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No. 38889

THE PRESIDENCY

No. 529 17 June 2015

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

Act No. 2 of 2012: Auditing Profession Amendment Act, 2015

OFISI YA MOPORESIDENTE

No. 529 17 June 2015

Mona ho tsebiswa hore Mopresidente o amohetse Molao ona o latelang, o phatlalatswang mona bakeng sa tsebiso ya setjhaba ka bophara:—

No 2 ya 2015: Molao wa Phetolo ya Profeshene ya Hlahlobo ya Dibuka tsa Ditjhelete, 2015



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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.
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(English text signed by the President)
(Assented to 16 June 2015)

ACT

To amend the Auditing Profession Act, 2005, so as to provide for the regulation of candidate auditors and to update references to the Companies Act, 2008; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 26 of 2005

- 1.** Section 1 of the Auditing Profession Act, 2005 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “company” of the following definition: 5
- “**‘company’** has the meaning assigned to it in the Companies Act, 2008 (Act No. 71 of 2008);”;
- (b) by the substitution for the definition of “professional body” of the following definition: 10
- “**‘professional body’** means a body of, or representing[,]—
- (a) registered auditors and registered candidate auditors; or **[both]**
- (b) accountants, **[and]** registered auditors and registered candidate auditors;”; and 15
- (c) by the insertion after the definition of “registered auditor” of the following definition: 20
- “**‘registered candidate auditor’** means an individual who has obtained a professional accountant designation from an accredited professional body, who is registered as a candidate auditor with the Regulatory Board and who is serving under the supervision of a registered auditor;”.

Substitution of section 6 of Act 26 of 2005

- 2.** The following section is hereby substituted for section 6 of the principal Act:

TLHALOSO KA KAKARETSO:

[] Mantswe a ka hara masakana a bontsha ho tlohelwa melaong e teng.

_____ Mantswe a sehetsweng mola a bontsha ho kenngwa melao e teng.

(English text signed by the President)
(Assented to 16 June 2015)

MOLAO

Ho fetola Molao wa Profeshene ya Hlahlobo ya Dibuka tsa Ditjhelete, 2005, e le ho ka nehelana ka taolo ya bahlahlubi ba dibuka tsa ditjhelete ba baithuti le ho nehelana ka ntlafatso tebisong ho *Companies Act, 2008*; le ho nehelana ka dintlha tse amanang le tse mona.

HO E NTSWE TSHITSINYO YA MORALO WA MOLAO ke Palamente ya Afrika Borwa, ka mokgwa o latelang:—

Phetolo ya karolo 1 ya Molao 26 wa 2005

1. Karolo 1 ya Molao wa Profeshene ya Hlahlobo ya Dibuka tsa Ditjhelete, wa 2005 (e leng Molao o ka sehloohong), o fetotswe—
- (a) ka ho fetola tlhaloso ya “khamphani” ka tlhaloso e latelang: 5
 “**‘khamphani’** e na le moelelo eo e o nehetsweng ho *Companies Act, 2008 (Act No. 71 of 2008)*”; le
- (b) ka ho fetola tlhaloso ya “lekgotla la profeshene” ka tlhaloso e latelang: 10
 “**‘lekgotla la profeshene’** e bolela lekgotla la, kapa le emelang [,]—
 (a) bahlahlubi ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlubi ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng; kapa [ka bobedi]
 (b) diakhaontente, [le] bahlahlubi ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlubi ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng;” le 15
- (c) Ka ho kenya ka moraho ho tlhaloso ya “mohlahlobi wa dibuka tsa ditjhelete ya ngodisitsweng” ka tlhaloso e latelang: 20
 “**‘mohlahlobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng’** e bolela motho ya fumaneng mangolo a ho ba akhaontente ya porofeshenale ho tswa lekgotleng la porofeshenale, a ngodisitswe e le mohlahlobi wa di buka tsa ditjhelete wa moithuti le Lekgotla la Taolo mme a sebetsa ka tlasa bolaodi ba mohlahlobi wa dibuka tsa ditjhelete ya ngodisitsweng;”.

