



**REPUBLIC OF SOUTH AFRICA
RIPHABULIKI YA AFURIKA TSHIPEMBE**

Vol. 439 Cape Town, 28 January 2002 **No. 23064**
Kapa, Phando

THE PRESIDENCY

No. 88 28 January 2002

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

No. 63 of 2001: Unemployment Insurance Act, 2001.

VHUPRESIDENDE

Nom. 88 28 Phando 2002

Zwi khou divhadziwa henefha uri mupresidende o tendelana na uyu mulayo une wa khou andadziwa hu u itela ndivhadzo kha tshitshavha:—

Nom. 63 ya 2001: Mulayotibe wa Ndindakhombo ya Vhushaya-mushumo, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 13 January 2002.)*

ACT

To establish the Unemployment Insurance Fund; to provide for the payment from the Fund of unemployment benefits to certain employees, and for the payment of illness, maternity, adoption and dependant's benefits related to the unemployment of such employees; to provide for the establishment of the Unemployment Insurance Board, the functions of the Board and the designation of the Unemployment Insurance Commissioner; and to provide for matters connected therewith.

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

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tshedele inwe na inwe sa malamba, na muthu munwe na munwe ane a vha na
vhudivhindleli ha u badela tshedele nga ndila ya malamba kha muthu munwe na
munwe fhasi ha getshedzo ya mulayo munwe na munwe kana u bva kha tshedele
ya vhatu, hu sa katelwi muthu munwe na munwe ane a sa vhe kha vhuimo
vhudivhindleli; 5

“Nwaha wa dzitshedele” zwi amba tshifhinga tsha vhudivhindleli ha u thoma la
Lambamai kha nwaha munwe na munwe na vhudivhindleli la furaru nthihi la nwedzi wa
Thangule kha nwaha u tevhelaho, ho katelwa mavudivhindleli othe.

“Tshikwama” zwi amba Tshikwama tsha Ndindakhombo ya Vhushayamushumo
tsho thomiwaho nga khethekanyo 4; 10

“Mulavhelesi wa zwa mishumo” zwi amba—

(a) mulavhelesi o tholiwaho nga fhasi ha khethekanyo 63 ya Maimo a Mutheo wa
Mulayo wa Mishumo, 1997 (Mulayo.75 wa 1997); kana

(b) muthu o tholiwaho nga Minisiya nga fhasi ha khethekanyo yeneyo uri a ite
mushumo wa u lavhelesi zwa mishumo. 15

“Minisiya” zwi amba Minisiya wa zwa Mishumo;

“nwedzi” zwi amba tshifhinga tsha u bva nga vhudivhindleli la u thoma la nwedzi u swika
nga vhudivhindleli line la a phana ha lenelo la nwedzi u tevhelaho, ho katelwa mavudivhindleli
othe;

“NEDLAC” zwi amba Khoro ya zwa Mishumo na Mveledziso na ikonomi ya 20
Lushaka yo thomiwaho nga khethekanyo 2 ya Mulayo wa Khoro ya zwa Mishumo
na Mveledziso na Ikonomi ya Lushaka, 1994 (Mulayo 34 wa 1994);

“zwo tiwaho” zwi amba zwo tiwaho nga mulayo;

“Tshumelo ya muvhuso” zwi amba tshumelo ya muvhuso sa zwe zwa
sumbedziswa zwone kha khethekanyo 197 ya Mulayotewa wa Riphabuliki ya 25
Afurika Tshipembe, 1996 (Mulayo 108 wa 1996);

“milayo” zwi amba milayo yo itwaho nga fhasi ha uyu Mulayo;

“Mbadelo” zwi amba tshedele inwe na inwe ine ya badelwa kana ine I nga badelwa
muthu munwe na munwe nga ndila ya malamba manwe na manwe, mbadelo ya
livi, alawentsi, muholo, mbadelo ya ovathaimi, bonanasi, mbadelo malugana na 30
mushumo wo itwaho;

“mushumi wa tshifhinga” mushumi wa tshifhinga zwi amba muthu munwe na
munwe o tholiwaho nga mutholi kha tshifhinganyangaredzo tsha minwedzi miraru
tshifhingani tsha minwedzi ya 12 kha mutholi muthihi, ane mushumo wawe wa
thuthiswa nga nthani ha u fhambana ha khalanwaha kha uri mushumo u vhe hone; 35

“uyu Mulayo” u katela milayo yo itwaho u ya nga uyu Mulayo;

“Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo” zwi amba
Mulayo wo fhiriswaho nga Phalamennde phanda ha Mulayo uyu, une wa
getshedza zwibviswa zwa vhushayamushumo;

“Vhege” zwi amba tshifhinga tshinwe na tshinwe tsha mavudivhindleli a sumbe a tshi 40
tevhelaho.

Ndivho ya uyu Mulayo

2. Ndivho ya uyu Mulayo ndi u thoma tshikwama tsha ndindakhombo ya vhushaya-
mushumo tshine tsha do vha tsho kuvhanganywa nga vhashumi na vhashumelwa tshine
tsha do getshedzwa vhashumi vha si tsha shumaho kana vha laifa vhavho, arali zwo tou 45
ralo, vthane vha vha na pfanelo ya u wana mbuelo hu tshi itelwa u fhelisa mvelelo dzi si
dzavhudi dza ikonomi na matshilisano dzo itiswaho nga vhushayamushumo.

Tshumiso ya uyu Mulayo

3. (1) Mulayo u shuma kha vhothe vhashumelwa na vhashumi, nga nnda ha 50
- (a) Vhashumi vthane vha shuma awara dza fhasi ha dza 24 nga nwedzi;
- (b) Vhashumi vthane vha badelwa u ya nga thendelano ya vhudivhindleli yo
redzhisitariwaho u ya nga Mulayo wa Mveledziso ya Vhukoni, 1998 (Mulayo
97 wa 1998);
- (c) Vhashumelwa na vhashumi kha masia a lushaka na a phurovintsi a muvhuso;
- (d) Vhatu vho dzhenaho kha Riphabuliki vha na ndivho ya u bveledza konfiraka 55
ya tshumelo, u gudela mushumo kana u guda kha Riphabuliki vthane arali
tshifhinga tshavho tsho fhela kana vho litsha zwe vha do vha vho dela u ya nga
mulayo kana nga konfiraka ya tshumelo, vhudivhindleli mushumo kana vhudivhindleli
vha do tuwa kha Riphabuliki.

1. Tsumbo 10 Thafamuhwe u swika nga la 9 Lambamai

(2) Despite subsection (1), this Act will only apply to domestic and seasonal workers and their employers 12 months after this Act takes effect.

(3) (a) The Minister must, as soon as possible after this Act takes effect, designate or appoint a body which must seek to investigate and make recommendations regarding the administration of this Act to domestic and seasonal workers. 5

(b) The investigation must be concluded within 12 months from the date that this section takes effect.

(c) The Minister must consult the Board on the outcome of the investigation.

CHAPTER 2

UNEMPLOYMENT INSURANCE FUND 10

Establishment of Unemployment Insurance Fund

4. (1) The Unemployment Insurance Fund is hereby established.

(2) The Fund consists of—

- (a) the contributions made by employers and employees and collected by the Commissioner of the South African Revenue Service in terms of the Unemployment Insurance Contributions Act; 15
- (b) the contributions made by employers and employees and collected by the Commissioner in terms of the Unemployment Insurance Contributions Act;
- (c) money appropriated by Parliament;
- (d) any penalties and fines imposed in terms of this Act other than by a court of law; 20
- (e) any interest or return on investment made by the Fund;
- (f) any money paid erroneously to the Fund which, in the opinion of the Director-General, cannot be refunded;
- (g) any bequest or donation received by the Fund; 25
- (h) any movable or immovable property purchased or otherwise acquired by the Fund; and
- (i) any other money to which the Fund may become entitled.

Application of Fund

5. The Fund must be used for the— 30

- (a) payment of benefits in terms of this Act;
- (b) reimbursement of excess contributions to employers;
- (c) payment of—
 - (i) remuneration and allowances to members of the Unemployment Insurance Board and its committees; and 35
 - (ii) any other expenditure reasonably incurred and relating to the application of this Act.

Raising of funds, loans and obtaining bank overdraft facilities

6. The raising of funds by way of loans and bank overdraft facilities in respect of the Fund must be done in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 40

Investment of money of Fund

7. (1) The money of the Fund other than money required to meet the current expenditure of the Fund may be deposited on behalf of the Fund by the Director-General with the Public Investment Commissioners to be invested in terms of the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984). 45

(2) Any profit on investments accrues to the Fund and any loss must be borne by the Fund.

(2) Nga nn̄da ha khethekanyo thukhu ya (1), Mulayo uyu u qo shuma fhedzi kha vhashumamiṭani na vhashumi vha tshifhinga na vhatholi vhavho minwedzi ya 12 murahu ha musi mulayo uyu u tshi thoma.

(3) (a) Nga u ṭavhanya murahu ha musi mulayo uyu u tshi thoma, Minisiṭa u fanela u vhea kana u ita dzangano line li nga lingedza u ṭodisisa na u ita themendelo malugana na tshumiso ya Mulayo uyu kha vhashumi vha miṭani na vhashumi vha tshifhinga. 5

(b) Ṭhodisiso i fanela u vha yo fhela nga murahu ha minwedzi ya 12 u bva nga ḡuvha le iyi khethekanyo ya thoma u shuma.

(c) Minisiṭa u o tea u kwamana kana u eletshedzana na Bodo malugana na mvelelo dza ṭhodisiso. 10

NDIMA 2

TSHIKWAMA TSHA NDINDAKHOMBO YA VHUSHAYAMUSHUMO

Uthomiwa ha Tshikwama tsha Ndindakhombo ya Vhushayamushumo

4. (1) Tshikwama tsha Ndindakhombo ya Vhushayamushumo tsho thomiwa. 15
- (2) Tshikwama tshi katela—
 - (a) zwibviswa zwa vhashumelwa na vhashumi zwo badelwaho zwa kuvhanganywa nga Mukhomishinari wa Tshumelo dza Mbuelo dza Afurika Tshipembe (Commissioner of the South African Revenue Service) u ya nga Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo, 2000
 - (b) zwibviswa zwa vhashumelwa na vhashumi zwo badelwaho zwa kuvhanganywa nga Mukhomishinari u ya nga uyu Mulayo; 20
 - (c) tshelede yo shumiswaho nga phalamennde zwi songo tendelwa
 - (d) dzifaini dzi ṭodeaho u ya nga uyu Mulayo hu si u ya nga khoṭhe ya mulayo;
 - (e) nzwalelo na mbuelo dzoṭhe dza tshelede yo vhulungwaho ya tshikwama;
 - (f) tshelede inwe na inwe ye ya badelwa nga nḡila i si yone kha tshikwama, ine u ya nga Mudairekhitha-Dzhenerala, ya sa qo lifhiwa; 25
 - (g) Zwifhiwa na dzidonesheni dzo ṅewaho Tshikwama
 - (h) Ndaka dzoṭhe dzi sudzuluseaho na dzi sa sudzulusei dzo rengiwaho kana dzo waniwaho nga Tshikwama
 - (i) Kana tshelede inwe na inwe ine ya tea u waniwa nga Tshikwama. 30

Tshumiso ya Tshikwama

5. (1) Tshikwama tshi fanela u shumiswa u—
 - (a) badela mbuelo u ya nga uyu Mulayo;
 - (b) lifhela vhashumelwa vhe vha badela zwibviswa zwo fhiraho;
 - (c) mbadelo ya— 35
 - (i) tshelede kha mirado ya Bodo ya Ndindakhombo ya Vhushayamushumo na komiti dzayo; na
 - (ii) Inwe tshelede ye muthu a i shumisela ene mune nga nḡila i pfallaho nahone zwi tshi tshimbilelana na tshumiso ya uyu Mulayo.

Ukuvhanganya zwiqwama, khadzimiso kana thendelo ya u shumisa tshelede ine ya fhira ine muthu a vha nayo banngani (bank overdraft facilities) 40

6. U kuvhanganya tshikwama nga u hadzima na nga u shumisa tshelede ine muthu a vha nayo banngani malugana na tshikwama zwi tea u itwa u ya nga Mulayo wa Ndagulo ya Masheleni a Vhoṭhe (Public Finance Management), 1999 (Mulayo Nomboro 1 wa 1999). 45

Uvhulunga tshelede ya Tshikwama

7. (1) Tshelede ya Tshikwama nga nn̄da ha ine ya ṭoda u shumisiwa zwino I nga kha di dzheniswa banngani nga Mudairekhitha-Dzhenerala a na Vhakhomishinari vha zwa Mbulungo ya masheleni a Muvhuso (Public Investment Commissioners) u ri i vhulungiwe u ya nga Mulayo wa Vhakhomishinari vha zwa Uvhulunga masheleni a Muvhuso, 1984 (Mulayo Nomboro 45 wa 1984). 50

(2) Mbuelo inwe na inwe ine ya qo waniwa kha masheleni o vhulungwaho i iswa kha Tshikwama na uri ndozwo ine ya qo vha hone hu do vha vhuḡifhinduleli ha Tshikwama.

Donations and bequests to Fund

8. (1) Any person, body, corporation, organisation or financial or other institution may make a donation or bequest to the Fund.

(2) The Director-General may accept donations or bequests for and on behalf of the Fund.

5

Appointment of and annual review by actuary

9. (1) The Director-General must appoint an actuary who is a member of the Actuarial Society of South Africa or who is supervised by a member of that Society to perform the functions assigned to the actuary in this Act.

(2) Within two months after the end of each financial year, the actuary must review the financial soundness of the Fund for that financial year, and provide an actuarial valuation report to the Director-General.

10

(3) The actuarial valuation report must contain—

(a) a statement—

(i) reflecting the actuarial value of the assets and liabilities of the Fund; 15

(ii) on the financial soundness of the Fund; and

(iii) on whether or not there was a surplus or deficit in the Fund in the financial year in question;

(b) an indication of—

(i) the basis and method used to value the assets and liabilities of the Fund; 20

(ii) any changes to the basis and method used to value the Fund as compared with the actuarial valuation report of the previous year; and

(iii) any special consideration or restriction that the Director-General brought to the attention of or made applicable to the actuary in performing the functions in terms of this section; 25

(c) an explanatory note on any matter relevant to obtaining a true and meaningful statement of the financial position of the Fund;

(d) recommendations for the maintenance or improvement of the financial soundness of the Fund.

Surplus and deficit in Fund

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10. (1) Subject to subsection (2), the Director-General must report and make recommendations to the Minister if the difference between income and expenditure of the Fund is—

(a) greater than is required to meet payments for benefits; or

(b) insufficient or not increasing at a sufficient rate to meet payments for benefits that may reasonably be anticipated. 35

(2) The Director-General may only submit the report contemplated in subsection (1) after having consulted with the Board and the actuary on the contents of the report.

(3) In respect of a report contemplated in subsection (1)(a), the Minister, after consultation with the Board, may utilise the surplus to give effect to the purposes of this Act, including— 40

(a) improving the administrative efficiency and capacity of the Board and Fund; and

(b) establishing a reserve fund.

(4) In respect of a report contemplated in subsection (1)(b), the Minister may request the Minister of Finance to adjust the national budget in the manner contemplated in sections 16 and 30 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in order to cover any deficit in the Fund. 45

Dzidonesheni na zwifhiwa zwine zwa getshedzwa Tshikwama

8. (1) Tshikwama tshi nga wana dzidonesheni kana zwifhiwa kha muthu munwe na munwe, dzangano, khamphani kana dzangano la zwa masheleni na manwe madzangano.

(2) Mudairekhitha-Dzhenerala a nga kha di tangedza dzidonesheni kana zwifhiwa zwa tshikwama o imela Tshikwama. 5

Utholiwa ha mudivhi wa mbalo na tsedzuluso ya nwaha nga nwaha ine ya itwa nga mudivhi wa mbalo.

9. (1) Mudairekhitha-Dzhenerala u fanela u thola mudivhi wa mbalo wa murafo wa Dzangano la vhaivhi vha mbalo kana ane a lavheleswa nga murafo wa Dzangano lene kha u ita mishumo yo getshedzwaho mudivhi wa mbalo. 10

(2) Hu sa athu fhela minwedzi mivhili, mudivhi wa mbalo u fanela u ita dzitsedzuluso dza masheleni a tshikwama a nwaha wo fhiraho, na u getshedza Mudairekhitha-Dzhenerala muvhigo wa mugaganyo wa tsedzuluso dzo itwaho nga mudivhi wa mbalo

(3) Muvhigo wa mutengo wo getshedzwaho nga mudivhi wa mbalo u fanela u vha na zwi tevhelaho— 15

(a) tshitatamennde—

(i) tshi sumbedzaho mutengo wa ndaka na zwikolodo zwa Tshikwama zwo sedzuluswaho nga mudivhi wa mbalo;

(ii) tsha malugana na tshiimo tsha masheleni a Tshikwama; na 20

(iii) tsha malugana na uri ho vhuya ha vha na zwo fhiraho mpimo kana zwo tahelaho kha Tshikwama kha nwedzi wonoyo wa dzitshelede

(b) u sumbedzwa ha—

(i) mutheo na ndila yo shumiswaho ya u wana mutengo wa ndaka na zwikolodo zwa tshikwama; 25

(ii) tshanduko dzinwe na dzinwe kha mutheo na ndila yo shumiswaho ya u wana mutengo wa Tshikwama musi hu tshi vhambedzwa na muvhigo wa mudivhi wa mbalo wa nwaha wo fhiraho; na

(iii) u dzhielwa ntha kana u iledzwa ha Mudairekhitha-Dzhenerala ho shumiswaho nga mudivhi wa mbalo kha u ita mishumo u ya nga iyi khethekanyo; 30

(c) mulaedza une wa khou talutshedza zwinwe na zwinwe zwo teaho malugana na u wana tshitatamennde tsha ngoho tsha tshiimo tsha masheleni a Tshikwama;

(d) themendelo dza u thogomela kana u khwinisa tshiimo tsha masheleni a Tshikwama. 35

Zwo fhiraho muelo na zwi no tahela kha Tshikwama

10. (1) u ya nga khethekanyo thukhu (2), Mudairekhitha-Dzhenerala u do tea u nea muvhigo na u ita dzithemendelo kha Minisiya arali phambano vhukati ha muholo na tshumiso ya Tshikwama— 40

(a) i tshi fhira muelo malugana na u badela mbuelo; kana

(b) i songo linganaho kana i tshi tahela kana i sa khou engedzea nga ndila i fushaho malugana na u badela mbuelo dzine dzi nga lavhelelwa.

(2) Mudairekhitha-Dzhenerala a nga getshedza muvhigo wo sumbedzwaho kha khethekanyo thukhu (1) nga murahu ha musi o eletshedzana na Bodo na mudivhi wa mbalo malugana na zwi re ngomu ha muvhigo. 45

(3) Malugana na muvhigo wo sumbedzwaho kha khethekanyo thukhu (1)(a), Minisiya, nga murahu ha musi o kwamana na Bodo, a nga kha di shumisa zwo fhiraho muelo u itela uri uyu mulayo u shume hu tshi katelwa—

(a) u khwiniswa ha vhukoni ha u laula na vhukoni ha Bodo na Tshikwama; na 50

(b) u thomiwa ha Tshikwama tsha ndindakhombo

(4) Malugana na muvhigo wo sumbedzwaho kha khethekanyo thukhu (1)(b), Minisiya a nga kha di ita khumbelo kha Minisiya wa zwa Gwama u dzudzanya badzete nga ndila yo sumbedzwaho kha khethekanyo dza 16 na 30 ya Mulayo wa Ndangulo ya zwa Gwama la vhothe, 1999 (Mulayo Nomboro 1 wa 1999) uri hu konwe u swikelela ghahelelo kha Tshikwama. 55

Accounting, auditing and financial reporting

11. (1) Despite section 49(2) to (5) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Director-General is the accounting authority for the Fund.

