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THE PRESIDENCY

No. 728

4 July 2008

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

No. 5 of 2008: National Regulator for Compulsory Specifications Act, 2008.

OFISI KAMONGAMELI

Ino. 728

4 July 2008

Esi sisaziso sokuba uMongameli uwa-mkele lo mthetho ulandelayo noni-kezelwa kuluntu jikelele kolu xwebhu:—

Ino. 5 ka 2008: uMthetho woMlawuli weSizwe weMigaqo esisiNyanzelo, 2008.

Act No. 5, 2008

NATIONAL REGULATOR FOR
COMPULSORY SPECIFICATIONS ACT, 2008

(English text signed by the President.)
(Assented to 1 July 2008.)

ACT

To provide for the establishment of the National Regulator for Compulsory Specifications of South Africa; to provide for the appointment of the Board of the National Regulator; to provide for the administration and maintenance of compulsory specifications in the interests of public safety and health or for environmental protection; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is desirable to—

- **PROMOTE** the rights and obligations of government to protect the health and safety of the public and the environment;
- **ESTABLISH** the National Regulator for Compulsory Specifications of South Africa to be responsible for the administration and maintenance of compulsory specifications and the implementation of a regulatory and compliance system for compulsory specifications; and
- **PROVIDE** for market surveillance by the National Regulator in order to ensure compliance with the compulsory specifications and to provide for sanctions for non-compliance to compulsory specifications,

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

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(English text signed by the President.)
(Assented to 1 July 2008.)

UMTHETHO

Ukuba ubonelele ngokusekwa koMlawuli weSizwe weMigaqo esisiNyanzelo woMzantsi Afrika; ukuba ubonelele ngokuchongwa kweBhodi yoMlawuli weSizwe; ukuba ibonelele ngolawulo nokugcinwa kwemigaqo esisinyanzelo ngokusemdleni wokhuseleko nempilo yoluntu okanye ukhuselelo lokusingqongileyo, kunye nokubonelela ngemicimbi enxulumene nako.

IMBULA-MBETHE

NANJENGA KUBA kunqweneleka ukuba—

- **KUPHAKANYISWE** amalungelo neemfanelo zikarhulumente ukuba akhusele impilo nokhuselelo loluntu kunye nokusingqongileyo;
- **ASEKE** uMlawuli weSizwe weMigaqo esisiNyanzelo woMzantsi Afrika kunye nokuphunyezwa kwendlela elawulayo nethobelayo yemigaqo esisinyanzelo; kunye
- **NOKUBONELELA** ngokucupha ngokwemarike uMlawuli weSizwe ukwenzela ukuqinisekisa ukuthobela imigaqo esisinyanzelo kunye nokunika ukwayo lokungathobeli imigaqo esisinyanzelo,

NNGOKO KE UWISWA yiPalamente yeRiphabliki yoMzantsi Afrika, ngale ndlela ilandelayo:—

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INTERPRETATION AND PURPOSE**Definitions**

1. In this Act, unless the context indicates otherwise—
 - “**amendment**”, with regard to a compulsory specification, includes the complete or partial substitution of one or more of the provisions of a compulsory specification; 35
 - “**Board**” means the Board of the National Regulator for Compulsory Specifications appointed in terms of section 6;
 - “**commodity**” includes any substance or any element or characteristic of a commodity or a category or system of commodities; 40
 - “**compulsory specification**” means a compulsory specification contemplated in section 13;
 - “**conformity assessment**” means the procedure used to determine, directly or indirectly, that the relevant requirement in technical regulations, standards or any other relevant and validated documentation has been fulfilled; 45
 - “**distinctive mark**” means a mark prescribed in terms of this Act which is applied to a commodity;
 - “**examine**” means to inspect or analyse a product or service closely in order to determine compliance of the product or service with the requirements of a compulsory specification; 50

UMTHETHO WOMLAWULI WESIZWE
WEMIGAQO ESISINYANZELO, 2008

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INGUQULELO NENJONGO**Iinkcazelo**

1. Kulo Mthetho, ngaphandle kokuba umxholo ukhombisa ngenye indlela—
 - “**uhlaziyo**” ngokuphathelene nemigaqo esisinyanzelo, luquka ukufaka endaweni yokunye okupheleleyo okanye okungaphelelanga kwisolotya elinye okanye ngaphezulu kwimigaqo esisinyanzelo; 35
 - “**iBhodi**” ithetha iBhodi yoMlawuli weSizwe weMigaqo esisiNyanzelo eqeshwe ngokwemigqaliselo yecandelo lesi-6;
 - “**impahla yorhwebo**” iquka nayiphi na into okanye i-elementi okanye uphawu lwempahla yorhwebo okanye udidi okanye indlela yempahla yorhwebo; 40
 - “**imigaqo esisinyanzelo**” ithetha imigaqo esisinyanzelo ecaciswe nzulu kwicandelo le-13
 - “**uhlolo lokuthobela**” luthetha inkqubo esetyenzisiweyo ukumisela, ngokungqalileyo okanye ngokungangqalanga, ukuba iimfuno ezibandakanyekayo kwimimiselo yobuchwepheshe, imigangatho okanye nawaphi na amaxwebhu abandakanyekayo okanye asemthethweni azalisekise; 45
 - “**uphawu olwahluke-ngokukodwa**” luthetha uphawu olumiselwe ngokwemigqaliselo yalo Mthetho olusetyenziswa kwimpahla yorhwebo;
 - “**ukuphonononga**” kuthetha ukuhlola okanye ukucazulula imveliso okanye inkonzo ngocoselelo ukwenzela ukumisela ukungqinelana kwemveliso okanye inkonzo kunye neemfuno zemigaqo esisinyanzelo; 50

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- “**importer**” means an importer as defined in section 1(1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- “**inspector**” means a person appointed as an inspector in terms of section 16(1);
- “**issue**” with regard to a compulsory specification, includes making available by means of electronic, photographic or another medium; 5
- “**letter of authority certificate**” means a letter of authority issued to a manufacturer or importer in terms of section 5(2)(f);
- “**manufacture**” includes produce, assemble, alter, modify, adapt, convert, process or treat;
- “**market surveillance inspection**” means any activity of the National Regulator, other than testing, concerned with determining, either directly or indirectly, whether any or all of the requirements of a compulsory specification are met; 10
- “**Minister**” means the Minister responsible for trade and industry;
- “**National Regulator**” means the National Regulator for Compulsory Specifications of South Africa established by section 3(1); 15
- “**premises**” means any land or any building or other structure, and includes any train, boat, ship, aircraft or other vehicle;
- “**prescribed**” means prescribed by regulation or notice in terms of this Act;
- “**product**” means any commodity that is manufactured or any agricultural product, including fish and fish products; 20
- “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**regulation**” means a regulation made under section 36;
- “**SABS**” means the South African Bureau of Standards;
- “**sales permit**” means a permit issued under section 14(4); 25
- “**SANS**” means a South African National Standard approved by the South African Bureau of Standards in accordance with the Standards Act, 2008;
- “**sell**” includes—
- (i) display, offer or advertise for sale; or
 - (ii) export from the Republic for or in pursuance of a sale; 30
 - (iii) having in possession for the purposes of sale, trade, manufacture or export from the Republic;
 - (iv) exchange, donate, lease or offer or display for leasing;
- “**system**”, with regard to a commodity, means a system which is designed to achieve a particular purpose or to perform a specific function; 35
- “**this Act**” includes a regulation made under section 36.

Purpose of Act

2. The purpose of the Act is—
- (a) to provide a legal framework for the administration and maintenance of compulsory specifications in the interests of public safety and health or for environmental protection in the Republic; and 40
 - (b) to establish the National Regulator to administer compulsory specifications.

ESTABLISHMENT OF NATIONAL REGULATOR AS PUBLIC ENTITY**Establishment of National Regulator as public entity**

3. (1) The National Regulator is hereby established as a public entity. 45
- (2) The National Regulator is a juristic person and must operate and perform its functions in accordance with this Act.

- “**umrhwebi ongenisa impahla elizweni**” kuthetha umrhwebi ongenisa impahla elizweni njengoko kuchaziwe kwicandelo (1) loMthetho we-Customs and Excise, 1964 (uMthetho oyiNombolo yama-91 ka-1964);
- “**umhloli**” uthetha umntu oqeshwe njengomhloli ngokwemigqaliselo yecandelo 16(1); 5
- “**ukukhupha**” ngokuphathelene nemigaqo esisinyanzelo, kuquka ukwenza kufumaneka ngendlela ye-clektroniki, yokufota okanye ngenye indlela yokunxulumana;
- “**isiqinisekiso sencwadi yegunya**” ithetha incwadi yegunya ekhutshwe ngumenzi okanye ngumrhwebi ongenisa impahla elizweni ngokwemigqaliselo yecandelo 5(2)(f); 10
- “**umenzi**” uquka ukuvelisa, ukudibanisa, ukutshintsha, ukulungisa, ukufaka, ukuguqula, inkqubo okanye ukuphatha;
- “**ukuhlolwa kocupho lwemarike**” kuthetha nawuphi na umsebenzi woMlawuli weSizwe, ngaphandle kokuvavanya, obandakanya ukumisela, ngokungqalileyo okanye ngokungangqalanga, ukuba ingaba nayiphi na imigaqo esisinyanzelo kuyahlangatyezwana nayo na; 15
- “**uMphathiswa**” kuthethwa uMphathiswa ojongene norhwebo noshishino;
- “**uMlawuli weSizwe**” uthetha uMlawuli weSizwe weMigaqo esisiNyanzelo woMzantsi Afrika osekwe licandelo 3(1); 20
- “**umhlaba nezakhiwo**” uthetha nawuphi na umhlaba okanye nasiphi na isakhiwo okanye esinye isakhiwo, kwaye kuquka nawuphi na uloliwe, isikhephe, inqwelomoya okanye esinye isithuthi;
- “**imiselwe**” uthetha ukumiselwa ngumniselo okanye sisaziso ngokwemigqaliselo yalo Mthetho; 25
- “**imveliso**” ithetha nayiphi na imveliso yorhwebo eyenziweyo okanye nayiphina imveliso yezolimo, kuquka intlanzi kunye neemveliso zentlanzi;
- “**uMthetho woLawulo lweziMali zikaRhulumente**” uthetha uMthetho woLawulo lweziMali zikaRhulumente, 1999 (uMthetho oyiNombolo yoku-1 ka-1999); 30
- “**ummiselo**” uthetha ummiselo owenziwe phantsi kwecandelo lama-36;
- “**i-SABS**” ithetha i-South African Bureau of Standards;
- “**imvume yokuthengisa**” ithetha imvume ekhutshwe phantsi kwecandelo 14(4);
- “**i-SANS**” ithetha i-South African National Standard evunywe liZiko loMiselomisaGangatho laseMzantsi Afrika ngokungqinelana noMthetho wemiGangatho, 2008; 35
- “**ukuthengisa**” kuquka—
- (i) ukubonisa, ukunika okanye ukupapashela intengiso; okanye
 - (ii) ukungenisa kwiRiphabliki okanye ukulandela intengiso;
 - (iii) ukuba nezinto ezinjongo zokuba nazo ikukuzithengisa, urhwebe, wenze okanye uzithumele kwamanye amazwe zisuka kwiRiphabliki; 40
 - (iv) ukutshintshisana, ukunikela, ukuqeshisa okanye ukuthembisa okanye ubonise ngeenjongo zengqesho;
- “**inkqubo**” ngokuphathelene nempahla yorhwebo, ithetha inkqubo eyilelwe ukuphumeza injongo ethile okanye ukwenza umsebenzi okhethekileyo; 45
- “**lo Mthetho**” uquka ummiselo owenziwe phantsi kwecandelo lama-36.

Injongo yoMthetho

2. Injongo yoMthetho kuku—

- (a) nika inkqubo-sikhokelo yoMthetho kulawulo nokugcinwa kwemigaqo esisinyanzelo ngokomdla wokhuselo nempilo yoluntu okanye kukhuselo lokusingqongileyo kwiRiphabliki; kunye 50
- (b) nokuseka uMlawuli weSizwe ukuba alawule imigaqo esisinyanzelo.

