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7 June 2004
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No. 26436

THE PRESIDENCY

No. 700

7 June 2004

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

No. 10 of 2004: National Environmental Management: Biodiversity Act, 2004.

MOPRESIDENTE

No. 700

7 June 2004

Go itsisiwi fano gore MoPresidente o saenne Molao o o latelang o o phasale-diwang kitso ya botlhe fano:—

No. 10 wa 2004: Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa Biodiversity, 2004.



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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President.)
(Assented to 31 May 2004.)

ACT

To provide for the management and conservation of South Africa's biodiversity within the framework of the National Environmental Management Act, 1998; the protection of species and ecosystems that warrant national protection; the sustainable use of indigenous biological resources; the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources; the establishment and functions of a South African National Biodiversity Institute; and for matters connected therewith.

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

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(English text signed by the President.)
(Assented to 31 May 2004.)

MOLAO

Go tlamela tsamaiso le tshomarelo ya *biodiversity* ya Aferika Borwa mo letlhomeseng la Molao wa 1988 wa Tsamaiso ya Bosetšhaba ya Tikologo; tshireletso ya ditshedi tsa mefutafuta le diekhosesetimo tse di tlhokang tshireletso ya bosetšhaba; tiriso e e tswelelang ya metswedi ya baoloji ya tlholego, go kgaogana go go siameng go go lekanang ga ditshiamelo tse di tswang mo patlisisong ya botshelo e e akaretsang metswedi ya baoloji ya tlholego; tlhomo le ditiro tsa Setheo sa Aferika Borwa sa Bosetšhaba sa *Biodiversity*; le merero e e amanang le seo.

Go laotswe ke Palamente ya Repaboliki ya Aferika Borwa jaaka go latela:—

LENANE LA DITENG

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CHAPTER 1

INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

Definitions

1. (1) In this Act, unless the context indicates otherwise—
 - “**alien species**” means—
 - (a) a species that is not an indigenous species; or
 - (b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;
 - “**benefit**”, in relation to bioprospecting involving indigenous biological resources, means any benefit, whether commercial or not, arising from bioprospecting involving such resources, and includes both monetary and non-monetary returns;
 - “**biological diversity**” or “**biodiversity**” means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species, and of ecosystems;
 - “**bioprospecting**”, in relation to indigenous biological resources, means any research on, or development or application of, indigenous biological resources for commercial or industrial exploitation, and includes—
 - (a) the systematic search, collection or gathering of such resources or making extractions from such resources for purposes of such research, development or application;
 - (b) the utilisation for purposes of such research or development of any information regarding any traditional uses of indigenous biological resources by indigenous communities; or
 - (c) research on, or the application, development or modification of, any such traditional uses, for commercial or industrial exploitation;
 - “**bioregion**” means a geographic region which has in terms of section 40(1) been determined as a bioregion for the purposes of this Act;
 - “**Board**” means the board referred to in section 13;
 - “**competent authority**”, in relation to the control of an alien or invasive species, means—
 - (a) the Minister;
 - (b) an organ of state in the national, provincial or local sphere of government designated by regulation as a competent authority for the control of an alien species or a listed invasive species in terms of this Act; or
 - (c) any other organ of state;
 - “**components**”, in relation to biodiversity, includes species, ecological communities, genes, genomes, ecosystems, habitats and ecological processes;
 - “**control**”, in relation to an alien or invasive species, means—
 - (a) to combat or eradicate an alien or invasive species; or
 - (b) where such eradication is not possible, to prevent, as far as may be practicable, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of an alien or invasive species;
 - “**critically endangered ecosystem**” means any ecosystem listed as a critically endangered ecosystem in terms of section 52(2);

KGAOLO 1

THANOLO, MAIKAELELO LE TIRAGATSO YA MOLAO

Ditlhaloso

1. (1) Mo molaong o, kwa ntle ga fa diteng di supa bokao jo bongwe—
- “methalethale ya ditshedi tsa kwa ntle” e kaya— 5
- (a) methalethale wa ditshedi o e seng wa tlhologo; kgotsa
- (b) methalethale ya ditshedi tsa tlhologo tse di sutiseditsweng kgotsa tse go ikaeletseng go sutisediwa kwa lefelong le le kwa ntle ga setlhophla sa phatlhalatso sa tlhologo mo tlhagong, fela go sa akaretse methalethale ya ditshedi tsa tlhologo tse di okeditseng setlhophla sa phatlhalatso ya teng ya tlhologo ka mekgwa ya tlhologo ya khudugo kgotsa kanamiso kwa ntle ga tsereganyo ka motho; 10
- “tshiamelo”, mo kamanong le patlisiso ya botshelo e e akaretsang metswedi ya baoloji ya tlhologo, e kaya tshiamelo efe kgotsa efe, e ka nna ya tsa kgwebo kgotsa nnyaa, e e tswang mo patlisisong ya botshelo e e tsenyeletsang metswedi e e jalo, e bile e tsenyeletsa dipolelo tsa tšhelete le tse e seng tsa tšhelete ka bobedi; 15
- “mefutafuta ya baoloji” kgotsa “biodiversity” e kaya dipharologano magareng ga ditshedi go tswa metsweding yotlhe go akarediwa, lefatshe, lewatle le ditshedi tsa ekhosesetimo tsa metsi tse dingwe le mararaane a ekholoji a e leng karolo, seno se tsenyeletsa mefutafuta ka fa gare ga methalethale ya ditshedi, magareng ga methalethale ya ditshedi le ya ditshedi tsa diekhosesetimo; 20
- “patlisiso ya botshelo”, mo kamanong le metswedi ya baoloji ya tlhologo, e kaya patlisiso efe kgotsa efe ya , kgotsa kgodiso kgotsa kopo ya, metswedi ya baoloji ya tlhologo ya tsa kgwebo kgotsa tiriso e e botlhaswa ya intaseteri, e bile e tsenyeletsa— 25
- (a) patlisiso e e rulaganeng, kokoanyo kgotsa phutho ya metswedi e e jalo kgotsa go dira dintsho go tswa go metswedi e e jalo ka maikaelelo a patlisiso e e jalo, kgodiso kgotsa kopo;
- (b) tiriso ya maikaelelo a patlisiso e e jalo kgotsa kgodiso ya kitso efe kgotsa efe malebana le ditiro tsa setso tsa metswedi ya baoloji ya tlhologo ka baagi ba tlhologo; kgotsa 30
- (c) patlisiso mo, kgotsa kopo, kgodiso kgotsa phetolo ya, ditiro dife kgotsa dife tsa setso, tsa tiriso e e botlhaswa ya tsa kgwebo kgotsa intaseteri;
- “patlisiso ya botshelo” e kaya patlisiso ya thulaganyo, kgobokanyo, go ntshiwa, tsweletso kgotsa tiragatso ya kgotsa patlisiso mo metsweding ya dipharologantsho tsa khomese kgotsa go ja ntsoma ga intaseteri; 35
- “kgaolo ya ditshedi” e kaya kgaolo ya loago e go ya ka karolo 40(1) e tlhomamisitsweng jaaka kgaolo ya ditshedi ka mabaka a Molao o;
- “Boto” e kaya boto e e supiwang mo karolong 13;
- “bothati jo bo kgonang”, malebana le taolo ya methalethale ya ditshedi tsa kwa ntle kgotsa tse di amanang, bo kaya— 40
- (a) Tona;
- (b) sethwe sa naga mo mmusong wa bosetšhaba, wa porofense kgotsa sediko sa selegae sa puso se se tlhomilweng ka molawana jaaka bothati jo bo kgonang go laola methalethale ya ditshedi tsa kwa ntle kgotsa methalethale ya ditshedi tse di anamang tse di nanefaditsweng go ya ka Molao o; kgotsa 45
- (c) sethwe sefe kgotsa sefe sa naga;
- “dikarolo” mo kamanong le biodiversity, di tsenyeletsa methalethale ya ditshedi, ditshedi tsa ekholoji, dipharologantsho tsa tlhago, dipharologantsho tsa ditshedi tse di kgethegileng, diekhosesetimo, le ditirego tsa ekholoji le mafelo a bonno; 50
- “taolo”, mo kamanong le tsa kwa ntle kgotsa methalethale ya ditshedi tse di anamang e kaya—
- (a) go lwantsha kgotsa go fedisa tsa kwa ntle kgotsa methalethale ya ditshedi e e anamang; kgotsa
- (b) foo phediso e e jalo e sa kgonegeng, go thibela, go fitlha fa go ka kgonegang, poelelo, tlhomo gape, kgolo gape, katiso, koketsego, tsosoloso kgotsa go anamisiwa ga methalethale ya ditshedi ya kwa ntle kgotsa e e anamang; 55
- “diekhosesetimo tse di mo kotsing e e masisi” di kaya diekhosesetimo tse di nanefaditsweng go ya ka korolo 51;

- “critically endangered species”** means any indigenous species listed as a critically endangered species in terms of section 56;
- “delegation”**, in relation to a duty, includes an instruction to perform the duty;
- “Department”** means the national Department of Environmental Affairs and Tourism; 5
- “derivative”**, in relation to an animal, plant or other organism, means any part, tissue or extract, of an animal, plant or other organism, whether fresh, preserved or processed, and includes any chemical compound derived from such part, tissue or extract;
- “Director-General”** means the Director-General of the Department; 10
- “ecological community”** means an integrated group of species inhabiting a given area;
- “ecosystem”** means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit;
- “endangered ecosystem”** means any ecosystem listed as an endangered ecosystem in terms of section 52(2); 15
- “endangered species”** means any indigenous species listed as an endangered species in terms of section 56;
- “environmental management inspector”** means a person authorised in terms of the National Environmental Management Act to enforce the provisions of this Act; 20
- “export”**, in relation to the Republic, means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or to international waters;
- “Gazette”**, when used—
- (a) in relation to the Minister, means the *Government Gazette*; or 25
- (b) in relation to the MEC for Environmental Affairs of a province, means the *Provincial Gazette* of that province;
- “genetic material”** means any material of animal, plant, microbial or other biological origin containing functional units of heredity;
- “genetic resource”** includes— 30
- (a) any genetic material; or
- (b) the genetic potential or characteristics of any species;
- “habitat”** means a place where a species or ecological community naturally occurs;
- “import”**, in relation to the Republic— 35
- (a) means to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic; and
- (b) includes to bring into the Republic for re-export to a place outside the Republic;
- “indigenous biological resource”** — 40
- (a) when used in relation to bioprospecting, means any indigenous biological resource as defined in section 80(2); or
- (b) when used in relation to any other matter, means any resource consisting of — 45
- (i) any living or dead animal, plant or other organism of an indigenous species;
- (ii) any derivative of such animal, plant or other organism; or
- (iii) any genetic material of such animal, plant or other organism;
- “indigenous species”** means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Republic, but excludes a species that has been introduced in the Republic as a result of human activity; 50
- “Institute”** means the South African National Biodiversity Institute established in terms of section 10;

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- “ditshedi tsa methalethale tse di mo kotsing e e masisi”** di kaya ditshedi tsa methalethale dife tsa tlhologo tse di nanefaditsweng jalo go ya ka karolo 55;
- “thomelelo”**, mo kamanong le tiro, e tsenyeletsa taelo go dira tiro;
- “Lefapha”** le kaya Lefapha la bosetšhaba La Merero ya Tikologo le Bojanala;
- “sere”** mo kamanong le phologolo, semela kgotsa setshedi se sengwe, se kaya karolo nngwe le nngwe, setogwa kgotsa sentšhwa sa phologolo, semela kgotsa setshedi se sengwe, di le forese, di bolokilwe kgotsa e le kumo e e fetoletsweng, mme e tsenyeletsa dikhemikale tse di kopantsweng tse di tswang mo dikarolong tse di jalo, setogwa kgotsa sentšhwa;
- “Mokaedi Kakaretso”** o kaya Mokaedi Kakaretso wa Lefapha;
- “ditshedi tsa ekholoji”** di kaya setlhopho se se kopaneng sa methalethale ya ditshedi se se nnang mo lefelong le le neilweng;
- “ekhosesetimo”** e kaya mararaane a a maatla a phologolo, semela le ditshedi tse dinnye mmogo le tikologo ya tsona e e sa tsheleng e e golaganyang jaaka yuniti e e dirang;
- “diekhosesetimo tse di mo kotsing”** di kaya ditshedi tsa tikologo dife kgotsa dife tse di mo kotsing go ya ka karolo 51;
- “methalethale ya ditshedi e e mo kotsing”** e kaya methalethale ya ditshedi dife kgotsa dife tsa tlhologo tse di lebaneng le kotsi e e kwa godimo go ya ka karolo 55;
- “motlhatlhoi ba botsamaisi ba tikologo”** o kaya motho yo o nang le thata go ya ka Molao wa Botsamaisi ba Bosetšhaba ba Tikologo go gatelela ditlamelo tsa Molao o;
- “thomelo ntle”**, mo kamanong le Repaboliki, e kaya go ntsha kgotsa go fetisa, kgotsa maiteko go ntsha kgotsa go fetisa, go tswa lefelong ka fa gare ga Repaboliki go ya nageng e nngwe kgotsa go ya metsing a boditšhabatšhaba;
- “Lokwalodikgang la Puso”**, fa le dirisiwa—
- mo kamanong le Tona, le kaya lokwalodikgang la Puso; kgotsa
 - mo kamanong le Molekgotla-khuduthamaga wa Merero ya Tikologo ya porofense, le kaya Lokwalodikgang la Puso la porofense eo;
- “materiale wa tlhago”** o kaya materiale wa phologolo, semela, setshedinyana kgotsa tshimologo ya baoloji e e tshotseng diyuniti tsa tiro tsa tlhago;
- “motswedi wa tlhago”** o akaretse—
- materiale ofe wa tlhago; kgotsa
 - bokgoni ba tlhago kgotsa dipharologantshe tsa methalethale ya ditshedi dife kgotsa dife;
- “bonno”** bo kaya lefelo foo methalethale ya ditshedi kgotsa ditshedi tsa ekholoji di tlhagelelang ka tlhologo;
- “thomelo teng”**, mo kamanong le Repaboliki—
- e kaya go gorogela mo, go tlisa ka fa teng kgotsa go tlhagisa mo Repaboliking; kgotsa go leka go gorogela go, go tlisa ka fa teng kgotsa go tlhagisa mo Repaboliking; le
 - go tsenyeletsa go tlisa mo Repaboliking go romela ntle gape go ya lefelong le le kwa ntle ga Repaboliki;
- “motswedi wa baoloji wa tlhago”**—
- fa e dirisiwa mo kamanong le patlisiso ya botshelo, e kaya motswedi wa baoloji wa tlhologo ofe kgotsa ofe jaaka o tlhalositswe mo karolong 80; kgotsa
 - fa e dirisiwa mo kamanong le sengwe le sengwe, e kaya motswedi ofe kgotsa ofe o o nang le—
 - phologolo efe kgotsa efe e e tshelang kgotsa e e suleng, semela kgotsa setshedi se sengwe sa methalethale ya ditshedi sa tlhologo;
 - sentshwa sefe kgotsa sefe sa phologolo e e jalo, semela kgotsa setshedi se sengwe; kgotsa
 - materiale wa tlhago ofe kgotsa ofe wa phologolo e e jalo, semela kgotsa setshedi se sengwe;
- “methalethale ya ditshedi tsa tlhologo”** e kaya methalethale ya ditshedi e e tlhagelelang, kgotsa e na le hisitori e e tlhageletseng, ka tlhologo mo maemong a a phuthologileng a tlhologo ka fa gare ga meelwane ya Repaboliki, fela e sa tsenyeletse methalethale ya ditshedi e e tlhagisitsweng mo Repaboliking ka ntlha ya tiro ya motho;
- “Setheo”** se kaya Setheo sa Bosetšhaba sa Biodiversity sa Aferika Borwa se se tlhomilweng go ya ka karolo 10;
- “matseno”**, mo kamanong le methalethale ya ditshedi, a kaya tlhagiso ka batho, e ka nna ka bomo kgotsa ka kotsi, ya methalethale ya ditshedi go ya lefelong ka kwa

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- “introduction”**, in relation to a species, means the introduction by humans, whether deliberately or accidentally, of a species to a place outside the natural range or natural dispersal potential of that species;
- “introduction from the sea”**, in relation to a specimen of any species, means the transportation into the Republic of a specimen taken from a marine environment not under the jurisdiction of any state; 5
- “invasive species”** means any species whose establishment and spread outside of its natural distribution range—
- (a) threaten ecosystems, habitats or other species or have demonstrable potential to threaten ecosystems, habitats or other species; and 10
 - (b) may result in economic or environmental harm or harm to human health;
- “issuing authority”**, in relation to permits regulating the matters mentioned in section 87, means—
- (a) the Minister; or
 - (b) an organ of state in the national, provincial or local sphere of government designated by regulation in terms of section 97 as an issuing authority for permits of the kind in question; 15
- “listed ecosystem”** means any ecosystem listed in terms of section 52(1);
- “listed invasive species”** means any invasive species listed in terms of section 70(1); 20
- “listed threatened or protected species”** means any species listed in terms of section 56(1);
- “local community”** means any community of people living or having rights or interests in a distinct geographical area;
- “management authority”**, in relation to a protected area, means an authority to whom the management of a protected area has been assigned; 25
- “MEC for Environmental Affairs”** means a member of the Executive Council of a province who is responsible for the conservation of biodiversity in the province;
- “migratory species”** means the entire population or any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries; 30
- “Minister”** means the Cabinet member responsible for national environmental management;
- “municipality”** means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 35
- “national botanical garden”** means land declared or regarded as having been declared as a national botanical garden in terms of section 33, and includes any land declared in terms of section 33 as part of an existing botanical garden;
- “National Environmental Management Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998); 40
- “national environmental management principles”** means the principles referred to in section 7;
- “non-detriment findings”** means the determination of the non-detrimental impact of an action on the survival of a species in the wild; 45
- “organ of state”** has the meaning assigned to it in section 239 of the Constitution;
- “permit”** means a permit issued in terms of Chapter 7;
- “prescribe”** means prescribe by regulation in terms of section 97;
- “protected area”** means a protected area defined in the Protected Areas Act;
- “Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003; 50

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ntle ga mola wa tlholego kgotsa bokgoni ba kgasano ya tlholego ya methalethale eo ya ditshedi;

“matseno go tswa lewatleng”, mo kamanong le sekao go tswa bontsing ba methalethale ya ditshedi dife kgotsa dife, a kaya thwalo go ya mo Repaboliking ya sekao go tswa bontsing se se tserweng go tswa tikologong ya lewatle e e seng ka fa 5
tlase ga taolo ya naga epe;

“methalethale ya ditshedi e e anamang” e kaya methalethale ya ditshedi efe kgotsa efe e tlhomo le phatlhalalo ka kwa ntle ga kgasagano ya yona ya mola wa tlholego—

(a) e tshosetsa diekhosesetimo, bonno kgotsa methalethale ya ditshedi e mengwe 10
kgotsa e na le bokgoni bo bo bontshegang go tshosetsa diekhosesetimo, bonno kgotsa methalethale ya ditshedi e mengwe; le

(b) e ka feletsa mo tshenyong ya ikonomi kgotsa tikologo kgotsa tshenyo ya boitekanelong ba motho;

“go neela thata”, ka kamano le ditumelelo tse di laolang merero e e boletsweng 15
mo go karolo 84, bo kaya—

(a) Tona; kgotsa

(b) sethwe sa naga mo mmusong wa bosetšhaba, porofense kgotsa sediko sa selegae se se tlhomamisitsweng ke molawana go ya ka karolo 97 jaaka bothati 20
jo bo ntshang ditumelelo tsa mofuta o o bolelwang;

“ditshedi tsa tikologo tse di nanefaditsweng” di kaya ditshedi tsa tikologo dife kgotsa dife tse di nanefaditsweng go ya ka karolo 51(1);

“methalethale ya ditshedi tse di anameng di nanefaditswe” e kaya methalethale ya ditshedi e e anameng e nanefaditswe go ya ka karolo 69(1);

**“tse di nanefaditsweng di tshosediswa kgotsa methalethale ya ditshedi e e 25
sireleditsweng”** di kaya methalethale ya ditshedi e e nanefaditsweng efe kgotsa efe e e nanefaditsweng go ya ka karolo 55(1);

“baagi ba selegae” ba kaya baagi bafe kgotsa bafe ba batho ba ba tshelang kgotsa ba ba nang le ditshwanelo kgotsa dikgatlhago mo lefelong la thutafatshe e e 30
tlhophologileng;

“bothati ba tsamaiso”, mo kamanong le lefelo le le sireleditsweng, bo kaya bothati jo kwa go jona botsamaisi ba lefelo le le sireleditsweng bo rometswe ka tiro;

“Molekgotla-Khu duthamaga wa Merero ya Tikologo” o kaya leloko la Khansale ya Phetiso ya porofense le le ikarabelelang tshomarelo ya mefutafuta ya 35
biodiversity mo porofenseng;

“methalethale ya ditshedi e e fudugang” e kaya setšhaba sotlhe kgotsa karolo e e amologaneng ya thutafatshe ya setšhaba sa methalethale efe ya ditshedi kgotsa tshwano e e kwa tlasenyana ya diphologolo tse di tlhaga, karolo e e botlhokwa e 40
maloko a yona ka disekele le go akanyetsa ba kgabaganyang molelwane o le mongwe kgotsa go feta o o laolang wa bosetšhaba;

“Tona” o kaya leloko la Kabinete le le ikarabelelang botsamaisi jwa tikologo ya bosetšhaba;

“mmasepala” o kaya mmasepala o o tlhomilweng go ya ka Mmuso wa Selegae: Molao wa Dipopego tsa Mmasepala, 1998 (Molao Nomoro 117 wa 1998); 45

“tshingwana ya borutadimela ya bosetšhaba” e kaya lefatshe le le tlhomamisitsweng kgotsa le le tsewang jaaka le le tlhomamisitsweng jaaka tshingwana ya borutadimela ya bosetšhaba go ya ka karolo 33, jaaka karolo ya tshingwana ya borutadimela e e leng teng;

“Molao wa Tsamaiso ya Bosetšhaba ya tikologo” o kaya Molao wa Tsamaiso ya 50
Bosetšhaba ya Tikologo, 1998 (Molao No. 107 wa 1998);

“ditheo tsa Tsamaiso ya Bosetšhaba ya tikologo” di kaya ditheo tse di supelwang mo go karolo 7;

“diphithhelelo tse di seng kotsi” di kaya tlhomamiso ya kutlwalo e e seng kotsi ya tiro mo pholosong ya methalethale ya ditshedi mo tlhagong; 55

“sethwe sa naga” se na le bokao jo se bo abetsweng mo go karolo 239 ya Molaotheo;

“tumelelo” e kaya tetla e e ntshitsweng go ya ka Kgaolo 7;

“tlhaloso” e kaya tlhaloso ka molawana go ya ka karolo 97;

“lefelo le le sireleditsweng” le kaya lefelo le le sireleditsweng jaaka go 60
tlhalositswe mo Molaong wa Tshireletso ya Mafelo;

“Molao wa Mafelo a a Sireleditsweng” o kaya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa Mafelo a a Sireleditsweng, 2003 (Molao No. 57 wa 2003);

“protected ecosystem” means any ecosystem listed as a protected ecosystem in terms of section 52(2);

“protected species” means any species listed as a protected species in terms of section 56;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 5

“re-export”, in relation to a specimen of a listed threatened or protected species, means the export from the Republic of a specimen of a listed threatened or protected species previously imported into the Republic;

“restricted activity”— 10

(a) in relation to a specimen of a listed threatened or protected species, means—

(i) hunting, catching, capturing or killing any living specimen of a listed threatened or protected species by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hunt, catch, capture or kill any such specimen; 15

(ii) gathering, collecting or plucking any specimen of a listed threatened or protected species;

(iii) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any specimen of a listed threatened or protected species; 20

(iv) importing into the Republic, including introducing from the sea, any specimen of a listed threatened or protected species;

(v) exporting from the Republic, including re-exporting from the Republic, any specimen of a listed threatened or protected species;

(vi) having in possession or exercising physical control over any specimen of a listed threatened or protected species; 25

(vii) growing, breeding or in any other way propagating any specimen of a listed threatened or protected species, or causing it to multiply;

(viii) conveying, moving or otherwise translocating any specimen of a listed threatened or protected species; 30

(ix) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed threatened or protected species; or

(x) any other prescribed activity which involves a specimen of a listed threatened or protected species; and 35

(b) in relation to a specimen of an alien species or listed invasive species, means—

(i) importing into the Republic, including introducing from the sea, any specimen of an alien or listed invasive species;

(ii) having in possession or exercising physical control over any specimen of an alien or listed invasive species; 40

(iii) growing, breeding or in any other way propagating any specimen of an alien or listed invasive species, or causing it to multiply;

(iv) conveying, moving or otherwise translocating any specimen of an alien or listed invasive species; 45

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“diekhosesetimo tse di sireleditsweng” di kaya diekhosesetimo dife kgotsa dife tse di nanefaditsweng jaaka tse di sireleditsweng go ya ka karolo 51;

“methalethale ya ditshedi e e sireleditsweng” e kaya methalethale e e nanefaditsweng jaaka e e sireleditsweng go ya ka karolo 55;

“Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba” o kaya Molao wa Botsamaisi 5
ba Ditšhelete tsa Setšhaba (Molao Nomoro 1 wa 1999);

“thomelo ntle gape”, mo kamanong le sekao go tswa bontsing sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe, e kaya thomelo ntle go tswa Repaboliking ya sekao sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe e rometswe teng mo nakong e e fetileng go 10
ya mo Repaboliking;

“tiro e e thibetsweng”—

- (a) mo kamanong le sekao sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe e kaya—
- (i) go tsoma, go tshwara, go thopa kgotsa go bolaya methalethale efe kgotsa 15
efe e e tshelang e e nanefaditsweng e e tshosediwang kgotsa e e sireleditsweng ka bokao bongwe, mokgwa kgotsa sedirisiwa sefe, go tsenyelediwa go batla, go latela, go kgweetsa, go nna o letile, go gogela, go oka, go ntsha mesaele kgotsa go gobatsa ka maikaelelo a go tsoma, go tshwara, go thopha kgotsa go bolaya sekao sefe kgotsa sefe se se jalo; 20
 - (ii) go kgobokanya, go tsaya kgotsa go kumola sekao sefe kgotsa sefe sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa a a sireleditsweng;
 - (iii) go sela dilo tsa, kgotsa go sega, go kgaola, go kumula, go senya kgotsa go nyeletsa, sekao sefe kgotsa sefe se se nanefaditsweng sa methalethale 25
ya ditshedi e e tshosediwang kgotsa e e sireleditsweng;
 - (iv) go romela mo teng ga Repaboliki, go tsenyelediwa go tthagisa go tswa lewatlang, sekao mo bontsing sengwe le sengwe se se nanefaditsweng se se tshosetsang kgotsa se se sireleditsweng;
 - (v) go romela ntle go tswa Repaboliking, go tsenyeletsa go romela ntle gape 30
go tswa Repaboliking, sekao mo bontsing sefe kgotsa sefe se se sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e e sireleditsweng;
 - (vi) go nna le kgotsa go diragatsa taolo ya sebele mo godimo ga sekao sefe kgotsa sefe sa methalethale ya ditshedi e e nanefaditsweng e e 35
tshosediwang kgotsa e e sireleditsweng;
 - (vii) go godisa, go rua kgotsa ka tsela e nngwe esele go katiso ya sekao sefe kgotsa sefe sa methalethale e e nanefaditsweng e e tshosediwang kgotsa e e sireleditsweng, kgotsa e dira gore e ntsifale;
 - (viii) go romela, go tsamaisa kgotsa ka tsela nngwe go fudusa sekao sefe 40
kgotsa sefe sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang e e sireleditsweng;
 - (ix) go rekisa kgotsa ka tsela e nngwe go gweba mo go, rekeng, amogeleng, go neyeng, go abeleng kgotsa go dumeleng jaaka mpho, ka tsela efe ya go bona kgotsa go latlha sekao sefe kgotsa sefe sa methalethale ya 45
ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe; kgotsa
 - (x) tiro efe e nngwe e e thalositsweng e e amang sekao sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe; le
- (b) mo kamanong le sekao sa methalethale ya ditshedi e e anamang kgotsa 50
methalethale ya ditshedi e e nanefaditsweng e e anamang, go kaya—
- (i) go romela teng mo Repaboliking, go tsenyeletsa go tthagisa go tswa lewatlang, sekao mo bontsing sefe kgotsa sefe sa methalethale ya ditshedi ya kwa ntle kgotsa e e nanefaditsweng e e anamang;
 - (ii) go nna le kgotsa go diragatsa taolo ya sebele mo godimo ga sekao sefe 55
kgotsa sefe sa kwa ntle kgotsa se se nanefaditsweng e e anamang;
 - (iii) go godisa, go rua kgotsa ka tsela e nngwe esele go katiso ya sekao sefe kgotsa sefe sa methalethale e e nanefaditsweng e e tshosediwang kgotsa e e sireleditsweng, kgotsa e dira gore e ntsifale;
 - (iv) go romela, go tsamaisa kgotsa ka tsela nngwe go fudusa sekao sefe 60
kgotsa sefe sa tsa kwa ntle kgotsa methalethale ya ditshedi e e nanefaditsweng e e anamang;

- (v) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of an alien or listed invasive species; or
- (vi) any other prescribed activity which involves a specimen of an alien or listed invasive species; 5

“species” means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“specimen” means—

- (a) any living or dead animal, plant or other organism; 10
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which— 15
 - (i) contain a derivative of an animal, plant or other organism; or
 - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

“stakeholder” means— 20

- (a) a person, an organ of state or a community contemplated in section 82(1)(a); or
- (b) an indigenous community contemplated in section 82(1)(b);

“subordinate legislation”, in relation to this Act, means—

- (a) any regulation made in terms of section 97; or 25
- (b) any notice published in terms of section 9, 33, 34, 40(1), 42(2), 43(3), 46(2), 52(1), 53(1), 55, 56(1), 57(2), 58, 66(1), 67(1), 68, 70(1), 72, 86(1) or 100(1)

“sustainable”, in relation to the use of a biological resource, means the use of such resource in a way and at a rate that—

- (a) would not lead to its long-term decline; 30
- (b) would not disrupt the ecological integrity of the ecosystem in which it occurs; and
- (c) would ensure its continued use to meet the needs and aspirations of present and future generations of people;

“this Act” includes any subordinate legislation issued in terms of a provision of this Act; 35

“threatening process” means a process which threatens, or may threaten—

- (a) the survival, abundance or evolutionary development of an indigenous species or ecological community; or
 - (b) the ecological integrity of an ecosystem, 40
- and includes any process identified in terms of section 53 as a threatening process;

“vulnerable ecosystem” means any ecosystem listed as a vulnerable ecosystem in terms of section 52(2);

“vulnerable species” means any indigenous species listed as a vulnerable species in terms of section 56. 45

(2) In this Act, words or expressions derived from words or expressions defined in subsection (1) have corresponding meanings unless the context indicates that another meaning is intended.

