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REPUBLIC OF SOUTH AFRICA
REPHABLIKI YA AFRIKA BORWA

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Kaapstad,

THE PRESIDENCY

No. 55 27 January 2014

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

Act No. 46 of 2013: Broad-Based Black Economic Empowerment Amendment Act, 2013

MOPRESIDENTE

No. 55 27 January 2014

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

No 46 wa 2013: Molao Phetolo wa Katoloso ya Nonotsha ya Ikonomi ya Bantsho wa, 2013



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GENERAL EXPLANATORY NOTE:

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

*(English text signed by the President)
(Assented to 23 January 2014)*

ACT

To amend the Broad-Based Black Economic Empowerment Act, 2003, so as to insert certain definitions and to amend others; to clarify interpretation; to provide for the remuneration of Council members; to promote compliance by organs of state and public entities and to strengthen the evaluation and monitoring of compliance; to include the creation of incentive schemes to support black owned and managed enterprises in the strategy for broad-based black economic empowerment; to provide for the cancellation of a contract or authorisation; to establish the Broad-Based Black Economic Empowerment Commission to deal with compliance of broad-based black economic empowerment; to provide for offences and penalties; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 53 of 2003

1. Section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion before the definition of “black people” of the following definitions:

“**B-BBEE initiative**’ means any transaction, practice, scheme or other initiative which affects compliance with this Act or any other law promoting broad-based black economic empowerment; 10

“**B-BBEE verification professional**’ means a person who performs any work in connection with rating the status of enterprises in terms of broad-based black economic empowerment compliance on the authority of, or for a rating agency accredited by, a B-BBEE Verification Professional Regulator; 15

“**B-BBEE Verification Professional Regulator**’ means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals;”;

(b) by the substitution for the definition of “black people” of the following definition: 20

“**black people**’ is a generic term which means Africans, Coloureds and Indians—

(a) who are citizens of the Republic of South Africa by birth or descent; or

PAPETLANA YA DINTLHA TSA TLHALOSO:

[] Mafoko a a kwadilweng ka bontsho mo masakeng a bontsha mafoko a tlositsweng mo diphetogong tsa ga jaana.

_____ Mafoko a a thadilweng fa tlase ka mola a bontsha mafoko a tsentsweng mo diphetogong tsa ga jaana..

(English text signed by the President)
(Assented to 23 January 2014)

MOLAO

Go fetola Molao wa Katoloso ya go Nonotsha Ikonomi ya Bantsho wa 2003, go akaretsa ditlhaloso tse di rileng le go fetola tse dingwe; go totobatsa tlhaloso; go tlamela ka moputso wa maloko a Khansele; go godisa kobamelo ya ditheo tsa puso le go matlafatsa tshakatsheko le tlhatlhobo ya kobamelo, go akaretsa go tlhamiwa ga maano a thotloetso go thusa dikgwebo tsa bantsho ka leano la katoloso ya go nonotsha ikonomi ya bantsho; go tlamela ka matla a go phimola kontraka kgotsa taolo; go tlhama Khomišene ya Katoloso ya go Nonotsha Ikonomi ya Bantsho go lebagana le kobamelo ya leano la katoloso ya nonotsho ya ikonomi ya bantsho; go tlamela Boto e Ikemetseng ya Taolo ya Boruni ka matla a go laola ditheo tsa katlanegiso; go tlamela ka ditatofatso le dikotlhao; le go tlamela ka merero e e maleba.

A O ATLENEGISIWE ke Palamente ya Repaboliki ya Aforika Borwa, ka mokgwa o o latelang:—

Go fetolwa ga karolo 1 ya Molao 53 wa 2003

1. Karolo 1 ya Molao wa Katoloso ya go Nonotsha Ikonomi ya Bantsho wa 2003 (yo o tlhalosiwang fano jaaka Molao wa pele), wa fetolwa—

(a) ka go kwala pele ga tlhaloso ya “batho bantsho” ditlhaloso tse di latelang:

“**‘togamaano ya B-BBEE’** go tlhalosa kgwebelano ngwe le ngwe, tsamaiso, matsapa kgotsa leano lengwe le le amang kobamelo ya Molao o, kgotsa molao mongwe le mongwe yo o godisang matlafatso ya katoloso ya nonotsho ya ikonomi ya bantsho.”;

‘motlhankedi wa netefaletso wa dikgwebo tsa B-BBEE’ go bolela motho yo o dirang tiro ngwe le ngwe e e lebaganeng le netefaletso ya maemo a dikgwebo go ya ka netefaletso ya katoloso ya nonotsho ya ikonomi ya bantsho ya taolo ya, kgotsa e e netefaditsweng ke ajensi ya netefaletso ke, Morulaganyi wa Bothati jwa Netefaletso ya B-BBBEE; **‘Bothati jwa Netefaletso ya Borulaganyi jwa Dikgwebo tsa B-BBEE’** go bolela mokgatho yo o tlhomilweng ke Tona boemong jwa netefaletso ya diajensi kgotsa katlanegiso ya netefaletso ya bothati jwa B-BBEE.”

(b) ka go kwala boemong jwa tlhaloso ya “batho bantsho” tlhaloso e e latelang:

“**‘batho bantsho’** ke lereo le le tlwaelegileng le le tlhalosang maAforika, Bammala, le Maindia—

(a) bao e leng baagi ba Repaboliki ya Aforika Borwa ka go tsalwa; kgotsa ka lotso; kgotsa

- (b) who became citizens of the Republic of South Africa by naturalisation—
- (i) before 27 April 1994; or
 - (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;”;
- (c) by the substitution for the definition of “broad-based black economic empowerment” of the following definition:
- “**‘broad-based black economic empowerment’** means the viable economic empowerment of all black people [including], in particular women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio-economic strategies that include, but are not limited to—
- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
 - (b) facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
 - (c) human resource and skills development;
 - (d) achieving equitable representation in all occupational categories and levels in the workforce;
 - (e) preferential procurement from enterprises that are owned or managed by black people; and
 - (f) investment in enterprises that are owned or managed by black people;”;
- (d) by the insertion after the definition of “broad-based black economic empowerment” of the following definition:
- “**‘Commission’** means the Broad-Based Black Economic Empowerment Commission established by section 13B;”;
- (e) by the insertion after the definition of “Council ” of the following definitions:
- “**‘Department’** means the Department of Trade and Industry;
- ‘fronting practice’** means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act, including but not limited to practices in connection with a B-BBEE initiative—
- (a) in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;
 - (b) in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation;
 - (c) involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
 - (d) involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which—
 - (i) there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
 - (ii) the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
 - (iii) the terms and conditions were not negotiated at arm’s length and on a fair and reasonable basis;
- ‘knowing’, ‘knowingly’ or ‘knows’,** when used with respect to a person, and in relation to a particular matter, means that the person either—

- (b) bao e leng baagi ba Repaboliki ya Aferika Borwa ka go dula semolao—
- (i) pele ga 27 Moranang 1994; kgotsa
 - (ii) ka di kgotsa morago ga 27 Moranang 1994 le bao ne ba le tshwanelo ya go amogela boagi ka tlholego pele ga letlha leo;”;
- (c) ka go kwala boemong jwa tlhaloso ya “katoloso ya nonotsho ya ikonomi ya bantsho” ka tlhaloso e e latelang:
- “**matlafatso ya katoloso ya nonotsho ya ikonomi ya bantsho**’ go bolela ntshetsopele ya katoloso ya ikonomi ya batho bantsho botlhe [**go akarediwa**], segolo jaang bomme, badiri, bašwa, batho ba bakgwetlhegileng le ba ba dulang mo metse magae, ka maano a a farologaneng a kgolagano ya katlatleloloago le moruo, ao a akaretsang mme a sa lebaganyang fela le—
- (a) koketso ya palo ya bolaodi le boeteledipele le dithoto tsa ntshetsopele ya batho bantsho;
 - (b) ketelopele ya go nna mongwa kgwebo le molaodi le dithoto tsa tlhagiso ke baagi, badiri, dikgwebo-kgolagano le dikgwebo dingwe tsa kopanelo;
 - (c) tlhabololo ya badiri le bokgoni;
 - (d) go bona kemedi e e lekanang mo magatong otlhe a tiro le maemo a badiri;
 - (e) go aba ditirelo ka go tlhopa mabaka go tswa go dikgwebo tsa bantsho kgotsa tse di laolwang ke bantsho, go akarediwa kgodiso ya kabelo ya dithoto tsa kgaolo; le
 - (f) go dira peeletsa mo dikgwebong tsa bantsho kgotsa dikgwebo tse di laolwang ke bantsho;”;
- (d) ka go kwala morago ga tlhaloso ya “Khansale” tlhaloso e e latelang: **‘Khomišene’** go bolela Khomišene ya Katoloso ya Nonotsho ya Ikonomi ya Bantsho e e tlhomilweng go ya ka krolo 13B;”;
- (e) ka go kwala morago ga tlhaloso ya “Khansale” tlhaloso e e latelang: **‘Lefapha’** go bolela Lefapha la Kgwebo le Indaseteri; **‘go itira motho yo monngwe’** go bolela kgwebelano, thulaganyo kgotsa tiro nngwe kgotsa e e nyatsang ka tlhamalalo kgotsa e se ka tlhamalalo kgotsa e e kgoreletsang diphitlhelelo tsa maikaelelo a Molao o, kgotsa tiragatso ya taelo ngwe le ngwe ya Molao o, go akarediwa mme eseng fela mekgwa e e lebaganeng le Togamaano ya B-BBEE—
- (a) fa bantsho ba ba thapilweng ke kgwebo ba kgorelediwa kgotsa ba thibelwa go tsaya karolo mo ditirong tse di bothokwa tsa kgwebo;
 - (b) fa bantsho ba sa amogele tekanyetso ya tshwanelo ya moruo o o tlhalositsweng mo di tokomaneng tsa semolao go tsamaelana le seemo sa kgwebo go ya ka togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho;
 - (c) kamano ya kgolagano ya semolao le motho montsho ka maikaelelo a gore kgwebo eo e fitlhelela seemo se se rileng sa togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho ntle le go abela motho yoo amegang ditshwanelo tse di maleba go tsamaelana le maemo kgotsa tiro ya motho montsho yoo; Kgotsa
 - (d) kamano e e amang tumelano le kgwebo e ngwe ka maikaelelo a go fitlhelela kgotsa matlafatsa seemo sa katoloso ya nonotsho ya ikonomi ya bantsho ka fa tlase ga mabaka a a latelang—
 - (i) fa go na le maparego a masisi, a sephiri kgotsa a totobetse ka ga lotso la batlamedi, baabi ba ditirelo, badirisi kgotsa bareki;
 - (ii) fa tlhokomelo ya tsamaiso kgwebo e bonagala e sa lolama, fa go elwa tlhoko di diriswa tse di leng teng;
 - (iii) fa dipeelo le mabaka a ne a sa tlhaloswa ka botlalo, ka mokgwa wa tolamo le nnete;
- ‘ka kitso’, ‘ka go itse’ kgotsa ‘wa itse’,** e dirisiwa mabapi le motho, le mabapi le morero o o rileng, go bolela fa motho yoo a—