UKUSEKWA KOMLAWULI WESIZWE NJENGEZIKO LIKARHULUMENTE

Ukusekwa koMlawuli weSizwe njengeZiko likaRhulumente

- 3. (1) Umlawuli weSizwe ke ngoko uyasekwa njengeziko likarhulumente. 55
- (2) Umlawuli weSizwe ngumntu onolwazi ngoMthetho kwaye kufuneka aqhube aze enze imisebenzi yakhe ngokungqinelana nalo Mthetho.

(3) The establishment of the National Regulator does not affect the validity of any action taken by the SABS prior to the commencement of this Act.

POWERS AND OBJECTS OF NATIONAL REGULATOR

Powers of National Regulator

4. (1) The National Regulator may do all that is necessary or expedient to perform its functions, including— 5
- (a) acquiring or disposing of property or any right in respect thereof, but ownership in immovable property may be acquired or disposed of only with the consent of the Minister in concurrence with the Minister of Finance;
 - (b) opening and operating banking accounts in the name of the National Regulator; 10
 - (c) investing any of the money of the National Regulator;
 - (d) insuring the National Regulator—
 - (i) against any loss, damage or risk; or
 - (ii) against any liability it may incur in the application of this Act; 15
 - (e) performing legal acts, including acts in association with or on behalf of any other person or organ of state;
 - (f) subject to subsection (2), concluding agreements with organs of state and other persons; or
 - (g) instituting or defending any legal action. 20
- (2) An agreement concluded in terms of subsection (1)(f) may not conflict with any international requirement that is binding on the National Regulator.

Objects of National Regulator

5. (1) The objects of the National Regulator are to—
- (a) make recommendations to the Minister with regard to compulsory specifications; 25
 - (b) administer and maintain compulsory specifications;
 - (c) carry out market surveillance through inspection in order to monitor compliance with compulsory specifications; and
 - (d) enforce compliance with compulsory specifications. 30
- (2) In order to achieve its objects, the National Regulator may—
- (a) acquire and maintain the equipment required for market surveillance inspection purposes;
 - (b) inform the South African commerce, industry and the public about compulsory specifications; 35
 - (c) establish and maintain the necessary expertise on an internationally acceptable level;
 - (d) obtain membership of, participate in or develop relationships with, foreign or international bodies having any objects similar to those of the National Regulator; 40
 - (e) perform, in so far as it is not contrary to or inconsistent with any Act, such functions as the Minister may assign to the National Regulator;
 - (f) issue a letter of authority certificate which permits commodities or products to be sold or services to be supplied;
 - (g) obtain the cooperation of government departments, local authorities or other public bodies, and enter into agreements with them; 45
 - (h) enter into agreements with conformity assessment services providers to inspect, examine, test or analyse samples on behalf of the National Regulator; and

(3) Ukusekwa koMlawuli weSizwe akuchaphazeli ukuba semthethweni kwaso nasiphi na isenzo esithathwe yi- SABS phambi kokuqala kwalo Mthetho.

AMAGUNYA KUNYE NEENJONGO ZOMLAWULI WESIZWE

Amagunya oMlawuli weSizwe

4. (1) UMlawuli weSizwe unokwenza konke oko kuyimfuneko okanye enze kube lula 5
ukwenza imisebenzi yakhe, kuquka—
- (a) ukufumana nokususa ipropati okanye naliphi na ilungelo ngokunxulumene 10
noko, kodwa ubumnini kwipropati engasuswayo bunokufunyanwa okanye
bususwe kuphela ngemvume yoMphathiswa edibene kunye noMphathiswa
wezeziMali;
 - (b) ukuvula nokuqhuba ii-akhawunti zebhanki ngegama loMlawuli weSizwe;
 - (c) ukwenza utyalo-mali ngayo nayiphi na imali yoMlawuli weSizwe;
 - (d) ukufaka kwi-inshurensi uMlawuli weSizwe— 15
 - (i) kuyo nayiphi na ilahleko, umonakalo okanye ingozi; okanye
 - (ii) kuyo nakweyiphi na imfanelo anokuyenza ekusetyenzisweni kwalo
Mthetho;
 - (e) ukuthabatha amanyathelo asemthethweni, kuquka ukuthabatha amanyathelo
ngokudibene okanye egameni lomnye umntu okanye iziko likarhulumente;
 - (f) ngokuxhomekeke kwicandelwana (2), ukwenza izivumelwano namaziko 20
karhulumente kunye nabanye abantu; okanye
 - (g) ukumisela okanye ukukhusela nawaphi na amanyathelo asemthethweni.
- (2) Isivumelwano ekugqitywe ngaso ngokwemigqaliselo yecandelwana (1)(f) maze 25
zingaphikisani nazo naziphi na iifunzo zamazwe ngamazwe ezimbophelelayo
uMlawuli weSizwe.

Iinjongo zoMlawuli weSizwe 25

5. (1) Iinjongo zoMlawuli weSizwe ku—
- (a) kwenza iziphakamiso eziya kuMphathiswa ngokuphathelene nemigaqo 30
esisinyanzelo;
 - (b) ukulawula nokugcina imigaqo esisinyanzelo;
 - (c) ukuqhuba ucupho lwemarike ngokuhlola ukwenzela ukujonga ukuthotyelwa
kwemigaqo esisinyanzelo; kunye
 - (d) nokunyanzela ukuthotyelwa kwemigaqo esisinyanzelo.
- (2) Ukuze aphumeze iinjongo zakhe uMlawuli weSizwe unoku—
- (a) fumana kwaye agcine izixhobo ezifunekayo ukwenzela iinjongo zokuhlolela 35
ucupho lwemarike;
 - (b) kwazisa ezorhwebo, ushishino loMzantsi Afrika malunga nemigaqo
esisinyanzelo;
 - (c) aseke kwaye alawule ubugcisa obuyimfuneko kumgangatho owamkeleke
kumazwe ngamazwe;
 - (d) afumane ubulungu, athabathe inxaxheba okanye aphuhlise ubudlelwane 40
namaqumrhu angaphandle okanye namazwe ngamazwe anazo naziphi na
iinjongo ezifanayo nezo zoMlawuli weSizwe;
 - (e) ukwenza, ukubangaba oko akuchasananga okanye kuyahambisana nawo
nawuphi na uMthetho, imisebenzi uMphathiswa anokuyabela uMlawuli 45
weSizwe;
 - (f) ukukhupha ileta yesiqinisekiso sogunyaziso esivumela impahla yorhwebo
okanye iimveliso ukuba zithengiswe okanye iikonzo zinikezelwe;
 - (g) ukufumana intsebenziswano yamasebe karhulumente, oogunyaziwe beengi-
ngqi okanye eminye imibutho yoluntu, aze angene kwizivumelwano nawo;
 - (h) ukungena kwizivumelwano nabaniki beenkonzo zohlolo lokuthobela, ukuba 50
bahlole, baphonononge, bahlalutye iisampuli egameni loMlawuli weSizwe;

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- (i) establish specialist consultative committees to provide input into the process to interpret and implement compulsory specifications.

**BOARD OF NATIONAL REGULATOR FOR COMPULSORY
SPECIFICATIONS**

Appointment of members and chairperson of Board of National Regulator 5

6. (1) The Board consists of not less than seven, and not more than nine members, and is made up as follows:
- (a) The Chief Executive Officer of the National Regulator by virtue of his or her office;
- (b) the rest of the members, who are non-executive members and are appointed by the Minister. 10
- (2) When appointing the members of the Board, the Minister must ensure that such members—
- (a) are broadly representative of the demographics of the country; and
- (b) have sufficient knowledge, experience or qualifications relating to the functions of the National Regulator and the responsibilities of the Board. 15
- (3) The Minister must designate a member of the Board as chairperson.

Term of office

7. (1) Non-executive members of the Board hold office for a period not exceeding five years and are eligible for reappointment. 20
- (2) A person appointed to fill a vacancy holds office for the remaining portion of the term of the vacating member.
- (3) A member of the Board may resign by giving at least one month's written notice.

Disqualification

8. (1) A person may not be appointed or continue to serve as a member of the Board if he or she— 25
- (a) is an unrehabilitated insolvent;
- (b) has at any time been convicted of an offence involving dishonesty;
- (c) has, as a result of improper conduct, been removed from an office of trust; or
- (d) has been declared by a court to be mentally ill or unfit. 30
- (2) A member of the Board must vacate his or her office if he or she is absent from three consecutive meetings of the Board without the prior leave of the chairperson.
- (3) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the Minister may at any time after consulting the Board terminate the term of office of any member of the Board if there are good reasons for doing so. 35

Conditions of appointment

9. (1) The conditions of appointment of members of the Board who are not in the employ of an organ of state, are determined by the Minister, after consultation with the Minister of Finance.
- (2) The conditions of appointment may include remuneration and any allowance payable by the Board. 40
- (3) Members who are employed by an organ of state are not entitled to remuneration, or any allowance, but must be reimbursed for out-of-pocket expenses by the Board.

Operating procedures of Board

10. (1) The Board must meet at least four times a year. 45
- (2) The chairperson of the Board decides when and where the Board will meet, but a majority of Board members may request the chairperson in writing to convene a meeting at a time set out in the request.

- (i) ukuseka iikomiti zeengcali ezicebisayo ukuze zinike izimvo zazo kwinkqubo yokugqula nokuphuyezwe kwemigaqo esisinyanzelo.

IBHODI YOMLAWULI WESIZWE WEMIGAQO ESISINYANZELO

Ukuchongwa kwamalungu nosihlalo weBhodi yoMlawuli weSizwe

6. (1) IBhodi yenziwa ngamalungu angabi ngaphantsi kwesixhenxe kwaye ingabi ngaphezulu kwesithoba ize yenziwe ngale ndlela ilandelayo: 5
- (a) IGosa eliyiNtloko lesiGqeba sokuLawula loMlawuli weSizwe ngokwesi-khundla salo e-ofisini yalo;
- (b) uninzi lwamalungu, angasingawo amalungu esigqeba sokulawula achongwa nguMphathiswa. 10
- (2) Xa kuchongwa amalungu eBhodi, uMphathiswa kufuneka aqinisekise ukuba amalungu anjalo—
- (a) amele ngokubanzi idemografi yelizwe; kwaye
- (b) anolwazi olwaneleyo, amava okanye amabakala emfundo anxulumene nemisebenzi yoMlawuli weSizwe kunye nomsebenzi weBhodi. 15
- (3) UMphathiswa kufuneka onyule ilungu leBhodi njengosihlalo.

Ixesha lolawulo

7. (1) Amalungu eBhodi angasingawo awesigqeba sokulawula ayibamba i-ofisi ixesha elingadluliyo kwiminyaka emihlanu kwaye asenokuphinda achongwe.
- (2) Umntu ochongelwe ukuvala isithuba uyibamba i-ofisi inxenye eseleyo yexesha lelungu elishiya isikhundla. 20
- (3) Ilungu leBhodi linokurhoxa ngokunika isaziso esibhalwe phantsi senyanga enye.

Ukunqunyanyiswa

8. (1) Umntu akanakho ukuchongwa okanye aqhube ukusebenza njengelungu leBhodi ukuba ngaba— 25
- (a) akalungiseki ekungakwazini kwakhe ukuhlawula amatyala akhe;
- (b) ngalo naliphi na ixesha wakhe wagwetyelwa ityala elibandakanya ukunganyaniseki;
- (c) ngenxa yokungaziphathi kakuhle, wakhe wasuswa kwisikhundla soku-thembeka; okanye 30
- (d) ukhe wabhengezwe yinkundla ukuba ugula ngengqondo okanye akafanelekanga ngokwasengqondweni.
- (2) Ilungu leBhodi kufuneka lisishiye isikhundla salo ukuba ngaba liye langabikho kwiintlanganiso ezintathu ezilandelelanayo zeBhodi ngaphandle kwemvume ekuvunyelwene ngayo kwangaphambili nosihlalo. 35
- (3) Ngokuxhomekeke kuMthetho wokuPhakanyiswa koLawulo lobuLungisa, 2000 (uMthetho oyiNombolo yesi-3 ka-2000), uMphathiswa ngalo naliphi na ixesha emva kokudibana neBhodi unokulisusa esikhundleni naliphi na ilungu leBhodi ukuba ngaba kukho izizathu ezivakalayo zokukwenza oko.