Phetolo ya karolo 6 ya Molao 26 wa 2005

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2. Karolo e latelang e fetotswe bakeng la karolo 6 ya Molao o ka sehloohong:

“Functions with regard to registration of auditors and candidate auditors

- 6. [(1)]** The Regulatory Board must, subject to this Act—
- (a) prescribe minimum qualifications, competency standards and requirements for registration of auditors and candidate auditors in addition to those provided for in this Act; 5
 - (b) consider and decide on any applications for registration of auditors and candidate auditors;
 - (c) prescribe the period of validity of the registration of a registered auditor and a registered candidate auditor; 10
 - (d) keep [**a register**] registers of registered auditors and registered candidate auditors and decide on—
 - (i) the [**register**] registers to be kept;
 - (ii) the maintenance of the [**register**] registers; and
 - (iii) the reviewing of the [**register**] registers and the manner in which alterations thereto may be effected; 15
 - (e) ensure that the [**register**] registers of registered auditors and registered candidate auditors [**is**] are at all reasonable times open to inspection by any member of the public;
 - (f) terminate the registration of registered auditors and registered candidate auditors in accordance with this Act; and 20
 - (g) prescribe minimum requirements for the renewal of registration and re-registration of registered auditors and registered candidate auditors.”. 25

Amendment of section 21 of Act 26 of 2005 25

3. Section 21 of the principal Act is hereby amended by the insertion in paragraph (a) of subsection (2) after the expression “registered auditors” of the expression “and registered candidate auditors”.

Substitution of section 36 of Act 26 of 2005

4. The following section is hereby substituted for section 36 of the principal Act: 30

“Effect of termination of accreditation on registered auditors and registered candidate auditors

- 36.** (1) The fact that the accreditation of a professional body has ended in terms of section 35 does not affect the registration under this Act of any registered auditor or registered candidate auditor who was a member of the professional body at the time of the termination. 35
- (2) Registered auditors or registered candidate auditors referred to in subsection (1) who were members of the professional body referred to in subsection (1) must, within six months of the termination of the accreditation of the professional body or within such other period as may be prescribed by the Regulatory Board, provide written proof to the satisfaction of the Regulatory Board that they— 40
- (a) have become members of another accredited professional body; or

“Mesebetsi e mabapi le ho ngodiswa ha bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti

6. [(1)] Tumellanong le Molao ona, Lekgotla la Taolo le lokela ho—
- (a) beha ditshwanelo tsa thuto e hlokahalang, ditekanyetso tse tshwanelehang le dintho tse lokelwang ho fihlellwa bakeng la ho ngodisa bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ho phaella ho tse ngotsweng Molaong; 5
- (b) hlahloba le ho etsa qeto bakeng la kopo e nngwe le e nngwe bakeng la ngodiso ya bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti; 10
- (c) rala bolelele ba nako ya ngodiso ya mohlahlobo wa dibuka tsa ditjhelete le mohlahlobo wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng; 15
- (d) boloka [buka ya mabitso] dibuka tsa mabitso tsa bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng le ho etsa qeto mabapi le—
- (i) [buka ya mabatso] dibuka tsa mabitso a lokelwang ho bolokwa;
- (ii) ho hlokomela [buka ya mabitso] dibuka tsa mabitso; le
- (iii) ho hlahloba [buka ya mabitso] dibuka tsa mabitso le kamoo dipheto di ka etswang ka teng; 20
- (e) ho etsa bonnete ba hore [buka ya mabitso] dibuka tsa mabitso a bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti di ka hlahlojwa ke ditho tsa setjhaba ka nako e nngwe le e nngwe e utlwahalang; 25
- (f) ho hlakola ngodiso ya bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng ho ya ka Molao ona; le
- (g) ho rala maemo a hlokahalang bakeng sa ho ntjhafatsa ngodiso le ho ngodiswa botjha ha bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng.”. 30

