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## GOVERNMENT NOTICE

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### DEPARTMENT OF TRANSPORT

No. R. 364

26 April 2007

#### AVIATION ACT, 1962 (ACT NO 74 OF 1962)

#### TWENTY-FIFTH AMENDMENT OF THE CIVIL AVIATION REGULATIONS, 1997

The Minister of Transport has under section 22(1) of the Aviation Act, 1962 (Act No 74 of 1962) made the regulations in the Schedule hereto.

#### SCHEDULE

##### Definition

1. In these regulations unless the context otherwise indicates "the Regulations" means the Civil Aviation Regulations, 1997, published by Government Notice Nos R.1219 of 26 September 1997 and R.1255 of 17 October 1997, as amended by Government Notice No R. 1735 of 24 December 1997, Government Notice No R. 1041 of 14 August 1998, Government Notice No R. 1148 of 18 September 1998, Government Notice Nos R. 1664 of 14 December 1998, and Government Notice No R. 1701 of 31 December 1998, Government Notice No 1702 of 31 December 1998, Government Notice No R.639 of 21 May 1999, Government Notice No R. 170 of 17 February 2000, Government Notice No R. 171 of 18 February 2000, Government Notice No R. 558 of 22 June 2001 Government Notice No R. 559 of 30 August 2002, Government Notice No R. 1367 of 15 November 2002, Government Notice No R. 1368 of 15 November 2002, Government Notice No 1369 of 15 November 2002, Government Notice No R. 1370 of 15 November 2002, Government Notice No R. 1371 of 15 November 2002, Government Notice No R. 1372 of 15 November 2002, Government Notice No R. 434 of 28 March 2003, Government Gazette No R. 435 of 28 March 2003 Government Gazette No R.1375 of 1 October 2003 and Government Gazette No R.1340 of 31 March 2004, Government Gazette No R. 29091 of 4 August 2006, and Government Gazette No R. 29511 of 28 December 2006.

##### Amendment of Regulation 1.00.1 of Part 1 of the Regulations

2. Regulation 1.00.1 of the Regulation is herewith amended by-

- (a) the insertion of the following definition after the definition of "accelerate-stop-distance available"

"'access control' means the security procedure applied to ensure that only authorised persons, authorised vehicles and authorised items carried by such persons or transported in such vehicles are allowed access into the premises or zone being controlled;"

- (b) the insertion of the following definition after the definition of

"airship"

**"air side'** means the movement area of an aerodrome, adjacent terrain and buildings or portions thereof to which access is controlled by the aerodrome licensee;";

- (c) the insertion of the following definition after the definition of  
"airway"

**"air waybill"** means the document referred to in regulation 23 of the Domestic Air Services Regulations, promulgated in terms of section 29 of the Air Services Licensing Act, No115 of 1990.

- (d) the insertion of the following definition after the definition of  
"assistant service"

**"authorised person'** means any person as defined in section 1 of the Civil Aviation Offences Act, No 10 of 1972;";

- (e) the insertion of the following definition after the definition of  
"aviation recreation"

**background check'** means the checking of a person's identity and previous experience, including any criminal history, where appropriate, as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area;";

- (f) the insertion of the following definition after the definition of  
"cabin crew member"

**"cargo'** means any item, including unaccompanied baggage, tendered with an airway bill for carriage by air in commercial air transport operations;";

- (g) the insertion of the following definition after the definition of  
"cargo aircraft"

**"carry-on baggage'** means baggage that a passenger carries with him or her on board an aircraft;

- (h) the insertion of the following definition after the definition of  
"certificate of airworthiness"

**"certificate of approval'** means a certificate issued in terms of Part 108 to a person approved to accept, store, handle and tender goods for the carriage by air;";

- (i) the insertion of the following definitions after the definition of "certificate of fitness"

(i) "**certificate of proficiency**" means a certificate issued in terms of Part 108 to a natural person to certify that its holder has successfully completed the initial or refresher security training;"

(ii) "**check-in baggage**" means baggage that a passenger hands in when checking in for a flight and that is supposed to be carried in a cargo compartment of the aircraft on which the passenger is travelling;"

- (j) the insertion of the following definition after the definition of "commercial air transport operation"

"**commercial air transport operator**" means the provider of a commercial air transport operation;"

- (k) the insertion of the following definitions after the definition of configuration"

(i) "**consignee**" The person whose name appears on the air waybill as the party to whom the goods are to be delivered by the carrier;"

(ii) "**consignment**" means one or more pieces of goods accepted by the carrier from one shipper at one time and at one address, receipted for in one lot and moving on one air waybill to one consignee at one destination;"

(iii) "**consignor**" means the person whose name appears on the air waybill as the party contracting with the carrier(s) for carriage of goods;"

- (l) the insertion of the following definition after the definition of "co-pilot"

"**courier service**" An operation whereby shipments tendered by one or more shippers are transported as the baggage of a courier passenger on board a scheduled airline service under normal passenger hold baggage documentation;"

- (m) the insertion of the following definition after the definition of "destination alternate aerodrome"

"**diplomatic bag**" means a package intended for the head of a diplomatic mission or a member of the staff of a diplomatic mission that bears visible marks of its character and contains only documents or articles intended for official use;"

- (n) the insertion of the following definition after the definition of "examiner"

**“express air cargo and mail”** means particular time-sensitive shipments, requiring reliable, time-measured transport, using simple documentation for an inclusive price with one carrier exercising *integrated information control*;”;

(o) the insertion of the following definitions after the definition of “investigator in charge”

- (i) **“known cargo”** means a consignment from a known consignor or a consignment to which the appropriate security controls, prescribed by Part 108, have been applied;”;
- (ii) **“known consignor”** means the originator of goods for carriage by air:
  - (a) who has an established business with a regulated agent on the basis of agreed security criteria as prescribed in Part 108;
  - (b) who complies with the criteria prescribed in Part 108 for a known consignor;”;
- (iii) **“known consignor validator”** means a person or entity designated by the commissioner in terms of Part 108.05.7;”;

(p) insertion of the following definition after the definition of “mach number”

**“mail”** means dispatches of correspondence and other objects tendered by or *intended for delivery to a postal authority*;”;

(q) the insertion of the following definition after the definition of “pilot in command”

**“postal authority”** means the authority established in terms of Post Office Act No 44 of 1958 or an equivalent authority of a Contracting State”

(r) the insertion of the following definition after the definition of “register”

**“regulated agent”** means a commercial air transport operator, a freight forwarder, cargo handling agent, postal agency and any other person approved by the Commissioner for Civil Aviation as a regulated agent involved in the carriage of cargo by air;”;

(s) the insertion of the following definition after the definition of

“scheduled public air transport service”

**“screening”** means the application of technical or other means that are intended to detect weapons, explosives, incendiary devices or

other devices that may be used to commit an unlawful act that could endanger the safety of an aircraft or its crew and passengers;”;

- (t) the insertion of the following definition after the definition of “sector”

“**security control**’ is a means by which the introduction of weapons, explosives or other dangerous devices which may be utilized to commit an act of unlawful interference can be prevented;”;

- (u) the insertion of the following definition after the definition of “training”

“**transshipment cargo and mail**’ means known cargo or mail that --

- (a) arrives by air and is destined for onward carriage by air;
- (b) has been protected against unauthorized interference at all times since it left its point of departure; and
- (c) is accompanied by documentation providing full details on its transportation and security status from point of departure onwards;”;

- (v) the insertion of the following definition after the definition of “type of aircraft”

“**unaccompanied baggage**’ means baggage, other than check-in or carry-on baggage, that is tendered by a passenger or his or her representative to be carried by air but not necessarily on the same aircraft as the passenger to whom it belongs, and for the purpose of these regulations is deemed to be cargo;”;

- (w) the insertion of the following definition after the definition of “unit load device”

“**unknown cargo**’ means cargo that has not been classified as known cargo and that shall be subject to screening when tendered for carriage by air;”;

**Insertion of Part 108 into the Regulation**

3. The following part is herewith inserted after Part 106 of the Regulations

**"Part 108****Air Cargo Security****LIST OF REGULATIONS: AIR CARGO SECURITY****SUBPART 1: GENERAL PROVISIONS**

- 108.01.1 Applicability
- 108.01.2 Requirements for carriage by air of cargo
- 108.01.3 Issuing of air cargo security directives

**SUBPART 2: DUTIES AND FUNCTIONS OF REGULATED AGENTS AND KNOWN CONSIGNORS**

- 108.02.1 Duties of regulated agents
- 108.02.2 Duties of regulated agents regarding known consignors
- 108.02.3 Requirements for known consignors

**SUBPART 3: SECURITY CONTROLS**

- 108.03.1 General
- 108.03.2 Known cargo
- 108.03.3 Unknown cargo
- 108.03.4 Mail
- 108.03.5 Express cargo and mail
- 108.03.6 Transshipment cargo and mail
- 108.03.7 Exemptions
- 108.03.8 Right of inspection and refusal of carriage

**SUBPART 4: SECURITY SCREENING - EQUIPMENT AND PERSONNEL**

108.04.1 Requirements for security screening equipment

**SUBPART 5: APPROVALS**

108.05.1 Application for approval as a regulated agent

108.05.2 Certificate of approval

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108.05.4 Duties of holder

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108.05.6 Known consignor accreditation certificate

108.05.7 Designation of validators

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108.05.10 Validation of foreign certificates

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108.05.12 Register of certificates of approval

**SUBPART 6: TRAINING**

108.06.1 Air cargo security familiarisation training

108.06.2 Standard air cargo security training

**SUBPART 1: GENERAL PROVISIONS****Applicability**

**108.01.1** This Part shall apply to all persons engaged in acceptance, forwarding, storage and carriage of cargo by air and shall regulate:

- (a) aviation security in respect of all cargo entering the airside of an aerodrome;

- (b) security measures required for the storage and carriage of cargo by air in commercial air transport operations;
- (c) training requirements for personnel involved in handling air cargo; and
- (d) any other aspect incidental to air cargo security.

### **Requirements for carriage by air of cargo**

- 108.01.2** (1) Any person engaged in the acceptance and/or storage and/or forwarding and/ or handling of cargo intended for carriage by air in a commercial air transport operation shall comply with the security controls prescribed by this Part.
- (2) No commercial air transport operator shall carry unknown cargo.
  - (3) Commercial air transport operators shall treat all unaccompanied baggage as unknown cargo.
  - (4) Any regulated agent engaged in the acceptance and/or storage and/or forwarding and/or handling of cargo to be carried by air shall hold a certificate of approval issued by the Commissioner: Provided that any person in the employ of a regulated agent and involved with known cargo, shall be required to complete the training prescribed in regulation 108.06.1 and hold a certificate of proficiency for such training.
  - (5) A regulated agent shall draw up an air cargo security manual containing all information prescribed by Document SA-CATS-ACS and setting out the manner in which such regulated agent will operate. Such a manual shall be submitted to the Commissioner for approval.
  - (6) Each regulated agent shall have a designated official responsible for the implementation, application and supervision of the security controls as prescribed by this Part and the Document SA-CATS-ACS.
  - (7) Any person applying for approval as a regulated agent or validation as a known consignor, shall permit an authorised officer, inspector or authorised person designated by the Commissioner to carry out inspections and audits which may be necessary to verify whether the security measures regarding the handling, transportation and storage of known cargo comply with the requirements of this Part.
  - (8) The holder of a certificate of approval or a accreditation certificate shall permit an authorised officer, inspector or authorised person designated by the Commissioner to carry out such inspections and audits which may be

necessary to determine compliance with the appropriate requirements prescribed in this Part. (9) The holder of a certificate of approval or a accreditation certificate shall permit an authorised officer, inspector or authorised person designated by the Commissioner to conduct random checks of cargo, emanating from and through regulated agents, to ensure compliance with this Part.

### **Issuing of air cargo security directives**

**108.01.3** (1) The Commissioner may issue air cargo security directives in respect of cargo to be carried by air where it is deemed necessary to improve standards of aviation security. If the Commissioner issues an air cargo security directive, the regulated agent holding a certificate of approval issued under the regulations in this Part shall –

- (a) Immediately make amendments to the security manual in line with the security directive and submit such amendments to the Commissioner for approval; and
- (b) Upon approval of the security manual amendments, make such changes available to all persons engaged in the regulated agent's acceptance, storage, forwarding and handling of air cargo.

## **SUBPART 2: DUTIES AND FUNCTIONS OF REGULATED AGENTS AND KNOWN CONSIGNORS**

### **Duties of regulated agents**

**108.02.1** Any person approved by the Commissioner as a regulated agent shall:

- (a) maintain records of all shipping documents documenting the transport and handling history in accordance with the requirements of Document SA-CATS-ACS;
- (b) Ensure that, after the receipt of known cargo, and whilst such cargo is under his or her control, it is safeguarded from unlawful interference in accordance with the security measures stipulated in the security manual, referred to in sub-regulation 108.01.2(5);
- (c) Ensure that the acceptance and handling of cargo is carried out by trained personnel, who have received job specific cargo security training, as stipulated in the security manual, required in terms of Document SA-CATS-ACS;
- (d) Determine by physical checks or screening in the manner prescribed in Document SA-CATS-ACS, whether consignments of cargo contain any explosives, incendiary devices or any other prohibited/harmful articles as defined in the National Aviation Safety Plan, 2004;

- (e) Ensure that known cargo is sealed with seals acceptable to the Commissioner and that such seals are intact;
- (f) Conduct background checks on all personnel recruited for accepting all cargo and storing, forwarding and/or handling of known cargo intended for carriage by air.

