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## THE PRESIDENCY

No. 1551                      28 November 2019

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**Act No. 8 of 2019: Critical Infrastructure Protection Act, 2019**

## OFISI KAMONGAMELI

No. 1551                      28 November 2019

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwa kuluntu jikelele kolu xwebhu:—

**Ino 8 ka 2019: nguMthetho Wokukhuselwa Kweziseko Ezibalulekileyo Ezingundoqo, ka-2019**

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*(English text signed by the President)*  
*(Assented to 20 November 2019)*

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# ACT

To provide for the identification and declaration of infrastructure as critical infrastructure; to provide for guidelines and factors to be taken into account to ensure transparent identification and declaration of critical infrastructure; to provide for measures to be put in place for the protection, safeguarding and resilience of critical infrastructure; to provide for the establishment of the Critical Infrastructure Council and its functions; to provide for the administration of the Act under the control of the National Commissioner as well as the functions of the National Commissioner in relation to the Act; to provide for the establishment of committees and their functions; to provide for the designation and functions of inspectors; to provide for the powers and duties of persons in control of critical infrastructure; to provide for reporting obligations; to provide for transitional arrangements; to provide for the repeal of the National Key Points Act, 1980, and related laws; and to provide for matters connected therewith.

## PREAMBLE

**WHEREAS** the Constitution of the Republic of South Africa, 1996, provides that all spheres of government and all organs of state must secure the well-being of the people of the Republic;

**AND WHEREAS** the Constitution of the Republic provides for the right of access to information, subject to the limitations provided for in section 36 of the Constitution;

**AND WHEREAS** the protection of critical infrastructure is essential for public safety, national security and the continuous provision of basic public services;

**AND WHEREAS** it is necessary to put in place adequate measures to identify and protect critical infrastructure and the implementation of those measures in order to secure critical infrastructure;

**MINDFUL** of the need to follow objective criteria with regard to the identification and declaration of critical infrastructure;

**AND FURTHER MINDFUL** of the need for the roles, responsibilities and accountability of parties with regard to the protection of critical infrastructure to be defined and for the enhancement of public confidence and awareness in respect of the protection of critical infrastructure;

**AND REALISING** the need to enhance cooperation between Government and the private sector with regard to the protection of critical infrastructure in the interests of the Republic,

(English text signed by the President)  
(Assented to 20 November 2019)

## UMTHETHO

Injongo kukuba kwaziwe iziseko ezibalulekileyo ezingundoqo kwaye zibhengezwe njengeziseko ezibalulekileyo ezingundoqo; kukwenza ukuba kubekho izikhokelo nezinto emakucingwe ngazo ukuze zaziwe iziseko ezibalulekileyo ezingundoqo zize zibhengezwe njengezibalulekileyo; kukwenzela ukuba kubekho amanyathelo okukhusela iziseko ezibalulekileyo ezingundoqo; kukwenzela ukuba kusekwe iBhunga Leziseko ezibalulekileyo ezingundoqo, kuxelwe nemisebenzi yalo; kuxelwe nokuba uza kusetyenziswa njani lo Mthetho phantsi kwegunya loMkomishinala Wezwelonke, kuxelwe nemisebenzi yoMkomishinala Wezwelonke malunga nalo Mthetho; kukwenzela ukuba kubekho iikomiti, kuxelwe nemisebenzi yazo; kukuba kuchongwe abahloli, kuxelwe nemisebenzi yabo; kukuxela amagunya nemisebenzi yabantu abanegunya phezu kweziseko ezibalulekileyo ezingundoqo; kukwenzela ukuba kube sisinyanzelo ukunik'ingxelo; kukuxela okuza kwenzeka okwethutyana; kukuba itshitshiswe iNational Key Points Act ka-1980 kwakunye nemithetho ehlobebe nayo; nokulungiselela ezinye izinto ezihlobene nolu daba.

### INTSHAYELELO

**NJENGOKO** uMgaqo-siseko weRiphabliki yoMzantsi-Afrika, ka-1996, usithi onke amanqwanqwa karhulumente nawo onke amacandelo karhulumente mawasebenzele intlalo-ntle yabantu beRiphabliki;

**NANJENGOKO** uMgaqo-siseko weRiphabliki uvumela ilungelo lokufumana ingcombolo umntu ayifunayo, kubekho nje imida exelwe kwisiqendu 36 soMgaqo-siseko;

**NANJENGOKO** ukukhuselwa kweziseko ezibalulekileyo ezingundoqo kuyimfuneko ukuze lukhuseleke uluntu, kukhuseleke ilizwe, kuqhubeka nokwenziwa kweenkonzo zokunceda uluntu;

**NANJENGOKO** kuyimfuneko ukuthabatha amanyathelo afanelekileyo okuzazi iziseko ezibalulekileyo ezingundoqo zize zikhuselewe, aze asetyenziswe loo manyathelo ukuze zikhuseleke iziseko ezibalulekileyo ezingundoqo;

**NGOKUQONDA** imfuneko yokulandela imiqathango ebhadiileyo yokukhusela iziseko ezibalulekileyo ezingundoqo;

**NANGOKUQONDA** imfuneko yokuba abantu ngabanye babe nendima abayifezayo nemisebenzi abayenzayo ekukhuselweni kweziseko ezifanelekileyo;

**NANGOKUQONDA** imfuneko yentsebenziswano phakathi kukaRhulumente namashishini azimeleyo ngokukhuselwa kweziseko ezibalulekileyo ezingundoqo ukuze kuncedakale iRiphabliki,

**P**ARLIAMENT of the Republic of South Africa therefore enacts as follows:—

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2. Purpose of Act
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16. Requirements for declaration of infrastructure as critical infrastructure
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18. Application for declaration as critical infrastructure and critical infrastructure complex by National Commissioner

**N**GOKO KE iPalamente yeRiphabliki yoMzantsi-Afrika iqulunq' umthetho, ngale indlela ilandelayo:—

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#### **UKUCHAZWA KWAMAGAMA, INJONGO YALO MTHETHO NOKUSETYENZISWA KWAWO** 5

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2. Injongo yalo Mthetho
3. Ukusebenza kwalo Mthetho

#### ISAPHLUKO 2 10

#### **IBHUNGA LEZISEKO EZIBALULEKILEYO EZINGUNDOQO NEZAKHIWO**

##### *ICandelo A*

##### *IBhunga Leziseko ezibalulekileyo ezingundoqo*

4. Ukusekwa kweBhunga Leziseko ezibalulekileyo ezingundoqo nendlela elakhiwe ngayo 15
5. Okwenza umntu angakufanelekeleli ukumiselwa njengelungu leBhunga Leziseko ezibalulekileyo ezingundoqo
6. Ukuxhaswa kwalo ngemali nokuhlawulwa kwemivuzo
7. Imisebenzi yeBhunga Leziseko ezibalulekileyo ezingundoqo
8. Iintlanganiso zeBhunga Leziseko ezibalulekileyo ezingundoqo 20

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##### *Ukulawulwa kwalo Mthetho*

9. Imisebenzi yoMkomishinala Wezwelonke
10. Ukuchongwa kwabahloli
11. Imisebenzi yabahloli 25

##### *ICandelo C*

##### *Iikomiti, ukungasebenzi kwemiqathango kubantu abathile, nokuwaphathisa amagunya*

12. Iikomiti zethutyana nezisisigxina
13. Ukungasebenzi kwemiqathango kubantu abathile 30
14. Ukuwaphathisa amagunya
15. Ukwenz' ingxelo koMphathiswa

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#### **UKUBHENGEZWA KWEZISEKO NJENGEZISEKO EZIBALULEKILEYO EZINGUNDOQO NOKWENZIWA KWESIGQIBO NGODEDERHU LWEZISEKO EZIBALULEKILEYO EZINGUNDOQO** 35

16. Imfuneko zokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo
17. Ukwenziwa kwesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo na njengodederhu lweziseko ezibalulekileyo ezingundoqo, ngumntu ophethayo kwiziseko ezibalulekileyo ezingundoqo 40
18. Ukwenziwa kwesicelo nguMkomishinala Wezwelonke sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo nodederhu lweziseko ezibalulekileyo ezingundoqo

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24. Powers and duties of persons in control of critical infrastructure 10
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32. Short title and commencement

#### CHAPTER 1

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#### DEFINITIONS, PURPOSE AND APPLICATION OF ACT

##### Definitions

1. In this Act, unless the context indicates otherwise—
- “**basic public service**” includes a service, whether provided by the public or private sector, relating to communication, energy, health, sanitation, transport and water, the interference with which may prejudice the livelihood, well-being, daily operations or economic activity of the public; 30
- “**critical infrastructure**” means any infrastructure which is declared as such in terms of section 20(1) and includes a critical infrastructure complex where required by the context; 35
- “**critical infrastructure complex**” means more than one critical infrastructure grouped together for practical or administrative reasons, which is determined as such in terms of section 20(1)(c);
- “**Critical Infrastructure Council**” means the Critical Infrastructure Council established in terms of section 4, and “Council” has a corresponding meaning; 40
- “**disaster management centre**” includes the ‘National Centre’, ‘provincial disaster management centre’ and ‘municipal disaster management centre’ as defined in section 1 of the Disaster Management Act, 2002 (Act No. 57 of 2002);

19. Ukuqwalaselwa kwesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo liBhunga Leziseko ezibalulekileyo ezingundoqo kweziseko njengeziseko ezibalulekileyo ezingundoqo
20. Amagunya oMphathiswa okubhengeza iziseko njengeziseko ezibalulekileyo ezingundoqo 5
21. Isiqinisekiso sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo
22. Ukwenziwa kotshintsho kwingcombolo okanye kwimiqathango nguMphathiswa
23. Ukurhoxiswa kwesibhengezo 10

**ISAPHLUKO 4****AMAGUNYA ABANTU ABAPHETHEYO KWIZISEKO EZIBALULEKILEYO EZINGUNDOQO NEMISEBENZI YABO**

24. Amagunya omntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo nemisebenzi yakhe 15
25. Ukufikelela kwiziseko ezibalulekileyo ezingundoqo

**ISAPHLUKO 5****IZENZO EZIKUKONA NEZOHLWAYO**

26. Izenzo ezikukona nezohlwayo

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**IMIMISELO**

27. Imimiselo

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28. Ubulungisa ekwenziweni kwezigqibo
29. Imithetho etshitshiswayo
30. Okuza kwenzeka okwethutyana
31. Ukungabi nabutyala kwilahleko okanye kumonakalo
32. Igama lawo nokuqalisa kwawo ukusebenza 30

**ISAPHLUKO 1****UKUCHAZWA KWAMAGAMA, INJONGO YALO MTHETHO NOKUSETYENZISWA KWAWO****Ukuchazwa kwamagama**

1. Kulo Mthetho, ngaphandle kokuba okunye okubhaliweyo kuwo kubonisa ngenye indlela— 35

“**inkonzo esisiseko yoluntu**” iquka inkonzo, kungakhathaliseki ukuba yenziwa ngurhulumente okanye ngamashishini azimeleyo, iyeyonxibelelwano, amandla, impilo, amanzi nogutyulo lwelindle, izithuthi namanzi, ekunokuthi xa ingaphazanyiswa loo nkonzo kuqhwarele iindlela zokuziphilisa zoluntu, intlalontle yalo, imisebenzi yemihla ngemihla okanye uqoqosho lwalo;

“**iziseko ezibalulekileyo ezingundoqo**” zizo naziphi na iziseko ezibhengezwe njengezibalulekileyo ngokwesiqendu 20(1) kwaye ziquka udederhu lweziseko ezibalulekileyo ezingundoqo apho okubhaliweyo kubonisa oko;

“**udederhu lweziseko ezibalulekileyo ezingundoqo**” ziziseko ezibalulekileyo ezingundoqo eziliqela zidityanisiwe ngezizathu ezivakalayo, ngokwesiqendu 20(1)(c); 45

- “government infrastructure”** for the purposes of section 9(4) and section 18 means infrastructure controlled, owned, occupied or possessed by a government department in the national sphere and in respect of whose operation or administration that department is responsible;
- “Head of a Government department”** means— 5
- (a) the incumbent of a post mentioned in Column 2 of Schedule 1, 2 or 3 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), and includes any person acting in such post; or
- (b) a municipal manager appointed in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and 10 includes any person acting in such post;
- “infrastructure”** means any building, centre, establishment, facility, installation, pipeline, premises or systems needed for the functioning of society, the Government or enterprises of the Republic, and includes any transport network or network for the delivery of electricity or water; 15
- “Minister”** means the Cabinet member responsible for policing;
- “National Commissioner”** means the National Commissioner of the South African Police Service, appointed in accordance with section 207(1) of the Constitution;
- “national security”** has the meaning ascribed to it in section 198 of the 20 Constitution;
- “organ of state”** means an ‘organ of state’ as defined in section 239 of the Constitution;
- “person in control of a critical infrastructure”** means—
- (a) the owner of a critical infrastructure; 25
- (b) the person who, by virtue of—
- (i) any right acquired from a person referred to in paragraph (a);
- (ii) any other right acquired from any other person, whether by way of a public-private partnership or similar agreement; or
- (iii) operation of law, 30 occupies, possesses, is in control of, or is responsible for the operation or administration of such a critical infrastructure; or
- (c) the Head of a Government department or the head of any other organ of state who occupies, possesses, is in control of, or is responsible for the operation or administration of a critical infrastructure, and includes any employee acting in 35 such post, and ‘person in control of an infrastructure’ shall be construed accordingly;
- “police official”** means a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- “prescribe”** means prescribed by regulation; 40
- “PSIRA”** means the Private Security Industry Regulatory Authority established in terms of section 2(1) of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);
- “regulatory measures”** means any security measure that must be implemented as provided for in this Act; 45
- “resilience”** means the ability of infrastructure to mitigate, absorb or withstand any damage, disruption, disturbance or interference in order to maintain the functionality, integrity and structural capacity of that infrastructure;
- “risk category”** means a risk category as contemplated in sections 19(1)(b) and 20(1)(b); 50
- “Secretary for the Police Service”** means the Secretary for the Police Service appointed in terms of section 7(1) of the Civilian Secretariat for the Police Service Act, 2011 (Act No. 2 of 2011);
- “security”** includes, but is not limited to—
- (a) physical security of critical infrastructure; 55
- (b) personnel security at critical infrastructure;
- (c) contingency plans applicable to critical infrastructure; and
- (d) measures aimed at protecting critical infrastructure;



- “iBhunga Leziseko ezibalulekileyo ezingundoqo”** liBhunga Leziseko ezibalulekileyo ezingundoqo elisekwe ngokwesiqendu 4, lize elithi “iBhunga” libe nentsingiselo ekwanye;
- “iziko lokulawul’ iintlekele”** liquka ‘neZiko Lelizwelonke’, ‘neziko lokulawul’ iintlekele lephondo, ‘neziko lokulawul’ iintlekele likamasipala’ njengoko lichazwe kwisiqendu 1 se*Disaster Management Act* 57 ka-2002; 5
- “iziseko zikarhulumente”**, ngokwenjongo yesiqendu 9(4) nesiqendu 18, ziziseko ezilawulwa lisebe likarhulumente welizwe, zizezalo, okanye ezisetyenziswa lilo, libe elo sebe longamele ukusebenza kwazo;
- “iNtloko yesebe likarhulumente”**— 10
- (a) ngumntu oqeshwe kumsebenzi oxelwe kuMhlathi 2 weShedyuli 1, 2 okanye 3 ye*Public Service Act* 103 ka-1994, kwaye kusenokuba nguye nabani na obambeleyo kuloo msebenzi;
- (b) yimaneja kamasipala emiselwe ngokwesiqendu 54A se*Local Government: Municipal Systems Act* 32 ka-2000, kwaye kusenokuba nguye nabani na obambeleyo kuloo msebenzi; 15
- “iziseko ezingundoqo”** kungaba sisakhiwo, iziko, into esekiweyo, into egxunyekiweyo, imibhobho, indawo yomntu, okanye ubuxhakaxhaka obuyimfuneko ukuze izinto zihambe kakuhle eluntwini, amashishini karhulumente weRiphabliki, kwaye kusengaba zizo naziphi na izithuthi okanye izinto zokuhanjiswa kombane okanye amanzi; 20
- “uMphathiswa”** lilungu lekhabhinethi eliphathiswe amapolisa;
- “uMkomishinala Wezwelonke”** nguMkomishinala Wezwelonke Wenkonzo Yamapolisa YoMzantsi-Afrika, omiselwe ngokwesiqendu 207(1) soMgaqo-siseko; 25
- elithi “ukhuseleko lwelizwe”** linentsingiselo elinikwe yona kwisiqendu 198 soMgaqo-siseko;
- “icandelo likarhulumente”** ‘licandelo likarhulumente’ ngendlela elichazwe ngayo kwisiqendu 239 soMgaqo-siseko;
- “umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo”**— 30
- (a) ngumnini weziseko ezibalulekileyo ezingundoqo;
- (b) ngumntu othe, ngenxa— 35
- (i) yelungelo alizuze kumntu ekuthethwe ngaye kwisiqendu (a);
- (ii) yelinye ilungelo elizuzwe komnye umntu nokuba kungobuqabane baseburhulumenteni okanye obabantu nje okanye ngesivumelwano esifana neso; okanye
- (iii) ngokusebenza komthetho, wanegunya ekusetyenzisweni kwezo ziseko ezibalulekileyo; okanye
- (c) yiNtloko yesebe likarhulumente okanye intloko yecandelo likarhulumente enegunya ekusetyenzisweni kweziseko ezibalulekileyo ezingundoqo, kwaye kusenokuba nguye nawuphi na umntu obambeleyo kuloo msebenzi, kwaye amagama athi “umntu ophetheyo kwiziseko” aza kuba naloo ntsingiselo; 40
- “ipolisa”** lipolisa kumaPolisa oMzantsi-Afrika ngendlela achazwe ngayo kwisiqendu 1 se*South African Police Service Act* 68 ka-1995;
- elithi “emiselweyo”** lithetha emiselwe ngummiselo; 45
- “IPSIRA”** yi*Private Security Industry Regulatory Authority* esekwe ngokwesiqendu 2(1) se*Private Security Industry Regulations Act* 56 ka-2001;
- “amanyathelo okulawul’ imeko”** ngawo nawaphi na amanyathelo okhuseleko ekufuneka ukuba enziwe asebenze ngendlela exelwe kulo Mthetho;
- “ukuxhathisa”** kukukwazi kweziseko ezibalulekileyo ezingundoqo ukungonakaliswa kakhulu ngumonakalo, ziziphazamiso ukuze ziqhubeke zimile kwaye zisebenziseka; 50
- “udidi lobungozi”** ludidi lobungozi oluxelwe kwisiqendu 19(1)(b) no-20(1)(b);
- “uNobhala WamaPolisa”** nguNobhala WamaPolisa oqeshwe ngokwesiqendu 7(1) se*Civilian Secretariat for the Police Service Act* 2 ka-2011; 55
- “ukhuseleko”** luquka— 55
- (a) ukukhuseleka kweziseko ezibalulekileyo ezingundoqo ngokwazo;
- (b) ukukhuseleka kwabasebenzi abasebenza kwiziseko ezibalulekileyo ezingundoqo;
- (c) amacebo okuxhobel’ into engekehli asebenza kwiziseko ezibalulekileyo ezingundoqo; 60
- (d) namanyathelo anjongo yawo ikukukhusela iziseko ezibalulekileyo ezingundoqo;

- “**security manager**” means the person appointed in terms of section 24(7);
- “**security measures**” subject to section 26(2), means any physical security measure to preserve the availability, integrity or confidentiality of a critical infrastructure, and includes, but is not limited to, physical security measures to protect— 5
- (a) any part or component of a critical infrastructure;
- (b) any physical structure that partly consists of, incorporates or houses information infrastructure; or
- (c) personnel or other persons at or nearby a critical infrastructure;
- “**security personnel**” means any person registered as a security officer in terms of section 21 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001); 10
- “**security service provider**” means a security service provider as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001); 15
- “**this Act**” includes the regulations; and
- “**threat**” includes any action or omission of a criminal, terrorist or accidental nature which may potentially cause damage, harm or loss to critical infrastructure or interfere with the ability or availability of critical infrastructure to deliver basic public services, and may involve any natural hazard which is likely to increase the vulnerability of critical infrastructure to such action or omission. 20

### Purpose of Act

2. The purpose of this Act is to—
- (a) secure critical infrastructure against threats;
- (b) ensure that information pertaining to security measures applicable to critical infrastructure remains confidential, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), or any other Act of Parliament that provides for the lawful disclosure of information; 25
- (c) ensure that objective criteria are developed for the identification, declaration and protection of critical infrastructure; 30
- (d) ensure public-private cooperation in the identification and protection of critical infrastructure;
- (e) secure critical infrastructure in the Republic by creating an environment in which public safety, public confidence and basic public services are promoted— 35
- (i) through the implementation of measures aimed at securing critical infrastructures; and
- (ii) by mitigating risks to critical infrastructures through assessment of vulnerabilities and the implementation of appropriate measures;
- (f) promote cooperation and a culture of shared responsibility between various role-players in order to provide for an appropriate multi-disciplinary approach to deal with critical infrastructure protection; 40
- (g) enhance the collective capacity of role-players who are responsible for the protection of critical infrastructure to mitigate possible security risks;
- (h) ensure that every critical infrastructure complies with regulatory measures aimed at securing such critical infrastructure against threats; 45
- (i) provide for the powers and duties of persons in control of critical infrastructure; and
- (j) support integration and coordination of the functions of various role-players involved in the securing of critical infrastructure. 50

- “imaneja yokhuseleko”** ngumntu oqeshwe ngokwesiqendu 24(7);
- “amanyathelo okhuseleko”**, ngokulawulwa sisiqendu 26(2), lilo naliphi na inyathelo lokhuseleko lokulondoloza ukufumaneka kweziseko ezibalulekileyo ezingundoqo okanye lokulondoloza ukuba yimfihlo kweziseko ezibalulekileyo ezingundoqo, kwaye aquka amanyathelo okhuseleko okukhusela— 5
- (a) inxalenye yeziseko ezibalulekileyo ezingundoqo;
- (b) nasiphi na isakhiwo esibonakalayo esiyinxalenye yeziseko zengcombolo; okanye
- (c) abasebenzi okanye abanye abantu abakwiziseko ezibalulekileyo ezingundoqo okanye abakufuphi nazo; 10
- “abasebenzi bokhuseleko”** nguye nawuphi na umntu obhaliswe njengegosa lokhuseleko ngokwesiqendu 21 se*Private Security Industry Regulation Act* 56 ka-2001;
- “umniki-nkonzo yokhuseleko”** ngumniki-nkonzo yokhuseleko ngendlela achazwe ngayo kwisiqendu 1 se*Private Security Industry Regulation Act* 56 ka-2001; 15
- elithi “lo Mthetho”** liquka imimiselo; kwaye
- “isenzo esinobungozi”** kungaba sisenzo esilulwaphulo-mthetho, sobugrogrisi, okanye esenzeke ngengozi, okanye ukungenziwa kwesenzo ebesimele senziwe ukuthintela ulwaphulo-mthetho, ubugrogrisi okanye ukwenzeka kwento ngengozi, 20 okunokuthi kubangele umonakalo okanye ukulahlekelwa ziziseko ezibalulekileyo ezingundoqo okanye kubangele ukungakwazi ukunika iinkonzo ezisisiseko zoluntu, kwaye lisengaquka intlekele yendalo enokubangela ukuba sisisulu kweziseko ezibalulekileyo ezingundoqo.