Iimeko zochongo

9. (1) Iimeko zochongo lamalungu eBhodi azikho kwingqesho yeziko likarhulumente, zimiselwa nguMphathiswa, emva kokudibana noMphathiswa wezezimali.
- (2) Iimeko zochongo zinokuquka umvuzo kunye nezibonelelo ezihlawulwa yiBhodi.
- (3) Amalungu aqeshwe liziko likarhulumente awafanelekanga ukuba anikwe umvuzo, okanye nasiphi na isibonelelo, kodwa kufuneka anikwe imbuyekezo yeendleko eziphume ezipokothweni zawo yiBhodi. 45

Iinkqubo zokusebenza zeBhodi

10. (1) IBhodi kufuneka idibane okungenani kane ngonyaka.
- (2) Usihlalo weBhodi wenza isigqibo sokuba iza kuhlalana nini kwaye phi iBhodi, kodwa isininzi samalungu eBhodi sinokucela usihlalo ngokubhalwe phantsi ukuba abize intlanganiso ngexesha elibekiweyo kwisicelo. 50

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(3) If the chairperson and the vice-chairperson are absent from a meeting, the Board may elect a member from among their number to preside at that meeting.

(4) A majority of the members of the Board constitutes a quorum for a meeting of the Board.

(5) Decisions of the Board require the supporting vote of a majority of members present at a meeting. 5

(6) The Board must keep minutes of its proceedings and decisions.

(7) The Board may, by resolution, make rules to further regulate its proceedings.

Committees

11. (1) The Board may establish committees to assist it in the performance of its functions. 10

(2) The Board must determine the composition, rules and procedures of committees established in terms of this section.

(3) The Board may from time to time dissolve or reconstitute a committee.

(4) Any decision taken by a committee established under this section must be ratified by the Board. 15

Advisory Forum

12. (1) The Board must establish an Advisory Forum with a balance of interests consisting of representatives of organisations who have an interest in the matters contemplated in this Act. 20

(2) The Advisory Forum must advise the Board on—

(a) matters in respect of which the National Regulator could play a role; and

(b) any other matter on which the Board requests advice.

(3) The Board must establish a constitution and, if necessary, rules for the Advisory Forum. 25

COMPULSORY SPECIFICATIONS**Compulsory specifications**

13. (1) The Minister may, on the recommendation of the Board, in respect of any commodity, product or service which may affect public safety, health or the environment, by notice in the *Gazette*— 30

(a) declare a SANS or a provision of a SANS to be a compulsory specification—

(i) by referring to the title and the number of that standard only, without indicating the year or edition number, and if that SANS is amended, the amended SANS is deemed to have been incorporated; or

(ii) by referring to the title, number and year or edition number of that SANS; 35

(b) declare an amended SANS or an amended provision of a SANS to be a compulsory specification if the original declaration was made in terms of subsection (1)(a)(ii);

(c) declare or amend a compulsory specification if a SANS or a provision of a SANS is not available in terms of paragraphs (a) and (b); or 40

(d) withdraw a compulsory specification.

(2) A notice under subsection (1)(a), (b) or (c)—

(a) must contain full particulars of the specification, provision or amendment;

(b) comes into operation on a date fixed in the notice, which date may not be less than two months after the date of publication of the notice; 45

(c) may fix different dates on which different provisions of a compulsory specification come into operation.

(3) The Minister may alter a date referred to in subsection 2(b) or (c) by notice in the *Gazette*. 50

(4) The Minister may not publish a notice under subsection (1)(a), (b) or (c), unless a preliminary notice has been published in the *Gazette*—

(a) setting out full particulars of the proposed compulsory specification or amendment; and

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- (3) Ukuba ngaba usihlalo kunye nosekelo sihlalo abekho entlanganisweni, iBhodi inokukhetha ilungu phakathi kwinani layo ukuba lichophele loo ntlanganiso.
- (4) Uninzi lwamalungu eBhodi lwenza ikoram yentlanganiso yeBhodi.
- (5) Izigqibo zeBhodi zifuna ivoti exhasayo yesininzi samalungu akhoyo entlanganisweni. 5
- (6) IBhodi kufuneka igcine imizuzu yeenkqubo kunye nezigqibo zayo.
- (7) IBhodi, ngokwesigqibo, inokwenza imithetho yokulawula ngokungaphaya iinkqubo zayo.

Iikomiti

11. (1) IBhodi inokuseka iikomiti ukuba zancedise ekwenziweni kwemisebenzi yayo. 10
- (2) IBhodi kufuneka imisele ukuqulunqwa, imithetho, kunye neenkqubo zeekomiti ngokwemigqaliselo yeli candelo.
- (3) IBhodi ixesha nexesha inokuyichitha okanye iphinde iyiseke ikomiti.
- (4) Nasiphi na isigqibo esithathwe yikomiti esekwe phantsi kweli candelo kufuneka siqinisekise yiBhodi. 15

IQumrhu eliCebisayo

12. (1) IBhodi kufuneka iseke iQumrhu eliCebisayo elinondla ongqinelanayo elinabameli bemibutho enomdla kwimicimbi ekhankanywe kulo Mthetho.
- (2) IQumrhu eliCebisayo kufuneka licebise iBhodi kwi—
- (a) micimbi enxulumene nalapho uMlawuli weSizwe anokudlala indima khona; kunye
- (b) nakowuphi na umcimbi iBhodi ecela icebo kuwo.
- (3) IBhodi kufuneka iseke umgaqo-siseko kwaye, ukuba kukho imfuneko, imithetho yeQumrhu eliCebisayo

IMIGAQO ESISINYANZELO

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Imigaqo esisinyanzelo

13. (1) UMphathiswa, ngokwesiphakamiso seBhodi, ngokunxulumene nayo nayiphi na impahla yorhwebo, imveliso okanye inkonzo enokuchaphazela ukhuseleko loluntu, impilo okanye okusingqongileyo, ngesaziso *kwiGazethi unakho*—
- (a) ukubhengeza i-SANS okanye igatya le- SANS ukuba libe yimigaqo esisinyanzelo— 30
- (i) ngokubhekiselela kwisihloko kunye nenombolo yalowo mgangatho kuphela, ngaphandle kokukhombisa unyaka okanye inombolo yoshicilelo, kwaye ukuba ngaba i-SANS leyo ihlaziyiwe, i-SANS ehlaziyiweyo kucingelwa ukuba ifakiwe; 35
- (ii) ngokubhekisele kwisihloko, inombolo kunye nonyaka okanye inombolo yoshicilelo yaloo SANS;
- (b) ukubhengeza i-SANS ehlaziyiweyo okanye igatya elihlaziyiweyo le SANS ukuba libe yimigaqo esisinyanzelo ukuba ngaba isibhengezo sokuqala sasenziwe ngokwemigqaliselo yecandelwana (1)(a)(ii); 40
- (c) ukubhengeza okanye ukuhlenga-hlengisa iinkcukacha ezisisinyanzelo ukuba iSANS okanye ulungiselelo lweSANS alufumaneki ngokwemigqaliselo yemihlathi (a) kunye no-(b);
- (d) ukurhoxisa imigaqo esisinyanzelo.
- (2) Isaziso phantsi kwecandelwana (1)(a), (b) or (c)— 45
- (a) kufuneka siqulathe iinkcukacha ezipheleleyo zemigaqo, igatya okanye uhlaziyo;
- (b) siqala ukusebenza ngomhla omisiweyo kwisaziso, mhla lowo kufuneka ungabi ngaphantsi kweenyanga ezimbini emva kopapasho lwesaziso;
- (c) sinokufaka imihla eyahlukeneyo apho amatatya awohlukeneyo emigaqo esisinyanzelo ayakuqala ngawo ukusebenza. 50
- (3) UMphathiswa unokutshintsha umhla ekubhekiselwe kuwo kwicandelwana 2(b) okanye (c) ngesaziso *kwiGazethi*.
- (4) UMphathiswa usenokungasipapashi isaziso phantsi kwecandelwana (1)(a), (b) or (c), ngaphandle kokuba isaziso sokuqala esele sipapashiwe *kwiGazethi*— 55
- (a) sibeka zonke iinkcukacha ezipheleleyo kwimigaqo esisinyanzelo ecetywayo okanye uhlaziyo; kwaye

- (b) in which interested persons are invited to comment on the proposed compulsory specification in writing by not less than two months after the date of the publication of the preliminary notice.
- (5) The Minister must consult with the Minister responsible for administering any Act or regulations that regulate the import, sale or supply of any commodity, product or service, or any process, that is the subject of a preliminary notice in terms of subsection (4)(a). 5
- (6) A notice under subsection (1)(a), (b) or (c) may—
- (a) require that a commodity or product to which a compulsory specification applies be marked in the prescribed manner with a distinctive mark, which constitutes a declaration of conformity to the requirements of a compulsory specification; 10
- (b) require that importers and manufacturers label a commodity or product to which a compulsory specification applies in accordance with its origin, batch, date of manufacture, characteristics or other particulars of the article; 15
- (c) require that importers and manufacturers be in possession of a letter of authority certificate issued by the National Regulator, in terms of section 5(2)(f);
- (d) amend a requirement referred to in paragraph (b); and
- (e) withdraw a requirement referred to in paragraph (a), (b), (c) or (d). 20
- (7) The Minister may give effect to subsections (1) and (6) in the same notice.
- (8) The Minister may make regulations in terms of section 36 that set out the consultation process which must precede the declaration or amendment contemplated in subsection (1)(c).

Effect of declaration as compulsory specification

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14. (1) No person may import, sell or supply a commodity, product or service to which a compulsory specification applies, except in accordance with that specification.
- (2) No person may import, sell or supply a commodity, product or service to which a compulsory specification applies, unless—
- (a) the commodity, product or service complies with, or has been manufactured in accordance with, the compulsory specification, or both; and 30
- (b) if applicable, the distinctive mark referred to in section 13(6)(a) has been applied to the commodity, product or service in the prescribed manner and the commodity, product or service has been marked in accordance with any requirements in terms of section 13(6)(b). 35
- (3) Any person who imports, sells or supplies a commodity, product or service to which a compulsory specification applies, must—
- (a) keep or supply to the National Regulator such records as may be prescribed by the Minister.
- (b) pay such fees to the National Regulator as may be prescribed by the Minister after consultation with the Minister of Finance. 40
- (4) The National Regulator may issue a sales permit exempting the person to whom it has been issued from complying with subsection (2)(a).
- (5) The National Regulator may issue a permit exempting the person to whom it has been issued from complying with subsection (2)(a) for an experimental type approval commodity or product to which a compulsory specification applies. 45
- (6) The Minister may make regulations in terms of section 36 to prescribe the process for the issuing of a permit contemplated in subsection (4) or (5).

