

**REPUBLIC OF SOUTH AFRICA
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No. 32140

THE PRESIDENCY

No. 428

17 April 2009

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

No. 74 of 2008: Mine Health and Safety Amendment Act, 2008.

MO-PRESIDENTE

No. 428

17 April 2009

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebiswa ya kakaretso:—

Nmr. 74 ya 2008: Molao-Phetošwa wa Maphelo le Polokego Meepong, 2008.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 15 April 2009.)

ACT

To amend the Mine Health and Safety Act, 1996, so as to review and strengthen enforcement provisions; to simplify the administrative system for the issuing of fines; to reinforce offences and penalties; to substitute, add and remove ambiguities in certain definitions and expressions; and to effect certain amendments necessary to ensure consistency with other laws, particularly the Mineral and Petroleum Resources Development Act, 2002; and to provide for matters connected therewith.

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

Amendment of section 2 of Act 29 of 1996, as amended by section 1 of Act 72 of 1997

1. Section 2 of the Mine Health and Safety Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) The *employer* of a mine that is not being worked, but in respect of which a closure certificate in terms of the [*Minerals Act*] *Minerals and Petroleum Resources and Development Act* has not been issued, must take reasonable steps to continuously prevent injuries, ill-health, loss of life or damage of any kind from occurring at or because of the *mine*.”. 10

Amendment of section 2A of Act 29 of 1996, as amended by section 2 of Act 72 of 1997

2. Section 2A of the principal Act is hereby amended by the addition of the following subsection: 15

“(6)(a) The *employer* must inform the *Chief Inspector of Mines*, in writing, within seven days of the appointment of the *chief executive officer*.”.

(b) The information to the *Chief Inspector of Mines* include—

- (i) the name of the *chief executive officer*;
- (ii) the nature of such person’s function; and
- (iii) the name of persons who are *managers* under the supervision of the *chief executive officer*. 20

TEMOSO YA TLHALOŠOKAKARETŠO:

[] Mantšu ao a ngwadilwego ka mongwalo wo mokoto ka gare ga mašakana a dikwerc a bontšha tšeo di tlogetšwego go tšwa go melao yeo e hlomilwego yeo e sa lego gona.

Mantšu ao a thaletšwego ka mothaladi wo moso a bontšha tše di tsentšwego ka go ditlhalošo tše di lego gona.

(English text signed by the President.)
(Assented to 15 April 2009.)

MOLAO

Go fetola Molao wa Maphelo le Polokego Meepong, 1996, go ka lekola le go tiiša ditlhagišo tša melawana; go nolofatša tsela ya taolo ge go ntšhiwa ditefišo; go tiiša melato le dikotlo; go ema legatong, go oketša le go tloša go se kwagale ka go ditlhathollo le ka go dipolelo tše itšego; le go dira diphešo tše itšego tše di hlokegago go bona gore di swana le melao ye mengwe, kudukudu Molao wa Tlhabollo ya Methopo ya Minerale le Petroleamo, 2002, le go šogana le ditaba tšeo di tswalanago le tšeo di boletšwego.

O BEILWE MOLAONG ke Palamente ya Repabliki ya Afrika Borwa, ka mokgwa wo o latelago:—

Phetošo ya karolo 2 ya Molao 29 wa 1996, ka ge o fetošitšwe ke karolo 1 ya Molao 72 wa 1997

1. Karolo 2 ya Molao wa Maphelo le Polokego Meepong, 1996 (yeo morago ga mo e tlogo bitšwa Molaomogolo), ka gona e a fetolwa ka go bea legatong go karolwana (2) ya karolwana ye e latelago:

“(2) *Mongmošomo wa moepo wo o sego wa šomiwa, cupša mo e lego gore setifikeiti sa go tswalela go ya ka [Molao wa Diminerale] Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo ga se sešo sae ntšhwa, o swanetše go tšea magato ao a kwagalago a gore nako le nako a thibele dikgobalo, go lwala, tahlegelo ya bophelo goba tshenyo ya mohuta ofe goba ofe go ka hlaga mo goba ka lebaka la moepo.*”

Phetošo ya karolo 2A ya Molao 29 wa 1996, ka ge o fetošitšwe ke karolo 2 ya Molao 72 wa 1997

2. Karolo 2A ya Molaomogolo ka gona e fetošwa ke koketšo ya karolwana yeo e latelago:

“(6) (a) *Mongmošomo o swanetše go tsebiša Mohlahlobimogolo wa Meepo ka go ngwala mo matšatšing a 7 a thwalo ya mohlankedimogolo-phethiši.*
(b) Tshedimošo ya Mohlahlobimogolo wa Meepo e swanetše go akaretša—
(i) leina la *mohlankedimogolo-phethiši*;
(ii) mohuta wa mošomo wa motho wo bjalo; le
(iii) maina a batho bao e lego *balaodi* ka fase ga tlhokomelo ya *mohlankedi mogolo-phethiši*.

Amendment of section 10 of Act 29 of 1996

3. Section 10 of the principal Act is hereby amended by the addition of the following subsections:

“(4) The employer must keep a record of all formal training provided in respect of each employee in terms of subsection (2). 5

“(5) All mines must submit a workplace skills plan and the annual training reports to the Mining Qualifications Authority.”

Amendment of section 11 of Act 29 of 1996

4. Section 11 of the principal Act is hereby amended—

(a) by the insertion in subsection (5) after paragraph (a) of the following 10 paragraph:

“(aA) commence an investigation referred to in paragraph (a) within 10 days from the date of such accident, serious illness or health threatening occurrence;”;

(b) by the substitution in subsection (5)(d) for subparagraph (i) of the following 15 subparagraph:

“(i) **[whenever possible,]** identifies the causes and the underlying causes of the accident, *serious illness* or *health-threatening occurrence;*”;

(c) by the substitution in subsection (5) for paragraph (e) of the following 20 paragraph:

“(e) deliver a copy of the report referred to in paragraph (d) **[to the Health and Safety committee]** within 30 days from the date of the accident, *serious illness* or *health-threatening occurrence* being investigated to the *Principal Inspector of Mines* and the *health and safety committee*. If there is no *health and safety committee* the employer must deliver a copy of the report to the health and safety representative responsible for the *working place*.”; 25

(d) by the insertion after subsection (5) of the following subsections: 30
“(5A) An investigation in terms of subsection (5) must be completed within 30 days after the accident, *serious illness* or *health-threatening occurrence* being investigated or such longer period as the *Principal Inspector of Mines* may permit.

(5B) The employer must notify the *Principal Inspector of Mines* of any accident or occurrence at a mine that results in— 35

(a) the serious injury;

(b) illness; or

(c) death,

of any person, in order to allow the *Principal Inspector of Mines* to instruct an *Inspector* to conduct an investigation simultaneously with the employer as required in section 11(5)(a).”; and 40

(e) by the addition of the following subsection:

“(8) In the event of an incident in which a person died, or was injured to such an extent that he or she is likely to die, or suffered the loss of a limb or part of a limb, no person may without the consent of the *Principal Inspector of Mines* disturb the site at which the incident occurred or remove any article or substance involved in the incident: Provided that an article or substance may only be removed if it is necessary to— 45

(a) prevent any further incident; 50

(b) remove the injured or dead; or

(c) rescue any person from danger.”

Amendment of section 13 of Act 29 of 1996

5. Section 13 of the principal Act is hereby amended—

(a) by the deletion in subsection (3)(a) of subparagraph (ii); 55

Phetošo ya karolo 10 ya Molao 29 wa 1996

3. Karolo 10 ya Molaomogolo ka gona e fetošwa ke koketšo ya karolwana ye e latelago:

“(4) *Mongmošomo* o swanetše go boloka rekoto ya ditlhahlo ka moka tšeo di filwego mabapi le *mošomi* o mongwe le o mongwe go ya ka karolwana (2). 5

(5) *Meepo* ka moka e swanetše go iša polane ya bokgoni ya lefelong la mošomo le pego ya tlhahlo ya ngwaga le ngwaga go Taolo ya Mangwalo a tša Moepo.”