## **Injongo yalo Mthetho** 25

### **2. Injongo yalo Mthetho—**

- (a) kukukhusela iziseko ezibalulekileyo ezingundoqo kwizenzo ezinobungozi;
- (b) kukwenza unakonako wokuba ingcombolo emalunga namanyathelo okhuseleko asebenza kwiziseko ezibalulekileyo ezingundoqo ihlale iyimfihlo, kodwa ke ngokulawulwa yi*Promotion of Access to Information Act* 2 ka-2000 okanye nawuphi na omnye uMthetho wePalamente othetha ngokudandalaziswa okusemthethweni kwengcombolo; 30
- (c) kukwenza unakonako wokuba kuthiwe gqi neemfuneko ezifanelekileyo zokwazi ukuba zeziphi iziseko ezibalulekileyo ezingundoqo zize zibhengezwe njengezibalulekileyo kwaye zikhuselwe; 35
- (d) kukwenza unakonako wokuba kubekho intsebenziswano phakathi kukarhulumente namashishini azimeleyo ekwazini ukuba zeziphi iziseko ezibalulekileyo ezingundoqo zize zikhuselwe;
- (e) kukukhusela iziseko ezibalulekileyo ezingundoqo kwiRiphabliki ngokudala imekobume ekukhuthazwa kuyo ukhuseleko loluntu, intembelo yoluntu neenkono zoluntu ezisisiseko— 40
- (i) ngokuwenza asebenze amanyathelo anjongo yawo ikukukhusela iziseko ezibalulekileyo ezingundoqo;
- (ii) ngokunciphisa ubungozi obunokwehlela iziseko ezibalulekileyo ezingundoqo ngokubona apho ubuthathaka bukhoyo nangokusebenzisa amanyathelo afanelekileyo; 45
- (f) kukukhuthaza intsebenziswano nokuthwalisana imbopheleleko phakathi kwabathabathi-nxaxheba abahlukahlukeneyo ukuze kubekho iindlela ngeendlela zokukhuselwa kweziseko ezibalulekileyo ezingundoqo;
- (g) kukuphucula ukukwazi kwabathabathi-nxaxheba ukukhusela iziseko ezibalulekileyo ezingundoqo kwizinto ezinokuba nobungozi; 50
- (h) kukwenza unakonako wokuba iziseko ngasinye esibalulekileyo sihambisane namanyathelo anjongo yawo ikukukhusela iziseko ezibalulekileyo ezingundoqo kwizenzo ezinobungozi;
- (i) kukuxela amagunya nemisebenzi yabantu abaphetheyo kwiziseko ezibalulekileyo ezingundoqo; 55
- (j) kukuxhasa ukuyondelelaniswa nokunxibelelaniswa kwemisebenzi yabathabathi-nxaxheba abahlukahlukeneyo ababandakanyekileyo ekukhuselweni kweziseko ezibalulekileyo ezingundoqo.

**Application of Act**

3. (1) This Act applies to—
- (a) the identification and declaration of infrastructure as critical infrastructure;
  - (b) the determination of critical infrastructure as critical infrastructure complex; and
  - (c) the protection of critical infrastructure,
- and binds any person to whom a function has been assigned in terms of this Act.
- (2) This Act does not apply to infrastructure under the control of the Department of Defence.

**CHAPTER 2**

10

**CRITICAL INFRASTRUCTURE COUNCIL AND STRUCTURES****Part A*****Critical Infrastructure Council*****Establishment and composition of Critical Infrastructure Council**

4. (1) A Critical Infrastructure Council is hereby established. 15
- (2) The Minister appoints members of the Critical Infrastructure Council which must consist of the following persons:
- (a) The Secretary for the Police Service;
  - (b) an official at the level of at least Chief Director or an equivalent level, designated by each of the heads of the following institutions— 20
    - (i) Department of Defence;
    - (ii) Department of Home Affairs;
    - (iii) Department of Public Works;
    - (iv) National Disaster Management Centre;
    - (v) South African Local Government Association; 25
    - (vi) South African Police Service; and
    - (vii) State Security Agency; and
  - (c) five members appointed in terms of subsection (8) from the private sector and civil society who are— 30
    - (i) not disqualified in terms of section 5; and
    - (ii) preferably appropriately qualified, knowledgeable and experienced in fields that include critical infrastructure protection, risk management, disaster management or basic public services which must include at least one person who is appropriately qualified in cybersecurity.
- (3) The members of the Council must, when viewed collectively, preferably be persons who are suited to serve in the Council by virtue of their qualifications, expertise and experience in fields that include infrastructure protection, engineering, disaster management or security policy. 35
- (4) In the event that—
- (a) the functions or functioning of infrastructure that forms the subject of an application for declaration as critical infrastructure may affect or be affected by the functional area of responsibility of a government department or an organ of state not referred to in subsection (2)(b), the Chairperson may request the Head of that Government department or the head of that organ of state to designate an appropriately qualified official to assist with such application; or 40
  - (b) the Council is of the opinion that any other person could assist in general or with a specific application for declaration as critical infrastructure, the Council may request the Minister to appoint such person on an *ad hoc* basis to advise or assist the Council. 45
- (5) The Minister must appoint— 50
- (a) officials referred to in subsection (2)(b) after consultation with the Cabinet member responsible for the institution in question;

**Ukusebenza kwalo Mthetho**

3. (1) Lo Mthetho usebenza—
- (a) ekuqondeni ukuba zeziphi iziseko ezibalulekileyo ezingundoqo zize zibhengezwe njengezibalulekileyo;
  - (b) ekuqondweni kweziseko ezibalulekileyo ezingundoqo njengodederhu lweziseko ezibalulekileyo ezingundoqo; 5
  - (c) nasekukhuselweni kweziseko ezibalulekileyo ezingundoqo, kwaye unqamangela nawuphi na umntu onikwe umsebenzi ngokwalo Mthetho.
- (2) Lo Mthetho awusebenzi kwiziseko ezilawulwa liSebe Lokhuselo.

**ISAHLUKO 2** 10**IBHUNGA LEZISEKO EZIBALULEKILEYO EZINGUNDOQO NEZAKHIWO***ICandelo A**IBhunga Leziseko ezibalulekileyo ezingundoqo***Ukusekwa kweBhunga Leziseko ezibalulekileyo ezingundoqo nendlela elakhiwe ngayo** 15

4. (1) Kusekwa iBhunga Leziseko ezibalulekileyo ezingundoqo.
- (2) UMphathiswa umisela amalungu eBhunga Leziseko ezibalulekileyo ezingundoqo emalibe naba bantu balandelayo:
- (a) uNobhala weNkonzo YamaPolisa;
  - (b) igosa ubuncinane elikwinqwanqwa loMlawuli oyiNtloko okanye okwinqwanqwa elilingana nelo, elichongwe yintloko nganye yala maziko alandelayo:
    - (i) iSebe Lokhuselo;
    - (ii) iSebe Lemicimbi Yasekhaya;
    - (iii) iSebe Lemisebenzi Karhulumente; 25
    - (iv) iZiko Lokulawulwa Kwentlekelele Lezwelonke;
    - (v) iSouth African Local Government Association;
    - (vi) iNkonzo YamaPolisa oMzantsi-Afrika;
    - (vii) neQumrhu Lokhuseleko LoMbuso; kwakunye
  - (c) namalungu amahlanu amiselwe ngokwesiqendwana (8) ethathwa kumashishini azimeleyo naseluntwini—
    - (i) angekho kwimeko yokungafaneleki ngokwesiqendu 5; kwaye
    - (ii) ukuba kunokwenzeka abe nemfundo efanelekileyo, abe nolwazi namava kwimiba equka ukukhuselwa kweziseko ezibalulekileyo ezingundoqo, ukulawulwa kwemeko enobungozi, ukulawulwa kwentlekele okanye iinkonzo ezisisiseko zoluntu emaziquke ubuncinane umntu omnye onemfundo efanelekileyo kukhuseleko lweekhompuyutha. 35
- (3) Ukuba kunokwenzeka, amalungu eBhunga makube ngabantu abathi, xa bejongwa bebonke, babe ngabantu abakufanelekelayo ukukhonza kwiBhunga ngenxa yemfundo yabo, ubuchule babo namava abo kwimiba equka ukukhuselwa kweziseko, ubunjneli, ukulawulwa kwentlekele okanye umgaqo-nkqubo wokhuseleko. 40
- (4) Xa—
- (a) imisebenzi okanye ukusebenza kweziseko ekucelwa ukuba zibe ziziseko ezibalulekileyo ezingundoqo kuchatshazelwa yimisebenzi yesebe likarhulumente okanye yecandelo likarhulumente ekungabhekiselwanga kulo kwisiqendwana (2)(b), uSihlalo unokuthi acele iNtloko yelo sebe likaRhulumente okanye intloko yelo candelo likarhulumente ukuba ichonge igosa elinemfundo efanelekileyo ukuba lincedise kwesi sicelo; okanye 45
  - (b) iBhunga linoluvo lokuba omnye umntu unokuncedisa nakwintoni na okanye ancedise kwisicelo esithile sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo, iBhunga lingacela uMphathiswa ukuba amisele loo mntu okwelo xesha kusekho imfuneko ukuba acebise iBhunga okanye alincedise. 50
- (5) UMphathiswa makamisele—
- (a) amagosa ekuthethwe ngawo kwisiqendwana (2)(b) emva kokubonisana nelungu leKhabhinethi eliphathiswe iziko elo; 55

- (b) members referred to in subsection (2)(c) in terms of subsection (8); and
- (c) persons referred to in subsection (4)(b) on advice of the Council.

(6) In the event that it is necessary to appoint a member referred to in subsection 2(c), the Minister must request the National Assembly to submit a list of candidates for appointment. 5

(7) The Speaker must refer the matter to the relevant committee of the National Assembly to—

- (a) publish a notice in the *Gazette* and in at least two national newspapers circulating in the Republic, inviting applications from interested persons and members of the public to nominate persons; 10
- (b) compile a shortlist of not less than 20 persons who are not disqualified in terms of section 5(a), (c), (d), (e), (f) or (g), from the applications and nominations referred to in paragraph (a) or persons serving on the Council who qualify for a further appointment in terms of subsection (10) ;
- (c) submit the list referred to in paragraph (b) to the State Security Agency for consideration and issuing of a top secret security clearance; 15
- (d) conduct interviews with the persons referred to in paragraph (b) who are not disqualified in terms of section 5(b) for purposes of compiling a list of 10 recommended candidates in order of preference;
- (e) submit the list of names referred to in paragraph (d) to the National Assembly for approval; and 20
- (f) submit the approved list of names contemplated in paragraph (e) together with their résumés to the Minister.

(8) The Minister must appoint five members to the Council from the list referred to in subsection (7)(f) and publish the names of the members in the *Gazette*. 25

(9) Subject to subsection (12), a member of the Council appointed in terms of subsection (8) holds office for a period not exceeding five years.

(10) Upon the expiry of an appointed member's first term of office as contemplated in subsection (9), the member may be re-appointed for one further term only.

(11) The Secretary for the Police Service is the Chairperson of the Council and the Minister must designate, from the persons contemplated in subsection (2)(c), a member as deputy chairperson. 30

(12) A member of the Council appointed in terms of subsection (8) must vacate office if that member—

- (a) resigns by giving at least 30 days written notice addressed to the Minister; or 35
- (b) is removed from office by the Minister as contemplated in subsection (14).

(13) If a member of the Council appointed in terms of subsection (8) resigns or vacates office before the expiry of his or her period of office, the Minister must request the National Assembly to follow the procedure in subsection (7): Provided that the Minister may appoint a new member from the list contemplated in subsection (7)(d) 40 where candidates on that list are still available for appointment.

(14) The Minister may, after due process by the National Assembly, remove a member of the Council appointed in terms of subsection (8) from office on account of—

- (a) absence from three consecutive meetings without good cause;
- (b) misconduct, incapacity or incompetence; 45
- (c) becoming disqualified as contemplated in section 5; or
- (d) any other lawful reason.

(15) The Minister may suspend a member where there are reasonable grounds to do so, until the process contemplated in subsection (14) is finalised.

(16) The Minister may request the Cabinet member responsible for an institution 50 which is represented on the Council, as contemplated in subsection (2)(b), to nominate another representative for appointment to substitute the institution's representative in the Council.

- (b) amalungu ekuthethwe ngawo kwisiqendwana (2)(c) ngokwesiqendwana (8); kwakunye
- (c) nabantu ekuthethwe ngabo kwisiqendwana (4)(b) ngokucetyiswa liBhunga.
- (6) Xa kuthi kube yimfuneko ukumisela ekuthethwe ngalo kwisiqendwana (2)(c), uMphathiswa makacele iNdlu yoWiso-Mthetho ithumele uludwe lwabantu abanokuthi bamiselwe. 5
- (7) USomlomo makaludlulisele udaba kwikomiti efanelekileyo yeNdlu yoWiso-Mthetho ukuze—
- (a) ipapashe isihlokomiso kuShicilelo-Mithetho nakumaphephandaba amabini ubuncinane afumaneka elizweni lonke, icele ukuba abantu abanomdla noluntu ngokubanzi bafake izicelo zokutyumba abantu; 10
- (b) iqulunqe uluhlu lwabantu abangengaphantsi kwama-20 abangekho kwimeko yokungafaneleki ngokwesiqendu 5(a), (c), (d), (e), (f) okanye (g), iluqulunqa ithabatha kwizicelo nabantu abatyunjiweyo ekuthethwe ngabo kwisiqendu (a) okanye kubantu abakwiBhunga abafanelekayo ukuba bamiselwe kwakhona ngokwesiqendwana (10); 15
- (c) ithumele uluhlu ekuthethwe ngalo kwisiqendu (b) kwiQumrhu Lokhuseleko LoMbuso ukuze luqwalaselwe kuze kukhutshwe isiqinisekiso sokhuseleko senqwanqwa lemfihlo epehzu; 20
- (d) libe nodliwanondlebe nabantu ekuthethwe ngabo kwisiqendu (b) abangekho kwimeko yokungafaneleki ngokwesiqendu 5(b) ngenjongo yokuqulunqa uluhlu lwabantu abali-10 abaphakanyisiweyo ngokolandelelwano abafunwa ngalo; 25
- (e) iluthumele uluhlu lwamagama ekuthethwe ngalo kwisiqendu (d) kwiNdlu yoWiso-Mthetho ukuze luvunywe yiyo; kwaye 25
- (f) ithumele oluvunyiweyo lwamagama oluxelwe kwisiqendu (e) kunye neeCV zabo kuMphathiswa.
- (8) UMphathiswa makamisele amalungu amahlanu abe kwiBhunga ethabatha kuluhlu ekuthethwe ngalo kwisiqendwana (7)(f) aze apapashe amagama aloo malungu kuShicilelo-Mithetho. 30
- (9) Ngokulawulwa sisiqendwana (12), ilungu leBhunga elimiselwe ngokwesiqendwana (8) liba lilungu ixesha elingagqithiyo kwiminyaka emihlanu.
- (10) Lisakuphela ixesha lokuba lilungu njengoko kuxelwe kwisiqendwana (9), ilungu lingamiselwa kwakhona esinye isihlandlo sibe sinye kuphela.
- (11) UNobhala weNkonzo YamaPolisa unguSihlalo weBhunga; uMphathiswa ke yena makachonge ilungu libe ngusekela-sihlalo, elichonga ethabatha kubantu abaxelwe kwisiqendwana (2)(c). 35
- (12) Ilungu leBhunga elimiselwe ngokwesiqendwana (8) maliyeke ukuba lilungu ukuba—
- (a) lithi liziyekele ngokwazisa uMphathiswa ngencwadi kusasele iintsuku ezingama-30 ngaphambi kokuyeka; okanye 40
- (b) liyashenxiswa nguMphathiswa njengoko kuxelwe kwisiqendwana (14).
- (13) Ukuba ilungu leBhunga elimiselwe ngokwesiqendwana (8) liyaziyekela lingekapheli ixesha lalo, uMphathiswa makacele iNdlu yoWiso-Mthetho ilandele inkqubo ekwisiqendwana (7), kodwa ke uMphathiswa unokuthi amisele ilungu elitsha ethabatha kuluhlu oluxelwe kwisiqendwana (7)(d) xa abantu abakolo luhlu besafumaneka ukuba bamiselwe. 45
- (14) UMphathiswa unokuthi, emva kokuba kulandelwe inkqubo efanelekileyo yiNdlu yoWiso-Mthetho, alishenxise ilungu leBhunga elimiselwe ngokwesiqendwana (8) ngenxa— 50
- (a) yokungabikho kwalo kwiintlanganiso zide zibe ntathu zilandelana kungekho sizathu sivakalayo;
- (b) yokuziphatha kakubi, okanye ngenxa yemeko elenza lingakwazi ukusebenza okanye ngenxa yobuqhitala;
- (c) yokungafaneleki ngendlela exelwe kwisiqendu 5; okanye ngenxa 55
- (d) yesinye isizathu esivakalayo.
- (15) UMphathiswa unokulinqumamisa ilungu xa kukho izizathu ezivakalayo zokwenza njalo de ibe iqukunjelwe inkqubo exelwe kwisiqendwana (14).
- (16) UMphathiswa usengacela ilungu leKhabhinethi eliphathiswe iziko elimelwe kwiBhunga, njengoko kuxelwe kwisiqendwana (2)(b), ukuba lityumbe omnye ummeli oza kumiselwa ukuze athabath' indawo yommeli weziko kwiBhunga. 60

(17) Members of the Council who are appointed in terms of subsection (8) may be paid such remuneration and allowances as the Minister may, with the written concurrence of the Minister of Finance, determine.

(18) The deputy chairperson referred to in subsection (11) must, when the chairperson is absent or unable to perform his or her duties, act in his or her stead and when so acting, exercise or perform any function of the chairperson. 5

#### **Disqualification from appointment as member of Critical Infrastructure Council**

5. A person is disqualified from being appointed or continuing to serve as a member of the Critical Infrastructure Council contemplated in section 4(2)(b) and (c), if he or she— 10

- (a) is not a South African citizen;
- (b) does not have a valid top secret security clearance certificate issued to him or her by the State Security Agency;
- (c) is an unrehabilitated insolvent;
- (d) has, in the preceding 20 years, been sentenced in the Republic or elsewhere, to imprisonment without the option of a fine; 15
- (e) has a direct or indirect financial or personal interest in any critical infrastructure;
- (f) has been removed from an office of trust; or
- (g) is by virtue of any other law, disqualified from being appointed. 20

#### **Funding and remuneration**

6. The expenses incurred in connection with the exercise of the powers, the carrying out of the duties and the performance of the functions of the Critical Infrastructure Council, including the remuneration and expenses contemplated in section 4(17), must be defrayed from the budget allocation of the Civilian Secretariat for the Police Service, established in terms of section 4(1) of the Civilian Secretariat for Police Service Act, 2011 (Act No. 2 of 2011), as voted in terms of the annual Division of Revenue Act. 25

#### **Functions of Critical Infrastructure Council**

7. (1) The functions of the Critical Infrastructure Council are to— 30
- (a) subject to subsection (2), consider any application for declaration of infrastructure as critical infrastructure referred to in Chapter 3 and make recommendations on such application to the Minister;
  - (b) subject to subsection (3), approve guidelines regarding— 35
    - (i) the assessment of an application contemplated in section 17;
    - (ii) the implementation of the prescribed system for categorisation of critical infrastructure in a low-risk, medium-risk or high-risk category referred to in sections 19(1)(b) and 20(1)(b);
    - (iii) policies, protocols and standards regarding any matter necessary to achieve the purpose of this Act; and
    - (iv) the promotion of public-private sector cooperation in the protection of critical infrastructure; and 40
  - (c) perform any other functions which may be assigned to the Council by the Minister.
- (2) When making a recommendation to the Minister on an application referred to in subsection (1)(a), the Council must consider the following before making such a recommendation— 45
- (a) The requirements referred to in section 16(1);
  - (b) any criteria contemplated in section 16(2);
  - (c) any report or submission that must accompany such application;
  - (d) an appropriate risk categorisation of the infrastructure in question in accordance with the prescribed system of categorisation referred to in sections 19(1)(b) and 20(1)(b); and 50
  - (e) any conditions for such declaration as contemplated in section 21(1)(c).



(17) Amalungu eBhunga amiselwe ngokwesiqendwana (8) anokuhlululwa umvuzo neemalana ezisecaleni ezigqitywe nguMphathiswa, ngokuvumelana noMphathiswa Wezimali ekubonise ngokubhala ukuvumelana kwakhe.

(18) Usekela-sihlalo ekuthethwe ngaye kwisiqendwana (11) makabambele usihlalo xa usihlalo engekho okanye engakwazi ukwenza imisebenzi yakhe, kwaye xa embambele makenze nawuphi na umsebenzi kasihlalo. 5

#### **Okwenza umntu angakufaneleki ukumiselwa njengelungu leBhunga Leziseko ezibalulekileyo ezingundoqo**

5. Umntu akakufaneleki ukumiselwa njengelungu okanye ukuqhubeka ekhonza njengelungu leBhunga Leziseko ezibalulekileyo ezingundoqo okuxelwe kwisiqendu 4(2)(b) no-(c) ukuba— 10

- (a) akanguye ummi waseMzantsi-Afrika;
- (b) akanaso isiqinisekiso esimkhululayo ukuba aphathiswe iimfihlo ezinkulu, isiqinisekiso asinikwe liQumrhu Lokhuseleko LoMbuso;
- (c) ungumntu ovakaliswe yinkundla enamatyala angaphezu kwemali anayo; 15
- (d) ukhe, kule minyaka ingama-20 edlulileyo, wagwetywa apha kwiRiphabliki okanye kwelinye ilizwe, wagwetywa intolongo akakhethiswa fayini;
- (e) unento ayincwasileyo ngokungqalileyo okanye ngokungangqalanga eyimali okanye enye into kwiziseko ezibalulekileyo ezingundoqo;
- (f) uxhenxisiwe kwisikhundla sokuthenjwa; okanye 20
- (g) akafaneleki ukuba amiselwe ngenxa yawo nawuphi na umthetho ongomnye.

#### **Ukuxhaswa kwalo ngemali nokuhlululwa kwemivuzo**

6. Iindleko ekungenwa kuzo ngenxa yokusetyenziswa kwamagunya nokwenziwa kwemisebenzi liBhunga Leziseko ezibalulekileyo ezingundoqo, kuquka nokuhlululwa kwemivuzo neendleko okuxelwe kwisiqendu 4(17), mazihlululwe kuthatyathwa 25 4(1) se*Civilian Secretariat for the Police Service Act 2 ka-2011*, ngokwendlela esivotelwe ngayo ngokwe*Division of Revenue Act* yaminyaka le.