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- (v) go rekisa kgotsa ka tsela e nngwe go gweba mo go, rekeng, amogeleng, go neyeng, go abeleng kgotsa go dumeleng jaaka mpho, ka tsela efe ya go bona kgotsa go latlha sekao sefe kgotsa sefe sa methalethale ya ditshedi e e nanefaditsweng e e tshosediwang kgotsa e sireleditswe; kgotsa 5
- (vi) tiro efe e nngwe e e tlhalositsweng e e amang sekao sa kwa ntle kgotsa methalethale ya ditshedi e e nanefaditsweng e e anamang;

“methalethale ya ditshedi” e kaya mofuta wa phologolo, semela kgotsa setshedinyana se sengwe se se sa tsalalaneng ka gale le ditshedi tse dingwe tsa mofuta o mongwe, mme go tsenyeletsa le methalethale ya ditshedi ya tlaleletso efe kgotsa efe, semela seiterelo, mefutafuta, lesika la thutafatshe, lesika, setshedi sa mefuta mebedi kgotsa setšhaba sa thutafatshe se se amologaneng; 10

“sekao” se kaya—

- (a) phologolo efe kgotsa efe e e tshelang kgotsa e sule, semela kgotsa setshedinyana se sengwe; 15
- (b) peo, lee, sele kgotsa sentsifatsi kgotsa karolo ya phologolo, semela kgotsa setshedi se sengwe se se kgonang go ntsifatsa kgotsa tsalo kgotsa ka tsela nngwe go fetisetsa bokoa ba mokgwa jwa tlhago;
- (c) sentshwa sengwe le sengwe sa phologolo, semela kgotsa setshedi se sengwe; kgotsa 20
- (d) dithoto dife kgotsa dife tse di—
- (i) tshotseng sentshwa sa phologolo, semela kgotsa setshedi se sengwe; kgotsa
- (ii) go tswa mo lokwalong lo lo lo felegetsang, go tswa mo go pakiweng kgotsa letshwao, kgotsa go tswa matshwaong afe kgotsa afe a mangwe, go bontsha go nna kgotsa go tshwara sentshwa sa phologolo, semela kgotsa setshedi se sengwe; 25

“motsayakarolo” o kaya—

- (a) motho, sethwe sa naga kgotsa baagi ba go akantsweng ka bona mo karolong 82(1)(a); kgotsa 30
- (b) baagi ba tlhologo ba go akantsweng ka bona mo karolong 82(1)(b);

“molao o o tlaleletsang”, mo kamanong le Molao o, o kaya—

- (a) molawana ofe kgotsa ofe o o dirilweng go ya ka karolo 94; kgotsa
- (b) kitsiso efe kgotsa efe e e phasaladitsweng go ya ka karolo 9, 33, 34, 40(1), 42(2), 43(3), 46(2), 51(1), 52(1), 53(1), 55, 56(1), 57(2), 58, 66(1), 67(1), 68, 70(1), 72, 86(1), kgotsa 100(1); 35

“tswelletso”, mo kamanong le go dirisiwa ga motswedi wa baoloji, go kaya tiriso ya motswedi o o jalo ka tsela le ka kelo e e—

- (a) ka se ise kwa kwelong tlase ya yona ya nako e telele;
- (b) ka se kgaoletseng seriti sa ekholoji ya ekhosesetimo e mo go yona e diragalang; le 40
- (c) tla netefatsang tswelletso ya yona go kopana le dithokego le dikeletso tsa dikokomane tsa jaanong le tsa ka moso tsa batho;

“molao o” o tsenyeletsa molao ofe kgotsa ofe o o tlaleletsang o o ntshitsweng go ya ka tlamelo ya Molao o; 45

“tirego e e tshosediwang” e kaya tirego e e tshosetsang, kgotsa e ka tshosetsa—

- (a) go phologa, go nna teng kgotsa tswelletso e e tlhagelelang ya methalethale ya ditshedi ya tlhologo kgotsa ditshedi tsa ekholoji; kgotsa
- (b) seriti sa ekholoji sa ditshedi tsa tikologo, mme e tsenyeletsa tirego efe kgotsa efe e e lemogilweng go ya ka karolo 52 jaaka tirego e e tshosetsang; 50

“ekhosesetimo e e sa babalesegang” ekhosesetimo e e nanefaditsweng jaaka e e sa babalesegang go ya ka karolo 51;

“methalethale ya ditshedi e e sa babalesegang” e kaya methalethale ya ditshedi ya tlhologo e e nanefaditsweng jalo go ya ka karolo 55. 55

(2) Mo Molaong o, mafoko kgotsa ditlhaloso tse di ntshitsweng go tswa mafokong kgotsa ditlhalosong tse di tlhalositsweng mo karolwaneng (1) di na le bokao jo bo tsamisanang kwa ntle ga fa diteng di bontsha gore bokao jo bongwe bo ikaeletswe.

Objectives of Act

2. The objectives of this Act are—

- (a) within the framework of the National Environmental Management Act, to provide for—
 - (i) the management and conservation of biological diversity within the Republic and of the components of such biological diversity; 5
 - (ii) the use of indigenous biological resources in a sustainable manner; and
 - (iii) the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources;
- (b) to give effect to ratified international agreements relating to biodiversity which are binding on the Republic; 10
- (c) to provide for co-operative governance in biodiversity management and conservation; and
- (d) to provide for a South African National Biodiversity Institute to assist in achieving the objectives of this Act. 15

State's trusteeship of biological diversity

3. In fulfilling the rights contained in section 24 of the Constitution, the state through its organs that implement legislation applicable to biodiversity, must—

- (a) manage, conserve and sustain South Africa's biodiversity and its components and genetic resources; and 20
- (b) implement this Act to achieve the progressive realisation of those rights.

Application of Act

4. (1) This Act applies—

- (a) in the Republic, including—
 - (i) its territorial waters, exclusive economic zone and continental shelf described in the Maritime Zones Act, 1994 (Act No. 15 of 1994); and 25
 - (ii) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and
- (b) to human activity affecting South Africa's biological diversity and its components. 30

(2) This Act binds all organs of state—

- (a) in the national and local spheres of government; and
- (b) in the provincial sphere of government, subject to section 146 of the Constitution.

Application of international agreements

35

5. This Act gives effect to ratified international agreements affecting biodiversity to which South Africa is a party, and which bind the Republic.

Application of other biodiversity legislation

6. (1) This Act must be read with any applicable provisions of the National Environmental Management Act. 40

(2) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from the implementation of this Act.

National environmental management principles

7. The application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act. 45

Maikemisetso a Molao**2. Maikemisetso a Molao o ke—**

- (a) go tlamelela, ka fa teng ga letlhomiso la Molao wa Tsamaiso ya Bosetšhaba ya Tikologo ya—
 - (i) tsamaiso le tshomarelo ya mefufafuta ya baoloji ka fa teng ga Repaboliki le dikarolo tsa mefufafuta e e jalo ya baoloji; 5
 - (ii) tiriso ya metswedi ya baoloji ya tlholego ka tsela e e tswelolang; le
 - (iii) kgaogano e e siameng e e lekanang ya ditshiamelo magareng ga batsayakarolo e e tswang mo patlisisong ya botshelo e e akaretsang metswedi ya baoloji ya tlholego; 10
- (b) go neela nonofo kwa ditumalanong tsa boditšhabatšhaba tse di amanang le mefufafuta ya ditshedi tse di bofeletseng mo Repaboliking;
- (c) go tlamela taolo e e rulaganeng mo botsamaising tshomarelo le ya *biodiversity*; le
- (d) go tlamela Setheo sa Bosetšhaba sa *Biodiversity* sa Aferika Borwa go thusa mo go fitlheleleng maikemisetso a Molao o. 15

Botlhokomedijwa naga jawa mefufafuta ya baoloji

3. Mo go fitlheleleng ditshwanelo tse di tshotsweng mo go karolo 24 ya Molaotheo, naga ka dithwe tsa naga tse di diragatsang molao o o dirang mo *biodiversity*, e tshwanetse go— 20

- (a) tsamaisa, go somarela le go tswelletsa *biodiversity* ya Aferika Borwa le dikarolo tsa teng le metswedi ya tlhago; le
- (b) go diragatsa Molao o go fithelela boiphitlhelelo jo bo tswelolang go ya ditshwanelong tseo.

Tiragatso ya Molao

25

4. (1) Molao o dira—

- (a) mo Repaboliking, go tsenyeletsa—
 - (i) metsi a teng a naga, karolo ya ikonomi e e tlhophologileng le selefo ya kontinente jaaka e tlhalosiwa mo Molaong wa Dikarolo tsa Lewatle, 1994 (Molao Nomoro 15 wa 1994); le 30
 - (ii) Ditlhaketlhake tsa Prince Edward tse di supelwang mo Molaong wa Ditlhaketlhake tsa Prince Edward, 1948 (Molao Nomoro 48 wa 1948); le
 - (b) ditiro tsa botho tse di amang mefufafuta ya baoloji ya Aferika Borwa le dikarolo tsa teng.
- (2) Molao o o bofa dithwe tsotlhe tsa naga— 35
- (a) mo mmusong wa bosetšhaba le didiko tsa selegae; le
 - (b) mo mmusong wa sediko sa porofense, go ya ka karolo 146 ya Molaotheo.

Tiragatso ya ditumalano tsa boditšhabatšhaba

5. Molao o o naya maatla kwa ditumalanong tsa boditšhabatšhaba tse di amang *biodiversity* e Aferika Borwa e leng Mokgatlho wa yona, le e e bofang Repaboleki. 40

Tiragatso ya melao e mengwe ya *biodiversity*

6. (1) Molao o o tshwanetse go buisiwa le ditlamelo dife tse di maleba tsa Molao wa Tsamaiso ya Bosetšhaba ya Tikologo.

(2) Kgaolo 4 ya Molao wa Tsamaiso ya Bosetšhabaya Tikologo e dira kwa tharabololong ya dithulano tse di tswang mo tiragatsong ya Molao o. 45

Ditheo tsa tsamaiso ya bosetšhaba ya tikologo

7. Tiragatso ya Molao o e tshwanetse go kaelwa ke ditheo tsa tsamaiso ya bosetšhaba ya tikologo tse di beilweng mo karolong 2 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo.

Conflicts with other legislation

8. (1) In the event of any conflict between a section of this Act and—
- (a) other national legislation in force immediately prior to the date of commencement of this Act, the section of this Act prevails if the conflict specifically concerns the management of biodiversity or indigenous biological resources; 5
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and— 10
- (a) an Act of Parliament, the Act of Parliament prevails;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails. 15
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act which affects provinces to the National Council of Provinces for approval.

Norms and standards

9. (1) The Minister may, by notice in the *Gazette*— 20
- (a) issue norms and standards for the achievement of any of the objectives of this Act, including for the—
 - (i) management and conservation of South Africa's biological diversity and its components;
 - (ii) restriction of activities which impact on biodiversity and its components; 25
 - (b) set indicators to measure compliance with those norms and standards; and
 - (c) amend any notice issued in terms of paragraph (a) or (b).
- (2) (a) Before publishing a notice in terms of subsection (1), the Minister must follow a consultative process in accordance with sections 99 and 100.
- (b) A consultative process referred to in paragraph (a) need not apply to a non-substantial change to the notice. 30
- (3) Norms and standards may apply—
- (a) nationwide;
 - (b) in a specific area only; or
 - (c) to a specific category of biodiversity only. 35
- (4) Different norms and standards may be issued for—
- (a) different areas; or
 - (b) different categories of biodiversity.

CHAPTER 2**SOUTH AFRICAN NATIONAL BIODIVERSITY INSTITUTE** 40**Part 1***Establishment, powers and duties of Institute***Establishment**

10. (1) The South African National Biodiversity Institute is established by this Act. 45
- (2) The Institute is a juristic person.

Functions

11. (1) The Institute—
- (a) must monitor and report regularly to the Minister on—
 - (i) the status of the Republic's biodiversity;

Dithulano le molao o mongwe

8. (1) Mo tiragalong ya thulano efe kgotsa efe magareng ga karolo ya Molao o le—
- (a) melao ya bošetšhaba e mengwe, karolo ya Molao o, e a dira fa thulano e ama ka totobalo botsamaisi ba *biodiversity* kgotsa metswedi ya baoloji ya tlhologo;
 - (b) molao wa porofense, thulano e tshwanetse go rarabololwa go ya ka karolo 146 ya Molaotheo; le 5
 - (c) molao tlaleletso wa mmasepala, karolo ya Molao o e a dira.
- (2) Mo tiragalong ya thulano efe kgotsa efe magareng ga molao wa tlaleletso o o ntshitsweng go ya ka Molao o le—
- (a) molao wa Palamente, Molao wa Palamente o dira; 10
 - (b) molao wa porofense, thulano e tshwanetse go rarabololwa go ya ka karolo 146 ya Molaotheo; le
 - (c) tlaleletso ya molao wa mmasepala, molao wa tlaleletso o o ntshitsweng go ya ka Molao o o a dira.
- (3) Go nna le tiragatso e e lolameng ya karolwana (2)(b) Tona o tshwanetse, go ya ka karolo 146(6) ya Molaotheo, a ise melao yotlhe e e ntshitsweng go ya ka Molao o le e e amang diporofense kwa Khanseleng ya Diporofense ya Bošetšhaba go rebolwa. 15

Ditlwaelo le maemo

9. (1) Tona a ka nna a, ka kitsiso mo Lokwalodikgang la Puso—
- (a) a ntsha ditlwaelo le maemo a phitlhelelo ya maikemisetso afe kgotsa afe a Molao o, go tsenyelediwa le— 20
 - (i) tsamaiso le tshomarelo ya mefutafuta ya baoloji ya Aferika Borwa le dikarolo tsa yona;
 - (ii) thibelo ya ditiro tse di utlwalang mo *biodiversity* le dikarolo tsa yona;
 - (b) go tsenya dikaedi go lebelela tsamaelano le ditlwaelo le maemo ao; le 25
 - (c) tlhabolola kitsiso efe kgotsa efe e e ntshitsweng go ya ka temana (a) kgotsa (b).
- (2) (a) Pele ga fa kitsiso e ka phasaladiwa go ya ka karolwana (1), Tona o tshwanetse go latela tsela ya therisano e e tsamaisanang le dikarolo 99 le 100.
- (b) Tirego ya therisano e e supiwang mo temaneng (a) ga e tlhoke go dira mo phetogong e e seng botlhokwa ya kitsiso. 30
- (3) Ditlwaelo le maemo a ka nna a dira—
- (a) ka bophara jwa lefatshe;
 - (b) mo lefelong le le rileng fela; kgotsa
 - (c) kwa setlhopheng se se rileng sa *biodiversity* fela. 35
- (4) Ditlwaelo le maemo a a farologaneng a ka nna a abelwa—
- (a) mafelo a a farologaneng; kgotsa
 - (b) ditlhopha tse di farologaneng tsa *biodiversity*.

KGAOLO 2**SETHEO SA AFERIKA BORWA SA BOSETŠHABA SA *BIODIVERSITY*** 40**Karolo 1***Tlhommo, dithata le ditiro tsa Setheo***Tlhommo**

10. (1) Setheo SA BOSETŠHABA sa Aferika Borwa sa *Biodiversity* se tlhomilwe ke Molao o. 45
- (2) Setheo ke motho wa molao.

Ditiro

11. (1) Setheo—
- (a) se tshwanetse go tlhokomela le go begela ka gale kwa go Tona ka—
 - (i) maemo a *biodiversity* a Repaboliki; 50

- (ii) the conservation status of all listed threatened or protected species and listed ecosystems; and
 - (iii) the status of all listed invasive species;
 - (b) must monitor and report regularly to the Minister on the impacts of any genetically modified organism that has been released into the environment, including the impact on non-target organisms and ecological processes, indigenous biological resources and the biological diversity of species used for agriculture; 5
 - (c) may act as an advisory and consultative body on matters relating to biodiversity to organs of state and other biodiversity stakeholders; 10
 - (d) must coordinate and promote the taxonomy of South Africa's biodiversity;
 - (e) must manage, control and maintain all national botanical gardens;
 - (f) may establish, manage, control and maintain—
 - (i) herbaria; and
 - (ii) collections of dead animals that may exist; 15
 - (g) must establish facilities for horticulture display, environmental education, visitor amenities and research;
 - (h) must establish, maintain, protect and preserve collections of plants in national botanical gardens and in herbaria;
 - (i) may establish, maintain, protect and preserve collections of animals and micro-organisms in appropriate enclosures; 20
 - (j) must collect, generate, process, coordinate and disseminate information about biodiversity and the sustainable use of indigenous biological resources, and establish and maintain databases in this regard;
 - (k) may allow, regulate or prohibit access by the public to national botanical gardens, herbaria and other places under the control of the Institute, and supply plants, information, meals or refreshments or render other services to visitors; 25
 - (l) may undertake and promote research on indigenous biodiversity and the sustainable use of indigenous biological resources; 30
 - (m) may coordinate and implement programmes for—
 - (i) the rehabilitation of ecosystems; and
 - (ii) the prevention, control or eradication of listed invasive species;
 - (n) may coordinate programmes to involve civil society in—
 - (i) the conservation and sustainable use of indigenous biological resources; 35
 - and
 - (ii) the rehabilitation of ecosystems;
 - (o) on the Minister's request, must assist him or her in the performance of duties and the exercise of powers assigned to the Minister in terms of this Act;
 - (p) on the Minister's request, must advise him or her on any matter regulated in terms of this Act, including— 40
 - (i) the implementation of this Act and any international agreements affecting biodiversity which are binding on the Republic;
 - (ii) the identification of bioregions and the contents of any bioregional plans;
 - (iii) other aspects of biodiversity planning; 45
 - (iv) the management and conservation of biological diversity; and
 - (v) the sustainable use of indigenous biological resources;
 - (q) on the Minister's request, must advise him or her on the declaration and management of, and development in, national protected areas; and
 - (r) must perform any other duties— 50
 - (i) assigned to it in terms of this Act; or
 - (ii) as may be prescribed.
- (2) When the Institute in terms of subsection (1) gives advice on a scientific matter, it may consult any appropriate organ of state or other institution which has expertise in that matter. 55

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- (ii) tshomarelo ya maemo a methalethale ya ditshedi tsotlhe tse di nanefaditsweng tse di tshoseditsweng kgotsa go sirelediwa le diekhosesetimo tse di nanefaditsweng; le
- (iii) maemo a a nanefaditseng a ditshedi tsotlhe tse di anamang;
- (b) se tshwanetse go tlhokomela le go itsise Tona kgapetsa kgapetsa ka thata ya setshedi sefe kgotsa sefe sa tlhago e e fetotsweng se se lokololetsweng mo tikologong, go tsenyeletsa le thata mo ditsheding tseo di sa lebelelwang le ditirego tsa ekholoji, metswedi ya baoloji ya tlholego le pharologano ya baoloji ya ditshedi tsa mefutafuta tse di dirisiwang mo temothuong;
- (c) se ka nna sa dira jaaka mokgatlho o o gakololang wa ditherisano mo mererong e e amanang le *biodiversity* go ya dithweng tsa naga le banna le seabe ba bangwe ba *biodiversity*. 10
- (d) se tshwanetse go rulaganya le go godisa go bewa ka setlhophla le go newa leina ga mefutafuta ya ditshedi tsa Aferika Borwa;
- (e) se tshwanetse go tsamaisa, go laola le go tshegetsatsa ditshingwana tsotlhe tsa bothani tsa bosetšhaba; 15
- (f) se ka nna sa tlhoma, sa laola le go tshegetsatsa—
- (i) diehebo; le
- (ii) kgobokanyo ya diphologolo tse di suleng tse di ka nnang teng;
- (g) se tshwanetse go tlhoma ditlamelo tsa pontsho ya kago ya tshingwana, thuto ya tikologo, ditlamelwana tsa moeti le patlisiso; 20
- (h) se tshwanetse go tlhoma, go tshegetsatsa, go sireletsa le go boloka dikgobokanyo tsa dimela mo ditshingwaneng tsa bothani tsa bosetšhaba le mo dihebong;
- (i) se ka tlhoma, sa tshegetsatsa, sa sireletsa le go boloka dikgobokanyo tsa diphologolo le ditshedinyana tse dinnye mo dintlonyaneng tse di maleba; 25
- (j) se tshwanetse go kgobokanya, go tlhagisa, go dira, go rulaganya le go phatlhalatsa tshedimosetso ka *biodiversity* le tiriso e e tswelelang ya metswedi ya baoloji ya tlholego, le go tlhoma le go tshegetsatsa tshedimosetso mo lebakeng le;
- (k) se ka letla, laola kgotsa sa thibela baagi go fitlhele la ditshingwana tsa bothani tsa bosetšhaba, dihebo le mafelo a mangwe a a mo tlase ga taolo ya setheo, le go neela dimela, tshedimosetso, dijo kgotsa dilapolosi kgotsa go neela maeti dithuso dingwe; 30
- (l) se ka nna sa tsaya le go godisa patlisiso ya *biodiversity* ya tlholego le tiriso e e tswelelang ya metswedi ya baoloji ya tlholego; 35
- (m) se ka rulaganya le go diragatsa mananeo a—
- (i) tsosoloso ya diekhosesetimo; le
- (ii) thibelo, taolo le nyeletso ya methalethale ya ditshedi e e nanefaditsweng e e anamang;
- (n) se ka rulaganya mananeo go tsenya setšhaba sa loago mo— 40
- (i) tshomarelong le tiriso e e tswelelang ya metswedi ya baoloji ya tlholego; le
- (ii) tsosoloso ya diekhosesetimo;
- (o) ka kopo ya Tona, o tshwanetse go thusa Tona mo go direng ditiro le go diragatsa maatla a a filweng Tona go ya ka Molao o; 45
- (p) ka kopo ya Tona, o tshwanetse go gakolola Tona ka morero ofe kgotsa ofe o o laolwang go ya ka Molao o, go tsenyeletsa—
- (i) tiragatso ya Molao o le ditumalano dife tsa boditšhabatšhaba tse di amang *biodiversity* tse di tlamang mo Repaboliking;
- (ii) temogo ya dikgaolo tsa ditshedi le diteng tsa maano a kgaolo ya ditshedi afe kgotsa afe; 50
- (iii) dintlha tse dingwe tsa thulaganyo ya *biodiversity*;
- (iv) tsamaiso le tshomarelo ya mefutafuta ya baoloji; le
- (v) tiriso e e tswelelang ya metswedi ya baoloji ya tlholego;
- (q) ka kopo ya Tona, o tshwanetse go gakolola Tona ka tlhomamiso le tsamaiso ya, le tlhabololo fa, mafelo a bosetšhaba a a sireleditsweng; le 55
- (r) o tshwanetse go dira ditiro dife kgotsa dife—
- (i) tse di neetsweng go ya ka Molao o; kgotsa
- (ii) jaaka go ka tlhalosiwa.
- (2) Fa setheo go ya ka karolwana (1) se neela keletso mo morerong wa saense, se ka nna sa buisana le sethwe sengwe le sengwe se se maleba sa naga kgotsa setheo se sengwe se se nang le bokgoni mo morerong oo. 60

General powers

12. The Institute may for the purpose of performing its duties—
- (a) appoint its own staff, subject to section 29;
 - (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment; 5
 - (c) acquire or dispose of any right in or to movable or immovable property, or hire or let any property;
 - (d) open and operate its own bank accounts;
 - (e) establish a company which has as its object the production and supply of goods or the rendering of services on behalf of the Institute, subject to the Public Finance Management Act; 10
 - (f) invest any of its money, subject to section 32;
 - (g) borrow money, subject to section 66 of the Public Finance Management Act;
 - (h) charge fees—
 - (i) for access to national botanical gardens, herbaria and other places under its control; 15
 - (ii) for any work performed or services rendered by it, except for any such work performed or services rendered in terms of section 11(1)(m), (n) or (o); or
 - (iii) for access to the results of, or to other information in connection with, any research performed by it; 20
 - (i) collect royalties resulting from any discoveries, inventions or computer programmes;
 - (j) insure itself against—
 - (i) any loss, damage or risk; or 25
 - (ii) any liability it may incur in the application of this Act;
 - (k) perform legal acts, including acts in association with, or on behalf of, any other person or organ of state; and
 - (l) institute or defend any legal action.

Part 2

30

Governing board, composition and membership**Composition**

13. (1) The Institute is governed by a Board consisting of—
- (a) not fewer than seven and not more than nine members appointed in terms of section 15; 35
 - (b) the Director-General or an official of the Department designated by the Director-General; and
 - (c) the Chief Executive Officer of the Institute.
- (2) The Minister—
- (a) must determine the number of members to be appointed in terms of subsection (1)(a); and 40
 - (b) may alter the number determined in terms of paragraph (a), but a reduction in the number may be effected only when a vacancy in the Board occurs.
- (3) The Board takes all decisions in the performance of the duties and exercise of powers of the Institute, except— 45
- (a) those decisions taken in consequence of a delegation in terms of section 27; or
 - (b) where the Public Finance Management Act provides otherwise.

Qualifications

14. (1) A member of the Board must—
- (a) be a fit and proper person to hold office as a member; and 50
 - (b) have appropriate qualifications and experience in the field of biodiversity.

Dithata tsa kakaretso**12. Setheo se ka nna ka mabaka a tiragatso ya ditiro—**

- (a) sa tlhoma badiri ba sona, go ya ka karolo 29;
- (b) sa bona, ka tumalano, ditirelo tsa motho ofe, go akarediwa sethwe sefe sa naga, go diragatsa tiro efe e e kgethegileng, thaseke kgotsa asaenemente; 5
- (c) go bona kgotsa go latlha tshwanelo efe mo teng kgotsa go ya thotong e e tsamayang kgotsa e e sa tsamayeng; kgotsa go hira kgotsa go hirisa thoto;
- (d) go bula le go dira diakhaonto tsa sona tsa banka;
- (e) go tlhoma khamphani e e nang le maikemisetso a yona jaaka tlhagiso le tlamelo ya dithoto kgotsa go neelana ka ditirelo mo boemong ba Setheo, go ya 10 ka Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba;
- (f) go beeletsa sengwe sa madi a sona, go ya ka karolo 32;
- (g) go adima madi, go ya ka karolo 66 ya Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba;
- (h) madi a a bidiwang— 15
 - (i) go fitlhelela kwa ditshingwaneng tsa bothani tsa bosetšhaba, dihebong le mafelong a mangwe ka fa tlase ga taolo ya ona;
 - (ii) a tiro efe e e dirwang kgotsa ditirelo tse di neelwang ke yona, kwa ntle ga tiro e e jalo e e dirilweng kgotsa ditirelo tse di neilweng go ya ka karolo 11(1)(m), (n) kgotsa (o); kgotsa 20
 - (iii) go fitlhelela kwa dipoelong tsa, kgotsa go tshedimosetso e nngwe malebana le, patlisiso nngwe le nngwe e e dirilweng ke yona;
- (i) go kgobokanya dikatso se di tswang mo dithibololong, ditlhamong kgotsa mananeong a dikhomputara;
- (j) go itseela inshoreense kgatlhanong le— 25
 - (i) tatlhegelo efe, tshenyo kgotsa kotsi; kgotsa
 - (ii) molato ofe, o e ka o tlhagelang mo tiragatsong ya Molao o;
- (k) go dira ditiro tsa semolao, go tsenyeletsa ditiro tse di tsamaisanang le, kgotsa mo boemong ba motho ofe yo mongwe kgotsa sethwe sa naga; le
- (l) go tsenya kgotsa go sireletsa kgato efe ya molao. 30

Karolo 2***Boto ya taolo, tlhamo le botokololo*****Tlhamo****13. (1) Setheo se laolwa ke Boto e e nang le—**

- (a) maloko a a seng kwa tlase ga supa le e seng go feta robong a a tlhomilweng go 35 ya ka karolo 15;
 - (b) Mokaedi Kakaretso kgotsa motlhankedi wa Lefapha o o tlhomilweng ke Mokaedi Kakaretso; le
 - (c) Motlhankedi Mogolo wa Phetiso wa Setheo. 40
- (2) Tona— 40
- (a) o tshwanetse go tlhomamisa palo ya maloko a a tla tlhomiwang go ya ka karolwana (1)(a); le
 - (b) a ka nna a fetola go tloga nako le nako palo e e tlhomamisitsweng go ya ka temana (a), fela phokotso mo palong e ka dirwa fela fa phatlaliro mo Botong e tlhagelela. 45
- (3) Boto e tsaya ditshwetso tsofthe mo tiragatsong ya ditiro le maatla a Setheo, ntle le—
- (a) ditshwetso tseo di tswerweng ka lebaka la thomeletso go ya ka karolo 27; kgotsa
 - (b) koo Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba o tlamelang ka mofuta 50 mongwe.

