



# Government Gazette

REPUBLIC OF SOUTH AFRICA  
REPHABOLIKI YA AFORIKA BORWA

Vol. 577 Cape Town,  
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**No. 36702**

## THE PRESIDENCY

No. 529 24 July 2013

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

**Act No. 12 of 2013: National Health Amendment Act, 2013**

## MOPRESIDENTE

No. 529 24 July 2013

Go itsisiwi fano gore MoPresidente o saennwe Molao o latelang o o phasalediwang kitso ya botlhe fano:—

**No. 12 wa 2013: Molaokakangwa Phetolelo wa Bosetšhaba wa Boitekanelo wa 2013**



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

**GENERAL EXPLANATORY NOTE:**

[ Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President)*  
*(Assented to 24 July 2013)*

# ACT

To amend the National Health Act, 2003, so as to provide for the establishment of the Office of Health Standards Compliance and, for that purpose, to insert, substitute or delete certain definitions; to delete, revise and insert certain provisions; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa as follows:—

**Amendment of section 1 of Act 61 of 2003**

1. Section 1 of the National Health Act, 2003 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion after the definition of “blood product” of the following definition:  
“**Board**” means the Office of Health Standard Compliance Board established in terms of section 79A;”;
- (b) by the insertion after the definition of “certificate of need” of the following definition:  
“**Chief Executive Officer**” means the person appointed as Chief Executive Officer in terms of section 79H(1);”;
- (c) by the substitution for the definition of “health officer” of the following definition:  
“**health officer**” means the person appointed as health officer in terms of section 80(1);”;
- (d) by the insertion after the definition of “hospital” of the following definition:  
“**inspector**” means any person appointed as an inspector in terms of section 80(2);”;
- (e) by the deletion of the definition of “Inspectorate for Health Establishments”;
- (f) by the insertion after the definition of “norm” of the following definitions:  
“**Office**” means the Office of Health Standards Compliance established by section 77(1);  
“**Ombud**” means the person appointed as Ombud in terms of section 81(1);”;
- (g) by the deletion of the definition of “Office of Standards Compliance”.

## TSHWAELO YA TLHALOSO KAKARETSO:

[ ] Mafoko a kwadilweng ka bontsho jo bo tseneletseng mo masakaneng a bontsha mafoko a tlositsweng mo molaong wa ga jaana.

\_\_\_\_\_ Mafoko a thadilweng ka mola o montšho a bontsha mafoko a tlaletso mo molaong wa ga jaana.

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(English text signed by the President)  
(Assented to 24 July 2013)

# MOLAO

Go fetola Molao wa Bosetšhaba wa Boitekanelo wa 2003, go tlamela ka go tlhamiwa ga Kantoro ya Boitekanelo ya Kobamelo ya Seemo le, mabapi le lebaka leo, go tlosa, go kwala boemong jwa kgotsa go tlosa ditlhaloso tse di rileng; go tlosa, go baakanya le go akaretsa ditaelo tse di rileng; le go tlamela ka merero e e maleba.

**A** E ATLANEGISIWE ke Palamente ya Rephaboliki ya Aforika Borwa jaana:—

## Go fetolwa ga karolo 1 ya Molao 61 wa 2003

1. Karolo 1 ya Molao wa Bosetšhaba wa Boitekanelo wa 2003 (o o bidiwang Molao wa Ntlha), ya fetolwa—

- (a) ka go kwala morago ga tlhaloso ya “serwê sa madi” tlhaloso e e latelang:  
“**‘Boto’** go bolela Kantoro ya Boto ya Kobamelo ya Maemo a Boitekanelo e e tlhomilweng go tsamaelana le karolo 79A;”;
- (b) go kwala morago ga tlhaloso ya “setefikeiti sa tlhokego” tlhaloso e e latelang:  
“**‘Motlhankedi Mogolo Khuduthamaga’** go bolela motho yo o thapilweng jaaka Motlhankedi Mogolo Khuduthamaga go ya ka karolo 79H(1);”;
- (c) ka go kwala boemong jwa tlhaloso ya “motlhankedi wa boitekanelo” tlhaloso e e latelang:  
“**‘motlhankedi wa boitekanelo’** go bolela motho yo o thapilweng jaaka motlhankedi wa boitekanelo go ya ka karolo 80(1);”;
- (d) ka go kwala morago ga tlhaloso ya “sepetlela” tlhaloso e e latelang:  
“**‘motlhatlhobi’** go bolela motho mongwe le mongwe yo o thapilweng jaaka motlhatlhobi go ya ka karolo 80(2);”;
- (e) ka go tlosa tlhaloso ya “Bolaodi jwa Botlhatlhobi jwa Setheo sa Boitekanelo”;
- (f) ka go tsenya morago ga tlhaloso ya “tekanyetso” tlhaloso e e latelang:  
“**‘Kantor’** go bolela Kantor ya Boitekanelo jwa Kobamelo ya Maemo e e tlhomilweng go ya ka karolo 77(1);”;  
“**‘Mosekaseki’** go bolela motho yo o thapilweng jaaka mosekaseki go ya ka karolo 81(1);” le
- (g) ka go tlosa tlhaloso ya “Kantor ya go Ikobelwa ga Seemo”.

#### Amendment of section 21 of Act 61 of 2003

2. Section 21 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (f) of the following paragraph:

“(f) facilitate and promote the provision of port health service and participate in intersectoral and interdepartmental collaboration;”.

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#### Amendment of section 25 of Act 61 of 2003

3. Section 25 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (l) of the following paragraph:

“(l) facilitate and promote the provision of **[port health services,]** comprehensive primary health services and community hospital services;”.

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#### Amendment of section 47 of Act 61 of 2003

4. Section 47 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) All health establishments must comply with the quality requirements and standards prescribed by the Minister after consultation with the **[National Health Council] Office**.”; and

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(b) by the substitution for subsection (3) of the following subsection:

“(3) The Office **[of Standards Compliance and the Inspectorate for Health Establishments]** must monitor and enforce compliance with the quality requirements and standards contemplated in subsection (1).”.

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#### Substitution of Chapter 10 of Act 61 of 2003

5. The following Chapter is hereby substituted for Chapter 10 of the principal Act:

#### “CHAPTER 10

**OFFICE OF HEALTH STANDARDS COMPLIANCE, BOARD,  
INSPECTIONS AND ENVIRONMENTAL HEALTH  
INVESTIGATIONS, HEALTH OFFICERS AND INSPECTORS,  
COMPLAINTS AND APPEAL PROCEDURE**

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#### Establishment of Office of Health Standards Compliance

**77.** (1) The Office of Health Standards Compliance is hereby established as a juristic person.

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(2) The Office is funded by—

(a) money appropriated by Parliament; and

(b) fees received for services rendered.

(3) The Office is subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

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#### Objects of Office

**78.** The objects of the Office are to protect and promote the health and safety of users of health services by—

(a) monitoring and enforcing compliance by health establishments with norms and standards prescribed by the Minister in relation to the national health system; and

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(b) ensuring consideration, investigation and disposal of complaints relating to non-compliance with prescribed norms and standards in a procedurally fair, economical and expeditious manner.

**Go fetolwa ga karolo 21 ya Molao 61 wa 2003**

2. Karolo 21 ya Molao wa Ntlha ya fetolwa ka go kwala mo karotlaleletso (2) boemong jwa temana (f) ka temana e e latelang:

“(f) ntshetsopele le kgodišo ya tlamelo ya ditirelo tsa boitekanelo jwa mabopo le botsayakarolo gare ga ditheo le tirisano mmogo ya mafapha;”.

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**Go fetolwa ga karolo 25 ya Molao 61 wa 2003**

3. Karolo 25 ya Molao wa Ntlha ya fetolwa ka go kwala mo karotlaleletso (2) boemong jwa temana (l) ya temana e e latelang:

“(l) ntshetsopele le kgodišo ya tlamelo ka [ditirelo tsa boitekanelo jwa mabopo,] ditirelo tse di golagantsweng tsa boitekanelo jo bo botlhokwa le ditirelo tsa sepetlela tsa baagi;”.

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**Go fetolwa ga karolo 47 ya Molao 61 wa 2003**

4. Karolo 47 ya Molao wa Ntlha ya fetolwa—

(a) ka go kwala boemong jwa karotlaleletso (1) ya karotlaleletso e e latelang:

“(1) Ditheo tsotlhe tsa pholo di tshwanetse go obamela ditlhokego tsa boleng le maemo a tlhomamisitsweng ke Tona morago ga dipuisano le [Khansele ya Bosetšhaba ya Boitekanelo] Kantoro;” le

(b) ka go kwala boemong jwa karotlaleletso (3) karotlaleletso e e latelang:

“(3) Kantoro ya [Kobamelo ya Maemo le Botlhatlhoi jwa Ditheo tsa Boitekanelo] e tshwanetse go sekaseka le go diragatsa kobamelo ya ditlhokego tsa boleng le maemo a tlhalositsweng mo karotlaleletso (1);”.

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**Go tloswa ga Kgaolo 10 ya Molao 61 wa 2003**

5. Kgaolo e e latelang e kwalwa boemong jwa Kgaolo 10 ya Molao wa Ntlha:

**“KGAOLO 10**

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**KANTORO YA KOBAMELO YA MAEMO A BOITEKANELO,  
DITLHATLHOBO LE DIPATLISISO TSA TIKOLOGO,  
BATLHANKEDI BA BOITEKANELO LE BATLHATLHOBI,  
TSAMAISO YA DINGONGOREGO LE BOIPELAETSO**

**Go tlhamiwa ga Kantoro ya kobamelo ya Maemo a Boitekanelo**

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77. (1) Kantoro ya Kobamelo ya Maemo a Boitekanelo e tlhomiwa jaaka motho yo o na leng maatla.

(2) Kantoro e e etlediwa ka—

(a) matlole a abiwang ke Palamente;

(b) tšhelete e amogelwang boemong jwa ditirelo tse di dirilweng

(3) Kantoro e laolwa go tsamaelana le Molao wa Tsamaiso ya Matlole a Setšhaba wa 1999 (Molao No. 1 wa 1999).

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**Maikaelelo a Kantoro**

78. Maikaelelo a Kantoro ke go sireletsa le go godisa boitekanelo le papalesego ya badirisi ba ditirelo tsa boitekanelo ka go—

(a) sekaseka kobamelo ya ditheo tsa boitekanelo ka ditekanyetso le maemo a tlhomamisitsweng ke Tona go tsamaelana le lenaane la bosetšhaba la boitekanelo; le

(b) go netefatsa botlhokwa jwa patlisiso le tharabololo ya dingongorego mabapi le tlhokego ya kobamelo ya ditekanyetso le maemo a tsamaiso ya mokgwa wa tolamo, ntle le tshenyo ya tšhelete le ka bonako.

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## Functions of Office

### 79. (1) The Office must—

- (a) advise the Minister on matters relating to the determination of norms and standards to be prescribed for the national health system and the review of such norms and standards; 5
- (b) inspect and certify health establishments as compliant or non-compliant with prescribed norms and standards or, where appropriate and necessary, withdraw such certification;
- (c) investigate complaints relating to breaches of prescribed norms and standards; 10
- (d) monitor indicators of risk as an early warning system relating to serious breaches of norms and standards and report any breaches to the Minister without delay;
- (e) identify areas and make recommendations for intervention by a national or provincial department of health, a health department of a municipality or health establishment, where it is necessary, to ensure compliance with prescribed norms and standards; 15
- (f) publish information relating to prescribed norms and standards through the media and, where appropriate, to specific communities;
- (g) recommend quality assurance and management systems for the national health system to the Minister for approval; 20
- (h) keep records of all its activities; and
- (i) advise the Minister on any matter referred to it by the Minister.

### (2) The Office may—

- (a) issue guidelines for the benefit of health establishments on the implementation of prescribed norms and standards; 25
- (b) collect or request any information relating to prescribed norms and standards from health establishments and users;
- (c) liaise with any other regulatory authority and may, without limiting the generality of this power, require the necessary information from, exchange information with and receive information from any such authority in respect of— 30
  - (i) matters of common interest; or
  - (ii) a specific complaint or investigation; and
- (d) negotiate cooperative agreements with any regulatory authority in order to— 35
  - (i) coordinate and harmonise the exercise of jurisdiction over health norms and standards; and
  - (ii) ensure the consistent application of the principles of this Act.

## Establishment of Board

### 79A. (1) The Office of Health Standards Compliance Board is hereby established.

#### (2) The Office functions under the control of the Board.

#### (3) The Board is the accounting authority of the Office and must—

- (a) determine the policy of the Office; 45
- (b) do the necessary planning in connection with the functions of the Office; and
- (c) perform such other functions as may be assigned to it by this Act.