Phetošo ya karolo 11 ya Molao 29 wa 1996

4. Karolo 11 ya Molaomogolo ka gona e ya fetošwa—

(a) ka go tsenya ka mo go karolwana (5) ka morago ga temana (a) ya temana ye e latelago: 10

“(aA) a thome dinyakišišo tšeo go boletšwego ka tšona ka mo go temana (a) mo matšatšing a 10 go tloga ka tšatšikgwedi la kotsi ye bjalo, *bolwetši bjo bo hlobaetšago goba tiragalo yeo e nago le matšhošetši go maphelo*.”; 15

(b) ka go bea legatong ka mo go karolwana (5)(d) go karolo ya temana (i) ya karolo ya temana ye e latelago:

“(i) [**moo go ka kgonegago,**] bontšhe tšeo di hlolago le kgwekgwe ya dilo tšeo di hlolago kotsi, *malwetši ao a hlobaetšago goba ditiragalo tšeo di nago le matšhošetši go maphelo*.”; 20

(c) ka go bea legatong ka mo go karolwana (5) go temana (e) ya temana ye e latelago:

“(e) a iše khopi ya pego yeo go boletšwego ka yona ka mo go temana (d) [**go komiti ya maphelo le polokego**] mo matšatšing a 30 go tloga ka tšatšikgwedi la kotsi, *bolwetši bjo bo hlobaetšago goba tiragalo yeo e nago le matšhošetši go maphelo yeo e nyakišišwago go Mohlahlobi Mogolo wa Meepo le go komiti ya maphelo le polokego. Ge go se na komiti ya maphelo le polokego mongmošomo o swanetše go iša khopi ya pego go moemedi wa maphelo le polokego yo a hlokometšego lefelo la bošomelo*.”; 25 30

(d) ka go tsenya ka morago ga karolwana (5) ya dikarolwana tše di latelago:

“(5A) Nyakišišo go ya ka karolwana (5) e swanetše go phethwa mo matšatšing a 30 ka morago ga kotsi, *bolwetši bjo bo hlobaetšago goba tiragalo yeo e nago le matšhošetši go maphelo yeo e nyakišišwago goba sebaka sa go feta moo bjalo ka ge Mohlahlobimogolo wa Meepo a ka dumelela*. 35

(5B) *Mongmošomo* o swanetše go tšebiša *Mohlahlobimogolo wa Meepo* ka dikotsi le ge e le dife goba tiragalo ya moepong yeo e ka feleletšago ka gore motho a—

(a) gobale kudu; 40

(b) lwale; goba

(c) hlokofale,

bakeng sa go dumelela *Mohlahlobimogolo wa Meepo* gore a laele *Mohlahlobi* gore a dire dinyakišišo ka nako e tee le *mongmošomo* bjalo ka ge go nyakwa ke karolo 11(5)(a).”; le 45

(e) ka go oketšwa ga karolwana e latelago:

“(8) Tiragalong yeo go yona motho a hlokošetšego, goba a gobetšego go fihla bokgoleng bja gore go nale kgonagalo ya gore a ka hlokofala, goba a lahlegetšwe ke setho sa mmele, ga go na motho yo a swanetšego go šitiša setsha seo tiragalo e diragilego go sona goba a tloša sedirišwa goba selo seo se e bilego karolo ya tiragalo ka ntle le tumelelo ya *Mohlahlobimogolo wa Meepo*: Sedirišwa goba selo se ka tlošwa feela ge e ha go blokega gore— 50

(a) go thibelwe tiragalo e nngwe le ge e le efe;

(b) go tlošwe motho yo a gobetšego goba a hlokošetšego; goba 55

(c) go phološwe motho le ge e le ofe kotsing.”

Phetošo ya karolo 13 ya Molao 29 wa 1996

5. Karolo 13 ya Molaomogolo ka gona e ya fetošwa—

(a) ka go phumola ka mo go karolwana (3)(a) ya karolo ya temana (ii);

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- (b) by the deletion of subsection (4); and
- (c) by the insertion after subsection (4) of the following subsections:
- “(4A) The *employer* must inform the *Principal Inspector of Mines*, in writing, within seven days of the appointment of the *occupational medical practitioner*. 5
- (4B) The information submitted in terms of subsection (4A) must include—
- (a) the name of a *occupational medical practitioner*;
- (b) his or her practice number; and
- (c) whether the occupational medical practitioner is engaged full time 10 or part time.”.

Amendment of section 17 of Act 29 of 1996, as amended by section 10 of Act 72 of 1997

6. Section 17 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 15
- “(2) The examination referred to in subsection (1) must be held before, or [as soon as possible] within 30 days after, termination of employment.”.

Amendment of section 20 of Act 29 of 1996, as amended by section 11 of Act 72 of 1997

7. Section 20 of the principal Act is hereby amended by the addition of the following subsection: 20
- “(7) An employee lodging an appeal under subsection (1) may not be dismissed on any grounds relating to unfitness to perform work, pending the outcome of the appeal.”.

Amendment of section 23 of Act 29 of 1996, as amended by section 12 of Act 72 of 1997

8. Section 23 of the principal Act is hereby amended by the addition of the following subsection: 30
- “(4) The Minister, by notice in the Gazette, must determine minimum requirements for the procedures contemplated in subsection (2).”.

Amendment of section 41 of Act 29 of 1996, as amended by section 17 of Act 72 of 1997

9. Section 41 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 35
- “**[The following permanent committees of the Council are hereby established]** A committee, ad hoc committee or subcommittee may when necessary be established, which committee may include—”.

Amendment of section 42 of Act 29 of 1996, as amended by section 18 of Act 72 of 1997

10. Section 42 of the principal Act is hereby amended— 40
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) The *Minister* must appoint the members of the *Council* [**and the permanent committees of the Council**] in accordance with the regulations.”;
- (b) by the substitution for subsection (2A) of the following subsection: 45
- “(2A) The *Council* may appoint members to committees, ad hoc [and], subcommittees [,] and other committees, for any period of time and on any conditions.”; and
- (c) by the insertion after subsection (2A) of the following subsection: 50
- “(2B) The structure and functions of any committee contemplated in subsection (2A) must be provided for in the constitution contemplated in section 97(3).”.

- (b) ka go phumola karolwana (4); le
- (c) ka koketšo ka morago ga karolwana (4) ya dikarolwana tšeo di latelago:
 “(4A) *Mongmošomo* o swanetše go tsebiša *Mohlalobimogolo wa Meepo*, ka go ngwala, matšatšing a šupa a go thwalwa ga *mošomi wa kalafo ya mošomong*. 5
 (4B) Tshedimošo yeo e išwago ka go dumclelana le karolwana (4A) e swanetše go akaretša—
 (a) leina la *mošomi wa kalafo ya mošomong*;
 (b) nomoro ya gagwe ya mošomo; le
 (c) ge e ba mošomi wa kalafo ya mošomong a šoma nako e tletšego 10
 goba ka nakwana.”.

Phetošo ya karolo 17 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 10 ya Molao 72 wa 1997

6. Karolo 17 ya Molaomogolo ka gona e ya fetošwa ka go bea legatong go karolwana (2) ya karolwana ye e latelago: 15
 “(2) Tekolo yeo go boletšwego ka yona ka mo go karolwana (1) e swanetše go dirwa pele, goba [**ka bjako ka mo go kgonegago**] mo matšatšing a 30 ka morago ga, phedišo ya mošomo.”.

Phetošo ya karolo 20 ya Molao wa 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 11 ya 1997 20

7. Karolo 20 ya Molaomogolo ka gona e ya fetošwa ka go oketšwa ga karolwana e latelago:
 “(7) *Mongmošomo* yo tsenyago boipelaetšo ka tlase ga karolwana (1) a ka se rakwe mošomong ka tlase ga mabaka le ge e le afe ao a tswalanago le go se itekanele mmeleng gore a ka dira mošomo, go latela ditlamorago tša go ipelaetša.”. 25

Phetošo ya karolo 23 ya Moao wa 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 12 ya Molao wa 72 wa 1997

8. Karolo 23 ya Molaomogolo ka gona e ya fetošwa ka go oketšwa ga karolwana e latelago:
 “(4) *Tona*, ka temošo yeo e lego go *Kuranta ya Mmušo*, o swanetše go lemoga 30
 dinyakwa tše dinyenyane tša ditshepedišo tšeo di akareditšwego go karolwana (2).”.

Phetošo ya karolo 41 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 17 ya Molao 72 wa 1997

9. Karolo 41 ya Molaomogolo ka gona e a fetošwa ka go bea legatong ka mo go 35
 karolwana (2) go mantšu ao a tlogo pele ga temana (a), ya mantšu ao a latelago:
 “[**Dikomiti tše di latelago tša sa ruri tša khansele ka gona di a hlongwa**] *komiti, komititebanyamodiro goba komiti ye nnyane e* ka re ge go hlokega tša hlongwa, *komiti efe goba efe e ka akaretša*—”.

Phetošo ya karolo 42 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 18 ya Molao 72 wa 1997 40

10. Karolo 42 ya Molaomogolo ka gona e ya fetošwa—
 (a) ka go bea legatong go karolwana (2) ya karolwana ye e latelago:
 “(2) *Tona* o swanetše go bea maloko a *Khansele [le dikomiti tša sa ruri tša Khansele]* go ya le ka melawana.”; 45
 (b) ka go bea legatong go karolwana (2A) ya karolwana ye e latelago:
 “(2A) *Khansele* e ka bea maloko go *dikomiti, komititebanyamodiro [le] dikomiti tše nnyane [,]* le *dikomiti tše dingwe*, sebaka sefe goba sefe sa nako le ka dipeelano dife goba dife.”
 (c) ka go tsenya ka morago ga karolwana (2A) ya karolwana ye e latelago: 50
 “(2B) Sebopego le mešomo ya *komiti* efe goba efe yeo go akantšwego ka yona ka mo go karolwana (2A) e swanetše go bewa ka gare ga molaotheo wo o akantšwego ka mo go karolo 97(3).”.