Borutegi**14. (1) Leloko la Boto le tshwanetse—**

- (a) go lekanela le go nna motho yo o tlhamaletseng go tshola ofisi jaaka leloko; le
- (b) go nna le borutegi bo bo maleba kgotsa maitemogelo a biodiversity. 55

Act No. 10, 2004**NATIONAL ENVIRONMENTAL MANAGEMENT:
BIODIVERSITY ACT, 2004**

(2) The following persons are disqualified from becoming or remaining a member of the Board:

- (a) A person holding office as a member of Parliament, a provincial legislature or a municipal council; or
- (b) a person who has been removed from office in terms of section 21. 5

Appointment procedure

15. (1) Whenever it is necessary to appoint members of the Board referred to in section 13(1)(a), the Minister must—

- (a) through advertisements in the media circulating nationally and in each of the provinces, invite nominations for appointment as such a member; and 10
- (b) compile a list of the names of persons nominated, setting out the prescribed particulars of each individual nominee.

(2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by—

- (a) the personal details of the nominee; 15
- (b) nominee's qualifications or experience; and
- (c) any other information that may be prescribed.

(3) The Minister must, subject to subsection (4), appoint—

- (a) the required number of persons from the list compiled in terms of subsection (1)(b); and 20
- (b) if such list is inadequate, any suitable person.

(4) When making appointments the Minister must—

- (a) consult the MECs for Environmental Affairs; and
- (b) have regard to the need for appointing persons to promote representivity.

(5) Appointments must be made in such a way that the Board is composed of persons 25 covering a broad range of appropriate expertise in the field of biodiversity.

Chairperson

16. (1) Whenever necessary the Minister must appoint a member of the Board as the Chairperson of the Board.

(2) The Chairperson is appointed for a period which is determined by the Minister which may, in the case of a member referred to in section 13(1)(a), not extend beyond the period of his or her term as a member. 30

(3) The Minister may appoint a member of the Board as acting chairperson of the Board if—

- (a) the Chairperson is absent for a substantial period; or 35
- (b) the appointment of a Chairperson is pending.

Term of office

17. Members of the Board referred to in section 13(1)(a)—

- (a) are appointed for a period of three years or, if section 22(2) applies, for a term determined in terms of that section; 40
- (b) on completion of that term, are eligible for reappointment for one additional term of three years; and
- (c) may have their appointment in terms of paragraph (a) or (b) extended by the Minister for a specific period not exceeding one year.

Conditions of appointment

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18. (1) The Minister must determine the conditions of employment of members of the Board referred to in section 13(1)(a).

(2) (a) The Minister may, with the concurrence of the Minister of Finance, determine the terms and conditions of employment of members of the Board who are not in the employment of the Government. 50

(b) Their remuneration and allowances are paid by the Institute.

(3) (a) Members who are in the employ of the Government are not entitled to remuneration and allowances, but must be compensated for out of pocket expenses by the Institute.

(b) Such members are appointed on a part-time basis. 55

TSAMAIISO YA BOSETŠHABA YA TIKOLOGO:
MOLAO WA BIODIVERSITY, 2004

Act No. 10, 2004

(2) Batho ba ba latelang ga ba a letlelelwa go nna kgotsa go sala go nna maloko a Boto:

- (a) Motho yo o mo ofising jaaka tokololo ya Palamente, peomolao ya porofense kgotsa khansale ya mmasepala; kgotsa
- (b) motho yo o tlositsweng mo ofising go ya ka karolo 21.

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Tsamaiso ya tlhomo

15. (1) Nako le nako fa go tlhokega go tlhoma ditokololo tsa Boto tse di thewang mo go karolo 13(1)(a), Tona o tshwanetse—

- (a) ka diphasalatso mo medieng o o dikologang wa bosetšhaba le mo porofenseng nngwe le nngwe, a laletse go ikgethela tlhomo ka tokololo e e jalo; le
- (b) go kgobokanya lenane la maina a batho ba ba ikgethetsweng, go baya dintlha tse di tlhalositsweng tsa moikgethelwa mongwe le mongwe.

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(2) ikgethelo nngwe le nngwe e e dirilweng go ya ka phasalatso go ya ka karolwana (1)(a) e tshwanetse go tshagediwa ke—

- (a) dintlha tsa sebele tsa moikgethelwa;
- (b) dintlha tsa borutegi tsa moikgethelwa kgotsa maitemogelo; le
- (c) tshedimosetso efe kgotsa efe e e ka tlhalosiwang.

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(3) Tona o tshwanetse go tlhoma; go ya ka karolwana (4)—

- (a) dira palo e e tlhokegang ya batho go tswa lenaneng le le kgobokantsweng go ya ka karolwana (1)(b),
- (b) fela fa lenane le tlhela, Tona a ka nna a tlhoma motho ofe kgotsa ofe yo o maleba wa boikgethelo ba Tona.

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(4) Fa go dirwa ditlhomu Tona o tshwanetse—

- (a) go buisana le Molekgotla-khuduthamaga wa Merero ya Tikologo; le
- (b) go nna le phisegelo kwa tlhokegong ya go tlhoma batho go godisa kemeditekano.

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(5) Ditlhomu di tshwanetse go dirwa ka tsela e e leng gore Boto e tshotse batho ba ba akaretsang boatlhamo bo bo sephara jwa bomaitseanape ba ba maleba.

Modulasetulo

16. (1) Nako le nako fa go tlhokega Tona o tshwanetse go tlhoma tokololo ya Boto jaaka Modulasetulo wa Boto.

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(2) Modulasetulo o tlhomiwa nako jaaka go ka tlhomamisiwa ke Tona, mo lebakeng la tokololo e e thewang mo go karolo 13 (1)(a), e keng e ya se feta nako ya gagwe jaaka tokololo.

(3) Tona a ka nna a tlhoma tokololo ya Boto jaaka modulasetulo wa nama o tshwere wa Boto fa—

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- (a) modulasetulo a se teng nako e e utlwalang; kgotsa
- (b) tlhomo ya Modulasetulo e sa eme.

Nako ya ofisi

17. Maloka a Boto a a thewang mo go karolo 13(1)(a)—

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- (a) a tlhomiwa nako ya dingwaga tse tharo kgotsa, fa karolo 22(2) e dira, nako e e tlhomaitsweng go ya ka karolo eo;
- (b) mo pheletsong ya nako eo, a dumelelwa go tlhomiwa gape nako e le nngwe ya tlaleletso ya dingwaga tse tharo; le
- (c) a ka nna a nna le ditlhomu tsa bona go ya ka temana (a) kgotsa (b) e atolositswe ke Tona mo nakong e e rileng e e sa feteng ngwaga o le mongwe.

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Maemo a tlhomo

18. (1) Tona o tshwanetse go tlhomamisa maemo a thapo a maloko a Boto a a thewang mo go karolo 13(1)(a).

(2) (a) Maemo a tlhomo a maloko a a sa thapiwang ke puso a ka nna a tlhomamisiwa ke Tona ka tumalano le Tona ya Ditšhelete.

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(b) Mogolo o o jalo le ditetla di duelwa ka Setheo.

(3) (a) Maloko a a thapilweng ke Puso ga a dumelelwa mogolo le ditetla, mme a tshwanetse go busediwa ditshenyegelo tsa ona tsa sekgwama ke Setheo.

(b) Maloko a tlhomiwa nakwana.

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Conduct of members**19. (1) A member of the Board—**

- (a) must perform the duties of office in good faith and without favour or prejudice;
- (b) must disclose to the Board any personal or private business interest that that member, or any spouse, partner or close family member of that Board member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered, unless the Board decides that the interest of that Board member in the matter is trivial or irrelevant;
- (c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and
- (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Institute.

(2) A member of the Board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

Termination of membership

20. (1) A member of the Board referred to in section 13(1)(a) ceases to be a member when that person—

- (a) is no longer eligible in terms of section 14 to be a member;
- (b) resigns; or
- (c) is removed from office in terms of section 21.

(2) A member may resign only by giving at least three months' written notice to the Minister, but the Minister may accept a shorter period in a specific case.

Removal from office

21. (1) The Minister may remove a member of the Board referred to in section 13(1)(a) from office, but only on the ground of—

- (a) misconduct, incapacity or incompetence;
- (b) absence from three consecutive meetings of the Board without the prior permission of the Board except on good cause shown;
- (c) insolvency; or
- (d) conviction of a criminal offence without the option of a fine.

(2) A member of the Board may be removed from office on the ground of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the Minister.

(3) The Minister may suspend a member under investigation in terms of this section.

Filling of vacancies

22. (1) A vacancy in the Board is filled—

- (a) in the case of a vacating Chairperson, by appointing another member in terms of section 16(1) as the Chairperson; and
- (b) in the case of a vacating member referred to in section 13(1)(a), by following the procedure set out in section 15.

(2) A person appointed to fill a vacancy holds office for the remaining portion of the term of the vacating Chairperson or member.

Part 3***Operating procedures of Board*****Meetings**

23. (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson in writing to convene a Board meeting at a time and place set out in the request.

Maitsholo a maloko**19. (1) Leloko la Boto—**

- (a) le tshwanetse go dira ditiro tsa ofisi ka botshepegi le kwa ntle ga go atlenegelwa ke lobaka kgotsa kgobelelo;
 - (b) le tshwanetse go utolola kwa Botong kgatlhego efe kgotsa efe ya sebele kgotsa kgwebo ya poraefete e leloko leo, kgotsa mogatse ofe kgotsa ofe, molekane kgotsa leloko leo, la lelapa le le gaufi la leloko la Boto eo, a ka nna le morero ofe fa pele ga Boto, mme o tshwanetse go gogela morago go tswa ditsweletsong tsa Boto fa morero oo o sekasekilwe, ntle le fa Boto e swetsa gore kgatlhego ya leloko leo la Boto mo morerong e nnye kgotsa ga e maleba;
 - (c) o ntse a ka se dirise maemo, dineo tsa monate kgotsa kitso ya leloko ya go ungwa ka poraefete kgotsa go dira gore motho yo mongwe a bone tshiamelo e se ka fa tshwanelong; le
 - (d) le ka se dire ka tsela e nngwe esele e e fokotsang botshepegi, go se tseye letlhakore, kemonosi kgotsa seriti sa Setheo.
- (2) Leloko la Boto le le gatakang kgotsa le tlholega go tsamaisana le karolwana (1) le molato wa maitsholomabe.

Khutliso ya botokololo

- 20. (1) Leloko la Boto le le tewang mo go karolo 13(1)(a) le tlogela go nna leloko fa motho yoo a—**
- (a) sa tlhole a dumelelwa go nna leloko go ya ka karolo 14;
 - (b) ikgolola; kgotsa
 - (c) a tloswa mo ofising go ya ka karolo 21.
- (2) Leloko le ka ikgolola fela ka go neela kitsiso e e kwadilweng bogolo mo dikgweding tse tharo kwa go Tona, fela Tona a ka nna a amogela nako e khutshwane mo lebakeng le le rileng.

Tloso go tswa ofising

- 21. (1) Tona a ka tlosa leloko la Boto le le tewang mo go karolo 13(1)(a) go tswa mo ofising, fela mo mabakeng a—**
- (a) maitsholomabe, go se nang maatla kgotsa go se nang bokgoni;
 - (b) go se nne teng mo dikopanong tse tharo tse di tlhomaganeng tsa Boto kwa ntle ga tsetlelelo pele ya Boto kwa ntle ga lebaka le le siameng le bontshitswe;
 - (c) go jewa dithoto; kgotsa
 - (d) go bonwa molato wa bosenyi kwa ntle ga kgetho ya kotlhao.
- (2) Leloko la Boto le ka tloswa go tswa ofising ka mabaka a maitsholomabe kgotsa go sa kgoneng fela morago ga phitlhelelo ya seo e dirilwe ke boto ya patlisiso e e tlhomilweng ke Tona.
- (3) Tona a ka nna a emisa nakwana leloko ka fa tlase ga patlisiso go ya ka karolo e.

Go tladiwa ga diphatlatiro

- 22. (1) Phatlatiro mo Botong e tladiwa—**
- (a) mo lebakeng la Modulasetulo yo o tlogang, ka go tlhoma leloko le lengwe go ya ka karolo 16(1) jaaka Modulasetulo; le
 - (b) mo lebakeng le leloko le tlogela le le tewang mo go karolo 13(1)(a), ka go latela tsamaiso e e beilweng mo go karolo 15.
- (2) Motho yo o tlhomilweng go tlatsa phatlatiro o tshola ofisi mo karolong e e setseng ya nako ya go tlogela ga Modulasetulo kgotsa leloko.

Karolo 3***Ditsamaiso tsa go dira tsa Boto*****Dikopano**

- 23. (1) Modulasetulo wa Boto o swetsa gore Boto e kopane leng le gore kae, fela bontsi ba maloko a ka kopa Modulasetulo ka go kwala go bitsa kopano ya Boto ka nako le lefelo le le beilweng ka kopo.**

(2) The Chairperson presides at meetings of the Board, but if the Chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.

Procedures

24. (1) The Board may determine its own procedures subject to the provisions of this Act. 5

(2) The Board must keep records of its proceedings and of decisions taken.

Quorum and decisions

25. (1) A majority of the members of the Board serving at any relevant time constitutes a quorum for a meeting of the Board. 10

(2) A matter before the Board is decided by the votes of a majority of the members present at the meeting.

(3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member. 15

Committees

26. (1) The Board may establish one or more committees to assist it in the performance of its duties or the exercise of its powers.

(2) When appointing members to a committee, the Board is not restricted to members of the Board. 20

(3) The Board—

(a) must determine the duties of a committee;

(b) must appoint a chairperson and other members of the committee;

(c) may remove a member of a committee from office at any time, taking into account the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and 25

(d) must determine a working procedure of a committee.

(4) The Board may dissolve a committee at any time.

(5) (a) Section 18 read with the necessary change as the context may require, applies to the terms and conditions of employment of committee members. 30

(b) A staff member of the Institute appointed to a committee serves on the committee subject to the terms and conditions of that person's employment.

Delegation of powers and duties

27. (1) When necessary for the proper performance of its duties, the Board may, subject to subsection (2), delegate any of its powers or duties to— 35

(a) a member of the Board;

(b) a committee referred to in section 26; or

(c) a staff member of the Institute.

(2) The following powers and duties may not be delegated by the Board:

(a) The appointment or reappointment of a person as the Chief Executive Officer in terms of section 28(1) or (2); 40

(b) the determination of the terms and conditions of service of the Chief Executive Officer in terms of section 28(3);

(c) the determination of an employment policy in terms of section 29(1); and

(d) the setting of financial limits in terms of section 29(2)(a) or (3). 45

(3) A delegation in terms of subsection (1)—

(a) is subject to any limitations, conditions and directions that the Board may impose;

(b) must be in writing;

(c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and 50

(d) does not prevent the exercise of the delegated power or the carrying out of the delegated duty by the Board.

(4) The Board may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision. 55

(2) Modulasetulo o etelela pele kwa dikopanong tsa Boto, fela fa a se teng kwa kopanong, maloko a a leng teng a tshwanetse go tlhopha leloko le lengwe go etelela pele kwa kopanong.

Ditsamaiso

24. (1) Boto e ka nna ya tlhomamisa ditsamaiso tsa yona go ya ka ditlamelo tse dingwe tsa Molao o. 5

(2) Boto e tshwanetse go tshola direkoto tsa ditsweletso tsa yona le ditshwetso tse di tserweng.

Khoramo le ditshwetso

25. (1) Bontsi ba maloko a Boto a a dirang ka nako efe e e maleba a bopa khoramo ya kopano ya Boto. 10

(2) Morero fa pele ga Boto o swediwa ke dibouto tsa bontsi ba maloko a a leng teng kwa kopanong.

(3) Fa mo morerong ofe kgotsa ofe fa pele ga Boto go na le tekano ya dibouto, leloko le le eteleletseng pele kwa kopanong le tshwanetse go diragatsa bouto mo tlaleletsong kwa boutong ya motho yoo jaaka leloko. 15

Dikomiti

26. (1) Boto e ka nna ya tlhoma komiti e le nngwe kgotsa go feta go thusa mo tiragatsong ya ditiro tsa yona kgotsa tiragatso ya maatla a yona.

(2) Fa go tlhomiwa maloko kwa komiting, Boto ga e kganelwe kwa malokong a Boto. 20

(3) Boto—

(a) e tshwanetse go tlhomamisa ditiro tsa komiti;

(b) e tshwanetse go tlhoma modulasetulo le maloko a mangwe a komiti;

(c) e ka nna ya tlosa leloko la komiti go tswa ofising ka nako nngwe le nngwe; go lebeletswe ditlamelo tsa Molao wa Tlhatloso ya Botsamaisi ba Tshiamo, 2000 (Molao No. 3 wa 2000); le 25

(d) e tshwanetse go tlhomamisa tsamaiso ya komiti.

(4) Boto e ka nna ya thuba komiti nako nngwe le nngwe.

(5) (a) Karolo 18 e buisiwa le phetolonyana e e tlhokegang jaaka diteng di tlhoka, e dira kwa maemong a tlhomo ya maloko a komiti. 30

(b) Leloko la badiri la setheo le le tlhomilweng mo komiting le dira mo komiting go ya ka dikaelo le maemo a thapo ya motho yoo.

Thomelelo dithata le ditiro

27. (1) Fa go tlhokagala tiragatso e e siameng ya ditiro tsa yona, Boto e ka nna ya, go ya ka karolwana (2), ya romela nngwe le nngwe ya dithata tsa yona kgotsa ditiro kwa— 35

(a) lelokong la Boto;

(b) komiting e e tawang mo karolong 26; kgotsa

(c) leloko la badiri la Setheo.

(2) Dithata le ditiro tse di latelang di ka nna tsa se romelwe ke Boto;

(a) go tlhomiwa kgotsa tlhomo gape ya motho jaaka Motlhankedi Mogolo wa Phetiso go ya ka karolo 28 (1) kgotsa (2); 40

(b) tlhomamiso ya maemo a tirelo a Motlhankedi Mogolo wa Phetiso go ya ka karolo 28(3); le

(c) tlhomamiso ya pholisi ya thapo go ya ka karolo 29(1); le

(d) go tlhomiwa ga ditekanyetso tsa ditshelete go ya ka karolo 29(2)(a) kgotsa (3). 45

(3) Thomelelo go ya ka karolwana (1)—

(a) e ya go ya ka ditekanyetso dingwe le dingwe, maemo le dikaelo tse Boto e ka di bayang;

(b) e tshwanetse go nna e e kwadilweng;

(c) ga e thibele tiragatso ya maatla a thomelo kgotsa go diragatsa tiro e e neilweng ya Boto. 50

(4) Boto e ka dumela, ya farologana kgotsa ya fetola tshwetso e e tserweng mo tatelong ya thomelelo go ya ka karolo e, go ya ka ditshwanelo dife tse di ka bong di tswelitse kwa mothong ka ntlha ya tshwetso.

Part 4*Administration of Institute***Appointment of Chief Executive Officer**

28. (1) The Board, acting with the concurrence of the Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of the Institute. 5

(2) The Chief Executive Officer—

- (a) is appointed for a term not exceeding five years; and
- (b) may be reappointed by the Board with the concurrence of the Minister, but only for one additional term not exceeding five years. 10

(3) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine in accordance with a policy approved by the Minister with the concurrence of the Cabinet member responsible for finance.

(4) The Chief Executive Officer—

- (a) is responsible for the management of the Institute; 15
- (b) must perform such duties and may exercise such powers as the Board may delegate to him or her; and
- (c) must report to the Board on aspects of management, the performance of duties and the exercise of powers, at such times or intervals and in such manner, as the Board may determine. 20

(5) (a) The Chairperson of the Board may appoint another employee of the Institute as acting Chief Executive Officer for a period not exceeding six months, whenever—

- (i) the Chief Executive Officer is for any reason absent or unable to perform his or her duties; or
- (ii) there is a vacancy in the office of the Chief Executive Officer. 25

(b) Whilst acting as Chief Executive Officer, such employee—

- (i) has the powers and duties of the Chief Executive Officer; and
- (ii) is employed subject to such terms and conditions of employment as the Chairperson may determine in accordance with the policy referred to in subsection (3). 30

Employment of staff

29. (1) The Board, acting with the concurrence of the Minister, must determine an employment policy for the Institute.

(2) The Chief Executive Officer—

- (a) within the financial limits set by the Board, must determine a staff establishment necessary for the work of the Institute; and 35
- (b) may appoint persons in posts on the staff establishment.

(3) An employee of the Institute is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy of, and within the financial limits set by, the Board. 40

(4) (a) A person in the service of another organ of state may be seconded to the Institute by agreement between the Chief Executive Officer and such organ of state.

(b) Persons seconded to the Institute perform their duties under the supervision of the Chief Executive Officer.

(5) A person in the service of the Institute may, with the consent of that person, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state. 45

Part 5*Financial matters***Financial accountability**

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30. The Institute is a public entity for the purposes of the Public Finance Management Act, and must comply with the provisions of that Act.

Karolo 4*Tsamaiso ya Setheo***Tlhommo ya Motlhankedi Mogolo wa Phetiso**

- 28.** (1) Boto, e dira ka gangwe le Tona, e tshwanetse go tlhoma motho ka borutegi jo bo maleba le maitemogelo jaaka Motlhankedi Mogolo wa Phetiso wa Setheo. 5
- (2) Motlhankedi Mogolo wa Phetiso—
- (a) o tlhomiwa sebaka se se sa feteng dingwaga tse tlhano; le
 - (b) a ka nna a tlhomiwa gape ke Boto ka bommogo le Tona, fela e nne sebaka sa tlaleletso se le sengwe se se sa feteng dingwaga tse tlhano.
- (3) Motlhankedi Mogolo wa Phetiso o thapiwa go ya ka maano a thapo jaaka Boto e ka tlhomamisa go ya ka pholisi e e rebotsweng ke Tona ka bommogo le leloko la Kabinete le le ikarabelelang ditšhelete. 10
- (4) Motlhankedi Mogolo wa Phetiso—
- (a) o ikarabelela mo botsamaising ba Setheo;
 - (b) o tshwanetse go dira ditiro tse di jalo mme a ka diragatsa dithata tse di jalo jaaka Boto e ka mo romeletsa kwa go Motlhankedi Mogolo wa Phetiso; le 15
 - (c) o tshwanetse go begela Boto mo dintlheng tsa botsamaisi, tiragatso ya ditiro le tiragatso ya dithata, ka dikgala tse di jalo le ka mokgwa o o jalo, jaaka Boto e ka tlhomamisa.
- (5) (a) Modulasetulo wa Boto a ka tlhoma mothapiwa o mongwe wa Setheo jaaka Motlhankedi Mogolo wa Phetiso wa nama o tshwere go dira go sa fete nako ya dikgwedi tse thataro, fa— 20
- (i) Motlhankedi Mogolo wa Phetiso ka lebeka lengwe a se teng kgotsa a sa kgone go dira ditiro tsa gagwe;
 - (ii) go na le phatlhatiro mo ofising ya Motlhankedi Mogolo wa Phetiso; 25
- (b) Fa a dira jaaka Motlhankedi Mogolo wa Phetiso, mothapiwa o o jalo—
- (i) o na le dithata le ditiro tsa Motlhankedi Mogolo wa Phetiso; le
 - (ii) o thapilwe go ya ka mabaka le maemo a thapo jaaka Modulasetulo a ka tlhomamisa go ya ka pholisi e e tewang mo karolwaneng (3).

Thapo ya badiri 30

- 29.** (1) Boto, e dira ka kutlwano le Tona, e tshwanetse go tlhomamisa pholisi ya thapo ya Setheo.
- (2) Motlhankedi Mogolo wa Phetiso—
- (a) ka fa teng ga ditekanyetso tsa ditšhelete tse di beilweng ke Boto, o tshwanetse go tlhomamisa tlhommo ya badiri e e botlhokwa mo tirong ya Setheo; le 35
 - (b) a ka tlhoma batho mo diposong mo tlhomong ya badiri.
- (3) Mothapiwa wa Setheo o thapiwa go ya ka mabaka le maemo a thapo a a tlhomamisitsweng ke Motlhankedi Mogolo wa Phetiso go ya ka pholisi ya thapo, le ka fa gare ga ditekanyetso tsa ditšhelete tse di beilweng ke Boto.
- (4)(a) Motho mo tirelong ya sethwe sa naga se sengwe a ka nna a adimiwa go ya Setheong ka tumalano magareng ga Motlhankedi Mogolo wa Phetiso le Sethwe sa naga se se jalo. 40
- (b) Batho ba ba adimilweng go ya Setheong ba dira ditiro tsa bona ka fa tlase ga tlhokomelo ya Motlhankedi Mogolo wa Phetiso.
- (5) Mtoho yo o mo tirelong ya Setheo, ka tumalano ya gagwe, a kanna a adimiwa setho sengwe sa naga go ya ka tumalano magareng ga Motlhankedi Mogolo wa Phetiso le Setho seo sa naga. 45

Karolo 5*Merero ya ditšhelete***Boikarabelo ba ditšhelete** 50

- 30.** Setheo ke seemanosi sa setšhaba sa mabaka a Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba, mme se tshwanetse go tsamaisana le ditlamelo tsa Molao oo.

Funding

- 31.** The funds of the Institute consist of—
- (a) income derived by it from the performance of its duties and the exercise of its powers;
 - (b) money appropriated by Parliament; 5
 - (c) grants received from organs of state;
 - (d) voluntary contributions, donations and bequests;
 - (e) money borrowed in terms of section 12(g);
 - (f) income derived from investments referred to in sections 32; and
 - (g) money derived from any other source, subject to the Public Finance 10 Management Act.

Investments

- 32.** The Institute may invest any of its funds not immediately required—
- (a) subject to any investment policy that may be prescribed in terms of section 7 15 (4) of the Public Finance Management Act; and
 - (b) in such a manner that the Minister may approve.

Part 6*National botanical gardens***Declaration**

- 33.** (1) The Minister, acting with the approval of the Cabinet member responsible for 20 the administration of the land in question may, by notice in the *Gazette*, declare any state land described in the notice as a—
- (a) national botanical garden; or
 - (b) part of an existing national botanical garden.
- (2) The Minister, acting in accordance with an agreement with the owner of the land 25 described in that agreement may, by notice in the *Gazette* declare that land as a—
- (a) national botanical garden; or
 - (b) part of an existing national botanical garden.
- (3) A notice in terms of subsection (1)(a) or (2)(a) must assign a name to the national 30 botanical garden.
- (4) The sites described in Schedule 1 to the Forest Act, 1984 (Act No.122 of 1984), must be regarded as having been declared as national botanical gardens in terms of this section.

Amendment or withdrawal of declarations

- 34.** (1) The Minister may, by notice in the *Gazette*— 35
- (a) amend or withdraw a notice referred to in section 33, subject to subsection (2); or
 - (b) amend the name assigned to a national botanical garden.
- (2) The declaration of state land as a national botanical garden, or part of an existing 40 national botanical garden, may not be withdrawn and a part of a national botanical garden on state land may not be excluded from it except by resolution of each House of Parliament.

Part 7*General***Minister's supervisory powers** 45

- 35.** (1) The Minister—
- (a) must monitor the exercise and performance by the Institute of its powers and duties;

Matlotlo**31. Matlotlo a Setheo a na le—**

- (a) lotseno lo lo ntshiwang ke sona go tswa tiragatsong ya ditiro tsa sona le tiriso ya dithata tsa sona;
- (b) madi a a maleba a mabaka a teng ka Palamente; 5
- (c) dikabo tse di amogetsweng go tswa dithweng tsa naga;
- (d) dikabelo tsa boithaopo, dikabo le tlogelelo boswa;
- (e) madi a a adimilweng go ya ka karolo 12(g);
- (f) lotseno lo lo tswang mo go lona go tswa dipeeletsong go ya ka karolo 32, le
- (g) lotseno lo lo tswang motswedding o mongwe le o mongwe osele, go ya ka 10
Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba.

Dipeeletso**32. Setheo se ka nna sa beeletsa eng kgotsa eng sa matlotlo a sona a a sa tlhokegeng ka pele—**

- (a) go ikaegile ka pholisi ya peeletso efe kgotsa efe e e ka tlhalosiwang go ya ka 15
karolo 7(4) ya Molao wa Botsamaisi ba Ditšhelete wa Setšhaba; le
- (b) ka tsela e e jalo jaaka e ka rebolwa ke Tona.