#### **Imisebenzi yeBhunga Leziseko ezibalulekileyo ezingundoqo**

7. (1) Imisebenzi yeBhunga Leziseko ezibalulekileyo ezingundoqo— 30

- (a) ngokulawulwa sisiqendwana (2), kukuqwalasela nasiphi na isicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo ekuthethwe ngaso kwiSahluko 3 lize lenze izindululo eziya kuMphathiswa ngeso sicelo;
- (b) ngokulawulwa sisiqendwana (3), kukuzigunyaza njengezamkelekayo 35 izikhokelo ezimalunga—
  - (i) nokuphononongwa kwesicelo esixelwe kwisiqendu 17;
  - (ii) nokuyenza isebenze inkqubo emiselweyo yokuhlela iziseko ezibalulekileyo ezingundoqo zibe kudidi lobungozi obuphantsi, lobungozi obuphakathi, okanye lobungozi obuphezulu ekuthethwe ngabo kwisiqendu 19(1)(b) no-20(1)(b); 40
  - (iii) nemigaqo-nkqubo, iindlela zokwenza nemilinganiselo ngawo nawuphi na umbandela oyimfuneko ukuze zifezeke iinjongo zalo Mthetho; kunye
  - (iv) nokwenza nayiphi na eminye imifanekiso enokuthi yabelwe iBhunga nguMphathiswa. 45

(2) Xa lisenza isindululo esiya kuMphathiswa ngesicelo ekuthethwe ngaso kwisiqendwana (1)(a), iBhunga maliqwalasele oku kulandelayo ngaphambi kokuba lenze eso sindululo—

- (a) iimfuneko ekuthethwe ngazo kwisiqendu 16(1);
- (b) naziphi na iimfuneko ezixelwe kwisiqendu 16(2); 50
- (c) nayiphi na ingxelo okanye amazwi ekufuneka ahambisane neso sicelo;
- (d) ukudweliswa okufanelekileyo kweziseko ngokodidi lwazo lobungozi ngokwenkqubo emiselweyo yokudweliswa ngokodidi ekuthethwe ngayo kwisiqendu 19(1)(b) no-20(1)(b); kwakunye
- (e) nayiyiphi na imiqathango yokubhengezwa njengoko kwisiqendu 21(1)(c). 55

- (3) When approving guidelines referred to in subsection (1)(b), the Council must consider the following:
- (a) any submission by the National Commissioner as contemplated in section 9(2);
  - (b) any relevant submission by any other person having an interest in the protection of critical infrastructure; 5
  - (c) any budgetary implications related to critical infrastructure protection;
  - (d) any other matter that may promote the purpose of this Act or affect the implementation thereof.
- (4) The guidelines referred to in subsection (1)(b) must include guidelines 10 regarding—
- (a) the identification and management of risks relating to critical infrastructure;
  - (b) the establishment and maintenance of a legitimate, effective and transparent process for identifying and declaring infrastructure as critical infrastructure; and 15
  - (c) the procedures to coordinate the functions and activities of Government departments and the private sector insofar as those functions and activities are performed to achieve the purpose of this Act.
- (5) In addition to any function contemplated in this section, the Council may—
- (a) advise the Minister on the evaluation, monitoring and reviewing of the implementation of policy, protocols, standards and legislation related to the protection of critical infrastructure; and 20
  - (b) make recommendations to the Minister on any function of the Minister contemplated in section 22 or section 23.
- (6) The Council must, on a bi-annual basis, submit a report to the Minister 25 regarding—
- (a) the activities of the Council during the period preceding the report;
  - (b) particulars pertaining to the number of declarations as critical infrastructure, including the names of the critical infrastructure;
  - (c) particulars pertaining to any decision by the Council to depart from 30 publication of the notice contemplated in section 17(7)(b);
  - (d) particulars pertaining to any limitations or revocation as critical infrastructure;
  - (e) the level and extent of public-private sector cooperation; and
  - (f) any other matter that may impact on the protection of critical infrastructure or 35 the functioning of the Council.

#### Meetings of Critical Infrastructure Council

- 8.** (1) The Critical Infrastructure Council must meet at least quarterly.
- (2) The Secretary for the Police Service must ensure that secretarial services are provided to the Critical Infrastructure Council. 40
- (3) The chairperson may at any time convene a special meeting of the Council and must also convene such a meeting at the written request of the Minister.
- (4) If at least three members of the Council request a special meeting in writing, the chairperson must convene such a meeting within seven days after receiving the request.
- (5) Seven members of the Council, which must include the chairperson or deputy 45 chairperson, will constitute a quorum at any meeting of the Council.
- (6) Decisions of the Council must be taken by majority of votes, and in the case of an equality of votes the chairperson has a casting vote in addition to his or her deliberative vote.

- (3) Xa izivuma njengezamkelekileyo izikhokelo ekuthethwe ngazo kwisiqendwana (1)(b), iBhunga malicinge ngoku kulandelayo:
- (a) nakuphi na okutshiwo nguMkomishinala Wezwelonke okuxelwe kwisiqendu 9(2);
  - (b) nakuphi na okufanelekileyo okutshiwo nanguwuphi na omnye umntu onomdla ekukhuselweni kweziseko ezibalulekileyo ezingundoqo; 5
  - (c) nantoni na enokuthi yenzeke kwiimali ezabiweyo ehlobene nokukhuselwa kweziseko ezibalulekileyo ezingundoqo;
  - (d) nantoni na enye into enokuthi iqhubele phambili injongo yalo Mthetho okanye ichphazele ukwenziwa kwawo usebenze. 10
- (4) Izikhokelo ekuthethwe ngazo kwisiqendwana (1)(b) maziquke izikhokelo ezimalunga—
- (a) ukubonwa nokulawulwa kweemeko ezinobungozi ezimalunga neziseko ezibalulekileyo ezingundoqo;
  - (b) ukusekwa nokulondolozwa kwenkqubo efanelekileyo, esebenzayo neselubala yokwazi ukuba zeziphi iziseko ezibalulekileyo ezingundoqo zize zibhengezwe njengezinjalo; kwaye 15
  - (c) iinkqubo zokulungelelanisa imisebenzi yamasebe kaRhulumente neyamashishini azimeleyo ukuba loo misebenzi yenziwa ngenjongo yokuqhubela phambili injongo yalo Mthetho. 20
- (5) Ukongezelela kuwo nawuphi na umsebenzi oxelwe kwesi siqendu, iBhunga linokuthi—
- (a) licebise uMphathiswa ngokuhlolwa, ukubekw' esweni nokuqwalaselwa ngokutsha kokusetyenziswa komgaqo-nkqubo, kweendlela zokwenza, kwemilinganiselo nemithetho emalunga nokukhuselwa kweziseko ezibalulekileyo ezingundoqo; kwaye linokuthi 25
  - (b) lenze izindululo eziya kuMphathiswa ngawo nawuphi na umsebenzi kaMphathiswa oxelwe kwisiqendu 22 okanye kwisiqendu 23.
- (6) IBhunga malithi, kabini ngonyaka, lingenise ingxelo kuMphathiswa malunga—
- (a) nezinto ezenziwe liBhunga kwithuba elandulela ingxelo; 30
  - (b) neenkukacha ezimalunga nenani lezibonenelelo ezibhengezwe njengeziseko ezibalulekileyo ezingundoqo, kuquka namagama ezo ziseko ezibalulekileyo ezingundoqo;
  - (c) neenkukacha zaso nasiphi na isigqibo seBhunga zokungasipapashi isihlokomiso esixelwe kwisiqendu 17(7)(b); 35
  - (d) neenkukacha ezimalunga nemida esikelwe iziseko ezibalulekileyo ezingundoqo okanye ukurhoxiswa kwazo;
  - (e) ubungakanani bentsebenziswano phakathi kukarhulumente namashishini azimeleyo; kunye
  - (f) nawuphi na omnye umbandela onokuthi uchaphazele ukukhuselwa kweziseko ezibalulekileyo ezingundoqo okanye ukusebenza kweBhunga. 40

### **Intlanganiso zeBhunga Leziseko ezibalulekileyo ezingundoqo**

8. (1) IBhunga Leziseko ezibalulekileyo ezingundoqo malibe neentlanganiso ubuncinane qho ngekota.
- (2) UNobhala weNkonzo YamaPolisa makaqinisekise ukuba iBhunga Leziseko Ezibalulekileyo linikwa iinkonzo zobunobhala. 45
  - (3) Usihlalo unokuthi nangaliphi na ixesha abize intlanganiso ekhethekileyo yeBhunga, kwaye makayibize intlanganiso naxa kucele uMphathiswa ngembalelwano.
  - (4) Ukuba mathathu ubuncinane amalungu eBhunga acela intlanganiso ekhethekileyo ngembalelwano, usihlalo makayibize intlanganiso zingekapheli iintsuku ezisixhenxe esifumene isicelo. 50
  - (5) Amalungu asixhenxe eBhunga, emakubekho phakathi kwawo usihlalo okanye usekela-sihlalo, aya kuba linani elifunekayo lokuba ingaqhubeka intlanganiso yeBhunga.
  - (6) Izigqibo zeBhunga mazithatyathwe ngokwesininzi seevoti, kuze kuthi xa iivoti zilingana macala, usihlalo abe nelungelo lokuvota ukongezelela kwilungelo lakhe lokuthabath' inxaxheba kwiingxoxo. 55

**Part B****Administration of Act****Functions of National Commissioner**

9. (1) The National Commissioner must—
- (a) establish and maintain the administrative systems and procedures necessary for the implementation and enforcement of this Act; 5
  - (b) support the Critical Infrastructure Council and the Minister in the administration of this Act; and
  - (c) effect cooperation between the South African Police Service, other organs of state and the private sector insofar as it relates to the protection of critical infrastructure. 10
- (2) The functions of the National Commissioner are to develop uniform standards, guidelines and protocols for approval by the Council regarding—
- (a) the manner in which—
    - (i) infrastructure must be identified, categorised and declared critical infrastructure; 15
    - (ii) any physical security assessment of critical infrastructure and potential critical infrastructure is conducted and coordinated between Government departments;
    - (iii) information which may be relevant to critical infrastructure protection is shared between the relevant stakeholders; or 20
    - (iv) any prescribed committee or forum must function and report; and
  - (b) structures and mechanisms to facilitate coordination in, and management of, the protection of critical infrastructure.
- (3) The National Commissioner must— 25
- (a) consider an application from a person in control of an infrastructure for declaring that infrastructure as critical infrastructure;
  - (b) conduct or facilitate any physical security assessment of critical infrastructure or potential critical infrastructure;
  - (c) make recommendations to the Council on the declaration and risk categorisation of such critical infrastructure or potential critical infrastructure; 30
  - (d) evaluate, monitor and review the application and operational effectiveness of policy, guidelines or legislation related to the protection of critical infrastructure, and advise the Council accordingly;
  - (e) evaluate and review physical security assessments, resilience reports and any designation as critical infrastructure, and advise the Council accordingly; 35
  - (f) consider any draft of a prescribed security policy or plan submitted to his or her office;
  - (g) issue directives regarding the procedures to be followed at the meetings of any prescribed committee or forum; and 40
  - (h) compile and submit quarterly reports to the Council, which must at least include—
    - (i) particulars of the related activities of the South African Police Service during the preceding quarter;
    - (ii) particulars of the number of applications for declaration of infrastructure as critical infrastructure; 45
    - (iii) particulars of the level and extent of Government department participation in the functioning of a committee or forum; and
    - (iv) the level and extent of public-private sector cooperation in the functioning of a committee or forum. 50
- (4) The National Commissioner may, in the prescribed manner, apply for the declaration of government infrastructure as critical infrastructure.

*ICandelo B**Ukulawulwa kwalo Mthetho***Imisebenzi yoMkomishinala Wezwelonke**

9. (1) UMkomishinala Wezwelonke—
- (a) makamisele aze alondoloze iinkqubo zokusetyenziswa kwalo Mthetho neendlela eziyimfuneko zokuwunyanzelisa; 5
  - (b) makaxhase iBhunga Leziseko ezibalulekileyo ezingundoqo noMphathiswa ekusetyenzisweni kwalo Mthetho; kananjalo
  - (c) enze kubekho intsebenziswano phakathi kweNkonzo YamaPolisa YoMzantsi-Afrika namanye amacandelo karhulumente neenkampani ezizimeleyo ekukhuselweni kweziseko ezibalulekileyo ezingundoqo. 10
- (2) Imisebenzi yoMkomishinala Wezwelonke kukuthi gqi nemigaqo efanayo, nezikhokelo neendlela zokwenza izinto emazivunyuwe liBhunga malunga—
- (a) nendlela—
    - (i) ezinokuthi ziqondwe ngayo iziseko ezibalulekileyo ezingundoqo zize zibhengezwe njengezibalulekileyo; 15
    - (ii) okunokuthi ukuphononongwa kokukhuseleka kweziseko ezibalulekileyo ezingundoqo elizweni kuqhutywe ngayo kuze kulungelelaniswe phakathi kwamasebe karhulumente;
    - (iii) enokuthi ngayo ingcombolo enokuba nento yokwenza nokukhuselwa kweziseko ezibalulekileyo ezingundoqo kuchutyelwane ngayo ngabo babandakanyekileyo; okanye 20
    - (iv) enokuthi ngayo nayiphi na ikomiti emiselweyo isebenze ize inik'ingxelo; kananjalo malunga
  - (b) nezakhiwo namacebo okwenza lula ukulungelelaniswa nokuphathwa kweziseko ezibalulekileyo ezingundoqo. 25
- (3) UMkomishinala Wezwelonke—
- (a) makaqwalasele izicelo ezivela kumntu ongumphathi wesiseko esibalulekileyo, kususicelo sokuba eso siseko sibhengezwe njengesiseko esibalulekileyo; 30
  - (b) makaphonononge okanye enze ukuba kuphononongwe ukhuseleko elizweni lonke lweziseko ezibalulekileyo ezingundoqo okanye lweziseko ezinokuba ziziseko ezibalulekileyo ezingundoqo;
  - (c) makabhekise iziphakamiso kwiBhunga ezingokubhengezwa kwezo ziseko ezibalulekileyo ezingundoqo okanye iziseko ezinokuba zezibalulekileyo nokuhlelwa kwazo ngokodidi; 35
  - (d) makaphonononge kwaye aqwalasele ngokutsha ukusetyenziswa kwemigaqo-nkqubo, izikhokelo okanye imithetho yepalamente nokuba nempumelelo kwayo, kuyimigaqo-nkqubo nemithetho yepalamente engokukhuselwa kweziseko ezibalulekileyo ezingundoqo, aze azise iBhunga; 40
  - (e) makaphonononge kwaye aqwalasele ngokutsha okufunyanisiweyo kukhuseleko lwezwe lonke, iingxelo ezingokomelela nokuvunywa kweziseko ezithile njengeziseko ezibalulekileyo ezingundoqo, aze iBhunga;
  - (f) makaqwalasele nawuphi na umgaqo-nkqubo oseluvavanyo okanye isicwangciso esiseluvavanyo esingeniswe kwiofisi yakhe; 45
  - (g) makakhuphe imiyalelo yokuba maziqhutywe njani iintlanganiso zekomiti emiselweyo;
  - (h) makaqulunqe iingxelo zekota aze azithumele kwiBhunga, ngxelo ezo ubuncinane emazibe—
    - (i) neenkukacha zezinto ezenziwe yiNkonzo YamaPolisa YoMzantsi-Afrika kwikota engaphambili; 50
    - (ii) neenkukacha ngenani lezicelo zokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo;
    - (iii) neenkukacha zokuba isebe likarhulumente linenxaxheba kangakanani ekusebenzeni kwekomiti; nezokuba 55
    - (iv) ingakanani intsebenziswano phakathi kukarhulumente namashishini azimeleyo ekusebenzeni kwekomiti.
- (4) UMkomishinala Wezwelonke unokuthi, ngendlela emiselweyo, acele ukuba ukuba iziseko zikarhulumente zibhengezwe njengeziseko ezibalulekileyo ezingundoqo.

### Designation of inspectors

**10.** (1) The National Commissioner may designate police officials who are in possession of an appropriate security clearance certificate, experienced in infrastructure protection, on at least the rank level of a warrant officer, as inspectors.

(2) The National Commissioner must issue each inspector designated in terms of subsection (1) with a certificate in the prescribed form, stating that the police official has been designated as an inspector in terms of this Act. 5

### Functions of inspectors

**11.** (1) An inspector may, at any reasonable time, conduct an inspection at a critical infrastructure to— 10

- (a) verify whether the person in control of that critical infrastructure took the steps to secure the critical infrastructure contemplated in section 24(1);
- (b) verify any information relating to the declaration as critical infrastructure as well as the physical security assessment report contemplated in section 17(4)(c)(i) or any other subsequent physical security assessment; 15
- (c) review the physical security assessment and evaluate the status of the physical security of the critical infrastructure;
- (d) verify compliance with this Act; and
- (e) compile a report on the matters referred to in paragraphs (a) to (d) for the National Commissioner and the person in control of the critical infrastructure. 20

(2) An inspector must—

- (a) preserve, or aid in preserving, confidentiality with regard to all matters concerning the operational activities of the critical infrastructure that may come to his or her knowledge in the performance of his or her duties and may not communicate any such matter to any person except the National Commissioner, or unless a court of law orders such communication, or insofar as such communication is necessary to properly carry out the inspection; 25
- (b) carry out his or her duties and exercise his or her powers—
  - (i) subject to any prescribed procedure;
  - (ii) in accordance with any directives issued by the Minister; 30
  - (iii) in a manner that does not hamper or endanger the operational activities of the critical infrastructure where an inspection is being conducted; and
  - (iv) with strict regard to decency and order.

(3) Where the person in control of a critical infrastructure fails or refuses to allow an inspector access to the critical infrastructure concerned, the inspector may issue the prescribed compliance notice in the prescribed manner to the person in control of the critical infrastructure, requiring of that person to provide the inspector with access to the critical infrastructure within seven days, for the purpose of conducting the inspection. 35

(4) If an inspector has reasonable grounds to believe that any method or practice of safeguarding or securing the critical infrastructure in question or any failure or refusal to comply with this Act, may negatively affect the physical security measures of that critical infrastructure, the inspector may, by written notice in the prescribed form and manner, order the person in control of that critical infrastructure to take, within a period specified in the notice, such steps in respect of the security of the critical infrastructure as may be specified in the notice. 45

(5) Despite subsection (4), the Minister may take or cause steps to be taken in respect of the security of any critical infrastructure, when credible information on oath is brought to his or her attention to the effect that—

- (a) the person in control of critical infrastructure fails or refuses to—
  - (i) comply with the provisions of this Act; or 50
  - (ii) take the steps contemplated in the notice referred to in subsection (4);

**Ukuchongwa kwabahloli**

**10.** (1) UMkomishinala Wezwelonke unokuthi achonge amapolisa anesiqinisekiso esifanelekileyo sokhuseleko, anamava ekukhuselweni kweziseko, ewachonga ubuncinane kwinqwanqwa lamapolisa aziiwarrant officer, abe ngabahloli.

(2) UMkomishinala Wezwelonke makakhuphe isiqinisekiso asinike umhloli ngamnye ochongwe ngokwesiqendwana (1), ekwenza oko ngendlela emiselweyo, kusisiqinisekiso esithi elo polisa lichongelwe ukuba libe ngumhloli ngokwalo Mthetho.

**Imisebenzi yabahloli**

**11.** (1) Nangaliphi na ixesha, umhloli angahlola iziseko ezibalulekileyo ezingundoqo ngenjongo—

- (a) yokuqiniseka ukuba umntu ophetheyo kwezo ziseko zibalulekileyo uwathabathile kusini na amanyathelo okuzikhusela ezo ziseko zibalulekileyo axelwe kwisiqendu 24(1);
- (b) yokuqiniseka ngobunyani bengcombolo emalunga nokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo kwakunye nengxelo yokuphonongwa kokhuseleko exelwe kwisiqendu 17(4)(c)(i) okanye okunye ukuphonongwa kokhuseleko okulandelayo;
- (c) yokuqwalasela ngokutsha imeko yokhuseleko nokuphonongwa imeko yokhuseleko lweziseko ezibalulekileyo ezingundoqo;
- (d) yokuqiniseka ukuba kuyenziwa okufunwa ngulo Mthetho; kwaye
- (e) yokuqulunqa ingxelo ngemibandela ekuthethwe ngayo kwisiqendu (a) ukuya ku-(d) esenzela uMkomishinala Wezwelonke nomntu ongumphathi weziseko ezibalulekileyo ezingundoqo.

(2) Umhloli—

- (a) makagcine imfihlo okanye ancedise ekugcineni imfihlo ngayo yonke imibandela engokusebenza kweziseko ezibalulekileyo ezingundoqo anokuthi abe nolwazi ngayo xa esenza imisebenzi yakhe, kwaye akavumelekanga ukuba athethe ngaloo mibandela nakuwuphi na umntu ngaphandle kwakuMkomishinala Wezwelonke, okanye ngaphandle kwaxa kuyalele inkundla yomthetho, okanye ngaphandle kokuba oko kuthetha kuyimfuneko ukuze awufeze kakuhle umsebenzi wokuhlola;
- (b) makayenze imisebenzi yakhe okanye awasebenzise amagunya akhe—
  - (i) elandela inkqubo efunekayo;
  - (ii) ngokuvumelana nemiyalelo ekhutshwe nguMphathiswa;
  - (iii) ngendlela engakuthinteliyo okanye engakubeki ngozini ukusebenza kweziseko ezibalulekileyo ezingundoqo ezihlolwayo; kananjalo
  - (iv) ehlonipha ngokungqongqo isidima somntu nocwangco.

(3) Xa umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo esoyisakala okanye esala ukungenisa umhloli kwiziseko ezibalulekileyo ezingundoqo, umhloli unokuthi amkhuphele isaziso esifunekayo sokunyanzelisa ukungena, ekwenza oko ngendlela emiselweyo, asinike umntu ophetheyo kwezo ziseko ezibalulekileyo ezingundoqo, efuna ukuba loo mntu angenise umhloli kwiziseko ezibalulekileyo ezingundoqo zingekapheli iintsuku ezisixhenxe, ngenjongo yokuba ahlole.

(4) Ukuba umhloli uezizathu ezivakalayo zokukholelwa ukuba indlela yokukhusela iziseko ezibalulekileyo okanye ukoyisakala okanye ukwala ukwenza okufunwa ngulo Mthetho kunokuchaphazela kakubi ukhuseleko lwezo ziseko zibalulekileyo, umhloli unokuthi, ngesaziso esibhaliweyo ngendlela emiselweyo, ayalele umntu ophetheyo kwezo ziseko zibalulekileyo ukuba athi lingekapheli ixesha elixelwe kwisaziso athabathe amanyathelo okukhusela iziseko ezibalulekileyo ezingundoqo axeliweyo kwisaziso eso.

