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THE PRESIDENCY

No. 5650 10 December 2024

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

Act No.30 of 2024: Railway Safety Act, 2024

BOSIDENG BJA

No. 5650 10 Desember 2024

Go tsebišwa mo gore Mopresidente o amogetše Molao wo o latelago, wo o phatlaladitšwego mo go tshedimošo ka kakaretšo:—

No. 30 ga ya go 2024: Molao wa Polokego ya Diporo tša Ditimela, 2024

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(English text signed by the President)
(Assented to 2 December 2024)

ACT

To provide for the regulation of railway safety in the Republic; to provide for the continued existence of the Railway Safety Regulator; to provide for the board and governance structures of the Railway Safety Regulator; to provide for railway safety permits; to provide for railway safety critical grades and safety management systems; to provide for a national railway safety information and monitoring system; to provide for a legal framework to enforce compliance with the Act and to deal with railway occurrences; to provide for an appeal mechanism; to provide for transitional arrangements and the repeal of the National Railway Safety Regulator Act, 2002; and to provide for matters connected therewith.

PREAMBLE

RECOGNISING that safe railway operations are fundamental to the safety of all persons and the environment;

CONSIDERING that safe railway operations promote the use of rail as an efficient mode of transportation;

ACKNOWLEDGING that railway operations must be effectively regulated;

FURTHER ACKNOWLEDGING the prime responsibility and accountability of railway operators in ensuring the safety of railway operations; and

NOTING that the effective provision of railway safety is a matter that, to be dealt with effectively, requires uniformity across the nation in respect of policy and norms and standards,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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4. Exemption from Act

(English text signed by the President)
(Assented to 2 December 2024)

MOLAO

Go abana ka dipeelano tša go laolwa ga polokego ya diporo tša ditimela ka go Repabliki; go abana ka dipeelano tša go tšwetšapele go ba gona ga Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; go abana ka dipeelano tša mešomo ya boto le makala a taolo a Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; go abana ka dipeelano tša go ntšhwa ga diphemiti tša polokego ya diporo tša ditimela; go abana ka mešomo ye bohlokwa ya go netefatša polokego le mananeotshepedišo a go laola phethagatšo ya dinepo tša tlhokomelo ya polokego ya diporo tša ditimela; go abana ka lenaneotshepedišo la bosetšhaba la go boloka tshedimošo le tekolo ya polokego ya diporo tša ditimela; go abana ka tlhako ya molao ye e tlo gapeletšago kobamelo ya Molao le go šogana le ditiragalo tše di diregago diporong tša ditimela; go abana ka mokgwa wa go dira boipiletšo; go abana ka dipeakanyo tša go fetogela go melao ye meswa le go fedišwa ga Molao wa Bosetšhaba wa Tlhokomelo ya Polokego ya Diporo tša Ditimela, wa 2002; le go abana ka dipeelano go merero ye e amanago le wona.

KETAPELE

GO LEMOGWA gore tšhomišo ya diporo tša ditimela ye e bolokegilego ke motheo wo bohlokwa go polokego ya batho ka moka le go tikologo;

GO LEMOGWA gore tšhomišo ya diporo tša ditimela ka tsela ye e bolokegilego, go tšwetšapele tšhomišo ya diporo tše bjalo ka mokgwa wa go sepetša merwalo wo o šomago gabotse;

GO AMOGELWA gore tšhomišo ya diporo tša ditimela e swanetše go laolwa gabotse;

GO AMOGELWA GAPE maikarabelo a magolo le boikarabelo bja badiriši ba diporo tša ditimela ke go netefatša tšhomišo ye e bolokegilego ya diporo tša ditimela; le

KA GO LEMOGA gore kabo ya ditirelo tše di bolokegilego tša tšhomišo ya diporo tša ditimela ke taba yeo, e lego gore ge go nyakwa go šogana le yona gabotse, go nyakega gore go be le pholisi, melawana le dipeelano tše di swanago go ralala le naga,

KA GONA O DIRWA MOLAO KE Palamente ya Repabliki ya Afrika Borwa, ka mo go latelago:—

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CHAPTER 1

INTERPRETATION, APPLICATION AND OBJECTS

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Definitions

1. In this Act, unless the context indicates otherwise—

“**aerial cable-operated transportation system**” means a cable transport system operated on a cableway;

“**board**” means the board of the Regulator contemplated in section 9;

15

“**board appeals committee**” means the committee contemplated in section 55(5);

“**CEO**” means the chief executive officer of the Regulator, appointed in terms of section 22;

“**dangerous goods**” means dangerous goods for transport by road and rail modes as identified and classified in South African National Standard (“SANS”) 10228, issued by the South African Bureau of Standards;

“**Department**” means the national Department of Transport;

“**human factors**” means factors that influence safety-related behaviour at work, which include the psychological and physical capabilities of persons and the individual interaction of persons with their job and working environments, the influence of equipment and system design on human performance and organisational characteristics;

25

“**Mine Health and Safety Act**” means the Mine Health and Safety Act, 1996 (Act No. 29 of 1996);

“**Mineral and Petroleum Resources Development Act**” means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

30

“**Minister**” means the Minister of Transport;

“**network**” means a system of railway infrastructure elements, including track, civil infrastructure, train control and signalling systems and electric traction infrastructure, which constitutes running lines and any part of a railway yard, marshalling yard, siding, freight terminal, depot or station on which those elements are situated;

35

“**new works**” means—

- (a) a new railway operation, including new train, network or station operations;
- (b) the introduction of new technology including rolling stock, train authorisation systems, traction power supplies or components thereof; or
- (c) an extension to an existing operation that has the potential to substantively increase the risk profile of the operator;

40

“**operator**” means a—

- (a) network operator, who is a person who is responsible and accountable for the operation, construction or maintenance of a railway, including—
 - (i) the safety of a network or part thereof, including the proper design, construction, operation, maintenance and integrity of a network;

45

66. Tsebišo ya malebana le ditefišo
 67. Melawana le tshepedišo ya malebana le ditsebišo tša kobamelo le dikotlo
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KGAOLO YA 1

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TLHATHOLLO, TŠHOMIŠO LE MAIKEMIŠETŠO**Ditlhalošo**

1. Ka go Molao wo, ntle le ge diteng di šupa se sengwe—

“**lenaneotshepedišo la dinamelwa tše di sepelago moyeng ka tšhomišo ya thapo**” e ra lenaneotshepedišo la dinamelwa tše di šomišago thapo go sepetšwa moyeng; 15

“**boto**” e ra boto ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela yeo e hlalošitšwego ka go karolo ya 9;

“**komiti ya boipilešo ya boto**” e ra komiti yeo e hlalošitšwego ka go karolo ya 55(5);

“**CEO**” e ra mohlankedipharephare wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, yo a thwetšwego go ya ka karolo ya 22; 20

“**dithoto tše kotsi**” e ra dithoto tše di lego kotsi gore di ka sepetšwa ka mekgwa ya tsela le ya seporo bjalo ka ge di hlathilwe le go beakanywa ka go sengwalwa sa Maemo a Bosetšhaba a Afrika Borwa (“SANS”) 10228, seo se ntšhitšwego ke Biro ya Maemo ya Afrika Borwa; 25

“**Kgoro**” e ra Kgoro ya Dinamelwa ya bosetšhaba;

“**mabaka ao a huetšago batho**” e ra mabaka a khuetšo ao a hlohleletšago boitshwaro bjo bo amanago le polokego mošomong, ao a akaretšago bokgoni bja monagano le bja mmele bja batho mmogo le bokgoni bja motho a le noši go dira mošomo tikologong ya gagwe ya go šoma, mmogo le khuetšo ya go hlangwa ga didirišwa le mananeotshepedišo a phethagatšo ya mešomo go batho le dimelo tša bona go kgona go beakanya; 30

“**Molao wa Maphelo le Polokego ya Meepo**” e ra Molao wa Maphelo le Polokego ya Meepo, wa 1996 (Molao wa No. ya 29 wa 1996);

“**Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo**” e ra Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo, wa 2002 (Molao wa No. ya 28 wa 2002); 35

“**Tona**” e ra Tona ya Dinamelwa;

“**neteweke**” e ra dikarolo tša mananeotshepedišo a mananeokgoparara a diporo, go akaretšwa diporo, mananeokgoparara a setšhaba, mananeotshepedišo a go laola le go aba maswao diporong le mananeokgoparara a go goga mohlagase, ao a akaretšago dithapo tše di fetago seporong mmogo le karolo efe goba efe ya jarata ya seporo, jarata ya go beakanya ditimela, seporo sa ka thoko sa go paka ditimela tše di sa šomego, lefelo la go rwa la merwalo, boemaseteišene goba seteišene seo didirišwa tše di lego go sona; 40

“**tšhomišo ye mpsha**” e ra— 45

(a) tšhomišo ye mpsha ya seporo, go akaretšwa setimela se seswa, neteweke goba mešomo ya seteišene;

(b) go tsebagatšwa ga theknolotši ye mpsha go akaretšwa dithoto tša go sepetšwa, mananeotshepedišo a tumelelo ya ditimela, kabo ya didirišwa tša go kgona go goga mohlagase goba dikarolo tša tšona; goba 50

(c) katološo ya tshepedišo ye e lego gona yeo e nago le bokgoni bja go oketša kudu profaele ya kotsi ya modiriši;

“**modiriši**” e ra—

(a) modiriši wa neteweke, yoo e lego motho yo a nago mošomo le maikarabelo a go šomiša, go aga goba go hlokomela seporo, go akaretšwa— 55

(i) polokego ya neteweke goba karolo ya yona, go akaretšwa tlhamo ya maleba, kago, tšhomišo, tlhokomelo le botshepegi bja neteweke;

- (ii) ensuring compliance of rolling stock with the applicable standards of a network; or
 - (iii) authorising and directing the safe and secure movement of rolling stock on a network;
- (b) train operator, who is a person who is responsible and accountable for the— 5
 - (i) safe movement of rolling stock on a network;
 - (ii) safety and integrity of rolling stock; and
 - (iii) safety of freight or persons being conveyed;
- (c) station operator, who is a person in control of a station, and the management of a station; 10
- (d) a combination of (a), (b) and (c); or
- (e) a person who, although not owning, financing or controlling the relevant network, train or station, as the case may be, is a concessionaire or a person who performs the functions contemplated in (a), (b) and (c) on behalf of the person who owns, finances or controls such network, train or station, in respect of the relevant assets, infrastructure or operations; 15
- “persons with disabilities”** means people who have long-term or recurring physical or mental impairments which substantially limit their ability to use railway transport unaided;
- “prescribed”** means prescribed by regulation; 20
- “Promotion of Access to Information Act”** means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- “Protection of Personal Information Act”** means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- “Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 25
- “railway”** means a guided system designed for the movement of rolling stock that has the capability of transporting passengers, freight or both on a track, and includes the land, network, plant, machinery, goods and other immovable or movable property of every description or kind used or set aside for use in connection with or for the purpose of a railway operation; 30
- “railway occurrence”** means a railway accident or incident prescribed by the Minister as a railway occurrence in terms of section 48(1);
- “railway operation”** means the activities performed by a network operator, train operator, station operator, construction train operator, train testing and commissioning operator or any other type of railway operation designated by the Minister by notice in the *Gazette* or any part or combination of them; 35
- “railway safety inspector”** means a person appointed as a railway safety inspector in terms of section 41(1);
- “railway safety standards”** means standards prescribed under section 36(1); 40
- “Regulator”** means the Railway Safety Regulator contemplated in section 5;
- “rolling stock”** means a vehicle that is able to operate on a railway track, irrespective of its capability of independent motion;
- “SADC”** means the Southern African Development Community established by the Treaty of the Southern African Development Community of 1992; 45
- “safe railway operation”** means a railway operation in which the risks associated with the railway operation, which may impact on the safety of persons and property transported by rail and the safety of other persons, other property and the environment, are as low as may be reasonable in a given set of circumstances, but does not include security; 50
- “safety critical grade”** means a work position responsible for the authorisation and control of the movement of rolling stock prescribed by the Minister in terms of section 68;

- (ii) go netefatša gore dikarikana tše di sepelago seporong di obamela maemo ao a šomišwago a neteweke; goba
- (iii) go dumelela le go laela mosepelo wo o bolokegilego le wa tšhireletšego wa dikarikana tše di sepelago seporong go neteweke;
- (b) modiriši wa setimela, yoo e lego motho yo a nago le mošomo le maikarabelo a— 5
- (i) mosepelo wo o bolokegilego wa dikarikana tše di sepelago seporong go neteweke;
- (ii) polokego le botshepegi bja dikarikana tše di sepelago seporong; le
- (iii) polokego ya dithoto goba batho bao ba fetišetšwago; 10
- (c) modiriši wa seteišene, yoo e lego motho yo a laolago seteišene, le go hlokomela seteišene;
- (d) kopanyo ya (a), (b) le (c); goba
- (e) motho yo, le ge e le gore ga se mong, ga a thekge ka ditšhelete goba ga a laola neteweke ye e amegago, setimela goba seteišene, go ya le ka mokgwa wo go tlabago go le ka gona, e lego motho yo a nago tokelo ya go rekiša thoto ya yo mongwe goba motho yo a dirago mešomo yeo e hlalošitšwego ka go (a), (b) le (c) legatong la motho yo a nago le, a thekgago ka ditšhelete goba a laolago neteweke yeo, setimela goba seteišene, malebana le dithoto, mananeokgoparara goba ditšhomišo tše di amaegago; 20
- “batho bao ba nago bogolofadi”** e ra batho bao ba nago le bogole bja mmele goba bja monagano bja nako ye telele goba bjo bo ipoeletšago bjo bo thibelago kudu bokgoni bja bona bja go šomiša dinamelwa tša go sepela seporong ntle le go thušwa;
- “e laetšwego”** e ra gore e laetšwego ke molawana;
- “Molao wa Tšwetšopele ya Pihhlelelo ya Tshedimošo”** e ra Molao wa Tšwetšopele ya Pihhlelelo ya Tshedimošo, wa 2000 (Molao wa No. ya 2 wa 2000); 25
- “Molao wa Tšhireletšo ya Tshedimošo ya Bomotheo”** e ra Molao wa Tšhireletšo ya Tshedimošo ya Bomotheo, wa 2013 (Molao wa No. ya 4 wa 2013);
- “Molao wa Taolo ya Ditšhelete tša Setšhaba”** e ra Molao wa Taolo ya Ditšhelete tša Setšhaba, wa 1999 (Molao wa No. ya 1 wa 1999); 30
- “seporo”** e ra lenaneotšhepedišo le le hlamilwego go sepetša dikarikana tše di nago bokgoni bja go sepetša banamedi, merwalo goba bobedi ka seporo, gomme se akaretša naga, neteweke, polante, metšhene, dithoto le dithoto tše dingwe tše di sa šuthego goba tše di šuthišwago tše di ka hlalošwago goba tša mohuta goba tše di beetšwego ka thoko go šomišwa malebana le goba ka nepo ya tšhomišo ya seporo; 35
- “tiragalo ya seporong”** e ra kotsi goba tiragalo ye e diragaletšego seporong yeo e hlathilwego ke Tona bjalo ka tiragalo ya seporong go ya ka karolo ya 48(1);
- “tšhomišo ya seporo”** e ra ditiro tše di dirwago ke modiriši wa neteweke, modiriši wa setimela, modiriši wa seteišene, modiriši wa kago ya setimela, modiriši wa go lekola le go lokolla ditimela go ka šomišwa goba mohuta ofe goba ofe wo mongwe wa tšhomišo ya seporo wo o hlathilwego ke Tona ka tsebišo ka go Kuranta ya Mmušo goba ka go karolo efe goba efe ya bobedi bja tšona; 40
- “molekodi wa polokego ya seporo”** e ra motho yo a thwetšwego bjalo ka molekodi wa polokego ya seporo go ya ka karolo ya 41(1);
- “maemo a polokego ya seporo”** e ra maemo ao a laetšwego ka fase ga karolo ya 36(1); 45
- “Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela”** e ra Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ye e hlalošitšwego ka go karolo ya 5;
- “dikarikana tše di sepelago seporong”** e ra senamelwa seo se kgonago go šomišwa seporong, go sa khathalege bokgoni bja go sona go sepela ka noši; 50
- “SADC”** e ra Tlhabollo ya Setšhaba sa Borwa bja Afrika yeo e hlamilwego ka Tumelelano ya Tlhabollo ya Setšhaba sa Borwa bja Afrika ya 1992;
- “tšhomišo ya seporo ye e bolokegilego”** e ra tšhomišo ya seporo yeo go yona dikotsi tše di amanago le tšhomišo ya seporo, tše di ka amago polokego ya batho le dithoto tše di sepetšwago ka seporo le polokego ya batho ba bangwe, dithoto tše dingwe le tikologo, di lego fase ka tsela ye e kwagalago kudu ge go šetšwa maemo ao a lego gona, eupša go sa akaretšwe tšhireletšo; 55
- “maemo a bohlokwa a go netefatša polokego”** e ra maemo a mošomo ao a nago maikarabelo a go dumelela le go laola go sepetšwa ga dikarikana tše di sepelago seporong wo o hlathilwego ke Tona go ya ka karolo ya 68; 60

“safety management system” means a formal framework contemplated in section 37, which integrates safety into day-to-day railway operations and includes consultation, safety goals and performance targets, safety risk assessments, responsibilities and authorities, rules and procedures, and monitoring and evaluation processes;

“safety management system report” means a written submission made by an applicant in support of a safety permit application that describes the applicant’s safety management system as contemplated in section 37; 5

“safety permit” means a permit contemplated in section 30;

“station” means a facility for passengers to enter or exit a train, including a railway passenger terminal and a passenger halt, and may include— 10

(a) passenger modal transfer and commercial activities forming part of the facility; and

(b) any other place that may be prescribed as a station or forming part of a station in terms of section 61(1)(a),

but excludes that part of the network running through the station; 15

“technologies” means created capabilities and capacities relating to systems, processes, equipment and procedures applicable to rolling stock, railway infrastructure elements and stations;

“this Act” includes any regulation or notice made or issued in terms thereof;

“training institution” means the training institution contemplated in section 35; 20

“Transport Appeal Tribunal” means the Transport Appeal Tribunal established by section 3 of the Transport Appeal Tribunal Act; and

“Transport Appeal Tribunal Act” means the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998).

Application of Act 25

2. (1) This Act applies to—

(a) railway or railway operations with a track gauge equal to or wider than 600 millimetres, subject to paragraph (b); and

(b) any railway or railway operation designed to transport passengers or freight by rail, declared by the Minister by notice in the *Gazette* to be a railway or railway operation for the purposes of this Act. 30

(2) This Act does not apply to—

(a) a railway or railway operation in a mine which is underground and to which the Mineral and Petroleum Resources Development Act or the Mine Health and Safety Act applies; 35

(b) a railway or railway operation at an amusement park;

(c) an aerial cable-operated transportation system;

(d) a ship to shore crane or a rail-mounted gantry crane, or the track or other infrastructure utilised by such a crane, the installation or operation of which has been approved by the authority contemplated in sections 3 and 4 of the National Ports Act, 2005 (Act No. 12 of 2005): Provided that such a crane, track or other infrastructure may not be linked to a system or a track that is used by rolling stock, in which case this Act applies; or 40

(e) any railway or railway operation exempted in accordance with section 4, to the extent of that exemption. 45

“Lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego” e ra tlhako ya semmušo yeo e hlalošitšwego ka go karolo ya 37, yeo e akaretšago polokego ka gare ga ditiro tša ditimela tša letšatši le letšatši ebile e akaretša ditherišano, dinepo tša polokego le tša phethagatšo ya mešomo, ditekolo tša polokego go dikotsi, maikarabelo le balaodi, melawana le ditshepedišo, mmogo le ditshepedišo tša go hlokomela le go sekaseka; 5

“pego ya lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego” e ra tlhagišo ye e ngwadilwego yeo e dirilwego ke mokgopedi go thekga kgopelo ya gagwe ya phemiti ya polokego, moo tlhagišo yeo e hlalošago lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego la mokgopedi bjalo ka ge go hlalošitšwe ka go karolo ya 37; 10

“phemiti ya polokego” e ra phemiti yeo e hlalošitšwego ka go karolo ya 30;

“seteišene” e ra lefelo la banamedi la go tsena goba go tšwa ka setimeleng, go akaretšwa lefelo la go emiša banamedi la seporo le lefelo la go ema la banamedi, ebile le ka akaretša— 15

(a) phetišetšo ya banamedi go ya go setimela se sengwe le ditiro tša kgwebo tšeo di bopago karolo ya moago; le

(b) lefelo lefe goba lefe le lengwe leo le ka hlathwago bjalo ka seteišene goba le bopa karolo ya seteišene go ya ka karolo ya 61(1)(a),

fela le sa akaretše karolo ya neteweke yeo e kitimago ka gare ga seteišene; 20

“ditheknolotši” e ra bokgoni bjo bo hlamilwego le bokgoni bjo bo amanago le mananeotshepedišo, ditshepetšo, didirišwa le ditshepedišo tšeo di šomišwago go dikarikana tše di sepelago ka seporo, mananeokgoparara a ditimela le diteišene;

“Molao wo” o akaretša molawana goba tsebišo efe goba efe yeo e dirilwego goba yeo e ntšhitšwego go ya ka wona; 25

“sehlongwa sa tlhahlo” e ra sehlongwa sa tlhahlo seo se hlalošitšwego ka go karolo ya 35;

“Lekgotla la Boipiletšo la Dinamelwa” e ra Lekgotla la Boipiletšo la Dinamelwa leo le hlamilwego ke karolo ya 3 ya Molao wa Lekgotla la Boipiletšo la Dinamelwa; le

“Molao wa Lekgotla la Boipiletšo la Dinamelwa” e ra Molao wa Lekgotla la Boipiletšo la Dinamelwa, wa 1998 (Molao wa No. ya 39 wa 1998). 30

Tšhomišo ya Molao

2. (1) Molao wo o šoma go—

(a) diporo goba tšhomišo ya diporo tšeo di lekanago goba di fetago sekgoba sa dimilimetara tše 600, go ya ka temana ya (b); le 35

(b) diporo goba tšhomišo ya diporo dife goba dife tšeo di hlametšwego go sepetša banamedi goba go rwala merwalo ka seporo, tšeo di tsebagaditšwego ke Tona ka tsebišo ka go Kuranta ya Mmušo gore e be diporo goba di s’omišwe bjalo ka diporo ka mabaka a Molao wo.

(2) Molao wo ga o šome go— 40

(a) diporo goba tšhomišo ya diporo tša moepo tšeo di lego ka fase ga mobu le tšeo di laolago ke Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo goba Molao wa Maphelo le Polokego ya Meepo;

(b) diporo goba tšhomišo ya diporo tšeo di lego ka gare ga diphaka tša boithabišo; 45

(c) lenaneotshepedišo la dinamelwa tše di šomišago thapo go sepetšwa moyeng;

(d) motšhene wa go kuka le go fološa merwalo wa sekepe goba wa lebopong goba motšhene wa go kuka le go fološa merwalo wo o kgokantšwego setimeleng, goba seporo goba mananeokgoparara a mangwe ao a šomišwago ke motšhene wo bjalo, woo go tsenywa goba go šomišwa ga wona go dumeletšwego ke bolaodi bjo bo hlalošitšwego ka go dikarolo tša 3 le 4 tša Molao wa Maemakepe a Bosetšhaba, wa 2005 (Molao wa No. ya 12 wa 2005): Ge fela e le gore motšhene wo bjalo, seporo goba mananeokgoparara a mangwe a ka se kgokaganywe le mananeotshepedišo goba seporo seo se s’omišwago ke dikarikana tše di sepelago seporong, tšeo e kego gore Molao wo o a šomišwa go tšona; goba 50

(e) diporo goba tšhomišo ya diporo dife goba dife tšeo di lokolotšwego gore di ka se šomišwe go ya ka karolo ya 4, go fihla bokgoleng bja tokollo yeo. 55

Objects of Act

3. The objects of this Act are to—
- (a) enable operators to undertake safe railway operations;
 - (b) facilitate a modern, flexible and efficient regulatory regime that ensures the continuing enhancement of safe railway operations; 5
 - (c) encourage the collaboration and participation of interested and affected parties in improving railway safety;
 - (d) promote the harmonisation of the railway safety regime of the Republic with the objectives and requirements for safe railway operations of the SADC;
 - (e) prevent the proliferation of laws, policies and approaches to the execution of such laws and policies from materially prejudicing the beneficiaries of railway safety; and 10
 - (f) assist in securing the well-being of the people of the Republic by providing effective, transparent, accountable and coherent governance in respect of railway safety for the Republic as a whole. 15

Exemption from Act

4. (1) A person may be exempted, upon application in terms of this section, from compliance with any provision of this Act other than this section.
- (2) A person may, in the prescribed manner and form, apply to the Minister for an exemption contemplated in subsection (1), which application must be accompanied by— 20
- (a) a motivation for the application;
 - (b) supporting documents as may be prescribed; and
 - (c) such other relevant documents as directed by the Minister.
- (3) The applicant must, in a manner and form as may be requested by the Minister, appoint an independent service provider for that applicant's account, to determine the impact of the proposed exemption. 25
- (4) The Minister must provide the Regulator with a copy of the application contemplated in subsection (2) in order for the Regulator to, within a reasonable time, make a recommendation to the Minister. 30
- (5) The Minister may, before considering the application contemplated in subsection (2), and after making a determination that the rights, duties or interests of the general public or persons are likely to be adversely affected by the exemption—
- (a) publish the application for public comment by notice in the *Gazette* and the Regulator's website, or by such other means as the Minister may determine; 35
 - and
 - (b) require the applicant to respond to the comments received.
- (6) The Minister must, after consideration of the Regulator's recommendation on the application, comments received from the public and other stakeholders and any other documents submitted to him or her, within a reasonable time, make a decision on the application, by taking into account whether— 40
- (a) the granting of the exemption is likely to impact negatively on the safety of the general public;
 - (b) the granting of the exemption is likely to benefit one section of or participant in the railway industry to the detriment of others; and 45
 - (c) granting the application for exemption would not defeat the purposes of the Act.
- (7) A decision by the Minister to approve the application for exemption must be in writing and published by notice in the *Gazette*, which notice must include—
- (a) reference to the provision of the Act, regulation, notice or standard from which exemption is granted; 50
 - (b) details of the person to whom the exemption applies;

Maikemišetšo a Molao**3. Maikemišetšo a Molao wo ke go—**

- (a) kgontšha badiriši go šomiša diporo tša ditimela ka polokego;
- (b) nolofatša tlhamo ya lenaneotshepedišo la taolo, la sebjalebja, leo le ka fetšwago ebile le le šomago gabotse leo le netefatšago kaonafatšo ye e 5
- (c) hlohleletša tirišano le go kgathatema ga batho bao ba nago le kgahlego le bao ba amegago go kaonafatšo ya polokego ya ditimela;
- (d) go tšwetšapele taolo ye e kopanego ya go bolokega ga diporo tša ditimela tša Repabliki mmogo le dinepo le dinyakwa tša tšhomišo ya diporo tša ditimela 10
- (e) thibela go ata ga melao, melawana le mekgwa ya phethagatšo ya melao le melawana ye bjalo gore e se feleletše e gatelela kudu baholegi ba ditimela tše di bolokegilego; le
- (f) thuša go kgonthiše boiketlo bja batho ba Repabliki ka go aba taolo ye e 15
- (g) šomago gabotse, ye e lego pepeneneng, ye e nago le maikarabelo le ye e kgokaganego malebana le polokego ya diporo tša ditimela ka go Repabliki ka kakaretšo.

Go lokollwa go kobamelo ya Molao

4. (1) Motho, ge a dira kgopelo go ya ka karolo ye, a ka lokollwa gore a se obamele 20
taelo efe goba efe ya Molao wo ntle le karolo ye.

(2) Motho, ka mokgwa le foromo ye e laetšwego, a ka dira kgopelo go Tona malebana le go lokollwa go ya ka tokollo yeo e hlalošitšwego ka go karolwana ya (1), moo kgopelo yeo e swanetšego go tlišwa le—

- (a) tlhohleletšo ya kgopelo; 25
- (b) dingwalwa tša thekgo bjalo ka ge di ka laelwa; le
- (c) dingwalwa tše dingwe tše di amegago bjalo ka ge di laetšwe ke Tona.

(3) Mokgopedi, ka mokgwa le foromo yeo e ka kgopelwago ke Tona, o swanetše go thwala moabi wa ditirelo yo a ikemego wa mokgopedi yoo, go laetša seabe sa go lokollwa ga gagwe ka mo go šišintšwego. 30

(4) Tona e swanetše go fa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela khopi ya kgopelo yeo e hlalošitšwego ka go karolwana ya (2) gore Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, mo nakong ye e kwagalago, e kgone go dira tšhišinyo go Tona.

(5) Tona, pele a lebelela kgopelo yeo e hlalošitšwego ka go karolwana ya (2), le ka 35
morago ga go hlatha gore ditokelo, mešomo goba dikgahlego tša setšhaba goba tša batho ka kakaretšo di na le kgonagalo ya go amega gampe ke tokollo yeo, a ka—

- (a) gatiša kgopelo yeo go hwetša ditshwayotshwayo tša setšhaba ka tsebišo ka go Kuranta ya Mmušo le weposaeteng ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, goba ka mekgwa ye mengwe yeo e ka 40
- (b) hlathwago ke Tona; le
- (c) nyaka gore mokgopedi a arabe ditshwayotshwayo tše di amogetšwego.

(6) Tona, ka morago ga go lebelela ditšhišinyo tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela tša malebana le kgopelo, ditshwayotshwayo tše di amogetšwego go tšwa go setšhaba le bakgathatema ba 45
bangwe le dingwalwa dife goba dife tše dingwe tše di rometšwego go yena, ka nako ye e kwagalago, o swanetše go tšea sephetho ka go ela hloko ge e ba—

- (a) go dumelelwa ga tokollo yeo go na le kgonagalo ya go ama gampe polokego ya setšhaba ka kakaretšo;
- (b) go dumelelwa ga tokollo yeo go na le kgonagalo ya gore go tlo hola karolo e 50
- (c) go dumelelwa ga kgopelo ya tokollo yeo go ka se šitiši merero ya Molao.

(7) Sephetho sa Tona sa go dumelela kgopelo ya tokollo se swanetše go ngwalwa le go gatišwa ka tsebišo ka go Kuranta ya Mmušo, moo tsebišo yeo e swanetšego go 55
akaretša—

- (a) tšhupetšo ya peelano ya Molao, molawana, tsebišo goba maemo ao tokollo e dumelelwago ka wona;
- (b) dintlha tša motho yo a lokollotšwego;

- (c) the date from which and the date up to when the exemption applies;
- (d) conditions that apply to the exemption, if any;
- (e) the reasons for granting the exemption;
- (f) a declaration that the granting of an exemption does not create any special rights or legitimate interests which may apply to the category of persons so exempted; and 5
- (g) a declaration that any exemption granted may be amended or withdrawn, subject to the provisions of this section.
- (8) The exemption granted in terms of this section may not— 10
 - (a) exceed three years;
 - (b) be applied retrospectively; or
 - (c) be extended upon expiry or withdrawal.
- (9) The Minister must, if he or she intends to amend, suspend or withdraw an exemption granted in terms of this section, in writing, inform the person to whom the exemption has been granted of that intention, together with all relevant information pertaining to this matter, and afford that person a reasonable opportunity to make submissions to the Minister, upon which the Minister may, after consideration of those submissions, on good grounds, amend, suspend or withdraw that exemption. 15
- (10) If the Minister amends, suspends or withdraws an exemption in terms of subsection (9), his or her decision must be published by notice in the *Gazette*, which notice must include— 20
 - (a) if the exemption is amended or suspended, details of the notice contemplated in subsection (7);
 - (b) if the exemption is amended, the nature and extent of the amendment;
 - (c) if the exemption is suspended, the period of such suspension, which may be conditional; 25
 - (d) if the exemption is withdrawn, a revocation of the notice contemplated in subsection (7);
 - (e) the date from which the exemption is amended, suspended or withdrawn, as the case may be, which may not be within a period less than two months of the date of publication of that notice; and 30
 - (f) the reasons for amending, suspending or withdrawing the exemption.
- (11) The Minister must cause any notice published in the *Gazette* in terms of subsection (7) or (10) to be tabled in Parliament— 35
 - (a) within 14 days after publication thereof, if Parliament is then in ordinary session; or
 - (b) within 14 days after the commencement of its next ordinary session, if Parliament is not then in ordinary session.

CHAPTER 2

RAILWAY SAFETY REGULATOR

40

Railway Safety Regulator

5. (1) The Railway Safety Regulator established by section 4 of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002), continues to exist as a juristic person under this Act, and continues to be known as such, despite the repeal of that Act by section 70 of this Act. 45
- (2) The Public Finance Management Act applies to the Regulator.
 - (3) The Regulator must operate and perform its functions in accordance with this Act.
 - (4) Despite the provisions of any other law, the Regulator may not be placed under judicial management or in liquidation, unless authorised by an Act of Parliament.