(2) (a) At the beginning of each financial year, the Commissioner must file a business plan with the National Treasury. 5

(b) The Minister must compile the business plan with the concurrence of the Director-General and the Commissioner, and they are to be assisted by the actuary and the Board.

(3) In addition to the matters which must be included in the annual report and financial statements referred to in section 55 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the annual report must set out and contain a statement showing— 10

- (a) the total number of persons who received benefits in terms of this Act;
- (b) the total number of employers who paid contributions in terms of the Unemployment Insurance Contributions Act;
- (c) the total number of contributors who paid contributions in terms of the Unemployment Insurance Contributions Act; 15
- (d) the total number of persons deemed to be contributors under section 45;
- (e) the total monetary value of benefits provided in respect of each category of benefit;
- (f) a statement setting out the loans, overdrafts, advances and financial commitments of the Fund; 20
- (g) the particulars of all donations and bequests received by the Fund;
- (h) the actuarial valuation report contemplated in section 9;
- (i) particulars of the use of all immovable and movable property acquired by the Fund for purposes contemplated in section 58(6) and (7); 25
- (j) any amount written off in terms of section 58(8); and
- (k) any other matter determined by the Minister.

CHAPTER 3**CLAIMING BENEFITS*****Part A: Right to benefits*** 30**Right to benefits**

12. (1) Subject to the provisions of this Act, a contributor or a dependant, as the case may be, is entitled to the following benefits:

- (a) Unemployment benefits contemplated in Part B of this Chapter;
- (b) illness benefits contemplated in Part C of this Chapter; 35
- (c) maternity benefits contemplated in Part D of this Chapter;
- (d) adoption benefits contemplated in Part E of this Chapter; and
- (e) dependant's benefits contemplated in Part F of this Chapter.

(2) An example of the scale of benefits to which a contributor is entitled is contained in Schedule 3, as calculated from Schedule 2. 40

(3) (a) The Minister may, with the concurrence of the Minister of Finance, by notice in the *Gazette* and subject to subsection (4), amend the scale of benefits contained in Schedule 3 in accordance with a maximum monthly rate of remuneration of a skilled manual labourer as determined by the Social Security (Minimum Standards) Convention, 1953 (Convention No. 102), of the International Labour Organisation. 45

Uvhala, u oditha na muvhigo wa masheleni

11. (1) Hu sa dzhielwi ntha khethekanyo 49(2) u swika kha (5) ya Mulayo wa Ndangulo ya zwa Gwama la Vhothe, Mudairekhitha-Dzhenerala ndi muvhali muhulwane wa Tshikwama.

(2) (a) Mathomoni a nwaha munwe na munwe wa dzitshelede, Mudairekhitha-Dzhenerala u fanela u vhulunga pulane ya bisimusi kha Mbulungelo ya Lushaka. 5

(b) Minisiya u fanela u dzudzanya pulane ya bisimusi o tendelana na Mudairekhitha-Dzhenerala na Mukhomishinari, nahone vha do thuswa nga Bodo na mudivhi wa mbalo

(4) zwinwe zwine zwa tea u gadziswa kha muvhigo wa nwaha na zwiitamennde zwa masheleni zwo kwamiwaho kha khethekanyo 55 ya Mulayo wa Ndangulo ya Gwama la Vhothe, 1999 (Mulayo Nomboro 1 wa 1999), muvhigo wa nwaha u fanela u talutshedzwa nahone u fanela u vha na zwi tevhelaho: 10

(a) Tshivhalo tsha vhathu vho wanaho mbuelo u ya nga uyu Mulayo;

(b) Tshivhalo tsha vhashumelwa vho badelaho zwibviswa u ya nga Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo, 2000; 15

(c) Tshivhalo tsha vhatikedzi vha tshikwama tsha vhushayamushumo vho badelaho zwibviswa u ya nga Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo;

(d) Tshivhalo tsha vhathu vhane vha dzhiwa vhe vhatikedzi vha tshikwama tsha vhushayamushumo nga fhasi ha khethekanyo 45; 20

(e) Thanganyelo ya mutengo wa mbuelo dzo getshedzwaho malugana na khethekanyo inwe na inwe ya mbuelo;

(f) Tshiitamennde tshi sumbedzaho dziouni kana khadzimiso, thendelo ya u shumisa tshelede ine ya fhira ine muthu a vha nayo banngani; tshelede ine ya getshedzwa na phulufhedziso ya masheleni nga Tshikwama; 25

(g) Zwidodombedzwa zwothe zwa dzidonesheni na zwifhiwa zwa Tshikwama;

(h) Muvhigo wa mutengo wa mudivhi wa mbalo wo sumbedzwaho kha khethekanyo 9;

(i) Zwidodombedzwa zwa tshumiso dzothe dza ndaka i sudzuluseaho na i sa sudzuluseho yo dzhiwaho nga Tshikwama hu tshi itelwa zwo sumbedzwaho kha khethekanyo 58(6) na(7); 30

(j) Tshelede inwe na inwe yo phumulwaho u ya nga khethekanyo 58(8); na

(k) Zwinwe na zwinwe zwo vhwaho kana zwo tiwaho nga Minisiya.

NDIMA 3**UVHILA MBUELO**

35

Tshipiqa A: Pfanelo ya u wana mbuelo**Pfanelo dza u wana mbuelo**

12. (1) U ya nga zwo getshedzwaho zwa uyu Mulayo, mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa, arali zwi tshi nga vha zwo tou ralo, u na pfanelo ya u wana mbuelo dzi tevhelaho: 40

(a) Mbuelo dza vhushayamushumo dzo buliwaho kana dzo sumbedzwaho kha Tshipiqa B tsha iyi Ndima;

(b) Mbuelo dza vhulwadze dzo sumbedzwaho kana dzo buliwaho kha Tshipiqa C tsha iyi Ndima;

(c) Mbuelo dza vhudzadze dzo sumbedzwaho kana dzo buliwaho kha Tshipiqa D tsha iyi Ndima; 45

(d) Mbuelo dza u adoputa kana dza u hulisa nwana a si wau dzo sumbedzwaho kana dzo buliwaho kha Tshipiqa E tsha iyi Ndima

(e) Mbuelo dza vhaundiwa dzo sumbedzwaho kana dzo buliwaho kha Tshipiqa F tsha iyi Ndima. 50

(2) Tsumbo ya mbuelo wa mbuelo dzine dza tea u waniwa u wanala kha Shedulu 3, sa zwe zwa vhaliswa zwone kha Shedulu 2.

(3) (a) Minisiya o tendelana na Minisiya wa zwa Gwama, a nga khwinisa mbuelo wa mbuelo une wa vha kha Shedulu 3 u ya nga mutengo wa nwedzi wa nthesa wa mbadelo ya vhatsila sa zwe zwa tiswa zwone nga Thendelano (zwiitandadi zwa Fhasisa) ya vhutsireledzi ha Vhapo (Social Security Convention, 1953 (Thendelano 102), ya Dzangano la zwa Vhashumi la Dzitshakatshaka. 55

(b) The scale of benefits contemplated in paragraph (a) may vary between a maximum rate of 60% of remuneration for lower income contributors and a lower rate of remuneration for higher income contributors as will be determined by thresholds as set out in Schedule 3.

- (4) When acting in accordance with subsection (3), the Minister must— 5
- (a) consult with the Board and must have regard to budgeted—
- (i) contribution and investment income from the Fund;
 - (ii) payment of benefits;
 - (iii) provision to meet expenses related to administering this Act; and
 - (iv) provision for contingency reserves; and 10
- (b) comply with the procedure set out in section 55, with the changes required by the context. 10

Calculation of benefits

13. (1) Subject to subsection (2), for purposes of calculating the benefits payable to a contributor, the daily rate of remuneration of a contributor, subject to the prescribed maximum, must be determined— 15

- (a) if paid monthly, by multiplying the monthly remuneration by 12 and dividing it by 365;
- (b) if paid weekly, by multiplying the weekly remuneration by 52 and dividing it by 365. 20

(2) If the contributor's remuneration fluctuates significantly from period to period, the calculation must be based on the average remuneration of that contributor over the previous six months.

(3) Subject to subsection (5), a contributor's entitlement to benefits in terms of this Chapter accrues at a rate of one day's benefit for every completed six days of employment as a contributor subject to a maximum accrual of 238 days benefit in the four year period immediately preceding the date of application for benefits in terms of this Chapter, less any days of benefit received by the contributor during this period. 25

(4) For purposes of determining completed days of employment as contemplated in subsection (3), the period includes— 30

- (a) the day that a contributor commenced employment and runs up to and including the day on which employment was terminated; and
- (b) any period in respect of which—
- (i) an employee was paid remuneration in lieu of notice;
 - (ii) a merchant seaman received remuneration in terms of section 140 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951). 35

(5) The days of benefits that a contributor is entitled to in terms of subsection (3) may not be reduced by the payment of maternity benefits in terms of Part D of this Chapter.²

2. Method of calculating days of benefits that a contributor is entitled to:

- Step 1 - Determine total number of days that an employee was employed as a contributor in the four-year period immediately preceding the date of application for benefits in terms of this Chapter.
- Step 2 - Divide total number of days by 52 multiplied by seven and disregard any fraction of the resultant figure.
- Step 3 - Subtract from this amount any days benefits (excluding maternity benefits) received in the four-year period immediately preceding the date of application for benefits in terms of this Chapter.
- Step 4 - The resultant figure determines the days of benefits that a contributor is entitled to.

(b) Muelo wa mbuelo wo sumbedzwaho kana wo buliwaho kha pharagirafu (a) u nga kha *qi* fhambana vhukati ha mutengo wa nthesa wa 60% wa mbadelo ya vhatikedzi vha tshikwama tsha vhushayamushumo vhane vha hola muholo wa fhasi na mutengo wa fhasi wa mbadelo ya vhatikedzi vha tshikwama tsha vhushayamushumo vhane vha hola muholo wa nthesa vhunga zwi tshi *qo* laulwa nga mathomo sa zwe zwa *talutshedziswa* zwone kha shedulu 3. 5

(5) Musi Minisiya o farela u ya nga khethhekanyo thukhu (3), Minisiya u fanela u—

(a) eletshedzana na Bodo nahone vha fanela u dzhiela nthi

(i) zwibviswa na mbuelo dza tshede yo vhlungwaho zwi no bva kha tshikwama; 10

(ii) mbadelo dza mbuelo dzo badzhetiwaho;

(iii) tshede yo badzhetelwaho u shumiswa malugana na u laula uyu Mulayo;

(iv) tshede yo badzhetelwaho zwine zwi nga itea zwi songo lavhelelwaho

(b) u tevhezela kuitele kwo *talutshedzwaho* kha khethhekanyo 55, na tshanduko dzine dza *qodiwa* nga zwi re ngomu. 15

Uvhaliwa ha mbuelo

13. (1) U ya nga khethhekanyo thukhu (2), u itela u vhala mbuelo dzine dza tea u badelwa mutikedzi wa tshikwama tsha vhushayamushumo, muholo wa *quvha* jinwe na jinwe wa mutikedzi wa tshikwama tsha vhushayamushumo, u ya nga wa nthesa wo tiwaho, u fanela u waniwa— 20

(a) nga u andisa muholo wa nwedzi nga 12, ha kovhiwa nga 365;

(b) nga u andisa muholo wa vhege nga 52, ha kovhiwa nga 365;

(2) Arali muholo wa mutikedzi wa tshikwama tsha vhushayamushumo u tshi gonya tshifhinga tshothe, u vhala hu fanela u itwa u ya nga mbalokati ya muholo kana mbadelo ya mutikedzi wa tshikwama tsha vhushayamushumo onoyo kha minwedzi ya rathi yo fhiraho. 25

(3) U ya nga khethhekanyo thukhu (5), pfanelo ya mutikedzi wa tshikwama tsha vhushayamushumo ya u wana mbuelo u ya nga iyi Ndimi i engedzedzea nga mbuelo ya *quvha* jithi kha maduvha manwe na manwe a rathi o fhedzwaho a mushumo sa mutikedzi wa tshikwama tsha vhushayamushumo u ya nga mbuelo ya maduvha o kuvhanganywaho a nthesa a 238 nga tshifhinga tsha minwaha mina nga u tavhanya hu sa athu swika *quvha* la khumbelo ya mbuelo u ya nga iyi Ndimi, hu tshi tuswa maduvha manwe na manwe a mbuelo o waniwaho nga mutikedzi wa tshikwama tsha vhushayamushumo nga itshi tshifhinga. 30 35

(4) U itela u wana maduvha o fhedzwaho a mushumo sa zwe a sumbedziswa zwone kha khethhekanyo thukhu (3), tshifhinga tshi katela —

(a) *quvha* le mutikedzi wa tshikwama tsha vhushayamushumo a thoma u shuma ngalo u swika nga *quvha* le mushumo wa fhela, na

(b) tshifhinga tshinwe na tshinwe tse 40

(i) mushumi a vha a tshi holelwa vhudzuloni ha nothisi;

(ii) ramabindu wa lwanzheni a wana muholo wawe u ya nga khethhekanyo thukhu 140 ya Mulayo wa Vhoramabindu vha u tshimbidza zwithu nga zwikepe (Merchant Shipping Act), 1951 (Mulayo 57 wa 1951).

(5) Maduvha a mbuelo ane muthu we a vha a tshi khou shuma a badelaho zwibviswa a fanela u a wana u ya nga khethhekanyo thukhu (3) a nga kha *qi* si fhungudzwe nga mbadelo ya mbuelo dza vhudzadze u ya nga Tshipida D tsha iyi Ndimi² 45

2. Ndila ya u vhala maduvha a mbuelo ane a tea u waniwa nga mushumi—

Liga 1 — u wana nomboro ya maduvha othe o tangana e mushumi a a shuma nga tshifhinga tsha minwaha miga hu sa athu swika *quvha* la khumbelo ya mbuelo u ya nga iyi Ndimi.

Liga 2 — kha vha kovhe maduvha othe o tangana nga 42 vha andise nga sumbe vha songo katela zwipida kha mbalo yavho.

Liga 3 — kha aya maduvha kha vha tse mbuelo dzinwe na dzinwe dza maduvha (hu sa katelwi mbuelo dza vhudzadze) dzo waniwaho nga tshifhinga tsha minwaha mina phanda ha *quvha* la u ita khumbelo ya mbuelo u ya nga iyi Ndimi.

Liga 4 — Figara yo waniwaho i sumbedza maduvha a mbuelo ane a tea u waniwa nga mutikedzi wa tshikwama tsha vhushayamushumo.

Contributor not entitled to benefits under certain circumstances

- 14.** A contributor is not entitled to benefits for any period that the contributor—
- (a) was in receipt of—
 - (i) a monthly pension from the State;
 - (ii) any benefit from the Compensation Fund established under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), as a result of an occupational injury or disease, which injury or disease caused the total or temporary unemployment of that contributor; 5
 - (iii) benefits from any unemployment fund or scheme established by a council under section 28(g) or 43(1)(c) of the Labour Relations Act, 1995 (Act No. 66 of 1995); 10
 - (b) fails to comply with any provision of this Act or any other law relating to unemployment; or
 - (c) is suspended from receiving benefits in terms of section 36(1).

Part B: Unemployment benefits

15

Calculation of period of unemployment under this Part

- 15.** (1) For purposes of this Part, any period of unemployment must be calculated from the date of unemployment.
- (2) The date contemplated in subsection (1) may be moved to a date prior to the application if the claims officer is satisfied that any delay in making the application was caused by circumstances beyond the control of the contributor. 20

Right to unemployment benefits

- 16.** (1) Subject to section 14, an unemployed contributor is entitled to unemployment benefits contemplated in this Part for any period of unemployment lasting more than 14 days, if— 25
- (a) the reason for the unemployment is—
 - (i) the termination of the contributor's contract of employment by the employer of that contributor or the ending of a fixed term contract,
 - (ii) the dismissal of the contributor, as defined by section 186 of the Labour Relations Act, 1995 (Act No. 66 of 1995), or 30
 - (iii) insolvency in terms of the provisions of the Insolvency Act, 1936 (Act No. 24 of 1936);
 - (b) application is made in accordance with the prescribed requirements and the provisions of this Part;
 - (c) the contributor is registered as a work-seeker with a labour centre established under the Skills Development Act, 1998 (Act No. 97 of 1998); and 35
 - (d) subject to subsection (3), the contributor is capable of and available for work.
- (2) An unemployed contributor is not entitled to the benefits referred to in subsection (1) if—
- (a) the contributor fails to report at the times and dates stipulated by the claims officer in terms of section 17(4)(d); or 40
 - (b) the contributor refuses without just reason to undergo training and vocational counselling for employment under any scheme approved by the Director-General in terms of this Act or any other law.
- (3) Despite subsection (1)(d) and subject to section 20(1)(a), a contributor who becomes ill while in receipt of unemployment benefits, remains entitled to unemployment- 45

Muthu we a vha a tshi khou shuma a songo teaho u wana mbuelo zwi tshi itiswa nga dzinwe nyimele kana maimo**14. Mushumi ho ngo tea u wana mbuelo dza tshifhinga tshinwe na tshinwe—**

- (a) tshe a vha a tshi wana—
 - (i) phensheni ya nwedzi u bva kha Muvhuso; 5
 - (ii) mbuelo inwe na inwe i no bva kha Tshikwama tsha Ndiliso tsho thomiwaho nga fhasi ha Mulayo wa Ndiliso ya Malwadze na U huvhala ho bvelelaho Mushumoni (Compensation for Occupational Injury and Disease Act), zwi no nga u huvhala mushumoni kana vhulwadze, zwe zwa ita uri mushumi a si tsha shuma lwa tshothe kana a si tsha shuma lwa tshifhinganyana; 10
 - (iii) mbuelo u bva kha tshikwama kana tshikimu tshinwe na tshinwe tsho vhumbiwaho nga khantsela fhasi ha khethekanyo 28(g) kana 43(1)(c) ya Mulayo wa Vhushaka ha Vhashumi, 1995 (Mulayo wa Nomboro 66 wa 1995); 15
- (b) u tevhedzela zwinwe na zwinwe zwo netshedzwaho zwa uyu Mulayo kana mulayo munwe na munwe u tshimbilelanaho na vhushayamushumo; kana
- (c) a imiswa kha u wana mbuelo u ya nga khethekanyo 36(1).

Tshipiḁa B: Mbuelo dza vhushayamushumo**Uvhaliwa ha tshifhinga tsha Vhushayamushumo nga fhasi ha itshi tshipiḁa 20**

15. (1) U ya nga itshi tshipiḁa, tshifhinga tshinwe na tshinwe tsha vhushayamushumo tshi tea u vhaliwa u bva nga ḁuvha la u shaya mushumo.

