

A Ilungelo lokuhweba emgwaqweni yase thekwini

Umthetho sisekelo unikeza ilungelo lenkululeko yokuhweba, lokwenza umsebenzi wezandla noma umsebenzi ofundelwe, ilungelo lokulingana kunye nelungelo lesithunzi kuwawonke umuntu. Kuyilungelo elimelelekile lanoma umuphi umhwebi lokusebenzela emgwaqeni ngendlela ehlelekile nehloniphekile ngokulandela imithetho. Ukuze abantu bakwazi ukuthola imali yokuzondla bona kanye nemindeni yabo kuyingxenywe yelungelo elibanika isithunzi, ngaphandle kwalo balahlekelwa isithunzi kanye nokuhlonipheka. ITheku liyindawo enabahwebi ababalelwa ku 43 739 iningi labo abenza imali elinganiselwa okungenani ngaphezudlwana kuka R300 ngesonto ingxenye ewu 88% yabahwebi yibona okubhekeke ukuthi bondle imindeni yabo (ngokwezibalo zokubalwa kwabantu okwenziwa ngo 2009-2011).

Isigaba 9 ngokulingana

- 1) Sonke siyalingana phambi komthetho futhi sinelungelo elilinganayo lokuvikelwa nokuzalwa nokuvikelwa ngumthetho
- 2) Ukulingana kumbandakanya ukuthola wonke amalungelo enkululeko ngokugcwele, ukuze kufinyelelwe ekulinganeni, imithetho nezinye izinyathelo ezimiselwe ukuvikela, ukuthuthukisa abantu noma imikhakha yabantu abancishiselwe amathuba ngenxa yokucwaswa okungenabulungiswa.
- 3) Umbuso ungebandlulule umuntu ngokungafanele, ngendlela esobala noma ngendlela ecashile ngesizathu noma ngezizathu ezibandakanya ukubandlulula ngobuhlanga, ubulili, ukukhulelwa, isimo somuntu kwezomshado ubuzwe noma umphakathi umuntu adabuka kuwo, ibala ubulili, umuntu azifanisa noma afana naye, iminyaka, ukukhubazeka, inkolo, unembeza, inkolelo, isiko ulwimi kanye nokuzalwa.

B Imigomo yeBatho pele

Abahwebi isikhati esiningi badinga ukuxhumana nezisebenzi zomphakathi kumele ngokomthetho sisekelo (isigatshana195) zibe abanobungcweti, abaziphethe kahle nabazibophezele. Uhulumeni wazibophezela kumgomo wokuletha izidingo zomphakathi ngendlela enobungcweti ebizwa ngokuthi yiBatho Pele “abantu phambili”. Zonke izisebenzi zomphakathi ngaphansi koMasipala waseThekwini, kuhlanguanisa umnyango wakwa Business Services Unit (“BSU”) namaphoyisa oMkhandlu ababizwa nge (“Metro Police”), kumele besebenza ngaphansi kwalezi zimiso:

- **Ukuboniswa:** kumele kuboniswa nezakhamizi mayelana nohlelo lokulethwa kwezidingo zomphakathi futhi uma kwenzeka umphakathi unikwe ilungelo lokuzikhethela kwizidingo ezitholalayo.
- **Izinga lokulethwa kwezidingo:** Izakhamizi kumele zaziswe ngezina lezidingo ezilethwa emphakathini.

E Isigaba 10 Ilungelo lesithunzi

“Wonke umuntu unesithunzi sokuzalwa nelungelo lokuhlonishwa nokuvikelwa.”

Isigaba 33 ilungelo lokuphathwa ngendlela enobulungiswa Information

- 1) Wonke umuntu unelungelo lokuphathwa ngendlela enobulungiswa nenenhlonipho.
- 2) Noma ubani obona ukuthi ilungelo lakhe aliphathwanga ngendlela egculisayo unelungelo lokunikezwa izizathu ezibhaliwe ngalokho;
- 3) Ukukhuthazwa komthetho wokuphatha okunobulungiswa owaziwa ngokuthi (PAJA) wenzelwe ukugququzela lezilungelo;
 - a) Kuwumthwalo osemahlombe kahulumemi ukuqinisekisa ukuthi lamalungelo ayalandelwa
 - b) Avumele ukuthi inkantolo noma uhlaka oluzimele nolungachemile lubuyekeze isinqumo sokuphatha esithathiwe uma kunokunganeliseki ngaso
 - c) Kukhuthazwe ukuphatha okugculisayo.