Phetolo ya karolo 21 ya Molao 26 wa 2005

3. Karolo 21 ya Molao o ka sehloohong o fetotswe ka ho kenngwa ha temana (a) ka karolwana (2) ka mora polelwana “bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng” ka polelwana “le bahlahlobo ba dibuka tsa ditjhelete ba baithuto ba ngodisitsweng”. 35

Phetolo ya karolo 36 ya Molao 26 wa 2005

4. Karolo e latelang e fetotswe bakeng la karolo 36 ya Molao o ka sehloohong:

“Ka moo ho kgaotsa kamohelo ho amang bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng 40

36. (1) Taba ya hore kamohelo ya lekgotla le itseng la profeshene e hlakotswe ho ya ka karolo 35 ha e ame ho ngodiswa tlasa Molao ona ha mohlahlobo ofe kapa ofe wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlahlobo wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng e neng e le setho sa lekgotla ka nako ya ho hlakolwa. 45

(2) Bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng kapa bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng bao ho bolelwang ka bona karolong e leng ka tlase ho karolo (1) bao e neng e le ditho tsa lekgotla la profeshene ena tse boletsweng karolong e leng ka tlasa karolo (1) nakong ya dikgwedi tse tshelatseng ka mora ho hlakolwa ha kamohelo ya lekgotla la bona kapa nakong e tla hlauwa ke Lekgotla la Taolo, ba tshwanetse ho neha Lekgotla la Taolo lengolo la bopaki le kgotsofatsang hore—

(a) ke ditho tsa lekgotla le leng le amohetsweng la profeshenale; kapa 55

(b) have made arrangements for their continuing professional development as recognised or prescribed by the Regulatory Board.

(3) Where a registered auditor or registered candidate auditor referred to in subsection (1) fails to comply with the requirements of subsection (2), the Regulatory Board, subject to subsection (4), may cancel the registration of the registered auditor or registered candidate auditor under this Act. 5

(4) The Regulatory Board must, prior to the cancelling of the registration of a registered auditor or registered candidate auditor, give notice in writing to the registered auditor or registered candidate auditor concerned of its intention to cancel and the reasons on which it is based, and must afford the registered auditor or registered candidate auditor a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding to cancellation.”. 10

Substitution of section 37 of Act 26 of 2005

5. The following section is hereby substituted for section 37 of the principal Act: 15

“Registration of individuals as registered auditors and registered candidate auditors

37. (1) An individual must apply on the prescribed application form to the Regulatory Board for registration as an auditor or a candidate auditor.

(2) If, after considering an application, the Regulatory Board is satisfied that the applicant— 20

- (a) has complied with the prescribed education, training and competency requirements for a registered auditor or registered candidate auditor;
- (b) has arranged for his or her continuing professional development if the applicant is not a member of an accredited professional body; 25
- (c) is resident within the Republic;
- (d) is a fit and proper person to practise the profession;
- (e) has met any additional requirements for registration as prescribed under section 6,

the Regulatory Board must, subject to subsections (3) and (5), register the applicant, enter the applicant’s name in the applicable register and issue to the applicant a certificate of registration on payment of the prescribed fee. 30

(3) The Regulatory Board may not register an individual as a registered auditor or registered candidate auditor if that individual—

- (a) has at any time been removed from an office of trust because of misconduct related to a discharge of that office; 35
- (b) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery, uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any offence involving dishonesty, other than theft, fraud or forgery, committed prior to 27 April 1994 associated with political objectives, and has been sentenced to imprisonment without the option of a fine or to a fine exceeding such an amount as may be prescribed by the Minister; 40
- (c) is for the time being declared by a competent court to be of unsound mind or unable to manage his or her own affairs; or 45

(b) ba entse ditlhophiso tsa ntshetsopele ya boprofeshenale ka moo ho hlahositsweng ke Lekgotla la Taolo.