(2) ḁuvha lo sumbedzwaho kha khethekanyo ḁukhu (1) li nga kha ḁi sudzuluselwa kha la phanda ha khumbelo arali muofisi wa mbilo o fushea uri u lengiswa hunwe na hunwe hune ha itiwa kha u ita khumbelo ho vhangisiwa nga maimo ane a nga si kone u laulwa nga mushumi. 25

Pfanelo ya u wana mbuelo dza vhushayamushumo

16. (1) U ya nga khethekanyo 14, muthu a si tsha shumaho u na pfanelo ya u wana mbuelo dzo sumbedzwaho kha itshi tshipiḁa dza tshifhinga tshinwe na tshinwe tsha vhushayamushumo tsha maḁuvha a 14, arali— 30

- (a) tshiitisi tsha vhushayamushumo ndi—
 - (i) u fheliswa ha khonthirika ya Mubvisi ya mushumo nga mutholi kana u fhela ha khonthirika yo tetshelwaho tshifhinga;
 - (ii) u pandelwa ha mubvisi sa zwo talutshedzwaho nga khethekanyo ya 186 ya Mulayo wa Vhushaka ha Vhashumi, 1995 (Mulayo wa Nomboro 66 wa 1995); kana 35
 - (iii) u sa tsha kona u badela u ya nga ha zwi re kha Mulayo wa u sa tsha kona u badela, 1936 (Mulayo wa Nomboro 24 wa 1936);
 - (b) khumbelo i itwa u ya nga thodea dzo tiwaho na netshedzo dza itshi tshipiḁa;
 - (c) mutikedzi wa tshikwama tsha vhushayamushumo u redzhisitariwa sa muthu ane a khou ḁoḁa mushumo kha senthara ya zwa mishumo yo thomiwaho nga fhasi ha Mulayo wa Mveledziso ya Vhukoni, 1998 (Mulayo 97 wa 1998); na 40
 - (d) u ya nga khethekanyo ḁukhu (3), mutikedzi wa tshikwama tsha vhushayamushumo u na vhukoni nahone u a wanala arali hu na mushumo.
- (2) mutikedzi wa tshikwama tsha vhushayamushumo ha na pfanelo ya u wana mbuelo dzo buliwaho kha khethekanyo (1) arali— 45
- (a) mutikedzi wa tshikwama tsha vhushayamushumo a kundelwa u vhiga nga zwifhinga, maḁuvha o buliwaho nga muofisi wa mbilo u ya nga khethekanyo 17(409d); kana
 - (b) mutikedzi wa tshikwama tsha vhushayamushumo u hana u gudiswa na vhueletshedzi ha zwa mushumo malugana na mushumo nga fhasi ha tshikimu tshinwe na tshinwe tsho tendelwaho nga Mudairekhitha-Dzhenerala u ya nga uyu Mulayo kana munwe mulayo; 50
- (3) Nga nḁa ha khethekanyo ḁukhu (1)(d) na u ya nga khethekanyo 20(1)(a), mutikedzi wa tshikwama tsha vhushayamushumo ane a mbo ḁi lwala musi a tshi khou wana mbuelo dza vhushayamushumo, u bvela phanda na u wana mbuelo dza vhushayamushumo arali muofisi wa zwa mbilo o fushea uri vhulwadze a vhu nga do 55

ment benefits if the claims officer is satisfied that the illness is not likely to prejudice the contributor's chance of securing employment.

Application for unemployment benefits

17. (1) Application for unemployment benefits must be made in the prescribed form at an employment office. 5
- (2) The application must be made within six months of the termination of the contract of employment, but the Commissioner may accept an application made after the six-month time limit has expired on just cause shown.
- (3) The claims officer must investigate the application and, if necessary, request further information regarding the applicant's continued unemployment. 10
- (4) If the application complies with the provisions of this Chapter, the claims officer must—
- (a) approve the application;
 - (b) determine— 15
 - (i) the amount of benefits for purposes of section 13(3);
 - (ii) the benefits the applicant is entitled to in terms of section 13(4);
 - (c) authorise the payment of the benefits; and
 - (d) stipulate when the applicant must report to the employment office for purposes of confirming that the contributor— 20
 - (i) has been unemployed for the period in respect of which the unemployment benefit has been claimed; and
 - (ii) is capable of and available for work.
- (5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective. 25

Payment of unemployment benefits

18. (1) The Director-General must pay the unemployment benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.
- (2) If the contributor receives unemployment benefits and without just reason refuses 30 to accept appropriate, available work, or to undergo appropriate training or vocational counselling, the claims officer may impose a penalty of up to a maximum of thirteen weeks during which no benefits may be paid to the contributor.

Part C: Illness benefits

Determination of period of illness under this Part 35

19. (1) For purposes of this Part, the period of illness must be determined from the date the contributor ceases to work as a result of the illness.
- (2) Subsection (1) applies with the necessary changes in respect of the determination of the periods of maternity and adoption benefits contemplated in sections 24(2) and 27(3), respectively. 40

Right to illness benefits

20. (1) Subject to section 14, a contributor is entitled to the illness benefits contemplated in this Part for any period of illness if—

thithisa mutikedzi wa tshikwama tsha vhushayamushumo kha khonadzeo dza u wana mushumo.

Khumbelo ya mbuelo dza vhushayamushumo

17. (1) Khumbelo ya mbuelo dza vhushayamushumo i fanela u itwa kha fomo yo teaho ine ya wanala kha ofisi ya mushumo 5
- (2) khumbelo i fanela u itwa hu sa athu fhela minwedzi ya rathi ho fheliswa kontiraka ya mushumo, fhedzi mukhomishinari a nga kha di tangedza khumbelo yo itwaho ho no fhira minwedzi ya rathi arali ho sumbedzwa tshiitisi tshi pfalaho kana ho vha na thalutshedzo i pfalaho.
- (3) Muofisi wa zwa mbilo u fanela u todisisa khumbelo na u humbela manwe mafhungo malugana na u bveta phanda na u sa tholiwa ha muhumbeli, arali zwo tea. 10
- (4) Arali khumbelo i tshi tshimbilelana na zwo tshedzwaho kha iyi Ndimba, muofisi u fanela u—
- (a) tendela kana u tangedza khumbelo;
- (b) u wana— 15
- (i) thanganyelo ya mbuelo u ya nga khethekanyo 13(3)
- (ii) mbuelo dzine dza tea u waniwa nga muhumbeli u ya nga khethekanyo 13(4);
- (c) tendela mbadelo dza mbuelo; na
- (d) u sumbedza uri muhumbeli u fanela u ya ofisini ya mushumo lini u khwathisedza uri mutikedzi wa tshikwama tsha vhushayamushumo— 20
- (i) o vha a sa shumi nga tshifhinga tsha musi a tshi vhila mbuelo dza vhushayamushumo; na
- (ii) uri u a kona u shuma nahone u a wanala arali hu na mushumo.
- (5) Arali khumbelo i sa tshimbilelani na tshedzo dza iyi Ndimba, muofisi wa zwa mbilo u fanela u elishedza muhumbeli nga u tou nwala uri khumbelo yo khakhea na uri ndi ngani yo khakhea. 25

Mbadelo dza mbuelo dza vhushayamushumo

18. (1) Mudairekhitha-Dzhenerala u fanela u badela mutikedzi wa tshikwama tsha vhushayamushumo mbuelo dza vhushayamushumo kha ofisi ya zwa mishumo he khumbelo ya itwa hone kana ofisi inwe-vho ya zwa mishumo yo tiwaho nga muhumbeli nga tshifhinga tsha u humbela. 30
- (2) arali mutikedzi wa tshikwama tsha vhushayamushumo, a tangedza mbuelo dza vhushayamushumo, nahone hu si na thalutshedzo i pfalaho a hana u tangedza mushumo une wa vha hone, kana u tshedzwa vhugudisi ho teaho kana vhuetschedzi malugana na zwa mishumo, muofisi wa zwa mbilo u do mu pfisa vhuungu nga u sa mu badela mbuelo tshifhinga tshi no lingana vhege tharu. 35

Tshipiḁa C: Mbuelo dza vhulwadze

Uwaniwa ha tshifhinga tsha vhulwadze nga fhasi ha itshi Tshipiḁa

19. (1) U ya nga itshi Tshipiḁa, tshifhinga tsha vhulwadze tshi fanela u waniwa u bva nga duvha le mutikedzi a imisa u shuma nga vhangani la vhulwadze, kana a wane phesenthe dzi re nga fhasi ha futhanu dza muholo wa nga misi u bva kha mushumelwa nga vhangani la vhulwadze. 40
- (2) Khethekanyo (1) i shuma na tshanduko dzo teaho malugana na u waniwa ha tshifhinga tsha mbuelo dza vhudzadze na u adoputa dzo sumbedzwaho kha khethekanyo 24(2) na 27(3). 45

Pfanelo ya u wana mbuelo dza vhulwadze

20. (1) U ya nga khethekanyo 14, mutikedzi wa tshikwama tsha vhushayamushumo u na pfanelo ya u wana mbuelo dza vhulwadze dzo sumbedzwaho kha itshi Tshipiḁa dza tshifhinga tshinwe na tshinwe tsha u lwala arali— 50

- (a) the contributor is unable to perform work on account of illness;
- (b) the contributor fulfils any prescribed requirements in respect of any specified illness; and
- (c) application is made for illness benefits in accordance with the prescribed requirements and the provisions of this Part. 5
- (2) A contributor is not entitled to illness benefits—
 - (a) if the period of illness is less than 14 days; and
 - (b) for any period during which the contributor—
 - (i) is entitled to unemployment benefits in terms of Part B of this Chapter or adoption benefits in terms of Part E of this Chapter; or 10
 - (ii) without just reason, refuses or fails to undergo medical treatment or to carry out the instructions of a medical practitioner, chiropractor or homeopath.

Calculation of illness benefits

21. (1) Subject to subsection (2), the contributor must be paid the difference between 15
any sick leave paid to that contributor in terms of any other law, collective agreement or contract of employment for the period contemplated in section 19, and the maximum benefit payable in terms of section 12(2).

(2) When taking into account any sick leave paid to the contributor in terms of any other law, or any collective agreement or contract of employment, the illness benefit 20
may not be more than the remuneration the contributor would have received if the contributor had not been ill.

Application for illness benefits

22. (1) (a) Application for illness benefits must be made personally in the prescribed form at an employment office. 25

(b) If the contributor cannot lodge the application personally, the claims officer may authorise any other person to lodge the application on behalf of the applicant.

(2) The application for illness benefits must be made within six months of the commencement of the period of illness, but the Commissioner may accept an application made after the six-month time limit has expired on good cause shown. 30

(3) The claims officer must investigate the application and, if necessary, request any further information regarding the period that the applicant was not working or received reduced remuneration as a result of the illness.

(4) If the application complies with the provisions of this Chapter, the claims officer must— 35

- (a) approve the application;
- (b) determine—
 - (i) the amount of benefits for purposes of section 13(3);
 - (ii) the benefits the applicant is entitled to in terms of section 13(4);
- (c) authorise the payment of the benefits; and 40
- (d) stipulate how the benefits are to be paid.

(5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

- (a) mutikedzi wa tshikwama tsha vhushayamushumo a sa koni u shuma nga vhanga la vhulwadze;
 - (b) mutikedzi wa tshikwama tsha vhushayamushumo a tevhedzela thodea dzothe dzo vhwaho kana dzo tiwaho malugana na vhulwadze vhunwe na vhunwe ho buliwaho; na 5
 - (c) khumbelo ya mbuelo dza vhulwadze yo itwa u ya nga thodea dzo tiwaho na netshedzo dza itshi Tshipiḽa.
- (2) Mutikedzi wa tshikwama tsha vhushayamushumo ho ngo tea u wana mbuelo dza vhulwadze— 10
- (a) arali tshifhinga tsha vhulwadze tshi fhasi ha maḽuvha a 14; na
 - (b) tshifhinga tshinwe na tshinwe tshine mutikedzi wa tshikwama tsha vhushayamushumo—
 - (i) a fanela u wana mbuelo dza vhulwadze u ya nga Tshipiḽa B tsha iyi Ndima kana adopusheni ya mbuelo u ya nga Tshipiḽa E tsha Ndima iyi; 15
 - (ii) hu si na tshiitisi tshi pfalaho, a hana u alafhiwa kana u tevhedzela ndaela dza ṽanga, dokotela wa malwadze a zwinungo (chiropractor) kana dokotela wa u lafha malwadze ane a lafhiwa nga tshidzidzivhadzi tshituku tshine tsha bveledza tsumbadwadze dza vhulwadze honoho (homeopath). 20

Uvhaliwa ha mbuelo dza vhulwadze

21. (1) U ya nga khethekanyo (2), mutikedzi wa tshikwama tsha vhushayamushumo u fanela u netshedzwa livi yo salaho musi a tshi netshedzwa livi u ya nga mulayo munwe na munwe, thedelano ya tshigwada kana kontiraka ya mushumo kha tshifhinga tsho sumbedzwaho kha khethekanyo 19, na mbuelo dza ṽthesa dzine dzi nga netshedzwa u 25

ya nga khethekanyo 12(2).

(2) Musi hu tshi dzhielwa ṽtha livi ya vhulwadze inwe na inwe ye ya newa mutikedzi wa tshikwama tsha vhushayamushumo u ya nga mulayo munwe na munwe, kana thedelano ya tshigwada inwe na inwe na kontiraka ya mushumo, mbuelo ya vhulwadze i nga kha di si fhire muholo we wa vha u tshi ḽo vha wo waniwa nga mutikedzi wa 30

Khumbelo ya mbuelo dza vhulwadze

22. (1) (a) Khumbelo ya mbuelo dza vhulwadze i fanelwa u itwa nga muthu ene muṽe kha fomo yo teaho ine ya wanala kha ofisi ya zwa mishumo.

(b) arali mutikedzi wa tshikwama tsha vhushayamushumo a sa nga koni u ita 35

khumbelo nga ene mune, muofisi wa zwa mbilo a nga kha ḽi tendela munwe muthu uri a mu itele.

(2) Khumbelo ya mbuelo dza vhulwadze i fanela u itwa hu sa athu fhela minwedzi ya rathi ya u thoma ha tshifhinga tsha vhulwadze. Mukhomishinari a nga ṽanganedza khumbelo dzine dza ḽa nga murahu ha musi ho no fhela minwedzi ya rathi fhedzi arali 40

hu na ṽhalutshedzo kana tshiitisi tshi pfalaho.

(3) Muofisi wa zwa mbilo u tea u ṽḽḽisisa khumbelo na u humbela manwe mafhungo malugana na tshifhinga tshe muhumbeli a vha a sa shumi kana o ṽanganedzaho muholo kana mbadelo nge a vha a tshi khou lwala.

(4) Arali khumbelo i tshi tshimbilelana na zwo ṽetshedzwaho kha iyi Ndima, muofisi 45

u fanela u—

- (a) tendela kana u ṽanganedza khumbelo
- (b) u wana—
 - (i) ṽhanganyelo ya mbuelo u ya nga khethekanyo 13(3);
 - (ii) mbuelo dzine dza tea u waniwa nga muhumbeli u ya nga khethekanyo 50
- (c) tendela mbadelo dza mbuelo; na
- (d) u sumbedza uri mbuelo dzi netshedzwa hani.

(5) Arali khumbelo i sa tshimbilelani na netshedzo dza iyi Ndima, muofisi wa zwa mbilo u fanela u eletshedza muhumbeli nga u tou nwala uri khumbelo yo khakhea na uri 55

ndi ngani yo khakhea.

Payment of illness benefits

23. The Director-General must pay the illness benefits—

- (a) at the employment office at which the application was made or any other employment office determined by the applicant at the time of application; and
- (b) to the contributor or any other person authorised by the contributor who is accepted by the claims officer to be so authorised.

Part D: Maternity benefits**Right to maternity benefits**

24. (1) Subject to section 14, a contributor who is pregnant is entitled to the maternity benefits contemplated in this Part for any period of pregnancy or delivery and the period thereafter, if application is made in accordance with prescribed requirements and the provisions of this Part.

(2) Subject to subsection (3), the contributor must be paid the difference between any maternity benefit paid to that contributor in terms of any other law or any collective agreement or contract of employment for the period contemplated in section 19(2), and the maximum benefit payable in terms of section 12(2).

(3) When taking into account any maternity leave paid to the contributor in terms of any other law or any collective agreement or contract of employment, the maternity benefit may not be more than the remuneration the contributor would have received if the contributor had not been on maternity leave.

(4) For purposes of this section the maximum period of maternity leave is 17,32 weeks.

(5) A contributor who has a miscarriage during the third trimester or bears a still-born child is entitled to a maximum maternity benefit of six weeks after the miscarriage or stillbirth.

Application for maternity benefits

25. (1) An application for maternity benefits must be made in the prescribed form at an employment office at least eight weeks before childbirth.

(2) The Commissioner may on good cause shown—

- (a) accept an application after the period of eight weeks referred to in subsection (1);
- (b) extend the period of submission of the application up to a period of six months after the date of childbirth.

(3) The claims officer must investigate the application and, if necessary, request further information.

(4) If the application complies with the provisions of this Chapter, the claims officer must—

- (a) approve the application;
- (b) determine—
 - (i) the amount of the benefits for purposes of section 13(3);
 - (ii) the benefits the applicant is entitled to in terms of section 13(4); and
- (c) stipulate how the benefits are to be paid.

(5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

Mbadelo dza mbuelo dza vhulwadze

23. Mudairekhitha-Dzhenerala u fanela u qetshedza mbuelo dza vhulwadze—

- (a) kha ofisi ya zwa mushumo he ha itwa hone khumbelo kana inwe ofisi-vho ya zwa mishumo yo tiwaho kana yo nangiwohona nga muhumbeli nga tshifhinga tsha khumbelo; na
- (b) mutikedzi wa tshikwama tsha vhushayamushumo kana muthu munwe na munwe o tendelwaho nga mutikedzi wa tshikwama tsha vhushayamushumo o tangedziwaho nga muofisi wa zwa mbilo uri a tendelwe.

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Tshipiḁa D: Mbuelo dza vhudzadze**Pfanelo dza u wana mbuelo dza vhudzadze**

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24. (1) U ya nga khethekanyo 14, mutikedzi wa tshikwama tsha vhushayamushumo ane a vha muimana u na pfanelo ya u wana mbuelo dza vhudzadze dzo sumbedzwaho kha itshi tshipiḁa dza tshifhinga tshinwe na tshinwe tshaubeba na tshifhinga tsha murahu ha u beba arali khumbelo yo itwa u ya nga thodea dzo tiwaho na netshedzo dza itshi Tshipiḁa.

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(2) U ya nga khethekanyo (3), mutikedzi wa tshikwama tsha vhushayamushumo u fanela u badelwa tshede yo salaho kha mbuelo ya vhudzadze yo netshedzwaho mutikedzi wa tshikwama tsha vhushayamushumo u ya nga mulayo munwe na munwe kana thendelano ya tshigwada kana kontiraka ya mushumo kha tshifhinga tsho sumbedzwaho kha khethekanyo 19(2), na mbuelo dzine dza tea u badelwa dza nthesa u ya nga khethekanyo 12(2).

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(3) Musi hu tshi dzhielwa ntha livi ya vhudzadze inwe na inwe yo badelwaho mutikedzi wa tshikwama tsha vhushayamushumo u ya nga mulayo munwe na munwe kana thendelano ya tshigwada kana kontiraka ya mushumo, mbuelo dza vhudzadze dzi nga kha ḁi si fhire muholo we mutikedzi wa tshikwama tsha vhushayamushumo o vha a tshi ḁo vha a tshi u wana arali o vha a si kha tshiimo tsha u vha na nwana kana tsha u vha mudzadze.

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(4) U ya nga iyi khethekanyo tshifhinga tsha livi ya vhudzadze ndi vhege dza 17,32.

(5) Mutikedzi wa tshikwama tsha vhushayamushumo we a huma ndila musi e kha thiraimisiḁa ya vhuraru kana a beba nwana o lovha u tea u wana mbuelo ya vhudzadze ya vhege dza rathi ine ya vha yone ya nthesa nga murahu ha musi o huma ndila kana o beba nwana o lovha.

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Khumbelo ya mbuelo dza vhudzadze

25. (1) Khumbelo ya mbuelo dza vhudzadze i fanela u itwa kha fomo yo teaho ine ya wanala kha ofisi ya zwa mushumo ho sala vhege dza malo uri a vhe na nwana.

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(2) Arali ho qetshedzwa tshiitisi kana tshilutshedzo i pfalaho, Mukhomishinari a nga—

- (a) tangedza khumbelo nga murahu ha tshifhinga tsha vhege dza malo dzo buliwaho kha khethekanyo thukhu (1);
- (b) lapfisa tshifhinga tsha u qetshedza khumbelo u swika kha tshifhinga tsha minwedzi ya rathi nga murahu ha musi o no vha na nwana.

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(3) Muofisi wa zwa mbilo u fanela u tdisisa khumbelo nahone arali zwo tea a humbele manwe mafhungo.