Karolo 6***Ditshingwana tsa bothani tsa bosetšhaba*****Tlhomamiso**

20

33. (1) Tona, a dira ka kutlwano le leloko la Kabinete le le ikarabelelang tsamaiso ya lefatshe le le lebeleletsweng, a ka nna ka kitsiso mo Lokwalodikgang la Puso a tlhomamisa lefatshe la naga lefe kgotsa lefe le le tlhalositsweng mo kitsisong jaaka—

- (a) tshingwana ya bothani ya bosetšhaba; kgotsa
 - (b) karolo ya tshingwana ya bothani ya bosetšhaba e e leng teng. 25
- (2) Tona, a dira go ya ka tumalano le mong wa lefatshe o o tlhalositsweng mo tumalanong a ka nna a, ka kitsiso mo Lokwalodikgang la Puso a tlhomamisa gore lefatshe jaaka—
- (a) tshingwana ya bothani ya bosetšhaba; kgotsa
 - (b) karolo ya tshingwana ya bothani ya bosetšhaba e e leng teng. 30
- (3) Kitsiso go ya ka karolwana (1)(a) kgotsa (2)(a) e tshwanetse go naya leina kwa tshingwaneng ya bothani ya bosetšhaba.
- (4) Mafelo a a tlhalosiwang mo Mametlelelong 1 ya Molao, 1984 wa Dikgwa (Molao Nomoro 122 wa 1984), a tshwanetse go tsewa jaaka a a tlhomamisitsweng jaaka ditshingwana tsa bothani tsa bosetšhaba go ya ka karolo e. 35

Tlhabololo kgotsa kgogelomorago ya ditlhomamiso

- 34. (1)** Tona a ka nna, ka kitsiso mo Lokwalodikgang la Puso—
- (a) a mametlelela kgotsa a gogela morago kitsiso e e tswang mo go karolo 33; go ya ka karolwana (2); kgotsa
 - (b) a tlhabolola leina le le neilweng tshingwana ya bothani ya bosetšhaba. 40
- (2) Tlhomamiso ya lefatshe la naga jaaka tshingwana ya bothani ya bosetšhaba, kgotsa karolo ya tshingwana ya bothani ya bosetšhaba e e leng teng, e ntse e ka se gogelwe morago mme ga go karolo epe ya tshingwana ya bothani ya bosetšhaba mo lefatsheng la naga e e tla ntshiwang mo go lona kwa ntle ga tshwetso ya Ntlo e nngwe le e nngwe ya Palamente. 45

Karolo 7***Kakaretso*****Dithata tsa tlhokomelo tsa Tona****35. (1) Tona—**

- (a) o tshwanetse go tlhokomela tiragatso ya dithata le ditiro tsa Setheo; 50

- (b) may set norms and standards for the exercise and performance by the Institute of its powers and duties;
- (c) may issue directives to the Institute on policy, planning, strategy and procedural issues to ensure its effective and efficient functioning;
- (d) must determine limits on fees charged by the Institute in the exercise and performance of its powers and duties; and 5
- (e) may identify land for new botanical gardens and extensions to existing botanical gardens.

(2) The Institute must exercise its powers and perform its duties subject to any norms and standards, directives and determinations issued by the Minister in terms of subsection (1). 10

Absence of functional Board

36. In the event of absence of a functional Board, the powers and duties of the Board revert to the Minister who, in such a case, must exercise those powers and perform those duties until the Board is functional again. 15

CHAPTER 3

BIODIVERSITY PLANNING AND MONITORING

Purpose of Chapter

37. The purpose of this Chapter is to—
- (a) provide for integrated and co-ordinated biodiversity planning; 20
 - (b) provide for monitoring the conservation status of various components of South Africa's biodiversity; and
 - (c) promote biodiversity research.

Part 1

Biodiversity planning 25

National biodiversity framework

38. (1) The Minister—
- (a) must prepare and adopt a national biodiversity framework within three years of the date on which this Act takes effect;
 - (b) must monitor implementation of the framework; 30
 - (c) must review the framework at least every five years; and
 - (d) may, when necessary, amend the framework.

(2) The Minister must, by notice in the *Gazette*, publish the national biodiversity framework and each amendment of the framework.

Contents of national biodiversity framework 35

39. (1) The national biodiversity framework must—
- (a) provide for an integrated, co-ordinated and uniform approach to biodiversity management by organs of state in all spheres of government, non-governmental organisations, the private sector, local communities, other stakeholders and the public; 40
 - (b) be consistent with—
 - (i) this Act;
 - (ii) the national environmental management principles; and
 - (iii) any relevant international agreements binding on the Republic;
 - (c) identify priority areas for conservation action and the establishment of protected areas; and 45
 - (d) reflect regional co-operation on issues concerning biodiversity management in Southern Africa.

(2) The national biodiversity framework may determine norms and standards for provincial and municipal environmental conservation plans. 50

TSAMAIISO YA BOSETŠHABA YA TIKOLOGO:
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- (b) a ka baya ditlwaello le a Setheo go diragatsa dithata le ditiro tsa sona;
 - (c) a ka ntsha dikaelo kwa Setheong ka pholisi, thulaganyo, maano le merero ya tsamaiso go tlhomamisa go dira ga sona go go tswelelang go go nonofileng;
 - (d) o tshwanetse go tlhomamisa ditekanyetso mo dituelong tse di bidiwang ke Setheo mo tiragatsong ya ditiro le maatla; le 5
 - (e) a ka lemoga lefatshe la ditshingwana tsa bothani le dikatoloso go ya ditshingwaneng tsa bothani tse di teng teng.
- (2) Setheo se tshwanetsego dira ditiro tsa tsona le go diragatsa maatla a sona go ya ka ditlwaello le maemo, dikaelo le dithomamiso tse di tshitshintweeng ke Tona go ya ka karolwana (1). 10

Go se nne teng ga Boto e e dirang

36. Mo tiragalong ya go se nne teng ga Boto, dithata le ditiro tsa Boto di boela kwa go Tona, mo lebakeng le le jalo, o tshwanetse go dira ditiro tseo mme a ka diragatsa maatla ao go fitlha Boto e dira gape.

KGAOLO 3

15

THULAGANYO LE TLHOKOMELO YA BIODIVERSITY**Maikaelelo a Kgaolo**

37. Maikaelelo a Kgaolo e ke—

- (a) go tlamela thulaganyo ya *biodiversity* e e golaganang le go rulaganngwa;
- (b) go tlamela go tlhokomela maemo a tshomarelo ya dikarolo tse di farologaneng tsa *biodiversity* tsa Aferika Borwa; le 20
- (c) go godisa patlisiso ya *biodiversity*.

Karolo 1**Thulaganyo ya *biodiversity*****Letlhomiso la bosetšhaba la *biodiversity***

25

38. (1) Tona—

- (a) o tshwanetse le go tsaya letlhomiso la bosetšhaba la *biodiversity* mo gare ga dingwaga tse tharo tsa letlha le mo go lona Molao o o diragatseng;
 - (b) o tshwanetse go tlhokomela tiragatso ya letlhomiso;
 - (c) o tshwanetse go thadisa letlhomiso bogolo dingwaga dingwe le dingwe tse tlhano; le 30
 - (d) a ka nna, fa go tlhokega, a mametlelela letlhomiso.
- (2) Tona o tshwanetse go phasalatsa letlhomiso la bosetšhaba la *biodiversity*, tlhabololo nngwe le nngwe ya letlhomiso ka kitsiso mo Lekwalodikgang la Puso.

Diteng tsa letlhomiso la bosetšhaba la *biodiversity*

35

39. (1) Letlhomiso la bosetšhaba la *biodiversity* le tshwanetse—

- (a) go tlamela tlhagiso e e golaganang, e e rulaganeng le go tshwana ya tsamaiso ya *biodiversity* ka dithwe tsa naga mo didikong tsotlhe tsa mmuso, mekgatlho e e seng ya mmuso, lephata la poraefete, baagi ba selegae, banna le seabe ba bangwe le setšhaba; 40
 - (b) le tlhomame ka—
 - (i) Molao o;
 - (ii) ditheo tsa tsamaiso ya bosetšhaba ya tikologo; le
 - (iii) ditumalano dife tse di maleba tsa boditšhabatšhaba tse di tlamang Repaboliki; 45
 - (c) go lemoga mafelo a a tlang pele a kgato ya tshomarelo le tlhomo ya mafelo a a sireleditsweng; le
 - (d) go lebelela morago tirisano mmogo ya dikgala mo mererong e e amang botsamisi ba *biodiversity* mo Aferika Borwa.
- (2) Letlhomiso la bosetšhaba la *biodiversity* le ka nna la tlhomamisa ditlwaello le maemo a maano a tshomarelo ya tikologo ya porofense le mmasepala. 50

Bioregions and bioregional plans

- 40.** (1) The Minister or the MEC for environmental affairs in a province may, by notice in the *Gazette*—
- (a) determine a geographic region as a bioregion for the purposes of this Act if that region contains whole or several nested ecosystems and is characterised by its landforms, vegetation cover, human culture and history; and 5
 - (b) publish a plan for the management of biodiversity and the components of biodiversity in such region.
- (2) The Minister may determine a region as a bioregion and publish a bioregional plan for that region either— 10
- (a) on own initiative but after consulting the MEC for Environmental Affairs in the relevant province; or
 - (b) at the request of a province or municipality.
- (3) The MEC for environmental affairs may determine a region as a bioregion and publish a bioregional plan for that region only with the concurrence of the Minister. 15
- (4) Any person or organ of state may, on the request of the Minister or MEC for Environmental Affairs, assist in the preparation of a bioregional plan.
- (5) The Minister—
- (a) may enter into an agreement with a neighbouring country to secure the effective implementation of the plan; and 20
 - (b) must submit to Parliament a copy of any agreement entered into in terms of paragraph (a).

Contents of bioregional plans

- 41.** A bioregional plan must—
- (a) contain measures for the effective management of biodiversity and the components of biodiversity in the region; 25
 - (b) provide for monitoring of the plan; and
 - (c) be consistent with—
 - (i) this Act;
 - (ii) the national environmental management principles; 30
 - (iii) the national biodiversity framework; and
 - (iv) any relevant international agreements binding on the Republic.

Review and amendment of bioregional plans

- 42.** (1) The Minister or the MEC for Environmental Affairs in the relevant province, as may be appropriate, must review a bioregional plan published in terms of section 40(1)(b) at least every five years, and assess compliance with the plan and the extent to which its objectives are being met. 35
- (2) The Minister or MEC for Environmental Affairs may, when necessary, by notice in the *Gazette*, amend a bioregional plan or the boundaries of the bioregion.
- (3) The MEC for Environmental Affairs may amend a bioregional plan or the boundaries of the bioregion only with the concurrence of the Minister. 40

Biodiversity management plans

- 43.** (1) Any person, organisation or organ of state desiring to contribute to biodiversity management may submit to the Minister for his or her approval a draft management plan for— 45
- (a) an ecosystem—
 - (i) listed in terms of section 52; or
 - (ii) which is not listed in terms of section 52 but which does warrant special conservation attention;
 - (b) an indigenous species— 50
 - (i) listed in terms of section 56; or

Dikgaolo tsa ditshedi le maano a ditshedi tsa kgaolo

40. (1) Tona kgotsa Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng a ka nna ka kitsiso mo Lekwalodikgang la Puso—
- (a) a tthomamisa kgaolo ya thutafatshe jaaka kgaolo ya ditshedi ka mabaka a Molao o fa kgaolo eo e diekhosetimo tse di feletseng kgotsa mafelo a ditshedi a le mmalwa mme di tshwerwe ka dipopego tsa lefatshe, sekhurumela dimela, setso sa motho le hisitori; le 5
 - (b) go phasalatsa leano la botsamaisi ba *biodiversity* le dikarolo tsa *biodiversity* mo kgaolong e e jalo.
- (2) Tona a ka nna a tthomamisa kgaolo jaaka kgaolo ya ditshedi le go phasalatsa leano la ditshedi tsa kgaolo eo e ka nna— 10
- (a) ka maitshimololelo a kgaolo eo fela morago ga go buisana le Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng e e maleba, kgotsa
 - (b) ka kopo ya porofense kgotsa mmasepala.
- (3) Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng a ka nna a tthomamisa kgaolo jaaka kgaolo ya ditshedi le go phasalatsa leano la ditshedi tsa kgaolo eo fela ka kutlwano ya Tona. 15
- (4) Motho ofe kgotsa ofe kgotsa sethwe sa naga, ka kopo ya Molekgotla-khuduthamaga, a ka thusa mo paakanyong ya leano la ditshedi tsa kgaolo.
- (5) Tona— 20
- (a) a ka nna a tsenya mo tumalanong le naga e e gaufi go bona tiragatso ya leano; le
 - (b) o tshwanetse go tlisa kwa Palamenteng khophi ya tumalano efe kgotsa efe e go tsenweng mo go yona go ya ka temana (a).

Diteng tsa maano a ditshedi tsa kgaolo

25

41. Leano la ditshedi tsa kgaolo le tshwanetse—
- (a) go tshola dikgato tsa botsamaisi bo bo kgonang ba *biodiversity* le dikarolo tsa *biodiversity* mo kgaolong e mo go yona leano le dirang;
 - (b) go tlamela go tlhokomela leano; le
 - (c) go tthomama le— 30
 - (i) Molao o.
 - (ii) ditheo tsa tsamaiso ya bosetšhaba ya tikologo;
 - (iii) letlhomiso la bosetšhaba la *biodiversity*; le
 - (iv) ditumalano tse di maleba dife kgotsa dife tsa boditšhabatšhaba tse di tlamang Repaboliki. 35

Thadiso le tlhabololo ya maano a ditshedi tsa kgaolo

42. (1) Tona kgotsa Molekgotla-khuduthamaga ya Merero wa Tikologo mo porofenseng e e maleba, jaaka go ka nna maleba, o tshwanetse go thadisa leano la ditshedi tsa kgaolo le le phasaladitsweng go ya ka karolo 40(1)(b) bogolo dingwaga dingwe le dingwe tse tlhano, le go sekaseka tsamaelano le leano le phitlhelelo e mo go yona maikemisetso a teng a fitlhelelwang. 40
- (2) Tona kgotsa Molekgotla-khuduthamaga wa Merero ya Tikologo a kanno, fa go tlhokega, ka kitsiso mo Lekwalodikgang la Puso, a tlhabolola leano la ditshedi tsa kgaolo kgotsa meelwane ya kgaolo ya ditshedi e mo go yona leano le dirang.
- (3) Molekgotla-khuduthamaga wa Merero ya Tikologo a ka nna a tlhabolola leano la ditshedi tsa kgaolo kgotsa meelwane ya kgaolo ya ditshedi fela ka kutlwano le Tona. 45

Maano a botsamaisi ba *biodiversity*

43. (1) Motho ofe kgotsa ofe, mokgatlo kgotsa sethwe sa naga se se eletseng go nna le kabo mo botsamaising ba *biodiversity*; ba ka romela kwa Tona, go bona thebolo ya Tona, leano la botsamaisi le le kwadilweng la— 50
- (a) ekhosesetimo—
 - (i) e e nanefaditsweng go ya ka karolo 51, kgotsa
 - (ii) e e sa nanefadiwang go ya ka karolo 51 fela e e sa tlhokeng tlhokomelo e e kgethegileng ya tshomarelo;
 - (b) methalethale ya ditshedi tsa tlhologo— 55
 - (i) e e nanefaditsweng go ya ka karolo 55; kgotsa

- (ii) which is not listed in terms of section 56 but which does warrant special conservation attention; or
 - (c) a migratory species to give effect to the Republic's obligations in terms of an international agreement binding on the Republic.
- (2) Before approving a draft biodiversity management plan, the Minister must identify a suitable person, organisation or organ of state which is willing to be responsible for the implementation of the plan. 5
- (3) The Minister must—
- (a) publish by notice in the *Gazette* a biodiversity management plan approved in terms of subsection (1); 10
 - (b) determine the manner of implementation of the plan; and
 - (c) assign responsibility for the implementation of the plan to the person, organisation or organ of state identified in terms of subsection (2).

Biodiversity management agreements

44. The Minister may enter into a biodiversity management agreement with the person, organisation or organ of state identified in terms of section 43(2), or any other suitable person, organisation or organ of state, regarding the implementation of a biodiversity management plan, or any aspect of it. 15

Contents of biodiversity management plans

45. A biodiversity management plan must— 20
- (a) be aimed at ensuring the long-term survival in nature of the species or ecosystem to which the plan relates;
 - (b) provide for the responsible person, organisation or organ of state to monitor and report on progress with implementation of the plan; and
 - (c) be consistent with— 25
 - (i) this Act;
 - (ii) the national environmental management principles;
 - (iii) the national biodiversity framework;
 - (iv) any applicable bioregional plan;
 - (v) any plans issued in terms of Chapter 3 of the National Environmental Management Act; 30
 - (vi) any municipal integrated development plan;
 - (vii) any other plans prepared in terms of national or provincial legislation that is affected; and
 - (viii) any relevant international agreements binding on the Republic. 35

Review and amendment of biodiversity management plans

46. (1) The Minister must review a biodiversity management plan published in terms of section 43(3) at least every five years, and assess compliance with the plan and the extent to which its objectives are being met.
- (2) The Minister, either on own initiative or on request by an interested person, organisation or organ of state, may by notice in the *Gazette* amend a biodiversity management plan published in terms of section 43(3). 40
- (3) Before amending a biodiversity management plan, the Minister must consult—
- (a) any person, organisation or organ of state implementing the plan; and
 - (b) any organ of state whose activities are affected by the implementation of the plan. 45

Consultation

47. (1) Before adopting or approving a national biodiversity framework, a bioregional plan or a biodiversity management plan, or any amendment to such a plan, the Minister must follow a consultative process in accordance with sections 99 and 100. 50

(ii) e e sa nanefadiwang go ya ka karolo 55 fela e e tlhokang tshomerelo e e3
kgethegite; kgotsa

(c) methalethale ya ditshedi e e fudugang go neela tlhomamo mo ditlamegong tsa
Repaboliki go ya ka tumalano ya boditšhabatšhaba e e tlamang mo Repaboliki.

(2) Pele go rebolwa leano la lokwalo lwa botsamaisi ba *biodiversity*, Tona o 5
tshwanetse go supa motho yo o maleba, mokgatlho kgotsa sethwe sa naga se se
ineetseng go nna maikarabelo a go diragatsa leano.

(3) Tona o tshwanetse go—

- (a) go phatlalatsa ka kitsiso mo Lekwalodikgang la Puso leano la botsamaisi ba
biodiversity go ya ka karolwana (1); 10
- (b) go tlhomamisa mokgwa wa tiragatso ya leano; le
- (c) go neelana ka maikarabelo a tiragatso ya leano kwa mothong, mokgatlho
kgotsa sethwe sa naga se se lemogilweng go ya ka karolwana (2).

Ditumalano tsa tsamaiso ya *Biodiversity*

44. Tona a ka tsena mo tumalanong ya tsamaiso ya *biodiversity* le motho, mokgatlho 15
kgotsa sethwe sa naga se se supilweng go ya ka karolo 43(2), kgotsa motho ofe kgotsa
ofe yo o maleba, mokgatlho kgotsa sethwe sa naga, go lebeleletswe tiragatso ya leano la
tsamaiso ya *biodiversity*, kgotsa karolo efe kgotsa efe ya lona.

Diteng tsa maano a botsamaisi ba *biodiversity*

45. Leano la botsamaisi ba *biodiversity* le tshwanetse— 20

- (a) go lebesiwa kwa go tlhomamiseng phalolo ya nako e telele mo tlhologong ya
methalethale ya ditshedi kgotsa ditshedi tsa tikologo tse kwa go tsona leano le
le nang le kamano;
- (b) go tlamela ka motho yo o nang le maikarabelo, mokgatlho kgotsa sethwe sa
naga go tlhokomela le go itsise ka tswelopele ka ga tiragatso ya leano; le 25
- (c) go tlhomama le—
 - (i) Molao o;
 - (ii) ditheo tsa tsamaiso ya bosetšhaba ya tikologo;
 - (iii) letlhomeso la bosetšhaba la *biodiversity*;
 - (iv) leano la ditshedi tsa kgaolo le le dirang; 30
 - (v) maano afe kgotsa afe a a ntshitsweng go ya ka Kgaolo 3 ya Molao wa
Tsamaiso ya Bosetšhaba ya Tikologo;
 - (vi) maano a a tshwaraganeng a tlhabololo a mmasepala ofe kgotsa ofe;
 - (vii) maano a mangwe afe kgotsa afe a a baakantsweng go ya ka peomolao ya
bosetšhaba kwa porofenseng e e amegang; le 35
 - (viii) ditumalano tsa boditšhabatšhaba dife kgotsa dife tse di tlamang
Repaboliki.

Thadiso le tlhabololo ya maano a botsamaisi ba *biodiversity*

46. (1) Tona o tshwanetse go thadisa leano la *biodiversity* le le phasaladitsweng go ya
ka karolo 43(3) bonnye dingwaga dingwe le dingwe tse tlhano, le go sekaseka 40
tsamaelano le leano le boleng bo maikemisetso a teng a fitlheletsweng.

(2) Tona, ka maitshimololelo a gagwe kgotsa ka kopo ka motho yo o nang le
kgatlhego, mokgatlho kgotsa naga, a ka nna ka kitsiso mo Lekwalodikgang la Puso a
tlhabolola leano la botsamaisi ba *biodiversity* le le phasaladitsweng go ya ka karolo
43(3). 45

(3) Pele a tlhabolola leano la botsamaisi ba *biodiversity*, Tona o tshwanetse go
rerisana—

- (a) le motho, mokgatlho le sethwe sa naga se se diragatsang leano; le
- (b) sethwe sengwe le sengwe seo ditiro tsa sona di amang tiragatso ya leano.

Therisano

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47. (1) Pele ga go tshola kgotsa thebolo ya letlhomeso la bosetšhaba la *biodiversity*,
leano la kgaolo ya ditshedi kgotsa leano la botsamaisi ba *biodiversity* tlhabololo e ngwe
le eangwe ya leano le le jalo, Tona o tshwanetse go latela tirego ya puisano go ya ka
dikarolo 96 le 97.

(2) Before adopting a bioregional plan, or any amendment to such a plan, the MEC for Environmental Affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

Part 2

Co-ordination and alignment of plans, monitoring and research

5

Co-ordination and alignment of biodiversity plans

48. (1) The national biodiversity framework, a bioregional plan and a biodiversity management plan prepared in terms of this Chapter may not be in conflict with—
- (a) any environmental implementation or environmental management plans prepared in terms of Chapter 3 of the National Environmental Management Act; 10
 - (b) any integrated development plans adopted by municipalities in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
 - (c) any spatial development frameworks in terms of legislation regulating land-use management, land development and spatial planning administered by the Cabinet member responsible for land affairs; and 15
 - (d) any other plans prepared in terms of national or provincial legislation that are affected.
- (2) An organ of state that must prepare an environmental implementation or environmental management plan in terms of Chapter 3 of the National Environmental Management Act, and a municipality that must adopt an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000, must— 20
- (a) align its plan with the national biodiversity framework and any applicable bioregional plan;
 - (b) incorporate into that plan those provisions of the national biodiversity framework or a bioregional plan that specifically apply to it; and 25
 - (c) demonstrate in its plan how the national biodiversity framework and any applicable bioregional plan may be implemented by that organ of state or municipality.
- (3) The Institute may— 30
- (a) assist the Minister and others involved in the preparation of the national biodiversity framework, a bioregional plan or a biodiversity management plan to comply with subsection (1); and
 - (b) make recommendations to organs of states or municipalities referred to in subsection (2) to align their plans referred to in that subsection with the national biodiversity framework and any applicable bioregional plan. 35

Monitoring

49. (1) The Minister must for the purposes of this Chapter designate monitoring mechanisms and set indicators to determine—
- (a) the conservation status of various components of South Africa's biodiversity; 40
 - and
 - (b) any negative and positive trends affecting the conservation status of the various components.
- (2) The Minister may require any person, organisation or organ of state involved in terms of subsection (1) in monitoring the matters referred to in that subsection to report regularly to the Minister on the results of such monitoring measured against the predetermined indicators. 45
- (3) The Minister must—
- (a) annually report to Parliament on the information submitted to the Minister in terms of subsection (2); and 50
 - (b) make such information publicly available.

(2) Pele ga go tshola leano la kgaolo ya ditshedi, kgotsa tlhabololo efe kgotsa efe kwa leanong le le jalo, Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng e e maleba o tshwanetse go latela tirego ya puisano go ya ka dikarolo 100 le 101.

Karolo 2

Thulaganyo le tthamalatso ya maano, go tlhokomela le patlisiso

5

Thulaganyo le tthamalatso ya maano a biodiversity

48. (1) Letlhomelo la bosetšhaba la *biodiversity*, leano la kgaolo ya ditshedi le leano la botsamaisi ba *biodiversity* le le baakantsweng go ya ka Kgaolo e le ntse le ka se nne mo thulanong le—

- (a) tiragatso ya tikologo efe kgotsa efe kgotsa maano a botsamaisi ba tikologo a a siamisitsweng go ya ka Kgaolo 3 ya Molao Tsamaiso ya Bosetšhaba ya Tikologo; 10
- (b) maano afe kgotsa afe a tswelletso e e tshwaraganyang e e tshotsweng ke bommasepala go ya ka Molao wa Mekgwa ya Mmasepala wa Mmuso wa Selegae, 2000 (Molao Nomoro 32 wa 2000); 15
- (c) mathomesa afe kgotsa afe a laolang le tlhabololo go ya ka molao o o laolang tsamaiso ya tiriso ya lefatshe, tlhabololo ya lefatshe le thulaganyo e e amang tse di laolang ke leloko la Kabinete le le ikarabelelang merero ya lefatshe; le
- (d) maano afe a mangwe go ya ka molao wa bosetšhaba kgotsa porofense a a amegang. 20

(2) Sethwe sa naga se se tshwanetseng go siamisa tiragatso ya tikologo kgotsa leano la tsamaiso ya tikologo go ya ka Kgaolo 3 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo, le mmasepala o o tshwanetseng go tshola leano la tlhabololo le le tshwaraganeng go ya ka Mmuso wa Selegae: Molao wa Mekgwa ya Mmasepala, 2000, o tshwanetse— 25

- (a) go tthamalatsa leano le letlhomelo la *biodiversity* la bosetšhaba le leano lefe kgotsa lefe la dikgaolo tsa ditshedi le le dirang; 25
- (b) go tsenya mo leanong leo ditlamelo tseo tsa letlhomelo la *biodiversity* la bosetšhaba kgotsa leano la kgaolo ya ditshedi le le dirang mo go lona; le
- (c) go bontsha mo leanong la teng ka fao letlhomelo la bosetšhaba la *biodiversity* le leano lefe kgotsa lefe la kgaolo ya ditshedi le le dirang le tla diragadiwang ke sethwe seo sa naga kgotsa mmasepala. 30

(3) Setheo se ka—

- (a) thusa Tona le ba bangwe ba ba amegang mo paakanyong ya letlhomelo la la bosetšhaba la *biodiversity*, leano la kgaolo ya ditshedi kgotsa leano la botsamaisi ba *biodiversity* go tsamaisana karolwana (1); le 35
- (b) dira dikatlanegiso kwa dithweng tsa dinaga kgotsa bommasepala ba ba supelwang mo karolwaneng (2) go lekanya maano a bona le a a supelwang mo karolwaneng eo le letlhomelo la bosetšhaba la *biodiversity* le leano lefe kgotsa lefe le le dirang la kgaolo ya ditshedi. 40

Go tlhokomela

49. (1) Tona o tshwanetse ka mabaka a Kgaolo e a tlhome mekgwa ya go tlhokomela, le go baya ditshupelo go tthomamisa—

- (a) maemo a tshomarelo a dikarolo tse di farologaneng tsa *biodiversity* tsa Aferika Borwa; le 45
- (b) ditlwaello dife kgotsa dife tse di bosula le tse di siameng tse di amang maemo a tshomarelo a dikarolo tse di farologaneng.

(2) Tona a ka nna a tlhoka motho ofe kgotsa ofe, mokgatliho kgotsa sethwe sa naga se se amegang go ya ka karolwana (1) mo go tlhokomeleng merero e e boletsweng mo karolwaneng eo, go begela ka gale kwa go Tona ka dipelo tsa go tlhokomela go go jalo go go lekanyeditsweng kgatlanong le ditshupo tse di tthomamisitsweng e sale gale. 50

(3) Tona o tshwanetse—

- (a) ka ngwaga a bebele kwa Palamenteng ka tshedimosetso kwa go Tona go ya ka karolwana (2); le
- (b) go dira tshedimosetso e e jalo go nna teng mo phatlhalatseng. 55

Research

50. (1) The Minister must promote research done by the Institute and other institutions on biodiversity conservation, including the sustainable use, protection and conservation of indigenous biological resources.