Amendment of section 43 of Act 29 of 1996, as amended by section 19 of Act 72 of 1997

11. Section 43 of the principal Act is hereby amended by the substitution for subparagraph (eA) of the following paragraph:

“(eA) annually [**consider an overall programme for**] advise the Minister on relevant [health and safety] research [for approval as prescribed and deliver a copy to the Minister of Finance for consideration] relating to health and safety at mines; and”.

Repeal of section 44 of Act 29 of 1996

12. Section 44 of the principal Act is hereby repealed. 10

Amendment of section 47 of Act 29 of 1996

13. Section 47 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) A juristic person to be known as the Mine Health and Safety Inspectorate is hereby established. 15
(b) The Public Finance Management Act, 1999 (Act No. 1 of 1999), applies to the Inspectorate.”.

Amendment of section 49 of Act 29 of 1996

14. Section 49 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (j) of the following paragraph: 20

“(j) complete a report on *health and safety at mines* and the activities of the Mine Health and Safety Inspectorate for each year and submit the report to the *Minister* within three months of the end of the year concerned; **[and]**”;

(b) by the substitution in subsection (1) for paragraph (k) of the following paragraph: 25

“(k) perform any duties relating to *health or safety at mines* that the *Minister* directs or prescribes[.]”;

(c) by the addition to subsection (1) of the following paragraphs: 30

(l) develop and maintain an integrated *mine health and safety* database and reporting system;
(m) conduct or commission relevant research and evaluate and publish the results of the research; and
(n) provide logistical, administrative and technical support to the *Council*.”;

(d) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 35

“Despite the provisions of the [Minerals Act] *Minerals and Petroleum Resources Development Act* or any other law, the *Chief Inspector of Mines*—”;

(e) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 40

“(b) must consult with the appropriate officer appointed in terms of **[section 4 of the Minerals Act] the *Minerals and Petroleum Resources Development Act*** concerning the exercise of those powers.”;

(f) by the substitution for subsection 4 of the following subsection: 45

“(4) To further the objectives of this Act the *Chief Inspector of Mines* may— 50

(a) enter into agreements with other persons;**[and]**

(b) authorise a competent independent person to perform any or all the functions of an *inspector*[.]”;

(c) perform any act, whether in the Republic or elsewhere, that is calculated, directly or indirectly, to enhance the value of the 55

Phetošo ya karolo 43 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 19 ya Molao 72 wa 1997

11. Karolo 43 ya Molaomogolo ka gona e ya fetošwa ka go bea legatong go seka-temana (*eA*) sa temana ye e latelago:

“(eA) ka ngwaga [a lebelediše lenaneo ka moka go] eletša *Tona* ka ga nyakišišo [maphelo le polokego] ya maleba [go ka dumelelwa ka ge go beilwe le go iša kopi go *Tona* ya Matlotlo gore e lebelelwe] yeo e amanago le maphelo le polokego meepong; le”.

Phedišo ya karolo 44 ya Molao 29 wa 1996

12. Karolo 44 ya Molaomogolo ka gona e ya fedišwa. 10

Phetošo ya karolo 47 ya Molao 29 wa 1996

13. Karolo 47 ya Molaomogolo ka gona e ya fetošwa ka go bea legatong go karolwana (1) ya karolwana ye e latelago:

“(1) (a) Mothosemolao o tla tsebja bjalo ka Bohlahlubi bja Maphelo le Polokego ya Meepo ka gona bo a hlongwa. 15

(b) Molao wa Taolo ya Matlotlo a Mmušo, 1999 (Molao No 1 wa 1999), o akaretša le Bohlahlubi.”.

Phetošo ya karolo 49 ya Molao 29 wa 1996

14. Karolo 49 ya Molaomogolo ka gona e ya fetošwa—

(a) ka go bea legatong ka mo go karolwana (1) ya temana (*j*) ya temana ye e latelago: 20

“(j) a dire pego ka ga maphelo le polokego mo meepong le ditiro tša Bohlahlubi bja Maphelo le Polokego Meepong ngwaga o mongwe le o mongwe le go tliša pego go *Tona* mo dikgweding tše tharo tša mafelelo a ngwaga wo go bolelwago ka wona; [le]”; 25

(b) ka go bea legatong ka mo go karolwana (1) ya temana (*k*) ya temana ye e latelago:

“(k) a dire mešomo efc goba efc yeo e amanago le maphelo goba polokego meepong yeo *Tona* a e šupago goba a e beago[.];”; 30

(c) ka koketšo go karolwana (1) ya ditemana tšeo di latelago: 30

“(l) aga le go hlokomela dathabase yeo e kopantšwego ya maphelo le polokego ya meepo le tsela ya go bega;

(m) dira goba go hloma nyakišišo ya maleba le go lekola le go phatlalatsa dipelo tša nyakišišo; le

(n) go fana ka thekgo ya lotšistiki, ya taolo le ya setegniki go *Khansele*.”; 35

(d) ka go bea legatong ka mo go karolwana (3) go mantšu ao a tlogo pele ga temana (*a*) ya mantšu ao a latelago:

“Ka ntle le dipeelo tša [**Molao wa Diminerale**] Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo goba molao ofe goba ofe o mongwe, Mohlahllobimogolo wa Meepo—”; 40

(e) ka go bea legatong ka mo go karolwana (3) ya temana ye e latelago:

“(b) swanetše go relišana le mohlankedi yo a lebanego yo a beilwego go ya ka [**karolo 4 ya Molao wa Diminerale**] Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo mabapi le go šomiša maatlao.”; le 45

(f) ka go bea legatong go karolwana 4 ya karolwana ye e latelago:

“(4) Go tšwetšapele merero megolo ya Molao o, Mohlahllobimogolo wa Meepo a ka—

(a) tsenela dikwano le batho ba bangwe;[le] 50

(b) dumelela motho yo a ikemetšego a e na le bokgoni go dira mešomo efc goba efc goba ka moka ya bohlahlubi [.];

(c) a dire tiro efc goba efc, e ka ba ka mo gare ga Repabliki goba mo gongwe yeo, e hlakantšhwago, thwii goba e sego thwii, go oketša boleng bja ditirelo tšeo Bohlahlubi bja Maphelo le Polokego 55

- services which the Mine Health and Safety Inspectorate renders, or perform any *prescribed* act;
- (d) require all *mines* or groups of *mines* to prepare and implement a *health* and *safety* management system for *mines*;
- (e) require all *mines* or groups of *mines* to prepare and implement a *hazard* management system for significant *hazards* mentioned under section 11;
- (f) in consultation with the *Minister* and the Minister of Finance acquire or dispose of immovable property;
- (g) hire, purchase or otherwise acquire any movable property and proprietary right, and lease or dispose of property;
- (h) collaborate with any other body or institution or establish and control facilities for the collection and dissemination of scientific and technical information relating to *health* and *safety* at *mines*;
- (i) collaborate with any educational, governmental or scientific body or institution in connection with the provision of instruction for, or the training of, persons required by the Mine Health and Safety Inspectorate;
- (j) provide financial or other assistance in connection with the training of persons in so far as is necessary to ensure that a sufficient number of trained persons are available to enable the Mine Health and Safety Inspectorate to perform its functions efficiently;
- (k) insure the Mine Health and Safety Inspectorate against any loss, damage, risk or liability;
- (l) invest any of the money of the Mine Health and Safety Inspectorate; and
- (m) institute or defend any legal action.”; and
- (g) by the addition of the following subsection:
“(6) The *Chief Inspector of Mines* must issue guidelines by notice in the *Gazette*.”.

Insertion of sections 49A and 49B in Act 29 of 1996

15. The following sections are hereby inserted in the principal Act after section 49:

“Financial and judicial management of Mine Health and Safety Inspectorate

- 49A.** (1) The funds of the Mine Health and Safety Inspectorate consist of—
- (a) money appropriated by Parliament;
- (b) any donations made to the Mine Health and Safety Inspectorate;
- (c) revenue made on investments; and
- (d) money raised and received in terms of *this Act*.
- (2) The Mine Health and Safety Inspectorate must utilise its funds to defray expenses incurred by it in the performance of its functions.
- (3) The *Chief Inspector of Mines* must, after consultation with the *Council*, use the monies collected in terms of section 55B for the promotion of *health* and *safety* in the mining industry.
- (4) The *Chief Inspector of Mines* as the accounting authority of the Inspectorate must—
- (a) open a bank account in the name of the Mine Health and Safety Inspectorate with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
- (b) deposit therein all money received in terms of subsection (1).