(3) Moo mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng ya hlahositsweng karolong e leng ka tlase ho karolo (1) a hloleha ho ikamahanya le ditlhoko tsa karolo karolo (2), Lekgotla la Taolo, tlasa karolo e ka tlase ho karolo (4) le ka hlakola ngodiso ya mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng ka tlasa Molao ona.

(4) Pele mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng a hlakolwa, Lekgotla la Taolo le lokela ho tsebisa ka lengolo qeto ya lona ya ho hlakola mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng maikemisetso a lona le mabaka a qeto eo, mme le lokela ho dumella mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng matsatsi a seng ka tlase ho a 21 empa a sa feteng matsatsi a 30 ho fana ka mabaka a hore bohato ba ho hlakolwa bo emiswe.”.

Phetolo ya karolo 37 ya Molao 26 wa 2005

5. Karolo e latelang e fetotswe bakeng la karolo 37 ya Molao o ka sehloohong: 20

“Ngodiso ya batho e le bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng

37. (1) Motho o lokela ho etsa kopo a sebedisa diforomo tsa Lekgotla la Taolo bakeng sa ngodiso e le mohlalobi wa dibuka tsa ditjhelete kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti. 25

(2) Haeba, ka mora ho hlahloba kopo, lekgotla la taolo le kgotsotse mabapi le hore mokopi—

(a) o na le bopaki ba lekgotla la profeshene ena bo bontshang hore o na le thuto e hlokalang, thupello le tsebo e le hore a ka ngodiswa jwalo ka mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng; 30

(b) o lokiseditse ho ntshetsapele profeshene ena ya hae ha e ba mokopi e se setho sa lekgotla le amohelwang la profeshene ena; 35

(c) ke moahi ka hara Rephaboliki;

(d) o tshwaneleha hantle bakeng la profeshene ena;

(e) o fihletse dintho tse eketsehileng tse hlokalang bakeng sa ngodiso jwalo ka ha ho hlahositswe ka tlasa karolo 6,

Lekgotla la Taolo, ho ya ka karolo e ka tlasa karolo (3) le (5), le tshwanetse ho ngodisa mokopi, le ngole lebitso la mokopi bukeng e tshwanelehileng le ho nehela mokopi setifikeiti sa ngodiso ha a qeta ho lefa tjhelete e hlahositsweng. 40

(3) Lekgotla la Taolo le keke la ngodisa motho e le mohlalobi wa dibuka tsa ditjhelete kapa mohlalobi wa ditjhelete wa moithuti ya ngodisitsweng ha eba motho eo— 45

(a) a tlositse boemong boo a neng a tshepuwe ka bona ka lebaka la boitshwaro bo sa lokang boo a leleketsweng bona kantorong eo;

(b) o ahlotswe, Rephaboliking kapa naheng e nngwe ka lebaka la boshodu, qhekello, ho etsa ditokomane tsa bohata, ho bua leshano ka mora ho ikana kgotla, tlolo ya molao tlasa molao wa *Prevention and Combating of Corrupt Activities Act, 2004* (Act No. 12 of 2004), kapa tlolo efe kapa efe ya molao ka lebaka la ho se tshepahale, boshodu, qhekello, ditokomane tsa bohata di entswe pele ho 27 Mmesa 1994 mme di amana le tsa dipolotiki, mme o ile a ahlolwa tjhankaneng ntle ho kgetho ya tefo ya molato kapa tefiso e ne e le ngata ha holo ho feta e boletsweng ke Letona; 50

(c) mme nakong eo lekgotla la molao le mohlalosa e le motho ya sa nkeng hantle kelellong mme a keke a kgona ho sebetsana le ditaba tsa hae; kapa 55

(d) is disqualified from registration under a sanction imposed under this Act.

(4) For the purposes of subsection (3)(b), the Regulatory Board must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.

(5) The Regulatory Board may decline to register as a registered auditor or registered candidate auditor an individual who is an unrehabilitated insolvent, has entered into a compromise with creditors, has applied for debt review or has been provisionally sequestered.”