- (c) letšatšikgwedi leo go tloga ka lona goba go fihla ka lona tokollo e dumeletšwego;
- (d) mabaka ao a šomago go tokollo, ge a le gona;
- (e) mabaka a go dumelela tokollo;
- (f) pego ya gore go dumelelwa ga tokollo ga go hlole ditokelo dife goba dife tše di kgethegilego goba dikgahlego tše di lego molaong tše di ka šomišwago ke batho bao ba lokolotšwego; le 5
- (g) pego ya gore tokollo efe goba efe yeo e dumeletšwego e ka fetošwa goba ya gogelwa morago, go ya ka dipeelano tša karolo ye.
- (8) Tokollo yeo e dumeletšwego go ya ka karolo ye e ka se— 10
- (a) fete mengwaga ye meraro;
- (b) e šomišwe ka go lebelela morago; goba
- (c) e katološwe ge e fela goba e gogelwa morago.
- (9) Tona, ge a ikemišeditše go fetoša, go fega goba go gogela morago tokollo yeo a e dumeletšwego go ya ka karolo ye, ka go ngwala, o swanetše go tsebiša motho yo a filwego tokollo yeo ka maikemišetšo ao, mmogo le tshedimošo ka moka yeo e amanago le taba ye, mmogo le go fa motho yoo sebaka se se kwagalago sa go dira ditlhagišo go Tona, moo Tona a ka, ka morago ga go lebelela ditlhagišo tše, ka mabaka a mabotse, a fetoša, a fega goba a gogela morago tokollo yeo. 15
- (10) Ge Tona a fetola, a fega goba a gogela morago tokollo go ya ka karolwana ya (9), sephetho sa gagwe se swanetše go gatišwa ka tsebišo ka go Kuranta ya Mmušo, moo tsebišo ye e swanetšego go akaretša ge e ba— 20
- (a) tokollo e fetotšwe goba e fegilwe, dintlha tša tsebišo tše di ngwadilwego ka go karolwana ya (7);
- (b) tokollo e fetotšwe, mohuta le bogolo bja phetošo; 25
- (c) tokollo e fegilwe, sebaka sa go fegwa mo go bjalo, seo se ka bago le mabaka;
- (d) tokollo e gogetšwe morago, go phumolwa ga tsebišo yeo e ngwadilwego ka go karolwana ya (7);
- (e) letšatšikgwedi leo go tloga ka lona tokollo e fetošwago, e fegwago goba e gogetšwego morago, go ya le ka mokgwa wo go tlabago go le ka gona, leo le ka se bego ka fase ga dikgwedi tše pedi go tloga letšatšikgwedi la kgatišo ya tsebišo yeo; le 30
- (f) mabaka a go fetoša, go fega goba go gogela morago tokollo.
- (11) Tona o swanetše go dira gore tsebišo efe goba efe yeo e gatišitšwego ka go Kuranta ya Mmušo go ya ka karolwana ya (7) goba (10) e tlišwe pele ga Palamente— 35
- (a) mo matšatšing a 14 morago ga kgatišo ya yona, ge e ba Palamente ka nako yeo e tlabe e na le kopano ya setlwaedi; goba
- (b) mo matšatšing a 14 ka morago ga go thoma ga kopano ya yona ye e latelago ya setlwaedi, ge e ba Palamente ka nako yeo ga e se ya tsenela kopano ya yona ya setlwaedi. 40

KGAOLO YA 2

KHAMPHANI YA MMUŠO YA TLHOKOMELO YA POLOKEGO YA DIPORO TŠA DITIMELA

Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

5. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ye e hlamilwego ke karolo ya 4 ya Molao wa Bosetšhaba wa Tlhokomelo ya Polokego ya Diporo tša Ditimela, wa 2002 (Molao wa No. ya 16 wa 2002), e tšwela pele go ba gona bjalo ka sehlolongwa sa molao ka fase ga Molao wo, ebile e tšwela pele go tsebja bjalo ka sona, go sa kgathelege gore Molao woo o fedišitšwe ke karolo ya 70 ya Molao wo. 45
- (2) Molao wa Taolo ya Ditšhelete tša Setšhaba o a šoma go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela. 50
- (3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go šoma le go phethagatša mešomo ya yona go ya ka Molao wo.
- (4) Le ge go na le dipeelano tša molao ofe goba ofe wo mongwe, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka se bewa ka fase ga taolo ya boahlodi goba ya fedišwa, ntle le ge seo se dumeletšwe ke Molao wa Palamente. 55

Objects of Regulator

6. The objects of the Regulator are to—
- (a) promote, regulate and report on safe railway and railway operations through the appropriate and timely application of support, monitoring and enforcement instruments provided for in this Act; 5
 - (b) co-operate, collaborate and consult with relevant organs of state, operators, consumers of railway services and other stakeholders to achieve the best implementation of a safe railway and railway operations regulatory framework; 10
 - (c) co-operate and collaborate with international counterparts, particularly within the SADC; and
 - (d) monitor the impact of developments in railway and railway operations in the Republic on the safety of railway and railway operations.

Functions and powers of Regulator

7. (1) The Regulator must, for purposes of achieving its objects as contemplated in section 6— 15
- (a) perform its functions in a fair, equitable, transparent, efficient and cost-effective manner;
 - (b) timeously report to the Minister and Parliament, in terms of section 29, on its activities in terms of this Act and, if necessary, provide them with information and advice to ensure the most appropriate and safe railway and railway operations regulatory framework in the Republic; 20
 - (c) support, promote and comply with national rail policies and the provisions of this Act;
 - (d) monitor, promote and enforce compliance with this Act in order to ensure safety in railway and railway operations, including the safe transportation of dangerous goods by rail, by— 25
 - (i) developing guidelines for safe railway and railway operations;
 - (ii) granting, amending, suspending or revoking safety permits as contemplated in Chapter 3; 30
 - (iii) granting safety critical grade licences as contemplated in section 34(2);
 - (iv) evaluating and registering appropriate training institutions, as contemplated in section 35, in order to monitor the licensing of persons employed in safety critical grades; 35
 - (v) providing and maintaining a national railway safety information and monitoring system as contemplated in section 39;
 - (vi) conducting inspections and investigations as contemplated in Chapters 6 and 7, respectively; and
 - (vii) rendering prescribed services in respect of new works, operations and technologies, as contemplated in section 62(1)(h) and (j); 40
 - (e) advise the Minister on actions or conditions within the railway environment which—
 - (i) pose or potentially pose a threat of harm or damage to persons, property or the environment; 45
 - (ii) the Minister refers to the Regulator; or
 - (iii) the Regulator considers necessary in the furtherance of its objects;

Maikemišetšo a Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

6. Maikemišetšo a Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ke go—

- (a) tšwetša pele, go laola le go bega ka ga ditiro tše di bolokegilego tša diporo tša ditimela le tšhomišo ya diporo tša ditimela ka go šomiša didirišwa tša maleba tša thekgo, tlhokomelo le phethagatšo tseo di lego gona ka gare ga Molao wo; 5
- (b) tirišano, tšhomišano le go rerišana le makala a mmušo, badiriši, bareki ba ditirelo tša ditimela le bakgathatema ba bangwe go fihlelela phethagatšo ye kaone ya tlhako ya taolo le tlhokomelo ya diporo le tšhomišo ya diporo tša ditimela ye e bolokegilego; 10
- (c) dirišana le go šomišana le bašomišani ba boditšhabatšhaba, kudu ka gare ga SADC; le
- (d) go hlokomela seabe sa go hlabollwa ga diporo le tšhomišo ya diporo tša ditimela ka go Repabliki go polokego ya diporo le tšhomišo ya diporo tša ditimela. 15

Mešomo le maatla a Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

7. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka nepo ya go fihlelela maikemišetšo a yona bjalo ka ge go hlalošitšwe ka go karolo ya 6, e swanetše go— 20

- (a) phethagatša mešomo ya yona ka mokgwa wa go loka, wa tekatekano, wo o lego pepeneneng, wo o šomago gabotse le ka theko ya fase;
- (b) bega ka nako go Tona le Palamente, go ya ka karolo ya 29, ka ga ditiro tša yona go ya ka Molao wo ebile, ge go nyakega, go ba fa tshedimošo le keletšo go netefatša gore go ba le tlhako ya taolo le tlhokomelo ya diporo le tšhomišo ya diporo tša ditimela ya meleba le ye e bolokegilego kudu ka go Repabliki; 25
- (c) thekga, go tšwetša pele le go obamela melawana ya bosetšhaba ya ditimela le dipeelano tša Molao wo;
- (d) hlokomela, go tšwetša pele le go gapeletša kobamelo ya Molao wo ka nepo ya go netefatša polokego go diporo le tšhomišo ya diporo tša ditimela, go akaretšwa le polokego malebana go sepetšwa ga dithoto tše kotsi ka seporo, ka— 30
 - (i) go hlama ditlhahlo malebana le diporo le tšhomišo ya diporo tša ditimela ye e bolokegilego; 35
 - (ii) go dumelela, go fetola, go fega goba go fediša diphemiti tša polokego bjalo ka ge go hlalošitšwe ka go Kgaolo ya 3;
 - (iii) go fana ka dilaesense tša mešomo ye bohlokwa ga go netefatša polokego bjalo ka ge go hlalošitšwe ka go karolo ya 34(2);
 - (iv) go sekaseka le go ngwadiša dihlolongwa tša tlhahlo tša maleba, bjalo ka ge go hlalošitšwe ka go karolo ya 35, ka nepo ya go hlokomela dilaesense tša batho bao ba thwetšwego mešomong ye bohlokwa ya go netefatša polokego; 40
 - (v) go aba le go hlokomela lenaneotshepedišo la bosetšhaba la go boloka tshedimošo le tekolo ya polokego ya diporo tša ditimela bjalo ka ge go hlalošitšwe ka go karolo ya 39; 45
 - (vi) go dira ditekolo le dinyakišišo bjalo ka ge go hlalošitšwe ka go Dikgaolo tša 6 le 7, ka go fapana ga tšona; le
 - (vii) go aba ditirelo tše di laetšwego malebana le mešomo ye mefša, ditšhomišo le theknološi, bjalo ka ge go hlalošitšwe ka go karolo ya 62(1)(h) le (j); 50
- (e) eletša Tona ka ga ditiro goba maemo ka gare ga tikologo ya diporo tša ditimela ao a—
 - (i) beago goba ao a ka tšhošetšago kotsi goba tshenyo go batho, thoto goba tikologo; 55
 - (ii) Tona e šupa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; goba
 - (iii) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e bonago go nyakega go tšwetša pele maikemišetšo a yona; 60

- (f) conduct research and report on future developments which may affect railway safety;
 - (g) provide education and training and conduct public awareness activities relating to safe railway and railway operations;
 - (h) co-operate with its counterparts in the SADC to promote the harmonisation of the safe railway or railway operations regulatory framework of the Republic with the objectives and requirements of the SADC; and 5
 - (i) perform any other function that this Act requires it to perform.
- (2) In addition to subsection (1), for purposes of achieving its objects as contemplated in section 6, the Regulator may— 10
- (a) collaborate with any railway industry association in respect of any function that the Regulator is authorised to perform;
 - (b) conclude a co-operation agreement or arrangement with a relevant organ of state to give effect to the principles of co-operative government and inter-governmental relations contemplated in Chapter 3 of the Constitution of the Republic of South Africa, 1996; 15
 - (c) collaborate with relevant bodies or institutions, or establish and control facilities, for the collection and dissemination of scientific and technical information, in connection with safe railway or railway operations;
 - (d) engage persons or organisations having expertise in matters relating to safe railway or railway operations to advise the Regulator on the railway safety standards contemplated in section 36(1) or the application of such railway safety standards; 20
 - (e) propose railway safety standards for purposes of section 36(2); and
 - (f) collaborate with relevant institutions on the evaluation and licensing of the relevant safety critical grade positions as contemplated in section 34(1)(b). 25

International co-operation

8. (1) The Regulator must, upon a request, in writing, by the Minister and subject to the applicable legal prescripts and any conditions that the Minister may impose, administer and implement an international agreement entered into by the Republic. 30
- (2) The Minister must, after submitting the request contemplated in subsection (1), immediately publish a copy thereof in the *Gazette*.
- (3) Unless the international agreement provides otherwise, the Regulator must report, within five months after the end of its financial year as contemplated in section 28, to the Minister on the performance of any of its functions under subsection (1). 35
- (4) The report referred to in subsection (3) must contain sufficient information to allow the Minister to assess the performance of the Regulator in respect of its administration and implementation of an international agreement in terms of subsection (1) and whether such performance conforms to the objectives set out in the relevant international agreement. 40
- (5) The Regulator must, in its annual report contemplated in section 29(1), provide details of the administration and implementation of the international agreement contemplated in subsection (1).

- (f) dira dinyakišišo le go bega ka ga ditlhabollo tša ka moso tšeo di ka amago polokego ya diporo tša ditimela;
- (g) abana ka thuto le tlhahlo mmogo le go dira masolo a temošo ya setšhaba ao a amanago le diporo le tšhomišo ya diporo tša ditimela ye e bolokegilego;
- (h) dirišana le bašomišani ba yona ka go SADC go tšwetša pele go kopanywa ga tlhako ya taolo ya diporo le tšhomišo ya diporo tša ditimela ye e bolokegilego ya Repabliki le maikemišetšo le dinyakwa tša SADC; le 5
- (i) phethagatša mošomo ofe goba ofe wo mongwe wo Molao wo o nyakago gore o e dire.
- (2) Go tlaleletša go karolwana ya (1), ka nepo ya go fihlelela maikemišetšo a yona bjalo ka ge go hlalošitšwe ka go karolo ya 6, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka— 10
- (a) dirišana le mekgatlo ofe goba ofe wa intasteri ya ditimela malebana le mošomo ofe goba ofe wo Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e dumeletšwego go o dira; 15
- (b) dira tumelanelano ya tirišano goba peakanyo le lekala la mmušo leo le amegago go phethagatša metheo ya mmušo wa tirišano le dikamano tša magareng ga mebušo tšeo di hlalošitšwego ka go Kgaolo ya 3 ya Molaotheo wa Repabliki ya Afrika Borwa, wa 1996;
- (c) dirišana le mekgatlo goba dihlolongwa tše di amegago, goba go hloma le go laola dikago, malebana le kgoboketšo le phatlalatšo ya tshedimošo ya mahlale le ya sethekniki, ye e amanago le diporo le tšhomišo ya diporo tša ditimela ye e bolokegilego; 20
- (d) rerišana le batho goba mekgatlo yeo e nago le bokgoni mererong yeo e amanago le diporo le tšhomišo ya diporo ye e bolokegilego go eletša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka ga maemo a polokego ya diporo tša ditimela ao a hlalošitšwego ka go karolo ya 36(1) goba go šomišwa ga maemo a bjalo a polokego ya diporo tša ditimela; 25
- (e) šišinya maemo a polokego ya diporo tša ditimela ka lebaka la merero ya karolo ya 36(2); le 30
- (f) dirišana le dihlolongwa tše di amegago ka go tekolo le go abja ga dilaesense tša maemo a bohlokwa a mešomo ya go netefatša polokego bjalo ka ge go hlalošitšwe ka go karolo ya 34(1)(b).

Tirišano ya boditšhabatšhaba

35

8. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka morago ga go kgopelwa, ka go ngwala, ke Tona le go ya ka ditaelo tša molao tše di amegago le mabaka afe goba afe ao Tona a ka a beago, e swanetše go obamela le go phethagatša tumelanelano ya boditšhabatšhaba yeo e dirilwego ke Repabliki.

(2) Tona, ka morago ga go romela kgopelo yeo e hlalošitšwego ka go karolwana ya (1), o swanetše go gatiša khophi ya yona ka pela ka go Kuranta ya Mmušo. 40

(3) Ntle le ge tumelanelano ya boditšhabatšhaba e laetša ka tsela ye nngwe, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše gore, mo dikgweding tše hlano ka morago ga go fela ga ngwaga wa yona wa ditšhelete bjalo ka ge go hlalošitšwe ka go karolo ya 28, e begele Tona ka ga phethagatšo ya mešomo efe goba efe ya yona ka fase ga karolwana ya (1). 45

(4) Pego yeo go bolelwago ka yona ka go karolwana ya (3) e swanetše go ba le tshedimošo ye e lekanego go dumelela Tona go lekola phethagatšo ya mešomo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela malebana le kobamelo le phethagatšo ya tumelanelano ya boditšhabatšhaba go ya ka karolwana ya (1) le ge e ba phethagatšo yeo ya mešomo e sepelelana le maikemišetšo ao a hlagošitšwego ka go tumelanelano ye e amegago ya boditšhabatšhaba. 50

(5) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e šwanetše gore, ka gare ga pego ya yona ya ngwaga yeo e hlalošitšwego ka go karolo ya 29(1), e fane ka dintlha tša kobamelo le phethagatšo ya tumelanelano ya boditšhabatšhaba yeo e hlalošitšwego ka go karolwana ya (1). 55

Board of Regulator

9. (1) The Regulator is governed and controlled by a board.
- (2) The board must oversee and exercise general control over the performance of the Regulator to ensure that the Regulator, as far as possible, achieves the objects referred to in section 6. 5
- (3) The board is accountable to the Minister and to Parliament for its own actions and performance, as well as those of the Regulator.
- (4) The board and individual board members must conduct themselves in accordance with the highest applicable standards of ethics and governance.
- (5) Individual board members— 10
- (a) may not—
- (i) represent or promote specific interests or stakeholders within the railway environment;
- (ii) act in a way that is inconsistent with the responsibilities assigned to the board; or 15
- (iii) use their position, privileges or confidential information obtained as a board member, for personal gain or to improperly benefit another person;
- (b) must, subject to this Act and other applicable law— 20
- (i) act independently and with unfettered discretion;
- (ii) exercise independent judgment; and
- (iii) take decisions in the best interests of the public.

Composition of board

10. (1) The board consists of not less than seven and not more than 13 members who collectively have extensive experience in, and demonstrate knowledge of and acumen in, one or more of the following: 25
- (a) The management of railways and railway operations;
- (b) safety in railway transportation, including the impact of human factors;
- (c) engineering within the rail environment;
- (d) corporate management; 30
- (e) commerce, finance, legal, labour and economic matters;
- (f) information and communication technology; and
- (g) the transportation of dangerous goods by rail.
- (2) The persons contemplated in subsection (1) include— 35
- (a) the CEO, by virtue of holding that office;
- (b) not more than nine persons representing civil society, including persons from the railway industry, organised labour or communities with experience and knowledge contemplated in subsection (1), but if appointed, such persons do not represent the group from which they were nominated;
- (c) one person from the Department, who in the opinion of the Minister is able to assist the board in achieving its objectives; 40
- (d) one person designated by the Minister of Employment and Labour; and
- (e) one person designated by the Minister of Police.
- (3) The board must be broadly representative with regard to race, gender and disability. 45
- (4) The majority of persons serving on the board must serve as non-executive board members.

Appointment of board members

11. (1) The Minister must, prior to the appointment of the board members contemplated in section 10(1), issue an invitation, by notice in the *Gazette* and at least two newspapers circulating nationally in the Republic, for the nomination of persons 50

Boto ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

9. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e laolwa ke boto.

(2) Boto e swanetše go hlokomela le go laola ka kakaretšo phethagatšo ya mešomo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go netefatša gore Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka mo go kgonegago, e fihlelela maikemišetšo ao a ngwadilwego ka go karolo ya 6. 5

(3) Boto e na le maikarabelo go Tona le go Palamente malebana le ditiro le phethagatšo ya yona ya mešomo mmogo le ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela. 10

(4) Boto le maloko a boto ka o tee ka o tee ba swanetše go itshwara go ya ka maemo a godimodimo ao a šomišwaago a maitshwaro le taolo.

(5) Maloko a boto ka o tee ka o tee—

(a) ga se a swanela go— 15

(i) emela goba go tšwetša pele dikgahlego tše di itšego goba ya ba bakgathatema ka gare ga tikologo ya ditimela;

(ii) dira ka tsela yeo e sa sepelelanego le maikarabelo ao a abetšwego boto; goba

(iii) s'omiša maemo a bona, ditokelo goba tshedimošo ya sephiri yeo e hweditšwego bjalo ka ge e le maloko a boto, go ikhola ka noši goba go hola motho yo mongwe ka tsela yeo e sego ya maleba; 20

(b) a swanetše, go ya ka Molao wo le molao wo mongwe wo o šomago—

(i) dira ka go ikemela le ka temogo ye e sa thibelwego;

(ii) diriša kahlolo ye e ikemego; le 25

(iii) tšea diphetho tšeo di holago setšhaba.

Popego ya maloko a boto

10. (1) Boto e bopa ke maloko ao a sego ka fase ga a šupa ebile ao a sa fetego a 13 ao ka kakaretšo a nago le maitemogelo a magolo go, le go laetša tsebo ya le bokgoni ka, e tee goba tše ntši tša tše di latelago: 30

(a) Taolo ya diporo le tšhomišo ya diporo tša ditimela;

(b) polokego ka go dinamelwa tša ditimela, go akaretšwa khuetšo ya mabaka a batho;

(c) boentšeneare ka gare ga tikologo ya diporo tša ditimela;

(d) taolo ya dikhamphani; 35

(e) merero ya kgwebo, ya ditšhelete, ya molao, ya bašomi le ya ekonomi;

(f) theknolotši ya tshedimošo le kgokagano; le

(g) go sepetšwa ga dithoto tše kotsi ka seporo.

(2) Batho bao ba hlalošitšwego ka go karolwana ya (1) ba akaretša—

(a) CEO, ka lebaka la go swara ofisi yeo; 40

(b) batho ba go se fete ba senyane bao ba emelago setšhaba sa badudi, go akaretšwa batho go tšwa go intasteri ya ditimela, bašomi ba ba rulagantšwego goba ditšhaba tšeo di nago le maitemogelo le tsebo yeo e hlalošitšwego ka go karolwana ya (1), fela ge ba thwetšwe, batho bao ga ba emele sehlopha seo ba kgethilwego go sona; 45

(c) motho o tee go tšwa go Kgoro, yo go ya ka kgopolo ya Tona a kgonago go thuša boto go fihlelela maikemišetšo a yona;

(d) motho o tee yo a kgethilwego ke Tona ya Mešomo le Bašomi; le

(e) motho o tee yo a kgethilwego ke Tona ya Maphodisa.

(3) Boto e swanetše go ba le boemedi ka bophara malebana le morafe, bong le bogolofadi. 50

(4) Bontši bja batho bao ba šomago ka go boto ba swanetše go šoma bjalo ka bao e sego karolo ya khuduthamaga.

Go thwalwa ga maloko a boto

11. (1) Tona o swanetše gore, pele go thwalwa maloko a boto ao a hlalošitšwego ka go karolo ya 10(1), a ntšhe taletšo, ka tsebišo ka go Kuranta ya Mmušo le ka gare ga le ge e ka ba bonnyane bja dikuranta tše pedi tšeo di gatišwago nageng ka bophara ka go Repabliki, malebana le go kgethwa ga batho bao ba nago le maitemogelo a, goba bao ba 55

who have experience in, or demonstrate knowledge of and acumen in, the matters and areas contemplated in section 10(1), and who are not disqualified in terms of section 15.

(2) The Minister must select board members from the persons nominated in terms of subsection (1), based on merit, determined by an assessment of—

- (a) the objects, functions and the operations of the Regulator; 5
- (b) the competencies collectively required for serving on the board, including the relevant skills, expertise and experience relating to governing an organ of state, having regard to section 10(1); and
- (c) the qualifications, skills, expertise and experience of each individual prospective candidate. 10

(3) After considering the nominations received pursuant to subsection (1), and after following the assessment contemplated in subsection (2), the Minister must appoint persons as members of the board, subject to the provisions of this section and section 15.

(4) The Department must, within 30 days from the date of appointment of the board members, publish a notice on its website, containing the names of all the persons who have been nominated and appointed as such. 15

(5) The Minister must, within 30 days from the date of appointment of a board member, notify Parliament of such appointment.

Chairperson and deputy chairperson of board

12. (1) The Minister must designate a chairperson and a deputy chairperson from amongst the board members contemplated in section 10(1), who serve as non-executive members. 20

(2) The chairperson presides at meetings of the board.

(3) If, for any reason, the chairperson is not able to perform his or her duties, the deputy chairperson must perform the duties and exercise the powers of the chairperson. 25

(4) In the event that the position of chairperson or deputy chairperson becomes vacant for any reason, other than expiry of the term of office, the board must elect, from amongst themselves, a member to act in the relevant vacant position until—

- (a) the chairperson or deputy chairperson, as the case may be, is able to act in that position; or 30
- (b) a new chairperson or deputy chairperson, as the case may be, has been designated by the Minister.

(5) The chairperson or deputy chairperson of the board may vacate his or her office without terminating his or her membership of the board.

Term of office and conditions of service of board members 35

13. (1) The term of office of the board members is subject to the following:

- (a) Non-executive members serve for a period of three years, which is renewable for a total of two consecutive terms;
- (b) non-executive members that have completed two consecutive terms may be considered for appointment after a break of service of a period of three years; 40
- (c) subject to board evaluation, at least one-third of non-executive members must retire annually; and
- (d) executive members serve in accordance with the term specified by their respective employers.

(2) A board member, other than the CEO or a person who is in the full-time employment of an organ of state, is— 45

- (a) remunerated in accordance with a framework annually approved by the Minister, in consultation with the Minister of Finance; and
- (b) appointed on the terms and conditions of service determined by the Minister.

(3) The Minister and the board must annually conclude a performance agreement that must at least include— 50

- (a) a board evaluation;
- (b) board performance targets;

bontšhago tsebo le bokgoni ka go, merero le dikarolo tše di hlalošitšwego ka go karolo ya 10(1), ebile bao ba sa tlošwago go ya ka karolo ya 15.

(2) Tona o swanetše go kgetha maloko a boto go tšwa go batho bao ba kgethilwego go ya ka karolwana ya (1), go ya ka bokgoni, bjo bo hlatilwego ka tekolo ya—

- (a) maikemišetšo, mešomo le ditiro tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; 5
- (b) bokgoni bjo bo nyakegago ka kakaretšo malebana le go šoma ka gare ga boto, go akaretšwa mabokgoni ao a amegago, bokgoni le maitemogelo ao a amanago le go laola lekala la mmušo, go elwa hloko karolo ya 10(1); le
- (c) mangwalo a thuto, bokgoni, mabokgoni le maitemogelo a nkgetheng yo mongwe le yo mongwe yo a kgethwago. 10

(3) Ka morago ga go lebelela dikgetho tšeo di amogetšwego go ya ka karolwana ya (1), le ka morago ga go latela tekolo yeo e hlalošitšwego ka go karolwana ya (2), Tona e swanetše go thwala batho bao bjalo ka maloko a boto, go ya ka dipeelano tša karolo ye le karolo ya 15. 15

(4) Kgoro, mo matšatšing a 30 go tloga ka letšatšikgwedi la go thwalwa ga maloko a boto, e swanetše go phatlalatša tsebišo weposaeteng ya yona, yeo e nago le maina a batho ka moka bao ba kgethilwego le go thwalwa ga bona.

(5) Tona, mo matšatšing a 30 go tloga ka letšatšikgwedi la go thwalwa ga leloko la boto, o swanetše go tsebiša Palamente ka ga go thwalwa ga lona. 20

Modulasetulo le motlatšamodulasetulo wa boto

12. (1) Tona o swanetše go kgetha modulasetulo le motlatšamodulasetulo go tšwa gare ga maloko a boto ao a hlalošitšwego ka go karolo ya 10(1), ao a šomago bjalo ka maloko ao e sego karolo ya khuduthamaga.

(2) Modulasetulo o sepediša dikopano tša boto. 25

(3) Ge, ka lebaka lefe goba lefe, modulasetulo a sa kgone go phethagatša mešomo ya gagwe, motlatšamodulasetulo o swanetše go phethagatša mešomo le go šomiša maatla a modulasetulo.

(4) Ge go ka direga gore maemo a modulasetulo goba motlatšamodulasetulo a se be le motho ka lebaka lefe goba lefe, ntle le ge sebaka sa go swara ofisi se fedile, boto e swanetše go kgetha, gare ga yona, leloko leo le tlogo šoma maamong ao a amegago go fihlela— 30

- (a) modulasetulo goba motlatšamodulasetulo, go ya le ka mokgwa wo go tlabago go le ka gona, a kgona go šoma maamong ao; goba
- (b) modulasetulo goba motlatšamodulasetulo yo moswa, go ya le ka mokgwa wo go tlabago go le ka gona, a a kgethilwe ke Tona. 35

(5) Modulasetulo goba motlatšamodulasetulo wa boto a ka tlogela ofisi ya gagwe ntle le go fediša boleloko bja gagwe bja boto.

Sebaka sa go swara ofisi le mabaka le dipeelano tša mešomo ya maloko a boto

13. (1) Sebaka sa go swara ofisi ofisi sa maloko a boto se laolwa ke tše di latelago: 40

- (a) Maloko ao e sego karolo ya khuduthamaga a šoma lebaka la mengwaga ye meraro, yeo e ka mpshafatšwago ka palomoka ya dikotara tše pedi tše di latelanago;
- (b) maloko ao e sego karolo ya khuduthamaga ao a phethilego dikotara tše pedi ka go latelana a ka lebelelwa go thwalwa gape ka morago ga go khutša go tirelo yeo nako ya mengwaga ye meraro; 45
- (c) go ya ka tekolo ya boto, bonyane bja palo ya teetharo ya maloko ao e sego karolo ya khuduthamaga a swanetše go rola modiro ngwaga le ngwaga; le
- (d) maloko a khuduthamaga a šoma go ya ka nako yeo e laeditšwego ke bengmešomo ba bona ka go fapana. 50

(2) Leloko la boto, ntle le CEO goba motho yo e lego mošomi wa go ya go ile wa lekala la mmušo, o—

- (a) lefelwa go ya ka tlhako yeo e dumeletšwego ngwaga ka ngwaga ke Tona, ka therišano le Tona ya Ditšhelete; le
- (b) thwalwa ka melawana le dipeelano tša tirelo tšeo di beilwego ke Tona. 55

(3) Tona le boto ba swanetše go tsenela tumelelanano ya phethagatšo ya mešomo ya ngwaga ka ngwaga yeo bonnyane e swanetšego go akaretsa—

- (a) tekolo ya boto;
- (b) dinepo tše boto e tlo di phethagatšago;

- (c) the submission of board minutes by the chairperson or the deputy chairperson within seven days of the approval of such minutes; and
- (d) the submission by the board of progress reports on any matter required by the Minister.

Functions of board

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14. The functions of the board are to—

- (a) provide a governance framework for the Regulator;
- (b) ensure that the Regulator performs its duties efficiently and effectively;
- (c) ensure that the Regulator complies with this Act and any other applicable law;
- (d) ensure that the Regulator exercises its powers in accordance with the principles of transparency and accountability; 10
- (e) determine and enforce the broad policy framework within which the Regulator must pursue its objects and perform its functions;
- (f) determine and approve a safety management system in terms of section 37(1);
- (g) consider appeals as provided for in sections 54(6) and 55; 15
- (h) subject to this Act and any other applicable law, implement any instruction issued by the Minister in respect of railway safety;
- (i) advise the Minister and Parliament on the efficacy of this Act;
- (j) review and approve strategy, the budget, action plans and the organogram of the Regulator; and 20
- (k) perform any other power or duty conferred on the board by this Act or any other law which confers powers or duties on the board.