- (a) had actual knowledge of that matter; or
- (b) was in a position in which the person reasonably ought to have—
 - (i) had actual knowledge;
 - (ii) investigated the matter to an extent that would have provided the person with actual knowledge; or
 - (iii) taken other measures which, if taken, would reasonably be expected to have provided the person with actual knowledge of the matter;
- (f) by the insertion after the definition of “organ of state” of the following definition:
“‘premises’ includes land, or any building, structure, vehicle, ship, boat, vessel, aircraft or container;”; and
- (g) by the insertion after the definition of “public entity” of the following definition:
“‘sector charters’ means sectoral transformation charters referred to in section 9;”.

Amendment of section 2 of Act 53 of 2003

2. Section 2 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (f) of the following paragraph:
“(f) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; **[and]**”;
 - (b) by the substitution for paragraph (g) of the following paragraph:
“(g) promoting access to finance for black **[economic empowerment] start-ups, small, medium and micro enterprises, co-operatives and black entrepreneurs, including those in the informal business sector; and**”; and
 - (c) by the addition of the following paragraph:
“(h) increasing effective economic participation and black owned and managed enterprises, including small, medium and micro enterprises and co-operatives and enhancing their access to financial and non-financial support.”.

Amendment of section 3 of Act 53 of 2003

3. Section 3 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
“(a) to give effect to its objectives and purposes; and”;
 - (b) by the addition of the following subsection, the current section becoming subsection (1):
“(2) In the event of any conflict between this Act and any other law in force immediately prior to the date of commencement of the Broad-Based Black Economic Empowerment Amendment Act, 2013, this Act prevails if the conflict specifically relates to a matter dealt with in this Act.”.

Substitution of section 8 of Act 53 of 2003

4. The following section is hereby substituted for section 8 of the principal Act:
- “Remuneration and reimbursement of expenses**
- 8.** Council members **[will not] must** be remunerated for their services, **but will** in accordance with the provisions of the National Treasury Regulations, and must be reimbursed for expenses incurred by them in carrying out their duties, as determined by the Minister, with the concurrence of the Minister of Finance.”.

- (a) na le kitso ka ga morero oo; kgotsa
- (b) ka ntlha ya maemo a gagwe a tshwanetse go bo a itse—
- (i) o ne a na le kitso e totobetseng;
- (ii) dipatlisiso tsa morero di ne di tla tlamela motho yo o ka kitso e totobetseng; kgotsa
- (iii) go tsaya dikgato dingwe, tse fa di ka bo di tseilwe, di ka bo di tlametse motho yoo ka kitso e e totobetseng ka ga morero o;”;
- (f) ka go kwala morago ga tlhaloso ya “setheo sa puso” tlhaloso e e latelang: “**‘lefel’** go akaretsa lefatshe, kgotsa kago ngwe le ngwe, sebopego, koloi, sekepe, mokoro, sefofane kgotsa motemo;” le
- (g) ka go kwala morago ga tlhaloso ya “setheo sa bosetšhaba” tlhaloso e e latelang: “**‘makala a ditšhata’** go bolela tlhabololo ya makala a ditšhata tse di tlhalositsweng mo karolo 9 ya Molao o;”.

Go fetolwa ga karolo 2 ya Molao 53 wa 2003

2. Karolo 2 ya Molao wa pele ya fetolwa—

- (a) ka go kwala boemong jwa temana (f) temana e e latelang: “(f) matlafatso ya baagi ba metse magae le ba dikgaolo ka go netefatsa phitlhelelo ya ditiro tsa ikonomi, lefatshe, mafaratlhatlha, bong le bokgoni; [le]”;
- (b) ka go kwala mo temana (g) temana e e latelang: “(g) go godisa phitlhelelo ya matlole ke batho bantsho [nonotsho ya ikonomi] thuso ya go simolola kgwebo, dikgwebo potlana, dikgwebo tse di golang le dikgwebo tse dikgolo, dikgwebo-tlhakanelo le ba simolodi ba dikgwebo tsa bantsho, go akarediwa le dikgwebo tse di sa kwadisiwang; le”;
- (c) ka go tlaleletsa ka temana e e latelang: “(h) go oketsa botswerere jwa seabe sa ikonomi le dikgwebo tsa bantsho le taolo ya tsona, go akarediwa dikgwebo potlana, dikgwebo tse golang le dikgwebo tse dikgolo, dikgwebo-tlhakanelo le matlafatso ya bokgoni jwa tsona go fitlhelela thuso ya matlole le e eseng ya matlole.”.

Go fetolwa ga karolo 3 ya Molao 53 wa 2003

3. Karolo 3 ya Molao wa pele ya fetolwa—

- (a) ka go kwala boemong jwa temana (a) ka temana e e latelang: “(a) go diragatsa maikaelelo le le mabaka a yona; le”;
- (b) ka go tlaleletsa ka karolotlaleletso e e latelang, karolo ya ga jaana e tl nna karolotlaleletso (1): “(2) Fa go ka nna le kgotlhang ngwe le ngwe gare ga Molao o le molao mongwe le mongwe yo o dirisiwang, go tla dirisiwa Molao o, go fitlhela pele ga letlha la tshimologo ya Molao Phetolo wa Katoloso ya Nonotsho ya Ikonomi ya Bantsho wa 2013, go tla dirisiwa Molao ono, fa kgotlhang e ama morero yo o tlhalositsweng mo Molaong ono.”.

Go tsengwa karolo 8 ya Molao 53 wa 2003

4. Karolo e e latelang e kwalwa boemong jwa karolo 8 ya Molao wa pele:

“Meputso le tuelo ya ditshenyegelo

8. Maloko a khansela [ga a kitla] a tshwanetse go duelelwa ditirelo tsa bona go tsamaelana le ditaelo tsa Melawana ya Matlole a Bosetšhaba le [, mme ba] tshwanetse go duelelwa ditshenyegelo tsa bona tse di diragetseng fa ba ne ba dira tiro ya bona, go ya ka tlhomamiso ya Tona le tumelano ya Tona ya Matlole.”.

Amendment of section 9 of Act 53 of 2003

5. Section 9 of the principal Act is hereby amended—

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

“(e) guidelines for stakeholders in the relevant sectors of the economy to draw up transformation charters and codes of good practice for their sector; and”;

(b) by the addition of the following subsections:

“(6) If requested to do so, the Minister may by notice in the *Gazette* permit organs of state or public entities to specify qualification criteria for procurement and other economic activities which exceed those set by the Minister in terms of subsection (1).

(7) A code of good practice remains in effect until amended, replaced or repealed.”.

Amendment of section 10 of Act 53 of 2003

6. The following section is hereby substituted for section 10 of the principal Act:

“Status of codes of good practice

10. (1) Every organ of state and public entity must [**take into account and, as far as is reasonably possible,**] apply any relevant code of good practice issued in terms of this Act in—

(a) determining qualification criteria for the issuing of licences, concessions or other authorisations in respect of economic activity in terms of any law;

(b) developing and implementing a preferential procurement policy;

(c) determining qualification criteria for the sale of state-owned enterprises; [**and**]

(d) developing criteria for entering into partnerships with the private sector; and

(e) determining criteria for the awarding of incentives, grants and investment schemes in support of broad-based black economic empowerment.

(2) (a) The Minister may, after consultation with the relevant organ of state or public entity, exempt the organ of state or public entity from a requirement contained in subsection (1) or allow a deviation therefrom if particular objectively verifiable facts or circumstances applicable to the organ of state or public entity necessitate an exemption or deviation.

(b) The Minister must publish the notice of exemption or deviation in the *Gazette*.

(3) Subject to section 9(6), an enterprise in a sector in respect of which the Minister has issued a sector code of good practice in terms of section 9, may only be measured for compliance with the requirements of broad-based black economic empowerment in accordance with that code.

(4) Enterprises operating in a sector in respect of which the Minister has issued a sector code of good practice in terms of section 9, must report annually on their compliance with broad-based black economic empowerment to the sector council which may have been established for that sector.”.

Amendment of section 11 of Act 53 of 2003

7. Section 11 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) develop a plan for financing broad-based black economic empowerment, including the creation of incentive schemes to support effective black owned and managed enterprises;”.