### **Duties of regulated agents regarding known consignors**

**108.02.2** (1) All regulated agents who conduct business with and receive known cargo from known consignors shall

- (a) verify whether the known consignor is a holder of a known consignor accreditation certificate issued in terms of this Part
- (b) Document the identity and address of the known Consignors and advise the Commissioner of the details of these known consignors
- (c) have on record a declaration from a known consignor stating that:
  - (i) Consignments of known cargo are prepared in secured premises;
  - (ii) all staff employed to handle known cargo have been subjected to background checks and have received job specific cargo security training as stipulated in the SA-CATS-ACS;
  - (iii) consignments of known cargo are protected from unlawful interference during preparation, storage and transportation;
  - (iv) packages and contents of any consignment of have been subjected to the security controls as prescribed in Document SA-CATS-ACS.
- (d) Conduct random inspection of the premises and cargo of known consignors to ensure that the requirements of this part are adhered to.

### **Requirements for known consignor**

**108.02.3** (1) Any person who has a known consignor relationship with a regulated agent and wishing to be validated and listed by the Civil Aviation Authority as a known consignor shall apply to the Commissioner for validation as a known consignor.

(2) The person wishing to become a known consignor shall ensure that:

- (a) Consignments of known cargo are packed and secured by the known consignor in secure premises;
- (b) all staff employed to handle cargo to be shipped by air have been subjected to background checks and have received job

- specific cargo security training as stipulated in the SA-CATS-ACS;
- (c) consignments of known cargo are protected from unlawful interference during preparation, storage and transportation;
  - (d) records of all shipping documents are maintained in accordance with the requirements of Document SA-CATS-ACS;
  - (e) all business is conducted in line with the requirements of the security manual of each regulated agent with whom he conducts business
  - (f) consignments of known cargo are sealed with seals acceptable to the Commissioner and that such seals remain intact whilst in his or her possession

### **SUBPART 3: SECURITY CONTROLS**

#### **General**

- 108.03.1** (1) No person may tender cargo for transportation by air unless a valid air waybill accompanies it.
- (2) Any person tendering a diplomatic bag for carriage by air shall ensure that it is properly sealed and marked and may only be carried by air, without an airway bill, when accompanied by an employee of the respective embassy holding:
- (a) a valid passport issued to the respective embassy employee;
  - (b) a letter from the official in charge of the embassy from which the diplomatic bag originates, authorising the specific employee to accompany the diplomatic bag.

#### **Known cargo**

- 108.03.2** (1) No person may tender unknown cargo to be placed on board a commercial air transport aircraft
- (i) unless it has been subjected to security controls prior to loading whereupon it is deemed to be known cargo and shall be declared as such;
  - (ii) unless it has been packed and secured by a known consignor and handed to a regulated agent for placing on board an aircraft in compliance with sub-regulations 108.2.2 and 108.2.3;.
- (2) Known cargo, after acceptance by a regulated agent, shall be kept in a secure area, as prescribed in the security manual, to protect it from unlawful interference whilst in the custody of a regulated agent.

- (3) Where known cargo is forwarded from a known consignor to a regulated agent or from one regulated agent to another regulated agent and is kept secure, such cargo shall continue to be treated as known cargo.
- (4) The commercial air transport operator or his ground handling agent shall ensure that cargo is at all time safeguarded whilst on the ramp prior to loading on-board an aircraft
- (5) Prior to loading on-board a commercial air transport aircraft, the commercial air transport operator, or his ground handling agent shall ensure that all cargo consignments are visually inspected to ensure that they have not been tampered with

### Unknown cargo

- 108.03.3**
- (1) Air cargo originating from an unknown consignor that has not been subjected to the security controls prescribed in this Part and Document SA-CATS-ACS, shall be treated as unknown cargo.
  - (2) Known cargo that, after acceptance by a regulated agent, has not been stored in a secure area, as stipulated in the security manual, shall be treated as unknown cargo.
  - (3) Known cargo, where the seals on the packaging are broken or where there is evidence that the seals and or the cargo itself has been tampered with, shall be treated as unknown cargo.
  - (4) Air cargo presented as unknown cargo shall be subjected to security controls prescribed in this Part before being loaded into an aircraft.

### Mail

- 108.03.4**
- (1) The Postal Authority must apply for a certificate of approval as a regulated agent in terms of Regulation 108.06.1.
  - (2) Mail received by the Postal Authority, that is to be tendered for carriage by air, shall be –
    - (a) Subjected to security screening, sealed; and
    - (b) accompanied by a valid postal manifest listing the numbers of secured bags.
  - (3) The Postal Authority shall be responsible for the security screening and sealing of mail before submitting the mail for carriage by air.

- (4) In order to exclude the introduction of explosives, incendiary devices, or other prohibited/or harmful articles as defined in the National Aviation Safety Plan, 2004, on board a commercial air transport aircraft, the following measures shall be applied:
- (a) the Postal Authority shall ensure that mail is kept in locked or closed containers and protected against unlawful interference prior to being placed in mail bags;
  - (b) Prior to loading on-board a commercial air transport aircraft, the airline operator, or his ground handling agent shall ensure that all mail bags are visually inspected to ensure that they have not been tampered with;
- (5) At times of high security alert, declared by the South African Civil Aviation Authority, the following additional measures shall be implemented:
- a) the Postal Authority shall declare that mail has been inspected and searched for explosives, incendiary and other prohibited / or harmful articles as defined in the National Aviation Safety Plan, 2004 before bagging and delivery;
  - b) should the security of mail be in doubt, the Postal Authority shall not tender or accept mail for carriage by air.

### **Express cargo and mail**

- 108.03.5** (1) Regulated agents or Postal Authorities tendering express cargo and mail for carriage on commercial air transport operators shall ensure that such express cargo and mail has been screened in terms of Document SA-CATS- ACS.

### **Transshipment cargo and mail**

- 108.03.6** (1) Transshipment cargo and mail arriving by air, for onward carriage by air, need not be screened or searched provided that it was subjected to security controls at the point of departure and is protected against unlawful interference en route and at the transit point.
- (2) Transshipment cargo or mail arriving by air, road, rail or sea for onward carriage by air that has not been subjected to security controls at the point of departure or en route, should be treated as "unknown cargo" and screened or searched accordingly.

## Exemptions

**108.03.7** (1) The security controls required by this Part shall not be applicable in respect of --

- (a) transshipment cargo, as provided for in regulation 108.03.6 ;
  - (b) human remains;
  - (c) live animals;
  - (d) *bona fide* consignments of life-saving materials or other essential medical supplies, human organs, blood plasma or similar materials;
  - (e) any nuclear materials;
- (2) The regulated agent tendering consignments for carriage by air that are exempted from security controls in terms of sub regulation 108.03.7 (1) shall ensure that such consignments are:
- (a) clearly declared on shipping documents as such;
  - (b) physically checked upon receipt for signs of tampering;
  - (c) subjected to documentary checks to establish on face value the correctness and sufficiency of information on any document; and
  - (d) protected from unauthorised interference.

## Right of inspection and refusal of carriage

**108.03.8** Any operator involved in commercial air transport operation shall have the right –

- (a) to examine, or cause to be examined by his or her handling agent, the packaging and contents of all cargo tendered for carriage by air, and to inquire into the correctness or sufficiency of information or documentation submitted in respect of any cargo; and
- (b) without assuming any liability, to refuse, delay or return any cargo, if he or she reasonably believes that the cargo may contain explosives or dangerous devices.

## SUBPART 4: SECURITY SCREENING - EQUIPMENT AND PERSONNEL

### Requirements for security screening equipment

**108.04.1** (1) Any equipment operated by an aircraft operator or regulated agent to screen cargo, shall be capable of detecting weapons, explosives and prohibited / or harmful articles, as defined in the National Aviation Safety Plan, 2004, that may be used to commit an unlawful act.

- (2) The said equipment shall comply with the requirements specified in Document SA-CATS-ACS and the National Aviation Safety Plan, 2004.
- (3) The equipment, referred to in sub-regulation (1), shall be maintained in accordance with the manufacturer's specifications, and shall comply with any other requirement that may have been prescribed by legislation.

## **SUBPART 5: APPROVALS**

### **Application for approval as a regulated agent**

- 108.05.1** (1) An application for a certificate of approval as a regulated agent and renewal of such a certificate of approval shall:
- (a) be made to the Commissioner in the appropriate format as prescribed in Document SA-CATS-ACS;
  - (b) include duplicate copies of the air cargo security manual of procedure referred to in sub-regulations 108.01.2(5); and
  - (c) be accompanied by the appropriate fee or fees as prescribed in Part 187 of these regulations.

### **Certificate of approval**

- 108.05.2** (1) The Commissioner may carry out an inspection that will be charged as set out in Part 187 of these regulations, on the operation of an applicant wishing to be approved as a regulated agent, to ascertain whether he or she is able to comply with the provisions of this Part.
- (2) If the Commissioner is satisfied with the applicant's security manual and premises and that the applicant is able to comply with the provisions of this Part, the Commissioner shall –
- (a) certify in writing on both copies of the security manual that these documents have been approved;
  - (b) return one copy of the approved security manual to the applicant; and
  - (c) issue to the applicant a certificate of approval as regulated agent in the format prescribed in Document SA-CATS-ACS.
- (3) The applicant shall submit all amendments to an approved security manual to the Commissioner for approval.
- (4) If the Commissioner is satisfied that the amendments will not contravene the provisions of this part, the Commissioner shall certify in writing on both copies of the amendment to the approved security manual that such amendment has been approved, and shall return one copy of the approved amendment to the regulated agent.

- (5) The regulated agent shall at all times operate in accordance with the approved security manual or an approved amendment thereto
- (6) The certificate of approval shall be valid for a period of 12 months from the date of issue.

### **Renewal of certificate of approval**

- 108.05.3**
- (1) The holder of a certificate of approval shall apply to the Commissioner for the renewal of such certificate no later than two months before the date on which such approval expires.
  - (2) In considering an application for renewal of the certificate of approval the Commissioner may conduct the investigation he or she deems necessary to ascertain whether the applicant continues to comply with the requirements of this Part.
  - (3) An application shall be granted and the certificate of approval issued if the Commissioner is satisfied that the applicant will comply with the provisions of this Part.
  - (4) If the Commissioner is not so satisfied he or she shall notify the operator thereof, stating the reasons in the notification, and grant the operator the opportunity to rectify or supplement any defect within the period determined by the Commissioner, after which period the Commissioner shall grant or refuse the application concerned.
  - (5) The application for the renewal of the certificate of approval shall be made on the form prescribed in Document SA-CATS-ACS and shall be accompanied by the appropriate fee as prescribed in Part 187.
  - (6) The provisions of regulations 108.05.01 shall apply mutatis mutandis.

### **Duties of holder**

- 108.05.4** A regulated agent shall at all times conduct his or her operations in accordance with the approved security manual.

### **Application for validation as a known consignor**

- 108.05.5** An application for a accreditation certificate and renewal of such a certificate shall:
- (a) Be made to the Commissioner in the appropriate format as prescribed in Document SA-CATS-ACS;
  - (b) be accompanied by the appropriate fee or fees as prescribed in Part 187 of these regulations.

**Known consignor accreditation certificate**

- 108.05.6** (1) The Commissioner may conduct an inspection on the operation of an applicant wishing to be validated as a known consignor, to ascertain whether he or she is able to comply with the provisions of this Part, which inspection shall be charged as set out in regulation Part 187.
- (2) If the Commissioner is satisfied that the applicants' security measures and handling transportation and storage of known cargo comply with the requirements of this Part, the Commissioner shall –
- (b) issue to the applicant an accreditation certificate as a known consignor in the format prescribed in Document SA-CATS-ACS.
- (4) The accreditation certificate shall be valid for a period of 12 months from the date of issue.

**Designation of validators**

- 108.05.7** (1) The Commissioner may, subject to the provisions of section 4(2) and (3) of the Act, designate validators of known consignors to conduct inspections on known consignors for the purpose of issuing certificates of accreditation, renewal and reissuing of such certificates.
- (2) The privileges referred to in sub-regulation (1) shall be exercised and performed according to the conditions, requirements, rules, procedures or standards as prescribed in Document SA-CATS-ACS.
- (3) The Commissioner shall sign and issue to each designated validator a document which shall state the full name of
- (4) such validator and contain a statement stating that -
- (a) such validator has been designated in terms of sub-regulation (1);
- and
- (b) such validator is empowered to exercise the privileges referred to in sub-regulation (1).
- (5) The application to be considered for designation as referred to in sub-regulation (1) shall be accompanied by- the appropriate fee as prescribed in Part 187.