- (b) apho abantu bamenywayo ukuba banike izimvo kwimigaqo esisinyanzelo ecetywayo ngokubhalwe phantsi ngokungekho ngaphantsi kweenyanga ezimbini emva kopapasho lwesaziso sokuqala.
- (5) UMphathiswa kufuneka athethathethane noMphathiswa ochaphazelekayo ekulawuleni kwawo nawuphi na uMthetho okanye immiselo elawula ukungena kwempahla evela kumazwe angaphandle, intengiso okanye unikezo lwayo nayiphi na impahla yorhwebo, imveliso okanye inkonzo, okanye nayiphi na inkqubo, exhomekeke kwisaziso sokuqala ngokwemigqaliselo yecandelwana (4)(a). 5
- (6) Isaziso phantsi kwecandelwana (1)(a), (b) okanye (c) sinoku—
- (a) funa ukuba impahla yorhwebo okanye imveliso kwimigaqo esisinyanzelo esebenzayo kuyo iphawulwe ngendlela emiselweyo ngophawu olwahluke ngokukodwa, emisela isibhengezo kungqinelwano neemfuno zemigaqo esisinyanzelo; 10
- (b) funa ukuba abarhwebi abangenisa impahla evela kumazwe angaphandle kunye nabenzi bayifake ilebhule yempahla yorhwebo okanye imveliso apho imigaqo esisinyanzelo ichaphazelekayo kuyo ngokungqinelana nemvelephi yayo, ibhetshi, umhla wokwenziwa kwayo, iimpawu okanye ezinye iinkcukacha zempahla; 15
- (c) funa ukuba abarhwebi abangenisa impahla evela kumazwe angaphandle ukuba babe nesiqinisekiso sencwadi yegunya ekhutshwe nguMlawuli weSizwe, ngokwemigqaliselo yecandelo 5(2)(f); 20
- (d) hlaziye imfuneko ekubhekiselwe kuyo kumhlathi (b); kunye
- (e) nokurhoxisa imfuneko ekubhekiselwe kuyo kumhlathi (a), (b), (c) okanye (d).
- (7) UMphathiswa unokwenza kusebenze amacandelwana (1) nele (6) kwisaziso esinye. 25
- (8) uMphathiswa usenokwenzi imimiselo ngokwemigqaliselo yecandelo lama-36 elibalula inkqubo yokucebisana ekufuneka yandulele isibhengezo okanye uhlenga-hlengiso olucamngcwe kwicandelwana (1)(c).

Isiphumo sesibhengezo njengemigaqo esisinyanzelo

14. (1) Akukho mntu makangenise elizweni impahla esuka kumazwe angaphandle, athengise okanye anikeze impahla yorhwebo, imveliso okanye inkonzo apho imigaqo esisinyanzelo isebenza khona, ngaphandle kokungqinelana nemigaqo. 30
- (2) Akukho mntu makangenise elizweni impahla esuka kumazwe angaphandle, athengise okanye anikeze impahla yorhwebo, imveliso okanye inkonzo apho imigaqo esisinyanzelo isebenza khona, ngaphandle kokuba— 35
- (a) impahla yorhwebo, imveliso, okanye inkonzo yenziwe ngokungqinelana, nemigaqo esisinyanzelo, okanye zombini; kwaye
- (b) ukuba kuyachaphazeleka, uphawu olwahluke ngokukodwa ekubhekiselwe kulo kwicandelo 13(6)(a) lusetyenzisiwe kwimpahla yorhwebo, imveliso okanye kwinkonzo ngendlela emiselweyo kwaye impahla yorhwebo, imveliso okanye inkonzo iphawulwe ngokungqinelana nayo nayiphi na imfuneko ngokwemigqaliselo yecandelo 13(6)(b). 40
- (3) Nawuphi na umntu ongenisa elizweni impahla esuka kumazwe angaphandle, othengisa okanye onikeza ngempahla yorhwebo, imveliso okanye inkonzo imigaqo esisinyanzelo esebenzayo kuyo, kufuneka— 45
- (a) agcine okanye anikezele ngeencwadi zeenkukacha kuMlawuli weSizwe njengoko kunokumiselwa nguMphathiswa;
- (b) ahlawule intlawulo enjalo kuMlawuli weSizwe njengoko kumiselwe nguMphathiswa emva kokuthethathethana noMphathiswa wezeZimali.
- (4) Umlawuli weSizwe unokukhupha impepha-mvume yentengiso emkhululayo umntu ekhutshelwe yena ekuthobeleni icandelwana (2)(a). 50
- (5) Umlawuli weSizwe unokukhupha impepha-mvume emkhululayo umntu ekhutshelwe yena ekuthobeleni icandelwana (2)(a) njengokuphumeza okuluhlobo lokuvavanywa kwempahla yorhwebo okanye imveliso apho imigaqo esisinyanzelo isebenza khona. 55
- (6) UMphathiswa unokwenza imimiselo ngokwemigqaliselo yecandelo lama-36 ukunika umyalelo wenkqubo ekukhutshweni kwemphepha-mvume ecamngcwe kwicandelwana u-(4) okanye u-(5).

Non-conformance to compulsory specification

15. (1) If the Chief Executive Officer on reasonable grounds suspects that a commodity or product, or a consignment or batch of a commodity or product, does not conform to or has not been manufactured in accordance with a compulsory specification that applies to it, the Chief Executive Officer may issue a directive to ensure that any person who is in possession or control of the commodity or product, consignment or batch, keeps it in his or her possession or under his or her control at or on any premises specified in the directive, and does not tamper with or dispose of it, until the directive is withdrawn by the Chief Executive Officer in writing. 5

(2) The Minister may make regulations in terms of section 36 to set time limits for the withdrawal of the directive referred to in subsection (1). 10

(3) If the National Regulator finds that a commodity or product referred to in subsection (1) does not conform to the compulsory specification concerned, the Board may—

- (a) take action to ensure the recall of a commodity or product; 15
- (b) direct in writing that the importer of the consignment returns it to its country of origin; or
- (c) direct in writing that the consignment or batch of the article concerned be confiscated, destroyed or dealt with in such other manner as the Board may consider fit. 20

(4) The Board must inform the Minister in writing on action taken in terms of subsection (3) within 21 days.

Appointment of market surveillance inspectors

16. (1) In order to ensure compliance with this Act, the Chief Executive Officer may in general or for a specific purpose appoint suitably qualified employees of the National Regulator as inspectors. 25

(2) The Chief Executive Officer may withdraw an appointment referred to in subsection (1).

(3) An inspector must be furnished with a certificate stating that he or she has been appointed as an inspector in general or for a specific purpose, as the case may be, for the purposes of this Act. 30

(4) The certificate referred to in subsection (3) must be signed by the Chief Executive Officer.

Powers of inspector to enter, inspect, search and seize

17. (1) In order to monitor and enforce compliance with this Act and, subject to the conditions of his or her appointment, an inspector may at any reasonable time and without prior notice enter any premises, other than a private dwelling, in or upon which— 35

- (a) an article in respect of which there is a compulsory specification is— 40
 - (i) manufactured or sold;
 - (ii) stored or used in the course of any business; or
 - (iii) stored for any purpose in connection with the import or export of the commodity or product;
- (b) any manufacture, sale, use or storage is reasonably suspected; or
- (c) any records with regard to the import, manufacture or sale of an article referred to in paragraph (a) or (b) are kept. 45

(2) An inspector may enter a private dwelling or any place other than a place referred to in subsection (1) only—

- (a) with the consent of the owner or occupier; or

Ukungathobeli imigaqo esisinyanzelo

15. (1) Ukuba ngaba iGosa eliyiNtloko lesiGqeba sokuLawula phantsi kwemihlaba efanelekileyo likrokrela ukuba impahla yorhwebo okanye imveliso, okanye impahla ethunyelweyo okanye ibhetshi yempahla yorhwebo okanye imveliso, ayithobeli okanye ayenziwanga ngokungqinelana nemigaqo esisinyanzelo apho isebenza khona, iGosa eliyiNtloko lesiGqeba sokuLawula linokukhupha umyalelo ukuqinisekisa ukuba nawuphi na umntu onayo okanye onolawulo lwempahla yorhwebo okanye imveliso, impahla ethunyelweyo okanye ibhetshi, uyigcina kuye okanye phantsi kolawulo lwakhe kuzo nakweziphi na izakhiwo nomhlaba wazo ezibalulweyo kumyalelo, kwaye angadlali ngazo okanye azihambise, de ube umyalelo urhoxisiwe ngokubhalwe phantsi liGosa eliyiNtloko lesiGqeba sokuLawula. 5 10

(2) UMphathiswa unokwenza imimiselo ngokwemigqaliselo yecandelo lama-36 ukumisela imida yamaxsha okurhoxiswa komyalelo ekubhekiselwe kuwo kwicandelwana (1).

(3) Ukuba ngaba uMlawulo weSizwe ufumanisa ukuba impahla yorhwebo okanye imveliso ekubhekiselwe kuyo kwicandelwana (1) ayiyithobeli imigaqo esisinyanzelo ebandakanyekayo, iBhodi inoku— 15

(a) thatha amanyathelo okuqinisekisa ukubuyiswa kwakho kwempahla yorhwebo okanye imveliso;

(b) yalela ngokubhalwe phantsi ukuba umrhwebi ongenise impahla elizweni esuka kumazwe angaphandle ukuba ayibuyisele kwilizwe evela kulo; okanye 20

(c) yalela ngokubhalwe phantsi ukuba impahla ethunyelweyo okanye ibhetshi yempahla ebandakanyekayo ithinjwe, itshatyalaliswe, okanye kusetyenzwe ngayo ngendlela iBhodi enokucinga ukuba ifanelekile.

(4) IBhodi kufuneka yazise uMphathiswa ngokubhalwe phantsi ngamanyathelo athatyathiweyo ngokwemigqaliselo yecandelwana (3) zingadlulanga iintsuku ezingama-21 25

Ukuchongwa kwabahloli bocupho lwemarike

16. (1) Ukwenzela ukuqinisekisa ukuthotyelwa kwaloMthetho, iGosa eliyiNtloko lesiGqeba sokuLawula unakho ngenjongo ethe jikelele okanye ethile linokuchonga abasebenzi abaqinisekisiweyo ngokwamabakala emfundo nabafanelekileyo boMlawuli weSizwe njengabahloli. 30

(2) IGosa eliyiNtloko lesiGqeba sokuLawula linokurhoxisa uchongo ekubhekiselwe kulo kwicandelwana loku-(1).

(3) UMhloli kufuneka anikwe isiqinisekiso esixelayo ukuba uchongwe njengomhloli jikelele okanye ngenjongo ekhethekileyo, njengoko kunokubakho imfuneko, ngeenjongo zalo Mthetho. 35

(4) Isiqinisekiso ekubhekiselwe kuso kwicandelwana (3) kufuneka sityikitywe liGosa eliyiNtloko lesiGqeba sokuLawula.

Amagunya omhloli okungena, okuhlola, okuphengulula nokuthimba 40

17. (1) Ukwenzela ukubeka esweni kunye nokunyanzela ukuthotyelwa kwalo Mthetho, ngokuxhomekeke kwiimeko zochongo lwakhe, umhloli unakho ngalo naliphi na ixesha elifanelekileyo nangaphandle kwesaziso sangaphambili unokungena nakweziphi na izakhiwo, ngaphandle kwendawo yokuhlala, apho—

(a) impahla ngokunxulumene nalapho kukho khona imigaqo esisinyanzelo e— 45

(i) yenziwa okanye ithengiswe khona;

(ii) gcinwa okanye isetyenziswe ngalo naliphi na ixesha loshishino; okanye

(iii) gcinelwe nayiphi na injongo ngokunxulumene nokungeniswa elizweni isuka kumazwe angaphandle kunye nokuthunyelwa kwempahla kwamanye amazwe okanye imveliso; 50

(b) nakuphi na ukwenziwa, ukuthengiswa, ukusetyenziswa okanye ukugcinwa okukrokrela ngokufanelekileyo; okanye

(c) naziphi na iinkcukhacha eziphatelene nokungeniswa kwempahla elizweni esuka kumazwe angaphandle, ukwenziwa okanye ukuthengiswa kwempahla ekubhekiselwe kuyo kwicandelwana (a) okanye (b) zigciniwe. 55

(2) Umhloli unokungena kwindawo yokuhlala okanye nakweyiphi na indawo engaphandle kwendawo ekubhekiselwe kuyo kwicandelwana (1) kuphela—

(a) ngemvume yomnini okanye lowo uhlala kuyo; okanye

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(b) if authorised to do so by a warrant issued in terms of subsection (3).