Go fetolwa ga karolo 9 ya Molao 53 wa 2003**5. Karolo 9 ya Molao wa pele ya fetolwa—**

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

“(e) dikaelo boemong jwa batsayakarolo ba makala a a maleba a moruo go kwala ditshata tsa tlhabololo le dikhoutu tsa tsamaiso ya makala ka tolamo boemong jwa makala a tsona; le”; le 5

(b) ka go tlaletsa ka dikarotlaleletso tse di latelang:

“(6) Fa a kopiwa go dira jaalo, Tona e ka letlelela ditheo tsa puso kgotsa ditheo tsa bosetshaba go tlhalosa dintlha tsa kabo ya ditirelo le ditirelo tse dingwe tsa ikonomi tse di gaisang tse di tlhalositsweng ke Tona mo karotlaleletso (1). 10

(7) Khoutu ya maitshwaro a siameng e tla dula e le tirisong go fitlhela e fetolwa, go kwadiwa e ngwe kgotsa e phimolwa.”.

Go fetolwa ga karolo 10 ya Molao 53 wa 2003

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6. Karolo e e latelang e kwadiwa boemong jwa karotlaleletso 10 ya Molao wa pele:**“Maemo a dikhoutu tsa maitshwaro a siameng**

10. (1) Setheo sengwe le sengwe sa puso le setheo sa bosetshaba se tshwanetse go ela tlhoko go ya ka moo go kgonagalang, tiragatso ya khoutu ngwe le ngwe e e kwadilweng go ya ka Molao o— 20

(a) go tlhomamisa dintlha tsa kamogelo boemong jwa kabo ya dilaesense, ditumelano tse di kgethegileng kgotsa tetla ngwe le ngwe mabapi le ditiro tsa moruo go ya ka molao mongwe le mongwe;

(b) go tlhama le go diragatsa pholisi ya kamogelo ya ditirelo ka mabaka;

(c) go tlhomamisa dintlha tsa kamogelo boemong jwa thekiso ya dikgwebo tsa puso; [le] 25

(d) go tlhama mokgwa wa go dira dikgolagano le ditheo tsa poraefete; le

(e) tlhomamiso ya mokgwa wa kabo ya dithotloetso, ketletso ya matlole, dikema tsa dipeeletso mabapi le matlafatso ya katoloso ya nonotsho ya ikonomi ya batsho. 30

(2) (a) Tona, morago ga go buisana le dithaeo tse di maleba tsa puso kgotsa dikgwebo tsa baagi, e ka iletsa setheo sa puso kgotsa kgwebo ya baagi go obamela tlhokego ya karotlaleletso (1) kgotsa go tetla ya go letlelela setheo go ikgatholosa dintlha tsa netefaletso kgotsa mabaka a amang setheo sa puso kgotsa kgwebo ya baagi e e tlhokang go ilediwa kgotsa go letlelelwa gore se ikgatholose mabaka. 35

(b) Tona e tshwanetse go phatlalatsa kitsiso ya kiletso kgotsa tetla ya go ikgatholosa mo Lekwalodikgang la Puso.”

(3) Go tsamaelana le karolo 9 (6), kgwebo ya lekala leo Tona e ntshitseng khoutu ya lekala ya maitshwaro a siameng go ya ka karolo 9, le tshwanetse fela go tlhatlhabiwa boemong jwa kobamelo ya ditlhokego tsa matlafatso ya katoloso ya nonotsho ya ikonomi ya bantsho go tsamaelana le khoutu eo. 40

(4) Dikgwebo tse di dirang mo lekaleng leo Tona e ntshitseng khoutu ya lekala go ya ka karolo 9, le tshwanetse go begela lekala la khansele ya lona ngwaga le ngwaga ka ga seemo sa bona sa kobamelo ya matlafatso ya katoloso ya nonotsho ya ikonomi ya bantsho.”. 45

Go fetolwa ga karolo 11 ya Molao 53 wa 2003**7. Karolo 11 ya Molao wa pele e fetolwa ka go tlaletsa ka karotlaleletso (2) boemong jwa temana (b) ya temana e e latelang:**

“(b) go tlhama polane ya matlole ya katoloso ya nonotsho ya ikonomi ya batsho, go akarediwa thebolo ya dikema tsa thotloetso go thusa dikgwebo tse di dirang tsa bantsho le tse di laolwang ke bantsho;”.

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Insertion of sections 13A, 13B, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O and 13P in Act 53 of 2003

8. The following sections are hereby inserted in the principal Act after section 13:

“Cancellation of contract or authorisation

13A. Any contract or authorisation awarded on account of false information knowingly furnished by or on behalf of an enterprise in respect of its broad-based black economic empowerment status, may be cancelled by the organ of state or public entity without prejudice to any other remedies that the organ of state or public entity may have. 5

Establishment and status of Broad-Based Black Economic Empowerment Commission 10

13B. (1) The Broad-Based Black Economic Empowerment Commission is hereby established as an entity within the administration of the Department. 15

(2) The Commission is headed by a Commissioner appointed by the Minister. 15

(3) The Commission—

- (a) has jurisdiction throughout the Republic;
- (b) must be impartial and perform its functions without fear, favour or prejudice; and 20
- (c) must exercise the functions assigned to it in terms of this Act or any other law—

(i) in the most cost-effective and efficient manner; and

(ii) in accordance with the values and principles mentioned in section 195 of the Constitution. 25

(4) The Minister may issue directives of a general nature, which are consistent with this Act, to the Commission concerning the performance of its functions and the Commission must comply with any such directive.

(5) Each organ of state must assist the Commission to exercise its authority and perform its functions effectively. 30

Appointment of Commissioner and Acting Commissioner

13C. (1) (a) The Minister must appoint a person with suitable qualifications and experience to be the Commissioner for a term of not more than five years. 35

(b) When appointing the Commissioner, the Minister must consult the relevant Portfolio Committee of the National Assembly and the relevant Select Committee of the National Council of Provinces.

(2) The Minister may re-appoint a person as Commissioner at the expiry of that person’s term of office for one additional term of office.

(3) The Commissioner, who is the Chief Executive Officer of the Commission, is responsible for the general administration of the Commission and for carrying out any functions assigned to it in terms of this Act, and must— 40

(a) perform the functions that are conferred on the Commissioner by or in terms of this Act; 45

(b) manage and direct the activities of the Commission; and

(c) supervise the Commission’s staff.

(4) The Minister must, in consultation with the Minister of Finance, determine the Commissioner’s remuneration, allowances, benefits and other terms and conditions of employment. 50

(5) The Commissioner may, on three months’ written notice addressed to the Minister, resign as Commissioner.

(6) The Minister may remove the Commissioner from office on account of—

(a) serious misconduct; 55

Go kwalwa ga dikarolo 13A, 13B, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O le 13P mo Molao 53 wa 2003

8. Dikarolo tse di latelang di kwadiwa mo Molaong wa pele morago ga karolo 13:

“Go phimolwa ga Kontraka kgotsa taelo

13A. Kontraka ngwe le ngwe kgotsa taelo e e ntshitsweng ka ntlha ya tshedimosetso e e fosagetseng ka bomo ke kgwebo kgotsa boemong jwa kgwebo mabapi le seemo sa yona saa katoloso ya nonotsho ya ikonomi ya bantsho e ka gogelwa morago ke setheo sa puso kgotsa setheo sa bosetšhaba ntle le kgethololo ya tshwepe epe kgatlhanong le setheo sa puso kgotsa setheo sa bosetšhaba.

Go tlhamiwa ga Khomišene le maemo a Katoloso ya Nonotsho ya Ikonomi ya Bantsho

13B. (1) Khomišene ya Katoloso ya Nonotsho ya Ikonomi ya Bantsho e tlhamiwa jaaka setheo sa kgwebelano ka fa tlase ga tsamaiso ya Lefapha.

(2) Khomišene e tla etelwapele ke Mokomišenara yo o thapilweng ke Tona.

(3) Khomišene—

(a) e nale matla go ralala Rephaboliki ka bophara;

(b) gay a tshwanela go kgetha matlhakore, e bile e tshwanetse go dira tiro ya yona ntle le tshabo, lonya kgotsa kgethololo; gape

(c) e tshwanetse go dira ditiro tse e diabetsweng go ya ka Molao o, kgotsa molao mongwe le mongwe—

(i) ka manontlhotlho le botswerere; le

(ii) go tsamaelana botho le mokgwa o o tlhalositsweng mo karolo 195 ya Molaotheo.

(4) Tona e ka tlhagisa ditaelo tsa mokgwa wa kakaretso, tse di tsamaelanang le Molao o, tse di tshwanetseng go diriwa ke Khomišene fa e dira tiro ya yona mme Khomišene e tshwanetse go itepatepanya le taelo ngwe le ngwe ya mofuta oo.

(5) Setheo sengwe le sengwe sa puso se tshwanetse go thusa Khomišene go diragatsa matla a yona le go dira tiro ya yona ka botswerere.

Go thapiwa ga Mokomišenara le Motlatsa Mokomišenara

13C. (1) (a) Tona e tshwanetse go thapa motho yo o na leng dirutwa le maitemogolo a a maleba jaaka Mokomišenara go dira paka e e sa feteng dingwaga di le tlhano.

(b) Fa go thapiwa Mokomišenara le Motlatsa Mokomišenara, Tona e tshwanetse go ikgolaganya le Komiti ya Tiro e e maleba ya Kokoano ya Bosetšhaba le Komiti ya Patlisiso ya Khansele ya Bosetšhaba ya Diporofense.

(2) Tona e ka thapa gape motho yo o, go dira paka e nngwe ya tlaleletso gape, jaaka Mokomišenara fa paka ya gagwe ya ntlha e fedile.

(3) Mokomišenara ke Motlhankedi-Kakaretso Mogolo wa Khomišene, gape ke yena yo o rweleng maikarabelo a tsamaiso ka kakaretso ya Khomišene le tiragatso ta tiro ngwe le ngwe ya yona go ya ka Molao o, e bile o tshwanetse—

(a) go dira ditiro tse di abetsweng Khomišene ka Molao kgotsa go ya ka Molao o;

(b) go laola le go ntshetsapele ditiro tsa Khomišene; le

(c) go laola badiri ba Khomišene .

