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REPUBLIC OF SOUTH AFRICA
REPHABOLIKI YA AFRIKA BORWA

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Phato

No. 23712

THE PRESIDENCY

No. 1049 5 August 2002

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

No. 16 of 2002: National Railway Safety Regulator Act, 2002.

OFISI YA MOPRESIDENTE

No. 1049 5 Phato 2002

Mona ho tsebiswa ha Mopresidente a dumelletse molao ona o latelang, o phatlalatswang mona e le ha ho fanwa ka tlhakisetso e akaretsang:—

No. 16 wa 2002: Molao wa Bolaodi ba Polokeho Ditsebeletsong tsa Ralewa, 2002.



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

*(English text signed by the President.)
(Assented to 24 July 2002.)*

ACT

To provide for the establishment of a Railway Safety Regulator; to provide for its objects and functions and for the manner in which it is to be managed; to provide for its staff matters; to provide for safety standards and regulatory practices for the protection of persons, property and the environment; and to provide for matters connected therewith.

PREAMBLE

RECOGNISING that safe railway operations are fundamental to the safety of all persons and the environment;

RECOGNISING that safe railway operations promote the use of railways as a mode of efficient transportation;

RECOGNISING that safe railway operations must be effectively overseen, managed and co-ordinated to ensure their safety;

ACKNOWLEDGING that railway safety has a relationship with occupational health and safety and with security;

ACKNOWLEDGING that safety and security matters are interconnected and that the regulator has a primary role to play in safe railway operations and a supporting role in occupational health and safety, and security;

ACKNOWLEDGING that all organs of state that have a role to play in railway operations must co-operate with one another so as to give effect to the principles of co-operative government and intergovernmental relations contemplated in Chapter 3 of the Constitution;

AND IN ORDER TO—

- * provide for and promote safe railway operations;
- * encourage the collaboration and participation of interested and affected parties in improving railway safety;
- * recognise the prime responsibility and accountability of railway operators in ensuring the safety of railway operations;
- * facilitate a modern, flexible and efficient regulatory regime that ensures the continuing enhancement of safe railway operations; and
- * promote the harmonisation of the railway safety regime of the Republic of South Africa with the objectives and requirements for safe railway operations of the Southern African Development Community;

*(English text signed by the President.)
(Assented to 24 July 2002.)*

MOLAO

Ho theha monyetla wa tlhomamiso ya Taolo ya Polokeho ya Ralewa hore ho tle ho laolwe tshebetso e bolokehileng ya ralewa, molemong wa maikemisetso a yona le mesebetsi ya yona, ka mokgwa oo e tla tsamaiswa ka teng le bakeng sa ditaba tsa moifo wa yona wa tshebetso; hore ho be le monyetla o teng wa maemo a polokeho le ditlwaelo tsa taolo ya tshireletso ya batho, theepa le tikoloho; le ho etsa monyetla bakeng sa ditaba kaofela tse tsamaelanang le moo.

SELELEKELA

KANANELO ya hore tshebetso e bolokehileng ya ralewa ke yona kaletsa ya bophelo bo botle le polokeho ya batho kaofela ha mmoho le tikoloho;

KANANELO ya hore tshebetso e bolokehileng ya ralewa indastring ya ralewa ya dipalangwang e kgothaletsa tshebediso ya ralewa jwalo ka mokgwa wa dipalangwang o sebetsang hantle;

KANANELO ya hore tshebetso e bolokehileng ya ralewa e lokela ho hlokomelwa ka mokgwa o sebetsang hantle, e tsamaiswe le ho hokanngwa ka mokgwa o loketseng ho tiisa polokeho ya yona;

KAMOHELO ya hore tshebetso e bolokehileng ya ralewa e na le kamano le tshebetso ya bophelo bo botle mosebetsing le polokeho ha mmoho le tshireletso

KAMOHELO ya hore ditaba tsa polokeho le tshireletso di tsamaelana mmoho mme bolaodi bo na le seabo sa bohlokwa tshebetsong e bolokehileng ya ralewa le seabo sa tshebetso ya tshebetso ya bophelo bo botle le polokeho mosebetsing ekasitana le tshireletso.

KAMOHELO ya hore makala ohle a mmuso a nang le seabo tshebetsong ya ralewang a lokela hore a sebedisane molemong wa hore metheo ya mmuso o kopanetsweng e sebetse ha mmoho le maqhama a ntseng a lohothwa a tshebedisano ya mmuso ka bo-ona Kgolong ya Boraro ya Molao wa Motheo;

LE HORE HO TLE HO:

- * etswe monyetla le ho ntshetsa pele tshebetso e bolokehileng ya ralewa;
- * kgothaletsa tshebedisano ya makala a ba nang le thahasello le ba amehang ho ntlafatsa polokeho ya polokeho ya ralewa;
- * ananelwe boikarabelo ba mantlha le hore basebetsi ba ralewa ba be le boikarabelo ba ho netefatsa hore tshebetso ya bona e bolokehile;
- * etsa monyetla wa moifo wa taolo wa sejwalejwale, o tenyetsehang le o sebetsang hantle o tla netefatsa hore ho dule ho matlafatswa tshebetso e bolokehileng ya ralewa; le
- * tliša ho ntshetsa pele taba ya ho kgema mmoho ha moifo wa Afrika Borwa wa polokeho ya ralewa le maikemisetso le ditlhoko tsa tshebetso ya polokeho ya ralewa ya Ntshetsopele ya Setjhaba sa Afrika e ka Borwa,

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

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MOLAO WA BOLAODI BA POLOKEHO
DITSEBELETSONG TSA RALEWA, 2002

Molao No. 16, 2002

KA TSELA E JWALO O ETSWA MOLAO ke Palamente ya Rephaboliki ya Afrika
Borwa ka mokgwa o latelang:—

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CHAPTER 1**DEFINITIONS AND INTERPRETATION****Definitions and interpretation**

- 1. (1) In this Act, unless the context indicates otherwise— 20
 - (i) “association” means an association recognised by the Regulator and includes a railway industry association;
 - (ii) “board” means the board of directors referred to in section 8;
 - (iii) “dangerous goods” means the commodities, substances and goods listed in the standard specification of the South African Bureau of Standards SABS 0228 “The identification and classification of dangerous substances and goods”; 25
 - (iv) “human factors” means factors which include the perceptual, physical and mental capabilities of people and the interaction of individuals with their job and working environments, the influence of equipment and system design on human performance, and the organisational characteristics that influence safety-related behaviour at work; 30
 - (v) “industry” means the railway industry and includes operators, suppliers, carriers, contractors and consulting engineers;
 - (vi) “Minister” means the Minister of Transport; 35
 - (vii) “network” means a system of railway infrastructure elements comprising track, civil infrastructure, train control systems and electric traction infrastructure which constitutes running lines, railway yards, sidings and private sidings and any other matter that may be prescribed;
 - (viii) “network operator” means the person in control of railway traffic on the network, including the management of the network; 40
 - (ix) “operator” means a network operator, train operator or station operator or a combination of two or three of them;
 - (x) “person” includes an unincorporated body, an organ of state and the Minister;
 - (xi) “persons with disabilities” means people who have long-term or recurring physical or mental impairments which substantially limit their prospects of using railway transport unaided; 45

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KGAOLO YA PELE**DITLHALOSO LE KUTLWISISO****Ditlhaloso le kutlwisiso**

1. (1) Molaong ona, ntle le moo moelelo o bontshang hore ho hopotswe ka moelelo o 20
mong—
- (i) “mokgatlo” o bolela mokgatlo o ananetsweng ke Bolaodi mme mona ho
kenyeletswa le mokgatlo wa indastri ya ralewa;
- (ii) “lekgotla” le bolela Lekgotla la Balaodi jwalo ka ha ho boletswe temaneng ya 25
8;
- (iii) “diphahlo tse kotsi” ho bolelwa diphahlo, ho itseng le dintho tse hlahang
lenaneng le qaqiso la Biro ya Afrika Borwa ya Maemo SABS 0228
“Tsebahatso le tlhophollo ya diphahlo tse kotsi”;
- (iv) “nyehelo tsa batho” di bolela nyehelo tse kenyeletsang bokgoni bo
hopolelwang, ba sebele bo bonwang le ba kelello ya batho le kamano ya batho 30
le mesebetsi ya bona le tikofoho ya bona ya mosebetsi; tshusumetso eo theepa
le tsela ya moralo di nang le yona tshebetsong ya motho; makgetha a tlhophiso
a nang le tshusumetsoboitshwarong bo amanang le polokeho mosebetsing.
- (v) “indastri” e bolela indastri ya ralewa mme e kenyeletsa basebetsi, bafepedi,
ba thotang, boradikotraka le dienjineri tse tlang ka ho tla tshwara ditherisano; 35
- (vi) “Letona” le bolela Letona la Dipalangwang;
- (vii) “marangrang a tshebetso” a bolela mokgwa wa ralewa wa dikarolo tse
kenyeletsang treke, moralo wa mesebetsi ya boenjineri, mokgwa wa taolo ya
terene le moralo wa mosebetsi wa motlakase wa treke o kenyeletsang seporo,
dijarete tsa ralewa, diteishene tse nyenyane le tsa poraefete le ntho efe kapa 40
efe e ka laeletswang;
- (viii) “opareitara ya marangrang a tshebetso” mona ho bolelwa motho ya laolang
sephethephethe sa ralewa ka marangrang ana, ho kenyeleditswe tsamaiso ya
marangrang ana a tshebetso;
- (ix) “opareitara” ho bolelwa mosebetsi wa marangrang a tshebetso, opareitara ya 45
terene kapa opareitara ya seteisheneng kapa motswako wa tsena di le pedi
kapa di le tharo;
- (x) “motho” o kenyeletsa motho ya tlwaelehileng, motho wa molao, motho ya sa
sebetseng moo, mokgatlo, lekala la mmuso le Letona;
- (xi) “batho ba nang le kgolofalo tse itseng” ho bolelwa batho ba nang le tshitiso 50
ya ka nako e telele kapa e dulang e tswela pele mmeleng kapa kelellong e
etsang hore ba seke ba kgona ho sebedisa haholo menyetla ya dipalangwang
tsa ralewa ntle le hore ba thuswe;

- (xii) "prescribe" means prescribe by regulation;
- (xiii) "railway" means a guided system designed for the movement of rolling stock that has the capability of transporting passengers, freight or both on a track and includes the land, network, rolling stock, plant, machinery, goods and other immovable or movable property of every description or kind used or set aside for use in connection with or for the purpose of a railway operation; 5
- (xiv) "railway industry association" means an association recognised by the Regulator in terms of section 7(2)(b);
- (xv) "railway occurrence" means a railway accident or railway incident prescribed as such, which could include criminal activity; 10
- (xvi) "railway operation" means the activities performed by a network operator, train operator or station operator, or a combination of two or three of them;
- (xvii) "Regulator" means the Railway Safety Regulator established in terms of section 4;
- (xviii) "rolling stock" means a vehicle that is able to operate on a railway, irrespective of its capability of independent motion; 15
- (xix) "safe railway operation" means a railway operation in which the risks associated with the railway operation which may impact on the safety of persons and property transported by railway and the safety of other persons, other property and the environment, are as low as is reasonably practicable in the given set of circumstances, and does not include security; 20
- (xx) "security" means freedom from intentional harm or damage to persons or property;
- (xxi) "safety" means the lack of railway occurrences, fatalities, injuries or damage within railway operations; 25
- (xxii) "safety management system" means a formal framework for integrating safety into day-to-day railway operations and includes safety goals and performance targets, risk assessment, responsibilities and authorities, rules and procedures, monitoring and evaluation processes and any other matter prescribed; 30
- (xxiii) "safety management system report" means a written submission, made by an applicant, in support of a safety permit application that describes the applicant's safety management system and may include any other matters prescribed;
- (xxiv) "safety permit" means a permit contemplated in Chapter 4; 35
- (xxv) "station" means a railway station or a railway passenger terminal and any other place that may be prescribed;
- (xxvi) "station operator" means a person in control of a station, and the management of a station; and
- (xxvii) "train operator" means a person in control of the movement and the management of rolling stock on a network. 40

(2) In this Act, where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have, unless the contrary intention appears from the relevant provisions, corresponding meanings.

(3) When interpreting a provision of this Act, any reasonable interpretation that is consistent with the purpose of this Act as stated in section 2, must be preferred over any alternative interpretation that is inconsistent with that purpose. 45

(4) Any directive or notice given in terms of this Act must be in writing, unless otherwise specified in this Act.

