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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**NATIONAL TREASURY**

NO. R. 405

29 MARCH 2018

**REGULATIONS IN TERMS OF SECTIONS 61(4), 288 AND 304 OF FINANCIAL SECTOR  
REGULATION ACT, 2017**

The Minister of Finance has, in terms of sections 61(4), 288 and 304 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSRA), made the Regulations set out in the Schedule.

**SCHEDULE****Definitions**

1. In these Regulations, “the Act” means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), and, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in section 1 or 289 of the Act has that meaning, and—  
“**appointment criteria**” means the criteria for appointment as Commissioner or Deputy Commissioner, as the case may be, specified in section 61 of the Act and regulation 11;  
“**Board of Review**” means the Board of Review established by section 9(2) of the Banks Act;  
“**Ministerial Panel**” means the panel convened by the Minister in terms of regulation 10(1) to interview shortlisted candidates for appointment as the Commissioner and Deputy Commissioners of the Financial Sector Conduct Authority; and  
“**Shortlisting Panel**” means the panel established by regulation 9(1) for the shortlisting of candidates to be interviewed for appointment as the Commissioner and Deputy Commissioners of the Financial Sector Conduct Authority.

**Part 1****Transitional Measures****Exercise of functions**

2.(1) If any provision of the Act comes into effect in terms of section 305 of the Act before Chapter 3 of the Act comes into effect, then until Chapter 3 comes into effect—

- (a) a reference in a financial sector law, other than the Financial Markets Act, to the ‘Prudential Authority’, or a reference to ‘a financial sector regulator’, must be read as referring to the Reserve Bank;
- (b) the Reserve Bank must perform the functions of the Prudential Authority as set out in section 34 of the Act;
- (c) in respect of the Financial Markets Act, section 1A of that Act applies.

(2) If any provision of the Act comes into effect in terms of section 305 of the Act before Chapter 4 of the Act comes into effect, then until Chapter 4 comes into effect—

- (a) a reference in a financial sector law to the ‘Financial Sector Conduct Authority’, or a reference to ‘a financial sector regulator’, must be read as referring to the Financial Services Board;
- (b) the executive of the Financial Services Board, referred to in section 9 of the Financial Services Board Act, must perform the functions of the Financial Sector Conduct Authority in terms of the Act;

- (c) the executive officer of the Financial Services Board, referred to in section 1 of the Financial Services Board Act, must perform the functions of the Financial Sector Conduct Authority in terms of legislation referred to in paragraph (b), (c) or (d) of the definition of a financial sector law in section 1(1) of the Act, subject to a delegation under section 20(3) or (3A) of the Financial Services Board Act;
  - (d) in respect of the Financial Markets Act, section 1A of that Act applies.
- (3) Until Chapter 16 of the Act comes into effect, a reference to the board in sections 15A and 16 of the Financial Services Board Act must be read as a reference to the Financial Sector Conduct Authority.

### **Management of transitional process to establish Financial Sector Conduct Authority**

3.(1)(a) A transitional management committee is established, which must perform the functions of Executive Committee of the Financial Sector Conduct Authority, to facilitate the disestablishment of the Financial Services Board and the functioning of the Financial Sector Conduct Authority in an efficient and effective manner with the least disruption, until the person appointed as the Commissioner has commenced service.

(b) The transitional management committee is comprised of—

- (i) the chairperson of the Financial Services Board referred to in section 4(3) of the Financial Services Board Act;
- (ii) the executive of the Financial Services Board referred to in section 9 of the Financial Services Board Act; and
- (iii) a person with knowledge and expertise relevant to the objective of the Financial Sector Conduct Authority set out in section 57 of the Act, nominated by the Minister.

(c) Any decision taken by the transitional management committee during the transitional period referred to in paragraph (a) is regarded as having been taken by the Financial Sector Conduct Authority.

(d) The chairperson of the Financial Services Board must perform the functions of the Commissioner in terms of the Act, until the person appointed as the Commissioner has commenced service.

- (2) The functions referred to in subregulation (1)(a) include functions relating to—
- (a) the transfer of staff from the Financial Services Board to the Financial Sector Conduct Authority, staff placements and other human resources matters;
  - (b) the transfer of assets and liabilities from the Financial Services Board to the Financial Sector Conduct Authority;
  - (c) the appointment of contractors, consultants and staff in order to manage the transition;
  - (d) financial management and reporting;
  - (e) the functions referred to in section 60(3) of the Act;
  - (f) agreements and arrangements with international standard-setting bodies and other regulators;
  - (g) the ongoing implementation of the financial sector laws for which the Financial Services Board is responsible, and for which the Financial Sector Conduct Authority will be the responsible authority in terms of the Act;
  - (h) compliance with the Public Finance Management Act;
  - (i) all matters that are necessary to enable the establishment of the Financial Sector Conduct Authority; and
  - (j) other procedural or administrative matters that are necessary to implement subregulation (1).