- (2) Research on biodiversity conservation may include— 5
- (a) the collection and analysis of information about—
 - (i) the conservation status of the various components of biodiversity;
 - (ii) negative and positive trends affecting the conservation status of various components; and
 - (iii) threatening processes or activities likely to impact on biodiversity conservation; 10
 - (b) the assessment of strategies and techniques for biodiversity conservation;
 - (c) the determination of biodiversity conservation needs and priorities; and
 - (d) the sustainable use, protection and conservation of indigenous biological resources. 15

CHAPTER 4**THREATENED OR PROTECTED ECOSYSTEMS AND SPECIES****Purpose of Chapter**

- 51.** The purpose of this Chapter is to—
- (a) provide for the protection of ecosystems that are threatened or in need of protection to ensure the maintenance of their ecological integrity; 20
 - (b) provide for the protection of species that are threatened or in need of protection to ensure their survival in the wild;
 - (c) give effect to the Republic's obligations under international agreements regulating international trade in specimens of endangered species; and 25
 - (d) ensure that the utilisation of biodiversity is managed in an ecologically sustainable way.

Part 1*Protection of threatened or protected ecosystems***Ecosystems that are threatened or in need of protection 30**

52. (1) (a) The Minister may, by notice in the *Gazette*, publish a national list of ecosystems that are threatened and in need of protection.

(b) An MEC for environmental affairs in a province may, by notice in the *Gazette*, publish a provincial list of ecosystems in the province that are threatened and in need of protection. 35

- (2) The following categories of ecosystems may be listed in terms of subsection (1):
- (a) critically endangered ecosystems, being ecosystems that have undergone severe degradation of ecological structure, function or composition as a result of human intervention and are subject to an extremely high risk of irreversible transformation; 40
 - (b) endangered ecosystems, being ecosystems that have undergone degradation of ecological structure, function or composition as a result of human intervention, although they are not critically endangered ecosystems;
 - (c) vulnerable ecosystems, being ecosystems that have a high risk of undergoing significant degradation of ecological structure, function or composition as a 45

Patlisiso

50. (1) Tona o tshwanetse go godisa patlisiso e e dirilweng ke Setheo le ditheo tse dingwe mo tshomarelong ya *biodiversity*, go tsenyelediwa tiriso e e tswelelang, tshireletso le tshomarelo ya metswedi ya baoloji ya tlhologo.

(2) Patlisiso mo tshomarelong ya *biodiversity* e ka tsenyeletsa— 5

- (a) kgobokanyo le tshekatsheko ya tshedimisetso ka—
 - (i) maemo a tshomarelo ya dikarolo tse di farologaneng tsa *biodiversity*;
 - (ii) ditlwaelo tse di sa siamang le tse di siameng tse di amang maemo a tshomarelo a dikarolo tse di farologaneng; le
 - (iii) ditirego tse di tshosetsang kgotsa ditiro tse ka kgonego di ka ama tshomarelo ya *biodiversity*; 10
- (b) tshekatsheko ya ditogamaano le dithekeneki tsa tshomarelo ya *biodiversity*;
- (c) tlhomamiso ya ditlhokego le ditlapele tsa tshomarelo ya *biodiversity*; le
- (d) tiriso e e tswelelang, tshireletso le tshomarelo ya metswedi ya baoloji ya tlhologo. 15

KGAOLO 4**DIEKHOSSETIMO TSE DI TSHOSEDIWANG KGOTSA TSE DI
SIRELEDITSWENG LE DITSHEDI TSA MEFUTAFUTA****Maikaelelo a Kgaolo**

51. Maikaelelo a Kgaolo ke— 20

- (a) go tlamela tshireletso ya diekhosesetimo tse di tshosediwang kgotsa tse di tlhokang tshireletso ya go tlhomamisa tshegetso ya seriti sa ekholoji sa tsona;
- (b) go tlamela tshireletso ya methalethale ya ditshedi tse di tshosediwang kgotsa di tlhoka tshireletso ya go tlhomamisa phalolo mo tlhagong e e tlhaga;
- (c) go neela bokgoni kwa ditlamegong tsa Repaboliki ka fa tlase ga ditumalano tsa boditšhabatšhaba tse di laolang kgwebo ya boditšhabatšhaba mo dikaong tsa bontsi tsa methalethale ya ditshedi e e mo kotsing; le 25
- (d) go tlhomamisa gore tiragatso ya *biodiversity* e laolwa ka tsela ya ekholoji e e tswelelang.

Karolo 1 30***Tshireletso ya diekhosesetimo tse di tshosediwang kgotsa tse di sireleditsweng*****Diekhosesetimo tse di tshosediwang kgotsa tse di tlhokang tshireletso ya bosetšhaba**

52. (1) (a) Tona a ka nna a phasalatsa diekhosesetimo tsa bosetšhaba tse di nanefaditsweng, tse di tshosediwang e bile di tlhoka tshireletso, ka kitsiso mo Lekwalodikgang la Puso. 35

(b) Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng, a ka nna a phasalatsa diekhosesetimo tsa porofense tse di nanefaditsweng tse di tshosediwang e bile di tlhoka tshireletso mo porofenseng, ka kitsiso mo Lekwalodikgang la Puso.

(2) Ditlhophha tse di latelang tsa diekhosesetimo di ka nanefadiwa go ya ka karolwana (1): 40

- (a) diekhosesetimo tse di mo kotsing e kgolo ya go tshosediya, e leng diekhosesetimo tse di boneng kgatelelo e kgolo ya tatlhegelo ya kemo ya ikholoji, tiro kgotsa tlhamo, e le ka ntlha ya go tsereganya ga motho mme di lebagane ke kgonagalo ya phetogo e kgolo e e ka se kgoneng go busediwa morago; 45
- (b) diekhosesetimo tse di tshosediwang, e leng diekhosesetimo tse di boneng tatlhegelo ya kemo ya ikholoji, tiro kgotsa tlhamo e le ka ntlha ya go tsereganya ga motho, le fa e se diekhosesetimo tse di mo kotsing ya go tshosediya; 50
- (c) diekhosesetimo tse di ka utlwisiwang botlhoko, e leng diekhosesetimo tse di mo kotsing e kgolo ya go bona tatlhegelo e e botlhokwa ya kemo ya ikholoji, tiro kgotsa tlhamo e le ka ntlha ya go tsereganya ga motho, le fa e se

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result of human intervention, although they are not critically endangered ecosystems or endangered ecosystems; and

- (d) protected ecosystems, being ecosystems that are of high conservation value or of high national or provincial importance, although they are not listed in terms of paragraphs (a), (b) or (c).

(3) A list referred to in subsection (1) must describe in sufficient detail the location of each ecosystem on the list.

(4) The Minister and the MEC for environmental affairs in a relevant province, respectively, must at least every five years review any national or provincial list published by the Minister or MEC in terms of subsection (1).

(5) An MEC may publish or amend a provincial list only with the concurrence of the Minister.

Threatening processes in listed ecosystems

53. (1) The Minister may, by notice in the *Gazette*, identify any process or activity in a listed ecosystem as a threatening process.

(2) A threatening process identified in terms of subsection (1) must be regarded as a specified activity contemplated in section 24(2)(b) of the National Environmental Management Act and a listed ecosystem must be regarded as an area identified for the purpose of that section.

Certain plans to take into account in protection of listed ecosystems

54. An organ of state that must prepare an environmental implementation or environmental management plan in terms of Chapter 3 of the National Environmental Management Act, and a municipality that must adopt an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), must take into account the need for the protection of listed ecosystems.

Amendment of notices

55. The Minister or the MEC for Environmental Affairs in any relevant province may, by notice in the *Gazette*, amend or repeal any notice published by him or her in terms of section 52(1) or 53(1).

Part 2***Protection of threatened or protected species*****Listing of species that are threatened or in need of national protection**

56. (1) The Minister may, by notice in the *Gazette*, publish a list of—

- (a) critically endangered species, being any indigenous species facing an extremely high risk of extinction in the wild in the immediate future;
- (b) endangered species, being any indigenous species facing a high risk of extinction in the wild in the near future, although they are not a critically endangered species;
- (c) vulnerable species, being any indigenous species facing an extremely high

diekhosesetimo tse di mo kotsing ya go tshosediswa kgotsa diekhosesetimo tse di tshosediwang; le

- (d) diekhosesetimo tse di sireleditsweng, e leng diekhosesetimo tsa maemo a a kwa godimo a go boloka kgotsa tsa maemo a a kwa godimo a bosetšhaba kgotsa a porofense a a botlhokwa, le fa di sa nanefadiwa go ya ka ditemana (a), (b) kgotsa (c) 5

(3) Lenane leo le supiwang mo karolwaneng (1) le tshwanetse go tlhalosa ka botlalo lefelo la ekhosesetimo nngwe le nngwe e e mo lenaneng.

(4) Tona le Molekgotla-Khuduthamaga wa merero ya tikologo mo porofenseng e e maleba, ka tatelano, ba tshwanetse bonnye go sa fete dingwaga di le tlhano, ba tlhole lenane lefe kgotsa lefe la bosetšhaba kgotsa la porofense le le phasaladitsweng ke Tona kgotsa Molekgotla-Khuduthamaga go ya ka karolwana (1). 10

(5) Molekgotla-Khuduthamaga a ka nna a phasalatsa kgotsa a tlhabolola lenane la porofense fela ka tumalano le Tona.

Ditirego tse di tshosetsang mo diekhosesetimong tse di nanefaditsweng 15

53. (1) Tona a ka nna a, ka kitsiso mo Lekwalodikgang la Puso a lemoga tirego efe kgotsa efe kgotsa tiro mo diekhosesetimong e e nanefaditsweng jaaka tirego e e tshosetsang.

(2) Tirego e e tshosetsang e e lemogilweng go ya ka karolwana (1) e tshwanetse go tsewa jaaka tiro e e tlhalositsweng e e akanngwang mo karolong 24(2)(b) ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo mme ekhoisesetimo e e nanefaditsweng e tshwanetse go tsewa jaaka lefelo le le lemogilweng ka maikaelelo a karolo eo. 20

Maano a a rileng go lebelela tshireletso ya diekhosesetimo tse di nanefaditsweng

54. Setheo sa naga se se tshwanetseng go baakanya tiragatso ya tikologo kgotsa leano la botsamaisi ba tikologo go ya ka Kgaolo 3 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo, le mmasepala o o tshwanetseng go tshola leano la tlhabololo e e tshwaragantsweng go ya ka Mmuso wa Selegae: Molao 2000 wa Ditsela tsa Mmasepala (Molao Nomoro 32 wa 2000) o tshwanetse go lebelela tlhokego ya tshireletso ya diekhosesetimo tse di nanefaditsweng. 25

Tlhabololo ya dikitsiso 30

55. Tona kgotsa Molekgotla-khuduthamaga wa Merero ya Tikologo mo porofenseng efe kgotsa efe e e maleba a ka nna ka kitsiso mo Lekwalodikgang la Puso, a tlhabolola kgotsa a phimola Kitsiso efe kgotsa efe e e phasaladitsweng ke ena go ya ka karolo 51(1) kgotsa 52(1).

Karolo 2 35

Tshireletso ya ditshedi tsa methalethale tse di tshosediwang kgotsa tse di sireleditsweng

Nanefatso ya methalethale ya ditshedi tse di tshosediwang kgotsa tse di tlhokang tshireletso ya bosetšhaba

56. (1) Tona a ka nna a, ka kitsiso mo Lekwalodikgang la Puso, a phasalatsa lenane la— 40

- (a) ditshedi tsa methalethale tse di mo kotsing e e masisi, e leng ditshedi tsa methalethale dingwe le dingwe tsa tlholego tse di lebaneng le teko e e kwa godimo thata ya go nyeletswa gotlhelele mo nageng mo bokamosong jo bo gaufi; 45
- (b) ditshedi tsa methalethale tse di mo kotsing, e leng ditshedi tsa methalethale dingwe le dingwe tsa tlholego tse di lebaneng le teko e e kwa godimo ya go nyeletswa gotlhelele mo nageng mo bokamosong jo bo gaufi, le mororo e se ditshedi tsa methalethale tse di mo kotsing e e masisi thata;
- (c) ditshedi tsa methalethale tse di nang le bokgoni ba go ka utlusiwa botlhoko, e leng ditshedi tsa methalethale dingwe le dingwe tsa tlholego tse di lebaneng le teko e e kwa godimo thata ya go nyeletswa gotlhelele mo nageng mo bokamosong jwa paka e e mo magareng, le mororo e se ditshedi tsa 50

risk of extinction in the wild in the medium-term future, although they are not a critically endangered species or an endangered species; and

- (d) protected species, being any species which are of such high conservation value or national importance that they require national protection, although they are not listed in terms of paragraph (a), (b) or (c).

(2) The Minister must review the lists published in terms of subsection (1) at least every five years.

Restricted activities involving listed threatened or protected species

57. (1) A person may not carry out a restricted activity involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 7.

(2) The Minister may, by notice in the *Gazette*, prohibit the carrying out of any activity—

- (a) which is of a nature that may negatively impact on the survival of a listed threatened or protected species; and
(b) which is specified in the notice,

or prohibit the carrying out of such activity without a permit issued in terms of Chapter 7.

(3) Subsection (1) does not apply in respect of a specimen of a listed threatened or protected species conveyed from outside the Republic in transit through the Republic to a destination outside the Republic, provided that such transit through the Republic takes place under the control of an environmental management inspector.

Amendment of notices

58. The Minister may by notice in the *Gazette* amend or repeal any notice published in terms of section 55(1) or 56(2).

Part 3

Trade in listed threatened or protected species

Functions of Minister

59. The Minister—

- (a) must monitor—
(i) compliance with section 57(1) insofar as trade in specimens of listed threatened or protected species is concerned; and
(ii) compliance in the Republic with an international agreement regulating international trade in specimens of endangered species which is binding on the Republic;
(b) must consult the scientific authority on issues relating to trade in specimens of endangered species regulated by such an international agreement;
(c) must prepare and submit reports and documents in accordance with the Republic's obligations in terms of such an international agreement;
(d) may provide administrative and technical support services and advice to organs of state to ensure the effective implementation and enforcement in the Republic of such an international agreement;
(e) may make information and documentation relating to such an international agreement publicly available; and
(f) may prescribe a system for the registration of institutions, ranching operations, nurseries, captive breeding operations and other facilities.

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methalethale tse di mo kotsing e e masisi thata kgotsa ditshedi tsa methalethale tse di mo kotsing; le

- (d) ditshedi tsa methalethale tse di sireleditsweng, e leng ditshedi tsa methalethale dingwe le dingwe tseo e leng tsa tshomarelo ya bolang jo bo kwa godimo kgotsa tse di botlhokwa mo setšhabeng e bile di tlhoka tshireletso ya bosetšhaba, le mororo di sa nanefadiwa go ya ka temana (a), (b) kgotsa (c). 5

(2) Tona o tshwanetse go thadisa manane a a phasaladitsweng go ya ka karolwana (1) bonnye dingwaga dingwe le dingwe di le tlhano.

Ditiro tse di lekanyeditsweng tse di amang methalethale ya ditshedi tse di tshosediwang kgotsa tse di sireleditsweng tse di nanefaditsweng 10

57. (1) Go se nne motho ope yo kwa ntle ga tumelelo e e ntshitsweng go ya ka kgaolo 7 yo o dirang tiro e e lekanyeditsweng e e amang sekao mo bontsing sa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa di sireleditswe.

(2) Tona a ka nna, ka kitsiso mo Lekwalodikgang la Puso a itsa, go dirwa ga tiro efe kgotsa efe— 15

- (a) e e leng ya boleng bo bo ka nnang ba ama ka fa go sa siamang mo phalolong ya methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa tse di sireleditswe; le

- (b) e e tlhalositsweng mo kitsisong,

kgotsa a iletsa go dirsa tiro ngwe le ngwe kwa ntle ga tletla go ya ka Kgaolo 7. 20

(3) Karolwana (1) ga e dire malebana le sekao mo bontsing sa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa di sireleditswe di rwalwe e go tswa ka kwa ntle ga Repaboliki mo phetisong go ralala Repaboliki go ya bogorogelong ka kwa ntle ga Repaboliki, fa e le gore phetiso go laola Repaboliki e diragala ka fa tlase ga taolo ya motlhatlhoi wa botsamaisi ba tikologo. 25

Tlhabololo ya dikitsiso

58. Tona a ka nna ka kitsiso mo Lekwalodikgang la Puso tlhabolola kgotsa a phimola kitsiso efe kgotsa puso efe e e phasaladitsweng go ya ka karolo 55(1) kgotsa 56(2).

Karolo 3

Kgwebo mo methalethaleng ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa tse di sireleditsweng 30

Ditiro tsa Tona

59. Tona—

- (a) o tshwanetse go tlhokomela—

- (i) tatelo ya karolo 56(1) mabapi le kgwebo ya dikao tsa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa di sireleditswe jaaka e amega; le 35

- (ii) tatelo mo Repaboliking le tumalano ya boditšhabatšhaba e e laolang kgwebo ya boditšhabatšhaba mo dikaong tsa bontsi tsa methalethale ya ditshedi tse di mo kotsing e e tlamang tse di Repaboliki; 40

- (b) o tshwanetse go rerisana le bothati ba saense mo mererong e e amanang le kgwebo mo dikaong tsa methalethale ya ditshedi tse di mo kotsing tse di laolwang ke tumalano ya boditšhabatšhaba e e jalo;

- (c) o tshwanetse go siamisa le go romela dipegelo tsa ngwaga le tse dingwe le dikwalo go ya ka ditlamego tsa Repaboliki go ya ka tumalano ya boditšhabatšhaba e e jalo; 45

- (d) a ka nna a tlamela ditirelo tsa tshegetso ya tsamaiso le ya setegeneki le keletso kwa dithweng tsa naga go tlhomamisa tiragatso e e nonofileng le tiragatso mo Repaboliking ya tumalano ya boditšhabatšhaba e e jalo;

- (e) a ka dira tshedimosetso le dikwalo tse di amanang le tumalano ya boditšhabatšhaba e e jalo go nna teng mo phatlhalatseng; le 50

- (f) a ka nna a tlhagisa mokgwa wa kwadiso ya ditheo, ditiro tsa thuo, makidi a dimela, ditiro tsa go tsadisa tsa boitshwaro le ditlamelwana tse dingwe.

Establishment of scientific authority

60. (1) The Minister must establish a scientific authority for purpose of assisting in regulating and restricting the trade in specimens of listed threatened or protected species.

(2) The Institute must provide logistical, administrative and financial support for the proper functioning of the scientific authority. 5

Functions of scientific authority

61. (1) The scientific authority must—

- (a) monitor in the Republic the legal and illegal trade in specimens of listed threatened or protected species; 10
- (b) advise the Minister and any other interested organs of state on the matters that it monitors;
- (c) make recommendations to an issuing authority on applications for permits referred to in section 57(1) or (2);
- (d) make non-detriment findings on the impact of actions relating to the international trade in specimens of listed threatened or protected species; 15
- (e) advise the Minister on—
 - (i) the registration of ranching operations, nurseries, captive breeding operations and other facilities;
 - (ii) whether an operation or facility meets the criteria for producing species considered to be bred in captivity or artificially propagated; 20
 - (iii) the choice of a rescue centre or other facility for the disposal of forfeited specimens;
 - (iv) any amendments to a notice published in terms of section 56(1) or 57(2);
 - (v) the nomenclature of species; or 25
 - (vi) any other matter of a specialised nature;
- (f) assist the Minister or an environmental management inspector in the identification of specimens for the purpose of enforcing the provisions of this Act;
- (g) issue certificates in which the identification of a specimen is verified as being taxonomically accurate; 30
- (h) perform any other function that may be—
 - (i) prescribed; or
 - (ii) delegated to it by the Minister in terms of section 47D of the National Environmental Management Act; and 35
- (i) deal with any other matter necessary for, or reasonably incidental to, its powers and duties.

(2) In performing its duties, the scientific authority must—

- (a) base its findings, recommendations and advice on a scientific and professional review of available information; and 40
- (b) consult, when necessary, organs of state, the private sector, non-governmental organisations, local communities and other stakeholders before making any findings or recommendations or giving any advice.

Annual non-detriment findings

62. (1) The scientific authority must publish in the *Gazette* any annual non-detriment findings on trade in specimens of listed threatened or protected species in accordance with an international agreement regulating international trade in specimens of listed threatened or protected species which is binding on the Republic. 45

(2) Any interim findings of the scientific authority must be published in the *Gazette* for public information within 30 days after the decision has been made. 50

Tlhommo ya bothati ba saense

60. (1) Tona o tshwanetse go tlhoma bothati ba saense ka mabaka a go thusa mo go laoleng le go lekanyetsa kgwebo mo dikaong tsa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa tse di sireleditsweng.

(2) Setheo se tshwanetse go tlamela tshegetso ya lojiseteki, tsamaiso le ditšhelete gore go nne le go dira go go lolameng ga bothati ba saense. 5

Ditiro tsa bothati ba saense

61. (1) Bothati ba saense bo tshwanetse—

- (a) go tlhokomela mo Repaboliking kgwebo ya semolao le e e seng ya molao mo dikaong tsa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa tse di sireleditsweng; 10
 - (b) go eletsa Tona le dithwe tsa naga tse dingwe dife kgotsa dife tse di nang le kgatlhego mo mererong e bo e tlhokometseng;
 - (c) bo dire dikatlanegiso kwa bothating bo bo ntshang dikopo tsa ditumelelo tse di boletsweng mo karolong 56(1) kgotsa (2); 15
 - (d) bo dire diphithlelelo tse di sa senyeng mo tlhotlheletsong ya ditiro tse di amanang le kgwebo ya boditšhabatšhaba mo dikaong tsa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa tse di sireleditsweng;
 - (e) bo gakolola Tona ka— 20
 - (i) kwadiso ya ditiro tsa thuo, makidi a dimela, ditiro tsa go tsadisa le ditlamelwana tse dingwe;
 - (ii) gore a tiro kgotsa lamelwana e fitlhelela kelo ya go tlhagisa methalethale ya ditshedi tse di tsewang di tsetswe mo botshwarweng kgotsa di tlhagisitswe ka maitirelo; 25
 - (iii) tlhopho ya borakanelo ba phaloso kgotsa tlamelwana e nngwe ya go latlhiwa ga dikao mo bontsing tse di latlhegileng;
 - (iv) ditlhabololo dife kgotsa dife kwa kitsisong e e phasaladitsweng go ya ka karolo 55(1) kgotsa 56(2);
 - (v) maina a methalethale ya ditshedi; kgotsa 30
 - (vi) morero ofe kgotsa ofe o mongwe wa sebopego se se kgethegileng;
 - (f) go thusa Tona kgotsa motlathlhoi wa botsamaisi ba tikologo mo temogong ya dikao mo mabakeng a go diragatsa ditlamelo tsa Molao o;
 - (g) bo ntsha disetefekeiti tse mo go tsona temogo ya sekao e netefadiwang jaaka e e leng peommogo ya ditshedi e e nepagetseng; 35
 - (h) bo dira tiro e nngwe efe kgotsa efe e e ka nnang—
 - (i) e e tlhalositsweng; kgotsa
 - (ii) e e rometsweng kwa go bona ke Tona go ya ka karolo 47D ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo; le
 - (i) bo dirana le morero o mongwe ofe kgotsa ofe o o tlhokang wa kgotsa ka kwelano e e utlwalang mo ditirong tsa bona. 40
- (2) Mo go direng ditiro tsa bona, bothati ba saense bo tshwanetse—
- (a) go baya diphithlelelo tsa bona, dikatlanegiso le keletso mo thadisong ya saense le ya porofesenale ya tshedimosetso e e leng teng; le
 - (b) go buisana, fa go tlhokega dithwe tsa naga, lephata la poraefete, mekgatlho e e seng ya mmuso, baagi ba selegae le banna le seabe ba bangwe pele go dirwa diphithlelelo dife kana dikatlanegiso kana go neela keletso efe kgotsa efe. 45

Diphithlelelo tsa ngwaga tse di se nang tshenyo

62. (1) Bothati ba saense bo tshwanetse go phasalatsa ka kitsiso mo Lekwalodikgang la Puso diphithlelelo dife kgotsa dife tsa ngwaga tse di se nang tshenyo mo kgwebong ya dikao tsa methalethale ya ditshedi tse di nanefaditsweng tse di tshosediwang kgotsa e e kgotsa e e sireleditsweng go ya ka tumalano ya boditšhabatšhaba e e laolang kgwebo ya boditšhabatšhaba mo dikaong tsa methalethale ya ditshedi tse di kgotsa nanefaditsweng tse di tshosediwang kgotsa sireleditsweng tse di tlamang Repaboliki. 50

(2) Diphithlelelo tsa nakwana dife kgotsa dife tsa bothati ba saense di tshwanetse go phasaladiwa mo Lekwalodikgang la Puso gore setšhaba se bone tshedimosetso mo malatsing a le 30 morago ga fa tshwetso e tserwe. 55

Part 4***General provisions*****Consultation**

63. (1) Before publishing a notice in terms of section 52(1), 53(1), 56(1) or 57(2), or amending or repealing such a notice in terms of section 55 or 58, the Minister must follow a consultative process in accordance with sections 99 and 100. 5

(2) Before publishing a notice in terms of section 52(1), or amending or repealing such a notice in terms of section 55, the MEC for environmental affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

CHAPTER 5

10

**SPECIES AND ORGANISMS POSING POTENTIAL THREATS TO
BIODIVERSITY****Purposes of Chapter**

64. (1) The purpose of this Chapter is—

- (a) to prevent the unauthorized introduction and spread of alien species and invasive species to ecosystems and habitats where they do not naturally occur; 15
- (b) to manage and control alien species and invasive species to prevent or minimize harm to the environment and to biodiversity in particular;
- (c) to eradicate alien species and invasive species from ecosystems and habitats where they may harm such ecosystems or habitats; and 20
- (d) to ensure that environmental assessments for purposes of permits in terms of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), are conducted in appropriate cases in accordance with Chapter 5 of the National Environmental Management Act.

(2) For the purpose of this Chapter, “specimen” has the meaning assigned to it in paragraphs (a) and (b) of the definition of “specimen” in section 1(1). 25

Part 1***Alien species*****Restricted activities involving alien species**

65. (1) A person may not carry out a restricted activity involving a specimen of an alien species without a permit issued in terms of Chapter 7. 30

(2) A permit referred to in subsection (1) may be issued only after a prescribed assessment of risks and potential impacts on biodiversity is carried out.

Exemptions

66. (1) The Minister may, by notice in the *Gazette*, exempt from the provisions of section 65— 35

- (a) any alien species specified in the notice; or
- (b) any alien species of a category specified in the notice.

(2) Any person may carry out a restricted activity involving a specimen of an exempted alien species without a permit mentioned in section 65(1). 40

(3) The Minister must regularly review a notice published in terms of subsection (1).

Karolo 4***Ditlamelo tsa kakaretso*****Therisano**

63. (1) Pele go phasaladiwa kitsiso go ya ka karolo 51(1), 52(1) kgotsa 56(2), kgotsa go tlhabolola kgotsa go phimolwa ga kitsiso e e jalo go ya ka karolo 54 kgotsa 57, Tona o tshwanetse go latela tirego ya therisano go ya ka dikarolo 96 le 97. 5

(2) Pele go phasaladiwa kitsiso ya karolo 51(1), kgotsa tlhabolola kgotsa go phimolwa ga kitsiso e e jalo ya karolo 54, Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng e e maleba o tla sala ditherisano morago go ya ka karolo 96 le 97. 10

KGAOLO 5**DITSHEDI TSA METHALETHALE LE DITSHEDI TSEO DI BAKANG
KGONAGALO YA MATSHOSETSI GO *BIODIVERSITY*****Maikaelelo a Kgaolo**

64. (1) Maikaelelo a Kgaolo e ke— 15

(a) go thibela matseno a a sa letlelelwang le phatlhalalo ya methalethale ya ditshedi tsa kwa ntle le methalethale ya ditshedi tsa diekhosesetimo le mafelo a bonno a tlholego kwa di sa nneng teng ka tlholego;

(b) go tsamaisa le go laola methalethale ya ditshedi tsa kwa ntle le methalethale ya ditshedi tse di anamang go thibela kgotsa go fokotsa kotsi bogolo segolo mo tikologong le mo *biodiversity*; 20

(c) go tlosa methalethale ya ditshedi tsa kwa ntle le methalethale ya ditshedi tse di anamang go tswa mo diekhosesetimong le mafelo a bonno a tlholego koo di ka bakang kotsi ya diekhosesetimo tse di jalo kgotsa mafelo a bonno a tlhago; le 25

(d) go netefatsa gore ditshekatsheko tsa tikologo tsa maikaelelo a ditumelelo go ya ka Molao wa Ditshedi tsa Tlhago e e Fetotsweng, 1997 (Molao No. 15 wa 1997), di dirwa mo mabakeng a a tshwanetseng ka tatelo ya Kgaolo 5 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo.

(2) Ka maikaelelo a Kgaolo e, “sekao” se na le bokao bo se bo neilweng mo ditemaneng (a) le (b) tsa tlhaloso ya “sekao” mo go karolo 1(1). 30

Karolo 1***Methalethale ya ditshedi tsa kwa ntle*****Ditiro tse di lekanyeditsweng tse di amang methalethale ya ditshedi tsa kwa ntle**

65. (1) Motho a ka se dire tiro e e lekanyeditsweng kwa ntle ga tletla go ya ka Kgaolo 7. 35

(2) Tumelelo go ya ka karolwana (1) e ka nna ya ntshiwa fela morago ga tshekatsheko ya dikotsi e e tlhalositsweng ya dikotsi le dithulano tse di maatla tsa *biodiversity* di dirilwe.