(5) Any regulation made under this Act prevails over any standard adopted by the board under section 29(2). 50

- (xii) "taeletso" e bolela se laeletsang ke molawana o itseng;
- (xiii) "ralewa" e bolela mokgwa o hlophisitsweng le o radilweng bakeng sa makoloi a tsamayang a ralewa, o nang le bokgoni ba ho tsamaisa bapalami, theepa kapa tsona di le pedi seporong mme e bile ho kenyeletswa le tse tsamaiswang naheng, marangrang, makoloi a ralewa, sebaka sa tshebetso, metjhine, theepa le theepa e kekeng ya kgona hore e thotwe le e kgonang ho thotwa ya tlhaloso e nngwe le e nngwe kapa ya mofuta o kgonang ho sebediswa mabapi le kapa bakeng sa morero wa tshebetso ya ralewa; 5
- (xiv) "mokgatlo wa indastri ya ralewa" o bolela mokgatlo o ananetsweng ke Bolaodi ho latela karolo ya 7(2)(b); 10
- (xv) "ketsahalo ya ralewa" e bolela kotsi ya ralewa kapa kotsi ya ralewa ho latela ka moo e laeleditsweng ka ten;
- (xvi) "tshebetso ya ralewa" mesebetsi e etswang ke mosebetsi ya laolang marangrang, mosebetsi ya tsamaisang terene kapa mosebetsi ya tsamaisang seteishene kapa motswako wa tsona di le pedi kapa di le tharo; 15
- (xvii) "Bolaodi" ho bolela Bolaodi ba Polokeho ba Ralewa bo thehilweng ho latela karolo ya 4;
- (xviii) "makoloi a ralewa" a hlalosa koloi e kgonang ho tsamaiswa seporong, ho sa natswe hore bokgoni ba yona ba ho itsamaisa bo bokae;
- (xix) "tshebetso e bolokehileng ya ralewa" e bolela tshebetso ya ralewa eo ho yona mathata a amanngwang le tshebetso ya ralewa a ka bang le tshusumetso polokehong ya batho le theepa e thotwang ke ralewa le polokeho ya batho, theepa e nngwe le tikoloho, a leng tlase ka moo ho utlwahalang ka mokgwa o kgonehang ho latela maemo a leng teng, mme mona ha ho kenyeletswa tshireletso; 20 25
- (xx) "tshireletso" e bolela bolokolohi kotsing e ka etswang ka boomo kapa ho tshenyehelo e ka hlahelang batho kapa theepa;
- (xxi) "polokeho" e bolela leqeme la diketsahalo tsa ralewa, dikotsi tse bolayang, dikotsi kapa tshenyo tshebetsong ya ralewa;
- (xxii) "mokgwa wa taolo ya polokeho" o bolela moralo wwa molao wa ho tswaka polokeho le tshebetso ya letsatsi le leng le le leng ya ralewa mme ho kenyeletswa merero ya polokeho le maikemisetso a lokelang ho fihlellwa a tshebetso, tekanyo ya mathata, boikarabelo le taolo, melawana le mehato e lokelang ho latelwa, tlhokomelo le mekgwa ya tlhahlobo le taba efe kapa efe e ka laeletsang; 30 35
- (xxiii) "pehelo ya mokgwa wa taolo ya polokeho" e bolela nehelano ya pehelo e ngotsweng, e entsweng ke moikopedi, ho tshetsetsa kopo ya tumello ya polokeho e hlalosing mokgwa wa taolo ya polokeho ya moikopedi mme e ka kenyeletsa le ditaba tse ding tse laeleditsweng;
- (xxiv) "tumello ya polokeho" e bolela tumello eo ho buuweng ka yona Kgaolong ya Bone; 40
- (xxv) "seteishene" se bolela seteishene sa ralewa kapa karolo ya sebaka sa bapalami sa ralewa le ntlha efe kapa efe e ka nnang ya laeletsang;
- (xxvi) "opareitara ya seteisheneng" ho bolelwa motho ya laolang motsamao wa bapalami le wa batho ba bang wa ho kena le ho tswa seteisheneng ekasitana le taolo ya seteishene ka kakaretso; 45
- (xxvii) "opareitara ya terene" ho bolelwa motho ya taolong ya marangrang a motsamao le tsamaiso ya koloi e tsamayang seporong.
- (2) Molaong ona, moo lentswe kapa polelo e fuwang moelelo o itseng, dikarolo tse ding tsa puo le dibopeho tsa puo tsa lentswe kapa polelo eo, ntle le moo ho hlahelang ditimana tse ding tse tshwanetseng tse sa dumellaneng le hoo, di na le meelelo e tsamaelanang. 50
- (3) Ha ho hlalosa temana ya Molao, tlhaloso e nngwe le e nngwe e utlwahalang e tsamaelanang le sepheo sa Molao ona jwalo ka ha ho hlalositse karolong ya 2, e lokela hore e be yona e nkellwang hloohong ho feta tlhaloso efe kapa efe e nngwe e sa tsamaelanang le sepheo seo. 55
- (4) Taelo efe kapa efe kapa tsebiso eo ho fanweng ka yona ho latela Molao ona e lokela hore e be e ngotsweng fatshe, ntle le ha ho qaqisitswe ka mokgwa o mong Molaong ona.
- (5) Molawana ofe kapa ofe o entsweng tlasa Molao ona o lokela ho hlahela ka hodimo ho boemo bofe kapa bofe bo amohetsweng ke lekgotla tlasa karolo ya 29(2). 60

(6) In determining, for the purpose of this Act, whether railway operations are safe railway operations, or whether an act or thing constitutes a threat to safe railway operations or enhances the safety of railway operations, regard must be had not only to the safety of persons and property transported by railways but also to the safety of persons with disabilities and other persons and other property.

(7) For the purposes of this Act, a threat to safety is a hazard or condition that could reasonably be expected to develop into a situation in which illness or injury to, or death of, a person or in which damage could be caused to the environment or property, and a threat to safety is immediate if such a situation already exists.

CHAPTER 2

PURPOSE AND APPLICATION

Purpose of Act

2. The purpose of this Act is to—

- (a) provide for and promote safe railway operations;
- (b) encourage the collaboration and participation of interested and affected parties in improving railway safety;
- (c) recognise the prime responsibility and accountability of operators in ensuring the safety of railway operations;
- (d) facilitate a modern, flexible and efficient regulatory regime that ensures the continuing enhancement of safe railway operations;
- (e) promote the harmonisation of the railway safety regime of the Republic with the objectives and requirements of the Southern African Development Community for the operation of railways; and
- (f) further the achievement of such purpose by establishing a suitable regulatory institution.

Application of Act

3. (1) This Act applies to—

- (a) the operation of any railway within, or partly within, the Republic with a track gauge equal to or wider than 600 mm; and
- (b) any other system designed to transport passengers or freight or both, declared by the Minister by notice in the *Gazette* to be a railway or railway operation, or both, for the purposes of this Act.

(2) This Act does not apply to—

- (a) a railway in a mine which is underground and to which the provisions of the Minerals Act, 1991 (Act No. 50 of 1991), and the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), apply;
- (b) a railway operated at an amusement park;
- (c) an aerial, cable-operated transportation system; or
- (d) any railway exempted by the Minister by notice in the *Gazette* from compliance with this Act.

CHAPTER 3

ESTABLISHMENT AND GOVERNANCE OF RAILWAY SAFETY REGULATOR

Establishment of Railway Safety Regulator

4. A juristic person to be known as the Railway Safety Regulator, comprising of a board, a chief executive officer and staff, is established by this section.

(6) Ka sepheo sa Molao ona, ha ho tadingwa hore tshebetso ya ralewa ke tshebetso e bolokehileng kapa hore molao kapa ntho e tlišang tshoso ya polokeho tshebetsong ya ralewa, kapa e matlafatsang polokeho ya tshebetso ya ralewa, ho tshwanetse hore ho se ke ha shejwa feela polokeho ya batho kapa ya theepa e palamiswang ke relewa empa ho tsepamiswe maikutlo polokehong ya batho ba nang le dikgaello le batho ba bang ha mmoho le theepa e nngwe. 5

(7) Molemong wa Molao ona, tshoso e etswang bakeng sa polokeho ke kotsi kapa boemo bo ka lebellwang ka tsela e utlwalang hore bo ka tswela pele ho fihlela boemo boo ho bona ho ka bang le motho ya kulang kapa ha hlaha kotsi kapa ha shwa motho kapa boemo bo ho bona ho bakwang tshenyo tikolohong kapa thepeng, mme tshoso ya polokeho e potlaka ho ba teng ha boemo bo jwalo bo se bo le teng. 10

KGAOLO YA BOBEDI

SEPHEO LE TSHEBEDISO

Sepheo sa Molao

2. Sepheo sa Molao ona ke ho— 15
 - (a) etsa monyetla wa le ho kgothaletsa tshebetso e bolokehileng ya ralewa;
 - (b) kgothaletsa tshebedisano le seabo sa mahlakore a nang le thahasello le a amehang ntlafatsong ya polokeho ya ralewa;
 - (c) ananela boikarabelo ba sehlooho le hore basebetsi ba amohela boikarabelo ba ho netefatsa hore ho na le polokeho tshebetsong ya bona ya ralewa; 20
 - (d) ho etsa monyetla bakeng sa moifo wa taolo wa sejwalejwale, o tenyetsehang le o tla netefatsa matlafatso e tswelang pele ya tshebetso e bolokehileng ya ralewa; le
 - (e) Ho kgothaletsa tshebedisano e ntle dipakeng tsa moifo wa polokeho wa ralewa ya Afrika Borwa ka maikemisetsa le ditlhoko tsa tshebetso tsa ralewa ya Ntshetsopele ya Setjhaba sa Afrika e ka Borwa; 25
 - (f) le ho ntshetsa pele ntlha ya ho finyella sepheo se jwalo ka ho theha mokgatlo wa molao o otshwanetseng.

Tshebediso ya Molao

3. (1) Molao ona o sebetse bakeng sa— 30
 - (a) tshebetso ya ralewa e nngwe le e nngwe ka hare, kapa karolwana e itseng ka hare ho Riphaboliki e nang le seporo se methwang hore se lekane kapa e be se fetang 600 mm; kapa
 - (b) mokgwa ofe kapa ofe o radilweng hore o tsamaisa bapalami kapa dithoto kapa tsona di le pedi mme ebile o hlalositse ke Letona ka tsebisong Koranteng ya Mmuso hore ke ralewa kapa ke tshebetso ya ralewa kapa ke tsona di le pedi ho latelang sepheo sa Molao ona. 35
- (2) Molao ona ha o sebetse—
 - (a) seporong sa terene sa morafong se tsamayang ka tlase ho mobu moo ho sebetse dipehelano tsa Molao wa Dihlahiswa (Molao wa Nomoro ya 50 wa selemo sa 1991) le Molao wa Polokeho le Bophelo bo botle ba Morafong (Molao wa Nomoro ya 29 wa selemo sa 1996); 40
 - (b) seporo sa terene se sebetse bakeng sa boithabiso;
 - (c) mokgwa wa tsamaiso ya bapalami wa eriele, wa kheibole; kapa
 - (d) ralewa efe kapa efe e nngwe eo Letona le e beheletseng ka thoko tsebisong ya Koranta ya Mmuso hore e se kgeme le pehelo efe kapa efe ya Molao ona ha feela e tsepamisitswe ke Letona. 45

KGAOLO YA BORARO

TLHOMAMISO LE TSAMAIISO YA RALEWA YA BOLAODI BA POLOKEHO

Tlhomamiso ya Bolaodi ba Polokeho ya Ralewa

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4. Ho tla ba le motho wa molao ya tla tsejwa ka hore ke Molaodi wa Polokeho ya Ralewa, e tla botjwa ka hore ho be le lekgotla, mohlanka ya ka sehloohong wa phethahatso le moifo wa basebetsi.

Objects of Regulator

5. The objects of the Regulator are to—
- (a) oversee safety in the railway transport industry;
 - (b) promote the use of rail as a mode of transportation through improved safety performance in the railway transport industry; 5
 - (c) develop any regulations that are required in terms of this Act;
 - (d) monitor and ensure compliance with this Act; and
 - (e) give effect to the objects of this Act.

Co-operative governance

6. (1) In order to give effect to the principles of co-operative government and inter-governmental relations contemplated in Chapter 3 of the Constitution, all organs of state, defined in section 239 of the Constitution, in particular the National Department of Labour and the National Department of Safety and Security, on which functions in respect of any aspect of railway safety are conferred by this Act or other legislation, must co-operate with one another in order to— 10 15
- (a) ensure the effective management of safe railway operations;
 - (b) ensure the effective overseeing of safe railway operations;
 - (c) co-ordinate the exercise of such functions;
 - (d) minimise the duplication of such functions and of procedures regarding the exercise of such functions; and 20
 - (e) promote consistency in the exercise of such functions.
- (2) The Regulator must conclude a co-operative agreement with every relevant organ of state to give effect to the co-operation contemplated in subsection (1).
- (3) The Minister may, after consultation with the board and in consultation with the Ministers responsible for the relevant organs of state, make regulations regarding— 25
- (a) the period of time and procedures, including procedures for public participation and mechanisms for dispute resolution, in respect of the conclusion of co-operative agreements referred to in subsection (2); and
 - (b) matters that must be provided for in co-operative agreements, including provision for— 30
 - (i) the period of time for the implementation of co-operative agreements;
 - (ii) the co-ordination of the functions referred to in subsection (1) in a manner that avoids unnecessary duplication and omissions regarding safety requirements and the issuing of conflicting instructions;
 - (iii) measures to be taken in the event of non-compliance with a co-operative agreement; and 35
 - (iv) dispute resolution in respect of the interpretation or application of co-operative agreements referred to in subsection (2).
- (4) The Minister must publish a notice in the *Gazette* setting out every co-operative agreement concluded in terms of subsection (2). 40

Functions of Regulator

7. (1) The Regulator must, for the purpose of achieving its objects in terms of section 5—
- (a) advise the Minister on matters associated with any action or condition which— 45
 - (i) is capable of causing any actual or potential threat of harm or damage to persons or property;
 - (ii) the Minister refers to the Regulator; and
 - (iii) the Regulator considers necessary in the furtherance of its objects; and

Boikemisetso ba Bolaodi**5. Boikemisetso ba Bolaodi bona ke—**

- (a) ho hlokomela polokeho indastring ya dipalangwang tsa ralewa;
- (b) ho kgothaletsa tshebediso ya diterene jwalo ka mokgwa wa ho tsamaisa batho ka tshebetso e ntlafetseng ya indastri ya ralewa ya dipalangwang; 5
- (c) ho ntshetsa pele melawana efe kapa efe e hlokehang ho latela Bili ena;
- (d) ho hlokomela le ho netefatsa hore ho be le tsamaisano le Bili ena; le
- (e) ho etsa hore Molao ona o sebetse.

Puso ya Kopanelo

6. (1) Ho etsa hore metheo ya kopanelo ya mmuso le dikamano tsa mafapha a ka hare ho mmuso tse lohothwang Kgaolong ya Boraro ya Molao wa Motheo, a hlalositsweng karolong ya 239 ya Molao wa Motheo, ka ho qoholleha Lefapha la Naha la Mosebetsi, le Lefapha la Naha la Polokeho le Tshireletso eleng lona le jereng boikarabelo ba mesebetsi e amanang le karolo efe kapa efe ya polokeho ya ralewa ho latela matla a Molao ona kapa molao o mong, mme makala ana kaofela a lokela ho sebedisana ka sepheo sa— 10 15

- (a) ho netefatsa hore ho na le taolo e sebetsang hantle ya tshebetso e bolokehileng ya ralewa;
- (b) ho netefatsa hore ho na le tlhokomelo e sebetsang hantle ya tshebetso e bolokehileng ya ralewa; 20
- (c) ho hokanya phethiso ya mesebetsi e jwalo;
- (d) ho fokotsa phetapheto ya mesebetsi e jwalo le mehato e lokelang ho latelwa mabapi le phethiso ya mesebetsi e jwalo; le
- (e) ho kgothaletsa hore ho be le tshwano ha ho phethiswa mesebetsi e jwalo.

