmaking aan die Verkiesingskommissie, verleen die **PAIA**-wysigingswet die reg van toegang tot rekords, tot die rekords van enige skenking aan die politieke party wat **R100 000.00** oorskry, aan enige persoon.

## 6.5 Ander wetgewing wat die reg van toegang tot inligting beskerm

Die **PAIA**-wet bestaan binne 'n hele regsomgewing, waar dit ontwikkel is om 'n "kultuur van verantwoording" te skep. Ter herkenning hiervan, stel die **PAIA**-wet dat enige ander wet wat dit moontlik maak om die inligting om 'n makliker wyse te bekom, eerder gebruik mag word.<sup>5</sup>

### 6.5.1 Maatskappyewet 71 van 2008

6.5.1.1 Artikel 26(1) van die Maatskappyewet bied aan 'n persoon wat 'n voordelige belang het in of sekuriteite wat deur 'n winsmaatskappy uitgereik word, of wat 'n lid is van 'n maatskappy sonder winsoogmerk, en het die reg om dit te inspekteer en te kopieer, sonder enige heffing vir sodanige inspeksie of teen betaling van nie meer as die voorgeskrewe maksimum koste vir sodanige eksemplaar nie, die inligting vervat in die rekords van die maatskappy.

6.5.1.2 Kragtens Artikel 26(7)(b) van die Maatskappyewet, is "die regte om toegang tot inligting wat in hierdie artikel uiteengesit is, ter aanvulling en nie as vervanging van enige regte wat 'n persoon mag hê tot toegang tot inligting nie, kragtens die Bevordering van Toegang tot Inligting Wet, 2000 (Wet No. 2 van 2000)".

### 6.5.2 Die Wet op die Befondsing van Politieke Partye, 2018 (Wet No.6 van die 2018)

6.5.2.1 Die Wet op die Befondsing van Politieke Partye stel 'n streng reguleringsraamwerk in vir die privaat befondsing van alle geregistreerde politieke partye, hetsy in die nasionale en provinsiale wetgewers verteenwoordig word of nie. Dit sluit in die stel van perke vir die bron, grootte en gebruik van geskenkte fondse deur politieke partye.

6.5.2.2 Om deursigtigheid en aanspreeklikheid te verseker, moet politieke partye elke drie maande (sowel as voor die algemene verkiesing) alle donasies wat bo die openbaarmakingsdrempel van **R100 000.00** ontvang word, bekend maak.

<sup>5</sup> Artikel 2 (1) van die PAIA-wet

- 6.5.2.3 Enige persoon of organisasie wat 'n skenking maak aan 'n politieke party wat **R100 000.00** per jaar afsonderlik of kumulatief oorskry, moet die skenking binne 30 dae na die skenking aan die verkiesingskommissie rapporteer, of binne 30 dae nadat die kumulatiewe skenkings meer as **R100 000.00** was.
- 6.5.2.4 Laastens lê die Wet op die Befondsing van Politieke Party 'n verpligting op die Verkiesingskommissie om elke drie maande die donasies wat deur politieke partye gerapporteer is, bekend te maak en jaarliks aan die Parlement verslag te doen oor alle donasies wat gedurende die jaar aan politieke partye gemaak is.
- 6.5.3 Wet op Beskerming van Persoonlike Inligting, 2013(Wet No.4 van 2013)
- 6.5.3.1 Artikel 23 van **POPI**-wet bied aan die betrokke die reg op toegang tot persoonlike inligting wat deur die verantwoordelike party gehou word, insluitend inligting oor die identiteit van alle derde partye, of kategorieë van derde partye, wat toegang tot die inligting het, of gehad het.
- 6.5.3.2 Dit beteken dat hoewel toegang tot 'n rekord wat persoonlike inligting oor 'n aansoeker bevat, uitgesluit is van **PAIA**-wet ingevolge Artikel 11 (2) daarvan, kan die betrokke versoek om -
- 6.5.3.2.1 toegang tot sy/haar persoonlike inligting te verkry; en/of
- 6.5.3.2.2 die identiteit van alle derde partye, en / of kategorieë van derde partye, toegang tot die inligting het of gehad het.
- 6.5.3.2.3 regstelling of verwydering van persoonlike inligting oor die betrokke in sy besit of onder sy beheer wat onakkuraat, irrelevant, buitensporig, verouderd, onvolledig, misleidend of onwettig verkry is;
- 6.5.3.2.4 die rekord van sy/haar persoonlike inligting wat die verantwoordbare party nie meer gemagtig is om te hou nie, vernietig of uitgewis moet word.
- 6.5.3.3 'n Verantwoordelike party kan weier om enige persoonlike inligting bekend te maak, in ooreenstemming met die gronde vir die weiering van toegang tot rekords, soos uiteengesit in paragraaf 19.4 hieronder.

## 6.5.4 Wet op Bevordering van Administratiewe Geregtigheid 3 van 2000

- 6.5.4.1 'n Ander belangrike wet wat u moet onthou wanneer u toegang tot inligting oorweeg, is die Wet op die Bevordering van Administratiewe Geregtigheid (**PAJA**). Die **PAJA**-wet gee uitvoering aan die reg tot administratiewe optrede wat wettig, redelik en prosedureel billik is en aan die reg tot skriftelike redes vir administratiewe optrede soos oorweeg in artikel 33 (2) van die Grondwet.<sup>6</sup>
- 6.5.4.2 Ingevolge artikel 5 (1) van die **PAJA**-wet kan enigiemand wie se regte wesenlik en nadelig beïnvloed is deur administratiewe optrede en wat nie redes vir die aksie gegee is nie, binne 90 dae na die datum waarop daardie persoon van die optrede of redelikerwys sou verwag word dat hy van die optrede bewus geword het, die betrokke administrateur versoek om skriftelike redes vir die aksie te verskaf. Die administrateur aan wie die versoek gerig is, moet daardie persoon binne 90 dae na ontvangs van die versoek voldoende **skriftelike rede gee vir die administratiewe optrede.**

## 7. VESTIGING VAN DIE INLIGTINGSREGULEERDER

- 7.1 Om die bevordering en verbetering van die **PAIA**-doelstellings te verseker, wat die reg op toegang tot inligting moet bewerkstellig op so 'n wyse dat dit mense in staat stel om so vinnig en goedkoop as redelikerwys toegang tot rekords van openbare en private liggame te verkry, is die Inligtingsreguleerder (“Die Reguleerder”) ingestel ingevolge artikel 39 van **POPI**-wet.
- 7.2 Om te verseker dat ongekompliseerde en goedkoop administratiewe prosedures volg wanneer 'n versoek om toegang tot inligting gerig word, moet klagtes by die Reguleerder en hofaansoeke die uitsondering eerder as die reël wees.
- 7.3 Die **POPI**-wet wysig die rol van die SAMRK in verband met die **PAIA**-mandaat. Met ingang van 30 Junie 2021 sal al die funksies van die SAMRK, soos uiteengesit in **PAIA**-wet, hanteer word deur die Reguleerder, wat ook addisionele handhawingsbevoegdhede het. Die **POPI**-wet wysig die rol van die SAMRK met betrekking tot die **PAIA**-wet se mandaat.
- 7.4 Terwyl die SAMRK steeds sy breër grondwetlike verpligtinge sal handhaaf om die regte soos vervat in die Handves van Menseregte te bevorder, te beskerm en te monitor, sal die SAMRK en die Reguleerder nou saamwerk.

<sup>6</sup> Elkeen wie se regte nadelig geraak is deur administratiewe optrede het die reg tot die verskaffing van skriftelike redes.

## 8. DIE ROL VAN DIE INLIGTINGSREGULEERDER

- 8.1 Die Reguleerder het 'n baie belangrike rol ten opsigte van die **PAIA**-wet. Die Reguleerder het 'n mandaat van die **PAIA**-wet in Deel 4, Hoofstuk 1A en deel 5 en ander afdelings om:
  - 8.1.1 Die reg van toegang tot inligting te bevorder en om die publiek te help met die gebruik van die **PAIA**-wet waar redelikerwys moontlik is om dit te doen.
  - 8.1.2 Die **PAIA**-wet te monitor en die implementering daarvan te bevorder in openbare en privaat liggame (wat ook die bevordering van doeltreffende wyses om inligting tydig beskikbaar te maak, insluit)
  - 8.1.3 Aanbevelings te maak om die **PAIA**-wet te versterk, en
  - 8.1.4 jaarliks aan die Parlement verslag te doen.
- 8.2 Artikel 77C (1) en (2) van die **PAIA**-wet maak voorsiening vir die volgende magte, pligte en funksies van die reguleerder, om -
  - 8.2.1 'n klagte wat op die voorgeskrewe wyse aan die Reguleerder gerig is, te ondersoek;
  - 8.2.2 die klag na die Afdwingingskomitee, ingestel ingevolge artikel 50 van die **POPI**-wet, te verwys; of
  - 8.2.3 in ooreenstemming met artikel 77D te beslis om geen aksie op die klagte of te neem nie, of na gelang van die geval, geen verdere optrede verlang ten opsigte van die klagte; en
  - 8.2.4 waar toepaslik, as bemiddelaar op te tree met betrekking tot sodanige klagte op die voorgeskrewe wyse.
- 8.3 Die Reguleerder kan, ingevolge artikel 77H (1) van die **PAIA**-wet, en op eie inisiatief, of op versoek van of namens 'n inligtingsbeampte of hoof van 'n private liggaam of enige ander persoon, 'n beoordeling doen, hetsy 'n openbare of private liggaam voldoen gewoonlik aan die bepalings van **PAIA**, vir sover dit sy beleid en implementeringsprosedures betref.
- 8.4 Die Reguleerder is gemagtig om, ingevolge artikel 77F van **PAIA**, sy beste poging aan te wend om 'n klag te besleg, indien dit blyk uit die klag, of enige skriftelike antwoord wat daarop gerig is dat dit moontlik is om die klag te besleg. Dit beteken dat die Reguleerder slegs kan probeer om partye te help om hul geskille te besleg, indien daar 'n klag by die Reguleerder ingedien word, tensy hy op eie inisiatief besluit het om 'n beoordeling uit te voer, soos uiteengesit in paragraaf 8.3 hierbo.



## 9. VERSOEK OM 'N REKORD RIG

Verwys asseblief na die stapsgewyse prosesvloedigram in Paragraaf 27 hieronder oor hoe om aansoek te doen om toegang tot die rekords te verkry.

### 9.1 Om mee te begin: **Die PAIA-handleiding**

9.1.1 Alhoewel hierdie gids gepubliseer is om die publiek uit alle vlakke van die samelewing te help om hul grondwetlike reg op toegang tot inligting te handhaaf, is daar ander bronne van inligting wat 'n persoon ook kan help om 'n versoek tot toegang tot rekords te rig. **PAIA** vereis dat alle openbare liggame en private liggame 'n **PAIA**-handleiding opstel en beskikbaar stel.<sup>7</sup>

9.1.2 Voordat iemand stappe doen om toegang te verkry tot die inligting of rekords van 'n bepaalde liggaam, is die **PAIA**-gids die eerste instrument om te lees.

9.1.3 Die **PAIA**-gids is op sy mees basiese manier nuttig vir iemand om:

9.1.3.1 die aard van die rekords wat reeds beskikbaar is, na te gaan sonder om 'n formele **PAIA**-versoek in te dien;

9.1.3.2 'n begrip hê van hoe u 'n versoek kan rig om toegang tot inligting wat deur 'n bepaalde liggaam bewaar word;

9.1.3.3 toegang te verkry tot alle relevante kontakbesonderhede van die persoon wat die publiek sal help met die rekords waarvoor iemand toegang wil verkry;

9.1.3.4 te weet wat al die beskikbare middele by die instansie waartoe toegang tot die rekords gevra word is, voordat u die Reguleerder of die Howe nader;

9.1.3.5 die beskrywing van die dienste vanaf die liggaam wat aan lede van die publiek beskikbaar is, te ken en hoe om toegang tot daardie dienste te verkry;

9.1.3.6 weet of die liggaam persoonlike inligting sal verwerk, die doel van die verwerking van persoonlike inligting en die beskrywing van die kategorieë van die betrokke en van die inligting of kategorieë van inligting wat daarmee verband hou;

9.1.3.7 weet of die liggaam beplan het om 'n persoon se persoonlike inligting oor te dra of te verwerk buite die Republiek van Suid-Afrika; en

<sup>7</sup> Artikel 14 en artikel 51 van die PAIA-wet



- 9.1.3.8 weet of die liggaam toepaslike veiligheidsmaatreëls het om die vertroulikheid, integriteit en beskikbaarheid van die inligting wat verwerk gaan word, te verseker.

## 9.2 Waar om PAIA-Gids te vind?

### 9.2.1 PAIA-GIDS van openbare liggame

- 9.2.1.1 Alle openbare liggame moet die **PAIA**-gids gereedelik beskikbaar maak in ten minste drie amptelike tale.<sup>8</sup>

- 9.2.1.2 Op die aller minste word hulle genoop om 'n kopie van 'n **PAIA**-gids vrylik beskikbaar te stel, tensy 'n gedrukte kopie aangevra word -

9.2.1.2.1 op die webtuiste van die openbare liggaam;

9.2.1.2.2 by die hoof kantoor van die openbare liggaam vir openbare besigtiging gedurende normale besigheidsure;

9.2.1.2.3 indien 'n persoon 'n harde kopie wil hê, moet die openbare liggaam 'n afskrif maak, maar dit mag 'n fooi hef vir die lewering van gegewe afskrif; en

9.2.1.3.4 op versoek aan die Reguleerder.

### 9.2.2 PAIA-gids van privaatliggame

- 9.2.2.1 Privaat liggame word ook verplig om 'n **PAIA**-gids saam te stel, maar daar is geen vereiste om dit in meer as een taal of in 'n spesifieke taal saam te stel nie, hoewel dit aanbeveel word dat die **PAIA**-gids van privaat liggame ten minste in Engels moet wees.<sup>9</sup> Indien 'n spesifieke liggaam dienste lewer aan 'n meerderheid mense wat nie formele onderrig het nie, beveel die Reguleerder aand dat die gids van daardie liggaam ook in enige ander amptelike taal beskikbaar moet wees.

- 9.2.2.2 Op die aller minste word privaat liggame verplig om 'n kopie van 'n **PAIA**-gids vrylik beskikbaar te stel, tensy 'n gedrukte kopie aangevra word -<sup>10</sup>

9.2.2.2.1 op die webtuiste van die privaat liggaam;

9.2.2.2.2 by die hoof sakeperseel van die privaat liggaam vir openbare besigtiging gedurende normale werksure;

<sup>8</sup> Artikel 14 (1) van die PAIA-wet

<sup>9</sup> Kragtens artikel 51 van die PAIA-wet

<sup>10</sup> Artikel 51(3) van die PAIA-wet

9.2.2.2.3 indien 'n persoon 'n harde kopie verlang, moet die privaat liggaam 'n afskrif maak, maar mag aandrang op betaling van 'n billike fooi vir die voorsiening van die harde kopie en

9.2.2.2.4 op versoek aan die Reguleerder.

9.2.3 Die Minister van Justisie en Korrektiewe Dienste het die magte om sekere privaat liggame of kategorieë van privaat liggame vry te stel van die verpligting om 'n gids saam te stel.<sup>11</sup> Tans, en tot en met **31 Desember 2021**, het die Minister alle privaat liggame vrygestel, met die uitsondering van enige maatskappy wat<sup>12</sup> -

- (a) nie 'n privaat maatskappy, soos omskryf in Artikel 1 van die Maatskappywet, 2008 (Wet No 71 van 2008) is nie; en
- (b) 'n privaat maatskappy is soos omskryf in Artikel 1 van die Maatskappywet, 2008 (Wet No 71 van 2008) wat handel in enige van die sektore genoem in kolom 1 van die skedule tot hierdie kennisgewing en -
  - (i) 50 of meer werknemers in diens het; of
  - (ii) 'n totale jaarlikse omset het wat gelykstaande of oorskrydend is aan die toepaslike bedrag genoem in kolom 2 van die onderstaande tabel.

van die samestelling van die gids oorweeg in Artikel 51(1) van die eersgenoemde Wet vir 'n periode van ses (6) maande vanaf **1 Julie 2021** tot **31 Desember 2021**: -

Sektor	Jaarlikse omset
Landbou	R6 miljoen
Mynbou en Steengroefwerk	R22.5 miljoen
Nywerheid	R30 miljoen
Elektrisiteit, gas en water	R30 miljoen
Konstruksie	R15 miljoen
Handel en Motorhandel en hersteldienste	R45 miljoen
Groothandel, kommersiële agente en verwante dienste	R75 miljoen
Spyseniering, Akkommodasie en ander handel	R15 miljoen
Vervoer, opberging en kommunikasie	R30 miljoen
Finansiële- en Skakeldienste	R30 miljoen
Gemeenskaps-, spesiale en persoonlike dienste	R15 miljoen

<sup>11</sup> Artikel 51(4) van die PAIA-wet

<sup>12</sup> Staatskoerant No: 39504, 11 Desember 2015

9.2.4 Vanweë die belangrikheid van die wetlike vereiste vir die samestelling van die **PAIA**-handleiding, veral die wysiging van artikel 51 van die **PAIA**-wet (wat op 30 Junie 2021 in werking tree), ingevolge waarvan die omvang van die inligting wat die gids moet dek, verbreed is om aangeleenthede rakende die **POPI**-wet in te sluit, sal privaat liggame nie meer vrygestel word van die verpligting om die **PAIA**-gids saam te stel nie<sup>13</sup>. Daarom word elke privaat en openbare liggaam verplig om vanaf **1 Januarie 2022** hul **PAIA**-handleiding beskikbaar te hê, soos voorgeskryf in paragraaf 9.2.2.2 hierbo.

9.2.5 Die vrystelling van privaat maatskappye van die verpligting om die **PAIA**-handleiding saam te stel, stel die privaat ondernemings nie vry van nakoming van die **PAIA**-wet nie. Dit beteken dat enige persoon steeds 'n versoek om toegang tot inligting aan die vrygestelde privaat liggaam kan indien. Die vrystelling beteken net dat daardie private ondernemings nie 'n **PAIA**-gids hoef op te stel nie.

9.2.6 Onthou ook dat nie alle privaat liggame maatskappye is nie, want die omskrywing van privaat liggaam sluit natuurlike persoon, eenmansaak en vennootskap in. Dit kan egter steeds die moeite werd wees om hul webtuiste na te gaan, aangesien sommige maatskappye 'n **PAIA**-handleiding opstel ongeag die aantal werknemers of hul jaarlikse omset.

### 9.3 Vrywillige openbaarmaking en outomatiese beskikbaarheid van sekere rekords

9.3.1 Outomaties beskikbare rekords is rekords wat 'n openbare of privaat liggaam sal verskaf sonder dat die versoeker 'n **PAIA**-versoek hoef in te dien (met ander woorde, iemand kan dit net aanvra sonder om die **PAIA**-vorm 2 in te vul).

9.3.2 Die inligtingsbeampte van 'n openbare liggaam moet ingevolge artikel 15 (1) van **PAIA** 'n lys of kategorieë rekords beskikbaar stel wat outomaties beskikbaar is, soos voorgeskryf in paragraaf 9.3.4 hieronder.

9.3.3 Outomaties beskikbare rekords van 'n privaat liggaam kan ook beskikbaar gestel word ingevolge artikel 52 (1) van die **PAIA**-wet, maar op 'n vrywillige basis, ooreenkomstig met paragraaf 9.3.4 hieronder.

9.3.4 'n Beskrywing van die kategorieë van rekords wat outomaties beskikbaar gestel moet word -

- (a) aan die Inligtingsreguleerder;
- (b) op die webwerf van die liggaam; en
- (c) vir inspeksie by die kantore van die betrokke liggaam gedurende normale kantoorure.

<sup>13</sup> Artikel 110 van die POPI-wet

- 9.3.5 Let asseblief daarop dat die reguleerder die beskrywing van outomaties beskikbare rekords van 'n openbare liggaam op sy webtuiste sal laai.
- 9.3.6 Hierdie lys sluit die rekords in wat nodig mag wees om beskikbaar gestel te word deur ander wette, en enige ander rekords wat daardie liggaam kies om in te sluit. Om die formaliteit van die nakoming van die **PAIA**-versoekproses te vermy, word 'n versoeker aangeraai om die **PAIA**-handleiding van die betrokke openbare of privaat liggaam na te gaan. Indien 'n persoon toegang wil verkry tot rekords wat binne die liggaam se lys van outomaties beskikbare rekords val, kan die persoon bloot toegang daartoe versoek sonder om **PAIA**-vorm 2 in te vul.
- 9.3.7 Die Wet op die Befondsing van Politieke Partye 6 van 2018 stel 'n paar veranderinge bekend deur middel van die **PAIA**-wet, waarvolgens die hoofde van politieke partye rekords van private skenkings moet opneem en bewaar, wat openbaar moet word sonder dat iemand 'n **PAIA**-versoek hoef in te dien.

## 10. KONTAKBESONDERHEDE VAN INLIGTINGSBEAMPTES

- 10.1 Hoewel dit vereis word dat die kontakbesonderhede van die inligtingsbeamptes van elke openbare liggaam in elke telefoongids gepubliseer moet word, kragtens artikel 16 van die **PAIA**-wet, het die Reguleerder spesifieke kontakbesonderhede van alle Inligtingsbeamptes (insluitend adjunkinligtingsbeamptes, wat ingevolge artikel 17 en 56 van die **PAIA**- en **POPI**-wet onderskeidelik, aangestel is) ingevolge artikel 55 (2) van die **POPI**-wet by hom geregistreer is.
- 10.2 Hoewel die verkryging van die regte kontakbesonderhede dikwels 'n baie uitdagende deel kan wees van die rig van 'n **PAIA**-versoek, aangesien rolle in die openbare sektor gereeld verander en die **PAIA**-handleiding nie noodwendig op datum is nie, moet die eerste plek om kontakbesonderhede te vind die **PAIA**-handleiding van die liggaam wees. As 'n aanvrager egter nie die gids kan vind nie, kan dit ook help om die skakelbord van die liggaam te skakel om die tersaaklike besonderhede aan te vra.
- 10.3 Vir munisipaliteite, plaas die Suid-Afrikaanse Vereniging vir Plaaslike Regering (**SALGA**) die kontakbesonderhede vir alle munisipaliteite by hierdie skakel:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Regeringskommunikasie voorsien nasionale en provinsiale kontakte sowel as die besonderhede van ondernemings wat in staatsbesit is onder in hierdie skakel:  
<https://www.gov.za/about-government/contact-directory>. Onthou altyd dat die definisie van die Inligtingsbeampte help om te identifiseer wie se kontakbesonderhede nodig is om die inligtingsbeampte te identifiseer.

## 11. PROSES OM 'N VERSOEK OM INLIGTING TE RIG

### 11.1 Die versoekvorms

- 11.1.1 'n versoek om toegang tot inligting kan aan beide openbare en private liggame gerig word.
- 11.1.2 Die **PAIA**-wet vereis dat indien u so 'n versoek wil rig, moet u so 'n versoek op die voorgeskrewe vorm rig (hierdie vorms word voorgeskryf deur Regulasies). Daar is twee vorms wat gebruik kan word in die uitvoering tot reg op toegang tot inligting:

Vorm 2	Vorm 4
Hierdie vorm kan slegs gebruik word indien u 'n versoek om toegang tot die rekords van 'n openbare of privaat liggaam wil rig.	Hierdie vorm kan slegs gebruik word indien u 'n interne appèl wil aanteken teen die beslissings van die Inligtingsbeamptes of die Adjunk-inligtingsbeamptes of die van 'n nasionale, provinsiale of plaaslike sfeer van regering tot wie 'n interne appèl van toepassing is.

- 11.1.3 Hierdie vorms kan verkry word op die reguleerder se webtuiste by <https://www.justice.gov.za/infoereg/>

### 11.2 Die bepaling om vas te stel of 'n versoek betrekking het tot inligting wat gehou word deur 'n private of openbare liggaam

- 11.2.1 'n Openbare liggaam verrig 'n openbare funksie, soos die voorsiening van elektrisiteit of water aan die publiek. Dus, is 'n openbare liggaam nie net 'n nasionale, provinsiale of plaaslike regeringsdepartement nie – dit sou ook ondernemings in staatsbesit of staatsinstellings soos die Reguleerder, Eskom, of PRASA insluit. Daar moet egter 'n onderskeid gemaak word ten opsigte van 'n openbare liggaam vir die doel van interne appèl, wat slegs verwys na die nasionale, provinsiale of plaaslike regering.

- 11.2.2 'n private liggaam verrig 'n private funksie. So 'n liggaam (wat 'n persoon kan wees) handel 'n bedryf, beroep of professie. Dit is baie belangrik om daarop te let dat wanneer 'n **PAIA**-versoek by 'n privaat liggaam ingedien word, moet 'n persoon staaf watter reg hy beskerm of uitoefen deur om hierdie inligting aan te vra. Met betrekking tot enige inligting wat deur 'n ander persoon gehou word, het Streicher JA die posisie soos volg opgesom, in die **Kaapse Metropolitaanse Raad v Metro Inspection Services (Western Cape) CC en Andere**<sup>14</sup>

<sup>14</sup> 2001 (3) SA 1013 (SCA) par 28 by 1026f – G.

*“Inligting kan slegs vereis word vir die uitoefening of beskerming van 'n reg as dit van hulp sal wees in die uitoefening of beskerming van 'n reg. Dit volg dat, ten einde 'n saak om toegang tot inligting ingevolge artikel 32 te stel, moet 'n aansoeker staaf wat die reg is wat hy wil uit te oefen of beskerm, wat die inligting wat vereis word is en hoe daardie inligting hom sal ondersteun in die uitoefening of beskerming van daardie reg”.*

11.2.3 Soms kan die vraag of 'n rekord 'n openbare of private rekord is ingewikkeld wees en die publiek word aangeraai om regsadvies te soek. Byvoorbeeld, indien 'n openbare liggaam 'n privaat liggaam aanstel om sekere dienste aan sy ontwil te lewer, soos die installasie van watermeters in sekere gemeenskappe, toegang tot die nommers van geïnstalleerde meters, selfs indien sodanige inligting deur 'n privaat liggaam gehou word, word dit as die inligting van 'n openbare liggaam hanteer.

11.3 Hoe verduidelik 'n persoon die reg wat hy beoog om uit te oefen of te beskerm?

11.3.1 Wanneer 'n reg gestaaf moet word wat 'n mens beoog om te beskerm of uit te oefen in die versoek om inligting van 'n privaat liggaam, kan mens nie die reg om toegang tot inligting staaf nie. 'n Mens moet verduidelik hoe die rekord wat aangevra word redelikerwys nodig is vir die persoon om 'n ander reg te beskerm of uit te voer. Dit kan regte wat nie net grondwetlike regte is nie, insluit.

11.3.2 'n Mens kan byvoorbeeld die meester planne van 'n maatskappy aanvra wat die potensiaal het om 'n besoedelingsimpak in 'n gemeenskap te hê, ten einde te help om 'n mens se reg tot die omgewing te beskerm deur die monitering van sy werksaamhede. Of 'n mens kan rekords aanvra, wat sal help om te bepaal of 'n mens die reg het om 'n Siviele eis teen 'n entiteit in te stel. Dis is dus nodig dat mens:

11.3.2.1 Die reg wat hy wil uitoefen of beskerm identifiseer en dan

11.3.2.2 Duidelik verduidelik waarom die rekord wat hy aanvra redelikerwys benodig word om te help met daardie reg.

11.3.3 In kontras hiermee, wanneer 'n **PAIA**-versoek aan 'n openbare liggaam gerig word, hoef mens nie 'n rede vir die versoek om inligting te hê nie.

## 12. WIE KAN 'N PAIA-VERSOEK RIG?

12.1 Enige persoon, hetsy dit 'n Suid-Afrikaner of nie-Suid-Afrikaner, word toegelaat om 'n versoek kragtens die **PAIA**-wet te rig. Die versoeker kan 'n natuurlike persoon of 'n regspersoon wees.

- 12.2 'n openbare liggaam word as 'n regspersoon geag en mag 'n versoek om toegang tot rekords gehou deur privaatliggame rig, maar slegs indien die openbare liggaam -
- 12.2.1 in die belange van die publiek optree, en
  - 12.2.2 Indien die rekords nodig is vir die vervulling of beskerming van enige regte anders as dié van die openbare liggaam.
- 12.3 Kragtens die **PAIA**-wet, mag 'n versoeker nie 'n versoek om toegang tot 'n rekord van die openbare liggaam, wat persoonlike inligting oor die versoeker bevat, rig nie, maar die versoeker of betrokke kan, in ingevolge Artikel 23(1)(b) van die **POPI**-wet, die rekord van 'n verantwoordelike party aanvra of 'n beskrywing van die persoonlike inligting oor die betrokke wat deur die verantwoordelike party gehou word.<sup>15</sup> Dit beteken dat enige persoon nou kan toegang versoek tot hulle persoonlike inligting wat deur die openbare of privaat liggaam gehou word, ten tyde van vertoning van genoegsame bewys van identiteit. Die persoonlike inligting wat 'n aansoeker kan versoek van die verantwoordelike liggaam kan inligting oor die identiteit van alle derde partye, of kategorieë van derde partye insluit wat toegang tot die inligting het of gehad het.
- 12.4 Ingevolge Artikel 50(1) van **POPI**-wet, kan enige persoon toegang versoek tot 'n rekord van 'n privaat liggaam, wat persoonlike inligting oor die versoeker bevat of die persoon namens wie die versoek gerig word.

### 13. AAN WIE KAN 'N VERSOEK GERIG WORD?

- 13.1 Die inligtingsbeampte van 'n openbare liggaam is verplig om 'n Adjunk-inligtingsbeampte(s) aan te wys, wat moet verseker dat toegang tot die rekords van die openbare liggaam redelikerwys toeganklik as moontlik gemaak word. Hoewel dit nie 'n vereiste was met betrekking tot die privaat liggaam kragtens die **PAIA**-wet nie, mag 'n privaat liggaam die bogenoemde Adjunk-inligtingsbeampte aanwys, kragtens Artikel 56 van **POPI**-wet.
- 13.2 Die versoek om toegang tot inligting, hoewel dit aan die inligtingsbeampte gerig mag word, kan ingedien word by die adjunk-inligtingsbeampte. Besonderhede van adjunk-inligtingsbeampte(s) kan verkry word in die **PAIA**-gids van daardie spesifieke liggaam of van die Reguleerder.

### 14. HOE OM DIE VORM TE VOLTOOI

- 14.1 Vorm 2 - versoek om toegang tot 'n rekord vanaf 'n openbare of privaat liggaam:
- 14.1.1 Ten einde die **PAIA**-vorm te voltooi, moet 'n persoon genoegsame besonderhede verskaf om sodoende die Inligtingsbeampte en Adjunk-inligtingsbeamptes in staat te stel om die verlangde rekords op te spoor.

<sup>15</sup> Artikel 11(2) van die PAIA-wet



- 14.1.2 Die **PAIA**-regulasies spesifiseer die vorm wat gebruik moet word, wat aan die Inligtingsbeampte of Adjunk-inligtingsbeampte van die liggaam gestuur moet word.
- 14.1.3 Versoekers wat nie kan lees of skryf nie, kan mondelinge versoeke aan die Inligtingsbeampte of die Adjunk-Inligtingsbeampte van 'n openbare liggaam rig, wie dan verantwoordelik is vir die voltooiing van vorm 2 namens die versoeker. Die huidige vorm vereis dat u die volgende afdelings voltooi:

Inligting wat vereis word	Beskrywing
<b>Besonderhede van openbare / private liggaam</b>	Hierdie afdeling moet e-posadres en faksnommer van die Inligtingsbeampte en / of Adjunk-inligtingsbeampte bevat.
<b>Besonderhede van persoon wat toegang tot rekords versoek</b>	Dit behoort genoeg inligting oor die versoeker te bevat om die versoeker redelik maklik te identifiseer, met inbegrip van die besonderhede van die aansoeker: posadres, e-pos, faks en / of telefoonnommer in Suid-Afrika. Dit vra ook vir u identiteitsnommer om u identiteit te waarmerk. Indien u 'n versoek om inligting namens iemand anders rig, moet bewys van die hoedanigheid waarin u die versoek rig, voorsien word (soos die 'gemagtigde persoon').
<b>Besonderhede van die rekord wat versoek word</b>	Voorsien volle besonderhede van die rekord waarop toegang versoek word, met inbegrip van die verwysingsnommer indien dit bekend is, ten doel die rekord op te spoor. (Indien die gegewe spasie onvoldoende is, gaan asseblief op 'n aparte bladsy voort en heg dit aan die vorm. Alle addisionele bladsye moet geteken word.
<b>Tipe rekord</b>	Dit behoort genoeg inligting te bevat oor die rekord om dit redelik maklik om te identifiseer. Indien die inligting wat vereis word, nie in die gegewe ruimte in die vorm pas nie, mag 'n addisionele handgeskrewe of getikte bladsy gebruik word om meer besonderhede oor die versoek te verskaf, solank elke addisionele bladsy onderteken word en aan die



Inligting wat vereis word	Beskrywing
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	aansoekvorm geheg word. U kan byvoorbeeld, 'n uittreksel uit 'n verslag of nuusberig insluit wat betrekking het tot die rekord waarna u soek. Dit maak voorsiening om 'n verwysingsnommer vir die rekord in te sluit, indien dit van toepassing is.
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<b>Foie</b>	<p>Die liggaam aan wie 'n versoeker van plan is om 'n versoek om toegang tot 'n rekord te rig, met inbegrip van 'n rekord wat persoonlike inligting bevat oor hom- of haarself, kan versoek dat u 'n versoekfooi (toegangsfooi) of 'n deposito betaal, maar daardie bedrag mag nie buitensporig wees nie, omdat die foie gehef word vir die redelike tyd nodig om te soek vir die rekord en dit voor te berei. Die Minister kan deur middel van 'n kennisgewing in die Staatskoerant, die betaling van foie soos gelys in paragraaf 51.1 hieronder, vrystel.</p> <p>'n Ruimte is beskikbaar vir die versoeker om aan te dui waarom hy glo hy of sy moet vrygestel word om enige foie te betaal. Die rede kan insluit, byvoorbeeld, dat hy of sy werkloos is.</p>
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<b>Vorm van toegang tot 'n rekord</b>	Hierdie afdeling laat u toe om met 'n " x " u voorkeure aan te dui vir die vorm van toegang tot die rekord wat voorsien word, hetsy 'n gedrukte afskrif van 'n rekord en/of op 'n flitsaandrywer en/of op 'n kompakskyf.
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<b>Wyse van toegang</b>	<p>In hierdie afdeling word daar van u vereis om u voorkeure te merk met betrekking tot watter taal die rekord moet wees (dit mag dalk nie moontlik wees met betrekking tot alle rekords nie, maar u moet steeds u voorkeur aandui).</p> <p>Die wyse van toegang tot die rekord kan bydra tot 'n weiering van toegang as gevolg van hoër tariewe.</p>
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## Inligting wat vereis word

## Beskrywing

Byvoorbeeld, indien 'n versoeker 'n dokument in u voorkeurtaal wil hê, mag fooie vir die verandering van die dokumente na jou voorkeurtaal betaalbaar word. Indien die rekord nie beskikbaar is in die taal wat u verkies nie, mag toegang verleen word in die taal waarin die rekord beskikbaar is. Die wyse van toegang tot 'n rekord mag die volgende insluit: persoonlike besigtiging van 'n rekord, 'n rekord per e-pos of faks of koerier of per pos.

### **Kennisgewing van 'n besluit met betrekking tot 'n versoek om toegang**

'n Spasie word gebied vir die versoeker om die wyse waarop hy verlang om ingelig te word oor die besluit om die versoek toestaan of weier. Die versoeker kan byvoorbeeld aandui dat hy eerder deur e-pos of per telefoon ingelig wil word, of die respons kan na hom gepos word of per koerier gestuur word.

### **Besonderhede van die reg wat uitgeoefen of beskerm word**

Wanneer inligting van 'n privaat liggaam versoek word, is 'n versoeker verplig om die "besonderhede van die reg wat uitgeoefen of beskerm word" te beskryf. Hier moet hy die reg waarop hy staat maak stel (soos sy reg op 'n gesonde omgewing) en hoe die rekord wat hy aanvra sal help om die reg uit te oefen of te beskerm. Hy moet 'n verband tussen die rekord wat hy aanvra en die uitoefening of beskerming van die reg staaf.

Ongelukkig, in teenstelling met die versoek om toegang tot 'n rekord van 'n openbare liggaam, kan hy nie toegang tot 'n rekord van die privaat liggaam bekom nie, tensy hy die reg(te) wat hy wil beskerm of uitoefen staaf, sou toegang tot inligting verleen word. Dit kan die feit insluit dat, nadat hy toegang tot rekords verleen is, hy dan sy reg op gelyke beskerming en voordeel van die reg sal uitoefen deur die liggaam te dagvaar vir skade wat hy moontlik kon gely het.<sup>16</sup>

<sup>16</sup> Artikel 9(1) van die Grondwet van die Republiek van Suid-Afrika, Wet No. 108 van 1996

14.1.4 Indien sy versoek om enige rede nie voldoen aan die vereistes wat hierbo gelys is nie, mag die inligtingsbeampte nie die versoek weier nie, tensy hy die versoeker in kennis stel dat hy van voornemens is om die versoek te weier, en die redes vir weiering verskaf word. Die Inligtingsbeampte moet ook die versoeker in kennis stel dat hy hom sal help of aan hom 'n geleentheid sal bied om die fout te wysig.

## 15. DIE KOSTES BETROKKE

15.1 Oor die algemeen, moet die fooie betaal word vir beide vir die rig van 'n versoek en ook om die koste van die voorsiening van toegang tot rekords in ten opsigte van 'n versoek te dek. Daar is egter 'n paar uitsonderings. Indien die versoeker toegang tot die rekords wat hy of sy versoek het toegestaan is en hy of sy nie van die betaling van enige fooie, soos aangedui in paragraaf 15.2 hieronder, vrygestel is nie, mag die Inligtingsbeampte of Adjunk-inligtingsbeampte die voorgeskrewe fooie hef, soos volg-

**NB: Die fooi-struktuur ten opsigte van betaalbare fooie aan die Openbare en Private liggame kan op die Reguleerder se webtuiste gevind word.**

Item	Beskrywing
1	Die versoekfooie, betaalbaar deur elke versoeker
2	Fotostaat van A4-grootte bladsy
3	Gedrukte afskrif van A4-grootte bladsy
4	Vir 'n kopie in 'n rekenaar-leesbare formaat op: <ul style="list-style-type: none"> <li>(i) Flitsaandrywer (voorsien deur die versoeker)</li> <li>(ii) Kompakskyf <ul style="list-style-type: none"> <li>• Indien voorsien deur die versoeker</li> <li>• Indien voorsien aan die versoeker</li> </ul> </li> </ul>
5	Vir 'n transkripsie van visuele beelde per A4-grootte bladsy
6	Afskrif van visuele beelde
7	Transkripsie van 'n oudiorekord, per A4-grootte bladsy
8	Kopie van 'n oudiorekord: <ul style="list-style-type: none"> <li>(i) Flitsaandrywer (voorsien deur die versoeker)</li> <li>(ii) Kompakskyf <ul style="list-style-type: none"> <li>• Indien voorsien deur die versoeker</li> <li>• Indien voorsien aan die versoeker</li> </ul> </li> </ul>
9	Om 'n rekord op te spoor en voor te berei vir bekendmaking, vir elke uur of deel van 'n uur, uitsluitend die eerste uur, rederlikerwys nodig vir welke soektog en voorbereiding. Om nie oorskrydend te wees aan 'n totale koste van
10	Deposito: Indien soektog 6 ure oorskry
11	Posgeld, e-pos of enige ander elektroniese oordrag

15.2 Die versoeker hoef nie 'n toegangsfooi<sup>17</sup> aan 'n openbare liggaam te betaal nie, indien:-

15.2.1 Hy 'n enkel persoon is wie se jaarlikse inkomste, na die toelaatbare aftrekkings soos **LBS** en **WVF**, minder as **R14 712.00** 'n jaar is, of

15.2.2 Hy getroud is en die gesamentlike inkomste met sy gade, na toelaatbare aftrekkings soos **LBS** en **WVF**, minder as **R27 192.00** per jaar beloop.

15.3 Let asseblief daarop dat die openbare of privaat liggaam, in Vorm 4 tot die regulasies, 'n deposito van die versoeker mag eis, maar slegs indien hulle glo dat die inligting of rekords wat versoek word meer as ses (6) ure sal neem om te soek, maar die deposito bedrag mag nie meer as een-derde van die voorgeskrewe fooi wees nie.

## 16. SAL DIE INLIGTINGSBEAMPTTE DIE VERSOEKER HELP OM 'N PAIA-VERSOEK TE RIG?

16.1 Die rol van die Inligtingsbeamptes en/of Adjunk-Inligtingsbeamptes van beide openbare en private liggame is om, in soverre dit betrekking het tot die verwerking van versoeke om toegang tot rekords is om:

16.1.1 die **PAIA**- of **POPI**-versoek te ontvang;

16.1.2 die verwerking van die versoek binne die liggaam te koördineer;

16.1.3 'n beslissing maak om toegang toe te staan of te weier tot die rekords wat aangevra word;

16.1.4 te skakel met die aansoeker (bv. hulle mag dalk die versoeker vir meer besonderhede vra, of hulle mag dalk nodig hê om te vra vir 'n verlenging van die tydperk om die versoek te af te handel, ens.)

16.1.5 die versoeker in kennis te stel van die uitkoms van hul **PAIA**-versoek, waarvan die kennisgewing so spoedig redelik moontlik gegee moet word, maar **binne 30 dae** na ontvangs van die versoek. Die aanvanklike tydperk van 30 dae mag eenmaal verleng word vir 'n verdere tydperk van nie meer as 30 dae, indien die versoeker instem op die verlenging of indien die versoek 'n soeke na rekords vereis wat nie redelik afgehandel kan word binne die oorspronklike tydperk nie;

16.1.6 verstrek redes aan die versoeker vir die beslissing om toegang te weier. Dit is baie belangrik dat die redes wat verstrek word vir 'n weiering duidelik en volledig en omvattend is, en moet verwys na die spesifieke artikels van die **PAIA**-wet (sien paragraaf 19.4 hieronder met betrekking tot die gronde vir weiering van toegang tot rekords)<sup>18</sup>

<sup>17</sup> volgens Goewermentskennisgewing R991 van 14 Oktober 2005

<sup>18</sup> Artikel 33 tot 46 van die PAIA-wet

- 16.1.7 lig relevant derde party in deur die derde party-kennisgewingsproses ingevolge artikel 47 van **PAIA**; en
- 16.1.8 indien toegang tot die rekord toegestaan word, verskaf 'n kopie van die rekord aan die versoeker.
- 16.2 Wanneer die versoeker ingelig word van die besluit, lig hul ook in van die moontlike verhaal beskikbaar asook die relevante tydlyne daarvan .
- 16.3 Die bykomende rolle en verantwoordelikhede van die Inligtingsbeamptes en/ of die Adjunk-inligtingsbeamptes word omvat in die Riglyn vir Inligtingsbeamptes en Adjunk-inligtingsbeamptes en dié Riglyn kan bekom word by <https://www.justice.gov.za/inforeg/docs.html>
- 16.4 Die rol van die Inligtingsbeampte en/ of die Adjunk-inligtingsbeampte is om die versoek na inligting te fasiliteer, en dus beteken dit hul het 'n verskeidenheid van pligte teenoor diegene wat 'n versoek rig.
- 16.5 Die Inligtingsbeamptes en/ of Adjunk-inligtingsbeamptes moet hierdie hulp gratis verskaf.
- 16.6 Die Inligtingsbeamptes en/ of Adjunk-inligtingsbeamptes van 'n openbare liggaam het die volgende spesiale take:

Pligte van Inligtingsbeamptes	Beskrywing
<b>Help om die vorm te voltooi</b>	Die Inligtingsbeampte moet redelike hulp verleen aan die versoeker om hul <b>PAIA</b> -vorm te voltooi, en mag ook nie weier om 'n vorm te aanvaar wat nie behoorlik voltooi is behalwe as hul reeds die hulp verleen het, of hulp aangebied het en die hulp is van die hand gewys.
<b>Verskaf relevante inligting</b>	Die Inligtingsbeampte moet, waar redelik moontlik, relevante inligting aan die versoeker verskaf, al word dit nie spesifiek versoek nie.
<b>Oordrag van die versoek</b>	Hierdie is 'n baie belangrike plig. Wanneer 'n <b>PAIA</b> -versoek aan die verkeerde openbare liggaam gerig word, moet die Inligtingsbeampte die versoek aan die korrekte openbare liggaam oordra binne 14 dae vanaf

## Pligte van Inligtingsbeamptes

## Beskrywing

die versoek ontvang is, en die versoeker moet op skrif daarvan ingelig word. Die Inligtingsbeamptes moet, sodra dit oorgedra is, binne 30 dae met 'n besluit na vore kom.

### Uitstel van vrystelling

Die Inligtingsbeampte mag besluit om die vrystelling van 'n rekord aan 'n versoeker uit te stel as die rekord binne 90 dae gepubliseer gaan word of as dit deur die wet bepaal word om gepubliseer te word maar dit is nog nie.

- 16.7 Die Inligtingsbeampte moet, vir albei private en openbare liggame, as hul nie die spesifieke rekords kan opspoor wat versoek is nie of as hul glo die rekords bestaan nie, 'n omvattende beëdigde verklaring of bevestiging<sup>19</sup> aan die versoeker bied waarmee hul kennis gee dat dié rekords nie bestaan of nie gevind kan word nie, maar waarby die stappe wat hul kan neem om dit op te spoor aangedui word.

## 17. BYSTAND VERLEEN DEUR DIE INLIGTINGSREGULEERDER KRAGTENS DIE PAIA- EN POPIA-WET

- 17.1 Dit is die Inligtingsbeampte van 'n openbare liggaam se plig om redelike, gratis hulp te verleen waar nodig<sup>20</sup>, om te verseker dat die versoeker of betrokkene voldoen aan die wyse van toegang soos bepaal in artikels 18 van die **PAIA**-wet en artikel 23 van die **POPIA**-wet.
- 17.2 Maar, as die Inligtingsbeampte faal om sy pligte uit te voer, soos na verwys in paragraaf 17.1 hier bo, mag 'n versoeker of betrokkene 'n klagte by die Reguleerder loods en die Reguleerder mag, na verdere ondersoek, 'n afdwingingsbevel uitreik wat die Inligtingsbeampte aanspreek om die redelike bystand te lewer.
- 17.3 Waar dit redelik moontlik is, mag die Reguleerder per versoek enige persoon bystaan om hul regte uit te oefen, soos bepaal in **PAIA** en **POPIA**<sup>21</sup>, en dit sluit redelike hulp, gratis, soos benodig deur die versoeker of betrokkene om te voldoen aan die wyse van toegang soos bepaal in artikels 18 en 53 van die **PAIA**-wet en artikel 23 van die **POPIA**-wet.
- 17.4 Die bogenoemde sluit in bystand oor hoe om 'n versoek ter rig vir toegang of oor hoe om 'n vorm te voltooi namens 'n ongeletterde of blinde persoon.

<sup>19</sup> Artikel 23(1) en 51(1) van PAIA

<sup>20</sup> Artikel 19(1) van PAIA

<sup>21</sup> Artikel 83(3)(c) van PAIA

## 18. KAN DIE INLIGTINGSBEAMPTTE DIE BETROKKE TYDLYNE VERLENG?

- 18.1 'n Oorsig van die proses en die sleutel tydlyne betrokke word in die diagram van die PAIA-versoekproses in paragraaf 27 hieronder omskryf. Die gebruik van spesifieke tydlyne is 'n belangrike deel van **PAIA**, dit kweek die effektiewe bestuur van versoeke vir toegang tot rekords.
- 18.2 Ter herinnering, sodra u korrekte versoek ingedien word by die Inligtingsbeampte of die Adjunk-inligtingsbeampte, aan wie die versoek gerig is of oorgedra is, moet hul binne 'n redelike tydperk of **binne 30 dae**<sup>22</sup> beantwoord. Nietemin, die Inligtingsbeampte van 'n openbare of private liggaam mag aansoek doen om 'n enkele **30 dae verlenging**<sup>23</sup>, maar net as:
- 18.2.1 die versoek is vir 'n groot aantal rekords of vereis 'n groot aantal rekords wat deursoek moet word en, sonder die verlenging, sal die soektog inmeng met die normale aktiwiteite van die liggaam;
- 18.2.2 die versoek vereis 'n soektog deur rekords in 'n kantoor van die liggaam wat nie in dieselfde stad of dorp is nie en kon dus nie **binne die 30 dae** voltooi word nie; en/of
- 18.2.3 dit verg 'n vlak van konsultasie om op te tree teenoor die versoek, wat nie redelik **binne net 30 dae** voltooi kon word nie.
- 18.3 Die Inligtingsbeampte moet die versoeker inlig van haar of sy voorneme om die aanvangsperiode te verleng, en om ook die periode van die verlenging aan te dui, die rede vir die verlenging, en om die versoeker in te lig van haar of sy reg om te -
- 18.3.1 Appelleer by die aangewese owerheid;
- 18.3.2 klagte te rig aan die Reguleerder; of
- 18.3.3 regstappe te volg in die hof teen die verlenging.
- 18.4 Die Inligtingsbeampte moet ook die versoeker in die kennis stel van elk van die prosesse van die bogenoemde regte<sup>24</sup>.

## 19. ANTWOORDE TOT 'N VERSOEK OM INLIGTING

- 19.1 **PAIA** gee die publiek die reg om toegang tot rekords vanaf enige openbare of private liggaam te versoek. Dit word gereeld beskryf as die wet wat die burgers ingelig hou oor hul regering. Openbare liggame moet inligting wat versoek word onder **PAIA** beskikbaar maak behalwe as dit onder een van die **twaalf (12) vrystelling**

<sup>22</sup> Artikel 25(1) van PAIA

<sup>23</sup> Artikel 26(1) van PAIA

<sup>24</sup> artikel 26(3) van PAIA - die verlengingskennisgewing moet meld dat die versoeker 'n interne appèl mag aanteken, 'n klag by die Inligtingsreguleerder of 'n aansoek by 'n hof kan indien, soos die geval mag wees, teen die verlenging, en die prosedure (insluitende die tydperk) vir die indiening van die interne appèl, klag aan die Inligtingsreguleerder of aansoek, na gelang van die geval.



val of redes hoekom toegang tot rekords van 'n openbare liggaam toegestaan moet word of nie<sup>25</sup> en **sewe (7) vrystellings** of redes hoekom toegang tot rekords van 'n private liggaam toegestaan moet word of nie.<sup>26</sup> Die negentien (19) vrystellings wat in **PAIA** voorkom, is in die belang van die beskerming van persoonlike privaatheid, nasionale sekuriteit, en wetstoepassing.

19.2 Die onderliggende rigsnoer van die administrasie van **PAIA** is die oopheid vermoede. Dit beteken dat enige rede vir die beperking van hierdie oopheid moet geregverdig wees. Openbare liggame moet ook oorweeg of die gedeeltelike openbaring van inligting moontlik sal wees en waar daar bepaal word dat volle openbaring nie moontlik is nie, moet die inligting wat nie openbaar kan word nie gesny of geredigeer word en die res moet geopenbaar word.

### 19.3 Tipes antwoorde op versoeke

19.3.1 Wanneer 'n versoek om toegang tot 'n rekord gemaak word, moet die Inligtingsbeampte of Adjunk-inligtingsbeampte die versoeker in kennis stel, of die versoek om toegang toegestaan of geweier is, van -

- (a) sy of haar besluit; en
- (b) die betaalbare fooie, soos van toepassing is,

op 'n vorm wat wesenlik aansluit by **Vorm 3** van Aanhangsel A van die Regulasies:

19.3.2 Nietemin, **PAIA** verskaf 'n lys van redes of gronde (vrystellings) (sien paragrawe 19.4 en 19.6 hieronder) hoekom die versoek kan of moet geweier word. Dit is belangrik, want die versoek kan alleenlik geweier word op gronde van een van die gelyste gronde vir weiering van toegang tot rekords.

19.3.3 Ten spyte van die bogenoemde redes vir die weiering van toegang tot rekords, moet die Inligtingsbeampte die versoek vir toegang tot 'n rekord van die liggaam toestaan as die openbare belang van die vrystelling van die rekord die skade wat oorweeg word in die lys van redes vir weiering oorskry<sup>27</sup>. Dit beteken die versoeker kan staat maak op openbare belang wanneer enige van die gronde vir weiering van toegang tot rekords beroep word.

19.3.4 Kortliks, die redes hoekom inligting nie vrygestel kan word nie het te make met of die openbaring van inligting meer skade sal doen as wat die nie-openbaring sal. Daar is twee verskillende tipes gronde wat gelys word vir die weiering van toegang tot rekords van 'n liggaam:

<sup>25</sup> Hoofstuk 4 van PAIA - gronde vir weiering van toegang tot rekords (artikel 34-45 van PAIA)

<sup>26</sup> Hoofstuk 4 van PAIA - gronde vir weiering van toegang tot rekords (artikel 63-69 van PAIA)

<sup>27</sup> Artikel 46 van PAIA



## 19.4 Lasgewende gronde van weiering (gronde van vrystelling)

19.4.1 Die Inligtingsbeampte of die Adjunk-inligtingsbeampte moet wanneer dit te make het met lasgewende gronde, die versoek weier want dit het te doen met die rekord.

19.4.2 Daar is meer lasgewende gronde as diskresionêre gronde. Die volgende is die lasgewende gronde van weiering, en die inligtingsbeampte of die Adjunk-inligtingsbeamptes moet die aansoek weier want dit het te make met die rekord -

### 19.4.2.1 **Lasgewende beskerming van die privaatheid van 'n derde party wie 'n natuurlike persoon is;**

Die Inligtingsbeampte van 'n openbare of private liggaam mag nie toelaat dat 'n versoeker toegang kry tot die persoonlike inligting van 'n ander persoon as dit geag kan word as "'n onredelike openbaring" nie. Die afdelings dui self 'n paar redes aan wanneer dit nie van toepassing is nie, soos wanneer die rekords reeds algemeen bekend is, of as 'n persoon toestemming gegee het. Die toestemming kwessie is veral belangrik want dit sluit aan by 'n ander deel van die proses waarvan die versoeker bewus moet wees, dit hou verband met derde party kennisgewings, kragtens hoofstuk 5 van **PAIA**.

### 19.4.2.2 **Lasgewende beskerming van sekere rekords van die Suid-Afrikaans Inkomstediens;**

Die Inligtingsbeampte van SAID mag nie toelaat dat 'n versoeker toegang kry tot rekords wat verkry of behou word deur SAID vir die invordering van inkomste nie. Nietemin, rekords wat verkry of behou word deur SAID mag nie geweier word as 'n versoek gerig word deur 'n persoonlike versoeker of die persoon namens wie die versoek gemaak word nie.

### 19.4.2.3 **Lasgewende beskerming van kommersiële inligting van 'n derde party;**

Die Inligtingsbeampte van 'n liggaam mag nie toelaat dat 'n versoeker toegang kry tot die kommersiële inligting van 'n ander persoon nie (in ander woorde, wie nie die versoeker is nie). Dit sluit inligting soos bedryfsgeheime, of wat die derde party se kommersiële belange in gevaar stel. Byvoorbeeld, KFC maak gebruik van sekere resepte, insluitend bestanddele vervaardig deur 'n derde party, wat bedryfsgeheime is van die derde party en die openbaring daarvan kan die kommersiële belange van die derde party in gevaar stel.

19.4.2.4 **Lasgewende beskerming van sekere konfidensiële inligting, en die beskerming van sekere ander konfidensiële inligting, van 'n derde party;**

Die Inligtingsbeamptes van albei openbare en private liggame mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die vrystelling daarvan sal veroorsaak dat daar 'n verbreking van 'n vertrouensplig wat geskuld word aan 'n derde party kragtens 'n ooreenkoms of kontrak.

19.4.2.5 **Lasgewende beskerming van die veiligheid van individue, en die beskerming van eiendom;**

Die Inligtingsbeampte van albei 'n openbare of private liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die vrystelling daarvan die veiligheid van 'n individu in gevaar kan stel nie. In dieselfde afdelings meld dit ook dat die Inligtingsbeampte van 'n liggaam mag toegang weier as dit moontlik die veiligheid van 'n gebou of eiendom kan benadeel.

19.4.2.6 **Lasgewende beskerming van polisie dossiere in borgtog verrigtinge, en die beskerming van wetstoepassende- en regsverrigtinge;**

Die Inligtingsbeampte van 'n openbare liggaam mag nie toelaat dat 'n versoeker toegang kry tot rekords soos borgtog verrigtinge wat reeds deur artikel 60 van die Strafproseswet beskerm word nie. In dieselfde afdeling word daar ook gemeld dat die Inligtingsbeampte van 'n openbare liggaam mag toegang tot rekords van wetstoepassing weier as dit die metodes, tegnieke, prosedures vir die voorkoming van misdaad, of die vervolging van misdade, as ook sekere ander rekords relevant tot regsgeding wat plaasvind bevat.

19.4.2.7 **Lasgewende beskerming van geprevalieerde rekords van regsgeding;**

Die Inligtingsbeampte van 'n private liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die rekord geprivilegeerd is in regsgeding nie, behalwe as die persoon wie die privilegie van toepassing op is afstand daarvan gedoen het.

19.4.2.8 **Lasgewende beskerming van navorsingsinligting van 'n derde party, en die beskerming van navorsingsinligting van 'n openbare of private liggaam.**

Die Inligtingsbeampte van 'n liggaam mag nie toelaat dat 'n versoeker toegang kry tot 'n rekord as die rekord verband hou met navorsing wat reeds, of sal onderneem word deur die liggaam en die vrystelling daarvan kan die navorser, die derde party of die kwessie wat nagevors word ernstige benadeel nie.

19.4.3 Dra asseblief kennis dat die bogenoemde lasgewende gronde vir weiering van toegang tot rekords is redelik dieselfde vir openbare en private liggame, behalwe vir die lasgewende beskerming van sekere rekords van die Suid-Afrikaanse Inkomstediens, polisie dossiere in borgtog verrigtinge, van wetstoepassing en van regsgeding, wat net van toepassing is op openbare liggame.

19.4.4 As net 'n deel van die rekord gekoppel is aan 'n vrystellingsgrond, is die Inligtingsbeampte of Adjunk-inligtingsbeampte van albei openbare en private liggame verplig om te oorweeg of die gedeeltelike openbaring van inligting moontlik is wanneer hulle bepaal dat die volle openbaring nie moontlik is nie en hul moet redelike stappe neem om die deel wat nie aan die versoeker verskaf kan word nie te sny of te redigeer en om toegang aan die res van die rekord te bied.

## 19.5 Vermeende weiering van versoek<sup>28</sup>

19.5.1 'n Mislukking om die versoek behoorlik te beantwoord binne die korrekte tydslyn word geag as 'n 'vermeende weiering'. Dit is belangrik, want **PAIA** laat toe dat die versoeker 'n besluit kan uitdaag wanneer geen besluit geneem is nie en die versoek geïgnoreer is. Die versoeker kan net by die interne appel stel dat geen antwoord ontvang is nie.

19.5.2 Die versoek na toegang tot rekords word geag as geweier na die verval van 30 dae of enige verlengde periode waarby die openbare of private liggaam versuim om te beantwoord.

## 19.6 Diskresionêre gronde van weiering

19.6.1 Met diskresionêre gronde, mag 'n inligtingsbeampte of adjunk-inligtingsbeampte dit oorweeg om 'n versoek te weier of nie, omdat die gronde vir die aangevraagde rekord geldig is. Aangesien dit 'n diskresie is, moet die Inligtingsbeampte hom/haar objektief in die besluit verdiep wanneer die verskillende gronde oorweeg word, naamlik:

19.6.1.1 **Suid-Afrika se verdediging, veiligheid en internasionale betrekkinge:** Die Inligtingsbeampte kan toegang weier as redelikerwys verwag kan word dat die bekendmaking van die inligting die verdediging of veiligheid van die land sal bedreig. Dit kan ook van toepassing wees indien die bekendmaking van die inligting Suid-Afrika se betrekkinge met 'n ander land kan benadeel, soos die openbaarmaking van rekords wat vertroulik verskaf word.

19.6.1.2 **Ekonomiese, finansiële en kommersiële belange:** Die Inligtingsbeampte kan toegang weier as die vrylating daarvan nadelig sal wees vir die ekonomiese en finansiële status van die Republiek;

<sup>28</sup> Artikel 27 en 58 van PAIA

19.6.1.3 **Bedrywighede van openbare liggame:** Die inligtingsbeampte van 'n openbare liggaam kan toegang weier as die bekendmaking van die inligting redelikerwys die bedrywighede kan belemmer, byvoorbeeld as dit probeer om beleide te formuleer, of oor 'n kwessie te beraadslaag;

19.6.1.4 **Klaarblyklik ligsinnige of lastige versoeke:** Die Inligtingsbeamptes kan 'n versoek om inligting weier as hulle van mening is dat die verwerking van versoeke onredelik tydrowend sal wees en tot 'n vermorsing van hulpbronne sal lei. Daarbenewens kan hulle toegang tot 'n rekord weier as hulle glo die versoeker dit aanvra om onnodig te irriteer of uit te lok.

## 20. MANDATORY DISCLOSURE OF RECORDS IN THE PUBLIC INTEREST

20.1 Al bestaan 'n diskresionêre of verpligte weieringsgrond in verband met 'n versoek om toegang tot rekords van openbare of privaat liggame, is daar altyd die moontlikheid dat die openbare belang in die openbaarmaking van die rekord belangriker is as die skade wat die vrystelling van die rekord sal hê.

20.2 Waar die belangrikheid van openbare belang bestaan soos hierbo uiteengesit, en die bekendmaking van die rekord bewys sou kon lewer van 'n wesenlike oortreding van, of versuim om die wet na te kom; of 'n dreigende en ernstige openbare veiligheids- of omgewingsrisiko, moet die Inligtingsbeampte van 'n liggaam 'n versoek toestaan vir toegang tot 'n rekord, ondanks die bestaan van die bogenoemde vrystellingsgronde.

## 21. DERDE PARTY KENNISGEWINGSPROSES<sup>29</sup>

21.1 'n Inligtingsbeampte of adjunk-inligtingsbeampte van 'n liggaam word ingevolge artikels 47 en 71 van **PAIA** verplig om alle redelike stappe te neem om 'n derde party in kennis te stel oor 'n versoek om sy of haar inligting wat 'n rekord kan wees wat persoonlike inligting bevat,

21.1.1 'n SAID rekord;

21.1.2 handelsgeheime;

21.1.3 inligting waarvan die vrylating gronde kan vorm vir 'n aksie vir die verbreking van 'n vertrouenspilig; of navorsingsinligting wat iemand of die navorsingsmateriaal aan ernstige skade kan blootstel.

21.2 Die kennisgewing aan die derde party wie se rekords of inligting onderhewig is aan die versoek, moet die derde party nooit om -

<sup>29</sup> Artikel 47 en 71 van PAIA

- 21.2.1 skriftelike of mondelinge verhoë tot die Inligtingsbeampte rig waarom die versoek om toegang geweier moet word; of
- 21.2.2 skriftelike toestemming gee vir die openbaarmaking van die rekord aan die versoeker.
- 21.3 Meer belangrik vir die versoeker, **PAIA** stel dat die skriftelike kennisgewings binne 21 dae na ontvangs van die versoek aan die derde party gestuur moet word, en dat die Inligtingsbeampte of Adjunk-inligtingsbeampte die versoeker in kennis moet stel dat 'n kennisgewing aan die derde party gestuur is.
- 21.4 Sodra die kennisgewing gestuur is, moet die Inligtingsbeampte of Adjunk-inligtingsbeampte dan 'n finale besluit neem om die rekords binne 30 dae nadat die kennisgewing gestuur is, bekend te maak of nie.
- 21.5 Die derde party moet in kennis gestel word van die besluit wat geneem is en voldoende redes vir die toestaan van die versoek moet ook verstrekkend word. Die derde party moet ook ingelig word oor die reg en die prosedure om die beslissing te betwis, soos aangedui in paragraaf 22 hieronder.

## **22. REGSMIDDELE BESKIKBAAR TEEN 'N BESLUIT OF VERSUIM OM 'N BESLUIT TE NEEM DEUR DIE INLIGTINGSBEAMPTTE OF ADJUNK-INLIGTINGSBEAMPTTE**

- 22.1 Stappe om te neem sodra 'n besluit oor 'n versoek geneem is
- 22.1.1 'n Versoeker kan skriftelik 'n opvolgaksie neem op die hangende besluit van 'n inligtingsbeampte of adjunk-inligtingsbeampte. Dit word aangemoedig dat alle korrespondensie tussen 'n versoeker en die inligtingsbeampte of adjunk-inligtingsbeampte skriftelik moet wees vir toekomstige verwysingsdoeleindes.
- 22.1.2 Daar is verskillende prosesse vir openbare en private liggame, veral met betrekking tot interne appèlle. Met betrekking tot 'n versoek om toegang tot 'n rekord van 'n openbare liggaam, moet die versoeker byvoorbeeld eers 'n interne appèl indien voordat hy die Reguleerder of die Hof nader. Daar is egter geen interne appèl teen 'n beslissing (hetsy die toegang tot rekords toegestaan of geweier is) of vermeende weiering van toegang tot die rekords van 'n privaat liggaam nie.
- 22.1.3 In hierdie afdeling word die regsmiddele uiteengesit wat beskikbaar is vir versoekers wat sulke beslissings wil betwis, waaronder interne appèlle, die indiening van 'n klag by die Reguleerder en aansoeke by die hof. Sien ook diagram van **PAIA**-versoekvloei, in paragraaf 27 hieronder.

22.1.4 'n Versoeker kan onder andere die volgende beslissing van 'n privaat en/of openbare liggaam betwis -

22.1.4.1 die betaalmiddel of betaling van die versoekfooie;

22.1.4.2 die betaalmiddel of betaling van 'n deposito;

22.1.4.3 die toegangsfooie betaalbaar is buitensporig;

22.1.4.4 die vorm van toegang wat verleen word;

22.1.4.5 die weiering van die versoek;

22.1.4.6 die prosedure (met inbegrip van die tydperk) vir die indiening van die Interne appèl;

22.1.4.7 ontoepaslike tyd uitstel is geneem om te reageer op 'n versoek om toegang;

22.1.4.8 versuim om rekords bekend te maak;

22.1.4.9 die toestaan van 'n versoek om toegang tot 'n rekord;

22.1.4.10 weiering om sodanige versoek toe te staan om fooie oor te sien;

## 22.2 Interne regsmiddele

22.2.1 Hoe teken 'n versoeker intern appèl aan teen 'n openbare liggaam se beslissing?

22.2.1.1 'n Interne appèl kan slegs ingevolge artikel 74 van **PAIA** by die betrokke owerheid van die nasionale of provinsiale regeringsfeer of enige munisipaliteit in die plaaslike regeringsfeer, na gelang van die geval, ingedien word.<sup>30</sup>

22.2.1.2 Die Stad Johannesburg is 'n voorbeeld van 'n plaaslike regeringsfeer waarteen 'n interne appèl ingedien kan word. Die Padongelukkefonds of die Reguleerder is 'n voorbeeld van 'n openbare liggaam wat nie deel uitmaak van die nasionale, provinsiale of plaaslike regeringsfeer soos dit deur wetgewing ingestel is nie, en daarom kan 'n interne appèl nie daarteen ingestel word nie.

<sup>30</sup> Artikel 74(1) van PAIA

22.2.1.3 Indien 'n versoeker of 'n derde party ontevrede is met 'n besluit geneem deur die Inligtingsbeampte of Adjunk-inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer, het die versoeker of 'n derde party die reg om 'n interne appèl in te dien ingevolge artikel 74(1) of (2) van **PAIA**. Die proses om 'n appèl aanhangig te maak, word voorgeskryf in die PAIA-gids van die betrokke instansie en die wyse waarop 'n interne appèl aangeteken kan word, word ook hieronder uiteengesit.

22.2.1.4 Indien die antwoord van die nasionale, provinsiale of plaaslike regeringsfeer 'n vermeende weiering is, met ander woorde, hy nie binne 30 dae of enige verlengde tydperk op 'n versoek reageer nie, kan die versoeker 'n interne appèl indien volgens die prosesse hierin uiteengesit, voordat die versoeker die Reguleerder of 'n Hof mag nader.

## 22.3 **Bewaring van rekords totdat 'n finale beslissing oor die versoek finaal bepaal is**

22.3.1 Die Inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer waarop 'n interne appèl van toepassing is, word ingevolge artikel 21 van PAIA vereis om toepaslike stappe te neem wat redelikerwys nodig is om die rekord te bewaar en mag geen versoekte rekord verwyder of vernietig totdat alle of enige verrigtinge in 'n interne appèl of 'n klag by die Reguleerder of 'n aansoek by die hof finaal beslis word nie.

22.3.2 Dit beteken dat die Inligtingsbeampte nie die inligting wat gevra word, kan verwyder of vernietig nie, hangende enige proses wat in paragraaf 22.3.1.1 hierbo voorgeskryf word.

## 22.4 **Aan wie moet die interne appèl gerig word?**

22.4.1 Alhoewel die appèl deur die betrokke owerheid oorweeg sal word, moet 'n interne appèl gelewer of gestuur word aan die Inligtingsbeampte van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, na sy adres, faksnommer of elektroniese posadres, waarvan die kontakbesonderhede in die **PAIA**-gids gevind kan word of soos by die Reguleerder verkrygbaar is.

22.4.2 Die Inligtingsbeampte van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, het 'n spesifieke verpligting ingevolge artikel 75 (4) van **PAIA** om die appèl aan die Appèlowerheid voor te lê, tesame met sy redes vir

<sup>31</sup> Artikel 75(1)(b) van PAIA



die besluit onder appèl. Die indiening van die appèl by die betrokke owerheid moet binne 10 werksdae na ontvangs van die appèl geskied.

## 22.5 Wie is die betrokke owerheid?

22.5.1 Die betrokke owerheid, hierna "appèlowerheid" genoem, is oor die algemeen die politieke hoof van die betrokke liggaam (hoewel hierdie funksie amptelik gedelegeer kan word) en verwys spesifiek na die volgende persoon -

<b>Openbare Liggaam ("Regering")</b>	<b>Relevante Owerheid ("Appèlowerheid")</b>
<b>Kantoor van die President</b>	Die persoon wat skriftelik deur die President aangewys is, indien enige, anders sal die President die appèlowerheid wees.
<b>Nasionale Departement</b>	Minister verantwoordelik vir daardie Departement, of die persoon wat skriftelik deur die Minister aangewys is.
<b>Kantoor van die Premier</b>	Die persoon wat skriftelik deur die Premier aangewys is.
<b>Provinsiale Departement</b>	Lid van die Uitvoerende Raad (LUR) wat verantwoordelik is vir daardie Provinsiale Departement of die persoon wat skriftelik deur die LUR aangewys is;
<b>Munisipaliteit</b>	Die Burgemeester, die Speaker of enige ander persoon wat skriftelik deur die Munisipale Raad van daardie munisipaliteit aangewys is;

22.5.2 In enige ander geval, waar dit nie die kantoor van die Premier is nie: die lid van die uitvoerende gesag wat verantwoordelik is vir daardie openbare liggaam of die persoon wat skriftelik deur daardie lid aangewys is.

22.5.3 Indien die appèlowerheid die besluit van die Inligtingsbeampte goedkeur, word die interne appèl geweier en die oorspronklike besluit van die Inligtingsbeampte volstaan. Sou die appèlowerheid egter nie saamstem met die besluit van die Inligtingsbeampte nie, dan word die appèl toegestaan en word die oorspronklike besluit omvergewerp.



22.5.4 decision of the Information Officer stands. However, should the appeal authority disagree with the Information Officer's decision, then the appeal is granted and the original decision is overturned.

## 22.6 Wie kan 'n interne appèl aanteken?

22.6.1 Enige versoeker wie se **PAIA**-versoek om toegang tot die rekords van die nasionale, provinsiale of plaaslike regeringsfeer, na gelang van die geval, geweier is, en van mening is dat een van die appèlgronde in paragraaf 22.2.4 hierbo van toepassing op hul versoek is, het die reg om 'n interne appèl aan te teken.

22.6.2 Derde partye kan ook interne appèlle aanteken teen die besluit wat 'n Inligtingsbeampte geneem het om toegang te verleen tot 'n rekord wat hulle betref. As die interne appèl 'n derde party betrek, moet die appèlowerheid wat die interne appèl ontvang het, daardie derde partye in kennis stel (die verantwoordelikheid skuif dus van die Inligtingsbeampte na die appèlowerheid).

## 22.7 Periode waarin appèl aangeteken moet word

22.7.1 'n Interne appèl moet aangeteken word - -

22.7.1.1 binne **60 dae**<sup>32</sup> nadat die besluit geneem is;

22.7.1.2 binne **30 dae**<sup>33</sup> nadat kennisgewing aan die derde party gegee is van die geappelleerde beslissing

22.7.2 Die aanteken van appèl na bogenoemde tydperk (laat) kan moontlik nie toegelaat word nie, tensy 'n geldige rede vir laat wees aan die appèlowerheid verskaf word. Byvoorbeeld, om langer as 60 dae in die hospitaal opgeneem te word, kan as geldige redes om laat te wees aanvaar word.

22.7.3 Sou die appèlowerheid nie die laat indiening van 'n interne appèl aanvaar nie, moet dit aan u redes verstrek waarom die appèl van die hand te gewys is en moet dit ook leiding bied van enige addisionele inligting, indien nodig, om die appèl te aanvaar. Die appèlowerheid moet u ook adviseer oor die proses om 'n klag teen hul beslissing by die Reguleerder of 'n hof in te dien.

<sup>32</sup> Artikel 75(1)(a)(i) van PAIA

<sup>33</sup> Artikel 75(1)(a)(ii) van PAIA

22.7.4 Soos hierbo aangedui, moet u appèl binne 10 werksdae na ontvangs van 'n interne appèl<sup>34</sup> deur die Inligtingsbeampte by die appèlowerheid ingedien word.

## 22.8 Kennisgewing van appèl deur appèlowerheid aan die versoeker of derde party

22.8.1 Die appèlowerheid moet so gou as wat dit redelik moontlik is, maar in elk geval binne 30 dae na ontvangs van die interne appèl<sup>35</sup>, daarvan kennis gee aan -

22.8.1.1 die derde party aan wie die rekord onder appèl behoort, of

22.8.1.2 die versoeker oor die interne appèl teen die toestaan van 'n versoek om toegang.

22.8.2 'n Versoeker of 'n derde party aan wie kennisgewing gegee word, kan binne 21 dae nadat die kennisgewing gegee is, skriftelik vertoë aan die appèlowerheid rig waarom die versoek om toegang toegestaan moet word of nie.

## 22.9 Beslissing oor die interne appèl en kennisgewing daarvan<sup>36</sup>

22.9.1 Die appèlowerheid moet die interne appèl so spoedig moontlik redelikerwys beslis, maar in elk geval binne 30 dae:

22.9.1.1 nadat die Inligtingsbeampte van 'n liggaam die interne appèl ontvang het;

22.9.1.2 nadat 'n derde party in kennis gestel is, soos aangedui in paragraaf 22.3.6.1 hierbo.

22.9.2 Die beslissing van die appèlowerheid moet aan die appellant, derde party en die versoeker meegedeel word. Die beslissing van die appèlowerheid moet gepaard gaan met voldoende redes vir die beslissing, insluitend die voorsiening van **PAIA** of **POPIA** waarop gesteun word.

22.9.3 Indien die appèlowerheid versuim om binne 30 dae kennis te gee van die beslissing oor 'n interne appèl, word die appèl geweier vermeen en kan die versoeker voortgaan om 'n klag by die Reguleerder in te dien of die hof te nader vir toepaslike verligting.<sup>37</sup>

<sup>34</sup> Artikel 75(4) van PAIA

<sup>35</sup> Artikel 76(2)(a) van PAIA

<sup>36</sup> Artikel 77 van PAIA

<sup>37</sup> Artikel 77(7) van PAIA

## 22.10 Voltooiing van die interne appèl - Vorm 4

- 22.10.1 Ten einde enige beslissing van 'n nasionale, provinsiale of plaaslike regeringsfeer te appelleer, moet die versoeker sy interne appèl aanteken deur Vorm 4 in te vul. Vorm 4 moet ingedien word by die Inligtingsbeampte van die betrokke regeringsfeer, wie dan verplig word om dit aan die appèlowerheid te stuur, soos hierbo vermeld.
- 22.10.2 Vorm 4 is beskikbaar op die Reguleerder se webblad, <https://www.justice.gov.za/inforeg/>, sowel as die webwerf van die betrokke regeringsfeer.
- 22.10.3 Die Inligtingsbeampte of Adjunk-inligtingsbeampte van die betrokke regeringsfeer is nie uitdruklik verplig om die versoeker te help om die interne appèlvorm in te vul nie; die versoeker kan egter steeds die inligtingsbeampte versoek om hom in hierdie verband te help.
- 22.10.4 Hieronder is die stapsgewyse proses om die interne appèl vorm te voltooi -

Vereiste Inligting	Beskrywing
<b>Besonderhede van openbare liggaam</b>	Hierdie afdeling moet die naam van die betrokke nasionale, provinsiale of plaaslike regeringsfeer bevat en die Inligtingsbeampte se naam en van.
<b>Besonderhede van die appellant wat die interne appèl aanteken</b>	Hierdie afdeling moet deur die appellant voltooi word, hetsy in verteenwoordigende hoedanigheid al dan nie. Die volle naam en van, identiteitsnommer en die hoedanigheid waarin 'n interne appèl namens 'n ander persoon ingestel moet word, indien van toepassing, moet verstrek word. Indien die appèl in 'n persoonlike hoedanigheid aangeteken word, moet sodanige hoedanigheid aangeteken word. Addisionele inligting wat vereis word, sluit in die besonderhede van die versoeker:

Vereiste Inligting	Beskrywing
	<p>posadres, e-pos, faks en/of telefoonnommer. Hierdie inligting moet dieselfde wees as in die oorspronklike versoek. Indien die persoon wat die vorm in vul, die verteenwoordiger van die versoeker is, moet bewys van die hoedanigheid waarin die appèl ingedien word by hierdie vorm aangeheg word.</p>
<p><b>Besonderhede van die persoon namens wie die versoek gerig word (Indien deur 'n derde party gerig)</b></p>	<p>Hierdie gedeelte hoef slegs voltooi te word deur iemand wat inligting vir 'n ander persoon vra. Indien die persoon wat die interne appèl indien nie die persoon is wat aanvanklik die inligting aangevra het nie, moet net die besonderhede van die versoeker hierin verstrekkend word. As die versoek in 'n persoonlike hoedanigheid is, hoef hierdie afdeling nie voltooi te word nie.</p>
<p><b>Die besluit waarteen die interne appèl aangeteken word</b></p>	<p>Die vorm bied ruimte vir die versoeker om met 'n 'x' aan te dui watter van die genoemde appèlgronde op die appèl van toepassing is.</p>
<p><b>Gronde vir appèl</b></p>	<p>Onder hierdie afdeling, word die versoeker vereis om 'n omvattende beskrywing te gee waarom hy meen dat die gronde vir appèl van toepassing is. Hy word vereis om redes(s) te gee waarom hy meen dat die besluit van die Inligtingsbeampte nie korrek is nie. Hy moet ook enige dokumente wat die appèl ondersteun, aanheg. Die lys van redes waarom die appèl ondersteun word, kan op 'n aparte bladsy in meer besonderhede uiteengesit word as die spasie in die vorm nie voldoende is nie. Die addisionele bladsye wat ingedien word, moet onderteken word.</p>

## Vereiste Inligting

## Beskrywing

Daar moet voldoende redes wees en ondersteunende inligting om die appèlowerheid in staat te stel om 'n ingeligte besluit te neem. Daarom moet u ook 'n uiteensetting van alles wat gebeur het in die aanloop tot die interne appèl insluit. 'n Mens kan op 'n aparte bladsy verwys na spesifieke afdelings van **PAIA** as 'n grondslag vir die appèl.

### Kennisgewing van die beslissing op die appèl

'n Ruimte word gegee vir 'n beskrywing van die wyse waarop die beslissing gestuur moet word, byvoorbeeld deur die pos, faks of e-pos of per koerier. Kies asseblief die verkose wyse van kennisgewing.

22.10.5 Alhoewel daar geen verbod is op die verkryging van 'n prokureur in enige stadium van die versoek om inligting nie, is die verskillende **PAIA**-prosesse bedoel om gebruikersvriendelik te wees, wat die behoefte aan 'n prokureur en die aangaan van regskostes verwyder.

## 23. KLAGTE AAN DIE INLIGTINGSREGULEERDER

- 23.1 'n Versoeker of derde party mag slegs 'n klag by die Reguleerder indien nadat die versoeker of derde party die interne appèlprosedure teen 'n beslissing van die Inligtingsbeampte van 'n nasionale, provinsiale of plaaslike regeringsfeer uitgeput het. Dit beteken dat 'n mens 'n klag teen 'n bepaalde regeringsfeer slegs by die Reguleerder kan indien in die geval dat u ontevrede is met die beslissing van die appèlowerheid. Die Reguleerder sal die klag van die hand wys indien 'n appèlproses na die betrokke regeringsfeer nie afgehandel is nie.
- 23.2 Hoewel, ten opsigte van 'n openbare liggaam (waarvoor 'n interne appèl nie van toepassing is nie) en 'n privaat liggaam, kan 'n versoeker of derde party egter 'n klag by die Reguleerder indien, indien dit nie tevrede is met die beslissing van die betrokke liggaam nie.
- 23.3 'n Klag aan die Reguleerder deur 'n versoeker of derde party moet binne 180 dae na ontvangs van die beslissing van die liggaam ingedien word.

23.4 'n Versoeker kan 'n klag indien by die Reguleerder, indien ontevrede met -

23.4.1 Die uitslag van 'n interne appèl by die appèlowerheid van enige regeringsfeer;

23.4.2 'n beslissing van die appèlowerheid om nie laat aantekening van 'n interne appèl toe te staan nie;

23.4.3 'n besluit van die Inligtingsbeampte van 'n openbare liggaam wat nie deel is van 'n sfeer van regering om -

23.4.3.1 'n versoek om toegang te weier; of

23.4.3.2 die tydperk om met die versoek te handel te verleng; of

23.4.3.3 toegang in 'n bepaalde vorm toe te staan.

23.4.4 'n besluit van die hoof van 'n privaat liggaam om -

23.4.4.1 'n versoek om toegang te weier; of

23.4.4.2 betaling te eis vir die versoek fooi, of 'n deposito van die toegangsfooi; of

23.4.4.3 die tydperk om met die versoek te handel te verleng; of

23.4.4.4 toegang in 'n bepaalde vorm toe te staan.

23.5 'n Derde party kan 'n klag by die Reguleerder indien, indien nie gelukkig met -

23.5.1 die uitslag van 'n interne appèl by die appèlowerheid van die betrokke regeringsfeer;

23.5.2 'n besluit van die Inligtingsbeampte van 'n openbare liggaam wat nie deel is van 'n sfeer van die regering om 'n versoek om toegang; of

23.5.3 'n besluit van die hoof van 'n privaat liggaam om toegang te verleen tot inligting van daardie liggaam,

## 23.6 Hoe kla mens by die Reguleerder?

- 23.6.1 'n Klagte aan die reguleerder moet skriftelik gerig word en 'n klagvorm moet voltooi word, hetsy met die hand of aanlyn. 'n Klagvorm, Vorm 5 kan van die Reguleerder se webtuiste afgelaai word, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Dit beteken dat die Reguleerder nie 'n klagte telefonies sal aanvaar nie; daar word egter van die Reguleerder verwag om redelike hulp te verleen aan enige persoon wat 'n klag wil indien en dit sluit hulp in met die invul van 'n klagvorm.
- 23.6.3 As u die beslissing van die Inligtingsbeampte van 'n private liggaam betwis, moet u voldoende bewyse lewer om te bewys dat die aangevraagde rekord benodig word vir die uitoefening of beskerming van enige ander reg(te). Toegang tot die rekords van 'n privaat liggaam kan slegs verleen word as u kan bewys dat u van plan is om enige ander reg(te) uit te oefen of te beskerm met die gevraagde rekord.

## 23.7 Wat gebeur na ontvangs van die klagte

23.7.1 By ontvangs van 'n klagte moet die reguleerder -

23.7.1.1 Die klag ondersoek en sy bevindinge aan die Afdwingingskomitee verwys vir 'n beslissing; of

23.7.1.2 Geen aksie op die klag neem te wyte aan die feit dat -

23.7.1.2.1 die klagte nie binne die tydperk van 180 dae ingedien is nie en daar is geen redelike gronde is om die laat indiening van 'n klagte toe te laat nie.

23.7.1.2.2 die klagte is nietig of kwelsugtig of nie te goeder trou nie; of

23.7.1.2.3 met inagneming van al die omstandighede van die geval, is enige verdere optrede onnodig of onvanpas. Die aangevraagde inligting is byvoorbeeld in die openbaar beskikbaar gestel.

23.7.1.3 waar toepaslik, die beste probeer om so 'n skikking te bewerkstellig of die partye te help om hul geskil (le) te besleg; en

23.7.1.4 die klaer en die Inligtingsbeampte, op wie die klagte betrekking het, in kennis te stel van die aksie wat gevolg moet word.

## 23.8 **Reguleerder se eerste mededeling aan die klaer en Inligtingsbeampte rakende die klag wat ingedien is**

23.8.1 As die Reguleerder besluit om nie verder op te tree teen die klagte nie, sal die Reguleerder die versoeker in kennis stel van die besluit en die redes waarom hy nie verder opgetree het nie.

23.8.2 As die Reguleerder besluit om 'n klag te ondersoek, sal die versoeker 'n brief ontvang waarin hy in kennis gestel word dat die Reguleerder besluit het om 'n ondersoek te doen.

23.8.3 Na ontvangs van 'n klagte sal die Reguleerder die besonderhede van die klagte aan die Inligtingsbeampte van die betrokke liggaam stuur, en hom versoek om 'n skriftelike antwoord op die klag by die Reguleerder in te dien.

## 23.9 **Ondersoekende bevoegdhede van die reguleerder**

23.9.1 Die Reguleerder het, ingevolge artikel 77G (2) van **PAIA**, die bevoegdheid om -

23.9.1.1 sy beste pogings aanwend om sodanige skikking te beveilig;

23.9.1.2 mense dagvaar om voor die Reguleerder te verskyn en dit af te dwing;

23.9.1.3 hulle verplig om mondelinge of geskrewe getuienis onder eed te lewer en om enige rekords op te lewer;

23.9.1.4 ontvang en aanvaar enige bewyslewering en ander inligting, hetsy onder eed of deur beëdigde verklaring;

23.9.1.5 enige perseel wat deur die verantwoordelike party beset word te betree en visenteer;

23.9.1.6 'n persoonlike onderhoud te voer met enige persoon op enige perseel wat betree word; en

23.9.1.7 voer enige navrae wat die Reguleerder gepaslik vind op daardie persele.



## 23.10 Evaluering van voldoening aan die bepalings van PAIA

- 23.10.1 Die Reguleerder kan 'n assessering uitvoer of 'n openbare of private liggaam in die algemeen aan die bepalings van **PAIA** voldoen.
- 23.10.2 Die Reguleerder kan willekeurig 'n nakomingsbeoordeling op 'n liggaam doen, uit eie wil, maar die Reguleerder kan die nakomingsbeoordeling ook op versoek deur of namens die Inligtingsbeampte van 'n liggaam of enige ander persoon uitvoer. Dit beteken dat enige persoon die Reguleerder kan versoek om nakomingsbeoordeling op 'n liggaam te doen. 'n Persoon kan ook 'n anonieme versoek indien om 'n nakomingsbeoordeling uit te voer deur aan te dui dat hy of sy versoek om anoniem te bly.
- 23.10.3 Die Reguleerder sal die persoon wat die assessering aangevra het, die assesseringsverslag en 'n aanbeveling van die aksie, indien enige, voorsien.

## 23.11 Inligtingskennisgewing

Die Reguleerder kan die Inligtingsbeampte van 'n instansie met 'n Inligtingskennisgewing dien wat van die party vereis om die Reguleerder te voorsien met die inligting wat in die kennisgewing gespesifiseer word. Byvoorbeeld, as 'n klag wat by die Reguleerder ingedien word, betrekking het op die weiering van toegang gebaseer op enige van die vrygestelde gronde, kan die Reguleerder in 'n Inligtingskennisgewing afskrifte van die rekords waartoe toegang geweier is, versoek om te bepaal of die redes vir weiering geldig is al dan nie.

## 23.12 Vestiging van die Afdwingingskomitee

- 23.12.1 Die Reguleerder word verplig om 'n Afdwingingskomitee<sup>38</sup> te vestig, wat bevoegd hede het om -
- 23.12.1.1 alle aangeleenthede wat die Reguleerder in terme van **PAIA** daarna verwys, oorweeg en 'n bevinding daarvoor maak; en
- 23.12.1.1 enige aanbevelings te maak aan die Reguleerder rakende enige stappe wat teen die Inligtingsbeampte van 'n liggaam geneem moet word.

## 23.13 Afdwingingskennisgewing

- 23.12.1 Die Reguleerder kan, na oorweging van die aanbevelings van die afdwingingskomitee, die Inligtingsbeampte van 'n liggaam dien met 'n afdwingingskennisgewing -

<sup>38</sup> Artikel 50 van POPI

23.13.1.1 bevestiging, wysiging of tersydestelling van die beslissing waaroor die klag betrekking het; of

23.13.1.1 vereis dat die Inligtingsbeampte sodanige stappe moet neem of dat hy nie die stappe sal neem soos die Inligtingsreguleerder in die kennisgewing bepaal nie.

#### 23.14 **Wat is die gevolge vir die verontagsaming van afdwingingskennisgewings?**

23.14.1 'n Inligtingsbeampte van 'n liggaam wat weier om aan 'n afdwingingskennisgewing te voldoen, is skuldig aan 'n misdryf en is op skuldigbevinding onderhewig aan 'n boete of tot gevangenisstraf van hoogstens drie jaar of aan beide 'n boete en gevangenisstraf.

23.14.2 Artikel 77K van **PAIA** dui op die belangrikheid van die reg op toegang tot inligting of rekords. Hierdie afdeling versterk ook die belangrikheid van die Reguleerder vir die bevordering van die reg op toegang tot inligting.

## 24. AANSOEK BY DIE HOF

### 24.1 **Wie kan 'n aansoek teen die beslissing by die hof indien?**

24.1.1 'n Versoeker of derde party mag slegs in die volgende omstandighede by die hof aansoek doen om toepaslike verligting ingevolge artikel 82:

24.1.1.1 Nadat die versoeker of derde party die interne appèlproses waarna in paragraaf **22.3** hierbo verwys word, uitgeput het; of

24.1.1.2 nadat die versoeker of derde party die klagteprosedure waarna in artikel 77A verwys word, uitgeput het.

24.1.2 Ingevolge artikel 78 (1) van **PAIA** het 'n versoeker of 'n derde party twee opsies, óf om 'n beslissing in paragrawe 22.2.4, 23.4 en 23.5 hierbo na die Reguleerder of die hof te verwys. Alhoewel u nie verplig is om die Reguleerder te nader voordat u die hof nader nie, is dit raadsaam om te oorweeg om die Reguleerder te nader, aangesien die Reguleerder uitgebreide en vinnige meganismes vir dispuutoplossing het, teenoor die hof.

24.1.3 Vir die hof om egter die saak te beredder, moet 'n versoeker of 'n derde party -

24.1.3.1 gegrief wees deur een van die besluite, gelys in paragraaf 22.2.4, 23.4 of 23.5 hierbo; of

24.1.3.2 die klagteprosedure met die Reguleerder uitgeput het of die klag by die Reguleerder terugtrek. Dit beteken dat 'n mens nie die hof kan nader as die klag nog by die Reguleerder aanhangig is nie.

24.1.4 As u die beslissing van 'n Inligtingsbeampte van 'n private liggaam betwis, moet u voldoende bewyse lewer om te bewys dat die aangevraagde rekord vereis word vir die uitoefening of beskerming van enige ander reg(te) is.

## 24.2 Wanneer kan 'n mens 'n aansoek aanhangig maak teen die beslissing van 'n liggaam of Reguleerder?

24.2.1 'n Aansoek by die hof deur 'n versoeker of derde party, wat óf onsuksesvol was in 'n interne appèl tot die appèlowerheid van die betrokke regeringsfeer óf gegrief is deur 'n beslissing van die Inligtingsbeampte van 'n liggaam (gelys in 22.2.4, 23.4 of 23.5 hierbo) of die van die Reguleerder moet binne 180 dae vanaf die datum van die betrokke gebeurtenis ingedien word.

24.2.2 Die Inligtingsbeampte van 'n liggaam of appèlowerheid van 'n regering, na gelang van die geval, gegrief deur 'n beslissing van die Reguleerder, kan binne 180 dae by die hof aansoek doen om toepaslike verligting ingevolge artikel 82.<sup>39</sup>

24.2.3 'n Versoeker, derde party, of 'n liggaam, kan by die hof aansoek doen om die beslissings waaroor hulle gegrief word, deur die hof te laat hersien.

24.2.4 'n Aansoek by die hof ingevolge **PAIA** word deur middel van 'n siviele prosedure gedoen en moet as 'n laaste uitweg gebruik word.

24.2.5 Sake vir toegang tot inligting kan voor die landdroshowe aangehoor word, as 'n hof van eerste aanleg, en die hooggeregshof wat jurisdiksie het.<sup>40</sup>

24.2.6 Versuim om die aansoek binne 'n tydperk van 180 dae in te dien, kan deur die hof goedgekeur word as dit blyk dat die belange van

<sup>39</sup> Artikel 78(4) van PAIA

<sup>40</sup> Artikel 91A van PAIA en die Bevordering van toegang tot inligting, *Reëls*, 2019

geregtigheid dit vereis. As die rekords waartoe toegang gevra word, u sal help om aansoek te doen vir 'n appèl teen gevangenisstraf, of iemand help om verdere mediese aandag te kry, sal die hof waarskynlik kondonasië in hierdie verband verleen.

24.2.7 'n Aansoek kan ingedien word volgens die prosedure uiteengesit in reël 53 van die Hooggeregshofreëls of kragtens reël 55 van die Landdroshofreëls indien geen of 'n onvolledige rekords deur die administrateur verstrekk is.

24.2.8 As die rekord reeds verstrekk is, moet die aansoek ingedien word ingevolge reël 55, Landdroshofreëls, met dien verstande dat indien die applikant rede het om te glo dat die administrateur nie die volledige rekord van die verrigtinge verskaf het nie, die versoeker kan volgens die prosedure soos uiteengesit in Reël 53 van die Hooggeregshofreëls, tydens sy verkiesing voortgaan, maar moet in sy funderende eedsverklaring aandui waarom daar rede is om te glo dat die volledige rekord nie verskaf is nie.

### 24.3 **Wat is die regstatus van die Reguleerder se beslissing hangende die beslissing van die Hof?**

Die bevoegdheid van die Reguleerder is hoofsaaklik afkomstig van die Grondwet, **POPIA** en **PAIA**. Gevolglik het die afdwingingskennisgewing wat deur die Reguleerder uitgereik is, regsgevolge en is dit dus bindend tot tyd en wyl die hof anders beslis het. Die beslissings van die Reguleerder is dus effektief en afdwingbaar, tensy die betrokke hof anders bepaal.

### 24.4 **Wat is die bevel wat die hof kan verhoor?**

24.4.1 Die hof (landdros-of hooggeregshof) wat 'n aansoek verhoor, kan die volgende bevel maak: -

24.4.4.1 die besluit van die Inligtingsbeampte, of die appèlowerheid of Inligtingsreguleerder, bevestig, wysig of tersyde stel;

24.4.4.2 van die Inligtingsbeampte of appèlowerheid vereis om sodanige stappe te neem of om nie sodanige stappe te neem soos wat die hof nodig ag binne 'n tydperk wat in die bevel genoem word nie;<sup>41</sup>

24.4.4.3 'n interdik, tussentydse of spesifieke verligting, 'n verklarende bevel of 'n bevel tot vergoeding toestaan;

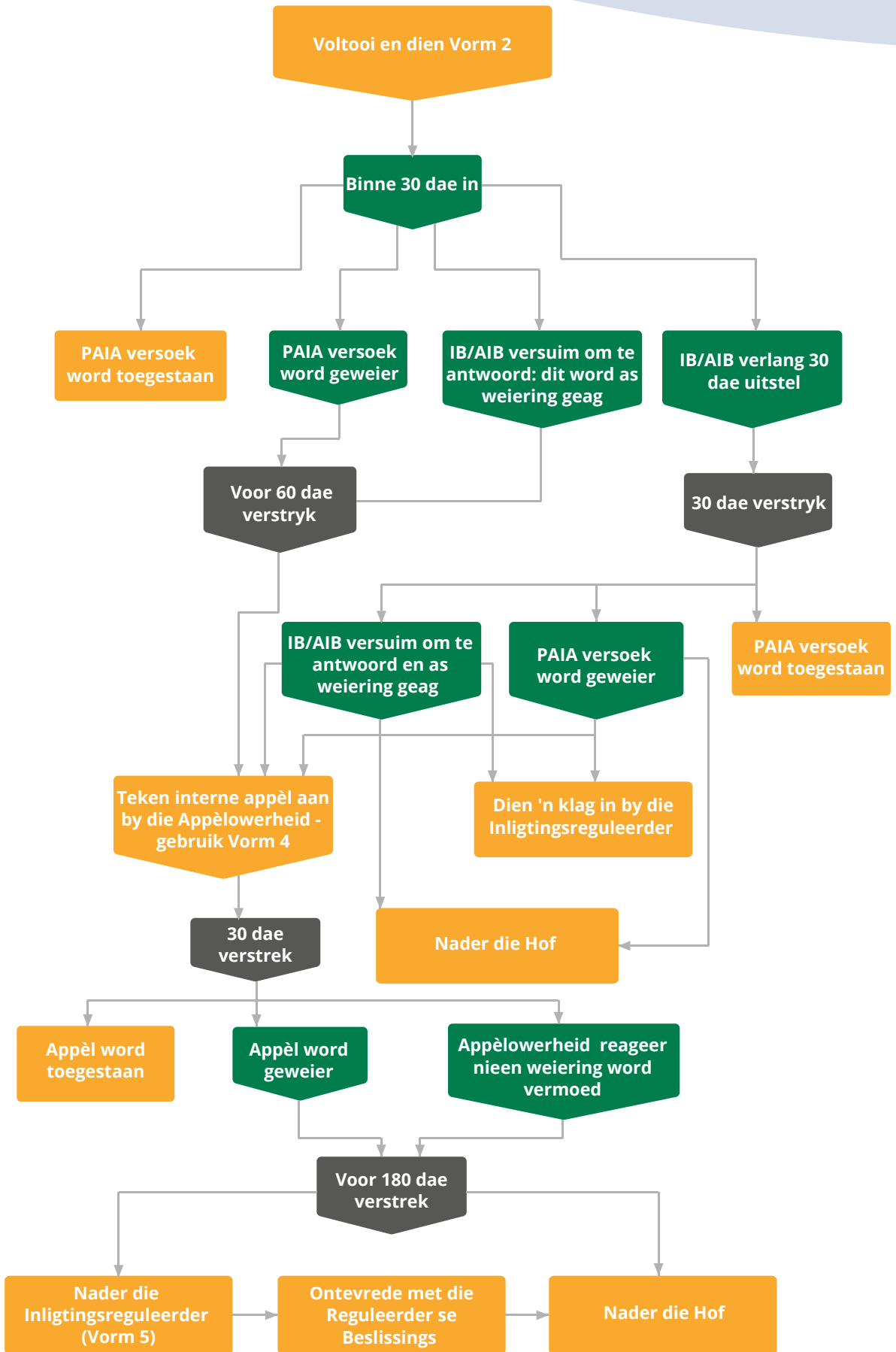
<sup>41</sup> Reël 4 Bevordering van toegang tot inligting, Reëls, 2019

24.4.4.4 'n kostebevel teen enige party maak;

24.4.4.5 In die belang van geregtigheid moet u die nie-nakoming van die tydperk van 180 dae waarbinne u aansoek kan indien, goedkeur. Soos hierbo aangedui, moet voldoende redes vir die versuim om die voorgeskrewe tydperk na te kom in die meegaande aansoek om kondonasië volledig uiteengesit word.

## **25. DIAGRAM VAN DIE PAIA VERSOEKPROSES**

Raadpleeg die stapsgewyse vloeï van die prosesvloeïkaart oor die prosesse wat gevolg moet word wanneer u die reg op toegang tot inligting uitoefen.



## 26. REGULASIES KRAGTENS ARTIKEL 92 VAN PAIA

- 26.1 In ooreenstemming met artikel 92(1) en 92(4) van **PAIA**, het die Minister regulasies uitgevaardig met betrekking tot die Bevordering van Toegang tot Inligting, wat die volgende aangeleenthede dek
- 26.1.1 Verpligtinge van die Inligtingsreguleerder (**regulasie 2**);
  - 26.1.2 Verpligtinge van Inligtingsbeamptes (**regulasie 3**)
  - 26.1.3 Outomatiese beskikbaarheid van sekere rekords van openbare liggame (**regulasie 4**)
  - 26.1.4 Vrywillige openbaarmaking en outomatiese beskikbaarheid van sekere rekords van 'n privaat liggame (**regulasie 5**)
  - 26.1.5 Versoek om toegang tot inligting wat deur openbare en private liggame bewaar word (**regulasie 6**)
  - 26.1.6 Uitkoms van die versoek en foie betaalbaar (**regulasie 7**)
  - 26.1.7 Interne appèl teen 'n beslissing deur 'n openbare liggaam (**regulasie 8**)
  - 26.1.8 Klagrigting aan die Inligtingsreguleerder (**regulasie 9**)
  - 26.1.9 Die prosedure vir die ondersoek van 'n klagte (**regulasie 10**)
  - 26.1.10 Skikking van aangeleenthede (**regulasie 11**)
  - 26.1.11 Konsiliasie van die saak (**regulasie 12**)
  - 26.1.12 Voldoeningsassessering deur die Inligtingsreguleerder in reaksie op 'n versoek (**regulasie 13**)
  - 26.1.13 Misdrywe en strawwe (**regulasie 14**)
  - 26.1.14 **Electronic communication (Regulation 15)**
  - 26.1.15 **Offences and penalties (Regulation 16)**
- 26.2 Ingevolge artikel 79 (1) van **PAIA**, het die Reëlraad vir Howe met die goedkeuring van die Minister reëlins vir die prosedure gemaak vir -
- 26.2.1 'n hof ten opsigte van aansoeke ingevolge artikel 78 van **PAIA**; ingevolge artikel 79 (1) van **PAIA**, het die Reëlraad vir Howe met die goedkeuring van die Minister reëlins vir die prosedure gemaak vir -
  - 26.2.2 'n hof om ex parte verhoë oorgebring op artikel 80(3)(a) te ontvang.

## 27. SLEUTELWETGEWINGS, REGULASIES , KENNISGEWINGS EN ERKENNING

### Wette wat van tyd tot tyd gewysig kan word

Wet op Bevordering van Toegang tot Inligting, Wet 2 van 2000

Wet op Bevordering van Administratiewe Geregtigheid, Wet 3 van 2000

Wet op Bevordering van Toegang tot Inligting Wysigingswet, Wet 54 van 2002

Wet op Beskerming van Persoonlike Inligting, Wet 4 van 2013

Wet op Bevordering van Toegang tot Inligting, Wet 31 van 2019

Wet op die Befondsing van Politieke Partye, Wet 6 van 2018

### Regulasies en Kennisgewings

Goewermentskennisgewing	Datum van publikasies	Onderwerp en beskrywing
<b>Goewermentskennisgewing R.757 in SK No 45057</b>	27 Augustus 2021	Wet op Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000): regulasies met betrekking tot die bevordering van toegang tot inligting, 2020
<b>Goewermentskennisgewing R.991 in GG 28107</b>	14 Oktober 2005	Regulasies wat die gronde voorskryf waarop iemand vrygestel is van die betaling van fooie.
<b>Goewermentskennisgewing 397 in SK No 44785</b>	30 Junie 2021	Vrystelling van die saamstel van 'n <b>PAIA</b> -handleiding vir sekere privaat liggame.
<b>Goewermentskennisgewing 1217 in GG 42717</b>	19 September 2019	Aanwysing van landdroshowe as beskikkend oor die vermoë om <b>PAIA</b> -aangeleenthede aan te hoor.
<b>Goewermentskennisgewing R. 1284 in GG 42740</b>	4 Oktober 2019	Reëls van prosedure vir aansoeke wat gemaak moet word ingevolge <b>PAIA</b> voor die Hooggeregshof of Landdroshof.



## **ERKENNING**

Hierdie bygewerkte gids oor hoe om die **PAIA**-wet te gebruik, was oorspronklik opgestel deur die Suid-Afrikaanse Menseregtekommissie (SAMRK) en die Reguleerder erken hiermee die oorspronklike werk van die SAMRK, met inbegrip van al sy bronne.

Uitgereik deur

**INLIGTINGSREGULEERDER**



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



# **UMHLAHLANDLELA**

**WOKUSEBENZISA UMTHETHO  
2 KA-2000 WOKUGQUQUZELA UKUTHOLAKALA  
KOLWAZI, NJENGOBA UCHITSHIYELWE**

**ISIZULU**

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# PAIA GUIDE

## ISANDULELO ESIBUYA KUSIHLALO

UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, Ka-1996<sup>1</sup> ("uMthethosisekelo") uthi iNingizimu Afrika ingumbuso ozimele, ongowentando yeningi osekelwe ekuthuthukisweni kwamalungelo abantu nasohlelweni lokuphatha oluqotho, olusabelayo nolusobala njengengxenywe yezimiso zayo. Ngaphambi kokuba iNingizimu Afrika ibe yizwe lentando yeningi elawulwa umthethosisekelo noMthethosivivinywa Wamalungelo ophoqelekayo, uhlelo lukaHulumeni eNingizimu Afrika phakathi kokunye, lwaphumela kusiko lokuba nemfihlo nokungasabeli ezinhlanganweni zomphakathi nezizimele okwakuvame ukuholela ekusetshenzisweni kabi kwamandla nasekwepulweni kwamalungelo abantu. Kungalesi sizathu isigaba 32(1) soMthethosivivinywa Wamalungelo kuMthethosisekelo, sihlinzekela ilungelo lokutholakala kolwazi olugcinwe umbuso; kanye nanoma yiluphi ulwazi olugcinwe ngomunye umuntu oludingekayo ukuze kusetshenziswe noma kuvikelwe noma yimaphi amalungelo. Isigaba 32(2) soMthethosisekelo sona sihlinzeka ngokushaywa komthetho kazwelonke ozokwenza ukuba leli lungelo lisebenze, ngokuhlonipha, ukuvikela, ukugqugquzela nokufeza leli lungelo.

UMthetho Wokugqugquzela Ukutholakala Kolwazi, onguNombolo 2 ka-2000 (kusukela lapha ozobizwa nge-**"PAIA"**, noma "uMthetho" ngokushintshana), njengoba uchitshiyelwe, ungumthetho kazwelonke owashaywa ngokwesigaba 32(2) somthethosisekelo oshiwo ngenhla.

Inhloso ye-**PAIA**, iwukukhuthaza isiko lokubeka izinto obala nobuqotho ezinhlanganweni zomphakathi nezizimele. Ikwenza lokho ngokwenza lisebenze ilungelo lokutholakala kolwazi futhi ikhuthaze ngenkuthalo ukuba nomphakathi lapho abantu baseNingizimu Afrika bekwazi khona ngempumelelo ukuthola ulwazi oluzobenza bakwazi ngokugcwele ukusebenzisa nokuvikela wonke amalungelo abo kanye nokufeza izinhloso zeNingizimu Afrika zentando yeningi evulekile nehlanyanyelwa izakhamuzi.

Lo Mhlahlandlela We-**PAIA** wenzelwe ukufeza isibopho soMlawuli Wezolwazi ("uMlawuli") ngaphansi kweSigaba 10 se-**PAIA**, esidinga ukuba uMlawuli abuyekeze futhi enze utholakale uMhlahlandlela okhona ohlanganiswe yiKhomishini Yamalungelo Abantu YaseNingizimu Afrika.

Lo Mhlahlandlela wenzelwe ukuba ube yithuluzi eliqondisayo, elisebenziseka kalula futhi elitholakalayo kunoma yimuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo elikwi-**PAIA** nakuMthetho Wokuvikelwa Kwemininingwane Yomuntu, Ka-2013.



**Ummeli Pansy Tlakula**  
**USIHLALO WOMLAWULI WEZOLWAZI**

<sup>1</sup> UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, Ka-1996 (UMthetho Nombolo 108 Ka-1996)

## ISITATIMENDE SOKUZIHLANGULA

Lo Mhlahlandlela awukhululi umuntu owusebenzisayo emthwalweni wokusebenzisa amakhono akhe nokunakekela kwakhe maqondana nemfuneko noma izibopho ezibekwe yinoma yimuphi umthetho. Ngaphezu kwalokho, lo Mhlahlandlela awuhlinzeki ngezululeko zezomthetho futhi awuhloselwe ukungena esikhundleni se-**PAIA** noma iMithethonqubo ekhishwe ngaphansi kwe-**PAIA**. UMLawuli akavumi cala nganoma yikuphi ukulahlekelwa okungase kubangelwe ukuncika kulo Mhlahlandlela.

### 1. UHLU LWAMAGAMA NEZIFINYEZO

<b>CEO</b>	UMqondisi Omkhulu
<b>CFO</b>	Umqondisi Wezezimali
<b>UMthethosisekelo</b>	UMthethosisekelo WeRiphabhuliki YaseNingizimu Afrika, UMthetho Nombolo 108 Ka-1996
<b>DIO</b>	ISekela LeSikhulu Sezolwazi
<b>Doj &amp; CD</b>	UMnyango Wezobulungiswa Nokuthuthukiswa KoMthethosisekelo
<b>IO</b>	ISikhulu Sezolwazi
<b>Members</b>	Amalungu OMLawuli Wezolwazi
<b>Minister</b>	UNgqongqoshe WezoBulungiswa Nezinkonzo Zokuqondiswa Kwezigwegwe
<b>PAIA</b>	UMthetho Nombolo 2 Ka-2000 Wokugqugquzela Ukutholakala Kolwazi, njengoba uchitshiyelwe
<b>PAJA</b>	UMthetho Wezobulungiswa Bokuphatha, Ka-2000
<b>PFMA</b>	UMthetho Nombolo 1 Ka-1999 Wokuphathwa Kwezimali Zomphakathi, njengoba uchitshiyelwe
<b>POPIA</b>	UMthetho Nombolo 4 Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu
<b>Regulator</b>	UMLawuli Wezolwazi
<b>SAHRC</b>	IKhomishini Yamalungelo Abantu YaseNingizimu Afrika

### 2. AMAGAMA AWUSIZO ACHAZWA NGENDLELA ECACILE NEQONDAKALA KALULA

Igama	Incazelo
<b>Inkokhiso Yokuthola Ulwazi</b>	Le nkokhiso yokuthola ulwazi ikhokhwa ngumceli enhlanganweni acela kuyo ulwazi, ukukhokhela izindleko zokufuna nokukopisha amarekhodi awadingayo. Izinto ongazikhokhiselwa zinqunywa ngumthethonqubo.
<b>Umpathi</b>	Wuphiko lukahulumeni noma yimuphi umuntu wemvelo noma ongokomthetho owenza isenzo sokuphatha.

**Igama****Incazelo****Isenzo sokuphatha**

Yinoma yisiphi isinqumo esithathiwe, noma ukwehluleka ukuthatha isinqumo

- (a) yinhlango kahulumeni, lapho:
- (i) isebenzisa amandla ngokoMthethosisekelo noma ngokomthethosisekelo wesifundazwe; noma
  - (ii) isebenzisa amandla omphakathi noma yenza umsebenzi womphakathi ngokwanoma yimuphi umthetho; noma
- (b) umuntu wemvelo noma ongokomthetho, ngaphandle kwenhlango kahulumeni, lapho esebenzisa amandla omphakathi noma enza umsebenzi womphakathi ngokwezinhlinzeko zokufukuba abantu.

esithinta kabi amalungelo anoma yimuphi umuntu futhi esinomthelela oqondile emalungelweni omuntu.

**Umuntu Ogunyaziwe**

Umuntu ogunyaziwe ngumuntu owenza isicelo esenzela omunye umuntu, futhi ogunyazwe ngokufanelekile ngento ebhalwe phansi ukuba enze lokho.

**Amarekhodi Atholakala Ngokuzenzekelayo**

Lawa ngamarekhodi lawo inhlango yomphakathi noma ezimele ezowahlinzeka umceli ngaphandle kokuba kudingeke afake isicelo. Lawa marekhodi afakwe 'kwisaziso sokudalula ngokuzithandela', okufanele sikhishelwe umphakathi.

**Umninilwazi**

Ngumuntu lowo imininingwane emayelana naye.

**Izinsuku**

Ngaphandle kwalapho kucaciswe 'njengosuku lokusebenza' esigabeni se-**PAIA**, usuku luthathwa njengosuku lwekhalenda. Ukubala isikhathi, usuku esamukelwe ngalo isicelo alubalwa, futhi zonke izinsuku ngemuva kwalokho ziyabalwa, kuhlange nezimpelelanto namaholide omphakathi kuze kube yilapho kubalwa usuku lokugcina. Uma usuku lokugcina lokuphendula isicelo lungeSonto noma ngeholidi lomphakathi, usuku olulandelayo yilo olubalwa njengosuku lokugcina.

**Kubhekwa Njengokwenqatshwa**

Uma kungatholakali mpendulo esicelweni phakathi nesikhathi esinqunyiwe, lokhu kuchazwa ngokuthi 'kubhekwa njengokwenqatshwa'.

**IFomu 2**

Leli fomu linqokomthethonqubo futhi kufanele lisetshenziselwe ukucela ukuthola ulwazi olugcinwe inhlango yomphakathi noma ezimele.

**IFomu 4**

Leli fomu linqokomthethonqubo futhi kufanele lisetshenziswe lapho kufakwa isikhalazo ngesinqumo esenziwe yinhlango yomphakathi maqondana nesicelo sokuthola ulwazi.

**Igama****Incazelo****UMhlahlandlela**

Lo Mhlahlandlela, owenziwe ngokulandela isigaba 10 se-**PAIA**, njengoba ichitshiyelwe, ohlose ukusiza umuntu ofisa ukusebenzisa noma yiliphi ilungelo elikwi-**PAIA** nakuMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu.

**ISikhulu Sezolwazi**

ISikhulu Sezolwazi ngumuntu ogunyaziwe ukusingatha izicelo ze-**PAIA**. Lokhu okulandelayo yizinhlu zeZikhulu Zezolwazi enhlangweni ethile -

<b>Inhlangano Yomphakathi noma Uphiko Lukahulumeni</b> (njengoba kuchazwe esigabeni 239 so Mthethosisekelo)	UMnyango Kazwelonke	UMqondisi-Jikelele noma umuntu obambeke
	UMnyango Wokuphatha ESifundazweni	INhloko Yomnyango noma umuntu obambeke.
	UMasipala	UMphathi KaMasipala noma umuntu obambeke.
	Izinhlangano Zikahulumeni ezishiwo kwi-PFMA Isheduli 1, 2, 3A, 3B, 3C no-3D	UMqondisi Omkhulu noma umuntu obambeke.
<b>Inhlangano Ezimele</b>	Umuntu Wemvelo	Umnikazi ozimele yedwa owenza noma yikuphi ukuhweba, ibhizinisi noma umsebenzi, kodwa esebenza ngaphansi kwalokho akwenzayo hhayi yena qobo.
	Umfelandawonye	Noma yimuphi umlingani womfelandawonye noma yimuphi umuntu ogunyazwe ngokufanele ngumfelandawonye
	Iqembu Lezepolitiki	Umholi weqembu lezepolitiki noma yimuphi umuntu ogunyazwe ngokufanele yilowo mholi.

**Igama****Incazelo****ISikhulu  
Sezolzazi**

	Umuntu Ongokomthetho	<p>UMqondisi Omkhulu noma uMqondisi Ophethe noma isikhulu esilingana nomuntu ongokomthetho noma yimuphi umuntu ogunyazwe ngokufanele yilesi sikhulu.</p> <p><b>PHAWULA:</b> UMqondisi Omkhulu noma isikhulu esilingana naye singagunyaza noma yimuphi umuntu wemvelo abe yiSikhulu Sezolzazi eNhlanganweni Ezimele.</p>
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**ISekela  
LeSikhulu  
Sezolzazi**

ISekela LeSikhulu Sezolzazi ngumuntu oqokwe noma onikezwe amandla yiSikhulu Sezolzazi enhlanganweni yomphakathi ukuba asize umceli ngesicelo sakhe solwazi, futhi lowo iSikhulu Sezolzazi esingamnikeza amanye amandla e-**PAIA**.

**PHAWULA:** Nakuba kuyinhlango yomphakathi kuphela engaqoka noma idlulisele umsebeni kwiSekela LeSikhulu Sezolzazi, ngokwesigaba 17(1) se-**PAIA**, uMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu ("**POPIA**") unikeza amandla okuqoka iSekela LeSikhulu Sezolzazi enhlanganweni ezimele, ngokwesigaba 56(1) esikuwo.

**UMlawuli  
Wezolzazi**

IHhovisi LoMlawuli Wezolzazi selisunguliwe, ngokwesigaba 39 se-**POPIA**, ukuqapha nokuphoqelela ukulandelwa kwe-**POPIA** ne-**PAIA**. Kulo Mhlahlandlela iHhovisi LoMlawuli Wezolzazi noma uMlawuli Wezolzazi ubizwa ngokuthi uMlawuli.

**Isikhalazo  
Sangaphakathi**

Isikhalazo sangaphakathi yinqubo yokuphikisa isinqumo esithathiwe mayelana nesicelo se-**PAIA** enhlanganweni yomphakathi, okumele iphothulwe ngaphambi kokuba isikhalazo siyiswe kuMlawuli noma enkantolo efanele.

**Inhlangano  
Ezimele**

Inhlangano ezimele ingumuntu, inkampani noma olunye uhlobo lwenhlangano engokomthetho eyenza uhwebo, ibhizinisi noma umsebenzi, ebandakanya neqembu lezopolitiki.



Igama	Incazelo
<b>Inhlangano Yomphakathi</b>	Inhlangano yomphakathi isho umnyango kahulumeni noma omunye umkhakha noma isikhungo, esenza umsebenzi womphakathi. Kodwa-ke, maqondana nesikhalazo sangaphakathi, noma ikuphi ukubhekisela “kwinhlangano yomphakathi” kuye kwashintshelwa kwelithi “uHulumeni”, ukuze kugwenywe ukudideka maqondana nezinhlangano zomphakathi lapho isikhalazo ngesinqumo singasebenzi khona.
<b>Irekhodi</b>	Irekhodi liwunoma yiluphi ulwazi olurekhodiwe kungakhathalekile ukuthi ngayiphi indlela, okubandakanya, mgokwesibonelo, amadokhumenti abhaliwe, izinto ezilalelwayo, izinto eziyidijithali nezevidiyo. Irekhodi elicelwe enhlanganweni yomphakathi noma ezimele libhekisela kwirekhodi elisezandleni zaleyo nhlangano kungakhathalekile ukuthi leyo nhlangano yiyo eyalenza lelo rekhodi noma cha.
<b>Imithethonqubo</b>	I-PAIA ivumela uNgqongqoshe ukuba akhiphe imithethonqubo elekelela lo Mthetho, okumele ishicilelwe kuSomqulu KaHulumeni, futhi ihlanganisa izindaba ezifana namafomu okufanele asetshenziswe nezimali ezingakhokhiselwa izinqubo ezithile.
<b>Igunya Elifanele</b>	I-PAIA isebenzisa igama elithi ‘igunya elifanele’ ukuchaza umuntu okuHulumeni Kazwelonke, Wesifundazwe noWasekhaya lowo isikhalo sangaphakathi okufanele sifakwe kuye, ngokuvamile okuba yinhloko yezepolitiki kuleyo nhlangano ethintekayo (lo msebenzi unganikwa omunye umuntu ngokusemthethweni).

### 3. IMININGWANE YOKUXHUMAA NOMLAWULI

#### ISikhulu Sezolwazi

**Umqondisi Omkhulu:**

**Okuthintwana Naye:**

**Imeyli:**

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Nksz Ntombizodwa Harrieth Rikhotso

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## 4. INHLOSO YALO MHLAHLANDLELELA WE-PAIA

- 4.1 Inhloso yalo Mhlahlandlela iwukuhlinzeka ngolwazi oludingwa yinoma imuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo eliseMthethweni Ka-2000 Wokugqugquzela Ukutholakala Kolwazi (**PAIA**) kanye noMthetho Ka-2013 Wokuvikelwa Kweminingwane Yomuntu ("**POPIA**"). Noma yimuphi umuntu, kungakhathalekile ubuzwe bakhe, angafaka isicelo sokuthola ulwazi ngaphansi kwe-**PAIA**.
- 4.2 Lo Mhlahlandlela uzosiza ngokukhethekile umuntu, obizwa nangokuthi umninilwazi, ukuthi angayithola kanjani iminingwane yakhe siqu ngokwesigaba 23 se-**POPIA**. Ngaphansi kwe-**POPIA**, umuntu noma umninilwazi unelungelo -
- 4.2.1 lokucela enhlanganweni ethintekayo ukuqinisekiswa, mahhala, ukuthi ingabe yiyo yini egcine leyo mininingwane ephathelene naye noma cha, kanye
- 4.2.2 nokucela enhlanganweni ethintekayo irekhodi noma incazelo yeminingwane yomuntu siqu emaqondana nomninilwazi egcinwe yinhlangano ethintekayo, okubandakanya iminingwane yobunikazi babo bonke abantu besithathu, noma izigaba zabantu besithathu, abake noma abaye baluthola leyo mininingwane;
- 4.2.3 ukucela enhlanganweni ethintekayo -
- (a) ukulungisa noma ukucima iminingwane yomuntu siqu ephathelene nomninilwazi esezandleni noma engaphansi kwayo leyo nhlangano enganembile, engasebenzi, eyeqisayo, ephelelwe yisikhathi, engaphelele, edukisayo noma etholwe ngokungemthetho; noma
- (b) ashabalalise acime irekhodi lemininingwane yomuntu siqu ephathelene nomninilwazi leyo inhlangano ethintekayo engasavunyelwe ukuyigcina
- 4.3 Lo mhlahlandlela uzosiza nanoma yimuphi umuntu ekutheni angacela kanjani ukuthola amarekhodi ngaphansi kwe-**PAIA**. Lo Mhlahlandlela uzobuye usize abaceli:
- 4.3.1 ukuqonda i-**PAIA**, izinzuzo nomsuka wayo;
- 4.3.2 ukufunda inqubo yesinyathelo ngasinye ekwenzeni isicelo namacebiso engeziwe okwenza leyo nqubo ibe lula;
- 4.3.3 ukufunda izinhlobo zolwazi olungacelwa kusetshenziswa i-**PAIA**;
- 4.3.4 ukuqonda inqubo umceli angasiphikisa ngayo isinqumo esithathiwe maqondana nesicelo sakhe;

4.3.5 ukwethulwa ezinguqukweni ezizokwenzeka kwi-PAIA uma i-POPIA seyisebenza ngokugcwele

4.4 Lo mhlahlandlela uzosiza futhi abantu ekuqondeni ukuthi bangakuphikisa kanjani ukunikezwa kwemvume yokutholakala kwamarekhodi abo noma ukuthi bangalibamba kanjani iqhaza enqubweni yokuthola amarekhodi abo.

## 5. MAYELANA NE-PAIA

5.1 Ilungelo lokuthola Ulwazi “lingenye yezindlela eziphumelela kakhulu zokugcina izimiso zoMthethosisekelo ezizokuba *sobala, ukuvuleleka, ukubamba iqhaza nobuqotho*. Izimiso zomthethosisekelo ezishiwo ngenhla azinakufinyeleleka uma kunguhulumeni yedwa onolwazi oluqondisa izenzo nezinqumo zawo. Ngenxa yalokho, ukutholakala kolwazi akukhona nje kuphela ukuthi kuyisisekelo sentando yeningi esebenza kahle, kodwa futhi kwandisa ukuthembela komphakathi kuhulumeni futhi kuqinisa ukuba kwawo semthethweni. Ezinye izinzuzo zelungelo lokuthola ulwazi ziwukuthi, ngokwesibonelo, kuthunaza ukukhwabanisa nenkohlakalo, ukungaqiniseki nokunye ukuziphatha okungafanele kuhulumeni.

5.2 Ngenkathi kubhalwa uMthethosisekelo waseNingizimu Afrika ngemva kokuwa koBandlululo ngeminyaka yawo-1990, izinhlangano ezahlukahlukene nabantu babekhankasela ukufakwa kwelungelo lokuthola ulwazi. Kwakwethenjwa ukuthi ukufakwa kwaleli lungelo kuMqulu Wamalungelo kuzoqinisekisa ukuthi izenzo zonya ezinjengoBandlululo ngeke ziphinde zenzeke, njengoba uhulumeni nezinhlangano ezizimele zazizophoqeleka ukuba zenze izinto ngobuqotho nangendlela esobala ngokunikeza imvume yokuthola ulwazi, futhi ngenxa yalokho, zingeke zikwazi ukucasha kwesithupha sokugcina imfihlo. Kwakubonakala njengesinyathelo esidingekayo ekusizeni ukwakha isiko lokuthethelela elingaholela ebudlelwaneni obuhle phakathi kwabantu, nalabo abaphethe. Kwelinye lamacala okuqala ukubhekana nombuzo wokuthi ingabe umuntu obekwe icala unalo yini ilungelo lokuthola lonke ulwazi oluqukethe edokodweni lamaphoyisa. UJones J wakuvuma ukubaluleka kwalo kule migomo:

***“Inhloso... iwukuyeka ukuqhutshekiswa kohlelo oludala lokuphatha, uhlelo lapho uhulumeni wayekwazi khona ukuphunyuka ekulandiseni ngezenzo zawo ngokwenqaba ukudalula ulwazi ngisho noma kwakunomthelela ekusetshenziseni noma ekuvikelweni kwamalungelo omuntu. Lokhu kungububi obenzelwe ukuvimbela [...] ubulungiswa obungavezeka nokuvuleleka kugqugquzela ukwethemba komphakathi ekuphathweni kwezindaba zomphakathi. Leli themba lingelinye lezimpawu zomphakathi obuswa ngentando yeningi lowo uMthethosisekelo owuphokophelelayo”.***

<sup>2</sup> Hoexter Administrative Law 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Isigaba 32 soMthethosisekelo sivikela ilungelo lokutholakala kolwazi olugcinwe yizinhlangano zomphakathi nezizimele. Isigaba 32 siphinde sithi kufanele kushaywe umthetho ozolenza lisebenze ilungelo lokutholakala kolwazi ngokuchaza izindlela ulwazi olungatholwa ngayo ezinhlanganweni zomphakathi nezizimele, nangokuhlinzeka ngezizathu lapho inhlangano yomphakathi nezimele inganqaba khona nemvume yokuthola ulwazi.
- 5.4 I-**PAIA** yenziwa ngenxa yalokho okushiwo ngumthethosisekelo ngenhla, futhi yaqala ukusebenza kakhulu ngoMashi 2001. Amazwi ayo esingeniso ayavuma ukuthi “kwakunesiko lokugcina imfihlo nokungasabeli” esikhathini sangaphambi kwentando yeningi, futhi ayasho ukuthi enye yezinhloso ze-**PAIA** “ukukhuthaza isiko lokwenza izinto obala nokulandisa ngezenzo zezinhlangano zomphakathi nezizimele.”
- 5.5 I-**PAIA** yenzelwe ukuwenza asebenze amalungelo omuntu okuthola ulwazi nokulandisa ngezenzo. Iklanyelwe ukunika abantu amandla okusebenzisa umthetho, futhi isiza ekwenzeni lula ukucela ukuthola ulwazi ngezindlela ezihlukahlukene. Umuntu akadingi ummeli ukuze enze isicelo sokuthola ulwazi ngokwemigomo ye-**PAIA**

## 6. IZINHLOSO ZE-PAIA

- 6.1 Izinhloso ze-**PAIA** akukhona ukuba ithathe isikhundla selungelo elingokomthethosisekelo, kodwa ukwenza lisebenze ilungelo elisesigabeni 32 kuye ngemikhawulo evumelekile, nangendlela esiza ukulinganisana kwawo wonke amanye amalungelo aqukethwe kuMthethosisekelo. Ithemba ukugqugquzela isiko lamalungelo abantu nobulungiswa bezenhlalo kubantu, ezinhlanganweni zomphakathi nasezinhlanganweni ezizimele. I-**PAIA** ifuna ukugqugquzela ukwenza izinto obala, ngokuqotho nokuphathwa ngendlela efanele kwazo zonke izinhlangano (zikhahulumeni nezizimele) ngokunika abantu amandla okuqonda amalungelo abo okuthola ulwazi, bawasebenzise, futhi bahlolisise, futhi babe neqhaza, ekwenziweni kwezinqumo ezibathintayo.
- 6.2 Ilungelo lokuthola ulwazi liyilungelo elinamandla amakhulu elingokomthethosisekelo, njengoba lisiza abantu ukuba babone amanye amalungelo. Umuntu angalisebenzisa ukusiza ukuqapha nokuhlola ukulethwa kwezinsizakalo zikhahulumeni, noma ukuthola amarekhodi omlando angase awadinge.
- 6.3 Izinhloso ze-**PAIA** yilezi -
- 6.3.1 ukwenza lisebenze ilungelo elingokomthethosisekelo lokuthola
- 6.3.1.1 noma yiluphi ulwazi olugcinwe uHulumeni; kanye
- 6.3.1.2 noma yiluphi ulwazi olugcinwe ngomunye umuntu futhi oludingekayo ekusetshenzisweni noma ekuvikelweni kwanoma imaphi amalungelo.

- Imfuneko ephathelene nokuvikelwa kwamalungelo igcinwe olwazini olusezandleni zenhlangano ezimele. Ngenxa yalokho, izinhlangano ezizimele azibophekile ngezinga eliqine kakhulu lokwenza izinto ngendlela esobala njengoba kunjalo ngezinhlangano zomphakathi. Izinhlangano ezizimele, ngamanye amazwi, zinelungelo lokugcina imininingwane yazo ikuzo kuphela, ngaphandle uma leyo mininingwane idingeka ekuvikeleni amalungelo.
- I-**PAIA** iyaqaphela, ngokweSigaba 8(1) sayo, ukuthi inhlangano ingase ibe “eyomphakathi” noma “ezimele” ngezinhloso zoMthetho kuye ngokuthi irekhodi elisekudwini “lithintene yini nokusetshenziswa kwamandla noma ukusebenza kwenhlangano yomphakathi noma kwenhlangano ezimele.”

### 6.3.2 ukwenza lelo lungelo lisebenze -

6.3.2.1 kuncike emikhawulweni evumelekile, okubandakanya, kodwa kungagcini lapho, imikhawulo ehlose ukuvikela imfihlo ngendlela efanele, imfihlo yezebhizinisi nokuphatha ngendlela ephumelelayo, esebenzayo nekahle; futhi

6.3.2.2 ngendlela elinganisa lelo lungelo nanoma yimaphi amanye amalungelo, okubandakanya amalungelo akuMqulu Wamalungelo eSahlukeni 2 soMthethosisekelo;

6.3.3 ukwenza kusebenze izibopho ezingokoMthethosisekelo zikaHulumeni ekugqugquzeleni isiko lamalungelo abantu nobulungiswa kwezenhlalo, ngokubandakanya izinhlangano zomphakathi encazelweni ‘yomceli’, kanye nokuzivumela, phakathi kokunye, ukuthola ulwazi ezinhlanganweni ezizimele lapho zilandela izimfuneko ezine ezikulo Mthetho, okubandakanya isibopho esengeziwe sezinhlangano ezithile zomphakathi ezimweni ezithile zokwenza izinto ezizuzisa umphakathi;

6.3.4 ukusungula izindlela noma izinqubo zokuzithandela neziyimpoqo zokwenza lelo lungelo lisebenze ngendlela eyenza abantu bakwazi ukuthola amarekhodi ezinhlangano zomphakathi nezizimele ngokushesha okukhulu, okungabizi kakhulu nangendlela engakhandli kangangokunokwenzeka; futhi

6.3.5 ngokujwayelekile, ukugqugquzela ukwenza izinto obala, ukuba nesibopho nokuphatha ngempumelelo kuzo zonke izinhlangano zomphakathi nezizimele, ngokubandakanya kepha kungagcini lapho, ukunika amandla nokufundisa wonke umuntu -

6.3.5.1 ukuqonda amalungelo abo ngokwalo Mthetho ukuze basebenzise amalungelo abo maqondana nezinhlangano zomphakathi nezizimele;

6.3.5.2 ukuqonda imisebenzi nokusebenza kwezinhlangano zomphakathi; kanye

6.3.5.3 nokuhlolisisa ngenkuthalo, futhi babe neqhaza, ekwenziweni kwezinqumo ezithinta amalungelo abo ezenziswa yizihlangano zomphakathi.

6.4 UMthetho Wokuchibiyela UMthetho Wokugquguzela Ukutholakala Kolwazi, Ka-2019

6.4.1 Endabeni ***ye-My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17***, inkantolo yomthethosisekelo yathi “uMbuso ungaphansi kwesibopho esivela ekufundweni okufanele kwezigaba 32, 19 no-7(2) zoMthethosisekelo ukwenza konke okusemandleni ukuze kunikezwe umbono osebenzayo nonengqondo ngelungelo lokuthola ulwazi nelungelo lokuvota. Ingingi liphinde lathi lokhu kungenxa yokuthi ukusetshenziswa kwelungelo lokuvota kumele kube yinto umuntu ayenza enolwazi, futhi kunokuxhumana okubalulekile phakathi kokusebenzisa kahle ilungelo lokuvota nelungelo lokuthola ulwazi. Futhi “ngaphandle kokuthola ulwazi, ikhono lezakhamizi lokwenza izinqumo zepolitiki ezifanele nokubamba iqhaza elifanele empilweni yomphakathi licekeleka phansi”. Inkantolo YoMthethosisekelo ikuqinisekile ukungasebenzi kwalokhu ngokomthethosisekelo futhi yayalela iPhalamende ukuba lichibiyele i-**PAIA** nokuba lithathe noma yisiphi esinye isinyathelo elisibona sifanele ukuhlinzekela ukuqoshwa, ukulondolozwa kanye nokwenza lula ukutholakala kolwazi olulingene ngezimali zokuxhasa ngasese amaqembu ezipolitiki kanye nabakhankasi abazimele phakathi nesikhathi sezinyanga eziyi-18.

6.4.2 Ngokuya ngesinqumo senkantolo yomthethosisekelo esishiwo ngenhla, uMongameli, mhla ka-3 kujuni 2019, waphasisa uMthetho Ka-2019 Wokuchibiyela Umthetho Wokugquguzela Ukutholakala Kolwazi, (uMthetho Ka-2019 Wokuchibiyela I-**PAIA**) .. UMthetho Ka-2019 wokuchitshiyelwa kwe-**PAIA** ubandakanya iqembu lezipolitiki encazelweni yehlangano ezimele, okusho ukuthi umholi weqembu lezipolitiki noma omunye umuntu ogunyazwe ngokomthetho yilowo mholi uyisikhulu noma inhloko yezolwazi. Umthetho Ka-2019 wokuchibiyela i-**PAIA** manje welula ilungelo lokuthola noma yimaphi amarekhodi eqembu lezipolitiki.

6.4.3 UMthetho wokuchibiyela uhlinzekela ukuthi ulwazi oluphatelene nezimali zokuxhasa ngasese amaqembu ezipolitiki nabakhankasi abazimele, kumele lubhalwe phansi, lugcinwe futhi lwenziwe lutholakale.

6.4.4 Ngokwesigaba 52A soMthetho Ka-2019 Wokuchibiyela I-**PAIA**, inhloko yeqembu lezipolitiki kufanele isungule futhi igcine amarekhodi anoma imuphi umnikelo owedlula umkhawulo obekiwe, ka-**R100 000.00**, onikezwe lelo qembu lezipolitiki kunoma yimuphi unyaka wezimali nokuthi bangobani abantu noma izihlangano ezenze leyo minikelo. Inhloko yeqembu lezipolitiki iphinde idingeke ukuba yenze amarekhodi atholakale njalo ngezinyanga ezintathu, njengoba kusho umthetho; futhi igcine amarekhodi isikhathi esiyiminyaka okungenani emihlanu ngemuva kokuba amarekhodi athintekayo enziwe.



6.4.5 Lokhu kusho ukuthi ngenkathi uMthetho Wokuxhaswa Ngezimali Kwamaqembu Ezepolitiki uphoqelela ukudalula kwiKhomishani Yezokhetho, uMthetho Ka-2019 wokuchibiyela i-**PAIA** manje welulela ilungelo lokuthola ulwazi, kumarekhodi anoma yimuphi umnikelo ongaphezu kuka-**R100 000.00**, kunoma yimuphi umuntu, eyenziwe kulelo qembu lezepolitiki.

6.5 Omunye umthetho ovikela ilungelo lokuthola ulwazi

I-**PAIA** ibuye ibe khona kuzo zonke izici zezomthetho, eklanyelwe ukwakha “isiko lokuthethelelana”. Ngokuqaphela lokhu, i-**PAIA** ithi noma imuphi omunye umthetho onikeza umuntu indlela yokuthola ulwazi elula kune-**PAIA**, ungasetshenziswa esikhundleni sayo<sup>5</sup>.

6.5.1 UMthetho 71 Ka-2008 Wezinkampani

6.5.1.1 Isigaba 26(1) soMthetho Wezinkampani sihlinzeka umuntu othola inzuzo kunoma yiziphi izibambiso ezikhishwe inkampani eyenza inzuzo, noma oyilungu lenkampani engenzi nzuzo, unelungelo lokuhlola nokukopisha, ngaphandle kwenkokhiso yanoma ikuphi ukuhlola okunjalo noma lapho kukhokhwa imali engengaphezulu kwenani elibekiwe lekhophi enjalo, ulwazi oluqukethwe kumarekhodi enkampani.

6.5.1.2 Ngokwesigaba 26(7)(b) soMthetho Wezinkampani, “amalungelo okuthola ulwazi abekwe kulesi sigaba ngaphezu, futhi hhayi esikhundleni, kwanoma yimaphi amalungelo umuntu okungenzeka unawo okuthola ulwazi ngokoMthetho Ka-2000 Wokugqugquzela Ukutholakala Kolwazi (uMthetho Nombolo 2 Ka-2000)”.

6.5.2 UMthetho Ka-2018 Wokuxhaswa Ngezimali Kwamaqembu Ezepolitiki (UMthetho Nombolo 6 Ka-2018)

6.5.2.1 Ukuxhaswa Ngezimali Kwamaqembu Ezepolitiki kwethula uhlaka oluqinile lokulawula uxhaso lwangasese lwawo wonke amaqembu ezepolitiki abhalisiwe, kungakhathaleki amelelwe yini kuzishayamthetho zikazwelonke noma zezifundazwe noma cha. Lokhu kubandakanya ukubeka imingcele yomthombo, ubukhulu kanye nokusetshenziswa kwezimali ezinikelwe ngamaqembu ezepolitiki.

6.5.2.2 Ukuqinisekisa ukwenziwa kwezinto obala nobuqotho, amaqembu ezepolitiki kudingeka adalule yonke iminikelo etholiwe engaphezu komkhawulo wokudalula ongu-**R100 000.00** kwiKhomishani Yezokhetho njalo ezinyangeni ezintathu (kanye nangaphambi kokhetho lukazwelonke).

<sup>5</sup> Isigaba 2(1) se-PAIA

- 6.5.2.3 Noma yimuphi umuntu noma inhlangotho eyenza umnikelo eqenjini lezopolitiki owothwa noma eminingana eba ngaphezu kuka - **R100 000.00** ngonyaka kufanele ibike lowo mnikelo kwiKhomishani Yezokhetho phakathi nezinsuku ezingu-30 yenze lowo mnikelo noma phakathi nezinsuku ezingu-30 kusukela iminikelo eminingana yeqo khona ku- **R100 000.00**.
- 6.5.2.4 Okokugcina, uMthetho Wokuxhaswa Ngezimali Kwamaqembu Ezopolitiki ubeka isibopho kwiKhomishani Yezokhetho ukwazisa umphakathi njalo ezinyangeni ezintathu ngeminikelo ebikwe amaqembu ezopolitiki nokubika minyaka yonke ePhalamende ngayo yonke iminikelo enikezwe amaqembu ezopolitiki phakathi nonyaka.
- 6.5.3 UMthetho Ka-2013 Wokuvikelwa Kwemininingwane Yomuntu (UMthetho Nombolo 4 Ka-2013)
- 6.5.3.1 Isigaba 23 se-**POPIA** sihlizeka umniniwazi ngelungelo lokuthola imininingwane yomuntu siqu egcinwe yinhlangotho ethintekayo, okubandakanya imininingwane yokuthi bangobani bonke abantu besithathu, noma izigaba zabantu besithathu, abaye, noma abake bathola leyo mininingwane.
- 6.5.3.2 Lokhu kusho ukuthi nakuba ukuthola irekhodi eliqukethe imininingwane yomuntu siqu ephathelene nomceli kungafakiwe kwi-**PAIA** ngokweSigaba 11(2) sayo, umniniwazi angacela -
- 6.5.3.2.1 ukuthola imininingwane yakhe siqu; kanye/noma
- 6.5.3.2.2 amagama abo bonke abantu besithathu, kanye/noma izigaba zabantu besithathu, abaye, noma abake bayithola leyo mininingwane.
- 6.5.3.2.3 ukulungisa noma ukucima imininingwane yomuntu siqu ephathelene nomniniwazi esezandleni zayo okuwukuthi ayinembile, ayisebenzi, iyeqisa, iphelelwe yisikhathi, ayiphelele, iyadukisa noma itholwe ngokungemthetho; noma
- 6.5.3.2.4 ukuba kushatshalaliswe noma kucinywe irekhodi lemininingwane yakhe okuwuthi inhlangotho ethinyekayo ayisagunyaziwe ukuligcina.
- 6.5.3.3 Inhlangotho ethintekayo ingenqaba ukudalula noma yimiphi imininingwane yomuntu siqu eceliwe, ngokwezizathu zokwenqatshwa kokutholakala kwamarekhodi, njengoba kubekiwe endimeni 19.4 ngezansi



## 6.5.4 UMthetho 3 Ka-2000 Wokugquguzela Ubulungiswa Bokuphatha

- 6.5.4.1 Omunye umthetho obalulekile okufanele ukhunjulwe lapho ucabanga ngokuthola ulwazi nguMthetho Wokugquguzela Ubulungiswa Bokuphatha (**PAJA**). I-**PAJA** inika ilungelo lokwenza isenzo sokuphatha esisemthethweni, esizwakalayo nenqubo efanelekile kanye nelungelo lezizathu ezibhaliwe zesenzo sokuphatha njengoba kushiwo esigabeni 33(2) soMthethosiseke<sup>6</sup>.
- 6.5.4.2 Ngokwesigaba 5(1) se-**PAJA**, noma imuphi umuntu omalungelo akhe athinteke kakhulu nakabi ngenxa yesenzo sokuphatha futhi enganikwanga izizathu zaleso senzo, zingakapheli izinsuku ezingama-90 ngemuva kosuku lowo muntu azi ngalo ngaleso senzo noma usuku okulindeleke ukuba kube ukuthi useyazi ngalo ngaleso senzo, angacela kumphathi othintekayo izizathu ezibhaliwe zaleso senzo. Umphathi okucelwe kuye kumele, zingakapheli izinsuku ezingama-90 etholile isicelo, anikeze lowo muntu isizathu esanele sabhalwa phansi sesenzo sokuphatha.

## 7. UKUSUNGULWA KOMLAWULI WEZOLWAZI

- 7.1 Ukuqinisekisa ukugquguzelwa nokuthuthukiswa kwezinhloso ze-**PAIA**, eziwukwenza lisebenze lelo lungelo lokuthola ulwazi ngendlela eyenza abantu bakwazi ukuthola amarekhodi ezinhlangotho zomphakathi nezizimele ngokushesha okukhulu nengabizi ngangokunokwenzeka, kwasungulwa uMlawuli Wezolwazi (“uMlawuli”) ngokwesigaba 39 se-**POPIA**.
- 7.2 Ukuze kuqinisekise ukuthi izinqubo zokuphatha ezingadidi nezingabizi kakhulu ziyalandelwa lapho kwenziwa isicelo sokuthola ulwazi, izikhalazo eziya kuMlawuli neziya enkantolo kufanele kube ngezikhetheke ngempela kunokuba zimane zenziwe nje ngoba umthetho uyavuma.
- 7.3 I-**POPIA** ichibiyela indima ye-**SAHRC** maqondana negunya le-**PAIA**. Kusukela mhla ka-30 Juni 2021, yonke imisebenzi ye-**SAHRC**, njengoba ibalulwe kwi-**PAIA**, izosingathwa nguMlawuli, onanamandla engeziwe okuphoqelela.
- 7.4 Nakuba i-**SAHRC** isazogcina izibopho zayo zomthethosisekelo ezibanzi zokugquguzela, ukuvikela nokuqapha amalungelo abhalwe kuMthethosivivinywa Wamalungelo, i-**SAHRC** kanye noMlawuli bazosebenzisana eduze kakhulu.

<sup>6</sup> Wonke umuntu omalungelo akhe athikanyezwe kabi yisenzo sokuphatha unelungelo lokunikwa izizathu ezibhaliwe.

## 8. INDIMA YOMLAWULI WEZOLWAZI

- 8.1 Umlawuli unendima ebaluleke kakhulu maqondana ne-**PAIA**. Umlawuli ugunyazwe yi-**PAIA**, ngaphansi kweNgxenye 4, iSahluko 1A kanye neNgxenye 5 nezinye izigaba, ukuba:
  - 8.1.1 agqugquzele ilungelo lokuthola ulwazi nokusiza umphakathi ekusebenziseni i-**PAIA** lapho kungenzeka khona ukwenza njalo,
  - 8.1.2 ukuqapha nokuqhubekisela phambili ukusetshenziswa kwe-**PAIA** yizinhlangano zomphakathi nezizimele (okubandakanya ukukhuthaza izindlela ezisebenzayo zokwenza ulwazi lutholakale ngesikhathi)
  - 8.1.3 enze izincomo zokuqinisa i-**PAIA**, nokuba
  - 8.1.4 abike minyaka yonke ePhalamende.
- 8.2 Isigaba 77C(1) no-(2) se-**PAIA** sihlizekela la mandla, imithwalo nemisebenzi elandelayo yoMlawuli, ukuze -
  - 8.2.1 aphenye ngesikhalazo esenziwe kuMlawuli ngendlela enqunyiwe;
  - 8.2.2 adlulisele isikhalazo kwiKomidi Lezokuphoqelela elasungulwa ngokwesigaba 50 se-**POPIA**; noma
  - 8.2.3 anqume, ngokuhambisana nesigaba 77D, ukungathathi sinyathelo ngesikhalazo noma, kuye ngesimo sesikhalazo, kungadingeki zinyathelo maqondana nesikhalazo; nokuba
  - 8.2.4 lapho kufanele khona, abe njengomlamuli maqondana naleso sikhalazo ngendlela enqunyiwe
- 8.3 Umlawuli, ngokwesigaba 77H(1) se-**PAIA**, futhi ngokusuka kuye ngokwakhe, noma ngokucelwa noma ngokwenzela isikhulu sezolwazi noma inhloko yenhlangano ezimele noma omunye umuntu ahlole ukuthi inhlangano yomphakathi noma ezimele ngokuvamile iyazilandela yini izinhlinzeko ze-**PAIA**, maqondana nezinqubomgomo nezinqubo zayo zokuyisebenzisa.
- 8.4 Umlawuli unikwe amandla, ngokwesigaba 77F se-**PAIA**, ukusebenzisa konke anakho ukuze axazulule isikhalazo, uma kuvela esikhalazweni, noma kunoma iyiphi impendulo ebhaliwe eyenziwe maqondana naso ukuthi singaxazululeka lesi sikhalazo. Lokhu kusho ukuthi uMlawuli angazama kuphela ukusiza abathintekayo ukuba baxazulule izingxabano zabo, uma kunesikhalazo esifakwe kuMlawuli, ngaphandle uma ethathe isinqumo, ngokusuka kuye, sokuhlola, njengoba kushiwo endimeni 8.3 ngenhla.

## 9. UKWENZA ISICELO SEREKHODI

Uyacelwa ukuthi ubheke ishadi elinesinyathelo ngasiye sale nqubo endimeni 27 ngezansi, sendlela yokucela ukuthola amarekhodi.

### 9.1 Ukuqalisa: **Amabhukwana E-PAIA**

- 9.1.1 Yize lo Mhlahlandlela ushicilelwe ukusiza umphakathi kuzo zonke izindawo ukuba ubambe ilungelo lawo elingokomthethosisekelo lokuthola ulwazi, kukhona neminye imithombo yolwazi nayo emngasiza umuntu ekwenzeni isicelo sokuthola amarekhodi. I-**PAIA** idinga ukuba zonke izinhlangano zomphakathi, nezinhlangano ezizimele, zihlanganise ibhukwana<sup>7</sup> le-**PAIA** futhi zilenze litholakale.
- 9.1.2 Ngaphambi kokuba noma ubani athathe izinyathelo zokuthola ulwazi noma amarekhodi enhlangano ethile, iBhukwana Le-**PAIA** liyithuluzi lokuqala lokufundwa.
- 9.1.3 Ngokuyinhloko, ibhukwana le-**PAIA** liwusizo kumuntu ukuba:
  - 9.1.3.1 ahlole uhlobo lwamarekhodi okungenzeka asevele ayatholakala ngaphandle kwesidingo sokufaka isicelo se-**PAIA**;
  - 9.1.3.2 aqonde indlela yokwenza isicelo sokuthola ulwazi olugcinwe yinhlangano ethile;
  - 9.1.3.3 athole yonke imininingwane efanele yomuntu ozosiza umphakathi ngamarekhodi noma yimuphi umuntu ahlose ukuwathola;
  - 9.1.3.4 azi zonke izixazululo ezitholakala kuleyo nhlangano okucelwa kuyo amarekhodi, ngaphambi kokuya kuMlawuli noma eziNkantolo;
  - 9.1.3.5 azi incazelo yezinsizakalo ezitholakala kumalungu omphakathi zivela enhlanganweni nokuthi angazithola kanjani lezo zinsizakalo;
  - 9.1.3.6 azi ukuthi ingabe inhlangano izoyicubungula yini imininingwane yomuntu siqu, inhloso yokucubungula imininingwane yomuntu siqu kanye nencazelo yezinhlu zabanilwazi nezemininingwane nezinhlu zolwazi oluphathelele nalokho;
  - 9.1.3.7 azi ukuthi ingabe inhlangano ihlele ukudlulisa noma ukucubungula imininingwane yomuntu siqu ngaphandle kwaseRiphabhuliki YaseNingizimu Afrika; nokuba

<sup>7</sup> Isigaba 14 nesigaba 51 se-PAIA

9.1.3.8 azi ukuthi ingabe inhlangotho inazo yini izindlela ezifanele zokuphepha ukuqinisekisa ubumfihlo, ubuqotho nokutholakala kolwazi okumele lucutshungulwe.

## 9.2 Atholakala kuphi amabhukwana e-PAIA?

### 9.2.1 IBhukwana Le-PAIA lezinhlangotho zomphakathi

9.2.1.1 Zonke izinhlangotho zomphakathi kumele zenze ukuba iBhukwana Le-PAIA litholakale kalula okungenani ngezilimi ezintathu ezisemthethweni<sup>8</sup>.

9.2.1.2 Okungenani, kudingeka ukuba zenze ikhophi eyodwa yeBhukwana Le-PAIA litholakale mahhala, ngaphandle uma kucelwa ikhophi eprintiwe

9.2.1.2.1 kuwebhusayithi yenhlangotho yomphakathi;

9.2.1.2.2 enhlokothovisi yenhlangotho yomphakathi ukuze lihlolwe ngumphakathi ngezikhathi ezijwayelekile zokusebenza;

9.2.1.2.3 uma umuntu efuna ikhophi eprintiwe, inhlangotho yomphakathi kufanele yenze ikhophi, kodwa ingacela inkokhelo efanele yokwenza ikhophi eprintiwe; kanye

9.2.1.3.4 nakuMlawuli uma ecelwa.

### 9.2.2 AmaBhukwana E-PAIA ezinhlangotho ezizimele

9.2.2.1 Izinhlangotho ezizimele nazo kudingeka ukuba zihlanganise ibhukwana<sup>9</sup> le-PAIA, kepha asikho isidingo sokuyihlanganisa ngezilimi ezingaphezu kolulodwa noma ngolimi oluthile, nakuba kunconywa ukuba amaBhukwana E-PAIA ezinhlangotho ezizimele kufanele okungenani abe ngesiNgisi. Uma inhlangotho ethile ihlinzeka ngezinsizakalo kubantu abaningi abangenayo imfundo efanele, uMlawuli uncoma ukuba ibhukwana laleyo nhlangotho libe nangolunye ulimi olusemthethweni.

9.2.2.2 Okungenani, izinhlangotho ezizimele kudingeka ukuba zenze ikhophi yeBhukwana Le-PAIA litholakale mahhala<sup>10</sup>, ngaphandle uma kucelwa ikhophi eprintiwe

9.2.2.2.1 kuwebhusayithi yenhlangotho ezizimele

9.2.2.2.2 endaweni eyinhloko yebhizinisi lenhlangotho ezizimele ukuze lihlolwe ngumphakathi ngezikhathi zomsebenzi ezijwayelekile;

<sup>8</sup> Isigaba 14(1) se-PAIA

<sup>9</sup> Ngokwesigaba 51 se-PAIA

<sup>10</sup> Isigaba 51(3) se-PAIA

9.2.2.2.3 uma umuntu efuna ikhophi eprintiwe, inhlango ezimele kumele yenze ikhophi, kepha ingacela inkokhiso efanele yokwenza leyo khophi eprintiwe; kanye

9.2.2.2.4 nakuMlawuli uma ecelwa.

9.2.3 UNgqongqoshe Wezobulungiswa Nezinsizakalo Zokuhlunyelelisa Kwezimilo unamandla okukhulula<sup>11</sup> izinhlangano ezithile ezizimele noma isigaba esithile sezinhlangano ezizimele esibophweni sokwenza ibhukwana. Njengamanje, kuze kube ngumhla **ka-31 Disemba 2021**, uNgqongqoshe usezikhululile<sup>12</sup> zonke izinhlangano ezizimele, ngaphandle kwanoma iyiphi inkampani -

- (a) engeyona inkampani ezimele njengoba kuchazwe esigabeni 1 soMthetho Wezinkampani, 2008 (uMthetho Nombolo 71 ka-2008);
- (b) iyinkampani ezimele njengoba kuchazwe esigabeni 1 soMthetho Wezinkampani, 2008 (uMthetho Nombolo 71 ka-2008) osebenza kunoma yimiphi imikhakha eshiwo kukholamu 1 yesheduli kulesi Saziso futhi -
  - (i) inabasebenzi abangama-50 noma ngaphezulu ebaqashile; noma
  - (ii) inengqikithi yenzuzo yonyaka elingana noma engaphezu kwenani elisebenza kuyo elishiwo kukholomu 2 yethebula elingezansi,

ekuhlanganiseni ibhukwana elishiwo esigabeni 51(1) soMthetho oshiwo okokuqala isikhathi esiyizinyanga eziyisithupha (6) kusukela ngomhla **ka-1 Julayi 2021** kuya kumhla **ka-31 Disemba 2021**: -

Umkhakha	Inzuzo yonyaka
Wezolimo	R6 wezigidi
Wezozimayini Nezokumbiwaphansi	R22.5 wezigidi
Wezokukhiqiza	R30 wezigidi
Wezagesi, Igesi Namanzi	R30 wezigidi
Wezokwakha	R15 wezigidi
Wezokuthengisa Nokuhweba Ngezimoto Nokhanda	R45 wezigidi
Wezokuhweba Kuma-wholesale, Abathengisi	R75 wezigidi
Nemisebenzi Ehlanganyelwayo	
Wezokudla, Indawo Yokuhlala Nokunye Ukuhweba	R15 wezigidi
Ezokuthutha, Indawo Yokugcina Izinto Nezokuxhumana	R30 wezigidi
Ezezimali Nezamabhizinisi	R30 wezigidi
Izinsizakalo Zomphakathi, Ezikhethekile Nezomuntu Siqu	R15 wezigidi

<sup>11</sup> Isigaba 51(4) se-PAIA

<sup>12</sup> USomqulu KaHulumeni nombolo: 39504, 11 Disemba 2015

- 9.2.4 Ngenxa yokubaluleka kwesidingo somthetho sokuhlenganisa iBhukwana Le-**PAIA**, ikakhulukazi isichibiyelo<sup>13</sup> sesigaba 51 se-**PAIA** (ezoqala ukusebenza ngomhla ka-30 Juni 2021), maqondana nokuthi ubukhulu bolwazi okumele ibhukwana lelo libe nalo buye banwetshwa ukuze libhakandanye izindaba eziphathele ne-**POPIA**, izinhlangano ezizimele ngeke zisakhululwa esibophweni sokuhlenganisa ibhukwana le-**PAIA**. Ngenxa yalokho, kusukela ngomhla ka-1 Januwari 2022, zonke izinhlangano ezizimele nezikahulumeni kuzodingeka ukuba zitholakale zinalo iBhukwana Le-**PAIA**, njengoba kushiwo endimeni 9.2.2.2 ngenhla.
- 9.2.5 Ukukhululwa kwezinkampani ezizimele esibophweni sokuhlenganisa ibhukwana le-**PAIA** akuzikhululi lezo zinkampani ezizimele ekuthobeleni i-**PAIA**. Lokhu kusho ukuthi noma yimuphi umuntu usengafaka isicelo sokuthola ulwazi enhlanganweni ezimele ekhululiwe. Ukukhululwa kumane kusho ukuthi lezo zinkampani ezizimele akudingeki zihlanganise ibhukwana le-**PAIA**.
- 9.2.6 Khumbula futhi, ukuthi akuzona zonke izinhlangano ezizimele eziyizinkampani, njengoba incazelo yenhlangano ezimele ibandakanya umuntu ongokwemvelo, umnikazi oyedwa kanye nomfelandawonye. Kodwa-ke, kusengakuhle ukuhlola iwebhusayithi yazo, njengoba ezinye iZinkampani zakha ibhukwana le-**PAIA** kungakhathalekile inani labasebenzi noma inzuzo yazo yonyaka.
- 9.3 Ukudalulwa ngokuzithandela kwamarekhodi athile nokuwenza atholakale ngokuzenzakalelayo
- 9.3.1 Amarekhodi atholakala ngokuzenzakalelayo yilawo inhlangano yomphakathi noma ezimele ezowahlizeka ngaphandle kwesidingo sokuthi umceli afake isicelo se-**PAIA** (ngamanye amazwi, umuntu angavele alicele nje ngaphandle kokugcwalisa iFomu 2 Le-**PAIA**).
- 9.3.2 Isikhulu Sezolwazi enhlanganweni yomphakathi kudingeka, ngokwesigaba 15(1) se-**PAIA**, ukuba senze kutholakale uhlu noma imikhakha yamarekhodi atholakala ngokuzenzakalelayo, njengoba kushiwo endimeni 9.3.4 ngezansi.
- 9.3.3 Amarekhodi atholakala ngokuzenzekelayo enhlangano ezimele nawo angenziwa atholakale, ngokwesigaba 52(1) se-**PAIA**, kodwa ngokuzithandela ngokuya ngendima 9.3.4 ngezansi.
- 9.3.4 Incazelo yemikhakha yamarekhodi atholakala ngokuzenzakalelayo kufanele yenziwe itholakale
- (a) kuMlawuli Wezolwazi;
  - (b) kuwebhusayithi yenhlangano; nokuba
  - (c) ihloleke, emahhovisi enhlangano ethintekayo ngezikhathi zomsebenzi ezijwayelekile.

<sup>13</sup> Isigaba 110 se-**POPIA**

- 9.3.5 Uyacelwa ukuba uqaphele ukuthi uMlawuli incazelo yamarekhodi enhlangano yomphakathi atholakala ngokuzenzakalelayo uzoyifaka kuwebhusayithi yayo.
- 9.3.6 Lolu hlu lubandakanya amarekhodi okungase kudingeke ukuba enziwe atholakale ngeminye imithetho, kanye namanye amarekhodi inhlangano ekhetha ukuwafaka. Ukuze kugwenywe inqubo yesicelo se-**PAIA**, umceli welulekwa ukuba ahlole iBhukwana Le-**PAIA** lenhlangano ethintekayo yomphakathi noma ezimele. Uma umuntu efisa ukuthola amarekhodi awela ngaphansi kohlu lwenhlangano lwamarekhodi atholakalayo ngokuzenzakalelayo, lowo muntu angavele acele ukuwathola ngaphandle kokugcwalisa iFomu 2 Le-**PAIA**.
- 9.3.7 UMthetho 6 Ka-2018 Wokuxhazwa Ngezimali Kwamaqembu Ezepolitiki uletha izinguquko ezithile nge-**PAIA**, lapho izinhloko zamaqembu ezezipolitiki kudingeka ukuba zibhale futhi zigcine amarekhodi eminikelo yangasese, okuzodingeka ukuba enziwe abe sobala emphakathini ngaphandle kokuba umuntu afake isicelo se-**PAIA**.

## 10. IMINININGWANE YOKUXHUMANA NEZIKHULU ZEZOLWAZI

- 10.1 Yize imininingwane yokuxhumana neZikhulu Zezolwazi kuzo zonke izinhlangano zomphakathi kudingeka ukuba ishicilelwe kuwo wonke amabhuku ocingo, ngokwesigaba 16 se-**PAIA**, uMlawuli unemininingwane eqondile yokuxhumana nazo zonke iZikhulu Zezolwazi (kubandakanya amaSekela Ezikhulu Zezolwazi, aqokwe ngokwemigomo yesigaba 17 no-56 se-**PAIA** ne-**POPIA** ngokulandelana kwazo) ababhaliswe ngayo ngokwesigaba 55(2) se-**POPIA**.
- 10.2 Nakuba ukuthola imininingwane efanele yokuxhumana kungase ngokuvamile kube yingxenye eyinselele kakhulu yokwenza isicelo se-**PAIA**, njengoba izindima zishintsha njalo emkhakheni womphakathi futhi ibhukwana le-**PAIA** lingase lingabi ngelamuva, indawo yokuqala yokuthola imininingwane yokuxhumana kusafanele kube yilo iBhukwana Le-**PAIA** lenhlangano. Kodwa-ke, uma umceli engalitholi ibhukwana, ukushayela ihhovisi lenhlangano acele imininingwane edingekayo, nakho kungasiza.
- 10.3 KoMasipala, iNhlangothi YaseNingizimu Afrika Yohulumeni Basekhaya (i-**SALGA**) ibeka imininingwane yabo bonke oMasipala kule linki:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Umnyango wezokuxhumana kaHulumeni nawo uyahlinzeka ngemininingwane yokuxhumana kazwelonke neyazifundazwe kanye nemininingwane yokuxhumana neziNkampani ZikaHulumeni ngaphansi kwale linki:  
<https://www.gov.za/about-government/contact-directory>. Khumbula njalo ukuthi incazelo yeSikhulu Sezolwazi iyasiza ukubona ukuthi imininingwane kabani yokuxhumana edingekayo ukuze ubone iSikhulu Sezolwazi



## 11. INQUBO YOKWENZA ISICELO SOLWAZI

### 11.1 Amafomu esicelo

- 11.1.1 Isicelo sokuthola ulwazi singenziwa kukho kokubili ezinhlanganweni zomphakathi nezizimele.
- 11.1.2 I-**PAIA** idinga ukuthi uma ufuna ukwenza leso sicelo, kufanele uthumele isicelo ngefomu elidingekayo (lawa mafomu anqunywe yiMithethonqubo). Kunezinhlango ezimbili ezingasetshenziswa lapho usebenzisa ilungelo lokuthola ulwazi.

IFomu 2	IFomu 4
Leli fomu lingasetshenziswa kuphela uma ufuna ukucela ukuthola amarekhodi ezinhlango zomphakathi noma ezizimele.	Leli fomu lingasetshenziswa kuphela uma ufuna ukufaka isikhalazo sangaphakathi esiphikisa izinqumo zeZikhulu Zezolwazi noma lezo zamaSekela Ezikhulu Zezolwazi zeMikhakha KaHulumeni Kazwelonke, Wezifundazwe noma Wendawo lapho kufanele siye kumkhakha isikhalazo sangaphakathi.

- 11.1.3 La mafomu angatholakala kuwebhusayithi yoMlawuli ku <https://www.justice.gov.za/infoereg/>

### 11.2 Ukunquma ukuthi isicelo ngesemininingwane egcinwe yinhlango ezimele noma yomphakathi

- 11.2.1 Inhlango yomphakathi yenza umsebenzi womphakathi, njengokuhlinzeka umphakathi ngogesi noma ngamanzi. Ngenxa yalokho, inhlango yomphakathi ayiyona nje uMnyango kaHulumeni kaZwelonke, weZifundazwe noma waSekhaya – ibandakanya izinkampani zikaHulumeni noma iZinhlango ZoMbuso ezifana noMlawuli, i-Eskom, noma i-PRASA, kodwa-ke, kufanele kwenziwe umehluko maqondana nenhlango yomphakathi ngenhloso yesikhalo sangaphakathi, okubhekiswe kuphela kuHulumeni kaZwelonke, weSifundazwe noma waSekhaya.

- 11.2.2 Inhlango ezimele yenza umsebenzi wangasese. Inhlango enjalo (okungaba ngumuntu) wenza uhwebo, ibhizinisi noma umsebenzi othile. Kubaluleke kakhulu ukuqaphela ukuthi lapho kufakwa isicelo se-**PAIA** enhlango wenziwe ezimele, umuntu kufanele asho ukuthi yiliphi ilungelo alivikelayo noma alisebenzisayo ngokucela lolu lwazi. Mayelana nanoma yiluphi ulwazi olugcinwe ngomunye umuntu, uStreicher JA wafingqa le ndaba ngendlela elandelayo, **eCape Metropolitan Council v Metro Inspection Services (Western Cape) CC nabanye**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) indinyana 28 kwi-1026F-G



*“Imininingwane ingadingeka kuphela ekusetshenzisweni noma ekuvikelweni kwelungelo uma lizoba usizo ekusetshenzisweni noma ekuvikelweni kwelungelo. Lokhu kulandela ukuthi, ukuze kuvulwe icala lokutholakala kolwazi ngokwesigaba 32, umceli kufanele asho ukuthi yiliphi ilungelo afisa ukulisebenzisa noma ukulivikela, ukuthi yiluphi ulwazi oludingekayo nokuthi lolo lwazi lungamsiza kanjani ekusebenziseni noma ekuvikeleni lelo lungelo”.*

11.2.3 Ngezinye izikhathi umbuzo wokuthi irekhodi liyirekhodi lomphakathi noma langasese yini ungaba nzima futhi umphakathi welulekwa ukuba ufune izeluleko zomthetho. Isibonelo, uma inhlangano yomphakathi iqoka inhlangano ezimele ukuba iyenzele imisebenzi ethile, njengokufakwa kwamamitha amanzi emiphakathini ethile, ukuthola inani lamamitha afakiwe, noma ngabe lolo lwazi lugcinwe yileyo nhlangano ezimele, luyobhekwa njengolwazi lwenhlangano yomphakathi.

11.3 Umuntu ulichaza kanjani ilungelo anethemba lokulisebenzisa noma ukulivikela?

11.3.1 Lapho umuntu echaza ukuthi yiliphi ilungelo anethemba lokulisebenzisa lapho enza isicelo enhlanganweni ezimele, akakwazi ukubhekisela kwilungelo lokuthola ulwazi. Umuntu kufanele achaze ukuthi irekhodi alicelayo lidingeka kanjani ngokunengqondo ukuze avikele, noma asebenzise elinye ilungelo. Lokhu kungabandakanya amalungelo okungewona amalungelo angokomthethosisekelo kuphela.

11.3.2 Umuntu, ngokwesibonelo, angase adinge amapulani ayinhloko avela enkampanini engase ibe nomthelela emazingeni okonakalisa imvelo emphakathini, ukuze amsize ekuvikeleni ilungelo lomuntu ngokuqondene nemvelo ngokuqapha imisebenzi yaleyo nkampani. Noma umuntu angadinga amarekhodi, azomsiza ekunqumeni ukuthi unalo yini ilungelo lokumangalela inkampani ethile. Ngenxa yalokho, umuntu kudingeka:

11.3.2.1 Alisho ngokuthe ngqo ilungelo anethemba lokulivikela noma lokulisebenzisa, bese

11.3.2.2 Echaza ngokucacile ukuthi kungani irekhodi alicelayo lidingeka ngokuzwakalayo ekumsizeni ngalelo lungelo

11.3.3 Ngokuphambene nalokho, lapho kufakwa isicelo se-**PAIA** enhlanganweni yomphakathi, akudingeki ukuthi umuntu abe nesizathu sokucela ulwazi.

## 12. UBANI ONGENZA ISICELO SE-PAIA?

12.1 Noma yimuphi umuntu, noma ngabe ungowaseNingizimu Afrika noma akayena owaseNingizimu Afrika, uvunyelwe ukwenza isicelo ngaphansi kwe-**PAIA**. Umceli angaba ngumuntu wemvelo noma umuntu ongokomthetho.

- 12.2 Inhlangano yomphakathi ibhekwa njengomuntu ongokomthetho futhi ingenza isicelo sokuthola amarekhodi agcinwe yizinhlangano ezizimele, kodwa kuphela uma inhlangano yomphakathi -
- 12.2.1 yenzela ukuzuzisa umphakathi, futhi
  - 12.2.2 uma amarekhodi edingeka ukuze kufezwe noma kuvikelwe noma yimaphi amalungelo ngaphandle kwalawo enhlangano yomphakathi.
- 12.3 Ngaphansi kwe-**PAIA** umceli akakwazi ukucela ukuthola irekhodi, lenhlangano yomphakathi, eliqukethe imininingwane yangasese ephathelene nomceli enhlanganweni yomphakathi<sup>15</sup>, kodwa noma kunjalo umceli noma umninilwazi, ngokwesigaba 23(1)(b) se-**POPIA**, angacela enhlanganweni ethintekayo irekhodi noma incazelo yemininingwane yomuntu siqu ephathelene nomninilwazi egcinwe yileyo nhlangano ethinyekayo. Lokhu kusho ukuthi noma yimuphi umuntu manje angacela ukuthola imininingwane yakhe siqu egcinwe yinhlangano yomphakathi noma ezimele lapho eveza ubufakazi obanele bokuthi ungubani. Imininingwane yomuntu siqu leyo umceli angayicela enhlanganweni ethintekayo, okubandakanya imininingwane mayelana nobunikazi babo bonke abantu besithathu, noma izigaba zabantu besithathu, abaye, noma abake bayithola leyo mininingwane.
- 12.4 Ngokwesigaba 50(1) se-**POPIA**, noma yimuphi umuntu angacela ukuthola irekhodi, lenhlangano ezimele, eliqukethe imininingwane yangasese ephathelene nomceli noma umuntu isicelo esenzelwa yena.

### 13. SINGENZIWA KOBANI ISICELO?

- 13.1 ISikhulu Sezolwazi enhlanganweni yomphakathi kudingeka ukuba siqoke iSekela LeSikhulu Sezolwazi, okufanele liqinisekise ukuthi amarekhodi enhlangano yomphakathi atholakala ngakho konke okusemandleni. Yize lokhu bekungeyona imfuneko maqondana nenhlangano ezimele ngaphansi kwe-**PAIA**, inhlangano ezimele ingakhetha iSekela LeSikhulu Sezolwazi esishiwo ngenhla, ngokwesigaba 56 se-**POPIA**.
- 13.2 Isicelo sokutholakala kolwazi, nakuba singase siyiswe eSikhulwini Sezolwazi, singathunyelwa kwiSekela LeSikhulu Sezolwazi. Imininingwane yeSekela LeSikhulu Sezolwazi ingatholakala ebhukwini le-**PAIA** yaleyo nhlangano noma kuMlawuli.

### 14. UKUGCWALISA IFOMU

- 14.1 IFomu 2 - isicelo sokuthola irekhodi lenhlangano yomphakathi noma ezimele:
- 14.1.1 Ukuze agcwalise ifomu le-**PAIA**, umuntu kudingeka anikeze imininingwane eyanele ukuze iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi bakwazi ukubona ukuthi yimaphi amarekhodi afunwa ngumceli.

<sup>15</sup> Isigaba 11(2) se-PAIA

- 14.1.2 IMithethonqubo Ye-PAIA iyalicacisa ifomu okufanele lisetshenziswe, okumele lithunyelwe eSikhulwini Sezolwazi, noma kwiSekela LeSikhulu Sezolwazi kuleyo nhlangano.
- 14.1.3 Abaceli abangakwazi ukufunda nokubhala bangenza izicelo zomlomo eSikhulwini Sezolwazi noma kwiSekela LeSikhulu Sezolwazi enhlanganweni yomphakathi, okuyiso okuyobe sekumele sigcwalisele lowo mceli ifomu 2. Ifomu lamanje lizodinga ukuba ugcwalise lezi zingxenye ezilandelayo:

### **Imininingwane edingekayo Incazelo**

#### **Imininingwane yenhlango yomphakathi / ezimele**

Le ngxenye kufanele ibe ne-imeyili nenombolo yefeksi efanele yeSikhulu Sezolwazi kanye/noma iSekela LeSikhulu Sezolwazi.

#### **Imininingwane yomuntu ocela ukuthola amarekhodi**

Lokhu kufanele kube neminingwane eyanele mayelana nomceli ukuze kube lula ukumazi umceli, okubandakanya imininingwane yokuxhumana nomceli: ikheli leposi, ikheli le-imeyili, inombolo yefeksi kanye/noma yocingo yaseNingizimu Afrika. Iphinde icele nenombolo yakho kamazisi ukuqinisekisa ubuwena. Uma ulwazi ulucelela omunye umuntu, kumele kuhlinzekwe ubufakazi besikhundla owenza ngaso leso sicelo ('njengomuntu ogunyaziwe').

#### **Imininingwane yerekhodi elicelwayo**

Nikeza imininingwane ephelile yerekhodi ocela ukulithola, okubandakanya inombolo yereferensi uma uyazi, ukuze lelo rekhodi litholakale. (Uma isikhala esinikeziwe singanele, sicela uqhubeke ekhasini elihlukile bese ulihlanganisa nefomu. Wonke amakhasi angeziwe kufanele asayinwe.

#### **Uhlobo lwerekhodi**

Lokhu kufanele kube neminingwane eyanele mayelana nerekhodi ukuze kube lula ukulifuna. Uma imininingwane edingekayo ingeke yanele esikheleni esinikezwe efomini, kungasetshenziswa elinye ikhasi elibhalwe ngomshini noma ngesandla ukunikeza imininingwane eyengeziwe yesicelo, inqobo nje uma ikhasi ngalinye

## Iminingwane edingekayo Incazelo

elengeziwe lisayiniwe futhi lahlanganiswa nefomu lesicelo. Ungase, ngokwesibonelo, ufake nokuthile okukhiphe embikweni noma kwabezindaba okukhomba irekhodi olifunayo. Ikuvumela ukuba ufake inombolo yereferensi yerekhodi, uma ikhona.

### Izinkokhiso

Inhlangano, leyo umceli ahlose ukusithumela kuyo isicelo sokuthola irekhodi, okubandakanya irekhodi eliqukethe iminingwane yakhe, ingakucela ukuba ukhokhe imali yesicelo (imali yokuthola ulwazi) noma imali yediphozithi, kepha leyo mali akumele yeqe ngokweqile, njengoba lezi zinkokhiso kufanele zibe ngezesikhathi esizwakalayo esidingekayo ukucinga nokulungisa irekhodi. UNgqongqoshe angase ngesaziso kuSomqulu akukhulule ekukhokheni lezi zimali njengoba kubhalwe esigabeni 51.1 ngezansi.

Kunikezwa isikhala sokuba umceli abonise ukuthi kungani ekholwa ukuthi kufanele akhululwe ekukhokheni noma yiziphi izimali. Isizathu singabandakanya, ngokwesibonelo, ukuthi akasebenzi.

### Indlela yokuthola irekhodi

Le ngxenye ikuvumela ukuba uphawule ngo-"X" izindlela ofisa ukulithola ngazo irekhodi, ngekhophi ephrintiwe yerekhodi kanye/noma i-flash drive kanye/noma i-compact disc drive.

### Isimo sokuthola irekhodi

Ngaphansi kwale ngxenye kumele usho ulimi ofuna ukulithola ngalo irekhodi (lokhu kungase kungenzeki maqondana nawo wonke amarekhodi, kepha kusamele usho lokho okukhethayo).

Isimo sokuthola irekhodi singaba nomthelela ekwenqatshelweni ngenxa yezinkokhelo eziphezulu. Isibonelo, uma umceli efuna idokhumenti ngolimi oluthile alukhethayo,

## Imininingwane edingekayo Incazelo

kungase kudingeke ukuba akhokhele izindleko zokuguqulela lelo rekhodi olumini alufunayo. Kodwa-ke, uma irekhodi lingatholakali ngolimi olufunayo, ungavunyelwa ukulithola ngolimi lelo rekhodi elitholakala ngalo. Isimo sokuthola irekhodi singabandakanya ukuzihlolela wena irekhodi, ukuthunyelwa kwerekhodi nge-imeyili, noma ifeksi noma ikhuriya noma iposi.

### Isaziso esiphathelene nesicelo sokuthola ulwazi

Kunikezwa isikhala sokuba umceli achaze indlela afisa ukwaziswa ngayo ngesinqumo sokuvunywa noma sokwenqatshwa kwesicelo. Umceli angacacisa ngokwesibonelo ukuthi angathanda ukuthintwa nge-imeyili noma ngocingo noma impendulo ingathunyelwa ngeposi noma ngekhuriya.

### Imininingwane yelungelo elizosetshenziswa noma elizovikelwa

Lapho ecela ulwazi enhlanganweni ezimele umceli kudingeka ukuba achaze “imininingwane yelungelo okufanele lisetshenziswe noma livikelwe”. Lapha kufanele asho ilungelo athembele kulo (njengelungelo lakhe lokuba sendaweni enempilo) nokuthi irekhodi alicelayo lizomsiza kanjani ekusebenziseni noma ekuvikeleni lelo lungelo. Kumele abonise ukuxhumana phakathi kwerekhodi alifunayo, nokusetshenziswa noma ukuvikelwa kwelungelo.

Ngeshwa, ngokungafani nesicelo sokuthola irekhodi lenhlangano yomphakathi, akakwazi ukuthola irekhodi lenhlangano ezimele uma engachazanga ilungelo noma amalungelo ahlose ukuwavikela noma ukuwasebenzisa uma eyinikwa imvume. Lokhu kungabandakanya iqiniso lokuthi ngemuva kokuthola amarekhodi, uzobe esesebenzisa ilungelo lakhe lokuvikelwa nokuhlomula ngomthetho<sup>16</sup> ngokumangalela leyo nhlangano ngomonakalo okungenzeka uye wabhekana nawo.

<sup>16</sup> Isigaba 9(1) somthethosisekelo weRiphabhuliki YaseNingizimu Afrika, uMthetho 108 ka-1996

14.1.4 Uma ngasizathu simbe isicelo sakhe singahambisani nezimfuneko ezibalulwe ngenhla, iSikhulu Sezolwazi ngeke sivele sisenqabe nje isicelo sakhe, ngaphandle uma simazisa umceli ukuthi sihlose ukusenqaba isicelo, sinikeze nezizathu. ISikhulu Sezolwazi kumele simazise nokuthi sizomsiza umceli noma simnikeze ithuba lokulungisa iphutha.

## 15. IZINKOKHISO

15.1 Ngokuvamile, izinkokhiso kudingeka zikhokhelwe kokubili ukwenza isicelo, kodwa futhi ukhokhele nezindleko zokuthola amarekhodi ngokwesicelo. Nakuba kunjalo, zikhona izimo okungakhokhiswa kuzo. Uma umceli enikezwa imvume yokuthola amarekhodi awacelile futhi engakhululwanga ekukhokheni noma yiziphi izimali, njengoba kushiwo endimeni 15.2 ngezansi, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele lingamkhokhisa imali enqunyiwe maqondana nezinhlu ezilandelayo -

**PHAWULA: Uhlaka lwezinkokhiso maqondana nezimali ezikhokhelwa iZinhlango Zomphakathi NeZizimele lungatholakala kuwebhusayithi yoMlawuli Wezolwazi.**

Isici	Incazelo
1	Inkokhiso yesicelo ekhokhwa yibo bonke abaceli
2	Ifothokhophi yekhasi eliyi-A4
3	Ikhophi eprintiwe yekhasi eliyi-A4
4	Ngokuqondene nekhophi efundeka kwikhompyutha: <ul style="list-style-type: none"> <li>(i) I-Flash drive (kumele ilethwe umceli)</li> <li>(ii) I-Compact disc               <ul style="list-style-type: none"> <li>• Uma ilethwe umceli</li> <li>• Uma ihlinzekelwe umceli</li> </ul> </li> </ul>
5	Ukuguqulelwa emagameni kwerekhodi eliyizithombe ikhasi ngalinye eliyi-A4
6	Ikhophi yezithombe
7	Ukuguqulelwa emagameni kwerekhodi eliyinkulumo, ikhasi ngalinye eliyi-A4
8	Ikhophi yerekhodi eliyinkulumo: <ul style="list-style-type: none"> <li>(i) I-Flash drive (kumele ilethwe umceli)</li> <li>(ii) I-Compact disc               <ul style="list-style-type: none"> <li>• Uma ilethwe umceli</li> <li>• Uma ihlinzekelwe umceli</li> </ul> </li> </ul>
9	Ukucinga irekhodi nokulilungiselela ukulikhipha ihora ngalinye noma ingxenye yehora, ngaphandle kwehora lokuqala, elidingeka ngokufanelekile kulokho kucinga nokulungiselela. Kungadluli ingqikithi yezindleko engu Postage, e-mail or any other electronic transfer
10	Idiphozithi: Uma ukucinga kweqa emahoreni ayi-6
11	Iposi, i-imeyli noma enye indlela yokuthumela ngezobuchwepheshe

15.2 Umceli akudingeki akhokhe imali yokuthola ulwazi<sup>17</sup> enhlanganweni yomphakathi uma:-

15.2.1 Engumuntu ongashadile umholo wakhe wonyaka, ngemuva kokudonswa okuvumelekile, njenge-**PAYE** ne-**UIF**, ungaphansi kuka-**R14712.00** ngonyaka, noma

15.2.2 Eshadile futhi umholo wakhe uhlangene nowakwakhe, ngemuva kokudonswa okuvumelekile, njenge-**PAYE** ne-**UIF**, ungaphansi kuka-**R27192.00** ngonyaka.

15.3 Sicela wazi ukuthi inhlango yomphakathi noma ezimele ingacela, kwiFomu 4 kwiMithethonqubo, idiphozithi kumceli, kodwa kuphela uma ikholelwa ukuthi imininingwane noma amarekhodi aceliwe kuzothatha amahora angaphezu kwayisithupha (6) ukuwacinga, kepha inani lediphozithi alikwazi ukuba ngaphezu kwengxenye eyodwa kwezintathu zemali ebekiwe.

## 16. INGABE ISIKHULU SEZOLWAZI SIYOMSIZA UMCELI ENZE ISICELO SE-PAIA?

16.1 Indima yeZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi kokubili ezinhlango yomphakathi nezizimele, maqondana nokucutshungulwa kwezicelo zokuthola amarekhodi, kumele:

16.1.1 zithole isicelo se-**PAIA** noma se-**POPIA**;

16.1.2 ziqondise ukucutshungulwa kwesicelo enhlanganweni;

16.1.3 zithathe isinqumo sokuvumela noma ukwenqabela ukutholakala kwamarekhodi acelwayo;

16.1.4 zikuxhumane nomceli (isb. zingadinga ukucela eminye imininingwane kumceli noma zingadinga ukucela ukwelula isikhathi sokusingatha isicelo, njll);

16.1.5 zazise umceli ngomphumela wesicelo sakhe se-**PAIA**, isaziso okufanele sinikezwe ngokushesha ngangokunokwenzeka kodwa zingakapheli izinsuku ezingama-30 ngemuva kokuthola isicelo. Isikhathi sokuqala sezinsuku ezingama-30 singanwetshwa kube kanye isikhathi esingeqile kwezinye izinsuku ezingama-30, uma ngokwesibonelo, umceli evumelene nokwelulwa kwesikhathi noma uma ukucingwa kwamarekhodi aceliwe kungenakuphothulwa phakathi nesikhathi sokuqala.

16.1.6 zinikeze umceli izizathu zesinqumo sokunqabela ukutholakala kwamarekhodi. Kubaluleke kakhulu ukuthi izizathu zokwenqaba ezinikezwayo zicace bha, zenabe kahle futhi kufanele zibe nokuthile okuvela ezigabeni ezithile ze-**PAIA** (bheka indima 19.4 ngezansi, maqondana nezizathu zokwenqatshwa kokutholakala kwamarekhodi<sup>18</sup>);

<sup>17</sup> ngokwesaziso sikaHulumeni R991 sika-14 Okthoba 2005

<sup>18</sup> Isigaba 33 kuya ku-46 se-PAIA



- 16.1.7 zazise abantu besithathu abafanele ngenqubo yokwazisa abantu besithathu, ngokwesigaba 47 se-**PAIA**; futhi
- 16.1.8 uma ukutholakala kwamarekhodi kuvunywa, zinike umceli ikhophi yerekhodi.
- 16.2 Lapho kwaziswa umceli ngesinqumo, makushiwo nezindlela zokuthola usizo olukhona kanye nezikhathi ezifanele (usizo olutholakalayo luhlukile ezinhlanganweni zomphakathi nezizimele).
- 16.3 Indima nezibopho ezengeziwe zeZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi zichazwe kabanzi kwiZiqondiso zeZikhulu Zezolwazi namaSekela EZikhulu Zezolwazi, uZiqondiso ezitholakala ku <https://www.justice.gov.za/infoleg/docs.html>
- 16.4 Ngenxa yokuthi umsebenzi weZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi uwukwenza lula isicelo sokutholakala kolwazi, lokhu kusho nokuthi zinezibopho ezihlukahlukene kulabo abenza isicelo.
- 16.5 IZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi kumele usizo zilunikeze mahhala.
- 16.6 IZikhulu Zezolwazi kanye/noma amaSekela EZikhulu Zezolwazi enhlanganweni yomphakathi zinale misebenzi ekhethekile elandelayo:

## Imisebenzi YeZikhulu Zezolwazi Incazelo

### Ukusiza ekugcwaliseni ifomu

ISikhulu Sezolwazi kufanele sinikeze usizo olufanele kumceli ekugcwaliseni ifomu lakhe le-**PAIA**, futhi asinakwenqaba ukwamukela ifomu elingagcwaliswanga kahle ngaphandle kwalapho silunikezile lolo sizo, noma sicelile ukulekelela noma ukusiza kodwa umceli wenqaba.

### Ukuhlinzeka ngemininingwane edingekayo

Uma kungenzeka, iSikhulu Sezolwazi kufanele sinikeze umceli noma yimiphi eminye imininingwane engase ibaluleke, ngisho noma ingacelwanga ngqo.

### Ukudlulisela isicelo

Lokhu kungumsebenzi obaluleke kakhulu. Uma isicelo se-**PAIA** senziwa enhlanganweni yomphakathi engafanele, iSikhulu Sezolwazi kufanele sidlulisele isicelo ehlanganweni yomphakathi efanele zingakapheli **izinsuku**



**eziyi-14** sisitholile leso sicelo futhi kufanele sazise umceli ngokumbhalela ukuthi yilokho esikwenzile ngesicelo sakhe. Uma isicelo sesidlulisiwe, iSikhulu Sezolvazi esifanele kumele siphendule ngesinqumo zingakapheli **izinsuku ezingama-30**.

**Ukuhlehliswa  
kokukhishwa  
kwamarekhodi**

ISikhulu Sezolvazi singanquma ukuhlehlisa ukukhishwa kwerekhodi kumceli uma lelo rekhodi lizoshicilelwa zingakapheli izinsuku ezingama-90 noma uma lelo rekhodi lifunwa ngumthetho ukuba lishicilelwe kodwa kuwuthi yikhona lisazoshicilelwa.

16.7 Kukho kokubili izinhlangano zomphakathi nezizimele, iSikhulu Sezolvazi, uma singakwazi ukuthola amarekhodi athile aceliwe noma sikholelwa ukuthi lawo marekhodi awekho, kumele sithumele incwadi efungelwe enable noma isiqinisekiso<sup>19</sup> kumceli sinimkeza isaziso sokuthi amarekhodi awacelile awekho noma awatholakali, kodwa futhi sichaze nezinyathelo esizithathile ukuwafuna.

## 17. USIZO OLUTHOLAKALA KUMLAWULI WEZOLWAZI NGOKWE-PAIA NE-POPIA

17.1 ISikhulu Sezolvazi enhlanganweni yomphakathi sinesibopho sokunikeza usizo olufanele<sup>20</sup>, mahhala, lapho kudingeka ukuze lowo mceli noma umninilwazi ahambisane nendlela yokuthola ulwazi njengoba kushiwo esigabeni 18 se-**PAIA** nasesigabeni 23 se-**IPOPIA**.

17.2 Kodwa-ke, uma iSikhulu Sezolvazi sihluleka ukufeza umsebenzi waso, okukhulunywe ngawo endimeni 17.1 ngenhla, umceli noma umninilwazi angafaka isikhalazo kuMlawuli futhi uMlawuli, lapho kuphenywa, angakhipha iSaziso Sokuphoqelela esiqondisa eSikhulwini Sezolvazi ukuba sinikeze usizo olufanele.

17.3 UMlawuli, uma kungenzeka, eceliwe, angasiza noma yimuphi umuntu ofisa ukusebenzisa noma yiliphi ilungelo elishiwo kwi-**PAIA** ne-**POPIA**<sup>21</sup>, futhi lokhu kubandakanya ukunikeza usizo olufanele, mahhala, lapho kudingeka ukuze lowo mceli noma umninilwazi ahambisane nendlela yokuthola ulwazi njengoba kushiwo esigabeni 18 no-53 se-**PAIA** nasesigabeni 23 se-**POPIA**.

17.4 Lokhu okungenhla kubandakanya ukunikeza isiqondiso sendlela yokugcwalisa ifomu lokuthola ulwazi olufunwa umuntu ongakwazi ukubhala nokufunda nongaboni.

<sup>19</sup> Isigaba 23(1) no-51(1) ze-PAIA

<sup>20</sup> Isigaba 19(1) se-PAIA

<sup>21</sup> Isigaba 83(3)(c) se-PAIA

## 18. ISIKHULU SEZOLWAZI SINGAKWAZI YINI UKWELULA IZIKHATHI EZIDINGEKAYO?

- 18.1 Uhlaka lwenqubo nezikhathi ezibalulekile ezidingekayo ziqukethwe emdwebeni wenqubo yokufaka isicelo se-**PAIA**, endimeni 27 ngezansi. Ukuba nezikhathi ezibekiwe kuyingxenywe ebalulekile ye-**PAIA**, njengoba kukhuthaza ukuphathwa ngendlela ephumelelayo kwezicelo zokuthola amarekhodi.
- 18.2 Ukukukhumbuza, uma ususithumele isicelo sakho kahle, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi, okuyiso esithunyelelwe noma esidluliselelwe isicelo, kufanele sikuphendule ngokushesha ngangokunokwenzeka kodwa kunoma yikuphi **zingakapheli izinsuku ezingama-30**<sup>22</sup>. Kodwa-ke, iSikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele singacela ukwelulwa kube kanye **kwesikhathi sezinsuku ezingama-30**<sup>23</sup>, kodwa kuphela uma:
- 18.2.1 isicelo sifuna inqwaba yamarekhodi noma sidinga ukuba kucingwe emarekhodini amaningi kakhulu futhi, ngaphandle kokwelulwa kwesikhathi, lokhu kucinga kungaphazamisa imisebenzi evamile yaleyo nhlangano ethintekayo;
- 18.2.2 isicelo sidinga ukuba kucingwe kumarekhodi asehhovisi aleyo nhlangano angekho edolobheni elifanayo futhi ngaleyo ndlela kungenakuphuthulwa zingakapheli izinsuku ezingama-30; kanye/noma
- 18.2.3 kudingeka ukuba kuthintwe abathile ngezanga elithile ukuze kufezwe isicelo, okuyinto engenakuphuthulwa zingakapheli izinsuku ezingama-30.
- 18.3 ISikhulu Sezolwazi kufanele sazise umceli ngenhloso yaso yokunweba ubude besikhathi sokuqala, futhi sisho ubude besikhathi esinwetshiwe, isizathu sokunwetshwa kwesikhathi, futhi simazise umceli ngelungelo lakhe -
- 18.3.1 lokukhalaza lolo daba kwiziphathimandla ezifanele;
- 18.3.2 lokukhalaza kuMlawuli; noma
- 18.2.3 lokufaka isikhalo enkantolo sokuphikisa ukwelulwa kwesikhathi lapho kudingeka.
- 18.4 ISikhulu Sezolwazi kufanele futhi sazise umceli ngenqubo yelungelo ngalinye kulawa ashiwo ngenhla esazisweni<sup>24</sup>.