MOLAO-PHETOŠWA WA MAPHELO LE
POLOKEGO MEEPONG, 2008

Act No. 74, 2008

- Meepong e fanago ka tšona goba e di dirago go molao ofe goba ofe wo o *beilwego*;
- (d) a nyake gore *meepo* ka moka goba sehlopha sa *meepo* se lokiše le go phethagatša tsela ya taolo ya maphelo le *polokego* ya *meepo*;
- (e) a nyake gore *meepo* ka moka goba sehlopha sa *meepo* se lokiše le go phethagatša tsela ya taolo ya *dikotsi* tše bohlokwa tšeo di bolctšwego ka fase ga karolo 11;
- (f) ka therišano le *Tona* le *Tona* ya Matlotlo a hwetše goba go fediša thoto yeo e sa šuthego;
- (g) hiriša, reka goba a hwetša thoto efe goba efe yeo e šuthago le tokelo ya mong go thoto, le go adimiša goba phedišo ya thoto;
- (h) šomišana le mokgatlo ofe goba ofe o mongwe goba lefelo goba go hloma le go laola dinolofatši go ka kgona go kgoboketša le go phatlalatša tshedimošo ya saense le setegniki yeo e amanago le tša *maphelo* le *polokego* *meepong*;
- (i) šomišana le setheo sefe goba sefe sa thuto, mmušo, saense, setho, goba institušene yeo e lego mabapi le dineelo tša taetšo ya go, goba tlhahlo ya, batho bao ba nyakwago ke Bohlalobi bja Maphelo le Polokego Meepong;
- (j) go fana ka thušo ya tšhelete goba thušo ye nngwe yeo e amanago le tlhahlo ya batho go fihla mo e lego gore go a hlokega go ka bona gore palo ya batho bao ba hlahlilwego e ba gona go kgontšha Bohlalobi bja Maphelo le Polokego Meepong go dira mešomo ya yona gabotse;
- (k) go šireletša Bohlalobi bja Maphelo le Polokego Meepong kgahlanong le tahlegelo efe goba efe, tshenyo, kotsi goba boikarabelo;
- (l) go boloka tšhelete efe goba efe ya Bohlalobi bja Maphelo le Polokego; le
- (m) go hloma goba go šireletša kgato efe goba efe ya semolao.”; le
- (g) ka koketšo ya karolwana e latelago:
 “(6) *Mohlalobimogolo wa Meepo* o swanetše go ntšha ditaelo ka temošo go *Kuranta ya Mmušo*.”.

Go tsenywa ga dikarolo 49A le 49B ka go Molao 29 wa 1996

15. Dikarolo tše di latelago ka gona di tsenywa ka mo go Molaomogolo ka morago ga karolo 49:

“Taolo ya ditšhelete le ya semolao ya Bohlalobi bja Maphelo le Polokego Meepong

49A. (1) Ditšhelete tša Bohlalobi bja Maphelo le Polokego Meepong di bopša ke—

- (a) tšhelete yeo e beetšwego ka thoko ke Palamente;
- (b) dimpho dife goba dife tšeo di filwego Bohlalobi bja Maphelo le Polokego Meepong;
- (c) letseno leo le dirilwego go tšwa go dipeeletšo; le
- (d) tšhelete yeo e kgobokeditšwego le go hwetšwa go ya ka *Molao o*.
- (2) Bohlalobi bja Maphelo le Polokego Meepong bo swanetše go šomiša ditšhelete tša bjona go lefela ditšhenyegelo tšeo e itiretšego tšona ge bo dira mešomo ya bjona.
- (3) *Mohlalobimogolo wa Meepo* o swanetše gore, ka morago ga go rerišana le *Khansele*, a diriše ditšhelete tšeo di kgobokeditšwego ka go dumelelana le karolo 55B bakeng sa go tšwetša pele tša maphelo le polokego intasetering ya meepo.
- (4) *Mohlalobimogolo wa Meepo* bjalo ka ge a na le maatla go tšhupaletlotlo o swanetše—
- (a) go bula akhaonthe ya panka ka leina la Bohlalobi bja Maphelo le Polokego Meepong le institušene yeo e ngwadišitšwego bjalo ka panka go ya ka Molao wa Dipanka, 1990 (Molao No. 94 wa 1990); le
- (b) go bea tšhelete ka moka yeo e hweditšwego go ya ka karolwana (1).

(5) The Mine Health and Safety Inspectorate may invest any of its funds not immediately required—

- (a) subject to any investment policy that may be prescribed; and
- (b) in such a manner as may be approved by the *Minister*.

(6) The Mine Health and Safety Inspectorate's financial year is from 1 April in any year to 31 March in the following year.

(7) The report of the *Chief Inspector of Mines* referred to in section 49(1)(j) must reflect the financial affairs of the Mine Health and Safety Inspectorate.

(8) Despite any other law, the Mine Health and Safety Inspectorate may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted especially for that purpose.

Co-operative governance

49B. (1) The *Chief Inspector of Mines* must co-ordinate the exercise of the functions of the Mine Health and Safety Inspectorate with other organs of state in respect of regulating and promoting *occupational health and safety*, in accordance with the principles of co-operative governance contemplated in Chapter 3 of the Constitution.

(2) The *Chief Inspector of Mines* may conclude co-operative agreements with relevant organs of state to give effect to the co-operation contemplated in subsection (1)."

Amendment of section 50 of Act 29 of 1996

16. Section 50 of the principal Act is hereby amended by the insertion after subsection (7) of the following subsection:

"(7A) The *Inspector* may impose a prohibition on the further functioning of the site where—

- (a) a person's death;
- (b) serious injury or illness to a person; or
- (c) a health threatening occurrence,

has occurred by blocking, barring or barricading the site in such a manner as the *Inspector* may deem necessary."

Amendment of section 54 of Act 29 of 1996, as amended by section 23 of Act 72 of 1997 and section 24 of Act 72 of 1997

17. Section 54 of the principal Act is hereby amended by the deletion of subsections (7), (8), (9) and (10).

Amendment of section 55A of Act 29 of 1996, as inserted by section 25 of Act 72 of 1997

18. Section 55A of the principal Act is hereby amended—

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

"(1) An *inspector* [who has reason to believe that an employer has contravened or failed to comply with any provision contemplated in section 91(1B),] may make a recommendation in writing to the *Principal Inspector of Mines* that a fine be imposed on [the] an employer who has failed to comply with any provision contemplated in section 91(1B).";

- (b) by the deletion of subsection (2);

- (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The *inspector* concerned must [provide] serve a copy of the recommendation [or record contemplated in subsection (1) or (2) to] on—"; and

(5) Bohlahlobi bja Maphelo le Polokego Meepong bo ka boloka ye nngwe le ye nngwe ya ditšhelete tša yona tšeo di ka se nyakwego ka tšhoganetšo—

(a) obamela pholisi efe goba efe ya peo ya tšhelete yeo e tlogo go ba e beilwe; le

(b) ka mokgwa wo e lego gore go ka dumelelwa ke *Tona*.

(6) Ngwaga wa ditšhelete wa Bohlahlobi bja Maphelo le Polokego Meepong ke go tloga ka la 1 Aporele ka go ngwaga ofe goba ofe go fihla ka la 31 Matšhe ngwaga o latelago.

(7) Pego ya *Mohlahlobimogolo wa Meepo* yeo go boletšwego ka yona go karolo 49(1)(j) e swanetše go bontšha ditaba tša ditšhelete tša Bohlahlobi bja Maphelo le Polokego Meepong.

(8) Ka ntle le molao ofe goba ofe o mongwe, Bohlahlobi bja Maphelo le Polokego Meepong bo ka se bewe ka fase ga taolo ya semolao goba ka fase ga seemo sa go tšhona ka ntle le ge go dumeletšwe ke Molao wa Palamente wo o tšerwego ka maikemišetšo a bjalo.

Taolo ya go šomišana

49B. (1) *Mohlahlobimogolo wa Meepo* o swanetše go kgohlaganya tšhepedišo ya mešomo ya Bohlahlobi bja Maphelo le Polokego Meepong le ditho tše dingwe tša mmušo ge go laolwa le ge go tšwetšwapele tša *maphelo le polokego ya mošomong*, go ya le ka mkgwa ya boitshwaro ya taolo ya tšhomišana yeo e akantšwego ka mo go Kgaolo 3 ya Molaotheo.

(2) *Mohlahlobi Mogolo wa Meepo* a ka phetha dikwano tša tšhomišana le ditho tša maleba tša mmušo go fa khuetšo go tšhomišana yeo go akantšwego ka yona ka mo go karolwana (1)."

Phetošo ya karolo 50 ya Molao 29 wa 1996

16. Karolo 50 ya Molaomogolo ka gona e ya fetošwa ka go tsentšhwa ka morago ga karolwana (7) ya karolwana ye e latelago:

“(7A) *Mohlahlobi* a ka rulaganya go thibelwa ga go dirišwa mo go oketšegilego ga setsha ge e ba—

(a) motho a hlokošetše

(b) motho a ka gobala kudu goba a lwala kudu; goba

(c) go ka tšwelela lebaka leo le beago boemo bja tša maphelo kotsing go tšweletše ka go thibela, go bea mapheko goba legora setsheng go ya ka mokgwa wo *Mohlahlobi* a ka bonago go hlokega ka gona.