(3) (a) The transitional management committee must fund the performance of the functions referred to in subregulations (1) and (2) from the funds of the Financial Services Board, or the Financial Sector Conduct Authority, as may be applicable.

(b) The remuneration and benefits of the member of the transitional management committee referred to in subregulation (1)(b)(iii), as determined by the Minister, must be paid from the funds of the Financial Sector Conduct Authority.

(4) (a) The terms of appointment of the Chairperson, Deputy Chairperson, and other members of the Board of the Financial Services Board, and the executive officer of the Financial Services Board, referred to in section 13 of the Financial Services Board Act are extended until 30 November 2018, to facilitate the tabling of the final annual report and financial statements of the Financial Services Board.

(b) The members of the transitional management committee must, in an advisory capacity, assist the Commissioner and Deputy Commissioners in the performance of their functions for a period of three months after the Commissioner has commenced service, and their terms of appointment are extended until the end of that three month period.

(c) The term of office of the executive officer continues until the later of the terms referred to in paragraphs (a) or (b).

(5) Despite section 56 of the Act coming into effect, the board of the Financial Services Board and its relevant committee remain responsible for the approval of the financial statements of the Financial Services Board in respect of the financial year preceding the financial year in which Chapter 4 of the Act commences and the Financial Sector Conduct Authority is established, and, if Chapter 4 of the Act commences and the Financial Sector Conduct Authority is established after the commencement of a financial year, also for the financial year during which the Financial Sector Conduct Authority is established.

#### **Management of transitional process to establish Financial Services Tribunal**

4.(1) From the date that Chapter 15 of the Act comes into effect until 31 March 2019, the Financial Services Board or the Financial Sector Conduct Authority, as the case may be, must provide financial, secretarial, administrative and other support to the Tribunal, and the Board or the Authority must enter into agreements with the Reserve Bank, the Prudential Authority and the Financial Intelligence Centre to share the costs.

(2)(a) From the date that Chapter 15 of the Act comes into effect until the Chairperson of the Tribunal makes Tribunal rules in accordance with section 227 of the Act, the Tribunal must apply the rules, regulations, practice directions and guidelines jointly designated by the Chairperson of the Appeal Board and the Chairperson of the Board of Review, insofar as the Act does not provide for the procedure.

(b) The Tribunal may amend or repeal the rules, regulations, directions and guidelines designated in terms of paragraph (a) at any time.

(c) If at the date on which the Tribunal is established, a designation has not been made in terms of paragraph (a), the Regulations in respect of appeals to the Appeal Board, 2011, and any practice directions and guidelines issued by the Chairperson of the Appeal Board remain in force, with the necessary changes, and insofar as the Act does not provide for the procedure, until the Chairperson of the Tribunal makes Tribunal rules in accordance with section 227 of the Act.

#### **Publication**

5. Until Part 2 of Chapter 17 and section 287 come into effect, a requirement in a financial sector law to publish a document or information in the Register is satisfied by publication of the document or information on the website of the person who is required to publish it.

**Application of sections**

6.(1) In section 296(2) of the Act, the phrase 'the date on which this Chapter comes into effect' means the date on which section 296 comes into effect.

(2) In section 298(1)(a)(i) of the Act, the phrase 'the date on which this Part comes into effect' means the date on which section 298 comes into effect.

(3) In section 301 of the Act, the phrase 'the date on which this section comes into effect' means 'the date on which this subsection comes into effect'.

**Part 2****Appointment of Commissioner and Deputy Commissioners of Financial Sector Conduct Authority****Advertising vacancy**

7.(1) The National Treasury must advertise the positions of Commissioner or Deputy Commissioner on the website of the National Treasury, as well as in other appropriate media and request the Financial Sector Conduct Authority, or prior to the establishment of the Financial Sector Conduct Authority, the Financial Services Board, to advertise the position on its website.

(2) The advertisement referred to in subregulation (1) must specify—

- (a) the appointment criteria to qualify for appointment as a Commissioner or a Deputy Commissioner;
- (b) information which must be submitted in support of an application; and
- (c) the date by which applications must be submitted to the Shortlisting Panel.

**Applications for Commissioner and Deputy Commissioner**

8.(1) When the position of Commissioner or a Deputy Commissioner is advertised, any person who satisfies the appointment criteria may apply.

(2) Applications in terms of subregulation (1) must—

- (a) be made in writing to the Shortlisting Panel;
- (b) include a comprehensive curriculum vitae of the person applying;
- (c) include a motivation for the person's application, in which it is specified how the candidate satisfies the appointment criteria;
- (d) include supporting information that is specified in the advertisement; and
- (e) be submitted by the date indicated in the advertisement for the position as the deadline for submission of applications.