## Composition of Board

### 79B. (1) The Board consists of no less than 7 members and no more than 12 members appointed by the Minister, as follows: 50

- (a) five members who have expertise in, among others, medicine, pharmacy, reproductive and maternal health, nursing, pediatrics, surgery, clinical governance and clinical risk management, occupa-

## Ditiro tsa Kantoro

### 79. (1) Kantoro e tshwanetse go—

- |                   |   |    |
|-------------------|---|----|
| (a)               | gakolola Tona mabapi ka merero e e lebaganeng le tlhomamiso ya ditekanyetso le maemo a tshwanetseng go tlhomamisiwa boemong jwa lenaane la boitekanelo le tshekatsheko ya ditekanyetso le maemo;  | 5  |
| (b)               | tlhatlhobo le go atlanegisa ditheo tsa boitekanelo go lekola kobamelo kgotsa go tlhoka kobamelo e e tlhomamisitsweng ya ditekanyetso le maemo kgotsa fa go tlhokega, go le botlhokwa go gogela morago setefikeiti seo;                              |    |
| (c)               | batlisisa dingongorego tse di malebana le lenaane la boitekanelo;   | 10 |
| (d)               | sekaseka dikaelo tsa matshosetsi jaaka leano la pele la tlhokomediso e e lebaganeng le kgaphelothoko ya ditekanyetso le maemo le go begela Tona ka tlolo-molao ngwe le ngwe ka bonako jo bo kgonagalang;  |    |
| (e)               | tlhomamisa dintlha le go dira ditshitsinyo tsa go rarabolola bothata fa go le botlhokwa go lefapha la bosetshaba kgotsa la profense kgotsa lefapha la boitekanelo la mmasepala, go netefatsa tiragatso ya ditekanyetso le maemo a tlhomamisitsweng; | 15 |
| (f)               | phasalatsa tshedimosetso e e malebana le ditekanyetso le maemo a tlhomamisitsweng ka tshaeletsano, fa go le botlhokwa go baagi ba ba riling;  | 20 |
| (g)               | tshitsinya netefaletso ya boleng le manaane taolo boemong jwa lenaane la bosetshaba la boitekanelo go atlenegisiwa ke Tona;   |    |
| (h)               | boloka ditokomane tsothe tsa ditiro tsa yona; le  |    |
| (i)               | gakolola Tona ka morero mongwe le mongwe yo o rometseng go yona ke Tona.  | 25 |
| (2) Kantoro e ka— |   |    |
| (a)               | rebola tsamaiso e e tla tswelang molemo ditheo tsa boitekanelo ka go tsenya tirisong ditekanyetso le maemo a tlhomamisitsweng;  |    |
| (b)               | kgobokanya kgotsa kopa tshedimosetso nngwe le nngwe mabapi le ditekanyetso le maemo a ditheo tsa boitekanelo le badirisi;   | 30 |
| (c)               | golaganya le bolaodi bongwe le bongwe jwa tsamaiso, e bile ntle le tekanyetso ya matla ano, e ka batla tshedimosetso e e maleba, refosanya ka tshedimosetso le go amogela tshedimosetso go tswa go bolaodi bongwe le bongwe mabapi le—              |    |
|                   | (i) merero ya dikgatlhegelo tse di tshwanang; kgotsa  | 35 |
|                   | (ii) ngongorego e e rileng kgotsa patlisiso; le   |    |
| (d)               | rerisana ka ditumelano tsa tirisanommogo le bolaodi bongwe le bongwe, ka maikaelelo a go—   |    |
|                   | (i) rulaganya le lomaganya tiragatso ya matla mo kgaolong ka ga ditekanyetso le maemo a boitekanelo; le   | 40 |
|                   | (ii) netefatsa tiragatso e e tsepameng ya ditaelo tsa Molao ô.  |    |

## Go tlhamiwa ga Boto

### 79A. (1) Go tlhamiwa ga Kantoro ya Kobamelo ya Maemo a Boitekanelo.

- |  |    |
|--|----|
| (2) Kantoro e dira ka fa tlase ga taolo ya Boto.                                   | 45 |
| (3) Boto e rwele maikarabelo a bolaodi boemong jwa Kantoro, e bile e tshwanetse go |    |
| (a) tlhomamisa pholisi ya Kantoro;   |    |
| (b) dira dithulaganyo tse di maleba tebang le ditiro tsa Kantoro; le               |    |
| (c) go dira tiro ngwe le ngwe go tsamaelana le taelo ya Molao ono.                 | 50 |

## Sebopego sa Boto

### 79B. (1) Boto e na le maloko a seng ka fa tlase ga maloko a 7, e bile eseng go feta maloko a 12 a a tlhophilweng ke Tona ka mokgwa o o latelang:

- |  |    |
|--|----|
| (a) maloko a matlhano a a tlhophilweng ke ditheo tsa thuto e kgolwane kgotsa setheo sengwe le sengwe mme a na le maitemogelo a, gare ga tse dingwe bongaka, melemo, boitekanelo jwa pelegi le baimana, booki, phediatriki, tsa kaaro, tsamaiso ya kalafi le taolo ya matshosetsi | 55 |
|--|----|



- tional health and safety, infection control, and public health, nominated by institutions of higher learning or any other institution;
- (b) one member appointed on account of his or her knowledge of the law;
- (c) one member appointed on account of his or her knowledge of economics and financial matters or accounting; 5
- (d) one member appointed on account of his or her knowledge of private healthcare sector;
- (e) one member appointed on account of his or her knowledge of public healthcare and public administration;
- (f) one member appointed on account of his or her knowledge of quality assurance 10
- (g) one representative from organised labour; and
- (h) one representative from civil society or the community.
- (2) The Chief Executive Officer and the Chief Financial Officer of the Office are *ex officio* members of the Board. 15

#### Appointment of members of Board

- 79C.** (1) The Minister must appoint the members contemplated in section 79B(1)(a) after consultation with the relevant bodies and institutions.
- (2) The Minister must, before appointing the members contemplated in section 79B(1)(b) to (h), by notice in the *Gazette* and in two or more nationally circulating newspapers in the Republic, invite all interested persons to nominate, within the period specified in the notice, persons who in the opinion of such interested persons are fit to be so appointed, stating the grounds upon which such opinion is based. 20
- (3) If a suitable person or the required number of persons is not nominated in terms of subsection (2), the Minister must appoint an appropriate person or persons who qualify to be appointed in terms of this Act. 25
- (4) The members of the Board hold office for a term of at least three years, as the Minister may determine at the time of appointment, but are eligible for re-appointment for one additional term. 30
- (5) A member of the Board, excluding a member who is in the full-time employment of the State or the Service, must be appointed on such conditions as the Minister may, with the concurrence of the Minister of Finance, determine. 35
- (6) If the number of members of the Board is reduced to such an extent that a quorum cannot be obtained, the Minister may appoint any suitably qualified persons on a temporary basis to serve on the Board until new members are appointed in terms of this section.

#### Chairperson and vice-chairperson of Board 40

- 79D.** (1) The Minister must appoint a chairperson and vice-chairperson of the Board from the members contemplated in section 79B(1).
- (2) Whenever the chairperson of the Board is absent or unable to perform his or her functions as chairperson, the vice-chairperson must act as chairperson and, if the vice-chairperson is absent or unable to act as chairperson the Minister must designate another member of the Board to act as chairperson until the chairperson or vice-chairperson is available. 45
- (3) Any person acting as chairperson of the Board in terms of subsection (2), must exercise all the powers and perform all the duties of the chairperson. 50

#### Disqualification from membership of Board and vacation of office

- 79E.** (1) A person may not be appointed as a member of the Board if that person—
- (a) is not a South African citizen and ordinarily resident in the Republic;



- a tsa kalafi, boitekanelo jwa ditiro le tshireletso, taolo ya malwetsi a tshelanelang, le boitekanelo jwa baagi;
- (b) leloko le le nosi le le tlhophilweng ka ntlha ya kitso ya lona go tsa molao;
- (c) leloko le le nosi le le tlhophilweng ka ntlha ya kitso ya lona ya moruo, merero ya ditšhelete kgotsa akhaonting; 5
- (d) leloko le le nosi le le tlhophilweng ka ntlha ya kitso ya lona ya merero ya tlhokomelo ya kalafi ya lekala poraefete;
- (e) leloko le le nosi le le tlhophilweng ka ntlha ya kitso ya lona ya merero ya tlhokomelo ya kalafi ya baagi le tsamaiso ya baagi; 10
- (f) leloko le le nosi le le tlhophilweng ka ntlha ya kitso ya lona ya netefaletso ya boleng;
- (g) moemedi a le nosi wa mokgatlo wa badiri; le
- (h) moemedi a le nosi wa mokgatlo wa baagi kgotsa baagi.
- (2) Motlhankedi Mogolo wa Khuduthamaga le Motlhankedi Mogolo wa Matlole ba Kantorolo ke maloko a *ex officio* a Boto. 15

### Go thapiwa ga maloko a Boto

- 79C.** (1) Tona e tshwanetse go thapa maloko a tlhalositsweng mo Karolo 79B(1)(a) morago ga dipuisano le mekgatlo e e maleba kgotsa ditheo.
- (2) Tona e tshwanetse gore pele e thapa maloko a tlhalositsweng mo karolo 79B(b) go fitlha go (h) e phatlalatse kitsiso mo Lokwalodikgang la Puso le mo makwalodikgang a bosetšhaba a mabedi kgotsa go feta mo Rephaboliking go laletsa batho ba ba na leng kgatlhego go tlhopha batho mo pakeng e e tlhalositsweng ya kitsiso. Go tshwanetse go tlhophiwa batho ba go nagangwang gore ba siametse tiro le go tlhalosa mabaka a go tlhophiwa ga bona ka botlalo. 20
- (3) Fa motho yo o batlegang kgotsa palo ya batho ba batlegang e sa tlhophiwa go ya ka karolotlaleletso (2), Tona e tshwanetse go tlhopha motho yo o siameng kgotsa batho ba ba siametseng go tlhophiwa go ya ka mabaka a Molao ô. 25
- (4) Maloko a Boto a tshwara marapo bonnye paka ya dingwaga di le tharo, go ya ka tlhomamiso ya Tona ka nako ya go thapiwa, mme a kgonwa go tlhophiwa gape paka e nosi ya tlaleletso.
- (5) Leloko la Boto, ntle leloko le le thapilweng ke Puso ka botlalo kgotsa Tirelo ya Puso, le tshwanetse go thapiwa go ya ka mabaka a tlhomisitsweng ke Tona le tumelano le Tona ya Matlole. 30
- (6) Fa palo ya maloko a Boto e fokotsega moo e leng gore go tlhokega palo e letleletsweng (*khoramo*), Tona e kgona go thapa mongwe le mongwe yo o nonofileng paka e khutshwane go direla Boto go fitlhela go thapiwa maloko a mašwa go ya ka mabaka a karolo eno. 35

### Modulasetilo le Motlatsa-modulasetilo wa Boto

- 79D.** (1) Tona e tshwanetse go thapa Modulasetilo le Motlatsa-Modulasetilo wa Boto go tswa go maloko a tlhalositsweng mo karolo 79B(1).
- (2) Gangwe le gape fa Modulasetilo wa Boto a seyo kgotsa a sa kgone go dira tiro ya gagwe jaaka modulasetilo, motlatsa-modulasetilo o tshwanetse go tshwara marapo jaaka modulasetilo, mme fa motlatsa-modulasetilo a seyo, kgotsa a sa kgone go dira jaaka modulasetilo, Tona e tshwanetse go laela leloko le lengwe la Boto go tshwara marapo jaaka modulasetilo go fitlhela modulasetilo kgotsa motlatsa-modulasetilo a nna teng. 45
- (3) Mongwe le mongwe yo o tshwereng marapo jaaka modulasetilo wa Boto go ya ka karolotlaleletso (2) o tshwanetse go diragatsa matla otlhe le go dira ditiro tsotlhe tsa modulasetilo. 50

### Go tloswa jaaka leloko la Boto le go tloswa mo kantorong

- 79E.** (1) Motho ga a tshwanelwa go thapiwa jaaka leloko la Boto, fa motho yoo—
- (a) e se moagi wa Aforika Borwa, e bile a sa dule mo Rephaboliking; 55

- (b) is an unrehabilitated insolvent;
  - (c) has at any time been convicted of an offence involving dishonesty, whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine; or
  - (d) has been removed from an office of trust. 5
- (2) A member of the Board must vacate his or her office if—
- (a) he or she becomes disqualified in terms of subsection (1) from being appointed as a member of the Board;
  - (b) he or she submits his or her resignation to the Minister in writing;
  - (c) he or she is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973); 10
  - (d) he or she has, without the leave of the Board, been absent from more than two consecutive meetings of the Board;
  - (e) the Minister withdraws the appointment because in the opinion of the Minister, and after consultation with the Board, the member is incompetent or unfit to fulfil his or her duties; or 15
  - (f) he or she ceases to be ordinarily resident in the Republic.
- (3) If a member of the Board dies or vacates his or her office in terms of subsection (2), the Minister may, subject to section 79C, appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed. 20

### Meetings of Board

- 79F.** (1) The meetings of the Board and the conduct of business at meetings must be prescribed by the rules. 25
- (2) A quorum for a meeting of the Board is the majority of its members.
- (3) A decision of the majority of the members of the Board present at any meeting constitutes a decision of the Board and, in the event of an equality of votes, the member presiding at the meeting has a casting vote in addition to his or her deliberative vote. 30
- (4) A decision taken by the Board or an act performed under the authority of the Board is not invalid by reason only of a vacancy on the Board, or that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Board who were present at the time and entitled to sit as members. 35
- (5) Minutes of the proceedings of every meeting of the Board must be prepared and entered in a book kept for that purpose.
- (6) Minutes of the proceedings of each meeting must be submitted at the next meeting of the Board and, if passed as correct, must be confirmed by the signature of the chairperson or other member presiding thereat and may, when so confirmed, be evidence in a court of law of the proceedings of the first-mentioned meeting. 40
- (7) In the absence of the chairperson or the person acting as the chairperson from a particular meeting of the Board, the members present at that meeting may elect one of their number to preside at that meeting. 45

### Committees of Board

- 79G.** (1) The Board may appoint one or more committees from among its members to assist it with the performance of its functions and exercise of its powers. 50
- (2) The Board may appoint one or more specialist advisory committees consisting of members other than members of the Board, to assist it with the performance of its functions and exercise of its powers.