**Renewal of certificate of accreditation**

- 108.05.8** (1) The holder of an accreditation certificate shall apply to the Commissioner for the renewal of such certificate no later than two months before the date on which such approval expires.
- (2) In considering an application for renewal of the accreditation certificate the Commissioner may conduct the investigation he or she deems necessary to ascertain whether he or she continues to comply with the requirements of this Part.

- (3) An application shall be granted and an accreditation certificate issued if the Commissioner is satisfied that the applicant will comply with the provisions of this Part.
- (4) If the Commissioner is not so satisfied he or she shall notify the operator thereof, stating the reasons in the notification, and grant the consignor the opportunity to rectify or supplement any defect within the period determined by the Commissioner, after which period the Commissioner shall grant or refuse the application concerned.
- (5) The application for the renewal of an accreditation certificate shall be made on the form prescribed in Document SA-CATS-ACS and shall be accompanied by the appropriate fee as prescribed in Part 187.
- (6) The provisions of regulations 108.05.01 shall apply mutatis mutandis.

### **Inspection fee**

- 108.05.9** Should any non-compliance with these regulations be identified, necessitating further inspection, such an inspection will be charged at the hourly rate as set out in regulation 187.00.29.

### **Validation of foreign certificates**

- 108.05.10** (1) The Commissioner may upon application in writing by a person, validate any foreign proficiency certificate issued for air cargo security training, if the holder of the certificate submits documentary proof that –
- (a) such certificate has been obtained from an approved foreign training organisation; and
  - (b) he or she has successfully completed the refresher air cargo security training referred to in subpart 6.
- (2) The application referred to in subregulation (1) shall be accompanied by the appropriate fee as prescribed in Part 187.
- (3) The provisions of Regulation 108.06.1 and 2 shall apply mutatis mutandis to the holder of a certificate referred to in subregulation (1).

### **Suspension and cancellation of approval or accreditation certificate and appeal**

- 108.05.11** (1) An authorised officer, inspector or authorised person may suspend for a period not exceeding 30 days, an approval or accreditation certificate issued under this Part, if –
- (a) after an inspection and audit carried out in terms of this Part, it is evident that the holder of the approval or accreditation certificate does not comply with the requirements prescribed in this part, and such holder fails to remedy such non-compliance within 30 days

- after receiving notice in writing from the authorised officer, inspector or authorised person to do so; or
- (b) the authorised officer, inspector or authorised person is prevented by the holder of the approval or accreditation certificate to carry out an inspection and audit in terms of this Part; or
  - (c) the suspension is necessary in the interests of aviation safety.
- (2) The authorised officer, inspector or authorised person who has suspended an approval or accreditation certificate in terms of subregulation (1), shall deliver a report in writing to the Commissioner, stating the reasons why, in his or her opinion, the suspended approval or accreditation certificate should be cancelled.
  - (3) The authorised officer, inspector or authorised person concerned shall submit a copy of the report referred to in subregulation (2), to the holder of the approval or accreditation certificate which has been suspended, and shall furnish proof of such submission for the information of the Commissioner.
  - (4) The holder of an approval or accreditation certificate who feels aggrieved by the suspension of the approval or accreditation certificate may appeal against such suspension to the Commissioner, within 30 days after such holder becomes aware of such suspension.
  - (5) An appellant shall deliver an appeal in writing, stating the reasons why, in his or her opinion, the suspension should be varied or set aside.
  - (6) The appellant shall submit a copy of the appeal and any documents or records supporting such appeal, to the authorised officer, inspector or authorised person concerned and shall furnish proof of such submission for the information of the Commissioner.
  - (7) The authorised officer, inspector or authorised person concerned may, within 30 days of receipt of the copy of the appeal referred to in subregulation (6), deliver his or her written reply to such appeal to the Commissioner.
  - (8) The Commissioner may –
    - (a) adjudicate the appeal on the basis of the documents submitted to him or her; or
    - (b) order the appellant and the authorised officer, inspector or authorised person concerned to appear before him or her, either in person or through a representative, at a time and place determined by him or her, to give evidence.
  - (9) The Commissioner may confirm, vary or set aside the suspension referred to in subregulation (1).

- (10) The Commissioner shall –
- (a) if he or she confirms the suspension in terms of subregulation (9); or
  - (b) if an approval or accreditation certificate is suspended in terms of subregulation (1) and the holder thereof does not appeal against such suspension in terms of subregulation (4), cancel the approval or accreditation certificate concerned.

### **Register of certificates of approval**

- 108.05.12** (1) The Commissioner shall maintain a register of all approval and accreditation certificates issued in terms of this Part.
- (2) The register of certificates of approval shall contain the following particulars
- (a) the full name and, if any, the trade name of the holder of the certificate of approval or accreditation;
  - (b) the postal and physical address of the holder of the certificate of approval or accreditation; and
  - (c) the date on which the certificate of approval or accreditation was issued;
- (5) An excerpt of the register shall be furnished by the Commissioner, on payment of the appropriate fee prescribed in Part 187, to any person who can show good and sufficient reason why he or she should be furnished with such extract.

## **SUBPART 6: TRAINING**

### **Air cargo security familiarisation training**

- 108.06.1** (1) Any –
- (a) operator involved in the transportation of cargo;
  - (b) person who performs the act of accepting, handling, loading, unloading, transferring or other processing of cargo, on behalf of an operator;
  - (c) regulated agent approved by the Commissioner in terms of this Part;
  - (d) known consignor accredited by the Commissioner in terms of this Part;

shall ensure that the following categories of personnel in his, her or its employ successfully complete air cargo security familiarisation training and refresher training every 24 months thereafter:

- (i) warehouse personnel involved in acceptance, handling, storage, loading and unloading of cargo to be transported by air;
  - (ii) drivers involved in transporting known cargo to be transported by air;
- (2) The subject matter of initial air cargo security familiarisation training and refresher air cargo security familiarisation training shall be as specified in the syllabi contained in the security manual as prescribed in Document SA-CATS-ACS.
- (3) Any person referred to in sub regulation (1) shall complete refresher air cargo security awareness training every 24 months, calculated from the date of the successful completion of the air cargo security familiarisation training or the preceding air cargo security familiarisation training, as the case may be.
- (4) Records of such training shall be maintained as stipulated in the Document SA-CATS-ACS

### **Standard air cargo security training**

#### **108.06.2 (1) Any –**

- (a) operator involved in the transportation of cargo;
- (b) person who performs the act of accepting, handling, loading, unloading, transferring or other processing of cargo, on behalf of an operator;
- (c) regulated agent approved by the Commissioner in terms of this Part;
- (d) known consignor accredited by the Commissioner in terms or this Part;

shall ensure that the following categories of personnel in his, her or its employ successfully complete standard air cargo security training and refresher training every 24 months thereafter:

- (i) Cargo security officers;
  - (ii) Cargo security supervisor
  - (iii) Cargo security manager
- (2) Any level of standard cargo security training, referred to in sub-regulation (1) of this Part shall be conducted by a training organisation approved in terms of Part 141.
- (3) The subject matter of the level of aviation security training shall be as prescribed in Document SA-CATS-ACS.

- (4) Any person referred to in sub regulation (1) shall complete refresher standard cargo security training at the interval prescribed in Document SA-CATS-ACS.
- (5) Upon the successful completion of the initial aviation security training or the refresher aviation security training referred to in sub regulation (2), the aviation security training organisation concerned shall issue to the candidate a certificate of competence in standard cargo security training detailing the level of course completed."

**4. Regulation 187.00.13 of the Regulations is herewith amended by the substitution for paragraph (d) of the following paragraph:**

- "(iii) for the issuing or reissuing of Reduced Vertical Separation Minima (RVSM) approval Certificate (regulation 21.08.8A) .....620,00".

**5. Insertion of Regulation 187.00.15A into the Regulations**

The following regulation is herewith inserted after Regulation 187.00.15 of the Regulations

**"Fees relating to Part 108**

**187.00.15A** (1) The following fees shall be payable on application:

(a)	Initial issue of certificate of approval	R 3 000,00
(b)	Renewal of certificate of approval	R 1 500,00
(c)	Validation of certificate of approval	R 1 500,00
(d)	Validation of training certificate	R 100,00
(e)	Amendment to a security manual	R 1 000,00
(f)	Extract of the register of certificates of approval	R 50,00

(2) The following fees shall be payable per site in respect of prescribed inspections:

(a)	Sites up to 1 000 m <sup>2</sup>	R1 000,00
(b)	Sites in excess of 1 000 m <sup>2</sup> up to and including 5 000 m <sup>2</sup>	R1 400,00
(c)	Sites exceeding 5 000 m <sup>2</sup>	R1 800,00

(3) The following fees shall be payable in respect of the initial approval of a security manual:

(a)	Per manual consisting of 100 or less pages	R1 000,00
(b)	Per manual consisting of 101 to 200 pages	R2 000,00
(c)	Per manual consisting of more than 200 pages	R5 000,00

**Short title and commencement**

6. These Regulations shall be called the Twenty Fifth Amendment of the Civil Aviation Regulations, 1997, and shall come into operation on the date to be announced in the Government Gazette.

**UMNYANGO WEZONKUTHUTHA**

No. R. 364

26 NDASA 2007

**UMTHETHO WEZITHUTHI ZOMOYA, 1962 (UMTHETHO ONGUNOMBOLO 74 KA 1962)****ISICHIBIYELO SAMASHUMI AMABILI NANHLANU SEMITHETHONKAMBISO YEZITHUTHI ZOMOYA, 1997**

Ngaphansi kwesigaba 22(1) soMthetho weziThuthi zoMoya ka 1962 (Umthetho 74 ka 1962) uNgqongqoshe wezokuThutha ushaye imithethonkambiso ekuSheduli elandelayo.

**ISHEDULI****Incazelo**

1. Kule mithethonkambiso, ngaphandle uma ingqikithi iqonde okunye, "Imithethonkambiso" kushiwo Imithethonkambiso yeZithuthi zoMoya ka 1997 eshicilelwe kwiSaziso sikaHulumeni esingunombolo R.1219 soMhlaka 26 ku-Mandulo ku 1997 kanye no R.1255 soMhlaka 17 ku-Mfumfu 1997 njengoba sichitshiyelwe yiSaziso sikaHulumeni R.1735 soMhlaka 24 ku-Zibandlela 1997, Isaziso esinguNombolo R.1041 soMhlaka 14 ku-Ncwaba 1998, Isaziso sikaHulumeni, Isaziso sikaHulumeni R.1148 soMhlaka 18 ku-Mandulo 1998, Isaziso sikaHulumeni esinguNombolo R.1664 soMhlaka 14 ku-Zibandlela 1998 neSaziso R.1701 soMhlaka 31 ku-Zibandlela 1998, Isaziso sikaHulumeni R.1702 soMhlaka 31 ku-Zibandlela 1998, Isaziso sikaHulumeni esinguNombolo R.639 soMhlaka 21 kuNhlaba 1999, Isaziso sikaHulumeni esinguNombolo R.170 soMhlaka 17 ku-Nholanjanja 2000, Isaziso sikaHulumeni esinguNombolo R.171 soMhlaka 18 ku-Nhlolanjanja 2000, Isaziso sikaHulumeni esingunombolo R.171 soMhlaka 18 Nhlolanjanja 2000, Isaziso sikaHulumeni esinguNombolo R.558 sikaHulumeni soMhlaka 22 kuNhlanguzana 2001, Isaziso sikaHulumeni esinguNombolo R.559 soMhlaka 30 ku-Ncwaba 2002, Isaziso sikaHulumeni esinguNombolo R.1367 soMhlaka 15 ku-Lwezi 2002, Isaziso sikaHulumeni soMhlaka esinguNombolo R.1368 soMhlaka 15 Novemba 2002, Isaziso sikaHulumeni soMhlaka 1369 soMhlaka 15 ku-Lwezi 2002, Isaziso sikaHulumeni esinguNombolo R.1370 soMhlaka 15 ku-Lwezi 2002, Isaziso sikaHulumeni esinguNombolo R.1371 soMhlaka 15 ku-Lwezi 2002, Isaziso sikaHulumeni esingunombolo R.1372 soMhlaka 15 ku-Lwezi 2002, Isaziso sikaHulumeni esingunombolo R.434 soMhlaka 28 ku-Mbasa 2003, Isaziso sikaHulumeni esinguNombolo 435 soMhlaka 28 ku-Mbasa, Iphephabhuku likaHulumeni unombolo R. 1375 soMhlaka 1 ku-Mfumfu 2003, nePhephabhuku likaHulumeni uNombolo R. 1340 soMhlaka 31 ku-Mbasa 2004, nePhephabhuku likaHulumeni uNombolo R. 29091 laMhlaka 14 Ncwaba 2006, kanye nePhephabhuku likaHulumeni uNombolo R. 29511 laMhlaka 28 kuZibandlela 2006.