(5) Nangona sisitsho oku sikutshoyo isiqendwana (4), uMphathiswa unokuthi athabathe amanyathelo okanye enze ukuba kuthatyathwe amanyathelo okukhuselwa kweziseko ezibalulekileyo ezingundoqo xa enikwa ingcombolo ethembekileyo efungekileyo ethi—

- (a) umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo uyoyisakala okanye uyala—
  - (i) ukwenza okufunwa ngulo Mthetho; okanye
  - (ii) ukuthabatha amanyathelo axelwe kwisaziso ekuthethwe ngaso kwisiqendwana (4);

- (b) the failure or refusal contemplated in paragraph (a) creates a substantial risk that the critical infrastructure in question cannot be secured in the event of a threat; and
- (c) in the event of a threat, a failure to secure the critical infrastructure in question is likely to cause an imminent disruption of— 5
- (i) the functioning or stability of the economy of the Republic;
  - (ii) the maintenance of law and order;
  - (iii) the provision of basic public services; or
  - (iv) national security.
- (6) Despite the power of the Minister to take or cause steps to be taken in respect of the security of any critical infrastructure as contemplated in subsection (5), the Minister, when exigent circumstances dictate that the provisions of subsection (3) or (4) be dispensed with, may apply to a court having jurisdiction for— 10
- (a) an order compelling the person in control of critical infrastructure— 15
    - (i) to comply with any provision of this Act or to cease contravening a provision of this Act;
    - (ii) to comply with any notice issued under subsection (3) or take any other reasonable steps necessary to secure the critical infrastructure in question; or
    - (iii) to cease any method or practice of safeguarding or securing the critical infrastructure in question that may cause a serious breach of the physical security measures of that critical infrastructure; or 20
  - (b) any other order the court considers appropriate.
- (7) A notice referred to in subsections (3) and (4) must be given to the person in control of the infrastructure or a person designated by the person in control of the critical infrastructure or, in their absence, the most senior employee available at the critical infrastructure to whom the notice can be issued. 25
- (8) The Minister may, by notice in the *Gazette*, in consultation with the head of a public entity or statutory body, either generally or subject to such conditions as may be specified in the notice, extend the powers provided for in this section to any competent person employed by a public entity contemplated in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), or any other statutory body if that person is a peace officer contemplated in section 1(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 30
- (9) The notice referred to in subsection (8) must set out— 35
- (a) the extent to, and the conditions under, which such powers are extended to such person; and
  - (b) the extent to which the directives contemplated in subsection (2)(b)(ii) are applicable to such person in the exercise of such powers.
- (10) An inspector, prior to exercising any power in terms of this Chapter, must identify himself or herself to the person in control or the security manager of the critical infrastructure in question and must produce the certificate issued by the National Commissioner referred to in section 10(2). 40

### Part C

#### *Committees, exemption and delegations*

45

#### **Ad hoc and standing committees**

- 12.** (1) The National Commissioner may, when he or she deems it necessary or expedient to obtain advice or assistance in order to perform any function contemplated in section 9(2) and (3), establish any *ad hoc* or standing committee to assist him or her.
- (2) A committee established under subsection (1) may establish *ad hoc* working groups to assist it in the performance of its functions. 50
- (3) Any committee or working group established under subsections (1) and (2) may include persons who are not police officials.



- (b) ukoyisakala okanye ukwala okuxelwe kwisiqendu (a) kubek' esichengeni iziseko ezibalulekileyo ezingundoqo kangangokuba azinakukhuseleka xa kunokuthi kubekho isenzo esinobungozi; nethi
- (c) xa kunokuthi kubekho isenzo esinobungozi, ukungazikhuseli iziseko ezibalulekileyo ezingundoqo kungabangela ukuphazamiseka— 5
- (i) kokusebenza okanye kokuzinza koqoqosho lweRiphabliki;
- (ii) kokusebenza komthetho nocwangco;
- (iii) kokunikwa kweenkonzo ezisisiseko; okanye
- (iv) ukhuseleko lwelizwe.
- (6) Nangona uMphathiswa enegunya lokuthabatha amanyathelo okanye lokwenza ukuba kuthatyathwe amanyathelo ngokukhuseleka kweziseko ezibalulekileyo ezingundoqo njengoko kuxelwe kwisiqendwana (5), unokuthi xa iimeko ezingxamisekileyo zifunisa ukuba makubekwe ecaleni okufunwa sisiqendwana (3), okanye (4), enze isicelo enkundleni efuna— 10
- (a) umyalelo onyanzela umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo— 15
- (i) ukuba akwenze okufunwa ngulo Mthetho okanye ayeke ukwaphula okutshiwo ngulo Mthetho;
- (ii) ukuba akwenze okufunwa sisaziso esikhutshwe ngokwesiqendwana (3) okanye athabathe amanye amanyathelo ayimfuneko ukukhusela iziseko ezibalulekileyo ezingundoqo; okanye 20
- (iii) ukuba ayiyeke indlela yokukhusela iziseko ezibalulekileyo ezingundoqo enokubangela ukunyhashwa kwamanyathelo okukhuselwa kwezo ziseko zibalulekileyo; okanye
- (b) nawuphi na omnye umyalelo inkundla ewubona ufanelekile. 25
- (7) Isaziso bekuthethwe ngaso kwisiqendwana (3) nese-(4) masinikwe umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo okanye umntu ochongwe ngumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo okanye, ukuba akekho, sinikwe umqeshwa okwelona nqanaba liphezulu kwezo ziseko zibalulekileyo esinokunikwa yena isaziso. 30
- (8) UMphathiswa unokuthi, ngokukhuph' isihlokomiso kuShicilelo-Mithetho, ekwabonisa nentloko yeziko likarhulumente okanye yequmrhu elisekwe ngokomthetho wepalamente, ekwenza oko nangayiphi na indlela okanye ekwenza elawulwa yimiqathango exeliweyo kwisihlokomiso, unokuthi anikezele ngamagunya akwesi siqendu ewanikezela nakowuphi na umntu okwaziyo ukuwenza umsebenzi oqeshwe liziko likarhulumente elixelwe kwisiqendu 1 se*Public Finance Management Act* 1 ka-1999, okanye oqeshwe liqumrhu elisekwe ngokomthetho wepalamente, ukuba loo mntu uligosa lokumilisel' uxolo elixelwe kwisiqendu 1(1) se*Criminal Procedure Act* 51 ka-1977. 35
- (9) Isihlokomiso ekuthethwe ngaso kwisiqendwana (8) masixele ukuba— 40
- (a) angakanani amagunya anikezelwa kuloo mntu , phantsi kwayiphi imiqathango; nokuthi
- (b) imiyalelo exelwe kwisiqendwana (2)(b)(ii) isebenza kangakanani kuloo mntu ekusebenziseni kwakhe loo magunya.
- (10) Ngaphambi kokuba asebenzise amagunya angokwesi Sahluko, umhloli makazichaze kumntu ophetheyo okanye kumphathi wokhuseleko weziseko ezibalulekileyo ezingundoqo kwaye makavelise isiqinisekiso esikhutshwe nguMkomishinala Wezwelonke ekuthethwe ngaso kwisiqendu 10(2). 45

### ***ICandelo C***

#### ***Iikomiti, ukungasebenzi kwemiqathango kubantu abathile, nokuwaphathisa amagunya*** 50

#### **Iikomiti zethutyana nezisisigxina**

12. (1) UMkomishinala Wezwelonke unokuthi aseke ikomiti yethutyana okanye esisigxina yokumncedisa, ekwenza oko xa ekubona kuyimfuneko ukufumana icebiso okanye uncedo ukuze enze nawuphi na umsebenzi oxelwe kwisiqendu 9(2) nese-(3). 55
- (2) Ikomiti esekwe ngokwesiqendwana (1) inokuthi isungule amaqela okusebenza ethutyana okuyincedisa ekwenzeni imisebenzi yayo.
- (3) Nayiphi na ikomiti okanye iqela lokusebenza elisungulwe ngokwesiqendwana (1) nese-(2) linokuthi kulo libe nabantu abangengawo amapolisa.

- (4) The National Commissioner must designate a police official who is a member of a committee or working group, as chairperson thereof.
- (5) A committee is accountable to the National Commissioner.
- (6) The advice or assistance contemplated in subsection (1) does not bind the National Commissioner or absolve him or her from his or her responsibility under this Act. 5
- (7) A member of a committee is disqualified from being appointed or continuing to serve as a member of the committee, if he or she—
- (a) has, in the preceding 20 years, been sentenced in the Republic or elsewhere, to imprisonment without the option of a fine;
  - (b) does not have a valid security clearance certificate issued to him or her by the State Security Agency; 10
  - (c) is an unrehabilitated insolvent;
  - (d) is not a South African citizen; or
  - (e) is by virtue of any other law disqualified from being appointed.

#### **Exemption of certain persons** 15

- 13.** (1) The restrictions on entry contemplated in section 25(2) do not apply in respect of a member of the security services established in terms of section 199 of the Constitution, who is required in the performance of his or her functions and the carrying out of his or her duties, to enter any critical infrastructure.
- (2) Section 25(2) must not be interpreted so as to restrict powers of entry assigned by law on any functionary in the employ of an organ of state. 20
- (3) Any member or functionary referred to in subsections (1) or (2) must produce proof of his or her appointment and identity to the satisfaction of the person in control of the critical infrastructure or an appointed security manager.

#### **Delegation of powers** 25

- 14.** (1) The Minister may, by notice in the *Gazette*, delegate any of his or her powers under this Act to the National Commissioner, except—
- (a) the power conferred on the Minister by sections 11, 22, 23 and 27; and
  - (b) the duty imposed on the Minister by sections 4, 14(2), 15 and 20.
- (2) The Minister must regularly review and, if necessary, amend or withdraw a delegation under subsection (1). 30
- (3) A delegation to the National Commissioner under subsection (1)—
- (a) is subject to such limitation and conditions as the Minister may impose;
  - (b) may authorise the National Commissioner to sub-delegate, in writing, the power or duty to another police official of a rank not less than that of level 13; 35
  - (c) does not prevent the exercise of that power or the performance of that duty by the Minister; and
  - (d) does not divest the Minister of the responsibility concerning the exercise of the delegated power.
- (4) The Minister may confirm, vary or revoke any decision taken by a police official as a result of a delegation or sub-delegation under this section, subject to any rights that may have become vested as a consequence of that decision. 40
- (5) The National Commissioner may, in writing, delegate any function conferred upon him or her by this Act to any police official of a rank not less than that of level 13.
- (6) A delegation in terms of subsection (5)— 45
- (a) is subject to such limitation and conditions as the National Commissioner may impose;
  - (b) does not prevent the exercise of that power or the performance of that duty by the National Commissioner; and

- (4) UMkomishinala Wezwelonke makachonge ipolisa elililungu lekomiti okanye iqela elisebenzayo, libe ngusihlalo walo.
- (5) Ikomiti iphantsi kwegunya loMkomishinala Wezwelonke.
- (6) Icebiso elixelwe okanye uncedo oluxelwe kwisiqendwana (1) alimnkqamangeli uMkomishinala Wezwelonke, lingamkhululi kananjalo kwimbopheleleko anayo ngokwalo Mthetho. 5
- (7) Umntu akafaneleki ukuba amiselwe abe lilungu okanye aqhubeke ekhonza njengelungu lekomiti, ukuba—
- (a) ukhe, kule minyaka ingama-20 edlulileyo, wagwetywa apha kwiRiphabliki okanye kwelinye ilizwe, wagwetywa intolongo akakhethiswa fayini; 10
- (b) akanaso isiqinisekiso esimkhululayo ukuba aphathiswe iimfihlo ezinkulu, isiqinisekiso asinikwe liQumrhu Lokhuseleko LoMbuso;
- (c) ungumntu ovakaliswe yinkundla enamatyala angaphezu kwemali anayo;
- (d) akanguye ummi waseMzantsi-Afrika; okanye
- (e) ngokutsho komnye umthetho, akafaneleki ukuba amiselwe. 15

### Ukungasebenzi kwemiqathango kubantu abathile

13. (1) Imiqathango yokungena exelwe kwisiqendu 25(2) ayisebenzi kumntu okwiinkonzo zokhuseleko ezasungulwa ngokwisiqendu 199 soMgaqo-siseko, ekufuneka ukuba angene kwiziseko ezibalulekileyo ezingundoqo ekwenzeni kwakhe imisebenzi yakhe. 20
- (2) Isiqendu 25(2) masingathathwa njengeswasikel' umda amagunya okungena afumaneka emthethweni enikwa igosa eliqeshwe licandelo likarhulumente.
- (3) Ilungu okanye igosa ekuthethwe ngalo kwisiqendwana (1) okanye (2) malivelise ubungqina bokumiselwa kwalo nobokuba lingubani ngendlela eyanelisa umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo okanye eyanelisa imaneja yokhuseleko eqeshiweyo. 25

### Ukuwaphathisa amagunya

14. (1) Ngokukhuph' isihlokomiso kuShicilelo-Mithetho, uMphathiswa unokuwaphathisa uMkomishinala Wezwelonke amanye amagunya akhe anawo ngokwalo Mthetho, ngaphandle— 30
- (a) kwegunya uMphathiswa alithiwe jize sisiqendu 11, 22, 23 nesama-27; kwakunye
- (b) nomsebenzi othiwe zinzi emagxeni oMphathiswa sisiqendu 4, 14(2), 15 nese-20.
- (2) UMphathiswa makaman' ukukuqwalasela ngokutsha ukuphathisa akwenzileyo ngokwisiqendwana (1) aze, ukuba kuyimfuneko, enze utshintsho okanye akurhoxise. 35
- (3) Ukuphathiswa koMkomishinala Wezwelonke okwenziwe ngokwisiqendwana (1)—
- (a) kuxhomekeke kwimida nemiqathango enokuthi ibekwe nguMphathiswa;
- (b) kusengagunyaza uMkomishinala Wezwelonke ukuba naye aphathise ongezantsi kwakhe, ngokubhala, ephathisa elinye ipolisa elikwinqanaba elingekho ngaphantsi kwenqwanqwa 13, eliphathisa igunya okanye umsebenzi; 40
- (c) akumthinteli uMphathiswa ukuba alisebenzise ngokwakhe elo gunya okanye awenze ngokwakhe loo msebenzi; kwaye 45
- (d) akumohluthi uMphathiswa imbopheleleko anayo ngokusetyenziswa kwelo gunya aliphathisileyo.
- (4) UMphathiswa unokuthi avumelane nesigqibo esenziweyo lipolisa ngokuphathiswa okanye ngokuphathiswa ngophathisiweyo ngokwesi qendu, okanye unokuthi enze utshintsho kweso sigqibo okanye asirhoxise kwaphela, kodwa ke akufuneki aphazanyiswe amalungelo afunyenwe ngumntu ngenxa yeso sigqibo. 50
- (5) UMkomishinala Wezwelonke unokuthi, ngokubhala, aphathise nawuphi na umsebenzi othiwe zinzi emagxeni akhe ngulo Mthetho ewuphathisa ipolisa elikwinqanaba elingekho ngaphantsi kwenqwanqwa 13.
- (6) Ukuphathisa okwenziwe ngokwisiqendwana (5)— 55
- (a) kuxhomekeke kwimida nemiqathango enokuthi ibekwe nguMkomishinala Wezwelonke;
- (b) akumthinteli uMkomishinala Wezwelonke ukuba alisebenzise ngokwakhe elo gunya okanye awenze ngokwakhe loo msebenzi; kwaye

- (c) does not divest the National Commissioner of the responsibility concerning the exercise of the delegated power.

(7) The National Commissioner may confirm, vary or revoke any decision taken by a police official as a result of a delegation under this section, subject to any rights that may have become vested as a consequence of that decision. 5

### Reporting by Minister

15. The Minister must, on a bi-annual basis, table a report in Parliament on the activities of the Critical Infrastructure Council, substantially corresponding with the format of the report in section 7(6).

## CHAPTER 3

10

### DECLARATION AS CRITICAL INFRASTRUCTURE AND DETERMINATION OF CRITICAL INFRASTRUCTURE COMPLEX

#### Requirements for declaration of infrastructure as critical infrastructure

16. (1) Infrastructure qualifies for declaration as critical infrastructure, if—
- (a) the functioning of such infrastructure is essential for the economy, national security, public safety and the continuous provision of basic public services; and 15
  - (b) the loss, damage, disruption or immobilisation of such infrastructure may severely prejudice—
    - (i) the functioning or stability of the Republic; 20
    - (ii) the public interest with regard to safety and the maintenance of law and order; and
    - (iii) national security.
- (2) In determining whether the qualifying requirements contemplated in subsection (1) are met, one or more of the following criteria must be applied: 25
- (a) the infrastructure must be of significant economic, public, social or strategic importance;
  - (b) the Republic's ability to function, deliver basic public services or maintain law and order may be affected if a service rendered by the infrastructure is interrupted, or if the infrastructure is destroyed, disrupted, degraded or caused to fail; 30
  - (c) interruption of a service rendered by the infrastructure, or the destruction, disruption, degradation, or failure of such infrastructure will have a significant effect on the environment, the health or safety of the public or any segment of the public, or any other infrastructure that may negatively affect the functions and functioning of the infrastructure in question; 35
  - (d) there are reasonable grounds to believe that the declaration as critical infrastructure will not have a significantly negative effect on the interests of the public;
  - (e) the declaration as critical infrastructure is in pursuance of an obligation under any binding international law or international instrument; and 40
  - (f) any other criteria which may, from time to time, be determined by the Minister by notice in the *Gazette*, after consultation with the Critical Infrastructure Council.

(c) akumohluthi uMkomishinala Wezwelonke imbopheleleko anayo ngokusetyenziswa kwelo gunya aliphathisileyo.

(7) UMkomishinala Wezwelonke unokuthi avumelane nesigqibo esenziweyo lipolisa ngokuphathiswa okanye ngokuphathiswa ngophathisiweyo ngokwesi siqendu, okanye unokuthi enze utshintsho kweso sigqibo okanye asirhoxise kwaphela, kodwa ke akufuneki aphazanyiswe amalungelo afunyenwe ngumntu ngenxa yeso sigqibo. 5

#### **Ukwenz' ingxelo koMphathiswa**

15. Qho kabini ngonyaka, uMphathiswa makathi thaca ePalamente ingxelo ngezinto ezenziwe liBhunga Leziseko ezibalulekileyo ezingundoqo, ubume bengxelo bufane kanobom nobume bengxelo ekwisiqendu 7(6). 10

### **ISIAHLUKO 3**

#### **UKUBHENGEZWA KWEZISEKO NJENGEZISEKO EZIBALULEKILEYO EZINGUNDOQO NOKWENZIWA KWESIGQIBO NGODEDERHU LWEZISEKO EZIBALULEKILEYO EZINGUNDOQO**

#### **Iimfuneko zokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo 15**

16. (1) Iziseko ziyafaneleka ukuba zibhengezwe njengeziseko ezibalulekileyo ezingundoqo, ukuba—

(a) ukusebenza kwezo ziseko kuyimfuneko ukuze kuncedakale uqoqosho, ukhuseleko lwelizwe, ukhuseleko loluntu nokunikezelwa kweenkonzo ezisisiseko okuqhubekayo; kube 20

(b) ukulahlekelwa zezo ziseko, ukonakala kwazo, ukuphazanyiswa kwazo kungabeka emngciphekweni omkhulu—

(i) ukusebenza okanye ukuzinza kweRiphabliki;

(ii) uluntu ngokubhekiselele kukhuseleko nokulondolozwa kokugcinwa komthetho nocwangco; kunye 25

(iii) nokhuseleko lwelizwe.

(2) Ekwenzeni isigqibo mayela nokuba iimfuneko zokufaneleka ezixelwe kwisiqendwana (1) kuyahlangatyezwana nazo, makusetyenziswe enye okanye ezingaphezu kwenye kwezi mfuneko zilandelayo:

(a) iziseko ezo mazibe zezibaluleke kakhulu kuqoqosho, kuluntu, nasekucwangciseni; 30

(b) ukukwazi kweRiphabliki ukusebenza, ukukwazi kwayo ukunikezela iinkonzo ezisisiseko okanye ukukwazi kwayo ukulondoloza ukugcinwa komthetho nocwangco kungachaphazeleka ukuba inkonzo ezezwa ziziseko iyaphazanyiswa, okanye ukuba iziseko ziyatshatyalaliswa, okanye zenziwe zoyisakele; 35

(c) ukuphazanyiswa kwenkonzo eyenziwa ziziseko, okanye ukutshatyalaliswa kweziseko, ukuphazanyiswa kwazo, ukuthotywa komgangatho wazo, okanye ukoyisakala kwazo kuya kuba nesiphumo esibi kokusingqongileyo, kwimpilo okanye kukhuseleko loluntu, okanye icandelo loluntu, okanye kwezinye iziseko ezingachaphazela kakubi ukusebenza kwezi ziseko kuthethwa ngazo; 40

(d) kukho izizathu ezivakalayo zokukholelwa ukuba ukubhengezwa njengeziseko ezibalulekileyo ezingundoqo akuyi kuba nesiphumo esibi kakhulu kuluntu; 45

(e) ukubhengezwa njengeziseko ezibalulekileyo ezingundoqo kungenxa yokunyanzeleka ngokomthetho wamazwe ngamazwe onqamangelayo okanye ngesivumelwano samazwe ngamazwe; 45

(f) naziphi na ezinye iimfuneko ezinokuthi ziman' ukuxelwa nguMphathiswa ngesihlokomiso kuShicilelo-Mithetho, emva kokubonisana neBhunga Leziseko ezibalulekileyo ezingundoqo. 50

**Application for declaration as critical infrastructure and critical infrastructure complex by person in control of infrastructure**

17. (1) A person in control of infrastructure may, in the prescribed manner and format, lodge with the National Commissioner an application to have such infrastructure declared as critical infrastructure in terms of this Chapter. 5

(2) An application for declaration of infrastructure as critical infrastructure must contain the following information—

- (a) the sector in which the primary functions of such an infrastructure take place;
- (b) the resources available to the person in control of the infrastructure to—
  - (i) safeguard such an infrastructure against destruction, disruption, failure or degradation; 10
  - (ii) repair or replace such infrastructure, including its equipment, materials or service; or
  - (iii) ensure that the infrastructure recovers from any destruction, disruption, failure or degradation; 15
- (c) the effects or the risk of a destruction, disruption, failure or degradation of such an infrastructure on—
  - (i) the environment;
  - (ii) the health or safety of the public or any segment of the public;
  - (iii) the Republic's ability to function, deliver basic public services or maintain law and order; and 20
  - (iv) any other infrastructure that may negatively affect the functions and functioning of the infrastructure in question;
- (d) the size and location of any population at risk;
- (e) historic incidents of— 25
  - (i) threats against the infrastructure; and
  - (ii) destruction, failure or degradation of such infrastructure;
- (f) the level of risk or threats to which such an infrastructure is exposed or potentially exposed;
- (g) special characteristics or attributes of such an infrastructure to deal with any threat contemplated in paragraph (f); 30
- (h) the extent to which the declaration as critical infrastructure will promote the interests of the public; and
- (i) any other information which may, from time to time, be determined by the Minister by notice in the *Gazette*, after consultation with the Critical Infrastructure Council. 35

(3) In the event that a government department or an organ of state has functional control over the sector in which the activities of the infrastructure falls, the application must further contain—

- (a) a submission by the head of the government department or head of an organ of state who has functional control over the sector in which the activities of the infrastructure falls to support the application; and 40
- (b) particulars of any—
  - (i) person other than the applicant who has a right or interest in the infrastructure in question; 45
  - (ii) agreement with a person contemplated in subparagraph (i) regarding the application for declaration as critical infrastructure;
  - (iii) person other than the applicant who will be responsible for the costs of securing the infrastructure in question;
  - (iv) agreement with a person contemplated in subparagraph (iii) regarding the costs of securing the infrastructure in question; and 50
- (c) any other relevant information which is, in the opinion of the applicant, necessary for the proper consideration of the application.