Disqualification from appointment as board member**15.** A person is disqualified from being appointed or remaining as a member of the board if—

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- (a) he or she is not a South African citizen;
- (b) he or she is an unrehabilitated insolvent;
- (c) he or she is of unsound mind;
- (d) in respect of a board member, other than the persons contemplated in section 10(2)(c) to (e), he or she is— 30
 - (i) employed in accordance with section 8 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
 - (ii) an employee of any other organ of state, other than a person contemplated in section 10(2)(c) to (e); or
 - (iii) a special adviser to a Minister or member of an executive council; 35
- (e) he or she is a member of— 40
 - (i) Parliament;
 - (ii) a provincial legislature;
 - (iii) a municipal council;
 - (iv) Cabinet; 40
 - (v) the Executive Council of a province; or
 - (vi) the National House of Traditional Leaders or a Provincial House of Traditional Leaders;
- (f) he or she failed to declare that his or her spouse, life partner, immediate family member, business partner or associate holds an office in, or is employed by, or 45

- (c) go romelwa ga metsotso ya kopano ya boto ke modulasetulo goba motlatšamodulasetulo mo matšatšing a šupago morago ga go dumelelwa ga metsotso yeo; le
- (d) gore boto e romele dipego tša tšwelopele ka ga morero ofe goba ofe wo o nyakago keTona. 5

Mešomo ya boto**14. Mešomo ya boto ke go—**

- (a) fana ka tlhako ya taolo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;
- (b) netefatša gore Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e phethagatša mešomo ya yona ka bokgoni le gabotse; 10
- (c) netefatša gore Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e obamela Molao wo le molao ofe goba ofe wo mongwe wo o s'omišwago;
- (d) netefatša gore Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e šomiša maatla a yona go ya ka metheo ya go ba pepeneneng le boikarabelo; 15
- (e) go laetša le go phethagatša tlhako ya pholisi ye e nabilego yeo ka gare ga yona Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetšego go dira le go phethagatša mešomo ya yona; 20
- (f) laola le go dumelela lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego go ya ka karolo ya 37(1);
- (g) lebelela boipilešo bjalo ka ge go laeditšwe ka go dikarolo tša 54(6) le 55;
- (h) go ya ka Molao wo le molao ofe goba ofe wo o šomišwago, phethagatša taelo efe goba efe yeo e ntšhitšwego ke Tona malebana le polokego ya ditimela; 25
- (i) eletša Tona le Palamente ka ga go šoma gabotse ga Molao wo;
- (j) sekaseka le go dumelela leano, tekanyetšo, maano a tiro le peakanyo ya bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; le
- (k) s'omiša maatla afe goba afe a mangwe goba mošomo wo o filwego boto ke Molao wo goba molao ofe goba ofe wo mongwe wo o fago maatla goba mešomo go boto. 30

Go thibela go thwalwa ga motho bjalo ka leloko la boto**15. Motho o thibelwa go thwala goba go dula bjalo ka leloko la boto ge e ba—**

- (a) ga se modudi wa Afrika Borwa; 35
- (b) ke motho yo a nago le dikoloto tše di sa fetšwago;
- (c) o na le monagano wo o sa itekanelago;
- (d) malebana le leloko la boto, ntle le batho bao ba hlalošitšwego ka go karolo ya 10(2)(c) go fihla go (e), o—
 - (i) thwetšwe go ya ka karolo ya 8 ya Molao wa Ditirelo tša Setšhaba, wa 1994 (Pego ya No. ya 103 ya 1994); 40
 - (ii) ke mošomi wa lekala lefe goba lefe le lengwe la mmušo, ntle le motho yo a hlalošitšwego ka go karolo ya 10(2)(c) go fihla go (e); goba
 - (iii) moeletši yo a kgethegilego go Tona goba leloko la lekgotla la khuduthamaga; 45
- (e) ke leloko la—
 - (i) Palamente;
 - (ii) lekgotlatheramelao la profense;
 - (iii) lekgotla la masepala; 50
 - (iv) Kabinete;
 - (v) Lekgotla la khuduthamaga ya profense; goba
 - (vi) Ngwako wa Bosetšhaba wa Baetapele ba Magoši goba Ngwako wa Profense wa Baetapele ba Magoši;
- (f) o paletšwe ke go tsebagatša gore molekane wa gagwe, mophedišanemmogo wa gagwe wa bophelo, leloko la lapa la kgauswi, modirišani wa kgwebo o swere ofisi kua, goba o thwetšwe ke, goba o na le kgahlego efe goba efe ye nngwe, e ka ba ya thwii goba ye e sego ya thwii, ka gare ga khamphani efe goba efe goba sehlongwa se sengwe seo se abago dithoto goba se abago 55

- has any other interest whatsoever, whether direct or indirect, in any company or other entity which supplies goods or renders services to the Regulator;
- (g) he or she is disqualified from acting as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);
 - (h) he or she has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty; 5
 - (i) he or she has been found guilty of any offence for which he or she was sentenced to direct imprisonment without the option of a fine, other than an offence committed prior to 27 April 1994 demonstrably associated with political objectives; 10
 - (j) his or her name is listed by the National Treasury on its Register for Tender Defaulters, established by section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or if he or she is, at the time of appointment as board member or during the period of such appointment, a director, member, trustee, partner, shareholder, holder of membership or other beneficial interest of a juristic person listed on that Register; 15
 - (k) he or she has been discharged from a position of trust;
 - (l) his or her membership of a board or other accounting authority of a public entity defined in section 1 of the Public Finance Management Act, has been prematurely terminated due to dishonesty; 20
 - (m) he or she serves on more than three boards of directors, whether private or public;
 - (n) he or she serves on the board of a state-owned company or public entity that is regulated by the Regulator; or 25
 - (o) he or she is in the employ of, is remunerated by, or receives any other benefit from, a safety permit holder.

Termination of board membership

16. (1) A board member may resign by giving one month's notice, in writing, to the Minister. 30

(2) The Minister may, after having afforded a board member a reasonable opportunity to make submissions in writing, terminate that member's membership of the board if that member has—

- (a) failed to declare a conflict of interest as contemplated in section 19;
- (b) disregarded or contravened any applicable code of ethics relating to governance, or any other relevant law; 35
- (c) repeatedly failed to perform his or her functions efficiently;
- (d) failed to attend three consecutive meetings of the board or a board committee, without the permission of the chairperson of the board or the chairperson of the relevant board committee; or 40
- (e) been disqualified in terms of section 15.

(3) The Minister must, when terminating the membership of a board member in terms of subsection (2), in writing, inform both the board and that member of the reasons for that termination.

(4) If a board member, at any time during his or her term of office, becomes disqualified to be a board member on any one of the grounds contemplated in section 15, that member— 45

- (a) must immediately, in writing, inform the Minister and the chairperson of the board of that disqualification, after which the Minister must, in writing, remove that member from the board; and 50
- (b) may not attend a board meeting or a board committee meeting from the time he or she has so become disqualified until he or she is removed by the Minister.

(5) The termination of membership of the board or resignation from the board does not in any way prevent or influence the institution or continuance of proceedings against the person whose membership of the board was terminated or who resigned from the board, as the case may be. 55

ditirelo go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;

- (g) o thibetšwe go šoma bjalo ka molaodi wa khamphani yeo e hlomilwego go ya ka Molao wa Dikhamphani, wa 2008 (Molao wa No. ya 71 wa 2008);
- (h) o hweditšwe a na le molato ka gare ga tshepedišo efe goba efe ya setšhaba goba ya bosenyi ke kgorotsheko ya molao, e ka ba ka Repabliking goba felotsoko, wa bofora, wa go se botege, maitswaro ao a sego a profeshenale, go hloka tlhompho goba go oba molato go mošomo wa botshepegi; 5
- (i) o bonwe molato go molato ofe goba ofe wo a ahlotšwego go golegwa thwii ntle le kgetho ya faene, ntle le molato wo o dirilwego pele ga di 27 Aporele 1994 wo o bontšhwago o amana le maikemišetšo a dipolotiki; 10
- (j) leina la gagwe le ngwadilwe ke Matlotlo a Bosetšhaba ka go Rejisetara ya Batho bao ba sa fihlelego Dikwano tša Dithendara tša wona, yeo e hlomilwego ke karolo ya 29 ya Molao wa Thibelo le Twantšho ya Ditiro tša Bomenetša, wa 2004 (Molao wa No. ya 12 wa 2004), goba ge e le gore, ka nako yeo ya go thwalwa bjalo ka leloko la boto goba nakong ya go thwalwa mo go bjalo, ke molaodi, leloko, mohlakomedi, molekane, mongdišere, moswari wa boleloko goba kgahlego ye nngwe ye e holago ya motho wa molao ye e ngwadilwego ka go Rejisetara yeo; 15
- (k) o lokolotšwe maamong a go botshepegi; 20
- (l) boleloko bja gagwe bja boto goba taolo ye nngwe ya tshepedišo ya setšhaba bjalo ka ge e hlalošitšwe ka go karolo ya 1 ya Molao wa Taolo ya Ditšhelete tša Setšhaba, bo fedišitšwe pele ga nako ka lebaka la go se tshepege; 20
- (m) o šoma ka gare ga diboto tša balaodi tša go feta tše tharo, e ka ba tša poraebete goba tša setšhaba; 25
- (n) o šoma ka go boto ya khamphani ya mmušo goba sehlongwa sa setšhaba seo se laolwago ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; goba
- (o) o thwetšwe, o lefša ke, goba o hwetša mohola ofe goba ofe wo mongwe go tšwa go, motho yo a nago phemiti ya polokego. 30

Go fedišwa ga boleloko bja boto

16. (1) Leloko la boto le ka rola modiro ka go fa tsebišo ya kgwedi e tee, ka go ngwala, go Tona.

(2) Tona, ka morago ga go fa leloko la boto sebaka se se kwagalago sa go dira ditlhagišo ka go ngwala, a ka fediša boleloko bja leloko leo la boto ge e le gore leloko leo le— 35

- (a) paletšwe ke go tsebagatša thulano ya dikgahlego bjalo ka ge go hlalošitšwe ka go karolo ya 19;
- (b) hlokomologile goba le roble molao ofe goba ofe wa maitshwaro wo o šomišwago wo o amanago le taolo, goba molao ofe goba ofe wo mongwe wo o amegago; 40
- (c) paletšwe ke go phethagatša mešomo ya lona ka bokgoni ka poeletšo;
- (d) paletšwe ke go tsenela dikopano tše tharo tše di latelanago tša boto goba komiti ya boto, ntle le tumelelo ya modulasetulo wa boto goba modulasetulo wa komiti ya boto ye e amegago; goba 45
- (e) thibetšwe gore le ka thwalwa go ya ka karolo ya 15.

(3) Tona, ge a fediša boleloko bja leloko la boto go ya ka karolwana ya (2), ka go ngwala, o swanetše go tsebiša bobedi boto le leloko leo mabaka a go fediša boleloko.

(4) Ge leloko la boto, nako efe goba efe nakong ya lona ya go šoma, la thibelwa gore e se sa ba leloko la boto ka lebaka lefe goba lefe la mabaka ao a hlalošitšwego ka go karolo ya 15, leloko leo le— 50

- (a) swanetše go tsebiša Tona le modulasetulo wa boto ka pela ka ga thibelo yeo, ka morago ga moo Tona, ka go ngwala, o swanetše go go tloša leloko leo ka boto; le
- (b) ka se tsenele kopano ya boto goba kopano ya komiti ya boto go tloga nakong yeo a thibetšwego go fihlela a tlošwa ke Tona. 55

(5) Go fedišwa ga boleloko bja boto goba go rola modiro go boto ga go thibele goba go huetša ka tsela efe goba efe sehlongwa goba tšwelopele ya ditshepedišo kgahlanong le motho yo boleloko bja gagwe bja boto bo fedišitšwego goba yo a rotšego modiro go boto, go ya le ka mokgwa wo go tlabago go le ka gona. 60

(6) The Minister must inform Parliament of the termination of the membership of a board member and the reasons for such termination—

- (a) within 30 days from the date of terminating membership of the board, if Parliament is then in ordinary session; or
- (b) within 14 days after the commencement of Parliament's next ordinary session, if Parliament is not then in ordinary session. 5

Meetings of board

17. (1) The board holds meetings at such times and places as the chairperson determines.

(2) The chairperson or any three board members may, at any time, call a special meeting of the board, to be held at the time and place determined by the chairperson if that special meeting is called by the chairperson, or within 14 days at the board's usual meeting place if the special meeting is called by three board members. 10

(3) All board members must be notified of every meeting of the board.

(4) A majority of the board members appointed at any time, forms a quorum of the board, but if, for any meeting, there is no quorum, the meeting is adjourned to a date not more than 14 days later, at which meeting the majority of the members present constitute a quorum. 15

(5) Subject to subsection (4), a decision of the majority of the board members present at a meeting of the board constitutes a decision of the board, but in the event of an equality of votes on any matter, the chairperson of the relevant meeting has a casting vote in addition to his or her deliberative vote. 20

(6) A decision taken by the board or an act performed under its authority, is not invalid merely by reason of—

- (a) a vacancy on the board; or 25
- (b) a person who was not entitled to sit as a board member at the time that the decision was taken,

as long as the decision was taken or the act was authorised by the required majority of board members present at the meeting who were entitled to sit as board members.

(7) No person, other than a board member or a person rendering secretarial services to the board, may be present during a board meeting, unless he or she was invited by the board to attend a specific part of the meeting and for a specific purpose. 30

(8) The board must develop and maintain a board profile to ensure that there is a thorough understanding of the environment in which the Regulator operates and the competencies required by the board as a whole, and to identify any gaps in those competencies. 35

(9) The board, subject to applicable law, determines its own procedures and rules.

Committees of board

18. (1) The board may—

- (a) establish such committees as it considers necessary to assist it in the performance of its functions; and 40
- (b) appoint as members of any such committee appropriate persons, subject to a governance framework determined by the board and approved by the Minister.

(2) A member of a board committee, other than a person who is in the full-time employment of the Regulator or any other organ of state, is appointed on the terms and conditions of service determined by the Minister, in consultation with the Minister of Finance. 45

Conflict of interest of board member or board committee member

19. (1) A prospective board member must, prior to his or her appointment, submit a declaration to the Minister, made under oath or by affirmation, to the effect that he or she is not disqualified from appointment as contemplated in section 15, and a member of the board must do so as often as the Minister may, in writing, require. 50

(6) Tona o swanetše go tsebiša Palamente ka go fedišwa ga boleloko bja leloko la boto le mabaka a go fedišwa mo go bjalo—

- (a) mo matšatšing a 30 go tloga letšatšikgwedi la go fediša boleloko bja boto, ge Palamente ka nako yeo e tsenetše kopano ya setlwaedi; goba
- (b) mo matšatšing a 14 ka morago ga go thoma ga kopano ye e latelago ya setlwaedi ya Palamente, ge e ba ka nako yeo Palamente ga e se ya tsenela kopano ya setlwaedi. 5

Dikopano tša boto

17. (1) Boto e swara dikopano ka dinako le mafelo ao a hlathago ke modulasetulo.

(2) Modulasetulo goba maloko afe goba afe a mararo a boto, nako efe goba efe, a ka bitša kopano ye e kgethegilego ya boto, yeo e tlogo swarwago ka nako le lefelo leo le hlathilwego ke modulasetulo ge e ba kopano yeo ye e kgethegilego e bitšwa ke modulasetulo, goba mo matšatšing a 14 go lefelo la kopano la ka mehla la boto ge e ba kopano ye e kgethegilego e bitšwa ke maloko a mararo a boto. 10

(3) Maloko ka moka a boto a swanetše go tsebišwa ka kopano ye nngwe le ye nngwe ya boto. 15

(4) Palo ye ntši ya maloko a boto ao a kgethilwego ka sebaka sefe goba sefe, e bopa khoramo ya boto, fela, ge e ba ka nako ya kopano efe goba efe, maloko a sa bope khoramo, kopano e šuthišetšwa morago go fihla letšatšikgwedi leo le sa fetego matšatši a 14 ka morago moo, leo e lego gore go lona bontši bja maloko ao a tlabago a le gona a bopa khoramo. 20

(5) Go ya ka karolwana ya (4), sephetho se se tšerwego ke bontši bja maloko a boto ao a lego gona kopanong ya boto se tšewa bjalo ka sephetho sa boto, fela ge go ka direga gore go be le tekatekano ya dikgetho tabeng efe goba efe, modulasetulo wa kopano ye e amegago o na le bouto ya go tlaleletša go bouto ya gagwe ya go rerišana. 25

(6) Sephetho se se tšerwego ke boto goba tiro yeo e dirilwego ka fase ga taelo ya yona, se ka se tšewe bjalo ka se se sa šomego fela ka lebaka la gore—

- (a) go na le sekgoba sa mošomo ka gare ga boto; goba
 - (b) go bile le motho yo a bego a se na maswanedi a go dula bjalo ka leloko la boto ka nako yeo sephetho se tšerwego, 30
- ge fela e le gore sephetho se tšerwe goba tiro e dumeletšwe ke bontši bjo bo nyakegago bja maloko a boto ao a bego a le gona kopanong ebile ao a bego a na le maswanedi a go dula bjalo ka maloko a boto.

(7) Ga go motho, ntle le leloko la boto goba motho yo a fago ditirelo tša bongwaledi go boto, yo a ka bago gona nakong ya kopano ya boto, ntle le ge a laleditšwe ke boto go tsenela karolo ye e itšego ya kopano le ka morero wo o itšego. 35

(8) Boto e swanetše go hlama le go hlokomela profaele ya boto go netefatša gore go na le kwešišo ye e tseneletšego ya tikologo yeo Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e šomago go yona le bokgoni bjo bo nyakegago ke boto ka kakaretšo, le go hlatha dikgoba dife goba dife ka gare ga bokgoni bjoo. 40

(9) Boto, go ya ka molao wo o šomišwago, e hlatha ditshepedišo le melao ya yona.

Dikomiti tša boto

18. (1) Boto e ka—

- (a) hloma dikomiti tšeo e bonago di nyakega go e thuša go phethagatša mešomo ya yona; le 45
- (b) kgetha batho ba maleba bjalo ka maloko a komiti efe goba efe ye bjalo, go ya ka tlhako ya taolo yeo e hlathilwego ke boto le go dumelelwa ke Tona.

(2) Leloko la komiti ya boto, ntle le motho yo a nago mošomo wa go ya go ile ka gare ga Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba lekala le lengwe le le lengwe la mmušo, le thwalwa go ya ka melawana le mabaka a tirelo ao a hlathilwego ke Tona, ka therisano le Tona ya Ditšhelete. 50

Thulano ya dikgahlego tša leloko la boto goba leloko la komiti ya boto

19. (1) Leloko leo e ka bago leloko la boto, pele a ga go thwalwa ga gagwe, o swanetše go romela pego go Tona, yeo e dirilwego ka fase ga keno goba tiišeletšo, ya gore ga se a thibelwa gore a ka thwalwa ka mo go hlalošitšwego ka go karolo ya 15, ebile leloko la boto le swanetše go dira bjalo gantši ka moo Tona a ka nyakago, ka go ngwala. 55

(2) A board member or a board committee member may not be present during, or take part in, the discussion of, or the taking of a decision on, any matter serving before the board or board committee, as the case may be, in which that member or his or her spouse, life partner, child, business partner or associate or employer other than the State, has a direct or indirect financial interest, and such a person may not have access to any record documenting the discussions in respect of that matter, other than information he or she is entitled to by law. 5

(3) A board member or a board committee member must immediately when he or she becomes aware of any conflict or a perceived conflict of interest, whether it affects that member personally or another member, in writing, inform the chairperson of the board or the chairperson of a board committee, as the case may be, of such conflict. 10

(4) The relevant chairperson to whom a conflict or a perceived conflict of interest has been reported, must immediately consider the relevant information and, if appropriate, excuse the member in respect of whom the conflict or perceived conflict of interest is raised against from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict is considered. 15

(5) The chairperson of the board or the chairperson of a board committee must, immediately, when he or she becomes aware of any conflict or perceived conflict of interest which affects him or her personally, in writing, inform the Minister and all the members of the board or the relevant board committee of such conflict, and unless the board or that board committee decides otherwise, the relevant chairperson must recuse himself or herself from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict or perceived conflict is considered. 20

(6) The chairperson of the board or the chairperson of a board committee may, of his or her own accord, or upon a request, in writing, by at least three members of the board or the relevant board committee, investigate compliance with this section by any member of the board or of a relevant board committee. 25

Delegation by board

20. (1) The board may, by resolution and in writing—

- (a) delegate any function, duty or power, subject to such conditions as it considers necessary, to a member of the board, a board committee, CEO or another senior employee of the Regulator; or 30
- (b) amend or revoke a delegation contemplated in paragraph (a).

(2) A delegation by the board under subsection (1) must be in writing and specify the period for which such function or duty is delegated, the purpose of the delegation and any conditions and restrictions that the board may impose. 35

(3) A delegation contemplated in subsection (1) does not—

- (a) prevent the board from exercising the function or power or performing the duty in question itself; and
- (b) absolve the board from responsibility or accountability for anything done in terms of or under the delegation. 40

Dissolution of board

21. (1) The Minister may dissolve the board if—

- (a) the board refuses or fails to perform its functions in accordance with this Act, any other applicable law or any performance agreement entered into by the Regulator and the Minister; 45
- (b) the Auditor-General has, for two successive years, in respect of the accounts, financial statements and financial management of the Regulator, qualified his

(2) Leloko la boto goba leloko la komiti ya boto ga se la swanela go ba gona nakong ya, goba go tšea karolo go, poledišano ya, goba ge go tšewa ga sephetho ka ga, taba efe goba efe yeo e tlišitšwego pele ga boto goba komiti ya boto, go ya le ka mokgwa wo go tlabago go le ka gona, moo e lego gore leloko leo goba molekane wa gagwe, mophedišanimmogo wa gagwe wa bophelo, ngwana, modirišani wa kgwebo goba mongmošomo ntle le Mmušo, o na le kgahlego ya ditšhelete ya thwii goba ye e sego ya thwii, gomme motho yo bjalo ga se a swanela go fihlelela rekoto efe goba efe yeo e ngwadilego dipolelišano malebana le taba yeo, ntle le tshedimošo yeo a nago le maswanedi a yona go ya ka molao.

(3) Leloko la boto goba leloko la komiti ya boto, le semeetseng ge le lemoga thulano efe goba efe ye e lego gona goba thulano yeo e ka bago gona ya dikgahlego, e ka ba e ama leloko leo ka noši goba leloko le lengwe, ka go ngwala, le swanetše go tsebiša modulasetulo wa boto goba modulasetulo wa komiti ya boto, go ya ka mokgwa wo go tlabago go le ka gona, ka ga thulano ye bjalo.

(4) Modulasetulo yo a amegago yo thulano goba thulano ye e ka bago gona ya dikgahlego e begilwego go yena, o swanetše go lebelela tshedimošo ye e amegago le semeetseng ebile, ge go le maleba, a lokolle leloko leo malebana le lona thulano goba thulano ye e ka bago gona ya dikgahlego e tlišitšwego kgahlanong le lona malebana le go tšea karolo le go bouta ka gare ga karolo efe goba efe ya kopano goba tshepedišo moo taba yeo e hlotšego thulano ye bjalo e lebelelwago.

(5) Modulasetulo wa boto goba modulasetulo wa komiti ya boto, le semeetseng, ge a thoma go lemoga thulano efe goba efe goba thulano ye e ka bago gona ya dikgahlego yeo e mo amago ka boyena, ka go ngwala, o swanetše a tsebiše Tona le maloko ka moka a boto goba komiti ya boto ye e amegago ka ga thulano yeo, ebile ntle le ge boto goba komiti yeo ya boto e ka tšea sephetho ka tsela ye nngwe, modulasetulo yo a amegago o swanetše go itokolla malebana le go tšea karolo le go bouta ka gare gare ga karolo efe goba efe ya kopano goba tshepedišo moo taba yeo e hlotšego thulano ye bjalo goba thulano yeo e ka bago gona e lebelelwa.

(6) Modulasetulo wa boto goba modulasetulo wa komiti ya boto, ka go rata ga gagwe, goba ka kgopelo, ka go ngwala, ke palo ya bonnyane bja maloko a mararo a boto goba komiti ya boto ye e amegago, a ka nyakišiša kobamelo ya karolo ye ke leloko lefe goba lefe la boto goba la komiti ya boto ye e amegago.

Go abelwa ga mešomo ke boto

20. (1) Boto, go ya ka sephetho sa yona le ka go ngwala, e ka—

- (a) abela mošomo ofe goba ofe, maikarabelo goba maatla, go ya le ka mabaka ao e bonago a nyakega, go leloko la boto, komiti ya boto, CEO goba mošomi yo mongwe yo mogolo wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; goba
- (b) fetola goba go fediša go abelwa ga mošomo ka mokgwa wo go hlalošitšwego ka go temana ya (a).

(2) Go abelwa ga mešomo ya boto ka fase ga karolwana ya (1) go swanetše go ngwalwa ebile go laetše nako yeo mošomo goba maikarabelo ao a abetšwego, morero wa go abja ga wona mmogo le maemo le dithibelo dife goba dife tšeo boto e ka di laelago.

(3) Go abja ga mošomo wo o hlalošitšwego ka go karolwana ya (1) ga go—

- (a) thibele boto go phethagatša mošomo goba maatla goba go phethagatša maikarabelo ao go bolelwago ka wona ka boyona; le
- (b) lokolle boto go tšwa go maikarabelo goba boikarabelo bja selo se sengwe le se sengwe seo se dirilwego ka dipeelano tša goba ka fase ga kabelo ya mošomo.

Go phatlalatšwa ga boto

21. (1) Tona a ka phatlalatša boto ge—

- (a) boto e gana goba e palelwa ke go phethagatša mešomo ya yona go ya ka Molao wo, molao ofe goba ofe wo mongwe wo o šomišwago goba tumelelano efe goba efe ya phethagatšo ya mešomo ye e tsenetšego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela le Tona;
- (b) Molekodipharephare, mengwaga ye mebedi ye e latelanago, malebana le diakhaonto, dipego tša ditšhelete le taolo ya ditšhelete ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, o bone mathata

- or her audit report, noted matters of emphasis or has declined to express an opinion;
- (c) the board refuses or fails to provide the Minister with any information relating to its stewardship of the Regulator or to the Regulator itself; or
 - (d) there are good grounds for the dissolution of the board as prescribed. 5
- (2) The Minister must, before considering whether to dissolve the board, give the board a reasonable opportunity to submit representations to him or her on any matters which may lead to dissolution, and may, after consideration of such representations, if any, as contemplated in subsection (1), upon good cause shown, dissolve the board, and he or she must after so dissolving the board— 10
- (a) immediately, in writing, inform the board members of the board's dissolution, and the reasons therefor; and
 - (b) publish a notice in the *Gazette*, stating the reasons for his or her decision to dissolve the board.
- (3) Upon dissolution of the board in terms of subsection (2), the Minister must— 15
- (a) immediately appoint an administrator to take over the functions of the board to do anything which the board might otherwise be empowered or required to do by or under this Act or any other applicable law, subject to such conditions as the Minister may determine; and
 - (b) commence the process contemplated in section 11. 20
- (4) An administrator contemplated in subsection (3)(a) may be appointed only for a period that may not exceed six months.
- (5) Any decision taken by the board prior to its dissolution in terms of subsection (1) does not invalidate or in any other way affect any such decision lawfully taken or an act performed under its authority. 25

Chief executive officer

22. (1)(a) The board must, after having followed an open and transparent application process and consideration of all applications received, submit the names of the two most suitable candidates to be appointed as CEO to the Minister.
- (b) The Minister must after consideration of the recommendation of the board, 30 appoint a CEO.
- (2) The Minister must, after consultation with the Minister of Finance, determine the terms and conditions of service of the CEO.
- (3) A person is disqualified from being appointed or remaining as CEO if he or she is disqualified in terms of section 15, or if he or she has served two terms of office as CEO. 35
- (4) The Minister may, at any time, after consultation with the board and following the due process of the law, discharge the CEO from office—
- (a) if the CEO repeatedly fails to efficiently perform his or her duties;
 - (b) if, due to any physical or mental illness or disability, the CEO becomes incapable of performing the functions of that office or performs them 40 inefficiently; or
 - (c) for misconduct.
- (5) The CEO holds office for a period specified in the letter of appointment and that period may not exceed five years.

Functions of CEO

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23. (1) The CEO accounts to the board.
- (2) The CEO must, in addition to any other function provided for in this Act—
- (a) ensure that the functions of the Regulator in terms of this Act are performed;
 - (b) report to the board on the proper functioning of the Regulator;

- ka go pego ya gagwe ya tekolo, o lemogile ditaba tšeo di gatelelago goba o ganne go tšweletša kgopolo;
- (c) boto e gana goba e palelwa ke go fa Tona tshedimošo efe goba efe yeo e amanago le tshepedišo ya yona ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka boyona; goba 5
- (d) go na le mabaka a mabotse a go phatlalatšwa ga boto bjalo ka ge go laeditšwe.
- (2) Tona, pele a gopola ka ge e ba boto e swanetše e phatlalatšwe, o swanetše go fa boto monyetla wo o kwagalago wa go tliša ditlhagišo go yena ka merero efe goba efe ye e ka hlalago phatlalatšo, ebile, ka morago ga go lekola ditlhagišo tšeo, ge e ba di gona, bjalo ka ge go hlalošitšwe ka go karolwana ya (1), ge go na le lebaka le lebotse leo le bontšhitšwego, a ka phatlalatša boto, gomme o swanetše ka morago ga go phatlalatša boto ka tsela yeo— 10
- (a) le semeetseng, ka go ngwala, a tsebiše maloko a boto ka ga go phatlalatšwa ga boto, le mabaka a gona; le 15
- (b) phatlalatša tsebišo ka go Kuranta ya Mmušo, yeo e ngwadilwego mabaka a sephetho sa gagwe sa go phatlalatša boto.
- (3) Ka morago ga go phatlalatšwa ga boto go ya ka karolwana ya (2), Tona o swanetše go—
- (a) go thwala molaodi le semeetseng go tšea mešomo ya boto, go dira se sengwe le se sengwe seo se bego ka tlwaelo se ka fiwago maatla a go dirwa ke boto goba seo se nyakegago go re se dirwe ke boto ka fase ga Molao wo goba molao ofe goba ofe wo o šomišwago, go ya ka mabaka ao Tona a ka a hlathago; le 20
- (b) thoma tshepedišo yeo e hlalošitšwego ka go karolo ya 11. 25
- (4) Molaodi yo a hlalošitšwego ka go karolwana ya (3)(a) a ka thwalwa fela lebaka leo le ka se fetego dikgwedi tše tshela.
- (5) Sephetho sefe goba sefe seo se tšerwego ke boto pele ga go phatlalatšwa ga yona go ya ka karolwana ya (1) ga se dire gore goba ka tsela efe goba efe ye nngwe sa ama sephetho sefe goba sefe seo se tšerwego ka molao goba tiro yeo e dirilwego ka fase ga taolo ya wona. 30

Mohlankedipharephare

22. (1)(a) Boto, ka morago ga go latela tshepedišo ya go dira dikgopelo ye e bulegilego ebile ye e lego pepeneneng le go lekola dikgopelo tše di amogetšwego ka moka, e swanetše go romela bahlaolwa bao ba lego ba maleba go feta gore ba ka thwalwa bjalo ka CEO go Tona. 35
- (b) Tona, ka morago ga go lebelela tšhišinyo ya boto, o swanetše go thwala CEO.
- (2) Tona, ka morago ga go rerišana le Tona ya Ditšhelete, o swanetše go hlatha melawana le dipeelano tša mošomo wa CEO.
- (3) Motho o thibelwa gore a ka thwalwa goba go dula bjalo ka CEO ge e ba o thibetšwe go ya ka karolo ya 15, goba ge a šetše a šomile dibaka tše pedi tša go swara ofisi bjalo ka CEO. 40
- (4) Tona, nako efe goba efe, morago ga go rerišana le boto le go latela tshepedišo ye e swanetšego ya molao, a ka lokolla CEO ofising—
- (a) ge CEO a palelwa leboelela go phethagatša mešomo ya gagwe ka bokgoni; 45
- (b) ge, ka lebaka la bolwetši bjo bongwe le bjo bongwe bja mmele goba bja monagano goba bogole, CEO a thoma go se sa kgona go phethagatša mešomo ya ofisi yeo goba a e phethagatša ka tsela yeo e sa šomego gabotse; goba
- (c) ge go bile le maitswaromabe.
- (5) Mohlankedipharephare o swara ofisi lebaka leo le hlathilwego ka gare ga lengwalo la go thwala gomme nako yeo ga se ya swanela go feta mengwaga ye mehlano. 50

Mešomo ya CEO

23. (1) CEO o ikarabela go boto.
- (2) CEO, ka tlaleletšo go mošomo ofe goba ofe wo mongwe wo a o filwego ka gare ga Molao wo, e swanetše go— 55
- (a) netefatša gore mešomo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go ya ka Molao wo e a phethagatšwa;
- (b) bega go boto ka ga go šoma gabotse ga Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;

- (c) report on the activities of the Regulator to the board; and
- (d) execute any lawful instruction issued to him or her by the board.
- (3) The board must submit the report referred to in subsection (2)(c) to the Minister within five months after the end of the financial year concerned.
- (4) The CEO must exercise all the powers and perform all the functions delegated or assigned to the CEO by the board. 5
- (5) If the CEO is for any reason unable to perform any of his or her functions, or if the CEO is discharged in terms of section 22(4), or resigns from office, the chairperson of the board must—
 - (a) immediately, as an interim measure, designate an employee of the Regulator to act as CEO until the CEO is able to resume those functions, or until the appointment of a new CEO; and 10
 - (b) immediately commence the process contemplated in section 22(1).
- (6) An acting CEO may exercise all the powers and must perform all the duties of the CEO, subject to any limitation the board or the Minister may, in writing, determine. 15
- (7) The CEO may delegate any of his or her functions, subject to any conditions imposed by the board, to any competent staff member of the Regulator, but such delegation does not—
 - (a) prevent the CEO from exercising the function or power or performing the duty in question himself or herself; or 20
 - (b) absolve the CEO from responsibility or accountability for anything done in terms of or under the delegation.
- (8) The CEO must ensure that all strategic documents or policies are prepared and submitted for approval to the board.