- (b) e le mokoloti yoo sa tlhabologeng;
- (c) fa a kile a bonwa a le molato ka tatofatso ya go tlhoka botshepegi, mo Rephaboliking kgotsa felo gongwe mme a filwe katlholo ya kgolegelo ntle le boikgethelo jwa kotlhao ya go duela tšhelete; kgotsa
- (d) a tlositswe mo tirong ya trasete. 5
- (2) leloko la Boto le tshwanetse go tlogela tiro fa—
- (a) fa a tloswa mo tirong jaaka leloko la Boto go ya ka mabaka a karotlaleletso (1);
- (b) fa motho yoo a itsise Tona ka lekwalo gore o rola marapo jaaka leloko
- (c) fa Kgotlatshekelo e Kgolo e mo tlhomamisitse jaaka motho yo o sa itekanelang mo tlhologanyong kgotsa tlhologanyo e se mo maamong a siameng<sup>4</sup> kgotsa a tswaletswe go ya ka *Mental Health Act* wa 1973 (Molao No.18 wa 1973); 10
- (d) fa ntle le tetla ya Boto motho yoo a sa tsenela dikopano di le pedi ka tatelano kgotsa go feta tsa Boto; 15
- (e) fa Tona e gogela morago go thapiwa ga leloko leo ka gonne go ya ka kakanyo ya Tona le Boto leloko le tlhoka bokgoni kgotsa ga le sa itekanela go dira ditiro tsa lona; kgotsa
- (f) Fa leloko le tlogela go nna moagi wa Rephaboliki.
- (3) fa leloko la Boto le tlogela tiro go ya ka mabaka a karotlaleletso (2), go tsamaelana le karolo 79C, Tona e ka thapa motho go tlatla phatlathiro eo tebang le karolo ya paka e setseng boemong jwa leloko le le tlogetseng. 20

#### Dikopano tsa Boto

- 79F.** (1) Dikopano tsa Boto le tsamaiso ya dikopano e tshwanetse go tlhalosiwa ka ditaelo. 25
- (2) Khoramo ya kopano ya Boto ke bontsi jwa maloko a Boto.
- (3) Tshwetso ya bontsi jwa maloko a Boto a a leng teng mo kopanong ngwe le ngwe ya Boto e kaya tshwetso ya Boto, mme fa go nale divhoutu tse di lekanang, leloko le le tshwereng marapo jaaka modulasetilo le nale vhoutu ya makgaolakang godimo ga vhoutu ya gagwe ya tetelelo. 30
- (4) Tshwetso e e dirilweng ke Boto kgotsa tiro e e dirilweng ka fa tlase ga taelo ya Boto ga e na matla fela ka ntlha ya gore go nale phatlathiro ya Boto, kgotsa fela ka gonne motho yo o sa tshwanelang o ne a dutswe mo kopanong ya Boto jaaka leloko ka nako fa tshwetso eo e ne e diriwa, kgotsa go dirisitswe molao fa tshwetso e diriwa kgotsa go dirisitswe molao ke bontsi jwa maloko a Boto ao a ne a le teng ka nako eo, e bile a nale tshwanelo ya go dula jaaka maloko. 35
- (5) Metsotso ya ditsamaiso tsa kopano ngwe le ngwe ya Boto, e tshwanetse go kwadiwa mo bukeng le go bolokiwa sentle.
- (6) Metsotso ya kopano ngwe le ngwe e tshwanetse go tlhagisiwa mo kopanong e e latelang ya Boto, e bile fa e amogwelwa jaaka boammaruri e tshwanetse go atlenegisiwa ke modulasetilo ka go e saena kgotsa ke leloko lengwe le ngwe le le tshwereng marapo jaaka modulasetilo wa kopano eo, mme fa e atlenegisitswe jaalo, e kgona go amogelwa jaaka bopaki mo kgotlatshekelo jaaka metsotso e amogetsweng ya kopano ya pele. 40 45
- (7) Fa modulasetilo kgotsa motho yo o tshwereng marapo jaaka modulasetilo a seyo mo kopano e rileng ya Boto, maloko a a leng teng mo kopanong eo, a ka tlhophela leloko lengwe le lengwe la maloko a lona go etelela pele kopano.

#### Dikomiti tsa Boto

- 79G.** (1) Boto e ka tlhophela komiti e le nosi kgotsa go feta go tswa go maloko a yona go e thusa go dira tiro ya yona le go diragatsa matla a yona.
- (2) Boto e ka tlhophela komiti kgakololo ya bomaitsanape e le nosi kgotsa go feta ya maloko ao e seng maloko a Boto go e thusa go dira tiro ya yona le go diragatsa matla a yona. 55

### Appointment of Chief Executive Officer

- 79H.** (1) The Board must, in consultation with the Minister, subject to the laws governing the public service, appoint a fit and proper and suitably qualified South African citizen as the Chief Executive Officer of the Office. 5
- (2) The Chief Executive Officer holds office for a term of five years and may be reappointed for one additional term of five years.
- (3) (a) The appointment of a person as the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board, in consultation with the Minister. 10
- (b) The Board, in consultation with the Minister, and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.
- (4) The Board may, in consultation with the Minister, remove the Chief Executive Officer from office on account of serious misconduct, incapacity or incompetence, after affording him or her reasonable opportunity to be heard and subject to applicable legislation. 15
- (5) If the Chief Executive Officer is unable to perform the functions of the Office, or during a vacancy in the office of Chief Executive Officer, the Board may, after consultation with the Minister, designate another employee of the Office to act as Chief Executive Officer. 20
- (6) No person may be designated as acting Chief Executive Officer for longer than 90 days at a time.
- (7) The Chief Executive Officer is entitled to the pension and retirement benefits calculated on the same basis as those of a head of a department in the public service. 25

### Functions of Chief Executive Officer

- 79I.** (1) The Chief Executive Officer—
- (a) is the head of the Office; 30
- (b) is responsible for the proper and diligent implementation of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
- (c) must appoint suitably qualified persons as employees of the Office in accordance with an organisational structure approved by the Board in consultation with the Minister.
- (2) As head of the Office, the Chief Executive Officer is responsible for— 35
- (a) the formation and development of an efficient administration;
- (b) the organisation and control of staff;
- (c) the maintenance of discipline; and
- (d) the effective deployment and utilisation of staff to achieve maximum operational results.
- (3) The Chief Executive Officer may, after consultation with the Board, enter into contracts with any person or organisation or appoint expert or technical committees to assist the Office in the performance of its functions, including the conducting of inspections. 40
- (4) The Chief Executive Officer must take appropriate action to ensure the implementation of the findings of the report and the recommendations of the Ombud referred to in section 81A(9). 45
- (5) The Chief Executive Officer may, subject to subsection (4), request the intervention of the Minister, a member of the executive council responsible for health in the province or a member of the municipal council responsible for health if the complaint relates to a matter falling under the national department or that particular province or municipality, as the case may be. 50

### Go thapiwa ga Motlhankedi Mogolo Khuduthamaga

**79H.** (1) Boto ka dipuisano le Tona, le go tsamaelana le melao e e laolang ditirelo tsa setšhaba, Boto e ka thapa moagi wa Aforika Borwa yo o itekanetseng le yo o na leng dirutwa tse di maleba go dira jaaka Motlhankedi Mogolo Khuduthamaga wa Kantoro.

(2) Motlhankedi Mogolo Khuduthamaga o tshwara marapo paka ya dingwaga di le tlhano mme gape a ka thapiwa paka ya tlaleletso ya dingwaga tse dingwe di le tlhano.

(3) (a) Go thapiwa ga motho jaaka Motlhankedi Mogolo Khuduthamaga go diriwa go tsamaelana le tumelano ya tiragatso ya tiro e e diriwang gareng ga mothapiwa le Boto, morago ga dipuisano le Tona.

(b) Go ya ka dipuisano tsa Boto le Tona, le Motlhankedi Mogolo Khuduthamaga ka lekwalo le ka tumelano go ka fetolwa tumelanano ya tiro.

(4) Go ya ka dipuisano tsa Boto le Tona, Boto e ka tlosa Motlhankedi Mogolo Khuduthamaga mo Kantorong ka ntlha ya maitshwara a makgwakgwa, go sa itekanele kgotsa go tlhoka bokgoni, morago ga go abela motho yoo tšhono e e lekaneng ya go ikarabela le go tsamaelana le molao o o maleba.

(5) Fa Motlhankedi Mogolo Khuduthamaga a sa kgone go dira tiro ya gagwe ya Kantoro, kgotsa fa go nale phatlaliro mo kantorong ya Motlhankedi Mogolo Khuduthamaga, Boto Morago ga go buisana le Tona e ka laela modiri yo mongwe mo Kantorong go dira jaaka Motlhankedi Mogolo Khuduthamaga

(6) Ga go ope yo o tshwanetseng go laelwa go dira jaaka Motlhankedi Mogolo Khuduthamaga paka e e fetang matsatsi a le 90 ka nako e nosi.

(7) Motlhankedi Mogolo Khuduthamaga o tshwanetse go duelwa penšhene le merokotso ya go rola marapo e e tlhakantsweng ka selekanyo se se lekanang le sa balaodi ba mafapha a ditirelo tsa setšhaba.

### Ditiro tsa Motlhankedi Mogolo Khuduthamaga

**79I.** (1) Motlhankedi Mogolo Khuduthamaga—

- (a) ke molaodi wa Kantoro;
- (b) o rwele maikarabelo a go diragatsa ka botlao le go golaganya tsamaiso ya Molao wa Taolo ya Matlolele a Puso wa 1999 (Molao No. 1 wa 1999); mme o
- (c) tshwanetse go thapa batho ba ba na leng bokgoni jwa go dira jaaka badiri ba Kantoro go tsamaelana le ditlhokego tsa setheo tse di atlenegisitsweng ke Boto, morago ga go buisana le Tona.

(2) Jaaka molaodi wa Kantoro, Motlhankedi Mogolo Khuduthamaga o rwele maikarabelo a go—

- (a) tlhoma le Thulagano ya tsamaiso e e manontlhotlho;
- (b) taolo ya setheo le badiri;
- (c) mametlelelo ya maitshwara; le
- (d) abelwa ga badiri ditiro ka tolamo le tiriso ya badiri go fitlhelela maikaelelo a tiro ya setheo.

(3) Motlhankedi Mogolo Khuduthamaga, morago ga go buisana le Boto a ka dira ditumelano le mongwe le mongwe kgotsa setheo kgotsa a thapa moitsanape kgotsa dikomiti tsa togamano go thusa Kantoro go diragatsa ditiro tsa yona, go akarediwa le go diriwa ga ditlathobho.

(4) Motlhankedi Mogolo Khuduthamaga o tshwanetse go diragatsa dikgato tse di siameng go netefatsa tiragatso ya tshwetso ya repoto le ditshitsinyo tsa Motsereganyo yo o tlhalositsweng mo karolo 81A(9).

(5) Go ya ka mabaka a karolotlaleletso (4) Motlhankedi Mogolo Khuduthamaga a ka kopa thuso ya Tona, leloko la khuduthamaga ya khansele e e rweleng maikarabelo a boitekanelo mo profenseng kgotsa leloko la khuduthamaga ya mmasepala le le rweleng maikarabelo a boitekanelo fa morero oo, o wela ka fa tlase ga taolo ya lefapha la bosetšhaba kgotsa porofense e e maleba kgotsa mmasepala le fa e le ka mokgwa ofe.



### Delegation of powers and assignment of duties by Chief Executive Officer

- 79J.** (1) The Chief Executive Officer may—
- (a) delegate to an employee of the Office any of his or her powers in terms of this Act; or
  - (b) assign to an employee of the Office any of his or her duties in terms of this Act.
- (2) The delegation in terms of subsection (1)—
- (a) must be in writing;
  - (b) may be subject to such terms and conditions the Chief Executive Officer may determine or impose;
  - (c) may at any time be amended or revoked by the Chief Executive Officer; and
  - (d) does not divest the Chief Executive Officer of the responsibility concerning the exercise of the power.

### Accountability of and reporting by Chief Executive Officer

- 79K.** (1) The Chief Executive Officer must, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999)—
- (a) cause the necessary accounting and other records to be kept;
  - (b) in consultation with the Board, prepare and submit to the Minister an annual report for approval by the Minister within five months after the end of the financial year.
- (2) The annual report referred to in subsection (1) must include—
- (a) audited annual financial statements by the Auditor-General;
  - (b) the Auditor-General's report; and
  - (c) a detailed report of the activities of the Office undertaken during the year to which the audit relates.
- (3) The Minister must table in Parliament a copy of the annual report, financial statements and the audit report on those statements within one month after receipt thereof if Parliament is in session or, if Parliament is not in session, within one month after the commencement of its next ensuing session.
- (4) The Chief Executive Officer must, once the annual report, financial statements and audit report have been tabled in Parliament, make the annual report, financial statements and audit report on those statements accessible to the public.
- (5) Notwithstanding subsections (1) and (2), the Board or Chief Executive Officer, as the case may be, must, upon request by the Minister—
- (a) furnish the Minister with information or a report in respect of any case, matter or subject dealt with by the Office; and
  - (b) provide the Minister with reasons for any decision taken by the Board, Chief Executive Officer, an inspector or any other employee of the Office.