(2) Bolaodi bo lokela ho tlabola selekane sa tumellano le lekala le leng le le leng le tshwanetseng la mmuso ho etsa hore tshebedisano e neng e lohothwa temanyaneng ya (1) e kgone ho sebetse. 25

(3) Letona ka morao hoba le tshware ditherisano le lekgotla ekasitana le matona a ikarabellang makaleng a loketseng a mmuso, le ka nna la etsa melawana e mabapi le—

- (a) dinako le mehato, ho kenyeleditswe le mehato e lokelang ho latelwa bakeng sa seabo sa setjhaba le mekgwa e tla sebediswa ha ho rarollwa diqabang, mabapi le taba ya ho tlabola dilekane tsa tumellano ya tshebedisano eo ho neng ho buuwa ka yona temanyaneng ya (2); le 30
- (b) dintlha tse lokelang ho etsetswa monyetla ditumellanong tsa tshebedisano, ho kenyeleditswe dipehelano sebakeng sa— 35
 - (i) dinako tsa phethiso ya ditumellano tsa tshebedisano;
 - (ii) kgokanyo ya mesebetsi eo ho buuwang ka yona seratswaneng sa (1) ka mokgwa o qobang phetapheto e sa hlokahaleng kapa bolebadi mabapi le ditlhoko tsa polokeho le ha ho fanwa ka ditaelo tse sa dumellaneng;
 - (iii) mehato e lokelang ho nkuwa nakong eo ba bang ba sa ikamahanyeng le ditumellano tsa tshebedisano; 40
 - (iv) le tharollo ya diqabang mabapi le tlhaloso kapa tshebediso ya ditumellano tsa tshebedisano tseo ho buuwang ka tsona temanyaneng ya (2).

(4) Letona le lokela ho phatlalatsa ka ho etsa tsebiso Koranteng ya Mmuso ditumellano kaofela tsa tshebedisano tsa selekane se entsweng ho latela temanyaneng ya (2). 45

Mesebetsi ya Bolaodi

7. (1) Bolaodi molemong wa ho fihlella maikemisetso a bona ho latela karolo ya 5, bo lokela ho—

- (a) eletsa Letona ditabeng tse amanang le mohato ofe kapa ofe boemong— 50
 - (i) bo ka bang le hore bo ka baka tshoso efe kapa efe ya nnete kapa monyetla wa tshoso e ka hlahisang kotsi kapa ya senyetsa batho kapa ya senya theepa;
 - (ii) boo Letona le fetisetsang ditaba ho bolaodi;
 - (iii) boo Bolaodi bo utlwisang hore bo a hlokeha hore bo kgone ho fihlela boikemisetso ba bona; le 55

(b) for purposes of this Act, act as the national competent authority in connection with the transportation of dangerous goods by rail.

(2) The Regulator may, for the purpose of achieving its objects in terms of section 5 of this Act—

- (a) grant, amend, suspend or revoke safety permits; 5
- (b) formally recognise an association representing operators, including other railway industry enterprises, to act on its behalf in respect of the development of standards;
- (c) collect and disseminate information relating to safe railway operations;
- (d) hire, purchase or otherwise acquire any movable and immovable property and proprietary right, and lease or dispose of property so acquired, but may not acquire or dispose of immovable property without the prior approval of the Minister, granted with the agreement of the Minister of Finance; 10
- (e) collaborate with any other body or institution or establish and control facilities for the collection and dissemination of scientific and technical information, in connection with any matter regarding railway safety falling within the objects of the Regulator; 15
- (f) collaborate with any educational, scientific or other body, government or institution in connection with the provision of instruction for, or the training of, persons required by the Regulator; 20
- (g) provide, on such conditions as the Regulator deems fit, financial or other assistance in connection with the training of persons in so far as is necessary to ensure that a sufficient number of trained persons is available to enable the Regulator to perform its functions;
- (h) insure itself against any loss, damage, risk or liability which it may suffer or incur; 25
- (i) conclude contracts, enter into agreements or perform any act, whether in the Republic or elsewhere, whereby its objects are furthered or which is calculated, directly or indirectly, to enhance the value of the services which the Regulator renders towards the achievement of its objects or perform any other act which may be prescribed; 30
- (j) adopt standards submitted by an operator or industry association following compliance with a procedure prescribed by the Minister under section 29;
- (k) require an operator or a railway industry association to consult with organised labour during the development of standards and provide them with an opportunity to comment on those standards prior to submission to the Regulator for approval; 35
- (l) engage any person or organisation having expertise in matters relating to safe railway operations to furnish advice to the Regulator in relation to the development of, or any dispute over, standards; 40
- (m) provide education and conduct any other public-awareness activities relating to safe railway operations in accordance with the purpose of this Act;
- (n) collect and disseminate information relating to safe railway operations;
- (o) conduct investigations into railway occurrences in accordance with chapter 7; and 45
- (p) conduct any other activity relating to safe railway operations.

(3) The functions of the Regulator must be performed by the chief executive officer, as directed by the board, except where otherwise specified in this Act.

Board of Regulator

8. (1) The Regulator is governed and controlled by a board of directors. 50

(2) The board must—

- (a) ensure that the Regulator strives for the achievement of the objects referred to in section 5; and
- (b) exercise general control over the performance of the functions of the Regulator. 55

(3) The board represents the Regulator and all acts performed by the board, or on its authority, are acts of the Regulator.

(4) The members of the board are appointed by the Minister.

- (b) etsa hore molemong wa Molao ona, bo sebetse jwalo ka lekgotla la taolo la setjhaba le le nang le bokgoni mabapi le ho thotha thepa e kotsi ka seporo;
- (2) Bolaodi molemong wa ho finyella maikemisetso a bona ho latela karolo ya 5 ya Molao ona, bo na le hona ho ka—
- (a) nehelana, ho fetola, ho kgaotsa kapa ho fedisa ditumellano tsa polokeho; 5
 - (b) ananela ka molao mokgatlo o emetseng dioporeitara, ho kenyeleditswe le di-indastri tse ding tsa kgwebo ya ralewa, ho sebetse lebitsong la bona mabapi le maemo a ntshetsopele;
 - (c) bokella le ho fana ka lesedi le amanang le tshebetso e bolokehileng ya ralewa;
 - (d) hira, ba reka kapa ba fumana thepa e ka kgonang ho ka suthiswa kapa e sa kgoneng ho ka suthiswa le ditokelo tsa thuo, le khiro kapa bo hleke thepa e fumanehileng ka mokgwa o jwalo, empa bo keke ba hleka thepa e sa suthiseheng ntle le hore bo fumane pele kananelo ya Letona, etswileng ha mmoho le tumellano le Letona la Ditjhelete; 10
 - (e) sebedisana le mokgatlo ofe kapaa ba theha le ho laola menyetla bakeng sa hore ho bokellwe le ho nehelana ka lesedi la saense le la bothebniki, mabapi le taba efe kapa efe e amanang le polokeho ya ralewa ewelang tlasa maikemisetso a Bolaodi; 15
 - (f) kgema le mokgatlo o mong le o mong wa thuto, wasaense kapa ofe kapa ofe, mmuso kapa mokgatlo mabapi le pehelo ya taelo bakeng sa, kapa thupelo ya batho ba hlokwang ke Bolaodi; 20
 - (g) etsa monyetla, ho latela maemo a kang ao Balaodi bo dumelang hore a tshwanelehile, ha mmoho le thuso ya ditjhelete kapa thuso ya mofuta o mong e mabapi le thupelo ya batho ho latela ka moo ho hlokehang ka teng ho netefatsa hore Bolaodi bo kgone ho etsa phethahatsa mosebetsi wa bona; 25
 - (h) ba le ishorensa e tla thusa bolaodi tahlehelong ya mofuta ofe eo bolaodi bo ka iphumanang bo na le yona, tshenyo, mathata kapa ho tshwanela ho jara molato ofe kapa ofe oo bo ka tshwanelang ho tobana le ona;
 - (i) tlabola dilekane, ho etsa mosebetsi ofe kapa ofe, ho sa tsotelehe hore ka Riphaboliki kapa sebakeng se seng, moo boikemisetso ba bona bo ntshetswang pele kapa moo bo balwang ka mokgwa o otlohang ho matlafatsa boleng ba ditshebetso tseo Bolaodi bo fanang ka tsona hore bo kgone ho fihlella boikemisetso ba bona kapa ho phethisa tse ka laeletswang; 30
 - (j) amohela maemo ao opareitara kapa mokgatlo wa indastri ena o nehelaneng ka ona ho latela ho kgema le mehato e laeleditsweng ke Letona tlasa temana 29; 35
 - (k) hloka hore opareitara kapa mokgatlo wa indastri ya ralewa o rerisane le mokgatlo o hlophisitsweng wa basebetsi nakong ya ntshetsopele ya maemo le ho nehelana ka monyetla hore ba hlahise maikutlo hodima maemo ao pele a ka fetisetwa ho Bolaodi bakeng sa kananelo;
 - (l) buisana le motho ofe kapa ofe ya nang le tsebo ditabeng tse amanang le tshebetso e bolokehileng ya ralewa ho fana ka keletso ho Bolaodi mabapi le ntshetsopele, kapa qabang efe kapa efe mabapi le maemo; 40
 - (m) fana thuto le ho tsamaisa mesebetsi efe kapa efe e meng ya ho nehelana ka temoso bathong mabapi le tshebetso ya ralewa e bolokehileng ho latela sepheo sa Molao ona; 45
 - (n) bokella le ho qhalanya lesedi le mabapi le tshebetso e bolokehileng ya ralewa;
 - (o) ho etsa diphuputso diketsahalang tsa ralewa ho latela kgaolo ya 7; le
 - (p) etsa mosebetsi ofe kapa ofe o tsamaelanang le tshebetso e bolokehileng ya ralewa.
- (3) Mosebetsi ya Bolaodi e lokela ho etswa ke Mohlanka ya ka sehloohong wa Phethahatso, ho latela taelo ya lekgotla, ntle le moo ho qaqisitsweng ka mokgwa o mong ke Molao ona. 50

Lekgotla la Bolaodi

8. (1) Bolaodi bo buswa le ho laolwa ke lekgotla le balaodi.
- (2) Lekgotla le lokela ho— 55
- (a) ho tiisa hore Bolaodi bo tsitlallela ho finyella boikemisetso boo ho buuwang ka bona karolong ya 5; le
 - (b) ho ba le taolo e akaretsang phethahatsong ya mesebetsi ya Bolaodi.
- (3) Lekgotla le emetse Bolaodi mme mesebetsi yohle e phethiswang ke lekgotla, kapa e matleng a lona, ke mesebetsi ya Bolaodi. 60
- (4) Lekgotla la Balaodi le tla kgethwa ke Letona.

(5) (a) The board is answerable to the Minister and it consists of a minimum of seven and a maximum of 13 members who have wide experience of and demonstrate acumen in one or more of the following:

- (i) Management of railways;
- (ii) safety in transportation;
- (iii) corporate management;
- (iv) commerce, finance, legal and economic matters;
- (v) transportation of dangerous goods; and
- (vi) special knowledge that could be of value to the Regulator in the performance of its functions.

(b) The board must consist of the chief executive officer, as an *ex officio* member, and other suitably qualified persons who are representative of one or more of the following stakeholders:

- (i) Organised labour;
- (ii) the railway industry;
- (iii) communities which may be affected by railway operations;
- (iv) the Department of Transport;
- (v) the Department of Labour; and
- (vi) the Department of Safety and Security.

(6) The Minister must appoint a chairperson and a deputy chairperson from among the members of the board, excluding the chief executive officer.

(7) For the purposes of appointing the members of the board—

- (a) the Minister must, through the media and by notice in the *Gazette*, invite nominations of persons as candidates for the relevant positions on the board;
- (b) a panel, appointed by the Minister, which may include representatives of the relevant committees of Parliament, must compile a shortlist from which the Minister may appoint persons to the relevant positions on the board; and
- (c) during the temporary absence of a director, the Minister may appoint a suitably qualified alternate director other than the chief executive officer, to act as such a director.

(8) A person is disqualified from being appointed or remaining a member of the board if he or she—

- (a) is not a South African citizen;
- (b) is declared insolvent;
- (c) is convicted of an offence and sentenced to imprisonment without the option of a fine; or
- (d) becomes a member of—
 - (i) Parliament;
 - (ii) a provincial legislature;
 - (iii) a Municipal Council;
 - (iv) the Cabinet; or
 - (v) the Executive Council of a province.

(9) A member of the board may not be present during, or take part in, the discussion of, or the taking of a decision on, any matter before the board in which that member or his or her spouse, life partner, child, business partner or associate or employer, other than the State, has a direct or indirect financial interest.

(10) Upon appointment of a person as a member of the board, that person must submit to the Minister and the board a written statement in which he or she declares whether or not he or she has any interest contemplated in subsection (9).

(11) (a) If any director acquires or contemplates acquiring an interest which could possibly be an interest contemplated in subsection (9), he or she must immediately in writing declare that fact to the Minister and the board.

(b) If an organisation or enterprise in which a director has an interest contemplated in section (9) is requested to offer its services, the director must immediately, in writing, declare his or her interest to the Minister and the board.

(12) (a) The chairperson of the board holds office for a period specified in the letter of appointment but that appointment may not exceed three years.