(3) A warrant contemplated in subsection (2) may be issued by a judge or a magistrate if it appears from written information given by the inspector on oath or affirmation that there are reasonable grounds for believing that a contravention of this Act has been or is being committed within the area of jurisdiction of that judge or magistrate. 5

(4) The warrant contemplated in subsection (3) must specify the parameters within which the inspector may perform an entry, search or seizure.

(5) An inspector entering any premises referred to in subsections (1) and (2) may be accompanied by an interpreter.

(6) An inspector who enters and inspects any premises under this section must conduct the entry and inspection with strict regard for decency and order, and with regard to each person's right to dignity, freedom, security and privacy; 10

(7) An inspector who removes anything from premises being searched, must—

- (a) issue a receipt for it to the owner or person in control of the premises; and
- (b) return it as soon as practicable after it has served the purpose for which it was removed. 15

Identification prior to entry and co-operation with inspectors

18. (1) An inspector must immediately before entering premises in accordance with section 17—

- (a) audibly identify himself or herself and demand admission to the premises; 20
- (b) notify the person in control of the premises of the purpose of the entry, unless there are reasonable grounds to believe that such notification might defeat the purpose of the search; and
- (c) on request of the person in charge of such premises, produce the certificate referred to in section 16(3) to that person. 25

(2) Any person who is in charge of premises referred to in section 17(1) and (2) must at all reasonable times co-operate with and furnish such assistance as an inspector may require in the exercise of his or her powers under this Act.

(3) In the event of resistance to an entry and search, an inspector may call the police to use such force as is reasonably necessary, including the breaking of a door or window of the premises. 30

Powers to question and do market surveillance inspections

19. (1) In order to monitor and enforce compliance with this Act, an inspector may—

- (a) examine and take samples of an article referred to in section 17(1) or any component, material or substance in or upon the premises concerned used or suspected to be intended for use in the manufacture of such an article; 35
- (b) open and examine the contents of any package or container which contains or is suspected to contain an article referred to in section 17(1) or any component, material or substance in or upon the premises concerned used or suspected to be intended for use in the manufacture of such an article; 40
- (c) examine any operation or process carried out in or upon the premises referred to in section 17(1) in connection with the manufacture or supply of any commodity, product or service, for which a compulsory specification is applicable in terms of this Act;
- (d) at any time demand from any person that he or she at a time and place fixed by the inspector produce to him or her any book, notice, record, list or other document which is in the possession or custody or under the control of that person or any other person on his or her behalf; 45

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- (b) ukuba ugunyaziswe ukuba enze oko ngesiqinisekiso esikhutshwe ngokwemigqaliselo yecandelwana (3).
- (3) Isiqinisekiso esicamngcwe kwicandelwana (2) sinokukhutshwa yijaji okanye ngumantyi ukuba ngaba kuyavela kulwazi olubhalwe phantsi olunikezelwe ngumhloli phantsi kwesifungo okanye ngoqinisekiso lokuba kukho imihlaba efanelekileyo yokukholelwa ukuba ukophulwa kwalo Mthetho kwenziwe okanye kuyenziwa kummandla wolawulo wejaji okanye kamantyi. 5
- (4) Isiqinisekiso esicamngcwe kwicandelwana (3) kufuneka sibalule imida apho umhloli anokungena khona, akhangele kwaye athimbe.
- (5) Umhloli ongena kuzo naziphi na izakhiwo nomhlaba wazo ekubhekiselwe kuzo kumacandelwana (1) nele (2) unokuhamba notoliki. 10
- (6) Umhloli ongena kwaye ahlole izakhiwo nomhlaba wazo phantsi kweli candelo kufuneka aqhube ukungena nokuhlola ngokungqongqo ngokuphathelene nokuphucuka nocwangco, kunye nangokuphathelene nelungelo lesidima somntu ngamnye, inkululeko, ukhuselo nobucala; 15
- (7) Umhloli osusa nantoni na kwizakhiwo nomhlaba wazo eziphengululwayo, kufuneka—
- (a) akhuphe irisithi iye kumnini okanye kumntu onolawulo lwezakhiwo ezo nomhlaba wazo; kwaye
- (b) ayibuyisele msinyane kangangoko kunokwenzeka emva kokuba uphuyenziwe umsebenzi ebisuselwe wona. 20

Ukuzazisa phambi kokungena kunye nentsebenziswano kunye nabahloli

- 18.** (1) Umhloli kufuneka msinyane phambi kokuba angene kwizakhiwo nomhlaba wazo ngokungqinelana necandelo le-17—
- (a) azazise ngokuvakalayo aze afune ukungena kwizakhiwo; 25
- (b) azise umntu onolawulo lwezakhiwo nomhlaba wazo ngenjongo yokungena, ngaphandle kokuba kukho imihlaba efanelekileyo yokukholelwa ukuba isaziso esinjalo sinokuyiphazamisa injongo yophengululo olo; kwaye
- (c) ngokwesicelo somntu onolawulo lwesakhiwo eso, nomhlaba waso, veza isiqinisekiso ekubhekiselwe kuso kwicandelo 16(3) kuloo mntu. 30
- (2) Nawuphi na umntu onolawulo lezo zakhiwo nomhlaba wazo ekubhekiselwe kuzo kwicandelo 17(1) nakwelesi-(2) kufuneka ngawo onke amaxesha afanelekileyo asebenzisane kwaye anike ulwazi olunjalo phantsi kwalo Mthetho njengoko lunokufunwa ngumhloli ekusebenziseni amagunya akhe phantsi kwalo Mthetho.
- (3) Xa kunokwenzeka ukuba kubekho ukwalelwa ukungena nokuphengulula, umhloli unokubiza amapolisa ukuba asebenzise unyanzelo olufanelekileyo kangangoko lunokufuneka, kuqukwa nokophulwa kocango okanye ifestile yesakhiwo eso. 35

Amagunya okubuza kunye nokwenza uhlolo locupho lwemarike

- 19.** (1) Khona ukuze abeke esweni aze anyanzele ukuthotyelwa kwalo Mthetho, umhloli unoku— 40
- (a) phonononga kwaye athathe iisampuli zempahla ekubhekiselwe kuyo kwicandelo 17(1) okanye nayiphi na inxenye, iziveliso okanye izinto ezikwizakhiwo ezibandakanyekayo ezisetyenziswe okanye ekukrokelwa ukuba iinjongo zazo kukuba zisetyenziswe ekwenziweni kwempahla enjalo; 45
- (b) vula nokuphonononga umthamo wayo nayiphi na ipakethe okanye isiqulathi esiqulethe impahla ekubhekiselwe kuyo kwicandelo 17(1) okanye nayiphi na inxenye, iziveliso okanye izinto apho kwidawo ebandakanyekayo ekukrokelwa ukuba iinjongo zazo kukuba zisetyenziswe ekwenziweni kwempahla enjalo; 50
- (c) phonononga nawuphi na umsebenzi okanye inkqubo eqhutywa kwizakhiwo ekubhekiselwe kuzo kwicandelo 17(1) ngokunxulumene nokwenziwa okanye unikezelo lwayo nayiphi na impahla yorhwebo, imveliso okanye inkonzo, apho imigaqo esisinyanzelo isebenzayo ngokwemigqaliselo yalo Mthetho; 50
- (d) ngalo naliphi na ixesha afune kuye nakowuphi na umntu ngexesha nakwindawo emiswe ngumhloli amvezele nayiphi na incwadi, isaziso, inkcukhacha, uluhlu okanye olunye uxwebhu olukuloo mntu, okanye kugcino lwakhe okanye oluphantsi kolawulo lwaloo mntu okanye nawuphi na omnye umntu egameni lakhe; 55

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- (e) examine a book, notice, record, list or other document referred to in paragraph (d) and make copies thereof or extracts therefrom or request that they be made, if it relates to an article referred to in section 17(1)(a) or (b);
- (f) require from a person in charge of any records referred to in section 17(1)(c) an explanation of any record or entry therein, and seize such record if it may afford evidence of any offence in terms of this Act; 5
- (g) require any person who is the owner or in control of the premises referred to in section 17(1) to appear at a time and place fixed by the inspector, and question that person with regard to any matter which the inspector is investigating; or 10
- (h) examine any relevant document of a manufacturer or importer of a commodity, or product or the supplier of a service in respect of which a compulsory specification is in force, to determine whether that manufacturer or importer has paid the prescribed fees referred to in section 14(3)(b). 15
- (2) A person questioned by an inspector conducting an investigation in terms of this section must answer each question truthfully and to the best of his or her ability. 15
- (3) No self-incriminating answer given or statement made to an inspector is admissible as evidence in criminal proceedings against the person who gave the answer or made the statement, except in criminal proceedings where the person concerned stands trial on a charge contemplated in section 34(1)(i), (j) or (k). 20

Samples and information

20. (1) Notwithstanding anything to the contrary in this Act, any person who imports, sells or supplies any commodity or product or supplies any service for which a compulsory specification is in force, must at the written request of the National Regulator, within a period stated in the request, and at that person's own cost— 25
- (a) submit, or make available, to the National Regulator any sample as may be specified in the request, for examination, testing or analysis; or
- (b) furnish to the National Regulator such information as may be specified with regard to the article concerned or its manufacture or the service supplied; and
- (c) comply with the sampling requirements of the compulsory specification that is in force. 30
- (2) The National Regulator may examine any sample obtained in terms of this Act, or have it tested or analysed, in order to determine whether the article, component, material or substance concerned complies with or has the characteristics of or has been manufactured in accordance with the requirements of any compulsory specification applicable in terms of this Act. 35
- (3) If any sample obtained in terms of this Act is damaged or destroyed during the process of examining, testing or analysing such sample, the National Regulator is not liable for the damage to or destruction of that sample, except where the damage is due to negligence of the National Regulator. 40
- (4) The result of any examination, test or analysis of any sample of a commodity, product manufactured or service supplied in respect of which a compulsory specification is in force, is regarded to be valid for the whole consignment or batch from which the sample was obtained or to the similar services by the supplier, until the contrary is proved, or unless otherwise specified in the compulsory specification that is in force. 45

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- (e) phonononga incwadi, isaziso, inkcukhacha, uluhlu okanye olunye uxwebhu ekubhekiselwe kulo kumhlathi (d) kunye nokwenza iikopi zoko okanye izicatshulwa zoko okanye acele ukuba zenziwe, ukuba ngaba kunxulumene nempahla ekubhekiselwe kuyo 17(1)(a) okanye (b);
- (f) funa emntwini onolawulo lwazo naziphi na iinkcukhacha ekubhekisele kuzo kwicandelo 17(1)(c) ingcaciso yayo nayiphi na inkcukhacha, okanye ukungena apho, kunye nokuthimba iinkcukhacha ezinjalo ukuba ngaba zinokunika ubungqina balo naliphi na ityala ngokwemigqaliselo yalo Mthetho; 5
- (g) funa ukuba nawuphi na umntu ongumnini okanye onolawulo lwezakhiwo ekubhekiselwe kuzo kwicandelo 17(1) ukuba eze ngexesha elimiselweyo kwindawo emiselweyo ngumhloli, afake loo mntu imibuzo ngokuphathelele nawo nawuphi na umba umhloli awuphandayo, okanye 10
- (h) phonononga naluphi na uxwebhu olubandakanyekayo lomenzi okanye umrhwebi ongenisa impahla yorhwebo elizweni esuka kumazwe angaphandle, okanye imveliso okanye umniki nkonzo ngokunxulumeme nalapho imigaqo esisinyanzelo isebenzayo, ukuqinisekisa ukuba ingaba umenzi okanye umrhwebi ongenisa impahla elizweni esuka kumazwe angaphandle uyihlawule na intlawulo emiselweyo ekubhekiselwe kuyo kwicandelo 14(3)(b). 15 20
- (2) Umntu obuzwa ngumhloli oqhuba uphando ngokwemigqaliselo yeli candelo kufuneka aphenjule umbuzo ngamnye ngokunyanisekileyo nangako konke okusemandleni wakhe.
- (3) Akukho mpendulo yakuzibeka tyala inikiweyo okanye ngxelo yenzwe kumhloli inokwamkelwa njengobungqina kwiinkundla zamatyala obubhekiswe kumntu onike impendulo okanye owenze ingxelo ngaphandle kwakwiingxoxo zolwaphulo mthetho apho umntu obandakanyekayo athi axoxiswe ngetyala elicamngcwe kwicandelo lama-34(1)(i), (j) okanye (k). 25