Amendment of section 38 of Act 26 of 2005

6. Section 38 of the principal Act is hereby amended—

(a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) the company [**is incorporated and registered as a company under the Companies Act, 1973 (Act No. 61 of 1973), with**] has a share capital and its memorandum of **[association] incorporation** provides that its directors and past directors shall be liable jointly and severally, together with the company, for its debts and liabilities contracted during their periods of office;”;

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

“(d) the **[articles of association]** memorandum of incorporation of the company provides that—

(i) the company may, without confirmation by a court, purchase on such terms as it may consider expedient any shares held in it and the shares purchased are available for allotment in accordance with the company’s **[articles of association] memorandum of incorporation**; and

(ii) despite any provision to the contrary in any other law, a member of the company may not appoint a person who is not a member of the company to attend, speak or vote on behalf of the member at any meeting of the company.”; and

(c) by the substitution for subsection (4) of the following subsection:

“(4) In its application to a company which is a registered auditor, section **[20] 8(2)(c)** of the Companies Act, **[1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008)**, has effect **[with the exception of subsection (1)(b)]**.”.

Amendment of section 39 of Act 26 of 2005

7. The following section is hereby substituted for section 39 of the principal Act:

Termination of registration of registered auditors and registered candidate auditors

39. (1) Subject to subsection (3), the Regulatory Board must cancel the registration of any registered auditor that is an individual or any registered candidate auditor, and—

(a) who subsequent to registration becomes subject to any of the disqualifications mentioned in section 37(3);

(b) whose registration was made in error or on information subsequently proved to be false; or

(c) who prior to registration has been guilty of improper conduct because of which the registered auditor or registered candidate auditor is, in the opinion of the Regulatory Board not a fit and proper person to be registered.

(d) ha a tshwanelehe ho ngodiswa tlasa dithibelo tse behilweng Molaong ona.

(4) Bakeng sa merero e leng karolong (3)(b), Lekgotla la Taolo le tshwanetse ho hlokomela boemo ba ditaba dinaheng disele mabapi le kahlolo ya motho enwa.

(5) Lekgotla la Taolo le ka hana ho ngodisa mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng ha e ba a hloleha ho lefella dikoloto tsa hae, ya entseng tumellano e itseng ya dikoloto le bao a ba kolotang, o entse kopo ya tjhebisiso ya dikoloto tsa hae kapa eo phahlo ya hae e nkilweng ho fihlela maemo a itseng.”

Phetolo ya karolo 38 ya Molao 26 wa 2005

6. Karolo 38 ya Molao o ka sehloohong o fetotswe—

(a) ka phetolo karolwaneng (3) bakeng la temana (a) ka temana e lateng:

“(a) khamphani [**e kenyeditswe le ho ngodiswa jwalo ka khamphani ka tlasa Companies Act, 1973 (Act No. 61 of 1973), le**] e na le ditjhelete tsa diabo mme memorandamo ya [**mokgatlo**] kenyeletso e bontshe hore batsamaisi ba hona jwale le batsamaisi ba nako e fetileng ba tla ikarabella ha mmoho le khamphani bakeng sa dikoloto tsa khamphani le boikarabelo bohle nakong eo ba ntseng ba le khamphaneng;”;

(b) ka phetolo ya karolwana (3) bakeng la temana (d) ka temana e latelang:

“(d) [**dingolwa tsa mokgatlo**] memorandamo wa kenyeletso wa khamphani o bontsha hore—

- (i) ntle le tiiso ya lekgotla la molao, khamphani e ka reka diabo dife kapa dife ha e ba e nahana hore ho loketse mme diabo tse rekilweng di ka abuwa ho latela [**dingolwa tsa mokgatlo**] memorandamo wa kenyeletso wa khamphani; le
- (ii) ntle le haeba hona le tokisetso e fapaneng le molao ofe kapa ofe, ha ho setho sa khamphani se ka kgethang motho eo e seng setho sa khamphani ho ba teng, ho bua kapa ho kgetha boemong ba e mong kopanong e nngwe le e nngwe ya khamphani.”; le

(c) ka phetolo bakeng la karolwana (4) ka karolwana e latelang:

“(4) kopong ya yona ya khamphani e ngodisitsweng e le mohlalobi wa dibuka tsa ditjhelete, karolo [20] 8(2)(c) ya *Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008)*, e a sebetisa [**ka ntle ho karolo e ka tlase ho karolo (1)(b)**].”.