Staff of Regulator

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- 24. (1) The CEO may, subject to subsection (2) and general directions of the board, if any, appoint such staff of the Regulator as are necessary to perform the work arising from, or connected with, the Regulator's functions.
- (2) The board must—
 - (a) determine the terms and conditions of appointment of staff members of the Regulator; and 30
 - (b) approve an organogram of the Regulator.
- (3) The Minister must, with the concurrence of the Minister of Finance, approve any annual increases in the remuneration of staff members contemplated in subsection (1).
- (4) The board may, with the approval of the Minister in consultation with the Minister of Finance, establish, manage and administer any pension or provident fund or medical scheme for the benefit of the staff of the Regulator, and such a fund or scheme may be managed or administered by a person approved by the board. 35

Limitation of liability

- 25. The State, the board or any staff member of the Regulator is not liable for any damage or loss caused by the exercise or failure to exercise any power or the performance of any function, in good faith, in terms of this Act. 40

- (c) bega ditiragalo tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go boto; le
- (d) phethagatša taelo efe goba efe ya molao yeo a e filwego ke boto.
- (3) Boto e swanetše go romela pegu ye e go bolelwago ka yona ka go karolwana ya (2)(c) go Tona mo dikgweding tse hlano morago ga go fela ga ngwaga wa ditšhelete wo o amegago. 5
- (4) CEO e swanetše go šomiša maatla ka moka le go phethagatša mešomo ka moka yeo a e filwego goba yeo e abetšwego CEO ke boto.
- (5) Ge e ba CEO ka lebaka lefe goba lefe a sa kgone go phethagatša mešomo efe goba efe ya gagwe, goba ge CEO a lokolotšwe go ya ka karolo ya 22(4), goba a rola modiro, modulasetulo wa boto o swanetše go— 10
- (a) le semeetseng, bjalo ka legato la nakwana, kgetha mošomi wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go šoma bjalo ka CEO go fihlela CEO e kgona go thoma gape mešomo yeo, goba go fihlela go thwala CEO ye ntshwa; le 15
- (b) thoma le semeetseng tšhepedišo yeo e hlalošitšwego ka go karolo ya 22(1).
- (6) CEO ya nakwana ye e šomago legatong la ye nngwe e ka šomiša maatla ka moka ebile e swanetše go phethagatša mešomo ka moka ya CEO, go ya ka magomo afe goba afe ao boto goba Tona a ka o hlathago, ka go ngwala.
- (7) CEO a ka abela efe goba efe ya mešomo ya gagwe, go ya ka mabaka afe goba afe ao a hlathilwego ke boto, go leloko lefe goba lefe la bašomi leo le nago le bokgoni la Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, fela go abja ga mošomo woo ga go— 20
- (a) thibele CEO go phethagatša mošomo goba maatla goba go phethagatša maikarabelo a mošomo wo go bolelwago ka wona ka boyena; goba 25
- (b) lokolle CEO go maikarabelo goba boikarabelo bja selo se sengwe le se sengwe seo se dirilwego go ya ka goba ka fase ga ditiro tša mošomo wo o abilwego.
- (8) CEO e swanetše go netefatša gore dingwalwa ka moka tša maano goba dipholisi di lokišitšwe le go romelwa gore di amogelwe go boto. 30

Bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

24. (1) CEO, go ya ka karolwana ya (2) le ditaelo ka kakaretšo tša boto, ge e ba di gona, e ka thwala bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela bjalo ka ge go le bohlokwa go phethagatša mešomo ye e tšwelelago go, goba e amanago le, mešomo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela. 35
- (2) Boto e swanetše go—
- (a) hlatha melawana le dipeelano tša go thwalwa ga maloko a bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; le 40
- (b) dumelela peakanyo ya bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela.
- (3) Tona, ka tumelelo ya Tona ya Ditšhelete, o swanetše go dumelela dikoketšo dife goba dife tša ngwaga ka ngwaga tša meputso ya bašomi tšeo di hlalošitšwego ka go karolwana ya (1). 45
- (4) Boto, ka tumelelo ya Tona le ka therišano le Tona ya Ditšhelete, e ka hloma, ya laola le go sepetša sekhwama sa phenšene goba sekema sa kalafo go hola bašomi ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ebile sekhwama goba sekema seo se bjalo se ka laolwa goba sa sepetšwa ke motho yo a dumeletšwego ke boto. 50

Magomo a maikarabelo

25. Mmušo, boto goba mošomi ofe goba ofe wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ga a na maikarabelo go tshenyo goba tahlegelo efe goba efe yeo e hlotšwego ke go šomiša goba go palelwa ke go šomiša maatla afe goba afe goba phethagatšo ya mošomo ofe goba ofe, ka botshepegi, go ya ka Molao wo. 55

Documents

26. (1) Any document issued in good faith by the Regulator is valid, unless evidence to the contrary proves otherwise.

(2) The Regulator may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and the provisions of sections 32 and 33, rectify or withdraw any document issued incorrectly or without authority, but only if such rectification or withdrawal does not or is not likely to— 5

(a) unduly prejudice any person; or

(b) jeopardise the effective discharge of any of the Regulator's functions.

(3) Any notice, directive, report, application, other document or other record to be served or submitted in terms of or under this Act, must be served or submitted in accordance with the law applying to such service or submission. 10

Funds of Regulator

27. (1) The funds of the Regulator consist of—

(a) money appropriated by Parliament; 15

(b) fees paid to the Regulator as determined by the Minister in terms of section 66;

(c) subject to section 67(3), levies, penalties for the non-payment of levies and interest on the late payment of levies, paid to the Regulator in accordance with any legislation providing for the imposition of levies; and 20

(d) any other fees or sources of income provided for in this Act or in other legislation.

(2) The Regulator must utilise the funds contemplated in subsection (1) to defray expenses incurred by it in the performance of its functions.

(3) The CEO must— 25

(a) open an account in the name of the Regulator with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and

(b) deposit therein any money received in terms of subsection (1).

(4) The board may, with the approval of the Minister, invest any money received in terms of subsection (1), which is not required for immediate use with such other institutions approved for that purpose by the National Treasury. 30

(5) The Regulator may use interest derived from the investment referred to in subsection (4) to defray expenses in connection with the performance of its functions.

Financial year of Regulator

28. The Regulator's financial year is from 1 April in any year to 31 March of the following year, and the first financial year commences on 1 April following the date of commencement of this Act. 35

Reporting to Minister and Parliament

29. (1) The Regulator must annually, by 31 August, submit to the Minister a report on— 40

Dingwalwa

26. (1) Sengwalwa sefe goba sefe seo se ntšhitšwego ka botshepegi ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela se a šoma, ntle le ge go na le bohlatse bjo bo fapanego le bjo bo hlatselago ka tsela ye nngwe.

(2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go ya 5
ka Molao wa Tšwetšopele ya Taolo ya Toka, wa 2000 (Molao wa No. ya 3 wa 2000), le dipeelano tša Dikarolo tša 32 le 33, e ka lokiša goba go gogela morago sengwalwa sefe goba sefe seo se ntšhitšwego ka phošo goba ntle le taelo, fela seo se tla dirwa ge e ba phošollo goba go gogela morago ga sona ga go goba ga go bonale go tla—

(a) kgetholla motho ofe goba ofe ka mo go sa swanelago; goba 10

(b) bea kotsing go phethagatšwa gabotse ga mešomo efe goba efe ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela.

(3) Tsebišo, taelo, pego, kgopelo, sengwalwa se sengwe goba rekoto efe goba efe ye nngwe yeo e swanetšego go fiwa goba go romelwa go ya ka goba ka fase ga Molao wo, e swanetše go fiwa goba go romelwa go ya ka tšhomišo ya molao wo o šomišwago go 15
tirelo goba thomelo ye bjalo.

Ditšhelete tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

27. (1) Ditšhelete tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela di akaretša— 20

(a) tšhelete yeo e abetšwego ke Palamente;

(b) ditefelo tšeo di lefilwego go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela bjalo ka ge di hlathilwe ke Tona go ya ka karolo ya 66;

(c) go ya ka karolo ya 67(3), ditefišo, dikotlo tša go se lefelwe ga ditefišo le 25
tswala ya tefelo ye e oketšwago godimo ga ditefišo tša go leša morago ga nako, tšeo di lefelwego go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go ya ka molao ofe goba ofe wo o fanago ka dipeelano tša gore go be le ditefišo; le

(d) ditefo dife goba dife tše dingwe goba methopo ya letseno yeo e filwego ka 30
gare ga Molao wo goba ka molaong wo mongwe.

(2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go šomiša ditšhelete tšeo di hlalošitšwego ka go karolwana ya (1) go lefa ditshenyegelo tšeo e di dirilego ge e phethagatša mešomo ya yona.

(3) Mohlankedipharephare o swanetše go— 35

(a) bula akhaonto ka leina la Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela le sehlongwa seo se ngwadišitšwego bjalo ka pankka go ya ka Molao wa Dipanka, wa 1990 (Molao wa No. ya 94 wa 1990); le

(b) go tsenya tšhelete efe goba efe yeo e amogetšwego go ya ka karolwana ya (1) 40
ka go yona.

(4) Boto, ka tumelelo ya Tona, e ka beeletša tšhelete efe goba efe yeo e amogetšwego go ya ka karolwana ya (1), yeo e sa nyakegego go šomišwa ka pela le dihlongwa tše dingwe tše bjalo tšeo di dumeletšwego ka nepo yeo ke Matlotlo a Bosetšhaba.

(5) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka šomiša tswalo yeo e tšwago peeletšong yeo go bolelwago ka yona ka go karolwana ya 45
(4) go lefa ditshenyegelo malebana le phethagatšo ya mešomo ya yona.

Ngwaga wa ditšhelete wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela

28. Ngwaga wa ditšhelete wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ke go tloga ka di 1 Aporele ngwageng ofe goba ofe go fihla ka di 31 50
Matšhe ngwageng wo o latelago, gomme ngwaga wa mathomo wa ditšhelete o thoma ka di 1 Aporele ka morago ga letšatšikgwedi la go thoma ga šoma ga Molao wo.

Go bega go Tona le Palamente

29. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše gore, ngwaga ka ngwaga, ge di 31 Agosetose di šalela di fihla, e romele pego 55
go Tona malebana le—

- (a) its performance during the financial period under review;
 - (b) the impact of railway operations on the safety of employees, the public and the environment associated with railway operations; and
 - (c) any other matter that may be required by another law.
- (2) The Minister must table the annual report submitted in terms of subsection (1) in Parliament within 14 days— 5
- (a) of receipt thereof, if Parliament is then in ordinary session; or
 - (b) after the commencement of its next ordinary session, if Parliament is not then in session.

CHAPTER 3

10

RAILWAY SAFETY PERMITS

Safety permits

- 30.** (1) An operator or other person who intends to undertake or operates any railway or railway operation must apply to the Regulator, in the prescribed manner, for a safety permit, but in the case of a person who is contemplated in paragraph (e) of the definition of operator, that person must, for purposes of this Chapter, be regarded as being the applicant or safety permit holder. 15
- (2) The safety permit holder must annually pay the safety permit fee applicable to the safety permit, in respect of every type of railway or railway operation authorised in that safety permit, as determined by the Minister in accordance with section 66(1), irrespective of the period of validity of that safety permit. 20
- (3) The Regulator may not unreasonably withhold its approval of any application contemplated in subsection (1).
- (4) The Regulator may, upon receipt of any application contemplated in subsection (1), prior to taking a decision, require the applicant— 25
- (a) to submit additional information relating to railway safety as specified by the Regulator;
 - (b) subject to section 40(2), cause an independent review to be conducted of the information or evaluation of the samples or objects supplied by a person approved as prescribed by the Regulator; 30
 - (c) to make representations in support of the application, including on whether the interests of any other person will be adversely affected, should the application be approved; or
 - (d) to take such steps as the Regulator may direct to bring the application to the attention of relevant organs of state and interested persons. 35
- (5) The Regulator must, after considering an application contemplated in subsection (1) or an application for renewal contemplated in subsection (8), notify the applicant, in writing, of the outcome of the application, and if the application—
- (a) is approved, the Regulator must, in that notice, specify— 40
 - (i) the period of validity of a safety permit contemplated in subsection (1), which period may not be less than three years or more than five years and must be determined by the Regulator, taking into account the requirements and interests of railway safety;

- (a) phethagatšo ya mešomo ya yona ka gare ga ngwaga wa ditšhelete wo o lego ka fase ga tekolo;
 - (b) khuetšo ya tšhomišo ya diporo tša ditimela go polokego ya bašomi, setšhaba le tikologo yeo e amanago le tšhomišo ya diporo tša ditimela; le
 - (c) taba efe goba efe ye nngwe yeo e ka nyakegago go ya ka molao wo mongwe. 5
- (2) Tona o swanetše go ngwala pego ya ngwaga ka ngwaga yeo e rometšwego go ya ka karolwana ya (1) go Palamente mo matšatšing a 14—
- (a) a kamogelo ya yona, ge Palamente ka nako yeo e tlabile e tsenetše kopano ya setlwaedi; goba
 - (b) ka morago ga go thoma ga kopano ya yona ye e latelago ya setlwaedi, ge e ba 10 Palamente ga e se ya tsenela kopano ka nako yeo.

KGAOLO YA 3

DIPHEMITI TŠA POLOKEGO YA DIPORO TŠA DITIMELA

Diphemiti tša polokego

30. (1) Modiriši goba motho yo mongwe yo a ikemišeditšego go dira goba go šomiša 15 seporo sefe goba sefe sa setimela goba tšhomišo ya seporo o swanetše go dira kgopelo go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka mokgwa wo o hlathilwego, go hwetša phemiti ya polokego, fela tabeng ya motho yo a hlalošitšwego ka go temana ya (e) ya tlhalošo ya modiriši, motho yoo o swanetše, ka mabaka a Kgaolo ye, go tšewa bjalo ka mokgopedi goba moswari wa phemiti ya 20 polokego.

(2) Moswari wa phemiti ya polokego o swanetše go lefa tefo ya ngwaga ka ngwaga ya phemiti ya polokego yeo e šomišwago go diphemiti tša polokego, malebana le mohuta wo mongwe le wo mongwe wa seporo goba tšhomišo ya seporo yeo e dumeletšwego ka gare ga phemiti yeo ya polokego, bjalo ka ge go hlathilwe ke Tona go 25 ya ka karolo ya 66(1), go sa šetšwe nako ya go šoma ga phemiti yeo ya polokego.

(3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka se thibele ka mo go sa kwagalego tumelelo ya yona ya kgopelo efe goba efe yeo e hlalošitšwego ka go karolwana ya (1).

(4) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ge e 30 amogetše kgopelo efe goba efe yeo e hlalošitšwego ka go karolwana ya (1), pele e tšea sephetho, e ka nyaka gore mokgopedi a—

- (a) romele tshedimošo ya tlaletšo yeo e amanago le polokego ya ditimela bjalo ka ge e hlathilwe ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya 35 Diporo tša Ditimela;
- (b) go ya ka karolo ya 40(2), dire gore go dirwe tekolo ye e ikemego ya tshedimošo goba tšhekatsheko ya ditšweletša goba didirišwa tšeo di tlišitšwego ke motho yo a dumeletšwego bjalo ka ge di hlathilwe ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;
- (c) dire ditlhagišo go thekga kgopelo, go akaretšwa tša malebana le ge e ba 40 dikgahlego tša motho ofe goba ofe yo mongwe di tla amega gampe, ge kgopelo e ka amogelwa; goba
- (d) go tšea magato ao Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya 45 Diporo tša Ditimela e ka laelago go tliša kgopelo tlhokomelong ya makala a mmušo ao a amegago le batho bao ba nago le kgahlego.

(5) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka morago ga go lekola kgopelo ye e hlalošitšwego ka go karolwana ya (1) goba kgopelo ya mpshafatšo ye e hlalošitšwego ka go karolwana ya (8), e swanetše go tsebiša mokgopedi, ka go ngwala, ka ga poelo ya kgopelo, ebile ge e ba kgopelo—

- (a) e dumeletšwe, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo 50 tša Ditimela, ka gare ga tsebišo yeo, e swanetše go laetša—
 - (i) nako ya go šoma ga phemiti ya polokego yeo e hlalošitšwego ka go karolwana ya (1), moo e lego gore nako yeo ga se ya swanela go ba ka fase ga mengwaga ye meraro goba ya feta mengwaga ye mehlano, yeo e swanetšego go hlathwa ke Khamphani ya Mmušo 55 ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go elwa hloko dinyakwa le dikgahlego tša polokego ya diporo tša ditimela;

- (ii) the types of railway operations authorised by or under that safety permit;
 - (iii) the conditions subject to which the safety permit is granted; and
 - (iv) if applicable, the date by when the fee contemplated in subsection (2) or a levy contemplated in any legislation providing for the imposition of levies, must be paid by the applicant in respect of that specific safety permit; or
- (b) is not approved, the Regulator must provide reasons for not approving the application and draw the applicant's attention to Chapter 8, but if the Regulator has not, within 30 days of a receipt of an application or an application for renewal contemplated in subsection (8), which was submitted timeously, informed the applicant of the outcome of the application, subsection (10) does not apply.
- (6) The Regulator may only issue a safety permit to an applicant, if the applicant has paid—
 - (a) the safety permit fee contemplated in subsection (2) for the first year of its validity; and
 - (b) any applicable levy contemplated in any legislation providing for the imposition of levies relating to safety permits.
- (7) The Regulator must include the information referred to in subsection (5)(a) in every safety permit issued.
- (8) A permit holder must, in the prescribed manner, apply to the Regulator for the renewal of a safety permit, at least three months prior to the expiry of the existing safety permit.
- (9) A safety permit issued under this Act is not transferable.
- (10) Any person who undertakes a railway or railway operation without a valid safety permit is guilty of an offence.

Conditions of safety permit

31. (1) The Minister may, after consultation with the board, prescribe standard conditions applicable to a safety permit contemplated in section 30(1).
- (2) The Regulator may, subject to subsection (3) and in justifiable circumstances, impose special conditions in addition to and not inconsistent with the safety permit conditions contemplated in subsection (1) relating to any relevant matter, including—
- (a) the types of railway or railway operations authorised by the safety permit to be conducted or undertaken by the applicant;
 - (b) the form, manner, timing and submission of any review of a safety management system report;
 - (c) considerations in respect of the topography of the terrain where the railway or railway operations will be conducted or undertaken;
 - (d) the transport of passengers, general freight or dangerous goods;
 - (e) speed;
 - (f) traction;
 - (g) safety risk assessments;
 - (h) notice to be given to the Regulator, in writing, of any change in control of the holder of the safety permit; or
 - (i) any other technical or other matter necessary to—
 - (i) ensure the safety and protection of persons with disabilities, other persons, property and the environment; or

- (ii) mehuta ya tšhomišo ya diporo tša ditimela yeo e dumeletšwego ke goba ka fase ga phemiti yeo ya polokego;
- (iii) Mabaka ao phemiti ya polokego e dumeletšwego ka wona; le
- (iv) ge go le maleba, letšatšikgwe di leo ka lona tefo yeo e hlalošitšwego ka go karolwana ya (2) goba tefišo yeo e hlalošitšwego ka go molao ofe goba ofe wo o laelago go lefišwa ga ditefo, e swanetše go lefelwa ke mokgopedi malebana le phemiti ya polokego ye e amegago; goba ge e ba 5
- (b) ga se ya dumelelwa, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go fa mabaka a go se dumelele kgopelo ebile e laele mokgopedi go šetša Kgaolo ya 8, fela ge e ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ga se ya dumelela kgopelo yeo e rometšwego ka nako, mo matšatšing a 30 a go amogela kgopelo goba kgopelo ya mpshafatšo yeo e hlalošitšwego ka go karolwana ya (8), ebile ga se ya tsebiša mokgopedi ka sephetho sa kgopelo, karolwana ya (10) ga e šome. 10
- (6) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka fana fela ka phemiti ya polokego go mokgopedi, ge e ba mokgopedi o lefile—
 - (a) tefo ya phemiti ya polokego ye e hlalošitšwego ka go karolwana ya (2) ya ngwaga wa mathomo wa go šoma ga yona; le 20
 - (b) tefišo efe goba efe yeo e šomišwago yeo e hlalošitšwego ka go molao ofe goba ofe wo o laelago go lefišwa ga ditefo tše di amanago le diphemiti tša polokego.
- (7) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go akaretša tshedimošo yeo go bolelwago ka yona ka go karolwana ya (5)(a) go phemiti ya polokego ye nngwe le ye nngwe yeo e dumeletšwego. 25
- (8) Moswari wa phemiti, go ya ka mokgwa wo o hlathilwego, o swanetše go dira kgopelo ya mpshafatšo ya phemiti ya polokego go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka gare ga bonnyane bja dikgwe di tše tharo pele ga go felelwa ke nako ga phemiti ya polokego. 30
- (9) Phemiti ya polokego yeo e filwego ka fase ga Molao wo ga e fetišetšwe.
- (10) Motho ofe goba ofe yo a šomišwago seporo sa ditimela ntle le phemiti ya polokego ye e šomišwago o na le molato.

Mabaka a diphemiti tša polokego

- 31. (1) Tona, ka morago ga therišano le boto, a ka laetša mabaka ao a šomišwago go phemiti ya polokego yeo e hlalošitšwego ka go karolo ya 30(1). 35
- (2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go ya karolwana ya (3) le go ya ka mabaka ao a kwagalago, e ka laela gore go be le mabaka ao a kgethegilego go tlaleletša go ao a lego gona ebile e be ao a sa fapanego le mabaka a diphemiti tša polokego ao a hlalošitšwego ka go karolwana ya (1) ao a amanago le taba efe goba efe, go akaretšwa— 40
- (a) mehuta ya ditšhomišo tša diporo tša ditimela tše di dumeletšwego ke phemiti ya polokego yeo e swanetšego go swarwa goba go dirwa ke mokgopedi;
- (b) foromo, mokgwa, nako le thomelo ya tekolo efe goba efe ya pego ya lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego; 45
- (c) dikakanyo tša malebana le lefase le le nago le sebaka se segolo ebile le nabilego moo diporo tša ditimela di tlo dirwago goba tša sepetšwa go lona;
- (d) go sepetšwa ga banamedi, dithoto ka kakaretšo goba dithoto tše kotsi; 50
- (e) lebelo;
- (f) setimela sa go goga ditimela;
- (g) ditlhallobo tša polokego go kotsi;
- (h) tsebišo yeo e swanetšego go fiwa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka go ngwala, malebana le phetogo efe goba efe ya taolo ya moswari wa phemiti ya polokego; goba 55
- (i) taba efe goba efe ye nngwe ya sethekniki goba ye nngwe yeo e nyakegago go—
 - (i) netefatša polokego le tšhireletšo ya batho bao ba nago bogolofadi, batho ba bangwe, dithoto le tikologo; goba 60

- (ii) ensure compliance with the safety management system.
- (3) When considering whether to impose additional conditions as contemplated in subsection (2), the Regulator must ensure that any such additional condition—
 - (a) is reasonable;
 - (b) is unique to the person who submitted the application, depending on the content of the permit application and the types of railway or railway operations conducted or undertaken by the applicant; and
 - (c) relates only to weaknesses identified in the safety permit application.

Amendment of conditions of safety permit

- 32. (1) The Regulator may, in justifiable circumstances, amend any condition imposed on a specific safety permit in terms of section 31(2). 10
- (2) The Regulator must, prior to amending the conditions of a safety permit—
 - (a) in writing, inform the safety permit holder of its intention to do so and of the reasons for considering an amendment to the conditions;
 - (b) in writing, invite the safety permit holder and any relevant stakeholder to make submissions on the proposed amendment within a reasonable time; and
 - (c) consider such submissions as may have been received.
- (3) The Regulator must, in writing, inform a safety permit holder of an amendment by the Regulator of a condition to his or her safety permit, specifying—
 - (a) the extent of the amendment; and
 - (b) the date upon which the amendment comes into operation, which must be at least 30 days after the safety permit holder has received this notification.
- (4) If a safety permit holder is aggrieved by the amendment made in terms of subsection (3), that safety permit holder may lodge an appeal in accordance with Chapter 8.
- (5) This section must not be interpreted so as to prevent a safety permit holder from applying for an amendment to the conditions of the relevant safety permit, including an amendment to provide for an extension or reduction in the types of railway or railway operations authorised by that safety permit.

Surrender, suspension and revocation of safety permit

- 33. (1) A safety permit holder may surrender the safety permit.
- (2) Subject to subsections (3) and (4), the Regulator may revoke or suspend a safety permit if the permit holder fails to comply with the conditions set in terms of this Act, after—
 - (a) the Regulator has issued a notice to the safety permit holder to comply with a condition of the relevant safety permit, within a reasonable period stipulated by the Regulator in the notice; and
 - (b) the safety permit holder fails to comply with such notice within the stipulated period.
- (3) The Regulator must, prior to revoking or suspending a safety permit as contemplated in subsection (2)—
 - (a) in writing, inform the safety permit holder of its intention to do so and of the reasons for considering a suspension or revocation;

- (ii) netefatša kobamelo ya lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego.
- (3) Ge e lebelela ge e ba e ka laela mabaka a tlaleletšo bjalo ka ge go hlalositswe ka go karolwana ya (2), Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go netefatsa gore lebaka lefe goba lefe le bjalo la tlaleletšo— 5
- (a) le a kwagala;
- (b) le kgethegile go motho yo a rometšego kgopelo, go ya ka diteng tša kgopelo ya phemiti le mehuta ya ditšhomišo tša diporo tša ditimela yeo e dirilwego ke mokgopedi; le
- (c) le amana fela le mafokodi ao a lemogilwego ka go kgopelo ya phemiti ya 10 polokego.

Phetošo ya mabaka a diphemiti tša polokego

32. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka mabaka a go kwagala, e ka fetola mabaka afe goba afe ao a hlathilwego godimo ga phemiti ya polokego ye e itšego go ya ka karolo ya 31(2). 15
- (2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, pele e fetola mabaka a phemiti ya polokego, e swanetše gore—
- (a) ka go ngwala, e tsebiše mong wa phemiti ya polokego ka maikemišetšo a yona a go dira bjalo le mabaka ao a dirilego gore e akanye go fetoša mabaka ao; 20
- (b) ka go ngwala, e laletše moswari wa phemiti ya polokego le mokgathatema ofe goba ofe yo a amegago go dira ditlhagišo ka ga phetošo ye e šišintšwego ka gare ga nako ye e kwagalago; le
- (c) lebelela ditlhagišo tšeo di ka bago di amogetšwe.
- (3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka go 25 ngwala, e swanetše go tsebiša moswari wa phemiti ya polokego ka ga phetošo ya lebaka yeo dirilego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka gare ga phemiti ya polokego ya gagwe, moo tsebišo yeo e tlo laetšago—
- (a) bogolo bja phetošo; le
- (b) letšatšikgwe di leo phetošo e thomago go šoma ka lona, leo le swanetšego go 30 ba bonnyane bja matšatši a 30 ka morago ga ge mong wa phemiti ya polokego a amogetše tsebišo ye.
- (4) Ge e ba moswari wa phemiti ya polokego a nyamišitšwe ke phetošo yeo e dirilwego go ya ka karolwana ya (3), moswari yoo wa phemiti ya polokego a ka dira boipiletšo go ya ka Kgaolo ya 8. 35
- (5) Karolo ye ga se ya swanela go hlathollwa bjalo ka yeo e thibelago moswari wa phemiti ya polokego go dira kgopelo go phetošo ya mabaka a phemiti ya polokego ye e amegago, go akaretšwa phetošo ya go fana ka katološo goba phokotšo ya mehuta ya ditšhomišo tša diporo tša ditimela tšeo di dumeletšwego ke phemiti yeo ya polokego.

Go boetša morago, go fegwa le go phumolwa ga phemiti ya polokego 40

33. (1) Moswari wa phemiti ya polokego a ka boetša morago phemiti ya polokego.
- (2) Go ya ka dikarolwana tša (3) le (4), Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka phumola goba ya fega phemiti ya polokego ge moswari wa phemiti a palelwa ke go obamela mabaka ao a beilwego go ya ka Molao wo, morago ga gore— 45
- (a) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ntšhe tsebišo go moswari wa phemiti ya polokego go obamela mabaka a phemiti ya polokego ye e lebanego, mo nakong ye e kwagalago yeo e laeditšwego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka gare ga tsebišo; le 50
- (b) moswari wa phemiti ya polokego o palelwa ke go obamela tsebišo yeo mo nakong ye e beilwego.
- (3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, pele ga ge e phumola goba e fega phemiti ya polokego bjalo ka ge go hlalositswe ka go karolwana ya (2), e swanetše— 55
- (a) ka go ngwala, e tsebiše moswari wa phemiti ya polokego ka maikemišetšo a yona a go dira bjalo mmogo le mabaka a go akanya go fegwa goba go phumolwa ga yona;

- (b) in writing, invite the safety permit holder and any relevant stakeholder to make submissions on the proposed revocation or suspension within a reasonable time stipulated in that invitation; and
- (c) consider such submissions as may have been timeously received.
- (4) The Regulator must, when suspending or revoking a safety permit, inform the safety permit holder thereof, in writing, specifying— 5
 - (a) the reasons for the suspension or revocation;
 - (b) the date upon which the suspension or revocation comes into operation, which must be at least 30 days after the safety permit holder has received this notification; and 10
 - (c) in the case of a suspension, the conditions which have to be met before the suspension will be withdrawn.
- (5) A safety permit holder who is aggrieved by the suspension or revocation of a safety permit may, in the prescribed form, lodge an appeal in accordance with Chapter 8. 15
- (6) Except on good cause shown, a safety permit is suspended by operation of law if the safety permit holder fails to timeously pay any fee or levy in respect of that specific safety permit, as contemplated in section 30(5)(a)(iv), but upon receipt of payment thereof, such suspension is withdrawn.
- (7) If a safety permit holder has surrendered a safety permit in terms of subsection (1), the safety permit holder is not liable to pay a fee for the safety permit in respect of the subsequent years in respect of which the safety permit would have been valid, nor is the safety permit holder entitled to a refund in respect of any fee paid up to the date of surrender of that safety permit. 20
- (8) The holder of a safety permit which has been suspended, either by the Regulator or by operation of the law, may not conduct or undertake any railway or railway operation or a component of a railway or railway operation or any action in relation to a railway or railway operation permitted under that safety permit until the suspension has been withdrawn. 25

CHAPTER 4

30

RAILWAY SAFETY CRITICAL GRADES, STANDARDS AND SAFETY MANAGEMENT SYSTEM

Safety critical grade framework

34. (1) The Regulator oversees the management and execution of the prescribed framework for safety critical grade positions, by— 35
- (a) evaluating and registering training institutions as contemplated in section 35;
 - (b) collaborating with relevant institutions on the development of appropriate curricula for the training, evaluation and licensing of the relevant safety critical grade positions; and
 - (c) establishing, managing and maintaining a database on all matters relevant to the prescribed framework for safety critical grade positions, including— 40
 - (i) the names and identity numbers of persons who have been issued with a safety critical grade licence by a registered training institution;
 - (ii) the type and period of validity of the safety critical grade licence held by such persons; and 45
 - (iii) the frequency of refresher courses or additional training to be undergone by holders of a safety critical grade licence.

- (b) ka go ngwala, e laletše moswari wa phemiti ya polokego le mokgathatema ofe goba ofe yo a amegago go dira ditlhagišo malebana le go phumolwa goba go fegwa mo go šišintšwego mo nakong ye e kwagalago yeo e laeditšwego ka go taletšo yeo; le
- (c) go ela hloko ditlhagišo tšeo di ka bago di amogetšwe ka nako. 5
- (4) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ge e fega goba e phumola phemiti ya polokego, e swanetše go tsebiša moswari wa phemiti ya polokego ka seo, ka go ngwala, moo tsebišo yeo e laetšago—
- (a) mabaka a go fegwa goba go phumolwa; 10
- (b) letšatšikgwedi leo ka lona go fegwa goba go phumolwa go thomago go šoma, leo le swanetšego go ba ka gare ga bonnyane bja matšatši a 30 ka morago ga ge moswari wa phemiti ya polokego a amogetše tsebišo ye; le
- (c) tabeng ya go fegwa, mabaka ao a swanetšego go fihlelelwa pele ga ge go fegwa go tla gogelwa morago. 15
- (5) Moswari wa phemiti ya polokego yo a nyamišitšwego ke go fegwa goba go phumolwa ga phemiti ya polokego a ka dira boipiletšo go ya ka Kgaolo ya 8. 15
- (6) Ntle le ge go ka ba le lebaka le lebotse leo le bontšhitšwego, phemiti ya polokego e fegilwe go ya ka tshepedišo ya molao ge moswari wa phemiti ya polokego a palelwa ke go lefa ka nako tefo efe goba efe goba tefišo ya malebana le phemiti ya polokego ye e itšego, bjalo ka ge go hlalošitšwe ka go karolo ya 30(5)(a)(iv), fela morago ga go amogelwa ga tefo, go fegwa mo go bjalo go gogelwa morago. 20
- (7) Ge e ba moswari wa phemiti ya polokego a boetša morago phemiti ya polokego go ya ka karolwana ya (1), moswari wa phemiti ya polokego ga a na maikarabelo a go lefa tefo ya phemiti ya polokego malebana le mengwaga ye e latelago yeo malebana le yona phemiti ya polokego e bego e tla ba e šoma, ebile ga se swanela go bušetša tšhelete malebana le tefo efe goba efe yeo e lefilwego go fihla letšatšikgwedi leo a boeditšego phemiti yeo ya polokego. 25
- (8) Moswari wa phemiti ya polokego yeo e fegilwego, e ka ba ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba go ya ka tshepedišo ya molao, a ka se dire goba a šomiša diporo tša ditimela dife goba dife goba goba karolo efe goba efe yeo e amanago le tšhomišo ya diporo goba ditiro tša tšhomišo ya diporo tša ditimela ka fase ga phemiti yeo ya polokego go fihlela go fegwa ga yona go gogelwa morago. 30

KGAOLO YA 4

MEŠOMO YE BOHLOKWA YA GO NETEFATŠA POLOKEGO LE MANANEOTSHEPEDIŠO A GO LAOLA PHETHAGATŠO YA DINEPO TŠA TLHOKOMELO YA POLOKEGO YA DIPORO TŠA DITIMELA 35

Tlhako ya mešomo ye bohlokwa ya go netefatša polokego

34. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e hlokomela taolo le phethagatšo ya tlhako ye e hlathilwego ya mešomo ye bohlokwa ya go netefatša polokego, ka— 40
- (a) go sekaseka le go ngwadiša dihlongwa tša tlhahlo bjalo ka ge go hlalošitšwe ka go karolo ya 35;
- (b) go šomišana le dihlongwa tše di amegago malebana le go hlabollwa ga mananeothuto a maleba a tlhahlo, tekolo le go abana ka dilaesense tša mešomo ye bohlokwa ya go netefatša polokego; le 45
- (c) go hloma, go laola le go hlokomela bobolokelo bja tshedimošo ya malebana le merero ka moka yeo e lebanego le tlhako ye e hlathilwego ya mešomo ye bohlokwa ya go netefatša polokego, go akaretšwa—
- (i) maina le dinomoro tša boitsebišo tša batho bao ba filwego laesense ya mošomo wo bohlokwa wa go netefatša polokego ke sehlongwa sa tlhahlo seo se ngwadišitšwego; 50
- (ii) mohuta le nako ya go šoma ga laesense ya mošomo wo bohlokwa wa go netefatša polokego yeo e swerwego ke batho bao; le
- (iii) dithuto tša kgafetšakgafetša tša go hlabolla goba tlhahlo ya tlaleletšo yeo e swanetšego go dirwa ke baswari ba laesense ya mešomo ye bohlokwa ya go netefatša polokego. 55

- (2) No person may—
- (a) perform work in a safety critical grade position, unless such person is in possession of a relevant safety critical grade licence granted by the Regulator; or
 - (b) be appointed or required to perform work in a safety critical grade position, unless such person is in possession of a relevant safety critical grade licence granted by the Regulator. 5
- (3) Any person, including a safety permit holder, who wilfully contravenes subsection (2), is guilty of an offence.