Iisampuli nolwazi

20. (1) Nangona nantoni na echasene nalo Mthetho, nawuphi na umntu ongenisa impahla elizweni esuka kumazwe angaphandle, othengisa okanye onikeza ngayo nayiphi na impahla yorhwebo okanye imveliso okanye onikeza nayiphi na inkonzo apho imigaqo esisinyanzelo ibandakanyekayo, kufuneka ngokwesicelo esibhalwe phantsi soMlawuli weSizwe, kwixesha elibaluliweyo kwisicelo, nangeendleko zaloo mntu— 30
- (a) angenise, okanye enze kufumaneke, kuMlawuli weSizwe nayiphi na isampuli njengoko inokubalulwa kwisicelo, ukuba iphononongwe, ivavanywe okanye ihlalutywe; okanye 35
- (b) anike uMlawuli weSizwe ulwazi olunjalo njengoko lunokuba lubalulwe ngokuphathelele nempahla ebandakanyekayo okanye umenzi wayo okanye inkonzo enikiweyo; kunye 40
- (c) nokuthobela iimfuno zeesampuli imigaqo esisinyanzelo ezisebenzayo.
- (2) Umlawuli weSizwe unokuphonononga nayiphi na isampuli efunyenwe ngokwemigqaliselo yalo Mthetho, okanye enze ukuba ivavanywe okanye ihlalutywe, ukwenzela ukumisela ukuba ingaba impahla, inxenye, impahla okanye into ebandakanyekayo yenziwe ngokungqinelana na neemfuno zayo nayiphi na imigaqo esisinyanzelo esebenzayo ngokwemigqaliselo yalo Mthetho. 45
- (3) Ukuba ngaba nayiphi na isampuli efunyenwe ngokwemigqaliselo yalo Mthetho iyonakala okanye itshabalale ngexesha lenkqubo yokuphononongwa, ukuvavanywa okanye ukuhlalutywa kwesampuli enjalo, ayiloxanduva lwakhe uMlawuli weSizwe ukonakala okanye ukutshabalala kwaloo sampuli, ngaphandle kwalapho umonakalo wenziwe kukungabi nanonophelo koMlawuli weSizwe. 50
- (4) Iziphumo zalo naluphina na uphononongo, uvavanyo, okanye uhlalutywo lwayo nayiphi na isampuli yempahla yorhwebo, imveliso eyenziweyo okanye inkonzo enikiweyo ngokunxulumene nalapho imigaqo esisinyanzelo isebenzayo khona, zithathwa ngokuba zisemthethweni kwimpahla yonke ethunyelweyo okanye ibhetshi apho isampuli ifunyenwe khona okanye kwiinkonzo ezifanayo zomnikeli, de kube kunikwa ubungqina bokuchasana, okanye ngaphandle kokuba ngenye indlela kubalulwe imigaqo esisinyanzelo esebenzayo. 55

EXECUTIVE MANAGEMENT**Appointment of Chief Executive Officer**

- 21.** (1) The Board, with the concurrence of the Minister, must appoint a suitably qualified person as the Chief Executive Officer.
- (2) The Chief Executive Officer is an employee of the National Regulator and is accountable to the Board. 5
- (3) The Chief Executive Officer is responsible for the efficient management of the National Regulator and must perform any function assigned or delegated to him or her by the Board.
- (4) The Chief Executive Officer holds office for an agreed term not exceeding five years and may be reappointed upon the expiry of that term of office. 10
- (5) If the Chief Executive Officer is unable to fulfil his or her functions, the Board must appoint an acting Chief Executive Officer to exercise the powers and perform the functions of the Chief Executive Officer.

Employment contract and performance agreement 15

- 22.** (1) The Board must conclude a written performance agreement with the Chief Executive Officer—
- (a) within a reasonable time after the appointment of the Chief Executive Officer; and
- (b) thereafter, annually within one month of the commencement of each financial year. 20
- (2) The performance agreement must include—
- (a) measurable performance objectives and targets that must be met, and must provide for the time-frames within which those performance objectives and targets must be met; 25
- (b) standards and procedures for evaluating performance and intervals for evaluation; and
- (c) the consequences of substandard performance.
- (3) The employment contract of the Chief Executive Officer must incorporate in an appropriate form section 57 of the Public Finance Management Act. 30

Appointment of staff

- 23.** (1) The Chief Executive Officer may, after consultation with the Board, appoint staff to assist the National Regulator in carrying out its functions.
- (2) The Minister may, after consultation with the Minister for the Public Service and Administration and the Minister of Finance— 35
- (a) approve a human resource policy for the National Regulator;
- (b) approve the remuneration, allowances, benefits and other terms and conditions of appointment of members of staff, taking into account the Public Service Act, 1994 (Proclamation No. 103 of 1994).

Services by non-employees 40

- 24.** The National Regulator may contract for the services of any person, other than an employee, to perform any specific act or function.

Delegation and assignment

- 25.** (1) The Board may delegate or assign any of its powers and duties to the Chief Executive Officer in accordance with this section. 45

ULAWULO LWESIGQEBA**Ukuchongwa kweGosa eliyiNtloko lesiGqeba sokuLawula**

21. (1) IBhodi, idibene noMphathiswa, kufuneka bachonge umntu ofanelekileyo oneziqinisekiso zemfundo ezifanelekileyo njengeGosa eliyiNtloko lesiGqeba sokuLawula. 5
- (2) IGosa eliyiNtloko lesiGqeba sokuLawula lingumsebenzi woMlawuli weSizwe kwaye linoxanduva kwiBhodi.
- (3) IGosa eliyiNtloko lesiGqeba sokuLawula kungumsebenzi walo ukuqinisekisa ngolawulo olufanelekileyo loMlawuli weSizwe kwaye kufuneka lenze nayiphi na imisebenzi eliyabelwe okanye enikezwe kulo yiBhodi. 10
- (4) IGosa eliyiNtloko lesiGqeba sokuLawula lisibamba esi sikhundla kangangexesha ekuvunyelwene ngalo elingadluliyo kwiminyaka emihlanu kwaye linokuphinde lichongwe kwakhona lakuphela elo xesha le-ofisi.
- (5) Ukuba ngaba iGosa eliyiNtloko lesiGqeba sokuLawula alikwazi ukuzalisekisa imisebenzi yalo, iBhodi kufuneka iqeshe ibambela Gosa eliyiNtloko lesiGqeba sokuLawula ukuba lisebenzise amagunya lenze nemisebenzi yeGosa eliyiNtloko lesiGqeba sokuLawula. 15

Ikontraki yengqesho nesivumelwano sokusebenza

22. (1) IBhodi kufuneka yenze isivumelwano sengqesho esibhalwe phantsi neGosa eliyiNtloko lesiGqeba sokuLawula— 20
- (a) kwixesha elifanelekileyo emva kokuchongwa kweGosa eliyiNtloko lesiGqeba sokuLawulayo; kwaye
- (b) emva koko, qho ngonyaka kwinyanga yokuqala yonyaka-mali ngamnye.
- (2) Isivumelwano sokusebenza kufuneka siquke—
- (a) iinjongo zokusebenza ezilinganisekayo kunye nezinga ekujoliswe kulo ekufuneka kufikelelwe kulo, kwaye kufuneka kuqingqwe nemida yexesha apho ezo njongo zokusebenza kunye noko kujoliswe kuko ekufuneka kube kwenzekile ngayo; 25
- (b) imigangatho kunye neenkqubo zokuhlola ukusebenza; kunye
- (c) neziphumo zemigangathwana yokusebenza. 30
- (3) Ikontraki yengqesho yeGosa eliyiNtloko lesiGqeba sokuLawula kufuneka ifake uhlobo olufanelekileyo lwecandelo lama-57 loMthetho woLawulo lweziMali zikaRhulumente.

Ukuchongwa kwabasebenzi

23. (1) IGosa eliyiNtloko lesiGqeba sokuLawula, emva kokuthethathethana neBhodi, linokuchonga abasebenzi ukuba bancedise uMlawuli weSizwe ekuqhubeni imisebenzi. 35
- (2) UMphathiswa, emva kokuthethathethana noMphathiswa weeNkonzo noLawulo kunye noMphathiswa wezeZimali—
- (a) unokuphumeza umgaqo-nkqubo wemicimbi yabasebenzi yoMlawuli weSizwe; 40
- (b) unokuphumeza imivuzo, izibonelelo, amalungelo kunye nezinye iimeko zengqesho zabasebenzi, ethathela ingqalelo uMthetho weeNkonzo zikaRhulumente (iSaziso esiyiNombolo 103 aika-1994).

Iinkonzo zabo ingasibabo abasebenzi

24. UMlawuli weSizwe unokunika ikontraki yeenkonzo zakhe nawuphi na umntu, ongenguye umsebenzi, ukuba enze nawuphi na umsebenzi okanye umsebenzi okhethekileyo. 45

Ukunikezela ngamagunya nokwaba

25. (1) IBhodi inokunikezela okanye yabele nawuphi na amagunya ayo kunye nemisebenzi kwiGosa eliyiNtloko lesiGqeba sokuLawula ngokungqinelana neli candelo. 50

- (2) The Chief Executive Officer may delegate any power or assign any duty conferred or imposed upon the Chief Executive Officer by or under this Act to—
- (a) any other person with appropriate knowledge and experience who is under the control of the Chief Executive Officer; or
 - (b) any other person, after consulting the Board. 5
- (3) A delegation or assignment under subsections (1) and (2) must be in writing and—
- (a) may be subject to any conditions or restrictions determined by the Board or the Chief Executive Officer;
 - (b) does not prevent the exercise of that power or the performance of that duty by the Board or the Chief Executive Officer; and 10
 - (c) may be withdrawn or amended by the Board or the Chief Executive Officer.

FINANCIAL MANAGEMENT

Funding and investments

26. (1) The funds of the National Regulator consist of—
- (a) moneys appropriated by Parliament for that purpose; 15
 - (b) income derived by the National Regulator from its investments;
 - (c) fees charged in terms of section 14(3)(b); and
 - (d) money received from any other source.
- (2) The National Regulator may invest any of its funds not immediately required—
- (a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and 20
 - (b) in such manner as may be approved by the Minister in consultation with the Minister of Finance.

Application of Public Finance Management Act

27. (1) The National Regulator is a national public entity and must comply with the Public Finance Management Act. 25
- (2) For the purposes of the Public Finance Management Act—
- (a) the Board is the accounting authority as contemplated by section 49(2)(a) of that Act;
 - (b) the Minister is the executive authority as contemplated by section 52 of the Public Finance Management Act; and 30
 - (c) any delegation or assignment of the Board's powers and duties must be in accordance with section 56 of the Public Finance Management Act.