Dithebolo

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66. (1) Tona a ka nna ka kitsiso mo Lekwalodikgang la Puso a rebola go tswa ditlamelong tsa karolo 65—

(a) methalethale ya ditshedi tsa kwa ntle efe kgotsa efe e e tlhalositsweng mo kitsisong; kgotsa

(b) methalethale ya ditshedi tsa kwa ntle efe kgotsa efe ya setlhopha se se tlhalositsweng mo kitsisong. 45

(2) Motho ofe kgotsa ofe a ka nna a dira tiro e e lekanyeditsweng e e amang sekao sa methalethale ya ditshedi tsa kwa ntle e e rebotsweng kwa ntle ga tumelelo e e boletsweng mo go karolo 64(1).

(3) Tona o tshwanetse go tlhola kitsiso e e phasaladitsweng go ya ka karolwana (1). 50

Restricted activities involving certain alien species totally prohibited

67. (1) The Minister may, by notice in the *Gazette*, publish a list of those alien species in respect of which a permit mentioned in section 65(1) may not be issued.

(2) A person may not carry out any restricted activity involving a specimen of an alien species published in terms of subsection (1).

(3) The Minister must regularly review a list published in terms of subsection (1).

Amendment of notices

68. The Minister may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 66(1) or 67(1).

Duty of care relating to alien species

69. (1) A person authorised by permit, in terms of section 65(1), to carry out a restricted activity involving a specimen of an alien species must—

(a) comply with the conditions under which the permit has been issued; and

(b) take all required steps to prevent or minimise harm to biodiversity.

(2) A competent authority may, in writing, direct any person who has failed to comply with subsection (1), or who has contravened section 65(1) or 67(2), to take such steps—

(a) as may be necessary to remedy any harm to biodiversity caused by the actions of that person; and

(b) as may be specified in the directive.

(3) If that person fails to comply with a directive issued in terms of subsection (2), the competent authority may—

(a) implement the directive; and

(b) recover from that person all costs incurred by the competent authority in implementing the directive.

(4) Should an alien species establish itself in nature as an invasive species because of the actions of a specific person, a competent authority may hold that person liable for any costs incurred in the control and eradication of that species.

Part 2***Invasive species*****List of invasive species**

70. (1) (a) The Minister must within 24 months of the date on which this section takes effect, by notice in the *Gazette*, publish a national list of invasive species in respect of which this Chapter must be applied nationally.

(b) The MEC for environmental affairs in a province may, by notice in the *Gazette*, publish a provincial list of invasive species in respect of which this Chapter must be applied in the province.

(2) The Minister or the MEC for environmental affairs in a relevant province must regularly review the national list or any provincial list published in terms of subsection (1), as may be appropriate.

(3) An MEC for Environmental Affairs may only publish or amend a provincial list in terms of subsection (1) or (2) with the concurrence of the Minister.

Ditiro tse di lekanyeditsweng tse di amang methalethale tsa ditshedi ya kwa ntle tse di ileditsweng gotlhelele

67. (1) Tona a ka nna ka kitsiso mo Lekwalodikgang le Puso a phasalatsa lenane la methalethale ya ditshedi tsa kwa ntle go ya ka tumelelo e e boletsweng mo go karolo 64(1) e ka se rebolwe. 5

(2) Ga go motho ope yo o ka dirang tiro e e lekanyeditsweng e e amang sekao sa methalethale ya ditshedi tse di nanefaditsweng go ya ka karolwana (1).

(3) Tona o tshwanetse kgabetsa a thadise lenane le le phasaladitsweng go ya ka karolwana (1).

Tlhabololo ya dikitsiso

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68. Tona a ka nna ka kitsiso mo Lekwalodikgang la Puso a tlhabolola kgotsa a nyeletsatsa kitsiso efe kgotsa efe e e phasaladitsweng go ya ka karolo 65(1) kgotsa 66(1).

Tiro ya tlhokomelo e e amanang le methalethale ya ditshedi tsa kwa ntle

69. (1) Motho yo o dumelelwang go ya ka karolo 64(1) go dira tiro e e lekanyeditsweng e e amang sekao sa methalethale ya ditshedi kwa ntle o tshwanetse— 15

(a) go tsamaisana le maemo a o tumelelo e se ntsheditsweng; le

(b) go tsaya dikgato tsotlhe tse di tlhokagalang go thibela kgotsa go fokotsa tshenyoy ya *biodiversity*.

(2) Bothati jo bo kgonang bo ka, ka go kwala, bo kaele motho ofe kgotsa ofe yo o paletsweng ke go tsamaisana le karolwanao (1) ya karolo e, kgotsa yo o tlotseng karolo 64(1) kgotsa 66(2), go tsaya dikgato tse di jalo— 20

(a) jaaka go ka tlhokega go phekola tshenyoy efe kgotsa efe ya *biodiversity* e e tlisiwang ke dikgato tsa motho yoo; le

(b) jaaka go ka tlhalosiwa mo kaelong.

(3) Fa motho yoo a palelwa ke go tsamaisana le kaelo go ya ka karolwana (2) ya bothati jo bo kgonang bo ka nna ba— 25

(a) diragatsa kaelo; le

(b) amogela go tswa mothong yoo ditshenyegelo tsotlhe tse di fitlheletsweng mo go utlwalang ke bothati jo bo kgonang mo go diragatseng kaelo.

(4) Fa methalethale ya ditshedi tsa kwa ntle e ka ithoma mo tlhologong jaaka methalethale ya ditshedi tse anamang ka ntlha ya dikgato tsa motho yo o rileng, bothati jo bo kgonang bo ka nna ba tshola motho yoo maikarabelo a ditshenyegelo dife kgotsa dife tse di tlhageletseng mo taolong le nyeletsong ya methalethale ya ditshedi tseo. 30

Karolo 2***Methalethale ya ditshedi tse di anamang***

35

Manane a methalethale ya ditshedi tse di anamang

70. (1) (a) Tona o tshwanetse gore mo nakong ya dikgwedi di le 24 go tloga ka letlha le karolo e e diragadiwang ka lona, a phasalatsa lenane la bosetšhaba la ditshedi tsa methalethale tse di anamang, go ya ka moo Kgaolo e e tshwanetseng go diragadiwa ka teng mo setšhabeng ka bophara, ka kitsiso mo Lekwalodikgang la Puso. 40

(b) Molekgotla-Khuduthamaga wa merero ya tikologo mo porofenseng, a ka nna a phasalatsa lenane la porofense la ditshedi tsa methalethale tse di anamang, go ya ka moo Kgaolo e e tshwanetseng go diragadiwa ka teng mo porofenseng, ka kitsiso mo Lekwalodikgang la Puso.

(2) Tona kgotsa Molekgotla-Khuduthamaga wa merero ya tikologo mo porofenseng e e maleba, o tshwanetse go tlhola gangwe le gape lenane la bosetšhaba kgotsa lenane lefe kgotsa lefe la porofense le le phasaladitsweng go ya ka karolwana (1), jaaka go ka tshwanela. 45

(3) Tonakgolo ya Merero ya Tikologo a ka nna a phasalatsa kgotsa a tlhabolola fela lenane la porofense go ya ka karolotlaleletso (1) kgotsa (2) ka tumalano le Tona. 50

Restricted activities involving listed invasive species

71. (1) A person may not carry out a restricted activity involving a specimen of a listed invasive species without a permit issued in terms of Chapter 7.

(2) A permit referred to in subsection (1) may be issued only after a prescribed assessment of risks and potential impacts on biodiversity is carried out. 5

Amendment of notices

72. The Minister or the MEC for environmental affairs in any relevant province may, by notice in the *Gazette*, amend or repeal any notice published by him or her in terms of section 70 (1).

Duty of care relating to listed invasive species

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73. (1) A person authorised by permit in terms of section 71(1) to carry out a restricted activity involving a specimen of a listed invasive species must take all the required steps to prevent or minimise harm to biodiversity.

(2) A person who is the owner of land on which a listed invasive species occurs must— 15

- (a) notify any relevant competent authority, in writing, of the listed invasive species occurring on that land;
- (b) take steps to control and eradicate the listed invasive species and to prevent it from spreading; and
- (c) take all the required steps to prevent or minimise harm to biodiversity. 20

(3) A competent authority may, in writing, direct any person who has failed to comply with subsection (1) or (2), or who has contravened section 71(1), to take such steps—

- (a) as may be necessary to remedy any harm to biodiversity caused by—
 - (i) the actions of that person; or
 - (ii) the occurrence of the listed invasive species on land of which that person is the owner; and 25
- (b) as may be specified in the directive.

(4) If that person fails to comply with a directive issued in terms of subsection (3), a competent authority may—

- (a) implement the directive; and 30
- (b) recover all costs reasonably incurred by a competent authority in implementing the directive—
 - (i) from that person; or
 - (ii) proportionally from that person and any other person who benefited from implementation of the directive. 35

Requests to competent authorities to issue directives

74. (1) Any person may request a competent authority, in writing, to issue a directive in terms of section 73(3).

(2) A competent authority must reply to the request, in writing, within 30 days of receipt of the request. 40

(3) Should a competent authority fail to respond to the request within the stated period or refuses the request, the person who made the request may apply to a court for an order directing that competent authority to issue the directive.

Control and eradication of listed invasive species

75. (1) Control and eradication of a listed invasive species must be carried out by means of methods that are appropriate for the species concerned and the environment in which it occurs. 45

Ditiro tse di lekanyeditsweng tse di amang methalethale ya ditshedi tse di nanefaditsweng tse di anamang

71. (1) Motho a ka se dire tiro e e lekanyeditsweng kwa ntle ga tletla go ya ka Kgaolo 7.

(2) Tumelelo go ya ka karolwana (1) e ka nna ya ntshiwa fela morago ga tshekatsheko ya dikotsi e e tlhalositsweng le dithulano tse di maatla tsa *biodiversity* di dirilwe. 5

Tlhabololo ya dikitsiso

72. Tona kgotsa Molekgotla-Khuduthamaga wa merero ya tikologo mo porofenseng efe kgotsa efe e e maleba, a ka nna a tlhabolola kgotsa a fedisa kitsiso efe kgotsa efe e e phasaladitsweng ke ene go ya ka karolo 70 (1), ka kitsiso mo Lekwalodikgang la Puso. 10

Tiro ya tlhokomelo e e amanang le methalethale ya ditshedi e e nanefaditsweng e e anamang.

73. (1) Motho yo o dumelelwang ke tumelelo go ya ka karolo 71(1) go dira tiro e e lekanyeditsweng e e amang sekao sa methalethale ya ditshedi tse di nanefaditsweng tse di anamang e tshwanetse go tsaya dikgato tsotlhe tse di utlwalang go thibela kgotsa go fokotsa tshenywa ya *biodiversity*. 15

(2) Motho yo e leng mong wa lefatshe le mo go lona *biodiversity* tse di nanefaditsweng tse di anamang di tlhagelelang o tshwanetse—

(a) go itsese bothati bofe kgotsa bofe jo bo maleba jo bo kgonang, ka go kwala, ka methalethale ya ditshedi tse di anamang tse di nanefaditsweng tse di tlhagelelang mo lefatsheng leo; 20

(b) go tsaya dikgato go laola le go tlosa methalethale ya ditshedi tse di anamang tse di nanefaditsweng le go e thibela go anama; le

(c) go tsaya dikgato tse dingwe tsotlhe tse di tlhokegang go thibela kgotsa go fokotsa kotsi ya *biodiversity*. 25

(3) Bothati jo bo kgonang bo ka nna ba, ka go kwala, jwa kaela motho ofe kgots ofe yo o reteletsweng ke go tsamaisana le karolwana (1) kana (2), kgotsa yo o tlotseng karolo 70(1), go tsaya dikgato tse di jalo—

(a) jaaka go ka tlhokega go phekola kotsi efe kgotsa efe mo mefutafuteng ya *biodiversity*— 30

(i) dikgato tsa motho yoo; kgotsa

(ii) tlhagelelo ya methalethale ya ditshedi tse di nanefaditsweng tse di anamang mo lefatsheng le mo go lona motho yoo, e leng mong, le

(b) jaaka go ka tlhalosiwa mo kaelong.

(4) Fa motho yoo a reteletswa go tsamaelana le kaelo e e ntshitsweng go ya ka karolwana (3) bothati jo bo kgonang bo ka— 35

(a) diragatsa kaelo; le

(b) go bona ditshenyegelo tsotlhe ka fa go utlwalang tse di dirilweng ke bothati jo bo nang le bokgoni mo go diragatseng kaelo—

(i) go tswa go motho yoo; kgotsa 40

(ii) ka go lekana go tswa go motho yoo le motho yo mongwe yo o boneng tshiamelo go tswa tiragatsong ya kaelo.

Dikopo kwa bothating jo bo kgonang go neelana ka dikaelo

74. (1) Motho ofe kgotsa ofe a ka nna a kopa bothati jo bo kgonang, ka go kwala, go ntsha kaelo go ya ka karolo 73(3). 45

(2) Bothati jo bo kgonang bo tshwanetse go arabela kopo, ka go kwala, mo malatsing a le 30 a kamogelo ya kopo.

(3) Fa bothati jo bo kgonang bo ka reteletswa go arabela kopo mo nakong e e boletsweng kgotsa bo gana kopo, motho yo o dirileng kopo a ka kopa kwa kgotlatshekelo taolelo e e kaelang bothati jo bo kgonang go ntsha kaelo. 50

Taolo le nyeletso ya methalethale ya ditshedi tse di nanefaditsweng tse di anamang

75. (1) Taolo le nyeletso ya methalethale ya ditshedi tse di nanefaditsweng tse di anamang e tshwanetse go dirwa ka mekgwa e e jalo e e maleba ya methalethale ya ditshedi tse di amegang le tikologo e di tlhagelelang mo go yona.

(2) Any action taken to control and eradicate a listed invasive species must be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment.

(3) The methods employed to control and eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself in any manner. 5

(4) The Minister must ensure the coordination and implementation of programmes for the prevention, control or eradication of invasive species.

(5) The Minister may establish an entity consisting of public servants to coordinate and implement programmes for the prevention, control or eradication of invasive species. 10

Invasive species control plans of organs of state

76. (1) The management authority of a protected area preparing a management plan for the area in terms of the Protected Areas Act must incorporate into the management plan an invasive species control and eradication strategy. 15

(2) (a) All organs of state in all spheres of government must prepare an invasive species monitoring, control and eradication plan for land under their control, as part of their environmental plans in accordance with section 11 of the National Environmental Management Act. 20

(b) The invasive species monitoring, control and eradication plans of municipalities must be part of their integrated development plans.

(3) The Minister may request the Institute to assist municipalities in performing their duties in terms of subsection (2).

(4) An invasive species monitoring, control and eradication plan must include— 25

(a) a detailed list and description of any listed invasive species occurring on the relevant land;

(b) a description of the parts of that land that are infested with such listed invasive species;

(c) an assessment of the extent of such infestation; 30

(d) a status report on the efficacy of previous control and eradication measures;

(e) the current measures to monitor, control and eradicate such invasive species; and

(f) measurable indicators of progress and success, and indications of when the control plan is to be completed. 35

Invasive species status reports

77. (1) The management authority of a protected area must at regular intervals prepare and submit to the Minister or the MEC for Environmental Affairs in the province a report on the status of any listed invasive species that occurs in that area.

(2) A status report must include— 40

(a) a detailed list and description of all listed invasive species that occur in the protected area;

(b) a detailed description of the parts of the area that are infested with listed invasive species;

(c) an assessment of the extent of such infestation; and 45

(d) a report on the efficacy of previous control and eradication measures.

Part 3

Other threats

Genetically modified organisms

78. (1) If the Minister has reason to believe that the release of a genetically modified organism into the environment under a permit applied for in terms of the Genetically 50

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(2) Kgato nngwe le nngwe go laola le go nyeletsa methalethale ya ditshedi tse di nanefaditsweng tse di anamang e tshwanetse go dirwa ka tlhokomelo le ka mokgwa o o tla bakang tshenyo e nnye ka fa go ka kgonegang mo *biodiversity* le tshenyo mo tikologong.

(3) Mekgwa e e dirisiwang go laola le go nyeletsa methalethale ya ditshedi tse di nanefaditsweng tse di anamang e tshwanetse gape go lebisiwa kwa matlhogeleng, go tlhagisa materiale le go godisa gape methalethale ya ditshedi tse di jalo tse di anamang gore go thibelwe methalethale ya ditshedi tse di jalo gore e tlhagise bana, go bopa peo, go tsosolosa kgotsa go itlhoma ka tsela efe.

(4) Tona o tshwanetse go tlhomamisa thulaganyo le tiragatso ya mananeo a thibelo, taolo nyeletso ya methalethale ya ditshedi tse di anamang.

(5) Tona a ka nna a dira lefelo la semolao le le rileng go rulaganya le go diragatsa mananeo a thibelo, taolo kgotsa nyeletso ya methalethale ya ditshedi tse di anamang.

Maano a taolo ya methalethale ya ditshedi tse di anamang a dithwe tsa naga

76. (1) Bothati ba tsamaiso jwa lefelo le le sireleditsweng jo bo baakanyetsang leano la tsamaiso la lefelo go ya ka karolo 59 ya Molao wa Mafelo a a Sireleditsweng bo tshwanetse go tsenya mo leanong la tsamaiso taolo ya methalethale ya ditshedi tse di anamang le togamaano ya phimolo.

(2) (a) Dithwe tsotlhe tsa naga mo dikarolong sa mmuso di tshwanetse go baakanya tlhokomelo ya methalethale ya ditshedi tse di anamang, taolo le leano la tshenyo ya lefatshe ka fa tlase ga taolo ya tsona, jaaka karolo ya maano a tikologo ya tsona go ya ka karolo 11 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo.

(b) Taolo ya methalethale ya ditshedi tse di anamang le maano a nyeletso a bommasepala a tshwanetse go nna karolo ya maano a tlhabololo e e tshwaraganeng ya bona.

(3) Tona a ka nna a kopa Setheo go thusa bommasepala mo go diragatseng ditiro tsa bona go ya ka karolwana (2).

(4) Taolo ya methalethale ya ditshedi e e anamang le leano la nyeletso di tshwanetse go tsenyeletsa—

(a) lenane le le tletseng le tlhaloso ya methalethale ya ditsedi dife tse di nanefaditsweng tse di tlhagelelang mo lefatsheng le le maleba;

(b) tlhaloso ya dikarolo tsa lefatshe leo tse di tletseng ka methalethale ya ditshedi tse di jalo tse di nanefaditsweng;

(c) tshekatsheko ya boleng jwa tlalo tse di jalo;

(d) pegelo ya maemo mo bokgoning ba taolo e e fetileng le dikgato tsa nyeletso;

(e) dikgato tsa ga jaana go laola le go nyeletsa methalethale ya ditshedi tse di anamang jalo; le

(f) ditshupetso tse di ka lekanyediwang tsa tswelopele le katlego, le ditshupetso tsa gore leano la taolo le tla fediswa leng.

Dipegelo tsa maemo a methalethale ya ditshedi tse di anamang

77. (1) Bothati jwa botsamaisi jwa karolo e e sireleditsweng bo tshwanetse ka dikgala tsa tlwaelo bo siamise le go romela kwa go Tona kgotsa Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng pegelo ka maemo a nngwe le nngwe ya methalethale ya ditshedi tse di nanefaditsweng tse di anamang e e tlhagelelang mo karolong eo.

(2) Pegelo ya maemo e tshwanetse go tsenya—

(a) lenane le le tletseng le tlhaloso ya methalethale ya ditshedi tse di anamang tse di nanefaditsweng e e tlhagelelang mo karolong e e sireleditsweng;

(b) tlhaloso e e tletseng ya dikarolo tsa lefelo tse di tshwanetsweng ke methalethale ya ditshedi tse di anamang tse di nanefaditsweng;

(c) tshekatsheko ya go fitlha ga tshwenyo e e jalo; le

(d) pegelo mo bokgoning jwa tlhagiso ya taolo e e fetileng le nyeletso ya dikgato.

Karolo 3

Matshosetsi a mangwe

Ditshedi tsa tlhago e e fetotsweng

78. (1) Fa Tona a na le lebaka go dumela gore go lokoleletwa ga setshedi sa tlhago e e fetotsweng mo tikologong mo tlase ga tumelelo e e kopilweng go ya ka Molao wa

Modified Organisms Act, 1997 (Act No. 15 of 1997), may pose a threat to any indigenous species or the environment, no permit for such release may be issued in terms of that Act unless an environmental assessment has been conducted in accordance with Chapter 5 of the National Environmental Management Act as if such release were a listed activity contemplated in that Chapter.

(2) The Minister must convey his or her belief referred to in subsection (1) to the authority issuing permits in terms of the Genetically Modified Organisms Act, 1997, before the application for the relevant permit is decided.

(3) For the purposes of subsection (1) "release" means trial release or general release as defined in section 1 of the Genetically Modified Organisms Act, 1997.

Part 4

General provisions

Consultation

79. (1) Before publishing a notice in terms of section 66(1), 67(1) or 70(1), or amending or repealing such a notice in terms of section 68 or 72, the Minister must follow a consultative process in accordance with sections 99 and 100.

(2) Before publishing a notice in terms of section 70(1), or amending or repealing such a notice in terms of section 72, the MEC for environmental affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

CHAPTER 6

BIOPROSPECTING, ACCESS AND BENEFIT-SHARING

Purpose and application of Chapter

80. (1) The purpose of this Chapter is—

- (a) to regulate bioprospecting involving indigenous biological resources;
- (b) to regulate the export from the Republic of indigenous biological resources for the purpose of bioprospecting or any other kind of research; and
- (c) to provide for a fair and equitable sharing by stakeholders in benefits arising from bioprospecting involving indigenous biological resources.

(2) In this Chapter—

"indigenous biological resources"—

(a) includes—

- (i) any indigenous biological resources as defined in paragraph (b) of the definition of "indigenous biological resource" in section 1, whether gathered from the wild or accessed from any other source, including any animals, plants or other organisms of an indigenous species cultivated, bred or kept in captivity or cultivated or altered in any way by means of biotechnology;
- (ii) any cultivar, variety, strain, derivative, hybrid or fertile version of any indigenous species or of any animals, plants or other organisms referred to in subparagraph (i); and
- (iii) any exotic animals, plants or other organisms, whether gathered from the wild or accessed from any other source which, through the use of biotechnology, have been altered with any genetic material or chemical

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Ditshedi tsa Tlhago e e Fetotsweng, 1997 (Molao No. 15 wa 1997), go ka nna le matshosetsi go setshedi sefe kgotsa sefe sa tlhago kgotsa mo tikologong, ga go na tumelelo epe ya tokololo e e jalo e e tshwanetseng go ntshiwa go ya ka Molao oo, fa e se fela gore tshekatsheko ya tikologo e dirilwe ka tatelo ya Kgaolo 5 ya Molao wa Tsamaiso ya Bosetšhaba ya Tikologo, o ka re tokololo e e jalo e ne e le tiragalo e e nanefaditsweng jaaka go akantswe mo Kgaolong e. 5

(2) Tona o tshwanetse go tlisa tumelo ya gagwe e e supilweng mo karolwaneng (1) go bothathi jo bo ntshang ditumelelo go ya ka Molao wa Ditshedi tsa Tlhago e e Fetotsweng, 1997, pele ga fa go ka swediwa ka kopo ya tumelelo e e maleba.

(3) Go ya ka maikaelelo a karolwana (1) "tokololo" e kaya tokololo ya tekelelo 10 kgotsa tokololo ya kakaretso jaaka e tlhalosiwa mo karolong 1 ya Molao wa Ditshedi tsa Tlhago e e Fetotsweng, 1997.

Karolo 4*Ditlamelo tsa kakaretso***Therisano**

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79. (1) Pele ga fa kitsiso e ka phasaladiwa go ya ka karolo 66(1), 67(1) kgotsa 70(1), kgotsa tlhabololo kgotsa phediso ya kitsiso e e jalo go ya ka karolo 68 kgotsa 72, Tona o tshwanetse go latela tirego ya therisano ka tatelo ya dikarolo 99 le 100.

(2) Pele ga fa kitsiso e ka phasaladiwa go ya ka karolo 70(1), kgotsa tlhabololo kgotsa phediso ya kitsiso e e jalo go ya ka karolo 72, Molekgotla-khuduthamaga wa merero ya tikologo mo porofenseng e e maleba o tshwanetse go latela tirego ya therisano ka tatelo ya dikarolo 99 le 100. 20

KGAOLO 6**PATLISISO YA BOTSHELO, PHITLHELELO LE KGAOGANO YA TSHIAMELO**

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Maikaelelo le tiragatso ya Kgaolo

80. (1) Maikaelelo a Kgaolo e ke—

- (a) go laola patlisiso ya ditshedi e e akaretsang metswedi ya baoloji ya tlholego;
- (b) go laola thomelo ntle go tswa mo Repaboliking ya metswedi ya baoloji ya tlholego ka maikaelelo a patlisiso ya ditshedi kgotsa patlisiso ya mofuta ofe kgotsa ofe; le 30
- (c) go tlamela ka kgaogano ya ditshiamelo e e siameng e e lekanang ya batsayakarolo e e tswang mo patlisisong ya ditshedi e e akaretsang metswedi ya baoloji ya tlholego.

(2) Mo Kgaolong e—

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"metswedi ya baoloji ya tlholego"—

- (a) e tsenyeletsa—
 - (i) metswedi ya baoloji ya tlholego efe kgotsa efe e e tlhalositsweng mo temaneng (b) ya tlhaloso ya "metswedi ya baoloji ya tlholego" mo karolong 1, e ka tswa e kgobokantswe go tswa kwa nageng kgotsa e fitlheletsweng go tswa mo motswedi ofe kgotsa ofe, go tsenyeletswa phologolo efe kgotsa efe, semela kgotsa ditshedi dingwe tsa methalethale tsa tlholego tse di jetsweng, tse di tsetsweng kgotsa tse di beilweng mo botshwarwa kgotsa di jetswe kgotsa di fetotswe ka mokgwa ofe kgotsa ofe ka ntlha ya *biotechnology*; 40
 - (ii) setlhagodi sefe kgotsa sefe, mofuta, letsapa, letswa, lotswakwa kgotsa mofuta o o nonneng wa ditshedi tsa methalethale tsa tlholego kgotsa tsa phologolo efe kgotsa efe, dimela kgotsa ditshedi tse dingwe tse di supilweng mo temaneng ya tlaleletso; le 45
 - (iii) phologolo efe kgotsa efe e e tshagang kwa ntle, dimela kgotsa ditshedi tse dingwe, di ka tswa di kgobokantswe go tswa kwa nageng kgotsa di fitlheletsweng go tswa mo motsweding ofe kgotsa ofe, o ka tiriso ya *biotechnology* o fetotsweng ka materiale wa tlhago kgotsa dikhemikhale tse di kopantsweng tseo di fitlhelwang mo setsheding sefe kgotsa sefe sa 50

compound found in any indigenous species or any animals, plants or other organisms referred to in subparagraph (i) or (ii); but

- (b) excludes—
- (i) genetic material of human origin;
 - (ii) any exotic animals, plants or other organisms, other than exotic animals, plants or other organisms referred to in paragraph (a)(iii); and
 - (iii) indigenous biological resources listed in terms of the International Treaty on Plant Genetic Resources for Food and Agriculture.

Permits

81. (1) No person may, without a permit issued in terms of Chapter 7— 10

- (a) engage in bioprospecting involving any indigenous biological resources; or
- (b) export from the Republic any indigenous biological resources for the purpose of bioprospecting or any other kind of research.

(2) Before any application for a permit referred to in subsection (1) may be considered by a relevant issuing authority, the applicant must at the request of the issuing authority, disclose to the issuing authority all information concerning the proposed bioprospecting and the indigenous biological resources to be used for such bioprospecting that is relevant for a proper consideration of the application. 15

Certain interests to be protected before permits are issued

82. (1) Before a permit referred to in section 81(1)(a) or (b) is issued, the issuing authority considering the application for the permit must in accordance with this section protect any interests any of the following stakeholders may have in the proposed bioprospecting project: 20

- (a) A person, including any organ of state or community, providing or giving access to the indigenous biological resources to which the application relates; and 25
- (b) an indigenous community—
 - (i) whose traditional uses of the indigenous biological resources to which the application relates have initiated or will contribute to or form part of the proposed bioprospecting; or 30
 - (ii) whose knowledge of or discoveries about the indigenous biological resources to which the application relates are to be used for the proposed bioprospecting.

(2) If a stakeholder has an interest as set out in subsection (1)(a), an issuing authority may issue a permit only if— 35

- (a) the applicant has disclosed all material information relating to the relevant bioprospecting to the stakeholder and on the basis of that disclosure has obtained the prior consent of the stakeholder for the provision of or access to such resources;
- (b) the applicant and the stakeholder have entered into— 40
 - (i) a material transfer agreement that regulates the provision of or access to such resources; and
 - (ii) a benefit-sharing agreement that provides for sharing by the stakeholder in any future benefits that may be derived from the relevant bioprospecting; and 45
- (c) the Minister has in terms of sections 83(2) and 84(2) approved such benefit-sharing and material transfer agreements.