Evaluation and registration of training institutions 10

35. (1) The Regulator must evaluate prospective training institutions who have, in the prescribed form, applied for registration, and must, subject to any conditions the Regulator considers necessary, including meeting applicable prescripts envisaged under the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and the Skills Development Act, 1998 (Act No. 97 of 1998), register an appropriate number of training institutions for a period not exceeding five years to— 15

- (a) provide training and refresher courses for safety critical grade positions; and
 - (b) assess and evaluate persons applying for a safety critical grade licence.
- (2) The board must, subject to the National Qualifications Framework Act, 2008, and the Skills Development Act, 1998, determine a policy for the registration of training institutions, taking into account all relevant factors, including— 20
- (a) the nature and level of training required for individual safety critical grades;
 - (b) qualifications already recognised within the national qualification framework or similar systems applicable to individual safety critical grades;
 - (c) the nature of assessment and evaluation; 25
 - (d) the need for on-going training and re-training;
 - (e) the availability of potential service providers in a specific geographical area to provide the required training services;
 - (f) the impact on the availability of human resources if requirements are excessive; 30
 - (g) the financial implications for employees and employers;
 - (h) the business processes required for a potential applicant to successfully and sustainably render all services required over the full period of registration;
 - (i) reporting requirements by a registered service provider;
 - (j) the circumstances under which a registration may be suspended or revoked; 35
 - and
 - (k) the Regulator's capacity and requirements to continuously and effectively monitor and evaluate a registered service provider.
- (3) The Regulator must publish the policy for the registration of training institutions in the *Gazette* and on its website. 40
- (4) An applicant for registration must, when submitting its application, pay the application fee that may be determined by the Minister by notice in the *Gazette*.

- (2) Ga go motho yo a ka—
- (a) phethagatšago mošomo wo bohlokwa wa go netefatša polokego, ntle le ge motho yoo a na le laesense ya mošomo wo bohlokwa wa go netefatša polokego ya maleba yeo e filwego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; goba 5
 - (b) go thwetšwe goba go nyakega go dira mošomo maemong a mphato wo bohlokwa wa polokego, ntle le ge motho yoo a na le laesense ya maleba ya mphato wo bohlokwa wa polokego yeo e filwego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela.
- (3) Motho ofe goba ofe, go akaretšwa moswari wa phemiti ya polokego, yo a tloago karolwana ya (2) ka boomo, o na le molato. 10

Tekolo le boingwadišo bja dihlongwa tša tlhahlo

35. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go sekaseka dihlongwa tšeo e ka bago tša tlhahlo tšeo e lego gore, ka foromo ye e hlathilwego, di dirile dikgopelo tša boingwadišo, ebile e swanetše gore, go ya ka mabaka afe goba afe ao Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e bonago a nyakega, go akaretšwa le ge dihlongwa tšeo di fihleletše dipeelano tšeo di šomišwago ebile di ngwadilwego ka fase ga Molao wa Bosetšhaba wa Mangwalo a Thuto, wa 2008 (Molao wa No. ya 67 wa 2008), le Molao wa Tlhabollo ya Bokgoni, wa 1998 (Molao wa No. ya 97 wa 1998), e ngwadiše palo ya maleba ya dihlongwa tša tlhahlo lebaka leo le sa fetego mengwaga ye mehlano gore di— 15
- (a) abane ka tlhahlo le dithuto tša tsošološo go tša mešomo ye bohlokwa ya go netefatša polokego; le
 - (b) sekaseke le go lekola batho bao ba dirago dikgopelo tša dilaesense tša mešomo ye bohlokwa ya go netefatša polokego. 25
- (2) Boto, go ya ka Molao wa Bosetšhaba wa Mangwalo a Thuto, wa 2008 (Molao wa No. ya 67 wa 2008), le Molao wa Tlhabollo ya Bokgoni, wa 1998 (Molao wa No. ya 97 wa 1998), e swanetše go hlatha pholisi ya go ngwadišwa ga dihlongwa tša tlhahlo, go elwa hloko dintlha tše di amegago ka moka, go akaretšwa—
- (a) mokgwa le maemo a tlhahlo ye e nyakegago go mošomo wo mongwe le wo mongwe wa mešomo ye bohlokwa ya go netefatša polokego; 30
 - (b) mangwalo a thuto ao a šetšego a amogetšwe ka gare ga tlhako ya bosetšhaba ya mangwalo a thuto goba ka gare ga mananeotshepedišo ao a swanago le ao a šomišwago go mošomo wo mongwe le wo mongwe wa mešomo ye bohlokwa ya go netefatša polokego; 35
 - (c) mokgwa wa go sekaseka le go lekola;
 - (d) tlhokego ya tlhahlo le tsošološo ya tlhahlo ye e tšwelago pele;
 - (e) go ba gona ga baabi ba ditirelo bao ba ka bago gona lefelong le le itšego la thutafase go fana ka ditirelo tša tlhahlo tše di nyakegago;
 - (f) seabe seo se ka bago gona maleba le go hwetšagala ga bašomi ge go na le dinyakwa tše di feteletšego; 40
 - (g) ditlamorago tša ditšhelete go bašomi le bengmešomo;
 - (h) ditshepedišo tša kgwebo tše di nyakegago gore mokgopedi yo a ka bago gona a abe ditirelo ka moka tše di nyakegago gabotse le go ya go ile ka gare ga nako ka moka yeo a ingwadišitšego; 45
 - (i) dinyakwa tše di tlo šomišwago tša go bega ke moabi wa ditirelo yo a ngwadišitšwego;
 - (j) mabaka ao ka fase ga wona boingwadišo bo ka fegwago goba bja phumolwa; le
 - (k) bokgoni le nyakego ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go tšwela pele go hlokomela le go sekaseka gabotse moabi wa ditirelo yo a ngwadišitšwego. 50
- (3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go gatiša pholisi ya boingwadišo ya dihlongwa tša tlhahlo ka go Kuranta ya Mmušo mmogo le ka go weposaete ya yona. 55
- (4) Mokgopedi yo a nyakago go ingwadiša, ge a romela kgopelo ya gagwe, o swanetše go lefa tefo ya kgopelo yeo e ka hlathwago ke Tona ka tsebišo ka go Kuranta ya Mmušo.

- (5) The Regulator must, when considering an application by a potential training institution for registration, take all relevant factors into account, including—
- (a) the applicant's experience in providing training and assessment;
 - (b) the applicant's ability to render all services required over the full period of registration; 5
 - (c) whether the training to be offered by the applicant is recognised under a national qualification framework or similar system;
 - (d) the extent to which the applicant can separate its training and assessment services from its operational divisions; and
 - (e) the applicant's ability to report and respond to queries of the Regulator for all training and assessment services. 10
- (6) The Regulator must within four months of receipt of an application contemplated in this section in writing inform the applicant of its decision in this regard, but if the application is declined, the Regulator must provide reasons for its decision.
- (7) A registered training institution may after expiry of its registration apply for the renewal of that registration. 15
- (8) An operator who has been registered as a training institution may offer services to its own employees, but those employees may not receive any benefit, privilege or advantage that is not available to participants who are not employees of that training institution. 20

Railway safety standards

- 36.** (1) Despite any other law, the Minister may, by notice in the *Gazette*, prescribe railway safety standards applicable to any railway or railway operation, specifying—
- (a) the contents of the railway safety standards;
 - (b) the category of safety permit holders or category of persons to which the railway standards apply; 25
 - (c) the circumstances under which such safety permit holders or persons may apply for deviation or exemption from the railway safety standards; and
 - (d) the sanctions in respect of non-compliance with such railway safety standards, including the suspension or revocation of any safety permit issued or the withdrawal of any exemption granted in terms of section 4. 30
- (2) The Regulator or an operator may propose railway safety standards for safe railway operations to the Minister, but only if—
- (a) such railway safety standards are applicable to the railway environment;
 - (b) such railway safety standards are not in conflict, or incompatible, with any standards prescribed by the Minister in terms of subsection (1) or with any other legislation; and 35
 - (c) the procedure in subsection (3) has been complied with.
- (3) Prior to proposing any railway safety standards contemplated in subsection (2), the Regulator must— 40
- (a) by notice in the *Gazette*, cause the draft railway safety standards to be published for public comment, together with an explanatory memorandum in respect thereof;
 - (b) consult with the Department, the Minister responsible for trade and industry, any relevant organ of state and other key stakeholders directly affected by the proposed railway safety standards; and 45
 - (c) consider any submissions received.

(5) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ge e lebelela kgopelo ya sehlongwa seo se ka bago gona sa tlhahlo malebana le boingwadišo, e swanetše go ela hloko dintlha ka moka tša maleba, go akaretšwa—

- (a) maitemogelo a mokgopedi a go aba tlhahlo le go lekola;
- (b) bokgoni bja mokgopedi bja go aba ditirelo ka moka tše di nyakegago ka gare ga nako ka moka yeo a ingwadišitšego; 5
- (c) ge e ba tlhahlo yeo mokgopedi a tlabago a abana ka yona e amogelwa ka fase ga tlhako ya bosetšhaba ya mangwalo a thuto goba lenaneotshepedišo le le swanago;
- (d) tekano ya bokgoni bjoo mokgopedi a ka kgonago go aroganya ditirelo tša gagwe tša tlhahlo le tekolo le dikarolo tša gagwe tša tshepedišo; le 10
- (e) bokgoni bja mokgopedi bja go bega le go araba dipotšišo tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela malebana le ditirelo tša tlhahlo le tekolo ka moka.

(6) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše gore, mo dikgweding tše nne ka morago ga go amogela kgopelo yeo e hlalošitšwego ka go karolo ye, ka go ngwala, e tsebiše mokgopedi ka sephetho sa yona malebana le se, fela ge e ba kgopelo ga se ya dumelelwa, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go fa mabaka a sephetho sa yona. 20

(7) Sehlongwa sa tlhahlo seo se ngwadišitšwego se ka dira kgopelo ya go tsošološa boingwadišo bja sona ka morago ga go felelwa ke nako ga boingwadišo bjoo.

(8) Modiriši yo a ngwadišitšwego bjalo ka sehlongwa sa tlhahlo a ka abana ka ditirelo go bašomi ba gagwe, fela bašomi bao ba ka se hwetše mohola, tokelo goba dikholego tšeo di sa hwetšwego ke bakgathatema bao e sego bašomi ba sehlongwa seo sa tlhahlo. 25

Maemo a go netefatša polokego ya diporo tša ditimela

36. (1) Go sa šetšwe molao ofe goba ofe wo mongwe, Tona, ka tsebišo ka go Kuranta ya Mmušo, a ka hlatha maemo a go netefatša polokego ya diporo tša ditimela ao a tlo s'omišwago go diporo goba tšhomišo ya diporo ye nngwe le ye nngwe, ao a laetšago—

- (a) dintlha tša maemo a polokego ya diporo tša ditimela; 30
- (b) magoro a baswari ba phemiti ya polokego goba magoro a batho bao maemo a go netefatša polokego ya diporo tša ditimela a tlo šomišwago go bona;
- (c) mabaka ao ka fase ga wona baswari ba phemiti ya polokego goba batho fela ba ka dirago kgopelo ya go fapana le goba go lokollwa go kobamelo ya maemo a go netefatša polokego ya diporo tša ditimela; le 35
- (d) dikotlo malebana le go se obamele maemo a bjalo a go netefatša polokego ya diporo tša ditimela, go akaretšwa go fegwa goba go phumolwa ga phemiti efe goba efe ya polokego yeo e ntšhitšwego goba go gogela morago tokollo efe goba efe yeo e filwego go ya ka karolo ya 4.

(2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba modiriši a ka šišinya maemo a go netefatša polokego ya diporo malebana le go šomišwa ga diporo tša ditimela go Tona, ge fela—

- (a) maemo a bjalo a go netefatša polokego ya diporo tša ditimela a šomišwa tikologong ya ditimela;
- (b) maemo ao a go netefatša polokego ya diporo tša ditimela ga se ao a sa thulanego, goba a sa sepelelanego, le maemo afe goba afe ao a hlathilwego ke Tona go ya ka karolwana ya (1) goba le molao ofe goba ofe wo mongwe; le 45
- (c) tshepedišo yeo e lego go karolwana ya (3) e obametšwe.

(3) Pele ga ge e šišinya maemo afe goba afe a go netefatša polokego ya diporo tša ditimela ao a hlalošitšwego ka go karolwana ya (2), Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše gore—

- (a) ka tsebišo ka go Kuranta ya Mmušo, e dire gore sengwalwakakanyo sa maemo a go netefatša polokego ya diporo tša ditimela se a gatišwa gore setšhaba se dire ditshwayotshwayo, mmogo le memorantamo wa tlhalošo malebana le seo; 55
- (b) e rerišane le Kgoro, Tona ye e nago maikarabelo ka kgwebo le intasteri, lekala la mmušo lefe goba lefe leo le amegago le bakgathatema ba bangwe ba bohlokwa bao ba amilwego thwii ke maemo a go netefatša polokego a diporo tša ditimela ao a šišintšwego; le
- (c) e ele hloko ditlhagišo dife goba dife tšeo di amogetšwego. 60

(4) Notwithstanding any sanction provided for in this Act, any person, including a safety permit holder, who conducts railway operations without complying with the railway safety standards prescribed in terms of this section, is guilty of an offence.

(5) In the event of a conflict between a railway safety standard or any other standard or specification made or issued in terms of a regulation or notice under this Act, and any standard or specification prescribed in terms of the Standards Act, 2008 (Act No. 8 of 2008), or any other Act, the regulation or notice made in terms of this Act prevails to the extent of that conflict. 5

Safety management system

37. (1) The board must determine— 10

- (a) the form and content of the safety management system that is required for the different categories of safety permits;
- (b) the form, content and manner of submission of the safety management system report; and
- (c) the circumstances under which the Regulator may require a safety permit holder to revise or amend a safety management system or safety management system report. 15

(2) The board must, from time to time, evaluate the efficacy of the safety management systems and safety management systems reports.

(3) The Regulator must publish any determination made in terms of subsection (1) in the *Gazette* and on its website. 20

Consultative forum

38. (1) The Regulator must establish a consultative forum.

(2) Subject to subsection (3), a consultative forum determines its own agenda, rules and procedures, and elects its own functionaries. 25

(3) In accordance with the objects of this Act, a consultative forum must deal with any matter placed on the agenda by the Regulator or any other party who is a member of the consultative forum.

(4) Any stakeholder may be a member of a forum contemplated in subsection (1) and participation in its activities is voluntary. 30

(5) The CEO must designate an employee of the Regulator to serve as permanent secretary of a consultative forum.

(6) A consultative forum may, with the concurrence of the Regulator, establish forums at levels as may be necessary.

(7) The Regulator provides the facilities and administrative support for a consultative forum. 35

(8) The permanent secretary referred to in subsection (5) must annually submit a report on the activities of a consultative forum to the board.

(4) Go sa šetšwe kotlo efe goba efe yeo e filwego ka gare ga Molao wo, motho ofe goba ofe, go akaretšwa moswari wa phemiti ya polokego, yo a šomišago diporo tša ditimela ntle le go obamela maemo a go netefatša polokego ya diporo tša ditimela ao a hlathilwego go ya ka karolo ye, o na le molato.

(5) Ge go ka ba le thulano magareng ga maemo a go netefatša polokego ya diporo tša ditimela goba maemo afe goba afe a mangwe goba tlhalošo ye e dirilwego goba ye e ntšhitšwego go ya ka molawana goba tsebišo ka fase ga Molao wo, le maemo afe goba afe goba tlhalošo yeo e hlalošitšwego go ya ka Molao wa Maemo, wa 2008 (Molao wa No. ya 8 wa 2008), goba Molao ofe goba ofe wo mongwe, molawana goba tsebišo yeo e dirilwego go ya ka Molao wo ke yona e tla šomišwago go feta thulano yeo.

Lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego

37. (1) Boto e swanetše go hlatha—

- (a) foromo le diteng tša lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego tšeo di nyakegago ka gare ga magoro a go fapana a diphemiti tša polokego; 15
- (b) foromo, diteng le mokgwa wa romela pego ya lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego; le
- (c) maemo ao ka fase ga wona Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka nyakago gore moswari wa phemiti ya polokego a lokiše goba a fetoše lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego goba pego ya lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego. 20

(2) Boto, nako le nako, e swanetše go sekaseka go šoma gabotse ga lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego mmogo le dipego tša lenaneotshepedišo la go laola phethagatšo ya dinepo tša tlhokomelo ya polokego. 25

(3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go gatiša sephetho sefe goba sefe seo se dirilwego go ya ka karolwana ya (1) ka go Kuranta ya Mmušo le ka go weposaete ya yona.

Foramo ya ditherišano

38. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go hloma foramo ya ditherišano.

(2) Go ya ka karolwana ya (3), foramo ya ditherišano e laola lenaneo la yona, melawana le ditshepedišo, gomme e ikgethela bašomi ba yona.

(3) Go ya ka maikemišetšo a Molao wo, foramo ya ditherišano e swanetše go šogana le taba efe goba efe yeo e beilwego lenaneong la ditaba ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba mokgatlo ofe goba ofe wo mongwe wo e lego leloko la foramo ya ditherišano. 35

(4) Mokgathatema ofe goba ofe e ka ba leloko la foramo yeo e hlalošitšwego ka go karolwana ya (1) ebile go kgathatema ditirong tša yona ke boithaopo. 40

(5) CEO o swanetše go kgetha mošomi wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go šoma bjalo ka mongwaledi wa go ya go ile wa foramo ya ditherišano.

(6) Foramo ya ditherišano, ka tumelelo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, e ka hloma diforamo maemong ao go ka nyakegago. 45

(7) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e abana ka dikago tša go šomela le thekgo ya taolo ya foramo ya ditherišano.

(8) Mongwaledi wa go ya go ile yo go boelwago ka yena ka go karolwana ya (5) o swanetše go romela pego ya ditiro tša foramo ya ditherišano go boto ngwaga ka ngwaga. 50

CHAPTER 5

RAILWAY SAFETY INFORMATION AND MONITORING SYSTEM

National railway safety information and monitoring system

- 39.** (1) The Regulator must establish and maintain a national information and monitoring system regarding safe railway operations within the Republic. 5
- (2) The system must include—
- (a) a register of safety permit holders;
 - (b) a register of railway occurrences;
 - (c) information on actions, arrangements, processes and procedures implemented by every safety permit holder to ensure safety within its area of operations; 10
 - (d) information regarding the management of penalties;
 - (e) information regarding the management of audits and inspections;
 - (f) detailed information regarding compliance and enforcement;
 - (g) a register recording the Regulator's monitoring operations and the results thereof; 15
 - (h) a railway safety-related infrastructure asset register; and
 - (i) any other matter demonstrably necessary to promote safety.
- (3) The Regulator may, in writing, require a safety permit holder to provide the Regulator, within a specified time or on a regular basis, with relevant data, information, documents, samples or materials in respect of the matters contemplated in subsection 20 (2), as may be reasonably specified by the Regulator, and the Regulator may monitor the use, application, execution or operation of the data, information, documents, samples or materials so submitted for purposes of ensuring compliance with this Act and safety standards.
- (4) The Regulator may, in addition to the function of information capturing, develop 25 a system to provide for additional functions and uses contemplated in this Act, or for furthering the efficient performance of its functions.

Protection of information

- 40.** (1) The Regulator must protect all information submitted to it by an applicant for a safety permit, including information submitted to it in terms of section 39(3), and keep 30 such information confidential, unless—
- (a) such information is already in the public domain;
 - (b) such information is requested for purposes of an investigation contemplated in section 50(1);
 - (c) a court of law has ordered that such information may be disclosed; 35
 - (d) authorised or mandated by this Act or any other legislation to disclose such information; or
 - (e) the disclosure of that information complies with the Promotion of Access to Information Act and the Protection of Personal Information Act.
- (2) Subsection (1) applies, with the necessary changes, to a person conducting an 40 independent review of the information supplied by an applicant to the Regulator for purposes of a safety permit under section 30.

KGAOLO YA 5

LENANEOTSHEPEDIŠO LA GO BOLOKA TSHEDIMOŠO LE TEKOLO YA POLOKEGO YA DIPORO TŠA DITIMELA

Lenaneotshepedišo la bosetšhaba la go boloka tshedimošo le tekolo ya polokego ya diporo tša ditimela

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39. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go hlama le go hlokomela lenaneotshepedišo la bosetšhaba la go boloka tshedimošo le tekolo ya polokego ya diporo tša ditimela malebana le go šomišwa ga diporo tša ditimela ka gare ga Repabliki.

(2) Lenaneotshepedišo le swanetše go akaretša—

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- (a) rejisetara ya baswari ba phemiti ya polokego;
- (b) rejisetara ya ditiragalo tša diporong tša ditimela;
- (c) tshedimošo ya malebana le ditiro, dipeakanyo, ditshepedišo le ditshepetšo tseo di phethagatšwago ke moswari yo mongwe le yo mongwe wa phemiti ya polokego go netefatša polokego ka gare ga lefelo leo phemiti e šomišwago ka go lona;
- (d) tshedimošo malebana le taolo ya dikotlo;
- (e) tshedimošo malebana le taolo ya ditlhahlobo le ditekolo;
- (f) tshedimošo ye e nabilego ya malebana le kobamelo le phethagatšo;
- (g) rejisetara yeo e ngwalago ditiro tša tlhokomelo tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela le dipelo tša yona;
- (h) rejisetara dithoto tša mananeokgoparara ao a amanago le polokego ya ditimela; le
- (i) taba efe goba efe ye nngwe yeo e bontšhwago yeo e nyakegago go tšwetša pele polokego.

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(3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka go ngwala, e ka nyaka gore moswari wa phemiti ya polokego a e fe, mo nakong ye e beilwego goba ka mehla, datha, tshedimošo, dingwalwa, disampole goba didirišwa tše di amegago malebana le merero yeo e hlalošitšwego ka go karolwana ya (2), bjalo ka ge go ka hlalošwa ka mo go kwagalago ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ebile Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka hlokomela tšhomišo, tirišo, phethagatšo goba tshepedišo ya datha, tshedimošo, dingwalwa, disampole goba didirišwa tseo di rometšwego ka tsela yeo ka nepo ya go netefatša kobamelo ya Molao wo le maemo a go netefatša polokego.

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(4) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go tlaleletša mošomo wa yona wa go boloka tshedimošo, e ka hlama tshepedišo ya go aba mešomo ya tlaleletšo le ditšhomišo tseo di hlalošitšwego ka gare ga Molao wo, goba go tšwetša pele tshepedišo ye e šomago gabotse ya mešomo ya yona.

Tšhireletšo ya tshedimošo

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40. (1) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go šireletša tshedimošo ka moka yeo e rometšwego go yona ke mokgopedi wa phemiti ya polokego, go akaretšwa tshedimošo yeo e rometšwego go yona go ya ka karolo ya 39(3), ebile e boloke tshedimošo yeo bjalo ka sephiri, ntle le ge—

- (a) tshedimošo ye bjalo e šetše e le matlakaleng a setšhaba;
- (b) tshedimošo yeo e kgopelwa ka mabaka a nyakišišo yeo e hlalošitšwego ka go karolo ya 50(1);
- (c) kgorotshoko ya molao e laetše gore tshedimošo yeo e ka utollwa;
- (d) e dumeletšwe goba e laetšwe ke Molao wo goba molao ofe goba ofe wo mongwe go utolla tshedimošo yeo; goba
- (e) kutollo ya tshedimošo yeo go obamela Molao wa Tšwetšopele ya Phihlelelo ya Tshedimošo le Molao wa Tšhireletšo ya Tshedimošo ya Bomotheo.

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(2) Karolwana ya (1) e šomišwa, ka diphetogo tše di nyakegago, go motho yo a dirago tekolo ye e ikemego ya tshedimošo yeo e filwego ke mokgopedi go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka mabaka a phemiti ya polokego ka fase ga karolo ya 30.

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CHAPTER 6

ENFORCEMENT

Railway safety inspector

41. (1) The CEO may appoint a person who meets the requirements determined by the board in respect of suitability, qualifications and training, as a railway safety inspector to exercise the powers and perform the duties contemplated in section 42. 5

(2) The Regulator must, prior to a railway safety inspector exercising any powers and performing any duties in terms of this Act, provide the railway safety inspector with a certificate of appointment signed by the CEO.

(3) A railway safety inspector, in conducting any inspection or investigation in terms of this Act— 10

(a) must show his or her certificate of appointment to any person who—

- (i) is likely to be affected by the railway safety inspector's actions; or
- (ii) requests to see that certificate; and

(b) may exercise the powers conferred on a peace officer by the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 15

(4) Any person who wilfully hinders the railway safety inspector in the exercise of his or her powers or in the performance of his or her duties in terms of this Act, is guilty of an offence.

Powers and duties of railway safety inspector

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42. (1) A railway safety inspector may, subject to sections 43, 44 and 45, conduct an inspection at any place or premises in order to determine whether the provisions of this Act have been complied with through—

- (a) a routine compliance inspection in accordance with section 43; or
- (b) an enforcement inspection in accordance with section 44. 25

(2) The Regulator may agree, in a protocol to be concluded with any operator—

- (a) for a railway safety inspector to conduct inspections in accordance with section 43; and
- (b) to facilitate the expeditious and orderly execution of an inspection.

Routine compliance inspection

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43. (1) For the purposes of section 42(1)(a), a railway safety inspector may at any reasonable time and without prior notice, enter and inspect any premises owned, used or operated by the railway safety permit holder, other than a private residence, having regard to the procedure contemplated in section 42(2), if any.

(2) Upon entering any premises in terms of subsection (1), the railway safety inspector may, after having identified himself or herself to the person in control of such premises— 35

(a) require any person at the premises to—

- (i) identify, point out or demonstrate any object or combination of objects, or system, related to the safety permit or standard applicable to such premises; 40
- (ii) produce any book, record or other document relevant to the inspection in the possession of, or under the control of, that safety permit holder, its employee or its agent;
- (iii) furnish such information in respect of that safety permit at such premises and in such a manner as the railway safety inspector may determine; 45

KGAOLO YA 6 PHETHAGATŠO

Molekodi wa polokego ya diporo tša ditimela

41. (1) CEO e ka thwala motho yo a fihlelelago dinyakwa tšeo di beilwego ke boto malebana le maswanedi, mangwalo a thuto le tlhahlo, gore a šome bjalo ka molekodi wa polokego ya diporo tša ditimela yo a šomišago maatla le go phethagatša mešomo yeo e hlalošitšwego ka go karolo ya 42. 5

(2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, pele ga ge molekodi wa polokego ya diporo tša ditimela a šomiša maatla afe goba afe le go phethagatša mešomo efe goba efe go ya ka Molao wo, e swanetše go fa molekodi wa polokego ya diporo tša ditimela setifikeiti sa go thwalwa ga gagwe seo se saenilwego ke CEO. 10

(3) Molekodi wa polokego ya diporo tša ditimela, ge a dira tekolo goba nyakišišo efe goba efe go ya ka Molao wo—

(a) o swanetše go bontšha setifikeiti sa go thwalwa ga gagwe go motho ofe goba ofe yo— 15

(i) go nago le kgonagalo ya gore a ka ama ke ditiro tša molekodi wa polokego ya diporo tša ditimela; goba

(ii) ge a kgopela go bona setifikeiti seo; le

(b) a ka šomiša maatla ao a filwego mohlankedi wa khutšo ke Molao wa Tshepetšo ya Bosenyi, wa 1977 (Molao wa No. ya 51 wa 1977). 20

(4) Motho ofe goba ofe yo a šitišago ka boomo molekodi wa polokego ya diporo tša ditimela go šomiša maatla a gagwe goba go phethagatša mešomo ya gagwe go ya ka Molao wo, o na le molato.

Maatla le mešomo ya molekodi wa polokego ya diporo tša ditimela

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42. (1) Molekodi wa polokego ya diporo tša ditimela, go ya ka dikarolo tša 43, 44 le 45, a ka dira tekolo go lefelo goba meago efe goba efe gore a kgone go bona ge e ba dipeelano tša Molao wo di obametšwe ka go—

(a) dira tekolo ya ka mehla ya kobamelo go ya ka karolo ya 43; goba

(b) phethagatša tekolo go ya ka karolo ya 44. 30

(2) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka dumela, ka gare ga prothokhole yeo e swanetšego go dumelelanwa le modirišišo ofe goba ofe—

(a) gore molekodi wa polokego ya diporo tša ditimela a dire ditekolo go ya ka karolo ya 43; le 35

(b) go nolofatša phethagatšo ya ka pela le ye e rulagantšwego ya tekolo.

Tekolo ya ka mehla ya kobamelo

43. (1) Ka morero wa karolo ya 42(1)(a), molekodi wa polokego ya diporo tša ditimela, ka nako ye nngwe le ye nngwe ye e kwagalago ebile ntle le go tsebiša motho pele, a ka tsena le go lekola meago ye mengwe le ye mengwe yeo e lego ya, e sepetšago goba e šomišwago moswari wa phemiti ya polokego, ntle le bodulo bja praebete, go elwa hloko tshepedišo yeo e hlalošitšwego ka go karolo ya 42(2), ge e le gona. 40

(2) Ge a tsena meagong efe goba efe go ya ka karolwana ya (1), molekodi wa polokego ya kdiporo tša ditimela, ka morago ga go itsebiša go motho yo a laolago moago wo bjalo, a ka— 45

(a) nyaka gore motho ofe goba ofe yo a lego meagong yeo a—

(i) hlathe, laetše goba a bontšhe sedirišwa goba koboketšo ya didirišwa dife goba dife, goba lenaneotshepedišo, leo le amanago le phemiti ya polokego goba maemo a go netefatša polokego ao a šomišwago meagong yeo; 50

(ii) tšweletša puku, rekoto goba sengwalwa sefe goba sefe se sengwe seo se amanago le tekolo seo se swerego ke, goba se lego ka fase ga taolo ya, moswari yoo wa phemiti ya polokego, mošomi wa gagwe goba moemedi wa gagwe; 55

(iii) fane ka tshedimošo ya malebana le phemiti yeo ya polokego ya moago wo bjalo ebile ka mogwa wo o ka hlathwago ke molekodi wa polokego ya diporo tša ditimela;

- (b) hand over a written notice to that person wherein the railway safety inspector prohibits the removal or destruction of any object, system, digital data, book, record or other document relevant to the inspection in the possession, or under the control, of that safety permit holder, employee or agent;
 - (c) photograph or otherwise record the attributes of any object or system, or examine or make extracts from or copies of any such data, book, record or other document relevant to the inspection; and 5
 - (d) seize and retain any such data, book, record or other document in the premises to which any charge of non-compliance or contravention of this Act or a standard may relate, but the person from whose possession any object, system, data, book, record or other document was taken, must at his or her request and at his or her expense, be allowed to photograph or otherwise record the attributes of any object or system or to make copies thereof or extracts therefrom under the supervision of the railway safety inspector concerned. 10
- (3) Any person who wilfully removes or destroys any object, system, digital data, book, record or other document in respect of which a railway safety inspector has issued a prohibition contemplated in subsection (2)(b), is guilty of an offence. 15
- (4) An inspection contemplated in subsection (1) may be conducted by a railway safety inspector without a warrant.

Enforcement inspection

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44. (1) A railway safety inspector may, on the authority of a warrant, enter and inspect any premises if he or she suspects that an offence contemplated in this Act is being or has been committed.

(2) A railway safety inspector must, before commencing with an inspection contemplated in subsection (1)— 25

- (a) if the owner, or person in control, of the premises to be searched is present—
 - (i) provide identification to that person and explain to that person the authority by which the warrant is being executed; and
 - (ii) hand an exact copy of the warrant and of this section to that person or to the person named in the warrant; or 30

(b) if no person is present, affix an exact copy of the warrant at the entrance to the premises in a prominent and visible place.