Financial year and accounting

28. The financial year of the National Regulator is from 1 April in any year to 31 March in the following year, except that the first financial year of the National Regulator begins on the date that this Act comes into operation, and ends on 31 March next following that date. 35

GENERAL PROVISIONS

Disclosure of certain information in public interest 40

29. (1) The Chief Executive Officer may, notwithstanding section 32, if it is necessary in the public interest, reveal—
- (a) any information which he or she considers necessary to prevent the public from being misled concerning any aspect regulated by this Act;

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- (2) IGosa eliyiNtloko lesiGqeba sokuLawula linokunikezela ngawo nawuphi na amagunya okanye labele nawuphi na umsebenzi obekwe okanye onikezelwe kwiGosa eliyiNtloko lesiGqeba sokuLawula ngulo okanye phantsi kwalo Mthetho—
- (a) kuye nakowuphi na umntu onolwazi olufanelekileyo namava ophantsi kolawulo lweGosa eliyiNtloko lesiGqeba sokuLawula; okanye 5
- (b) kuye nakowuphi na omnye umntu, emva kokuthethathethana neBhodi.
- (3)Unikezelo ngamagunya okanye ukwaba phantsi kwamacandelwana (1) nele-(2) kufuneka lubhalwe phantsi kwaye—
- (a) lunokuxhomekeka kuzo nakaweziphi na iimeko okanye imida emiselwe yiBhodi okanye liGosa eliyiNtloko lesiGqeba sokuLawula; 10
- (b) aluthinteli ukusetyenziswa kwalo magunya okanye ukwenziwa kwalo msebenzi yiBhodi okanye liGosa eliyiNtloko lesiGqeba sokuLawula; kwaye
- (c) lunokurhoxiswa okanye luhlaziye yiBhodi okanye liGosa eliyiNtloko lesiGqeba sokuLawula.

ULAWULO LWEZIMALI

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Inkxaso-mali notyalo-mali

26. (1) Imali yoMlawuli lweSizwe yenziwa yi—
- (a) mali ayabelwe loo njongo yiPalamente;
- (b) ngeniso uMlawuli weSizwe ayifumana kutyalo-mali;
- (c) mali ehlawuliswayo ngokwemigqaliselo yecandelo 14(3)(b); kunye 20
- (d) nemali efunyenwe kuwo nakowuphi na omnye umthombo.
- (2) UMlawuli weSizwe unokwenza utyalo-mali ngayo nayiphi na imali engekazi kusetyenziswa—
- (a) ngokuxhomekeke kuwo nawuphi na umgaqo-nkqubo wotyalo-mali onokumiselwa ngokwemigqaliselo yecandelo 7(4) loMthetho woLawulo lweZimali zikaRhulumente; na 25
- (b) ngendlela eyakuvunywa nguMphathiswa ethethathethene noMphathiswa wezeZimali.

Ukusetyenziswa koMthetho woLawulo lweZimali zikaRhulumente

27. (1) UMlawuli weSizwe liziko likarhulumente lesizwe kwaye kufuneka lithobele uMthetho woLawulo lweZimali zikaRhulumente. 30
- (2)Ngeenjongo zoMthetho woLawulo lweZimali zikaRhulumente—
- (a) iBhodi ngugunyaziwe olawulayo njengoko kucamngciwe kwicandelo 49(2)(a) loMthetho;
- (b) uMphathiswa ngumgunyazisi olawulayo njengoko kucamngciwe kwicandelo lama- 52 loMthetho woLawulo lweZimali zikaRhulumente; kwaye 35
- (c) naluphi na unikezo okanye ulwabiwo magunya nemisebenzi yeBhodi kufuneka kungqinelane necandelo lama-56 loMthetho wokuLawulwa kweZimali zikaRhulumente.

Unyaka-mali nocalulo-mali

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28. Unyaka-mali woMlawuli weSizwe uqala ngomhla woku-1 ku-Apreli kuwo nakowuphi na unyaka ukuya kumhla wama-31 kuMatshi kunyaka olandelayo, ngaphandle kokuba unyaka-mali wokuqala woMlawuli weSizwe uqala ngomhla apho lo Mthetho uqalayo ukusebenza, uze uphele ngomhla wama-31 kuMatshi olandela loo mhla. 45

ULUNGISELELO JIKELELE**Ukuchazwa kolwazi oluthile ngokomdla woluntu**

29. (1) IGosa eliyiNtloko lesiGqeba sokuLawula linakho, nangona icandelo lama-32 likutsho elikutshoyo, ukuba kukho imfuneko ngokomdla woluntu, linokuveza—
- (a) naluphi na ulwazi elicinga ukuba luyimfuneko ukuthintela uluntu ukuba lulahlekiswe ngokuphathelene nawo nawuphi na umba olawulwa ngulo Mthetho; 50

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- (b) the fact that a commodity is not in compliance with a compulsory specification; or
- (c) the name of a person who does not comply with or does not comply fully with a provision of this Act or any aspect regulated by this Act.
- (2) The disclosure referred to in subsection (1) may include the trade name and trade mark of a commodity or product. 5

Presumption

30. If it is necessary for the purposes of this Act to determine the importer of an article, the person who is indicated on the documents concerning the import transaction as the importer is, in the absence of evidence to the contrary which raises reasonable doubt, presumed to be the importer of that article. 10

Certain acts not interpreted as assurances or guarantees

31. The fact that anything has been done under this Act by the Minister, the National Regulator, the Board, a member of the Board, a committee referred to in section 11 or a member of such committee, the Chief Executive Officer or an employee of the National Regulator in connection with any article, material, substance, act or matter, may not be interpreted as an assurance or a guarantee of any nature in respect of that article, material, substance, act or matter. 15

Confidentiality of certain information

32. Any person who is or was concerned in the performance of any function in terms of this Act, may not disclose any information which he or she obtained in the performance of such a function, except— 20

(a) to the Minister;

(b) to any person who of necessity requires it for the performance of his or her functions in terms of this Act; 25

(c) if he or she is a person who of necessity supplies it in the performance of his or her functions in terms of this Act;

(d) if such information is required in terms of any law or as evidence in any court of law; or

(e) to any competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution. 30

Liability of National Regulator

33. (1) The State Liability Act, 1957 (Act No. 20 of 1957), applies in respect of the National Regulator, and in such application a reference in that Act to a Minister of a department must be construed as a reference to the Chief Executive of the National Regulator. 35

(2) No person is liable for anything done or omitted in good faith when performing a function in terms of this Act.

Offences and penalties

34. (1) A person is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year if that person— 40

(a) contravenes or fails to comply with section 14(1), (2) or (3), 19(2) or 20(1)(a), (b) or (c);

(b) fails to keep a commodity or product or consignment or batch in his or her possession or under his or her control at or on specified premises as contemplated in section 15(1); 45

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- (b) inyaniso yokuba impahla yorhwebo ayinqinela nemiqaqo esisinyanzelo; okanye
- (c) igama lomntu ongathobeli ngokupheleleyo igatya lalo Mthetho okanye nawuphi na umba olawulwa ngulo Mthetho.
- (2) Ukuchazwa ekubhekiselwe kuko kwicandelwana (1) kunokuquka igama 5
lorhwebo kunye nophawu lorhwebo lwempahla okanye imveliso yorhwebo.

Ucingelo

30. Ukuba ngaba kukho imfuneko ngeenjongo zalo Mthetho ukuqinisekisa umngenisi wempahla esuka kumazwe angaphandle apha elizweni, umntu ochazwe kumaxwebhu ngokuphathelene nentengiselwano yokungenisa impahla esuka kumazwe angaphandle njengomngenisi, ekungabikhweni kobungqina obuchasayo obunokudala intandabuzo afanelekileyo, uyakuthatyathwa ngokuba nguye umngenisi waloo mpahla. 10

Imithetho ethile engaguqulwanga njengoqinisekiso okanye iziqinisekiso

31. Into yokuba nantoni na yenziwe phantsi kwalo Mthetho nguMphathiswa, uMlawuli weSizwe, iBhodi, ilungu leBhodi, ikomiti ekubhekiselwe kuyo kwicandelo le-11 okanye ilungu lalo komiti, iGosa eliyiNtloko lesiGqeba sokuLawula okanye umsebenzi woMlawuli weSizwe ngokunxulumene nayo nayiphi na impahla, iziveliso, into, isenzo okanye umcimbi, inokungatolikwa njengoqinisekiso okanye isiqinisekiso salo naluphi na uhlobo ngokunxulumene naloo mpahla, isiveliso, into, isenzo okanye umcimbi. 15 20

Ubumfihlo bolwazi oluthile

32. Nawuphi na umntu ochaphazelekayo okanye obechaphazeleka ekwenziweni kwawo nawuphi na umsebenzi ngokwemigqaliselo yalo Mthetho, akavumelekanga ukuba achaze naluphi na ulwazi alufumene ngexesha esenza lo msebenzi, ngaphandle kokuba uchazela— 25

(a) uMphathiswa;

(b) nabani na oluyimfuneko kuye kwaye elufunela ukwenza umsebenzi wakhe ngokwemigqaliselo yalo Mthetho;

(c) umntu ukuba ngaba ngenxa yemfuneko ulunikeza ekwenzeni umsebenzi wakhe ngokwemigqaliselo yalo Mthetho; 30

(d) ukuba ngaba ulwazi olunjalo lufunwa ngokwemigqaliselo yawo nawuphi na uMthetho okanye njengobungqina kuyo nayiphi na inkundla yoMthetho; okanye

(e) kuye nakowuphi a ugunyaziwe ofanelekileyo olufunela iziko, okanye kuphando ngokwenjongo zalo naluphi na utshutshiso olusemthethweni. 35

Imfanelo yoMlawuli weSizwe

33. (1) UMthetho weMfanelo kaRhulumente, 1957 (uMthetho oyiNombolo yama-20 ka-1957), usebenza ngokunxulumene noMlawuli weSizwe, kwaye ekusetyenzisweni okunjalo ungqinisiso kulo Mthetho luya kuMphathiswa wesebe kufuneka lucaciswe njengesingqinisiso kwiGosa eliyiNtloko lesiGqeba sokuLawula soMlawuli weSizwe. 40

(2) Akukho mntu iyimfanelo yakhe nantoni na eyenziweyo okanye engenziwanga ngenjongo ezintle xa kusetyenzwa ngokwemigqaliselo yalo Mthetho.

Ulwaphulo-mthetho nezohlwayo

34. (1) Umntu unetyala kulwaphulo-mthetho kwaye xa efunyenwe enetyala kufanele ukuba ohlwaywe imali okanye isigwebo sentolongo sexesha elingadluliyo kunyaka 45 omnye ukuba loo mntu—

(a) wophula okanye usilela ukuthobela icandelo 14(1), (2) noma (3), 19(2) noma 20(1)(a), (b) noma (c);

(b) uyasilela ukugcina impahla yorhwebo okanye imveliso okanye impahla ethunyelweyo okanye ibhetshi ekuye okanye ephantsi kolawulo lwakhe okanye kwizakhiwo nomhlaba wazo ezicamngcwe 15(1); 50

- (c) tampers with or disposes of a commodity or product or consignment or batch in contravention of a directive issued under section 19(1)(g);
- (d) fails to co-operate and furnish assistance to an inspector as contemplated in section 18(2);
- (e) fails to appear before an inspector for questioning as contemplated in section 19(1)(g); 5
- (f) discloses any information in contravention of section 32;
- (g) falsely represents any material or substance to be reference material supplied by the National Regulator;
- (h) falsely holds himself or herself out to be an inspector for the purposes of this Act; 10
- (i) makes any relevant statement to an inspector which is false in any material respect, knowing it to be false;
- (j) refuses or fails to answer to the best of his or her knowledge any relevant question which an inspector has in the exercise of his or her powers put to him or her; 15
- (k) refuses or fails to comply to the best of his or her ability with any lawful requirement, demand or order of an inspector; or
- (l) hinders or obstructs an inspector in the exercise of his or her powers.
- (2) If any person is again convicted of an offence in terms of this Act, whether it be for the same or some other offence, that person is for the second or subsequent conviction liable to a fine or imprisonment for a period not exceeding four years. 20
- (3) A court convicting any person of an offence in terms of this Act may, in addition to any penalty imposed in respect of that offence—
- (a) and subject to the provisions of subsection (4), order that a commodity or a consignment or batch of a commodity, any other article, or any material or substance in respect of which that offence was committed, be forfeited to the State; and 25
- (b) summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence and impose on that person a fine to a maximum equal to the amount so assessed and, in default of payment, imprisonment for a period not exceeding one year. 30
- (4) The Board must generally or in a particular case determine the manner in which the forfeited goods referred to in subsection (3)(a) shall be dealt with. 35
- (5) Section 35(4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), applies with the necessary changes in the case of a forfeiture referred to in subsection (3)(a).
- (6) Notwithstanding anything to the contrary in any other law contained, a magistrate's court is competent to impose any penalty provided for in this Act.