**Shortlisting Panel**

9.(1) A panel for the shortlisting of persons to be interviewed for appointment as Commissioner or Deputy Commissioner is hereby established.

(2)(a) The Shortlisting Panel for the Commissioner and Deputy Commission consists of—

- (i) the Director-General or a Deputy Director-General of the National Treasury nominated by the Director-General as chairperson;
- (ii) a Deputy Governor of the Reserve Bank nominated by the Governor;
- (iii) the Commissioner of the National Consumer Commission appointed in terms of section 87 of the Consumer Protection Act, 2008 (Act No. 68 of 2008), or that Commissioner's nominee;
- (iv) a representative of the Ethics Institute of South Africa or the Institute of Directors in Southern Africa or any other body that focuses on ethics and good governance in the financial sector, designated by the Director-General of the National Treasury; and

- (v) one person designated by the Minister who has suitable experience and expertise in the financial sector, and knowledge of the financial sector, that enables them to appropriately consider and assess the suitability of applicants for appointment as Commissioner or Deputy Commissioner.
- (b) The Shortlisting Panel for the first appointments of the Commissioner and Deputy Commissioners must include the Chairperson of the Financial Services Board.
- (3) In the performance by the Shortlisting Panel of the functions in terms of subregulation (6)—
- (a) the Director-General, or his or her nominee, has a deliberative vote and, in the event of an equality of votes, a casting vote; and
- (b) a quorum consists of the Director-General, or his or her nominee, and two other members of the Shortlisting Panel.
- (4)(a) The Shortlisting Panel determines its procedures, subject to applicable requirements of these Regulations.
- (b) The procedure of the Shortlisting Panel must be fair, impartial, and transparent.
- (5) The Director-General, or his or her nominee, must ensure that minutes of each meeting of the Panel are kept.
- (6)(a) The Shortlisting Panel must—
- (i) scrutinise all applications for the positions advertised and assess whether they comply with the requirements of regulation 8(2);
- (ii) assess whether the interviewed candidates satisfy the appointment criteria; and
- (iii) submit a shortlist of four suitable candidates for each advertised position.
- (b) The Shortlisting Panel may interview applicants for appointment as part of the process referred to in paragraph (a).
- (c) If the Shortlisting Panel determines that there are not sufficient candidates that are suitable to be shortlisted for interviewing by the Ministerial Panel for an advertised position, to meet the requirements of paragraph (a), the Panel must without delay advise the Minister accordingly, and the National Treasury must re-advertise the position.

### **Ministerial Panel**

- 10.(1) The Minister must convene a Ministerial Panel to interview candidates shortlisted by the Shortlisting Panel, which includes—
- (a) the Minister as Chairperson;
- (b) the Director-General;
- (c) the Governor or a Deputy Governor of the Reserve Bank nominated by the Governor; and
- (d) one other person designated by the Minister who has suitable experience and expertise in the financial sector, and knowledge of the financial sector, that enables them to appropriately consider and assess the suitability of applicants for appointment as Commissioner or Deputy Commissioner.
- (2) The Ministerial Panel must ensure that the persons who are recommended for appointment as Commissioner or Deputy Commissioner—
- (a) satisfy the appointment criteria; and
- (b) contribute to a range of experience and expertise among the Commissioner and Deputy Commissioners that will enable the Financial Sector Conduct Authority to effectively fulfil its mandate and perform its functions.
- (3)(a) A quorum for the Ministerial Panel consists of the Minister and two other members of the Panel.
- (b) The Ministerial Panel determines its procedures, subject to applicable requirements of these Regulations.
- (c) The procedures of the Ministerial Panel must be fair, impartial and transparent.

(4) The Minister must ensure that minutes of each meeting of the Ministerial Panel are kept.

(5)(a) After interviewing and deliberating on all the candidates who were interviewed, and assessing whether the interviewed candidates satisfy the appointment criteria, the Ministerial Panel must recommend a preferred person for appointment to each position that has been advertised.

(b) If the Ministerial Panel determines that there are not sufficient candidates that are suitable for appointment to an advertised position, to meet the requirements of paragraph (a), the Ministerial Panel must without delay request that the National Treasury re-advertise the position.

### **Appointment criteria**

11. When determining whether a candidate is suitable to be shortlisted and recommended for appointment as the Commissioner or a Deputy Commissioner, the Shortlisting and Ministerial Panels must, in addition to the appointment criteria in section 61 of the Act, assess whether a candidate has—

- (a) at least 10 years' experience in a senior or executive position with—
  - (i) a regulator (preferably a financial sector regulator);
  - (ii) a financial institution;
  - (iii) a financial sector industry body;
  - (iv) a government department that is responsible for overseeing the regulation of the financial sector;
  - (v) an international financial regulatory body; or
  - (vi) any two or more of the institutions mentioned in subparagraphs (i) to (v); and
- (b) skills, knowledge and expertise that would reasonably be expected of a person in the position of Commissioner or Deputy Commissioner.