## Ukuchibiyelwa soMthethonkambiso 1.00.1 weNgxenye 1 yeMithethonkambiso

### 2. Umthethonkambiso 1.00.1 wemithethonkambiso uchitshiyelwa kanje-

- (a) Ngokufaka lencazelo elandelayo ngemuva kwencazelo  
"ukuba khona kwebanga lokwandisa isivinini nokuma"

“**ukulawula ukungena**’ kushiwo inqubo yezokuphepha esetshenziswa ukuqinisekisa ukuthi ngabantu abagunyaziwe kuphela, izimoto ezigunyaziwe nempahla egunyaziwe ethwelwe yilabo bantu noma ethwelwe yilezo zimoto evunyelwa ukungena emagcekeni noma endaweni elawulekile;”

- (b) Ukufaka lencazelo elandelayo ngemuva kwencazelo

“umkhumbi -womoya”

“**amagceke esikhumulo**’ kushiwo indawo yokuhamba ngaphakathi kwesikhumulo, isiqeshana sendawo kanye nezakhiwo noma ingxenye yalokhu lapho okungena kulawulwa ngumuntu onegunya noma imvume yesikhumulo sezindiza ”;

- (c) ukufaka lencazelo elandelayo ngemuva kwencazelo

“umzila wendiza”

“**umbhalo ngenkokhelo yendiza**” kushiwo umbhalo ohlonzwe kumthethosisekelo weMithethosisekelo yoSizo lweZindiza zaNgaphakathi ezweni oshaywe ngaphansi kwesigaba 29 soMthetho wokuVunyelwa koSizo lweZindiza onguNombolo 115 ka 1990.

- (d) ukufaka lencazelo elandelayo ngemuva kwencazelo

“umsebenzi wokusiza”

“**umuntu ogunyaziwe**’ kushiwo umuntu ochazwe esigabeni 1 soMthetho waMacala okwePhula Imigomo yokundiza onguNombolo 10 ka 1972;”;

- (e) ukufaka lencazelo elandelayo ngemuva kwencazelo  
“ezikachithisizungu kwezokundiza”

**Ukuhlola imuva**’ kushiwo ukuhlola umazisi kanye nolwazi lomsebenzi ngamacala obugebengu okubandakanya nomlandu ngamacala obugebengu, uma kufanele, njengengxenye yokuhlolisisa ukuthi umuntu ukulungele yini ukungena ezindaweni zokuphepha ezingavunyelwe engaphelezela,”

- (f) ukufaka incazelo elandelayo ngemuva kwencazelo  
“ilunga lethimba labalekeleli bendiza”

“**umthwalo**’ kushiwo noma iyiphi impahla, okumbandakanya nempahla engaphelezelwa muntu, ehambisana nenkokhelo yokuba ithwalwe yindiza ethutha impahla ;”

- (g) Ukufaka lencazelo elandelayo ngemuva kwencazelo  
"indiza ethwala impahla"

"**impahla ephethwe umgibeli**' kushiwo leyo mpahla ayiphethe umgibeli uma engena endizeni;

- (h) ukufaka incazelo elandelayo ngemuva kwencazelo  
"isitifiketi semfanelo yokundiza"

"**isitifiketi semvume**' kushiwo isitifiketi esikhishwe ngaphansi kweNgxenywe 108 sanikwa umuntu ovunyelwe ukwemukela, ukugcina, ukuphatha kanye nokwethula impahla okufanele ukuba ithwalwe yindiza;"

- (i) ukufaka lencazelo elandelayo ngemuva kwencazelo  
"isitifiketi sokulungela ukundiza"

(i) "**isitifiketi sobungcwepheshi**' kushiwo isitifiketi esikhishwe ngaphansi kweNgxenywe 108 kumuntu ophilayo esiqinisekisa ukuthi lowo okungesakhe uphothule ngempumelelo izifundo zokuqala noma zokuvuselela emkhakheni wezokuphepha;"

(ii) "**umthwalo ohlolwayo**' kushiwo umthwalo othwelwe wumgibeli ngesikhathi egibela endizeni nokufanele ugcinwe egumbini lezimpahla ngaphakathi endizeni;"

- (j) Ukufaka lencazelo elandelayo ngemuva kwencazelo  
"umsebenzi wokuthutha ngomoya/ngendiza"

"**osebenza ezokuthutha ngomoya**' kushiwo umuntu noma inhlango enquba umsebenzi wokuthutha ngomoya;"

- (k) Ukufaka lencazelo elandelayo ngemuva kwencazelo "ukuhlela kabusha"

(i) "**umthunyelwa**' umuntu ogama lakhe libhalwe embhalweni wenkokhelo njengomuntu okuthunyelwe kuye impahla yilowo oyithwele ";

(ii) "**impahla ethuthwayo**" kushiwo ingxenye eyodwa noma eziningi zempahla emukelwa yilowo othwala izimpahla ngesikhathi nasekhelini elilodwa, eyamukelwe ndawonye futhi ezothuthwa ngombhalo wenkokhelo owodwa ithunyelwe kumthunyelwa oyedwa endaweni eyodwa;"

(iii) "**umthumeli-mpahla**' kushiwo umuntu ogama lakhe libhalwe embhalweni wenkokhelo njengomuntu owenze isivumewano nomthwali-mpahla noma abathwali-mpahla sokuba bathwale impahla yakhe ";

- (l) ukufaka lencazelo elandelayo ngemuva kwencazelo  
"umlekeleli womshayeli wendiza"

"**usizo lokuthutha impahla**' umsebenzi lapho izimpahla ezithunyelwe ngumuntu oyedwa noma abaningi zithuthwa ngobuningi endizeni ethwala abagibeli ngezincwadi zomgibeli ezijwayelekile njengempahla yomgibeli ogibele indiza ophethe izincwadi zempahla ";

- (m) Ukufaka lencazelo elandelayo ngemuva kwencazelo

“isikhumulo esihlukile sokufikela indiza”

“**isikhwama senxusa**’ kushiwo impahla ebhekiswe kwinhloko noma ilunga labasebenzi elihola ithimba lezimenywa noma ilunga lethimba lamanxusa esinophawu olugqamile oluchaza futhi uhlobo okuqukethwe imibhalo yokusetshenziswa ngokusemthethweni ;”;

- (n) Ukufaka lencazelo elandelayo ngemuva kwencazelo

“umhloli”

“**izincwadi nemithwalo ephuthunyiswa ngendiza**’ kushiwo impahla ebucayi (eyonakalayo) ngokwesikhathi edinga isithuthi esethembekile, nesinqunyelwe isikhathi kusetshenziswa izincwadi ezingaxutshwe nalutho ezibandakanya nenani elinye lamagumbi kulawulwa kulo olwazi oludidiyelwe”;

- (o) Ukufaka lezi zincazelo ezilandelayo ngemuva kwencazelo

“umphenyi ophethe”

(i) “**impahla eyaziwayo**’ kushiwo impahla evela kumthumeli owaziwayo okusetshenziswe kuyo imigomo yezokuphepha enqunye yiNgxenywe 108 ”;

(ii) “**umthumeli-mpahla owaziwayo**’ kushiwo lowo okuvela kuye impahla ethwelwe yindiza:

(a) onebhizinisi eselizinzile nesithunywana esilawulwayo ngenqubo yezokuphepha enqunye yiNgxenywe 108 ;

(b) ohambisana nenqubo enqunye yiNgxenywe 108 inqunyelwa umthumeli-mpahla owaziwayo ”;

(iii) “**umqinisekisi womthumeli-mpahla owaziwayo** ’ kushiwo umuntu noma inhlangotho eqokwe nguKhomishani ukwenza imisebenzi emiswe yiNgxenywe 108.02.2 (1);”;

- (p) ukufaka lencazelo elandelayo ngemuva kwencazelo

“inombolo yeposi elithunyelwayo”

“**izincwadi ezithunyelwayo**’ kushiwo ukukhishwa kwezincwadi nezinye izinto ezithunyelwe noma okuhloswe ukuba zithunyelwa noma zilethwe kuSiphathimandla seposi ;”;

(q) Ukufaka lencazelo elandelayo ngemuva kwencazelo "umshayeli ophethe indiza"

**"isiphathimandla seposi"** kushiwo isiphathimandla esisungulwe ngaphansi koMthetho wePosi onguNombolo 44 ka 1958 noma isiphathimandla esifanayo soMbuso okuthintekayo "

(r) ukufaka incazelo elandelayo ngemuva kwencazelo "ilejista"

**"isithunywa esilawulwayo"** kushiwo onquba umsebenzi wokuhweba ngezokuthutha ngomoya, noma umuntu ohweba ngezindiza zokuthutha impahla, isithunywa sokuphatha impahla, isithunywa sokwedlulisa impahla, ukugcina impahla, ukuhambisa iposi kanye nanoma ngumuphi umuntu owamukelwe njengesithunywa esilawulwayo obandakanyeka ekuthutheni impahla ngomoya";

(s) ukufaka lencazelo elandelayo ngemuva kwencazelo

**"Usizo lwezokuthutha umphakathi ngomoya oluhleliwe"**

**"ukuhlolisisa"** kushiwo ukusetshenziswa kwezobuchwepheshe noma ngezinye izindlela okuhloswe ngakho ukuhlalukisa izikhali, iziqhumane, ezinye izinto ezingasetshenziswa ukwephula umthetho noma ukwenza izenzo ezingekho emthethweni nokubeka engcupheni ukuphepha kwabashayeli nabagibeli bendiza ";

(t) ukufaka lencazelo elandelayo ngemuva kwencazelo

**"umkhakha"**

**"ukulawula ezokuphepha"** kushiwo izindlela okungeniswa ngazo izikhali, iziqhumane nezinye izinto eziyingozi ezingasetshenziswa ekwepfuleni umthetho nokugxambukela okungafanele;";

(u) ukufaka lencazelo elandelayo ngemuva kwencazelo

**"uqeqesho"**

**"ukuthwala kwempahla nezincwadi"** kushiwo impahla eyaziwayo noma izincwadi --

(a) ezifika ngendiza okuqondwe ukuba zithwale ngendiza ziqhutselwe kwenye indawo ;

(b) ezivikelwe ekuphazanyisweni okungagunyaziwe ngaso sonke isikhathi kusukela ngesikhathi zisuka lapho zithathwe khona ;

(c) eziphelezela yizincwadi eziqukethe imininingwane ngokuthuthwa kwazo nesimo sokuphepha kwazo, zisuka zize zifinyelele lapho zithunyelwa khona ;”;

(v) ukufaka lencazelo elandelayo ngemuva kwencazelo

“uhlobo lwendiza”

“**umthwalo ongaphelezela**’ kushiwo umthwalo, ngaphandle kwalowo ophethwe ngumnikazi ngesikhathi engena esikhumulweni oledwa ngumgibeli noma isithunywa sakhe ngenhloso yokuba uthwalwe yindiza noma kungasho ukuthi uzothwalwa ngendiza egibele kuyo umgibeli ongumnini wallow mthwalo kanti ngenhloso yale mithethonkambiso uyothathwa njengomthwalo ;”;

(w) ukufaka lencazelo elandelayo ngemuva kwencazelo

“umklamo wesisindo sempahla”

“**impahla engaziwa**’ kushiwo impahla engahlelwanga njengempahla eyaziwayo futhi ezohlolwa uma inikezelwa ukuze ithwalwe ngendiza ;”;

### Ukufaka Ingxenye 108 kulo Mthethonkambiso

3. Ingxenye elandelayo izofakwa ngemuva kweIngxenye 106 yeMithethonkambiso

“Ingxenye 108

**Ezokuphepha kwempahla ethuthwa ngendiza**

**UHLU LWEMITHETHONKAMBISO: EZOKUPHEPHA KWEMPAHLA  
ETHUTHWA NGENDIZA**

#### INGXENYANA 1: OKUJWAYELEKILE

108.01.1 Ukusebenza kwawo

108.01.2 Izidingo zokuthwala impahla ngendiza

108.01.3 Ukukhipha imiyalelo yezokuphepha kwempahla ethuthwa ngendiza

**INGXENYANA 2: IMISEBENZI NEMITHWALO YEZITHUNYWA NABATHUMELI BEMPAHLA ABALAWULWAYO**

- 108.02.1 Imisebenzi yeziThunywa ezilawulwayo
- 108.02.2 Imisebenzi yezithunywa ezilawulwayo
- 108.02.3 Izidingo zabathumeli bempahla abaziwayo

**INGXENYANA 3: UKULAWULA ISIMO SEZOKUPHEPHA**

- 108.03.1 Okujwayelekile
- 108.03.2 Impahla eyaziwayo
- 108.03.3 Impahla engaziwa
- 108.03.4 Izincwadi
- 108.03.5 Impahla nezincwadi eziphuthumayo
- 108.03.6 Impahla nezincwadi ezithuthwayo
- 108.03.7 Impahla engeze yathwalwa
- 108.03.8 Ilungelo lokuhlola nokwenqaba ukuthwala impahla