### Appointment of health officers and inspectors

- 80.** (1) The Minister, relevant member of the Executive Council or mayor of a municipal council may designate any person in the employ of the national department, province or municipality, as the case may be, as a health officer.
- (2) The Chief Executive Officer must, subject to section 79I(1)(c), appoint any suitably qualified person with appropriate prescribed expertise and skill as an inspector.
- (3) A health officer designated or an inspector appointed in terms of this section must be issued with a certificate stating that he or she has been designated or appointed, as the case may be, as a health officer or as an inspector in terms of this Act.

**Kabelo ya dithata le taelo ya ditiro ke Motlhankedi Mogolo Khuduthamaga**

**79J. (1) Motlhankedi Mogolo Khuduthamaga a ka—**

- |     |  |    |
|-----|--|----|
| (a) | laela modiri mongwe le mongwe wa Kantororo go tsamaelana le dithata tsa gagwe go ya ka Molao ô; kgotsa                   | 5  |
| (b) | laela modiri wa Kantororo go dira tiro ngwe le ngwe go ya ka Molao ô.  |    |
| (2) | Kabelo ya dithata go tsamaelana le karolotlaleletso (1)—   |    |
| (a) | e tshwanetse go kwadiwa fa fatshe;   |    |
| (b) | e ka diriwa tsamaelana le dipeelo le mabaka a tlhomamisitsweng kgotsa gapeleditsweng ke Motlhankedi Mogolo Khuduthamaga; | 10 |
| (c) | nako nngwe le nngwe a ka fetolwa kgotsa fedisiwa ke Motlhankedi Mogolo Khuduthamaga; e bile                              |    |
| (d) | ga a amoge Motlhankedi Mogolo Khuduthamaga maikarabelo a go diragatsa matla a gagwe.                                     |    |

**Maikarabelo a go dira le taolo ya Motlhankedi Mogolo Khuduthamaga 15**

**79K. (1) Motlhankedi Mogolo Khuduthamaga o tshwanetse go ya ka Molao wa Taolo ya Matlole a Puso wa 1999 (Molao No. 1 wa 1999)—**

- |     |  |    |
|-----|--|----|
| (a) | go rwela maikarabelo e bile o tshwanetse go boloka ditokomane tse dingwe;  |    |
| (b) | go ya ka dipuisano le Boto, o tshwanetse go baakanya le go romelela Tona repoto ya ngwaga gore e atlenegisiwe ke Tona mo nakong ya dikgwedi di le tlhano morago ga bofelo jwa ngwaga wa ditšhelete.  | 20 |
| (2) | Repoto ya ngwaga le ngwaga e e tlhalositsweng mo karolotlaleletso (1) e tshwanetse go akaretse—  |    |
| (a) | disetatemente tsa ngwaga tse di runtsweng ke Moruni-Kakaretso;   | 25 |
| (b) | Repoto ya Moruni-Kakaretso; le   |    |
| (c) | repoto ka botlalo ya ditiro tsa Kantororo tse di lebaganeeng le ngwaga o go diriwang repoto ka wona.   |    |
| (3) | Tona e tshwanetse go tlhagisa kgatiso ya repoto ya ngwaga mo Palamenteng, ditlankana tsa tiriso ya matlole le repoto ya moruni mo nakong ya kgwedi morago ga go di amogela, fa e le nako ya Palamente ya go dula, kgotsa fa Palamente e sa dula mo nakong ya kgwedi morago ga tshimologo ga paka ya yona e e latelang. | 30 |
| (4) | Fa repoto ya ngwaga, ditlankana tsa tiriso ya matlole le repoto ya boruni di tlhagisitswe mo Palamenteng Motlhankedi Mogolo Khuduthamaga o tshwanetse go dira gore setšhaba se kgone go e fithelela.   | 35 |
| (5) | Go sa nyatswe karolotlaleletso (1) le (2), Boto kgotsa Motlhankedi Mogolo Khuduthamaga le fa e le ofe wa bona o tshwanetse gore fa a kopiwa ke Tona—   |    |
| (a) | go tlamele Tona ka tshedimosetso kgotsa repoto ka morero mongwe le mongwe, kgetsi kgotsa ntlha e e neng e tshwerwe ke Kantororo; le  | 40 |
| (b) | go tlamele Tona ka mabaka a tshwetso nngwe le nngwe e e dirilweng ke Boto, Motlhankedi Mogolo Khuduthamaga, motlhatlhoi kgotsa modiri mongwe le mongwe wa Kantororo.   |    |

**Go thapiwa ga batlhankedi ba boitekanelo le batlhatlhoi 45**

**80. (1) Tona, leloko le le maleba la Khansele ya Khuduthamaga kgotsa mmeyara ya khansele ya mmasepala e kgona go thapa mongwe le mongwe wa lefapha la bosetšhaba, profense kgotsa mmasepala le fa e le ka mokgwa ofe jaaka motlhankedi wa boitekanelo.**

(2)	Motlhankedi Mogolo Khuduthamaga o tshwanetse go thapa motho yo o na leng dirutwa ka maitemogelo a a tlhalositsweng le bokgoni jo bo maleba jaaka motlhatlhoi go tsamaelana le karolo 79I(1)(c).	50
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(3)	Motlhankedi wa boitekanelo kgotsa motlhatlhoi yo o thapilweng go ya ka karolo ô, o tshwanetse go abelwa setifikeiti se se tlhalosang fa a thapilwe jaaka motlhankedi wa boitekanelo kgotsa motlhatlhoi go tsamaelana le Molao ô.	55
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(4) When a health officer or an inspector performs any function in terms of this Act, he or she—

- (a) must be in possession of a certificate of designation or certificate of appointment, as the case may be, issued in terms of subsection (3);
- (b) must show that certificate to any person who is affected by the action of the health officer or inspector in terms of this Act; and
- (c) has the powers of a peace officer, as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and may exercise any of the powers conferred on a peace officer by law.

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### Appointment of Ombud

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**81.** (1) The Minister must, after consultation with the Board, appoint a suitably qualified and experienced South African citizen as Ombud.

(2) The Minister must, before appointing the Ombud in terms of subsection (1), by notice in the *Gazette* and in two or more nationally circulating newspapers in the Republic, invite applications from suitable persons.

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(3) The Ombud—

- (a) holds office for a non-renewable term of seven years;
- (b) is located within the Office;
- (c) is assisted by persons designated and seconded by the Office with the concurrence of the Ombud; and
- (d) reports to and is accountable to the Minister.

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(4) The Minister, with the concurrence of the Minister of Finance, must determine the remuneration and other terms and conditions of service of the Ombud.

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(5) The Ombud may at any time resign by submitting a written notice to the Minister at least 90 days prior to the intended date of vacation of office, unless the Minister allows for a shorter period.

(6) The Minister may terminate the employment of the Ombud on account of serious misconduct, incapacity or incompetence, after affording him or her reasonable opportunity to be heard and subject to applicable legislation.

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(7) The Minister must, during a vacancy or when the Ombud is unable to fulfil any of his or her functions, appoint a person on a temporary basis in accordance with subsection (1) to act in the position until a permanent person is appointed.

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### Functions of Ombud

**81A.** (1) The Ombud may, on receipt of a written or verbal complaint relating to norms and standards, or on his or her own initiative, consider, investigate and dispose of the complaint in a fair, economical and expeditious manner.

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(2) A complaint referred to in subsection (1) may involve an act or omission by a person in charge of or employed by a health establishment or any facility or place providing a health service.

(3) In conducting an investigation, the Ombud may, subject to subsection (8)—

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- (a) be assisted by any person contemplated in section 81(2)(c);
- (b) (i) obtain an affidavit or a declaration from any person;
- (ii) direct any person to appear before him or her;

- (4) Fa motlhankedi wa boitekanelo kgotsa motlhatlhobi a dira tiro ngwe le ngwe go ya ka Molao ô, o tshwanetse go—
- (a) nna le setifikeiti sa go thapiwa se se abilweng go ya ka karotlaleletso (3);
- (b) bontsha mongwe le mongwe yo o amiwang ke tiro ya motlhankedi wa boitekanelo kgotsa motlhatlhobi go ya ka Molao ô, setifikeiti seo; e bile
- (c) o na le dithata tsa motlhankedi wa kagiso go ya ka tlhalo ya karolo 1 ya *Criminal Procedure Act*, 1977 (Molao No. 51 wa 1977), e bile a ka diragatsa thata ngwe le ngwe e e filweng motlhankedi wa kagiso ke molao.

### Go thapiwa ga Mosekaseki

- 81.** (1) Tona e tshwanetse go thapa motho yo o na leng dirutwa tse di maleba le maitemogelo jaaka Mosekaseki.
- (2) Tona e tshwanetse gore pele e thapa Mosekaseki go tsamaelana le karotlaleletso (1), e tshwanetse go laletsa baagi ba ba na leng maitemogelo a maleba go dira kopo ka go ntsha kitsiso mo Lokwalodikgang la Puso le mo makwalodikgang a bosetšhaba a mabedi kgotsa go feta a Rephaboliki.
- (3) Mosekaseki—
- (a) o tshwara marapo paka ya dingwaga di le šupa tse di sa ntshwafadiweng;
- (b) o tlhomilwe mo teng ga Kantoro;
- (c) o thusiwa ke batho ba ba laetsweng le go romelwa ke Kantoro ka tumelano ya Mosekaseki; le
- (d) o bega go Tona e bile o ikarabela go *Tona*.
- (4) Tona ka tumelano le Tona ya Matlotlo e tshwanetse go tlhomamisa tuelo, ditekanyetso le mabaka mangwe a tiro ya Mosekaseki.
- (5) Mosekaseki a ka rola marapo nako ngwe le ngwe ka go go kwalela Tona kitsiso bonnye mo nakong ya matsatsi a le 90 pele ga letlha leo a ikaeletseng go tlogela tiro ka lona, ntle le fa Tona e letlelela paka e khutshwane.
- (6) Tona e ka fedisa tiro ya Mosekaseki ka ntlha ya maitshwara a makgwakgwa, go sa itekanele kgotsa tlhokego ya bokgoni morago ga go mo fa tšhono e e lekaneng ya go tshwaela le go tsamaelana le ditaelo tsa molao o o maleba.
- (7) Tona, fa go nale phatlalotiro kgotsa fa mosekaseki a sa kgone go dira ngwe le ngwe ya ditiro tsa gagwe, e tshwanetse go thapa motho go dira nako e e sa tsepamang go tsamaelana le karotlaleletso (1) go tshwara marapo go fitlhela a thapa motho wa leruri.

### Ditiro tsa Mosekaseki

- 81A.** (1) Mosekaseki o tshwanetse gore morago ga go amogela ngongorego e e kwadilweng kgotsa ka molomo tebang le diteknayetso le maemo kgotsa ka go ithaopa a batlisise kgetsi le go rarabolola ngongorego ka tolamo le ntle ga tshenyoy ya matlole le ka potlako.
- (2) Ngongorego e e tlhalositsweng mo karotlaleletso (1) e ka akaretsa tiragatso kgotsa go lebala go dira sengwe ke motho yo o laolang kgotsa yo o thapilweng ke setheo sa boitekanelo kgotsa lekala lengwe le lengwe kgotsa lefelo le le tlamelang ka tirelo ya boitekanelo.
- (3) Fa Mosekaseki a sekaseka kgetsi go tsamaelana le karotlaleletso (8), a ka—
- (a) thusiwa ke mongwe le mongwe yo o tlhalositsweng mo karolo 81(2)(c);
- (b) (i) bona affidafiti kgotsa katlanegiso go tswa go mongwe le mongwe;
- (ii) laela mongwe le mongwe go tlhagelela fa pele ga gagwe;

- (iii) direct any person to give evidence or produce any document in his or her possession or under his or her control which has a bearing on the matter under consideration or being investigated; and
  - (iv) interrogate such person;
  - (c) request an explanation from any person whom he or she reasonably suspects of having information which has a bearing on a matter under consideration or which is being or to be investigated; and
  - (d) require any person appearing as a witness to give evidence under oath or after having made an affirmation.
- (4) A direction contemplated in subsection (3)(b) may be by way of a subpoena containing particulars of the matter in connection with which the person subpoenaed is required to appear before the Ombud and served on the person subpoenaed either by a registered letter sent through the post or by delivery by a person authorised thereto by the Ombud.
- (5) If it appears to the Ombud that any person is being implicated in the matter being investigated, the Ombud must afford such person an opportunity to be heard in connection therewith by way of the giving of evidence, and such person is entitled, through the Ombud, to question other witnesses, determined by the Ombud, who have appeared before the Ombud in terms of this section.
- (6) The Ombud may, when considering or investigating a complaint in terms of this section, require the assistance of or refer the complaint to any other authority established in terms of legislation or any other appropriate and suitable body or entity to investigate similar complaints.
- (7) The authority, body or entity, as the case may be, contemplated in subsection (6) must provide—
- (a) the Ombud with the assistance required; and
  - (b) report to the Ombud on the progress made in relation to complaints referred to it.
- (8) No self-incriminating answer given or statement made by any person to the Ombud exercising powers in terms of this Act, is admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in this Act, and then only to the extent that the answer or statement is relevant to prove the offence charged.
- (9) After each investigation, the Ombud must submit a report together with his or her recommendations on appropriate action to the Chief Executive Officer.
- (10) Where the Chief Executive Officer fails to act in accordance with the findings and recommendations of the Ombud, the Ombud may request the intervention of the Minister.
- (11) The Ombud must, after the conclusion of an investigation, inform the complainant or the respondent or both, as the case may be, of his or her findings and recommendations.