(3) If a stakeholder has an interest as set out in subsection (1)(b), an issuing authority may issue a permit only if—

- (a) the applicant has disclosed all material information relating to the relevant bioprospecting to the stakeholder and on the basis of that disclosure has obtained the prior consent of the stakeholder to use any of the stakeholder's 50

tlholego kgotsa diphologolo dife kgotsa dife, dimela kgotsa ditshedi tse dingwe tseo di supiwang mo temaneng ya tlaleletso (i) kgotsa (ii); fela

(b) e tlogela—

- (i) materiale wa tlhago wa tshimologo ya botho;
- (ii) diphologolo dife kgotsa dife tse di tlhagang kwa ntle, dimela kgotsa 5
ditshedi tse dingwe tse di supiwang mo temaneng (a) (iii); le
- (iii) metswedi ya baoloji ya tlholego e e nanefaditsweng go ya ka Kagisano ya Boditšhabatšhaba mo Metsweding ya Semela sa Tlhago sa Dijo le Temothuo; le

Ditumelelo

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81. (1) Ga go motho ope kwa ntle ga tumelelo e e ntshitsweng go ya ka Kgaolo 7 yo o tla—

- (a) tsenang mo patlisisong ya botshelo e e akaretsang metswedi efe kgotsa efe ya baoloji ya tlholego; kgotsa
- (b) thomelo ntle go tswa mo Repaboliking ya metswedi efe kgotsa efe ya baoloji 15
ya tlholego ka maikaelelo a patlisiso ya botshelo kgotsa patlisiso ya mofuta ofe kgotsa ofe.

(2) Pele ga kopo efe kgotsa efe ya tumelelo e e supiwang mo karolwaneng (1) e ka sekasekwa ke bothati jo bo maleba jo bo ntshang ditumelelo, mokopi o tshwanetse gore ka nako ya kopo ko bothating jo bo ntshang ditumelelo, a bolelele bothati jo bo ntshang 20
ditumelelo tshedimotsetso yotlhe e e malebana le patlisiso ya botshelo e e tshitshintsweng le metswedi ya baoloji ya tlholego e e tla dirisediwang patlisiso e e jalo ya botshelo e e maleba go dira tshekatsheko ya nnete ya kopo.

Dikgatlhego tse dingwe tse di tshwanetseng go sirelediwa pele ditumelelo di ka ntshiwa

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82. (1) Pele ga fa tumelelo e e supiwang mo karolong 81(1)(a) kgotsa (b) e ka ntshiwa, bothati jo bo ntshang ditumelelo jo bo sekasekang kopo ya tumelelo, bo tshwanetse go ya ka tatelo ya karolo e, bo sireletse dikgatlhego dife kgotsa dife tsa batsayakarolo bafe kgotsa bafe ba ba latelang ba ka nnang le tsona mo porojekeng ya patlisiso ya botshelo e e tshitshintsweng:

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- (a) Motho, go tsenyeletsa sethwe sefe kgotsa sefe sa naga kgotsa setšhaba, se se tlamelang kgotsa se neela phitlhelelo ya metswedi ya baoloji ya tlholego eo kopo e tsalanang le yona; le

(b) setšhaba sa tlholego—

- (i) seo ditiro tsa sona tsa setso tsa metswedi ya baoloji ya tlholego eo kopo 35
e tsalanang nayo, se simolotse kgotsa se tla abela kgotsa se tla simolola karolo ya patlisiso mo botshelong e e tshitshintsweng; kgotsa
- (ii) seo kitso ya sona kgotsa dithibololo ka ga metswedi ya baoloji ya tlholego eo e tsalanang le kopo di tshwanetseng go dirisiwa mo patlisisong ya botshelo e e tshitshintsweng. 40

(2) Fa motsayakarolo a na le kgatlhego jaaka e tlhalositswe mo karolwaneng (1) (a), bothati jo bo ntshang ditumelelo bo ka ntsha tumelelo ga fela—

- (a) mokopi a itsisitse tshedimotsetso yotlhe ya materiale e e tsalanang le patlisiso ya botshelo e e maleba le motsayakarolo le mo theong ya gore kitsiso eo e bone pele tumelelo ya motsayakarolo go tlamelwa kgotsa go fitlhelela 45
metswedi e e jalo;

(b) mokopi le motsayakarolo ba tsene mo—

- (i) tumalanong ya go sutisa materiale o o laolang tlamelo ya kgotsa phitlhelelo ya metswedi e e jalo; le
- (ii) tumalanong ya kgaogano ya tshiamelo e e tlamelang kgaogano ya 50
motsayakarolo ka ditshiamelo dife kgotsa dife tsa isago tse di ka bonwang go tswa mo patlisisong ya botshelo e e maleba; le

(c) Tona o rebotse kgaogano ya tshiamelo e e jalo le ditumalano tsa tshutiso ya materiale go ya ka dikarolo 83(2) le 84(2).

(3) Fa motsayakarolo a na le kgatlhego jaaka e tlhalositswe mo karolwaneng (1)(b), 55
bothati jo bo ntshang ditumelelo bo ka ntsha tumelelo fela fa—

- (a) mokopi a itsisitse tshedimotsetso yotlhe ya materiale e e tsalanang le patlisiso ya botshelo e e maleba le motsayakarolo le mo theong ya gore kitsiso eo e bone pele tumelelo ya motsayakarolo, go dirisa kitso efe kgotsa efe ya

- knowledge of or discoveries about the indigenous biological resources for the proposed bioprospecting;
- (b) the applicant and the stakeholder have entered into a benefit-sharing agreement that provides for sharing by the stakeholder in any future benefits that may be derived from the relevant bioprospecting; and 5
- (c) the Minister has in terms of section 83(2) approved such benefit-sharing agreement.
- (4) An issuing authority—
- (a) may engage the applicant and stakeholder on the terms and conditions of a benefit-sharing or material transfer agreement; 10
- (b) may facilitate negotiations between the applicant and stakeholder and ensure that those negotiations are conducted on an equal footing;
- (c) on request by the Minister, must ensure that any benefit-sharing arrangement agreed upon between the applicant and stakeholder is fair and equitable;
- (d) may make recommendations to the Minister; and 15
- (e) must perform any other functions that may be prescribed.

Benefit-sharing agreements

83. (1) A benefit-sharing agreement must—
- (a) be in a prescribed format; 20
- (b) specify—
- (i) the type of indigenous biological resources to which the relevant bioprospecting relates;
- (ii) the area or source from which the indigenous biological resources are to be collected or obtained;
- (iii) the quantity of indigenous biological resources that is to be collected or obtained; 25
- (iv) any traditional uses of the indigenous biological resources by an indigenous community; and
- (v) the present potential uses of the indigenous biological resources;
- (c) name the parties to the benefit-sharing agreement; 30
- (d) set out the manner in which and the extent to which the indigenous biological resources are to be utilised or exploited for purposes of such bioprospecting;
- (e) set out the manner in which and the extent to which the stakeholder will share in any benefits that may arise from such bioprospecting;
- (f) provide for a regular review of the agreement by the parties as the bioprospecting progresses; and 35
- (g) comply with any other matters that may be prescribed.
- (2) A benefit-sharing agreement or any amendment to such an agreement—
- (a) must be submitted to the Minister for approval; and
- (b) does not take effect unless approved by the Minister. 40

Material transfer agreements

84. (1) A material transfer agreement must—
- (a) be in a prescribed format;
- (b) specify—
- (i) particulars of the provider, and the exporter or recipient, of the indigenous biological resources; 45
- (ii) the type of indigenous biological resources to be provided or to be given access to;
- (iii) the area or source from which the indigenous biological resources are to be collected, obtained or provided; 50
- (iv) the quantity of indigenous biological resources that is to be provided, collected, obtained or exported;
- (v) the purpose for which such indigenous biological resources are to be exported;
- (vi) the present potential uses of the indigenous biological resources; and 55

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- motsayakarolo kgotsa dithibololo ka ga metswedi ya baoloji ya tlhago ya patlisiso ya botshelo e e tshitshintsweng;
- (b) mokopi le motsayakarolo ba tsene mo tumalanong ya kgaogano ya tshiamelo e e tlamelang kgaogano ya motsayakarolo ka ditshiamelo dife kgotsa dife tsa isago tse di ka bonwang go tswa mo patlisisong ya botshelo e e maleba; le 5
- (c) Tona o rebotse tumalano ya kgaogano ya tshiamelo e e jalo go ya ka karolo 83(2).
- (4) Bothati jo bo ntshang ditumelelo—
- (a) bo ka dirisa mokopi le motsayakarolo go ya ka maemo a tumalano ya kgaogano ya tshiamelo kgotsa tshutiso ya materiale; 10
- (b) bo ka bebofatsa dipuisano magareng ga mokopi le motsayakarolo le go netefatsa gore dipuisano tseo di diriwa mo motheong o o lekanang;
- (c) bo tshwanetse go netefatsa gore thulaganyo ya kgaogano ya tshiamelo e go dumalanweng ka yona magareng ga mokopi le motsayakarolo e siame e bile e a lekalekana, go ya ka kopo ya Tona; 15
- (d) bo ka dira dikatlanegiso go Tona; le
- (e) bo tshwanetse go dira tiro e ngwe le e ngwe e e ka kaelwang.

Ditumalano tsa kgaogano ya tshiamelo

- 83.** (1) Tumalano ya kgaogano ya tshiamelo e tshwanetse—
- (a) go nna mo popong e e kaetsweng; 20
- (b) go totobatsa—
- (i) mofuta wa metswedi ya baoloji ya tlholego e e tsalanang le patlisiso ya botshelo e e maleba;
- (ii) lefelo kgotsa metswedi go tswa mo metsweding ya baoloji ya tlholego e tshwanetse go kgobokangwa kgotsa go bonwa teng; 25
- (iii) bokalo ba metswedi ya baoloji ya tlholego bo bo tshwanetseng go kgobokangwa kgotsa go bonwa;
- (iv) tiriso nngwe le nngwe ya setso ya metswedi ya baoloji ya tlholego ka setšhaba sa tlholego; le
- (v) ditiro tse di kgonagalang tsa jaanong tsa metswedi ya baoloji ya tlholego; 30
- (c) go neela leina la makoko a a mo tumalanong ya kgaogano ya tshiamelo;
- (d) go bontsha mokgwa o ka ona le kanamo e ka yona metswedi ya baoloji ya tlholego e tshwanetseng go dirisiwa kgotsa go ja ntsoma ka teng ka maikaelelo a patlisiso ya botshelo e e jalo;
- (e) go bontsha mokgwa o ka ona le kanamo e ka yona motsayakarolo a ka arokanang ditshiamelo dife kgotsa dife tse di ka tlhagelelang go tswa mo patlisisong ya botshelo; 35
- (f) go tlamela ka thadiso ya ka gale ya tumalano ya makoko fa patlisiso ya botshelo e ntse e tswela pele; le
- (g) go dumalana le tiragalo nngwe le nngwe e e ka kaelwang . 40
- (2) tumalano ya kgaogano ya tshiamelo kgotsa tlhabololo efe kgotsa efe e e tsamaisanang le tumalano e e jalo—
- (a) e tshwanetse go gorosiwa kwa go Tona go bona thebolo, le
- (b) ga e ne e diragadiwa go fitlhela e bona thebolo ya Tona.

Ditumalano tsa tshutiso ya materiale

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- 84.** (1) Tumalano ya tshutiso ya materiale e tshwanetse go—
- (a) nna mo popong e e kaetsweng;
- (b) totobatsa—
- (i) dintlha tsa motlamedi, le moromela ntle kgotsa moamogedi, wa metswedi ya baoloji ya tlholego; 50
- (ii) mofuta wa metswedi ya baoloji ya tlholego e e tshwanetseng go tlamelwa kgotsa go neelwa phitlhelelo go;
- (iii) lefelo kgotsa metswedi go tswa mo metsweding ya baoloji ya tlholego e tshwanetse go kgobokangwa, go bonwa kgotsa go tlamelwa;
- (iv) bokalo ba metswedi ya baoloji ya tlholego jo bo tshwanetseng go tlamelwa, go kgobokangwa, go bonwa kgotsa go romelwa ntle; 55
- (v) maikaelelo a go romela kwa ntle metswedi ya baoloji ya tlholego e e jalo;
- (vi) ditiro tse di kgonagalang tsa jaanong tsa metswedi ya baoloji ya tlholego; le

- (vii) conditions under which the recipient may provide any such indigenous biological resources, or their progeny, to a third party.
- (2) A material transfer agreement or any amendment to such an agreement—
 - (a) must be submitted to the Minister for approval; and
 - (b) does not take effect unless approved by the Minister.

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Establishment of Bioprospecting Trust Fund

85. (1) A Bioprospecting Trust Fund is established into which all moneys arising from benefit-sharing agreements and material transfer agreements, and due to stakeholders, must be paid, and from which all payments to, or for the benefit of, stakeholders must be made.

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(2) All money paid into the bioprospecting trust fund is trust money within the meaning of section 13(1)(f)(ii) of the Public Finance Management Act.

(3) The Director-General—

- (a) must manage the Fund in the prescribed manner; and
- (b) is accountable for the money in the Fund in terms of the Public Finance Management Act.

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Exemptions

86. (1) The Minister may by notice in the *Gazette*—

- (a) declare that this Chapter does not apply to indigenous biological resources specified in the notice or to an activity relating to such indigenous biological resources; and
- (b) amend or withdraw a notice referred to in paragraph (a).

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(2) Before publishing a notice in terms of subsection (1) the Minister must follow a consultative process in accordance with sections 99 and 100.

CHAPTER 7

25

PERMITS

Purpose of Chapter

87. The purpose of this Chapter is to provide for the regulation of the issuing of permits authorising—

- (a) restricted activities involving specimens of—
 - (i) listed threatened or protected species in terms of section 57(1);
 - (ii) alien species in terms of section 65(1); or
 - (iii) listed invasive species in terms of section 71(1);
- (b) activities regulated in terms of a notice published in terms of section 57(2);
- (c) bioprospecting involving indigenous biological resources in terms of section 81(1); or
- (d) the export of indigenous biological resources for bioprospecting or any other type of research in terms of section 81(1).

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Part 1

Permit system

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Application for permits

88. (1) A person may apply for a permit by lodging an application on the prescribed form to the authority.

(2) An issuing authority may—

- (a) request the applicant to furnish any additional information before it considers the application;

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- (vii) maemo a ka mo tlase ga ona moamogedi a ka tlamelang metswedi efe kgotsa efe ya baoloji ya tlholego ka teng, kgotsa losika lwa ona, go ya kwa sesaborarong.
- (2) Tumalano ya tshutiso ya materiale kgotsa tlhabololo ya tumalano e e jalo—
- (a) e tshwanetse go gorosiwa kwa go Tona go bona thebolo; le 5
- (b) ga e ne e diragadiwa go fitlhela e bona thebolo ya Tona.

Tlhommo ya Letlole la Terasete la Patlisiso ya botshelo

85. (1) Letlole la Terasete la patlisiso ya botshelo le tlhomilwe, mo go lona madi otlhe a a tswang mo ditumalanong tsa kgaogano ya tshiamelo le ditumalano tsa tshutiso ya materiale, le go ya ka batsayakarolo, a tshwanetseng go duelwa, mme go tswa mo dituelong tsotlhe, kgotsa tshiamelo, batsayakarolo ba tshwanetse go dirwa. 10

(2) Madi otlhe a a duetsweng mo letloleng la terasete la patlisiso ya botshelo ke madi a terasete go ya ka tlhaloso ya karolo 13(1)(f) (ii) ya Molao wa Botsamaisi ba Ditšhelete tsa Setšhaba.

- (3) Mokaedi Kakaretso— 15
- (a) o tshwanetse go tsamaisa Letlole ka tsela e e kaetsweng; le
- (b) o na le maikarabelo a madi a a mo Letloleng go ya ka Molao wa Ditšhelete tsa Setšhaba.

Dithebolo

86. (1) Tona ka kitsiso mo Lekwalodikgang la Puso a ka nna a— 20

- (a) itsise gore Kgaolo e ga e dire mo metsweding ya baoloji ya tlholego e e totobaditsweng mo kitsisong kgotsa mo tiragalong e e tsalanang le metswedi ya baolji ya tlholego e e jalol; le

- (b) tlhabolola kgotsa a busetsa morago kitsiso e e supiwang mo temaneng (a).

(2) Pele ga kitsiso e ka phasaladiwa go ya ka karolwana (1) Tona o tshwanetse go latela tirego ya therisano ka tatelo ya dikarolo 99 le 100. 25

KGAOLO 7**DITUMELELO****Maikaelelo a Kgaolo**

87. Maikaelelo a Kgaolo e ke go tlamelela le go laola morero wa go rebola ditumelelo— 30

- (a) ditiro tse di lekanyeditsweng tse di amang dikao mo bontsing tsa—
- (i) methalethale ya ditshedi tse di nanefaditsweng go ya ka karolo 56(1);
- (ii) methalethale ya ditshedi tsa kwa ntle go ya ka karolo 64(1); kgotsa
- (iii) methalethale ya ditshedi tse di nanefaditsweng tse di anamang go ya ka karolo 70(1). 35
- (b) ditiro tse di laolwang go ya ka kitsiso e e phasaladitsweng go ya ka karolo 56(2); kgotsa
- (c) patlisiso ya botshelo e e amang metswedi ya baoloji ya tlholego go batlisisa kgotsa patlisiso ya ditshedi go ya ka karolo 79(1); 40
- (d) go romelwa ntle ga metswedi ya baoloji ya tlholego ya patlisiso ya botshelo kgotsa mofuta ofe kgotsa ofe wa patlisiso go ya ka karolo 81(1).

Karolo 1**Tsela ya tumelelo****Kopo ya ditumelelo**

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88. (1) Motho a ka nna a dira kopo ya tumelelo ka go tsenya kopo mo foromong e e tlhalositsweng kwa bothating jo bo tlhomamisitsweng jaaka bothati jo bo rebolang ditumelelo tsa mofuta o o fa isong.

(2) Bothati jo bo rebolang bo ka—

- (a) kopa mokopi go neelana ka tshedimisetso ya tlaleletso pele bo sekaseka kopo; 50

- (b) require the applicant to comply with such reasonable conditions as it may impose before it grants the application;
 - (c) issue a permit unconditionally or issue it subject to conditions; or
 - (d) refuse a permit.
- (3) A decision of the issuing authority to issue or refuse a permit or to issue it subject to conditions, must be consistent with— 5
- (a) the applicable provisions of this Act;
 - (b) the national environmental management principles;
 - (c) the national biodiversity framework;
 - (d) any other relevant plans adopted or approved in terms of Chapter 3; 10
 - (e) any applicable international agreements binding on the Republic;
 - (f) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
 - (g) any requirements that may be prescribed.
- (4) If compulsory conditions are prescribed for any kind of permit, an issuing authority may not issue a permit of that kind other than subject to those conditions. 15
- (5) If an application is rejected, the issuing authority must give reasons for the decision in writing to the applicant.

Risk assessments and expert evidence

89. Before issuing a permit, the issuing authority may in writing require the applicant to furnish it, at the applicant's expense, with such independent risk assessment or expert evidence as the issuing authority may determine. 20

Permits

90. (1) A permit—
- (a) must specify— 25
 - (i) the purpose for which it is issued;
 - (ii) the period for which it will remain valid; and
 - (iii) any other matters that may be prescribed;
 - (b) may be issued on conditions specified in the permit; and
 - (c) must be in the form and contain such other particulars as may be prescribed.
- (2) A permit issued in terms of section 91 does not absolve the holder or any other person from complying with the provisions of any other applicable law. 30

Additional requirements relating to alien and invasive species

91. An issuing authority may issue a permit for a restricted activity involving a specimen of an alien species or of a listed invasive species only if—
- (a) adequate procedures have been followed by the applicant to assess the risks and potential impacts associated with the restricted activity; 35
 - (b) the relevant species has been found to have negligible or no invasive potential;
 - (c) the benefits of allowing the activity are significantly greater than the costs associated with preventing or remedying any resultant damage to the environment or biodiversity; and 40
 - (d) it is satisfied that adequate measures have been taken by the applicant to prevent the escape and spread of the species.

Integrated permits

92. (1) If the carrying out of an activity mentioned in section 90 is also regulated in terms of other law, the authority empowered under that other law to authorise that 45

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- (b) tlhoka mokopi go kgotsofatsa maemo a a utlwalang a a jalo jaaka go ka bewa pele go rebolwa kopo;
- (c) rebola tumelelo ntle le mabaka kgotsa go e rebola go ya ka mabaka; kgotsa
- (d) gana tumelelo.
- (3) Tshwetso ya bothati jo bo rebolang go rebola kgotsa go gana ka tumelelo kgotsa go e rebola go ya ka mabaka, e tshwanetse go tihomama le— 5
- (a) ditlamelo tse di dirang tsa Molao o;
- (b) ditheo tsa tsamaiso ya bosetšhaba ya tikologo;
- (c) letlhomiso la bosetšhaba la *biodiversity*;
- (d) maano a mangwe afe kgotsa afe a a tshotsweng kgotsa a rebotswe go ya ka Kgaolo 3; 10
- (e) ditumalano tsa boditšhabatšhaba dife kgotsa dife tse di dirang tse di tlamang mo Repaboliki;
- (f) Molao wa Tsholetso wa Botsamaisi ba Tshiamo, 2000 (Molao No. 3 wa 2000); le 15
- (g) ditlhokego dife kgotsa dife tse di ka tlhalosiwang.
- (4) Fa maemo a a gapeletsang a tlhaloseditswe mofuta ofe kgotsa ofe wa tumelelo, bothati jo bo rebolang bo ntse bo ka se rebole tumelelo ya mofuta oo go na le se se tsamaisanang le maemo ao.
- (5) Fa kopo e gannwe, bothati jo bo rebolang bo tshwanetse mo nakong e e utlwalang bo neele mabaka a tshwetso kwa mokoping ka go mo kwalela. 20

Ditshhekatsheko tsa kotsi le bopaki jwa moitseanape

89. Pele go ntshiwa tumelelo, bothati jo bo rebolang bo ntse ka go kwala jwa tlhoka mokopi go tlamela, ka ditshenyegelo tsa mokopi, ka tshekatsheko ya kotsi e e ikemetseng kgotsa bopaki jwa moitseanape jaaka bothati jo bo rebolang bo ka tlhomamisa. 25

Ditumelelo**90. (1) Tumelelo—**

- (a) e tshwanetse go tlhalosa—
- (i) lebaka le e le ntsheditsweng; 30
- (ii) nako e e tla nnang e dira; le
- (iii) merero e mengwe efe kgotsa efe e e ka tlhalosiwang;
- (b) e ka nna ya rebolwa ka maemo a a tlholositweng mo tumelelong; le
- (c) e tshwanetse go nna mo foromong e mme le dintlha tse dingwe tse di jalo jaaka go ka tlhalosiwa. 35
- (2) Tumelelo e e rebotsweng go ya ka karolo 88 ga e tlamolole motshodi kgotsa motho ofe yo mongwe mo go tsamaelaneng le ditlamelo tsa molao o o dirang ofe kgotsa ofe o mongwe.

Ditlhokego tsa tlaleletso tse di amanang le methalethale ya ditshedi tsa kwa ntle le tse di anamang

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91. Bothati jo bo rebolang bo ka rebola tumelelo ya tiro e e lekanyeditweng e e amang sekao mo bontsing sa methalethale ya ditshedi tse di nanefaditsweng tse di amanang fela fa—

- (a) ditsamaiso tse di lekanang di latetswe ke mokopi go sekaseka dikotsi le dikutlwalo tse di maatla tse di amanngwang le tiro e e lekanyeditweng; 45
- (b) methalethale e e maleba e bonwe go nna le botlhaswa kgotsa bokgoni bo bo anamang;
- (c) ditshiamelo tsa go dumelelwa tiro di botlhokwa bogolo go na le ditshenyegelo tse di amanngwang le go thibela kgotsa go phekola tshenyo efe kgotsa efe e e latelang kwa tikologong kgotsa mefutafuteng ya ditshedi; le 50
- (d) go kgotsofatsa gore dikgato tse di lekaneng di tserwe ke mokopi go thibela phalolo le kgasano ya methalethale ya ditshedi.

Ditumelelo tse di kopantsweng

92. (1) Fa e le gore go dirwa ga tiro go go boletsweng mo go karolo 87 go laolwa gape go ya ka molao o mongwe, bothati jo bo maatlafaditsweng ka fa tlase ga molao o 55

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activity and the issuing authority empowered under this Act to issue permits in respect of that activity may—

- (a) exercise their respective powers jointly; and
- (b) issue a single integrated permit instead of a separate permit and authorisation.

(2) An authority empowered under that other law may issue an integrated permit for the activity in question if that authority is designated in terms of this Act also as an issuing authority for permits in respect of that activity. 5

(3) An integrated permit may be issued only if—

- (a) the relevant provisions of this Act and that other law have been complied with; and 10
- (b) the permit specifies the—
 - (i) provisions in terms of which it has been issued; and
 - (ii) authority or authorities that have issued it.

Cancellation of permits

93. An issuing authority which issued a permit may cancel the permit if— 15

- (a) the permit was issued as a result of misleading or false representations by the applicant or a person acting on behalf of the applicant; or
- (b) the applicant or permit holder has contravened or failed to comply with—
 - (i) any condition of the permit;
 - (ii) any provision of this Act or other law governing the permitted activity; or 20
 - (iii) any foreign law governing the permitted activity.

Part 2***Appeals*****Appeals to be lodged with Minister**

94. (1) An applicant who feels aggrieved by the decision of an issuing authority in terms of section 88(2)(c) or (d), or a permit holder whose permit has been cancelled in terms of section 93, may lodge with the Minister an appeal against the decision within 30 days after having been informed of the decision. 25

(2) The Minister must either—

- (a) consider and decide the appeal; 30
- (b) redirect the appeal to the MEC for Environmental Affairs in the relevant province to consider and decide the appeal; or
- (c) designate a panel of persons to consider and decide the appeal.

(3) An appeal does not suspend the decision against which the appeal is lodged unless the Minister, MEC for Environmental Affairs or appeal panel considering the appeal directs otherwise. 35

Appeal panels

95. (1) If the Minister decides that the appeal must be considered and decided by an appeal panel, the Minister must designate—

- (a) a number of persons with appropriate knowledge as members of the panel; 40
- and
- (b) one of the panel members as the presiding member.

(2) The presiding member of the appeal panel decides when and where the panel meets.

(3) An appeal panel must— 45

- (a) consider and decide the appeal in accordance with a prescribed procedure; and
- (b) keep a record of its proceedings and decisions.

Decisions

96. (1) The Minister, MEC for Environmental Affairs or appeal panel considering an appeal may— 50

mongwe go letlelela tiro eo le bothati jo bo rebolang bo maatlafaditswe ka fa tlase ga Molao go rebola ditumelelo malebana le tiro eo bo ka—

- (a) diragatsa maatla a bona a a kopaneng; le
 - (b) go ntsha tumelelo e le nngwe e e kopantsweng mo boemong jwa tumelelo e e athologantsweng le tetelelo. 5
- (2) Bothati jo bo maatlafaditsweng ka fa tlase ga molao o mongwe bo ka rebola tumelelo e e kopantsweng ya tiro e e fa isong fa bothati joo bo tlhomamisitswe go ya ka Molao o gape jaaka bothati jo bo rebolang jwa ditumelelo malebana le tiro eo.
- (3) Tumelelo e e kopantsweng e ka nna ya ntshiwa fela fa—
- (a) dumanwa le ditlamelo tse di maleba tsa Molao o le tsa molao o mongwe; le 10
 - (b) tumelelo e tlhalosa—
 - (i) ditlamelo tsa mongwe le mongwe go ya ka se o se ntsheditsweng; le
 - (ii) bothati kgotsa botlhe ba ba e rebotseng.

Phimolo ya ditumelelo

93. Bothati jo bo rebolang jo bo ntshitseng tumelelo bo ka nna ba phimola tumelelo 15 fa—

- (a) tumelelo e ne e rebotswe ka ntlha ya dikemedi tse di latlang kgotsa tse di fosagetseng ka mokopi kgotsa motho yo o dirang mo boemong jwa mokopi; kgotsa
- (b) mokopi kgotsa motshola tumelelo a tlodile kgotsa a reteletswe ke go tsamaisa 20 na le—
 - (i) maemo afe kgotsa afe a tumelelo;
 - (ii) tlamelole efe kgotsa efe ya Molao o kgotsa molao o mongwe o o laolang tiro e e dumeletsweng; kgotsa
 - (iii) molao ofe wa kwa ntle o o laolang tiro e e dumeletsweng. 25

Karolo 2

Boikuelo

Boikuelo jo bo tla tsenngwang go Tona

94. (1) Mokopi yo o ikutlwang a utlwile bothoko ka tshwetso ya bothati jo bo rebolang go ya ka karolo 85(2)(c) kgotsa (d), kgotsa motshola tumelelo yo tumelelo ya gagwe e phimotsweng go ya ka karolo 90, a ka tsenya boikuelo go Tona kgatlanong le tshwetso mo malatsing a le 30 morago ga go itsesiwe ka tshwetso. 30

(2) Tona o tshwanetse gongwe—

- (a) a sekaseke le go swetsa ka boikuelo;
- (b) a lebise boikuelo kwa go Molekgotla-khuduthamaga ya merero wa tikologo 35 mo porofenseng e e maleba go sekaseka le go swetsa boikuelo; kgotsa
- (c) go tlhomamisa phanele ya batho go sekaseka le go swetsa boikuelo.