(5) (a) Lekgotla le tla ikarabella ho Letona le tla botjwa ka bonyane ditho tse supileng mme bongata ba tsona bo ke ke ba feta leshome le metso e meraro tse bontshitseng boitsebelo bo batsi le ho bontsha bokgoni ba mahlahlaha ho nngwe ya tse latelang:

- (i) Tsamaisong ya ralewa; 5
- (ii) polokeng ya dipalangwang
- (iii) tsamaisong ya kgwebo
- (iv) kgwebong, ditjheleteng, dintlheng tsa molao le ditabeng tsa moruo
- (v) tsamaiso ya dipahllo tse kotsi;
- (vi) tsebo e ikgethang e ka bang le boleng Bolaoding bakeng sa phethiso ya mesebetsi ya bona 10

(b) Lekgotla le lokela ho ba le Mohlanka, setho ka lebaka la hobane e ne e le setho pejana ya ka sehloohong wa Phethahatso le batho ba bang ba nang le mangolo a loketseng ba emetseng baamehi ba latelang:

- (i) basebetsi ba hlophisitsweng; 15
- (ii) indastri ya ralewa;
- (iii) batho ba anngweng ke tshebetso ya ralewa;
- (iv) Lefapha la Dipalangwang;
- (v) Lefapha la Mesebetsi; le
- (vi) Lefapha la Polokeho le Tshireletso 20

(6) Letona le lokela ho kgetha modulasetulo le motlatsi wa modulasetulo dinthong tsa lekgotla, ho sa kenyeletswe mohlanka ya ka Sehloohong wa Phethahatso.

(7) Molemong wa ho kgethwa ha ditho tsa lekgotla—

- (a) Letona le lokela hore ka dikoranta le radio le theleveshene le ka tsebisole Koranteng ya Mmuso, le meme dikgetho tsa batho bao e tla ba bonkgetheng bakeng sa ditulo tsena tse tshwanetseng tsa lekgotla; 25
- (b) moifo, o kgethilweng ke Letona, o kenyeletsang baemedi ba loketseng ba dikomiti tsa Palamente, ba tlameha ho rala lenane leo Letona le ka kgethang batho ba tla kena dibakeng tse loketseng lekgotleng, le;
- (c) bosiyong ba nakwana ba mookamedi, letona le ka nna la kgetha motho e mong ya nang le mangolo a tshwanetseng ntle le mohlanka ya ka sehloohong wa phethahatso, hore a tshware mosebetsi oo mokobobo. 30

(8) Motho ha a na ho ka kgethwa kapa hona ho dula e le setho sa lekgotla ha—

- (a) e se moahi wa Afrika Borwa;
- (b) ha a phatlaladitswe e le mofutsana; 35
- (c) a ile a ahlolwa hobane a tlotsa molao mme a ahlolwa ho hlalelwa tjhankaneng ntle le ho fuwa monyetla wa kotlo ya tefo; kapa
- (d) a eba setho—
 - (i) sa Palamente;
 - (ii) setho sa lekgotla le etsang melao la provense; 40
 - (iii) setho sa lekgotla la Mmassepala;
 - (iv) Kabinete;
 - (v) Lekgotla la Phethahatso la provense.

(9) Setho sa lekgotla ho ka etsahala a seke sa ba teng, kapa hore se hloke hoba le seabo dipuisanong kapa ha ho etswa qeto tabeng efe kapa efe e tekilweng ka pele ho lekgotla moo molaodi eo kapa mohatsae, molekane wa hae wa bophelo kaofela, ngwana, mosebetsi mmoho le yena kgwebong kapa ya sebedisang le yena kapa ramosebetsi, ntle le Mmuso, ha a na le thahasello ka tsela e otlohlileng kapa e sa otlohlilang ho sena. 45

(10) Ka morao hoba motho enwa a kgethwe ho ba molaodi wa lekgotla o tla lokela hore a etse tlhaloso e ngotsweng e lebang ho Letona le lekgotla moo a hlalosang hore naa o na le thahasello ena eo lohothwang karolong ya (9) 50

(11) (a) Ha mookamedi ofe kapa ofe ho etsahala hore a be le thahasello kapa a lohotha ho ba le thahasello, eleng thahasello e neng e lohothwa karolwaneng ya (9), o tla tshwanela hore ka potlako a ngole mme a phatlalatsa ntlha eo ho Letona le lekgotla.

(b) Ha mookamedi kapa kgwebo eo mookamedi a nang le thahasello e lohothwang karolong ya (9) o kopuwa hore a nehelane ka ditshebetso, mookamedi o lokela hore ka potlako a ngole a phatlalatsa tabatabelo ena ya hae ho Letona le lekgotla. 55

(12) (a) Modulasetulo wa lekgotla o dula setulo sena nakong e hlalositse lengolong la hae ha a fuwa mosebetsi empa eseng nako e fetang dilemo tse tharo.

(b) The chairperson is eligible for reappointment upon expiry of the term of his or her office.

(13) (a) A member of the board holds office for a period specified in the letter of appointment, but that appointment may not exceed three years.

(b) Such member of the board may be reappointed upon expiry of the term of his or her office. 5

(14) (a) If a director dies or vacates office, the Minister may, subject to subsection (7), appoint another person as a director.

(b) The person so appointed serves for the unexpired portion of the predecessor's term of office. 10

Chief executive officer of Regulator

9. (1) The Minister must, after consultation with the board, appoint a person with suitable qualifications as chief executive officer of the Regulator.

(2) A person is disqualified from being appointed or remaining as chief executive officer if he or she is disqualified in terms of section 8(8). 15

(3) (a) A chief executive officer holds office for the period specified in the letter of appointment and that period may not exceed five years.

(b) Such chief executive officer may be reappointed upon expiry of the term of his or her office.

(c) The terms and conditions of service of the chief executive officer are determined by the board and approved by the Minister in consultation with the Minister of Finance. 20

(4) The Minister may, at any time, discharge the chief executive officer from office—

(a) if the chief executive officer repeatedly fails to perform the duties of office efficiently;

(b) if, due to any physical or mental illness or disability, the chief executive officer becomes incapable of performing the functions of that office or performs them inefficiently; or 25

(c) for misconduct.

(5) The chief executive officer must—

(a) ensure that the functions of the Regulator in terms of this Act are performed; 30

(b) report to the board on the proper functioning of the Regulator;

(c) issue safety permits in accordance with this Act;

(d) complete a report on the activities of the Regulator for each financial year in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and submit the report to the board for approval; and 35

(e) each financial year, after consultation with the board and with the approval of the Minister, publish and distribute a plan of action for the activities of the Regulator.

(6) The board must forward the report referred to in subsection (5)(d), approved by it, to the Minister within three months after the end of the financial year concerned. 40

(7) The chief executive officer is the accounting officer of the Regulator charged with the responsibility of accounting for all money received and payments made by, and the assets of, the Regulator.

(8) The chief executive officer must exercise all the powers and perform all the duties conferred or imposed upon the accounting officer by— 45

(a) this Act;

(b) the Public Finance Management Act, 1999; or

(c) the board.

(9) If the chief executive officer is for any reason unable to perform any of his or her functions, the chairperson of the board must appoint an employee of the Regulator to act as chief executive officer until the chief executive officer is able to resume those functions. 50

(10) An acting chief executive officer may exercise all the powers and must perform all the duties of the chief executive officer.

- (b) Modulasetulo a ka boela a kgethwa hape ha nako ya hae ya ofisi e fedile
- 13 (a) Setho sa lekgotla se tla tshwara ofisi nakong e qaqisitsweng lengolong la hae ha a fuwa mosebetsi, eleng nako e kepeng ya feta dilemo tse tharo.
- (14) (a) Ha mookamedi a timela kapa a tswwa ofising, Letona le ka nna la kgetha motho e mong hore e be mookamedi, ho l atela karolwana ya (7). 5
- (b) Motho ya kgethilweng jwalo o tla sebetse karolo e ntseng e setse ya eo ya tlileng pele ho yena ya ofisi.

Mohlanka ya ka sehloohong wa phethahatso ya Bolaodi

9. (1) Letona le tlameha hore ka morao le ditherisano le lekgotla, le kgethe motho ya nang le mangolo a loketseng hore e be mohlanka ya ka sehloohong wa Bolaodi. 10
- (2) Motho o tla hloleha ho ka kgethwa kapa ho dula e le mohlanka ya ka sehloohong wa phethahatso ha e ba a fumaneha a sa lokela ho ka kgethwa ho latela karolo ya 8 (8).
- (3) (a) Mohlanka ya ka sehloohong wa phethahatso o tla tshwara ofisi nakong e qaqisitsweng lengolong la mosebetsi mme nako eo e keke ya feta dilemo tse hlano.
- (b) Mohlanka ya jwalo ya ka sehloohong wa phethahatso a ka boela a kgethwa hape ha nako ya hae e fela ya ofisi. 15
- (c) Dipehelo le mabaka a tshetso tsa mohlanka ya ka sehloohong wa phethahatso di tsepamiswa ke lekgotla le ho ananelwa ke Letona ka ditherisano le Letona la Ditjhelete.
- (4) Letona nakong efe kapa efe le ka ntsha mohlanka ya ka sehloohong wa phethahatso mosebetsing— 20
- (a) ha mohlanka ya ka sehloohong wa phethahatso a ile a hloleha ka makgetlo ho phethisa mosebetsi wa ofisi hantle;
- (b) ha ka lebaka la kgolofalo ya mmele kapa bohloko ba kelello, mohlanka ya ka sehloohong wa phethahatso a se a hloka bokgoni ba ho phethisa mosebetsi ya ofisi kapa a sa sebetse ka tsela e nepahetseng; kapa 25
- (c) ka lebaka la boitshwara bo sa amoheleheng.
- (5) Mohlanka ya ka sehloohong wa phethahatso o lokela—
- (a) ho etsa bonnete ba hore mosebetsi ya Bolaodi ho latela Molao ona e phethilwe;
- (b) ho fana ka pehelo lekgotleng ka tshetso e nepahetseng ya Bolaodi; 30
- (c) ho fana ka ditumello tsa polokeho ho latela Molao ona
- (d) ho phethela tlaleho e mabapi le mosebetsi ya Bolaodi bakeng sa selemo se seng le se seng sa ditjhelete ho latela Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba (Molao wa Nomoro ya 1 wa selemo sa 1999) le ho nehelana ka tlaleho ena lekgotleng bakeng sa kananelo; 35
- (e) selemo se seng le se seng sa ditjhelete, o lokela hore ka morao ho ditherisano le lekgotla le ka kananelo ya Letona, a phatlalatse le ho qhalanya moralo wa mosebetsi ya Bolaodi.
- (6) Lekgotla le lokela ho fetisa tlaleho e boletsweng temanyaneng ya (5)(d), jwalo ka ha le e ananetse, ho Letona nakong ya dikgwedi tse tharo tsa mafelo a selemo sa ditjhelete se amehang. 40
- (7) Mohlanka ya ka sehloohong wa phethahatso ke yena mohlanka ya jarang boikarabelo ba lekgotla ka boikarabelo ba ho arabella ditaba tsa ditjhelete tse amohetsweng le ditefo tse entsweng, ha mmoho le matlotlo ao Bolaodi bo nang le ona.
- (8) Mohlanka ya ka sehloohong wa phethahatso o lokela ho sebedisa matla ohle ao a nang le ona mme a phethise mosebetsi yohle e behilweng boikarabelong ba mohlanka ya ikarabellang ka— 45
- (a) molao ona;
- (b) molao wa Tsamaiso ya Ditjhelete tsa Setjhaba (Molao wa Nomoro ya 1 wa selemo sa 1999); kapa 50
- (c) lekgotla.
- (9) Ha mohlanka ya ka sehloohong wa phethahatso tlasa lebaka lefe kapa lefe a hlolehile ho phethisa e meng ya mosebetsi ya hae, modulasetulo wa lekgotla o tla lokela hore a kgethe mosebetsi wa Bolaodi hore a tshware mosebetsi ona mokobobo wa ho ba mohlanka ya ka sehloohong wa phethahatso ho fihlela mohlanka ya ka sehloohong wwa phethahatso a kgona ho ka boela a tswela pele ka mosebetsi eo. 55
- (10) Mohlanka ya tshwereng mokobobo mosebetsi wa mohlanka wa phethahatso ya ka sehloohong o na le matla ohle mme o loketse ho phethisa mosebetsi ya mohlanka ya ka sehloohong wa phethahatso.

Staff of Regulator

10. (1) Subject to the written instructions of the board, the chief executive officer may appoint such staff members for the Regulator as are necessary to perform the work arising from or connected with the Regulator's functions.
- (2) The terms and conditions of service of staff of the Regulator are determined by the board and approved by the Minister, in consultation with the Minister of Finance. 5
- (3) (a) The board may, with the approval of the Minister in consultation with the Minister of Finance, establish, manage and administer any pension or provident fund or medical scheme for the benefit of the staff of the Regulator.
- (b) Such a scheme or fund for the benefit of the staff of the Regulator may be managed or administered by any other body or person. 10

Delegation and assignment by board

11. (1) Subject to subsections (2), (3), (4) and (5), the board may, by resolution, delegate any power and assign any duty conferred or imposed on it in terms of this Act to— 15
- (a) its chairperson;
 - (b) the chief executive officer;
 - (c) a committee of the board;
 - (d) a member of staff of the Regulator;
 - (e) a person appointed as a railway safety inspector under section 32; 20
 - (f) an investigator appointed in terms of section 38(2); or
 - (g) any other person appointed by it.
- (2) The board is not divested of any power it delegates or relieved of any duty it assigns.
- (3) Such delegation or assignment— 25
- (a) may be made subject to conditions determined by the board; and
 - (b) must be communicated to the delegatee or assignee in writing.
- (4) The written communication in terms of subsection (3)(b) must contain full particulars of the matters being delegated or assigned and must specify the conditions, if any, referred to in subsection (3)(a). 30
- (5) The board may, by resolution—
- (a) amend or revoke a delegation or assignment made in terms of subsection (1); or
 - (b) withdraw any decision, other than a decision which confers a right or entitlement on any third party, made by the delegatee or assignee with regard to a delegated or assigned matter, and decide the matter itself. 35

Vacation of office of board members

12. (1) The Minister may, at any time, discharge a member of the board from office—
- (a) if the member repeatedly fails to perform his or her functions efficiently;
 - (b) if, due to any physical or mental illness or disability, the member becomes incapable of performing his or her functions or performs them inefficiently; or 40
 - (c) for misconduct.
- (2) A director vacates office when—
- (a) he or she becomes disqualified in terms of section 8(8);
 - (b) he or she is discharged in terms of subsection (1); 45
 - (c) he or she is absent from three consecutive meetings of the board without the permission of the chairperson, unless the board condones the absence on good reasons shown; or
 - (d) his or her resignation as director takes effect.