## 19. IZIMPENDULO ZESICELO SOKUTHOLA ULWAZI

- 19.1 I-**PAIA** inikeze umphakathi ilungelo lokucela ukuthola amarekhodi kunoma iyiphi inhlangano yomphakathi noma ezimele. Kuvame ukuchazwa njengomthetho ogcina izakhamuzi zazi ngohulumeni wazo. Izinhlangano zomphakathi kudingeka zidalule noma yiluphi ulwazi olucelwe ngaphansi kwe-**PAIA** ngaphandle uma

<sup>22</sup> Isigaba 25(1) se-PAIA

<sup>23</sup> Isigaba 26(1) se-PAIA

<sup>24</sup> Isigaba 26(3) se-PAIA - isaziso sokunweba isikhathi kumele sisho ukuthi umceli angakwazi ukufaka isikhalazo sangaphakathi, akhalaze kuMlawuli Wezolwazi, kuye ngezimo, ngokunwetshwa kwesikhathi, nangenqubo (okubandakanya ubude besikhathi) ukufaka isikhalazo sangaphakathi, ukukhalaza kuMlawuli Wezolwazi, kuye ngezimo.

ingena ngaphansi kwesinye sezizathu **zokukhululwa eziyishumi nambili (12)** noma izizathu zokuthi kungani ukutholakala kwamarekhodi enhlangano yomphakathi kungase kungavunyelwa noma kungafanele kuvunyelwe<sup>25</sup> kanye nezizathu zokukhululwa **eziyisikhombisa (7)** noma izizathu zokuthi kungani ukuthola amarekhodi enhlangano ezimele kungase kungavunyelwa noma kungafanele kuvunyelwe<sup>26</sup>. Izizathu zokukhululwa eziyishumi nesishiyagalolunye (19) ezihlinzekwe kwi-**PAIA** zihloselwe ukuvikela izintshisekelo ezifana nobumfihlo bemininingwane yomuntu siqu, ukuphepha kwezwe, kanye nokugcinwa komthetho.

19.2 Isimiso esiyisisekelo sokusetshenziswa kwe-**PAIA** siwukukholelwa ekubekeni izinto obala. Lokhu kusho ukuthi noma yisiphi izizathu sokunciphisa lokhu kubekwa kwezinto obala kumele sizwakale. Izinhlango zomphakathi kufanele nokuba zibheke ukuthi ingabe zingakwazi yini ukudalula ingxenye ethile yolwazi noma nini lapho zinquma ukuthi ukudalulwa kwalo lonke ulwazi akunakwenzeka futhi kufanele zikhiphe noma zihlele kabusha imininingwane engenakudalulwa bese ziyidalula yonke esele.

### 19.3 Izinhlobo zezimpendulo zezicelo

19.3.1 Lapho isicelo sokuthola irekhodi sesenziwe, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi, uma isicelo sokuthola irekhodi sivunywa noma sinqatshwa, kumele sazise umceli-

- (a) Ngesinqumo saso, kanye
- (b) Nezinkokhiso ezifunekayo, uma zikhona,

efomini elihambisana kakhulu neFomu 3 leSithasiselo A kwiMithethonqubo.

19.3.2 Kodwa-ke, i-**PAIA** inikeza uhlu lwezizathu noma izisekelo (zokukhululwa) (bheka indima 19.4 no-19.6 ngezansi) zokuthi kungani isicelo singase senqatshwe noma kufanele senqatshwe. Lokhu kubalulekile, njengoba isicelo singenqatshwa kuphela ngesisekelo sesinye salezi zizathu ezisohlwini lokwenqabela ukuthola amarekhodi.

19.3.3 Naphezu kwezizathu ezibalulwe ngenhla zokwenqatshwa kokutholakala kwamarekhodi, iSikhulu Sezolwazi enhlanganweni yomphakathi kufanele sisivume isicelo sokuthola irekhodi lenhlango uma intshisekelo yomphakathi ekudalweni kwerekhodi kusobala ukuthi idlula ubungozi obushiwo ezizathwini zokwenqaba ezisohlwini. Lokhu kusho ukuthi umceli angathembela kwintshisekelo yomphakathi noma nini lapho kusetshenziswa esinye sezizathu zokwenqabela ukutholakala kwamarekhodi.

19.3.4 Ngamafuphi, izizathu zokuthi kungani ulwazi lungenakudalulwa zihambisana nokuthi ukudalulwa kwalolo lwazi kungadala umonakalo omkhulu yini kunokungadalulwa kwalo. Kunezinhlobo ezimbili ezehlukene zezizathu zokwenqabela ukutholakala kwamarekhodi enhlangano:

<sup>25</sup> Isahluko 4 se-PAIA- izizathu zokwenqabela ukutholakala kwamarekhodi (isigaba 34-45 se-PAIA)

<sup>26</sup> Isahluko 4 of PAIA - izizathu zokwenqabela ukutholakala kwamarekhodi (isigaba 63-69 se-PAIA)

<sup>27</sup> Isigaba 46 se-PAIA

## 19.4 Izipathu eziyimpoqo zokwenqaba (izipathu zokukhululwa)

19.4.1 Ngenxa yezipathu eziyimpoqo, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele sisenqabe isicelo ngoba ziyasebenza kulo rekhodi.

19.4.2 Kunezipathu eziyimpoqo eziningi kunezipathu ezingeyona impoqo. Lokhu okulandelayo kuyizipathu eziyimpoqo zokwenqaba, futhi iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kumele sisenqabe isicelo ngoba ziyasebenza kulelo rekhodi –

### 19.4.2.1 **Ukuvikelwa okuyimpoqo kwemininingwane yangasese yomuntu wesithathu ongumuntu wemvelo;**

ISikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele akufanele sivumele umceli ukuba athole imininingwane eyimfihlo yomunye umuntu uma lokho kuzoba ‘ukudalula okungafanele’. Izigaba ngokwazo ziveza izipathu ezimbalwa lapho lokhu kungasebenzi khona, njengalapho amarekhodi esevele esesemphakathini, noma lapho umuntu eyinikezile imvume. Udaba lwemvume lubaluleke kakhulu njengoba luxhuma kwenye ingxenye yenqubo umceli okufanele ayazi, ephathelene nezaziso zokwazisa abantu besithathu, ngokwesigaba 5 se-PAIA.

### 19.4.2.2 **Ukuvikelwa okuyimpoqo kwamarekhodi athile oPhiko Lwezentela LwaseNingizimu Afrika;**

ISikhulu Sezolwazi Sakwa-SARS akufanele sivumele umceli ukuba athole amarekhodi atholwe, noma agcinwe ngu-SARS ngezinhloso zokuqoqa imali. Kodwa-ke, amarekhodi atholwe noma agcinwe yi-SARS awanakwenqatshelwa uma isicelo senziwa ngumceli ofuna amarekhodi akhe noma omuntu amcelelayo.

### 19.4.2.3 **Ukuvikelwa okuyimpoqo kolwazi lwezebhizinisi lomuntu wesithathu;**

ISikhulu Sezolwazi enhlanganweni akumele sivumele umceli ukuba athole ulwazi lwezebhizinisi lomunye umuntu (ngamanye amagama, okungeyena umceli noma ocelwayo). Lokhu kungabandakanya ulwazi olunjengezimfihlo zokuhweba, noma lokho okungasongela ibhizinisi lalowo muntu wesithathu. Isibonelo, i-KFC isebenzisa amaresiphi athile, okubandakanya nezithako ezithile ezenziwe umuntu wesithathu, okuyizimfihlo zokuhweba zalowo muntu wesithathu futhi ukuzidalula kungasongela ibhizinisi lalowo muntu wesithathu.

19.4.2.4 **Ukuvikelwa okuyimpoqo kolwazi oluthile oluyimfihlo, nokuvikelwa kolunye ulwazi oluyimfihlo, lomuntu wesithathu;**

IZikhulu Zezolwazi ezinhlanganweni zomphakathi nezizimele akumele zivumele umceli ukuba athole irekhodi uma ukukhishwa kwalo kuzofana nokwephula isivumelwano sokugcina imfihlo esenziwe nomuntu wesithathu.

19.4.2.5 **Ukuvikelwa okuyimpoqo kokuphepha kwabantu, nokuvikelwa kwempahla;**

ISikhulu Sezolwazi ezinhlanganweni somphakathi nezizimele akumele sivumele umceli ukuba athole irekhodi uma ukukhishwa kwalo kungalindeleka ukuba kubeke engcupheni ukuphepha komuntu. Ezigabeni ezifanayo, ibuye ithi iSikhulu Sezolwazi enhlanganweni singase sikwenqabele ukutholakala kwerekhodi uma kungenzeka kuthikameze ukuphepha kwesakhiwo noma kwempahla.

19.4.2.6 **Ukuvikelwa okuyimpoqo kwamadokhethi amaphoyisa lapho kwenziwa ibheyili, nokuvikelwa kokugcinwa komthetho kanye nezinqubo zomthetho;**

ISikhulu Sezolwazi enhlanganweni yomphakathi akumele sivumele umceli ukuba athole amarekhodi anjengamarekhodi ebheyili asevele evikelwe kakade yisigaba 60 soMthetho Wenqubo Yobugebengu. Kuso lesi sigaba, ibuye ithi iSikhulu Sezolwazi enhlanganweni yomphakathi singase sikwenqabele ukutholakala kwamarekhodi okuphoqelelwa komthetho aveza izindlela, amasu, izinqubo zokuvimbela ubugebengu, noma ukushushiswa kwezigebengu, kanye namanye amarekhodi ahlobene nezinqubo zomthetho ezenzekayo.

19.4.2.7 **Ukuvikelwa okuyimpoqo kwamarekhodi avinjelwe ukukhiqizwa ezinqubweni zomthetho;**

ISikhulu Sezolwazi enhlanganweni ezimele akumele sivumele umceli ukuba athole irekhodi uma lelo rekhodi livinjelwe ukukhiqizwa ezinqubweni zomthetho, ngaphandle kwalapho umuntu onelungelo lalelo rekhodi elisusa ilungelo lakhe.

19.4.2.8 **Ukuvikelwa okuyimpoqo kolwazi locwaningo lomuntu wesithathu, kanye nokuvikelwa kolwazi locwaningo lwenhlangano yomphakathi noma ezimele.**

ISikhulu Sezolwazi enhlanganweni akumele sivumele umceli ukuba athole irekhodi uma lelo rekhodi lithintene nocwaningo olwenziwa, noma oluzokwenziwa, yileyo nhlangano ethintekayo futhi ukukhishwa kwalo kungadalula umcwaningi, umuntu wesithathu noma udaba olucwaningwayo okungabangela izinkinga ezinkulu.

19.4.3 Uyacelwa ukuba uphawule ukuthi lezi zizathu ezingenhla eziyimpoqo zokwenqabela ukutholakala kwamarekhodi ziyafana ngadlathile ezinhlanganweni zomphakathi nezizimele, ngaphandle kokuvikelwa okuyimpoqo kwamarekhodi athile oPhiko Lwezentela LwaseNingizimu Afrika, amadokhethi amaphoyisa lapho kwenziwa ibheyili, ukuphoqelelwa komthetho nawezinqubo zomthetho, ezisebenza kuphela ezinhlanganweni zomphakathi.

19.4.4 Uma kuyingxenye ethile kuphela yerekhodi ethintwa yizizathu zokwenqaba, iSikhulu Sezolwazi enhlanganweni yomphakathi noma ezimele singaphansi kwesibopho sokubheka ukuthi ukudalulwa kwengxenye ethile yolwazi kungenzeka yini noma nini lapho sinquma ukuthi ukudalulwa kwalo lonke ulwazi akunakwenzeka kufanele sithathe izinyathelo ezifanele zokukhipha noma ukuhlela kabusha leyo ngxenye engenakunikezwa umceli bese siyivumela yonke ingxenye esele yerekhodi

## 19.5 Kuthathwa ngokuthi isicelo senqatshiwe<sup>28</sup>

19.5.1 Ukwahluleka ukuphendula kahle isicelo singakapheli isikhathi esibekiwe kubhekwa ngokuthi 'kuthathwa ngokuthi isicelo senqatshiwe'. Lokhu kubalulekile, ngoba i-PAIA ivumela umceli ukuba aphikise isinqumo lapho kungekho sinqumo esenziwe nesicelo singanakangwa. Umceli angavele asho nje lapho efaka isikhalazo sangaphakathi ukuthi akatholanga mpendulo.

19.5.2 Isicelo sokuthola amarekhodi sithathwa njengesinqatshiwe ngemuva kokuphela kwezinsuku ezingama-30 noma kwesikhathi eseluliwe, inhlango yomphakathi noma ezimele ingaphenduli.

## 19.6 Izizathu zokwenqaba ezingeyona impoqo

19.6.1 Ngenxa yezizathu ezingeyona impoqo, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi singabheka ukuthi sisenqabe yini noma cha isicelo ngoba izizathu zisebenza kwirekhodi eliceliwe. Ngenxa yokuthi aziyona impoqo, iSikhulu Sezolwazi kufanele sisebenzise umqondo waso ngokufanele lapho sibheka izizathu ezihlukahlukene, okuyilezi:

19.6.1.1 **ezokuvikela zaseNingizimu Afrika, ezokuphepha kanye nobudlelwano bamazwe omhlaba:** ISikhulu Sezolwazi singakwenqabela ukutholakala kolwazi uma ukukhishwa kwalo kungalindeleka ukuba kusongele ezokuvikela noma ukuphepha kwezwe. Lokhu kungasebenza nalapho ukukhishwa kolwazi kungalimaza ubudlelwano beNingizimu Afrika nelinye izwe, njengokuveza amarekhodi ahlinzekwe ngokuyimfihlo.

19.6.1.2 **Ezomnotho, ezezimali nezebhizinisi:** ISikhulu Sezolwazi singase sikwenqabele ukutholakala kolwazi uma ukukhishwa kwalo kuzolimaza ezomnotho nezezimali zeRiphabhuliki;

<sup>28</sup> Isigaba 27 no-58 ze-PAIA



19.6.1.3 **Ukusebenza kwezinhlangano zomphakathi:** ISikhulu Sezolwazi enhlanganweni yomphakathi singakwenqabela ukutholakala kolwazi uma ukukhishwa kwalo kungaphazamisa imisebenzi, ngokwesibonelo uma izama ukwakha inqubomgomo, noma ibhunga ngodaba oluthile;

19.6.1.4 **Izicelo ezibonakala zingenasisekelo noma ezichukuluzayo:** IZikhulu Sezolwazi zingase sisenqabe isicelo solwazi uma zinombono wokuthi ukucubungula lezo zicelo kuzothatha isikhathi ngokungadingekile, kuholele ekuchithekeni kwezimali. Ngaphezu kwalokho, zingakwenqabela ukutholakala kwerekhodi uma kubonakala sengathi umceli wenzela ukucasula nokuchukuluza okungadingekile.

## 20. UKUDALULWA OKUYIMPOQO KWAMAREKHODI OKUZUZISA UMPHAKATHI

20.1 Ngisho noma sikhona isizathu esingeyona impoqo noma esiyimpoqo sokwenqaba isicelo sokuthola amarekhodi ezinhlangano zomphakathi noma ezizimele, kuhlale kunethuba lokuthi izidingo zomphakathi ekudalulweni kwerekhodi zibaluleke kakhulu kunokulimala okungase kubangelwe ukukhishwa kwerekhodi.

20.2 Lapho ukubaluleka kwezidingo zomphakathi kukhona njengoba kushiwo ngenhla futhi ukudalulwa kwerekhodi kuzoveza ubufakazi bokwepfulwa okukhulu, noma ukwehluleka ukuthobela umthetho; noma ingozi yokuphepha komphakathi eseduze futhi ebucayi noma ukuba sengcupheni kwezemvelo, lapho-ke iSikhulu Sezolwazi enhlanganweni kufanele sisivume isicelo sokuthola irekhodi naphezu kokuba nezizathu zokwenqaba ezishiwo ngenhla.

## 21. INQUBO YOKWAZISA UMUNTU WESITHATHU<sup>29</sup>

21.1 ISikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi enhlanganweni, ngokwesigaba 47 no-71 se-**PAIA**, kudingeka sithathe zonke izinyathelo ezifanele zokwazisa umuntu wesithathu ngesicelo serekhodi lakhe noma amarekhodi angaba yirekhodi eliqukethe imininingwane yomuntu yangasese,

21.1.1 irekhodi lakwa-**SARS**;

21.1.2 izimfihlo zokuhweba

21.1.3 imininingwane ukudedelwa kwayo okungaba yizizathu zesenzo sokwephula isibopho sokugcina imfihlo; noma ulwazi locwaningo olungadalula othile noma udaba okungabangela umonakalo omkhulu.

21.2 Isaziso esiya kumuntu wesithathu lowo amarekhodi noma ulwazi lwakhe yilo oluceliwe kufanele simeme umuntu wesithathu ukuba -

<sup>29</sup> Isigaba 47 no-71 ze-PAIA

- 21.2.1 enze izethulo ezibhalwe phansi noma ezenziwa ngomlomo eSikhulwini Sezolwazi ukuthi kungani isicelo sokuthola ulwazi kufanele senqatshwe; noma
- 21.2.2 anikeze imvume ebhaliwe yokudalulwa kwerekhodi kumceli.
- 21.3 Okubalulekile kumceli, i-**PAIA** ithi izaziso ezibhaliwe eziya kumuntu wesithathu kufanele zithunyelwe kumuntu wesithathu **zingakapheli izinsuku ezingama-21** isicelo samukelwe, nokuthi iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele lazise umceli ukuthi isaziso sithunyelwe kumuntu wesithathu.
- 21.4 Uma lesa saziyo sesithunyelwe, iSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kufanele sibe sesithathu isinqumo esingujuqu sokuthi sizowadedela yini noma cha amarekhodi **zingakapheli izinsuku ezingama-30** lesa saziyo sithunyelwe.
- 21.5 Umuntu wesithathu kufanele aziswe ngesinqumo esithathiwe futhi kufanele kunikezwe nezizathu ezanele zokuvunywa kwesicelo. Umuntu wesithathu kufanele futhi aziswe nangelungelo nenqubo yokuphikisa isinqumo njengoba kushiwo esigabeni 22 ngezansi.

## **22. USIZO LWEZOMTHETHO OLUTHOLAKALAYO EKUPHIKISENI IZINQUMO NOMA UKUNGATHATHI SINQUMO KWESIKHULU SEZOLWAZI NOMA ISEKELA LESIKHULU SEZOLWAZI**

- 22.1 Isinyathelo ongasithatha lapho nje isinqumo sesicelo sesenziwe
- 22.1.1 Umceli angathatha isinyathelo sokulandelela ngokubhala, isinqumo esisalenga seSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi. Kukhuthazwa ukuthi konke ukuxhumana phakathi komceli neSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi kumele kubhalwe phansi ukuze kusetshenziswe esikhathini esizayo.
- 22.1.2 Kunezinqubo ezihlukahlukene zezinhlango zomphakathi nezizimele, ikakhulukazi maqondana nezikhalazo zangaphakathi. Isibonelo, maqondana nesicelo sokuthola irekhodi lenhlango yomphakathi, umceli kufanele aqale ngokufaka isikhalazo sangaphakathi ngaphambi kokuya kuMlawuli noma eNkantolo. Kodwa-ke, asikho isikhalazo sangaphakathi sokuphikisa isinqumo (noma ngabe kuvunyiwe noma kwenqatshiwe ukutholakala kwamarekhodi) noma lokho okuthathwa njengokwenqatshwa kokutholakala kwamarekhodi enkampani ezimele.
- 22.1.3 Lesi sigaba sizochaza usizo lwezomthetho olutholakalayo kubaceli abafisa ukuphonsela inselelo lezo zinqumo, okubandakanya ukufaka isikhalazo kwangaphakathi, ukufaka isikhalazo kuMlawuli nokuyisa isikhalazo eNkantolo. Bheka neshadi lokulandelana kwezinyathelo zenqubo yesicelo se-**PAIA**, esigabeni 27 ngezansi.



22.1.4 Umceli angase, phakathi kokunye, aphikise isinqumo esilandelayo senhlangano ezimele kanye/noma yomphakathi -

22.1.4.1 ithenda noma ukukhokhwa kwemali yesicelo;

22.1.4.2 ithenda noma ukukhokhwa kwediphozithi;

22.1.4.3 imali yokuthola ulwazi okumele ikhokhwe yeqe kakhulu;

22.1.4.4 indlela enikeziwe yokuthola irekhodi;

22.1.4.5 ukwenqatshwa kwesicelo;

22.1.4.6 inkambiso (okubandakanya nobude besikhathi) yokufaka isikhalazo sangaphakathi;

22.1.4.7 ukunwetshwa kwesikhathi okungafanele okwenzelwe ukuphendula isicelo sokuthola ulwazi;

22.1.4.8 ukwehluleka ukudalula amarekhodi;

22.1.4.9 ukuvunywa kwesicelo sokuthola irekhodi;

22.1.4.10 ukwenqatshwa kwesicelo sokungakhokhi;

## 22.2 Usizo lwangaphakathi

22.2.1 Umceli usifaka kanjani isikhalazo sangaphakathi sokuphikisa isinqumo senhlangano yomphakathi?

22.2.1.1 Isikhalazo sangaphakathi singafakwa kuphela, ngokwesigaba 74 se-**PAIA**, kuziphathimandla ezifanele zomkhakha kahulumeni kazwelonke noma wesifundazwe noma yimuphi umasipala emkhakheni kahulumeni wendawo kuye ngohlobo lwesikhalo.<sup>30</sup>

22.2.1.2 Ngokwesibonelo, iDolobha LaseGoli liyisibonelo somkhakha kahulumeni wendawo lapho isicelo sangaphakathi singafakwa khona. ISikhwama Sezingozi Zomgwaqo noma uMlawuli uyisibonelo senhlangano yomphakathi engeyona ingxenye kahulumeni kazwelonke, wesifundazwe noma wasekhaya njengoba emiswe ngumthetho, okusho ukuthi isikhalazo sangaphakathi asinakufakelwa zona.

<sup>30</sup> Isigaba 74(1) se-PAIA

22.2.1.3 Lapho umceli noma umuntu wesithathu engeneme ngesinqumo esenziwe yiSikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya, umceli noma umuntu wesithathu unelungelo lokufaka isikhalazo sangaphakathi, ngokwesigaba 74(1) noma u-(2) kwi-**PAIA**. Inqubo yokufaka isikhalazo ibekiwe ebhukwaneni le-PAIA laleyo nhlango futhi indlela yokufaka isikhalazo sangaphakathi ichaziwe nalapha ngezansi.

22.2.1.4 Uma impendulo evela emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya ithathwa njengokwenqaba, ngamanye amazwi, wehlulekile ukuphendula isicelo ezinsukwini ezingama-30 noma kunoma yisiphi isikhathi eseluliwe, umceli angafaka isikhalazo sangaphakathi, ngokwenqubo echazwe lapha, ngaphambi kokuba umceli aye kuMlawuli noma eNkantolo.

## 22.3 **Ukulondolozwa kwamarekhodi kuze kube yilapho sethithathiwe isinqumo sokugcina maqondana nesicelo**

22.3.1 ISikhulu Sezolwazi somkhakha kahulumeni kaZwelonke, weSifundazwe noma waSekhaya lapho kufakwe khona isikhalazo sangaphakathi kuyadingeka, ngokwesigaba 21 se-**PAIA**, ukuba sithathe izinyathelo ezifanelekile ezidingekayo ukuze kugcinwe irekhodi futhi asinakucisha noma sishabalalise noma yiliphi irekhodi eliceliwe, kuze kube yilapho ekugcineni seziphothulwe zonke nanoma yiziphi izinqubo zesikhalazo sangaphakathi noma isikhalazo kuMlawuli noma isikhalazo enkantolo, kuye ngohlobo lwesikhalazo.

22.3.2 Lokhu kusho ukuthi isikhulu sezolwazi asikwazi ukucisha noma ukushabalalisa noma yiluphi ulwazi oluceliwe, kuyilapho kusalindwe inqubo eshiwo endimeni 22.3.1.1 ngenhla.

## 22.4 **Isikhalazo sangaphakathi kufanele sibhekiswe kubani?**

22.4.1 Nakuba isikhalazo sizobhekwa yisiphathimandla esifanele, isikhalazo sangaphakathi kufanele silethwe noma sithunyelwe eSikhulwini Sezolwazi soMkhakha KaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, kuye ngohlobo lwesikhalazo, ekhelini lakhe, kwinombolo yefeksi noma ekhelini le-imeyili , imininingwane yaso etholakala ebhukwaneni le-**PAIA** noma kuMlawuli.

22.4.2 ISikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wendawo, kuye ngohlobo lwesikhalazo, sinesibopho esiqondile, ngokwesigaba 75(4) se-**PAIA**, sokuletha isikhalazo kusiphathimandla

<sup>31</sup> Isigaba 75(1)(b) se-PAIA

sezikhalazo, kanye nezizathu zaso zesinqumo esiphikiswayo. Ukulethwa kwesikhalazo kuziphathimandla ezifanele kufanele kwenziwe zingakapheli izinsuku eziyi-10 zokusebenza ngemuva kokutholwa kwesikhalazo.

## 22.5 Ubani oyisiphathimandla esifanele?

22.5.1 Isiphathimandla esifanele, lapha esibizwa ngokuthi “yisiphathimandla sezikhalazo” ngokuvamile siyinhloko yezepolitiki enhlanganweni ethintekayo (nakuba lo msebenzi ungadluliselwa ngokusemthethweni komunye umuntu) futhi kusho ngqo abantu abandelayo

Inhlangano Yomphakathi (“UHulumeni”)	Isiphathimandla Esifanele (“Isiphathimandla Sezikhalazo”)
<b>IHhovisi LikaMongameli</b>	Umuntu oqokwe ngencwadi nguMongameli, uma ekhona, uma kungenjalo uMongameli uyisiphathimandla sezikhalazo.
<b>UMnyango Kazwelonke</b>	UNgqongqoshe owengamele lowo mnyango noma umuntu oqokwe ngencwadi ngulowo Ngqongqoshe
<b>IHhovisi LikaNdunankulu</b>	Umuntu oqokwe ngencwadi nguNdunankulu.
<b>UMnyango Wesifundazwe</b>	ILungu LoMkhandlu Ophethe ( <b>MEC</b> ) elengamele lowo Mnyango Wesifundazwe noma umuntu oqokwe ngencwadi ngu- <b>MEC</b> .
<b>UMasipala</b>	IMeya, uSomlomo noma omunye umuntu oqokwe ngencwadi nguMkhandlu KaMasipala walowo masipala.

22.5.2 Noma yisiphi isimo, lapho kungesilo ihhovisi likandunankulu: ilungu lesigungu esiphethe elengamele leyo nhlangano yomphakathi noma umuntu oqokwe ngencwadi yilelo lungu.

22.5.3 Uma isiphathimandla sezikhalazo sivumelana nesinqumo seSikhulu Sezolwazi, kuyosho ukuthi isikhalazo sangaphakathi siyenqatshwa futhi isinqumo sokuqala seSikhulu Sezolwazi siyasebenza. Kodwa-ke, uma isiphathimandla sezikhalazo singavumelani nesinqumo seSikhulu Sezolwazi, kuyosho ukuthi isikhalazo siyavunywa futhi isinqumo sokuqala siyachithwa.

22.5.4 isinqumo seSikhulu Sezolwazi siyaqhubeka sisebenza. Kodwa-ke, uma igunya lezikhhalazo lingavumelani nesinqumo seSikhulu Sezolwazi, isikhhalazo sizovunywa kuthi isinqumo sokuqala sichithwe.

## 22.6 Ubani ongafaka isikhhalazo sangaphakathi?

22.6.1 Noma yimuphi umceli ofake isicelo se-**PAIA** sokuthola amarekhodi emkhakheni kaHulumeni kaZwelonke, weZifundazwe noma waSekhaya, kuye ngohlobo lwesicelo, sabe sesiyenqatsha, futhi ekholwa ukuthi esinye sezizathu zokufaka isikhhalazo ezishiwo endimeni 22.2.4 ngenhla siyasebenza esicelweni sakhe, unelungelo lokufaka isikhhalazo sangaphakathi.

22.6.2 Abantu besithathu nabo bangazifaka izikhhalazo zangaphakathi eziphikisa isinqumo esenziwe iSikhulu Sezolwazi sokuvumela ukutholakala kwerekhodi elibathintayo. Uma isikhhalazo sangaphakathi sithinta umuntu wesithathu, isiphathimandla sezikhhalazo esithole isikhhalazo sangaphakathi kudingeka sazise labo bantu besithathu (okusho ukuthi umthwalo uyasuka eSikhulwini Sezolwazi uye kusiphathimandla sezikhhalazo).

## 22.7 Ubude besikhathi sokufaka isikhhalazo

22.7.1 Isikhalo sangaphakathi kufanele sifakwe -

22.7.1.1 kungakapheli **izinsuku ezingama-60**<sup>32</sup> ngemuva kokuthathwa kwesinqumo;

22.7.1.2 zingakapheli **izinsuku ezingama-30**<sup>33</sup> ngemuva kokuba isaziso sinikezwe umuntu wesithathu mayelana nesinqumo esikhhalazelwayo.

22.7.2 Ukufaka isikhhalazo sangaphakathi ngemuva kwalesi sikhathi esishiwo ngenhla (sekwedlule isikhathi) akunakuvunyelwa, ngaphandle kwalapho isiphathimandla sezikhhalazo sinikezwa isizathu esizwakalayo sokuza sekwephuzile. Isibonelo, njengokulaliswa esibhedlela ngaphezu kwezinsuku ezingama-60 kungamukelwa njengezizathu ezizwakalayo zokuphuza ukufika.

22.7.3 Uma isiphathimandla sezikhhalazo singakwamukeli ukufakwa kwesikhhalazo sangaphakathi sekwedlule isikhathi, kufanele sikunikeze izizathu zokwenqaba isikhhalazo futhi sikunikeze umhlahlandlela wanoma yiluphi olunye ulwazi olwengeziwe, uma lukhona, oludingekayo ukuze samukele isikhhalazo. Isiphathimandla sezolwazi kumele futhi sikweluleke ngenqubo yokufaka isikhhalazo ngesinqumo saso kuMlawuli noma enkantolo.

<sup>32</sup> Isigaba 75(1)(a)(i) se-PAIA

<sup>33</sup> Isigaba 75(1)(a)(ii) se-PAIA

22.7.4 Njengoba kubonisiwe ngenhla, isikhalazo sakho kufanele silethwe yiSikhulu Sezolwazi kwisiphathimandla sezikhalazo zingakapheli izinsuku eziyi-10 zokusebenza ngemuva kokuthola isikhalazo sangaphakathi<sup>34</sup>.

## 22.8 Isaziso sesikhalazo esithunyelwa yisiphathimandla sesikhalazo kumceli noma kumuntu wesithathu

22.8.1 Isiphathimandla sezikhalazo kufanele, ngokushesha okukhulu ngangokunokwenzeka kodwa kunoma yikuphi kungakapheli **izinsuku ezingama-30** ngemuva kokuthola isikhalazo sangaphakathi<sup>35</sup>, sazise -

22.8.1.1 umuntu wesithathu ongumnikazi walelo rekhodi elikhalazelwayo, noma

22.8.1.2 umceli mayelana nesikhalazo sangaphakathi sokuphikisa ukuvunyelwa kwesicelo sokuthola irekhodi.

22.8.2 Umceli noma umuntu wesithathu onikezwa isaziso, zingakapheli **izinsuku ezingama-21** ngemuva kokuba esinikiwe leso saziso, angenza izethulo ezibhaliwe kusiphathimandla sezikhalazo ukuthi kungani isicelo sokuthola irekhodi kufanele sivunyelwe noma kungafanele sivunyelwe.

## 22.9 Isinqumo ngesikhalazo sangaphakathi nesesaziso saso<sup>36</sup>

22.9.1 Isiphathimandla sezikhalazo kufanele sinqume maqondana nesikhalazo sangaphakathi ngokushesha ngangokunokwenzeka kodwa kunoma yikuphi kungakapheli izinsuku ezingama-30:

22.9.1.1 ngemuva kokuthi isikhalazo sangaphakathi sifikile eSikhulwini Sezolwazi kuyo nhlangano;

22.9.1.2 ngemuva kokwaziswa komuntu wesithathu, njengoba kushiwo endimeni 22.3.6.1 ngenhla.

22.9.2 Isinqumo sesiphathimandla sezikhalazo kufanele siyiswe kumkhalazi, umuntu wesithathu nakumceli. Isinqumo sesiphathimandla sezikhalazo kufanele sihambisane nezizathu ezanele zesinqumo, okubandakanya izinhlinzeko ze-**PAIA** noma ze-**POPIA** okusekelwe kuzo isinqumo.

22.9.3 Uma isiphathimandla sezikhalazo sehluleka ukukhipha isaziso ngesinqumo sesikhalazo sangaphakathi sisinike umkhalazi kungakapheli izinsuku ezingama-30, isikhalazo sithathwa njengesichithiwe futhi umkhalazi angaqhubeka afake isikhalazo kuMlawuli noma aye eNkantolo ukuze athole usizo olufanele<sup>37</sup>.

<sup>34</sup> Isigaba 75(4) se-PAIA

<sup>35</sup> Isigaba 76(2)(a) se-PAIA

<sup>36</sup> Isigaba 77 se-PAIA

<sup>37</sup> Isigaba 77(7) se-PAIA

## 22.10 Ukugcwalisa isikhalazo sangaphakathi - IFomu 4

- 22.10.1 Ukuze afake isikhalazo sangaphakathi sokuphikisa noma yisiphi isinqumo esenziwe umkhakha kaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, umceli kumele afake isikhalazo sakhe sangaphakathi ngokugcwalisa iFomu 4. IFomu 4 kufanele lithunyelwe eSikhulwini Sezolwazi emkhakheni kahulumeni othintekayo, okuzobe-ke sona sekudingeka ukuba sisidlulisele kusiphathimandla sezikhalazo, njengoba kushiwo ngenhla.
- 22.10.2 IFomu 4 liyatholakala kwiwebhusayithi yoMlawuli, <https://www.justice.gov.za/inforg/>, nakuwebhusayithi yomkhakha kaHulumeni othintekayo.
- 22.10.3 ISikhulu Sezolwazi noma iSekela LeSikhulu Sezolwazi emkhakheni kaHulumeni othintekayo asikho ngaphansi kwesibopho esiqondile sokusiza umceli agcwalise ifomu lesikhalazo sangaphakathi; kodwa-ke, umceli usengasicela iSikhulu Sezolwazi ukuba simsize kulokhu.
- 22.10.4 Ngezansi kunenqubo yesinyathelo ngasinye sokugcwalisa ifomu lesikhalo sangaphakathi

### **Iminingwane edingekayo    Incazelo**

#### **Iminingwane yehlangano yomphakathi**

Le ngxenye kufanele ibe negama lomkhakha othintekayo kaHulumeni kaZwelonke, weSifundazwe noma waSekhaya, negama nesibongo seSikhulu Sezolwazi.

#### **Iminingwane somkhalazi ofake isikhalazo sangaphakathi**

Le ngxenye kufanele igcwaliswe ngumkhalazi, kungaba umelele othile noma cha. Amagama aphelele nesibongo, inombolo kamazisi kanye nesikhundla akwenza ngaso lokhu, okubandakanya lapho isikhalazo sangaphakathi senzela omunye umuntu, uma kudingeka, kufanele konke kushiwo. Uma umuntu ezenzela yena isikhalazo, kufanele akusho lokho. Iminingwane eyengeziwe edingekayo ibandakanya iminingwane yokuxhumana nalowo mceli:

## **Iminingwane edingekayo**

## **Incazelo**

ikheli leposi, ikheli le-imeyili, ifeksi kanye/noma inombolo yocingo. Le miningwane kufanele ifane nesesicelweni sokuqala. Uma umuntu ogcwalisa ifomu engummeleli womceli, ubufakazi besikhundla asifaka ngaso isikhalazo kufanele buhlanganiswe naleli fomu.

## **Iminingwane yomuntu owenzelwa isicelo (Uma sifakwa ngumuntu wesikhathu)**

Le ngxenye idinga ukugcwaliswa kuphela ngumuntu ulwazi alucelela omunye umuntu. Uma umuntu ofaka isikhalazo sangaphakathi kungeyena umuntu owayecele ulwazi ekuqaleni, iminingwane yalowo mceli kufanele ihlinzekwe lapha. Uma umuntu ezenzela yena isicelo, akudingeki ukuba le ngxenye igcwaliswe.

## **Isinqumo esifakelwe isikhalazo sangaphakathi**

Ifomu linesikhala sokuba umceli abonise ngo-“x”, ukuthi yisiphi ezizathwini zokukhalaza ezisohlwini esisebenza esikhalazweni sakhe.

## **Izizathu sokukhalaza**

Ngaphansi kwale ngxenye, umceli kudingeka achaze kabanzi ukuthi kungani ecabanga ukuthi izizathu zokukhalaza ziyasebenza kuye. Kudingeka anikeze izizathu zokuthi kungani ecabanga ukuthi isinqumo seSikhulu Sezolwazi asilungile. Kudingena nokuba afake noma yimaphi amaphepha asekelwa isikhalazo. Uhlu lwezizathu ezisekelwa isikhalazo lungachazwa kabanzi ekhasini elihlukile, uma isikhala esisefomini singenele. Amakhasi angeziwe azothunyelwa kufanele asayinwe.

Kufanele kube nezizathu ezanele neminingwane esekelayo ukuze isiphathimandla sezikhalazo senze isinqumo sinolwazi. Lokho kusho ukuthi umuntu kufanele futhi afake uhlaka lwazo zonke izinto ezenzekile kuze kube yilapho efaka isikhalazo sangaphakathi. Ekhasini elihlukile, umuntu angakhomba izigaba ezithile ze-**PAIA** njengesisekelo sesikhalazo.

#### Isaziso sesinqumo sesikhalazo

Kunesikhala sokuchazwa kwendlela isinqumo okufanele sithunyelwe ngayo, ngokwesibonelo ngeposi, ngekhuriya noma ngefeksi noma nge-imeyili. Sicela ukhethe indlela oyithandayo yokuthola isaziso.

22.10.5 Nakuba kungekho lutho oluvimbela umuntu ukuba athole ummeli ozomsiza kunoma yiliphi iqophelo lesicelo solwazi, izinqubo ezehlukahlukene ze-**PAIA** zenzelwe ukwenza izinto zibe lula, okususa isidingo sommeli nezindleko zezomthetho okumele zikhokhwe.

## 23. ISIKHALAZO ESIYA KUMLAWULI WEZOLWAZI

- 23.1 Umceli noma umuntu wesithathu angathumela kuphela isikhalazo kuMlawuli ngemuva kokuba lowo mceli noma lowo muntu wesithathu eseyenze yonke inqubo yesikhalazo sangaphakathi sokuphikisa isinqumo seSikhulu Sezolwazi emkhakheni kahulumeni kazwelonke, wesifundazwe noma wasekhaya. Lokhu kusho ukuthi umuntu angaletha kuphela isikhalazo sakhe, sokukhalaza ngomkhakha othile kahulumeni kuMlawuli uma umuntu engathokozile ngesinqumo sesiphathimandla sesikhalazo. UMLawuli uzosenqaba isikhalazo uma inqubo yokukhalaza emkhakheni othintekayo kahulumeni ingakapheli.
- 23.2 Kodwa-ke, maqondana nenhlangano yomphakathi (lapho isikhalazo sangaphakathi singasebenzi) nenhlangano ezimele, umceli noma umuntu wesithathu angasithumela isikhalazo kuMlawuli, uma engagculisekile ngesinqumo senhlangano ethintekayo.
- 23.3 Isikhalazo somceli noma somuntu wesithathu esiya kuMlawuli kufanele sifakwe zingakapheli izinsuku eziyi-180 ngemuva kokuthola isinqumo senhlangano.



23.4 Umceli angafaka isikhalazo kuMlawuli, uma engajabulile -

23.4.1 ngomphumela wesikhalazo sangaphakathi kwisiphathimandla sezikhalalo kunoma yimuphi umkhakha kahulumeni;

23.4.2 ngesinqumo sesiphathimandla sezikhalo sokungavumeli ukufakwa kwesikhalazo sangaphakathi sekwedlule isikhathi;

23.4.3 ngesinqumo seSikhulu Sezolwazi enhlangaweni yomphakathi engeyona ingxenye yanoma yimuphi umkhakha kahulumeni -

23.4.3.1 sokwenqaba isicelo sokuthola ulwazi; noma

23.4.3.2 sokunweba isikhathi sokusingatha isicelo; noma

23.4.3.3 sokukhipha imvume ngendlela ethile.

23.4.4 ngesinqumo senhloko yenhlangano ezimele -

23.4.4.1 sokwenqaba isicelo sokuthola ulwazi; noma

23.4.4.2 sokufuna kukhokhwe imali yesicelo, noma idiphozithi yokuthola ulwazi; noma

23.4.4.3 sokwelula isikhathi sokusingatha isicelo; noma

23.4.4.4 sokukhipha imvume ngendlela ethile.

23.5 Umuntu wesithathu angafaka isikhalazo kuMlawuli, uma engajabule -

23.5.1 ngomphumela wesikhalazo sangaphakathi kwisiphathimandla sezikhalazo emkhakheni kahulumeni othintekayo;

23.5.2 ngesinqumo seSikhulu Sezolwazi enhlanganweni yomphakathi engeyona ingxenye yanoma yimuphi umkhakha kahulumeni sokuvuma isicelo sokuthola ulwazi; noma

23.5.3 ngesinqumo senhloko yenhlangano ezimele sokuvuma isicelo sokuthola irekhodi laleyo nhlangano

## 23.6 Umuntu ukhalaza kanjani kuMlawuli?

- 23.6.1 Isikhalazo kuMlawuli kufanele sibhalwe phansi futhi nefomu lesikhalazo kufanele ligcwaliswe, kungaba ngesandla noma kwi-inthanethi. Ifomu lesikhalazo, iFomu 5, lingadonswa kuwebhusayithi yoMlawuli, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Lokhu kusho ukuthi uMlawuli ngeke asamukele isikhalazo ngocingo; kodwa-ke, uMlawuli kudingeka ukuba anikeze usizo olufanele kunoma yimuphi umuntu ofisa ukufaka isikhalazo futhi lokhu kubandakanya usizo maqondana nokugcwalisa ifomu lesikhalazo.
- 23.6.3 Uma umuntu ephikisa isinqumo seSikhulu Sezolwazi enhlanganweni ezimele, kufanele anikeze ubufakazi obanele bokufakazela ukuthi irekhodi eliceliwe liyadingeka ekusetshenzisweni noma ekuvikeleni noma yimaphi amanye amalungelo. Ukutholakala kwamarekhodi enhlangano ezimele kungavunyelwa kuphela uma umuntu efakazela ukuthi uhlose ukusebenzisa noma ukuvikela noma yimaphi amanye amalungelo ngalelo rekhodi eliceliwe.

## 23.7 Kwenzekani ngemuva kokuthola isikhalazo?

23.7.1 Lapho ethola isikhalazo somuntu, uMlawuli kufanele -

23.7.1.1 aphenye isikhalazo futhi adlulisele lokho akutholile eKomidini Lezokuphoqelela ukuze kuthathwe isinqumo; noma

23.7.1.2 angathathi sinyathelo ngesikhalazo ngenxa yokuthi -

23.7.1.2.1 isikhalazo asithunyelwanga esikhathini esiyizinsuku eziyi-180 futhi kungekho zizathu ezizwakalayo zokuthethelela ukulethwa kwesikhalazo sekwedlule isikhathi;

23.7.1.2.2 isikhalazo asinasisekelo noma siyachukuluza noma asenziwanga ngezinhloso ezinhle; noma

23.7.1.2.3 ngokubheka zonke izimo zesicelo, noma yisiphi esinye isenyathelo asidingekile noma asifanele. Isibonelo, imininingwane eceliwe isiyatholakala kakade emphakathini.

23.7.1.3 lapho ukuxolelana okufanele noma ukusebenzisa imizamo yakhe engcono kakhulu yokuthola lesi sixazululo noma ukusiza izinhlangothi zixazulule izingxabano zazo; nokuba

23.7.1.4 eluleke umkhalazi kanye neSikhulu Sezolwazi, esithintwa yisikhalazo, ngesinyathelo okumele sithathwe.

### 23.8 **Ukuxhumana kokuqala koMlawuli nomkhalazi neSikhulu Sezolwazi maqondana nesikhalazo esifakiwe**

23.8.1 Uma uMlawuli ethatha isinqumo sokungasathathi zinyathelo ngesikhalazo, uMlawuli uzokwazisa umceli ngaleso sinqumo nezizathu zokungasasithathi esinye isinyathelo ngesikhalazo.

23.8.2 Uma uMlawuli enquma ukusiphenya isikhalazo, umceli uzothola incwadi emazisayo ukuthi uMlawuli unqume ukwenza uphenyo.

23.8.3 Lapho isikhalazo sifika, uMlawuli uzodlulisela imininingwane yesikhalazo eSikhulwini Sezolwazi enhlanganweni ethintekayo, bese esicela ukuba sithumele kuMlawuli, impendulo ebhaliwe maqondana nesikhalazo.

### 23.9 **Amandla oMlawuli okuphenya**

23.9.1 UMlawuli unamandla, ngokwesigaba 77G(2) se-**PAIA** -

23.9.1.1 ukusebenzisa yonke imizamo yakhe engcono ukufinyelela lesi sixazululo;

23.9.1.2 ukubiza futhi aphoqebele ukuvela kwabantu phambi koMlawuli;

23.9.1.3 ukubaphoqa ukuba banikeze ubufakazi bomlomo noma obubhaliwe ngaphansi kwesifungo nokuba baveze noma yimaphi amarekhodi;

23.9.1.4 ukuthola nokwamukela noma yibuphi ubufakazi nolunye ulwazi, kungaba ngesifungo, nge-afidavithi;

23.9.1.5 angene futhi aseshe noma yiziphi izakhiwo ezihlala labo abathinyekayo;

23.9.1.6 enze ingxoxo yangasese nanoma yimuphi umuntu kunoma yisiphi isakhiwo angena kuso; nokuba

23.9.1.7 abuze noma yini noma yimiphi imibuzo kulezo zakhiwo uMlawuli ayibona ifanele.

## 23.10 Ukuhlola ukuhambisana nezinhlinzeko ze-PAIA

- 23.10.1 UMlawuli angahlola ukuthi ingabe inhlangotho yomphakathi noma ezimele ngokuvamile iyahambisana yini nezinhlinzeko ze **PAIA**.
- 23.10.2 UMlawuli angenza ukuhlola okungahleliwe kokuthi inhlangotho iyahambisana yini nezinhlinzeko, ngokuzithandela kwayo, kodwa-ke, uMlawuli angenza nokuhlola ukuhambisana nezinhlinzeko uma ecelwa noma enzela iSikhulu Sezolwazi enhlanganweni noma omunye umuntu. Lokhu kusho ukuthi noma yimuphi umuntu angacela uMlawuli ukuba ahlole ukuthi inhlangotho iyahambisana yini nezinhlinzeko. Umuntu futhi angafaka isicelo esingaziwa-mnikazi sokuba kuhlolwe ukuthi inhlangotho iyahambisana yini nezinhlinzeko, ngokusho ukuthi ucela ukuhlala engaziwa.
- 23.10.3 UMlawuli uzohlizeka umuntu ocele ukuhlolwa ukuhambisana nezinhlinzeko umbiko walokho kuhlola kanye nezincomo zezinyathelo okufanele zithathwe, uma zikhona.

## 23.11 Isaziso Solwazi

UMlawuli anganikeza iSikhulu Sezolwazi enhlanganweni iSaziso Solwazi esidinga leyo nhlangano ukuba inikeze uMlawuli imininingwane ebalulwe esazisweni. Isibonelo, uma isikhalazo esifakwe kuMlawuli siphathelene nokwenqatshwa kokutholakala kolwazi ngokwanoma yiziphi izizathu zokwenqaba, uMlawuli angacela, kwiSaziso Solwazi, amakhophi amarekhodi lawo esikwenqabele ukutholakala kwawo ukuze anqume ukuthi izizathu zokwenqaba ziyezwakala yini noma cha.

## 23.12 Ukusungulwa KweKomidi Lokuphoqelela

- 23.12.1 UMlawuli kudingeka ukuba asungule iKomidi Lokuphoqelela<sup>38</sup>, elinamandla -
- 23.12.1.1 okucubungula zonke izindaba ezidluliselwe kulo nguMlawuli ngokwe-**PAIA** bese lisho elikutholile ngazo; nokuba
- 23.12.1.1 lenze noma yiziphi izincomo kuMlawuli maqondana nanoma yisiphi isinyathelo okufanele sithathelwe iSikhulu Sezolwazi kuleyo nhlangano.

## 23.13 Isaziso Sokuphoqelela

- 23.13.1 UMlawuli, ngemuva kokubheka izincomo zeKomidi Lokuphoqelela, anganikeza iSikhulu Sezolwazi kuleyo nhlangano iSaziso Sokuphoqelela -

<sup>38</sup> Isigaba 50 se-POPIA

23.13.1.1 eqinisekisa, echibiyela noma esichitha isinqumo esikhalazelwayo; noma

23.13.1.2 edinga ukuba iSikhulu Sezolwazi sithathe isinyathelo noma singathathi isinyathelo njengokusho koMlawuli Wezolwazi esazisweni.

#### 23.14 **Iyini imiphumela yokungahambasani neZaziso Zokuphoqelela?**

23.14.1 ISikhulu Sezolwazi enhlanganweni esenqaba ukuhambisana nesaziso sokuphoqelela siba necala futhi sizohlawuliswa noma sigqunywe ejele isikhathi esingeqile eminyakeni emithathu noma sigwetshe kokubili inhlawulo nokugqunywa ejele.

23.14.2 Isigaba 77K se-**PAIA** siqokomisa ukubaluleka kwelungelo lokuthola ulwazi noma amarekhodi. Lesi sigaba siqinisa nokubaluleka koMlawuli maqondana nokugqugquzelwa kwelungelo lokuthola ulwazi.

### 24. UKUFAKA ISICELO ENKANTOLO

#### 24.1 **Ubani ongafaka isicelo enkantolo ephikisa isinqumo?**

24.1.1 Umceli noma umuntu wesithathu angafaka isikhalazo enkantolo sokuthola usizo olufanele ngokwesigaba 82 kulezi zimo ezilandelayo kuphela:

24.1.1.1 ngemuva kokuba lowo mceli noma lowo muntu wesithathu esekwenze konke okusenqubweni yesikhalazo sangaphakathi okukhulunywe ngayo esigabeni 22.3 ngenhla; noma

24.1.1.2 ngemuva kokuba lowo mceli noma lowo umuntu wesithathu esekwenze konke okusenkambisweni yezikhalazo okukhulunywe ngayo esigabeni 77A.

24.1.2 Ngokwesigaba 78(1) se-**PAIA**, umceli noma umuntu wesithathu unezinketho ezimbili, kungaba ukudlulisela isinqumo, esishiwo ezigabeni 22.2.4, 23.4 no-23.5 ngenhla, kuMlawuli noma eNkantolo. Yize umuntu engaphoqelekile ukuya kuMlawuli ngaphambi kokuya eNkantolo, kutuswa ukuba umuntu acabange ngokuya kuMlawuli, njengoba uMlawuli enezindlela eziningi futhi ezisheshayo zokuxazulula izingxabano, ngokungafani neNkantolo.

24.1.3 Kodwa-ke, ukuze iNkantolo ibe negunya lokwahlulela udaba, umceli noma umuntu wesithathu kufanele -

24.1.3.1 kube ukuthi akavumelani nezinqumo, ezishiwo esigabeni 22.2.4, 23.4 noma u-23.5 ngenhla; noma

24.1.3.2 kube ukuthi usekwenze konke okusenkambisweni yezikhalazo noMlawuli noma ehoxisa isikhalazo kuMlawuli. Lokhu kusho ukuthi umuntu akakwazi ukuya eNkantolo uma isikhalazo sakhe sisesezithebeni zoMlawuli.

24.1.4 Uma umuntu ephikisa isinqumo seSikhulu Sezolwazi enhlanganweni ezimele, kudingeka ukuba anikeze ubufakazi obanele bokufakazela ukuthi irekhodi eliceliwe liyadingeka ekusebenziseni noma ekuvikeleni noma yimaphi amanye amalungelo.

## 24.2 Umuntu angasifaka nini isikhalazo eNkantolo esiphikisa isinqumo senhlangano noma soMlawuli?

24.2.1 Isikhalazo esifakwa eNkantolo ngumceli noma ngumuntu wesithathu, ongaphumelelanga esikhalazweni sangaphakathi kwisiphathimandla sezikhalazo emkhakheni othintekayo kahulumeni noma engavumelani nesinqumo seSikhulu Sezolwazi enhlanganweni ethile (esishiwo ku-22.2.4 , 23.4 noma ku-23.5 ngenhla) noma lesa soMlawuli, kufanele sifakwe kungakapheli izinsuku eziyi-180 kusukela ngosuku lwaleso sinqumo.

24.2.2 ISikhulu Sezolwazi enhlanganweni ethile noma isiphathimandla sezikhalazo kuHulumeni, kuye ngohlobo lwesikhalazo, singavumelani nesinqumo soMlawuli, singafaka isicelo enkantolo ukuze sithole usizo olufanele ngokwesigaba 82, zingakapheli izinsuku eziyi-180<sup>39</sup>.

24.2.3 Umceli, umuntu wesithathu, noma inhlangano, bangafaka isikhalazo enkantolo sokuba iNkantolo ibuyekeze noma yiziphi izinqumo abangavumelani nazo.

24.2.4 Ukufaka isikhalazo eNkantolo ngaphansi kwe-**PAIA** kwenziwa ngezinkambiso zomthetho, futhi kufanele kube yisinyathelo sokugcina.

24.2.5 Amacala okuthola ulwazi angalalelwa phambi kweNkantolo KaMantshi, njengenkantolo yokuqala<sup>40</sup>, kanye neNkantolo Ephakeme enamandla afanele.

24.2.6 Ukwehluleka ukufaka isikhalazo kungakapheli izinsuku eziyi-180 kungavunyelwa yiNkantolo uma umuntu ebonisa ukuthi izidingo zobulungiswa zifuna kanjalo. Lokhu kusho ukuthi inkantolo ingasamukela isikhalazo esifike sekwedlule isikhathi uma udaba

<sup>39</sup> Isigaba 78(4) se-PAIA

<sup>40</sup> Isigaba 91A se-PAIA neMithetho Yokugqoquzelwa kokutholakala kolwazi, 2019

oluzokwahlulelwa lutholakala lunezinhloso zobulungiswa. Uma amarekhodi aceliwe ezosiza umuntu ekufakeni isikhalazo sokuboshwa noma ezosiza umuntu ekutholeni olunye usizo lwezokwelashwa, ngokwesibonelo, inkantolo kungenzeka imnikeze ushwele kulokhu.

24.2.7 Isicelo singalethwa ngokuhambisana nenqubo ebekwe kumthetho 53 weMithetho YeNkantolo Ephakeme noma ngokomthetho 55 weMithetho YeNkantolo KaMantshi uma kungekho marekhodi noma irekhodi elingaphelele elilethwe ngumphathi.

24.2.8 Uma irekhodi selilethiwe kakade, isikhalazo siyoletwa ngokomthetho 55 weNkantolo KaMantshi, uma nje kunesizathu sokuthi umceli uyakholelwa ukuthi irekhodi eliphelele lezinqubo kungenzeka ukuthi alizange lihlinzekwe ngumphathi, umkhalazi angaqhubeka ngokulandela inqubo ebekwe kuMthetho 53 weMithetho YeNkantolo Ephakeme, ngokukhetha kwayo, kepha abonise kwi-afidavithi yakhe ukuthi kungani kunesizathu sokukholelwa ukuthi irekhodi eligcwele alizange lilethwe<sup>41</sup>.

### 24.3 **Siyini isimo esingokomthetho sesinqumo soMlawuli lapho kusalindwe isinqumo seNkantolo?**

Amandla oMlawuli atholakala ikakhulu kuMthethosisekelo, i-**POPIA** ne-**PAIA**. Ngenxa yalokhu, isaziso sokuphoqelela esikhishwa uMlawuli sinemiphumela yezomthetho, okusho ukuthi siyabopha kuze kube yilapho inkantolo yomthetho inquma okwehlukile. Izinqumo zoMlawuli ziyasebenza futhi ziyaphoqeleka ngaphandle uma kuneNkantolo efanele esho okwehlukile.

### 24.4 **Yimiphi imiyalelo engakhishwa yiNkantolo elalela isikhalazo?**

24.4.1 Inkantolo (kungaba eKaMantshi noma iNkantolo Enkulu) elalela isikhalazo ingenza le miyalelo elandelayo -

24.4.4.1 ukuqinisekisa, ukuchibiyela noma ukuchitha isinqumo seSikhulu Sezolwazi, noma seSiphathimandla Sezikhalazo noma soMlawuli Wezolwazi;

24.4.4.2 ukuyalela iSikhulu Sezolwazi noma iSiphathimandla Sezikhalazo ukuba sithathe isinyathelo esithile noma singasithathi isinyathelo esithile ngokubona kweNkantolo phakathi nesikhathi esithile esishiwo kulowo myalelo.;

24.4.4.3 ukukhipha incwadi evimbelayo yesikhashana noma usizo oluthile oluqondile, umyalelo oyisixazululo noma umyalelo wesinxephezelo;

<sup>41</sup> UMthetho 4 IMithetho yokugququzelwa kokutholakala kolwazi, 2019

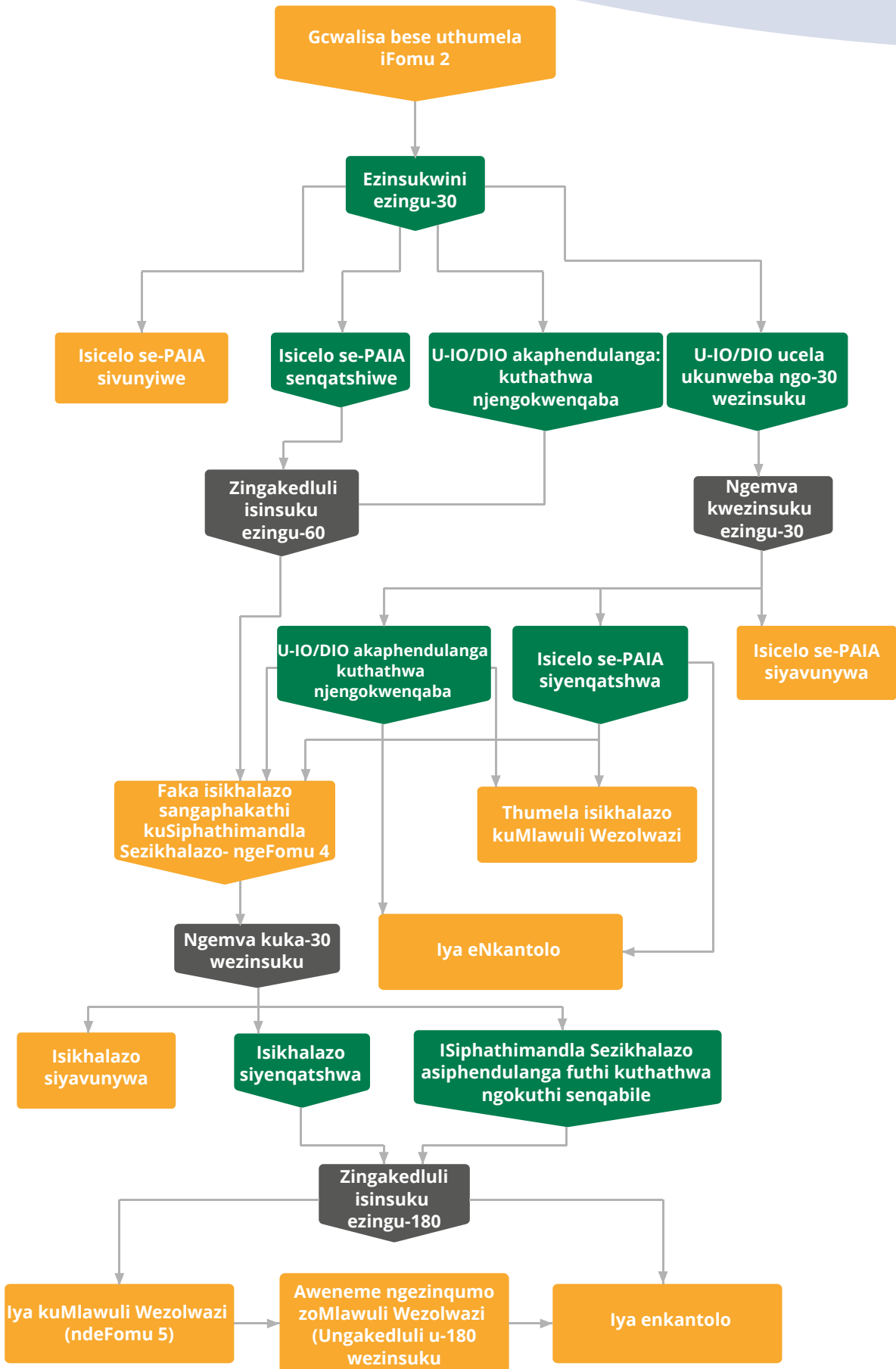
24.4.4.4 ukukhipha umyalelo wezindleko kunoma obani abathintekayo;

24.4.4.5 ngenxa yezobulungiswa, ukuxolela ukungalandelwa kwenkathi yezinsuku eziyi-180 zokufaka isikhalazo. Njengoba kushiwo ngenhla, izizathu ezanele zokuhluleka ukulandela isikhathi esinqunyiwe kufanele zichazwe kabanzi esikhalazweni esihambisana nesicelo sikashwele.

## 25. ISHADI LENQUBO YESICELO SE-PAIA

Sicela ubheke ukulandelana kwezinyathelo zenqubo ngothi lwazo, ezinqubweni okumele zilandelwe lapho usebenzisa ilungelo lokuthola ulwazi.





## 26. IMITHETHONQUBO EYENZIWE NGOKWESIGABA 92 SE-PAIA

- 26.1 Ngokwesigaba 92(1) no-92(4) kwi-**PAIA**, uNgqongqoshe wenza iMithethonqubo emayelana nokuGqugquzelwa Kokutholakala Kolwazi, ehlanganisa izindaba ezilandelayo
- 26.1.1 Izibopho zoMlawuli Wezolwazi (**umthethonqubo 2**);
  - 26.1.2 Izibopho zeZikhulu Zezolwazi (**umthethonqubo 3**)
  - 26.1.3 Ukutholakala ngokuzenzakalelayo kwamarekhodi athile ezinhlangano zomphakathi (**umthethonqubo 4**)
  - 26.1.4 Ukudalula ngokuzithandela nokutholakala ngokuzenzakalelayo kwamarekhodi athile ezinhlangano ezizimele (**umthethonqubo 5**)
  - 26.1.5 Ukutholakala kwamarekhodi amaqembu ezepolitiki (**umthethonqubo 6**)
  - 26.1.6 Isicelo sokuthola ulwazi (**umthethonqubo 7**)
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  - 26.1.8 Isikhalazo sangaphakathi sokuphikisa isinqumo sesikhulu sezolwazi senhlangano yomphakathi (**umthethonqubo 9**)
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  - 26.1.13 Ukucubungula (**umthethonqubo 14**)
  - 26.1.14 Ukuxhumana ngezobuchwepheshe (**umthethonqubo 15**)
  - 26.1.15 Amacala nezinhlawulo (**umthethonqubo 16**)
- 26.2 Ngokwesigaba 79(1) se-**PAIA**, iBhodi Lemithetho yeZinkantolo Zomthetho, ngemvume kaNgqongqoshe, lenza imithetho yenqubo -
- 26.2.1 yenkantolo maqondana nezicelo ngokwesigaba 78 se-**PAIA**; neyokuba
  - 26.2.2 inkantolo ithole izethulo zabathintekayo okukhulunywe ngazo esigabeni 80(3)(a).

## 27. IMITHETHO ESEMQOKA, IMITHETHONQUBO, IZAZISO NESIVUMO

### Imithetho, njengoba iyaye ichitshiyelwe ngezinye izikhathi

UMthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 2 ka-2000

UMthetho Wezobulungiswa Bokuphatha, uMthetho 3 ka-2000

UMthetho Wokuchitshiyelwa Komthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 54 ka-2002

UMthetho Wokuvikelwa Kwemininingwane Yabantu, uMthetho 4 ka-2013

UMthetho Wokuchitshiyelwa Komthetho Wokugqugquzelwa Kokutholakala Kolwazi, uMthetho 31 ka-2019

UMthetho Wokuxhaswa Ngezimali Kwabaqembu EzePolitiki, uMthetho 6 ka-2018

### Imithethonqubo Nezaziso

Isaziso SikaHulumeni	Usuku lokushicilelwa	Isihloko nencazelo
<b>Isaziso SikaHulumeni R. 757 esikwi-GG Nombolo 45057</b>	27 Agasti 2021	Imithethonqubo ehambisana Nokugqugquzelwa Kokutholakala Kolwazi, 2021
<b>Isaziso SikaHulumeni R.991 ku GG 28107</b>	14 Okthoba 2005	Imithethonqubo echaza izizathu zokukhululwa komuntu ekukhokheni izinkokhiso.
<b>Isaziso SikaHulumeni 397 esikwi-GG Nombolo 44785</b>	30 Juni 2021	Ukukhululwa kwezinhlangano ezithile ezizimele ekwenzeni iBhukwana Le- <b>PAIA</b> .
<b>Isaziso SikaHulumeni 1217 ku GG 42717</b>	19 Septhemba 2019	Ukuqokwa kweziNkantolo ZikaMantshi njengezinamandla okulalela izindaba ze- <b>PAIA</b> .
<b>Isaziso SikaHulumeni R. 1284 ku GG 42740</b>	4 Okthoba 2019	Imithetho yenqubo yezicelo ezizokwenziwa ngokwe- <b>PAIA</b> phambi kweNkantolo Ephakeme noma iNkantolo KaMantshi.

## ISIVUMO

Lo Mhlahlandlela obuyekeziwe wokusetshenziswa kwe-**PAIA** ekuqaleni wahlanganiswa yiKhomishini Yamalungelo Abantu YaseNingizimu Afrika (i-**SAHRC**) futhi uMlawuli lapha uyawuvuma umsebenzi wokuqala we-**SAHRC**, kubandakanye nayo yonke imithombo yayo.

Ukhishwe ngu

**MLAWULI WEZOLWAZI**



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# **UMHLAHLANDLELA**

**WOKUSEBENZISA UMTHETHO  
2 WANGO-2000 OKHUTHAZA UKUFUMANEKA  
KWEMININGWANA, NJENGOMBANA UBUYEKEZIWE**

**ISINDEBELE**

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# PAIA GUIDE

## ISANDULELA SAKASIHLAGO

UmThethosisekelo weRiphabliki yeSewula Afrika, 1996<sup>1</sup> (“UmThethosisekelo”) uthi iSewula Afrika mbuso ozijameleko nowentando yenengi osekelwe ekuthuthukiseni kwamalungelo wobuntu nokuziphendulela, nehlelo lokubusa elizibophezeleko nelisobala njengengcenyeyamagugalo. Ngaphambi kobana iSewula Afrika ibe mthethosisekelo wentando yenengi enomThetho-mlingwa okatelelekileko, ihlelo lakaRhulumende weSewula Afrika hlangana nokhunye, libangele bona kube nendlela yokuphila eyifihlo neyokungaziphenduleli kokubili emikhandlwini efihlekileko netjhatjhalazi kanengi ekudosele ekusetjenzisweni kumbi kwamandla nekuphuleni amalungelo wobuntu. Kungebangelo isigaba 32(1) somThetho-mlingwa emThethwenisisekelo, unikela ilungelo lokufumaneka kwemininingwana ephethwe mbuso; nanyana ngimiphi eminye imininingwana ephethwe ngomunye umuntu efunekako bona kuvikelwe nanyana ngimaphi amalungelo. Isigaba 32(2) somThethosisekelo sona sinikela ukwenziwa komthetho welizwe loke osebenza elungelenweli, ngokuhlonipha, ukuvikela, ukuthuthukisa nokuzalisa ilungelweli.

UmThetho Wokukhuthaza Ukufumaneka KweMininingwana No. 2 wango-2000 (la ozokubizwa nge-“**PAIA**”, namkha “umThetho” ngokudlhegana) njengombana ulungisiwe, mthetho welizwe loke owabekwa ngokukhambisana nesigaba esitjhiwo ngehla 32(2) somthethosisekelo.

Umnqopho we-**PAIA**, kukhuthaza isiko lokuveza izinto ebaleni nokuziphendulela emikhandlwini karhulumende nezijameleko. Yenza lokho ngokuthi inikele ilungelo ekufumaneni imininingwana nokuthuthukisa ngekuthalo umphakathi lapho abantu beSewula Afrika bafumana imininingwana ngokuphumelelako ukubenza bakwazi ukusebenzisa nokuvikela woke amalugelwabo bebefikelele ibhudango leSewula Afrika lentando yengengi evulekileko nehlanganyela.

Umhlahlandlela we-**PAIA** lo wenzelwe ukuzalisa isibopho somLawuli weMininingwana (“UmLawuli”) ngaphasi kwesigaba 10 se-**PAIA**, esilendele bona umLawuli abuyekeze begodu enze umHlahlandlela okhona ohlanganiswe yiKomitjhini yamaLungelo wabaNtu yeSewula Afrika ufumaneka.

Umhlahlandlela lo utlanyelwe bona ube lithulusi elinqophisako, elisebenziseka bulula belifumaneka kiwo woke ofisa ukusebenzisa nanyana ngiliphi ilungelo elihlongozwe yi-**PAIA** neemThethweni wokuVikelela iMininingwana yomuNtu maThupha, ka-2013.



**Adv Pansy Tlakula**

**USIHLALO WOMLAWULI WEZEMINININGWANA**

<sup>1</sup> UmThethosisekelo weSewula Afrika, 1996 (UmThetho No. 108 of 1996)

## ISITATIMENDE

UMhlahlandlela lo awutjaphululi owusebenzisako emthwalweni wokusebenzisa amakghonwabo nokutjheja malungana neemfuneko namkha iimbopho ezibekwe mthetho. Ngaphezu kwalokho, uMhlahlandlela lo awunikeli ngesiluleko esingokomthetho begodu awukenzelwa ukujamiselela i-PAIA namkha imiThetho ekhutjwa ngaphasi kwe-PAIA. UmLawuli angekhe abe mlandu kinanyana ngikuphi ukulahlekelwa okungavela ngebanga lokuthembela eMhlahlandleleni lo.

### 1. IRHELO LAMA-AKHROMINI NEERHUNYEZO

<b>CEO</b>	UmPhathi Omkhulu;
<b>CFO</b>	UmPhathi Omkhulu Wezeemali;
<b>Umthethosisekelo</b>	Mthethosisekelo WeRiphabliki YeSewula Afrika, UmThetho No. 108 saka-1996;
<b>DIO</b>	ISekela LesiPhathiswa SezeMininingwana;
<b>Doj &amp; CD</b>	UmNyango WezoBulungiswa Nokuthuthukiswa KomThethosisekelo;
<b>IO</b>	UmPhathiswa WezeMininingwana;
<b>Amalunga</b>	AmaLunga WomLawuli WezeMininingwana;
<b>UNgqongqotjhe</b>	UNgqongqotjhe WezoBulungiswa Nokuhlengwa KwezeSimilo;
<b>PAIA</b>	Ukukhuthaza Ukufumaneka KweMininingwana UmThetho No. 2 of 2000, njengombana ubuyekeziwe;
<b>PAJA</b>	Ukukhuthazwa KomThetho WokuPhatha WezoBulungiswa, Ka-2000
<b>PFMA</b>	UmThetho WezokuPhatha KwezeMali No.1 of 1999 njengombana ubuyekeziwe;
<b>POPIA</b>	UmThetho WokuVikela IMininingwana YomuNtu Mathupha No.4 ka-2013;
<b>UmLawuli</b>	UmLawuli WezeMininingwanar;
<b>SAHRC</b>	IKomitjhini YamaLungelo WaBantu YeSewula Afrika.

### 2. AMAGAMA ALISIZO AHLATHULULWE EFOROMENI ELIZWISEKA NGENDLELA EBULULA

Igama	Ihlathululo
<b>Imali Yokufumana</b>	Imali le ibhadelwa ngiloyo obawako emkhandlwini obawa kiwo imininingwana, ukubhadelela iindleko zokufumana nokukhophisa amarekhodi owafunako. Imali oyibhadelako iquntwa mthetho.
<b>Umpathi</b>	Lilunga lakarhulumende namkha nanyana ngimuphu umuntu ovamileko namkha umuntu ongokomthetho othatha amagadango wokuphatha.



**Igama****Ihlathululo****Igadango lokuphatha**

Nginanyana ngisiphi isiqunto, namkha ngikuphi ukubhalelwa uthatha isiqunto -

- (a) lilunga lakarhulumende:
- (i) nalisebenzisa amandla nakuziwa ngomThethosisekelo namkha ngomthethosisekelo wesifunda; namkha
  - (ii) sebenzisa amandla namkha womphakathi namkha lenza umsebenzi womphakathi ngokwananyana ngimuphi umthetho; namkha
- (b) umuntu ovamileko namkha ilunga lakarhulumende, nalisebenzisa amandla womphakathi namkha nalenza umsebenzi womphakathi ngokwemigomo yelungiselelo lokunikela amandla.

okuthinta kumbi amalungelo wananyana ngubani begodu kunomthelela ngokunqophileko, wangaphandle wezemthetho.

**Umuntu Ovunyelweko**

Umuntu ovunyelweko ngiloyo owenzela omunye isibawo, begodu ovunyelwe ngokufaneleko ngokutlola phasi bona enze njalo.

**Amarekhodi Ahlala Afumaneka**

La marekhodi umphakathi namkha ihlangano ezijameleko ezowanikela owabawako ngaphandle kokufaka isibawo. Amarekhodi la afakwe 'esazisweni sokuveza ngokuzithandela', ekufuze senziwe saziwe.

**Ihloko yemininingwana** Lo mumuntu imininingwana yobuqu ehlobene naye.**Amalanga**

Ngaphandle kobana litjengiswe 'njengelanga lokusebenza' engcenyeni eku-**PAIA**, ilanga lithathwa njengelanga lekhalenda. Ukubala isikhathi, ilanga ekufumaneka ngalo isibawo alibalwa, bese kuthi woke amalanga alandelako kusukela lapho abaliwe kuhlanganise neempelaveke namaholidi womphakathi bekube lilanga lamswaphela. Nangabe ilanga lomaswaphela lokuphendula liba ngoSondo namkha ngeholidi yomphakathi, ilanga elilandelako libalwa njengelanga lamaswaphela.

**Kuqalwa Njengokwalelwa**

Nangabe akunapendulo efikako yesibawo hlangu nesikhathi esibekiweko, lokhu kuhlathululwa ngokuthi 'kuqalwa njengokwalelwa'.

**Iforomo 2**

Iforomeli likhutjwe ngokomthethekambiso begodu kufuze lisetjenziselwe ukubawa ukufumana imininingwana ebulungwe yihlangano yomphakathi namkha ezijameleko.

**Iforomo 3**

Iforomeli likhutjwe ngokomthethekambiso begodu kufuze lisetjenziselwe ukufaka isililo ngesiqunto esithethwe yihlangano yomphakathi malungana nesibawo sokufumana imininingwana.

**Igama****Ihlathululo****UMhlahlandlela**

UMhlahlandlela lo, wenziwe ngokulandela isigaba 10 se-**PAIA**, njengombana ulungisiwe, ohlose ukusiza umuntu ofuna ukusebenzisa nanyana ngiliphi ilungelo elihlongozwe ku-**PAIA** neemThethweni wokuVikelela iMininingwana yomuNtu maThupha, ka-2013.

**Isiphathiswa****Sezemininingwana**

IsiPhathiswa sezeMininingwana mumuntu ophathiswe ukutjheja iimbawo ze-**PAIA**. Nazi iimbonelo zemihlobo zeemPhathiswa zeMininingwana ngokweHlangano ngayinye -

<b>IHlangano yomPhakathi namkha kaRhulumende</b> (njenombana kuhlathululwe esigabeni 239 somThethosisekelo)	UMnyango weliZwelo	UmNqophisi zoMbelele namkha umuntu ojanyiswe njengaye.
	Ukuphathwa kwesiFunda	Ihloko yomNyango namkha umuntu ojanyiswe njengayo.
	UMasipala	IMenenja kaMasipala namkha umuntu ojanyiswe njengayo.
	IinHlangano zomPhakathi ezibalwe eHllweni le-PFMA 1, 2, 3A, 3B, 3C No-3D	UmPhathi omKhulu namkha umuntu ojanyiswe njengaye.
<b>IHlangano Ezijameleko</b>	Umuntu Ovamileko	Umnikazi okunguye yedwa oraga irhwebo, ibhizinisi namkha ibizelo elithileko, kodwana wenza njalo ngokwekwesikhundleso ingasi ngobuqu nje bakhe kwaphela.
	Ihlanganyela	Nanyana ngimuphi umlingani wehlanganyela namkha nanyana ngimuphi umuntu ovunyelwe ngokufaneleko yihlanganyela.
	Ihlangano Yezepolitiki	Umrholi wehlangano yezepolitiki namkha nanyana ngimuphi umuntu ovunyelwe ngokufaneleko mrholi loyo.

**Igama****Ihlathululo****IHlangano  
Ezijameleko**

	Umuntu Wezomthetho	UmPhathi omKhulu namkha umNqophisi oPhetheko namkha isiphathiswa esilingana naye somuntu ongokomthetho namkha nanyana ngimuphi omunye umuntu ovunyelwe mphathiswa loyo.  <b>NB:</b> UmPhathi omKhulu namkha umphathi olingana naye singavumela nanyana ngimuphi umuntu ovamileko njengo Phathi wezemimiNingwana yeHlangano ezijameleko.
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**ISekela  
LomPhathiswa  
WezeMininingwana**

Isekela lomPhathiswa wezeMininingwana mumuntu okhethwe namkha ophathiswe siPhathiswa seMininingwana sehlangano karhulumende ukusiza umfakisibawo ngemininingwana ayibawileko, nakuloyo umPhathiswa wezeMininingwana angamphathisa amanye amandla we-**PAIA**.  
**NB:** Nanyana kuyihlangano karhulumende kwaphela engakhetha namkha yenyule iSekela mPhathiswa wezeMininingwana, ngokomthetho wesigaba 17(1) we-**PAIA**, umThetho wokuVikela iMininingwana yomuNtu maThupha, ka-2013 ("**POPIA**") inikela amandla wokukhetha iSekela lomPhathiswa wezeMininingwana ehlanganweni ezijameleko, ngokomthetho wesigaba 56(1) saso.

**UmLawuli  
WezeMininingwana**

I-Ofisi lomLawuli wezeMininingwana selisunguliwe, ngokwemigomo yesigaba 39 se-**POPIA** ne-**PAIA**. EMhlahlandleleni lo i-Ofisi lomLawuli wezeMininingwana namkha umLawuli wezeMininingwana kuqaliselwe kilo njengomLawuli.

**Isililo  
Sangaphakathi**

Isililo sangaphakathi yikambiso yokuphikisa isiqu nto esithathiweko ngokwemigomo yesibawo se-**PAIA** ehlanganweni karhulumende, ekufuze siphethwe ngaphambi kokobana kwenziwe isitjhijilo emLawulini namkha ekhotho enamandla.

**Ihlangano  
Ezijameleko**

Ihlangano ezijameleko kungaba mumuntu ngokwakhe, ikhampani namkha nanyana ngiyiphi ihlangano engokomthetho eraga irhwebo, ibhizinisi namkha ibizelo elithileko, kuhlanganise nehlangano yezepolitiki.

## Igama

## Ihlathululo

### Ihlangano Karhulumende

Ihlangano yomphakathi eqalisele emnyangweni karhulumende namkha omunye umsebenzi namkha ihlangano, eyenza umsebenzi womphakathi. Nokho, nakuziwa esililweni sangaphakathi, nanyana ngikuphi ukuqaliselwa “ehlanganweni yomphakathi” kutjhugululelwe “kuRhulumende”, ukubalekela itjharagano nakuziwa eenhlanganweni zomphakathi isililo esingasebenzi kizo.

### Irekhodi

Irekhodi nginyana ngimiphi imininingwana erekhodiweko kungakhathaliseki ukuthi kunjani, kuhlanganise, ngokwesibonelo, amadokhyumenti atloliweko, okulalelwako, ezidijithali namavidiyo. Isibawo serekhodi esenziwe ehlanganweni karhulumende namkha ezijameleko siqalisele erekhodini elisehlanganweni leyo kungakhathaliseki bona ihlangano leyo yenze irekhodelo namkha awa.

### Imithethokambiso

I-PAIA ivumela uNgqongqotjhe akhiphe imithethokambiso esiza umThetho lo, okufuze ugadangiswe eGazethini kaRhulumende, begodu ihlanganisa izinto ezinjengemaforomo ekufuze asetjenziswe neemali ezibhadiselwa iinkambiso ezithileko.

### Isiphathimandla Esifaneleko

I-PAIA isebezisa igama elithi ‘isiphathimandla esifaneleko’ ukuhlathulula umuntu okuRhulumende weliZwe loke, wesiFunda nowengaKhaya lapho ekufuze isililo sangaphakathi ekufuze sifakwe khona, ngokuvamileko okuyihloko yehlangano yezepolotiki ethintekako (umsebenzi lo ungadluliselwa ngokusemthethweni).

## 3. IMINININGWANA YOKUTHINTANA NOMLAWULI

### Isiphathiswa Sezemininingwana:

#### Chief Executive Officer:

Mr. Mosalanyane Mosala

#### Contact Person:

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### Isekela MPhathiswa LezeMininingwana

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2017

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## 4. UMNQOPHO WOMHLAHLANDLELA WE-PAIA LO

- 4.1 Umnqopho womHlalandlela lo kunikeza ngelwazi elitlhogekako kinanyana ngimuphi umuntu ofuna ukusebenzisa nanyana ngiliphi ilungelo elihlongozwe emThethweni Wokukhuthaza Ukufumaneka Kwemininingwana ka-2000 (**PAIA**) nomThetho wokuVikelela iMininingwana yomuNtu maThupha, ka-2013 ("**POPIA**"). Woke umuntu, kungakhathaliseki ukuthi ngewakuphi, angafaka isibawo sokufumana imininingwana ngaphasi kwe-**PAIA**.
- 4.2 UmHlalandlela lo uzokusiza umuntu ngokukhethekileko, godu obizwa nangokuthi sifundo sedatha, bona angayifumana njani imininingwana yakhe mathupha ngokwemigobo yesigaba 23 se-**POPIA**. Ngaphasi kwe-**POPIA**, umuntu namkha okufuna ngaye imininingwana unelungelo -
- 4.2.1 lokubawa ophathiswe umthwalo bona aqinisekise, ngesihle, kungakhathaliseki ukuthi isiqhema esiphathisiweko siphethe imininingwana yobuqu ngabo,
- 4.2.2 nokubawa esiqhemeni esiqaleleleko irekhodi namkha ihlathululo yemininingwana malungana nekufunwa ngaye idatha ephethwe siqhema esiqaleleleko, kuhlanganise imininingwana emalungana nobuqu babo boke abantu besithathu, namkha imikhakha yabantu besithathu, abafumene namkha ebakhe bafumana imininingwana;
- 4.2.3 ukubawa isiqhema esiqaleleleko -
- (a) ukulungisa namkha sisule imininingwana yobuqu malungana nokumunyethwe yidatha ekiso namkha engaphasi kokunqotjhiswa kwabo engasiyiqiniso, engafaneleki, eyeqisako, ephelwe sikhathi, etjhodako, ekhohlisako namkha efunyenwe ngokungasi ngokomthetho; namkha
- (b) ukutjhabalalisa namkha ukusula irekhodi lemininingwana yobuqu malungana nedatha ebandakanyekileko isiqhema esiqaleleleko esele singanalo ilungelo lokuyibulunga
- 4.3 Umhlahlandlela lo godu uzokusiza nanyana ngimuphi umuntu bona angabawa njani ukufumana amarekhodi angaphasi kwe-**PAIA**. UmHlalandlela lo godu uzokusiza abafakisibawo bona:
- 4.3.1 azwisisi i-**PAIA**, iinzuzo zayo nesizinda sayo;
- 4.3.2 afunde ikambiso igadango ngegadango yokwenza isibawo namathiphu angeziweko wokwenza ikambiso leyo ibe lula;
- 4.3.3 afunde ngemihlobo yemininingwana engabawiwa kusetjenziswa i-**PAIA**;
- 4.3.4 azwisisi ikambiso umfakisibawo angatjhijila ngayo isiqu nto esithethweko malungana nesibawo sakhe;

4.3.5 athulwe ematjhugululweni azokwenzeka ku-PAIA nasele i-POPIA isebenza ngokuzeleko.

4.4 Umhlahlandlela lo godu uzokusiza abantu bona bangakutjhijila njani ukunikeza ngamarekhodabo namkha bona bangazibandakanya njani ekambisweni yokufumana amarekhodi wabo.

## 5. MALUNGANA NE-PAIA

5.1 Ilungelo lokufumana imininingwana “kungenye yeendlela eziphumelelako zokubulunga imigomo yomthethosisekelo yokuvela *epepeneneni, ukuvuleka, ukubandakanyeka nokuziphendulela*<sup>2</sup>. Imigomo yemthethosisekelo engahla angekhe yafikeleleka nangabe urhulumende uyilawula ayedwa imininingwana eyazisa amagadango neenqunto. Ngalokho-ke, ukufumana imininingwana akusisisekelo nje kwaphela sokuba nesandla ekusebenzeni kuhle entandweni yenengi esebenzako, kodwana yandisa nokuthenjwa kwakarhulumende mphakathi begodu ithuthukisa nokuba semthethweni kwayo. Ezinye iinzuzo zokuba nelungelo lokufumana imininingwana ngokwesibonelo, kukuthi ivimbela ukukhwabanisa nekohlakalo, ukungaqiniseki nokhunye ukuziphatha okungakalungi kwakarhulumende.

5.2 Ngesikhathi umThethosisekelo weSewula Afrika utlolwa ngesikhathi sangemva kokuwa kweBandlululo ngama-1990s, iihlangano ezimbalwa nabantu mathupha babamba ijima lokufakwa kwelungelo lofumana imininingwana. Bekunethemba lokuthi ukufakwa kwelungelweli emThethweni-mlingwa wamaLungelo kuzokuqinisekisa ukuthi izenzo zesihlungu ezinjengezeBandlululo angekhe zisenzeka godu, njengomba urhulumende neehlangano ezizijameleko zizokubopheka bona ziziphathe ngendlela yokuthi zikwazi ukuziphendulela begodu zivele epepeneneni ngokuthi zenze imininingwana ifumaneka, ukwenzela bona zingakwazi ukuzifihla egameni lokubulunga ifihlo. Kuthathwe njengegadango elidingekako ukusiza ukwakha isiko lokuzithethelela elingadosela ebudlelwaneni obuhle hlangana nabantu, nalabo abaphetheko. Kwenye yemilandu yokuthoma ukuqalana nombuzo wokuthi inga-kghani umuntu omsolwa uyakufanelekela na ukufumana yoke imininingwana esedokethini yamapholisa,<sup>3</sup> UJones J uyakuvuma ukuqakatheka kwawo emigomweni elandelako:

***“Umnqopho ... kukhipha ukuragelisela phambili ihlelo elidala lokuphatha, ihlelo lapho bekukghoneka khona ngorhulumende ukugegeda ukuziphendulela ngokwala ukuveza imininingwana ngitjho nanyana inomthelela ekusebenziseni namkha ekuvikeleni amalungelo womuntu. Lobu bubumbi obenzelwe ukuvikela [...] Ukutjengisa ukungakhethi nokungabi nefihlo kuthuthukisa bona umphakathi ukuthembe ukuphathwa kweendaba zomphakathi ngokuvamileko. Ukuthembokhu ngenye yematshwayo yomphakathi obuswa ngentando yenengi lapho umThethosisekelo uphumelela khona”.***

<sup>2</sup> UmThetho WokuPhatha ka-Hoexter wango-94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Isigaba 32 somThethosisekelo sibeka ilungelo lokufumaneka kwemininingwana ebanjwe yihlangano karhulumente namkha ezijameleko. Isigaba 32 godu sithi kufuze kubethwe umthetho khona kuzosebenza ilungelo lokufumana imininingwana ngokuhlathulula iindlela imininingwana ezisehlalnganweni karhulumente namkha ezijameleko engafumaneka ngayo, nangokunikela ngeenzathu lapho ihlangano karhulumente begodu nesijameleko engala ngayo ukuphana ngemininingwana.
- 5.4 I-**PAIA** yajanyiswa ukuphendula igunya lomthethosisekelo elitjihiwo ngehla, begodu yathoma ukusebenza ngokunabileko ngoMatjhi 2001. Isingeniso sayo samukela “isiko eliyifihlo nelingasabeli” lesikhathi sangaphambi kwentango yenengi, begodu lifakazela ukuthi omunye weminqopho ye-**PAIA** “kukhuthaza isiko lokuvela epepeneni nokuziphendulela eenhlanganweni zakarhulumente nezizijameleko.”
- 5.5 I-**PAIA** yenzelwe ukwenza amalungelo womuntu wokufumana imininingwana nokuziphendulela. Itlanyelwe ukunikeza abantu amandla ukusebenza umthetho, ngokwenza njalo isize kube lula ukufumana imininingwana ngeendlela ezihlukahlukene. Umuntu akutlhogeki abe negqwetha ukufaka isibawo sokufumana imininingwana ngokwemigomo ye-**PAIA**.

## 6. IMINQOPHO YE-PAIA

- 6.1 Iminqopho ye-**PAIA** akusikujamiselela ilungelo lomthethosisekelo, kodwana ilungelo elisesigabeni 32 lisebenze ngokwemikhawulo evumelekileko, nangendlela esiza ukulinganisa woke amanye amalungelo asemThethwenisisekelo. Irhuluphela ukukhuthaza isiko lamalungelo wabantu nobulungisa kezekuhlalisana ebantwini, emakhampanini karhulumente nazijameleko. **PAIA** ifuna ukuthuthukisa ukuvela ebaleni, ukuziphendulela nokuphathwa kuhle kwazo zoke iinhlangano (kokubili kurhulumente nakulezo ezizijameleko) ngokwenza abantu bazwisise amalungelwabo wokufumana imininingwana, benze ngokuvumelana nawo, begodu kokubili bahlolisise, bebazibandakanye ekwenziweni kweenqunto ezibathintako.
- 6.2 Ilungelo lokufumana imininingwana lilungelo lemthethosisekelo elinamandla, njengombana lisiza abantu bazi ngamanye amalungelo. Umuntu angayisebenzisa ukusiza ukutjheja nokuhlengahlengisa ukunikelwa kwezenzelwa ngurhulumente, namkha ukufumana amarekhodi womlando akarisako.
- 6.3 Iminqopho ye-**PAIA** -
- 6.3.1 kukwenza ilungelo lomthethosisekelo likuphe -
- 6.3.1.1 nanyana ngiyiphi imininingwana ephethwe mBuso; begodu
- 6.3.1.2 nananyana ngiyiphi imininingwana ephethwe mumuntu othileko begodu iyafuneka ukusebenzisa namkha ukuvikela elinye nelinye ilungelo.



- Ifuneko emalungana nokuvikela amalungelo ibulunga imininingwana ezandleni zehlangano ezijameleko. Iihlangano ezizijameleko zingaphasi kwemithetho eqinileko yokuveza ebaleni kuneenhlango zakarhulumende. Ngamanye amezwi, ihlangano ezijameleko inelungelo lokubulunga imininingwanayo, ngaphandle kobana imininingwana leyo iyathlogeka ukuvikela amalungelo.
- I-PAIA iyatjheja, ngokwemigomo yesiGaba 8(1) sayo, ukuthi ihlangano kungaba “ngurhulumende” namkha “ezijameleko” ngomnqopho womThetho kuye ngokuthi irekhodi eliqaliweko “lihlobene nokusetjenziswa kwamandla namkha ukusebenza kwegunya njengehlangano karhulumende namkha ezijameleko.”

### 6.3.2 ukwenza ilungelwelo lisebenze -

6.3.2.1 kudzimelele emikhawulwen evumelekileko, kuhlanguanise, kodwana kungapheleli lapho, imikhawulo enqophe ukuvikela ifihlo ngokufaneleko, ifihlo yezebhizinisi nokubusa okusebenzako nokuphumelelako; begodu

6.3.2.2 ngendlela eyenza ukulingana kwelungelo namanye amalungelo, kuhlanguanise namaLungelo asemThethweni-mlingwa esaHlukweni 2 somThethosisekelo;

6.3.3 ukwenza iimbopho zomthethosisekelo zomBuso zisebenze ekuthuthukiseni isiko lamalungelo wobuntu nobulungiswa kwezokuhlalisana, ngokubandakanya iihlangano zakarhulumde ehlathululweni ethi ‘umfakisibawo’, nokubavumela hlangoana nokhanye, ukufumana imininingwana eenhlanganweni ezizijameleko ngokulalela iimfuneko ezine ezisemThethweni lo, kuhlanguanise nesibopho esingeziweko kwezinye iihlangano zakarhulumende ebujameni obuthileko ukwenza ngendlela ezuzisa umphakathi;

6.3.4 ukusungula iindlela namkha iinkambiso zokuzivolontiyela nezikatelelako ekwenzeni ilungelwelo lisebenze ngendlela efaneleko okwenza umuntu akghone ukufumana amarekhodi ehlanganweni karhulumende nakwezijameleko msiyana, ngokungabizi khulu nokungaphutjhi budisi khulu nangokucabangela ngangokunokwenzeka; begodu

6.3.5 ngokuvamileko, ukukhuthaza ukuvela ebaleni, ukuziphendulela nokuphatha ngokuphumelelako kizo zoke iihlangano zakarhulumende nezizijameleko, ngokubandakandakanya kodwana kungapheleli lapho, ukuphakamisa nokufundia wo ke umuntu -

6.3.5.1 ukuzwisisa amalungelwabo ngokwemigomo yomThetho lo khona bazokusebenzisa amalungelwabo eenhlanganweni zakarhulumende nezizijameleko;

6.3.5.2 ukuzwisisa imisebenzi nokusebenza kweenhlangano zakarhulumende; begodu



6.3.5.3 nokuzibandakanya ekwenziweni kweenqunto ziinhlango zarlulumende ezithinta amalungelwabo.

#### 6.4 UmThetho Okhuthaza Ukufumaneka KweMininingwana Obuyekeziweko, 2019

- 6.4.1 Endabeni ye-*My Vote Counts NPC v My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17*, ikhotho yomthethosisekelo yathi “umBuso ungaphasi kwesibopho ekufundweni okufaneleko kweengaba 32, 19 no-7(2) somThethosisekelo ukwenza koke okusemandleni bona kunikelwe umbono osebenzako nozwakalako ngelungelo nozwakalako ngelungelo lokufumana imininingwana nelungelo lokuvowuta. Inengi liveze ukuthi lokhu kungalendlela ngebanga lokuthi ukusetjenziswa kwelungelo lokuvowuta kufuze kwenziwe unelwazi ngakho, begodu kunokukhambisana okuqakathekileko hlangana kokusebenzisa ilungelo lakho lokuvowuta ngokufaneleko nelungelo lokufumana imininingwana. Begodu “ngaphandle kokufumana imininingwana, ikghono labahlali lokwenza iinqunto zezepolitiki ezivuthiweko nokuba nesandla okunepilo kilokho okwenzeka emphakathini ligadangelwa phasi.” Ikhotho yomThethosisekelo iqinisekise ukungasebenzi kwesinqophiso somthethosisekelo bese yalayela iPalamende bona itjhugulule i-**PAIA** ithathe namanye amagadango ewaqala njengafanelekileko bona kurekhodwe, kubulungwe nokwenza kufumaneke imininingwana ngesilinganiso esifaneleko ngokusekelwa ngeemali okuzijameleko kweenqhema zepolitiki nalabo nabosongikhethani abazijameleko hlangana neenyanga eziyi-18.
- 6.4.2 Ngokuvumelana nesiqunto sekhotho somthethosisekelo ekukhulunywe ngaso ngehla, ngee-3 zakaJuni 2019, uMengameli wamukele umThetho Okhuthaza Ukufumaneka kweMininingwana Obuyekeziweko, 2019 (umThetho wokuTjhugulula i-**PAIA**, 2019) . UmThetho wokutjhugulula i-**PAIA** wango-2019 ubandakanya ihlangano yezepolitiki ehlathululweni yehlangano ezijameleko, okutjho bona umrholi wesiqhema sepolitiki namkha nanyana ngimuphi omunye umuntu obekwe ngokusemthethweni mrholi loyo mphathiswa wezeminingwana namkha ihloko. UmThetho wokutjhugulula i-**PAIA** wango-2019 nje unabisa ilungelo lokufumana kinanyana ngimaphi amarekhodi wehlangano yezepolitiki.
- 6.4.3 UmThetho wokutjhugulula unikela ngemininingwana emalungana nokusekelwa ngeemali okuzijameleko kweenhlango zepolitiki nabosongikhethani abazijameleko bona kurekhodiwe, kubulungwe begodu kwenziwe kufumaneke.
- 6.4.4 Ngokwemigomo yesigaba 52A somThetho wokutjhugulula i-**PAIA** wango-2019, ihloko yesiqhema sezepolitiki kufuze yenze beyibulunge amarekhodi iminikelo engale kwesilinganiso esibakiweko, se-**R100 000.00**, owenziwe ehlanganweni yepolitiki leyo kinanyana ngimuphi umnyaka wezeemali namabizo wabantu namkha iinhlango ezenze iminikelo leyo. Ihloko yehlangano yezepolitiki kutlhogeka bona yenze amarekhodi lawo qobe nakuba yikotha, njengombana kuquntwiwe; begodu ibulunge amarekhodi lawo okungenani iminyaka emihlanu ngemva kobana amarekhodi abandakanyekileko enziwe.

6.4.5 Lokhu kutjho bona ngesikhathi umThetho wezeeMali weHlangano yePolitiki wenza ilungiselelo lokuziveza ebaleni okukatelelekileko eKomitjhaneni yezamaKhetho, umThetho wokutjhugulula i-**PAIA** wango-2019 nje wenabisa ilungelo lokufumana, amarekhodi wananyana ngimiphi iminikelo edlula i-**R100 000.00**, kinanyana ngimuphi umuntu, enikelwe ehlanganweni yepolitiki leyo.

6.5 Omunye umthetho ovikela ilungelo lokufumaneka kwemininingwana

I-**PAIA** iyafumaneka godu kibo boke ubujamo bezomthetho, etlanyelwe ukwenza “isiko lokuthethelelwa”. Ekutjhejeni lokhu, i-**PAIA** ibonisa ukuthi nanyana ngomunye umthetho onikela umuntu indlela yokufumana imininingwana engakatjhubi kangako kune-**PAIA**, ungasetjenziswa esikhundleni se-**PAIA**<sup>5</sup>.

6.5.1 UmThetho WamaKhampani 71 of 2008

6.5.1.1 Isigaba 26(1) semiThetho yamaKhampani sinikela umuntu ophethe namkha enekareko ezuzisako kinanyana ngiziphi zokuphepha ezikhitjiswa yikkhampani eyenza inzuzo, namkha olilunga lekhampani engenzi inzuzo, unelungelo lokuhlola nokukhophisa, ngaphandle kokubhadelela ukuhlolwa okunjalo namkha ngesikhathi sekubhadelwe imali engaphezu kwenani elibekiweko lekhophi enjalo, imininingwana ephethwe marekhodi wekhampani.

6.5.1.2 Ngokwemigomo yesigaba 26(7)(b) somThetho wamaKhampani, “amalungelo wokufumana imininingwana asesigabenesi angezelela, begodu ingasi esikhundleni, sananyana ngimaphi amalungelo umuntu angaba nawo wokufumana imininingwana ngokwemigomo yomThetho WokuThuthukisa Ukufumaneka KweMininingwana, 2000 (UmThetho No. 2 wango 2000).”

6.5.2 UmThetho WezeeMali WeHlangano YezePolitiki, 2018 (UmThetho No. 6 wango 2018)

6.5.2.1 IsiKhwama sezeeMali sezePolotiki sethula ihlaka eliqinileko lokusekelwa ngeemali okuzijameleko kwazozoke iinhlango zepolotiki ezitlolisiweko, kungakhathaliseki ukuthi zijanyelwe esibethweni-mthetho selizwe loke namkha sesifunda namkha awa. Lokhu kuhlangoanisa nokubeka imikhawulo yemithombo, ubukhulu nokusebenzisa iimali ezinikelliweko ziinhlango zepolotiiki.

6.5.2.2 Ukuqinisekisa ukuba sepepeneneni nokuziphendulela, iinhlango zezepolitiki kufuze aveze yoke iminikeko efunyenweko engaphezu kwesilinganiso ekufuze sivezwe esiyi-**R100 000.00** eKomitjhinini yezaMakhetho qobe eenyangeni ezintathu (kunye nangaphambi kwamakhetho welizwe loko).

<sup>5</sup> Isigaba 2(1) se-PAIA

- 6.5.2.3 Nanyana ngimuphi umuntu namkha ihlangano eyenza umnikelo ehlanganweni yezepolitiki ongaphezu kwaka-**R100 000.00** kanye namkha ngokuqongelela ngomnyaka kufuze kubikwe umnikelo loyo eKomitjhaneni yezamaKhetho hlangana **namalanga ama 30** wokwenziwa komnikelo namkha hlangana namalanga ama-30 lapho iminikeko eqongelelweko idlula i-**100 000.00**.
- 6.5.2.4 Ekugcineni, umThetho wezeeMali weenHlangano zezePolitiki ubeka isibopho eKomitjhaneni yezamaKhetho ukwazisa umphakathi qobe eenyangeni ezintathu ngeminikeko ebikwe ziinhlangano zezepolitiki nokubika qobe mnyaka ePalamende ngayo yoke iminikelo eyenziwe eenhlanganweni zepolitiki hlangana nomnyaka.
- 6.5.3 UmThetho wokuVikelela iMininingwana yomuNtu maThupha, 2013 (UmThetho No. 4 ka-2013).
- 6.5.3.1 Isigaba 23 se-**POPIA** sinikela ngemininingwana yedatha nelungelo lokufumana imininingwana yothileko ephathwe siqhema esitjheje lokho, kuhlanganise neminingwana emalungana nokuthi bobani abantu besithathu, namkha iingaba zabantu besithathu, abane, namkha ebakhe bafumana imininingwana.
- 6.5.3.2 Lokhu kutjho bona ngesikhathi ufumana irekhodi elinemininingwana yomuntu malungana nomfakisibawo kungekho ku-**PAIA** ngokwemigomo esesigabeni 11(2) salo, ngokutjhiwo yidatha angabawa –
- 6.5.3.2.1 ukufumana imininingwanakhe yobuqu; begodu/namkha
- 6.5.3.2.2 ubunikazi babo boke abantu besithathu, kunye/namkha iingaba zabantu besithathu, namkha ebakhe bafumana imininingwana.
- 6.5.3.2.3 ukulungiswa namkha ukusulwa kwemininingwana emalungana nokutjhiwo yidatha ekibo namkha engaphasi kwelawulo labo engasiliqiniso, elilize, eyeqisako, ephelelwe sikhathi, etjhodako, edurhisako namkha efunyenwe ngokungasingokomthetho; namkha
- 6.5.3.2.4 irekhodi lemininingwanakhe yobuqu umuntu lokha isiqhema esiyiqaleleleko lingasanagunya lokuyibulunga bona itjhatjalaliswe namkha isulwe.
- 6.5.3.3 Isiqhema esiqaleleleko singala ukukhipha nanyana ngimiphi imininingwana ebawiweko, ngokuvumelana neenzathu zokwala ukunikela ngamarekhodi, njengombana kutjengiswe esigabeni 19.4.

## 6.5.4 UmThetho 3 wango-2000 Okhuthaza UBulungiswa Bokuphatha

- 6.5.4.1 Omunye umthetho oqakathikileko ukuwukhumbula nawucabanga ukufumana imininingwana mThetho Okhuthaza uBulungiswa bokuPhatha (**PAJA**). I-**PAJA** inikeza ilungelo lokwenza isenzo sokuphatha esisemthethweni, esizwakalako, nekambiso efanelekileko kunye nelungelo leenzathu ezitloliweko zesenzo sokuphatha njengombana kuhlangozwe esigabeni 33(2) somThethosisekelo<sup>6</sup>.
- 6.5.4.2 Ngokwemigomo yesigaba 5(1) se-**PAJA**, nanyana ngimuphi umuntu amalungelwakhe athinteki kumbi ngokwezinto eziphathekako ngebanga lophetheko begodu ongakanikelwa iinzathu ngedango elithethweko, angabawa bona ophetheko anikele iinzathu ezitlolwe phasi ngegadangwelo, hlangana namalanga ayi-90 ngemva kobana azi ngegadangwelo, namkha ngesikhathi ebekufuze ngathana uyazi ngedangwelo. Umphathiswa ekwenziwe kuye isibawo, hlangana namalanga ayi-90 afumene isibawo, kufuze anikele umuntu loyo isizathu esizwakalako esitlolwe phasi ngegadango alithetheko.

## 7. UKUSUNGULWA KOMLAWULI WEZEMINININGWANA

- 7.1 Ukuqinisekisa ukhuthazwa nokwenza ngcono iminqopho ye-**PAIA**, eyenza ilungelo lokufunama imininingwana ngendlela evumela abantu bafumane imininingwana yamarekhodi eenhlanganweni zakarhulumente namkha ezizijameleko msiyana, ngokungabizi khulu ngangokunokwenzeka, umLawuli wezoMininingwana ("umLawuli") watlanywa ngokwemigomo yesigaba 39 se-**POPIA**.
- 7.2 Ukwenzela bona kuqinisekise bona kulandelwa iinkambiso zokuphatha ezingakahlangahlangani nezingabizi khulu nakwenziwa isibawo sokufumana imininingwana, iinlilo eziya kumLawuli neembaweni zekhotho kufuze zingenziwa umthetho.
- 7.3 I-**POPIA** itjhugulula indima ye-**SAHRC** manqophana negunya we-**PAIA**. Kusukela ngoJuni 30 2021, yoke imisebenzi ye-**SAHRC**, njengombana ibaliwe ku-**PAIA**, izokukwenziwa mLawuli, onamadla angeziweko wokuqinisa.
- 7.4 Njengombana i-**SAHRC** izokuragela phambili ekufezeni iimbopho zayo zomthethosisekelo ngobubanzi ukukhuthaza, ukuvikela nokuhlola amalungelo atololwe emThethweni-mlingwa, i-**SAHRC** nomLawuli bazokusebenzisana ihlombe nehloombe.

<sup>6</sup> Woke umuntu amalungelwakhe athinteki kumbi ngegadango labaphetheko unelungelo lokunikelwa iinzathu ezitloliweko

## 8. INDIMA YOMLAWULI WEZEMINININGWANA

- 8.1 UmLawuli udlala indima eqakatheke khulu ngokunqophene ne-**PAIA**. UmLawuli ugunyazwe yi-**PAIA**, ngaphasi kweNgcenywe 4, isaHluko 1A neNgcenywe 5 kuhlangukise nezinye iingcenywe:
- 8.1.1 ukukhuthaza ilungelo lokufumaneka kwemininingwana nokusiza umphakathi ukusebenzisa i-**PAIA** la kungakghoneka khona ukwenza njalo,
  - 8.1.2 ukutjheja nokuthuthukisela phambili ukusetjenziswa kwe-**PAIA** ziinhlango zakarhulumente nezizijameleko (okubandakanya ukuthuthukisa iindlela ezisebenzako zokwenza imininingwana ifumaneke ngesikhathi),
  - 8.1.3 ukwenza imphakamiso zokuqinisa i-**PAIA**,
  - 8.1.4 nokubika ePalamende qobe mnyaka.
- 8.2 Isigaba 77C (1) nesigaba (2) se-**PAIA** sinamalungiselelo wamandla alandeleko, imisebenzi nokusebenza komLawuli -
- 8.2.1 ukuphenya ngesililo esifakwe emLawulini ngendlela egunyaziweko;
  - 8.2.2 ukudlulisela olilako eKomidini yokuKatelela esungulwe ngokwemigomo yesigaba 50 se-**PAIA**; namkha
  - 8.2.3 ukuqunta, ngokuvumelana nesigaba 77D, ukungathatheli umfakisibawo amagadango namkha, njengoba kungenzeka, kungatlhogeki kuthathwe igadango malungana nolilako; begodu
  - 8.2.4 athathe igadango, la kufaneleka khona, njengomthintanisi malungana nesililo ngokwendlela equntiweko.
- 8.3 UmLawuli, ngokomgomo wesigaba 77H(1) se-**PAIA**, nangokwakhe, namkha ngokwesibawo namkha esikhundleni sesiphathiswa semininingwana namkha ihloko yehlangano karhulumente namkha nanyana ngimuphi omunye umuntu angenze ukuhlola kungaba sehlanganweni karhulumente namkha ezijameleko ngokuvamileko okukhambisana nemibandela ye-**PAIA**, ngokuvumelana nemithetho neenkambiso ekufuze zisetjenziswe.
- 8.4 UmLawuli unikelwe amandla, ngokomgomo wesigaba 77F se-**PAIA**, ukusebenzisa imizamwakhe engcono khulu ukurarulula isililo, nangabe sivela kolilako, namkha nanyana ngikuphi ukuphendulwa okutlolwe phasi okwenziwe malungana nalokho okungakghonakala bona kulungise isililo. Lokhu kutho bona umLawuli angalinga kwaphela ukusiza ababandakanyekileko ukulungisa ukungaboni ngalihlo linye kwabo, nangabe kunesililo esifakwe kumLawuli, ngaphandle kokuthi aziquntele ngokwakhe, ukwenza ukuhlola, njengombana kutloliwe esigabeni 8.3 ngehla.

## 9. UKUFAKA ISIBAWO SOFUMANA IREKHODI

Sibawe uqale ikambiso esetjhadini ngokulandelana kwesigabeni 27 ngehla, ukuthi ungabawa njani ukufumana amarekhodi.

### 9.1 Ukuthoma: **Iincwajana Ze-PAIA**

- 9.1.1 Nanyana umHlahlandlela lo ugadangiselwe ukusiza umphakathi ovela kizo zoke iinzinda zokuphila ukusebenzisa ilungelo labo lokufumana imininingwana, kuneminye imithombo yelwazi engasizza umuntu enze isibawo sokufumana amarekhodi. I-**PAIA** ifuna bona zoke iihlangano zakarhulumente, neehlangano ezizijameleko, zihlanganise bezenze incwajana ye-**PAIA** ifumaneke<sup>7</sup>.
- 9.1.2 Ngaphambi kobana umuntu athathe amagadango wokufumana imininingwana namkha amagadango wehlangano ethileko, kufuze athome afunde iNcwajana ye-**PAIA**.
- 9.1.3 Ngokuyihloko, injwajana ye-**PAIA** isiza umuntu:
- 9.1.3.1 ukuhlola umhlobo wamarekhodi ekungenzeka sele akhona ngaphandle kwesidingo sokufaka isibawo esisemthethweni ku-**PAIA**;
  - 9.1.3.2 azwizise ukuthi usifaka njani isibawo sokufumana imininingwana ephethwe yiHlangano ethileko;
  - 9.1.3.3 afumane yoke imininingwana yokuthintana yomuntu ozokusiza umphakathi ngamarekhodi nanyana ngimuphi umuntu awafunako;
  - 9.1.3.4 ngayo yoke ipengu efumanekako ehlanganweni ekufumaneka kiyo amarekhodi ekufakwa ngawo isibawo, ngaphambi kokuya kumLawuli namkha ikhotho;
  - 9.1.3.5 ihlathululo yezenzelwa ezifumanekako emalungwini womphakathi ehlanganweni nokuthi zingafumaneka njani izenzelwezo;
  - 9.1.3.6 azi nangabe ihlangano izokufaka imininingwana yomuntu, umnqopho wokufaka imininingwana yomuntu leyo nehlathululo yeengaba zokumumethwe yidatha neyemininingwana namkha yeengaba zemininingwana emalungana nalokho;
  - 9.1.3.7 azi nangabe ihlangano ihlele ukudlulisela namkha ukufumana imininingwana yomuntu mathupha ngaphandle kweSewula Afrika; begodu

<sup>7</sup> Isigaba 14 no-51 se-PAIA

- 9.1.3.8 nokwazi ukuthi ihlangano inamagadango afaneleko wezokuphepha ukuqinisekisa ifihlo, ukuthembeka nokufumaneka kwemininingwana ekufuze ifumaneke .

## 9.2 Zifumanekaphi iincwajana ze-PAIA?

### 9.2.1 INcwajana ye-PAIA yeenhlangano zakarhulumende

- 9.2.1.1 Zoke iinhlangano zakarhulumende kufuze zenze iNcwajana ye-PAIA zifumaneke bulula okungenani ngamalimi amathathu asemthethweni<sup>8</sup>.

- 9.2.1.2 Ubuncani, kulindeleke bona zenze amakhophi weNcwajana ye-PAIA afumaneke simahla, ngaphandle kobana kubawe ikhophi egadangisiweko

9.2.1.2.1 ezinzolwazini yehlangano karhulumende;

9.2.1.2.2 e-ofisini elikhulu lehlangano karhulumende bona ihlolwe mphakathi ngeenkxhathi zokusebenza ezivamileko;

9.2.1.2.3 nangabe umuntu ufuna ikhophi egadangisiweko, ihlangano yomphakathi kufuze yenze ikhophi, kodwana ingabawa ukubhadelwa imali efaneleko ngekhophi egadangisiweko;

9.2.1.3.4 emLawulini nakabawiweko.

### 9.2.2 Iincwajana ze-PAIA zeenhlangano ezizijameleko

- 9.2.2.1 Iinhlangano ezizijameleko nazo zilindeleke bona zihlanganise injwajana ye-PAIA<sup>9</sup>, kodwana akutlhogeki yenziwe ibe ngaphezu kwelimi elilodwa namkha ngelimi elithileko elikhethekileko, nanyana kukhuthwaza bona iiNcwajana ze-PAIA zeenhlangano ezizijameleko okungenani zibe ngesiNgisi. Nangabe ihlangano ethileko inikela ngezenzelwa ebantwini abanengi abangakafundi, umLawuli uzokuphakamisa bona iNcwajana yehlangano leyo ingaba ngelinye ilimi elisemthethweni.

- 9.2.2.2 Okungenani ubuncani, iinhlangano ezizijameleko kutlhogeka zenze ikhophi yeNcwajana ye-PAIA ifumaneke simahla<sup>10</sup>, ngaphandle kobana kubawe ikhophi egadangisiweko -

9.2.2.2.1 ezinzolwazini lehlangano ezizijameleko;

9.2.2.2.2 endaweni eyihloko yebhizinisi lehlangano ezizijameleko bona umphakathi uzozihlolela ngesikhathi sokusebenza kwebhizinisi esivamileko;

<sup>8</sup> Isigaba 14(1) se-PAIA

<sup>9</sup> Ngokwemigomo yesigaba 51 se-PAIA

<sup>10</sup> Isigaba 51(3) se-PAIA



9.2.2.2.3 nangabe umuntu ufuna ikhophi egadangisiweko, ihlangano ezijameleko kufuze yenze ikhophi, kodwana ingabawa ukubhadelwa imali efaneleko ngekhophi egadangisiweko begodu

9.2.2.2.4 emLawulini nakabawiweko.

9.2.3 Ungqongqotjhe wezoBulungiswa nezokuHlungwa kwesiMilo unamandla wokutjhaphulula<sup>11</sup> iinhlango ezithileko ezizijameleko namkha isigaba seenhlango ezizijameleko esibophweni sokuhlanganisa incwajana. Nje, bekube ngeen-**31 Disemba 2021**, uNgqongqotjhe utjhaphulule<sup>12</sup> zoke iinhlango ezizijameleko, ngaphandle kwananyana ngiyiphi ikhampani -

- (a) engasi yikhampani ezijameleko njengombana kuhlathululiwe esigabeni 1 somThetho wamaKhampani, 2008 (UmThetho No. 71 of 2008):
- (b) ezijameleko njengombana kuhlathululiwe esigabeni 1 somThetho wamaKhampani, 2008 (UmThetho No. 71 of 2008) osebenza kinanyana ngimiphi imikhakha ekukhulunye ngayo ekholomini yokuthoma yehlelo leSaziswesi
  - (i) inabasebenzi abayi-50 namkha ngaphezulu ebaqatjhileko; namkha
  - (ii) inenani lemali engena qobe mnyaka elingana namkha engaphezu kwenani elifaneleko elitjhiwo ekholomini 2 ethebulini engenzasi,

kusukela ekuhlanganiseni incwajana ehlongozwe esigabeni 51(1) somThetho wokuthoma isikhathi esiziinyanga ezithandathu (6) kusukela ngeen-**1 Julayi 2021 ukuya ngee-31 Desemba 2021**: -

Umkhakha	Imali engena qobe mnyaka
Zelimo	R6 miliyoni
Imayini noKwemba	R22.5 miliyoni
Ukukhiqiza	R30 miliyoni
Igezi, iRhasi naManzi	R30 miliyoni
Ukwakha	R15 miliyoni
Zokuthengisa neRhwebo leeNkoloyi nezokuLungisa	R45 miliyoni
Amarhwebo we-Wholesale, Ama-eyijenti	R75 miliyoni
wezokuThengiselana nemiSebenzi eHlanganyelweko	
Ukudla, lindawo zokuHlala nokhunye ukuRhweba	R15 miliyoni
IinThuthi, Indawo yokuBulunga nezokuThintana	R30 miliyoni
ZeMali nezenzelwa zamaBhizinisi	R30 miliyoni
Izenzelwa ZomPhakathi, Ezikhethekileko Nezomuntu	R15 miliyoni
Mathupha	

<sup>11</sup> Isigaba 51(4) se-PAIA

<sup>12</sup> Isaziso SakaRhulumende 39504, 11 Disemba 2015



- 9.2.4 Ngebanga lokuqakatheka kwesidingo somtthetho wokuhlanganisa kweNcwajana ye-**PAIA**, khulukhulu ukutjhugululwa<sup>13</sup> kwesigaba 15 se-**PAIA** (ozokuthoma ukusebenza ngoJuni 30 2021), ngokobukhulu bemininingwana incwajana ekufuze iwuhlanganise inwetjiwe ukuhlanganisa iindaba ezimalungana ne-**POPIA**, iihlangano ezizijameleko angekhe zisatjatjululwa esibophweni sokuhlanganisa iNcwajana ye-**POPIA**. Ngalokho-ke, kusukela ngeen-1 Janabari 2022, enye nanye ihlangano karhulumende nezijameleko kufuze bona sele zineNcwajana ye-**PAIA**, njengombana kutjiwo esigabeni 9.2.2.2 ngehla.
- 9.2.5 Ukutjatjululwa kweenhlangano ezizijameleko esibophweni sokuhlanganisa iincwajana ze-**PAIA** akutjho bona zitjhatjululiwe ekulaleni i-**PAIA**. Lokhu kutjho bona nanyana ngimuphi umuntu usengafaka isibawo sokufumana imininingwana eenhlanganweni ezizijameleko ezingakabopheki. Ukutjhatjululwa kumane kutjho bona ihlangano ezizijamelekwezo akutlhogeki zihlanganise iincwajana.
- 9.2.6 Khumbulua godu, ukuthi akusizo zoke iihlangano ezizijameleko eziziihlangano, njengombana ihlathululo yehlangano ezijameleko ihlanganisa nomuntu ngokwakhe, umuntu ozijamele yedwa kunye nokubambisana. Kodwana kunga kuhle ukuvakatjhela izinzolwazi labo, njengombana ezinye iihlangano zihlanganisa iincwajana ze-**PAIA** kungakhathaliseki ukuthi zinabansebanzi abangakhi namkha kwemali ezingenisa qobe myaka.
- 9.3 Ukuveza ngokuzithandela namarekhodi athileko afumaneka ngokuzenzakalelako
- 9.3.1 Amarekhodi afumaneka ngokuzenzakalelako ngilawo azokukhitjwa yihlangano karhulumende namkha ezijameleko ngaphandle kobana umfakisibawo afake isibawo ku-**PAIA** (ngamanye agama, umuntu angayibawa ngaphandle kokuzalisa iForomo 2 le-**PAIA**).
- 9.3.2 UmPhathiswa wezeMininingwana wehlangano karhulumende kufuze, ngokwemigomo yesigaba 15(1) se-**PAIA**, enze irhelo lemikhakha yemarekhodi afumaneka ngokuzenzakalelako, njengombana kutjiwo esigabeni 9.3.4 ngenzasi.
- 9.3.3 Amarekhodi wehlangano ezijameleko nawo angenziwe afumaneke, ngokwemigomo yesigaba 52(1) se-**PAIA**, kodwana ngokuzithandela ngokuvumelana nesigaba 9.3.4 ngenzasi.
- 9.3.4 Ihlathululo yemikhakha yamarekhodi afumaneka ngokuzenzakalelako kufuze enziwe afumaneke -
- emLawulini weMininingwana;
  - kuzinzolwazi yehlangano; begodu
  - nokuhlolwa, ema-ofisini wehlangano ethintekayol ngesikhathi sokusezenza esivamileko.

<sup>13</sup> Isigaba 110 se-**POPIA**

- 9.3.5 Sibawa utjheje bona umLawuli uzokufaka ihlathululo yamarekhodi afumaneka ngokuzenzakalelako wehlangano karhulumende ezinzolwazini yalo.
- 9.3.6 Irhelweli libandakanya amarekhodi ekungenzeka athloge bona enziwe afumaneka ngeminye imithetho, nananyana ngimaphi amanye amarekhodi ihlangano ekhetha ukufawaka. Khona kuzokubalekela ikambiso yokukhambisana nekambiso ye-**PAIA** yokufaka isibawo, umfakisibawo ukhuthazwa bona aqale iNcwajana yehlangano karhulumende namkha ezijameleko ethintekako. Nakungenzeka umuntu afune amarekhodi angaphasi kwerhelo lehlangano lamarekhodi afumaneka ngokuzenzakalelako, umuntu loyo angawabawa ngabaphandle kokuzalisa iForomo 2 le-**PAIA**.
- 9.3.7 UmThetho 6 weezeMali zeHlangano yezePolitiki uletha amatjhuguluko athileko nge-**PAIA**, lapho iinhloko zeenhlango zezePolitiki kutlhogeka zitlole bezibulunge amarekhodi weminikelo ezijameleko, ekuzokufuze kwaziswe umphakathi ngayo ngokunatlhogeki bona umuntu afake isibawo se-**PAIA**.

## 10. IMINININGWANA YOKUTHINTANA NEEMPHATHISWA ZEZE MINININGWANA

- 10.1 Nanyana imininingwana yokuthinta iiamPhathiswa zezeMininingwan zenye nenye ihlangano karhulumende kudingeka bona ifakwe erhelweni lezokuthintana, ngokwemigomo yesigaba 16 ye-**PAIA**, umLawuli unenimininingwana enqophileko yezokuthintana yabo boke abaPhathiswa bezeMininingwana (kuhlanganise neyamaSekela yebaPhathi bezeMininingwana, akhethwe ngokwemigomo yesigaba 17 no-56 we-**PAIA** ngokulandelana) abatloliswe nayo ngokwemigomo yesigaba 55(2) ye-**POPIA**.
- 10.2 Ngasikhathi ukufumana imininingwana ekungiyi yokuthintana kungenzeka kube yingcenyebudisi yokwenza isibawo se-**PAIA**, njengombana iindima zitjhuguluka qobe ehlanganweni zakarhulumende begodu kungenzeka iNcwajana ye-**PAIA** ingabi nemininingwana yamuva, indawo yokuthoma ukufumana imininingwana yokuthintana kufuze kube yiNcwajana ye-**PAIA** yehlangano. Nokho, nangabe umfakisibawo akayifumani incwajana, ukuthinta i-switchboard yehlangano leyo ukufumana imininingwana ekungiyi kungasiza.
- 10.3 Kibomasipala, i-South African Local Government Association (**SALGA**) ifaka imininingwana yezokuthintana elinkini le:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Ukuthintana kwakaRhulumende godu kunikela imininingwana yokuthintana yelizwe lokoe neyesifunda kuhlanganise neyamaBhizinisi kaRhulumende elinkini le:  
<https://www.gov.za/about-government/contact-directory>. Hlala ukhumbula bona ihlathululo yomPhathiswa wezeMininingwana isiza ukukhomba imininingwana yaloyo ekufuze athintwe ukukhomba umPhathiswa wezeMininingwana.

## 11. IKAMBISO YOKUFAKA ISIBAWO SEMININGWANA

### 11.1 Amaforomo wokufaka isibawo

- 11.1.1 Isibawo sokufumana imininingwana singenziwa kokubili eenhlanganweni zakarhulumende nezizijameleko.
- 11.1.2 I-**PAIA** itlhoga ukuthi nawufuna ukufaka isibawo esinjalo, kufuze uthumele isibawo ngerofomoro elifaneleko (amaforomo layo atjhiwo miThetho). Kunamaforomo amabili angasetjenziswa ukulandela ilungelo lokufumana imininingwana:

Iforomo 2	Iforomo 4
Iforomeli lingasetjenziswa kwaphela nangabe ufuna ukubawa ukufumana amarekhodi wehlangano karhulumende namkha ezijameleko	Iforomeli lingasetjenziswa kwaphela nangabe ufuna ukufaka isililo sangaphakathi malungana neenqunto zabaPhathiswa bezeMininingwana namkha abaSekeli babaPhathiswa bezeMininingwana beliZwelo, besiFunda namkha basemaKhaya bakarhulumende isililo sangaphakathi esisebenza kibo.

- 11.1.3 Amaforomo la angafumaneka ezinzolwazini lomLawuli ku <https://www.justice.gov.za/infoereg/>

### 11.2 Ukuqunta bona isibawo sihlobene nemininingwana ephethwe yihlangano ezijameleko namkha karhulumende

- 11.2.1 Ihlangano karhulumende yenza umsebenzi womphakathi, njengokunikela ngegezi namkha amanzi emphakathini. Nje-ke, ihlangano karhulumende akusiMnyango weliZwelo, wesiFunda namkha kaRhulumende wemaKhaya kwaphela-ihlanganisa amabhizinisi wombuso namkha iinHlangano zakaRhulumende ezinjengomLawuli, u-**Eskom**, namkha i-**PRASA**, nokho, kufuze kwenziwe umehluko malungana nehlangano karhulumende ngebanga lesililo sangaphakathi, esiqalisele kuRhulumende weliZwelo, wesiFunda namkha wemaKhaya kwaphela.

#### 11.2.2

Ihlangano ezijameleko yenza umsebenzi ozijameleko. Ihlangano leyo (kungaba mumuntu ngokwakhe) iraga zerhwebo, ibhizinisi namkha umsebenzi othileko. Kuqakatheke khulu ukutjheja bona nawufakwa isibawo se-**PAIA** ehlanganweni ezijameleko umuntu kufuze atjho ukuthi ngiliphi ilungelo alivikelako namkha alisebenzisako ngokubawa imininingwana leyo. Malungana nananyana ngiyiphi imininingwana ephethwe ngomunye umuntu, u-Streicher JA wafinya isikhundlesi nganasi indlela, **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) isig 28 ku-1026F-G

*“Imininingwana ingatlhogeka kwaphela ukusebenzisa namkha ukuvikela ilungelo nangabe izokusiza ekuyisebenziseni namkha ekuvikeleni kwelungelo. Lokhu kulandela ukuthi, bona kuvulwe umlandu wokufumana imininingwana ngokwemigomo yesigaba 32, umfakisibawo kufuze atjho ngiliphi ilungelo afuna ukulisebenzisa namkha ukulivikela, ngiyiphi imininingwana efunekako nokuthi izomsiza njani ekusebenziseni namkha ekuvikeleni ilungelwelo”.*

- 11.2.3 Ngezinye iinkhathi umbuzo wokuthi inga-kghani irekhodi ngehlangano karhulumende namkha lehlangano ezijameleko ungarara begodu umphakathi ukhuthazwa bona ufune isiluleko somthetho. Isibonelo, nangabe ihlangano karhulumende ikhetha ihlangano ezijameleko bona iyenzele umsebenzi othileko, njengokufaka amamitha wamanzi emiphakathini ethileko, ifumanane aamanani wamabitha afakiweko, nanyana imininingwana enjalo iphethwe yihlangano ezijameleko, izokothathwa njengeyehlangano karhulumende.
- 11.3 Umuntu ulihlalithulula njani ilungelo afuna ukulisebenzisa namkha ukulivikela?
- 11.3.1 Nakahlathulula bona ngiliphi ilungelo umuntu afuna ukulisebenzisa nakafaka isibawo ehlanganweni ezijameleko, angekhe aqalisele elungelweni lokufumana imininingwana. Umuntu kufuze ahlathulule bona irekhodi alibawako litlhogeka njani ngokunengqondo ukumvikela, namkha asebenzise, elinye ilungelo. Lokhu kungahlanganisa amalungelo angasi ngowomthethosisekelo kwaphela.
- 11.3.2 Isibonelo, umuntu angatlhoga ama-master plans ekhamphanini okunamathuba wokuthi isilaphaze amazinga wezebhoduluko emphakathini, khona azokuvikela ilungelo lakhe lezebhoduluko ngokulandelela imisebenzayo. Namkha umuntu angatlhoga amarekhodi, azomsiza aqunte bona unalo na ilungelo lokufaka isibawo sokumangalela ibhizinisi elithileko. Ngalokho-ke, umuntu uzokutlhoga:
- 11.3.2.1 Ukukhomba ngokukhethekileko ilungelo afuna ukulivikela namkha ukulisebenzisa, bese
- 11.3.2.2 Ukuhlathulula ngozwakalako bona kubayini irekhodi alitlhogako lizomsiza ngelungelwelo.
- 11.3.3 Ngokuhlukileko, nakafaka isibawo se-**PAIA** ehlanganweni karhulumende, akutlhogeki bona umuntu abe nebanga lokufuna imininingwana.

## 12. NGUBANI ONGAFAKA ISIBAWO SE-PAIA?

- 12.1 Nanyana ngubani, kungakhathaliseki ukuthi mSewula Afrika namkha akasuye umSewula Afrika, uvumelekile ukufaka isibawo ku-**PAIA**. Ufake isibawo kungaba mumuntu ovamileko namkha wezomthetho

12.2 Ihlango ezijameleko ithatha njengomunto ongokomthetho begodu ingafaka isibawo sokufumana amarekhodi aphethwe ziinhlangano ezizijameleko -

12.2.1 esisebenzela umphakathi, begodu

12.2.2 nangabe amarekhodi athogelwa ukuzalisa namkha ukuvikela nanyana ngimaphi amalungelo ngaphandle kwewehlangano ezijameleko.

12.3 Ngaphasi kwe-**PAIA** umfakisibawo akakwazi ukubawa ufumana irekhodi lehlango ezijameleko, elinemininingwana yomuntu mathupa omfakisibawo ehlanganweni karhulumende<sup>15</sup>, kodwana umfakisibawo namkha okumumethwe yidatha, ngokwesigaba 23(1)(b) se-**POPIA**, ubawa kophethe irekhodi namkha ihlathululo yemininingwana yomuntu mathupa ngokumunyethwe yidatha yaloyo oyiphetheko. Lokhu kutjho bona nanyana ngubani abafaka isibawo sokufumana imininingwanabo ephethwe yihlangano karhulumende namkha ezijameleko ngemva kokuveza ubufakazi obaneleko bokuthi ungubani. Imininingwana yomuntu mathupha omfakisibawo angayibawa kiloyo oyiphetheko ingahlanganisa ubunikazi babo boke abantu besithathu, namkha imikhakha yebantu besithathu, abane, namkha ebakhe bafumana imininingwana.

12.4 Ngokwemigomo yesigaba 50(1) se-**POPIA**, nanyana ngubani angafaka isibawo sokufumana irekhodi lehlango ezijameleko, elinemininingwana yobuqu yomfakisibawo namkha esikhundleni somuntu owenzelwa isibawo.

### 13. SINGAFAKWA KUBANI ISIBAWO?

13.1 UmPhathiswa wezeMininingwana wehlango karhulumende kufuze akhethe iSekela (amaSekela) lesiPhathiswa sezeMininingwana, okufuze aqinisekise bona kubulula ngendlela ekungakghoneka ngayo ukufumaneka kwamarekodi wehlango karhulumende emphakathini. Nanyana lokhu bekungasi yifuneko malungana nehlangano ezijameleko ngaphasi kwe-**PAIA**, ihlangano ezijameleko ingakhetha umSekeli womPhathiswa wezeMininingwana ekukhuunywe ngaye ngehla, ngokwemigomo yesigaba 56 se-**POPIA**.

13.2 Isibawo sokufumana imininingwana, nanyana singanqotjhiswa emPhathisweni wezeMininingwana singafakwa eSekeleni lomPhathiswa wezeMininingwana. Imininingwana yeSekela lezomPhathiswa wezeMininingwana ingafumaneka encwajaneni ye-**PAIA** yehlango leyo namkha emLawulini.

### 14. UKUZALISA IFOROMO

14.1 IForomo 2 - isibawo sokufumana irekhodi lehlango karhulumende namkha ezijameleko

14.1.1 Nakazakuzalisa iforomo le-**PAIA**, umuntu kufuze anikele imininingwana eyaneleko ukuvumela umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana lifumana afunwa mfakisibawo.

<sup>15</sup> Sisigaba 11(2) se-PAIA

- 14.1.2 Imithethokambiso ye-**PAIA** iyalitho iforomo ekufuze lisetjenziswe, okufuze lithunyelwe emPhathisweni wezeMininingwana namkha emSekelini womPhathiswa wezeMininingwana wehlangano.
- 14.1.3 Abafake iimbawo abangakwazi ufunda namkha ukutlola bangabawa ngomlomo emPhathisweni wezeMininingwana namkha emSekelini womPhathiswa wezeMininingwana wehlangano karhulumende, onomthwalo wokuzalisela umfakisibawo iforomo 2. Iforomo lanje lizokufuna uzalise iingceye ezilandelako:

### **Imininingwana efunekako   Ihlathululo**

#### **Imininingwana yehlangano karhulumende / ezijameleko**

Ingcenyane le kufuze ibe ne-email neenomboro ze-fax ezifaneleko zomPhathiswa wezeMininingwana nomSekelini/namkha umSekeli womPhathiswa wezeMininingwana.

#### **Imininingwana yomuntu omfakisibawo sokufumana amarekhodi**

Lokhu kufuze kube neminingwana eyaneleko yomfakisibawo ukwenzela bona kube bulula ukukwazi umfakisibawo, kuhlangukise neminingwana yomfakisibawo: isiphande sopeso, isiphande se-email, inomboro ye-fax kunye/namkha inomboro yomtato yeSewula Afrika. Godu ibawa nenomborwakho kamazisi ukuqinisekisa ukuthi nguwe. Nangabe ubawa omunye umuntu iminingwana, kufuze ube nobufakazi besikhundla owenza ngaso isibawo ('njengomuntu ogunyaziweko').

#### **Imininingwana yamarekhodi abawako**

Nikeza iminingwana epheleleko yerekhodi ekunesibawo sokuthi sifumaneki, kuhlangukise nenomboro yereferensi nangabe uyayazi, ukwenzela bona irekhodele lifumaneki. (Nangabe isikhala esinikeziweko asikaneli, sibawa urage ekhasini eliseqadi bese ulilumathise eforomeni. Woke amakhasi angeziweko kufuze atlikitlwe.

#### **Umhlobo werekhodi**

Lokhu kufuze kube neminingwana eyaneleko ngerekhodi ukwenzela boan kube bulula ukulifumana. Nangabe isikhala esinikeziweko asikaneli eforomini, kungasetjenziswa ikhasi elingezweko elithayiphiweko namkha elitlolve ngesandla ukunikela iminingwana engezweko yesibawo, nangabe nje ikhasi

## Imininingwana efunekako Ihlathululo

ngalinye litlikitliwe lalumathiswa eforomini lesibawo. Isibonelo, ungafaka nokudzujulwe embikweni namkha eendabeni ezithinta irekhodi olifunako. Ikuvumela bona ufake inomboro yereferensi yerekhodi, nangabe kuyafaneleka.

### Iimali

Ihlangano lapho loyo ofaka isibawo afuna ukufaka isibawo sofumana irekhodi kiyo, kuhlanguke nerekhodi elinemininingwana yakhe maphupha, ingakubawa bona ubhadele imali yokufaka isibawo (imali yokufumana) namkha imali yedibhosithi, kodwana akukafuzi yeqise, njengombana imali ebhadelwako kufuze ibe ngeyesikhathi edingekako ukufuna nokulungiselela irekhodi. UNgqongqotjhe angakhipha isaziso eGazethini sokungabhadali njengombana kutjhiwo esigabaeni 51.1.

Kunesikhala sokobana ofaka isibawo atjho bona kubayini acabanga ukuthi kufuze angabhadeli. Isizathu singabandakanya, ngokwesiboneko, ukuthi akasebenzi.

### IForomo lokufumana irekhodi

Ingcenyane le ikuvumela bona ufake u - "X" okukhethako eforomini lokufumana irekhodi lingafumaneka njengeligadangisiweko kunye/namkha nge-flash drive kunye/namkha nge- compact disc drive.

### Indlela yokufumana

Engcenyeni le kufuze utjheje okukhethako malungana nokuthi irekhodelo kufuze libe ngaliphi ilimi (lokhu kungenzeka kungakghoneki malungana nawo woke amarekhodi, kodwana kusafanele utjengise okukhethako).

Indlela yokufumana irekhodi ingaba nomthelela ekwalelweni ukulifumana ngebanga lokubiza khulu. Isibonelo, nangabe umfakisibawo ufuna idokhyumentini emadokhyumentini welimi olifunako



## Imininingwana efunekako Ihlathululo

ingabhadeleka. Nokho, nangabe irekhodi alifumaneki ngelimi olithandako, ungavunyelwa ukulifumana ngelimi erekhodelo elifumaneka ngalo. Indlela yokufumana irekhodi ibandakanya ukuzihlolela mathupha irekhodelo, irekhodi elithunyelwe nge-email, namkha nge-fax namkha ngesithuthi namkha ngeposo.

### **Ukwaziswa ngesiqunto malungana nesiqunto sesisibawo**

Kunesikhala esifakiweko bona umfakisibawo ahlathulule indlela afuna ukwaziswa ngayo ngequnto sokumnikela namkha sokwalela isibawo sakhe. Umfakisibawo ngokwesibonelo angatjho ukuthi ukhetha ukuthintwa nge-email namkha ngomtato namkha ipendulo angaposelwa yona namkha alethelwe yona ngesithuthi.

### **Imininingwana yelungelo ekufuze lisetjenziswe namkha livikelwe**

Nakabawa imininingwana ehlanganweni ezijameleko obawileko kulindeleke bona ahlathulule "imininingwana yelungelo ekufuze lisetjenziswa namkha livikelwe". La kufanele atjho ilungelo athembele kilo (njengelungelo lakhe lokuba sebhodulukweni enepilo) nokuthi irekhodi olibawako lizokusiza usebenzise, namkha uvikele, ilungelwelo. Kufuze atjengise ukukhamelana hlangana nerokhodi alifunako, nokusetjenziswa namkha ukuvikela ilungelo.

Ezibuhlunguke, ngokungafani nesibawo sokufumana irekhodi lehlango karhulumende, angekhe ukwazi ukufumana irekhodi lehlango ezijameleko ngaphandle kokuthi atjho ilungelo (amalungelo) ahlose ukulivikela namkha ukulisebenzisa nakangavunyelwa ukufumana imininingwana. Lokhu kungahlanganisa namaqiniso wokuthi ngemva kokufumana amarekhodi, uzokusebenzisa ilungelo lakhe lokuvikelwa nokuzuza emthethweni<sup>16</sup> ngokumangalela ihlangano leyo ngomonakalo ekungenzeka uwutholile.

<sup>16</sup> Isigaba 9(1) somThethosisekelo seRiphabliki yeSewula Afrika, umThetho 108 ka-1996



14.1.4 Nangabe ngeenzathu ezithileko isibawo sakhe asikhambisani neemfuneko ezitjhowo ngehla, umPhathiswa wezeMininingwana angekhe amane singavumelani nesibawo sakhe, ngaphandle ngangabe umazisile umfakisibawo ukuthi unqophe ukwala isibawo begodu neenzathu zinikeziwe. UmPhathiswa wezeMininingwana godu kufuze azise ukuthi uzokusiza umfakisibawo namkha amnikele ithuba lokulungisa iphoso.

## 15. IMMALI EZIBANDAKANYEKILEKO

15.1 Ngokuvamileko, kufuze kubhadelwe iimali yakho kokubili ukufaka isibawo, godu nokubhadelela iindleko zokufumaneka kwamarekhodi abawiweko. Nanyana kunjalo, kukhona la kuhluka khona. Nangabe ofake isibawo uyawafumana amarekhodi awabawileko begoud akakatjhaphuluki ekubhadaleni iindleko, njengombana kutjengisiwe esigabeni 15.2 ngenzasi, umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana bangabhadelisa imali ebekiweko ngendlela elandelako, -

**NB: Ihlelo lezeemali elimalungana neemali ezibhadelwa eenHlanganweni zakaRhulumende nezizijameleko lingafumaneka ezinzolwazini lwemLawuli.**

Item	Ihlathululo
1	Ikhophi yomHlahlandlela yobukhulu bekhasi le-A4
2	Ukufothokhopho ikhasi lobukhulu be-A4
3	ophi eprintiweko yobukhulu be-A4
4	Ikhophi efundeka ngendlela yekhomphyutha ku: <ul style="list-style-type: none"> <li>(i) I-Flash drive (Ngeyomfakisibawo)</li> <li>(ii) I-Compact disc <ul style="list-style-type: none"> <li>• Nangabe iza nomfakisibawo</li> <li>• Nangabe inikelwe umfakisibawo</li> </ul> </li> </ul>
5	Ngofakwa kweenthombe ekhasini lobukhulu be-A4
6	Ukukhopho iinthombe
7	Ukukophiwa kwerekhodi elilalelwako, ikhasi lobukhulu be-A4
8	Ikhophi yerekhodi elilalelwako: <ul style="list-style-type: none"> <li>(i) I-Flash drive (Ngeyomfakisibawo)</li> <li>(ii) I-Compact disc <ul style="list-style-type: none"> <li>• Nangabe iza nomfakisibawo</li> <li>• Nangabe inikelwe umfakisibawo</li> </ul> </li> </ul>
9	Ukusetjha nokulungiselela ukuvezezwa kwerekhodi elinye nelinye i-awara namkha ingcenyalo, ngaphandle kwe-awara lokuthoma, ngezinga elithileko elitlhogekako ekusetjenokho nokulungiselela. Ukungadluleli ngale kwenani elibekiweko kunye nesilinganiso sesikhathi esibekiweko
10	Idibhosithi: Nangabe isetjho leqa ama-wara asi-6
11	Ukuposa, ukuthumela nge-email namkha nanyana ngiyiphi indlela kusetjenziswa zobu-elekthronikhi

15.2 Umfakisibawo akuthogeki abhadele imali yokufumana<sup>17</sup> ehlanganweni karhulumente nangabe:-

15.2.1 Nangabe akakatjhadi begodu imali ayenza qobe mnyaka, ngemva kokudonselwa okufaneleko, njenge-**PAYE** ne-**UIF**, ingaphasi kwe-**R14 712.00** ngomnyaka

15.2.2 Nangabe utjhadile begodu umrholwakhe nawuhlangene nomlinganakhe ngemva kokudonselwa okufaneleko, njenge-**PAYE** ne-**UIF**, ingaphasi kwe-**R27 192.00**, ngomnyaka.

15.3 Sibawa utjheje bona ihlangano karhulumente namkha ezijameleko ingabawa, iForam 4 ebaLawulini, idibhosithi kumfakisibawo, kwaphela nangabe bakholelwa bona imininingwana namkha amarekhodi ekufakwe ngawo isibawo azokuthatha ama-awara asithandathu (6) ukuwafuna, kodwana inani ledibhosithi akukafuzi libe ngaphezu kwengyenye eyodwa kwezintathu kwemali ebakiweko.

## **16. INGA-KGHANI UMPHATHISWA WEZEMINININGWANA UZOKUSIZA UMFAKISIBAWO SE-PAIA UKWENZA ISIBAWESO?**

16.1 Indima yomPhathiswa wezeMininingwana kunye/namkha iSekela lomPhathiswa wezeMininingwana kokubili ehlanganweni ezijameleko namkha karhulumente kukwenza okulandelako, malungana nokufeza ikambiso yokubawa ukufumana amarekhodi:

16.1.1 ukwamukela isibawo se-**PAIA** namkha se-**POPIA**;

16.1.2 ukunqophisa ikambiso yesibawo ehlanganweni;

16.1.3 ukwenza isiqunto sokuthi uyasivuma isibawo sokufumana imininingwan esifakiweko namkha awa;

16.1.4 uthintana nomfakisibawo (e.g. kungathogeka babawe imininingwana engeziweko komfakisibawo namkha kungenzeka kutlhogeka babawe isikhathi esingenziweko ukuqalana nesibaweso, njl);

16.1.5 Ukwazisa umfakisibawo ngomphumela wesibawo se-**PAIA**, kufuze aziswe msinyana ngokukghonekako kube hlangana namalanga ama-30 ngemva kokufumana isibawo. Amalanga ama-30 wokuthoma angangezelelwa ngamanye amalanga angadluli ama-30, nangabe ngokwesibonelo, umfakisibawo uyavumelana nalokho namkha isibaweso kutlhogeka kusetjhe amarekhodi angekhe afunyanwe ngesikhathi esibekwe ekuthomeni:

16.1.6 ukunikela umfakisibawo iinzathu zesiqunto sokumalela ukufumana akubawileko. Kuqakatheke khulu bona iinzathu ezinikezwako zokwala zikhanye begodu zibe nemininingwana begodu ziqalisele eengabeni ezithileko ze-**PAIA** (qala isigaba 19.4 ngenzasi, malungana neenzathu zokwala bona afumane amarekhodi<sup>18</sup>);

<sup>17</sup> Ngokwesaziso sakaRhulumente R991 sange-14 Oktoba 2005

<sup>18</sup> isigaba 33 ukuya ku-46 se-PAIA

- 16.1.7 ukwazisa abantu besithatha abafaneleko ngekambiso yokwazisa abantu besithathu, ngokwemigomo yesigaba 47 se-**PAIA**; begodu
- 16.1.8 nangabe kufumaneka imvumo yokufumana amarekhodi, banikela umfakisibawo ikhophi yerekhodi.
- 16.2 Nabazisa umfakisibawo ngesiqunto, vezani amaforomo wokufumana isizo elifumanekako neekhathi ezifaneleko (isizo elifumanekako lihlukile eenhlanganweni zakarhulumente nezizijameleko).
- 16.3 Indima nemisebenzi engeziweko yomPhathiswa wezeMininingwana kunye/namkha iSekela lomPhathiswa wezeMininingwana ngileyo evezwe Encwajaneni yeenQophiso zomPhathiswa wezeMininingwana kunye neSekela lomPhathiswa wezeMininingwana efaneka ku <https://www.justice.gov.za/infoereg/docs.html>
- 16.4 Ngebanga lokuthi indima yomPhathiswa wezeMininingwana kunye/namkha iSekela lomPhathiswa wezeMininingwana kukwenza lula isibawo sokufumana imininingwana, lokhu kutjho bona banemisebenzi ehlukehluke kilabo abenze isibawo.
- 16.5 UmPhathiswa wezeMininingwana kunye/namkha iSekela lomPhathiswa wezeMininingwana kufuze banikele isizo simahla.
- 16.6 AbaPhathiswa bezeMininingwana kunye/namkha amaSekela wabaPhathiswa bezeMininingwana behlangano karhulumente banemisebenzi elandelako ekhethekileko:

Imisebenzi yabaPhathiswa bezeMininingwana	Ihlathululo
<p><b>Basiza ngokuzalisa iforomo</b></p>	<p>UmPhathiswa wezeMininingwa kufuze anikele isizo elifaneleko kumfakisibawo ukuzalisa iforomo lakhe le-<b>PAIA</b>, begodu angekhe ale ukwamukela iforomo elingakazaliswa kuhle ngaphandle kobana bamsizile, namkha banikelile ngesizo namkha isizo azange lamukelwe.</p>
<p><b>Unikela imininingwana efaneleko</b></p>	<p>Nakungenzeka, umPhathiswa wezeMininingwa kufuze anikelo umfakisibawo ngananyana ngimiphi imininingwana efaneleko, ngitjho nanyana ingakabawa ngokunqophileko.</p>
<p><b>Ukudlulisela isibawo</b></p>	<p>Lo, msebenzi oqatheke khulu. Nakwenziwe isibawo se-<b>PAIA</b> ehlanganweni karhulumente ekungasiyo, umPhathiswa wezeMininingwana kufuze adlulisele isibaweso ehlanganweni</p>

efaneleko **hlangana namalanga ali-14** wokufumana isibawo begodu kufuze azise umfakisibawo ukuthi ukwenzile lokho ngokumtlolela. Nasele sidluliselwe, UmPhathiswa wezeMininingwana ofaneleko kufuze aphendule ngesiqunto hlangana **namalanga ama-30**.

### Ukuhlehlisa kokutjhatjhululwa

UmPhathiswa wezeMininingwa angaqunta ukuhlehlisa kokutjhatjhululwa kwerekhodi Imfakisibawo nangabe irekhodelo lizokugadangisa hlangana namalanga ali-90 namkha nangabe irekhodi lifunwa mthetho bona ligadangiswe kodwana lisazokwenziwa.

- 16.7 Kokubili eenhlanganweni zakarhulumende namkha ezizijameleko, umPhathiswa wezeMininingwana, nangabe abawafumani amarekhodi athileko abawiweko namkha kukholelwa bona awekho, kufuze bathumele i-afidavithi ehlatululako namkha isiqinisekiso<sup>19</sup> kumfakisibawo simazisa ngokuthi amarekhodi okukhulunywa ngawo awekho namkha awafumaneki, kodwana babuye baveze amagadango abawathathileko ukuwafuna.

## 17. ISIZO ELIFUMANEKA EMLAWULINI WEZEMINININGWANA NGOKWEMIGOMO YE-PAIA NE-POPIA

- 17.1 UmPhathiswa wezeMininingwa ubophekile ukunikela isizo elifaneleko elinjalo<sup>20</sup>, simahla, njengombana kutlhogeka bona loyo omfakisibawo namkha okumunyethwe yidatha akhambisane nendlela yokufumana njengombana ihlongozwe esigabeni 18 se-**PAIA** nesigaba 23 se-**POPIA**.
- 17.2 Nokho, nakungenzeka umPhathiswa wezeMininingwa abhalelwe ukufeza umsebanzaso, otjiwo esigabeni 17.1 ngehla, umfakisibawo namkha ummumathi wedatha angafaka isililo emLawulini bese kuthi umLawuli, ngemva kokwenza iphenyo, angakhipha isAziso sokuKatelela esilayela umPhathiswa wezeMininingwa bona anikele ngesizo elifaneleko.
- 17.3 UmLawuli, nakungenzeka, nakunesibawo, assize nanyana ngimuphi umuntu ofisa ukusebenzisa nanyana ngiliphi ilungelo elihlongozwe ku-**PAIA** ne-**POPIA**<sup>21</sup>, lokhu kuhlanganisa nokunikela isizo elifaneleko, simahla, njengombana kutlhogeka ukusiza umfakisibawo namkha ummumathi wedatha akhambisane nendlela yokufumana njengombana kuhlongozwe esigabeni 18 no-53 se-**PAIA** nesigabeni 23 se-**POPIA**.
- 17.4 Lokhu okungehla kubandakanya ukunikela isinqophiso sokuthi sizaliswa njani isibawo seforomo sokufumana namkha sokuzalisa umuntu ongakafundi namkha osiphofu iforomo.

<sup>19</sup> Isigaba 23(1) no-51(1) se-PAIA

<sup>20</sup> Isigaba 19(1) se-PAIA

<sup>21</sup> Isigaba 83(3)(c) se-PAIA

## 18. INGA-KGHANI UMPHATHISWA WEZEMININGWANA ANGALULA ISIKHATHI ESIBANDAKANYEKILEKO?

- 18.1 Ihlaka lekambiso neenkhati eziqathekileko ezibandakanyekileko zikudayagramu yesibawo sekambiso ye-**PAIA**, esigabeni 27. Ukuba neenkhati ezingophileko yingcenywe eziqathekileko ye-**PAIA**, njengombana ikhuthaza ukuphathwa okusebenzako kweembawo zokufumana amarekhodi.
- 18.2 Isikhumbuzo, nawusele ufake isibawo sakho ngendlela efaneleko umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana, isibawo esifakwe kuye namkha sidluliselwe khona, kufuze akuphendule mnsinyana ngendlela ekungakghoneka ngayo kunanyana ngisiphi isenzakalo hlangana **namalanga ayi30**<sup>22</sup>. Nokho, umPhathiswa wezeMininingwana wehlangano karhulumente namkha ezijameko angabawa ukululelwa **ngamalanga ayi-30**<sup>23</sup> kanye, kodwana kwaphela nangabe:
- 18.2.1 isibawo ngesenani elikhulu lamarekhodi namkha kutlhogeka bona kusetjhwani inani elikhulu lamarekhodi ngaphandle kokululelwa isikhathi, ukusetjhokho kungathikameza imisebenzi yehlangano ebandakanyekileko;
- 18.2.2 isibawo sitlhoga kusetjhwani amarekhodi ase-ofisini lehlangano leyo elingasi sedorobheni elifanako begodu angekhe kuqedwe hlangana **namalanga ama-30**; begodu/namkha
- 18.2.3 kutlhoga izinga lokubonisana bona kwenziwe ngokuvumelana nesibawo, esingekhe siqedwe hlangana **namalanga ama-30**.
- 18.3 UmPhathi wezeMininingwana azise umfakisibawo ngehloswakhe yokungezelela isikhathi sekuthomeni, begodu atjho isikhathi ekululwa ngaso, isizathu sokulula, godu azise umfakisibawo ngelungelo lakhe -
- 18.3.1 Lokufaka isililo emphathinimandla ezifaneleko;
- 18.3.2 lokunghonghoyila emLawulini; namkha
- 18.3.3 lokwethula ikambiso ekhotho ngokujamelene nokwelula kwesikhathi kuye ngomlando.
- 18.4 UmPhathi wezeMininingwana godu kufuze azise umfakisibawo ngekambiso ngelinye nelinye ilungelo atjengiswe ngehla esazisweni<sup>24</sup>.

## 19. IIMPENDULO ZESIBAWO SEZEMININGWANA

- 19.1 I-**PAIA** inikele umphakahi ilungelo lokubawo ukufumana amarekhodi kinanyana ngiyiphi ihlangano karhulumente namkha ezijameleko. Kujayeke ukuhlathululwa njengomthetho obunga izakhamuzi zazi ngorhulumente wazo. Iinhlangano zakarhulumente kufuze ilindeleke bona iveze nanyana ngimiphi imininingwana

<sup>22</sup> Isigaba 25(1) se-PAIA

<sup>23</sup> Isigaba 26(1) se-PAIA

<sup>24</sup> Isigaba 26(3) se-PAIA - isaziso sokulula kufuze sitjho ukuthi umfakisibawo angafaka isililo sangaphakathi, isinghonyoyilo emLawulini wezeMininingwana namkha isibawo ekhotho, njengombana kungaba njalo, ukuphikisana nokwelula, nekhambiso (kuhlanganise nesikhathi) yokufaka isililo sangaphakathi, nesililo emLawulini wezeMininingwana namkha isibawo, njengombana kungaba njalo

ebawiwe ngaphasi kwe-**PAIA** ngaphandle kobana iwele ngaphasi kokutjhatjululwa **okulitjhumu nambili (12)** namkha iinzathu zokuthi kubayini ukufumaneka kwamarekhodi ehlanganweni ezijameleko kungafumaneka namkha kungafumaneki<sup>25</sup> nokutjhatjhlulula **okulikhomba (7)** namkha iinzathu zokuthi kubayini ukufumaneka kwamarekhodi ehlanganweni ezijameleko kungafumaneka namkha kungafumaneki<sup>26</sup>. Ukutjhatjhlululwa kwetjhumu nethoba (19) okuku-**PAIA** kuhloselwe ukuvikela iinkareko ezinjengemininingwana yobuqu, ukuphepha kwelizwelo, nokugcinwa komthetho.

19.2 Ikambiso yokunqophisa okusekelwe kiyi ukuphathwa kwe-**PAIA** kucabanga okuvulekileko. Lokhu kutjho bona nanyana ebangela ukukhawula ukuvulekokhu kufuze kube nebanga. linhlango zakarhulumende kufuze zihlolelele bona ukuveza imininingwane ngokungakapheleli kungakghoneka nanyana kunini lapho baqunta ukuthi ukuveza imininingwana epheleleko angekhe kukghoneke begodu kufanele basuse namkha bahlelise imininingwana engekhe yavezwa bese baveze okhunye okuseleko.

### 19.3 Imihlobo yeempendulo zeembawo

19.3.1 Nangabe kwenziwe isibawo sokufumana irekhodi, umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana kufuze, nangabe isibawo sokufunama irekhodi linikeliwe namkha awa, kufuze azise umfakisibawo -

- (a) ngesiqunto sakhe; begodu
- (b) nangemali okufuze ibhadelwe, nayikhona

ngeforomo elikhambisana khulu neForomo 3 yesiThasiselo A yemiThetho le:

19.3.2 Nokho, i-**PAIA** inikela irhele leenzathu namkha amabanga (ukutjhatjhlululwa) (qala isigaba 19.4 ngehla) kubayini isibawo singavunywa namkha saliwe. Lokhu kuqakathekile, njengombana isibawo singalelwa kwaphela ngesinye seenzathu eziveziweko zokwalelwa ukufumana amarekhodi.

19.3.3 Ngaphandle kweenzathu ezivezwe ngehla zokwala ukukhipha amarekhodi, umPhathiswa wezeMininingwana wehlangano karhulumende kufuze anikele ivumo yokufumaneka kwerekhodi lehlango nangabe ikareko yomphakathi ekuvezeni irekhodi ngokukhanyako ingaphezu kwengozi ekucatjengelwako eenzathwini eziveziweko zokwala<sup>27</sup>. Lokhu kutjho bona umfakisibawo angathembela ekukarekeleni umphakathi nanyana kunini lapho kuvuswa khona nanyana ngiziphi iinzathu zokwalelwa ukufumaneka kwamarekhodi.

19.3.4 Kafitjhani, iinzathu zokuthi kubayini iminingwana ingekhe itjhatjhlululwaitjhatjhlululwe zihlobene nokuthi ukuukutjhatjhlululwa kwemininingwanokho kungabangela umonakalo ongeziweko kunokungayitjhaphululi. Kunemihlobo emibili yeenzathu ezeziweko yokwalelwa kokufumaneka kwamarekhodi wehlangano:

<sup>25</sup> Isahluko 4 se-PAIA - amabanga wokwala ukufumaneka kwamarekhodi (isigaba 34-45 se-PAIA)

<sup>26</sup> Isigaba 4 se-PAIA - amabanga wokwala kokufumaneka kwamarekhodi (isigaba 63-69 se-PAIA)

<sup>27</sup> Isigaba 46 se-PAIA



## 19.4 Amabanga akatelelako wokwala (amabanga wokutjhaphulula)

19.4.1 Ngamabanga akatelelako, umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana kufuze bale isibawo ngombana siyasebanza erekhodini.

19.4.2 Kunamabanga angeziweko akatelelako nakumadaniwa newokutjheja. Okulandelako mabanga wokwala akatelelako, begodu umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana kufuze bale isibawo ngombana siyasebenza erekhodini

### 19.4.2.1 **Ukuvikelwa okukatelelekileko kwefihlo yomuntu wesithathu yomuntu ovamileko;**

UmPhathiswa wezeMininingwana wehlangano karhulumende namkha ezijameleko akukafuzi avumele umfakisibawo afumane imininingwana yomuntu mathupa yomunye umuntu nangabe kufana nokuthi 'kuveza okungakafaneleki'. Ingaba ngokwazo ziveza iinzathu ezimbalwa nangabe lokhu akusebenzi, njengalokho amarekhodi sele sele umphakathi uwazi, namkha lokha umuntu anikele imvumo. Indaba yemvumo iqakatheke ngokukhethekileko njengombana ilumatha nenye ingcenyane yekambiso umfakisibawo ekufuze ayazi, ehlobene nezaziso zomuntu wesithathu, ngokwesahluko 5 se-PAIA.

### 19.4.2.2 **Ukuvikelwa okukatelelekileko kwamarekhodi athileko iPhiko lezomThelo weSewula Afrika;**

UmPhathiswa wezeMininingwana we-SARS kufuze angavumeli umfakisibawo afumane amarekhodi afunyanwe, namkha aphethwe yi-SARS ngomnqopho wokubuthelela imali. Nokho, amarekhodi afunyanwe namkha aphethwe yi-SARS angekhe alelwe nangabe isibawo sifakwe mumuntu othileko ngokwakhe namkha umuntu owenzelwa isibaweso.

### 19.4.2.3 **Ukuvikelwa okuqakatelelekileko kwemininingwana yezokuthengiselana yomuntu wesithathu;**

UmPhathiswa wezeMininingwana wehlangano kufuze angavumeli umfakisibawo afumane imininingwana yezokuthengiselana yomunye umuntu (ngamange amagama, ongasiye umfakisibawo namkha ofaka isibawo). Lokhu kubandakanya imininingwana enjengeemfihlo zokurhweba, namkha engathusela inkarekelo zokuthengisa zomuntu wesithathu. Isibonelo, i-KFC isebenzisa inamarisipu athileko wokupheka, kuhlangukise neenongo ezikhizwa mununtu wesithathu, okuyifihlo yokurhweba komuntu wesithathu begodu ukuvezwa kwayo kungathusela inkarekelo zokuthengisa zomuntu wesithathu loyo.

19.4.2.4 **Ukuvikelwa okukateleleleko kwemininingwana ethileko eyifihlo, nokuvikeleka kweminye imininingwana ethileko eyifihlo, yomuntu wesithathu;**

AbaPhathiswa bezeMininingwana benhlangano zombili karhulumende nezijameleko akukafuzi bavumele umfakisibawo afumane irekhodi nangabe ukutjhatjhululwa kwalo kuzokufana nokwephula ukuthenjwa komsebenzi okolodwa umuntu wesithathu ngokwemigomo yesivumelwano namkha ikhontrakthi.

19.4.2.5 **Ukuvikelwa okukatelelekileko kwevikeleko kwabantu, nokuvikelwa kwepahla;**

AbaPhathiswa bezeMininingwana benhlangano zombili karhulumende nezijameleko akukafuzi bavumele umfakisibawo afumane irekhodi nangaba ukutjhatjhululwa kwalo kungalindeleka bona kubeke ukuphepha komuntu engozini. Eengabeni ezifanako, ibuye ithi umPhathiswa wezeMininingwana wehlangano angala bona lifumaneke nangabe kungenzeka silimaze ukuphepha komakhiwo namkha ipahla.

19.4.2.6 **Ukuvikelwa okukatelelekileko kwamadokethi wamapholisa enziwa I bheyili, nokuvikela ukubulungwa komthetho neenkambiso zomthetho;**

UmPhathiswa wezeMininingwana wenhlangano karhulumende akukafuzi avumele umfakisibawo afumane amarekhodi anjengwebheyili aragako esele avikelwe sigaba 60 somThetho weKambiso yoBugebengu. Esigabeni esifanako, godu sithi umPhathiswa wezeMininingwana wehlangano karhulumende angala kufumaneke amarekhodi wokwenziwa komthetho aveza iindlela, amaqhinga, neenkambiso zokuvikela ubugebengu, namkha ukutjhutjhisa ubugebengu, kuhlangukise namanye amarekhodi ahlobene neenkambiso zomthetho ezenzekako.

19.4.2.7 **Ukuvikelwa okukatelelekileko kwamarekhodi okunelungelo lokuwakhipha ekambisweni yezomthetho;**

UmPhathiswa wezeMininingwana wenhlangano karhulumende akukafuzi avumele umfakisibawo afumane irekhodi nangabe irekhodelo kunelungelo lokilikhipha ekambisweni yezomthetho, ngaphandle kobana umuntu onelungelo lokulisebenzisa alisebenzise.

19.4.2.8 **Ukuvikelwa okukatelelekileko kwemininingwana yerhubhululo lomuntu wesithathu, nokuvikela imininingwana yerhubhululo yehlangano karhulumende namkha ezijameleko.**

UmPhathiswa wezeMininingwana wenhlangano karhulumende akukafuzi avumele umfakisibawo afumane irekhodi nangabe irekhodelo lihlobene nerhubhululo elenziwako, namkha elizokwenziwa yihlangano ethintekako begodu ukutjhatjhululwa kwalo kungenzeka kuveze umrhubhululi, umuntu wesithathu namkha indaba ekurhujululwa ngayo ibe sengozini ekulu.



19.4.3 Sibawa utjheje bona amabanga angehla akatelelako wokwala ukumaneka kwamarekhodi pheze ayafana ehlanganweni karhulumende nezijameleko, ngaphandle kwevikeleko elikatelelekileko lamarekhodi athileko wePhiko lezomThelo leSewula Afrika, asebenza ehlanganweni karhulumende kwaphela.

19.4.4 Nangabe ingcenywe yerekhodi kwaphela ilumathiswe nebanga zokulitjalelwa, umPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana wehlangano karhulumende namkha ezijameleko bangaphasi kwesibopho sokucabangela ukuthi inga-kghani ukuvezwa kwengcenywe ethileko yemininingwana kuyakghonakala nanyana kunini nabaqunta ukuthi ukuvezwa ngokupheleleko angekhe kukghoneke begodu kufuze bathathe amagadango afaneleko zokujamisa namkha ukuhlehlisa ingcenywe leye engekhe kukghoneke yenzwe ifumaneke emfakinisibawo begodu afumane loke irekhodi.

## 19.5 Ukuqalwa njengokwalelwa kwesibawo<sup>28</sup>

19.5.1 Ukubhalelwa kokuphendulwa kuhle kwesibawo hlangana nesikhathi esibekiweko 'kuqalwa njengokwalelwa'. Kuqakathekile lokhu, ngombana i-PAIA ivumela umfakisibawo aphikisane nesiqunto lokha nakungekho isiqunto esenziweko begodu isibawo siliselelwe. Umfakisibawo angamane atjho isibawo sakhe esililweni sangaphakathi ukuthi akhenge afumane ipendulo.

19.5.2 Isibawo sokufumana amarekhodi siqalwa njengesaliweko ngemva kokudlula kwamalanga ama-30 namkha nanyana ngisiphi isikhathi esiluliweko begodu ihlangano karhulumende namkha ezijameleko iyabhalelwa ukuphendula.

## 19.6 Amabanga wokukhetha ukwala

19.6.1 Ngamabanga wokuzikhethala, umPhathiswa wezeMniningwana namkha iSekela lomPhathiswa wezeMininingwana bangacabangela ukuthi sisale isibawo na isibawo ngebanga lamabanga asebenza erekhodini abalibawoko. Ngebanga lokuthi uyazikhethela, umPhathiswa wezeMniningwana kufuze asebenzise umkhumbulwakhe kuhle nakacabangela amabanga ahlukahlukene, okungilawa:

19.6.1.1 **Ukuvikelwa kweSewula Afrika, zokuphepha netjhebiswano lephasi loke:** UmPhathiswa wezeMniningwana angasala isibawo nangabe ukutjhatjhululwa kwemininingwana kungangalindeleka bona kuthusele ukuphepha namkha ivikeleko lenarha. Lokhu kuyasebanza nalapho ukutjhatjhululwa kwemininingwana kungalimaza itjhebiswano leSewula Afrika nezinye iinarha, njengokukhipha amarekhodi anikelwa ngokuzithema.

19.6.1.2 **Inkarekelo zezomnotho, zeemali nezokuthengiselana:** UmPhathiswa wezeMniningwana angasala isibawo nangabe ukutjhatjhululwa kwayo kungalimaza ubujamo bezomnotho nebezemali beRiphabliki;

<sup>28</sup> Isigaba 27 no-58 se-PAIA

19.6.1.3 **Ukusebenza kweenhlangano zakarhulumende:** UmPhathiswa wezeMniningwana angasala isibawo nangabe ukutjhatjhululwa kwemininingwana kungathikameza ukusebenza, isibonelo, nangabe silinga ukwakha iinkambiso, namkha sisathungela indaba ethileko;

19.6.1.4 **Iimbawo ezimamala namkha ezitjharaganisako:** AbaPhathiswa bezeMniningwana bangasala isibawo nangabe isibawo semininingwana nangabe babona ukuthi ukuphendula isibaweso kuzokudla isikhathi ngokunganasidingo kubangele ukumotjheka kweensetjenziswa. Ukungezelela kilokho, bangalela ukufumaneka kwerekodi nangabe isibaweso kubonakala kwanga osenzileko usenzele ukusilinga nokudelela okungadingekiko.

## 20. UKUVEZA OKUKATELELEKILEKO KWAMAREKHODI EHLANGANWENI KARHULUMENDE EMPHAKATHINI

20.1 Nanyana likhona ibanga namkha isiqu nto esalelako malungana nesibawo sokufumana amarekhodi eenhlanganweni zakarhulumende namkha ezizijameleko, kuhlala kunekghonakalo yokobana inkarekelo zomphakathi ekuvezeni amarekhodi kuqakatheke khulu kunokumotjheka okwenzakalako ngokutjhatjhululwa kwerekhodi.

20.2 Lapho ukuqakatheka kweenkareko zomphakathi kufumaneka njengombana kutjengiswe ngehla begodu ukuvezwa kwerekhodi kuzokuveza ubufakazi bokuphulwa okukhulu, namkha ukubhalelwa ukubambisana, nomthetho; namkha khonokho kube nengozi yezokuphepha okuncamileko namkha kwezemvelo, lapho-ke umPhathiswa wezeMininingwana wehlangano kufuze enze irekhodi lifumaneko kungakhathaliseki kokuba khona kwamabanga wokukutjhatjhululwa atjihiwo ngehla.

## 21. IKAMBISO YOKWAZISA UMUNTU WESITHATHU<sup>29</sup>

21.1 UmPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana wehlangano kufuze, ngokwemigomo yesigaba 47 no-71 ye-**PAIA**, athathe woke amagadango ukwazisa umuntu wesithathu ngesibawo samarekhodakhe okungenzeka kube yirekhodi elingaba nemininingwana yomuntu mathupha,

21.1.1 irekhodi le-SARS;

21.1.2 iimfihlo zerhwebo;

21.1.3 imininingwana yokutjhapulula engaba namabanga wesenzo wokwephula umsebenzi wokuthembeka; namkha imininingwana yerhubhululo engaveza umuntu namkha indaba ebandakanyekelo emonakalweni omkhulu.

21.2 Isaziso esiya emuntwini wesithathu amarekhodi namkha imininingwana ekufakwe ngayo isibawo kufuze imeme umuntu wesithathu bona -

<sup>29</sup> Isigaba 47 no-71 se-PAIA

21.2.1 atlole namkha ethule ngomlomo emPhathisweni wezeMininingwana ukuthi kubayini isibawo sokufumana iminingwana kufuze saliwe; namkha

21.2.2 anikelwe imvumo etlolwe phasi yokuvezwa kwerekhodi emfakinisibawo.

21.3 Okuqakathekileko emfakinisibawo, i-**PAIA** ithi izaziso ezitlolwe phasi zomuntu wesithathu kufuze zithunyelwe kuye hlangana namalanga ama-21 kufunyenwe isibawo, nokuthi umPhathiswa wezeMningwana namkha iSekela lomPhathiswa wezeMininingwana kufuze lazise umfakisibawo ukuthi sele kuthunyelwe isaziso emuntwini wesithathu.

21.4 Isazisweso nasele sithunyelwe, umPhathiswa wezeMningwana namkha iSekela lomPhathiswa wezeMininingwana kufuze enze isiqunto samaswaphela ukuthi uzowenza afumaneke na amarekhodi hlangana namalanga ama-30 isaziso sithunyelwe.

21.5 Umuntu wesithathu kufuze aziswe ngesiqunto esithethweko namabanga aneleko wokuphasisa isibawo kufuze anikelwe. Umuntu wesithathu kufuze aziswe ngelungelo nekambiso yokuphikisana nesiqunto njengombana kutjhiwo esigabeni 22 ngenzasi.

## **22. IINSOMBULULO EZINGOKWEMTHETHO EZIFUMANEKAKO ZOKULUNGISA IINQUNTO NAMKHA UKUBHALELWA KWESIPHATHISWA SEZEMININGWANA UKUTHATHA ISIQUNTO NAMKHA ISEKELA LESIPHATHISWA SEZEMININGWANA**

22.1 Igadango okufuze lithathwe nasele kwenziwe isiqunto ngesibawo

22.1.1 Umfakisibawo angenza ilandelela ngokutlola, ngesibawo esisalengisiweko somPhathiswa wezeMningwana namkha iSekela lomPhathiswa wezeMininingwana. Kukhuthazwa bona koke ukukhulumisana hlangangana nomfakisibawo nomPhathiswa wezeMningwana namkha iSekela lomPhathiswa wezeMininingwana kufuze kutlolwe phasi khona kuzokuba nobufakazi ngokuzako.

22.1.2 Kuneenkambiso ezihlukahlukeneko zeenhlango zakarhulumente nezizijameleko, khulukhulu ekufakiweni kwesililo sangahakathi. Isibonelo, malungana nesibawo sokubawa ukufumana irekhodi lehlango karhulumente, umfakisibawo kufuze athome afake isililo sangaphakathi ngaphambi kobana aye kumLawuli namkha eKhotho. Nokho, asikho isililo sangaphakathi esiphikisana nesiqunto (kungaba ngesokunikela namkha sokwala ukunikela ukufumaneka kwamarekhodi) namkha ukwalelwa ukufumana amarekhodi wehlango ezijameleko.

22.1.3 Ingcanye le izokuhlathulula iinsombululo ezingokothetho ezifumanekako ebafakinimbawo abafisa ukuphikisana neenqunto ezinjalo, ezibandakanya iinlilo zangaphakathi, ukufaka isililo emLawulini nokuthumela iimbawo eKhotho. Godu qala idagramu yokulandelana kwesibawo se-**PAIA**, esigabeni 27 ngenzasi.

22.1.4 Hlangana nokhunye, umfakisibawo angaphikisana nesiqu nto esilandelako sehlangano ezijameleko kunye/namkha karhulumende -

22.1.4.1 ithenda nanyana ukubhadelwa kwemali yesibawo;

22.1.4.2 ithenda nanyana ukubhadelwa kwedibhosithi;

22.1.4.3 imali yokufumana imininingwana iphezulu khulu;

22.1.4.4 indlela yokufumana enikeziweko;

22.1.4.5 ukwaliwa kwesibawo;

22.1.4.6 ikambiso (kuhlanganise nesikhathi) yokufaka isililo sangaphakathi;

22.1.4.7 ukwelulwa kwesikhathi okungakafaneli ekuphenduleni isibawo sokufumana;

22.1.4.8 ukubhalelwa ukuveza amarekhodi;

22.1.4.9 ukuvunyelwa kwesibawo ukufumana irekhodi;

22.1.4.10 ukwala ukunikela isibawo sokungavumeli imali;

## 22.2 Iinsombululo zangaphakathi

22.2.1 Umfakisibawo usifaka njani isililo ngaphakathi ngokujamelene nesiqu nto sehlangano karhulumende?

22.2.1.1 Isililo sangaphakathi singafakwa kwaphela ngokwemigomo yesigaba 74 ye-**PAIA**, esiphathinimandla esifaneleko selizwe loke namkha sesifunda emkhaktheni karhulumende namkha kinanyana ngimuphi umasipala emakhaya emkhakheni karhulumende njengombana kungaba njalo.<sup>30</sup>

22.2.1.2

Isibonelo, iDorobha leJwanasbhege lisibonelo somkhakha karhulumende wemakhaya lapho isibawo sesililo sangaphakathi esingafakwa khona. IsiKhwama sezeNgozi zeNdlela namkha umLawuli Sibonelo sehlangano ezijameleko engasiyencingenye yelizwe loke, yesifunda namkha yomkhakha karhulumende wemakhaya njengombana ibekwe mthetho, ngalokho-ke isililo sangaphakathi angekhe sifakwe ngayo.

<sup>30</sup> Isigaba 74(1) se-PAIA

22.2.1.3 Nangabe umfakisibawo namkha umuntu wesithathu akakathabi ngesiquto esithethwe mPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana welizwe loke, wesifunda namkha urhululumdende wemakhaya, umfakisibawo namkha umuntu wesithathu unelungeko lokufaka isililo sangaphakathi, ngokwemigomo yesigagaba 74(1) namkha (2) se-**PAIA**. Ikambiso yokufaka isibawo itjengisiwe encwajaneni ye-**PAIA** yehlangano leyo ngokunqophileko nendlela yokufaka isililo sangaphakathi ihlathululiwe la ngenzasi.

22.2.1.4 Nangabe ipendulo yelizwe loke, yesifunda namkha karhulumende wemakhaya iqalwa njengokwalelwa, ngamanye amagama, ibhalelwe ukuphendula isibawo hlanguana namalanga ama-30 namkha kinanyana ngisiphi isikhathi esingeziweko, umfakisibawo angafaka isililo sangaphakathi, ngokwekambiso evezwe la, ngaphambi kobana umfakisibawo aye kumLawuli namkha ekhotho.

## 22.3 Ukubulungwa kwamrekhodi bekube kulapho isiqunto sokugcina ngesibawo sifumaneke

22.3.1 Umphathiswa wezeMininingwana weliZwelo, isifunda namkha uRhulumende wemakhaya lapho isililo sangaphakathi sisebenza khona begodu sifuneka, ngokwemigomo yesigaba 21 se-**PAIA**, uzokuthatha amagadango afaneleko ukuvikela irekhodi begodu angekhe asule namkha atjhabalalise nanyana ngiliphi irekhodi abalibawako, bekube kulapho woke namkha nanyana ngiyiphi ikambiso yokufakwa kwesibawo sangaphakathi namkha isililo esifakwe emLawulini namkha isibawo ekhotho, kuye ngomlando, kukhitjhwa isiqunto.

22.3.2 Lokhu kutjho bona umPhathiswa wezeMininingwana angekhe asule namkha atjhabalalise ngimiphi imininingwana ebawiweko, nakusalindelwe ikambiso esesigabeni 22.3.1.1 ngehla.

## 22.4 Isililo sangaphakathi kufuze sinqotjhiswe kubani?

22.4.1 Nanyana isililo sizokuqalwa siphathimandla esifaneleko, isililo sangaphakathi kufuze silethwe emPhathisweni wezeMininingwana weliZwelo, wesifunda namkha uRhulumende wemakhaya, njengombana kungaba njalo, esiphandeni sakhe, enomborweni ye-fax, namkha esiphandeni se-email<sup>31</sup>, emininingwaneni yokuthintana engatholakala encwajaneni ye-**PAIA** namkha njengombana ingafumeka emLawulini.

22.4.2 Umphathiswa wezeMininingwana welizwelo, isifunda namkha urhulumende wemakhaya, njengombana kungaba njalo, unesibopho esikhethekileko, ngokwemigomo yesigaba 75(4) se-**PAIA**, sokuthumela isililo

<sup>31</sup> Isigaba 75(1)(b) se-PAIA

esiphathimandla sezeenlilo, sikhambisane namabanga wesiqu nto ekufakwe ngaso isililo. Ukufakwa kwesibawo esiphathimandla esifaneleko kufuze senziwe hlangana namalanga ali-10 wokusebenza ngemva kokufumana isililo.

## 22.5 Ngubani isiphathimandla esifaneleko?

22.5.1 Isiphathimandla esifaneleko la sibizwa ngokuthi “siphathimandla sezeenlilo” ngokuvamileko yihloko yehlangano yezepolitiki ethintekayo (nanyana umsebenzi lo ungaluliselwa ngokusehethweni) begodu iqalisele ngokunqophileko emuntwini olandelako -

Ihlangano YomPhakathi (“KaRhulumende”)	Isiphathimandla Esifaneleko (“Isiphathimandla Sezeenlilo”)
<b>I-Ofisi LakaMengameli</b>	Mumuntu okhethwe nguMengameli ngokutlola phasi, nakakhona, nankungasinjalo uMengameli siphathimandla sezeenlilo
<b>UmNyango Welizwelo</b>	NguNdunakulu ophethe umnyango loyo namkha umuntu okhethwe ngokutlola phasi nguNdunakulu
<b>I-Ofisi LeNdunakulu</b>	Mumuntu okhethwe ngokutlolwa phasi nguNdunakulu.
<b>UmNyango WezesiFunda</b>	Lilunga LomKhandlu Ophetheko ( <b>MEC</b> ) eliqalelele umNyango wesiFundeso namkha umuntu okhethwe ngokutlolwa phasi ngu- <b>MEC</b> ;
<b>Umasipala</b>	IMeya, uSomlomo namkha omunye umuntu okhethwe ngokutlola mKhandlu kaMasipala loyo;

22.5.2 Nanyana ngimuphi omunye umlandu, la kungasi yi-ofisi kandunaku; ilunga lomkhandlu ophezulu eliqalelele ihlangano karhulumende leyo namkha umuntu okhethwe ngokutlolwe phasi yelungwelo.

22.5.3 Nangabe isiphathimandla sezeenlilo siphasisa isiqu nto somPhathiswa wezeMininingwana, nakunjalo-ke isililo sangaphathi asivunywa begodu isiqu nto sekuthomeni somPhathiswa wezeMininingwana siyajama.

22.5.4 Nokho, nakungenzeka isiphathimandla sezeenli singavumelani nomPhathiswa wezeMininingwana, nakunjalo-ke isililo siyaphasiswa begodu isiqunto sekuthomeni siyalahlwa.

## 22.6 Ngubani ongafaka isibawo sesililo sangaphakathi?

22.6.1 Nanyana ngimuphi umfakisawo se-**PAIA** sokufumana amarekhodi weliZwelo, wesiFunda namkha uRhulumente wemaKhaya, njengombana kungenzeka, angavunyelwa, begodu akholelwa bona elinye ibanga lokufaka isililo elisesigabeni 22.2.4 ngehla liyasebenza esibaweni sakhe, unelungelo lokufaka isibawo sesililo sangaphakathi.

22.6.2 Abantu besithathu nabo bangafaka isibawo sesililo sangaphakathi ukuphikisana nesiqunto esenziwe mPhathiswa wezeMininingwana sokunikela imvumo yokufumaneka kwerekhodi elimalungana nabo. Nangabe isibawo sesililo sangaphakathi sibandakanya umuntu wesithathu, isiphathimandla sezeenlilo owamukela isibawo sesililo kufuze azise abantu besithathwabo (umthwalo uyasuka emPhathisweni wezeMininingwana udluliselwa esiphathimandleni sezeenlilo).

## 22.7 Isikhathi ongafaka ngaso isililo

22.7.1 Isililo sangaphakathi kufuze sifakwe -

22.7.1.1 hlangana **namalanga ama-60**<sup>32</sup> ngemva kokwenziwa kwesiqunto;

22.7.1.2 hlangana **namalanga ama-30**<sup>33</sup> ngemva kokunikelwa komuntu wesithathu isaziso sesiqunto esenziweko

22.7.2 Ukufaka isililo sangaphakathi ngemva kwesikhathi esitjhiwo ngehla (lada) kungenzeka kungavunyelwa ngaphandle kokuthi kunikelwe ibanga lokuba lada esiphathimandla sezeenlilo. Isibonelo, njengokuba sesibhedlela amalanga angaphezu kwama-60 kungaqalwa njengebanga elizwakalo lokuba lada.

22.7.3 Nangabe isiphathimandla sezeenlilo asisamukeli isililo sangaphakathi esifakwe lada, kufuze sikunikela amabanga wokwala isibawo sakho sesililo sikunikele neenqophiso sananyana ngimiphi imininingwana engeziweko, nayikhona, efunekako bona amukele isibawo sesililo. Godu isiphathimandla sezeenlilo kufuze sikwazise ngekambiso yokufaka isinghonyoyilo ngesiqunto sabo emLawulini namkha ekhotho.

<sup>32</sup> Isigaba 75(1)(a)(i) se-PAIA

<sup>33</sup> Isigaba 75(1)(a)(ii) se-PAIA



22.7.4 Njengombana kutjengiswe ngehla, isibawo sakho sesililo kufuze sithunyelwe mPhathiswa wezeMininingwana esiphathisweni sezeenlilo hlangana namalanga ali-10 ngemva kokufumana isibawo sesililo sangaphakathi<sup>34</sup>.

## 22.8 Isaziso sokufaka isililo ngesiphathimandla sezeenlilo kumfakisibawo namkha emuntwini wesithathu

22.8.1 Isiphathimandla sezeenlilo kufuze, msinyana ngokukghonekako kinanyana ngisiphi isenzakalo hlangana namalanga ama-30 ngemva kokufumana isibawo sesililo sangaphakathi<sup>35</sup>, sazisa -

22.8.1.1 umuntu wesithathu erekhodwelo ekufakwe ngalo isililo ekungelakhe, namkha

22.8.1.2 umfakisibawo ngesililo sangaphakathi sokuphikisana nesibawo sokunikela ngokufumaneka.

22.8.2 Umfakisibawo namkha umuntu wesithathu onikezwe isaziso, angakapheli amalanga ama-21 ngemva kokufumana isazisweso, angenza izethulo ezitlolwe phasi esiphathimandleni sezeenlilo ukuthi kubayini isibawo sokufumaneka kufuze singanikelwa namkha sinikelwe.

## 22.9 Isiqunto ngesililo sangaphakathi nesaziso saso<sup>36</sup>

22.9.1 Isiphathimandla sezeenlilo kufuze siqunto ngesililo sangaphakathi msinyana ngokukghonekako kinanyana ngibuphi ubujamo obuvelako hlangana namalanga ama-30:

22.9.1.1 ngemva kokufumaneka kwesibawo sesililo sangaphakathi esifunyenwe mPhathiswa wezeMininingwana;

22.9.1.2 ngemva kobana umuntu wesithathu, njengombana kutjengiswe esigabeni 22.3.6.1.

22.9.2 Isiqunto sesiphathimandla sezeenlilo kufuze saziswe ofake isibawo, umuntu wesithathu nomfakisibawo. Isiqunto sesiphathimandla sezeenlilo kufuze sikhambisane namabanga aneleko ngesiqunto, kuhlangukise nelungiselelo le-PAIA namkha se-POPIA ekuthenjelwe kiso.

22.9.3 Nangabe isiphathimandla sezeenlilo siyabhalelwa ukunikela isaziso ngesiqunto ngesibawo sesililo sangaphakathi hlangana namalanga ama-30, isililweso siqalwa njengesilahliweko begodu umfakisibawo angaraga ngokufaka isinghonyoyilo emLawulini namkha aye eKhotho ukufumana ukutjaphuluka okufaneleko<sup>37</sup>.

<sup>34</sup> Isigaba 75(4) se-PAIA

<sup>35</sup> Isigaba 76(2)(a) se-PAIA

<sup>36</sup> Isigaba 77 se-PAIA

<sup>37</sup> Isigaba 77(7) se-PAIA

## 22.10 Ukuzalisa iForomo 4 lesililo sangaphakathi

- 22.10.1 Ukufaka isibawo sokuphikisana nananyana ngisiphi isiqunto seliZwelo, sesiFunda namkha uRhululmende wasemaKhaya, umfakisibawo kufuze afake isibawo sakhe sesililo sangaphakathi ngokuzalisa iForomo 4. IForomo 4 kufuze lithunyelwe emPhathisweni wezeMininingwana womkhakha othileko kurhulumente othintekileko, okuzokufuze alithumele esiphathimandla sezeenlilo, njengombana kutjihiwo ngehla.
- 22.10.2 IForomo 4 liyafumaneka ezinzolwazini lomLawuli, ku <https://www.justice.gov.za/inforeg/>, kuhlanguanise nezinolwazi lemikhakha kaRhululmende ethintekako.
- 22.10.3 UmPhathiswa wezeMininingwana namkha iSekela lomPhathiswa wezeMininingwana wemikhakha kaRhululmende othintekako asikho ngaphasi kwesibopho esizwakalayo ukusiza umfakisibawo azalise iforomo lokufaka isililo sangaphakathi; nokho, umfakisibawo usengabawa umPhathiswa wezeMininingwana amsize kilokhu.
- 22.10.4 Ikambiso yegadango ngalinye lokuzalisa iforomo lesililo sangaphakathi -

### Imininingwana etlhogekako

### Ihlathululo

#### Imininingwana yehlangano karhululumente

Ingcenyane le kufuze ibe nebizo lomkhakha kaRhululumente weliZwelo, isiFunda namkha wasemaKhaya othintekako, negama nesibongo somPhathiswa wezeMininingwana.

#### Imininingwana yofaka isibawo sesililo sangaphakathi

Ingcenyane le kufuze izaliswe ngofake isibawo sesililo, kungakhathaliseki ukuthi ujamele othileko namkha awa. Kufuze kufakwe amabizo apheleleko nesibongo, inomboro kamazisi nobujamo, ekufakwa ngaphasi kwabo isililo sangaphakathi esikhundleni somunye umuntu, nakufanelekako, kufuze kunikelwe. Nangabe isibaweso sifakwa mumuntu mathupha, lokho kufuze kurekhodiwe. Imininingwana engeziweko etlhogekako ibandakanya imininingwana yokuthintana yomfakisibawo:

## **Imininingwana etlhogekako**

## **Ihlathululo**

isiphande seposo, isiphande se-imeyili, nenomboro ye-fax kunye/namkha iinomboro zomtato. Imininingwana kufuze ifane neyesibawo sekuthomeni. Nangabe umuntu ozalisa iforomo ujamele umfakisibawo, ubufakazi besikhundla ekufakwa ngaso isibawo sesililo kufuze silumathiswe eforomineli.

## **Imininingwana yomuntu owenzelwa isibawo (Nangabe sifakwe mumuntu wesithathu)**

Ingcenyane le kufuze izalise mumuntu obawela omunye imininingwana kwaphela. Nangabe ofaka isibawo sesililo sangaphakathi akusuye ofake isibawo semininingwana ekuthomeni, kufuze kunikelwe imininingwana yomfakasibawo la. Nangabe uzifakela wana isibawo ingcenyane le akutlhogeki izaliswe.

## **Isiqunto ekufakwe ngaso isililo sangaphakathi**

Iforomo linikeza umfakisibawo isikhala sokutjengisa ngo-“x”, ukuthi ngiliphi ibanga kwaveziweko elisebenza esililwenesi.

## **Amabanga wokufaka isililo**

Engcenyane le, umfakisibawo kufuze ahlathulule ngokunabileko ukuthi kubayini acabanga bona amabanga wesililo ayasebenza. Kufuze anikeze ibanga (amabanga) wokuthi kubayini acabanga ukuthi isiqunto somPhathiswa wezeMininingwana akusiso. Irhelo lamabanga anikezwako ekusekeleni isibawo angatlolwa ngokunabileko ekhasini eliseqadi. Amakhasi angeziweko athunyelwako kufuze atlikitlwe.

Information Required	Description
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Kufuze kube namabanga angeziweko neminingwana esekelako ukwenza isiphathimandla sezeenlilo senze isiqunto esivuthiweko. Ngalokho-ke, umuntu kufuze aveze koke okwenzekileko bekufikele ekufakweni kwesibawo sangaphakathi. Ekhasini eliseqadi, umuntu angadzubhula eengcenyeni ezithileko ngokunqophileko ze-PAIA njengesisekelo sesililo.

<b>Isaziso ngesiqunto sesililo</b>	Kunesikhala esinikeziweko sokutjho ukuthi isiqunto sithunyelwe ngayiphi indlela, ngokwesibonelo ngeposi, ngesithuthi namkha ngefeksi namkha nge-imeyili. Sibawa ukhethe indlela yokufumana isaziso.
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22.10.5 Ngesikhathi kungekho ukuvinjelwa kokuthi ufumane igqwetha ukukusiza kinanyana ngisiphi isikhathi sokubawa iminingwana, iinkambiso ezimbala ze-PAIA zenzelwe ukuthi zisebenziseka bulula kungadingeki bona kube negqwetha neemali zomthetho ezizokufuneka.