**INGXENYANA 4: UKUHLOLISISA ISIMO SEZOKUPHEPHA – IZINTO ZOKUSEBENZA NABASEBENZI**

- 108.04.1 Izidingo zokuhlolisisa ukuphepha kwezinto zokusebenza ngenhloso yezokuphepha

**INGXENYANA 5: IZIMVUME**

- 108.05.1 Isicelo semvume yokuba yisithunywa esilawulwayo
- 108.05.2 Isitifiketi seMvume
- 108.05.3 Ukuvuselela Isitifiketi seMvume
- 108.05.4 Imthwalo yomuntu onesitifiketi
- 108.05.5 Isicelo sokuOinisekiswa njengoMthumeli- mpahla owaziwayo

- 108.05.6 Isitifiketi sokugunyazwa njengomthumeli owaziwayo
- 108.05.7 Izikhundla zabantu abangabasiqinisekisi
- 108.05.8 Ukuvuselela isitifiketi sokugunyazwa
- 108.05.9 Imali yokuhlola
- 108.05.10 Ukuqinisekisa izitifiketi zakwamanye amazwe
- 108.05.11 Ukumisa nokusula imvume noma isitifiketi sokugunyazwa nokwedlulisa isikhalo
- 108.05.12 Ilejista yeZitifiketi zeMvume

#### **INGXENYANA 6: UQEQESHO**

- 108.06.1 Uqeqesho lokuqonda kahle ezokuphepha kwempahla ethuthwa ngezindiza
- 108.06.2 Uqeqesho olulindelwe ngezokuphepha kwempahla ethuthwa ngendiza

#### **INGXENYANA 1: OKUJWAYELEKILE**

##### **Ukusebenza kwayo**

**108.01.1 Le ngxenye iyosebenza kubo bonke abantu ababambe iqhaza ekwemukeleni, ekudluliseni, ekugcineni nasekuphatheni impahla ethuthwa ngendiza kanti iyolawula:**

- (a) ezokuphepha emoyeni maqondana nempahla engene esikhumulweni sezindiza;
- (b) izinyathelo zokuphepha ezidingekayo zokulondoloza nokuthwala impahla kumsebenzi wokuthutha ngomoya/ngendiza;
- (c) izidingo zokuqeqeshwa kwabasebenzi abathintekayo ekuphatheni impahla ethuthwa ngendiza; kanye
- (d) nezinye izinto eziphathelene nezokuphepha kwempahla ethuthwa ngendiza

**Izidingo zokuthwalwa kwempahla ngomoya**

- 108.01.2** (1) Noma ngubani ohlangene nokwemukela/ukugcina/ukwedlulisa nokuphatha impahla ezothwalwa ngomoya ngosizo lokuthutha nomoya uyohambisana nemigomo yezokuphepha emiswe kule- Ngxenye.
- (2) Akekho umuntu ongaba ngumsebenzi wezokuthutha ngomoya oyothwala impahla engaziwa.
- (3) Abanquba umsebenzi wokuthutha ngomoya bayosingatha yonke impahla engaphelezelwa ngabanikazi njengempahla engaziwa
- (4) Noma yisiphi isithunywa esilawulwayo esisebenza ukwemukela/ukulondoloza/ukwedlulisa nokuthinta impahla okufanele ithwalwe ngomoya/ngendiza uyoba nesitifiketi semvume ekhishwe nguKhomishani. Iqobo nje ukuthi noma imuphi umuntu oqashwe yisithunywa esilawulwayo futhi othintekayo ekuphatheni impahla eyaziwayo, kuyodingeka aphothula uqeqesho olunqunywe wumthethonkambiso 108.06.1 futhi abe nesitifiketi solwazi olufanele ukuba athole lolo luqeqesho.
- (5) Isithunywa esilawulwayo siyosungula ibhukwana lezokuphepha eliqukethe lonke ulwazi nempahla ethwalwa ngendiza equkethe lonke ulwazi olunqunywe nguMqulu I-SA-CATS-aCS nalapho eneka khona indlela ayosebenza ngayo. Lelo bhukwana liyonikwa uKhomishani ngenhloso yokulamukela.
- (6) Isithunywa esilawulwayo siyokwabelwa umthwalo ngokusemthethweni wokusebenzisa, ukusebenza nokwengamela ukulawula ezokuphepha njengoba kunqunyiwe kuleNgxenye kanye nakuMqulu SA-CATS-ACS.
- (7) Noma imuphi umuntu ofaka isicelo sokuba isithunywa esigunyaziwe noma esiqinisekisiwe njengomthumeli-mpahla owaziwayo, uyovumela umuntu ogunyaziwe, umhloli noma isikhulu esigunyazwe yiKhomishani ukuba aqhube uphenyo nocwaningo olufanele ngenhloso yokuhlola ukuthi imiyalelo yezokuphepha eqondene nokuphatha, ukuthutha nokulondoloza impahla eyaziwayo ihambisana ngemfanelo yezidingo zale Ngxenye.
- (8) Lowo onesitifiketi semvume noma isitifiketi sokugunyazwa uyovumela isikhulu esigunyaziwe, umhloli noma umuntu ogunyazwe nguKhomishani ukuba ahlole noma iyiphi impahla ethuthwayo esuka noma edlule kusithunywa osilawulwayo noma esinegunya ngenhloso yokuhlola yokuqinisekisa ukulandelwa noma ukugcinwa kwaleNgxenye.

### **Ukukhipha imiyalelo yezokuphepha kwempahla ethuthwa ngomoya**

**108.01.3** (1) Ukhomishani engakhipha imiyalelo yezokuphepha emayelana nokukhishwa nempahla ezithwalwa ngomoya lapho kukhona isidingo sokwenza-ngcono izinga lezokuphepha kwezindiza. Uma uKhomishani ekhipha umyalelo wezokuphepha onjena, isithunywa esilawulwayo esinesitifiketi selungelo esikhishwe ngaphansi kwale Ngxenye kufanele –

- (a) ngokushesha enze izichibiyelo ebhukwaneni lezokuphepha ngendlela ehambisana nomyalelo wezokuphepha futhi ethule lezo zichibiyelo kuKhomishani ukuze azimukele; futhi
- (b) Ngemuva kokwamukelwa kwezichibiyelwa zebhukwana lezokuphepha, enze lezo zichibiyelo zitholakale kubo bonke abantu abaqhuba umsebenzi wokwamukela ukwedlulisa noma ukuthinta impahla ethwalwa ngomoya.

### **INGXENYANA 2: IZIBOPHO NEMISEBENZI YEZITHUNYWA EZILAWULWAYO NABATHUMELI-MPAHLA ABAZIWAYO**

#### **Izibopho zezithunywa ezilawulwayo**

**108.02.1** Noma ngubani owamukelwe nguKhomishani njengomuntu oyisithunywa esilawulwayo kufanele:

- (a) Agcine amarekhodi azo zonke izincwadi zomlando wokuthuthwa nokuphathwa kwempahla ngokuhambisana noMqulu SA-CATS-ACS;
- (b) Aqinisekise ukuthi ngemuva kokuthola impahla eyaziwayo nangesikhathi impahla isezandleni zakhe igcinwe iphephile ekuthintweni okungekho emthethweni ngokuhambisana nezinyathelo zokuphepha ezimiswe ebhukwini lezokuphepha nelihlonzwe ngumthethonkambiso 108.01.2(5);
- (c) Aqinisekise ukuthi ukwemukela nokuphathwa kwempahla kwenziwa ngumuntu oqeqeshiwe, othole uqeqesho oluqondene ngqo nezokuphepha njengoba kuchaziwe ebhukwaneni lezokuphepha okudingekayo ngokoMqulu SA-CATS-ACS;
- (d) Amise ngokuhlola ngqo noma ngokuhlola ngomshini ngendlela emiswe kuMqulu SA-CATS-ACS, akukhathalekile ukuthi impahla iqukethe iziqhumane, izikhali ezishisayo noma eyingozi noma ezinye izinto ezingavunyelwe eziyingozi njengoba kuchaziwe kuHlelo lwezokuPhepha kwezoMoya kuZwelonke luka 2004;
- (e) Aqinisekise ukuthi umthwalo owaziwayo uvalisiseke kahle ngeziciko ezamukelekile kuKhomishani futhi lezo ziciko kube ngezingaxebuki ;

- (f) Aqhube uphenyo oluthinta umlando wabo bonke abasebenzi abaqashelwe ukwemukela impahla, ukuyigcina, ukuyedlulisa nokusebenza ngempahla eyaziwayo ehlose ukuthuthwa ngendiza .

**Izibopho zabathunywa abagunyaziwe mayelana namakhasimende aziwa ngokuthumela impahla**

**108.02.2** (1) Zonke izithunywa ezilawulwayo eziqhuba umsebenzi futhi zemukela impahla eyaziwayo kubaThumeli abaziwayo kufanele;

- (a) baqiniseke ukuthi umthumeli owaziwayo unesitifiketi esigunyaziwe soMthumeli-mpahla owaziwayo esikhishwe ngokwaleNgxenye
- (b) zibhale phansi ngoqobo noma ngobunjalo nekheli lomthumeli-mpahla owaziwayo futhi beluleke uKhomishani ngemininingwane yathumeli-mpahla abaziwayo
- (c) Babe nomarekhodi ezifungo zabaThumeli-mpahla abaziwayo ezishoyo ukuthi :
- (i) impahla eyaziwayo ilungiselwe noma iboshelwe emagcekeni aphephile;
- (ii) bonke abasebenzi abaphatha impahla eyaziwayo bahloliwe imvelaphi yabo futhi futhi baqeqeshiwe ngezokuphepha eziqondene ngqo nezokuphepha kwempahla anjengoba kumisiwe kuMqulu we SA-CATS-ACS;
- (iii) ukuthuthwa kwempahla eyaziwayo kuvikelekile ezenzweni zokugxambukela eziphambene nomthetho ngesikhathi ipakishwa, ilondolozwe noma seyithuthwa;
- (iv) Imithwalo nokuqukethwe yinoma iyiphi impahla kufanele kwedlule ngaphansi kwezokulawula ezokuphepha njengoba kunqunyiwe kuMqulu SA-CATS-ACS.
- (d) Ahlole ngokukhululeka amagceke nempahla yabantu abaziwa ngokuthumela impahla ngenhloso yokuqinisekisa ukuthi balandela imithethonkambiso yale Ngxenye.

**Izibopho zesithunywa mayelana nempahla eyaziwayo**

**108.02.3** (1) Noma yimuphi umuntu onobudlelwane nomthumeli owaziwayo nesithunywa esilawulwayo futhi ofisa ukuqinisekiswa bese efakwa ohlwni lweziPhathimandla zokuThutha ngoMoya njengoMthumeli-mpahla owaziwayo.

(2) Umuntu ofisa ukuba uthumeli-mpahla owaziwayo uyoqinisekisa ukuthi;

- (a) Imithwalo yempahla eyaziwayo iboshwe futhi yaqiniswa umthumeli-mpahla owaziwayo emagcekeni aphephile;
- (b) Bonke abasebenzi abaqashelwe ukuphatha noma ukuthinta impahla bayohlolwe imvelaphi yabo futhi baqeqeshwa

- ngezokuphepha eziqondene ngqo nokuphepha kwempahla njengoba kushiwo kuMqulu SA-CATS-ACS;
- (c) Ukuthunyelwa kwempahla eyaziwayo kuvikelwe ezenzweni eziphula umthetho ngesikhathi iboshwa noma ilungiswa, ukugcinwa nalapho seyithuthwa;
  - (d) Wonke umsebenzi uqhutshwa ngendlela emiswe wuMqulu SA-CATS-ACS;
  - (e) Lonke ibhizinisi liqhutshwa ngokulandela izidingo zebhukwana lezokuphepha lomthumeli-mpahla ngamunye ogunyaziwe nokusetshenzwa nalo.
  - (f) Impahla eyaziwayo ivalwa kahle ngeziciko futhi kube yiziciko ezamukelwe nguKhomishani nehlala inamathele njalo ingaxebuki.

### INGXENYANA 3: UKULAWULWA KWEZOKUPHEPHA

#### Okujwayelekile

- 108.03.1** (1) Akekho umuntu ongaletsa impahla ukuba ithuthwe ngendiza ngaphandle kokuba iphelezela wumbhalo oqondene nayo.
- (2) Noma imuphi umuntu oletha isikhwama senxusa ukuba sithwalwe ngendiza kufanele aqikelele ukuthi siboshwe kahle sashaywe noma sabekwa uphawu futhi singathwalwa ngendiza kuphela ngaphandle kombhalo wentengo uma sipelezela umsebenzi walowo muzi wenxusa nokulandelayo :
- (a) Incwadi yokungena kwelinye izwe elungile ekhishwe yanikwa umsebenzi wenxusa;
  - (b) Incwadi esuka kwisikhulu esengamele izindlu zenxusa lapho kusuka khona isikhwama, egunyaza ukuba umsebenzi aphelezele lesi sikhwama senxusa esithintekayo.