Moifo wa tshebetso wa bolaodi

10. (1) Mohlanka ya ka sehloohong wa phethahatso ho latela ditaelo tse ngotsweng tsa lekgotla, a ka kgetha moifo o jwalo wa tshebetso bakeng sa Bolaodi jwalo ka ha ho hlokeha hore o etse mosebetsi o ipetsang kapa o mabapi le mesebetsi ya Bolaodi . 5
- (2) Dipallo le maemo a mosebetsi wa mohlanka ya ka sehloohong wa phethahatso le basebetsi ba bang ba Bolaodi, ho kenyeleditswe meputso ya bona, menyetla ya tefo, ditshehetso le menyetla e meng ya tshebetso, ke dintho tse tsepamiswa ke lekgotla mme moputso le menyetla ya tefo, ditshehetso le menyetla e meng ya tshebetso di lokela ho tsepamiswa ho latela mokgwa o amohetsweng ke Letona ka tumellano le Letona la Ditjhelete. 10
- (3) (a) Lekgotla ka kananelo ya Letona eo ho fanweng ka yona ka tumellano le Letona la Ditjhelete, le ka fumana, la laola le ho tsamaisa penshene efe kapa efe kapa letlole la providente kapa morero wa thuso ya tsa bongaka molemong wa moifo wa basebetsi ba Bolaodi; le
- (b) ho tlisetsa basebetsi molemo kapa le ba morero jwalo kapa letlole la laolwang kapa le tsamaiswang ke mokgatlo ofe kapa ofe kapa motho e mong le e mong. 15

Thomo le kabelo ya mosebetsi ke lekgotla

11. (1) Ho latela karolwana ya (2), (3) le ya (5), lekgotla ka qeto e entsweng, le ka nehelana ka matla, le ho aba mosebetsi ofe kapa ofe, o leng matleng a lona kapa oo le o fuweng ho latela Molao ona ho— 20
- (a) modulasetulo wa teng
- (b) mohlanka ya ka sehloohong wa phethahatso;
- (c) komiti ya lekgotla;
- (d) setho sa moifo wa Bolaodi;
- (e) motho ya kgethilweng jwalo ka mohlalobi wa ralewa wa polokeho tlasa karolo ya 32; 25
- (f) mofuputsi ya kgethilweng ho latela karolo ya 38(2)
- (g) motho ofe kapa ofe ya kgethilweng.
- (2) lekgotla ha le a nkelwa matla a ho ka nehelana ka mosebetsi kapa hona ho se fuwe matla ao le nehelanang ka ona. 30
- (3) Nenelano kapa phano e jwalojwalo—
- (a) ke ntho e ka etswang ho latela dipallo tse behilweng ke lekgotla; le
- (b) ke ntho e lokelang hore e bolellwe motho ya fuweng mosebetsi o jwalo ka lengolo.
- (4) Puisano ena ya lengolo ho latela karolwana ya (3)(b) e lokela ho kenyeletsa dintlha tse feletseng tsa dintlha tsa ditaba tsa mosebetsi o ajwang kapa oo ho fanwang ka ona mme o lokela ho qaqisa dipehelano, ha e ba di le teng, tseo ho buuwang ka tsona karololwaneng ya (3)(a). 35
- (5) Lekgotla ka ho etsa qeto, le ka nna la—
- (a) fetola, fedisa borumuwa kapa tshebetso e entsweng ho latela karolwaneng ya (1); kapa 40
- (b) hula qeto efe kapa efe, ntle le qeto e fanang ka tokelo kapa matla hodima lehlakore lefe kapa lefe la boraro, e entsweng ke motho ya abetsweng kapa ya fuweng mosebetsi mabapi le ntlha e abuwang kapa eo ho fanwang ka yona, mme la iketsetsa qeto tabeng ena ka bolona. 45

Mokgwa wa hore ditho tsa lekgotla di tswe mosebetsing wa ofisi

12. (1) Letona, ka nako efe kapa efe, le ka nna la ntsha setho sa lekgotla ofising—
- (a) ha setho se dula se hloleha ho etsa mesebetsi ya sona ka tsela e nepahetseng;
- (b) haeba, ka lebaka la kgaelo kapa ho kula kelellong kapa kgothalo, setho se hloka bokgoni ba ho etsa mesebetsi ya sona kapa se sebetsa ka mokgwa o sa nepahalang; kapa 50
- (c) ka lebaka la boitshwaro bo sa amoheleng.
- (2) Molaodi o tswa ofising ha—
- (a) ha a kgaolwa ho latela karolwana ya 8 (8);
- (b) ha a ntshwa mosebetsing ho latela temanyaneng ya (1); 55
- (c) ha a ka ba siyo dipitsong tse tharo tse hlalamanang tsa lekgotla ntle le tumello ya modulasetulo, ntle le ha lekgotla le amohetse bosiyi ka lebaka la mabaka a matle ao ho fanweng ka ona; kapa
- (d) ha boitokollo ba motho eo eleng molaodi bo kena tshebetsong.

Meetings of board

13. (1) The first meeting of the board is held at the time and place determined by the Minister, and thereafter such meetings are held at such times and places as the board determines.

(2) The chairperson or, in his or her absence, the deputy chairperson may, at any time, call a special meeting of the board to be held at the time and place determined by either the chairperson or the deputy chairperson. 5

(3) All directors must be notified in writing of every meeting of the board.

(4) A majority of the directors forms a quorum at any meeting of the board.

(5) Subject to subsection (4), a decision of the majority of the directors present at a meeting of the board constitutes a decision of the board and, in the event of an equality of votes on any matter, the person chairing the relevant meeting has a casting vote in addition to a deliberative vote. 10

(6) A decision taken by the board or an act performed under its authority, is not invalid merely by reason of— 15

(a) a vacancy on the board; or

(b) the fact that a person who is not entitled to sit as a director sat as a director at the time that the decision was taken, as long as the decision was taken or the act was authorised by the required majority of directors present at the meeting who were entitled to sit as directors. 20

(7) If the chairperson is for any reason unable to act, or the office of chairperson is vacant, the deputy chairperson must act as chairperson.

(8) If both the chairperson and deputy chairperson are for any reason unable to act, or both the offices of chairperson and deputy chairperson are vacant, the board must designate any other director to act as chairperson. 25

(9) The Minister is entitled to attend any meeting of the board, as long as such attendance is in an observer capacity only.

Minutes of board meetings

14. (1) The board must keep minutes of its meetings and submit copies of the minutes to its members and the Minister within one month of approval of the minutes. 30

(2) Such minutes, when signed at a next meeting by a person who chairs that meeting, are, in the absence of proof of error therein, regarded as a true and correct record of the proceedings and are on the face of it evidence of those proceedings before a court of law, any tribunal or a commission of inquiry.

Committees of board 35

15. The board may—

(a) establish such committees as it considers necessary to assist it in the performance of its functions; and

(b) appoint as members of any such committee such persons, including members of the board, staff of the Regulator, an industry association or any member of the association, organised labour, the holders of safety permits and employees of such holders, as the board considers appropriate. 40

Remuneration of directors and committee members

16. A director or member of a committee of the board, other than the chief executive officer or a person who is in the full-time employment of the Regulator or any other organ of state, is appointed on the terms and conditions of service determined by the Minister in consultation with the Minister of Finance. 45

Dikopano tsa lekgotla

13. (1) Kopano ya pele ya lekgotla e tla tshwarwa ka nako le sebakeng se tla behwa ke Letona, mme ka morao ho moo dikopano di tla tshwarwa ka dinako le dibakeng tseo lekgotla le tla di beha.

(2) Bosiyong ba modulasetulo, motlatsi wa modulasetulo, nakong efe kapa efe a ka bitsa kopano e ikgethang ya lekgotla e tla tshwara ka nako le sebakeng se tla behwa ke modulasetulo kapa motlatsi wa modulasetulo. 5

(3) Balaodi kaofela ba lokela ho tsebiswa ka dikopano kaofela tsa lekgotla ka mokgwa wa ho ngola.

(4) Palo e ngata ya balaodi e bopa palo e lekaneng le e behilweng bakeng sa ho ka tshwara kopano efe kapa efe ya lekgotla. 10

(5) Ho latela karolwana ya (4), qeto ya palo e ngata ya balaodi ba teng kopanong ya lekgotla e bopa qeto ya lekgotla mme, moo ho nang le palo e ngata ya divoutu tabeng efe kapa efe e lokelang ho etsetswa qeto, modulasetulo ya tsamaisang kopano eo o na le voutu e dihang nyewe ha mmoho le voutu ya hae ya dipuisano. 15

(6) Qeto e nkilweng ke lekgotla kapa ketso e phethilweng tlasa matla a lona, e keke ya hlokiswa matla feela ke lebaka la hore—

(a) ho na le sekgeo lekgotleng; kapa

(b) ntlha ya hore motho ofe kapa ofe ya se nang matla a ho etsa jwalo, o ile a dula kopanong jwalo ka molaodi nakong eo qeto ena e neng e etsuwa, ntle le ha e ba qeto eo e nkilweng kapa ketso eo e ile ya matlafatswa ke palo ya bongata ba hlokehang ba balaodi ba neng ba le teng kopanong ba neng ba na le tokelo ya ho ba moo jwalo ka balaodi. 20

(7) Ha modulasetulo ka lebaka lefe kapa lefe a sitwa ho ka etsa mosebetsi wa hoba modulasetulo, kapa ofisi ya modulasetulo e na le sekgeo, motlatsi wa modulasetulo o tlameha ho sebetse jwalo ka modulasetulo. 25

(8) Ha e ba modulasetulo ha mmoho le motlatsi wa modulasetulo ka mabaka a itseng ba hloleha ho ba teng ho ka etsa mosebetsi wa modulasetulo, kapa diofisi tsena bobedi eleng ya modulasetulo le ya motlatsi wa modulasetulo di na le dikgeo, lekgotla le tla lokela ho tshwaya molaodi e mong le e mong hore a sebetse jwalo ka modulasetulo. 30

(9) Letona le tla ba le tokelo ya ho ba teng kopanong efe kapa efe ya lekgotla, ha feela letona le tla ba teng jwalo ka motho ya boemong ba molemohi wa ditaba feela.

Metsotso ya dikopano tsa lekgotla

14. (1) Lekgotla le lokela hore le etse hore metsotso ya dikopano tsa lona e bolokwe mme dikhopi tsa metsotso di fumanwe ke ditho tsa lekgotla ha mmoho le letona nakong ya kgwedi hoba metsotso e ananelwe. 35

(2) Metsotso e jwalo, a ha e saennwe kopano e latelang ke motho eo eleng modulasetulo kopanong eo, bosiyong ba bopaki bo ka netefatsang phoso e teng, e tla nkuwa e le rekoto e ya nnete le e nepahetseng ya ka moo ditaba di tsamaileng ka teng le bopaki bo bonwang ba ditaba bo ka behwang ka pele ho lekgotla la molao, lekgotleng lefe kapa lefe kapa khomesheneng ya diphuputso. 40

Komiti tsa lekgotla

15. Lekgotla le na le hona ho ka—

(a) hlomamisa dikomiti ho ya ka moo le ka bonang ho hlokeha ka teng hore di thuse phethisong ya mesebetsi ya lekgotla; mme 45

(a) le ka kgetha batho ba kang bana, e bile ho kenyeleditswe le balaodi ba lekgotla, ditho tsa moifo wa Bolaodi, mokgatlo wa indastri ena kapa setho sefe kapa sefe sa mokgatlo, mokgatlo wa basebetsi, batho ba nang le ditumello tsa polokeho le basebetsi ba tshwareng ditumello tseo tse jwalo, ho latela ka moo lekgotla le bonang ho tshwanetse ka teng. 50

Ho putswa ha balaodi le ditho tsa komiti

16. Mookamedi kapa setho sa komiti sa lekgotla, ntle le mohlanka ya ka sehloohong wa phethahatso kapa motho ya mosebetsing o phethahetseng wa Bolaodi kapa lekala le leng la mmuso, o kgethwa ho latela maemo, ho kenyeleditswe maemo a amanang le tefo ya moputso le menyela ya moputso, ho latela ka moo Letona le tla tsepamisa dintho ka teng ka tumellano le Letona la Ditjhelete. 55

Funds of Regulator

17. (1) The funds of the Regulator consist of—
- (a) money appropriated by Parliament;
 - (b) fees paid to the Regulator in terms of section 23(2); and
 - (c) donations or contributions received by the Regulator, with the approval of the Minister, from any source. 5
- (2) The Regulator must utilise its funds to defray expenses incurred by it in the performance of its functions.
- (3) The chief executive officer must—
- (a) open an account in the name of the Regulator with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and 10
 - (b) deposit therein all money received in terms of subsection (1).
- (4) The chief executive officer may, on behalf of the Regulator, invest any money received in terms of subsection (1) which is not required for immediate use—
- (a) with the Public Investment Commissioners referred to in section 2 of the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984), with the approval of the Minister; or 15
 - (b) with such other institution determined by the board and the Minister, with the approval of the Minister of Finance.
- (5) The Regulator may use interest derived from the investment referred to in subsection (4) to defray expenses in connection with the performance of its functions. 20
- (6) The Regulator may, when it considers it necessary, with the approval of the Minister and with the approval of the Minister of Finance—
- (a) authorise the establishment of such reserve funds; and
 - (b) deposit such funds therein. 25
- (7) The Regulator must in each financial year, on or before a date determined by the Minister, submit a statement of its income and estimated expenditure for the following financial year to the Minister for approval.