(3) A railway safety inspector may, for purposes of subsection (1) and subject to subsection (2)—

- (a) enter and search any premises; 35
- (b) search any person on those premises, if there are reasonable grounds for believing that the person has personal possession of an object, a system, data, book, document or record that has a bearing on the inspection;
- (c) examine any object, system, data, book, document or record that is on or in those premises that has a bearing on the inspection; 40
- (d) request any person to unlock or otherwise provide unhindered access to any safe, storage facility or other receptacle, or to point out any other person on the premises who can do so;
- (e) request information about any object, system, data, book, document or record; 45
- (f) photograph or otherwise record the attributes of any object or system, or take extracts from, or making copies of, any book, document or record, that is on or in the premises and that has a bearing on the inspection;

- (b) fana ka tsebišo ye e ngwadilwego go motho yoo, moo molekodi wa polokego ya diporo tša ditimela a thibelago go tlošwa goba go senywa ga sedirišwa, lenaneotshepedišo, datha ya titšithale, puku, rekoto goba sengwalwa sefe goba sefe se sengwe seo se amanago le tekolo, seo se swerwego ke, goba seo se lego ka fase ga taolo, moswari wa phemiti, mošomi goba moemedi yoo; 5
- (c) go tšea diswantšho goba go gatiša diteng tša didirišwa goba lenaneotshepedišo, goba go hlahloba goba go dira ditsopolwa go tšwa goba dikhopi tša datha, puku, rekoto goba sengwalwa sefe goba sefe se sengwe seo se amegago go le tekolo; le
- (d) thopa le go swara datha, puku, rekoto goba sengwalwa sefe goba sefe se sengwe ka go meago yeo moo e lego gore tefišo efe goba efe goba go tlošwa ga Molao wo goba maemo ao o ka amanago le wona, fela motho yo sedirišwa, lenaneotshepedišo, datha, puku, rekoto goba sengwalwa sefe goba sefe se sengwe e se tšeešwego yena, o swanetše ka kgopelo le ka ditshenyagalelo tša gagwe, a dumelelwa go tšea diswantšho goba go gatiša diteng tša didirišwa goba lenaneotshepedišo goba go dira dikhopi tša sona goba ditsopolwa go tšwa go sona ka fase ga tlhokomelo ya molekodi wa polokego ya diporo tša ditimela yo a tshwenyegilego. 10
- (3) Motho ofe goba ofe yo a tlošago goba a senyago ka boomo sedirišwa, lenaneotshepedišo, datha ya titšithale, puku, rekoto goba sengwalwa sefe goba sefe se sengwe seo molekodi wa polokego ya diporo tša ditimela a ntšhitšego kiletšo malebana le sona yeo e hlalošitšwego ka go karolwana ya (2)(b), o na le molato. 20
- (4) Tekolo yeo e hlalošitšwego ka go karolwana ya (1) e ka dirwa ke molekodi wa polokego ya diporo tša ditimela ntle le tagafala.

Tekolo ya phethagatšo ya mešomo

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44. (1) Molekodi wa polokego ya diporo tša ditimela, ka taelo ya tagafala, a ka tsena le go hlahloba meago efe goba efe ge a belaela gore molato wo o hlalošitšwego ka go Molao wo o a dirwa goba o dirilwe.

(2) Molekodi wa polokego ya diporo tša ditimela o swanetše gore, pele a thoma ka tekolo yeo e hlalošitšwego ka go karolwana ya (1)— 30

- (a) ge e ba mong, goba motho yo a laolago, meago yeo e swanetšego go phuruphutšwa a le gona—
- (i) a fane ka sengwalwa sa boitsebišo go motho yoo le go mo hlalošetša ka ga taelo yeo tagafala e phethagatšwago ka yona; le
- (ii) a fane ka khophi ye e nepagetšego ya tagafala le ya karolo ye go motho yoo goba go motho yo a leina la gagwe le ngwadilwego ka gare ga tagafala; goba 35
- (b) ge go se na motho yo a lego gona, a gomaretše khopi ye e nepagetšego ya tagafala seferong sa moago mo lefelong leo le tšweletšego ebile leo le bonagalago. 40
- (3) Molekodi wa polokego ya diporo tša ditimela, ka mabaka a karolwana ya (1) le go ya ka karolwana ya (2) a ka—
- (a) tsena le go phuruphutša meago efe goba efe;
- (b) phuruphutša motho ofe goba ofe mo lefelong leo, ge go na le mabaka ao a kwagalago a go dumela gore motho yoo o na le sedirišwa, lenaneotshepedišo, datha, puku, sengwalwa goba rekoto yeo e nago le seabe go tekolo; 45
- (c) hlahloba sedirišwa sefe goba sefe, lenaneotshepedišo, datha, puku, sengwalwa goba rekoto yeo e lego go goba ka gare ga meago yeo e nago le seabe go tekolo;
- (d) kgopela motho ofe goba ofe go notlolla goba ka tsela ye nngwe go fana ka phihlelelo ye e sa šitišwego go bobolokelo, lefelo la polokelo goba setšhelo sefe goba sefe se sengwe, goba go mo šupa motho ofe goba ofe yo mongwe mo lefelong leo yo a ka dirago bjalo; 50
- (e) kgopela tshedimošo ka ga sedirišwa sefe goba sefe, lenaneotshepedišo, datha, puku, sengwalwa goba rekoto; 55
- (f) go tšea diswantšho goba ka tsela ye nngwe go gatiša dika tša sedirišwa sefe goba sefe goba lenaneotshepedišo, goba go tšea ditsopolwa go tšwa go, goba go dira dikhopi tša, puku, sengwalwa goba rekoto efe goba efe, yeo e lego mo lefelong goba yeo e lego ka gare ga lefelo leo le yeo e nago le seabe go tekolo;

- (g) use any computer system on the premises that has a bearing on the inspection, or require assistance from any person on the premises to use that computer system, to—
- (i) search any data contained in that system; or
 - (ii) reproduce any record from that data; 5
- (h) seize any output from that computer for examination and copying; and
- (i) attach and, if necessary, remove from the premises for examination and safe-keeping anything that has a bearing on the inspection: Provided that the person from whose possession any object, system, data, book, record or other document was taken, must, at his or her request and at his or her expense, be 10 allowed to record or make copies thereof or extracts therefrom under the supervision of the railway safety inspector concerned.
- (4) The warrant contemplated in subsection (1) may only be issued by a judge or a magistrate if it appears from the information given by the railway safety inspector under oath or affirmation that— 15
- (a) there are reasonable grounds for suspecting that a contravention of the Act has occurred or is occurring;
 - (b) a search of the premises is likely to yield information pertaining to the alleged contravention; and
 - (c) the search is reasonably necessary for the purposes of enforcing the Act. 20
- (5) The warrant contemplated in subsection (1) must—
- (a) identify the premises that may be entered and searched; and
 - (b) specify the parameters within which the railway safety inspector may perform an entry, search or seizure.
- (6) The warrant contemplated in subsection (1) may be executed only during the 25 hours of 08h00 and 17h00 of a day, other than a Saturday, Sunday or public holiday, unless the judge or the magistrate who issued the warrant authorises that it may be executed at any other time that is reasonable in the circumstances.
- (7) The warrant contemplated in subsection (1) is valid only until—
- (a) the warrant is executed; 30
 - (b) the warrant is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
 - (c) the purpose for which it was issued, has elapsed; or
 - (d) the expiry of one month after the date when it was issued, 35
- whichever occurs first.
- (8) A railway safety inspector who conducts an inspection in terms of this section may be accompanied and assisted by one or more police officers.
- (9) A railway safety inspector and any police officer accompanying him or her must, when entering and searching any premises in terms of this section, conduct the entry and search with strict regard to decency and every person's right to dignity, freedom, 40 security and privacy.
- (10) A police officer who is assisting a railway safety inspector in terms of subsection (8) may use necessary force to overcome resistance by any person to the entry, search or seizure, including—
- (a) breaking a door or window of the premises; or 45
 - (b) breaking any lock or other barrier which prevents the search of any safe, storage facility or other receptacle on the premises.
- (11) Before using force in terms of subsection (10), a police officer must audibly demand admission or access and must announce the purpose of entry, unless it is reasonable to believe that doing so may induce someone to destroy, dispose of or 50 conceal an article, document or record that forms part of the search or is otherwise relevant to the search.
- (12) A person may refuse to permit the removal of an article, document or record on the grounds that it contains privileged or protected information, but that person may not

- (g) šomiša lenaneotshepedišo lefe goba lefe la khomphutha ya lefelo leo, leo le nago le seabe go tekolo, goba go a nyake thušo go motho ofe goba ofe mo lefelong leo go šomiša lenaneotshepedišo leo la khomphutha, go—
- (i) nyaka datha efe goba efe yeo e lego ka gare ga lenaneotshepedišo leo; goba 5
- (ii) tšweletša gape rekoto efe goba efe go tšwa go datha yeo;
- (h) go thopa ditšweletšwa dife goba dife go tšwa khomphutheng yeo gore di hlahlobje le go dirwa dikhopi; le
- (i) gomaretša, mo go nyakegago, a tloše sedirišwa se sengwe le se sengwe mo lefelong leo gore se hlahlobje le go bolokwa seo se nago le seabe go tekolo: Fela ge e ba motho yoo a tšeešwego sedirišwa, lenaneotshepedišo, datha, puku, rekoto goba sengwalwa sefe goba sefe se sengwe, o swanetše gore, ge a kgopela ebile ka ditshenyagalelo tša gagwe, a dumelelwe go gatiša goba go dira dikhopi tša sona goba ditsopolwa go tšwa go sona ka fase ga tlhokomelo ya molekodi wa polokego ya diporo tša ditimela yo a amegago. 15
- (4) Tagafala yeo e hlalošitšwego ka go karolwana ya (1) e ka ntšhwa fela ke moahlodi goba masepala ge e ba e tšwelela go tšwa go tshedimošo yeo e filwego ke molekodi wa polokego ya diporo tša ditimela ka fase ga keno goba tiišetšo ya gore—
- (a) go na le mabaka ao a kwagalago a go belaela gore go tloiswa ga Molao go diregile goba go a direga; 20
- (b) go phuruphutša lefelo leo go na le kgonagalo ya go tšweletša tshedimošo yeo e lego malebana le tlolo ya molao yeo go thwego e dirilwe; le
- (c) go phuruphutša go a nyakega ka mo go kwagalago ka maikemišetšo a go phethagatša Molao.
- (5) Tagafala yeo e hlalošitšwego go karolwana ya (1) e swanetše— 25
- (a) hlatha meago yeo go ka tsenwago le go phuruphutšwa ka go yona; le
- (b) laetša dikarolo tšeo ka gare ga tšona molekodi wa polokego ya diporo tša ditimela a ka tsenago, go phuruphutša goba go thopa.
- (6) Tagafala yeo e hlalošitšwego ka go karolwana ya (1) e ka phethagatšwa fela magareng ga diiri tša 08h00 le 17h00 tša letšatši, ntle le Mokibelo, Sontaga goba letšatši la maikhutšo la setšhaba, ntle le ge moahlodi goba masepala yo a ntšhitšego tagafala yeo a dumelela gore le ka phethagatšwa ka nako efe goba efe ye nngwe yeo e kwagalago go maemo ao. 30
- (7) Tagafala yeo e hlalošitšwego ka go karolwana ya (1) le šoma fela go fihlela—
- (a) tagafala yeo e phethagatšwa; 35
- (b) tagafala yeo e fedišwa ke motho yo a e ntšhitšego goba, ge motho yoo a se gona, ke motho yo a nago le taolo ye e swanago;
- (c) morero wo e ntšhitšwego ka wona, o fetile; goba
- (d) go fela ga kgwedi e tee ka morago ga letšatšikgwedi leo e ntšhitšwego ka lona, 40
- go ya ka gore ke efe yeo e diregago pele.
- (8) Molekodi wa polokego ya diporo tša ditimela yo a dirago tekolo go ya ka karolo ye a ka felegetšwa le go thušwa ke mohlankedi o tee goba ba bantši ba maphodisa.
- (9) Molekodi wa polokego ya diporo tša ditimela le mohlankedi ofe goba ofe wa maphodisa yo a mo felegetšago, ba swanetše gore ge ba tsena le go phuruphutša moago ofe goba ofe go ya ka karolo ye, ba tsene le go phuruphutša ka go tlhompō ye kgolo le tokelo ya motho yo mongwe le yo mongwe ya seriti, tokologo, tšhireletšego le sephiri. 45
- (10) Mohlankedi wa maphodisa yo a thušago molekodi wa polokego ya diporo tša ditimela go ya ka karolwana ya (8) a ka šomiša maatla ao a nyakegago go fenya kganetšo ya motho ofe goba ofe go tsena, go phuruphutša goba go thopa, moo seo se akaretšago— 50
- (a) go thuba lebatl goba lefasetere la moago; goba
- (b) go thuba senotlelo sefe goba sefe goba lepheko le lengwe leo le thibelago go phuruphutšwa ga sefe ya bobolokelo, lefelo la polokelo goba setšhelo se sengwe seo se lego ka gare ga moago woo. 55
- (11) Pele a šomiša maatla go ya ka karolwana ya (10), mohlankedi wa maphodisa o swanetše go goelela gore a bulelwe goba a kgone go tsena ebile o swanetše go tsebatšha morero wa go tsena ga gagwe, ntle le ge go kwagala gore go dumelelwa go bjalo go ka hlholeletša motho go senya, go lahla goba go uta sedirišwa, sengwalwa goba rekoto yeo e bopago karolo ya nyakišišo goba yeo ka tsela ye nngwe e lebanego le nyakišišo. 60
- (12) Motho a ka gana go dumelela go tlošwa ga athikele, sengwalwa goba rekoto ka mabaka a gore e na le tshedimošo ya sephiri goba ye e šireleditšwego, fela motho yoo a ka se dire gore athikele yeo, sengwalwa goba rekoto e fetošwe goba e senywe go

cause such article, document or record to be amended, altered or destroyed until the railway safety inspector has been afforded a reasonable time to act under subsection (13), and any person who wilfully does so, is guilty of an offence.

(13) If the owner or person in control of an object, system, document or record refuses to give that object, system, document or record to the railway safety inspector conducting the search, that railway safety inspector may request the registrar or sheriff of the High Court that has jurisdiction, to attach and remove that object, system, document or record for safe custody until a court determines whether or not the information contained in it is privileged or protected. 5

Formalities of inspections 10

45. (1) During any search, only a female railway safety inspector or female police officer may search a female person and only a male railway safety inspector or male police officer may search a male person.

(2) A railway safety inspector who removes anything from premises being searched must— 15

- (a) issue a written receipt for it to the owner, or person in control, of the premises, in sufficient detail to identify each specific item so removed; and
- (b) return it in good order as soon as practicable after achieving the purpose for which it was removed to the person from whose control it was taken, unless it is to be used as evidence in any subsequent proceedings, in which case the railway safety inspector must, in writing, inform the person from whose control it was taken of that fact. 20

(3) A person who submits any information to a railway safety inspector or makes any statement to him or her, may do so orally, and he or she may—

- (a) indicate to the railway safety inspector that he or she claims confidentiality in respect of any information or statement so provided; and 25
- (b) provide the railway safety inspector with an explanation why the information or statement is confidential.

(4) A railway safety inspector must—

- (a) consider any claim and explanation contemplated in subsection (3); 30
- (b) notify the person who claims confidentiality whether or not that information or statement will be treated as being confidential; and
- (c) if the railway safety inspector considers such information to be confidential, keep such information confidential, unless— 35
 - (i) such information is already in the public domain;
 - (ii) the railway safety inspector is ordered by a court of law to disclose such information; or
 - (iii) the disclosure complies with the Promotion of Access to Information Act or the Protection of Personal Information Act.

Duty to assist railway safety inspector 40

46. (1) When a railway safety inspector enters any property as contemplated in section 43 or 44, the operator, owner or manager and each employee working there must, subject to subsections (2), (3) and (4), assist the railway safety inspector by furnishing him or her with answers to questions and by providing him or her with any facility that the railway safety inspector may reasonably require for purposes of the inspection. 45

fihlela molekodi wa polokego ya diporo tša ditimela a filwe nako ye e kwagalago ya go latela dipeelano tša ka fase ga karolwana ya (13), ebile motho ofe goba ofe yo a dirago bjalo ka boomo, o na le molato.

(13) Ge mong goba motho yo a laolago sedirišwa, lenaneotshepedišo, sengwalwa goba rekoto a gana go fa molekodi wa polokego ya diporo tša ditimela yo a dirago nyakišišo sedirišwa, lenaneotshepedišo, sengwalwa goba rekoto, molekodi yoo wa polokego ya diporo tša ditimela ka kgopela mongwadišišo goba šerife ya Kgorotsheko ya Godimo yeo e nago le maatla a taolo, go gomaretša le go tloša sedirišwa, lenaneotshepedišo, sengwalwa goba rekoto yeo gore e bolokwe go fihlela kgorotsheko e bona ge eba tshedimošo yeo e lego go yona ke ya sephiri goba ye e šireleditšwego goba aowa. 5 10

Ditshepedišo tša setlwaedi tša go dira ditekolo

45. (1) Nako ya ge go dirwa phuruphutšwa efe goba efe, ke fela molekodi wa polokego ya diporo tša ditimela wa mosadi goba mohlankedi wa maphodisa wa mosadi yo a ka phuruphutšago motho wa mosadi ebile ke fela molekodi wa polokego ya diporo tša ditimela wa monna goba mohlankedi wa maphodisa a ka phuruphutšago motho wa monna. 15

(2) Molekodi wa polokego ya diporo tša ditimela yo a tlošago selo se sengwe le se sengwe ka moagong wo go phuruphutšwago o swanetše go—

(a) fana ka rasiti ye e ngwadilwego ya sona go mong, goba motho yo a laolago, moago woo, yeo e hlathago ka botlalo selo se sengwe le se sengwe seo se tlošitšwego; le 20

(b) a bušetše selo seo se sa lokile ka pela ka mo go kgonegago ka morago ga go fihlelela morero woo se bego se tlošeditšwe wona go motho yo se bego se le taolong ya gagwe, ntle le ge se swanetše go šomišwa bjalo ka bohlatse ditshepedišong dife goba dife tše di latelago, ka gona ge go le bjalo molekodi wa polokego ya diporo tša ditimela o swanetše, ka go ngwala, a tsebiše motho yo selo seo se tšerwego taolong ya gagwe ka taba yeo. 25

(3) Motho yo a romelago tshedimošo efe goba efe go molekodi wa polokego ya diporo tša ditimela goba a dirago pego efe goba efe go yena, a ka dira bjalo ka molomo, gomme a ka— 30

(a) botša molekodi wa polokego ya diporo tša ditimela tshedimošo goba pego efe goba efe ye a fanago ka yona ke ya sephiri; le

(b) fa molekodi wa polokego ya diporo tša ditimela tlhalošo ya gore ke ka lebaka la eng tshedimošo goba pego e le sephiri. 35

(4) Molekodi wa polokego ya diporo tša ditimela o swanetše go—

(a) ela hloko tleleimi le tlhalošo efe goba efe yeo e hlalošitšwego ka go karolwana ya (3);

(b) tsebiša motho yo a kgopelago sephiri ge e ba tshedimošo yeo goba pego yeo e tla swarwa bjalo ka sephiri goba aowa; le 40

(c) gore ge e ba molekodi wa polokego ya diporo tša ditimela o akanya gore tshedimošo yeo ke ya sephiri, a dule a e dirile sephiri, ntle le ge—

(i) tshedimošo ye bjalo e šetše e le matlakaleng a setšhaba;

(ii) molekodi wa polokego ya diporo tša ditimela a laelwa ke kgorotsheko go utolla tshedimošo ye bjalo; goba 45

(iii) go utolla ga tshedimošo yeo go sepelelana le Molao wa Tšwetšopele ya Phihlelelo ya Tshedimošo goba Molao wa Tšhireletšo ya Tshedimošo ya Bomotheo. 55

Maikarabelo a go thuša molekodi wa polokego ya diporo tša ditimela

46. (1) Ge molekodi wa polokego ya diporo tša ditimela a tsena ka gare ga moago wo o hlalošitšwego ka go karolo ya 43 goba 44, modirišišo, mong goba molaodi mmogo le mošomi yo mongwe le yo mongwe yo a šomago moo, go ya ka dikarolwana tša (2), (3) le (4), o swanetše go thuša molekodi wa polokego ya diporo tša ditimela ka go mo fa dikarabo tša dipotšišo le go fana ka sedirišwa se sengwe le se sengwe seo molekodi wa polokego ya diporo tša ditimela a ka se nyakago ka mo go kwagalago malebana le merero ya go dira tekolo. 50 55

(2) A railway safety inspector or a police officer who is assisting a railway safety inspector in terms of section 44(8) for purposes of entering or searching premises under sections 43 and 44 must, before questioning anyone—

- (a) advise the person to be questioned of the right to be assisted at the time by a legal practitioner, as well as of his or her rights contemplated in subsection (3); and 5
- (b) allow that person a reasonable opportunity to exercise those rights.

(3) A person questioned by a railway safety inspector must answer each question to the best of his or her ability, but such person is not required to answer any question if the answer may be self-incriminating. 10

(4) A railway safety inspector must, prior to questioning a person in terms of subsection (1), in the presence of that person, in writing, record the date, time and place, and the name of that person, who has been advised of his or her rights in accordance with subsection (2)(a).

Powers of railway safety inspector to deal with unsafe conditions 15

47. (1) Subject to subsection (3), if the railway safety inspector has good reason to believe that a condition or activity is a threat or might be a threat to safe railway operations, the railway safety inspector may submit a written report to the affected operator, stating the reasons for believing that the condition or activity is a threat or might be a threat to safe railway operations, and allow the operator a reasonable opportunity to respond to the report. 20

(2) If the railway safety inspector is not satisfied with the response from the operator or if the operator fails to respond to the report, the railway safety inspector may, in writing, issue a directive—

- (a) restricting or suspending that condition or activity, or the railway operation itself; 25
- (b) placing a condition on the continuation of that activity; or
- (c) specifying what action must be taken within a specified time by that person to remove the threat.

(3) If there is a threat to safe railway operations that poses an immediate or imminent risk of serious danger to persons, property or the environment, the railway safety inspector may, despite subsections (1) and (2), after engaging orally with the operator or a person who ostensibly is in charge of the relevant premises or rolling stock, issue a directive, in writing, as contemplated in subsection (2). 30

(4) Subject to section 57(3), any person who fails or refuses to comply with a directive within the period specified in the directive, is guilty of an offence, unless an appeal has been lodged in terms of subsection (5), which has not yet been finalised. 35

(5) Any person who is aggrieved by a directive issued in terms of subsection (3), may lodge an appeal contemplated in section 54.

(6) An appeal lodged as contemplated in subsection (5) does not prevent a person from obtaining urgent relief from a competent court of law. 40

(7) A railway safety inspector may issue compliance notices and penalties contemplated in section 67.

CHAPTER 7

RAILWAY OCCURRENCE REPORTING AND INVESTIGATIONS 45

Railway occurrence

48. (1) The Minister may prescribe a railway accident or incident as a railway occurrence.

(2) An operator must, as soon as practicable after a railway occurrence—

- (a) secure the scene of the railway occurrence; 50

(2) Molekodi wa polokego ya diporo tša ditimela goba mohlankedi wa maphodisa yo a thušago molekodi wa polokego ya diporo tša ditimela go ya ka karolo ya 44(8) ka morero wa gore a kgone go tsena goba go phuruphutša ka meagong ka fase ga dikarolo tša 43 le 44 o swanetše gore, pele a botšološa motho ofe goba ofe—

- (a) a eletše motho yo a tlo botšišwago ka ga tokelo ya gagwe ya go thušwa ke mohlankedi wa molao ka nako yeo, mmogo le ka ga ditokelo tša gagwe tše di hlalošitšwego ka go karolwana ya (3); le 5
- (b) go fana ka monyetla wo o kwagalago wa gore motho yo a kgone go šomiša ditokelo tše. 10

(3) Motho ya a botšološwago ke molekodi wa polokego ya diporo tša ditimela o swanetše go araba dipotšišo go fihla bokgole bja bokgoni bja gagwe, fela motho yo bjalo ga a gapeletšego go araba potšišo efe goba efe ge e ba karabo e ka mo akaretša go bosenyi. 15

(4) Molekodi wa polokego ya diporo tša ditimela, pele a ka botšološa motho go ya ka karolwana ya (1), motho yoo a le gona, ka go ngwala, o swanetše go gatiša letšatšikgwedi, nako le lefelo, mmogo le leina la motho yoo, yo a eleditšwego ka ga ditokelo tša gagwe go ya ka karolwana ya (2)(a). 15

Maatla a molekodi wa polokego ya diporo tša ditimela go šogana le maemo ao a sa bolokegago

47. (1) Go ya ka karolwana ya (3), ge e ba molekodi wa polokego ya diporo tša ditimela o na le lebaka le lebotse la go kgolwa gore maemo goba tiragalo e tšhošetša goba e ka tšhošetša tšhomišo ya diporo ye e bolokegilego, molekodi wa polokego ya diporo tša ditimela a ka romela pego go modiriši yo a amegilego, yeo e ngwadilego mabaka a go dumela gore maemo goba tiragalo e tšhošetša goba e ka tšhošetša tšhomišo ya diporo tša ditimela tše di bolokegilego, ebile a fe modiriši monyetla wo o kwagalago wa go araba pego yeo. 20 25

(2) Ge e ba molekodi wa polokego ya diporo tša ditimela ga se a kgotsofala ka phetolo ye e tšwago go modiriši goba ge modiriši a palelwa ke go fetola pego, molekodi wa polokego ya diporo tša ditimela, ka go ngwala, a ka ntšha taelo yeo e—

- (a) thibelago goba e fegago maemo goba tiragalo, goba tšhomišo ya seporo sa setimela ka bosona; 30
- (b) beago peelano malebana le go tšwetšapele go dirwa ga tiragalo; goba
- (c) go hlatha gore ke tiro efe yeo e swanetšego go dirwa ka nako ye e beilwego ke motho yoo go tloša tšhošetšo yeo. 35

(3) Ge e ba go na le tšhošetšo go tšhomišo ya diporo tša ditimela yeo e hlolago kotsi ya kgauswi go batho, moago goba tikologo, molekodi wa polokego ya diporo tša ditimela, ntle le go šetša dikarolwana tša (1) le (2), le ka morago ga go boledišana le modiriši goba motho yo a bonalago a laola meago ye e amegago goba dikarikana tša ditimela, a ka ntšha taelo, ka go ngwala, bjalo ka ge go hlalošitšwego ka go karolwana ya (2). 40

(4) Go ya ka karolo ya 57(3), motho ofe goba ofe yo a palelwago goba a ganago go obamela taelo ka gare ga nako yeo e ngwadilwego ka gare ga taelo, o na le molato, ntle le ge go tlišitšwe boipiletšo go ya ka karolwana ya (5), bjo bo sego bja phethagatšwa. 45

(5) Motho ofe goba ofe yo a nyamišwago ke taelo ye e ntšhitšwego go ya ka karolwana ya (3), a ka tliša boipiletšo bjo bo hlalošitšwego go ya ka karolo ya 54. 45

(6) Boipiletšo bjo bo tlišitšwego bjalo ka ge go hlalošitšwego karolwana ya (5) ga bo thibele motho go hwetša thušo ya ka pela gotšwa kgorotsheko ye e nago bokgoni.

(7) Molekodi wa polokego ya diporo tša ditimela a ka ntšha ditsebišo le dikotlo tša kobamelo tše di hlalošitšwego ka go karolo ya 67.

KGAOLO YA 7

50

GO BEGA LE GO NYAKIŠIŠA DITIRAGALO TŠA DIPORO TŠA DITIMELA

Tiragalo ya seporong sa ditimela

48. (1) Tona a ka hlatha kotsi goba tiragalo ya seporong bjalo ka yeo e welago ka fase ga ditiragalo tša diporong.

(2) Modiriši, ka pela ka mo go kgonegago ka morago ga tiragalo ya seporo, o swanetše go— 55

- (a) šireletša lefelo leo tiragalo ya seporo e diragetšego gona;

- (b) prevent the movement or removal of rolling stock or infrastructure which has a direct or indirect bearing on the railway occurrence, unless—
 - (i) such rolling stock or infrastructure must be moved in order to provide medical help to any injured person; or
 - (ii) a full and accurate record of all salient facts relating directly or indirectly to the railway occurrence has been made and any evidence or other relevant material has been secured for later inspection, analysis or investigation; and
- (c) record the names and contact details of all persons who may provide evidence or information that has a direct or indirect bearing on the railway occurrence.
- (3) A person who moves or removes rolling stock or infrastructure at the scene of a railway occurrence in contravention of subsection (2)(b), is guilty of an offence.
- (4) A person in control of the scene of a railway occurrence which is the subject of an investigation must—
 - (a) allow the person conducting an investigation in terms of this Act to remove any articles or objects pointed out by an investigator contemplated in sections 51, 52 and 53;
 - (b) allow the inspection of the documents requested by that investigator, including the making of copies thereof; and
 - (c) furnish that investigator with any information which is under that person's control.

Reporting of railway occurrence

- 49.** (1) An operator must report a railway occurrence to the Regulator in the time, manner and form prescribed by the Minister.
- (2) An operator who intentionally or negligently fails to report a railway occurrence as contemplated in subsection (1), is guilty of an offence.

Categories of railway occurrence investigations

- 50.** (1) For purposes of this Chapter, the Minister must prescribe the following categories of investigations:
- (a) A major investigation, to be conducted by an independent investigator in accordance with section 51; and
 - (b) a standard investigation, to be conducted by the relevant operator in accordance with section 52.
- (2) For purposes of categorisation, the Minister must take into account all relevant matters, including—
- (a) loss of life or potentially life-threatening injuries to persons;
 - (b) minor injuries to persons;
 - (c) the extent of the disruption of the normal flow of railway transport;
 - (d) the frequency of railway occurrences reported by the same operator;
 - (e) the frequency of railway occurrences involving the same rolling stock, infrastructure or station;
 - (f) the extent of ancillary damage caused to property belonging to persons other than the operator, as a result of the railway occurrence;
 - (g) the extent of damage to rolling stock, infrastructure or a station owned by the operator; and
 - (h) any other matter relevant to the investigation of railway occurrences.

- (b) thibela go sepela goba go tlošwa ga dikarikana tše di sepelago seporong goba mananeokgoparara ao a nago le seabe sa thwii goba seo e sego sa thwii go tiragalo ya seporong sa ditimela, ntle le ge—
- (i) dikarikana tše di sepelago seporong tše bjalo goba mananeo-kgoparara a swanetše go hudušwa gore go abanwe ka thušo ya kalafo go motho ofe goba ofe yo a gobetšego; goba 5
 - (ii) go dirilwe kgatišo ye e feletšego le ye e nepagetšego ya dintlha ka moka tše di tšwelelago tše di amanago thwii goba tše di sa amanago thwii le tiragalo ya seporo ebile le ge bohlatse goba didirišwa tše dingwe tša maleba di kgonthiše tšwe malebana le tekolo, tshekatsheko goba dinyakišišo; le 10
- (c) go gatiša maina le dintlha tša kgokagano tša batho ka moka bao ba ka fago bohlatse goba tshedimošo yeo e nago le seabe sa thwii goba seo e sego sa thwii go tiragalo ya seporo.
- (3) Motho yo a hudušago goba a tlošago dikarikana tše di sepelago seporong goba mananeokgoparara lefelong la tiragalo ya seporo moo tiro yeo e thulanago le karolwana ya (2)(b), o na le molato. 15
- (4) Motho yo a laolago lefelo la tiragalo ya seporo yeo e nyakišišwago o swanetše go—
- (a) dumelela motho yo a dirago nyakišišo go ya ka Molao wo go tloša diathikele goba dilo dife goba dife tše di bontšhitšwego ke monyakišiši tše di hlalošitšwego ka go dikarolo tša 51, 52 le 53; 20
 - (b) dumelela go hlahlobja ga dingwalwa tše di kgopetšwego ke monyakišiši yoo, go akaretšwa le go dirwa ga dikhopi tša tšona; le
 - (c) fa monyakišiši yoo tshedimošo efe goba efe yeo e lego ka fase ga taolo ya motho yoo. 25

Go begwa ga tiragalo ya seporong sa ditimela

49. (1) Modiriši o swanetše go bega tiragalo ya seporo go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka nako, mokgwa le ka foromo yeo e hlathilwego ke Tona. 30
- (2) Modiriši yo ka boomo goba ka go se šetše a palelwago ke go bega tiragalo ya seporo bjalo ka ge go hlalošitšwe ka go karolwana ya (1), o na le molato.

Magoro a dinyakišišo tša ditiragalo tša diporong tša ditimela

50. (1) Ka merero ya Kgaolo ye, Tona o swanetše go hlatha magoro ao a latelago a dinyakišišo: 35
- (a) Dinyakišišo tše kgolo, tše di swanetšego go dirwa ke monyakišiši yo a ikemego go ya ka karolo ya 51; le
 - (b) dinyakišišo tše ditlwaegilego, tše di tla dirwago ke modiriši yo a lebanego go ya ka karolo ya 52.
- (2) Ka merero ya go beakanya ka magoro, Tona o swanetše go ela hloko merero ka moka ye e amegago, go akaretšwa— 40
- (a) tahlegelo ya bophelo goba dikgobalo tše di ka beago bophelo bja batho kotsing;
 - (b) dikgobalo tše nnyane tša batho;
 - (c) tekano ya bogolo bja tšhitišo go tšhomišo ya setlwaedi ya dinamelwa tša go sepela seporong; 45
 - (d) go direga kgafetšakgafetša ga ditiragalo tša seporo tše di begilwego ke modiriši o tee;
 - (e) go direga kgafetšakgafetša ga ditiragalo tša seporo tše di akaretšago dikarikana tše di sepelago seporong, mananeokgoparara goba seteišene se se tee; 50
 - (f) bogolo bja tshenyo ya thoto yeo e hlotšwego go thoto ya batho ba bangwe ntle le modiriši, ka lebaka la tiragalo ya seporo;
 - (g) bogolo bja tshenyo go dikarikana tše di sepelago seporong, mananeokgoparara goba seteišene seo e lego sa modiriši; le 55
 - (h) taba efe goba efe ye nngwe yeo e lebanego le dinyakišišo tša ditiragalo tša diporong tša ditimela.