#### Impahla eyaziwayo

- 108.03.2** (1) Akekho umuntu ongaletsa impahla engaziwa ukuba ithuthwe ngendiza noma ithwalwe isithuthi somoya sokuhweba.
- (i) Ngaphandle kokulandela inqubo yezokuphepha ngaphambi kokulayisha lapho iyobe isithathwa njengempahla eyaziwayo futhi idalulwe noma imenyezela kanjalo;
  - (ii) Ngaphandle kokuba ipakishwe futhi yaqinisekiswa ngumthumeli-mpahla owaziwayo yase inikezwa isithunyuwa esilawulwayo esisendizeni ngokulandela umthethonkambiso 108.2.2 kanye no 108.2.3;

- (2) Ngemuva kokuba impahla eyaziwayo seyamukelwe yisithunywa esinegunya iyogcinwa endaweni ephephile ukuze ifakwe endizeni futhi ivikelwe ekugxambukeleni okungekho emthethweni ngesikhathi isagcinwe yisithunywa esilawulwayo.
- (3) Uma impahla yedluliswa ngumuntu owaziwayo iqondiswe kumthumeli-mpahla owaziwayo noma isithunywa esilawulwayo noma isuka kwesinye isithunywa esilawulwayo iqondiswe kwesinye isithunywa esilawulwayo futhi igcinwe iphephile, leyo mpahla iyoqhubeka nokuthathwa njengempahla eyaziwayo.
- (4) Umnqubi wendiza noma isithunywa sakhe esiphansi uyoqikelela ukuthi ngaso sonke isikhathi impahla iphephile ngaphambi kokuba ilayishwa endizeni.
- (5) Ngaphambi kokulayishwa endizeni yohwebo, umnqubi wendiza noma isithunywa sakhe esiphansi uyoqikelela ukuthi yonke impahla ethunyelwayo ihlolwa ngamehlo ukuze kuqinisekwe ukuthi ayizange iphazanyiswe.

### **Impahla engaziwa**

- 108.03.3**
- (1) Yonke Impahla evela kumuntu ongaziwa futhi ongahlolwanga ngokulandela imithethonkambiso yale Ngxenywe kanye noMqulu SA-CATS-ACS, iyothathwa njengempahla engaziwa.
  - (2) Impahla engaziwayo okuthe ngemuva kokwemukelwa yisithunywa esilawulwayo endaweni ephephile njengoba kushiwo ebhukwini lezokuphepha iyothathwa njengempahla engaziwa.
  - (3) Impahla eyaziwayo enesivalo noma lapho iboshwe kwephukile noma kunobufakazi bokuthi isiciko noma impahla yona qobo iphazamisekile iyothathwa njengempahla engaziwa.
  - (4) Impahla ethwelwe ngomoya eyethulwe njengompahla engaziwa iyofakwa ngaphansi kohlelo lwezokuphepha olunqunywe kule Ngxenywe ngaphambi kokuba ilayishwe endizeni.

### **Izincwadi/iposi**

- 108.03.4**
- (1) Iziphathimandla zePosi kufanele zifake isicelo semvume yokwemukelwa njengesithunywa esinegunya lokuthumela impahla ngokusho koMthethonkambiso 108.06.1.
  - (2) Izincwadi ezamukelwa yiZiphathimandla zePosi okufanele lethulwe ukuze lithwalwe ngendiza kufanale –

- (a) zihlolwe ukuthi ziyahambisana nezokuphepha bese zivalisiswa kahle, futhi
  - (b) ziphelezwe wumbhalo weposi osemthethweni ochaza isibalo sezikhwama ezihlolwe ukuphepha.
- (3) Iziphathimandla zePosi kungumthwalo wazo ukuhlola ukuphepha nokuvalisisa izincwadi ngaphambi kokuzithumela endizeni ukuze zithwale ngomoya.
- (4) Ngenhloso yokuvimbela ukungeniswa kweziquhumane, izinto eziyingozi noma ezingavunyiwe noma ezilimazayo endizeni njengoba kuchaziwe kwiCebo lezokuPhepha kweziNdiza likaZwelonke ka 2004, kuyothathwa lezi zinyathelo ezilandelayo:
- (a) IziPhathimandla zePosi kufanele ziqinisekise izinto eziposiwe zikhiyelwe noma zigcinwe ezitsheni ezivaliwe futhi zivikelwe ekuthintweni okungekho emthethweni ngaphambi kokuba zifakwe ezikhwameni zeposi;
  - (b) Ngaphambi kokulayisha endizeni yohwebo, umnqubi we wendiza noma isithunywa sakhe esiphansi kufanele siqikelele ukuthi zonke izikhwama zeposi zihlolwa ngamehlo ngenhloso yokuba neqiniso ukuthi azikaze zivulwe noma ziphazanyiswe;
- (5) Ngezikhathi eziqagulwe njengezikhathi zokuqapha kakhulu isimo sezokuphepha esimenyazelwe yisiPhathimandla seziThuthi zoMoya eNingizimu Afrika, kuyothathwa lezi zinyathelo ezilandelayo ezengeziwe:
- a) IziPhathimandla zePosi ziyomemezela ukuthi izincwadi sezihloliwe futhi zaseshwa iziquhumane, izinto engalungeli neyingozi noma engavunyiwe njengoba kuchaziwe kwiCebo leZokuphepha kweZithuthi Zomoya likaZwelonke luka 2004 ngaphambi kokuba impahla ifakwe ezikhwameni noma ithunyelwe;
  - b) Uma kunokungabaza ngezokuphepha kwezincwadi, Iziphathimandla zePosi ngeke zinikele noma zemukele izincwadi ukuba zithwale ngomoya noma ngendiza.

### **Impahla noma izincwadi eziphuthunyiswayo**

- 108.03.5** (1) Izithunywa ezilawulwayo noma iziPhathimandla yePosi eziletha impahla nezincwadi eziphuthunyiswayo ukuba zithwale ngezithuthi zomoya ezihwebayo ziyinqinisekisa ukuthi leyo mpahla noma izincwadi eziphuthunyiswayo zihloliwe ngokufanele njengoba kusho nguMqulu SA-CATS- ACS.

**Impahla nezincwadi ezithuthwa ngomoya**

- 108.03.6** (1) Impahla nezincwadi ezithwele ngendiza okufanele zidluliselwe kwenye noma kwezinye izindiza akudingeki ukuba zihlolisiswe, iqobo nje uma ilawulwa ngokulandela imithethonkambiso yezokuphepha ngesikhathi isuka endaweni yokuqala futhi ivikelwe kahle emikhubeni engekho emthethweni nalapho ishintsha khona indiza.
- (2) Impahla ethuthwa ngendiza noma izincwadi ezifika ngendiza, ngesitimela noma ngomkhumbi edlulela phambili engazange ihlolwe ezokuphepha ngesikhathi isuka noma idluliswa kufanele ithathwe njengempahla engaziwa bese iyahlolwa ukuthi iphephile.

**Impahla exolelwe**

- 108.03.7** (1) Isimo sezokuphepha okudingekayo ngokwale Ngxenywe ngeke sisebenze mayelana nalokhu: -
- (a) nempahla eshintsha izandla njengoba kusho umthethonkambiso 108.03.6 ;
  - (b) Isidumbu;
  - (c) Izilwane eziphilayo;
  - (d) izimpahla zokuhlenga impilo noma ezinye izinto zokwelapha, izitho zomzimba, igazi noma izinto ezifanayo ;
  - (e) noma yimiphi imikhiqizo yenuzi;
- (2) Isithunywa esilawulwayo esiletha impahla ukuze ithwalwe ngendiza sixolelwe ekulawulweni noma ekubophezelekeni isimo sezokuphepha ngaphansi komthethonkambiso 108.03.7 (1) uyoqinisekisa ukuthi leyo mpahla:
- (a) ichazwe ngokucacile emaphepheni okuthutha
  - (b) uyohlola leyo mpahla ukuze aqiniseke ukuthi ayivulwanga futhi ayizange iphazanyiswe;
  - (c) kuhlolwe amaphepha ayo ukuze kutholakale ukuthi ulwazi kunoma imaphi amaphepha luyiqiniso futhi lwanele
  - (d) ivikelwe ekuphazamisekeni okungagunyaziwe.

**Ilungelo lokuhlola nokwenqaba ukuthwala impahla**

- 108.03.8** Noma yimuphi umnikazi wendiza yokuhweba uyoba nelungelo: -
- (a) lokuhlola, noma ayalele isithunywa ukuba sihlole impahla eboshelwe noma equkethwe wumthwalo othwelwe ngendiza nokwenza uphenyo ngokuqonda nolwazi nemibhalo efanele ithulwe maqondana nomthwalo; futhi

- (b) ngaphandle kokuzibophezela angenqaba, alibazise noma aphindisele emuva impahla uma enezinsolo ezinesisekelo sokuthi impahla ineziqhumane noma izinto eziyingozi.

#### **INGXENYANA 4: UKUHLOLELA EZOKUPHEPHA - IZINTO NABASEBENZI**

##### **Izidingo zokuhlola nezinto ezisetshenziswa ukuhlola**

- 108.04.1** (1) Noma iyiphi into estshenziswa ngumnikazi noma ngosebenzisa indiza noma ogunyaziwe, ukuhlola izimpahla kufanele ikwazi ukunuka izikhali, iziqhumane noma impahla engavunyiwe noma enobungozi njengoba kuchaziwe wuHlelo lwezokuPhepha lweZithuthi Zomoya lukaZwelonke ka 2004, ezingasetshenziswa ezenzweni ezingekho emthethweni.
- (2) Lezi zinto kufanele zihambisane nezidingo ezimiswe wuMqulu SA-CATS-ACS.
- (3) Into okukhulunywa ngayo ngumthethonkambiso (1) iyogcinwa ngendlela emiswe umkhiqizo wawo futhi uhambisane nezinye izidingo ezingakhishwa ngaphansi koMthetho.

#### **INGXENYANA 5: IZIMVUME**

##### **Isicelo semvume yokuba yisithunywa esilawulwayo**

- 108.05.1** (1) Isicelo sesitifiketi semvume yokuba yisithunywa esilawulwayo nokuvuselela lesi sitifiketi semvume kufanele:
- (a) sifakwe kuKhomishani ngendlela efanele enqunywe wuMqulu SA-CATS-ACS;
- (b) siphelzelwe imifanekiso yamabhukwana eNqubo yezokuPhepha kwempahla ezindizeni okukhulunywa ngayo kumthethonkambiso 108.01.02(5); futhi
- (c) siphelzelwe yimali efanele noma inkokhelo enqunywe yiNgxenye 187 yalo mthethonkambiso.

##### **Isitifiketi semvume**

- 108.05.2** (1) Ukhomishani angaqhuba uphenyo oluyohamba ngendlela emiswe yiNgxenye 187 yalomthethonkambiso ngokusebenza komuntu ofake isicelo nofuna ukunikwa imvume yokuba isithunywa esilawulwayo ukuze aqinisekise ukuthi uyakwazi yini ukuhlangabezana nokushiwo yile Ngxenye.

- (2) Uma uKhomishani eneliswa yibhukwana lezokuphepha lalowo ofake isicelo kanye namagceke akhe nokuthi ofake isicelo uyakwazi ukuhambisana nemithethonkambiso yaleNgxenywe, Ukhomishani uyo:—
- (a) qinisekisa ngokubhaliwe kuyo yomibili imifanekiso yezokuphepha ukuthi lawo maphepha amukelwe;
  - (b) phindisela umfanekiso owodwa webhukwana lezokuphepha kulowo ofake isicelo; futhi
  - (c) nika ofake isicelo isitifiketi semvume yokuba yisithunywa esilawulwayo ngendlela enqunywe kuMqulu SA-CATS-ACS.
- (3) Lowo ofake isicelo uyothula zonke izichibiyelo zebhukwana lezokuphepha kuKhomishani ukuze athola imvume
- (4) Uma uKhomishani eneliswa wukuthi izichibiyelo ngeke ziphazamise okushiwo kule ngxenywe, uKhomishani uyoqinisekisa ngokubhaliwe imifanekiso yomibili yezichibiyelo zebhukwana lezokuphepha eziveza ukuthi izinguquko zimukelwe bese ephindisela umfanekiso owodwa kulowo onikwe igunya.
- (5) Isithunywa esilawulwayo ngazo zonke izikhathi sisebenza ngendlela ehambisana nebhukwana lezokuphepha noma izichibiyelo zalo ezamukelekile.
- (6) Isitifiketi semvume siyoqhubeka nokusebenza isikhathi esiyizinyanga eziyishumi nambili kusuka ngosuku esikhishwe ngalo.