(4) Go ya ka dipuisano gare ga Tona le Tona ya Matlole, Tona e tshwanetse go tlhomamisa mopotso wa Mokomišenara, allawanse, ditshwanelo , le dipeelo le mabaka a mangwe a tiro.

(5) Mokomišenara a ka rola marapo jaaka Mokomišenara ka go kwalela Tona kitsiso mo nakong ya dikgwedi di le tharo.

(6) Tona e ka tlogedisa Mokomišenara tiro ka ntlha ya—

(a) maitshwaro a sa siamang a masisi;

- (b) permanent incapacity;
 - (c) engaging in any activity that may undermine the integrity or standing of the Commission; or
 - (d) any other legitimate ground that justifies the removal of the Commissioner.
- (7) If the Commissioner and the Deputy Commissioner are for any reason at the same time unable to perform their functions assigned to them in terms of this Act, the Minister may, on such conditions as the Minister may determine, appoint a suitable person as Acting Commissioner to perform the functions of the Commissioner.

Appointment of Deputy Commissioner and staff of Commission

- 13D.** (1) The Commissioner, in consultation with the Minister, must appoint a person with suitable qualifications and experience to be the Deputy Commissioner for a term of five years.
- (2) Section 13C(2), (4), (5) and (6) apply to the Deputy Commissioner, read with such changes as are required by the context.
- (3) The Deputy Commissioner must perform the functions of the Commissioner whenever—
- (a) the Commissioner is unable for any reason to perform those functions; or
 - (b) the office of Commissioner is vacant.
- (4) The Commissioner may—
- (a) appoint staff members with suitable qualifications and experience, or contract with other persons, to assist the Commission in carrying out its functions; and
 - (b) in consultation with the Minister and the Minister of Finance, determine the remuneration, allowances, benefits and other terms and conditions of appointment of each member of the staff.

Finances of Commission

- 13E.** (1) The Commission is financed from—
- (a) money that is appropriated by Parliament for the Commission; and
 - (b) money lawfully received from any other source.
- (2) The Auditor-General must audit the Commission’s financial records every year.

Functions of Commission

- 13F.** (1) The functions of the Commission are—
- (a) to oversee, supervise and promote adherence with this Act in the interest of the public;
 - (b) to strengthen and foster collaboration between the public and private sector in order to promote and safeguard the objectives of broad-based black economic empowerment;
 - (c) to receive complaints relating to broad-based black economic empowerment in accordance with the provisions of this Act;
 - (d) to investigate, either of its own initiative or in response to complaints received, any matter concerning broad-based black economic empowerment;
 - (e) to promote advocacy, access to opportunities and educational programmes and initiatives of broad-based black economic empowerment;
 - (f) to maintain a registry of major broad-based black economic empowerment transactions, above a threshold determined by the Minister by notice in the *Gazette*;
 - (g) to receive and analyse such reports as may be prescribed concerning broad-based black economic empowerment compliance from organs of state, public entities and private sector enterprises;

- (b) koafalo ya leruri;
- (c) go ikamanya le tiro ngwe le ngwe e e ka nyatsang serodumo sa Khomišene kgotsa maemo a Khomišene; kgotsa
- (d) lebaka lengwe le lengwe le le utlwagalang go mametlela go tlošwa ga Mokhomišenara. 5
- (7) Fa Mokomišenara le Motlatsa Mokomišenara ba sa kgone ka ntlha ye lebaka lengwe le lengwe ka nako e tshwanang go dira ditiro tse ba di filweng go ya ka Molao o, go tsamaelana le mabaka a tlhomamisitsweng ke Tona, Tona e ka thapa motho yo o maleba jaaka Mokomišenara wa Nama o tshwerwe. 10

Go thapiwa ga Motlatsa Mokomišenara le badiri ba Khomišene

- 13D.** (1) Go ya ka dipuisano tsa Mokomišenara le Tona, Mokomišenara o tshwanetse go thapa motho yo o na leng dirutwa le maitemogelo a maleba jaaka Motlatsa Mokomišenara go dira paka ya dingwaga di le tlhano. 15
- (2) Karolo 13C(2), (4), (5) le (6) di ama Motlatsa Mokomišenara dibuisiwa le diphetogo tse di tsamaelanang le bokao.
- (3) Motlatsa Mokomišenara o tshwanetse go dira tiro ya Khomišene nako ngwe le ngwe fa—
- (a) Khomišene e sa kgone go dira tiro ya yona ka ntlha ya lebaka lengwe; kgotsa 20
- (b) fa go nale phatlalano ya Mokomišenara.
- (4) Mokomišenara a ka—
- (a) thapa badiri ba ba nang le dikwalo tse di maleba e bile ba na le maitemogelo, kgotsa a ikgolaganya le batho ba bangwe go thusa Khomišene go dira tiro ya yona; le 25
- (b) go buisana le Tona, le Tona ya Matlole go tlhomamisa moputso, allawanse, ditshwanelo le dipeelo le mabaka mangwe a go thapiwa ga tokololo ngwe le ngwe ya badiri.

Matlole a Khomišene

- 13E.** (1) Khomišene e etlediwa ka matlole go tswa go— 30
- (a) tekanyetsokabo ya Palamente e e abelwang Khomišene; le
- (b) tšhelete e e amogelwang semolao go tswa go metswedi e menngwe.
- (2) Moruni Kakaretso o tshwanetse go tlhatlhaba ditokomane tsotlhe tsa matlole a Khomišene ngwaga mongwe le mongwe.

Ditiro tsa Khomišene

- 13F.** (1) Ditiro tsa Khomišene ke— 35
- (a) go laola, lebelela le go godisa kobamelo ya Molao o, le go diragatsa dikgatlhegelo tsa baagi; 40
- (b) go matlafatsa le go mametlelela tirisano mmogo gare ga ditheo tsa baagi le ditheo tsa poraefete ka maikaelelo a go godisa le go sireletsa ponelopele ya katoloso ya nonotsho ya ikonomi ya bantsho;
- (c) go amogela dingongorego tebang le katoloso ya nonotsho ya ikonomi ya bantsho go tsamaelana le ditaello tsa Molao o;
- (d) go dira dipatlisiso, ka go ithaopa ka boyona kgotsa go araba ngongorego e e amogetsweng tebang le katoloso ya nonotsho ya ikonomi ya bantsho; 45
- (e) go godisa kitso, phithelelo ya ditšhono, manaane a thuto le maano a katoloso ya nonotsho ya ikonomi ya bantsho;
- (f) go boloka rejisetara ya leano la katoloso ya nonotsho ya ikonomi ya bantsho fa kgwebelano e feta selekanyo se se tlhomamisitsweng ke Tona ka kitsiso mo Lekwalodikgang la Puso; 50
- (g) go amogela le go sekaseka direpoto tse di tsamaelanang le katoloso ya nonotsho ya ikonomi ya bantsho e e tlhomamisang ditaello tse di tshwanetseng go obamelwa ke ditheo tsa puso, ditheo tsa bosetšhaba le dikgwebo tsa makala a poraefete; 55

- (h) to promote good governance and accountability by creating an effective and efficient environment for the promotion and implementation of broad-based black economic empowerment; and
 - (i) to exercise such other powers which are not in conflict with this Act as may be conferred on the Commission in writing by the Minister. 5
- (2) A complaint contemplated in subsection (1)(c) and (d) must be—
- (a) in the prescribed form; and
 - (b) substantiated by evidence justifying an investigation by the Commission. 10
- (3) The Commission must increase knowledge of the nature and dynamics and promote public awareness of matters relating to broad-based black economic empowerment by—
- (a) implementing education and information measures to develop public awareness of the provisions of this Act, and in particular to advance the purposes of this Act; 15
 - (b) providing guidance to the public by—
 - (i) issuing explanatory notices outlining its procedures;
 - (ii) issuing non-binding opinions on the interpretation of any provision of this Act; or
 - (iii) applying to a court for a declaratory order on the interpretation or application of the provisions of this Act; and 20
 - (c) conducting research relating to its mandate and activities and, from time to time, publishing the results of that research.
- (4) The Commission may liaise with any regulatory authority on matters of common interest and, without limiting the generality of the foregoing, may— 25
- (a) exchange information with and receive information from any such regulatory authority pertaining either to matters of common interest or to a specific complaint or investigation;
 - (b) participate in the proceedings of any regulatory authority; and 30
 - (c) advise, or receive advice from, any regulatory authority.
- (5) Notwithstanding the provisions of any law, but subject to the approval of the Minister, the Commissioner may enter into an agreement with any other person, body of persons or organ of state, including a special investigating unit established under the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), to perform any of the Commission's duties and functions under this Act. 35

Reporting

- 13G. (1) All spheres of government, public entities and organs of state must report on their compliance with broad-based black economic empowerment in their audited annual financial statements and annual reports required under the Public Finance Management Act, 1999 (Act No. 1 of 1999). 40
- (2) All public companies listed on the Johannesburg Stock Exchange must provide to the Commission, in such manner as may be prescribed, a report on their compliance with broad-based black economic empowerment. 45
- (3) All Sectoral Education and Training Authorities contemplated in the Skills Development Act, 1998 (Act No. 97 of 1998), must report on skills development spending and programmes to the Commission. 50

Delegation

- 13H. (1) The Commissioner may delegate any power conferred on him or her or any duty assigned to him or her under this Act, to any other person with appropriate knowledge and experience who is appointed to or contracted with the Commission to assist it in the carrying out of its functions. 55