- **Ukufinyelela:** Zonke izakhamizi kumele zibe nelungelo elilinganayo lokuthola izidingo ezilethwayo nokuyilungelo labo.
- **Isineke:** izakhamizi kumele ziphathwe ngesineke nokuqikelela. Qaphela ungakwamukeli ukuphathwa ngendlela engenanhlonipho.
- **Ukuvuleleka nokubasobala:** izakhamizi kumele zaziswe ukuthi iminyango yohulumeni bakuzwelonke nabezifundazwe basebenza kanjani, basebenzisa malini nokuthi baphethwe obani.
- **Ulwazi:** izakhamizi kumele zinikezwe ulwazi olugcwele noluyilo mayelana nokulethwa kwezidingo okuyilungelo lokuzithola.

F Isigaba 32 ilungelo lokuthola ulwazi

- 1) Wonke umuntu unelungelo lokuthola;
 - a) Noma yiluphi ulwazi olusezandleni zombuso
 - b) Nanoma iluphi ulwazi olusezandleni zomunye umuntu noludingekayo ekusetshenzisweni noma ekuvikelweni kwanoma imaphi amalungelo .
- 2) Ukukhuthaza ukuthi kufinyelelwe olwazini
 - a) Kufanele kushaywe umthetho kazwelonke wokufinyelela kulwazi ukuze lelilungelo lisebenze, futhi ungahlinzekela ngezinyathelo ezifanele ukunciphisa umthwalo wokwengamela nowezimali kuhulumeni.

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C Amalungelo abahwebi

- Ilungelo lokusebenzela endaweni enika isithunzi nehloniphekile.
- Ilungelo lokuhweba ngokukhululeka kulandelwa imigomo yemithetho
- Ilungelo lokuthi umasipala abonisane nabo ngaphambi kokuthi abathathele izinyathelo ezingaba nomthelela ongemihle kubo.
- Ilungelo lokuhlonishwa
- Ilungelo lokulingana
- Ilungelo lokuthola ulwazi kanye nokuvezwa obala kwenqubo yomkhandlu
- Ilungelo lenqubo ekahle enobulungiswa nehambisana nomthetho wezokuphatha.

D Isigaba 22 somthetho sisekelo

“zonke izikhamizi zinelungelo lokuzikhethela ukuhweba, umsebenzi noma ukusebenza ngokukhululeka. Ukuhweba, ilungelo lokusebenza noma umsebenzi ofundelwe kungalawulwa ngumthetho”.

Bhala imibono

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RIGHT TO TRADE ON THE STREETS OF DURBAN



A Right to trade on the streets of Durban

The Constitution of South Africa says that all people are equal and have human rights. It provides for freedom of trade, occupation or profession, the right to equality and the right to dignity for all. It is the entitlement of every trader to work on the streets in a dignified and respectable environment subject to confinements of the law. The ability of people to earn money and support themselves and their families is an important component of the right to dignity, without it they are faced with humiliation and degradation. Durban is a location for 43 739 traders with an average turnover of R300 per week and 88% of street traders are sole breadwinners for their families (2009-2011 census).

D Section 22 of the Constitution

“Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law”.

Section 9 on equality

- 1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- 2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- 3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

B Batho Pele principles

Informal trading often requires interaction with government officials. Public officials are required by the Constitution (section 195) to be professional, ethical, and accountable. The government adopted standards for professional services called the Batho Pele “people first” principles.

All public servants in the eThekweni municipality, including the Business Services Unit (“BSU”) and the Metropolitan Police Service (“Metro”) are required to follow these principles:

- **Consultation:** Citizens should be consulted about the level and quality of public services they will receive, and where possible, should be given a choice about the services that are offered.
- **Service Standards:** Citizens should be told what level and quality of public services they will receive so they are aware of what to expect.
- **Access:** All citizens should have equal access to the services to which they are entitled.
- **Courtesy:** Citizens should be treated with courtesy and consideration.

E Section 10 Right to dignity

“Everyone has inherent dignity and the right to have their dignity respected and protected.”

Section 33 right to fair administrative action 1) 2) 3)

- 1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- 2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons;
- 3) Promotion of Administrative Justice Act (PAJA 2000) enacted to give effect to these rights and;
 - a) impose a duty on the state to give effect to these rights
 - b) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal.

- **Openness and transparency:** Citizens should be told how national and provincial departments are run, how much they cost, and who is in charge
- **Information:** Citizens should be given full and accurate information about the public services they are entitled to receive.

C Informal Workers Rights

- Right to work in a safe and dignified environment
- Right to freedom of trade in compliance with the law
- Right to be duly consulted on any prejudicial processes by the municipality
- Right to dignity
- Right to equality
- Right to access information for accountability and transparency purposes
- Right to a fair procedure in compliance with administrative justice

F Section 32 Right to access Information

- 1) Everyone has the right of access to;
 - a) any information held by the state
 - b) and any information that is held by another person and that is required for the exercise or protection of any rights.
- 2) Promotion of Access to Information (PAIA) 2000 enacted to give effect to this right, and provide for reasonable measures to alleviate the administrative and financial burden on the state.

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