(4) Arali khumbelo i tshi tshimbilelana na zwo netshedzwaho kha iyi Ndima, muofisi u fanela u—

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- (a) tendela kana u tangedza khumbelo
- (b) u wana—

- (i) tshanganyelo ya mbuelo u ya nga khethekanyo 13(3);
- (ii) mbuelo dzine dza tea u waniwa nga muhumbeli u ya nga khethekanyo 13(4);

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- (c) u sumbedza uri mbuelo dzi qetshedzwa hani.

(5) Arali khumbelo i sa tshimbilelani na netshedzo dza iyi Ndima, muofisi wa zwa mbilo u fanela u etshedza muhumbeli nga u tou nwala uri khumbelo yo khakhea na uri ndi ngani yo khakhea.

Payment of maternity benefits

26. The Director-General must pay the maternity benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

Part E: Adoption benefits

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Right to adoption benefits

27. (1) Subject to section 14, only one contributor of the adopting parties is entitled to the adoption benefits contemplated in this Part in respect of each adopted child and only if—

- (a) the child has been adopted in terms of the Child Care Act, 1983 (Act No. 74 of 1983); 10
- (b) the period that the contributor was not working was spent caring for the child;
- (c) the adopted child is below the age of two; and
- (d) the application is made in accordance with the prescribed requirements and the provisions of this Part. 15

(2) The entitlement contemplated in subsection (1) commences on the date that a competent court grants an order for adoption in terms of the Child Care Act, 1983 (Act No. 74 of 1983).

(3) Subject to subsection (4), the contributor must be paid the difference, if any, between any adoption benefit paid to that contributor in terms of any other law or any collective agreement or contract of employment for the period contemplated in section 19(2) and the maximum benefit payable in terms of section 12(2). 20

(4) When taking into account any leave paid to the contributor in terms of any other law or any collective agreement or contract of employment, the benefit may not be more than the remuneration the employer would have paid the contributor if the contributor had been at work. 25

Application for adoption benefits

28. (1) An application for adoption benefits must be made in the prescribed form at an employment office.

(2) The application must be made within six months after the date of the order for adoption, but the Commissioner may accept an application after the six-month period on good cause shown. 30

(3) The claims officer must investigate the application and, if necessary, request further information regarding the period the applicant was not working in order to care for the adopted child. 35

(4) If the application complies with the provisions of this Chapter, the claims officer must—

- (a) approve the application;
- (b) determine—
 - (i) the amount of the benefits for purposes of section 13(3); 40
 - (ii) the benefits the applicant is entitled to in terms of section 13(4);
- (c) authorise the payment of the benefits; and
- (d) stipulate how the benefits are to be paid.

(5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective. 45

Mbadelo dza mbuelo dza vhudzadze

26. Mudairekhitha-Dzhenerala u fanela u badela mutikedzi wa tshikwama tsha vhushayamushumo mbuelo dza vhudzadze kha ofisi ya zwa mushumo he khumbelo ya itwa hone kana kha ofisi inwe na inwe ya mushumo yo tiwaho nga muhumbeli nga tshifhinga tsha khumbelo.

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Tshipiqa E: Mbuelo dza u adopta**Pfanelo ya u wana mbuelo dza u adopta**

27. (1) U ya nga khethekanyo 14, ndi mutikedzi muthihi fhedzi wa tshikwama tsha vhushayamushumo wa zwigwada zwa u adopta nwana ane a qo wana mbuelo dza u adopta dzo sumbedzwaho kana dzo buliwaho kha itshi Tshipiqa malugana na nwana o adoputiwaho nahone arali—

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- (a) nwana o adoputiwa u ya nga Mulayo wa Thogomelo ya Vhana, 1983 (Mulayo Nomboro 74 wa 1983);
- (b) tshifhinga tshine mutikedzi wa tshikwama tsha vhushayamushumo a vha a sa shumi a tshi fhedza a tshi khou thogomela nwana; na
- (c) nwana o adoputiwaho a fhasi ha minwaha mivhili;
- (d) khumbelo yo itwaho i tshi tshimbilelana na thodea dzo tiwaho na netshedzo dza itshi Tshipiqa.

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(2) Thendelo yo sumbedzwaho kana yo buliwaho kha khethekanyo thukhu 1 i thoma nga quvha line khothe i re na vhukoni ya netshedza ndaela ya u adopta u ya nga Mulayo wa Thogomelo ya Vhana, 1983 (Mulayo nomboro 74 wa 1983).

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(3) U ya nga khethekanyo thukhu (4), mutikedzi wa tshikwama tsha vhushayamushumo u fanela u badelwa mbuelo dzo salaho arali dzi hone, kha mbuelo dza vhushayamushumo dzo badelwaho nga munwe mulayo kana thendelano ya tshigwada kana kontiraka ya mushumo yo buliwaho kana yo bulwaho kha khethekanyo 19(2) na mbuelo dza vhege dza nthesa dzine dza tea u badelwa u ya nga 12(2).

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(4) Musi hu tshi dzhelwa ntha livi yo badelwaho kana yo netshedzwaho mutikedzi wa tshikwama tsha vhushayamushumo u ya nga mulayo munwe na munwe kana thendelano ya tshigwada kana kontiraka ya mushumo, mbuelo dzi nga kha di si fhire muholo we mutholi a vha a tshi qo vha o u nea mutikedzi wa tshikwama tsha vhushayamushumo arali mutikedzi wa tshikwama tsha vhushayamushumo o vha e mushumoni.

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Khumbelo ya mbuelo dza u adopta

28. (1) Khumbelo ya mbuelo dza u adopta i fanela u itwa kha fomo yo teaho ine ya wanala kha ofisi ya zwa mushumo.

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(2) Khumbelo i fanela u itiwa hu sa athu fhela minwedzi ya rathi nga murahu ha quvha le ndaela ya adopta ya bva, fhedzi arali ho vha na thalutshedzo i pfallaho malugana na zwenezwo, Mukhomishinari a nga tangedza khumbelo nga murahu ha tshifhinga tsha vhege dza rathi.

(3) Muofisi wa zwa mbilo u fanela u qodisa khumbelo nahone arali zwo tea a humbele manwe mafhungo malugana na tshifhinga tshine muhumbeli a vha a sa khou shuma u itela u thogomela nwana o adoputiwaho.

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(4) Arali khumbelo i tshi tshimbilelana na zwo netshedzwaho kha iyi Ndimu, muofisi u fanela u—

- (a) tendela kana u tangedza khumbelo;
- (b) u wana—
 - (i) tshanganyelo ya mbuelo u ya nga khethekanyo 13(3);
 - (ii) mbuelo dzine dza tea u waniwa nga muhumbeli u ya nga khethekanyo 13(4);
- (c) tendela mbadelo dza mbuelo; na
- (d) u sumbedza uri mbuelo dzi netshedzwa hani.

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(5) Arali khumbelo i sa tshimbilelani na netshedzo dza iyi Ndimu, muofisi wa zwa mbilo u fanela u eletshedza muhumbeli nga u tou nwala uri khumbelo yo khakhea na uri ndi ngani yo khakhea.

Payment of adoption benefits

29. The Director-General must pay the adoption benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

Part F: Dependant's benefits

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Right to dependant's benefits

30. (1) The surviving spouse or a life partner of a deceased contributor is entitled to the dependant's benefits contemplated in this Part, if application is made—

(a) in accordance with prescribed requirements and the provisions of this Part; and 10

(b) within six months of the death of the contributor except that, on just cause shown, the Commissioner may accept an application after the six-month period.

(2) Any dependent child of a deceased contributor is entitled to the dependant's benefits contemplated in this Part if application is made in accordance with the provisions of this Part and— 15

(a) there is no surviving spouse or life partner; or

(b) the surviving spouse or life partner has not made application for the benefits within six months of the contributor's death.

(3) The benefit payable to the dependant is the unemployment benefit referred to in Part B of this Chapter that would have been payable to the deceased contributor if the contributor had been alive. 20

Application for dependant's benefits

31. (1) An application for dependant's benefits must be made in the prescribed form at an employment office. 25

(2) The application must be made within the period referred to in section 30(1)(b) or within 14 days after the period referred to in section 30(2)(b), as the case may be.

(3) The claims officer must investigate the application and, if necessary, request further information relevant to processing the application.

(4) If the application complies with the provisions of this Chapter, the claims officer must— 30

(a) approve the application;

(b) determine—

(i) the amount of the benefits for purposes of section 13(3);

(ii) the benefits the applicant is entitled to in terms of section 13(4); and 35

(iii) to whom it must be paid;

(c) authorise the payment of the benefits; and

(d) stipulate how the benefits are to be paid.

(5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective. 40

Payment of dependant's benefits

32. The Director-General must pay the dependant's benefits to the dependant at the employment office at which the application was made or any other employment office determined by the applicant at the time of application. 45

Mbadelo ya mbuelo dza u adoputa

29. Mudairekhitha-Dzhenerala u fanela u badela mutikedzi wa tshikwama tsha vhushayamushumo mbuelo dza vhudzadze kha ofisi ya zwa mushumo he khumbelo ya itwa hone kana kha ofisi inwe na inwe ya mushumo yo tiwaho nga muhumbeli nga tshifhinga tsha khumbelo.

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Tshipiḁa F: Mbuelo dza vhaundiwa**Pfanelo ya u wna mbuelo dza vhaundiwa**

30. (1) Mufarisi wa mutikedzi wa tshikwama tsha vhushayamushumo o lovhaho u na pfanelo ya u wana mbuelo dza vhaundiwa dzo buliwaho kana dzo sumbedzwaho kha itshi tshipiḁa, arali khumbelo yo itwa—

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(a) u ya nga ṭhodea dzo tiwaho na ṭetshedzo dza itshi Tshipiḁa; nahone

(b) hu sa athu fhela minwedzi ya rathi mutikedzi wa tshikwama tsha vhushayamushumo o lovhah, na uri arali ho vha na thalutshedzo i pfalaho, Mukhomishinari a nga tangedza khumbelo na musi ho no fhela minwedzi ya rathi.

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(2) Nwana munwe na munwe wa mutikedzi wa tshikwama tsha vhushayamushumo u na pfanelo ya u wana mbuelo dzo sumbedzwaho kha itshi Tshipiḁa arali khumbelo yo itwa u ya nga netshedzo dza itshi tshipiḁa na—

(a) uri a hu na a tshilaho kha vhadzekani kana mufarisi wa tshoṭhe; kana

(b) uri munwe wa vhadzekani a tshilaho kana mufarisi wa tshoṭhe a songo ita khumbelo ya mbuelo hu sa athu fhela minwedzi ya rathi mutikedzi wa tshikwama tsha vhushayamushumo o lovhah.

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(3) Mbuelo ine ya tea u badelwa muundiwa ndi mbuelo ya vhushayamushumo ya vhege yo kwamiwaho kha Tshiida B tsha iyi Ndimah ye ya vha i tshi ḁo badelwa mutikedzi wa tshikwama tsha vhushayamushumo o lovhaho arali o vha a tshi kha ḁi tshila.

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Khumbelo ya mbuelo dza muundiwa

31. (1) Khumbelo ya mbuelo dza muundiwa i fanela u itwa kha fomo dzo teaho dzine dza wanala kha ofisi ya zwa mishumo.

(2) Khumbelo i fanela u itwa hu sa athu fhela tshifhinga tsho buliwaho kha khethekanyo 30(1)(b) kana 30(2)(b) vhunga zwi tshi ḁo vha zwo tou ralo.

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(3) Muofisi wa zwa mbilo u fanela u ṭḁḁisisa khumbelo nahone arali zwo tea a humbele manwe mafhungo o teaho malugana na u phurosesiwa ha khumbelo.

(4) Arali khumbelo i tshi tshimbilelana na zwo ṭetshedzwaho kha iyi Ndimah, muofisi u fanela u—

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(a) tendela kana u tangedza khumbelo

(b) u wana—

(i) ṭhanganyelo ya mbuelo u ya nga khethekanyo 13(3);

(ii) mbuelo dzine dza tea u waniwa nga muhumbeli u ya nga khethekanyo 13(4); nahone

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(iii) uri ndi nnyi ane a fanela u badelwa.

(c) tendela mbadelo dza mbuelo; na

(d) u sumbedza uri mbuelo dzi netshedzwa hani.

(5) Arali khumbelo i sa tshimbilelani na netshedzo dza iyi Ndimah, muofisi wa zwa mbilo u fanela u eletshedza muhumbeli nga u tou nwala uri khumbelo yo khakhea na uri ndi ngani yo khakhea.

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Mbadelo ya mbuelo dza muundiwa

32. Mudairekhitha-Dzhenerala u fanela u badela mutikedzi wa tshikwama tsha vhushayamushumo mbuelo dza vhudzadze kha ofisi ya zwa mushumo he khumbelo ya itwa hone kana kha ofisi inwe na inwe ya mushumo yo tiwaho nga muhumbeli nga tshifhinga tsha khumbelo.

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Part G: General provisions relating to claiming benefits

Benefits not to be assigned, attached or set off

- 33.** (1) Benefits may not be—
- (a) assigned;
 - (b) attached by the order of any court, except by any court order relating to maintenance of the dependants, including a former spouse, of that contributor; or
 - (c) set off against any debt;
- (2) For purposes of subsection (1), “debt” does not include a debt arising from benefits paid in error under the provisions of this Act.

Benefits not subject to taxation

- 34.** Benefits payable to contributors and dependants in terms of this Act are not subject to taxation in terms of the Income Tax Act, 1962 (Act No. 58 of 1962).

Recovery of benefits paid in error

- 35.** (1) Contributors or dependants who have been paid benefits that they are not entitled to in terms of this Act or paid benefits in excess of their entitlement must repay such benefits to the Fund.
- (2) If the Commissioner determines that a person contemplated in subsection (1) has been paid benefits in error or in excess of the person’s entitlement, the Commissioner must, within eighteen months of the date of the determination, make a written demand for repayment from that person.
- (3) A written demand contemplated in subsection (2) must include—
- (a) a statement of the amount paid in error;
 - (b) an explanation as to why that person was ineligible to receive the funds; and
 - (c) evidence that the person to whom the demand is addressed actually received the funds.
- (4) The persons contemplated in subsection (1) must refund the amount within 90 days of the written demand.

Suspension of contributor’s right to benefits

- 36.** (1) After giving a contributor or a dependant an opportunity to make written representations, the Commissioner may, on written notice with reasons provided, suspend a contributor or dependant for a period of up to five years from receiving benefits in terms of this Act if the contributor or dependant—
- (a) made a false statement in an application for benefits;
 - (b) submitted a fraudulent application for benefits;
 - (c) failed to inform a claims officer of the resumption of work during the period in respect of which benefits were being paid; or
 - (d) failed to comply with a written demand issued in terms of section 35(2).
- (2) The period of suspension may be imposed irrespective of whether or not actual payment was made to the contributor or dependant.

*Tshipiḁa G: Ntshedzo dza u angaredza dza malugana na mbilo ya mbuelo***Mbuelo dzine dza sa do ntshedzwa, dzi si na mune, kana u lifha u vhetshelwa thungo**

33. (1) Mbuelo dzi nga kha ḁi si—

(a) kovhiwe; 5

(b) dzhiwe nga ndaela ya khoṱhe inwe na inwe, nga nṁḁa ha ndaela ya khoṱhe inwe na inwe ya malugana na u ṱhogomela vhaundiwa, ho katelwa na mufarisi wa kale wa mutikedzi onoyo wa tshikwama tsha vhushayamushumo onoyo; kana

(c) u shumiswa kha zwikolodo; 10

(2) U ya nga khethekanyo thukhu 1, “tshikolodo” a tshi angaredzi tshikolodo tsho vha ho hone nge mbuelo dza badelwa zwi songo tea nga fhasi ha ntshedzo dza uyu Mulayo.

Mbuelo dzi songo fanelaho u thekisiwa

34. Mbuelo dzine dza badelwa mutikedzi wa tshikwama tsha vhushayamushumo na vhaundiwa u ya nga Mulayo a dzo ngo tea u thekisiwa u ya nga Mulayo wa Muthelo wa Muholo, 1962 (Mulayo Nomboro 58 wa 1962). 15

Uwaniwa murahu ha mbuelo dze dza vha dzo badelwa zwi songo tea

35. (1) Vhatikedzi vha tshikwama tsha vhushayamushumo na vhaundiwa vhe vha wana mbuelo zwi songo tea u ya nga uyu Mulayo kana vhe vha badelwa mbuelo dzo fhiraho vha tea u lifha kana u badela murahu mbuelo dzenedzo kha tshikwama. 20

(2) Arali Mukhomishinari a tshi ita uri muthu o humbulelwaho kha khethekanyo thukhu ya (1) o newa mbuelo nga ndila yo khakheaho kana o wana mbuelo nnzhisa u fhirisa zwine a fanela u wana, Mukhomishinari u do ita mbilo nga u tou nwala ya uri mbadelo iyo i vhuiselwe murahu kha minwedzi ya fumimalo u bva nga ḁuvha la u ta. 25

(3) Mbilo nga u tou nwala yo humbulelwaho kha khethekanyo thukhu ya (2) i fanela u vha na—

(a) tshitatamenṁḁe tsha tshelede yo badelwaho nga ndila yo khakheaho;

(b) ṱhalutshedzo ya uri ndi ngani uyo muthu a songo fanela u wana tshelede iyo; na 30

(c) vhuṱanzi ha uri ane mbilo ya khou itwa khae ndi zwavhukuma o wana tshelede iyo.

(4) Vhathu vho humbulelwaho kha khethekanyo thukhu ya (1) vha fanela u humisa tshelede iyo maḁuvha a 90 a sa athu u fhela u bva tshe ha vha na mbilo yo tou nwalwaho.

Uimiswa ha ntshedzo ya mbuelo kha mutikedzi wa tshikwama tsha vhushayamushumo ya u wana mbuelo 35

36. (1) Nga murahu ha musi mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa o ntshedzwa tshifhinga tsha uri a sumbedze nga u tou nwala, kha nḁivhadzo yo tou nwaliwaho ho ntshedzwa na zwiitisi na ṱhalutshedzo dzi pfalaho, Mukhomishinari a nga kha ḁi imisa mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa tshifhinga tshine tsha lingana minwaha mitanu a sa khou wana mbuelo u ya nga uyu Mulayo arali mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa— 40

(a) o ntshedza tshitatamenṁḁe tshi si tshone musi a tshi ita khumbelo ya mbuelo;

(b) o ntshedza khumbelo ya vhuḁhura kana i si ya vhukuma ya mbuelo; 45

(c) o kundelwa u ḁivhadza muofisi wa zwa mbilo nga ha u vhuzelela mushumoni nga tshifhinga tshe mbuelo dza badelwa; kana

(d) o kundelwa u tevhezela khumbelo yo tou nwaliwaho ye ya bviswa u ya nga khethekanyo 35(2).

(2) Tshifhinga tsha u imiswa tshi nga kha ḁi vhewa hu sa sedzwi uri naa mbadelo ya vhukuma yo badelwa kana a yo ngo badelwa mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa. 50

- (3) The decision to suspend a contributor from receiving payments does not—
- (a) absolve an employer from that employer's duty to contribute to the Fund; or
 - (b) limit an employer's right to be reimbursed for any contribution paid on behalf of the suspended contributor.

Disputes relating to payment or non-payment of benefits

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37. (1) A person who is entitled to benefits in terms of this Act may appeal to the appeals committee of the Board if that person is aggrieved by a decision of—

- (a) the Commissioner to suspend such person's right to benefits; or
- (b) a claims officer relating to the payment or non-payment of benefits.