- (h) go godisa taolo e lolameng le maikarabelo ka go tlhola maemo mantle go rotloetsa kgodiso le tiragatso ka botswerere ya katoloso ya nonotsho ya ikonomi ya bantsho; le
- (i) go diragatsa dithata tse dingwe tse di seng kgatthanong le Molao o, tse di abetsweng Khomišene ke Tona ka lekwalo. 5
- (2) Ngongorego e e tlhalositsweng mo karolotlaleletso (1)(c) le (d) e tshwanetse go kwadiwa—
- (a) mo forming e e tlhomamisitsweng; le
- (b) go romelwa ka bopaki jo bo tla tlhotlheletsang patlisiso ya Khomišene. 10
- (3) Khomišene e tshwanetse go oketsa kitso ya go farologana ga mabaka le matlafatso ya kitso ya baagi ka ga merero e amang katoloso ya nonotsho ya ikonomi ya bantsho, ka go—
- (a) diragatsa maano a thuto le tshedimosetso go tlhabolola kitso ya baagi ka ditaello tsa Molao o, segolo jaang, le ntshetsopele ya maikaelelo a Molao o; 15
- (b) go tlamela baagi ka dikgakololo ka go—
- (i) tlhagisa dikitsiso tse di tlhalosong tsamaiso ya Khomišene;
- (ii) tlhagisa ditshwetso tse di sa gapeletseng go ya ka tlhaloso ya taelo ngwe le ngwe ya Molao o; kgotsa
- (iii) go dira kopo ya taelo go bega ka tlhaloso kgotsa tiragatso ya ditaello tsa Molao o; 20
- (c) go dira dipatlisiso mabapi le ditaello le ditiro tsa Khomišene, le go phatlalatsa dipholo tsa dipatlisiso gangwe le gape. 25
- (4) Khomišene e kgona go buisana le bothati bongwe le bongwe jwa taolo mabapi le mabaka a kgatlhagelo e tshwanang, ntle le go thibela tiriso e fa godimo, e ka—
- (a) refosanya ka tshedimosetso, le go amogela tshedimosetso go tswa go boto taolo ngwe le ngwe ka ga mabaka a kgatlhagelo e e tshwanang kgotsa ngongorego e rileng, kgotsa patlisiso; 30
- (b) tsayakarolo mo ditsamaisong tsa bothati bongwe le bongwe jwa taolo; le
- (c) go gakolola kgotsa go amogela kgakololo go tswa go bothati bongwe le bongwe jwa taolo. 35
- (5) Go sa nyatswe ditaello tsa molao mongwe le mongwe, fa fela go tsamaelana le katlanegiso ya Tona, Mokhomisenara a ka dira tumelano le mongwe le mongwe, mokgatlho wa batho, kgotsa setheo sa puso, go akarediwa le lekala le le kgethegileng la dipatlisiso le le tlhomilweng go ya ka Molao wa *Special Investigating Units le Special Tribunals Act* wa 1996 (Molao No. 74 wa 1996), go dira ditiro ya yona go ya ka Molao o.

Pegelo

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13G. (1) Makala otlhe a puso, ditheo tsa bosetšhaba le ditheo tsa puso di tshwanetse go bega ka ga go obamela ga tsona leano la katoloso ya nonotsho ya ikonomi ya bantsho le go dira direpoto ngwaga le ngwaga go tsamaelana le ditlhokego tsa Molao wa Bolaodi jwa Matlole a Bosetšhaba wa 1999 (Molao No. 1 wa 1999). 45

(2) Dikhampani tsotlhe tsa baagi tse di kwadisitsweng mo *Johannesburg Stock Exchange* di tshwanetse go tlamela Khomišene ka moggwa o o tlhalositsweng, repoto ya seemo sa tsona sa kobamelo ya togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho.

(3) Bothati jwa Makala otlhe a Thuto le Katiso jo bo tlhalositsweng mo molaong wa *Skills Development Act* wa 1998 (Molao No. 97 wa 1998), bo tshwanetse go begela Khomišene ka ga ditshenyegelo tsa tlhabololo ya bokgoni le diporograma. 50

Taelo ya go dira tiro

13H. (1) Mokomišenara a ka laela mongwe le mongwe thata ngwe le ngwe kgotsa tiro ngwe le ngwe, go ya ka Molao o, mongwe le mongwe yo o na leng kitso le maitemogelo a a maleba kgotsa yo o golagantsweng le Khomišene go dira tiro ya yona. 55

(2) Notwithstanding subsection (1), the Commissioner may not delegate the powers referred to in section 13D(1) or (4).

- (3) A delegation under subsection (1) must be in writing and—
- (a) may be subject to any conditions or restrictions determined by the Commissioner;
 - (b) does not prevent the exercise of the relevant power by the Commissioner; and
 - (c) may be withdrawn or amended by the Commissioner.

Specialist committees

13I. (1) The Minister may appoint one or more specialist committees to advise the Commission on the management of its resources or the performance of its functions.

(2) The Minister may assign specific powers to the members of a specialist committee for the purposes of performing any function contemplated in subsection (1).

- (3) A specialist committee may—
- (a) be established for an indefinite term or for a period determined by the Minister when the committee is established; and
 - (b) determine its own procedures.

(4) A specialist committee established under this section must—

- (a) perform its functions impartially and without fear, favour or prejudice; and
- (b) consist of—
 - (i) not more than eight persons who are independent from the Commission and are appointed by the Minister for a term of not more than five years; and
 - (ii) not more than two senior employees of the Commission designated by the Commissioner.

(5) A member of a specialist committee must—

- (a) be a fit and proper person;
- (b) have appropriate expertise or experience; and
- (c) have the ability to perform effectively as a member of the committee.

(6) Members of a specialist committee must not—

- (a) act in any way that is inconsistent with subsection (4)(a);
- (b) expose themselves to any situation in which the risk of a conflict may arise between their responsibilities and any personal financial interest; or
- (c) use their position or any information entrusted to them to enrich themselves or improperly benefit any other person.

(7) A member of a specialist committee ceases to be a member if—

- (a) the member resigns from the committee;
- (b) the Minister terminates the person's membership because the member no longer complies with subsection (5) or has contravened subsection (6); or
- (c) the member's term of office has expired.

(8) A member of a specialist committee who has any personal or financial interest in any matter on which the committee gives advice, must disclose that interest and withdraw from the proceedings of the specialist committee when that matter is discussed.

(9) The Commission must remunerate and compensate—

- (a) a member contemplated in subsection (4)(b)(i) for expenses incurred to the extent determined by the Minister; and
- (b) a member contemplated in subsection (4)(b)(ii) for expenses incurred to the extent that the member's remuneration and allowances as an employee of the Commission does not extend to that person's services as a member of the specialist committee.

Investigations by Commission

13J. (1) Subject to the provisions of this Act, the Commission has the power, on its own initiative or on receipt of a complaint in the prescribed

(2) Go sa nyatswe ditaelotsa karotlaleletso (1), Khomišene ga ya tshwanela go laela matla a yona a a tlhalositsweng mo karolo 13D(1) kgotsa (4).

(3) taelo ya tiro go ya ka karotlaleletso (1) e tshwanetse go kwadiwa—
(a) le go tsamaelana le lebaka kgotsa kiletso ngwe le ngwe e e tlhomamisitsweng ke Mokomišenara;

(b) ga e thibele Mokomišenara go diragatsa dithata tse di maleba; e bile
(c) e ka gogelwa morago kgotsa e ka fetolwa ke Mokomišenara.

Dikomiti tsa bomaitsanape

13I. (1) Tona e ka tlhopa komiti e kgethegileng e le ngwe kgotsa dikomiti tse dikgethegileng go gakolola Khomišene ka taolo ya di diriswa tsa yona kgotsa tiragatso ya ditiro tsa yona.

(2) Tona e ka abela maloko a komiti e e kgethegileng dithata tse di rileng mabapi le tiragatso ya tiro ngwe le ngwe e e tlhalositsweng mo karotlaleletso (1).

(3) Komiti e e kgethegileng e ka—
(a) tlhamiwa paka e e sa tlhomamang kgotsa paka e e tlhomamisitsweng ke Tona fa komiti e ne e tlhomiwa; e bile e

(b) kgona go tlhomamisa tsamaiso ya yona.

(4) Komiti e e tlhamilweng go ya ka karolo e, e tshwanetse—
(a) go dira tiro ya yona ka tolamo, ntle le tshabo, go reka sefatlhego kgotsa kgethololo; le

(b) e tshwanetse—
(i) go nna le batho ba ba sa feteng robedi ba ba se nang kamano le Khomišene, e bile ba tlhopilwe ke Tona paka e e sa feteng dingwaga di le tlhano; le

(ii) badiri ba ba olwane ba Khomišene ba ba sa feteng pedi ba ba tlhopilweng ke Khomišene.

(5) Leloko la komiti e kgethegileng le tshwanetse go—

(a) nna motho yo o siameng;

(b) nna le maitemogelo le bokgoni jo bo maleba; le

(c) nna le bokgwari jwa go dira ka manontlhotlho jaaka leloko la Khomišene.

(6) Maloko a komiti e e kgethegileng ga a tshwanela—

(a) go itshwara ka mokgwa o o kगतलhang le karotlaleletso 4(a);

(b) go baka maemo mangwe a a ka bakang kgonagalo ya kगतलhang gare ga maikarabelo a bona le kगतलhang ngwe le ngwe ya tšhelete; kgotsa

(c) go dirisa maemo a bona kgotsa tshedimosetso ngwe le ngwe e ba e filweng go ikhumisa kgotsa gore motho mongwe a une molemo.

(7) Leloko la komiti e e kgethegileng le tlogela go nna leloko fa—

(a) motho yoo, a rola marapo jaaka leloko la komiti;

(b) Tona e gogela morago boloko jwa motho yoo ka gone leloko le sa tlhole le itepatepanya le karotlaleletso (5) kgotsa le tlodile ditaelo tsa karotlaleletso (6); kgotsa

(c) paka ya leloko e fedile.