Major investigation

51. (1) The Minister must, in the event of a railway occurrence requiring a major investigation contemplated in section 50(1)(a), by notice in the *Gazette*, appoint an independent institution or panel of persons (in this section referred to as the “investigator”) who have no direct or indirect connection with, or interest in, any person or operator involved in the railway occurrence, to conduct an investigation on that particular railway occurrence. 5
- (2) The notice contemplated in subsection (1) must contain—
- (a) the name of the institution or the names of the persons serving on the panel referred to in that subsection; 10
 - (b) the terms of reference of the investigation;
 - (c) the date by when the investigator’s findings on the causes and circumstances of the railway occurrence and recommendations relating thereto must be submitted to the Minister;
 - (d) a reference to any provisions of the Commissions Act, 1947 (Act No. 8 of 1947), that may apply to the investigator, with the necessary changes, subject to such modifications and exemptions as may be specified in the notice; 15
 - (e) measures for the protection of personal information of any person directly or indirectly involved with the railway occurrence; and
 - (f) any other matter which the Minister may consider necessary for the expeditious and effective finalisation of the investigation. 20
- (3) The Department must provide all necessary financial, administrative, logistical and legal support to the investigator.
- (4) The investigator may submit interim reports to the Minister.
- (5) The mandate of the investigator ends upon submission of the final report to the Minister, upon which the investigator’s duties and authority comes to an end. 25
- (6) The investigator may not publish any report or disclose any information to the public, without the authorisation of the Minister, unless it is demonstrably in the interests of justice or of the public to do so.
- (7) The Minister must, after receipt and consideration of the investigator’s final report, without undue delay— 30
- (a) publish the report in any manner that the Minister considers fit;
 - (b) as far as may be practicable, give effect to the recommendations by the investigator; and
 - (c) if recommended by the investigator, refer the report and any supporting documents or other evidence accepted by the investigator in his, her or its investigation to any regulatory or prosecutorial entity. 35
- (8) Subject to subsection (9), this section does not prevent an operator or the Regulator from conducting its own internal investigation into a railway occurrence, but— 40
- (a) the investigation and the investigator contemplated in subsection (1), at all times and in all respects, take precedence over an internal investigation, including in respect of access to eye witnesses and evidence;
 - (b) such an internal investigation may in no way interfere, hinder or impact on the investigation contemplated in subsection (1); 45
 - (c) the investigator may instruct the operator to provide full and unfettered access to any records produced by, or other evidence in the possession of, the operator relating directly or indirectly to the railway occurrence;
 - (d) the person conducting an internal investigation may not conceal, alter or destroy any records produced by, or other evidence in the possession of, the operator relating directly or indirectly to the railway occurrence; 50
 - (e) the person conducting an internal investigation must confidentially inform the investigator of any information or records he or she comes into possession of or of which he or she becomes aware, if that person suspects or knows that the investigator is not aware of such information or record; 55

Dinyakišišo tše kgolo

51. (1) Tona, ge go ka ba le tiragalo ya seporo yeo e nyakago gore go dirwe dinyakišišo tše kgolo tseo di hlalošitšwego ka go karolo ya 50(1)(a), ka tsebišo ka go Kuranta ya Mmušo, o swanetše go thwala sehlongwa se se ikemego goba phanele ya batho (yeo ka go karolo ye e bitšwago bjalo ka “monyakišiši”) bao ba se nago kgokagano ya thwii goba ye e sego ya thwii le, goba kgahlego go, motho ofe goba ofe goba modiriši yo a amegago tiragalong ya seporo, go dira dinyakišišo ka ga tiragalo yeo e itšego ya seporo.

(2) Tsebišo yeo e hlalošitšwego ka go karolwana (1) e swanetše go ba le—

- (a) leina la sehlongwa goba maina a batho bao ba šomago ka phaneleng yeo go bolelwago ka yona ka go karolwana yeo; 10
- (b) dipeelano tša tšhupetšo tša dinyakišišo;
- (c) letšatšikgwedi leo dipelo tša monyakišiši malebana le dihlopi le maemo a tiragalo ya seporo sa ditimela le ditšhišinyo tše di amanago le tšona di swanetšego go romelwa ka lona go Tona; 15
- (d) tšhupetšo ya dipeelano dife goba dife tša Molao wa Dikomišene, wa 1947 (Molao wa No. ya 8 wa 1947), tseo di ka šomišwago go monyakišiši, ka diphetogo tše di nyakegago, go ya ka diphetogo le ditokollo tseo di ka hlalošwago ka gare ga tsebišo;
- (e) magato a go šireletša tshedimošo ya bomotho a motho ofe goba ofe yo a amegago thwii goba yo a sa amegago thwii go tiragalo ya seporo; le 20
- (f) taba efe goba efe ye nngwe yeo Tona a ka e bonago e nyakega malebana le go phethagatša dinyakišišo ka pela ka tsela ye e šomago.

(3) Kgoro e swanetše go fa monyakišiši thekgo ka moka ye e nyakegago ya ditšhelete, ya taolo, ya dithulaganyo le ya molao. 25

(4) Monyakišiši a ka romela dipego tša nakwana go Tona.

(5) Taelo ya monyakišiši e fela ge pego ya mafelelo e rometšwe go Tona, yeo ka yona mešomo le taolo ya monyakišiši di fihlago mafelelong.

(6) Monyakišiši ga se a swanela go gatiša pego efe goba efe goba go utolla tshedimošo efe goba efe go setšhaba, ntle le tumelelo ya Tona, ntle le ge go bonala gore go dira bjalo go tlabe go dirwa ka kgahlego ya toka goba setšhaba. 30

(7) Tona, ka morago ga go amogela le go lebelela pego ya mafelelo ya monyakišiši, ntle le go diega ka mo go sa swanelago, o swanetše go—

- (a) gatiša pego ka mokgwa ofe goba ofe wo Tona a o bonago o swanetše;
- (b) go fihla moo go ka kgonegago, go dira gore ditšhišinyo tša monyakišiši di šome; le 35
- (c) ge e ba seo se ka šišinywa ke monyakišiši, a fetišetše pego le dingwalwa dife goba dife tša thekgo goba bohlatse bjo bongwe bjo bo amogetšwego ke monyakišiši, ka dinyakišišo tša gagwe, go sehlongwa sefe goba sefe sa taolo goba sa botšhotšhisi. 40

(8) Go ya ka karolwana ya (9), karolo ye ga e thibele modiriši goba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go dira dinyakišišo tša yona tša ka gare malebana le tiragalo ya seporo, fela—

- (a) dinyakišišo le monyakišiši yo a hlalošitšwego ka go karolwana ya (1), ka dinako ka moka le ka mahlakore ka moka, di tla pele go feta dinyakišišo tša ka gare, go akaretšwa malebana le phihlelelo ya dihlatse tseo di bonego ka mahlo le bohlatse; 45
- (b) dinyakišišo tše bjalo tša ka gare di se šitiše, tša thibela goba tša ama ka tsela efe goba efe dinyakišišo tseo di hlalošitšwego ka go karolwana ya (1);
- (c) monyakišiši a ka laela modiriši gore a fane ka phihlelelo ye e feletšego le ye e sa thibelwago go direkoto dife goba dife tseo di tšweleditšwego ke, goba bohlatse bjo bongwe bjo bo swerego ke, modiriši bjo bo amanago thwii goba bo sa amanago thwii le tiragalo ya seporo; 50
- (d) motho yo a dirago dinyakišišo tša ka gare ga se a swanela go uta, go fetoša goba go senya direkoto dife goba dife tseo di tšweleditšwego ke, goba bohlatse bjo bongwe bjo bo swerego ke, modiriši bjo bo amanago thwii goba bo sa amanago thwii le tiragalo ya seporo; 55
- (e) motho yo a dirago dinyakišišo tša ka gare o swanetše go tsebiša monyakišiši ka sephiring, ka ga tshedimošo efe goba efe goba direkoto tseo a di hweditšwego goba tseo a di lemogilego, ge e ba motho yoo a belaela goba a tseba gore monyakišiši ga a tsebe tshedimošo goba direkoto tseo; 60

- (f) the findings, conclusions, recommendations or results relating to the investigation may not be released into the public domain until the report by the investigator has been published as contemplated in subsection (7)(a).
- (9) The Minister may, if he or she considers it necessary, in writing, prohibit an operator or the Regulator from conducting an internal investigation contemplated in subsection (8). 5
- (10) Any person who wilfully interrupts the proceedings of an institution or panel appointed in terms of subsection (1) or who wilfully hinders or obstructs any such institution, panel or an investigator in the performance of its, his or her functions, is guilty of an offence. 10
- (11) Any person who wilfully fails to comply with subsection (8)(b), (c), (d), (e) or (f), is guilty of an offence.

Standard investigation

52. (1) In the event of a railway occurrence requiring a standard investigation contemplated in section 50(1)(b) and subject to subsection (4), an operator must conduct an investigation in respect of that railway occurrence. 15
- (2) The operator must furnish a railway occurrence investigation report to the Regulator in the prescribed time frame, manner and form.
- (3) The Regulator may, after consideration of the railway occurrence investigation report, require the operator to assess and report on the impact of the implementation of the recommendations made by the operator. 20
- (4) In the event of a railway occurrence requiring a standard investigation as contemplated in section 50(1)(b) and involving more than one operator, all operators involved must each conduct a separate investigation in accordance with subsections (5) and (6). 25
- (5) The operators contemplated in subsection (4) must, within 60 days from the date of the railway occurrence, separately conduct their respective investigations, and every operator must, upon completion of its individual investigations, furnish a railway occurrence investigation report to the Regulator in the prescribed time frame, manner and form. 30
- (6) If, after consideration of the separate reports—
- (a) the Regulator has reason to believe that the operators have colluded in conducting their respective investigations and in submitting their reports or have not submitted reports which accurately reflect the details of the railway occurrence or sufficiently address the issues impacting on railway safety, the Regulator must request the Minister to exercise his or her powers contemplated in subsection (7); or 35
- (b) the Regulator is satisfied that the reports accurately reflect the details of the railway occurrence and sufficiently address the issues impacting on railway safety, the Regulator must decide whether further action must be taken, and if so, the Regulator may— 40
- (i) release the reports received to all operators concerned in order for them to provide the Regulator with comments, but only if the Regulator allows the operator or operators concerned to submit replies to those comments; 45
- (ii) request the Minister to exercise his or her powers contemplated in subsection (7); or
- (iii) subject to this Act, take any steps provided for in law, if he or she considers it necessary.

- (f) dikhwetšo, diphetho, ditšhišinyo goba dipelo tšeo di amanago le dinyakišišo di ka se lokollwe setšhabeng go fihlela pego ya monyakišiši e gatišitšwe bjalo ka ge go hlalošitšwe ka go karolwana ya (7)(a).
- (9) Tona, ge a bona go nyakega, ka go ngwala, a ka thibela modiriši goba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go dira dinyakišišo tša 5
ka gare tšeo di hlalošitšwego ka go karolwana ya (8).
- (10) Motho ofe goba ofe yo a šitišago ka boomo ditshepedišo tša sehlongwa goba phanele yeo e thwetšwego go ya ka karolwana ya (1) goba yo a thibelago goba a šitišago ka boomo sehlongwa sefe goba sefe seo se bjalo, phanele goba monyakišiši go phethagatša mešomo ya sona, ya gagwe, o na le molato. 10
- (11) Motho ofe goba ofe yo ka boomo a palelwago ke go obamela karolwana ya (8)(b), (c), (d), (e) goba (f), o na le molato.

Dinyakišišo tšeo di tlwaelegilego

52. (1) Ge go ka ba le tiragalo ya seporo yeo e nyakago gore go dirwe dinyakišišo tše di tlwaelegilego tšeo di hlalošitšwego ka go karolo ya 50(1)(b) le go ya ka karolwana ya 15
(4), modiriši o swanetše go dira dinyakišišo malebana le tiragalo yeo ya seporo.
- (2) Modiriši o swanetše go fa pego ya dinyakišišo ya ditiragalo tša seporo go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka nako, mokgwa le foromo ye e laetšwego.
- (3) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, ka 20
morago ga go lebelela pego ya dinyakišišo tša tiragalo ya seporo, e ka nyaka gore modiriši a lekole le go bega ka ga deabe sa phethagatšo ya ditšhišinyo tšeo di dirilwego ke modiriši.
- (4) Ge go ka direga tiragalo ya seporo yeo e nyakago gore go dirwe dinyakišišo tše di tlwaelegilego bjalo ka ge go hlalošitšwe ka go karolo ya 50(1)(b) ebile tšeo di 25
akaretšago badiriši ba go feta o tee, yo mongwe le yo mongwe wa badiriši ka moka bao ba amegago o swanetše go dira dinyakišišo tše di fapanego go ya ka dikarolwana tša (5) le (6).
- (5) Badiriši bao ba hlalošitšwego ka go karolwana ya (4), mo matšatšing a 60 go tloga letšatšikgwedi la tiragalo ya seporo, ba swanetše go dira dinyakišišo tša bona tše 30
di fapanego, ebile modiriši yo mongwe le yo mongwe o swanetše, ge a feditše dinyakišišo tša gagwe a le noši, a fe Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela pego ya dinyakišišo tša tiragalo ya seporo ka nako, mokgwa le ka foromo ye e laetšwego.
- (6) Ge e ba, ka morago ga go ela hloko dipego tše di fapanego— 35
- (a) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e na le lebaka la go dumela gore badiriši ba dirile kwano ya go dira dinyakišišo tša bona tša go fapana le go romela dipego tša bona tšeo e lego gore goba ga se ba romela dipego tšeo di bontšhago ka nepo dintlha tša tiragalo ya seporo goba go rarolla ka mo go lekanego ditaba tšeo di amago polokego ya seporo, 40
Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go kgopela Tona go šomiša maatla a gagwe ao a hlalošitšwego ka go karolwana ya (7); goba
- (b) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e kgotsofetše gore dipego di bontšha ka nepo dintlha tša tiragalo ya seporo ebile 45
di rarolla ka mo go lekanego ditaba tšeo di amago polokego ya diporo, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go tšea sephetho sa ge e ba go swanetše go tšewa magato a mangwe, gomme ge go le bjalo, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya 50
Diporo tša Ditimela e ka—
- (i) lokolla dipego tšeo di amogetšwego go badiriši ka moka bao ba amegago gore ba kgone go fa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ditshwayotshwayo, fela se se ka direga ge e ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e 55
dumelela modiriši goba badiriši bao ba amegago go romela dikarabo tša ditshwayotshwayo tšeo;
- (ii) kgopela Tona go šomiša maatla a gagwe ao a hlalošitšwego ka go karolwana ya (7); goba
- (iii) go ya ka Molao wo, e ka tšea magato afe goba afe ao a hlathilwego 60
ka go molao, ge e bona go nyakega.

- (7) The Minister may, in his or her discretion—
- (a) after receiving a request from the Regulator as contemplated in subsection (6)(a), reject an investigation report by an operator, if the Minister regards that investigation to have been inadequate; or
 - (b) instruct an operator not to conduct any further investigations, if the Minister considers it appropriate to order an investigation contemplated in section 51 or 53. 5

Commission of inquiry

53. Despite anything to the contrary in this Chapter, the Minister may, in his or her sole discretion, request the President of the Republic to appoint a commission of inquiry in terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996, and, in the event that an investigator has already commenced any other investigation in terms of this Part, the investigator must immediately, upon publication of a proclamation in the *Gazette* by the President, establishing a commission of inquiry, terminate that investigation and submit all evidence or other relevant information in its, his or her possession to that commission of inquiry. 10 15

CHAPTER 8

APPEALS

Appeal to CEO

- 54.** (1) Any person, other than an employee of the Regulator or a supplier of goods or services to the Regulator, whose rights or legitimate expectations are adversely affected by a decision or directive of a railway safety inspector or any other employee of the Regulator, taken on behalf of the Regulator in the exercise of any power or performance of any duty in terms of this Act, may, subject to subsection (7), lodge an appeal against that decision with the CEO. 20 25
- (2) An appeal lodged in terms of this section must—
- (a) be lodged within 30 days from the date on which the decision was made known or of the directive issued by the railway safety inspector or employee, as the case may be, or such later date as the CEO permits; and
 - (b) set out the grounds of the appeal. 30
- (3) After considering the grounds of appeal and the railway safety inspector's or the employee's reasons for the decision, the CEO must, within the prescribed period—
- (a) confirm, set aside or vary the decision; or
 - (b) substitute the decision of the railway safety inspector or employee with the decision of the CEO. 35
- (4) The CEO may not delegate his or her duties or powers in terms of this section to an employee of the Regulator below the rank of head of a division.
- (5) The CEO must keep a record of an appeal lodged in terms of this section, and must—
- (a) on request and at no charge, provide a party to the appeal with a copy of the record; and
 - (b) submit the record to the Transport Appeal Tribunal, if an appeal is lodged with the Tribunal, as contemplated in section 56. 40
- (6) In instances where—
- (a) it is unclear whether a decision was taken by the CEO or an employee of the Regulator; 45
 - (b) the CEO or any person to whom he or she has delegated this function has a conflict of interest or is for any other reason not able to hear an appeal in terms of this section; or

(7) Tona, ge a lemoga, a ka—

- (a) morago ga go amogela kgopelo go tšwa go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela bjalo ka ge go hlalošitšwe ka go karolwana ya (6)(a), gana pego ya dinyakišišo ya modiriši, ge e ba Tona a bona gore dinyakišišo tšeo ga se tša lekana; goba 5
- (b) laela modiriši gore a se dire dinyakišišo tše dingwe, ge Tona a bona go le maleba go laela dinyakišišo tšeo di hlalošitšwego ka go karolo ya 51 goba 53.

Dikomišene tša dinyakišišo

53. Go sa šetšwe selo sefe goba sefe se sengwe seo se fapanago le Kgaolo ye, Tona, ge a lemoga a le noši, a ka kgopela Mopresidente wa Repabliki go thwala komišene ya dinyakišišo go ya ka karolo ya 84(2)(f) ya Molaotheo wa Repabliki ya Afrika Borwa, wa 1996, gomme, ge go ka direga gore monyakišiši o šetše a thomile dinyakišišo dife goba dife tše nngwe go ya ka Karolo ye, monyakišiši o swanetše ka pela, ge go gatišitšwe pego ka go Kuranta ya Mmušo ke Mopresidente, yeo e hlalošago go hlongwa ga komišene ya dinyakišišo, a fediše dinyakišišo tšeo gomme a romele bohlatse ka moka goba tshedimošo ye nngwe yeo e amegago, yeo a nago le yona go komišene yeo ya dinyakišišo. 10 15

KGAOLO YA 8

BOIPILETŠO

Boipiletšo go CEO

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54. (1) Motho ofe goba ofe, ntle le mošomi wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela goba moabi yo a abago dithoto goba ditirelo go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, yoo ditokelo goba ditebelelo tša gagwe di amegago gampe ke sephetho goba taelo ya molekodi wa polokego ya diporo tša ditimela goba mošomi ofe goba ofe yo mongwe wa Khamphani, seo se tšerwego legatong la Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka go šomiša maatla afe goba afe goba phethagatšo ya mošomo ofe goba ofe go ya ka Molao wo, go ya ka karolwana ya (7), a ka dira boipiletšo kgahlanong le sephetho seo go CEO. 25

(2) Boipiletšo bjo bo dirilwego go ya ka karolo ye bo swanetše go— 30

- (a) dirwa mo matsatsing a 30 go tloga ka letsatsikgwedi leo sephetho se tsebišitšwego ka lona goba leo taelo e ntšhitšwego ka lona ke molekodi wa polokego ya diporo tša ditimela goba mošomi, go ya le mokgwa wo go tlabago go le ka gona, goba ka letšatšikgwedi la ka morago leo CEO a le dumelelago; le 35
- (b) hlagiša mabaka a boipiletšo.

(3) Ka morago ga go lebelela mabaka a boipiletšo le mabaka a molekodi wa polokego ya diporo tša ditimela goba a mošomi a go tšea sephetho se itšego, CEO, mo nakong ye e beilwego, o swanetše go—

- (a) netefatša, ya beela ka thoko goba ya tla ka sephetho sa go fapana; goba 40
- (b) tsenya sephetho sa CEO legatong la sephetho sa molekodi wa polokego ya diporo tša ditimela goba mošomi.

(4) CEO ga se a swanela go abela mošomo goba maatla a gagwe go ya ka karolo ye go mošomi wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela yo a lego maemong a mošomo a ka fase ga a hlogo ya lekala. 45

(5) CEO e swanetše go boloka rekoto ya boipiletšo bjo bo dirilwego go ya ka karolo ye, ebile o swanetše go—

- (a) ge a kgopelwa ebile ntle le tefo, a fe motšekarolo wa boipiletšo khopi ya rekoto; le
- (b) romela rekoto go Lekgotla la Boipiletšo la Dinamelwa, ge boipiletšo bo dirilwe go Lekgotla, bjalo ka ge go hlalošitšwe ka go karolo ya 56. 50

(6) Maemong ao go ona—

- (a) go sego molaleng ge e ba sephetho se tšerwe ke CEO goba mošomi wa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;
- (b) CEO goba motho ofe goba ofe yo a mo abetšego mošomo a nago le thulano ya dikgahle go ya ka lebaka lefe goba lefe le lengwe a sa kgone go theeletša boipiletšo go ya ka karolo ye; goba 55

(c) a hearing of the appeal is urgent,
an appeal may be lodged directly with the board appeals committee for purposes of a hearing contemplated in section 55.

(7) An appeal lodged as contemplated in subsection (1) does not prevent a person from obtaining urgent relief from a competent court of law.

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Appeal to board appeals committee

55. (1) Any person, other than an employee of the Regulator or a supplier of goods or services to the Regulator, whose rights are adversely affected by a decision of the CEO, in the exercise of any power or performance of any duty in terms of this Act, or in respect of an appeal contemplated in section 54, may lodge an appeal against that decision with the board appeals committee as prescribed.

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(2) Such person must lodge the appeal and set out the grounds of the appeal within 30 days from the date on which the decision of the CEO was made known or such later date as the chairperson of the board permits.

(3) The board appeals committee must consider and finalise the appeal within the prescribed period and, after considering the grounds of appeal, the reasons for the decision of the CEO and the CEO's reply to the grounds of appeal, the board may—

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(a) confirm, set aside or vary the decision; or

(b) substitute the decision of the CEO with the decision of the board.

(4) The board appeals committee must keep a record of an appeal lodged in terms of this section, and must—

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(a) on request and at no charge, provide a party to the appeal with a copy of the record; and

(b) submit the record to the Transport Appeal Tribunal, if the matter is appealed to that Tribunal in terms of section 56.

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(5) The board may, for purposes of this section, appoint a standing board appeals committee, chaired by a member of the board, who with two other persons who are not members of the board or employees of the Regulator, of whom at least one must be a legal practitioner, constitute that committee, and the decision of that committee is the final decision of the board.

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(6) In instances where—

(a) a member of the board appeals committee has a conflict of interest or is for any other reason not able to hear an appeal in terms of this section; or

(b) a hearing of the appeal is urgent,

an appeal may be lodged directly with the Transport Appeal Tribunal, as contemplated in section 56.

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(7) An appeal lodged as contemplated in subsection (1) does not prevent a person from obtaining urgent relief from a competent court of law.

Appeal to Transport Appeal Tribunal

56. (1) A person who is aggrieved by a decision regarding an appeal in terms of section 55 may, in terms of section 12 of the Transport Appeal Tribunal Act, lodge an appeal with the Transport Appeal Tribunal against that decision.

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(2) Any appeal lodged in terms of subsection (1) must comply with the Transport Appeal Tribunal Act and any regulations promulgated thereunder.

(c) ge theeletšo ya boipiletšo e akgofile,
boipiletšo bo ka dirwa thwii go komiti ya boipiletšo ya boto ka mabaka a theeletšo yeo
e hlalošitšwego ka go karolo ya 55.

(7) Boipiletšo bjo bo dirilwego bjalo ka ge go hlalošitšwe ka go karolwana ya (1) ga
bo thibele motho go hwetša kimollo ya ka pela go tšwa kgorotsheko ye e nago le 5
bokgoni.

Boipiletšo go komiti ya boipiletšo ya boto

55. (1) Motho ofe goba ofe, ntle le mošomi wa Khamphani ya Mmušo ya Tlhokomelo
ya Polokego ya Diporo tša Ditimela goba moabi yo a abago dithoto goba ditirelo go
Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, yoo 10
ditokelo tša gagwe di amegago gampe ke sephetho sa CEO, ge a phethagatša mošomo
wa gagwe go ya ka maikarabelo afe goba afe go ya ka Molao wo, goba malebana le
boipiletšo bjo bo hlalošitšwego ka go karolo ya 54, a ka dira boipiletšo kgahlanong le
sephetho seo go komiti ya boipiletšo ya boto bjalo ka ge go laetšwe.

(2) Motho yo bjalo o swanetše go dira boipiletšo ebile a hlagiše mabaka a boipiletšo 15
mo matšatšing a 30 go tloga ka letšatšikgwedi leo sephetho sa CEO se tsebišitšwego ka
lona goba letšatšikgwedi la ka morago leo modulasetulo wa boto a le dumelelago.

(3) Komiti ya boipiletšo ya boto e swanetše go lebelela le go phethagatša boipiletšo
mo nakong ye e beilwego gomme, ka morago ga go lebelela mabaka a boipiletšo,
mabaka a sephetho sa CEO le phetolo ya CEO go mabaka a boipiletšo, boto e ka— 20

(a) netefatša, ya beela ka thoko goba ya tla ka sephetho sa go fapana; goba

(b) tsenya sephetho sa boto legatong la sephetho sa CEO.

(4) Komiti ya boipiletšo ya boto e swanetše go boloka rekoto ya boipiletšo bjo bo
dirilwego go ya ka karolo ye, ebile e swanetše go—

(a) ge e kgopelwa ebile ntle le tefo, e fe motšeakarolo wa boipiletšo khopi ya 25
rekoto; le

(b) romela rekoto go Lekgotla la Boipiletšo la Dinamelwa, ge e ba boipiletšo bo
dirilwe go Lekgotla leo go ya ka karolo ya 56.

(5) Boto, ka merero ya karolo ye, e ka thwala komiti ya boipiletšo ya boto ye e
ekemego, yeo e etetšwego pele ke leloko la boto, leo mmogo le batho ba bangwe ba 30
babedi bao e sego maloko a boto goba bašomi ba Khamphani ya Mmušo ya Tlhokomelo
ya Polokego ya Diporo tša Ditimela, moo le ge e ka ba bonnyane bja motho o tee a
swanetšego go ba setsebi sa molao, a be karolo ya komiti yeo, ebile sephetho sa komiti
yeo ke sephetho sa mafelelo sa boto.

(6) Maemong ao go ona— 35

(a) leloko la komiti ya boipiletšo ya boto le nago le thulano ya dikgahlego goba
ka lebaka lefe goba lefe le lengwe ga le sa kgone go theeletša boipiletšo go ya
ka karolo ye; goba

(b) ge theeletšo ya boipiletšo e akgofile,

boipiletšo bo ka dirwa thwii go Lekgotla la Boipiletšo la Dinamelwa, bjalo ka ge go 40
hlalošitšwe ka go karolo ya 56.

(7) Boipiletšo bjo bo dirilwego bjalo ka ge go hlalošitšwe ka go karolwana ya (1) ga
bo thibele motho go hwetša kimollo ya ka pela go tšwa kgorotsheko ye e nago le
bokgoni.

Boipiletšo go Lekgotla la Boipiletšo la Dinamelwa

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56. (1) Motho yo a ngongoregago ka sephetho sa malebana le boipiletšo bjo bo
dirilwego go ya ka karolo ya 55, go ya ka karolo ya 12 ya Lekgotla la Boipilešo la
Dinamelwa, a ka dira boipiletšo le Lekgotla la Boipiletšo la Dinamelwa kgahlanong le
sephetho seo.

(2) Boipiletšo bjo bongwe le bjo bongwe bjo bo dirilwego go ya ka karolwana ya (1) 50
bo swanetše go obamela Molao wa Lekgotla la Boipiletšo la Dinamelwa le melawana
efe goba efe yeo e tsebagaditšwego ka fase ga wona.

CHAPTER 9

GENERAL AND MISCELLANEOUS

*Part A**Offences and penalties***Offences and penalties**

5

57. (1) A person who commits an offence in terms of sections 30(10), 36(4), 43(3), 44(12), 47(4) or 48(3), is liable on conviction to a fine or imprisonment for a period not exceeding 15 years, or to both a fine and such imprisonment.

(2) A person who commits an offence in terms of sections 34(3), 41(4), 49(2), 51(10) or 51(11), is liable on conviction to a fine or imprisonment for a period not exceeding 10 five years, or to both a fine and such imprisonment.

(3) No person may be prosecuted in respect of an offence contemplated in subsection (1) or (2) if the Regulator has given notice that it is going to issue a compliance notice or a penalty as prescribed in terms of section 67 or has done so, and in the event that a prosecution is nevertheless instituted, such person may raise a plea 15 that he or she was already convicted in respect of that charge.

Offences in relation to employer or principal

58. An employer or principal is liable to conviction for an offence in terms of this Act if an employee or agent of that employer or principal commits such an offence with the express or implied permission of that employer or principal, irrespective of whether that 20 employee or agent has been convicted in respect of that offence.

Liability of director, trustee or member of juristic person

59. A person who is or was a director, trustee or member of a juristic person at the time of the commission by that juristic person of an offence in terms of this Act, is guilty of that offence, and is liable, on conviction, to the penalty specified in respect of that 25 offence, if that offence resulted from the failure of the director, trustee or member to take appropriate steps that were reasonable under the circumstances to prevent the commission of the offence.

Enquiry in respect of compensation and award of damages

- 60.** (1) Where a person is convicted of an offence in terms of this Act and— 30
- (a) another person has suffered harm or loss as a result of the act or omission constituting the offence; or
 - (b) damage has been caused to property or to the environment,
- a court may in the presence of the convicted person enquire, without pleadings, into the harm, loss or damage and determine the extent thereof, in the same proceedings— 35
- (i) at the written request of the person who suffered the harm or loss; or
 - (ii) at the written request of the Minister or the Regulator in respect of the damage caused to property or to the environment.
- (2) After making a determination in terms of subsection (1), the court may—
- (a) award damages for the loss or harm suffered by the person referred to in 40 subsection (1)(a) against the convicted person;
 - (b) order the convicted person to pay for the cost of any remedial measures to be taken; or
 - (c) order that the convicted person implement remedial measures.

KGAOLO YA 9
DITIRAGALO KA KAKAREŠO LE TŠE DI FAPANEGO

Karolo ya A

Ditlalamolao le dikotlo

Ditlalamolao le dikotlo

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57. (1) Motho yo a dirago molato go ya ka dikarolo tša 30(10), 36(4), 43(3), 44(12), 47(4) goba 48(3), o na le maikarabelo a gore ge a bonwa molato a lefišwe faene goba go golegwa lebaka leo le sa fetego mengwaga ye 15, goba bobedi tefišo le kgolego ye bjalo.

(2) Motho yo a dirago molato go ya ka dikarolo tša 34(3), 41(4), 49(2), 51(10) goba 51(11), o na le maikarabelo a gore ge a bonwa molato a lefišwe faene goba go golegwa lebaka leo le sa fetego mengwaga ye mehlano, goba bobedi tefišo le kgolego ye bjalo.

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(3) Ga go motho yo a ka sekišwago malebana le molato wo o hlalošitšwego ka go karolwana ya (1) goba (2) ge e ba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e fane ka tsebišo ya gore e tlo ntšha tsebišo ya kobamelo goba kotlo bjalo ka ge go laetšwe go ya ka karolo ya 67 goba ge e šetše e dirile bjalo, ebile ge go ka direga gore go bile le tshekišo, motho yo bjalo a ka dira boipobolo bja gore o šetše a bonwe molato malebana le molato woo.

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Ditlalamolao malebana le mongmošomo goba hlogo ya sehlongwa

58. Mongmošomo goba hlogo ya sehlongwa o na le maikarabelo a go ka bonwa molato go ya ka Molao wo ge e ba mošomi goba moemedi wa mongmošomo yoo goba hlogo ya sehlongwa a ka dira molato wo bjalo ka tumelelo ye e hlalošitšwego goba ye e boletšwego ya mongmošomo yoo goba hlogo ya sehlongwa seo, go sa šetšwe gore mošomi yoo goba moemedi o ile a bonwa molato malebana le molato woo.