### 23. UKUFAKA ISINGHONGHOYILO EMLAWULINI WEZEMININGWANA

- 23.1 Umfakisibawo namkha umuntu wesithathu angafaka isinghonyoyilo kwaphela emLawulini ngemva kobana umfakisibawo namkha umuntu wesithathu ayiqede yoke ikambiso yokufaka isililo sangaphakathi ngokujamelene nesibawo somPhathiswa wezeMininingwana welizwelo, isifunda namkha urhulumente wemakhaya. Lokhu kutjho bona umuntu angafaka isinghonyoyilo sakhe, ngomkhakha othileko karhulumente. emLawulini nangabe akakathabi ngesiqunto sesiphathimandla sezeenlilo. UmLawuli uzosirarha isinghonyoyilweso nangabe ikambiso ngabe ikambiso yomkhakha karhulumente obandakanyekileko ayikaqedwa.
- 23.2 Nokho, malungana nehlangotho karhulumente (lapho isililo sangaphakathi isingasebenzi khona) nehlangotho ezijameleko, umfakisibawo namkha umuntu wesithathu angafaka isinghonyoyilo emLawulini, nangabe akaneliseki ngesiqunto sehlangotho ethintekileko.
- 23.3 Isinghonyoyilo esiya emLawulini sivele emfakinisibawo namkha emuntwini wesithathu kufuze sifakwe hlangotho namalanga ali-180 wokufumana isiqunto ehlanganweni.

23.4 Umfaksibawo angafaka isinghonyoyilo emLawulini, nakangakathabi -

23.4.1 ngomphumela wesililo sangaphakathi esiphathinimandla sezeenlilo sananyana ngimuphi umkhakha karhulumende;

23.4.2 ngesiqunto sesiphathinimandla sezeenlilo ukumalela ngokufaka isililo sangaphakathi lada;

23.4.3 ngesiqunto somPhathiswa wezeMininingwana wehlangano yomphakathi engasiyincenye yomkhakha karhulumende -

23.4.3.1 wala isibawo sokufumana; namkha

23.4.3.2 welula isikhathi ukuqalana nesibawo; namkha

23.4.3.3 uphasisa ukufumaneka kweforomo elithileko.

23.4.4 isiqunto sehloko yehlangano ezijameleko -

23.4.4.1 wala ukufumaneka; namkha

23.4.4.2 ufuna kubhadelwe imali yesibawo, namkha idibhosithi yokuvunyelwa ukufumana; namkha

23.4.4.3 ukwelula isikhathi sokuqalana nesibawo; namkha

23.4.4.4 uphasisa ufumaneka kweforomo elithileko.

23.5 Umuntu wesithathu angafaka isinghonyoyilo emLawulini, nangabe akakathabi -

23.5.1 ngemiphumela yesililo sangaphakathi esiphathisweni sezeenlilo womkhakha othintekako karhulumende;

23.5.2 ngesiqunto somPhathiswa wezeMininingwana wehlangano yomphakathi engasi semkhakheni karhulumende ukuphasisa isibawo sokufumana; namkha

23.5.3 isiqunto sehloko yehlangano ezijameleko ukuphasisa isibawo sokufumana irekhodi lehlangano leyo,

## 23.6 Umuntu unghonghoyila njani emLawulini?

- 23.6.1 Isinghonghoyilo esiya emLawulini kufuze sitlolwe phasi begodu kufuze kuzaliswe iforomo lesililio, ngesandla namkha ku-inthanethi. Isiforomo lesinghonghoyilo, iForomo 5, lingadawnlodiwa ezinzolwazini lomLawuli ku <https://www.justice.gov.za/infoereg/>
- 23.6.2 Lokhu kutho bona umLawuli angekhe amukele isinghonghoyilo ngomtato; nokho, umLawuli ulindeleke bona anikele isizo elfunekako kinanyana ngimuphi umuntu ofisa ukufaka isinghonghoyilo begodu lokhu kubandakanya ukusiza ekuzaliseni iforomo lesinghonghoyilo.
- 23.6.3 Nangabe umuntu uphikisana nesiqunto somPhathiswa wezemiNiningwana wehlangano ezijameleko, umuntu kufuze anikele ubufakazi obaneleko ufufakazela kuthi irekhodi elifunwako liyatlhogeka ekusebenziseni namka ekuvikeleni nanyana ngiliphi ilungelo (amalungelo). Imvumoi yokufumana amarekhodi wehlangano ezijameleko inganikelwa kwaphela nange umuntu angafakazela ukuthi uzimisele usebenzisa namkha ukuvikela nanyana ngiliphi ilungelo (amalungelo) ngerekhodi alibawako.

## 23.7 Kwenzekani ngemva kokufumana isinghonghoyilo?

- 23.7.1 Ngemva kokufumana isinghonghoyilo somuntu, umLawuli kufuze -
- 23.7.1.1 aphe nye isinghonghoyilo athumele akutholileko ngaso eKomidini yokuQinisekisa; namkha
- 23.7.1.2 angathathi igadango ngesinghonghoyilo ngebanga lokuthi -
- 23.7.1.2.1 isinghonghoyilo asikafakwa hlangana namalanga ali-180 begodu akunamabanga azwakwalako wokusekela ukufakwa lada kwesinghonghoyilo;
- 23.7.1.2.2 isinghonghoyilo asinasisekelo namkha siyasilinga namkha asikenziwa ngokuthembeka;
- 23.7.1.2.3 ngokuqala boke ubujamo bomlandu, akutlhogeki kuthathwe elinye igadango namkha alifaneleki. Isibonelo, imininingwana ebawako yenziwe yafumaneka emphakathini.
- 23.7.1.3 kufaneleka khona ukulibalelana namkha ukusebenzisa imizamo yaso engcono ukuvikela isiquntweso namkha ukusiza ababandakanyekileko balungise ukunghwarana kwabo; begodu

23.7.1.4 ukululeka onghonghoyilako nomPhathiswa wezemiNiningwana, isinghonyoyilo esingaye, ngegadango ekufuze lithathwe.

## 23.8 **Ukuthintana kokuthoma komLawuli nonghonyoyilako nomPhathiswa wezeMininingwana malungana nesinghonyoyilo esifakiwako**

23.8.1 Nangane umLawuli uqunta ukungathathi amagadango angeziweko ngomngonyoyili, umLawuli uzokwazisa umfakisibawo ngesiqungu namabanga wokungathathi amagadango angeziweko ngonghonyoyilako.

23.8.2 Nangabe umLawuli uqunta ukuphenya umngonyoyili, umfakisibawo uzokufumana incwandi emazisa ukuthi umLawuli uqunte ukwenza iphenyo.

23.8.3 Ngemva kokufumana isinghonyoyillo, umLawuli uzokudlulisela imininingwana yonghonyoyilako ePhathisweni wezeMininingwana wehlangano ethintekako, ambawe athumele emLawulini, ipendulo etlolwe phasi konghonyoyilako.

## 23.9 **Uphenya amandla womLawuli**

23.9.1 UmLawuli unamandla, ngokwemigomo yesigaba 77G(2) se-**PAIA** -

23.9.1.1 wokusebenzisa koke okusemandlenakhe ukufumana indawo yokuhlala leyo;

23.9.1.2 wokubiza nokukatelela ukuvela kwabantu phambi komLawuli;

23.9.1.3 ukubakatelela bona banikele ubufakazi obutlolwe phasi besifungo nokukhipha nanyana ngimaphi amarekhodi;

23.9.1.4 wokufumana nokwamukela nanyana ngibuphi ubufakazi neminye imininingwana, kungaba ngeyisifungo, ne-afidavidi;

23.9.1.5 wokungena nokuphenya nanyana ngiziphi iindawo ekuhlala kiyo abathintekileko;

23.9.1.6 wokuphosa ngemibuzo ngerhorhomejeni umuntu ohlala endaweni leyo; begodu

23.9.1.7 arage nokwenza nanyaka ngiliphi isetjho umLawuli aliqala njengelifanelekileko emakhiweni loyo.



## 23.10 Ukubambisana namalungiselelo wokuhlola we-PAIA

- 23.10.1 UmLawuli angenza ukuhlola kungaba ngekwehlango karkhulume namkha ezijamekeko ngokuvamileko bona kuyakhambisana namalungelelo we-PAIA na.
- 23.10.2 UmLawuli angenza ukuhlola kokuthobela kungakahlelwa ehlanganweni, ngokuthanda kwakhe, nokho, godu umLawuli angenza ukuhlola kokuthobela nakafumana isibawo emPhathini wezeMininingwana yehlangano namkha nanyana ngimuphi omunye umuntu. Lokhu kutjho bona nanyana ngimuphi umuntu angabawa umLawuli enze ukuhlola ehlanganweni. Godu umuntu afaka isibawo angazivezi sokuhlolwa kokuthobela, ngokuthi abawe ukuthi ubawa ukungazitjho.
- 23.10.3 UmLawuli uzokunikela umuntu obawe ukwenziwa kokuhlola ngombiko wokuhlola namagadango ekufuze athathwe, nakakhona.

## 23.11 IsAziso SeMininingwana

UmLawuli anganikela umPhathiswa wezeMininingwana yehlangano nesAziso seMininingwana esithoga bona othintekako anikele umLawuli ngemininingwana etjhiwo esazisweni. Isibonelo, nangabe isinghonyayo esifakwe emLawulini sihlolwe nokwala kokufumaneka kwemininingwana okusekelwe eenzathwini zokutjhatjhatulwa, umLawuli angabawa, esAzisweni seMininingwana, amakhophi wamarekhodi ekwalwe bona afumaneke khona azokwazi ukufumana bona inga-kghani iinzathu zokwala rirerhe namkha awa.

## 23.12 Ukusungulwa KweKomidi YoKukatelela

- 23.12.1 UmLawuli kufuze asungule iKomidi yoKukatelela<sup>38</sup>, enamandla -
- 23.12.1.1 wokucabangela zoke iindaba ezithunyelwe kiyi mLawuli ngokwemigomo ye-PAIA bese afumane ngalokho; begodu
- 23.12.1.2 enze nanyana ngiziphi iimpakamiso emLawulini malungana nananyana ngiliphi igadango ekufuze lithathwe ngomPhathiswa wezeMininingwana wehlangano.

## 23.13 IsAziso SoKukatelela

- 23.13.1 UmLawuli, ngemva kokucabangela iimpakamiso zeKomidi yoKukatelela, unikela umPhathiswa wezeMininingwana yehlangano ngesAziso esiKatelelako -

<sup>38</sup> Isigaba 50 se-POPIA

23.13.1.1 esiqinisekisa, esitjhuguluka namkha esibekela eqadi isiqunto esikhambisana nokutjhiwo singhonghoyilo; namkha

23.13.1.2 umPhathiswa wezeMininingwana ukuthatha igadango namkha ekuliseni ekuthatheni igadango elinjalo njengombana umLawuli avezile esazisweni.

#### 23.14 **Iyini imiphumela yokungathobeli izAziso eziKatelelako?**

23.14.1 UmPhathiswa wezeMininingwana wehlangano owalako ukuthobela isaziso sokukatelela unomlandu begodu uzokuqalana nokutjhutjhiswa ngokuhlawuliswa namkha abotjhwe isikhathi esingaphasi kweminyaka emithathu namkha kokubili ukuhlawuliswa namkha ukubotjhwa.

23.14.2 Isigaba 77K se-**PAIA** siveza ukuqakatheka kwelungelo lokufumana imininingwana namkha amarekhodi. Isigabesi godu siqinisa ukuqakatheka komLawuli ukufikela ekuthuthukiseni kwelungelo lokufumana imininingwana.

### 24. UKUFAKA ISIBAWO EKHOHO

#### 24.1 **Ngubani ongafaka isibawo ekhotho ukuphikisana nesiqunto?**

24.1.1 Umfakisibawo namkha umuntu wesithathu angafaka isibawo ekhotho kwaphela ukufumana ukutjhatjhululwa okufaneleko ngokwemigomo yesigaba 82 ebujameni obulandelako

24.1.1.1 Ngemva kobona umfakisibawo loyo namkha umuntu wesithathu asebenzise zoke iinkhambiso zokufaka isililo sangaphakathi ekukhulunywe ngazo esigabeni 22.3 ngehla; namkha

24.1.1.2 ngemva kokuthi umfakisibawo loyo namkha umuntu wesithathu asebenzise zoke iinkhambiso zokufaka isinghonghoyilo ekukhulunywe ngazo esigabeni 77A.

24.1.2 Ngokwemigomo yesigaba 78(1) se-**PAIA**, umfakisibawo namkha umuntu wesithathu angakhetha kokubili, kungaba kungaba kudlulisela isiqunto, esivezwe esigabeni 22.2.4, 23.4 no-23.5 ngehla, emLawulini namkha eKhotho. Nanyana umuntu angakakateleleki ukuya emLawulini ngaphambi kokuya eKhotho, kukhuthazwa bona kufuze umuntu acabangele ukuya emLawulini, njengomana umLawuli aneendlela ezinengi nezirhabako zokusombulula ukunghwarana, ngokungafani neKhotho.

24.1.3 Nokho, ukwenzela bona iKhotho ibe namandla ukuraga indaba le, umfakisibawo namkha umuntu wesithathu kufuze -

24.1.3.1 aphaatheke kumbi ngesinye seenqunto, ezivezwe esigabeni 22.2.4, 23.4 namkha ku-23.5 ngehla;

24.1.3.2 Regulator asebenzise zoke iinkhambiso zokufaka isinghonyoyilo emLawulini namkha ajamise isinghonyoyilo emLawulini. Lokhu kujtho ukuthi angakhe aye eKhotho nangabe ukuthobela kwakhe kusalindile emLawulini.

24.1.4 Nangabe umuntu uphikisana nensiqunto somPhathiswa wezeMininingwana wehlangano ezijameleko, kufuze anikele ubufakazi obaneleko ukufakazela ukuthi irekhodi ekufakwe isibawo salo liyatlhogeka ukusebenzisa namkha ukuvikela nanyana ngiliphi ilungelo (amalungelo).

## 24.2 **Kunini lapho umuntu angafaka khona isibawo eKhotho ukuphikisana nensiqunto sehlangano namkha umLawuli?**

24.2.1 Ukufaka isibawo eKhotho mfakisibawo namkha umuntu wesithathu, ongakhenge aphumelele ngesibawo sangaphakathi esiphathinimandla sezeenlilo somkhakha ofaneleko kurhulumente namkha apethwe kumbi siqunto somPhathiswa wezeMininingwana wehlangano namkha somLawuli kufuze sifakwe hlangana namalanga ali-180 kusukela ekuthomeni kwesenzakaleso.

24.2.2 IsiPhathiswa sezemiNiningwana sehlangano namkha isiphathimandla sezeenlilo sakurhulumente, njengombana kungenzeka, siphethwe kumbi siqunto somLawuli bangafaka isibawo eKhotho ukufumana isizo elifaneleko ngokwesigaba 82, hlangana namalanga ali-180<sup>39</sup>.

24.2.3 Umfakisibawo, umuntu wesithathu, namkha ihlangano, ingakafa isibawo eKhotho ngananyana ngisiphi isiqunto esibaphathe kumbi bona sibuyezwe yiKhotho.

24.2.4 Ukufaka isibawo eKhotho ngaphasi kwe-PAIA senziwa ngeenkambiso zemilandu yomphakathi, begodu kufuze kusetjenziswe ngengeqhinga lokugcina.

24.2.5 Imilandu yokufumana imininingwana ingalalelwa eKhotho kaMarhastrada, njengekhotho yokuthoma<sup>40</sup>, kunye neKhotho ePhakemeko enamandla wokulawula.

24.2.6 UKubhalelwa ukuletha isibawo hlangana namalanga ali-180 iKhotho ingakuvumela nangabe umuntu uyatjengisa bona ubulungisa butlhoga bona kube njalo. Lokhu kutjho bona iKhotho ingasamukela isibawo elada nangabe

<sup>39</sup> Isigaba 78(4) se-PAIA

<sup>40</sup> Isigaba 91A se-PAIA begodu NokuThuthukiswa kokufumaneka kwemiThetho yemininingwana, 2019

indaba ezokutjhukwa ifumaneka isehlangothini lobulungiswa. Nangabe irekhodi ekufakwe ngalo isibawo lizokusiza ofake isililo sokuphikisana nokubotjhwa namkha limsize ekufumaneni ukukwelatjhwa okungeziweko, ngokwesibonelo, kungenzeka ikhotho ibe sehlangothini lakhe.

24.2.7 Isibawo singalethwa ngokukhambisan nekambiso evezwe emthethweni 53 wemiThetho yeKhotho ePhakemeko namkha ngokwemigomo yothetho 55 yemiThetho yeKhotho kaMarhastrada nangabe akunamarekhodi namkha irekhodi elingakapheleli linikezwe umlawuli.

24.2.8 INangabe irekhodi selinikeziwe, isibawo sizokulethwe ngokomthetho 55 yemiThetho yeKhotho kaMarhastrada, kuye ngokuthi kunebanga lokuthi umfaisibawo ukholelwa ukuthi kungeka bona umlawuli akukanikeli irekhodi elipheleleko lekambiso, umfakisibawo angaraga ngokulandela ikambiso esemthethweni 53 wemiThetho yeKhotho ePhakemeko, ekukhetheni kwakhe, kodwana uzokuveza e-afidavidini yayo ukuthi kubayini kunesizathu sokukholelwa bona akukanikelwa irekhodi elipheleleko<sup>41</sup>.

### 24.3 **Bunjani ubujamo obungokomthetho besiqunto somLawuli nakusalindelwe isiqunto seKhotho?**

Amandla womLawuli afumananeka khulu emThethwenisisekelo, ku-**POPIA** naku-**PAIA**. Ngebanga lalokho, isaziso esikatelelako esikhitjiswa mLawuli sinemiphumela engokothetho ngebanga lalokho siyabopha bekube kulapho umthetho wekhotho wenza isiqunto esihlukileko. Ngalokho-ke iinqunto zomLawuli ziyasebenza begodu ziyakatelela ngaphandle kobana kube nesinqophiso esihlukileko esiphuma eKhotho.

### 24.4 **Ngimiphi imilayo engakhitjiswa yiKhotho elalela isibawo?**

24.4.1 Ikhotho (kungaba ngeyakaMarhastrada namkha iKhotho ePhakemeko) elalele isibawo ingalayela okulandelako -

24.4.4.1 ukuqinisekisa, ukutjhugulula namkha ukubekela ngeqadi isiqunto somPhathiswa wezeMininingwana, namkha isiPhathimandla sezeeNlilo namkha umLawuli wezeMininingwana;

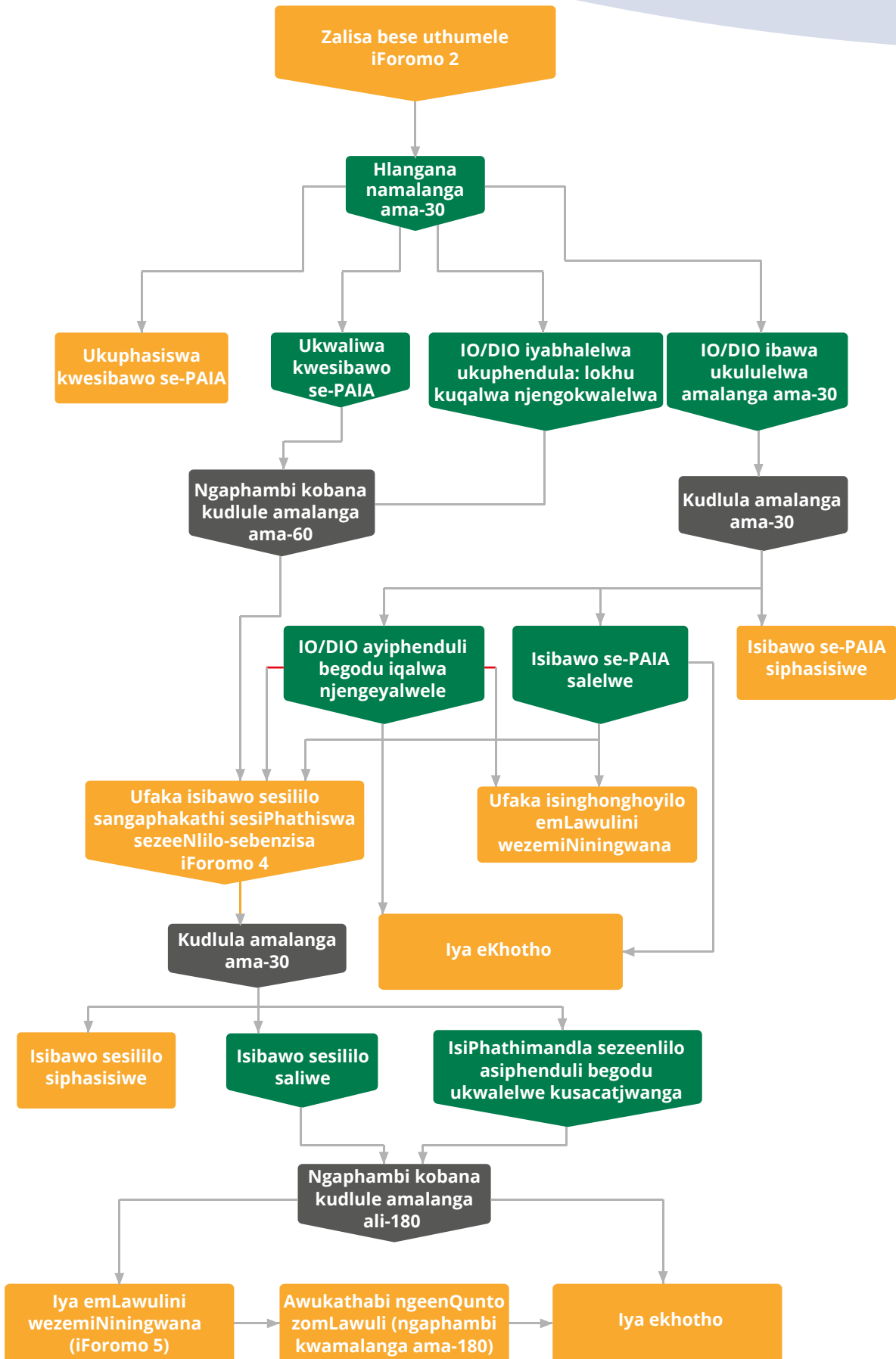
24.4.4.2 ingafuna bona umPhathiswa wezeMininingwana namkha isiPhathimandla sezeeNlingo ukuthatha igadango elinjalo namkha alise ekuthatheni igadango elinjalo njengombana iKhotho ikuthatha njengokuthogekako hlangana nesikhathi esitjhiwo esiyalweni;

<sup>41</sup> Umthetho 4 UkuThuthukiswa kokufumaneka kwemiThetho yemininingwana, 2019

- 24.4.4.3 anikele incwadi yesikhatjhana yokuvimbela umthetho, namkha ukutjhatjhululwa okuthileko, umlayelo wokumemezela namkha umlayelo wokuliliswa;
- 24.4.4.4 ukwenza umlayelo weendleko malungana nanyana ngubani obandakanyekileko;
- 24.4.4.5 ngebanga leenzathu lezobulungiswa, uphasisa ukutjhatjhululwa ukungathobeli hlangana namalanga ali-180 ekufuze kulethwe isibawo ngaso. Njengombana kuvezwe ngehla, kufuze kuhlathululwe amabanga aneleko wokubhalelwa ukunamathela esikhathini esiquntiweko ngokunabileko esikhambisana nesibawo sokulitjalelwokhu.

## **25. IDAYAGRAMU YEKAMBISO YESIBAWO SE-PAIA**

Sibawa uqale ukulandelana kwekwambiso yokulandelana kwetjhadi, yeenkambiso ekufuze zilandelwe nawusebenzisa ilungelo lokufumana imininingwana.



## 26. IMITHETHO EYENZIWE NGOKWEMIGOMO YESIGABA 92 SE-PAIA

26.1 Ngokuvumelana nesigaba 92(1) no-92(4) se-**PAIA**, uNgqongqotjhe wenze imiThethokambiso emalungana noKhuthazwa koKufumaneka kweMininingwana, ehlanganisa iindaba ezilandelako.

26.1.1 Iimbopho zomlawuli wezemininingwana (**Umthethokambiso 2**)

26.1.2 Iimbopho zomphathiswa wezemininingwana (**Umthethokambiso 3**)

26.1.3 Ukufumaneka ngokuzenzakalelako kwamarekhodi athileko weenhlango zakarhulumente (**Umthethokambiso 4**)

26.1.4 Ukuveza ngokuzithandela nokufumaneka ngokuzenzakalelako kwamarekhodi athileko weenhlango ezizijameleko (**Umthethokambiso 5**)

26.1.5 Ukufumaneka kwemininingwana yeenhlango zezepolitiki (**Umthethokambiso 6**)

26.1.6 Ukufaka isibawo seminingwana (**Umthethokambiso 7**)

26.1.7 Umphumela wesibawo neemali ezibhadelwako (**Umthethokambiso 8**)

26.1.8 Ukufaka isililo sangaphakathi ukuphikisana nesiqu nto somlawuli wezemininingwana wehlango karhulumente (**Umthethokambiso 9**)

26.1.9 Ukufaka iinghonyayo (**Umthethokambiso 10**)

26.1.10 Ikambiso emalungana nokuphenya iinghonyayo (**Umthethokambiso 11**)

26.1.11 Ukulungiswa kwendaba (**Umthethokambiso 12**)

26.1.12 Ukuhlanganiswa kwendaba (**Umthethokambiso 13**)

26.1.13 Ukuhlola (**Umthethokambiso 14**)

26.1.14 Ukuthintana ngeze-elektroniki (**Umthethokambiso 15**)

26.1.15 Imilandu nehlawulo (**Umthethokambiso 16**)

26.2 Ngokuvumelana nesigaba 79(1) se-**PAIA**, iBhodi yemiThetho yamaKhotho wemiThetho, ngemvumo kaNgqongqotjhe, yenze imithetho yeenkambiso -

26.2.1 ikhotho ngokuvumelana neembawo ngokwemigomo yesigaba 78 se-**PAIA**; begodu

26.2.2 ikhotho izokufumana iinthulo ekukhulunywe ngazo esigabeni 80(3)(a).



## 27. IMITHETHOKAMBISO EYIHLOKO, IMITHETHO, IZAZISO, NOKUVUMA

### Imithethokambiso, njengombana ingatjhugululwa ekukhambeni kwesikhathi

UmThetho Okhuthaza Ukufumaneka KweMininingwana, UmThetho 2 ka-2000

UmThetho Okhuthaza Ubulungiswa Bokuphatha, UmThetho 3 ka-2000

UmThetho Okhuthaza Ukufumaneka KweMininingwana Obuyekeziweko, UmThetho 54 ka-2002

UmThetho Wokuvikela IMininingwana Yomuntu Mathupha, UmThetho 4 ka-2013

UmThetho Okhuthaza Ukufumaneka KweMininingwana Obuyekeziweko, UmThetho 31 ka-2019

UmThetho WeezeMali WeHlangano YezePolitiki, UmThetho 6 ka-2018

### Imithethokambiso NezAziso

Isaziso SakaRhulumende	Ilanga lokugadangiswa	Isihloko nehlathululo
<b>Isaziso SakaRhulumende R.757 ku-GG No 45057</b>	27 Arhostosi 2021	Imithethokambiso emalungana noKukhuthaza ukuFumaneka kweMininingwana, 2021.
<b>Isaziso SakaRhulumende R.991 ku-GG 28107</b>	14 Oktoba 2005	Imithethokambiso ehlathulula amabanga lapho umuntu atjhatjhululwe khona ekubhadaleni imali.
<b>Isaziso SakaRhulumende 397 ku-GG 281007</b>	30 Juni 2021	Ukutjhatjhululwa kweenhlangano ezithileko ezizijameleko ekuhlanganiseni iNcwajana ye-PAIA.
<b>Isaziso SakaRhulumende 1217 in GG 42717</b>	19 Septemba 2019	Ukukhethwa kwamaKhotho kaMarhastrada angakghona ukulalela iindaba ze-PAIA.
<b>Isaziso SakaRhulumende R.1284 ku-GG 42740</b>	4 Oktoba 2019	Imithetho yekambiso yeembawo ezizokwenziwa ngokwemigomo ye-PAIA phambi kweKhotho ePhakemeko namkha eKhotho kaMarhastrada.

## UKUVUMA

UmHlahlandlela obuyekeziweko lo wokuthi kufuze isetjenziswe njani i-**PAIA** wathoma wahlanganiswa yiKomitjhini yamaLungelo waBantu yeSewula Afrika (**SAHRC**) begodu ngalokho umLawuli uyawuvuma umsebenzi wekuthomeni we-**SAHRC**, kuhlanganise nayo yoke imithombayo.

Ikhutjhwe

## MLAWULI WEZEMININGWANA



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# TLHAHLI

**YA GO LAETŠA TŠHOMIŠO  
YA MOLAO 2 WA 2000, WO O HLABOLOTŠWENG  
KA GA TLHOHLELETŠO YA PHIHLELELO YA TSHEDIMOŠO**

**SEPEDI**

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# PAIA GUIDE

## KETAPELE KA MODULASETULO

Molaotheo wa Repapoliki ya Afrika Borwa, 1996<sup>1</sup> ("Molaotheo") o bontšha gore Afrika Borwa ke naga ye e ikemetšeng le ya temokerasi ye e theilweng mo kgatelopeleng ya ditokelo tša botho le maikarabelo, e arabelang le go ba le mokgwatshepetšo woo o sa fihling selo bjalo ka ditekanyetšo tša ona bjalo ka mmušo. Pele Afrika Borwa e hwetša tokologo ya molaotheo woo o kgonthišišago Melao ya Ditokelo, mokgwatshepetšo wa mmušo ka Afrika Borwa go tše dingwe, o itemogetše mokgwa wa diphiri, go hloka maikarabelo mo mekgahlong ya setšhaba le ya phoraebete yeo gantši e feleleditšego e laetša tlhorišo ya maatla le kgatako ya ditokelo tša botho. Ke ka lebaka leo Karolo ya 32(1) ya Molao wa Ditokelo ka Molaotheong, o laetša tokelo ya Phihlelelo ya tshedimošo yeo e tshweregogo ke mmušo; le tshedimošo yengwe le yengwe yeo e tshweregogo ke motho o mongwe yeo e nyakwago go ka šomišwa goba go šireletša yengwe ya ditokelo. Karolo 32(2) ya molaotheo ka go le lengwe o kgatha tema go Melao ya setšhaba yeo e tlo fago maatla go tokelo ye, ka go hlompha, go šireletša, go tšwetsapele le go fihelela tokelo ye.

Molao wa Tlhohleletšo ya Phihlelelo ya Tshedimošo wa 2 wa 2000 (go tloga mo re tla o bitša "**PAIA**", goba "Molao" ka go fetolelana), ka ge tlhabolotšwe, ke molao ya bosetšhaba yeo e hlomiwa go dumalana le karolo ya 32(2) ya molaotheo yeo e laeditšwego ka godimo .

Maikemišetšo a **PAIA**, ke go adimiša setšo sa go hloka diphiri le go tšea maikarabelo go mekgahlo ya setšhaba le ya phoraebete. E dira se go fa tokelo ya go fihlelela tshedimošo le go tšwetsapele setšhaba seo e lego gore Afrika Borwa e tla fihlelela tshedimošo yeo e tla ba kgontšhago go ka e šomiša moo go lekanego le go go šireletša ditokelo tša bona le go bontšha nepo ya Afrika Borwa ya go go ba le temokherasi yeo batho ba tšeago karolo go yona.

Tlhahlo ye ya **PAIA** e dirilwe go laetša boikarabelo bja Molaodi wa Tshedimošo ("Molaodi") ka fase ga Karolo ya 10 ya **PAIA**, ye e nyajkang gore Molaodi a tlhable le go dira tlhahlo Ye e bonwang le go rulaganywa ke Khomishene ya Afrika Borwa ya Ditokelo tša Batho.

Tlhahlo ye e dirilwe gore e hlahle, e šomišege bokaone, e šomiše ke motho ofe goba ofe yoo a ratago go ka šomisa tokelo ya gagwe yeo e lego ka gare ga **PAIA** le go šireletša ke Molao wa Tšhireletso ya Tshedimošo ya ka bo wena, 2013.



**Adv Pansy Tlakula**

**MODULASETULO WA MOLAODI WA TSHEDIMOŠO**

<sup>1</sup> Molaotheo wa Repapoliki ya Afrika Borwa, 1996 (Molao 108 wa 1996)

## MOLAETŠA WA TEMOŠO

Tlhahlo ye ga e imolle mošomiši wa yona go maikarabelo a gagwe a go ka šomiša mabokgoni a gagwe le go hlokomela dinyakwa tšeo di theilwego ke molao. Gape, tlhalo ye ga e efe maele a semolao gape maikemišetšo a yona ga se go ema lebakela la **PAIA** goba Melawana yeo e beilwego ka fase ga **PAIA**.

### 1. LENANEO LA DIAKERONIMI LE DIKHUTSHWAFATSO

<b>CEO</b>	Mohlankedimogolo
<b>CFO</b>	Mohlankedimogolo wa tsa Ditšhelete
<b>Constitution</b>	Molaotheo wa Repapoliki ya Afrika Borwa, Molao 108 wa 1996
<b>DIO</b>	Motlatšamohlankedi wa Tshedimošo
<b>Doj &amp; CD</b>	Lefapha la Tshokollo le Tlhabolo ya Molaotheo
<b>IO</b>	Mohlankedi wa Tshedimošo
<b>Maloko</b>	Maloko a Molaodi wa Tshedimošo
<b>Tona</b>	Tona ya Tshokoloi le Ditirelo tsa Kgopololo
<b>PAIA</b>	Molao Wa bo 2 Wa 2000 wa Thotleletšo ya Pihlelelo ya Tshedimošo, yeo e tlhabotšweng
<b>PAJA</b>	Molao wa Thotleletšo ya Tshepedišo ya tshokollo, 2000
<b>PFMA</b>	Malao wa 1 wa 1999 wa taolo ya mašeng a Setšhaba woo tlhabotšwego
<b>POPIA</b>	Molao wa 4 wa 2013 wa Tšhireletšo ya Tshedimošo ya Sephiri
<b>Molaodi</b>	Molaodi wa Tshedimošo
<b>SAHRC</b>	Khomišene ya Afrika Borwa ya Ditokelo tša Batho

### 2. MAREO A A BOHLOKWA A HLAOSWA KA MOKGWA LE KA TSELA YE E KWIŠIŠEGANG

Lereo	Tlhaloso
<b>Tefelo ya go Bona Tshedimošo</b>	Tefelo ye ya go bona tshedimošo e phatelwa ke mokgopedi go mokgahlo yo a kgopelang tshedimošo go wona, go patela ditshenyagalelo tša go nyaka le go dira dikhopi tša dikgatišo tše o di kgopelang. Tšhelete ya go patelwa hlaloswa ke molawana.
<b>Motsamaiši</b>	Ke lekala la Pušo goba motho ofe wa tlhago goba lekala mo go tša molao yo a tšiang kgato ya mošomo ya botsamaiši.

**Lereo****Tlhaloso****Mošomo wa botsamaiši**

Ke sephetho seo se dirwang, goba go palelwa ke go dira sephetho, ga

(a) lekala la Pušo, ge:

(i) le šomiša maatla go dumalana le Molaotheo goba molaotheo wa porofense, goba

(ii) le šomiša maatla goba le dira mošomo ya setšhaba go tsamaišana le molao, goba

(b) motho wa tlhago goba lekala mo go tša molao, ka ntle ga lekala la Pušo, ge a šomiša maatla goba a dira mošomo ya setšhaba temaneng le kgokagantšho yeo e fang tlhohleletšo.

ye e amang kudu ditokelo tša motho ofe le tše di amang molao ka twii goba gannyane.

**Motho yo a Filwego tokelo**

Motho yo a filwego tokelo ke motho yo a dirang kgopelo mo legatong la motho yo mongwe, le yo a tlhomilweng semolao go dira bjalo.

**Dikgatišo tše di Bonwang ntle le kgopelo**

Tšeo ke dikgatišo tše mokgahlo wa setšhaba goba wa poraebete o tla di fang mokgopedi ka ntle ga gore a tsenye kgopelo. Dikgatišo tšeo di ngwadilwe mo 'Tsebišong ya go ithaopela go senola tshedimošo', ye e swanetšeng go fihlelelwa ke batho ka moka.

**Mong wa tshedimošo** Ke motho yo tshedimošo ya ka ga yena e mo amang.

**Matšatši**

Ka morago ga ge go bontšhitšwe e le 'letšatši la mošomo' mo karolong ya **PAIA**, letšatši le tsewa e le letšatši le le tlwaelegileng. Go bala nako, letšatši le kgopelo e bonwang ka lone ga le akareetšwe, gomme letšatši le letšatsš morago ga moo le a akaretšwa go akaretša mafelong a beke le matšatši a boikhutšo go fihla ka letšatši la mafefelo. Ge letsatsi la mafefelo la go araba kgopelo e le Sontaga goba letšatši la boikhutšo, letšatši le le latelang le tšewa bjale ka letšatši la bofelo.

**Kgopelo e Gannwe**

Ge go sa bonwa karabo mo nakong ye e beilweng, seo se hlaloswa bjale ka 'kgopelo e gannwe'.

**Foromo 2**

Foromo yeo e hlaloswa ke molawana gomme e swanetše go šomišwago go kgopela go bona tshedimošo ye e leng go mokgahlo wa Pušo goba wa poraebete.

**Foromo 4**

Foromo yeo e hlaloswa ke molawana gomme e swanetše go šomišwago ge o na le ngongorego ka sephetho se se dirilweng ke mokgahlo wa setšhaba temaneng le go kgopela go fihlelela tshedimošo.

**Lereo****Tlhaloso****Tlhahli**

Tlhahli yeo, e dirilweng ka go latelela karolo 10 ya **PAIA** bjale e tlhabolotšwe, ye e nyakang go thuša motho yo a nyakang go šomiša tokelo efe ye e hlalotšwang mo **PAIA** le Molao wa Tšhireletšo ya Tshedimošo ya bo Wena, 2013.

**Mohlankedi wa Tshedimošo**

Mohlankedi wa Tshedimošo ke motho yo a nang le tumelelo ya go šogana le dikgopelo tša **PAIA**. Tše di latelang ke dikgetho tša Bahlankedi ba Tshedimošo ba Mokgahlo mongwe le mongwe yo o rileng -

<b>Mokgahlo wa Pušo goba Lekala la Pušo</b> (bjale go hlalotšwa mo karolo 239 ya Molaotheo)	Lefapha la Bosetšhaba	Mohlahlhli-Kakaretšo goba motho yo a direlang mo maemong ao
	Botsamaiši wa Porofense	Hlogo ya Lefapha goba motho yo a direlang mo maemong ao.
	Mmasepala	Motsamaiši wa Mmasepala goba motho yo a šomelang mo maemong ao.
	Ditheo tša Pušo tše di ngwadilwego mo Mokgwatshepetšong wa PFMA 1, 2, 3A, 3B, 3C LE 3D	Mokhuduthamagamogolo goba motho yo a direlang mo maemong ao.
<b>Mokgahlo wa Poraebete</b>	Motho wa Tlhago	Motho ge a le noši yo a dirang dithekišo, kgwebo goba porofeshene efe, gomme a le mo maemong ao fela, e seng bokgoni ba gagwe
	Semphato	Molekane ofe wa semphato goba motho ofe yo a tlhomilweng semolao ke semphato.
	Mokgahlo wa Sepolotiki	Moetapele wa lekoko la sepolotiki goba motho ofe yo a tlhomilweng semolao ke moetapele yoo.



**Mohlankedi wa Tshedimošo**

	Matho wa tša Molao	<p>Mokhuduthamakgamogolo goba Motsamaišimogolo goba Mohlankedi yo a lekanang ka kemo le motho mo wa molao goba motho ofe yo a tlhomilweng semolao ke Mohlankedi yoo.</p> <p><b>ELA TLHOKO:</b> Mokhuduthamagamogolo goba Mohlankedi yo a lekanang ka kemo a ka fa motho ofe wa tlhago maemo a go ba Mohlankedi wa Tshedimošo wa Mokgahlo wa Poraebete.</p>
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**Motlatša Mohlankedi wa Tshedimošo**

Motlatša Mohlankedi wa Tshedimošo ke motho yo a tlhomilweng goba yo a rometšweng ke Mohlankedi wa Tshedimošo wa mokgahlo wa Pušo go thuša mokgopedi ka kgopelo ya gagwe ya tshedimošo, le yo Mohlankedi wa Tshedimošo a ka mo abelang maatla a mangwe a **PAIA**.

**ELA TLHOKO:** Le ge mokgahlo wa Pušo e le yena fela a ka hlomang goba go roma Mo(Ba)tlatša Mohlankedi wa Tshedimošo, go ya ka karolo 17(1) ya **PAIA**, Molao wa Tšhireletšo ya Tshedimošoya Botho, 2013 ("**POPIA**") o aba maatla a go romela Motlatša Mohlankedi wa Tshedimošo go lekala la poraebete, go ya ka karolo 56(1).

**Molaodi wa Tshedimošo**

Go ya ka karolo 39 ya **POPIA**, Kantoro ya Molaodi wa Tshedimošo e tlhomilwe go hlokomela le go tsentšha mošomong go tsamaišana le **POPIA** le **PAIA**. Mo Tlhahling yeo, Kantoro ya Molaodi wa Tshedimošo goba Molaodi wa Tshedimošo bitšwa Molaodi.

**Ngongorego**

Ngongoreg ke mokgwatshepetšo ya go lwa sephetho se se dirilweng mo kgopelong ya **PAIA** go mokgahlo wa setšhaba, ye e swanetšeng go dirwa pele sephetho se dirwa go Molaodi goba go lekgotlatshekelo le le nang le maatla.

**Mokgahlo wa Poraebete**

Mokgahlo wa poraebete ke motho, khamphani goba setlamo se sengwe sa semolao se e leng sa thekišo, kgwebo goba porofeshene, go akaretša mokgahlo wa sepolotiki.

**Lereo****Tlhaloso****Mokgahlo wa setšhaba**

Mokgahlo wa setšhaba o ra lefapha la Pušo goba modiredi goba setheo se sengwe, se se dirang mošomo wa mmušo. Gomme gona, dingongorego tša gona yengwe le yengwe ye e leng “mokgahlo wa setšhaba” se fetoletše go “Pušo”, go efoga go hlola hlakahlakano le mekgahlo ya Pušo ye boipobolo ba gona bo sa direng mo go yona.

**Kgatišo**

Kgatišo ke tshedimošo yengwe le yengwe ye e gatišitšwego go sa kgathaletšege mofuta, go akaretša mohlala, ditlankana tse di ngwadilwego, dilo tše di theeletswago, tsa dijithale goba bidio. Kgatišo ye e kgopelwang mo mokgahlong wa setšhaba le wa poraebete go ya go kgatišo ye e mo mokgahlong go sa kgathaletšege gore a mokgahlo yoo o dirile kgatišo yeo.

**Melawana**

**PAIA** e dumelela Tona go ntšha melawana ye e tlaleletšang Molao, ye e swanetšeng go phatlalatšwa mo Kaseteng ya Pušo, gomme e akaretša ditaba tše di bjale diforomo tše di swanetšeng go šomišwago le ditefelo tše di ka nyakiwang mo dithulaganyong tše dingwe.

**Bolaodi ba Maleba**

**PAIA** e šomiša lereo ‘bolaodi ba maleba’ go hlalosa motho yo a leng mo Pušong ya Bosetšhaba, ya Porofense le ya Selegae yo boipobolo ba gona bo swanetšeng go dirwa mo go yena, gomme gantši ke moeteapele wa sepolotiki wa mokgahlo o o amegang (mošomo yeo e ka fiwa yo mongwe wa semolao).

**3. DINTLHA TŠA GO IKGOKAGANYA TŠA MOLAODI****Mohlankedi wa Tshedimošo****Mokhuduthamagamogolo:****Morulalaganyi:****Imeile:**

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## 4. MOHOLA WA TLHAHLI YE YA PAIA

- 4.1 Moholo wa tlhahli ye ke go fa tshedimošo ye e tlhokwang ke motho yo mongwe le yo mongwe yo a nyakang go šomiša tokelo yeo go boletwang ka yona ka mo Molao wa 2000 wa Tlhohleletšo ya Pihlelelo ya Tshedimošo (**PAIA**) le Molao wa Tšhireletšo ya Tshedimošo ya tša Botho, 2013 ("**POPIA**"). Motho ofe, go sa kgathale botšo bja gagwe, a ka tsentsha kgopelo ya go fihlelela tshedimošo ka fase ga **PAIA**.
- 4.2 Tlhahli ye e tla thuša kudu motho, yo gape a bitšwang mong wa tshedimošo, gore a ka fihlelela bbjang tshedimošo ya gagwe ya go tsamaišana le karolo 23 ya **POPIA**. Ka fase ga **POPIA**, motho goba mong wa tshedimošo o na le tokelo ya -
- 4.2.1 go kgopela lekoko leo le rwelego maikarabelo, kante le go lefela, le ge lekoko le le ikarabelelang le na le tshedimošo ya gagwe goba aowa, le
- 4.2.2 go kgopela lekoko leo le rwelego maikarebelo kgatišo goba tlhaloso ya tshedimošo ya gagwe goba ka mong wa tshedimošo, yo e lego morwadi wa maikarebelo, go akaretša tshedimošo ka wa legato la boraro, goba dihlopha ka moka tše tharo tšeo di nago, di bilego le maloka a go fihlelela tshedimošo;
- 4.2.3 go kgopela lekoko le le rwelego maikarebelo go -
- (a) phošolla goba go phumula tshedimošo ka mong yeo a itshwereco goba ka fase ga gagwe yeo e sego ya maleba, e sa hlokegeng, ya pheteletšonnete, e fitilego ke nako, e sego ya felela, e sa kgodišigo goba e hweditšwego ka mokgwa woo e sego wa semolao; goba
- (b) phumula goba go ntšha kgatišo ya tshedimošo ya mong yeo motho yoo a rwelego maikarabelo a senago le maloka a go ka e hwetša.
- 4.3 Gape Tlhahli ye e tla thuša motho yo a nyakago go fihlelela dikgatišo ka fase ga **PAIA**. Gape Tlhahli e tla thuša bakgopedi go:
- 4.3.1 kwišiša **PAIA**, moholo le mošomo wa yona;
- 4.3.2 ithuta tshepedišo ka kgato ka kgato ya go dira kgopelo le dipeakanyo tša tlaleletšo tša go tshepedišo yeo;
- 4.3.3 ithuta mehuta ka moka ya tshedimošo yeo e ka kgopelwang ge go šomišwa **PAIA**;
- 4.3.4 kwišiša tshepedišo yeo mokgopedi a ka e šomisago go ntšha tlebo ya gagwe ge a sa dumelelane le kgopelo yeo a e kgopetšego;

- 4.3.5 tsebišwa diphetogo tšeo di tla tšwelelang go **PAIA** ge **POPIA** e šoma ka botlalo.
- 4.4 Gape Tlhahli ye e tla thuša batho go kwišiša go laetša ngongorego go fihlelelwa ga dikgatišo tša bona goba go tšea karolo go fihleleleng dikgatišo tša bona.

## 5. KA GA PAIA

- 5.1 Tokelo ya go fihlelela tshedimošo ke "yengwe ya mekgwa ya go gapeletša dinepo tša molaotheo wa phuthuloga, go hloka sephiri, gotšea karolo le go rwala maikarabelo<sup>2</sup>. Dinepo tšeo di laeditšwego tša molaotheo di ka se hwetšagele ge mmušo e le ona o le nnoši wa go ba le tshedimošo ya go laetša dikgato le dipheho tša ona. Ka gona, khwetšo ya tshedimošo ga e bohlokwa fela go tšeyeng karolo go temokerasi, gape e godiša le tshepo ya setšhaba go mmušo le go laetša bonnete. Tše dingwe tša dikholego tša go hwetša tshedimošo, ke gp fokotša bomenemene le maitshwaro a mabe a mmušo.
- 5.2 Ge Molaotheo wa Afrika Borwa o be o sa thalwa ka nako ye e latelago go phuhlama ga kgethologanyo ka bo 1990, mekgatlo le batho ba mehutahuta ba ile ba dira lesolo la go tsenywa ga tokelo ya phihlelelo ya tshedimošo. Go be go holofelwa gore go tsenywa ga tokelo ye ka gare ga Molao wa Ditokelo - e lego Kgaolo ya 2 ya Molaotheo – go tla netefatša gore dikgatako tša botho tša go swana le Kgethologanyo di ka se tsoge di hlagile gape le gatee ka ge mmušo le mekgatlo ya phraebete e ka gapeletšega go dira ka mokgwa wa boikarabelo le wa go hloka sephiri ka go fa phihlelelo go tshedimošo, gomme ka go realo e tla palelwa ke go fihla sephiri seo se hlomilego maemo ao Kgethologanyo e hlagilego ka fase ga ona. Go bonwe go le bohlokwa go ka dira setšo sa go ba le toka seo se tla laetšago kamono ya toka magareng ga setšhaba le ba pušo. Mo melatong yeo e sego ya kgale<sup>3</sup> go šogana le potšišo ya gore motho yoo a tshweregona le maloka a go ka hwetša tshedimošo ka moka ya tokete ya molato wa gagwe go maphodisa. Jones J o lemoga bohlokwa ba seo ka mokgwa yo:

***“Mohola ... ke go se akaretše mokgwa wa kgale wa tshepedišo ya tša taolo, mokgwa wo o bego o kgontšha mmušo go hloka maikarabelo ka go gana go ntšha tshedimošo le ge e le gore e tla thuša goba go širetsa ditokelo tsa motho. Mohola wa se ke go efoga dilo tše bjalo [...] Go laetša tekatekano le go hloka sephiri ka go hlohleletša tshepho go setšhaba mo taolong ya merere ya setšhaba ka kakaretšo. Tshepho ye ke yengwe ya dika pušo ya setšhaba sa temokherasi yeo e tlišago ke molaotheo”.***

<sup>2</sup> Molao wa Tshpetšo ya Hoexter 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Karolo ya 32 e ukame tokelo ya go fihlelela tshedimošo yeo e swerwego kebobedi dihlongwa tša setšhaba le tša phraebete. Karolo ya 32 le yona e ile ya bolela gore melao e swanetše go hlangwa go dira gore go be le tokelo ya go fihlelela tshedimošo ka go fa dintlha ka botlalo ka ga ka fao tshedimošo ye e tšwago go dihlongwa tša setšhaba le tša phraebete e ka fihlelelwago ka gona, le go fa tshedimošo go tšwela pele ka ga mabaka ao ka ona sehlongwa sa setšhaba le sa phoraebete di ka ganago phihlelelo go tshedimošo.
- 5.4 **PAIA** e hlogwilwe ka mabaka ao a bontšhitšwego a ka godimo a morero woo o theilwego wa molaotheo, yoo karolo ya gona e tllilego ka maatla ka Tlhakola 2001. Yeo peleng e bego o dumela go “go diphiri le go setšo sa go arabele” nakong pele-ga temokherasi, yeo e bolelago gore nepo ya **PAIA** ke go “adima setšo sa go hloka diphiri le go tšea boikarabelo go dihlongwa tša setšhaba le tsa phoraebete.”
- 5.5 **PAIA** e diretšwe go fa motho tokelo ya go fihlelela tshedimošo le go ikarabela. E diretšwe go matlafatša batho go ka šomiša molao, gape le go thuša ka go sepediša kgopelo ya go ka fihlelela tshedimošo ka mekgwa ya go fapana. Motho ga a hloki moemedi wa molao go ka dira kgopelo ya go fihlelela tshedimošo go ya le ka **PAIA**.

## 6. DINEPO TŠA PAIA

- 6.1 Dinepo tša **PAIA** ga se tša direlwa go ema legatong la tokelo ya molaotheo, eupša go fa tšwelopele go tokelo ya karolo ya 32 ya magomo a go kwagala, le ka mokgwa yoo e lego gore o tliša tekano ditokelong tšeo di lego ka gare ga molaotheo. E holofela go tšwetšapele setšo sa ditokelo tša botho le toka ya sellegae go batho, mo lefapheng la setšhaba le la phoraebete. **PAIA** e nyaka go tšwetšapele go hloka sephiri, boikarabelo le bolaodi bjo bo nyakegang go mafapha ka moka (bobedi phoraebete le ya setšhaba) ka go matlafatša batho gore ba kwišiše ditokelo tša bona tša go fihlelela tshedimošo, ba tšea karolo go tšona, bobedi ba di lebeledišiše le go boledišana ka tšona, le go tšea diphetho tša go ba ama.
- 6.2 Tokelo ya phihlelelo ya tshedimošo ke tokelo ya maatla kudu ya tokelo ya molaotheo, gomme e thuša batho go lemoga ditokelo tše dingwe. Motho a ka e šomiša go thuša go hlokomela le go lekola kabo ya ditirelo tša mmušo, goba go fihlelela dikgatišo tša bogologolo tše di ka nyakegang.
- 6.3 Dinepo tša **PAIA** ke -
- 6.3.1 go tliša tokelo ya molaotheo ya go fihlelela -
- 6.3.1.1 tshedimošo efe yeo e tshwerweng ke Mmušo; le
- 6.3.1.2 tshedimošo efe yeo e tshwerweng ke motho yo mongwe le ye e nyakegang go šomišwa goba go šireletša ditokelo tše dingwe.

- Dinyakwa tša go sepelelena le tšhireletšo ya ditokelo tša tshedimošo di na le magomo ka motsogong a phoraebete. Mafapha a phoraebete ga ana le maemo a go hloka sephiri a go thatafa go swana le a setšhaba. Se se hlalosa go re, lefapha la phoraebete le na le maloka a go tshwara tshedimošo go lona, ntle le gore tshedimošo yeo e hlokega go šireletša ditokelo.
- Ka gona, go ya ka Karolo 8(1), **PAIA** e lemoga gore mokgahlo e ka ba wa "setšhaba" goba wa "poraeete" go ya le ka mohola wa Molao go lebeletšwe gore kgatišo ye go boletwang ka yona "e amana le go dirišwa ga maatla goba tiragatšo ya mošomo ya mokgahlo wa setšhaba goba wa poraebete."

### 6.3.2 go diragatša tokelo yeo -

6.3.2.1 go lebeletšwe toka le magomo, go akaretša, eupša go sena le magomol, magomo a nepile tšhireletšo ya go kwagala ya sephiri, sephiri sa thekišo and tiragatšo, kgonagalo le pušo ye kaone; le

6.3.2.2 Ka mokgwa wa go lekanetša tokelo yeo le ditokelo tše dingwe, go akaretša ditokelo tša ka gare ga Molao wa Ditokelo ka Karolo 2 ya Molaotheo;

6.3.3 go diragatša maikarabelo a molaotheo a Pušo ka go godiša ditokelo tša batho le tokay a selegae, ka go akaretša mekgahlo ya setšhaba mo hlalosing ya 'mokgopedi', gomme magareng ga tše dingwe, go modumelela go filhelela tshedimošo mo mekgahlong ya poraebete ka morago ga go fihlelela dinyakwa tše nne tša Malao go akaretša boikarabelo bja mekgahlo ye mengwe ya setšhaba ka go le lengwe ba lebeletše kgahlego ya setshaba ;

6.3.4 go hlongwa boithaupi le mekgwa ya dinyakwa goba tshepidišo ya go tliša tokelo ye ka mokgwa wa go fihlelela dikgatišo mekgahlong ya setšhaba goba poraebete ntle le mathata, ka mokgwa wa go se bitše mašeleng a mantšhi goba go ema emiša motho; le

6.3.5 ka kakaretšo, go tšwetšapele go hloka sephiri, boikarabelo le pušo ya go tshephega go mekgahlo ya setšhaba le phoraebete ka, go akaretša eupša e sa gome, go matlafatšeng le go ruteng batho ka moka -

6.3.5.1 go kwišiša ditokelo tša bona go ya le ka Molao o gore ba kgone go šomiša ditokelo tša bona ka mekgahlong ya setšhaba goba poraebete;

6.3.5.2 go kwišiša mehola le ditshepetšo tša mekgahlo ya setšhaba le



6.3.5.3 Go lebeledišiša ka šedi, go tšea karolo, go tšea dipheho ka mekgahlo ya setšhaba yeo e amago ditokelo tša bona.

#### 6.4 Molao wa Tlhabologo ya tlhohleletšo ya Pihhlelelo ya Tshedimošo, 2019

6.4.1 Mo go taba ya go re **My Kgetho yak e bohlokwa NPC Tona ya Toka le ditirelo tša Tshokollo le tše dingwe [2018] ZACC 17**, kantoro ya tša Molaotheo e tshwere go re “ Mmušo o ka fase ga molao yoo o laetšago go tšwa go balweng ga botse wa karolo 32, 19 le 7(2) wa Molaotheo wa go dira se sengwe le se sengwe se se ka kgonegang go hlalosa gabotse le ka tsela ye kaone tokelo ya pihhlelelo ya tshedimošo le tokelo ya go kgetha. Bontši bo laetša gore se ke ka baka la go re tokekolol ya go kgetha e swanetše e be tokelo ya ketho yeo e hlalose tšwe gabotse, gape gona le tswlano ye kolo magareng ga tokelo ya go kgetha le tokelo ya pihhlelelo ya tshedimošo, Le “ntle le go hwetša tshedimošo, bokgoni bja gor badudi ba dire kgetho yeo ba ikwišišago le tšea karolo go dipolotiki mo bophelo bo a nyenyefatšwa.”.Lekgotlatshekelo la Molaotheo le hlomamišitše taelo ya go fa molaotheo go laela Palamente go thlabolla **PAIA** le go tšeya kgato yeo e bonang e swanela go fa kgatišo, poloko le thulaganyo ya pihhlelelo ye e lokilego ya tshedimošo mo sekhwameng sa poraebete le mekgahlo ya sepolotiki le bonkgetheng ba ba ikemetšeng mo lobakeng la dikgwedi tše 18.

6.4.2 Go ya le ka seo se boletšwego ka godimo ka lekgotlatshekelo la molaotheo, ka 3 Phupu 2019, Moporesidente o ile a dumalana le Molao wa Tlhabolo ya Tlhohleletšo ya Pihhlelelo ya Tshedimošo, 2019 (Molao wa tlhabolo ya **PAIA** 2019<sup>4</sup>). Molao wa tlhabolo ya **PAIA** 2019 o akaretša lelokoko la sepolotiki mo tlhalošong ya mokgahlo wa poraebete, se se laetša gore moetapele wa lekoko la sepolotiki goba motho ofe fela yo a dumeletšwego semolao ke moetapele yoo ke Mohlankedi goba hlogo ya tshedimošo. Ka gona Molao wa tlhabolo ya **PAIA** 2019 o akaretša tokelo ya go fihlelela dikgatišo tša lekoko la sepolotiki.

6.4.3 Molao wa tlhabolo o fa tshedimošo ka ditefo tša poraebete ya mekgahlo ya sepolotiki le bonkgetheng ba go ikema maswanedi a go gatišwa, go bolokiwa le go fihlelelwa.

6.4.4 Go ya ka karolo 52A ya Molao wa tlhabolo ya **PAIA** 2019, hlogo ya mokgahlo wa sepolotiki e swanetšwe go dira le go boloka dikgatišo tša thušo ya tša mašeleng tše di fetang mašeleng ao a beilweng, ya **R100 000.00**, yeo e filwego mokgahlo wa sepolotiki mo ngwageng wa ditšhelete le boitsibišo bja batho goba ditlamo tšeo di ntšhitseng mašeleng . Gape, hlogo ya mokgahlo wa sepolotiki e swanetše go dira gore dikgatišo tša mokgahlo di be gona kotara yengwe le yengwe; gomme e boloke lebakeng la mengwaga ye mehlano morago ga gore dikgatišo tše go bolelwago ka tšone di dirwe.

<sup>4</sup> Molao wa Tlhabologo ya Tlhohleletšo ya Pihhlelelo ya Tshedimošo, No. 31 wa 2019

6.4.5 Se se ra gore mo go Molao wa Mokotla wa Mokgahlo wa Sepolotiki o swanetše go hlalosa go Komiting ya Electoral, ga bjale Molao wo o tlhabolotšwego wa **PAIA** 2019 o akaretša gore o ka fihlelela dikgatišo go yo mongwe le mongwe yo fanego ka mašeleng a go feta **R100 000.00** go mokgahlo wa polotiki.

## 6.5 Melao ye megwe yeo e šireletšang tokelo ya phihlelelo ya tshedimošo

**PAIA** e gona mo gohle tikologong ya semolao, e diretšwe go dira “go tliša toka”. Go lemoga seo, **PAIA** e bolela gore molao o mongwe o ka kgonago go fa motho tsela ya go fihlelela tshedimošo yeo e sa hlokeng go tšeelwa matsapa a ka fase ga **PAIA**, o ka šomišwa<sup>5</sup>.

### 6.5.1 Molao wa Dikhampani 71 wa 2008

6.5.1.1 Karolo 26(1) ya Molao wa Dikhampani e fa motho yo a nang le kgahlego goba a ka bago le mohola go ditšhireletšong yeo e fiwang ke khampani ye e dirang letseno, goba yo e leng leloko la khampani ye e sa direng letseno, o na le tokelo ya go lebeledišiša le go dira khopi ya tshedimošo ye e leng mo dikgatišong tša khampani, kante le go lefa gob age o lefa e se be tefo ya go feta bonyane bjoo bo beilwego semolao go ka hwetsa tshedimošo ya kgatišo yeo ya kamphani.

6.5.1.2 Go ya ka karolo 26(7)(b) ya Molao wa Dikhampani, “ditokelo tša phihlelelo ya tshedimošo tše di tlhalositšweng mo karolong ye di a tlaleletša, gomme ga di eme legatong la ditokelolo tše motho a ka bago le tšona go fihlelela tshedimošo go ya le ka Molao wa Tlhohleletšo ya Phihlelelo ya Tshedimošo, 2000 (Molao No. 2 wa 2000)”.

### 6.5.2 Molao wa tefo ya mokgahlo wa polotiki, 2018 (Molao No. 6 wa 2018)

6.5.2.1 Sekhwama sa Polotiki se tsebiša thatafalo ya mekgwa ya melao ya tefelo ya ka thoko ya mekgahlo ka moka ya go ingwadisa ya polotiki, e ka ba e emetšwe ka letšiseleetšha ya tša bosetšhaba le tša porofense goba aowa. Se se akaretša magomo a ditekanyetso tša motswedi, bogolo le tšhomišo ya tšhelete ye e abilweng ke maloko a sepolotiki.

6.5.2.2 Go hlomamiša go se na le go khotiša le maikarabelo, makoko a sepolotiki a swanetše go tšhelete ka moka yeo e e amogetsweng ge e feta tšhelete ya go lekana **R100 000.00** go Khomishene ya Dikgetho ka dinako ka moka mo dikgwedi dingwe tše tharo (mmogo le pele ga dikgethokakaretšo).

<sup>5</sup> Karolo 2(1) ya PAIA



- 6.5.2.3 Motho goba mokgahlo ofe o o fang lekoko la sepolotiki tšhelete ye e fetang **R100 000** ka ngwaga o swanetše go bega tšhelete yeo go Khomisheneng ya Dikgetho mo matšatšing a 30 a go aba tšhelete goba mo matšitšing 30 ao tšhelete yeo e filwego e feta **R100 000**.
- 6.5.2.4 Sa mafelelo, Molao wa Tefo ya Mkgahlo wa Sepolotiki o rwešwa Khomishene ya Dikgetho maikarabelo a gore dikgwedi tše dingwe le tše dingwe tše tharo e senole phatlalatša tšhelete yeo e begilweng ke mokgahlo wa sepolotiki le go bega ka ngwaga ka Palamenteng ka tšhelete ka moka yeo e filwego mokgahlo wa sepolotiki mo ngwageng.
- 6.5.3 Molao wa Tšhireletšo ya Tshedimošo ya Mong, 2013 (Molao No. 4 wa 2013)
- 6.5.3.1 Karolo 23 ya **POPIA** e fa mong wa tshedimošo tokeloya phihlelelo ya tshedimošo ye e filwego ke mokgahlo o o ikarabelelang, go akaretša tshedimošo ka boitšhupo bja batho ka moka ba boraro, goba mehuta ya batho ba boraro ba ba nang goba ba ba ileng ba ba le phihlelelo ya tshedimošo.
- 6.5.3.2 Se se ra gore ge **PAIA** e sa akaretšwa mo phihlelelong ya kgatišo ye e nang le tshedimošo ya mong ka mokgopeditshedimošo go ya ka Karolo 11(2), mong wa tshedimošo a ka kgopela -
- 6.5.3.2.1 phihlelelo ya tokelo ya mong, le/goba
- 6.5.3.2.2 boitšhupo bja batho ka moka ba boraro, le/goba mehuta ya batho ba boraro ba ba nang goba ba ba ileng ba ba le phihlelelo ya tshedimošo.
- 6.5.3.2.3 phošolla goba go phumula tshedimošo ka mong yeo a itshwereco goba ka fase ga gagwe yeo e sego ya maleba, e sa hlokegeng, ya pheteletšonnete, e fitilego ke nako, e sego ya felela, e sa kgodišigo goba e hweditšwego ka mokgwa woo e sego wa semolao; goba
- 6.5.3.2.4 kgatišo ya tshedimošo ya mong yeo motho yoo a rwelego maikarabelo a senago le maloka a go ka e hwetša
- 6.5.3.3 Mokgahlo o o ikarabelelang o ka gana go phatlalatša tshedimošo ka mong ge e kgopelwa, go dumelelana le mabaka a go gana ka phihlelelo ya dikgatišo, bjalo ka ge go hlalosiwa mo karolong ya 19.4 ka fase.

#### 6.5.4 Molao 3 wa 2000 wa Tlhohleletšo ya Tsamaišo ya Toka

- 6.5.4.1 Molao o mongwe wo o lego bohlokwa ge o gopola molao wa phihlelelo ya tshedimošo ke Molao wa Tlhohleletšo ya Tsamaišo ya Toka (**PAJA**). **PAJA** e thuša tokelo ya kgato ya botsamaiši ye e lego molaong, e kwagalang le ye e sa gateleleng le tokelo ya mabaka a a ngwadilweng a kgato ya botsamaiši bjalo ka ge hlalositšwe mo karolo 33(2) ya Molaotheo<sup>6</sup>.
- 6.5.4.2 Go ya kamolao wa karolo 5(1) ya **PAJA**, motho ofe yo ditokelo tša gagwe di amilweng gape ke kgato ya botsamaiši le yo a sa fiwang mabaka a kgato eo, mo matšatšing a 90 morago ga temogo le motho a tsebilego kgato goba a ka bego a lebeletšwe gore o tseba kgato yeo, a ka kgopela motsamaiši yo a amegang go fa mabaka a a ngwadilweng a bothata bo. Mo matšatšing a 90 morago ga go amogela kgopelo, motsamaiši yo kgopelo e dirilweng mo go yena o swanetše go fa motho yoo mabaka a a kwagalang ao a ngwadilweng a kgato ya botsamaiši.

## 7. GO HLONGWA GA MOLAODI WA TSHEDIMOŠO

- 7.1 Go hloma tlhohleletšo le kgodišo ya maikemišetšo a **PAIA**, ao e leng go thuša ka tokelo ya phihlelelo ya tshedimošo ka mokgwa yo o thušang batho go fihlelela dikgatišo tša mekgahlo ya pušo le ya poraebete ka pela le ka tsela ye e e sego bothata ka mo go kgonegang ka gone, Molaodi wa Tshedimošo ("Molaodi") e hlongwile go ya ka karolo 39 ya **POPIA**.
- 7.2 Go netefatša gore mekgwa ya tshedimošo ye e sego ya hlakahlakana le go se bitši mašeleng a godimo ge go tšentšhwa kgopela ya phihlelelo ya tshedimošo, dingongorego go Molaodi le dikgopelo tša kgotlatshekelo e swanetše go ba mabaka a go iketha e sego molao.
- 7.3 **POPIA** e hlabolla karolo ya **SAHRC** go ya le ka melawana ya **PAIA**. Go tloga ka 30 Phupu 2021, mešomo ka moka ya SAHRC, bjalo ka ge di hlalosiwa go **PAIA**, di tla dirwa ke Molaodi, yo gape a nago maatla ao a okeditšwego.
- 7.4 Le ge **SAHRC** e tla tšwelela e na le maikarabelo a yona a molaotheo a go hlohleletša, go šireletsa le go hlokomela ditokelo tše di akaretšwago mo Molaong wa Dtokelo, **SAHRC** le Molaodi ba tla šomišana mmogo.

<sup>6</sup> Motho ofe yo ditokelo tša gagwe di amilweng gampe ke kgato ya tshepidišo le tokelo ya go fiwa mabaka a a ngwadilweng.

## 8. TEMA YA MOLAODI WA TSHEDIMOŠO

- 8.1 Molaodi o na le tema ye bohlokwa kudu morerong wa **PAIA**. Molaodi o laelwa ke **PAIA**, mo Karolo 4, Kgaolo 1A le Karolo 5 le dikarolo tše dingwe, go:
  - 8.1.1 hlohleletša tokelo ya phihlelelo ya tshedimošo le go thuša batho go šomiša **PAIA** moo go kgonegang go dira bjalo,
  - 8.1.2 hlokomela le go šomišwa ga **PAIA** go ya pele ke mekgahlo ya setšhaba le ya poraebete (se se akaretšang hlohleletšo ya mekgwa ya go dira gore tshedimošo e be gona ka nako),
  - 8.1.3 dira dikakanyo tša go godiša **PAIA**, le
  - 8.1.4 go bega ngwaga le ngwaga kua Palamenteng.
- 8.2 Karolo 77C (1) le (2) ya **PAIA** e fa Molaodi maloka, maikarabelo le mešomo ye elatelang, go -
  - 8.2.1 nyakišiša ngongorego ye e dirilweng go Molaodi ka mokgwa yo o swanetšeng;
  - 8.2.2 romela ngongorego go Komiti ya Tiragatšo ye e hlomilweng goya ka karolo 50 ya **POPIA**; goba
  - 8.2.3 go dumelelana le karolo 77D, ya go se tšeye kgato ka ngongorego goba bjalo go ya le ka molato, ga go hlokege kgato ye nngwe mo ngongorego; le
  - 8.2.4 go tšea kgato ge go swanela bjalo ka motlišakhutšo, malebana le ngongorego yeo ka mokgwa yo o swanetšeng.
- 8.3 Go ya ka karolo 77H(1) ya **PAIA**, Molaodi ka bo yene goba ka kgopeloo ya mohlankedi wa tshedimošo goba mo boemong bja gagwe goba hlogo ya mokgahlo wa poraebete goba motho ofe yo mongwe, a ka dira tlhahlobo ya gore a mokgahlo wa šetšhaba goba wa poraebete o tsamaišana le dinyakwa tša **PAIA**, melao le dipholisi le tiragatšo ya tshepetšo ya yona.
- 8.4 Go ya ka karolo 77F ya **PAIA**, Molaodi o na le maloka a go tšea matsapa ka moka a go rarolla ngongorego, ge e tšwa mo ngongoregong, goba ngongorego ye e ngwadilweng e dirilwe malebana le gore go ka kgonega go rarolla ngongorego. Se se ra gore Molaodi a ka leka fela go thuša mekgahlo go rarolla dikgohlano tša tšona, ge go na le ngongorego ye e filwego Molaodi, kante ga moo ka bo yena o swanetše go dira tekolo, ka ge go bontšhitšwe mo karolong ya 8.3 ka godimo.

## 9. GO DIRA KGOPELO YA GO BONA KGATIŠO

Kgopela o lebelelea tšhate ya tshepetšo ya kgato ka kgato mo temaneng ya 27 ka fase, go bona gore o ka kgopela bjang phihlelelo ya dikgatišo.

### 9.1 Go thoma: **Dibukana tša Ditaello tša PAIA**

- 9.1.1 Le ge Tlhahli ye e gatišitšwe go thuša batho ka moka go diragatša tokelo ya bona ya molatheo ya phihlelelo ya tshedimošo, go na le methopo ye mengwe ya tshedimošo ye le yone e ka thušang motho go dira kgopelo ya phihlelelo ya dikgatišo. **PAIA** e nyaka gore mekgahlo ka moka ya setšhaba le ya poraebete, e kgoboketše le go dira gore bukana ya ditaello ya **PAIA** e be gona<sup>7</sup>.
- 9.1.2 Pele motho a tseya dikgato tša go fihlelela tshedimošo goba dikgatišo tša mokgahlo o o rileng, Bukana ya Ditaello ya **PAIA** ke sedirišwa sa pele se a swanetšeng go se bala.
- 9.1.3 Kudu re ka re, bukana ya ditaello ya **PAIA** e bohlokwa gore motho a:
  - 9.1.3.1 lebelele mohuta wa dikgatišo tše di ka bago di šetše di le gone pele ga ge motho a ka romela kgopelo ya semmušo ya **PAIA**;
  - 9.1.3.2 kwišiša tsela ya go dira kgopelo ya phihlelelo ya tshedimošo e dirilwego ke mokgahlo yo o rileng;
  - 9.1.3.3 hwetša dimathomo tše di hlokegago tša go ikopantšha le motho yo a thušang batho ka dikgatišo tše motho a dumago go di fihlelela;
  - 9.1.3.4 tseba ditharabollo ka moka tše di leng gona mo mokgahlong yoo o nyakago phihlelelo ya dikgatišo go ona, pele o eya go Molaodi goba Dikgotlatšhekelo;
  - 9.1.3.5 tseba tlhaloso ya ditirelo tše di leng gona go maloko a setšhaba mo mokgahlong le tsela ya go fihlelela ditirelo tše;
  - 9.1.3.6 tseba ka gore mokgahlo o tla šomiša tshedimošo ya ka bo yena, mohola wa go šomiša tshedimošo ya ka bo yena le tlhaloso ya mehuta ya beng ba tshedimošo le ya tshedimošo goba mehuta ya tshedimošo ye e amanago le yona;
  - 9.1.3.7 tseba ge mokgahlo o rulagantše go romela goba go šomiša tshedimošo ya gago ka ntle ga Repaboliki ya Afrika Borwa; le

<sup>7</sup> Karolo 14 le Karolo 51 ya PAIA

- 9.1.3.8 go tseba gore a mokgahlo o na le mekgwa ye tšhireletšo ya go netefatša tshedimošo ya sephiri, bonnete le go ba gona ga tshedimošo ye e swanetšego go šomišwa.

## 9.2 O ka hwetša kae dibukana tša ditaelo tša PAIA?

### 9.2.1 Bukana ya Ditaelo ya PAIA ya mekgahlo ya setšhaba

- 9.2.1.1 Mekgahlo ka moka ya setšhaba e swanetše ga dira gore Bukana ya Ditaelo ya PAIA e be gona ka bonyane bja maleme a mararo a semmušo<sup>8</sup>.

- 9.2.1.2 ka bonyane, di swanetše go dirwa gore khopi ya Bukana ya Ditaelo ya PAIA e be mahala, ka ntle ga gore kgopelwa khopi e kgopelwe e porinthilwe

9.2.1.2.1 mo weposaeteng ya mokgahlo wa setšhaba;

9.2.1.2.2 go kantoronggolo ya mokgahlo wa setšhaba gore e sekasekwe ka diiri tše di tlwaelegileng tša mošomo;

9.2.1.2.3 ge motho a nyaka khopi ye e porintilweng, mokgahlo wa setšhaba o swanetše go e dira, gomme o ka kgopelwa go lefša go ya le ka khopi ye e porintilweng; le

9.2.1.3.4 go Molaodi ge e kgopelwa.

### 9.2.2 Dibuka tša Ditaelo tša PAIA tša mekgahlo ya poraebete

- 9.2.2.1 Mekgahlo ya poraebete le yone e swanetše go dira bukana ya ditaelo tša PAIA<sup>9</sup>, gomme ga go na molao wa go e gapeletša ka maleme a go feta a maroro goba leleme le le rileng, le ge go akanywa gore Dibukana tša Ditaelo tša PAIA tša mekgahlo ya poraebete di swanetše go ba ka Seisemane. Ge mokgahlo o o rileng o na le batho ba bantši bao ba sa rutegang, Molaodi o eletša gore bukana ya ditaelo ya mokgahlo woo le yona e be ka leleme le lengwe la semmušo.

- 9.2.2.2 ka bonyane, di swanetše go dirwa gore khopi ya Bukana ya Ditaelo ya PAIA e be mahala, ka ntle ga gore kgopelwa khopi e kgopelwe e porinthilwe

9.2.2.2.1 mo weposaeteng ya mokgahlo wa poraebete;

9.2.2.2.2 lefelong la konokono la kgwebo ya mokgahlo wa poraebete gore e sekasekwe ka diiri tše di tlwaelegileng tša mošomo ;

<sup>8</sup> Karolo 14(1) ya PAIA

<sup>9</sup> go ya ka karolo 51 ya PAIA

<sup>10</sup> Karolo 51(3) ya PAIA

9.2.2.2.3 Ge motho a nyaka khopi e e porintilweng, mokgahlo wa poraebete o swanetše go e dira, gomme o ka kgopelwa go lefša go ya le ka khopi yeo e porintilweng; le

9.2.2.2.4 go Molaodi ge e kgopelwa.

9.2.3 Tona ya Toka le Ditirelo tšaTshokollo e na le maatla a go beela ka thoko<sup>11</sup> mekgahlo ye mengwe ya poraebete goba mehuta ya mekgahlo ya poraebete mo maikarabelong a go dira bukana ya ditaelo. Ga bjale, le go fihla ka 31 Manthole 2021, Tona e beetše ka thoko<sup>12</sup> mekgahlo ka moka ya poraebete, ka ntle le khampani ye e -

- (a) seng khampani ya poraebete bjale ka ge go hlalosiwa go karolo 1 ya Molao wa Dikhampani, 2008 (Molao No. 71 wa 2008); le
- (b) leng khampani ya poraebete bjale ka ge go hlalosiwa mo karolo 1 ya Molao wa Dikhampani, 2008 (Molao No. 71 wa 2008) yeo e šomago le mafapha ao a lego go kholomo 1 ya thulaganyo ya Tsebišo ye le -
  - (i) e na le bašomi ba 50 goba go feta; goba
  - (ii) e na le palomoka ya letseno la ngwaga le ngwaga le le lekanang goba le le fetang kholomo 2 ya tafola ya ka fase,

mo go direng bukana ya ditaelo e go bolelwago ka yona mo karolo 51(1) ya Molao yo o bolelwago la mathomo ka lebaka la dikgwedi tše tshela(6) go tloga ka **1 Mosegamanye 2021** go fihla ka **31 Manthole 2021**: -

Setheo	Letseno la ngwaga le ngwaga
Temo	R6 milione
Meepo le Dikwari	R22.5 milione
Ditšweletšwa	R30 milione
Mohlagase, Kgase le Meetsi	R30 milione
Meago	R15 milione
Thekišo le Kgwebo ya Dikoloi le Ditirelo tša go lokiša	R45 milione
Thekišo ya dithotopharepare tša dikoloi, Baemedi ba Kgwebo le Ditirelo tše di Amanang le tšona	R75 milione
Kgwebo ya Dijo, Dino le Kgwebo ye Nngwe	R15 milione
Dinamelwa, Bobolokelo le Dipoledišano	R30 milione
Ditirelo tša Matlotlo le Ditirelo tša Kgwebo	R30 milione
Ditirelo tša setšhaba, tše di Kgethegileng le tša Botho	R15 milione

<sup>11</sup> Karolo 51(4) ya PAIA

<sup>12</sup> Kasete ya Pušo no: 39504, 11 Manthole 2015

- 9.2.4 Ka lebaka le bohlokwa la hlokego ya peomolao go dira Bukana ya Ditaello ya **PAIA**, kudu tlhabolo<sup>13</sup> ya karolo 51 ya **PAIA** (ye e thomang go šoma ka 30 Phupu 2021), go ya le ka le gore tshedimošo ya bukana ya molao e swanetše go akaretša eng e okeditšwe go akaretša ditaba tše di amanang le **POPIA**, mekgahlo ya poraebete e tla swanela gore le yone e dire bukana ya ditaello ya **PAIA**. Ka gona, go tloga ka, 1 Pherekong 2022, mekgahlo mongwe le mongwe wa poraebete le wa setšhaba o tla swanela go ba le Bukana ya yona ya Ditaello ya **PAIA**, bjale ka ge go hlalositšwe mo temaneng ya 9.2.2.2 ka godimo.
- 9.2.5 Go se akaretšwe ga dikhampani tša poraebete mo maikarabelong a go dira bukana ya ditaello ya **PAIA** ga go dire gore dikhampani tšeo di se obamele **PAIA**. Se se ra gore motho ofe a ka romela kgopelo ya phihlelelo ya tshedimošo go sa akaretšwe mo mekgahlong wa poraebete. Go se akaretšwe go ra fela gore dikhampani tšeo tša poraebete ga di hloke go dira bukana ya ditaello ya **PAIA**.
- 9.2.6 Gape o gopole gore ga se mekgahlo ka moka ya poraebete ye e leng dikhampani, bjale tlhaloso ya mekgahlo wa poraebete e akaretša motho wa tlhago, mong wa go ba nosš le semphato. Gomme gona, go na sale bohlokwa go leba weposaete ya tšona, gona dikhampani tše dingwe di dira bukana ya ditaello ya **PAIA** go sa kgathalege palo ya bašomiši ba tšone goba letseno la tšona la ngwaga le ngwaga.
- 9.3 Phatlalatšo ya boithaupi le go ba gona ga dikgatišo tše dingwe ka go itiragalela
- 9.3.1 Dikgatišo tse di leng gona ka go itiragalela ke tše mekgahlo wa setšhaba goba wa poraebete o di ntšhang ka ntle ga gore mekgopelatshedimošo a romela kgopelo ya **PAIA** (ka mantšu a mangwe, motho a ka e kgopela fela ka ntle ga go tlatša Foromo 2 ya **PAIA**).
- 9.3.2 Go ya ka karolo 15(1) ya **PAIA**, Mohlankedi wa Tshedimošo wa mekgahlo wa setšhaba o swanetše go dira gore lenaneo goba mehuta ya dikgatišo tše di bang gona ka go itiragalela di ba gona, bjale go hlaloswa mo temaneng 9.3.4 ka fase.
- 9.3.3 Dikgatišo tša mekgahlo wa setšhaba tše di bao gona ka go itiragalela le tšona di ka dirwa gore di be gona, go ya ka karolo 52(1) ya **PAIA**, gomme ka boithaupi go dumalelana le temaneng ya 9.3.4 ka fase.
- 9.3.4 Tlhaloso ya mehuta ya dikgatišo tše di bang gona ka go itiragalela di swanetše go dirwa gore di be gona
- (a) go Molaodi wa Tshedimošo;
  - (b) mo weposaeteng ya mekgahlo; le
  - (c) go lekolwa, ka dikantorong tša mekgahlo yo o amegang ka dinako tše di tlwaelegileng tša mošomo.

<sup>13</sup> Karolo 110 ya POPIA



- 9.3.5 Kgopela o ela tlhoko gore Molaodi o tla lokela tlhaloso ya dikgatišo tša mokgahlo wa setšhaba tše di leng gona ka go itiragalela mo weposaeteng ya gagwe.
- 9.3.6 Lenaneo le le akaretša dikgatišo tše di ka swanelang go dirwa gore di be gona ke melao ye mengwe, le dikgatišo tše dingwe tše mokgahlo o kgethang go di akaretša. Go gatelela taba ye ya go tsamaišana le thulaganyo ya kgopelo ya **PAIA**, mokgopelatshedimošo o eletšwa go lebelela Bukana ya Ditaelo ya **PAIA** ya mokgahlo yo o amegang wa setšhaba goba wa poraebete. Gona mo motho a ka kgopela go fihlelela dikgatišo tše di welang mo lenaneong la mokgahlo la dikgatišo tše di leng gona ka go itiragalela, motho yoo a ka kgopela fela phihlelelo ya tšona ka ntle ga go swanelwa ke go tlatša Foromo 2 ya **PAIA**.
- 9.3.7 Molao 6 wa 2018 wa Kettleetso ya Lekoko o dira diphetogo dingwe mo **PAIA**, temaneng le gore dihlogo tsa makoko a sepolotiki di swanetše go rekota le go boloka dikgatišo tsa dikatso tsa poraebete, tse di tla swanelang go dirwa phatlalatsa ka ntle ga gore motho a lokele kgopelo ya **PAIA**.

## 10. DINTLHA TŠA GO IKGOKAGANYA LE BAHLANKEDI BA TSHEDIMOŠO

- 10.1 Le ge dintlha tša go ikgokaganya le Bahlankedi ba Tshedimošo ba mokgahlo yo mongwe le mongwe wa setšhaba di swanetše go gatišwa mo bukeng yengwe le yengwe ya megala go ya ka karolo 16 ya **PAIA**, Molaodi o na le dintlha tše di rileng tša go ikgokaganya tša Bahlankedi ka moka ba tša Tshedimošo (go akaretša Batlatša Bahlankedi ba Tshedimošo, ba ba kgethilweng go ya ka karolo 17 le 56 ya **PAIA** le **POPIA**) tše di ngwadišitšweng go ya ka karolo 55(2) ya **POPIA**.
- 10.2 Le ge gantši go hwetša dimathomo tša maleba tša go ikgokaganya e ka ba mathata go ka kgona go dira kgopelo ya **PAIA**, ka ge maemo a fetoga kgafetšakgafetša mo mafepheng a setšhaba gomme bukana ya ditaelo ya **PAIA** e ka ya se mpsafatšwe, lefelo la mathomo la go hwetša dintlha tša go ikgokaganya e swanetše go ba ka Bukana ya Ditaelo ya mokgahlo ya **PAIA**. Le fa go ntse jage go le bjalo, ge mokgopelatshedimošo a sa kgone go hwetša thuša ka bukana ya ditaelo, go leletša switchboard ya mokgahlo go kgopela dinomoro tša maleba le gona go ka thuša.
- 10.3 Mo Dimmasepaleng, Mokgahlo wa Afrika Borwa wa Pušoselegae (**SALGA**) o tsentšha dintlha tša go ikgokaganya tša Dimmasepala tšohle mo linking ye: <http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Dikgokagano tša Pušo le tšona di fa dintlha tša go ikgokaganya tša bosetšhaba le tša porofense, mmogo le dintlha tša go ikgokaganya tša Ditlamo tše e leng tša Pušo mo linking ye: <https://www.gov.za/about-government/contact-directory>. Ka mehla gopola gore tlhaloso ya Mohlankedi wa Tshedimošo e thuša go lemoga gore go hlokega dintlha tša mang tša go ikgokaganya go hwetša Mohlankedi wa Tshedimošo.

## 11. TSHEPEDIŠO YA GO DIRA KGOPELO YA GO HWETŠA TSHEDIMOŠO

### 11.1 Diforomo tša kgopelo

11.1.1 Kgopelo ya phihlelelo ya tshedimošo e ka dirwa mo mekgahlong ya Setšhaba le ya poraebete.

11.1.2 **PAIA** e nyaka gore ge o dira kgopelo ye bjalo, o swanetše go romela kgopelo ka diforomo tše di nyakegang (diforomo tše di hlaloswa ke Melawana). Go na le diforomo tše pedi tše di ka šomišwago ge o nyaka phihlelelo ya tshedimošo

Foromo 2	Foromo 4
Foromo ye e ka šomišwago fela ge o nyaka go kgopela phihlelelo ya dikgatišo tša mokgahlo wa setšhaba goba wa poraebete.	Foromo ye e ka šomišwago fela ge o nyaka go romela kgopelo yaka gare kgahlanong le dipheho tša Bahlankedi ba Tshedimošo goba tša Bahlankedi ba Tshedimošo ba Karolo ya Pušo ya Bosetšhaba, ya Porofense goba ya Selegae ye e hlokago ke kgopelo ya tša ka gare.

11.1.3 Diforomo tše di ka hwetšwa mo weposaeteng ya Molaodi mo <https://www.justice.gov.za/infoereg/>

11.2 Go tšea sephetho sa gore kgopelo e amana le tshedimošo ye e swerego ke ke mokgahlo wa poraebete goba wa setšhaba

11.2.1 Mokgahlo wa setšhaba o dira mošomo wa setšhaba, bjale ka go aba batho ka mohlagase goba meetsi. Ka bjalo, mokgahlo wa setšhaba ga se fela Lefapha la Pušo ya Bosetšhaba, ya Porofense goba ya Selegae – o akaretša ditlamo tše e leng tša Pušo goba Makala a Pušo a a bjale Molaodi, Eskom, goba PRASA, gomme gona, go swanetše go dirwa pharologanyo malebana le mokgahlo wa Pušo wa mohola bjalo ka kgopelo ya ka gare, ye e laetsago fela Pušo ya Bosetšhaba, ya Porofense goba ya Selegae.

11.2.2 Mokgahlo wa poraebete o dira mošomo wa poraebete. Mokgahlo yoo (e ka bang motho) o dira kgwebišano, kgwebo goba bošomi. Go bohlokwa kudu go ela tlhoko gore ge o romela kgopelo ya **PAIA** go mokgahlo wa poraebete, o swanetše go bontšha gore ke tokelo efe yeo o e šireletšang goba o e šomišang ka go kgopela tshedimošo yeo. Malebana le tshedimošo efe ye e filwego ke motho yo mongwe, Streicher JA o akaretša boemo ka tsela ye e latelang, mo **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) ser 28 mo 1026F–G

“Tshedimošo e ka nyakega fela go diragatša goba go šireletša tokelo ge e le gore e tla thuša mo go diragatšeng goba go šireletša tokelo. Go latela seo, go dira molato wa phihlelelo ya tshedimošo go ya le ka karolo 32, modirakgopelo o swanetše go bontšha gore ke tokelo efe yeo e nyakago go e šomiša goba go e šireletša, gore tshedimošo e e nyakegang ke efe le gore tshedimošo yeo e tla mo thuša bjang go šomiša goba go šireletša tokelo yeo”.

11.2.3 Ka dinako tše dingwe taba ya gore kgatišo ke ya setšhaba goba ya poraebete e ka hlakahlakana gomme batho ba kgetha go nyaka thušo ya semolao. Mohlala, ge mokgahlo wa Setšhaba o hloma mokgahlo wa poraebete go aba ditirelo tše dingwe mo boemong bja yona, bjale ka go tsentšha ga dimmetara tša meetsi mo mafelong a mangwe, phihlelelo ya palo ya dimmetara tse di tsentšhitšweng e tla tšewa e le tshedimošo ya mokgahlo wa setšhaba, lege gona le tshedimošo yeo e filwego ke mokgahlo wa poraebete.

11.3 Motho o hlalosa bjang tokelo ye a holofelang go e šomiša goba go e šireletša?

11.3.1 Ge motho a hlalosa gore ke tokelo efe ye a holofelang go e šomiša ge a dira kgopelo go mokgahlo wa poraebete, a ka se bolele ka tokelo ya phihlelelo ya tshedimošo. O swanela go hlalosa gore kgatišo ye a e kgopelang e nyakega bjang go šireletša goba go šomiša tokelo yengwe. Seo se ka akaretša ditokelo tše e seng ditokelo tša molaotheo fela.

11.3.2 Mohlala yo mongwe a ka nyaka maano a konokono ya khampani ye e nang le bokgoni bja go ama maemo tšhilafalo sa mo setšhabeng, go thuša go šireletša tokelo ya gagwe mo tikologong ka go ela tlhoko mešomo ya yona. Goba a ka nyaka dikgatišo tše di tla mo thušang go bona gore o na le tokelo ya go lokela ngongorego ya semolao kgahlanong le setlamo. Ka gona o hloka go:

11.3.2.1 Bontšha ka botlalo tokelo ye a holofelang go e šireletša goba go e šomiša, le go

11.3.2.2 Hlalosa gabotse gore ke eng yeo kgatišo ye a e kgopelang e tlogo go mo thuša ka tokelo yeo.

11.3.3 Go fapantšha le seo, ge motho a romela kgopelo ya **PAIA** go mokgahlo wa setšhaba, ga a hloke go ba le lebaka la go kgopela tshedimošo.

## 12. KE MANG A KA DIRANG KGOPELO YA PAIA?

12.1 Yo mongwe le yo mongwe, yo e lego Moafrika Borwa goba e sego yene, o dumelwa go dira kgopelo ya **PAIA**. Mokgopelatshedimošo e ka ba motho wa tlhago goba moemedi wa tša molao.

12.2 Mokgahlo wa setšhaba o tšewa bjalo ka moemedi wa molao gomme o ka dira kgopelo ya phihlelelo ya dikgatišo tše di tshwerego ke mekgahlo ya poraebete, gomme fela ge mokgahlo wa setšhaba o -

12.2.1 direla mo dikgahlegelong tša baagi, le

12.2.2 ge dikgatišo di nyakega go šomišwa goba go šireletša ditokelo ka ntle le tša mokgahlo wa setšhaba.

12.3 Mo **PAIA** mokgopelatshedimošo a ka se kgopela phihlelelo ya kgatišo ya mokgahlo wa setšhaba ye e nang le tshedimošo ya ka bo yena ka mokgopelatshedimošo wa mokgahlo wa setšhaba<sup>15</sup>, gomme gona, go ya ka karolo 23(1)(b) ya **POPIA**, mokgopelatshedimošo goba mong wa tshedimošo a ka kgopela go lekgotla le le ikarabelelang kgatišo goba tlhaloso ya tshedimošo ya ka bo yena bjalo ka mong wa tshedimošo ye e tshwerego ke lekoko le le ikarabelelang. Se se ra gore motho ofe a ka kgopela phihlelelo ya tshedimošo ya gagwe ye e tshwerego ke mokgahlo wa setšhaba goba wa poraebete ka tlhagišo ya bosupo bjo bo lekaneng bja boitšhupo. Tshedimošo ya bo wena ye mokgopelatshedimošo a ka e kgopelang go mokgahlo yo o ikarabelelang e ka akaretša tshedimošo ka boitšhupo bja batho bohle ba boraro, ba ba nang goba ba ba ileng ba fihlelela tshedimošo.

12.4 Go ya ka karolo 50(1) ya **POPIA**, yo mongwe le yo mongwe a ka kgopela phihlelelo ya kgatišo ya mokgahlo wa poraebete, ye e nang le tshedimošo ya bo wena bjalo ka mokgopelatshedimošo goba motho yo a direlwang kgopelo.

### 13. KGOPELO E KA DIRWA MO GO MANG?

13.1 Mohlankedi wa Tshedimošo wa mokgahlo wa Pušo o swanetše go kgetha Mo(ba)tlatša Mohlankedi wa Tshedimošo, yo a tla netefatšang gore phihlelelo ya dikgatišo tša mokgahlo wa setšhaba di fihlelelege ka mo go ka kgonegang ka gone. Le ge seo e be e se dinyakwa go mokgahlo wa poraebete ka fase ga **PAIA**, mokgahlo wa poraebete o ka kgetha Motlatša Mohlankedi wa Tshedimošo yo a go ya ka karolo 56 ya **POPIA**.

13.2 Le ge kgopelo ya phihlelelo ya tshedimošo e ka romelwa Mohlankedi wa Tshedimošo, e ka romelwa go Motlatša Mohlankedi wa Tshedimošo. Dintlha tša dikgokagano tša Mo(ba)tlatša Mohlankedi wa Tshedimošo di ka hwetšwa mo bukaneng ya ditaelo ya **PAIA** ya mokgahlo oo goba go Molaodi.

### 14. GO TLATŠA FOROMO

14.1 Foromo 2 – kgopelo ya phihlelelo ya kgatišo ya mokgahlo wa setšhaba goba wa poraebete:

14.1.1 Go tlatša foromo ya **PAIA**, motho o swanetše go fa dintlha tše di lekaneng go dumelela Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo go lebeledišiša dikgatišo tše mokgopelatshedimošo a di nyakang.

<sup>15</sup> Karolo 11(2) ya PAIA

- 14.1.2 Melawana ya **PAIA** e hlalosa foromo ye e swanetšweng go šomišwa, ye e swanetšweng go romelwa Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo wa mokgahlo.
- 14.1.3 Bakgopelatshedimošo ba ba sa kgoneng go bala goba go ngwala ba ka kgopela ka molomo go Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba, yo a nang le maikarabelelo a go tlatša foromo 2 mo boemong bja mokgopelatshedimošo. Foromo ya ga bjale e tla go nyaka gore o tlatše dikarolo tse di latelang:

Tshedimošo ye e nyakegang	Tlhalošo
<b>Dintlha tša mokgahlo wa Setšhaba / poraebete</b>	Karolo ye e swanetše go ba le imeile le nomoro ye e nepagetšego ya fekese ya Mohlankedi wa Tshedimošo le/goba Motlatša Mohlankedi wa Tshedimošo.
<b>Dintlha tša motho yo a kgopelang phihlelelo ya dikgatišo</b>	Ye e swanetše go ba le tshedimošo ye e lekaneng ka mokgopelatshedimošo go dira gore go be bonolo go hwetša mokgopelatshedimošo, go akaretša dintlha tša go ikgokaganya tša mokgopelatshedimošo: aterese ya poso, aterese ya imeile, fekese le/goba nomoro ya mogala ya Afrika Borwa. Gape e nyaka nomoro ya gago ya boitsibišo go netefatša boitsibišo bja gago. Ge o kgopela tshedimošo mo lebakeng la motho yo mongwe, o swanetše go fa bošupi bja maemo ao o dirang kgopelo o le mo go ona (bjale 'motho yo a dumeletšweng semolao').
<b>Dintlha tša kgatišo ye e kgopetšwego</b>	Efa dintlha tšeo di feletšeng tša kgatišo yeo e kgopelwago phihlelelo ya gona, go akaretša nomoro ya tshupetšo ge o e tseba, go thuša gore kgatišo e hwetšwe. (Ge karolo ye e filwego e sa lekana, kgopela o tlatše mo dumelelakaleng le lengwe gomme o e kgomaganye mo foromong. Matlakala ka moka ao a okeditšwego a swanetše go saeniwa.
<b>Mohuta wa kgatišo</b>	Ye e swanetše go ba le tshedimošo ye e lekaneng ka kgatišo go dira gore go be bonolo go e hwetša. Ge tshedimošo ye e nyakegang e ka se kgone go lekana mo karolong ye e filweng mo foromong, dumelelakala le lengwe le go ngwadilwego ka

go tlanya goba ka letsogo mo go lona le kašomišwa go fa dintlha tše di oketseditšwego tša kgopelo, ge dumelelakala le lengwe le lengwe le le okeditšwego le sainiwe gomme le kgorametšwe mo foromong ya kgopelo. Mohlala, o ka akaretša setšweletšwa se se tšwang go pego goba mo ditabeng tše di laetšago kgatišo ye o e nyakang. E go dumelela go akaretša nomoro tšhupo ya kgatišo, ge ona le yona.

### Ditefelo

Mokgahlo yoo mokgopelatshedimošo a ratang go romela kgopelo ya phihlelelo go go wona, go akaretša kgatišo ye e nang le tshedimošo ya k abo yena, e ka go kgopela gore o lefe (tefelo ya go hwetša kgatišo) goba dipositi, gomme tefelo yeo ga se ya swanela go ba ye ntši, gape ditefelo di swanetše go tsamaišana le nako ye e nyakegang go nyaka le go beakanya kgatišo. Tona ka Kaseteng o laeditše thoko ditefelo bjale ka ge go bontšhitšwe mo temaneng ya 51.1 ka fase.

Go na le karolo ye e fiwang gore mokgopelatshedimošo a bontšhe gore ke eng a dumela gore ga a swanela go e lefela. Mohlala, lebaka le ka akaretša gore ga o bereke.

### Foromo ya phihlelelo ya kgatišo

Karolo ye o go dumelela go swaya ka "X" go dilo tše o di ratang mo foromong ya phihlelelo ya dikgatišo e ka e ka fiwa khopi ye e porintilweng ya kgatišo le/goba flash drive le/goba compact disc drive.

### Mokgwa wa phihlelelo

Mo karolong ye o swanetše o bontšha dilo tše o di ratang le gore kgatišo e swanetše ebe ka leleme lefe (se se kano se kgonege mo dikgatišong ka moka, gomme o sa swanela go bontšha se o se ratang).

Mokgwa wa phihlelelo ya kgatišo o ka hlola go ganweng ga phihlelelo ka lebaka la ditefelo tse tša godimo. Mohlala, ge mokgopelatshedimošo a nyaka kgatišo ka leleme leo a le ratang, ditefelo tša go



fetolela dikgatišo tšeo go polelo yeo o e ratang di swanetše go patelwa. Le ge go le bjalo, ge kgatišo e sego ka leleme leo o le ratang, phihlelelo e ka fiwa ka leleme la kgatišo ye e leng gona. Mokgwa wa phihlelelo ya kgatišo o ka akaretša tshekatsheko ya bo wwana ya kgatišo, kgatišo ye e romelwang ka imeile, goba ka fekese goba ka khoría goba ka poso.

### **Tsebišo ya sephetho sa malebana le go kgopela phihlelelo**

Go fiwa karabo ya gore mokgopelatshedimošo a hlalose mokgwa yo a ratago gore a tsebišwe ka sephetho sa go dumela goba go gana kgopelo. Mohlala mokgopelatshedimošo a ka bontšha gore o nyaka go tsebišwa ka imeile goba ka mogala goba gore a ka romelwa karabo ka poso goba ka khoría.

### **Dintlha tša tokelo ya go ka šomišwa goba go šireletšwa**

Ge mokgopelatshedimošo a kgopela tshedimošo go mokgahlo wa poraebete, o swanetše go hlalosa "dintlha tša tokelo ye e swanetšeng go šomišwa goba go šireletšwa". Moo o swanetše go bontšha tokelo ye a ithetaba ka yona (bjale ka tokelo ya gagwe ya go ba mo tikologong ye e itekanetšeng) le gore kgatišo ye a e kgopelang e tla mo thuša bjang go šomiša goba go šireletša tokelo yeo. O swanetše go bontšha kamano mo magareng ga kgatišo ye a e nyakang, le go šomiša goba tšhireletšo ya tokelo yeo.

Ka maswabi, go fapana le kgopelo ya phihlelelo ya kgatišo go mokgahlo wa setšhaba, o ka se fihlelele kgatišo ya mokgahlo wa poraebete ka ntle ga go bontšha (di)tokelo ye a šupago go ka šireletša goba go e šomiša mo phihlelelo ya tshedimošo ye e ka fiwa. Se se ka akaretša ntlha ya gore morago ga go fihlelela dikgatišo, o tla šomiša tokelo ya gago go itšhireletša le šomiša mokgwa wa molao<sup>16</sup> ka go patediša mokgahlo yoo tšhelete ya ditshenyagalelo tšeo di ka bago di bile gona.

<sup>16</sup> Karolo 9(1) ya molatheo wa Repapoliki ya Afrika Borwa, Molao 108 wa 1996



14.1.4 Ge go ya le ka mabaka a mangwe kgopelo ya gagwe e sa tsamaišane le dinyakwa tše di ngwadilwego ka godimo, Mohlankedi wa Tshedimošo a ka se gane kgopelo ya gagwe fela, ka ntle ga go fa mabaka go mokgopelatshedimošo a go gana kgopelo. Gape Mohlankedi wa Tshedimošo o swanetše go tsebiša gore o tla thuša mokgopelatshedimošo goba a mo fe monyetla wa go beakanya phoso.

## 15. DITEFelo TŠE DI AMEGANG

15.1 Ka kakaretšo, ditefelo di swanetše go dirwa ga bedi ge o dira kgopelo, gomme go lefela ditshenyagalelo tša go fa phihlelelo ya dikgatišo go ya ka kgopelo. Gomme gona, go na le maemo a mmalwa ao go sa gapeletšwego. Ge mokgopelatshedimošo a fiwa phihlelelo ya dikgatišo tše a di kgopetšego gomme a swanela go lefela ditefelo, bjale ka ge go bontšhitšwe mo temaneng ya 15.2 ka fase, ditefelo tše Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo a ka di nyakang ke tše di latelang -

**Hlokomela: maemo a ditefo tšeo di swanetšwego go patelwa go mekgathlo ya setšhaba le ya phoraebete e ka humanega go weposaete ya Bolaodi.**

Selo	Tlhaloso
1	Ditefelo tšeo di swanetšwego go patelwa ke mokgopedi yo mongwe le yo mongwe
2	Fothohophi ya letlakala la bogolo bja A4
3	Khophi ya phorente ya letlakala la bogolo bja A4
4	Khophi ye e banaago mo khomputareng go: <ul style="list-style-type: none"> <li>(i) Flash drive (e tla aba ke mokgopedi)</li> <li>(ii) Compact disc <ul style="list-style-type: none"> <li>• Ge e abile ke mokgopedi</li> <li>• Ge e abilwe go mokgopedi</li> </ul> </li> </ul>
5	Go fetoleleng kgatišo go tšwa go ditshwantšho ka bogolo bja A4
6	Khophi ya diswantšho tša go bonala
7	Kgatišo ya phetolelo ya lentšu, ka bogolo bja A4
8	Khophi ya kgatišo ya mantšu <ul style="list-style-type: none"> <li>(i) Flash drive (e tla aba ke mokgopedi)</li> <li>(ii) Compact disc <ul style="list-style-type: none"> <li>• Ge e abile ke mokgopedi</li> <li>• Ge e abilwe go mokgopedi</li> </ul> </li> </ul>
9	Go nyaka le beakanya dikgatišo tša go phatlalatšwa mo iring e tee goba karolo ya iri, go sa balwe iri ya mathomo, go hlokega go nyaka le go beakanya ga go kwagala. Go se fete mašelang ao a belwego
10	Dipositi: ge go nyaka go feta diiri tše 6
11	Go romela ka tša go Poswa, emeili goba ka mokgwa o mongwele o mongwe wa eleketheroniki

15.2 Mokgopelatshedimošo ga a swanela go lefela mokgahlo wa setšhaba ditefo tša kgatišo<sup>17</sup> ge:-

15.2.1 A se a nyale gomme letseno la gagwe la ngwaga, morago ga dikgogelo tše di dumeletšweng, tše di bjale ka **PAYE** le **UIF**, di le ka fase ga **R14 712.00** ka ngwaga, goba

15.2.2 A nyetše gomme letseno la gagwe le molekane wa gagwe, morago ga dikgogelo tše di dumeletšweng, tše di bjale **PAYE** le **UIF**, di le ka kwa fase ga **R27 192.00** ka ngwaga.

15.3 Kgopela o ela tlhoko gore mo go Foromo 4 ya Melawana, mokgahlo wa setšhaba goba wa poraebete o ka kgopela dipositi go mokgopelatshedimošo, gomme fela ge a dumela gore tshedimošo goba dikgatišo tše di kgopetšwego di tla tseya diira tše di fetang tshela (6) go di nyaka, gomme tefelo ya dipositi e ka se fete tee-tharong go ya ka ditefelo tše di nyakegang.

## 16. NAA MOHLANKEDI WA TSHEDIMOŠO O TLA THUŠA MODIRAKGOPELO GO DIRA KGOPELO YA PAIA?

16.1 Maikarabelo a Bahlankedi ba Tshedimošo le/goba Batlatša Bahlankedi ba Tshedimošo ba mekgahlo ya setšhaba le ya poraebete e amana le go dira dikgopelo tša phihlelelo ya dikgatišo:

16.1.1 go amogela kgopelo ya **PAIA** goba ya **POPIA**;

16.1.2 go rulaganya ditshepidišo tša kgopelo mo mokgahlong;

16.1.3 go dira sephetho sa go dumela goba go gana gore phihlelelo ya dikgatišo e fiwe;

16.1.4 go kgokagana le mokgopelatshedimošo (bjk.. ba ka hloka go kgopela mokgopelatshedimošo dintlha tša go tlaleletša goba ba ka hloka go kgopela go okeletšwa ga nako ya go šogana lle kgopelo, bj.bj.);

16.1.5 Gopotša mokgopelatshedimošo ka dipheho tša kgopelo ya gagwe ya **PAIA**, gomme kgakollo yeo e swanetše go fiwa ka pela ge go kgonega gomme e be mo matšatšing a 30 morago ga go amogela kgopelo. Lebaka la go thoma la matšatši a 30 a ka oketšwa ga tee mo lebakeng le la sa feteng matšatši a 30, mohlala, ge mokgopelatshedimošo a dumetse kokeletšo ya go nyaka dikgatišong tše di wa weleng mo lebakeng la mathomo;

16.1.6 efa mokgopelatshedimošo mabaka a sephetho a go gana phihlelelo. Go bohlokwa kudu gore mabaka a a filwego a go gana e be ao a kwišišegang le ao a feletšeng gomme a swanetše go akaretša tšhupo ya dikarolo tše di rileng tša **PAIA** (bona temaneng 19.4 ka fase, malebana le mabaka a go gana phihlelelo ya dikgatišo<sup>18</sup>);

<sup>17</sup> go ya ka Kasete ya Pušo R991 ya 14 Diphallane 2005

<sup>18</sup> Karolo 33 go ya go 46 ya PAIA

- 16.1.7 tsebiša batho ba ba swanelang ba boraro ka go šomiša mokgwa wa Tsebišo ya motho wa boraro, go ya ka karolo 47 ya **PAIA**; le
- 16.1.8 ge phihlelelo ya dikgatišo e fiwa, efa mokgopelatshedimošo khopi ya kgatišo.
- 16.2 Ge o tsebiša mokgopelatshedimošo ka sephetho, gape hlalosa ditsela tše dingwe tše di leng gona le dinako tsa maleba (tsela ye e leng gona ga e swane mo mekgahlong ya setšhaba le ya poraebete).
- 16.3 Karolo le maikarabelo ao a tlaleditšweng a Bahlankedi ba Tshedimošo le/goba Bathuši Bahlankedi ba Tshedimošo ke tše di hlalotswang mo Tsebišo ya Hlahlo ya Bahlankedi ba Tshedimošo le Bathuši Bahlankedi ba Tshedimošo, gomme Tsebišo yeo ya Hlahlo e gona mo <https://www.justice.gov.za/infocreg/docs.html>
- 16.4 Ka lebaka la gore Bahlankedi ba Tshedimošo le/goba Batlatša Bahlankedi ba Tshedimošo ke bona ba tsamaišang kgopeloya go fihlelela tshedimošo, se se ra gore ba na le mešomo ye e farologaneng le go ba ba dirang kgopelo.
- 16.5 Bahlankedi ba Tshedimošo le/goba Batlatša Bahlankedi ba Tshedimošo ba swanetše go fa thušo mahala.
- 16.6 Bahlankedi ba Tshedimošo le/goba Batlatša Bahlankedi ba Tshedimošo ba mokgahlo wa setšhaba ba na le mešomo ye e latelang le ye e kgethegileng:

Mešomo tsa Bahlankedi ba Tshedimošo	Tlhaloso
<b>Thuša ka go tlatša foromo</b>	Mohlankedi wa Tshedimošo o swanetše go fa mokgopelatshedimošo thušo ye e swanetšego ka go tlatša foromo ya gagwe ya <b>PAIA</b> , gomme a ka ba a se gane go amogela foromo ye e sa tlatšwago gabotse ka ntle le gore o file thušo yeo, goba a file thušo yeo gomme e gannwe.
<b>Go fa tshedimošo ye e swanelang</b>	Ge go kgonega, Mohlankedi wa Tshedimošo o swanetše go fa mokgopelatshedimošo tshedimošo ye nngwe ye e ka swanelang, le ge a sa e kgopela.
<b>Fetiša kgopelo</b>	Yeo ke mošomo yo bohlokwa kudu. Ge kgopelo ya <b>PAIA</b> e dirwa mo mokgahlong o e seng one wa setšhaba, Mohlankedi wa Tshedimošo o swanetše go fetiša kgopelo

## Mešomo tsa Bahlankedi ba Tshedimošo

## Tlhaloso

go mokgahlo yo o nepileng wa setšhaba mo matšatšing a le 14 a go amogela kgopelo gomme o swanetše go tsebiša mokgopelatshedimošo ka go ngwala mo fase gore o dirile bjalo. Ge e fetišeditšwe, Mohlankedi yo o nepileng wa Tshedimošo o swanetše go araba ka sephetho mo matšatšing a 30.

## Go diegišiša go ntšha ga kgatišo

Mohlankedi wa Tshedimošo a ka kgetha go diegiša go ntšhiwa ga kgatišo go mokgopelatshedimošo ge e le gore kgatišo yeo e tla gatišwa mo matšatšing a 90 goba ge e le gore molao o nyaka kgatišo yeo e gatišwa gomme e se e gatišwe.

- 16.7 Mo mekgahlong ya setšhaba le ya poraebete, ge Mohlankedi wa Tshedimošo a kgona go bona dikgatišo tše di rileng tše di kgopelwago goba a dumela gore dikgatišo tše ga di go, o swanetše go romela afidafiti goba hlomamišo<sup>19</sup> ye e hlahosang ka botlalo go mokgopelatshedimošo Tsebišo ya gore dikgatišo tše go bolelwago ka tšone ga di go goba ga di bonwe, gomme gape a hlahose dikgato tše a di tšereng go di nyaka.

## 17. THUŠO YE E LENG GONA GO MOLAODI WA TSHEDIMOŠO MABAPI LE PAIA LE POPIA

- 17.1 Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba o na le maikarabelelo a go fa thušo ya maleba<sup>20</sup>, ya mahala, ka ge go hlokega go dira gore mokgopelatshedimošo goba motho yo go bolelwago ka ene a tsamaisane le mokgwa wa phihlelelo ka go bontšhitšwe mo dikarolo 18 tša **PAIA** le karolo 23 ya **POPIA**.
- 17.2 Le go le jbalo, ge Mohlankedi wa Tshedimošo a ka palelwa ke gore mošomo wa gagwe o tsamaisane le boletšweng mo temaneng 17.1 ka godimo, mokgopelatshedimošo goba motho yo go bolelwago ka yena a ka tsentšha ngongorego le Molaodi, gomme gona fao gwa nyakišišwa. Molaodi a ka ntšha Tsebišo ya Tiragatšo ye e laelang Mohlankedi wa Tshedimošo go fa thušo ye e swanelang.
- 17.3 Ge go kgonega, ge Molaodi a kgopelwa, a ka thuša motho ofe yo a nyakago go šomiša tokelo ye e hlahoswang mo **PAIA** le mo **POPIA**<sup>21</sup>, gomme seo se akaretša go fa thušo ye e hlokegang, mahala, bjale go hlokega go thuša mokgopelatshedimošo goba motho yo go bolelwago ka yena go tsamaisana le mokgwa wa maleba bjale kag e go hlahoswa mo dikarolo 18 le 53 tša **PAIA** le karolo 23 ya **POPIA**.
- 17.4 Se se ka godimo se akaretša go fa hlahlo ka go tlatša foromo ya kgopelo goba go tlatša foromo legatong la motho yo a sa rutegang goba sefofu.

<sup>19</sup> Karolo 23(1) le 51(1) ya PAIA

<sup>20</sup> Karolo 19(1) ya PAIA

<sup>21</sup> Karolo 83(3)(c) ya PAIA

## 18. NAA MOHLANKEDI WA TSHEDIMOŠO A KA OKETŠA DINAKO TŠE DI AMEGANG?

- 18.1 Tlhaloso ya tshepetšo le dinako tša bohlokwa tše di amegang di akaretšo mo taekeramong ya tshepetšo ya kgopelo ya **PAIA**, mo temaneng 27 ka fase. Go na le dinako tše di kgethegileng ke karolo ya bohlokwa ya **PAIA**, yona e kgonthišiša bolaodi bjo bo botse bja dikgopelo tša phihlelelo ya dikgatišo.
- 18.2 Bjalo ka kgopotšo, ge o rometše kgopelo ya gago ga botse, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo, yo kgopelo e dirwang goba e romelwang go yena, o swanetše go go araba ka pela ge go kgonegang gomme le ge go diregang e be **mo matšatšing a 30**<sup>22</sup>. Gomme gona, Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba goba wa poraebete a ka kgopela **koketšo ya matšatši a le 30** ga tee<sup>23</sup>, gomme fela ge:
- 18.2.1 kgopelo e le ya dikgatišo tše dintsi goba e nyaka gore go nyakiwe mo dikgatišong tše dintši, gomme ka ntle ga koketšo, nyakišišo yeo e tla tsenelela go mešomo yeo e tlwaelegileng ya mokgahlo yo o amegang;
- 18.2.2 kgopelo e nyaka gore go lebelelwe mo dikgatišong tše di lego kantorong ya mokgahlo yoo e se mo motseng goba mo toropong ye tee gomme e ka se fetšwe **mo matšatšing a le 30**; le/goba
- 18.2.3 e nyaka poledišano ya go tsenelela gore kgopelo e diragale, gomme seo se ka se fedišwe **mo matšatšing a le 30 fela**.
- 18.3 Mohlankedi wa Tshedimošo o swanetše go tsebiša mokgopelatshedimošo ka maikemišetšo a gagwe a go oketša lebaka la mathomong, le go bontšha lebaka la koketšo, lebaka la koketšo, le go tsebiša mokgopedi ka tokelo ya gagwe ya go -
- 18.3.1 ngongorega go bolaoding ba ba swanelang;
- 18.3.2 ngongorega go Molaodi; goba
- 18.2.3 lokela ditherišano go lekgotlatsekelo kgahlanong le koketšo yeo e filwego.
- 18.4 Gape Mohlankedi wa Tshedimošo o swanetše go tsebiša mokgopelatshedimošo ka tshepetšo ye nngwe le ye nngwe ya ditokelo tše di ngwadilwego ka godimo mo Tsebišong<sup>24</sup>.

## 19. DIKARABO TŠA KGOPELO YA TSHEDIMOŠO

- 19.1 **PAIA** e file batho tokelo ya go kgopela phihlelelo ya dikgatišo go tšwa go mokgahlo o mogwe le o mongwe wa setšhaba goba wa poraebete. Gantši seo se hlalose e le molao yo o thušang baagi go ba le tsebo ka Pušo ya bona. Mekgahlo ya setšhaba e swanetše go phatlalatša tshedimošo yeo e welago ka fase ga **PAIA** ka ntle ga

<sup>22</sup> Karolo 25(1) ya PAIA

<sup>23</sup> Karolo 26(1) ya PAIA

<sup>24</sup> Karolo 26(3) ya PAIA - tsebišo ya koketšo e swanetše go bontšha gore mokopatshedimošo a ka tsentšha go se kgotsofale gagwe, ngongorego go Molaodi wa Ditheletšo goba kgopelo go kgotlatsekelo, ge go hlokega, kgahlanong le koketšo, gomme tsamaišo (go akaretša lebaka) ya go tsentšha go se kgotsofale mo gona, ngongorego go Molaodi wa Tshedimošo goba kgopelo, k a ge go hlokega

moo e wela mo go ye nngwe ya **dipeelothoko tše lesomepedi (12)** goba mabaka a o phihlelelo ya dikgatišo tša mokgahlo wa setšhaba goba wa poraebete e ka dumelelwang goba e sa swanela go fiwa<sup>25</sup> le **dipeelothoko tše šupa (7)** goba mabaka a phihlelelo ya dikgatišo tša mokgahlo wa poraebete e ka dumelelwang goba e swanetšeng go ganwa<sup>26</sup>. Dipeelothoko tše lesomesenyae (19) tše di fiwang mo **PAIA** di diretšwe go šireletša dilo tše bjale ka sephiri sa motho, tšhireletšego ya naga, le tiragatšo ya molao.

19.2 Molaohlahi wo o welang ka fase ga taolo ya tšhepetšo ya **PAIA** ke tumelelo laetša hlokego ya sephiri. Seo se ra gore lebaka lefe la go ganana le sephiri le swanetše go hlalloswa. Gape mekgahlo ya setšhaba e swanetše go lebelela gore naa go fa tshedimošo ya go ba le sephirinyana e ya kgonega ge e le gore ya go fa tshedimošo ya nnete ya go felela e sa kgonege gomme ba swanetše go fediša goba go fokotša tshedimošo ye e ka se phatlalatšweng gomme ba phatlalatše ye e šetšeng.

19.3 Mehuta ya dikarabo tša dikgopelo

19.3.1 Ge kgopelo ya phihlelelo ya kgatišo e dirwa, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go tsebiša mokgopelatshedimošo, ge kgopelo ya phihlelelo ya kgatišo e dumelwa goba e ganwa, ka-

- (a) sephetho sa gagwe; le
- (b) ditefelo tše di swanetšeng go phatelwa, ge di le gona,

mo foromong ye e tsamaišanang ga botse le Foromo 3 ya Annexure A go Melawana:

19.3.2 Gomme gona, **PAIA** e fa lenaneo la mabaka (go beelwa kwa thoko) (bona temana 19.4 le 19.6 ka fase) a gore ke eng kgopela e ka ganwa goba e swanetše go ganwa. Seo se bohlokwa, gobane kgopelo e ka ganwa fela go ya ka ya le lengwe la mabaka ao a ngwadilwego a go gana phihlelelo ya dikgatišo.

19.3.3 Go sa kgathalege mabaka a filwego ka godimo a go gana phihlelelo ya dikgatišo, Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba o swanetše go dumela kgopelo ya phihlelelo ya kgatišo ya mokgahlo ge dikgathalego tša batho mo go phatlaladitšwego ga kgatišo go na le kotsi ye e naganelwago mo mabakeng ao a ngwadilwego a go gana<sup>27</sup>. Seo se ra gore mokgopelatshedimošo a ka itshephela go dikgathalego tša setšhaba ge phihlelelo ya dikgatišo e fetolwa.

19.3.4 Ka bonyane, mabaka a go fa tshedimošo ao a ka se phatlalatšego a amana le go phatlalatša ga tshedimošo ye e ka baka kotsi ye kgolo go go bapetšwa le ge e ka se phatlalatšwa. Go na le mehuta ye mebedi ye e farologaneng ya mabaka a go gana phihlelelo ya dikgatišo tša mokgahlo:

<sup>25</sup> Kgaolo 4 ya PAIA - mabaka a go gana phihlelelo ya dikgatišo (karolo 34-45 ya PAIA)

<sup>26</sup> Kgaolo 4 ya PAIA - mabaka a go gana phihlelelo ya dikgatišo (karolo 63-69 ya PAIA)

<sup>27</sup> Karolo 46 ya PAIA



## 19.4 Mabaka ao a gapeletša go gana (mabaka a go beelwa kwa thoko)

19.4.1 Ka mabaka a go gapeletša, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go gana kgopelo gobane di go tsentshetšwe kgopelo mo kgatišong.

19.4.2 Go na le mabaka a mantši a kgapeletšwa ka ntle ga a go kgethwa. Tše di latelang ke mabaka a go gapeletša go gana, gomme Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go gana gobane gona le kgopelo mo kgatišong -

### 19.4.2.1 **Tšhireletšo ye e gapeletšang sephiri sa motho wa boraro yoo e lego motho wa nama;**

Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba goba wa poraebete ga a swanela go dumelela mokgopelatshedimošo go fihlelela tshedimošo ya tša bo wena ya motho yo mongwe ge e swana le 'phatlalatšo ye e sa kwagaleng'. Dikarolo tšeo ka botšone di bontšha mabaka a mmalwa ao go sa dirwego, bjale ka ge batho ba šetse ba tseba dikgatišo tšeo, goba ge motho a filwe tumelelo. Taba ya tumelelo e bohlokwa kudu ge e amana le karolo ye nngwe ya thulaganyo ye mokgopelatshedimošo a swanetšeng go e tseba, ye e amanang le ditsebišo tša motho wa boraro, temaneng le kgaolo 5 ya **PAIA**.

### 19.4.2.2 **Tšhireletšo ya tlhomamišo ya dikgatišo tše di rileng tša Ditirelo tša Letseno tša Afrika Borwa;**

Mohlankedi wa Tshedimošo wa **SARS** ga a swanela go dumelela mokgopelatshedimošo go fihlelela dikgatišo tše di bonweng goba tše di tshwereco ke **SARS** ka maikemišetšo a yona a go kgobokanya letseno. Gomme gona, dikgatišo tše di bonweng goba tše di tshwereco ke **SARS** di kana tša se ganwe ge kgopelo e dirwa ke mokgopelatshedimošo ka bo yene goba motho yo a direlwang kgopelo.

### 19.4.2.3 **Tšhireletšo ye e gapeletšang tshedimošo ya kgwebo ya motho wa boraro;**

Mohlankedi wa Tshedimošo wa mokgahlo ga a swanela go dumelela mokgopelatshedimošo go fihlelela tshedimošo ya kgwebo ya motho yo mongwe (ka mantšu mangwe, motho yo e seng mokgopelatshedimošo goba yo go kgopelwang tshedimošo mo go yena). Seo se akaretša tshedimošo ye bjale ka diphiri tša kgwebišano, goba tše di ka tšhošetsang dikgahlego tša kgwebo ya motho wa boraro. Mohlala, KFC e šomiša diresepi tše di rileng, tše di akaretšang dinyoki tše dingwe tše di dirilweng ke khampani ye nngwe, tše e leng diphiri tša kgwebišano tša khampani yeo gomme go phatlalatšwa ga yona go ka tšhošetša dikgahlego tša kgwebo tša khampani yeo.



19.4.2.4 **Tšhireletšo ye e gapeletšang ya tshedimošo ye e rileng ya sephiri, le Tšhireletšo ya Tshedimošoe ye nngwe ye e rileng ya sephiri, ya motho wa boraro;**

Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba le wa poraebete ga se a swanela go dumelela mokgopelatshedimošo go hwetša kgatišo ge go e ntšha go tla swana le go tshela taelo ya sephiri sa motho wa boraro temaneng mo tumelanong goba konterakeng.

19.4.2.5 **Tšhireletšo ye e gapeletšang ya tšhireletšong ya batho, le tšhireletšo ya thoto;**

Mohlankedi wa Tshedimošo wa mokgahlo wa tšhireletšo le wa poraebete ga wa swanela go dumelela mokgopelatshedimošo go fihlelela dikgatišo ge go ntšhiwa ga tšona go ka ama tšhireletšong ya mongwe. Mo dikarolong tšona tseo, gape e bontšha gore Mohlankedi wa Tshedimošo wa mokgahlo a ka gana phihlelelo ge go ka direga gore e tla ama tšhireletšong ya moago goba thoto.

19.4.2.6 **Tšhireletšo ye e gapeletšang ya ditokete tša maphodisa mo ditherišanong tša beili, le tšhireletšo ya tiragatšo ya molao le ditaba tša semolao;**

Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba ga a swanela go fa mokgopelatshedimošo phihlelelo ya dikgatišo tše bjaleka dikgatišo tša ditherišano tša beili tše di šetseng di šireletšwa ke karolo 60 ya Molao wa Tshepetšo ya Bosenyi. Mo go yona karolo yeo, gape e bontšha gore Mohlankedi wa Tshedimošo wa mokgahlo wa setšhaba a ka gana phihlelelo ya dikgatišo tša tiragatšo ya molao ye e senolang mekgwa, mahalahlala le ditshepetšo tša go thibela bokebekwa, mmogo le dikgatišo tše dingwe tše di rileng tše di swanelang ditaba tša semolao tše di diregang.

19.4.2.7 **Tšhireletšong ye e gapeletšang ya dikgatišo tše di sa swanelang go tšwelela go tšwa go tša molao;**

Mohlankedi wa Tshedimošo wa mokgahlo wa poraebete ga a swanela go dumelela mokgopelatshedimošo go fihlelela kgatišo ge kgatišo e sa swanela go tšwelela mo go tšwa go tša molao, ka ntle ga gore motho yo a nang le tokelo yeo a lahlelwe ke yona.

19.4.2.8 **Tšhireletšo ye e gapeletšang ya tshedimošo ya nyakišišo ya motho wa boraro, le Tšhireletšo ya Tshedimošo ya nyakišišo ya mokgahlo wa setšhaba goba wa poraebete.**

Mohlankedi wa Tshedimošo wa mokgahlo ga a swanela go dumelela mokgopelatshedimošo go fihlelela kgatišo ge kgatišo e amana le nyakišišo ye e dirwang ke mokgahlo yo o amegang goba e tla dira ke wona, gomme go ntšhiwa ga yona go tla senola monyakišiši, motho wa boraro goba taba ye e nyakišišwang e ka senyega kudu.

19.4.3 Kgopela o ele tlhoko gore mabaka a a ka godimo a tlhomamišo ya go gana phihlelelo ya dikgatišo a nyakile a swana le mekgahlong ya setšhaba le ya poraebete, ka ntle ga tšhireletšo ye e gapeletšegang ya dikgatišo tše di rileng tša Ditirelo tša Letseno tša Afrika Borwa, ya ditokete tša maphodisa mo ditherišanong tša beili, tše di amang fela mekgahlo ya setšhaba.

19.4.4 Ge karolo ya kgatišo e amanago fela le lebaka la go beela ka thoko, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo wa mekgahlo ya setšhaba le ya poraebete ka bobedi ba na le maikarabelelo a go naganela gore na phatlalatšo e e rileng ya tshedimošo e a kgonega nako le nako ge ba hwetša gore phatlalatšo ye e feletšeng ga e kgonege gomme ba swanetše go tšea dikgato tše di hlokegang go tloša goba go fokotša karolo yeo e e ka se ntšhwego go mokgopelatshedimošo le go fa phihlelelo ya kgatišo ka moka.

## 19.5 Go hwetša kgopela go gannwe<sup>28</sup>

19.5.1 Go palelwa ke go araba ga botse kgopelo mo nakong ye e swanetšeng go hwetša e le gore 'kgopelo e gannwe'. Seo se bohlokwa, gobane, PAIA e dumelela mokgopelatshedimošo go tsentšha ngongorego ge sephetho se se gona gape kgopelo ye e dirilwego e beetšwe ka thoko. Mokgopelatshedimošo o tla bontšha mo ngongoregong ya gagwe gore ga se a amogela karabo.

19.5.2 Kgopelo ya phihlelelo ya dikgatišo e tšewa bjalo ka kgano morago ga go felelwa ke nako ya matšatši a le 30 goba lebaka lefe lelo le okeditšweng gomme mokgahlo wa setšhaba goba wa poraebete o palelwa ke go araba.

## 19.6 Mabaka a go gana ao a phatlaletšego ka maemo

19.6.1 Ka mabaka a a ikaegileng ka maemo, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo a ka lemoga gore a ka gane kgopelo gobane mabaka a dirilwego mo kgatišong ye e kgopetšwego. Ka lebaka la gore e phatlaletše, Mohlankedi wa Tshedimošo o swanetše go lemoga ga botse ge a lemoga mabaka a a fapaneng, e leng:

19.6.1.1 **Bathibedi ba Afrika Borwa, tšhireletšo le dikamano le dinaga di šele:** Mohlankedi wa Tshedimošo a ka gana phihlelelo ge go lebeletšwe gore go ntšhiwa ga tshedimošo go ka ama bathibedi goba tšhireletšo ya naga. Seo gape se ka dira ge go ntšhiwa ga tshedimošo go ka ama dikamano tša Afrika Borwa le naga ye nngwe, bjalo ka go ntšha dikgatišo tše di abilweng ka sephiri.

19.6.1.2 **Mabapi le ekonomi, tša mašelang le tša kgwebo:** Mohlankedi wa Tshedimošo a ka gana phihlelelo ge go ntšhiwa ga yona go tla ba kotsi mo boemong bja ekonomi le matlotlo a Naga;

<sup>28</sup> Karolo 27 le 58 ya PAIA

19.6.1.3 **Tshepetšo ya tša setšhaba:** Mohlankedi wa Tshedimošo wa mokgahlo wa tša setšhaba a ka gana phihlelelo ge go ntšhiwa ga tshedimošo ge go ka hlohla ditshepetšo, mohlala, ge go leka go dira pholisi goba go rerišana ka taba;

19.6.1.4 **Dikgopelo tša go raloka le tša go se kwagale:** Bahlankedi ba Tshedimošo ba ka gana kgopelo ya tshedimošo ba e kwa gore go šomiša dikgopelo go tla senya nako go sa hlokege gomme gwa senya tšhelete. Mo godimo ga moo, ba ka gana phihlelelo ya kgatišo ge kgopelo e bonala e dirwa ke mokgopelatshedimošo go seleka goba go kwatiša mongwe.

## 20. PHATLALATŠO YE E GAPELETŠAGO YA DIKGATIŠO GO THUŠA BATHO

20.1 Le ge lebaka la go rata goba le le gapeletšang la go gana le le gona go tsamaišana le kgopelo ya phihlelelo ya dikgatišo tša mekgahlo ya setšhaba goba ya poraebete, ka dinako ka moka go na le kgonagalo ya gore dikgahlego tša batho mo go phatlalatšeng ga kgatišo go bohlokwa go lemoša kotsi ye e dirwang ke go ntšhiwa ga kgatišo.

20.2 Mo bohlokwa bja dikgahlego tša batho di lebeletšwe ka ge go bolelwa ka godimo gomme phatlalatšo ya kgatišo e bontšha mabaka ao a kwagala a go dumalana goba go palelwa ke go tsamaišana le molao, goba tšhireletšong ye maatla ya batho goba kotsi ya tikologo, moo Mohlankedi wa Tshedimošo wa mokgahlo o swanetše go fa kgopelo ya phihlelelo ya kgatišo go sa kgathalege go ba gone ga go beelwa thoko ga mabaka ao a filwego ka godimo.

## 21. TSHEPEDIŠO YA YA GO TSEBIŠA LELOKO LA BORARO<sup>29</sup>

21.1 Go ya ka dikarolo 47 le 71 tsa **PAIA**, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go tšea dikgato ka moka tše di kgonegang go tsebiša motho wa boraro ka kgopelo ya gagwe goba dikgatišo tše e ka bang kgatišo ye e nang le tshedimošo efe ka tša bo bona,

21.1.1 kgatišo ya SARS;

21.1.2 diphiri tša kgwebišano;

21.1.3 tshedimošo ye go ntšhiwa ga yona go ka bakang mabaka a kgato ya go tshela tshephano; goba tshedimošo ya nyakišišo ye e ka senolang yo mongwe goba taba ye nngwe go hlola tsheny.

21.2 Tsebišo ya motho wa boraro wo dikgatišo goba tshedimošo e ka kgopelwang e swanetše go laletša motho wa boraro go -

<sup>29</sup> Karolo 47 le 71 ya PAIA

- 21.2.1 ngwalela goba bolela le Mohlankedi wa Tshedimošo gore ke eng kgopelo ya phihlelelo e swanetše go ganwa; goba
- 21.2.2 fa tumelelo ye e ngwadilwego ya phatlalatšo ya kgatišo go mokgopelatshedimošo.
- 21.3 Sa bohlokwa go mokgopelatshedimošo, **PAIA** e re ditsebišo tše di ngwadilwego go motho wa boraro di swanetše go romelwa go motho wa boraro mo matsatšing a 21 a go amogelwa ga kgopelo, le gore Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go tsebiša mokgopelatshedimošo gore tsebišo e rometšwe go motho wa boraro.
- 21.4 Ge Tsebišo yeo e rometšwe, Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo o swanetše go dira sephetho aa mafelelo gore a ntšhe dikgatišo mo matsatšing a 30 a go romelwa ga tsebišo yeo.
- 21.5 Motho wa boraro o swanetše a tsebišwe ka sephetho se se dirilweng gomme go swanetše go fiwa le mabaka ao a lekaneng a go fa kgopelo. Motho wa boraro le yena o swanetše go tsebišwa ka tokelo le tshepetšo ya go tšewa ga sephetho ka ge go bontshitšwe mo temaneng 22 ka fase.

## **22. DIKGATO TŠA SEMOLAO KG AHLANONG LE DIPHETHO GOBA GO PALELWA KE GO DIRA SEPHETHO KE MOHLANKEDI GOBA MOTLATŠA MOHLANKEDI WA TSHEDIMOŠO**

- 22.1 Kgato e e swanetšeng go tšewa ge sephetho se dirwa ka kgopelo
- 22.1.1 Mokgopelatshedimošo a ka dira kgopelo ya go tseba ka maemo a gagwe a kgopelo ka go ngwala, go sa letilwe sephetho sa Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo. Go eleditšwe gore dipoledišano ka moka magareng ga mokgopelatshedimošo le Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo di swanetše go ngwalwa fae gore di kgone go lebišwa mo go swanetšwego.
- 22.1.2 Go na le mekgwa ye e fapanego go mekgahlo ya setšhaba le ya poraebete, ya go ntšha ngongorego ya gago. Mohlala, malebana le kgopelo ya phihlelelo ya kgatišo ya mokgahlo wa setšhaba, mokgopelatshedimošo o swanetše go romele ngongorego pele a ka kopana le Molaodi goba Kgotlatshekelo. Le ge go le bjalo, ga go na ngongorego ye e lego kgahlanong le sephetho (e ka ba ya go dumela goba go gana go dumelela phihlelelo ya dikgatišo) goba go tšewa go ganwa ga phihlelelo ya dikgatišo tsa mokgahlo wa setšhaba.
- 22.1.3 Karolo yeo e tla hlalosa ditharollo tša semolao tšeo bakgopelatshedimošo ba ba nyakang go pobola ka diphetho tšeo ba nago le tšona, tše di akaretša dipobolo, go tsentšha ngongorego go Molaodi le dikgopelo go Kgotlatshekelo. Bona gape le taekeramo ya go laetša dikgopelo tša **PAIA**, mo temaneng 27 ka fase.

22.1.4 Gareng ga tše dingwe, mokgopelatshedimošo a ka lwa le sephetho seo se tšerwego ka mokgahlo wa poraebete le/goba wa Pušo -

22.1.4.1 thentara goba tšhelete ye e nyakegang;

22.1.4.2 thentara goba tšhelete ya peeletšo;

22.1.4.3 patedišo ya phihlelelo ye e lego godimo kudu;

22.1.4.4 foromo ya phihlelelo e dumetšwe;

22.1.4.5 go ganwa ga kgopelo;

22.1.4.6 mokgwatshepetšo (go akaretša lebaka) wa go tsentšha boipobolo ;

22.1.4.7 nako e e okeditšweng ye e sa swanelang ya go araba kgopelo ya phihlelelo;

22.1.4.8 go palelwa ke go ntšha dikgatišo;

22.1.4.9 go dumela kgopelo ya phihlelelo ya kgatišo;

22.1.4.10 go gana kgopelo ya go phumola ditefo;

## 22.2 Ditharalo tša boipobolo

22.2.1 Naa mokgopelatshedimošo a ka ipobola bjang kgahlanong le sephetho sa mokgahlo wa Pušo?

22.2.1.1 Go ya ka karolo 74 ya **PAIA**, boipobolo bo ka dirwa fela le molaodi yo wa maleba wa karolo ya setšhaba ya bosetšhaba goba ya porofense goba mmasepala ofe mo karolong ya setšhaba ya selegae ge go hlokega.<sup>30</sup>

22.2.1.2 Mohlala, Toropo ya Johannesburg ke sekai sa karolo ya setšhaba ya selegae ye boipobolo bja gona bo ka romelwago kgahlanong le yona. The Road Accident Fund goba Molaodi wa yona ke sekai sa mokgahlo wa setšhaba seo e seng karolo ya bosetšhaba, ya porofense goba ya selegae ye e tlhomilweng ke molaotheo, bjalo boipobolo bja gona bo ka se dirwe kgahlanong le yona.

<sup>30</sup> Karolo 74(1) ya PAIA

- 22.2.1.3 Ge mokgopelatshedimošo goba motho wa boraro a sa thabela sephetho se se dirilweng ke Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo wa karolo ya Pušo ya bosetšhaba, ya porofense goba ya selegae, mokgopelatshedimošo goba motho wa boraro o na le tokelo ya go dira boipobolo mo gona, temaneng le karolo ya 74(1) ya (2) ya **PAIA**. Mokgwatshepetšo wa go dira boipobolo bo hlaloswa mo bukaneng ya ditaelo tša **PAIA** ya mokgahlo woo gomme mokgwa wa go dira boipobolo bja mo gona le ona o hlaloswa ka fase.
- 22.2.1.4 Ge karabo ya karolo ya Pušo ya bosetšhaba, ya porofense goba ya selegae e tšewa e le go gana, ka mantšu a mangwe, e paletšwe ke go araba kgopelo mo matšatšing a 30 goba mo lobakeng leo le okeditšweng, mokgopelatshedimošo a ka lokela boipobolo bja gona pele mokgopelatshedimošo a ka atamela Molaodi goba Kgotlatshekelo, go ya ka mokgwatshepetšo ye e hlaloswang moo.

## 22.3 Poloko ya dikgatišo go fihla sephetho sa mafelelo ka kgopelo ye e fihleletšwe

- 22.3.1 Mohlankedi wa Tshedimošo wa karolo ya Pušo ya Bosetšhaba, ya Porofense goba ya Selegae e boipobolo ba gona bo swanelwang ke go dirwa go tšea dikgato tše di swanelang tše di hlokegang go boloka kgatišo gomme a ka se phumole goba go senya kgatišo yeo e kgopetšwang, go fihla ka nako ya fa ditshepetšo dife goba ka moka mo boipobolong bja gona goba ngongorego go Molaodi goba kgopelo ya ka kgotlatshekelo di hwetšwa temaneng le karolo 21 ya **PAIA**.
- 22.3.2 Seo se ra gore Mohlankedi wa tshedimošo a ka se kgone go phumula goba go senya tshedimošo efe yeo e kgopetšweng, go letilwe tshepetšo yeo e hlaloswang mo temaneng 22.3.1.1 ka godimo.

## 22.4 Naa Boipobolo bja gona bo swanetše go romelwa go mang?

- 22.4.1 Le ge boipobolo bo tla sekasekwa ke molaodi yo a swanelang, boipobolo bja gona bo swanetše go išwa goba go romelwa go Mohlankedi wa Tshedimošo wa Karolo ya Pušo ya Bosetšhaba, ya Porofense goba ya Selegae mo atereseng ya gagwe, mo nomorong ya fekese goba aterese ya lengwalo la ileketeroniki<sup>31</sup>, dintlha tša go ikgokaganya di ka hwetšwa mo bukaneng ya ditaelo ya **PAIA** goba di ka fihlelelwa go Molaodi.
- 22.4.2 Mohlankedi wa Tshedimošo wa karolo ya Pušo ya bosetšhaba, ya porofense goba ya selegae, o na le boikarabelo bjo bo kgethegileng, go ya ka temaneng le karolo 75(4) ya **PAIA**, go romela boipobolo go

<sup>31</sup> Karolo 75(1)(b) ya PAIA



molaodi wa boipobolo, ga mmogo le mabaka a gagwe a sephetho se e se tšerego. Thomelo ya boipobolo go molaodi wa maloka e swanetše go dirwa mo matšatšing a 10 a mošomo morago ga go amogela boipobolo.

## 22.5 Molaodi wa maloka ke mang?

22.5.1 Gantši molaodi wa maloka, yo mo a bitšiwang “molaodi wa boipobolo” ke moetapele wa sepolotiki wa mokgahlo yo o amegang (le ge e le gore maemo ao a ka fiwa o mongwe semolao) gomme ka peosemalalo e ra motho yo a latelang.

Mokgahlo wa Pušo ("Pušo")	Molaodi yo o Swanelang ("Molaodi wa boipobolo")
<b>Kantoro ya Moporesidente</b>	Motho yo a kgethilweng ke Moporesidente ka go ngwalwa fase, ge le gone, go seng bjalo Moporesidente ke molaodi wa boipobolo
<b>Lefapha la Bosetšhaba</b>	Tona ye e ikarabelelang ka lefapha leo goba motho yo a kgethilweng ke Tona yeo ka go ngwala fase
<b>Kantoro ya Tonakgolo</b>	Motho yo a kgethilweng ke Tonakgolo ka go ngwalwa fase.
<b>Lefapha la Porofense</b>	Leloko la Lekgotla la Khuduthamaga ( <b>MEC</b> ) le le ikarabelelang ka Lefapha leo la Porofense goba motho yo a kgethilweng ke <b>MEC</b> ka go ngwalwa fase;
<b>Mmasepala</b>	Ratoropo, Sebuledi goba motho ofe yo mongwe yo a kgethilweng ke Lekgotla la Mmasepala la mmasepala yoo ka go ngwalwa fase;

22.5.2 Maemo gape a mangwe, ge e se kantoro ya tonakgolo: leloko la khuduthamaga le le ikarabelelang ka mokgahlo yoo wa Pušo goba motho yo a kgethilweng ke leloko leo ka go ngwalwa fase.

22.5.3 Ge molaodi wa boipobolo a dumelela sephetho sa Bahlankedi ba Tshedimošo, boipobolo bja gona bo a ganwa gomme sephetho sa mathomo sa Mohlankedi wa Tshedimošo se tla ema. Gomme gona, ge molaodi wa boipobolo a sa dumalane le sephetho sa Mohlankedi wa Tshedimošo, boipobolo bo a dumelwa gomme sephetho sa mathomo e a fetotšea.



22.5.4 Sephetho sa Molaodi wa Tshedimošo ke sona. Ka go le lengwe, ge balaodi bja boipelaetšo ba ganane le sephetho sa Molaodi wa Tshedimošo, gona boipelaetšo bo tla amogelwa gomme sephetho sa mathomo se tla fetošwa.

## 22.6 Naa ke mang a ka lokelang boipobolo bja gagwe?

22.6.1 Mokgopelatshedimošo ofe yo kgopelo ya **PAIA** ya phihlelelo ya dikgatišo tša karolo ya Pušo ya Bosetšhaba, ya Porofense goba ya Selegae e gannwe gomme a dumela gore le lengwe la mabaka a boipobolo ao a ngwadilwego mo temaneng 22.2.4 ka godimo a swana le a mo kgopelong ya gagwe, o na le tokelo ya go lokela boipobolo bja gagwe.

22.6.2 Batho ba kgato ya boraro le bona ba ka lokela boipobolo mo kgahlanong le sephetho se se dirilweng ke Mohlankedi wa Tshedimošo go fa sephetho sa kgatišo se se ba amang. Ge boipobolo bo akaretša motho wa boraro, molaodi wa boipobolo yo a amogelang boipobolo o swanetše go tsebiša batho bao ba boraro (ka gona maikarabelo ga e sa le a Mohlankedi wa Tshedimošo gomme ke a molaodi wa boipobolo bjalo).

## 22.7 Lebaka leo o ka lokelang boipobolo ka lona

22.7.1 Boipobolo bo swanetšwe go lokelwa -

22.7.1.1 mo **matšatšing a 60**<sup>32</sup> morago ga gore sephetho se dirwe;

22.7.1.2 mo **matšatšing a 30**<sup>32</sup> morago ga gore Tsebišo e fiwe motho wa boraro ka sephetho se go ipobolwang ka sona

22.7.2 Go lokela boipobolo morago ga lebaka leo le filweng ka godimo (lata) go ka no se dumelwe, ka ntle ga ge molaodi wa boipobolo a fiwa lebaka le le kwagalang la go nna thari. Mohlala, bjale ka go robala bookelong matšatši a go feta 60 go ka amogelwa bjale ka lebaka le le kwagalang la go ba lata.

22.7.3 Ge molaodi wa boipobolo a sa amogele go lokelwa ga nako ya boipobolo, o swanetše go go fa mabaka a go gana boipobolo le go go fa tllahlo ya tshedimošo epe yeo e oketšegileng ye e hlokegang gore a amogele boipobolo, ge e le gona. Gape molaodi wa boipobolo o swanetše go go gopotša ka tshepetšo ya go lokela ngongorego kgahlanong le khwetšo ya bona go Molaodi goba kgotlatshekelo.

<sup>32</sup> Karolo 75(1)(a)(i) ya PAIA

<sup>33</sup> Karolo 75(1)(a)(ii) ya PAIA

22.7.4 Bjale ka ge go bontšhitšwe ka godimo, Mohlankedi wa Tshedimošo o swanetše go romela boipobolo bja gago go molaodi wa boipobolo mo matšatšing a 10 a mošomo morago ga go amogela boipobolo<sup>34</sup>.

## 22.8 Tsebišo ya boipobolo ka molaodi wa boipobolo go mokgopelatshedimošo goba motho wa boraro

22.8.1 Ka lebelo le le kgonegang, gomme e le mo matšatšing a 30 morago ga go amogela boipobolo, molaodi wa boipobolo o swanetše go<sup>35</sup>, tsebiša -

22.8.1.1 motho wa boraro yo kgatišo e leng ya gagwe, goba

22.8.1.2 mokgopelatshedimošo ka boipobolo bja mo gona kgahlanong le go fa kgopelo ya phihlelelo.

22.8.2 Mokgopelatshedimošo goba motho wa boraro yo a fiwang tshedimošo, mo **matšatšing a 21** morago ga go fiwa tsebišo yeo, a ka dira kgopelo ye e ngwadilwego go molaodi wa boipobolo gore ke lebaka lefe kgopelo ya phihlelelo e swanetše go fiwa goba go ganwa.

## 22.9 22.3.7 Sephetho sa boipobolo le tsebišo go tloga fao<sup>36</sup>

22.9.1 Molaodi wa boipobolo o swanetše go dira sephetho ka boipobolo ka pela ka mo go kgonegang gomme e le mo matšatšing a 30:

22.9.1.1 Ge boipobolo bo seno go amogelwa ke Mohlankedi wa Tshedimošo wa Mokgahlo;

22.9.1.2 ge motho wa boraro a tsebišitšwe, bjale ka ge go bontšhitšwe mo temaneng 22.3.6.1 ka godimo.

22.9.2 Sephetho sa molaodi wa boipobolo se swanetše go boledišanwa le moipelaetše, motho wa boraro le mokgopelatshedimošo. Sephetho sa molaodi wa boipobolo se swanetše go felegetše ke mabaka ao a kwagalago a sephetho seo, go akaretša ditekanyetšo tše **PAIA** goba **POPIA** e tshephagalang ka tšona.

22.9.3 Ge molaodi wa boipobolo a gapeletšega ke go fa moipobolo Tsebišo ka sephetho sa boipobolo mo matšatšing a 30, boipobolo bo tšewa bo gangwe gomme mokgopelatshedimošo a ka tšwelela go lokela ngongorego go Molaodi goba a ka batamela Kgotlatshekelo go bona thušo ye e swanelang<sup>37</sup>.

<sup>34</sup> Karolo 75(4) ya PAIA

<sup>35</sup> Karolo 76(2)(a) ya PAIA

<sup>36</sup> Karolo 77 ya PAIA

<sup>37</sup> Karolo 77(7) ya PAIA

## 22.10 Go tlatša boipobolo - Foromo 4

- 22.10.1 Go ipobola kgahlanong le sephetho sa ya karolo ya Pušo ya Bosetšhaba, ya Porofense goba ya Selegae, mokgopelatshedimošo o swanetše go lokela boipobolo bja gago ka go tlatša Foromo 4. Foromo 4 e swanetše go romelwa go Motlhanked wa Tshedimošo wa karolo ye e amegang ya Pušo, yo a swanetšeng go e romelela molaodi wa boipobolo, bjale go bontshitswe ka godimo.
- 22.10.2 Foromo 4 e gona mo weposateng ya Molaodi, <https://www.justice.gov.za/inforeg/>, mmogo le mo karolong ye e amegang ya Pušo.
- 22.10.3 Mohlankedi wa Tshedimošo goba Motlatša Mohlankedi wa Tshedimošo wa karolo ye e amegang ya Pušo ga a ka fase ga maikano afe a go thuša mokgopelatshedimošo go tlatša foromo ya boipobolo; gomme gona, mokgopelatshedimošo o swanetše go ka kgopela Mohlankedi wa Tshedimošo go mo thuša mo ntlheng yeo.
- 22.10.4 Ka fase fake kgato ka kgato ya go tlatša foromo ya boipobolo -

### Tshedimošo ye e nyakegang Tlhaloso

#### Dintlha tša mokgahlo wa setshaba

Karolo ye e swanetše ya ba le leina la Karolo ye e amegang ya pušo ya Bosetšhaba, ya Porofense goba ya Selegae, le leina le sefane sa Mohlankedi wa Tshedimošo.

#### Dintlha tša moipobolo yo a lokelang boipobolo

Karolo ye e swanetše go tlatšwa ke moipobolo, e ka ba e le moemedi goba aowa. Ge go swanela, go swanetše ga fiwa maina a a feletšeng le sefane, nomoro ya baoitsebišo le maemo a mo go wona boipobolo bo loketšwego mo boemong bja motho yo mongwe. Ge boipobolo e ba motho, maemo ao a swanetše go gatišwa. Tshedimošo ye e oketšegileng ye e nyakegang e akaretša dintllha tša go ikgokaganya tša mokgopelatshedimošo: aterease ya poso, aterease ya imeile,

## Tshedimošo ye e nyakegang

## Tlhaloso

fekese le/goba nomoro ya mogala. Tshedimošo yeo e swanetše go swana le ye e mo kgopelong ya mathomo. Ge motho yo o tlatšang foromo e le moemedi wa mokgopelatshedimošo, bošupi bja maemo a boipobolo bo loketšwego mo go wona bo swanetše go kgorametšwa mo foromong yeo.

### **Dintlha tša motho yo a tsentšhetswago kgopelo (ge e loketše ke motho wa boraro)**

Karolo ye e swanetše go tlatšwa fela ke motho yo a kgopelang tshedimošo mo boemong bja motho yo mongwe. Gemotho yo a romelang boipobolo e se motho yo a dikgopetšego tshedimošo ya mathomong, dintlha tša mokgopelatshedimošo di swanetše go fiwa moo. Ge kgopelo e dirwa mo maemong a motho, karolo ye ga e hloke go tlatšwa.

### **Sepheho se se loketšwego kgahlanong le boipobolo**

Foromo e na le karolo ya gore mokgopelatshedimošo a bontšhe ka "x", gore ke lefe la mabaka le le ngwadilwego la boipobolo le swanelang boipobolo.

### **Mabaka a boipobolo**

Mo karolong ye, mokgopelatshedimošo o swanetše go hlalosa ka botlalo gore keng a nagana gore mabaka a boipobolo a hlokega. O swanetše go fa le (ma)baka la go nagana gore ke eng a nagana ge tshedimošo ya Mohlankedi wa Tshedimošo e sa ya nepa. Gape o hloka go kgorametša ditlankana tše di thekgang boipobolo. Lenaneo la mabaka le le fiwang go theekga boipobolo le ka hlaloswa ka botlalo mo letlakaleng le lengwe, ka karolo ye e leng mo foromong e sa lekana. Matlakala ao a oketšweng di swanetše go saeniwa. Go swanetše ga bo go na le mabaka ao a lekaneng le

tshedimošo ye e theekgang go kgontšha molaodi wa boipobolo go dira sephetho ka tsebo. Ka bjalo, motho o swanetše go akaretša lenaneo la dilo tšohle tše di diregileng mo nakong ye e lebišang go boipobolo bja mo gona. Mo pobolong ye nngwe, motho a ka ngwala dikarolo tše di rileng tsa **PAIA** e le mabaka a boipobolo.

**Tsebišo ya sephetho ya boipobolo**

Go na le karolo ya go hlalosa mokgwa yo tshedimošo e swanetšeng go romelwa ka gona, mohlala, ka poso, go rometšea goba ka fekese goba imeile. Kgopela o kgetha mokgwa yo o ratang wa Tsebišo.

22.10.5 Le ge go se na le molao wa go thibela kgahlanong le go bona moleledi go thuša ka nako ye ya kgopelo ya tshedimošo, ditshepetšo tša **PAIA** di dirilwe gore di be bonolo go tloša tlhokego ya moleledi le gore go se be le ditefelo tša semolao.

## **23. NGONGOREGO GO MOLAODI WA TSHEDIMOŠO**

- 23.1 Mokgopelatshedimošo goba motho wa boraro a ka romela ngongorego go Molaodi morago ga gore mokgopelatshedimošo goba motho wa boraro a felelwe ke tshepho ya boipobolo mo kgahlanong le sephetho sa Mohlankedi wa Tshedimošo wa Pušo ya bosetšhaba, ya porofense goba ya selegae. Seo se ra gore yo mongwe a ka romela ngongorego ya yo mongwe kgahlanong le karolo ye e rileng ya Pušo go Molaodi ge a sa thabiše ke sephetho sa molaodi wa boipobolo. Molaodi o tla gana ngongorego ge tshepetšo ya boipobolo ye karolo ya gona e sego ya felela.
- 23.2 Le ge go le bjalo, malebana le mokgahlo wa Pušo (ge boipobolo ba gona e se ba maleba) le mokgahlo wa poraebete, mokgopelatshedimošo goba motho wa boraro a ka romela ngongorego go Molaodi, ge a sa kgotsofatšwe ke sephetho sa mokgahlo yo o amegang.
- 23.3 Ngongorego go Molaodi ka mokgopelatshedimošo goba motho wa boraro e swanetše go tsentšhwa mo matšatšing a 180 morago ga go amogela sephetho go tšwa kaa mokgahlong.

23.4 Mokgopelatshedimošo a ka lokela ngongorego go Molaodi ge a sa thabiše ke -

23.4.1 diphihlelelo tša boipobolo go molaodi wa boipobolo wa karolo yengwe ya Pušo;

23.4.2 sephetho sa molaodi wa boipobolo sa go gana go tsentšha boipobolo ka nako;

23.4.3 sephetho sa Mohlankedi wa Tshedimošo wa mokgahlo wa Pušo yo e seng karolo ya Pušo go -

23.4.3.1 gana kgopelo ya phihlelelo; goba

23.4.3.2 oketša nako ya go šogana le kgopelo; goba

23.4.3.3 fa tumelelo ka mokgwa yo o rileng.

23.4.4 sephetho sa hlogo ya mokgahlo wa poraebete go -

23.4.4.1 gana kgopelo ya phihlelelo; goba

23.4.4.2 nyaka tšhelete ya go patela kgopelo, goba peeletšo ya tšhelete ya phihlelelo; goba

23.4.4.3 oketša nako ya go šogana le kgopelo; goba

23.4.4.4 fa tumelelo ka mokgwa yo o rileng.

23.5 Motho wa boraro a ka lokela ngongorego le Molaodi ge a se a thabela -

23.5.1 dipheho tša boipobolo tšao molaodi wa boipobolo wa karolo ye e swaneng le ya Pušo;

23.5.2 sephetho sa Mohlankedi wa Tshedimošo wa mokgahlo wa Pušo yo e seng karolo ya lekgotla la Pušo go fa kgopelo ya phihlelelo; goba

23.5.3 sephetho sa hlogo ya mokgahlo wa poraebete go fa kgopelo ya phihlelelo ya kgatišo ya mokgahlo yoo,

## 23.6 Motho o ngongorega bjang go Molaodi?

- 23.6.1 Ngongorego go Molaodi e swanetše ngwalwa gomme foromo ya ngongorego e swanetše go tlatšwa, ka letsogo goba mo internet. Foromo ya ngongorego, Foromo 5, e ka hwetšwa mo weposaeteng ya Molaodi, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Seo se ra gore Molaodi a ka se amogele ngongorego ka mogala; gomme gona, Molaodi o swanetše go fa thušo ye e oketšegilego go motho ofe yo a nyakang go ngongorega, gomme seo se akaretša thušo malebana le go tlatša foromo ya ngongorego.
- 23.6.3 Ge o mongwe a e lwa le sephetho sa Mohlankedi wa Tshedimošo wa mokgahlo wa poraebete, o swanetše go ntšha bohlatse bjo bo lekaneng go bontšha gore kgatišo ye e kgoopetšweng e nyaka go šomišwa goba go šireletša (di)tokelo tše nngwe. Phihlelelo ya dikgatišo ya mokgahlo wa poraebete e ka fiwa fela ge motho a ka bontšha gore yo mongwe o nyaka go šomiša goba go šireletša (di)tokelo tše di nngwe ka kgatišo ye e kgopetšwego.

## 23.7 Go diregang morago ga go amogela ngongorego?

- 23.7.1 Ge Molaodi a amogela ngongorego ya o mongwe, o swanetše go -
- 23.7.1.1 nyakišiša ngongorego le go romela diphihlelelo tša yona go Komiti ya go Tlhomamišo go dira sephetho; goba
- 23.7.1.2 se tšeye kgato ka ngongorego ya mathomo ya gore -
- 23.7.1.2.1 ngongorego ga ya romelwa mo lebakeng la matšatši a 180 gomme ga go na mabaka ao a kwagalang a go ka lebelela kgopelo;
- 23.7.1.2.2 ngongorego ke ya go raloka goba ga e kwagale goba ga ya dirwa ka maikemišetso; goba
- 23.7.1.2.3 ge go lebeletše mabaka ka moka a kgopelo, ga go bohlokwa go tšea kato ye nngwe goba ga go hlokege. Mohlala, tshedimošo ye e kgopetšwego e dirilwe gore e bonwe ke batho ka moka.
- 23.7.1.3 Ge go kgonega, go agišwe goba go lekwe dilo ka moka go fihlelela tharallo yeo goba thuša maloko go rarolla bo(ma)thata a bona; le



23.7.1.4 go gopotša mongongoregi le Mohlankedi wa Tshedimošo, yo ngongorego e amanang le yena, ka kgato e e swanetšeng go tšewa.

### 23.8 **Poledišano ya mathomo ya Molaodi le mongongoregi le Mohlankedi wa Tshedimošo ka ngongorego ye e loketšwego**

23.8.1 Ge Molaodi a kgetha go se tšeye kgato go ya pele ka ngongorego, o tla tsebiša mokgopelatshedimošo ka sephetho seo le mabaka a go se tšeye kgato go ya pele ka ngongorego yeo.

23.8.2 Ge Molaodi a kgetha go nyakišiša ngongorego, mokgopelatshedimošo o tla amogela lengwalo le le mmotšang gore Molaodi o swanetše go dira dinyakišišo.

23.8.3 Ge Molaodi a amogela ngongorego, o tla romela dintlha tša ngongorego go Mohlankedi wa Tshedimošo wa mokgahlo wa maleba, le go mo kgopela go romelela Molaodi karabo ye e ngwadilwego ya ngongorego.

### 23.9 **Maatla a Molaodi a go nyakišiša**

23.9.1 Molaodi o na le maatla, go ya ka karolo 77G(2) ya **PAIA**, go -

23.9.1.1 dira maikemišetšo ka moka go fihlelela tharallo yeo;

23.9.1.2 laela le go gatelela ponagalo ya batho mo pele ga Molaodi;

23.9.1.3 ba gapeletsa go ntšha fa bohlatse bago ikana ka molomo goba ka go ngwala le go ntšha dikgatišoi;

23.9.1.4 amogela le go dumela bohlatse ka moka le tshedimošo ye nngwe, le bokano, afidafiti;

23.9.1.5 tsena le go phuruphutša dikago dife tse mo go tšona go bang lekoko le le ikarabelelang;

23.9.1.6 dira dipoledišano tša poraebete le motho yo mongwe le yo mongwe moo go tsenwang gona; le

23.9.1.7 go nyakišiša dikagong tšeo Molaodi a bonang di swanela.

## 23.10 Tekololo ya go tsamaišana le melao ya PAIA

23.10.1 Molaodi a ka dira tekolo ya gore a mokgahlo wa setšhaba goba wa poraebete o tsamaišana le melao ya **PAIA**.

23.10.2 Molaodi a ka dira tekolo ya go tsamaišana le melao ya **PAIA** mo mokgahlong ka keletšo ya wona, gomme Molaodi a ka dira tekolo ya go tsamaišana le molao wa **PAIA** ge a kgopetšwe goba mo boemong bja Molaodi wa Tshedimošo wa mokgahlo goba motho yo mongwe. Seo se ra gore motho ofe a ka kgopela Molaodi go dira tekolo ya go tsamaišana le molao wa **PAIA** mo mokgahlong. Gape motho a ka romela kgopelo e e sa laetšeng leina go dira tekolo ya go tsamaišana le melao ya **PAIA**, ka go bontšha gore ga a nyake go tsebjwa.

23.10.3 Molaodi a ka fa motho yo a kgopetšego tekolo ya pego ya tekolo le keletšo ya kgato yeo e swanetšeng go tšewa, ge e le gona.

## 23.11 Tsebišo ya Tshedimošo

Molaodi a ka fa Mohlankedi wa Mokgahlo wa Tshedimošo wa tsebišo ya Tshedimošo ye e nyakang gore lekoko le le boletšweng le fe Molaodi wa tshedimošo ye e boletšweng mo tsebišong. Mohlala, ge ngongorego ye e loketšwego go Molaodi e amana le go gana phihlelelo go diregilee ka mabaka afe a go se e akaretše, mo tsebišong ya Tshedimošo, Molaodi a ka kgopela dikhopi tša dikgatišo tše phihlelelo e gannweng go tšona go bona gore a mabaka a go gana a a kwišisega goba aowa.

## 23.12 Go hlomiwa ga Komiti ya Tlhomamišo

23.12.1 Molaodi o swanetše go hloma Komiti ya Tlhomamišo<sup>38</sup>, ye e nang le maatla a go -

23.12.1.1 sekaseka ditaba ka moka tše di rometšweng ke Molaodi temaneng le **PAIA** le go dira phihlelelo ka yona; le

23.12.1.1 go dira keletšo go Molaodi mabapi le kgato yeo e swanetšeng go tšewa kgahlanong le Mohlankedi wa Tshedimošo wa mokgahlo.

## 23.13 Tsebišo ya Tlhomamišo

23.13.1 Morago ga go fa dikeletšo tša Komiti ya Tlhomamišo, Molaodi a ka fa Mohlankedi wa Tshedimošo wa mokgahlo Tsebišo ya Tlhomamišo -

<sup>38</sup> Karolo 50 ya POPIA

23.13.1.1 go hlomamiša, go fetola goba go beela ka thoko sephetho se mongongoregi a bolelang ka sona; goba

23.13.1.2 go nyaka gore Mohlankedi wa Tshedimošo a tšeye kgato yeo goba a ithibe mo go tšeyeng kgato ye bjale ka ge Molaodi wa Tshedimošo a bontšhitšeng.

#### 23.14 Naa ditlamorago tša go se tsamaišane le Ditsebišo tša Tlhomamišo ke dife?

23.14.1 Mohlankedi wa Tshedimošo wa mokgahlo yo a ganang go tsamaišana le Tsebišo ya go tlhomamiša o na le molato wa tshelomolao gomme o swanela go patedišiwa goba go ya kgolegong ka lebaka la go se fete mengwaga ye meraro goba ka bobedi go patela le go yao kgolegelong.

23.14.2 Karolo 77K ya **PAIA** e bontšha bohlokwa bja tokelo ya phihlelelo ya tshedimošo goba dikgatišo. Gape karolo yeo e gatelela bohlokwa bja Molaodi mo tabeng ya tlhohleletšo ya phihlelelo ya tshedimošo.

## 24. KGOPELO GO LEKGOTLATSHEKELO

### 24.1 Ke mang a ka lokelang kgopelo go lekgotlatshekelo kgahlanong le sephetho?

24.1.1 Mokgopelatshedimošo goba motho wa boraro a ka lokela kgopelo go lekgotlatshekelo ge a paletswe mo gohle go ya le ka temaneng le karolo 82 mo maemong ao a latelang:

24.1.1.1 Morago ga gore mokgopelatshedimošo goba motho wa boraro a palelwe ke boipobolo go ya le ka mo temaneng 22.3 ka godimo; goba

24.1.1.2 morago ga gore mokgopelatshedimošo goba motho wa boraro a felelwe ke thulaganyo ya dingongorego ye e filweng mo karolo 77A.

24.1.2 Go ya ka karolo 78(1) ya **PAIA**, mokgopelatshedimošo goba motho wa boraro o na le dikgetho tše pedi, e ka ba go romela sephetho go Molaodi goba go Lekgotlatshekelo, bjalo k age go bolwetši mo ditemaneng tša 22.2.4, 23.4 le 23.5 ka godimo. Lege motho a sa gapeletšego go batamela Molaodi pele a batamela Lekgotlatshekelo, go kaone gore a akanyetše go batamela Molaodi, gobane Molaodi o na le mekgwa ye mentši le ye e tsamaišang ya go rarolla mathata, go bapetšwa le Lekgotlatshekelo.

- 24.1.3 Le ge go le bjalo, gore Lekgotlatshekelo le be le taolo ya go ahlola taba, mokgopelatshedimošo goba motho wa boraro o swanetše go -
- 24.1.3.1 kgopišitšwe ke yegwe ya diphetho, tše di ngwadilwego mo temaneng 22.2.4, 23.4 goba 23.5 ka godimo; goba
- 24.1.3.2 feletše ke tshepetšo ya dingongorego le Molaodi goba a gogele morago ngongorego go Molaodi. Seo se ra gore motho a ka se atamele Lekgotlatshekelo ge ngongorego ya gagwe e le go Molaodi.
- 24.1.4 Ge o mongwe a le kgahlanong le sephetho sa Molaodi wa tshedimošo wa mokgahlo wa poraebete, o swanetše go ntšha bohlatse bjoo bo kgotsofadišago gore kgatišo yeo a e nyakago o nyaka go e šomiša goba go šireletša yengwa ya (di)tokelo.

## 24.2 Ke neng moo motho a ka lokelang kgopelo ya Lekgotlatshekelo kgahlanong le sephetho sa mokgahlo goba Molaodi?

- 24.2.1 Kgopelo ya mokgopelatshedimošo goba motho wa boraro ka Lekgotlatshekelo, mo gongwe a sa atlega mo boipobolong bja molaodi ba karolo ya maswanedi ya Pušo goba a kwatišitše ke sephetho sa Mohlankedi wa Tshedimošo wa Mokgahlo (wo o ngwadilwego mo 22.2.4, 23.4 goba 23.5 ka godimo) goba ya Molaodi ye swanetše go lokelwa mo matšatšing a 180 go tloga ka letšatši la tiragalo.
- 24.2.2 Mohlankedi wa Tshedimošo wa Mokgahlo goba molaodi wa boipobolo wa Pušo, go ya le ka maemo, a hlohleleeditše ke sephetho sa Molaodi, a ka tsentšha kgopelo go lekgotlatshekelo ya kimollo ya maswanedi go ya ka karolo 82, mo matšatšing a 180<sup>39</sup>.
- 24.2.3 Mokgopelatshedimošo, motho wa boraro, goba mokgahlo o ka dira kgopelo go lekgotlatshekelo go dira gore diphetho tše di sa ba tshwareng ga botse di sekasekiwe ke lekgotlatshekelo.
- 24.2.4 Kgopelo go Lekgotlatshekelo ka fase ga **PAIA** e dirwa ka ditshepetšo tša semolao, gomme e swanetše go šomišwa bjalo ka tsela ya bofelo.
- 24.2.5 Dikheisi tša phihlelelo ya tshedimošo di ka theeletšwa ka Dikgotlatšhekelo tša Bomatšiseterata, bjale ka lekgotlatshekelo la lekgetlo e le la mathomo<sup>40</sup>, gomme Lekgotlatshekelokgolo le na le taolo ya mafelelo.
- 24.2.6 Go se tliši kgopelo mo lobakeng la matšatši a 180 go ka itlhokomološwa ke Lekgotlatshekelo ge o mongwe a bontšha gore kgoro e nyaka bjalo. Seo se ra gore Lekgotlatshekelo le ka amogela kgopelo ya morago ga nako ge kgopelo ye e kgahla kgoro. Mohlala, ge e le gore dikgatišo tša

<sup>39</sup> Karolo 78(4) ya PAIA

<sup>40</sup> Karolo 91A ya PAIA le Melao ya Thotloetso ya phitlhelelo ya tshedimošo, 2019

go kgopela phihlelelo di ka thuša motho yo a tsenyang kgopelo ya boipobolo amane le go se ye kgolegelong goba go thuša yo mongwe go bona tlhokomelo ye e oketšegileng ya kalafi, go ka direga gore lekgotlatshekelo le tšee kgahlego go yona.

24.2.7 Kgopelo e ka romelwa go ya ka tumelelano le tshepetšo ye e ngwadilwego mo molao 53 wa Melao ya Lekgotlatshekelokgolo goba temaneng le molao 55 wa Melao ya Lekgotlatshekelo ya Bomatšiseterata ge go se na kgatišo ye e tladitšweng ke motsamaiši goba ye e sa felelang.

24.2.8 Ge kgatišo e šetše e fedile, kgopelo e tla romelwa go ya ka molao 55 wa Melao ya Lekgotlatshekelo ya Bomatšiseterata, go ya le ka gore go na le lebaka la gore modirakgopelo a dumele gore kgatišo ye e feletšeng ya ditshepetšo e ka ba e sa fiwa ka moka mo tsamaišong, modirakgopelo a ka tšwelapele ka go dumalana le tshepetšo ye e ngwadilwego mo Molao 53 wa Melao ya Lekgotlatshekelokgolo, gomme mo ditlhophong tša yona e tla bontšha mo afitafiting ya yona gore ke eng go na le lebaka la go dumela gore kgatišo ye e feletšeng ga ya romelwa<sup>41</sup>.

### 24.3 **Naa boemo bja semolao ba sephetho sa Molaodi seo se letileng sephetho sa Lekgotlatshekelo ke bofe?**

Maatla a Molaodi a mantšhi a tšewa mo Molaotheong, mo **POPIA** le mo **PAIA**. Ka gona, Tsebišo ya tiragatšo ye e fiwago ke Molaodi e na le ditlamorago tša semolao gomme e a tlama go fihla lekgotlatshekelo la molao le tšea sephetho sa lona. Ka gona diphetho tša Molaodi di a atlega e bile di ke tšona ka ntle ga gore Lekgotlatshekelo le bolelele se sengwe.

### 24.4 **Ke ditaelo dife tše Lekgotlatshekelo la ditheeletšo tša kgopelo e ka di fang?**

24.4.1 Lekgotlatshekelo (e ka ba Lekgotlatshekelo la Matšiseterata goba Lekgotlatshekelokgolo) ye e theeletšang kgopelo e ka fa ditaelo tše di latelang -

24.4.4.1 netefatša, fetola goba beela ka thoko sephetho sa Mohlankedi wa Tshedimošo, goba Molaodi wa Boipobolo goba Molaodi wa Tshedimošo;

24.4.4.2 kgopela Mohlankedi wa Tshedimošo goba Molaodi wa Boipobolo go tšea kgato yeo goba go ithiba go tšea kgato ka ge Lekgotlatshekelo le bona go swanela mo lebakeng leo le filweng;

24.4.4.3 fa thibelo, kimollo ya nakwana goba ye e rileng, taelo ya go ntšha maikano goba taelo ya go phatediša;

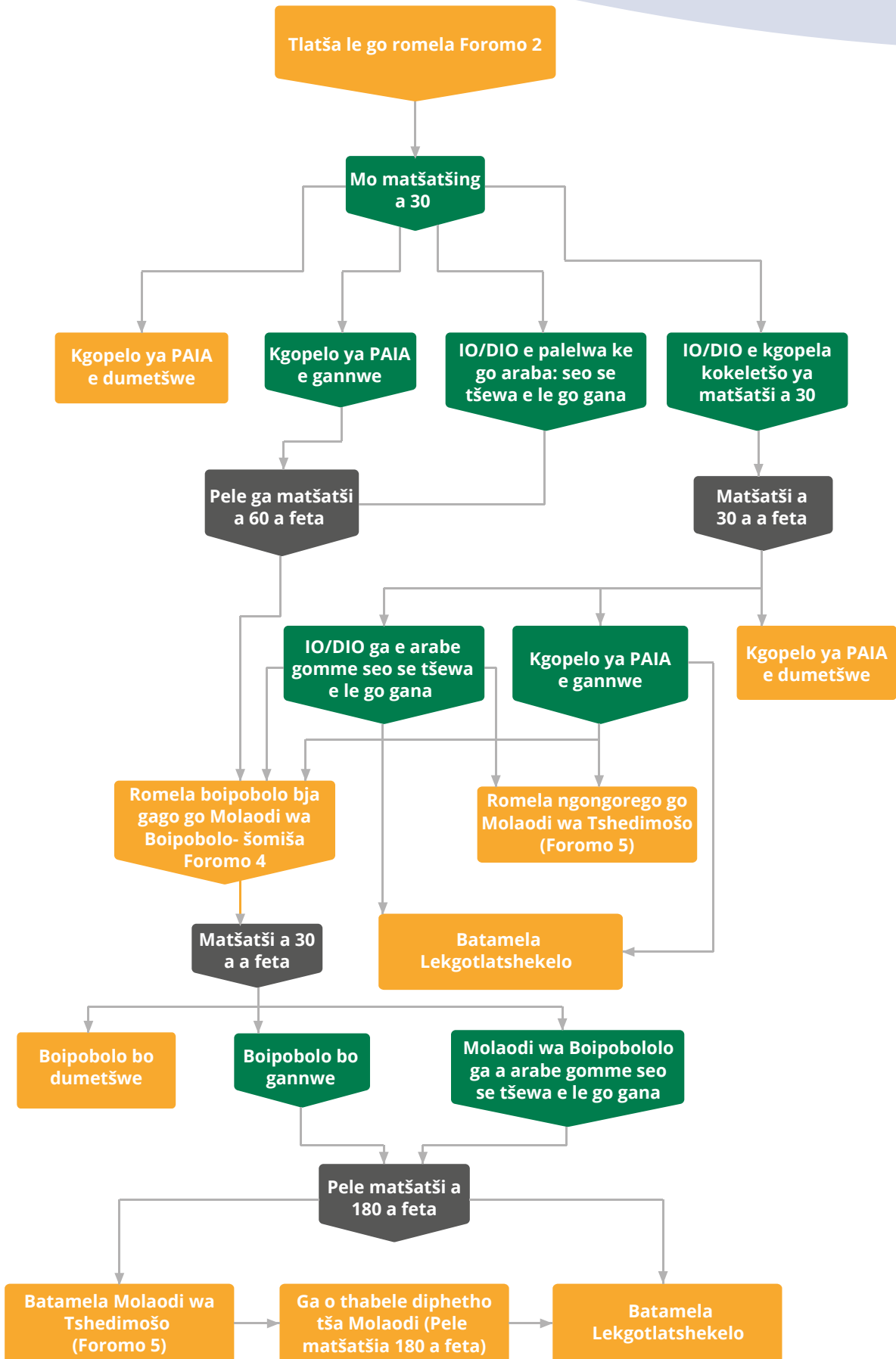
<sup>41</sup> Molao 4 Melao ya Thotloetso ya phitlhelelo ya tshedimošo, 2019

24.4.4.4 dira taelo ya ditshenyagalelo kgahlanong le lekoko leo;

24.4.4.5 kgahla kgoro, phitišo ya go se tšamaišane le lebaka la go tšea matšatši a 180 le mo go lona kgopelo e swanetšeng go tlišiwa. Bjale ka ge go bontšhitšwe ka godimo, mabaka a a lekaneng a go gapeletsa ke go latela lebaka le le hlalositšweng o swanetše go hlalosa ka botlalo mo kgopelong ye e nang le sa go e thekga.

## **25. TAEKERAMO YA MOKGWATSHEPETŠO WA KGOPELO YA PAIA**

Kgopela o bale tšhate ye e latelang ya kgato ka kgato, ya dikgato tše di swanetšeng go latelwa ge o šomiša tokelo ya phihlelelo ya tshedimošo





## 26. MELAWANA YE E DIRILWENG GO YA KA KAROLO 92 YA PAIA

- 26.1 Go ya ka karolo 92(1) le 92(4) ya **PAIA**, Tona e dirile Melawana ye e amanang le Tlhohleletšo ya Pihhlelelo ya Tshedimošo, ye e akaretšang dintlha tše di latelang -
- 26.1.1 Maikarabelo a Molaodi wa Tshedimošo (**molawana 2**)
  - 26.1.2 Maikarabelo a Bahlankedi ba Tshedimošo (**molawana 3**)
  - 26.1.3 Go ba gona ga dikgatišo tše di rileng tša mekgahlo ya Pušo (**molawana 4**)
  - 26.1.4 Go phatlalatswa ka boithaopo le go ba gona ga dikgatišo tše di rileng tša mekgahlo ya poraebete (**molawana 5**)
  - 26.1.5 Kgotlo ya go fihlelela tshedimošo ye e tshwereggo ke mekgahlo ya setšhaba goba ya poraebete (**molawana 6**)
  - 26.1.6 Kgotlo ya ditlamorago le ditefelo tše di phatelelegang (**molawana 7**)
  - 26.1.7 Boipobolo bja kgahlanong le sephetho sa mekgahlo wa setšhaba (**molawana 8**)
  - 26.1.8 Go lokela dingongorego go Molaodi wa Tshedimošo (**molawana 9**)
  - 26.1.9 Mokgwatshepetšo wa malebana le nyakišišo ya ngongorego (**molawana 10**)
  - 26.1.10 Go rarolla ditaba (**molawana 11**)
  - 26.1.11 Ditaba tša Kagišaono (**molawana 12**)
  - 26.1.12 Tekolo ya obamelo ya ka Molaodi wa Tshedimošo go sephethong sa kgotlo (**molawana 13**)
  - 26.1.13 Melato le dikotlo (**molawana 14**)
  - 26.1.14 Dikgokagano tša eleketheroniki (**Molao 15**)
  - 26.1.15 Melato le dikotlo (**Molao 16**)
- 26.2 Go ya ka karolo 79(1) ya **PAIA**, Boto ya Melao ya Dikgotlatšhekelo tsa Melao, ka tumelano ya Tona, e dirile melao ya mekgwa ya -
- 26.2.1 Ikgotlatšhekelo go tsamaišana le dikgotlo temaneng le karolo 78 ya **PAIA**; le
  - 26.2.2 Ikgotlatšhekelo ye e tla amogela dikemedi tše di amanang le tše di filweng mo karolo 80(3)(a).

## 27. DINTLHA TŠA MELAO YE BOHLOKWA, MELAWANA, DITSEBIŠO LE DITEBOGO

### Melao, yeo e ka hlabolwago nako le nakoe

Molao wa Tlhohleletšo ya Pihhlelelo ya Tshedimošo, Molao 2 wa 2000

Molao wa Tlhohleletšo ya Tshepetšo ya Tshokollo, Molao 3 wa 2000

Molao wa Tlhohleletšo ya Pihhlelelo ya Tshedimošo yoo o Tlhabolotšweng, Molao 54 wa 2002

Molao wa Tšhireletšo ya Tshedimošo ya tsa bo wena, Molao 4 wa 2013

Molao wa Tlhohleletšo ya Pihhlelelo ya Tshedimošo yoo o Tlhabolotšweng, Molao 31 wa 2019

Molao wa Tefelo ya Mokgahlo wa Dipolotiki, Molao 6 wa 2018

### Melawana le Ditsebišo

Tsebišo ya Pušo	Letšatšikgwedi la diphatlalatši	Hlogo le tshaloso
<b>Tsebišo ya Mmušo R. 757 ka gare ga GG No 45057</b>	27 Phato 2021	Melao ya go sepelelana le Tlhohleletšo ya Pihhlelelo ya Tshedimošo, 2021.
<b>Tsebišo ya Pušo R.991 mo GG 28107</b>	14 Diphallane 2005	Melawana ye e hlalosa mabaka a motho ao a laetšang gore a se patele ditefelo.
<b>Tsebišo ya Mmušo 397 ka gare ga GG No. 44785</b>	30 Phupo 2021	Tlogelo ya mekgahlo ye mengwe ya phoraebete ya go se latele Tlhahli ya <b>PAIA</b> .
<b>Tsebišo ya Pušo 1217 in GG 42717</b>	19 Lewedi 2019	Maemo a Lekgotlatshekelo ya Metšisiseterata bjale e kgona go theeletša ditaba tša <b>PAIA</b> .
<b>Tsebišo ya Pušo R.1284 in GG 42740</b>	4 Diphallane 2019	Melao ya mekgwatshepetšo ya dikgopelo tše di swanetšeng go dirwa temaneng le <b>PAIA</b> go Lekgotlatshekelokgolo goba go Lekgotlatshekelo ya Matšisiseterata.

## **DITEBOGO**

Tlhahli ye e tlabotšweng ya go šomiša **PAIA** e ngwadilwe la mathomo ke Khomishene ya Afrika Borwa ya Ditokelo tša Botho (**SAHRC**) gomme Molaodi o leboga mošomo ya mathomo ya **SAHRC**, go akaretša methopo ka moka ya yona.

E ngwadile ke

**MOLAODI WA TSHEDIMOŠO**



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



# TATAISO

**YA MOKGWA WA HO SEBEDISA MOLAO  
WA KGOHALETSO YA PHUMANTSHO YA LESEDI  
WA BO-2 WA 2000, JWALOKA HA O HLOMATHISITSWE**

**SESO THO**

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# PAIA TATAISO

## DITABA TSE ETELETSENG PELE TSA MODULASETULO

Molaotheo wa Riphabliki ya Afrika Borwa, 1996<sup>1</sup> ("Molaotheo") o re Afrika Borwa ke puso e ipusang le ya demokerasi e thehilweng hodima ntshetsopele ya ditokelo tsa botho mme ke mokgwa o ikarabellang, o arabelang wa taolo jwaloka karolo ya dikateng tsa boleng ba yona. Pele Afrika Borwa e ba le molaotheo wa demokerasi ka Bili ya Ditokelo e tlamang, mokgwa wa Mmuso wa Afrika Borwa hara e meng, o ile wa baka tlwaelo e nang le sephiri le e sa arabeleng ho ka bobedi makala a mmuso le a poraefete e leng seo hangata se ileng sa lebisa tshebedisong e mpe ya matla le kगतिकेलo ya ditokelo tsa botho. Ke lebakeng lena moo karolo 32(1) ya Bili ya Ditokelo ka hara Molaotheo, e fanang ka tokelo ya phumantsho ya lesedi le tshwerweng ke motho e mong le batlehang bakeng sa ho sebedisa kapa ho sireletsa ditokelo leha e le dife. Karolo 32(2) ya Molaotheo ka ho le leng e fana ka tshebediso ya molao wa naha o tla fana ka matla tokelong ena, ka ho hlompha, ho sireletsa, ho kgothaletsa le ho phethahatsa tokelo ena.

Molao wa Kgothaletso ya Phumantsho ya Lesedi, No. 2 wa 2000 (kamora mona o tla bitswa "**PAIA**", kapa "Molao" ka ho fapanyetsana), jwaloka ha o hlomathisitswe, ke molao wa naha o ileng wa sebediswa ho ya ka karolo 32(2) ya molaotheo.

Sepheo sa **PAIA**, ke ho qobella tlwaelo ya ponaletso le boikarabelo makaleng a mmuso le a poraefete. E etsa jwalo ka ho fana ka matla ho tokelo ya phumantsho ya lesedi le ho kgothaletsa ka matla setjhaba moo batho ba Afrika Borwa ba nang le phumantsho e hlwahlwa ya lesedi ho ba thusa ho sebedisa le ho sireletsa ka botlalo ditokelo tsa bona tsohle le hape ho fihlella merero ya Afrika Borwa ya demokerasi e bulehileng moo bohle ba nkang karolo.

Tataiso ena ya **PAIA** e hlahisitswe bakeng sa ho phethahatsa mosebetsi wa Bolaodi ba Lesedi ("Regulator") tlasa Karolo 10 ya **PAIA**, e reng Bolaodi bo ntlafatse le ho fana ka Tataiso e teng e hlophisitsweng ke Khomishene ya Ditokelo tsa Botho ya Afrika Borwa.

Tataiso ena e raletswe ho ba sesebediswa se tataisang, se bonolo ho sebediswa le ho fihlellwa ke motho leha e le ofe ya ratang ho sebedisa tokelo leha e le efe e lohothwang ho **PAIA** le ho Molao wa Tshireletso ya Lesedi la Bo Mong, 2013.



**Adv Pansy Tlakula**

**MODULASETULO WA BOLAODI BA LESEDI**

<sup>1</sup> Molaotheo wa Riphabliki ya Afrika Borwa, 1996 ( Molao No. 108 wa 1996)

## BOITSHWASOLLO

Tataiso ena ha e imolle boikarabelo ba mosebedisi ba hore a sebedise maitsebelo a hae le kelohloko mabapi le tlhokeho kapa mesebetsi tse behwang ke molao leha e le ofe. Ho feta moo, Tataiso ena ha e fane ka keletso ya semolao mme ha e ya rerelwa ho nka sebaka sa **PAIA** kapa Melawana e ntshitsweng tlasa **PAIA**. Bolaodi ha bo amohela boikarabelo bakeng sa tahlehelo leha e ka ba efe e ka bang teng ka lebaka la ho itshetleha hodima Tataiso ena.

### 1. LENANE LA DIAKRONIMI LE DIKGAOLETSO

<b>CEO</b>	Mohlanka e Moholo wa Phethahatso
<b>CFO</b>	Mohlanka e Moholo wa Ditjhelete
<b>Molaotheo</b>	Molaotheo wa Riphabliki ya Afrika Borwa, Molao No. 108 wa 1996
<b>DIO</b>	Motlatsi wa Mohlanka wa Lesedi
<b>Doj &amp; CD</b>	Lefapha la Toka le Ntshetsopele ya Molaotheo
<b>IO</b>	Mohlanka wa Lesedi
<b>Ditho</b>	Ditho tsa Bolaodi ba Lesedi
<b>Letona</b>	Minister of Justice and Correctional Services
<b>PAIA</b>	Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao No. 2 wa 2000, jwaloka ha o hlomathisitswe;
<b>PAJA</b>	Molao wa Kgothaletso ya Toka ya Tsamaiso, 2000
<b>PFMA</b>	Molao wa Bolaodi ba Ditjhelete tsa Mmuso, No.1 wa 1999, jwaloka ha o hlomathisitswe
<b>POPIA</b>	Molao wa Tshireletso ya Lesedi la Bo Mong No.4 wa 2013
<b>Bolaodi</b>	Bolaodi ba Lesedi
<b>SAHRC</b>	Khomishene ya Ditokelo tsa Botho ya Afrika Borwa

### 2. MAREO A BOHLOKWA A HLAOSWA KA SEBOPEHO LE MOKGWA O UTLWISISEHANG HA BOBEBE

Lereo	Tlhaloso
<b>Tefello ya Phumantsho</b>	Tefello ena e lefuwa ke mokopi ho lekala leo o kopang lesedi ho lona, ho lefella ditjeo tsa ho batla le ho etsa dikhopi tsa direkoto tseo a di batlang. Se ka lefiswang se laelwa ke molawana.
<b>Motsamaisi</b>	Ke lekala la mmuso kapa motho leha e le ofe ya tlwaelehileng kapa ya ikemetseng semolao ya nkang kgato ya tsamaiso.



**Lereo****Tlhaloso****Mohato wa Tsamaiso**

Ke qeto leha e le efe e nkuweng, kapa ho hloleha leha e le hofe ha ho nka qeto, ke

(a) lekala la mmuso, ha:

(i) le sebedisa matla ho ya ka Molaotheo kapa molaotheo wa provense; kapa

(ii) ho sebedisa matla a mmuso kapa ho etsa mosebetsi wa mmuso ho ya ka molao leha e le ofe; kapa

(b) motho ya tlwaelehileng kapa ya ikemetseng ka semolao, ntle le lekala la puso, ha a sebedisa matla a mmuso kapa a etsa mosebetsi wa mmuso ho ya ka pehelo e mo nehang matla.

e amang hampe ditokelo tsa motho leha e le ofe mme e na kgahlamelo e otlohileng, ya ka ntle ya semolao.

**Motho ya Dumelletsweng**

Motho ya dumelletsweng ke motho ya etsang kopo lebitsong la e mong, mme a dumelletswa ka lengolo ho etsa jwalo.

**Direkoto tse Fumanehang ka ho Iketsahalla**

Tsena ke direkoto tseo lekala la mmuso kapa la poraefete le tla di neha mokopi ntle le hore a kenye kopo. Direkoto tsena di boletswa 'tsebisong ya pepeso ya boithaopo', e lokelang ho tsebiswa setjhaba.

**Monga Lesedi**

Ke motho eo lesedi la boyena le mo amang.

**Matsatsi**

Ntle leha le boletswa e le 'letsatsi la tshebetso' karolong ya **PAIA**, letsatsi le nkuwa e le letsatsi la khalendara. Ho sebetsa bolelele ba nako, letsatsi leo kopo e amohetsweng ka lona ha le ballwe, mme letsatsi ka leng kamora moo le a kenyeletswa ho kenyeletsa mafelo a beke le matsatsi a phomolo ho fihlela ho balwa letsatsi la ho qetela. Haeba letsatsi la ho qetela la ho arabela e le Sontaha kapa letsatsi la phomolo, letsatsi le latelang le nkuwa e le letsatsi la ho qetela.

**Se nkuwang e le Kganyetso**

Haeba kopo e sa arabelwe hara nako e behilweng, sena se 'nkuwa e le kganyetso'.

**Foromo 2**

Foromo ena e laetswe ka molawana mme e lokela ho sebediswa ho kopa phumantsho ya lesedi le tshwerweng ke lekala la mmuso kapa la poraefete.

**Foromo 4**

Foromo ena e laetswe ka molawana mme e lokela ho sebediswa ha motho a ipiletsa ka qeto e entsweng ke lekala la mmuso mabapi le kopo ya ho fumantshwa lesedi.

**Tataiso**

Tataiso ena, e entsweng ho latela karolo 10 ya **PAIA**, jwaloka ha e hlomathisitswe, e reretsweng ho thusa motho ya batlang ho sebedisa tokelo leha e le efe e lohothwang ho **PAIA** le ho Molao wa Tshireletso ya Lesedi la Bo Mong, 2013.