(4) Subject to subsection (5), the National Commissioner must—

- (a) upon receipt of an application, publish a notice of the application in the *Gazette*— 55
  - (i) stating the name of the applicant and the address of the premises in respect of which the application is made; and
  - (ii) inviting interested persons to submit written comments in relation to the application; 60

**Ukwenziwa kwesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo nanjengodederhu lweziseko ezibalulekileyo ezingundoqo, ngumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo**

17. (1) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo unokuthi, ngendlela emiselweyo, afake isicelo kuMkomishinala Wezwelonke sokuba iziseko zibhengezwe njengeziseko ezibalulekileyo ezingundoqo ngokwesi Sahluko. 5
- (2) Isicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo masibe nale ngombolo ilandelayo—
- (a) icandelo eyenzeka kulo imisebenzi ephambili yezo ziseko; 10
- (b) izinto eziluncedo ezifumanekayo kumntu ophetheyo kwiziseko— 10
- (i) zokukhusela ezo ziseko ekutshatyalalisweni, ekuphazanyisweni, ekoyisakaleni okanye ekuthotyweni komgangatho wazo;
- (ii) zokunciba ezo ziseko okanye zokufuna ezinye, kuquka izixhobo zazo, impahla yazo okanye inkonzo yazo; okanye 15
- (iii) zokuqinisekisa ukuba iziseko ezo zibuyela kwimeko entle kwakhona emva kokuba bezitshatyalalisiwe, okanye zaphazanyiswa, zoyisakala okanye zathotywa umgangatho; 15
- (c) iziphumo ezinokuthi zibekho xa iziseko zitshatyalalisiwe, zaphazanyiswa, zoyisakala okanye zathotywa umgangatho, kuziziphumo— 20
- (i) kokusingqongileyo; 20
- (ii) kwimpilo okanye ukukhuseleka koluntu okanye elinye icandelo loluntu;
- (iii) ekukwazini kweRiphabliki ukusebenza, ukunikezela ngeenkondo ezisisiseko okanye ekulondolozweni kokusebenza komthetho nocwangco; nakuzo 25
- (iv) naziphi na ezinye iziseko ezinokuthi zichaphazele kakubi imisebenzi nokusebenza kwezo ziseko kuthethwa ngazo; 25
- (d) ubungakanani babantu abanokuba sengozini nendawo abakuyo; 30
- (e) iziganeko— 30
- (i) eziyingozi kwiziseko;
- (ii) nokutshatyalaliswa, ukoyisakala okanye ukuthotywa komgangatho wezo ziseko;
- (f) ubungakanani bobungozi ezinokujongana nabo ezo ziseko;
- (g) iimpawu ezikhethekileyo zezo ziseko zokuhlangabezana nobungozi obuxelwe kwisiqendu (f); 35
- (h) ukuthi ukubhengezwa kwazo njengeziseko ezibalulekileyo ezingundoqo kuya kulunceda kangakanani uluntu; 35
- (i) nayiphi na enye ingcombolo enokuthi iman' ukugqitywa nguMphathiswa ngesihlokomiso kuShicilelo-Mithetho, emva kokubonisana neBhunga Leziseko ezibalulekileyo ezingundoqo. 40
- (3) Xa isebe likarhulumente okanye icandelo likarhulumente liphethe kwicandelo ewela kulo imisebenzi yeziseko, isicelo masiqulathe noku kulandelayo— 40
- (a) amazwi avela kwintloko yesebe likarhulumente okanye avela kwintloko yecandelo likarhulumente elilawula icandelo ekwenzeka kulo imisebenzi yeziseko, apho lixhasa isicelo; kwakunye 45
- (b) iinkcukacha— 45
- (i) zomnye umntu ongenguye umenzi-sicelo onelungelo okanye onomdla kwezo ziseko;
- (ii) zesivumelwano nomntu oxelwe kwisiqendwana (i) malunga nesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo;
- (iii) zomntu ongenguye umenzi-sicelo oza kuthwala iindleko zokufumana ezo ziseko; 50
- (iv) zesivumelwano nomntu oxelwe kwisiqendwana (iii) malunga neendleko zokufumana ezo ziseko; kwakunye
- (c) nayiphi na enye ingcombolo efanelekileyo eyimfuneko ngokokubona komenzi-sicelo ukuze siqwalaselwe ngokufanelekileyo isicelo. 55
- (4) Ngokulawulwa sisiqendwana (5), uMkomishinala Wezwelonke makathi—
- (a) esakufumana isicelo, apapashe isihlokomiso seso sicelo kuShicilelo-Mithetho— 60
- (i) exela igama lomenzi-sicelo nedilesi esenzelwa yona isicelo;
- (ii) emema abantu abanomdla ukuba bathumele izimvo ezibhaliweyo malunga nesicelo; 60

- (b) within 30 days of receipt of an application conduct a physical security assessment of the infrastructure in order to—
- (i) verify the information in the application;
  - (ii) assess the risk category in which such infrastructure or parts thereof may be categorised; 5
  - (iii) confirm whether the physical security measures proposed by the person in control of the infrastructure comply with the prescribed measures and standards for the protection of the infrastructure;
  - (iv) provide the person in control of that infrastructure with an opportunity to make written submissions regarding the physical security assessment 10 which is conducted in terms of this subsection; and
- (c) within 60 days after the physical security assessment has been conducted or the submissions contemplated in paragraph (b)(iv) are received, whichever occurs last, submit to the Council for consideration—
- (i) the written physical security assessment report together with the application; 15
  - (ii) any comments contemplated in paragraph (a)(ii); and
  - (iii) any written submissions in terms of paragraph (b)(iv).
- (5) In the event that the applicant shows good cause why the procedure in subsection (4)(a) should not be followed, the National Commissioner must refer the request to the Council who may dispense with the publication as referred to in subsection (4)(a) after considering the factors in subsection (6). 20
- (6) For purposes of subsections (4) and (5), the applicant must show that a departure from the procedure in subsection (4)(a) is reasonable and justifiable in the circumstances, taking into account all relevant factors, including— 25
- (a) the objects of declaration as critical infrastructure;
  - (b) the nature, purpose and likely effect of the declaration as critical infrastructure;
  - (c) the nature and the extent of the departure from subsection (4)(a);
  - (d) the relation between the departure and its purpose; 30
  - (e) the importance of the purpose of the departure; and
  - (f) the need to promote an efficient administration and good governance.
- (7) In the event that the Council decides that the process contemplated in subsection (4)(a)—
- (a) must be followed, the Council must direct the National Commissioner to 35 publish the notice contemplated in subsection (4)(a) with directions on the information that must be contained in the notice, whereafter the National Commissioner will deal with the application; or
  - (b) may be departed from, the Council must direct the National Commissioner to depart from the provisions of subsection (4)(a) and proceed to deal with the 40 application.
- (8) The National Commissioner may request the Head of a Government department which is a security service established under section 199 of the Constitution, to designate a suitably experienced member of that security service to assist with the physical security assessment contemplated in subsection (4)(b), when required. 45
- (9) If the infrastructure relevant to the application consists of multiple structures, services or facilities, the person in control of those infrastructures must apply for declaration in respect of all such infrastructure as critical infrastructure.
- (10) Where the National Commissioner is unable to comply with any of the timeframes contemplated in subsection (4), the National Commissioner must, in writing, apply to the Council in the prescribed form and manner for an extension not exceeding 30 days or such other period as the Council may determine. 50
- (11) Where an extension of time is granted as contemplated in subsection (10), the Council must inform the applicant referred to in subsection (1) in writing of such extension. 55



- (b) zingekapheli iintsuku ezingama-30 esifumene isicelo, aziphonononge ukungabi nabungozi iziseko ezo ukuze—
- (i) aqinisekise ukuchana kwengcombolo ekwisisicelo;
  - (ii) aphonononge ubungakanani bobungozi ezinokuba kubo ezo ziseko;
  - (iii) aqiniseke ukuba amanyathelo okhuseleko afunwa ngumntu ophetheyo kwiziseko ayahambelana na namanyathelo afunekayo nemilinganiselo yokukhuselwa kweziseko; kwaye 5
  - (iv) anike umntu ophetheyo kwezo ziseko ithuba lokutsho afuna ukutsho ngokubhala ngokuphononongwa kokhuseleko okuqhutywe ngokwesi siqendwana; aze 10
- (c) zingekapheli iintsuku ezingama-60 emva kokuba kuqhutywe ukuphononongwa kokhuseleko okanye emva kokuba zifunyenwe izimvo ezibhaliweyo ezixelwe kwisiqendu (b)(iv), kuxhomekeke ekubeni yeyiphi eyenzeka mgqibeli, athumele kwiBhunga ukuze liqwalasele—
- (i) ingxelo yokuphononongwa kokhuseleko kunye nesicelo; 15
  - (ii) izimvo ezibhaliweyo ezixelwe kwisiqendu (a)(ii); kwakunye
  - (iii) nezimvo ezibhaliweyo ngokwesiqendu (b)(iv).
- (5) Xa umenzi-sicelo ebeke isizathu esivakalayo sokungalandelwa kwenkqubo ekwisiqendwana (4)(a), uMkomishinala Wezwelonke makasibhekise isicelo kwiBhunga onokuthi akuyeke ukupapasha ekuthethwe ngako kwisiqendwana (4)(a) emva kokuba eqwalasele izinto ezikwisiqendwana (6). 20
- (6) Ngokwenjongo yesiqendwana (4) no-(5), umenzi-sicelo makabonise ukuba ukuphambuka kwinkqubo ekwisiqendwana (4)(a) kufanelekile kwiimeko ezikhoyo, xa kucingelwa zonke izinto emazicingelwe, eziquka—
- (a) injongo zokubhengezwa njengeziseko ezibalulekileyo ezingundoqo; 25
  - (b) uhlobo, injongo, nesiphumo esinokubakho sokubhengezwa njengeziseko ezibalulekileyo ezingundoqo;
  - (c) uhlobo nobungakanani bokuphambuka kwisiqendwana (4)(a);
  - (d) ubudlelane phakathi kokuphambuka nenjongo yako;
  - (e) ukubaluleka kwenjongo yokuphambuka; 30
  - (f) nemfuneko yokukhuthaza ulawulo olutyibilikayo nolawulo oluhle.
- (7) Xa kunokwenzeka ukuba iBhunga ligqibe kwelokuba inkqubo exelwe kwisiqendwana (4)(a)—
- (a) mayilandelwe, iBhunga maliyalele uMkomishinala Wezwelonke ukuba apapashe isihlokomiso esixelwe kwisiqendwana (4)(a) kunye nemiyalelo ngengcombolo emayiqulathwe kwisihlokomiso, ekuya kuthi emva koko uMkomishinala Wezwelonke asisingathe isicelo; okanye 35
  - (b) kuvumelekile ukuba kuphambukwe kuyo, iBhunga maliyalele uMkomishinala Wezwelonke ukuba aphambuke koko kutshiwo sisiqendwana (4)(a) aze aqhubeka ukusingatha isicelo. 40
- (8) UMkomishinala Wezwelonke unokuthi acele iNtloko yesebe likaRhulumente eliyinkonzo yokhuseleko esekwe ngokwesiqendu 199 soMgaqo-siseko, ukuba achonge ilungu elifanelekileyo laloo nkonzo yokhuseleko ukuba lincedise ekuphononogeni ukhuseleko okuxelwe kwisiqendwana (4)(b), xa kufuneka enze njalo.
- (9) Ukuba iziseko ezifanelekela eso sicelo zizakhiwo eziliqela, okanye ziinkonzo, umntu ophetheyo kwezo ziseko makenze isicelo sokuba zonke ezo ziseko zibhengezwe njengeziseko ezibalulekileyo ezingundoqo. 45
- (10) Xa uMkomishinala Wezwelonke engakwazi ukuba enze ngokwemida yamaxesha exelwe kwisiqendwana (4), uMkomishinala Wezwelonke makathi, ngokubhala, enze isicelo asibhekise kwiBhunga ngendlela emiselweyo sokuba olulelwe ixesha lingaqithi kwiintsuku ezingama-30 okanye ecele elinye ixesha elinokuthi ligqitywe liBhunga. 50
- (11) Xa kuvunyiwe ukolulwa kwexesha njengoko kuxewe kwisiqendwana (10), iBhunga malimazise umenzi-sicelo ekuthethwe ngaye kwisiqendwana (1), limazisa ngokolulwa kwexesha, ngokumbhalela. 55

### Application for declaration as critical infrastructure and critical infrastructure complex by National Commissioner

18. (1) Where the National Commissioner identifies for possible declaration as critical infrastructure—
- (a) any infrastructure under the control of or occupied by a local or provincial government department, he or she must advise the relevant municipal manager or the relevant head of the department in the province to lodge an application in terms of section 17; and
  - (b) government infrastructure, he or she must lodge an application in accordance with subsection (2).
- (2) Where the National Commissioner makes an application for the declaration of government infrastructure as critical infrastructure, the application must, subject to subsection (3), be made in the prescribed form and manner and submitted to the Critical Infrastructure Council for consideration.
- (3) Before the National Commissioner makes an application referred to in subsection (1)(b), the National Commissioner must—
- (a) notify the relevant head of a Government department who is the person in control of the infrastructure, in the prescribed form and manner, of the intention of the National Commissioner;
  - (b) afford the person referred to in paragraph (a) an opportunity to submit written representations within 60 days on any aspect relating to the intended application;
  - (c) consider the representations referred to in paragraph (b); and
  - (d) within seven days of taking a decision on whether or not to proceed with the application, notify the person referred to in paragraph (a) in writing of such decision and his or her reasons.
- (4) In the event that the National Commissioner decides to proceed with the application, he or she must ensure that the written representations referred to in subsection (3)(b) as well as his or her written reasons referred to in subsection (3)(d) forms part of the application that is submitted to the Council.

### Consideration of application for declaration as critical infrastructure by Critical Infrastructure Council

19. (1) Upon receiving an application for declaration of infrastructure as critical infrastructure, the Critical Infrastructure Council must—
- (a) apply the criteria referred to in section 16(2) in order to determine whether such an application demonstrates that the infrastructure in question qualifies under section 16(1) for declaration as critical infrastructure;
  - (b) consider the potential risk category of such an infrastructure, taking into account—
    - (i) the prescribed system of categorising infrastructure in a low-risk, medium-risk or high-risk category;
    - (ii) the probability of failure, disruption or destruction of the infrastructure in question or threat thereof; and
    - (iii) the impact and consequence of failure, disruption or destruction of infrastructure or threat thereof;
  - (c) consider the extent to which the declaration as critical infrastructure will promote the interests of the public;
  - (d) consider any prescribed guidelines for the identification and declaration of infrastructure as critical infrastructure; and
  - (e) take into account any other criteria contemplated in section 16(2)(f).
- (2) The Critical Infrastructure Council must, after performing the functions in subsection (1), make recommendations to the Minister on—
- (a) whether or not the infrastructure in question qualifies to be declared as critical infrastructure; and
  - (b) an appropriate risk categorisation for the infrastructure.
- (3) Before the Council makes a recommendation to the Minister to declare or not to declare the infrastructure as critical infrastructure, the Council must—
- (a) notify the person in control of that critical infrastructure of such intended recommendation and the reasons for such recommendation; and

**Ukwenziwa kwesicelo nguMkomishinala Wezwelonke sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo nodederhu lweziseko ezibalulekileyo ezingundoqo**

18. (1) Xa uMkomishinala Wezwelonke ebona iziseko ziziziseko ezinokuthi zibhengezwe njengeziseko ezibalulekileyo ezingundoqo— 5
- (a) kuziziseko eziphethwe ngumasipala okanye ngurhulumente wephondo, makacebise imaneja kamasipala okanye intloko yesebe lephondo ukuba ifake isicelo ngokwesiqendu 17; kwaye
- (b) naxa kuziziseko zikarhulumente, makafake isicelo ngokwesiqendwana (2).
- (2) Xa uMkomishinala Wezwelonke esenza isicelo sokubhengezwa kweziseko zikarhulumente njengeziseko ezibalulekileyo ezingundoqo, isicelo masithi, ngokulawulwa sisiqendwana (3), senziwe kusetyenziswa ifom emiselweyo nangendlela emiselweyo, size sithunyelwe kwiBhunga Leziseko ezibalulekileyo ezingundoqo ukuze siqwalaselwe. 10
- (3) Ngaphambi kokuba uMkomishinala Wezwelonke enze isicelo ekuthethwe ngaso kwisiqendwana (1)(b), uMkomishinala Wezwelonke— 15
- (a) makazise intloko yesebe likaRhulumente engumntu ophetheyo kwezo ziseko, ngefom emiselweyo nangendlela emiselweyo, eyazisa ngenjongo anayo yena Mkomishinala Wezwelonke;
- (b) makanike umntu ekuthethwe ngaye kwisiqendu (a) ithuba lokuba atsho afuna ukukutsho ngokubhala zingekapheli iintsuku ezingama-60 ngayo nayiphi na into emalunga nesicelo esicetywayo; 20
- (c) makakuqwalaselwe okubhaliweyo ekuthethwe ngako kwisiqendu (b); aze
- (d) zingekapheli iintsuku ezisixhenxe esithabathile isigqibo sokuba aqhubeke okanye angaqhubeki nesicelo, azise umntu ekuthethwe ngaye kwisiqendu (a) ngokumbhalela emazisa ngeso sigqibo nangezizathu zaso. 25
- (4) Xa uMkomishinala Wezwelonke egqiba kwelokuba aqhubeke nesicelo, makaqinisekise ukuba okubhaliweyo ekuthethwe ngako kwisiqendwana (3)(b) kwakunye nezizathu zakhe ekuthethwe ngazo kwisiqendwana (3)(d) kuba yinxalenye yesicelo esithunyelwa kwiBhunga. 30

**Ukuqwalaselwa kwesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo liBhunga Leziseko ezibalulekileyo ezingundoqo**

19. (1) Xa iBhunga Leziseko ezibalulekileyo ezingundoqo lifumana isicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo— 35
- (a) malisebenzise iimfuneko emakuhlangatyezwane nazo ekuthethwe ngazo kwisiqendu 16(2) ukuze liqonde ukuba ezo ziseko ziyafaneleka kusini na ngokwesiqendu 16(1) ukuba zibhengezwe njengeziseko ezibalulekileyo ezingundoqo;
- (b) maliqwalasele ubungozi obunokubakho kwezo ziseko, licingela— 40
- (i) inkqubo emiselweyo yokuhlela ngokweendidi iziseko malunga nokuba zikudidi oluphantsi, okanye oluphakathi okanye oluphezulu lobungozi;
- (ii) ukuba kunokwenzeka kusini na zoyisakale, ziphazamiseke, okanye zitshatyalaliswe;
- (iii) nesiphumo sokoyisakala, ukuphazamiseka okanye ukutshatyalaliswa okanye isisongelo sako; 45
- (c) maliqwalasele ukuba ukubhengezwa kwazo njengeziseko ezibalulekileyo ezingundoqo kuya kuba luncedo kangakani na kuluntu;
- (d) maliqwalasele izikhokelo ezimiselweyo ukuze kubonakale ukuba zeziphi iziseko emazibhengezwe njengezibalulekileyo; kwaye
- (e) malicingele naziphi na ezinye iimfuneko ezixelwe kwisiqendu 16(2)(f). 50
- (2) Emva kokuba iBhunga Leziseko ezibalulekileyo ezingundoqo lenze imisebenzi ekwisiqendwana (1), malenze izindululo eziya kuMphathiswa—
- (a) zokuba iziseko ezo ziyafaneleka kusini na ukubhengezwa njengeziseko ezibalulekileyo ezingundoqo; kwaye
- (b) ngokuthi mazibe koluphi udidi lwezibungozi. 55
- (3) Ngaphambi kokuba iBhunga lenze izindululo eziya kuMphathiswa zokuba makazibhengeze njengezibalulekileyo okanye angazibhengezi njengezibalulekileyo, iBhunga—
- (a) malazise umntu ophetheyo kwezo ziseko ngesindululo esicetywayo nezizathu zeso sindululo; lize 60

(b) afford the person in control of that infrastructure a period of no less than 30 days to make representations.

(4) The Council must consider any representations received in terms of subsection (3) before making a recommendation to the Minister on whether or not to declare the infrastructure as critical infrastructure. 5

(5) Subject to subsection (3), the Council must within seven days of its last meeting submit the application and its recommendations to the Minister for a decision within 30 days of receipt thereof.

(6) Where the Council is unable to comply with the timeframes as contemplated in subsection (5), the Council must, in writing, request the Minister for an extension not exceeding 30 days or such other period as the Minister may determine. 10

(7) Where an extension of time is granted as contemplated in subsection (6), the Council must inform the applicant referred to in section 17(1) in writing of such extension.

#### **Powers of Minister to declare infrastructure as critical infrastructure** 15

**20.** (1) Subject to subsection (2), the Minister may, on recommendation of the Critical Infrastructure Council—

(a) declare infrastructure as critical infrastructure after considering—  
 (i) whether the application complies with the requirements contemplated in section 16(1); 20  
 (ii) the recommendation of the Critical Infrastructure Council; and  
 (iii) any other information which the Minister deems reasonable and appropriate;

(b) categorise critical infrastructure or certain parts of such critical infrastructure that is declared in terms of paragraph (a) in either a low-risk, medium-risk or high-risk category, as may be prescribed; 25

(c) where it is necessary to achieve the objects of this Act, determine that critical infrastructure is part of a critical infrastructure complex; and

(d) impose such conditions as may be prescribed regarding any steps and measures the person in control of the critical infrastructure must implement to safeguard the critical infrastructure in question. 30

(2) The Minister must notify the Council, the National Commissioner and the person in control of that critical infrastructure of—

(a) the declaration of the infrastructure as a critical infrastructure;  
 (b) the risk category of such declaration; 35  
 (c) the conditions contemplated in subsection (1)(d);  
 (d) any implications of the Income Tax Act, 1962 (Act No. 58 of 1962); and  
 (e) the period within which the person in control of that critical infrastructure must take the steps contemplated in section 24(1).

(3) When infrastructure has been declared as critical infrastructure, the Minister may, in consultation with the person in control of the infrastructure, taking into account the probability of compromising the security of the critical infrastructure in question, determine that the publication of information regarding some security measures which must be implemented at such critical infrastructure, be restricted. 40

#### **Certificate of declaration as critical infrastructure** 45

**21.** (1) Where an infrastructure is declared a critical infrastructure, the Minister must issue a certificate of declaration, in the prescribed form and manner, to the person in control of that critical infrastructure, setting out—

(a) the risk categorisation as determined by the Minister;  
 (b) the premises or complex where the critical infrastructure is located; 50  
 (c) the conditions which the Minister may deem necessary to impose for purposes of securing the critical infrastructure; and

(b) linike umntu ophetheyo kwezo ziseko ithuba elingekho ngaphantsi kweentsuku ezingama-30 lokuba atsho afuna ukukutsho.

(4) IBhunga malikuqwalasele okuye kwatshiwo ngokwesiqendwana (3) ngaphambi kokuba lenze isindululo esiya kuMphathiswa malunga nokuba mazibhengezwe njengezibalulekileyo kusini na iziseko okanye mazingabhengezwa. 5

(5) Ngokulawulwa sisiqendwana (3), iBhunga malithi zingekapheli iintsuku ezisixhenxe ukususela kwintlanganiso yalo egqithileyo lithumele isicelo nezindululo zalo kuMphathiswa ukuba enze isigqibo zingekapheli iintsuku ezingama-30 ezifumene.