Phetolo ya karolo 39 ya Molao 26 wa 2005

7. Karolo e latelang e fetotswe bakeng la karolo 39 ya Molao o ka sehloohong: 40

“Ho hlakola ngodiso ya bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng

39. (1) Ho ya ka karolo e ka tlasa karolo (3), Lekgotla la Taolo le tshwanetse ho hlakola ngodiso ya mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi e mong le e mong wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng, le—

- (a) eo ka mora hore a ngodisitswe a seng a sa tshwanelehe ka mabaka a boletsweng karolong 37(3);
- (b) ya ngodisitsweng ka phoso kapa eo hamorao ho fumanweng hore tlhahisoleseding ya hae e fosahetse; kapa
- (c) eo pele a ngodiswa a neng a le molato ka lebaka la boitshwaro bo sa lokang boo ho ya ka Lekgotla la Taolo mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng a sa lokelang ho ameha ho bona.

(2) Subject to subsection (3), the Regulatory Board may cancel the registration of any registered auditor that is an individual or any registered candidate auditor, and—

(a) whose estate is sequestrated or provisionally sequestrated or who enters into a compromise with creditors or who has applied for debt review; or 5

(b) who ceases to be a member of an accredited professional body and does not within six months of such cessation provide written proof to the satisfaction of the Regulatory Board that such registered auditor or registered candidate auditor has made arrangements for his or her continuing professional development. 10

(3) Prior to cancelling a registration, the Regulatory Board must give notice in writing to the registered auditor or registered candidate auditor concerned of its intention to cancel and the reasons on which it is based, and afford the registered auditor or registered candidate auditor a period of not less than 21 days and not more than 30 days in which to submit grounds for not proceeding with cancellation. 15

(4) The registration of a registered auditor that is a partnership, sole proprietor or company automatically lapses if it no longer complies with section 38(1). 20

(5) The registration of a registered auditor or registered candidate auditor automatically lapses if such registered auditor or registered candidate auditor fails to pay a prescribed fee or portion thereof within the period prescribed by the Regulatory Board.

(6) At the written request of a registered auditor or registered candidate auditor, the Regulatory Board must remove the name of the registered [auditor's name] auditor or registered candidate auditor from the applicable register, but the removal does not affect any liability incurred by the registered auditor or registered candidate auditor prior to the date of the removal. 30

(7) The fact that the registration of a registered [auditor's registration] auditor or registered candidate auditor has been cancelled or removed does not prevent the Regulatory Board from instituting disciplinary proceedings for conduct committed prior to the cancellation or removal.

(8) As soon as practicable after the registration of a registered [auditor's registration] auditor or registered candidate auditor has been cancelled or removed the Regulatory Board must publish a notice of the cancellation or removal, specifying the name of the registered [auditor's name] auditor or registered candidate auditor.”. 35

Amendment of section 40 of Act 26 of 2005 40

8. Section 40 of the principal Act is hereby amended by the insertion in subsections (1) and (2) after the expression “registered auditor” of the expression “or registered candidate auditor”.