(8) Leloko la komiti e e kgethegileng le le na leng kगतलhegelo ka namana kgotsa ya tšhelete ka morero mongwe le mongwe yo o komiti e rweleng maikarabelo a go gakolola, leloko le tshwanetse go senola kगतलhegelo ya lona, e bile le tshwanetse go ikgogela morago mo ditsamaisong tsa komiti e e fa morero oo o sekasekwa.

(9) Khomišene e tshwanetse go putsa le go duelela ditshenyegelo tsa—

(a) leloko lengwe le lengwe le le tlhalositsweng mo karolo (4)(b)(i), go ya ka tlhaloso ya Tona; mme

(b) leloko le le tlhalositsweng mo karolo (4)(b)(ii), fa fela moputso wa leloko le diallawanse jaaka modiri wa Khomišene di sa amane le tiro ya gagwe jaaka leloko la komiti e e kgethegileng.

Dipatlisiso tsa Khomišene

13J. (1) Go ya ka Molao o, Khomišene e na le dithata tsa go tsaya dikgato ka boyona kgotsa fa e amogetse ngongorego e e kwadilweng mo foromong

form, to investigate any matter arising from the application of the Act, including any B-BBEE initiative or category of B-BBEE initiatives.

(2) The format and the procedure to be followed in conducting any investigation must be determined by the Commission with due regard to the circumstances of each case, and may include the holding of a formal hearing. 5

(3) Without limiting the powers of the Commission, the Commission may make a finding as to whether any B-BBEE initiative involves a fronting practice.

(4) The Commission may institute proceedings in a court to restrain any breach of this Act, including any fronting practice, or to obtain appropriate remedial relief. 10

(5) If the Commission is of the view that any matter it has investigated may involve the commission of a criminal offence in terms of this Act or any other law, it must refer the matter to the National Prosecuting Authority or an appropriate division of the South African Police Service. 15

(6) The Commission may, if it has investigated a matter and justifiable reasons exist, refer to—

(a) the South African Revenue Services any concerns regarding behaviour or conduct that may be prohibited or regulated in terms of legislation within the jurisdiction of that Service; or 20

(b) any regulatory authority any concerns regarding behaviour or conduct that may be prohibited or regulated in terms of legislation within the jurisdiction of that regulatory authority.

(7) (a) The Commission may publish any finding or recommendation it has made in respect of any investigation which it had conducted in such manner as it may deem fit. 25

(b) A decision of the Commission to publish any finding or recommendation it has made may not be put into effect—

(i) before proceedings for the judicial review of the decision have been completed or were not instituted within the period allowed therefor; 30

(ii) if the Commission has referred the matter to the National Prosecuting Authority or the South African Police Service in terms of subsection (5), and no prosecution has been instituted against the person concerned; 35

(iii) if the person concerned has been prosecuted and acquitted following the investigation of the Commission; or

(iv) where the person concerned has been convicted by a court of law, following an investigation of the Commission, before such person has in respect of the conviction exhausted all recognised legal proceedings pertaining to appeal or review. 40

Summonses

13K. (1) At any time during an investigation being conducted by the Commission, the Commission may issue a summons to any person who is believed to be able to furnish any information on the subject of the investigation or to have possession or control of any book, document or other object that has a bearing on that subject— 45

(a) to appear before the Commission to be questioned at a time and place specified in the summons; or

(b) to deliver or produce to the Commission any book, document or other object referred to in paragraph (a) at a time and place specified in the summons. 50

(2) A summons contemplated in subsection (1)—

(a) must be signed by the Commissioner or by an employee of the Commission designated by the Commissioner; and 55

(b) may be served in the same manner as a subpoena in a criminal case issued by a magistrates' court.

e e tlhopilweng go batlisisa ngongorego ngwe le ngwe e e amang tiragatso ya Molao, go akarediwa togamaano ngwe le ngwe ya B-BBEE kgotsa mofuta wa togamaano ya B-BBEE.

(2) Tsela le tsamaiso e e tshwanetseng go dirisiwa fa go dira patlisiso ngwe le ngwe e tshwanetse go tlhomamisiwa ke Khomišene ka go ela tlhoko mabaka a kgetsi ngwe le ngwe e bile go akarediwa le go tshwariwa ga kopano ya semmuso. 5

(3) Ntle le thibelo ya dithata tsa Khomišene, Khomišene e ka dira tlhomamiso fa tsamaiso ngwe le ngwe, togamaano ngwe le ngwe ya B-BBEE e akaretsa papatso ya kgwebo ka tsela e e seng yona. 10

(4) Khomišene e ka tlhatlhela kgetsi mo kgotlatshekelo go thibela go tlolo-molao ngwe le ngwe ya Molao o, go akarediwa le mokgwa mongwe le mongwe wa papatso ya kgwebo ka tsela e e seng yona kgotsa kamogelo ya thuso ya tshiamiso ya mabaka.

(5) Fa Khomišene e nagana gore morero mongwe yo o batlisiwang ke khomišene o ama khomišene ka bosenyi ka mokgwa mongwe, Khomišene e tshwanetse go romela morero oo, go Bothati jwa Bosetšhaba jwa Botshutshisi kgotsa lekala le le maleba la Ditirelo tsa Sepodisi sa Aforika Borwa. 15

(6) Fa Khomišene e dirile dipatlisiso ka ga morero mme go na le mabaka a utlwagalang, e ka romela kgetsi go— 20

(a) Ditirelo tsa Sepodisi sa Aforika Borwa e e amang maitshwaro kgotsa tiro e e ileditsweng kgotsa e e laolwang ke melawana ya taolo ya Tirelo eo; kgotsa

(b) bothati bongwe le bongwe jwa taolo mabapi le ngongorego ngwe le ngwe ka ga maitshwaro kgotsa tiro e e ileditsweng go ya ka melawana ya maikarabelo a bothati joo jwa taolo. 25

(7) (a) Khomišene e ka phatlalatsa tshwetso ngwe le ngwe kgotsa tshitsinyo e e dirilweng ya patlisiso ngwe le ngwe go tsamaelana le dikeletso tsa Khomišene. 30

(b) Tshwetso ya Khomišene go phatlatsa tshwetso ngwe le ngwe kgotsa tshitsinyo e e dirilweng ke yona, gay a tshwanela go diragadiwe—

(i) pele ditsamaiso tsa tshkatsheko ya molao di konosedwa kgotsa fa di ne di sa begiwa mo nakong e e letleletsweng, ka moo ge;

(ii) fa Khomišene e rometse kgetsi go Bolaodi ba Botšutshisi ba Bosetšhaba kgotsa Sepodisi sa Aforika Borwa go ya ka karolotlaleletso (5), mme motho yo o amegang a ise a latofadiwe; 35

(iii) fa motho yo o amegang a latofaditswe mme a bonnwe a se molato ke khomišene; kgotsa

(iv) fa motho yo o amegang a bonnwe molato ke kgotlatshekelo ya molao go ya ka patlisiso ya Khomišene, mme katlholo e se e tlaathlobiwe ka magato otlhe a a letleletsweng a molao jaaka boipelaetso kgotsa tshkatsheko ka golagangwa le motho yoo a ka. 40

Disamone

13K. (1) Nako ngwe le ngwe fa Khomišene e dira dipatlisiso, Khomišene e ka ntsha samone mabapi le mongwe le mongwe yo go dumelwang fa a na le tshedimosetso ngwe ka ga morero yo o batlisisiwa kgotsa yo na leng buka kgotsa taolo ya buka, tokomane, kgotsa setlankana sengwe se se amanang morero oo, go— 45

(a) tlhagelela fa pele ga Khomišene go araba dipotso, mo lefelong le ka nako e e tlhalositsweng mo samoneng; kgotsa 50

(b) go romela kgotsa go tshagisetsa Khomišene buka ngwe le ngwe, tokomane kgotsa setlankana se se tlhalositsweng mo temana (a) mo lefelong le ka nako e e tlhalositsweng mo samoneng.

(2) Samone e e tlhalositsweng mo karolotlaleletso (1)— 55

(a) e tshwanetse go saeniwa ke Mokhomišenara kgotsa modiri wa Khomišene yo o tlhopilweng ke Mokhomišenara; e bile

(b) e tshwanetse go rebolwa ka mokgwa o o tshwanang le wa *subpoena* (kwalo le le biletsang motho kwa kgotlatshekelo) mo kgetsing ya bosenyi le le ntshitsweng ke kgotlatshekelo ya magiseterata. 60

- (3) If a person is summoned to appear before the Commission, or is required to deliver any book, document or other object to the Commission, the Commissioner or an employee of the Commission designated by the Commissioner—
- (a) may interrogate and administer an oath to, or accept an affirmation from, the person named in the summons; and
 - (b) may retain any such book, document or other object for examination for a period not exceeding two months or such longer period as the court on good cause shown, may allow.
- (4) A person questioned by the Commission must answer each question truthfully and to the best of that person's ability, but—
- (a) is not obliged to answer any question if the answer is self-incriminating; and
 - (b) the person asking the questions must inform that person of the right set out in paragraph (a).
- (5) No self-incriminating answer given or statement made by any person to the Commission will be admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence relating to the disclosure of false information, and then only to the extent that the answer or statement is relevant to prove the offence charged.

Confidential information

- 13L.** (1) When submitting information to the Commission, a person may claim that all or part of that information is confidential.
- (2) Any claim contemplated in subsection (1) must be supported by a written statement explaining why the information is confidential.
- (3) The Commission must—
- (a) consider a claim made in terms of subsection (1); and
 - (b) as soon as practicable make a decision on the confidentiality of the information and access to that information and provide written reasons for that decision.
- (4) A person who has made a claim contemplated in subsection (1) in respect of which the Commission has made a decision in terms of subsection (3), may apply to court for a review of that decision within—
- (a) 60 court days of becoming aware of the decision; or
 - (b) such longer period as a court may allow on good cause shown.
- (5) When making any finding in respect of an investigation, the Commission may take confidential information into account.
- (6) If any finding would reveal any confidential information, the Commission must provide a copy of the proposed finding to the party claiming confidentiality at least 30 court days before publishing those reasons.
- (7) Within 14 court days after receiving a copy of the proposed finding in terms of subsection (6), a party may apply to a court for an appropriate order to protect the confidentiality of the relevant information.