(6) Xa iBhunga lingakwazi ukwenza ingekapheli le mida yexesha exelwe kwisiqendwana (5), iBhunga malithi, ngokubhala, licele uMphathiswa alolulele ixesha elingagqithiyo kwiintsuku ezingama-30 okanye ke elinye elinokuthi libonwe nguMphathiswa lifanelekile. 10

(7) Xa kuvunyiwe ukolulwa kwexesha njengoo kuxelwe kwisiqendwana (6), iBhunga malimazise ngencwadi umenzi-sicelo ekuthethwe ngaye kwisiqendu 17(1) ngokolulwa kwexesha. 15

#### **Amagunya oMphathiswa okubhengeza iziseko njengeziseko ezibalulekileyo ezingundoqo**

**20.** (1) Ngokulawulwa sisiqendwana (2), esakufumana isindululo esivela kwiBhunga Leziseko ezibalulekileyo ezingundoqo, uMphathiswa unokuthi—

(a) azibhengeze iziseko njengeziseko ezibalulekileyo ezingundoqo emva kokuqwalasela— 20

(i) ukuba isicelo siyahlangabezana kusini na neemfuneko ezixelwe kwisiqendu 16(1);

(ii) isindululo seBhunga Leziseko ezibalulekileyo ezingundoqo; nasemva kokuqwalasela 25

(iii) nayiphi na enye ingcombolo uMphathiswa abona kufanelekile ukuba iqwalaselwe;

(b) azihlele ngokodidi iziseko ezibalulekileyo ezingundoqo okanye iinxalenye ezithile zayo ezibhengezwe ngokwesiqendu (a), ngokoludidi lokuba zinobungozi obuncinane, obuphakathi okanye obukhulu kusini na; 30

(c) xa kuyimfuneko ukuphumeza iinjongo zalo Mthetho, agqibe kwelokuba iziseko ezibalulekileyo ezingundoqo ziyinxalenye yodederhu lweziseko ezibalulekileyo ezingundoqo; aze

(d) abeke imiqathango enokuthi ifuneka mayela namanyathelo amakawasebenzise umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo ukuze zilondolozeke iziseko ezibalulekileyo ezingundoqo. 35

(2) UMphathiswa makazise iBhunga, noMkomishinala Wezwelonke nomntu ophetheyo kwezo ziseko zibalulekileyo, emazisa—

(a) ngokubhengezwa kwezo ziseko njengeziseko ezibalulekileyo ezingundoqo; 40

(b) ngodidi lobungozi loko kubhengezwa;

(c) ngemiqathango exelwe kwisiqendwana (1)(d);

(d) ngendlela engena ngayo kolu daba i-*Income Tax Act* 58 ka-1962;

(e) nangexesha emalingapheli umntu ophetheyo kwezo ziseko zibalulekileyo engawathabathanga amanyathelo axelwe kwisiqendu 24(1). 45

(3) Xa iziseko zibhengezwe njengeziseko ezibalulekileyo ezingundoqo uMphathiswa unokuthi, ebonisana nomntu ophetheyo kwezo ziseko zibalulekileyo, ecingela ukuba kusenokwenzeka ukuba ukukhuseleka kweziseko ezibalulekileyo ezingundoqo kube semngciphekweni, agqibe kwelokuba ukupapashwa kwengcombolo emalunga namanyathelo athile okhuseleko amakasetyenziswe kwezo ziseko zibalulekileyo, makusikelwe umda. 50

#### **Isiqinisekiso sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo**

**21.** (1) Xa iziseko zibhengezwe njengeziseko ezibalulekileyo ezingundoqo, uMphathiswa makakhuphe isiqinisekiso sokubhengezwa, ngefom emiselweyo nangendlela emiselweyo, asinike umntu ophetheyo kwezo ziseko zibalulekileyo, exela— 55

(a) udidi lobungozi olugqitywe nguMphathiswa;

(b) indawo ezikuyo iziseko ezibalulekileyo ezingundoqo;

(c) imiqathango ayibona iyimfuneko uMphathiswa ngenjongo yokuzikhusela iziseko ezibalulekileyo ezingundoqo; kwaye

(d) whether information regarding security measures will be restricted.

(2) The Minister must issue a certificate for each of the premises on which any such critical infrastructure, forming part of a complex, is located.

(3) The certificate must be issued in the designation of the person in control of that critical infrastructure. 5

(4) Declaration as critical infrastructure does not exempt a person in control of critical infrastructure from having to comply with the provisions of any other law applicable to the critical infrastructure in question. 10

(5) The National Commissioner must enter the particulars of any declaration as critical infrastructure or the termination of such declaration, into the prescribed register, which must be accessible to the public in the prescribed manner or form.

(6) The Minister must, by notice in the *Gazette*, publish such particulars as may be prescribed regarding infrastructure which has been declared as critical infrastructure and when such declaration is terminated.

#### **Amendment or variation of information or conditions by Minister**

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**22.** (1) If there is a change in the circumstances of any critical infrastructure, the Minister may, on the recommendation of the Critical Infrastructure Council or upon a request in writing by the person in control of a critical infrastructure or the National Commissioner—

(a) amend the risk categorisation determined in terms of section 20(1)(b); or 20

(b) vary any or all of the information or conditions on a certificate of declaration as critical infrastructure referred to in section 21.

(2) Before acting on the advice or the request contemplated in subsection (1) to amend or vary the risk categorisation, or any of the information or conditions, the Minister must give the person in control of the critical infrastructure— 25

(a) written notice of his or her intention to amend or vary the risk categorisation, information or conditions on the certificate of declaration as critical infrastructure; and

(b) no less than 30 days to submit written representations to the Minister as to why the Minister must not amend or vary the risk categorisation, information or conditions on the certificate of declaration. 30

(3) The Minister must consider the written representations referred to in subsection (2)(b) and notify the person in control of the critical infrastructure in writing—

(a) of any decision taken under this section;

(b) the reasons for the decision; and 35

(c) the date on which the decision takes effect.

#### **Termination and revocation of declaration**

**23.** (1) A declaration as critical infrastructure in terms of this Chapter terminates—

(a) where the person in control of a critical infrastructure ceases the activities which formed the basis upon which the Minister declared the infrastructure as a critical infrastructure; or 40

(b) upon revocation in terms of subsection (4).

(2) The person in control of a critical infrastructure must notify the National Commissioner in writing within 30 days if—

(a) there is any change with regard to any information that was submitted in respect of the application for declaration as a critical infrastructure; 45

(b) there is a change in the control or ownership of the critical infrastructure; or

- (d) ukuba ingcombolo emalunga namanyathelo okhuseleko iza kusikelwa umda kusini na.
- (2) UMphathiswa makakhuphe isiqinisekiso ngendawo nganye ekukho kuyo iziseko ezibalulekileyo ezingundoqo.
- (3) Isiqinisekiso masikhutshwe ngomntu ophetheyo kwezo ziseko ezibalulekileyo ezingundoqo. 5
- (4) Ukubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo akumkhululi umntu ophetheyo apho kuzo ekwenzeni okufunwa nguwo nawuphi na omnye umthetho osebenza kwiziseko ezibalulekileyo ezingundoqo.
- (5) UMKomishinala Wezwelonke makabhale kwirejista emiselweyo iinkcukacha zokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo okanye iinkcukacha zokurhoxiswa kwesibhengezo, rejista leyo emayifikelelwe luluntu ngendlela emiselweyo. 10
- (6) Ngokukhuph' isihlokomiso kuShicilelo-Mithetho, uMphathiswa makapapashe iinkcukacha ezinokuthi zifuneka ezimalunga neziseko ezibhengezwe njengeziseko ezibalulekileyo ezingundoqo nezaxa eso sibhengezo sirhoxisiwe. 15

### Ukwenziwa kotshintsho kwingcombolo okanye kwimiqathango nguMphathiswa

22. (1) Ukuba kukho utshintsho kwiimeko zeziseko ezibalulekileyo ezingundoqo, uMphathiswa unokuthi, ngesiphakamiso esivela kwiBhunga Leziseko ezibalulekileyo ezingundoqo okanye esakufumana isicelo esibhaliweyo esivela kumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo okanye esivela kuMKomishinala Wezwelonke, unokuthi— 20
- (a) enze utshintsho kudidi lobungozi olugqitywe ngokwesiqendu 20(1)(b); okanye
- (b) enze utshintsho kwingcombolo okanye kwimiqathango ekwisiqinisekiso sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo okuthethwe ngako kwisiqendu 21. 25
- (2) Ngaphambi kokuba abe nento ayenzayo ngecebiso okanye ngesicelo esixelwe kwisiqendwana (1) sokwenza utshintsho kudidi lobungozi, okanye utshintsho kwingcombolo okanye kwimiqathango, uMphathiswa makanike umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo— 30
- (a) isaziso esibhaliweyo esithi uceba ukwenza utshintsho kudidi lobungozi, okanye kwingcombolo okanye kwimiqathango ekwisiqinisekiso sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo; aze
- (b) zingaphelanga iintsuku ezingama-30 abhalele uMphathiswa esitsho oko afuna ukukutsho mayela nokuba kungani uMphathiswa engamele enze utshintsho kudidi lobungozi, kwingcombolo okanye kwimiqathango ekwisiqinisekiso sokubhengezwa. 35
- (3) UMphathiswa makakuqwalasele okubhaliweyo okutshiwoyo okuthethwe ngako kwisiqendwana (2)(b) aze azise umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo, emazisa— 40
- (a) ngesigqibo esithatyathiweyo ngokwesi siqendu;
- (b) ngezizathu zesigqibo;
- (c) nangomhla esiqala ngawo ukusebenza isigqibo.

### Ukurhoxiswa kwesibhengezo 45

23. (1) Isibhengezo sokuba iziseko ziziziseko ezibalulekileyo ezingundoqo ngokwesi Sahluko siyaphela—
- (a) xa umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo eyeka ukwenza izinto ezazingunobangela wokuba uMphathiswa azibhengeze iziseko njengeziseko ezibalulekileyo ezingundoqo; okanye 50
- (b) sisakurhoxiswa isibhengezo ngokwesiqendwana (4).
- (2) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo makazise uMKomishinala Wezwelonke ngokubhala zingekapheli iintsuku ezingama-30 ukuba—
- (a) kukho utshintsho kwingcombolo eyayingeniswe iyeyesicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo; 55
- (b) kukho utshintsho kulawulo okanye kubumnini beziseko ezibalulekileyo ezingundoqo; okanye

- (c) there is any change that impacts on the ability of the critical infrastructure or the person in control of a critical infrastructure to comply with all or any of the obligations under this Act.
- (3) The National Commissioner may, after having considered any notification contemplated in subsection (2), recommend to the Minister to revoke the declaration as critical infrastructure if— 5
- (a) there is any change contemplated in subsection (2);
- (b) the infrastructure in question was declared as critical infrastructure on the basis of incorrect or false information; or
- (c) the person in control of the critical infrastructure fails to comply with any— 10
- (i) condition of declaration; or
- (ii) of the provisions of this Act.
- (4) The Minister may, after having considered the recommendation of the National Commissioner, revoke the declaration as critical infrastructure based on any factor referred to in subsection (3). 15
- (5) Before revoking the declaration as critical infrastructure in terms of subsection (4), the Minister must—
- (a) give the person in control of that critical infrastructure written notice of the intention to revoke;
- (b) give the person in control of that critical infrastructure an opportunity to submit written representations within a period of 30 days as to why the declaration as critical infrastructure must not be revoked; and 20
- (c) duly consider any such representations and the facts pertaining to the matter.
- (6) (a) The Minister must notify the person in control of that critical infrastructure, in writing, of any decision taken under this section and, if the declaration is revoked, state the reasons for the revocation and the date on which the revocation takes effect, in such notice. 25
- (b) A notification contemplated in paragraph (a) must be served on the person in control of the critical infrastructure by a police official, in the prescribed manner.
- (7) In the event where a declaration as a critical infrastructure is revoked as contemplated in subsection (4), the person in control of that critical infrastructure must— 30
- (a) hand all certificates relating to such declaration to the police official serving the notice contemplated in subsection (6) immediately upon such service; or
- (b) return all certificates to the Minister in the event of a termination contemplated in subsection (1)(a), within seven days after termination. 35
- (8) The police official referred to in subsection (6)(b) must deliver the certificates contemplated in subsection (7)(a) to the Minister.

#### CHAPTER 4

#### POWERS AND DUTIES OF PERSONS IN CONTROL OF CRITICAL INFRASTRUCTURE 40

##### Powers and duties of person in control of critical infrastructure

- 24.** (1) On receipt of a notice referred to in section 20(2), the person in control of a critical infrastructure must, subject to subsection (4), take such steps as may be prescribed to secure such critical infrastructure at that person's own expense. 45
- (2) The person in control of critical infrastructure that is under the control of a Government department or any other organ of state, must take steps to ensure that such critical infrastructure is protected by the employees of that government department or organ of state.



- (c) kukho utshintsho oluchaphazela ukukwazi kweziseko ezibalulekileyo ezingundoqo okanye ukukwazi komntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo ukuba afeze okufunwa ngulo Mthetho.
- (3) Emva kokuba eqwalasele isaziso esixelwe kwisiqendwana (2), uMkomishinala Wezwelonke unokuthi enze isiphakamiso kuMphathiswa sokukurhoxisa ukubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo, ukuba—
- (a) kukho utshintsho oluxelwe kwisiqendwana (2);
- (b) ezo ziseko zabhengezwa njengeziseko ngenxa yengcombolo engachananga okanye ebubuxoki; okanye
- (c) umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo uyoyisakala ukwenza okufunwa—
- (i) ngumqathango wesibhengezo; okanye
- (ii) ngulo Mthetho.
- (4) Emva kokuba esiqwalasele isiphakamiso soMkomishinala Wezwelonke, uMphathiswa unokuthi asirhoxise isibhengezo esibhengeza iziseko njengeziseko ezibalulekileyo ezingundoqo, ekwenza oko ekususela nakweyiphi na into exelwe kwisiqendwana (3).
- (5) Ngaphambi kokuba arhoxise isibhengezo esibhengeza iziseko njengeziseko ezibalulekileyo ezingundoqo ngokwesiqendwana (4), uMphathiswa—
- (a) makanike umntu ophetheyo kwezo ziseko zibalulekileyo isaziso esibhaliweyo sokuba uceba ukusirhoxisa isibhengezo;
- (b) makanike umntu ophetheyo kwezo ziseko zibalulekileyo ithuba lokutsho afuna ukukutsho ngokubhala zingekapheli iintsuku ezingama-30 exela ukuba kungani singafanele sirhoxiswe isibhengezo esibhengeza iziseko njengeziseko ezibalulekileyo ezingundoqo; aze
- (c) akuqwalaselisise oko kuthe kwatshiwo kunye nezibakala eziphathelele kulo mbandela.
- (6) (a) UMphathiswa makazise umntu ophetheyo kwezo ziseko zibalulekileyo, ngokumbhalela, emazisa ngesigqibo esithatyathiweyo ngokwesi siqendu, aze, ukuba isibhengezo siyarhoxiswa, axele izizathu zokurhoxiswa kwaso nomhla okuqala ngawo ukurhoxiswa kwaso.
- (b) Isaziso esixelwe kwisiqendu (a) makasinikwe esandleni umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo, esinikwa lipolisa, ngendlela emiselweyo.
- (7) Xa sirhoxiswa isibhengezo sokuba iziseko ziziziseko ezibalulekileyo ezingundoqo njengoko kuxelwe kwisiqendwana (4), umntu ophetheyo kwezo ziseko zibalulekileyo—
- (a) makazinike ipolisa zonke iziqinisekiso zesibhengezo, ezinika ipolisa elizise isaziso esixelwe kwisiqendwana (6), elinika zonke iziqinisekiso kwaoko esakunikwa isaziso; okanye
- (b) azibuyisele zonke iziqinisekiso kuMphathiswa xa kuphela isibhengezo ngendlela exelwe kwisiqendwana (1)(a), ekwenza oko zingekapheli iintsuku ezisixhenxe siphelile.
- (8) Ipolisa ekuthethwe ngalo kwisiqendwana (6)(b) malizinike uMphathiswa iziqinisekiso ezixelwe kwisiqendwana (7)(a).

#### ISAHLUKO 4

45

### AMAGUNYA ABANTU ABAPHETHEYO KWIZISEKO EZIBALULEKILEYO EZINGUNDOQO NEMISEBENZI YABO

#### Amagunya omntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo nemisebenzi yakhe

24. (1) Esakufumana isaziso ekuthethwe ngaso kwisiqendu 20(2), umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo makathi, ngokulawulwa sisiqendwana (4), athabathe amanyathelo ayimfuneko okukhusela ezo ziseko zibalulekileyo ngeendleko zakhe.
- (2) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo eziphantsi kwegunya lesebe likarhulumente okanye elinye icandelo likarhulumente makathabathe amanyathelo okuqinisekisa ukuba ezo ziseko ezibalulekileyo ezingundoqo ziyakhuselwa ngabaqeshwa belo sebe likarhulumente okanye belo candelo likarhulumente.

(3) Where the Government department or organ of state referred to in subsection (2) is unable to protect a critical infrastructure as contemplated in subsection (2), the person in control of that critical infrastructure must take steps to ensure that a security service provider is appointed to protect the critical infrastructure: Provided that such security service provider may only be appointed after the successful completion of security vetting by the State Security Agency. 5

(4) (a) Subject to paragraphs (b) and (c), the Minister may, if the person in control of critical infrastructure shows good cause in the application contemplated in sections 17(1) or 18(1)(b), determine that the Head of a Government department is responsible for all or some of the expenses necessary to implement the steps contemplated in subsection (1). 10

(b) For purposes of determining the extent to which the Head of a Government department contemplated in paragraph (a) is responsible for the expenses, the Minister must—

- (i) in the case of a national department, consult the Minister of Finance and the Minister responsible for the affected department; 15
- (ii) in the case of a provincial department, consult the relevant Member of the Executive Council responsible for finance and the relevant Member of the Executive Council responsible for the affected department;
- (iii) in the case of a municipality, consult the relevant Municipal Council; and 20
- (iv) where applicable, take into account any policy of the Cabinet, the relevant Executive Council or Municipal Council regarding the standards of any security measures and the reasonable costs that may be incurred by the State.

(c) The Minister must, in writing, inform the Head of the Government department and the person in control of that critical infrastructure of the decision, setting out the extent to which— 25

- (i) the Head of the Government department contemplated in paragraph (b); and
  - (ii) the person in control of the critical infrastructure,
- is responsible for expenses necessary to implement the steps contemplated in subsection (1). 30

(5) In the event that a person in control of a critical infrastructure fails to take the steps contemplated in subsection (1), the Minister may, by written notice in the prescribed form and manner, order him or her to take, within a period specified in the notice and at his or her own expense, such steps in respect of the security of the critical infrastructure as may be specified in the notice. 35

(6) If the person in control of a critical infrastructure refuses or fails to take the steps specified in the notice within the period specified therein, the Minister must take or cause steps to be taken in respect of the security of that critical infrastructure and the Minister must recover the reasonable cost thereof from the person in control of that critical infrastructure to such extent as the Minister may determine. 40

(7) A person in control of a critical infrastructure must appoint a person in the employ of the critical infrastructure as security manager to—

- (a) implement and monitor, on behalf of the person in control of the critical infrastructure, the prescribed security policy and plan compiled for that critical infrastructure; 45
- (b) authorise access to critical infrastructure or oversee the authorisation of such access by security personnel working under his or her direction;
- (c) liaise with any security service provider appointed by the person in control of that critical infrastructure;
- (d) implement the directions contemplated in section 25(1)(b); 50
- (e) provide monthly reports to the person in control of that critical infrastructure on the functions contemplated in paragraphs (a), (b) and (c); and
- (f) perform such other functions related to the securing of that critical infrastructure as may be assigned to him or her by the person in control of that critical infrastructure: 55

Provided that such security manager may only be appointed after successful completion of security vetting by the State Security Agency.

(3) Xa isebe likarhulumente okanye icandelo likarhulumente ekuthethwe ngalo kwisiqendwana (2) lingakwazi ukukhusela iziseko ezibalulekileyo ezingundoqo njengoko kuxelwe kwisiqendwana (2), umntu ophetheyo kwezo ziseko zibalulekileyo makathabathe amanyathelo okuqinisekisa ukuba kuqeshwa inkampani yoonogada yokukhusela iziseko ezibalulekileyo ezingundoqo, kodwa ke, loo nkampani yoonogada inokuqeshwa kuphela emva kokuba kugqitywe ngempumelelo ukugocwagocwa kokufaneleka kokuqeshwa kwayo liQumrhu Lokhuseleko LoMbuso. 5

(4) (a) Ngokulawulwa sisiqu (b) no-(c), uMphathiswa unokuthi, ukuba umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo uxela isizathu esivakalayo kwisicelo esixelwe kwisiqendu 17(1) okanye 18(1)(b), unokuthi agqibe kwelokuba iNtloko yesebe likarhulumente yiyo emayihlawule zonke iindleko okanye inxalenye yeendleko eziyimfuneko ekuthabatheni amanyathelo axelwe kwisiqendwana (1). 10

(b) Ukuze aqonde ukuba iNtloko yesebe likarhulumente exelwe kwisiqendu (a) iya kuzithwala kangakanani iindleko, uMphathiswa—

(i) xa kulisebe kurhulumente welizwe, makabonise noMphathiswa Wezimali kunye noMphathiswa ophathiswe isebe elichaphazelekayo; 15

(ii) xa kulisebe kurhulumente wephondo, makabonise noMphathiswa wephondo ophathiswe izimali kwakunye noMphathiswa wephondo ochaphazelekayo ophathiswe isebe elichaphazelekayo; 20

(iii) xa kungumasipala, makabonise neBhunga likaMasipala ochaphazelekayo; 20 aze

(iv) apho kunokwenzeka khona, athabathel' ingqalelo umgaqo-nkqubo weKhabhinethi, abaphathiswa bephondo abachaphazelekayo okanye iBhunga likaMasipala elichaphazelekayo ngemilinganiselo yamanyathelo okhuseleko neendleko ezifanelekileyo ekunokuthi kungenwe kuzo ngurhulumente. 25

(c) UMphathiswa makathi, ngokubhala, azise iNtloko yesebe likarhulumente kunye nomntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo ngesigqibo, axele ukuba—

(i) iNtloko yesebe likarhulumente exelwe kwisiqendu (b);

(ii) nomntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo, uya kuzithwala kangakanani iindleko eziyimfuneko zokuthabatha amanyathelo axelwe kwisiqendwana (1). 30

(5) Xa umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo engawathabathi amanyathelo axelwe kwisiqendwana (1), uMphathiswa unokuthi, ngesaziso esibhaliweyo nangendlela emiselweyo, amyalele ukuba, lingekapheli ixesha elixeliweyo kwisaziso kwaye ekwenza oko ngeendleko zakhe, athabathe amanyathelo ngokukhuseleka kweziseko ezibalulekileyo ezingundoqo anokuthi axelwe kwisaziso eso. 35

(6) Ukuba umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo uyala okanye uyoyisakala ukuthabatha amanyathelo axeliweyo kwisaziso ngexesha elixeliweyo apho kuso, uMphathiswa makathabathe amanyathelo okanye enze ukuba kuthatyathwe amanyathelo kukhuseleko lwezo ziseko zibalulekileyo kwaye makenze ukuba kubuye iindleko kumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo, ndleko ezo ezinokuqingqwa nguMphathiswa. 40

(7) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo makamisele umntu oqeshwe kwiziseko ezibalulekileyo ezingundoqo abe yimaneja yokhuseleko ukuba— 45

(a) iwenze usebenze umgaqo-nkqubo wokhuseleko omiselweyo kwaye ikubek' esweni ukusebenza kwayo kunye nezicwangciso eziqulunqelwe ezo ziseko zibalulekileyo, ikwenza oko egameni lomntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo; 50

(b) igunyaze ukufikelela kwiziseko ezibalulekileyo ezingundoqo okanye yongamele ukugunyazwa kokufikelela kuzo ngabasebenzi bokhuseleko abasebenza phantsi kwakhe; 50

(c) ithetha-thethane nenkampani yoonogada oqeshwe ngumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo; 55

(d) iyenze isebenze imiyalelo exelwe kwisiqendu 25(1)(b); 55

(e) inike umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo iingxelo zenyanga nganye ezingemisebenzi exelwe kwisiqendu (a), (b) no-(c); kwaye 60

(f) yenze neminye imisebenzi emalunga nokukhuselwa kwezo ziseko zibalulekileyo, misebenzi leyo anokuthi ayinikwe ngumntu ophetheyo kwezo ziseko zibalulekileyo, kodwa ke, loo maneja yokhuseleko inokuqeshwa kuphela emva kokuba kugqitywe ngempumelelo ukugocwagocwa kokufaneleka kokuqeshwa kwayo liQumrhu Lokhuseleko LoMbuso. 60

(8) A person in control of a critical infrastructure must as far as practically possible demarcate and place a notice, in the prescribed format and manner, on premises constituting a critical infrastructure, in order to notify persons that the premises are declared a critical infrastructure.