### **Independence, impartiality and accountability of Ombud**

- 81B.** (1) The expenditure connected with the appointment and functions of the Ombud is paid out of funds appropriated by Parliament for that purpose, as part of the budget of the Office.
- (2) When dealing with any complaint in terms of this Act, the Ombud, including any person rendering assistance and support to the Ombud—
- (a) is independent and impartial; and
  - (b) must perform his or her functions in good faith and without fear, favour, bias or prejudice.

- (iii) laela mongwe le mongwe go ntsha bopaki kgotsa go tlhagisatokomane ngwe le ngwe eo a na leng yona kgotsa e ka fa tlase ga taolo ya gagwe eo e amanang le ntlha ya tatofatso kgotsa e e batlisiswang; le
- (iv) go botšolotsa motho yoo; 5
- (c) go kopa tlhaloso go mongwe le mongwe yo go belaelwang fa a na le tshedimotsetso e e lebaganeng le ntlha e sekasekwang kgotsa e e tshwanetseng go batlisisiwa; le
- (d) go laela mongwe le mongwe yo o tlhagelelang jaaka paki go bua a ikanne kgotsa go bua morago ga go dira katlenegiso. 10
- (4) Taelo e e umakilweng mo karolotlaleletso (3)(b) e tshwanetse go diriwa ka taelo ya kgotlatshekelo e e kwadilweng dintlha tsotlhe tsa kgetsi maleba le motho yo o tshwanetseng go tlhagelela fa pele ga Mosekaseki le go fiwa motho yo o latofadiwang ka lekwalo le le rejisetarilweng ka poso kgotsa le tsamaisiwe ke motho yo o laetsweng ke Mosekaseki go dira jaalo. 15
- (5) Fa Mosekaseki a lemoga ekare go na le motho yo o belaelwang ka morero yo o batlisiwang, Mosekaseki o tshwanetseng go abela motho yo o tšhono ya go bua ka mokgwa wa go paka, e bile motho yo o na le matla a go botsa dipaki tse di biditsweng dipotso ka kopa tetla ya Mosekaseki fa ba tlhagelela fa pele ga Mosekaseki go ya ka karolo ô. 20
- (6) Fa Mosekaseki a tlhomamisa kgotsa batlisisa ngongorego go ya ka karolo ô, Mosekaseki o kgona go kopa thuso kgotsa go romela ngongorego go setheo sengwe le sengwe se se tshamilweng go ya ka molao kgotsa setheo sengwe le sengwe se se maleba le se se siametseng go batlisisa dingongorego tsa mofuta oo. 25
- (7) Bolaodi kgotsa setheo, le fa e le ka mokgwa ofe, se se tlhalositsiwe mo karolotlaleletso (6) se tshwanetse go—
- (a) tlamela Mosekaseki ka thuso e e tlhokagalang; le
- (b) go begela Mosekaseki ka ga tswelelopele e e dirilweng malebana le dingongorego tse di amogetsweng ke yona. 30
- (8) Dikarabo tse di builweng kgotsa disetatemente tse di dirilweng ke motho ofe kapa ofe go Mosekaseki go ya ka Molao ô, di tla letlelelwa jaaka bopaki kgatlhanong le motho yo o mo kgotlatshekelo ngwe le ngwe, ntle le le dikgetsi tsa go bua maaka o ikanne kgotsa fa motho yo o a latofadiwa ka tatofatso e e tsamaelanang le Molao ô, e bile fa fela karabo kgotsa setatemente se le botlhokwa go šupa molato wa tatofatso. 35
- (9) Morago ga patlisiso ngwe le ngwe, Mosekaseki o tshwanetse go tlamela Motlhankedi Mogolo Khuduthamaga ka repoto mmogo le tshitshinyo ya gagwe ka ga kgato e tshwanetseng go tswewa.
- (10) Fa Motlhankedi Mogolo Khuduthamaga a palelewa ke go dira go tsamaelana le dipholo le ditshitsinyo tsa Mosekaseki, Mosekaseki a ka kopa thuso ya Tona go namola kgetsi. 40
- (11) Morago ga patlisiso ya tshekatsheko, Mosekaseki o tshwanetse go itsise mongongoregi kgotsa molatofatsi kgotsa bobedi jwa bona, le fa e le ka mokgwa ofe, ka ga ditshwaelo le ditshitsinyo. 45

#### **Go ikemela, tolamo le maikarabelo a Mosekaseki**

**81B.** (1) Ditshenyegelo tse di amanang le go thapiwa le ditiro tsa Mosekaseki di duelwa ka matlole a abilweng ke Palamente jaaka karolo ya tekanyetsokabo ya Kantororo.

(2) Fa go semagwane le ngongorego ngwe le ngwe go ya ka Molao ô, Mosekaseki go akarediwa mongwe le mongwe yo o tlamelang Mosekaseki ka thuso le kemo nokeng— 50

(a) ba ikemetse, ga ba tseye letlhakore; e bile

(b) ba tshwanetse go dira tiro ya bona ka boineelo le ntle ga tshabo, lonya kgotsa kgethololo. 55

(3) The Minister, national department and Office must afford the Ombud such assistance and support as may be reasonably necessary for the Ombud to perform his or her functions effectively and efficiently.

(4) The Ombud must, within one month after the end of the financial year, prepare a report on the affairs and functions of the Ombud during the financial year in question, and submit such report to the Minister for tabling in Parliament.

### Inspections

**82.** (1) A health officer may enter any premises, excluding a private dwelling, whereas an inspector may enter any health establishment, at any reasonable time, and—

- (a) inspect such premises or health establishment, as the case may be, in order to ensure compliance with this Act;
- (b) question any person who he or she believes may have information relevant to the inspection;
- (c) require the person in charge of such premises or health establishment to produce, for inspection or for the purpose of obtaining copies or extracts thereof or therefrom, any document, including any health record contemplated in section 15, which such person is required to maintain in terms of any law; and
- (d) take samples of any substance or photographs relevant to the inspection.

(2) A health officer or an inspector may be accompanied by an interpreter and any other person reasonably required to assist him or her in conducting the inspection.

(3) A health officer or an inspector may issue a compliance notice to the person in charge of the premises or health establishment, as the case may be, if any norm and standard or a provision of this Act has not been complied with.

(4) A compliance notice remains in force until the relevant provision of the Act has been complied with and a compliance certificate has been issued by the relevant authority.

(5) A health officer or an inspector who removes any item other than that contemplated in subsection (1)(d) must—

- (a) issue a receipt for it to the person in charge of the premises or health establishment, as the case may be; and
- (b) subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), return it as soon as practicable after achieving the purpose for which it was removed.

(6) The provisions of section 86A apply with the necessary changes required by the context to inspections conducted in terms of this section.

(7) A compliance certificate issued by the Office shall be valid for a period of no more than four years and must be renewed before or on the expiry date in a manner prescribed.

### Non-compliance with prescribed norms and standards

**82A.** (1) An inspector may issue a compliance notice to a person in charge of any health establishment if such establishment does not comply with any prescribed norm and standard.

(2) The notice contemplated in subsection (1) must set out—

- (a) the health establishment to which the notice applies;
- (b) any prescribed norm and standard that have not been complied with;
- (c) details of the nature and extent of non-compliance;
- (d) any steps that are required to be taken and the period over which such steps must be taken; and
- (e) the penalties that may be imposed in the event of continued non-compliance.



(3) Tona, Lefapha le Kantoro di tshwanetse go tlamela Mosekaseki thuso le kemo nokeng e e tlhokegang go kgontsha Mosekaseki go dira tiro ya gagwe ka botswapelo le manontlhotlho.

(4) Kgwedi morago ga go fela ga ngwaga wa ditšhelete Mosekaseki o tshwanetse go tlamele Tona ka repoto ka ga merero le ditiro tsa Mosekaseki, go kgontsha Tona go bega seo mo Palamenteng.

### Ditlhatlhobo

**82.** (1) Motlhankedi wa boitekanelo o kgona go tsena mo gare ga lefelo lengwe le lengwe, ntle le setšha sa poraefete, mo go je lengwe motlhatlhobi o kgona go tsena mo teng ga setheo sengwe le sengwe sa boitekanelo nako ngwe le ngwe, le—

- (a) tlhatlhoba mafelo ao kgotsa setheo sa boitekanelo, le fa e le ka mokgwa ofe, go netefatsa kobamelo ya Molao ô;
- (b) go botsa mongwe le mongwe yo o belaelwang go nna le tshedimosetso ka ga tlhatlhobo;
- (c) go batla motho yo o laolang mafelo, kgotsa setheo sa boitekanelo go tlhagisa boemong jwa tshakatsheko kgotsa mabapi le go bona dikhopi kgotsa dikgatišo tsa yona, tokomane ngwe le ngwe, go akaretswa ditokomane tsa boitekanelo tse di tlhalositsweng mo karolo 15, tse motho yoo a tshwanetseng go nna le tsona go tsamaelana le molao mongwe le mongwe; le
- (d) go tsaya sampole ya mofuta mongwe le mongwe kgotsa ditshwantsho tse di amang tlhatlhobo.

(2) Motlhankedi wa boitekanelo kgotsa motlhatlhobi a ka tsamaya le toloko kgotsa motho mongwe le mongwe yo o botlhokwa go tswelatsa tlhatlhobo.

(3) Motlhankedi wa boitekanelo kgotsa motlhatlhobi a ka rebola kitsiso ya kobamelo go motho yo o laolang mafelo kgotsa setheo sa boitekanelo, le fa e le ka mokgwa ofe, fa tekanyetso kgotsa maemo kgotsa taelo ngwe le ngwe ya Molao ô, e sa diragadiwa

(4) Kitsiso ya kobamelo e dula e na le matla go fitlhela taelo e e maleba ya Molao e diragadiwa le go fitlhela go ntshiwa setifikeiti sa kobamelo ke bolaodi jo bo maleba.

(5) Motlhankedi wa boitekanelo kgotsa motlhatlhobi yo o tlosang thoto ngwe le ngwe ntle le e e kwadileng mo karolotlaleletso (1)(d) o tshwanetse go—

- (a) abela motho yo o laolang lefelo setlankana sa sešupo kgotsa setheo sa boitekanelo le fa e le ka mokgwa ofe; le
- (b) go tsamaelana le *Criminal Procedure Act, 1977* (Molao No. 51 wa 1977), e tshwanetse go busiwa ka bonako jo bo kgonagalang morago ga go fitlhelela maikaelelo a lebaka leo e ne e le tseetswe.

(6) Ditaelo tsa karolo 86A di diragadiwa le diphetogo tse di botlhokwa mabapi le bokao jwa dipatlisano tse di diriwang go tsamaelana le karolo ?.

(7) Setifikeiti sa kobamelo se se ntshitsweng ke Kantoro se dula se na le matla paka ya dingwaga di le nne mme se tshwanetse go ntshwafadiwa pele kgotsa ka letlha la bofelo ka mokgwa o o tlhalositsweng.

### Go tlhoka go obamela maemo le mabaka a a tlhomamisitsweng

**82A.** (1) Motlhatlhobi a ka ntsha kitsiso ya go tlhoka go obamela taelo kgatlhanong le motho yo o laolang setheo sa boitekanelo fa setheo seo se sa itepatepanye le ditekanyetso le maemo a tlhomamisitsweng.

(2) Kitsiso e e tlhalositsweng mo karolotlaleletso (1) e tshwanetse go tlhalosa—

- (a) setheo sa boitekanelo se se amiwang ke kitsiso;
- (b) maemo mangwe le mangwe le mabaka a sa obamelwang;
- (c) dintlha ka ga mokgwa le seemo sa taelo e e sa obamelwang;
- (d) kgato ngwe le ngwe e tshwanetseng go tsewa le paka ya go diragatsa dikgato; le
- (e) dikotlhalo tse di ks tlhomamisiwang fa go tswelapele go sa obamele ditaelo.

(3) A compliance notice issued in terms of this section remains in force until the Office, on the basis of information furnished by the inspector, issues a certificate of compliance or until it is appealed against and set aside by the tribunal appointed in terms of section 88A(2)(a).

(4) If a person in charge of a health establishment to whom a compliance notice has been issued, fails to comply with the notice, the Office may as appropriate and taking into account the nature, extent, gravity and severity of the contravention—

- (a) issue a written warning to achieve compliance within a set period of time in a manner prescribed;
- (b) require a written response from the health establishment regarding the continued non-compliance;
- (c) recommend to the relevant authority any appropriate and suitable action to be undertaken, including the institution of disciplinary proceedings against persons responsible for the non-compliance or continued non-compliance;
- (d) revoke the compliance certificate and recommend to the Minister the temporary or permanent closure of the health establishment or part thereof that constitutes a serious risk to public health or to health service users;
- (e) impose upon that person or health establishment a fine as determined by the Minister in the *Gazette* from time to time; or
- (f) refer the matter to the National Prosecuting Authority for prosecution.