Transitional provisions 40

35. (1) For purposes of this section, "effective date" means the date on which the National Regulator is established as a public entity.

(2) As from the effective date:

- (a) All assets, liabilities, rights and obligations of the regulatory department of SABS are transferred to the National Regulator; 45
- (b) all employees of SABS employed in the regulatory department and administrative staff responsible for administrative support with regard to compulsory specifications are transferred to the National Regulator in terms of section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995);
- (c) all notices, designations and certificates issued in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in this Act are deemed to have been issued in terms of this Act; and 50

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- (c) uphazamisana okanye ususa impahla yorhwebo okanye inveliso okanye impahla ethunyelwayo okanye ibhetshi ngokuchasene nomyalelo okhutshwe phantsi kwecandelo 19(1)(g);
- (d) uyasilela ukusebenzisana aze anike uncedo kumhloli njengoko kucamngciwe kwicandelo 18(2); 5
- (e) uyasilela ukucela phambi komhloli ukuba azokubuzwa njengoko kucamngciwe kwicandelo 19(1)(g);
- (f) uchaza naluphi na ulwazi oluchasene necandelo lama-32;
- (g) unikezela ngokungenanyani nasiphi na isiveliso okanye into eza kuba sisibonelo sobungqina esinikwe nguMlawuli weSizwe; 10
- (h) ngokungenanyani uzenza ngathi ungumhloli phantsi kwalo Mthetho;
- (i) wenza nayiphi na ingxelo ebandakanyekayo kumhloli engasiyiyo inyani konke-konke, esazi ukuba oko akuyonyani;
- (j) uyala okanye uyasilela ukuphendula ngako konke okusemandleni akhe nawuphi na umbuzo obandakanyekayo umhloli anawo ekusebenziseni amagunya akhe abekwe kuye; 15
- (k) uyala okanye uyasilela ukuthobela ngako konke okusemandleni akhe nayiphi na imfuneko esemthethweni, imfuno okanye umyalelo womhloli; okanye
- (l) uphazamisana okanye uthintela umhloli ekusebenziseni amagunya wakhe.
- (2) Ukuba umntu uphinde wafunyaniswa enetyala kulwaphulo-mthetho ngokwemigqaliselo yalo Mthetho, nokuba isekwa lelo ebefunyaniswe enetyala kulo ngaphambili okanye lelinye ityala, loo mntu okwesibini okanye ngenxa yelo tyala lilandelayo ufanelwe sisohlwayo semali okanye isigwebo sasentolongweni sexesha elingadluliyo kwiminyaka emine. 20
- (3) Inkundla efunanisa nawuphi na umntu enetyala ngokwemigqaliselo yalo Mthetho, ukongeza kwisigwebo esiwiswe ngokunxulumene netyala inoku— 25
- (a) nangokuxhomekeke kumagatya ecandelwana (4), inokuyalela ukuba impahla yorhwebo okanye impahla ethunyelwayo okanye ibhetshi yempahla yorhwebo, nayiphi na enye impahla, okanye nasiphi na isiveliso okanye into enxulumene nokwenziwa kwelo tyala, idliwe nguRhulumente; kuze 30
- (b) kwenziwe uphando olungenzulu kuhlolwe nexabiso lemali lako nakuphi na okufunyenweyo okanye okubonakala ngathi kunokufunyanwa ngumntu onjalo okusisiphumo selo tyala kwaye iwisele loo mntu isohlwayo esibuninzi bulinganayo nexabiso elifumaneka kokokuhlola kwaye, ukusilela ukuhlawula, ibe sisigwebo sasentolongweni sexesha elingadluliyo kunyaka omnye. 35
- (4) IBhodi kufuneka jikelele okanye kwisihlo esithile imisele indlela impahla edliweyo ekubhekiselwe kuyo kwicandelwana (3)(a) kuyakusetyenzwa ngayo.
- (5) Icandelo 35(4) loMthetho weNkqubo yoLwaphulo-Mthetho, 1977 (uMthetho oyiNombolo yama-51 ka-1977), usebenza kutshintsho olufunekayo kwimeko yokudliwa ekubhekiselwe kuko kwicandelwana (3)(a). 40
- (6) Nangona kusenokubakho nantoni na echaseneyo noko nakowuphi na omnye uMthetho oqulethweyo, inkundla kamantyi ifanelekile ukuba iwise nasiphi na isohlwayo esinikiweyo kulo Mthetho.

Amalungiselelo otshintsho

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35. (1) Ngeenjongo zeli candelo, “umhla wokusekwa” uthetha umhla apho uMlawuli weSizwe usekwa ngawo njengeziko likarhulumente.

(2) Ukusukela kumhla wokusekwa:

- (a) Zonke ii-asethi, iimfanelo, amalungelo kunye neemfanelo zesebe elilawulayo le SABS zitshintshelwa kuMlawuli weSizwe; 50
- (b) bonke abasebenzi be-SABS abaqeshwe kwisebe lolawulo lwaseburhulumenteni abajongene nokunika inkxaso kwezolawulo ngokuphathelene neenkukacha ezisisinyanzelo batshintshelwa kuMlawuli weSizwe ngokwemigqaliselo yecandelo le-197 loMthetho woNxulumano lwabaSebenzi, 1995 (uMthetho oyiNombolo yama- 66 ka- 1995); 55
- (c) zonke izaziso, izihlonipho kunye neziqinisekiso ezikhutshwe ngokwemigqaliselo yoMthetho woXwebhu lwemiGangatho, 1993 (uMthetho oyiNombolo yama-29 ka-1993), ngokunxulumene nawo nawuphi na umcimbi ekusetyenzwe ngawo kulo Mthetho kuthathwa ngokuba ukhutshwe ngokwemigqaliselo yalo Mthetho; kwaye 60

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(d) all regulations promulgated in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in this Act are deemed to have been issued in terms of this Act.

(3) For the purposes of the application of subsection (2), the Minister may with the concurrence of the Minister of Finance, make a binding written determination— 5

(a) that an asset, liability, right or obligation is an asset, liability, right or obligation of the regulatory department of the SABS;

(b) that an employee of the SABS is employed in the regulatory department of the SABS.

(4) A compulsory specification referred to in section 22 of the Standards Act, 1993 (Act No. 29 of 1993), which is in force in terms of the provisions of that Act immediately before the commencement of this Act, is deemed to be a compulsory specification declared in terms of this Act. 10

(5) If a compulsory specification contemplated in subsection (4) is amended in terms of this Act, any reference to that compulsory specification must be construed as a reference to the compulsory specification as amended. 15

(6) Any notice issued in terms of section 22(6)(a) to (c) of the Standards Act, 1993 (Act No. 29 of 1993), which is in force at the commencement of this Act, is deemed to be a notice issued in terms of section 13(6) of this Act.

Regulations

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36. (1) The Minister may, after consultation with the Board, make regulations, that are not inconsistent with this Act—

(a) regarding any matter that may or must be prescribed in terms of this Act;

(b) regulating—

(i) the process for the issuing of a permit; or 25

(ii) time limits for the withdrawal of directives issued by the Chief Executive Officer; and

(c) regarding any other ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act. 30

(2) The power to make regulations under subsection (1) includes the power conditionally or unconditionally to restrict or prohibit any matter referred to in that subsection and to grant exemptions from, or to allow deviations with regard to, the payment of the prescribed fees contemplated in section 14(3)(b).

(3) Regulations which differ in such respects as may be necessary in the circumstances may, subject to the provisions of this Act, be made under subsection (1) in respect of different areas in the Republic or different commodities. 35

Short title and commencement

37. This Act is called the National Regulator for Compulsory Specifications Act, 2008, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 40

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- (d) yonke imimiselo ebhengeziweyo ngokwemigqaliselo yoMthetho woXwebhu lwemiGangatho, 1993 (uMthetho oyinombolo yama-29 ka-1993), ngokunxulumene nawo nawuphi na umcimbi ekusetyenzwe ngawo kulo Mthetho.
- (3) Ngeenjongo zokusetyenziswa kwecandelwana (2), uMphathiswa kunye noMphathisiwa wezeZimali, unokwenza umiselo olubhalwe phantsi olubophelelayo— 5
- (a) lokuba i-asethi, imfanelo, ilungelo okanye uxanduva lokuba yi-asethi, imfanelo, ilungelo okanye uxanduva lwesebe lolawulo lwe-SABS;
- (b) lokuba umsebenzi we-SABS uqeshwe lisebe lolawulo le-SABS.
- (4) Imigaqo esisinyanzelo ekubhekiselwe kuyo kwicandelo lama-22 loMthetho omalunga nemiGangatho, 1993 (uMthetho oyiNombolo yama-29 ka-1993), osebenzayo ngokwemigqaliselo yamagatya aloo Mthetho msinyane nje ukuba kuqale lo Mthetho, athathwa ngokuba yimigaqo esisinyanzelo ebhengeziweyo ngokwemigqaliselo yalo Mthetho. 10
- (5) Ukuba ngaba imigaqo esisinyanzelo ecamngcwe kwicandelwana (4) ihlaziyiwe ngokwemigqaliselo yaloMthetho, naluphi na unqinisiso kulo migaqo isisinyanzelo ichazwe njengesingqinisiso kwimigaqo esisinyanzelo njengoko ihlaziyiwe. 15
- (6) Nasiphi na isaziso esikhutshwe ngokwemigqaliselo yacandelo 22(6)(a) to (c) loMthetho woXwebhu lwemiGangatho, 1993 (uMthetho oyiNombolo yama-29 ka-1993), esisebenzayo ekuqalisweni kwalo Mthetho, sithathwa ngokuba sisaziso esikhutshwe ngokwemigqaliselo yecandelo 13(6) lalo Mthetho. 20

Imimiselo

- 36.** (1) UMphathiswa, emva kokuthethathethana neBhodi, unokwenza imimiselo, engahambelaniyo nalo Mthetho—
- (a) ngokuphathelene nawo nawuphi na umcimbi onokumiselwa okanye omawumiselwe ngokwemigqaliselo yalo Mthetho; 25
- (b) ukulawula—
- (i) inkqubo yokukhutshwa kwamaphepha emvume; okanye
- (ii) imida yamaxesha yokurhoxisa imiyalelo ekhutshwe liGosa eliyiNtloko lesiGqeba sokuLawula; kunye 30
- (c) nangokuphathelene nalo naluphi na olunye ulawulo oluncedisayo okanye oluhamba nalo okanye umcimbi wenkqubo oyimfuneko ukumisela kuphunyezo olufanelekileyo okanye ulawulo lwalo Mthetho.
- (2) Amagunya okwenza imimiselo phantsi kwecandelwana (1) aquka amagunya anoxhomekeko nangenalo uxhomekeko lokunqanda okanye ukuthintela nawuphi na umcimbi ekubhekiselwe kuwo kwelo candelwana kunye nokunika ukhutshelo ngaphandle, okanye ukuvumela ukuphambuka ngokuphathelene, nentlawulo yemali emiselweyo ecamngcwe kwicandelo 14(3)(b). 35
- (3) Imimiselo eyohlukayo kunxulumano olunjalo njengoko kunokubakhona imfuneko ngokweemeko, ngokuxhomekeke kumagatya alo Mthetho, inokwenziwa phantsi kwecandelwana (1) ngokunxulumene nemimandla eyahlukeneyo kwiRiphabliki okanye kwimpahla yorhwebo eyahlukeneyo. 40

IsiHloko esifutshane nosungulo

- 37.** Lo Mthetho kuthiwa nguMthetho woMlawuli weSizwe weMigaqo esisiNyanzelo, 2008, kwaye uyakuqala ukusebenza ngomhla omiselwe nguMongameli ngesaziso kwiGazethi. 45