Financial year of Regulator

18. The Regulator's financial year is from 1 April in any year to 31 March of the following year, and the first financial year is from the specified date to 31 March. 30

Disagreements between Minister and board

19. (1) If the Minister rejects a recommendation of the board made in terms of this Act, the Minister and the board must endeavour to resolve their disagreement.
- (2) If the Minister and the board fail to resolve their disagreement, the Minister makes the final decision. 35

Reporting to Minister and Parliament

20. (1) The Regulator must produce and submit to the Minister an annual report on the safety of workers, the public and the environment associated with railway operations that the Regulator is required to regulate under this Act including any other matters that may be prescribed. 40
- (2) The Minister must table the annual report submitted to him or her in terms of subsection (1) in Parliament within 14 days—
- (a) of receipt thereof if Parliament is in session; or
 - (b) after the commencement of its ensuing session, if Parliament is not in session. 45

Ditjhelete tsa Bolaodi

17. (1) Ditjhelete tsa Bolaodi di bopilwe ka—
- (a) tjhelete e abilweng ke Palamente;
 - (b) ditjhelete tse lefuweng ho Bolaodi ho latela temana ya 23(2);
 - (c) dimpho kapa dinyehelo tse amohetsweng ke Bolaodi e le ha di tswa 5
mohloding ofe kapa ofe, ka kananelo ya Letona.
- (2) Bolaodi bo lokela ho sebedisa ditjhelete tsa bona ho lefella ditshenyehelo tsa bona nakong eo boneng bo etsa mesebetsi ya bona.
- (3) Mohlanka ya ka sehloohong wa phethahatso o lokela ho—
- (a) bula akhaonte lebitsong la Bolaodi mokgatlong o ngodisitsweng jwalo ka 10
banka ho latela Molao wa Dibanka wa selemo sa 1990 (Molao wa Nomoro ya 94 wa selemo sa 1990); mme
 - (b) bo thesemetse tjhelete yohle e amohetsweng ho latela karolwana ya (1).
- (4) Mohlanka ya ka sehloohong wa phethahatso, lebitsong la Bolaodi, a ka thesemetsa tjhelete yohle eamohetsweng ho latela karolwana ya (1) e sa hlokeheng bakeng sa ho ka 15
sebediswa hang hang—
- (a) ka kananelo ya Letona, le Dikhomeshenara tsa Matsete a Setjhaba tseo ho buuwang ka tsona karolong ya 2 ya Molao wa Dikhomeshenara tsa Matsete a Setjhaba wa selemo sa 1984 (Molao wa Nomoro ya 45 wa selemo sa 1984);
 - (b) kapa le mokgatlo o mong ho latela ka moo lekgotla le Letona, ka tumellano le 20
Letona la Ditjhelete, ba ka behang ditaba ka teng.
- (5) Bolaodi bo ka sebedisa tjhelete ya tswala e tswang polokelong e lohothwang karolwaneng ya (4) ho lefa ditshenyehelo tse mabapi le phethiso ya mesebetsi ya bona ho latela Molao ona.
- (6) Bolaodi ka tumello ya Letona, eo ho fanweng ka yona ka tumellano le Letona la 25
Ditjhelete, bo ka—
- (a) fana ka mtle a hore ho thehwe matlole a jwalo a polokelo; mme
 - (b) ho bolokwe ditjhelete tse jwalo moo,
- (7) Bolaodi selemong se seng le se seng sa ditjhelete, nakong e tla behwa ke Letona, bo lokela ho nehelana ka tlhaloso ya tjhelete e akanyeditsweng hore e tla kena le ya 30
ditshenyehelo bakeng sa selemo se latelang sa ditjhelete ho Letona bakeng sa kananelo ya lona, eo ho nehelanwang ka yona ka tumellano le Letona la Ditjhelete.

Selemo sa ditjhelete sa Bolaodi

18. Selemo sa ditjhelete sa Bolaodi se simolla mohla la 1 selemong se seng le se seng ho fihlela mohla la 31 kgwedding ya Tlhakubele selemong se latelang, mme selemo sa 35
pele sa ditjhelete se simolla letsatsing le boletsweng ho fihlela mohla la 31 Tlhakubele selemong se latelang.

Moo Letona le Lekgotla ba sa dumellaneng teng

19. (1) Ha Letona le hana kgothaletso ya lekgotla e entswe ho latela Molao ona, Letona le lekgotla ba lokela ho ikitlahaletsa ho rarolla ho se dumellane hona ho teng ho 40
bona.
- (2) Ha letona le lekgotla ba hloleha ho rarolla qaka ena ya ho se kgone ho fihlela tumellano, Letona le etsa qeto ya qetelo.

Pehelo ho Letona le Palamente

20. (1) Bolaodi bo lokela ho hlalisa le ho nehelana ka pehelo ya setjhaba ya selemo 45
ho Letona mabapi le polokeho ya basebetsi, setjhaba le tikoloho e amanang le tshebetso ya ralewa kaofela eo Bolaodi bo lebeletsweng hore bo e laole tlasa Molao ona ho kenyeditswe le dintlha tse ding tse ka laeletswang.
- (2) Letona le lokela ho teka ka pele ho Palamente pehelo ya setjhaba ya selemo eo a e amohetseng ho latela karolwaneng ya (1) nakong ya matsatsi a 14— 50
- (a) hoba e amohelwe ke Palamente ha e ba Palamente e tshwere kopano;
 - (b) ka morao ho qaleho ya Palamente, ha Palamente e sa tshwara kopano.

Judicial management and liquidation of Regulator

21. Despite the provisions of any other law, the Regulator may not be placed under judicial management or in liquidation except if authorised by an Act of Parliament adopted especially for that purpose.

CHAPTER 4

5

SAFETY PERMITS**Railway undertakings requiring safety permit**

22. (1) A person may not undertake any railway operation or a component of a railway operation without being in possession of a safety permit.
- (2) The following categories of persons may apply for a safety permit: 10
- (a) A network operator;
 - (b) a train operator;
 - (c) a station operator; and
 - (d) any other category of persons designated as being eligible for a safety permit by the Minister by notice in the *Gazette*. 15

Application for safety permit

23. (1) Application for a safety permit must be made to the chief executive officer of the Regulator.
- (2) The Regulator may determine and charge a fee for processing a safety permit application. 20
- (3) An application for a safety permit must—
- (a) be made in the format determined by the Regulator;
 - (b) contain the additional information determined by the Regulator; and
 - (c) be accompanied by the processing fee and a safety management system report. 25
- (4) The chief executive officer—
- (a) may require the applicant, at the applicant's expense, to provide him or her by a given date with—
 - (i) any information, in addition to the information contained in the application; and 30
 - (ii) an independent review of that information by a person acceptable to the board;
 - (b) may direct that an investigation be conducted on the effect of the proposed safety permit on safe railway operations;
 - (c) may invite written comments from any organ of state which has an interest in the matter; and 35
 - (d) must afford the applicant an opportunity to make representations on any aspect of the safety permit application.
- (5) The chief executive officer may, at any stage of the application process, require the applicant to— 40
- (a) publish a notice of his or her application in local newspapers and other media—
 - (i) describing the safety permit applied for;
 - (ii) stating that written objections on the grounds of the safe railway operations may be lodged against his or her application before a specified date, which may not be less than 60 days after the last publication of the notice; 45
 - (iii) giving an address where written objections must be lodged; and
 - (iv) containing such other particulars as the board may require;

Taolo ya molao le ho futsanehiswa ha Bolaodi

21. Ntle le dipallo tsa molawana ofe kapa ofe, Bolaodi bo keke ba behwa tlasa taolo ya molao kapa ba futsanehiswa ntle le ha sena se tjhaeletswe monwana ke Molao wa Palamente o amohetsweng ka ho qoholleha bakeng sa sepheo seo.

KGAOLO YA BONE

5

DITUMELLO TSA POLOKEHO**Merero ya Ralewa e hlohang tumello ya polokeho**

22. (1) Ho latela dipallo tsa temanyana ya (2), ha ho motho ya tla etsa mosebetsi ofe kapa ofe wa tshebetso ya ralewa kapa karolo ya tshebetso ya ralewa.

(2) Ho sa behellwe ka thoko dipallo tsa temanyana ya (1), ke batho ba latelang feela 10
ba ka etsang tshebetso ya ralewa kapa karolo ya tshebetso ya ralewa tlasa taolo ya tumello ya polokeho—

- (a) opereitara ya taolo ya marangrang;
- (b) opereitara ya terene;
- (c) opereitara ya seteishene; le 15
- (d) motho ofe kapa ofe ya tshwailweng a hloka tumello ya polokeho ke Letona ka tsebiso ya Koranta ya Mmuso.

Kopo ya tumello ya polekeho

23. (1) Kopo ya tumello ya polokeho e lokela ho etswa ho mohlanka ya ka sehloohong wa phethahatso. 20

(2) Bolaodi bo ka nna ba kopa hore o lefe tjheletana e itseng bakeng sa ho sebitsana le kopo ya tumello ya polokeho.

(3) Kopo ya tumello ya polokeho e lokela ho—

- (a) e etswa ka mokgwa o behilweng ke Bolaodi;
- (b) kenyeletsa lesedi le leng ho latela ka moo Bolaodi bo tsepamisitseng dintho ka 25
teng; mme
- (c) e tsamaiswe ha mmoho le tjheletana ya ho sebitsana le kopo ena le pehelo ya mokgwa wa taolo ya polokeho

(4) Mohlanka ya ka sehloohong wa phethahatso—

- (a) a ka hloka hore moikopedi, ka ditshenyehelo tsa moikoipedi, hore nakong e 30
itseng a be a ile a nehelana ka—
 - (i) lesedi le leng, ha mmoho le lesedi le kentsweng kopong; le
 - (ii) tekolo e hlohang kgahlamelo ya lesedi leo ho fanweng ka lona ke motho ya amohelhang lekgotleng;
- (b) a ka laela hore ho tshwarwe diphuputso ka monyetla wa tshusumetso ya 35
tumello ya polokeho e lohothwang mabapi le tshebetso e bolokehileng ya ralewa;
- (c) a ka mema maikutlo a ngotsweng a tswang lekaleng lefe kapa lefe la mmuso le nang le thahasello tabeng ena; mme
- (d) o lokela ho fa moikopedi monyetla wa boemedi tabeng efe kapa efe ya kopo 40
ya tumello ya polokeho.

(5) Mohlanka ya ka sehloohong wa phethahatso nakong efe kapa efe ya mokgwa ona wa kopo, a ka hloka hore moikopedi—

- (a) a fane ka tsebiso e tshwanetseng dikoranteng le mefuteng e meng ya 45
diphatlatso—
 - (i) moo a hlalolang tumello ya polokeho eo a e kopang;
 - (ii) moo a bolelang hore boipilaetso bo ngotsweng bo itshetlehileng 50
tshebetsona e bolokehileng ya ralewa bo ka hlaliswa kgahlanong le kopo ena pele ho letsatsi le boletsweng, e sa lokelang hore ebe ka tlase ho matsatsi a 60 ka morao ho phatlatso ya qetelo ya tsebiso;
 - (iii) moo a fanang ka aterese moo boipilaetso bo ngotsweng bo ka lebiswang teng; le
 - (iv) moo ho kentsweng dintlha tse ding ho latela ka moo lekgotla le ka hlohang ka teng;

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- (b) take such other steps as the chief executive officer may direct to bring the application to the attention of relevant organs of state, interested persons and the general public; and
- (c) satisfy the chief executive officer that the interests of any other person are not adversely affected.

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Conditions of safety permit

24. (1) The board may make standard conditions applicable to one or more categories of safety permit.

(2) The chief executive officer may, impose any condition in a safety permit, including a condition relating to —

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- (a) the term of validity of a safety permit;
- (b) the form, manner, timing and submission of any review of a safety management system report;
- (c) geographical considerations;
- (d) the transport of any commodity other than dangerous goods;
- (e) the transport of dangerous goods;
- (f) the transport of passengers;
- (g) the transport of general freight;
- (h) speed;
- (i) traction;
- (j) consent to routine safety inspections;
- (k) notice to be given to the chief executive officer, in writing, of any change in control of the holder; and
- (l) any other technical or other matters necessary to ensure the safety or protection of persons with disabilities, other persons, property and the environment or to provide for the rehabilitation of any site.

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(3) The chief executive officer may amend any condition in a safety permit.

Reasons for decision

25. After the chief executive officer has reached a decision on a safety permit application, he or she must promptly—

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- (a) notify the applicant and any person who has objected to the application; and
- (b) at the request of any person contemplated in paragraph (a), give written reasons for the decision.

Suspension, revocation and surrender of safety permit

26. (1) The chief executive officer may, with the approval of the board, revoke or suspend a safety permit if the holder fails to comply with—

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- (a) any condition of the permit; or
- (b) this Act.

(2) The chief executive officer must, at the request of any person affected by a decision taken in terms of subsection (1), furnish written reasons for the decision to revoke or suspend a safety permit.

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(3) The holder of a safety permit may surrender that safety permit.

Prohibition of transfer of safety permit

27. A safety permit issued under this Act is not transferable.

- (b) hore a nke mehato eo mohlanka ya ka sehloohong wa phethahatso a ka fanang ka yona ho etsa hore kopo e finyelle maikutlo a makala a loketseng a mmuso, batho ba nang le thahasello le setjhaba ka kakaretso; le
- (c) ho kgotsofatsa mohlanka ya ka sehloohong hore tokelo tsa motho ofe kapa ofe e mong ya nang le thahasello di keke tsa ba ka mosing.

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Dipehelano tsa tumello ya polokeho

24. (1) Lekgotla le ka theha maemo tsitsitseng a tla sebetsa mkgahlelong o le mong kapa mekgahlelong e meng ya tumello ya polokeho.