Conflicting interests of employees

- 13M.** The Commissioner, members of a specialist committee and any person appointed to or contracted with the Commission to assist the Commission in the carrying out of its functions, must not—
- (a) engage in any activity that may undermine the integrity of the Commission;
 - (b) participate in any investigation, hearing or decision concerning a matter in respect of which that person has a personal financial interest;

- (3) Fa motho a biditswe ka samone go tlhagelela fa pele ga Khomišene, kgotsa a tshwanetse go bontsha Khomišene buka ngwe le ngwe, tokomane kgotsa setlankana, Mokhomišenara kgotsa modiri wa Khomišene yo o tlhopilweng ke Mokhomišenara a ka—
- (a) botsolotsa le go atlanegisa maikano, kgotsa a ka netefatsa tshepiso ya motho yo o umakilweng mo samoneng; mme 5
- (b) a ka boloka buka ngwe le ngwe, tokomane kgotsa setlankana sengwe le sengwe se se tshwanetseng go sekasekiwa mo pakeng e e sa feteng dikgwedi di le pedi kgotsa paka ya sebaka se se letleletsweng ke kgotlatshekelo ka mabaka. 10
- (4) Motho yo o budiwang dipotso ke Khomišene o tshwanetse go araba potso ngwe le ngwe ka botshepegi le ka bokgoni jwa gagwe, le morôrô—
- (a) motho ga a gapelediwe go araba potso ngwe le ngwe fa karabo e amanya motho yoo le bosenyi; le
- (b) motho yo o botsang dipotso o tshwanetse go itsise paki ka ga tshwanelo e e tlhalositsweng mo temana (a). 15
- (5) Ga go karabo epe e e amang motho le bosenyi e e builweng kgotsa seteitemente se se dirilweng ke motho ofe kapa ofe ngwe go Khomišene se se tla amogelwang mo kgotlatshekelo ngwe le ngwe kgatlhanong le motho yoo jaaka bopaki, ntle fela fa e le tsheko ya go bua maaka a ikanne kgotsa tsheko e e amang tshenolo ya tshedimisetso e fosagetseng, fa fela karabo kgotsa seteitemente se le botlhokwa go bontsha tatofatso. 20

Tshedimisetso ya sephiri

- 13L.** (1) Fa motho a romela Khomišene tshedimisetso, motho yoo a ka bega fa tshedimisetso eo yotlhe kgotsa karolo ya tshedimisetso eo e le sephiri. 25
- (2) Pego ngwe le ngwe e e tlhalositsweng mo karotlaleletso (1) e tshwanetse go patagangwa le seteitemente se se tlhalosang mabaka a go reng tshedimisetso e le ya sephiri.
- (3) Khomišene e tshwanetse go— 30
- (a) sekaseka topo e e dirilweng go ya ka karotlaleletso (1); mme
- (b) go dira tshwetso ka bonako jo bo kgonagalang ka sephiri sa tshedimisetso le phitlhelelo ya tshedimisetso eo le go tlhalosa mabaka a kwadilweng boemong jwa tshwetso eo.
- (4) Motho yo o dirileng topo e e tlhalositsweng mo karotlaleletso (1) boemong jwa tshwetso e e dirilweng ke Khomišene, go ya ka karotlaleletso (3) a ka dira kopo go kgotlatshekelo gore e sekaseke tshwetso eo, mo nakong ya— 35
- (a) matsatsi a 60 a kgotlatshekelo morago ga go amogela tshwetso; kgotsa
- (b) go ya ka paka e tlhomamisitsweng ke kgotlatshekelo fa go nale mabaka a utlwagalang. 40
- (5) fa Khomišene e dira tshwetso ya patlisiso e tshwanetse go ela tlhoko tshedimisetso ya sephiri.
- (6) Fa go nale kgonagalo ya gore tshwetso ngwe, e ka senola tshedimisetso ya sephiri, Khomišene e tshwanetse go abela motho yo o dirileng topo ya tshedimisetso ya sephiri kgatiso ya tshwetso e e tshitsintsweng bonnye mo nakong ya matsatsi a le 30 a go dira pele mabaka a phatlaladiwa. 45
- (7) motho a ka dira kopo ya taelo e e maleba go kgotlatshekelo go sireletsa tshedimisetso ya sephiri mo nakong ya matsatsi a le 14 a kgotlatshekelo morago ga go amogela kgatiso ya tshwetso e e tshitsintsweng go ya ka karotlaleletso (6). 50

Thulano ya dikgatlhagelo tsa badiri

- 13M.** Mokomišenara, maloko a Komiti e e Kgethegileng, le mongwe le mongwe yo o tlhopilweng kgotsa golagantsweng ka kontraka go thusa Khomišene go dira tiro ya yona, ga a tshwanela go— 55
- (a) ikgolaganya le sepe se se tla nyatsang seriti sa Khomišene;
- (b) tsayakarolo mo patlisisong epe, tsheko, kgotsa tshwetso mabapi le morero o rileng fa motho yoo a nale kgatlhego ya tšhelete;

- (c) make private use of, or profit from, any confidential information obtained as a result of performing that person's official functions in the Commission; or
- (d) divulge any information referred to in paragraph (c) to any third party, except as required as part of that person's official functions within the Commission.

Offences in connection with Commission

13N. (1) It is an offence to disclose any confidential information concerning the affairs of any person obtained—

- (a) in carrying out any function in terms of this Act; or
 - (b) as a result of initiating a complaint with the Commission, or participating in any proceedings in terms of this Act.
- (2) Subsection (1) does not apply to information disclosed—
- (a) for the purpose of the proper administration or enforcement of this Act;
 - (b) for the purpose of the proper administration of justice;
 - (c) at the request of the Commission or a court entitled to receive the information; or
 - (d) when required to do so by any court under any law.
- (3) A person commits an offence if that person—
- (a) hinders, obstructs or improperly attempts to influence the Commission when it is exercising a power or performing a duty in terms of this Act;
 - (b) does anything calculated to improperly influence the Commission concerning any matter connected with an investigation by the Commission;
 - (c) knowingly provides false information to the Commission;
 - (d) anticipates any findings of the Commission in a way that is calculated to improperly influence the proceedings or findings;
 - (e) does anything in connection with an investigation of the Commission that would have been contempt of court if the proceedings had occurred in a court of law; or
 - (f) refuses to attend when summoned or, after attending, refuses to answer any question or produce any document as required by the summons, other than as contemplated in section 13K(4)(a).

Other offences and penalties

13O. (1) A person commits an offence if that person knowingly—

- (a) misrepresents or attempts to misrepresent the broad-based black economic empowerment status of an enterprise;
- (b) provides false information or misrepresents information to a B-BBEE verification professional in order to secure a particular broad-based black economic empowerment status or any benefit associated with the compliance with this Act;
- (c) provides false information or misrepresents information relevant to assessing the broad-based black economic empowerment status of an enterprise to any organ of state or public entity; or
- (d) engages in a fronting practice.

(2) A B-BBEE verification professional or any procurement officer or other official of an organ of state or public entity who becomes aware of the commission of, or any attempt to commit, any offence referred to in subsection (1) and fails to report it to an appropriate law enforcement agency, is guilty of an offence.

- (c) dirisa ka poraefete, kgotsa go una molemo go tswa go tshedimosetso ngwe le ngwe ya sephiri e e bonweng ka ntlha ya gore moyho yoo a direla Khomišene semmuso; kgotsa
- (d) senolela motho yo o sa amegeng tshedimosetso ngwe le ngwe e e tlhalositsweng mo temana (c), ntle le fa go le botlhokwa, e bile go tsamaelana le tiro ya motho yoo ya semmuso ya Khomišene. 5

Ditatofatso malebana le Khomišene

- 13N.** (1) ke tlolo molao go senola tshedimosetso ngwe le ngwe ya sephiri malebana le merero ya motho mongwe e e utlwagetseng—
- (a) go dira tiro ngwe le ngwe go ya ka Molao o; kgotsa 10
- (b) ka ntlha ya go tlhatlhela ngongorego go Khomišene, kgotsa go tsayakarolo mo tshekong ngwe go ya ka Molao o.
- (2) Karolotlaleletso (1) ga e ame tshedimosetso e e senotsweng—
- (a) boemong jwa tsamaiso e e lolameng kgotsa tiragatso ya molao o; 15
- (b) boemong jwa tsamaiso e e lolameng ya bosiamisi;
- (c) boemong jwa kopo ya Khomišene kgotsa kgotlatshekelo e e na leng matla a go amogela tshedimosetso; kgotsa
- (d) fa e le tshwanelo ya kgotlatshekelo ngwe le ngwe go dira jaalo go ya ka molao. 20
- (3) Motho o tlola molao fa a—
- (a) tshwenya, kgoreletsa kgotsa ka mokgwa o sa siamang a leka go tlhotlheletsa Khomišene fa Khomišene e diragatsa matla kgotsa tiro ya yona go ya ka Molao o; 25
- (b) dira sengwe le sengwe ka natla go tlhotlheletsa Khomišene ka mokgwa o sa siamang, mabapi le morero mongwe le mongwe yo amang fipatlisiso tsa Khomišene;
- (c) ka bomo a tlamela Khomišene ka tshedimosetso e fosagetseng; 30
- (d) ponelopele ya tshwetso ya Khomišene ka maikaelelo a go tlhotlheletsa ditsamaiso kgotsa ditshwetso tsa Khomišene ka mokgwa o sa siamang;
- (e) dira sengwe le sengwe se se lebaganeng le dipatlisiso tsa Khomišene, go se se bontshang go nyatsa kgotlatshekelo fa ditsamaiso di ka bo di dirilwe mo kgotlatshekelo ya molao; kgotsa 35
- (f) gana go tsenela ditsamaiso tsa Khomišene morago ga go ntshediwa samone kgotsa morago ga go tsenela ditsamaiso, go gana go araba potso ngwe le ngwe kgotsa go tthagisa tokomane ngwe le ngwe go tsamaelana le tlhokego ya disamone, ntle le tlhaloso ya karolo 13K(4)(a).