(5) The Chief Executive Officer must inform the head of a national or provincial department, the municipal manager or the head of a health establishment of any persistent non-compliance.

### Environmental health investigations

**83.** (1) If a health officer has reasonable grounds to believe that any condition exists which—

- (a) constitutes a violation of the right contained in section 24(a) of the Constitution;
  - (b) constitutes pollution detrimental to health;
  - (c) is likely to cause a health nuisance; or
  - (d) constitutes a health nuisance,
- the health officer must investigate such condition.

(2) If the investigation reveals that a condition contemplated in subsection (1) exists, the health officer must endeavour to determine the identity of the person responsible for such condition.

(3) The health officer must issue a compliance notice to the person determined to be responsible for any condition contemplated in subsection (1) to take appropriate corrective action in order to minimise, remove or rectify such condition.

(4) Any person aggrieved by a determination or instruction in terms of subsection (2) or (3) may, within a period of 14 days from the date on which he or she became aware of the determination or instruction, lodge an appeal with the person who appointed a health officer in terms of section 80(1).

(5) Only a health officer who is registered as an environmental health practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), may exercise any of the powers conferred under this section.



(3) Kitsiso ya kobamela e ntshitsweng go tsamaelana le karolo eno, e dula e na le matla go fitlhela Kantoro e ntsha setifikeiti sa kobamelo go ya ka tshedimotso e ntshitsweng ke motlhatlhoi kgotsa go fitlhela go diriwa boipelaletso kgatlhanong le yona le go kgaphelwathoko ke kgotla e e tlhomilweng go ya ka karolo 88A(2)(a).

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(4) Fa motho yo o laolang setheo sa boitekanelo kgotsa motlhankedi wa boitekanelo yo o ntsheditweng kitsiso a palelwa ke go obamela taelo e ntshitsweng, go etswe tlhoko mofuta, bogolo, bomasisi, jwa tatofatso Kantoro e ka—

(a) ntsha temošo e e kwadilweng go netefatsa kobamelo go tsamaelana le nako e e tlhomamisitsweng;

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(b) batla karabo e e kwadilweng go tswa go setheo sa boitekanelo tebang le tswelolelo ya go tlhoka kobamelo;

(c) dira tshitsinyo go bolaodi bongwe le bongwe jo bo maleba le kgato e e tshwanetseng go tsewa, go akarediwa le tshomololo ya kgetsi ya go siamisa maitshwaro kgatlhanong le batho ba bas a obamelang kgotsa ba ba tshwelelang pele go sa obamele taelo;

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(d) fedisa setifikeiti sa kobamelo le go dira ditshitsinyo go Tona go tswala setheo sa boitekanelo nakonyana kgotsa leruri kgotsa karolo ya sona e e tlholang kotsi e masisi go boitekanelo jwa baagi kgotsa go badirisi ba ditirelo tsa boitekanelo;

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(e) otlhaya motho yo o kgotsa setheo sa boitekanelo ka katlholo e e tlhomamisitsweng ke Tona nako ngwe le ngwe mo Lokwalodikgang la Pusoa; kgotsa

(f) fetisetsa ntlha eo go Bolaodi jwa Botšhutšhisi jwa Bosetšhaba go.

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(5) Motlhankedi Mogolo Khuduthamaga o tshwanetse go itsise puso ya bosetšhaba kgotsa ya porofense, molaodi wa mmasepala kgotsa motsamaiisi wa setheo sa boitekanelo ka tswelolepele ngwe le ngwe e e tlhokang go itepanye le kobamelo.

### **Ditlathlhoi tsa boitekanelo jwa tikologo**

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**83.** (1) Fa motlhankedi wa boitekanelo a belaela fa go na le mabaka a utlwagalang—

(a) ao a tlholang tlolo molao ya tshwanelo e e tlhalositsweng mo karolo 24(a) ya Molaotheo;

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(b) ao a bakang kgotlhelego e e sa siamang ya boitekanelo;

(c) ao go na leng kgonagala ya gore a ka baka kgotlhelego ya boitekanelo; kgotsa;

(d) ao a bakang kgotlhelego ya boitekanelo,

Motlhankedi wa boitekanelo o tshwanetse go batlisisa maemo ao.

(2) Fa patlisiso e bontsha ponagalo ya maemo a a tlhalositsweng mo karotlaleletso (1), motlhankedi wa boitekanelo o tshwanetse go leka go tlhomamisa motho yo o rweleng maikarabelo a maemo ao.

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(3) Motlhankedi wa boitekanelo o tshwanetse go ntsha kitsiso ya kobamelo mabapi le motho yo o rweleng maikarabelo a maemo mangwe le mangwe a a tlhalositsweng mo karotlaleletso (1) le go tsaya dikgato tse di maleba go fokotsa, go tlosa kgotsa go baakanya seemo seo.

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(4) Motho mongwe le mongwe yo o sa kgotsafatswang ke tlhomamiso kgotsa taelo go ya ka karotlaleletso (2) kgotsa (3) a ka tsenya kgetsi ya boipilaetsa mo nakong ya matsatsi a le 14 go simolola ka letlha leo a utlwileng ka lona ka kitso ya tlhomamiso kgotsa go dira boipelaletso go motho yo o thapileng motlhankedi wa boitekanelo go tsamaelana le karolo 80(1).

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(5) Ke motlhankedi wa boitekanelo fela, yo o rejisetarilweng jaaka motlhankedi wa boitekanelo jwa tikologo go ya ka *Health Professions Act* wa 1974 (Moalo No. 56 wa 1974), yo o ka dirisang ngwe le ngwe ya dithata tse di tlhalositsweng mo karolong eno.

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**Entry and search of premises or health establishment with warrant by health officer or inspector**

- 84.** (1) A health officer or inspector may, where necessary, be accompanied by a police official and may, on the authority of a warrant issued in terms of subsection (5) and subject to sections 85 and 86A, enter any premises, including a private dwelling, or health establishment, as the case may be, specified in the warrant, and—
- (a) inspect, photograph, copy, test and examine any document, record, object or material, or cause it to be inspected, photographed, copied, tested and examined;
  - (b) seize any document, record, object or material if he or she has reason to suspect that it might be used as evidence in a criminal trial; and
  - (c) examine any activity, operation or process carried out on the premises or health establishment.
- (2) A health officer or an inspector who removes anything from the premises or health establishment being searched, as the case may be, must—
- (a) issue a receipt for it to the owner or person in control of the premises or health establishment; and
  - (b) unless it is an item prohibited in terms of this Act, return it as soon as practicable after achieving the purpose for which it was removed.
- (3) Upon the request of a health officer or an inspector acting in terms of a warrant issued in terms of subsection (5), the occupant and any other person present on the premises or health establishment, as the case may be, must—
- (a) make available or accessible or deliver to the health officer or inspector any document, record, object or material which pertains to an investigation or inspection contemplated in subsection (1) and which is in the possession or under the control of the occupant or other person;
  - (b) furnish such information as he or she has with regard to the matter under investigation or inspection; and
  - (c) render such reasonable assistance as the health officer or inspector may require to perform his or her functions efficiently in terms of this Act.
- (4) Before questioning any person at the premises or health establishment in question, the health officer, inspector or police official must advise that person of his or her right to be assisted at the time by an advocate or attorney, and allow that person to exercise that right.
- (5) A warrant contemplated in subsection (1) may be issued by a judge or a magistrate—
- (a) in relation to the premises or health establishment on or from which there is reason to believe an act has been or is being committed in contravention of this Act; and
  - (b) if it appears from information on oath or affirmation that there are reasonable grounds to believe that there is evidence available in or upon such premises or health establishment of a contravention of this Act.
- (6) The warrant may impose restrictions on the powers of the health officer or inspector.
- (7) A warrant issued in terms of this section—
- (a) remains in force until—
    - (i) it is executed;
    - (ii) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority;

**Go tsena le go batlisisa mafelo kgotsa setheo sa boitekanelo ka  
lekwalotetla ke motlhankedi wa boitekanelo kgotsa motlhatlhabi**

84. (1) Motlhankedi wa boitekanelo kgotsa motlhatlhabi a ka tsamaya le  
motlhankedi wa sepodisa fa go le botlhokwa e bile a ka tsena mo gare ga  
lefelong le lengwe go akarediwa le lefelo la poraefete kgotsa setheo sa  
boitekanelo fa a na le taolo ya lekwalotetla le le ntshitsweng go ya ka  
karolotlaleletso (5) le ditaelo tsa karolo 85 le 86A, le fa e le ka mokgwa ofe,  
go tsamaelana le mabaka a tthalositsweng mo lekwalotetla, le—
- (a) go tlhatlhoba, tsaya ditshwantsho, kgatišo, teko le tshekatsheko ya  
tokomane ngwe le ngwe, tshedimosetso, setlankana kgotsa selo,  
kgotsa tlhotlheletsa ya tlhatlhobo, tsewa ditshwantsho, kgatiso, tekolo  
kgotsa tshekatsheko;
- (b) go gapa tokomane ngwe le ngwe, tshedimosetso, setlankana kgotsa  
selo fa go dumela gore se ka dirisiwa jaaka bopaki mo kgetsing ya  
bosenyi mo kgotlasthekelo; le
- (c) tshekatsheko ngwe le ngwe ya a tiragatso kgotsa tiro e e direlwang mo  
mafelong kgotsa mo setheong sa boitekanelo.
- (2) Motlhankedi wa boitekanelo kgotsa motlhatlhabi yo o tlosang  
sengwe le sengwe mo lefelong kgotsa mo setheong sa boitekanelo se se  
tshwanetseng go tlhatlhabiwa, le fa e le ka mokgwa ofe, o tshwanetse go—
- (a) abela mongwa sona kgotsa motho yo o laolang mafelo kgotsa setheo  
sa boitekanelo setlankana sa sešupo;
- (b) ntle le fa e le selo se se ilelitsweng go ya ka Molao ô, go se busa ka  
bonako jo bo kgonagalang morago ga go fitlhelela maikaelelo a sona  
a go tlosiwa.
- (3) Fa motlhankedi wa boitekanelo kgotsa motlhatlhabi yo o dirang tiro  
go ya ka lekwalotetla le le rebotsweng go tsamaelana le karolotlaleletso (5),  
a dira kopo go modudi le mongwe le mongwe yo o leng teng mo lefelong  
kgotsa setheo sa boitekanelo le fa e le ka mokgwa ofe, o tshwanetse—
- (a) go tlhagisa kgotsa go bontsha kgotsa go naya motlhankedi wa  
boitekanelo kgotsa motlhatlhabi tokomane ngwe le ngwe, tshedi-  
mosetso, setlankana sa sešupo, kgotsa selo se se tsamaelanag le  
patlisiso kgotsa tlhatlhobo e e tthalositsweng mo karolotlaleletso (1) e  
e tshwerweng ke modudi kgotsa motho kgotsa e e leng ka fa tlase ga  
taolo ya modudi kgotsa motho mongwe le mongwe;
- (b) go tlamela ka tshedimosetso tebang le morero o o batlisisiwang kgotsa  
tlhatlhabiwang; le
- (c) go tlamela motlhankedi wa boitekanelo kgotsa motlhatlhabi ka thuso  
e e tlhokegang go dira tiro ya gagwe ka manontlhotlho go tsamaelana  
le Molao ô.
- (4) Pele go botsolotswa mongwe le mongwe mo mafelong kgotsa mo  
setheong sa boitekanelo, motlhankedi wa boitekanelo, motlhatlhabi kgotsa  
motlhankedi wa lepodisa o tshwanetse go itsise motho yo o ka tshwanelo ya  
gagwe ya go ka thusiwa ke moadfokata kgotsa mmueledi e bile a letlelelwe  
go dirisa tshwanelo eo.
- (5) Lekwalotetla le le tthalositsweng mo karolotlaleletso (1) le ka  
ntshiwa ke moatlhodi kgotsa magiseterata—
- (a) mabapi le meago kgotsa setheo sa boitekanelo kgotsa malebana le  
setheo seo go belaelwang fa go tloilwe kgotsa go tlodiwa Molao mo  
go sona; le
- (b) fa go bonagala ka tshedimosetso ya maikano kgotsa katlanegiso go na  
le mabaka a ultwagalang go dumela fa go na le bopaki mo teng ga  
meago kgotsa setheo sa boitekanelo jo bo leng kgatthanong le Molao  
ô.
- (6) Lekwalotetla le ka thibela dingwe tsa dithata tsa motlhankedi wa  
boitekanelo kgotsa motlhatlhabi.
- (7) Lekwalotetla le le ntshitsweng go ya ka karolo ô—
- (a) le dula le na le matla go fitlhela—
- (i) le dirisiwa;
- (ii) le gogelwa morago ke motho yo o le ntshitseng kgotsa fa  
motho yoo a seyo, ke motho mongwe le mongwe yo o na leng  
taolo e e tshwanang ya matla;

- (iii) the expiry of one month from the day of its issue; or
  - (iv) the purpose for the issuing of the warrant has lapsed, whichever occurs first; and
  - (b) must be executed by day unless the person who issues the warrant authorises the execution thereof by night.
- (8) No person is entitled to compensation for any loss or damage arising out of any *bona fide* action by a police official, a health officer or an inspector under this section.