Amendment of section 41 of Act 26 of 2005

9. Section 41 of the principal Act is hereby amended— 45

(a) by the substitution in subsection (6)(a) for subparagraph (iii) of the following subparagraph:

(2) Ho ya ka karolo e ka tlase ho karolo (3), Lekgotla la Taolo le ka hlakola ngodiso ya mohlalobi ofe kapa ofe wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi e mong le e mong wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng, le—

- (a) eo phahlo ya hae e nkuweng ka molao ke lekgotla ka lebaka la dikoloto kapa ya entseng tumellano le bo radikoloto kapa ya entseng kopo ya tjhebisiso ya dikoloto; kapa 5
- (b) ya kgaoditseng ho ba setho sa lekgotla le amohetsweng la profeshene ena le eo nakong ya dikgwedi tse tsheletseng tsa ho emiswa a sa kang a fana ka bopaki bo kgotsofatsang ho Lekgotla la Taolo hore mohlalobi enwa wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng o entse ditokisetso tsa ho tswela pele ka profeshene ena. 10

(3) Pele Lekgotla la Taolo le hlakola mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng le lokela ho motsebisa ka lengolo ka qeto ya lona ya ho mohlakola le mabaka, le ho dumella mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng nako e ka tlase ho matsatsi a 21 le e sa feteng matsatsi a 30 hore a hlalose hore na ke hobaneng ha a nahana hore ho hlakola hona ho lokelwa ho emiswa. 15 20

(4) Ngodiso ya mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng e le setho sa mokgatlo wa balekane, eo e leng monga kgwebo ya motho a le mong kapa khamphani e tla kgaotsa haeba e sa tsamaisane le karolo 38(1).

(5) Ngodiso ya mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng e tla kgaotsa haeba mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng a sa lefe tjelete e hlalositse kapa karolo ya yona nakong e hlalositse ke Lekgotla la Taolo. 25 30

(6) Mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng ha a kopa ka lengolo hore a hlakolwe, Lekgotla la Taolo le tshwanetse ho hlakola [lebitso la mohlalobi wa dibuka tsa ditjhelete] mohlalobi wa dibuka tsa ditjhelete kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng dibukeng tse tshwanelehileng tsa ngodiso empa seo se ke ke sa hlakola ditshenyehelo tseo mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng a bileng le tsona pele ho letsatsi la ho hlakolwa. 35 40

(7) Taba ya hore [ngodiso ya mohlalobi wa dibuka tsa ditjhelete] mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti o hlakotswe kapa ho tloswa ha ho bolele hore Lekgotla la Taolo lekeke la nka mehato ya kgalemo bakeng sa boitshwaro bo entsweng pele a hlakolwa kapa a tloswa. 40

(8) Hang ka mora hore ngodiso ya [mohlalobi wa dibuka tsa ditjhelete] mohlalobi wa dibuka tsa ditjhelete kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng a hlakolwe kapa a tloswe Lekgotla la Taolo le tshwanetse ho phatlalatsa tsebiso la tlhakolo kapa ho tloswa, ka ho ngola [lebitso la mohlalobi wa dibuka tsa ditjhelete] mohlalobi wa dibuka tsa ditjhelete kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng.”. 45 50

Phetolo ya karolo 40 ya Molao 26 wa 2005

8. Karolo 40 ya Molao o ka sehloohong e fetotswe ka ho kenngwa ha karolwana (1) le (2) ka mora polelwana “mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng” ka polelwana “kapa mohlalobi wa dibuka tsa ditjhelete wa moithuti ya ngodisitsweng”. 55

Phetolo ya karolo 41 ya Molao 26 wa 2005

9. Karolo 41 ya Molao o ka sehloohong e fetotswe—

- (a) ka phetolo karolwaneng (6)(a) bakeng la seratswana (iii) sa seratswana se latelang:

- “(iii) in the case of a company, the present first names, or initials, and surnames of the directors [**as required by section 171 of the Companies Act, 1973 (Act No. 61 of 1973)**];” and
(b) by the deletion of subsection (9).

Amendment of section 42 of Act 26 of 2005 5

10. Section 42 of the principal Act is hereby amended by the insertion after the expression “registered auditors” of the expression “or registered candidate auditors”.