(2) A person who is dissatisfied with the decision of the appeals committee may refer the matter for arbitration to the CCMA. 10

CHAPTER 4

ENFORCEMENT

Securing undertakings

38. (1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act or has committed an offence in terms of this Act, must endeavour to secure a written undertaking by the employer to comply with the relevant provision. 15

(2) In endeavouring to secure the undertaking, the labour inspector—

- (a) may seek to obtain an agreement from the employer as to any step that the employer must take in terms of this Act; 20
- (b) may seek to obtain an agreement from the employer as to any amount owed to the Fund in terms of the Unemployment Insurance Contributions Act; and
- (c) must provide a receipt for any payment received.

Compliance order

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39. (1) A labour inspector may issue a compliance order if the labour inspector has reasonable grounds to believe that an employer has not complied with—

- (a) an undertaking obtained in terms of section 38;
- (b) an order given in terms of subsection (2); or
- (c) any provision of this Act. 30

(2) A compliance order must set out—

- (a) the name of the employer, and the location of every workplace to which the compliance order applies;
- (b) any provision of this Act that the employer has not complied with and details of the conduct constituting non-compliance; 35
- (c) any amount that the employer is required to pay to the Fund in terms of the Unemployment Insurance Contributions Act;
- (d) any written undertaking by the employer in terms of section 38 and any failure by the employer to comply with a written undertaking;
- (e) any steps that the employer is required to take including, if necessary, the cessation of the contravention in question and the period within which those steps must be taken; and 40
- (f) the maximum fine that may be imposed upon the employer for a failure to comply with a provision of this Act.

(3) Muhumbulo wa u imisa mutikedzi wa tshikwama tsha vhushayamushumo kha u wana mbadelo a u—

- (a) iti uri mushumelwa a vhofohololwe kha mushumo wa mushumelwa wa u tikedza tshikwama; kana
- (b) wa fhungudza pfanelo dza mushumelwa dza u lifhelwa zwibviswa zwe a bvisela mutikedzi wa tshikwama tsha vhushayamushumo we a imiswa kha u wana mbuelo. 5

Phambano malugana na u badelwa na u sa badelwa ha mbuelo

37. (1) Muthu ane a tea u wana mbuelo u ya nga Mulayo a nga aphila kha komiti ya Bodo arali muthu uyo a tshi pfa o khakhelwa nga tsheo ya— 10

- (a) Mukhomishinari a tshi imisa pfanelo dza muthu uyo uri a wane mbuelo; kana
- (b) muofisi wa mbilo malugana na mbadelo kana u sa badelwa ha mbuelo.

(2) Muthu ane a vha a songo fushea nga tsheo ya komiti ya u aphila a nga isa mafhungo ayo kha vha vhulamukanyi vha CCMA.

NDIMA 4

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U KOMBETSHEDZWA

Uwana phulufhedziso

38. (1) Mulavhelesi wa zwa mishumo ane a vha na thalutshedo dzi pfalaho dza u tenda uri mushumelwa ho ngo tevhedzela netshedzo na nthihi ya uyu mulayo kana o ita vhukhaki u ya nga uyu Mulayo, u tea u lingedza nga ndila dzothe u wana phulufhedziso 20 yo tou nwaliwaho nga mushumelwa u itela u tevhedzela netshedzo dzo teaho.

(2) Kha u lingedza u wana phulufhedziso, Mulavhelesi wa zwa mishumo—

- (a) u tea u wana thendelo kha mushumelwa kha liga jinwe na jinwe line mushumelwa a do tea u li dzhia u ya nga uyu Mulayo;
- (b) a nga kha di toda u wana thendelo ya mushumelwa malugana na tshelede 25 yothe ine ya kolodwa Tshikwama u ya nga Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo, 2000; na
- (c) tea u wana rasithi ya mbadelo inwe na inwe yo itwaho.

Ndaela ya u tevhedzela

39. (1) Mulavhelesi wa zwa mishumo a nga kha di bvisa ndaela ya u tevhedzela arali mulavhelesi wa zwa mishumo a na vhuṭanzi ho dalaho ha uri mushumelwa ho ngo tevhedzela— 30

- (a) phulufhedziso yo waniwaho u ya nga khethekanyo 38;
- (b) ndaela ye ya netshedzwa u ya nga khethekanyo thukhu 2; kana
- (c) netshedzo inwe na inwe ya uyu Mulayo. 35

(2) ndaela ya u tevhedzela i fanela u—

- (a) u sumbedza dzina la mushumelwa, na fhethu ha mushumo hune ha khou kwamiwa nga ndaela ya u tevhedzela;
- (b) netshedzo inwe na inwe ya uyu Mulayo we wa si tevhedzelwe nga mushumelwa na mafhungo nga vhuḍalo malugana na vhuḍifari vhune ha 40 sumbedza u sa tevhedzela;
- (c) tshelede inwe na inwe ine mushumelwa a tea u i badela kha Tshikwama u ya nga Mulayo wa Ndindakhombo ya Vhushayamushumo, 2000;
- (d) phulufhedziso inwe na inwe yo tou nwaliwaho nga mushumelwa u ya nga khethekanyo 38 na u kundelwa hunwe na hunwe ha mushumelwa malugana 45 na u tevhedzela phulufhedziso yo tou nwaliwaho;
- (e) liga jinwe na jinwe line mushumelwa a tea u li dzhia li katelaho, arali zwo tea, u fheliswa ha u pfukhwa ha ndaela ho itwaho na tshifhinga tshine ngatsho maga eneo a do dzhiwa; na
- (f) faini ya nthesa ine ya do itwa kha mushumelwa malugana na u kundelwa u 50 tevhedzela netshedzo ya uyu Mulayo.

(3) A labour inspector must deliver a copy of the compliance order to the employer.

(4) An employer must comply with the compliance order within the period stated in the order unless the employer objects in terms of section 40.

Objections to compliance order

40. An employer may object to a compliance order by referring the dispute for resolution to the Director-General in the prescribed manner. 5

Compliance order may be made an order of Labour Court

41. The Director-General may apply to the Labour Court for a compliance order to be made an order of the Labour Court if the employer has not complied with the order.

Duty of employer 10

42. An employer must ensure that every statement or other information which must be kept and submitted in terms of this Act is correct.

CHAPTER 5

COMMISSIONER AND CLAIMS OFFICERS

Designation of Unemployment Insurance Commissioner 15

43. The Minister must designate an employee of the Department of Labour as the Unemployment Insurance Commissioner.

Report of Commissioner, and delegation and assignment of powers and duties

44. (1) The Commissioner must furnish the Director-General with a report on the activities of the Fund during the preceding financial year within six months of the end of each financial year or as soon as it is practical thereafter. 20

(2) The Commissioner may not delegate any power or assign any duty conferred or imposed on the Commissioner in terms of this Act, unless the Director-General consents to the delegation or assignment.

(3) Any power exercised or duty performed by or under a delegation or in terms of an assignment contemplated in subsection (1) must be regarded as having been exercised or performed by the Commissioner. 25

(4) A delegation or assignment in terms of this section does not limit the Commissioner's authority to exercise or perform the delegated power or assigned duty.

Commissioner may deem person to be contributor 30

45. The Commissioner may deem a person to be a contributor for purposes of this Act if it appears that the person should have received benefits in terms of this Act but, because of circumstances beyond the control of that person, is not entitled to benefits.

Appointment of claims officers

46. Subject to the laws governing the Public Service, the Director-General must appoint claims officers to assist the Commissioner to process applications of claims made in terms of this Act. 35

(3) Mulavhelesi wa zwa mishumo u fanela u isa khophi ya ndaela ya u tevhedzela kha mushumelwa.

(4) Mushumelwa u fanela u tevhedzela ndaela ya u tevhedzela hu sa athu fhela tshifhinga tsho sumbedzwaho nga nn̄a ha musi a tshi hana u ya nga khethekanyo 40.

Uhana u tevhedzela ndaela

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40. Mushumelwa a nga hana u tevhedzela ndaela nga u rumela phambano kha Mudairekhitha-Dzhenerala uri i thasululwe nga ndila yo teaho.

Ndaela ya u tevhedzela i nga kha di itwa ndaela ya Khothe ya zwa mishumo

41. Mudairekhitha-Dzhenerala a nga ita khumbelo kha Khothe ya zwa Mishumo uri ndaela ya u tevhedzela i itwe ndaela ya Khothe ya zwa Mishumo arali mushumelwa a songo tevhedzela ndaela. 10

Mushumo wa mushumelwa

42. Mushumelwa u fanela u vhona uri zwiṭatamenṇde zwothe kana manwe mafhungo ane a tea u vhlungwa na u ṇetshedzwa u ya nga uyu Mulayo ndi a vhukuma kana ndi a ngoho. 15

NDIMA 5

MUKHOMISHINARI NA VHAOFISI VHA ZWA MBILO

U tholiwa ha Mukhomishinari wa Ndindakhombo ya Vhushayamushumo

43. Minisiṭa u fanela u thola mushumi wa Muhasho wa zwa Mishumo sa Mukhomishinari wa Ndindakhombo ya Vhushayamushumo. 20

Muvhigo wa Mukhomishinari, na u ṇetshedzwa maanda na mishumo

44. (1) Mukhomishinari u fanela u ṇetshedza Mudairekhitha-Dzhenerala muvhigo wa zwo itwaho malugana na Tshikwama kha nwaha wa dzitshelede wo fhiraho hu sa athu fhela minwedzi ya rathi phanda ha musi hu tshi fhela nwaha wa dzitshelede kana nga u ṭavhanya nga murahu ha afho. 25

(2) Mukhomishinari a nga kha ḡi si ṇetshedze maanḡa kana mushumo o u ṇetshedzwaho u ya nga uyu Mulayo, nga nn̄a ha musi Mudairekhitha-Dzhenerala a tshi tendelana nazwo.

(3) Maanḡa manwe na manwe ane a ḡo shumiswa kana mushumo une wa ḡo itwa wo tou ṇetshedzwa kana u ya nga ṇetshedzo yo sumbedzwaho kana yo buliwaho kha khethekanyo ṭhukhu (1) zwi fanela u dzhiiwa zwo shumisiwa na u itiwa nga Mukhomishinari. 30

(4) Ṇetshedzo u ya nga iyi khethekanyo a i thivheli Mukhomishinari u shumisa maanḡa kana u ita mishumo yo ṇetshedzwaho.

Mukhomishinari a nga dzhia muthu sa mutikedzi wa tshikwama tsha vhushayamushumo

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45. Mukhomishinari a nga kha ḡi dzhia muthu sa mutikedzi wa tshikwama tsha vhushayamushumo u ya nga uyu Mulayo arali muthu onoyo o vha o fanela o wana mbuelo u ya nga uyu Mulayo, fhedzi a songo tea u wana mbuelo, zwi tshi itiswa nga maimo ane a nga si kone u laulwa nga muthu onoyo. 40

Utholiwa ha vhaofisi vha zwa mbilo

46. U ya nga mulayo une wa langa Tshumelo dza Muvhuso, Mudairekhitha-Dzhenerala u tea u thola vhaofisi vha zwa mbilo uri vha thuse Mukhomishinari kha u phurosesa khumbelo dza mbilo dzo itwaho u ya nga uyu Mulayo.

CHAPTER 6**UNEMPLOYMENT INSURANCE BOARD****Establishment of Unemployment Insurance Board**

47. The Minister must establish the Unemployment Insurance Board.

Powers and duties of Unemployment Insurance Board

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48. (1) The Board must—

- (a) advise the Minister on—
 - (i) unemployment insurance policy; and
 - (ii) policies arising out of the application of this Act;
 - (iii) policies for minimising unemployment; and
 - (iv) the creation of schemes to alleviate the effects of unemployment;
 - (b) make recommendations to the Minister on changes to legislation in so far as it impacts on policy on unemployment or policy on unemployment insurance; and
 - (c) perform any other function which may be requested by the Minister for purposes of giving effect to this Act.
- (2) The powers and duties of the Board must be exercised and performed subject to—
- (a) the provisions of this Act and its constitution contemplated in section 50;
 - (b) any directions issued by the Minister; and
 - (c) any guidelines determined by the Director-General.

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Composition of Unemployment Insurance Board

49. (1) The Unemployment Insurance Board consists of—

- (a) a chairperson, who has a deliberative vote in addition to a casting vote and is appointed by the Minister;
 - (b) twelve voting members appointed by the Minister; and
 - (c) the Commissioner, who has a vote.
- (2) Of the members referred to in subsection (1)(b)—
- (a) three members must be nominated by NEDLAC to represent organised labour;
 - (b) three members must be nominated by NEDLAC to represent organised business;
 - (c) three members must be nominated by NEDLAC to represent organisations of community and development interests; and
 - (d) three members must be appointed by the Minister to represent the interests of the State.
- (3) A member of the Board contemplated in—
- (a) subsection (1)(a) and (b) holds office for a period of three years and is eligible for reappointment; and
 - (b) subsection (1)(c) is in an official capacity a member of the Board.
- (4) A member vacates office if that member—
- (a) is removed from office by the Minister as contemplated in subsection (5); or
 - (b) resigns by written notice addressed to the Minister.
- (5) The Minister may remove a member from the Board—
- (a) in the case of any member contemplated in subsection (2)(a), (b) or (c), on the request of NEDLAC;
 - (b) for serious misconduct;
 - (c) for permanent incapacity;
 - (d) for being absent from three meetings of the Board without prior permission of the Board unless just cause is shown by the member; or
 - (e) for engaging in any activity that might undermine the functions of the Board.

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NDIMA 6

BODO YA NDINDAKHOMBO YA VHUSHAYAMUSHUMO

Uthomiwa ha Bodo ya Ndindakhombo ya Vhushayamushumo

47. Minisiṭa u fanela u thoma Bodo ya Ndindakhombo ya Vhushayamushumo.

Maanda na mishumo ya Bodo ya Ndindakhombo ya Vhushayamushumo 5

48. (1) Bodo i fanela u—
- (a) eletshedza Minisiṭa nga ha—
 - (i) pholisi kana mbekanyamaitele ya ndindakhombo ya vhushayamushumo; na
 - (ii) pholisi kana mbekanyamushumo dzine dza bva kha khumbelo ya uyu 10 Mulayo;
 - (iii) pholisi dza u fhungudza vhushayamishumo; na
 - (iv) u sikwa ha zwikimu kha u leludza vhuleme ha vhushayamishumo;
 - (b) u ita dzithemendelo kha Minisiṭa malugana na tshanduko dza mulayo une wa kwama pholisi kana mbekanyamaitele ya vhushayamushumo kana pholisi ya 15 ndindakhombo ya vhushayamushumo; na
 - (c) ita minwe mishumo ine ya ḑo vha yo humbelwa nga Minisiṭa u itela uri uyu Mulayo u shume.
- (2) Maanda na mishumo ya Bodo zwi fanela u shumisiwa na u itiwa u ya nga—
- (a) ḡetshedzo dza uyu Mulayo na mulayotewa wo sumbedzwaho kana wo 20 buliwaho kha khethekanyo 50;
 - (b) ndaela dzinwe na dzinwe dzo bviswaho nga Minisiṭa; na
 - (c) milayo minwe na minwe yo tiwaho nga Mudairekhitha-Dzhenerala.

Mulayotewa wa Bodo ya Ndindakhombo ya Vhushayamushumo

49. Bodo ya Ndindakhombo ya Vhushayanushumo yo khethekanywa nga— 25
- (a) mudzulatshidulo, o khethiwaho hu na ḡdivho na o khethiwaho nga u tou vouta nahone o tholiwa nga Minisiṭa;
 - (b) miraḡo ya u vouta ya fumimbili yo nangiwohona kana yo tholiwaho nga Minisiṭa; na
 - (c) Mukhomishinari o voutelwaho. 30
- (2) Wa miraḡo yo kwamiwaho kha khethekanyo thukhu (1)(b)—
- (a) miraḡo miraru i fanela u nangiwa nga NEDLAC uri i imele dzangano la vhashumi;
 - (b) miraḡo miraru i fanela u nangiwa nga NEDLAC uri i imele dzangano la vhoramabindu; 35
 - (c) miraḡo miraru i fanela u nangiwa nga NEDLAC uri i imele madzangano a tshitshavha na madzangalelo a zwa vhubveledzi; na
 - (d) Miraḡo miraru i fanela u nangiwa nga Minisiṭa uri i imele madzangalelo a Muvhuso.
- (3) Muraḡo wa Bodo o sumbedzwaho kana o buliwaho kha— 40
- (a) khethekanyo thukhu ya (1)(a) na (b) u do shuma tshifhinga tsha minwaha miraru nahone u a tendelwa u tholiwa hafhu; na
 - (b) khethekanyo thukhu (1)(c) ndi muraḡo wa Bodo lwa tshiofisi
- (4) Muraḡo u litsha mushumo arali muraḡo wonoyo—
- (a) o bviswa mushumoni nga Minisiṭa sa zwa sumbedziswa zwone kha 45 khethekanyo thukhu (5); kana
 - (b) u litsha mushumo nga u nwalela Minisiṭa nothisi.
- (5) Minisiṭa a nga kha ḡi bvisa muraḡo kha Bodo—
- (a) malugana na muraḡo munwe na munwe wo sumbedzwaho kana wo buliwaho kha khethekanyo thukhu (2)(a) kana (b), nga khumbelo ya NEDLAC; 50
 - (b) malugana na vhuḡifari vhu si havhuḡi
 - (c) u sa vha na vhuḡoni tshoṭhe;
 - (d) u fhidza kha miṭangano miraru a songo thoma a wana thendelo kha Bodo, nga nḡa ha musi a na thalutshedzo i pfalaho; kana
 - (e) u ita zwinwe na zwinwe zwine zwi nga nyadzisa mishumo ya Bodo; 55

(6) If a member of the Board vacates office before the expiry of his or her period of office, the Minister must fill the vacancy in accordance with subsections (1) and (2) for the unexpired portion of that period.

Constitution of Unemployment Insurance Board

50. (1) The Board must as soon as possible after the appointment of its members, 5
prepare and adopt a constitution subject to approval by the Minister.

(2) The constitution of the Board—

(a) must provide for—

- (i) the establishment and functions of committees of the Board, which must include an appeals committee; 10
- (ii) subject to subsection (3), the rules for convening and conducting meetings of the Board and its committees, including the quorum required, and for the keeping of minutes;
- (iii) subject to section 49(1), the voting rights of the different members of, and the manner in which decisions are to be taken by, the Board and its committees; 15
- (iv) a code of conduct for Board members;
- (v) the determination through arbitration of any dispute concerning the interpretation and application of the constitution;
- (vi) subject to subsection (4), a procedure for amending the constitution; and 20

(b) may provide for—

- (i) the delegation and assignment of powers and duties of the Board to its members, committees and employees: Provided that the Board may—
 - (aa) impose conditions for any delegation or assignment;
 - (bb) not be divested of any power or duty by virtue of the delegation of that power or assignment of that duty; and 25
 - (cc) may vary or set aside any decision made under any delegation or assignment; and
- (ii) any other matter necessary for the performance of the functions of the Board. 30

(3) At least thirty days' notice must be given for a meeting of the Board at which a proposed amendment of the constitution is to be considered.

(4) A supporting vote of at least two thirds of the members of the Board and the approval of the Minister is required for an amendment of the constitution.

Administration and provision of resources to Unemployment Insurance Board 35

51. (1) The Commissioner is responsible for administering the affairs of the Board.

(2) In order to enable the Board to perform its functions effectively the Director-General must provide the Board with the necessary financial and administrative resources and, subject to the laws governing the Public Service, with the necessary personnel. 40

(3) As soon as it is practicable after the end of every month, the Commissioner must, after consultation with the Board—

- (a) determine the value of the service and resources provided by the Unemployment Insurance Fund to the Board; and
- (b) pay for the utilisation of these services and resources out of the Unemployment Insurance Fund. 45

Remuneration and allowances to members of Unemployment Insurance Board

52. A member of the Board or its committees who is not in the full-time employment of the State must be paid remuneration and allowances determined by the Minister in terms of the Treasury Instructions issued by the National Treasury. 50

Indemnification of members of Unemployment Insurance Board

53. A member of the Board is indemnified in respect of all proceedings, costs and expenses incurred by such member when defending or opposing legal proceedings arising out of *bona fide* acts of such member in terms of this Act.