**Mohlanka wa Lesedi**

Mohlanka wa Lesedi ke motho ya fuweng matla a ho sebetsana le dikopo tsa **PAIA**. Tse latelang ke mekgahlelo ya Bahlanka ba Lesedi bakeng sa Lekala le itseng -

<b>Lefapha la Mmuso kapa Lekala la</b> (jwaloka ha ho hlalositse ho karolo 239 ya Molaotheo)	Lefapha la Naha	Motsamaisi-Kakaretso kapa motho ya tshwereng mokobobo
	Tsamaiso ya Provense	Hlooho ya Lefapha kapa motho ya tshwereng mokobobo.
	Masepala	Molaodi wa Masepala kapa motho ya tshwereng mokobobo.
	Ditheo tsa Mmuso tse boletsweng ho Sekejule 1, 2, 3A, 3B, 3C LE 3D sa PFMA	Mohlanka e Moholo wa Phethahatso kapa motho ya Tshwereng Mokobobo.
<b>Lekala la Poraefete</b>	Motho ya tlwaelehileng	Monga thepa ka bo mong ya tsamaisang kgwebisano, kgwebo kapa profeshene leha e le efe, empa boemong bono feela mme e se boemong ba hae ka boyena
	Semphato	Mphato leha e le ofe wa semphato kapa motho leha e le ofe ya fuweng matla ke semphato.
	Mokga wa Dipolotiki	Moetapele wa mokga wa dipolotiki kapa motho leha e le ofe ya fuweng matla ke moetapele eo.

**Mohlanka wa Lesedi**

	Motho ya Ikemetseng ka Semolao	<p>Mohlanka e Moholo wa Phethahatso kapa Motsamaisi kapa mohlanka ya maemong a tshwanang le ao a motho ya ikemetseng semolao kapa motho leha e le ofe ya fuweng matla ke mohlanka eo.</p> <p><b>TEMOSO:</b> CEO kapa mohlanka ya maemong a tshwanang le ao a ka neha motho leha e le ofe ya tlwaelehileng matla a ho ba Mohlanka wa Lesedi wa Lekala la Poraefete.</p>
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**Motlatsi wa Mohlanka wa Lesedi**

Motlatsi wa Mohlanka wa Lesedi ke motho behilweng kapa ya kgethilweng ke Mohlanka wa Lesedi wa lekala la mmuso ho thusa mokopi ka kopo ya lesedi, le eo Mohlanka wa Lesedi a ka mo nehang matla a mang a **PAIA**.

**TEMOSO:** Leha e le feela lekala la mmuso le kang le ka behang le ho kgetha Mo(ba)hlanka wa Lesedi, ho ya ka karolo 17(1) ya **PAIA**, Molao wa Tshireletso ya Lesedi la Bo Mong, 2013 ("**POPIA**") o atolosa matla a ho kgetha Motlatsi wa Mohlanka wa Lesedi lekaleng la poraefete, ho ya ka karolo 56(1) ya ona.

**Bolaodi ba Lesedi**

Ofisi ya Bolaodi ba Lesedi e thehilweng, ho ya ka karolo 39 ya **POPIA**, ho beha leihlo le ho qobella boimatahanyo le ka bobedi **POPIA** le **PAIA**. Tataisong ena Ofisi ya Bolaodi ba Lesedi kapa Molaodi wa Lesedi o tsejwa e le Molaodi.

**Boipiletso ba ka hare**

Boipiletso ba ka hare ke motjha wa ho phephetsa qeto e entsweng ho ya ka kopo ya **PAIA** lekaleng la mmuso, o lokelang ho phethelwa pele ho ka etswa phephetso ho Bolaodi lekgotleng le nang le tokelo ya tsamaiso.

**Lekala la Poraefete**

Lekala la poraefete ke motho, khamphani kapa setheo sa semolao se tsamaisang kgwebisano, kgwebo kapa profeshene, ho kenyetsa mokga wa dipolotiki.

## Lereo

## Tlhaloso

### Lekala la Mmuso

Lekala la mmuso le bolela lefapha la mmuso ka setsi kapa setheo se seng, se etsang mosebetsi wa setjhaba. Leha ho le jwalo, mabapi le boipiletso ba ka hare, hohle ha ho buuwa ka "lekala la mmuso" ho se ho fetohetswe ho "Mmuso", bakeng sa ho qoba pherekano mabapi le makala a mmuso moo boipiletso bo sa sebetseng ho ona.

### Rekoto

Rekoto ke lesedi leha e le le lefe le rekotuweng ho sa nantswe sebopeho, ho kenyeletswa, ka mohlala, ditokomane tse ngotsweng, tse mamelwang, thepa ya dijithale le ya vidiyo. Rekoto e kopuweng lekaleng la mmuso kapa la poraefete ho bolelwa rekotong e tshwerweng ke lekala leo ho sa natswe le haeba lekala leo ke lona le hlahisitseng rekoto eno.

### Melawana

**PAIA** e dumella Letona ho ntsha melawana e tlatselatsang Molao, e lokelang ho phatlalatswa Koranteng ya Mmuso, le ho akaretsa dintlha tse kang diforomo tse lokelang ho sebediswa le ditjhelete tse ka lefuwang bakeng sa metjha e itseng.

### Bolaodi bo Amehang

**PAIA** e sebedisa lereo 'Bolaodi bo amehang' ho hlalosa motho ya ka hara Mmuso wa Naha, Provense le wa Lehae eo boipiletso bo lokelang ho lebiswa ho yena, e leng ka kakaretso hlooho ya sepolotiki ya lekala le amehang (mosebetsi ona o ka fuwa moemedi wa semmuso).

## 3. DINTLHA TSA HO ITEANYA LE BOLAODI

### Mohlanka wa Lesedi

**CEO:**

Mr. Mosalanyane Mosala

**Lehokela:**

Mofumahadi Ntombizodwa Harrieth Rikhotso

**Imeile:**

[NtoRikhotso@justice.gov.za](mailto:NtoRikhotso@justice.gov.za)

**Motlatsi wa Mohlanka wa Lesedi:**

Ms. Varsha Sewlal

**Imeile:**

[VarSewlal@justice.gov.za](mailto:VarSewlal@justice.gov.za)

### Aterese ya Sebaka:

JD House, 27 Stiemens Street  
Braamfontein  
Johannesburg  
2001

### Aterese ya Poso:

P.O. Box 31533  
Braamfontein  
Johannesburg  
2017

### Mohala:

010 023 4200

## 4. SEPHEO SA TATAISO ENA YA PAIA

- 4.1 Sepheo sa Tataiso ena ke ho fana ka lesedi le hlokwang ke motho leha e le ofe ya batlang ho sebedisa tokelo leha e le efe e lohothwang ho Molao wa Kgothaletso ya Phumantsho ya Lesedi wa 2000 (**PAIA**) le Tshireletso ya Lesedi la Bo Mong, 2013 ("**POPIA**"). Mang kapa mang, ho sa natswe boahi, a ka kopa ho fumantshwa lesedi tlasa **PAIA**.
- 4.2 Tataiso ena e tla thusa ka kotloloho motho, eo hape a bitswang monga lesedi, ka mokgwa wa ho fihlella lesedi la hae ho ya ka karolo 23 ya **POPIA**. Tlasa **POPIA**, motho kapa monga lesedi o na le tokelo ya ho -
- 4.2.1 kopa mokga o ikarabellang ho netefatsa, mahala, haeba ke nnete kapa tjhe mokga o ikarabellang o na le lesedi la bo mong ka yena, le
- 4.2.2 ho kopa ho mokga o ikarabellang rekoto kapa tlhaloso ya lesedi la bo mong ka monga lesedi le tshwerweng ke mokga o ikarabellang, ho kenyeletswa lesedi ka boitsebiso ba mekga ya boraro kaofela, kapa mekgahlelo ya mekga ya boraro, e ileng, kapa e bileng, le phumantsho ya lesedi leo;
- 4.2.3 kopa mokga o ikarabellang ho -
- (a) lokisa kapa ho hlakola lesedi la bo mong la monga lesedi leo a nang le lona kapa le ka tlasa taolo ya ona le fosahetseng, le sa tsamaelaneng, le phophomang, le fetuweng ke nako, le sa fellang, le lahlehisang kapa le fumanweng ka mokunyata; kapa
- (b) ho senya kapa ho hlakola rekoto ya lesedi la bo mong ka monga lesedi leo mokga o ikarabellang o seng o se na matla a ho le boloka
- 4.3 Tataiso ena e tla boela e thusa motho leha e le ofe kamoo a ka kopang phumantsho ya direkoto tlasa **PAIA**. Tataiso e tla boela e thusa bakopi ka:
- 4.3.1 ho utlwisisa **PAIA**, melemo ya yona le nalane;
- 4.3.2 ho ithuta mohato-ka-mohato motjha wa ho etsa kopo le mawa a tlatsetso a ho etsa hore motjha o be bobebe;
- 4.3.3 ho ithuta mefuta ya lesedi le ka koptjwang ka tshebediso ya **PAIA**;
- 4.3.4 ho utlwisisa motjha oo ka ona mokopi a ka phephetsang qeto e entsweng mabapi le kopo ya hae;

4.3.5 ho tsebiswa diphethoho tse tla ba teng ho **PAIA** hang ha **POPIA** e se e sebetsa ka botlalo.

4.4 Tataiso ena e tla boela e thuse batho ho utlwisisa mokgwa wa phano ya phumantsho ya direkoto tsa bona kapa kamoo ba ka nkang karolo motjheng wa ho fihlella direkoto tsa bona.

## 5. DINTLHA KA PAIA

5.1 Tokelo ya phumantsho ya lesedi ke "e nngwe ya ditsela tse hlwahlwa ka ho fetisisa tsa ho baballa dintle tsa molaotheo tsa ponaletso, ho buleha, bonkakarolo le boikarabelo<sup>2</sup>. Dintle tse ka hodimo mona tsa molaotheo di keke tsa fihlellwa haeba mmuso e le ona feela o nang le lesedi le buang ka diketso le diqeto tsa ona. Kahoo, phumantsho ya lesedi ha se feela motheo wa demokerasi e sebetsang hantle ya bonkakarolo, empa e boetse e eketsa tshepo ya setjhaba mmusong le ho matlafatsa boteng ba ona. Melemo e meng ya tokelo ya ho fihlella lesedi ke hore, e fedisa boqhekanyetsi le bobodu, ho hloka botsitso le boitshwaro bo bong bo sa lokang ba mmuso.

5.2 Ha Molaotheo wa Afrika Borwa o ne o ralwa nakong e latelang ho fela ha Kgethollo ka bo-1990, mekgatlo e fapafapaneng le batho ka bo mong ba ile ba lwanela ho kenyeletswa ho tokelo ya phumantsho ya lesedi. Ho ne ho tshepuwe hore kenyeletso ya tokelo ena ho Bili ya Ditokelo ho tla netefatsa hore bohanyapetsi bo kang Kgethollo bo keke ba hlola bo ba teng hape, kaha puso le dikgwebo tsa poraefete di ne di tla tlameha ho sebetsa ka mokgwa o nang le boikarabelo le ponaletso ka ho fana ka phumantsho ya lesedi, mme kahoo, di ne di sa tlo kgona ho ipata kamora kobo ya lekunutu. E ile ya bonwa e le mohato o hlokehang bakeng sa ho thusa ho bopa tlwaelo ya toka e tla lebisa tabeng ya dikamano tse hlokanang leeme pakeng tsa batho, le ba ka pusong. Ho e nngwe ya dinyewe tsa pele<sup>3</sup> tsa ho sebetsana le taba ya hore na motho ya qoswang o na le tokelo ya ho fumantshwa lesedi kaofela le teng ka hara dokete ya sepolesa. Jones J o ile a ananela bohlokwa ba yona ka tsela ena:

***“Morero ... ke ho fedisa ho latella mokgwa wa kgale wa tsamaiso, mokgwa oo ho ona ho neng ho kgoneha hore mmuso o balehe boikarabelo ka ho hana ho pepesa lesedi leha e ne e ba le na le kameho hodima tshebediso kapa tshireletso ya ditokelo tsa motho. Bona ke bosawana boo e reretsweng ho bo fedisa [...] Ho hloka leeme ho bonahalang le ponaletso di kgothaletsa tshepo ya setjhaba tsamaisong ya merero ya setjhaba ka kakaretso. Tshepo ena ke e nngwe ya matshwao a setjhaba se buswang ka demokerasi eo Molaotheo o e hahamallang”.***

<sup>2</sup> Hoexter Administrative Law 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Karolo 32 ya Molaotheo e fupere tokelo ya phumantsho ya lesedi le tshwerweng ka bobedi ke makala a mmuso le a poraefete. Karolo 32 e boetse e bolela hore ho lokela ho ba le molao o tla fana ka matla ho tokelo ya phumantsho ya lesedi ka ho hlakisa ditsela tseo ho ka fihlellwang lesedi le tswang makaleng a mmuso le a poraefete, le ka ho fana mabaka ao ka ona lekala la mmuso le la poraefete le ka hanang ka phumantsho ya lesedi.
- 5.4 **PAIA** e ile ya laelwa bakeng sa ho arabela thomo ya molaotheo e boletsweng ka hodimo mona, le ho qala ho sebetsa haholo ka Tlhakubele 2001. Selekela sa yona se ananela "tlwaelo ya sephiri le e sa arabeleng" ya nako ya pele ho demokerasi, le ho tiisa hore o mong wa merero ya **PAIA** ke ho "qobella tlwaelo ya ponaletso le boikarabelo makaleng a mmuso le a poraefete."
- 5.5 **PAIA** e reretswe ho fana ka matla ho ditokelo tsa motho tsa phumantsho ya lesedi le boikarabelo. E reretswe ho matlafatsa hore ba sebedise molao, mme kahoo e thusa ka ho kopa lesedi ka ditsela tse fapaneng. Motho ha a hloke leqwetha hore a etse kopo ya phumantsho ya lesedi ho ya ka **PAIA**.

## 6. MERERO YA PAIA

- 6.1 Merero ya **PAIA** ha se ho tlosa tokelo ya molaotheo, empa ke ho fana ka matla ho karolo 32 mabapi le dithibelo tse lokileng, mme ka mokgwa o mong e thusa ho lekalekanya ditokelo tse ding kaofela ho Molaotheo. E lakatsa ho kgothaletsa tlwaelo ya ditokelo tsa botho le toka ya kahisano bakeng sa batho, lekala la mmuso le lekala la poraefete. **PAIA** e rerile ho kgothaletsa ponaletso, boikarabelo le taolo e hlwahlwa ya ditheo kaofela (ka bobedi tsa mmuso le tsa poraefete) ka ho matlafatsa batho hore ba utlwisise ditokelo tsa bona tsa ho fumantshwa lesedi, ho sebetsa ka tsona, mme ka bobedi ba shebisise, le ho sebetsana le, ho nka diqeto tse ba amang.
- 6.2 Tokelo ya ho fumantshwa lesedi ke tokelo ya molaotheo e matla haholo, kaha e thusa batho ho lemoha ditokelo tsa bona. Motho a ka e sebedisa ho thusa ho beha leihlo le ho lekola phano ya ditshebeletso tsa mmuso, kapa ho fihlella direkoto tsa nalane tse ka bang molemo.
- 6.3 Merero ya **PAIA** ke -
- 6.3.1 ho fana ka matla ho tokelo ya molaotheo ya ho fihlella -
- 6.3.1.1 lesedi leha e le lefe le tshwerweng ke Puso; le
- 6.3.1.2 lesedi leha e le lefe le tshwerweng ke motho e mong mme le batleha bakeng sa tshebediso kapa tshireletso ya ditokelo leha e le dife.



- Tlhokeho e amanang le tshireletso ya ditokelo e lekanyeditswe ho lesedi le matsohong a poraefete. Kahoo makala a poraefete a ka tlasa dithibelo tse seng matla haholo tsa ponaletso ho feta makala a mmuso. Lekala la poraefete, ka mantswe a mang, le na le tokelo ya ho ithuela lesedi, ntle le haeba lesedi leo le batleha bakeng sa ho sireletsa ditokelo.
- **PAIA** e ananela, ho ya ka Karolo 8(1) ya yona, hore lekala e ka ba la "mmuso" kapa la "poraefete" ka merero ya Molao ho itshetlehlwe hodima haeba rekoto eo ho buuwang ka yona "e amana le tshebediso ya matla ka ho nka bohato jwaloka lekala la mmuso kapa jwaloka lekala la poraefete."

### 6.3.2 ho fana ka matla tokelong eo -

6.3.2.1 ho itshetlehlwe hodima dithibelo tsa toka, ho kenyeletswa, empa ho sa fellwe ka dithibelo tse reretsweng tshireletso e utlwahalang ya sephiri, lekunutu la kgwebo le taolo e ntle le e hlwahlwa; le

6.3.2.2 ka mokgwa o lekalekanyang tokelo eo le ditokelo leha e le dife tse ding, ho kenyeletswa le ditokelo tse ka hara Bili ya Ditokelo ho Kgaolo 2 ya Molaotheo;

6.3.3 ho fana ka matla ho ditshwanelo tsa molaotheo tsa Puso tse mabapi le ho kgothaletsa tlwaelo ya ditokelo tsa botho le toka ya kahisano, ka ho kenyeletsa makala a mmuso tshalosong ya 'mokopi', le ho mo dumella, hara tse ding, ho fumantshwa lesedi ho tswa makaleng a poraefete kamora ho imatahanya le ditlhokeho tse nne Molaong ona, ho kenyeletswa tshwanelo ya tlatsetso bakeng sa makala a mmuso mabakeng a itseng bakeng sa ho sebetse molemong wa setjhaba;

6.3.4 ho theha ditsela tsa boithaopo le tsa setlamo kapa metjha ya ho fana ka matla tokelong eo ka mokgwa o kgontshang batho ho fumantshwa direkoto tsa makala a mmuso kapa a poraefete ka potlako, ntle le ditjeo le ntle le mekutu ka toka kamoo ho ka kgonehang; le

6.3.5 ka kakaretso, ho kgothaletsa ponaletso, boikarabelo le taolo e hlwahlwa ya makala ohle a mmuso le a poraefete ka, ho kenyeletswa empa ho sa fellwe ka, ho matlafatsa le ho ruta bohle -

6.3.5.1 ho utlwisisa ditokelo tsa bona ho ya ka Molao ona bakeng sa ho sebedisa ditokelo tsa bona mabapi le makala a mmuso le a poraefete;

6.3.5.2 ho utlwisisa mesebetsi le tshebetso ya makala a mmuso; le

6.3.5.3 ho hlahlobisisa ka bokgabane, le ho nka karolo, tabeng ya ho nka diqeto ke makala a mmuso tse amang ditokelo tsa bona.

#### 6.4 Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2019

6.4.1 Nyeweng ya ***My Vote Counts NPC kgahlanong le Letona la Toka le Ditshebeletso tsa Tlhabollo ya Batshwaruwa le e Mong [2018] ZACC 17***, lekgotla la molaotheo le ile la bolela hore “Puso e tlasa tshwanelo e tlohang ho balweng ho nepahetseng ha dikarolo 32, 19 le 7(2) tsa Molaotheo ho etsa sohle se kgonehang ho fana ka pehelo e utlwahalang le e nang le moelelo bakeng sa tokelo ya phumantsho ya lesedi le tokelo ya ho vouta. Bongata bo ile ba tswella ho dumela hore sena se jwalo hobane tshebediso ya tokelo ya ho vouta e lokela ho ba kgetho e nang le tsebo, le hore ho na le momahano pakeng tsa tshebediso e nepahetseng ya tokelo ya ho vouta le tokelo ya phumantsho ya lesedi. Mme “ntle le phumantsho ya lesedi, bokgoni ba baahi ho etsa diqeto tse nang le boikarabelo tsa sepolotiki le ho nka karolo ka ho nepahala bophelong ba setjhaba bo a hatikelwa”. Lekgotla la Molaotheo le netefaditse hore taelo e hloka motheo ho ya ka molaotheo mme la laela Palamente ho fetola **PAIA** le ho nka mohato leha e le ofe o mong oo e bonang o tshwaneleha ho fana ka thuso ya phumantsho ya lesedi le rekotuweng le le bolokuweng mabapi le dithuso tsa ditjhelete tsa poraefete tsa mekga ya dipolotiki le baiketi ba ikemetseng nakong ya dikgwedi tse 18.

6.4.2 Ho ya ka kahlolo e ka hodimo mona ya lekgotla la molaotheo, Moporesidente o, ka la 3 Phuptjane 2019, ile a dumella Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2019 (Sehlomathiso sa Molao wa **PAIA** 2019)<sup>4</sup>. Sehlomathiso sa Molao wa **PAIA** 2019 se kenyeletsa mokgatlo wa dipolotiki tlhalosong ya lekala la poraefete, e leng hantlente se boelang hore moetapele wa mokga wa dipolotiki kapa motho leha e le ofe ya fuweng matla ke moetapele eo ke mohlanka wa lesedi kapa hlooho. Sehlomathiso sa Molao wa **PAIA** 2019 jwale se atolosa tokelo ya phumantsho ya direkoto leha e le dife tsa mokga wa dipolotiki.

6.4.3 Sehlomathiso sena sa Molao se fana ka lesedi la thuso ya matlole ya poraefete bakeng sa mekgatlo ya dipolotiki le baiketi ba ikemetseng hore le rekotuwe, le baballwe le ho fumaneha.

6.4.4 Ho ya ka karolo 52A ya sehlomathiso sa Molao wa **PAIA** 2019, hlooho ya mokgatlo wa dipolotiki e lokela ho bopa le ho boloka direkoto tsa nyehelo leha e le efe e fetang sekepele se behilweng, sa **R100 000.00**, e entsweng ho mokgatlo oo wa dipolotiki selemong leha e le sefe sa ditjhelete le boitsebiso ba batho kapa ditheo tse entseng dinyehelo tseo. Hlooho ya mokga wa dipolotiki e boitse e lokela ho fana ka direkoto tseo kotara ka nngwe, jwaloka ha ho laetswe; le ho boloka direkoto bakeng sa bonyane dilemo tse hlano kamora hoba direkoto tseo di etswe.

<sup>4</sup> Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, No. 31 wa 2019

6.4.5 Sena se bolela hore leha Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki o etsa hore e be setlamo bakeng sa ho pepesetsa Khomishene ya Dikgetho, sehlopatso sa Molao wa **PAIA** 2019 jwale se atolosa tokelo ya phumantsho, ya direkoto tsa nyehelo leha e le efe e fetang **R100 000.00**, ho motho leha e le ofe, e entsweng ho mokgatlo oo wa dipolotiki.

6.5 Molao o mong o sireletsang tokelo ya phumantsho ya lesedi

**PAIA** e boetse e teng ka hara tikoloho yohle ya semolao, e reretsweng ho hlahisa “tlwaelo ya tokafatso”. Ho ananela sena, **PAIA** e re molao o mong leha e le ofe o nehang motho lepatlelo la ho fihlella lesedi le seng boima ho feta **PAIA**, ho ka nna ha sebediswa ho lona<sup>5</sup>.

6.5.1 Molao wa Dikhamphani wa bo-71 wa 2008

6.5.1.1 Karolo 26(1) ya Molao wa Dikhamphani o thusa motho eo e leng setho kapa ya nang le kgahlehelo thepeng leha e le efe e ntshuwang ke khamphani ya phaello, kapa eo e leng setho sa khamphani e sa etseng phaello, o na le tokelo ya ho hlahloba le ho etsa khopi, ntle le tefo bakeng sa tlhahlobo e kang eo kapa kamora tefo e sa feteng tjhelete e laetsweng bakeng sa khopi leha efe e jwalo, bakeng sa lesedi le teng direkotong tsa khamphani.

6.5.1.2 Ho ya ka karolo 26(7)(b) ya Molao wa Dikhamphani, “ditokelo tsa phumantsho ya lesedi tse tekilweng karolong ena ke tlatsetso ya, mme e se ho fetola, ditokelo leha e le dife tseo motho a ka bang le tsona tsa phumantsho ya lesedi ho ya ka Molao wa Kgothaletso ya Phumantsho ya Lesedi, 2000 (Molao No. 2 wa 2000)”.

6.5.2 Molao wa Dithuso tsa Ditjhelete wa Mekga ya Dipolotiki, 2018 (Molao No. 6 wa 2018)

6.5.2.1 Dithuso tsa Ditjhelete tsa Mekga ya Dipolotiki di tsebahatsa meralo e matla ya bolaodi bakeng sa matlole a mekga kaofela ya dipolotiki e ngodisitsweng, e bang e na le boemedi makgotleng a ketsamolao a naha kapa a provense kapa tjhe. Sena se kenyeletsa ho teka dithibelo bakeng sa mohlodi, boholo le tshebediso ya matlole a nyehetsweng ke mekga ya dipolotiki.

6.5.2.2 Ho netefatsa ponaletso le boikarabelo, mekgatlo ya dipolotiki e lokela ho pepesa dinyehelo kaofela tse amohetsweng tse fetang sekepele sa **R100 000.00** ho Khomishene ya Dikgetho kgafetsa dikgwedi ka nngwe tse tharo (hammoho le pele ho dikgetho tse akaretsang)

<sup>5</sup> Karolo 2(1) ya PAIA

- 6.5.2.3 Motho leha e le ofe kapa mokgatlo o etsang nyehelo mokgatlong wa dipolotiki oo ka bonngwe kapa ka mmoho e fetang **R100 000** ka selemo o lokela ho tlaleha nyehelo eo ho Khomishene ya Dikgetho nakong ya matsatsi a 30 a ho etsa nyehelo kapa nakong ya matsatsi a 30 a ha dinyehelo ka mmoho di ne di feta **R100 000**.
- 6.5.2.4 Qetellong, Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki o beha tshwanelo hodima Khomishene ya Dikgetho ho phatlalatsa dinyehelo tse tlalehilweng ke mekga ya dipolotiki dikgwedi ka ding tse tharo le ho tlalehela Palamente ka selemo mabapi le dinyehelo kaofela tse entsweng bakeng sa mekga ya dipolotiki nakong ya selemo.
- 6.5.3 Molao wa Tshireletso ya Lesedi la bo Mong, 2013 (Molao No. 4 wa 2013)
- 6.5.3.1 Karolo 23 ya **POPIA** e neha beng ba lesedi tokelo ya ho fumantshwa lesedi la bo Mong le tshwerweng ke mokga o ikarabellang, ho kenyeletswa lesedi ka boitsebiso ba mekga kaofela ya boraro, e nang, kapa e bileng, le phihlello ya lesedi.
- 6.5.3.2 Sena se bolela hore leha phumantsho ya rekoto e nang le lesedi la bo mong ka mokopi ha e kenyeletswe ho **PAIA** ho ya ka Karolo 11(2) ya ona, monga lesedi a ka kopa –
- 6.5.3.2.1 phumantsho ya lesedi la boyena; le/kapa
- 6.5.3.2.2 boitsebiso ba mekga kaofela ya boraro, le/kapa mekgahlelo ya mekga ya boraro, e nang, kapa e bileng, le phihlello ya lesedi.
- 6.5.3.2.3 tokiso kapa ho hlakolwa ha lesedi la bo mong la monga lesedi leo o le tshwereng kapa oo le o laolang le sa nepahalang, le sa tsamaelaneng, le phophomang, le felletsweng ke nako, le sa fellang, le lahlehisang kapa le fumanweng ka mokunyata; kapa
- 6.5.3.2.4 rekoto ya lesedi la boyena leo mokga o ikarabellang o seng o se na tokelo ya ho le boloka e lokela ho senngwa kapa e hlakolwe.
- 6.5.3.3 Mokga o ikarabellang o ka hana ho pepesa lesedi leha e le lefe la bo mong le koptjwang, ho ya ka mabaka a ho hana ka phumantsho ya direkoto, jwaloka ha ho tekilwe ho serapa 19.4 ka tlase mona.

## 6.5.4 Molao wa Kgothaletso ya Toka ya Tsamaiso 3 wa 2000

- 6.5.4.1 Molao o mong o lokelang ho hopolwa ha o lohotha ho fihlella lesedi ke Molao wa Kgothaletso ya Toka ya Tsamaiso (**PAJA**). **PAJA** e fana ka matla ho tokelo ya tshebetso ya tsamaiso e molaong, e utlwahalang le ho latela metjha ka ho hloka leeme le ho tokelo ya mabaka a ngotsweng bakeng sa tshebetso ya tsamaiso jwaloka ka ha e lohothwa ho karolo 33(2) ya Molaotheo<sup>6</sup>.
- 6.5.4.2 Ho ya ka karolo 5(1) ya **PAJA**, motho leha e le ofe eo ditokelo tsa hae di ileng tsa angwa ha bohloko le hampe ke tshebetso ya tsamaiso mme a sa nehwa mabaka bakeng sa ketso eo a ka, nakong ya matsatsi a 90 kamora letsatsi leo motho a lemohileng ketso eo kapa a ka be a lebeletse ho lemoha ketso eo, kopa motsamaisi ya amehang ho fana ka mabaka a ngotsweng a ketso eno. Motsamaisi eo kopo e lebisitsweng ho yena o lokela, nakong ya matsatsi a 90 kamora ho thola kopo, ho neha motho eo lebaka le utlwahalang le ngotsweng la mohato wa tsamaiso.

## 7. HO THEHWA HA BOLAODI BA LESEDI

- 7.1 Ho netefatsa kgothaletso le matlafatso ya merero ya **PAIA**, e tla fana ka matla ho tokelo eno ya phumantsho ya lesedi ka mokgwa o thusang batho ho fumana phihlello ya direkoto tsa makala a mmuso le a poraefete ka potlako le ka mokgwa o sa bitseng kahohle kamoo ho kgonehang, Bolaodi ba Lesedi (“Bolaodi”) bo thehilwe ho ya ka karolo 39 ya **POPIA**.
- 7.2 Mabapi le ho netefatsa hore metjha ya tsamaiso e sa rarahanang le e sa bitseng e ya latelwa ha ho etswa ha kopo ya phumantsho ya lesedi, ditletlebo ho Bolaodi le dikopo tsa lekgotleng la dinyewe di lokela ho ba mokgelo ho feta hore e be molao.
- 7.3 **POPIA** e fetola mosebetsi wa **SAHRC** mabapi le thomo ya **PAIA**. Ho tloha ka la 30 Phuptjane 2021, mesebetsi kaofela ya **SAHRC**, jwaloka ha e balwa ho **PAIA**, e tla sebetswa ke Bolaodi, boo hape bo nang le qobello ya matla ya tlatsetso.
- 7.4 Leha **SAHRC** e tla dula e na le ditshwanelo tsa molaotheo tse bataletseng tseo e lokelang ho di kgothaletsa, ho di sireletsa le ho beha leihlo ditokelo tse fuperweng ke Bili ya Ditokelo,
- 7.5 **SAHRC** le Bolaodi ba tla sebetsa mmoho ba bapile.

<sup>6</sup> Bohle bao ditokelo tsa bona di anngweng hampe ke ketso ya tsamaiso ba na le tokelo ya ho fuwa mabaka a ngotsweng

## 8. MOSEBETSI WA BOLAODI WA LESEDI

- 8.1 Bolaodi o na le mosebetsi wa bohlokwa mabapi le **PAIA**. Bolaodi o laelwa ke **PAIA**, tlasa Karolo 4, Kgaolo 1A le Karolo 5 le dikarolo tse ding, ho:
- 8.1.1 kgothaletsa phumantsho ya lesedi le ho thusa setjhaba mabapi le ho sebedisa **PAIA** moo ho kgonehang ho etsa jwalo,
  - 8.1.2 beha leihlo le ho tswella ka ho kenya tshebetsong **PAIA** ke makala a mmuso le a poraefete (ho kenyetsang ho kgothaletsa ditsela tse hlwahlwa tsa ho etsa hore lesedi le fumanehe ka nako),
  - 8.1.3 etsa dikgothaletso tsa ho matlafatsa **PAIA**, le
  - 8.1.4 ho tlalehela Palamente selemo ka seng.
- 8.2 Karolo 77C (1) le (2) ya **PAIA** e betla tsela ya matla a latelang, mesebetsi le mehato tsa Bolaodi, ho -
- 8.2.1 batlisisa tletlebo e entsweng ho Bolaodi ka tsela e laetsweng;
  - 8.2.2 fetisetsa tletlebo ho Komiti ya Qobello e thehilweng ho ya ka Karolo 50 ya **POPIA**; kapa
  - 8.2.3 ho etsa qeto, ho ya ka karolo 77D, ho nka mohato hodima tletlebo kapa, ho ya kamoo maemo a leng kateng, ho batla ho nka mehato e meng mabapi le tletlebo; le
  - 8.2.4 ho nka mohato, moo ho tshwanetseng, jwaloka monamodi mabapi le tletlebo e jwalo ka tsela e laetsweng.
- 8.3 Molaodi a ka, ho ya ka karolo 77H(1) ya **PAIA**, mme ka boikitlaetso ba yona, kapa ka kopo ya kapa lebitsong la mohlanka wa lesedi kapa hlooho ya lekala la poraefete kapa motho leha e le ofe ho etsa tekolo ya haeba lekala la mmuso kapa la poraefete ka kakaretso le imatahanya le dipheho tsa **PAIA**, ho ya kamoo maano a yona le ho kenngwa tshebetsong ho emeng kateng.
- 8.4 Bolaodi bo na le matla, ho ya ka karolo 77F ya **PAIA**, ho sebedisa maiteko a bona a hlwahlwa ka ho fetisisa a ho fihlella tharollo ya tletlebo, ha ho hlahella tletlebong, kapa ho karabelo leha e le efe e entsweng ho bona ya hore ho ka nna ha kgonahala ho rarolla tletlebo. Sena se bolela hore Bolaodi bo ka leka feela ho thusa mekga ho rarolla diqaka tsa yona, haeba ho na le tletlebo e kentsweng ho Bolaodi, ntle le ha ho na le qeto, ka boikitlaetso ba yona, ho etsa tekolo, jwaloka ha ho tekilwe serapeng sa 8.3 ka hodimo mona.

## 9. HO ETSA KOPO YA REKOTO

O koptjwa ho sheba ho motjha wa mohato-ka-mohato tjhateng e serapeng sa 27 ka tlase mona, mabapi le mokgwa wa ho fumantshwa direkoto.

### 9.1 Ha re qala: **Dibukana tsa PAIA**

9.1.1 Leha Tataiso ena e phatlaladitswe ho thusa setjhaba ka makgalo ohle bakeng sa ho baballa ditokelo tsa sona tsa molaotheo tsa ho fihlella lesedi, ho na le mehlodi e meng ya lesedi eo le yona e ka thusang motho ho etsa kopo ya ho fihlella direkoto. **PAIA** e batla hore makala kaofela a mmuso, le a poraefete, a hlophise le ho fana ka bukana ya **PAIA**<sup>7</sup>.

9.1.2 Pele motho leha e le ofe a nka mehato ya ho fumantshwa lesedi kapa direkoto tsa lekala le itseng, Bukana ya **PAIA** ke ntho ya pele eo a lokelang ho e bala.

9.1.3 Ka motheo wa yona o tebileng, bukana ya **PAIA** e bohlokwa ho motho bakeng sa:

9.1.3.1 ho lekola mofuta wa direkoto tseo e ka bang di se di le teng ntle le hore motho a kenye kopo ya semmuso ya **PAIA**;

9.1.3.2 ho ba le kutlwisiso ya kamoo kopo ya phumantsho ya lesedi le tshwereng ke lekala le itseng e ka etswang;

9.1.3.3 ho fihlella dintlha kaofela tsa boiteanyo tsa motho ya tla thusa setjhaba ka direkoto tseo motho a batlang ho di fihlella;

9.1.3.4 ho tseba ditokiso tse teng kaofela ho tswa lekaleng leo ho lona ho koptjwang direkoto, pele motho a leba ho Bolaodi kapa Makgotleng a Dinyewe;

9.1.3.5 ho tseba tlhaloso ya ditshebeletso tse teng bakeng sa ditho tsa setjhaba ho tswa ho lekala leo le kamoo motho a ka fihlellang ditshebeletso tseo;

9.1.3.6 ho tseba haeba lekala le tla tswellisa lesedi la bo mong, sepheo sa ho tswellisa lesedi la bo mong le tlhaloso ya mekgahlelo ya beng ba lesedi le ya lesedi kapa mekgahlelo ya lesedi e amanang le seo;

9.1.3.7 ho tseba haeba lekala le rerile ho fetisetsa kapa ho tswellisa lesedi la bo mong ka ntle ho meedi ya Afrika Borwa; le

<sup>7</sup> Karolo 14 le karolo 51 tsa PAIA



9.1.3.8 ho tseba haeba lekala le na le mehato ya tshireletso ya ho netefatsa sephiri, seriti le boteng ba lesedi le lokelang ho tswelliswa.

## 9.2 O ka fumana dibukana tsa PAIA hokae?

### 9.2.1 Bukana ya PAIA ya makala a mmuso

9.2.1.1 Makala a mmuso kaofela a lokela ho etsa hore Bukana ya PAIA e fumaneha ha bobebe ka bonyane dipuo tse tharo tsa semmuso<sup>8</sup>.

9.2.1.2 Bonyane, a lebeletswe ho etsa hore khopi ya Bukana ya PAIA e fumaneha mahala, ntle le haeba ho koptjwa khopi e hatisitsweng

9.2.1.2.1 websaeteng ya lekala la mmuso;

9.2.1.2.2 ntlokgolo ya lekala la mmuso bakeng sa tlhahlobo ya setjhaba nakong ya dihora tsa tshebetso tse tlwaelehileng;

9.2.1.2.3 haeba motho a batla khopi e hatisitsweng, lekala la mmuso le lokela ho etsa khopi, empa e ka nna ya qosa tefo ya tjhelete e amohelang bakeng sa phano ya khopi e hatisitsweng; le

9.2.1.3.4 ho Bolaodi ha ho etswa kopo.

### 9.2.2 Dibukana tsa PAIA tsa makala a poraefete

9.2.2.1 Makala a poraefete a boetse a lebeletswe ho hlophisa bukana ya PAIA<sup>9</sup>, empa ha ho tlhokeho ya hore a e hlophise ka dipuo tse fetang e le nngwe kapa ka puo e itseng, leha ho kgothaletswa hore Dibukana tsa PAIA tsa makala a poraefete di be bonyane ka Senyesemane. Haeba lekala le itseng le fana ka ditshebeletso ho batho ba sa kenang sekolo, Bolaodi bo kgothaletsa hore bukana ya lekala leo e ka nna ya ba ka puo leha e le efe ya semmuso.

9.2.2.2 Bonyane, makala a poraefete a lebeletswe ho etsa hore khopi ya Bukana ya PAIA e fumaneha mahala<sup>10</sup>, ntle le haeba ho koptjwa khopi e hatisitsweng -

9.2.2.2.1 websaeteng ya lekala la poraefete;

9.2.2.2.2 sebakeng sa sehlooho sa kgwebo ya lekala la poraefete bakeng sa tlhahlobo ya setjhaba nakong ya dihora tse tlwaelehileng tsa tshebetso;

<sup>8</sup> Karolo 14(1) ya PAIA

<sup>9</sup> ho ya ka karolo 51 ya PAIA

<sup>10</sup> Karolo 51(3) ya PAIA

9.2.2.2.3 haeba motho a batla khopi e hatisitsweng, lekala la poraefete le lokela ho etsa khopi, empa e ka nna ya qosa tefo ya tjhelete e amohelehang bakeng sa phano ya khopi e hatisitsweng le

9.2.2.2.4 ho Bolaodi ha ho etswa kopo.

9.2.3 Letona la Toka le Ditshebeletso tsa Tlhabollo ya Batshwaruwa le na le matla a ho kotela<sup>11</sup> makala a itseng a poraefete kapa mokgahlelo wa makala a poraefete tabeng ya ho hlophisa bukana. Hajwale, le ho fihlela ka la 31 Tshitwe 2021, Letona le kotetse<sup>12</sup> makala ohle a poraefete, ntle le khamphani leha e le efe eo -

- (a) e seng khamphani ya poraefete jwaloka ha ho hlalositse ho karolo 1 ya Molao wa Dikhamphani, 2008 (Molao No. 71 wa 2008); le
- (b) ho ba khamphani ya poraefete jwaloka ha ho hlalositse ho karolo 1 ya Molao wa Dikhamphani, 2008 (Molao No. 71 wa 2008) e sebetsang ka hara makala leha e le afe a boletsweng ho kholomo ya pele ya sekejule sa Tsebiso ena le
  - (i) ho ba le basebeletsi ba fetang 50 khirong ya bona; kapa
  - (ii) e na le tlhahiso yohle e lekanang le kapa ho feta tjhelete e sebetsang e boletsweng ho kholomo 2 ya theibole e ka tlase mona,

tabeng ya ho hlophisa bukana e lohothwang ho karolo 51(1) ya Molao o boletsweng pele bakeng sa nako ya dikgwedi tse tshelletseng (6) ho tloha ka la 1 Phupu 2021 ho isa ka la 31 Tshitwe 2021: -

Lekala	Annual Turnover
Temo	R6 milione
Merafo le Dikwari	R22.5 milione
Tlhahiso	R30 milione
Motlakase, Kgase le Metsi	R30 mllione
Kaho	R15 milione
Mabenkele le Kgwebo ya Makoloi le Ditshebeletso tsa Tokiso	R45 milione
Dikgwebo tsa Dihoulseile, Diakgente tsa Kgwebo le Ditshebeletso tse Tsamaelanang	R75 milione
Phepo, Bodulo le Kgwebo e nngwe	R15 milione
Dipalangwang, Distoro le Dikgokahanyo	R30 milione
Ditshebeletso tsa Ditjhelete le Kgwebo	R30 milione
Ditshebeletso tsa Badudi, tse Ikgethang le tsa Bowena	R15 milione

<sup>11</sup> Karolo 51(4) ya PAIA

<sup>12</sup> Government Gazette no: 39504, 11 Tshitwe 2015

- 9.2.4 Ka lebaka la bohlokwa ba tlhokeho ya ketsamolao bakeng sa ho hlophisa Bukana ya **PAIA**, ka ho qolleha sehlophiso<sup>13</sup> sa karolo 51 sa **PAIA** (se tla sebetsa ka la 30 Phuptjane 2021), ho ya ka mothamo wa lesedi oo bukana e lokelang ho o o akaretsa o bataladitswe bakeng sa ho kenyeletsa dintlha tse amanang le **POPIA**, makala a poraefete ha a sa tla hlola a kotelwa tshwanelong ya ho hlophisa bukana ya **PAIA**. Kahoo ho tloha ka la, 1 Pherekgong 2022, lekala le leng le le leng la poraefete le la mmuso le tla lokela ho etsa hore le be le Bukana ya **PAIA** ya lona, jwaloka ha ho laetswe ho serapa 9.2.2.2 ka hodimo mona.
- 9.2.5 Kotelo ya dikhamphani tsa poraefete tshwanelong ya ho hlophisa bukana ya **PAIA** ha e kotele dikhamphani tseo tsa poraefete tabeng ya ho imatahanya le **PAIA**. Sena se bolela hore motho leha e le ofe a ka nna a kenya kopo ya phumantsho ya lesedi ho lekala le kotetsweng la poraefete. Kotelo e bolela feela hore dikhamphani tseo tsa poraefete ha di a lokela ho hlophisa bukana ya **PAIA**.
- 9.2.6 Hopola hape, hore ha se makala a poraefete kaofela ao e leng dikhamphani, jwaloka ha tlhaloso ya lekala la poraefete e kenyeletsa motho ya tlwaelehileng, rakgwebo a le mong le semphato. Leha ho le jwalo, ho ka nna ha ba bohlokwa ho lekola websaete ya bona, kaha Dikhamphani tse ding di hlophisa bukana ya **PAIA** ho sa natswe palo ya basebeletsi ba tsona kapa tlhahiso ya tsona ya selemo.
- 9.3 Pepeso ka boithaopo kapa boteng ba direkoto tse itseng ka ho iketsahalla
- 9.3.1 Direkoto tse teng ka ho iketsahalla ke tseo lekala la mmuso kapa la poraefete le ka fanang ka tsona ntle le hore mokopi a etse kopo ya **PAIA** (ka mantswa a mang, motho a ka nna a le kopa feela ntle le ho tlatsa Forom 2 ya **PAIA**).
- 9.3.2 Mohlanka wa Lesedi wa lekala la mmuso o lebeletswa, ho ya ka karolo 15(1) ya **PAIA**, ho fana ka lenane kapa mekgahlelo ya direkoto tse teng ka ho iketsahalla feela, jwaloka ha ho laetswe ho serapa 9.3.4 ka tlase mona.
- 9.3.3 Direkoto tse fumanehang ka ho iketsahalla feela tsa lekala la poraefete di ka nna tsa fumaneha, ho ya ka karolo 52(1) ya **PAIA**, empa boemong ba boithaopo ho ya ka serapa 9.3.4 ka tlase mona.
- 9.3.4 Tlhaloso ya mekgahlelo ya direkoto tse fumanehang ka ho iketsahalla di lokela ho ba teng -
- (a) bakeng sa Bolaodi ba Lesedi;
  - (b) websaeteng ya lekala; le
  - (c) bakeng sa tlhahlobo, diofising tsa lekala le amehang nakong ya dihora tse tlwaelehileng tsa tshebetso.

<sup>13</sup> Karolo 110 ya POPIA

- 9.3.5 O koptjwa ho lemoha hore Bolaodi bo tla laetjha tlhaloso ya direkoto tse fumanehang ka ho iketsahalla feela tsa lekala la mmuso websaeteng ya bona.
- 9.3.6 Lenane lena le kenyeletsa direkoto tse ka lokelang hore di fumanehe ho ya ka melao e meng, mme direkoto leha e le dife tse ding tseo lekala le kgethang ho di kenyeletsa. Bakeng sa ho qoba melawana ya ho imatahanya le motjha wa kopo ya **PAIA**, mokopi o eletswa ho lekola Bukana ya **PAIA** ya lekala la mmuso kapa la poraefete le amehang. Haeba motho a lakatsa ho fumantshwa direkoto tse welang tlasa lenane la lekala leo la direkoto tse fumanehang ka ho iketshalla feela, motho eo a ka di kopa feela ntle le ho lokela ho tlatsa Foromo 2 ya **PAIA**.
- 9.3.7 Molao wa Dithuso tsa Ditjhelete tsa Mekga ya Dipolotiki, Molao 6 wa 2018 o tsebahatsa diphethoho tse itseng ka **PAIA**, oo ka ona dihlooho tsa mekga ya dipolotiki di lebeletsweng ho rekota le ho boloka direkoto tsa dinyehelo tsa poraefete, tse tla lokela ho phatlalatswa ntle le hore motho a etse kopo ya **PAIA**.

## 10. DINTLHA TSA HO ITEANYA LE BAHLANKA BA LESEDI

- 10.1 Leha dintlha tsa ho iteanya le Bahlanka ba Lesedi ba lekala la mmuso leha e le lefe di lebeletsweng ho phatlalatswa bukeng e nngwe le e nngwe ya mehala, ho ya ka karolo 16 ya **PAIA**, Bolaodi bo na le dintlha tsa mohala tse tobileng tsa Bahlanka ba Lesedi kaofela (ho kenyeletswa Batlatsi ba Bahlanka ba Lesedi, ba thontsweng ho ya ka karolo 17 le 56 ya **PAIA** le **POPIA** ka tatelano) tse ngodisitsweng ho ya ka karolo 55(2) ya **POPIA**.
- 10.2 Leha ho thola dinomoro tse nepahetseng tsa mohala hangata e ba karolo e nang le mathata ya ho etsa kopo ya **PAIA**, kaha mesebetsi e fetofetoha kgafetsa lekaleng la mmuso le bukana ya **PAIA** e ka nna ya ba ha e kgeme le maemo, tulo ya pele moo o ka tholang dintlha tsa boiteanyo e lokela ho ba Bukana ya **PAIA** ya lekala. Leha ho le jwalo, haeba mokopi a sa fumane bukana, ho letsetsa setsha sa mehala sa lekala bakeng sa ho kopa dintlha tse batlehang le hona ho ka thusa.
- 10.3 Bakeng sa Bomasepala, Mokgatlo wa Afrika Borwa wa Mebuso ya Lehae (**SALGA**) o maneha dintlha tsa boiteanyo tsa Bomasepala kaofela linking ena:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Tsamaiso ya dikgokahanyo tsa Mmuso le yona e fana ka dintlha tsa boiteanyo tsa naha le tsa diprovence hammoho le tsa Dikgwebo tsa Mmuso tlasa linki ena:  
<https://www.gov.za/about-government/contact-directory>. Dula o hopola hore tlhaloso ya Mohlanka wa Lesedi e thusa ho hlwaya hore ho batlwa dintlha tsa boiteanyo tsa mang bakeng sa ho tseba Mohlanka wa Lesedi.

## 11. MOTJHA WA HO ETSA KOPO YA LESEDI

### 11.1 Diforomo tsa kopo

11.1.1 Kopo ya phumantsho ya lesedi e ka etswa ho ka bobedi makala a mmuso le a poraefete.

11.1.2 **PAIA** e re haeba o batla ho etsa kopo e jwalo, o lokela ho etsa kopo foromong e batlehang (diforomo tsena di laetswe ka Melawana). Ho na le diforomo tse pedi tse ka sebediswang bakeng sa ho latela tokelo ya phumantsho ya lesedi:

#### Foromo 2

Foromo ena e ka sebediswa feela ha o batla ho kopa direkoto tsa lekala la mmuso kapa la poraefete.

#### Foromo 4

Foromo ena e ka sebediswa feela ha o batla ho etsa boipiletso ba ka hare kgahlanong le diqeto tsa Bahlanka ba Lesedi kapa tsa Batlatsi ba bona ba boemong ba Mmuso wa Naha, Provense kapa wa Lehae moo boipiletso bo lebisitsweng teng.

11.1.3 Diforomo tsena di ka fumaneha websaeteng ya Bolaodi ho <https://www.justice.gov.za/inforeg/>

11.2 Ho etsa qeto ya haeba kopo e amana le lesedi le bolokuweng ke lekala la mmuso kapa la poraefete

11.2.1 Lekala la mmuso le etsa mosebetsi wa mmuso, o kang ho fana ka motlakase kapa metsi setjhabeng. Kahoo, lekala la mmuso ha se feela Lefapha la Naha, Provense kapa la Mmuso wa Lehae– le tla kenyeletsa dikgwebo tsa mmuso Ditheo tsa Puso tse kang Bolaodi, Eskom, kapa PRASA, leha ho le jwalo, ho lokelwa ho etswa phapang mabapi le lekala la mmuso ka morero wa boipiletso ba ka hare, bo buang feela ka Mmuso wa Naha, Provense kapa wa Lehae.

11.2.2 Lekala la poraefete le etsa mosebetsi wa poraefete. Lekala le jwalo (leo e ka bang motho) le tsamaisa kgwebisano, kgwebo kapa profeshene. Ho bohlokwa haholo ho lemoha hore ha o etsa kopo ya **PAIA** lekaleng la poraefete motho o lokela ho bolela hore ke tokelo efe eo a e sireletsang kapa eo a e sebedisang ka ho kopa lesedi lena. Mabapi le lesedi leha e le lefe le bolokuweng ke motho e mong, Streicher JA o kgutsufaditse taba ena tjena, **Lekgotleng la Cape Metropolitan kgahlanong le Metro Inspection Services (Western Cape) CC le ba Bang**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) serapa 28 ho 1026F–G

*“Lesedi le ka batleha feela bakeng sa tshebediso kapa tshireletso ya tokelo haeba le ka thusa tshebedisong kapa tshireletsong ya tokelo. Ho bolela hore, bakeng sa ho kenya nyewe bakeng sa phumantsho ya lesedi ho ya ka karolo 32, moikopedi o lokela ho bolela hore ke tokelo efe eo a lakatsang ho e sebedisa kapa ho e sireletsa, ke lesedi lefe le batluwang le kamoo lesedi le tla mo thusa mabapi le ho sebedisa kapa ho sireletsa tokelo eo”.*

11.2.3 Ka nako e nngwe taba ya hore haeba rekoto ke ya mmuso kapa ya poraefete e ka ba e rarahaneng mme setjhaba se eletswa ho batla keletso ya semolao. Ka mohlala, haeba lekala la mmuso le thonya lekala la poraefete ho fana ka ditshebeletso tse itseng lebitsong la ona, jwaloka ho hokela dimithara tsa metsi metseng e itseng, phumantsho ya palo ya dimithara tse hoketsweng, le ha e ka ba lesedi le jwalo le tshwerwe ke lekala la poraefete, le tla nkuwa e le lesedi la lekala la mmuso.

11.3 Motho o hlalosa jwang tokelo eo a rerileng ho e sebedisa kapa ho e sireletsa?

11.3.1 Ha o hlalosa hore ke tokelo efe eo motho a rerileng ho e sebedisa ha a etsa kopo ho lekala la poraefete, motho a keke a bua ka tokelo ya ho fumantshwa lesedi. Motho o lokela ho hlalosa kamoo rekoto eo a e kopang e batlehang ka tsela e utlwahalang bakeng sa hore motho a sireletse, kapa a sebedise, tokelo e nngwe. Sena se ka kenyeletsa ditokelo tseo e seng feela ditokelo tsa molaotheo.

11.3.2 Motho ho tea ka mohlala a ka kopa melao ya sehlooho ho khamphani e nang le bokgoni ba ho hahlamela maemo a tshilafatso ka hara motse, bakeng sa ho thusa ho sireletsa tokelo ya motho ya tikoloho ka ho beha leihlo mesebetsi ya yona. Kapa motho a ka batla direkoto, tse tla thusa motho ho sheba haeba motho o na le tokelo ya ho etsa tseko ya badudi kgahlanong le setheo. Kahoo motho o lokela ho:

11.3.2.1 ka kotloloho a hlwaye tokelo eo motho a rerileng ho e sireletsa kapa ho e sebedisa, mme ebe

11.3.2.2 hlalosa ka ho hlaka hobaneng rekoto eo a e kopang e batleha bakeng sa ho mo thusa ka tokelo eno.

11.3.3 Ka nqa e nngwe, ha o etsa kopo ya **PAIA** ho lekala la mmuso, ha o a lokela ho ba le lebaka la ho kopa lesedi leo.

## 12. KE MANG YA KA ETSANG KOPO YA PAIA?

12.1 Motho leha e le ofe, e ka ba moAfrika Borwa kapa tjhe, o dumeletswe ho etsa kopo tlasa **PAIA**. Motho e ka ba ya tlwaelehleng kapa ya ikemetseng semolao.

12.2 Lekala la mmuso le nkuwa e le motho ya ikemetseng semolao mme le ka etsa kopo ya phumantsho ya direkoto tse tshwerweng ke makala a poraefete, empa feela haeba lekala la mmuso le -

12.2.1 sebetsa molemong wa setjhaba, mme

12.2.2 haeba direkoto di batleha bakeng sa ho phethisa kapa ho sireletsa ditokelo leha e le dife ho e na le tseo tsa lekala la mmuso.

12.3 Tlase **PAIA** mokopi a keke a fumantshwa rekoto, ya lekala la mmuso, e nang le lesedi la bo mong la mokopi ho tswa lekaleng la setjhaba<sup>15</sup>, leha ho le jwalo mokopi kapa monga lesedi a ka, ho ya ka karolo 23(1)(b) ya **POPIA**, kopa mokga o ikarabellang rekoto kapa tlhaloso ya lesedi la bo mong la monga lesedi le tshwerweng ke mokga o ikarabellang. Sena se bolela hore motho leha e le ofe jwale a ka kopa phumantsho ya lesedi la bo mong le tshwerweng ke lekala la mmuso kapa la poraefete kamora ho hlahisa bopaki bo nepahetseng ba boitsebiso. Lesedi la bo mong leo mokopi a ka le kopang ho mokgatlo o ikarabellang le ka kenyeletsa lesedi la boitsebiso ba mekga kaofela ya boraro, kapa mekgahlelo ya mekga ya boraro, ba nang, kapa ba bileng, le phumantsho ya lesedi.

12.4 Ho ya ka karolo 50(1) ya **POPIA**, motho leha e le ofe a ka kopa phumantso ya rekoto, ya lekala la poraefete, e nang le lesedi la bo mong la mokopi kapa motho eo ho etswang kopo lebitsong la hae.

### 13. KOPO E KA ETSWA HO MANG?

13.1 Mohlanka wa Lesedi wa lekala la mmuso o lebeletswe ho kgetha Mo/batlatsi ba Mohlanka wa Lesedi, ya lokelang ho netefatsa hore phumantsho ya direkoto tsa lekala la mmuso di fumaneha ha bonolo kamoo ho ka kgonehang. Leha sena e ne e se tlhokeho mabapi le lekala la poraefete tlasa **PAIA**, lekala la poraefete le ka kgetha Motlatsi wa Mohlanka wa Lesedi ya boletsweng ka hodimo mona, ho ya ka karolo 56 ya **POPIA**.

13.2 Kopo ya phumantsho ya lesedi, leha e ka lebiswa ho Mohlanka wa Lesedi, e ka etswa ho Motlatsi wa Mohlanka wa Lesedi. Dintlha tsa Mo/bahlanka ba lesedi di ka fumaneha bukaneng ya **PAIA** ya lekala leo kapa ho Bolaodi.

### 14. HO TLATSA FOROMO

14.1 Foromo 2 – kopo ya phumantsho ya rekoto ya lekala la mmuso kapa la poraefete:

14.1.1 Melawana ya **PAIA** e toba foromo e lokelang ho sebediswa, e lokelang ho romelwa ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala leo.

<sup>15</sup> Karolo 11(2) ya PAIA



- 14.1.2 Melawana ya **PAIA** e toba foromo e lokelang ho sebediswa, e lokelang ho romelwa ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala leo.
- 14.1.3 Bakopi ba sa tsebeng ho bala kapa ho ngola ba ka etsa dikopo ka molomo ho Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala la mmuso, eo ebe o tla ikarabella bakeng sa ho tlatsa foromo 2 lebitsong la mokopi. Foromo ya hajwale e tla batla hore o tlatse dikarolo tse latelang:

Lesedi le batlwang	Tlhaloso
<b>Dintlha tsa lekala la mmuso / la poraefete</b>	Karolo ena e lokela ho ba le imeile le fekse tsa Mohlanka wa Lesedi le/kapa la Motlatsi wa hae.
<b>Dintlha tsa motho ya kopang phumantsho ya direkoto</b>	Sena se lokela ho ba le lesedi le lekaneng la mokopi ho etsa hore ho be bobebe ho hlwaya mokopi, ho kenyeletswa dintlha tsa boiteanyo tsa mokopi: aterese ya poso, aterese ya imeile, nomoro ya fekse le/kapa ya mohala ka hara Afrika Borwa. E boetse e batla nomoro ya hao ya boitsebiso ho netefatsa boitsebiso ba hao. Haeba o kopa lesedi lebitsong la motho e mong, o lokela ho fana ka boemo boo o etsang kopo ka bona (jwaloka 'motho ya dumelletsweng').
<b>Dintlha tse rekoto e koptjwang</b>	Fana ka dintlha ka botlalo tsa rekoto eo o batlang ho e fumantshwa, ho kenyeletswa nomoro ya tshupiso haeba o e tseba, ho etsa hore rekoto e fumanehe. (Haeba karolo ya foromo e sa lekane, ka kopo tswella leqepheng le ka thoko mme o le kenyeletse foromong. Maqephe ohle a tlatsetso a lokela ho saenwa.
<b>Mofuta wa rekoto</b>	Sena se lokela ho ba le lesedi le lekaneng la rekoto ho etsa hore ho be bobebe ho e fumana. Haeba lesedi le batlwang le sa lekane karolong ya foromo, o ka sebedisa leqephe la tlatsetso le tlantsweng ka motjhini kapa le ngotsweng ho fana ka dintlha tse ding tsa kopo, ha feela leqephe ka leng la tlatsetso le saennwe le ho a kenyeletsa le foromo ya kopo. O ka nna, ka

## Lesedi le batlwang

## Tlhaloso

mohlala, kenyeletsa qotso e tswang tlalehong kapa ditabeng tsa dikoranta tse buang ka rekoto eo o e batlang. E o dumella ho kenyeletsa nomoro ya tshupiso ya rekoto, haeba e le teng.

## Ditefello

Lekala, leo mokopi a ikemiseditseng ho etsa kopo ya phumantsho ya rekoto ho lona, ho kenyeletswa rekoto e nang le lesedi la bo mong ka yena, le ka o kopa ho lefa tefo ya kopo (tefo ya phumantsho) ka tjhelete ya dipositi, empa tjhelete eo ha e ya lokela ho ba ngata ho feta tekano, kaha ditefo di lokela ho ba tsa nako e utlwahalang e batlehang bakeng sa ho batlana le ho hlophisa rekoto. Letona ka tsebiso Koranteng ya Mmuso le ka thibela tefo ya ditjhelete jwaloka ha ho tekilwe ho serapa 51.1 ka tlase mona.

Ho na le karolo e fanweng bakeng sa mokopi ho bontsha hore hobaneng a dumela hore o lokela ho kotelwa tabeng ya ditefo leha e le dife. Lebaka e ka nna ya ba la hore, ka mohlala, ha a sebetse.

## Foromo ya phumantsho ya rekoto

Karolo ena e o dumella ho tshwaya ka "X" dintho tseo o di batlang bakeng sa foromo ya ho fumantshwa rekoto e ka nna ya fanwa ka khopi e hatisitsweng ya rekoto le/kapa flash drive le/kapa diski.

## Mokgwa wa phumantsho

Tlisa karolo ena o lebeletswe ho teka seo o se batlang mabapi le puo eo o batlang hore rekoto e be ka yona (sena se ka nna sa se kgonahale mabapi le direkoto kaofela, empa o lokela ho bua hore o e batla ka puo efe). Mokgwa wa phumantsho ya rekoto o ka nyehela tabeng ya kganyetso ya phumantsho ka lebaka la ditefo tse hodimo. Ka mohlala, haeba mokopi a batla tokomane ka

puo eo a e ratang, ditefo bakeng sa ho fetolela ditokomane puong eo o e ratang di ka batleha. Leha ho le jwalo, haeba rekoto e le siyo ka puo eo o e ratang, phumantsho e ka fanwa ka puo eo rekoto e leng teng ka yona. Mokgwa wa ho fumantshwa rekoto o ka kenyeletsa tlhahlobo ya rekoto ka bowena, kapa e romelwe ka imeile, kapa fekse kapa khorria kapa poso.

### **Tsebiswa ya qeto mabapi le kopo ya phumantsho**

Ho na le karolo e fanweng bakeng sa mokopi ho hlalosa mokgwa oo a batlang ho tsebiswa ka qeto ya ho dumela kapa ho hanyetsa kopo. Mokopi a ka hlakisa hore mohlomong o tla batla ho tsebiswa ka imeile kapa mohala kapa karabo e ka romelwa ka poso kapa khorria.

### **Dintlha tsa tokelo e lokelang ho sebediswa kapa ho sireletswa**

Ha a kopa lesedi lekaleng la poraefete mokopi o lebeleletse ho hlalosa "dintlha tsa tokelo e lokelang ho sebediswa kapa ho sireletswa". Mona o lokela ho bolela tokelo eo a e tshepsetseng (e kang tokelo ya hae ya tikoloho e itekanetseng) le kamoo rekoto eo a e kopang e tla thusa ho sebedisa kapa ho sireletsa tokelo eo. O lokela ho bontsha kamano pakeng tsa rekoto eo a e batlang, le tshebediso kapa tshireletso ya tokelo.

Ka bomadimabe, ho fapana le kopo ya phumantsho ya rekoto ya lekala la mmuso, a keke a fihella rekoto ya lekala la poraefete ntle le ha a ka hlakisa to/ditokelo tseo a ikemiseditseng ho di sireletsa kapa ho di sebedisa haeba phumantsho ya lesedi e ka dumellwa. Sena se ka kenyeletsa taba ya hore kamora ho fumantshwa direkoto, ebe ke moo a tla sebedisa tokelo ya hae ya tshireletso e lekalekanang le molemo wa molao<sup>16</sup> ka ho qosa lekala leo bakeng sa ditshenyehelo tseo e ka bang di mo amme.

<sup>16</sup> Karolo 9(1) .ya molaotheo wa Riphabliki ya Afrika Borwa, Molao bo-108 wa 1996

14.1.4 Haeba ka mabaka leha e le afe kopo ya hae ha e imatahanye le ditlhokeho tse tekilweng ka hodimo mona, Mohlanka wa Lesedi a ka nna a se hanyetse feela kopo ya hae, ntle le ha a tsebisitse mokopi hore o ikemiseditse ho hanyetsa kopo le ho fana ka mabaka. Mohlanka wa Lesedi o boetse o lokela ho tsebisa hore o tla thusa mokopi kapa a mo nehe monyetla wa ho lokisa phoso eo.

## 15. DITEFELLO TSE KENYELETSWANG

15.1 Ka kakaretso, ditefello di lokela ho etswa bakeng sa ka bobedi ho etsa kopo, empa hape le ho lefella ditjeo tsa ho fana ka phumantsho ya direkoto ho ya ka kopo. Ho na le, leha ho le jwalo, mekgelo e itseng. Haeba mokopi a fuwa phumantsho ya direkoto tseo a di kopileng ha a ya kotelwa tabeng ya ho lefa ditefo leha e le dife, jwaloka ha ho tekilwe serapeng 15.2 ka tlase mona, Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala la mmuso kapa la poraefete a ka lefisa ditjhelete tse laetsweng tse latelang -

**TEMOSO: Sebopeho sa ditefello tse lefuwang ho Makala a Mmuso kapa a Poraefete di a fumanaha websaeteng ya Bolaodi.**

### Thepa Tlhaloso

1	Tjhelete ya tefello e lefuwang ke mokopi e mong le e mong
2	Fotokhopi ya leqephe la A4
3	Khopi e hatisitsweng ya leqephe la A4
4	Bakeng sa khopi e balehang ka khompyuta ka: <ul style="list-style-type: none"> <li>(i) Flash drive (e tla fanwa ke mokopi)</li> <li>(ii) Diski           <ul style="list-style-type: none"> <li>• Haeba e fanwa ke mokopi</li> <li>• Haeba e fuwa mokopi</li> </ul> </li> </ul>
5	Bakeng sa rekoto e kopisitsweng ya ditshwantsho leqephe ka leng la A4
6	Khopi ya Ditshwantsho
7	Phetolo ya lentswe ya rekoto e mamelwang, leqephe ka leng la A4
8	Khopi ya rekoto e mamelwang ho: <ul style="list-style-type: none"> <li>(i) Flash drive (e tla fanwa ke mokopi)</li> <li>(ii) Diski           <ul style="list-style-type: none"> <li>• Haeba e fanwa ke mokopi</li> <li>• Haeba e fuwa mokopi</li> </ul> </li> </ul>
9	Ho batlana le rekoto le ho e hlophisa bakeng sa pepeso hora ka nngwe kapa karolo ya hora, ho sa kenyeletswe hora ya pele, e batlehang bakeng sa ho batla hoo le ho e hlophisa. Ha ho a lokela ho feta ditjeo tsa
10	Diposititi: Haeba ho batla ho feta dihora tse 6
11	Tefello ya poso, imeile kapa mokgwa leha e le ofe wa tsamaiso ya elektroniki

15.2 Mokopi ha a ya lokela ho lefa tjehelete ya phumantsho<sup>17</sup> lekaleng la mmuso haeba:-

15.2.1 Ke motho ya sa nyalang eo lekeno la hae la selemo, kamora ho hulwa ha ditjhelete tsa semmuso, tse kang **PAYE** le **UIF**, le leng ka tlase ho **R14 712.00** ka selemo, kapa

15.2.2 O nyetse mme lekeno le kopanetsweng le molekane, kamora ho hulwa ha ditjhelete tsa semmuso, tse kang **PAYE** le **UIF**, le leng ka tlase ho **R27 192.00** ka selemo.

15.3 O koptjwa ho hlokomela hore lekala la mmuso kapa la poraefete le ka kopa, ho Foromo 4 ya Melawana, dipositi ho mokopi, empa feela haeba ba kgolwa hore lesedi kapa direkoto tse kopuweng di tla nka ho feta dihora tse tsheletseng (6) ho di batla, empa dipositi e keke ya ba ka hodimo ho feta nngwe tharong ya tjehelete e laetsweng.

## 16. NA MOHLANKA WA LESEDI O TLA THUSA MOKOPI HO ETSA KOPO YA PAIA?

16.1 Mosebetsi wa Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba ka bobedi makala a mmuso le a poraefete ke ho, ho ya kamoo o amanang le ho tswellisa dikopo tsa phumantsho ya direkoto:

16.1.1 amohela dikopo tsa **PAIA** kapa tsa **POPIA**;

16.1.2 hokahanya tswelliso ya kopo ka hara lekala;

16.1.3 etsa qeto ya haeba ho ka dumellwa kapa ho hanyetswa ha direkoto tse koptjwang;

16.1.4 hokahana le mokopi (mohl. ba ka lokela ho kopa mokopi dintlha tse batsi kapa ba ka hloka ho kopa katoloso ya nako ya ho sebetsana le kopo, jj.);

16.1.5 Eletsa mokopi ka sephetho sa kopo ya hae ya **PAIA**, e leng keletso e lokelang ho fanwa kapele kamoo ho ka kgonehang empa e be nakong ya matsatsi a 30 kamora ho fumana kopo. Nako ya maqalong ya matsatsi a 30 e ka eketswa bakeng sa nako e nngwe hang bakeng sa matsatsi a sa feteng a 30, haeba ka mohlala, mokopi a dumetse tabeng ya katoloso eo kapa ho lokelwa ho batlana le rekoto e kekeng ya fumanwa ka nako e behilweng ya sethathong;

16.1.6 fana ka mabaka ho mokopi bakeng sa kganyetso ya phumantsho ya rekoto. Ho bohlokwa haholo hore mabaka a kganyetso e ba a hlakileng le a tebileng mme a lokela ho kenyeletsa tshupiso ho dikarolo tse itseng tsa **PAIA** (sheba serapa 19.4 ka tlase mona, mabapi le mabaka a kganyetso ya ho fumantsywa direkoto<sup>18</sup>);

<sup>17</sup> Ho ya ka Tsebiso ya Mmuso R991 ya 14 Mphalane 2005

<sup>18</sup> Karolo 33 ho 46 ya PAIA

- 16.1.7 tsebisa mekga ya boraro e amehang ka motjha wa tsebiso wa mokga wa boraro, ho ya ka karolo 47 ya **PAIA**; mme
- 16.1.8 haeba phumantsho ya direkoto e dumellwa, neha mokopi khopi ya rekoto
- 16.2 Ha o tsebisa mokopi ka qeto eo, o lokela hape ho mo tekela mekgwa ya ho tletleba e teng le dinako tse amehang (mekgwa e teng e fapane bakeng sa makala a mmuso le a poraefete).
- 16.3 Mesebetsi ya tlatsetso le maikarabelo a Bahlanka ba Lesedi le/kapa Batlatsi ba bona e tekilweng ka botlalo ho Lengolo la Tataiso la Bahlanka ba Lesedi le Batlatsi ba bona e leng Tataiso e ka fumanehang ka ho etela <https://www.justice.gov.za/infoereg/docs.html>
- 16.4 Hobane mosebetsi wa Bahlanka ba Lesedi le/kapa Batlatsi ba bona ke ho thusa ka phumantsho ya lesedi, sena hape se bolela hore ba na le mesebetsi e fapafapaneng ho ba etsang kopo.
- 16.5 Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba lokela ho fana ka thuso mahala.
- 16.6 Bahlanka ba Lesedi le/kapa Batlatsi ba bona ba lekala la mmuso ba na le mesebetsi e ikgethileng e latelang:

### Mesebetsi ya Bahlanka ba Lesedi Tlhaloso

#### Ho thusa ka ho tlatsa foromo

Mohlanka wa Lesedi o lokela ho fana ka thuso e utlwahalang ho mokopi ho tlatsa foromo ya hae ya **PAIA**, mme a keke a amohela foromo e sa tlatswang ka nepo ntle le haeba a fane ka thuso eo, kapa thuso eo a neng a fana ka yona e hanyeditswe.

#### Ho fana ka lesedi le amehang

Haeba ho kgoneha, Mohlanka wa Lesedi o lokela ho neha mokopi lesedi le hae e le lefe le leng le ka bang le a ameha, le haeba e se le kopilweng ka ho toba.

#### Ho fetisa kopo

Ona ke mosebetsi wa bohlokwa haholo. Haeba kopo ya **PAIA** e entswe lekaleng la mmuso le fosahetseng, Mohlanka wa Lesedi o lokela ho fetisetsa kopo lekaleng la mmuso le nepahetseng nakong ya matsatsi a 14

ya ho amohela kopo le ho tsebisa mokopi ka lengolo bakeng sa ho etsa seo. Hang ha e se e fetisitswe, Mohlanka wa Lesedi ya nepahetseng o lokela ebe o arabela ka qeto nakong ya matsatsi a 30.

**Kemiso ya tokollo**

Mohlanka wa Lesedi a ka etsa qeto ya ho emisa ka tokollo ya rekoto ho mokopi haeba rekoto eo e tla phatlalatswa nakong ya matsatsi a 90 kapa haeba rekoto e batleha ka molao hore e phatlalatswe empa e le hona e tla phatlalatswa.

- 16.7 Mabapi le ka bobedi makala a mmuso le a poraefete, Mohlanka wa Lesedi o lokela ho, haeba ba sa kgone ho fumana direkoto tseo tse kopuweng kapa ba dumela hore ha di fumanehe, ho fana ka afidavite e tebileng kapa tiisetso<sup>19</sup> ho mokopi a fana ka tsebiso ya hore direkoto tse batlehang ha di yo kapa ha di tholahale, empa hape a teke mehato eo ba e nkileng ho batlana le tsona.

**17. THUSO E FUMANEHANG HO BOLAODI BA LESEDI HO YA KA PAIA LE POPIA**

- 17.1 Mohlanka wa Lesedi wa lekala la mmuso o tshwanela ho fana ka thuso<sup>20</sup> e jwalo, mahala, kamoo ho hlokehang ho thusa mokopi eo kapa monga lesedi ho imatahanya le mokgwa wa phumantsho jwaloka ha ho lohothuwe ho karolo 18 ya **PAIA** le karolo 23 ya **POPIA**.
- 17.2 Leha ho le jwalo, ha Mohlanka wa Lesedi a hloleha ho imatahanya le mosebetsi wa hae, o boletsweng serapeng 17.1 ka hodimo mona, mokopi kapa monga lesedi a ka kenya tletlebo ho Bolaodi mme Bolaodi bo ka, kamora dipatlisiso, ntsha Tsebiso ya Qobello e laelang Mohlanka wa Lesedi ho fana ka thuso e amohelehang.
- 17.3 Bolaodi bo ka, haeba ho kgoneha, ha bo koptjwa, thusa motho leha e le ofe ya lakatsang ho sebedisa tokelo leha e le efe e lohothuwanang ho **PAIA** le **POPIA**<sup>21</sup>, mme sena se kenyeletsa ho fana ka thuso e utlwahalang, mahala, kamoo ho hlokehang ho thusa mokopi eo kapa monga lesedi ho imatahanya le mokgwa wa phumantsho jwaloka ha ho lohothuwe ho dikarolo 18 le 53 tsa **PAIA** le karolo 23 ya **POPIA**.
- 17.4 Se ka hodimo mona se kenyeletsa phano ya tataiso ya mokgwa wa ho tlatsa foromo ya kopo ya phumantsho kapa ho tlatsa foromo lebitsong la motho ya sa tsebeng ho ngola kapa ya fougatseng.

<sup>19</sup> Karolo 23(1) le 51(1) ya PAIA

<sup>20</sup> Karolo 19(1) ya PAIA

<sup>21</sup> Karolo 83(3)(c) ya PAIA



## 18. NA MOHLANKA WA LESEDI A KA EKETSA DINAKO TSE AMEHANG?

- 18.1 Moralo wa motjha le dinako tsa bohlokwa tse amehang di teng ka hara setshwantsho sa motjha wa kopo ya **PAIA**, serapeng 27 ka tlase mona. Ho ba le dinako tse tobileng ke karolo ya bohlokwa ya **PAIA**, kaha e qobella botsamaisi bo hlwahlwa ba dikopo tsa phumantsho ya direkoto.
- 18.2 Ho o hopotsa, hang ha o entse kopo ka nepo Mohlanka wa Lesedi kapa Motlatsi wa hae, eo kopo e entsweng kapa e fetiseditsweng ho yena, o lokela ho arabela kapele kamoo ho kgonehang mabakeng ohle **nakong ya matsatsi<sup>22</sup> a 30**. Leha ho le jwalo, Mohlanka wa Lesedi wa lekala la mmuso kapa la poraefete a ka kopa katoloso e le nngwe **ya matsatsi a 30<sup>23</sup>**, empa feela haeba:
- 18.2.1 kopo ke ya direkoto tsa palo e kgolo kapa ho batleha hore ho tsomanwe le palo e kgolo ya direkoto mme, ntle le katoloso, ho batla hona ho tla sitisa mesebetsi e tlwaelehileng ya lekala le amehang;
- 18.2.2 Kopo e batla ho batlanwe le direkoto ofising ya lekala leo le seng motseng kapa toropong e le nngwe mme kahoo ho tsoma ho sa kgone ho phethelwa nakong **ya matsatsi a 30**; le/kapa
- 18.2.3 e batla boemo ba ditherisano bakeng sa ho sebetsana le kopo, e kekeng ya phethelwa nakong ya matsatsi a 30 feela.
- 18.3 Mohlanka wa Lesedi o lokela ho tsebisa mokopi ka maikemisetso a hae a ho eketsa nako, le ho bolela hore katoloso e tla ba ya nako e kae, lebaka la katoloso, le ho tsebisa mokopi ka tokelo ya hae ya ho -
- 18.3.1 ipiletsa bolaoding bo amehang;
- 18.3.2 tletleba ho Bolaodi; kapa
- 18.2.3 ritela nyewe kgahlanong le katoloso ho ya kamoo maemo a leng kateng.
- 18.4 Mohlanka wa Lesedi hape o lokela ho tsebisa mokopi ka motjha wa ditokelo ka ding tse boletsweng ka hodimo tsebisong<sup>24</sup>.

## 19. DIKARABELO TSA KOPO YA LESEDI

- 19.1 **PAIA** e file setjhaba tokelo ya ho kopa ho fumantshwa direkoto ho lekala leha e le lefe la mmuso kapa la poraefete. Hangata e hlaloswa e le molao o etsang hore baahi ba dule ba tseba ka mmuso wa bona. Makala a mmuso a lebeletswa ho pepesa lesedi leha e le lefe le koptjwang tlasa **PAIA** ntle le haeba le wela

<sup>22</sup> Karolo 25(1) ya PAIA

<sup>23</sup> Karolo 26(1) ya PAIA

<sup>24</sup> Karolo 26(3) ya PAIA - tsebiso ya katoloso e lokela ho supa hore mokopi a ka etsa boipiletso ba ka hare, tletlebo ho Bolaodi ba Lesedi kapa kopo Kgotla, ho ya kamoo maemo a leng kateng, kgahlanong le katoloso, le tsamaiso (ho kenyeletswa le nako) ya ho etsa boipiletso ba ka hare, tletlebo ho Bolaodi ba Lesedi kapa kopo, ho ya kamoo maemo a leng kateng.

tlasa e nngwe ya **dikotelo tse leshome le metso e mmedi (12)** kapa mabaka a hore hobaneng phumantsho ya direkoto tsa lekala la mmuso e sa dumellwe<sup>25</sup> le dikotelo tse supa (7) kapa mabaka a hore hobaneng phumantsho ya direkoto tsa lekala la poraefete e kekeng ya dumellwa<sup>26</sup>. Dikotelo tse leshome le metso e robong (19) tse fanweng bakeng sa **PAIA** di reretswe ho sireletsa ditabatabelo tse kang sephiri sa bo mong, polokeho ya naha, le qobello ya molao.

19.2 Pehelo e tataisang tsamaiso ya **PAIA** ke mohopolo wa ponaletso. Sena se bolela hore lebaka leha e le lefe le kginang ponaletso ena le lokela ho utlwahala. Makala a mmuso le ona a lokela ho sheba haeba pepeso e sa fellang ya lesedi e ya kgoneha neng le neng ha ba tiisa hore ho pepeswa ho phethahetseng ha ho kgonehe mme ba lokela ho ngotla kapa ho thibela lesedi le kekeng la pepeswa le ho pepesa le leng kaofela.

19.3 Mefuta ya dikarabelo tsa dikopo

19.3.1 Ha kopo ya phumantsho ya rekoto e entswe, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela, haeba phumantsho ya rekoto e dumelwa kapa e hanyetswa, ho tsebisa mokopi ka -

- (a) qeto ya hae; le
- (b) ditefo tse batlehang, haeba di le teng,

foromong e tsamaelanang haholo le **Foromo 3** ya Tlatsetso A ya Melawana:

19.3.2 Leha ho le jwalo, **PAIA** e fana ka lenane la mabaka kapa dikotelo (sheba dirapa 19.4 le 19.6 ka tlase mona) tsa hore hobaneng kopo e ka hanyetswa kapa tjhe. Sena se bohlokwa, kaha kopo e ka hanyetswa feela ho itshetlehlilwe hodima mabaka ana a boletsweng a kganyetso ya phumantsho ya direkoto.

19.3.3 Ho sa natswe mabaka a boletsweng ka hodimo mona a kganyetso ya phumantso ya direkoto, Mohlanka wa Lesedi wa lekala la mmuso o lokela ho dumela ka kopo ya phumantsho ya rekoto ya lekala haeba tabatabelo ya setjhaba ya pepeso ya rekoto e le pepeneneng hore e molemo ho feta kotsi e lohothwang mabakeng a boletsweng a kganyetso<sup>27</sup>. Sena se bolela hore mokopi a ka tshepela ho tabatabelo ya setjhaba neng le neng ha le leng la mabaka a kganyetso ya phumantsho ya direkoto a sebediswa.

19.3.4 Ka bokgutshwane, mabaka a hore hobaneng lesedi le keke la pepeswa a amana le haeba lesedi leo le ka baka kotsi ho feta leha le ne le sa pepeswa. Ho na le mefuta e mmedi ya mabaka a boletsweng a kganyetso ya phumantsho ya direkoto tsa lekala:

<sup>25</sup> Kgaolo 4 ya PAIA - mabaka a kganyetso ya phumantsho ya direkoto (karolo 34-45 ya PAIA)

<sup>26</sup> Kgaolo 4 ya PAIA - mabaka kganyetso ya phumantsho ya direkoto (karolo 63-69 ya PAIA)

<sup>27</sup> karolo 46 ya PAIA

## 19.4 Mabaka a tlamang a kganyetso (mabaka a kotelo)

19.4.1 Mabapi le mabaka a tlamang, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho hanyetsa kopo hobane a ama rekoto eo.

19.4.2 Ho na le mabaka a mangata a tlamang ho feta a boikgethelo. A latelang ke mabaka a tlamang a kganyetso, mme Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho hanyetsa kopo hobane a ama rekoto -

### 19.4.2.1 **Tshireletso e tlamang ya sephiri ya mokga wa boraro oo e leng motho ya tlwaelehileng;**

Mohlanka wa Lesedi wa lekala la mmuso kapa la poraefete ha a ya lokela ho dumella mokopi phumantsho ya lesedi la bo mong la motho e mong haeba seo se bolela 'pepeso e hlokanang boikarabelo'. Dikarolo ka bo tsona di bontsha mabaka a mmalwa a ha sena se sa sebetse, mohlomong haeba direkoto di se di tsejwa ke setjhaba, ka moo motho a fanneng ka tumello. Taba ya tumello e bohlokwa ka ho qolleha kaha e amana le karolo e nngwe ya motjha oo mokopi a lokelang ho o lemoha, o amanang le ditsebiso tsa mokga wa boraro, ho ya ka kgaolo 5 ya **PAIA**.

### 19.4.2.2 **Tshireletso e tlamang ya direkoto tse itseng tsa Tshebeletso ya Lekgetho ya Afrika Borwa;**

Mohlanka wa Lesedi wa **SARS** ha a lokela ho dumella mokopi ho fumantshwa direkoto tse fumanweng, kapa tse tshwerweng, ke **SARS** bakeng sa merero ya pokeletso ya lekeno. Leha ho le jwalo, direkoto tse fumanweng kapa tse tshwerweng ke **SARS** di ka nna tsa se hanyetswe haeba kopo e etswa ke mokopi ya amehang ka boyena kapa motho eo ho etswang kopo lebitsong la hae.

### 19.4.2.3 **Tshireletso e tlamang ya lesedi la kgwebo la mokga wa boraro;**

Mohlanka wa Lesedi wa lekala ha a lokela ho dumella mokopi ho fumantshwa lesedi la kgwebo la motho e mong (ka mantswa a mang, eo e seng mokopi kapa mokopuwa). Sena se tla kenyeletsa lesedi le kang makunutu a kgwebo, kapa a ka tshosetsang ditabatabelo tsa kgwebo tsa motho eo wa boraro. Ka mohlala, KFC e sebedisa diresepe tse itseng, ho kenyeletswa le metswako e itseng e entsweng ke mokga wa boraro, e leng makunutu a kgwebo a mokga oo wa boraro mme ho pepeswa ha ona ho ka tshosetsa ditabatabelo tsa kgwebo tsa mokga oo wa boraro.

19.4.2.4 **Tshireletso e tlamang ya lesedi le itseng la sephiri, le tshireletso ya lesedi le leng le itseng la sephiri, la mokga wa boraro;**

Bahlanka ba Lesedi ba ka bobedi lekala la mmuso le la poraefete ha ba a lokela ho dumella mokopi phumantsho ya rekoto haeba ho lokollwa ha yona ho tla thunthetsa mosebetsi wa sephiri o tshwanelang mokga wa boraro ho ya ka tumellano kapa konteraka.

19.4.2.5 **Tshireletso e tlamang ya poloheho ya batho ka bo mong, le tshireletso ya thepa;**

Mohlanka wa Lesedi wa ka bobedi lekala la mmuso kapa la poraefete ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba ho lokollwa ha yona ho ka baka ho beha poloheho ya motho kotsing. Dikarolong tsona tseo, e bolela hape hore Mohlanka wa Lesedi wa lekala a ka hanyetsa phumantsho haeba e tla sitisa tshireletso ya moaho kapa thepa.

19.4.2.6 **Tshireletso e tlamang ya didokete tsa sepolesa ditsamaisong tsa beile, le tshireletso ya ditsamaiso tsa qobello ya molao le tsa semolao;**

Mohlanka wa Lesedi wa lekala la mmuso ha a lokela ho dumella mokopi ho fumantshwa direkoto tse kang tsa ditsamaiso tsa beile tse seng di sireleditswe ke karolo 60 ya Molao wa Tsamaiso ya Ditlolo tsa Molao. Karolong yona eo, e boetse e bolela hore Mohlanka wa Lesedi wa lekala la mmuso a ka hanyetsa phumantsho ya direkoto tsa qobello ya molao tse utullang mekgwa ya ona ya tshebetso, ditekginiki, ditsamaiso tsa thibelo ya botlokotsebe, kapa botjhutjhi ba botlokotsebe, hammoho le direkoto tse ding tse itseng tse amanang le ditsamaiso tsa semolao tse etsahalang.

19.4.2.7 **Tshireletso e tlamang ya direkoto tse nang le monyetla wa ho se hlahiswe ditsamaisong tsa semolao;**

Mohlanka wa Lesedi wa lekala la poraefete ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba rekoto e na le monyetla wa ho se hlahiswe ditsamaisong tsa semolao, ntle le ha motho ya nang le tshwanelo ya monyetla a nyahladitse monyetla oo.

19.4.2.8 **Tshireletso e tlamang ya lesedi la diphuputso la mokga wa boraro, le tshireletso ya lesedi la diphuputso la lekala la mmuso kapa la poraefete.**

Mohlanka wa Lesedi wa lekala ha a lokela ho dumella mokopi ho fumantshwa rekoto haeba e amana le diphuputso tse, kapa tse tla, etswa ke lekala le amehang mme ho lokollwa ha tsona ho ka nna ha pepesa mofuputsi, mokga wa boraro kapa taba e tlasa diphuputso boemong bo bobele.

19.4.3 O koptjwa ho lemoha hore mabaka a ka hodimo mona a tlamang bakeng sa kganyetso ya phumantsho ya direkoto a batla a tshwana le a makala a mmuso kapa a poraefete, ntle le bakeng sa tshireletso e tlamang ya direkoto tse itseng tsa Tshebeletso ya Lekgetho ya Afrika Borwa, didokete tsa sepolesa ditsamaisong tsa beile, tsa qobello ya molao le tsa ditsamaiso tsa semolao, tse sebetsang feela makaleng a mmuso.

19.4.4 Haeba ke karolo feela ya rekoto e amanang le lebaka la ho kotelwa, Mohlanka wa Lesedi kapa Motlatsi wa hae wa ka bobedi lekala la mmuso kapa la poraefete o ka tlasa tshwanelo ya ho sekaseka haeba pepeso e sa fellang ya lesedi e ya kgoneha neng le neng ha ba tiisa hore pepeso ka botlalo ha e kgonehe mme ba lokela ho nka mehato e utlwahalang ya ho ngotla kapa ho thibela karolo eo e kekeng ya lokollelwa mokopi le ho dumella phumantsho ya rekoto e nngwe kaofela.

## 19.5 Se nkuwang e le kganyetso ya kopo<sup>28</sup>

19.5.1 Ho hloleha ho arabela kopo ka nepo nakong ya nako e nepahetseng ho tla 'nkuwa e le kganyetso'. Sena se bohlokwa, hobane **PAIA** e dumella mokopi ho phephetsa qeto ha ho se na qeto e entsweng mme le kopo e iphapantswe. Mokopi o tla teka feela boipiletso ba ka hare ba hore ha ho karabo eo a ileng a e fumana.

19.5.2 Kopo ya phumantsho ya direkoto e nkuwa e le kganyetso kamora ho feta ha matsatsi a 30 kapa nako leha e le efe e atolositsweng mme lekala la poraefete le hloleha ho arabela.

## 19.6 Mabaka a boikgethelo a kganyetso

19.6.1 Mabapi le mabaka a boikgethelo, Mohlanka wa Lesedi kapa Motlatsi wa hae a ka sheba haeba a ka hanyetsa kopo kapa tjhe hobane ho na le mabaka a amang rekoto e koptjwang. Hobane ke boikgethelo, Mohlanka wa Lesedi o lokela ho sebedisa monahano wa hae ka boikarabelo ha a sekaseka mabaka a fapaneng, e leng:

19.6.1.1 **Tshireletso ya Afrika Borwa, polokeho le dikamano tsa matjhaba:** Mohlanka wa Lesedi a ka hanyetsa phumantsho haeba ho lokollwa ha lesedi ho ka lebellwa hore ho tshosetse tshireletso le polokeho ya naha. Sena se ka boela sa sebetsa moo ho lokollwa ha lesedi ho ka lematsang dikamano tsa Afrika Borwa le naha e nngwe, jwaloka ho utulla direkoto tse fannweng ka lekunutu.

19.6.1.2 **Ditabatabelo tsa Moruo, ditjhelete le kgwebo:** Mohlanka wa Lesedi a ka hanyetsa ho lokollwa ha lona haeba ho lokollwa ha lona ho tla ba kotsi boemong ba moruo le ditjhelete tsa Riphabliki;

<sup>28</sup> Karolo 27 le 58 ya PAIA

19.6.1.3 **Ditshebetso tsa makala a mmuso:** Mohlanka wa Lesedi wa lekala la mmuso a ka hanyetsa phumantsho haeba ho lokollwa ha lesedi ho ka sitisa ditshebetso, ka mohlala, haeba e leka ho bopa leano, kapa ho tshohla taba e itseng;

19.6.1.4 **Dikopo tse sa hlokahaleng kapa tse tenang:** Bahlanka ba Lesedi ba ka hanyetsa kopo ya lesedi haeba ba na le mohopolo wa hore ho tswellisa dikopo ho tla senya nako ho sa hlokahale le ho bapala ka mehlodi. Hodima moo, ba ka hanyetsa phumantsho haeba kopo e bonahala eka e entswe ke mokopi ho halefisa kapa ho qala leqhoko ho sa hlokahale.

## 20. PEPESO E TLAMANG YA DIREKOTO MOLEMONG WA SETJHABA

20.1 Leha e ba lebaka la boikgethelo kapa le tlamang la kganyetso le le teng mabapi le kopo ya phumantsho ya direkoto tsa makala a mmuso kapa a poraefete, ho dula ho na le kgonahalo ya hore tabatabelo ya setjhaba mabapi le pepeso ya rekoto e molemo ho feta tshenyo e entsweng ke ho pepeswa ha rekoto.

20.2 Moo bohlokwa ba tabatabelo ya setjhaba bo leng teng jwaloka ha ho boletswe ka hodimo mona le ho pepeswa ha rekoto ho ka utullang bopaki ba tlolo e mpe ya, kapa ho hloleha ha ho imatahanya le molao; kapa kotsi e matla ya polokeho ya setjhaba kapa ya tikoloho e ka bonahalang, ebe ke moo Mohlanka wa Lesedi a lokelang ho dumella phumantsho ya rekoto ho sa natswe boteng ba mabaka a kotelo a boletsweng ka hodimo mona.

## 21. MOTJHA<sup>29</sup> WA TSEBISO YA MOKGA WA BORARO

21.1 Mohlanka wa Lesedi kapa Motlatsi wa hae wa lekala o lebeletswe, ho ya ka dikarolo 47 le 71 tsa **PAIA**, ho nka mehato e utlwahalang ho tsebisa mokga wa boraro ka kopo ya rekoto kapa direkoto tsa hae tse nang le lesedi la bo mong le kang,

21.1.1 rekoto ya **SARS**;

21.1.2 makunutu a kgwebo;

21.1.3 lesedi leo e leng hore ha le ka lokollwa le ka hlahisa mabaka bakeng sa thunthetso ya mosebetsi wa lekunutu; kapa lesedi la diphuputso le ka pepesang motho e mong kapa le fupere taba e ka bakang tshenyo e kgolo.

21.2 Tsebiso ho mokga wa boraro eo direkoto kapa lesedi la hae le amanang le ditaba tsa hae o lokela ho mema mokga wa boraro ho -

<sup>29</sup> Karolo 47 le 71 ya PAIA

- 21.2.1 etsa kopo ka lengolo kapa ka molomo ho Mohlanka wa Lesedi hore hobaneng kopo ya phumantsho e lokela ho hanyetswa; kapa
- 21.2.2 fana ka tumello e ngotsweng bakeng sa pepeso ya rekoto ho mokopi.
- 21.3 Se bohlokwa bakeng sa mokopi, **PAIA** e re ditsebiso tse ngotsweng ho mokga wa boraro di lokela ho romelwa ho mokga wa boraro nakong ya matsatsi a 21 a ho amohelwa ha kopo, le hore Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela ho tsebisa mokopi hore tsebiso e rometswe ho mokga wa boraro.
- 21.4 Hang ha tsebiso eo e se e rometswe, Mohlanka wa Lesedi kapa Motlatsi wa hae o lokela hore ebe o etsa qeto ya ho qetela ya haeba o tla lokolla direkoto kapa tjhe **nakong ya matsatsi a 30** kamora hoba tsebiso e romelwe.
- 21.5 Mokga wa boraro o lokela ho tsebiswa ka qeto e nkuweng le mabaka a utlwahalang bakeng sa ho dumella kopo le ona a lokela ho fanwa. Mokga wa boraro o boetse o lokela ho tsebiswa ka tokelo le motjha wa ho phephetsa qeto jwaloka ha ho boletswe serapeng 22 ka tlase mona.

## **22. DITOKISO TSA SEMOLAO TSE TENG KG AHLANONG LE DIQETO KAPA HO HLOLEHA HO NKA QETO KE MOHLANKA WA LESEDI KAPA MOTLATSI WA HAE**

### **22.1 Mohato o lokelang ho nkuwa hang ha qeto e se e entswe mabapi le kopo**

- 22.1.1 Mokopi a ka nka mohato wa tshalomorao ka lengolo, mabapi le qeto e salletseng morao ya Mohlanka wa Lesedi kapa Motlatsi wa hae. Ho kgothaletswa hore ngollano yohle pakeng tsa mokopi le Mohlanka wa Lesedi kapa Motlatsi wa hae e lokela ho ba ka lengolo bakeng sa merero ya tshupiso ya kamoso.
- 22.1.2 Ho na le metjha e fapaneng bakeng sa makala a mmuso le a poraefete, ka ho qolleha mabapi le maipiletso a ka hare. Ka mohlala, mabapi le kopo ya phumantsho ya rekoto ya lekala la mmuso, mokopi o lokela ho qala ka ho kenya boipiletso ba ka hare pele a leba ho Bolaodi kapa Kgotla. Leha ho le jwalo, ha ho boipiletso ba ka hare kgahlanong le qeto (e ka ba ya ho dumela kapa ho hanyetsa phumantsho ya direkoto) kapa phumantsho e nkuwang e hanyeditswe ya direkoto tsa lekala la poraefete.
- 22.1.3 Karolo ena e tla hlalosa ditokiso tsa semolao tse teng bakeng sa bakopi ba lakatsang ho phephetsa diqeto tse jwalo, tse kenyeletsang maipiletso a ka hare, ho kenya tletlebo ho Bolaodi kapa Kgotla. Sheba hape daekeramo ya motjha wa kopo ya **PAIA**, serapeng 27 ka tlase mona.



22.1.4 Mokopi a ka, hara tse ding, phephetsa qeto e latelang ya lekala la poraefete le/kapa la mmuso -

22.1.4.1 thendara kapa tefo ya tjhelete ya kopo;

22.1.4.2 thendara kapa tefo ya dipositi;

22.1.4.3 tefo ya phumantsho e lokelang ho lefuwa e le hodimo ho feta tekano;

22.1.4.4 ho fanwe ka foromo ya phumantsho;

22.1.4.5 kganyetso ya kopo;

22.1.4.6 motjha (ho kenyeletswa le nako) ya ho kenya boipiletso ba ka hare;

22.1.4.7 nako e sa nepahalang e nkuweng bakeng sa ho arabela kopo ya phumantsho;

22.1.4.8 ho hloleha ho pepesa direkoto;

22.1.4.9 ho dumellwa ho fumantshwa rekoto;

22.1.4.10 kganyetso ya ho dumella kopo bakeng sa ho nyahlatsa ditefo;

## 22.2 Ditokiso tsa ka hare

22.2.1 Mokopi o etsa boipiletso ba ka hare ka mokgwa ofe kgahlanong le qeto ya lekala la mmuso?

22.2.1.1 Boipiletso ba ka hare bo ka etswa feela, ho ya ka karolo 74 ya **PAIA**, le bolaodi bo amehang ba lefapha la naha kapa la mmuso wa provense kapa masepala leha e le ofe ho ya kamoo maemo a leng kateng.<sup>30</sup>

22.2.1.2 Kahoo ka mohlala, Motsemoholo wa Johannesburg ke mohlala wa lefapha la lehae la mmuso leo ho etswang kopo ya boipiletso ba ka hare ho lona. Letlole la Dikotsi tsa Mebileng kapa Bolaodi ke mohlala wa lekala la mmuso leo e seng karolo ya lefapha la mmuso wa naha, provense kapa wa lehae kaha le theilwe ka ketsamolao, mme kahoo ho keke ha etswa boipiletso ba ka hare kgahlanong le lona.

<sup>30</sup> Karolo 74(1) ya PAIA

22.2.1.3 Ha mokopi kapa mokga wa boraro o sa thabela qeto e nkuweng ke Mohlanka wa Lesedi kapa Motlatsi wa hae wa lefapha la mmuso la naha, provense kapa wa lehae, mokopi kapa mokga wa boraro o na le tokelo ya ho kenya boipiletso ba ka hare, ho ya ka karolo 74(1) kapa (2) ya **PAIA**. Motjha wa ho kenya boipiletso o laetswe bukaneng ya **PAIA** ya lekala leo le mokgwa wa ho kenya boipiletso ba ka hara le ona o hlakisitswe ka tlase mona.

22.2.1.4 Haeba karabelo ya lefapha la mmuso la naha, provense kapa la masepala e nkuwa e le kganyetso, ka mantswe a mang, le hlolehile ho arabela kopo nakong ya matsatsi a 30 kapa nako leha e le efe atolositsweng, mokopi a ka kenya boipiletso ba ka hare, ho ya ka ditsamaiso tse tekilweng mona, pele mokopi a ka leba ho Bolaodi kapa Kgotla.

## 22.3 Paballo ya direkoto ho fihlela qeto ya ho qetela mabapi le kopo e phethetswe qetellong

22.3.1 Mohlanka wa Lesedi wa lefapha la mmuso la Naha, Provense kapa la Lehae moo boipiletso bo kentsweng ho lona o lebeletswe, ho ya ka karolo 21 ya **PAIA**, ho nka mehato e loketseng e hlokehang bakeng sa ho baballa rekoto mme a keke a hlakola kapa ho senya rekoto leha e le efe e kopuweng, ho fihlela nakong eo ditsamaiso kaofela tsa boipiletso ba ka hare kapa tletlebo ho Bolaodi kapa kopo ho Kgotla, ho ya kamoo maemo a leng kateng, di phethetswe qetellong.

22.3.2 Sena se bolela hore mohlanka wa lesedi a keke a hlakola kapa ho senya lesedi leha e le lefe le kopuweng, ha ho sa emetswe motjha o laetsweng serapeng 22.3.1.1 ka hodimo mona.

## 22.4 Boipiletso ba ka hare bo lokela ho lebiswa ho mang?

22.4.1 Leha boipiletso bo tla sekasekwa ke bolaodi bo amehang, boipiletso ba ka hare bo lokela ho romelwa kapa ho lebiswa ho Mohlanka wa Lesedi wa Lefapha la Mmuso la Naha, Provense kapa la Lehae, ho ya kamoo maemo a leng kateng, atereseng ya hae, nomorong ya fekse kapa atereseng ya imeile<sup>31</sup>, dintlha tsa boiteanyo di ka fumanaha bukaneng ya **PAIA** kapa leha di ka fumanaha ho Bolaodi.

22.4.2 Mohlanka wa Lesedi wa lefapha la mmuso la naha, provense kapa la lehae, ho ya kamoo maemo a leng kateng, o na le tshwanelo e tobileng, ho ya ka karolo 75(4) ya **PAIA**, ho kenya boipiletso ho bolaodi ba maipiletso,

<sup>31</sup> Karolo 75(1)(b) ya PAIA

hammoho le mabaka a hae bakeng sa qeto eo ho ipiletswang ka yona. Ho kenngwa ha boipiletso bolaoding bo amehang bo lokela ho etswa nakong ya matsatsi a 10 a tshebetso kamora ho amohela boipiletso.

## 22.5 Molaodi ya amehang ke ofe?

22.5.1 Bolaodi bo amehang, boo mona bo bitswang “bolaodi ba boipiletso” ka kakaretso e leng hlooho ya sepolotiki ya lekala le ikarabellang (leha mosebetsi ona o ka fuwa moemedi ba semmuso) mme ka ho toba e bolelang motho ya latelang -

<b>Lekala la Mmuso ("Mmuso")</b>	<b>Bolaodi bo Amehang ("Bolaodi ba Maipiletso")</b>
<b>Ofisi ya Bopresidente</b>	Motho ya thontsweng ka lengolo ke Mopresidente, haeba a le teng, ho seng jwalo Mopresidente ke bolaodi ba maipiletso
<b>Lefapha la Naha</b>	Letona le ikarabellang ho lefapha leo kapa motho ya thontsweng ka lengolo ke Letona leo
<b>Ofisi ya Tonakgolo</b>	Motho ya thontsweng ka lengolo ke Tonakgolo.
<b>Lefapha la Provense</b>	Setho sa Lekgotla la Phethahatso (MEC) se ikarabellang ho Lefapha leo la Provense kapa motho ya thontsweng ka lengolo ke MEC;
<b>Masepala</b>	Meyara, Sepikara kapa motho leha e le ofe ya thontsweng ka lengolo ke Lekgotla la Masepala la masepala oo;

22.5.2 Nyewe e nngwe leha e le efe, moo e seng ofisi ya tonakgolo: setho sa phethahatso se ikarabellang sa lekala leo la mmuso kapa motho ya thontsweng ka lengolo ke setho seo.

22.5.3 Haeba bolaodi ba maipiletso bo tjhaella monwana qeto ya Mohlanka wa Lesedi, ebe ke moo boipiletso ba ka hare bo hanyetswang mme qeto ya sethathong ya Mohlanka wa Lesedi ha e fetohe.

22.5.4 Leha ho le jwalo, haeba bolaodi ba maipiletso bo sa dumellane le qeto ya Mohlanka wa Lesedi, ebe ke moo ho dumellwang boipiletso mme qeto ya sethathong e ya qhalwa.

## 22.6 Ke mang ya ka kenyang boipiletso ba ka hare?

22.6.1 Mokopi leha e le ofe eo kopo ya hae ya **PAIA** ya phumantsho ya direkoto tsa lefapha la mmuso la Naha, Provense kapa la Lehae, ho ya kamoo maemo a leng kateng, e hanyeditsweng, mme a dumela hore le leng la mabaka a boipiletso serapeng sa 22.2.4 ka hodimo mona le a sebetsa kopong ya hae, o na le tokelo ya kenya boipiletso ba ka hare.

22.6.2 Mekga ya boraro le yona e ka kenya maipiletso a ka hare kgahlanong le qeto e entsweng ke Mohlanka wa Lesedi ya ho dumela ka phumantsho ya rekoto e ba amang. Haeba boipiletso ba ka hare bo kenyeletsa mokga wa boraro, bolaodi ba maipiletso bo amohetseng boipiletso ba ka hare bo lokela ho tsebisa mekga eo ya boraro (kaha boikarabelo bo se bo tloha ho Mohlanka wa Lesedi ho leba ho bolaodi ba maipiletso).

## 22.7 Nako e o ho lokelwang ho kenya boipiletso ka yona

22.7.1 Boipiletso ba ka hare bo lokela ho etswa -

22.7.1.1 nakong ya **matsatsi a 60**<sup>32</sup> kamora ho nkuwa ha qeto;

22.7.1.2 nakong ya **matsatsi a 30**<sup>33</sup> kamora hoba ho fanwe ka tsebiso ya qeto eo ho ipiletswang kgahlanong le yona ho mokga wa boraro

22.7.2 Ho kenngwa ha boipiletso ba ka hare kamora nako e boletsweng ka hodimo mona ho keke ha dumellwa , ntle le ho fana ka lebaka le utlwahalang la ho ba morao ho nako ho bolaodi ba maipiletso. Mohlala, jwaloka ho ba sepetlele bakeng sa matsatsi a fetang a 60 le ka amohelwa e le lebaka le utlwahalang la ho ba morao ho nako.

22.7.3 Haeba bolaodi ba maipiletso bo sa amohele ho kenngwa morao ho nako ha boipiletso ba ka hare, bo lokela ho o neha mabaka a ho qhelela boipiletso ka thoko le ho fana ka tataiso ya lesedi leha e le efe la tlatsetso, haeba le le teng, le batlehang bakeng sa ho amohela boipiletso. Bolaodi ba boipiletso bo lokela hape ho o eletsa ka motjha wa ho kenya tletlebo kgahlanong le qeto ya bona ho Bolaodi kapa Kgotla.

<sup>32</sup> Karolo 75(1)(a)(i) ya PAIA

<sup>33</sup> Karolo 75(1)(a)(ii) ya PAIA

22.7.4 Jwaloka ha ho boletswe ka hodimo mona, boipiletso ba hao bo lokela ho kenngwa ke Mohlanka wa Lesedi bolaoding ba maipiletso nakong ya matsatsi a 10 a tshebetso kamora ho amohela boipiletso ba ka hare<sup>34</sup>.

## 22.8 Tsebiso ya boipiletso ka bolaodi ba maipiletso ho mokopi kapa mokga wa boraro

22.8.1 Bolaodi ba maipiletso bo lokela, kapele kamoo ho ka kgonehang feela leha ho le jwang **nakong ya matsatsi a 30** kamora ho amohela boipiletso ba ka hare<sup>35</sup>, ho tsebisa -

22.8.1.1 Mokga wa boraro oo rekoto e ka tlasa boipiletso e leng ya ona, kapa

22.8.1.2 mokopi ka boipiletso ba ka hare kgahlanong le ho dumellwa ha kopo ya phumantsho.

22.8.2 Mokopi kapa mokga wa boraro o fuweng tsebiso, **nakong ya matsatsi a 21** kamora ho fumana tsebiso, o ka etsa ditsebiso tse ngotsweng ho bolaodi ba maipiletso ba hore hobaneng kopo ya phumantsho e lokela ho dumellwa kapa tjhe.

## 22.9 Qeto mabapi le boipiletso ba ka hare le tsebiso ya teng<sup>36</sup>

22.9.1 Bolaodi ba maipiletso bo lokela ho etsa qeto ka boipiletso ba ka hare kapele kamoo ho ka kgonehang feela leha ho le jwang nakong ya matsatsi a 30:

22.9.1.1 kamora hoba boipiletso ba ka hare bo amohelwe ke Mohlanka wa Lesedi wa lekala;

22.9.1.2 kamora ho ba mokga wa boraro o tsebiswe, jwaloka ha ho boletswe serapeng 22.3.6.1 ka hodimo mona.

22.9.2 Qeto ya bolaodi ba maipiletso e lokela ho tsebiswa moipiletsi, mokga wa boraro le mokopi. Qeto ya bolaodi ba maipiletso e lokela ho tsamaya le mabaka a utlwahalang a qeto, ho kenyeletswa le pehelo ya **PAIA** kapa **POPIA** eo ho itshetlehlweng hodima yona.

22.9.3 Haeba bolaodi ba boipiletso bo hloleha ho fana ka tsebiso ya qeto mabapi le boipiletso ba ka hare ho moipiletsi nakong ya matsatsi a 30, boipiletso bo nkuwa bo qhaduwe mme mokopi a ka nna a tswella ho kenya tletlebo ho Bolaodi kapa a lebe Kgotla bakeng sa thuso<sup>37</sup> e nepahetseng.

<sup>34</sup> Karolo 75(4) ya PAIA

<sup>35</sup> Karolo 76(2)(a) ya PAIA

<sup>36</sup> Karolo 77 ya PAIA

<sup>37</sup> Karolo 77(7) ya PAIA

## 22.10 Ho tlatsa boipiletso ba ka hare- Foromo 4

- 22.10.1 Hore motho a ipiletse kgahlanong le qeto leha e le efe ya Lefapha la Mmuso la Naha, Provense kapa la Lehae, mokopi o lokela ho kenya kopo ya boipiletso ba ka hare ka ho tlatsa Foromo 4. Foromo 4 e lokela ho kenngwa ho Mohlanka wa Lesedi wa lefapha la mmuso le amehang, eo ebe o lebeletswe ho bo fetisetsa ho bolaodi ba maipiletso, jwaloka ha ho boletswe ka hodimo mona.
- 22.10.2 Foromo 4 e a fumaneha websaeteng ya Bolaodi, <https://www.justice.gov.za/inforg/>, hammoho le websaeteng ya lefapha la Mmuso le amehang.
- 22.10.3 Mohlanka wa Lesedi kapa Motlatsi wa hae wa lefapha la Mmuso le amehang ha a ka tlatsa kgatelo e kaalo ya ho thusa mokopi ho tlatsa foromo ya boipiletso ba ka hare; leha ho le jwalo, mokopi a ka nna a kopa Mohlanka wa Lesedi ho thusa tabeng ena.
- 22.10.4 Ka tlase mona ke motjha wa mohato-ka-mohato wa ho tlatsa foromo ya boipiletso ba ka hare -

### Lesedi le batlwang

### Tlhaloso

#### Dintlha tsa lekala la mmuso

Karolo ena e lokela ho ba lebitso la lefapha la Mmuso la Naha, Provense kapa la Lehae le amehang, le lebitso le sefane tsa Mohlanka wa Lesedi.

#### Dintlha tsa moipiletsi wa boipiletso ba ka hare

Karolo ena e lokela ho tlatswa ke moipiletsi, e ke ba boemong ba boemedi kapa tjhe. Mabitso ka botlalo le sefane, nomoro ya boitsebiso le boemo, moo boipiletso ba ka hare bo etswang lebitsong la motho e mong, haeba e tsamaelana, bo lokela ho fanwa. Haeba boipiletso bo etswa boemong ba motho ka boyena, boemo boo bo lokela ho rekotwa. Lesedi la tlatsetso le batlehang le kenyeletsa dintlha tsa boiteanyo tsa mokopi:

## Lesedi le batlwang

## Tlhaloso

aterese ya poso, aterese ya imeile, nomoro ya fekse le/kapa ya mohala. Lesedi lena le lokela ho tshwana le le kopong ya sethathong. Haeba motho ya tlatsang foromo e le moemedi wa mokopi, bopaki ba boemo boo boipiletso bo etswang ka bona bo lokela ho tsamaiswa le foromo eo.

**Dintlha tsa motho eo ho etswang kopo lebitsong la hae (haeba e kentswe ke mokga wa boraro)**

Karolo ena feela e lokela ho tlatswa ke motho ya kopang lesedi bakeng sa motho e mong. Haeba motho ya kenyang boipiletso ba ka hare ha se motho ya kopileng lesedi sethathong, dintlha tsa mokopi di lokela ho fanwa mona. Haeba kopo e le boemong ba motho ka boyena karolo ena ha e a lokela ho tlatswa.

**Qeto eo boipiletso ba ka hare bo kentsweng kgahlanong le yona**

Foromo ena e fana ka karolo ya hore mokopi a bontshe ka "x", dintlha tse fanweng tsa mabaka a sebetsang boipiletsong boo.

**Mabaka a boipiletso**

Tlisa karolo ena, mokopi o lebeletswe ho hlalosa ka botlalo hore hobaneng a nahana hore mabaka a boipiletso a ya sebetsa. O lebeletswe ho fana ka le/mabaka a hore hobaneng ha a nahana hore qeto ya Mohlanka wa Lesedi e fosahetse. O loketse hape ho kenyelelsa ditokomane leha e le dife tse tshehetsang boipiletso. Lenane la mabaka a fannweng mabapi le ho tshehetsa boipiletso a ka tekwa ka botlalo leqepheng le ka thoko, haeba karolo e fanweng foromong e sa lekane. Maqephe a tlatsetso a lokela ho saenwa. Ho lokela hore ho be le mabaka a lekaneng le lesedi le



tshehetsang ho kgontsha bolaodi ba boipiletso ho etsa qeto e amohelehang. Ha ho le jwalo motho o lokela hape ho kenyeletsa ho teka tsohle tse etsahetseng tseleng e lebisang ho boipiletso ba ka hare. Leqepheng le ka thoko, motho a ka supa dikarolo tse tobileng tsa **PAIA** jwaloka motheo wa boipiletso.

### Tsebiso ya qeto mabapi le boipiletso

Ho na le sebaka se fanweng bakeng sa tlhaloso ya tsela eo qeto e lokelang ho romelwa ka yona, mohlala ka poso, khoria kapa fekse kapa imeile. O koptjwa ho kgetha tsela eo o e ratang ya ho tsebiswa.

22.10.5 Leha ho se na thibelo kgahlanong le ho batla leqwetha mohatong leha e le ofe wa kopo ya lesedi, metjha e fapafapaneng ya **PAIA** e reretswe ho ba e bobebe e tlosang tlhokeho ya leqwetha le ho tlosa ditjeo tsa semolao.

## 23. TLELEBO HO BOLAODI BA LESEDI

- 23.1 Mokopi kapa mokga wa boraro o ka kenya tlelebo feela ho Bolaodi haeba mokopi kapa mokga wa boraro o lekile tsohle mabapi le boipiletso ba ka hare ntle le katleho ditsamaisong tse kgahlanong le qeto ya Mohlanka wa Lesedi wa lefapha la mmuso la naha, provense kapa mmuso wa lehae. Sena se bolela hore motho a ka kenya tlelebo ya hae feela, kgahlanong le lekala le itseng la mmuso ho Bolaodi haeba motho a sa thabela qeto ya bolaodi ba maipiletso. Bolaodi bo tla qhala tlelebo haeba motjha wa boipiletso lefapheng le amehang la mmuso o sa phethahatswa.
- 23.2 Leha ho le jwalo, mabapi le lekala la mmuso (moo boipiletso ba ka hare bo sa sebetseng) le lekala la poraefete, mokopi kapa mokga wa boraro o ka kenya tlelebo ho Bolaodi, haeba ba sa kgotsofala ke qeto ya lekala le amehang.
- 23.3 Tlelebo ho Bolaodi ka mokopi kapa mokga wa boraro e lokela ho etswa nakong ya matsatsi a 180 a ho amohela qeto ya lekala.

23.4 Mokopi a ka kenya tletlebo ho Bolaodi, haeba a sa thabela -

23.4.1 sephetho sa boipiletso ba ka hare ho bolaodi ba maipiletso ba lefapha leha e le lefe la mmuso;

23.4.2 qeto ya bolaodi ba maipiletso ba ho hanyetsa ho etswa ha boipiletso ba ka hare morao ho nako;

23.4.3 qeto ya Mohlanka wa Lesedi wa lekala la mmuso leo e seng karolo ya lefapha leha e le lefe la mmuso ya ho -

23.4.3.1 hanyetsa kopo ya phumantsho; kapa

23.4.3.2 atolosa nako ya ho sebetsana le kopo; kapa

23.4.3.3 ho dumella phumantsho ka sebopeho se itseng.

23.4.4 qeto ya hlooho ya lekala la poraefete ya ho -

23.4.4.1 hanyetsa kopo ya phumantsho; kapa

23.4.4.2 ho tseka tefo ya tjhelete ya kopo, kapa dipositi ya tjhelete ya kopo; kapa

23.4.4.3 ho atolosa nako ya ho sebetsana le kopo; kapa

23.4.4.4 ho dumella phumantsho ka sebopeho se itseng.

23.5 Mokga wa boraro o ka kenya tletlebo ho Bolaodi, haeba o sa thabela -

23.5.1 sephetho sa boipiletso ba ka hare ho bolaodi ba maipiletso ba lefapha le amehang la mmuso;

23.5.2 qeto ya Mohlanka wa Lesedi wa lekala la mmuso leo e seng karolo ya lefapha leha e le lefe la mmuso ya ho dumella kopo ya phumantsho; kapa

23.5.3 qeto ya hlooho ya lekala la poraefete ho dumella phumantsho ya rekoto ya lekala leo,

## 23.6 Motho o tletleba jwang ho Bolaodi?

- 23.6.1 Tletlebo ho Bolaodi e lokela ho etswa ka lengolo mme ho tlatswe foromo ya tletlebo, ka ho ikisetsa kapa ka inthanete. Foromo ya tletlebo, Foromo 5, e ka hulwa websaeteng ya Bolaodi, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Sena se bolela hore Bolaodi bo keke ba amohela tletlebo ka mohala; leha ho le jwalo, Bolaodi bo lebeletswe ho fana ka thuso e utlwahalang ho motho leha e le ofe ya batlang ho kenya tletlebo mme sena se kenyeletsa thuso mabapi le ho tlatsa foromo ya tletlebo.
- 23.6.3 Haeba motho a phephetsa qeto ya Mohlanka wa Lesedi wa lekala la poraefete, motho o lokela ho fana ka bopaki bo lekaneng ho bontsha hore rekoto e koptjwang e batleha bakeng sa tshebediso kapa tshireletso ya to/ditokelo leha e le dife. Phumantsho ya direkoto tsa lekala la poraefete e ka dumellwa feela haeba motho a ka bontsha hore o ikemiseditse ho sebedisa kapa ho sireletsa to/ditokelo leha e le dife ka rekoto e koptjwang.

## 23.7 Ho etsahalang kamora ho amohelwa ha tletlebo?

23.7.1 Kamora ho amohela tletlebo, Bolaodi bo lokela -

23.7.1.1 ho batlisisa tletlebo le ho fetisetsa sephetho sa bona ho Komiti ya Qobello bakeng sa ho nka qeto; kapa

23.7.1.2 ho se nke mohato mabapi le tletlebo ka lebaka la hore -

23.7.1.2.1 tletlebo ha e ya kenngwa nakong ya matsatsi a 180 le hore ha ho na mabaka a utlwahalang a ho amohela ho kenngwa morao ho nako ha tletlebo;

23.7.1.2.2 tletlebo ha e hlokahale le ho tena kapa ha e ya etswa ka moya o motle; kapa

23.7.1.2.3 ha ho shejwa maemo kaofela a nyewe, ketso leha e le efe ho ya pele ha e hlokahale kapa ha e a loka. Ka mohlala, lesedi le koptjwang le se le tsebahala setjhabeng.

23.7.1.3 moo ho hlokahalang bo namole kapa bo sebedise maiteko a bona ho fihlella tumellano e jwalo kapa ho thusa mahlakore ho rarolla kgang kapa dikgang tsa bona; le

23.7.1.4 ho eletsa motletlebi le Mohlanka wa Lesedi, eo tletlebo e mo amang, le mohato o lokelang ho nkuwa.

## 23.8 **Puisano ya Bolaodi le motletlebi le Mohlanka wa Lesedi mabapi le tletlebo e kentsweng**

23.8.1 Haeba Bolaodi bo etsa qeto ya ho se nke bohato ho ya pele ka tletlebo, Bolaodi bo tla tsebisa mokopi ka qeto le mabaka a ho se nke bohato ho ya pele ka tletlebo.

23.8.2 Haeba Bolaodi bo etsa qeto ya ho batlisisa tletlebo, mokopi o tla thola lengolo le mo tsebisang hore Bolaodi bo entse qeto ya ho etsa dipatlisiso.

23.8.3 Kamora ho fumana tletlebo, Bolaodi bo tla fetisetsa dintlha tsa tletlebo ho Mohlanka wa Lesedi wa lekala le amehang, le ho mo kopa ho e lebisa ho Bolaodi, ka karabo e ngotsweng ho motletlebi.

## 23.9 **Matla a dipatlisiso a Bolaodi**

23.9.1 Bolaodi bo na le matla, ho ya ka karolo 77G(2) ya **PAIA**, ho -

23.9.1.1 sebedisa maiteko a hlwahlwa ka ho fetisisa a ho etsa tokiso e jwalo;

23.9.1.2 ho bitsa le ho qobella ho hlahella ha batho ka pela Bolaodi;

23.9.1.3 ho ba qobella ho fana ka bopaki bo ngotsweng tlasa kano le ho hlahisa direkoto leha e le dife;

23.9.1.4 ho amohela bopaki leha e le bofe le lesedi le leng, e ka ba tlasa kano, ka afidavite;

23.9.1.5 ho kena le ho phenyekolla meaho leha e le efe moo ho dulang lehlakore le ikarabellang;

23.9.1.6 ho hlophisa puisano ya sephiri le motho leha e le ofe meahong leha e le efe eo ho kenweng ho yona; le

23.9.1.7 ho etsa dipatlisiso leha e le dife meahong eno le dipatlisiso leha e le dife tseo bolaodi bo bonang di hlokeha.

## 23.10 Tekolo ya boimatahanyo le dipehelo tsa PAIA

- 23.10.1 Bolaodi bo ka hlophisa tekolo ya haeba lekala la mmuso kapa la poraefete ka kakaretso le imatahanya le dipehelo tsa **PAIA** ena.
- 23.10.2 Bolaodi bo ka etsa tekolo ya boimatahanyo neng le neng feela lekaleng, ka boikgethelo ba bona, leha ho le jwalo, Bolaodi hape bo ka etsa diteko tsa boimatahanyo ha bo koptjwa ke kapa lebitsong la Mohlanka wa Lesedi wa lekala kapa motho leha e le ofe e mong. Sena se bolela hore mang le mang a ka kopa Bolaodi ho etsa tekolo ya boimatahanyo lekaleng. Motho hape a ka nna a kenya kopo ya pinyane ya ho etsa tekolo ya boimatahanyo, ka ho bontsha hore o batla kopo e dule e le pinyane.
- 23.10.3 Bolaodi bo tla neha motho ya kopileng tekolo tlaleho ya tekolo le mohato o lokelang ho nkuwa, haeba o le teng.

## 23.11 Tsebisiso ya Lesedi

Bolaodi bo ka kata Mohlanka wa Lesedi ka Tsebisiso ya Lesedi e batlang hore lehlakore le amehang le nehe Bolaodi lesedi le tekilweng tsebisong. Ka mohlala, haeba tletlebo e kentsweng ho Bolaodi e amana le kganyetso ya phumantsho ho itshetlehilwe hodima leha e le afe a mabaka a kotetsweng, Bolaodi bo ka kopa, ho Tsebisiso ya Lesedi, dikhopi tsa direkoto tseo ho hanyeditsweng phumantsho ya tsona bakeng sa ho sheba haeba mabaka a kganyetso a ya utlwahala kapa tjhe.

## 23.12 Ho thehwa ha Komiti ya Qobello

- 23.12.1 Bolaodi bo lebeletswe ho theha Komiti ya Qobello<sup>38</sup>, e nang le matla a ho -
- 23.12.1.1 sekaseka ditaba kaofela tse fetiseditsweng ho yona ke Bolaodi ho ya ka **PAIA** le ho etsa dipatlisiso mabapi le tsona; le
- 23.12.1.1 ho etsa kgothaletso leha e le efe ho Bolaodi mabapi le mohato leha e le ofe o lokelang ho nkuwa kgahlanong le Mohlanka wa Lesedi wa lekala.

## 23.13 Tsebisiso ya Qobello

- 23.13.1 Bolaodi bo ka, kamora ho sekaseka dikgothaletso tsa Komiti ya Qobello, kata Mohlanka wa Lesedi wa lekala ka Tsebisiso ya Qobello -

<sup>38</sup> Karolo 50 ya POPIA

23.13.1.1 ho netefatsa, ho fetola kapa ho qhala qeto eo e leng motso wa tletlebo; kapa

23.13.1.2 e batlang hore Mohlanka wa Lesedi ho nka mohato o jwalo kapa ho emisa ho nka mohato o jwalo oo Bolaodi ba Lesedi bo bo tekileng tsebisong.

#### 23.14 **Ditlamorao tsa ho se imatahanye le Ditsebisu tsa Qobello ke dife?**

23.14.1 Mohlanka wa Lesedi wa lekala ya hanang ho imatahanya le tsebisu ya qobello o molato wa tlolo ya molao mme a ka tshwanelwa ke kahlolo ya faene kapa ho kena tjhankaneng bakeng sa nako e sa feteng dilemo tse tharo kapa dikotlo ka bobedi e leng faene le ho kena tjhankaneng.

23.14.2 Karolo 77K ya **PAIA** e supa bohlokwa ba tokelo ya phumantsho ya lesedi kapa direkoto. Karolo ena e boetse e matlafatsa bohlokwa ba Bolaodi ho ya kamoo tokelo ya phumantsho ya lesedi e tsamayang kateng.

## 24. KOPO LEKGOTLENG LA DINYEWE

### 24.1 **Ke mang ya ka kenyang kopo lekgotleng kgahlanong le qeto?**

24.1.1 Mokopi kapa mokga wa boraro o ka etsa kopo feela bakeng sa ditokiso ho ya ka karolo 82 maemong a latelang

24.1.1.1 kamora hore mokopi kapa mokga wa boraro o entse tsohle tsa motjha wa boipiletso ba ka hare o boletsweng serapeng 22.3 ka hodimo mona; kapa

24.1.1.2 kamora hore mokopi kapa mokga wa boraro o etse tsohle tsa ditsamaiso tsa ditletlebo tse boletsweng ho karolo 77A.

24.1.2 Ho ya ka karolo 78(1) ya **PAIA**, mokopi kapa mokga wa boraro o na le dikgetho tse pedi, ho ka fetisetsa qeto, e boletsweng dirapeng 22.2.4, 23.4 le 23.5 ka hodimo mona, ho Bolaodi kapa Kgotla. Leha motho a sa qobellwa ho leba ho Bolaodi pele a leba Kgotla, ho molemo hore motho a sekaseke ho leba ho Bolaodi, kaha Bolaodi bo na le mekgwa e tebileng le ya kapele ya ho rarolla dikgang, ho feta Lekgotla.

24.1.3 Leha ho le jwalo, hore Lekgotla le be le matla a ho ahlolela taba, mokopi kapa mokga wa boraro o lokela ho -

24.1.3.1 thefulwa maikutlo ke diqeto ka bobedi, tse boletsweng serapeng 22.2.4, 23.4 kapa 23.5 ka hodimo mona; kapa

24.1.3.2 o entse tsohle tsa ditsamaiso tsa ditletlebo ho Bolaodi kapa ho hula tletlebo ho Bolaodi. Sena se bolela hore motho a keke a leba Kgotla haeba tletlebo ya hae e ntse e salletse morao ho Bolaodi.

24.1.4 Haeba motho a phephetsa qeto ya Mohlanka wa Lesedi wa lekala la poraefete, o lokela ho fana ka bopaki bo lekaneng ba ho bontsha hore rekoto e koptjwang e batleha bakeng sa ho sebedisa kapa ho sireletsa to/ditokelo tse ding leha e le dife.

## 24.2 Ke neng moo motho a ka etsang kopo Kgotla kgahlanong le qeto ya lekala kapa Bolaodi?

24.2.1 Kopo ya Kgotla ya mokopi kapa mokga wa boraro, o sa atlehang boipiletsong ba ka hare ho bolaodi ba maipiletso ba lefapha le amehang la mmuso kapa a thefutsweng maikutlo ke qeto ya Mohlanka wa Lesedi wa lekala (le boletsweng ho 22.2.4, 23.4 kapa 23.5 ka hodimo mona) kapa ya Bolaodi e lokela ho kenngwa nakong ya matsatsi a 180 ho tloha ka letsatsi la nyewe e amehang.

24.2.2 Mohlanka wa Lesedi kapa bolaodi ba maipiletso ba Mmuso, ho ya kamoo maemo a leng kateng, ya thefutsweng maikutlo ke qeto ya Bolaodi a ka etsa kopo kgotla bakeng sa ditokiso ho ya ka karolo 82, nakong ya matsatsi a 180<sup>39</sup>.

24.2.3 Mokopi, mokga wa boraro, kapa lekala, le ka etsa kopo kgotla hore diqeto leha e le dife tse sa ba thabisang di shejwe botjha ke Lekgotla.

24.2.4 Kopo Kgotla ka tlasa PAIA e etswa ka ditsamaiso tsa setjhaba ka kakaretso, mme e ka sebediswa e le motjha wa ho qetela.

24.2.5 Dinyewe tsa phumantsho ya lesedi di ka mamelwa ka pela Makgotla a Bomastrata, kaha lekgotla tabeng ya pele<sup>40</sup>, le Lekgotla le Phahameng a na le matla.

24.2.6 Ho hloleha ho tlisa kopo nakong ya matsatsi a 180 ho ka nna ha dumellwa ke Lekgotla haeba motho a bontsha hore ditabatabelo tsa toka di batla jwalo. Sena se bolela hore lekgotla le ka amohela kopo ya kamorao ho nako haeba taba e lokelang ho ahlolelwa e

<sup>39</sup> Karolo 78(4) ya PAIA

<sup>40</sup> Karolo 91A y PAIA le Melawana ya Kgothaletso ya Phumantsho ya Lesedi, 2019



molemong wa toka. Haeba direkoto tseo ho koptjwang phumantsho ya tsona di tla thusa motho ho etsa kopo ya boipiletso kgahlanong le ho kwallwa tjhankaneng kapa ho o thusa ho tswella ho thola tlhokomelo ya kalafo, ka mohlala, lekgotla le ka nna la dumela tabeng ena.

24.2.7 Kopo e ka nna ya tlišwa ho ya ka tsamaiso e tekilweng ho molawana 53 wa Melawana ya Lekgotla le Phahameng kapa ho ya ka molawana 55 wa Melawana ya Makgotla a Bomastrata haeba ha ho direkoto tse fanweng ke motsamaisi kapa direkoto ha di a fella.

24.2.8 Haeba rekoto e se e fanwe, kopo e tla tlišwa Lekgotleng la Masetrata ho ya ka molawana 55 wa Melawana ya Makgotla a Bomasetrata, haeba moo ho na le lebaka la moikopedi la ho dumela hore rekoto e felletseng ya ditsamaiso e ka nna ya ba ha e a fanwa ke motsamaisi, moikopedi a ka nna a tswella ho ya ka tsamaiso e tekilweng ho Molawana 53 wa Melawana ya Lekgotla le Phahameng, ka boikgethelo ba lona, empa le tla bontsha afidavite ya lona ya mantlha ya hore hobaneng ho na le lebaka la ho dumela hore ha ho a fanwa ka rekoto e felletseng<sup>41</sup>.

### 24.3 **Boemo ba semolao ba qeto ya Bolaodi ha ho ntse ho emetswe qeto ya Lekgotla ke Bofe?**

Matla a Bolaodi a nkuwa haholo ho tswa ho Molaotheo, **POPIA** le **PAIA**. Ka lebaka leo, tsebiso ya qobello e ntshitsweng ke Bolaodi e na le ditlamorao tsa semolao mme kahoo e ya tlama ho fihlela ka nako eo lekgotla la molao le tla beng le qetile ka mokgwa o mong. Kahoo diqeto tsa Bolaodi di hlwahlwa le ho qobellwa ntle le ha ho ka laelwa ka mokgwa o fapaneng ke Lekgotla le amehang.

### 24.4 **Ke ditaelo dife tseo Lekgotla le mametseng kopo le ka fanang ka tsona?**

24.4.1 Lekgotla (la Masterata kapa le Phahameng) le mametseng kopo le ka tla ka ditaelo tse latelang -

24.4.1.1 ho netefata, fetola kapa ho qhala qeto ya Mohlanka wa Lesedi, kapa Bolaodi ba Maipiletso kapa Bolaodi ba Lesedi;

24.4.1.2 ho lebeletswa Mohlanka wa Lesedi kapa Bolaodi ba Maipiletso ho nka mohato o jwalo kapa ho emisa ho nka mohato o jwaloka ha Lekgotla le nka ho hlokeha ka hara nako e boletsweng taelong eo;

24.4.1.3 ho fana ka thibelo, kimollo ya nakwana kapa e tobileng, taelo ya tsebahatso kapa taelo ya ditlhapiso;

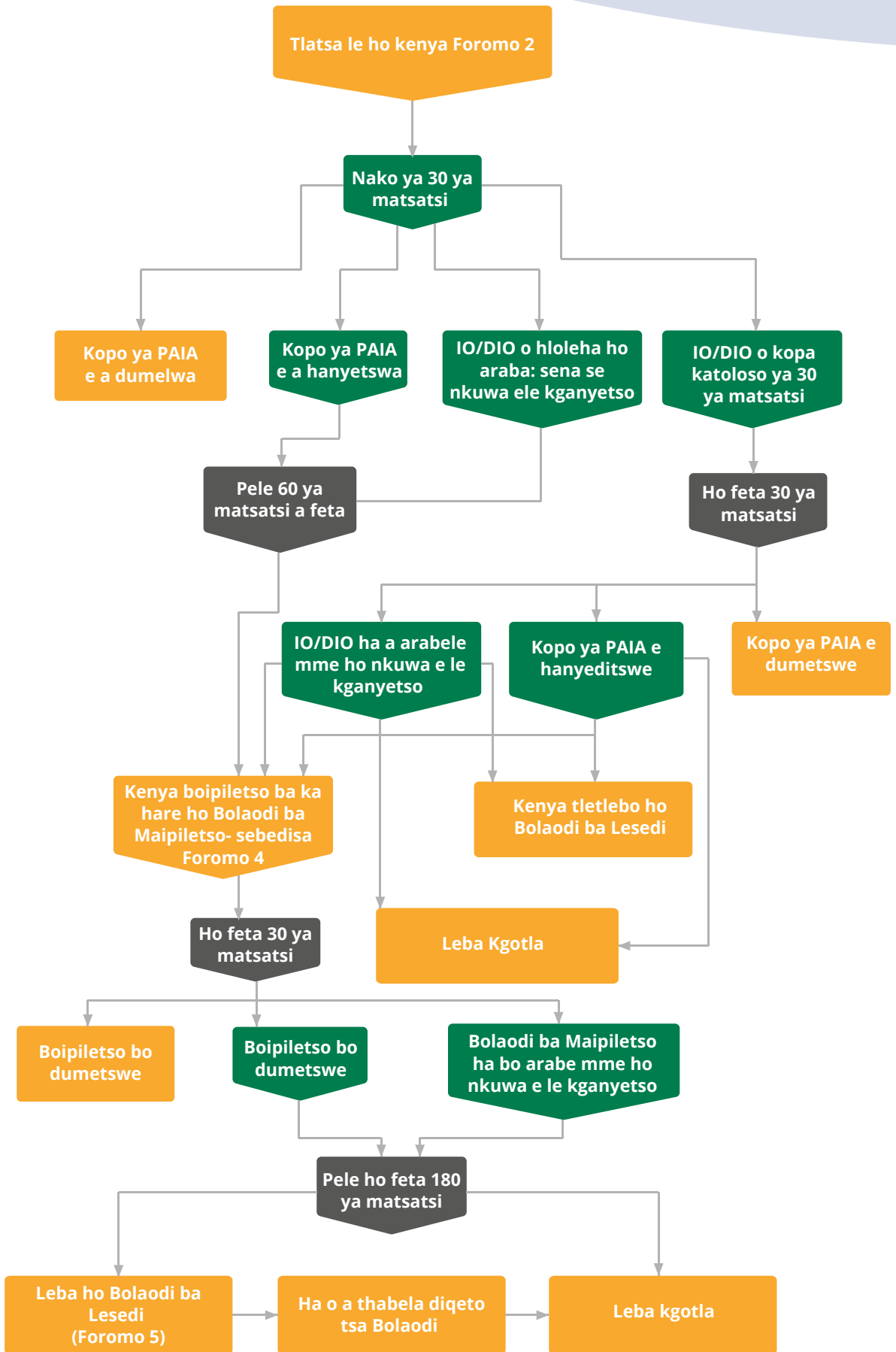
<sup>41</sup> Molawana 4 Melawana ya Kgothaletso ya Phumantsho ya Lesedi, 2019

24.4.1.4 ho etsa taelo ya ditjeo kgahlanong le lehlakole leha e le lefe;

24.4.1.5 molemong wa toka, ho amohela ho se ikamahanye le nako ya matsatsi a 180 ya ho kenya kopo. Jwaloka ha ho boletswe ka hodimo mona, mabaka a lekaneng bakeng sa ho hloleha ho ikobela nako e laetsweng a lokela ho hlalosa ka botlalo kopong e kenyeleditsweng ya kamohelo.

## **25. DAEKERAMO YA MOTJHA WA KOPO YA PAIA**

O koptjwa ho sheba motjha wa mohato-ka-mohato, o mabapi le ditsamaiso tse lokelang ho latelwa ha o sebedisa tokelo ya phumantsho ya lesedi.



## 26. MELAWANA E ENTSWENG HO YA KA KAROLO 92 YA PAIA

- 26.1 Ho ya ka karolo 92(1) le 92(4) ya **PAIA**, Letona le entse Melawana e amanang le Kgothaletso ya Phumantsho ya Lesedi, o akaretsang dintlha tse latelang
  - 26.1.1 Ditshwanelo tsa Bolaodi ba Lesedi (**molawana 2**)
  - 26.1.2 Ditshwanelo tsa Mohlanka wa Lesedi (**molawana 3**)
  - 26.1.3 Boteng ka ho iketsahalla feela ha direkoto tse itseng tsa makala a mmuso (**molawana 4**)
  - 26.1.4 Pepeso ya boithaopo le boteng ka ho iketsahalla feela ya direkoto tse itseng tsa makala a poraefete (**molawana 5**)
  - 26.1.5 Boteng ba direkoto tsa mekga ya dipolotiki (**molawana 6**)
  - 26.1.6 Kopo ya phumantsho ya lesedi (**molawana 7**)
  - 26.1.7 Sephetho sa kopo le tjhelete e lefuwang (**molawana 8**)
  - 26.1.8 Boipiletso ba ka hare kgahlanong le qeto ya mohlanka wa lesedi wa lekala la mmuso (**molawana 9**)
  - 26.1.9 Ho kenngwa ha ditletlebo (**molawana 10**)
  - 26.1.10 Tsamaiso mabapi le dipatlisiso tsa ditletlebo (**molawana 11**)
  - 26.1.11 Ho phethelwa ha nyewe (**molawana 12**)
  - 26.1.12 Bonamodi ba nyewe (**molawana 13**)
  - 26.1.13 Tekolo (**molawana 14**)
  - 26.1.14 Dikgokahanyo tsa Elektroniki (**molawana 15**)
  - 26.1.15 Ditlolo tsa molao le dikotlo (**molawana 16**)
- 26.2 Ho ya ka karolo 79(1) ya **PAIA**, Boto ya Melawana ya Makgotla a Molao, ka ho tjhaellwa monwana ke Letona, e entse ditsamaiso tsa melawana bakeng sa -
  - 26.2.1 lekgotla mabapi le dikopo ho ya ka karolo 78 ya **PAIA**; le
  - 26.2.2 hore lekgotla le thole dintlha ka ntle le lehlakore le boletsweng ho karolo 80(3)(a)

## 27. MELAO, MELAWANA, DITSEBISO LE KANANELO TSE KA SEHLOOHONG

### Melao, jwaloka ha e ka hlomathiswa nako le nako

Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-2 wa 2000

Molao wa Kgothaletso ya Toka ya Tsamaiso, Molao 3 wa 2000

Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-54 wa 2002

Molao wa Lesedi la Bo Mong, Molao wa bo-4 wa 2013

Sehlomathiso sa Molao wa Kgothaletso ya Phumantsho ya Lesedi, Molao wa bo-31 wa 2019

Molao wa Dithuso tsa Ditjhelete tsa Mekgatlo ya Dipolotiki, Molao wa bo-6 wa 2018

### Melawana le Ditsebis

Tsebis	Letsatsi la diphatlalatso	Sehlooho le tlhaloso
<b>Tsebis</b> <b>R. 757 ho GG No</b> <b>45057</b>	27 Phato 2021	Melawana e amanang le Kgothaletso ya Phumantsho ya Lesedi, 2021
<b>Tsebis</b> <b>R.991 ho GG 28107</b>	14 Mphalane 2005	Melawana e laelang mabaka ao ka ona motho a ka kotelwang bakeng sa ho lefa ditefo.
<b>Tsebis</b> <b>Notice 397 ho GG</b> <b>No. 44785</b>	30 Phuptjane 2021	Kotelo ya makala a mang a poraefete mabapi le ho hlophisa Bukana ya <b>PAIA</b> .
<b>Tsebis</b> <b>1217 ho GG 42717</b>	19 Lwetse 2019	Thonyo ya Makgotla a Bomasetrata a nkuwang a na le bokgoni ba ho mamela dinyewe tsa <b>PAIA</b> .
<b>Tsebis</b> <b>R. 1284 ho GG 42740</b>	4 Mphalane 2019	Melawana ya tsamaiso bakeng sa dikopo tse tla etswa ho ya ka <b>PAIA</b> ka pela Lekgotla le Phahameng la Dinyewe kapa Lekgotla la Masetrata.

## KANANELO

Tataiso ena e behilweng sehlohlolong ho ya ka maemo a jwale mabapi le mokgwa wa ho sebedisa **PAIA** sethathong e ne e hlophisitswe ke Khomishene ya Ditokelo tsa Botho ya Afrika Borwa (**SAHRC**) mme Bolaodi ka sena bo ananela mosebetsi wa sethathong wa **SAHRC**, ho kenyeletswa mehlodi ya yona kaofela.

E ntshitswe ke

**BOLAODI BA LESEDI**



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# **INKHOMBANDLELA**

**YEKUTSI UNGAWUSEBENTISA NJANI  
UMTSETFO WEKUFINYELELA KULWATISO, UMTSETFO  
2 WANGA 2000, NJENGOBA UCHITJIYELWE**

**SISWATI**



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# PAIA GUIDE

## EMAVI LAVELA KUSIHLALO

Utsetfosisekelo waseRiphabhlikhi yaseNingizimu Afrika, 1996<sup>1</sup> (“Umtsetfosisekelo”) ubeka kutsi iNingizimu Afrika ngumbuso lotimele nembuso wentsadvo yelunyenti lowasungulwa ngekutfutukiswa kwemalungelo eluntu Kanye neluhlelo lwekubusa lonemfwalo, loluphendvulako nalolucacile njengencenye yemigomo yawo. Ngembi kwekutsi iNingizimu Afrika iba nemtsetfosisekelo wentsandvo yelunyenti neMtsetfosisekelo Wemalungelo Eluntu losebentako, luhlelo lweMbuso easeNingizimu Afrika kulokunye, lwaholelwa ekubeni nguloluyimfihlo nemasiko langavakali kumitimba yomibili letimele neyahulumende leyivamise kuholela ekuphatfweni kabi kwemandla nekuhlukunyetwa kwemalungelo eluntu. Kungaloku nje kutsi sigaba 32(1) seMtsetfosivivinyo Semalungelo Eluntu kuMtsetfosisekelo, uniketela emalungelo ekufinyelela kulwatiso loluphetfwe ngumbuso; nanoma luphi lwatiso loluphetfwe ngulomunye umuntu loludzingeka kute kusetjentiswe noma kuvikelwa noma maphi emalungelo. Sigaba 32(2) seMtsetfosisekelo ngalokunjalo siniketa kutsi kushaywe umtsetfo wavelonkhe lotawucinisekisa kutsi lelilungelo liyasebenta, ngekuhlonipha, kuvikela, kutfutukisa nekuzeza lelilungelo.

LoMtsetfo Wekufinyelela Kulwatiso, Nom. 2 wanga 2000 (lapha ubitwa ngekutsi yi-“**PAIA**”, noma “loMtsetfo” ngekuntjintjana), njengoba uchitjyelwe, ngumtsetfo wavelonkhe lowashaywa ngekuhambisana nalesigaba lesibalwe ngenhla lekusigaba 32(2) seMtsetfosisekelo.

Injongo ye**PAIA**, kusebentisa lusiko lwekungafihli lutfo nekuba nemfwalo emitimbeni yahulumende nalabatimele. Yenta loko ngekuphumelelisa lamalungelo ekufinyelela kulwatiso nekutfutukisa ngalokubonakalako umphakatsi lapho khona bantfu baseNingizimu Afrika bafinyelela ngalokufanele kulwatiso kutsi bakhone kwenta ngalokugcwele nekuvikela onkhe emalungelo abo nekwati kancono tinjongo teNingizimu Afrika tembuso lovulekile nekungenelela kuntsandvo yelunyenti.

Inkhombandlela ye-**PAIA** isungulelwe ekucinisekiseni umsebenti weMlawuli Welwatiso (“Umlawuli”) ngaphansi kwesigaba 10 se-**PAIA**, lesidzinga kutsi Umlawuli alungise abuye ente kutsi leNkhombandlela lekhona itfolakale lekungulena leyentiwe yiKhomishini Yemalungelo Eluntu eNingizimu Afrika.

LeNkhombandlela yakhelwe kutsi ibe nguleholako, isebentise kalula futsi ibe lithulusi lelifinyelelekako kunoma ngubani lofisa kusebentisa noma maphi emalungelo lavetwe ku-**PAIA** neMtsetfo Wekuvikela Lwatiso Lwemuntu, 2013.



**Adv Pansy Tlakula**  
**SIHLALO WEMLAWULI WELWATISO**

<sup>1</sup> Umtsetfosisekelo weRiphabhlikhi yaseNingizimu Afrika, 1996 (Umtsetfo Nom. 108 wanga 1996)

## KUBALEKELA UMTFWALO

Lenkhombandlela ayikhululi lona loyisebentisako ekutseni abe nemtfwalo wekusebentisa emakhono ake nekunakekela lokuhambisana nalokudzingekako noma umtfwalo lobekwa ngulomtsetfo. Kulokunye, leNkhombandlela ayiniketi tecwayiso temtsetfo kantsi ayikahlosi kuvala iPAIA noma Imitsetfosimiso lekhishwe ngaphansi kwePAIA. Umlawuli ayivumi umtfwalo nemsebenti wanoma yini lelahlekako lokungabangelwa kwekutsi weyame kuleNkhombandlela.

### 1. LUHLA LWETIFINYETO NEMAGAMA LAMAFUSHANE EBUFAKAZI

<b>CEO</b>	Sisebenti Lesisesikhundleni Lesiphakeme
<b>CFO</b>	Sisebenti Lwesiphetse Timali
<b>Utsatfosisekelo</b>	Umtsetfosisekelo waseRiphabhulikhi yaseNingizimu Afrika, Umtsetfo Nom. 108 wanga 1996
<b>DIO</b>	Sisebenti Selwatiso Lesilisekela
<b>Doj &amp; CD</b>	Litiko Letebulungiswa Netemtsetfosisekelo
<b>IO</b>	Sisebenti Selwatiso
<b>Emalunga</b>	Emalunga eMlawuli Welwatiso
<b>Ndvuna</b>	Ndvuna weTebulungiswa Nemisebenti Yemajele
<b>PAIA</b>	Umtsetfo Lotfutukisa Kufinyelela Kulwatiso Nom. 2 wanga 2000, njengoba uchitjiyelwe
<b>PAJA</b>	Umtsetfo Wekutfutukisa Kulwaulwa Kwebulungiswa, 2000
<b>PFMA</b>	Umtsetfo Wekulawula Timali taHulumende Nom.1 wanga 1999 njengoba uchitjiyelwe;
<b>POPIA</b>	Umtsetfo Wekuvikela Lwatiso Ngemuntfu Nom.4 wanga 2013
<b>Umlawuli</b>	Umlawuli Welwatiso
<b>SAHRC</b>	Ikhomishini Yemalungelo Eluntfu yaseNingizimu Afrika

### 2. EMAGAMA LABALULEKILE AYACHAZWA NGENDLELA LEBANTI NALECACILE

Ligama	Inchazelo
<b>Tindleko tekufinyelela</b>	Letindleko tekufinyelela tikhokhelwa ngulofake sicelo kulomtimba lofake kuwo sicelo salolwatiso, kukhokhela tindleko tekutfole nekufothokhopho lamarekhodi lowadzingako. Lekufanele kukholhelwe kuchazwe ngekwemtsetfo.
<b>Umlawuli</b>	Ngumtimba wembuso noma umuntfu nje noma inkapani leyenta umsebenti wekulawula.

**Ligama****Inchazelo****Umsebenti  
wekulawula**

Ngunoma ngusiphi sincumo lesitsatfwako, noma kuhluleka kutsatsa sincumo, ngu

- (a) Ligatja lembuso, uma ngabe:
- (i) kusetjentiswa emandla ngalokushiwo ngumtsetfosisekelo noma umtsetfosisekelo wesifundza; noma
  - (ii) Kusetjentiswa emandla ahulumende noma kwentiwa umsebenti wahulumende ngekuhambisana noma muphi umtsetfo; noma
- (b) Umuntfu noma umtsetfo, kungasilo ligatja lahulumende, uma ngabe kusetjentiswa emandla embuso noma kwentiwa umsebenti wahulumende ngekuhambisana nesigaba lesiniketa emandla.

Lesitsitsa kabanti emalungelo anoma muphi umuntfu nalanemtselela locondze ngco, noma lonemtselela ngekwetemtsetfo ngekwangaphandle.

**Umuntfu  
Losemtsetfweni**

Lomuntfu losemtsetfweni ngulomuntfu lofaka sicelo ngekumelela lomunye lomuntfu, naloniketwe ligunya ngekwemtsetfo ngekubhalela kwenta loko.

**Emarekhodi  
Lahlala  
Atfolakala**

Lamarekhodi ngulawa ahulumende noma alabatimele latawuniketwa lofake sicelo ngaphandle kwekutsi bafake sicelo. Lamarekhodi abhalwe 'kusatiso sekuveta ngekutitsandzela', lekufanele atfolakale kubantfu.

**Idatha yemuntfu**

Ngumuntfu lwatiso lolubukene naye lekucondziswe kulo.

**Tinsuku**

Ngaphandle kwekutsi kubalwe 'njengelusuku lwekusebenta' kusigaba lesiku-**PAIA**, lusuku lutsatfwa njengelusuku lolukukhalenda. Kubala sikhatsi, lolusuku lekutfolakala ngalo ngalo lesicelo alubalwa, kantsi lusuku lolulandzelako ngemuva kwaloko luyabalwa kufaka ekhatsi impelasontfo nemaholide kudzimate kubalwe lolusuku lwekugcina. Uma ngabe lolusuku lwekugcina lwekuphendvula sicelo luba ngelLisontfo noma ngeliholide, lolusuku lolulandzelako lubalwa njengelusuku lwekugcina.

**Kufanele  
Singavunyelwa**

Uma ngabe kungatfolakali mphendvulo kusicelo ngalesikhatsi lesibekiwe, loku kuchazwa 'njengalokufanele kuvunyelwe'.

**Lifomu 2**

Lelifomu lichazwa ngekwemtsetfo kantsi kufanele lisetjentiswe kucela kufinyelela kulwatiso loluphetfwe nguhulumende noma umtimba lotimele.

**Lifomu 4**

Lelifomu lichazwa ngekwemtsetfo kantsi kufanele lisetjentiswe uma ngabe kufakwa sikhalo ngesincumo lesentiwe nguhulumende ngalokuphatselene nesicelo sekufinyelela kulwatiso.

**Ligama****Inchazelo****Inkhombandlela**

Lenkhombandlela, leyentiwe ngekwesigaba 10 se-**PAIA**, njengoba sichitjiyelwe, lesifuna kusita umuntfu lohlose kwenta noma liphi lilungelo lelibalwe ku-**PAIA** neMtsetfo Wekuvikela Lwatsio Ngemuntfu, 2013.

**Information Officer**

Lesisebenti Selwatiso ngulomuntfu loniketwe imvume yekusebenta ngeticelo te-**PAIA**. Loku lokulandzelako tigaba tetisebenti Telwatiso kuMtimba lobaliwe -

<b>Umtimba Wahulumende noma Emagatja aHulumende e</b> (njengoba kuchazwe kusigaba 239 seMtsetfosisekelo)	Litiko Lavelonkhe	Umcondzisi Jikelele noma umuntfu lolibambele laloko.
	Kulawula Esifundzeni	Inhloko Yelitiko noma umuntfu lolibambela laloko.
	Masipala	Ump hatsi waMasipala noma umuntfu lolibambela laloko.
	Tikhungo taHulumende letibalwe kuShejuli yePFMA 1, 2, 3A, 3B, 3C na 3D	Sisebenti Lesikhulu Lesiphetse noma umuntfu lolibambela laloko.
<b>Umtimba lotimele</b>	Umuntfu	Umuntfu ayedwa lonelibhizinisi noma lohwebelanako, ibhizinisi noma umsebenti, kodwa kuleso sikhundla kodwa hhayi kuleso sikhundla ngekwakhe
	Budlelwano	Noma muphi umlingani walobudlelwano noma muphi umuntfu loniketwe ligunya ngulobudlelwano.
	Inhlangano Yepolitiki	Umholi wenhlangano yepolitiki noma muphi umuntfu loniketwe ligunya ngulowo mholi.

**Ligama****Inchazelo****Umtimba lotimele**

	Inkapani	<p>Sisebenti Lesikhulu Lesiphetse noma Umholi Lophetse noma sisebenti lesifanako salenkapani noma lomunye umuntfu loniketwe ligunya ngulowo mholi.</p> <p><b>YATI:</b> Sisebenti Lesikhulu Lesiphakeme noma sisebenti lesifanako singagunyata noma ngubani njengesisebenti Selwatiso seMtimba Lotimele.</p>
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**Lisekela Lesisebenti Selwatiso**

Lisekela leSisebenti Selwatiso ngulomuntfu loniketwe sikhundla noma loniketwe umsebenti Sisebenti selwatiso lwemtimba wahulumende kusita lofake sicelo ngelwatiso lwabo lwabalucelile, nalapho kulesisebenti selwatiso labacele kuso anganiketela ngemandla lanawo ngekwe-**PAIA**.

**YATI:** Ngumtimba wahulumende kuphela longaniketa emandla noma abeke Lisekela Lesisebenti Selwatiso, ngekuhambisana nesigaba 17(1) se-**PAIA**, Umtsetfo Wekuvikelwa Kwelwatiso Ngawe, 2013 ("**POPIA**") lekhulisa emandla ekuniketa emandla kuLisekela Lesisebenti Selwatiso kumtimba lotimele, ngekuhambisana nesigaba 56(1) saloko.

**Umlawuli Welwatiso**

Lihhovisi Lemlawuli Welwatiso lisunguliwe, ngekuhambisana nesigaba 39 se-**POPIA**, kulandzelela nekusebentisa kuhambisana ngako kokubili **iPOPIA** ne **PAIA**. Kulenkhombandlela leLihhovisi Lemlawuli Welwatiso noma Umlawuli Welwatiso kukhulunywa ngaye njengeMlawuli.

**Sikhalo Sangekhatsi**

Sikhalo sangekhatsi kushiwo inchubo yekubeka inselelela kusincumo lesentiwe ngekuhambisana nesicelo se**PAIA** kumtimba wahulumende, lekufanele sicedzelelwe ngembi kwekutsi inselele yentiwe kuMlawuli noma enkantolo lefanele.

**Umtimba Lotimele**

Umtimba lotimele ngumuntfu, inkapani noma lolunye luhlobo lwemkhakha losebenta ngekuhwebelana, ibhizinizi noma umsebenti webuchwepheshe, kufaka ekhatsi inhlango yepolitiki.

**Ligama****Inchazelo****Umtimba Wahulumende**

Umtimba wahulumende kushiwo litiko lahulumende noma lamanye emahhovisi noma sikhungo, lesenta umsebeni wahulumende. Noma kunjalo, ngalokuphatselene nesikhalo sangekhatsi, noma yini lehambisana “nemtimba wahulumende” lokuguculwe kwaba “nguHulumende”, kute kuvikelwe kudideka ngalokuphatselene nemitimba yahulumende lapho sikhalo singeke sibe khona.

**Lirekhodi**

Lirekhodi ngunoma luphi lwatiso lolurekhodiwe kungayi ngendlela, kufaka ekhatsi, sibonelo, emaphepha labhaliwe, lokucoshiwe, idijithali nemavidiyo. Lirekhodi lelivelwe kumtimba lotimele noma wahulumende kushiwo lirekhodi leliphethwe ngulowo mtimba kungayi ngekutsi lowo mtimba wente lelirekhodi.

**Umtsetfosimiso**

I-PAIA ivumela Ndvuna kutsi anikete imitsetfo lemisiwe lehambisana naloMtsetfo, lekufanele ushicilelwe kuGazethi yaHulumende, bese ifaka ekhatsi tintfo letifana nemaformu lekufanele asetjentiswe netindleko lekufanele tintsatfwe kwentela tinchubo letitsite.

**Baphatsi Labafanele**

I-PAIA isebentisa leligama ‘baphatsi labafanele’ kuchaza umuntu lokuHulumende Wavelonkhe, Sifundza Nakumasipala lapho khona sicelo sangekhatsi kufanele sifakwe khona, lekuvamise kuba yinhloko yetepolitiki yalomtimba lotsintsekako (lomsebeni unganiketelwa ngalokusemtsetfweni).

**3. IMININGWANE YEKUTSINTSANA NEMLAWULI****Sisebenti Selwatiso****Sisebenti Lesikhulu:****Lotsintfwako:****I-imeyili:**

Mnu Mosalanyane Mosala

Nkst Ntombizodwa Harrieth Rikhotso

[NtoRikhotso@justice.gov.za](mailto:NtoRikhotso@justice.gov.za)**Lisekela Lesisebenti Selwatiso:****I-imeyili:**

Nkst Varsha Sewlal

[VarSewlal@justice.gov.za](mailto:VarSewlal@justice.gov.za)**Likheli lasekhaya:**

JD House, 27 Stiemens Street  
Braamfontein  
Johannesburg  
2001

**Likheli leliposi:**

P.O. Box 31533  
Braamfontein  
Johannesburg  
2017

**Telephone:**

010 023 5200



#### 4. INJONGO YALENKHOMBANDLELA YE-PAIA

- 4.1 Injongo yaleNkhombandlela kuniketa lwatiso loludzingwa ngunoma ngubani lofisa kusebentisa emalungelo akhe lavetwe kuMtsetfo Wekutfufukiswa Kufinyelela Kulwatiso wanga 2000 (**iPAIA**) neMtsetfo Wekuvikela Lwatiso Ngemuntfu, 2013 ("**iPOPIA**"). Noma ngubani, kungayi ngebuve, angafaka sicelo sekufinyelela kulwatiso ngaphansi kwe-**PAIA**.
- 4.2 Lenkhombandlela itawusita umuntfu, ibuye ibitwe ngebantfu bedatha, kutsi kufinyelelwa njani kulwatiso ngaye ngalokuhambisana nesigaba 23 se**POPIA**. Ngaphansi kwe-**POPIA**, umuntfu noma idatha ngemuntfu unelilungelo -
- 4.2.1 Lekucela inhlango lefanele kutsi icinisekise, ngaphandle kwetindleko, nanoma kungiyi noma kungasiyi inhlango lefanele lephetse lwatiso ngemuntfu, futsi
- 4.2.2 Lekucela kunhlango lefanele emarekhodi noma inchazelo yalolwatiso lolubukene nawe ngalokuphatselene nedatha yemuntfu lebanjwe inhlango lefanele, kufaka ekhatsi lwatiso ngebunguwe benhlango yesitsatfu, labane, noma lebebane, kufinyelela kulolwatiso;
- 4.2.3 Lekucela inhlango lefanele ku -
- (a) Lungisa noma kusula lwatiso ngemuntfu lolufanele ngedatha yebantfu labayiphetse noma lelawulwa ngaphansi kwekulawulwa ngibo lemba ecolo, lengafanele, lenyenti, lendlulelwe sikhatsi, lengakapheleli, lelahlekisako noma letfolakele ngalokungekho emtsetfweni; noma
- (b) Bulala noma kusula lirekhodi lelwatiso lolucondzene nawe ngedatha yemuntfu lapho lenhlango lekungiyi ayikagunyatwa kugcina lwatiso
- 4.3 Lenkhombandlela itawusita noma muphi umuntfu kutsi ungacela njani kufinyelela kumarekhodi laceliwe ngaphansi kwe-**PAIA**. Lenkhombandlela itawubuye isite labacelako kutsi:
- 4.3.1 Bavisise **iPAIA**, tinzuzo tayo nelingemuva layo;
- 4.3.2 Kufundza sinyatselo nesinyatselo senchubo lapho kutawentiwa khona sicelo naletinye tecwayiso tekwenta lenchubo ibe lula;
- 4.3.3 Kufundza letinhlobo telwatiso lolungacelwa kusetjentiswa **iPAIA**;
- 4.3.4 Kuvisisa lenchubo lofake sicelo lekangabeka ngayo inselele kusincumo lesitsetfwe ngalokuphatselene nalofake sicelo;

4.3.5 Kungeniswa kuletingucuko letitawuba khona ku-PAIA uma ngabe iPOPIA seyisebenta ngalokugcwele.

4.4 Lenkhombandlela itawubuye isite bantfu ekuvisiseni kutsi ibekwa njani inselele ekuniketweni kukhona kufinyelela kumarekhodi noma kungenelelwa njani kunchubo yekufinyelela kumarekhodi

## 5. LOKUPHATSELENE NE-PAIA

5.1 Lelilungelo lekufinyelela kulwatiso “ngulenyeye yetindlela letiyimphumelelo yekugcina imihambo yemtsetfosisekelo yekucaca, kuvuleleka, kungenelela nekuba nemsebenti<sup>2</sup>. Lemihambi lebalwe ngenhla yemtsetfosisekelo angeke yatfolakala uma ngabe hulumente ulawula lwatiso lolwakha indlela lekenta ngayo nalekancuma ngayo. Ngako-ke, kufinyelela kulwatiso akukabaluleki kuphela kumbuso wentsandvo yelunyenti losebenta kahle, kodwa ibuye ikhulise kutsembela kwebantfu kuhulumente kantsi kukhulisa nekucinisekisa kwakhe. Letinye tinzuzo talamalungelo ekufinyelela kulwatiso tifaka ekhatsi, kwekutsi akukhutsatwa kukhohlakala nekweba, kungaciniseki nalokunye kungasebenti kahle kwahulumente.

5.2 Ngalesikhatsi Umtsetfosisekelo waseNingizimu Afrika bewushicilelwa ngalesikhatsi lesilandzela kuwa kwembuso welubandlululo ngabo 1990, tinhlangano letihlukene nebantfu bakhankasela kufakwa kwemalungelo ekufinyelelakulwatiso. Kwaba nelitsembe lekutsi kufakwa kwalelilungelo kuMtsetfosivivinyo Wemalungelo Elunfu batawucinisekisa kwekutsi kubulawa lebekukhona lokufana nelubandlululo angeke kuphindze futsi kwenteke, njengoba umbuso netinhlangano letitimele titawulindzeleka kutsi tisebente ngendlela letawukhombisa imiphumela nalecacile ngekutsi banikete indlela yekufinyelela kulwatiso, ngako-ke, angeke bakhone kubhaca ngekutsi kufanele kube yimfihlo. Kubonakele njengesinyatselo lesifanele kusita ekwakheni lisiko lekutiphendvulela lelitawuholela kubudlelwano lobungavuni licala emkhatsini webantfu, nalabo labasemandleni. Kuyinye yaletindzaba tangaphambilini letibukene nalombuto<sup>3</sup> wekutsi ngabe umunfu lobekwe licala unemvume yekufinyelela kulwatiso lolucuketfwe kudokhethi yemaphoyisa. Jones J wabona kubaluleka kwaloko ngaletizatfu:

***“Injongo ... kususa lokubhebhethseka kwenchubo lendzala yekuphatsa, luhlelo lapho bekwenteka kutsi hulumente aphume ekudlaleni indzima ngekwalu kuveta lwatiso nanoma ngabe lunemtselela kulomsebenti noma ekuvikeleni emalungelo emunfu. Lena ngulindlela leyakhelwe kutsi kuvikelwe [...] Kukhonjiswe kungavuni licala nekuvuleleka kute kutfutfukiswe kutetsembe kwebantfu ekulawuleni kwetindzaba letiphatselene nabo. Lokutetsembe ngulokunye kwaletintfo umbuso wentsandvo yelunyenti letiphetfwe ngayo letenta kutsi umtsetfosisekelo undlondlobale”.***

<sup>2</sup> Hoexter Administrative Law 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Sigaba 32 seMtsetfosisekelo sikhutsata lelilungelo lekufinyelela kulwatiso loluphetfwe ngiko kokubili kumitimba yahulumende nalabatimele. Sigaba 32 sibuye sibeke kutsi umtsetfo loshayiwe kufanele ubekwe kute kusebentiseke kahle lilungelo lekufinyelela kulwatiso ngekuchaza kabanti tindlela lapho khona lwatiso lwemitimba yahulumende nalabatimele bangalutfola, nangekuniketa tindlela tekutsi imitimba yahulumende naletimele ingavumeli kufinyelela kulwatiso.
- 5.4 I-**PAIA** yashaywa ngekuphendvula kuloku lokubalwe ngenhla lokubekwe kumtsetfosisekelo, kantsi ucale kusebenta kutincenye letinkhulu ngaMashi 2021. Singeniso sayo sivumelana “nalemfihlo nalelisiko lekungaphendvuli” yangalesikhatsi sangembi kwembuso wentsandvo yelunyenti, kantsi iyasho kutsi letinye tetinjongo te-**PAIA** “kusebentisa lisiko lekungafihli lutfo nekuba nemtfwalo kumitimba yahulumende nalabatimele.”
- 5.5 I-**PAIA** yentelwe kuniketa emalungelo ebantfu ekufinyelela kulwatiso nekuba nemtfwalo. Yentelwe kuniketa emandla kubantfu kutsi bakwati kusebentisa umtsetfo, kantsi usita kuhambisa kahle ticelo tekufinyelela kulwatiso ngetindlela letihlukene. Umuntfu akadzingi ummeli kute ente sicelo sekufinyelela kulwatiso ngekwe-**PAIA**.

## 6. TINJONGO TE-PAIA

- 6.1 Tinjongo te-**PAIA** akusiko kuvala emalungelo lakumtsetfosisekelo, kodwa kukhona kusebentisa lelilungelo lelikusigaba 32 ngekuya ngemikhawulo lengachazeka, nangendlela lesita kusimamisa onkhe lalamanye emalungelo lacuketfwe kumtsetfosisekelo. Ihlose kutfutukisa lisiko lemalungelo eluntfu nekulingana kwebantfu nebulungiswa, umkhakha wahulumende nemkhakha walabatimele. I-**PAIA** ihlose kutfutukisa kungabi namfihlo, kuba nemtfwalo nekubusa ngemphumelelo kuto tonkhe tikhungo (kokubili kuhulumende nakulabatimele) ngekuniketa emandla kubantfu kutsi bavisise emalungelo ekufinyelela kwabo kulwatiso, kuwasebentisa, nekuhlatiya kwakokubili, nekungenelela kuko, kwenta tincumo letinemtselela kubo.
- 6.2 Lelilungelo lekufinyelela kulwatiso lilungelo lelinemandla ngekwe mtsetfosisekelo, njengoba lisita bantfu kutsi babone lamanye emalungelo abo. Umuntfu angalisebentisa kumsita kulandzelela nekuhlatiya kwetfulwa kwetinsita tahulumende, noma kufinyelela kumarekhodi akudzala langahle avuse inshisekelo.
- 6.3 Tinjongo te-**PAIA** ku -
- 6.3.1 Niketa kufinyeleleka kumalungelo emtsetfosisekelo lekufinyelela -
- 6.3.1.1 Kunomaluphi lwatiso loluphetfwe nguMbuso; kanye
- 6.3.1.2 Nanoma luphi lwatiso lolubanjwe ngunoma ngubani loludzingekako kute kusetjentiswe noma kuvikelwe noma maphi emalungelo.

- Letidzingo letiphatselene nalokuvikelwa kwemalungelo luhambisana nelwatiso lolubanjwe etandleni letingasese. Imitimba letimele ingaphansi kwemazinga laphakeme ekucacisa kunemitimba yahulumende. Umkhakha lotimele, ngalamanye emavi, unelilungelo lekugcina lwatiso ngekwawo, ngaphandle kwekutsi lolo lwatiso ludzingeka kute kuvikelwe emalunge. **I-PAIA** inaka, ngekwesigaba 8(1) ngaloko, kwekutsi umtimba
- ungaba “wahulumende” noma “lotimele” kwentela tinjongo taloMtsetfo ngekuya ngekutsi lelirekhodi lekukhulunywa ngalo “likhuluma ngekusetjentiswa kwemandla noma kusebenta kwemsebenti njengemitimba wahulumende noma umtimba walabatimele.”

### 6.3.2 Kusebentisa lelo lungelo -

6.3.2.1 Lokuyimfihlo kwalokutsengiswako nalokusebentisekako, kubusa ngemfanelo nakahle; kanyeNgekuya ngemikhawulo lechazekako, kufaka ekhatsi, kungashiyi ngaphandle, imikhawulo lohloswe ekuvikeleni lokuvakalako kwalokuyimfihlo, kanye

6.3.2.2 Nangendlela lesimamisa lelo lungelo nanoma maphi lamanye emalungelo, kufaka ekhatsi lelilungelo lelikuMtsetfosivivinyo Wemalungelo kuSahluko 2 weMtsetfosisekelo;

6.3.3 Kuniketa imphumelelo kumisebenti yemtsetfosisekelo weMbuso ekutfufukiseni emasiko emalungelo eluntfu nebulungiswa bebantfu, ngekufaka ekhatsi imitimba yahulumende ngekwalenchazelo ‘yalofake sicelo’, nekubavumela, kulokunye, kutfola lwatiso kumitimba letimele ngemuva kwekuhambisana naletidzingo letine letikuloMtsetfo, kufaka ekhatsi umsebenti longetiwe waleminye imitimba yahulumende ngaletinye tikhatsi kutsi isebente ngekwenshisekelo yahulumende;

6.3.4 Kusungula tindlela tekutitsandzela naletiphoccelelekile noma tindlela tekufinyelela kulelo lungelo ngendlela levumela bantfu kutsi bafinyelele kumarekhodi ahulumende newemitimba letimele ngekushesha, ngaphandle kwetindleko nangekungasebenti ngemandla nendlela lekungakhonakala nngayo; kanye

6.3.5 ngalokunjalo, kutfufukisa kungafihli, kuba nemsebenti nekubusa ngemphumelelo kwemitimba yahulumende nalabatimele, kufaka ekhatsi kodwa kungashiywa, kuniketa emandla nekufundzisa wonkhe umuntfu -

6.3.5.1 avisise emalungelo ache ngekwaloMtsetfo kute asebentise emalungelo ache ngalokuphatselene nemitimba yahulumende naletimele;

6.3.5.2 kuvisisa imisebenti nekusebenta kwemitimba yahulumende naletimele; kanye

6.3.5.3 Nekuhatiya ngemphumelelo, nekkungenelela, ekwentiweni kwetincumo letentiwa mitimba yahulumende letinemtselela kumalungelo ayo.

#### 6.4 Umtsetfo Lochitjiyelwe Wekutfutukiswa Kufinyelela Kulwatiso, 2019

6.4.1 Kulelicala lelisemkhatsini we - ***My Vote Counts NPC v Minister of Justice and Correctional Services and Another [2018] ZACC 17***, inkantolo yemtsetfosisekelo yatfola kutsi “Umbuso unemtfwalo wekucinisekisa kutsi sigaba 32, 19 na 7(2) seMtsetfosisekelo sifundzeka kahle kute bente konkhe lokusemandleni kuniketa indlela lesebentisekako nalevakalako kulelilungelo lekufinyelela kulwatiso nelilungelo lekuvota. Labanyenti bachubekile bafakaza kwekutsi loko kunjalo ngoba loku kukusebentisa lilungelo lekuvota kufanele kube kutikhetsela, kantsi kunekuchumana lokubalulekile ekusebentiseni kahle lelilungelo lekuvota nekufinyelela kulwatiso. Kantsi “ngaphandle kwekufinyelela kulwatiso, lelikhono letakhamuti lekwenza tincumo letifanele ngekwepolitiki nekungenelela kumphilo levakalako libukelwa phansi”. Inkantolo yemtsetfosisekelo yacinisekisa lomtsetfo wekutsi akuhambisani nemtsetfosisekelo yase ilawula iphalamende kutsi ichibiyele **IPAIA** nekutsi yenta noma ngabe yini lebonakala ifanele kuniketa lokulungiswa, kugcina nekuhambisa kahle kufinyelela kulwatiso ekuphakelweni ngasese kwetimali kwetinhlangano tepolitiki nalabangenela lukhetfo labatimele ngesikhatsi lesilinganiselwa etinyangeni leti-18.

6.4.2 Ngelokuphatselene nalesisombululo senkantolo yemtsetfosisekelo lesibalwe ngenhla, mengameli, ngamhlaka 3 Juni 2019, wasayina Umtsetfo lochibiyela Kutfutukiswa Kwekufinyelelwa Kulwatiso, 2019 (**IPAIA** Umtsetfo lochitjiyelwe 2019)<sup>4</sup>. Umtsetfo Lochitjiyelwe Wekutfutukiswa Kwekufinyelelwa Kulwatiso, 2019, ufaka ekhatsi inhlangano yepolitiki kunchazelo yemtimba lotimele, lokusho kwekutsi ngemphumelelo lomholi wepolitiki noma lomunye umuntfu loniketwe emandla ngulowo mholi unguloniketa lwatiso noma umholi. Umtsetfo lochitjiyelwe we-**PAIA** wanga 2019 nyalo ukhulisa lelilungelo lekufinyelela kumalungelo anoma maphi emarekhodi enhlangano yepolitiki.

6.4.3 Lomtsetfo lochitjiyelwe uniketa lwatiso kulokuniketa imali ngasese kwetinhlangano tepolitiki nalabangenela lukhetfo ngekutimela lekufanele barekhodwe, lugciniwe futsi lwentiwa lwaba khona.

6.4.4 Ngekwesigaba 52A seMtsetfo we-**PAIA** lochitjiyelwe wanga 2019, inhloko yenhlangano yepolitiki kufanele yakhe futsi igcine emarekhodi etimali letinikelwe letindlula lemali lebekiwe, lengu **R100 000.00**, leniketwe kuleyo nhlangano yepolitiki kunoma ngumuphi umnyaka timali neminingwane yalomuntfu noma bantfu noma sikhungo lesente leyo minikelo. Lenhloko yenhlangano yetepolitiki kudzingeke kutsi yenta lamarekhodi atfolakale njalo ngekota, njengoba kubekiwe; nekugcina emarekhodi sikhatsi lesilinganiselwa kuminyaka lesihlanu ngemuva kwekutsi lamarekhodi lekukhulunywa ngawo asunguliwe.

<sup>4</sup> Umtsetfo Lochibiyela Kutfutukiswa Kwekufinyelela Kulwatiso, Nom. 31 wanga 2019

6.4.5 Loku kusho kutsi ngalesikhatsi loMtsetfo Wekuphakela Tinhlango Tepolitiki Ngemali ukunyata kutsi kuvetwe kuKhomishini Yelukhetfo, Umtsetfo lochitjijyelwe we**PAIA** wanga 2019 nyalo ukhulisa lamalungelo ekufinyelela, kumarekhodi anoma yiphi imali lenikelwe lendlula **R100000.00**, kunoma ngumuphi umuntfu, lenikelelwe leyo nhlango yepolitiki.

## 6.5 Leminye imitsetfo levikela lelilungelo lekufinyelela kulwatiso

I-**PAIA** iyasebenta etindzaweni letinyenti temtsetfo, letentelwe kwakha “lisiko lekumeleleka”. Ekunakeni loku, i**PAIA** ibeka kutsi noma ngabe ngumuphi umtsetfo loniketa umuntfu indzawo yekutfola lwatiso lekungasimatima kulutfola kune-**PAIA**, lungasetjentiswa lokungenani<sup>5</sup>.

### 6.5.1 Umtsetfo Wetinkapani 71 wanga 2008

6.5.1.1 Sigaba 26(1) Semtsetfo Wetinkapani siniketa umuntfu lekanenshisekelo yekuzuza kulokongiwe lokukhishwe yinkapani letfola inzuzo, noma lolilunga lenkapani lengenzuzo, unelilungelo lekubuka ikhophi, ngaphandle kwekukhokhela leyo khophi, lwatiso lolutfolakala kumarekhodi aleyo nkapani.

6.5.1.2 Ngekuya ngesigaba 26(7)(b) seMtsetfo Wetinkapani, “emalungelo ekufinyelela kulwatiso lekbkw kulsigaba anglla, kantsi awasusi, noma maphi emalungelo umuntfu langaba nawo ekutfola lwatiso ngekuhambisana neMtsetfo Wekutfutukisa Kufinyelela Kulwatiso, 2000 (Umtsetfo Nom. 2 wanga 2000)”.

### 6.5.2 Umtsetfo Wekuphakela Tinhlango Tepolitiki Ngemali, 2018 (Umtsetfo Nom. 6 wanga 2018)

6.5.2.1 Lokuphakelwa kwetinhlangano tepolitiki ngemali kuletsa luhlaka lwekulawula ngemandla lokuniketa timali kuto tonkhe tinhlango tepolitiki letibhalisiwe, nanoma kusesigabeni savelonkhenoma kutishayamtsetfo tesifundza noma cha. Loku kufaka ekhatsi kubeka emazinga alomtfombo, isayizi nekusetjentiswa kwetimali letinikeliwe kuletinhlangano tepolitiki.

6.5.2.2 Kucinisekisa kungafihli lutfo nekuba nemtfwalo, tinhlango tepolitiki tilindzeleke kutsi tivete yonkhe iminikelo letfolakele lengetulu kwalesamba lesibekiwe lesingu **R100000.00** kuleKhomishani Yelukhetfo njalo ngemuva kwetinyanga letintsatfu (Kanye nangembi kwelukhetfo lwavelonkhe).

<sup>5</sup> Sigaba 2(1) se-PAIA

- 6.5.2.3 Noma ngubani noma inhlango lenikelela inhlango yepolitiki bese lemali yodwa noma naseyihlanganiswe naleny indlula **R100000.00** ngemnyaka kufanele babike lowo mnikelo kuKhomishani Yelukhetfo kungakapheli emalanga langema-30 ekufaka lomnikelo noma ngemalanga langema-30 lowo mnikelo sewukhule waba ngetulu kwa **R100000.00**.
- 6.5.2.4 Kwekugcina, Umtsetfo Wekuphakela Tinhlango tepolitiki Ngemali ubeka umtfwalo kuKhomishani Yelukhetfo kwatisa sive njalo ngemuva kwetinyanga letintsatfu imali lenikeliwe lelikwe tinhlango tepolitiki nekubika njalo ngemnyaka ePhalamende yonkhe iminikelo letfolwe ngulenhlangano yepolitiki ekhatsi nemnyaka.
- 6.5.3 Umtsetfo Wekuvikelwa Kwelwatiso Lwakho, 2013 (Umtsetfo Nom. 4 wanga 2013)
- 6.5.3.1 Sigaba 23 se**POPIA** siniketa laba labacela idatha ngemalungelo ekufinyelela kulwatiso lolubanjwe ngulenhlangano lekunguyona yona, kufaka ekhatsi emagama alabo besitsatfu, noma tigaba talaba besitsatfu, leba, noma lebake, bafinyelela kulolwatiso.
- 6.5.3.2 Loku kusho kutsi nanoma kufinyelela kulirekhodi lolucuketse lwatiso ngawe ngemuntfu lofaka sicelo ukhishiwe ku**PAIA** ngekwesigaba 11(2) kanjalo, lona lofuna idatha angacela -
- 6.5.3.2.1 Kufinyelela kulwatiso ngaye; Kanye/noma
- 6.5.3.2.2 Emagama abo bonkhe bantfu besitsatfu, Kanye/noma tigaba tabo bonkhe besitsatfu, leba, noma lebebane, kufinyelela kulwatiso.
- 6.5.3.2.3 Kulungisa noma kususa kwelwatiso ngawe ngebantfu labacela lwatiso labaluphetse noma ngaphansi kwekulawulwa lokungasikahle, lokungakafaneli, lokundlulele, lokundlulelewe sikhatsi, lokungakapheleli, loluyengako noma lolutfolakale ngalokungekho emtsetfweni; noma
- 6.5.3.2.4 Lirekhodi lakhe lelwatiso ngaye kwekutsi lenhlano lefanele ayisagunyatwanga kutsi ligcinwe kute lilahlwe noma lisulwe.
- 6.5.3.3 Inhlango lekungiyi ingala kuveta lwatiso ngayo loluceliwe, ngekuhambisana netindlela tekwala kutsi kufinyelelwe kulamarekhodi, njengoba kubekwe kundzima 19.4 lengentasi.



## 6.5.4 Umtsetfo Wekutfutukisa Kulawulwa Kwebulungiswa 3 wanga 2000

- 6.5.4.1 Lomunye umtsetfo lobalulekile lekufanele siwukhumbule nasinaka kufinyelela kulwatiso nguloMtsetfo Wekutfutukiswa Kwekufinyelela Kubulungiswa (**iPAJA**). I-**PAJA** iniketa emalungelo ekuphatfwa ngemfanelo ngalokusemtsetfweni, lokufanele nalokuhamba ngendlela lengavuni licele nemalungelo ekuniketwa tizatfu letibhalwe phansi kute kwentiwe umsebenzi wekulawula njengoba kubekwe kusigaba 33(2) seMtsetfosisekelo<sup>6</sup>.
- 6.5.4.2 Ngekwesigaba 5(1) se**PAJA**, noma ngubani emalungelo ache lahlukumetekile kabuhlungu ngekwemsebenzi wekulawula wanganiketwa tizatfu talesento, ngemuva kwemalanga langema-90 ngemuva kwalolusuku lapho umuntfu abe nelwati ngalomsebenzi, acele kutsi lona lophetse lotsintekako amnikete tizatfu letibhalwe phansi ngalesento. Lolophetse lekufakwe kuye sicelo kufanele, kungakapheli emalanga lange-90 ngekuva kwekutfolela sicelo, anikete lowo muntfu tizatfu letanele letibhalwe phansi ngalesento salokulawula.

## 7. KUSUNGULWA KWEMLAWULI WELWATISO

- 7.1 Kucinisekisa lokutfutukiswa nekunotsiswa kwemigomo ye-**PAIA**, lekuniketa emalungelo ekufinyelela kulwatiso ngendlela leyenta bantfu bakwati kufinyelela kumarekhodi emitimba yahulumende neyalabatimele ngaphandle kwetingcinamba nangendlela lefinyelelekako nangendlela lengakhoneka, Umlawuli Welwatiso ("Umlawuli") wasungulwa ngekwesigaba 39 se**POPIA**.
- 7.2 Kute ucinisekise kwekutsi tindlela tekuphatsa letingakacakeki naletishiphile tiyalandzelwa ngalesikhatsi sicelo sekufinyelela kulwatiso sentiwa, tikhalo letiya kuMlawuli nekufaka ticelo enkantolo kufanele kube ngulokwentekako hhayi umtsetfo.
- 7.3 I-**POPIA** ichibiyela umsebenzi we**SAHRC** ngekuhambisana nemtsetfo we**PAIA**. Kusukela ngamhlaka 30 Juni 2021, yonkhe lemisebenzi ye**SAHRC**, njengoba ilinganiswe ku-**PAIA**, itawusetjentwa nguMlawuli, lekabuye abe nemandla langetiwe ekulawula.
- 7.4 Ngalesikhatsi i**SAHRC** itawuchubeka nekugcina imisebenzi yayo lebanti ngekwemtsetfosisekelo yekutfutukisa, kuvikela nekulandzelela emalungelo labalwe kuMtsetfosivivinyo Wemalungelo Eluntfu, i**SAHRC** neMlawuli batawusebenta ngekubambisana ndzawonye.

<sup>6</sup> Wonkhe umuntfu lonemalungelo latsikametekile ngenca yemsebenzi wekulawula unelilungelo lekuniketwa tizatfu letibhalwe phansi.

## 8. UMSEBENTI WEMLAWULI WELWATISO

- 8.1 Umlawuli unemsebenti lobaluleke kakhulu ngalokuphatselene ne**PAIA**. Umlawuli uniketwe umsebenti ngekwe-**PAIA**, ngaphansi kweNcenywe 4, Sahluko 1A neNcenywe 5 naletinye tigaba, kutsi:
- 8.1.1 Kutfutukisa emalungelo ekufinyelela kulwatiso nekusita bantfu ekusebentiseni i**PAIA** lapho kufanele khona kutsi kwenteke njalo,
  - 8.1.2 Kulandzelelwe nekuchubeka nekusebentisa i**PAIA** bantfu nemitimba letimele (lokufaka ekhatsi kutfutukisa tindlela letiyimphumelelo kwenta kutsi lwatiso lutfolakale ngesikhatsi),
  - 8.1.3 Kwenta tincomo kute kuciniswe i**PAIA**, futsi
  - 8.1.4 Nekubika njalo ngemnyaka ePhalamende.
- 8.2 Sigaba 77C (1) na (2) se-**PAIA** siniketa kusetjentiswa kwalamandla lalandzelako, imisebenti netento teMlawuli, tekun -
- 8.2.1 Phenya ngetikhalo letentiwe nguMlawuli ngendlela lebekiwe;
  - 8.2.2 Ndlulisela lesikhalo kuLikomidi Lekusebentisa Umtsetfo lelisungulwe ngekwesigaba 50 se-**POPIA**; noma
  - 8.2.3 Ncuma, ngekusebentisa sigaba 77D, sekungatsatsa tinyatselo kulesikhalo noma, njengoba kungaba njalo, kungadzingeki letinye tento ngalokuphatselene netikhalo; kanye
  - 8.2.4 kwenta, lapho kufanele khona, njengaloletsa kuthula ngalokuphatselene netikhalo letinjalo ngendlela lebekiwe.
- 8.3 Umlawuli anga, ngekwesigaba 77H(1) se-**PAIA**, nangemitamo yakhe, noma ngesicelo lesenriwe noma ngekubambela sisebenti selwatiso noma inhloko yemtimba lotimele noma lomunye nje umuntfu ente luhlolo kutsi ngabe umtimba wahulumende noma lotimele uyalandzelela ngalokutayekekile letigaba te-**PAIA**, ngekuhambisana netinchubomgomo netindlela letiphatselene nekusebentisa.
- 8.4 Umlawuli uniketwe emandla, ngekwesigaba 77F se-**PAIA**, kusebentise imitamo yakhe lehambembili yekugcina kulungiswa kwesikhalo, uma ngabe kuvela kulesikhalo, noma imphendvulo lebhaliwe leyentiwe ngekuhambisana nayo lekungenteka kutsi kulungiswe lesikhalo, uma ngabe kunesikhalo lesifakwe neMlawuli, ngaphandle kwekutsi kuncunywe, ngemitamo yakhe, kwenta luhlolo, njengoba kuvele kundzima 8.3 ngenhla.

## 9. KWENTA SICELO SEMAREKHODI

Sicela ubukete kulenchubo yetinyatselo letilandzelelanako kulelishadi lelikundzima 27 ngentasi, kutsi ungacela njani kufinyelela kumarekhodi.

### 9.1 Kucala: **Imihlahlandlela yePAIA**

9.1.1 Ngalesikhatsi leNkhombandlela ishicilelwe kutsi isite bantfu labavela kuto tonkhe tinkhalo kutosebentisa emalungelo abo ngekweMtsetfosisekelo kutsi bafinyelele kulwatiso, kunaleminye imitfombo yelwatiso lengabuye isite bantfu ekufakeni sicelo sekufinyelela kumarekhodi. **iPAIA** idzinga kwekutsi yonkhe imitimba yahulumende nemitimba letimele, babhala futsi benta umhlahlandlela we**PAIA** utfolakale<sup>7</sup>.

9.1.2 Ngembi kwekutsi noma ngubani atsatse tinyatselo tekufinyelela kulwatiso noma emarekhodi emtimba lotsite, inkhombandlela ye**PAIA** lithulusi lekucala lekulifundza.

9.1.3 Kusukela kususisa sayo, inkhombandlela ye**PAIA** ibalulekile kumuntfu kute:

9.1.3.1 Ahlole simo semarekhodi lekangahle atfolakale ngaphandle kwesidzingo sekuletsa sicelo lesisemtsetfweni se**PAIA**;

9.1.3.2 Kube nekuvisisana kutsi ungasifaka njani sicelo sekufinyelela kulwatiso loluphetfwe ngumtimba lotsite;

9.1.3.3 Kufinyelela kuyo yonkhe leminingwane yekutsintsana yalomuntfu lotawusita bantfu ngemarekhodi lenoma muphi umuntfu afuna kufinyelela kuwo;

9.1.3.4 Kwati tonkhe tindlela tekulungisa letikhona kulomtimba lapho kufinyelela kumarekhodi kucelwa khona, ngembi kwekuya kuMlawuli noma etinkantolo;

9.1.3.5 Kwati letinchazelo taletinsita letikhona kumalunga emphakatsi lavela kulomtimba nekutsi ufinyelela njani kuletinsita;

9.1.3.6 Kwati kutsi ngabe lomtimba utawukhona kusebentisa lolwatiso ngemuntfu, injongo yekusebentisa lolwatiso ngawe nenchazelo yaletigaba yebantfu labafuna idatha nebalolwatiso noma tigaba telwatiso letiphatselene naloko;

9.1.3.7 Kwati kutsi uma ngabe lomtimba uhlele kundlulisela noma kusebentisa lwatiso lwebantfu ngaphandle kwaseRiphabhulikhi yaseNingizimu Afrika; kanye

<sup>7</sup> Sigaba 14 nesigaba 51 se-PAIA

- 9.1.3.8 Kwati kutsi ngabe lomtimba unekuvikeleka lokufanele kucinisekisa imfihlo, sitfunti nekutfolakala kwalolwatiso lekufanele lusetjentiswe.

## 9.2 Ungayitfola kuphi imihlahlandlela yePAIA?

### 9.2.1 Umhlahlandlela wePAIA yemitimba yahulumende

- 9.2.1.1 Yonkhe imitimba yahulumende kufanele yenta lomhlahlandlela<sup>9</sup> wePAIA utfolakale kalula lokungenani ngetilwimi letintsatfu letisemtsetfweni<sup>8</sup>.

- 9.2.1.2 Kulokumbalwa, kudzingeke kutsi bente umhlahlandlela loyikhophi yePAIA mahhala, ngaphandle kwekutsi kube yikhophi lephrintiwe leceliwe -

9.2.1.2.1 Kuwebhusayithi yemitimba wahulumende;

9.2.1.2.2 Ehhovisi leliyinhloko kwentela kuhlola bantfu ngalesikhatsi semsebenti;

9.2.1.2.3 Uma ngabe umuntfu afuna ikhophi lephrintiwe, lomtimba wahulumende kufanele wente ikhophi, kodwa bangacela kukhokhelwa imali levakalako ngekuniketa ikhophi lephrintiwe; futsi

9.2.1.3.4 KuMlawuli ngalesikhatsi kucelwa.

### 9.2.2 Umhlahlandlela wePAIA kumitimba letimele

- 9.2.2.1 Imitimba letimele nayo ilindzeleke kutsi ibhale umhlahlandlela wePAIA , kodwa akunasidzingo sekuyibhala kutilwimi letingetulu kwalunye noma ngelulwimi lolutsite, nanoma kunconyiwe kutsi Imihlahlandlela yePAIA yemitimba letimele kufanele lokungenani kube Singisi. Uma ngabe umtimba lotsite uniketa tinsita kubantfu labanyenti labangenamfundvo, Umlamuli uncome kwekutsi lomhlahlandlela walomtimba ungabhalwa nganoma luphi lulwimi lolusemtsetfweni.