(3) Boikuelo ga bo emise tshwetso kgatlanong le boikuelo jo bo tsentsweng kwa ntle ga fa Tona, Molekgotla-khuduthamaga kgotsa phanele ya go ikuela e e sekasekang boikuelo e lebiswa ka tsela e nngwe. 40

Dipanele tsa boikuelo

95. (1) Fa Tona a swetsa gore boikuelo bo tshwanetse go sekasekiwa le go swediwa ke phanele ya boikuelo, Tona o tshwanetse go tlhomamisa—

- (a) palo ya batho ba kitso e e maleba jaaka maloko a phanele; le
- (b) leloko le lengwe la phanele jaaka motshwaramarapo. 45

(2) Motshwaramarapo phanele ya boikuelo o swetsa gore phanele e tla kopana leng le gore kae.

(3) Phanele ya boikuelo e tshwanetse—

- (a) go sekaseka le go swetsa boikuelo go ya ka tsamaiso e e tlhalositsweng; le
- (b) go tshola rekoto ya ditsweletso tsa yona le ditshwetso. 50

Ditshwetso

96. (1) Tona, Molekgotla-Khuduthamaga wa Merero ya Tikologo kgotsa phanele ya boikuelo e e sekasekang boikuelo ba ka—

- (a) either uphold or refuse the appeal; and
- (b) when upholding or refusing the appeal, make such other orders as may be appropriate.
- (2) If the appeal is upheld against—
 - (a) a refusal to issue a permit, the Minister, MEC for Environmental Affairs or appeal panel may issue the permit unconditionally or subject to conditions; 5
 - (b) a condition subject to which the permit was issued, the Minister, MEC for Environmental Affairs or appeal panel may withdraw or amend the condition; or
 - (c) the cancellation of a permit, the Minister, MEC for Environmental Affairs or appeal panel may restore the permit. 10

CHAPTER 8

ADMINISTRATION OF ACT

Part 1

Regulations

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Regulations by Minister

97. (1) The Minister may make regulations relating to—
- (a) the monitoring of compliance with and enforcement of norms and standards referred to in section 9;
 - (b) (i) the designation of organs of state which may be issuing authorities for permits referred to in section 57(1) or (2); 20
 - (ii) the facilitation of the implementation and enforcement of section 57(1) or any notice published in terms of section 57(2);
 - (iii) the carrying out of a restricted activity involving a specimen of a listed threatened or protected species; 25
 - (iv) the facilitation of the implementation and enforcement of an international agreement regulating international trade in specimens of listed threatened or protected species which is binding on the Republic;
 - (v) the minimising of the threat to the survival in the wild of a listed threatened or protected species; 30
 - (vi) the minimising of the threat to the ecological integrity of a listed ecosystem;
 - (vii) the composition and operating procedure of the scientific authority; or
 - (viii) the ecologically sustainable utilization of biodiversity;
 - (c) (i) the designation of organs of state which may be issuing authorities for permits referred to in section 67(1) or 71(1); 35
 - (ii) the designation of organs of state which may be competent authorities for implementing and enforcing the provisions of this Chapter;
 - (iii) the facilitation of the implementation and enforcement of section 65, 67 or 71; 40
 - (iv) the prescription of compulsory conditions for any permit issued in terms of section 65(1) or 71(1);
 - (v) the assessment of risks and potential impacts on biodiversity of restricted activities involving specimens of alien species or of listed invasive species; and 45
 - (vi) the control and eradication of listed invasive species;
 - (d) biosafety and the environment;
 - (e) (i) the designation of organs of state that may be issuing authorities for permits referred to in section 81;
 - (ii) the form and contents of, and the requirements and criteria for, benefit-sharing agreements and material transfer agreements; 50
 - (iii) moneys payable in connection with benefit-sharing agreements and material transfer agreements; and

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- (a) tshola kgotsa ba gana boikuelo; le
- (b) fa ba tshola kgotsa ba gana boikuelo, ba dira ditaolelo tse dingwe tse di jalo jaaka go ka nna maleba.
- (2) Fa boikuelo bo tshotswe kgatthanong—
 - (a) kgano go rebola tumelelo, Tona, Molekgotla-Khuduthamaga wa Merero ya Tikologo kgotsa phanele ya boikuelo ba ka rebola tumelelo kwa ntle ga mabaka kgotsa go ya ka mabaka; 5
 - (b) lebaka go ya ka fa tumelelo e neng e rebotswe ka teng, Tona, Molekgotla-Khuduthamaga wa Merero ya Tikologo kgotsa phanele ya boikuelo ba ka nna ba gogela morago kgotsa ba tlhabolola lebaka; kgotsa 10
 - (c) go phimola tumelelo, Tona, Molekgotla-Khuduthamaga wa Merero ya Tikologo kgotsa phanele ya boikuelo ba ka busetsa tumelelo.

KGAOLO 8

TSAMAIISO YA MOLAO

Karolo 1

15

*Melawana***Melawana ka Tona**

97. (1) Tona a ka dira melawana e e amanang le—
- (a) go lebelela tumalano le, le tiragatso ya ditlwaelo le maemo ao a supiwang mo karolong 9; 20
 - (b) (i) inakemo ya dithwe tsa naga tseo di ka bong di neela dithata tsa ditumelelo tse di supiwang mo karolong 56(1) kgotsa (2);
 - (ii) bebofatso ya tiragatso le kgatelelo ya karolo 56(1) kgotsa kitsiso ngwe le ngwe e e phasaladitsweng go ya ka karolo 56(2);
 - (iii) tswelletso ya tiragatso e e thibetsweng e e tsenyeletsang ditotwana tse di nanefaditsweng tsa ditshedi tsa mefutafuta tse di tshosediwang kgotsa tse di sireleditsweng; 25
 - (iv) bebofatso ya tiragatso le kgatelelo ya tumalano ya boditshabatshaba e e tsamaisang kgwebo ya boditshabatshaba ya ditotwana tse di nanefaditsweng tsa ditshedi tsa mefutafuta tse di tshosediwang kgotsa tse di sireleditsweng e e tlamang Repaboliki; 30
 - (v) go ngotliwa ga matshosetsi mo phologong mo nageng ya ekhosesetimo e e nanefaditsweng;
 - (vi) go ngotliwa ga matshosetsi mo tshiamong ya ikholoji ya ekhosesetimo e e nanefaditsweng; 35
 - (vii) tlhamo le tsamaiso ya tiriso ya thata ya saense; kgotsa
 - (viii) tiragatso ya *biodiversity* ka tsela e e tswelelang ya ikholoji;
 - (c) (i) inakemo ya dithwe tsa naga tseo di kabong di neela dithata tsa ditumelelo tse di supiwang mo karolong 66(1) kgotsa 70(1);
 - (ii) inakemo ya dithwe tsa naga tseo di ka bong di le botsamaisi jo bo kgonang go dirisa le go gatelela ditlamelo tsa Kgaolo e; 40
 - (iii) bebofatso ya tiragatso le kgatelelo ya karolo 64, 66 kgotsa 70;
 - (iv) kaelo ya maemo a pateletso a tumelelo efe kgotsa efe e e ntshitsweng go ya ka karolo 64(1) kgotsa 70(1);
 - (v) tlhatlhobo ya maemo a a kotsi le kgonego ya dithulano tsa *biodiversity* ya ditiragatso tse di thibetsweng tse di tsenyeletsang ditotwana tsa ditshedi tsa mefutafuta tsa kwa ntle kgotsa ditshedi tsa mefutafuta tse di anamang tse di nanefaditsweng; le 45
 - (vi) taolo le nyeletso ya ditshedi tsa mefutafuta tse di anamang tse di nanefaditsweng; 50
 - (d) polokego ya ditshedi le tikologo;
 - (e) (i) inakemo ya dithwe tsa naga tseo di ka bong di neela dithata tsa ditumelelo tse di supiwang mo karolong 81;
 - (ii) kemo le diteng tsa, le ditlhokego le ditsela tsa, ditumalano tsa kgaogano ya ditshiamelo le ditumalano tsa tshutiso ya materiale; 55
 - (iii) ditshelete tse di duelwang malebana le ditumalano tsa kgaogano ya ditshiamelo le ditumalano tsa tshutiso ya materiale; le

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- (iv) the administration of the Bioprospecting Trust Fund;
 - (f) (i) the conditions subject to which issuing authorities may issue permits in terms of this Act;
 - (ii) the procedure to be followed and the fees to be paid in connection with the lodging and consideration of applications for permits; 5
 - (iii) the powers of issuing authorities when considering and deciding such applications;
 - (iv) the conditions with which applicants must comply before or after the lodging of their applications;
 - (v) appropriate consultation processes; 10
 - (vi) the authorities whose consent is required before permits may be issued;
 - (vii) the factors that must be taken into account when deciding applications;
 - (viii) the circumstances in which applications must be refused or may be approved;
 - (ix) the form and contents of permits; 15
 - (x) the conditions on which permits must be issued, or guidelines for determining conditions on which permits may be issued;
 - (xi) methods, procedures and conditions of enforcing compliance with the conditions of a permit;
 - (xii) the giving of security in respect of any obligation that may arise from carrying out a restricted activity authorised by a permit, and the form of such security; 20
 - (xiii) the period of validity of permits;
 - (xiv) the transferability of permits;
 - (xv) the duties of the permit holders; and 25
 - (xvi) the procedure to be followed and the fees to be paid in connection with the lodging and consideration of appeals;
 - (g) any other matter that may be prescribed in terms of this Act; and
 - (h) any other matter that may be necessary to facilitate the implementation of this Act. 30
- (2) Any regulation with direct fiscal implications may be made only with the concurrence of the Minister of Finance.
- (3) Before publishing any regulations in terms of subsection (1), or any amendment to the regulations, the Minister must follow a consultative process in accordance with sections 99 and 00. 35
- (4) Subsection (3) need not be applied to a non-substantial change to the regulations.

General

- 98.** (1) Regulations made in terms of section 97 may—
- (a) restrict or prohibit any act either absolutely or conditionally;
 - (b) apply— 40
 - (i) generally throughout the Republic or a province, as the case may be, or only in a specified area or category of areas;
 - (ii) generally to all persons or only to a specified category of persons;
 - (iii) generally with respect to all species or only to a specified species or category of species; or 45
 - (iv) generally with respect to all permits or appeals or only to a specified category of permits or appeals; or
 - (c) differentiate between different—
 - (i) areas or categories of areas;
 - (ii) persons or categories of persons; 50
 - (iii) species or categories of species; or
 - (iv) categories of permits or appeals.
- (2) Regulations made in terms of section 97 may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to— 55
- (a) imprisonment for a period not exceeding five years;
 - (b) an appropriate fine; or
 - (c) both a fine and such imprisonment.

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- (iv) tsamaiso ya Letlole la Terasete la Patlisiso ya Botshelo;
- (f) (i) maemo ao bothati jo bo neelang ditumelelo bo ka neelang ditumelelo ka mo tlase ga ona go ya ka Molao o;
- (ii) tsamaiso e e tshwanetseng go sadiwa morago le madi a a tshwanetseng go duelwa malebana le go dira le kakanyetso ya dikopo tsa ditumelelo; 5
- (iii) dithata tsa bothati jo bo neelang ditumelelo fa diakanyetsa le fa diswetsa ka dikopo tse di jalo;
- (iv) maemo ao bakopi ba ka dumalanang le ona pele kgotsa morago ga go dira dikopo tsa bona;
- (v) ditirego tse di maleba tsa therisano; 10
- (vi) bothati jo tumelelo ya bona e tlhokegang pele ditumelelo di ka neelwa;
- (vii) mabaka a a tshwanetseng go tsewa tsia fa go swetswa ka dikopo;
- (viii) mabaka ao dikopo di ka ganetswang kgotsa tsa dumelelwa ka ona;
- (ix) kemo le diteng tsa ditumelelo;
- (x) maemo ao ditumelelo di tshwanetseng go neelwa ka ona, kgotsa dikaelo tsa go tlhomamisa maemo ao ditumelelo di ka neelwang ka ona; 15
- (xi) mekgwa, ditsamaiso le maemo a go gatelela go dumalana le maemo a tumelelo;
- (xii) go neela ga tshireletso malebana le tshwanelo efe kgotsa efe e e ka tlhagelelang go tswa mo go tsewetseng tiragatso e e lekanyeditsweng e e letleletswaeng ke tumelelo, le kemo ya tshireletso e e jalo; 20
- (xiii) nako ya kamogelesego ya ditumelelo;
- (xiv) go sutisega ga ditumelelo;
- (xv) ditiro tsa batshola ditumelelo; le
- (xvi) tsamaiso e e tshwanetseng go salwa morago le madi a a tshwanelwang ke go duelwa malebana le go dira le kakanyetso ya boikuelo; 25
- (g) sengwe le sengwe se se ka kaelwang go ya ka Molao o; le
- (h) sengwe le sengwe se se ka nnang matshwanedi go bebofatsa tiragatso ya Molao o.
- (2) Molawana mongwe le mongwe o o nang le bokao jo bo maleba jwa taolo ya merero ya ditšhelete o ka dirwa fela ka tumelo ya Tona ya Ditšhelete. 30
- (3) Pele molawana ofe kgotsa ofe o ka phasaladiwa go ya ka karolwana (1), kgotsa tlhabololo efe kgotsa efe ya melewana, Tona o tshwanetse go sala morago tirego ya go rerisana malebana le dikarolo 96 le 97.
- (4) Karolwana (3) ga e ya tshwanelwa go dirisiwa mo phetogong ya melawana e e seng botlhokwa. 35

Kakaretso**98.** (1) Melawana e e dirilweng go ya ka karolo 94 e ka—

- (a) kganela kgotsa ya itsa molao ofe kgotsa ofe gotlhelele kgotsa ka peelopaka;
- (b) diragala— 40
- (i) ka kakaretso go ralala Repaboliki kgotsa porofense, jaaka go ka diragala, kgotsa fela mo lefelong le le totobaditsweng kgotsa setlhophsa sa mafelo;
- (ii) ka kakaretso go batho botlhe kgotsa fela go setlhophsa sa batho se se totobaditsweng;
- (iii) ka kakaretso malebana le mefutafuta yotlhe ya ditshedi kgotsa fela go mofutafuta wa ditshedi o o totobaditsweng kgotsa setlhophsa sa mefutafuta ya ditshedi; kgotsa 45
- (iv) ka kakaretso malebana le ditumelelo tsotlhe kgotsa boikuelo kgotsa fela go setlhophsa se se totobaditsweng sa ditumelelo kgotsa boikuelo; kgotsa
- (c) farologanya magareng ga— 50
- (i) mafelo kgotsa ditlhophsa tsa mafelo a a farologaneng;
- (ii) batho kgotsa ditlhophsa tsa batho ba ba farologaneng;
- (iii) mefutafuta ya ditshedi kgotsa ditlhophsa tsa mefutafuta ya ditshedi tse di farologaneng; kgotsa
- (iv) ditlhophsa tsa ditumelelo kgotsa boikuelo tse di farologaneng. 55
- (2) Melawana e e dirilweng go ya ka karolo 94 e ka tlamela gore motho ofe kgotsa ofe yo o tloang kgotsa yo o palelwang ke go tsegetsatsa karolwana ya melawana e o tla bonwa molato wa tlolomolao mme o tla latofadiwa ka ponomolato go—
- (a) golegwa nako e e sa feteng dingwaga di le tlhano;
- (b) duela tefo e e maleba; kgotsa 60
- (c) duela tefo le go golegwa go go jalo.

Part 2***Consultation process*****Consultation**

99. (1) Before exercising a power which, in terms of a provision of this Act, must be exercised in accordance with this section and section 100, the Minister must follow an appropriate consultative process in the circumstances. 5

(2) The Minister must, in terms of subsection (1)—

- (a) consult all Cabinet members whose areas of responsibility may be affected by the exercise of the power;
- (b) in accordance with the principles of co-operative governance set out in Chapter 3 of the Constitution, consult the MEC for Environmental Affairs of each province that may be affected by the exercise of the power; and 10
- (c) allow public participation in the process in accordance with section 100.

Public participation

100. (1) The Minister must give notice of the proposed exercise of the power referred to in section 99— 15

- (a) in the *Gazette*; and
- (b) in at least one newspaper distributed nationally, or if the exercise of the power may affect only a specific area, in at least one newspaper distributed in that area. 20

(2) The notice must—

- (a) invite members of the public to submit to the Minister, within 30 days of publication of the notice in the *Gazette*, written representations on, or objections to, the proposed exercise of the power; and
- (b) contain sufficient information to enable members of the public to submit meaningful representations or objections. 25

(3) The Minister may in appropriate circumstances allow any interested person or community to present oral representations or objections to the Minister or a person designated by the Minister.

(4) The Minister must give due consideration to all representations or objections received or presented before exercising the power. 30

CHAPTER 9**OFFENCES AND PENALTIES****Offences**

101. (1) A person is guilty of an offence if that person contravenes or fails to comply with a provision of— 35

- (a) section 57(1), 65(1), 67(2), 71(1) or 81(1);
- (b) a notice published in terms of section 57(2); or
- (c) a directive issued in terms of section 69(2) or 73(3).

(2) A person who is the holder of a permit is guilty of an offence if that person— 40

- (a) contravenes or fails to comply with a provision of section 69(1) or 73(1);
- (b) performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which the permit was issued; or
- (c) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a) or (b). 45

(3) A person is guilty of an offence if that person—

- (a) fraudulently alters any permit;
- (b) fabricates or forges any document for the purpose of passing it as a permit;
- (c) passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit; or 50

Karolo 2***Tirego ya therisano*****Therisano**

99. (1) Pele go diragadiwa thata a a, go ya ka tlamelolo ya Molao o, a tshwanetseng go diragadiwa go ya ka karolo e le karolo 97, Tona o tshwanetse go latela tirego ya puisano 5
jaaka go ka nna maleba mo mabakeng.

(2) Tona o tshwanetse, jaaka go ka nna maleba go ya ka karolwana (1)—

- (a) a rerisane le maloko otlhe a Kabinete a dikarolo tsa maikarabelo a tsona a tla amiwang ke tiragatso ya thata;
- (b) go ya ka ditheo tsa taolo tirisanommogo jaaka e beilwe mo Kgaolong 3 ya 10
Molaotheo, go buisana le Molekgotla-Khuduthamaga wa merero ya tikologo ya porofense ngwe le ngwe e e tla amiwang ke tiragatso ya thata; le
- (c) go dumelela botsayakarolo jwa setšhaba mo tiregong go ya ka karolo 97.

Botsayakarolo jwa setšhaba

100. (1) Tona o tshwanetse go neela kitsiso ya tiragatso e e tshitshinngwang ya thata 15
e e maleba go ya ka karolo 96—

- (a) mo Lekwalodikgang la Puso; le
- (b) bonnye mo kurenteng e le nngwe e e phatlhaladiwang mo setšhabeng ka bophara, kgotsa fa e le gore tiragatso ya thata e tla ama lefelo le le rileng fela, mo kurenteng bonnye e le nngwe e e phatlhaladiwang mo lefelong leo. 20

(2) Kitsiso e tshwanetse go—

- (a) laletsa maloko a setšhaba go romela kwa go Tona, mo malatsing a le 30 a phasalatso ya kitsiso mo Lekwalodikgang la Puso, dikemedi tse di kwadilweng mo kgotsa dikganetso kwa tiragatsong e e tshitshinngwang ya thata; le 25
- (b) tshola tshedimosetso e e lekaneng go kgontsha maloko a setšhaba go romela dikemedi tsa bokao kgotsa dikgano.

(3) Tona a ka, mo mabakeng a a maleba a dumelela motho ofe kgotsa ofe yo o nang le kgatlhego kgotsa baagi go tlhagisa dikemedi tsa molomo kgotsa dikgano kwa go Tona kgotsa motho yo o tlhomilweng ke Tona. 30

(4) Tona o tshwanetse go neela tshekatsheko e e maleba kwa dikemeding tsotlhe kgotsa dikgano tse di amogetsweng kgotsa tse di tlhagisitsweng pele go diragadiwa thata.

KGAOLO 9**DITLOLOMOLAO LE DIKOTLHAO**

35

Ditlolomolao

101. (1) Motho o molato wa tlolomolao fa motho yoo a tlola kgotsa a retelwa ke go tsamaisana le tlamelolo ya—

- (a) karolo 57(1), 65(1), 67(2), 71(1), kgotsa 81(1);
- (b) kitsiso e e phasaladitsweng go ya ka karolo 56(2); kgotsa 40
- (c) kaelo e e rebotsweng go ya ka karolo 68(2) kgotsa 72(3).

(2) Motho yo e leng motshodi wa tumelelo o molato wa tlolomolao fa motho yoo—

- (a) a tlotse kgotsa a paletswe ke go tsamaisana le tlamelolo ya 68(1) kgotsa 72(1);
- (b) a dirile tiro e tumelelo e neng e rebotswa ka tsela e nngwe go na le go ya ka mabaka a a tsamaelanang le se tumelelo e neng e se reboletswe; kgotsa 45
- (c) go dumelela kgotsa go letla motho ofe yo mongwe go dira, kgotsa go tlogela go dira, sengwe le sengwe se e leng molao go ya ka temana (a) kgotsa (b).

(3) Motho o molato wa tlolomolao fa motho yoo—

- (a) ka bonweenwee a fetola tumelelo efe kgotsa efe;
- (b) a bopa kgotsa a kopisa e se ka molao lokwalo lofe ka mabaka a go e fetisa 50
jaaka tumelelo;
- (c) a fetisa, a dirisa, a fetola kgotsa a na le lokwalo mo go ena lo lo fetotsweng kgotsa lo fosagetse lo lo tshwanelwang ke go nna tumelelo; kgotsa

- (d) knowingly makes any false statement or report for the purpose of obtaining a permit.

Penalties

102. (1) A person convicted of an offence in terms of section 101 is liable to a fine, or to imprisonment for a period not exceeding five years, or to both fine and such imprisonment. 5

(2) A fine in terms of subsection (1) may not exceed—

- (a) an amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991); or
- (b) if a person is convicted of an offence involving a specimen of a listed threatened or protected species, an amount determined in terms of paragraph (a) or which is equal to three times the commercial value of the specimen in respect of which the offence was committed, whichever is the greater. 10

CHAPTER 10

MISCELLANEOUS

15

Repeal of Act 122 of 1984

103. The Forest Act, 1984 (Act No. 122 of 1984), is repealed by this Act.

Savings

104. (1) Anything done in terms of the Forest Act, 1984 (Act No. 122 of 1984), which may or must be done in terms of this Act must be regarded as having been done in terms of this Act. 20

(2) A person who immediately before the repeal of the Forest Act, 1984, by section 100 of this Act was—

- (a) a member of the board of the National Botanical Institute, becomes a member of the Board of the South African National Biodiversity Institute and remains such a member until the Minister appoints the members of the Board in terms of section 15; 25
- (b) the chief executive officer of the National Botanical Institute becomes the acting chief executive officer of the South African National Biodiversity Institute and remains the acting chief executive officer until the Board appoints a person as the chief executive officer of the Institute in terms of section 29; and 30
- (c) all employees of the National Botanical Institute, including its chief executive officer, must be regarded as having been appointed in terms of section 30 as employees of the South African National Biodiversity Institute subject to the same conditions of services which applied to them immediately before the repeal of the Forest Act, 1984. 35

(3) Subsection (2)(c) does not affect pension, leave and other benefits which accrued to employees referred to in that subsection before the repeal of the Forest Act, 1984, and such benefits must be respected as if there was no break in their service and no change of employer. 40

(4) As from the date of repeal of the Forest Act, 1984—

- (a) all assets and liabilities and all rights and obligations of the National Botanical Institute are vested in the South African National Biodiversity Institute; and
- (b) any balance in the National Botanical Institute Fund referred to in section 64 of that Act must be paid to the South African National Biodiversity Institute. 45

Existing bioprospecting projects

105. (1) Any party involved at the commencement of Chapter 6 in a bioprospecting project which concerns any interests to be protected in terms of section 82, may despite

- (d) ka kitso a dira seteitemente se se fosagetseng kgotsa pegelo ka mabaka a go bona tumelelo.

Dikotlhao

102. (1) Motho yo o athlotsweng ka molao go ya ka karolo 98 o tshwanelwa ke tefo kgotsa kgolegelo ya nako e e sa feteng dingwaga tse tlhano, kgotsa tsoopedi tefo e e jalo le kgolegelo e e jalo. 5

(2) Tefo go ya ka karolwana (1) e ntse e ka se fete—

- (a) bokana jo bo tlhalositsweng go ya ka molao o o laolang dituelo tse dikgolo tsa bofelo tsa ditlolomolao tsa bosenyi;
- (b) fa motho a athloetswe molato o o amang sekao mo bontsing sa methalethale ya ditshedi tse di nanefaditsweng tse di tshoseditsweng kgotsa tse di sireleditsweng, bokana jo bo tlhomamisitsweng go ya ka temana; kgotsa 10
- (c) kgotsa jo bo lekanang gararo botlhokwa jwa khomese ya sekao mo bontsing malebana le molato o o dirilweng, sefe se se ka bong e le se segolwane.

KGAOLO 10

15

TSELE LE TSELE

Phediso ya molao 122 wa 1984

103. Molao wa Dikgwa, 1984 (Molao Nomoro 122 wa 1984), fano o a fedisiwa.

Dipolokelo

104. (1) Sengwe le sengwe se se dirwang go ya ka Molao wa Dikgwa, 1984 (Molao Nomoro 122 wa 1984), o o ka, kgotsa o tshwanetse go dirwa go ya ka Molao o o tshwanetse go tsewa o dirilwe go ya ka Molao o. 20

(2) Motho yo ka bonako pele ga phediso ya Molao wa Dikgwa, 1984, ka karolo 100 ya Molao o ne—

- (a) a le leloko la boto la setheo sa Bothani sa Bosetšhaba, a nna leloko la Boto ya Setheo sa Bosetšhaba sa *Biodiversity* Aferika Borwa mme o sala go nna leloko le le jalo go fitlha Tona a tlhoma maloko a Boto go ya ka karolo 15; 25
- (b) motlhankedi mogolo phetiso wa Bothani ya Aferika Borwa ya Bosetšhaba e nne motlhankedi mogolo wa phetiso nama o sa tshwere go fitlha Boto e tlhoma motho jaaka motlhankedi mogolo wa phetiso wa Setheo go ya ka karolo 29; le 30
- (c) maloko a badiri otlhe a Setheo sa Bosetšhaba sa Bothani, go tsenyelediwa motlhankedi mogolo wa phetiso wa sona, a tshwanetse go tsewa jaaka a a setseng a tlhomilweng go ya ka karolo 30 jaaka maloko a badiri a Setheo sa Aferika Borwa sa Bosetšhaba sa *Biodiversity* go ya ka maemo a tirelo a a tshwanang a a dirilweng mo go bona ka bonako pele ga phediso ya Molao wa Dikgwa, 1984. 35

(3) Karolwana (2)(c) ga e ame phenšene, maikhutso le ditshiamelo tse dingwe tse di kokotlegelelang maloko a badiri e e boletsweng mo karolwaneng eo pele ga phediso ya Molao wa Dikgwa, 1984, mme ditshiamelo tse di jalo di tshwanetse go tlotliwe jaaka e kete go ne go se kgaogo mo tirelong ya tsona. 40

(4) Go tloga letlha la phediso ya Molao wa Dikgwa, 1984—

- (a) matlotlo otlhe le melato le ditshwanelo tshotlhe le ditlamego tsa Setheo sa Bosetšhaba sa Bothani di beilwe mo Setheong sa Aferika Borwa sa Bosetšhaba sa *Biodiversity*; le 45
- (b) tekano efe kgotsa efe mo Letloleng la Setheo sa Bosetšhaba sa Bothani se se boletsweng mo karolong 64 ya Molao oo e tshwanetse go duelwa kwa Setheong sa Aferika Borwa sa Bosetšhaba sa *Biodiversity*.

Diporojeke tse di leng teng tsa patlisiso ya botshelo

105. (1) Lekoko lefe kgotsa lefe le le amegang kwa tshimologong ya Kgaoalo 6 mo porojekeng ya patlisiso ya botshelo e e amang dikgatlhego dife kgotsa dife tse di tshwanetseng go sirelediwa go ya ka karolo 82, le ka nna le mororo ka karolo eo la 50

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that section continue with the project pending the negotiation and entry into force of an appropriate benefit-sharing agreement in terms of that Chapter.

(2) Subsection (1) lapses one year after Chapter 6 takes effect.

Short title and commencement

106. This Act is called the National Environmental Management: Biodiversity Act, 2004, and takes effect on a date determined by the President by proclamation in the *Gazette*. 5

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MOLAO WA *BIODIVERSITY*, 2004

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tswelela ka porojeke le sa letile dipuisano le go tsenela mo tiragatsong ya tumalano ya karologano ya tshiamelo e e maleba go ya ka Kgaolo eo.

(2) Karolwana (1) e fela ngwaga o le mongwe morago ga fa Kgaolo 6 e simolotse.

Setlhogo se se khutshwane le tshimologo

106. Molao o o bidiwa, Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, 2004, mme o dira ka letlha le le tthomamisitsweng ke Mopresidente ka kgoeletso mo Lekwarodikgang la Puso. 5