(2) Mohlanka ya ka sehloohong wa phethahatso ho latela temanyana ya (3), a ka maneha pallo efe kapa efe tumellong ya polokeho, ho kenyeleditswe— 10

- (a) nako ya tshebetso ya tumello ya polokeho;
- (b) sebopeho, mkgwa, nako le nehelano ya tekolo efe kapa efe ya tlaleho ya mkgwa wa taolo ya polokeho;
- (c) maemo a sebaka;
- (d) ho thotwa ha ntho efe kapa efe ntle le theepa e kotsi kapa e ka tlisang kotsi; 15
- (e) ho thotwa ha theepa e kotsi;
- (f) ho thota bapalami;
- (g) ho thota theepa ka kakaretso;
- (h) ho potlaka;
- (i) tsamayo; 20
- (j) tumello ya ditlhalobo tse tlwaelhileng tsa polokeho;
- (k) tsebiso e fuwe mohlanka ya ka sehloohong wa phethahatso, e ngotswe, le phetoho efe kapa efe ya taolo ya motshwari; le
- (l) eng kapa eng ya thekniki kapa eng kapa eng eo eleng ya bohlokwa ho tiisa hore ho na le polokeho kapa tshireletso ya batho ba holofetseng, batho ba bang, theepa le ya tikoloho kapa ho etswe monyetla wa ho hlabolla sebaka sefe kapa sefe. 25

(3) Mohlanka ya ka sehloohong a ka fetola pallo efe kapa efe e teng tumellong ya polokeho.

Mabaka a qeto

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25. Ka morao hoba mohlanka ya ka sehloohong a fihlele qeto hodima kopo ya tumello ya polokeho, o lokela hore ka potlako—

- (a) a tsebise moikopedi le motho ofe kapa ofe ya ileng a ba le kganyetso kopong eo;
- (b) ka kopo ya motho ofe kapa ofe ya lohothwang serapeng sa (a), a nehelane ka mabaka angotsweng a qeto ya hae. 35

Ho kgaolwa, ho hulwa kapa ho lesa tumello ya polokeho

26. (1) Mohlanka ya ka sehloohong wa phethahatso, ka kananelo ya lekgotla, a ka hula kapa a kgaola tumello ya polokeho ha motshwari a hloleha—

- (a) ho ikamanya le pallo efe kapa efe ya tumello; kapa 40
- (b) ho ikamanya le Molao ona.

(2) Mohlanka ya ka sehloohong wa phethahatso o lokela, hore ha kopuwa ke motho ofe kapa ofe ya amehang ka lebaka la qeto e entsweng ho latela temanyaneng ya (1), a nehelane ka mabaka a ngotsweng a ho hula kapa ho kgaola tumello ya polokeho.

(3) Motshwari wa tumello ya polokeho a ka lesa tumello ya polokeho. 45

Thibelo ya ho fetisa tumello ya polokeho ho leba ho motho e mong

27. Tumello ya polokeho e ntshitsweng tlasa Molao ena ha e kgone hore e fetisetswe mothong e mong.

CHAPTER 5**SAFETY MANAGEMENT****Part 1****Safety management systems and standards****Regulations regarding safety management systems and safety management system reports 5**

28. The Minister must make regulations on—

- (a) the form and content of a safety management system;
- (b) the form, content and manner of submission of a safety management system report; and 10
- (c) the circumstances under which the board may require the holder of a safety permit to revise or amend a safety management system or safety management system report.

Standards

29. (1) The Minister must make regulations on the procedure to be followed by the board and any other person in the development of standards for safe railway operations. 15

(2) Standards adopted by the board in compliance with the prescribed procedure become binding on all persons authorised under this Act to conduct railway operations.

(3) The board may, subject to the principles and objects of this Act, grant exemption from compliance with any standard to any person authorised under this Act to conduct railway operations. 20

(4) Should a conflict arise between the standards and the regulations, the regulations concerned prevail.

Part 2**Rolling stock, infrastructure and stations 25****Regulations regarding design, construction, operation and alteration**

30. The Minister may make regulations on the following matters insofar as they may have an impact on safe railway operations:

- (a) A new or proposed construction which may impact on safe railway operations and which requires the approval of the Regulator, and the procedure for such approval, including the noting of objections; 30
- (b) any matter relating to the design, construction, manufacture, alteration, commissioning, maintenance and operation of rolling stock, infrastructure and stations;
- (c) human factors and requisite skills; 35
- (d) the safety of persons, including persons with disabilities, on board stationary or moving rolling stock, infrastructure or at a station;
- (e) the conveyance of dangerous goods by rail; and
- (f) any other safety-related matter that the Minister considers necessary.

Part 3 40**Non-railway operations affecting safety****Regulations regarding infrastructure or activity affecting safe railway operations**

31. The Minister, after consultation with the members of the Executive Council responsible for transport in the various provinces, may make regulations on the following matters to the extent that they affect safe railway operations, namely— 45

- (a) Fencing;

KGAOLO YA BOHLANO**TAOLO YA POLOKEHO****Karolo ya 1:****Mekgwa ya Taolo ya Polokeho le Maemo**

Mabapi le pehelo ya mekgwa ya taolo ya polokeho le mokgwa wa pehelo ya taolo ya tshireletso 5

28. Letona le ka etsa melawana mabapi le—

- (a) sebopeho le dikahare tsa mokgwa wa taolo ya polokeho;
- (b) sebopeho, dikahare le mokgwa wa taolo ya polokeho wa ho nehelana ka pehelo; le 10
- (c) Maemo ao lekgotla le ka hlohang hore motho ya tshwereng tumello ya polokeho a lekole kapa a fetole mokgwa wa taolo ya polokeho kapa mokgwa wa taolo ya polokeho wa ho nehelana ka pehelo.

Maemo

29. (1) Letona le lokela ho etsa melawana mabapi le tsela e lokelang ho latelwa ke Lekgotla le motho ofe kapa ofe ntshetsopeleng ya melawana. 15

(2) Maemo a amohetsweng ke lekgotla ka ho ikamanya le mehato e laeleditsweng e se e tlama batho bohle ba fuweng matla ke Molao ona ho tsamaisa tshebetso ya ralewa.

(3) Lekgotla ho latela metho le boikemisetsa ba Molao ona, le ka nehelana ka boitokollo ba hore motho ofe kapa ofe a seke a ikamanya le boemo bofe kapa bofe tlasa Molao ona ho etsa tshebetso ya ralewa. 20

(4) Ha ho ka ba le bothata o hlahang dipakeng tsa maemo le melawana, melawana e amaheng ke yona e tla nkellwa hloohong.

Karolo ya 2:**Makaretjhe, Theepa ya tshebetso le Diteishene** 25**Melawana ya moralo, kaho, tshebetso le diphetoho**

30. Letona le ka etsa melawana hodima ditaba tse latelang mabapi le tshusumetso ya yona tshebetsong ya ralewa e bolokehileng—

- (a) Kaho e ntjha kapa e lohothwang e ka tlisang tshusumetso tshebetsong e bolokehileng ya ralewa le e hlohang kananelo ya Bolaodi le mehato e lokelang ho latelwa bakeng sa kananelo e jwalo ho kenyeleditswe le ho nkela hloohong boipilaetso bo teng; 30
- (b) ntjha efe kapa efe e amanang le moralo, kaho, tlhahiso, tokiso, ho fana ka tshebetso e itseng, tlhokomelo le tshebetso ya makaretjhe, meralo ya mosebetsi le diteishene; 35
- (c) nyeheklo ya batho le mahlale a hlokehang;
- (d) polokeho ya batho, ho kenyeleditswe batho ba nang le dikgaello, ba palameng makaretjhe a emeng kapa a tsamayang, meralo ya tshebetso kapa setieshene;
- (e) Ho thotwa ha theepa e kotsi ka seporo; le
- (f) taba efe kapa efe ya polokeho eo Letona le nkang e hlokeha. 40

Karolo ya 3:**Tshebetso eo eseng ya ralewa e amang polokeho****Melawana mabapi le meralo ya tshebetso kapa mesebetsi e amanang le tshebetso enang le tshusumetso tshebetsong e bolokehileng ya ralewa**

31. Letona, ka morao ho ditherisano le setho sa Lekgotla la Phethahatso se ikarabelang ho Dipalangwang tsa diprovence tse fapafapaneng le ka etsa melawana mabapi le— 45

- (a) ho kampela;

- (b) mines and any other excavations;
- (c) drainage;
- (d) land use insofar as it impacts on any drainage affecting a railway;
- (e) any construction activities above, below or adjacent to a railway;
- (f) storage of materials adjacent to a railway; 5
- (g) road level-crossings;
- (h) security matters;
- (i) the circumstances under which an operator is permitted to enter land adjacent to a railway and the circumstances under which compensation may be payable to such adjacent landowners; 10
- (j) the size of, and location of, access to stations from property adjoining a station;
- (k) the development of property adjoining a station;
- (l) any other matter relating to non-railway operations affecting railway safety that the Minister considers necessary and desirable to prescribe for safe railway operations; and 15
- (m) unlawful occupation which renders railway operations unsafe or has the potential to render them unsafe, subject to the provisions of any other legislation governing unlawful occupation.

CHAPTER 6

20

ENTRY AND INSPECTION

Appointment of railway safety inspector

32. (1) The Minister may, in writing, appoint any suitably qualified person as a railway safety inspector to perform the functions contemplated in section 33.

(2) A railway safety inspector must be provided with a certificate of appointment signed by the Minister, or by the chief executive officer on behalf of the Minister, setting out the functions of the inspector. 25

Powers and duties of railway safety inspector

33. (1) A railway safety inspector may, at any time, enter or cross property under control of an operator in order to carry out— 30

- (a) an inspection;
- (b) an audit of the operator's safety management system,

in respect of railway operations provided for under a safety permit.

(2) A railway safety inspector may, at any time and without prior notice, enter a property under the control of an operator, and investigate whether— 35

- (a) this Act, or any condition attached to any safety permit, or any standard adopted in accordance with this Act, or any notice or directive issued under this Act is being contravened; or
- (b) any information supplied in connection with a safety permit is inaccurate.

(3) A railway safety inspector entering a property in terms of this section must, at the request of any person on that property, identify himself or herself and must show that person a certificate of appointment contemplated in section 32(2). 40

Duty to assist railway safety inspector

34. (1) When a railway safety inspector enters any property referred to in section 33(1) or (2), the operator, owner or manager and each employee working there must assist the railway safety inspector by furnishing him or her with answers to questions and also by providing him or her with any facility that the inspector may require. 45

(2) A person questioned by a railway safety inspector must answer each question to the best of his or her ability but such person is not required to answer any question if the answer may be self-incriminating. 50

- (b) merafo le ditjhekollo dife kapa dife;
- (c) tsamaiso ya dikgwerekgwere;
- (d) tshebediso ya naha mabapi le ka moo e nang le tshusumetso ka teng tsamaisong ya dikgwerekgwere e amanang le ralewa;
- (e) mesebetsi efe kapa efe ya kaho e ka hodimo kapa ka tlase kapa e haufi le ralewa; 5
- (f) poloko ya theepa e haufi le ralewa;
- (g) ho tloswa ha mobu tseleng ya moo tsela e tshelang seporo teng;
- (h) ditaba tsa tshireletso;
- (i) maemo ao tlasa ona moqhobi wa terene a dumeletsweng ho kena sebakeng se haufi le ralewa le maemo ao tlasa ona ditlhapiso di ka lefuwang ka ona bakeng sa batho ba ruileng naha eo ya sebaka seo se haufi; 10
- (j) boholo le ho hlongwa ha makeno diteisheneng ho tloha sebakeng se haufi le steishene;
- (k) ntshetso pele ya sebaka se haufi le seteishene; 15
- (l) bodulo boo eseng ba molao bo etsang hore tshebetso ya ralewa e hloke polokeho kapa e nang le monyetla wa ho etsa tshebetso ena hore e hloke polokeho, ho latela dipallano tsa molao ofe kapaa ofe o busang bodulo boo eseng ba molao;
- (m) taba efe kapa efe e amanang le tshebetso eo eseng ya ralewa e susumetsang polokeho ya ralewa eo Letona le nkang e hloka hloka bakeng sa tshebetso e bolokehileng ya ralewa. 20

KGALO YA BOTSHELELA

BOKENO LE TLHAHLOBO

Kgetho ya mohlalobi ya polokeho ya ralewa 25

32. (1) Letona ka ho ngola le ka kgetha motho ya nang le mangolo a loketseng jwalo ka mohlalobi wa polokeho ya ralewa ho etsa mesebetsi e lothothwang karolong ya 33—

(2) Mohlalobi wa polokeho ya ralewa o lokela hore o fuwe setifikeiti sa khiro se saennweng ke Letona kapa mohlanka ya ka sehloohong wa phethahatso lebitsong la Letona, moo ho totobaditsweng hantle mesebetsi ya mohlalobi. 30

Matla le mesebetsi ya mohlalobi wa polokeho

33. (1) Mohlalobi wa polokeho ka nako efe kapa efe a ka kena kapa a feta theepa e tlasa taolo ya opareitara e le hore a tle a kgone ho—

- (a) etsa tlhahlobo;
- (b) le tlhakiso ya opareitara ya mokgwa wa tsamaiso ya polokeho mabapi le tshebetso ya ralewa e etseditsweng monyetla ka tumello ya polokeho. 35

(2) Mohlalobi wa polokeho nakong efe kapa efe ntle le ho fana ka tsebiso tlasa taolo ya opareitara a ka fuputsa hore naa—

- (a) Molao ona, kapa pehelo efe kapa efe e behilweng tumellong efe kapa efe ya polokeho, kapa pehelo efe kapa efe e tlwaelehleng e amohetsweng ho latela Molao ona, kapa tsebiso efe kapa efe kapa taelo efe kapa efe e ntshitsweng tlasa Molao ha e a tloiswa; kapa 40
- (b) ho lekola hore naa lesedi lefe kapa lefe leo ho fanweng ka lona ho latela tumello ya polokeho le nepahetseng kapa tjhe.