### **Commencement and short title**

12. These Regulations are called the Financial Sector Regulations, 2018, and come in effect on the date of publication in the *Gazette*.

**KITSISO YA PUSO  
MATLOTLO A BOSETŠHABA**

**MELAWANATAOLO GO YA KA DIKAROLO 61(4), 288 LE 304 TSA MOLAO WA TAOLO  
YA LEPHATA LA DITŠHELETE, 2017**

Tona ya Matlotlo o, go ya ka dikarolo 61(4), 288 le 304 tsa Molao wa Taolo ya Lephata la Ditšhelete, 2017 (Molao 9 wa 2017) (FSRA), dirile Melawanataolo e e tlhagisitsweng mo Šejuleng.

**ŠEJULE**

**Ditlhaloso**

1. Mo Melawanataolong eno, “Molao” o kaya Molao wa Taolo ya Lephata la Ditšhelete, 2017 (Molao 9 wa 2017), le, ntle le fa bokao bo supa ka mokgwa mongwe, lefoko lengwe le lengwe kgotsa tlhagiso e e neilweng bokao mo karolong 1 kgotsa 289 ya Molao e na le bokao joo, le—

“**tsela ya go thapa**” e kaya tsela ya go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara, go ya ka moo go leng ka teng, e e tlhalositsweng mo karolong 61 ya Molao le molawanataolo 11;

“**Boto ya Tshkatsheko**” e kaya Boto ya Tshkatsheko e e tlhomilweng ka karolo 9(2) ya Molao wa Dibanka;

“**Panele ya Tona**” e kaya panele e e kokoantsweng ke Tona go ya ka molawanataolo 10(1) go botsolotsa bakopatiro ba ba kgethilweng mabapi le go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le;

“**Panelekgetho**” e kaya panele e e tlhomilweng ka molawanataolo 9(1) mabapi le go kgethwa ga bakopatiro ba ba tla botsolotswang mabapi le go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

**Karolo 1  
Dikgato tsa Kgabaganyo**

**Tiragatso ya ditiro**

2.(1) Fa taelo nngwe le nngwe ya Molao e tsena mo tirisong go ya ka karolo 305 ya Molao pele ga Kgaolo 3 ya Molao e tsena mo tirisong, go fitlhela Kgaolo 3 e tsena mo tirisong—

- (a) kaelo mo molaong wa lephata la ditšhelete, osele ntle le *Financial Markets Act*, go ‘Bothati jwa Tlhokomelo’, kgotsa kaelo go ‘molaodi wa lephata la ditšhelete’, e tshwanetse go tsewa jaaka e e kayang Banka ya Resefe;
- (b) Banka ya Resefe e tshwanetse go dira ditiro tsa Bothati jwa Tlhokomelo jaaka go tlhagisitswe mo karolong 34 ya Molao;
- (c) mabapi le *Financial Markets Act*, karolo 1A ya Molao oo e a diriswa.

(2) Fa taelo nngwe le nngwe ya Molao e tsena mo tirisong go ya ka karolo 305 ya Molao pele ga Kgaolo 4 ya Molao e tsena mo tirisong, go fitlhela Kgaolo 4 e tsena mo tirisong—

- (a) kaelo mo molaong wa lephata la ditšhelete go ‘Bothati jwa Boitshwaro jwa Lephata la Ditšhelete’, kgotsa kaelo go ‘molaodi wa lephata la ditšhelete’, e tshwanetse go tsewa jaaka e e kayang Boto ya Ditirelo tsa Ditšhelete;
- (b) khuduthamaga ya Boto ya Ditirelo tsa Ditšhelete, e e kailweng mo karolong 9 ya *Financial Services Board Act*, e tshwanetse go dira ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka Molao;
- (c) motlhankedikhuduthamaga wa Boto ya Ditirelo tsa Ditšhelete e e kailweng mo karolong 1 ya *Financial Services Board Act*, o tshwanetse go dira ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao o o kailweng mo temaneng

(b), (c) kgotsa (d) ka tlhaloso ya molao wa lephata la ditšhelete mo karolong 1(1) ya Molao, go latela tholelo ka fa tlase ga karolo 20(3) kgotsa (3A) ya *Financial Services Board Act*;

(d) mabapi le *Financial Markets Act*, karolo 1A ya Molao e a diriswa.

(3) Go fitlhela Kgaolo 16 ya Molao e tsema mo tirisong, kaelo go boto mo dikarolong 15A le 16 tsa Boto ya Ditirelo tsa Ditšhelete e tshwanetse go tsewa jaaka kaelo go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

### **Taolo ya tsamaiso ya kgabaganyo go tlhoma Bothati jwa Boitshwaro jwa Lephata la Ditšhelete**

3.(1) (a) Komititaolo ya kgabaganyo e atlhongwa, eo e tshwanetseng go dira ditiro tsa Komitikhuduthamaga ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go nolofatsa tlhomololo ya Boto ya Ditirelo tsa Ditšhelete le tiro ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka mokgwa o o nonofileng le matsetseleko ntle le kgoreletso, go fitlhela motho yo o thapilweng jaaka Mokhomišenara a simolola tirelo.