- 9.2.2.2 Kulokumbalwa, lemitimba letimele kufanele yenta ikhophi yePAIA itfolakale mahhala<sup>10</sup>, ngaphandle kwekutsi kudzingeke ikhophi lephrintiwe

9.2.2.2.1 Kuwebhusayithi yemitimba lotimele;

9.2.2.2.2 Endzaweni yekusebenta yalebhizinisi yalomtimba lotimele kwentela kuhlolwa kwebantfu ngalesikhatsi sekusebenta;

<sup>8</sup> Sigaba 14(1) se-PAIA

<sup>9</sup> ngekwesigaba 51 se-PAIA

<sup>10</sup> Sigaba 51(3) se-PAIA

9.2.2.2.3 Uma ngabe umuntfu afuna ikhophi lephrintiwe, lomtimba lotimele kufanele wente ikhophi, kodvwa bangacela kukhokhelwa imali levakalako ngekuniketa ikhophi lephrintiwe; futsi

9.2.2.2.4 KuMlawuli ngalesikhatsi kucelwa.

9.2.3 Ndvuna weMisebenti Yetebulungiswa neTemajele unemandla ekukniketa imitimba letimele<sup>11</sup> letsite noma tigaba temitimba letimele kulomtfwalo wekubhala umhlahlandlela. Kwanyalo, kudzimate kube ngamhlaka 31 Disemba 2021, Ndvuna uniketa imvume kuyo yonkhe imitimba letimele<sup>12</sup>, ngaphandle kwanoma yiphi inkapani -

- (a) Lengasiyo ikapani letimele njengoba ichazwe kusigaba 1 seMtsetfo wenkapani, 2008 (Umtsetfo Nom. 71 wanga 2008); futsi
- (b) Yinkapani letimele njengoba ichazwe kusigaba 1 seMtsetfo Wetinkapani 2008 (Umtsetfo Nom. 71 wanga 2008), lesebenta kunoma ngumuphi umkhakha lobalwe kukholamu yekucala yaleshejuli kuleSatiso kanye
  - (i) Banetisebenti leti-50 noma ngetulu emisebentini yabo; noma
  - (ii) Banelinani leliphelile lelitfolakele lelingana noma ngetulu kwalesamba lesifanele lesibalwe kukholamu 2 kulelithebula lelingentasi,

Kusukela ekubhaleni lomhlahlandlela lobalwe kusigaba 51(1) kulomtsetfo lobalwe kwekucala kulesikhatsi setinyanga letisitfupha (6) kusukela ngamhlaka **1 Julayi 2021** kuya ku **31 Disemba 2021**:-

Umkhakha	Lokutfolakala ngemnyaka
Tekulima	R6 tigidzi
Kumba nenkwari	R22.5 tigidzi
Kukhacita	R30 tigidzi
Gezi, Igasi neManti	R30 tigidzi
Tekwakha	R15 tigidzi
Titolo nekuhwebelana ngeTimoto neTinsita Tekulungisa	R45 tigidzi
Kuhwebelana Kwemawoliseyi, Tisebenti Tekutsengiselana Netinsita Tekuchumana	R75 tigidzi
Tekupheka, Tekuhlala nalokunye Kuhlwebelana	R15 tigidzi
Tekutfutsa, Kugcina imphahla Nekuchumana	R30 tigidzi
Tetimali netinsita Temabhizinisi	R30 tigidzi
Ummango, Tinsita Letikhetsekile Netebantfu	R15 tigidzi

<sup>11</sup> Sigaba 51(4) se-PAIA

<sup>12</sup> IGazethi yaHulumende nom: 39504, 11 Disemba 2015

9.2.4 Ngenca yekubaluleka kwaletidzingo tekushaywa kwemtsetfo letiphatselene nekubhalwa kweMhlahlandlela ye-**PAIA**, ikakhulukati lokuchitjiyela<sup>13</sup> kwesigaba 51 se-**PAIA** (lotawucala kusebenta ngamhlaka 30 Juni 2021), ngekuhambisana nekutsi ingcikitsi yalolwatiso kwekutsi lomhlahlandlela kufanele ufake ekhatsi kantsi ikhulisiwe kute ifake ekhatsi tindzaba letiphatselene ne**POPIA**, imitimba letimele angeke yakhishwa kulomsebenti wekwenta umhlahlandlela we-**PAIA**. Ngako-ke kusukela lapha, mhla-1 Janawari 2022, yonkhe imitimba letimele neyahulumende kutawudzingeka kutsi babe nemhlahlandlela wabo ubekhona, njengoba kubalwe kundzima 9.2.2.2 ngenhla.

9.2.5 Lokuniketwa imvume kwetinkapani letitimele kulomtfwalo wekutibhalela umhlahlandlela wabo we-**PAIA** awuvumeli leto tinkapani letitimele kutsi tingahambisani nemtsetfo we-**PAIA**. Loku kusho kutsi noma bani angafaka sicelo sekufinyelela kulwatiso kumitimba leniketwe imvume. Lokuniketwa imvume kumane kusho kutsi leto tinkapani letitimele akunasidzingo sekubhala umhlahlandlela we-**PAIA**.

9.2.6 Khumbula futsi, kwekuts akusiyo yonkhe imitimba letimele letinkapani, njengoba lenchazelo yemtimba lotimele ifaka ekhatsi umuntfu, inkapani lenemuntfu munye nelenebantfu labangetulu kwamunye. Noma kunjalo, kungahle kube kufanele kuhlola iwebhusayithi yakhe, njengoba letinye tiNkapani tisungula umhlahlandlela we-**PAIA** kungayi ngenombolo yaletisebenti tayo noma inzuzo labayenta ngemnyaka.

### 9.3 Kuveta ngekutitsandzela nekuvela kutfolakale emarekhodi

9.3.1 Emarekhodi lekavele abe khona ngulawo umtimba lotimele noma wahulumende utawaniketa ngaphandle kwesidzingo sekutsi lofaka sicelo ngekusebentisa **iPAIA** (ngalamanye emagama, umuntfu angavele awacele ngaphandle kwekugcwalisa lifomu 2 le**PAIA**).

9.3.2 Lesisebenti Selwatiso semtimba wahulumende kuddzingeka kutsi, ngekwesigaba 15(1) se-**PAIA**, kwenta kutsi kube neluhla lolutfolakalako noma tigaba temarekhodi lekavele abe khona, njengoba kubekiwe kundzima 9.3.4 ngentasi.

9.3.3 Emarekhodi lavele atfolakale emtimba lotimele angabuye entiwe atfolakale, ngekwesigaba 52(1) se-**PAIA**, kodvwa ngekutitsandzela ngekuhambisana nendzima 9.3.4 ngentasi.

9.3.4 Inchazelo yaletigaba yemarekhodi lavele atfolakale kufanele entiwe atfolakale

(a) kuMlawuli Welwatiso;

(b) kuwebhusayithi yemtimba lotimele; ne

(c) kuhlola, emahhovisi emtimba lotsintsekako ngesikhatsi lesijwayelekile sekusebenta.

<sup>13</sup> Sigaba 110 se-POPIA

- 9.3.5 Sicela wati kutsi Umlawuli utawufaka inchazelo yeluhlobo lwemarekhodi lekavele atfolakale emtimba wahulumende kuwebhusayithi yakhe.
- 9.3.6 Loluhla lufaka ekhatsi emarekhodi lekangahle kudzingeke kutsi entiwe atfolakale ngaleminye imitsetfo, nalamanye emarekhodi umtimba lowakhetsako kutsi uwafake. Kute kuvinjelwe lomtsetfo wekuhambisana netidzingo tenchubo yekufaka sicelo se-**PAIA**, lofaka sicelo uyecwayiswa kutsi abuke Umhlahlandlela we-**PAIA** walowo mtimba lotimele noma wahulumende lotsintsekako. Uma umuntfu angatsandza kufinyelela kumarekhodi latfolakala ngaphansi kwaloluhla lwalomtimba lemarekhodi lavele atfolakale, lowo muntfu angavele acele kufinyelela kuwo ngaphandle kwekudzinga kugcwalisa Lifomu 2 le-**PAIA**.
- 9.3.7 Umtsetfo Wekuniketwa Timali Kutinhlangano tepolitiki 6 wanga 2018 ungenisa tingucuko letitsite ngekusebentisa i**PAIA**, lapho khona tinhloko tetinhlangano tepolitiki kudzingeke kutsi tibhalise futsi tigcine emarekhodi ekunikelelwa ngulabangasese, lekudzingeka kwatiwe nguwonkhe umuntfu ngaphandle kwekufaka sicelo se-**PAIA**.

## 10. IMINININGWANE YEKUTSINTSANA NETISEBENTI TELWATISO

- 10.1 Nanoma lemininingwane yekuchumana yeTisebenti Telwatiso tayonkhe imitimba yahulumende kufanele ishicilelwe kuto tonkhe tincwadzi tetincingo, ngekwesigaba 16 se**PAIA**, Umlawuli unemininingwane letsite yato tonkhe Tisebenti telwatiso (kufaka ekhatsi Sisebenti selwatiso Lesilibambela, lesicashwe ngekwesigaba 17 na 56 se-**PAIA** ne **POPIA** ngalokufanako) letibhaliswe ngekwesigaba 55(2) se-**POPIA**.
- 10.2 Ngalesikhatsi kutfola imininingwane yekuchumana lekungiyi kungahle kube yincenye leyinselele yekwenta sicelo se-**PAIA**, njengoba tikhundla tigucuka njalo kumkhakha wahulumende nenkhombandlela ye**PAIA** kungenteka ingahambisani netikhatsi, indzawo yekucala yekutfola imininingwane yekutsintsana kufanele kube ngumtimba weNkhombandlela ye-**PAIA**. Noma kunjalo, uma lofake sicelo angeke akhone kutfola loMhlahlandlela, kushayela sikhungo setincingo salomtimba kute ubute imininingwane lekungiyi naloko kungasita.
- 10.3 Kubomasipala, Inhlangano Yabohulumende Basemakhaya eNingizimu Afrika (i**SALGA**) ibeka imininingwane yekuchumana yabo bonkhe bomasipala kulelinki: <http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Betekuchumana kuhulumende nabo baniketa imininingwane yekuchumana yavelonkhe neyesifundza Kanye nemininingwane yeTinkapani Letilawulwa nguMbuso ngaphansi kwalelinki: <https://www.gov.za/about-government/contact-directory>. Hlala ukhumbula kwekutsi inchazelo yeSisebenti Selwatiso iyasita kutfola kutsi udzinga imininingwane yabani yekuchumana kute wati leSisebenti Selwatiso.



## 11. INCHUBO YEKUFAKA SICELO SEKUTFOLA LWATISO

### 11.1 Emafomu ekufaka sicelo

11.1.1 Sicelo sekufinyelela kulwatiso singentiwa kumitimba yomibili lotimele newahulumende.

11.1.2 I-**PAIA** idzinga kwekutsi uma ufuna kwenta sicelo lesinjalo, kufanele ufake lesicelo ngalelifomu lelidzingekeko (lmafomu lawa abekwa ngekweMtsetfosimiso). Lawa ngulmafomu lamabili langasetjentiswa uma ufuna kusebentisa lilungelo lakho lekufinyelela kulwatiso:

Lifomu 2	Lifomu 4
Lelifomu lingasetjentiswa kuphela uma ufuna kucela kufinyelela kulwatiso lwemarekhodi emtimba alabtimele newahulumende.	Lelifomu lingasetjentiswa kuphela uma ngabe ufuna kufaka sikhalo sangekhatsi ngekumelana nesincumo seSisebenti Selwatiso noma Selisekela Lesisebenti Selwatiso kuhulumende wavelonkhe, sifundza noma masipala lapho sikhalo sangekhatsi sidzingeke khona.

11.1.3 Lamafomu angatfolakala kuwebhusayithi yeMlawuli ku <https://www.justice.gov.za/infoereg/>

11.2 Kuncuma kwekutsi ngabe sicelo sihambisana nelwatiso lolubanjwe ngumtimba lotimele noma wahulumende

11.2.1 Umtimba wahulumende wenta umsebenti wahulumende, njengekuphakela gezi noma emanti kubantfu. Ngako-ke, umtimba wahulumende akusuye hulumende wavelonkhe, wesifundza noma masipala – utawufaka ekhatsi tinkapani letiholwa nguhulumende noma lmitimba yeMbuso lenjengeMlawuli, Eskom noma PRASA, noma kunjalo, umehluko kufanele wentiwe ngalokuphatselene nemtimba wahulumende kwentela kufaka sikhalo sangekhatsi, lokusho kuphela hulumende Wavelonkhe, Wesifundza naMasipala.

11.2.2 Umtimba lotimele wenta umsebenti walabtimele. Lowo mtimba (lekungaba ngumuntfu) uyahwebelana, uyabhezina noma unekufundzisa ngemsebenti. Kubaluleke kakhulu kwati kutsi uma ufaka sicelo se**PAIA** kumtimba lotimele umuntfu kufanele ashokutsi uvikela liphi lilungelo noma lalisebentisako ngekucela lolwatiso. Ngalokuphatselene nanoma luphi lwatiso loluphetfwe ngulomunye umuntfu, Streicher JA ufinyete lesimo ngaloluhlobo lolulandzelako, ku **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) indzima 28 ku 1026F–G

*“Iwatiso lungadzingeka kuphela kusebentisa noma kuvikela lilungelo uma ngabe kutawuba lusito ekusebentiseni noma ekuvikeleni emalungelo. Kulandzela kwekutsi, uma ngabe kufanele kwentiwe licala lekufinyelela kulwatiso ngekwesigaba 32, lofaka sicelo kufanele asho kutsi lelilungelo liyini lelekafuna kulisebentisa noma kulivikela, ngabe lolwatiso luyini lololudzingekako nekutsi lolwatiso lutawusita njani ekusebentiseni nasekuvikeleni lilungelo”.*

- 11.2.3 Ngalesinye sikhatsi lombuto wekutsi ngabe lirekhodi lalabatimele noma lahulumende kungaba yinkinga kantsi bantfu bayecwayiswa kutsi bacele kwecwayiswa ngekweemtsetfo. Sibonelo, uma umtimba wahulumende ubeka umtimba lotimele kutsi wente letinye tinsita ngekumelela wona, kufana nekufana emamitha emanti kuleminyane imimmango, kufinyelela kutinombolo temamitha lafakiwe, nanoma lolo lwatiso lubanjwe ngulowo mtimba lotimele, lutawutsatfwa njengelwatiso lwentimba wahulumende.
- 11.3 Ngabe umuntfu ulichaza njani lelilungelo lekahlose kulisebentisa noma kulivikela?
- 11.3.1 Uma uchaza kutsi nguliphi lilungelo umuntfu lekahlose kulisebentisa uma afaka sicelo kumtimba lotimele, umuntfu angeke wasebentisa lilungelo lekufinyelela kulwatiso. Umuntfu kufanele achaze kutsi lelirekhodi lekalicelako lifuneka ngendlela levakalako kute ativikele, noma asebentise, lelinye lilungelo. Loku kungafaka ekhatsi emalungelo lekungasiwo emalungelo nje emtsetfosisekelo.
- 11.3.2 Umuntfu angahle ngekwesibonelo acele emacebo lahambembili kulenkapani lenemtselela wekutsintsa emazinga ekungcola kwemvelo ngekulandzela imisebenti yawo. Noma umuntfu angacela emarekhodi, langasita umuntfu ancume kutsi ngabe unelilungelo lekufaka ikleyimu ngekumelana nenkapani. Umuntfu kudzingeka kutsi:
- 11.3.2.1 Ngalokucondzile akhombe lelilungelo lekahlose kulivikela noma kulenta, futsi
- 11.3.2.2 Achaze ngalokucacile kutsi kungani lelirekhodi lekalicelako lidzingeka ngalokujwayelekile kusita umuntfu lonalelo lilungelo.
- 11.3.3 Ngalokuhlukile, uma ngabe ufaka sicelo se-**PAIA** kumtimba wahulumende, umuntfu akukafanelei kutsi abe netizatfu tekucela lolwatiso.

## 12. NGUBANI LONGENTA SICELO SE-PAIA?

- 12.1 Noma ngubani, noma ngabe waseNingizimu Afrika, uvumelekile kwenta sicelo ngaphansi kwe-**PAIA**. Lolofaka sicelo kungaba ngumuntfu noma inkapani.

12.2 Umtimba lotimele utsatfwa njengenkapani kantsi ingenta sicelo sekufinyelela kumarekhodi laphetfwe ngumtimba lotimele, kodwa kuphela uma ngabe lomtimba lotimele -

12.2.1 Losebenta ngekumelela tinshisekelo tebantfu, futsi

12.2.2 Uma lamarekhodi adzingeka kucedza noma kuvikela noma maphi emalungelo ngaphandle kwalawo emtimba wahulumende.

12.3 Ngaphansi kwe-**PAIA** lofaka sicelo angeke wacela kufinyelela kumarekhodi, emtimba wahulumende<sup>15</sup>, lekacuketse lwatiso ngemuntfu lofaka sicelo lokumtimba wahulumende, noma kunjalo, lolofaka sicelo noma umuntfu lofuna idatha anga, ngekuhambisana nesigaba 23(1)(b) se-**POPIA**, angacela kunhlangano lefanele lirekhodi noma inchazelo yalolwatiso ngaye loluphatselene nalolofuna idatha loluphetfwe ngulenhlangano letsintsekako. Loku kusho kutsi noma bani angacela kufinyelela kulwatiso lwakhe loluphetfwe ngumtimba wahulumende nalotimele ngemuva kwekuniketa bufakazi lobanele bekutsi unguye. Lolwatiso ngawe lofaka sicelo longalucela kulomtimba lofanele lungafaka ekhatsi lwatiso ngalokuphatselene nato tonkhe tinhlangano tesitsatfu, noma tigaba tetinhlangano tesitsatfu, leti, noma letibe, nekufinyelela kulwatiso.

12.4 Ngekwesigaba 50(1) se-**POPIA**, noma ngabe ngubani angacela kufinyelela kumarekhodi, emtimba lotimele, lelicuketse lwatiso ngemuntfu lekunguye lofake sicelo noma lomuntfu lesicelo lesentiwe ngekumelela yena.

### 13. SICELO SINGAFAKWA KUBANI?

13.1 Sisebenti Selwatiso semtimba wahulumendekudzingeke kutsi sibeke Lisekela Lesisebenti Selwatiso, lekufanele sicinisekise kutsi kuyafinyeleleka kulamarekhodi emtimba wahulumende ngendlela lefinyelelekako ngalokukhonekako. Nanoma loku bekungasiko lokudzingekako ngalokuphatselene nemtimba lotimele ngaphansi kwe-**PAIA**, umtimba wahulumende ungabeka Lisekela Lesisebenti Selwatiso lesibalwe ngenhla, ngekwesigaba 56 se-**POPIA**.

13.2 Lesicelo sekufinyelela kulwatiso, nanoma kungacondziswa kuleSisebenti Selwatiso, kungayiswa kuLisekela Lesisebenti Selwatiso. Imininingwane yeSisebenti Selwatiso ingatfolakala kumhlahlandlela we-**PAIA** yalowo mtimba noma Umlawuli.

### 14. KUGCWALISA LELIFOMU

14.1 Lifomu 2 – sicelo sekufinyelela kumarekhodi emtimba lotimele newahulumende:

14.1.1 Kute kutsi ugcwalise lifomu le-**PAIA**, umuntfu kufanele anikete imininingwane leyanele kuvumela Sisebenti Selwatiso noma Lisekela Lesisebenti Selwatiso kutsi batfole emarekhodi lekadzingwa ngulofaka sicelo.

<sup>15</sup> Sigaba 11(2) se-PAIA

- 14.1.2 Imitsetfosimiso ye-**PAIA** ichaza lelifomu lekufanele lisetjentiswe, lekufanele litfunyelwe kuleSisebenti Selwatiso, noma Lisekela Lesisebenti Selwatiso salomtimba.
- 14.1.3 Bafaki ticelo labangakhoni kufundza noma kubhala bangenta ticelo nge mlomo kuSisebenti Selwatiso noma Lisekela Lesisebenti Selwatiso semtimba wahulumende, lewutawubese uba nemsebeni sekugcwalisa lelifomu 2 ngekusita lolofaka sicelo. Lelifomu lelikhona nyalo litawudzinga kutsi uligcwalise letigaba letilandzelako:

Lwatiso loludzingekako	Inchazelo
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<b>Imininingwane yemtimba wahulumende/lotimele</b>	Lesigaba kufanele sicuketse ema-imeyili lafanele nenombolo yefeksi yeSisebenti Selwatiso Kanye/noma Lisekela Lesisebenti Selwatiso.
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<b>Imininingwane yemuntfu locela kufinyelela kumarekhodi</b>	Loku kufanele kucuketse lwatiso lolwanele ngalofake sicelo kute kube lula kutfola, kufaka ekhatsi imininingwane yekutsintsana yalolofake sicelo: likheli laseposini, likheli le-imeyili, ifeksi Kanye/noma inombolo yelucingo eNingizimu Afrika. Libuye lifune inombolo yelipasi kute kucinisekiswe kutsi nguwe. Uma ngabe ucela lolwatiso ngekumelela lomunye umuntfu, bufakazi balesikhundla lonaso sekucelela lomunye umuntfu kufanele siniketwe ('njengalogunyatiwe').
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<b>Imininingwane yemarekhodi laceliwe</b>	Niketa imininingwane legcwele yalamarekhodi lekucelwa kufinyelelwa kuwo, kufaka ekhatsi inombolo yereferensi uma ngabe uyati, kwentela kutsi lelirekhodi litfolakale. (uma ngabe lendzawo leniketiwe inganeli, sicela uchubekele kulelinye likhasi bese ulinamatsisela kulelifomu. Onkhe emakhasi langetiwe kufanele asayinwe.
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<b>Inhlobo yelirekhodi</b>	Loku kufanele kucuketse lwatiso lolwanele ngalirekhodi kwenta kube lula kutfolakala. Uma ngabe lolwatiso loludzingekako lunganeli kulenzawo leniketiwe kulelifomu, likhasi lelingetiwe lelibhalwe ngesandla noma lelithayiphiwe lingasetjentiswa kuniketa imininingwane lengetiwe yalesicelo, inkhuni nje
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## Lwatiso loludzingekako

## Inchazelo

uma ngabe likhasi lelingetiwe lisayiniwe lanamatsiselwa kulelifomu lesicelo. Ungahle, sibonelo, ufake lokucashuniwe lokuvela kumbiko noma ludzaba lwetindzaba letifaka ekhatsi lamarekhodi lowabukako. Kukuvumela kutsi ufake inombolo yereferensi yalamarekhodi, uma ngabe ikhona.

## Tindleko

Umtimba, lapho lohlose kufaka sicelo sekufinyelela kumarekhodi, kufaka ekhatsi emarekhodi lacuketse lwatiso ngawe, angacela kutsi ukhokhe imali yekufaka sicelo (imali yekufinyelela) noma imali yesibambiso, kodwa leso samba akukafaneli sindlule, njengoba lemali kufanele ibe ngeyesikhatsi lesifanele sekutfola nekulungisa lirekhodi. Ndvuna ngekwesatiso kuGazethi angavumela kutsi kungakhokhwa letindleko njengoba kubalwe kundzima 51.1 ngentasi.

Indzawo iniketwe kulofaka sicelo kutsi akhombise kutsi kungani akholelwe kutsi ngubani lekufanele aniketwe imvume yekungakhokhi tindleko. Tizatfu tingafaka ekhatsi, sibonelo, kwekutsi akasebenti.

## Lifomu lekufinyelela kumarekhodi

Lesigaba sikuvumela kutsi ukhombise nga "X" lokufunako kulelifomu lekufinyelela kumarekhodi kantsi linganiketwa njengaleliphrintiwe noma nge flash drive futsi/noma nge-compact disc drive.

## Indlela yekufinyelela

Ngaphansi kwalesigaba kudzingeka kutsi ukhombise lokufunako ngalokuphatselene nelulwimi lelirekhodi lofuna libe ngalo (loku kungenteka kungatfolakali kuwo onkhe emarekhodi, kodwa solo kufanele ukhombise lokufunako).

Lendlela yekufinyelela kulamarekhodi ingafaka kungavumi kufinyelela ngenca yekunyuka kwetindleko. Sibonelo, uma ngabe lofaka sicelo afuna idokhumenti ngelulwimi lalinconotako, tindleko tekugucula ledokhumenti tibe ngelulwimi lolufunako kungafanele kutsi

tikhokhelwe. Noma kunjalo, uma ngabe lelirekhodi alitfolakali ngelulwimi lolifunako, kufinyelela kunganiketwa ngalolulwimi lolukhona. Lendlela yekufinyelela kumarekhodi ingafaka ekhatsi kuwahlolisisa lamarekhodi, emarekhodi latfunyelwe nge-imeyili, noma ifeksi noma ikhoriya noma liposi.

**Satiso ngesincumo ngalokuphatselene nesicelo sekufinyelela**

Indzawo iniketwa kulofaka sicelo kuchaza lendlela lapho angatsandza kwatiswa khona ngesincumo sekuniketa noma kwala kuniketwa lesicelo. Lolofaka lesicelo angachaza mhlawumbe kutsi angatsandza kutsintfwa nge-imeyili noma ngelucingo noma lemphendvulo ingafakwa ngeliposi noma ikhoriywe.

**Imininingwane yelilungelo lekufanele lisetjentiswe noma livikelwe**

Uma ucela lwatiso kumtimba lotimele lona lofaka sicelo kulindzeleke kutsi achaze "imininingwane yelilungelo lekufanele lisetjentiswe noma livikelwe". Lapha kufanele asho lelilungelo lekalisebentisako (njengelilungelo lesimondzawo lesinempilo) nekutsi lelirekhodi lekalicelako litamsita njani kufinyelela, noma kuvikela, lelo lungelo. Kufanele akhombise kuhlanguana emkhatsini walelirekhodi lalifunako, nalokusebentisa noma kuvikela lelo lungelo.

Lokubi kwekutsi, ngekungafani nesicelo selirekhodi lemtimba wahulumende, angeke akhone kufinyelela kulirekhodi lemtimba lotimele ngaphandle kwekutsi asho lelilungelo lekafuna kulivikela noma kulisebentisa uma kwenteka imvume yekufinyelela kulwatiso iniketwa. Loku kungafaka ekhatsi lamaciniso ekutsi utfola kufinyelela kumarekhodi, utawubese usebentisa lilungelo lakhe lekuvikeleka ngalokufanako nekuzuza ngekumtsetfo<sup>16</sup> ngekumangalela lowo mtimba ngekulahlekelwa lekangahle abe ahlanguanetane nako.

<sup>16</sup> *Sigaba 9(1) seMtsetfosisekelo weRiphabhulikhi yaseNingizimu Afrika, Umtsetfo 108 wanga 1996*

14.1.4 Uma ngabe noma ngatiphi tizatfu lesicelo sakhe asihambisani nalokudzingekako lokubalwe ngenhla, leSisebenti Selwatiso angeke sivele singavumi sicelo sakhe, ngaphandle kwekutsi atise lolofake sicelo kutsi utimisele kwala nekutsi amnikete tizatfu. Lesisebenti Selwatiso kufanele sibuye satiswe kutsi sitawusita lolofake sicelo noma aniketwe litfuba lekulungisa leliphutsa.

## 15. TINDLEKO LETIKHONA

15.1 Ngalokujwayelekile, tindleko kufanele tikhokhelwe takokubili tekufaka sicelo, nekukhokhela tindleko tekufinyelela kumarekhodi ngekwesicelo, kodwa yekubuye kukhokhelwe tindleko tekufinyelela kumarekhodi ngekwesicelo. Kukhona, ngalesinye sikhatsi, lokwentwa ngalokuhlukile. Uma ngabe lona lofake sicelo aniketwe kufinyelela kumarekhodi lekawacelile nekutsi akakaniketwa imvume yekungakhokhi noma tiphi tindleko, ngengoba kukhonjisiwe kundzima 15.2 ngentasi, leSisebenti Selwatiso noma Lisekela Lesisebenti Selwatiso angatsatselwa letindleko letibekiwe ngalendlela, -

**YATI KUTSI: Lendlela yemanani ngalokuphatselene netindleko lekufanele tikhokhwe kuMitimba Letimele neyahHulumende tingatfolakala kuwebhusayithi yeMlawuli.**

Item	Inchazelo
1	Tindleko tesicelo letikhokhelwa nguwonkhe lofaka sicelo
2	Ifothokhophi yelikhasi le-A4
3	Ikhophi lephrintiwe yelikhasi le-A4
4	Ikhophi lengafundzeka kungcondvomshini: <ul style="list-style-type: none"> <li>(i) i-Flash drive (kufanele ite nalona lofaka sicelo)</li> <li>(ii) Idiskhi               <ul style="list-style-type: none"> <li>• Uma iniketwe ngulofake sicelo</li> <li>• Uma kuniketwe lolofake sicelo</li> </ul> </li> </ul>
5	Kubhala kabusha kwetitfombe letibonakalako ngekwelikhasi le-A4
6	Ikhophi yetitfombe letibonakalako
7	Lokurekhodiwe lokulalelwako, ngekwelikhasi le-A4 ngalinye
8	Ikhophi yemarekhodi lacoshiwe afakwa ku: <ul style="list-style-type: none"> <li>(i) Flash drive (letawuniketwa ngulofake sicelo)</li> <li>(ii) Idiskhi               <ul style="list-style-type: none"> <li>• Uma iniketwe ngulofake sicelo</li> <li>• Uma iniketwe kulofake sicelo</li> </ul> </li> </ul>
9	Kubuka nekulungiselela emarekhodi kutsi avetelwe ngaphandle lihora ngalinye noma incenye yelihora, kungafaki ekhatsi lelihora lekucala, kuyadzingeka kute kufunwe nekulungiselela. Kungandluli linani letindleko setiphelele talelinani leliphakeme lelibekiwe
10	Sibambiso: Uma kufuna kundlula emahora lasi-6
11	Kuposa, i-imeyili noma lenye indlela yekundlulisa nge-elektronikhi



15.2 Lolofake sicelo akukafaneli kutsi akhokhele imali<sup>17</sup> yekufinyelela kumtimba wahulumende uma ngabe:-

15.2.1 Ungumuntfu loyedwa le umholo wakhe wemnyaka lawutfolako, ngekuva kwekukhishwa kwetimali letifanele, leyo **PAYE** ne **UIF**, ingaphansi kwa **R14712.00** ngemnyaka, noma

15.2.2 Ushadile nemali lebayitfolo bobabili nemlingani wakhe, ngemuva kwekukhishwa kwemali levumelekile, lenjenge **PAYE** ne **UIF**, ingaphansi kwa **R27192.00** ngemnyaka.

15.3 Sicela wati kutsi umtimba wahulumende nemtimba lotimele, kulifomu 4 leMitsetfosimiso, imali yesibambiso kulolofake sicelo, kodwa kuphela uma bakholelwa kutsi lolwatiso noma lirekhodi lelceliwe litawutsatsa ngetulu kwemahora lasitfupha (6) kulifuna, kodwa lemali yesibambiso angeke ibe ngetulu kwakunye kulokutsatfu kwaletindleko letibekiwe.

## 16. NGABE SISEBENTI SELWATISO SITAWUSITA LOFAKA SICELo KUTSI AFAKE SICELo SE-PAIA?

16.1 Umsebenti weSisebenti Selwatiso kanyenoma Lisekela Lesisebenti Selwatiso semitimba yahulumende neyalabatimele kutsi, uma kuhambelana nalokulungiselela ticelo tekufinyelela kulwatiso:

16.1.1 Kutfolakala sicelo se-**PAIA** noma **iPOPIA**;

16.1.2 Kuhlenganisa lokusetjentiswa kwalesicelo kulomtimba;

16.1.3 Kwenta sincumo sekutsi banganiketa kufinyelela noma bale kuniketa emarekhodi lacelwako;

16.1.4 Basebentisane nalofake sicelo (sib. Bangadzinga kucela lolofake sicelo kutsi anikete leminyane imininingwane noma bangahle bacele kutsi bangetelwe sikhatsi kute basebente ngalesicelo, njll);

16.1.5 Kwecwayisa lolofake sicelo ngemiphumela yesicelo sakhe se-**PAIA**, leso secwayiso kufanele siniketwe ngekushesha kodwa kungakandluli emalanga lange-30 ngemuva kwekutfolo sicelo. Lesikhatsi sekucala semalanga lange-30 singakhuliswa Kanye kudzimate kube sikhatsi lesingandluli kumalanga lange-30, uma kwentekile, lolofake sicelo avumile kutsi kukhuliswe noma lesicelo sidzinga kutsi kufunwe emarekhodi lekangeke acedvwe ngesikhatsi lebekubekelwene sona;

16.1.6 Kuniketa locelako tizatfu talesincumo sekungavumi kutsi afinyelele. Kubalulekile kwekutsi letizatfu labaniketwe tona kutsi bangavumi ticacile futsi tinemininingwane kantsi kufanele tifake ireferensi kutigaba letitsite te-**PAIA** (buka indzima 19.4 ngentasi, ngalokuphatselene netizatfu letibangele kutsi bale kutsi ufinyelele kumarekhodi<sup>18</sup>);

<sup>17</sup> njengekweSatiso saHulumende R991 samhlaka 14 Okthoba 2005

<sup>18</sup> Sigaba 33 kuya 46 se-PAIA

- 16.1.7 Kwatisa bantfu labafanele besitsatfu ngekusebentisa inhubo yekwatisa inhlango yesitsatfu, ngekwesigaba-47 se-**PAIA**; futsi
- 16.1.8 Uma ngabe kufinyelela kumarekhodi kuyaniketwa, kuniketa lofake sicelo ikhophi yalamarekhodi.
- 16.2 Uma ngabe watisa lofake sicelo ngalesincumo, phindza ulandzise letindlela tekulungisa letikhona naletikhatsi letifanele (letindlela tekulungisa letikhona tiyehluka kumitimba yahulumende neyalabathimele).
- 16.3 Lomsebenti longetiwe nemitfwalo yeSisebenti Selwatiso Kanye/noma Lisekela leSisebenti Selwatiso ngulawo labaliswe kuleSatiso Lesiholako Sesisebenti Selwatiso neLisekela Lesisebenti Selwatiso lapho Inothi Yekuhola itfolakala ku <https://www.justice.gov.za/infocore/docs.html>
- 16.4 Ngoba umsebenti weSisebenti Selwatiso Kanye/noma Lisekela Lesisebenti Selwatiso kusebentisa lesicelo sekufinyelela kulwatiso, loku kubuye kusho kutsi banemisebenti lehlukene kulabo labenta sicelo.
- 16.5 Lesisebenti Selwatiso Kanye/noma Lisekela Lesisebenti Selwatiso kufanele sikete lusito mahhala.
- 16.6 Lesisebenti Selwatiso Kanye/noma Lisekela Lesisebenti Selwatiso semtimba wahulumende sinalemisebenti lekhetsekile lelandzelako:

## Imisebenti Yebasebenti Belwatiso Inhlazelo

### Ncedza ngekugcwalisa lelifomu

Umlawuli Welwatiso kufanele anikete lusito lolwanele kumfakisicelo ekugcwaliseni lifomu lakhe le-**PAIA**, futsi kungenteka akwale kwamukela lifomu lelingakagcwaliswa ngendlela ngaphandle kwekutsi baluniketiwe lolo lusito, noma banikete lolo lusito kanye nekusita noma lusito alukamukelwa.

### Niketa lwatiso lolufanele

Uma kungenteka ngendlela lefanele, Umlawuli weLwatiso kufanele anikete umfakisicelo nganoma ngabe nguluphi lwatiso lolufanele, ngisho noma lungakacelwa ngco.

### Kundlulisela sicelo

Lona ngumsebenti lobalulekile. Uma ngabe sicelo se-**PAIA** sentiwe emtimbeni wahulumende lekungasiwo, leSisebenti Selwatiso kufanele sindlulisele lolwatiso emtimbeni wahulumende lekungasiwo

**kungakapheli emalanga la-14** ekutfola lesicelo kantsi kufanele atise lolofake sicelo ngekumbalela ngekutsi wente njalo. Uma sesidluliselwe, sisebenti selwatiso lesifanele kufanele siphendvule **kungakapheli emalanga langema-30**.

**Kukhishwa lokutsetse sikhatsi**

Sisebenti Selwatiso singancuma kundlulisela lokukhishwa kwemarekhodi kulofake sicelo uma lelo rekhodi lingakhishwa kulolofake sicelo uma ngabe lelo rekhodi lingashicilelwa kungakapheli **emalanga lange-90** noma uma ngabe lelirekhodi liyadzingeka ngekwemtsetfo kutsi lishicilelwe kodwa lisatawukhishwa.

16.7 Ngako kokubili lekumtimba wahulumende nalotimele, Sisebenti Selwatiso kufanele, uma bahluleka kutfola lelo rekhodi lelícíliwe noma bakholelwa kutsi lamarekhodi awatfolakala, bafake incwadzi yebufakazi<sup>19</sup> lechaza kabanti noma sicinisekiso kulofake sicelo anikete satiso kwekutsi lamarekhodi lekukhulunywa ngawo awatfolakali, kodwa abuye akhombise letinyatselo lebatatitsatsa kuwatfola.

**17. LUSITO LOLUKHONA KUMLAWULI WELWATISO NGEKUSEBENTISA I-PAIA NE POPIA**

17.1 Umlawuli Welwatiso wenhlangano yahulumende unemtfwalo wekuniketa lusito lolufanelekile<sup>20</sup>, lwamahhala, njengoba kunesidzingo sekwenta kutsi umfakisicelo noma idatha ihambisane nendlela yekufinyelela erekhodini njengoba kubekiwe kutigaba 18 te-**PAIA** kanye nakusigaba 23 se-**PAIA**.

17.2 Nanoma kunjalo, uma kungenteka Umlawuli Welwatiso ahluleke kuhambisana nemsebenti wakhe, lokukhulunywa ngawo endzimeni 17.1 ngenhla, umfakisicelo noma idatha ingafakwa njengesikhalo kuMlawuli kantsi Umlawuli anga, nakasesha, akhiphe Satiso Sekucinisalasicondzise kuMlawuli Welwatiso kutoniketa lusito lolufanelekile.

17.3 Ulawuli anga, uma kufanelekile, ngesicelo, asite noma ngumuphi umuntfu lofisa kusebentisa lilungelo lakhe njengoba kushiwo ku-**PAIA** noma i-**POPIA**<sup>21</sup>, kantsi loku kufaka lusito loluvakalako, lwamahhala, njengoba kudzingekile kwenta kutsi umfakisicelo noma idatha kuhambisana nendlela yekufinyelela kumarekhodi njengoba kuboniwe esigabeni 18 na 53 we-**PAIA** nesigaba 23 se-**POPIA**.

17.4 Lokungenhla kufaka kuhlolwa ngendlela yekugcwalisa sicelo sekutfola lifomu noma kugcwalisa lifomu egameni leuntfu longakafundzi noma longaboni.

<sup>19</sup> Sigaba 23(1) ne 51(1) se-PAIA

<sup>20</sup> Sigaba 19(1) se-PAIA

<sup>21</sup> Sigaba 83(3)(c) se-PAIA

## 18. UMLAWULI WELWATISO ANGASELULA YINI SKHATSI LESINCUNYIWE?

- 18.1 Luhlakala klwenchubo kanye netikhatsi letibekiwe letibalulekile letitsintsekako tifikwe kumfanekisomdvwebo wenchubo yesicelo ye-**PAIA**, endzimeni 27 ngentasi. Kuba netikhatsi letibekiwe kuyincenye lebalulekile ye-**PAIA**, njengoba ikhutsata kuphatsa ngendlela kweticelo tekufinyelela kumarekhodi.
- 18.2 Njengesikhumbuto, uma sewusitfumele kahle sicelo sakho, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso, loyo sicelo lesentlwe yena noma sendlulisa, kufanele akuphendvule ngekushesha kodwa kunoma ngusiphi sento kungakapheli emalanga langema-30<sup>22</sup>. Nanoma kunjalo, Umlawuli Welwatiso wenhlangano yahulumende noma letimele angacela kwelulelwa kanye emalanga langema-30<sup>23</sup>, kodwa kuphela uma:
- 18.2.1 Sicelo semarekhodi lamakhulu noma kudzingeka kutsi linani lelikhulu lemarekhodi lisheshe, kantsi ngaphandle kwekwelulwa kwemalanga, lokusesha kutawuphatamisa imisebenti letayelekile yenhlangano letsintsekako;
- 18.2.2 sicelo sidzinga kusenga emarekhodi ehovisi laleyo nhlangano lengekho kudolobhakati noma edolobheni kantsi kungenteka kube akukapheli **kungapheli emalanga langema-30**; ne/noma
- 18.2.3 kudzinga lizinga lekukhulumisana kute kusetjentwe ngesicelo, lesingeke sicedvwe kungakapheli emalanga langema-30.
- 18.3 Umlawuli Welwatiso kufanele atise umfakisicelo ngenhloso yakhe yekwelula sikhatsi lebesibekiwe, kanye nekukhombisa sikhatsi sekulula, sizatfu sekulula sikhatsi, kanye nekwatisa umfakisicelo ngelilungelo lakhe leku -
- 18.3.1 Faka sikhalo kusiphatsimandla lesifanele;
- 18.3.2 khonondza kuMlawuli; noma
- 18.2.3 kubeka ngalokusemtsetfweni tinchubo enkantolo letiphikisana nekululwa njengoba kungaba njalo.
- 18.4 Umlawuli Welwatiso kufanele atise umfakisicelo ngenchubo yalinye lalamalungelo labalwe ngenhla esatisweni<sup>24</sup>.

## 19. TIMPHENDVULO KUSICELO SEKUTFOLA LWATISO

- 19.1 I-**PAIA** inikete umphakatsi litfuba lekucela kufinyelela kumarekhodi kunoma nguyiphi inhlangano yahulumende noma letimele. Kuvame kuchazwa njengemtsetfo logcina takhamiti tinelwati ngahulumende wato. Tinhlango tahulumende kudzingeke tivete lwatiso loluceliwe ngaphansi kwe-**PAIA** kwakunye **kulokulishumi nakubili (12)**

<sup>22</sup> Sigaba 25(1) se-PAIA

<sup>23</sup> Sigaba 26(1) se-PAIA

<sup>24</sup> Sigaba 26(3) se-PAIA - lesatiso sekukhulisa kufanele sichaze kutsi lolofake sicelo angahle afake sikhalo ngekhatshi, sikhalo kuSisebenti Lesilawula lwatiso noma sicelo nenkhantolo, njengoba kungabekwa, ngekumelana nalokukhuliswa, nalendlela lekwenziwa ngayo (kufaka ekhatshi lesikhatsi sekufaka lesikhalo sangekhatsi, sikhalo lesiya kulolawula lwatiso noma sicelo, njengoba kungabe kubekiwe.

**lokungasiyo incenye** noma tizatfu tekutsi kungani kufinyelela kumarekhodi ehlangano yahulumende kufanele noma akukafaneli tiniketwe<sup>25</sup> kanye **naletisikhombisa (7) letingasiyo incenye** noma tizatfu tekutsi kungani kufinyelela kumarekhodi ehlangano letimele kufanele noma akukafaneli tiniketwe<sup>26</sup>. Lishumi nemfica (19) yaletingasiyo incenye letiniketwe ku-**PAIA** kuhloswe kuvikela tinshisakalo letifana nemfihlo yemuntfu, kuvikeleka kwelive, kanye nekugcinwa kwemtsetfo.

19.2 Umgomo wekucondzisa usekelwe ekuphetfweni kwe-**PAIA** ukucabanga kwekuvuleleka. Loku kusho kutsi noma ngusiphi sizatfu sekuvala lokuvuleleka kufanele kube ngulesilungile. Tinhlango tahulumende kufanele tibuke kutsi kuveta kancane lwatiso kuyenteka yini uma titfola kutsi kuveta ngalokuphelele lwatiso akwenteki kantsi kufanele tihlukanise noma tilungise kabusha lwatiso lolungeke luvetwe futsi tivete lolunye.

19.3 Tinhlobo tetimphendvulo kuticelo

19.3.1 Uma sicelo sekufinyelela kulirekhodi sentiwe, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso kufanele, uma sicelo sekufinyelela kulirekhodi siniketwa noma saliwa, atise umfakisicelo nge -

- (a) Sincumo sakhe; ne
- (b) Timali letikhokhwako, uma tikhona,

19.3.2 Efomini lelihambisana kakhulu neLifomu 3 leSingetelelo A kuMitsetfosimiso: 19.3.2 Nanoma kunjalo, i-**PAIA** iniketa luhla lwetizatfu noma tizatfu (lokungabi yincenye) (buka tindzima 19.4 na 19.6 ngentasi) kungani sicelo singaliwa kuphela ngesizatfu sasinye saletizatfu letibaliwe tekwala kufinyelela emarekhodini.

19.3.3 Ngaphandle kwetizatfu letibalwe ngenhla tekwala kuniketa imvumo yekufinyelela kumarekhodi, Umlawuli Welwatiso wenhlango yahulumende uma inshisakalo yemphakatsi ekuvetweni kwelirekhodi ngalokucacile kungetulu kwengoti lebalwe kutizatfu letibaliwe tekwala<sup>27</sup>. Loku kusho kutsi umfakisicelo angatsembela kunshisakalo yemphakatsi noma kunini nakuncengwa tizatfu tekwala kufinyelela kumarekhodi.

19.3.4 Ngalamafisha, tizatfu tekutsi kungani lwatiso lungavetwa tihambisana nekutsi kuvetwa kwelwatiso kungaba umonakalo lomkhulu yini kunekungavetwa kwalo. Kunetinhlobo letimbili letehlukene tetizatfu letibaliwe tekwala kuniketwa imvumo yekufinyelela kumarekhodi ehlangano.

<sup>25</sup> Sahluko 4 se-PAIA - tizatfu tekungavunyelwa kufinyelela kumarekhodi (Sigaba 34-45 se-PAIA)

<sup>26</sup> Sahluko 4 se-PAIA - tizatfu tekungavunyelwa kufinyelela kumarekhodi (Sigaba 63-69 se-PAIA)

<sup>27</sup> Sigaba 46 se-PAIA

## 19.4 Tizatfu tekuphoceneleka kwekwala (tizatfu tekungabi yincenye)

19.4.1 Ngetizatfu tekuphocenelela, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso kufanele lisale sicelo ngoba sisebenta erekhodini.

19.4.2 Kunetizatfu letinyenti letiphocelelekile kunetizatfu tekutikhetsela. Lokulandzelako tizatfu tekuphocenelela kwala, kantsi Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso kufanele lisicitse sicelo ngoba tisebenta erekhodini -

### 19.4.2.1 **Kuvikelwa lokuphocenelekile kwemfihlo yemuntfu wesitsatfu longumuntfu lotayelekile;**

Umlawuli Welwatiso wenhlangano yahulumende noma letimele kufanele angamvumeli umfakisicelo imvumo yekufinyelela kukulwatiso lwemuntfu lwalomunye umuntfu uma kwenta `kuveta lwatiso lokungenamsebenti`. Letigaba ngekwato tikhombisa tizatfu letimbalwa uma loku kungasebenti, njengesikhatsi emarekhodi atiwa ngumphakatsi, noma lapho umuntfu anikete imvumo khona. Indzaba yemvumo ibalulekile ikakhulukati njengoba ihlanganisa kulenye incenye yalenchubo umfakisicelo lekufanele ayati, lehambisana netatiso temuntfu wesitsatfu, ngekwesahluko 5 se-PAIA.

### 19.4.2.2 **Kuvikelwa lokuphocenelekile kwalamanye emarekhodi e- South African Revenue Service;**

Umlawuli Welwatiso we-SARS kufanele angavumeli umfakisicelo atfole imvumo yekufinyelela kumarekhodi latfoliwe, noma labanjwe, ngu-SARS ngetinhloso tekucokelela malingena. Nanoma kunjalo, emarekhodi latfolakale noma labanjwe ngu-SARS kungenteka angaliwa uma sicelo sentiwe ngumfakisicelo ngekwakhe noma umuntfu sicelo lesentiwa egameni lakhe.

### 19.4.2.3 **Kuvikelwa lokuphocenelekile kwelwatiso lekuhweba kwemuntfu wesitsatfu;**

Umlawuli Welwatiso wenhlanganokufanele angavumeli umfakisicelo imvumo yekufinyelela kulwatiso lwekuhweba lwalomunye umuntfu (ngalamanye emagama, longasuye umfakisicelo noma locelako). Loku kutofaka lwatiso njengetimfihlo tekuhweba, noma loku lokungatsikameta tinshisakalo tekuhweba temuntfu wesitsatfu. Sibonelo, KFC usebentisa emaresephi latsite, kufaka titsako letentiwa ngumuntfu wesitsatfu, lekutimfihlo tekuhweba futsi kutiveta kungalimata tinshisakalo tekuhweba taloyo muntfu wesitsatfu.

19.4.2.4 **Kuvikelwa lokuphokelelelele kwelwatiso loluyimfihlo, kanye nekuvikelwa kwalolunye lokulwatiso loluyimfihlo, lwemuntfu wesitsatfu;**

Umlawuli Welwatiso wenhlangano yahulumende noma letimele kufanele angamniketi umfakisiselo imvumo yekufinyelela kumarekhodi uma kukhishwa kwalo kutawenta kube khona kwepulwa kweMsebenzi wekutetsemba kumuntfu wesitsatfu ngekwesivumelwane noma ikontileka.

19.4.2.5 **Kuvikelwa lokuphokelelelele kwakuphepha kwebantfu kanye nekuvikelwa kwemphahla;**

Umlawuli Welwatiso wenhlangano yahulumende noma letimele kufanele angamvumeli umfakisiselo imvumo yekufinyelela kumarekhodi uma kukhishwa kwalo kungalindzeleka kutsi kukhinyabete kuphepha kwemuntfu Etigabeni letifanako, kuphindza kushiwo kutsi Umlawuli Welwatiso wenhlangano angala kuniketa imvumo yekufinyelela kulirekhodi uma kutawubonakala kulimata kuphepha kwesakhiwo noma imphahla.

19.4.2.6 **Kuvikelelwa lokuphokelelelele kwemadokhethi emaphoyisa kutinchubo tebheyili, kanye nekuvikelwa kwekugcinwa kweMtsetfo kanye netinchubo teMtsetfo;**

Umlawuli Welwatiso wenhlangano yahulumende kufanele angamvumeli umfakisiselo imvumo yekufinyelela kumarekhodi njengemarekhodi etinchubo tebheyili letivele tivikelwe sigaba 60 seMtsetfo Wenchubo Yebugebengu. Esigabeni lesifanako, uphindza usho kutsi Umlawuli Welwatiso wenhlangano letimele yahulumende angala kuniketa imvumo yekufinyelela kumarekhodi ekugcinwa kweMtsetfo laveta tindlela tawo, emasu, tinchubo tekuvikela bugebengu, noma kugwetjwa kwemacala, kanye nalamanye emarekhodi lafanele kutinchubo temtsetfo letentekako.

19.4.2.7 **Kuvikelwa lokuphokelelelelele kwemarekhodi lanelilungelo lekukhicitwa etinchubeni teMtsetfo;**

Umlawuli Welwatiso wenhlangano yahulumende kufanele angamniketi umfakisiselo imvumo yekufinyelela kulirekhodi uma lirekhodi libe nelilungelo kumikhicito yetinchubo temtsetfo, ngaphandle kwekutsi umuntfu lonelilungelo uliyekele lelilungelo.

19.4.2.8 **Kuvikelwa lokuphokelelelelele kwelwatiso lwelucwaningo lwemuntfu wesitsatfu, kanye nekuvikelwa kwelwatiso lwelucwaningo lwenhlangano yahulumende noma letimele.**

Umlawuli Welwatiso wenhlangano kufanele angamniketi umfakisiselo imvumo yekufinyelela erekhodini uma lirekhodi liphatselene nelucwaningo lolungukutsi, noma lolutawutsatfwa yinhlangano lekukhulunywa ngayo kantsi nekukhishwa kwato kungenteka kuvete umcwaningi, umuntfu wesitsatfu noma indzaba lengaphansi kwelucwaningo ibe sengotini lenkhulu.



19.4.3 Sicela unake kutsi letizatfu letingenhla letiphocelako tekwala kuniketa imvumo yekufinyelela kumarekhodi nguletifanako nakutinhlangano tahulumende naletitimele, ngaphandle kwekuvikeleka lokuphocalelekile kwemarekhodi latsite e-South African Revenue Service, emadokhethi maphoyisa kutinchubo tekubheyila, lasebenta kuphela kutinhlangano tahulumende.

19.4.4 Uma incenye yelirekhodi kuphela ihlanganiswe nesizatfu sekungabi yiNcenye, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso watotimbili tinhlangano yahulumende noma letimele angaphansi kwesibopho sekucabanga kutsi kuveta incenye yelwatiso kuyenteka uma batfola kutsi kuveta ngalokuphelele lwati akwenteki kantsi kufanele batsatse tinyatselo letidzingekile kuncamula noma kuhlela kabusha leyo ncenye lengeke iniketwe umfakisicelo kanye nekuniketa ivumo yekufinyelela kulo lonkhe lirekhodi.

## 19.5 Lokutsatfwa njengekwaliwa kwesicelo<sup>28</sup>

19.5.1 Kwehluleka kuphendvula ngendlela sicelo lesentiwe ngesikhatsi lesibekiwe `kutsatfwa ngekutsi kwala`. Loku kubalulekile, ngoba i-PAIA ivumela umfakisicelo kutsi aphikise sincumo uma singekho sincumo lesentiwe kantsi lesicelo asikanakwa. Umfakisicelo utawumane asho kusikhalo sangekhatsi kutsi akamange ayitfole imphendvulo.

19.5.2 Sicelo semvumo yekufinyelela kumarekhodi sibonakala saliya emva kwekuphela kwemalanga langema-30 noma ngabe ngusiphi sikhatsi lesingetiwe kantsi nenhlangano yahulumende noma letimele yehlulekile kuphendvula.

## 19.6 Tizatfu tekukhetsa kwala

19.6.1 Ngetizatfu tekukhetsa kwala, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso lingacabanga kutsi lisale noma lingasali sicelo ngoba tizatfu tisebenta kulirekhodi lelceliwe. Ngoba uyatikhetsela Umlawuli Welwatiso kufanele asebantise ingcondvo yakhe ngendlela nakacabanga tizatfu letahlukene, lekunguleti:

19.6.1.1 **Tekuvikela, tekuphepha netebudlelwane bamhlabawonkhe eNingizimu Afrika:** Umlawuli Welwatiso angala kufinyelela kumarekhodi uma kukhishwa kwelwatiso kungalindzeleka kulimate tekuvikela noma tekuphepha kwelive. Loku kungaphindza kusebente lapho kukhishwa kwelwatiso kungalimata khona budlelwane baseNingizimu Afrika nalelinye live, njengekuveta emarekhodi lakhishwe ngekutetsemba.

19.6.1.2 **Tinshisakalo temnotfo, tetimali netekutsengisa:** Umlawuli Welwatiso angala kuniketa imvumo yekufinyelela kurekhodi uma kukhishwa kwalo kutawuba yingoti esimeni semnotfo kanye nasesimni setimali taseRiphabhliki;

<sup>28</sup> Sigaba 27 ne 58 se-PAIA

19.6.1.3 **Imisebenti yetinhlango tahulumende:** Umlawuli Welwatiso wenhlango yahulumende angala kuniketa imvumo yekufinyelela kulirekhodi uma kukhululwa kwelwatiso kungalimata imisebenti, sibonelo uma ilinga kwakha inchubomgomo, kukhuluma ngendzaba

19.6.1.4 **Ticelo letibonakala tingenasisndvo noma letikhatsatoko:** Umlawuli Welwatiso angasala sicelo selwatiso uma anembono wekutsi kucubungula ticelo kutawube kucitsa sikhatsi ngalokungakalungi futsi kuholela ekulahlekeni kwetinsita. Kungeta bangala kuniketa imvumo yekufinyelela kulirekhodi uma lesicelo sibonakala sentiwe ngumfakisicelo kutfukutselisa noma kuchukuluta lokungenasidzingo.

## 20. KUVETWA LOKUPHOCELELEKILE KWEMAREKHODI KUTE KUZUZE UMPHAKATSI

20.1 Noma ngabe sizatfu sekutikhetsela noma kuphococelelwa ngekwala lokukhona mayelana nesicelo sekufinyelela kumarekhodi ahulumende noma etinhlango letitimele, kuhlala kukhona njalo kutsi kungenteka kutsi tifiso tahulumende ekuvetweni kwemarekhodi tibaluleke kakhulu kunemonakalo lowentiwa kukhishwa kwelirekhodi.

20.2 Lapho kukhona inshisakalo yemphakatsi njengoba kubhalwe ngenhla kantsi nekuvetwa kwelirekhodi kungaveta bufakazi lobukhulu bekuphambuka, noma kwehluleka kwekuhambisana neMtsetfo, noma , kuphepha kwemphakatsi kwanyalo kanye nalokungemandla noma tinkinga tesimondzawo, kantsi Umlawuli Welwatiso kufanele avume sicelo sekufinyelela kulirekhodo nangaphandle kwekuba khona kwetizatfu tekungambandzakanywa letibalwe ngenhla.

## 21. 21 INCHUBO YEKWATISA BESITSATFU LABATSINTSEKAKO<sup>29</sup>

21.1 Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso wenhlango uyadzingeka ngekwetigaba 47 na 71 te- **PAIA**, kunaka tonkhe tinyatselo letifanele ekwatiseni umuntfu wesitsatfu mayelana nesicelo semarekhodi akhe langaba nelirekhodi lelinelwatiso.

21.1.1 Lirekhodi laka-**SARS**;

21.1.2 Timfihlo tekuhweba;

21.1.3 Kukhishwa kwelwatiso lokungaba tizatfu tesinyatselo sekuphulwa kwemsebenti wekutetsemba; noma lwatiso lwelucwaningo lolungaveta lomunye noma indzaba kumonakalo lomkhulu.

21.2 Satiso lesiya kumuntfu wesitsatfu emarekhodi noma lwatiso lolungaphansi kwesicelo kufanele simeme umuntfu wesitsatfu kutsi -

<sup>29</sup> Sigaba 47 na 71 we-PAIA

- 21.2.1 Ente tetfulo letibhaliwe noma temlomo kuMlawuli Welwatiso kungani sicelo sekufinyelela kumarekhodi kufanele sicitfwe, noma
- 21.2.2 Anikete imvumo lebhaliwe ekuveteni lirekhod lemfakisicelo.
- 21.3 Ngalokubalulekile kumfakisicelo, i-**PAIA** itsi tatiso letibhalelwe umuntfu wesitsatfu kufanele titfunyelwe umuntfu wesitsatfu kungakapheli emalanga langema-21 esicelo lesitfolakele, nekutsi Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso kufanele latise umfakisicelo kwekutsi satiso sitfunyelwe kumuntfu wesitsatfu.
- 21.4 Uma leso satiso sesitfunyelwe, Umlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso kufanele atsatse sincumo sekugcina sekutsi utowakhipha noma angeke awakhiphe emarekhodi **kungakapheli emalanga langema-30** aleso satiso lesitfunyelwe.
- 21.5 Umuntfu wesitsatfu kufanele atiswe mayelana nesincumo lesitsetfwe futsi kufanele kuniketwe tizatfu letifanele mayelana nekuniketa sicelo. Umuntfu wesitsatfu naye kufanele atiswe mayelana nelilungelo kanye nenchubo yekufaka insayeya sincumo njengoba sikhonjiswe endzimeni 22 ngentasi.

## **22. TINDLELA TEMTSETFO TEKULUNGISA LETIKHONA LETIMELENE NESINCUMO SEKUHLULEKA KUTSATSA SINCUMO SISEBENTI SELWATISO NOMA LISEKELA LESISEBENTISELWATISO**

- 22.1 Tinyatselo lekufanele titsatfwe uma sincumo sitsetfwe ngesicelo
- 22.1.1 Umfakisicelo angatsatsa sinyatselo sekulandzelela ngekubhala, ngalesincumo lesilindzile seMlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso. Kuyakhutsata kutsi konkhe kuchumana emkhatsini wemcelisicelo kanye neMlawuli Welwatiso noma Lisekela leMlawuli Welwatiso kufanele kubhalwe kute kusetjentiswe esikhatsini lesitako.
- 22.1.2 Kunetinchubo letehlukene tetinhlango tahulumende naletitimele, ikakhulukati netikhalo tangekhatsi. Asesitsi, mayelana nesicelo sekutfola lirekhodi lenhlango yahulumende, umfakisicelo kufanele acale ngekungenisa sikhalo sangekhatsi ngembi kwekukhuluma neMlawuli noma Inkantolo. Nanoma kunjalo, asikho sikhalo sangekhatsi lesiphikisana nesincumo (noa kumniketa noma kwala kuniketa imvumo yekutfola emarekhodi) noma lokubonwa kukwala kwekutfolakala kwemarekhodi enhlango letimele.
- 22.1.3 Lesigaba sitawuchaza tindlela teMtsetfo letilusito letingatfolakala kumfakisicelo lofisa kubukana naleto tincumo, lokufaka ema-aphili angekhatsi, kufaka sikhalo kuMlawuli kanye neticelo Enkantolo. Phindza ubuke umdwebomfanekiso wenchubo yekufaka sicelo we-**PAIA**, endzimeni 27 ngentasi.

22.1.4 Umfakisicelo, ngetulu kwalokunye, angafaka incabhayi ngalesincumo lesilandzelako semkhakha lotimele ne/noma waHulumende -

22.1.4.1 Ithenda noma kukhokhwa kwemali yesicelo;

22.1.4.2 Ithenda noma kukhokhwa kwediphozithi;

22.1.4.3 Imali yekutfole lwatiso lekumele ikhokhwe ibita ngalokwengcile;

22.1.4.4 luhlobo lwekufinyelela kulwatiso luniketiwe;

22.1.4.5 kungamukelwa kwesicelo;

22.1.4.6 inchubo (kufaka nesikhatsi) yekufaka sicelo sekubuyeketa sangekhatsi;

22.1.4.7 Sikhatsi lesingetiwe lesingakafaneli lesitsetfwe ekuphendvuleni sicelo sekufinyelela;

22.1.4.8 Kwehluleka kuveta emarekhodi;

22.1.4.9 Kuniketwa kwesicelo sekutfole lirekhodi;

22.1.4.10 Kwala kuniketa sicelo sekuyekela timali;

## 22.2 Kulungisa kwangekhatsi

22.2.1 Umfakisicelo usindlulisa njani sikhalo sangekhatsi ngesincumo senhlangano yahulumende?

22.2.1.1 Sikhalo sangekhatsi singafakwa kuphela, ngekwesigaba 74 we-**PAIA**, nemtimba lofanele wemkhakha waHulumende wavelonkhe noma wesifundza noma wamuphi masipalati emkhakheni waHulumende wenzawo ngendlela lekungaba ngayo<sup>30</sup>.

22.2.1.2 Manje ngekwesibonelo, Lidolobhakati lasajozi lisibonelo semkhakha waHulumende wenzawo lapho sikhalo sangekhatsi singafakwa khona. BeSikhwama Setingoti Letenteka Emgwacweni noma Umlawuli basibonelo senhlangano yahulumende lengasiyo incenye yeMkhakha waHulumende wavelonkhe, wesifundza noma wenzawo njengoba kubekiwe kumtsetfosimiso, futsi-ke sikhalo sangekhatsi angeke sifakwe kuphikisana naso.

<sup>30</sup> Sigaba 74(1) we-PAIA

22.2.1.3 Uma umfakisicelo noma umuntu wesitsatfu angatfokoti ngesincumo lesentiwe nguMlawuli Welwatiso noma Lisekela Lemlawuli Welwatiso wemkhakha waHulumende wavelonkhe, wesifundza noma wenzawo, umfakisicelo noma umuntu wesitsatfu unelilungelo lekufaka sikhalo sangekhatsi, ngekwesigaba 74(1) noma (2) we-**PAIA**. Inchubo yekufaka sikhalo ibekiwe kuncwajana ye-**PAIA** yaleyo nhlangano kanye nendlela yekufaka sikhalo sangekhatsi naso sichazwe kabanti lapha ngentasi.

22.2.1.4 Uya kumkhakha waHulumende wavelonkhe, wesifundza noma wenzawo ikhombisa kwala, ngalamanye emagama, yehlulekile kuphendvula sicelo kungakapheli emalanga langema-30 noma lesinye sikhatsi lesingetiwe, umfakisicelo angafaka sikhalo sangekhatsi, ngekwetinchubo letibekwe lapha, ngembi kwekutsi umfakisicelo aye kuMlawuli noma eNkantolo.

## 22.3 **Kugcinwa kwemarekhodi kute sincumo sekugcina lesiceliwe sitfolakale ekugcineni**

22.3.1 Umlawuli Welwatiso wemkhakha waHulumende Wavelonkhe, weSifundza noma Wenzawo lapho sikhalo sangekhatsi sisebenta khona futsi sidzingeka, ngekwesigaba 21 we-**PAIA**, ekutsatseni tinyatselo letifanelekile kugcina emarekhodi kantsi angeke acishe noma alahle noa nguliphi lirekhodi lelifelwako, kudzimate kube nguleso sikhatsi lapho tonkhe noma ngutiphi tinchubo kusicelo sangekhatsi noma sikhalo kuMlawuli noma kufaka sicelo senkantolo, njengoba kungaba njalo, ekugcineni kutfolakala.

22.3.2 Loku kusho kutsi Umlawuli Welwatiso angeke acime noma alahle noma nguluphi lwatiso loluceliwe, kulindvwe noma nguyiphi inchubo lechaziwe endzimeni 22.3.1.1 ngenhla.

## 22.4 **Sikhalo sangekhatsi kufanele sicondziswe kubani?**

22.4.1 Nanoma sikhalo sitogunyatwa ngumtimba lophetse lofanelekile, sikhalo sangekhatsi kufanele sihanjiswa noma sitfunyelwe kuMlawuli Welwatiso weMkhakha waHulumende waVelonkhe, Wesifundza noma Wenzawo, njengoba kungaba njalo, ekhelini lakhe, inombolo yefeksi noma likheli le-imeyili leli-elekhthroniki<sup>31</sup>, imininingwane yekuchumana lengatfolakala kuncwajana ye-**PAIA** noma njengoba ingatfolakala kuMlawuli.

22.4.2 Umlawuli Welwatiso wemkhakha waHulumende wavelonkhe, wesifundza noma wenzawo, njengoba kungaba njalo, unemtfwalo lotsite, ngekwesigaba 75(4) we- **PAIA**, kungenisa sikhalo kumtimba lobukene

<sup>31</sup> Sigaba 75(1)(b) se-PAIA

netikhalo, kanye netizatfu tesincumo lesingaphansi kwesikhalo. Kungeniswa kwesikhalo kulosiphatsimandla lofanele kufanele kwentiwe kungakapheli emalanga lali-10 ekusebenta emva kwekutfolakala kwesikhalo.

## 22.5 Ngubani leSiphatsimandla lofanele?

22.5.1 Losiphatsimandla lofanele, lapha lobitwa nge “siphatsimandla setikhalo” ikuvamise kuba yinhloko yepolitiki yemtimba lotsintsekako (nanoma lomsebenti ungandluliselwa ngalokusemtsetfweni) kantsi ikakhulukati kubukiswe kulomuntfu lolandzelako

Inhlangano Yahulumende (“Hulumende”)	Siphatsimandla Lesivamile (“Siphatsimandla Sesikhalo”)
<b>Lihhovisi laMengameli</b>	Ngumuntfu loniketwe emandla lobhalwe phansi nguMengameli, uma akhona, uma kungasinjalo Mengameli uba siphatsimandla sesikhalo
<b>Litiko Lavelonkhe</b>	Ndvuna lobukene nalelo litiko noma ngumuntfu loniketwe emandla lobhalwe phansi nguleyoNdvuna
<b>Lihhovisi LaNdvunankhulu</b>	Ngumuntfu loniketwe emandla lobhalwe phansi nguNdvunankhulu.
<b>Litiko Lesifundza</b>	Lilungu Lemkhandlu Lophetse (i- <b>MEC</b> ) lobukene nalelo Litiko Lesifundza noma umuntfu loniketwe emandla lobhalwe phansi ngu- <b>MEC</b> ;
<b>Masipalati</b>	Sodolobha, Somlomo noma ngabe ngumuphi lomunye umuntfu loniketwe emandla lobhalwe phansi nguMkhandlu Wamasipalati walowo masipalati;

22.5.2 Lelinye licala, lapho kungasiko khona lihhovisi landvunankhulu: lilungu lesigungu sekuphatsa lelibukene naleyo nhlangano yahulumende noma umuntfu loniketwe emandla ngekubhalwa phansi ngulelo lunga.

22.5.3 Uma siphatsimandla sesikhalo samukela sincumo seMlawuli Welwatiso, nesikhalo sangekhatsi sicitfwa, kuma sincumo sekucala seMlawuli Welwatiso. Nanoma kunjalo, uma siphatsimandla sesikhalo singavumelani nesincumo seMlawuli Welwatiso, sikhalo sitobese siyamukelwa bese sincumo sekucala siguculwe.

22.5.4 Sincumo sesisebenti selwatiso simile. Noma kunjalo, uma ngabe labaphetse labenta tincepheteliso bangavumelani naleSisebventi Selwatiso, lesincepheteliso siyaniketwa kantsi lesincumo sekucala siyacitfwa.

## 22.6 Ngubani longafaka sikhalo sangekhatsi?

22.6.1 Noma ngumuphi umfakisicelo losicelo sakhe se-**PAIA** sekufinyelela kumarekhodi emkhakha waHulumende Wavelonkhe, Wesifundza noma Wendzawo njengoba kungaba njalo, singavunywa, kantsi ukholelwa kutsi sinye setizatfu tekufaka sicelo letibhalwe endzimeni 22.2.4 ngenhla siyasebenta esicelweni sabo, unelilungelo lekufaka sikhali sangekhatsi.

22.6.2 Umuntfu wesitsatfu naye angafaka sicelo sekundlulisela sikhalo sangekhatsi ngesincumo lesentiwe nguMlawuli Welwatiso kuniketa imvumo yekufinyelela kumarekhodi labatsintsako. Uma sikhalo sangekhatsi sifaka umuntfu wesitsatfu, siphatsimandla sesikhalo kuyadzingeka satise labo bantfu besitsatfu (ngako-ke umsebeni uyasuka kuMlawuli Welwatiso uya kusiphatsimandla sesikhalo).

## 22.7 Sikhatsi lofaka ngaso sikhalo

22.7.1 Sikhalo sangekhatsi kufanele sifakwe -

22.7.1.1 angakapheli **emalanga langema-60**<sup>32</sup> wangemva kwekutsatfwa sincumo ;

22.7.1.2 angakapheli **emalanga langema-60**<sup>33</sup> sesiniketiwe satiso kumuntfu wesitsatfu ngesincumo lekukhalwa ngaso.

22.7.2 Kufaka sikhalo sangekhatsi ngemva kwesikhatsi lesibalwe ngenhla (kuphutselwa sikhatsi) kungenteka singavunywa, ngaphandle kwekutsi sizatfu lesisemtsetfweni sekuphutselwa sikhatsi siniketiwe siphatsimandla sesikhalo. Sibonelo, njengekulaliswa esibhedlela emalanga langetulu kwema-60 angamukelwa njengetizatfu letisemtsetfweni ngekuphutselwa sikhatsi.

22.7.3 Uma siphatsimandla sekubuyeketa sikhalo singakwamukeli kufaka sikhalo sangekhatsi sikhatsi sesihambile, kufanele sikunikete ngetizatfu tekwala lesikhalo kanye nekubonisa ngalolunye lwatiso lolungetelelwe, uma kukhona lokunye, lokudzingekako kute amukele sikhalo. Siphatsimandla setikhalo kumele siphindze sikubonise mayelana nenchbo yekufaka sikhalo lesiphikisa sincumo seMlawuli noma senkantolo.

<sup>32</sup> Sigaba 75(1)(a)(i) we-PAIA

<sup>33</sup> Sigaba 75(1)(a)(ii) we-PAIA



22.7.4 Njengoba kukhonjisiwe ngenhla, sikhalo sakho kufanele singeniswe nguMlawuli Welwatiso kusiphatsimandla sesikhalo kungakapheli emalanga lali-10 emva kwekutfolala sikhalo sangekhatsi<sup>34</sup>.

## 22.8 Satiso seseikhalo lesidluliswa siphatsimandla sesikhalo kumfakisicelo noma kumuntfu wesitsatfu

22.8.1 Siphatsimandla sesikhalo kufanele, masinyane ngendlela lekungenteka ngayo kodwa kunoma ngusiphi sehlo kungakapheli emalanga langema-30 emva kwekutfolakala kwesikhalo sangekhatsi<sup>35</sup>, satise -

22.8.1.1 Umuntfu wesitsatfu lirekhodi lelingaphansi kwesikhalo licondzene naye, noma

22.8.1.2 Umfakisicelo mayelana nesikhalo sangekhatsi lophikisa kuniketwa kwesicelo sekufinyelela kulirekhodi.

22.8.2 Umfakisicelo noma umuntfu wesitsatfu loniketwe satiso, kungakapheli **emalanga langema-21** emva kwekuniketwa satiso, angenta titfulo letibhaliwe kusiphatsimandla sesikhalo sekutsi kungani sicelo sekufinyelela kulirekhodi kufanele noma akukafaneli siniketwe.

## 22.9 22.3.7 Sincumo ngesikhalo sangekhatsi nesatiso saso<sup>36</sup>

22.9.1 Siphatsimandla sesikhalo kufanele sincume ngesikhalo sangekhatsi ngekushesha kodwa kunoma ngusiphi sehlo kungakapheli emalanga langema-30.

22.9.1.1 Ngemuva kwekutfolwa kwesikhalo sangekhatsi nguMlawuli Welwatiso wenhlangano;

22.9.1.2 Ngemuva kwekutjelwa kwemuntfu wesitsatfu, njengoba kukhonjisiwe endzimeni 22.3.6.1 ngenhla.

22.9.2 Sincumo sesiphatsimandla sesikhalo kufanele satiswe kulofake sikhalo, umuntfu wesitsatfu kanye nemfakisicelo. Sincumo sesiphatsimandla sesikhalo kufanele sihambisane netizatfu letifanele tesincumo, kufaka kuniketwa kwe-**PAIA** noma kwe-**POPIA** lokutsenjelwe kuko.

22.9.3 Uma siphatsimandla sesikhalo sehluleka kuniketa satiso sesincumo ngesikhalo sangekhatsi kulofake sikhalo kungakapheli emalanga langema-30, sikhalo sitotsatfwa ngekutsi sicitsiwe kantsi umfakisicelo angachubeka afake sikhalo kuMlawuli noma abukane nenkantolo ngekutfolala lusito lolufanele<sup>37</sup>.

<sup>34</sup> Sigaba 75(4) we-PAIA

<sup>35</sup> Sigaba 76(2)(a) we-PAIA

<sup>36</sup> Sigaba 77 we-PAIA

<sup>37</sup> Sigaba 77(7) we-PAIA

## 22.10 Kugcwalisa sikhalo sangekhatsi – Lifomu 4

- 22.10.1 Kute ufake sikhalo lesiphikisa noma ngusiphi sincumo lesentiwe ngumkhakha waHulumende Wavelonkhe, Wesifundza noma Wendzawo, umfakisicelo kufanele afake sikhalo sakhe sangekhatsi ngekugcwalisa Lifomu 4. Lifomu 4 kufanele lingeniswe nguMlawuli Welwatiso wemkhakha waHulumende lotsintsekile, lokutodzingeka kutsi alindlulisele kusiphatsimandla sesikhalo, njengoba kushiwo ngenhla.
- 22.10.2 Lifomu 4 liyatfolakala kuwebsayithi yeMlawuli, <https://www.justice.gov.za/inforeg/>, kanye newebaysayithi yeMkhakha waHulumende lotsintsekako.
- 22.10.3 Umlawuli Welwatiso noma Lisekela leMlawuli Welwatiso wemkhakha Wahulumende lotsintsekile akekho ngaphansi kwesibopho sekusita umfakisicelo ekugcwaliseni lifomu lesikhalo sangekhatsi, nanoma kunjalo, umfakisicelo angamcela Umlawuli Welwatiso amsite kulesimo.
- 22.10.4 Ngentasi inchubo yesinyatselo ngesinyatselo loyilandzelako kugcwalisa lifomu lesikhalo sangekhatsi -

Lwatiso loludzingekako	Inchazelo
<b>Iminingwane Yeligatja lahulumende</b>	Lesigaba kufanele sifake ligama lemkhakha Wahulumende, Wavelonkhe, Wesifundza noma Wendzawo lotsintsekako, kanye neligama nesibongo seMlawuli Welwatiso.
<b>Iminingwane yalofake sicelo ngesikhalo sangekhatsi</b>	Lesigaba kufanele sigcwaliswe ngulofake sikhalo, umelelwe noma angakamelelwa. Emagama laphelwe nesibongo, inombolo yamatisi kanye nesikhundla sekumelela, uma sikhalo sangekhatsi sifakwe egameni lalomunye, uma kufanelekile, kufanele siniketwe. Uma sikhalo sentiwe ngumnikati, kufanele naloko kubhalwe.

Lwatiso loludzingekako	Inchazelo
	<p>Lolunye lwatiso loludzingekako lufaka imininingwane yekuchumana yemfakisicelo likheli leliposi, likheli le-imeyili, inombolo yefeksi ne/noma inombolo yelucingo. Lolwatiso kufanele lufane nalolo lwesicelo sekucala. Uma umuntfu logcwalisa lifomu angulomele umfakisicelo, bufakazi besikhundla sekummela nakufakwa sikhalo kufanele bufakwe kulelifomu.</p>
<p><b>Imininingwane yemuntfu locelela lomunye (uma sifakwe ngumuntfu wesitsatfu)</b></p>	<p>Lesigaba sidzinga kuphela kugcwaliswa ngumuntfu locelela lomunye lwatiso. Uma umuntfu angenisa sikhalo sangekhatsi kungasiye loyo locale lolwatiso, imininingwane yemfakisicelo kufanele iniketwe. Uma umuntfu aticelela lesigaba akudzingeki kutsi sigcwaliswe.</p>
<p><b>Sincumo lesiyimbangela yekufakwa kwesikhalo sangekhatsi</b></p>	<p>Lifomu liniketa sikhala sekutfi umfakisicelo akhombise nga"x", loko lokutizatfu tesikhalo lokusebentako kulesikhalo.</p>
<p><b>Grounds for appeal</b></p>	<p>Ngaphansi kwalesigaba, umfakisicelo kudzingeke kutsi achaze kabanti kutsi kungani acabanga kutsi tizatfu tesikhalo tiyasebenta. Kudzingeke kutsi anikete si(ti)zatzfu tekutsi kungani acabanga kutsi sizatzfu seMlawuli Welwatiso siliphutsa. Lokunye udzinga kufaka emadokhumenti lasekela lesikhalo. Luhlu lwetizatfu letisekela lesikhalo tingahlelwa kabanti kulelinye likhasi. Uma sikhala lesiniketiwe kulelifomu singeneli, lelinye likhasi kufanele lisayinwe.</p>

Kufanele kube netizatfu letanele kanye nelwatiso lolusekelako khona siphatsimandla sesikhalo sitotsatsa sincumo lesivakalako. Ngako-ke kufanele kufakwe luhlaka lwako konkhe lokwentekile ekuchubekeni kwalesikhalo sangekhatsi. Kulelinye likhasi, ungakhuluma ngetigaba letitsite te-**PAIA** njengesisekelo sesikhalo sakho.

**Satiso sesincumo ngesikhalo**

Sikhala lesiniketive senchazelo ngendlela sincumo lekufanele sitfunyelwe ngayo, sibonelo ngelposi, khuriwe noma ifascimile noma imeyili. Sicela ukhetse indlela loyinconotako yekwatiswa.

22.10.5 Nanoma kungekho lokukuvimbela ekutfoleni ummeli wekukusita kunoma ngusiphi sigaba sekucela lwatiso, tinchubo letinyenti te-**PAIA** tentelwe kutsi tisebentiseke kususa sidzingo sekufuna ummeli kanye netindleko teMtsetfo longatitfwala.

**23. TIKHALO LETIMIKISWA KUMLAWULI WELWATISO**

- 23.1 Umfakisiselo noma umuntfu wesitsatfu angatfumela kuphela sikhalo kuMlawuli emva kwekutsi umfakisiselo noma umuntfu wesitsatfu asatihambe tonkhe tinchubo tesikhalo tangekhatsi letiphikisana nesincumo seMlawuli Welwatiso wemkhakha wahulumende wavelonkhe, wesifundza noma wenzawo. Loku kusho kutsi lomunye angatfumela sikhalo salomunye, lesiphikisana nemkhakha lotsite waHulumende kuMlawuli uma lomunye angakajabuli ngesincumo sesiphatsimandla sesikhalo. Umalawuli utawucitsa sikhalo uma inchubo yesikhalo kulomkhakha lofanele wahulumende ingakapheli.
- 23.2 Nanoma kunjalo, mayelana nenhlangano yahulumende (macondzana Nalapho sikhalo sangekhatsi singasebenti) kanye nenhlangano letimele, umfakisiselo noma umuntfu wesitsatfu angatfumela sikhalo kuMlawuli, uma angakaneliseki ngesincumo senhlangano letsintsekako.
- 23.3 Sikhalo lesiya kuMlawuli ngemfakisiselo noma umuntfu wesitsatfu kufanele sifakwe kungakapheli emalanga lali-180 wekutfola sincumo kulenhlangano.

23.4 Umfakisicelo angafaka sikhalo neMlawuli, uma angakatfokoti nge -

23.4.1 Ngemphumela wesikhalo sangekhatsi kusiphatsimandla sesikhalo sanoma ngumuphi umkhakha wahulumende.

23.4.2 Sincumo semphatsimandla wesikhalo sekungavumeli kufakwa kwesikhalo sangekhatsi sikhatsi sesengcile;

23.4.3 Sincumo seMlawuli Welwatiso wenhlangano yahulumende lengasiyo incenye yanoma ngumuphi umkhakha wahulumende -

23.4.3.1 Kwala sicelo sekufinyelela kulirekhodi; noma

23.4.3.2 Kwelula sikhatsi sekubukana nesicelo; noma

23.4.3.3 Kuvumela kufinyelela ngendlela letsite.

23.4.4 Sincumo senhloko yenhlangano letimele ku -

23.4.4.1 Kwala sicelo sekufinyelela kurekhodi; noma

23.4.4.2 Kufuna kukhokhelwa imali noma idiphozithi yemali yekufinyelela kulirekhodi; noma

23.4.4.3 Kwelula sikhatsi sekubukana nesicelo; noma

23.4.4.4 Kuniketa imvumo yekufinyelela kulirekhodi ngandlela tsite.

23.5 Umuntfu wesitsatfu angafaka sikhalo neMlawuli, uma angakatfokoti -

23.5.1 Umphumela wesikhalo sangekhatsi kusiphatsimandla sesikhalo semkhakha lofanele wahulumende;

23.5.2 Sincumo seMlawuli Welwatiso wenhlangano yahulumende lengasiyo incenye yanoma ngumuphi umkhakha waHulumende kuniketa sicelo sekufinyelela kulirekhodi; noma

23.5.3 Sincumo senhloko yenhlangano letimele kuniketa sicelo sekufinyelela kulirekhodi laleyo nhlangano,

## 23.6 Usifaka njani sikhalo kuMlawuli?

- 23.6.1 Sikhalo lesiya kuMlawuli kufanele sibhalwe kantsi lifomu lesikhalo kufanele ligcwaliswe, ngesandla noma online. Lifomu lesikhalo, Lifomu 5, lingatfolakala kuwebsayithi yeMlawuli, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Loku kusho kutsi Umlawuli angeke amukele sikhalo ngelucingo; nanoma kunjalo, Umlawuli kulindzeleke anikete lusito lolufanele kunoma ngumuphi umuntfu lofisa kufaka sikhalo kantsi loku kufaka lusito lolumayelana nekugcwaliswa kwelifomu lesikhalo.
- 23.6.3 Uma lomunye afaka inselela esincumeni seMlawuli Welwatiso wenhlangano letimele, lomunye akanikete bufakazi lobenele kukhombisa kutsi lirekhodi lelifelwako lidzingeka kutowenta umsebenti noma kuvikela lamanye emalungelo. Kufinyelela kumarekhodi enhlangano letimele kunganiketwa kuphela uma lomunye angaveta kwekutsi uhlose kuwasebentisa nooma kuvikela lamanye emalungelo ngelirekhodi lelifelwe.

## 23.7 Kwentekani emva kwekutfola sikhalo?

23.7.1 Nawutfola sikhalo semuntfu, Umlawuli kufanele -

23.7.1.1 Aphenye sikhalo abuye atfumele lakutfolile eKomitini Lekucinisa mayelana nesincumo; noma

23.7.1.2 Angatsatsi sinyatselo ngesikhalo ngenca yekutsi -

23.7.1.2.1 Sikhalo asikatfunyelwa esikhatsini lesimalanga lali-180 kantsi atikho tizatfu letiphathsekako tekuvumela kuletfwa kwesikhalo lesendlulelwe sikhatsi;

23.7.1.2.2 Sikhalo asinasisindvo noma siyanyanyisa asikentiwa ngekutsembeka; noma

23.7.1.2.3 Ngekubuka tonkhe letimo talelicalala, lesinye sinyatselo asinasidzingo noma asikafaneli. Sibonelo, lwatiso loluceliwe luyatfolakala kunoma ngubani.

23.7.1.3 Lapho kunekubuyisana lokufanele noma kusebentisa imizamo yakhe lencono kuvikela sincumo lesijalo noma kusita emacembu ekusombululeni in(tin)kinga tawo; ne

23.7.1.4 Kubonisa umfakisikhalo kanye neMlawuli Welwatiso, sikhalo lesingaye, ngesinyatselo lesitotsatfwa.

## 23.8 **Kuchumana kwekucala kwemlawuli nemfakisikhalo kanye neMlawuli Welwatiso mayelana nesikhalo lesifakiwe**

23.8.1 Uma Umlawuli atsatsa sincumo sekungatsatsi sinyatselo ngesikhalo, Umlawuli utowatisa umfakisicelo ngaleso sincumo kanye netizatfu tekungasitsatsi lesinye sinyatselo ngemfakisikhalo.

23.8.2 Uma Umlawuli ancuma kuphenya sikhalo, umfakisicelo utawutfola incwadzi lembonisa kutsi Umlawuli uncume kuchuba luphenyo.

23.8.3 Uma asatfole sikhalo, Umlawuli utawendlulisa imininingwane yesikhalo kuMlawuli Welwatiso wemtimba lofanele, amcele kutsi andlulisele kuMlawuli, imphendvulo lebhaliwe ngesikhalo.

## 23.9 **Emandla ekuphenya eMlawuli**

23.9.1 Umlawuli unemandla, ngekwesigaba 77G(2) se **PAIA**, se -

23.9.1.1 Kusebentisa konkhe lokusemandleni akhe kutfole leso sivumelwane.

23.9.1.2 Kubita nekuphocenelela kuvela kwebantfu embi kweMlawuli;

23.9.1.3 Kubaphocenelela banikete bufakazi bemlomo noma lobubhaliwe ngekufunga kanye nekuveta noma nguwaphi emarekhodi;

23.9.1.4 Kutfole nekwamukela noma ngubuphi bufakazi kanye nalolunye lwatiso, noma ngekufunga, noma nge-avidavithi;

23.9.1.5 Kungena nekusesha noma ngutiphi takhiwo lekuhlala kuto licembu lelinakile;

23.9.1.6 kubamba i-inthaviyu yangasese nanoma ngumuphi umuntfu kunoma ngusiphi sakhiwo langene kuso; ne

23.9.1.7 kubamba noma nguyiphi imibuto kuleto tindzawo Umlawuli labona tifanele.



## 23.10 **Kuhambisana kwekuhlola nemibandzela ye- PAIA**

- 23.10.1 Umlawuli angachuba kuhlolwa kwekutsi ligatja lemphakatsi noma leliltimele ngalokuvamile liyahambisana nemibandzela ye-**PAIA**.
- 23.10.2 Umlawuli noma ngaluphi luhlobo angabamba kuhlolwa lokuhambisanako ngemtimba, ngekufisa kwawo, nanokuhlola kwekuhambisana ngekwesicelo noma ngumuphi lomunye umuntfu. Loku kusho kutsi noma ngumuphi umuntfu angacela Umlawuli abambe kuhlolwa kwekuhambisana kumtimba. Umuntfu angapsicelo lesingatiwa sekuchuba kuhlolwa kwekuhambisana, ngekukhombisa kwekutsi ucela kuhlala angatiwa.
- 23.10.3 Umlawuli utawuniketa umuntfu locale kuhlolwa ngembiko wekuhlola kanye nesincomo sesinyatselo lesitokwentiwa, uma sikhona.

## 23.11 **Satiso Selwatiso**

Umlawuli angasebenta njengeMlawuli Welwatiso wenhlangano leneSatiso selwatiso loludzinga licembu lekukhulunywa ngalo linikete Umlawuli ngelwatiso loluchaziwe kusatiso. Sibonelo, uma sikhalo lesifakwe neMlawuli simayelana nekwalelwa kungena ngekwanoma ngabe ngutiphi tizatfu letingaafakwa, Umlawuli angacela, ngeSatiso seLwatiso, emakhophi laveta kutsi walelwe kungena kute atfole kutsi ingabe tizatfu tekwala tise mtsetfweni yini noma cha.

## 23.12 **Kusungulwa KweLikomidi Lekucinisa/lekuphocenelela**

- 23.12.1 Umlawuli kudzingeka asungule Likomidi Lekucinisa<sup>38</sup>, lelinemandla eku -
- 23.12.1.1 Cubungula tonkhe tindzaba letidluliselwe kulo nguMlawuli ngekwe-**PAIA** abuye asho lakutfolako ngaloko; futsi
- 23.12.1.1 Ente noma ngutiphi tincomo kuMlawuli mayelana nanoma ngusiphi sinyatselo lesingatsatselwa Umlawuli Welwatiso wenhlangano.

## 23.13 **Satiso Sekuphocenelela**

- 23.13.1 Umlawuli emva kwekucubungula tincomo teLikomidi lekuphocenelela, anganiketa Umlawuli Welwatiso wenhlangano ngeSatiso Sekuphocenelela -

<sup>38</sup> Sigaba 50 se-POPIA

23.13.1.1 Kucinisekisa, kuchibiyela noma kubekela eceleni sncumo lekungisona lesisikhalo; noma

23.13.1.2 Kudzinga kutsi Umlawuli Welwatiso atsatse sinyatselo lesinjalo noma ayekele kutsatsa leso sinyatselo njengoba uMlawuli Welwatiso achazile esatisweni

#### 23.14 **Iyini imiphulla yekungahambisani neTatiso Tekuphocenelela?**

23.14.1 Umlawuli Welwatiso wenhlangano lowala kuhambisana nesatiso sekuphocenelela unelicala kantsi angahlawuliswa inhlawulo noma aboshwe sikhatsi lesingengi eminyakeni lemitsatfu noma kokubili inhlawulo kanye nekuboshwa.

23.14.2 Sigaba 77K we-**PAIA** ukhombisa kubaluleka kwelilungelo lekutfola lwatiso noma emarekhodi. Lesigaba siphindza sicinise kubaluleka kweMlawuli macondzana nekugcugcutelwa kwelilungelo lekutfola lwatiso.

### 24. **KUFAKA SICELo ENKANTOLO**

#### 24.1 **Ngubani longafaka sicelo enkantolo aphikisane nesincumo?**

24.1.1 Umfakisicelo noma umuntfu wesitsatfu angafaka sicelo kuphela enkantolo ngekutfola lusito lolufanele ngekwesigaba 82 kuletimo letilandzelako:

24.1.1.1 Ngemva kwekutsi umfakisicelo noma umuntfu wesitsatfu asacedze yonkhe inchubo yangekhatsi yekwendlulisa licala lekukhulunywa ngayo endzimeni 22.3 ngenhla; noma

24.1.1.2 Ngemuva kwekutsi umfakisicelo noma umuntfu wesitsatfu asacedze inchubo yetikhalo lekukhulunywa ngayo esigabeni 77A.

24.1.2 Ngekwesigaba 78(1) we-**PAIA**, umfakisicelo noma umuntfu wesitsatfu unakubili langakhetsa kuko, angatfumela sincumo, lesibhalwe etindzimeni 22.2.4, 23.4 na 23.5 ngenhla, kuMlawuli noma Inkantolo. Nanoma ungakaphocenelelwa kuya kuMlawuli, njengoba uMlawuli anetindlela tekusombulula tinkinga letiphangisako naletibanti, nakucatsaniswa neNkantolo.

24.1.3 Nanoma kunjalo, kute Inkantolo ibe nemandla ekugweba lendzaba, umfakisicelo noma umuntfu wesitsatfu kufanele -

24.1.3.1 Akhatsatwe tincumo, letibhalwe endzimeni 2 noma 2.2.4, 23.4 noma 23.5 ngenhla; noma

24.1.3.2 Acedze tonkhe tinchubo tetikhalo neMlawuli noma ahocise sikhalo kuMlawuli Loku kusho kutsi angeke uchumane nenkantolo uma sicelo sakho sisalindzile neMlawuli.

24.1.4 Uma lomunye afaka inselela lesincumo seMlawuli Welwatiso lenhlangano letimele, umuntfu udzinga kuniketa bufakazi lobanele kukhombisa kutsi lirekhodi lelceliwe lalomsebenti noma kuvikeleka kwanoma ngabe nguliphi li(ema)lungelo.

## 24.2 Ungasifaka nini sicelo enkantolo lesibukene nesincumo semtimba noma seMlawuli?

24.2.1 Kufaka sicelo enkantolo ngumfakisicelo noma ngumuntfu wesitsatfu, longakaphumeleli kusikhalo sekubuyeketa licala sangekhatsi kumtimba lobuyeketa sikhalo wemkhakha lofanele waHulumende noma lokhalako ngesincumo seMlawuli Welwatiso wenhlangano (kubhalwe ku 22.2.4, 23.4 noma 23.5 ngenhla) noma lowo weMlawuli kufanele ungeniswe kungakapheli emalanga lali-180 kusuka ngelilanga lesehlo lekungaso.

24.2.2 Umlawuli Welwatiso wenhlangano noma umtimba lophetse tekubuyeketa licala waHulumende, ngendlela lekungaba ngayo, akhala ngesincumo seMlawuli angafaka sicelo enkantolo ngekutfole lusito lolufanele ngekwesigaba 82, kungakapheli emalanga lali- 180<sup>39</sup>.

24.2.3 Umfakisicelo, umuntfu wesitsatfu, noma inhlangano, angafaka sicelo enkantolo kute atfole noma ngusiphi setincumo labakhla ngato kutsi tibuyeketwe yiNkantolo.

24.2.4 Kufaka sicelo enkantolo ngaphansi kwe-**PAIA** kwentiwa ngetinchubo temphakatsi, kantsi kufanele kwentiwe njengendlela yekugcina.

24.2.5 Emacala ekutfole lwatiso angalalelwa eTinkantolo Tamantji, njengenkantolo yekucala<sup>40</sup>, nenkantolo lephakeme lenemandla.

24.2.6 Kwehluleka kungenisa sicelo kungakapheli sikhatsi semalanga lali 180 kungacolelwa yiNkantolo uma lomunye akhombisa inshisakalo yekudzinga bulungiswa. Loku kusho kutsi inkantolo ingamukela sicelo lesiphutselwe sikhatsi uma indzaba lekufanele igwetjwe kutfolakala kutsi inenshisakalo

<sup>39</sup> Sigaba 78(4) se-PAIA

<sup>40</sup> Sigaba 91A se-PAIA neMitsotfo Yekutfutukisa Kufinyelela Kulwatiso, 2019

yebulungiswa. Uma emarekhodi lacelwako atosita lomunye ekufakeni sicelo sekubuyeketwa kwesigwebo kute angaboshwa noma kusita lomunye ekutfoleni kunakwa ngetekwelashwa, sibonelo, inkantolo kungenteka ikucolele ngalendlela.

24.2.7 Sicelo singaletfwa sihambisana nenchubo lebekwe emtsetfweni 53 weMitsetfo Yenkantolo Lephakeme noma ngekwemtsetfo 55 weMitsetfo Yenkantolo YaboMantji uma kungenamarekhodi noma emarekhodi langakacedvwa laletfwe ngumabhalane.

24.2.8 Uma emarekhodi asaletsiwe, sicelo sitawuletfwa ngekwesigaba 55 weMitsetfo Yenkantolo YaboMantji, kuye ngekutsi kunesizatfu sekutsi umfakisicelo akholelwe ekutseni lirekhodi leliphelile lenchubo kungenteka alikaletfwa ngumabhalane, umfakisicelo angachubeka ngekwenchubo lebekwe kuMtsetfo 53 weMitsetfo yenkantolo Lephakeme, elukhetfweni lwayo, kodvwa utawukhombisa kubufakazi lobufungelwe kungani kube nesizatfu sekukholelwa ekutseni lirekhodi leligcwele alikaniketwa<sup>41</sup>.

### 24.3 **Sinjani simo semtsetfo sesincumo seMlawuli kusalindvwe sincumo seNkantolo?**

Emandla emlawuli atfolakala kakhulukati kuMtsetfosisekelo, ku-**POPIA** naku-**PAIA**. Ngenca yaloko, satiso sekuphocenele lesikhishwe nguMlawuli sinemphumela wetemtsetfo futsi siyabophelela kudzimate kufike sikhatsi lapho inkantolo yemtsetfo incume khona ngalenywe indlela. Tincumo teMlawuli tiyasebenta futsi tiyaphocenelelwa ngaphandle kwalapho ucondzise ngalenywe indlela yinkantolo lefanele.

### 24.4 **Nguyiphi imiyalelo inkantolo lelalela sicelo lengasiniketa?**

24.4.1 Kulalelwa kwesicelo yinkantolo (noma yaMantji noma Inkantolo Lephakeme) kungenta lemiyalelo lelandzelako -

24.4.4.1 Cinisekisa, kuchibiyele noma kubekela eceleni sincumo seSikhulu Selwatiso, noma Umtimba lobuke Tikhalo noma Umlawuli Welwatiso;

24.4.4.2 Kudzinga Umlawuli Welwatiso noma Umtimba Lobuke Tikhalo utsatse sinyatselo lesinjalo njengoba Inkantolo ibona kudzingekile kulesikhatsi lesibekiwe kulesicondziso;

24.4.4.3 Kuniketa incwadzi levimbela umtsetfo, yesikhashana noma yekuphumuta lokutsi, sicondziso sesimemetelo noma sicondziso sekuncephelelisa;

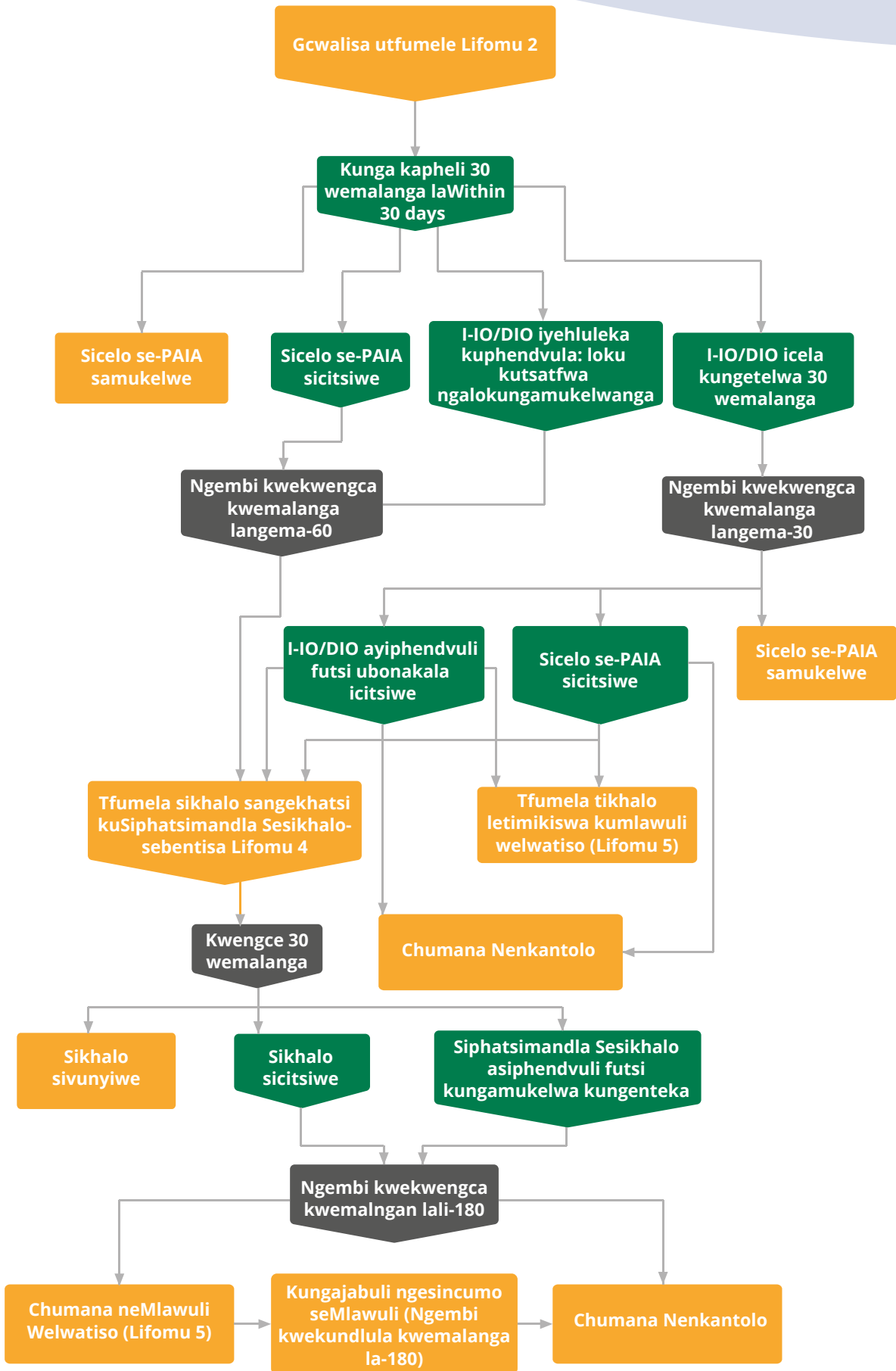
<sup>41</sup> Umtsetfo 4 Imitsetfo Yelwatiso kanye neKukhutsatwa Kwekufinyelela, 2019

24.4.4.4 Kwenta sicondziso setindleko letibukene nanoma nguliphi licembu;

24.4.4.5 Ingekubuka tinshisakalo tebulungiswa, yekela tintfo letingahambisani ngesicondziso ngesikhatsi se-180 ngelusuku kwentela kufaka sicelo. Njengoba kukhonjisiwe ngenhla, tizatfu letanele tekwehluleka kulandzela sikhatsi lesibekiwe kufanele ichazwe kabanti ekuhambisaneni nesicelo ekucolelweni.

## **25. UMDVWEBO WENCHUBO YEKUFAKA SICELO NGEKWE-PAIA**

Sicela ubuke umdvwebomfanekiso wenchubo lehamba ngekulandzelana, ngetinchubo letitolandzelwa nawusebentisa lilungelo lekutfo la watiso.



## 26. IMITSETFO LEMISWE NGEKWESIGABA 92 SE-PAIA

- 26.1 Ngekwesigaba 92(1) na 92(4) se-**PAIA**, Ndvuna wente Imitsetfosismiso lemayelana Nekutfufukiswa Kwekutfolakala Kwelwatiso, lokufaka letintfo letilandzelako
- 26.1.1 Imisebenti yeMlawuli Welwati (**umtsetfosimiso wesi-2**)
  - 26.1.2 Imisebenti yeMlawuli Welwatiso (**umtsetfosimiso wesi-3**)
  - 26.1.3 Kutfolakala lokutentakalelako kwemarekhodi latsite etinhlango tephakatsi (**umtsetfosimiso wesi- 4**)
  - 26.1.4 Kutiveta ngekutitsandzela kanye nekutfolakala lokutentakalelako kwemarekhodi latsite etinhlango letitimele (**umtsetfosimiso wesi-5**)
  - 26.1.5 Sicelo sekutfolakala kwelwatiso lolubanjwe tinhlango tahulumende noma letitimele (**umtsetfosimiso wesi- 6**)
  - 26.1.6 Umphumela wesicelo netimali letikhokhwako (**umtsetfosimiso wesi- 7**)
  - 26.1.7 Kwendluliswa kwangekhatsi wesincumo lesentiwe yinhlango yemphakatsi (**umtsetfosimiso wesi- 8**)
  - 26.1.8 Kufaka tikhalo kuMlawuli Welwatiso (**umtsetfosimiso we- 9**)
  - 26.1.9 Inchubo mayelana neluphenyo lwesikhalo (**umtsetfosimiso weli- 10**)
  - 26.1.10 Kucatululwa kwetindzaba (**umtsetfosimiso weli-11**)
  - 26.1.11 Kubuyisana ngendzaba (**umtsetfosimiso weli-12**)
  - 26.1.12 Kuhlolwa kwekuhambisana neMlawuli Welwatiso ekuphendvuleni sicelo (**umtsetfosimiso weli-13**)
  - 26.1.13 Emacala netimali lekumele tikhokhwe (**umtsetfosimiso weli 14**)
  - 26.1.14 Kuchumana nge-elektronikhi (**umtsetfosimiso 15**)
  - 26.1.15 Emacala netinhlawulo (**Regulation 16**)
- 26.2 Ngekwesigaba 79(1) se-**PAIA**, Ibhodi yemitsetfo Yetinkantolo Temtsetfo, ngemvume yaNdvuna, yenta imitsetfo yenchubo ye -
- 26.2.1 nkantolo macondzana neticelo ngekwesigaba 78 se-**PAIA**; futsi
  - 26.2.2 inkantolo ingatfolatsetfulo lekuyincenye lekukhulunywe ngayo esigabeni 80(3)(a).



## 27. IMITSETFO LEBALULEKILE, IMITSETFOSIMISO, TATISO NEKWAMUKELA

### Imitsetfosimiso, njengoba ingachitjiyelwa njalo nje

Umtsetfo Lokhutsata Kutfolakala Kwelwatiso, Umtsetfo wesi-2 wa-2000

Umtsetfo Lokhutsata Kuphatfwa Kwetebulungiswa, Umtsetfo wesi-3 wa-2000

Umtsetfo Lochibiyela Kukhutsatwa Kwekutfolakala Kwelwatiso, Umtsetfo wema-54 wa-2002

Umtsetfo Lovikela Lwatiso Lwebantfu, Umtsetfo wesi-4 wa-2013

Umtsetfo Lochibiyela Kukhutsatwa Kwekutfolakala Kwelwatiso, Umtsetfo wema-31 wa-2019

Umtsetfo Wetimali Telicembu Ietepolitiki, Umtsetfo wesi-6 wa-2018

### Imitsetfosimiso netatiso

Satiso SaHulumende	Lusuku Lwekushicilela	Sihloko nenchazelo
<b>Satiso saHulumende R. 757 ku-GG Nom. 45057</b>	27 Ingci 2021	Imitsetfo lelawulako lephatselene neKutfutukiswa Kwekufinyelela Kulwatiso, 2021
<b>Satiso SaHulumende R.991 in GG 28107</b>	14 Okthoba 2005	Imitsetfosimiso lechaza tizatfu lapho umuntfu akhululwa ekukhokhweni kwemali.
<b>Satiso saHulumende 397 ku-GG Nom. 44785</b>	30 Ingci 2021	Kukhululwa kwaleminye imitimba yahulumende ekuhlanganiseni Tinkhombandlela te-PAIA.
<b>Satiso SaHulumende 1217 in GG 42717</b>	19 Septemba 2019	Kukhetfwa kwetinkantolo taMantji letinemandla ekulalela tindzaba te-PAIA.
<b>Satiso SaHulumende R.1284 in GG 42740</b>	4 Okthoba 2019	Imithetho yenchubo yeticelo letitokwentiwa ngekwe-PAIA ngembi kweNkantolo Lephakeme noma iNkantolo yeMantji.

## **KWAMUKELA**

Lomhlahlandlela lobuyeketiwe ngendlela yekusebentisa i-**PAIA** wahlanganiswa kucala yiKhomishini YaseNingizimu Afrika Yemalungelo Eluntfu (i-**SAHRC**) kanye neMlawuli ngekunatisa ngemsebenti wakucala we-**SAHRC**, kuhlanganise nayo yonkhe imitfombo yayo.

Ikhishwe ngu

## **UMLAWULI WELWATISO**



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## **NKONGOMISO**

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**WA NDLELA YA MATIRHISELO YA  
NAWU WA NHLOHLOTELO WA MFIKELELO WA  
RUNGULA 2 WA 2000, LOWU PFUXETIWEKE**

**XITSONGA**

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# PAIA GUIDE

## RITO RO RHANGA HI MUTSHAMAXITULU

Vumbiwa bya Riphabliki ra Afrika Dzonga, 1996<sup>1</sup> ("Vumbiwa") byi vula leswaku Afrika Dzonga i mfumo lowu tiyimeleke tlhelo wa xidemokrasi lowu simekiweke ku hluvukisa malung'helo ya ximunhu ni endlelo ro lawula hi vutihlamuleri, leri angulaka ni ku nga tumbeti nchumu tanihi xiphemu xa swinawana swa rona swa maendlelo. Emahlweni ko va Afrika Dzonga ri va xidemokrasi xa vumbiwa swin'we ni Timfanelo ta Ximunhu, endlelo ra Hulumenthe eAfrika Dzonga exikarhi ka swilo swin'wana, ri vange mukhuva wa nhlaysixihundla ni ku pfumala n'wangulo eka mavandla ya rixaka ni lama tiyimeleke leswi hakanyingi swi vangeke ku tirhisiwa ko biha ka matimba ni ku tluriwa ka timfanelo ta ximunhu. Hikokwalaho xiyenge 32(1) xa Timfanelo ta Ximunhu eka Vumbiwa, xi andlala mfanelo ya mfikelelo wa rungula leri khomiweke hi mfumo; ni rungula rihi ni rihi leri khomiweke hi munhu un'wana leri lavekaka leswaku ku landzeriwa kumbe ku sirhelela timfanelo tihi ni tihi. Xiyenge 32(2) xa Vumbiwa xona xi andlala ku tirhisiwa ka nawu wa tiko lowu nga ta pfula ndlela ya ku tirhisiwa ka mfanelo leyi, hi ku xixima, ku sirhelela, ku hlohlotela ni ku hetisisa mfanelo leyi.

Nawu wo Hlohlotela Mfikelelo wa Mahungu, Nomb. 2 wa 2000 (ku ya emahlweni wu vitaniwa "**PAIA**", kumbe "Nawu" hi ku nyiketana), lowu pfuxetiweke, i nawu wa tiko lowu simekiwaka hi ku landza xiyenge 32(2) xa vumbiwa lexi boxiweke laha henhla.

Xikongomelo xa **PAIA**, i ku hlohlotela mukhuva wa nga tumbeki nchumu ni ku byarha vutihlamuleri eka mavandla ya rixaka ni lama tiyimeleke. Wu endla sweswo hi ku endla leswaku ku tirha mfanelo ya mfikelelo wa mahungu ni ku gingiritekela ku khutaza rixaka laha vanhu va Afrika Dzonga va kotaka ku fikelela mahungu ni ku va pfuna ku tirhisa ni ku sirhelela hi xitalo timfanelo ta vona hinkwato ni ku hetisisa tipakani hinkwato ta Afrika Dzonga leswaku ri va xidemokrasi lexi pfulekeke ni lexi vo tala va hoxaka xandla eka xona.

Nkongomiso lowu wa **PAIA** wu hlukisiwe ku hetisisa vutihlamuleri bya Mukongomisi wa Mahungu ("Mukongomisi") ehansi ka Xiyenge 10 xa **PAIA** lexi lavaka leswaku Mukongomisi a pfuxeta ni ku endla leswaku Nkongomiso lowu wu kumeka hilaha wu lulamisiweke hakona hi Khomixini ya Timfanelo ta Ximunhu ya Afrika Dzonga.

Nkongomiso lowu wu hleleriwe ku va xitirhisiwa lexi kongomisaka, lexi tirhisekaka ni lexi fikelelekaka eka munhu wihi ni wihi loyi a tsakelaka ku tirhisa mfanelo yihi ni yihi leyi andlariweke eka **PAIA** swin'we ni le ka Nawu wa Nsirhelelo wa Mahungu ya Munhu, 2013.



**Adv Pansy Tlakula**

**MUTSHAMAXITULU WA VUKONGOMISI BYA MAHUNGU**

<sup>1</sup> Vumbiwa bya Riphabliki ra Afrika Dzonga, 1996 (Nawu Nomb. 108 wa 1996)

## MARITO YO LANDZULA

Nkongomiso lowu a wu siveli mutirhisi wa wona eka vutihlamuleri byo tirhisa vuswikoti byakwe ni vuxiyaxiya malunghana ni xilaveko kumbe swiboho leswi koxiwaka hi nawu wihi ni wihi. Kutlulakwalaho, Nkongomiso lowu a wu nyiki xitsundzuxo xa nawu naswona a wu endleriwanga ku siva **PAIA** kumbe Mikongomiso leyi humesiwaka hi **PAIA**. Mukongomisi a nga amukeli ndzhwalo wa ku lahlekeriwa kwihi ni kwihi loku nga tshukaka ku vangwiwa hi ku titshega hi Nkongomiso lowu.

### 1. NXAXAMELO WA NKOMISOMALETERE NI NKOMISOMARITO

<b>CEO</b>	Chief Executive Officer
<b>CFO</b>	Chief Financial Officer
<b>Constitution</b>	Vumbiwa bya Riphabliki ra Afrika Dzonga, Nawu Nomb. 108 wa 1996
<b>DIO</b>	Deputy Information Officer
<b>Doj &amp; CD</b>	Department of Justice and Constitutional Development
<b>IO</b>	Mutirhi wa Mahungu
<b>Swirho</b>	Swirho swa Vukongomisi bya Mahungu
<b>Holobyenkulu</b>	Holobyenkulu wa Vukorhokeri bya Vululami ni Ndzulamiso
<b>PAIA</b>	Nawu wo Hlohlotela Mfikelelo wa Mahungu Nomb. 2 wa 2000, lowu pfuxetiweke
<b>PAJA</b>	Nawu Wa Nhlohlotelo Vulalami bya Vufambisi, 2000
<b>PFMA</b>	Nawu wa Vulawuri Bya Timali ta Rixaka Nomb.1 wa 1999 lowu pfuxetiweke
<b>POPIA</b>	Nawu wa Nsirhelelo wa Mahungu ya Munhu Nomb.4 wa 2013
<b>Vukongomisi</b>	Vukongomisi bya Mahungu
<b>SAHRC</b>	Khomixini ya Timfanelo ta Ximunhu ya Afrika Dzonga

### 2. MARITO LAMA PFUNAKA MA HLAMUSERIWA HI MUKHUYA NI MUXAKA LOWU TWISISEKAKA HI KU OLOVA

Rito	Nhlamuselo
<b>Hakelo ya Mfikelelo</b>	Hakelo leyi ya mfikelelo yi hakeriwa hi mukomberi eka huvo leyi a kombelaka mahungu eka yona, ku hakelela swikoxo swo lavisisa ni ku kopa tirhekhodo leti lavekaka. Nawu wa swi boxa leswi nga hakerisiwaka.
<b>Mufambisi</b>	I xiyenge xa mfumo kumbe munhu wihi ni wihi la tolovelekeke kumbe wa vuyimeri bya nawu loyi a tekaka goza ra vufambisi.

**Rito****Nhlamuselo****Goza ra vufambisi**

I xiboho xihhi ni xihhi lexi tekiwaka, kumbe ku tsakela kwihhi ni kwihhi ku teka xiboho, hi

(a) xiyenge xa mfumo, loko:

(i) ku tirhisiwa matimba hi ku landza Vumbiwa kumbe vumbiwa bya xifundzha; kumbe

(ii) ku tirhisiwa matimba ya rixaka kumbe ku endliwa ntirho wa rixaka hi ku landza nawu wihhi ni wihhi; kumbe

(b) munhu la tolovelekeke kumbe wa vuyimeri bya nawu, handle ka xiyenge xa mfumo, loko ku tirhisiwa matimba ya rixaka kumbe ku endliwa ntirho wa rixaka hi ku landza lunghiselelo ro rhwexa matimba.

Leswi kavanyetaka timfanelo ta munhu wihhi ni wihhi ni leswi hi ku kongoma, swi khumbaka nawu wa le handle.

**Munhu La Pfumeleriweke**

Munhu la pfumeleriweke i munhu loyi a endlaka xikombelo ematshan'weni ya munhu wo karhi, naswona hilaha ku faneleke u va a nyikiwe mpfumelelo lowu tsariweke ehansi.

**Tirhekhodo Leti Kumekaka Xikan'wekan'we**

Leti i tirhekhodo leti rixaka kumbe huvo ya phurhayivhete yi tinyikaka mukomberi handle ko va a endla xikombelo ka ha ri emahlweni. Tirhekhodo leti ti longoloxiwile eka 'xitiviso xo paluxa hi wexe', lexi faneleke ku tivisiwa mani na mani.

**Nhlokomhaka ya mahungu**

I munhu loyi mahungu ya munhu hi yexe ma khumbaka yena.

**Masiku**

Handle ka loko swi boxiwile tanihi 'siku ra ntirho' eka xiyenge xa **PAIA**, siku ri tekiwa tanihi siku ra khalendara. Ku hlayela mpimo wa nkarhi, siku leri xikombelo xi amukeriwaka harona a ri katsiwi, kutani endzhaku ka sweswo siku rin'wana ni rin'wana ra katsiwa ku katsa ni mahelovhiki ni tiholideyi ta rixaka ku fikela loko ku hlayeriwa siku ro hetelela. Loko siku ro hetelela ra ku hlamula xikombelo ri wela eka Sonto kumbe holideyi ya rixaka, siku leri landzelaka.

**Ku Tekiwa Tanihi Ku Ala**

Loko n'wangulo wu nga amukeriwi eka xikombelo hi nkarhi lowu boxiweke, sweswoku swi 'tekiwa tanihi ku ala'.

**Fomo 2**

Fomo leyi ya laveka hi nawu naswona yi fanele ku tirhisiwa ku endla xikombelo xa mfikelelo wa mahungu lama tameriweke hi huvo ya rixaka kumbe ya phurhayivhete.

**Fomo 4**

Fomo leyi ya laveka hi nawu nswona yi fanele ku tirhisiwa loko ku endliwa aphili ya xiboho lexi endlaweke hi huvo ya rixaka malunghana ni xikombelo xa mfikelelo wa mahungu.



**Rito****Nhlamuselo****Nkongomiso**

Nkongomiso lowu, lowu endliweke ku hetisisa xiyenge 10 xa **PAIA**, lowu pfuxetiweke, lowu lavaka ku pfuna munhu loyi a tsakelaka ku tirhisa mfanelo yihi ni yihi leyi andlariweke eka **PAIA** swin'we ni le aka Nawu wa Nsirhelelo wa Mahungu ya Munhu, 2013.

**Mutirhi Wa Mahungu**

Mutirhi wa Mahungu i munhu loyi a nga ni mpfumelelo wo tamela swikombelo swa **PAIA**. Swiyenge swa Vatirhi va Mahungu hi ku ya hi Huvo ya kona hi leswi landzelaka -

<b>Huvo ya Tiko kumbe Xiyenge xa Mfumo</b> (hilaha swi hlamuseriwaka hakona eka xiyenge 239 xa Vumbiwa)	Ndzawulo ya Tiko	Mulawuri Jenerala kumbe munhu loyi a khomeleke.
	Vufambisi bya Xifundzha	Nhloko ya Ndzawulo kumbe munhu loyi a khomeleke.
	Masipala	Manenjara wa Masipala kumbe munhu loyi a khomeleke.
	Swivandla swa Rixaka leswi longoloxiweke eka Xikejulu xa PFMA 1, 2, 3A, 3B, 3C NA 3D	Chief Executive Officer kumbe munhu loyi a khomeleke.
<b>Huvo ya Phurhayivhete</b>	Munhu la Tolovelekeke	Munhu la nga yexe loyi a endlaka nxaviselano, bindzu kumbe phurofexini, kambe eka xikhundlha xo tano ku nga ri hi ku swi endla hi vito rakwe
	Ntirhisano	Xirho xihhi ni xihhi xa ntirhisano kumbe munhu wihhi ni wihhi loyi a nga ni mpfumelelo eka ntirhisano wolowo.
	Vandla ra Politiki	Murhangeri wa vandla ra politiki kumbe munhu wihhi ni wihhi loyi a nga ni mpfumelelo wo huma eka murhangeri yoloye.

**Mutirhi Wa Mahungu**

	Munhu wa Vuyimeri bya Nawu	<p>Chief Executive Officer kumbe Mukongomiso la Fambisaka kumbe mutirhi wo fana na yena wa vuyimeri bya nawu kumbe munhu wihi ni wihi loyi a nyikeke mpfumelelo hi mutirhi yoloye.</p> <p><b>XIYA:</b> Chief Executive Officer kumbe mutirhi wo fana na yena a nga simeka munhu wihi ni wihi a va Mutirhi wa Mahungu wa Huvo ya Phurayivhete.</p>
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**Xandla xa Mutirhi wa Mahungu**

Xandla xa Mutirhi wa Mahungu i munhunhu loyi a vekiweke kumbe a langiweke hi Mutirhi wa Mahungu wa huvo ya rixaka ku pfuna mukomberhi hi xikombelo xakwe xa mahungu, naswona Mutirhi wa Mahungu a nga n'wi avela matimba man'wana ya **PAIA**.

**XIYA:** Hambileswi ku nga huvo ya rixaka ntsena leyi nga simekaka kumbe ku veka (Swa)Xandla xa Mutirhi wa Mahungu, hi ku landza xiyenge 17(1) xa **PAIA**, Nawu wa Nsirhelelo wa Mahungu ya Munhu, 2013 ("**POPIA**") wu nyika matimba yo simeka Xandla xa Mutirhi wa Mahungu eka huvo ya phurhayivhete, hi ku landza xiyenge 56(1) xa kona.

**Vukongomisi Bya Mahungu**

Hofisi ya Vukongomisi bya Mahungu yi simekiwile, hi ku landza xiyenge 39 xa **POPIA**, ku veka tihlo ni ku sindzisa ku landzeriwa ka **POPIA** na **PAIA**. Eka Nkongomiso lowu Hofisi ya Vufambisi ya Mahungu kumbe Vufambisi bya Mahungu swi vuriwa Vufambisi.

**Aphili Ya Le Ndzeni**

Aphili ya le ndzeni i endlelo ro tlhontlha xiboho lexi endlweke hi ku landza xikombelo xa **PAIA** eka huvo ya rixaka, leri faneleke ku endlwiwa emahlweni yisa ntlhontlho eka Vufambisi kumbe khoto leyi lawulaka.

**Huvo ya Phurhayivhete**

Huvo ya phurayivhete i munhu, khampani kumbe vuyimeri byo karhi bya nawu lebyi endlaka vuxavisi, bindzu kumbe vutshila, ku katsa ni vandla ra politiki.

**Rito****Nhlamuselo****Huvo Ya Rixaka**

Huvo ya rixaka swi vula ndzawulo ya hulumenthe kumbe xiyenge xo karhi kumbe xivandla, lexi endlaka ntirho wa rixaka. Hambiswiritano, malunghana ni aphili ya le ndzeni, loko ku vuriwa "huvo ya rixaka" swi cinciwile swi va "Hulumendhe," ku papalata ku pfilunganya tihuvo ta rixaka laha aphili yi endlwaka kona.

**Rhekhodo**

Rhekhodo i mahungu wahi ni wahi lama rhekhodiweke swi nga ri na mhaka leswaku i ya muxaka wihi, ku katsa, hi xikombiso, mapapila lama tsariweke, swo yingisiwa kunene, swa dijithali ni swa tivhidiyo. swi vula rhekhodo leyi tameriweke hi huvo yoleyo swi nga ri na mhaka leswaku huvo ya kona hi yona kumbe a hi yona yi endleke rhekhodo yoleyo.

**Swiletelo**

**PAIA** yi pfumelela Holobyenkulu to nyika swiletelo leswi tlhandlekelaka eka Nawu, leswi faneleke ku haxiwa eka Gazete ya Humendhe, naswona swi katsa timhaka to tanihi tifomo leti nga ta tirhisa ni tihakelo leti nga koxiwaka eka maendlelo yo karhi.

**Vulawuri Lebyi Khumbekaka**

**PAIA** yi tirhisa marito lama nge "vulawuri lebyi khumbekaka" ku hlamusela munhu eka Hulumenthe ya Tiko, Xifundzha kumbe ya Muganga loyi aphili ya le ndzeni yi faneleke ku endlwa eka yena, kutani hi ntolovelu i murhangeri wa politiki wa huvo ya kona (ntirho lowu wu nga averiwa un'wana ximfumo).

**3. VUXOKOXOKO BYO TIHLANGANISA NI MUKONGOMISI****Mutirhi Wa Mahungu****Chief Executive Officer:**

Mr. Mosalanyane Mosala

**Munhu wo tihlanganisa na yena:**

Ms. Ntombizodwa Harrieth Rikhotso

**Imeyili:**[NtoRikhotso@justice.gov.za](mailto:NtoRikhotso@justice.gov.za)**Xandla Xa Mutirhi Wa Mahungu:**

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#### 4. XIKONGOMELO XA NKONGOMISO LOWU WA PAIA

- 4.1 Xikongomelo xa Nkongomiso lowu i ku nyika mahungu lama laviwaka hi munhu wihi ni wihi loyi a tsakelaka ku tirhisa mfanelo yihi ni yihi leyi andlariweke eka Nawu wo Hlohotela Mfikelelo wa Mahungu wa 2000 (**PAIA**) ni Nawu wa Nsirhelelo wa Mahungu ya Munhu, 2013 ("**POPIA**"). Munhu wihi ni wihi, swi nga ri na mhaka leswaku i wa tiko rihi, a nga endla xikombelo xa mfikelelo wa mahungu ehansi ka **PAIA**.
- 4.2 Nkongomiso lowu xi ta pfuna hi ku kongoma munhu, loyi a tlhelaka a vuriwaka mukhumbeki wa mahungu, hi ndlela yo fikelela mahungu yakwe hi ku landza xiyenge 23 xa **POPIA**. Ehansi ka **POPIA**, munhu kumbe mukhubeki u ni mfanelo yo -
- 4.2.1 ku kombela loyi a nga ni vutihlamuleri ku tiyisisa, handle ko hakerisiwa, loko loyi a nga ni vutihlamuleri a tamele mahungu ya munhu hi yexe malunghana na yena, ni
- 4.2.2 xikombelo xa loyi a byarhaka vutihlamuleri ku nyika rhekhodo kumbe nhlamuselo ya mahungu ya munhu hi yexe hi ta mukhumbeki wa mahungu lama tameriweke hi loyi a khumbekaka, ku katsa mahungu ya vutitvisi bya van'wana lava khumbekaka, kumbe swiyenge swa lava khumbekaka, lava nga ta kota, kumbe va koteke, ku fikelela mahungu;
- 4.2.3 kombela loyi a nga ni vutihlamuleri ku
- (a) ku lulamisa kumbe ku tima mahungu ya munhu hi yexe hi ta mukhumbeki wa mahungu lawa va ma tameleke kumbe lama lawuriwaka hi vona lawa ma nga pakanisiki, lama nga riki ya nkoka, lama hundzeletaka, lama heleriweke hi nkarhi, lama nga hetisekangiki, lama hambukisaka kumbe lama kumiweke handle ka nawu; kumbe
- (b) ku cukumeta kumbe ku tima rhekhodo ya mahungu ya munhu hi yexe hi ta mukhumbeki wa mahungu lawa loyi a nga ni vutihlamuleri a nga ha riki na wona mpfumelelo wo ma hlayisa
- 4.3 Nkongomiso lowu wu ta tlhela wu pfuna munhu wihi ni wihi hi ta ndlela yo kombela mfikelelo wa tirhekhodo ehansi ka **PAIA**. Nkongomiso wu ta tlhela wu pfuna vakomberi hi
- 4.3.1 ku twisisa **PAIA**, mimbuyelo ni matshamelo ya yona;
- 4.3.2 ku dyondza maendlo ya goza rin'wana ni rin'wana yo endla xikombelo ni switsundzuxo leswi engetelekeke swo olovisa maendlelo;
- 4.3.3 ku dyondza misaka ya mahungu lama nga komberiwaka hi ku tirhisa **PAIA**;
- 4.3.4 ku twisisa maendlelo lawa mukomberi a nga tlhontlhaka xibo ho lexi tekiweke malunghana ni xikombelo xakwe;

4.3.5 ku tivisiwa ku cinca loku nga ta endleka eka **PAIA** loko **POPIA** se yi tirha hi xitalo.

4.4 Nkongomiso lowu wu ta tlhela wu pfuna vanhu ku twisisa ndlela yo tlhontlha ku nyikiwa ka mfikelelo wa tirhekhodo ta vona kumbe ndlela yo hoxa xandla eka endlelo ra mfikelelo wa tirhekhodo.

## 5. MAYELANA NA PAIA

5.1 Mfanelo ya mfikelelo wa mahungu i "yin'wana ya tindlela leti humeelalaka to landzela swinawana swa maendlelo swa vumbiwa swa ku nga tumbeti nchumu, mpaluxo, ku hoxa xandla ni ku byarha vutihlamuleri<sup>2</sup>. Swinawana swa maendlelo leswi boxiweke laha henhla swa vumbiwa a swi nge fikeleriwi loko hulumenthe yi lawula mahungu hi ku helela lama kongomisaka swiendlo ni swiboho swa yona. Hikokwalaho, mfikelelo wa mahungu i wa nkoka eka xidemokrasi lexi tirhaka khwatsi lexi pfulaka ndlela yo hoxa xandla, kambe wu tlhela wu kurisa ku tshembiwa ka hulumenthe hi rixaka naswona wu endla leswaku wu tekiwa wu ri wa xiviri. Mimbuyelo yin'wana hi mfanelo ya mfikelelo wa mahungu hi xikombiso, hileswaku yi sivela vukungundzwana ni vukanganyisi, ku kanakana ni matikhomele man'wana lama nga faneriki ya hulumenthe.

5.2 Loko Vumbiwa bya Afrika Dzonga byi ri karhi byi andlariwa hi nkarhi lowu landzeleke ku wa ka Xihlawuhlawu hi va-1990, mavandla ni vanhu vo hambanahambana va huma tsima ro lwela leswaku ku katsiwa ni mfanelo ya mfikelelo wa mahungu. A ku tshembiwa leswaku ku katsiwa ka mfanelo leyi eka Timfanelo ta Ximunhu ku ta tiyisisa leswaku maxangu yo tanihi Xihlawuhlawu ma nga ha tlheli ma va kona, hikuva mfumo ni mavandla ya phurayivhete ma ta voheka ku endla hi vutihlamuleri ni ku ka ma nga tumbeti nchumu hi ku nyika mfikelelo wa mahungu, naswona xisweswo, a ma nge swi koti ku tumbela hi nturhu wo fihla timhaka. Swi voniwe ku ri goza leri lavekaka ku pfuna ku simeka mukhuva wa ndzulamiso lowu a wu ta pfuxa vuxaka bya ndzingano exikarhi ka vanhu, ni lava nga eka vulawuri. Eka timhaka tin'wana to rhanga<sup>3</sup> a ku ta langutiwa mhaka ya leswaku muhehliwa u na yona mfanelo yo fikelela mahungu hinkwawo lama nga eka dokete ya maphorisa. Jones J u boxe nkoka wa sweswo hi marito lawa:

***"Xikongomelo ... i ku herisa ku yisiwa emahlweni ka endlelo ra khale ra vufambisi, endlelo leri a swi koteka leswaku hulumenthe yi balekela ku byarha vutihlamuleri hi ku ala ku paluxa mahungu hambiloko sweswo swi kavanyeta ku tirhisiwa kumbe ku sirheleriwa ka timfanelo ta munhu. Lebyi hi byona vubihi lebyi swi endleriweke ku byi sivela [...] Ku va ni ndzingano lowu vonakaka ni mpaluxo swi endla rixaka ri va ni ku tshemba vufambisi bya timhaka ta rixaka hi ku angarhela. Ku tshemba loku i xin'wana xa swihlawulekisi swa vanhu lava lawuriwaka hi xidemokrasi ku nga leswi Vumbiwa byi lwelaka swona".***

<sup>2</sup> Hoexter Administrative Law 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Xiyenge 32 xa Vumbiwa xi boxa mfanelo ya mfikelelo wa mahungu lama tameriwaka hi tihuvo ta rixaka ni ta phurayivhete. Xiyenge 32 xi tlhela xi boxa leswaku nawu wu fanele ku simekiwa ku pfumelela ku tirhisiwa eka mfanelo ya mfikelelo wa mahungu hi ku nyika vuxokoxoko bya tindlela to fikelela mahungu eka tihuvo ta rixaka ni ta phurayivhete, ni hi ku nyika swivangelo swa ku va huvo ya rixaka ni ya phurhayivhete yi nga ala mfikelelo wa mahungu.
- 5.4 **PAIA** yi simekiwe ku enerisa ntirho lowu boxiweke laha henhla wa vumbiwa, naswona yi sungule ku tirha swinene hi Nyenyankulu 2001. Eka rito ro rhanga ra yona yi pfumela vukona bya "mukhuva wo tumbeta timhaka ni ku pfumala n'wangulo" wa le nkarhini wa le mahlweni ka xidemokrasi, ni ku kandziyisa leswaku xin'wana xa swikongomelo swa **PAIA** i ku "hlohlotela mukhuva wa mpaluxo ni ku byarha vutihlamuleri eka tihuvo ta rixaka ni ta phurayivhete."
- 5.5 **PAIA** yi endleriwe ku pfula ndlela yo tirhisa ka timfanelo ta munhu ta mfikelelo wa mahungu ni ku byarha vutihlamuleri. Yi endleriwe ku hlomisa vanhu ku tirhisa nawu, ivi yi pfuna emhakeni yo kombela mfikelelo wa mahungu hi tindlela to hambanahambana. Munhu a nga boheki ku va ni gqweta leswaku a endla xikombelo xa mfikelelo wa mahungu hi ku ya hi **PAIA**.

## 6. 6 SWIKONGOMELO SWA PAIA

- 6.1 Swikongomelo swa **PAIA** a hi ku siva mfanelo ya vumbiwa, kambe i ku pfula ndlela yo tirhisiwa ka mfanelo eka xiyenge 32 hi ku landza swipimelo leswi twalaka, ni hi ndlela leyi pfunaka ku nyika ndzingano eka timfanelo letin'wana hinkwato leti tameriweke hi Vumbiwa. Yi tshemba leswaku yi ta hlohlotela mukhuva wa timfanelo ta ximunhu ni vululami bya ntshamisano wa vanhu, xiyenge xa rixaka ni xiyenge xa phurayivhete. **PAIA** yi lava ku hlohlotela ku nga tumbeti nchumu, ku byarha vutihlamuleri ni vulawuri lebyi tirhaka eka swivandla hinkwaswo (swa rixaka ni swa phurayivhete) hi ku hlomisa vanhu ku twisisa timfanelo ta vona ta mfikelelo wa mahungu, ku ti tirhisa, ni ku ti xopaxopa, ni ku tlhuvutsa, ku endlwa ka swiboho leswi va khumbaka.
- 6.2 Mfanelo ya mfikelelo wa mahungu i mfanelo ya matimba swinene ya vumbiwa, hikuva yi pfuna vanhu ku xiya timfanelo tin'wana. Munhu a nga yi tirhisela ku veka tihlo ni kambisisa mphakelo wa vukorhokeri bya hulumenthe, kumbe ku fikelela tirhekhodo ta khale leti nga tshukaka ti laveka.
- 6.3 Swikongomelo swa **PAIA** hi leswi -
- 6.3.1 ku pfula ndlela yo tirhisiwa ka mfanelo ya vumbiwa ya mfikelelo wa -
- 6.3.1.1 mahungu wahi ni wahi lama tameriweke hi Mfumo; ni
- 6.3.1.2 mahungu wahi ni wahi lama tameriweke hi munhu un'wana naswona ma laveka leswaku ku hetisiswa kumbe ku sirheleriwa timfanelo tihi ni tihi.

- Xilaveko malunghana ni ku sirheleriwa ka timfanelo xi katsa ntsena mahungu lama tameriweke hi munhu hi yexe. Tihuvo ta phurayivhete tona ti landzela mpimanyeto lowu nga dzikangiki ngopfu wa mpaluxo ku tlula tihuvo ta rixaka. Xiyenge xa phurayivhete, hi marito man'wana, xi nga hlayisa mahungu ya xona n'wini, handlekaloko mahungu ya kona ma laveka leswaku ku sirheleriwa timfanelo.
- **PAIA** yi xiya leswaku, hi ku landza Xiyenge 8(1) xa kona, huvo ya "rixaka" kumbe "phurayivhete" hi swikongomelo swa Nawu hi ku ya hi leswaku rhekhodo ya kona "yi khumba ku tirhisiwa ka vulawuri kumbe ku endliwa ka ntirho wa huvo ya rixaka kumbe huvo ya phurayivhete."

### 6.3.2 ku hetisisa mfanelo yoleyo -

6.3.2.1 hi ku landza swipimelo leswi twalaka, ku katsa, kambe ku nga ri sweswo ntsena, swipimelo leswi endleriwaka ku sirheleriwa ka xihundla hilaha ku twalaka, ku hlayisa xihundla xa bindzu ni vulawuri lebyi tirhaka, lebyi humelekaka ni lebyinene; naswona

6.3.2.2 hi mukhuva lowu nyikaka ndzingano eka mfanelo yoleyo ni timfanelo tin'wana, ku katsa timfanelo leti nga eka Timfanelo ta Ximunhu eka Ndzima 2 ya Vumbiwa;

6.3.3 ku pfula ndlela yo tirhisiwa ka vumbiwa bya Mfumo eku hlohloteleni timfanelo ta ximunhu ni vululami bya vanhu, hi ku katsa tihuvo ta rixaka eka nhlamulo ya 'mukomberi', ni ku ti pfumelela, eka swin'wana swilo, ku fikelela mahungu eka tihuvo ta phurayivhete loko ti landzelela swilaveko swa mune leswi nga eNawini lowu, ku katsa xilaveko lexi engetelekeke eka tihuvo to karhi ta rixaka mikarhi yin'wana leswaku ku endliwa leswi pfunaka rixaka;

6.3.4 ku simeka tindlela to endla hi ku tirhandzela kumbe leti bohaka kumbe maendlelo yo tirhisa mfanelo yoleyo hi mukhuva lowu pfunaka munhu ku kuma mfikelelo wa tirhekhodo eka tihuvo ta rixaka ni ta phurayivhete hi xihatla, handle ko durheriwa ni handle ka matshalatshala hilaha swi kotekaka hakona; ni

6.3.5 hi ntolovelu, ku hlohlotela mpaluxo, ku byarha vutihlamuleri ni vulawuri lebyi tirhaka bya tihuvo hinkwato ta rixaka ni ta phurayivhete hi, ku katsa ni kambe ku nga ri sweswo ntsena, ku hlomisa ni ku dyondzisa vanhu hinkwavo -

6.3.5.1 ku twisisa timfanelo ta vona hi ku landza Nawu lowu leswaku va tirhisa timfanelo ta vona mayelana ni tihuvo ta rixaka ni ta phurayivhete;

6.3.5.2 ku twisisa mitirho ni matirhelo ya tihuvo ta rixaka; ni



6.3.5.3 ku xopaxopa khwatsi, ni ku hoxa xandla, eku endliweni swiboho hi tihuvo ta rixaka leswi khumbaka timfanelo ta vona.

#### 6.4 Nawu wa ku Pfuxetiwa ka Nhlohlotelolo wo Fikelela Mahungu, 2019

6.4.1 Eka nandzu wa ***Vhotti Ya Mina I Ya Nkoka NPC v Holobyenkulu Wa Vululami Ni Ndzulamiso Ni Van'wana [2018] ZACC 17***, khoto ya vumbiwa yi vule leswaku "Mfumo wu ni ndzhwalo lowu tekiwaka hi ku hlaya kahle swiyenge 32, 19 na 7(2) wa Vumbiwa ku endla hinkwaswo leswi kotekaka kahle ku nyika vutirhiseki lebyinene ni lebyi twalaka bya mfanelo ya mfikelelo wa mahungu ni mfanelo ya ku vhota. Vo tala va tlhele va sindzisa leswaku sweswo swi tano hikuva ku tirhisiwa ka mfanelo yo vhota ku fanele ku va nhlawulo lowu endliwaka hi ku swi tiva, naswona ku ni ku yelana ka nkoka exikarhi ka ku tirhisiwa loku faneleke ka mfanelo yo vhota ni mfanelo ya mfikelelo wa mahungu. Naswona "handle ka mfikelelo wa mahungu, vuswikoti bya vaakatiko byo endla swiboho swa vutihlamuleri swa politiki ni ku hoxa xandla khwatsi eka vutomi bya rixaka swi languteriwa ehansi". Khoto ya Vumbiwa yi tiyisisile xileriso xa vumbiwa lebyi nga tirhiki naswona yi lerise Palamendhe ku pfuxeta **PAIA** ivi yi teka goza rihi ni rihi leri yi ri vonaka ri faneleka leswaku ku hleriwa ku rhekhodiwa, ku hlayisiwa ni ku lulamisela mfikelelo wa mahungu lowunene eku hakeleriweni ka mavandla ya tipolitiki hi phurayivhete ni vayimela ku langwa lava tiyimiseleke ku nga si hundza tin'hweti ta 18.

6.4.2 Hi ku ya hi vuavanyisi bya khoto ya vumbiwa lebyi boxiweke laha henhla, Phuresidente, hi 3 Khotavuxikwa 2019, u pfumelele Nawu wo Hlohlotella Mfikelelo wa Mahungu, 2019 (Nawu wa **PAIA** lowu pfuxetiweke wa 2019)<sup>4</sup>. Nawu wa **PAIA** lowu pfuxetiweke wa 2019 wu katsa vandla ra politiki eka nhlamuselo ya huvo ya phurayivhete, leswi vulaka leswaku murhangeri wa vandla ra politiki kumbe munhu wihi ni wihi loyi a nyikiwaka mpfumelelo hi murhangeri yoloye i mutirhi wa mahungu kume nhloko. Nawu wa **PAIA** lowu pfuxetiweke wa 2019 sweswi wu nyika mfikelelo ya mfikelelo wa tirhekhodo tihi ni tihi eka vandla ra politiki.

6.4.3 Nawu lowu pfuxetiweke wu pfumelela ku nyikiwa ka mahungu ya ku hakeleriwa ka le tlhelo ka mavandla ya tipolitiki ni vayimelakulangwa lama tiyimeleke leswaku swi rhekhodiwa, swi hlayisiwa ni ku endliwa swi kumeka.

6.4.4 Hi ku ya hi xiyenge 52A xa Nawu wa **PAIA** lowu pfuxetiweke wa 2019, murhangeri wa vandla ra politiki u fanele ku endla ni ku hlayisa tirhekhodo ta munyikelo wihi ni wihi lowu tlulaka mpimo lowu vekiweke, wa **R100 000.00**, lowu nyikiweke vandla rero ra politi eka lembe ro karhi ra timali ni mavito ya vanhu kumbe mavandla lama endleke minyikelo yoleyo. Nakambe murhangeri wa vandla ra politiki u fanele ku endla tirhekhodo ti kumeka endzhaku ka tin'hweti tinharhu, hilaha swi boxiweke hakona; ni ku hlayisa tirhekhodo nkarhi wa kwalomu ka malembe ya ntlhanu endzhaku ka loko tirhekhodo ta kona ti endliwile.

<sup>4</sup> Nawu wa ku Pfuxetiwa ka Nhlohlotelolo wo Fikelela Mahungu, Nomb. 31 wa 2019

6.4.5 Sweswo swi vula leswaku hambileswi Nawu wa ku Hakeleriwa ka Vandla ra Politiki wu vulaka leswaku mpaluxo wa boha ku endliwa eka Khomixini ya Nhlawulo, Nawu wa **PAIA** lowu pfuxetiweke wa 2019 sweswi wu vula ni leswaku mfanelo yoleyo yi katsa mfikelelo, wa tirhekhodo ta munyikelo wihi ni wihi lowu tlulaka **R100 000.00**, eka munhu wihi ni wihi, lowu endliweke eka vandla rero ra politiki.

6.5 Nawu wun'wana lowu sirhelelaka mfanelo ya mfikelelo wa mahungu

**PAIA** yi tlhela yi va kona eka mbango hinkwawo wa ta nawu, lowu hleleriweke ku vumba "mukhuva wa ku nyika swivangelo". Hi ku xiya leswi, **PAIA** yi vula leswaku nawu wihi ni wihi lowu nyikaka munhu ndlela ya mfikelelo wa mahungu lowu nga ni swihoxo switsongo ku tlula **PAIA**, swa antswa ku tirhisiwa wonac<sup>5</sup>.

6.5.1 Nawu wa Tikhampani 71 wa 2008

6.5.1.1 Xiyenge 26(1) xa Nawu wa Tikhampani wu vula leswaku munhu loyi a tameleke kumbe a nga ni mbuyelo lowu vuyeriwaka wa hakelo leyi humesiwaka hi mpindzulo wa khampani, kumbe loyi a nga xirho xa khampani leyi nga endliki mpindzulo, u ni mfanelo yo kambela ni ku kpa, handle ko hakerisiwa loko a endla ku kambela koloko kumbe loko se a hakerile mali leyi nga tluliki leyi boxiweke yo hakelela ku endla kopi ya kona, mhaungu lama tameriweke hi tirhekhodo ta khampani.

6.5.1.2 Hi hi ku ya hi xiyenge 26(7)(b) xa Nawu wa Tikhampani, "mfanelo ya mfikelelo wa mahungu leyi boxiweke eka xiyenge lexi yi tlhandlekela eka, kambe ku nga ri ku siva, timfanelo tihi ni tihi ta munhu ta mfikelelo wa mahungu hi ku landza Nawu wo Hlohlotela Mfikelelo wa Mahungu, 2000 (Nawu Nomb. 2 wa 2000)".

6.5.2 Nawu Wa Ku Hakeleriwa Ka Vandla Ra Politiki, 2018 (Nawu Nomb. 6 wa 2018)

6.5.2.1 Ku Hakeleriwa ka Vandla ra Politiki ku tlakusa mhaka ya milawu yo tiya eku hakeleriweni ka phurayivhete ka mavandla ya tipolitiki hinkwawo lama tsarisiweke, swi nga ri na mahaka leswaku ma yimeriwa kumbe a ma yimeriwi eka swivandla swo simeka milawu swa tiko kumbe swa xivundzha. Leswi swi katsa swipimela swa mpimo, wa xihlovo ni vutirhisi bya timali leti hlengiweke hi mavandla ya tipolitiki.

6.5.2.2 Ku tiyisisa ku nga tumbeti nchumu ni ku byarha vutihlamuleri, mavandla ya tipolitiki ma boheka ku paluxa minyikelo hinkwayo leyi tlulaka mpimo lowu vekiweweke wa **R100 000.00** eka Khomixini ya Nhlawulo nkarhi ni nkarhi endzhaku ka tin'hweti tinharhu (swin'we ni le mahlweni ka minhlawulo ya mani na mani).

<sup>5</sup> Xiyenge 2(1) xa PAIA

- 6.5.2.3 Munhu wihi ni wihi loyi a endlaka munyikelo eka vandla ra politiki lowu hi woxe kumbe loko wu helerile wu tlulaka **R100 000.00** hi lembe u fanele ku vika munyikelo wolowo eka Khomixini ya Nhlawulo ku nga si hundza masiku ya 30 yo endla munyikelo wolowo kumbe ku nga si hundza masiku ya 30 yo endla munyikelo lowu tlulaka **R100 000.00** wu helerile.
- 6.5.2.4 Xo hetelela, Nawu wa ku Hakeleriwa ka Vandla ra Politi wu rhwexa ndzhwalo eka Khomixini ya Nhlawulo ku paluxa eka tin'hweti tin'wana ni tin'wana tinharhu minyikelo leyi vikiweke hi mavandla ya tipolitiki ni ku vika lembe ni lembe eka Palamendhe hi ta minyikelo hinkwayo leyi endlaweke eka mavandla ya tipolitiki elembeni.
- 6.5.3 Nawu Wa Nsirhelelo wa Mahungu ya Munhu, 2013 (Nawu Nomb. 4 wa 2013)
- 6.5.3.1 Xiyenge 23 xa **POPIA** xi nyika mukhumbeki wa mahungu mfanelo ya mfikelelo wa mahungu lama tameriweke hi loyi a byarhaka vutihlamuleri, ku katsa mahungu ya vutitivisi bya van'wana va le tlhelo lava khumnekaka, kumbe swiyenge swa van'wana va le tlhelo, lava va kotake, kumbe va koteke, ku fikelela mahungu wolawo.
- 6.5.3.2 Leswi swi vula leswaku hambileswi mfikelelo wa rhekhodo leyi tamleke mahungu ya munhu malunghana ni mukomberi ma nga katsiwangiki eka **PAIA** hi ku landza Xiyenge 11(2) xa kona, mukhumbeki wa mahungu a nga kombela -
- 6.5.3.2.1 mfikelelo wa munhu yakwe; ni/kumbe
- 6.5.3.2.2 vutitivisi bya lavan'wana va katsekaka, ni/kumbe swiyenge swa lavan'wana va katsekaka, lava va fikeleleke, kumbe va nyikiweke, mfikelelo wa mahungu.
- 6.5.3.2.3 ku lulamisa kumbe ku tima mahungu ya munhu hi yexe hi ta mukhumbeki wa mahungu lawa va ma tameleke kumbe lama lawuriwaka hi vona lawa ma nga pakanisiki, lama nga riki ya nkoka, lama hundzeletaka, lama heleriweke hi nkarhi, lama nga hetisekangiki, lama hambukisaka kumbe lama kumiweke handle ka nawu; kumbe
- 6.5.3.2.4 rhekhodo ya mahungu yakwe lawa loyi a byarhaka vutihlamuleri a nga ha riki na wona mpfumelelo wo yi hlayisa leswaku yi cukumetiwa kumbe ku timiwa.
- 6.5.3.3 Loyi a byarhaka vutihlamuleri a nga ha ala ku paluxa mahungu ya munhu wo karhi lama komberiwaka, hi ku pfumelelana ni swivangelo swa ku ala mfikelelo wa tirhekhodo, hilaha swi andlariweke hakona eka ndzimana 19.4 laha hansi.

## 6.5.4 Nawu wa Nhlohotelo Wa Vululami Bya Vufambisi 3 Wa 2000

- 6.5.4.1 Nawu wun'wana wa nkoka ku wu tsundzuka loko u anakanyela mfikelelo wa mahungu i Nawu wa Nhlohotelo wa Vululami Bya Vufambisi (**PAJA**). **PAJA** yi pfula ndlela ya mfanelo ya goza ra vufambisi leri nga enawini, leri anakanyelaka ni leri nga ni ndzingano wa maendlelo swin'we ni mfanelo ya swivangelo leswi tsariweke ehansi swa goza ra vufambisi hilaha swi hlamuseriwaka hakona eka xiyenge 33(2) xa Vumbiwa<sup>6</sup>.
- 6.5.4.2 Hi ku lanza xiyenge 5(1) xa **PAJA**, munhu wihi ni wihi loyi timfanelo takwe ti khumbekeke hi ku kongoma ni hilaha ku enteke hi goza ra vufambisi naswona a nga nyikiwanga swivangelo swa goza ra kona, ku nga si hundza masiku ya 90 endzhaku ka siku leri munhu wa kona a xiyenge goza rero kumbe swi ri erivaleni leswaku ku nga languteriwa leswaku u ta va se a swi tivile, a nga ha kombela leswaku mufambisi wa kona a n'wi nyika swivangelo leswi tsariweke ehansi swa goza rero. Mufambisi loyi xikombelo xi endlwaka eka yena, ku nga si hundza masiku ya 90 endzhaku ko amukela xikombelo, u fanele ku nyika munhu yoloye xivangelo lexi twalaka xa goza ra vufambisi.

## 7. KU SIMEKIWA KA VUKONGOMISI BYA MAHUNGU

- 7.1 Ku tiyisisa nhlohotelo ni ku antswisiwa ka swikongomelo swa **PAIA**, leswi faneleke ku pfula ndlela ya mfanelo yoleyo ya mfikelelo wa mahungu hi mukhuva lowu pfumelelaka munhu ku fikelela tirhekhodo ta tihuvo ta rixaka ni ta phurayivhete hi xihatla ni hi hakelo leyi durhiki hilaha swi kotekaka hakona, Vukongomisi bya Mahungu ("Vukongomisi") byi simekiwile hi ku landza xiyenge 39 xa **POPIA**.
- 7.2 Leswaku ku tiyisisiwa leswaku ku landzeriwa maendlelo lama olovaka ni lama nga durhiki loko ku endlwaka xikombelo xa mfikelelo wa mahungu, swivilelo swo ya eka Vukongomisi ni swikombelo swa le khoto swi fanele ku endlwaka hi xiwelo ku nga ri tanihi nawu.
- 7.3 **POPIA** yi pfuxeta ntirho wa **SAHRC** hi ku fambisana ni ntirhonkulu wa **PAIA**. Ku sukela hi 30 Khotavuxika 2021, mitirho hinkwayo ya **SAHRC**, hilaha yi longoloxiweke hakona eka **PAIA**, yi ta tameriwa hi Vukongomisi, lebyi nga ni matimba lama engetelekeke.
- 7.4 Hambileswi **SAHRC** yi nga ta emahlweni yi mitirho ya yona leyikulu ya vumbiwa ku hlohotela, ku sirhelela ni ku veka tihlo eka timfanelo leti tsariweke eka Timfanelo ta Ximunhu, **SAHRC** ni Vukongomisi va ta tirhisana swin'we.

<sup>6</sup> Mani na mni loyi timfanelo takwe ti khumbekeke swinene hi goza ra vufambisi u ni mfanelo yo nyikiwa swivangelo leswi tsariweke ehansi.

## 8. NTIRHO WA VUKONGOMISI BYA MAHUNGU

- 8.1 Vukongomisi byi ni ntirho wa nkoka swinene mayelana na **PAIA**. Vukongomisi byi averiwa ntirho hi **PAIA**, ehansi ka Xiyenge 4, Ndzima 1A na Xiyenge 5 ni swiyenge swin'wana, leswaku:
- 8.1.1 byi hlohotela mfanelo ya mfikelelo wa mahungu ni ku pfuna rixaka ku tirhisa **PAIA** laha swi kotekaka kona,
  - 8.1.2 ku veka tihlo ni ku yela emahlweni ku tirhisiwa **PAIA** eka tihuvo ta rixaka ni ta phurayivhete (leswi katsaka ku khutaza tindlela leti tirhaka to endla leswaku mahungu ma kumeka hi xihatla),
  - 8.1.3 ku endla swibumabumelo swo tiyisa **PAIA**, ni
  - 8.1.4 ku vikela Palamendhe lembe ni lembe.
- 8.2 Xiyenge 77C (1) na (2) xa **PAIA** xi nyika mpfumelelo wa matimba, mitirho ni swintirhwana leswi landzelaka swa Vukongomisi, ku -
- 8.2.1 lavisisa xivilelelo lexi endliweke eka Vukongomisi hi mukhuva lowu andlariweke;
  - 8.2.2 hundzisela xivilelelo eka Komiti ya Nsindziso leyi simekiweke hi ku landza xiyenge 50 xa **POPIA**; kumbe
  - 8.2.3 ku endla xiboho, hi ku ya hi xiyenge 77D, xo teka goza hi xivilelo kumbe, hi ku ya hi xiyimo, ku nga laveki goza rin'wana malunghana ni xivilelo xexo; ni
  - 8.2.4 ku teka goza, loko swi faneriele, tanihi mulamuleri eka xivilelo xexo hi mukhuva lowu andlariweke.
- 8.3 Vukongomisi, hi ku landza xiyenge 77H(1) xa **PAIA**, ni hi goza ra yona, kumbe hi ku komberiwa hi mutirhi wa mahungu kumbe ematshan'weni ya yena kumbe nhloko ya huvo ya phurayivhete kumbe munhu wihi ni wihi, byi nga kambela loko huvo ya rixaka kumbe ya phurayivhete hi ntolovela yi fambisana na **PAIA**, malugghana ni tipholisi ni maendlelo ya yona yo tirha.
- 8.4 Vukongomisi byi nyikiwe matimba, hi ku landza xiyenge 77F, xa **PAIA**, ku endla matshalatshala lama koteka ku ololoxa xivilelo, loko hi ku ya hi xivilelo xa kona swi ri erivaleni, kumbe eka n'wangulo lowu tsariweke malunghana ni sweswo leswaku swi nga koteka ku ololoxa xivilelo xa kona. Leswi swi vula leswaku Vukongomisi byi nga ringeta ntsena ku pfuna lava khumbekaka ku tlhantlha timholovo ta vona, loko ku ri ni xivilelelo lexi endliweke eka Vukongomisi, handlekaloko byi endle xiboho, hi ku vona ka byona, ku endla vukambisi, hilaha swi boxiweke hakona eka ndzimana 8.3 laha henhla.

## 9. KU ENDLA XIKOMBELO XA RHEKHODO

Hi kombela u languta ntlhandlamano wa endlelo eka chati leyi nga eka ndzimana 27, laha hansi, hi ta ndlela yo kombela mfikelelo wa tirhekhodo.

### 9.1 Ndlela yo sungula: **Matsalwa Ya PAIA**

9.1.1 Hambileswi Nkongomiso wu kandziyisiweke ku pfuna rixaka hi ku hambana ka rona leswaku ri landzelela mfanelo ya vumbiwa ya mfikelelo wa mahungu, ku ni swihlovo swin'wana swa mahungu leswi na swona swi nga pfunaka munhu ku endla xikombelo xo fikelela tirhekhodo. **PAIA** yi lava leswaku tihuvo ta rixaka hinkwato, ni tihuvo ta phurayivhete, ti hlengeleta ni ku endla leswaku tsalwa ra **PAIA** ri kumeka .

9.1.2 Emahlweni ko va munhu wihi ni wihi a teka magoza yo fikelela mahungu kumbe tirhekhodo ta huvo yo karhi, Tsalwa ra **PAIA** hi xona xitirhisiwa xo rhangalaxi faneleke xi hlayiwa.

9.1.3 Hi ku angarhela, tsalwa ra **PAIA** ra pfuna eka munhu:

9.1.3.1 ku kamba muxaka wa tirhekhodo lawa se ma kumekaka handle ko endla xikombelo xa ximfumo xa **PAIA**;

9.1.3.2 ku twisisa ndlela yo endla xikombelo xa mfikelelo wa mahungu lama tameriweke hi huvo yo karhi;

9.1.3.3 ku fikelela vuxokoxoko bya vuhlanganisi hinkwabyo bya munhu loyi a nga ta pfuna rixaka hi tirhekhodo leti munhu wihi ni wihi a lavaka ku ti fikelela;

9.1.3.4 ku tiva switshunxo hinkwaswo leswi nga kona swa huvo leyi ku komberiwaka eka yona ku fikelela mahungu, ku nga si yiwa eka Vukongomisi kumbe Tikhoto;

9.1.3.5 ku tiva nhlamuselo ya vukorhokeri lebyi kumekaka erixakeni lebyi nyikeriwaka hi huvo ni ndlela yo fikelela vukorhokeri bya kona;

9.1.3.6 ku tiva loko huvo yi ta pfuna hi mahungu ya munhu hi yexe, xikongomelo xo nyikela mahungu ya munhu hi yexe ni nhlamuselo ya swiyenge swa mukhumbeki wa mahungu ni mahungu ya kona kumbe swiyenge swa mahungu lama katsekaka;

9.1.3.7 ku tiva loko huvo yi helele ku hundzisela kumbe ku nyika mahungu ya munhu hi yexe eka wokarhi loyi a nga le handle ka Riphabliki ra Afrika Dzonga; ni

<sup>7</sup> Xiyenge 14 na Xiyenge 51 xa PAIA

- 9.1.3.8 ku tiva loko huvo yi ri ni tindlela leti faneleke ta vusirhelei ku tiyisisa xihundla, vutshembeki ni ku kumeka ka mahungu lama nga ta nyikeriwa.

## 9.2 Matsalwa ya PAIA ma nga kumiwa kwihi?

### 9.2.1 Tsalwa ra PAIA ra tihuvo ta rixaka

- 9.2.1.1 Tihuvo ta rixaka hinkwato ti fanele ti endla Tsalwa ra PAIA ri kumekaka hi ku olova hi tindzimi ta ximfumo ta kwalomu ka tinharhu<sup>8</sup>

- 9.2.1.2 Hambiloko swi tikile, va fanele ku endla kopi ya Tsalwa ra PAIA ri kumeka mahala, handlekaloko munhu a kombela kopi leyi purintiweke

9.2.1.2.1 eka webusayiti ya huvo ya rixaka;

9.2.1.2.2 eka hofisinkulu ya huvo ya rixaka leswaku yi voniwa hi rixaka hi tiawara leti tolovelekeke ta ntirho;

9.2.1.2.3 loko munhu a lava kopi ya xiviri, huvo ya rixaka yi fanele ku endla kopi, kambe yi nga ha kombela hakelo leyi twalaka leswaku yi ta endla kopi; ni

9.2.1.3.4 le ka Vukongomisi loko ku endliwa xikombelo.

### 9.2.2 Matsalwa ya PAIA ya tihuvo ta phurayivhete

- 9.2.2.1 Tihuvo ta phurayivhete na tona ti fanele ku va ni tsalwa ra PAIA<sup>9</sup>, kambe a swi bohi leswaku ri endliwa ri komeka hi ririmi ro tlula rin'we kumbe hi ririmi ro karhi, hambileswi ku bumabumeriwaka leswaku Matsalwa ya PAIA ya tihuvo ta phurayivhete ti fanele ti kumeka hi Xinghezi. Loko huvo yo karhi yi nyikela vukorhokeri eka vanhu vo tala lava nga dyondzangiki ngopfu, Vukongomisi byi bumabumela leswaku tsalwa ta huvo yoleyo ri fanele ku tlhela ri kumeka hi rin'wana ra tindzimi ta ximfumo.

- 9.2.2.2 Hambiloko swi tikile, tihuvo ta phurayivhete ti fanele ku endla kopi ya Tsalwa ra PAIA ri kumeka mahala<sup>10</sup>, handlekaloko munhu a kombela kopi leyi purintiweke

9.2.2.2.1 eka webusayiti ya huvo ya phurayivhete;

9.2.2.2.2 eka ndhawunkulu ya bindzu ya huvo ya phurayivhete leswaku yi voniwa hi rixaka hi tiawara leti tolovelekeke ta ntirho;

<sup>8</sup> Xiyenge 14(1) xa PAIA

<sup>9</sup> hi ku landza xiyenge 51 xa PAIA

<sup>10</sup> Xiyenge 51(3) xa PAIA



9.2.2.2.3 loko munhu a lava kopi ya xiviri, huvo ya phurayivhete yi fanele ku endla kopi, kambe yi nga ha kombela hakelo leyi twalaka leswaku yi ta endla kop; ni

9.2.2.2.4 le ka Vukongomisi loko ku endliwa xikombelo.

9.2.3 Holobyenkulu wa Vululami ni Ndzulamiso u ni matimba yo tshunxa<sup>11</sup> tihuvo ta phurayivhete to karhi kumbe xiyenge xa tihuvo ta phurayivhete ti nga boheki ku va ni tsalwa leri kumekaka. Sweswi, ku fikela hi 31 N'wendzambahala 2021, Holobyenkulu u tshunxe<sup>12</sup> tihuvo ta phurayivhete hinkwavo, handle ka khampani yihi ni yihi leyi

- (a) yi nga riki khampani ya phurayivhete hilaha swi hlamuseriwaka hakona eka xiyenge 1 xa Nawu wa Tikhampani, 2008 (Nawu Nomb. 71 wa 2008); naswona
- (b) yi ri khampani ya phurayivhete hilaha swi hlamuseriweke hakona eka xiyenge 1 xa Nawu wa Tikhampani, 2008 (Nawu Nomb. 71 wa 2008) lowu tirhaka ehansi ka swiyenge swo karhi leswi boxiweke eka kholomu yo sungula ya xikejulu xa Xitiviso lexi naswona -
  - (i) yi ri ni vatirhi va 50 kumbe ku tlula lava thoriweke; kumbe
  - (ii) yi ri ni ntsengo wa mali leyi nghanaka lembe ni lembe leyi ringanaka kumbe yi tlula leyi tirhaka hilaha swi boxiweke hakona eka kholomu 2 etafuleni leri nga laha hansi,

leswaku yi nga va ni tsalwa lexi boxiweke eka xiyenge 51(1) xa Nawu lowu boxiweke eku sunguleni nkarhi wo ringana tin'hweti ta tsevu (6) hi n'hweti ya from **1 Mawuwani 2021** ku ya ka **31 N'wendzambahala 2021**: -

Xiyenge	Mali ya lembe ni lembe
Vurimi	R6 wa timiliyoni
Timayini ni Swicelwa	R22.5 wa timiliyoni
Vumaki	R30 wa timiliyoni
Gezi, Gasi ni Mati	R30 wa timiliyoni
Vuaki	R15 wa timiliyoni
Switolo ni Vumaki bya Mimovha ni Vukorhokeri byo Lunghisa	R45 wa timiliyoni
Vumaki bya Ti-Wholesale, Vayimeri va Mabindzu ni Vukorhokeri byo Pfuneta	R75 wa timiliyoni
Vusweki, Byetlelo ni Vumaki byin'wana	R15 wa timiliyoni
Vutleketli, Vuhlayisi ni Mbulavurisano	R30 wa timiliyoni
Timali ni Vukorhokeri bya Bindzu	R30 wa timiliyoni
Vukorhokeri bya Muganga, byo Hlawuleka ni bya Munhu hi yexe	R15 wa timiliyoni

<sup>11</sup> Xiyenge 51(4) xa PAIA

<sup>12</sup> Gazete ya Hulumenthe nomb: 39504, 11 N'wendzambahala 2015

- 9.2.4 Hikokwalaho ka nkoka wa xilaveko xa le nawini xo landzelela Tsalwa ra **PAIA**, ngopfungopfu ku pfuxetiwa<sup>13</sup> ka xiyenge 51 xa **PAIA** (lexi nga ta sungula ku tirha hi 30 June 2021), laha vuanamo bya mahungu lawa tsalwa ri fanele ri ma katsa byi ndlandlamuxiweke ku katsa timhaka leti yelanaka na **POPIA**, tihuvo ta phurayivhete a ti nge tshunxiwi eka xiboho xo endla leswaku ti va ni tsalwa ra **PAIA**. Hikokwalaho, ku sukela hi, 1 Sunguti 2022, huvo ya phurayivhete ni ya rixaka yin'wana ni yin'wana yi ta fanele ku hlela leswaku yi va ni Tsalwa ra **PAIA**, hilaha swi hlamuseriweke hakona eka ndzimana 9.2.2.2 laha henhla.
- 9.2.5 Ku tshunxiwa ka tikhampani ta phurayivhete eka xiboho xo va ni tsalwa ra **PAIA** a swi tshunxi tikhampani teto ta phurayivhete emhakeni yo landzela **PAIA**. Leswi swi vula leswaku munhu wihi ni wihi a nga endla xikombelo xa mfikelelo wa mahungueka huvo ya phurayivhete leyi tshunxiweke emhakeni leyi. Ku tshunxiwa loku ko vula ntsana leswaku tikhampani teto ta phurayivhete a ti boheki ku lulamisa tsalwa ra **PAIA**.
- 9.2.6 Nakambe tsundzuka leswaku a hi hinkwato tihuvo ta phurayivhete leti nga tikhampani, hikuva nhlamuselo ya huvo ya phurayivhete yi katsa munhu hi yexe, mufambisi wa bindzu la nga yexe ni vafambisi va bindzu lava patsaneke. Hambiswiritano, swi nga ha faneleka ku kamba webusayiti ya vona, hikuva Tikhampani tin'wana ti lulamisa tsalwa ta **PAIA** swi nga ri na mhaka leswaku ti ni nhlayo yo fika kwihi ya vatirhi kumbe mpimo wa mali leyi nghanaka hi lembe.
- 9.3 Mpaluxo wo endliwa hi ku swi rhandza ni ku kumeka ka tirhekhodo to karhi xikan'wekan'we
- 9.3.1 Tirhekhodo leti kumekaka xikan'wekan'we hi leti huvo ya rixaka kumbe ya phurayivhete yi ti nyikelaka swi nga bohi leswaku mukombera a endla xikombelo eka **PAIA** (hi marito man'wana, munhu a nga ti kombela handle ko tata Fomo 2 ya **PAIA**).
- 9.3.2 Mutirhi wa Mahungu wa huvo ya rixaka u fanele, hi ku ya hi xiyenge 15(1) xa **PAIA**, ku lulamisa nxaxamelo kumbe swiyenge swa tirhekhodo leti kumekaka xikan'wekan'we, hilaha swi boxiweke hakona eka ndzimana 9.3.4 laha hansi.
- 9.3.3 Tirhekhodo leti kumekaka xikan'wekan'we ta huvo ya phurayivhete ti nga tlhela ti endliwa kumeka, hi ku landza xiyenge 52(1) xa **PAIA**, kambe swi endliwa hi ku swi rhandza hi ku ya hi ndzimana 9.3.4 laha hansi.
- 9.3.4 Ku fanele ku lulamisiwa nhlamuselo ya swiyenge swa tirhekhodo leti endliwaka ti kumekaka xikan'wekan'we -
- (a) eka Vukongomisi bya Mahngu
  - (b) eka webusayiti ya huvo; ni
  - (c) leswaku ti kamberiwa, etihofisini ta huvo leyi khumbekaka hi tiawara leti tolovelekeke ta ntirho.

<sup>13</sup> Xiyenge 110 xa PAIA

- 9.3.5 Hi kombela u xiya leswaku Vukongomisi byi ta ngenisa nhlamuselo ya tirhekhodo leti kumekaka xikan'wekan'we eka webusayiti ya huvo ya rixaka.
- 9.3.6 Nxaxamelo lowu wu katsa tirhekhodo leti nga tshukaka ti laveka hi milawu yin'wana, swin'we ni tirhekhodo tin'wana leti huvo yi hlawulaka ku ti katsa. Ku papalata ndlela yo endla swilo hi ku fambisana ni endlelo ra xikombelo xa **PAIA**, mukomberi u tsundzuxiwa ku kamba Tsalwa ra **PAIA** ra huvo ya rixaka kumbe ya phurayivhete leyi khumbekaka. Loko munhu a lava ku fiekelala tirhekhodo leti nga ehansi ka nxaxamelo wa tirhekhodo leti kumekaka xikan'wekan'we ta huvo, munhu wa kona a nga ha endla ntsena xikombelo xo ti fikelela handlela ko tata Fomo 2 ya **PAIA**.
- 9.3.7 Nawu 6 wa 2018 wa ku Hakeleriwa ka Vandla ra Politiki wu boxia ku cinca kun'wana hi ku tirhisa **PAIA**, loku varhangeri va mavandla ya tipolitiki va faneleke va rhekhodo ni ku hlayisa tirhekhodo xa minyikelo ya phurayivhete, leyi nga ta fanelaka ku tivisiwa handle ka ku va munhu a endla xikombelo xa **PAIA**.

## 10. VUXOKOXOKO BYO TIHLANGANISA NI VATIRHI VA MAHUNGU

- 10.1 Hambileswi vuxokoxoko bya vuhlangansi bya Vতিরhi va Mahungu va huvo ya rixaka yin'wana ni yin'wana byi faneleke ku kandziyisiwa eka buku ya tinqingho, hi ku ya hi xiyenge 16 xa **PAIA**, Vukongomisi byi ni vuxokoxoko bya vuhlanganisi byo kongoma bya Vতিরhi va Mahungu hinkwato (ku katsa Swandla swa Vতিরhi va Mahungu, leswi hleriweke hi ku ya hi xiyenge 17 na 56 xa **PAIA** na **POPIA** hi ku landzelelana) lebyi tsarisiweke eka byona hi ku ya xiyenge 55(2) **POPIA**.
- 10.2 Hambileswi hakanyingi swi nga ha tikaka ku kuma vuxokoxoko bya vuhlanganisi lebyi pakanisaka bya ku endla xikombelo xa **PAIA**, tanihi leswi swikundlha swi cincaka hi xihatla eka xiyenge xa rixaka naswona tsalwa ra **PAIA** ri nga ha tshuka ri nga si pfuxetiwa, ndhawu yo sungula yo kuma vuxokoxoko bya vuhlanganisi ku fanele ku va Tsalwa ra **PAIA** ra huvo. Hambiswiritano, loko mukomberi a nga ri kumi tsalwa, swi nga ha pfuna ku ba riqingho ri ya eka swichibodo ya huvo a kombela vuxokoxoko lebyi faneleke.
- 10.3 Eka Timasipala, South African Local Government Association (**SALGA**) yi ngenisa vuxokoxoko bya vuhlanganisi bya Timasipala hinkwato eka linki leyi:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Mbulavurisano wa hulumendhe wu tlhela wu nyika vuxokoxoko bya vuhlanganisi bya tiko ni bya xifundzha swin'we ni vuxokoxoko bya vuhlanganisi bya Mabindzu lama Lawuriwaka hi Mfumo ehansi ka linki leyi:  
<https://www.gov.za/about-government/contact-directory>. Nkarhi hinkwawo tsundzuka leswaku nhlamuselo ya Mutirhi wa Mahungu yi pfuna ku paluxa vuxokoxoko bya vuhlanganisi lebyi lavekaka ku kumisa Mutirhi wa Mahungu.

## 11. ENDELEO RO ENDLA XIKOMBELO XA MAHUNGU

### 11.1 Tifomo ta xikombelo

11.1.1 Xikombelo xa mfikelelo wa mahungu xi nga endliwa eka tihuvo ta rixaka ni ta phurayivhete.

11.1.2 **PAIA** yi lava leswaku loko u lava ku endla xikombelo xo tano, u fanele ku endla xikombelo hi fomo leyi faneleke (tifomo leti ti koxiwa hi Swiletelo). Leti i tifomo timbirhi leti nga tirhisiwaka eku lweleni mfanelo ya mfikelelo wa mahungu:

Fomo 2	Fomo 4
Fomo yi nga tirhisiwa ntsena loko u lava ku kombela mfikelelo wa tirhekhodo ta huvo ya rixaka kumbe ya phurayivhete.	Fomo leyi yi nga tirhisiwa ntsena loko u lava ku endla aphili ya le ndzeni ehenhleri ka swiboho swa Vatirhi va Mahungu kumbe Swandla swa Vatirhi va Mahungu va Tiko, Xifundzha kumbe Xiyenge xa Mugaga xa Hulumenthe laha aphili ya le ndzeni yi katsekaka kona.

11.1.3 Tifomo leti ti nga kumiwa eka webusayiti ya Vukongomisi <https://www.justice.gov.za/infoereg/>

11.2 Ku endla xiboho xo kumisisa loko xikombelo xi yelana ni mahungu lama tameriweke hi huvo ya rixaka kumbe ya phurayivhete

11.2.1 Huvo ya rixaka yi endla ntirho wa rixaka, tanihi ku phamela gezi kumbe mati erixakeni. Kutani, huvo ya rixaka a hi Ndzawulo ya Tiko, Xifundzha kumbe Hulumenthe ya Muganga- swi nga katsa mabindzu lama lawuriwaka hi mfumo kumbe Swiyenge swa Mfumo tanihi Vukongomisi, Eskom, kumbe PRASA, hambiswiritano, ku fanele ku va ni ku hambana malunghana ni huvo ya rixaka emhakeni ya aphili ya le ndzeni, laha ku vuriwaka ntsena Hulumenthe ya Tiko, Xifundzha kumbe Muganga.

11.2.2 Huvo ya phurayivhete yi endla ntirho wa phurayivhete. Huvo yo tano (leyi nga vaka munhu) yi endla vuxavisi, bindzu kumbe ntirho wa phurofexinali. I swa nkoka swinene ku xiya leswaku loko ku endliwa xikombelo xa **PAIA** eka huvo ya phurayivhete munhu u fanele ku vula mfanelo leyi a yi sirhelelaka kumbe a yi tirhisaka ku kombela mahungu ya kona. Malunghana ni mahungu wahi ni wahi lama tameriweke hi munhu un'wana, Streicher JA u katsakanye xiyimo xexo hilaha ku landzelaka, eka **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) ndzim 28 eka 1026F-G

*“Mahungu ma nga laviwa ntsena ku tirhiseriwa mfanelo kumbe ku yi sirhelela loko swi ta pfuna ku tirhisiwa kumbe ku sirhelela mfanelo yo karhi. Hikokwalaho, leswaku ku tiyisiwa mhaka ya mfikelelo wa mahungu hi ku landza xiyenge 32, muendli wa xikombelo u fanele ku boxa mfanelo leyi a tsakelaka ku yi tirhisa kumbe ku yi sirhelela, muxaka wa mahungu lawa ma lavekaka ni ndlela leyi mahungu wolawo ma nga ta n'wina hayona ku tirhisa kumbe ku sirhelela mfanelo yoleyo.”*

- 11.2.3 Mikarhi yin'wana leswaku rhekhodo i ya rixaka kumbe i ya phurayivhete swi nga tika naswona rixaka ri tsundzuxiwa ku lava mpfuno wa nawu. Hi xikombiso, loko huvo ya rixaka yi simeka huvo ya phurayivhete ku endlela vukorhokeri byo karhi, tanihi ku nghenisa timitara ta mati emigangeni yo karhi, mfikelelo wa nhlayo ya timitara leti nghenisiweke, hambiloko mahungu yo tano ma tamerie hi huvo ya phurayivhete, swi ta tekiwa tanihi huvo ya rixaka.
- 11.3 Munhu u yi hlamusela njhani mfanelo leyi a nga ni ntshembo wo yi tirhisiwa kumbe ku yi sirhelela?
- 11.3.1 Loko ku hlamuseirwa mfanelo leyi munhu a nga ni ntshembo wo yi tirhisa loko a endla xikombelo eka huvo ya phurayivhete, munhu a nga ka a nga boxi mfanelo ya mfikelelo wa mahungu. Munhu u fanele ku hlamusela ndlela leyi rhekhodo leyi a yi kombelaka yi faneleke ku kumeka leswaku a sirhelela, kumbe ku tirhisa, mfanelo yin'wana. Leswi swi katsa timfanelo leti nga riki ta vumbiwa.
- 11.3.2 Hi xikombiso munhu a nga kombela tipulaninkulu ta khampani leti nga tshukaka ti hoxa xandla eka mpimo wa nthyakiso emugangeni, ku kota ku pfuna ku sirhelela mfanelo ya munhu ya mbango hi ku veka tihlo eka migingiriko ya kona. Kumbe munhu a nga ha lava tirhekhodo, leti nga ta n'wi pfuna ku vona loko a ri na yona mfanelo yo endla xivilelo ehenhla ka vandla ro karhi. Hikokwalaho munhu u fanele:
- 11.3.2.1 Ku tiva hi ku kongoma mfanelo leyi a nga ni ntshembo wo yi sirhelela kumbe ku yi tirhisa, ivi
- 11.3.2.2 A hlamusela khwatsi xivangelo xo rhekhodo leyi munhu a yi kombelaka swi twala leswaku a pfuniwa hi mfanelo yoleyo.
- 11.3.3 Ku hambana ni sweswo, loko a endla xikombelo xa **PAIA** eka huvo ya rixaka, munhu a swi bohi leswaku a nyika xivangelo xo kombela mahungu.

## 12. I MANI LOYI A NGA ENDLAKA XIKOMBELO XA PAIA?

- 12.1 Munhu wihi ni wihi, swi nga ri na mhaka leswaku i wa Afrika Dzonga kumbe a hi wa Afrika Dzonga, wa pfumeleriwa ku endla xikombelo eka **PAIA**. Mukomber a nga ha va munhu la tolovelekeke kumbe munhu wa nawu.

12.2 Huvo ya rixaka yi tekiwa yi ri munhu wa nawu naswona yi nga ha kombela mfikelelo wa tirhekhodo ta tivhuvo ta phurayivhete, kambe ntsena loko huvo ya rixaka yi -

12.2.1 yi endla leswi vuyerisaka rixaka, ni

12.2.2 loko tirhekhodo ti laveka ku hetisisa kumbe ku sirhelela timfanelo tihi ni tihi ta van'wana handle ka huvo ya rixaka.

12.3 Ehansi ka **PAIA** mukomberi a nga ka a nga kombela mfikelelo wa rhekhodo, ya huyo ya rixaka, leyi tameleke mahungu ya munhu hi yexe malunghana ni mukomberi eka huvo ya rixaka<sup>15</sup>, hambiswiritano mukomberi kumbe mukhumbeki wa mahungu, hi ku ya hi xiyenge 23(1)(b) xa **POPIA**, a nga kombela eka loyi a byarhaka vutihlamuleri rhekhodo kumbe nhlamulo ya mahungu ya munhu hi yexe hi ta mukhumbeki wa mahungu lama tameriweke hi loyi a byarhaka vutihlamuleri. Leswi swi vula leswaku munhu wihi ni wihi se a nga kombela mfikelelo wa mahungu ya munhu hi yexe lama tameriweke hi huvo ya rixaka kumbe ya phurayivhete loko a humessa vutitivis lebyi eneleke. Mahungu ya munhu hi yexe lawa mukomberi a nga ma kombelaka eka huvo leyi byarhaka vutihlamuleri ma nga ha katsa mahungu ya mavito ya van'wana lava katsekaka, kumbe swiyenge swa van'wana lava katsekaka, lava va fikeleleke, kumbe va nyikiweke, mfikelelo wa mahungu.

12.4 Hi ku ladza xiyenge 50(1) xa **POPIA** munhu wihi ni wihi a nga kombela mfikelelo wa rhekhodo, ya huvo ya phurayivhete, leyi tameleke mahungu ya munhu hi yexe hi ta mukomberi kumbe munhu loyi xikombelo xi endlwaka ematshan'weni ya yena.

### 13. XANA XIKOMBELO XI NGA ENDLIWA EKA MANI?

13.1 Mutirhi wa Mahungu wa huvo ya rixaka u fanele ku langa Xandla (Swa)Xandla xa Mutirhi wa Mahungu, loyi a faneleke ku tiyisisa leswaku mfikelelo wa tirhekhodo ta huvo ya rixaka wu fikelelaka hilaha ku twalaka hilaha swi kotekaka hakona. Hambileswi lexi a ku nga ri xlaveko malunghana ni huvo ya phurayivhete ehansi ka PAIA, huvo ya phurayivhete yi nga ha langa Xandla xa Mutirhi wa Mahungu la boxiweke laha henhla, hi ku landza xiyenge 56 xa **POPIA**.

13.2 Xikombelo xa mfikelelo wa mahungu, hambileswi xi nga ha yisiwaka eka Mutirhi wa Mahungu, xi nga yisiwa eka Xandla xa Mutirhi wa Mahungu. Vuxokoxoko bya (Swa)Xandla xa Mutirhi wa Mahungu byi nga kumiwa eka tsalwa ra **PAIA** ra huvo yoleyo kumbe Vukongomisi.

### 14. 14. KU TATA FOMO

14.1 Fomo 2 - xikombelo xa mfikelelo wa rhekhodo ya huvo ya rixaka kumbe ya phurayivhete

14.1.1 Leswaku a tata fomo ya **PAIA**, munhu u fanele ku va ni vuxokoxoko lebyi eneleke byo pfumelela Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu ku kumisisa tirhekhodo leti laviwaka hi mukomberi.

<sup>15</sup> Xiyenge 11(2) xa PAIA

- 14.1.2 Mikongomiso ya **PAIA** yi boxa fomo yo yi tirhisa, leyi faneleke ku rhumeriwa eka Mutirhi wa Mahungu, kumbe Xandla xa Mutirhi wa Mahungu wa huvo.
- 14.1.3 Vakomberi lava nga swi kotiki ku hlaya kumbe ku tsala va nga endla swikombelo hi nomu eka Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu wa huvo ya rixaka, loyi a nga ni vutihlamuleri byo tata fomo 2 a pfuna Fomo ya sweswi yi ta lava leswaku u tata swiyenge leswi landzelaka:

Mahungu Lama Lavekaka	Nhlamuselo
<p><b>Vuxokoxoko bya huvo ya rixaka/phurayivhete</b></p>	<p>Xiyenge lexi xi fanele ku tamela imeyili leyi tirhaka ni nomboro ya fekisi swa Mutirhi wa Mahungu ni/kumbe Xandla xa Mutirhi wa Mahungu.</p>
<p><b>Vuxokoxoko bya munhu loyi a kombelaka mfikelelo wa tirhekhodo</b></p>	<p>Byi fanele ku tamela mahungu lama eneleke malunghana ni mukomberi ku endla leswaku swi olova ku tivisisa mukomberi, ku katsa ni vuxokoxoko bya vuhlangaisi bya mukomberi: adirese ya poso, adirese ya imeyili, nomboro ya fekisi ni/kumbe ya riqingho swa Afrika Dzonga. Ku endla ku komberiwa nomboro ya vutivisi leswaku ku tiyisisiwa vuwena. Loko u kombela mahungu ematshan'weni ya munhu wo karhi, ku lavaka vumbhoni bya xikhundlha lexi u endlaka xikombelo u ri eka xona (tanihi munhu 'la nyikiweke mpfumelelo').</p>
<p><b>Vuxokoxoko bya rhekhodo leyi komberiweke</b></p>	<p>Nyika vuxokoxoko lebyi heleleke bya rhekhodo leyi ku komberiwaka ku yi fikelela, ku katsa ni nomboro ya rheferensi loko u yi tiva, ku pfuna leswaku rhekhodo yi kumiwa. (Loko ndhawu yo tsala yi nga ringananga, hi kombela u ya emahlweni eka tluka rin'wana ivi u ri katsa eka fomo. Matluka hinkwawo lama engetelekeke ma fanele ku sayiniwa.</p>
<p><b>Muxaka wa rhekhodo</b></p>	<p>Yi fanele ku va ni mahungu lama ringaneke hi ta rhekhodo leswaku swi olova ku yi kuma. Loko mahungu lama lavekaka ma nga eneli eka ndhawu leyi nga eka fomo, ku nga tirhisiwa tluka rin'wana leri thayipiweke kumbe leri tsariweke hi voko ku nyika vuxokoxoko lebyi engetelekeke bya xikombelo, ntsena</p>



loko tluka leri engetelekeke ri sayiniwile ni ku katsiwa eka fomo. Hi xikombiso, u nga ha katsa xiphemu lexi tsavuriweke eka xiviko kumbe xitori xa mahungu lexi boxaka rhekhodo yoleyo u yi lavaka. U kota ku katsa nomboro ya rheferensi eka rhekhodo, loko swi faneleka.

**Tihakelo**

Huvo, leyi mukomberi a lavaka ku endla xikombelo eka yona xo fikelela rhekhodo, ku katsa rhekhodo leyi tameleke mahungu ya munhu hi yexe yakwe, yi nga ha kombela leswaku u humesa hakelo (hakelo leyi engetelekeke) kumbe hakelo dipoziti, kambe mali ya kona a yi fanelanga yi durha, hikuva tihakelo ti fanele ti va ta nkarhi lowu twisisekaka lowu lavekaka ku lavisisiwa ni ku lalmisa rhekhodo. Holobyenkulu a nga endla xitiviso eka Gazete xo tshunxa leswaku tihakelo ti nga hakeriwi hilaha swi longoloxiweke hakona eka ndzimana 51.1 laha hansi.

Ku ni ndhawu laha mukomberi a nga tsalaka leswi n'wi endlaka a kholwa leswaku u fanele ku tshunxiwa eka hakeli tihakelo tihi ni tihi. Xivangelo xi nga ha katsa, hi xikombiso, mhaka ya leswaku a nga tirhi.

**Fomo ya mfikelelo wa rhekhodo**

Xiyenge lexi xi ku pfumelela ku kombisa hi“ X” leswi u swi langaka eka fomo ya mfikelelo wa rhekhodo leswaku u lava ku amukela mahungu tanihi rhekhodo leyi nga kopi leyi purintiweke ni/kumbe flash drive ni/kumbe compact disc drive.

**Muxaka wa mfikelelo**

Ehansi ka xiyenge lexi u fanele ku kombisa lexi u swi langaka malunghana ni ririmi leri rhekhodo yi fanele yi kumeka harona (leswi swi nga ha tshuka swi nga koteka eka tirhekhodo rin'wana, kambe u fanele ku kombisa leswi u swi langaka).

Muxaka wa mfikelelo wa rhekhodo wu nga tshuka wu vanga leswaku u aleriwa ku yi fikelela hikwalaho ka tihakelo leti tlakukeke.

Hi xikombiso, loko mukomberi a lava tsalwa hi ririmi rakwe, tihakelo to hundzuluxela matsalwa ma ya eka ririmi leri a ri langaka ti nga ha boheka ku hakeriwa. Hambiswiritano, loko rhekhodo yi nga kumeki hi ririmi leri u ri tsakelaka, u nga ha nyikiwa mfikelelo hi ririmi leri rhekhodo yi kumekaka harona. Muxaka wa mfikelelo wa rhekhodo wu nga ha katsa ku kamba rhekhodo wena n'wini, ku rhumeriwa rhekhodo hi imeyili, kumbe hi fekisi kumbe hi ku vutleketli kumbe hi poso.

**Xitiviso xa xibohe malunghana ni xikombelo xa mfikelelo**

Ku ni ndhawu laha mukomberi a nga hlamuselaka muxaka lowu a tsakelaka ku tivisiwa hawona hi xibohe xo pfumeleriwa kumbe ku aleriwa xikombelo. Mukomberi a nga boxa nkarhi lowu a wu nga tsakelanga ku amukela mahungu hi imeyili kumbe hi riqingho kumbe n'wangulo wu rhumeriwa hi poso kumbe ma rhumeriwa hi vutleketli.

**Vuxokoxoko bya mfanelo leyi lavaka ku tirhisiwa kumbe ku sirheleriwa**

Loko u kombela mahungu eka huvo ya phurayivhete mukomberi u fanele ku hlamusela "vuxokoxoko bya mfanelo leyi lavaka ku tirhisiwa kumbe ku sirheleriwa". U fanele ku boxa mfanelo leyi a titshegaka hayona (tanihi mfanelo yakwe yo va ni mbango wa rihanyo lerinene) ni ndlela leyi rhekhodo leyi a yi kombeka yi nga ta n'wi pfuna hayona ku tirhisa, kumbe ku sirhelela, mfanelo yoleyo. U fanele ku kombisa ku yelana exikarhi ka rhekhodo leyi a yi lavaka, ni ku tirhisiwa kumbe ku sirheleria ka mfanelo.

Lexi twisaka ku vava, ku hambana ni xikombelo xa mfikelelo wa rhekhodo eka huvo ya rixaka, a nga fikeleli rhekhodo ya huvo ya phurayivhete handlekaloko a boxa (ti)mfanelo leyi a lavaka ku yi sirhelela kumbe ku yi tirhisa loko o nyikiwa mfikelelo wa mahungu. Leswi swi nga katsa mhaka ya leswaku endzhaku ko kuma mfikelelo wa tirhekhodo, kutani u ta tirhisa mfanelo yo kuma nsirhelelo lowu ringanaka ni mfpuno wa nawu<sup>16</sup> hi ku koxa mali eka huvo yoleyo hikwalaho ka leswi a nga vaka a lahlekeriwe haswona.

<sup>16</sup> Xiyenge 9(1) xa vumbiwa bya Riphabliki ra Afrika Dzonga, Nawu 108 wa 1996

14.1.4 Loko hikwalaho ka swivangelo swo karhi xikombelo xakwe xi nga fikeleli swilaveko leswi longolixiweke laha henhla, Mutirhi wa Mahungu a nge nami a ala xikombelo, handlekaloko a tivisile mukomberi leswaku u ehleketa ku ala xikombelo ni ku boxa swivangelo swa kona. Mutirhi wa Mahungu u fanele a tivisisa nileswaku u ta pfuna mukomberi kumbe ku n'wi nyika nkarhi wo lulamisa xihoxo xakwe.