### Ukuvuselela isitifiketi semvume

- 108.05.3** (1) Lowo onikwe isitifiketi semvume uyofaka isicelo kuKhomishani sokuvuselela isitifiketi semvume zingakapheli izinyanga ezimbili ngaphambi kosuku lokuphelelwa yisikhathi kwemvume.
- (2) Ekucubungula isicelo sokuvuselela isitifiketi semvume, uKhomishani engenza uphenyo abona lufanele ngenjongo yokuqinisekisa ukuthi ofake isicelo uyaqhubeka yini nokuhlonipha izidingo zale Ngxenywe.
- (3) Isicelo siyokwamukelwa futhi kukhishwe isitifiketi uma uKhomishani enelisekile ukuthi lowo ofake isicelo uzoqhubeka nokulandela izidingo zale Ngxenywe.
- (4) Uma uKhomishani enganelisekile, uyokwazisa lowo onquba umsebenzi ngalokho, asho izizathu kuleso saziso bese emnika ithuba lokulungisa amaphutha noma izici ezingalungile singakapheli isikhathi esinqunywe nguKhomishani, ekupheleni kwaleso sikhathi uKhomishani uyomnika noma achithe isicelo esithintekayo.
- (5) Isicelo sokuvuselela isitifiketi semvume siyokwenziwa ngokugcwalisa ifomu enqunywe uMqulu SA-CATS-ACS futhi siphelzelwe yimali efanele njengoba inqunyiwe yiNgxenywe 187.
- (6) Okushiwo umthethonkambiso 108.05.01 kuyosebenza nalapha.

**Izibopho zalowo Onesitifiketi**

**108.05.4** Ngaso sonke isikhathi Isithunywa esilawulwayo siyoqhuba umsebenzi ngokulandela ibhukwana lezokuphepha elamukelwe.

**Isicelo sokuqinisekiswa njengomthumeli wempahla owaziwayo**

**108.05.5** Isicelo sesitifiketi sokugunyazwa nokuvuselela isitifiketi sokwemukelwa siyo:

- (a) qondiswa kuKhomishani ngefomu efanele njengoba inqunyiwe kuMqulu SA-CATS-ACS;
- (b) phelezelwa yimali eqaguliwe noma inkokhelo enqunywe yiNgxenye 187 yale mithethonkambiso.

**Isitifiketi sokugunyazwa njengomthumeli mpahla**

**108.05.6** (1) UKhomishani engahlola umuntu ofisa ukuqinisekiswa njengomthumela impahla owaziwayo ngenhloso yokuqinisekisa ukuthi uyahambisana yini nokushiwo yile Ngxenye, lokho kuhlolwa kuyokwenziwa njengoba kusho umthethonkambiso iNgxenye 187

- (2) Uma uKhomishani enlisekile izinyathelo zokuphepha zalowo ofake isicelo kanye isimo sezithuthi nendawo yokugcina impahla eyaziwayo ihambisana nezidingo zale Ngxenye, uKhomishani uyo-

nika ofake isicelo sokuqinisekiswa isitifiketi sokugunyazwa njengomthumeli mpahla owaziwayo ngendlela enqunywe wuMqulu SA-CATS-ACS.

- (4) Isitifiketi sokuqinisekiswa sisebenza izinyanga eziyishumi nambili kusuka ngosuku esikhishwe ngalo.

**Ukuqokwa kwabaqiniseki**

**108.05.7** (1) Ngokuhambisana nokushiwo yisigaba 4(2) no (3) soMthetho, uKhomishani angaqoka abaqiniseki babathumeli-mpahla abaziwayo abazohlola impahla ngenhloso yokukhipha izitifiketi zokugunyazwa ukuzivuselela nokukhipha ezinye futhi ngokwesibili.

- (2) Amalungelo okukhulunywa ngawo kumthethonkambiso (1) ayosetshenziswa futhi asebenze nemibandela, izidingo, imiyalo, nezinqubo noma ngamaqophelo anqunywe wuMqulu SA-CATS-ACS.
- (3) UKhomishani uyosayina futhi anike umqinisekisi oqokiwe ngamunye umbhalo ogagula igama eliphelele lalowo mqinisekisi futhi lowo mbiko uyakuba nesitatimende -

- (a) lowo mqinisekisi uqokwe ngokmthethonkambiso (1); kanye
- (b) nencazelo yokunikwa kwalowo mqinisekisi amandla okusebenzisa amalungelo okukhulunywa ngawo kumthethonkambiso (1).
- (4) Isicelo sokuqokwa njengoMqinisekisi okukhulunywa ngaso kumthethonkambiso (1) siyophelezela yimali efanele enqunywe yiNgxenye 187.

### Ukuvuselela isitifiketi sokugunyazwa

- 108.05.8** (1) Lowo onesitifiketi sokugunyazwa uyofaka isicelo kuKhomishani sokuvuselela lesi sitifiketi zingakapheli izinyanga ezimbili ngaphambi kokuphelelwa yisikhathi kwesitifiketi esikhona.
- (2) Ekubhekisiseni isicelo sokuvuselela isitifiketi sokugunyazwa, Ukhomishani engenza uphenyo abona ludingeka ukuze aqiniseke ukuthi lowo onegunya usaqhubeka yini nokuhambisana nezidingo zale Ngxenye.
- (3) Isicelo siyovunywa kukhishwe nesitifiketi uma Ukhomishani eneliswa wukuthi ofake isicelo uyohambisana nezimiso zale Ngxenye.
- (4) Uma uKhomishani engeneliswa, uyoveza izizathu zesinqumo bese enika lowo ofake isicelo ithuba lokulungisa amaphutha noma izici ezingalungile ngaphambi kokuphela kwesikhathi esinqunywe nguKhomishani, ngemuva kwalokho akhiphe noma achithe isicelo esithintekayo.
- (5) Isicelo sokuvuselela isitifiketi semvume siyogcwaliswa ngefomu enqunywe wuMqulu SA-CATS-ACS kanti siyophelezela yinkokhelo emiswe yiNgxenye 187.
- (6) Lokho okushiwo ngumthethonkambiso 108.05.01 kuyosebenza nalapha.

### Imali yokuhlola

- 108.05.9** Uma kutholakala ukuthi ukungalandelwa kwemithethonkambiso, okuholela ekutheni kuhlolwe futhi, lokho kuhlolwa kuyokhokhelwa ngehora njengoba kubekiwe kumthethonkambiso 187.00.29.

### Ukuqinisekisa izitifiketi zakwamanye amazwe

- 108.05.10** (1) Ngesicelo esibhalwe, uKhomishani engaqinisekisa noma yisiphi isitifiketi sakwelinye izwe esikhishelwe ukuqeqeshelwa ezokuphepha mayelana nemithwalo uma lowo onesitifiketi ethula ubufakazi obubhaliwe obulandelayo –
- (a) ukuthi isitifiketi sitholwe enhlanganweni yokuqeqesha eyamukelekile kwelinye izwe; nokuthi

- (b) Lowo onesitifiketi uphothule ngempumelelo uqeqesho lokuvuselelwa ulwazi lwezokuphepha kokuthutha impahla ngendiza oluhlonzwe ingxenyana 6.
- (2) Isicelo okukhulunywa ngaso kumthethonkambiso (1) siyophelezela yimali efanele enqunywe yiNgxenyane 187.
- (3) Lokho okushiwo uMthethonkambiso 108.06.1 no 2 kuyosebenza kulowo onesitifiketi okukhulunywa ngaso kumthethonkambiso (1).

**Ukumiswa nokwesula imvume noma isitifiketi sokugunyazwa nokwedlulisa udaba**

- 108.05.11** (1) Isikhulu esigunyaziwe, umhloli noma umuntu onegunya engamisa isikhathi esingedluli izinsuku ezingamashumi amathathu imvume noma isitifiketi sokugunyazwa esikhishwe ngaphansi kwale Ngxenyane, uma –
- (c) ngemuva kokuhlolwa nocwaningo olwenziwe ngaphansi kwale Ngxenyane, kubonakala ukuthi lowo onemvume noma isitifiketi sokugunyazwa akahambisani nezidingo ezinqunywe kule ngxenyane futhi lowo onesitifiketi uyehluleka ukulungisa iphutha noma ukulandela okushiwo yile Ngxenyane zingakapheli izinsuku ezingamashumi amathathu ngemuva kokuthola isaziso esibhaliwe esivela kumhloli noma kulowo ogunyazelwe lomsebenzi; noma
  - (d) isikhulu esigunyaziwe, umhloli noma isisebenzi esifanele sivinjelwe ngumuntu onemvume noma isitifiketi sokugunyazwa ukuba siqhube uphenyo noma ucwaningo ngaphansi kwale ngxenyane; noma
  - (e) ukumiswa kudingekile ukuze kuphephise noma kufezwe ezokuphepha.
- (2) Isisebenzi esinegunya, umhloli noma umuntu ogunyaziwe omise imvume noma isitifiketi sokugunyazwa ngaphansi komthethonkambiso (1) uyothula umbiko obhaliwe kuKhomishani lapho echaza khona izizathu zokuthi kungani ngokubona kwakhe kufanele kwesulwe ukumiswa kwemvume noma isitifiketi sokugunyazwa kufanele kwesulwe.
  - (3) Isisebenzi esigunyaziwe, umhloli noma umuntu ogunyaziwe othintekayo uyothula noma anike umfanekiso wombiko okukhulunywa ngawo kumthethonkambiso (2) kulowo onemvume noma onesitifiketi sokugunyazwa esimisiwe kanye nobufakazi bokwedlulisa umbiko kuKhomishani.
  - (4) Lowo onemvume noma onesitifiketi sokugunyazwa ozizwa ehlukumezekile ngokumiswa kwemvume noma kwesitifiketi sakhe sokugunyazwa angadlulisa udaba kuKhomishani zingakapheli izinsuku ezingamashumi amathathu ngemuva kokuba ethole ulwazi lokumiswa kwemvume noma kwesitifiketi.

- (5) Lowo odlulisa isikhalo/udaba uyothumela isikhalo esibhaliwe ebeka izizathu zokukhononda nokuthi kungani ecabanga ukuthi isinqumo kufanele siguqulwe noma sichithwe.
- (6) Lowo odlulisa isikhalo uyothula umfanekiso wesikhalo kanye neminye imibhalo eyesekela udaba kusiphathimandla esigunyaziwe, kumhloli noma kumuntu onegunya eliqondene futhi athumele kuKhomishani ubufakazi bokuthi ngempela uthumele imifanekiso ochaziwe.
- (7) Isikhulu esinegunya, umhloli noma umuntu ogunyaziwe ngaphambi kokuphela kwezinsuku ezingamashumi amathathu ethole umfanekiso wesikhalo okukhulunywa ngaso kumthethonkambiso (6), uyothumela umbiko noma impendulo yakhe ebhaliwe mayelana nesikhalo esidluliswayo kuKhomishani.
- (8) Ukhomishani angenza lokhu –
  - (a) Ukwahlulela isikhalo ngokubheka imibhalo ethulwe kuye; noma
  - (b) Ukujuba odlulisa isikhalo kanye nesikhulu esigunyaziwe, umhloli noma umuntu onegunya ukuba bavele phambi kwakhe ziqu zabo noma bamelwe, ngesikhathi nendawo eyonqunywa nguKhomishani lapho beyothula khona ubufakazi.
- (9) Ukhomishani angaqinisekisa, aguqule noma achithe ukumiswa okukhulunywa ngakho kumthethonkambiso (1).
- (10) UKhomishani angenza lokhu –
  - (a) Uma eqinisekisa ukumiswa ngokusho komthethonkambiso (9) noma
  - (b) Uma imvume noma isitifiketi sokugunyazwa simiswe ngokusho komthethonkambiso (1) kanti lowo onaso angadlulisa isikhalo ngokulandisa komthethonkambiso (4), uyokwesula imvume noma isitifiketi sokwemukelwa esithintekayo.

### Ilejista yezitifiketi zemvume

- 108.05.12** (1) UKhomishani uyogcina ilejista yazo zonke izimvume nezitifiketi zokugunyazwa ngaphansi kwale Ngxenywe.
- (2) Ilejista yezitifiketi zemvume iyoqukatha lemininingwane elandelayo:
- (a) igama eliphelele, uma likhona, igama lokuhweba lalowo onesitifiketi semvume noma sokugunyazwa;
  - (b) Ikheli leposi nendawo yokuhlala yalowo onesitifiketi semvume noma sokugunyazwa; kanye

(c) nosuku okukhishwe ngalo isitifiketi semvume noma ukugunyazwa;

- (5) Ukhomishani anganikeza noma imuphi umuntu okucashunwe kulejista uma ekhokha imali efanele enqunye kwiNgxenye 187, aongaveza isizathu esizwakalayo nesanele sokuthi yingani kufanele anikwe lokho okucashuniwe.