(b) Komititaolo ya kgabaganyo e bopilwe ka—

(i) modulasetulo wa Boto ya Ditirelo tsa Ditšhelete e e kailweng mo karolong 4(3) ya *Financial Services Board Act*;

(ii) khuduthamaga ya Boto ya Ditirelo tsa Ditšhelete e e kailweng mo karolong 9 ya *Financial Services Board Act*; le

(iii) motho yo o nang le kitso le boitseanape jo bo maleba go maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ao a thagisitsweng mo karolong 57 ya Molao, yo o tlhophilweng ke Tona.

(c) Tshwetso nngwe le nngwe e e tserweng ke komititaolo ya kgabaganyo ka paka ya kgabaganyo e e kailweng mo temaneng (a) e tsewa gore e dirilwe ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(d) Modulasetulo wa Boto ya Ditirelo tsa Ditšhelete o tshwanetse go dira ditiro tsa Mokhomišenara go ya ka Molao, go fitlhela motho yo o thapilweng jaaka Mokhomišenara a simolola tirelo.

(2) Ditiro tse di kailweng mo molawanataolotlaleletsong (1)(a) di akaretsa ditiro tse di amanang le—

(a) tshutiso ya badiri go tswa kwa Botong ya Ditirelo tsa Ditšhelete go ya kwa Bothating jwa Boitshwaro jwa Lephata la Ditšhelete, peo ya badiri le merero e mengwe ya metswedithuso ya setho;

(b) tshutiso ya dithoto le maikarabelosemolao go tswa go Boto ya Ditirelo tsa Ditšhelete go ya go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

(c) thapo ya bakonteraka, bagokolodi le badiri gore ba beye kgabaganyo ka fa tlase ga taolo;

(d) taolo ya ditšhelete le go bega;

(e) ditiro tse di kailweng mo karolong 60(3) ya Molao;

(f) ditumalano le dithulaganyo le mekgatlho ya boditšhabatšhaba e e bayang maemo le balaodi ba bangwe;

(g) go tsenngwa mo tirisong go go tsweleng ga melao ya lephata la ditšhelete e Boto ya Ditirelo tsa Ditšhelete e rwalang maikarabelo a yona, le e Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo rwalang maikarabelo a yona go ya ka Molao;

(h) kobamelo ya *Public Finance Management Act*;

(i) merero yotlhe e e tlhokegang go kgontsha go tlhlongwa ga Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(j) merero e mengwe ya tsamaiso e e tlhokegang gore go tsenngwe molawanataolotlaleletso (1) mo tirisong.

(3) (a) Komititaolo ya kgabaganyo e tshwanetse go duelela tiragatso ya ditiro tse di kailweng mo melawanataolong (1) le (2) go tswa mo matloleng a Boto ya Ditirelo tsa Ditšhelete, kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go ya ka moo go tlhokegang.

(b) Megolo le melemo ya leloko la komititaolo ya kgabaganyo e e kailweng mo molawanataolong (1)(b)(iii), jaaka Tona a tlhomamisitse, e tshwanetse go duelwa go tswa mo matloleng a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(4) (a) Dipeelo tsa thapo ya maloko a Modulasetulo, Motlatsamodulasetulo, le maloko a mangwe a Boto ya Ditirelo tsa Ditšhelete, le motlhankedikhuduthamaga wa Boto ya Ditirelo tsa Ditšhelete, e e kailweng mo karolong 13 ya *Financial Services Board Act* di a atoloswa go fitlhela ka di 30 Ngwanatsele 2018, go nolofatsa tlhagiso ya pegelo ya ngwaga ya bofelo la dipalotlotlo tsa ditšhelete tsa Boto ya Ditirelo tsa Ditšhelete.

(b) Maloko a komititaolo ya khuduthamaga a tshwanetse, ka maemo a bogakolodi, go thusa Mokhomišenara le Bathusamokhomišenara mo go direng ditiro tsa bona sebaka sa paka ya dikgwedi tse tharo morago ga fa Mokhomišenara a sena go simolola tirelo e bile dippelo tsa thapo ya bona di a atoloswa go fitlhela kwa bokhutlong jwa paka eo ya dikgwedi tse tharo.

(c) Paka ya tiro ya motlhankedikhuduthamaga e tswelela go fitlhela sebaka sa paka se se kailweng mo ditemaneng (a) kgotsa (b).