## 15. TIHAKELO LETI KATSEKAKA

15.1 Hi ntolovelo, tihakelo leti faneleke ku hakeriwa eku endleni xikombelo, ni ku hakelela swikoxo swo nyika mfikelelo wa tirhekhodo hi ku ya hi xikombelo xa kona. Hambiswiritano, ku ni ku hambana. Loko mukomberi a nyikiwa mfikelelo wa tirhekhodo leti a ti kombeleke naswona a nga tshunxiwanga ku hakela tihakelo, hilaha swi boxiweke hakona eka ndzimana 15.2 laha hansi, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu a nga hakerisa tihakelo ta kona hi ndlela leyi landzelaka, -

**XIYA: Nhlelo wa tihakelo leri tirhaka eka Tihuvo ta Rixaka ni ta Phurayivhete wu nga fikeleriwa eka webusayiti ya Vukongomisi.**

Nhlamuselo	
1	Hakelo ya xikombelo leyi hakeriwaka hi mukomberi
2	Kopi ya tluka ra mpimo wa A4
3	Kopi leyi purintiweke ya tluka ra mpimo wa A4
4	Eka kopi leyi nga eka khompyutara ya muxaka lowu hlayekaka: <ul style="list-style-type: none"> <li>(i) Flash drive (yi tisiwa hi mukomberi)</li> <li>(ii) Compact disc               <ul style="list-style-type: none"> <li>• Loko yi tisiwa hi mukomberi</li> <li>• Loko yi nyikiwa mukomberi</li> </ul> </li> </ul>
5	Ku humesiwa vuntshwa ka swifaniso swa tluka ra mpimo wa A4
6	Kopi ya swifaniso
7	Ku thayipiwa ka rhekhodo yo yingisiwa, hi tluka ra mpimo wa A4
8	Kopi ya rhekhodo yo yingisiwa yi ri eka: <ul style="list-style-type: none"> <li>(i) Flash drive (yi tisiwa hi mukomberi)</li> <li>(ii) Compact disc               <ul style="list-style-type: none"> <li>• Loko yi tisiwa hi mukomberi</li> <li>• Loko yi nyikiwa mukomberi</li> </ul> </li> </ul>
9	Ku secha ni ku lulamisa rhekhodo leyi nga ta paluxiwa eka awara ha yin'we kumbe xiyenge xa awara, handle ka awara yo sungula, nkarhi lowu lavekaka ku secha ni ku lulamisa. A swi fanelanga swi tlula hakelonkulu leyi vekiweke
10	Dipoziti: Loko ku secha swi tlula 6 wa tiawara
11	Ku posa, ku imeyila kumbe ku rhumela kwihi ni kwihi ka elektroniki

15.2 Mukomberi a nga bohek ku hakela hakelo leyi engetelekeke<sup>17</sup> eka huvo ya rixaka loko:-

15.2.1 A ri munhu un'we loyi muholo wakwe wa lembe, endzhaku ka mali yo kokiwa leyi amukelekaka, yo tanihi **PAYE** na **UIF**, wu ri ehansi ka **R14 712.00** hi lembe, kumbe

15.2.2 nghenele vukati naswona muholo lowu patsaneke ni wa nghamu yakwe, endzhaku ka mali yo kokiwa leyi amukelekaka, yo tanihi **PAYE** na **UIF**, wu ri ehansi ka **R27 192.00** hi lembe.

15.3 Hi kombela u xiya leswaku huvo ya rixaka kumbe ya phurayivhete yi nga kombela, eka Fomo 4 ya Swiletelo, dipoziti eka mukomberi, kambe loko yi kholwa leswaku mahungu kumbe tirhekhodo leti komberiwewe ti ta teka nkarhi wo tsevu (6) wa tiawara ku ti secha, kambe ntsengo wa dipoziti a wu fanelanga wu tlula n'wexanharhu xa hakelo ya kona.

## 16. XANA MUTIRHI WA MAHUNGU U TA PFUNA MUKOMBERI KU ENDLA XIKOMBELO XA PAIA?

16.1 Ntirho wa Mutirhi wa Mahungu ni/kumbe Xandla xa Mutirhi wa Mahungu eka tihuvo ta rixaka ni ta phurayivhete, malunghana ni ku hetisisa swikombelo swa mfikelelo wa tirhekhodo:

16.1.1 i ku amukela xikombelo xa **PAIA** kumbe **POPIA**;

16.1.2 ku hlela ku hetisisiwa ka xikombelo eka huvo;

16.1.3 ku endla xiboho xo pfumelela kumbe ku ala mfikelelo wa tirhekhodo leti komberiwaka;

16.1.4 ku burisana ni mukomberi (hi xik. va nga lava ku vutisa mukomberi vuxokoxoko byin'wana kumbe va nga ha lava ku kombela ku engeteleriwa nkarhi wo tirhana ni xikombelo, sweswosweswo);

16.1.5 Ku tivisa mukomberi hi vuyelo bya xikombelo xa **PAIA**, naswona xitiviso xexo xi fanele ku nyikiwa hi xihatla hilaha swi kotekaka hakona kambe ku nga si hundza masiku ya 30 endzhaku ko amukela xikombelo. Masiku yo rhanga ya 30 ma nga engeriwa kan'we ma engeteriwa hi masiku man'wana ya 30, loko hi xikombiso, mukomberi a amukeriwile ku engeteriwa kumbe xikombelo xi lava leswaku ku sechiwa tirhekhodo leti swi nga kotekiki ku swi endla hi nkarhi lowu vekiweke eku sunguleni;

16.1.6 ku nyika mukomberi swivangelo swa xiboho xa ala mfikelelo. I swa nkoka swinene leswaku swivangelo leswi nyikiwaka swa ku ala mfikelelo swi twala ni ku va ni vuxokoxoko naswona swi fanele swi kombetela eka swiyenge leswi kongomeke swa **PAIA** (vona ndzimana 19.4 laha hansi, malunghana ni swivangelo swo ala mfikelelo wa tirhekhodo<sup>18</sup>);

<sup>17</sup> hi ku ya hi Xitiviso xa Hulumendhe R991 xa 14 Nhlangua 2005

<sup>18</sup> Xiyenge 33 ku ya ka 46 xa PAIA

- 16.1.7 ku tivisa van'wana lava katsekaka hi ku tirhisa endlelo ro tivisa van'wana lava katsekaka hi ku landza xiyenge 47 xa **PAIA**; naswona
- 16.1.8 loko ku nyikiwa mfikelelo wa tirhekhodo, ku nyika mukomberi kopi ya rhekhodo.
- 16.2 Loko ku tivisa mukomberi hi xiboho, ku fanele ku tlhela ku longoloxiwa tindlela tin'wana leti nga tirhisiwaka loko ti ri kona swin'we ni mikarhi ya kona (tindlela tin'wana leti nga kona ti hambaniile eka tihuvo ta rixaka ni ta phurayivhete).
- 16.3 Ntirho ni vutihlamuleri lebyi engetelekeke bya Vatirhi va Mahungu ni/kumbe Swandla swa Vatirhi va Mahungu hi lebyi hlamuseriwaka eka Xitiviso xa Nkongomiso wa Vatirhi va Mahungu ni Swandla swa Vatirhi va Mahungu naswona Xitiviso xa Nkongomiso xa kumeka eka <https://www.justice.gov.za/inforeg/docs.html>
- 16.4 Tanihileswi ntirho wa Vatirhi va Mahungu ni/kumbe Swandla swa Vatirhi va Mahungu ku nga ku lulamisa xikombelo xa mfikelelo wa mahungu, sweswo swi tlhela swi vual leswaku va ni mitirho yo hambanahambana eka lava endlaka xikombelo.
- 16.5 Vatirhi va Mahungu ni/kumbe Swandla swa Vatirhi va Mahungu va fanele ku nyika mpfuno mahala.
- 16.6 Vatirhi va Mahungu ni/kumbe Swandla swa Vatirhi va Mahungu va huvo ya rixaka va ni mitirho leyi landzelaka yo hlawuleka:

Mitirho Ya Vatirhi Va Mahungu	Nhlamuselo
<b>Ku pfuna hi ku tata fomo</b>	Mutirhi wa Mahungu u fanele ku nyika mpfuno lowunene eka mukomberi ku tata fomo ya <b>PAIA</b> , naswona a nga ka a nga ali ku amukela gomo leyi nga tatiwangiki kahle handlekaloko va nyikile mpfuno wolowo, kumbe va komberile ku nyika mpfuno ivi nseketelo kumbe mpfuno wu ariwile.
<b>Ku nyika mahungu lama faneleke</b>	Loko swi koteka kahle, Mutirhi wa Mahungu u fanele ku nyika mukomberi mahungu wahi ni wahi lama faneleke, hambiloko ma nga komberwi hi ku kongoma.
<b>Ku hundzisela xikombelo</b>	Lowu i ntirho wa nkoka swinene. Loko ku endlwi xikombelo xa <b>PAIA</b> eka huvo ya rixaka leyi hoxeke, Mutirhi wa Mahungu u fanele ku hundzisela

xikombelo eka huvo ya rixaka leyi faneleke **ku nga si hundza masiku ya 14** ku amukeriwe xikombelo naswona u fanele ku tirhisa mukomberhi hi ku n'wi tsalela loko se a swi endlile. Loko se xi hundziseriwile, Mutirhi wa Mahungu la faneleke u fanele ku angula a vula xiboho **ku nga si hundza masiku ya 30**.

### Ku hlwerisa ku humesa

Mutirhi wa Mahungu a nga ha boha ku hlwerisa ku humesa rhekhodo yi ya eka mukomberhi loko rhekhodo ya kona yi ta haxiwa ku nga si hundza masiku ya 90 kumbe loko rhekhodo yi laveka hi nawu leswaku yi haxiwa kambe yi va yi nga si haxiwa.

- 16.7 Eka tihuvo ta rixaka ni ta phurayivhete, Mutirhi wa Mahungu, loko a nga swi koti ku kuma tirhekhodo to karhi leti komberhiweke kumbe a kholwa leswaku tirhekhodo ta kona a ti kona, u fanele ku endla afidavhiti kumbe xihlambanyo<sup>19</sup> lexi nga ni vuxokoxoko xi ya eka mukomberhi xi vula leswaku tirhekhodo ta kona a ti kona kumbe a ti kumeki, kambe a tlhela a boxa magoza lama tekiweke yo ti lavisisa.

## 17. MPFUNO LOWU KUMEKAKA EKA VUKONGOMISI BYA MAHUNGU HI KU YA HI PAIA NA POPIA

- 17.1 Mutirhi wa Mahungu wa huvo ya rixaka u ni ndzhwalo wo nyika mpfuno lowunene<sup>20</sup>, mahala, hilaha swi lavekaka hakona ku pfuna mukomberhi kumbe mutirhi wa mahungu ku fambisana ni mukhuva wa mfikelelo hilaha wu boxiweke hakona eka xiyenge 18 xa **PAIA** na xiyenge 23 xa **POPIA**.
- 17.2 Hambiswiritano, loko Mutirhi wa Mahungu o tsandzeka ku fambisana ni ntirho wakwe, lowu boxiweke eka ndzimana 17.1 laha henhla, mukomberhi kumbe mukhumbeki wa mahungu a nga ha endla xivilelo eka Vukongomisi kutani Vukongomisi, endzhaku ko endla ndzavisiso, byi nga nyika Xitiviso xa Nsindziso lexi lerisaka Mutirhi wa Mahungu ku nyika mpfuno lowu twisisekaka.
- 17.3 Vukongomisi, loko swi koteka kahle, hi ku ya hi xikombelo, byi nga pfuna munhu wihi ni wihi loyi a lavaka ku tirhisa mfanelo yihi ni yihi leyi hlamuseriwaka eka **PAIA** na **POPIA**<sup>21</sup>, naswona leswi swi katsa ku nyika mpfuno lowu twisisekaka, mahala, hilaha swi lavekakaka hakona ku pfuna mukomberhi kumbe mukhumbeki wa mahungu ku fambisana ni mukhuva wa mfikelelo lowu hlamuseriwaka eka swiyenge 18 na 53 swa **PAIA** na xiyenge 23 xa **POPIA**.
- 17.4 Leswi nga laha henhla swi katsa ku nyika nkongomiso wa ndlela yo tata fomo ya xikombelo xa mfikelelo kumbe ku tata fomo ku pfuna munhu loyi a nga dyondzangiki kumbe loyi a nga voniki.

<sup>19</sup> Xiyenge 23(1) na 51(1) xa PAIA

<sup>20</sup> Xiyenge 19(1) xa PAIA

<sup>21</sup> Xiyenge 25(1) xa PAIA

## 18. XANA MUTIRHI WA MAHUNGU A NGA ENGETELA MIKARHI LEYI KATSEKAKA?

- 18.1 Nxaxamelo wa endlelo ni mikarhi ya nkoka leyi katsekaka yi kumeka eka dayagiramu xa endlelo ra xikombelo ra **PAIA**, eka ndzimana 27 laha hansi. Ku va ni mikarhi leyi kongomeke i xiyenge xa nkoka xa **PAIA**, hikuva swi susumetela ku fambisiwa lokunene ka swikombelo swa mfikelelo wa tirhekhodo.
- 18.2 Tanihi xitsundzuxo, loko se u endlile xikombelo hi ndlela leyinene Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu, loyi xikombelo xi endlilweke ku hundziseriwa eka yena, u fanele ku angula hi xihatla hilaha swi kotekaka hakona kambe **ku nga si hundza masiku**<sup>22</sup>. Hambiswiritano, Mutirhi wa Mahungu wa huvo ya rixaka kumbe ya phurayivhete a nga kombela kan'we **ku engeteriwa masiku ya 30**<sup>23</sup>, kambe ntsena loko:
- 18.2.1 loko xikombelo xi ri xa nhlayo leyikulu ya tirhekhodo kumbe xi lava leswaku nhlayo leyikulu ya tirhekhodo yi sechiwa naswona, loko nkarhi wu nga engeteriwi, ku sechiwa ka tona ku nga kavanyeta mitirho leyi tolovelekeke ya huvo ya kona;
- 18.2.2 loko xikombelo xi lava ku sechiwa tirhekhodo ehofisini ya huvo yoleyo leyi nga kumekiki edorobeni rin'we kutani swi nga koteki ku swi heta ku nga si hundza masiku ya 30; ni/kumbe
- 18.2.3 loko swi lava ku kanerisana ni van'wana leswaku xikombelo xi hetisisiwa, kutani swi nga koteki ku swi heta kahle ku nga si hundza masiku ya 30.
- 18.3 Mutirhi wa Mahungu u fanele ku tivisa mukombera hi xikongomelo xakwe xo engetela nkarhi lowu a wu vekiwile eku sunguleni, naswona a boxa nkarhi lowu engeteriwaka, xivangelo xa ku engeteriwa, ni ku tivisa mukombera hi ta mfanelo yakwe yo -
- 18.3.1 endla aphili eka vulawuri lebyi faneleke;
- 18.3.2 ku endla xivilelo eka Vukongomisi; kumbe
- 18.2.3 ku teka magoza ya le khoto ku kanetana ni ku engeteriwa ka nkarhi hi ku ya hi mhaka ya kona.
- 18.4 Mutirhi wa Mahungu u fanele ku tlhela a tivisa mukombera hi endlela ra yin'wana ni yin'wana ya timfanelo leti boxiweke laha henhla eka xitiviso<sup>24</sup>.

## 19. KU ANGURIWA KA XIKOMBELO XA MAHUNGU

- 19.1 **PAIA** yi nyike rixaka mfanelo yo kombela mfikelelo wa tirhekhodo eka huvo ya rixaka kumbe ya phurayivhete yihi ni yihi. Hakanyingi swi hlamuseriwa tanihi nawu lowu endlaka vaakatiko va tiva hi ta hulumenthe ya vona. Tihuvo ta rixaka ti fanele ku paluxa mahungu wahi ni wahi lama komberiwaka ehansi ka **PAIA** handlekaloko ma

<sup>22</sup> Xiyenge 25(1) xa PAIA

<sup>23</sup> Xiyenge 26(1) xa PAIA

<sup>24</sup> Xiyenge 26(3) xa PAIA- xitiviso xa ku engeteriwa ka nkarhi xi fanele ku boxa leswaku mukombera a nga ha endla aphili, xivilelo eka Vukongomisi bya Mahungu kumbe a endla xikombelo ekhoto, hi ku ya hi mhaka ya kona, ku kanetana ni ku engeteriwa ka nkarhi, ni maendlelo (ku katsa nkarhi) ya ku endla aphili ya le ndzeni, xivilelo eka Vukongomisi bya Mahungu kumbe xikombelo, hi ku ya hi mhaka ya kona.



wela ehansi ka swin'wana **leswi nga katsiwiki swa khumembirhi(12)** kumbe swivangelo swa ku va ku nyikiwa kumbe ku nga nyikiwi mfikelelo wa tirhekho ta huvo ya rixaka<sup>25</sup> ni **lewi nga katsekiki swa nkombo(7)** kumbe swivangelo swa ku nyikiwa kumbe ku nga nyikiwi mfikelelo wa tirhekhodo ta huvo ya phurayivhete<sup>26</sup>. Leswi nga katsiwiki swa khumekaye(19) leswi boxiweke eka **PAIA** swi endleriwa ku sirhelela swilo swo tanihi xihundla xa munhu hi yexe, nsirhelelo wa tiko, ni ku sindzisiwa ka nawu.

19.2 Nawu wa maendlelo lowu kongomisaka wa vufambisi bya **PAIA** i ku amukela ku endla swilo handle ko tumbeta. Sweswo swi vula leswaku xivangelo xihhi ni xihhi xo sivela ku pfumala ku tumbeta xi fanele ku seketeriwa. Tihuvo ta rixaka ti tlhela ti languta loko mpaluxo wa mahungu lowu pimiweke wu koteka loko ku kumeka leswaku a swi koteki ku nyika mpaluxo lowu heleleke ivi va boheka ku hunguta kumbe tsongola mahungu lawa swi nga kotekiki ku paluxa ivi ku paluxiwa man'wana ya kona.

19.3 Mixaka ya tinhlamulo ta swikombelo

19.3.1 Loko ku endliwa xikombelo xa mfikelelo wa rhekhodo, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu, loko ku nyikiwa kumbe ku anriwa xikombelo xa mfikelelo wa rhekhodo, u fanele ku tivisa mutirhi wa mahungu hi

- (a) xibohe xakwe; ni
- (b) tihakelo leti hakeriwaka, loko ti ri kona,

eka fomo leyi fambisanaka kahle ni Fomo 3 ya Xiengetela A xa Mikongomiso:

19.3.2 Hambiswiritano, **PAIA** yi nyika nxaxamelo wa swivangelo (leswi nga katsiwiki) (vona tindzimana 19.4 na 19.4 laha hansi) leswi nga endlaka leswaku xikombelo xi tshuka kumbe xi fanele xi ariwa. Leswi i swa nkoka, tanihileswi xikombelo xi nga ariwa ntsena hikwalaho ka xin'wana xa swivangelo leswi longoloxiweke swo ala mfikelelo wa tirhekhodo.

19.3.3 Hambiloko ku ri ni swivangelo leswi boxiweke laha henhla swo ala mfikelelo wa tirhekhodo, Mutirhi wa Mahungu wa huvo ya rixaka u fanele ku pfumelela xikombelo xa mfikelelo wa rhekhodo ya huvo loko leswi vuyerisa rixaka eka mpaluxo wa rhekhodo swi ri ni matimba swinene ku tlula ku onhakeriwa loku nga eka swivangelo leswi longoloxiweke swo ala<sup>27</sup>. Leswi swi vula leswaku mukombera a nga titshega hi leswi vuyerisa rixaka loko ku tshuka ku boxiwa xin'wana xa swivangelo swa ku ala mfikelelo wa tirhekhodo.

19.3.4 Hi ku kombisa, swivangelo swa ku ala ku paluxa mahungu wahi ni wahi swi fambisana ni ku va mpaluxo wa mahungu wu ta vanga ku onhakeriwa ku tula ku pfumala mpaluxo. Ku ni mixaka yimbirhi ya swivangelo leswi longoloxiweke swa ku ala mfikelelo wa tirhekhodo ta huvo:

<sup>25</sup> Ndzima 4 ya PAIA - swivangelo swa ku ala mfikelelo wa tirhekhodo (xiyenge 34-45 xa PAIA)

<sup>26</sup> Ndzima 4 ya PAIA - swivangelo swa ku ala mfikelelo wa tirhekhodo (xiyenge 63-69 xa PAIA)

<sup>27</sup> Xiyenge 46 xa PAIA

## 19.4 Swivangelo leswi bohaka swa ku ala (swivangelo swo vekerwa ethelo)

19.4.1 Loko a ri ni swivangelo leswi bohaka, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu u fanele ku ala xikombelo hikuva swi khumba rhekhodo.

19.4.2 Ku ni swivangelo swo tala leswi bohaka ku tlula swivangelo swo anakanyeriwa ntsena. Leswi landzelaka i swivangelo leswi bohaka, naswona Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu u fanele ku ala xikombelo hikuva swi khumba rhekhodo –

### 19.4.2.1 **Ku sirheleriwa loku bohaka ka xihundla xa un'wana loyi a khumbekaka loyi a nga munhu la tolovelekeke;**

Mutirhi wa Mahungu wa huvo ya rixaka kumbe ya phurayivhete a nga fanelanga ku pfumelela mukomberi leswaku a fikelela mahungu ya munhu un'wana loko swi vula 'mpaluxo lowu nga faneriki'. Swiyenge hi swoxe swi boxe swivangelo swi nga ri swingani laha leswi swi nga tirhiki, ku fana niloko tirhekhodo se ti tiviwi hi rixaka, kumbe laha munhu a nyike mpfumelelo. Mhaka ya mpfumelelo i ya nkoka swinene hikuva yi hlangana ni xiyenge xin'wana xa maendlelo lawa mukomberi a faneleke ku ma xiya, lama yelanaka ni ku tivisiwa ka van'wana lava khumbekaka, hi ku landza ndzima 5 ya **PAIA**.

### 19.4.2.2 **Ku sirheleriwa loku bohaka ka tirhekhodo rin'wana ta South African Revenue Service;**

Mutirhi wa Mahungu wa **SARS** a nga fanelanga ku pfumelela mukomberi ku fikelela tirhekhodo leti kumiweke, kumbe leti tameriwaka, hi **SARS** hi swikongomelo swa yona swo hlengeleta xibalo. Hambiswiritano, tirhekhodo leti kumiweke kumbe ti tameriweke hi **SARS** a ti nge ariwi loko xikombelo xi endliwa hi mukomberi hi byakwe kumbe munhu un'wana loyi a endleriwaka xikombelo.

### 19.4.2.3 **Ku sirheleriwa loku bohaka ka mahungu ya bindzu ya un'wana la khumbekaka;**

Mutirhi wa Mahungu wa huvo u fanele ku pfumelela mukomberi ku fikelala mahungu ya bindzu ra munhu un'wana (hi marito man'wana, loyi a nga riki mukomberi kumbe muamukeri wa xikombelo). Leswi swi nga katsa mahungu yo tanihi swihundza swa nxaviselano, kumbe leswi nga tshukaka swi xungeta mimbuyelo ya munhu un'wana hi tlhelo ra bindzu. Hi xikombiso, KFC yi tirhisa tirhisipi to karhi, ku katsa ni swicheriwa leswi endliwaka hi van'wana va le tlhelo, leswi nga swihundla swa nxaviselo swa un'wana kutani ku swi paluxa swi nga ha xungeta mimbuyelo ya bindzu ya munhu loyi un'wana.

19.4.2.4 **Ku sirheleriwa loku boha ka mahungu man'wana ya xihundla, ni ku sirheleriwa ka mahungu man'wanyana ya xihundla, ya munhu wa le tlhelo;**

Vatirhi va Mahungu va huvo ya rixaka ni ya phurayivhete a va fanelanga ku pfumelela mukomberi ku fikelela rhekhodo loko ku humesiwa ka yona swi ta vula ku paluxiwa ka xihundla xa un'wana wa le tlhelo hi ku landza mpfumelelo kumbe kontiraka.

19.4.2.5 **Ku sirheleriwa loku bohaka ka vuhlayiseki bya vanhu, ni ku sirheleriwa ka nhundzu;**

Mutirhi wa Mahungu wa huvo ya rixaka kumbe ya phurayivhete a nga fanelanga ku pfumelela mfikelelo wa rhekhodo loko ku humesiwa ka yona ku nga ha tekiwaka tanihi loku kavanyetaka vuhlayiseki bya munhu. Eka swiyenge leswi fanaka, ku tlhela ku vuriwa leswaku Mutirhi wa Mahungu wa huvo a nga ha ala mfikelelo loko swi ta tshuka swi kavanyeta ku sirheleleka ka muako kumbe nhundzu.

19.4.2.6 **Ku sirheleriwa loku bohaka ka tidokete ta maphorisa eka swiendlo swo kuma beyili, ni ku sirheleriwa ka ku tirhisiwa ka nawu ni magoza ya nawu;**

Mutirhi wa Mahungu wa huvo ya rixaka a nga fanelanga ku pfumelela mukomberi ku fikelela tirhekhodo to fana ni tirhekhodo ta swiendlo swo kuma beyili leti se ti sirheleriweke hi xiyenge 60 xa Nawu wa Goza ra Vugevenga. Eka xiyenge lexi fanaka, xi tlhela xi vula leswaku Mutirhi wa Mahungu wa huvo ya rixaka a nga ala mfikelelo wa tirhekhodo ta ku tirhisiwa ka nawu leti paluxaka maendlelo, makungu, tindlela to sivela vugevenga, kumbe ku yirisiwa ka vugevenga, swin'we ni tirhekhodo tin'wana leti yelanaka ni magoza ya nawu lama yelaka emahlweni.

19.4.2.7 **Ku sirheleriwa loku bohaka ka tirhekhodo leti nga fanelangiki ku haxiwa ta magoza ya nawu;**

Mutirhi wa Mahungu wa huvo ya phurayivhete a nga fanelanga ku pfumelela mukomberi ku fikelela rhekhodo loko rhekhodo ya kona yi nga felanga ku haxiwa eka magoza ya nawu, handlekaloko munhu loyi a nga ni mfanelo a nyika mpfumelelo.

19.4.2.8 **Ku sirheleriwa loku bohaka ka mahungu ya ndzavisiso ya munhu un'wana, ni ku sirheleriwa ka mahungu ya ndzavisiso ya huvo ya rixaka kumbe ya phurayivhete.**

Mutirhi wa Mahungu wa huvo a nga fanelanga ku pfumelela mukomberi mfikelelo wa rhekhodo loko rhekhodo ya kona yi fambisana ni ndzavisiso lowu endliwaka, kumbe wu nga ta endliwa, hi huvo ya kona niloko ku humesiwa ka wona ku ta tshuka ku paluxa mulavisisi, munhu un'wana kumbe mhaka leyi lavisisiwaka ivi yi kavanyeteka.

19.4.3 Hi kombela u xiya leswaku swivangelo leswi nga laha henhla leswi bohaka swo ala mfikelelo wa tirhekhodo swi lava ku fana eka tihuvo ta rixaka ni ta phurayivhete, handle ka ku sirheleriwa loku bohaka ka tirhekhodo tin'wana ta South African Revenue Service, ka tidokete ta maphorisa eka magoza yo kuma beyili, ka ku sindzisiwa ka nawu ni ka magoza ya nawu, lama tirhaka ntsena eka tihuvo ta rixaka.

19.4.4 Loko xiphemu xo karhi ntsena xa rhekhodo xi fambisana ni xivangelo xo vakeriwa tlhelo, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu wa huvo ya rixaka kumbe ya phurayivhete u ni boheka ku kambisisa loko swi koteka ku paluxa xiphemu xo karhi xa mahungu loku kumiwa leswaku mpaluxo lowu heleleke a wu koteki naswona va fanele ku teka magoza lamanene yo hunguta kumbe ku tsongola xiphemu lexi nga ta ka xi nga nyikiwi mukomberi ivi ku nyikiwa mfikelelo wa rhekhodo leyin'wana.

## 19.5 Ku tekiwa tanihi ku ala<sup>28</sup>

19.5.1 Ku tsandzeka ku hlamula khwatsi eka xikombelo hi nkarhi lowunene swi langutiwa tanihi 'ku tekiwa tanihi ku ala'. Sweswo i swa nkoka, hikuva **PAIA** yi pfumelela mukomberi ku tlhontlha xiboho loko ku ri hava xiboho lexi endliweke niloko xikombelo xi honisiwile. Mukomberi a nga boxa ntsena eka aphili ya le ndzeni leswaku a nga nyikiwanga nhlamulo.

19.5.2 Ku kombela mfikelelo wa tirhekhodo ku tekiwa ku ri ku ala endzhaku ka loko ku hundze masiku ya 30 kumbe nkarhi lowu engeteriweke ivi huvo ya rixaka kumbe ya phurayivhete yi tsandzeka ku hlamula.

## 19.6 Swivangelo swo ala swo anakanyeriwa

19.6.1 Loko a ri ni swivangelo anakanyeriwa, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu a nga ehleketa hiloko a fanele ku ala kumbe ku amukela xikombelo hikuva swivangelo swi khumba rhekhodo leyi komberuweke. Hikwalaho ka leswi swi nga anakanyeriwa, Mutirhi wa Mahungu u fanele u anakanyisisa khwatsi loko a ehleketa hi swivangelo swo hambanahambana, ku nga:

19.6.1.1 **Vusirheleri, vuhlayiseki ni vuxaka ni matiko man'wana swa Afrika Dzonga:** Mutirhi wa Mahungu a nga ha ala ku nyika mfikelelo loko ku humesiwa ka mahungu ku ta tekiwa tanihi loku xungetaka vusirheleri kumbe vuhlayiseki bya tiko. Leswi swi nga ha tirha loko ku humesiwa ka mahungu ku ta tshuka ku onha vuxaka bya Afrika Dzonga ni tiko rin'wana, tanihi ku paluxa tirhekhodo leti nyikiweke hi ku tshemba leswaku a ti nge paluxiwi.

19.6.1.2 **Leswi khumbaka ikhonomi, timali ni bindzu:** Mutirhi wa Mahungu a nga ala mfikelelo loko ku humesiwa ka mahungu ku ta onha xiyimo xa ikhonomi ni xa timali eka Riphabliki;

<sup>28</sup> Xiyenge 27 na 58 xa PAIA

19.6.1.3 **Mitirho ya tihuvo ta rixaka:** Mutirhi wa Mahungu wa huvo ya rixaka a nga ala mfikelelo loko ku humesiwa ka mahungu ku ta tshuka ku kavanyeta mitirho, hi xikombiso loko yi ringeta ku vumba pholisi, kumbe ku kanerisana hi mhaka;

19.6.1.4 **Swikombelo swa hava kumbe swa vuntswaka:** Vatirhi va Mahungu va nga ala xikombelo xa mahungu loko va vona onge ku endla swikombelo sweswo swi ta dya nkarhi swi nga fanelanga ni ku tlanga hi matimba ya vatirhi. Ku engetela kwalaho, va nga ha ala ku nyika mfikelelo wa rhekhodo loko xikombelo xi langutiwa xi endliwa hi mukomberi loyi a lavaka ku tinga kumbe ku tlhonthla ntsena.

## 20. MPALUXO LOWU BOHAKA WA TIRHEKHODO EKA LESWI VUYERISAKA RIXAKA

20.1 Hambiloko xikombelo xo anakanyeriwa kumbe lexi bohaka xo ala xi ri kona malunghana ni xikombelo xa mfikelelo wa tirhekhodo ta tihuvo ta rixaka kumbe ta phurayivhete, swi nga endleka leswaku leswi vuyerisaka rixaka eka mpaluxo wa rhekhodo i swa nkoka swinene ku tlula ku onhaka loku nga vangiwaka hi ku humesa rhekhodo yoleyo.

20.2 Loko leswi vuyerisaka rixaka swi ri swa nkoka hilaha swi boxiweke hakona laha henhla niloko mpaluxo wa rhekhodo wu ta kombisa vumbhoni wa ku tluriwa lokukulu, kumbe ku tsandzeka ku fambisana ni nawu; kumbe khombo leri tshinelaka ra nsirheleleko wa rixaka kumbe wa mbango, kutani Mutirhi wa Mahungu wa huvo u fanele ku nyika mpfumelelo wa mfikelelo wa rhekhodo hambiloko ku ri ni swivangelo swo vekela xikombelo etlhelo hilaha swi boxiweke hakona laha henhla.

## 21. ENDELEO RO TIVISA LOYI A NGA KHUMBKIKI HI KU KONGOMAS<sup>29</sup>

21.1 Mutirhi wa Mahungu, Xandla xa Mutirhi wa Mahungu wa huvo, hi ku landza xiyenge 47 na 71 xa **PAIA**, u fanele ku teka magoza hinkwawo lamanene yo tirhisa loyi a nga khumbekiki hi ku konoma hi ta xikombelo xa tirhekhodo takwe ku nga tirhekhod leti khumbexana ti tameleke mahungu ya munhu hi yexe,

21.1.1 rhekhodo ya **SARS**;

21.1.2 swihundla swa nxaviselano;

21.1.3 mahungu lawa loko mo humesiwa ma nga vangaka swivangelo swa ku tluriwa ka nhlayisoxihundla; kumbe mahungu ya ndzavisiso lama nga tshukaka ma paluxa munhu kumbe mukhumbeki wa mahungu ivi a vaviseka.

21.2 Xitiviso xo ya eka loyi a nga khumbekiki hi ku kongoma loyi tirhekhodo kumbe mahungu yakwe ma komberiwaka xi fanele ku rhamba loyi a nga khumbekiki hi ku kongoma ku -

<sup>29</sup> Xiyenge 47 na 71 xa PAIA

- 21.2.1 ku tsala ehansi kumbe ku vula hi nomu eka Mutirhi wa Mahungu a boxa xivangelo xo va ku ariva xikombelo xa mfikelelo; kumbe
- 21.2.2 ku nyika mpfumelelo lowu tsariweke wa ku paluxiwa ka rhekhodo eka mukomberi.
- 21.3 Xa nkoka eka mukomberi, **PAIA** yi vula leswaku switiviso leswi tsariweke swo ya eka loyi a nga khumbekiki hi ku kongoma swi fanele ku rhumeriwa eka loyi a nga khumbekiki hi ku kongoma ku nga si hundza masiku ya 21 ya ku amukeriwa ka xikombelo, nilswaku Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu u fanele ku tivisa mukomberi leswaku xitiviso xi rhumeriwile eka loyi a nga khumbekiki hi ku kongoma..
- 21.4 Loko xitiviso xexo se xi rhumeriwile, Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu u fanele ku endla xiboho xo hetelela xa ku pfumela kumbe ku ala ku humesiwa ka tirhekhodo ku nga si hundza masiku ya 30 ya ku rhumeriwa ka xitiviso xexo.
- 21.5 Loyi a nga khumbekiki hi ku kongoma u fanele ku tivisiwa hi xiboho lexi endliweke ni swivangelo leswi eneleke swo pfumelela xikombelo swi fanele ku nyikeriwa. Loyi a nga khumbekiki hi ku kongoma u fanele ku tlhela a tivisiwa hi mfanelo ni maendlelo yo tlhontlha xiboho xexo hilaha swi hlamuseriwaka hakona eka ndzimana 22 laha hansi.

## **22. MAGOZA YA NAWU LAMA NGA TEKIWAKA KU KANETA SWIBOHO KUMBE KU TSANDZEKA KU ENDLA SWIBOHO HI MUTIRHI WA MAHUNGU KUMBE XANDLA XA MUTIRHI WA MAHUNGU**

- 22.1 Goza ro ri teka loko xiboho se xi endliweke eka xikombelo
- 22.1.1 Mukomberi a nga teka goza ro landzelerisisa hi ku tsala ehansi, eka xiboho lexi nga si endliwaka eka Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu. Ku khutaziwa leswaku mimbulavurisano hinkwayo exikarhi ka mukomberi ni Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu yi fanele ku tsariwa ehansi leswaku yi kamberiswa enkarhini lowu taka.
- 22.1.2 Ku ni maendlelo yo hambanahambana ya tihuvo ta rixaka ni ta phurayivhete, ngopfungopfu malunghana ni tiaphili ta le ndzeni. Hi xikombiso, malunghana ni xikombelo xa mfikelelo wa rhekhodo ya huvo ya rixaka, mukomberi u fanele ku rhangana a endla aphili ya le ndzeni a nga yi ya eka Vukongomisi kumbe Khoto. Hambiswiritano, ku hava aphili ya le ndzeni eka xiboho (xa ku nyika mpfumelelo kumbe ku ala ku nyika mfikelelo wa tirhekhodo) kumbe leswi tekiwaka ku ri ku ala ku fikelela tirhekhodo ta huvo ya phurayivhete.
- 22.1.3 Xiyenge lexi xi ta hlamusela switshunxo swa nawu leswi nga tirhisiwaka hi vakomberi lava tsakelaka ku tlhontlha swiboho swo tano, leswi katsaka tiaphili ta le ndzeni, ku endla xivilelo eka Vukongomisi ni swikombelo swa le Khoto. Tlhelo u vona dayagiramu ya ntlhandlamalo wa endlelo ra xikombelo wa **PAIA**, eka ndzimana 27 laha hansi.

22.1.4 Mukomberi, eka swin'wana, a nga tlhontlha xiboho lexi landzelaka xa huvo ya phurayivhete ni/kumbe ya rixaka -

22.1.4.1 thendara kumbe ku hakeriwa ka hakelo ya xikombelo;

22.1.4.2 thendara kumbe ku hakeriwa ka hakelo ya dipoziti;

22.1.4.3 hakelo leyi engetelekeke yi le henhla swinene;

22.1.4.4 muxaka wa mfikelelo lowu nyikiweke;

22.1.4.5 ku ariwa ka xikombelo;

22.1.4.6 maendlelo (ku katsa nkarhi) yo endla aphili ya le ndzeni;

22.1.4.7 ku engeteriwa ka nkarhi loku nga fanelangiki loku tekiweke ku angula xikombelo xa mfikelelo;

22.1.4.8 ku tsandzeka ku paluxa tirhekhodo;

22.1.4.9 ku pfumeleriwa ka xikombelo xa mfikelelo wa rhekhodo;

22.1.4.10 ku ala ku pfumelela xikombelo xo vekela etlhelo tihakelo;

## 22.2 Switshunxo swa le ndzeni

22.2.1 Xana mukomberi u yi endla njhani aphili ya le ndzeni eka xiboho xa huvo ya rixaka?

22.2.1.1 Aphili ya le ndzeni yi nga endliwa ntsena, hi ku landza xiyenge 74 xa **PAIA**, eka vulawuri lebyi faneleke bya tiko kumbe xifundzha bya hulumendhe kumbe masipala eka xivandla xa hulumendhe hi ku ya hi mhaka ya kona.<sup>30</sup>

22.2.1.2 Kutani hi xikombiso, City of Johannesburg i xikombiso xa xivandla xa hulumendhe laha aphili ya le ndzeni yi nga endliwaka kona. Road Accident Fund kumbe Vukongomisi i xikombiso xa huvo ya rixaka leyi nga riki xiyenge xa xiyenge xa hulumendhe xa tiko, xifundzha kumbe muganga hilaha swi andlariweke hakona enawini, hikokwalaho aphili ya le ndzeni a yi nga endliwi ku lwisana na yona.

<sup>30</sup> Xiyenge 74(1) xa PAIA



22.2.1.3 Loko mukomberi kumbe loyi a nga khumbekiki hi ku kongoma a nga xi tsakeli xiboho lexi endliweke hi Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu wa xiyenge xa hulumendhe xa tiko, xifundzha kumbe hulumendhe, mukomberi kumbe loyi a nga khumbekiki hi ku kongoma u ni mfanelo yo endla aphili ya le ndzeni, hi ku landza xiyenge 74(1) kumbe (2) xa **PAIA**. Endlelo ro endla aphili ri hlamuseriwa eka tsalwa ra **PAIA** ra huvo yo karhi ni mukhuva wo endla aphili ya le ndzeni na wona wu hlamuseriwa hi xitalo laha hansi.

22.2.1.4 Loko n'wangulo wa xiyenge xa hulumendhe xa tiko, xifundzha kumbe muganga xi tekiwa ku ri ku ala, hi marito man'wana, n'wangulo wu nga amukeriwanga ku nga si hundza masiku ya 30 kumbe nkarhi lowu engetelekeke, mukomberi a nga endla aphili ya le ndzeni, hi ku ya hi maendlelo lama andlariweke laha, emahlweni o va mukomberi a tshinelela Vukongomisi kumbe Khoto.

## 22.3 Ku hlayisiwa ka tirhekhodo ku fikela ku endliwa xiboho xo hetelela xa xikombelo

22.3.1 Mutirhi wa Mahungu wa xiyenge xa hulumendhe xa Tiko, Xifundzha kumbe Muganga laha aphili ya le ndzeni yi endliweke kona, hi ku landza xiyenge 21 xa **PAIA**, u fanele ku teka magoza lama faneleke khwatsi yo hlayisa rhekhodo naswona a nga ka a nga timi kumbe ku cukumeta rhekhodo yihi ni yihi leyi komberaweke, ku fikela loko magoza hinkwawo ya aphili ya le ndzeni kumbe xivilelo eka Vukongomisi kumbe xikombelo xa le khoto se xi langutiwile, hi ku ya hi mhaka ya kona.

22.3.2 Tleswi swi vula leswaku mutirhi wa mahungu a nga ka a nga timi kumbe ku cukumeta mahungu wahi ni wahi lama komberaweke, loko ka ha tameriwa xikombelo lexi hlamuseriweke eka ndzimana 22.3.1.1 laha henhla.

## 22.4 Aphili ya le ndzeni yi fanele ku kongomisiwa eka mani?

22.4.1 Hambileswi aphili yi nga ta langutiwa hi vulawuri lebyi fanele, aphili ya le ndzeni yi fanele ku yisiwa kumbe ku rhumeriwa eka Mutirhi wa Mahungu wa Xiyenge xa Hulumendhe xa Tiko, Xifundzha kumbe Muganga, hi ku ya hi mhaka ya kona, eka adirese yakwe, nomboro ya fekisi kumbe adirese ya imeyili<sup>31</sup>, vuxokoxoko bya vuhlanganisi lebyi kumiwaka eka tsalwa ra **PAIA** kumbe byi kumeka eka Vukongomisi.

22.4.2 Mutirhi wa Mahungu wa xiyenge xa hulumendhe xa tiko, xifundzha kumbe muganga, hi ku ya hi mhaka ya kona, u ni ndzhwalo wo karhi, hi ku landza xiyenge 75(4) xa **PAIA**, xo yisa aphili eka vulawuri bya aphili, swin'we ni

<sup>31</sup> Xiyenge 75(1)(b) xa PAIA

tirhekhodo takwe ku kuma xiboho xa aphili. Ku yisiwa ka aphili eka vulawuri lebyi faneleke ku fanele ku endliwa ku nga si hundza masiku ya 10 endzhaku ko amukeriwa ka aphili.

## 22.5 Vulawuri lebyi faneleke hi byihi?

22.5.1 Vulawuri lebyi faneleke, laha byi vuriwa “vulawuri bya aphili” hi ntolovelo i murhangeri wa politiki wa huvo yo karhi (hambileswi ntirho lowu wu nga ha averiwa un'wana ximfumo) naswona hi ku kongoma byi vula munhu la landzelaka.

Huvo Ya Rixaka ("Hulumendhe")	Vulawuri Lebyi Khumbekaka ("Vulawuri bya aphili")
<b>Hofisi ya Phuresidente</b>	Munhu loyi a langiweka hi Phuresidente hi ku swi tsala ehansi, loko a ri kona, loko a nga ri kona Phuresidente hi yena vulawuri bya aphili
<b>Ndzawulo ya Tiko</b>	Holobyenkulu loyi a rhangelaka ndzawulo yoleyo kumbe munhu loyi a langiweke hi Holobyenkulu hi ku swi tsala ehansi
<b>Hofisi ya Phurimiya</b>	Munhu loyi a langiweke hi Phurimiya hi ku swi tsala ehansi.
<b>Ndzawulo ya Xifundzha</b>	Xirho xa Huvo ya Vurhangerinkulu ( <b>MEC</b> ) loyi a rhangelaka Ndzawulo ya Xifundzha kumbe munhu loyi a langiweke hi ku swi tsala ehansi hi <b>MEC</b> ;
<b>Masipala</b>	Meyara, Xivulavuri kumbe munhu wihi ni wihi loyi a langiweke hi Huvo ya Masipala ya kona hi ku swi tsala ehansi;

22.5.2 Mhaka yihi ni yihi, laha ku nga riki hofisi ya phurimiya: xirho xa vurhangerinkulu loyi a nga ni vutihlamuleri bya huvo ya rixaka kumbe munhu loyi a langiweke hi xirho xexo hi ku swi tsala ehansi.

22.5.3 Loko vulawuri bya aphili byi amukela xiboho xa Mutirhi wa Mahungu, kutani aphili ya le ndzeni yi nga nyikiwi naswona xiboho lexo rhanga xa Mutirhi wa Mahungu xi tshamisa sweswo. Hambiswiritano, loko vulawuri bya aphili byi nga pfumelelani ni xiboho xa Mutirhi wa Mahungu, kutani aphili yi nyikiwa ivi xiboho lexo rhanga xi cinciwa.

22.5.4 hambiswiritano, loko vulawuri bya aphili byo kanetana ni xiboho xa Mutirhi wa Mahungu, kutani aphili yi ta nyikiwa kutani xiboho lexo sungula xi ta cinciwa.

## 22.6 I mani loyi a nga endlaka aphili ya le ndzeni?

22.6.1 Mukomberi wihi ni wihi loyi xikombelo xa **PAIA** xakwe xo fikelela tirhekhodo ta xiyenge xa Hulumendhe xa Tiko, Xifundzha kumbe Muganga, hi ku ya hi mhaka ya kona, xi ariweke, naswona a kholwa leswaku xin'wana xa swivangelo swa aphili leswi longoloxiweke eka ndzimana 22.2.4 laha henhla xa tirha eka xikombelo xakwe, u ni mfanelo yo endla aphili ya le ndzeni.

22.6.2 Van'wana lava nga khumbekiki hi ku kongoma va nga endla tiaphili ta le ndzeni ku kanetana ni xiboho xa Mutirhi wa Mahungu xo nyika mfikelelo wa rhekhodo leyi va khumbaka. Loko aphili ya le ndzeni yi katsa un'wana loyi a nga khumbekiki hi ku kongoma, vulawuri bya aphili lebyi amukelaka aphili ya le ndzeni byi fanele ku tivisa lava nga khumbekiki hi ku kongoma (kutani vutihlamuleri byi suka eka Mutirhi wa Mahungu byi ya eka vulawuri bya aphili).

## 22.7 Nkarhi wo endla aphili

22.7.1 Aphili ya le ndzeni yi fanele ku endliwe -

22.7.1.1 ku nga si hundza **masiku ya 60**<sup>32</sup> endzhaku ka loko ku endliwe xiboho;

22.7.1.2 ku nga si hundza **masiku ya 30**<sup>33</sup> endzhaku ka loko ku endliwe xitiviso eka loyi a nga khumbekiki hi ku kongoma hi ta xiboho lexi ku endliwaka aphili ha xona

22.7.2 Ku endla aphili ya le ndzeni endzhaku ka nkarhi lowu boxiweke laha henhla (ku hlwela) swi nga aleriwa, handlekaloko vulawuri bya aphili byi nyikiwa xivangelo lexi twalaka xa ku hlwela. Hi xikombiso, ku fana niloko munhu a amukeriwe exibedlhele masiku yo tlula 60 swi nga amukeriwa tanihi swivangelo leswi twalaka swa ku hlwela.

22.7.3 Loko vulawuri bya aphili byi nga ku amukeli ku endla aphili ya le ndzeni nkarhi se wu hundzile, byi fanele ku ku nyika swivangelo swo ala aphili ni ku nyika nkongomiso wa mahungu wahi ni wahi lama engetelekeke, loko ma ri kona, lama lavekaka leswaku aphili yi amukeriwa. Vulawuri bya aphili byi fanele byi tlhela byi ku tsundzuxa hi ta maendlelo yo endla xivilelo xa xiboho eka Vukongomisi kumbe khoto.

<sup>32</sup> Xiyenge 75(1)(a)(i) xa PAIA

<sup>33</sup> Xiyenge 75(1)(a)(ii) xa PAIA

22.7.4 Hilaha swi boxiweke hakona laha henhla, aphili ya wen ayi fanele ku yisiwa hi Mutirhi wa Mahungu eka vulawuri bya aphili ku nga si hundza masiku ya 10 ya ntirho endzhaku ko amukela aphili ya le ndzeni<sup>34</sup>.

## 22.8 Xitiviso xa aphili hi vulawuri bya aphili eka mukomberi kumbe loyi a nga khumbekiki hi ku kongoma

22.8.1 Vulawuri bya aphili, hi xihatla hilaha swi kotekaka kahle hakona kambe nkarhi hinkwawo ku nga si hundza masiku ya 30 endzhaku ko amukela aphili ya le ndzeni<sup>35</sup>, byi fanele ku tivisa -

22.8.1.1 loyi a nga khumbekiki hi ku kongoma loyi rhekhodo leyi ku endliwaka aphili hayona yi nga yakwe, kumbe

22.8.1.2 mukomberi hi ta aphili ya le ndzeni malunghana ni ku kanetiwa ko nyikiwa mfikelelo.

22.8.2 Mukomberi kumbe loyi a nga khumbekiki hi ku kombela loyi a nyikiwaka xitiviso ku nga si hundza **masiku ya 21** ko nyikiwa xitiviso, a nga endla swibumabumelo leswi tsariweke ehansi swi ya eka vulawuri bya aphili ku boxa swivangelo swo amukeriwa kumbe ku ariwa ka xikombelo.

## 22.9 Xibohe xa aphili ya le ndzeni ni xitiviso xa xona<sup>36</sup>

22.9.1 Vulawuri bya aphili byi fanele ku endla xibohe xa aphili ya le ndzeni hi xihatla hilaha swi kotekaka kahle hakona kambe ku nga si hundza masiku ya 30:

22.9.1.1 endzhaku ko amukeriwa ka aphili ya le ndzeni hi Mutirhi wa Mahungu wa huvo;

22.9.1.2 endzhaku ka loko ku tivisiwe loyi a nga khumbekiki hi ku kongoma, hilaha swi boxiweke hakona eka 22.3.6.1 laha henhla.

22.9.2 Xibohe xa vulawuri bya aphili xi fanele ku tivisiwa loyi a endleke aphili, loyi a nga khumbekiki hi ku kongoma ni mukomberi. Xibohe xa vulawuri bya aphili xi fanele fambisana ni swivangelo leswi twalaka swa xibohe, ku katsa nkongomiso wa **PAIA** kumbe **POPIA** lowu tirhisiwaka.

22.9.3 Loko vulawuri bya aphili byi tsandzeka ku nyika xitiviso xa xibohe xa phili eka muendli wa aphili ku nga si hundza masiku ya 30, aphili yi tekiwa yi herisiwile kutani mukomberi a nga ya emahlweni a endla xivilelo eka Vukongomisi kumbe a ya Ekhoto ku kuma xitshunxo lexi faneleke<sup>37</sup>.

<sup>34</sup> Xiyenge 75(4) xa PAIA

<sup>35</sup> Xiyenge 76(2)(a) xa PAIA

<sup>36</sup> Xiyenge 77 xa PAIA

<sup>37</sup> Xiyenge 77(7) xa PAIA

## 22.10 Ku endla aphili ya le ndzeni- Fomo 4

- 22.10.1 Ku endla aphili ya xiboho lexi endliweke eka xiyenge xa Hulumendhe xa Tiko, Xifundzha kumbe Muganga, mukomberi u fanele ku endla aphili ya le ndzeni hi ku tata Fomo 4. Fomo 4 yi fanele ku yisiwa eka Mutirhi wa Mahungu wa xiyenge xa hulumendhe ya kona, kutani yena u fanele ku yi yisa eka vulawuri bya aphili, hilaha swi boxiweke hakona laha henhla.
- 22.10.2 Fomo 4 ya kumeka eka webusayiti ya Vukongomisi, <https://www.justice.gov.za/inforeg/>, swin'we ni le ka webusayiti ya xiyenge xa Hulumendhe lexi khumbekaka.
- 22.10.3 Mutirhi wa Mahungu kumbe Xandla xa Mutirhi wa Mahungu xa xiyenge xa Hulumendhe lexi khumbekaka a xi boheki ku pfuna mukomberi ku tata fomo ya aphili ya le ndzeni; hambiswiritano, mukomberi a nga ha kombela Mutirhi wa Mahungu ku n'wi pfuna hi sweswo.
- 22.10.4 Laha hansi ku ni magoza ya endlelo ro tata fomo ya aphili ya le ndzeni -

### Mahungu Lama Lavekaka

### Nhlamuselo

#### Vuxokoxoko bya huvo ya rixaka

Xiyenge lexi xi fanele ku tamela vito ra xiyenge xa Hulumende xa Tiko, Xifundzha kumbe Muganga lexi khumbekaka, ni vito ni xivongo swa Mutirhi wa Mahungu.

#### Vuxokoxoko bya muendli wa aphili loyi a endlaka aphili ya le ndzeni

Xiyenge lexi xi fanele ku tatiwa hi muendli wa aphili, hambiloko a yimela un'wana kumbe a nga yimeli munhu. Mavito ni xivongo hi ku helela, nomboro ya vutitivisi ni xikhundlha, laha ku endliwaka aphili ya le ndzeni ematshan'weni ya munhu un'wana, loko swi ri tano, ma fanele ku nyikiwa. Loko aphili yi endliwa hi munhu hi yexe, sweswo swi fanele ku rhekhodiwa. Mahungu lama engetelekeke lama lavekaka ma katsa vuxokoxoko bya vuhlanganisi bya mukomberi:

## Mahungu Lama Lavekaka

## Nhlamuselo

adirese ya poso, adirese ya imeyili, nomboro ya fekisi ni/kumbe ya riqingho. Mahungu lawa ma fanele ma fana ni ya xikombelo lexo rhanga. Loko munhu loyi a tataka fomo a ri muyimeri wa mukomberi, vumbhoni bya xikhundlha lexi aphili yi endliwaka haxona byi fanele ku katsiwa eka fomo.

**Vuxokoxoko bya munhu loyi xikombelo xi endliwaka ematshan'weni ya yena (Loko xi endliwa hi un'wanyana)**

Xiyenge lexi xi fanele ku tatiwa ntsena hi munhu loyi a kombela mahungu ematshan'weni ya un'wanyana. Loko munhu loyi a endlaka aphili ya le ndzeni ku nga ri yena loyi eku sunguleni a kombela mahungu, vuxokoxoko bya mukomberi byi fanele ku ngenisiwa laha. Loko xikombelo xi endliwa hi munhu hi yexe ku fanele ku tatiwa xiyenge lexi.

**Xiboho lexi aphili ya le ndzeni yi endliwaka haxona**

Fomo yi ni ndhawu laha mukomberi a nga funghaka hi "x", ku komba xivangelo xa ku endla aphili eka leswi longoloxiweke.

**Swivangelo swa aphili**

Eka xiyenge lexi, mukomberi u fanele ku hlamusela vuxokoxoko byo va va anakanya leswaku swivangelo swa aphili swa tirha. U fanele ku nyika (swi)xivangelo xo va a ehleketa leswaku xiboho xa Mutirhi wa Mahungu xi hoxile. Naswona u fanele ku katsa mapapila lama seketelaka aphili. Nxaxamelo wa swivangelo leswi nyikiwaka ku seketela aphili swi nga xaxameteiwa hi vuxokoxoko eka tluka rin'wana, loko ndhawu leyi nga kona eka fomo yi nga enelanga. Matluka lama engetelekeke lama tisiwaka ma fanele ku sayiniwa.

Ku fanele ku va ni swivangelo leswi eneleke ni mahungu yo seketela ku endla leswaku vulawuri bya aphili byi endla xiboho lexi twalaka. Hikokwalaho munhu u fanele a katsa mhaka hinkwayo leyi endlekeke ku ta fikela eka aphili ya le ndzeni. Eka tluka rin'wana, munhu a nga boxa swiyenge swo karhi swa **PAIA** tanihi xisekelo xa aphili.

#### Xitiviso xa xiboho xa aphili

Ku nyikiwe ndhawu yo hlamusela hi mukhuva lowu xiboho xi nga rhumeriwa ha wona, xi fanele ku rhumeriwa, hi xikombiso hi poso, hi vutleketli kumbe hi fekisi kumbe hi imeyili. Hi kombela u hlawula muxaka lowu u tsakelaka ku tivisiwa hawona.

- 22.10.5 Hambileswi ku nga hava nsivelo wo tikumela muyimeri wa nawu ku ku pfuna hi nkarhi wihi ni wihi wa xikombelo xa mahungu, maendlelo yo hambanahambana ya **PAIA** ma endliwe hi ndlela yo olova leswi endlaka swi nga laveki ku va ni muyimeri wa nawu laha u nga hakelaka swikoxo swa nawu.

## 23. KU YISA XIVILELO EKA VUKONGOMISI BYA MAHUNGU

- 23.1 Mukomberi kumbe un'wanyana a nga endla xivilelo eka Vukongomisi ntsena loko mukomberi kumbe un'wana loyi a nga khumbekiki hi ku kongoma a tihise endlelo ra aphili ya le ndzeni eka xiboho xa Mutirhi wa Mahungu xa xiyenge xa xulumende xa tiko, xifundzha kumbe muganga. Leswi swi vula leswaku munhu a nga endla xivilelo xin'we ntsena, eka xiyenge xo karhi xa hulumenthe eka Vukongomisi loko a nga tsakisiwi hi xiboho xa vulawuri bya aphili. Vukongomisi byi ta ala xivilelo loko endlelo ra aphili ri nga endliwanga eka xiyenge xo karhi xa hulumenthe.
- 23.2 Hambiswiritano, malunghana ni huvo ya rixaka (leyi aphili ya le ndzeni yi nga yi khumbiki) ni huvo ya phurayivhete, mukomberi kumbe loyi a nga khumbekiki hi ku kongoma a nga endla xivilelo eka Vukongomisi, loko a nga eneriseki hi xiboho xa huvo leyi khumbekaka.
- 23.3 Xivilelo lexi yaka eka Vukongomisi xa mukomberi kumbe loyi a nga khumbekiki hi ku kongoma xi fanele ku endliwa ku nga si hundza masiku ya 180 yo amukeriwa ka xiboho xa huvo.



- 23.4 Mukomberi a nga endla xivilelo eka Vukongomisi, loko a nga tsakisiwi hi -
- 23.4.1 vuyelo bya aphili ya le ndzeni eka vulawuri bya aphili bya xiyenge xihi ni xihi xa hulumendhe.
  - 23.4.2 xiboho xa vulawuri bya aphili xo ala ku endliwa ka aphili ya le ndzeni nkarhi se wu hundzile;
  - 23.4.3 xiboho xa Mutirhi wa Mahungu wa huvo ya rixaka leyi nga riki xiphemu xa xiyenge xa hulumendhe ku -
    - 23.4.3.1 ala xikombelo xa mfikelelo; kumbe
    - 23.4.3.2 ku engetela nkarhi wo tamela xikombelo; kumbe
    - 23.4.3.3 ku pfumelela mfikelelo hi muxaka wo karhi.
  - 23.4.4 xiboho xa murhangeri wa huvo ya phurayivhete ku -
    - 23.4.4.1 ala xikombelo xa mfikelelo; kumbe
    - 23.4.4.2 ku sindzisa hakela yo endla xikombelo, kumbe dipoziti xa hakelo leyi engetelekeke; kumbe
    - 23.4.4.3 ku engetela nkarhi wo tamela xikombelo; kumbe
    - 23.4.4.4 ku pfumelela mfikelelo hi muxaka wo karhi.
- 23.5 Loyi a nga khumbekiki hi ku kongoma a nga endla xivilelo eka Vukongomisi, loko a nga tsakisiwi hi -
- 23.5.1 vuyelo bya aphili ya le ndzeni eka vulawuri bya aphili bya xiyenge xo karhi xa hulumendhe;
  - 23.5.2 xiboho xa Mutirhi wa Mahungu wa huvo ya rixaka leyi nga riki xiphemu xa xiyenge xa hulumendhe ku pfumelela mfikelelo; kumbe
  - 23.5.3 xiboho xa murhangeri wa huvo ya phurayivhete ku pfumelela mfikelelo wa rhekhodo ya huvo yoleyo,

## 23.6 Munhu u xi endla njhani xivilelo eka Vukongomisi?

- 23.6.1 Xivilelo eka Vukongomisi xi fanele ku endliwa hi ku xi tsala ehansi naswona ku fanele ku tatiwa fomo ya xivilelo, hi voko kumbe eka inthanete. Fomo ya xivilelo, Fomo 5, yi nga dawunilodiwa eka webusayiti ya Vukongomisi, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Leswi swi vula leswaku Vukongomisi a byi nge amukeli xivilelo hi riqingho; hambiswiritano, Vukongomisi byi fanele ku nyika mpfuno lowu twisiekaka eka munhu wihi ni wihi loyi a tsakelaka ku endla xivilelo naswona sweswo swi katsa mhaka yo tata fomo ya xivilelo.
- 23.6.3 Loko munhu a tlhontlha xiboho xa Mutirhi wa Mahungu wa huvo ya phurayivhete, munhu yoloye u fanele ku nyika vumbhoni lebyi eneleke ku kombisa leswaku xikombelo xa rhekhodo xi laviwa hi xikongomelo xo tirhisa kumbe ku sirhelela (ti)mfanelo yo karhi. Mfikelelo wa tirhekhodo ta huvo ya phurayivhete wu nga nyikiwa ntsena loko munhu a kombisa leswaku u lava ku tirhisa kumbe ku sirhelela (ti)mfanelo yo karhi hi rhekhodo leyi a yi kombelaka.

## 23.7 Ku endleka yini endzhaku ko amukeriwa ka xivilelo?

- 23.7.1 Loko xivilelo xa munhu xi amukeriwile, Vukongomisi byi fanele -
- 23.7.1.1 ku lavisisa xivilelo ni ku hundzisela swikumiwa swa xona eka Komiti ya Nsindziso ku kuma xiboho; kumbe
  - 23.7.1.2 ku teka goza hi xivilelo hikuva -
    - 23.7.1.2.1 xivilelo a xi endliwanga ku nga si hundza masiku ya 180 naswona ku hava swivangelo leswi twalaka swo amukela ku hlwela ku endla xivilelo xa kona;
    - 23.7.1.2.2 xivilelo i xa hava kumbe i xa vuntswaka kumbe xi endliwa hi mbilu yo biha; kumbe
    - 23.7.1.2.3 loko ku langutiwa swiyimo swa mhaka, a swi bohi kumbe a swi faneleki ku teka goza rin'wana. Hi xikombiso, mahungu lama komberiwaka ma endliwe ma kumeka erixakeni.
  - 23.7.1.3 loko swi koteka yi lamula kumbe ku endla migingiriko leyi kotekaka yo lulamisa mhaka kumbe ku pfuna lava khumbekaka ku ololoxa (ti)mholovo ya vona; ni

23.7.1.4 ku tsundzuxa muendli wa xivilelo ni Mutirhi wa Mahungu, loyi xivilelo xi khumbaka yena, hi ta goza leri faneleke ku tekiwa.

### 23.8 **Mbulavurisano wo sungula wa Vukongomisi eka muendli wa xivilelo ni Mutirhi wa Mahungu malunghana ni xivilelo lexi endliweke**

23.8.1 Loko Vukongomisi byi boha leswaku a byi nge teki goza rin'wana hi xivilelo, Vukongomisi byi ta tivisa mukomberi hi xiboho xexo ni swivangelo swo tsandzeka ku teka goza rin'wana hi xivilelo xa kona.

23.8.2 Loko Vukongomisi byi endla xiboho xo lavisisa xivilelo, mukomberi u ta amukela papila leri n'wi tivisa leswaku Vukongomisi byi endle xiboho xo endla vulavisisi.

23.8.3 Loko xivilelo xi amukeriwa, Vukongomisi byi ta hundzisela vuxokoxoko bya xivilelo eka Mutirhi wa Mahungu wa huvo leyi khumbekaka, ivi a komberiwa ku nyika Vukongomisi, n'wangulo wa xivilelo lowu tsariweke ehansi.

### 23.9 **Matimba ya vulavisisi ya Vukongomisi**

23.9.1 Vukongomisi byi ni matimba, hi ku landza xiyenge 77G(2) xa **PAIA**, yo -

23.9.1.1 tirhisa matimba ya byona ku fikelela xitshunxo;

23.9.1.2 ku vitana ni ku sindza leswaku vanhu va kona va humelela emahlweni ka Vukongomisi;

23.9.1.3 ku va sindzisa ku nyika vumbhoni hi nomu kumbe hi ku byi tsala ehansi hi ku hlambanya ni ku nyikela tirhekhodo tihi ni tihi;

23.9.1.4 ku amukela ni ku pfumela vumbhoni ni mahungu man'wana, hi xihlambanyo, hi afidavhiti;

23.9.1.5 ku nghena ni ku secha miakao yihi ni yihi leyi tirhisiwaka hi loyi a khumbekaka;

23.9.1.6 ku endla mbhurisano wa phurayivhete ni munhu wihi ni wihi loyi a nga le muakweni lowu ku ngeniwaka eka wona; ni

23.9.1.7 ku endla vuxopaxopi byihi ni byihi emiakweni yoleyo hilaha Vukongomisi byi vonaka swi fanela hakona.

## 23.10 **Ku kambela hi ku fambisana ni swiletelo swa PAIA**

- 23.10.1 Vukongomisi byi nga ha endla vukamberi byo vona loko huvo ya rixaka kumbe ya phurayivhete hi ntolovelo yi fambisana ni swiletelo swa **PAIA**.
- 23.10.2 Vukongomisi byi nga ha tshuka byi endla vukamberi byo vona loko ku fambisaniwa ni swiletelo eka huvo, eku tluleni mikongomiso ya yona, hambiswiritano, Vukongomisi byi nga tlhela byi endla vukamberi bya landzela swiletelo loko byi komberiswa hi Mutirhi wa Mahungu wa huvo kumbe munhu wihi ni wihi. Leswi swi vula leswaku munhu wihi ni wihi a nga kombela Vukongomisi ku endla vukamberi byo landzeriwa ka swiletelo eka huvo. Munhu a nga tlhela a endla xikombelo handle ko boxa vito xa leswaku ku endliwa vukamberi byo landzeriwa ka swiletelo, hi ku boxa leswaku u kombela ku ka a ri boxi vito rakwe.
- 23.10.3 Vukongomisi byi ta nyika xiviko xa vukamberi munhu loyi a kombelaka ku endliwa ka vukamberi ni swibumabumelo swa goza leri nga ta tekiwa, loko ri ri kona.

## 23.11 **Xitiviso Xa Mahungu**

Vukongomisi byi nga ha nyika Mutirhi wa Mahungu wa huvo Xitiviso xa Mahungu lexi lavaka leswaku loyi a khumbekaka a nyika Vukongomiso mahungu lama boxiweke eka xitiviso.. Hi xikombiso, loko xivilelo lexi endliweke eka Vukongomisi xi yelana ni ku ala ku nyika mfikelelo hikwalaho ka swivangelo leswi vekerike eka ethelo, Vukongomisi byi nga ha kombela, hi Xitiviso xa Mahungu, tikopi xa tirhekhodo leti ku ariweke mfikelo wa tona leswaku ku kumisisiwa loko swivangelo swo ala swi twala kumbe swi nga twali.

## 23.12 **Ku Simekiwa Ka Komiti Ya Nsindziso**

- 23.12.1 Vukongomisi byi fanele ku simeka Komiti ya Nsindziso<sup>38</sup>, leyi nga ni matimba yo -
- 23.12.1.1 kambela timhaka hinkwato leti hundziseriweke eka yona hi Vukongomisi hi ku ya hi **PAIA** ni ku endla xiboho xa kona; ni
- 23.12.1.1 ku endla swibumabumela swihi ni swihi eka Vukongomisi malunghana ni goza leri faneleke ku tekiwa ehenhleni ka Mutirhi wa Mahungu wa huvo.

## 23.13 **Xitiviso Xa Nsindziso**

- 23.13.1 Vukongomisi, endzhaku ko kambisisa swibumabumelo swa Komiti ya Nsindziso, byi nga ha nyika Mutirhi wa Mahungu wa huvo Xitiviso xa Nsindziso -

<sup>38</sup> Xiyenge 50 xa PAIA

23.13.1.1 ku tiyisisa, ku cinca kumbe ku vekela etlhelo xiboho lexi ku endliweke xivilelo haxona; kumbe

23.13.1.2 ku koxa leswaku Mutirhi wa Mahungu a teka goza ro karhi kumbe a tshika ku teka goza ro karhi leri Vukongomisi bya Mahungu byi xi boxeke eka xitiviso.

#### 23.14 **Hi byihi vuyelo byo tsandzeka ku landzela Switiviso swa Nsindziso?**

23.14.1 Mutirhi wa Mahungu wa huvo loyi a alaka ku landzela xitiviso xa nsindziso u ta va ni nandzu naswona loko a avanyisa u ta fayiniwa kumbe ku khotsiwa nkarhi lowu nga hundziki malembe manharhu kumbe a nga fayiniwa a tlhela a khotsiwa.

23.14.2 Xiyenge 77K xa **PAIA** xi kandziyisa nkoka wa mfanelo ya mfikelelo wa mahungu kumbe tirhekhodo. Xiyenge lexi xi tlhelela xi tiyisa nkoka wa Vukongomisi emhakeni ya nhlohlotelo wa mfanelo ya mfikelelo wa mahungu.

### 24. **KU ENDLA XIKOMBELO EKHOTO**

#### 24.1 **I mani loyi a nga endlaka xikombelo ekhoto ku kaneta xiboho?**

24.1.1 Mukomberi kumbe loyi a nga khumbekiki hi ku kongoma a nga endlaka xikombelo ekhoto ku kuma xitshunxo lexi fanele hi ku landza xiyenge 82 eka swiyimo leswi landzelaka:

24.1.1.1 Loko mukomberi kumbe loyi a nga khumbekiki hi ku kongoma se a tirhise endlelo ra aphili ya le ndzeni leyi boxiwaka eka ndzimana 22.3 laha henhla; kumbe

24.1.1.2 endzhaku ka loko mukomberi kumbe loyi a nga khumbekiki hi ku kongoma se a tirhise endlelo ra xivilelo leri boxiwaka eka xiyenge 77A.

24.1.2 IHi ku landza xiyenge 78(1) xa **PAIA** mukomberi kumbe loyi a nga khumbekiki hi ku kongoma u ni tindlela timbirhi, a nga hundzisela xiboho emahlweni, leswi longoloxiweke eka tindzimana 22.2.4, 23.4 na 23.5 laha henhla, eka Vukongomisi kumbe Khoto. Hambileswi munhu a nga sindzisiwiki ku ya eka Vukongomisi a nga siya Ekhoto, swa antswa leswaku munhu a rhangana hi ku ya eka Vukongomisi, hikuva Vukongomisi byi ni tindlela to angarhela ni ta xihatla xo lulamisa timholovo, ku hambana ni Khoto.

24.1.3 Hambiswiritano, leswaku Khoto yi va ni matimba yo avanyisa mhaka, mukomberi kumbe loyi a nga khumbekiki hi ku kongoma u fanele -

24.1.3.1 a va a nga tsakisiwanga hi xin'wana xa swiboho, leswi longoloxiweke eka 22.2.4, 23.4 kumbe 23.5 laha henhla; kumbe

24.1.3.2 a va a tirhise endlelo ra swivilelo eka Vukongomisi kumbe ku susa xivilelo lexi endliweke eka Vukongomisi. Leswi swi vula leswaku munhu a nga ka a nga yi Ekhoto loko xivilelo xakwe xi nga si tameriwa hi Vukongomisi.

24.1.4 Loko munhu a tlhontlha xiboho xa Mutirhi wa Mahungu wa huvo ya phurayivhete, munhu yoloye u fanele ku nyika vumbhoni lebyi eneleke ku kombisa leswaku rhekhodo leyi komberiwaka yi laviwa ku sirhelela (ti)mfanelo yo karhi.

## 24.2 **Munhu a nga xi endla rini xikombelo Ekhoto ku kaneta xiboho xa huvo kumbe Vukongomisi?**

24.2.1 Xikombelo xa le Khoto xa mukomberi kumbe loyi a nga khumbekiki hi ku kongoma, loyi a nga humeleliki eka aphili ya le ndzeni eka vulawuri bya aphili bya xiyenge xo karhi xa hulumendhe kumbe a nga tsakisiwanga hi xiboho xa Mutirhi wa Mahungu wa huvo (swi longoloxiwe eka 22.2.4, 23.4 kumbe 23.5 laha henhla) kumbe xa Vukongomisi xi fanele ku endliwa ku nga si hundza masiku ya 180 ku sukela ku endleke mhaka ya kona.

24.2.2 Mutirhi wa Mahunguwa huvo kumbe vulawuri bya aphili bya Hulumendhe, hi ku ya hi mhaka ya kona, loyi a nga tsakisiwangiki hi xiboho xa Vukongomisi a nga endla xikombelo ekhoto ku kuma xitshunxo lexi faneleke hi ku landza xiyenge 82, ku nga si hundza masiku ya 180<sup>39</sup>.

24.2.3 Mukombe, loyi a nga khumbekiki hi ku konoma, kumbe huvo, a nga endla xikombelo ekhoto leswaku swiboho swihi ni swihi leswi a nga swi tsakeliki swi kambiwa hi Khoto.

24.2.4 Xikombelo Ekhoto ehansi ka **PAIA** xi endliwa hi maendlelo ya vumunhu, naswona xi fanele ku endliwa loko se ku ringetiwe tindlela tin'wana.

24.2.5 Timhaka ta mfikelelo wa mahungu ti nga yingisiwa emahlweni ka Tikhoto ta Majisitarata, hikuva khoto leyo rhanga<sup>40</sup>, swin'we ni Khoto leyi Tlakukeke ti ni matimba yo endla swiboho.

24.2.6 Ku tsandzeka ku endla xikombelo ku nga si hundza masiku ya 180 swi nga amukeriwa hi Khoto loko munhu a kombisa leswi vululami byi swi languteleke. Leswi swi vula leswaku khoto yi nga amukela xikombelo lexi

<sup>39</sup> Xiyenge 78(4) xa PAIA

<sup>40</sup> Xiyenge 91A xa PAIA ni Milawu ya Nhlohotelo wa mfikelelo wa mahungu, 2019

hlweleke loko mhaka leyi nga ta avanyisiwa yi languteka yi ta vuyerisa vululami. Loko tirhekhodo leti ku komberiwaka mfikelelo wa tona ti ta pfuna munhu ku endla xikombelo xa aphili yo papalata ku khotsiwa kumbe ti pfuna munhu ku kuma mpfuno wun'wana wa vutshunguri, hi xikombiso, khoto yi nga ha swi amukela sweswo.

24.2.7 Xikombelo xi nga endliwa hi ku pfumelelana ni endlelo leri hlamuseriweke eka nawu 53 wa Milawu ya Khoto Leyi Tlakuweke kume hi ku landza nawu 55 wa Milawu ya Khoto ya Majisitarata loko ku nga nyikeriwe tirhekhodo kumbe tirhekhodo leti nga hetisekangiki hi mufambisi.

24.2.8 Loko rhekhodo se yi nyikerwile, xikombelo xi ta endliwa hi ku landza nawu 55 wa Milawu ya Khoto ya Majisitarata, ntsena loko ku ri ni xivangelo xa leswaku muendli wa xikombelo a kholwa leswaku rhekhodo leyi heleleke yi nga ka yi nga nyikeriwi hi mufambisi, muendli wa xikombelo a nga ya emahlweni ku ya hi endlelo leri andlariweke eka Nawu 53 wa Milawu ya Khoto leyi Tlakuweke, hi ku vona ka yona, kambe u fanele ku kombisa eka afidavhiti yo sungula a nyika xivangelo xo kholwa leswaku rhekhodo leyi heleleke a yi nyikeriwanga<sup>41</sup>.

### 24.3 **Hi xihhi xiyimo xa le nawini xa xiboho xa Vukongomisi loyi ka ha rindzeriwa xiboho xa Khoto?**

Matimba ya Vukongomisi ma tekiwa eka Vumbiwa, **POPIA** na **PAIA**. Hikokwalaho, xitiviso xa nsindziso lexi humesiwaka hi Vukongomisi xi ni switandzaku swa nawu kutani xa boha ku fikela loko khoto ya nawu yi endle xiboho xo karhi. Hikokwalaho swiboho swa Vukongomisi swa tirha ni ku sindzisiwa handlekaloko Khoto leyi faneleke yi vule leswi hambaneke.

### 24.4 **Hi swihi swileriso leswi nga nyikiwaka hi Khoto leyi yingisaka xikombelo?**

24.4.1 Khoto (ku nga ha va Khoto ya Majisitarata kumbe Leyi Tlakuweke) leyi yingisaka xikombelo yi nga ha nyika swileriso leswi landzelaka -

24.4.4.1 ku tiyisisa, lulamisa kumbe ku vekela etlhelo xiboho xa Mutirhi wa Mahungu, kumbe Vulawuri bya Aphili kumbe Vukongomisi bya Mahungu;

24.4.4.2 ku lava leswaku Mutirhi wa Mahungu kumbe Vulawuri bya Aphili byi teka goza ro karhi kumbe ri tshika ku ri teka loko Khoto yi vona swi fanerile hi nkarhi lowu boxiweke eka xileriso;

24.4.4.3 ku nyika nsivelo, xitshunxo xa nkarhinyana kumbe lexi kongomeke, xileriso lexi tiyeke kumbe xileriso xa hakelo ya ndziriso;

<sup>41</sup> Nawu 4 Milawu ya Nhlohoteloto wa mfikelelo wa mahungu, 2019

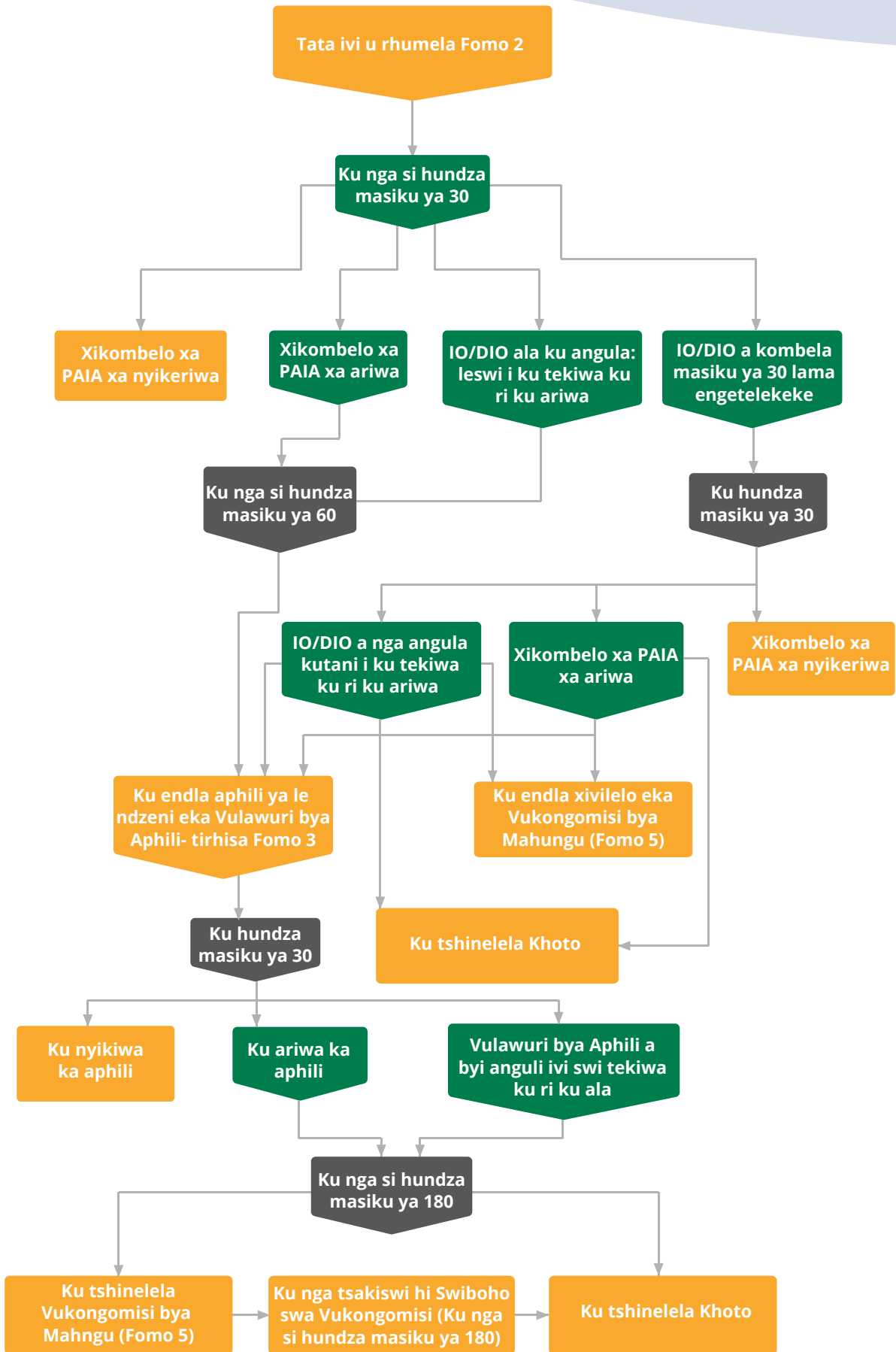


24.4.4.4 ku endla xileriso xa tihakelo ehenhleri ka wihi ni wihi la khumbekaka;

24.4.4.5 ku endlela ku hetisisa vululami, ku amukela ku papalata ku fambisana ni xileriso xo karhi enkarhini wa masiku ya 180 yo endla xikombelo. Hilaha swi boxiweke hakona laha henhla, swivangelo leswi eneleke swo tsandzeka ku landza nkarhi lowu vekiweke swi fanele ku hlamuseriwa hi vuxokoxoko eka xikombelo lexi endleriwaka ku vekiwa etlhelo.

## **25. DAYAGIRAMU YA ENDELEO RA XIKOMBELO XA PAIA**

Hi kombela u kamba ntlhandlamano wa endlelo eka chati, hi ta maendlelo yo landzeriwa loko ku tirhisiwa mfanelo ya mfikelelo wa mahungu.



## 26. MIKONGOMISO LEYI ENDLIWEKE HI KU LANDZA XIYENGE 92 XA PAIA

- 26.1 Hi ku landza xiyenge 92(1) na 92(4) xa **PAIA**, Holobyenkulu u endle Mikongomiso leyi fambisanaka ni Nhlohotelo wa Mfikelelo wa Mahungu leyi katsaka timhaka leti landzelaka
- 26.1.1 Mitirho ya Vukongomisi bya Mahungu (**Nkongomiso 2**)
  - 26.1.2 Mitirho ya Matirhi wa Mahungu (**Nkongomiso 3**)
  - 26.1.3 Ku kumeka xikan'wekan'we ka tirhekhodo to karhi ta huvo ya rixaka (**Nkongomiso 4**)
  - 26.1.4 Mpaluxo wo endliwaka hi ku swi rhandza ni ku kumekaka xikan'wekan'we ka tirhekhodo ro karhi ta tihuvo ta phurayivhete (**Nkongomiso 5**)
  - 26.1.5 Ku kumeka ka tirhekhodo ta mavandla ya politiki (**Nkongomiso 6**)
  - 26.1.6 Xikombelo xa mfikelelo wa mahungu (**Nkongomiso 7**)
  - 26.1.7 Mbuyelo wa xikombelo ni tihakelo ta kona (**Nkongomiso 8**)
  - 26.1.8 Aphili ya le ndzeni yo kanetana ni xiboho xa mutirhi wa mahungu wa huvo ya rixaka (**Nkongomiso 9**)
  - 26.1.9 Ku endla swivilelo (**Nkongomiso 10**)
  - 26.1.10 Maendlelo malunghana ni ku lavisisiwa ka swivilelo (**Nkongomiso 11**)
  - 26.1.11 Ku ololoxiwa ka mhaka (**Nkongomiso 12**)
  - 26.1.12 Ku lamula mhaka (**Nkongomiso 13**)
  - 26.1.13 Vukambisisi (**Nkongomiso 14**)
  - 26.1.14 Mbulavurisano wa elektroniki (**Nkongomiso 15**)
  - 26.1.15 Milandzu ni ndzirisio (**Nkongomiso 16**)
- 26.2 Hi ku pfumelelana ni xiyenge 79(1) xa **PAIA**, Bodo ya Milawu ya Tikhoto ta Nawu, hi mpfumelelo wa Holobyenkulu, yi endle milawu ya endlelo ra -
- 26.2.1 khoto malunghana ni swikombelo hi ku landza xiyenge 78 xa **PAIA**; ni
  - 26.2.2 khoto ku amukela swibumabumelo swa loyi a khumbekaka leswi boxiwaka eka xiyenge 80(3)(a).

## 27. MILAWUNKULU, MIKONGOMISO, SWITIVISO NI SWIBUMABUMELO

### Milawunkulu, leswi nga tshukaka swi pfuxetiwa nkarhi ni nkarhi

Nawu wa Nhlohotelo wa Mfikelelo wa Mahungu, Nawu 2 wa 2000

Nawu wa Nhlohotelo Wa Vululami Bya Vufambisi, Nawu 3 wa 2000

Nawu wa ku Pfuxetiwa ka Nhlohotelo wa Mfikelelo wa Mahungu, Nawu 54 wa 2002

Nawu wa Nsirhelelo wa Mahungu ya Munhu, Nawu 4 wa 2013

Nawu wa ku Pfuxetiwa ka Nhlohotelo wa Mfikelelo wa Mahungu, Nawu 31 wa 2019

Nawu wa ku Hakeleriwa ka Vandla ra Politiki, Nawu 6 wa 2018

### Mikongomiso ni Switiviso

Xitiviso xa Hulumendhe	Siku ra ku haxiwa	Nhlokomhaka ni nhlamuselo
Xitiviso xa Hulumendhe R. 757 eka GG Nomb. 45057	27 Mhawuri 2021	Mikongomiso leyi yelanaka ni Nhlohotelo wa Mfikelelo wa Mahungu, 2021
Xitiviso xa Hulumendhe R.991 in GG 28107	14 Nhlangua 2005	Mikongomiso leyi hlamuselaka swivangelo leswi endlaka munhu a nga boheki ku humesa tihakelo.
Xitiviso xa Hulumendhe 397 eka GG Nomb. 44785	30 Khotavuxika 2021	Ku vakeriwa etlhelo ka tihuvo tin'wana ta phurayivhete ku landzela Tsalwa ra <b>PAIA</b> .
Xitiviso xa Hulumendhe 1217 in GG 4271	19 Ndzhati 2019	Ku averiwa ka Tikhoto ta Majisitarata ku va ni matimba yo yingisa timhaka ta <b>PAIA</b> .
Xitiviso xa Hulumendhe R. 1284 in GG 42740	4 Nhlangua 2019	Milawu ya endlelo ra swikombelo leswi endliwaka hi ku landza <b>PAIA</b> emahlweni ka Khoto Leyi Tlakuoke kumbe Khoto ya Majisitarata.

## **XIBUMABUMELO**

Nkongomiso lowu wu pfuxetiweke wa ndlela yo tirhisa **PAIA** wu rhangwe wu katsakanyiwa hi Khomixini ya Timfanelo ta Ximunhu ta Afrika Dzonga (**SAHRC**) naswona Vukongomisi byi bumabumela ntirho lowo sungula wa **SAHRC** swin'we ni switirhisiwa swa kona hinkwaswo.

Humesiwe hi

## **VUKONGOMISI BYA MAHUNGU**



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## KAEDI

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YA GO DIRISA MOLAO WA  
BO 2 WA 2000 WA THOTLOETSO YA PHITLHELELO  
YA TSHEDIMOSETSO, JAAKA O TLHABOLOTSWE

SETSWANA

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# PAIA GUIDE



## KETAPELE KA MODULASETULO

Molaotheo wa Repaboliki ya Afrika Borwa, 1996<sup>1</sup> ("Molaotheo") o bontsha gore Afrika Borwa ke naga e e ikemetseng le ya temokerasi e e theilweng mo kgatelopeleng ya ditshwanelo tsa batho le tsamaiso e e nang le maikarabelo, e e tsibogang le e e seng bofitlha ya bolaodi jaaka karolo ya melao ya yone. Pele Afrika Borwa e nna le temokerasi ya molaotheo ka Melawana ya Ditshwanelo e e tlhomamisang gore dilo di a dirwa, tsamaiso ya Puso mo Afrika Borwa, gareng ga tse dingwe, e feletse ka mokgwa wa go nna bofitlha le go se tsiboge mo mekgathong ya puso le ya poraefete, se gantsi se neng se lebisa go tiriso e e botlhaswa ya taolo le go gatakiwa ga ditshwanelo tsa batho. Ke mo kgannyeng eno karolo 32(1) ya Melawana ya Ditshwanelo mo Molaotheong, e nayang tshwanelo ya phitlhelelo ya tshedimose tso e puso e nang le yone, le tshedimose tso epe e motho yo mongwe a nang le yone e e batlegang go diragatsa kgotsa go sireletsa ditshwanelo dipe. Karolo 32(2) ya Molaotheo yone e naya tiriso ya Kokoanopeomolao ya bosetšhaba e e tla tlhomang tshwanelo eno, ka go tlotla, go sireletsa, go rotloetsa le go diragatsa tshwanelo eno.

Molao wa Thotloetso ya Phitlhelelo ya Tshedimose tso, No. 2 wa 2000 (o go tloga fano re tla o bitsang "**PAIA**", kgotsa "Molao" ka go refosana), jaaka o tlhabolotswe, ke kokoanopeomolao ya bosetšhaba e e neng ya tlhomiwa go dumalana le karolo 32(2) ya molaotheo e e umakilweng fa godimo .

Boikaelelo jwa **PAIA**, ke go rotloetsa mowa wa go se fitlhe sepe le go rwala maikarabelelo mo mekgathong ya puso le ya poraefete. E dira seo ka go tsenya tirisong tshwanelo ya phitlhelelo ya tshedimose tso le go rotloetsa morafe o mo go one batho ba Afrika Borwa ba fitlhelang tshedimose tso go ba thusa go diragatsa ka botlalo le go sireletsa ditshwanelo tsotlhe tsa bone le go lemoga mokgele wa Afrika Borwa wa temokerasi e e seng bofitlha le e go tsewang karolo mo go yone.

Kaedi eno ya **PAIA** e dirilwe go diragatsa boikarabelo jwa Molaodi wa Tshedimose tso ("Molaodi") kafa tlase ga Karolo 10 ya **PAIA**, e e batlang gore Molaodi a tlhabolole le go dira Kaedi e e bonwang e e rulagantsweng ke Khomishene ya Afrika Borwa ya Ditshwanelo tsa Batho.

Kaedi eno e dirilwe gore e nne sedirisiwa se se kaelang, se se motlhofo go dirisiwa le se se fitlhelegang go motho ope yo a eletsang go diragatsa tshwanelo epe e e tlhalosiwang mo **PAIA** le Molao wa Tshireletso ya Tshedimose tso ya Botho, 2013.



**Adv Pansy Tlakula**

**MODULASETULO WA MOLAODI WA TSHEDIMOSE TSO**

<sup>1</sup> Molaotheo wa Repaboliki ya Afrika Borwa, 1996 (Molao 108 wa 1996)

## IKGOLOLO

Kaedi eno ga e golole modirisi mo maikarabelong a go dirisa bokgoni le tlhokomelo ya gagwe tebang le patlafalo kgotsa maikarabelo a a tlhomilweng ke kokoanopeomolao epe. Mo godimo ga moo, Kaedi eno ga e neye kgakololo ya semolao mme ga ya ikaelela go emisetsa **PAIA** kgotsa Melawana e e ntshitsweng kafa tlase ga **PAIA**. Molaodi ga a amogele melato epe ka ntlha ya tatlhegelo e e ka nnang teng ka ntlha ya go ikaega ka Kaedi eno.

### 1. LENAANE LA DIAKERONIMI LE DIKHUTSHWAFATSO

<b>CEO</b>	Mokhuduthamagamogolo
<b>CFO</b>	Motlhankedimogolo wa tsa Ditšhelete
<b>Molaotheo</b>	Molaotheo wa Repaboliki ya Afrika Borwa, Molao 108 wa 1996
<b>DIO</b>	Motlatsa Motlhankedi wa Tshedimosetso
<b>Doj &amp; CD</b>	Lefapha la Bosiamisi le Tlhabololo ya Molaotheo
<b>IO</b>	Motlhankedi wa Tshedimosetso
<b>Maloko</b>	Maloko a Molaodi wa Tshedimosetso
<b>Tona</b>	Tona ya Bosiamisi le Ditirelo tsa Kgopololo
<b>PAIA</b>	Molao Wa bo2 Wa 2000 wa Thotloetso ya Phitlhelelo ya Tshedimosetso, jaaka o tlhabolotswe
<b>PAJA</b>	Molao wa Thotloetso ya Tsamaiso ya Bosiamisi, 2000
<b>PFMA</b>	Molao 1 wa 1999 wa Tsamaiso ya Matlole a Setšhaba jaaka o tlhabolotswe
<b>POPIA</b>	Molao 4 wa 2013 wa Tshireletso ya Tshedimosetso ya Botho
<b>Molaodi</b>	Molaodi wa Tshedimosetso
<b>SAHRC</b>	Khomishene ya Afrika Borwa ya Ditshwanelo tsa Batho

### 2. MAREO A A BOTLHOKWA A TLHALOSIWA KA MOKGWA LE KA TSELA E E TLHALOGANYESEGANG MOTLHOFO

Lereo	Tlhaloso
<b>Tuediso ya go Bona Tshedimosetso</b>	Tuelo eno ya go bona tshedimosetso e duelwa ke mokopatshedimosetso go mokgatlho o a kopang tshedimosetso mo go one, go duelela ditshenyegelo tsa go batla le go dira dikhopi tsa direkoto tse o di kopang. Madi a a ka duedisiwang a tlhalosiwa ke molawana.
<b>Motsamaisi</b>	Ke lekala la puso kgotsa motho ope wa tlhago kgotsa mankge mo go tsa molao yo a tsayang kgato ya tiro ya botsamaisi.

**Lereo****Tlhaloso****Tiro ya Botsamaisi**

Ke tshwetso epe e e dirwang, kgotsa go palelwa ke go dira tshwetso, ga

- (a) lekala la puso, fa:
  - (i) le dirisa maatla go dumalana le Molaotheo kgotsa molaotheo wa porofense; kgotsa
  - (ii) le dirisa dithata tsa botlhe kgotsa le dira tiro ya setšhaba go tsamaisana le kokoanopeomolao epe, kgotsa
- (b) motho wa tlhago kgotsa mankge mo go tsa molao, kwantle ga lekala la puso, fa a dirisa dithata tsa botlhe kgotsa a dira tiro ya setšhaba tebang le tlanelo e e nayang dithata.

e e amang thata ditshwanelo tsa motho ope le tse di amang molao ka tlhamamalalo le e seng ka tlhamalalo.

**Motho yo a Neilweng Tetla**

Motho yo a neilweng tetla ke motho yo a dirang kopo mo boemong jwa motho yo mongwe, le yo a tlhomilweng semolao go dira jalo.

**Direkoto Tse di Bonwang Motlhofo**

Tseno ke direkoto tse mokgatlho wa puso kgotsa wa poraefete o tla di nayang mokopatshedimosetso kwantle ga gore a tsenye kopo. Direkoto tseno di kwadilwe mo 'kitsisong ya go ithaopela go senola tshedimosetso', e e tshwanetseng ya fitlhelwa ke batho botlhe.

**Mong wa tshedimosetso**

Ke motho yo tshedimosetso ya botho e mo amang.

**Malatsi**

Kwantle ga fa go bontshitswe e le 'letsatsi la tiro' mo karolong ya **PAIA**, letsatsi le tsewa e le letsatsi le le tlwaelegileng. Go bala nako, letsatsi le kopo e bonwang ka lone ga le akarediwe, mme letsatsi le letsatsi morago ga moo le a akarediwa go akaretsa mafelobeke le malatsi a boikhutso go fitlha ka letsatsi la bofelo. Fa letsatsi la bofelo la go araba kopo le wena go Sontaga kgotsa letsatsi la boikhutso, letsatsi le le latelang le tsewa jaaka letsatsi la bofelo.

**Kopo e Gannwe**

Fa go sa bonwa Karabo epe mo nakong e e beilweng, seno se tlhalosiwa jaaka 'kopo e gannwe'.

**Foromo 2**

Foromo eno e tlhalosiwa ke molawana mme e tshwanetse go dirisiwa go kopa go bona tshedimosetso e e leng go mokgatlho wa puso kgotsa wa poraefete.

**Foromo 4**

Foromo eno e tlhalosiwa ke molawana mme e tshwanetse go dirisiwa fa o ikuela tshwetso e e dirilweng ke mokgatlho wa puso tebang le go kopa go fitlhelela tshedimosetso.

**Lereo****Tlhaloso****Kaedi**

Kaedi eno, e e dirilweng ka go latelela karolo 10 ya **PAIA** jaaka e tlhabolotswe, e e batlang go thusa motho yo a batlang go dirisa tshwanelo epe e e tlhalosiwang mo **PAIA** le Molao wa Tshireletso ya Tshedimisetso ya Botho, 2013.

**Motlhankedi wa Tshedimisetso**

Motlhankedi wa Tshedimisetso ke motho yo a nang le tetla ya go samagana le dikopo tsa **PAIA**. Tse di latelang ke ditlhopho tsa Batlhankedi ba Tshedimisetso ba Mokgatlho mongwe le mongwe o o rileng -

<b>Mokgatlho wa Puso kgotsa Lekala la Pusoe</b> (jaaka go tlhalosiwa mo karolo 239 ya Molaotheo)	Lefapha la Bosetšhaba	Mokaedi-Kakaretso kgotsa motho yo a direlang mo maemong ao
	Botsamaisi jwa Porofense	Tlhogo ya Lefapha kgotsa motho yo a direlang mo maemong ao.
	Mmasepala	Motsamaisi wa Mmasepala kgotsa motho yo a direlang mo maemong ao.
	Ditheo tsa Puso tse di kwadilweng mo Thulaganyo ya PFMA 1, 2, 3A, 3B, 3C le 3D	Mokhuduthamagamogolo kgotsa motho yo a direlang mo maemong ao.
<b>Mokgatlho wa Poraefete</b>	Motho wa Tlhago	Mong a le nosi yo a dirang dithekiso, kgwebo kgotsa porofeshene epe, mme a le mo maemong ao fela, e seng bokgoni jwa gagwe
	Semphato	Molekane ope wa semphato kgotsa motho ope yo a tlhomilweng semolao ke semphato.
	Lekoko la Sepolotiki	Moeteledipele wa lekoko la sepolotiki kgotsa motho ope yo a tlhomilweng semolao ke moeteledipele yoo.

**Motlhankedi wa Tshedimosetso**

Mankge mo go Tsa Molao

Mokhuduthamagamogolo kgotsa Motsamaisimogolo kgotsa motlhankedi yo a lekanang ka kemo le mankge mo go tsa molao kgotsa motho ope yo a tlhomilweng semolao ke motlhankedi yoo.

**ELA TLHOKO:**

Mokhuduthamagamogolo kgotsa motlhankedi yo a lekanang nae ka kemo a ka naya motho ope wa tlhago maemo a go nna Motlhankedi wa Tshedimosetso wa Mokgatlho wa Poraefete.

**Motlatsa Motlhankedi wa Tshedimosetso**

Motlatsa Motlhankedi wa Tshedimosetso ke motho yo a tlhomilweng kgotsa yo a rometsweng ke Motlhankedi wa Tshedimosetso wa mokgatlho wa puso go thusa mokopatshedimosetso ka kopo ya gagwe ya tshedimosetso, le yo Motlhankedi wa Tshedimosetso a ka mo abelang maatla a mangwe a **PAIA**.

**ELA TLHOKO:** Le fa mokgatlho wa puso e le one fela o ka tlhomang kgotsa go roma Mo(Ba)tlatso Motlhankedi wa Tshedimosetso, go ya ka karolo 17(1) ya **PAIA**, Molao wa Tshireletso ya Tshedimosetso ya Botho, 2013 ("**POPIA**") o aba maatla a go romela Motlatsa Motlhankedi wa Tshedimosetso go setlhophisa sa poraefete, go ya ka karolo 56(1).

**Molaodi wa Tshedimosetso**

Go ya ka karolo 39 ya **POPIA**, Kantoro ya Molaodi wa Tshedimosetso e tlhomilwe go tlhokomela le go tsenya tirisong go tsamaisana le **POPIA** le **PAIA**. Mo Kaeding eno, Kantoro ya Molaodi wa Tshedimosetso kgotsa Molaodi wa Tshedimosetso o bidiwa Molaodi.

**Boikuelo jwa mo Teng**

Boikuelo jwa mo teng ke thulaganyo ya go gweltha tshwetso e e dirilweng tebang le kopo ya **PAIA** go mokgatlho wa puso, e e tshwanetseng go dirwa pele kgwetlho e dirwa kwa go Molaodi kgotsa kwa kgotlatshekelo e e nang le dithata.

**Mokgatlho wa Poraefete**

Mokgatlho wa poraefete ke motho, khamphani kgotsa setlamo se sengwe sa semolao se e leng sa Thekiso, kgwebo kgotsa porofeshene, go akaretsa lekoko la sepolotiki.

**Lereo****Tlhaloso****Mokgatlho wa Puso**

Mokgatlho wa puso o raya lefapha la puso kgotsa modiredi kgotsa setheo se sengwe, se se dirang tiro ya puso. Mme gone, tebang le boikuelo jwa mo teng, sengwe le sengwe se e leng “mokgatlho wa puso” se fetoletse go “Puso”, go tla tlhakatlhakano tebang le mekgatlho ya puso e boikuelo jono di sa direng mo go yone.

**Rekoto**

Rekoto ke tshedimosetso epe e e rekotilweng go sa kgathalesege mofuta, go akaretsa ka sekai, ditlankana tse di kwadilweng, dilo tse di reediwang, tsa dijithale kgotsa bidio. Rekoto e e kopiwang mo mokgatlhong wa puso le wa poraefete go ya go rekoto e e mo mokgatlhong go sa kgathalesege gore a mokgatlho oo o dirile rekoto eo.

**Melawana**

**PAIA** e letla Tona go ntsha melawana e e tlaleletsang Molao, e e tshwanetseng go phasaladiwa mo Lekgwalodingannyeng la Puso, mme e akaretsa dikgang tse di jaaka diforomo tse di tshwanetseng go dirisiwa le dituelo tse di ka batliwang mo dithulaganyong dingwe.

**Bolaodi jo bo Maleba**

**PAIA** e dirisa lereo ‘bolaodi jo bo maleba’ go tlhalosa motho yo a leng mo Pusong ya Bosetšhaba, ya Porofense le ya Selegae yo boikuelo jwa mo teng bo tshwanetseng go dirwa mo go ene, mme gantsi ke moeteledipele wa sepolotiki wa mokgatlho o o amegang (tiro eno e ka newa mongwe semolao).

**3. DINTLHA TSA GO IKGOLAGANYA TSA MOLAODI****Motlhankedi wa Tshedimosetso****Mokhuduthamagamogolo:****Mogolagani:****Imeile:**

Mr. Mosalanyane Mosala

Ms Ntombizodwa Harrieth Rikhotso

[NtoRikhotso@justice.gov.za](mailto:NtoRikhotso@justice.gov.za)**Motlatsa Motlhankedi wa Tshedimosetso:****Imeile:**

Ms. Varsha Sewlal

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2001

**Aterese ya Poso:**

P.O. Box 31533  
Braamfontein  
Johannesburg  
2017

**Mogala:**

010 023 5200

## 4. BOIKAELELO JWA KAEDI ENO YA PAIA

- 4.1 Boikaelelo jwa Kaedi eno ke go naya tshedimisetso e e tlhokwang ke motho ope yo a batlang go diragatsa tshwanelo epe e go buiwang ka yone mo Molao wa 2000 wa Thotloetso ya Phitlhelelo ya Tshedimisetso (**PAIA**) le Molao wa Tshireletso ya Tshedimisetso ya Botho, 2013 ("**POPIA**"). Motho ope, go sa kgathalesege boagi jwa gagwe, a ka tsenya kopo ya go fitlhelela tshedimisetso mo **PAIA**.
- 4.2 Kaedi eno e tla thusa ka tthamalalo motho, yo gape a bidiwang mong wa tshedimisetso, gore a ka fitlhelela jang tshedimisetso ya gagwe ya botho go tsamaisana le karolo 23 ya **POPIA**. Mo **POPIA**, motho kgotsa mong wa tshedimisetso o na le tshwanelo ya -
- 4.2.1 go kopa lekoko le le ikarabelelang go tlhomamisa, kwantle ga tuelo, le fa lekoko le le ikarabelelang le ka tswa le na le tshedimisetso ya bone ya botho kgotsa nnyaa, le
- 4.2.2 go kopa go lekoko le le ikarabelelang rekoto kgotsa tlhaloso ya tshedimisetso ya botho ka mong wa tshedimisetso, e e leng mo lekokong le le ikarabelelang, go akaretsa tshedimisetso ka go tthaola batho botlhe ba boraro, kgotsa ditlhophha tsa batho ba boraro, ba ba nang kgotsa ba ba ileng ba fitlhelela tshedimisetso;
- 4.2.3 go kopa lekoko le le ikarabelelang go -
- (a) baakanya kgotsa go phimola tshedimisetso ya botho ka mong wa tshedimisetso e e leng mo go lone kgotsa kafa tlase ga taolo ya lone e e sa nepang, e e seng maleba, e e feteletseng, e e seng mo nakong, e e sa felelang, e e tsietsang kgotsa e e sa bonwang semolao; kgotsa
- (b) latlha kgotsa go phimola rekoto ya tshedimisetso ya botho ka mong wa tshedimisetso e lekoko le le ikarabelelang le sa ttholeng le tshwanela go e tshola
- 4.3 Gape kaedi eno e tla thusa motho ope go kopa go fitlhelela direkoto mo **PAIA**. Gape Kaedi e tla thusa badirakopo go:
- 4.3.1 tlhaloganya **PAIA**, mesola le tshimologo ya yone;
- 4.3.2 ithuta kgato ka kgato ya thulaganyo ya go dira kopo le dikakantsho tse di oketsegileng tsa go tlhofofatsa thulaganyo eo;
- 4.3.3 ithuta mefuta ya tshedimisetso e e ka kopiwang go dirisiwa **PAIA**;
- 4.3.4 tlhaloganya thulaganyo e ka yone modirakopo a ka gwetlhang tshwetso e e dirilweng malebana le kopo ya gagwe



4.3.5 itsisiwe diphetogo tse di tla diregang mo **PAIA** fa **POPIA** e setse e dira ka botlalo.

4.4 Gape kaedi eno e tla thusa batho go tlhaloganya go gwetlha go fitlhelwa ga direkoto tsa bone le go nna le seabe mo go fitlheleng direkoto tsa bone.

## 5. KA GA PAIA

5.1 Tshwanelo ya go fitlhelela tshedimosetso ke "nngwe ya ditsela tse di molemo thata tsa go godisa melao ya molaotheo wa phuthulogo, go tlhoka sephiri, go tsaya karolo le go rwala maikarabelo<sup>2</sup>. Melao ya molaotheo e e umakilweng fa godimo e ka se bonwe fa puso e le yone fela e nang le tshedimosetso e e senolang ditiro le ditshwetso tsa yone. Ka gone, go fitlhelela tshedimosetso ga go botlhokwa fela mo go direng sentle go tsaya karolo mo temokerasing, mme gape go oketsa go tshepa ga morafe puso le go tokafatsa go tshwanelega ga yone. Ka sekai, mesola e mengwe ya tshwanelo ya go fitlhelela tshedimosetso ke gore e thibela tsietso le bonweenwee, go sa tlhomamisege le boitsholo jo bongwe jo bo sa tshwanelang jwa puso.

5.2 Fa Molaotheo wa Afrika Borwa o ne o kwalwa ka nako ya morago ga go phuthama ga Tlhaolele ka bo1990, batho le mekgatlho e e farologaneng ba ne ba tswa matsholo a gore tshwanelo ya go fitlhelela tshedimosetso e akarediwe. Go ne go solofetswe gore go akarediwa ga tshwanelo eno mo Molawaneng wa Ditshwanelo go ne go tla tlhomamisa gore bosetlhogo jo bo jaaka Tlhaolele bo ka se tlhole bo direga, jaaka ditlamo tsa puso le tsa poraefete di ne di tla patelesega go dira ka tsela e e nang le maikarabelelo le e e seng bofitlha ya go naya phitlhelelo ya tshedimosetso, mme ka jalo di ne di tla kgona go iphitlha kafa morago ga lesire la khupamarama. Go ne ga bonwa e le kgato e e tlhokegang go thusa go bopa mokgwa wa tshiamiso o o neng o tla dira gore batho ba tshwarane sentle, mmogo le ba ba nang le taolo. Nngwe ya dikgetsi tsa bogologolo<sup>3</sup> tsa go samagana le potso ya gore a molatofadiwa o na le tetla ya go bona tshedimosetso yotlhe e e leng mo doketeng ya mapodise. Jones J o ne a tlhalosa botlhokwa jwa yone ka mafoko ano:

***“Boikaelelo ... ke go se akaretse tswelediso ya mokgwa wa bogologolo wa tsamaiso, mokgwa o mo go one go neng go kgonega gore puso e tile go ikarabelela ka go gana go ntsha tshedimosetso le fa e ikanne go diragatsa kgotsa go sireletsa ditshwanelo tsa motho. Jono ke botlhokotsebe jo e diretsweng go bo thibela [...] Pontsho ya tekatekano le go se nne le sephiri go rotloetsa go ikanya ga batho tsamaiso ya morafe ka kakaretso. Tshupo eno ke nngwe ya mekgwa ya morafe o o laolwang ke temokerasi e mo go yone Molaotheo o atlegang”.***

<sup>2</sup> Hoexter Administrative Law 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Karolo 32 ya Molaotheo e tshegetsisa tshwanelo ya go fitlhelela tshedimosetso e e tshotsweng ke mekgatlho ya puso le ya poraefete. Gape karolo 32 e bontsha gore kokoanopeomolao e tshwanetse go diragadiwa go letla tshwanelo ya phitlhelelo ya tshedimosetso ka go tlhalosa ditsela tse ka tsone tshedimosetso ya mekgatlho ya puso le ya poraefete e ka tlhatlhobiwang, le ka go naya mabaka a ka one mekgatlho wa puso kgotsa wa poraefete o ka ganang phitlhelelo ya tshedimosetso.
- 5.4 **PAIA** e ne ya diragadiwa go tsibogela taolo e e fa godimo ya molaotheo, mme bogolo jwa yone bo ne jwa tsena mo tirisong ka March 2001. Ketapele ya yone e dumela "mokgwa wa sephiri le go se tsiboge" wa paka ya pele ga temokerasi, mme e gatelela gore mangwe a maikaelelo a **PAIA** ke go "tsenya tirisong mokgwa wa go se nne le sephiri le go nna le maikarabelo mo mekgathong ya puso le ya poraefete."
- 5.5 **PAIA** e ikaelela go diragatsa ditshwanelo tsa batho tsa go fitlhelela tshedimosetso le go ikarabelela. E dirilwe go matlafatsa batho gore ba dirise molao, mme ka jalo e thusa go tlhokomela go kopa go fitlhelela tshedimosetso ka ditsela tse di farologaneng. Motho ga a tlhoke mmueledi go dira kopo ya go fitlhelela tshedimosetso tebang le **PAIA**.

## 6. MAIKAELELO A PAIA

- 6.1 Maikaelelo a **PAIA** ga se go emisetsa tshwanelo ya molaotheo, mme ke go diragatsa tshwanelo e e mo karolo 32 go ikaegile ka dithibelo tse di tshwanelang, ka tsela e e thusang go lekalekanya ditshwanelo tse dingwe tsotlhe tse di leng mo Molaotheong. E solofela go godisa mokgwa wa ditshwanelo tsa batho le tolamo ya setšhaba, setheo sa puso le setheo sa poraefete. **PAIA** e batla go rotloetsa go tlhoka sephiri, go rwala maikarabelo le bolaodi jo bo atlegang mo ditheong tsotlhe (tsa puso le tsa poraefete) ka go matlafatsa batho go tlhologanya ditshwanelo tsa bone tsa go fitlhelela tshedimosetso, ba di dirise, mme ba tlhatlhobe, le go dirisa go dira ditshwetso tse di ba amang.
- 6.2 Tshwanelo ya phitlhelelo ya tshedimosetso ke tshwanelo e e nonofileng tota ya tshwanelo ya molaotheo, gonne e thusa batho go lemoga ditshwanelo tse dingwe. Motho a ka e dirisa go thusa go tlhokomela le go tlhatlhoba thebolo ya ditirelo tsa puso, kgotsa go fitlhelela direkoto tsa bogologolo tse di ka kgatlang.
- 6.3 Maikaelelo a **PAIA** ke -
- 6.3.1 go diragatsa tshwanelo ya molaotheo ya go fitlhelela -
- 6.3.1.1 tshedimosetso epe e e tshwerweng ke Puso; le
- 6.3.1.2 tshedimosetso epe e e tshwerweng ke motho yo mongwe le e e batlegang go diragatsa kgotsa go sireletsa ditshwanelo dipe.

- Patlafalo e e amanang le tshireletso ya ditshwanelo e felela mo tshedimosetsong e e leng mo diatleng tsa motho. Ka jalo mekgatlho ya poraefete e ikobela melao e e sa gagamalang thata ya go se nne le sephiri go na le mekgatlho ya puso. Ka mafoko a mangwe, setheo sa poraefete se na le tetla ya go ipolokela tshedimosetso ya sone, kwantle ga fa tshedimosetso eo e tlhokega go sireletsa ditshwanelo.
- Ka gone, go ya ka Karolo 8(1), **PAIA** e lemoga gore mekgatlho e ka nna wa "puso" kgotsa wa "poraefete" tebang le Molao go ikaegile ka gore a rekoto e go buiwang ka yone "e amana le go dirisiwa ga maatla kgotsa tiragatso ya tiro ya mekgatlho wa puso kgotsa wa poraefete."

6.3.2 go diragatsa tshwanelo eo -

6.3.2.1 go ikaegile ka dithibelo tse di tshwanelang, go akaretsa, mme e seng fela dithibelo tse di totileng tshireletso e e bonalang ya sephiri, khupamarama ya kgwebo le bolaodi jo bo atlegang, jo bo mosola le jo bo siameng; le

6.3.2.2 ka tsela e e lekalekanyang tshwanelo eo le ditshwanelo dipe tse dingwe, go akaretsa ditshwanelo tse di mo Molaong wa Ditshwanelo mo Kgaolo 2 ya Molaotheo;

6.3.3 go diragatsa maikarabelo a molaotheo a Puso ka go godisa ditshwanelo tsa batho le tolamo ya setšhaba, ka go akaretsa mekgatlho ya puso mo tshalosong ya 'mokopi', mme gareng ga tse dingwe, go mo letla go fitlhelela tshedimosetso mo mekgatlhong ya poraefete ka tirisano mogo le dipatlafalo tse nnè mo Molaong ono, go akaretsa maikarabelo a a oketsegileng a mekgatlho e e rileng ya puso mo maemong a a rileng go direla setšhaba;

6.3.4 go tlhoma mekgwa le ditsela tsa boithatelo le tse di patelediwang go diragatsa tshwanelo eo ka tsela e e letlang motho go fitlhelela direkoto tsa mekgatlho ya puso le ya poraefete ka bonako, di le tlhwatlhwatlase le kwantle ga go tsaya matsapa a magolo kafa go kgonegang ka gone; le

6.3.5 ka kakaretso, go rotloetsa go se nne sephiri, go ikarabelela le bolaodi jo bo atlegang jwa mekgatlho yotlhe ya puso le ya poraefete, go akaretsa ka go matlafatsa le go ruta mongwe le mongwe, mme e seng seo fela -

6.3.5.1 go tshaloganya ditshwanelo tsa bone tebang le Molao ono go diragatsa ditshwanelo tsa bone ka mekgatlho ya puso le ya poraefete;

6.3.5.2 go tshaloganya ditiro le tiragatso ya mekgatlho ya puso; le

6.3.5.3 go tlathloba ka katlego le go nna le seabe mo go direng ditshwetso ga mekgatho ya puso e e amang ditshwanelo tsa bone.

#### 6.4 Molao wa Tlhabololo ya Thotloetso ya Phitlhelelo ya Tshedimosetso, 2019

6.4.1 Mo kgannyeng ya ***Tlhopho Ya me E Botlhokwa NPC kgatlhanong le Tona ya Bosiamisi le Ditirelo Tsa Kgopololo le Mongwe [2018] ZACC 17***, kgotlatshekelo ya molaotheo e ne ya swetsa ka gore “Puso e na le maikarabelelo a a utlwalang sentle a dikarolo 32, 19 le 7(2) tsa Molaotheo go dira sengwe le sengwe se se ka kgonegang go tshalosa sentle le ka tsela e e nang le bokao tshwanelo ya phitlhelelo ya tshedimosetso le tshwanelo ya go tlhopho. Gape bontsi bo ne jwa gwetlha gore seno se jalo gonne go dirisa tshwanelo ya go tlhopho e tshwanetse ya nna tlhopho e e dirwang ka kitso, mme go na le kgolagano ya botlhokwa fa gare ga go dirisa sentle tshwanelo ya go tlhopho le tshwanelo ya go fitlhelela tshedimosetso. Mme “kwantle ga go fitlhelela tshedimosetso, bokgoni jwa baagi jwa go dira ditshwetso tse di utlwalang tsa sepolotiki le go nna le seabe mo botshelong jwa batho go tseelwa kwa tlase”. Kgotlatshekelo ya Molaotheo e tthomamisitse taelo ya go sa tshwanele ga molaotheo mme ya laela Palamente go tlhabolola **PAIA** le go tsaya kgato epe e nngwe e e bonang e tshwanela go naya rekoto, poloko le thulaganyo ya phitlhelelo e e siameng ya tshedimosetso mo ketleetsong ya poraefete ya makoko a sepolotiki le bontlhopheng ba ba ikemetseng mo lobakeng lwa dikgwedi tse 18.

6.4.2 Go dumalana le katlholo e e umakilweng fa godimo ya kgotlatshekelo ya molaotheo, ka 3 Seetebosigo 2019, Moporesidente o ne a dumalana le Molao wa Tlhabololo ya Thotloetso ya Phitlhelelo ya Tshedimosetso, 2019 (**Molao wa tlhabololo ya PAIA 2019**)<sup>4</sup>. Molao wa tlhabololo ya **PAIA** 2019 o akaretsa lekoko la sepolotiki mo tlhalosong ya mokgatlo wa poraefete, se se rayang gore moeteledipele wa lekoko la sepolotiki kgotsa motho ope fela yo a letleletsweng semolao ke moeteledipele yoo ke motlhankedi kgotsa tlhogo ya tshedimosetso. Jaanong Molao wa tlhabololo ya **PAIA** 2019 o akaretsa tshwanelo ya go fitlhelela direkoto dipe tsa lekoko la sepolotiki.

6.4.3 Molao wa tlhabololo o naya tshedimosetso ka ketleetso ya poraefete ya makoko a sepolotiki le bontlhopheng ba ba ikemetseng e e tshwanetseng go rekotiwa, go bolokiwa le go fitlhelelwa.

6.4.4 Go ya ka karolo 52A ya Molao wa tlhabololo ya **PAIA** 2019, tlhogo ya lekoko la sepolotiki e tshwanetse go dira le go boloka direkoto tsa dikatso dipe tse di fetang selekanyo se se beilweng, sa **R100 000.00**, tse di diretsweng lekoko leo la sepolotiki mo ngwageng ope fela wa ditšhelete le gore batho kgotsa ditlamo tse di ntshitseng dikatso tseo di itisisitswe. Gape, jaaka go tlhalosiwa, tlhogo ya lekoko la sepolotiki e tshwanetse ya dira gore direkoto di nne teng kotara nngwe le nngwe; mme e boloke direkoto sebaka sa bobotlana dingwaga tse tlhano morago ga gore direkoto tse go buiwang ka tsone di dirwe.

<sup>4</sup> Molao wa Tlhabololo ya Thitloetso ya Phitlhelelo ya Tshedimosetso, No. 31 wa 2019

6.4.5 Seno se raya gore fa Molao wa Kettleetso ya Lekolo la Sepolotiki o tshwanela go tlhalosa kwa Komiting ya Ditlhopho, jaanong Molao wa tlhabololo ya **PAIA** 2019 o akaretsa gore mongwe le mongwe o na le tshwanelo ya go fitlhelela direkoto tsa dikatso dipe tse di fetang **R100 000.00**, tse di diretsweng lekoko leo.

6.5 Kokoanopeomolao e nngwe e e sireletsang tshwanelo ya phitlhelelo ya tshedimisetso

Gape **PAIA** e teng mo tikologong yotlhe ya semolao, e e diretsweng go dira “mokgwa wa tshiamiso”. Go lemoga seno, **PAIA** e bolela gore molao ope o mongwe o o nayang motho tsela ya go fitlhelela tshedimisetso e e sa tlhokeng go tseelwa matsapa a magolo go gaisa **PAIA**, o ka dirisiwa<sup>5</sup>.

6.5.1 Molao wa Dikhampani 71 wa 2008

6.5.1.1 Karolo 26(1) ya Molao wa Dikhampani e naya motho yo a nang le kgatlhego e e mosola mo ditshireletsong dipe tse di newang ke khampani e e dirang letseno, kgotsa yo e leng leloko la khampani e e sa direng letseno, o na le tshwanelo ya go tlhatlhoba le go dira khopi ya tshedimisetso e e leng mo direktong tsa khampani, kwantle ga dituediso dipe tsa tlhatlhobo eo kgotsa tuelo e e sa feteng tuediso e e kwa godimo e e batlegang ya khopi eo.

6.5.1.2 Go ya ka karolo 26(7)(b) ya Molao wa Dikhampani, “ditshwanelo tsa phitlhelelo ya tshedimisetso tse di tlhalositsweng mo karolong eno di tlaleletsa, mme ga di emisetse ditshwanelo dipe tse motho a ka nnang le tsone go fitlhelela tshedimisetso tebang le Molao wa Thotloetso ya Phitlhelelo ya Tshedimisetso, 2000 (Molao No. 2 wa 2000)”.

6.5.2 Molao wa Kettleetso ya Lekoko la Sepolotiki, 2018 (Molao No. 6 wa 2018)

6.5.2.1 Kettleetso ya Sepolotiki e simolola molao o o gagametseng wa bolaodi wa kettleetso ya poraefete ya mekgatlho yotlhe e e kwadisitsweng ya sepolotiki, o ka tswa o na le kemedi mo dikokoanopeomolaong tsa bosetšhaba le tsa porofense kgotsa nnyaa. Seno se akaretsa go baya ditekanyetso tsa motswedi, bogolo le tiriso ya madi a a abilweng ke makoko a sepolotiki.

6.5.2.2 Go tlhomamisa go se nne bofitlha le maikarabelo, makoko a sepolotiki a tshwanetse go senola madi otlhe a a amogetsweng a a fetang selekanyo sa madi a a amogetsweng a **R100 000.00** go Khomishene ya Ditlhopho ka metlha dikgwedi dingwe le dingwe tse tharo (mmogo le pele ga ditlhophokakaretso).

<sup>5</sup> Karolo 2(1) ya PAIA

- 6.5.2.3 Motho kgotsa mokgatlho ope o o nayang lekoko la sepolotiki madi a a fetang **R100 000.00** ka ngwaga o tshwanetse go bega madi ao kwa Khomisheneng ya Ditlhopho mo malatsing a le 30 a go aba madi kgotsa mo malatsing a le 30 a fa madi a a kokoantsweng a feta **R100 000.00**.
- 6.5.2.4 Sa bofelo, Molao wa Kettleetso ya Lekoko la Sepolotiki o rwea Khomishene ya Ditlhopho maikarabelo a gore dikgwedi dingwe le dingwe tse tharo e senole phatlalatsa madi a a begilweng ke makoko a sepolotiki le go bega ka ngwaga kwa Palamenteng ka madi otlhe a a neilweng makoko a sepolotiki mo ngwageng.
- 6.5.3 Molao wa Tshireletso ya Tshedimisetso ya Botho, 2013 (Molao No. 4 wa 2013)
- 6.5.3.1 Karolo 23 ya **POPIA** e naya mong wa tshedimisetso tshwanelo ya phitlhelelo ya tshedimisetso e e tshotsweng ke mokgatlho o o ikarabelelang, go akaretsa tshedimisetso ka boitshupo jwa batho botlhe ba boraro, kgotsa mefuta ya batho ba boraro ba ba nang kgotsa ba ba ileng ba nna le phitlhelelo ya tshedimisetso.
- 6.5.3.2 Seno se raya gore fa **PAIA** e sa akarediwa mo phitlhelong ya rekoto e e nang le tshedimisetso ya botho ka mokopatshedimisetso go ya ka Karolo 11(2), mong wa tshedimisetso a ka kopa -
- 6.5.3.2.1 phitlhelelo ya tshwanelo ya gagwe ya botho, le/kgotsa
- 6.5.3.2.2 boitshupo jwa batho botlhe ba boraro, le/kgotsa mefuta ya batho ba boraro ba ba nang kgotsa ba ba ileng ba nna le phitlhelelo ya tshedimisetso.
- 6.5.3.2.3 go baakanngwa kgotsa go phimolwa ga tshedimisetso ya botho ka mong wa tshedimisetso yo a e tshotseng kgotsa e e mo taolong ya gagwe e e sa nepang, e e sa tshwanelang, e e feteletseng, e e seng mo nakong, e e sa felelang, e e tsietsang kgotsa e e sa bonwang semolao; kgotsa
- 6.5.3.2.4 gore rekoto ya tshedimisetso ya gagwe ya botho e mokgatlho o o ikarabelelang o sa tlholeng o na le tetla ya go e tshola e senngwe kgotsa e phimolwe.
- 6.5.3.3 Mokgatlho o o ikarabelelang o ka gana go phasalatsa tshedimisetso epe ya botho e e kopiwang, go dumalana le mabaka a go gana ka phitlhelelo ya direkoto, jaaka go tlhalosiwa mo serapa 19.4 fa tlase.

#### 6.5.4 Molao 3 wa 2000 wa Thotloetso ya Tsamaiso ya Bosiamisi

- 6.5.4.1 Molao o mongwe o go leng botlhokwa go o gopola fa o akanyetsa phitlhelelo ya tshedimosetso ke Molao wa Thotloetso ya Tsamaiso ya Bosiamisi (**PAJA**). **PAJA** e thusa tshwanelo ya kgato ya botsamaisi e e leng mo molaong, e e utlwalang le e e sa gobeleteng le tshwanelo ya mabaka a a kwadilweng a kgato ya botsamaisi jaaka e tlhalosiwa mo karolo 33(2) ya Molaotheo<sup>6</sup>.
- 6.5.4.2 Go ya ka karolo 5(1) ya **PAJA**, motho ope yo ditshwanelo tsa gagwe di amilweng maswe ke kgato ya botsamaisi le yo a sa newang mabaka a kgato eo, mo malatsing a le 90 morago ga letlha le motho a itsileng kgato kgotsa a ka tswa a ne a lebeletswa gore o itse kgato eo, a ka kopa motsamaisi yo o amegang go naya mabaka a a kwadilweng a tshwetso eo. Mo malatsing a le 90 morago ga go amogela kopo, motsamaisi yo kopo e dirilweng mo go ene o tshwanetse go naya motho yoo mabaka a a utlwalang a a kwadilweng a kgato ya botsamaisi.

### 7. GO TLHOMIWA GA MOLAODI WA TSHEDIMOSETSO

- 7.1 Go tlhomamisa thotloetso le kgodiso ya maikaelelo a **PAIA**, a e leng go thusa ka tshwanelo eo ya phitlhelelo ya tshedimosetso ka mokgwa o o thusang batho go fitlhelela direkoto tsa mekgatlho ya puso le ya poraefete ka bonako le ka tsela e e tlhwatlhwatlase kafa go kgonegang ka gone, Molaodi wa Tshedimosetso ("Molaodi") o ne a tlhongwa go ya ka karolo 39 ya **POPIA**.
- 7.2 Go tlhomamisa gore mekgwa ya tsamaiso e e sa tlhakatlhakanang le e e tlhwatlhwatlase e a latelwa fa kopo ya phitlhelelo ya tshedimosetso e dirwa, dingongorego go Molaodi le dikopo tsa kgotlatshekelo e tshwanetse ya nna mabaka a a beelwang kwa thoko go na le molao.
- 7.3 **POPIA** e tlabolola seabe sa **SAHRC** tebang le taelo ya **PAIA**. Go tloga ka 30 Seetebosigo 2021, ditiro tsotlhe tsa **SAHRC**, jaaka di tlhalosiwa mo **PAIA**, di tla dirwa ke Molaodi, yo gape a nang le dithata tse di oketsegileng tsa go diragatsa.
- 7.4 Le fa **SAHRC** e santse e tla tswela e na le maikarabelo a yone a molaotheo go rotloetsa, go sireletsa le go tlhokomela ditshwanelo tse di akarediwang mo Molaong wa Ditshwanelo, **SAHRC** le Molaodi ba tla dirisana mmogo.

<sup>6</sup> Motho ope yo ditshwanelo tsa gagwe di amilweng maswe ke kgato ya botsamaisi o na le tshwanelo ya go newa mabaka a a kwadilweng.



## 8. SEABE SA MOLAODI WA TSHEDIMOSSETSO

- 8.1 Molaodi o na le seabe se se botlhokwa thata tebang le **PAIA**. Molaodi o laelwa ke **PAIA**, mo Karolo 4, Kgaolo 1A le Karolo 5 le dikarolo tse dingwe, go:
  - 8.1.1 rotloetsa tshwanelo ya phitlhelelo ya tshedimosetso le go thusa batho go dirisa **PAIA** moo go kgonegang go dira jalo,
  - 8.1.2 tlhokomela le go dirisiwa ga **PAIA** go ya pele ke mekgatlho ya puso le ya poraefete (se se akaretsang thotloetso ya ditsela tse di mosola go dira gore tshedimosetso e nne gone ka nako),
  - 8.1.3 dira dikatlenegiso tsa go nonotsha **PAIA**, le
  - 8.1.4 go bega ngwaga le ngwaga kwa Palamenteng.
- 8.2 Karolo 77C (1) le (2) ya **PAIA** e naya Molaodi dithata, maikarabelo le ditiro tse di latelang, go -
  - 8.2.1 batlisisa ngongorego e e dirilweng go Molaodi ka mokgwa o o tshwanetseng;
  - 8.2.2 romela ngongorego go Komiti ya Tiragatso e e tlhomilweng tebang le karolo 50 ya **POPIA**; kgotsa
  - 8.2.3 go dumalana le karolo 77D, swetsa go se tseye kgato ka ngongorego kgotsa jaaka go ntse, ga go tlhokege kgato e nngwe tebang le ngongorego; le
  - 8.2.4 fa go tshwanela, dira jaaka moletlanyi malebana le ngongorego eo ka mokgwa o o tshwanetseng.
- 8.3 Go ya ka karolo 77H(1) ya **PAIA**, Molaodi ka boene kgotsa ka kopo ya motlhankedi wa tshedimosetso kgotsa mo boemong jwa gagwe kgotsa tlhogo ya mokgatlho wa poraefete kgotsa motho ope yo mongwe, a ka dira tlhatlhobo ya gore a mokgatlho wa puso kgotsa wa poraefete o tsamaisana le dipatlafalo tsa **PAIA**, tebang le dipholisi le tiragatso ya tsamaiso ya yone.
- 8.4 Go ya ka karolo 77F ya **PAIA**, Molaodi o na le dithata tsa go tsaya matsapa otlhe go rarabolola ngongorego, fa e tswa mo ngongoregong, kgotsa karabo epe e e kwadilweng e e dirilweng malebana le gore go ka kgonega go rarabolola ngongorego. Seno se raya gore Molaodi a ka leka fela go thusa mekgatlho go rarabolola dikgotlhang tsa tsone, fa go na le ngongorego e e tlhatlhetsweng le Molaodi, kwantle ga fa ka boene a sweditse go dira tlhatlhobo, jaaka go bontshitswe mo serapa 8.3 fa godimo.

## 9. GO DIRA KOPO YA GO BONA REKOTO

Tsweetswee leba tšhate ya tsamaiso ya kgato ka kgato mo serapa 27 fa tlase, go bona gore o ka kopa jang phitlhelelo ya direkoto.

### 9.1 Go simolola: **Dibukana tsa Ditaelo tsa PAIA**

- 9.1.1 Le fa Kaedi eno e gatisitswe go thusa batho botlhe go diragatsa tshwanelo ya bone ya molaotseo ya phitlhelelo ya tshedimoseo, go na le metswedi e mengwe ya tshedimoseo e le yone e ka thusang motho go dira kopo ya phitlhelelo ya direkoto. **PAIA** e batla gore mekgatlho yotlhe ya puso le ya poraefete, e kgobokanye le go dira gore bukana ya ditaelo ya **PAIA** e nne gone<sup>7</sup>.
- 9.1.2 Pele motho ope a tsaya dikgato tsa go fitlhelela tshedimoseo kgotsa direkoto tsa mokgatlo o o rileng, Bukana ya Ditaelo ya **PAIA** ke sedirisiwa sa ntlha se a tshwanetseng go se bala.
- 9.1.3 Tota re ka re, bukana ya ditaelo ya **PAIA** e mosola gore motho a:
  - 9.1.3.1 lebe mofuta wa direkoto tse di ka tswang di setse di le gone kwantle ga go tlhoka go romela kopo ya semmuso ya **PAIA**;
  - 9.1.3.2 tlhaloganye tsela ya go dira kopo ya phitlhelelo ya tshedimoseo e e tshotsweng ke mokgatlo o o rileng;
  - 9.1.3.3 fitlhelele dintlha tse di tshwanelang tsa go ikgolaganya tsa motho yo a thusang batho ka direkoto tse motho ope a ikaelelang go di fitlhelela;
  - 9.1.3.4 itse ditharabololo tsotlhe tse di leng teng mo mokgatlong o phitlhelelo ya direkoto e kopiwang ka one, pele a atamela Molaodi kgotsa Dikgotlatshekelo;
  - 9.1.3.5 itse tlhaloso ya ditirelo tse di leng teng go maloko a morafe mo mokgatlong le tsela ya go fitlhelela ditirelo tseo;
  - 9.1.3.6 itse fa mokgatlo o tla dirisa tshedimoseo ya botho, boikaelelo jwa go dirisa tshedimoseo ya botho le tlhaloso ya mefuta ya beng ba tshedimoseo le ya tshedimoseo kgotsa mefuta ya tshedimoseo e e amanang le yone;
  - 9.1.3.7 itse fa mokgatlo o rulagantse go romela kgotsa go dirisa tshedimoseo ya mongwe ya botho kwa ntle ga Repaboliki ya Afrika Borwa; le

<sup>7</sup> Section 14 and section 51 of PAIA

9.1.3.8 go itse gore a mokgatlho o na le mekgwa e e tshwanelang ya pabalesego go tlhomamisa bosephiri, go ikanyega le go nna gone ga tshedimosetso e e tshwanetseng go dirisiwa.

## 9.2 O ka bona kae dibukana tsa ditaelo tsa PAIA?

9.2.1 Bukana ya Ditaelo ya **PAIA** ya mekgatlho ya puso

9.2.1.1 Mekgatlho yotlhe ya puso e tshwanetse ya dira gore Bukana ya Ditaelo ya **PAIA** e nne teng ka bobotlana dipuo tse tharo tsa semmuso<sup>8</sup>.

9.2.1.2 Totatota, di tshwanetse go dira gore khopi ya Bukana ya Ditaelo ya **PAIA** e nne teng mahala, kwantle ga fa go kopiwa khopi e e porintilweng

9.2.1.2.1 mo webosaeteng ya mokgatlho wa puso;

9.2.1.2.2 kwa ntlokgolo ya mokgatlho wa puso gore e sekasekwe ka diura tse di tlwaelegileng tsa tiro;

9.2.1.2.3 fa motho a batla khopi e e porintilweng, mokgatlho wa puso o tshwanetse go e dira, mme o ka kopa tuelo ya tlhwatlhwa e e tshwanelang ya go dira khopi e e porintilweng; le

9.2.1.3.4 go Molaodi fa o kopa.

9.2.2 Dibukatsa tsa Ditaelo tsa **PAIA** tsa mekgatlho ya poraefete

9.2.2.1 Mekgatlho ya poraefete le yone e tshwanetse go dira bukana ya ditaelo ya **PAIA**<sup>9</sup>, mme ga go na patlafalo ya go e rulaganya mo dipuong tse di fetang e le nngwe kgotsa ka puo e e rileng, le fa go atlenegisiwa gore Dibukana tsa Ditaelo tsa **PAIA** tsa mekgatlho ya poraefete di tshwanetse go nna ka Seesemane. Fa mokgatlho o o rileng o naya batho ba bantsi ba ba sa rutegang ditirelo, Molaodi o atlenegisa gore bukana ya ditaelo ya mokgatlho oo le yone e ka nna ka puo e nngwe ya semmuso.

9.2.2.2 Totatota, mekgatlho ya poraefete e tshwanetse go dira khopi ya Bukana ya Ditaelo ya **PAIA** mahala<sup>10</sup>, kwantle ga fa go kopiwa khopi e e porintilweng

9.2.2.2.1 mo webosaeteng ya mokgatlho wa poraefete;

9.2.2.2.2 kwa lefelong la konokono la kgwebo ya mokgatlho wa poraefete go tlhatlhabiwa ka diura tse di tlwaelegileng tsa tiro;

<sup>8</sup> Karolo 14(1) ya PAIA

<sup>9</sup> go ya ka karolo 51 ya PAIA

<sup>10</sup> Karolo 51(3) ya PAIA

9.2.2.2.3 fa motho a batla khopi e e porintilweng, mokgatlho wa poraefete o tshwanetse go e dira, mme o ka kopa tuelo ya madi a a tshwanelang a go newa kopi e e porintilweng le

9.2.2.2.4 go Molaodi fa e kopiwa.

9.2.3 Tona ya Tshiamiso le Ditirelo tsa Kgopololo e na le dithata tsa go beela kwa thoko<sup>11</sup> mekgatlho mengwe ya poraefete kgotsa mefuta ya mekgatlho ya poraefete mo maikarabelelong a go dira bukana ya ditaello. Ga jaana, le go fitlha ka 31 Sedimonthole 2021, Tona e beetse thoko<sup>12</sup> mekgatlho yotlhe ya poraefete, kwantle ga khampani epe e e -

(a) seng khampani ya poraefete jaaka go tlhalosiwa mo karolo 1 ya Molao wa Dikhampani, 2008 (Molao No. 71 wa 2008); le

(b) leng khampani ya poraefete jaaka go tlhalosiwa mo karolo 1 ya Molao wa Dikhampani, 2008 (Molao No. 71 wa 2008) o o dirang mo ditheong dipe tse di umakilweng mo go kholomo 1 ya thulaganyo ya Kitsiso eno mme -

(i) e na le badiri ba le 50 kgotsa go feta; kgotsa

(ii) e na le palogotlhe ya letseno la ngwaga le ngwaga le le lekanang kgotsa le le fetang tlhwatlhwa e e tshwanelang e e umakiwang mo kholomo 2 ya lenaane le le fa tlase,

mo go direng bukana ya ditaello e go buiwang ka yone mo karolo 51(1) ya Molao o o umakilweng la ntlha ka lobaka lwa dikgwedi tse thataro (6) go tloga ka **1 Phukwi 2021** go fitlha ka **31 Sedimonthole 2021**: -

Setheo	Letseno la ngwaga le ngwaga
Temothuo	R6 milione
Meepo le Dikwari	R22.5 milione
Madirelo	R30 milione
Motlakase, Gase le Metsi	R30 milione
Dikago	R15 milione
Thekiso le Kgwebo ya Dikoloi le Ditirelo tsa go Baakanya	R45 milione
Thekisetso dikgwewe, Baemedi ba Kgwebo le Ditirelo tse di Amanang	R75 milione
Kgwebo ya Dijo, Bonno le Kgwebo e Nngwe	R15 milione
Dipalangwa, Bobolokelo le Dipuisano	R30 milione
Ditirelo tsa Matlole le Kgwebo	R30 milione
Ditirelo tsa Morafe, tse di Kgethegileng le tsa Botho	R15 milione

<sup>11</sup> Karolo 51(4) ya PAIA

<sup>12</sup> Lekwalodikgang la Puso no: 39504, 11 Sedimonthole 2015

- 9.2.4 Ka ntlha ya botlhokwa jwa tlhokego ya peomolao go dira Bukana ya Ditaello ya **PAIA**, segolobogolo tlhabololo<sup>13</sup> ya karolo 51 ya **PAIA** (e e simololang go dira ka 30 Seetebosigo 2021), tebang le gore tshedimosetso ya bukana ya molao e tshwanetse go akaretse eng e okeditswe go akaretse dikgang tse di amanang le **POPIA**, mekgatlho ya poraefete e tla tshwanela gore le yone e dire bukana ya ditaello ya **PAIA**. Ka gone, go tloga ka, 1 Ferikgong 2022, mekgatlho mongwe le mongwe wa poraefete le wa puso o tla tshwanela go nna le Bukana ya yone ya Ditaello ya **PAIA**, jaaka go tlhalositswe mo serapa 9.2.2.2 fa godimo.
- 9.2.5 Go se akarediwe ka dikhampani tsa poraefete mo maikarabelelong a go dira bukana ya ditaello ya **PAIA** ga go dire gore dikhampani tseo di se ikobele **PAIA**. Seno se raya gore motho ope o santse a ka romela kopo ya phitlhelelo ya tshedimosetso go se akarediwe mo mekgatlhong wa poraefete. Go se akarediwe go raya fela gore dikhampani tseo tsa poraefete ga di tlhoke go dira bukana ya ditaello ya **PAIA**.
- 9.2.6 Gape gakologelwa gore ga se mekgatlho yotlhe ya poraefete e e leng dikhampani, jaaka tlhaloso ya mekgatlho wa poraefete e akaretse motho wa tlhago, mong yo o nosi le semphato. Mme gone, go santse go ka nna botlhokwa go leba webosaete ya tsone, gone dikhampani dingwe di dira bukana ya ditaello ya **PAIA** go sa kgathalesege palo ya badiri ba tsone kgotsa lotseno lwa tsone lwa ngwaga le ngwaga.

### 9.3 Phasalatso ya boithatelo le go nna teng ga direkoto dingwe ka go itiragalela

- 9.3.1 Direkoto tse di leng teng ka go itiragalela ke tse mekgatlho wa puso kgotsa wa poraefete o di ntshang kwantle ga gore mokopatshedimosetso a tshwanele go romela kopo ya **PAIA** (ka mafoko a mangwe, motho a ka e kopa fela kwantle ga go tlatsa Foromo 2 ya **PAIA**).
- 9.3.2 Go ya ka karolo 15(1) ya **PAIA**, Motlhankedi wa Tshedimosetso wa mekgatlho wa puso o tshwanetse go dira gore lenaane kgotsa mefuta ya direkoto tse di nnang teng ka go itiragalela di nna gone, jaaka go tlhalosiwa mo serapa 9.3.4 fa tlase.
- 9.3.3 Direkoto tsa mekgatlho wa puso tse di nnang teng ka go itiragalela le tsone di ka dirwa gore di nne gone, go ya ka karolo 52(1) ya **PAIA**, mme ka boithaopo go dumalana le serapa 9.3.4 fa tlase.
- 9.3.4 Tlhaloso ya mefuta ya direkoto tse di nnang teng ka go itiragalela di tshwanetse go dirwa gore di nne gone -
- (a) go Molaodi wa Tshedimosetso;
  - (b) mo webosaeteng ya mekgatlho; le
  - (c) go tlhatlhabiwa, kwa dikantorong tsa mekgatlho o o amegang ka dinako tse di tlwaelegileng tsa tiro.

<sup>13</sup> Karolo 110 ya POPIA

- 9.3.5 Tsweetswee ela tlhoko gore Molaodi o tla tsenya tlhaloso ya direkoto tsa mokgatlho wa puso tse di leng teng ka go itiragalela mo webosaeteng ya gagwe.
- 9.3.6 Lenaane leno le akaretsa direkoto tse di ka tshwanelang go dirwa gore di nne gone ke melao mengwe, le direkoto dipe tse dingwe tse mokgatlho o tlhophang go di akaretsa. Go tla kang ya go tsamaisana le thulaganyo ya kopo ya **PAIA**, mokopatshedimose tso o gakololwa go leba Bukana ya Ditaelo ya **PAIA** ya mokgatlho o o amegang wa puso kgotsa wa poraefete. Fa motho a ka elets a go fitlhelela direkoto tse di welang mo lenaaneng la mokgatlho la direkoto tse di leng teng ka go itiragalela, motho yoo a ka kopa fela phitlhelelo ya tsone kwantle ga go tshwanelwa ke go tlatsa Foromo 2 ya **PAIA**.
- 9.3.7 Molao 6 wa 2018 wa Kettleetso ya Lekoko o dira diphetogo dingwe mo **PAIA**, tebang le gore ditlhogo tsa makoko a sepolotiki di tshwanetse go rekota le go boloka direkoto tsa dikatso tsa poraefete, tse di tla tshwanelang go dirwa phatlalatsa kwantle ga gore motho a tlhatlhele kopo ya **PAIA**.

## 10. DINTLHA TSA GO IKGOLAGANYA TSA BATLHANKEDI BA TSHEDIMOSE TSO

- 10.1 Le fa dintlha tsa go ikgolaganya tsa Batlhankedi ba Tshedimose tso ba mokgatlho mongwe le mongwe wa puso di tshwanetse go gatsiwa mo bukeng nngwe le nngwe ya megala go ya ka karolo 16 ya **PAIA**, Molaodi o na le dintlha tse di rileng tsa go ikgolaganya tsa Batlhankedi botlhe tsa Tshedimose tso (go akaretsa Batlatsa Batlhankedi ba Tshedimose tso, ba ba tlhophilweng go ya ka karolo 17 le 56 ya **PAIA** le **POPIA**) tse di kwadisiwetsweng go ya ka karolo 55(2) ya **POPIA**.
- 10.2 Le fa gantsi go bona dintlha tse di nepileng tsa go ikgolaganya e ka nna kgwetlho e kgolo ya go dira kopo ya **PAIA**, gonne diabe di fetoga kgapetsakgapetsa mo setheong sa puso mme bukana ya ditaelo ya **PAIA** e ka nna ya bo e se ya bosheng, lefelo la ntlha go bona dintlha tsa go ikgolaganya e tshwanetse ya nna Bukana ya Ditaelo ya mokgatlho ya **PAIA**. Le fa go ntse jalo, fa mokopatshedimose tso a sa kgone go bona bukana ya ditaelo, go lelets a switchboard ya mokgatlho go kopa dintlha tse di maleba le gone go ka thusa.
- 10.3 Mo Dimmasepaleng, Mokgatlho wa Afrika Borwa wa Pusoselegae (**SALGA**) o tsenya dintlha tsa go ikgolaganya tsa Dimmasepala tso tlhe mo linking eno: <http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Puisano ya Puso le yone e naya dintlha tsa go ikgolaganya tsa bosetšhaba le tsa porofense, mmogo le dintlha tsa go ikgolaganya tsa Ditlamo tse e leng tsa Puso mo linking eno: <https://www.gov.za/about-government/contact-directory>. Ka metlha gakologelwa gore tlhaloso ya Motlhankedi wa Tshedimose tso e thusa go lemoga gore go tlhokega dintlha tsa ga mang tsa go ikgolaganya go lemoga Motlhankedi wa Tshedimose tso.

## 11. THULAGANYO YA GO DIRA KOPO YA GO BONA TSHEDIMOSSETSO

### 11.1 11.1 Diforomo tsa kopo

11.1.1 Kopo ya phitlhelelo ya tshedimose tso e ka dirwa mo mekgatlhong ya puso le ya poraefete.

11.1.2 **PAIA** e batla gore fa o dira kopo e e ntseng jalo, o tshwanetse go romela kopo ka diforomo tse di batlegang (diforomo tseno di tlhalosiwa ke Melawana). Go na le diforomo tse pedi tse di ka dirisiwang fa o batla phitlhelelo ya tshedimose tso:

Foromo 2	Foromo 4
Foromo eno e ka dirisiwa fela fa o batla go kopa phitlhelelo ya direkoto tsa mokgatlo wa puso kgotsa wa poraefete.	Formo eno e ka dirisiwa fela fa o batla go romela boikuelo jwa mo teng kgatlhanong le ditshwetso tsa Batlhankedi ba Tshedimose tso kgotsa tsa Batlhankedi ba Tshedimose tso ba Karolo ya Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae e e tshwanelwang ke boikuelo jwa mo teng.

11.1.3 Diforomo tseno di ka bonwa mo webosaeteng ya Molaodi mo <https://www.justice.gov.za/infoereg/>

### 11.2 Go swetsa gore a kopo e amana le tshedimose tso e e tshotsweng ke mokgatlo wa poraefete kgotsa wa puso

11.2.1 Mokgatlo wa puso o dira tiro ya puso, jaaka go tlamela batho ka motlakase kgotsa metsi. Ka jalo, mokgatlo wa puso ga se fela Lefapha la Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae– o akaretsa ditlamo tse e leng tsa puso kgotsa Makala a Puso a a jaaka Molaodi, Eskom, kgotsa PRASA, mme gone, go tshwanetse ga dirwa pharologanyo malebana le mokgatlo wa puso wa boikaelelo jwa boikuelo jwa mo teng, e e kayang fela Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae.

11.2.2 Mokgatlo wa poraefete o dira tiro ya poraefete. Mokgatlo oo (o e ka nnang motho) o dira kgwebisano, kgwebo kgotsa boitseanape. Go botlhokwa thata go ela tlhoko gore fa o romela kopo ya **PAIA** go mokgatlo wa poraefete, o tshwanetse go bontsha gore ke tshwanelo efe e o e sireletsang kgotsa o e dirisang ka go kopa tshedimose tso eno. Malebana le tshedimose tso epe e e tshotsweng ke motho yo mongwe, Streicher JA o sobokantse boemo ka tsela e e latelang, mo **Cape Metropolitan Council v Metro Inspection Services (Western Cape) CC and Others**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) ser 28 mo 1026F–G



*“Tshedimosetso e ka batlega fela go diragatsa kgotsa go sireletsa tshwanelo fa e le gore e tla thusa mo go diragatseng kgotsa go sireletsa tshwanelo. A latela seo, go dira kgetsi ya phitlhelelo ya tshedimosetso tebang le karolo 32, modirakopo o tshwanetse go bontsha gore ke tshwanelo efe e a eletsang go e diragatsa kgotsa go sireletsa, gore tshedimosetso e e batlegang ke efe le gore tshedimosetso eo e tla mo thusa jang go diragatsa kgotsa go sireletsa tshwanelo eo”.*

11.2.3 Ka dinako dingwe kgang ya gore a rekoto ke ya puso kgotsa ya poraefete e ka tlhakatlhakana mme batho ba gakolokwa go batla thuso ya semolao. Ka sekai, fa mokgatlho wa puso o tlhoma mokgatlho wa poraefete go rebola ditirelo dingwe mo boemong jwa yone, jaaka go tsenngwa ga dimmetara tsa metsi mo mafelong mangwe, phitlhelelo ya palo ya dimmetara tse di tseentsweng e tla tsewa e le tshedimosetso ya mokgatlho wa puso, le fa gone tshedimosetso eo e tshotswe ke mokgatlho wa poraefete.

11.3 Motho o tlhalosa jang tshwanelo e a solofelang go e diragatsa kgotsa go e sireletsa?

11.3.1 Fa motho a tlhalosa gore ke tshwanelo efe e a solofelang go e dirisa fa a dira kopo go mokgatlho wa poraefete, a ka se bue ka tshwanelo ya phitlhelelo ya tshedimosetso. O tshwanela go tlhalosa gore rekoto e a e kopang e batlega jang go sireletsa kgotsa go diragatsa tshwanelo e nngwe. Seno se ka akaretsa ditshwanelo tse e seng ditshwanelo tsa molaotheo fela.

11.3.2 Ka sekai mongwe a ka batla maano a konokono a khampani e e nang le bokgoni jwa go ama selekanyo sa kgotlelo mo morafeng, go thusa go sireletsa tshwanelo ya gagwe mo tikologong ka go ela tlhoko ditiro tsa yone. Kgotsa a ka batla direkoto tse di tla mo thusang go bona gore a o na le tshwanelo ya go tlhatlhela ngongorego ya semolao kgatlanong le setlamo. Ka jalo o tlhoka go:

11.3.2.1 Bontsha ka tshamalalo tshwanelo e a solofelang go e sireletsa go e diragatsa, le go

11.3.2.2 Tlhalosa sentle gore ke eng fa rekoto e a e kopang e batlega go mo thusa ka tshwanelo eo.

11.3.3 Go farologana le seo, fa motho a romela kopo ya **PAIA** kwa mokgatlhong wa puso, ga a tlhoke go nna le lebaka la go kopa tshedimosetso.

## 12. KE MANG A KA DIRANG KOPO YA PAIA?

12.1 Mongwe le mongwe, e ka tswa e le Moafrika Borwa kgotsa e se ene, o letlwa go dira kopo ya **PAIA**. Mokopatshedimosetso e ka nna motho wa tlhago kgotsa mankge mo go tsa molao.

12.2 Mokgatlho wa puso e tsewa e le mankge mo go tsa molao mme o ka dira kopo ya phitlhelelo ya direkoto tse di tshotsweng ke mekgatlho ya poraefete, mme fela fa mokgatlho wa puso o -

12.2.1 direla mo dikgatlhegong tsa baagi, le

12.2.2 fa direkoto di batlega go diragatsa kgotsa go sireletsa ditshwanelo dipe kwantle ga tsa mokgatlho wa puso.

12.3 Mo **PAIA** mokopatshedimisetso a ka se kope phitlhelelo ya rekoto ya mokgatlho wa puso e e nang le tshedimisetso ya botho ka mokopatshedimisetso wa mokgatlho wa puso<sup>15</sup>, mme gone, go ya ka karolo 23(1)(b) ya **POPIA**, mokopatshedimisetso kgotsa mong wa tshedimisetso a ka kopa kwa lekokong le le ikarabelelang rekoto kgotsa tlhaloso ya tshedimisetso ya botho ka mong wa tshedimisetso e e tshotsweng ke lekoko le le ikarabelelang. Seno se raya gore motho ope a ka kopa phitlhelelo ya tshedimisetso ya gagwe ya botho e e tshotsweng ke mokgatlho wa puso kgotsa wa poraefete ka tlagiso ya bosupi jo bo lekaneng jwa boitshupo. Tshedimisetso ya botho e mokopatshedimisetso a ka e kopang go mokgatlho o o ikarabelelang e ka akaretsa tshedimisetso ka boitshupo jwa batho botlhe ba boraro, ba ba nang kgotsa ba ba ileng ba fitlhelela tshedimisetso.

12.4 Go ya ka karolo 50(1) ya **POPIA**, mongwe le mongwe a ka kopa phitlhelelo ya rekoto ya mokgatlho wa poraefete, e e nang le tshedimisetso ya botho ka mokopatshedimisetso kgotsa motho yo a direlwang kopo.

### 13. KOPO E KA DIRWA MO GO MANG?

13.1 Motlhankedi wa Tshedimisetso wa mokgatlho wa puso o tshwanetse go tlhopha Mo(ba)tlatsa Motlhankedi wa Tshedimisetso, yo a tla tlhomamisang gore phitlhelelo ya direkoto tsa mokgatlho wa puso di fitlhelega ka fa go ka kgonegang ka gone. Le fa seno e ne e se patlafalo tebang le mokgatlho wa poraefete kafa tlase ga **PAIA**, mokgatlho wa poraefete o ka tlhopha Motlatsa Motlhankedi wa Tshedimisetso yo a umakilweng fa godimo, go ya ka karolo 56 ya **POPIA**.

13.2 Le fa kopo ya phitlhelelo ya tshedimisetso e ka romelwa Motlhankedi wa Tshedimisetso, e ka romelwa go Motlatsa Motlhankedi wa Tshedimisetso. Dintlha tsa Mo(ba)tlatsa Motlhankedi wa Tshedimisetso di ka bonwa mo bukaneng ya ditaelo ya **PAIA** ya mokgatlho oo kgotsa go Molaodi.

### 14. GO TLATSA FOROMO

14.1 Foromo 2 – kopo ya phitlhelelo ya rekoto ya mokgatlho wa puso kgotsa wa poraefete:

14.1.1 Go tlatso foromo ya **PAIA**, motho o tshwanetse go naya dintlha tse di lekaneng go letla Motlhankedi wa Tshedimisetso kgotsa Motlatsa Motlhankedi wa Tshedimisetso go lemoga direkoto tse mokopatshedimisetso a di batlang.

<sup>15</sup> Karolo 11(2) ya PAIA

- 14.1.2 Melawana ya **PAIA** e tshalosa foromo e e tshwanetseng go dirisiwa, e e tshwanetseng go romelwa Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso wa mokgatlo.
- 14.1.3 Bakopatshedimosetso ba ba sa kgoneng go bala kgotsa go kwala ba ka kopa ka molomo go Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso wa mokgatlo wa puso, yo a nang le maikarabelelo a go tlatsa foromo 2 mo boemong jwa mokopatshedimosetso. Foromo ya ga jaana e tla go batla gore o tlatse dikarolo tse di latelang:

<b>Tshedimosetso e e batlegang</b>	<b>Tlhaloso</b>
<b>Dintlha tsa mokgatlo wa puso / poraefete</b>	Karolo eno e tshwanetse go nna le imeile le nomoro e e siameng ya fekese ya Motlhankedi wa Tshedimosetso le/kgotsa Motlatsa Motlhankedi wa Tshedimosetso.
<b>Dintlha tsa motho yo a kopang phitlhelelo ya direkoto</b>	Eno e tshwanetse go nna le tshedimosetso e e lekaneng ka mokopatshedimosetso go dira gore go nne motlhofo go lemoga mokopatshedimosetso, go akaretsa dintlha tsa go ikgolaganya tsa mokopatshedimosetso: aterese ya poso, aterese ya imeile, fekese le/kgotsa nomoro ya mogala ya Afrika Borwa. Gape e batla nomoro ya gago ya boitshupo go netefatsa boitshupo jwa gago. Fa o kopa tshedimosetso mo boemong jwa motho yo mongwe, o tshwanetse wa naya bosupi jwa maemo a o dirang kopo o le mo go one (jaaka 'motho yo a letleletsweng semolao').
<b>Dintlha tsa rekoto e e kopilweng</b>	Naya dintlha tse di feletseng tsa rekopo e go kopiwang phitlhelelo ya yone, go akaretsa nomoro tshupetso fa o e itse, go thusa gore rekoto e bonwe. (Fa karolo e e neetsweng e sa lekana, tsweetswee tswelala mo tsebeng e nngwe mme o e manege mo foromong. Ditsebe tsotlhe tse di oketsegileng di tshwanetse go saeniwa.
<b>Mofuta wa rekoto</b>	Eno e tshwanetse ya nna le tshedimosetso e e lekaneng ka rekoto go dira gore go nne motlhofo go e bona. Fa tshedimosetso e e batlegang e ka se kgone go lekana mo karolong e e neetsweng mo foromong, tsebe e nngwe e go kwadilweng ka go tlanya kgotsa ka letsogo

## Tshedimosetso e e batlegang

## Tlhaloso

mo go yone e ka dirisiwa go naya dintlha tse di oketsegileng tsa kopo, fa tsebe nngwe le nngwe e e oketsegileng e sainilwe mme e manegilwe mo foromong ya kopo. Ka sekai, o ka akaretsa ntlha e e tswang mo pegong kgotsa mo dikgannyeng tse di supang rekoto e o e batlang. E go letla go akaretsa nomoro tshupo ya rekoto, fa seno se tshwanela.

## Dituelo

Mokgatlho, o mokopatshedimosetso a ikaelelang go romela kopo ya phitlhelelo kwa go one, go akaretsa rekoto e e nang le tshedimosetso ya botho ka ene, o ka go kopa gore o duele tuelo e e batlegang (tuelo ya go bona rekoto) kgotsa dipositi, mme tlhwatlhwa eo ga ya tshwanela go nna ntsi, gonne dituelo di tshwanetse go tsamaisana le nako e e batlegang go senka le go baakanya rekoto. Tona ka kitsiso mo Lekwalodikgang e ka beela thoko dituelo jaaka go bontshitswe mo serapa 51.1 fa tlase.

Go na le karolo e e newang gore mokopatshedimosetso a bontshe gore ke eng a dumela gore ga a tshwanela go duela dituelo dipe. Ka sekai, lebaka le ka akaretsa gore ga a bereke.

## Foromo ya phitlhelelo ya rekoto

Karolo eno e go letla go tshwaya ka "X" dilo tse o di ratang mo foromong ya phitlhelelo ya direkoto e ka newa e le khopi e e porintilweng ya rekoto le/kgotsa flash drive le/kgotsa compact disc drive.

## Mokgwa wa phitlhelelo

Mo karolong eno o tshwanetse wa bontsha dilo tse o di ratang tebang le gore rekoto e tshwanetse ya nna ka leleme lefe (seno se ka nna sa se kgonege mo direktong tsotlhe, mme o santse o tshwanela go bontsha se o se ratang).

Mokgwa wa phitlhelelo ya rekoto o ka lebisa mo go ganweng ga phitlhelelo ka ntlha ya dituelo tse di kwa godimo. Ka sekai, fa mokopatshedimosetso a batla

## Tshedimosetso e e batlegang

## Tlhaloso

setlankana ka puo e o e ratang, dituelo tsa go fetolela ditlankana go puo e o e ratang di tshwanetse go duelwa. Le fa go ntse jalo, fa rekoto e seyo ka puo e o e ratang, phitlhelelo e ka newa ka puo e rekoto e leng teng ka yone. Mokgwa wa phitlhelelo ya rekoto o ka akaretsa tshakatsheko ya botho ya rekoto, rekoto e e romelwang ka imeile, kgotsa ka fekese kgotsa ka thomelo kgotsa ka poso.

## Kitsiso ya tshwetso malebana le go kopa phitlhelelo

Go newa karolo gore mokopatshedimosetso a tlhalose mokgwa o a eletsang gore a itsisiwe ka tshwetso ya go dumela kgotsa go gana kopo. Ka sekai mokopatshedimosetso a ka bontsha gore o batla go ikgolaganngwe le ene ka imeile kgotsa ka mogala kgotsa gore a ka romelwa karabo ka poso kgotsa ka thomelo.

## Dintlha tsa tshwanelo e e tshwanetseng go dirisiwa kgotsa go sirelediwa

Fa mokopatshedimosetso a kopa tshedimosetso go mokgatlho wa poraefete, o tshwanetse go tlhalosa "dintlha tsa tshwanelo e e tshwanetseng go dirisiwa kgotsa go sirelediwa". Fano o tshwanetse go bontsha tshwanelo e a ikaegang ka yone (jaaka tshwanelo ya gagwe ya go nna mo tikologong e e itekanetseng) le gore rekoto e a e kopang e tla go thusa jang go dirisa kgotsa go sireletsa tshwanelo eo. O tshwanetse go bontsha kamano fa gare ga rekoto e a e batlang, le go diragatsa kgotsa tshireletso ya tshwanelo eo.

Ka maswabi, go farologana le kopo ya phitlhelelo ya rekoto go mokgatlho wa puso, a ka se fitlhelele rekoto ya mokgatlho wa poraefete kwantle ga fa a bontsha (di)tshwanelo e a ikaeletseng go e sireletsa kgotsa go e diragatsa fa phitlhelelo ya tshedimosetso e ka newa. Seno se ka akaretsa ntlha ya gore morago ga go fitlhelela direkoto, o tla diragatsa tshwanelo ya gagwe go lekana le tshireletso le mosola wa molao<sup>16</sup> ka go duedisa mokgatlho oo madi a ditshenyegelo a a ka tswang a mo latlhegetse.

<sup>16</sup> Karolo 9(1) ya molatheo wa Repaboliki ya Afrika Borwa, Molao 108 wa 1996

14.1.4 Fa ka ntlha ya lebaka lepe kopo ya gagwe e sa tsamaisane le dipatlafalo tse di kwadilweng fa godimo, Motlhankedi wa Tshedimosetso a ka nna a se gane kopo ya gagwe fela, kwantle ga fa a itsisitse mokopatshedimosetso kgore o ikaelela go gana kopo mme mabaka a neilwe. Gape Motlhankedi wa Tshedimosetso o tshwanetse go itsise gore o tla thusa mokopatshedimosetso kgotsa a mo neye tshono ya go baakanya phoso.

## 15. DITUELO TSE DI AMEGANG

15.1 Ka kakaretso, dituelo di tshwanetse go duelwa fa o dira kopo, mme gape go duela ditshenyegelo tsa go naya phitlhelelo ya direkoto tebang le kopo. Mme gone, go na le maemo mangwe a di sa tshwaneleng mo go one. Fa mokopatshedimosetso a newa phitlhelelo ya direkoto tse a di kopileng mme a tshwanela go duela dituelo, jaaka go bontshiwe mo serapa 15.2 fa tlase, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso wa mokgatlho wa puso kgotsa wa poraefete a ka batla dituelo tse di batlegang tse di amanang le dilo tse di latelang -

**ELA TLHOKO: Dituelo tse di duelwang Mekgatlho ya Puso le ya Poraefete di ka bonwa mo webosaeteng ya Molaodi.**

### Tlhaloso

- 1 Tuelo ya go dira kopo e e tshwanetseng go duelwa ke mokopatshedimosetso mongwe le mongwe
- 2 Fotokhopi ya tsebe ya bogolo jwa A4
- 3 Khopi e e gatisitsweng ya tsebe ya bogolo jwa A4
- 4 Khopi e e balegang mo khomputareng mo:
  - (i) Flash drive (e newe ke mokopatshedimosetso)
  - (ii) Compact disc
    - Fa e newa ke mokopatshedimosetso
    - Fa mokopatshedimosetso a e newa
- 5 Go gatisiwa ga ditshwantsho mo tsebeng nngwe le nngwe ya bogolo jwa A4
- 6 Khopi ya ditshwantsho
- 7 Go gatisiwa ga rekoto ya mantswe, mo tsebeng nngwe le nngwe ya bogolo jwa A4
- 8 Khopi ya rekoto ya mantswe mo:
  - (i) Flash drive (e newe ke mokopatshedimosetso)
  - (ii) Compact disc
    - Fa e newa ke mokopatshedimosetso
    - Fa mokopatshedimosetso a e newa
- 9 Go batla le go baakanya go phasaladiwa ga rekoto ura nngwe le nngwe kgotsa bontlhanngwe jwa ura, kwantle ga ura ya ntlha, e tshwanetse go duelelwa go batla le go baakanngwa jalo.  
Ga ya tshwanela go feta palogotlhe ya ditshenyegelo tsa
- 10 Dipositi: Fa go batla go feta diura tse 6
- 11 Poso, imeile kgotsa thomelo epe e nngwe ya ileketeroniki

15.2 Mokopatshedimisetso ga a tshwanela go duela mokgatlho wa puso dituediso tsa go bona rekoto<sup>17</sup> fa:-

15.2.1 A sa nyala mme letseno la gagwe la ngwaga, morago ga dikgogo tse di dumeletsweng, tse di jaaka **PAYE** le **UIF**, le le kwa tlase ga **R14 712.00** ka ngwaga, kgotsa

15.2.2 A nyetse mme letseno la gagwe le molekane wa gagwe, morago ga dikgogo tse di dumeletsweng, tse di jaaka **PAYE** le **UIF**, le le kwa tlase ga **R27 192.00** ka ngwaga.

15.3 Tsweetswee ela tlhoko gore mo go Foromo 4 ya Melawana, mokgatlho wa puso kgotsa wa poraefete o ka kopa dipositi go mokopatshedimisetso, mme fela fa ba dumela gore tshedimisetso kgotsa direkoto tse di kopiwang di tla tsaya diura tse di fetang thataro (6) go di batla, mme tlhwatlhwa ya dipositi e ka se fete nngwetharong ya dituelo tse di batlegang.

## 16. A MOTLHANKEDI WA TSHEDIMOSSETSO O TLA THUSA MODIRAKOPO GO DIRA KOPO YA PAIA?

16.1 Maikarabelo a Batlhankedi ba Tshedimisetso le/kgotsa Batlatsa Batlhankedi ba Tshedimisetso ba mekgatlho ya puso le ya poraefete e amana le go dira dikopo tsa phitlhelelo ya direkoto:

16.1.1 amogela kopo ya **PAIA** kgotsa ya **POPIA**;

16.1.2 rulaganya ditsamaiso tsa kopo mo mokgatlhong;

16.1.3 dira tshwetso ya go dumela kgotsa go gana gore phitlhelelo ya direkoto e newe;

16.1.4 gokagana le mokopatshedimisetso (s.k. ba ka tswa ba tlhoka go kopa mokopatshedimisetso dintlha tse di oketsegileng kgotsa ba ka tswa ba tlhoka go kopa go okelediwa nako ya go samagana le kopo, jl.jl);

16.1.5 Gakolola mokopatshedimisetso ka diphelelo tsa kopo ya gagwe ya **PAIA**, mme kgakololo eo e tshwanetse go newa ka bonako jo bo kgonegang mme e le mo malatsing a le 30 morago ga go amogela kopo. Lobaka lwa kwa tshimologong lwa malatsi a le 30 lo ka okediwa gangwe ka lobaka lo longwe lo lo sa feteng malatsi a le 30, fa ka sekai mokopatshedimisetso a dumetse kokeletso kgotsa kopo e batla gore go senkiwe mo direktong tse di ka se wediweng mo lobakeng lwa kwa tshimologong;

16.1.6 naya mokopatshedimisetso mabaka a tshwetso ya go gana phitlhelelo. Go botlhokwa thata gore mabaka a a neilweng a go gana e nne a a utlwalang le a a feletseng mme a tshwanetse go akaretsa tshupo ya dikarolo tse di rileng tsa **PAIA** (bona serapa 19.4 fa tlase, malebana le mabaka a go gana phitlhelelo ya direkoto<sup>18</sup>);

<sup>17</sup> go ya ka Kitsiso ya Puso R991 ya 14 Diphilane 2005

<sup>18</sup> Karolo 33 go ya go 46 ya PAIA



- 16.1.7 itsise batho ba ba tshwanelang ba boraro o dirisa mokgwa wa kitsiso wa motho wa boraro, go ya ka karolo 47 ya **PAIA**; le
- 16.1.8 fa phitlhelelo ya direkoto e newa, naya mokopatshedimosetso khopi ya rekoto.
- 16.2 Fa o itsise mokopatshedimosetso ka tshwetso, gape tlhalosa ditsela tse dingwe tse di leng teng le dinako tse di tshwanelang (tsela e e leng teng ga e tshwane mo mekgathong ya puso le ya poraefete).
- 16.3 Seabe le maikarabelo a a oketsegileng a Batlhankedi ba Tshedimosetso le/kgotsa Batlatsa Batlhankedi ba Tshedimosetso ke tse di tlhalosiwang mo Kitsiso ya Kaelo ya Batlhankedi ba Tshedimosetso le Batlatsa Batlhankedi ba Tshedimosetso, mme Kitsiso eo ya Kaelo e teng mo <https://www.justice.gov.za/inforeg/docs.html>
- 16.4 E re ka seabe sa Batlhankedi ba Tshedimosetso le/kgotsa Batlatsa Batlhankedi ba Tshedimosetso e le go tsamaisa kopo go fitlhelela tshedimosetso, seno se raya gore ba na le ditiro tse di farologaneng le tsa ba ba dirang kopo.
- 16.5 Batlhankedi ba Tshedimosetso le/kgotsa Batlatsa Batlhankedi ba Tshedimosetso ba tshwanetse go naya thuso mahala.
- 16.6 Batlhankedi ba Tshedimosetso le/kgotsa Batlatsa Batlhankedi ba Tshedimosetso ba mokgatlo wa puso ba na le ditiro tse di latelang tse di kgethegileng:

Ditiro tsa Batlhankedi ba Tshedimosetso	Tlhaloso
<b>Thusa ka go tlatsa foromo</b>	Motlhankedi wa Tshedimosetso o tshwanetse go naya mokopatshedimosetso thuso e e tshwanelang ka go tlatsa foromo ya gagwe ya <b>PAIA</b> form, mme a ka nna a se gane go amogela foromo e e sa tladiwang sentle kwantle ga fa a neile thuso eo, kgotsa a neile thuso eo mme e gannwe.
<b>Naya tshedimosetso e e tshwanelang.</b>	Fa go kgonega, Motlhankedi wa Tshedimosetso o tshwanetse go naya mokopatshedimosetso tshedimosetso epe e nngwe e e ka tswang e tshwanela, le fa a sa e kopa ka tlhamalalo.
<b>Fudusa kopo</b>	Eno ke tiro e e botlhokwa tota. Fa kopo ya <b>PAIA</b> e dirwa mo mekgathong o e seng one wa puso, Motlhankedi wa Tshedimosetso o tshwanetse

go fudusetsa kopo kwa mokgathlong o o nepileng wa puso mo **malatsing a le 14** a go amogela kopo mme o tshwanetse go itsise mokopatshedimosetso ka go kwala fa fatshe gore o dirile jalo. Fa e fudusitswe, Motlhankedi yo o nepileng wa Tshedimosetso o tshwanetse go araba ka tshwetso mo **malatsing a le 30**.

**Go diegisisa go ntshiwa ga rekoto**

Motlhankedi wa Tshedimosetso a ka swetsa go diegisa go ntshiwa ga rekoto go mokopatshedimosetso fa e le gore rekoto eo e tla gatisiwa mo **malatsing a le 90** kgotsa fa e le gore molao o batla rekoto eo e gatisiwa mme e ise e gatisiwe.

- 16.7 Mo mekgathlong ya puso le ya poraefete, fa Motlhankedi wa Tshedimosetso a kgona go bona direkoto tse di rileng tse di kopiwang kgotsa a dumela gore direkoto tseo ga di yo, o tshwanetse go romela afdafiti kgotsa tlhomamiso<sup>19</sup> e e tlhalosang ka botlalo go mokopatshedimosetso kitsiso ya gore direkoto tse go buiwang ka tsone ga di yo kgotsa ga di bonwe, mme gape a tlhalose dikgato tse a di tsereng go di batla.

## 17. THUSO E E LENG TENG GO MOLAODI WA TSHEDIMOSETSO TEBANG LE PAIA LE POPIA

- 17.1 Motlhankedi wa Tshedimosetso wa mokgatlho wa puso o na le maikarabelelo a go naya thuso e e ntseng jalo e e tshwanelang<sup>20</sup>, mahala, jaaka go tlhokega go dira gore mokopatshedimosetso kgotsa motho yo go buiwang ka ene a tsamaisane le mokgwa wa phitlhelelo jaaka go bontshiwa mo dikarolo 18 tsa **PAIA** le karolo 23 ya **POPIA**.
- 17.2 Le fa go ntse jalo, fa Motlhankedi wa Tshedimosetso a ka palelwa ke go tsamaisana le tiro ya gagwe, e e boletsweng mo serapa 17.1 fa godimo, mokopatshedimosetso kgotsa motho yo go buiwang ka ene a ka tlhatlhela ngongorego le Molaodi, mme fa go batlisisiwa, Molaodi a ka ntsha Kitsiso ya Tiragatso e e laelang Motlhankedi wa Tshedimosetso go naya thuso e e tshwanelang.
- 17.3 Kafa go kgonegang ka gone, fa Molaodi a kopiwa, a ka thusa motho ope yo a eletsang go diragatsa tshwanelo e e tlhalosiwang mo **PAIA** le mo **POPIA**<sup>21</sup>, mme seno se akaretsa go naya thuso e e tshwanelang, mahala, jaaka go tlhokega go thusa mokopatshedimosetso kgotsa motho yo go buiwang ka ene go tsamaisana le mokgwa wa tshamaiso jaaka o tlhalosiwa mo dikarolo 18 le 53 tsa **PAIA** le karolo 23 ya **POPIA**.
- 17.4 Se se fa godimo fano se akaretsa go naya kaelo ka go tlatsa foromo ya kopo kgotsa go tlatsa foromo mo boemong jwa motho yo o sa rutegang kgotsa sefofu.

<sup>19</sup> Karolo 23(1) le 51(1) ya PAIA

<sup>20</sup> Karolo 19(1) ya PAIA

<sup>21</sup> Karolo 83(3)(c) ya PAIA

## 18. A MOTLHANKEDI WA TSHEDIMOSETSO A KA OKETSA DINAKO TSE DI AMEGANG?

- 18.1 Tlhaloso ya tsamaiso le dinako tsa botlhokwa tse di amegang di akarediwa mo taekeramong ya tsamaiso ya kopo ya **PAIA**, mo serapa 27 fa tlase. Go nna le dinako tse di kgethegileng ke karolo ya botlhokwa ya **PAIA**, gonne e nonotsha bolaodi jo bo mosola jwa dikopo tsa phitlhelelo ya direkoto.
- 18.2 E le kgakololo, fa o rometse kopo ya gago sentle, Motlhankedi wa Tshedimisetso kgotsa Motlatsa Motlhankedi wa Tshedimisetso, yo kopo e dirwang kgotsa e romelwang ene, o tshwanetse go go araba ka bonako jo bo ka kgonegang mme le fa go ka diregang e nne **mo malatsing a le 30**<sup>22</sup>. Mme gone, Motlhankedi wa Tshedimisetso wa mokgatlho wa puso kgotsa wa poraefete a ka kopa **koketso ya malatsi a le 30** e le nngwe<sup>23</sup>, mme fela fa:
- 18.2.1 kopo e le ya direkoto tse dintsi kgotsa e batla gore go senkiwe mo direktong tse dintsi, mme kwantle ga koketso, tshenko eno e ne e tla kgoreletsa ditiro tse di tlwaelegileng tsa mokgatlho o o amegang;
- 18.2.2 kopo e batla gore go senkiwe mo direktong tse di mo kantorong ya mokgatlho oo e e seng mo motseng kgotsa mo toropong e le nngwe mme e ka se wediwe **mo malatsing a le 30**; le/kgotsa
- 18.2.3 e batla selekanyo sa puisano gore kopo e diragadiwe, mme seno se ka se wediwe **mo malatsing a le 30 fela**.
- 18.3 Motlhankedi wa Tshedimisetso o tshwanetse go itsise mokopatshedimisetso ka maikaelelo a gagwe a go oketsa lobaka lwa kwa tshimologong lwa nako, le go bontsha lobaka lwa koketso, lebaka la koketso, le go itsise mokopi ka tshwanelo ya gagwe ya go
- 18.3.1 Ikuela kwa bolaoding jo bo tshwanelang;
- 18.3.2 ngongorega go Molaodi; kgotsa
- 18.2.3 tlhatlhela ditherisano kwa kgotlatshekelo kgatlhanong le koketso jaaka go ka direga.
- 18.4 Gape Motlhankedi wa Tshedimisetso o tshwanetse go itsise mokopatshedimisetso ka tsamaiso ya nngwe le nngwe ya ditshwanelo tse di kwadilweng fa godimo mo kitsisong<sup>24</sup>.

## 19. DIKARABO TSA KOPO YA TSHEDIMOSETSO

- 19.1 **PAIA** e neile batho tshwanelo ya go kopa phitlhelelo ya direkoto go tswa go mokgatlho ope wa puso kgotsa wa poraefete. Gantsi seno se tlhalosiwa e le molao o o thusang baagi go nna ba na le kitso ka puso ya bone. Mekgatlho ya puso e tshwanetse go phasalasa tshedimisetso epe e e kopiwang mo **PAIA** kwantle ga fa e wela mo go

<sup>22</sup> Karolo 25(1) ya PAIA

<sup>23</sup> Karolo 26(1) ya PAIA

<sup>24</sup> Karolo 26(3) ya PAIA - kitsiso ya koketso e tshwanetse go bontsha gore mokopatshedimisetso a ka tlhatlhela boikuelo jwa mo teng, ngongorego go Molaodi wa Boikuelo kgotsa kopo kwa kgotlatshekelo, jaaka go tlhokega, kgatlhanong le koketso, mme tsamaiso (go akaretsa lobaka) ya go tlhatlhela boikuelo jwa mo teng, ngongorego go Molaodi wa Tshedimisetso kgotsa kopo, jaaka go tlhokega.

nngwe ya **dipeelothoko tse somepedi** (12) kgotsa mabaka a go bo phitlhelelo ya direkoto tsa mokgatlho wa puso kgotsa wa poraefete e ka dumelwang kgotsa e sa tshwanela go newa<sup>25</sup> le dipeelothoko tse supa (7) kgotsa mabaka a go bo phitlhelelo ya direkoto tsa mokgatlho wa poraefete e ka dumelwang kgotsa e tshwanetseng go ganwa<sup>26</sup>. Dipeelothoko tse somerobongwe (19) tse di newang mo **PAIA** di diretswe go sireletsa dilo tse di jaaka sephiri sa motho, tshireletsego yan aga, le tiragatso ya molao.

19.2 Molaomotho o o kaelang o o tlhalosang tsamaiso ya **PAIA** ke tumelelo ya go se nne sephiri. Seno se raya gore lebaka lepe la go lekanyetsa go se nne sephiri mono go tshwanetse ga tlhalosiwa. Gape mekgatlho ya puso e tshwanetse go akanyetsa gore a bontlhanngwe jwa phasalatso ya tshedimosetso bo a kgonega fa ba swetsa gore phasalatso e e feletseng ga e kgonege mme ba tshwanetse go fedisa kgotsa go fokotsa tshedimosetso e e ka se phasaladiweng mme ba phasalatse e e setseng.

19.3 Mefuta ya dikarabo tsa dikopo

19.3.1 kopo ya phitlhelelo ya rekoto e dirwa, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso o tshwanetse go itsise mokopatshedimosetso, fa kopo ya phitlhelelo ya rekoto e dumelwa kgotsa e ganwa, ka -

- (a) tshwetso ya gagwe; le
- (b) dituediso tse di tshwanetseng go duelwa, fa di le teng,

mo foromong e e tsamaisanang sentle le Foromo 3 ya Mametlelelo A go Melawana:

19.3.2 Mme gone, **PAIA** e naya lenaane la mabaka (go beelwa kwa thoko) (bona dirapa 19.4 le 19.6 fa tlase) a gore ke eng kopa e ka ganwa kgotsa e tshwanetse go ganwa. Seno se botlhokwa, gone kopo e ka ganwa fela ka ntlha ya lengwe la mabaka ano a a kwadilweng a go gana phitlhelelo ya direkoto.

19.3.3 Go sa kgathalesege mabaka a a umakilweng fa godimo a go gana phitlhelelo ya direkoto, Motlhankedi wa Tshedimosetso wa mokgatlho wa puso o tshwanetse go dumela kopo ya phitlhelelo ya rekoto ya mokgatlho fa dikgatlhego tsa batho mo go phasaladiweng ga rekoto go gaisa kotsi e e akanyediwang mo mabakeng a a kwadilweng a go gana<sup>27</sup>. Seno se raya gore mokopatshedimosetso a ka ikaega ka dikgatlhego tsa morafe nako le nako fa lepe la mabaka a go gana phitlhelelo ya direkoto le fetolwa.

19.3.4 Ka bokhutshwane, mabaka a go bo tshedimosetso e ka se phasaladiwe a amana le gore a phasalatso ya tshedimosetso e ne e ka baka kotsi e kgolo go na le fa e ne e sa phasaladiwe. Go na le mefuta e mebedi e e farologaneng ya mabaka a go gana phitlhelelo ya direkoto tsa mokgatlho:

<sup>25</sup> Kgaolo 4 ya PAIA - mabaka a go gana phitlhelelo ya direkoto (karolo 34-45 ya PAIA)

<sup>26</sup> Kgaolo 4 ya PAIA - mabaka a go gana phitlhelelo ya direkoto (karolo 63-69 ya PAIA)

<sup>27</sup> Karolo 46 ya PAIA

## 19.4 Mabaka a a pateletsang a go gana (mabaka a go beela kwa thoko)

19.4.1 Ka mabaka a a pateletsang, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso o tshwanetse go gana kopo gonne di dira mo rekotong.

19.4.2 Go na le mabaka a mantis a a pateletsang go na le a a dirwang ka maemo. Tse di latelang ke mabaka a a pateletsang a go gana, mme Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso o tshwanetse go gana gonne di dira mo rekotong -

### 19.4.2.1 **Tshireletso e e pateletsang ya sephiri sa motho wa boraro;**

Motlhankedi wa Tshedimosetso wa mokgatlho wa puso kgotsa wa poraefete ga a tshwanela go letla mokopatshedimosetso go fitlhelela tshedimosetso ya botho ya motho yo mongwe fa e tshwana le 'phasalatso e e sa utlwaleng'. Dikarolo tseno ka botsone di bontsha mabaka a le mmala fa seno se sa dire, jaaka fa batho ba setse ba itse direkoto tseno, kgotsa fa motho a neile tumelelo. Kgang ya tumelelo e botlhokwa thata fa e amana le karolo e nngwe ya thulaganyo e mokopatshedimosetso a tshwanetseng go e itse, e e amanang le dikitsiso tsa motho wa boraro, tebang le kgaolo 5 ya **PAIA**.

### 19.4.2.2 **Tshireletso e e pateletsang ya direkoto tse di rileng tsa Ditirelo tsa Lekgetho tsa Afrika Borwa;**

Motlhankedi wa Tshedimosetso wa **SARS** ga a tshwanela go letla mokopatshedimosetso go fitlhelela direkoto tse di bonweng kgotsa tse di tshotsweng ke **SARS** ka maikaelelo a yone a go kgobokanya lekgetho. Mme gone, direkoto tse di bonweng kgotsa tse di tshotsweng ke **SARS** di ka nna tsa se ganwe fa kopo e dirwa ke mokopatshedimosetso ka boene kgotsa motho yo a direlwang kopo.

### 19.4.2.3 **Tshireletso e e pateletsang ya tshedimosetso ya kgwebo ya motho wa boraro;**

Motlhankedi wa Tshedimosetso wa mokgatlho ga a tshwanela go letla mokopatshedimosetso go fitlhelela tshedimosetso ya kgwebo ya motho yo mongwe (ka mafoko mangwe, motho yo e seng mokopatshedimosetso kgotsa yo go kopiwang tshedimosetso mo go ene). Seno se akaretsa tshedimosetso e e jaaka diphiri tsa kgwebisano, kgotsa tse di ka tshosetsang dikgatlhego tsa kgwebo tsa motho yoo wa boraro. Ka sekai, KFC e dirisa diresepe tse di rileng, tse di akaretsang ditsompelo dingwe tse di dirilweng ke khampani e nngwe, tse e leng diphiri tsa kgwebisano tsa khampani eo mme go phasaladiwa ga yone go ka tshosetsa dikgatlhego tsa kgwebo tsa khampani eo.

19.4.2.4 **Tshireletso e e pateletsang ya tshedimisetso e e rileng ya sephiri, le tshireletso ya tshedimisetso e nngwe e e rileng ya sephiri, ya motho wa boraro;**

Motlhankedi wa Tshedimisetso wa mokgatlho wa puso le wa poraefete ga a tshwanela go letla mokopatshedimisetso go fitlhelela rekoto fa go e ntsha go ne go tla tshwana le go tlola taelo ya khupamarama e e tshwanelang motho wa boraro tebang le tumalano kgotsa konteraka.

19.4.2.5 **Tshireletso e e pateletsang ya tshireletsego ya batho, le tshireletso ya thoto;**

Motlhankedi wa Tshedimisetso wa mokgatlho wa puso le wa poraefete ga a tshwanela go letla mokopatshedimisetso go fitlhelela direkoto fa go ntshiwa ga tsone go ka ama tshireletsego ya mongwe. Mo dikarolong tsone tseo, gape e bontsha gore Motlhankedi wa Tshedimisetso wa mokgatlho a ka gana phitlhelelo fa go ka direga gore e koafatse tshireletsego ya kago kgotsa thoto.

19.4.2.6 **Tshireletso e e pateletsang ya didokete tsa mapodisa mo ditherisanong tsa beili, le tshireletso ya tiragatso ya molao le dikgang tsa semolao;**

Motlhankedi wa Tshedimisetso wa mokgatlho wa puso ga a tshwanela go naya mokopatshedimisetso phitlhelelo ya direkoto tse di jaaka direkoto tsa ditherisano tsa beili tse di setseng di sirelediwa ke karolo 60 ya Molao wa Tsamaiso ya Bosenyi. Mo go yone karolo eo, gape e bontsha gore Motlhankedi wa Tshedimisetso wa mokgatlho wa puso a ka gana phitlhelelo ya direkoto tsa tiragatso ya molao e e senolang mekgwa, ditsela le ditsamaiso tsa go thibela bokebekwa, mmogo le direkoto tse dingwe tse di rileng tse di tshwanelang dikgang tsa semolao tse di diregang.

19.4.2.7 **Tshireletsego e e pateletsang ya direkoto tse di sa tshwanelang go tlhagisiwa mo dikgannyeng tsa semolao;**

Motlhankedi wa Tshedimisetso wa mokgatlho wa poraefete ga a tshwanela go letla mokopatshedimisetso go fitlhelela rekoto fa rekoto e sa tshwanela go tlhagisiwa mo dikgannyeng tsa semolao, kwantle ga fa motho yo a nang le tshwanelo eo a latlhegetswe ke yone.

19.4.2.8 **Tshireletso e e pateletsang ya tshedimisetso ya patlisiso ya motho wa boraro, le tshireletso ya tshedimisetso ya patlisiso ya mokgatlho wa puso kgotsa wa poraefete.**

Motlhankedi wa Tshedimisetso wa mokgatlho ga a tshwanela go letla mokopatshedimisetso go fitlhelela rekoto fa rekoto e amana le patlisiso e e dirwang ke mokgatlho o o amegang kgotsa e tla dirwa ke one, mme go ntshiwa ga yone go ne go ka senola mmatlisisi, motho wa boraro kgotsa kang e e batlisisiwang e ka senyega thata.



19.4.3 Tsweetswee ela tlhoko gore mabaka a a fa godimo a pateletso a go gana phitlhelelo ya direkoto di batla di tshwana mo mekgatlhong ya puso le ya poraefete, kwantle ga tshireletso e e pateletsang ya direkoto tse di rileng tsa Ditirelo tsa Lekgetho tsa Afrika Borwa, ya didokete tsa mapodise mo ditherisanong tsa beili, tse di amang fela mekgatlho ya puso.

19.4.4 Fela fa karolo ya rekoto e amanngwa le lebaka la go beela kwa thoko, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso wa mekgatlho ya puso le ya poraefete ka bobedi a na le maikarabelelo a go akanyetsa gore a phasalatso e e rileng ya tshedimosetso e a kgonega nako le nako fa ba swetsa gore phasalatso e e feletseng ga e kgonege mme ba tshwanetse go tsaya dikgato tse di tlhokegang go tlosa kgotsa go fokotsa karolo eo e e ka se ntshediweng mokopatshedimosetso le go naya phitlhelelo ya rekoto yotlhe.

## 19.5 Go tsewa go kopa go gannwe<sup>28</sup>

19.5.1 Go palelwa ke go araba sentle kopo mo nakong e e tshwanetseng go tsewa e le gore 'kopo e gannwe'. Seno se botlhokwa, gonne, gonne **PAIA** e letla mokopatshedimosetso gp gwetlha tshwetso fa go se na tshwetso e e dirilweng mme kopo e itlhokomolositswe. Mokopatshedimosetso o tla bontsha mo boikuelong jwa mo teng gore ga go a amogelwa karabo epe.

19.5.2 Kopo ya phitlhelelo ya direkoto e tsewa e le go ganwa morago ga go felelwa ke nako ya malatsi a le 30 kgotsa lobaka lope lo lo okeditsweng mme mokgatlho wa puso kgotsa wa poraefete o palelwa ke go araba.

## 19.6 Mabaka a go gana a a ikaegileng ka maemo

19.6.1 Ka mabaka a a ikaegileng ka maemo, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso a ka akanyetsa gore a ke a gane kopo gonne mabaka a dira mo rekotong e e kopilweng. Ka gonne e ikaegile ka maemo, Motlhankedi wa Tshedimosetso o tshwanetse go akanya sentle fa a akanyetsa mabaka a a farologaneng, e leng:

19.6.1.1 **Go femelwa ga Afrika Borwa , tshireletsego le dikamano le dinaga di sele:** Motlhankedi wa Tshedimosetso a ka gana phitlhelelo fa go lebeletswe gore go ntshiwa ga tshedimosetso go ka ama phemelo kgotsa tshireletsego ya naga. Seno gape se ka dira fa go ntshiwa ga tshedimosetso go ka ama dikamano tsa Afrika Borwa le naga e nngwe, jaaka go ntsha direkoto tse di ntshitsweng ka ikanyo.

19.6.1.2 **Dikgang tsa itsholelo, tsa matlole le tsa kgwebo:** Motlhankedi wa Tshedimosetso a ka gana phitlhelelo fa go ntshiwa ga yone go tla nna kotsi mo boemong jwa itsholelo le matlotlo a Naga;

<sup>28</sup> Karolo 27 le 58 ya PAIA



19.6.1.3 **Ditiro tsa mekgatlho ya puso:** Motlhankedi wa Tshedimosetso wa mokgatlo wa puso a ka gana phitlhelelo fa go ntshiwa ga tshedimosetso go ka kgoreletsa ditiro, ka sekai, fa e leka go dira pholisi kgotsa go diegisa kang;

19.6.1.4 **Dikopo tsa go tshameka le tse di sa utlwaleng:** Batlhankedi ba Tshedimosetso ba ka gana kopo ya tshedimosetso fa ba na le maikutlo a gore go diragatsa dikopo go tla senya nako go sa tlhokege mme ga senya madi. Mo godimo ga moo, ba ka gana phitlhelelo ya rekoto fa kopo e bonala e dirwa ke mokopatshedimosetso go seleka kgotsa go galefisa mongwe.

## 20. PHASALATSO E E PATELEDIWANG YA DIREKOTO GO THUSA BATHO

20.1 Le fa lebaka la go rata kgotsa le le patelediwang la go gana le le teng go tsamaisana le kopo ya phitlhelelo ya direkoto tsa mekgatlho ya puso kgotsa ya poraefete, ka metlha go na le kgonagalo ya gore dikgatlhego tsa batho mo go phasaladiweng ga rekoto go botlhokwa go gaisa kotsi e e dirwang ke go ntshiwa ga rekoto.