## INGXENYANA 6: UQEQESHO

### Uqeqesho lokuzijwayeza ezokuPhepha kweMpahla eNdizeni

108.06.1 (1) Noma ubani-

- (a) obambe iqhaza ekuthuthweni kwempahla;
- (b) umuntu onquba umsebenzi wokwamukela, ukuthinta ukulayisha, ukwethula, ukwedlulisa noma yini ephathelene nempahla esikhundleni salowo ongumnini womsebenzi;
- (c) isithunywa esilawulwayo esamukelwe nguKhomishani ngokwale Ngxenye;
- (d) umthumeli-mpahla owaziwayo ogunyazwe nguKhomishani ngokwale Ngxenye

uyoqinisekisa ukuthi lezi nhlobo ezilandelayo zabasebenzi abamsebenzelayo baphothula ngempumelelo uqeqesho lokuzijwayeza ezokuphepha kwempahla endizeni noqeqesho lokuvuselela njalo ezinyangeni ezingama-24 ngemuva kwalolo qeqesho:

- (i) abasebenzi bendlu yokugcina impahla abamukela (warehouse), baphathe , bagcine, balayishe futhi bethule impahla ezothuthwa noma ezothwalwa ngendiza;
  - (ii) abashayeli ababandakanyeka ekuthuthweni kwempahla eyaziwayo ezothuthwa ngendiza;
- (2) Ingqikithi yoqeqesho lokuqala lwabasebenzi mayelana nokuphepha kwempahla ethuthwa ngendiza kanye nokuvuselela ezokuphepha kwempahla nokuvuselelwa koqeqesho kuyoqhutshwa ngendlela echazwe yibhukwana lezokuphepha njengoba inqunye kuMqulu SA-CATS-ACS.

- (3) Noma imuphi umuntu okukhulunywa ngaye kumthethonkambiso (1) uyophothula izifundo zokuvuselela uqeqesho lwezokuphepha kwempahla ethuthwa ngendiza njalo ezinyangeni ezingamashumi amabili nane, kusukela ephothule ngempumelelo olunye uqeqesho lokuzijwayeza ezokuphepha noma uqeqesho olwandulela lolo, kuyoya ngaleso naleso simo.
- (4) Amarekhodi oqeqesho ayogcinwa ngendlela emiswe kuMqulu SA-CATS-ACS

### **Uqeqesho oluvamile lwezokuphepha kwempahla ethwalwa yizindiza**

#### **108.06.2 (1) Noma –**

- (a) Ngubani obandanyeka ekuthuthweni kwempahla;
- (b) Ngubani owenza izenzo zokwemukelwa, zokuphatha, zokulayisha, zokwethula, zokwedlulisa noma ukusebenza ngempahla egameni lomuntu onegunya;
- (c) Yisiphi isithunywa esinegunya lokuthutha impahla esamukelwe nguKhomishani ngaphansi kwale Ngxenye;
- (d) Yimuphi umuntu owaziwa njengothumela impahla ogunyazwe wuKhomishani ngaphansi kwale Ngxenye;

uyoqiniseka ukuthi imikhakha elandelayo yabasebenzi abaqashwe nguye baphothula ngempumelelo uqeqesho oluvamile lwezokuphepha kwempahla ethuthwa ngendiza kanye noqeqesho lokuvuselela njalo ngemuva kwezinyanga ezingamashumi amabili nane:

- (i) Abasebenzi bezokuphepha kwempahla;
  - (ii) Isisebenzi esingamele ezokuphepha kwempahla
  - (iii) Umphathi wezokuphepha kwempahla
- (2) Noma yiliphi izinga loqeqesho oluvamile lezokuphepha kwempahla ethuthwa ngendiza okukhulunywa ngalo kumthethonkambiso (1) wale Ngxenye luyiqhutshwa yinhlangano emukelwe ngaphansi kweNgxenye 141.
  - (3) Udaba lwezinga lokuqokethwe wuqeqesho lokuphepha kwempahla ethuthwa ngendiza luyonqunywa nguMqulu SA-CATS-ACS.
  - (4) Noma ngubani okukhulunywa ngaye kumthethonkambiso (1) uyophothula izifundo zokuvuselela zokuphepha kwempahla ethwelwe ngendiza ngezikhawu ezimiswe wuMqulu SA-CATS-ACS.
  - (5) Ngemuva kokuphothula ngempumelelo izifundo zokuqala zoqeqesho lwempahla ethwalwa yizindiza okukhulunywa ngalo kumthethonkambiso

(2), inhlango egeqeshayo ethintekayo iyonika umfundi isitifiketi sekho no lwazi ngezidingo no lwazi lwempahla ethuthwa ngendiza.”

**4. Umthethonkambiso 187.00.13 we Mithethonkambiso uchitshiyelwa kokufakwa esikhundleni sendinyana (d) ngendima elandelayo:**

“(iii) Ukukhishwa noma ukukhishwa futhi kwesitifiketi semvume se RVSM (Umthethonkambiso 21.08.8A) ... 620,00”.

**5. Ukufaka uMthethonkambiso 187.00.15A kuleMithethonkambiso**

Lomthethonkambiso olandelayo uzofakwa ngemuva koMthethonkambiso 187.00.15 weMithethonkambiso

“Izindleko eziphathelele neNgxenywe 108

**187.00.15A** (1) Izindleko ezilandelayo ziyokhokhwa ngemuva kokufaka isicelo:

(a)	Ukukhishwa kwesitifiketi semvume sokuqala	R 3 000,00
(b)	Ukuvuselelwa kwesitifiketi semvume	R 1 500,00
(c)	Ukuqinisekisa isitifiketi semvume	R 1 500,00
(d)	Ukuqinisekisa isitifiketi soqeqesho	R 100,00
(e)	Ukuchitshiyelwa kwebhukwana lezokuphepha	R 1 000,00
(f)	Izingxenywe ezicashunwe kwilejista yezitifiketi zemvume	R 50,00

(2) Izindleko ezilandelayo ziyokhokhwa ngesiza ngasinye mayelana nokuhlolwa oknqunyiwe:

(a)	Isiza esibubanzi baso bufinyelela ku-1 000 m <sup>2</sup>	R1 000,00
(b)	Isiza esibubanzi baso bungaphezulu ku-1 000 m <sup>2</sup> kuze kufinyelele ku 5 000 m <sup>2</sup>	R1 400,00
(c)	Isiza esibubanzi baso bungaphezulu ku 5 000 m <sup>2</sup>	R1 800,00

(3) Izindleko ezilandelayo ziyokhokhwa mayelana nemvume yebhukwana lezokuphepha yokuqala:

(a)	Ibhukwana ngalinye elinamakhasi ayikhulu noma ngaphansi	R1 000,00
(b)	Ibhukwana ngalinye elinamakhasi aphakathi kwe-100 nama-200	R2 000,00
(c)	Ibhukwana ngalinye elinamakhasi angaphezulu kwama-200	R5 000,00

**Isihlokwana nokuqala kwawo**

**6. Lemithethonkambiso iyobizwa ngokuthi Isichibiyelo saMashumi Amabili Nanhlanu seMithethonkambiso yeZithuthi zoMoya ka 1997, kanti iyoqala ukusebenza ngosuku oluyazisiwa kuPhephabhuku likaHulumeni.**

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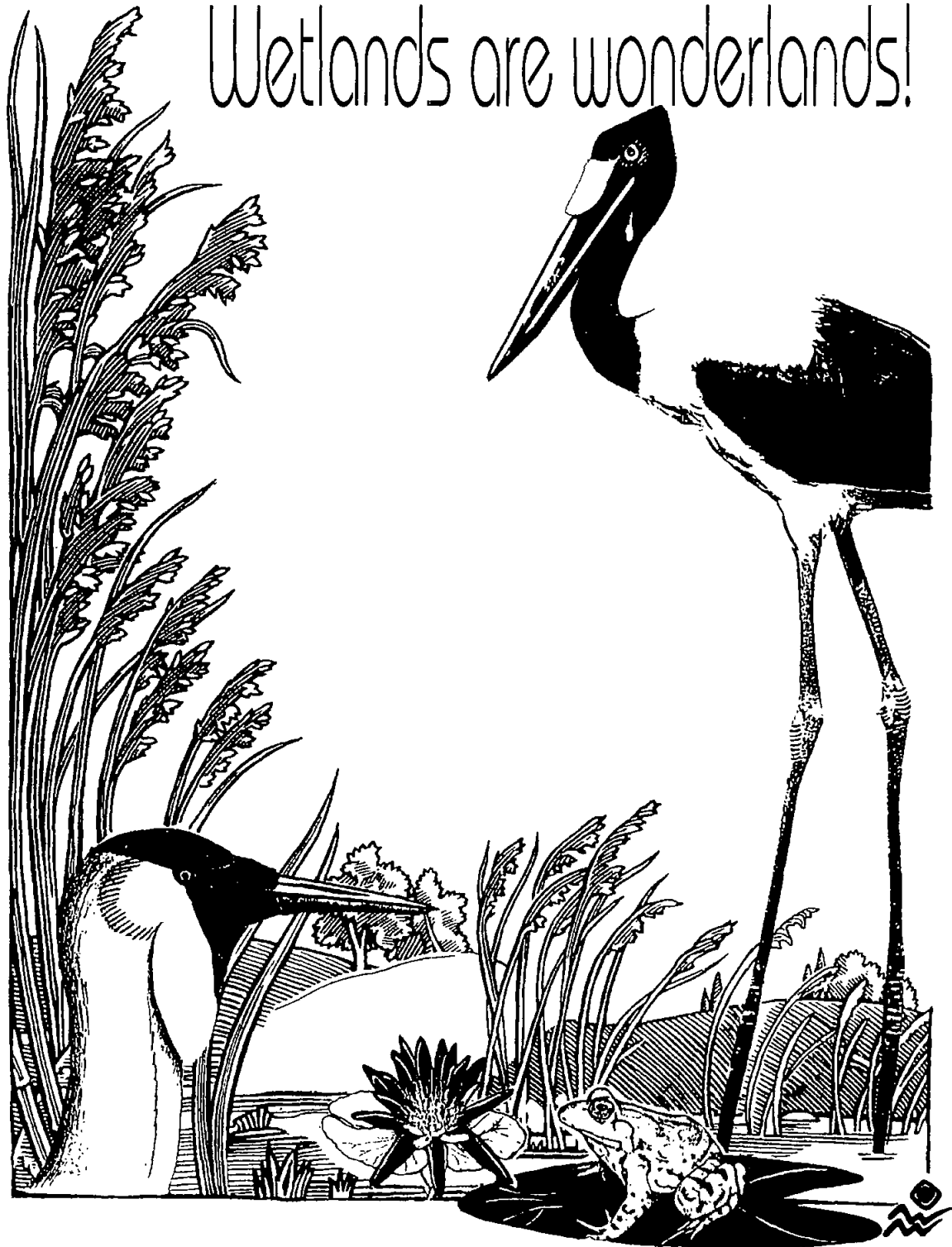
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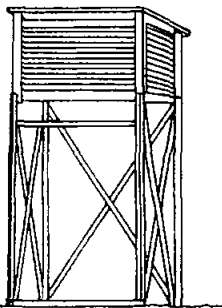
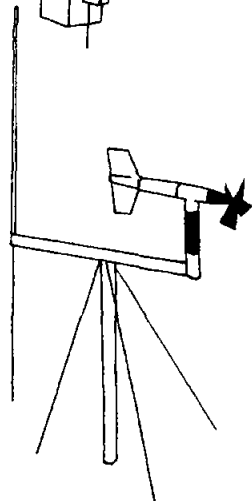
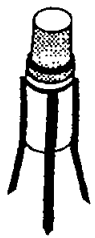
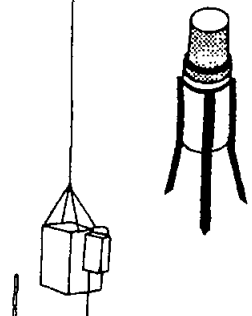
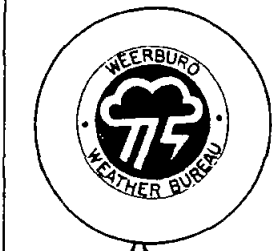


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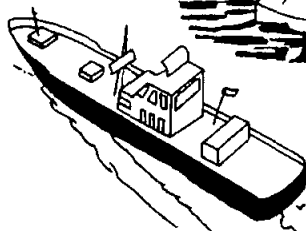
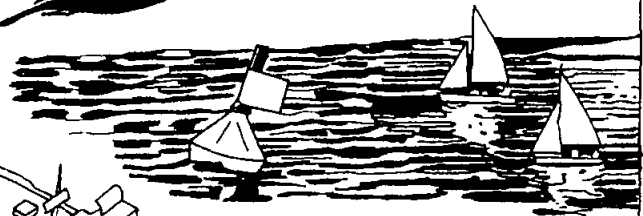
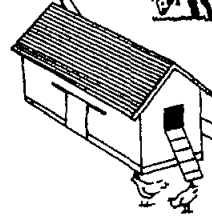
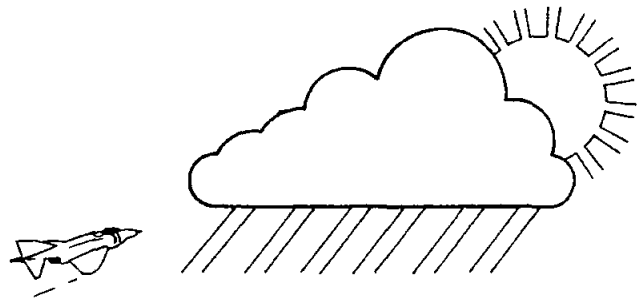


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