Amendment of section 47 of Act 26 of 2005

11. Section 47 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph: 10

- “(b) Despite the generality of paragraph (a), the Regulatory Board, or any person authorised by it, must at least every three years inspect or review the practice of a registered auditor that audits a public **[interest]** company as defined in section 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008).”. 15

Insertion of section 51A in Act 26 of 2005

12. The following section is hereby inserted in the principal Act, after section 51:

“Application of certain provisions to registered candidate auditors

51A. Sections 48, 49, 50 and 51 apply to registered candidate auditors with the necessary changes.” 20

Amendment of long title of Act 26 of 2005

13. The following long title is hereby substituted for the long title of the principal Act:

“To provide for the establishment of the Independent Regulatory Board for Auditors; to provide for the education, training and professional development of registered auditors and registered candidate auditors; to provide for the accreditation of professional bodies; to provide for the registration of auditors and candidate auditors; to regulate the conduct of registered auditors and registered candidate auditors; to repeal an Act; and to provide for matters connected therewith.” 25

Short title 30

14. This Act is called the Auditing Profession Amendment Act, 2015.

- “(iii) haeba e le khamphani, mababitsa a pele a teng, kapa ditlhaku tsa pele tsa mabitsa le difane a batsamaisi [ho ya ka moo ho hlokaahalang ka teng karolong 171 ya Companies Act, 1973 (Act No. 61 of 1973)];” le
- (b) ka ho hlakola karolwana (9). 5

Phetolo ya karolo 42 ya Molao 26 wa 2005

10. Karolo 42 ya Molao o ka sehloohong o fetotswe ka ho kenngwa ka mora polelwana “bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng” ka polelwana “kapa bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng”.

Phetolo ya karolo 47 ya Molao 26 wa 2005

11. Karolo 47 ya Molao o ka sehloohong o fetotswe ka phetolo karolwaneng (1) bakeng la temana (b) ka temana e latelang:

“(b) Ho sa tsotellehe kakaretso ya temana (a), Lekgotla la Taolo, kapa motho ofe kapa ofe ya laetsweng ke yona, bonyane selemo se seng le se seng sa boraro o tshwanetse ho hlahloba mosebetsi wa mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng ya hlahlobang dibuka tsa ditjhelete jwalo ka khampane e sebeletsang [dithahasello] tsa setjhaba ho ya ka tlhaloso e karolong 1 ya Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008).” 15

Ho kenngwa ha karolo 51A ka hara Molao 26 wa 2005

12. Molao o latelang o kentswe ka hara Molao o ka sehloohong, ka mora karolo 51: 20

“Tshebetso ya melawana e itseng ho bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng

51A. Karolo 48, 49, 50 le 51 disebetsa ho bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng ka diphetoho tse hlokaahalang.”

Phetolo ya sehlooho se selelele sa Molao 26 wa 2005

13. Sehlooho se selelele se latelang se fetotswe bakeng la sehlooho se selelele sa Molao o ka sehloohong:

“Ho nehelana ka ho theha Lekgotla le Ikemetseng la Taolo ya Bahlahlobo ba dibuka tsa Ditjhelete; ho rala motheo wa thuto, thupello le ntshetsopele ya profeshene ya bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng; ho rala motheo wa kamohelo ya ho tshwaneleha ha makgotla a profeshene ena; ho rala motheo wa ho ngodiswa ha bahlahlobo ba dibuka tsa ditjhelete le bahlahlobo ba dibuka tsa ditjhelete ba baithuti; ho laola boitshwaro ba bahlahlobo ba dibuka tsa ditjhelete ba ngodisitsweng le bahlahlobo ba dibuka tsa ditjhelete ba baithuti ba ngodisitsweng; ho hlakola Molao; ho rala motheo bakeng sa ditaba tse amanang le tse mona.”. 30 35

Sehlooho se se kgutshwane

14. Molao ona o bitswa Molao wa Phetolo ya Profeshene ya Hlahlobo ya Dibuka tsa Ditjhelete, 2015. 40