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Maikarabelo a molaodi, mohlokamedi goba leloko la motho wa molao

59. Motho yo e lego goba e bego e le molaodi, mohlokamedi goba leloko la motho wa molao ka nako ya go dirwa ga molato go ya ka Molao wo, o na le molato, ebile o na le maikarabelo, ge a bonwa molato, go kotlo yeo e hlalošitšwego malebana le molato woo, ge e ba molato woo o hlotšwe ke go palelwa ga molaodi, mohlokamedi goba leloko la motho wa molao go tšea magato a maleba ao a bego a kwagala ka fase ga mabaka a go thibela go dirwa ga molato.

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Dinyakišišo malebana le tefo le go hwetša tšhelete ya ditshenyagalelo

60. (1) Moo motho a bonwego molato go ya ka Molao wo ebile—

(a) motho yo mongwe o hweditše dikgobalo goba tahlegelo ka lebaka la tiro goba go se dire selo mo go bopago molato; goba

(b) tshenyo e bakilwe dithotong goba tikologong, kgorotsheko, motho yo a filwego kotlo a le gona, e ka nyakišiša, ntle le boipobolo, ka ga kotsi, tahlegelo goba tshenyo ebile ya laetša bogolo bja tshenyo yeo, ka gare ga tshepedišo yeo—

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(i) ka kgopelo ye e ngwadilwego ya motho yo a hweditšego dikgobalo goba tahlegelo; goba

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(ii) ka kgopelo ye e ngwadilwego ya Tona goba Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela malebana le tshenyo yeo e bakilwego go dithoto goba tikologong.

(2) Morago ga go tšea sephetho go ya ka karolwana ya (1), kgorotsheko e ka—

(a) abana ka tefišo ya ditshenyagalelo tša malebana le tshenyo ya tahlegelo goba dikgobalo tšeo di hweditšwego ke motho yo go boletšwego ka yena ka go karolwana ya (1)(a) kgahlanong le motho yo a bonwego molato;

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(b) laela motho yo a bonwego molato go lefa ditshenyagalelo tša magato afe goba afe a tokišo ao a swanetšego go tšewa; goba

(c) laela gore motho yo a bonwego molato a phethagatše magato a go lokiša.

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Part B**Regulations and notices****Regulations and notices**

61. (1) The Minister may, subject to subsection (2), make regulations by notice in the *Gazette* regarding any matter required or permitted to be prescribed in terms of this Act, including— 5

- (a) any other place as a station or forming part of a station as contemplated in paragraph (b) of the definition of “**station**” in section 1;
- (b) any limitation on the board’s power contemplated in section 20(1) in respect of delegating any of the board’s functions, duties, powers or obligations; 10
- (c) matters provided for in sections 62 to 68; or
- (d) generally all matters that are necessary to be prescribed for the effective administration of this Act.

(2) Any regulation or notice made in terms of this Act may provide that—

- (a) the contravention thereof, or failure to comply therewith, is an offence; and 15
- (b) a person convicted of that offence is punishable with a prescribed fine or a term of imprisonment not longer than the period so prescribed, but the prescribed fine may not, at the time of publication of that notice, exceed the amount prescribed in respect of one year of imprisonment, determined in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991). 20

(3) The Minister may request the Regulator to advise on any draft regulations for his or her consideration and any stakeholder may submit representations to the Minister on such proposed regulations.

(4) The Minister must, before making any regulations in terms of this Act or issuing a notice in terms of section 66— 25

- (a) publish a notice in the *Gazette*—
 - (i) setting out the draft regulations or draft notice, as the case may be; and
 - (ii) inviting written comments to be submitted on the proposed regulations or notice, specifying an address to which, and a date before which, the comments may be submitted, which date may not be earlier than 30 days after publication of the notice; 30
- (b) implement further steps, if any, which may, in his or her opinion, be appropriate to bring the contents of the proposed regulations or notice to the attention of interested persons; and 35
- (c) consider all comments received on or before the date specified in paragraph (a)(ii).

(5) When making regulations or issuing a notice, the Minister must take into account—

- (a) the impact of such regulations or notice on railway safety and operations; 40
- (b) the balance between the need for safe railway operations and the economic viability of new measures to achieve safe railway operations; and
- (c) whether the measures must apply to both traditional railway operations and rapid rail operations.

Regulations regarding design, construction, alteration and new operations 45

62. (1) The Minister may make regulations relating to the design, construction, alteration and new operations of railway or railway operations that have an impact on safe railways or railway operations, including regulations regarding—

Karolo ya B
Melawana le ditsebišo

Melawana le ditsebišo

- 61.** (1) Tona, go ya ka karolwana ya (2), a ka dira melawana ka tsebišo ka go Kuranta ya Mmušo malebana le taba efe goba efe ye e nyakegago goba ye e dumeletšwego go laelwa go ya ka Molao wo, go akaretšwa— 5
- (a) lefelo lefe goba lefe le lengwe bjalo ka seteišene goba leo le bopago karolo ya seteišene bjalo ka ge go hlalošitšwe ka go temana ya (b) ya tlhalošo ya “seteišene” go karolo ya 1;
 - (b) magomo afe goba afe a maatla a boto ao a hlalošitšwego ka go karolo ya 20(1) malebana le go aba efe goba efe ya mešomo, maikarabelo, maatla goba ditlamo tša boto; 10
 - (c) merero yeo e filwego dipeelano ka go dikarolo tša 62 go fihla go 68; goba
 - (d) kakaretšo ya ditaba ka moka tšeo di nyakegago go laelwa malebana le taolo ye e šomago gabotse ya Molao wo. 15
- (2) Melawana ofe goba ofe goba tsebišo yeo e dirilwego go ya ka Molao wo e ka laetša gore—
- (a) go tshelwa ga wona, goba go palelwa ke go o obamela, ke molato; le
 - (b) motho yo a bonwego molato woo o otlwa ka go lefišwa tefo yeo e beilwego goba a golegwa lebaka leo e sego le le telele go feta nako yeo e beilwego, fela boleng bja faene yeo e beilwego, ka nako ya go gatišwa ga tsebišo yeo, ga se bja swanelwa go feta boleng bja tšhelete yeo e beilwego malebana le tekano ya ngwaga o tee wa kgolego, bjoo bo hlathilwego go ya ka Molao wa Peakanyo ya Difaene, wa 1991 (Molao wa No. ya 101 wa 1991). 20
- (3) Tona a ka kgopela Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go fana ka dikeletšo malebana le melawana efe goba efe ye e thadilwego gore a e lebelele ebile mokgathatema ofe goba ofe a ka romela ditlhagišo go Tona malebana le melawana yeo e šišintšwego. 25
- (4) Tona, pele a dira melawana efe goba efe go ya ka Molao wo goba a ntšha tsebišo go ya ka karolo ya 66, o swanetše go— 30
- (a) gatiša tsebišo ka go Kuranta ya Mmušo—
 - (i) ye e hlagišago melawana ye e thadilwego goba tsebišo ye e thadilwego, go ya le ka mokgwa wo go tlabago go le ka gona; le
 - (ii) ye e laletšago gore ditshwayotshwayo tše di ngwadilwego malebana le melawana le tsebišo ye e šišintšwego di romelwe, ebile ye e laetšago aterese, letšatšikgwedi leo pele ga lona, ditshwayotshwayo di ka romelwago, moo letšatšikgwedi leo le swanelago go ba pele ga matšatši a 30 ka morago ga kgatišo ya tsebišo; 35
 - (b) phethagatša magato a mangwe, ge a le gona, ao go ya ka yena, a ka bago a maleba go tliša diteng tša melawana goba tsebišo ye e šišintšwego šeding ya batho bao ba nago le kgahlego; le 40
 - (c) ela hloko ditshwayotshwayo ka moka tšeo di amogetšwego ka goba pele ga letšatšikgwedi leo le hlalošitšwego ka go temana ya (a)(ii). 45
- (5) Ge a dira melawana goba a ntšha tsebišo, Tona o swanetše go ela hloko—
- (a) khuetšo ya melawana goba tsebišo ye bjalo go polokego ya diporo le tšhomišo ya diporo tša ditimela; 45
 - (b) tekatekano magareng ga tlhokego ya tšhomišo ya diporo tša ditimela ye e bolokegilego le go kgonagala ga ekonomi ga tsenya magato a maswa a go fihlelela tšhomišo ya diporo tša ditimela ye e bolokegilego; le 50
 - (c) ge e ba magato ao a swanetše go šomišwa go bobedi tšhomišo ya diporo tša ditimela ye e tlwaelegilego le tšhomišo ya diporo tša ditimela tša ka pela.

Melawana ya malebana le tlhamo, kago, phetošo le ditšhomišo tše diswa tša diporo tša ditimela

- 62.** (1) Tona a ka dira melawana malebana le tlhamo, kago, phetošo le ditšhomišo tše diswa tša diporo tša ditimela goba ditšhomišo tše diswa tša diporo tša ditimela tšeo di nago le seabe go polokego ya diporo le tšhomišo ya diporo, go akaretšwa melawana ya malebana le— 55

- (a) the types of new or proposed construction or operation which require the Regulator's approval;
 - (b) the criteria or requirements to be met for obtaining the Regulator's approval;
 - (c) the procedure for obtaining the Regulator's approval, including the noting of objections; 5
 - (d) the design, construction, manufacture, alteration, commissioning, maintenance and operation of rolling stock, infrastructure and stations;
 - (e) the safety of persons, including persons with disabilities, on-board stationary or moving rolling stock, infrastructure or at a station;
 - (f) the provision of closed circuit cameras or other monitoring devices on board a train; 10
 - (g) the conveyance of dangerous goods by rail;
 - (h) new works and operations;
 - (i) testing and commissioning; and
 - (j) technologies. 15
- (2) The Minister may determine that the National Regulator for Compulsory Specifications, established by section 3 of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008), or another independent safety assessor approved by the board, may for purposes of subsection (1)(d) to (j) assess or evaluate whether a permit holder has met the criteria or requirements contemplated in subsection (1)(b). 20

Regulations regarding infrastructure or activity affecting safe railway operations

- 63.** (1) Subject to subsection (2), the Minister may, after consultation with the members of the Executive Council responsible for transport in the various provinces, make regulations on the following matters: 25
- (a) Mines and any other excavations, to the extent that the Mine Health and Safety Act and the Mineral and Petroleum Resources Development Act do not apply;
 - (b) drainage under or alongside tracks;
 - (c) any construction above, below or adjacent to a railway track within the area used by or reserved for railway activities; 30
 - (d) storage of materials adjacent to a railway track;
 - (e) road level-crossings, to the extent that road safety legislation does not apply; and
 - (f) the unlawful occupation of property owned by safety permit holders which renders railway operations unsafe or has the potential to render them unsafe, subject to any other law governing unlawful occupation or eviction from property unlawfully occupied. 35
- (2) The regulations contemplated in subsection (1) must— 40
- (a) affect safe railways and railway operations; and
 - (b) relate to property owned by safety permit holders.

Regulations regarding assessment and information

- 64.** (1) The Minister may make regulations in respect of the contents, class, type, time period and format of data to be submitted to the Regulator for assessment of the compliance of an operator with the provisions of this Act. 45
- (2) The Minister may make regulations in respect of the information which the Regulator must publish for public information or public consultation.

- (a) mehuta ya dikago tše mpsha goba tše di šišintšwego goba tšhomišo ya diporo yeo go nyakegago gore e dumelelwe ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;
 - (b) dinyakwa tše di swanetšego go fihlelelwa malebana le go hwetša tumelelo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; 5
 - (c) tshepedišo ya go hwetša tumelelo ya Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go akaretšwa go ngwalwa ga dikganetšo tše di lego gona;
 - (d) tlhamo, kago, tšweletšo, phetošo, tšhomišo, tlhokomelo le go sepetšwa ga dikarikana tše di sepelago seporong, mananeokgoparara le diteišene; 10
 - (e) polokego ya batho, go akaretšwa batho bao ba nago bogolofadi, dikarikana tše di sepelago seporong sa ditimela tše di sepelago goba di emego, mananeokgoparara goba seteišeneng;
 - (f) kabo ya dikhamera tše di tswaletšwego goba didirišwa tše dingwe tša go hlokomela tša ka gare ga setimela; 15
 - (g) go sepetšwa ga dithoto tše kotsi ka seporo;
 - (h) mešomo le ditšhomišo tše mpsha;
 - (i) go dira diteko le go šomiša; le
 - (j) ditheknotši. 20
- (2) Tona a ka hlatha gore Taolo ya Bosetšhaba ya Dinyakwa tša Kgapeletšo, yeo e hlamilwego ke karolo ya 3 ya Molao wa Taolo ya Bosetšhaba ya Dinyakwa tša Kgapeletšo, wa 2008 (Molao wa No. ya 5 wa 2008), goba molekodi yo mongwe wa polokego yo a ikemego yo a dumeletšwego ke boto, ka merero ya karolwana ya (1)(d) go ya go (j) a ka sekaseka goba go lekola ge e ba moswari wa phemiti o fihleletše dinyakwa tše di hlalošitšwego ka go karolwana ya (1)(b). 25

Melawana ya malebana le mananeokgoparara goba tiragalo ye e amago tšhomišo ya diporo tša ditimela ye e bolokegilego

- 63.** (1) Go ya ka karolwana ya (2), Tona, ka morago ga go rerišana le maloko a Lekgotla la Khuduthamaga leo le nago maikarabelo a dinamelwa ka go diprofense tša go fapana, a ka dira melawana ya malebana le merero ye e latelago: 30
- (a) Meepo le go epa gofe goba gofe go gongwe, go fihla moo Molao wa Maphelo le Polokego ya Meepo le Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo e sa šomego;
 - (b) go ntšha meetse ka fase goba go bapa le diporo; 35
 - (c) kago efe goba efe ya ka godimo, ka fase goba kgauswi le seporo ka gare ga lefelo leo le šomišwago ke goba leo le beetšwego mediro ya seporo;
 - (d) bobolokelo bja dithoto kgauswi le seporo sa ditimela;
 - (e) moo seporo se tshelago tsela, go fihla moo molao wa polokego ya ditseleng o sa šomego; le 40
 - (f) go bolokwa mo go sego molaong ga thoto yeo e lego ya baswari ba phemiti ya polokego yeo e dirago gore tšhomišo ya seporo sa ditimela e se bolokege goba e nago le bokgoni bja go dira gore tšhomišo yeo e se be ye e bolokegilego, go ya ka molao ofe goba ofe wo mongwe wo o laolago go dula goba go tlošwa ka go kago ye go dutšwego ka tsela yeo e sego molaong. 45
- (2) Melawana yeo e hlalošitšwego ka go karolwana ya (1) e swanetše—
- (a) ama polokego ya diporo le ditšhomišo tša diporo tša ditimela tše bolokegilego; le
 - (b) go amana le thoto yeo e lego ya baswari ba phemiti ya polokego.

Melawana ya malebana le tekolo le tshedimošo

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64. (1) Tona a ka dira melawana malebana le diteng, legoro, mohuta, nako le mohuta wa datha ye e swanetšego go romelwa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela gore e lekole kobamelo ya modiriši go ya ka dipeelano tša Molao wo.

(2) Tona a ka dira melawana malebana le tshedimošo yeo Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetšego go e gatiša malebana le go fa setšhaba tshedimošo goba go rerišana le setšhaba. 55

Regulations regarding railway occurrence and railway occurrence investigations

65. The Minister may make regulations in respect of railway occurrences and railway occurrence investigations, in addition to those contemplated in sections 48(1), 50(1) and 52(2), including—

- (a) other activities which constitute railway occurrences, and the offences and penalties in respect thereof; 5
- (b) steps to be taken by an operator after a railway occurrence in addition to those contemplated in section 48(2); and
- (c) procedures, processes and other matters relating to major investigations.

Notice regarding fees

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66. (1) The Minister must annually, by notice in the *Gazette*, determine the fees payable in respect of the safety permits contemplated in section 30(1).

(2) The Minister may, in consultation with the Minister of Finance, by notice in the *Gazette*, determine fees in respect of any prescribed service rendered by the Regulator as contemplated in section 62(1)(g) to (j). 15

Regulations and procedure regarding compliance notices and penalties

67. (1) The Minister may, by notice in the *Gazette*, make regulations to provide that the Regulator may, in respect of a person who fails to comply with any provision of this Act, including any railway safety standard or condition of a safety permit imposed in terms of section 31— 20

- (a) issue a compliance notice to the person so failing to comply; and
- (b) determine a penalty in respect of non-compliance with a notice under paragraph (a).

(2) Penalties imposed in terms of the regulations made under subsection (1) may differ between operators according to criteria prescribed by the Minister, and may include provisions providing for the reduction of penalties in certain circumstances. 25

(3) The proceeds of penalties paid in terms of or under this section do not form part of the funds of the Regulator and the Regulator must pay such proceeds into the National Revenue Fund contemplated in section 213 of the Constitution of the Republic of South Africa, 1996. 30

(4) The Regulator may recover penalties imposed in terms of regulations made under subsection (1) by civil action for disposition as contemplated in subsection (3).

(5) Any person aggrieved by a decision of the Regulator to impose a penalty contemplated in subsection (4) may appeal against that decision as provided for in Chapter 8. 35

Regulations regarding safety critical grades and training institutions

68. The Minister may, by notice in the *Gazette*, make regulations to provide for the licensing of persons employed in safety critical grade positions, including provisions on—

- (a) railway safety standards to be met for obtaining safety critical grade licences; 40
- (b) the posts or job descriptions of persons who must be licensed;
- (c) the registration of training institutions;

Melawana ya malebana le ditiragalo tša diporong tša ditimela le dinyakišišo tša tšona

65. Tona a ka dira melawana ya malebana le ditiragalo tša diporong tša ditimela le dinyakišišo tša tšona, go tlaleletša go tšeo di hlalošitšwego ka go dikarolo tša 48(1), 50(1) le 52(2), go akaretša le— 5
- (a) mediro ye mengwe yeo e bopago karolo ya ditiragalo tša seporong, mmogo le melato le dikotlo tše di amanago le tšona;
 - (b) magato ao a swanetšego go tšewa ke modiriši ka morago ga tiragalo ya seporong go tlaleletša go ao a hlalošitšwego ka go karolo ya 48(2); le
 - (c) ditshepedišo, ditshepetšo le merero ye mengwe yeo e amanago le dinyakišišo tše kgolo. 10

Tsebišo ya malebana le ditefišo

66. (1) Tona o swanetše gore, ngwaga ka ngwaga, ka tsebišo ka go Kuranta ya Mmušo, a hlathe ditefo tšeo di lefelwago malebana le diphefimi tša polokego tšeo di hlalošitšwego ka go karolo ya 30(1). 15
- (2) Tona, ka therišano le Tona ya Ditšhelete, le ka tsebišo ka go Kuranta ya Mmušo, a ka hlathe ditefo malebana le tirelo efe goba efe ye e abjago ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela bjalo ka ge go hlalošitšwe ka go karolo ya 62(1)(g) go fihla go (j).

Melawana le tshepedišo ya malebana le ditsebišo tša kobamelo le dikotlo 20

67. (1) Tona, ka tsebišo ka go Kuranta ya Mmušo, a ka dira melawana ye e fanago ka dipeelano tša gore, malebana le motho yo a palelwago ke go obamela peelano efe goba efe ya Molao wo, go akaretšwa maemo afe goba afe a polokego ya seporo goba maemo a phefimi ya polokego yeo e gapeleditšwego go ya ka karolo ya 31, Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka— 25
- (a) ntšha tsebišo ya kobamelo go motho yo a palelwago ke go obamela; le
 - (b) hlathe kotlo malebana le go se obamele tsebišo ka fase ga temana ya (a).
- (2) Dikotlo tšeo di beilwego go ya ka melawana yeo e dirilwego ka fase ga karolwana ya (1) di ka fapana magareng ga badiriši go ya ka dinyakwa tšeo di beilwego ke Tona, ebile di ka akaretša dipeelano tšeo di abago phokotšo ya dikotlo go maemo ao a itšego. 30
- (3) Ditšhelete tša dikotlo tšeo di lefilwego go ya ka goba ka fase ga karolo ye ga di bope karolo ya ditšhelete tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ebile Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e swanetše go lefa ditšhelete tše bjalo go Sekhwama sa Letseno la Bosetšhaba seo se hlalošitšwego ka go karolo ya 213 ya Molaotheo wa Repabliki ya Borwa Afrika, wa 1996. 35
- (4) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e ka bušetša morago dikotlo tšeo di ntšhitšwego go ya ka melawana yeo e dirilwego ka fase ga karolwana ya (1) ka kgato ya setšhaba malebana le tsheko bjalo ka ge go hlalošitšwe ka go karolwana ya (3). 40
- (5) Motho ofe goba ofe yo a ngongoregago ka sephetho sa Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela sa go fana ka kotlo yeo e hlalošitšwego ka go karolwana ya (4) a ka dira boipiletšo kgahlanong le sephetho seo bjalo ka ge go laeditšwe ka go Kgaoalo ya 8. 45

Melawana malebana le mešomo ye bohlokwa ya go netefatša polokego mmogo le dihlongwa tša tlhahlo 45

68. Tona, ka tsebišo ka go Kuranta ya Mmušo, a ka dira melawana ya go abja ga dilaesense tša batho bao ba thwetšwego maemong a mešomo ye bohlokwa ya go netefatša polokego, go akaretšwa dipeelano tša—
- (a) maemo a polokego ya seporo ao a swanetšego go fihlelelwa malebana le go hwetša dilaesense tša mešomo ye bohlokwa ya go netefatša polokego; 50
 - (b) diposo goba dihlalošo tša mošomo tša batho bao ba swanetšego go ba le laesense;
 - (c) boingwadišo bja dihlongwa tša tlhahlo;

- (d) criteria to be taken into account by the Regulator when considering an application for the registration of a training institution; and
- (e) information to be supplied in respect of the database contemplated in section 34(1)(c).

Part C

5

Transitional, repeal and commencement provisions**Transitional provisions and savings**

69. (1) For purposes of this section “previous Act” means the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002).

(2) The Minister must, within one year of commencement of this Act, review all regulations or notices contemplated in subsection (3) and unless the Minister within that one-year period confirms, by notice in the *Gazette*, that those regulations or notices remain in force, such regulations or notices must cease to be of force or effect at the end of that one-year period. 10

(3) Subject to subsection (2), all regulations or notices properly made or issued in terms of or under the previous Act remain in force as if they had been made or issued in terms of or under this Act. 15

(4) Any co-operative agreement or arrangement concluded by the Regulator in terms of section 6(2) of the previous Act upon the commencement of this Act, continues to be valid as if it had been concluded in terms of section 7(2)(b). 20

(5) Upon the commencement of this Act—

(a) every person permanently employed by the Regulator immediately prior to the commencement of this Act, is regarded as having been appointed in terms of section 24 of this Act, without interruption of service and on the terms and conditions applying to that person immediately prior to the commencement of this Act; 25

(b) every person contemplated in paragraph (a) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before the commencement of this Act;

(c) any proceedings against a person which were pending in terms of, or under the previous Act immediately before the commencement of this Act, must be disposed of as if that Act had not been repealed; and 30

(d) the board of directors referred to in section 8 of the previous Act must continue to operate until the appointment of a new board in terms of this Act.

(6) Upon the commencement of this Act— 35

(a) all movable, immovable and intellectual property of the Regulator, including all financial, administrative and other records of the Regulator and all documents in the possession of the Regulator, remain that of the Regulator;

(b) the rights, duties, liabilities and obligations relating to the Regulator established in terms of the previous Act remain that of the Regulator; 40

(c) the Regulator remains as a litigant in all pending litigation or proceedings;

(d) all valid and binding agreements entered into by the Regulator remain binding on the Regulator; and

- (d) dinyakwa tšeo di swanetšego go elwa hloko ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ge e lebelela kgopelo ya boingwadišo ya sehlongwa sa tlhahlo; le
- (e) tshedimošo yeo e swanetšego go fiwa malebana le polokelo ya tshedimošo yeo e hlalošitšwego ka go karolo ya 34(1)(c).

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Karolo ya C

Dipeakanyo tša go fetogela, fediša le go thoma ga melao ye meswa

Dipeakanyo tša go fetogela go melao ye meswa

69. (1) Ka merero ya karolo ye “Molao wa peleng” e ra Molao wa Bosetšhaba wa Tlhokomelo ya Polokego ya Diporo tša Ditimela, wa 2002 (Molao wa No. ya 16 wa 2002).

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(2) Tona o swanetše gore, mo ngwageng o tee morago ga go thoma go šomišwa ga Molao wo, a sekaseke melawana goba ditsebišo ka moka tšeo di hlalošitšwego ka go karolwana ya (3) ebile ntle le gore Tona mo lebakeng leo la ngwaga o tee a netefatše, ka tsebišo ka go Kuranta ya Mmušo, gore melawana yeo goba ditsebišo tšeo di a šoma, melawana goba ditsebišo tše bjalo di swanetše go tlogela go šomišwa mafelelong a ngwaga woo o tee.

15

(3) Go ya ka karolwana ya (2), melawana goba ditsebišo ka moka tšeo di dirilwego goba di ntšhitšwego ka tshwanelo go ya ka goba ka fase ga Molao wa peleng di dula di s'oma bjalo ka ge e ka di dirilwe goba di ntšhitšwe go ya ka goba ka fase ga Molao wo.

20

(4) Tumelelano efe goba efe ya tirišano goba peakanyo yeo e phethilwego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela go ya ka karolo ya 6(2) ya Molao wa peleng ge Molao wo o thoma go šoma, e tšwela pele go šoma bjalo ka ge e ka e phethilwe go ya ka karolo ya 7(2)(b).

25

(5) Ge Molao wo o thoma go šoma—

25

(a) motho yo mongwe le yo mongwe yo a thwetšwego sa ruri ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela pele ga go thoma go šoma ga Molao wo, o tšewa bjalo ka yo a thwetšwego go ya ka karolo ya 24 ya Molao wo, ntle le tšhitišo ya tirelo le ka melawana le dipeelano tšeo di šomago go motho yoo tša pele ga go thoma go šoma ga Molao wo;

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(b) motho yo mongwe le yo mongwe yo a hlalošitšwego go temana ya (a) o dula a ama ke diphetho, ditshepedišo, dikahlolo le ditaelo dife goba dife tšeo di bego di šomišwa go motho yoo pele ga go thoma go šoma ga Molao wo;

(c) ditshepedišo dife goba dife kgahlanong le motho tšeo di bego di sa tšwela pele go ya ka, goba ka fase ga Molao wa peleng pele ga go thoma go šoma ga Molao wo, di swanetše go lahlwa bjalo ka ge e ka Molao woo ga se wa fedišwa; le

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(d) boto ya balaodi yeo go bolelwago ka yona ka go karolo ya 8 ya Molao wa peleng e swanetše go tšwela pele go šoma go fihla ge go thwetšwe boto ye mpsha go ya ka Molao wo.

40

(6) Ge Molao wo o thoma go šoma—

(a) dithoto ka moka tše di sepelago, tše di sa šuthišegego le tša thototlhaologanyo tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, go akaretšwa direkoto ka moka tša ditšhelete, tša taolo le tše dingwe tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela mmogo le dingwalwa ka moka tšeo di swerego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, di dula e le tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;

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(b) ditokelo, mešomo, dikoloto le ditlamo tše di amanago le Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela tšeo di hlomilwego go ya ka Molao wa peleng e sa le tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela;

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(c) Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela e dula e le mosekišwa go ditsheko ka moka tšeo di sa emetšego tshekišo goba ditshepedišo tša tshekišo;

55

(d) ditumelelano ka moka tše di lego gona le tše di tlamago tšeo di dirilwego ke Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela di dula di tlama Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela; le

(e) all funds of the Regulator, immediately before the commencement of this Act, remain that of the Regulator.

(7) All permits issued in terms of, or under, the previous Act remain valid for the period indicated in the respective permits as if they had been issued in terms of this Act, but for the avoidance of doubt, this does not exempt the holder of a permit from paying any fees due in terms of or under this Act. 5

(8) All fees and penalties due or charged in terms of, or under, the previous Act are payable to the Regulator on the date when they become due, as if that Act had not been repealed.

(9) The Minister must, not later than the date of commencement of section 34, by notice in the *Gazette*, publish a timetable in respect of persons already appointed to, or performing work in, a safety critical grade position at the time of commencement of that section, specifying the date by which such persons must comply with that section, but such a timetable may not extend beyond two years of the commencement of that section. 10

(10) Despite section 34(2) and (3) any person appointed to or performing work in a safety critical grade position immediately prior to the commencement of section 34 may, until the date specified in terms of subsection (8), perform work in a safety critical grade position, and be appointed as such, without holding a safety critical grade licence. 15

(11) Section 38 of the previous Act remains in force, despite section 70, as if it had not been repealed, until the date of the commencement of Chapter 8 is fixed in terms of section 71(2). 20

(12) An institution providing training in safety critical grades may on commencement of the Act continue to provide any training which it had been providing prior that date, but that institution must within three months of—

(a) the publication of the policy for the registration of training institutions contemplated in section 35(2); or 25

(b) the commencement of regulations made under section 68, whichever is last, apply for registration as contemplated in section 35(1).

Repeal of law

70. The National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002), is hereby repealed. 30

Short title and commencement

71. (1) This Act is called the Railway Safety Act, 2024, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Despite subsection (1), the President may fix different dates in respect of different sections of the Act. 35

- (e) ditšhelete ka moka tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela, pele ga go thoma go šomišwa ga Molao wo, di dula e le tša Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela.
- (7) Diphemiti ka moka tšeo di ntšhitšwego go ya ka, goba ka fase ga, Molao wa peleng di dula di šoma lebaka leo le bontšhitšwego ka go diphemiti tšeo tša go fapana bjalo ka ge e ka di filwe go ya ka Molao wo, fela ka mabaka a go efoga pelaelo, se ga se lokolle moswari wa phemiti go lefa ditefelo dife goba dife tšeo di swanetšego go lefelwa go ya ka goba ka fase ga Molao wo. 5
- (8) Ditefelo le dikotlo ka moka tšeo di swanetšego go lefišwa goba tšeo di lefišwago go ya ka, goba ka fase ga, Molao wa peleng di lefelwa go Khamphani ya Mmušo ya Tlhokomelo ya Polokego ya Diporo tša Ditimela ka letšatšikgwedi leo di swanetšego go lefelwa ka lona, bjalo ka ge e ka Molao woo ga se wa fedišwa. 10
- (9) Tona o swanetše gore, pele ga gore letšatšikgwedi la go thoma go šoma ga karolo ya 34 le fete, ka tsebišo ka go Kuranta ya Mmušo, a gatiše lenaneo la dinako malebana le batho bao ba šetšego ba thwetšwe, goba bao ba dirago mošomo maamong a mešomo ye bohlokwa ya go netefatša polokego ka nako ya go thoma go šoma ga karolo yeo, leo le laetšago letšatšikgwedi leo ka lona batho bao ba swanetšego go obamela karolo yeo, fela lenaneo leo la dinako ga se la swanela go feta mengwaga ye mebedi ya go thoma ga karolo yeo. 15 20
- (10) Go sa šetšwe karolo ya 34(2) le (3) motho ofe goba ofe yo a thwetšwego goba yo a dirago mošomo maamong a mešomo ye bohlokwa ya go netefatša polokego pele ga go thoma go šoma ga karolo ya 34, go fihla letšatšikgwedi leo le ngwadilwego go ya ka karolwana ya (8), a ka dira mošomo wo o lego maamong a mešomo ye bohlokwa ya go netefatša polokego, ebile a ka thwalwa mošomong woo, ntle le go swara laesense ya mešomo ye bohlokwa ya go netefatša polokego. 25
- (11) Karolo ya 38 ya Molao wa peleng e sa šoma, go sa šetšwe karolo ya 70, bjalo ka ge e ka ga se ya fedišwa, go fihlela letšatšikgwedi la go thoma go šoma ga Kgaolo ya 8 le tsebagatšwa go ya ka karolo ya 71(2).
- (12) Ge Molao wo o thoma go šoma, sehlongwa seo se abago tlhahlo ya mešomo ye bohlokwa ya go netefatša polokego se ka tšwela pele go aba tlhahlo ye nngwe le ye nngwe yeo se bego se e aba pele ga letšatšikgwedi la go thoma go šoma ga Molao wo, fela sehlongwa seo se swanetše gore mo dikgweding tše tharo tša— 30
- (a) Go gatišwa ga pholisi ya boingwadišo bja dihlongwa tša tlhahlo yeo e hlalošitšwego ka go karolo ya 35(2); goba 35
- (b) go thoma ga melawana yeo e dirilwego ka fase ga karolo ya 68, go sa šetšwe gore ke efe ya mafelelo, se dire kgopelo ya boingwadišo bjalo ka ge go hlalošitšwe ka go karolo ya 35(1).

Go fedišwa ga molao

70. Molao wa Bosetšhaba wa Tlhokomelo ya Polokego ya Diporo tša Ditimela, wa 2002 (Molao wa No. ya 16 wa 2002), o a fedišwa. 40

Thaetlele ye kopana le mathomo

71. (1) Molao wo o bitšwa Molao wa Polokego ya Diporo tša Ditimela, wa 2024, ebile o thoma go šoma ka letšatšikgwedi leo le tsebagaditšwego ke Mopresidente ka pego ka go Kuranta ya Mmušo. 45
- (2) Go sa šetšwe karolwana ya (1), Mopresidente a ka tsebagatša matšatšikgwedi a go fapana malebana le dikarolo tše di fapanego tša Molao.