(6) Arali murafo wa Bodo a litsha mushumo tshifhinga tshawe tsha u shuma tshi sa athu fhela, Minisiya u tea u qadza itsho tshikhala tsha tshifhinga tsho salaho u ya nga khethekanyo thukhu (1) na (2).

Mulayotewa wa Bodo ya Ndindakhombo ya Vhushayamushumo

50. (1) Nga murahu ha u thola mirafo yayo, Bodo i fanela u dzudzanya khathihi na u shumisa mulayotewa wayo nga u tsvhanya u ya nga thendelo ya Minisiya. 5

(2) Mulayotewa wa Bodo—

(a) u fanela u vhona uri—

(i) hu thomiwa komiti ya Bodo na mishumo yayo, zwine zwa fanela u katela na komiti ya u aphila; 10

(ii) u ya nga khethekanyo thukhu (3), milayo ya u dzudzanya, na u tshimbidza mitangano ya Bodo na komiti dzayo, hu tshi katelwa na khoramu ine ya todea na u nwala dziminetse;

(iii) u ya nga khethekanyo 49(1), pfanelo dza u vouta dza mirafo yo fhambanaho ya Bodo na komiti dzayo, na kudzhiele kwa tsheo kana ndila ya u tshea fhungo nga Bodo na komiti yayo 15

(iv) hu vha na khoudu ya vhuqifari ya mirafo;

(v) thaidzo malugana na u pfesesa mulayotewa na u shumisa i thasululwa nga tshigwada tsho imelaho masia othe.

(vi) U ya nga khethekanyo thukhu (4), hu na kuitele kwa u khwinisa kana u shandukisa mulayotewa; na 20

(b) u vhona uri—

(i) mirafo ya Bodo, komiti na vhashumi vha getshedzwa maanda na mishumo: Tenda Bodo ya—

(aa) vhea milayo malugana na getshedzo ya maanda kana ya mushumo; 25

(bb) si dzhilule maanda kana mushumo nge ya mu getshedza ayo maanda kana mushumo; na

(cc) ya fhambana kana ya vhetshela thungo tsheo yo dzhiiwaho malugana na getshedzo ya maanda kana mushumo; na

(ii) kana zwinwe zwo teaho malugana na u ita mishumo ya Bodo. 30

(3) Nqivhadzo ya mutangano wa Bodo hune ha qo ambiwa nga u khwiniswa kana u shandukiswa ha mulayotewa wo gaganywaho i fanela u itiwa hu sa athu fhela maquvha a furaru.

(4) Hu fanela u vha na voutu dza u tikedza dza mbili- tsha- raru ya mirafo ya bodo nahone hu todea thendelo ya Minisiya ya u khwinisa kana u shandukisa mulayotewa. 35

Ndaulo na getshedzo ya tshomedzo nga Bodo ya Ndindakhombo ya Vhushayamushumo.

51. (1) Mukhomishinari u na vhudifhinduleli ha u laula mafhungo a Bodo.

(2) U itela uri Bodo i kone u shuma mishumo yayo zwavhudi, Mudairekhitha-Dzhenerala u fanela u getshedza Bodo masheleni na tshomedzo dza u laula na vhashumi vho teaho u ya nga milayo ya u vhusa ya Tshumelo dza Vhashumi. 40

(3) Arali zwi tshi konadzea, nga murahu ha musi nwedzi wo fhela, Mukhomishinari o ambedzana na Bodo, Bodo i do fanela u—

(a) wana uri tshumelo na tshomedzo dzo getshedzwaho Bodo nga Tshikwama tsha Ndindakhombo ya Vhushayamushumo dzo vha vhugai; na 45

(b) u badela tshumiso ya idzi tshumelo na tshomedzo nga tshelede i no bva kha Tshikwama tsha Ndindakhombo ya Vhushayamushumo.

Muholo na mbadelo dza mirafo ya Bodo ya Ndindakhombo ya Vhushayamushumo

52. Murafo wa Bodo kana komiti yayo a songo tholiwaho lwa tshothe nga Muvhuso u fanela u newa muholo na mbadelo zwo vhwaho nga Minisiya u ya nga Ndaela dza Tshikwama (Treasury Instructions) dzo getshedzwaho nga Tshikwama tsha Lushaka. 50

Ndiliso ya mirafo ya Bodo ya Ndindakhombo ya Vhushayamushumo

53. Murafo munwe na munwe u a liliswa malugana na kutshimbidzele, mitengo kana mbadelo na tshelede yo shumiswaho nga murafo onoyo musi a tshi khou dipilela kana u hanedza kutshimbidzele kwa mulayo kwa milayo ya vhukuma ya murado u ya nga uyu Mulayo. 55

CHAPTER 7

REGULATIONS

Regulations

- 54.** The Minister, after consultation with the Board, may make regulations regarding any matter— 5
- (a) arising from, or consequential to, the transitional provisions contemplated in Schedule 1; or
 - (b) which it is necessary or expedient to prescribe in order to give effect to the purpose and provisions of this Act.

Procedure when issuing regulations 10

- 55.** (1) Unless public interest requires a regulation to be issued without delay, the Minister must comply with the following procedure when intending to issue regulations:
- (a) The intention to issue the regulation must be announced by notice in the *Gazette* and at least one other means of communication circulated throughout the Republic; 15
 - (b) the notice must state—
 - (i) that a draft regulation has been developed for comment;
 - (ii) the nature of the draft regulation;
 - (iii) where a copy of the draft regulation may be obtained; and
 - (iv) where comments are to be returned to; 20
 - (c) a period of at least one month from the date of the announcement must be allowed for interested parties to comment on the regulation; and
 - (d) the comments received and the content of all discussions and consultations must be considered before issuing or amending the regulation. 25
- (2) Subsection (1) does not apply—
- (a) to any regulation correcting a textual error; or
 - (b) when the Minister withdraws any regulation or notice made or issued under the Unemployment Insurance Act, 1966 (Act No. 30 of 1966), as contemplated in item 2 of Schedule 1.
- (3) Any regulation affecting State revenue or expenditure may only be issued or amended with the concurrence of the Minister of Finance. 30

CHAPTER 8

GENERAL

Information to be supplied by employer

- 56.** (1) Every employer must, as soon as it commences activities as an employer, provide the information referred to in subsection (2) regarding its employees to the Commissioner, irrespective of the earnings of such employees. 35
- (2) The information contemplated in subsection (1) must—
- (a) include the street address of the business, and any of its branches, of the employer; 40
 - (b) if the employer is not resident in the Republic, or is a body corporate not registered in the Republic, include the particulars of the authorised person who is required to carry out the duties of the employer in terms of this Act; and
 - (c) include the names, identification numbers and monthly remuneration of each of its employees, and must state the address at which the employee is employed. 45
- (3) Every employer must, before the seventh day of each month, inform the Commissioner of any change during the previous month in any information furnished in terms of subsection (1).
- (4) The Commissioner may request the employer to provide such additional particulars as may reasonably be required to give effect to the purpose of this Act within 30 days of the request, or within such extended period as the Commissioner may allow. 50

NDIMA 7

Milayo

54. Nga murahu ha u ambedzana kana u eletshedzana na Bodo ya Ndindakhombo ya Vhushayamushumo, Minisiṭa a nga vhea milayo malugana na zwinwe na zwinwe—

- (a) zwine zwa bva kha ṛetshedzo dza tshifhinganyana zwo sumbedzwaho kana zwo buliwaho kha Shedulu 1; kana 5
- (b) zwo teaho u tiwa hu tshi itelwa u i shumisa kha ndivho na ṛetshedzo dza uyu Mulayo.

Ndila ine ya shumiswa malugana na u bviswa ha milayo

55. (1) Nga nṇḁa ha musi vhathu vha tshi ṭoḁa uri mulayo u bviswe nga u tavhanya, Minisiṭa u fanela u tevhedzela nḁila dzi tevhelaho arali a tshi ṭoḁa u bvisa milayo: 10

- (a) Ndivho ya u bvisa mulayo i fanela u divhadzwa kha *Gurannḁa ya Muvhuso* na inwe nḁila nthihi ya vḁudavhidzani ine ya do rumelwa hoṭhe kha Riphabuliki;
 - (b) nḁivhadzo i tea u bula uri—
 - (i) mulayo wa mvetamveto wo bveledzwaho uri vhathu vha nee mahumbulwa; 15
 - (ii) lushaka lwa mulayo wa mvetamveto;
 - (iii) naa uri naa khophi ya mvetamveto ya mulayo i nga wanala ngafhi; na
 - (iv) naa mahumbulwa a fanela u rumelwa ngafhi;
 - (c) zwigwada zwine zwa vha na dzangalelo zwi fanela u newa nwedzi muthihi wa u nea mahumbulwa nga ha mulayo nga murahu ha musi ho itwa ndivhadzo; 20
 - (d) Mahumbulwa oṭhe o tangededzwaho na nyambedzano dzoṭhe zwi fanela u dzhielwa nthā phanḁa ha musi mulayo u tshi bvisiwa kana u tshi khwinifhadziwa kana u shandukiswa. 25
- (2) Khethekanyo thukhu (1) a i kwami—
- (a) mulayo munwe na munwe u khakhululaho u khakhea ha ḁinwalo;
 - (b) Musi Minisiṭa a tshi phumula mulayo munwe na munwe kana ndivhadzo yo itwaho kana yo bviswa nga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966 (Mulayo 30 wa 1996), sa zwe wa sumbedziswa zwone kha tshitenwa 2 tsha Shedulu 1. 30
- (3) Mulayo munwe na munwe une wa kwama mbuelo dza Muvhuso kana tshumiso ya tshede i nga bviswa kana ya khwiniswa fhedzi na Minisiṭa wa zwa Gwama.

NDIMA 8

ZWA U ANGAREDZA

Mafhungo kana zwidodombedzwa zwine zwa tea u ṛetshedzwa nga mushumelwa 35

56. (1) Mushumelwa munwe na munwe u tea u ṛetshedza zwidodombedzwa zwo kwamiwaho kha khethekanyo thukhu (2) malugana na vhashumi vḁawe kha Mukhomishinari, malugana na miholo ya vhashumi vḁenevho nga u tavhanya musi a tshi kha di tou bva u vha mushumelwa.

- (2) Zwidodombedzwa zwo sumbedzwaho kha khethekanyo thukhu (1) zwi tea u— 40
 - (a) katela adirese ya tshitarata tsha hune ha shumiwa hone, madavhi, na mushumelwa;
 - (b) arali mushumelwa a si mudzulapo wa Riphabuliki, kana khamphani i songo redzhisitariwaho, zwi tea u katela zwidodombedzwa zwa muthu o tendelwaho ane a tea u ita iyo mishumo ya mushumelwa u ya nga uyu Mulayo; na 45
 - (c) katela dzina, nomboro ya vhune, muholo wa nwedzi wa mushumi munwe na munwe, na adirese ya fhethu hune mushumi a shuma hone.

(3) Mushumelwa munwe na munwe u fanela u ḁivhadza Mukhomishinari hu sa athu fhela maḁuvha a sumbe arali hu na zwidodombedzwa zwo shandukaho zwe zwa ṛetshedzwa u ya nga khethekanyo thukhu (1). 50

(4) Mukhomishinari a nga kha di humbela mushumelwa uri a netshedze zwinwe zwidodombedzwa zwine zwa khou todea nga ndila i pfalaho u itela uri uyu Mulayo u kone u shuma hu sa athu fhela maḁuvha a 30 ho itwa khumbelo, kana nga tshifhinga tshenetsho tshine tsha do vha tsho engedzedzwa nga Mukhomishinari.

Creation and maintenance of database

57. (1) The Commissioner must create and maintain a database of contributors, beneficiaries and employers.

(2) Payment of any benefit in terms of this Act must be based on the information contained in the database and provided— 5

- (a) by the contributor or dependant;
- (b) in terms of section 56 of this Act; and
- (c) in terms of the Unemployment Insurance Contributions Act.

(3) (a) In order to determine the payment of benefits in terms of this Act, the Commissioner may access any information on a database of the State that contains information regarding social security. 10

(b) For purposes of paragraph (a) the Commissioner must co-operate with other State institutions to link their respective databases.

Powers and duties of Director-General

58. (1) The powers and duties conferred or imposed on the Director-General in terms of this Act are in addition to the powers and duties conferred or imposed on the Director-General as head of the Department of Labour. 15

(2) The Director-General must perform the fiduciary duties in respect of the Fund in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(3) Subject to such conditions as the Director-General may determine, the Director-General may delegate any power or assign any duty conferred or imposed on the Director-General in terms of this Act to any officer of the Fund. 20

(4) Any power exercised or duty performed under a delegation or assignment in terms of this section must be regarded as having been exercised or performed by the Director-General. 25

(5) A delegation or assignment in terms of this section does not limit the Director-General's authority to exercise the delegated power or perform the assigned duty.

(6) The Director-General may, after consultation with the Board—

- (a) purchase or otherwise acquire immovable property required for purposes of this Act; 30
- (b) alienate or let any immovable property so acquired; or
- (c) permit the use of any immovable property so acquired to give effect to any other law on such terms as the Director-General may determine.

(7) The Director-General may purchase or otherwise acquire any movable property required for purposes of giving effect to this Act, and may— 35

- (a) sell or otherwise write off losses and deficiencies in respect of this property; or
- (b) permit the use of any movable property so acquired to give effect to any other law on such terms as the Director-General may determine.

(8) Whenever the Director-General is of the opinion that any amount due to the Fund, or any amount paid by the Fund including moneys obtained fraudulently from the Fund, cannot or should not be recovered, the Director-General may direct that such amount be written off. 40

(9) The Director-General may—

- (a) appoint agents or designate agency offices to serve as employment offices as may be necessary to assist the Director-General, Commissioner, Board or Fund in properly administering this Act; and 45
- (b) confer on the agents or the officers of such offices such functions as may be necessary to give effect to this objective.

(10) Notwithstanding section 10(1), if the Director-General is of the opinion that the income of the Fund is insufficient or is not increasing at the rate required to meet the expenditure of the Fund or to meet reasonably anticipated future applications for benefits, the Director-General must— 50

- (a) inform the Minister, the actuary and the Board of this fact; and
- (b) after consulting with the Board make recommendations to the Minister on this matter. 55

Ubveledzwa ha dathabeisi na u i thogomela

57. (1) Mukhomishinari u fanela u bveledza na u thogomela dathabeisi ya vhatikedzi vha tshikwama tsha vhushayamushumo, vhalafa kana vhavhuelwa na vhashumelwa.

(2) U badelwa ha mbuelo dzinwe na dzinwe u ya nga Mulayo dzi fanela u itwa u ya nga zwidodombedzwa zwine zwa vha kha dathabeisi nahone zwo getshedzwaho nga mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa u ya nga khethekanyo 10 na Mulayo wa Ndindakhombo ya Vhushayamushumo, 2000.

(3) (a) Uri hu konwe u tiwa mbadelo ya mbuelo u ya nga Mulayo, Mukhomishinari a nga swikelela mafhungo manwe na manwe kha dathabeisi ya Muvhuso ine ya vha na mafhungo malugana na zwa tsireledzo ya matshiliso.

(b) Malugana na phara (a) Mukhomishinari u do fanela u shumisana na madzangano manwe a Muvhuso kha u konanya dathabeisi dzao.

Maanda na mishumo ya Mudairekhitha-Dzhenerala

58. (1) Maanda na mishumo yo getshedzwaho nga Mudairekhitha-Dzhenerala u ya nga uyu Mulayo ndi maanda na milayo yo getshedzwaho Mudairekhitha-Dzhenerala wa Muhasho wa zwa Mishumo.

(2) Mudairekhitha-Dzhenerala u fanela u ita mishumo ya thirasithi malugana na Tshikwama u ya nga Mulayo wa Ndangulo ya Gwama la Vhothe (Public Finance Management Act, 1999) (Mulayo 1 wa 1999).

(3) U ya nga milayo yeneyo yo vhwaho kana yo tiwaho nga Mudairekhitha-Dzhenerala, Mudairekhitha-Dzhenerala a nga getshedza maanda manwe na manwe kana mushumo munwe na munwe wo getshedzwaho Mudairekhitha-Dzhenerala u ya nga uyu Mulayo kha Muofisi munwe na munwe wa Tshikwama.

(4) Maanda manwe na manwe o shumiswaho kana mushumo munwe wo getshedzwaho u ya nga iyi khethekanyo zwi fanela u dzhiwa zwo itwa nga Mudairekhitha-Dzhenerala.

(5) u getshedzwa ha mishumo kana maanda a zwi thivheli Mudairekhitha-Dzhenerala u shumisa maanda eneo kana u ita mishumo yo getshedzwaho.

(6) Nga murahu ha musu Mudairekhitha-Dzhenerala o ambedzana na Bodo, a nga—

(a) renga thundu i sa sudzuluseiho ine ya todea u ya nga uyu Mulayo; kana

(b) kana a ita uri yeneyo thundu i sa sudzuluseiho i wanale nga ndila yeneyo;

(c) Tendela uri thundu i sa sudzuluseiho yo wanalaho nga ndila yeneyo i shumisiwe u ita uri mulayo munwe na munwe u shume kha zwi no nga zwenezwo nga ndila ye zwa vheiswa zwone nga Mudairekhitha-Dzhenerala.

(7) Mudairekhitha-Dzhenerala a nga renga thundu i sa sudzuluseiho ine ya todea uri mulayo u fhio kana ufho u kone u shuma zwavhudi, nahone a nga—

(a) rengisa kana a phumula tshinyalelo na thahalelo malugana na iyi thundu; kana

(b) a tendela u shumiswa ha thundu kana ndaka i sa sudzulusei yo waniwaho nga ndila yeneyo u itela uri mulayo u kone u shuma kha zwi no nga zwenezwo nga ndila ine Mudairekhitha-Dzhenerala a do vha o zwi vheisa zwone.

(8) Musi u ya nga Mudairekhitha-Dzhenerala tshede ine ya kolodwa Tshikwama, kana tshede ye ya badelwa kha Tshikwama hu tshi katelwa na dzitshede dzo fhuriwaho kha Tshikwama i songo tea u waniwa murahu, Mudairekhitha-Dzhenerala a nga laedza uri tshede yeneyo i phumulwe.

(9) Mudairekhitha-Dzhenerala a nga—

(a) nanga vhaimeli kana ofisi ya vhaimeli uri i shume sa ofisi ya zwa mishumo arali zwo tea u thusa Mudairekhitha-Dzhenerala, Mukhomishinari, Bodo kana Tshikwama nga u laula uyu Mulayo nga ndila yo teaho; na

(b) u getshedza vhaimeli kana vhaofisi vha ofisi dzenedzo mishumo ine ya do vha yo tea uri iyi ndivho i swikelelwe.

(10) A sa dziheli ntho khethekanyo 10(1), u ya nga Mudairekhitha-Dzhenerala, mbuelo ya Tshikwama a yo ngo lingana na uri a i khou aluwa nga ndila ine ya todea ngayo uri i kone u swikelela tshumiso ya Tshikwama kana u swikelela khumbelo dza matshelo dzo lavhelelwaho dza mbuelo, Mudairekhitha —Dzhenerala u fanela u—

(a) qivhadza Minisiya, vhaletshedzi vha dzikhamphani dza ndindakhombo na Bodo nga ha izwi; na

(b) nga murahu ha musu o ambedzana kana o eletshedzana na Bodo u fanela u ita dzithemendelo kha Minisiya malugana na izwi.

(11) The Director-General may borrow money on behalf of the Fund in terms of section 66(3)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(12) Notwithstanding section 11, the Director-General must within six months of the end of each financial year or as soon as practicable thereafter, submit a written report to the Minister regarding—

- (a) the manner in which the Board and the committees are performing their functions;
- (b) the number of unemployed contributors to whom benefits have been paid and the total amount of such benefits;
- (c) the number of contributors to whom illness, maternity and adoption benefits, respectively, have been paid and the total amount of such payments; and
- (d) the number of deceased contributors in respect of whom dependant's benefits were paid and the total amount of such payments.