(9) A person to whom functions are assigned in terms of this Chapter must exercise such powers and perform such duties subject to the Constitution and with due regard to the fundamental rights of every person. 5

#### Access to critical infrastructure

25. (1) Subject to section 24, the person in control of a critical infrastructure must—

(a) take such lawful steps as he or she may consider necessary, for the securing of a critical infrastructure and the contents thereof, as well as for the protection of the persons present at the critical infrastructure; 10

(b) issue a notification in the prescribed form that the critical infrastructure may only be entered upon in accordance with the provisions of subsection (2) and that persons or vehicles may be searched upon entering or leaving the premises in terms of subsection (5); and 15

(c) ensure that a notification as contemplated in paragraph (b) is placed at the entrance to that critical infrastructure.

(2) (a) No person may, without the permission of the security manager, or the security personnel under the direction of the security manager enter into or upon any critical infrastructure in respect of which a direction has been issued in terms of subsection (1)(b). 20

(b) For the purpose of granting permission, the security manager or the security personnel under the direction of the security manager, may require of a person to—

(i) furnish his or her name, address and any other relevant information required by the authorised person; 25

(ii) produce proof of his or her identity;

(iii) declare whether he or she has any dangerous object in his or her possession or under his or her control;

(iv) declare the contents of any vehicle, suitcase, bag, handbag, folder, envelope, parcel or container of any nature, which he or she has in his or her possession, custody or control, and show the content to the security manager; 30

(v) subject himself or herself and anything in his or her possession or under his or her control to an examination by an electronic or other apparatus, in order to determine the presence of any dangerous or prohibited object; and 35

(vi) subject to subsection (6), be searched by a security manager or security personnel under the direction of the security manager.

(3) Where the security manager or the security personnel under the direction of the security manager grants permission to a person in terms of subsection (2), the person may enter subject to conditions regarding— 40

(a) the carrying or displaying of proof that the necessary permission has been granted;

(b) restrictions relating to persons with whom he or she may come into contact in or on the critical infrastructure;

(c) restriction of access to certain parts of the critical infrastructure; 45

(d) the duration of his or her presence on or in the critical infrastructure;

(e) being escorted while he or she is on or in the critical infrastructure; and

(f) other requirements as the security manager or the security personnel may consider necessary.

(4) Without derogating from the provisions of the Trespass Act, 1959 (Act No. 6 of 1959), a security manager or the security personnel under the direction of the security manager may, at any time, remove any person from any critical infrastructure if— 50

(a) that person enters the critical infrastructure or any part of the critical infrastructure concerned, without the required permission contemplated in subsection (2); 55

(b) that person refuses or fails to observe a condition contemplated in subsection (3); or

(8) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo makathi kangangoko kunokwenzeka acande imida, anamathisele nesaziso kwindawo ezikuyo iziseko ezibalulekileyo ezingundoqo, ukuze bazi abantu ukuba loo ndawo ibhengezwe njengendawo yeziseko ezibalulekileyo ezingundoqo, ekwenza oko ngendlela emiselweyo. 5

(9) Umntu owabelwe imisebenzi ngokwesi Sahluko makawasebenzise amagunya, ayenze nemisebenzi ngokulawulwa nguMgaqo-siseko kwaye ewahlonela amalungelo asisiseko omntu ngamnye.

#### Ukufikelela kwiziseko ezibalulekileyo ezingundoqo

25. (1) Ngokulawulwa sisiqendu 24, umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo— 10

(a) makathabathe amanyathelo ahambisanayo nomthetho awabona eyimfuneko ukukhusela iziseko ezibalulekileyo ezingundoqo kunye nezinto ezingaphakathi apho, namanyathelo okukhusela abantu abakhoyo apho;

(b) makakhuphe isaziso ngendlela emiselweyo esithi kunokungenwa kwiziseko ezibalulekileyo ezingundoqo kuphela ngendlela exelwe kwisiqendwana (2), esithi abantu okanye inqwelo-mafutha zisengasetshwa xa zingena okanye ziphuma apho ngokwesiqendwana (5); kwaye 15

(c) makaqinisekise ukuba isaziso esixelwe kwisiqendu (b) sibekwa ekungeneni kwezo ziseko ezibalulekileyo ezingundoqo. 20

(2) (a) Akukho mntu ovumelekileyo engenayo imvume yemaneja yokhuseleko okanye engenayo imvume yabasebenzi abasebenza phantsi kwemaneja yokhuseleko ukuba angene kwindawo yeziseko ezibalulekileyo ezingundoqo ekukhutshwe umyalelo ngazo ngokwesiqendwana (1)(b).

(b) Ngenjongo yokunika imvume, imaneja yokhuseleko okanye abasebenzi bokhuseleko abaphantsi kwemaneja yokhuseleko banokufuna ukuba umntu— 25

(i) axele igama lakhe nedilesi kwakunye nanye ingcombolo efanelekileyo efunwa ngumntu ogunyaziweyo;

(ii) avelise ubungqina bokuba ungubani;

(iii) axele ukuba unaso kusini na isixhobo esiyingozi; 30

(iv) axele ukuba kukho ntoni kwinqwelo-mafutha yakhe, kwisutikheyisi, kwingxowa, kwingxowana yamanenekazi, kwifayile, kwimvulophu, kwipasela okanye kuyo nayiphi na enye into ekuye, kwaye avezele imaneja yokhuseleko okungaphakathi;

(v) avume ukuba asetshwe okanye nantoni na ekuye isetshwe ngesixhobo esiyi-elektroniki ukuze kuqondakale ukuba ikho kusini na into enobungozi okanye engavumelekanga kuye; kwaye 35

(vi) ngokulawulwa sisiqendwana (6), asetshwe yimaneja yokhuseleko okanye ngabasebenzi bokhuseleko abasebenza phantsi kwayo.

(3) Xa imaneja yokhuseleko okanye abasebenzi abasebenza phantsi kwayo bemnika imvume umntu ngokwesiqendwana (2), umntu lowo unokuhl angene, kodwa phantsi kwemiqathango ethile— 40

(a) yokuba ahlale ebuthle qhiwu ubungqina bokuba uyinikiwe imvume;

(b) yezithintelo ezimayela nabantu anokuthi adibane nabo ngoxa elapho ngaphakathi kwindawo yeziseko ezibalulekileyo ezingundoqo; 45

(c) yezithintelo zokungena kwiindawo ezithile apho kwiziseko ezibalulekileyo ezingundoqo;

(d) yobude bexesha lobukho bakhe kwiziseko ezibalulekileyo ezingundoqo;

(e) yokuphelekwa xa ehamba-hamba kwiziseko ezibalulekileyo ezingundoqo; kunye 50

(f) nezinye iimfuneko enokuthi imaneja yokhuseleko okanye abasebenzi bokhuseleko bazibone ziyimfuneko.

(4) Kungengakuba kuyaphambukwa koko kutshiwo yi*Trespass Act* 6 ka-1959, imaneja yokhuseleko okanye abasebenzi bokhuseleko beyalelwa yimaneja yokhuseleko banokuthi, nangaliphi na ixesha, bamsuse umntu kwindawo yeziseko ezibalulekileyo ezingundoqo ukuba— 55

(a) loo mntu ungena kwiziseko ezibalulekileyo ezingundoqo okanye kwinxalenye yazo, engenayo imvume efunekayo exelwe kwisiqendwana (2);

(b) loo mntu uyala okanye uyoyisakala ukuthobela umqathango oxelwe kwisiqendwana (3); okanye 60

- (c) it is necessary for the securing of the critical infrastructure concerned or the contents thereof or for the protection of the people therein or thereon.
- (5) The person in control of a critical infrastructure may determine that persons and vehicles leaving that critical infrastructure must be searched subject to subsection (6).
- (6) (a) Any search of a person's body conducted under subsections (2)(b)(vi) or (5) must be carried out by a person of the same gender, or as preferred in terms of paragraph (d)(ii), with strict regard to the right to privacy and dignity and must be in accordance with the provisions of this section and any other prescribed directive. 5
- (b) When conducting a search of a person's body under subsections (2)(b)(vi) and (5), the manner of search is restricted to a pat-down of the person's outer garments to establish whether that person is in possession or control of a prohibited or dangerous object. 10
- (c) A search of a person's body under subsection (2)(b)(vi) or (5) may only be performed if—
- (i) a reasonable suspicion exists that such a person did not declare a dangerous or prohibited object in his or her possession or under his or her control; and 15
- (ii) the manner of or place where the search is performed does not infringe upon the privacy and dignity of the person to be searched.
- (d) Before a security manager or security personnel under the direction of the security manager may search a person referred to in paragraph (c)(i), the person to be searched must be— 20
- (i) informed of the gender of the person who will conduct the search, the manner of search and the place where the search will be performed; and
- (ii) provided with an opportunity to express a preference regarding the gender of the member of the security personnel who must conduct the search. 25
- (7) If it is not practicable to examine or keep in custody on or in the critical infrastructure concerned, anything which may be examined or kept in custody under subsection (2), may be removed to a suitable place for that purpose.
- (8) The person in control of a critical infrastructure must indicate in a notice, in the prescribed form and manner, at every entry point of a critical infrastructure that the critical infrastructure may only be entered upon in accordance with the provisions of subsection (2) and the conditions determined by the security manager. 30

## CHAPTER 5

### OFFENCES AND PENALTIES

- Offences and penalties** 35
- 26.** (1) Any person who unlawfully—
- (a) furnishes, disseminates or publishes in any manner whatsoever information relating to the security measures applicable at or in respect of a critical infrastructure other than in accordance with the Protected Disclosures Act, 2000 (Act No. 26 of 2000), the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) or any other Act of Parliament that provides for the lawful disclosure of information; 40
- (b) takes or records, or causes to take or record, an analog or digital photographic image, video or film of the security measures at a critical infrastructure;
- (c) hinders, obstructs or disobeys a person in control of a critical infrastructure in taking any steps required or ordered in terms of this Act in relation to the security of any critical infrastructure; 45
- (d) hinders, obstructs or disobeys any person while performing a function or in doing anything required to be done in terms of this Act;
- (e) enters or gains access to critical infrastructure without the consent of the security manager or person in control of that critical infrastructure; 50
- (f) enters or gains access to critical infrastructure in contravention of the notice contemplated in section 24(8) or 25(8);

- (c) kuyimfuneko ukuze kukhuseleke iziseko ezibalulekileyo ezingundoqo okanye okungaphakathi kuzo okanye ukuze kukhuseleke abantu abalapho.
- (5) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo usengaqiba kwelokuba abantu neenqwelo-mafutha eziphumayo kwiyadi yeziseko ezibalulekileyo ezingundoqo mazisetshwe, ngokulawulwa sisiqendwana (6). 5
- (6) (a) Ukusetshwa komntu emzimbeni okwenziwa ngokwesiqendwana (2)(b)(vi) okanye (5) makwenziwe ngumntu osisini esinye nalowo osetshwayo, kanye ngendlela akhetha ukuba kwenziwe ngayo lowo osetshwayo ngokwesiqendu (d)(ii), kuhlonelwa ngokungqongqo ilungelo lomntu lokuba neemfihlo nelokuba nesidima, kwaye makwenziwe ngokuvumelana noko kutshiwo sesi siqendu nakoko kutshiwo ngomnye 10 umyalelo omiselweyo.
- (b) Xa kusetshwa umntu emzimbeni ngokwesiqendwana (2)(b)(vi) no-(5), indlela yokusetsha iphelela ekumphuthaphutheni empahleni yokunxiba yangaphezulu ngenjongo yokuqonda ukuba akukho nto engavumelekanga okanye eyingozi kuye. 15
- (c) Ukusetshwa komntu emzimbeni ngokwesiqendwana (2)(b)(vi) okanye (5) 15 kuvumeleke ukuba kwenziwe kuphela ukuba—
- (i) kurhaneleka ukuba loo mntu akayidandalazisanga into engavumelekanga okanye eyingozi ekuye; ibe
- (ii) nendlela yokusetsha okanye indawo ekusetshelwa kuyo ayilinyhashi ilungelo lakhe lokuba neemfihlo nelokuba nesidima. 20
- (d) Ngaphambi kokuba imaneja yokhuseleko okanye abasebenzi bokhuseleko abaphantsi kwegunya lemanaja yokhuseleko basetshe umntu ekuthethwe ngaye kwisiqendu (c)(i), umntu omakasetshwe—
- (i) makaziswe ngesini somntu oza kumsetsha, indlela aza kusetshwa ngayo nendawo aza kusetshelwa kuyo; kwaye 25
- (ii) makanikwe ithuba lokuba atsho ukuba ukhetha ukusetshwa wasiphi isini kubasebenzi bokhuseleko.
- (7) Ukuba akunakwenzeka ukuyihlola okanye ukuyigcina apho kwiyadi yeziseko ezibalulekileyo ezingundoqo into enokuthi ihlolwe okanye igcinwe ngokwesiqendwana (2), inokuthathwa isiwe kwindawo efanelekileyo ukuze ihlolwe okanye ibe 30 selugcinweni.
- (8) Umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo makabonise kwisaziso, ngendlela emiselweyo, kwiindawo ngeendawo apho kwiziseko ezibalulekileyo ezingundoqo, isilumkiso esithi kungenwa apho kwiziseko ezibalulekileyo ezingundoqo kuphela ngokwesiqendwana (2) nangemiqathango egqitywe yimaneja yokhuseleko. 35

## ISAHLUKO 5

### IZENZO EZIKUKONA NEZOHLWAYO

#### Izenzo ezikukona nezohlwayo

26. (1) Nawuphi na umntu othi ngokungekho mthethweni—
- (a) anike, asasaze okanye apapashe nangayiphi na indlela ingcombolo emalunga namanyathelo okhuseleko asebenza kwiziseko ezibalulekileyo ezingundoqo, engakwenzi oko ngokwe*Protected Disclosures Act* 26 ka-2000, nangokwe*Prevention and Combating of Corrupt Activities Act* 12 ka-2004 okanye omnye uMthetho wePalamente othetha ngokudandalaziswa okusemthethweni kwengcombolo; 40 45
- (b) othatha okanye orekhoda, okanye owenza ukuba omnye umntu athathe okanye arekhode ifoto, ividiyo okanye ifilim yamanyathelo okhuseleko kwiziseko ezibalulekileyo ezingundoqo;
- (c) othintela, oxab' endleleni okanye odelela umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo xa ethabatha amanyathelo afunekayo okanye amanyathelo ayalelweyo ngokwalo Mthetho malunga nokhuseleko lweziseko ezibalulekileyo ezingundoqo; 50
- (d) othintela, oxab' endleleni okanye okanye odelela umntu owenza umsebenzi okanye owenza into ekufuneka eyenzile ngokwalo Mthetho;
- (e) ongena kwiziseko ezibalulekileyo ezingundoqo engenayo imvume yemaneja yokhuseleko okanye yomntu ophetheyo kwezo ziseko zibalulekileyo'; 55
- (f) ongena kwiziseko ezibalulekileyo ezingundoqo ngokunxamnye nesaziso esixelwe kwisiqendu 24(8) okanye 25(8);

- (g) damages, endangers or disrupts a critical infrastructure or threatens the safety or security at a critical infrastructure or part thereof;
- (h) threatens to damage critical infrastructure; or
- (i) colludes with or assists another person in the commission, performance or carrying out of an activity referred to in paragraphs (a) to (h),  
5  
commits an offence and is, subject to subsection (3) and (4), liable on conviction to a fine or to imprisonment for a period not exceeding three years, or to both a fine and imprisonment.
- (2) For purposes of subsection (1)(a) and subsection (1)(b), “**security measures**” means those security measures at critical infrastructure that are not clearly visible to the public or in the public domain. 10
- (3) If the evidence on a charge for any offence in subsection (1)(a) to (i) proves that the activity referred to was carried out with the intention to cause damage or substantial harm to critical infrastructure, a court may, in the case of critical infrastructure categorised as— 15
- (a) low-risk, impose a fine or imprisonment for a period not exceeding three years or both a fine and imprisonment;
- (b) medium-risk, impose a fine or imprisonment for a period not exceeding five years, or both a fine and imprisonment; or
- (c) high-risk, impose a fine or imprisonment for a period not exceeding seven 20 years, or both a fine and imprisonment.
- (4) If the evidence on a charge for any offence in subsection (1)(a) to (i) proves that the activity referred to in fact caused damage, substantial harm or loss of property to the critical infrastructure in question, the court may in the case of critical infrastructure categorised as— 25
- (a) low-risk, impose a fine or imprisonment for a period not exceeding 10 years, or both a fine and imprisonment;
- (b) medium-risk, impose a fine or imprisonment for a period not exceeding 15 years, or both a fine and imprisonment;
- (c) high-risk, impose a fine or imprisonment for a period not exceeding 20 years, 30 or both a fine and imprisonment.
- (5) Any person in control of a critical infrastructure who—
- (a) knowingly furnishes false or incorrect information on an application for declaration as critical infrastructure;
- (b) refuses or fails to comply with a notice issued in terms of section 11(3) or 35 11(4);
- (c) refuses or fails to take the steps specified in the notice contemplated in section 20(2);
- (d) refuses or fails to take the steps specified in the notice contemplated in section 20(2) within the period specified in the notice; 40
- (e) refuses or fails to comply with section 24(8) in circumstances where compliance would not severely threaten the security at the critical infrastructure concerned; or
- (f) refuses or fails to comply with section 25(8),  
45  
commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both a fine and imprisonment or, in the case of a corporate body as contemplated in section 332 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), a fine not exceeding R10 million.
- (6) Whenever a court convicts any person of an offence in terms of this Act where damage to or loss of property related to a critical infrastructure was caused, the prosecutor must direct the attention of the person in control of that critical infrastructure to the provisions of section 300 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and inform the court accordingly. 50



- (g) owonakalisa, obek' engozini, okanye ophazamisa iziseko ezibalulekileyo ezingundoqo okanye osongela ukhuseleko lwazo okanye inxalenye yazo;
- (h) osongela ukonakalisa iziseko ezibalulekileyo ezingundoqo; okanye
- (i) owakh' iyelenqe nomnye umntu okanye ancedise omnye ekwenzeni isenzo ekuthethwe ngaso kwisiqendu (a) ukuya ku-(h), 5
- waphul' umthetho kwaye, ngokulawulwa sisiqendwana (3) nesesi-(4), uya kuthi akufunyaniswa enetyala agwetywe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emithathu, okanye agwetywe kokubini ifayini nokuvalelwa entolongweni.
- (2) Malunga nesiqendwana (1)(a) nesiqendwana (1)(b), elithi **“amanyathelo okhuseleko”** lithetha loo manyathelo okhuseleko kwiziseko ezibalulekileyo ezingundoqo angabonakaliyo ngokucacileyo kuluntu okanye esidlangalaleni. 10
- (3) Ukuba ubungqina kwisimangalo esikwisiqendwana (1)(a) ukuya ku-(i) bubonisa ukuba isenzo esenziweyo senziwe ngenjongo yokubangela umonakalo okanye umonakalo omkhulu kwiziseko ezibalulekileyo ezingundoqo, inkundla inokuthi, ukuba ziziseko ezibalulekileyo ezingundoqo ezibekwe kudidi— 15
- (a) lobungozi obuphantsi, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emithathu okanye kokubini ifayini nokuvalelwa entolongweni;
- (b) lobungozi obuphakathi, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emihlanu okanye kokubini ifayini nokuvalelwa entolongweni; okanye 20
- (c) lobungozi obuphezulu, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka esixhenxe okanye kokubini ifayini nokuvalelwa entolongweni. 25
- (4) Ukuba ubungqina kwisimangalo esikwisiqendwana (1)(a) ukuya ku-(i) bubonisa ukuba isenzo esenziweyo okunene siwubangele umonakalo okanye ukulahlekelwa yimpahla kweziseko ezibalulekileyo ezingundoqo, inkundla inokuthi, ukuba ziziseko ezibalulekileyo ezingundoqo ezibekwe kudidi—
- (a) lobungozi obuphantsi, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka eli-10 okanye kokubini ifayini nokuvalelwa entolongweni; 30
- (b) lobungozi obuphakathi, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka eli-15 okanye kokubini ifayini nokuvalelwa entolongweni; 35
- (c) lobungozi obuphezulu, igwebe ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka engama-20 okanye kokubini ifayini nokuvalelwa entolongweni.
- (5) Nawuphi na umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo othi—
- (a) esazi anike ingcombolo ebubuxoki okanye engachananga kwisicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo; 40
- (b) ale okanye oyisakale ukwenza okufunwa sisaziso esikhutshwe ngokwesiqendu 11(3) okanye 11(4);
- (c) ale okanye oyisakale ukuthabatha amanyathelo axelwe kwisaziso esixelwe kwisiqendu 20(2); 45
- (d) ale okanye oyisakale ukuthabatha amanyathelo axelwe kwisaziso esixelwe kwisiqendu 20(2) lingekapheli ixesha elixelwe kwisaziso;
- (e) ale okanye oyisakale ukwenza okufunwa sisiqendu 24(8) kwiimeko apho ukwenza okufunekayo bekungeke kulubek' emngciphekweni kakhulu ukhuseleko kwiziseko ezibalulekileyo ezingundoqo; okanye othi 50
- (f) ale okanye oyisakale ukwenza okufunwa sisiqendu 25(8), waphul' umthetho kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emihlanu okanye agwetywe kokubini ifayini nokuvalelwa entolongweni, okanye xa kuyinkampani eyaphule umthetho njengoko kuxelwe kwisiqendu 332 se*Criminal Procedure Act* 51 ka-1977, kube yifayini engagqithiyo kwizigidi ezili-R10. 55
- (6) Nanini na xa inkundla ifumanisa umntu enetyala ngesenzo esikukona esingokwalo Mthetho apho kuye kwabangelwa umonakalo okanye ukulahlekelwa yimpahla, umtshutshisi makaxelele umntu ophetheyo kwezo ziseko zibalulekileyo oko kutshiwo sisiqendu 300 se*Criminal Procedure Act* 51 ka-1977, aze azise inkundla. 60