20.2 Fa botlhokwa jwa dikgatlhego tsa batho di bolelwa fa godimo mme phasalatso ya rekoto e bontsha bosupi jo bo utlwalang jwa go dumalana kgotsa go palelwa ke go tsamaisana le molao, kgotsa tshireletsego e e masisi ya batho kgotsa kotsi ya tikologo, foo Motlhankedi wa Tshedimosetso wa mokgatlo o tshwanetse go naya kopo ya phitlhelelo ya rekoto go sa kgathalesege go nna gone ga go beelwa thoko ga mabaka a a umakilweng fa godimo.

## 21. THULAGANYO YA GO ITSISE BATHO BA BORAROS<sup>29</sup>

21.1 Go ya ka dikarolo 47 le 71 tsa **PAIA**, Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso o tshwanetse go tsaya dikgato tsotlhe tse di kgonegang go itsise motho wa boraro ka kopo ya gagwe kgotsa direkoto tse e ka nnang rekoto e e nang le tshedimosetso epe ya botho,

21.1.1 rekoto ya **SARS**;

21.1.2 diphiri tsa kgwebisano;

21.1.3 tshedimosetso e go ntshiwa ga yone go ka bakang mabaka a kgato ya go tlola iknyo; kgotsa tshedimosetso ya patlisiso e e ka senolang mongwe kgotsa kang nngwe go e senya serodumo.

21.2 Kitsiso ya motho wa boraro yo direkoto kgotsa tshedimosetso e ka kopiwang e tshwanetse go laletsa motho wa boraro go -

<sup>29</sup> Karolo 47 le 71 ya PAIA

- 21.2.1 kwalela kgotsa bolelela Motlhankedi wa Tshedimose tso gore ke eng kopo ya phitlhelelo e tshwanetse go ganwa; kgotsa
- 21.2.2 naya tumelelo e e kwadilweng ya phasalatso ya rekoto go mokopatshedimose tso.
- 21.3 Sa botlhokwa go mokopatshedimose tso, **PAIA** ya re dikitsiso tse di kwadilweng go motho wa boraro di tshwanetse go romelelwa motho wa boraro mo malatsing a le 21 a go amogelwa ga kopo, le gore Motlhankedi wa Tshedimose tso kgotsa Motlatsa Motlhankedi wa Tshedimose tso o tshwanetse go itsise mokopatshedimose tso gore kitsiso e romeletswe motho wa boraro.
- 21.4 Fa kitsiso eo e rometswe, Motlhankedi wa Tshedimose tso kgotsa Motlatsa Motlhankedi wa Tshedimose tso o tshwanetse go dira tshwetso ya bofelo gore a ke a ntshe direkoto **mo malatsing a le 30** a go romelwa ga kitsiso eo.
- 21.5 Motho wa boraro o tshwanetse a itsisiwe ka tshwetso e e dirilweng mme go tshwanetse ga newa le mabaka a a lekaneng a go naya kopo. Motho wa boraro le ene o tshwanetse go itsisiwe ka tshwanelo le tsamaiso ya go gwetlha tshwetso jaaka go bontshitswe mo serapa 22 fa tlase.

## **22. DIKGATO TSA SEMOLAO KGATLHANONG LE DITSHWETSO KGOTSA GO PALELWA KE GO DIRA TSHWETSO KE MOTLHANKEDI KGOTSA MOTLATSAMOTLHANKEDI WA TSHEDIMOSE TSO**

- 22.1 Kgato e e tshwanetseng go tsewa fa tshwetso e dirwa ka kopo
- 22.1.1 Mokopatshedimose tso a ka dira kgato ya tatediso ka go kwala fa fatshe, go santse go letilwe tshwetso ya Motlhankedi wa Tshedimose tso kgotsa Motlatsa Motlhankedi wa Tshedimose tso. Go kgothalediwa gore dipuisano tsotlhe fa gare ga mokopatshedimose tso le Motlhankedi wa Tshedimose tso kgotsa Motlatsa Motlhankedi wa Tshedimose tso di tshwanetse go kwalwa fa fatshe gore di kgone go lebiwa mo isagweng.
- 22.1.2 Go na le dithulaganyo tse di farologaneng tsa mekgatlho ya puso le ya poraefete, segolobogolo malebana le boikuelo jwa mo teng. Ka sekai, malebana le kopo ya phitlhelelo ya rekoto ya mokgatlho wa puso, mokopatshedimose tso o tshwanetse pele a romele boikuelo jwa mo teng pele a atamela Molaodi kgotsa Kgotlatshekelo. Le fa go ntse jalo, ga go na boikuelo jwa mo teng kgatlhano ng le tshwetso (e ka tswa e le go dumela kgotsa go gana go letla phitlhelelo ya direkoto) kgotsa go tsewa go ganwa ga phitlhelelo ya direkoto tsa mokgatlho wa puso.
- 22.1.3 Karolo eno e tla tlhalosa ditharabololo tsa semolao tse bakopatshedimose tso ba ba batlang go gwetlha ditshwetso tse di jalo ba nang le tsone, tse di akaretsang boikuelo jwa mo teng, go tlatlhela ngongorego go Molaodi le dikopo kwa Kgotlatshekelo. Bona gape le taekeramo ya thulaganyo ya dikopo tsa PAIA, mo serapa 27 fa tlase.

22.1.4 Gareng ga tse dingwe, mokopatshedimosetso a ka gwetlha tshwetso e e latelang ya mokgatlho wa poraefete le/kgotsa wa puso -

22.1.4.1 thendara kgotsa madi a tuelo e e batlegang;

22.1.4.2 thendara kgotsa madi a peeletso;

22.1.4.3 tuediso ya phitlhelelo e kwa godimo thata;

22.1.4.4 foromo ya phitlhelelo e dumetswe;

22.1.4.5 go ganwa ga kopo;

22.1.4.6 thulaganyo (go akaretsa lobaka) ya go tthatlhela boikuelo jwa mo teng;

22.1.4.7 nako e e okeditsweng e e sa tshwanelang ya go araba kopo ya phitlhelelo;

22.1.4.8 go palelwa ke go ntsha direkoto;

22.1.4.9 go dumela kopo ya phitlhelelo ya rekoto;

22.1.4.10 go gana kopo ya go phimola dituediso;

## 22.2 Ditharabololo tsa mo teng

22.2.1 Mokopatshedimosetso o ikuela jang mo teng kगतलhanong le tshwetso ya mokgatlho wa puso?

22.2.1.1 Go ya ka karolo 74 ya **PAIA**, boikuelo jwa mo teng bo ka tthatlhelwa fela le molaodi yo a tshwanelang wa karolo ya puso ya bosetšhaba kgotsa ya porofense kgotsa mmasepala ope mo karolong ya puso ya selegae fa go tlhokega.<sup>30</sup>

22.2.1.2 Ka sekai, Toropo ya Johannesburg ke sekai sa karolo ya puso ya selegae e boikuelo jwa mo teng bo ka romelwang kगतलhanong le yone. Letlole la Dikotsi tsa Tsela kgotsa Molaodi ke sekai sa mokgatlho wa puso e e seng karolo ya puso ya bosetšhaba, ya porofense kgotsa ya selegae e e tlhomilweng ke molaotheo, ka jalo boikuelo jwa mo teng bo ka se tthatlhelwe kगतलhanong le yone.

<sup>30</sup> Karolo 74(1) ya PAIA

- 22.2.1.3 Fa mokopatshedimosetso kgotsa motho wa boraro a sa itumelele tshwetso e e dirilweng ke Motlhankedi wa Tshedimosetso kgotsa Motlatsa Motlhankedi wa Tshedimosetso wa karolo ya puso ya bosetšhaba, ya porofense kgotsa ya selegae, mokopatshedimosetso kgotsa motho wa boraro o na le tshwanelo ya go tthatlhela boikuelo jwa mo teng, tebang le karolo 74(1) ya (2) ya **PAIA**. Thulaganyo ya go tthatlhela boikuelo e tlhalosiwa mo bukaneng ya ditaello ya **PAIA** ya mokgatlho oo mme mokgwa wa go tthatlhela boikuelo jwa mo teng le one o tlhalosiwa fa tlase fano.
- 22.2.1.4 Fa karabo ya karolo ya puso ya bosetšhaba, ya porofense kgotsa ya selegae e tsewa e le go gana, ka mafoko a mangwe, e paletswa ke go araba kopo mo malatsing a le 30 kgotsa mo lobakeng lope lo lo okeditsweng, mokopatshedimosetso a ka tthatlhela boikuelo jwa mo teng pele mokopatshedimosetso a ka atamela Molaodi kgotsa Kgotlatshekelo, go ya ka thulaganyo e e tlhalosiwang fano.

### 22.3 Poloko ya direkoto go fitlha tshwetso ya bofelo ka kopo e fitlheletswe

- 22.3.1 Motlhankedi wa Tshedimosetso wa karolo ya puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae e boikuelo jwa mo teng bo tshwanelang mo go yone e tshwanetse go tsaya dikgato tse di tshwanelang tse di tlhokegang go boloka rekoto mme a ka se phimole kgotsa go nyeletsa rekoto epe e e kopiwang, go fitlha ka nako ya fa ditsamaiso dipe kgotsa tsotlhe mo boikuelong jwa mo teng kgotsa ngongorego go Molaodi kgotsa kopo ya kwa kgotlatshekelo di lemogilwem tebang le karolo 21 ya **PAIA**.
- 22.3.2 Seno se raya gore motlhankedi wa tshedimosetso a ka se kgone go phimola kgotsa go nyeletsa tshedimosetso epe e e kopiwang, go letilwe tsamaiso e e tlhalosiwang mo serapa 22.3.1.1 fa godimo.

### 22.4 Boikuelo jwa mo teng bo tshwanetse go romelwa kwa go mang?

- 22.4.1 Le fa boikuelo bo tla sekasekiwa ke molaodi yo a tshwanelang, boikuelo jwa mo ten bo tshwanetse go isiwa kgotsa go romelwa go Motlhankedi wa Tshedimosetso wa Karolo ya Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae kwa atereseng ya gagwe, mo nomorong ya fekesa kgotsa atereseng ya lekwalo la ileketeroniki<sup>31</sup>, dintlha tsa go ikgolaganya di ka fitlhelwa mo bukaneng ya ditaello ya **PAIA** kgotsa di ka bonwa go Molaodi.
- 22.4.2 Motlhankedi wa Tshedimosetso wa karolo ya puso ya bosetšhaba, ya porofense kgotsa ya selegae, o na le boikarabelo jo bo kgethegileng, tebang le karolo 75(4) ya **PAIA**, go romela boikuelo go

<sup>31</sup> Karolo 75(1)(b) ya PAIA

molaodi wa boikuelo, mmogo le mabaka a gagwe a tshwetso e e ikuelwang. Thomelo ya boikuelo go molaodi yo o tshwanelang e tshwanetse go dirwa mo malatsing a le 10 a tiro morago ga go amogela boikuelo.

## 22.5 Molaodi yo o tshwanelang ke mang?

22.5.1 Gantsi molaodi yo o tshwanelang, yo fano a bidiwang “molaodi wa boikuelo” ke moeteledipele wa sepolotiki wa mokgatlho o o amegang (le fa gone maemo ano a ka abelwa mongwe semolao) mme ka tlhamalalo e kaya motho yo o latelang -

Mokgatlho wa Puso ("Puso")	Molaodi yo o Tshwanelang ("Molaodi wa Boikuelo")
<b>Kantoro ya Mopresidente</b>	Motho yo a tlhophilweng ke Mopresidente ka go kwala fa fatshe, fa a le gone, go seng jalo Mopresidente ke molaodi wa boikuelo
<b>Lefapha la Bosetšhaba</b>	Tona e e ikarabelelang ka lefapha leo kgotsa motho yo a tlhophilweng ke Tona eo ka go kwala fa fatshe
<b>Kantoro ya Tonakgolo</b>	Motho yo a tlhophilweng ke Tonakgolo ka go kwala fa fatshe.
<b>Lefapha la Porofense</b>	Leloko la Lekgotla la Khuduthamaga ( <b>MEC</b> ) le le ikarabelelang ka Lefapha leo la Porofense kgotsa motho yo a tlhophilweng ke <b>MEC</b> ka go kwala fa fatshe;
<b>Mmasepala</b>	Ratoropo, Sebueledi kgotsa motho ope yo mongwe yo a tlhophilweng ke Lekgotla la Mmasepala la mmasepala oo ka go kwala fa fatshe;

22.5.2 Maemo ape a mangwe, fa e se kantoro ya tonakgolo: leloko la khuduthamaga le le ikarabelelang ka mokgatlho oo wa puso kgotsa motho yo a tlhophilweng ke leloko leo ka go kwala fa fatshe.

22.5.3 Fa molaodi wa boikuelo a dumelela tshwetso ya Batlhankedi ba Tshedimosetso, boikuelo jwa mo teng bo a ganwa mme tshwetso ya ntlha ya Motlhankedi wa Tshedimosetso e tla ema. Mme gone, fa molaodi wa boikuelo a sa dumalane le tshwetso ya Motlhankedi wa Tshedimosetso, boikuelo bo a dumelwa mme tshwetso ya ntlha e a fetolwa.

22.5.4 tshwetso ya Motlhankedi wa Tshedimosetso e a ema. Mme gone, fa bolaodi jwa boikuelo bo sa dumalane le tshwetso ya Motlhankedi wa Tshedimosetso, boikuelo bo a dumelelwa mme tshwetso ya ntlha e a fetolwa.

## 22.6 Ke mang a ka tthatlhelang boikuelo jwa mo teng?

22.6.1 Mokopatshedimosetso ope yo kopo ya **PAIA** ya phitlhelelo ya direkoto tsa karolo ya Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae e gannwe mme a dumela gore lengwe la mabaka a boikuelo a a kwadilweng mo serapa 22.2.4 fa godimo a a tshwanela mo kopong ya gagwe, o na le tshwanelo ya go tthatlhela boikuelo jwa mo teng.

22.6.2 Batho ba boraro le bone ba ka tthatlhela boikuelo jwa mo teng kgatlhanong le tshwetso e e dirilweng ke Motlhankedi wa Tshedimosetso go naya phitlhelelo ya rekoto e e ba amang. Fa boikuelo jwa mo teng bo akaretsa motho wa boraro, molaodi wa boikuelo yo a amogelang boikuelo jwa mo teng o tshwanetse go itsise batho bao ba boraro (ka jalo maikarabelo ga e tlhole e le a Motlhankedi wa Tshedimosetso mme ke a molaodi wa boikuelo jaanong).

## 22.7 Lobaka lo o ka tthatlhelang boikuelo ka lone

22.7.1 Boikuelo jwa mo teng bo ka tthatlhelwa -

22.7.1.1 mo **malatsing a le 60**<sup>32</sup> morago ga gore tshwetso e dirwe;

22.7.1.2 mo **malatsing a le 30**<sup>33</sup> morago ga gore kitsiso e newe motho wa boraro ka tshwetso e go ikuelwang ka yone

22.7.2 Go tthatlhela boikuelo jwa mo teng morago ga lobaka lo lo umakilweng fa godimo (thari) go ka nna ga se letlelelwe, kwantle ga fa molaodi wa boikuelo a newa lebaka le le utlwalang la go nna thari. Ka sekai, jaaka go robadiwa mo bookelong malatsi a feta 60 go ka amogelwa e le lebaka le le utlwalang la go nna thari.

22.7.3 Fa molaodi wa boikuelo a sa amogele tthatlhelo e e thari ya boikuelo jwa mo teng, o tshwanetse go go naya mabaka a go gana boikuelo le go go naya kaelo ya tshedimosetso epe e e oketsegileng e e tlhokegang gore a amogele boikuelo, fa e le teng. Gape molaodi wa boikuelo o tshwanetse go go gakolola ka tsamaiso ya go tthatlhela ngongorego kgatlhanong le tshwetso ya bone go Molaodi kgotsa kgotlatshekelo.

<sup>32</sup> Karolo 75(1)(a)(i) ya PAIA

<sup>33</sup> Karolo 75(1)(a)(ii) ya PAIA

22.7.4 Jaaka go bontshitswe fa godimo, Motlhankedi wa Tshedimosetso o tshwanetse go romela boikuelo jwa gago go molaodi wa boikuelo mo malatsing a le 10 a tiro morago ga go amogela boikuelo jwa mo teng<sup>34</sup>.

## 22.8 Kitsiso ya boikuelo ka molaodi wa boikuelo go mokopatshedimosetso kgotsa motho wa boraro

22.8.1 Ka bonako jo bo ka kgonegang, mme e le mo malatsing a le 30 morago ga go amogela boikuelo jwa mo teng, molaodi wa boikuelo o tshwanetse go<sup>35</sup>, itsise

22.8.1.1 motho wa boraro yo rekoto e leng ya gagwe, kgotsa

22.8.1.2 mokopatshedimosetso ka boikuelo jwa mo teng kgatlhanong le go naya kopo ya phitlhelelo.

22.8.2 Mokopatshedimosetso kgotsa motho wa boraro yo a newang tshedimosetso, mo **malatsing a le 21** morago ga go newa kitsiso eo, a ka dira kopo e e kwadilweng go molaodi wa boikuelo gore ke eng fa kopo ya phitlhelelo e tshwanetse go newa kgotsa go ganwa.

## 22.9 Tshwetso ka boikuelo jwa mo teng le kitsiso ya teng<sup>36</sup>

22.9.1 Molaodi wa boikuelo o tshwanetse go dira tshwetso ka boikuelo jwa mo teng ka bonako jo bo ka kgonegang mme e le mo malatsing a le 30:

22.9.1.1 fa boikuelo jwa mo teng mo sena go amogelwa ke Motlhankedi wa Tshedimosetso wa Mokgatlho;

22.9.1.2 fa motho wa boraro a itsisitswe, jaaka go bontshitswe mo serapa 22.3.6.1 fa godimo.

22.9.2 Tshwetso ya molaodi wa boikuelo e tshwanetse go buisanwa le moikuedi, motho wa boraro le mokopatshedimosetso. Tshwetso ya molaodi wa boikuelo e tshwanetse go patywa ke mabaka a a utlwalang a tshwetso eo, go akaretsa ditekanyetso tse **PAIA** kgotsa **POPIA** e ikaegang ka tsone.

22.9.3 Fa molaodi wa boikuelo a palelwa ke go naya moikuedi kitsiso ka tshwetso ya boikuelo jwa mo teng mo malatsing a le 30, boikuelo bo tsewa bo ganngwe mme mokopatshedimosetso a ka tsewela go tlhatlhela ngongorego go Molaodi kgotsa a ka atamela Kgotlatshekelo go bona thuso e e tshwanelang<sup>37</sup>.

<sup>34</sup> Karolo 75(4) ya PAIA

<sup>35</sup> Karolo 76(2)(a) ya PAIA

<sup>36</sup> Karolo 77 ya PAIA

<sup>37</sup> Karolo 77(7) ya PAIA



## 22.10 Go tlatsa boikuelo jwa mo teng- Foromo 4

- 22.10.1 Go ikuela kgatlhanong le tshwetso epe ya karolo ya Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae, mokopatshedimisetso o tshwanetse go tlatlhela boikuelo jwa gagwe jwa mo teng ka go tlatsa Foromo 4. Foromo 4 e tshwanetse ya romelelwa Motlhanked wa Tshedimisetso wa karolo e e amegang ya puso, yo a tshwanetseng go e romelela molaodi wa boikuelo, jaaka go bontshitswe fa godimo.
- 22.10.2 Foromo 4 e teng mo webosaeteng ya Molaodi, <https://www.justice.gov.za/inforeg/>, mmogo le mo karolong e e amegang ya Puso.
- 22.10.3 Motlhankedi wa Tshedimisetso kgotsa Motlatsa Motlhankedi wa Tshedimisetso wa karolo e e amegang ya Puso ga a kafa tlase ga maikano ape a go thusa mokopatshedimisetso go tlatsa foromo ya boikuelo jwa mo teng; mme gone, mokopatshedimisetso o santse a ka kopa Motlhankedi wa Tshedimisetso go mo thusa mo ntlheng eno.
- 22.10.4 Fa tlase fano ke kgato ka kgato ya go tlatsa foromo ya boikuelo jwa mo teng

### Tshedimisetso e e batlegang Tlhaloso

#### Dintlha tsa mokgatlho wa puso

Karolo eno e tshwanetse ya nna le leina la Karolo e e amegang ya Puso ya Bosetšhaba, ya Porofense kgotsa ya Selegae, le leina le sefane sa Motlhankedi wa Tshedimisetso.

#### Dintlha tsa moikuedi yo a tlatlhelang boikuelo jwa mo teng

Karolo eno e tshwanetse go tladiwa ke moikuedi, e ka tswa e le moemedi kgotsa nnyaa. Fa go tshwanela, go tshwanetse ga newa maina a a feletseng le sefane, nomoro ya baoikitsiso le maemo a mo go one boikuelo jwa mo teng bo tlatlhelwang mo boemong jwa motho yo mongwe. Fa boikuelo e le jwa motho, maemo ao a tshwanetse go rekotiwa. Tshedimisetso e e oketsegileng e e batlegang e akaretsa dintlha tsa go ikgolaganya tsa mokopatshedimisetso:

## Tshedimsetso e e batlegang

## Tlhaloso

aterese ya poso, aterese ya imeile, fekese le/kgotsa nomoro ya mogala. Tshedimsetso eno e tshwanetse go tshwana le e e mo kopong ya ntlha. Fa motho yo o tlatsang foromo e le moemedi wa mokopatshedimsetso, bosupi jwa maemo a boikuelo bo tlatlhelwang mo go one bo tshwanetse go manegiwa mo foromong eno.

### **Dintlha tsa motho yo a tsenyediwang kopo (fa e tlatlhelwa ke motho wa boraro)**

Karolo eno e tshwanetse go tladiwa fela ke motho yo a kopang tshedimsetso mo boemong jwa motho yo mongwe. Fa motho yo a romelang boikuelo jwa mo teng e se motho yo a kopileng tshedimsetso kwa tshimologong, dintlha tsa mokopatshedimsetso di tshwanetse go newa fano. Fa kopo e dirwa mo maemong a motho, karolo eno ga e tlhoke go tladiwa.

### **Tshwetso e e tlatlhelwang kgatlanong le boikuelo jwa mo teng**

Foromo e na le karolo ya gore mokopatshedimsetso a bontshe ka "x", gore ke lefe la mabaka a a kwadilweng a boikuelo e e tshwanelang boikuelo.

### **Mabaka a boikuelo**

Mo karolong eno, mokopatshedimsetso o tshwanetse go tlhalosa ka botlalo gore keng a akanya fa mabaka a boikuelo a tshwanela. O tshwanetse go naya le(ma)baka la go bo a akanya gore ke eng a akanya fa tshedimsetso ya Motlhankedi wa Tshedimsetso e sa nepa. Gape o tlhoka go manega ditlankana dipe tse di tshegetsang boikuelo. Lenaane la mabaka le le newang go tshegetsang boikuelo le ka tlhalosiwa ka botlalo mo tsebeng e nngwe, fa karolo e e leng mo foromong e sa lekana. Ditsebe tse di oketsegileng tse di rometsweng di tshwanetse go saeniwa.

Go tshwanetse ga bo go na le mabaka a a lekaneng le tshedimsetso e e tshegetsang go kgontsha molaodi wa boikuelo go dira tshwetso ka kitso. Ka jalo, motho o tshwanetse go akaretsa lenaane la dilo tsothe tse di diregileng mo nakong e e lebisang go boikuelo jwa mo teng. Mo tsebeng e nngwe, motho a ka kwala dikarolo tse di rileng tsa **PAIA** e le mabaka a boikuelo.

#### **Kitsiso ya tshwetso ya boikuelo**

Go na le karolo ya go tlhalosa mokgwa o tshedimsetso e tshwanetseng go romelwa ka one, ka sekai, ka poso, go romelwa kgotsa ka fekeke kgotsa imeile. Tsweetswee tlhopha mokgwa o o ratang wa kitsiso.

22.10.5 Le fa go se na thibela kgatphanong le go bona mmueledi go thusa ka nako epe ya kopo ya tshedimsetso, ditsamaiso tse di farologaneng tsa **PAIA** di dirilwe gore di nne motlhofo go tlosa tlhokego ya mmueledi le gore go se nne le dituelo tsa seolao.

## **23. NGONGOREGO GO MOLAODI WA TSHEDIMOSSETSO**

- 23.1 Mokopatshedimsetso kgotsa motho wa boraro a ka romela ngongorego go Molaodi morago ga gore mokopatshedimsetso kgotsa motho wa boraro a felelwe ke tsamaiso ya boikuelo jwa mo teng kgatphanong le tshwetso ya Motlhankedi wa Tshedimsetso wa puso ya bosetšhaba, ya porofense kgotsa ya selegae. Seno se raya gore mongwe a ka romela ngongorego ya mongwe kgatphanong le karolo e e rileng ya puso go Molaodi fa a sa itumelele tshwetso ya molaodi wa boikuelo. Molaodi o tla gana ngongorego fa tsamaiso ya boikuelo e e tswanelang karolo eo ya puso e sa latelwa.
- 23.2 Le fa go ntse jalo, malebana le mokgatlho wa puso (fa boikuelo jwa mo teng bo se maleba) le mokgatlho wa poraefete, mokopatshedimsetso kgotsa motho wa boraro a ka romela ngongorego go Molaodi, fa a sa kgotsofadiwe ke tshwetso ya mokgatlho o o amegang.
- 23.3 Ngongorego go Molaodi ka mokopatshedimsetso kgotsa motho wa boraro e tshwanetse go tlhatlhelwa mo malatsing a le 180 morago ga go amogela tshwetso go tswa kwa mokgatlhong.

23.4 Mokopatshedimosetso a ka tlhatlhela ngongorego go Molaodi fa a sa itumelele -

23.4.1 diphelelo tsa boikuelo jwa mo teng go molaodi wa boikuelo wa karolo epe ya puso;

23.4.2 tshwetso ya molaodi wa boikuelo ya go gana go tlhatlhelwa thari ga boikuelo jwa mo teng;

23.4.3 tshwetso ya Motlhankedi wa Tshedimosetso wa mokgatlho wa puso o e seng karolo epe ya puso go -

23.4.3.1 gana kopo ya phitlhelelo; kgotsa

23.4.3.2 lelefatsa lobaka lwa go samagana le kopo; kgotsa

23.4.3.3 naya tumelelo ka mokgwa o o rileng.

23.4.4 tshwetso ya tlhogo ya mokgatlho wa poraefete go -

23.4.4.1 gana kopo ya phitlhelelo; kgotsa

23.4.4.2 batla madi a tuelo ya kopo, kgotsa peeletso ya madi a phitlhelelo; kgotsa

23.4.4.3 lelefatsa lobaka lwa go samagana le kopo; kgotsa

23.4.4.4 naya tumelelo ka mokgwa o o rileng.

23.5 Motho wa boraro a ka tlhatlhela ngongorego le Molaodi fa a sa itumelela -

23.5.1 diphelelo tsa boikuelo jwa mo teng go molaodi wa boikuelo wa karolo e e tshwanelang ya puso;

23.5.2 tshwetso ya Motlhankedi wa Tshedimosetso wa mokgatlho wa puso o e seng karolo ya seethe sepe sa puso go naya kopo ya phitlhelelo; kgotsa

23.5.3 tshwetso ya tlhogo ya mokgatlho wa poraefete go naya kopo ya phitlhelelo ya rekoto ya mokgatlho oo,

## 23.6 Motho o ngongorega jang go Molaodi?

- 23.6.1 Ngongorego go Molaodi e tshwanetse ya kwalwa mme foromo ya ngongorego e tshwanetse go tladiwa, ka letsogo kgotsa mo internet. Foromo ya ngongorego, (Foromo 5), e ka itseelwa mo webosaeteng ya Molaodi, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Seno se raya gore Molaodi a ka se amogele ngongorego ka mogala; mme gone, Molaodi o tshwanetse go naya thuso e e utlwalang go motho ope yo a batlang go ngongorega, mme semo se akaretsa thuso malebana le go tlatsa foromo ya ngongorego.
- 23.6.3 Fa mongwe a gwetlha tshwetso ya Motlhankedi wa Tshedimosetso wa mokgatlho wa poraefete, o tshwanetse go ntsha bosupi jo bo lekaneng go bontsha gore rekoto e e kopilweng e batlelwa go diragatsa kgotsa go sireletsa (di)tshwanelo epe e nngwe. Phitlhelelo ya direkoto ya mokgatlho wa poraefete e ka newa fela fa motho a ka bontsha gore mongwe o batla go diragatsa kgotsa go sireletsa (di)tshwanelo epe e nngwe ka rekoto e e kopilweng.

## 23.7 Go diregang morago ga go amogela ngongorego?

- 23.7.1 Fa Molaodi a amogela ngongorego ya mongwe, o tshwanetse go -
- 23.7.1.1 batlisisa ngongorego le go romela diphitlhelelo tsa yone go Komiti ya go Tsenngwa Tirisong go dira tshwetso; kgotsa
- 23.7.1.2 se tseye kgato ka ngongorego ka ntlha ya gore -
- 23.7.1.2.1 ngongorego ga ya romelwa mo lobakeng lwa malatsi a le 180 mme ga go na mabaka a a utlwalang a go tlovisa thomelo e e thari matlho;
- 23.7.1.2.2 ngongorego ke ya go tshameka kgotsa ga e utlwale kgotsa ga ya dirwa ka bpikanyegi; kgotsa
- 23.7.1.2.3 fa go akanyediwa maemo otlhe a kgetsi, kgato epe e nngwe ga e bothokwa kgotsa ga e tlhokege. Ka sekai, tshedimosetso e e kopilweng e dirilwe gore e bonwe ke mongwe le mongwe.
- 23.7.1.3 fa go kgonega, agisanya kgotsa dira maiteko otlhe go fitlhelela tharabololo eo kgotsa thusa makoko go rarabolola bo(ma)thata jwa one; le

23.7.1.4 gakolola mongongoregi le Motlhankedi wa Tshedimosetso, yo ngongorego e amanang le ene, ka kgato e e tshwanetseng go tsewa.

### 23.8 **Puisano ya ntlha ya Molaodi le mongongoregi le Motlhankedi wa Tshedimosetso ka ngongorego e e tlhatlhetsweng**

23.8.1 Fa Molaodi a swetsa go se tseye kgato go ya pele ka ngongorego, o tla itsise mokopatshedimosetso ka tshwetso eo le mabaka a go se tseye kgato go ya pele ka ngongorego eo.

23.8.2 Fa Molaodi a swetsa go batlisisa ngongorego, mokopatshedimosetso o tla amogela lekwalo le le mmolelelang gore Molaodi o sweditse go dipa patlisiso.

23.8.3 Fa Molaodi a amogela ngongorego, o tla romela ditlha tsa ngongorego go Motlhankedi wa Tshedimosetso wa mokgatlho o o maleba, le go mo kopa go romelela Molaodi Karabo e e kwadilweng ya ngongorego.

### 23.9 **Dithata tsa Molaodi tsa go batlisisa**

23.9.1 Molaodi o na le dithata, go ya ka karolo 77G(2) ya **PAIA**, go -

23.9.1.1 dira maiteko otlhe go fitlhelela tharabololo eo;

23.9.1.2 laela le go gatelela ponalo ya batho fa pele ga Molaodi;

23.9.1.3 ba patelela go ntsha bosupi ba ikana ka molomo kgotsa ka go kwala le go ntsha direktoto dipe;

23.9.1.4 amogela le go dumela bosupi bope le tshedimosetso e nngwe, e ka tswa e le ka ikano, afidafiti;

23.9.1.5 tsena le go phuruphutsa dikago dipe tse mo go tsone go nnang lekoko le le ikarabelelang;

23.9.1.6 dira potsolotso ya poraefete le motho op emo dikagong dipe tse go tsenwang mo go tsone; le

23.9.1.7 go dira ditlhotlhomiso dip emo dikagong tseo tse Molaodi a bonang di tshwanela.

## 23.10 Go tlhatlhuba go tsamaisana le dithulaganyo tsa PAIA

- 23.10.1 Molaodi a ka dira tlhatlhubo gore a mokgatlho wa puso kgotsa wa poraefete o tsamaisana le dithulaganyo tsa **PAIA** eno.
- 23.10.2 Molaodi a ka dira tlhatlhubo ya go tsamaisana mo mokgatlhong ka keletso ya one, mme gape Molaodi a ka dira tlhatlhubo ya go tsamaisana fa a kopiwa kgotsa mo boemong jwa Molaodi wa Tshedimosetso wa mokgatlho kgotsa motho ope yo mongwe. Seno se raya gore motho ope a ka kopa Molaodi go dira tlhatlhubo ya go tsamaisana mo mokgatlhong. Gape motho a ka romela kopo e e sa kwalwang leina go dira tlhatlhubo ya go tsamaisana, ka go bontsha gore ga a battle go itsiwe.
- 23.10.3 Molaodi a ka naya motho yo a kopileng tlhatlhubo pego ya tlhatlhubo le katlenegiso ya kgato e e tshwanetseng go tsewa, fa e le teng.

## 23.11 Kitsiso ya Tshedimosetso

Molaodi a ka naya Motlhankedi wa Tshedimosetso wa mokgatlho Kitsiso ya Tshedimosetso e e batlang gore lekoko le le boletsweng le neye Molaodi tshedimosetso e e boletsweng mo kitsisong. Ka sekai, fa ngongorego e e tlhatlhetsweng go Molaodi e amana le go gana phitlhelelo go ikaegile ka mabaka ape a go se e akaretse, mo Kitsisong ya Tshedimosetso, Molaodi a ka kopa dikhopi tsa direkoto tse phitlhelelo e gannweng mo go tsone go bona gore a mabaka a go gana a a utlwala kgotsa nnyaa.

## 23.12 Go Tlhomiswa ga Komiti ya go Tsenngwa Tirisong

- 23.12.1 Molaodi o tshwanetse go tlhoma Komiti ya go Tsenngwa Tirisong<sup>38</sup>, e e nang le dithata tsa go -
- 23.12.1.1 sekaseka dikgang tsothe tse e di romeletsweng ke Molaodi tebang le **PAIA** le go dira phitlhelelo ka yone; le
- 23.12.1.1 go dira katlenegiso epe go Molaodi mabapi le kgato epe e e tshwanetseng go tsewa kgatlhanong le Motlhankedi wa Tshedimosetso wa mokgatlho.

## 23.13 Kitsiso ya go Tsenngwa Tirisong

- 23.13.1 Morago ga go akanyetsa dikatlenegiso tsa Komiti ya go Tsenngwa Tirisong, Molaodi a ka naya Motlhankedi wa Tshedimosetso wa mokgatlho Kitsiso ya go Tsenngwa Tirisong -

<sup>38</sup> Karolo 50 ya POPIA



23.13.1.1 go tihomamisa, go fetola kgotsa go beela kwa thoko tshwetso e mongongoregi a buang ka yone; kgotsa

23.13.1.2 go batla gore Motlhankedi wa Tshedimosetso a tseye kgato eo kgotsa a ithibe mo go tseyeng kgato eo jaaka Molaodi wa Tshedimosetso a bontshitse mo kitsisiong.

#### 23.14 Ditlamorago tsa go sa tsamaisane le Dikitsiso tsa go Tsenngwa Tirisong ke dife?

23.14.1 Motlhankedi wa Tshedimosetso wa mokgatlho yo a ganang go tsamaisana le kitsiso ya go tsenngwa tirisong o na le molato wa tlolomolao mme o tshwanela goduedisiwa kgotsa go tsenngwa mo kgolegelong ka lobaka lo lo sa feteng dingwaga tse tharo kgotsa ka bobedi go duedisiwa le go tsenngwa mo kgolegelong.

23.14.2 Karolo 77K ya **PAIA** e bontsha botlhokwa jwa tshwanelo ya phitlhelelo ya tshedimosetso kgotsa direkoto. Gape karolo eno e gatelela botlhokwa jwa Molaodi mo kgannyeng ya thotloetso ya phitlhelelo ya tshedimosetso.

## 24. KOPO KWA KGOTLATSHEKELO

### 24.1 Ke mang a ka tlhatlhelang kopo kwa kgotlatshekelo kgatlhanong le tshwetso?

24.1.1 Mokopatshedimosetso kgotsa motho wa boraro a ka tlhatlhela kopo kwa kgotlatshekelo fela ka ntlha ya kgololo e e tshwanelang tebang le karolo 82 mo maemong a a latelang:

24.1.1.1 Morago ga gore mokopatshedimosetso kgotsa motho wa boraro a feletswe ke boikuelo jwa mo teng jo go buiwang ka jone mo serapa 22.3 fa godimo; kgotsa

24.1.1.2 morago ga gore mokopatshedimosetso kgotsa motho wa boraro a felelwe ke thulaganyo ya dingongorego e e umakilweng mo karolo 77A.

24.1.2 Go ya ka karolo 78(1) ya **PAIA**, mokopatshedimosetso kgotsa motho wa boraro o na le ditlhopho tse pedi, e ka nna go romela tshwetso go Molaodi kgotsa kwa Kgotlatshekelo, jaaka go umakilwe mo dirapa 22.2.4, 23.4 le 23.5 fa godimo. Le fa motho a sa patelesege go atamela Molaodi pele a atamela Kgotlatshekelo, go botlhale gore a akanyetse go atamela Molaodi, gonne Molaodi o na le mekgwa e mentsi le e e potlakileng ya go rarabolola mathata, go na le Kgotlatshekelo.

24.1.3 Le fa go ntse jalo, gore Kgotlatshekelo e nne le taolo ya go atlhola kgang, mokopatshedimose tso kgotsa motho wa boraro o tshwanetse go -

24.1.3.1 galefisiwa ke nngwe ya ditshwetso, tse di kwadilweng mo serapa 22.2.4, 23.4 kgotsa 23.5 fa godimo; kgotsa

24.1.3.2 felelwa ke tsamaiso ya dingongorego le Molaodi kgotsa a gogele morago ngongorego go Molaodi. Seno se raya gore motho a ka se atamele Kgotlatshekelo fa ngongorego ya gagwe e santse e le go Molaodi.

24.1.4 Fa motho a gwetlha tshwetso ya Motlhankedi wa Tshedimose tso wa mokgatlho wa poraefete, motho yoo o tshwanetse go naya bosupi jo bo lekaneng go bontsha gore rekoto e e kopiwang e a batlega go diragatsa kgotsa go sireletsa (di)tshwanelo epe e nngwe.

## 24.2 Ke leng motho a ka tlhatlhelang kopo kwa Kgotlatshekelo kgatlhanong le tswetso ya mokgatlho kgotsa Molaodi?

24.2.1 Kopo ya mokopatshedimose tso kgotsa motho wa boraro kwa Kgotlatshekelo, yo gongwe a sa atlegang mo boikuelong jwa mo teng jwa boikuelo jwa molaodi jwa karolo e e matshwanedi ya puso kgotsa a galefisiswe ke tshwetso ya Motlhankedi wa Tshedimose tso wa Mokgatlho (yo o kwadilweng mo 22.2.4, 23.4 kgotsa 23.5 fa godimo) kgotsa ya Molaodi e tshwanetse go tlhatlhelwa mo malatsing a le 180 go tloga ka letlha la tiragalo e e tshwanelang.

24.2.2 Go ikaegile ka maemo, Motlhankedi wa Tshedimose tso wa Mokgatlho kgotsa molaodi wa boikuelo wa Puso, a tlhotlhelediwa ke tshwetso ya Molaodi, a ka tsenya kopo kwa kgotlatshekelo ya kgololo e e matshwanedi go ya ka karolo 82, mo malatsing a le 180 .

24.2.3 Mokopatshedimose tso, motho wa boraro, kgotsa mokgatlho o ka dira kopo kwa kgotlatshekelo go dira gore ditshwetso dipe tse di sa ba tshwareng sentle di sekasekiwe ke Kgotlatshekelo.

24.2.4 Kopo kwa Kgotlatshekelo kafa tlase ga **PAIA** e dirwa ka ditsamaiso tsa semolao, mme e tshwanetse go dirisiwa jaaka tsela ya bofelo.

24.2.5 Dikgetsi tsa phitlhelelo ya tshedimose tso di ka reediwa kwa Dikgotlatshekelo tsa Bommagiseterata, jaaka kgotlatshekelo ya lekgetlo la ntlha, mme Kgotlatshekelokgolo e na le taolo.

24.2.6 Go se lere kopo mo lobakeng lwa malatsi a le 180 go ka itlhokomolosiwa ke Kgotlatshekelo fa mongwe a bontsha gore tshiamiso e batla jalo. Seno se raya gore kgotlatshekelo e ka amogela kopo ya morago ga nako fa kopo e e

<sup>39</sup> Karolo 78(4) ya PAIA

<sup>40</sup> Karolo 91A ya PAIA le Melao ya Thotloetso ya phitlhelelo ya tshedimose tso, 2019

tshwanetseng go atlholwa e fitlhelwa e tshwanela tshiamiso. Ka sekai, fa e le gore direkoto tsa go kopa phitlhelelo di tla thusa motho yo a tsenyang kopo ya boikuelo kgatlhanong le go tsenngwa mo kgolegelong kgotsa go thusa mongwe go bona tlhokomelo e e oketsegileng ya kalafi, go ka direga gore kgotlatshekelo e tlofase matlho mo kgannyeng eno.

24.2.7 Kopo e ka romelwa go dumalana le tsamaiso e e kwadilweng mo molao 53 wa Molao ya Kgotlatshekelokgolo kgotsa tebang le molao 55 wa Molao ya Kgotlatshekelo ya Bommagiseterata fa go se na rekoto e e tladitsweng ke motsamaisi kgotsa e sa felela.

24.2.8 Fa rekoto e setse e fedile, kopo e tla romelwa go ya ka molao 55 wa Molao ya Kgotlatshekelo ya Bommagiseterata, go ikaegile ka gore go na le lebaka la gore modirakopo a dumele gore rekoto e e feletseng ya ditsamaiso e ka tswa e sa newa ke motsamaisi, modirakopo a ka tswelela go dumalana le tsamaiso e e kwadilweng mo Molao 53 wa Molao ya Kgotlatshekelokgolo, mme mo ditlhophong tsa yone e tla bontsha mo afitafiting ya yone gore ke eng go na le lebaka la go dumela gore rekoto e e feletsemg ga ya romelwa<sup>41</sup>.

### 24.3 **Boemo jwa semolao jwa tshwetso ya Molaodi e e letileng tshwetso ya Kgotlatshekelo ke bofe?**

Dithata tsa Molaodi di tsewa thata mo Molaotheong, mo **POPIA** le mo **PAIA**. Ka ntlha ya seo, kitsiso ya tiragatso e e ntshiwang ke Molaodi e na le ditlamorago tsa semolao mme e a tlama go fitlha kgotlatshekelo ya molao e swetsa ka tsela e e farologaneng. Ka jalo ditshwetso tsa Molaodi di a atlega e bile di tsenngwa tirisong kwantle ga fa Kgotlatshekelo e e tshwanelang e bua se sele.

### 24.4 **Ke ditaelo dife tse Kgotlatshekelo e e reeditseng kopo e ka di nayang?**

24.4.1 Kgotlatshekelo (e ka nna Kgotlatshekelo ya Mmagiseterata kgotsa Kgotlatshekelokgolo) e e reeditseng kopo e ka naya ditaelo tse di latelang -

24.4.4.1 tlhomamisa, fetola kgotsa beela kwa thoko tshwetso ya Motlhankedi wa Tshedimoseetso, kgotsa Molaodi wa Boikuelo kgotsa Molaodi wa Tshedimoseetso;

24.4.4.2 kopa Motlhankedi wa Tshedimoseetso kgotsa Molaodi wa Boikuelo go tsaya kgato eo kgotsa go ithiba go tsaya kgato eo jaaka Kgotlatshekelo e tsaya go tshwanela mo lobakeng lo lo umakilweng mo taelong;

24.4.4.3 naya thibelo, kgololo ya nakwana kgotsa e e rileng, taelo ya go ntsha maikano kgotsa taolo ya go duelwa;

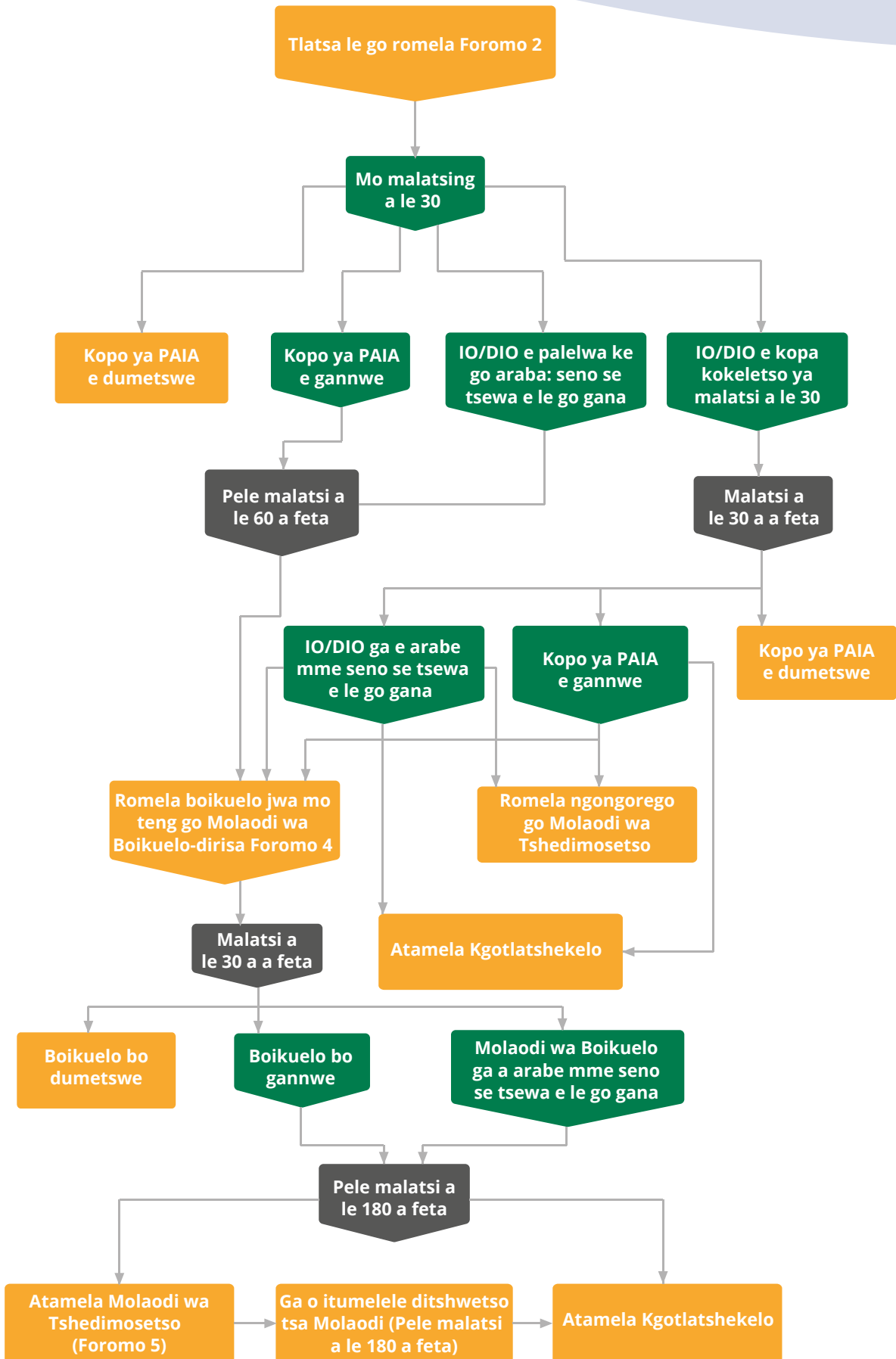
<sup>41</sup> Molao 4 Molao ya Thotloetso ya phitlhelelo ya tshedimoseetso, 2019

24.4.4.4 dira taelo ya ditshenyegelo kgatlhanong le lekoko lepe;

24.4.4.5 go dira tshiamiso, letlelela go se tsamaisane le lobaka lwa malatsi a le 180 le mo go lone kopo e tshwanetseng go tlisiwa. Jaaka go bontshitswe fa godimo, mabaka a a lekaneng a go palelwa ke go ngaparela lobaka lo lo tlhalositsweng a tshwanetse go tlhalosiwa ka botlalo mo kopong e e nang le eno go e letlelela.

## **25. TAEKERAMO YA THULAGANYO YA KOPO YA PAIA**

Tsweetswee leba tšhate e e latelang ya kgato ka kgato, ya dikgato tse di tshwanetseng go latelwa fa o diragatsa tshwanelo ya phitlhelelo ya tshedimosetso.



## 26. MELAWANA E E DIRILWENG GO YA KA KAROLO 92 YA PAIA

- 26.1 Go ya ka karolo 92(1) le 92(4) ya **PAIA**, Tona e dirile Melawana e e amanang le Thotloetso ya Phitlhelelo ya Tshedimose tso, e e akaretsang dintlha tse di latelang -
- 26.1.1 Maikarabelo a Molaodi wa Tshedimose tso (**Molawana 2**)
  - 26.1.2 Maikarabelo a motlhankedi wa tshedimose tso (**Molawana 3**)
  - 26.1.3 Go nna teng ka go itiragalela ga direkoto tse di rileng tsa mokgatlho wa puso (**Molawana 4**)
  - 26.1.4 Go phasaladiwa ka boithaopo le go nna teng ka go itiragalela ga direkoto tse di rileng tsa mekgatlho ya poraefete (**Molawana 5**)
  - 26.1.5 Go nna teng ga direkoto tsa makoko a sepolotiki (**Molawana 6**)
  - 26.1.6 Kopo ya go fitlhelela tshedimose tso (**Molawana 7**)
  - 26.1.7 Diphelelo tsa kopo le dituelo tse di duelwang (**Molawana 8**)
  - 26.1.8 Boikuelo jwa mo teng kgatlhanong le tshwetso ya motlhankedi wa tshedimose tso wa mokgatlho wa puso (**Molawana 9**)
  - 26.1.9 Go tlhatlhela dingongorego (**Molawana 10**)
  - 26.1.10 Thulaganyo malebana le patlisiso ya dingongorego (**Molawana 11**)
  - 26.1.11 Go rarabolola dikgang (**Molawana 12**)
  - 26.1.12 Kagisanyo ya dikgang (**Molawana 13**)
  - 26.1.13 Tlhatlhobo (**Molawana 14**)
  - 26.1.14 Puisano ya ileketeroniki (**Molawana 15**)
  - 26.1.15 Ditlolomolao le dikotlhao (**Molawana 16**)
- 26.2 Go ya ka karolo 79(1) ya **PAIA**, Boto ya Melao ya Dikgotlatshekelo tsa Melao, ka tumelelo ya Tona, e dirile melao ya thulaganyo ya -
- 26.2.1 kgotlatshekelo go tsamaisana le dkopo tebang le karolo 78 ya **PAIA**; le
  - 26.2.2 kgotlatshekelo e tla amogela dikemedi tse di amanang le tse di umakilweng mo karolo 80(3)(a).

## 27. DIKOKOANOPEOMOLAO TSA BOTLHOKWA, MELAWANA, DIKITSISO LE DITEBOGO

### Dikokoanopeomolao, Jaaka di ka Tlhabololwa Gangwe le Gape

Molao wa Thotloetso ya Phitlhelelo ya Tshedimisetso, Molao 2 wa 2000

Molao wa Thotloetso ya Tsamaiso ya Bosiamisi, Molao 3 wa 2000

Molao wa Thotloetso ya Phitlhelelo ya Tlhabololo ya Tshedimisetso, Molao 54 wa 2002

Molao wa Tshireletso ya Tshedimisetso ya Botho, Molao 4 wa 2013

Molao wa Thotloetso ya Phitlhelelo ya Tlhabololo ya Tshedimisetso, Molao 31 wa 2019

Molao wa Kettleetso ya Lekoko la Dipolotiki, Molao 6 wa 2018

### Melawana le Dikitsiso

Kitsiso ya Puso	Letlha la dikgatiso	Setlhogo le Tlhaloso
<b>Kitsiso ya Puso R. 757 mo GG No 45057</b>	27 Phatwe 2021	Melawana e e amanang le Thotloetso ya Phitlhelelo ya Tshedimisetso, 2021
<b>Kitsiso ya Puso R.991 in GG 28107</b>	14 Diphallane 2005	Melawana e e tlhalosang mabaka a motho a golotsweng gore a se duele dituelo.
<b>Kitsiso ya Puso 397 mo GG No. 44785</b>	30 Seetebosigo 2021	Go se akarediwe ga mekgatlho mengwe ya poraefete mo go rulaganyeng Bukana ya Ditaello ya <b>PAIA</b> .
<b>Kitsiso ya Puso 1217 in GG 42717</b>	19 Lwetse 2019	Maemo a Kgotlatshekelo ya Mmagiseterata jaaka e kgona go reetsa dikgang tsa <b>PAIA</b> .
<b>Kitsiso ya Puso R.1284 in GG 42740</b>	4 Diphallane 2019	Melao ya dithulaganyo tsa dikopo tse di tshwanetseng go dirwa tebang le <b>PAIA</b> kwa Kgotlatshekelogolo kgotsa kwa Kgotlatshekelo ya Mmagiseterata.



## DITEBOGO

Kaedi eno e e tlabolotsweng e e kaga go dirisa **PAIA** e kwadilwe lantlha ke Khomishene ya Afrika Borwa ya Ditshwanelo tsa Batho (**SAHRC**) mme Molaodi o leboga tiro ya ntlha ya **SAHRC**, go akaretsa metswedi yotlhe ya yone.

E kwadilwe ke

**MOLAODI WA TSHEDIMOSETSO**



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## **NYENDEZI**

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**YA KU SHUMISELE KWA MULAYO WA  
U TŪTŪWEDZA U SWIKELEA HA MAFHUNGO  
WA 2 WA 2000, SA ZWE WA KHWINISWA**

**TSHIVENDA**

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# PAIA GUIDE

## MAIPFI A MVULATSWINGA NGA MUDZULATSHIDULO

Ndayotewa ya Riphabuliki ya Afrika Tshipembe, 1996<sup>1</sup> (Ndayotewa) iri Afrika Tshipembe ndi shango lo q̄i imisaho nga lothe nahone la dimokirasi yo tiwaho kha u khwinisa pfanelo dza vhuthu na u vha sisiteme dza vhulanguli dzi re na vhuḏifhinduleli, u fhindula nga u ṭavhanya na u ita zwithu dzi khagala sa tshipiḏa tsha mikhwa ya vhuḏifari. Afrika Tshipembe li saathu u vha la dimokirasi na u vha na pfanelo dza vhathu dzine dza vha dza khombekhombembe, sisteme dza muvhuso Afrika Tshipembe ho katelwa na zwiṅwe, zwo ḏisa mvelele ya zwiphiri i si na ndavha kha zwiimiswa zwa tshitshavha na zwa phuraivethe zwe kanzhi zwa ḏisa u shumiswa maandḏa nga ṅḏila i si ya vhuḏi na u kandedza pfanelo dza vhathu. Ndi nga mulandu wa zwenezwo hune tshiteṅwa 32(1) tsha Mulayotibe wa Pfanelo kha Ndayotewa tshi tshi fha thendelo ya u swikelela mafhungo a muvhuso; na mafhungo maṅwe na maṅwe o farwaho nga muthu ane ṭoḏea u itela u shumisa kana u tsireledza pfanelo dziṅwe na dziṅwe. Ngeno Tshiteṅwa 32(1) tsha Ndayotewa tshi tshi ṅetshedza u phasiwa ha milayo ine ya ḏo ita uri pfanelo iyi i thome u shuma , nga u ṭhonifha, u tsireledza na u swikelelea ha pfanelo iyi.

Mulayo wa u ṭuṭuwedza u Swikelela Mafhungo, wa 2 wa 2000 (une u vhidzwa nga u pfi: **PAIA**” kana Mulayo nga iṅwe ṅḏila), sa zwe wa khwiniswa, ndi mulayo wa lushaka we wa phasiwa ho sedzwa tshiteṅwa 32(2) tsha ndayotewa.

Ndivho ya **PAIA**, ndi u ṭuṭuwedza mvelele ya u ita zwithu zwi khagala na u dzhia vhuḏifhinduleli nga zwiimiswa zwa tshitshavha na zwa phuraivethe. I ita izwo nga u ita uri pfanelo ya u swikelela mafhungo i thome u shuma na u ṭuṭuwedza tshitshavha tshine vhathu vha Afrika Tshipembe vha a kona u swikelela mafhungo u itela uri vha kone u shumisa na u tsireledza pfanelo dzavho nga vhuḏalo na u kona u swikelela zwipikwa zwa Afrika Tshipembe zwa dimokirasi zwa u vha khagala na u dzhenela.

Nyendedzi iyi ya **PAIA** yo bveledzwa u swikelela vhuḏifhinduleli ha Vhulanguli ha Zwamafhungo (“Vhulanguli”) nga fhasi ha Tshiteṅwa 10 tsha **PAIA**, tshine tsha ṭoḏa Vhulanguli vhu tshi khwinisa na u ita uri Nyendedzi ire hone ye ya dzudzanywa nga Khomishini ya Pfanelo dza Vhathu ya Afrika Tshipembe i wanalea.

Nyendedzi iyi yo itelwa u vha tshishumiswa tsha u endedza, tshi sa konḏi u shumisa nahone tshine tsha swikelelea nga muthu muṅwe na muṅwe ane a khou ṭoḏa u swikelela pfanelo dziṅwe na dziṅwe dzo anganyelwaho kha Mulayo wa **PAIA** na Mulayo wa Tsireledzo ya Mafhungo a Vhuṅe wa 2013.



**Adv Pansy Tlakula**

**MUDZULATSHIDULO WA ZWAVHULANGULI HA ZWAMAFHUNGO**

<sup>1</sup> Ndayotewa ya Riphabuliki ya Afrika Tshipembe, 1996 (Mulayo No. 108 wa 1996)

## MBETSHELWA

Nyendedzi iyi a i ruli mushumisi vhuḁifhinduleli ha u shumisa vhukoni hawe na ndondolo ho sedzwa ṭhodea na mbofho dzo rendelwaho nga mulayo muḁwe na muḁwe. Zwiḁwe hafhu, Nyendedzi iyi a i fhi tsivhudzo ya zwamulayo nahone a yo ngo itelwa u ima tshiimoni tsha **PAIA** kana Milayo yo ṅetshedzwaho nga fhasi ha **PAIA**.

### 1. MUTEVHE WA DZIABURIVESHENI NA DZIAKHURONIMI

<b>CEO</b>	Muofisiri Muhulwane wa Khorondanguli
<b>CFO</b>	Muofisiri Muhulwane wa Zwamasheleni
<b>Constitution</b>	Ndayotewa ya Riphabuliki ya Afrika Tshipembe, Mulayo wa vhu 108 wa 1996
<b>DIO</b>	Mufarisa Muofisiri wa Mafhungo
<b>DoJ &amp; CD</b>	Muhasho wa Vhulamukanyi na Mveledziso ya Ndayotewa
<b>IO</b>	Muofisiri wa Zwamafhungo
<b>Mirado</b>	Murado wa Vhulangi ha zwamafhungo
<b>Minista</b>	Minista wa Vhulamukanyi na Mveledziso ya Ndayotewa
<b>PAIA</b>	Mulayo wa u Ṭuṭuwedza u Swikelela Mafhungo, wa vhuvhili (2) wa 2000 sa zwe wa khwiniswa
<b>PAJA</b>	Mulayo wa u Ṭuṭuwedza ya Vhulanguli ha Vhusimamilayo, wa 2000
<b>PFMA</b>	Mulayo wa Ndango ya Ndango ya Masheleni wa Vhu 1 wa 1999 sa zwe wa Khwiniswa zwone
<b>POPIA</b>	Mulayo wa tsireledzo ya Mafhungo a Vhuḁe wa vhu 4 wa 2013
<b>Vhulanguli</b>	Vhulanguli ha Zwamafhungo

### 2. MAIPFI A NDEME O ṬALUTSHEDZWAHO NGA TSHIVHUMBEO NA NḁILA INE ZWO LELUWA U A ḁIVHA

<b>Ipfi</b>	<b>Ṭhalutshedzo</b>
<b>Mbadelo dza u Zwikelela</b>	Mbadelo idzi dza u swikelela dzi badelwa nga muitakhumbelo kha tshiimiswa tshine vha khou humbela mafhungo u badela mbadelo dza u ṭoda na u ita khophi dza rekhodo dzine vha khou ṭoda.
<b>Vhulangi</b>	Muthu o fhiwaho maanda ndi muthu ane a khou ita khumbelo o imela muḁwe muthu nahone a vha o fhiwa thendelo yo tou ḁwalwaho

<p><b>Maga a vhulangi</b></p>	<p>Ndi tsheo yo dzhiwaho, kana yo balelwaho u dzhiwa nga</p> <p>(a) Tshiimiswa tsha muvhuso, musu:</p> <p>(i) tshi tshi khou shumisa maanḁa ho sedzwa Ndayotewa kana ndayotewa ya vunḁu; kana</p> <p>(ii) U shumisa maanḁa a tshitshavha kana u shuma mushumo wa tshitshavha u ya nga maga a mulayo muḁwe na muḁwe;</p> <p>(b) Muthu kana tshiimiswa tshi re na vhuḁifhinduleli lwa mulayo, hu si tshiimiswa tsha muvhuso musu tshi tshi khou shumisa maanḁa tshitshavhani kana u ita mushumo tshitshavhani ho sedzwa mbetshelwa dza maanḁa eneo dzine dza nga vha na masiandaitwa kha u kwama ppanelo dza muthu muḁwe na muḁwe zwine zwa dovha zwa vha na masiandaitwa twii kha mulayo, kana nḁa a mulayo.</p>
<p><b>Muthu o fhiwaho Maanḁa</b></p>	<p>Muthu o fhiwaho maanḁa ndi muthu ane a khou ita khumbelo o imela muḁwe muthu nahone a vha o fhiwa thendelo yo tou ḁwalwaho.</p>
<p><b>Rekhodo dzi no wanala lwa othomethikhi</b></p>	<p>Hedzi ndi rekhodo dzine tshiimiswa tsha tshitshavha kana tsha phuraivethe tsha dzi ḁetshedza muitakhumbelo hu so ngo thoma ha ḁoḁwa a tshi ita khumbelo. Rekhodo idzi dzo sumbedzwa kha mutevhe u re kha “ḁivhadzo ya u anḁadza lu si lwa khombekhombe” dzine dzi tea u wanalea tshitshavha.</p>
<p><b>Muḁe wa data</b></p>	<p>Ndi muthu ane mafhungo a vhuḁe a mukwama.</p>
<p><b>Maḁuvha</b></p>	<p>Nga nḁa ha musu zwo sumbedziswa sa “ḁuvha ḁa mushumo” kha tshiteḁwa tsha <b>PAIA</b>, ḁuvha ḁi dziwa sa ḁuvha ḁi re kha khalenda. Musu vha tshi khou vhalela tshifhinga, ḁuvha ḁine khumbelo ya ḁanganedzwa ngaḁo a ḁi vhaliwi, nga murahu ha izwo hu vhaliwa ḁuvha ḁiḁwe na ḁiḁwe ho katelwa na maḁuvha a mafhelo a vhege khathihi na holodeni u swika ḁuvha ḁa u fhedzisela.</p>
<p><b>U balelwa u fha Phindulo</b></p>	<p>Arali ha sa wanwe phindulo kha khumbelo nga tshifhinga tsho tiwaho, hezwi zwi vhidzwa sa ‘U balelwa u fha Phindulo’</p>
<p><b>Fomo 2</b></p>	<p>Iyi ndi fomo yo randelwaho nga mulayo nahone i tea u shumiswa u ita khumbelo ya u swikelela mafhungo o farwaho nga tshiimiswa tsha tshitshavha kana tsha phuraivethe</p>
<p><b>Fomo 4</b></p>	<p>Iyi ndi fomo yo randelwaho lwa mulayo ine ya tea u shumiswa musu hu tshi khou itwa khaḁhululo kha tsheo nga tshiimiswa tsha tshitshavha kana tsha phuraivethe ho sedzwa khumbelo ya u swikelela mafhungo.</p>

**Iphi****Tsalutshedzo****Nyendededzi**

Nyendededzi iyi, yo itelwa u thoma u shuma ha tshiteńwa 10 tsha **PAIA**, u ya nga khwiniso, hu tshi khou itelwa u thusa muthu ane a khou tama u shumisa pfanelo inwe na inwe yo anganyelwaho kha **PAIA** kana kha Mulayo wa Tsiredzo ya Mafhungo a Vhune, wa 2013.

**Muofisiri wa Zwamafhungo**

Muofisiri wa Zwamafhungo ndi muthu o fhiwaho maanda a u shuma na khumbelo dza **PAIA**. Hedzi ndi khethekanyo dza Muofisiri wa Mafhungo u ya nga tshiimiswa -

<b>Tshiimiswa tsha tshitshavha kana tshiimiswa tsha muvhuso</b> (sa zwe tsha tsalutshedzwa kha Tshiteńwa 239 tsha ndayotewa)	Muhasho wa Muvhuso ya Lushaka	Mulangi Muhulwane kana muthu o mu farelaho
	Vhulanguli ha Vundu	Tshoho ya Muhasho kana muthu o mu farelaho
	Masipala	Mulanguli wa Masipala kana muthu o mu farelaho
	Tshiimiswa tsha Tshitshavha sa zwe zwa sumbedzwa kha Shedulu 1, 2, 3A, 3B, 3C & 3D dza PFMA	Muofisiri muhulwane wa khorondanguli kana muthu o mu farelaho
<b>Tshiimiswa tsha phuraivethe</b>	Muthu o fhiwaho maanda nga mulayo	Mubindudzi woga ane a ita zwa zwamakwevho, vhubindudzi kana zwa phurofesheni, kha tshiimo tshenetshi fhedzi nahone a sa khou itela ene muńe fhedzi
	Vhufarisani	Muthu muńwe na muńwe a re tshipida tsha vhufarisani kana muthu muńwe na muńwe o fhiwaho maanda nga vhufariasani.
	Dzangano la Polotiki	Muthu o mu farelaho Murangaphanda wa lihoro la polotiki kana muthu muńwe na muńwe o fhiwaho maanda nga vhufariasani



**Muofisiri wa Zwamafhungo**

	Tshiimiswa tsho fhiwaho maanda lwa mulayo	<p>Muofisiri muhulwane wa khorondanguli kana Mulangi muhulwane kana muofisiri a re kha vhuimo vhu no lingana o fhiwaho maanda kana muthu o fhiwaho maanda nga muofisiri</p> <p><b>Khavha dzhiele nzhele:</b> muofisiri muhulwane wa khorondanguli a nga tendela muthu muñwe na muñwe o fhiwaho maanda nga mulayo u vha Muofisiri wa Zwamafhungo wa Tshiimiswa tsha Phuraivethe.</p>
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**Mufarisa Muofisiri wa Zwafhungo**

Mufarisa Muofisiri wa Zwafhungo ndi muthu a no shuma kana o nangiwaho nga Muofisiri wa zwamafhungo wa tshiimiswa tsha tshitshavha u thusa muitakhumbelo nga u ita khumbelo ya mafhungo; nahone ndi ene ane hafhu Muofisiri wa Zwamafhungo a dovha hafhu a mu fha mañwe maanda a **PAIA**.

**Kha vha dzhiele nzhele:** U ya nga tshiteñwa 17(1) tsha **PAIA**, ndi tshiimiswa tsha tshitshavha fhedzi tshine tsha nga ta kana fha maanda Mufarisa muofisiri wa zwamafhungo ngeno Mulayo wa Tsireledzo ya Mafhungo a Vhuñe wa 2013 (**'POPIA'**) u a tendela u fhiwa maanda Mufarisa Muofisiri wa Zwamafhungo kha tshiimiswa tsha phuraivethe, u ya nga tshiteñwa 56(1).

**Vhulanguli ha Zwamafhungo**

Ofisi ya Vhulanguli ha zwamafhungo yo thomiwa, u ya nga tshiteñwa 29 tsha **POPIA**, u ðola na u kombetshedza u tevhedza **POPIA** khathihi na **PAIA**. Kha nyendedzi iyi musi hu tshi pfi Ofisi ya Vhulanguli ha Mafhungo na Vhulanguli ha hu ðo vha hu tshi khou ambiwa sa Vhulanguli.

**Khañhululo ya nga ngomu Tshiimisiwani**

Khañhululo ya nga ngomu tshiimisiwani ndi maitete a u hanedza tseo yo itiwaho ho sedzwa khumbelo ya **PAIA** kha tshiimiswa tsha tshitshavha, ine ya tea u khunyeledzwa hu saathu u itwa khaedu na Vhulanguli kana khothe yo teaho.

**Tshiimiswa tsha Phuraivethe**

Tshiimiswa tsha phuraivethe ndi muthu, khamphani kana tshiimiswa tshinwe na tshinwe tshi re na maanda lwa mulayo tshine tsha ita zwamakwevho, u vhubindudzi kana zwa phurofesheni, ho katelwa madzangano a poñotiki.

**Ipfi****Thalutshedzo****Tshimiswa Tsha tshitshavha**

Tshimiswa tsha tshitshavha zwi amba muhasho wa muvhuso kana mushumi kana tshimiswa, tshi no khou ita mushumo wa tshitshavha. Fhedzi musi ho sedzwa khatululo ya tshimisiwani, huñwe na huñwe hu ne ha pfi “tshimiswa tsha tshitshavha” ho shandukiswa hu vho pfi (Muvhuso”, u itela u thivhela ndaḁo ho sedzwa zwiimiswa zwa tshitshavha zwine maitele a khatululo ha zwi kwami.

**Rekhodo**

Rekhodo ndi mafhungo mañwe na mañwe o rekhodiwaho hu sa sedzwi tshivhumbeo, sa tsumbo, mañwalo o ñwalwaho, odio, zwadidzhithala kana vidio. Rekhodo ine ya khou humbelwa u bva kha tshimiswa tsha tshitshavha kana tsha phuraivethe, zwi amba rekhodo ine ya vha na tshimiswa hu si na ndavha uri ndi vhone vho itaho.

**Ndaulo**

**PAIA** i tendela Minista u netshedza ndaulo dzine dza tikedza Mulayo, dzine dzi tea u gandiswa kha gazethe ya muvhuso, nahone dzi tea u angaredza zwithu zwi no nga sa fomo ine ya tea u shumiswa na mbadelo dzine dza nga badelwa kha mañwe a maitele.

**Tshimiswa tshi re na maandalanga**

**PAIA** i shumisa ipfi “maandalanga a kwameaho” u talusa muthu a re kha Muvhuso wa Lushaka, Vundu na Wapo ane khatululo tshimisiwani i tea u livhiswa khae, hune kanzhi ndi thoho ya tshimiswa tshenetsho o tholwaho lwa tshipolotiki (mushumo uyu u nga fhiwa muñwe muthu lwa tshipofisi).

**3. ZWIDOMBEDZWA ZWA VHUṬUMANI ZWA VHULANGULI****Muofisiri wa Zwamafhungo****Muofisiri Muhulwane wa Khorondanguli:****Muthu a no tea u kwamiwa:****Imeili:**

Mr. Mosalanyane Mosala

Ms. Ntombizodwa Harrieth Rikhotso

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## 4. NDIVHO YA NYENDEDZI IYI YA PAIA

- 4.1 Ndivho ya nyendedzi iyi ndi u netshedza mafhungo ane a tōdeā nga muthu muñwe na muñwe ane a khou tama u shumisa pfanelo iñwe na iñwe ine yo anganyelwaho kha Mulayo wa u Tutuwedza u Swikelela Mafhungo, wa 2 wa 2000 (**PAIA**) na Mulayo wa Tsireledzo ya Mafhungo a Vhūne wa 2013 ("**POPIA**"). Muthu muñwe na muñwe, hu si na ndavha ya tshidzulapo, a nga ita khumbelo ya u swikelela mafhungo nga fhasi ha **PAIA**.
- 4.2 Nyendedzi iyi i dō thusa muthu, ane a vhidzwa muñe wa data, uri a nga swikelela hani zwidodombedzwa zwawe zwa vhuñe u ya nga tshiteñwa 23 tsha **POPIA**. Nga fhasi ha **POPIA**, muthu kana muñe wa data u na pfanelo ya -
- 4.2.1 u hambela mudzhiavhuḍifhinduleli, u kwhaḥisedza, hu si na mbadelo, uri mudzhia vhuḍifhinduleli o fara mafhungo a vhuñe avho na kana hai,
- 4.2.2 U hambela u bva kha mudzhiavhuḍifhinduleli rekhodo kana ḥhalutshedzo ya mafhungo a vhuñe a muñe wa data o farwaho nga mudzhiavhuḍifhinduleli, ho katelwa mafhungo a vhuñe a vhathu vha vhuraru vhoḥthe, kana khethekanyo dza vhathu vha vhuraru, vhane vha vha, kana vhe vha vha vha, tshi kona u swikelela mafhungo.
- 4.2.3 U hambela mudzhiavhuḍifhinduleli u
- (a) khakhulula kana u thutha mafhungo a vhuñe a muñe wa data ane vha vha nao kana are fhasi ha ndango yavho ane a vha a si a vhukuma, a so ngo teaho, manzhi, a kale, a so ngo fhelelaho, a no khakhisa kana o wanwaho lu si lwa mulayo;
- (b) u tshinyadza kana u thutha mafhungo a vhuñe a muñe wa data ane mudzhiavhuḍifhinduleli ha tshe na maanda a u vhea
- 4.3 Nyendedzi iyi i dō thusa muthu muñwe na muñwe u sumbedza uri a nga kona hani u hambela u swikelela rekhodo dzi no langwa nga **PAIA**. Nyendedzi iyi i dō thusa muitakhumbelo nga:
- 4.3.1 u pfesesa **PAIA**, mbuelo dzayo na tsiangane;
- 4.3.2 u guda maga a maitete a u ita khumbelo na tsivhudzo dza nyengedzedzo dza u ita uri maitete aya a vhe o leluwaho;
- 4.3.3 u guda tshaka dza mafhungo ane nga hambelwa vha tshi khou shumisa **PAIA**;
- 4.3.4 u pfesesa maitete ane muitakhumbelo a nga a shumisa u ita khaedu kha tsheo yo dzhiwaho nga khumbelo yawe;

4.3.5 U divhadzwa tshanduko dzine dza do vha hone kha **PAIA** musi **POPIA** i tshi thoma u shuma lwo khunyelelaho.

4.4 Nyendedzi iyi i do thusa vhatu u pfesesa uri vha nga ita hani khaedu kha zwa u nea thendelo ya u swikelela rekhodo dzavho kana ndila ya u dzhenela kha maitete a u swikelela rekhodo dzavho.

## 5. NGA HA PAIA

5.1 Pfanelo ya u swikelela mafhungo “ndi inwe ya ndila dza khwine dza u tsireledza ndeme dza ndayotewa dza u vha khagala; u ita nga u fulufhedzea, u dzhenela ha nnyi na nnyi na vhuqifhinduleli”.<sup>2</sup> Ndeme dzo ambiwaho afha ntha dza Ndayotewa dzi nga si swikelelewe arali muvhuso u wone u wotha u no fara mafhungo ano kwama kushumele na tsho dzawo. Ngauralo u swikelela mafhungo a si zwa ndeme fhedzi kha u shuma nga ngona ha dimokirasi ine hu na u dzhenela ha nnyi na nnyi, zwi dovha hafhu zwa engedzedza fulufhelo la vhatu kha muvhuso na u khwaqhisedza ndila ine wa tevhedza ngayo milayo. Inwe mbuelo ya pfanelo ya u swikelela mafhungo ndi ya uri zwi nyamisa zwiito zwa vhuqada na tshandanguvho, na u shaya fulufhelo na manwe maitete a si avhuqi nga muvhuso.

5.2 Musi hu tsi khou nwalwa Ndayotewa ya Afrika Tshipembe nga murahu ha minwaha ya Muvhuso wa Tshitalula nga vho 1990, madzangano manzhi na vhatu vhanzhi vho ita fulo la uri hu dzheniswe vho na pfanelo ya u swikelela mafhungo. Ho vha hu na fulufhelo la uri, u katela pfanelo iyi kha Mulayotibe wa Pfanelo zwi do ita uri zwiito zwivhi zwi no fana na Muvhuso wa Tshitalula zwi si tsha dovha zwa itea, ngauri muvhuso na zwiimiswa zwa phuraivethe zwi tshi kombetshedzea u shuma nga ndila ya vhuqifhinduleli na u vha khagala nga u netshedza mafhungo, nahone, a vha nga koni u di sendeka ngauri ndi a tshiphiri. Zwo vhone la li liga la ndeme la u thusa u thoma mvelele ya u ombedzela ine ya do ita uri hu vhe na vhusaka ha vhuqi vhuqati ha vhatu na avho vha re na maanda. Kha minwe ya milandu ya kale<sup>3</sup> ye ya vha i tshi khou u sedza mbudziso ya uri muhwelelwa u na ndugelo ya u swikelela mafhungo othe a re dokhethe i re na mapholisa, Vho Jones vho sumbedza vhuqogwa ha izwi ho sedzwa:

***“Ndivho - ndi u thivhela sisiteme ya kale ya vhulanguli, sisiteme ine zwo vha zwo lelutshela muvhuso u sa dzhia vhuqifhinduleli nga u hana u bvisela khagala mafhungo na musi a na vhuqumani na u shumisa kana u kandedza pfanelo dza vhatu dza muthu. Hezwi ndi zwithu zwi si zwavhuqi zwo itelwaho u thivhela[...] Zwi sumbedza ndila kwayo na u vha khagala zwa qutuwedza fulufhelo nga tshitshavha kha vhulanguli ha zwithu zwa tshitshavha. Fulufhelo ili ndi tshinwe tsha zwiqalusi zwa tshitshavha tshine tsha khou langwa lwa dimokirasi hune ndayotewa ya dzhielwa ntha vhuquma.”***

<sup>2</sup> Mulayo wa Vhulanguli wa Hoexter wa 94

<sup>3</sup> 1994 (1) SACR 635 (E)

- 5.3 Tshitenwa 32 tsha Ndayotewa tshi tsireledza pfanelo ya u swikelela mafhungo o farwaho nga zwiimiswa zwa tshitshavha kana zwa phuraivethe. Tshitenwa 32 tshi dovha hafhu tsha sumbedza uri hu tea u phasiswa milayo ine ya ita uri pfanelo ya u swikelelwa mafhungo i thome u shuma nga u dodombedza ndila ine mafhungo u bva kha zwiimiswa zwa tshitshavha na phuraivethe a do wanala ngayo, na u dovha vha sumbedza tshiimo tshine tsha nga ita uri zwiimiswa zwa tshitshavha kana zwa phuraivethe zwa nga hana hu tshi swikelelwa mafhungo.
- 5.4 **PAIA** yo phasiswa u fhindula maanda a ndayotewa o bulwaho afho ntha, nahone wo thoma u shuma nga vhunzhi nga Thafamuhwe 2001. Mvulatswinga yayo i a tenda, mvelele ya “zwiphiri na ya u sa pfela vhuṭungu” ya musi hu saathu u swika dimokirasi, nahone i sumbedza uri tshipikwa tshithihi tsha **PAIA** ndi “u ṭuluwedza mvelele ya u bvisela khagala na vhuḍifhinduleli nga zwiimiswa zwa tshitshavha na zwa phuraivethe.”
- 5.5 **PAIA** yo itelwa uri muthu a thome u shumisa pfanelo dza u swikelela mafhungo na vhuḍifhinduleli. Yo itelwa u fha vhathu maanda a u shumisa mulayo, na u vha thusa u ita khumbelo ya u swikelela mafhungo nga ndila dzo fhambanaho. Muthu ha ṭodi axenḍe u ita khumbelo ya u swikelela mafhungo u ya nga **PAIA**.

## 6. ZWIPIKWA ZWA PAIA

- 6.1 Zwipikwa zwa **PAIA** a si u ima vhuimoni ha pfanelo dza ndayotewa, fhedzi i ita uri hu thome u shuma pfanelo dzi re kha tshitenwa 32 zwo di sendeka nga phimo yo teaho, nahone nga ndila ine ya nga thusa u linganyisa pfanelo dzothe dzi re kha Ndayotewa. I na fulufhelo ja u nga ṭuṭuwedza mvelele ya pfanelo dza vhuthu na maitete kwao a u netshedza zwikhala kha vhathu, kha sekhithara dza phuraivethe na sekhithara tsha tshitshavha. **PAIA** i khou ṭoda u ṭuṭuwedza u vha khagala, u dzhia vhuḍifhinduleli na vhulanguli ha vhuḍi nga zwiimiswa zwothe (zwa tshitshavha na zwa phuraivethe) nga u nea maanda vhathu uri vha kone u pfesesa pfanelo yavho ya u swikelela mafhungo, u i shumisa, na u dovha vha i sedzulusa na u kona u vha tshipiḍa tsha u dzhia tsheo dzine dza vha kwama.
- 6.2 Pfanelo ya u swikelela mafhungo ndi pfanelo ya ndayotewa ire na maanda vhukuma, ngauri i thusa vhathu u divha dziṅwe pfanelo. Muthu a nga i shumisa u thusa u ṭola na u swikelela ndisedzo ya tshumelo nga muvhuso, kana u swikelela rekhodo dza divha zwakale ine vha i funa.
- 6.3 Zwipikwa zwa **PAIA** ndi -
- 6.3.1 u fha mveledzwa kha pfanelo ya ndayotewa ya u swikelela
- 6.3.1.1 Mafhungo maṅwe na maṅwe o farwaho nga Shango; na
- 6.3.1.2 Mafhungo maṅwe na maṅwe o farwaho nga muṅwe muthu nahone a vha a tshi khou ṭodea u itela u shumisa kana u tsireledza pfanelo dziṅwe na dziṅwe.

- Thodea ine ya elana na u tsireledza pfanelo yo di sendeka kha pfanelo dza mafhungo o farwaho nga zwanda zwa phuraivethe. Zwiimiswa zwa phuraivethe a zwi ngo vhofohiwa nga maga manzhi u vha khagala zwi tshi vhambedzwa na zwiimiswa zwa tshitshavha. Sekhithara dza phuraivethe dzi na pfanelo dza u vhulunga mafhungo adzo dzone dzine nga ndani ha musi mafhungo ayo a tshi khou thodea u itela u tsireledza pfanelo.
- **PAIA** i a tenda, u ya nga tshitehwa (8)1 uri, tshiimiswa tshi nga vha tsha “tshitshavha” kana “phuraivethe u itela Mulayo ho sedzwa uri rekhodo ine ya khou thodea “i na vhushaka na u shumisa maanda kana kushumele kwa mushumo sa tshiimiswa tsha tshitshavha kana sa tshiimiswa tsha phuraivethe.”

### 6.3.2 I fha iyo pfanelo u thoma u shuma -

6.3.2.1 zwo di sendeka nga phimo yo teaho, ho katelwa, fhedzi hu so ngo tou sedzwa phimo fhedzi, phimo dzo tou itelwa u tsireledza zwiphiri, zwidzumbwe zwa vhubindudzi na vhulanguli ha vhukuma, ha vhu di nahone ha khwine nga ndila i no pfa dza.

6.3.2.2 Nga ndila ine ya linganyisa pfanelo iyo na dzihwe pfanelo ho katelwa na pfanelo dzi re kha Mulayotibe wa Pfanelo kha Ndimba 2 ya Ndayotewa.;

6.3.3 u itela u thoma u shuma ha mbofho dza ndayotewa dza Shango kha u tshutshedza mvelele ya pfanelo dza vhuthu na maitete kwao a u netshedza zwikhala kha vhathu, nga u katela zwiimiswa zwa tshitshavha na zwa phuraivethe kha u tshutshedza ipfi “muitakhumbelo”, na u vha tendela, ho katelwa na vha hwe, u swikelela mafhungo u bva kha zwiimiswa zwa phuraivethe musi vho tevhedza thodea nga dza mulayo uyu, ho katelwa vhu difhinduleli ho engedzedzwaho kha zwi hwe zwiimiswa zwa tshitshavha u shuma vho sedza madzangalelo a tshitshavha kha dzi hwe nyimele;

6.3.4 U thoma maitete kana maga a u tou di nangela kana a si a khombekhombe a u ita uri pfanelo dzi thome u shuma nga ndila ine ya ita uri muthu a kone u swikelela rekhodo dza zwiimiswa zwa tshitshavha na zwa phuraivethe nga ndila yo leluwaho, zwi sa duri na u konadzea hu so ngo shumisa nungo nnzhi;

6.3.5 nga u angaredza, u tshutshedza u vha khagala, vhu difhinduleli na vhulanguli ha khwine nga zwiimiswa zwothe zwa tshitshavha na zwa phuraivethe ho katelwa, fhedzi zwi si zwone zwi zwothe, u fha maanda na u funza muthu mu hwe na mu hwe. -

6.3.5.1 u pfesesa pfanelo dzavho u ya nga Mulayo u itela uri vha kone u shumisa pfanelo dzavho ho sedzwa zwiimiswa zwa tshitshavha na zwa phuraivethe;

6.3.5.2 pfesesa mushumo na mashumele a zwiimiswa zwa tshitshavha; na



6.3.5.3 U sedzulusa nga ndila yone, na u dzhenela kha, u dzia tsheo nga zwiimiswa zwa tshitshavha zwine zwa kwama pfanelo dzavho.

#### 6.4 Mulayo wa u Tutuwedza u Swikelela Mafhungo wo Khwiniswaho, 2019

6.4.1 U ya nga vha **Voutu yanga ndi ya ndeme NPC na Minista wa tshumelo ya Vhulamukanyi na Tshumelo dza Ndulamiso na [2018] ZACC 17**; Khothe ya Ndayotewa yo sumbedza uri “ shango li na vhuḍifhinduleli u bva kha u vhaliwa nga ndila yone ha tshiteṅwa 32,19 na 7(2) tsha ndayotewa u ita zwithu nga ndila ine zwa konadzea u fha thalutshedzo na maitele a no pfaḍza kha pfanelo ya u swikelela mafhungo na u khetha. Vhunzhi havho vho dovha vha sumbedza uri izwi zwo tou ralo ngauri u shumisa pfanelo ya u khetha zwi tea u vha khetho ine muthu a vha a na ndivho, nahone hu na vhuṭumani vhuhulu vhukati ha u shumisa pfanelo ya u khetha na pfanelo ya u swikelela mafhungo. Na uri” arali hu si na u swikelela ha mafhungo, vhukoni ha vhadzulapo ha u ita tsheo dza poḷotiki dzo itwaho nga vhuḍifhinduleli na u dzhenela nga ndila kwao zwi vha zwo sedzelwa fhasi”. Khothe ya ndayotewa yo khwaṭhisedza uri zwo khakhea ho sedzwa ndayotewa ya kombetshedza Phalamennde uri i khwinise **PAIA** na u dzhia maṅwe maga o teaho ane nga ṅetshedza mafhungo, u tsireledza na ita uri zwi leluwe u swikelela mafhungo nga ha u lambedzwa nga mavheleni mahoro a poḷotiki kana nkhethe ni o ḍi imisaho a tshifhinga tsha miṅwedzi ya 18.

6.4.2 U ya nga khaṭhulo i re afho nṅha ya khothe ya ndayotewa, Muphuresidennde nga dzi, 3 dza Fulwana 2019, vho saina Mulayo wa u Tutuwedza u Swikelela ha Mafhungo wo Khwiniswaho, wa 2019 (Mulayo wo Khwiniswaho wa **PAIA** wa 2019). <sup>4</sup>Mulayo wo Khwiniswaho wa **PAIA** wa 2019 u katela lihora la poḷotiki kha thalutshedzo ya zwiimiswa zwa phuraivethe, zwine zwa amba uri murangaphanḍa wa lihora kana muthu muṅwe na muṅwe u ṅewaho maandḍa nga murangaphanḍa ndi muofisiri wa zwamafhungo kana ṅhoho. Mulayo wo Khwiniswaho wa **PAIA** wa 2019 u ita uri ho swikelelwe vho na rekhodo dza lihora lingwe na lingwe la poḷotiki.

6.4.3 Mulayo wo Khwiniswaho u lavhelela uri mafhungo a u ṅetshedzwa masheleni lihora la poḷotiki kana nkhethe ni o ḍi imisaho nga eṅhe a rekhodiwe, u vheiwa nahone a kone u wanalea.

6.4.4 U ya nga tshiteṅwa 52A tsha Mulayo wo Khwiniswaho wa **PAIA** wa 2019, ṅhoho ya lihora la poḷotiki u tea u sika na vhea rekhodo dza ndambedzo dzi no fhira tshikalo tsho tiwa, tsha **R100 000.00**, dze dza ṅetshedzwa lihora kha ṅwaha muṅwe na muṅwe wa muvhalelano na dzina la vhathu kana zwiimiswa zwo ṅetshedzaho ndambedzo iyo. ṅhoho ya lihora la poḷotiki i fanela u ita uri rekhodo dzi kone u wanala nga kotara, sa zwe randelwa; na u vhulunga rekhodo dza miṅwaha i no swika miṅanu nga murahu ha u itwa ha iyi rekhodo.

<sup>4</sup> Mulayo wa u Tutuwedza u Swikelela Mafhungo wo Khwiniswaho, Wa. 31 wa 2019



6.4.5 Naho Mulayo wa U n̄etshedzwa Masheleni Lihoro la Połotiki, u tshi a kombetshedza u bvisela khagala kha Khomishini ya Dzikhetho lwa, Mulayo wo Khwiniswaho wa **PAIA** wa 2019 u engedzedza na pfanelo ya u swikelela, rekhodo dza ndambedzo i no fhira **R100 000.00** kha muthu muñwe na muñwe, dze dza n̄ewa lihoro la połotiki.

## 6.5 Miñwe milayo ine ya tsireledza pfanelo ya u swikelela mafhungo

Mulayo wa **PAIA** u wanala vho kha vhupo hoñhe ha zwamulayo, hune wo itelwa u sika “mvelele ya u țalutshedza”. Hu tshi khou sedzwa izwi, Mulayo wa **PAIA** uri, mulayo muñwe na muñwe une wa fha muthu tshikhala tsha u swikelela mafhungo hu si na vhuđifhinduleli vhunzhi nga nnda ha **PAIA**, u nga shumiswa<sup>5</sup>.

### 6.5.1 Mulayo wa Dzikhamphani 71 wa 2008

6.5.1.1 Tshiteñwa 26(1) tsha Mulayo wa Dzikhamphani tshi n̄etshedza muthu ane o fara kana u na madzangalelo kha tzedzuluso dziñwe na dziñwe dzo n̄etshedzwaho nga khamphani ire na mbuelo, kana ane a vha murađo wa khamphani i sa shumeli malamba, pfanelo ya u țola na u ita khophi nga mahala nga u țola honoho kana u badela mbadelo dzi sa fhiri nda n̄thesa dza u ita khophi dza mafhungo eneo a khamphani.

6.5.1.2 U ya nga tshiteñwa 26(7)(b) tsha Mulayo wa Dzikhamphani (Mulayo 2 wa 2000), “pfanelo dza u swikelela mafhungo dzine dza sumbedzwa kha tshiteñwa itshi ndi nyengedzedzo kha, hu si u tshintsha, pfanelo iñwe na iñwe ine muthu a nga vha e nayo ya u swikelela mafhungo u ya nga Mulayo wa u Ťuțuwedza u Swikelela Mafhungo , 2000(Mulayo 2 wa 2000)

### 6.5.2 Mulayo wa U Lambedza nga Masheleni Lihoro la Połotiki Mulayo, 2018 (Mulayo 6 wa 2018)

6.5.2.1 Mulayo wa u n̄etshedzwa ha masheleni Mahoro a połotiki wo thoma mutheo wa zwa mulayo u re na vhutevheleli ha u n̄etshedzwa masheleni lwa phuraivethe kha mahoro oñhe a połotiki o ði n̄walisaho, ane a nga vha a khou imelelwa kha vhusimamilayo ha lushaka kana ha vunđu kana vhu si ha lushaka kana ha vunđu. Hezwi zwi katela tshikalo tsho vheiwaho tsha tshiko, tshivhalo, na mushumo wa masheleni o lambedzwaho.

6.5.2.2 U vhona uri hu na u bvela khagala na vhuđifhinduleli, mahoro a połotiki a tea u bula ndambedzo dzoñhe dzo waniwaho dzi re n̄ña ha tshikalo tsha **R100 000.00** kha Khomishini ya Dzikhetho tshifhinga tshoñhe miñwedzi miraru miñwe na miñwe (kathihi na nga tshifhinga tsha u ya khethoni).

<sup>5</sup> Tshiteñwa 2(1) tsha PAIA

- 6.5.2.3 Muthu muñwe na muñwe kana dzangano liñwe na liñwe vho itaho ndambedzo luthihi kana nga zwiṭuku zwiṭuku ine ya fhira **R100 000.00** kha lihora la polotiki nga ñwaha vha tea u vhiga ndambedzo iyo kha khomishini ya Dzikhetho hu vhatu u fhira maḁuvha a 30 a u ita ndambedzo iyo kana hu saathu u fhira maḁuvha a 30 ndambedzo i no khou fhiwa nga zwiṭuku zwiṭuku ya paḁa **R100 000.00**.
- 6.5.2.4 Tsha u fhedzisela, Mulayo wa U ñetshedza Masheleni Lihoro la Polotiki u ñea vhuḁifhinduleli Khomishini ya Dzikhetho u anḁadza ndambedzo dzo vhighwaho nga mahoro a polotiki miñwedzi miraru miñwe na miñwe na u vhiga nga ñwaha Phalamenndeni ndambedzo dzoṭhe dzo ñewaho mahoro a polotiki nga ñwaha.
- 6.5.3 Mulayo wa Tsireledzo ya Mafhungo a Vhuñe wa 2013
- 6.5.3.1 Tshiteñwa 23 tsha **POPIA** tshi ñetshedza muñe wa data pfanelo ya u swikelela mafhungo a vhuñe o farwaho nga mudziavhuḁifhinduleli, ho katelwa mafhungo a vhuñe a vhatu vha vhuraru vhoṭhe, kana khethekanyo dza vhatu vha vhuraru, vhane vha vha, vhe vha vha vha, tshi kona u swikelela mafhungo.
- 6.5.3.2 Hezwi zwi amba uri naho u swikelela rekhodo dzine dza vha na mafhungo a vhuñe nga ha muitakhumbelo zwi so ngo angaredzwa kha **PAIA** u ya nga Tshiteñwa11(2), muñe wa data a nga humbela -
- 6.5.3.2.1 u swikelela mafhungo awe a vhuñe ; na/kana
- 6.5.3.2.2 Mafhungo a vhuñe a vhatu vha vhuraru vhoṭhe, na/ kana khethekanyo dza vhatu vha vhuraru vhane vha vha, kana vhe vha vha, vha tshi kona u swikelela mafhungo.
- 6.5.3.2.3 khakhulula kana u thutha mafhungo a vhuñe a muñe wa data ane vha vha nao kana are fhasi ha ndango yavho ane a vha a si one, a so ngo teaho, manzhi, a kale, a so ngo fhelelaho, a no khakhisa kana o wanwaho lu si lwa mulayo;
- 6.5.3.2.4 u tshinyadza kana u thutha rekhodo ya mafhungo a vhuñe a muñe wa data dzine mudziavhuḁifhinduleli ha tshe na maanḁa a u vhea
- 6.5.3.3 Mudziavhuḁifhinduleli a nga hana u bvisela khagala mafhungo a vhuñe o humbelwaho, u ya nga maga a u hana u swikelela rekhodo sa zwe a sumbedzwa kha phara 19.4 i re afho fhasi.

## 6.5.4 Mulayo wa U ṭuṭuwedza Vhulanguli ha Vhusimamilayo wa vhu 3 wa 2000

- 6.5.4.1 Muñwe wa milayo u ne wa tea u dzielwa n̄tha musu vha tshi khou sedza u swikelela mafhungo ndi Mulayo wa U ṭuṭuwedza Vhulanguli ha Vhusimamilayo (**PAJA**). **PAJA** u ita uri p̄fanelo ya maitete a vhulanguli i vhe lwa mulayo, yo teaho nahone hune maitete a hone a vha kwao na p̄fanelo ya u tou ñwala zwiitisi zwa maga a vhulanguli sa zwe zwa anganyelwa nga tshiteñwa 33(2) tsha Ndayotewa.<sup>6</sup>
- 6.5.4.2 U ya nga tshiteñwa 5(1) tsha **PAJA** muthu muñwe na muñwe ane p̄fanelo yawe yo kwamea zwinzhi nahone nga n̄dila i no vhavha nga maitete a vhulanguli, u tea u humbela vhulanguli u mu fha zwiitisi hu saathu u fhira maḍuvha 90 nga murahu ha musu o ḍivha nga maga ayo kana tshifhinga tshi p̄fadzaho tsha u lavhelelwa uri u tea u vha a tshi ḍivha nga nga maga ayo. Mulanguli ane khumbelo yo itwa khae u tea u fhindula hu saathu u fhira maḍuvha a 90 ngamurahu ha musu o wana khumbelo, u tea u fha muthu onoyo zwivhangisi zwi no p̄fadza zwa maga a vhulanguli nga u tou ñwala.

## 7. U THOMIWA HA VHULANGULI HA ZWAMAFHUNGO

- 7.1 U vhona uri hu ṭuṭuwedzwe na u khwinisa zwipikwa zwa **PAIA**. U itela u ṭuṭuwedza na u khwinisa zwipikwa zwa **PAIA**, u itela u thoma u shuma ha p̄fanelo ya u swikelela mafhungo nga n̄dila ine ya ita uri muthu a wane rekhodo dza zwiimiswa zwa tshitshavha na zwa phuraivethe nga n̄dila yo leluwaho, zwi sa ḍuri nga n̄dila yo leluwaho, Vhulanguli ha mafhungo (“Vhulanguli”) ho thomiwa u ya nga tshiteñwa 39 tsha **POPIA**.
- 7.2 U itela uri hu tevhele maitete a vhulanguli a sa konḍi nahone a sa ḍuri musu hu tshi khou itwa khumbelo ya u swikelela mafhungo, u ita mbilahelo kha Vhulanguli na khothe zwi tea u vha zwi tshi tou vhofha.
- 7.3 **POPIA** i khwinisa mushumo wa **SAHRC** ho sedzwa maanḍa a **PAIA**. U bva nga dzi 30 dza June 2021, mishumo yoṭhe ya **SAHRC**, sa zwe zwa dodombedzwa kha **PAIA**, i ḍo netshedzwa Vhulanguli, vhune ha dovha hafhu ha vha na maanḍa a u kombetshedza o engedziwaho.
- 7.4 Naho **SAHRC** i tshi ḍo isa phanda na u ita mushumo wayo nga u angaredza wa vhuḍifhinduleli kha ndayotewa wa u ṭuṭuwedza, u tsireledza na u ṭola p̄fanelo dzi re kha Mulayotibe wa P̄fanelo, **SAHRC** na Vhulanguli vha ḍo shumisana.

<sup>6</sup> Muthu muñwe na muñwe ane p̄fanelo dzawe dzo kwamea nga maga a vhulanguli u na p̄fanelo ya u ñewa zwiitisi nahone zwo tou ñwaliwaho.

## 8. MUSHUMO WA VHULANGULU HA ZWA MAFHUNGO

- 8.1 Vhulanguli vhu na mushumo wa ndeme u ya nga **PAIA**. Vhulanguli ho fhiwa maanda nga **PAIA**, nga fhasi ha Tshipiḁa 4, Ndimā 1A na Tshipiḁa 5 na zwiḁwe zwiḁiḁa, u
- 8.1.1 tsireledza pḁanelo ya u swikelela mafhungo na u thusa tshitshavha kha u shumisa **PAIA** nga ḁḁila ine zwi a konadzea u ita nga u ralo.
  - 8.1.2 u ḁola na u vhona uri **PAIA** i khou shumisiwa nga zwiimiswa zwa tshitshavha na zwaphuraivethe (hune zwi katela u ḁuḁuwedza ḁḁila dza khwine dza u vhona uri mafhungo a ya wanala tshifhinga tshoḁthe.) u ḁuḁuwedza
  - 8.1.3 u ita themendelo u itela u khwaḁhisa **PAIA**, na
  - 8.1.4 U vhiga nga ḁwaha Phalamenndeni
- 8.2 Tshiteḁwa 77C(1) na (2) tsha **PAIA** fha mbetshelwa dza maanda, vhuḁifhinduleli na mishumo ya Vhulanguli, kha -
- 8.2.1 U sedzulusa mbilahelo yo itwaho na Vhulanguli nga ḁḁila dzo randelwaho;
  - 8.2.2 u fhisela mbilahelo kha Komiti ya Khwaḁhisedzo ya Vhutevhedzeli ye ya thomiwa u ya nga tshiteḁwa 50 wa **POPIA**; kana
  - 8.2.3 and u dzia tsheo, u ya nga tshiteḁwa 77D, ya u thusa u dzhia maga kha mbilahelo kana, musi mulandu u tshi nga ḁoḁa maḁwe maga u ya nga mbilahelo, na
  - 8.2.4 U shuma, he zwa tea, sa mukonanyi u ya nga yeneyo mbilahelo hu tshi khou tevhedzwa maga o randelwaho.
- 8.3 Vhulanguli vhu nga , ho sedzwa tshiteḁwa 77H(1) tsha **PAIA**, nga hone vhuḁe kana nga khumbelo nga, kana ho imela muofisiri wa mafhungo kana ḁhoho ya tshiimiswa tsha phuraivethe kana muthu muḁwe na muḁwe u ita ḁhoho ya u ḁhaḁhuvha arali tshiimiswa tsha tshitshavha kana tsha phuraivethe tshi tshi khou tevhedza ngauangaredza na mbetshelwa dza **PAIA** ho sedzwa mbekanyamaitele na maitete a u shuma dzazwo.
- 8.4 Vhulanguli ho ḁewa maanda, u ya nga tshiteḁwa 77F tsha **PAIA**, u shumisa maitete nga ḁḁila ya khwinesa u lwela u swikelela thandululo ya mbilahelo, arali zwi tshi vhone u bva kha mbilahelo kana dziḁwe phindulo dzo tou ḁwalwaho dzi no elana na zwenezwo uri zwi a konadzea u tandulula mbilahelo. Hezwi zwi amba uri Vhulanguli vhu nga thusa vhathu u tandulula phambano dzavho, arali hu na mbilaelo yo iswaho kha vhulanguli, nga nda ha musi vho tou dzia tsheo nga vhone vhane u ita ḁhaḁhuvho, sa zwe zwa sumbedzwa kha phara 8.3 ire afho ḁḁha.

## 9. U ITA KHUMBELO YA REKHODO

Kha vha sedze tshati ya maga a maitete kha phara 27 ire afha fhasi, nga ha uri vha nga ita khumbelo ya u swikelela rekhodo hani.

### 9.1 U thoma: **Bugupfarwa (Manyuwala) ya PAIA**

- 9.1.1 Naho iyi Nyendedzi yo gandiswa u itela u thusa tshitshavha u bva kha masia othe u shumisa pfanelo yavho ya ndayotewa ya u swikelela mafhungo, hu na zwiwe zwiko zwa mafhungo zwine zwa nga thusa vho muthu kha u ita khumbelo ya rekhodo. **PAIA** i toda uri zwiimiswa zwatshitshavha zwothe, na zwiimiswa zwa phuraivethe, zwi ite na Bugupfarwa ya **PAIA** na u ita uri i wanale<sup>7</sup>.
- 9.1.2 Nyendedzi ya **PAIA** ndi tshithu tsha u thoma tshine tsha tea u vhaliwa musi muthu muwe na muwe a saathu u dzhia maga a u swikelela mafhungo kana rekhodo dza tshiimiswa tshenetsho,
- 9.1.3 Kha vhuvha hayo ha mutheo, Nyendedzi ya **PAIA** ndi ya ndeme u itela u:
  - 9.1.3.1 sedza mbumbo ya rekhodo ine ya nga vha yo no vha hone ha vha hu si na thodea ya u ita khumbelo ya **PAIA** ya foma
  - 9.1.3.2 Pfesesa uri vha nga ita khumbelo ya u swikelela mafhungo a re ne tshiimiswa nga ndila de.
  - 9.1.3.3 swikelela zwidombedzwa zwa vhumani zwo teaho zwa muthu ane a thusa tshitshavha u swikelela rekhodo dzine vha khou dzi toda.
  - 9.1.3.4 divha maga a u thivhela a re hone tshiimswani tshine rekhodo dza khou humbelwa khatsho musi hu saathu u kwamiwa Vhulanguli kana Khothe;
  - 9.1.3.5 divha thalutshedzo dza tshumelo dzi re hone kha mirado ya tshitshavha u bva kha tshiimiswa na uri vha nga swikelela nga tshumelo idzo;
  - 9.1.3.6 divha arali tshiimiswa tshi tshi nga kona u vha netshedza mafhungo a vhone, ndivho ya u netshedza mafhungo a vhone na thalutshedzo ya khethekanyo ya vhatodi wa data kathihi na ya mafhungo kana khethekanyo ya mafhungo a re na vhumani zwo;
  - 9.1.3.7 divha arali tshiimiswa tshi na pulane ya u fhisela kana u netshedza zwidombedzwa zwa vhone nda ha Riphabuliki ya Afrika Tshipembe,

<sup>7</sup> Tshiterwa 14 na Tshiterwa 51 tsha PAIA

- 9.1.3.8 Divha arali tshiimiswa tshi na maga a tsireledzo o fanelaho u vhona uri mafhungo ane a khou a tshimbidza ndi a tshiphiri, ndi one nahone tshi nao.

## 9.2 Bugupfarwa dza PAIA vha nga dzi wana ngafhi?

### 9.2.1 Bugupfarwa ya PAIA ya zwiimiswa zwa tshitshavha

- 9.2.1.1 Zwiimiswa zwa tshitshavha zwi tea u ita uri bugupfarwa ya PAIA i vhe hone nga ndila yo leluwaho nahone nga nyambo dzi ne dza nga swika tharu<sup>8</sup>.

#### 9.2.1.2

Nahone, vha tea u ita uri khophi dza Bugupfarwa ya PAIA dzi vhe hone nahone nga mahala, nga nnda ha musu ho humbelwa khophi yo tou gandiswaho

9.2.1.2.1 kha lubivhisialwa tshiimiswa tsha tshitshavha;

9.2.1.2.2 ofisini khulwane ya tshiimiswa tsha tshitshavha uri i kone u vhaliwa nga tshitshavha nga tshifhinga tsha mushumo;

9.2.1.2.3 arali muthu a tshi khou toḡa khophi yo gandiswa, tshiimiswa tsha tshitshavha tshi tea u ita khophi, fhedzi tshi nga humbela mbadelo dzi no pfadza dza u ita khophi iyo.

9.2.1.3.4 Kha Vhulanguli arali vho i humbeliwa

### 9.2.2 Bugupfarwa ya zwiimiswa zwa phuraivethe

- 9.2.2.1 Zwiimiswa zwa phuraivethe zwi tea u ita uri bugupfarwa ya PAIA<sup>9</sup> i vhe hone nga ndila yo leluwaho nahone a hu na thodea ya uri i vhe hone nga nyambo dzi no fhira nthihi, kana nga luambo lwo tiwaho, fhedzi hu tūtūwedzwa uri bugupfarwa dza zwiimiswa zwa phuraivethe dza PAIA dzi vhe nga luisimane. Arali tshiimiswa tshi khou netshedza tshumelo vhunzhi ha vhatu vha so ngo wanaho pfunzo ya fomaḷa, hu tūtūwedzwa uri bugupfarwa ya tshiimiswa tshenetsho i tea u vha vho na nga luḡwe luambo lwa tshiofisi.

- 9.2.2.2 Nahone, vha tea u ita uri khophi dza Bugupfarwa ya PAIA dzi vhe hone nahone nga mahala<sup>10</sup>, nga nnda ha musu ho humbelwa khophi yo tou gandiswaho

9.2.2.2.1 kha lubivhisialwa tshiimiswa tsha phuraivethe

9.2.2.2.2 fhethu ha ndeme ha u shumela ha tshiimiswa tsha phuraivethe uri i kone u vhaliwa nga tshitshavha nga tshifhinga tsha mushumo;

<sup>8</sup> Tshitenwa 14(1) tsha PAIA

<sup>9</sup> U ya nga tshitenwa 51 tsha PAIA

<sup>10</sup> Tshitenwa 51(3) tsha PAIA

9.2.2.2.3 arali muthu a tshi khou tōda khophi yo gandiswa, tshiimiswa tsha phuraivethe tshi tea u ita khophi, fhedzi tshi nga hambela mbadelo dzi no pfadza dza u ita khophi iyo.

9.2.2.2.4 Kha Vhulanguli arali vho i humbeliwa

9.2.3 Minista wa Tshumelo ya Vhulamukanyi na Ndayotewa vha na maanda u rula<sup>11</sup> zwiñwe zwa zwimiswa zwa phuraivethe kana khethekanyo dza zwimiswa zwa phuraivethe vhuḍifhinduleli ha ita bugupfarwa. U bva zwino u swika nga dzi **31 dza Nyendavhusiku 2021**, minista vho rula zwiimiswa<sup>12</sup> zwoḥthe zwa phuraivethe nga nḍa ha khamphani iñwe na iñwe ine -

- (a) a si khamphani ya phuraivethe sa zwe zwa ḥaluswa kha tshiteñwa 1 tsha Mulayo wa Dzikhamphani,wa 2008 (Mulayo 71 wa 2008)
- (b) ndi khamphani ya phuraivethe sa zwe zwa ḥaluswa kha tshiteñwa 1 tsha Mulayo wa Dzikhamphani,wa 2008 (Mulayo 71 wa 2008) une wa shuma kha sekhithara iñwe na iñwe ye ya bulwa kha khoḷumu ya u thoma ya shedulu ya Nḍivhadzo iyi nahone -
  - (i) i na vhashumi vha 50 kana vha no fhira mishumoni yavho; kana
  - (ii) i tshi ita masheleni nga ñwaha ane a lingana na kana u fhira mbalo yo teaho yo buliwaho kha khoḷumu 2 kha thebulu i re afho fhasi,

U bva kha u ita bugupfarwa ye ya anganyelwa kha tshiteñwa 51(1) tsha Mulayo wo ambiwaho u thoma u swika miñwedzi ya rathi(6) u bva dzi **1 dza Fulwana u swika dzi 31 dza Nyendavhusiku 2021:-**

Nḍowetshumo	Mbuelo dza Ñwaha
Vhulimi	R 6 million
Zwa migodi na vhubwa matombo	R 22.5 million
Zwa Mamaga	R 30 million
Zwa Muḍagasi, Gese na Maḍi	R 30 million
Zwa Vhufhaḥi	R 15 million
Tshumelo dza Tshitshavha, dzo Khetheaho na dza vhuḅe	R 45 million
Holosele ya u vhambadza, Mazhendedzi a zwa Vhuvhambadzi na Tshumelo dza vhushumisani	R 75 million
Zwandisedzo ya Zwiḷiwa, Vhudzulo na mañwe makwevho	R 15 million
Vhuendi, U vhulunga thundu na Vhudavhdzani	R 30 million
Tshumelo dza Masheleni na Vhubindudzi	R 30 million
Tshumelo dza Tshitshavha, dzo Khetheaho na dza vhuḅe	R 15 million

<sup>11</sup> Tshiteñwa 51(4) Tsha PAIA

<sup>12</sup> Gazethe ya Muvhuso ya: 39504, ya dzi 11 dza Nyendavhusiku 2015



- 9.2.4 U ya nga ndeme ya t̄hōdeā dza mulayo dza u ita bugupfarwa ya **PAIA**, nga maan̄da khwiniso <sup>13</sup>ya tshiteñwa 51 tsha **PAIA** (we wa thoma u shuma nga dzi 30 dza Fulwi 2021),hune ho engedzwa phimo ya mafhungo ane a tea u katelwaho kha bugupfarwa u itela u katela mafhungo a re na vhushaka na **PAIA**, zwiimiswa zwa phuraivethe a zwi tsha ḡo rulwa vhuḡifhinduleli ha u ita bugupfarwa ya **PAIA**. Ngauralo u bva nga dzi **1 dza Phando 2022** tshiimiswa tshinwe na tshinwe tsha phuraivethe kana tsha tshitshavha tshi tea u vha tshi na bugupfarwa yatsho, sa zwe zwa randelwa nga phara 9.2.2.2 ire afho n̄tha.
- 9.2.5 U rulwa ha khamphani dza phuraivethe kha vhuḡifhinduleli ha u ita bugupfarwa ya **PAIA** a zwi ruli khamphani dza phuraivethe dzenedzo kha u tevhedza **PAIA**. Hezwi zwi amba uri muthu muñwe na muñwe a nga rumela khumbelo ya u swikelela mafhungo na kha zwiimiswa zwa phuraivethe zwo rulwaho. U rulwa zwi tou amba uri khamphani dzenedzo a dzi tei u ita bugupfarwa ya **PAIA**.
- 9.2.6 Kha vha humbule vho, uri a zwiimiswa zwoṯhe zwa phuraivethe zwine zwa vha dzikhamphani, sa vhunga t̄halutshedzo ya tshiimiswa tsha phuraivethe i tshi katela na muthu o fhiwaho maan̄da nga mulayo, mubindudzi woga na vhfufarisani. Fhedzi, ndi zwa ndeme uri vha sedze lubuvhisia lwavho sa vhunga dziñwe Khamphani dzi tshi ita bugupfarwa ya **PAIA** hu si ndavha na tshivhalo tsha vhashumi kana mbuelo dza ñwaha.
- 9.3 u an̄dadza lu si lwa khombekhombe na u wanala ha dziñwe rekhodo lwa othomethikhi
- 9.3.1 Dzirekhodo dzi no wanala lwa othomethikhi ndi rekhodo dzine tshiimiswa tsha tshitshavha kana tsha phuraivethe tsha ḡo dzi ñetshedza hu si na t̄hōdeā ya uri muitakhumbelo a rumele khumbelo ya **PAIA** ( nga mañwe maipfi, muthu a nga dzi humbela a songo thoma a ḡadza Fomo 2)
- 9.3.2 Muofisiri wa Zwamafhungo wa tshiimiswa tsha nnyi na nnyi u tea, ho sedzwa tshiteñwa15(1) tsha **PAIA**, u ita uri mutevhe kana khethekanyo dza rekhodo dzi no wanala lwa othomethikhi u wanale, sa zwe zwa randelwa kha phara 9.3.4 i re afha fhasi.
- 9.3.3 Rekhodo dzi no wanala lwa othomethikhi dza tshiimiswa tsha phuraivethe dzi nga dovha dza itwa uri dzi wanale, u ya nga tshiteñwa 52(1) tsha **PAIA**, fhedzi hu si lwa khombekhombe u ya nga phara 9.3.4 ire afho fhasi.
- 9.3.4 T̄halutshedzo ya khethekanyo ya rekhodo dzi no wanala lwa othomethikhi i tea u vha hone
- (a) kha Vhulanguli ha Zwamafhungo;
  - (b) kha lubuvhisia lwa tshiimiswa;na
  - (c) u itela uri i kone u vhaliwa dziofisini dza tshiimiswa tshenetsho nga tshifhinga tsha mushumo.

<sup>13</sup> Tshiteñwa 110 tsha POPIA

- 9.3.5 Kha vha dzhiele nzhele uri Vhulanguli vhu do netshedza thalutshedzo ya khethekanyo ya rekhodo dzi no wanala lwa othomethikhi dza tshiimiswa tsha nnyi na nnyi kha luvhiswa lwavho.
- 9.3.6 Mutevhe uyu u katela rekhodo dzine dza nga todea uri dzi vhe hone nga miñwe mulayo, kana dziñwe rekhodo dzine tshiimiswa tsha khetha u dzi katela. U itela u thivhela u tevhela maga a tshiofisi a **PAIA** a u humbela, muitakhumbelo u tsivhudzwa u sedza bugupfarwa ya **PAIA** ya tshiimiswa tsha toda rekhodo dzine dza wanala kha mutevhe wa dza rekhodo dzi no wanala lwa othomethiki, muthu uyo a nga humbela u tendelwa u dzi swikelela fhedzi a so ngo dadza fomo 2 ya **PAIA**.
- 9.3.7 Mulayo wa U netshedzwa Masheleni Lihoro la Polotiki wa 6 wa 2018 wo disa dziñwe dza tshanduko nga kha **PAIA**, hune thoho dza mahoro a polotiki dzi lavhelelwa u rekhoda na u vhulunga rekhodo dzothe nda ndambedzo dza phuraivethe, dzine dza nga kona u bviselwa khagala hu so ngo itwa khumbelo ya **PAIA**.

## 10. ZWIDODOMBEDZWA ZWA VHUṬUMANI ZWA VHAOFISIRI VHA ZWAMAFHUNGO

- 10.1 Naho zwidodombedzwa zwa vhuṭumani zwa Vhaofisiri vha Zwamafhungo zwa tshiimiswa tsha tshitshavha zwi tshi tea u gandiswa kha bugu ya nomboro dza thingo inwe na inwe, u ya nga tshiteñwa 16 tsha **PAIA**, Vhulanguli vhu na zwidodombedzwa zwo tiwaho zwa Vhaofisiri vha Zwamafhungo vhothe (ho katelwa Mufarisa Muofisiri wa Zwamafhungo, a re hone u ya nga tshiteñwa 17 na 56 tsha **PAIA** na **POPIA**) zwo nwaliswaho u ya nga tshiteñwa 55(2) tsha **POPIA**.
- 10.2 U wana zwidodombedzwa zwa vhuṭumani kanzhi zwi tshi a vha tshipiḁa tsha thaidzo ya u ita khumbelo ya **PAIA**, ngauri vhuḁifhinduleli vhu shanduka tshifhinga tshothe kha sekhithara dza tshitshavha na bugupfarwa dza vha dzi so ngo khwiniswa, fhethu ha u thoma u wana zwidodombedzwa hu tea u vha nga ngomu ha Bugupfarwa ya **PAIA**. Fhedzi arali muitakhumbelo a si nga si kone u wana bugupfarwa, a nga thusalea nga u tea u founela switshibodo ya tshiimiswa u humbela zwidodombedzwa zwo teaho.
- 10.3 Kha mimasipala, Dzangano la Mivhusoyapo la Afrika Tshipembe (**SALGA**) i vhea zwidodombedzwa zwa vhuṭumani zwa Mimasipala yothe kha linki i tevhelaho: <http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Vhudavhidzani ha muvhuso vhu a netshedza vho zwidodombedzwa zwa lushaka na zwa vunḁu khathihi na zwidodombedzwa zwa vhuṭumani zwa Mabindu a Muvhuso nga fhasi ha linki hei: <https://www.gov.za/about-government/contact-directory>. Vhaelelwe tshifhinga tshothe uri tshutshedzo ya Muofisiri wa Zwamafhungo i do thusa u divha uri ndi zwidodombedzwa zwa nnyi zwi no todea u kona u divha Muofisiri wa Zwamafhungo.

## 11. MAITELE A U ITA KHUMBELO YA MAFHUNGO

### 11.1 Fomo ya u ita khumbelo

- 11.1.1 Khumbelo ya u swikelela mafhungo inga itwa kha zwiimiswa tsha tshitshavha khathihi na zwa phuraivethe.
- 11.1.2 **PAIA** i tōda uri arali vha tshi khou ita heneyo khumbelo, vha tea u isa khumbelo l kha fomo yone a (fomo hedzi dzo randelwa nga Vhulanguli). Hu na fomo mbili dzine vha nga dzi shumisa u swikelea mafhungo.

Fomo 2	Fomo 4
Iyi vha nga i shumiswa fhedzi arali vha tshi khou ita khumbelo ya u swikelela rekhodo dza tshiimiswa tsha tshitshavha kana tsha phuraivethe	Fomo iyi i nga shumiswa fhedzi arali vha tshi khou tōda u isa khaṭhululo ya nga ngomu tshiimiswani kha tsheo dzedza dzhiwa nga Vhaofisiri vha Zwamafhungo kana Vhafarisa vhaofisiri vha Zwamafhungo vha Lushaka, Vundu na Sia la Muvhuso Wapo vhane ndi vhone vhane vha ita khaṭhululo ya tshiimiswani.

- 11.1.3 Fomo idzi vha nga dzi wana kha lubuvhisia lwa Vhulanguli kha <https://www.justice.gov.za/infoereg/>

### 11.2 U dzhia tsheo ya uri khumbelo ya mafhungo ndi ya mafhungo o farwaho nga tshiimiswa tsha phuraivethe kana tsha tshitshavha

11.2.1 Tshiimiswa tsha tshitshavha tshi ita mushumo wa tshitshavha u fana na u netshedza mudagasi kana maḍi tshitshavhani, Ngauralo, tshiimiswa tsha tshitshavha sa Muhasho wa Muvhuso wa Lushaka, Vundu na Wapo - hu katelwa mabindu a muvhuso kana Zwimiswa zwa Muvhuso u fana na Vhulanguli, Eskom, kana PRASA, fhedzi, phambano i tea u itwa ho sedzwa tshiimiswa tsha tshitshavha u itela ndivho ya u ita khaṭhululo ya nga ngomu tshiimiswani, ine i vha yo sedza Muvhuso wa Lushaka, Vundu na Muvhuso Wapo.

11.2.2 Tshiimiswa tsha phuraivethe tshi ita mushumo wa phuraivethe. Tshiimiswa tshenetsho (tshine tsha nga vha muthu) tshi ita zwamakwevho, u vhubinduzi kana zwa phurofesheni. Ndi zwa ndeme uri musi muthu a tshi khou rumela khumbelo ya **PAIA** kha tshiimiswa tsha phuraivethe a ṭaluse uri ndi ifhio ppanelo ine a khou i tsireledza kana u i shumisa nga u humbela ayo mafhungo. U ya nga mafhungo o fariwaho nga muthu Vho Streicher JA vha zwi pendela nga hei ndila, kha **Kansele ya Masipala wa Cape Metropolitan v Metro Inspection Services (Western Cape) CC na vhaṅwe**<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) phara 28 kha 1026F-G

*Mafhungo a nga tšodiwa fhedzi u itela u a shumisa kana u tsireledza pfanelo arali a tshi nga thusa kha u shumisa kana u tsireledza pfanelo. Vha dovha hafhu vhari, u itela u khwaṭhisedza u swikelea mafhungo ho sedzwa tshiteṅwa 32, muitakhumbelo u tea u sumbedza uri ndi pfanelo jifhio ine a khou i shumisa kana u tsireledza nga mafhungo ane a khou a tšoda, na uri mafhungo ayo a do thusa nga ndila de shumisa kana u tsireledza pfanelo iyo”.*

- 11.2.3 Tshinwe tshifhinga u fhindula mbudziso ya uri rekhodo ndi ya tshitshavha kana ya phuraivethe zwi a konḁa nahone tshitshavha tshi tsivhudzwa uri tshi tšode tsivhudzo ya mulayo. Sa tsumbo, arali tshiimiswa tsha tshitshavha tsha thola tshiimiswa tsha phuraivethe u netshedza dziṅwe dza tshumelo tsho tshi imela, u fana na u dzhenisa mitha wa maḁi kha zwiṅwe zwa zwitshavha, u swikelela nomboro ya mitha wo dzheniswaho, naho mafhungo ayo o farwa nga tshiimiswa tsha phuraivethe, a do dzhiwa a mafhungo a tshiimiswa tsha tshitshavha.
- 11.3 Muthu a nga tšalutshedza nga ndila de pfanelo ine a khou lavhelela u l tsireledza?
- 11.3.1 Musi muthu a tshi khou tšalutshedza uri ndi pfanelo ine ifhio ine a khou lavhelela u l tsireledza musa a tshi ita khumbelo kha tshiimiswa tsha phuraivethe, muthu ha livhisi kha pfanelo ya u swikelea mafhungo. Muthu u tea u tšalutshedza uri rekhodo ine a khou i tšoda nahone i khou tšodea nga ndila de u itela uri a kone u tsireledza, kana u shumisa, iṅwe ya pfanelo. Hezwi zwi nga katela pfanelo dzine dzi sa tou vha pfanelo dza ndayotewa.
- 11.3.2 U itela u tsireledza pfanelo yawe ya zwa mupo nga kha mishumo ya vhumavhelesi, muthu tshiṅwe tshifhinga a nga tšoda pulane khulwane u bva kha khamphani ine i khou sumbedza i tshi nga ita levele dza u tshikafhadza mupo kha tshitshavha, Muthu a nga tšoda rekhodo dzine dza nga mu thusa u divha arali a na pfanelo ya u ita mbilo ya milandu ya vhadzulapo kha tshiimiswa.
- 11.3.2.1 Zworalo kha vha tšaluse pfanelo ine vha khou lavhelela u i tsireledza na u l shumisa, vha ovhe hafhu vha;
- 11.3.2.2 tšalutshedze zwi khagala uri ndi ngani rekhodo ine vha khou humbela zwi zwa vhuṭhogwa uri i wanalee u thusa muthu kha pfanelo yeneyo.
- 11.3.3 Nga ndivhanyo, musa hu tshi rumela khumbelo ya **PAIA** kha tshiimiswa tsha tshitshavha, muthu ha ngo tea u vha e na tshiitisi tsha u ita khumbelo ya mafhungo eneo.

## 12. NDI NNYI ANE A NGA ITA KHUMBELO YA PAIA?

- 12.1 Muthu muṅwe na muṅwe, a nga vha muthu wa Afrika Tshipembe kana a si muthu wa Afrika Tshipembe, u a tendelwa u ita khumbelo nga fhasi ha mulayo wa **PAIA**. Muitakhumbelo a nga vha muthu kana tshiimiswa zwi re na maanda lwa mulayo.

12.2 tshiimiswa tsha tshitshavha tshi dzhiwa sa tshiimiswa tshi re na maanda lwa mulayo nahone tshi nga ita khumbelo ya u swikelela rekhodo dzi re na tshiimiswa tsha phuraivethe, fhedzi arali tshiimiswa tsha tshitshavha tshi -

12.2.1 tshi khou shuma tshi tshi khou itela madzangalelo a tshitshavha.

12.2.2 Tshi khou toda rekhodo itela u shuma kana u tsireledza ppanelo inwe na inwe hu so ngo katelwa dza tshiimiswa tsha tshitshavha.

12.3 Nga fhasi ha **PAIA** muitakhumbelo a nga si ite khumbelo ya u swikelela rekhodo, dza tshiimiswa tsha tshitshavha, dzine dza vha na mafhungo a vhuṅe a muitakhumbelo kha tshiimiswa tsha nnyi na nnyi, <sup>15</sup>fhedzi muitakhumbelo kana muṅe wa data anga, ho sedzwa tshiteṅwa 23(1)(b) tsha **POPIA** humbela u bva kha mudziavhudifhinduleli rekhodo kana thalutshedzo ya mafhungo a vhuṅe nga ha muṅe wa data o farwaho nga mudzhiavhudifhinduleli. Hezwi zwi amba uri muthu muṅwe na muswa a nga ita khumbelo ya u swikelela mafhungo a vhuṅe awe o farwaho nga tshiimiswa tsha tshitshavha kana tsha phuraivethe muso o netshedza zwidombedzwa zwa vhuṅe zwi no fusha. Mafhungo a vhuṅe ane muitakhumbelo a nga a humbela u bva kha mudzhiavhudifhinduleli a nga katela mafhungo a vhuṅe a vhatu vha vhuraru vhoṅhe, kana khethekanyo dza vhatu vha vhuraru, vane vha vha, vhe vha vha vha, tshi kona u swikelela mafhungo.

12.4 U ya nga tshiteṅwa 50(1) tsha **POPIA**, muthu muṅwe na muṅwe a nga ita khumbelo ya u swikelela rekhodo, dza tshiimiswa tsha phuraivethe, dzine dza vha na mafhungo a vhuṅe nga ha muhumbeli kana muthu ane a khumbelo i khou itelwa ene.

### 13. KHUMBELO I ISWA KHA NNYI?

13.1 Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha u tea u nanga Mufarisa (Vhafarisa) Muofisiri wa Zwamafhungo, vane vha do vhona uri rekhodo dza tshiimiswa tsha tshitshavha dzi a kona u swikelela nga ndila yo leluwaho. Naho izwi zwi sa tou vha thodea ho sedzwa tshiimiswa tsha phuraivethe nga fhasi ha **PAIA**, tshiimiswa tsha phuraivethe tshi nga nanga Mufarisa Muofisiri wa Zwamafhungo sa zwe zwa bulwa afho nṅha u ya nga tshiteṅwa 56 tsha **POPIA**.

13.2 Khumbelo ya u swikelela mafhungo, naho i tshi nga iswa kha Muofisiri wa Zwamafhungo, i nga iswa vho na kha Mufarisa Muofisiri wa Zwamafhungo. Zwidombedzwa zwa Mu(Vha)farisa Muofisiri wa Zwamafhungo zwi nga wanala kha bugupfarwa ya **PAIA** ya tshiimiswa tshenetsho kana kha Vhulanguli.

### 14. U DADZA HANI FOMO

14.1 Fomo 2 - Khumbelo ya u swikela mafhungo a zwiimiswa zwa tshitshavha kana zwa phuraivethe:

14.1.1 U itela u dadza fomo ya **PAIA**, muthu u tea u netshedza zwidombedzwa zwo linganaho u itea uri Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo a konou u thalusa rekhodo dzine muitakhumbelo a khou dzi toda.

<sup>15</sup> Tshiteṅwa 11(2) tsha PAIA

14.1.2 Milayo ya **PAIA** i t̄alusa fomo ine ya tea u shumiswa, ine ya tea u rumelwa kha Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa.

14.1.3 Vhahumbeli vhane vha sa kone u vhala kana u n̄wala vha nga ita khumbelo nga u tou amba na Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa, ane u d̄o dzhia vhud̄ifhinduleli ha u d̄adza fomo 2 o imela muitakhumbelo. Fomo ya zwino l̄ d̄o t̄oḁa vha tshi d̄adza zwiteḁwa zwi tevhelaho:

#### **Mafhungo a no khou t̄oḁiwa T̄halutshedzo**

**Zwidombedzwa zwa tshiimiswa tsha tshitshavha/phuraivethe**

Tshiteḁwa itshi tshi tea u vha na imeḁli kana nomboro ya fekisi ya Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo.

**Zwidombedzwa zwa muthu a no khou t̄oḁa rekhodo**

Hezwi zwi tea u vha na mafhungo o linganaho nga ha muitakhumbelo u itela uri zwi leluwe vhukuma u wana muitakhumbelo ,ho katelwa zwidombedzwa zwa vhuḁamani zwa muitakhumbelo: d̄iresi, imeḁli, fekisi na/nomboro ya luḁingo ya Afrika Tshipembe. Hu dovha hafhu ya humbela nomboro ya basa u itela u khwaḁhisedza zwidombedzwa zwa vhuḁe zwavho. Arali vha vha tshi khou humbela mafhungo vho imela muḁwe muthu, vha tea u n̄ea vhuḁanzi ha tshiimo tshine vha khou ita khumbelo vhe khatsho (“sa muthu o n̄ewaho thendelo”)

**Zwidombedzwa zwa rekhodo ine ya khou humbeliwa**

Kha vha n̄etshedze zwidombedzwa zwa rekhodo ine ya khou t̄oḁa u swikelela, ho katela nomboro ya u t̄alusa arali vha tshi i d̄ivha u itea uri rekhodo i wanale. Arali tshipiḁa tsho fhiwaho tshi songo lingana, vha humbelwa u shumisa siaḁari ḁa thungo vha ḁi nambatedze kha fomo. Masiaḁari oḁhe a nyengedzedzo a tea u sainiwa.)

**Lushaka lwa rekhodo**

Afha hu tea u vha na mafhungo o linganaho u ita uri zwi leluwe zwavhuḁi u i t̄alusa. Arali tshipiḁa tsho fhiwaho kha fomo tshi songo lingana u fheledza mafhungo, vha humbelwa u shumisa siaḁari ḁa nyengedzedzo ḁo tou thaiphiwa kana ḁo tou n̄waliwaho u fha zwiḁwe



zwidodombedzwa vha li nambatedze kha fomo nahone siaṭari liṅwe na liṅwe la nyengedzedzo li tea u vha lo sainiwa. Sa tsumbo, vha nga dzhenisa tshipiḡa u bva kha ripoto, kana tshiṭori tsha mafhungo tshine tsha vha na ṭalusa rekhodo ine vha khou l tšoda. I a vha tendela u dzhenisa nomboro ṭalusa arali vha nayo.

**Mbadelo**

Tshiimiswa , tshine muitakhumbelo a khou tšoda u isa khumbelo ya u swikelela rekhodo , ho katelwa rekhodo dzi re na mafhungo awe a vhuṅe , tshi nga humbela uri a badele (mbadelo dza u swikelela) kana mbadelo dza diphosithi, fhedzi masheleni a tea u vha a si manzhi, ngauri mbadelo dzi tea u vha dzi no pfaḡa ho sedzwa vho na tshifhinga tsha u tšoda na u dzudzanya rekhodo. Minista nga nḡivhadzo kha Gazethe vha nga rula u badela mbadelo dze dza ṅwalwa kha phara 51.1 i re afha fhasi.

Hu na tshikhala tsho dzudzanyiwaho tsha uri muitakhumbelo a sumbedze uri ndi ngani a tshi tenda uri u tea u sa badela mbadelo dziṅwe na dziṅwe. Zwiitisi zwi nga katelwa, sa tsumbo, uri a nga vha a sa shumi.

**Fomo ya u swikelela rekhodo**

Tshiteṅwa itshi tshi vha tendela sumbedza nga “X” nḡila ine vha khou tšoda u swikelela ngayo rekhodo ngauri i ṅetshedzwa nga khophi yo ganḡiswaho ya rekhodo na/ kana fuleshi ḡiraivi (flash drive) / kana disiki ya khomphakhiti (compact disc drive)

**Nḡila ya u swikelela**

Fhasi ha tshiteṅwa itshi hu tondwa vha tshi sumbedza luambo lune vha funa iri rekhodo i vhe i ngalwo (hezwi zwi nga si tou konadzea kha rekhodo dzoṭhe fhedzi vha tea u sumbedzisa).

Nḡila ya u swikelela rekhodo i nga livhisa kha u hana u swikelela zwi tshi khou itiswa nga mbadelo dzi re nṭha. Sa tsumbo, arali muitakhumbelo a vha a tshi khou tšoda mabambiri nga luambo lune a lu takalela, hu



nga badelwa mbadelo dza u isa mabambiri kha luambo lune a lu takalela. Fhedzi arali rekhodo i si ho nga luambo lune vha lu takalela, u swikelela hu nga tendelwa nga luambo lune rekhodo ya vha ngalwo. Nḡila ya u swikelela rekhodo inga katela u tou ya wa dzi sedzulusa nga iwe muḡe, rekhodo dzo rumelwaho nga fekisi, khoria kana poswo.

**Nḡivhadzo ya tsheo ya khumbelo ya u swikelela**

Tshikhala tsho netshedzwa u itela uri muitakhumbelo a tḡaluse nḡila ine a takalela u ḡivhadzwa ngayo tsheo ya u tendela kana u hana khumbelo. Muitakhumbelo a nga sumbedza sa tsumbo uri u tama u kwamiwa nga imeḡi kana nga luḡingo kana phindulo i tou posiwa kana i iswe khaye nga khoria.

**Zwidodombedzwa zwa pfanelo ine ya khou shumiswa kana u tsireledzwa**

Arali hu tshi khou humbela mafhungo u bva kha tshiimiswa tsha phuraivethe, muitakhumbelo u tea u tḡalusa “zwidodombedzwa zwa pfanelo ine a khou i shumisa kana u i tsireledza”. Afha u tea u sumbedza pfanelo ye a ḡi sendeka ngayo (sa pfanelo yawe ya u dzula kha vhupo ha mutakalo) na uri rekhodo ine a khou i humbela i ḡo mu thusa kha u shumisa, kana u tsireledza pfanelo yeneyo. U tea u sumbedza vhuḡumani vhukati ha rekhodo ine a i tḡoḡa na u shumisa kana u tsireledza pfanelo.

Mashudumavhi, muhumbeli ha koni u swikelela rekhodo dza tshiimiswa tsha phuraivethe nga nḡila i no fana na ya tshiimiswa tsha phuraivethe, nga nḡa ha musi u sumbedza dzi (pfanelo) dzine a khou tḡoḡa u dzi tsireledza kana u dzi shumisa arali u swikela mafhungo zwa tendelwa. Hezwi zwi nga katela uri arali a swikelela rekhodo u ḡo kona u shumisa pfanelo yawe ya tsireledzo i no lingana na mbuelo ya mulayo<sup>16</sup> nga u ita mbilo dza tshinyalelo ine a nga vha o dzi wana.

<sup>16</sup> Tshiterwa 9(1) tsha ndayotewa ya Riphabuḡki ya Afrika Tshipembe, Mulayo 108 wa 1996

14.1.4 Arali nga zwiitisi zwiñwe na zwiñwe khumbelo ya vha i sa tevhedzi milayo yo ñwalwaho afho ñña, Muofisiri wa Zwamafhungo a nga si sokou hana khumbelo yavho, u tea u thoma a vha ñvhadza uri u khou ñoda u hana khumbelo a dovha a fha na zwiitisi.

## 15. MBADELO DZI NO BADELIWA

15.1 Nga u angaredza, mbadelo dzi tea badelwa u itela u ita khumbelo, khathihi na mbadelo dza u ñetshedza u swikelela rekhodo u ya nga khumbelo. Fhedzi hu na dziñwe khonadzeo dza u sa badela. Arali muitakhumbelo a ñewa thendelo ya u swikelela nahone a vha a so ngo rulwa kha u badela mbadelo dziñwe, sa zwe zwa sumbedzwa kha phara 15.2 ire afho fhasi, Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe a nga ta mbadelo sa zwe dza tiwa kha ñdila dzi tevhelaho -

**Kha vha dzhiele nzhele: Mutengo u no tea u badelwa u ya nga mbadelo dzo teaho kha Zwiimiswa zwa Tshitshavha kana Zwa Phuraivethe vha nga u wana kha lubuvhisia lwa Vhulanguli.**

### Thalutshedzo

- 1 Mbadelo dza u ita khumbelo dzine dza tea u badelwa nga muitakhumbelo muñwe na muñwe
- 2 Fothokhophi kha siañari ña A4
- 3 Khophi yo gandiswaho kha siañari ña A4
- 4 Khophi i re kha tshivhumbeo tsha zwithu zwine zwa kona vhalea nga khomphyutha:
  - (i) Flash drive (I tea u ñetshedzwa nga muitakhumbelo)
  - (ii) Disiki (Compact disc)
    - Arali yo ñetshedzwa nga muitakhumbelo
    - Arali yo ñetshedzwa muitakhumbelo
- 5 U ñwala rekhodo dze dza vha dzi kha tshivhumbeo tsha u tou vhona nga siañari ña A4
- 6 Khophi ya zwivhumbeo zwa u tou vhona
- 7 U ñwala rekhodo dze dza vha dzi kha tsha u tou thetshelesa, nga siañari ña A4
- 8 U ita khophi ya rekhodo ya u tou thetshelesa kha:
  - (i) Flash drive (I tea u ñetshedzwa nga muitakhumbelo)
  - (ii) Disiki (Compact disc)
    - Arali yo ñetshedzwa nga muitakhumbelo
    - Arali yo ñetshedzwa muitakhumbelo
- 9 U ñoda na u dzudzanya rekhodo dzine dza khou tea u bviselwa khagala nga awara kana tshipiña tsha awara, hu so ngo katelwa awara ya u thoma, ine ya vha yone yo linganelaho kha u ñoda na u dzudzanya. U sa pfuka mbadelogute dza
- 10 Dibosithi: Arali tshifhinga tsha u ñoda tshi tshi pada awara dza 6.
- 11 U posa, imeiji kana iñwe ñdila ya u rumela nga kha inthanethe.

15.2 Muitakhumbelo ha tei u badela mbadelo dza u swikelela <sup>17</sup>kha tshiimiswa tsha tshitshavha arali:-

15.2.1 A muthu muthihi ane a muholo wawe nga ñwaha , nga murahu ha zwine zwa ñuswa zwo tendelwaho u fana na **PAYE** na **UIF** u fhasi ha **R14 712.00** nga ñwaha, kana

15.2.2 O mala nahone muholo wo ñangana na wa mufarisi wawe, nga murahu ha zwine zwa ñuswa zwo tendelwaho u fana na **PAYE** na **UIF** u fhasi ha **R27 192.00** nga ñwaha

15.3 Kha vha dzhiele nzhele uri tshiimiswa tsha tshitshavha kana tsha phuraivethe tshi nga ita khumbelo nga Fomo 4 kha Milayo, diposithi u bva kha muitakhumbelo, fhedzi arali vha tshi tenda uri mafhungo kana rekhodo ine ya khou humbelwa i nga dzhia tshifhinga tshi no fhira awara dza rathi(6) u ñoða, fhedzi masheleni a dibosithi ha ngo tea u fhira nthihi kha tshararu tsha mbadelo dzo tiwaho.

## 16. MUOFISIRI WA ZWAMAFHUNGO A NGA THUSA NAA MUITAKHUMBELO U ITA KHUMBELO YA PAIA?

16.1 Mushumo wa Vhaofisiri vha Zwamafhungo kana Vhafarisa Vhaofisiri vha Zwamafhungo vha tshiimiswa tsha tshitshavha kana tsha phuraivethe ndi, hu tshi khou sedzwa u tshimbidza khumbelo ya u swikelela dzirekhodo:

16.1.1 u ñanganedza khumbelo ya **PAIA** kana ya **POPIA**

16.1.2 u tshimbidza maitete a u ita khumbelo kha tshiimiswa

16.1.3 u dzhia tsheo ya u tendela kana u hana khumbelo ya u swikelela rekhodo

16.1.4 u kwamana na muitakhumbelo (sa tsumbo vha nga ñoða u vhudzisa muitakhumbelo zwiñwe zwa zwidodombedzwa kana vha nga ñoða u humbela nyengedzedzo ya tshifhinga tsha u shuma na khumbelo etc.)

16.1.5 U tsivhudza muitakhumbelo nga ha mbuelo dza khumbelo yawe ya **PAIA**, tsivhudzo i tea, tsivhudzo i tea u itwa nga u ñavhanya kha tshifhinga tshine tshi a pfaða fhedzi a hu ngo tea u fhira maðuvha a 30 nga murahu ha u ñanganedza khumbelo. Tshifhinga tsha u thoma tsha maðuvha a 30 tshi nga engedzwa kha mañwe maðuvha a sa fhiri 30 musa sa tsumbo, muitakhumbelo o tenda nyengedzedzo kana khumbelo i tshi ñoða u tondiwa ha rekhodo dzine zwi nga si konadzee u fhedza u dzi ñoða nga tshifhinga tsho tetshelwaho.

16.1.6 u ñetshedza muitakhumbelo zwiitisi zwa tsheo ya u hana u swikelela. Ndi zwa ndeme uri zwiitisi zwo fhiwaho zwa u hana zwi vhe zwi khagala na u dodombedzwa nahone hu tea u sumbedzwa na tshipiða tsho teaho tsha **PAIA** (kha vha sedze phara 19.4 ire afho fhasi, ho sedzwa maga a u hana u swikelela dzirekhodo<sup>18</sup>)

<sup>17</sup> U ya nga Nqivhadzo ya Muvhuso ya R991 ya 14 Tshimedzi 2005

<sup>18</sup> Tshiteñwa 33 u swika 46 zwa PAIA

- 16.1.7 u divhadza vhatu vha vharuru vho teaho; nga kha ndivhadzo ya maitele a muthu wa vharuru u ya nga tshitehwa 47 tsha **PAIA**; na
- 16.1.8 Arali u swikelela dzi rekhodo zwo tendelwa, u tea u fha muitakhumbelo khophi ya rekhodo
- 16.2 Musi a tshi khou divhadza muitakhumbelo nga ha tsheo, u tea hafhu u sumbedza dzihwe ndila dzi re hone na zwifhinga zwo teaho (ndila dzi re hone dza tshiimiswa tsha tshitshavha dzo fhambana na dza tshiimiswa tsha phuraivethe)
- 16.3 Mishumo na vhudifhinduleli ha nyengedzedzo ha Muofisiri wa Zwamafhungo na / kana Mufarisa Muofisiri wa Zwamafhungo ndi izwo zwo tandavhuwaho kha Bambiri la Mashumele a Muofisiri wa Zwamafhungo na/ kana Mufarisa Muofisiri wa Zwamafhungo. Bambiri la Mashumele li wanala kha <https://www.justice.gov.za/foreg/docs.html>
- 16.4 Ngauri mushumo Muofisiri wa Zwamafhungo na/ kana Mufarisa Muofisiri wa Zwamafhungo ndi u tshimbidza khumbelo dza u swikelela mafhungo, hezwi zwi amba uri vha na mishumo yo ya ho nga u fhambana kha avho vho u itaho khumbelo.
- 16.5 Muofisiri wa Zwamafhungo na/ kana Mufarisa Muofisiri wa Zwamafhungo vha tea u nea thuso nga mahala.
- 16.6 Muofisiri wa Zwamafhungo na/ kana Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha vha na mishumo i tevhelaho yo khetheaho:

Mishumo ya Muofisiri wa Zwamafhungo	Thalutshedzo
<b>U thusa u dadza fomo</b>	Muofisiri wa Zwamafhungo u te u nea thuso i no pfa dza kha muitakhumbelo musu a tshi khou dadza fomo yawe, nahone a nga si hane fomo i so ngo dadzwaho ya fhelela nga ndani ha musu vho thusa, kana vho netshedza thuso iyo na thikhedzo kana thuso yo haniwa.
<b>U netshedza mafhungo</b>	Arali zwi tshi konadzea lu no pfa dza, Muofisiri wa Zwamafhungo a nga netshedza muitakhumbelo na manwe mafhungo ane anga vha a na vhumani, naho a si ayo o humbelwaho.
<b>U pfukisa khumbelo</b>	Hoyu nga mushumo wa vhumogwa. Arali khumbelo ya <b>PAIA</b> yo itwa kha tshiimiswa tsha tshitshavha tshi si tshone,

Muofisiri wa Zwamafungo u fanela u pfukisea khumbelo kha tshiimiswa tsha tshitshavha tshone **hu saathu u fhira maḍuvha a 14** o wana khumbelo nahone u tea u ḍivhadza muitakhumbelo nga u tou ḥwala u sumbedza izwo. Musi yo no pfukiswa, Muofisiri wa Zwamafungo o teaho u tea u fha tsheo hu **saathu u fhira maḍuvha a 30**.

**U lengiswa ha u  
ḥetshedza**

Muofisiri wa Zwamafungo a nga dzia tsheo ya u lengisa u ḥetshedzwa rekhodo kha muitakhumbelo arali rekhodo i tshi ḍo anḍadzwa hu saathu u fhira maḍuvha a 90 kana arali rekhodo i tshi fanela u anḍadzwa lwa mulayo fhedzi ya vha i saathu u anḍadzwa.

- 16.7 Kha zwiimiswa zwoṭhe zwa tshitshavha kana zwa muvhuso, Muofisiri wa Zwamafungo u tea u ḥetshedza muitakhumbelo afidafithi ire na zwidodombedzwa nga vhuḍalo kana khwaṭhisedzo <sup>19</sup>arali a tshi khou balelwa u wana rekhodo kana a tshi tenda uri rekhodo a i ho nga u ḥea ḥdivhadzo ya uri rekhodo iyo a i ho kana a i khou wanala, a dovhe a sumbedze maga o dzhiwaho u i ṭoḍa.

## 17. THIKHEDZI I REA HONE U BVA KHA VHULANGULI HA ZWAMAFHUNGO U YA NGA PAIA NA POPIA

- 17.1 Muofisiri wa Zwamafungo wa tshiimiswa tsha tshitshavha u na vhuḍifhinduleli ha u ḥetshedza thikhedzo <sup>20</sup>i no pfaḍza nga mahala, sa vhunga zwi zwa ndeme u thusa muitakhumbelo kana muṅe wa data u tevhezela maitete a u swikelela sa zwe zwa sumbedzwa kha tshiteḥwa 18 tsha **PAIA** na tshiteḥwa 23 tsha **POPIA**.
- 17.2 Fhedzi, arali Muofisiri wa Zwamafungo a balelwa u tevhezela mushumo, sa zwe zwa sumbedzwa kha phara 17.1 ire afho ḥṭha, muitakhumbelo kana muṅe wa data a nga ita mbilahelo na Vhulanguli nahone Vhulanguli nga murahu ha ṭhōḍisiso vhu nga ḥetshedza ḥdivhadzo ya u Kombetshedza i no fha ndaela Muofisiri wa Zwamafungo u ḥetshedza thikhedzo i no pfaḍza.
- 17.3 Vhulanguli nga ḥḍila i no pfaḍza vhu nga, thusa muthu muḥwe na muḥwe a no khou ṭoḍa u shumisa pfaṅelo iḥwe na iḥwe yo anganyelwaho kha **PAIA** na **POPIA** <sup>21</sup>arali ho humbelwa, nahone hezwi zwi katela u fha thikhedzo i no pfaḍza nga mahala, ngauri ndi zwa ndeme u thusa muitakhumbelo kana muṅe wa data u tevhezela maga a u swikelela o anganyelwaho kha zwiṭeḥwa 18 na 53 zwa **PAIA** na tshiteḥwa 23 tsha **POPIA**.
- 17.4 Zwi re afho ḥṭha zwi katela vho na u ḥetshedza vhulivhisi (maga) a uri fomo ya u ita khumbelo ya u swikelela mafhungo i ḍadzwa hani wo imela muthu a sa koni u vhala kana a sa vhoni.

<sup>19</sup> Tshiteḥwa 23(1) na 51(1) zwa PAIA

<sup>20</sup> Tshiteḥwa 19(1) tsha PAIA

<sup>21</sup> Tshiteḥwa 83(3)(c) tsha PAIA

## 18. MUOFISIRI WA ZWAMAFHUNGO A NGA ENGEDZA NAA TSHIFHINGA TSHO TIWAHO?

- 18.1 Maitele o sumbedziwaho na mutevhe wa zwifhinga zwa ndeme zwi no kwamea zwo netshedzwa kha muolo wa maitele a u ita khumbelo a **PAIA**, kha phara 27 ire afha fhasi. U sumbedza mutevhe wa zwifhinga ndi tshipiḁa tsha ndeme tsha **PAIA**, ngauri zwi khwaḁhisedza vhulanguli ha vhuḁi ha khumbelo dza u swikelela rekhodo.
- 18.2 Sa ndimuso, musi vho no rumela khumbelo yavho nga nḁila yone kha Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo, ane khumbelo i tea u iswa kana u fhiriselwa khae, u tea u fhindula nga tshifhinga tshi pfadzaho nahone **ha ngo tea u fhirisa maḁuvha a 30**<sup>22</sup>. Fhedzi, Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe a nga humbela **nyengedzedzo nthihi nga maḁuvha a 30**:<sup>23</sup>
- 18.2.1 arali khumbelo i ya mbalo khulwane ya rekhodo kana i tshi ḁoḁa uri hu ḁoḁiwe tshivhalo tshinzhi tsha dzirekhodo hune, arali hu si na nyengedzedzo, u ḁoḁa uhu hu nga khakhisa mashumele a ḁuvha nga ḁuvha a tshiimiswa tshenetsho;
- 18.2.2 arali khumbelo i tshi khou u ḁoḁa dzirekhodo kha ofisi ya tshiimiswa ine a i ho kha ḁoroboni yeneyo nahone zwi nga si konadzee u fhedza **hu saathu u fhira maḁuvha a 30**; na/kana
- 18.2.3 Zwi tshi khou ḁoḁa uri hu thome u kwamiwe vhaḁwe vhathu u itela u kona u thoma u shumana na khumbelo, zwi nga si konadzee u zwiita **hu saathu u fhira maḁuvha a 30**;
- 18.3 Muofisiri wa Zwamafhungo u tea u ḁivhadza muitakhumbelo maano awe a u engedza tshifhinga tsho tetshelwaho tsha u thoma, a sumbedze tshifhinga tshine a ḁo engedza ngatsho, na zwiitisi zwa nyengedzedzo, a dovhe a ḁivhadze muitakhumbelo pfanelo dzawe dza u -
- 18.3.1 ita khaḁhululo na maanḁalanga o teaho
- 18.3.2 u ita mbilahelo na Vhulanguli;
- 18.2.3 u thoma maitele a khothe a u lwa na nyengedzedzo arali zwo fanela.
- 18.4 Muofisiri wa Zwamafhungo u tea u dovha hafhu a ḁivhadza muitakhumbelo nga ha maitele a pfanelo iḁwe na iḁwe yo bulwaho afho nḁha kha nḁivhadzo<sup>24</sup>.

## 19. PHINDULO YA KHUMBELO YA MAFHUNGO

- 19.1 I ḁaluswa sa mulayo une wa ita uri vhadzulapo vha ḁivhe nga muvhuso wavho. Zwiimiswa zwa tshitshavha zwi a ḁoḁea uri zwi bwisele khagala mafhungo maḁwe na maḁwe a ḁoḁeaho nga fhasi ha **PAIA** nga nḁa ha musi a fhasi ha **tshithihi tsha izwi zwa 12 zwo vhetshelwaho thungo** kana hu na zwiitisi zwa uri ndi

<sup>22</sup> Tshiteḁwa 25(1) tsha PAIA

<sup>23</sup> Tshiteḁwa 26(1) tsha PAIA

<sup>24</sup> Tshiteḁwa 26(3) tsha PAIA - nḁivhadzo ya nyengedzedzo I tea u sumbedza uri muitakhumbelo a nga ita khumbeo ya khaḁhululo nga ngomu tshiimisiwani kha Vhulanguli ha Zwa Mafhungo kana a ita khumbelo khothe, u ya nga mulandu, a tshi hana nyengedzedzo, kana maitele ( ho katelwa tshikhala) tsha u ita khumbelo ya khaḁhululo ya nga ngomu tshiimisiwani kha Muofisiri wa Zwamafhungo kana khumbelo u ya nga mulandú.



ngani u swikelela rekhodo ya tshiimiswa tsha tshitshavha i nga kana i nga si kone u netshedzwa <sup>25</sup>kana nga **zwa sumbe (7) zwo vhetshelwaho thungo** kana hu na zwiitisi zwa uri ndi ngani rekhodo dza tshiimiswa tsha phuraivethe dzi nga kana i nga si kone u netshedzwa<sup>26</sup>. Zwo vhetshelwaho thungo zwa fumithanu na n̄a (19) zwo netshedzwa kha **PAIA** u itela u tsireledza madzangalelo a no fana na tsireledzo ya zwithu zwa vhuṅe , tsireledzo ya lushaka, na u tevhedzela mulayo.

19.2 Maga a u sumbandila a re hone kha zwa ndangulo ya **PAIA** ndi khumbulelo ya uri zwi khou itwa zwi khagala. Hezwi zwi amba uri zwivhanggi zwiṅwe na zwiṅwe zwa u fhungudza u vha khagala uhu zwi tea u vha zwi tshi pfala. Zwiimiswa zwa tshitshavha zwi tea u sedza arali zwi tshi nga konadzea u bvisela khagala zwipiḍa zwa mafhungo musi zwo no tshea uri u bvisela khagala tshoṭhe zwi nga si konadzee nahone vha tea u saukanya kana u bvisa mafhungo ane a nga si kone u bviselwa khagala na u bvisela khagala o teaho.

19.3 Tshaka dza phindulo kha dzikhumbelo

19.3.1 *Musi khumbelo ya u swikelela rekhodo yo itwa, Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo u tea, u vhudza muitakhumbelo zwi tevhelaho, arali khumbelo yawe yo tendiwa kana u haniwa -*

- (a) *tsheo yawe; na*
- (b) *mbadelo dzi no tea u badelwa, arali dzi hone,*

*kha fomo ino tshimbilelana na Fomo 3 ya Thumetshedzo A ya Milayo:*

19.3.2 *Fhedzi, PAIA i fha mutevhe wa zwiitisi kana zwivhanggi (zwa u vhetshela thungo) (kha vha sedze phara 19.4 na 19.6 dzi re afha fhasi) zwa uri ndi ngani khumbelo i tshi nga haniwa kana i si nga si haniwe. Hezwi ndi zwa ndeme ngauri, khumbelo i nga haniwa fhedzi ho sedzwa tshiṅwe tsha maga a re kha mutevhe u re afho fhasi wa maga a u hana u swikelela dzirekhodo.*

19.3.3 *Naho zwiitisi zwa u hana u swikelela dzirekhodo zwo buliwaho afho n̄ha zwi hone, Muofisiri wa Zwamafhingo wa tshiimiswa tsha tshitshavha a nga fha thendelo ya swikelela rekhodo dza tshiimiswa arali dzangalelo ḵa tshitshavha ḵa u bvisela khagala rekhodo ḵi tshi fhira khombo dzo lavhelelwaho kha mutevhe wa zwiitisi zwa u hana<sup>27</sup>. Hezwi zwi amba uri muitakhumbelo a nga ḍi sendeka nga dzangalelo ḵa tshitshavha arali musi zwiitisi zwa u hana u swikelela dzirekhodo zwi tshi khou sedzuluswa.*

19.3.4 *Nga u pfufhifhadza, zwiitisi zwauri ndi ngani mafhungo a si nga si kone u bviselwa khagala zwi na vhushaka na mafhungo a uri u bvisela khagala zwi nga vha khombo u fhirisa u sa bvisela khagala. Hu na tshaka mbili dza zwivhanggi zwa u hana u swikelela rekhodo dza tshiimiswa:*

<sup>25</sup> Ndim 4 ya PAIA - maga a u hana u swikelela rekhodo (Tshiterwa 34-45 tsha PAIA)

<sup>26</sup> Ndim 4 ya PAIA - maga a u hana u swikelela rekhodo (Tshiterwa 63-69 tsha PAIA)

<sup>27</sup> Tshiterwa 46 tsha PAIA



## 19.4 Zwiitisi zwa u hana zwa khombekhombe (zwiitisi zwa u vhetshela thungo)

19.4.1 Nga zwiitisi zwa khombekhombe, Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo u tea u hana khumbelo ngauri zwa vha zwi tshi elana na rekhodo.

19.4.2 Hu na zwiitisi zwinzhi zwa khombekhombe u fhira zwi si zwa khombe khombe. Zwiitisi zwi tevhelaho ndi zwiitisi zwa khombe khombe zwa u hana, nahone Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo a nga hana khumbelo arali zwi na vhushaka na kha rekhodo -

### 19.4.2.1 **Tsireledzo ya khombe khombe ya tshiphiri tsha muthu wa vhuraru ane a vha e muthu wa vhukuma;**

Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe ha ngo tea u tendela muhumbeli u swikelela mafhungo a vhuṅe a muṅwe muthu arali zwi tshi ita uri u bvisela khagala hu vhe hu si ha vhuḽi, Zwiteṅwa zwi dovha zwa sumbedza zwiitisi zwi re na tshivhalo hune hezwi zwa si shume, u fana rekhodo dzine dza nga swikelelwa nga nnyi na nnyi, kana muthu a vha o fha thendelo. U fha thendelo ndi zwa ndeme ngauri zwi na vhuṭumani na tshṅwe tshipiḽa tsha maṅwe maitete ane muitakhumbelo u tea u a ḽivha, a nga ha u ita ṅdivhadzo ya muthu wa vhuraru, u ya nga tshiteṅwa 5 tsha **PAIA**.

### 19.4.2.2 **Tsireledzo ya khombe khombe ya dziṅwe dza rekhodo dza Tshumelo ya Mbuelo ya Afrika Tshipembe;**

Muofisiri wa Zwamafhungo wa **SARS** ha ngo tea u tendela muitakhumbelo u swikelela dzirekhodo dzo waniwaho, kana dzo farwaho, nga **SARS** u itela u kuvhanganya muthelo. Fhedzi, dzirekhodo dzo waniwaho kana dzo farwaho nga **SARS** dzi nga si hanelwe arali khumbelo i tshi khou itwa nga muhumbeli ene muṅe kana muthu ane khou itela khumbelo a no khou itela onoyo muthu.

### 19.4.2.3 **Tsireledzo ya khombe khombe ya mafhungo a zwa vhubindudzi a muthu wa vhuraru;**

Muofisiri wa Zwamafhungo wa tshiimiswa ha ngo tea u tendela muitakhumbelo mafhungo a zwa vhubindudzi a muṅwe muthu (nga iṅwe ṅḽila, ane a si vhe muhumbeli kana muhumbelwa). Hezwi zwi nga katela mafhungo a mbambadzo a tshiphiri, kana ane a nga vha khombo kha madzangalelo a vhubindudzi zwa muthu wa vhuraru. Sa tsumbo, KFC i shumisa risipi, ho katelwa na thimbanywa dzine dza bveledzwa nga muthu wa vhuraru nahone u dzi bvisela khagala zwi nga itela mishushedzo madzangalelo a zwa vhubindudzi ha muthu wa vhuraru.

**19.4.2.4 Tsireledzo ya khombe khombe ya mañwe mafhungo a tshiphiri, na tsireledzo ya mañwe mafhungo a tshiphiri a muthu wa vhuraru;**

Vhaofisiri vha Zwamafhungo vha tshiimiswa tsha tshitshavha kana tsha phuraivethe vha tea u sa tendela muitakhumbelo u swikelela rekhodo arali u netshedzwa hayo zwi tshi nga pfuka vhuḍifhinduleli ha u fara tshiphiri zwi no tea u itelwa muthu wa vhuraru u ya nga thendelano kana khonṭhiraka.

**19.4.2.5 Tsireledzo ya khombe khombe ya u tsireledzo ya vhatu, na tsireledzo ya ndaka;**

Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe u tea u sa tendela muitakhumbelo u swikelela rekhodo arali u netshedzwa hayo hu nga sia muthu a so ngo tsireledzea lu no pfaḍa. Kha zwiteñwa zwenezwo, ho dovha ha sumbedzwa upfi Muofisiri wa Zwamafhungo wa tshiimiswa a nga hana u swikelela arali zwi tshi nga thithisa tsireledzo ya tshifhaṭo kana ndaka.

**19.4.2.6 Tsireledzo ya khombe khombe ya dokhethe dza tshipholisa na maitete a beiji, na tsireledzo ya u shumisa maanḍa a mulayo na maitete a zwamulayo;**

Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe u tea u sa tendela muitakhumbelo u swikelela rekhodo dzi nonga sa rekhodo dza beiji dzine dzo no tsireledzwa kale nga tshiteñwa 60 tsha Mulayo wa Maitete a Vhutshinyi. Kha tshiteñwa tshetsho tshithihi, hu dovha ha ambiwa uri Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha anga hana u swikelelwa ha rekhodo dza u shumisa maanḍa a mulayo dzine dza sumbedza nḍila, matshimbidzele na maitete a u thivhela vhugevhenga, kana vhuhaṭuli ha vhugevhenga vhune ha khou itea.

**19.4.2.7 Tsireledzo ya khombe khombe ya rekhodo dzo khetheaho dza u bvedza matshimbidzele a zwamulayo;**

Muofisiri wa Zwamafhungo wa tshiimiswa tsha phuraivethe u tea u hanela muitakhumbelo u swikelela rekhodo arali rekhodo yo khethea kha u bvedza matshimbidzele a zwamulayo, nga nḍa ha musi muthu a re na pfanelo yo khetheaho a vha o i bvisa.

**19.4.2.8 Tsireledzo ya khombe khombe ya mafhungo a ṭhoḍisiso a muthu wa vhuraru na tsireledzo ya mafhungo a ṭhoḍisiso a tshiimiswa tsha tshitshavha kana tsha phuraivethe.**

Muofisiri wa Zwamafhungo wa tshiimiswa tsha phuraivethe u tea u hanela muitakhumbelo u swikelela rekhodo arali rekhodo i na vhuṭumani na ṭhoḍisiso ine, kana i no khou ḍo itwa nga tshi imiswa itsho nahone u netshedzwa hayo zwi nga vhea muthu wa ṭhoḍisiso, muthu wa vhuraru kana mafhungo ane a khou ṭoḍisiswa kha tshiimo tshi si tsha vhuḍi vhukuma.

19.4.3 Kha vha dzhiele nzhele uri maga a khombe khombe a re afho n̄ha a u hanela u swikelela rekhodo kha zwiimiswa zwa tshitshavha na zwa phuraivethe a a t̄oda u fana, nga n̄da ha tsireledzo ya khombekhome kha dziñwe rekhodo dza Tshumelo ya Mbuelo ya Afrika Tshipembe, dokhethe dza tshipholisa na maitele a a beili, na tsireledzo ya u shumisa maanda a mulayo na maitele a zwamulayo; zwine zwa shuma kha zwiimiswa zwa tshitshavha fhedzi.

19.4.4 Arali tshipiḁa tsha rekhodo tsha vha tshi na vhushaka na zwiitisi zwa u vhetshela thungo, Muofisiri wa Zwamafhungo kana Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa tsha tshitshavha kana tsha phuraivethe u a vhofohea u sedza arali hu na khonadzeo ya u swikelela tshipiḁa tsha mafhungo musi zwo no tshea uri u bvisela khagala tshoṱhe zwi nga si konadzee nahone vha tea maga a no p̄fada a u saukanya kana u bvisa mafhungo ane a nga si kone u bviselwa khagala na u bvisela khagala o teaho.

## 19.5 U tenda u hanwa ha khumbelo<sup>28</sup>

19.5.1 U balelwa u fhindula nga ngona kha khumbelo nga tshifhinga tsho teaho zwi dzhiwa sa u tenda u hanwa ha khumbelo. Hezwi ndi zwa ndeme, ngauri **PAIA** I tendela muitakhumbelo u itela khaedu tsheo musi hu so ngo dzhiwa tsheo kana khumbelo ya vha i songo dzhielwa n̄ha. Muitakhumbelo a nga amba musi hu tshi khou itwa khaṱhululo ya tshiimisiwani uri ha ngo wana phindulo.

19.5.2 Khumbelo ya u swikelela rekhodo i dzhiwa yo haniwa nga murahu ha musi maḁuvha a 30 o fhira kana tshiimiswa tsha tshitshavha kana tsha phuraivethe tshi so ngo fhindula nga murahu ha maḁuvha mañwe na mañwe a nyengedzedzo.

## 19.6 Zwiitisi zwa u dzhia khetho ya u hana

19.6.1 O sedza zwiitisi zwa u dzhia khetho, Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo a nga sedza arali a tshi nga tenda kana u hana khumbelo nga zwiitisi zwine zwa tumana na rekhodo yo humbelwaho. Ngauri nga kuvhonele kwawe, Muofisiri wa Zwamafhungo u tea u shumisa muhumbulo wawe tshoṱhe musi a tshi sedza zwiitisi zwo fhambanaho, zwine zwa vha:

19.6.1.1 **Tsireledzo, vhutsireledzi na vhushaka na Mashango a n̄da zwa Afrika Tshipembe:** Muofisiri wa Zwamafhungo a nga hana u swikelela arali u bviselwa n̄da ha mafhungo zwi tshi nga shushedza nga n̄dila i no p̄fada tsireledzo kana vhutsireledzi ha shango. Hezwi zwi shuma vho na kha uri u netshedzwa ha mafhungo zwi tshi nga vhaisa vhushaka ha Afrika Tshipembe na lingwe shango, u fana na u bvisela khagala rekhodo dzo netshedzwaho lwa tshiphiri.

19.6.1.2 **Madzangalelo a ikonomi, masheleni na zwavhubindudzi:** Muofisiri wa Zwamafhungo a nga hana u swikelela arali u netshedza zwi tshi nga vhaisa tshiimo tsha ikonomi na tsha masheleni zwa Shango;

<sup>28</sup> Tshiteṱwa 27 na 58 zwa PAIA

19.6.1.3 **Mashumele a zwiimiswa zwa tshitshavha:** Muofisiri wa Zwamafungo wa tshiimiswa tsha tshitshavha a nga hana u swikelela arali u netshedzwa ha mafungo zwi tshi nga vhaisa nga ndila i no pfaadza mashumele, sa tsumbo arali vha tshi khou ita mbekanyamaitele kana u amba nga fhungo;

19.6.1.4 **Khumbelo ine zwikhagala uri ndi ya u tamba kana u vhangamifhirifhiri:** Muofisiri wa Zwamafungo a nga hana khumbelo ya u swikelela mafungo arali u ya nga kuhumbulele kwavho vha tshi pfesesa uri u shumana na khumbelo zwi do dzhia tshifhinga zwi so ngo tea zwa dovha zwa tambisa zwiko. Zwiinwe hafhu, vha nga hana khumbelo ya u swikelela rekhodo arali zwa vhoneala uri muitakhumbelo u khou zwi itela u tou vhangamivili.

## 20. U BVISELA KHAGALA LWA KHOMBE KHOMBE HA REKHODO HO SEDZWA MADZANGALELO A TSHITSHAVHA

20.1 Naho hu na zwiitisi u ya nga mbonalelo kana zwa khombe khombe zwa u hana ho sedzwa khumbelo ya u swikelela rekhodo dza zwiimiswa zwa tshitshavha kana phuraivethe, kanzhi hu na khonadzeo ya uri dzangalelo la tshitshavha kha u bvisela khagala rekhodo la vha la ndeme u fhira khombo dzine dza nga vha hone nga u netshedza rekhodo.

20.2 Hune vhuṭhogwa ha dzangalelo la tshitshavha zwa vha hone sa zwe zwa bulwa afho nṭha nahone u bvisela khagala ha rekhodo zwa nga bvisa vhuṭanzi vhune ha nga pfuka nga huhulu, kana u balelwa u tevhedzela, mulayo; kana tsireledzo ya tshitshavha kana khombo kha mufhe, Muofisiri wa Zwamafungo u tea u fha u swikelela rekhodo naho o hu na maga a vhetshela thungo o bulwaho afho nṭha.

## 21. MAITELE A U NḐIVHADZO YA MUTHU WA VHURARU<sup>29</sup>

21.1 Muofisiri wa Zwamafungo na Mufarisa Muofisiri wa Zwamafungo wa tshiimiswa u lavhewelwa, ho sedzwa tshiteṅwa 47 na 71 tsha **PAIA**, u dzhia maga o teaho a no pfaadza a u ḑivhadza muthu wa vhuraru nga khumbelo ya rekhodo dzawe kana rekhodo dzine dza nga vha dzi na mafungo a vhuṅe,

21.1.1 Rekhodo ya **SARS**;

21.1.2 Zwiphiri zwa mbambadzo;

21.1.3 U netshedzwa ha mafungo ane a nga vha tshiitisi tsha nyito ine ya nga pfuka vhuḑifhinduleli ha u fara tshiphiri kana mafungo a ṭhoḑisiso ane a nga vhea muṅwe muthu kana mafungo khomboni khulwane.

21.2 Nḑivhadzo kha muthu wa vhuraru hune dzirekhodo kana mafungo awe a khou hambeliwa i tea ramba muthu wa vhuraru u -

<sup>29</sup> Tshiteṅwa 47 na 71 zwa PAIA

21.2.1 ñwala kana nga u tou amba kha Muofisiri wa Zwamafhungo uri ndi ngani khumbelo ya u swikelela i tshi tea u haniwa; kana

21.2.2 U fha nga u tou ñwala thendelo ya u bvisela khagala rekhodo kha muitakhumbelo

21.3 Zwa ndeme kha muitakhumbelo; **PAIA** i amba uri ñdivhadzo nga u tou ñwala kha muthu wa vhuraru dzi tea u rumelwa muthu wa vhuraru hu saathu u fhira maḍuvha a 21 nga murahu ha musu khumbelo yo t̄anganedzwa, Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo u tea u ḍivhadza muitakhumbelo uri ñdivhadzo yo iswa kha muthu wa vhuraru.

21.4 Nga murahu ha musu ñdivhadzo yo rumelwa kha Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo u tea u dzia tsheo ya u fhedzisela kha uri anga kona kana a si kone u ñetshedza rekhodo hu saathu u fhira maḍuvha a 30 nga murahu ha musu ñdivhadzo yo rumelwa.

21.5 Muthu wa vhuraru u tea u ḍivhadzwa nga ha tsheo yo dzhiwaho nahone zwiitisi zwo linganaho zwa u ñetshedza khumbelo zwi tea u ñewa. Muthu wa vhuraru u tea u ḍivhadzwa nga pfanelo na maitete a re hone kana a u ita khaedu kha tsheo yo dzhiwaho sa zwe zwa sumbedzwa kha phara 22 ire afho fhasi

## **22. THANDULULO DZA MULAYO DZI RE HONE DZA U LWA NA TSHEO KANA U BALELWA U DZIA TSHEO NGA MUOFISIRI WA ZWAMAFHUNGO NA MUFARISA MUOFISIRI WA ZWAMAFHUNGO**

22.1 Maga ane wa tea u a dzhia nga murahu ha musu ho dzhiwa tsheo ya khumbelo yavho

22.1.1 Muitakhumbelo a ita maga a u tevhelela nga u tou ñwala, kha tsheo yo lindelwaho u bva kha Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo. Hu t̄ut̄uwedzwa uri nyambedzano dzothe vhukati ha muitakhumbelo na Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo dzi tea u tou ñwala u itela ndaedzi tshifhinganani tshidaho.

22.1.2 Hu na maitete o fhambanaho ho sedzwa zwiimiswa zwa tshitshavha kana zwaphuraivethe, nga maanda ho sedzwa khat̄hululo ya nga ngomu tshiimisiwani. Sa tsumbo, ho sedzwa khumbelo ya u swikelela rekhodo dza tshiimiswa tsha tshitshavha, muitakhumbelo u tea u thoma a rumela khat̄hululo ya nga ngomu tshiimisiwani a saathu u ya kha Vhulanguli kana Khothe. Fhedzi a hu na khat̄hululo ya nga ngomu tshiimisiwani kha tsheo yo dzhiwaho (i nga vha u fha kana u hana u ñetshedza u swikelela rekhodo) kana u tenda u hanwa ha u swikelela rekhodo dza tshiimiswa tsha phuraivethe.

22.1.3 Tshipida itshi tshi t̄alutshedza thandululo dza mulayo dzi re hone kha muitakhumbelo ane a khou t̄oda u itela khaedu tsheo idzo, dzine dza katela dzi khat̄hululo dza nga ngomu tshiimisiwani, u isa mbilahelo kha Vhulanguli kana u ita dzikhumbelo khothe. Kha vha lavhelese muolo wa **PAIA** wa mutevhe wa maitete a u ita khumbelo, kha phara 27 ire afha fhasi.

22.1.4 Muiakhumbelo a nga, vhukati ha zwiñwe, ita khaedu ya tsheo dzi tevhelaho dza tshiimiswa tsha phuraivethe na/ kana tsha tshitshavha -

22.1.4.1 u fha kana u badela mbadelo dza u ita khumbelo;

22.1.4.2 u fha kana u badela dibosithi;

22.1.4.3 mbadelo dza u swikelela dzine dza tea u badelwa dza vha dzi khou dura vhukuma;

22.1.4.4 tshivhumbeo tsha u swikelela tsho fhiwaho;

22.1.4.5 U hana khumbelo;

22.1.4.6 Maga (ho katelwa tshifhinga) tsha u ita khañhululo ya nga ngomu tshiimisiwani;

22.1.4.7 tshifhinga tsha nyengedzedzo tshi si tsha vhuñi tsho dzhiwaho tsha u fhindula khumbelo ya u swikelela;

22.1.4.8 u balelwa u bvisela khagala rekhodo;

22.1.4.9 u fha thendelo ya khumbelo ya u swikelela rekhodo;

22.1.4.10 u hana khumbelo ya u sa badela mbadelo;

## 22.2 Thandululo dza nga ngomu

22.2.1 Muiakhumbelo a nga ita khañhululo nga ndila ðe kha tsheo ya nga ngomu tshiimisiwani tsha nnyi na nnyi?

22.2.1.1 Khañhululo ya nga ngomu tshiimisiwani i nga itwa ho sedzwa tshiteñwa 74 tsha **PAIA**, na maandlana o teaho a sia ða muvhuso wa lushaka, vunðu kana masipala muñwe na muñwe kha muvhuso wapo.<sup>30</sup>

22.2.1.2 Sa tsumbo, City of Johannesburg ndi tsumbo ya sia ða muvhuso wapo hune khañhululo ya nga ngomu ya tea u iswa hone. Tshikwama tsha Khombo dza Badani kana Vhulanguli ndi tsumbo dza tshiimiswa tsha tshitshavha tshine a si tshipiða tsha muvhuso wa lushaka, vunðu kana wapo sa zwe zwa sumbedzwa nga mulayo, ngauralo hu nga si itwe khañhululo ya nga ngomu tshiimisiwani zwo.

<sup>30</sup> Tshiteñwa 74(1) tsha PAIA



22.2.1.3 Arali muitakhumbelo kana muthu wa vhuraru a sa takaleli tsheo yo dzhiwaho nga Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo wa sia ja muvhuso wa lushaka, vundu kana wapo, muitakhumbelo kana muthu wa vhuraru u na pfanelo ya u ita khatululo ya nga ngomu tshimiswani uya nga tshitehwa<sup>74</sup>(1) kana (2) tsha **PAIA**. Maga a u ita khatululo o sumbedzwa kha bugupfarwa ya **PAIA** ya tshimiswa tshenetsho nahone ndila ya u ita khatululo ya nga ngomu tshimiswani yo talutshedzwa henefha fhasi.

22.2.1.4 Arali phindulo u bva kha sia ja muvhuso ja lushaka, vundu kana wapo ya vha i ya u tenda u hanwa, nga inwe ndila, vho balelwa u fhindula hu saathu u fhira maduvha a 30 kana tshifhinga tshinwe na tshinwe tsha nyengedzedzo, muitakhumbelo a nga ita khatululo ya nga ngomu, u ya nga maga o sumbedzwaho afha, musi muitakhumbelo a saathu u kwama Vhulanguli kana Khothe.

## 22.3 U tsireledza rekhodo u swika tsheo ya u fhedzisela nga khumbelo i tshi dzhiwa

22.3.1 Muofisiri wa Zwamafhungo wa sia ja muvhuso ja Lushaka, Vundu kana muvhuso wapo hune khatululo ya nga ngomu tshimiswani khou tea u itwa hone u tea u ya nga Tshitehwa 21 tsha **PAIA**, u dzia maga o fanelaho ane o tea u vhea rekhodo nahone a nga si thuthe kana u tshinyadza rekhodo inwe na inwe u swika tshifhinga tshine maitele othe kana manwe na manwe a khatululo ya nga ngomu tshimiswani kana mbilahelo kha Vhulanguli kana khumbelo khothe u ya nga mulandu a vha o no fhela.

22.3.2 Hezwi zwi amba uri muofisiri wa zwamafhungo a nga si thuthe kana u tshinyadza mafhungo manwe na manwe o humbelwaho, hu saathu u khunyelela maitele manwe na manwe sa zwe a randelwa kha phara 22.3.11 ire afho nthā.

## 22.4 Khatululo ya nga ngomu tshimiswani i nga iswa kha nnyi?

22.4.1 Naho khatululo itshi nga sedziwa nga maandalanga o teaho, khatululo ya nga ngomu tshimiswani i tea u rumelwa kha Muofisiri wa Zwamafhungo wa sia ja muvhuso ja Lushaka, Vundu kana muvhuso wapo, hu nga vha kha diresi yawe, nomboro ya fekisi kana kha imeili<sup>31</sup>, hune zwidodombedzwa zwi nga wanala kha bugupfarwa ya **PAIA** kana kha Vhulanguli.

22.4.2 Muofisiri wa Zwamafhungo wa sia ja muvhuso wa Lushaka, Vundu kana muvhuso wapo, sa zwenezwo, u na vhudifhinduleli, u ya nga tshitehwa 75(4) tsha **PAIA**, u rumela khatululo kha maanda a khatululo kathihi na zwiitisi

<sup>31</sup> Tshitehwa 75(1)(b) tsha PAIA



zwa tsheo ine ya khou itelwa khakhululo. U rumelwa ha khaṭhululo kha maandalanga o teaho zwi tea u itwa hu saathu u fhira maḍuvha a 10 a mushumo nga murahu ha musu ho ṭanganedzwa khaṭhululo.

## 22.5 Maandalanga o teaho ndi vho nnyi?

22.5.1 Maandalanga o teaho, afha hu khou ambiwa “maandalanga a khaṭhululo” kanzhi ndi ṭhoho ya tshiimiswa tshenetsho o tholwaho lwa tshipolotiki (nahone mushumo uyu u nga fhiwa muṁwe muthu lwa tshiofisi) fhedzi nga u angaredza zwi vha zwi tshi khou amba onoyo muthu.

Tshiimiswa tsha tshitshavha (“Muvhuso”)	Maandalanga o teaho (“maandalanga a khaṭhululo”)
<b>Ofisi ya Muphiresidennde</b>	Muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala nga Muphuresidennde, arali e hone, nga nṁḍa ha muphuresidennde.
<b>Muhasho wa Muvhuso wa Lushaka</b>	Minista a re na vhuḍifhinduleli ha muhasho wonoyo kana muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala.
<b>Ofisini ya Mulangavhunḍu</b>	Muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala nga Mulangavhunḍu
<b>Muhasho wa Muvhuso wa Vunḍu</b>	Muraḍo Khorotshitumbe (MEC) a re na vhuḍifhinduleli ha Muhasho wa Vunḍu kana muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala nga MEC
<b>Masipala</b>	Neḍorobo kana Mulangadzulo kana muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala nga Khorondangi ya Masipala wonoyo.

22.5.2 Hune hu nga vha hu si ofisi ya mulangavhunḍu: muraḍo wa vhulangi ane a vha na vhuḍifhinduleli ha tshiimiswa tshenetsho kana muthu o fhiwaho vhuḍifhinduleli nga u tou ṁwala nga muraḍo wonoyo.

22.5.3 Arali maandalanga a khaṭhululo a tendelana na tsheo ya Muofisiri wa Zwamafhungo, khaṭhululo ya nga ngomu tshiimisiwani i vha yo haniwa nahone tsheo ya u thoma ya Muofisiri wa Zwamafhungo a i shanduki. Fhedzi, arali maandalanga a khaṭhululo a sa tendelane na tsheo ya Muofisiri wa Zwamafhungo, tsheo ya khaṭhululo i a tendiwa nahone tsheo i vha yo haniwa.

22.5.4 Tsheo ya Muofisiri wa Zwamafhungo a i shanduki. Fhedzi arali maandalanga a khatululo a hana tsheo ya Muofisiri wa Zwamafhungo, khatululo i vha yo fhiwa nahone tsheo ya mathomoni i vha i sa tsha shuma.

## 22.6 Ndi nnyi ane a nga ita khatululo ya nga ngomu?

22.6.1 Muitakhumbelo muñwe na muñwe ane khumbelo yawe ya **PAIA** ya u swikelela rekhodo dza sia ja muvhuso wa Lushaka, Vundu kana muvhuso wapo, sa zwenezwo, a vha o hanelwa, nahone a tshi pfesesa uri zwiitisi zwa khatululo zwi re kha phara 22.2.4 zwi re afho ntha zwi na vhumani na khumbelo yawe, u na ppanelo ya u ita khatululo ya nga ngomu tshiimiswani.

22.6.2 Muthu wa vhuraru a nga ita khatululo ya nga ngomu tshiimiswani kha tsheo yo dzhiwaho nga Muofisiri wa Zwamafhungo ya u swikelelea rekhodo dzine dza vha kwama. Arali khatululo ya nga ngomu tshiimiswani itshi kwama muthu wa vhuraru, maandalanga a khatululo o tangedzaho khatululo ya nga ngomu tshiimiswani a tea u divhadza avho vathu vha vhuraru (vhudivhadzileli vhu bva kha muofisiri wa zwamafhungo u ya kha maandalanga a khatululo).

## 22.7 Tshifhinga tsha u ita khatululo

22.7.1 Khatululo ya nga ngomu tshiimiswani tea u itwa -

22.7.1.1 Hu saathu u **fhira maqavha a 60**<sup>32</sup> nga murahu ha musi ho dzhiwa tsheo;

22.7.1.2 Hu saathu u **fhira maqavha a 30**<sup>33</sup> nga murahu ha musi divhadzo ya khatululo i no khou itwa nahone yo no netshedzwa muthu wa vhuraru.

22.7.2 U ita khatululo ya nga ngomu tshiimiswani nga murahu ha maqavha ayo o buliwaho afho ntha (zwo lenga) zwi nga si tendelwe nga nda ha musi ho netshedzwa maandalanga a khatululo zwiitisi zwi no pfa zwa u lenga. Sa tsumbo u valelwa sibatela lwa maqavha a no fhira 60 zwi nga tendelwa sa tshiitisi tsha u lenga.

22.7.3 Arali maandalanga a khatululo a si tangedze khatululo ya nga ngomu tshiimiswani yo itwaho u lenga, vha tea u fha zwiitisi zwa u hana khatululo, na u sumbandila kha manwe mafhungo a nyengedzedzo, arali a hone, ane a todea u itela tangedza khatululo. Maandalanga a khatululo a tea u vha tsivhudza nga maitela a u ita mbilahelo kha tsheo yo dzhiwaho na Vhulanguli kana kotho.

<sup>32</sup> Tshitenwa 75(1)(a)(i) tsha PAIA

<sup>33</sup> Tshitenwa 75(1)(a)(ii) tsha PAIA

22.7.4 Sa zwe zwa sumbedzwa afho n̄tha, khaṭhululo i tea u rumelwa nga Muofisiri wa Zwamafhungo kha maandalanga a khaṭhululo hu saathu u fhira maḍuvha a 10 a mushumo nga murahu ha musu ho ṭanganedza khaṭhululo ya nga ngomu<sup>34</sup>.

## 22.8 Ndivhadzo ya khaṭhululo nga maandalanga a khaṭhululo kha muitakhumbelo kana muthu wa vhuraru

22.8.1 Maandalanga a khaṭhululo a tea, nga tshifhinga tshi pfadzaho, hu saathu fhira maḍuvha a 30 nga murahu ha musu vho ṭanganedza khaṭhululo ya nga ngomu<sup>35</sup>, u divhadza

22.8.1.1 Muthu wa vhuraru ane rekhodo ine ya khou itelwa khaṭhululo ya vha yawe, kana

22.8.1.2 Muitakhumbelo nga ha khaṭhululo ya nga ngomu tshiimiswani ya u sa netshedza khumbelo ya u swikelela.

22.8.2 Muitakhumbelo kana muthu wa vhuraru ane ndivhadzo yo fhiwa ene u tea u n̄walela maandalanga a khaṭhululo uri ndi ngani khumbelo ya u swikelela i tshi tea u n̄ewa kana u sa n̄ewa hu saathu u fhira maḍuvha a 21.

## 22.9 Khaṭhululo ya nga ngomu kathihi na ndivhadzo ngamurahu<sup>36</sup>

22.9.1 Maandalanga a khaṭhululo a tea u dzhia tsheo ya khaṭhululo ya nga ngomu tshiimiswani nga tshifhinga tshi pfadzaho hu saathu fhira maḍuvha a 30

22.9.1.1 Nga murahu ha musu khaṭhululo ya nga ngomu tshiimiswani yo ṭanganedzwa nga muofisiri wa zwamafhungo wa tshiimiswa;

22.9.1.2 Nga murahu ha musu muthu wa vhuraru o divhadzwa, sa zwe zwa sumbedzwa kha phara 22.3.6.1 i re afho n̄tha.

22.9.2 Tsheo ya maandalanga a khaṭhululo i tea vhudzwa muthu o humbelaho khaṭhululo, muthu wa vhuraru kana muitakhumbelo, Tsheo ya maandalanga a khaṭhululo i tea u vha i na zwiitisi zwi pfadzaho zwa u dzia tsheo, ho katelwa mbetshelwa dza **PAIA** kana **POPIA** dze dza shumiswa.

22.9.3 Arali maandalanga a khaṭhululo a balelwa u fha muthu o humbelaho khaṭhululo ndivhadzo ya tsheo ya khaṭhululo ya nga ngomu tshiimiswani hu saathu u fhira maḍuvha a 30, khaṭhululo i dzhiwa yo vhetshelwa thungo nahone muitakhumbelo a nga ita mbilahelo na Vhulanguli kana a ya Khothe u wana thuso yo teaho<sup>37</sup>.

<sup>34</sup> Tshiteṅwa 75(4) tsha PAIA

<sup>35</sup> Tshiteṅwa 76(2)(a) tsha PAIA

<sup>36</sup> Tshiteṅwa 77 tsha PAIA

<sup>37</sup> Tshiteṅwa 77(7) tsha PAIA

## 22.10 U dādzā fomo ya khaṭhululo ya nga ngomu- Fomo 4

- 22.10.1 U ita khaṭhululo kha tsheo inwe na inwe ya sia ḵa muvhuso wa Lushaka, Vundu kana muvhuso wapo, muitakhumbelo u tea u ita khaṭhululo ya nga ngomu tshiimiswani nga u dādzā Fomo 4. Fomo 4 i tea u rumelwa kha Muofisiri wa Zwamafhungo kha sia ḵa muvhuso ḵi kwameaho, ane ene u dō i fhirisela kha maandalanga a khaṭhululo, sa zwe zwa sumbedzwa afho nṭha.
- 22.10.2 Fomo 4 i wanala kha lubuvhisia lwa Vhulanguli <https://www.justice.gov.za/inforeg/>, khatihhi na kha lubuvhisia lwa sia ḵa muvhusi ḵi kwameaho.
- 22.10.3 Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo wa sia ḵa muvhuso ḵi kwameaho ha tou kombetsheduzea u thusa muitakhumbelo u dādzā fomo ya khaṭhululo, fhedzi muitakhumbelo a nga humbela Muofisiri wa Zwamafhungo u mu thusa.
- 22.10.4 Afha fhasi ndi maga a maitete a u dādzā fomo ya khaṭhululo ya nga ngomu -

### Mafhungo ane a ṭōḵea

### Ṭhalutshedzo

#### Zwidombedzwa zwa tshiimiswani tsha tshitshavha

Tshitewa itshi tshi tea u vha na sia ḵa muvhuso wa Lushaka, Vundu kana muvhuso wapo ḵi kwameaho, na dzina na tshifani zwa Muofisiri wa Zwamafhungo.

#### Zwidombedzwa zwa muthu ane a khou ita khaṭhululo ya nga ngomu

Tshiteṅwa itshi tshi tea u dādzwa nga muthu a no khou ita khaṭhululo, kana a nga vha a tshi khou ita o tou imela kana hai. Hu tea u ṅetshedzwa madzina nga vhudalo, nomboro ya basa na tshiimo tshine vha khou ita khaṭhululo ya nga ngomu tshiimiswani vhe khatsho vho imela muṅwe muthu. Arali vha tshi khou i ita nga vhone vhane, tshiimo tshenetsho tshi tea u ṅwalwa fhasi. Mafhungo maṅwe a nyengedzedzo ane a ṭōḵea a katela zwidombedzwa zwa vhuṭumani zwa muitakhumbelo:

## Mafungo ane a tōdeā

## Thalutshedzo

ḡiresi ya poswo, imejli, fekisi na/kana nomboro ya luḡingo. Mafungo aya a tea u vha a tshi fana na a khumbelo ya u thoma. Arali muthu ane a khou ḡadza fomo ya u ita khaḡhululo o imela muitakhumbelo, hu tea u dzheniswa na vhuḡanzi ha tshiimo tshine a khou ita ngatsho khaḡhululo kha fomo.

### **Zwidombedzwa zwa muthu ane khumbelo l khou itelwa ene (arali l tshi khou itelwa muthu wa vhuraru)**

Tshiteḡwa itshi tshi tea u ḡadzwa nga muthu ane u khou ita khumbelo ya mafungo a tshi khou itela muḡwe muthu. Arali muthu ane a khou rumela khaḡhululo ya nga ngomu tshiimiswani a si muthu wa a rumela mathomoni khumbelo ya mafungo, zwidombedzwa zwa muitakhumbelo zwi tea u ḡetshedzwa henefha. Arali khumbelo i tshi khou itwa nga muthu nga ene muḡe tshipiḡa itshi a tsho ngo tea u ḡadzwa.

### **Tsheo ine khaḡhululo ya nga ngomu tshiimiswani i khou itelwa yone**

Fomo i ntsedza tshikhala muitakhumbelo u sumbedza nga “x”, uri ndi tshifhio tshiitisi kha zwire kha mutevhe tshine tsha vha na vhuḡumani na khaḡhululo.

### **Zwiitisi zwa khaḡhululo**

Nga fhasi ha tshiteḡwa itshi, muitakhumbelo u lavhelelwa u ḡalutshedza nga u tou dodombedza uri zwiitisi zwa khaḡhululo zwo tea. U tea u sumbedzisa uri ndi ngani a tshi pfa uri tsheo ya Muofisiri wa Zwamafungo yo khakhea. U tea u rumela na maḡwe maḡwalwa a no tikedza khaḡhululo. Mutevhe wa zwiitisi zwo ḡetshedzwaho zwa u tikedza zwi nga dodombedzwa kha liḡwe siaḡari arali tshikhala tsho ḡetshedzwaho kha fomo tshi tshiḡuku. Masiḡari o engedziwaho anea a ḡo

rumelwa a tea u sainiwa. Hu tea u vha zwiitisi na mafhungo a thikhedzo zwi no fusha u itela uri vha maandalanga a khaṭhululo vha kone u dzhia tsheo vha na nḡivho. Ngauralo muthu u tea u dovha hafhu a sumbedza tshinwe na tshinwe tsha zwe zwa itea u swika kha tshifhinga tsha khakhululo ya nga ngomu tshiimiswani. Kha siaṭari liṅwe, muthu a nga sumbedzisa zwiteṅwa zwa **PAIA** sa mutheo wa khaṭhululo

#### Nḡivhadzo ya tsheo khaṭhululo

Tshikhala tsho ṅetshedzwaho u ṭalutshedza nḡila ine tsheo ya tea u rumelwa ngayo, sa tsumbo poswo, khoria kana fekisi kana imeiji.