(13) The report contemplated in subsection (12) together with the statement of income and expenditure and the balance sheet of the Fund, must be tabled in the National Assembly within 30 days after its receipt by the Minister if Parliament is then sitting and, if Parliament is not sitting, within fourteen days of the commencement of the next sitting.

Certain instruments exempt from stamp duty

59. Any instrument issued in terms of this Act is exempt from stamp duty, if that duty is legally payable by the Fund.

Recovery of losses caused by employees of Fund

60. (1) For purposes of this section, causing loss or damage to the Fund includes—

- (a) the making or authorising of—
 - (i) an irregular payment of Fund moneys;
 - (ii) a payment without a proper supporting voucher;
- (b) the failure to carry out a duty leading to a fruitless expenditure of Fund moneys;
- (c) a deficiency in any Fund moneys, stamps, securities, documents with face or potential value, or Fund property;
- (d) damage to any Fund property; and
- (e) an act or omission leading to a court claim against the Fund.

(2) If an employee of the Fund causes any loss or damage to the Fund, the Director-General may—

- (a) institute an enquiry into the loss or damage;
- (b) determine whether the employee is liable for the loss or damage;
- (c) if the employee is found to be liable for the loss or damage, determine—
 - (i) the amount of the loss or damage; and
 - (ii) how and when the amount is to be paid by the employee; and
- (d) notify the employee in writing of any determination made in terms of this subsection.

(3) If, at the termination of an employee's employment, there remains any amount outstanding in respect of a determination made in terms of subsection (2), that outstanding amount may be deducted from any moneys due to the employee.

(4) Any employee who is aggrieved by a determination made by the Director-General may, within 30 days of the date of notification in terms of subsection (2)(d), appeal to the Minister in accordance with the grievance procedure applicable to state employees.

(11) Mudairekhitha-Dzhenerala a nga koloda tshelede o imela Tshikwama u ya nga khethekanyo 66(3)(b) ya Mulayo wa Ndaulo ya Gwama la Muvhuso, 1999 (Mulayo Nomboro 1 wa 1999).

(12) Hu sa dzhielwi ntha khethekanyo 11, Mudairekhitha Dzhenerala u fanela u getshedza muvhigo hu sa athu fhela minwedzi ya rathi mafheloni a nwaha wa dzitshelede kana nga u tsvhanya arali zwi tshi konadzea malugana na—

- (a) ndila ine Bodo na Komiti dza ita mushumo wadzo ngayo;
- (b) nomboro ya vhatikedzi vha tshikwama tsha vhushayamuvhumo vhane vha wana mbuelo na tshelede yothe yo tangana ya mbuelo dzenedzo;
- (c) nomboro ya vhatikedzi vha tshikwama tsha vhushayamuvhumo vhe vha badelwa mbuelo dza vhulwadze, mbuelo dza vhudzadze na mbuelo dza u adoputa na tshelede yothe yo tangana ya mbadelo dzenedzo;
- (d) tshivhalo tsha vhatikedzi vha tshikwama tsha vhushayamushumo vho lovha vhe mbuelo dzavho dza badelwa vhaundiwa na mbadelo ya zwenezwo zwothe zwo tangana.

(13) Muvhigo wo sumbedzwaho kha khethekanyo thukhu (12) khathihi na tshitatamennde tsha mbuelo na tshumiso ya tshelede na bammberi la u balantsisa kana u linganyisa la Tshikwama, u fanela u iswa kha Buthano la Lushaka uri hu farwe nyambedzano nga hayo hu sa athu fhela maduvha a 30 nga murahu ha musi wo tangedzwa nga Minisiya arali nga tshifhinga tshenetsho Phalamennde i tshi fara mutangano, na uri arali Phalamennde yo fara mutangano kana dzulo, namusi i songo tangana, hu sa athu fhela maduvha a fumiina phanda ha musi Phalamennde i tshi tangana.

Dzinwe dzidokhumennde dzine dza si tee u badela muthelo

59. Tshishumiswa tshinwe na tshinwe tsho bviswaho u ya nga uyu Mulayo a tsho ngo tea u badela muthelo, arali muthelo wonoyo u tshi khoul badelwa lwa mulayo nga Tshikwama.

Uwaniwa murahu ha tshelede ya Tshikwama ye ya shumiswa nga ndila i songo teaho nga vhashumi vha Tshikwama

60. U ya nga uyu Mulayo, tshumiso ya tshelede ya Tshikwama nga ndila i songo teaho nga vhashumi vha Tshikwama zwi katela—

- (a) u ita kana u tendela
 - (i) mbadelo dzi songo teaho dza tshelede ya Tshikwama;
 - (ii) mbadelo i si na rasithi ya vhukuma;
- (b) u kundelwa u ita mushumo une wa do ita uri hu vhe na tshumiso yavhudi ya tshelede ya Tshikwama;
- (c) u tahela ha tshelede ya Tshikwama, zwitemmbe, ndaka yo fhulufhedziswaho musi muthu a tshi kundwa u badela zwikolodo, dokhumennde dza ndeme kana ndaka ya Tshikwama;
- (d) u tshinyadzwa ha ndaka inwe na inwe ya Tshikwama;
- (e) nyito kana u siedzwa zwine zwa isa khothe ya mbilo malugana na Tshikwama.

(2) Arali mushumi a shumisa tshelede ya Tshikwama nga ndila i songo teaho, Mudairekhitha-Dzhenerala a nga—

- (a) ita thodisiso nga ha tshumiso i songo teaho ya tshelede ya Tshikwama
- (b) wanisisa arali mushumi o longa tshanda kha u sa shumiswa zwavhudi ha tshelede ya tshikwama;
- (c) Arali o longa tshanda, wanani uri—
 - (i) ndi tshelede nngafhani ya Tshikwama ye a i shumisa nga ndila i songo teaho; na
 - (ii) uri mushumi u do badelisa hani tshelede yeneyo nahone lini; na
- (d) u divhadza mushumi nga u tou nwala zwo waniwa u ya nga iyi khethekanyo.

(3) Arali musi hu tshi khoul fheliswa mushumo wa mushumi, ha vha hu na tshelede yo salaho u ya nga zwe zwa waniwa u ya nga khethekanyo thukhu (2), tshelede yeneyo i nga kha di tuswa kha tshelede inwe na inwe ine ya tea u badelwa mushumi.

(4) Mushumi ane a si tendelane na zwo waniwaho nga Mudairekhitha-Dzhenerala a nga aphila kha Minisiya u ya nga kutshimbidzele kwa mbuelo kune kwa shumiswa kha vhashumi vha muvhiso hu sa athu fhela maduvha a 30 ho itwa ndivhadzo u ya nga khethekanyo thukhu (2)(d).

(5) Nothing in this section prevents the Director-General from—

- (a) instituting proceedings in a competent court to recover any loss or damage caused by an employee who is or was in the public service; or
- (b) instituting disciplinary proceedings against an employee contemplated in paragraph (a); or
- (c) instituting proceedings contemplated in both paragraphs (a) and (b).

5

Recovery of loss generally

61. (1) For purposes of this section, loss or damage to the Fund means—

- (a) an employer's irregular payment or failure to pay moneys due to the Commissioner in terms of this Act or the Unemployment Insurance Contributions Act; 10
- (b) a contributor's failure to inform the claims officer of the resumption of work during the period in respect of which benefits were being paid;
- (c) payment of Fund moneys as a result of a false statement or fraudulent claim;
- (d) any failure to comply with a duty imposed by the provisions of this Act 15 leading to loss or damage to the Fund.

(2) Any person who causes any loss or damage to the Fund, is guilty of an offence.

(3) A court may, on convicting a person for the commission of an offence contemplated in subsection (2), determine the amount of the loss or damage caused to the Fund. 20

(4) Any person found guilty of an offence as contemplated in subsection (2) must refund the loss to the Fund on such terms and conditions as the Director-General may determine.

(5) The Director-General may permit payment of the amount in instalments.

(6) If the loss to the Fund is due to a fraudulent benefit claim, the loss may be recovered from any outstanding benefit payments due to be made to the contributor or dependant under the provisions of this Act. 25

(7) Nothing in this section prevents the Director-General from instituting legal proceedings in any competent court to recover any loss or damage caused to the Fund by any person. 30

Evidence

62. (1) If any of the following documents are produced in a court of law, they are presumed to be certified by their author without proof of the author's signature unless evidence is led to the contrary:

- (a) A record of a decision made by the Director-General, the Board or any committee; 35
- (b) a copy of or extract from an entry in any book or record kept by the Director-General, the Board or any committee; or
- (c) any document filed with the Director-General, the Board or any committee.

(2) In any proceedings under this Act, an affidavit purporting to be made by the Director-General is evidence of any of the following facts stated in the affidavit: 40

- (a) That any person or body of persons is an employer or a contributor under this Act;

(5) Kha iyi khethekanyo a hu na tshithu na tshithihi tshine tsha thivhela Mudairekhitha-Dzhenerala kha—

- (a) u isa mushumi wa muvhusoni kana we a vha a tshi shuma muvhusoni khothe malugana na u wana murahu tshelede yo lozweaho na yo shumiswaho nga ndila i songo teaho; kana
- (b) u isa mushumi kha khoro ya ndatiso yo sumbedzwaho kha pharagirafu (a)
- (c) u isa mushumi kha khoro ya ndatiso na khothe yo sumbedzwaho kha pharagirafu (a) na (b).

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Uwaniwa ha tshelede ya Tshikwama ye ya vha yo lozwea nga u angaredza

61. (1) U ya nga iyi khethekanyo, ndozwo ya Tshikwama kana tshumiso ya Tshikwama nga ndila i songo teaho zwi amba—

- (a) mbadelo dzine dza itwa zwi songo tea kana u kundelwa u badela tshelede ine ya tea u badelwa Mukhomishinari u ya nga uyu Mulayo kana Mulayo wa Zwibviswa zwa Ndindakhombo ya Vhushayamushumo, 2000;
- (b) u kundwa ha mutikedzi wa tshikwama tsha vhushayamushumo u divhadza muofisi wa mbilo nga ha u vhuzelela hawe mushumoni nga tshifhinga tse a vha a tshi khou badelwa mbuelo;
- (c) u badelwa ha tshelede ya Tshikwama zwo itiswa nga zwiitatamennde zwi si zwa vhukuma kana mbilo ya vhu fhura kana i si ya vhukuma;
- (d) u kundwa u ita mushumo une wa fanela u itiwa wo sumbedzwaho kha getshedzo une wa ita uri hu vhe na ndozwo kana u shumisa tshelede ya tshikwama nga ndila i songo teaho.

(2) Muthu munwe na munwe ane a ita uri tshelede ya Tshikwama i lozwee kana a i shumisa nga ndila i songo teaho u na mulandu.

(3) Musi khothe i tshi vhona muthu onoyo mulandu wo sumbedzwaho kha khethekanyo thukhu (2), i nga kha di todisisa uri tshelede yo lozweaho kana yo shumiswaho nga ndila i si yone ndi vhugai.

(4) Muthu munwe na munwe ane a wanala a na mulandu sa zwe zwa sumbedziswa zwone kha khethekanyo thukhu (2), u tea u lifha ndozwo ya Tshikwama yo itwaho u ya nga milayo ine ya do vha yo vhwana nga Mudairekhitha-Dzhenerala.

(5) Mudairekhitha-Dzhenerala a nga kha di tendela muthu onoyo uri a badele tshelede yeneyo nga tshitolomennde.

(6) Arali ho vha na ndozwo ya Tshikwama nge mbuelo dza vhlwa nga ndila ya vhu fhura, tshelede yeneyo yo lozweaho i nga wanala kha mbadelo dza mbuelo dzo salelaho murahu dzine dza tea u badelwa nga mutikedzi wa tshikwama tsha vhushayamushumo kana muundiwa u ya nga getshedzo dza uyu Mulayo.

(7) A hu na na tshithu na tshithihi tshine tsha do thivhela Mudairekhitha-Dzhenerala u isa mbilo kana phambano khothe u itela u wana murahu tshelede ya Tshikwama yo lozweaho kana yo shumiswaho nga ndila i so ngo teaho nga muthu munwe na munwe.

Vhutanzi

62. (1) Dzinwe dza idzi dzidokhumennde dzo bviswaho kana dzo sumbedzwaho khothe dzi dzhiwa dzo tanzelwa kana dzo khwathisedza kana dzo sethifaiwa nga munwali fhedzi dzi si na tsaino ya munwali nga nda ha musu vhutanzi vhu tshi sumbedza zwinwe zwi fhambanaho na zwenezwo;

- (a) Rekhodo ya tsho dzo dzhiwaho nga Mudairekhitha-Dzhenerala, Bodo kana komiti inwe na inwe;
- (b) Khophi kana tshipidza tsho bviswaho kha zwi re buguni kana rekhodo yo vhwaho kana yo vhu lungwaho nga Mudairekhitha-Dzhenerala, Bodo kana komiti inwe na inwe; kana
- (c) Dokhumennde inwe na inwe yo failwaho kana yo rekhodiwaho nga Mudairekhitha-Dzhenerala, Bodo kana komiti inwe na inwe.

2. Mbilo kana phambano dzinwe na dzinwe kha uyu Mulayo, tshitatamennde tshinwe na tshinwe tsho nwaliwaho tshine ha vha ho aniwa uri ndi tsha ngoho tshine tsha shumiswa sa vhutanzi ha mulayo tshine ha dzhiwa tsho itwa na Mudairekhitha-Dzhenerala ndi vhutanzi ha ngoho vhu tevhelaho ho sumbedzwaho kha tshitatamennde tsho nwaliwaho tsho aniwaho uri ndi tsha ngoho;

- (a) Uri muthu munwe na munwe kana tshigwada tsha vhatu ndi mushumelwa kana mutholi kana mutikedzi wa tshikwama tsha vhushayamushumo kha uyu Mulayo; kana

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- (b) that any person is or was lawfully required under this Act to pay any amount to the Director-General; or
- (c) that any amount referred to in paragraph (b) or any portion thereof had or had not been paid on a date specified in the affidavit.
- (3) (a) A presiding officer at the proceedings in which any affidavit referred to in subsection (2) is presented in evidence, may of his or her own accord, or must at the request of any party to the proceedings, require the deponent under subpoena to give oral evidence, or answer any written question submitted to the presiding officer under oath. 5
- (b) Any question and answer from that deponent is admissible as evidence in the proceedings. 10
- (4) A contributor is presumed, unless the contrary is proved, to remain in the employ of an employer until that employer has notified the Director-General that the contributor is no longer employed with that employer.
- (5) In any proceedings under this Act, any of the following documents are admissible in evidence against an employer and constitute an admission of the facts contained in the document unless it is proved that the statement was not made by the employer: 15
- (a) A statement or entry contained in any book, record or document kept by any employer;
- (b) any such statement or entry found on any premises occupied by the employer;
- (c) any such statement or entry found on any vehicle used in the business of the employer; and 20
- (d) any copy or reproduction of any such statement or entry, certified by a commissioner of oath to be a true copy or reproduction of the original statement.
- (6) No answer to any question put by a person in the course of an enquiry in terms of section 60(2)(a) or by a labour inspector may be used against that person in any criminal proceedings except proceedings in respect of a charge of perjury or making a false statement. 25

Disclosure of information

63. (1) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information obtained by that person in the performance of functions contemplated in this Act, except— 30
- (a) to the extent to which it may be necessary for the proper administration of a provision of this Act;
- (b) for purposes of the administration of justice; or 35
- (c) at the request of the Minister, the Director-General or any other person entitled to the information.
- (2) Any person who contravenes subsection (1) is guilty of an offence.

General prohibited conduct

64. (1) No person may— 40
- (a) knowingly make a statement or cause a statement to be made which is materially false or which results in an incorrect payment of benefits in an application for benefits in terms of this Act;

- (b) uri muthu munwe na munwe u a todiwa kana o vha a tshi todiwa lwa mulayo uri a badele tshede inwe na inwe kha Mudairekhitha-Dzhenerala.
- (c) uri tshede inwe na inwe yo buliwaho kana ho ambiwaho ngayo kha pharagirafu (b) kana tshipiḁa tshayo yo badelewa kana a yo ngo badelewa nga ḁuvha le ja vha lo sumbedzwa kha afidaviti (tshitatamennde tsho nwaliwaho fhasi ho aniwaho uri ndi tsha ngoho). 5
- (3) (a) Muofisi ane a khou tshimbidza mulandu wa mbilo une tshitatamennde tsho nwaliwaho fhasi ho aniwaho uri ndi tsha ngoho tsho kwamiwaho kana u ambiwa ngatsho kha khethekanyo (2) u fanela u nea vhuṁanzi, arali a tshi zwi takalela kana o tou humbelwa nga tshigwada tshinwe na tshinwe kha kutshimbidzele, u fanela u ṁoda thanzi nga u mu rumela lunwalo lwa uri a ḁe khoṁhe u nea vhuṁanzi ha mulomo, kana u fhindula mbudziso dzinwe na dzinwe dzo tou nwaliwaho dzo ṁetshedzwaho muofisi ane a khou tshimbidza mulandu o aniswaho. 10
- (b) Mbudziso inwe na inwe kana phindulo inwe na inwe i no bva kha ṁhanzi i dzhiwa sa vhuṁanzi khoṁhe. 15
- (4) Kha ri zwi dzhie uri mutikedzi wa tshikwama tsha ndindakhombo o bvela phanḁa na u shuma kha mushumelwa onoyo u swikela mushumelwa onoyo a tshi ḁivhadza Mudairekhitha-Dzhenerala uri mutikedzi wa tshikwama tsha vhushayamushumo ha tsha mu shumela.
- (5) Kha matshimbidzele a mulayo manwe na manwe kha uyu Mulayo, dzinwe dza idzi dzidokhumennde dzi a ṁanganedzwa sa vhuṁanzi malugana na mushumelwa, nahone dzi katela u ṁanganedzwa ha ngoho ine ya wanala kha dokhumennde nga nnda ha musi hu tshi nga vha na vhuṁanzi kana ha ṁanzielwa uri tshitatamennde a tsho ngo ṁetshedzwa nga mushumelwa. 20
- (a) Tshitatamennde kana zwi re ngomu ha bugu inwe na inwe , rekhodo kana dokhumennde inwe na inwe yo vhumungwaho nga mushumelwa; 25
- (b) tshitatamennde tshinwe na tshinwe kana zwi re ngomu ha bugu zwine zwa wanala kha tshifhaṁo tshinwe na tshinwe tshine tsha shumiswa nga mushumelwa;
- (c) tshitatamennde tshinwe na tshinwe tshi no nga tshenetsho kana zwi re ngomu ha bugu zwe zwa wanala kha goloi inwe na inwe yo shumiswaho nga mushumelwa kha zwa mushumo; na 30
- (d) khophi inwe na inwe kana u bveledzwa hafhu kha tshitatamennde tshenetsho kana zwo dzheniswaho, zwo khwaṁhisedzwaho, zwo sethifaiwaho kana zwo ṁanzielwaho nga Mukhomishinari wa u anisa uri ndi khophi ya ngoho kana tshitatamennde tsho bveledzwaho hafhu. 35
- (6) A hu na phindulo ya mbudziso yo ṁetshedzwaho nga muthu musi hu tshi khou vhudziwa u ya nga khethekanyo 60 (2)(a) kana mulavhelesi wa zwa mishumo ine ya ḁo shumiswa kha muthu onoyo kha matshimbidzele a mulayo malugana na vhutshinyi nga nḁa ha matshimbidzele a mulayo malugana na mulandu wa u amba mazwifhi kana u ṁetshedza zwiṁatamennde zwa mazwifhi khoṁhe nga murahu ha u fhulufhedzisa uri u ḁo amba ngoho. 40

Ubvisela mafhungo khagala

63.(1) U ya nga ṁetshedzo ya Mulayo wa u bvedza phanḁa tswikelelo ya mafhungo, 2000 (Mulayo Nomboro 2 wa 2000), a hu na muthu ane a ḁo bvisela khagala mafhungo manwe na manwe o waniwaho nga muthu onoyo musi a tshi khou ita mishumo yo sumbedzwaho kha uyu Mulayo, nga nḁa ha: 45

- (a) musi zwo tea u itela uri hu vhe na ndaulo yo teaho ya ṁetshedzo ya uyu Mulayo;
- (b) hu tshi itelwa ndaulo ya vhumukanyi; kana 50
- (c) o humbelwa nga Minisiṁa, Mudairekhitha-Dzhenerala kana muthu munwe na munwe o teaho u wana mafhungo eneo.
- (2) Muthu munwe na munwe ane a si tevhedze khethekanyo ṁhukhu (1) u na mulandu.