(5) Le fa karolo 56 ya Molao e tšile go tsena mo tirisong, boto ya Boto ya Ditirelo tsa Ditšhelete le komiti ya yona e e maleba e sala go rwala maikarabelo a thebolo ya ditshupatlotlo tsa Boto ya Ditirelo tsa Ditšhelete mabapi le ngwaga wa ditšhelete o o tlang pele ga ngwaga wa ditšhelete o Kgaolo 4 ya Molao e simololang ka ona le o Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tlhomilweng ka ona, e bile, fa Kgaolo 4 ya Molao e simolola le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tlhonga morago ga tshimololo ya ngwaga wa ditšhelete, gape mabapi le ngwaga wa ditšhelete o Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tlhomilweng ka ona.

#### **Taolo ya tsamaiso ya kgabaganyo go tlhoma Lekgotla la Ditirelo tsa Ditšhelete**

4.(1) Go tloga ka letlha le Kgaolo 15 ya Molao e tšenang mo tirisong ka lona go fitlha ka di 31 Mopitlwe 2019, Boto ya Ditirelo tsa Ditšhelete kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go ya ka moo go leng ka teng, bo tshwanetse go tlamela ka tshegetso ya ditšhelete, bokwaledi, tsamaiso le e nngwe go Lekgotla, e bile Boto kgotsa Bothati bo tshwanetse go dira ditumalano le Banka ya Resefe, Bothati jwa Tlhokomelo le Senthara ya Botlhodi jwa Ditšhelete go arogana ditshenyegelo.

(2)(a) Go tloga ka letlha le Kgaolo 15 ya Molao e tšenang mo tirisong ka lona go fitlhela Modulasetulo wa Lekgotla a dira melawana ya Lekgotla go tsamaelana le karolo 227 ya Molao, Lekgotla le tshwanetse go dirisa melawana, melaotaolo, go diragatsa dikaelo le ditaello tse di tlhomilweng ka kopanelo ke Modulasetulo wa Boto ya Boikuelo le Modulasetulo wa Boto ya Tshekatsheko, go ya ka moo Molao o sa neelaneng ka tsamaiso ka teng.

(b) Lekgotla le ka tlabolola kgotsa phimola melawana, melawanataolo, dikaelo le ditaello go ya ka temana (a) ka nako nngwe le nngwe.

(c) Fa ka letlha le Lekgotla le tlhomilweng, thapo e ise e dirwe go ya ka temana (a), Melawanataolo mabapi le boikuelo go Boto ya Boikuelo, 2011, le tiragatso nngwe le nngwe ya dikaelo le ditaello tse di rebotsweng ke Modulasetulo wa Boto ya Boikuelo di tswelela go diragatswa, ka diphetogo tse di tlhokegang, le ka moo Molao o sa tlameleng mabapi le tsamaiso, go fitlhela Modulasetulo wa Lekgotla a dira melawana ya Lekgotla go tsamaelana le karolo 227 ya Molao.

#### **Kgatiso**

5. Go fitlhela Karolo 2 ya Kgaolo 17 le karolo 287 e tsena mo tirisong, tlhokego mo molaong wa lephata la ditšhelete go gatisa lokwalo kgotsa tshedimosetso mo Rejisetareng e diragatswa ka phasalatso ya lokwalo kgotsa tshedimosetso mo webesaeteng ya motho yo o tshwanetseng go e phasalatsa.

#### **Tiriso ya dikarolo**

6.(1) Mo karolong 296(2) ya Molao, polelwana 'letlha le Kgaolo eno e tšenang mo tirisong ka lona' e kaya letlha le karolo 296 e tla tšenang mo tirisong ka lona.

(2) Mo karolong 298(1)(a)(i) ya Molao, polelwana 'letlha le Karolo e tsenang mo tirisong ka lona' le kaya letlha le karolo 298 e tsenang mo tirisong ka lona.

(3) Mo karolong 301 ya Molao, polelwana 'letlha le Karolo e tsenang mo tirisong ka lona' le kaya 'letlha le karolotlaleletso eno e tsenang mo tirisong ka lona'.

## Karolo 2

### Thapo ya Mokhomišenara kgotsa Batlatsamokhomišenara ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete

#### Phasalatso ya phatlhatiro

7.(1) Matlotlo a Bosetšhaba a tshwanetse go phasalatsa dipatlhatiro tsa Mokhomišenara kgotsa Motlatsamokhomišenara mo webesaeteng ya Matlotlo a Bosetšhaba, gape le mo dikgasong tse dingwe tse di maleba le go kopa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, kgotsa pele ga go tlhongwa ga Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Boto ya Ditirelo tsa Ditšhelete, go phasalatsa phatlhatiro mo webesaeteng ya yona.

(2) Phasalatso e e kailweng mo molawanataolotlaleletsong (1) e tshwanetse go tlhagisa—

- (a) tsela ya go thapa gore o siamele go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara;
- (b) tshedimosetso e e tshwanetseng go romelwa go tshegetsisa kopo; le
- (c) letlha le dikopo di tshwanetseng go romelwa ka lona kwa Panelekgethong.