22.10.5 Naho hu si na u hanela u wana axenṅde u thusa kha liḡa liṅwe na liṅwe ḡa u humbela mafhungo, maitete o fhambanaho a **PAIA** o itelwa u shumisea nga nḡila i sa kondi u itela uri hu sa vhe na ṭhōdeā ya axenṅde na mbadelo dza mulayo.

### 23. U ITA MBILAELO KHA MUOFISIRI WA ZWAMAFHUNGO.

- 23.1 Muitakhumbelo kana muthu wa vhuraru a nga rumela mbilaelelo kha Vhulanguli nga murahu ha musi muitakhumbelo kana muthu wa vhuraru o no ita maitete oṭhe a u ita khaṭhululo ya tshiimiswani kha tsheo ya Muofisiri wa Zwamafhungo wa sia ḡa muvhuso wa Lushaka, Vunḡu kana muvhuso wapo. Hezwi zwi amba uri muthu a nga rumela mbilaelelo nthihi fhedzi ya sia liṭhihi ḡa muvhuso kha Vhulanguli arali a songo fushea nga tsheo yo dzhiwaho nga maandalanga a khaṭhululo. Vhulanguli vhu ḡo hana mbilaelelo arali sia ḡa muvhuso ḡeneḡo ḡa vha ḡi so ngo tevhela maga oṭhe a ita khaṭhululo.
- 23.2 Fhedzi, musi ho sedzwa tshiimiswa zwa tshitshavha (tshine a tshi na maitete a khaṭhululo ya tshiimiswani) na tshiimiswa tsha phuraivethe, muitakhumbelo kana muthu wa vhuraru a nga rumela mbilaelelo yawe kha Vhulanguli, arali a so ngo fushea nga tsheo ya tshiimiswa tshi no khou kwamea.
- 23.3 Mbilaelelo kha Vhulanguli i tea u itwa nga muitakhumbelo kana muthu wa vhuraru hu saathu fhira maḡuvha a 180 o wana tsheo u bva kha tshiimiswa.

23.4 Muiakhumbelo a nga ita mbilahelo na Vhulanguli arali a so ngo fushea nga -

23.4.1 Mbuelo dza khatululo ya nga ngomu tshimiswani ya maandalanga a khatululo a sia liwe na liwe la muvhuso;

23.4.2 nga tsheo ya maandalanga a khatululo a u hanela u ita khatululo ya nga ngomu tshimiswa yo lengaho

23.4.3 tsheo ya Muofisiri wa Zwamafungo wa tshimiswa tsha tshitshavha tshine tshi si vhe tshipida tsha sia na lithi la muvhuso ya -

23.4.3.1 u hana khumbelo ya u swikelela; kana

23.4.3.2 u engedza tshifhinga tsha u shuma na khumbelo; kana

23.4.3.3 u netshedza u swikelela ndila yo teaho.

23.4.4 tsheo ya thoho ya tshimiswa tsha phuraivethe ya -

23.4.4.1 u hana khumbelo ya u swikelela; kana

23.4.4.2 u toda mbadelo nga u tou kombetshedza dza u ita khumbelo, kana diposithi ya mbadelo dza u swikelela; kana

23.4.4.3 u engedza tshifhinga tsha u shuma khumbelo; kana

23.4.4.4 u netshedza u swikelela ndila yo teaho.

23.5 Muthu wa vhuraru a nga ita mbilahelo na Vhulanguli arali a so ngo fushea nga -

23.5.1 mbuelo dza khatululo ya nga ngomu tshimiswani ya maandalanga a khatululo ya sia la muvhuso li kwameaho;

23.5.2 tsheo ya Muofisiri wa Zwamafungo wa tshimiswa tsha tshitshavha tshine tshi si vhe tshipida tsha sia na lithi la muvhuso u fha tsheo ya u swikelela; kana

23.5.3 tsheo ya thoho ya tshimiswa tsha phuraivethe ya u tendela khumbelo ya u swikelela rekhodo dza tshimiswa,



## 23.6 Muthu u ita mbilahelo nga ndila de na Vhulanguli?

- 23.6.1 Mbilahelo kha Vhulanguli i tea u itwa nga u tou n̄wala nahone hu tea u ḡadzwa fomo ya u ita mbilahelo, hu nga vha nga u n̄wala nga tshand̄a kana vha shumisa inthanethe. Fomo 5 ya u ita mbilahelo vha nga i wana kha lubuvhisia lwa Vhulanguli kha, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Hezwi zwi amba uri Vhulanguli a vhu nga ṭanganedzi mbilahelo nga luṭingo; fhedzi Vhulanguli vhu lavhelelwa u netshedza thuso i no pfadza kha muthu ane a khou tama u ita mbilahelo hezwi zwi katela thuso ya u ḡadza fomo ya mbilahelo.
- 23.6.3 Arali muthu a tshi khou itela khaedu tsho ya Muofisiri wa Zwamafhungo wa tshiimiswa tsha phuraivethe, muthu u tea u n̄ea vhuṭanzi ho linganaho ha u sumbedza uri rekhodo yo humbelwaho i khou ṭodea u itela u shumisa kana u tsireledza pfanelo dziṅwe na dziṅwe. U swikelela rekhodo dza tshiimiswa tsha phuraivethe zwi nga tendelwa arali muthu a sumbedza uri u khou ṭoda u shumisa kana u tsireledza pfanelo dziṅwe na dziṅwe nga rekhodo ine a khou ṭoda.

## 23.7 Hu itea mini nga murahu ha u ṭanganedza mbilahelo?

- 23.7.1 Nga murahu ha u ṭanganedza mbilahelo ya muthu, Vhulanguli vhu tea -
- 23.7.1.1 U sedzulusa mbilahelo na u i pfukisela kha Komiti ya Khwaṭhisedzo ya Vhutevhedzeli u itela u dzhia tsho; kana
- 23.7.1.2 u sa dzhia maga kha mbilahelo nga mulandu wa uri -
- 23.7.1.2.1 mbilahelo a yo ngo rumelwa kha maḡuvha a 180 nahone a huna zwiitisi zwi no pfadza zwine ha nga liliswa muhweleli kha u rumela u lenga.
- 23.7.1.2.2 mbilahelo ndi ya u tamba kana u vhangana mifhirifhiri kana i khou itwa hu si na u fulufhedzea;
- 23.7.1.2.3 Vho sedza zwiimo zwoṭhe zwa mulandu, nahone vha vhona zwi si zwa ndeme kana zwo fanela u dzhia maṅwe maga. Sa tsumbo, arali mafhungo o no khou ṭodiwa a tshi vho swikelelea nga nnyi na nnyi.
- 23.7.1.3 Hune zwo tea vha tea u konanya kana u shumisa nga nungo dzoṭhe u swikelela thandululo kana u thusa kha uri phambano dzi dzudzanywe;

23.7.1.4 U nea tsivhudzo muvhilaheli na Muofisiri wa Zwamafhungo, vhane mbilahelo yo sedza khavho, nga ha maga ane do dzhiwa.

### 23.8 Nyambedzano ya u thoma nga Vhulanguli na muvhilaheli na Muofisiri wa Zwamafhungo nga ha mbilahelo yo itiwaho

23.8.1 Arali vhulanguli ha dzhia tsheo ya u sa dzhia mañwe maga nga mbilahelo, Vhulanguli vhu do divhadza muitakhumbelo nga ha tsheo yeneyo na zwiitisi zwa u sa dzhia mañwe maga nga ha mbilahelo.

23.8.2 Arali vhulanguli ha dzhia tsheo ya u ita thodisiso nga mbilahelo, muitakhumbelo u do wana luñwalo lwa u mudivhadza uri Vhulanguli ho dzhia tsheo ya ita thoduluso.

23.8.3 Nga murahu ha u tangedza mbilahelo, Vhulanguli vhu do rumela zwidombedzwa zwa mbilahelo kha Muofisiri wa Zwamafhungo wa tshimiswa tsho teaho, na u hambela uri a rumele Vhulanguli, phindulo ya mbilahelo nga u tou ñwala.

### 23.9 Maanda a u ita thodisiso a Vhulanguli

23.9.1 Vhulanguli vhu na maanda, uya nga tshiteñwa 77G(2) tsha **PAIA** a -

23.9.1.1 u shuma nga nungo dzothe u swikelela thandululo iyo;

23.9.1.2 u ita ndivhadzamalandu na u kombetshedza vhatu u di vhonadza phanda ha Vhulanguli;

23.9.1.3 u vha kombetshedza u fha vhuñanzi nga mulomo kana u tou ñwala vho ana na u bvisa rekhodo dziñwe na dziñwe;

23.9.1.4 u tangedza na u tenda vhuñanzi na mañwe mafhungo, nga u ana, nga afidafithi;

23.9.1.5 u dzhena na u ita sedzulusa zwifhatoni zwiñwe na zwiñwe zwi no khou shumiswa nga vha no kwamea;

23.9.1.6 u ita inthaviwu ya tshiphiri na muthu muñwe na muñwe zwifhatoni zwiñwe na zwiñwe zwine vha dzhena kha zwo;

23.9.1.7 u ita thodisiso inwe na inwe ine Vhulanguli ha vhona yo tea.

## 23.10 **Thathuvho ya vhutevhedzi nga mbetshelwa dza PAIA**

- 23.10.1 Vhulanguli vhu nga ita thathuvho u vhona arali tshiimiswa tsha tshitshavha kana tsha phuraivethe tshi tshi khou tevhezela nga u angaredza mbetshelwa dza **PAIA** iyi.
- 23.10.2 Vhulanguli vhu nga ita thathuvho ya vhutevhedzeli ya tshayandivhiswa kha tshiimiswa; tshine vha funa; fhedzi, Vhulanguli vhu nga ita thathuvho ya vhutevhedzeli arali ho itwa khumbelo nga, kana ho imela Muofisiri wa Zwamafungo wa tshiimiswa kana muthu muñwe na muñwe. Hezwi zwi amba uri muthu muñwe na muñwe a nga humbela Vhulanguli ita thathuvho ya vhutevhedzeli kha tshiimiswa. Muthu a nga rumela khumbelo ya thathuvho ya vhutevhedzeli ya tshiphiri nga u sumbedza uri ha todi a tshi divhiwa.
- 23.10.3 Vhulanguli vhu do netshedza muvhigo muthu o itaho khumbelo ya thathuvho na maga o dzinginywaho ane a tea u itwa, arali e hone.

## 23.11 **Ndivhadzo ya mafungo**

Vhulanguli vhu nga fha Muofisiri wa Zwamafungo wa tshiimiswa Ndivhadzo ya Mafungo u toda uri avho vha kwameaho vha fhe Vhulanguli mafungo o sumbedziwaho kha ndivhadzo. Sa tsumbo, arali ho itwa mbilahelo na Vhulanguli i no elana na u hana u swikelela ho sedzwa zwiitisi zwo vhetshelwaho thungo zwiñwe na zwiñwe, Vhulanguli vhu nga humbela, kha Ndivhadzo ya Mafungo, khophi dza rekhodo dzo hanelwaho u swikelelwa u itela u sedza arali zwiitisi zwa u hana zwo sumbedzwaho zwi zwone ka na zwi si zwone.

## 23.12 **Komiti ya Khwaṭhisedzo ya Vhutevhedzeli**

- 23.12.1 Vhulanguli vhu lavhelelwa u thoma Komiti ya Khwaṭhisedzo ya Vhutevhedzeli i re na maanda a<sup>38</sup>-
- 23.12.1.1 u sedza mafungo oṭhe o fhiriselwaho kha Vhulanguli u ya nga **PAIA** na u ita mawanwa kha zwenezwo;
- 23.12.1.1 u ita madzinginywa kha Vhulanguli nga ha maga mañwe na mañwe ane a tea u dzhielwa Muofisiri wa Zwamafungo kana tshiimiswa.

## 23.13 **Ndivhadzo ya Khwaṭhisedzo ya Vhutevhedzeli**

- 23.13.1 Vhulanguli vhu nga, vho sedza madzinginywa nga Komiti ya Khwaṭhisedzo ya Vhutevhedzeli, u itela u fha Muofisiri wa Zwamafungo wa tshiimiswa Ndivhadzo ya Khwaṭhisedzo ya Vhutevhedzeli -

<sup>38</sup> Tshiterwa 50 tsha POPIA

23.13.1.1 u khwaṭhisedza, u khwinisa kana u vhetshela thungo tsheo ine ya vha mutheo wa mbilahelo;

23.13.1.2 u itela uri Muofisiri wa Zwamafungo a dzhie maga ayo kana a litshe u dzhia maga e Vhulanguli ha Zwamafungo a sumbedza kha nḍivhadzo.

#### 23.14 Hu na masiandaitwa ḍe kha u sa tevhedza Nḍivhadzo ya Khwaṭhisedzo ya Vhutevhedzeli?

23.14.1 Muofisiri wa Zwamafungo wa tshiimiswa ane a hana u tevhedza nḍivhadzo ya khwaṭhisedzo ya vhutevhedzeli u vha o ita mulandu nahone musi a tshi wanwa mulandu a nga badela faini kana u dzula dzhele lwa miṅwaha i sa fhiri miraru, a tea u badela faini khathihi na u dzula dzhele.

23.14.2 Tshiteṅwa 77K tsha **PAIA** tshi sumbedza vhuṭhogwa ha pfanelo ya swikelela mafhungo kana dzirekhodo. Tshiteṅwa itshi tshi dovha tsha khwaṭhisedza vhuṭhogwa ha Vhulanguli musi ho sedzwa u ṭuṭuwedza pfanelo ya u swikelela mafhungo.

## 24. U VULA MULANDU KHOTHE

### 24.1 Ndi nnyi ane a nga vula mulandu khothe nga ha tsheo?

24.1.1 Muiakhumbelo kana muthu wa vhuraru a nga vula mulandu khothe u itela u wana thuso yo teaho u ya nga tshiteṅwa 82 nga fhasi ha zwiimo izwi zwi tevhelaho:

24.1.1.1 nga murahu ha musi muiakhumbelo kana muthu wa vhuraru o shumisa maga oṭhe a u ita khaṭhululo ya nga ngomu tshiimisiwani sa zwe zwa sumbedzwa kha phara 22.3 i re afho nṭha; kana

24.1.1.2 nga murahu ha musi muiakhumbelo kana muthu wa vhuraru o shumisa maga oṭhe a u ita mbilahelo sa zwe zwa sumbedzwa kha tshiteṅwa 77A.

24.1.2 U ya nga tshiteṅwa 78(1) tsha **PAIA**, muiakhumbelo kana muthu wa vhuraru u na khetho mbili, a nga rumela tsheo, dzo sumbedzwaho kha phara 22.2.2, 23.4 na 23.5, kha Vhulanguli kana Khothe. Naho zwi si khombekhombe uri muthu a kwame Vhulanguli a sa athu u ya khothe, vathu vha tsivhudzwa u thoma u ya kha Vhulanguli, ngauri Vhulanguli ho angalala nahone ndi maga a u ṭavhanya a u swikelela thandululo, a tshi vhambedzwa na khothe.

24.1.3 Fhedzi, uri kothothe i kone u haṭula fhungo, muitakhumbelo kana muthu wa vhuraru u tea -

24.1.3.1 o vhaiswa nga tsheo, dzi re kha mutevhe wa phara 22.2.4, 23.4 kana 23.5 dzi re afho nṭha.

24.1.3.2 o shumisa maga oṭhe a u ita mbilahelo na Vhulanguli kana o thuthisa mbilahelo yawe na Vhulanguli. Hezwi zwi amba uri muthu a nga si ise mbilahelo yawe kothothe arali mbilahelo yawe i tshi kha ḡi vha na Vhulanguli.

24.1.4 Arali muthu a vha a tshi khou itela khaedu tsheo ya Muofisiri wa Zwamafhungo wa tshiimiswa tsha phuraivethe, muthu u tea u ṅea vhuṭanzi ho linganaho ha u sumbedza uri rekhodo yo humbelwaho i khou ṭodea u itela u shumisa kana u tsireledza pfanelo dziṅwe na dziṅwe.

## 24.2 Ndi lini hune muthu a nga isa mulandu kothothe nga ha tsheo yo dzhiwaho nga Vhulanguli?

24.2.1 Khumbelo kothothe nga muitakhumbelo kana muthu wa vhuraru ane o balelwa kha khaṭhululo ya nga ngomu tshiimisiwani na maandalanga a khaṭhululo a sia ḡa muvhuso ḡi kwameaho kana a vha a so ngo fushea nga tsheo ya Muofisiri wa Zwamafhungo wa tshiimiswa zwe zwa sumbedzwa kha (22.2.4, 23.4 ka 23.5 afho nṭha) kana khumbelo na Vhulanguli i tea u itwa hu saathu fhira maḡuvha a 180 u bva ḡuvha ḡe a wana tsheo.

24.2.2 Muofisiri wa Zwamafhungo na Mufarisa Muofisiri wa Zwamafhungo wa tshiimiswa u lavhelelwa wa tshiimiswa kana maandalanga a khaṭhululo a Muvhuso, vhane vha nga vha vha so ngo fushea nga tsheo ya Vhulanguli vha nga ita khumbelo kothothe u wana thandululo l fushaho u ya nga tshiteṅwa 82, hu saathu u fhira maḡuvha a 180<sup>39</sup>.

24.2.3 Muitakhumbelo, muthu wa vhuraru, kana tshiimiswa, vha nga ita khumbelo kothothe u ri tsheo ye vha si fushe angayo i sedzuluswe nga kothothe.

24.2.4 Khumbelo kothothe nga fhasi ha **PAIA** i itiwa nga maitete a vhulamukanyi ha vhadzulapo (civil), nahone zwi tea u shumiswa sa ḡiga ḡa u fhedzisela.

24.2.5 Milandu ya u swikelela mafhungo i nga pfiwa phanda ha Kothothe ya Madzhisitiraṭa, sa kothothe ya u thoma<sup>40</sup>, na Kothothe Khulwane yo teaho.

24.2.6 U balelwa u ḡisa mulandu kothothe hu saathu u fhira maḡuvha a 180 zwi nga sedzelwa fhasi nga kothothe arali muthu a sumbedza uri hezwi ndi zwa ndeme kha u tevhela mulayo. Hezwi zwi amba uri kothothe i nga ṭanganedza

<sup>39</sup> Tshiteṅwa 78(4) tsha PAIA

<sup>40</sup> Tshiteṅwa 91A tsha PAIA na Mulayo ya u ṭuṭuwedza u Zwikelelea ha Mafhungo, 2019

khumbelo yo lengaho arali fhungo line la khou tea u hatulwa li la ndeme kha u tevhedza mulayo. Arali rekhodo dzine dza khou toda u swikelelwa dzi tshi nga thusa kha u ita khatululo uri a sa ye dzhele, kana u thusa kha u wana dzilafho, sa tsumbo, kotho i nga zwi sedzela fhasi.

24.2.7 Khumbelo inga itwa ho sedzwa maitete a re kha mulayo 53 wa Milayo ya Kotho Khulwane, kana u ya nga mulayo 55 wa Milayo ya Kotho ya Madzhisitirata arali hu si na rekhodo kana ho rumelwa rekhodo dzi so ngo fhelelaho nga vhulanguli.

24.2.8 Arali rekhodo dza vha dzo no netshedzwa, khumbelo i do itwa ho sedzwa mulayo 55 wa Milayo ya Kotho ya Madzhisitirata, arali hu na zwiitisi zwi no ita uri muitakhumbelo a tende uri rekhodo nga vhudalo a dzo ngo netshedzwa nga mulanguli, muitakhumbelo a nga ya phanda na khumbelo ho sedzwa maitete a re kha Mulayo 53 wa Milayo ya Kotho Khulwane, sa khetho, fhedzi u tea u sumbedza nga afidafithi uri ndi ngani a tshi tenda uri a hu ngo netshedzwa rekhodo nga vhudalo<sup>41</sup>.

### 24.3 Tshiimo lwa mulayo tsha tsheo ya Vhulanguli ndi tshifhio musikhothe i saathu u dzhia tsheo?

Maanda a Vhulanguli a bva kha Ndayotewa, **POPIA** na **PAIA**. Nga zwenezwo, ndivhadzo ya khombetshedzo ye ya netshedzwa nga Vhulanguli i na masiandaitwa a mulayo, nahone i a vhotha u swika tshifhinga tshine kotho ya mulayo ya fha tsheo. Ngauralo tsheo dza Vhulanguli dzi a shuma nahone dzi tea u tevhedzwa nga nda ha musikhothe yeneyo ya vha yo nea dziwe ndaela.

### 24.4 Ndi dzi fhio khatululo dzine Kotho dzine dza kho theshelesa khumbelo dza nga dzi fha?

24.4.1 Kotho (i nga vha i ya Madzhisitirata kana Kotho Khulwane) i no khou pfa khumbelo i nga dzhia tsheo dzi tevhelaho -

24.4.4.1 u khwinisa kana u vhetshela thungo tsheo yo itwaho nga Muofisiri wa Zwamafhungo, kana Maandalanga a Khatululo kana Vhulanguli ha Zwamafhungo.

24.4.4.2 u toda uri Muofisiri wa Zwamafhungo kana Maandalanga a Khatululo vha dzhie maga kana u di bvisa kha u dzhia maga ayo arali kotho i tshi khou vhona zwo tea kha tshifhinga tsho sumbedzwaho kha ndaela .

24.4.4.3 u fha ndaela ya u thivhela, ya tshifhinganyana kana thulo yo sumbedzizwaho, kana ndaela ya thaluso, kana ndaela ya ndiliso;

<sup>41</sup> Mulayo 4 Mulayo ya u futuwedza u Zwikelelea ha Mafhungo, 2019

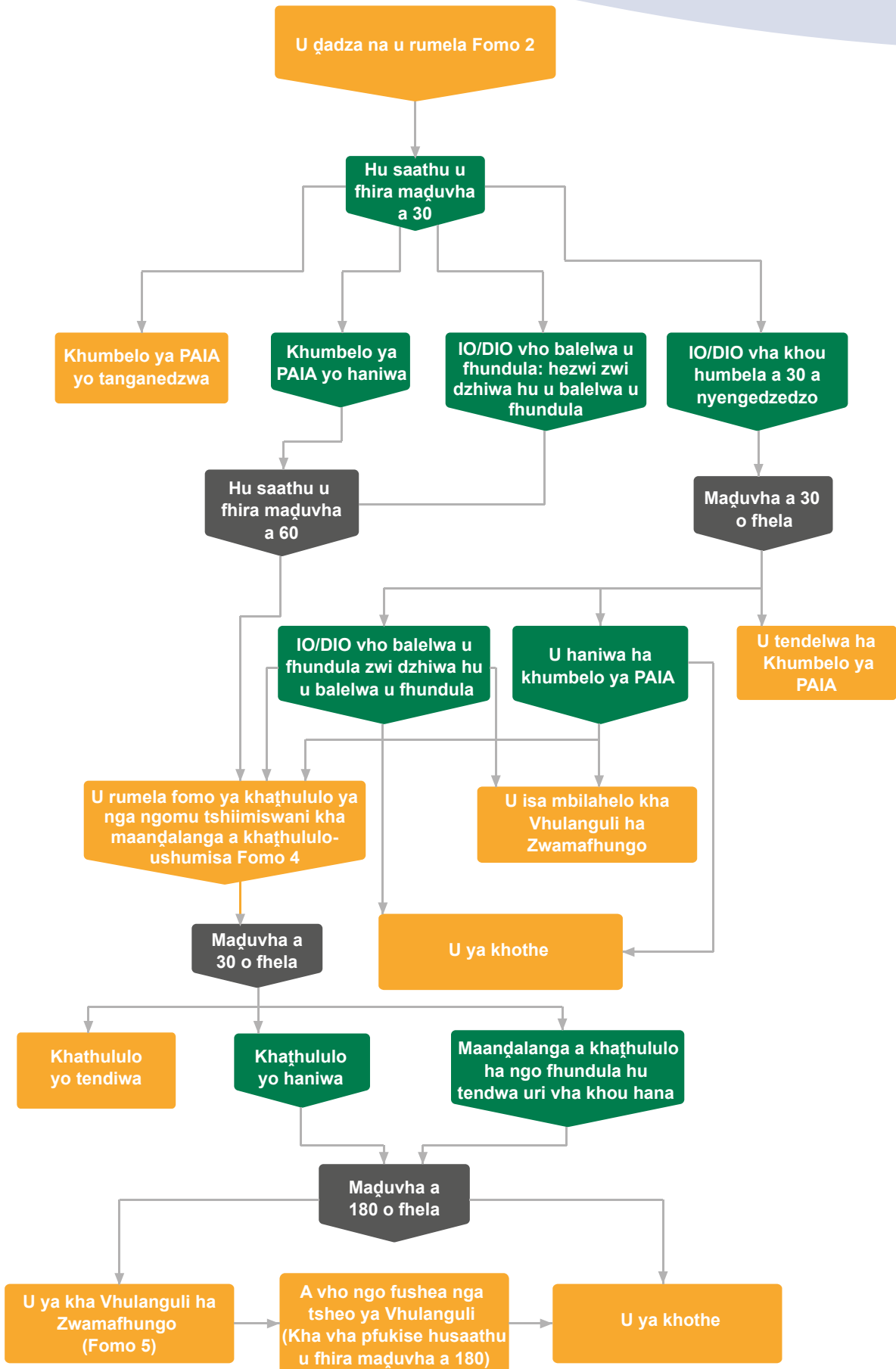
24.4.4.4 u fha ndaela ya dzimbadelo kha muthu muñwe na muñwe

24.4.4.5 U sedzela fhasi u sa tevhedza mulayo ho sedzwa maḍuvha a 180 ane a vha tshifhinga tsha u ita khumbelo hu tshi khou sedzwa madzangalelo a mulayo, Sa zwe zwa sumbedzwa afho nṱha, hu tea u fhiwa zwiitisi zwi no pfadza nahone nga vhuḍalo zwa uri ndi ngani hu so ngo tevhedzwa tshifhinga musu hu tshi itwa khumbelo ya sedzela fhasi.

## 25. MUOLO WA U ITA KHUMBELO YA PAIA

Kha vha sedze maga a maitele a re kha tshati ya thevhekano, ya maga ane a tea u tevhelwa musu vha tshi khou shumisa pfanelo yavho ya u swikelela mafhungo.





## 26. NDAULO DZO ITIWA HO SEDZWA TSHITEŊWA 92 TSHA PAIA

26.1 U ya nga tshiteŊwa 92(1) na 92(4) tsha **PAIA**, Minista vho ita ndaulo dzi re na vhushaka na Mulayo wa u Tŭtŭwedza u Swikelela Mafhungo, vho sedza zwi tevhelaho -

26.1.1 VhudiŊhindleli ha vhulanguli ha Zwamafhungo (**Ndaulo 2**)

26.1.2 VhudiŊhindleli ha Muofisiri wa Zwamafhungo (**Ndaulo 3**)

26.1.3 U wanala ha dziŊwe rekhodo dza zwiimiswa zwa tshitshavha lwa othomethikhi (**Ndaulo 4**)

26.1.4 U anᄁadza lu si lwa khombekhombe na u wanala ha dziŊwe rekhodo dza tshiimiswa tsha phuraivethe lwa othomethikhi (**Ndaulo 5**)

26.1.5 U ita khumbelo ya u swikelela mafhungo o farwaho nga zwiimiswa zwa tshitshavha kana phuraivethe (**Ndaulo 6**)

26.1.6 Mbuelo dza khumbelo na mbadelo dzi no tea u badelwa (**Ndaulo 7**)

26.1.7 Khaᄁhululo ya nga ngomu tshiimswani ya tsheo nga tshiimiswa tsha tshitshavha (**Ndaulo 8**)

26.1.8 U ita mbilahelo na Vhulanguli ha Zwamafhungo (**Ndaulo 9**)

26.1.9 Maitele a ᄁhodiŊiso ya mbilahelo (**Ndaulo 10**)

26.1.10 U ladza mafhungo (**Ndaulo 11**)

26.1.11 U wana thandululo ya fhungo (**Ndaulo 12**)

26.1.12 ᄁhaᄁhuvho ya vhutevhedzeli nga Vhulanguli ha Zwamafhungo kha u fhindula khumbelo (**Ndaulo 13**)

26.1.13 Milandu na ndaᄁiso (**Ndaulo 14**)

26.1.14 Vhudavhidzani ha elekᄁhroniki (**Ndaulo 15**)

26.1.15 Milandu na maga a ndaᄁiso (**Ndaulo 16**)

26.2 U ya nga tshiteŊwa 79(1) tsha **PAIA**, Bodo ya Mulayo ya Milayo ya Khothe, yo fhiwa thendelo nga Minista yo ita milayo ya -

26.2.1 a khothe ho sedzwa khumbelo u ya nga tshiteŊwa 78 tsha **PAIA**, na

26.2.2 khothe u itela u ᄁanganedza vha imeleli vha sia ᄁithihi ho sedzwa tshiteŊwa 80(3)(a)

## 27. MILAYO, NDAULO, NQIVHADZO NA U TENDA ZWA NDEME

### Milayo sa zwe ya khwiniswa nga tshifhinga

Mulayo wa u Tūtuwedza u Swikelela Mafhungo wo Khwiniswaho, Mulayo 2 wa 2000

Mulayo wa u tūtuwedza Vhulanguli ha Vhusimamilayo, Mulayo 3 wa 2000

Mulayo wa u Tūtuwedza u Swikelela Mafhungo wo Khwiniswaho, Mulayo 54 wa 2002

Mulayo wa Tsireledzo ya Mafhungo a Vhuṅe wa 4 wa 2013

Mulayo wa u Tūtuwedza u Swikelela Mafhungo wo Khwiniswaho, Mulayo 31 wa 2019

Mulayo wa u netshedzwa Masheleni Lihoro la Polotiki wa 6 wa 2018

### Ndaulo na Dzingivhadzo

Nqivhadzo nga Muvhuso	Duvha la u gandiswa	Tshiteṅwa na tḥalutshedzo
Nqivhadzo ya Muvhuso ya R. 757 kha GG No 45057	27 Thangule 2021	Milayo i re na vhushaka na Mulayo wa u Tūtuwedza u Swikelela Mafhungo, 2021
Nqivhadzo nga Muvhuso R.991 kha GG 28107	14 Tshimedzi 2005	Ndaulo dzine dza sumbedza zwiitisi zwine ha nga vhetshelwa thungo mbadelo dzine muthu anga dzi badela.
Nqivhadzo ya Muvhuso ya 397 kha GG No. 44785	30 Fulwi 2021	U vhetshelwathungo ha zwiṅwe zwa zwiimiswa zwa phuraivethe kha u ita Manywala wa PAIA.
Nqivhadzo nga Muvhuso 1217 kha GG 42717	19 Khubvumedzi 2019	U khethwa ha Khothe dza Madzhisiṭiraṭa dzine dza vha na vhukoni ha u pfa mafhungo a PAIA.
Nqivhadzo nga Muvhuso R. 1284 kha GG 42740	4 Tshimedzi 2019	Milayo ya maga a u ita khumbelo nga fhasi ha PAIA phanda ha Khothe Khulwane kana Khethe ya madzhisiṭiraṭa.

## U TENDA

Bugupfarwa iyi yo khwiniswaho ya ndila ya u shumisa **PAIA** yo itiwa lwa u thoma nga **SAHRC** Khomishini ya Pfanelo dza Vhathu ya Afurika Tshipembe (**SAHRC**) nahone Vhulanguli vhu khou tangedza mushumo wa u thoma wo itwaho nga **SAHRC**, ho katelwa na zwiko khombekhombe.

Yo dzudzanywa nga

**VHULANGULI HA ZWAMAFHUNGO**



**INFORMATION  
REGULATOR  
(SOUTH AFRICA)**

*Ensuring protection of your personal information  
and effective access to information*



## **ISIKHOKELO**

**SENDLELA YOKUSEBENZISA UKUKHUTHAZA  
UKUFIKELELA KUMTHETHO WEENKCUKACHA WESI 2  
WONYAKA WAMA-2000, NJENGOKO ULUNGISWE  
NGAKUTSHA**

**ISIXHOSA**

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# PAIA GUIDE

## INTSHAYELELO NGUSIHLALO

UMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996<sup>1</sup> (“UMgaqo-siseko”) uchaza ukuba uMzantsi Afrika lilizwe lobukumkani nelentando-yesininzi esekwe kwinkqubela-phambili yamalungelo oluntu yaye inkqubo yokuphendula ngezenzo zakho, eyokuphendula ebantwini neyokungafihli nto kwindlela yolawulo yinxalenye yezinto ezixatyisiweyo nguwo. Ngaphambi kokuba uMzantsi Afrika ube nenkululeko ngokomaqo-siseko, enyanzelisa iNkqubo yaMalungelo [Bill of Rights], inkqubo kaRhulumente eMzantsi Afrika kwenye yezinto zayo, ikhokhelele kwinkcubeko enemfihlo nengakwazi kuphendula kumaqumrhu kawonke-wonke nawabucala, nto leyo ikhokhelele ekubeni kusetyenziswe kakubi ubuphatha-mandla futhi kwaphulwa namalungelo oluntu. Kungoko ke icandelo 32(1) leNkqubo yaMalungelo, inika ilungelo lokufikelela kwiinkcukacha ezigcinwe lilizwe, kunye naziphi na iinkcukacha ezigcinwe nguye nawuphi na umntu ekufuneka enze lowo msebenzi okanye akhusele nawaphi na amalungelo. ICandelo Section 32(2) loMgaqo-siseko kwakhona linika umthetho kumthetho-siseko welizwe, oza kunika isiphumo kweli lungelo, ngokuhlonipha, ukukhusela, ukunyusela nokuzalisekisa eli lungelo.

UMthetho wokuNyuswa kokuFikelela kwiiNkcukacha, weNombolo 2 wama 2000 (apha emva koko obizwa nge-“**PAIA**”, okanye “UMthetho” ngokutshintshana), nanjengoko ulungisiwe, ngumthetho-siseko welizwe owabasemthethweni ngokwendlela ebalulwe kwicandelo elingasentla 32(2) lomgaqo-siseko.

Injongo ye-**PAIA**, kukunyanzelisa inkcubeko yokungafihli-nto neyokuphendula ngezenzo zomntu kumaqumrhu kawonke-wonke nawabucala. Yenza oko ngokunika isiphumo selungelo lokufikelela kwiinkcukacha nokuthi ekuhlaleni inyusele ukuba abantu boMzantsi Afrika bafikelele kakuhle kwiinkcukacha ukuze bakwazi ukusebenzisa ngokupheleleyo amalungelo abo yaye yaye bakhusele onke amalungelo abo, yaye kwakhona bazazi iinjongo zoMzantsi Afrika zentando yesininzi efikelelekayo nokwaziyo ukuthatha inxaxheba kuyo.

ISikhokelo se-**PAIA** senzelve ukuze sizalisekise oko kufanele kwenziwe nguMlawuli weeNkcukacha (“UMlawuli”) phantsi kweCandelo 10 le-**PAIA**, elifuna uMlawuli ukuba asenze ngakutsha yaye enze iSikhokelo esikhona esenziwe yiKomishini yaMalungelo oLuntu yoMzantsi Afrika ukuba sifumaneka.

Esi Sikhokelo siyilelwe ukuba sibe sisixhobo esikhokhelayo, esilula yaye esifikelelekayo kuye nabani onomnqweno wokusebenzisa naliphi na ilungelo elicamngcwe kwi-**PAIA** kunye noMthetho wokuKhuselwa kweeNkcukacha zoMntu [Protection of Personal Information Act], wama-2013.



**UMmeli Pansy Tlakula**  
**USIHLALO WEQUMRHU ELILAWULA IINKCUKACHA**

<sup>1</sup> Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)



## ISIKHANYELI

Esi Sikhokelo asimkhululi umsebenzisi waso kuxanduva lokusebenzisa isakhono nenkathalo yakhe ngokubhekiselele kokufunwa okanye iimfuno ezibekwe ngumthetho-siseko. Ngaphezu koko, esi Sikhokelo asiniki ngcebiso isemthethweni yaye asenzelwanga ukuba sisebenze endaweni ye-PAIA okanye iMithetho ekhutshwe phantsi kwe-PAIA. Umlawuli akamkeli tyala layo nayiphi ilahleko ekunokwenzeka ukuba yenzeke ngokwesiphumo sokoyama kwesi Sikhokelo.

## 1. ULUHLU LWEZIFINYEZO NEZISHUNQULELO

<b>CEO</b>	IGosa eliyiNtloko Mlawuli
<b>CFO</b>	IGosa eliyiNtloko Mlawuli yeziMali
<b>UMgaqo-Siseko</b>	UMgaqo-Siseko weRiphabliki yoMzantsi Afrika, iNombolo yoMthetho, 108 wama 1996
<b>DIO</b>	IGosa elinguSekela kwiiNkcukacha
<b>Doj &amp; CD</b>	ISEbe lezoBulungisa noPhuhliso loMgaqo-Siseko
<b>IO</b>	IGosa leeNkcukacha
<b>Amalungu</b>	Amalungu eQumrhu loLawulo lweeNkcukacha
<b>UMphathiswa</b>	UMphathiswa wezoBulungisa neeNkonzo zoLuleko
<b>PAIA</b>	UMthetho wokuNyuswa kokuFikelela kwiiNkcukacha iNombolo 2 wama 2000, njengoko ulungiswe ngakutsha
<b>PAJA</b>	UMthetho wokuNyuswa koLawulo lwezoBulungisa, 2000
<b>PFMA</b>	UMthetho woLawulo lweziMali zoLuntu iNombolo.1 we- 1999 njengoko ulungiswe ngakutsha
<b>POPIA</b>	UMthetho wokuKhuselwa kweeNkcukacha zoMntu iNombolo.4 wama 2013
<b>Regulator</b>	Umlawuli weeNkcukacha
<b>SAHRC</b>	IKomishini yaMalungelo oLuntu yoMzantsi Afrika

## 2. ISIGAMA ESISEBENZA KAKUHLE ESICHAZWE NGENDLELA NOHLOBO EKULULA UKULUQONDA

Isigama	Inkcazelo
<b>INtlawulo yokuFikelela</b>	Le ntlawulo yokufikelela ihlawulwa ngulowo ucelayo kwiqumrhu ocela kulo iinkcukacha, ukuze uquke iindleko zokufumana nokukopa iingxelo ozofunayo. Into ongayihlawula inikwa ngumthetho.
<b>Umlawuli</b>	Licandelo likarhulumente okanye nawuphi na umntu okanye umntu womthetho othatha inyathelo lolawulo.

## Isigama

## Inkcazelo

### Isenzo esilawulayo

Siso nasiphi isigqibo esithathwayo okanye nakuphi na ukungakwazi kuthatha isigqibo ngaba

(a) Icandelo loluntu likarhulumente, xa:

(i) kusetyenziswa igunya ngokubhekiselele kuMgaqo-siseko okanye umgaqo-siseko wephondo, okanye

(ii) kusetyenziswa amandla oluntu okanye kusenziwa umsebenzi woluntu ngokubhekiselele kuwo nawuphi na umthetho-siseko, okanye

(b) umntu okanye umntu womthetho, ingelilo icandelo elithile likarhulumente, xa esebenzisa igunya loluntu okanye esenza umsebenzi woluntu ngokubhekiselele kumba wokuxhobisa umntu,

nto leyo ichaphazela kakubi amalungelo angawo nakabani na yaye anegalelo ngqo okanye igalelo lomthetho langaphandle.

### Umntu osemaGunyeni

Umntu ogunyazisiweyo ngumntu owenza isicelo egameni lomnye umntu, yaye ogunyaziswe kakuhle ngokwembalelwano ukuze enze oko.

### IiNgxelo eziZivelelayo

Ezi ziingxelo zizakuthi zinikwe luluntu okanye iqumrhu labucala kulowo ufake isicelo ngaphandle kokuba kufuneka bafake isicelo. Ezi ngxelo zidweliswe 'kwisaziso zokuziveza ngokwakho ngokuzithandela', nekufuneka zenziwe zibeselubala.

### Isihloko seenkcukacha

Ngulowo mntu iinkcukacha ezibhekise kuye.

### Iintsuku

Ngaphandle kokuba kwaziswe ukuba 'lusuku lomsebenzi' kwicandelo le-PAIA, usuku lwaziwa ngokuba lolo lukwikhalenda. Ukubala ixesha, usuku olo kufakwe ngalo isicelo safunyanwa ngalo alubalwa, yaye iintsuku zonke ezilandelayo ziqukiwe, kuquka iimpela-veki kunye neeholide zikawonke-wonke kude kubalwe usuku lokugqibela. Ukuba usuku lokugqibela lokuphendula isicelo lungeCawa okanye iholide kawonke-wonke, kubalwa usuku olulandelayo njengosuku lokugqibela.

### UKwala ngaBom

Ukuba akufunyanwanga mpendulo kwisicelo kwixesha elibekiweyo, oku kuchazwa njengo 'Kwala ngaBom'.

### Uxwebhu 3

Olu xwebhu lunikwa ngumthetho yaye kufuneka lusetyenziswe ukucela ukufikelela kwiinkcukacha ezigcinwe liqumrhu likarhulumente okanye elabucala.

### Uxwebhu 4

Olu luxwebhu lunikwa ngumthetho yaye kufuneka lusetyenziswe xa kubhenwa kwisigqibo esenziwe liqumrhu loluntu ngokubhekiselele kwisicelo sokufikelela kwiinkcukacha.

**Isigama****Inkcazelo****Isikhokelo**

Esi siKhokelo, senziwe kukulandelwa icandelo 10 le-**PAIA**, njengoko siphinde salungiswa, nesifuna ukunceda umntu onomnqweno wokusebenzisa naliphi ilungelo lakhe njengoko kucamngcwe kwi-**PAIA** nakuMthetho wokuKhuselwa kweeNkcukacha zoMntu, 2013.

**IGosa  
leeNkcukacha**

IGosa leeNkcukacha ngumntu ogunyaziswe ukuba asebenze ngezicelo ze-**PAIA**. Ezi zilandelayo ziindidi zaMagosa eeNkcukacha kwiQumrhu elikhethekileyo ngalinye -

<b>Iqumrhu loLuntu okanye ICandelo likaRhulumente</b> (njengoko lichazwe kwicandelo lama 239 loMgaqo-siseko)	ISebe leLizwe	UMlawuli Jikelele okanye umntu ommele endaweni yakhe
	ULawulo lwePhondo	INTloko yeSebe okanye umntu ommele endaweni yakhe.
	UMasipalati	UManejala kaMasipalati okanye umntu ommele endaweni yakhe.
	AMaziko oLuntu adweliswe kuHlelo lwe-PFMA 1, 2, 3A, 3B, 3C KUNYE NO- 3D	IGosa eliyiNtloko Mlawuli okanye umntu osebenza emele Lona.
<b>IQumrhu laBucala</b>	UMntu ngokweNdalo	UMrhwebi oziMeleyo oshishina nangayiphi indlela, okanye urhwebo okanye ongumsebenzi oqeqeshiweyo kodwa ikukuphela kwaloo msebenzi yaye engenzeli siqu sakhe.
	INdibaniselwano yoShishino	Nawuphi na umntu odibene naye ngoshishino okanye nawuphi na umntu ogunyazisiweyo kwindibaniselwano yoshishino.
	IQela loPolitiko	Inkokheli yeqela lopolitiko okanye nawuphi na umntu ogunyaziswe yinkokheli.

**Isigama****Inkcazelo****IQumrhu laBucala**UMntu  
woMthetho

IGosa eliyiNtloko Mlawuli okanye uManejala oyiNtloko okanye igosa elilingana naye elingumntu womthetho okanye nawuphi umntu ogunyaziswe lelo gosa.

**QAPHELA:** IGosa eliyiNtloko Mlawuli okanye elilingana nayo elingagunyazisa nawuphi na umntu odaliweyo njengeGosa leeNkcukacha okanye iQumrhu laBucala.

**IGosa elinguSekela Mlawuli weeNkcukacha**

IGosa elinguSekela Mlawuli weeNkcukacha ngumntu ochongwe okanye onyulwe liGosa leeNkcukacha lequmrhu loluntu ukuze lincediswe lowo ufaka isicelo ngeenkukacha zakhe yaye apho iGosa leeNkcukacha linganyula abanye abaziziphatha-mandla ze-**PAIA** ukuba benze njalo.

**QAPHELA:** Lo gama iliqumrhu loluntu kuphela elingonyula okanye lichonge iGosa/amaGosa angooSekela Balawuli beeNkcukacha, ngokubhekiselele kwicandelo 17(1) le-**PAIA**, uMthetho woKhuselo lweNkcukacha, 2013 ("**POPIA**") wandisa igunya lokuchonga iGosa elinguSekela Mlawuli weeNkcukacha ukuya kwiqumrhu labucala, ngokubhekiselele kwicandelo 56(1) ngoko.

**UMlawuli weeNkcukacha**

I-Ofisi yoMlawuli weeNkcukacha usekwe ngokubhekiselele kwicandelo 39 le-**POPIA**, ukuhlola nokunyanzelisa ukulandelwa kwemigaqo ne-**POPIA** kunye ne-**PAIA**. Kwesi Sikhokelo i-Ofisi yoMlawuli weeNkcukacha okanye uMlawuli weeNkcukacha ubizwa ngokuba nguMlawuli.

**ISibheni sangaPhakathi**

ISibheni sangaPhakathi yinkqubo yokucela umngeni kwsigqibo esithathwe ngokubhekiselele kwisicelo se-**PAIA** kwiqumrhu loluntu, ekufuneka sigwaliswe ngaphambi kokuba kucelwe umngeni kuMlawuli okanye inkundla enomthetho.

**Iqumrhu laBucala**

Iqumrhu labucala ngumntu, inkampani okanye naluphi na uhlobo lweziko lomthetho eliqhuba urhwebo, ishishini okanye umsebenzi oqeqeshelweyo, kuquka iqela lezopolitiko.

Term	Description
<b>Iqumrhu loLuntu</b>	Iqumrhu loluntu lithetha isebe likarhulumente okanye elinye iziko okanye indawo esetyenziswayo, eyenza umsebenzi woluntu. Nangona kunjalo, xa kubhekiswe kwisibheni sangaphakathi, nayiphi na into ekuthiwa "liqumrhu loluntu" itshintshwe yaba "nguRhulumente", ukuze kunqandwe ukubhideka xa kujongwe amaqumrhu oluntu apho kungekho sibheni.
<b>Ingxelo</b>	Ingxelo zizo naziphi na iinkcukacha, nokuba ziluluphi uhlobo, kuquka, umzekelo, imiqulu ebhaliweyo, eviwe ngeendlebe, engamanani kunye nezinto eziyimifanekiso bhanya-bhanya. Nayiphi na ingxelo ecelwe kwinqumrhu loluntu okanye labucala ithetha ingxelo esezandleni zelo qumrhu, nokuba loo ngxelo yenziwe lelo qumrhu.
<b>IMigaqo yolawulo</b>	I-PAIA ivumela uMphathiswa ukuba akhuphe imithetho yolawulo eyongeza u-Mthetho obekiweyo, ekufuneka ishicilelwe kwiGazethi kaRhulumente yaye iquka imiba efana namaxwebhu ekufuneka asetyenziswe kunye neentlawulo ezingahlawuliswa kwiinkqubo ezithile.
<b>IGunya eliFanelekileyo</b>	I-PAIA isebenzisa isigama esithi 'igunya elifanelekileyo' ukuchaza umntu okuRhulumente weLizwe, owePhondo nosekuHlalani apho isibheni sangaphakathi kufuneka senziwe khona, ekuyintloko yopolitiko yequmrhu ekubhekiwe kulo ikakhulu, (lo msebenzi ungenziwa ngokonyula mntu uthile ngokusemthethweni).

### 3. IINKCUKACHA ZOQHAGAMSHELWANO ZOMLAWULI

#### **IGosa leeNkcukacha**

**IGosa eliyiNtloko-Mlawuli:**

Mnu Mosalanyane Mosala

**Umntu ekuqhagamshelwana naye:**

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## 4. INJONGO YESI SIKHOKELO SE-PAIA

- 4.1 Injongo yesi Sikhokelo kukunika iinkcukacha ezifunwa ngumntu onomngqwenokusebenzisa naliphi na ilungelo elicamngwe kuMthetho wokuNyuswa kokuFikelela kwii Nkcukacha wonyaka wama-2000 (**PAIA**) kunye noMthetho wokuKhuselwa kweeNkcukacha zoMntu wonyaka wama- 2013 ("**POPIA**"). Nawuphi na umntu, nokuba ngummi waliphi na ilizwe angafaka isicelo seenkcukacha phantsi kwe-**PAIA**.
- 4.2 Esi Sikhokelo siza kunceda umntu ikakhulu, okwabizwa ngokuba sisihloko seenkcukacha, ngendlela angafikelela ngayo kwiinkcukacha zakhe ngokubhekiselele kwicandelo 23 le-**POPIA**. Phantsi kwe- **POPIA**, umntu okanye isihloko seenkcukacha, banelungelo koku-
- 4.2.1 ukucela iqela elinoxanduva ukuba liqinisekise, simahla ukuba elo qela ligcine iinkcukacha zabo na okanye hayi, noku
- 4.2.2 ukucela kwiqela elinoxanduva ingxelo okanye inkcazelo yeenkcukacha zomntu malunga nesihloko seenkcukacha ezigcinwe liqela elinoxanduva, kuquka iinkcukacha malunga nokwaziwa kwabo bonke abanye ababandakanyekayo okanye iindidi zabo babandakanyekayo abakhe bafikelela kwiinkcukacha okanye abakhe bafikelela kuzo;
- 4.2.3 ukucela iqela elinoxanduva ukuba -
- (a) lilungise okanye licime iinkcukacha zomntu malunga nesihloko seenkcukacha ezikubo okanye eziphantsi kolawulo lwabo ezingezizo ncam, ezingafanelekanga, ezibaxiweyo, eziphelelwe lixesha, ezingaphelelanga, ezilahlekisayo okanye ezifunyenwe ngendlela engekho mthethweni okanye
- (b) litshabalalise okanye licime ingxelo yeenkcukacha zomntu malunga nesihloko seenkcukacha iqela elinoxanduva loko elingasafanelanga lizigcine
- 4.3 Esi sikhokelo kwakhona siza kunceda nawuphi na umntu ngendlela yokufaka isicelo sokufikelela kwiingxelo phantsi kwe-**PAIA**. Isikhokelo kwakhona siza kunceda abo bacelayo koku:
- 4.3.1 ukuqonda nge- **PAIA**, iinzuzo zayo kunye nemvelaphi yayo;
- 4.3.2 ukufunda inkqubo yenyathelo emva kwelinye yokwenza isicelo kunye neengcebiso ezizezinye zokwenza inkqubo ibelula;
- 4.3.3 ukufunda ngeentlobo zeenkukacha ezingacelwa kusetyenziswa i-**PAIA**;
- 4.3.4 ukuqonda inkqubo angathi lowo ufake isicelo acele umngeni kwisigqibo esithathwe ngokubhekiselele kwisicelo;

4.3.5 ukwaziswa kutshintsho oluzakwenzeka kwi-PAIA yakuba i-POPIA isebenza ngokupheleleyo.

4.4 Esi sikhokelo kwakhona siza kunceda abantu ukuqobnda ngendlela yokucela umngeni ekunikweni imvume yokufikelela kwiingxelo zabo okanye indlela yokuthatha inxaxheba kwinkqubo yokufikelela kwiingxelo zabo.

## 5. MALUNGA NE-PAIA

5.1 Ilungelo lokufikelela kwiinkcukacha "yenye yeendlela ezisebenza kakuhle zokumisa ukuxabiseka komgaqo-siseko wokungafihli nto, ukuveza elubala izinto kunye nokuthatha uxanduva lokuphendula ngoko ukwenzileyo<sup>2</sup>. Oku kuxabiseka komgaqo-siseko akunakufikelelwa ukuba urhulumente usebenza yedwa ngeenkukacha ezazisa ngeendlela nezigqibo zakhe ngako oko, ukufikelela kwiinkcukacha akubalulekanga kakhulu kuphela kurhulumente wentando yesininzi osebenza kakuhle nofuna bantu bathathe inxaxheba kodwa kukwakhulisa ukuthembeka kukarhulumente eluntwini yaye kwandisa ukusebenza ngokusemthethweni. Ezinye iinzuzo zelungelo lokufikelela kwiinkcukacha, umzekelo zezi, kukuba ityhafisa ubuqhophololo nobuqhetseba futhi nezinye iindlela zokuziphatha ezingalunganga eburhulumenteni.

5.2 Xa uMgaqo-Siseko woMzantsi Afrika wenziwa ngexesha elilandela ukuwa kweNkqubo yoCalucalulo malunga nonyaka u-1990, imibutho eyahluka-hlukeneyo kunye neziqubane zabantu bakhankasela ukuba kufakwe ilungelo lokufikelela kwiinkcukacha. Kwakuthenjwe ukuba ukufakwa kweli lungelo leNkqubo yaMalungelo [Bill of Rights] liza kuqinisekisa ukuba loo nkohlakalo nezenzo ezibi zobundlobongela azingekhe ziphinde zenzeka, nanjengoko urhulumente kunye namaziko abucala bezakunyanzeleka ukuba basebenze ngendlela yokuthatha uxanduva lokuphendula ngezenzo zabo yaye zonke izinto zibeselubala ngokuthi banike indlela yokufikelela kwiinkcukacha yaye kananjalo bengenokwazi ukuzimela ngasemva kwesigqubuthelo seemfihlo. Kwabonwa njengeniyathelo elifunekayo lokunceda ukwakha inkcubeko yokugwetyelwa eza kukhokelela kwiimeko zobudlelwane ezibhetele ebantwini kunye nabo basemagunyeni olawulo. Kwenye yeemeko zakuqala<sup>3</sup> zokujongana nombuzo wokuba ingaba lowo mntu utyholwayo ufanelwe kukuba afikelele kuzo zonke iinkcukacha eziqulethwe kwidokhethi yamapolisa. U-Jones J wazisa ngokubaluleka kwayo kwezi meko:

***"Injongo ... kukubeka bucala ukuqhubeka kwenkqubo endala yolawulo, inkqubo apho kwakungenzeka ukuba urhulumente abaleke ukuphendula ngezenzo zakhe ngokwala ukuveza iinkcukacha nokuba ibinento eyithweleyo ekusetyenzisweni okanye ukhuselo lwamalungelo omntu. Oku yinkathazo eyilelwe ukunqanda [...] Ukubonwa kokulunga kunye nokubaselubala kukhuthaza intembeko yoluntu kulawulo lweemeko zoluntu ngokubanzi. Le ntembeko yenye yeempawu zeendawo zasekuhlaleni ezilawulwa yintando yesininzi apho uMgaqo-Siseko wenza imizamo khona."***

<sup>2</sup> UMthetho woLawulo we-Hoexter 94

<sup>3</sup> 1994 (1) SACR 635 (E)



- 5.3 ICandelo lama-32 loMgaqo-Siseko ligqamisa ilungelo lokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu oluntu nawabucala. ICandelo lama-32 kwakhona lichaza ukuba umthetho-siseko kufuneka umiselwe ukunika isiphumo kwilungelo lokufikelela kwiinkcukacha ngokuchaza iindlela apho iinkcukacha ezisuka kumaqumrhu oluntu nawabucala zingafikelelwa khona yaye ngokunika iimeko apho amaqumrhu kawonke-wonke nawabucala angala ukuba kufikelelwe kwiinkcukacha.
- 5.4 I-**PAIA** yamiselwa ukuba iphendule igunya loku kumiselwe ngasentla yaye ifike elulawulweni kwindawo enkulu ngoMatshi 2001. Intshayelelo yayo yamiselwa ukuvunywa "inkcubeko yokufihla nokungaphenduli" kwexesha langaphambi kwentando yesininzi kwaye uqinisekisa ukuba enye yeenjongo ze-**PAIA** "kukukhusela inkcubeko yokudandalazisa nokuphendula kwizinto zamaqumrhu oluntu nawabucala."
- 5.5 I-**PAIA** imele ukunika igalelo kumalungelo omntu okufikelela kwiinkcukacha nokuphendula koko ukwenzileyo. Yenzelwe ukuxhobisa abantu ukuze basebenzise umthetho yaye ngaloo ndlela, inceda ukuququzelela ukucela imvume yokufikelela kwiinkcukacha ngeendlela ezahlukeneyo. Umntu akadingi gqwetha ukuze afake isicelo sokufikelela kwiinkcukacha ngokubhekiselele kwi-**PAIA**.

## 6. IINJONGO ZE-PAIA

- 6.1 Iinjongo ze-**PAIA** ayikokuhlala endaweni yelungelo lomthetho kodwa kukunika isiphumo kwilungelo elikwicandelo lama- 32 ngokweemida yokuthethelela yaye ngendlela enceda ukuba kulingane onke amanye amalungelo aqukwe kuMgaqo-Siseko. Inethemba lokukhuthaza inkcubeko yamalungelo oluntu kunye nomthetho wabantu ekuhlaleni, kwicandelo likarhulumente nelabucala ebantwini. I-**PAIA** ifuna ukunyusela ukudandalaziswa kwezinto elubala, ukuphendula kwizinto ezenziweyo kunye nolawulo lwamaziko onke (awoluntu nawabucala omabini) ngokuxhobisa abantu ukuze baqonde ukufikelela kwabo kwiinkcukacha zamalungelo, basebenze ngawo yaye bawaphonononge yaye babandakanywe ekuthathweni kwezizigqibo ezibachaphazelayo.
- 6.2 Ilungelo lokufikelela kwiinkcukacha lilungelo elinamandla kakhulu lomgaqo-siseko, nanjengoko linceda abantu ukubona amanye amalungelo. Umntu angalisebenzisa ukujonga nokuhlola ukunikezelwa kweenkonzo zikarhulumente okanye ukufikelela kwiingxelo zakudala ezingabanomdla.
- 6.3 Iinjongo ze-**PAIA** zezi:
- 6.3.1 ukunika isiphumo kwilungelo lomgaqo-siseko lokufikelela koku -
- 6.3.1.1 naziphi iinkcukacha ezigcinwe nguRhulumente; kunye
- 6.3.1.2 naziphi iinkcukacha ezigcinwe ngomnye umntu kwaye ezifuneka ukuze zisetyenziswe okanye ukukhusela nawaphi na amalungelo.

- Imfuneko ebhekiselele kukhuselo lwamalungelo ivalelwe kwiinkcukacha ezigcinwe zizandla zabucala. Amaqumrhu abucala ngoko ke anebakala elingaqinanga kakhulu lokudandalazisa izinto kunamaqumrhu kawonkewonke. Icandelo labucala, ngamanye amazwi, lifanelwe kukugcina iinkcukacha kulo, ngaphandle kokuba ezo nkcukacha zifunwa ukukhusela amalungelo.
- I-PAIA ibona, ngokubhekiselele kwiCandelo 8(1) ngoko, ukuba iqumrhu elo lingaba "leloluntu" okanye "elabucala" ngeenjongo zoMthetho, kuxhomekeke ekubeni ingxelo ekuthethwa ngayo "ibhekise ekusebenziseni amandla okanye indlela yokusebenza yokwenza njengequmrhu loluntu okanye njengequmrhu labucala."

### 6.3.2 ukunika igalelo kwelo lungelo -

6.3.2.1 kujongwe imida ethethelelayo, kuquka, kodwa kungaphelelanga koko, imida ekujongwe kuyo ekukhuseleni imfihlo okuvakalayo, imfihlo yezoshishino kunye nolawulo loburhulumente obunegalelo nobusebenza kakuhle; kunye

6.3.2.2 nangendlela elungelelanisa elo lungelo kunye nawo nawaphi amalungelo, kuquka amalungelo akwiNkqubo yaMalungelo kwiSahluko 2 soMgaqo-siseko;

6.3.3 ukunika igalelo koko kwiimfanelo zomgaqo-siseko weLizwe ekukhuthazeni inkcubeko yamalungelo oluntu kunye nobulungisa basekuhlaleni, ngokuquka amaqumrhu oluntu kwinkcazelo 'yalowo ufaka isicelo', yaye kubavumela, kwezinye izinto, ukuba bafikelele kwiinkcukacha ezikumaqumrhu abucala bakuba behambelana neemfuno ezine ezikulo Mthetho, kuquka enye imfuneko eyongeziweyo yokuba amanye amaqumrhu kwezinye iimeko enzele intando yabantu;

6.3.4 ukuseka ubucukubhede bokuzithandela okanye ngokukhethwa okanye iinkqubo ezinika igalelo kwelo lungelo ngohlobo olulungileyo olukwazi ukwenza abantu ukuba bafikelele kwiingxelo zamaqumrhu oluntu nawabucala ngokukhawuleza kakhulu, ngamaxabiso aphantsi kwaye bengasebenzisanga mandla kakhulu futhi ngendlela evakalayo; futhi

6.3.5 nokuthi ngokubanzi kuphakanyiswe ukungafihli nokudandalazisa izinto, ukuphendula kwizinto ezenziwayo kunye nolawulo oluhamba kakuhle kuwonke-wonke nabucala, kuquka kodwa kungenamda, ukuxhobisa nokufundisa wonke umntu

6.3.5.1 ukuqonda amalungelo abo ngokubhekiselele kwisigama esikulo Mthetho ukuze kusetyenziswe amalungelo abo ngokubhekiselele kumaqumrhu oluntu nawabucala;

6.3.5.2 ukuqonda imisebenzi kunye nenkqubo yamaqumrhu oluntu; noku

6.3.5.3 ukuhlolisisa kakuhle nokuthatha inxaxheba ekuthatheni isigqibo esichaphazela amalungelo abo, ngamaqumrhu oluntu.

#### 6.4 UMthetho wokuNyuselwa kokuFikelela kuLungiso lweNkcukacha, 2019

- 6.4.1 Kumba othi ***IVoti Yam ineGalelo [NPV] ujongene noMphathiswa weeNkonzo zoBulungisa noLuleko kunye Nenye [2018] ZACC 17***, inkundla yomgaqo-siseko yafumana ukuba “uRhulumente uphantsi kwemfanelo esuka ekufundweni kakuhle kwamacandelo 32, 19 nele- 7(2) oMgaqo-siseko ukwenza yonke into ngokuzathuzeka kakhulu ukunika ngendlela eyenzekayo nevakalayo, ukuzithethela kwilungelo lokufikelela kwiinkcukacha kunye nelungelo lokuvota. Kwakhona uninzi lwazamela ukuba oku kubenjalo kuba ukusebenza kwelungelo lokuvota kufuneka kube kukuzikhethela yaye kukho uqhagamshelwano olubalulekileyo phakathi kokusebenza kakuhle kwelungelo lokuvota kunye nelungelo lokufikelela kwiinkcukacha. Futhi, “ngaphandle kokufikelela kwiinkcukacha, ukukwazi kwabemi ukwenza isigqibo esithatha uxanduva sopolitiko, kubomi boluntu kujongelwe phantsi”. Inkundla yoMgaqo-Siseko yaqinisekisa lo myalelo wokungevakali ngokomthetho yaze yanika umyalelo wokuba iPalamenmte iyilungise i-**PAIA** yaye ithathe naliphi na elinye inyathelo elibona lifanelekile ukunika inkqubo yokushicilelwa, kugcinwe yaye kuququzelelwe ukufikelela ngokuvakalayo kwiinkcukacha, ekubeni kufakwe inkxaso ngezimali zabucala kumaqela oopolitiko kunye nabagqatswa abazimeleyo kwixesha leenyanga ezili-18.
- 6.4.2 Ngokubhekiselele kwisigwebo esikhankaanywe ngasentla somgaqo-siseko, uMongameli wathi, ngomhla wesi- 3 Juni 2019, wavuma uMthetho wokuNyuselwa kokuFikelela kwiiNkcukacha, 2019 (uMthetho wolungiso lwe-**PAIA** 2019)<sup>4</sup>. UMthetho wolungiso lwe-**PAIA** wonyaka u-2019 uquka iqela lopolitiko elikwinkcazelo yequmrhu labucala, nto leyo ithetha kakuhle ukuba inkokheli yeqela lopolitiko okanye naawuphi na umntu ogunyaziswe ngokusemthethweni yinkokheli leyo uligosa okanye intloko yeenkcukacha. UMthetho wolungiso wonyaka u-2019 ngoku wandisa ilungelo lokufikelela kuzo naziphi iingxelo zeqela lopolitiko.
- 6.4.3 UMthetho wolungiso ulungiselela iinkcukacha zokunika inkxaso yezimali zabucala kumaqela opolitiko kunye nabagqatswa abazimeleyo ukuba ubhalwe, ugcinwe yaye wenziwe ufumaneka.
- 6.4.4 Ngokubhekiselele kwicandelo 52A loMthetho wolungiso lwe-**PAIA** ka- 2019, intloko yeqela lopolitiko kufuneka yakhe futhi igcine iingxelo zalo naluphi uhlobo lomnikelo ogqitha umda obekiweyo, wama **R100 000.00**, oyenziwe kwelo qela lopolitiko kuwo nawuphi na unyaka-mali kunye nesazisi saye nawuphi umntu okanye amashishini enze lowo mnikelo. Intloko yeqela lopolitiko kwakhona kufuneka yenze iingxelo zifumaneka qho ngekota, njengoko kubekiwe, yaye agcine ezo ngxelo ixesha elingangeminyaka emihlanu ubuncinane emva kokuba ezo ngxelo kubhekiswe kuzo zenziwe.

<sup>4</sup> UMthetho wokuLungiswa kokuNyuselwa kokuFikelela kwiiNkcukacha, iNombolo. 31 wanyaka u-2019

6.4.5 Oku kuthetha ukuba lo gama uMthetho weNkxaso-mali yamaQela oPolitiko usenza kunyanzeleke ukudandalazisa iingxelo kwiKomishini yoLonyulo, uMthetho wolungiso lwe-**PAIA** ka- 2019 ngoku wandisa ilungelo lokufikelela kwiingxelo zawo nawuphi umnikelo ogqitha ama- **R100 000.00** owenziwe kwelo qela lopolitiko.

6.5 Omnye umthetho-siseko okhusela ilungelo lokufikelela kwiinkcukacha

I-**PAIA** ikwakhona kuko konke okungqonge umthetho, nto leyo yenzelwe ukwenza “inkcubeko yokugwetyelwa”. Ukuqwalasela oku. I-**PAIA** ichaza ukuba nawuphi na umthetho onika umntu indlela yokufikelela kwiinkcukacha owenza kungabinzima kakhulu kune- PAIA, ungasetyenziswa endaweni yayo<sup>5</sup>.

6.5.1 UMthetho weNkampani wama 71 wonyaka u-2008

6.5.1.1 ICandelo 26(1) loMthetho weNkampani linika umntu onomdla okanye onelungelo lokubanomdla kuzo zonke iindlela zokhuselo ezikhutshwa yinkampani eyenza inzuzo okanye olilungu lenkampani engenzi nzuzo, ukuba unelungelo lokuhlola futhi akope, ngaphandle kwentlawulo engaphezu kwaleyo iyeyona inkulu ibekiweyo, yayo nayiphi ikopi ekhankanyiweyo, iinkcukacha eziqulethwe kwiingxelo zenkampani.

6.5.1.2 Ngokubhekiselele kwicandelo 26(7)(b) loMthetho weNkampani, “amalungelo okufikelela kwiinkcukacha abekwe kweli candelo ongeza yaye, akamelanga nawuphi amalungelo umntu anganawo ukufikelela kwiinkcukacha ngokubhekiselele kuMthetho wokuNyuselwa kokuFikelela kwiiNkcukacha, 2000 (INombolo yoMthetho. 2 wama 2000)”.

6.5.2 UMthetho weNkxaso-mali yamaQela oPolitiko, 2018 (INombolo yoMthetho. 6 wama 2018)

6.5.2.1 INkxaso-mali yezoPolitiko iveza isikhokelo esingqongqo solawulo senkxaso-mali yabucala yawo onke amaqela opolitiko abhalisiweyo, nokuba amelwe okanye akamelwanga kwizindlu zowiso-mthetho amaphondo nawelizwe. Oku kuquka ukumisa imida kwimvelaphi, ubungakanani nomsebenzi womnikelo wenkxaso-mali ngamaqela opolitiko.

6.5.2.2 Ukuqinisekisa ukungafihlwa kwezinto nokuphendula kwizinto ezenziweyo, amaqela opolitiko kufuneka achaze yonke iminikelo efunyenweyo engaphezu komda wokuchazwa kwezinto wama- R100 000.00 kwiKomishini yoloNyulo rhoqo emva kweenyanga ezintathu (futhi nangaphambi kolonyulo lukawonkewonke).

<sup>5</sup> ICandelo 2(1) le-PAIA

- 6.5.2.3 Nawuphi umntu okanye umbutho owenza umnikelo kwiqela lopolitiko, othi uwodwa okanye ilandelelana igqithe ama- **R100 000.00** ngonyaka makaxele lowo mnikelo kwiKomishini yoloNyulo kwiintsuku ezingama 30 exesha apho loo minikelo unyukayo wegqitha ama- **R100 000.00**.
- 6.5.2.4 Okokugqibela, uMthetho weNkxaso-mali yamaQela oPolitiko ubeka isinyanzelo kwiKomishini yoloNyulo ukwazisa uluntu kwiinyanga ezintathu rhoqo ngeminikelo exelwe ngamaqela opolitiko kwanokuxela rhoqo ngonyaka kwiPalamente ngayo yonke iminikelo eyenziwe kumaqula opolitiko enyakeni.
- 6.5.3 UMthetho woKhuselo lweeNkcukacha zoMntu, 2013 (iNombolo. 4 wama 2013)
- 6.5.3.1 ICandelo lama 23 we- **POPIA** unika lowo usihloko seenkcukacha ilungelo lokufikelela kwiinkcukacha zakhe ezigcinwe lelo qela linoxanduva, kuquka iinkcukacha ezimalunga nesazisi zabo bonke abangabanye ababandakanyekayo okanye amacandelo angamanye abandakanyekayo, afikelela akhe afikelela kwiinkcukacha.
- 6.5.3.2 Oku kuthetha ukuba lo gama ukufikelela kwingxelo eneenkcukacha ezimalunga nalowo ufake isicelo kubekelwe bucala kwi- **PAIA** ngokubhekiselele kwiCandelo 11(2) ke ngoko, isihloko seenkcukacha singacela
- 6.5.3.2.1 ukufikelela kwiinkcukacha zakhe; kunye/okanye
- 6.5.3.2.2 izazisi zabo babandakanyekayo bangabanye, kunye/okanye iindidi zabo bangabanye babandakanyekayo, abafikelela okanye abakhe bafikelela kwiinkcukacha.
- 6.5.3.2.3 ukulungiswa okanye ukususwa kweenkcukacha malunga nesihloko seenkcukacha abanazo okanye eziphantsi kolawulo lwabo yaye engeyiyo ngqo, engafanelekangekisayo okanye efunyenwe ngendlela engekho mthethweni; okanye
- 6.5.3.2.4 ingxelo yeenkcukacha zakhe iqela elinoxanduva elingasafanelekanga ukubanegunya lokuyigcina, ukuba liyitshabalalise okanye liyisuse.
- 6.5.3.3 Iqela elinoxanduva lingala ukudandalazisa naziphi na iinkcukacha zalo ezifunwayo, ngokubhekiselele kwiimeko kumhlathi 19.4 ongasezantsi.

#### 6.5.4 UMthetho wokuNyuselwa koLawulo kwezoBulungisa wesi 3 wama 2000

- 6.5.4.1 Omnye umthetho obalulekileyo ekufuneka ukhunjulwe xa kujongwe ekufikeleleni kwiinkcukacha nguMthetho wokuNyuselwa koLawulo lwezoBulungisa [Promotion of Administrative Justice Act (**PAJA**)]. I-**PAJA** inika igalelo kwilungelo lenyathelo lolawulo elinomthetho opheleleyo, elivakalayo nelinenkqubo elingileyo kunye nelungelo lokufikelela kwizizathu ezibhaliweyo zenyathelo lolawulo njengoko kucamngcwe kwicandelo 33(2) loMthetho<sup>6</sup>.
- 6.5.4.2 Ngokubhekiselele kwicandelo 5(1) we-**PAJA**, nawuphi umntu onamalungelo akhe achaphazeleka ngokuphathekayo okanye kakubi ngenyathelo lolawulo yaye ongakhange anikwe zizathu zelo nyathelo, angathi, kwiintsuku ezingama 90 emva komhla apho lowo mntu athe wazi ngenyathelo elo okanye angathi afafele kukwazi ngalo elo nyathelo, acele umlawuli ochaphazelekayo ukuba amnike izizathu ezibhaliweyo zeso senzo. Umlawuli lowo isicelo senziwa kuye makathi, kwiintsuku ezingama 90 emva kokufumana isicelo, anike lowo mntu izizathu esivakalayo senyathelo lolawulo ngembalelwano.

## 7. UKUSEKWA KOMLAWULI WEENKCUKACHA

- 7.1 Ukuqinisekisa ukunyuselwa kunye nokuphuculwa kweenjongo ze-**PAIA**, ezikukunika igalelo kwelo lungelo lokufikelela kwiinkcukacha, ngohlobo olwenza abantu bafumane ukufikelela kwiingxelo zamaqumrhu karhulumente nawabucala, ngokukhawulezileyo nangendlela engatyabuli pokotho kangangoko, uMlawuli weeNkcukacha (“uMlawuli”) wasekwa ngokubhekiselele kwicandelo lama 39 le-**POPIA**.
- 7.2 Ukuze kuqinisekise ukuba kulandelwa iinkqubo ezingenabugocigoci nezingatyabuli pokotho, xa kusenziwa isicelo sokufikelela kwiinkcukacha, izikhalazo eziya kuMlawuli kunye nezicelo zenkundla kufuneka zibekwe ngaphandle kunokuba ngumthetho.
- 7.3 I-**POPIA** ilungisa indima ye-**SAHRC** ngokubhekiselele koko kufunwa yi-**PAIA**. Ukusukela ngowama 30 Juni 2021, yonke imisebenzi ye-**SAHRC**, njengoko ibhalwe kwi-**PAIA**, iza kugcinwa nguMlawuli, nto leyo kwakhona inamagunya ongeziweyo anyanzelisiwayo.
- 7.4 Lo gama i-**SAHRC** iza kuhlala igcine iimfanelo zayo ezibanzi zomthetho-siseko zokunyusela, ukukhusela nokuhlola ukugqama kwamalungelo kwiNkqubo yaMalungelo,
- 7.5 i-**SAHRC** kunye noMlawuli baza kusebenza kunye, omnye ecaleni komnye.

<sup>6</sup> Wonke umntu onamalungelo athe aphathwa kakubi ngenyathelo lolawulo, unelungelo lokunikwa izizathu ezibhaliweyo

## 8. INDIMA YOMLAWULI WEENKCUKACHA

- 8.1 Umlawuli inendima ebaluleke kakhulu ngokubhekiselele kwi-**PAIA**. Umlawuli ubekwe yi-**PAIA**, phantsi kweNdawo ye- 4, iSahluko 1A neNdawo yesi- 5 kunye namanye amacandelo, ukuba:
- 8.1.1 anyusele ilungelo lokufikelela kwiinkcukacha yaye ancedise uluntu ekusetyenzisweni kwe-**PAIA** apho kufaneleke ngokuvakalayo ukwenza njalo,
  - 8.1.2 ukuhlola kunye nokusebenzisa i-**PAIA** ngamaqumrhu oluntu nawabucala (okuquka ukunyusela iindlela ezisebenza kakuhle ukwenza iinkcukacha zifumaneke kwangexesha),
  - 8.1.3 ukwenza iingcebiso ukuqinisa i-**PAIA**, kunye noku
  - 8.1.4 ukwazisa iPalamente rhoqo ngonyaka.
- 8.2 ICandelo 77C (1) kunye nele- (2) le-**PAIA** lilungiselela la magunya nemisebenzi elandelayo yoMlawuli, ukuba -
- 8.2.1 kuphandwe isikhalazo esenziwe kuMlawuli ngendlela ebekiweyo;
  - 8.2.2 kuthunyelwe isikhalazo kwiKomiti yoNyazeliso esekwe ngokubhekiselele kwicandelo lama- 50 le-**POPIA**; okanye
  - 8.2.3 kugqitywe, ngokwecandelo 77D, ukungathathi manyathelo okanye, njengoko kunganjalo, kungafunwa nyathelo liya phambili ngokubhekiselele kwisikhalazo eso; yaye
  - 8.2.4 kwenziwe, apho kufanelekileyo, njengomququzeleli ngokubhekiselele kweso sikhalazo ngendlela ebekiweyo.
- 8.3 Umlawuli angathi, ngokubhekiselele kwicandelo 77H(1) le-**PAIA**, kunye nephulo ngokwalo, okanye xa kusenziwa isicelo okanye egameni legosa leenkukacha okanye intloko yequmrhu labucala okanye nayiphi na indlela yokuziphatha yakhe nawuphi na umntu njengokuhlolwa, nokuba liqumrhu loluntu okanye labucala, ahambe ngokubhekiselele kwimimiselo ye-PAIA, ngokokwemigaqo-nkqubo kunye neenkqubo zokwenza.
- 8.4 Umlawuli ugunyazise, ngokubhekiselele kwicandelo lama 77F le-**PAIA**, ukusebenzisa iinzame ukugcina ukuhlawulwa kwesikhalazo, ukuba sibonakala kwisikhalazo, okanye nayiphi na impendulo ebhaliweyo, eyenziwe ngokubhekiselele apho, ukuba kungenzeka kuhlawulwe isikhalazo. Oku kuthetha ukuba uMlawuli angazama kuphela ukuncedisa abo babandakanyekayo ukuhlawula izibheni zabo, ukuba kukho isikhalazo esifakwe kuMlawuli, ngaphandle kokuba ugqibe, kwiphulo lakhe, ukuqhuba uhlolo, njengoko kubekwe kumhlathi 8,3 ngasentla.



## 9. MAKING A REQUEST FOR A RECORD

Nceda ujonge itshati yenkqubo yenyathelo ngalinye kumhlathi 27 ngasezantsi, ukuba ungacela njani ukufikelela kwiingxelo.

### 9.1 Ukuqala: iiNcwadana ze-PAIA

- 9.1.1 Lo gama iSikhokelo sip[apashiwe ukunceda uluntu abasuka ndawo zonke ukugcina ilungelo labo lomgaqo-siseko, kukho ezinye iindawo zokufumana iinkcukacha ezinganceda umntu ukwenza isicelo sokufikelela kwiingxelo. I-**PAIA** ifuna ukuba amaqumrhu oluntu kunye namaqumrhu abucala, enze incwadana ye-**PAIA** ifumaneke<sup>7</sup>.
- 9.1.2 Ngaphambi kokuba nabani na athathe amanyathelo okufikelela kwiinkcukacha okanye iingxelo kwiqumrhu elithile, iNcwadana ye-**PAIA** sisixhobo sokuqala ukusifunda.
- 9.1.3 Kwesona siseko sayo, incwadana ye-**PAIA** isebenza kakhulu emntwini ukuba:
- 9.1.3.1 ajonge ubume beengxelo engathi kanti sele ifumaneka ngaphandle kwemfuneko yokufaka isicelo esisemthethweni se-**PAIA**;
- 9.1.3.2 aqonde indlela yokwenza isicelo sokufikelela kwinkcukacha ezigcinwe liqumrhu elithile;
- 9.1.3.3 afikelele kwiinkcukacha ezifanelekileyo zomntu oza kunceda uluntu ngeengxelo ezifunwa nguye noba ngubani ofuna ukufikelela;
- 9.1.3.4 azi lonke ulungiso olufumanekayo kwiqumrhu elo apho kufikelelwa kwiingxelo ezo zicelwayo, ngaphambi kokuya kuMlawuli okanye iiNkundla;
- 9.1.3.5 azi inkcazelo yeenkonzo ezifumaneka kumalungu oluntu kwiqumrhu nokuba kufikelelwa njani kwezo nkonzo;
- 9.1.3.6 azi ukuba iqumrhu liza kuzishicilela iinkcukacha zomntu, iinjongo zokushicilelwa kweenkcukacha zomntu kunye nenkcazelo yeendidi zezihloko zeenkukacha kunye neenkukacha okanye iindidi zeenkukacha ezibhekiselele apho;
- 9.1.3.7 azi ukuba iqumrhu lilungiselele ukususa okanye ukushicilela iinkcukacha zomntu ngaphandle kweRiphabliki yoMzantsi Afrika; kunye

<sup>7</sup> ICandelo 14 kunye necandelo 51 le-PAIA

- 9.1.3.8 azi ukuba nokuba iqumrhu linamanyethelo akhuselekileyo afanelekileyo okuqinisekisa ukuba imfihlo, ukulunga nokufumaneka kweenkcukacha eshicilelwayo.

## 9.2 Uzifumana phi iincwadana ze-PAIA?

### 9.2.1 INcwadana ye-PAIA yamaqumrhu oluntu

- 9.2.1.1 Onke amaqumrhu oluntu makenze iNcwadana ye-PAIA ifumaneka lula ngeelwimi ubuncinane ezintathu ezisemthethweni<sup>8</sup>.

- 9.2.1.2 Okokona kuncinane kakhulu, kufuneka benze ikopi yeNcwadana ye-PAIA ifumaneka simahla, ngaphandle kokuba kucelwe ikopi engamaphepha uqobo eshicilelwe iceliwe –

9.2.1.2.1 kwisiza se-intanethi sequmrhu loluntu;

9.2.1.2.2 kwi-ofisi esentloko yequmrhu loluntu yokuhlolwa koluntu ngexesha leeyure eziqhelekileyo zomsebenzi;

9.2.1.2.3 ukuba umntu ufuna ikopi eliphepha, iqumrhu loluntu malenze ikopi kodwa lingafuna intlawulo efikelekayo yokunikwa kwekopi eliphepha; yaye

9.2.1.3.4 kuMlawuli kwakuba kuceliwe.

### 9.2.2 IiNcwadana ze-PAIA zamaqumrhu abucala

- 9.2.2.1 Amaqumrhu abucala kwakhona afuneka ukuba aqulunqe incwadana ze-PAIA<sup>9</sup>, kodwa akukho mfuneko yakuyiqulunqa ngeelwimi ezingaphezulu kolunye okanye ngolwimi olukhethekileyo, nangona kukhuthazwa ukuba iiNcwadana ze-PAIA zamaqumrhu abucala kufuneka ubuncinane abengesiNgesi. Ukuba iqumrhu elikhethekileyo linika iinkonzo kuninzi lwabantu abangenamfundo esemthethweni, uMlawuli ukhuthaza ukuba incwadana yelo qumrhu ingathi kwakhona ibengalo naluphi ulwimi olusemthethweni.

- 9.2.2.2 Okukokona kuncinane, amaqumrhu abucala kufuneka enze ikopi yeNcwadana ye-PAIA ifumaneka simahla<sup>10</sup>, ngaphandle kokuba kucelwe incwadana engamaphepha -

9.2.2.2.1 kwisiza se-intanethi sequmrhu labucala;

9.2.2.2.2 kwindawo elikomkhulu leshishini lequmrhu labucala, ukuze kuhlolwe luluntu ngeeyure eziqhelekileyo zoshiashino;

<sup>8</sup> ICandelo 14(1) le-PAIA

<sup>9</sup> Ngokubhekiselele kwicandelo 51 le-PAIA

<sup>10</sup> ICandelo 51(3) le-PAIA

9.2.2.2.3 ukuba umntu ufuna incwadana angamaphepha, iqumrhu labucala malenze ikopi kodwa lingacela intlawulo efikelekayo yokunikwa kwekopi engamaphepha futhi

9.2.2.2.4 kuMlawuli kwakuba kuceliwe.

9.2.3 UMphathiswa wezoBulungisa kunye neeNjkonzo zoLuleko unamagunya okhulule<sup>11</sup> amanye amaqumrhu abucala okanye udidi lwamaqumrhu abucala kwimfanelo yokwenza le ncwadana. Okwangoku, yaye ukuya kuma ngowama 31 Disemba 2021, uMphathiswa ukhulule<sup>12</sup> onke amaqumrhu abucala, ngaphandle kwayo nayiphi inkampani ethi -

- (a) ingabiyiyo eyabucala njengoko kuchazwe kwicandelo 1 loMthetho weeNkampani, 2008 (INombolo yoMthetho. 71 ka-2008); kwakhona
- (b) ibeyinkampani yabucala njengoko kuchazwe kumhlathi 1 woMthetho weeNkampani, 2008 (iNombolo yoMthetho 71 ka- 2008) osebenza kumacandelo akhankanywe kumqolo wokuqala wohlelo olukwesi Sazisi yaye
  - (i) inabasebenzi abangama 50 kwingqesho yabo; okanye
  - (ii) linengeniso yonyaka iyonke, elingana nenye okanye ngaphezulu kwesixa esibekwe kumqolo 2 wetheyibhile engasezantsi,

ekwenzeni incwadana ecamngcwe kwicandelo 51(1) loMthetho okhankanywe kuqala, ixesha leenyanga ezintandathu (6) ukusukela ngomhla **1 Julayi 2021** ukuya kowama **31 Disemba 2021**: -

Icandelo	Ingeniso yonyaka
LezoLimo	R6 izigidi
LeMigodi neeNkwali	R22.5 izigidi
LezeMveliso	R30 izigidi
LoMbane, iRhasi naManzi	R30 izigidi
LezoKwakha	R15 izigidi
LeNtengiso noSishino lweeMoto kunye neeNkonzo zoLungiso	R45 izigidi
LoShishino looBhazabhaza beevenkile, ii-Arhente zoRhwebo kunye neeNkonzo eziManyeneyo	R75 izigidi
Lokutya, iiNdawo zokuHlala kunye nezinye iintlobo zoRhwebo	R15 izigidi
LoThutho, uGcino lwezinto noNxibelelwano	R30 izigidi
LeziMali neeNkonzo zamaShishini	R30 izigidi
LasekuHlalani, iiNkonzo eziKhethekileyo nezaBantu uqobo	R15 izigidi

<sup>11</sup> ICandelo 51(4) le-PAIA

<sup>12</sup> IGazethi kaRhulumente inombolo: 39504, 11 Disemba 2015

- 9.2.4 Ngenxa yokubaluleka kweemfuno zomthetho xa kusenziwa iNcwadana ye-**PAIA**, ingakumbi ukulungisa icandelo lama 51 le- **PAIA** kwakhona, (eliqale ukusebenza ngowama 30 Juni 2021), ngokubhekiselele kumda weenkukacha incwadana ekufuneka iziqulethe, wandiswe ukuze uquke imiba ebhekiselele kwi-**POPIA**, amaqumrhu abucala akasayi kukhululwa kwimfuneko yokuqulunqa incwadana ye-**PAIA**.<sup>13</sup> Ngako oko, ukusukela, ngomhla woku-1 Janyuwari 2022, iqumrhu ngalinye loluntu nelabucala liza kufuneka ukuba libeneNcwadana yalo ye-**PAIA**, njengoko kubekwe kumhlathi 9.2.2.2 ngasentla.
- 9.2.5 Ukukhululwa kweenkampani zabucala kwimfanelo yokwenza incwadana ye-PAIA akukhululi ezo nkampani ekulandeleni imigaqo ye-**PAIA**. Oku kuthetha ukuba nawuphi na umntu angafaka isicelo sokufikelela kwiinkukacha kwiqumrhu labucala elikhululiweyo. Ukukhululwa kuthetha nje ukuba ezo nkampani zabucala azenzi zincwadana ze-**PAIA**.
- 9.2.6 Kwakhona khumbula ukuba akungawo onke amaqumrhu abucala, nanjengoko inkcazelo yequmrhu labucala iquka umntu ngokwendalo, umrhwebi oyedwa kunye nendibaniselwano. Nangona kunjalo, kungabanexabiso ukujonga isiza se-intanethi, nanjengoko ezinye iiNkampani zisakha incwadana ze-**PAIA** nokuba lingakanani inani labasebenzi bazo okanye ingeniso yabo yonyaka.
- 9.3 Ukuziveza ngokwakho kunye nokubakho kwengxelo ezithile okuzenzekelayo
- 9.3.1 Iingxelo ezizivelela ngokwazo zezo uluntu okanye iqumrhu labucala liza kuzinika ngaphandle kwemfuno yalowo ufaka isicelo ukuba afake isicelo kwi-**PAIA** (ngamanye amazwi, umntu angayicela nje ngaphandle kokuzalisa uXwebhu 2 lwe-**PAIA**).
- 9.3.2 IGosa leeNkcukacha lequmrhu loluntu liyafuneka, ngokubhekiselele kwicandelo 15(1) le-**PAIA**, ukwenza kufumaneka uludwe okanye iindidi zeengxelo ezifumaneka ngokuzivelela, njengoko kubekwe kumhlathi 9.3.4 ngasezantsi.
- 9.3.3 Iingxelo ezizivelelayo zequmrhu labucala zingenziwa kwakhona ukuba zibekhona, ngokubhekiselele kwicandelo 52(1) le-**PAIA**, kodwa ngendlela yokuzithandela ngokomhlathi 9.3.4 ngasezantsi.
- 9.3.4 Inkcazelo yeendidi zeengxelo ezizivelelayo mazenziwe zifumaneka -
- (a) kuMlawuli weenkukacha;
  - (b) kwisiza se-intanethi sequmrhu; kunye
  - (c) nokwenzela ukuba zihlolwe, kwii-ofisi zequmrhu ekujoliswe kulo ngexesha leeyure eziqhelekileyo zoshishino.

<sup>13</sup> Icandelo 100 le-PAIA

- 9.3.5 Nceda uqaphele ukuba uMlawuli uza kufaka inkcazelo yeengxelo ezizivelelayo zequmrhu loluntu kwisiza se-intanethi yakhe.
- 9.3.6 Olu ludwe luquka iingxelo ezingafunwa ukuba zibekhona yeminye imithetho kunye nazo naziphi iingxelo iqumrhu elizikhetha ukuzifaka. Ukuze kunqandwe ukuba semthethweni kokulandela imigaqo yesicelo senkqubo ye-**PAIA**, lowo ufake isicelo ucetyiswa ukuba ajonge iNcwadana ye-**PAIA** yequmrhu loluntu okanye elabucala ekujoliswe kulo. Ukuba umntu unqwenela ukufikelela kwiinkcukacha ezikuluhlu lwequmrhu lweengxelo ezizivelelayo, lowo mntu angacela nje ukufikelela kwiinkcukacha ngaphandle kokufuna ukugcwalisa uXwebhu 2 lwe-**PAIA**.
- 9.3.7 UMthetho weNkxaso-mali yamaQela oPolitiko wesi- 6 ka-2018 uveza olunye utshintsho nge-**PAIA**, obhekiselele ekubeni iintloko zamaqela opolitiko kufuneka zishicilele yaye zigcine iingxelo zeminikele, nto leyo iza kudinga ukuba ipapashwe ngaphandle kokuba umntu afake isicelo kwi- **PAIA**.

## 10. IINKCUKACHA ZOQHAGAMSHELWANO ZAMAGOSA EENKCUKACHA

- 10.1 Nangona iinkcukacha zoqhagamshelwano zamaGosa eeNkcukacha alo naliphi iqumrhu loluntu kufuneka zishicilelwe kuzo zonke iincwadi neendawo ezazisa ngeenkcukacha zeemfomfom, ngokubhekiselele kwicandelo 16 le-PAIA, uMlawuli uneenkcukacha ezikhethekileyo zawo onke amaGosa eeNkcukacha (kuquka ooSekela maGosa eeNkcukacha, ebenziwe ngokubhekiselele kwicandelo 17 nama- 56 le- **PAIA** kunye ne-**POPIA** ngokulandelelana) abhaliswe kuyo ngokubhekiselele kwicandelo 55(2) le- **POPIA**.
- 10.2 Lo gama ukufuna iinkcukacha ezizizo zoqhagamshelwano kungasoloko kuyindawo esokolisayo yokwenza isicelo se- **PAIA**, njengoko iindima ezidlalwayo zitshintsha rhoqo, kwicandelo likarhulumente yaye incwadana ye-**PAIA** ingangabi yeyexesha langoku, indawo yokuqala yokufumana iinkcukacha zoqhagamshelwano makube yiNcwadana ye-**PAIA** yequmrhu. Nangona kunjalo, ukuba lowo ufake isicelo akakwazi ukuyifumana incwadana, kunganceda kwakhona ukutsalela indawo yokutshintsha iminxeba ukucela iinkcukacha ezifanelekileyo.
- 10.3 KooMasipalati, uMbutho woRhulumente basekuHlalani boMzantsi Afrika, For Municipalities, the [South African Local Government Association (**SALGA**)], ubeka iinkcukacha zoqhagamshelwano kweli khonkco:  
<http://www.salga.org.za/Municipalities%20MCD.html>
- 10.4 Unxibelelwano norhulumente lukwanika iinkcukacha zoqhagamshelwano zelizwe nezephondo kwakunye neenkcukacha zoqhagamshelwano zaMashishini aNgakaRhulumente phantsi kweli khonkco:  
<https://www.gov.za/about-government/contact-directory>. Kufuneka usoloko ukhumbula ukuba inkcazelo yeGosa leeNkcukacha inceda ukuba kwaziwe ukuba ziinkcukacha zoqhagamshelwano zikabani ezifunekayo ukwazi iGosa leeNkcukacha.

## 11. INKQUBO YOKWENZA ISICELO SEENKCUKACHA

### 11.1 Amaxwebhu esicelo

- 11.1.1 Isicelo sokufikelela kwiinkcukacha singenziwa kumaqumrhu karhulumente nawabucala.
- 11.1.2 I-PAIA ifuna ukuba, xa usenza eso sicelo, kufuneka ufake isicelo kuxwebhu olufunekayo (la maxwebhu abekwe ngokweMimiselo). Kukho amaxwebhu amabini angasetyenziswa ukucela ilungelo lokufikelela kwiinkcukacha:

Uxwebhu 2	Uxwebhu 4
Olu xwebhu lungasetyenziswa ukuba ufuna ukucela ukufikelela kwiingxelo zequmrhu loluntu okanye elabucala.	Olu xwebhu lungasetyenziswa ukuba ufuna ukufaka isibheno sangaphakathi ngakwisigqibo samaGosa eeNkcukacha, okanye eso sooSekela maGosa eeNkcukacha beLizwe, iPokanye iNdawo yasekuHlaleni kaRhulumente apho kungasebenza isibheno sangaphakathi.

- 11.1.3 La maxwebhu angafumaneka kwisiza se-intanethi soMlawuli ku <https://www.justice.gov.za/infoleg/>

### 11.2 Ukugqiba ukuba isicelo sibhekiselele kwiinkcukacha ezigcinwe liqumrhu loluntu okanye elabucala

- 11.2.1 Iqumrhu loluntu lenza inkqubo, efana nokunikezela ngombane okanye amanzi eluntwini. Ngako oko, iqumrhu loluntu ayililo nje eleLizwe, elePhondo okanye eleSebe likaRhulumente wasekuHlaleni- lingaquka amashishini angakarhulumente okanye amaZiko asebuRhulumenteni afana noMlawuli, u-Eskom, okanye i-PRASA, nangona kunjalo, kufuneka kwnziwe umahluko ngokubhekiselele kwiqumrhu loluntu ngeenjongo zesibheno sangaphakathi, esijolise kuphela kuRhulumente weLizwe, owePhondo nowasekuHlaleni.

- 11.2.2 Iqumrhu labucala lenza umsebenzi wabucala. Elo qumrhu (ekungenzeka libengumntu) wenza urhwebo, ushishino okanye umsebenzi oqeqeshelweyo. Kubaluleke kakhulu ukuqaphela ukuba xa ufaka isicelo se-PAIA kwiqumrhu labucala, umntu makachaze ukuba leliphilungelo alikhuselayo okanye alisebenzisayo ngokucela ezo nkcukacha. Ngokubhekiselele kuzo naziphi iinkcukacha ezigcinwe ngomnye umntu, u-Streicher JA waqukumbela esi sikhulu ngoku hlobo lulandelayo, kwi-Khansile yeDolophu yaseKapa iqubisana neeNkonzo zoHlobo lweeDolophu (eNtshona-Kapa) CC kunye neziNye<sup>14</sup>,

<sup>14</sup> 2001 (3) SA 1013 (SCA) umhlathi 28 ku-1026F-G

*“Iinkcukacha zingafunwa kuphela kumsebenzi okanye ukukhusela ilungelo, ukuba zingancedisa ekusebenziseni okanye ekukhuseleni ilungelo elo. Kulandela ukuba, ukuze kwenziwe ityala lokufikelela kwiinkcukacha ngokubhekiselele kwicandelo lama 32, lowo ufake isicelo kufuneka achaze ukuba leliphi ilungelo anqwenela ukulisebenzisa okanye alikhusele, ziziphi iinkcukacha ezifunekayo yaye ezo nkcukacha zingamnceda njani ukwenza okanye ukukhusela elo lungelo”.*

- 11.2.3 Ngamanye amaxesha umbuzo wokuba ingaba ingxelo yeyoluntu na okanye yeyabucala, unganobugocigoci yaye uluntu lucetyiswa ukuba lufune ingcebiso yasemthethweni. Umzekelo, ukuba iqumrhu loluntu liqesha iqumrhu labucala ukuba lenze iinkonzo ezithile egameni lalo, oko oko kufakwa kweemitha zamanzi kwiindawo ezithile zasekuhlaleni, ukufikelela kwiinombolo zeemitha ezifakiweyo, nokuba ezo nkcukacha zigcinwe lelo qumrhu labucala, kuza kuthathwa njengeenkukacha zequmrhu loluntu.
- 11.3 Umntu ulichaza kanjani ilungelo anethemba lokulisebenzisa okanye elokulikhusela?
- 11.3.1 Xa uchaza ukuba leliphi ilungelo umntu anethemba lokulisebenzisa xa esenza isicelo kwiqumrhu labucala, ubani akanakubhekisa kwilungelo lokufikelela kwiinkcukacha. Umntu kufuneka achaze ukuba ingxelo leyo ayicelayo ifuneka kangakanani kuye ukuze akhusele okanye asebenzise elinye ilungelo. Oku kungaquka amalungelo angengawo amalungelo omgaqo-siseko.
- 11.3.2 Ubani angathi umzekelo, afune izicwangciso ezikhulu kwinkampani ekungenzeka ibenegalelo kumaqondo ongcoliseko lwasekuhlaleni, ukuze ancede ukukhusela ilungelo lomntu ekuhlaleni ngokuhlola leyo misebenzi. Okanye ubani angafuna iingxelo, ezinganceda umntu ukubona ukuba unelungelo lokufaka ibango loluntu kwishishini elithile. Ngako oko umntu lowo kufuneka:
- 11.3.2.1 Ngokukhethekileyo achaze elo lungelo anethemba lokulikhusela okanye ukulisebenzisa, yaye emva koko
- 11.3.2.2 Achaze ngokucacileyo ukuba kutheni ingxelo ayifunayo ifuneka ngokufanelekileyo ukunceda lowo unelo lungelo.
- 11.3.3 Ngokuchasene noko, xa ufaka isicelo se-**PAIA** kwiqumrhu loluntu, umntu lowo akufanelanga ade abenesizathu sokucela iinkcukacha.

## 12. NGUBANI ONGENZA ISICELO SE-PAIA?

- 12.1 Nawuphi unmtu, nokuba ngummi woMzantsi Afrika okanye akungommi woMzantsi Afrika, uvumelekile ukuba enze isicelo phantsi kwe-**PAIA**. Lowo ufake isicelo ingangumntu ngokokuzalwa okanye umntu ngokomthetho.



- 12.2 Iqumrhu loluntu libonwa njengomntu ngokomthetho yaye lingenza isicelo sokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu abucala, kodwa kuphela xa iqumrhu loluntu -
- 12.2.1 Limele iimfuno zoluntu, yaye
  - 12.2.2 Ukuba iingxelo zifunwa ukuze kuzalisekiswa okanye kukhuselwe naliphi ilungelo ngaphandle kwalawo equmrhu loluntu.
- 12.3 Phantsi kwe-**PAIA** lowo ucelayo akakwazi kucela ukufikelela kwingxelo, yequmrhu loluntu, eneenkcukacha zakhe njengalowo ufaka isicelo, kwiqumrhu loluntu<sup>15</sup>, nangona kunjalo lowo ufake isicelo okanye isihloko seenkcukacha angathi, ngokubhekiselele kwicandelo 23(1)(b) le-**POPIA**, acele kwiqela elinoxanduva ingxelo okanye inkcazelo yeenkcukacha zomntu malunga nesihloko seenkcukacha, ezigcinwe liqela elinoxanduva. Oku kuthetha ukuba nawuphi umntu angathi ngoku acele ukufikelela kwiinkcukacha zakhe ezigcinwe liqumrhu loluntu okanye elabucala akubonisa isazisi esanelisayo. Iinkcukacha zomntu lowo ufaka isicelo, angazicela kwiqumrhu elinoxanduva, zingaquka iinkcukacha malunga nezazisi zabo bangabanye babandakanyekayo okanye iindidi zabo bandabanye babandakanyekayo abefikelela okanye abakhe bafikelela kwiinkcukacha.
- 12.4 Ngokubhekiselele kwicandelo 50(1) le-**POPIA**, nawuphi umntu angacela ukufikelela kwingxelo zequmrhu labucala, eziqulethe iinkcukacha zomntu malunga nalowo ucelayo okanye umntu ekwenziwa isicelo ngaye.

### 13. SINGENZIWA KUBANI ISICELO?

- 13.1 IGosa leeNkcukacha lequmrhu loluntu kufuneka libeke uSekela-Gosa/ooSekela-Gosa, amabaqinisekise ukuba ukufikelela kwiingxelo zequmrhu loluntu kufikeleleka lula kangangoko. Nangona oku kwakungeyiyo imfuneko ngokubhekiselele kwiqumrhu labucala phantsi kwe-**PAIA**, iqumrhu labucala lingabeka uSekela-Gosa weeNkcukacha okhankanywe ngasentla, ngokubhekiselele kwicandelo 56 le-**POPIA**.
- 13.2 Isicelo sokufikelela kwiinkcukacha, nangona kungajoliswa kwiGosa leeNkcukacha, singafakwa kuSekela-Gosa weeNkcukacha. Iinkcukacha zikaSekela Gosa/ooSekela Gosa beeNkcukacha zingafunyanwa kwincwadana ye-**PAIA** yelo qumrhu okanye kuMlawuli.

### 14. UKUGCWALISA UXWEBHU

- 14.1 Uxwebhu 2 – isicelo sokufikelela kwingxelo yequmrhu loluntu okanye elabucala:
- 14.1.1 Ukuze kugcwaliswe uxwebhu lwe-**PAIA**, umntu kufuneka anike iinkcukacha ezaneleyo ukuvumela iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha ukuba abone iingxelo ezifunwa ngulowo ufake isicelo.

<sup>15</sup> Icandelo 11(2) le-PAIA

14.1.2 IMimiselo yoLawulo ye-PAIA ichaza ngokukhethekileyo uxwebhu omalusetyenziswe, ekufuneka luthunyelwe kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wequmrhu.

14.1.3 Abo bafaka isicelo abangakwazi kufunda okanye ukubhala bangenza izicelo ngomlomo kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wequmrhu loluntu, othi abenoxanduva lokugcwalisa uxwebhu 2 egameni lalowo ufaka isicelo. Uxwebhu olukhoyo ngoku luza kufuna ukuba ugcwalise la macandelo alandelayo:

<b>Iinkcukacha ezifunekayo</b>	<b>Inkcazelo</b>
<b>Iinkcukacha zequmrhu loluntu/labucala</b>	Eli candela kufuneka libene-imeyili kunye nenombolo yefeksi yeGosa leeNkcukacha kunye/okanye uSekela Gosa weeNkcukacha.
<b>Iinkcukacha zomntu ocela ukufikelela kwiingxelo</b>	Oku kufuneka kuqulathe iinkcukacha ezaneleyo malunga nalowo ufaka isicelo ukwenza lowo ufaka isicelo kube lula ukumbona, kuquka iinkcukacha zoqhagamshelwano zalowo ufaka isicelo: idilesi yeposi, idilesi ye-imeyili, ifeksi kunye/okanye nenombolo yomnxeba eMzantsi Afrika. Kwakhona icela inombolo yesazisi sakho ukuqinisekisa ukuba nguwe. Ukuba ucela iinkcukacha egameni lomnye umntu, kufuneka kunikwe ubungqina begunya lokwenza isicelo ('njengomntu ogunyazisiweyo').
<b>Iinkcukacha zengxelo efunwayo</b>	Nika iinkcukacha ezipheleleyo zengxelo apho kucelwa ukufikelela khona, kuquka inombolo engqamene noko ukuba uyayazi, ukwenzela ukuba ingxelo ifumaneka. (Ukuba indawo ebekiweyo ayifanelekanga, nceda uqhubeke kwiphepha elilelinye yaye uliqhoshela kolu xwebhu. Onke amaphepha ongezelekileyo makasayinwe.
<b>Uhlobo lwengxelo</b>	Oku kufuneka kuqulathe iinkcukacha ezaneleyo malunga nengxelo ukuyenza ukuba kubelula ukuyibona. Ukuba iinkcukacha ezifunwayo azikwazi kuvala indawo enikwe kolu xwebhu, elinye iphepha elongeziweyo, elibhalwe ngesandla okanye ngekhompyutha lingasetyenziswa ukunika iinkcukacha ezibanzi zesicelo, oko iphepha

## Iinkcukacha ezifunekayo

## Inkcazelo

ngalinye elongeziweyo lisayiniwe laqhoshelwa kuxwebhu lwesicelo. Ungathi umzekelo, ufake isicatshulwa esisuka kwingxelo okanye kwibali leendaba elitshoyo ukuba lisuka kwingxelo oyifunayo. Kusoloko kukuvumela ukuba uquke inombolo engqamene nengxelo, ukuba ikhona.

### Iintlawulo

Iqumrhu apho lowo ufaka isicelo afuna ukufaka isicelo sokufikelela kwingxelo, kuquka ingxelo eneenkcukacha zomntu malunga naye, lingacela ukuba uhlawule intlawulo yesicelo (intlawulo yokufikelela) okanye intlawulo eyinxalenye yentlawulo epheleleyo kodwa eso sixa masingabisikhulu, nanjengoko iintlawulo kufuneka zibe zezexesha elivakalayo noko ukulungiselela ukukhangela nokulungisa iingxelo. UMphathiswa angaqaphela kwiGazethi, akhulule ukuhlawulwa kweentlawulo njengoko kudweliswe kumhlathi 51.1 ongasezantsi.

Kukho indawo ebekiweyo ukuze lowo ufaka isicelo abonise ukuba kutheni ekholelwa ukuba makakhululwe ekuhlawuleni iintlawulo. Isizathu singaquka, umzekelo, ukuba akasebenzi.

### Uxwebhu lokufikelela kwingxelo

Eli candelo likuvumela ukuba uqaphele ngo "X" okufunayo ukuze uxwebhu lokufikelela kwingxelo lunikwe kwikopi yengxelo kunye/okanye kwi-flash drive kunye/okanye kwindawo yokudlala idiski yeenkcukacha.

### Indlela yokufikelela

Phantsi kweli candelo kufuneka uqaphele oko okufunayo ngokubhekiselele kulwimi olo ingxelo ekufuneka ibengalo (oku kungangenzeki ngokubhekiselele kwiingxelo zonke kodwa kufuneka ubonise oko ukukhethayo).

Uhlobo lokufikelela kwingxelo lunganegalelo ekubeni kungavunywa kufikelelwe ngenxa yeentlawulo eziphezulu. Umzekelo, ukuba lowo ufake ingxelo ufuna umqulu ngolwimi olufunayo,

iintlawulo zokutshintsha imiqulu ukuya kulwimi olufunayo zingahlawulwa. Nangona kunjalo, ukuba ingxelo ayikho ngolo lwimi ulufunayo, ungafikelela ngolwimi ekushicilelwe ngalo. Uhlobo lokufikelela ingxelo ingaquka ukuzihlolela ingxelo, ingxelo ithunyelwe nge-imeyili okanye ifeksi okanye ikhuriya okanye iposi.

**Isaziso sesigqibo esibhekiselele kwisicelo sokufikelela kwiingxelo**

Kubekwa indawo yalowo ufaka isicelo ukuze achaze indlela anqwenela ukwaziswa ngayo malunga nesigqibo sokunika okanye sokwala isicelo. Lowo ufaka isicelo angacacisa umzekelo ukuba angafuna ukuba kuqhagamshelwane naye nge-imeyili okanye ngomnxeba okanye impendulo ingaposwa okanye ikhuriywe ukuya kuye.

**Iinkcukacha zelungelo elisetyenziswayo okanye elikhuselwayo**

Xa ucela iinkcukacha kwiqumrhu labucala, lowo ucelayo kufuneka achaze “iinkcukacha zelungelo eliza kusetyenziswa okanye elikhuselwayo”. Apha kufuneka achaze ilungelo ayame kulo (njengelungelo lendawo engqongileyo ecocekileyo) kunye nokuba ingxelo leyo ayicelayo iza kukunceda mhlawumbi ukusebenzisa okanye ukukhusela elo lungelo. Kufuneka abonise ukudibana phakathi kwengxelo ayifunayo kunye nokusebenzisa okanye ukukhusela elo lungelo.

Ngelishwa, ngokungafaniyo nesicelo sokufikelela kwingxelo yequmrhu loluntu, akakwazi umntu ukufikelela ingxelo yequmrhu labucala ngaphandle kokuba ucacisa ilungelo/amalungelo afuna ukuwakhuselela okanye ukuwasebenzisa xa kunokunikwa ukufikelela kwiinkcukacha. Oku kungaquka umba wokuba emva kokuba efikelele kwiingxelo, uza kusebenzisa ilungelo lenzuzo nokhuseleko olulinganayo lomthetho<sup>16</sup> ngokutshutshisa elo qumrhu ngomonakalo athe wawufumana.

<sup>16</sup> ICandelo 9(1) .Iomgaqo-siseko weRiphabliki yoMzantsi Afrika, uMthetho 108 wonyaka u- 1996

14.1.4 Ukuba ngazo naziphi izizathu isicelo sakhe asilandeli mfundo ezidweliswe ngasentla, iGosa leeNkcukacha lingathi lisale isicelo sakhe, ngaphandle kokuba wazise umntu ofaake isicelo ukuba ufuna ukusala isicelo yaye nezizathu zibekiwe. IGosa leeNkcukacha kwakhona malazise ukuba liza kuncedisa lowo ufake isicelo okanye limnike ithuba lokulungiasa impazamo.

## 15. IINTLAWULO EZIQUKIWEYO

15.1 Ngokubanzi, iintlawulo kufuneka zombini zihlawulwe xa kusenziwa isicelo kodwa kwakhona ukuvala iindleko zokunika ukufikelela kwiingxelo ngokubhekiselele kwisicelo. Kukhona, kungenjalo, okunye ukukhululwa. Ukuba lowo ufaka isicelo unikwa imvume yokufikelela kwiingxelo azicelileyo yaye angakhululwa ekuhlawuleni iintlawulo, njengoko kuboniswe kumhlathi 15.2 ngasezantsi, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha angahlawulisa iintlawulo ezibekiweyo ngolu hlobo lungasezantsi, -

**QAPHELA: Uhlobo lwentlawulo ngokubhekiselele kwiintlawulo ezihlawulwa kuMaqumrhu oLuntu nawaBucala lungahlolwa kwisiza se-intanethi soMlawuli.**

Into	Inkcazelo
1	Intlawulo yalowo ufaka isicelo, ehlawulwa ngulowo ufaka isicelo.
2	Ikopi efotiwewayo yephepha elilingana ne-A4
3	Ikopi eprintiwayo yephepha elilingana ne-A4
4	Kwikopi ekuhlobo olufundwa ngekhompyutha kwi: <ul style="list-style-type: none"> <li>(i) Flash drive (ukuba inikwe lowo ufake isicelo)</li> <li>(ii) Kwidiski yekhompyutha <ul style="list-style-type: none"> <li>• Ukuba inikiwe ngulowo ufaka isicelo</li> <li>• Ukuba uyinikiwe lowo ufaka isicelo</li> </ul> </li> </ul>
5	Ukuze kubhalwe imifanekiso ebonakalayo kwiphepha ngalinye elilingana ne-A4
6	Ikopi yemifanekiso ebonakalayo
7	Ukubhalwa kwengxelo emanyelwayo, kwiphepha ngalinye elilingana ne-A4
8	Ikopi yengxelo emanyelwayo kwi: <ul style="list-style-type: none"> <li>(i) Flash drive (ukuba inikwe lowo ufake isicelo)</li> <li>(ii) Kwidiski yekhompyutha <ul style="list-style-type: none"> <li>• Ukuba inikiwe ngulowo ufaka isicelo</li> <li>• Ukuba uyinikiwe lowo ufaka isicelo</li> </ul> </li> </ul>
9	Ukuze kujongwe yaye kulungiswe ingxelo ukuze ivezwe kwiyure nganye okanye indawo nganye yeyure, ngaphandle kweyure yokuqala, efuneka ngokuvakalayo koko kujongwa nolungiso. Ukuze kungadlulwa kwinkcitho yonke yoku
10	Inxalenye yentlawulo: Ukuba oko kujongwa kwedlula iiyure ezi 6
11	Ukuposa, i-imeyili okanye nakuphi na okunye ukuthunyelwa nge-intanethi

15.2 Lowo ufaka isicelo akudingeki ahlawule intlawulo yokufikelela<sup>17</sup> kwiqumrhu loluntu ukuba:

15.2.1 Akatshatanga yaye umvuzo wakhe ngonyaka, emva kokutsala kwezinto ezivumelekileyo, ezifana ne- **PAYE** kunye ne- **UIF**, ungaphantsi kwama **R14 712** ngonyaka, okanye

15.2.2 Utshatile yaye umvuzo wabo udibene neqabane lakhe, emva kwezinto ezivumeleke ukutsala ezifana ne- **PAYE** kunye ne-**UIF**, ungaphantsi kwama **R27 192** ngonyaka.

15.3 Nceda uqaphele ukuba iqumrhu loluntu okanye elabucala lingacela, kuXwebhu 4 kwiMimiselo, inxalenye yentlawulo kulowo ufake isicelo kodwa kuphela xa bekholelwa ukuba iinkcukacha okanye iingxelo ezifuniweyo ziza kuthatha ngaaphezu kweeyure ezintandathu (6) ukukhangela kodwa isiza senxalenye yentlawulo asikwazi ukuba ngaphezu kwesinye kwisithathu sentlawulo ebekiweyo.

## 16. IINGABA IGOSA LEENKCUKACHA LIZA KUMNCEDA LOWO UFAKA ISICELO UKWENZA ISICELO SE-PAIA?

16.1 Indima yaMagosa eeNkcukacha kunye/okanye uSekela Gosa weeNkcukacha kumaqumrhu omabini oluntu nawabucala kukuba, ngokubhekiselele kushicilelo lwesicelo zokufikelela kwiingxelo:

16.1.1 amkele isicelo se- **PAIA** okanye i- **POPIA**;

16.1.2 aququzelele ushicilelo lwesicelo kwiqumrhu;

16.1.3 enze isigqibo sokuba anganika okanye ale ukunika imvume yokufikelela kwiingxelo ezicelwayo;

16.1.4 anxulumane nalowo ufake isicelo (umzekelo, kufuneka babuze lowo ufake isicelo iinkcukacha ezibanzi okanye kufuneka bacele ukwandiselwa ixesha ukuze bajongane nesicelo eso, njl njl);

16.1.5 bacebise lowo ufake isicelo ngesiphumo sesicelo sabo se-**PAIA**, cebo eli kufuneka linikwe ngokukhawuleza kakhulu kodwa kwiintsuku ezingama 30 emva kokufumana isicelo. Ixesha lokuqala leentsuku ezingama 30 lingandiswa lakuba ixesha elandisiweyo elingekho ngaphezu kweentsuku ezingama 30, ukuba umzekelo, lowo ufake isicelo ukuvumile oko kwandiswa kwexesha okanye isicelo sifuna kukhangelwe iingxelo ezingakwazi kufunyanwa ngexesha ebelibekiwe lokuqala;

16.1.6 anike lowo ufake isicelo izizathu zesigqibo sokwala ukufikelela kwiingxelo. Kubaluleke kakhulu ukuba izizathu zokwala ezinikwayo zicace yaye zibeneenkukacha ezibanzi yaye maziquke oko kujongwe kuko, kumacandelo akhethekileyo e-**PAIA** (jonga umhlathi 19.4 ngasezantsi, ngokubhekiselele kwiimeko zokwala ukufikelela kwiingxelo<sup>18</sup>);

<sup>17</sup> ngokweSazisi sikaRhulumente R991 somhla we-14 Okthobha 2005

<sup>18</sup> Icandelo 33 ukuya ku- 46 le- PAIA

- 16.1.7 bazise abo bangabanye babandakanyekayo ngenkqubo yesaziso samaqela angamanye abandakanyekayo, ngiokubhekiselele kwicandelo lama 47 le-PAIA; yaye
- 16.1.8 ukuba kuyavunywa kufikelelwe kwiingxelo, kunikwe lowo ucelileyo ikopi yengxelo.
- 16.2 Xa kusaziswa lowo ufake isicelo malunga nesigqibo, kwakhona kunikwe iintloko zeziseko ezifumanekayo kwakunye namaxesha abekiweyo afanelekileyo (isiseko esifumanekaayo sahlukile kumaqumrhu oluntu nawabucala).
- 16.3 Indima eyongeziweyo kunye noxanduva lwamaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha yileyo ichazwe ngokubanzi kwiNqaku leSikhokelo kumaGosa eeNkcukacha kunye nooSekela maGosa eeNkcukacha, iNqaku leSikhokelo lifumaneka ku <https://www.justice.gov.za/infocore/docs.html>
- 16.4 Ngenxa yokuba indima yamaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha, ikukuququzelela isicelo sokufikelela kwiiNkcukacha, oku kukwathetha ukuba banemisebenzi eyahlukeneyo kwabo benza isicelo.
- 16.5 AmaGosa eeNkcukacha kunye/okanye ooSekela maGosa eeNkcukacha mabanike uncedo simahla.
- 16.6 AmaGosa eeNkcukacha kunye/okanye nooSekela-gosa beeNkcukacha bequmrhu lololuntu banale misebenzi ikhethekileyo ilandelayo:

### **Imisebenzi yamaGosa eeNkcukacha Inkcazelo**

#### **Ukuncedisa ekugcwaliseni uxwebhu**

iGosa leeNkcukacha malinike uncedo oluvakalayo kulowo ufaka isicelo xa kugcwaliswa uxwebhu yaye angangali ukwamkela uxwebhu olungagcwaliswanga kakuhle ngaphandle kokuba ulunikile olo ncedo okanye ukunikwa kolo ncedo kwaliwe.

#### **Ukunika iinkcukacha ezifanelekileyo**

Ukuba kwenzeka kakuhle, iGosa leeNkcukacha malinike lowo ufaka isicelo nazo naziphi iinkcukacha ezingafanela, nokuba akucelwanga ngokukhethekileyo.

#### **Ukuthumela isicelo kwenye indawo**

Lo ngumsebenzi obaluleke kakhulu. Xa kusenziwa isicelo se-**PAIA** kwiqumrhu loluntu elingelilo, iGosa leeNkcukacha malithumele isicelo kwiqumrhu



Ioluntu elililo **kwiintsuku ezili 14** lifumene isicelo yaye makazise lowo ufake isicelo ngembalelwano akuba enze oko. Kwakuba kuthunyelwe, iGosa leeNkcukacha elililo maliphendule ngesigqibo kwiintsuku **ezingama 30**.

**Ukuthatha ixesha ukukhulula ingxelo**

IGosa leeNkcukacha lingagqiba ukuthatha ixesha ukukhulula ingxelo iye kulowo ufake isicelo ukuba leyo ngxelo iza kushicilelwa kwiintsuku ezingama 90 okanye ukuba ingxelo ifunwa ngumthetho oza kushicilelwa kodwa oko kusaza kwenzeka.

- 16.7 Kumaqumrhu oluntu nawabucala, iGosa leeNkcukacha malithi, ukuba alikwazi kufumana iingxelo ezithile ezifuniweyo okanye likholelwa ukuba iingxelo azikho, lifake isiqinisekiso esenziwe emapoliseni okanye i-afidavithi<sup>19</sup> kulowo ufake isicelo, enika isaziso ukuba iingxelo ezikhankanyiweyo azikho okanye azifumaneki kodwa achaze kwakhona amanyathelo abawathathileyo ukuzifuna.

## 17. UNCEDO OLUFUMANEKA KUMLAWULI WEENKCUKACHA NGOKUBHEKISELELE KWI-PAIA NE-POPIA

- 17.1 IGosa leeNkcukacha lequmrhu loluntu linoxanduva lokunika olo ncedo<sup>20</sup>, simahla, nanjengoko kufanelekile ukwazisa lowo ufake isicelo okanye isihloko seenkcukacha ukuba alandele imeko yokufikelela njengoko icamngwe kumacandelo 18 e-**PAIA** necandelo 23 le-**POPIA**.
- 17.2 Nangona kunjalo, ukuba iGosa leeNkcukacha alikwazi kulandela msebenzi wakhe, ngokubekwe kumhlathi 17.1 ngasentla, lowo ufake isicelo okanye isihloko seenkcukacha, angafaka isikhalazo kuMlawuli yaye uMlawuli angathi, kwakuphandwa, akhuphe iSazisi sesiNyanzeliso esikhomba iGosa leeNkcukacha ukuba linike uncedo olufanelekileyo.
- 17.3 UMlawuli angathi, xa kusenzeka, ngokucelwa, ancedise nawuphi na umntu onomnqweno wokusebenzisa naliphi ilungelo elicamngcwe kwi- **PAIA** ne-**POPIA**<sup>21</sup>, yaye oku kuquka ukunika uncedo oluvakalayo, simahla, nanjengoko kufanelekile ukwenza lowo afake isicelo okanye isihloko seenkcukacha, ukuba ahambe ngendlela ecamngwe kumacandelo 18 nelama- 53 e- **PAIA** kunye necandelo 23 le-**POPIA**.
- 17.4 Oku kungasentla kuquka ukunika isikhokelo sendlela yokugcwalisa isicelo sokufikelela kuxwebhu okanye ukugcwalisa uxwebhu egameni lomntu ongafundanga okanye ongaboniyo.

<sup>19</sup> ICandelo 23(1) nelama 51(1) le- PAIA

<sup>20</sup> ICandelo 19(1) le- PAIA

<sup>21</sup> ICandelo 83(3)(c) le- PAIA

## 18. INGABA IGOSA LEENKCUKACHA LINGANDISA IMIDA YAMAXESHA ABEKIWEYO?

- 18.1 Inkcazelo yonke yenkqubo kunye nemida yamaxesha abekiweyo asemfanekisweni wenkqubo yesicelo ye-**PAIA**, kumhlathi 27 ngasezantsi. Ukubanemida yamaxesha yindawo ebalulekileyo kwi-**PAIA**, nanjengoko ilungiselela ukulawulwa kakuhle kwezicelo zokufikelela kwiingxelo.
- 18.2 Ukukukhumbuza, wakuba ufake isicelo sakho kakuhle kwiGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha, lowo kwenziwa kuye isicelo okanye lowo sithunyelwe kuye makaphendule ngokukhawuleza kakhulu kodwa **kwixesha elikwiintsuku ezingama 30<sup>22</sup>**. Nangona kunjalo, iGosa leeNkcukacha lequmrhu loluntu okanye labucala lingacela kanye **ukwandiselwa iintsuku ezingama 30<sup>23</sup>**, kodwa kuphela xa:
- 18.2.1 isicelo kuseseengxelo ezininzi okanye efuna iingxelo ezininzi eziza kuphandwa yaye kungekho kongezwa kwexesha, olu phando luza kuphazamisana nemisebenzi eqhelekileyo yeqela elikhankanyiweyo;
- 18.2.2 isicelo sifuna uphando ngokweengxelo ezikwi-ofisi yelo qumrhu engekho kwisixeko okanye idolophu enye yaye kungenakugqitywa **kwiintsuku ezingama 30**; kwaye/okanye
- 18.2.3 kufuneka elinye ibakala lokuququzelelwa ukuze kusetyenzwe ngeso sicelo, nto leyo ingenakugqitywa **kwiintsuku ezingama 30**.
- 18.3 IGosa leeNkcukacha kufuneka lazise lowo ufake isicelo ngenjongo yakhe yokwandisa ixesha lokuqala ebelibekiwe yaye abonise ixesha ekwandiswa ngalo. Isizathu sokwandisa ixesha yaye azise lowo ufake isicelo ngelungelo lakhe loku -
- 18.3.1 Ukubhenela kwigunya elifanelekileyo;
- 18.3.2 Ukukhalaza kuMlawuli okanye
- 18.2.3 Ukwazisa ngeenkqubo zasenkundleni ngakumba wokwandisa ixesha nanjengoko kungenzeka.
- 18.4 IGosa leeNkcukacha kwakhona malazise lowo ufake isicelo ngenkqubo yelungelo ngalinye kwakhankanywe ngasentla kwisazisi<sup>24</sup>.

## 19. IIMPENDULO KWISICELO SEENKCUKACHA

- 19.1 I-**PAIA** inike uluntu ilungelo lokucela ukufikelela kwiingxelo ezisuka kwiqumrhu loluntu okanye elabucala. Kudla ngokuchazwa njengomthetho ogcina abemi besazi malunga norhulumente wabo. Amaqumrhu oluntu kufuneka achaze iinkcukacha ezifunwayo phantsi kwe-**PAIA** ngaphandle kokuba oko kuwela ngaphantsi kwenye

<sup>22</sup> Icandelo 25(1) le-PAIA

<sup>23</sup> Icandelo 26(1) le-PAIA

<sup>24</sup> Icandelo 26(3) le-PAIA - ukwandiswa kwesazisi kufuneka kuchaze ukuba lowo ufake isicelo angafaka isibheni sangaphakathi, isikhalazo kuMlawuli weeNkcukacha okanye isicelo enkundleni, nanjengoko kungenzeka, ngakwimeko yokwandiswa kwexesha kunye nenkqubo (kuquka ixesha) lokufaka isibheni sangaphakathi, isikhalazo kuMlawuli weeNkcukacha okanye isicelo, nanjengoko kunganjalo.

**kwizinto ezikhululwe kuxanduva loko ezilishumi elinambini (12)** okanye izizathu zokuba kutheni ukufikelela kwiingxelo zequmrhu loluntu kungenzeka okanye kunganikwa<sup>25</sup> kwakunye **nezinto ezikhululwe kuxanduva ezisixhenxe (7)** okanye izizathu zokuba kutheni kungenakufikelelwa kwiqumrhu labucala<sup>26</sup>. Ukukhululwa kuxanduva okulishumi elinethoba (19) okunikwe kwi-**PAIA** kwenzelwe ukukhusela iimfuno ezifana nokukhuseleka komntu, ukhuseleko lwelizwe kunye nokunyanzeliswa komthetho.

19.2 Umgaqo-siseko okhokhelayo ngaphantsi kolawulo lwe-**PAIA** kukuqala kokungafihli nto. Oku kuthetha ukuba nasiphi isizathu sokumisela umda koku kungafihlini zinto makubenezizathu ezicavileyo. Amaqumrhu oluntu kwakhona makaqwalasele ukuba ukudandalazisa iinkcukacha kuyenzeka na xa bebona ukuba ukuziveza akwenzeki yaye mabaqhawule okanye balungise kwakhona iinkcukacha ezingenakuvezwa baze baveze eziseleyo.

19.3 lintlobo zeempendulo kwizicelo

19.3.1 Xa isicelo sokufikelela kwiinkcukacha senziwe, iGosa leeNkcukacha okaanye uSekela Gosa weNkcukacha makathi, ukuba isicelo sokufikelela kwingxelo sinikiwe okanye asinikwanga, azise lowo ufake isicelo ngoku -

- (a) Isigqibo sakhe; kunye
- (b) Neentlawulo ezihlawulwayo, ukuba zikhona,

kuxwebhu oluhambelana kakhulu **noXwebhu 3** lweSihlomelo A kwiMimiselo:

19.3.2 Nangona kunjalo, i-**PAIA** inika uluhlu lwezizathu okanye iimeko (ukukhululwa kokuthile) (jonga imihlathi 19.4 no- 19.6 ngasezantsi) zokuba kutheni isicelo singaliwa okanye kufuneka saliwe. Oku kubalulekile, nanjengoko isicelo singaliwa kuphela ngaphantsi kwezi meko zidwelisiweyo zokwala nemvume yokufikelela kwiingxelo.

19.3.3 Nangona kukho ezi zizathu zikhankanywe ngasentla zokwala nokufikelelwa kweengxelo, iGosa leeNkcukacha lequmrhu loluntu malinike isicelo sokufikelela kwingxelo yequmrhu ukuba iimfuno zoluntu ekuveleni kwengxelo yequmrhu ingaphaya kobungozi obubekwe kwizizathu ezidwelisiweyo ngokucacileyo<sup>27</sup>. Oku kuthetha ukuba lowo ufake isicelo angaxhomekeka kwiimfuno zoluntu nanini na iimeko zokwala ukufikelelwa kweengxelo zifuniwe.

19.3.4 Ngokufutshane, izizathu zokuba kutheni iinkcukacha zingenakuvezwa kubhekiselele ekubeni ukuvezwa kwezo nkcukacha kungenza ubungozi obukhulu kunokungabuzezi. Kukho iindidi ezimbini zeemeko ezidwelisiweyo zokwala ukufikelela kwiingxelo zequmrhu:

<sup>25</sup> Isahluko 4 se- PAIA- iimeko zokwala nemvume yokufikelela kwiingxelo (icandelo 34-45 le-PAIA)

<sup>26</sup> Isahluko 4 se- PAIA –iimeko zokwala nemvume yokufikelela kwiingxelo (icandelo 63-69 le- PAIA)

<sup>27</sup> icandelo 46 le- PAIA

## 19.4 Iimeko ezigunyazisiweyo zokwala (iimeko zokukhululwa)

19.4.1 Kwiimeko ezigunyazisiweyo, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makasale isicelo kuba sisebenza kwingxelo.

19.4.2 Akukho meko zigunyazisiweyo ngaphandle kwezokuzithathela izigqibo. Oku kulandelayo ziimeko ezigunyazisiweyo zokwala, yaye iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makasale isicelo kuba zibhekiselele kwingxelo -

### 19.4.2.1 **Ukhuselo olugunyazisiweyo lwemfihlo lowo umgomnye obandakanyekayo ongumntu ngokokuzalwa;**

IGosa leeNkcukacha lequmrhu loluntu okanye elabucala malivumele lowo ufake isicelo afikelele kwiinkcukacha zomntu umgomnye ukuba oko 'kuvela ngendlela engavakaliyo'. Amacandelo ngokwawo abonisa izizathu ezimbalwa xa oku kungenzeki, njengokuba xa iingxelo sele zisaziwa luluntu okanye apho umntu anike imvume. Umba wokunika imvume ubaluleke ngokukhethekileyo nanjengoko udibanisa nenye indawo yenkqubo lowo ufake isicelo ekufuneka ayazi, ebhekiselele ekwazisweni kwabanye ababandakanyekayo, ngokubhekiselele kwisahluko 5 se-PAIA.

### 19.4.2.2 **Ukukhuselwa okugunyazisiweyo kweengxelo ezithile zeNkonzo yeNgeniso yoMzantsi Afrika [South African Revenue Service];**

IGosa leeNkcukacha lase-SARS malingavumeli lowo ufake isicelo ukuba afikelele kwiingxelo ezifumanekileyo okanye ezigcinwe ngu-SARS ngeenjongo zakhe zokuqokelela irhafu. Nangona kunjalo, iingxelo ezifunyenwe okanye ezigcinwe ngu-SARS makungaliwa nazo ukuba isicelo senziwa ngumnini wazo okanye umntu lowo isicelo senzela yena.

### 19.4.2.3 **Ukukhuselwa okugunyazisiweyo kweenkcukacha zoshishino lwabo bangabanye babandakanyekayo;**

IGosa leeNkcukacha malivumele lowo ufakwe isicelo imvume yokufikelela kwiinkcukacha zorhwebo zomnye umntu (ngamanye amazwi, ongenguye lowo ufake isicelo okanye lowo sifakwa kuye). Oku kungaquka iinkcukacha ezifana neemfihlo zorhwebo, okanye ezingaphazamisana neemfuno zorhwebo zabanye ababandakanyekayo. Umzekelo, u-KFC usebenzisa iiresipi ezithile, kuquka izinongo ezenziwa liqela lesithathu, oko kuyimfihlo yorhwebo yelo qela lesithathu yaye ukuvezwa koko kungaphazamisa neemfuno zorhwebo zelo qela.

19.4.2.4 **Ukukhuselwa okugunyazisiweyo kweenkcukacha ezithile eziyimfihlo, kunye nokukhuselwa kwezinye iinkcukacha eziyimfihlo zeqela lesithathu elibandakanyekayo;**

AmaGosa eeNkcukacha equmrhu loluntu nelabucala makangavumeli lowo ufake isicelo afikelele kwingxelo ukuba ukukhutshwa kwayo kungalingana nokwaphula umsebenzi wokuthembeka ofunwa liqela elilenye elichaphazelekayo ngokubhwekiselele kwisivumelwano okanye ikontraki.

19.4.2.5 **Ukukhuselwa okugunyazisiweyo kokhuselo lwabantu kunye nokhuseleko lwendawo;**

IGosa leeNkcukacha lequmrhu loluntu okanye labucala malingavumeli lowo ufake isicelo ukuba afikelele kwiingxelo ukuba ukhukhutshwa kwazo kungathi ngokuvakalayo konakalise ukhuseleko lomntu. Kula macandelo afanayo, kukwachazwa ukuba iGosa leeNkcukacha lequmrhu lingala nemvume yokufikelela ukuba ingalimaza ukhuseleko lwesakhiwo okanye indawo.

19.4.2.6 **Ukukhuselwa okugunyazisiweyo kwamadokethi amapolisa kwiinkqubo zebheyili kunye nokhuselo lokunyaziselwa komthetho kunye neenkqubo zomthetho;**

IGosa leeNkcukacha lequmrhu loluntu malingavumeli lowo ufaka isicelo kwiingxelo ezifana neengxelo zenkqubo yebheyili esele zikhuselwe ngokwecandelo lama 60 loMthetho weeNkqubo zoLwaphulo-mthetho. Kweli candela linye, kukwachazwa kukwachazwa ukuba iGosa leeNkcukacha lequmrhu loluntu lingala nokufikelelwa kweengxelo zonyanzeliso mthetho eziveza iindlela zalo, amaqhinga, iinkqubo zokunqanda ulwaphulo-mthetho okanye ukugwetywa kwamatyala, kunye nezinye iingxelo ezihambelana neenkqubo zomthetho ezenzekayo.

19.4.2.7 **Ukukhuselwa okugunyazisiweyo kweengxelo ezinelungelo elisuka kwimveliso yeenkqubo zomthetho;**

IGosa leeNkcukacha lequmrhu labucala malivumele lowo ufake isicelo ukuba afikelele kwingxelo ukuba ingxelo inikwe ilungelo kwiinkqubo zomthetho, ngaphandle kokuba umntu onegunya lelo lungelo ulirhoxisile elo lungelo.

19.4.2.8 **Ukukhuselwa okugunyazisiweyo kweenkcukacha zophando kunye nokukhuselwa kweenkcukacha zophando lwequmrhu loluntu okanye elabucala.**

IGosa leeNkcukacha lequmrhu malingavumeli lowo ufake isicelo ukuba afikelele kwingxelo ukuba ingxelo leyo ibhekiselele kuphando olwenziwa okanye oluzakwenziwa liqumrhu elikhankanyiweyo yaye ukukhululwa kwazo kungenzeka kubhentsise umphandi, iqela lesithathu elibandakanyekayo okanye umba ophandwayo ube kwimo embi.

19.4.3 Nceda uqaphele ukuba ezi meko zingasentla zokugunyaziswa kokwala nokufikelelwa kweengxelo ngandlela ithile kuyafana kumaqumrhu oluntu nawabucala, ngaphandle kokukhuselwa okugunyazisiweyo kweengxelo ezithile zeNkoko yeNgeniso yoMzantsi Afrika **SARS**, zamadokethi esipolisa kwiinkonzo zebheyile, ukunyanzeliswa komthetho, ezisebenza kuphela kumaqumrhu oluntu.

19.4.4 Ukuba ingxelo idityaniswa nemeko ekhululwe kuxanduva oluthile, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wawo omabini amaqumrhu, eloluntu nelabucala uphantsi koxanduva lokuqwalasela ukuvezwa kweenkcukacha ezithile xa kusenzeka, nanini na xa bejonga ukuba ukuvezwa kwazo ngokupheleleyo akwenzeki yaye kufuneka bathathe amanyathelo avakalayo okuqhawula okanye okulungisa kwakhona la ndawo ingenakukhutshwa iye kulowo ucele iinkcukacha yaye kunikwe imvume yokufikelela kwiingxelo eziseleyo.

## 19.5 Ukuthatha njengokungavumi ngabom isicelo<sup>28</sup>

19.5.1 Ukungakwazi ukuphendula kakuhle kwiasicelo ngexesha elibekiweyo elililo kubonwa 'njengokwala ngabom'. Oku kubalulekile kuba i-**PAIA** ivumela lowo ufake isicelo ukuba acele umngeni kwisigqibo xa isigqibo singenziwanga yaye isicelo singahoywanga. Lowo ufake isicelo angachaza nje kwisibheni sakhe sangaphakathi ukuba khange kufunyanwe mpendulo.

19.5.2 Ukufunwa kokufikelela kwiingxelo kuthathwa njengokwala emva kokuphela kweentsuku ezingama 30 okanye ixesha elandisiweyo yaye iqumrhu loluntu okanye elabucala lingakwazanga kuphendula.

## 19.6 Imeko zokuzigqibela ukwala

19.6.1 Kwiimeko zokuzigqibela, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha angaqwalasela ukuba angala na okanye hayi kwisicelo eso kuba iimeko zibhekiselele kwingxelo eceliweyo. Ngenxa yokuba ikukuzigqibela, iGosa leeNkcukacha kufuneka lisebenzise ingqondo yalo ngokufanelekileyo xa ejonge iimeko ezahlukeneyo, ezizezi:

19.6.1.1 **Iimeko zokhuselo, ukhuseleko kunye neemeko zehlabathi zoMzantsi Afrika:** IGosa leeNkcukacha lingala ukufikelelwa kweenkcukacha ukuba ukukhutshwa kwazo kungasongela ngokwezizathu ukhuselo okanye ukhuseleko lwelizwe. Oku kungenzeka apho ukukhutshwa kweenkcukacha kungalimaza iimeko zoMzantsi Afrika nelinye ilizwe, njengokuveza iingxelo ezinikwe ziyimfihlo.

19.6.1.2 **Umdla woqoqosho, ezezimali noshishino:** IGosa leeNkcukacha lingala ukufikelelwa kweengxelo ukuba ukukhutshwa kwazo kuza kubayingozi kuqoqosho kunye nesimo sezimali zeRiphabliki;

<sup>28</sup> Icandelo 27 nelama 58 le-PAIA

19.6.1.3 **Iinkqubo zamaqumrhu oluntu:** IGosa leeNkcukacha lequmrhu loluntu lingala ukufikelelwa kweenkcukacha ukuba ukukhutshwa kwazo kungathintela iinkqubo, umzekelo, ukuba lizama ukwenza umgaqo-nkqubo okanye ukuxoxa ngomba othile;

19.6.1.4 **Izicelo ezingathandabuzekiyo okanye ezikhathazayo:** AmaGosa eeNkcukacha angasala isicelo seenkcukacha ukuba banombono wokuba ukuqhuba nesicelo kuzakutya ixesha ngesizathu esingekhoyo yaye kungakhokhelela ekufeketheni ngeziseko. Ukongeza, bangala nemvume yokufikelela kwiingxelo ukuba isicelo sibonwa njengokuba senziwe ngulowo ufake isicelo ukudika okanye ukucaphukisa ngokungenamfuneko.

## 20. UKUGUNYAZISWA KOKUVEZWA KWEENGXELO NGENXA YOMDLA WOLUNTU

20.1 Nokuba kukho imeko yokuzithandela okanye yokugunyaziswa kokwala neengxelo ngokubhekiselele kwisicelo sokufikelela kwiingxelo zoluntu okanye ezabucala, kungenzeka ukuba umdla woluntu wokuvezwa kwengxelo ubaluleke kakhulu kunengozi eyenziwe kukukhutshwa kwengxelo.

20.2 Apho kukho ukubaluleka kweemfuno zoluntu njengoko kubekwe ngasentla yaye ukuvezwa kwengxelo kungaveza ubungqina bolwaphulo olukhulu, okanye ukungakwazi ukulandela umthetho okanye ukhuseleko loluntu olubi nolungagungqiyo okanye ubungozi eluntwini, ngoko iGosa leeNkcukacha lequmrhu malinike isicelo sokufikelela kwengxelo nangona kukho imeko zokukhululwa koxanduva ezibekwe ngasentla.

## 21. INKQUBO YOKWAZISWA KWABANYE ABABANDAKANYEKAYO<sup>29</sup>

21.1 IGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha weqela kufuneka, ngokubhekiselele kumacandelo 47 nelama 71 e-**PAIA**, athathe onke amanyathelo avakalayo ukwazisa abanye ababandakanyekayo malunga nesicelo seengxelo zakhe ekungenzeka kubeyingxelo equka iinkcukacha zomntu mhlawumbi,

21.1.1 Ingxelo yase-**SARS**;

21.1.2 Iimfihlo zorhwebo;

21.1.3 Iinkcukacha, ukukhululwa kwazo ekungenza imeko zenyathelo lokophula intembeko okanye iinkcukacha zophando ezingaveza kakubi umntu okanye umba wesihloko ebungozini obukhulu.

21.2 Isaziso esiya kwabanye ababandakanyekayo abaneengxelo okanye iinkcukacha ezisisihloko sesicelo mabameme abo bangabanye babandakanyekayo ukuba -

<sup>29</sup> Icandelo 47 lo 71 le-PAIA



- 21.2.1 bamelwe ngokuthi kubhalelwe okanye kuthethwe neGosa leeNkcukacha ukuba kutheni isicelo sokufikelela kwiinkcukacha kufuneka saliwe; okanye
- 21.2.2 banike imvume yokuvezwa kweengxelo kulowo ufake isicelo.
- 21.3 Okubalulekileyo kulowo ufake isicelo, i-**PAIA** ithi izaziso ezibhaliweyo eziya kwabanye ababandakanyekayo mazithunyelwe kwabo babandakanyekayo kwiintsuku ezingama 21 zokuba kufunyenwe isicelo yaye iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makazise lowo ufake isicelo ukuba sithunyelwe isaziso kwabo bangabanye babandakanyekayo.
- 21.4 Kwakuba kuthunyelwe isaziso, iGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha makathi ngoko enze isigqibo sokugqibela ukuba azikhulule okanye angazikhululi iingxelo kwiintsuku ezingama 30 zokuthunyelwa kweso saziso.
- 21.5 Abo bangabanye babandakanyekayo mabaziswe ngesigqibo esithathiweyo kunye nezizathu ezivakalayo zokunika isicelo kufuneka zinikwe. Abanye ababandakanyekayo kwakhona mabaziswe ngelulengo kwanenkqubo yokucela umngeni kwisigqibo njengoko siboniswe kumhlathi 22 ongasezantsi.

## **22. ULUNGISO OLUSEMTHETHWENI OLUFUMANEKAYO OLUJONGENE NEZIGQIBO OKANYE UKUNGAKWAZI KUTHATHA SIGQIBO LIGOSA LEENKCUKACHA OKANYE USEKELA GOSA WEENKCUKACHA**

- 22.1 Inyathelo ekufuneka lithathwe kwakuba kwenziwe isigqibo ngakwisicelo
  - 22.1.1 Umceli angathatha inyathelo lokulandelela ngembalelwano, kwisigqibo esilindelweyo seGosa leeNkcukacha okanye uSekela GHosa weeNkcukacha. Kukhuthazwa ukuba lonke unxibelelwano phakathi kwalowo ufake isicelo kunye neGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha lube ngembalelwano ukulungiselela iinjongo zokuphinda kujongwe oko kwixesha elizayo.
  - 22.1.2 Kukho iinkqubo ezahlukeneyo zamaqumrhu karhulumente nawabucala, ingakumbi ngokubhekiselele kwizibheni zangaphakathi. Umzekelo, ngokubhekiselele kwisicelo sokufikelela kwingxelo yequmrhu loluntu, lowo ufake isicelo makathi kuqala afake isibheni ngaphakathi ngaphambi kokuya kuMlawuli okanye eNkundleni. Nangona kunjalo, akukho sibheni sangaphakathi ngakwisigqibo (nokuba ukunika okanye ukwala nemvume yokufikelela kwiingxelo)
  - 22.1.3 okanye ukwala ngabom ukufikelelwa kweengxelo zequmrhu labucala.

Eli candelo liza kuchaza ulungiso olusemthethweni olufumanekayo kwabo bafaka isicelo abanomnqweno wokucela umngeni kwezo zigqibo, eziquka izibheni zangaphakathi, ukufaka isikhalazo kuMlawuli kunye nezicelo eziya eNkundleni. Jonga kwakhona umfanekiso we-**PAIA** wenkqubo ekuhanjwa ngayo yesicelo kumhlathi 27 ngasezantsi.

22.1.4 Lowo ufake isicelo angathi, kwezinye izinto, acele umngeni kwesi sigqibo silandelayo sequmrhu likarhulumente kunye/okanye labucala. -

- 22.1.4.1 ithenda okanye ukuhlawulwa kwentlawulo yesicelo;
- 22.1.4.2 ithenda okanye ukuhlawulwa kwenxalenye yentlawulo;
- 22.1.4.3 intlawulo yokufikelela eza kuhlawulwa izakuba nkulu kakhulu;
- 22.1.4.4 uhlobo lokufikelela olunikiweyo;
- 22.1.4.5 ukwaliwa kwesicelo;
- 22.1.4.6 inkqubo (kuquka ixesha) lokufaka isibheni sangaphakathi;
- 22.1.4.7 ixesha elingelilo elandisiweyo elithathwe ukuphendula isicelo sokufikelela kwiingxelo;
- 22.1.4.8 ukungakwazi ukuchaza iingxelo;
- 22.1.4.9 ukunikwa isicelo sokufikelela kwiingxelo;
- 22.1.4.10 ukwala ukunika isicelo sokurhoxisa iintlawulo;

## 22.2 Ulungiso lwangaphakathi

22.2.1 Lowo ufaka isibheni ubhena kanjani ngaphakathi ngakwisigqibo sequmrhu loluntu?

- 22.2.1.1 Isibheni sangaphakathi singafakwa kuphela, ngokubhekiselele kwicandelo 74 le-**PAIA**, kwigunya elifanelekileyo lendawo ethile kurhulumente welizwe okanye owephondo okanye nawuphi umasipalati kwindawo esekuhlaleni karhulumente njengoko imeko ingatsho.<sup>30</sup>
- 22.2.1.2 Ngako oko, umzekelo, uMasipalati weSixeko saseGoli [City of Johannesburg] ngumzekelo wendawo esekuhlaleni apho isibheni sangaphakathi singafakwa khona. INgxowa-mali yeeNgozi zeNdlala [Road Accident Fund] okanye uMlawuli ngumzekelo wequmrhu loluntu elingeyondawo karhulumente welizwe, owephondo nowasekuhlaleni, nanjengoko kubekwe kumthetho-siseko yaye ke ngoko isibheni sangaphakathi singangafakwa ngakuye.

<sup>30</sup> Icandelo 74(1) le-PAIA

22.2.1.3 Xa lowo ufake isicelo okanye abanye ababandakanyekayo bengonwabanga sisigqibo esenziwe liGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha welizwe, owephondo okanye indawo esekuhlaleni karhulumente, lowo ufake isicelo okanye abanye ababandakanyekayo banelungelo lokufaka isibheno sangaphakathi, ngokubhekiselele kwicandelo 74(1) okanye (2) le- **PAIA**. Inkqubo yokufaka isibheno ibekwe kwincwadana ye-**PAIA** yelo qumrhu yaye indlela yokufaka isibheno sangaphakathi kwakhona ichazwe banzi apha ngasezantsi.

22.2.1.4 Ukuba impendulo esuka kwindawo karhulumente welizwe, owephondo okanye owasekuhlaleni ibonwa njengokwala ngabom, ngamanye amazwi, ayikwazanga kuphendula kwisicelo kwiintsuku ezingama 30 okanye naliphi ixesha elandisiweyo, lowo ufake isicelo angafaka isibheno sangaphakathi, ngokweenkqubo ezibekiweyo apha, ngaphambi koko lowo ufake isicelo angaya kuMlawuli okanye iNkundla.

## 22.3 Ukugcinwa kweengxelo kude kunikwe isigqibo sokugqibela kwisicelo okokugqibela.

22.3.1 IGosa leeNkcukacha lenqanaba likarhulumente weLizwe, owePhondo okanye owasekuHlalani apho kwenziwa isibheno sangaphakathi, ngokubhekiselele kwicandelo 21 le-**PAIA**, lifanele lithathe amanyathelo afanelekileyo okugcina ingxelo yaye alikwazi ukususa okanye litshabalalise nayiphi ingxelo efuniweyo kude kufike ixesha apho, njengazo zonke okanye naziphi iinkqubo kwisibheno sangaphakathi okanye isikhalazo kuMlawuli okanye isicelo esiya enkundleni, njengoko kungenzeka, zibe ziyagqitywa.

22.3.2 Oku kuthetha ukuba igosa leenkcukacha alikwazi kususa okanye litshabalalise naziphi na iinkcukacha eziceliweyo, kungekagqitywa nayiphi inkqubo ebekiweyo kumhlathi 22.3.1.1 ngasentla.

## 22.4 Isibheno sangaphakathi kufanele sisiwe kubani?

22.4.1 Nangona isibheno siza kuqwalaselwa ligunya elifanelekileyo, isibheno sangaphakathi masinikwe okanye sithunyelwe kwiGosa leeNkcukacha leNqanaba likaRhulumente weLizwe, wePhondo okanye owasekuHlalani, njengoko kungenzeka, kwidilesi yakhe, inombolo yefeksi okanye idilesi ye-imeyili<sup>31</sup>, inkcukacha zayo zingafunyanwa kwincwadana ye-**PAIA** okanye njengoko ingafunyanwa kuMlawuli.

22.4.2 IGosa leeNkcukacha lesizwe, elephondo okanye inqanaba lasekuhlaleni, njengoko kungenzeka, linoxanduva ngokubhekiselele kwicandelo 75(4) le-**PAIA**,

<sup>31</sup> Icandelo 75(1)(b) le-PAIA

lokufaka isibheno kwigunya lesibheno, kunye nezizathu zakhe zesigqibo eziphantsi kwesibheno. Ukufakwa kwesibheno kwigunya elifanelekileyo makwenziwe kwiintsuku ezili 10 emva kokufunyanwa kwesibheno.

## 22.5 Ngubani igunya elifanelekileyo?

22.5.1 Igunya elifanelekileyo, apha elibizwa “ngegunya lesibheno” ngokubanzi yintloko yopolitiko yequmrhu elikhankanyiweyo (nangona lo msebenzi ungonyulelwa umntu ngokusemthethweni) yaye ngokukhethekileyo kubhekiswe kulo mntu ulandelayo-

IQumrhu loLuntu ("uRhulumente")	IGunya eliFanelekileyo ("Igunya leSibheno")
<b>I-Ofisi yoBongameli</b>	Umntu obekwe ngembalelwano, nguMongameli, ukuba ukhona, kungenjalo uMongameli ligunya lesibheno
<b>ISebe leLizwe</b>	UMphathiswa onoxanduva loko okanye umntu obekwe ngembalelwano ngulowo Mphathiswa
<b>I-Ofisi yeNkulumbuso</b>	Umntu obekwe ngembalelwano yiNkulumbuso.
<b>ISebe lePhondo</b>	ILungu leKhansile yoLawulo ( <b>MEC</b> ) elinoxanduva lwelo Sebe lePhondo okanye umntu ebekwe ngembalelwano ngu- <b>MEC</b> ;
<b>UMasipalati</b>	USodolophu, uSomlomo okanye nawuphi na umntu obekwe ngembalelwano yiKhansile kaMasipalati yalowo masipalati;

22.5.2 Nayiphi na enye imeko, apho ingeyiyo i-ofisi yeNkulumbuso: ilungu lekomiti yolawulo elinoxanduva lwequmrhu loluntu okanye umntu obekwe ngembalelwano lelo lungu.

22.5.3 Ukuba igunya lokubhena liyasiphumeza isigqibo seGosa leeNkcukacha, ngako oko isibheno sangaphakathi siyaliwa kuze kume isigqibo sokuqala seGosa leeNkcukacha. Nangona kunjalo, ukuba igunya lesibheno alivumelani nesigqibo seGosa leeNkcukacha, ngoko kunikwa isibheno yaye isigqibo sokuqala siyabhukuqwa.

22.5.4 Isigqibo seGosa leeNkcukacha simile. Nangona kunjalo ukuba igunya elisetyenzisiweyo alivumelani nesigqibo seGosa leeNkcukacha kuthi kunikwe isibheni kwaye isigqibo sokuqala siyajikwa.

## 22.6 Ngubani ongafaka isibheni sangaphakathi?

22.6.1 Nawuphi na umntu ocelileyo onesicelo sakhe se-**PAIA** sokufikelela kwiingxelo zeNqanaba leLizwe, iPhondo okanye ekuHlaleni, njengoko kunganjalo, esaliweyo yaye ekholelwa ukuba enye yeemeko zesibheni ezidweliswe kumhlathi 22.2.4 ngasentla ziyasebenza kwisicelo sakhe, unelungelo lokufaka isibheni sangaphakathi.

22.6.2 Abanye ababandakanyekayo bangafaka izibheni zangaphakathi ngakwisigqibo esenziweyo liGosa leeNkcukacha ukunika imvume yokufikelela kwiingxelo ababandakanyeka kuyo. Ukuba isibheni sangaphakathi siquka abanye ababandakanyekayo, igunya lesibheni elifumene isibheni sangaphakathi kufuneka azise abo babandakanyekayo bangabanye (ngako oko uxanduva luyasuka kwiGosa leeNkcukacha liye kwigunya lesibheni).

## 22.7 Ixesha apho kungafakwa ngalo isibheni

22.7.1 Isibheni sangaphakathi masifakwe -

22.7.1.1 **kwiintsuku zingama 60**<sup>32</sup> emva kokuba kwathathwa isigqibo;

22.7.1.2 **kwiintsuku ezingama 30**<sup>33</sup> emva kokunikwa kwesaziso kwabanye ababandakanyekayo besigqibo ekubhenwa ngakuso

22.7.2 Ukufaka isibheni sangaphakathi emva kwexesha elikhankanyiwe ngasentla (mva) kungangavunyelwa, ngaphandle kokuba kunikwe isizathu esivakalayo sokufakwa kade kwigunya lesibheni. Umzekelo, njengokulaliswa esibhedlele ngaphezu kweentsuku ezingama 60, oko kungamkelwa njengezizathu ezivakalayo zokufaka kade.

22.7.3 Ukuba igunya lokubhena alikwamkeli ukufakwa kwesicelo sokubhena kwangaphakathi kade, kufuneka likunike izizathu zokukhaba isibheni yaye linike isikhokelo sazo naziphi iinkcukacha ezongeziweyo, ukuba zikhona, ezifuneka ukuze kwamkelwe isibheni. Igunya lesibheni malikucebise malunga nenkqubo yokufaka isikhaziso ngakwisigqibo soMlawuli okanye inkundla ukuba sikhona, esifuneka ukuze kwamkelwe isibheni ukuba sikhona, esifuneka ukuze kwamkelwe isibheni.

<sup>32</sup> Icandelo 75(1)(a)(i) le-PAIA

<sup>33</sup> Icandelo 75(1)(a)(ii) le-PAIA

22.7.4 Njengoko kuboniswe ngasentla, isibheno sakho masifakwe liGosa leeNkcukacha kwigunya lesibheno kwiintsuku ezili 10 emva kokufunyanwa kwesibheno sangaphakathi<sup>34</sup>.

## 22.8 Isaziso sesibheno esenziwa ligunya lesibheno kulowo ufake isicelo okanye abanye ababandakanyekayo

22.8.1 Igunya lesibheno malithi, ngokukhawuleza kangangoko linakho kodwa kwiintsuku ezingama 30 emva kokufunyanwa kwesibheno sangaphakathi<sup>35</sup>, azise

22.8.1.1 abo babandakanyekayo apho ingxelo okanye abo ingxelo ephantsi kwesibheno kuyeyabo, okanye

22.8.1.2 lowo ufake isicelo malunga nesibheno sangaphakathi ngasekunikweni kwesicelo semvume yokufikelela kwiinkcukacha.

22.8.2 Lowo ufake isicelo okanye abanye ababandakanyekayo ekunikwa bona isaziso, bangathi **kwiintsuku ezingama 21** emva kokunikwa kwesaziso, benze iimbalelwano yokumelwa kwigunya lesibheno ukuba kutheni isicelo sokufikelela kufuneka sinikwe okanye singanikwa.

## 22.9 Isigqibo kwisibheno sangaphakathi kunye nesaziso saso<sup>36</sup>

22.9.1 Igunya lesibheno kufuneka ligqibe ngesibheno sangaphakathi ngokukhawuleza kangangoko kodwa kuyo nayiphi imeko kwiintsuku ezingama 30:

22.9.1.1 emva kokuba isibheno sangaphakathi sifunyenwe liGosa leeNkcukacha lequmrhu;

22.9.1.2 emva kokuba kwaziswe abanye ababandakanyekayo, njengoko kuboniswe kumhlathi 22.3.6.1 ngasentla.

22.9.2 Isigqibo segunya lesibheno masaziswe kulowo mbheni, abanye ababandakanyekayo kunye nalowo ufake isicelo. Isigqibo segunya lesibheno masikhatshwe zizizathu ezivakalayo zesigqibo, kuquka oko kunikwe kwi-**PAIA** okanye i-**POPIA** ekoyanywe ngako.

22.9.3 Ukuba igunya lesibheno alikwazi kunika isaziso sesigqibo kwisibheno sangaphakathi kumbheni kwiintsuku ezingama 30, isibheno sithathwa ngokuba simisiwe yaye lowo ufake isicelo angaqhubeka nokufaka isikhalazo kuMlawuli okanye aye eNkundleni ukuze afumane ukukhululwa okufanelekileyo<sup>37</sup>.

<sup>34</sup> Icandelo 75(4) le-PAIA

<sup>35</sup> Icandelo 76(2)(a) le-PAIA

<sup>36</sup> Icandelo 77 le-PAIA

<sup>37</sup> Icandelo 77(7) le-PAIA

## 22.10 Ukugcwalisa uXwebhu 4 lwesibheno sangaphakathi

- 22.10.1 Ukuze kubhenwe ngakuso nasiphi isigqibo esenziwe linqanaba likaRhulumente weLizwe, owePhondo okanye owasekuHlalani, lowo ufake isicelo makafake isibheno sangaphakathi ngokugcwalisa uXwebhu 4. UXwebhu 4 malufakwe kwiGosa leeNkcukacha elifanelekileyo, ekufuneka liluthumele kwigunya lesibheno, njengoko kubekwe ngasentla.
- 22.10.2 UXwebhu 4 lufumaneka kwisiza se-intanethi soMlawuli, <https://www.justice.gov.za/infoereg/>, kwakunye nesiza se-intanethi senqanaba likaRhulumente elibandakanyekayo.
- 22.10.3 IGosa leeNkcukacha okanye uSekela Gosa weeNkcukacha wenqanaba likaRhulumente elibandakanyekayo alikho phantsi kokuzibophelela ukunceda lowo ufake isicelo ukuba agcwalise uxwebhu lwesibheno sangaphakathi, nangona kunjalo, lowo ufake isicelo usengacela iGosa leeNkcukacha ukuba limncede koku.
- 22.10.4 Apha ngasezantsi kukho inkqubo yenyathelo ngalinye lokugcwalisa uxwebhu lwesibheno sangaphakathi -

### linkcukacha Ezifunwayo

### Inkcazelo

#### linkcukacha zequmrhu loluntu

Eli candela kufuneka liquke igama lendawo kaRhulumente weLizwe, owePhondo nowasekuHlalani obandakanyekayo kunye negama kunye nefani yeGosa leeNkcukacha.

#### linkcukacha zombheni ofaka isibheno sangaphakathi

Eli candelo kufuneka ligcwaliswe ngumbheni, nokuba umelwe okanye hayi. Amagama apheleleyo kunye nefani, inombolo yesazisi kunye nesikhundla akuso, apho isibheno sangaphakathi senziwa khona egameni lomnye umntu, ukuba kufanelekile, masinikwe. Ukuba isibheno sesesikhundla sakhe, eso sikhundla masibhalwe phanmtsi. ezongezwayo ezifunekayo ziquka iinkcukacha zoqhagamshelwano zalowo ufaka isicelo: idilesi yeposi, idilesi ye-imeyili,



Iinkcukacha Ezifunwayo	Inkcazelo
	<p>inombolo yefeksi kunye/okanye eyomnxeba. Ezi nkcukacha kufuneka zifane nezesicelo sokuqala. Ukuba umntu ofaka isicelo ngumntu omele lowo ufake isicelo, ubungqina besikhundla sokufaka isibheni mabuqhoshelwe kolo xwebhu.</p>
<p><b>Iinkcukacha zomntu lowo isicelo senziwa egameni lakhe (ukuba sifakwe ngomnye obandakanyekayo)</b></p>	<p>Eli candela lifuna kuphela ukugcwaliswa ngumntu ocela iinkcukacha zomnye umntu. Ukuba umntu ofaka isibheni sangaphakathi akunguye lowo wayecele iinkcukacha kuqala, iinkcukacha zalowo ufaka isicelo mazifakwe apha. Ukuba isicelo umntu uyazenzela, le ndawo ayifuni kugcwaliswa.</p>
<p><b>Isigqibo ngasekufakweni kwisibheni sangaphakathi</b></p>	<p>Uxwebhu lunika indawo yalowo ufake isicelo ukuba abonise ngo “x”, ukuba yeyiphi kwiimeko ezidwelisiweyo engena kwisibheni.</p>
<p><b>Iimeko zokubhena</b></p>	<p>Phantsi kweli candelo, lowo ufake isicelo kufuneka achaze ngokubanzi ukuba kutheni ecinga ukuba kusebenze iimeko zesibheni. Kufuneka anike izizathu/isizathu sokuba kutheni ecinga ukuba isigqibo seGosa leeNkcukacha asilunganga. Kwakhona kufuneka aqhosele nayiphi na imiqulu exhasa isibheni. Uludwe lwezizathu ezinika inkxaso ngakwisibheni zingachazwa banzi kwiphepha elilelinye, ukuba indawo enikiweyo kuxwebhu ayonelanga.</p>

Ngako oko, umntu kwakhona makafake yonke into ethe yenzeka ukusuka phantsi ukuya phezulu, kude kufikelele kwisibheni sangaphakathi. Kwiphepha elilelinye, ubani angathi ajonge kumacandelo akhethekileyo e-**PAIA** njengesiseko sesibheni.

**Isaziso sesigqibo sesibheni**

Kubekwe indawo yernkcazelo yendlela isigqibo esingathunyelwa ngayo, umzekelo, ngeposi, ikhuriya okanye uhlobo olukhawuleza kakhulu lokuposa okanye i-imeyili. Nceda ukhethe indlela oyikhethayo yokwaziswa.

- 22.10.5 Lo gama kungekho kuthintelwa ngasekubeni ufumane igqwetha elikuncedisa kuso nasiphi isigaba sesicelo seenkcukacha, iinkqubo ezahlukeneyo ze-**PAIA** zenzelwe ukusetyenziswa lula, kususwa imfuneko yegqwetha kunye neentlawulo zomthetho ezingakhona.

**23. ISIKHALAZO ESIYA KUMLAWULI WEENKCUKACHA**

- 23.1 Lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe yonke inkqubo yokubhena yangaphakathi ngakwisigqibo seGosa leeNkcukacha lenqanaba likarhulumente welizwe, owephondo okanye owasekuhlaleni. Oku kuthetha ukuba ubani angafaka isikhalazo sakhe, ngakwinqanaba elithile likarhulumente kuMlawuli, ukuba akasonwabelanga isigqibo segunya lesibheni. UMlawuli uza kukhaba isikhalazo ukuba inkqubo yesibheni kwinqanaba elifanelekileyo likarhulumente aligqitywanga.
- 23.2 Nangona kunjalo, ngokubhekiselele kwiqumrhu loluntu (ngokubhekiselele kwisibheni sangaphakathi oko akwenzeki) kunye nequmrhu labucala, lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli, ukuba abonelisekanga sisigqibo sequmrhu elibandakanyekayo.
- 23.3 Isikhalazo esiya kuMlawuli sisenziwa ngulowo ufake isicelo okanye abanye ababandakanyekayo masifakwe kwiintsuku ezili 180 kufunyenwe isigqibo esisuka kwiqumrhu.

## 23.4 Lowo ufake isicelo angafaka isikhalazo kuMlawuli, ukuba akonwabanga koku -

23.4.1 isiphumo sesibheno sangaphakathi kwiqinisekiso lesibheno lenqanaba likarhulumente;

23.4.2 isiphumo segunya lesibheno sokungavumeli kufakwa kade kwesibheno sangaphakathi;

23.4.3 isigqibo seGosa leeNkcukacha lequmrhu loluntu esingeyondawo yalo naliphi inqanaba likarhulumente kukuba

23.4.3.1 lale isicelo semvume yokufikelela; okanye

23.4.3.2 landise ixesha lokujongana nesicelo; okanye

23.4.3.3 linike imvume yokufikelela ngohlobo oluthile.

23.4.4 Isigqibo sentloko yequmrhu labucala kukuba -

23.4.4.1 lale isicelo semvume yokufikelela; okanye

23.4.4.2 anyanzelise ukuhlawulwa komrhumo wokufaka isicelo okanye inxalenye yentlawulo yomrhumo wokufikelela kwiinkcukacha; okanye

23.4.4.3 andise ixesha lokujongana nesicelo; okanye

23.4.4.4 anike imvume yokufikelela kwiinkcukacha ngohlobo oluthile.

## 23.5 Abanye ababandakanyekayo bangafaka isikhalazo kuMlawuli, ukuba akakonwabeli oku -

23.5.1 isiphumo sesibheno sangaphakathi kwiqinisekiso lokubhena kwiinqanaba likarhulumente elifanelekileyo;

23.5.2 isigqibo seGosa leeNkcukacha sequmrhu loluntu elingeyonxalenye yalo naliphi inqanaba likarhulumente, sokunika isicelo semvume yokufikelela kwiinkcukacha; okanye

23.5.3 isigqibo sentloko yequmrhu labucala sokunika isicelo sokufikelela kwiinqanaba yelo qumrhu,

## 23.6 Ingaba umntu ukhalaza njani kuMlawuli?

- 23.6.1 Isikhalazo esiya kuMlawuli kwakhona masenziwe ngembalelwano yaye kufuneka kugcwaliswe uxwebhu wesikhalazo, nokuba kungesandla okanye kwi-intanethi. Uxwebhu lwesikhalazo, uXwebhu 5, lungakhutshelwa kwisiza se-intanethi soMlawuli, <https://www.justice.gov.za/inforeg/>
- 23.6.2 Oku kuthetha ukuba uMlawuli akayi kwamkela isikhalazo ngomnxeba; nangona kunjalo, uMlawuli kufuneka anike uncedo oluvakalayo kuye nabani onqwenela ukwenza isikhalazo yaye oku kuquka uncedo olubhekiselele ekugcwalisweni koxwebhu lwesikhalazo.
- 23.6.3 Ukuba ubani ucela umngeni kwisigqibo seGosa leeNkcukacha lequmrhu labucala, kufuneka anike ubungqina obaneleyo ukubonisa ukuba ingxelo eceliweyo ifunelwa ukusebenzisa okanye ukukhusela nalo naliphi na ilungelo/amalungelo. Ukufikelela kwiingxelo zequmrhu labucala kunganikwa kuphela ukuba umntu angabonisa ukuba ufuna ukusebenzisa okanye ukukhusela nalo naliphi na ilungelo/amalungelo ngengxelo efuniweyo.

## 23.7 23.7 Kwenzeka ntoni emva kokufumana isikhalazo?

- 23.7.1 Emva kokufunyanwa kwesikhalazo somntu, uMlawuli makathi -
- 23.7.1.1 aphande isikhalazo yaye ajonge koko akufumeneyo kwiKomiti yoNyanzeliso ngesikhalazo; okanye
- 23.7.1.2 angathathi nyathelo ngesikhalazo ngenxa yokuba -
- 23.7.1.2.1 isikhalazo khange sifakwe kwixesha leentsuku ezili 180 ezinikiweyo yaye akukho meko zivakalayo zokuphumeza ukufakwa kade kwesikhalazo;
- 23.7.1.2.2 isikhalazo asinanjongo inzulu okanye siyaxhalabisa okanye asenziwanga ngokuthembekileyo; okanye
- 23.7.1.2.3 lakuba lijonge kuzo zonke iimeko zetyala, naliphi inyathelo elilandelayo akukho mfuneko yayo okanye ayifanelekanga. Umzekelo iinkcukacha eziceliweyo sele zifumaneka eluntwini.
- 23.7.1.3 apho kufanelekileyo lixolelanise okanye lisebenzise ezona nzame zalo ukukhusela oko kulungelelaniswa okanye lincedise amaqela ukuba alungise kakuhle loo mpikiswano; yaye

23.7.1.4 lisebise lowo ukhalazayo kunye neGosa leeNkcukacha, elo iinkcukacha zibhekiselele kulo, ngenkqubo yenyathelo elithathiweyo.

## 23.8 **Unxibelelwano lokuqala loMlawuli kulowo ukhalazayo kunye neGosa leeNkcukacha ngokubhekiselele kwisikhalazo esifakiweyo**

23.8.1 Ukuba uMlawuli ugqiba ukuba angathathi nyathelo lilelinye ngakulowo ukhalazayo, uMlawuli uza kwazisa lowo ufake isicelo ngeso sigqibo kunye nezizathu zokungathathi nyathelo lilelinye ngesikhalazo.

23.8.2 Ukuba uMlawuli ugqiba ekubeni aphande isikhalazo, lowo ufake isicelo uza kufumana ileta emcebisa ukuba uMlawuli ugqibe ukuba aqhube uphando.

23.8.3 Emva kokufunyanwa kwesikhalazo, uMlawuli uza kunikezela ngeenkcukacha zesikhalazo kwiGosa leeNkcukacha lequmrhu elifanelekileyo yaye alicele ukuba lizinike uMlawuli, impendulo ebhaliweyo yesikhalazo.

## 23.9 **Amagunya okuphanda oMlawuli**

23.9.1 Umlawuli unamagunya, ngokubhekiselele kwicandelo 77G(2) le-**PAIA**, ukuba -

23.9.1.1 asebenzise ezona nzame zakhe ukukhusela oko kulungelelaniswa kwenziweyo;

23.9.1.2 akhuphe isamani yaye anyanzelise ukuvela kwabantu ngaphambi koMlawuli;

23.9.1.3 abanyanzele ukuba banike ubungqina ngomlomo okanye obubhaliweyo befunga yaye baveze naziphi na iingxelo;

23.9.1.4 afumane yaye amkele nabuphi ubungqina kunye nazo naziphi iinkcukacha, nokuba kuyafungwa, ngombhalo osuka esipoliseni [afidavithi];

23.9.1.5 angene aze akhangele nayiphi na indawo apho ekuhleli iqela elinoxanduva;

23.9.1.6 aqhube udliwano-ndlebe naye nawuphi umntu okwindawo ekungenwe kuyo conduct; yaye

23.9.1.7 aqhubeke ebuza nantoni engaqondakaliyo kwezo ndawo uMalwuli ayibona ifanelekile.

## 23.10 **Ukuhlolwa kokuhambelana nokungaphakathi kwi-PAIA**

- 23.10.1 UMlawuli angaqhuba uhlolo lokuba iqumrhu loluntu okanye elabucala liyahambelana ngokubanzi noko kufakwe kule-**PAIA**.
- 23.10.2 UMlawuli angathi engacwangcisanga aqhube uhlolo lokuhamba ngemigaqo kwiqumrhu, ngentando yakhe, nangona kunjalo, uMlawuli kwakhona angaqhuba uhlolo lokuhamba ngemigaqo akuba eceliwe liGosa leeNkcukacha lequmrhu okanye egameni lalo okanye nawuphi na umntu. Oku kuthetha ukuba nawuphi na umntu angacela uMlawuli ukuba aqhube uhlolo nokuhamba ngokwemigaqo kwiqumrhu. Kwakhona umntu angafaka isicelo engazixelanga ukuze aqhube uhlolo lokuhamba ngokwemigaqo, ngokuthi abonise ukuba ucela uba ahlale engaziwa.
- 23.10.3 UMlawuli uza kunika umntu ocele uhlolo olunengxelo yohlolo kunye nezincomo zenyathelo eliza kuthathwa, ukuba likhona.

## 23.11 **Iinkcukacha seSaziso**

UMlawuli anganika iGosa leeNkcukacha lequmrhu iSaziso seeNkcukacha esifuna iqela elibekiweyo ukuba linike uMlawuli iinkcukacha ezibekwe kwisaziso. Umzekelo, ukuba kufakwe isikhalazo kuMlawuli, esibhekiselele ekwaleni nemvume yokufikelela iinkcukacha, ngokubhekiselele kuzo naziphi iimeko ezikhululwe kokuthile, uMlawuli angacela, kwiSaziso seeNkcukacha, iikopi zeengxelo apho kwaliwe ukunikwa imvume yokufikelela, ukuze kuqondwe ukuba izizathu zokwala ziyevakala na okanye hayi.

## 23.12 **Ukusekwa kweKomiti yoNyanzeliso**

- 23.12.1 Mlawuli kufuneka aseke iKomiti yoNyanzeliso<sup>38</sup>, enamagunya oku -
- 23.12.1.1 ukuqwalasela zonke iimeko ezisiwe kuyo nguMlawuli ngokubhekiselele kwi-**PAIA** aze akhangele okufunekayo koko; yaye
- 23.12.1.1 enze nayiphi imihlomlo kuMlawuli ngokubhekiselele kulo naliphi inyathelo ekufuneka lithathiwe ngakwiGosa leeNkcukacha lequmrhu.

## 23.13 **ISaziso sesiNyanzeliso**

- 23.13.1 UMlawuli angathi, emva kokuqwalasela imihlomlo yeKomiti yesiNyanzeliso, anike iGosa leeNkcukacha lequmrhu iSaziso sesiNyanzeliso -

<sup>38</sup> Icandelo 50 le-POPIA

23.13.1.1 esiqinisekisa, silungisa okanye sibeka bucala isigqibo esisisihloko sesikhalazo; okanye

23.13.1.2 esifuna iGosa leeNkcukacha ukuba lithathe elo nyathelo okanye liyeke ukuthatha elo nyathelo njengoko uMlawuli weeNkcukacha echaze kwisaziso.

#### 23.14 Ziziphi iziphumo zokungahambi ngokwemigaqo yeZaziso zoNyanzeliso?

23.14.1 IGosa leeNkcukacha lequmrhu elala ukuhambelana nesaziso sonyazeliso linetyala yaye kufanele emva koko ligwetywe intlawulo okanye ukuvalelwa ejele kwexesha elingedluli kwiminyaka emithathu okanye zombini, loo ntlawulo kunye nokuvalelwa ejele.

23.14.2 ICandelo 77K le-**PAIA** liyabonisa ukubaluleka kwelungelo lokufikelela kwiingxelo. Eli candelo kwakhona liqinisa ukubaluleka koMlawuli ngokubhekiselele ekuphunyezweni kwelungelo lokufikelela kwiinkcukacha.

## 24. ISICELO ESIYA ENKUNDLENI

### 24.1 Ngubani ongafaka isicelo enkundleni ngakwisigqibo?

24.1.1 Lowo ufake isicelo okanye abanye ababandakanyekayo bangafaka isicelo enkundleni ukuze bakhululwe ngokufanelekileyo ngokubhekiselele kwicandelo 82 kwezi meko zilandelayo:

24.1.1.1 emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe inkqubo yesibheni sangaphakathi ekubhekiswe kuso kumhlathi 22.3 ngasentla; okanye

24.1.1.2 emva kokuba lowo ufake isicelo okanye abanye ababandakanyekayo begqibe inkqubo yezikhalazo ekubhekiswe kuso kumhlathi 77A.

24.1.2 Ngokubhekiselele kwicandelo 78(1) le- **PAIA**, lowo ufake isicelo okanye iqela lesithathu unokhetho olume kabini, ukuthumela kwabanye isigqibo, esikuluhlu olukwimihlathi 22.2.4, 23.4 kunye no- 23.5 ngasentla, kuMlawuli okanye iNkundla. Lo gama ubani enganyanzelekanga ukuya kuMlawuli ngaphambi kokuya eNkundleni, kucetyiswa ukuba umntu makaqwalasele ukuya kuMlawuli, nanjengoko uMlawuli enamaqhinga abanzi nakhawulezileyo okusombulula impixano, kuneNkundla.



- 24.1.3 Nangona kunjalo, ukuze iNkundla ibenomthetho ofanelekileyo wokugweba le meko, lowo ufake isicelo okanye abanye ababandakanyekayo mabathi -
- 24.1.3.1 bacatshukiswe sesinye sezigqibo ezikuluhlu olukumhlathi 22.2.4, 23.4 okanye 23.5 ngasentla; okanye
- 24.1.3.2 bagqibe inkqubo yezikhalazo kuMlawuli okanye barhoxise isikhalazo kuMlawuli. Oku kuthetha ukuba ubani akayi kuya enkundleni ukuba isikhalazo sakhe asikagqitywa kuMlawuli.
- 24.1.4 Ukuba ubani ucela umngeni ngakwisigqibo seGosa leeNkcukacha lequmrhu labucala, kufuneka anike ubungqina obaneleyo ukubonisa ukuba ingxelo eceliweyo iyafuneka ukuze isetyenziswe okanye ukukhusela naliphi ilungelo/amalungelo.

## 24.2 **Angasifaka nini umntu isicelo eNkundleni ngakwisigqibo sequmrhu okanye uMlawuli?**

- 24.2.1 Isicelo esiya eNkundleni senziwe ngulowo ufake isicelo okanye abanye ababandakanyekayo, ongaphumelelanga kwisibheni sangaphakathi, segunya lesibheni lenqanaba elithile likarhulumente okanye ocatshukiswe sisigqibo seGosa leeNkcukacha lequmrhu (esikuluhlu oluku 22.2.4, 23.4 okanye 23.5 ngasentla) okanye esoMlawuli masifakwe kwiintsuku ezili 180 ukusukela kumhla wesiganeko esibalulwayo.
- 24.2.2 IGosa leeNkcukacha lequmrhu okanye igunya lesibheni likaRhulumente, njengoko kunganjalo, becatshukiswe sisiphumo soMlawuli, bangafaka isicelo enkundleni ukuze bafumane ukukhululwa okufanelekileyo ngokubhekiselele kwicandelo 82, kwiintsuku ezili 180<sup>39</sup>.
- 24.2.3 Lowo ufake isicelo, abanye ababandakanyekayo okanye iqumrhu, bangafaka isicelo enkundleni ukuze babenazo naziphi izigqibo ezibacaphukisayo ziphinde zijongwe yiNkundla.
- 24.2.4 Isicelo esiya eNkundleni phantsi kwe-**PAIA** senziwa ngokweenkqubo zikarhulumente, yaye kufuneka sisetyenziswe njengendlela yokugqibela.
- 24.2.5 Amatyala okufikelela kwiinkcukacha angeviwa ngaphambi kweeNkundla zikaMantyi, nanjengenkundla yokuqala, yaye iNkundla ePhakamileyo inolawulo.<sup>40</sup>
- 24.2.6 Ukungakwazi ukuzisa isicelo kwiintsuku ezili 180, kungaphunyezwa yiNkundla, ukuba ubani ubonisa ukuba nomdla kubulungisa. Oku kuthetha ukuba inkundla ingamkela isicelo esifike kade ukuba umba oza kugwetyelwa ufunyanwa usemdlani wobulungisa.

<sup>39</sup> Icandelo 78(4) le-PAIA

<sup>40</sup> Section 91A of PAIA and Promotion of access to information Rules, 2019

Ukuba iingxelo apho ukufikelela okucelwayo kungancedisa omnye ukufumana ukuqwalaselwa konyango olubanzi, umzekelo, inkundla inganika ukuba kuphunyezwe oko kule meko.

24.2.7 Isicelo singaziswa ngokwenkqubo ebekwe kumthetho 53 weMithetho yeNkundla ePhakamileyo okanye ngokubhekiselele kumthetho 55 weMithetho yeNkundla kaMantyi, ukuba akukho ngxelo okanye kunikwe iingxelo ezingaphelelanga ngumlawuli.

24.2.8 Ukuba ingxelo sele inikiwe, isicelo siza kuziswa ngokomthetho 55 weMithetho yeNkundla kaMantyi, ukuba apho kukho isizathu sokuba lowo ufake isicelo akholelwe ukuba ingxelo epheleleyo yeenkqubo bekungafanelayo ifakwe ngumlawuli, lowo ufake isicelo angaqhubeka ngokwenkqubo ebekwe kuMthetho 53 weMithetho yeNkundla ePhakamileyo, kulonyulo lwayo, kodwa uza kubonisa kwi-afidavithi yokusekwa kwayo, ukuba kutheni kukho isizathu sokukholelwa ukuba akunikwanga ngxelo ipheleleyo .

### 24.3 **Lithini inqanaba lesigqibo soMlawuli lo gama kulindwe isigqibo seNkundla?**

Amagunya oMlawuli asuka ikakhulu kuMgaqo-siseko, i-**POPIA** ne-**PAIA**. Isiphumo soko, isaziso sokunyanzeliswa esikhutshwa nguMlawuli sineziphumo ezisemthethweni yay eke ngoko siyabophelela kude kufike ixesha apho inkundla yomthetho igqibe ngenye indlela. Izigqibo zoMlawuli ngoko ziyasebenza futhi zinyanzelekile ngaphandle kokuba kuyalelwe ngenye indlela yiNkundla efanelekileyo.

### 24.4 **Yeyiphi imiyalelo iNkundla emamele isicelo engayinika?**

24.4.1 Inkundla (nokuba yekaMantyi okanye iNkundla ePhakemeyo) emamele isicelo ingenza le miyalelo ilandelayo -

24.4.4.1 ukuqinisekisa, ukulungisa okanye ukubekela bucala isigqibo, nokuba seseGosa leeNkcukacha okanye iGunya leSibheni okanye uMlawuli weNkcukacha;

24.4.4.2 ukufuna iGosa leeNkcukacha okanye iGunya leSibheni ukuba lithathe elo nyathelo okanye lingalithathi elo nyathelo njengoko inkundla ibona kufanele kwixesha elibekwe emyalelweni;<sup>41</sup>

24.4.4.3 ukunika isithinteli, ukukhululwa okwethutyana okanye okukhethekileyo, umyalelo obhengezayo okanye umyalelo wembuyezeko;

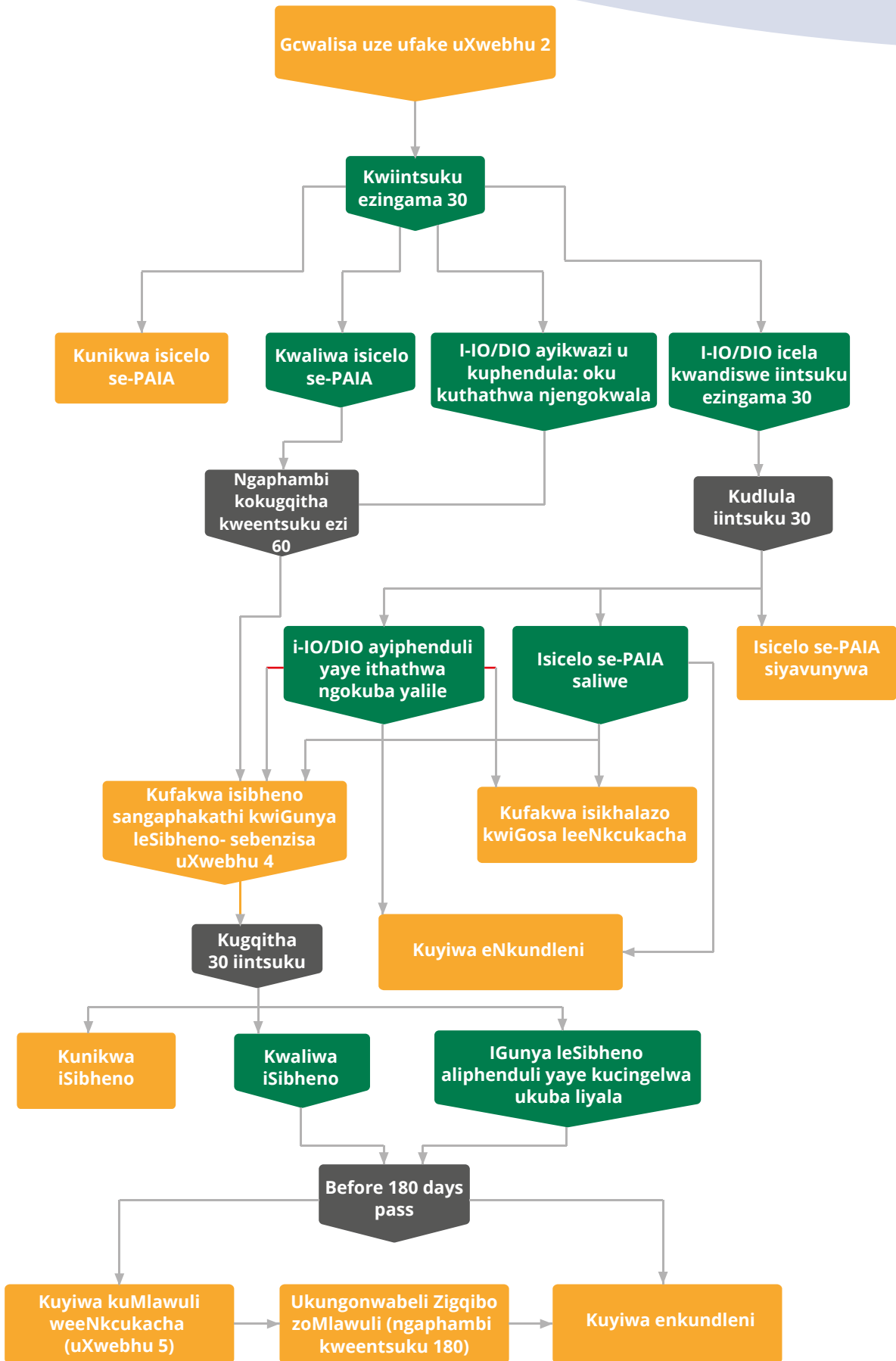
<sup>41</sup> UMthetho 4 Ukuphunyezwa kokufikelela kwiiMithetho yeenkcukacha, 2019

24.4.4.4 ukunika umyalelo weendleko ngakulo naliphi iqela;

24.4.4.5 ngokomdla wobulungisa, lixolele ukungahambelani nexesha leentsuku ezingama 180 leyo kuziswa ngayo isicelo. Nanjengoko kubekwe ngasentla, iimeko ezanelisayo zokungakwazi ukuhamba ngexesha elibekiweyo kufuneka zichazwe ngokubanzi kwisicelo esikhaphayo sokuxolelwa.

## **25. UMFANEKISO WENKQUBO YESICELO SE-PAIA**

Nceda ujonge kwitshati yenkqubo yenyathelo ngalinye, kwiinkqubo ekufanele zilandelwe xa kusetyenziswa ilungelo lokufikelela kwiinkcukacha.



## 26. IMITHETHO EYENZIWE NGOKWECANDELO 92 LE- PAIA

- 26.1 Ngokwecandelo 92(1) nelama 92(4) le-**PAIA**, uMphathiswa wenze iMithetho ngokubhekiselele kuPhumezo lokuFikelela kwiiNkcukacha, oluquka le miba ilandelayo
- 26.1.1 Izibophelelo zoMlawuli weeNkcukacha (**umthetho 2**)
  - 26.1.2 Izibophelelo zaMagosa eeNkcukacha (**umthetho 3**)
  - 26.1.3 Ukuzivelela kweengxelo ezithile kumaqumrhu oluntu (**umthetho 4**)
  - 26.1.4 Ukuzichaza nokuzivelela kweengxelo ezithile zamaqumrhu abucala (**umthetho 5**)
  - 26.1.5 Isicelo sokufikelela kwiinkcukacha ezigcinwe ngamaqumrhu oluntu nawabucala (**umthetho 6**)
  - 26.1.6 Isiphumo sesicelo neemirhumo ehlawulwayo (**umthetho 7**)
  - 26.1.7 Isibheni sangaphakathi ngakwisigqibo sequmrhu loluntu (**umthetho 8**)
  - 26.1.8 Ukufaka izikhalazo kuMlawuli weeNkcukacha (**umthetho 9**)
  - 26.1.9 Inkqubo ebhekiselele kuphando ngakulowo ukhalazayo (**umthetho 10**)
  - 26.1.10 Ukulungelelaniswa kweemeko (**umthetho 11**)
  - 26.1.11 Uxolelwaniso lwemeko (**umthetho 12**)
  - 26.1.12 Ukuhlolwa kokuhamba ngemigaqo nguMlawuli weeNkcukacha ephendula isicelo (**umthetho 13**)
  - 26.1.13 Amatyala nezigwebo (**umthetho 14**)
  - 26.1.14 Unxibelelwano lobuxhakaxhaka be-intanethi (**umthetho 15**)
  - 26.1.15 Amatyala nezigwebo (**umthetho 16**)
- 26.2 Ngokubhekiselele kwicandelo 79(1) le-**PAIA**, iBhodi yeMithetho yeeNkundla zoMthetho, ngokupasiswa nguMphathiswa, yenza imithetho yenkqubo yoku -
- 26.2.1 inkundla ukwenzela izicelo ngokubhekiselele kwicandelo 78 le-**PAIA**; kunye
  - 26.2.2 nenkundla ukuze yamkele ukumelwa okwenziwa egameni lomnye ekujoliswe kuko kwicandelo 80(3)(a).

## 27. IMITHETHO ENGUNDOQO, IMIMISELO, IZAZIASO KUNYE NOKUVUMA

### Imithetho, njengoko ingalungiswa ixesha nexesha

UkuNyuselwa koMthetho wokuFikelela kwiiNkcukacha, uMthetho 2 wama 2000

UkuNyuselwa koMthetho woBulungisa boLawulo, uMthetho 3 wama 2000

UkuNyuselwa koMthetho wokuFikelela kwiiNkcukacha, uMthetho 54 wama 2002

UMthetho woKhuselo lweeNkcukacha zoMntu, uMthetho 4 wama 2013

UMthetho wokuNyuselwa kokuFikelela kuLungiso lweeNkcukacha, uMthetho 31 wama 2019

UMthetho weNkxaso-mali yeQela loPolitiko, uMthetho 6 wama 2018

### IMithetho neZaziso

ISaziso sikaRhulumente	Umhla wokupapashwa	Umxholo nenkcazelo
<b>ISaziso sikaRhulumente R.757 kwi-GG No 45057</b>	27 Agasti 2021	Imithetho ebhekiselele ekuNyuselweni kokuFikelela kwiiNkcukacha, 2021.
<b>ISaziso sikaRhulumente R.991 kwi- GG 28107</b>	14 Okthobha 2005	Imimiselo ebeka iimeko apho umntu akhululweyo ekuhlawuleni imirhumo.
<b>ISaziso sikaRhulumente 7 kwi- GG No. 44785</b>	30 Juni 2021	Ukukhuselwa kwamaqumrhu athile ekwenzeni iNcwadana ye- <b>PAIA</b> .
<b>ISaziso sikaRhulumente 1217 kwi- GG 42717</b>	19 Septemba 2019	Ukunikwa indawo kweeNkundla zooMantyi njengezinamandla okumamela iimeko ze- <b>PAIA</b> .
<b>ISaziso sikaRhulumente R. 1284 kwi- GG 42740</b>	4 Okthobha 2019	Imithetho yenkqubo yokusebenza ekufuneka yenziwe ngokwe- <b>PAIA</b> phambi kweNkundla ePhakamileyo okanye iNkundla kaMantyi.

## UKUVUMA

Esi Sikhokelo senziwe ngakutsha sendlela yokusebenzisa i-**PAIA** saqulunqwa kuqala yiKomishini yaMalungelo oLuntu yoMzantsi Afrika [South African Human Rights Commission (**SAHRC**)] yaye uMlawuli uyawuvuma ngomsebenzi wokuqala we-**SAHRC**, kuquka neziseko zayo.

Ikhutshwe ngu

**UMLAWULI WEENKCUKACHA**