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**Identification prior to entry, and resistance against entry, by health officer or inspector**

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**85.** (1) A health officer or an inspector who has obtained a warrant in terms of section 84(5) or the police official accompanying him or her, must immediately before entering the premises or health establishment in question, as the case may be—

- (a) audibly announce that he or she is authorised to enter the premises or health establishment and demand admission to the premises or establishment; and
- (b) notify the person in control of the premises or health establishment of the purpose of the entry, unless there are reasonable grounds to believe that such announcement or notification might defeat the purpose of the search.

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- (2) The health officer or inspector, as the case may be, must—
- (a) hand to the person in control of the premises or health establishment a copy of the warrant or, if such person is not present, affix such a copy to a prominent place on the premises; and
  - (b) on request of the person in charge of such premises or health establishment, show his or her certificate of appointment as health officer or inspector to that person.

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(3) A health officer or an inspector, as the case may be, or a police official contemplated in subsection (1), may overcome resistance to the entry and search by using such force as is reasonably required, including the breaking of a door or window of the premises or health establishment.

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(4) Before using force, the health officer or inspector, as the case may be, or police official must audibly demand admission and must announce the purpose of the entry, unless there are reasonable grounds to believe that doing so might defeat the purpose of the search.

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**Entry and search of premises or health establishment without warrant by health officer or inspector**

**86.** A health officer or an inspector may, subject to section 86A, without a warrant exercise any power referred to in section 84(1) if—

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- (a) the person who is competent to do so consents to such exercise; or
- (b) there are reasonable grounds to believe that a warrant would be issued in terms of section 84(5) and that the delay in obtaining the warrant would defeat the object of the warrant.

**Constitutional right to privacy**

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**86A.** Any entry upon or search of any premises or health establishment in terms of this Act must be conducted with strict regard to decency and good order, including—

- (a) the right of a person to dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to privacy.

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- (iii) le felelwa ke boleng fa le na le nako ya kgwedi go simolola ka letsatsi la go kwadiwa; kgotsa
- (iv) fa lebaka la go ntshiwa ga lona le feletswe ke nako, lebaka lengwe le lengwe le le tlhagelelang pele; e bile
- (b) le tshwanetse go diragadiwa motshegare ntle le fa motho yo o ntshitseng lekwalotetla a lopa gore le diragadiwe bosigo. 5
- (8) ga gona motho ope yo o tshwanetseng go duelelwa tatlhegelo kgotsa tshenyegelo ngwe le ngwe e e diragetseng fa motlhankedi wa sepodisa, motlhankedi wa boitekanelo kgotsa motlhatlhobi a dira tiro ya gagwe ka tolamo go tsamaelana le karolo. 10

**Go ikitsise ga motlhankedi wa boitekanelo kgotsa motlhatlhobi pele a tsena, le go thibelwa go tsena ga motlhankedi wa boitekanelo kgotsa motlhatlhobi**

- 85.** (1) Motlhankedi wa boitekanelo kgotsa motlhatlhobi yo o filweng lekwalotetla go ya ka karolo 84(5) kgotsa motlhankedi wa sepodisi yo o tsamayang nae, o tshwanetse gore pele a tsena mo meagong kgotsa mo setheong sa boitekanelo, le fa go ntse jaang, go— 15
- (a) itsise ka molomo fa a letleletswe go tsena mo teng ga meago kgotsa setheo sa boitekanelo le go batla go amogelwa mo meagong kgotsa mo setheong sa boitekanelo; le 20
- (b) itsise motho yo o tshwereng marapo a meago kgotsa setheo sa boitekanelo lebaka la go tsena, Ntle le fa go na le lebaka le le utlwagalang go dumela fa kitsiso eo e tla kgoreletsa maikaelelo a patlisiso. 25
- (2) Motlhankedi wa boitekanelo kgotsa motlhatlhobi le fa e le ka mokgwa ofe, o tshwanetse go—
- (a) tlhagisetse motho yo o laolang meago kgotsa setheo sa boitekanelo kgatišo ya lekwalotetla kgotsa, fa motho yo o a seyo, o tshwanetse go kgomaretse kgatišo eo mo lefelong le le bonagalang la moago; le 30
- (b) go tlhagisa setifikeiti sa netefaletso jaaka motlhankedi wa boitekanelo kgotsa motlhatlhobi fa motho yo o laolang meago kgotsa setheo sa boitekanelo a kopa go se bona. 35
- (3) Motlhankedi wa boitekanelo kgotsa motlhatlhobi kgotsa motlhankedi wa lepodisi yo o umakilweng mo karolotlaetso (1) a ka kgoreletsa kganelo ya go tsena le patlisiso ka go dirisa matla a batlagalang, go akarediwa go thubiwa ga kgoro kgotsa letlhabaphefo la moago kgotsa setheo sa boitekanelo. 35
- (4) Pele go dirisiwa matla, motlhankedi wa boitekanelo kgotsa motlhatlhobi kgotsa motlhankedi wa lepodisi, o tshwanetse go kopa go tsena le go itsise lebaka la go tsena, ntle le fa go na le mabaka la go dumela fa seo se tla kgoreletsa maikaelelo a patlisiso. 40

**Go tsena le go phuruphutshiwa ga moago kgotsa setheo sa boitekanelo ke motlhankedi wa boitekanelo kgotsa motlhatlhobi ntle le lekwalotetla**

- 86.** Motlhankedi wa boitekanelo kgotsa motlhatlhobi go tsamaelana le karolo 86A, a ka diragatsa thata ngwe le ngwe e e tlhalositsweng mo karolo 84(1) ntle le lekwalotetla fa— 45
- (a) Motho yo o na leng bokgoni a dumela go diragatsa taelo eo; kgotsa
- (b) go na le mabaka a utlwagalang go dumela fa lekwalotetla le tla atlenegisiwa go ya ka karolo 84(5), e bile fa nako ya go batla lekwalotetla e tla kgoreletsa maikaelelo a lekwalotetla. 50

**Tshwanelo ya sephiri ya Molaotheo**

- 86A.** go tsena mo gare ga moago kgotsa go phuruphutshwa ga moago kgotsa setheo sengwe le sengwe sa boitekanelo go ya ka Molao ô, se tshwanetse go diriwa ka seriti le tolamo, go akarediwa— 55
- (a) tshwanelo ya botho ya seriti;
- (b) tshwanelo ya botho ya kgololosego le tshireletso; le
- (c) tshwanelo ya botho ya sephiri.



# **Disposal of items seized by health officer or inspector**

**87.** A health officer or an inspector may dispose of anything seized in terms of section 84 or 86 in the manner provided for in Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

## **Miscellaneous provisions relating to health officers, inspectors and compliance procedures** 5

**88.** For the purposes of this Act, the head of a national or provincial department, the municipal manager or the head of a health establishment must be regarded as being—

- (a) the owner and occupier of any premises or health establishment that the national or provincial department or the municipality occupies or uses; and 10
- (b) the employer of persons in the service of that national or provincial department or municipality if, as an employer, the national or provincial department or municipality— 15
  - (i) performs any duty imposed upon an employer by or under this Act; or
  - (ii) exercises any power conferred upon an employer by or under this Act.

## **Appeals against decisions of Office or Ombud** 20

**88A.** (1) Any person aggrieved by any decision of the Office or any finding and recommendation of the Ombud in relation to a matter regulated by this Act, or a person acting on his or her behalf, may within 30 days of him or her gaining knowledge of that decision, lodge a written appeal with the Minister. 25

(2) The Minister must, upon receipt of the appellant's written appeal contemplated in subsection (1)—

- (a) appoint an independent *ad hoc* tribunal in terms of subsection (3);
- (b) submit the appeal to the tribunal for adjudication in the prescribed manner. 30

(3) A tribunal contemplated in subsection (2) must consist of not more than three persons, of whom—

- (a) one must be a person who is a retired judge of a High Court or a retired magistrate, who must be the chairperson; and
- (b) two must be persons appointed on account of their knowledge of the health care industry. 35

(4) A tribunal contemplated in subsection (2)—

- (a) may confirm, set aside or vary the decision of the Office or Ombud; and
- (b) must notify the parties of its decision. 40

## **Offences and penalties**

**89.** (1) A person is guilty of an offence if he or she—

- (a) obstructs or hinders a health officer or an inspector who is performing a function or any other person rendering assistance or support to a health officer or an inspector under this Act; 45
- (b) refuses to provide a health officer or an inspector with such information as that person is required to provide under this Act;
- (c) knowingly gives false or misleading information to a health officer or an inspector;
- (d) unlawfully prevents the owner of any premises or health establishment, or a person working for the owner, from entering the premises or 50

**Nyeletso ya dilo tse di gapilweng ke motlhankedi wa boitekanelo kgotsa motlhatlhoi**

**87.** Motlhankedi wa boitekanelo kgotsa motlhatlhoi a ka nyeletsa sengwe le sengwe se se gapilweng go ya ka karolo 84 kgotsa 86 ka mokgwa yo o tshalositsweng mo Karolo 2 ya *Criminal Procedure Act, 1977* (Molao No. 51 wa 1977). 5

**Ditlamelo dingwe tse di amang batlhankedi ba boitekanelo, batlhatlhoi le tsamaiso ya kobamelo**

**88.** Mabapi le maikaelelo a Molao ô, molaodi wa lefapha la bosetshaba kgotsa la diprofense, molaodi wa mmasepala kgotsa molaodi wa lefapha la boitekanelo ba tshwanetse go tsewa e le— 10

- (a) mongwa lefelo le modudi wa lefelo lengwe le lengwe kgotsa setheo sengwe le sengwe sa boitekanelo se se dirisiwang; le
- (b) mothapi wa batho mo ditirelong tsa lefapha la bosetshaba kgotsa profense kgotsa mmasepala fa jaaka mothapi, lefapha la bosetshaba kgotsa profense kgotsa mmasepala a— 15
  - (i) dira tiro ngwe le ngwe e e filweng mothapi go tsamaelana le Molao ô; kgotsa
  - (ii) diragatsa thata ngwe le ngwe e e filweng mothapi go ya ka Molao ô. 20

**Boipelaetso kगतलhanong le ditshwetso tsa Kantoro kgotsa Mosekaseki**

**88A.** (1) Motho mongwe le mongwe yo o sa itumedisiwang ke tshwetso ngwe le ngwe ya Kantoro kgotsa tshitsinyo ngwe le ngwe ya Mosekaseki mabapi le morero yo o laolawang ke Molao ô, kgotsa motho yo o dirang boemong jwa gagwe, o tshwanetse go kwalela Tona kitsiso ya boipelaetso mo nakong ya matsatsi a le 30 morago ga kamogelo ya tshwetso. 25

(2) Morago ga kamogelo ya kopo ya boipelaetso e e kwadilweng go ya ka karolotlaleletso (1) Tona e tshwanetse go—

- (a) tlhopha lekgotla la nakwana le le ikemetseng go ya ka karolotlaleletso (3); 30
- (b) romela boikuelo jwa moipelaetsi go lekgotla go tshwara tsheko ka mokgwa o o tshomamisitsweng.

(3) Lekgotla le le tshalositsweng mo karolotlaleletso (2) ga le a tshwanela go nna le batho ba ba fetang tharo, mme—

- (a) mongwe wa bona o tshwanetse go nna moatlhodi yo o rotseng marapo wa Kgotlatshetlo e Kgolo, yo o tshwanetseng go nna modulasetilo; mme 35
- (b) ba babedi ba tshwanetse go nna batho ba ba thapilweng ka ntlha ya kitso ya bona ya merero ya induseteri ya tlhokomelo ya boitekanelo.

(4) Lekgotla le le tshalositsweng mo karolotlaleletso (2)— 40

- (a) le ka atlenegisa, kgaphelathoko kgotsa la fetola tshwetso ya Kantoro kgotsa ya Mosekaseki; e bile
- (b) le tshwanetse go itsise makoko a amegang ka tshwetso ya lona.

**Ditafatso le dikatlholo**

**89.** (1) Motho o molato ka tafatso fa a— 45

- (a) kgoreletsa kgotsa thibela motlhankedi wa boitekanelo kgotsa motlhatlhoi go dira tiro kgotsa motho mongwe le mongwe yo o thusang motlhankedi wa boitekanelo kgotsa motlhatlhoi ka fa tlase ga Molao ô;
- (b) gana go tlamela motlhankedi wa boitekanelo kgotsa motlhatlhoi ka tshedimosetso e tshwanetseng go senolwa go tsamaelana le ditaelo tsa Molao ô; 50
- (c) ka bomo a bolelela motlhankedi wa boitekanelo kgotsa motlhatlhoi tshedimosetso ya maaka kgotsa ya bofora;
- (d) ntle le molao a kgoreletsa mongwa lefelo lengwe lengwe kgotsa setheo sa boitekanelo, kgotsa motho yo o direlang mongwa-lefelo go 55



- health establishment in order to comply with a requirement of this Act;
- (e) impersonates a health officer or an inspector;
- (f) fails to comply with a compliance notice issued to him or her by a health officer or an inspector in terms of this Act;
- (g) discloses any information acquired in the performance of any function in terms of this Act which relates to the financial or business affairs of any person, to any other person, except if— 5
- (i) such other person requires that information in order to perform any function in terms of this Act;
- (ii) the disclosure is ordered by a court of law; or 10
- (iii) the disclosure is in compliance with the provisions of any law; or
- (h) interferes with, hinders or obstructs the Ombud or any other person rendering assistance or support to the Ombud when he or she is performing or exercising a function or power under this Act. 15
- (2) Any person convicted of an offence in terms of subsection (1) is liable on conviction to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment.”.