#### Kopo ya tiro ya Mokhomišenara le Motlatsamokhomišenara

8.(1) Fa phatlhatiro ya Mokhomišenara kgotsa Motlatsamokhomišenara e phasalatswa, motho mongwe le mongwe yo o kgotsofatsang tsela ya go thapa o ka dira kopo.

(2) Dikopo go ya ka molawanataolotlaleletso (1) di tshwanetse go—

- (a) dirwa ka go kwalela Panelekgetho;
- (b) akaretsa le boikitsiso (CV) jo bo feletseng jwa motho yo o dirang kopo;
- (c) akaretsa tshegetso ya kopo ya motho, e mo go yona go tlhaloswang ka moo modirakopo a kgotsofatsang tsela ya go thapa ka teng;
- (d) akaretsa le tshedimosetso ya tshegetso e e tlhalositsweng mo phasalatsong; le
- (e) romelwa ka letlha le le kailweng mo phasalatsong ya phatlhatiro jaaka letlha la bofelo la thomelo ya dikopo.

#### Panelekgetho

9.(1) Panele mabapi le go kgetha batho ba ba tla botsolotswang mabapi le go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara e a tlhongwa.

(2) (a) Panelekgetho ya Mokhomišenara kgotsa Motlatsamokhomišenara e tlhamilwe ka—

- (i) Mokaedikakaretso kgotsa Motlatsamokaedikakaretso wa Matlotlo a Setšhaba yo o tlhophilweng ke Mokaedikakaretso jaaka modulasetulo;
- (ii) Motlatsammusisi wa Banka ya Resefe yo o tlhophilweng ke Mmusisi;
- (iii) Mokhomišenara wa Khomišene ya Badirisi ya Bosetšhaba yo o thapilweng go ya ka karolo 87 ya *Consumer Protection Act*, 2008 (Molao 68 wa 2008), kgotsa motho yo o tlhophilweng ke Mokhomišenara yoo;
- (iv) moemedi wa Setheo sa Maitsholo sa Aforikaborwa kgotsa Setheo sa Bakaedi mo Borweng jwa Aforika kgotsa mokgatlo mongwe le mongwe o o gatelelang maitsholomantle le puso ya tshiamo mo lephateng la tsa ditšhelete, yo o thapilweng ke Mokaedikakaretso wa Matlotlo a Bosetšhaba; le
- (v) motho a le esi yo o thapilweng ke Tona yo o nang le maitemogelo a a maleba le boitseanape jwa lephata la ditšhelete, le kitso ya lephata la ditšhelete, jo bo ba kgontshang

go tsaya tsia le go kanoka tshiamelo ya badirakopo mabapi le go thapiwa jaaka Mokhomishenara kgotsa Motlatsamokhomishenara.

(b) Panelekgetho mabapi le go thapiwa la ntlha ga Mokhomishenara le Batlatsamokhomishenara e tshwanetse go akaretsa Modulasetulo wa Boto ya Ditirelo tsa Ditšhelete.

(3) Mo tiragatsong ka Panelekgetho ya ditiro go ya ka molawanataolotlaleletso (6)—

(a) Mokaedikakaretso kgotsa motlhophiwa wa gagwe o na le boutu ya tlwaelo le, fa diboutu di lekana, boutu ya makgaolagang; le

(b) khoramo e tlangwa ke Mokaedikakaretso kgotsa motlhophiwa wa gagwe le maloko a mangwe a le mabedi a Panelekgetho.

(4)(a) Panelekgetho e tihomamisa ditsamaiso tsa yona, go latela ditlhokego tse di maleba tsa Melawanataolo eno.

(b) Tsamaiso ya Panelekgetho e tshwanetse go lolama, go se tseye letlhakore le go bonaletshega.

(5) Mokaedikakaretso, kgotsa motlhophiwa wa gagwe, o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe ya Panele e a tsholwa.

(6)(a) Panelekgetho e tshwanetse go—

(i) sekaseka ka tsenelelo dikopo tsothe tsa diphatlhatiro tse di phasaladitsweng le go sekaseka gore a di obamela ditlhokego tsa molaotaolo 8(2);

(ii) sekaseka gore a bakopatiro ba ba bileditsweng potsotherisano ba kgotsofatsa tsela ya go thapa; le

(iii) romela lenanekgetho la badirakopo ba le bane ba ba matshwanedi mabapi le phatlhatiro nngwe le nngwe e e phasaladitsweng.

(b) Panelekgetho e ka botsolotsa badirakopo mabapi le thapo jaaka karolo ya tsamaiso e e kailweng mo temaneng (a).