Phetošo ya karolo 54 ya Molao 29 wa 1996, bjalo ka ge e fetotšwe ke karolo 23 ya Molao 72 wa 1997 le karolo 24 ya Molao wa 72 wa 1997

17. Karolo 54 ya Molaomogolo ka gona e ya fetošwa ka go phumolwa ga dikarolwana (7), (8), (9) le (10).

Phetošo ya karolo 55A ya Molao 29 wa 1996, bjalo ka ge e tšentšwe ke karolo 25 ya Molao 72 wa 1997

18. Karolo 55A ya Molaomogolo ka gona e ya fetošwa—

(a) ka go bea legatong go karolwana (1) ya karolwana ye e latelago

“(1) *Mohlahlobi* [yo a nago le lebaka leo le dirago gore a dumele gore mongmošomo o tlotše goba o paletšwe ke go obamela dineelo dife goba dife tšeo di akantšwego ka mo go karolo 91 (1B),] a ka dira tigelo ka go ngwalela *Mohlahlobimogolo wa Meepo* gore tcfišo e gapeletšwe [go] *mongmošomo yo a paletšwego ke go obamela dineelo dife goba dife tšeo go akantšwego ka tšona ka mo go karolo 91(1B)*”.

(b) ka go phumola karolwana (2);

(c) ka go bea legatong ka mo go karolwana (3) go mantšu ao a tlogo pele ga temana (a) ya mantšu ao a latelago:

“*Mohlahlobi* wa maleba o swanetše go [fa] tliša khopi ya tigelo [goba rekoto yeo go akantšwego ka yona ka mo go karolwana (1) goba (2) go fihla go] mo go—

(d) by the addition of the following subsections:

“(4) The employer may make written representations to the Principal Inspector of Mines within 30 days of the recommendation.

(5) A representation made in terms of this section may not be used against the employer in any criminal or civil proceedings in respect of the same set of facts.” 5

Substitution of section 55B of Act 29 of 1996, as inserted by section 25 of Act 72 of 1997

19. The following section is hereby substituted for section 55B of the principal Act:

“Principal Inspector of Mines may impose fines 10

55B. (1) The Principal Inspector of Mines, after considering the recommendation and any representations made in accordance with section 55A, may—

- (a) disregard the recommendation;
- (b) impose a fine not exceeding the maximum amount mentioned in Table 2 of Schedule 8; or
- (c) refer the matter to the prosecuting authority for a decision as to whether the employer should be charged with an offence. 15

(2) The Principal Inspector of Mines must notify the employer, committee, representative and trade union contemplated in section 55A(3), as the case may be, of any decision made in terms of subsection (1). 20

(3) An employer must pay any fine imposed in terms of this section within 30 days of the imposition of the fine.

(4) If the employer fails to pay the fine within the specified period, the Chief Inspector of Mines may apply to the Labour Court for the fine to be made an order of that court.” 25

Repeal of sections 55C to 55H of Act 29 of 1996

20. Sections 55C, 55D, 55E, 55F, 55G and 55H of the principal Act are hereby repealed.

Amendment of section 57 of Act 29 of 1996, as amended by section 27 of Act 72 of 1997 30

21. Section 57 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person [who is the subject of a decision of an inspector, or at whose instance a decision of an inspector was taken, except a decision contemplated in section 55A] adversely affected by a decision of an inspector, except a decision contemplated in section 55B, may appeal against that decision to the Chief Inspector of Mines.” 35

Repeal of section 57A of Act 29 of 1996

22. Section 57A of the principal Act is hereby repealed. 40

Amendment of section 63 of Act 29 of 1996, as amended by section 31 of Act 72 of 1997

23. Section 63 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) For the purpose of enhancing the effectiveness of an investigation in terms of section 60 the [Chief Inspector of Mines in consultation with] National Prosecuting Authority, after receiving representations from the [appropriate Attorney-General] Chief Inspector of Mines, may issue a certificate that no 45

(d) ka koketšo ya dikarolwana tšeo di latelago:

“(4) *Mongmošomo* a ka dira dikemelo ka mokgwa wa go ngwala go *Mohlahlobimogolo wa Meepo* mo matšatšing a 30 a tigelu.

(5) Kemelo yeo e dirilwego go ya ka karolo ye e ka se šomišwe kgahlanong le *mongmošomo* ka go ditshepedišo tša semolao tša melato ya bosenyi goba ya selegae mabapi le sete ya go swana ya dinnete.”

Go bea legatong ga karolo 55B ya Molao 29 wa 1996, bjalo ka ge e tsentšwe ke karolo 25 ya Molao 72 wa 1997

19. Karolo ye e latelago ka gona e ema legato ke karolo 55B ya Molaomogolo:

“*Mohlahlobimogolo wa Meepo* a ka gapeletša ditefišo

55B. (1) *Mohlahlobimogolo wa Meepo*, ka morago ga go lebelediša tigelu le dikemelo dife goba dife tšeo di dirilwego go ya ka karolo 55A, a ka—

(a) hlokomologa tigelu;

(b) gapeletša tefišo yeo e sego ka godimo ga bontši bja palo yeo e boletšwego ka mo go Lenaneotlhopho la 2 la Šetule 8; goba

(c) a iša molato go bolaodi bja bosekiši gore sephetho se tšewe ge e le gore mongmošomo o swanetše go latofatšwa ka go tshela molao.

(2) *Mohlahlobimogolo wa Meepo* o swanetše go tsebiša *mongmošomo*, *komiti*, moemedi le mokgatlo wa bašomi ka ge go akantšwe ka mo go karolo 55A(3), bjalo ka ge seemo se tlogo go ba ka gona, ka ga sephetho sefe goba sefe seo se dirilwego go ya ka karolwana (1).

(3) *Mongmošomo* o swanetše go lefa tefišo efe goba efe yeo e gapeletšwego go ya ka karolo ye mo matšatšing a 30 a kgapeletšo ya tefišo.

(4) Ge *mongmošomo* a palelwa ke go lefa tefišo mo sebakeng seo a se beetšwego, *Mohlahlobimogolwane wa Meepo* a ka dira kgopelo go kgoro tshoko ye e lebanego gore tefišo e dirwe taelo ya kgoro tshoko yeo.”

Phedišo ya dikarolo 55C go fihla go 55H ya Molao 29 wa 1996

20. Dikarolo 55C, 55D, 55E, 55F, 55G le 55H tša Molaomogolo ka gona di a fedišwa.

Phetošo ya karolo 57 ya Molao 29 wa 1996, bjalo ka ge o fetošitšwe ke karolo 27 ya Molao 72 wa 1997

21. Karolo 57 ya Molaomogolo ka gona e ya fetošwa ka go bea legatong go karolwana (1) ya karolwana ye e latelago:

“(1) Motho ofe goba ofe [**yo e lego hlogo ya taba ya sephetho sa mohlahlobi, goba yo a bego a le go seemo seo sephetho sa mohlahlobi se tšwerwego ka gona, ka ntle le sephetho seo se akantšwego ka mo go karolo 55A**] yo a amilego kudu ke sephetho sa mohlahlobi, ka ntle le sephetho seo se akantšwego ka mo go karolo 55B, a ka dira boipelaetšo kgahlanong le sephetho seo go *Mohlahlobimogolo wa Meepo*.”

Phedišo ya karolo 57A ya Molao 29 wa 1996

22. Karolo 57A ya Molaomogolo ka gona e ya fedišwa.

Phetošo ya karolo 63 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 31 ya Molao 72 wa 1997

23. Karolo 63 ya Molaomogolo ka gona e ya fetošwa ka go bea legatong go karolwana (1) ya karolwana ye e latelago:

“(1) (a) Go maikemišetšo a go godiša dipoelo tše di botse tša nyakišišo go ya ka karolo 60 [**Mohlahlobimogolwane wa Meepo ka therišano le**] Bolaodi bja Bosekiši, ka morago ga go hwetša dikemelo go tšwa go [**Ramolaopharephare yo a lebaneng**] *Mohlahlobimogolwane wa Meepo*, a ka ntšha setifikeiti sa gore ga go bosekiši bjo bo tla dirwago mabapi le tlolo efe

prosecution may be instituted in respect of any contravention of, or failure to comply with, a provision of this Act related to the event being investigated.

(b) If a certificate is issued, no fine in terms of section [55D] 55B or disciplinary action related to the event investigated may thereafter be imposed on or taken against any person.”

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Amendment of section 71 of Act 29 of 1996, as amended by section 33 of Act 72 of 1997

24. Section 71 is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The person presiding at an inquiry may direct that any evidence given by a person during an inquiry may not be used [for the purposes of sections 55A to 55D, or any appeal relating to those sections, or] in any criminal or disciplinary proceedings against that person except in criminal proceedings on a charge of perjury against that person.”