Ditatofatso tse dingwe le dikotlhao

- 13O.** (1) Motho o tlola molao fa motho yo ka bomo a— 40
- (a) itira kgotsa a leka go go dira maemo a kgwebo go tsamaelana le togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho;
- (b) tlamela ka tshedimosetso e e fosagetseng kgotsa a fetola tshedimosetso ya motlhankedi wa netefaletso ya B-BBEE ka maikaelelo a go bona maemo a rileng go ya ka selekanyetso sa togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho kgotsa ditshwanelo ngwe le ngwe e e tsamaelanang le kobamelo ya Molao o; 45
- (c) tlamela setheo sengwe le sengwe sa puso kgotsa setheo sa bosetšaba ka tshedimosetso e e fosagetseng kgotsa a fetola tshedimosetso e e botlhokwa mabapi le tshekatsheko ya maemo a kgwebo go ya ka togamaano ya katoloso ya nonotsho ya ikonomi ya bantsho; kgotsa 50
- (d) a ikamanya le mekgwa ya go itira seo a seng sona.
- (2) Motlhankedi wa netefaletso wa dikgwebo tsa B-BBEE kgotsa motlhankedi mongwe le mongwe yo o rulaganyang ditirelo kgotsa motlhankedi mongwe wa setheo sa puso kgotsa setheo sa bosetšaba yo o lemogang tiragatso kgotsa maiteko mangwe le mangwe a a go dira tatofatso ngwe le ngwe e e tlhalositsweng mo karolotlaleletso (1) le mororo a palelwa ke go begela setheo sengwe le sengwe sa tiragatso ya molao ka ga seo, o molato ka go tlola molao. 55

- (3) Any person convicted of an offence in terms of this Act, is liable—
- (a) in the case of a contravention of subsection (1), to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment or, if the convicted person is not a natural person, to a fine not exceeding 10 per cent of its annual turnover; or
 - (b) in the case of a contravention of subsection (2) or section 13N, to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.
- (4) For the purpose of determining a fine to be imposed for an offence in terms of subsection (1), the court must take into account the value of the transaction which was derived from, or sought to be derived from, the commission of the offence.
- (5) A court in which any person is convicted of an offence in terms of subsection (3) must report the conviction—
- (a) to the B-BBEE Verification Professional Regulator, if that person is a B-BBEE verification professional; and
 - (b) to in any other case, to the Council and to that person’s employer.
- (6) Despite anything to the contrary contained in any other law, a magistrates’ court has jurisdiction to impose any penalty provided for in this Act.

Prohibition on business with organs of state following conviction under this Act

- 13P.** (1) Any person convicted of an offence in terms of this Act may not, for a period of 10 years from the date of conviction, contract or transact any business with any organ of state or public entity and must for that purpose be entered into the register of tender defaulters which the National Treasury may maintain for that purpose.
- (2) Where the convicted person is not a natural person, the court may in its discretion restrict the order contemplated in subsection (1) to only those members, directors or shareholders who contravened the provisions of this Act.”.

Substitution of section 14 of Act 53 of 2003

9. The following section is hereby substituted for section 14 of the principal Act:

“Regulations, guidelines and practice notes

- 14.** (1) The Minister may make regulations with regard to—
- (a) any matter that in terms of this Act may or must be prescribed;
 - (b) the lodging of complaints with the Commission;
 - (c) the conducting of investigations by the Commission;
 - (d) the information that any organ of state, public entity or private enterprise is required to provide to the Commission and the form and period of such reporting;
 - (e) requiring all broad-based black economic empowerment transactions above a prescribed threshold to be reported to the Commission; and
 - (f) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe [in order to ensure] for the proper implementation and administration of this Act.
- (2) The Minister may by notice in the Gazette issue guidelines and practice notes relating to the interpretation and application of this Act.”.

(3) Mongwe le mongwe yo o bonweng molato ka tatofatso go ya ka Molao o, o tla otlhaiwa—

(a) boemong jwa tatofatso ya karotlaleletso (1), tuelo ya tšhelete kgotsa kotlhao ya kgolegelo ya paka e e sa feteng dingwaga di le 10 kgotsa dikotlhao tšopedi tuelo ya tšhelete le kgolegelo kgotsa fa e le kgwebo tuelo ya tšhelete e e sa feteng diperesente di le 10 ya morokotso wa lotseno lwa ngwaga; kgotsa

(b) boemong jwa tatofatso ya karotlaleletso (2) le karolo 13N, tuelo ya tšhelete kgotsa kotlhao ya kgolegelo ya paka e e sa feteng dikgwedi di le 12, kgotsa dikotlhao tšopedi tuelo ya tšhelete le kgolegelo.

(4) mabapi le tlhomamiso ya tuelo ya tšhelete boemong jwa tatofatso e e dirilweng go tsamaelana le karotlaleletso (1) kgotlatshekelo e tshwanetse go ela tlhoko tlhwalhwa e e amogetsweng kgotsa e e neng e tla amogelwa fa kgwebelano ya bosenyi e ka bo e weditswe ka katlego.

(5) Kgotlatshekelo ngwe le ngwe e e boneng motho molato go ya ka karotlaleletso (3) tlolo molao e tshwanetse go begelwa—

(a) Bothati Jwa Netefaletso ya Borulaganyi jwa Dikgwebo tsa B-BBEE, fa motho yoo e le morulaganyi wa netefaletso ya dikgwebo tsa B-BBEE; le

(b) Ka mabaka mangwe go begela Khansela le mothapi wa motho yoo.

(6) Ntle ga lebaka lengwe le le kgalhanong le molao mongwe, Kgotlatshekelo ya magiseterata e nale matla a go rebola katlholo ngwe le ngwe e e letleletsweng ke Molao oo.

Kiletso ya go gwebelana le ditheo tsa puso morago ga go bonwa molato go ya ka Molao ono

13P. (1) Mongwe le mongwe yo o bonweng a le molato ka ntlha ya Molao o, ga a tshwanela go nna le kgolaganyo ya kontraka kgotsa go dira kgwebo epe le ditheo tsa puso kgotsa tsa puso ya bosetšhaba paka ya dingwaga di le 10 go simolola ka letlha la katlholo, mme, ka ntlha ya lebaka leo o tshwanetse go kwadiwa mo rejisetareng ya batlola-molao ba dithendara e e tla bolokiwang ke Lefapha la Bosetšhaba la Matlole.

(2) Fa e le kgwebo e e bonweng molato, kgotlatshekelo e ka dira gore taelo e e tlhalositsweng mo karotlaleletso (1) e lebaganye fela le maloko, bakaedi kgotsa beng badišere ba ba tlodileng ditaello tsa Molao o.”.

Go kwalwa ga karolo 14 ya 53 wa 2003

9. Karolo e e latelang e kwadiwa boemong jwa karolo 14 ya Molao wa pele:

“Melawana, dikaelo le tlhaloso ya tsamaiso

14. (1) Tona e ka dira melawana mabapi le—

(a) morero mongwele mongwe yo o, kgotsa tshwanetseng go laelwa go ya ka Molao o;

(b) go begela khomišene dingongorego;

(c) thebolo ya dipatlisiso ke Khomišene;

(d) tshedimotsetso e e tshwanetseng go tlamelwa Khomišene ke setheo sengwe le sengwe kgotsa setheo sa bosetšhaba, mokgwa le paka eo pego e tshwanetseng go diriwa ka yona;

(e) taelo ya go begela Khomišene ka kgwebelano yotlhe ya leano la katoloso ya nonotsho ya ikonomi ya bantsho e e fetileng selekanyo se se tlhalositsweng; le

(f) morero mongwe le mongwe kgotsa tsamaiso kgotsa morero wa taolo o o botlhokwa go dira taelo [ka maikaelelo a go netefatsa] boemong jwa tiragatso le tsamaiso ya Molao o.

(2) Ka kitsiso mo Lokwalodikgang la Puso, Tona e ka rebola dikaelo le tsamaiso malebana le tlhaloso le tiragatso ya Molao o.”.

Short title and commencement

10. (1) This Act is called the Broad-Based Black Economic Empowerment Amendment Act, 2013.

(2) Except for section 3(b), this Act comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(3) Section 3(b) comes into operation one year after the date contemplated in subsection (2).

(4) In the event that the President fixes different dates in respect of different provisions of this Act, section 3(b) comes into operation one year after section 3(a) commences.

Setlhogo se se khutshwane le tshimologo

10. (1) Molao o, o bidiwa Molao Phetolo wa Katoloso ya Nonotsha ya Ikonomi ya Bantsho, wa 2013.

(2) Ntle le karolo 3(b) Molao o, o tla tsengwa tirisong ka letlha le le tthomamisitsweng ke Moporesidente ka kgoeletso mo Lokwalodikgang la Puso. 5

(3) Karolo 3(b) e tla tsengwa tirisong ngwaga o monosi morago ga letlha le le tthomamisitsweng mo karotlaleletso (2).

(4) Fa go ka diragala gore Moporesidente a tthomamise matlha a a farologaneng boemong jwa ditaelo tsa Molao o, karolo 3(b) e tla tsengwa tirisong ngwaga o monosi morago ga tshimologo ya karolo 3(a). 10