(c) Fa Panelekgetho e swetsa gore ga go badirakopo ba ba lekaneng ba ba siametseng go ka kgethwa mabapi le go botsolotswa ke Panele ya Tona mabapi le phatlhatiro e e phasaladitsweng, go fitlhelela ditlhokego tsa temana (a), Panele e tshwanetse ntle le tshenyoo ya nako go gakolola Tona ka tshwanelo, e bile Matlotlo a Bosetšhaba a tshwanetse go phasalatsa phatlhatiro gape.

### Panele ya Tona

10.(1) Tona o tshwanetse go kokoanya Panele ya Tona go botsolotsa bakopatiro ba ba kgethilweng ke Panelekgetho, eo e akaretsang—

(a) Tona jaaka Modulasetulo;

(b) Mokaedikakaretso;

(c) Mmusisi kgotsa Motlatsammusisi wa Banka ya Resefe yo o tlhophilweng ke Mmusisi; le

(b) motho yo mongwe a le esi yo o nang le maitemogelo le boitseanape jo bo maleba mo lephateng la ditšhelete, le kitso ya lephata la ditšhelete, jo bo ba kgontshang go tsaya tsia ka nepagalo le go sekaseka tshiamelo ya badirakopo mabapi le go thapiwa jaaka Mokhomishenara kgotsa Motlatsamokhomishenara.

(2) Panele ya Tona e tshwanetse go netefatsa gore batho ba ba atlanegisitsweng mabapi le go thapiwa jaaka Mokhomishenara kgotsa Motlatsamokhomishenara ba—

(a) kgotsofatsa tsela ya go thapiwa; e bile

(b) na le maitemogelo le boitseanape jo bo farologaneng jo bo tlhokwang ke Mokhomishenara kgotsa Motlatsamokhomishenara go kgontshang Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go fitlhelela maitlhomoo a jona ka nonofo le go dira tiro ya jona.

(3)(a) Khoramo ya Panele ya Tona e tihamilwe ka Tona le maloko a mangwe a le mabedi a Panele.

(b) Panele ya Tona e tihomamisa ditsamaiso tsa yona, go latela ditlhokego tsa Melawanataolo eno.

(c) Ditsamaiso tsa Panele ya Tona di tshwanetse go lolama, go se tseye letlhakore le go bonaletshega.

(4) Tona o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe ya Panele ya Tona e a tsholwa.

(5)(a) Morago ga go botsolotsa le go rerisana ka ga bakopatiro botlhe ba ba botsoloditsweng, le go sekaseka gore a badirakopo ba kgotsofatsa tsela ya go thapa, Panele ya Tona e tshwanetse go atlanegisa motho yo o ratwang mabapi le go thapiwa mo phatlhatirong nngwe le nngwe e e phasaladitsweng.

(b) Fa Panele ya Tona e swetsa gore ga go badirakopo ba ba lekaneng ba ba siametseng go ka kgethwa mabapi le go botsolotswa ke Panele ya Tona mabapi le phatlhatiro e e phasaladitsweng, go fitlhelela ditlhokego tsa temana (a), Panele ya Tona e tshwanetse ntle le tshenyoy ya nako go gakolola Tona ka tshwanelo, e bile Matlotlo a Bosetšhaba a tshwanetse go phasalatsa phatlhatiro gape.

### **Tsela ya go thapa**

11. Fa go swetswa ka gore a mokopatiro o siametse go ka kgethwa le go atlanegiswa mabapi le go thapiwa jaaka Mokhomišenara kgotsa Motlatsamokhomišenara, Dipanele tsa Kgetho le Tona di tshwanetse, mo godimo ga tsela ya go thapa mo karolong 61 ya Molao, go sekaseka gore a mokopatiro o na le—

(a) bonnye dingwaga tse 10 tsa maitemogelo mo maemongmagolo kgotsa a khuduthamaga le—

(i) molaodi (ka keletso go molaodi wa lephata la ditšhelete);

(ii) setheo sa ditšhelete;

(iii) mokgatlho wa bodirelo jwa lephata la ditšhelete;

(iv) lefapha la puso le le rwalang maikarabelo a go ela tlhoko taolo ya lephata la ditšhelete;

(v) mokgatlho wa bolaodi ba ditšhelete wa boditšhabatšhaba; kgotsa

(vi) di le pedi kgotsa go feta tsa ditheo tse di kailweng mo ditemanatlaleletsong (i)

go fitlha go (v); le

(b) dikgono, kitso le boitseanape tse di solofelwang mo mothong yo o mo maemong a Mokhomišenara kgotsa Motlatsamokhomišenara.

### **Tsenyotirisong le setlhogo se se khutshwane**

12. Melawanataolo eno e bidiwa Melawanataolo ya Lephata la Ditšhelete, 2018 e bile e tla tsena mo tirisong ka letlha la phasalatsa mo Lokwalodikgannyeng la Puso.

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