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Amendment of section 76 of Act 29 of 1996

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25. Section 76 of the principal Act is hereby amended by the addition of the following subsection:

“(3) The Minister may enter any mine at any time only for the purposes of health hazards.”

Insertion of section 86A in Act 29 of 1996

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26. The following section is hereby inserted in the principal Act after section 86:

“Criminal liability

86A. (1) An *employer, chief executive officer, manager, agent or employee* commits an offence if he or she contravenes or fails to comply with the provisions of *this Act* thereby causing—

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- (a) a person’s death; or
- (b) serious injury or illness to a person.

(2) If a *chief executive officer, manager, agent or employee* of the *employer* commits an offence by performing or omitting to perform an act and such performance or omission would have constituted an offence had it been done by the *employer*, that *employer* is equally committing an offence if the act or omission fell within the scope of the authority or employment of the *chief executive officer, manager, agent or employee* concerned and the *employer*—

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- (a) connived at or permitted the performance or an omission by the *chief executive officer, manager, agent, or employee* concerned; or
- (b) did not take all reasonable steps to prevent the performance or an omission.

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(3) For the purposes of subsection (1) the—

- (a) fact that the person issued instructions prohibiting the performance or an omission is not in itself sufficient proof that all reasonable steps were taken to prevent the performance or an omission;

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- (b) defence of ignorance or mistake by any person accused cannot be admitted; or

- (c) defence that the death of a person, injury, illness or endangerment was caused by the performance or an omission of an act falling within the scope of the authority or employment of any individual within the employ of the *employer* may not be admitted.”

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goba efe ya, goba go palelwa ke go obamela, peelo ya Molao o, yeo e amanago le tiragalo yeo e nyakišišwago.

(b) Ge setifikeiti se ntšhiwa, ga go na tefišo go ya ka karolo [55D] 55B goba kgato ya kgalemo yeo e amanago le tiragalo yeo e nyakišišwago e ka gapeletšwago ka morago ga moo goba e ka tšewago kgahlanong le motho ofe goba ofe.”

Phetošo ya karolo 71 ya Molao 29 wa 1996, bjalo ka ge o fetošitšwe ke karolo 33 ya Molao 72 wa 1997

24. Karolo 71 ka gona e fetošwa ke go bea legatong go karolwana (3) ya karolwana ye e latelago:

“(3) Motho yo e bago modulasetulo ka tshekong a ka šupetša gore bohlatse bofe goba bofe bjo bo filwego ka nako ya tshoko bo se ke bja šomišwa [go mabaka a dikarolo 55A go fihla go 55D, goba boipelaetšo bofe goba bofe bjo bo amanago le dikarolo tšeo, goba] ka go ditshepedišo dife goba dife tša semolao tša molato wa bosenyi goba kgalemo kgahlanong le motho yoo ka ntle le tshepedišo tša semolao go ditatofatšo tša kenollo kgahlanong le motho yoo.”

Phetošo ya karolo 76 ya Molao 29 wa 1996

25. Karolo 76 ya Molaomogolo ka gona e ya fetošwa ka koketšo ya karolwana ye e latelago:

“(3) *Tona* a ka tsena ka moepong ofe goba ofe ka nako efe goba efe ka mabaka fela a *dikotsi tša maphelo*.

Go tsenywa ga karolo 86A go Molao 29 wa 1996

26. Karolo ye e latelago ka gona e tsenywa go Molaomogolo ka morago ga karolo 86:

“Boikarabelo bja bosenyi

86A. (1) *Mongmošomo, Mohlankedimogolo-phethiši, molaodi*, moemedi goba *mošomi* o oba molato ge e ba a šitišana goba a palelwa ke go dira ka go dumclelana le dipeelo tša *Molao wo gomme* a feleletša a baka—

(a) lehu la motho; goba

(b) kgobalo e kgolo goba bolwetši mothong.

(2) Ge e ba *Mohlankedimogolo-phethiši, molaodi*, moemedi goba *mošomi* wa *mongmošomo* a oba molato ka go dira goba ka go palelwa ke go dira tiro e itšego gomme go dira moo goba go palelwa moo go ka be go obile molato ge nkabe go dirilwe ke *mongmošomo, mongmošomo* yoo le yena o oba molato ka go lekana ge e ba tiro goba go palelwa ke go e dira go wela ka tlase ga taolo goba mošomo wa *mohlankedimogolo-phethiši, molaodi*, moemedi goba *mošomi* yo a amegago gomme *mongmošomo*—

(a) a hlokomologile goba a dumeletše go dirwa goba go palelwa ke go dira ga *mohlankedimogolo-phethiši, molaodi*, moemedi, goba *mošomi* yo a amegagole;

(b) a sa tšea magato ka moka a kwagalago a go thibela go dira goba go palelwa ke go dira.

(3) Bakeng sa merero ya karolwana (1)

(a) taba ya gore motho o ntšhitše ditaello tšeo di thibelago go dirwa goba go palelwa ke go dira ga se bohlatse bjo bo lekanego bja gore go tšerwe magato a lekanego go thibela go dirwa goba go palelwa ke go dira;

(b) go ikemela ga go hlokomologa goba phošo ya motho le ge e le ofe yo a latofatšwago go ka se amogelwe; goba

(c) go ikemela ga gore lehu la motho, kgobalo, bolwetši goba go bewa kotsing go bakilwe ke go dira goba go palelwa ke go dira mo go welago ka tlase ga taolo goba mošomo ga motho le ge e le ofe ka gare ga mošomo wa *mongmošomo* go ka se amogelwe.

Amendment of section 91 of Act 29 of 1996, as amended by section 37 of Act 72 of 1997

27. Section 91 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) Any person, [other than] including an employer, [commits an offence] who contravenes, or fails to comply with, any—
 (a) provision of *this Act*;
 (b) regulation; or
 (c) condition, suspension, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document [determines] determined, given, issued, [promulgated] prescribed or granted by or under *this Act* by the Minister, Chief Inspector of Mines, inspector, any person authorised under section 49(4) or any person to whom any power has been delegated or the performance of any duty has been assigned under section 96, 15
commits an offence and is liable to a fine or imprisonment as may be prescribed.”;
- (b) by the deletion of subsection (1A);
- (c) by the substitution in subsection (1B) for the words preceding paragraph (a) of the following words: 20
 “Any employer is liable to a fine in terms of section [55D] 55B if the employer contravenes, or fails to comply with, any—”;
- (d) by the substitution in subsection (1B) for paragraph (a) of the following paragraph: 25
 “(a) provision of *this Act*, [other than a provision referred to in subsection (1A), or any provision of Chapter 3 or section 83];”;
- (e) by the substitution in subsection (1C) for the words preceding paragraph (a) of the following words: 30
 “Despite subsection (1B), any employer who, contravenes or fails to comply with any standard in a code of practice prepared in terms of section 9(2) is not liable to a fine in terms of section [55D] 55B if—”;
 and
- (f) by the deletion of subsection (2).

Amendment of section 92 of Act 29 of 1996, as amended by section 38 of Act 72 of 1997 35

28. Section 92 of the principal Act is hereby amended—

- (a) by the substitution for subsection (5) for the following subsection: 40
 “(5) Any person convicted of an offence in terms of any section mentioned in Column 1 of [the Table below] Table 1 of Schedule 8 may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Table opposite the number of that section.”
- (b) by the deletion of the table after subsection (5);
- (c) by the addition of the following subsections: 45
 “(6) Any owner convicted of an offence in terms of section 86 or 86A may be sentenced to—
 (a) withdrawal or suspension of the permit; or
 (b) a fine of three million rands or a period of imprisonment not exceeding five years or to both such fine or imprisonment.
 (7) In the event of a conviction, the court may, in addition to imposing a sentence in respect of the offence and making an order, order the person convicted to— 50
 (a) repair any damage caused, to the satisfaction of the Chief Inspector of Mines, and

Phetošo ya karolo 91 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 37 ya Molao 72 wa 1997