**Amendment of section 90 of Act 61 of 2003**

6. Section 90 of the principal Act is hereby amended— 20
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “The Minister, after consultation with the National Health Council or the Office, as the case may be, may make regulations regarding—”;
- (b) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively: 25
- “(b) (i) the fees to be paid to public health establishments for health services rendered; or
- (ii) the fees to be paid to the Office for services rendered;
- (c) the norms and standards for— 30
- (i) the national health systems; or
- (ii) specified types of protective clothing and the use, cleaning and disposal of such clothing;”.
- (c) by the insertion in subsection (1) after paragraph (c) of the following paragraph: 35
- (cA) “the performance of the functions of the Board and the Office;”;
- and
- (d) by the substitution in subsection (1) for paragraph (n) of the following paragraph: 40
- (n) environmental health, including health nuisances and medical waste;”;
- and
- (e) by the insertion after subsection (1) of the following subsection: 45
- “(1A) The Minister may, after consultation with relevant regulatory authorities, prescribe different norms and standards for different types of health establishments.”.

**Amendment of Arrangement of Sections of Act 61 of 2003**

7. The Arrangement of Sections of the principal Act is hereby amended—
- (a) by the substitution for the heading of Chapter 10 of the following heading: 50
- “[HEALTH OFFICERS AND COMPLIANCE PROCEDURES]  
OFFICE OF HEALTH STANDARDS COMPLIANCE, BOARD,  
INSPECTIONS AND ENVIRONMENTAL HEALTH INVESTIGA-**

- tsena mo teng ga lefelo kgotsa setheo go itepatepanya le ditlhokego tsa Molao ô;
- (e) itira motlhankedi wa boitekanelo kgotsa motlhatlhobi;
- (f) palelwa go diragatsa taelo ya kitsiso e e atlenegisitsweng ke motlhankedi wa boitekanelo kgotsa motlhatlhobi go ya ka Molao ô;
- (g) senolela motho mongwe tshedimose tso ngwe le ngwe e e bonweng fa go ne go dirwa tiro ngwe le ngwe go tsamaelana le Molao ô, e e amang matlole kgotsa merero ya kgwebo ya motho yo mongwe, ntle le fa—
- (i) motho yoo a tlhoka tshedimose tso eo go dira tiro ngwe le ngwe go ya ka Molao ô;
- (ii) tshenolo ya tshedimose tso e gapeleditswe ke kgotlatshekelo ya molao; kgotsa
- (iii) fa tshenolo ya tshedimose tso eo e tsamaelana le ditaelo tsa molao mongwe le mongwe; kgotsa
- (h) e kgoreletsa kgotsa thibela tiro ya Mosekaseki kgotsa motho mongwe le mongwe yo o thusang Mosekaseki go dira tiro go tsamaelana le Molao ô.
- (2) Mongwe le mongwe yo o bonweng a le molato ka tatofatso go ya ka karotlaleletso (1) a ka fiwa kotlhao ya tuelo kgotsa ya kgolegelo ya paka e e sa feteng dingwaga di le 10 kgotsa a ka otlhaiwa ka dikotlhao tsoopedi, tuelo le kgolegelo.”.

#### Go fetolwa ga karolo 90 ya Molao 61 wa 2003

##### 6. Karolo 90 ya Molao wa Ntsha ya fetolwa—

- (a) ka go kwala mo karotlaleletso (1) mafoko fa pele ga temana (a) mafoko a a latelang:
- “Tona, morago ga puisano le Khansele ya Bosetshaba ya Boitekanelo kgotsa Kantoru, le fa e le ka mokgwa ofe, a ka dira melawana mabapi le—”;
- (b) ka go kwala mo temana (b) ya karotlaleletso (1) temana e e latelang:
- “(b) (i) dituelo tse di tshwanetseng go duelwa ditheo tsa setshaba tsa boitekanelo, boemong jwa ditirelo tsa boitekanelo tse di dirilweng; kgotsa
- (ii) dituelo tse di tshwanetseng go duelwa Kantoru boemong jwa ditirelo tse di dirilweng;
- (c) dipeelo le mabaka tebang le—
- (i) Manaaneo a bosetshaba a boitekanelo; kgotsa
- (ii) mefuta ya diaparo tsa tshireletso tse di tlhomamisitsweng le tiriso, go phepafatswa le go fedisiwa ga diaparo tsa mofuta oo;”;
- (c) ka go kwala mo karotlaleletso (1) morago ga temana (c) ya temana e e latelang:
- “(cA) tiragatso ya ditiro tsa Boto le Kantoru;”;
- (d) ka go kwala mo karotlaleletso (1) morago ga temana (n) ya temana e e latelang:
- “(n) boitekanelo jwa tikologo, go akaretse le matlakala a boitekanelo le lešwe la kalafo;”;
- (e) ka go kwala morago ga karotlaleletso (1) temana e e latelang:
- “(1A) Morago ga dipuisano le bolaodi taolo jo bo maleba Tona e ka, tlhomamisa ditekanyetso le maemo a mefuta e e farologaneng ya ditheo tsa boitekanelo.”.

#### Go fetolwa ga Dithulaganyo tsa Dikarolo tsa Molao 61 wa 2003

##### 7. Thulaganyo ya dikarolo tsa Molao wa setlogo di fetolwa jaana—

- (a) Ka go akaretse mo setlhogo sa Kgaolo 10 setlhogo se se latelang:
- “[BATLHANKEDI BA BOITEKANELO LE TSAMAIISO YA KOBAMELO] KANTORO YA KOBAMELO YA MAEMO A BOITEKANEL, BOTO, DITLHATLHOBO LE DIPATLISISO TSA BOITEKANELO JWA TIKOLOGO, BATLHANKEDI BA BOITE-

**TIONS, HEALTH OFFICERS AND INSPECTORS, COMPLAINTS AND APPEAL PROCEDURES**;

- (b) by the substitution for item 77 of the following item:  
**“Establishment of [Inspectorate for Health Establishments] Office of Health Standards Compliance”**; 5
- (c) by the substitution for item 78 of the following item:  
**“[Office of Standards Compliance] Objects of Office”**;
- (d) by the substitution for item 79 of the following item:  
**“[Inspections by Office of Standards Compliance] Functions of Office”**; 10
- (e) by the insertion after item 79 of the following items:  
**“79A. Establishment of Office**  
**79B. Composition of Board**  
**79C. Appointment of members of Board**  
**79D. Chairperson and vice-chairperson of Board**  
**79E. Disqualification from membership of Board and vacancy of office**  
**79F. Meetings of Board**  
**79G. Committees of Board**  
**79H. Appointment of Chief Executive Office**  
**79I. Functions of Chief Executive Officer**  
**79J. Delegation of powers and assignment of duties by Chief Executive Officer**  
**79K. Accountability and reporting by Chief Executive Officer”** 15
- (f) by the substitution for item 80 of the following item:  
**“Appointment of health officers and inspectors”**; 25
- (g) by the substitution for item 81 of the following item:  
**“[Duty of health officers] Appointment of Ombud”**;
- (h) by the insertion after item 81 of the following items:  
**“81A. Functions of Ombud**  
**81B. Independence, impartiality and accountability of Ombud”**; 30
- (i) by the substitution for item 82 of the following item:  
**“[Routine inspection] Inspections”**;
- (j) by the insertion after item 82 of the following item:  
**“82A. Non-compliance with prescribed norms and standards”**; 35
- (k) by the substitution for item 84 of the following item:  
**“Entry and search of premises or health establishment with warrant by health officer or inspector”**;
- (l) by the substitution for item 85 of the following item:  
**“Identification prior to entry, and resistance against entry, by health officer or inspector”**; 40
- (m) by the substitution for item 86 of the following item:  
**“Entry and search of premises or health establishment without warrant by health officer or inspector”**;
- (n) by the insertion after item 86 of the following item:  
**“86A. Constitutional right to privacy”**; 45
- (o) by the substitution for item 87 of the following item:  
**“Disposal of items seized by health officer or inspector”**;
- (p) by the insertion after item 88 of the following item:  
**“88A. Appeal procedures”**; and 50
- (q) by the substitution for item 89 of the following item:  
**“Offences and penalties”**.

**Amendment of laws**

8. With effect from the coming into operation of the provisions relating to the Office of Health Standards Compliance, the Public Finance Management Act, 1999 (Act No. 1 of 1999), is hereby amended by the insertion in Part A of Schedule 3 after the expression “Nelson Mandela Museum, Umtata” of the expression “Office of Health Standards Compliance”. 55

**KANELO LE BATLHATLHOBI, TSAMAIISO YA DINGONGO-  
REGO LE BOIPELAETSO**”;

- (b) ka go akaretsa mo ntlha 77 ntlha e e latelang:  
“Go tlhamiwa ga [Bolaodi jwa ditheo tsa Boitekanelo] Kantoro ya Kobamelo ya Maemo a Boitekanelo”; 5
- (c) ka go akaretsa ntlha 78 ya ntlha e e latelang:  
“[Kantoro ya Kobamelo ya Maemo] Maikaelelo a Kantoro”; 5
- (d) ka go akaretsa mo ntlha 79 ntlha e e latelang:  
“[Ditlhatlhobo ka Kantoro ya Kobamelo ya Maemo] Ditiro tsa Kantoro”; 10
- (e) ka go kwala morago ga ntlha 79 dintlha tse di latelang ka go farologana:  
“79A. Go tlhamiwa ga Kantoro  
79B. Sebopego sa Kantoro  
79C. Go thapiwa ga maloko a Boto  
79D. Modulasetilo le motlatsa-modulasetilo wa Boto  
79E. Go tloswa ga maloko a Boto le diphatlatiro tsa kantoro  
79F. Dikopano tsa Boto  
79G. Dikomiti tsa Boto  
79H. Go thapiwa ga Motlhankedi Mogolo Khuduthamaga  
79I. Ditiro tsa Motlhankedi Mogolo Khuduthamaga  
79J. Kaabelo ya dithata le taelo ya ditiro ke Motlhankedi Mogolo Khuduthamaga  
79K. Maikarabelo le taolo ya Motlhankedi Mogolo Khuduthamaga”; 15
- (f) ka go akaretsa mo ntlha 80 ntlha e e latelang:  
“Go thapiwa ga batlhankedi ba boitekanelo le batlhatlhobi”; 25
- (g) ka go akaretsa mo ntlha 81 ntlha e e latelang:  
“[Tiro ya batlhankedi ba boitekanelo] Go thapiwa ga Mosekaseki”; 25
- (h) ka go kwala morago ga ntlha 81 dintlha tse di latelang:  
“81A. Ditiro tsa Mosekaseki  
81B. Go ikemela, tolamo le maikarabelo ga Mosekaseki”; 30
- (i) ka go kwala mo ntlha 82 ntlha e e latelang:  
“[Tlhatlhobo ya gangwe le gape] Ditlhatlhobo”; 30
- (j) ka go kwala morago ga ntlha 82 ntlha e e latelang:  
“82A. Go tlhoka go obamela dipeelo le maemo a tlhomamisi-tsweng”; 35
- (k) ka go kwala mo ntlha 84 ntlha e e latelang:  
“Go tsena le go phuruphutshwa ga mafelo kgotsa setheo sa boitekanelo ke motlhankedi wa boitekanelo kgotsa motlhatlhobi ka lekwalotetla”; 40
- (l) Ka go kwala mo ntlha 85 ntlha e e latelang :  
“Go ikitsise pele ga go tsena le go thibela go tsena ga motlhankedi wa boitekanelo kgotsa motlhatlhobi”; 40
- (m) ka go kwala mo ntlha 86 ntlha e e latelang:  
“Go tsena le go phuruphutshwa ga mafelo kgotsa setheo sa boitekanelo ke Motlhankedi wa boitekanelo kgotsa motlhatlhobi”; 45
- (n) ka go kwala morago ga ntlha 86 ntlha e e latelang:  
“86A. Tshwanelo ya sephiri ya Molaotheo”; 45
- (o) ka go kwala mo ntlha 87 ntlha e e latelang:  
“Go nyelediwa ga dilo tse di gapilweng ke motlhankedi wa boitekanelo kgotsa motlhatlhobi”; 50
- (p) ka go kwala morago ga ntlha 88 ntlha e e latelang:  
“88A. Tsamaiso ya boipelaetso”; le 50
- (q) ka go kwala mo ntlha 89 ntlha e e latelang:  
“Ditatofatso le dikotlhao”. 55

**Go fetolwa ga melao**

8. Go simolola ka letlha la go tsengwa tirisong ga ditaelo tse di lebagane le Kantoro ya Boitekanelo jwa Maemo a Kobamelo, molao wa *Public Finance Management Act* wa 1999 (Molao No. 1 wa 1999), o fetolwa ka go kwala mo Karolo A ya Sekhejule 3 morago ga lefoko la “Museamo ya Nelson Mandela, Umtata” lefoko “Kantoro ya Boitekanelo ya Maemo a Kobamelo”. 60

**Short title and commencement**

**9.** This Act is called the National Health Amendment Act, 2013, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

**Setlhogo se se khutshwane le tshimologo**

**9.** Moalo ô, o bidiwa Molaokakangwa Phetolelo wa Bosetšhaba wa Boitekanelo wa 2013, o tla simolola ka letlha le le atlenegisitsweng ke Mopresidente ka kgoeletso mo Lokwalodikgang la Puso.