## CHAPTER 6

## REGULATIONS

## Regulations

27. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—
- (a) factors to be taken into account in making any recommendation in terms of section 7(2) or 9(3)(c) regarding identification, categorisation or declaration of critical infrastructure; 5
  - (b) the functioning and meeting procedure of the Critical Infrastructure Council;
  - (c) the establishment, functions, functioning, meeting and reporting procedure of any committee or forum contemplated in section 9(2) or (3); 10
  - (d) the manner in which—
    - (i) the National Commissioner must apply for the declaration of any infrastructure as critical infrastructure as contemplated in section 9(4);
    - (ii) the physical security assessment and evaluation contemplated in section 11(1)(c) must be carried out; and 15
    - (iii) a notification contemplated in section 23(5)(a) must be issued;
  - (e) the form and content of—
    - (i) a compliance notice contemplated in section 11(3) and the manner in which an inspector must issue such a compliance notice;
    - (ii) a written notice contemplated in section 11(4) and the manner in which such a notice must be issued; 20
    - (iii) an application for declaration of critical infrastructure contemplated in sections 17(1) or 18(1)(b) and the manner in which such an application must be lodged;
    - (iv) a notice contemplated in section 17(4)(a); 25
    - (v) an application for an extension contemplated in section 17(10) or 19(6) and the manner in which such an application must be lodged;
    - (vi) a notice contemplated in section 18(3)(a) and the manner in which such a notice must be issued;
    - (vii) a certificate contemplated in section 21(1) and the manner in which such a certificate must be issued; 30
    - (viii) the register contemplated in section 21(5) and the manner in which such a register must be made accessible to the public;
    - (ix) the written notice, to order a person to take steps in respect of the security of critical infrastructure, as contemplated in section 24(5), and the manner in which such a notice must be issued; 35
    - (x) any notification contemplated in section 25(1)(b) and the manner in which such notification must be issued; and
    - (xi) any notice or sign that must be placed as contemplated in section 24(8) or 25(8), including the size of the notice or sign and the manner in which it must be placed; 40
  - (f) the form of any certificate contemplated in section 10(2);
  - (g) the procedure, contemplated in section 11(2)(b), that must be followed by inspectors when carrying out duties or exercising powers;
  - (h) guidelines for the identification and declaration of infrastructure as critical infrastructure, as contemplated in section 19(1)(d); 45
  - (i) guidelines and standards to establish a system to categorise critical infrastructure or parts thereof in a low-risk, medium-risk or high-risk category, as contemplated in section 20(1)(b);
  - (j) any conditions regarding the steps and measures the person in control of critical infrastructure must implement to safeguard the critical infrastructure, as contemplated in section 20(1)(d); 50

## ISAHLUKO 6

## IMIMISELO

## Imimiselo

27. (1) Ngokukhuph' isihlokomiso kuShicilelo-Mithetho, uMphathiswa unokwenza imimiselo— 5
- (a) ngezinto emakucingwe ngazo xa kusenziwa isiphakamiso ngokwesiqendu 7(2) okanye 9(3)(c) ngokufaniswa, ukuhlelwa ngokodidi okanye ukubhe-ngezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo;
- (b) ngokusebenza kweBhunga Leziseko ezibalulekileyo ezingundoqo nangee-ntlanganiso zalo; 10
- (c) ngokusekwa kwekomiti exelwe kwisiqendu 9(2) okanye (3), ngemisebenzi yayo, ngokusebenza kwayo, ngeentlanganiso zayo, nangendlela yokwenza kwayo ingxelo;
- (d) ngendlela emakuthi ngayo—
- (i) uMkomishinala Wezwelonke enze isicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo njengoko kuxelwe kwisiqendu 9(4); 15
- (ii) kuqhutywe uphononongo lokhuseleko oluxelwe kwisiqendu 11(1)(c); nangendlela
- (iii) emasikhutshwe ngayo isaziso esixelwe kwisiqendu 23(5)(a); 20
- (e) ngemo nangokuqulethweyo—
- (i) kwisaziso sokwenza okufunekayo esixelwe kwisiqendu 11(3) nangendlela umhloli amakakhuphe ngayo isaziso sokwenza okufunekayo;
- (ii) kwisaziso esibhaliweyo esixelwe kwisiqendu 11(4) nangendlela emasikhutshwe ngayo eso saziso; 25
- (iii) kwisicelo sokubhengezwa kweziseko njengeziseko ezibalulekileyo ezingundoqo esixelwe kwisiqendu 17(1) okanye 18(1)(b) nangendlela emasifakwe ngayo eso sicelo;
- (iv) kwisaziso esixelwe kwisiqendu 17(4)(a); 30
- (v) kwisicelo sokolulwa kwexesha esixelwe kwisiqendu 17(10) okanye 19(6) nangendlela emasifakwe ngayo eso sicelo;
- (vi) kwisaziso esixelwe kwisiqendu 18(3)(a) nangendlela emasikhutshwe ngayo eso saziso;
- (vii) kwisiqinisekiso esixelwe kwisiqendu 21(1) nangendlela emasikhutshwe ngayo eso siqinisekiso; 35
- (viii) kwirejista exelwe kwisiqendu 21(5) nangendlela emayenziwe ifikelelwe luluntu loo rejista;
- (ix) kwisaziso esibhaliweyo, sokuyalela umntu ukuba athabathe amanyathelo ngokukhuseleka kweziseko ezibalulekileyo ezingundoqo, njengoko kuxelwe kwisiqendu 24(5), nangendlela emasikhutshwe ngayo eso saziso; 40
- (x) kwisaziso esixelwe kwisiqendu 25(1)(b) nendlela emasikhutshwe ngayo eso saziso; kunye
- (xi) nesaziso okanye umbhalo omawuxhonywe njengoko kuxelwe kwisiqendu 24(8) okanye 25(8), kuquka nobukhulu besaziso okanye umbhalo nendlela omawuxhonywe ngayo; 45
- (f) ngobume besiqinisekiso esixelwe kwisiqendu 10(2);
- (g) ngenkqubo exelwe kwisiqendu 11(2)(b) emayilandelwe ngabahloli xa besenza imisebenzi yabo okanye besebenzisa amagunya abo; 50
- (h) ngezikhokelo zokuqonda ukuba zeziphi iziseko eziziziseko ezibalulekileyo ezingundoqo nokubhengezwa kwazo njengezinjalo, njengoko kuxelwe kwisiqendu 19(1)(d);
- (i) ngezikhokelo nemilinganiselo yokuseka inkqubo yokuzihlela ngokodidi iziseko ezibalulekileyo ezingundoqo okanye inxalenye yazo njengezikudidi oluphantsi ngobungozi, udidi oluphakathi ngobungozi, okanye oluphezulu ngobungozi, njengoko kuxelwe kwisiqendu 20(1)(b); 55
- (j) ngemiqathango emalunga namanyathelo amakathatyathwe ngomntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo ukukhusela iziseko ezibalulekileyo ezingundoqo, njengoko kuxelwe kwisiqendu 20(1)(d); 60

- (k) the particulars that must be published where infrastructure has been declared as critical infrastructure or where such declaration has been terminated, as contemplated in section 21(6);
- (l) the steps that must be taken by the person in control of critical infrastructure to secure such critical infrastructure as contemplated in section 24(1); 5
- (m) in respect of security personnel, including a security manager—
- (i) the administration, provisioning and functioning of security service providers at a critical infrastructure;
  - (ii) such standards and training courses as may be determined and recognised by PSIRA that security personnel who render a security 10 service at a critical infrastructure must comply with;
  - (iii) the requirements, qualification, security clearance level and procedure of appointment of security personnel at a critical infrastructure;
  - (iv) grounds which disqualify persons from appointment as security person- 15 nel or from continued employment at a critical infrastructure; and
  - (v) the role and responsibilities of security service providers at a critical infrastructure;
- (n) in respect of the physical security measures at a critical infrastructure—
- (i) the standards of physical security measures;
  - (ii) access and egress control at a critical infrastructure; and 20
  - (iii) emergency and evacuation procedures at a critical infrastructure; and
- (o) any other ancillary or administrative matter that it is necessary or expedient to prescribe for the proper implementation or administration of this Act.
- (2) Regulations made under this section may provide for a penalty of a fine or imprisonment for a period not exceeding 12 months or both a fine and such 25 imprisonment, for any contravention thereof or for a failure to comply therewith.
- (3) The Minister may make different regulations for different categories of critical infrastructure.
- (4) The Minister may issue such practice directives regarding the identification, assessment and management of critical infrastructure as may be required to ensure 30 consistent application of this Act.
- (5) The Minister must table any proposed regulations in Parliament for scrutiny before promulgation.
- (6) Any regulation necessary for the immediate implementation of this Act must be promulgated to coincide with the coming into operation of this Act. 35
- (7) Before making any regulation in terms of this section, the Minister must—
- (a) publish a notice in the *Gazette*—
    - (i) setting out the draft regulations; and
    - (ii) inviting written comments to be submitted on the proposed regulations 40 within a specified period; and
  - (b) consider any comments received.
- (8) The Minister may, after complying with subsection (7), and whether or not he or she has amended the regulations referred to in subsection (1), after complying with subsection (5), publish the regulations in final form in the *Gazette*.

- (k) ngeenkukacha emazipapashwe apho iziseko zibhengezwe njengeziseko ezibalulekileyo ezingundoqo okanye apho ukubhengezwa kwazo njengezibalulekileyo kuphelisiweyo, njengoko kuxelwe kwisiqendu 21(6);
- (l) ngamanyathelo amakathatyathwe ngumntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo okukhusela iziseko ezibalulekileyo ezingundoqo njengoko kuxelwe kwisiqendu 24(1); 5
- (m) malunga nabasebenzi bokhuseleko—
- (i) ngolawulo nokusebenza kweenkampani zoonogada kwindawo yeziseko ezibalulekileyo ezingundoqo;
- (ii) ngemilinganiselo nezifundo zoqeqesho ezinokuthi zigqitywe kwaye zivunye yiPSIRA ekufuneka oonogada abagada kwiziseko ezibalulekileyo ezingundoqo babe nazo; 10
- (iii) ngeemfuneko, imfuno, inqanaba lokhuseleko, nenkqubo yokuqeshwa kwabasebenzi bokhuseleko kwindawo yeziseko ezibalulekileyo ezingundoqo; 15
- (iv) ngezizathu ezibenza bangafaneleki abantu ukuba baqeshwe njengabasebenzi bokhuseleko okanye bangafaneleki ukuqhubeka beqeshiwe kwindawo yeziseko ezibalulekileyo ezingundoqo; kwakunye
- (v) nendima neembopheleleko zeenkampani zoonogada kwindawo yeziseko ezibalulekileyo ezingundoqo; 20
- (n) mayela namanyathelo okhuseleko kwindawo yeziseko ezibalulekileyo ezingundoqo—
- (i) ngemilinganiselo yamanyathelo okhuseleko;
- (ii) ngokulawulwa kokungena nokuphuma kwindawo yeziseko ezibalulekileyo ezingundoqo; 25
- (iii) nangeenkqubo zemeko yequbuliso nokukhutshwa kwabantu kwindawo yeziseko ezibalulekileyo ezingundoqo;
- (o) nangawo nawuphi na omnye umbandela onxulumene nale ekuyimfuneko ngawo ukwenza ummiselo ukuze lo Mthetho usetyenziswe kakuhle.
- (2) Imimiselo eyenziwe phantsi kwesi siqendu ingabeka isohlwayo esiyifayini okanye esikukuvalalwa entolongweni ixesha elingekho ngaphaya kweenyanga ezili-12 okanye ifayini noko kuvalalwa entolongweni ngokwaphulwa kwayo okanye ngokoyisakala ukwenza okufunwa yiyo. 30
- (3) UMphathiswa unokwenza imimiselo engafaniyo yeendidi ngeendidi ezahlukeneyo zeziseko ezibalulekileyo ezingundoqo. 35
- (4) UMphathiswa angakhupha imiyalelo ngendlela yokuqondwa kweziseko ezibalulekileyo ezingundoqo nokuphononongwa kwazo nokulawulwa kwazo njengoko kunokuthi kufuneka ukuqinisekisa ukusetyenziswa kwalo Mthetho ngendlela efanayo.
- (5) UMphathiswa makathi thaca ePalamente imimiselo aceba ukuyenza ukuze iphicothwe ngaphambi kokuba ayipapashe. 40
- (6) Nawuphi na ummiselo oyimfuneko ukuze usetyenziswe ngoko nangoko lo Mthetho mawupapashwe ngendlela yokuba ungqamane nokuqalisa kwalo Mthetho ukusebenza.
- (7) Ngaphambi kokuba enze nawuphi na ummiselo ngokwesi siqendu, uMphathiswa— 45
- (a) makapapashe isihlokomiso ku*Shicilelo-Mithetho*—
- (i) edwelisa imimiselo eseluvavanyo; aze
- (ii) ameme abantu ukuba bangenise izimvo ezibhaliweyo ngaloo mimiselo eseluvavanyo, bekwenza oko lingekapheli ixesha elibekiweyo; kwaye
- (b) makaziqwalasele izimvo azifumeneyo. 50
- (8) UMphathiswa unokuthi ayipapashe imimiselo ikwimo yayo yokugqibela ku*Shicilelo-Mithetho*, ekwenza oko emva kokuba ekwenzile okufunwa sisiqendwana (7), kungakhathaliseki ukuba wenze utshintsho kusini na okanye akalwenzanga kwimimiselo ekuthethwe ngayo kwisiqendwana (1), emva kokuba ekwenzile okufunwa sisiqendwana (5). 55

## CHAPTER 7

## GENERAL AND TRANSITIONAL PROVISIONS

**Administrative justice**

28. Any administrative process conducted, or decision taken, in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless provided for in this Act. 5

**Repeal of legislation**

29. The laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column thereof.

**Transitional arrangements** 10

30. (1) Any National Key Point or National Key Point Complex declared under any of the laws referred to in the Schedule (“the previous Acts”), must be deemed to be a critical infrastructure until the Minister has decided whether or not to declare such National Key Point or National Key Point Complex as a critical infrastructure in terms of section 20(1). 15

(2) Within a period of 48 months after the coming into operation of this Act, the National Commissioner must, after consultation with a person in control of a National Key Point, compile a report regarding the suitability of each National Key Point or National Key Point complex to be declared as a critical infrastructure or determined to be a critical infrastructure complex, as the case may be, and submit such report, together with a recommendation, to the Critical Infrastructure Council who must deal with the report in the manner contemplated in section 19. 20

(3) Within a period of three months after the coming into operation of this Act, the person in control of a critical infrastructure contemplated in subsection (1) must ensure that the process of vetting any security service provider, including any security officer employed at the critical infrastructure, has been initiated. 25

(4) Subject to subsection (5), this Act does not affect any proceedings instituted in terms of any of the previous Acts which were pending in a court immediately before the date of commencement of this Act and such proceedings must be disposed of in the court in question as if this Act had not been passed. 30

(5) (a) Proceedings contemplated in subsection (4) must be regarded as having been pending if the person concerned has pleaded to the charge in question.

(b) No proceedings may continue against any person in respect of any contravention of a provision of any of the previous Acts if the alleged act or omission constituting the offence would not have constituted an offence if this Act had been in force at the time when the act or omission took place. 35

(6) (a) Despite the repeal of the previous Acts, any person who, before such repeal, committed an act or omission which constituted an offence under that Act and which constitutes an offence under this Act may, after this Act takes effect, be prosecuted under the relevant provisions of this Act. 40

(b) Despite the retrospective application of this Act as contemplated in paragraph (a), any penalty imposed in terms of this Act in respect of an act or omission which took place before this Act came into operation, may not exceed the maximum penalty which could have been imposed on the date when the act or omission took place.

(7) The functions, powers and duties assigned in terms of sections 3, 8 and 12 of the National Key Points Act, 1980 (Act No. 102 of 1980), and the regulations related to those sections shall remain in force for the period contemplated in subsection (2) insofar as they are not in conflict with the provisions of this Act. 45

## ISAPHLUKO 7

## OKUTSHIWO NGULO MTHETHO GABALALA NOKUZA KWENZEKA OKWETHUTYANA

## Ubulungisa ekwenziweni kwezigqibo

28. Nasiphi na isigqibo esithatyathwayo ngokwalo Mthetho masithatyathwe ngokuvumelana ne*Promotion of Administrative Justice Act* 3 ka-2000, ngaphandle kokuba kuyalelwe ngenye indlela kulo Mthetho. 5

## Imithetho etshitshiswayo

29. Imithetho ekhankanywe kwiSihlomelo A iyatshitshiswa kwaye iindawo ezitshitshiswayo zibonise kumhlathi wesithathu apho kwiSihlomelo. 10

## Okuza kwenzeka okwethutyana

30. (1) Nayiphi na iNdawo Ebalulekileyo Yelizwe okanye uDederhu Lweendawo Ezibalulekileyo Zelizwe ezibhengezwe ziziindawo ezibalulekileyo ngokwemithetho ekuthethwe ngayo kwiSihlomelo (“iMithetho yangaphambili”), mazithathwe njengeziseko ezibalulekileyo ezingundoqo de abe uMphathiswa wenze isigqibo malunga nokuba ezo Ndawo Ezibalulekileyo Zelizwe okanye olo Dederhu Lweendawo Ezibalulekileyo Zelizwe ziziziseko ezibalulekileyo ezingundoqo kusini na ngokwesiqendu 20(1). 15

(2) Zingekapheli iinyanga ezingama-48 uqalile ukusebenza lo Mthetho, uMkomishinala Wezwelonke makathi, emva kokuba ebonisene nomntu ophetheyo kwiNdawo Ebalulekileyo Yelizwe aqulunqe ingxelo ngokufaneleka kokuba nganye iNdawo Ebalulekileyo Yelizwe okanye ngalunye uDederhu Lweendawo Ezibalulekileyo Zelizwe ezibhengezwe njengeziseko ezibalulekileyo ezingundoqo okanye zibhengezwe njengoDederhu Lweziseko ezibalulekileyo ezingundoqo, aze angenise loo ngxelo, kunye neziphakamiso kwiBhunga Leziseko Eziphakamileyo emaliyisingathe loo ngxelo ngendlela exelwe kwisiqendu 19. 25

(3) Zingekapheli iinyanga ezintathu uqalile ukusebenza lo Mthetho, umntu ophetheyo kwiziseko ezibalulekileyo ezingundoqo ezixelwe kwisiqendwana (1) makaqinisekise ukuba inkqubo yokuhlola ukufaneleka kwenkamapani yoonogada, kuquka neyokuhlolwa konogada oqeshwe kwindawo yeziseko ezibalulekileyo ezingundoqo, iqalisiwe. 30

(4) Ngokulawulwa sisiqendwana (5), lo Mthetho awuwachaphazeli amatyala awaqaliswa ngokweMithetho yangaphambili awayephambi kwenkundla ngaphambi komhla wokuqalisa kwalo Mthetho, kwaye loo matyala makaqosheliswe kwinkundla leyo ngokungathi lo Mthetho awuphunyezwa. 35

(5) (a) Amatyala axelwe kwisiqendwana (4) makathathwe njengangekaqosheliswa ukuba umntu lowo selebuziwe ukuba uyalivuma okanye uyalikhanyela kusini na ityala.

(b) Akukho kutshutshiswa komntu okuya kuqhubeka ngokwaphula omnye wemithetho yangaphambili ukuba isenzo sokwaphul’ umthetho ekuthiwa usenzile ngesingesiso isenzo sokwaphul’ umthetho ukuba bekusebenza lo uMthetho ngexesha lokwenziwa kweso senzo sokwaphul’ umthetho. 40

(6) (a) Nangona itshitshisiwe imithetho yangaphambili, nawuphi na umntu owayethe, ngaphambi kokutshitshiswa kwayo, wenza isenzo esikukwaphul’ umthetho ngokwaloo mithetho, senzo eso esikukwaphul’ umthetho nangokwalo uMthetho, unokuthi emva kokuba lo uMthetho uqale ukusebenza, atshutshiswe ngokwalo uMthetho. 45

(b) Nangona ukusebenza kwalo Mthetho kwenziwa kuqalele kwixesha elidlulileyo njengoko kuxelwe kwisiqendu (a), nasiphi na isohlwayo awohlwaywa sona umntu ngokwalo Mthetho ngokwesenzo esenziwa ngaphambi kokuba lo Mthetho uqale ukusebenza, asinakuba ngaphezu kwesohlwayo abeya kohlwaywa sona ngomhla awasenza ngaso isenzo sokwaphul’ umthetho. 50

(7) Imisebenzi namagunya anikwe wona umntu ngokwesiqendu 3, 8 nese-12 se*National Key Points Act* 102 ka-1980, nemimiselo ehambisana nezo ziqendu iqhubeka isebenza ithuba lexesha elixelwe kwisiqendwana (2) ukuba ayingqubani noko kutshiwo kulo uMthetho.

(8) The Minister must, by notice in the *Gazette* and within a period of 60 days after the coming into operation of this Act, publish a list containing the names of National Key Points or National Key Point Complexes which are deemed to be critical infrastructure in terms of subsection (1).

**Indemnity against loss or damage**

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**31.** Neither the Minister nor any person in the service of the State is liable for anything done in good faith in terms of or in furthering the objectives of this Act.

**Short title and commencement**

**32.** This Act is called the Critical Infrastructure Protection Act, 2019, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 10



(8) UMphathiswa makathi, ngesihlokomiso kuShicilelo-Mithetho kwaye zingekapheli iintsuku ezingama-60 uqalile ukusebenza lo Mthetho, apapashe uludwe lwamagama eeNdawo Ezibalulekileyo Zelizwe okanye lwamagama amaDederhu Eendawo Ezibalulekileyo Zelizwe ezithathwa ngokuthi ziziziseko ezibalulekileyo ezingundoqo ngokwesiqendwana (1).

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**Ukungabi nabutyala kwilahleko okanye kumonakalo**

31. UMphathiswa okanye nawuphi na umntu osebenzela urhulumente akathwali butyala ngayo nayiphi na into ayenze ngentsusa entle ngokwalo Mthetho okanye efeza iinjongo zalo Mthetho.

**Igama lawo nokuqalisa kwawo ukusebenza**

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32. Lo Mthetho ubizwa ngokuba nguMthetho Wokukhuselwa Kweziseko Ezibalulekileyo Ezingundoqo, ka-2019, kwaye uqalisa ukusebenza ngomhla ogqitywe nguMongameli ngesihlokomiso kuShicilelo-Mithetho.

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**SCHEDULE****LAWS***(Section 29, Section 30)*

<b>No. and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 102 of 1980	National Key Points Act, 1980	The whole
Act No. 9 of 1984 (Bophuthatswana)	National Key Points Act, 1984	The whole
Act No. 26 of 1985 (Transkei)	National Key Points Act, 1985	The whole
Act No. 9 of 1986 (Venda)	National Key Points Act, 1986	The whole
Act No. 16 of 1986 (Ciskei)	National Key Points Act, 1986	The whole

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**ISIHLOMELO****IMITHETHO***(isiqendu 29, isiqendu 30)*

<b>Inombolo yomthetho nonyaka wawo</b>	<b>Igama lawo</b>	<b>Indawo etshitshiswayo</b>
uMthetho 102 ka-1980	<i>iNational Key Points Act</i> ka-1980	wonke
uMthetho 9 ka-1984 (waseBophuthatswana)	<i>iNational Key Points Act</i> ka-1984	wonke
uMthetho 26 ka-1985 (waseTranskei)	<i>iNational Key Points Act</i> ka-1985	wonke
uMthetho 9 ka-1986 (waseVenda)	<i>iNational Key Points Act</i> ka-1986	wonke
uMthetho 16 ka-1986 (waseCiskei)	<i>iNational Key Points Act</i> ka-1986	wonke