27. Karolo 91 ya Molaomogolo ka gona e ya fetošwa—

- (a) ka go bea legatong go karolwana (1) go karolwana ye e latelago: 5
 “(1) Motho ofe goba ofe, [**ka ntle le**] go akaretša *mongmošomo* [**o oba molato**] yo a tshelago, goba a palelwago ke go obamela, efe goba efe—
 (a) *dineelo* tša *Molao o*;
 (b) *melawana*; goba
 (c) boemo, go fegwa, tsebišo, taelo, taetšo, kiletšo, netefatšo, tumelelo, kwano, tokollo, setifikeiti goba tokumentu [**go phetha**] 10
phetho, ye e filwego, ntšhitšwego, [**tsebagaditšwego**] **beetšwego**
 goba dumeletšwego ke goba ka fase ga *Molao o* ke *Tona*,
Mohlahlobimogolo wa Meepo, *mohlahlobi*, motho ofe goba ofe yo
 a netefaditšwego ka fase ga karolo 49(4) goba motho ofe goba ofe 15
 wo a o filwego ka fase ga karolo 96, o oba molato le gona o
 swanetše ke go lefišwa ka gc go tla be go beetšwe.”
- (b) ka tlošo ya karolwana (1A);
- (c) ka go bea legatong ka mo go karolwana (1B) mantšu ao a tlago pele ga temana 20
 (a) ya mantšu ao a latelago:
 “*Mongmošomo* ofe goba ofe a ka lefišwa go ya ka karolo [55D] 55B
 ge *mongmošomo* a tshela, goba a palelwa ke go obamela,] ofe goba
 ofe—”;
- (d) ka go bea legatong ka mo go karolwana (1B) ya temana (a) ya temana ye e 25
 latelago:
 “(a) neelo tša *Molao o*, [**ka ntle le neelo yeo go boletšwego ka yona ka
 mo go karolwana (1A), goba neelo efe goba efe ya Kgaolo 3 goba
 karolo 83**];”;
- (e) ka go bea legatong ka mo go karolwana (1C) go mantšu ao a tlago pele ga 30
 temana (a) ya mantšu ao a latelago:
 “Ka ntle le karolwana (1B), *mongmošomo* ofe goba ofe yo a tlolago goba
 a palelwago ke go obamela boemo ka gare ga melawana ya tshepedišo
 yeo e beakantšwego go ya ka karolo 9(2) ga a swanela go lefišwa go ya
 ka karolo [55D] 55B gc—”;
- (f) ka go phumolwa ga karolwana (2). 35

Phetošo ya karolo 92 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 38 ya Molao 72 wa 1997

28. Karolo 92 ya Molaomogolo ka gona e ya fetošwa—

- (a) ka go bea legatong go karolwana (5) ya karolwana ye e latelago: 40
 “(5) Motho ofe goba ofe yo a bonwego molato go ya ka karolo efe
 goba efe yeo go boletšwego ka yona ka mo go Kholomo ya 1 ya
 [**Lenaneotlhopho leo le lego ka fase**] **Lenaneotlhopho** la **Šetule 8** a ka
 otlwa ka tetišo goba go išwa kgolegong lebaka la go se fete leo go
 boletšwego ka lona ka mo go Kholomo 2 ya Lenaneotlhopho leo go lebana
 le nomoro ya karolo yeo.” 45
- (b) ka go phumolwa ga lenaneotlhopho ka morago ga karolwana (5).
- (c) ka koketšo ya dikarolwana tšeo di latelago:
 “(6) *Mongmošomo* le ge e le ofe yo a latofatšwego ka molato ka go
 dumelelana le karolo 86 goba 86A a ka otlwa ka—
 (a) go bušetšwa morago goba go fegwa ga tumelelo; goba 50
 (b) kotlo ya diranta tše dimilione tše tharo goba nako ya go išwa
 kgolegong e sego go feta mengwaga e mehlano goba dikotlo ka
 bobedi goba go išwa kgolegong.
 (7) Tabeng ya go latofatšwa, kgoro e ka, go tlaleletša go kotlo ka go
 dumelelana le tlolo ya molao le go dira taelo, laela motho gore a ahlolwe 55
 ka—
 (a) go lokiša tshenyoye e bakilwego, ka tsela yeo e kgotsafatšago
Mohlahlobimogolo-Phethiši wa Meepo, le

- (b) comply with a provision of *this Act* within a specified period of time.”

Amendment of section 98 of Act 29 of 1996, as amended by section 41 of Act 72 of 1997

29. Section 98 of the principal Act is hereby amended— 5
- (a) by the substitution in subsection (1) of the following paragraph:
“(zN) any other matter the *regulation* of which may be necessary or desirable in order to achieve the objects of *this Act*; [and]”;
- (b) by the substitution in subsection (1) of the following paragraph:
“(zO) the system of fines contemplated in sections 55A [to H.] and 55B 10
including *regulations* regarding forms and documents, periods of time, procedures, *records* to be kept and the payment of fines[.]”;
and
- (c) by the addition to subsection (1) of the following paragraph:
“(zP) minimum standards for the establishment, functioning, training, 15
equipping and staffing of rescue services at mines and reporting by employers in respect of rescue services.”.

Amendment of section 102 of Act 29 of 1996, as amended by section 43 of Act 72 of 1997

30. Section 102 of the principal Act is hereby amended— 20
- (a) by the insertion after the definition of “Commission” of the following definition:
“ ‘**Constitution**’ means the Constitution of the Republic of South Africa, 1996;”;
- (b) by the insertion after the definition of “**mineral**” of the following definition: 25
“ ‘**Mineral and Petroleum Resources Development Act**’ means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);”;
- (c) by the deletion of the definition of “**Minerals Act**”;
- (d) by the deletion of the definition of “**occupational health practitioner**”; 30
- (e) by the substitution for the definition of “**occupational medical practitioner**” of the following definition:
“ ‘**occupational medical practitioner**’ means a *medical practitioner* who holds a qualification in *occupational medicine*, or an equivalent qualification, recognised by the [Interim National Medical and Dental 35
Council of South Africa] Health Professions Council of South Africa;”;
- (f) by the substitution in paragraph (a) of the definition of “**owner**” for subparagraph (i) of the following subparagraph:
“(i) the holder of a prospecting permit or mining authorisation issued under the [Minerals Act] *Mineral and Petroleum Resources Develop- 40
ment Act*;”;
- (g) by the insertion after the definition of “**prospecting**” of the following definition:
“ ‘**Public Finance Management Act**’ means the *Public Finance Management Act, 1999 (Act No. 1 of 1999)*;” and 45
- (h) by the substitution for the definition of “**topsoil**” of the following definition:
“ ‘**topsoil**’ means topsoil as defined in section 1 of the [Minerals Act] *Mineral and Petroleum Resources Development Act*;”.

Substitution of section 104 of Act 29 of 1996

31. The following section is hereby substituted for section 104 of the principal Act: 50

“Civil liability of State

104. The State Liability Act, 1957 (Act No. 20 of 1957), applies with the changes required by the context in respect of the Mine Health and Safety

- (b) go dira ka go dumcllana le dipcelo tša *Molao o* ka gare ga sebaka sa nako yeo e boletšwego.”

Phetošo ya karolo 98 ya Molao wa 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 41 ya Molao 72 wa 1997

29. Karolo 98 ya Molaomogolo ka gona e ya fetošwa— 5
- (a) ka go bea legatong go karolwana (1) ya temana yeo e latelago:
“(zN) taba le ge ele efe yeo *molawana* o ka hlokegago goba o ratwago gore go fihlelelwe didirišwa tša *Molao o*; [le]”;
- (b) ka go bea legatong go karolwana (1) ya temana e latelago:
“(zO) tshepedišo ya dikotlo yeo e akantšwego go dikarolo 55A [go fihla go H,] le 55B go akaretša *melawana* yeo e lego mabapi le difomo le ditokumente, dibaka tša nako, ditshepedišo, *direkhoto* tšeo di swanetšego go bolokwa le go lefšwa ga dikoltlo[.]”;
- (c) ka koketšo ya karolwana (1) ya temana e latelago:
“(zP) metheo e menyenyane ya go thewa, go šoma, tlhahlo, go newa ga didirišwa le bašomi ba ditirelo tša tlhakodišo meepong le go bega mo go dirwago ke bengmošomo go ya ka ditirelo tša tlhakodišo. 15

Phetošo ya karolo 102 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 43 ya Molao 72 wa 1997

30. Karolo 102 ya Molaomogolo ka gona e ya fetošwa— 20
- (a) ka go tsenya ka morago ga tlhalošo ya “Khomišene” ya tlhalošo ye e latelago:
“‘**Molaotheo**’ o ra gore Molaotheo wa Repabliki ya Afrika Borwa, 1996;”;
- (b) ka go tsenya ka morago ga tlhalošo ya “**minerale**” go tlhalošo ye e latelago:
“‘**Molao wa Tlhabollo ya Methopo ya Minerale le Petroleamo**’ e ra gore Molao wa Tlhabollo ya Methopo ya Minerale le Petroleamo, 2002, (Molao Wa bo-28 wa 2002);”;
- (c) ka phedišo ya tlhalošo ya “**Molao wa Diminerale**”;
- (d) ka phedišo ya tlhalošo ya “**mošomi wa tša maphelo a mošomong**”;
- (e) ka go bea legatong go tlhalošo ya “**ngaka ya tša mošomonmg**” ka tlhalošo ye e latelago: 30
“‘**ngaka ya tša mošomong**’ e ra gore ngaka yeo e swerego mangwalo a dithuto tša kalafo ya mošomong, goba mangwalo a dithuto ao a lekanago le wona, ao a dumclago ke [Khansale ya Nakwana ya Bosetšhaba ya Kalafo le Meno ya Afrika Borwa] Khansale ya Mešomo ya tša Maphelo ya Afrika Borwa;”;
- (f) ka go bea legatong ka mo go temana (a) ya tlhalošo ya “**mong**” go sekatemana (i) ya sekatemana seo se latelago: 35
“(i) moswari wa phemiti ya go dira diteko goba tumelelo ya go epa yeo e ntšhitšwego ka fase ga [Molao wa Diminerale] Molao wa Tlhabollo ya Methopo ya Minerale le Petroleamo;”;
- (g) ka go tsenya ka morago ga tlhalošo ya “**go dira diteko tša diminerale**” ya tlhalošo ye e latelago: 45
“‘**Molao wa Taolo ya Matlotlo a Bohle**’ o ra gore Molao wa Taolo ya Matlotlo a Bohle, 1999, (Molao wa 1 wa 1999);”;
- (h) ka go bea legatong go tlhalošo ya “**mobu wa ka godimo**” ya tlhalošo ye e latelago: 50
“‘**mobu wa ka godimo**’ o ra gore mobu wa ka godimo bjalo ka ge go hlalošitšwe ka mo go karolo 1 ya [Molao wa Diminerale] Molao wa Tlhabollo ya Minerale le Petroleamo;”;