Vhuḁifari ho iledzwaho nga u angaredza

64. (1) A hu na muthu ane a 55
- (a) nga ṁetshedza kana a ita uri tshitatamennde tshi si tsha ngoho kana tshine tsha ita uri hu itwe mbadelo dzo khakheaho dza mbuelo a tshi zwi ḁivha musi hu tshi itwa khumbelo u ya nga uyu Mulayo;

- (b) wilfully make any false entry on a contributor's record card or any other book, record or document relating to either a contributor's employment history or to a contributor's claim for benefits; or
 - (c) contravene, or refuse or fail to fully comply with any provision of this Act or of any regulation or notice issued in terms of this Act. 5
- (2) Any person who contravenes subsection (1)(a), (b) or (c) is guilty of an offence.

Penalties

65. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment, or to both a fine and imprisonment.

Jurisdiction of Labour Court 10

66. Unless this Act provides otherwise, the Labour Court has jurisdiction in respect of all matters in terms of this Act, except in respect of an offence in terms of this Act.

Stating of case to Labour Court

67. (1) If any question of law arises concerning the application of this Act, the Director-General may of his or her own initiative, or at the request of a party with sufficient interest in this matter, state a case for decision by the Labour Court. 15

(2) The Director-General must set out in the stated case—

- (a) the facts that were found to be proved; and
- (b) the view of the law which was adopted in relation to those facts.

(3) If the Director-General has any doubt as to the correctness of a decision given by the Labour Court regarding a question of law concerning the application of this Act, the Director-General may submit such decision to the Labour Appeal Court. 20

Delegation and assignment by Minister

68. (1) The Minister may in writing delegate or assign to the Director-General or any employee in the public service, any power or duty conferred or imposed upon the Minister in terms of this Act, except the Minister's powers in terms of sections 43, 47, 48(2)(b), 50(1) and (4), 52, this section, section 69 and the Minister's power to make regulations or to issue notices. 25

(2) A delegation or assignment in terms of subsection (1) does not limit or restrict the Minister's authority to exercise or perform the delegated power or assigned duty. 30

(3) Any person to whom a power is delegated or a duty is assigned in terms of subsection (1) must exercise or perform that power or duty subject to the direction of the Minister.

(4) The Minister may at any time—

- (a) withdraw a delegation or assignment made in terms of subsection (1); and 35
- (b) withdraw or amend any decision made by a person exercising or performing a power or duty delegated or assigned in terms of subsection (1).

Persons regarded as contributors for purposes of Act

69. (1) The Minister may, after receipt of an application in a prescribed form and with the concurrence of the Board, by notice in the *Gazette*, declare that as from a date specified in the notice any specified class of persons, or any person employed in any specified business or section of a business or in any specified area, must be regarded as contributors for purposes of this Act. 40

(2) The procedure referred to in section 55(1) applies with the necessary changes to a notice issued under subsection (1). 45

- (b) nga takalela u dzhenisa mafhungo a si a vhukuma kha garaṭa ya rekhodo ya mutikedzi wa tshikwama tsha vhushayamushumo kana kha bugu inwe na inwe, rekhodo kana dokhumennde ya malugana na hisitori ya mushumo ya mutikedzi wa tshikwama tsha vhushayamushumo kana mbilo ya mbuelo ya mutikedzi wa tshikwama tsha vhushayamushumo; 5
- (c) pfukha kana a hana kana a kundelwa u tevhedzela zwo ṅetshedzwaho kha uyu Mulayo kana ndivhadzo yo bviswaho u ya nga uyu Mulayo.
- (2) Muthu munwe na munwe ane a pfukha kana a kundelwa u tevhedzela khethekanyo (1)(a), (b) kana (c) u ḑo vhone mulandu wa vhukhakhi.

Dzifaini

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65. Muthu munwe na munwe ane a wanala o ita vhukhakhi u ya nga uyu Mulayo u fanela u fainiwa kana u iswa dzhele, kana a fainiwa khathihi na u iswa dzhele

Maandṱa a khoṱhe ya zwa mishumo

66. U ya nga uyu Mulayo, khoṱhe ya zwa Mishumo i na maanda kha zwoṱhe nga nṱṱa ha vhukhakhi . 15

Uisa mulandu kha khoṱhe ya zwa mishumo

67. (1) Mbudziso inwe na inwe ya mulayo yo vhudziswaho malugana na u shumiswa ha uyu Mulayo, Mudairekhitha-Dzhenerala a nga isa mulandu kha khoṱhe ya zwa mishumo uri i dzhie tsheo arali a tshi zwi takalela kana o humbelwa nga tshigwada tshi re na dzangalelo. 20

(2) Mudairekhitha-Dzhenerala u fanela u talutshedza kha mulandu wo buliwaho—

(a) ngoho yo waniwaho; na

(b) mbonalo ya mulayo wo shumiswa malugana na ngoho yeneyo.

(3) Arali Mudairekhitha-Dzhenerala a na u timatima malugana na tsheo yo ṅetshedzwaho nga Khoṱhe ya Zwa Mishumo malugana na mbudziso ya mulayo ya uri tshumiso ya uyu Mulayo ndi ya ngoho, Mudairekhitha-Dzhenerala a nga ṅetshedza Khoṱhe ya Aphili ya Zwa Mishumo tsheo yeneyo. 25

U ṅetshedzwa ha maandṱa na mishumo nga Minisiṱa

68. (1) Minisiṱa a nga ṅetshedza Mudairekhitha-Dzhenerala kana mushumi munwe na munwe wa tshumelo ya muvhuso, maandṱa kana mishumo minwe na minwe yo ṅetshedzwaho Minisiṱa u ya nga uyu Mulayo, nga nṱṱa ha maandṱa a Minisiṱa u ya nga Khethekanyo 43, 47, 48(2)(b), 50 (1)NA (4), 52, iyi khethekanyo, khethekanyo 69 na maandṱa a Minisiṱa u bveledza milayo kana u bvisa ndivhadzo nga u tou nwala. 30

(2) U ṅetshedzwa maandṱa kana mushumo u ya nga iyi khethekanyo ṱukhu (1) a zwi thivheli Minisiṱa kha u shumisa maandṱa kana u ita mishumo yo ṅetshedzwaho. 35

(3) Muthu munwe na munwe o ṅetshedzwaho maandṱa kana mushumo u ya nga khethekanyo ṱukhu (1) u tea u shumisa maandṱa kana u shuma mishumo ye ya vha yo tea u itwa nga Minisiṱa.

(4) Tshifhinga tshoṱhe Minisiṱa a nga

(a) dzhiulula maandṱa kana mushumo wo ṅetshedzwaho u ya nga khethekanyo ṱukhu (1); na 40

(b) u sa shumisa tsheo yo dzhiwaho kana u khwinisa tsheo inwe na inwe yo itwaho nga muthu we a vha o nea maandṱa kana mushumo u ya nga khethekanyo ṱukhu (1).

Vhathu vhane vha dzhiwa sa vhatikedzi vha tshikwama

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69. (1) Nga murahu ha musi ho no wanala khumbelo kha fomo yo tiwaho na nga thendelano ya Bodo, nga ndivhadzo kha *Gazete*, Minisiṱa a nga bula uri u bva nga ḑuvha lo bulwaho kha ndivhadzo, tshigwada tshinwe na tshinwe tsho bulwaho tsha vhathu, kana muthu munwe na munwe o tholwaho kha mushumo wo bulwaho kana khethekanyo ya mushumo kana fhethu hunwe ho bulwaho vha fanela u dzhiwa sa vhatikedzi vha tshikwama malugana na Mulayo uyu. 50

(2) Nḑila yo sumbedzwaho kha khethekanyo ya 55 (1) i shuma ho vha na tshanduko dzo fanelaho kha ndivhadzo yo bviswaho fhasi ha khethekanyo ṱukhu ya (1)

Act No. 63, 2001**UNEMPLOYMENT INSURANCE ACT, 2001****Repeal of laws**

70. The Unemployment Insurance Act, 1966 (Act No. 30 of 1966), is hereby repealed except to the extent mentioned in Schedule 1.

Transitional arrangements

71. The provisions of Schedule 1 apply to the transition from other laws to this Act. 5

Act binds State

72. This Act binds the State.

Short title and commencement

73. (1) This Act is called the Unemployment Insurance Act, 2001, and takes effect on a date to be fixed by the President by proclamation in the *Gazette*. 10

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Ufheliswa ha milayo lwa tshiofisi

70. Nga nn̄a ha milayo yo buliwaho kha Shedulu 1, hu khou fheliswa Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966 Mulayo (Mulayo Nomboro 30 wa 1966).

Ndugiselo dza tshifhinganyana

71. Netshedzo dza Shedulu 1 dzi shuma u bva kha minwe milayo u ya kha uyu 5
Mulayo.

Mulayo u vhofha Muvhuso

72. Uyu Mulayo u vhofha muvhuso

Thoho pfufhi na u thomiwa

73. (1) Uyu Mulayo u vhidzwa Mulayo wa Ndindakhombo ya Vhushayamushumo, 10
2000 nahone u do thoma u shuma nga quvha line la qo vhewa nga Muphuresidennde nga
u u qivhadza lwa tshiofisi kha Gurann̄a ya Muvhuso.

(2) Hu nga kha q̄i vhewa maq̄uvha o fhambanaho nga fhasi ha khethekanyo thukhu
(1) malugana na netshedzo dzo fhambanaho dza uyu Mulayo.

SCHEDULE 1**TRANSITIONAL ARRANGEMENTS****Definitions**

1. In this Schedule “Unemployment Insurance Act, 1966” means the Unemployment Insurance Act, 1966 (Act No. 30 of 1966). 5

Regulations

2. Any regulation made under the Unemployment Insurance Act, 1966, which is in force immediately before the commencement of this item, remains in force until withdrawn by the Minister by notice in the *Gazette*.

Transferral of assets, liabilities, rights and obligations of Unemployment Insurance Fund 10

3. All assets, liabilities, rights and obligations of the Unemployment Insurance Fund established under the Unemployment Insurance Act, 1966, are hereby transferred to the Fund established by section 4.

Continuity of Unemployment Insurance Board 15

4. (1) The Board and its subcommittees, established under the Unemployment Insurance Act, 1966, continue to exist until the Minister establishes the Board in terms of section 47.

(2) The members of the Board appointed under the Unemployment Insurance Act, 1966, remain in office until the Minister has appointed the members of the Board in terms of section 49. 20

Claims against Unemployment Insurance Fund

5. All claims against the Fund made under the Unemployment Insurance Act, 1966, remain in force and must be finalised in terms of that Act.

Appeals against decisions of claims officers 25

6. (1) Any appeal in terms of the Unemployment Insurance Act, 1966, against a decision of claims officers remains in force and must be finalised in terms of that Act.

(2) For purposes of subitem (1), the Benefit Appeals Committees established under the Unemployment Insurance Act, 1966, continue to exist until all appeals have been dealt with. 30

Investigations and prosecutions

7. (1) Any investigation undertaken in terms of the Unemployment Insurance Act, 1966, which is not completed at the commencement of this Act, must be finalised in terms of that Act.

(2) Any prosecution instituted in terms of the Unemployment Insurance Act, 1966, which is not completed at the commencement of this Act, must be finalised in terms of that Act. 35

Duty of employer to provide particulars of employees at commencement of this item

8. (1) Within seven days after the commencement of this item, every employer must provide the information specified in section 56(2) of all employees employed with it to the Commissioner, irrespective of the earnings of such employees. 40

(2) The Commissioner may request the employer to provide, within 30 days of the request, or within an extended period as the Commissioner may allow, such additional particulars as may be reasonably required to give effect to the purpose of this Act. 45

SHEDULU 1**NDUGISELO DZA TSHIFHINGANYANA****Thalutshedzo**

- (1) Kha iyi shedulu, Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966 “zwi amba Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966 (Mulayo 30 wa 1966) 5
- (2) Kha iyi shedulu, “Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966 wo thomaho u shuma nga u tsvhanya phanḁa ha u thomiwa ha itshi tshitenwa, u ḁo bvela phanḁa na u shuma u swikela u tshi phumulwa nga Minisiṁa nga u zwi ḁivhadza kha *Gurandya ya Muyhuso*. 10

Ubvela phanḁa ha Tshikwama tsha Ndindakhombo ya Vhushayamushumo

- (3) Ndaka, kana lupfumo lwoṁhe, pfanelo na thodea dza Tshikwama tsha Ndindakhombo ya Vhushayamushumo tsho thomiwaho nga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966, zwi khou iswa kha Tshikwama tsho thomiwaho nga fhasi ha khethekanyo 4. 15

Ubvela phanḁa ha Bodo ya Ndindakhombo ya Vhushayamushumo

4. (1) Bodo na Komiti ṁukhu dzayo dzo thomiwaho nga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966, i ḁo bvela phanḁa na u vha hone u swikela Minisiṁa a tshi thoma Bodo u ya nga khethekanyo 47.
- (2) Miraḁo ya Bodo yo tholiwaho nga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966, i ḁo bvela phanḁa na u shuma u swikela Minisiṁa a tshi thola miraḁo ya Bodo u ya nga khethekanyo 49. 20

Mbilo dzine dza itwa kha tshikwama

5. Mbilo dzoṁhe dzine dza itwa kha Tshikwama dzo itwaho naga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo, wa 1966, dzi kha ḁi ḁo itiwa nahone dzi ḁo khunyeledzwa u ya nga ha Mulayo wonoyo. 25

Dziaphili malugana na tsheo dza vhaofisi vha mbilo

6. (1) Aphili inwe na inwe u ya nga Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966, malugana na tsheo dza vhaofisi vha mbilo dzi ḁo bvela phanḁa na u shuma na u khunyeledzwa u ya nga uyu Mulayo 30
- (2) U ya nga itshi tshitenwa tshikuku tsha (1), Komiti dza Aphili dza Mbuelo dzo thomiwaho nga fhasi ha Mulayo wa Ndindakhombo ya Vhushayamushumo dzi ḁo bvela phanḁa na u vha hone u swikela hu tshi vha ho kwamiwa aphili dzoṁhe.

Dzithodisiso na zwigwevho

7. (1) Thoḁisiso dzinwe na dzinwe dzo itwaho u ya nga Mulayo wa Ndindakhombo ya Vhushayamushumo, dzi songo fhelaho musi Mulayo uyu u tshi thoma, dzi tea u khunyeledzwa u ya nga Mulayo wonoyo. 35
- (2) U gwevhiwa hoṁhe ho itwaho u ya nga Mulayo wa Ndindakhombo ya Vhushayamushumo, 1966, arali ha si fhele musi uyu Mulayo u tshi thoma, hu tea u khunyeledzwa u ya nga wonoyo Mulayo. 40

Mushumo wa mushumelwa wa u ṁetshedza zwidodombedzwa zwa vhashumi musi hu tshi thomiwa itshi tshitenwa

8. (1) Mushumelwa munwe na munwe u ṁetshedza zwidodombedzwa zwo sumbedzwaho kha 56 (2) zwa vhashumi vhoṁhe vhane vha shuma kha mukhomishinari, hu sa athu fhela maḁuvha a sumbe itshi tshitenwa tsho thoma, fhedshumazi hu sa dzhielwi nthu kana u sedza miholo ya vhashumi vhenevho, 45
- (2) Mukhomishinari a nga kha ḁi humbela mushumelwa uri a ṁetshedze zwidodombedzwa zwa u ḁadzisa zwine zwi nga ṁodiwa u itela uri uyu Mulayo u shume hu sa athu fhela maḁuvha a 30 ho itwa khumbelo kana nga tshifhinga tsho lapfswaho nga Mukhomishinari. 50

SCHEDULE 2

MATHEMATICAL CALCULATION OF CONTRIBUTOR'S ENTITLEMENT

The benefit to which a contributor is entitled is calculated in one of two ways, depending on a contributor's income prior to becoming unemployed:

1. Contributors who earned **less** than a particular amount (known as the "benefit transition income level") are entitled to a percentage of their previous pay. 5
2. Contributors who earned **more** than the benefit transition income level are entitled to a flat benefit, equal to the entitlement of a contributor who was previously paid at the benefit transition income level.

The benefit transition income level 10

The 1953 International Labour Organisation Convention (Convention No. 102) stipulates that the wage of a skilled manual worker should determine the appropriate income level at which to set a ceiling for membership of a social insurance scheme. Over the years, South Africa's Unemployment Insurance scheme has roughly kept pace with this guideline. The benefit transition income level is therefore linked to this rate. 15

The current income ceiling is R8 099 per month. This will become the initial benefit transition income level for the purposes of this Act. However, in terms of section 12(3)(a), the Minister may change the benefit transition income level from time to time to reflect changing patterns of income.

Contributors who previously earned less than the benefit transition income level 20

For contributors who earned less than the benefit transition income level, entitlement to benefit is earnings-related. A contributor's entitlement is calculated according to the following formula:

$$\text{Benefit} = \text{Daily Income} * \text{IRR}$$

where IRR is the Income Replacement Rate corresponding to the contributor's daily income. 25

Daily Income

If a contributor was paid weekly, daily income is the weekly rate of pay divided by 7.

If a contributor was paid fortnightly, daily income is the fortnightly rate of pay divided by 14. 30

If a contributor was paid monthly, daily income is the monthly rate of pay multiplied by 12, then divided by 365.

Income Replacement Rate

The Income Replacement Rate (IRR) determines the percentage of a contributor's previous income to which the contributor is entitled in the form of benefits. The IRR is a variable, so it defines a sliding scale. A contributor who previously earned a low wage is entitled to receive benefits representing a larger proportion of her or his previous income than a contributor who previously earned a higher wage. 35

The IRR is at its maximum when income equals zero, and it reaches its minimum where income is equal to the benefit transition income level. The maximum IRR is fixed at 60%. The minimum IRR is currently set at 38%. However, the Minister may vary the minimum IRR in terms of section 12(3)(b). 40

Using current values, the IRR can be calculated according to the following formula:

$$\text{IRR} = 29.2 + (99779.68 / (3239.6 + Y_i))$$

MULAYO WA NDINDAKHOMBO
YA VHUSHAYAMUSHUMO, 2001

Mulayo Nomboro 63, 2001

Mbuelo dza u tou anganyela dzine dza badelwa nga duvha

Mbadelo	IRR = Mbuelo ya UI	
4.93	58.64	2.89
9.86	57.39	5.66
16.44	55.88	9.19
23.01	54.53	12.55
32.88	52.74	17.34
49.32	50.25	24.78
65.75	48.24	31.72
98.63	45.19	44.57
101.11	45.00	45.50
131.51	42.98	56.52
164.38	41.31	67.91
197.26	40.00	78.90
243.62	38.57	93.96
266.27	38.00	101.18
328.77	30.78	101.18

Mbuelo dza UI dzine dza badelwa
kha thebulu dzi do badelelwa
tshifhinga tsha maduvha a mbuelo
ea kuvhanganywa nga mutikedzi
wa tshikwama.