Go bea legatong ga karolo 104 ya Molao 29 wa 1996

31. Karolo ye e latelago ka gona e tšeelwa legato ke karolo 104 ya Molaomogolo:

“**Maikarabelo a selegae a Mmušo**

104. Molao wa Maikarabelo a Semolao a Mmušo, 1957 (Molao wa bo-20 wa 1957), o šoma ka diphetogo tšeo di nyakago ka seemo, go ya ka 55

Act No. 74, 2008 MINE HEALTH AND SAFETY AMENDMENT ACT, 2008

Inspectorate, and in such application a reference in that Act to the *Minister* of a department concerned must be construed as a reference to the *Chief Inspector of Mines*.”.

Amendment of Schedule 4 to Act 29 of 1996, as amended by section 46 of Act 72 of 1997 5

32. Schedule 4 to the principal Act is hereby amended by the addition of the following item:

“7. The Mine Health and Safety Inspectorate continues to exist as a juristic person and the *Chief Inspector of Mines* is its accounting authority.”.

Insertion of Schedule 8 in Act 29 of 1996 10

33. The following Schedule is hereby inserted in the principal Act after Schedule 7:

SCHEDULE 8

Table 1

MAXIMUM FINES OR PERIOD OF IMPRISONMENT THAT CAN BE IMPOSED FOR OFFENCES 15

Column 1 Section under which convicted	Column 2 Maximum fine and term of imprisonment	
<u>2</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	20
<u>2A</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>3</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>5</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>6</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>7(1)</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	25
<u>10</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>11</u>	<u>R1 000 000 or 5 yrs imprisonment</u>	
<u>15</u>	<u>R500 000 or five years imprisonment</u>	
<u>16</u>	<u>R500 000 or five years imprisonment</u>	
<u>21(1), (3) or (4)</u>	<u>R500 000 or five years imprisonment</u>	30
<u>22</u>	<u>R200 000 or two years imprisonment</u>	
<u>24</u>	<u>R500 000 or five years imprisonment</u>	
<u>52</u>	<u>R200 000 or two years imprisonment</u>	
<u>53</u>	<u>R200 000 or two years imprisonment</u>	
<u>62</u>	<u>R200 000 or two years imprisonment</u>	35
<u>66(3)</u>	<u>R200 000 or two years imprisonment</u>	
<u>70</u>	<u>R200 000 or two years imprisonment</u>	
<u>71</u>	<u>R200 000 or two years imprisonment</u>	
<u>84</u>	<u>R200 000 or two years imprisonment</u>	

MOLAO-PHETOŠWA WA MAPHELO LE
POLOKEGO MEEPONG, 2008

Act No. 74, 2008

Bohlahlobi bja Maphelo le Polokego Meepong, le gona ka go tšhomišo ye bjalo tsebišo ka gare ga Molao woo go Tona ya kgoro yeo e amegago e swanetše go hlathollwa e lebišitšwe go Mohlahlobimogolo wa Meepo.”.

Phetošo ya Šetule 4 ya Molao 29 wa 1996, bjalo ka ge e fetošitšwe ke karolo 46 ya Molao 72 wa 1997

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32. Šetule 4 ya Molaomogolo ka gona e ya fetošwa ka koketšo ya karolwana ye e latelago:

“(7) Bohlahlobi bja Maphelo le Polokego ya Meepong bo tla tšwela pele go ba gona bjalo ka mothosemolao le gona Mohlahlobi Mogolo wa Meepo ke bolaodi hja tšhupaletlotlo ya bjona.

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Go tsenywa ga Šetule 8 ka mo go Molao 29 wa 1996

33. Šetule yc e latelago ka gona, e tsenywa ka mo go Molaomogolo ka morago ga Šetule 7:

ŠETULE 8**Lenaneothlopho 1**

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DITEFIŠO TŠA GODIMO GOBA SEBAKA SA GO IŠWA KGOLEGONG SEO SE KA GAPELETŠWAGO GO MELATO

Kholomo 1 Karolo yeo o bonwago molato ka fase ga yona	Kholomo 2 Tefišo ya godimo le sebaka sa go išwa kgolegong	
<u>2</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	20
<u>2A</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	
<u>3</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	25
<u>5</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	
<u>6</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	
<u>7(1)</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	
<u>10</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	
<u>11</u>	R1 000 000 goba Mengwaga e 5 ka kgolegong	30
<u>15</u>	R500 000 goba Mengwaga e 5 ka kgolegong	
<u>16</u>	R500 000 goba mengwaga e 5 kgolegong	
<u>21 (1), (3) goba (4)</u>	R500 000 goba mengwaga e 5 kgolegong	
<u>22</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>24</u>	R500 000 goba mengwaga e 5 kgolegong	35
<u>52</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>53</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>62</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>66 (3)</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>70</u>	R200 000 goba mengwaga e 2 kgolegong	40
<u>71</u>	R200 000 goba mengwaga e 2 kgolegong	
<u>84</u>	R200 000 goba mengwaga e 2 kgolegong	

Column 1 Section under which convicted	Column 2 Maximum fine and term of imprisonment
85	R200 000 or two years imprisonment
87, 88, 89, 90	R50 000 or six months imprisonment
88	R300 000 or three years imprisonment

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TABLE 2

**MAXIMUM FINES THAT CAN BE IMPOSED FOR
CONTRAVENTIONS CONTEMPLATED IN SECTION 55B**

The maximum fine that can be imposed in terms of section 55B may not exceed an amount of R1 000 000.”.
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Amendment of certain expressions in Act 29 of 1996

34. (1) The principal Act is hereby amended by the substitution for the expression “permanent committee”, wherever it occurs, of an expression “*committee*” or “*committees*”.

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(2) The principal Act is hereby amended by the substitution for the expression “*Minerals Act*” wherever it occurs, of the expression “*Mineral and Petroleum Resources Development Act*”.

Short title and commencement

35. This Act is called the Mine Health and Safety Amendment Act, 2008, and takes effect on a date to be determined by the President by proclamation in the *Gazette*.

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MOLAO-PHETOŠWA WA MAPHELO LE
POLOKEGO MEEPONG, 2008

Act No. 74, 2008

Kholomo 1 Karolo yeo o bonwago molato ka fase ga yona	Kholomo 2 Tefišo ya godimo le sebaka sa go išwa kgolegong	
85	R200 000 goba mengwaga e 2 kgolegong	5
87, 88, 89, 90	R50 000 goba dikgwedi tše 6 kgolegong	
88	R300 000 goba mengwaga e 3 kgolegong	

LENANEOTLHOPHO LA 2

DITEFIŠO TŠA GODIMO TŠEO DI KA GAPELETŠWAGO GO DITLOLO TŠA
MOLAO TŠEO GO AKANTŠWEGO KA TŠONA KA MO GO KAROLO 55B 10

Tefišo ya godimo yeo e ka gapcletšwago go ya ka karolo 55B e ka no se fete palo ya R1 000 000.”.
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Phetošo ya dipolelwana tše itšeng ka mo go Molao 29 wa 1996

34. (1) Molaomogolo ka gona o fetošwa ke go bea legatong go polelwana “komiti ya sa ruri”, kae le kae mo go tšwelelago, polelwana “komiti” goba “dikomiti”. 15

(2) Molaomogolo ka gona o fetošwa ka go bea legatong ge go bolelwa ka “Molao wa Diminerale” kae le kae mo go tšwelelago, polelwana “Molao wa Tlhabollo ya Methopo ya Minerale le Petroleamo”.

Thaetlele e Kopana le tšhimologo

35. Molao wo o bitšwa Molao-Phetošwa wa Maphelo le Polokego Meepong, 2008, 20 gomme o tla thoma go šoma ka letšatšikgwedi leo le tla go bewa ke Mopresidente ka tsebišo ka gare ga *Kuranta ya Mmušo*.