(3) Mohlalobi wa polokeho ya kenang sebakeng ho latela karolo ena, ka kopo ya motho ofe kapa ofe ya sebakeng seo, o lokela hore a itsebise mme a nehelane ka setifikeiti sa khiro ho ya ka moo ho lothothilweng ka teng karolong ya 32(2). 45

Mosebetsi wa ho thusa mohlalobi wa polokeho

34. (1) Ha mohlalobi wa polokeho a kena sebakeng sefe kapa sefe kapa sebakeng seo ho buuwang ka sona temaneng ya 33(1) kapa temaneng ya (2), mong'a sebaka kapa motsamaisi le mosebetsi e mong le e mong ya phethang mosebetsi ofe kapa ofe ba lokela ho thusa mohlalobi wa polokeho, ba fane ka dikarabo dipotsong le ho nehelana ka monyetla ofe kapa ofe oo mohlalobi a o blokang ka mabaka a utlwahalang. 50

(2) Batho ba botswang ke mohlalobi wa polokeho tlasa temananyana ya (1) ba lokela ho fana ka karabo potsong e nngwe le e nngwe ka bokgoni bohle boo ba nang le bona, 55

Duty to produce documents

35. A person who holds a safety permit or any other document requested by the railway safety inspector must produce it and must—

- (a) allow the railway safety inspector to remove any articles or objects pointed out by him or her which relate to the object of the inspection; 5
- (b) allow the inspection of documents required by the railway safety inspector including the making of copies thereof; and
- (c) furnish the railway safety inspector with any information under that person's control.

Powers of railway safety inspector to deal with unsafe conditions 10

36. (1) If a railway safety inspector believes that a condition or activity is a threat or might be a threat to safe railway operations, the railway safety inspector may issue a directive to any person responsible for that condition or activity to the effect that—

- (a) the activity be restricted or suspended and the inspector may place conditions on that activity; or 15
- (b) action be taken within a specified time by the person concerned to remove the threat.

(2) Any person issued with a directive must, within the specified period, comply with it.

CHAPTER 7 20**RAILWAY OCCURRENCE REPORTING AND INVESTIGATIONS****Railway occurrence reporting**

37. An operator must report to the chief executive officer the category and type of all railway occurrences in the manner and form prescribed by the Minister.

Railway occurrence investigations 25

38. (1) The board may, and upon receipt of a directive from the Minister must, investigate any railway occurrence for the purpose of preventing similar occurrences in the future.

(2) The board must appoint a suitably qualified person to carry out any investigation referred to in subsection (1). 30

(3) (a) An investigator appointed in terms of subsection (2) must furnish a written report to the board upon completion of the investigation.

(b) The board may adopt the report as its decision or deal with it as it deems necessary.

(4) The board may disseminate any information that it considers to be in the public interest. 35

(5) A person conducting the investigation into any railway occurrence may enter and inspect any place, except for a dwelling, any infrastructure, network or rolling stock that is the object of an investigation.

(6) A person in control of the scene of a railway occurrence which is the subject of an investigation must— 40

empa ha ho motho eo ho hlokehang hore a arabe potso efe kapa efe ha e ba mohlomong karabo eo a tla fana ka yona ho latela mabaka a utlwahalang e tla be e mo kenya tshotsho dinaleng.

Mosebetsi wa ho hlahisa ditokomane

35. Motho ofe kapa ofe ya nang le tumello ya polokeho kapa ya lokelang ho ba le yona kapa tokomane efe kapa efe e nngwe, ho kenyeleditswe tokomane ya ilektroniki, e ntshitsweng kapa e hlokehang ho latela Bili ena, o lokela ho e hlahisa ha mohlalobi wa polokeho a e kopa mme o lokela— 5

- (a) ho dumella mohlalobi wa polokeho, ka sepheo sa tlhahlobo ena, ho tlosa theepa efe kapa efe kapa eng kapa eng eo mohlalobi a e supileng; 10
- (b) ho dumella tlhahlobo ya ditokomane tse hlwailweng ke mohlalobi ho kenyeleditswe taba ya ho etsa dikhopi tsa teng; le
- (c) ho nehelana ka lesedi lefe kapa lefe ho mohlalobi, ha mohlalobi a entsa kopo e utlwahalang ho latela taolo ya motho eo.

Matla a mohlalobi wa polokeho a ho sebetsana le maemo a sa bolokehang 15

36. (1) Ha mohlalobi ho latela mabaka a utlwahalang aa dumela hore boemo kapa mosebetsi ke tshoso kapa o ka baka tshoso tshebetsong e bolokehileng ya ralewa, mohlalobi a ka fana ka taelo e lebang ho motho ofe kapa ofe ya ikarabellang boemong bo jwalo ka mosebetsi o jwalo hore—

- (a) mosebetsi oo o sehewe moedi kapa o kgaotswe, mme mohlalobi a ka beha dipehelo mosebetsing o jwalo; kapa 20
- (b) ho nkwe bohato nakong e utlwahalang ke motho ya amehang ba ho fedisa tshoso.

(2) Motho ofe kapa ofe ya fuweng taelo tlasa temananyana ya (1) o lokela ho nka mehato e lokodisitsweng taelong, nakong e itseng e badilweng, ho lokisa mosebetsi oo kapa boemo boo ho buuweng ka bona taelong eo. 25

KGAOLO YA BOSUPA

DIPHUPUTSO LE HO TLALEHA KETSAHALO YA RALEWA

Tlaleho ya ketsahalo ya ralewa

37. Mosebetsi kapa moqhobi e mong le e mong o lokela ho tlalehela mohlanka ya ka sehloohong wa phethahatso ka diketsahalo tsohle tsa mofuta le sehlopha ka mokgwa le sebopeho ho latela ka moo Letona le laleditseng ka teng. 30

Phuputso ya ketsahalo ya ralewa

38. (1) Lekgotla ha le amohetse taelo e tswang ho Letona, le lokela ho fuputsa ketsahalo efe kapa efe ya ralewa ka sepheo sa ho thibela ketsahalo tse tshwanang le tsena ka nako e tlang. 35

(2) Lekgotla le na le hona ho ka, le ha Letona le laela lekgotla ho etsa jwalo, le lokela ho hira motho ya nang le mangolo a loketseng ho etsa diphuputso tsohle tseo ho buuwang ka tsona temanyaneng ya (1).

(3) (a) Mofuputsi ya hirilweng ho latela temananyana ya (2), o lokela ho fana ka tlaleho e ngotsweng ho lekgotla ha a se a qetile ho fuputsa mme lekgotla le ka nna la amohela tlaleho ena jwalo ka qeto ya lekgotla kapa la sebetsana le yona ha le dumela hore ke bohlale ho etsa jwalo. 40

(6) Lekgotla le ka amohela pehelo ha ya lona e le qeto ya lona kapa la sebetsa ka yona ho latela ka moo le bonang ho hlokeha. 45

(5) Motho ya etsang diphuputso ketsahalang efe kapa efe ya ralewa ho latela dipehelo tsa temananyana ya (2), a ka kena le ho hlahloba sebaka sefe kapa sefe, ntle le ntlo ya bodulo, theepa ya tshebetso, marangrang a tshebetso kapa makaretjhe a ralewa eleng theepa e tlasa taolo ya motho ofe kapa ofe, eo ho latela maikutlo a mofuputsi, le ka mabaka a utlwahalang le ka moo ho hlokehang ka sepheo sa diphuputso. 50

(6) Motho ofe kapa ofe ya nang le taolo kapa mosebetsi ho latela ketsahalo ya ralewa, ho kenyeleditswe le sebaka kapa tikoloho, seo eleng sona se fuputswang ho latela temananyana ya (1) o tlameha—

- (a) allow the investigator to remove any articles or objects pointed out by the investigator;
- (b) allow the inspection of documents requested by the investigator, including the making of copies thereof; and
- (c) furnish the investigator with any information which is under that person's control. 5

(7) A person questioned by an investigator must answer each question to the best of his or her ability, but such person is not required to answer any question if the answer may be self-incriminating.

CHAPTER 8 10

MONITORING, ASSESSMENT AND INFORMATION

Establishment of national railway safety information and monitoring system

39. (1) The Regulator must establish a national information and monitoring system regarding safe railway operations within the Republic.
- (2) The information to be captured on the system may include, among others— 15
- (a) a register of safety permit holders;
 - (b) railway occurrences;
 - (c) security matters;
 - (d) occupational health and safety matters; and
 - (e) any other matter the board deems necessary. 20

Provision of information

40. The Regulator may require, in writing, that a person must, within a specified time or on a regular basis, provide the Regulator with data, information, documents, samples or materials required for the purposes of information or monitoring systems.

Access to information 25

41. Information contained in any information or monitoring system established in terms of this Chapter must be made available by the Regulator, subject to any limitations imposed by the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and must be accompanied by the payment of a processing fee determined by the Regulator by notice in the *Gazette*. 30

Regulations regarding monitoring, assessment and information

42. The Minister may make regulations prescribing—
- (a) guidelines, procedures, standards and methods for monitoring; and
 - (b) the class, type, time period and format of data to be submitted for assessment of the performance of the operator. 35

CHAPTER 9

APPEAL AND DISPUTE RESOLUTION

Appeal to chief executive officer against decision of railway safety inspector

43. (1) A person whose rights are adversely affected by a decision of a railway safety inspector in the exercise of any power or performance of any duty in terms of this Act, may appeal against that decision to the chief executive officer. 40
- (2) Such appeal must—
- (a) be lodged within 60 days from the date on which that decision was made known by the railway safety inspector or such later date as the chief executive officer permits; and 45

- (a) ho dumella mofuputsi ho suthisa, ka morero wa diphuputso, theepa efe kapa efe kapa ntho tse supilweng ke mofuputsi.
- (b) ho dumella tlhahlobo ya ditokomane e lokodisitsweng ke mofuputsi ho kenyeleditswe taba ya o etsa dikhopi ya ditokomane tsena; le
- (c) ho fana ka lesedi lefe kapa lefe le taolong ya motho eo ho mofuputsi, ha mofuputsi a etsa kopo ka mabaka a utlwahalang. 5
- (7) Motho ya hlongwang dipotso ke mofuputsi ya hirilweng lokela ho araba potso e nngwe le e nngwe ka tsebo ya bokgoni bohle ba hae, empa ha ho motho eo ho hlokehang hore a arabe potso efe kapa efe e tla mmeha ka mosing ka ho e araba.

KGAOLO YA BOROBEDI

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TLHOKOMELO, TLHAHLOBO LE LESEDI**Tlhomamiso ya mokgwa wa naha wa lesedi la polokeho ya ralewa le tlhokomelo**

39. (1) Bolaodi bo lokela ho theha mokgwa wa lesedi la naha le tlhokomelo mabapi le tshebetso e bolokehileng ya ralewa kahare ho Afrika Borwa.
- (2) Mokgwa wa lesedi lena o ka kenyeletsa, hare tse ding— 15
- (a) bukana e ngodisang batho bohle ba nang le ditumello tsa polokeho;
- (b) diketsahalo tsa ralewa;
- (c) ditaba tsa tshireletso;
- (d) polokeho le bophelo bo botle mosebetsing; le
- (e) le taba efe kapa efe eo lekgotla le bonang e hlokeha. 20

Ho fana ka lesedi

40. Bolaodi bo ka hloka hore motho ofe kapa ofe, hore nakong e utlwahalang kapa kgafetsa jwalo, a fane ka lesedi lefe kapa lefe ka mokgwa o ngotsweng, ditokomane, disampole kapa theepa e hlokehang ka mabaka a utlwahalang ka morero wa mokgwa wa lesedi lefe kapa lefe kapa mokgwa wa tlhokomelo. 25

Ho finyella lesedi

41. Lesedi le fuperweng ke mokgwa ofe kapa ofe wa lesedi kapa mokgwa wa tlhokomelo o thehilweng ho latela kgaolo ena le lokela hore le etswe hore le fumanwe ke Bolaodi, ho nketswe hloohong meedi efe kapa efe e behilweng ke Molao wa Kgothaleto ya ho Fihlella Lesedi la Molao wa nomoro ya 2 selemo sa 2000 (Molao wa Nomoro ya 2 wa selemo sa 2000), le tefo ya tjhelete e itseng e tla behwa ke Bolaodi ka tsebiso Koranteng ya Mmuso. 30

Melawana ya taolo ya tlhokomelo, tlhahlobo le lesedi

42. Letona le ka nna la etsa melawana e laeletsang—
- (a) tataiso, mehato, maemo le mekgwa ya ho hlokomela; le 35
- (b) sebopeho, mofuta, nako le sebopeho sa lesedi le lokelang hore ho nehelanwe ka lona bakeng sa tlhahlobo ho latela Kgaolo ena.

KGAOLO YA BOROBONG**BOIPILETSO LE THAROLO YA QABANG****Boipiletso bo lebang ho mohlanka wa phethahatso mabapi le qeto ya mohlalobi wa polokeho 40**

43. (1) Motho ofe kapa ofe eo ditokelo tsa hae di anngweng hampe ke qeto ya mohlalobi wa polokeho, e ka ba ho latela temana ya 37, kapa tshebediso ya matla afe kapa afe ao a fuweng ho latela Molao ona, o na le hona ho ka etsa boipiletso kgahlanong le qeto eo ho mohlanka ya ka sehloohong wa phethahatso. 45
- (2) Boipiletso bo jwalo bo lokela—
- (a) kena nakong ya matsatsi a 60 ho tloha mohla mohlalobi wa polokeho a neng a tsebisa ka qeto eo kapa letsatsi le latelang ha morao ho latela ka moo mohlanka ya ka sehloohong wa phethahatso a tlang dumela;

(b) set out the grounds of the appeal.

(3) After considering the grounds of appeal and the railway safety inspector's reasons for the decision, the chief executive officer must within the prescribed specified time—

(a) confirm, set aside or vary the decision; or

(b) substitute the decision of the railway safety inspector with the decision of the chief executive officer. 5

Appeal to board against decision of chief executive officer

44. (1) A person whose rights are adversely affected by a decision of the chief executive officer in the exercise of any power or performance of any duty in terms of this Act, may appeal against that decision to the board. 10

(2) Such appeal must—

(a) be lodged within 60 days from the date on which the decision was made known by the chief executive officer or such later date as the board permits; and

(b) set out the grounds of the appeal. 15

(3) After considering the grounds of appeal and the reasons for the decision of the chief executive officer, the board must within the prescribed time—

(a) confirm, set aside or vary the decision; or

(b) substitute the decision of the chief executive officer with the decision of the board. 20

CHAPTER 10

OFFENCES AND REMEDIES

Offences

45. (1) Any person who contravenes or fails to comply with section 22, 24 or 36 or hinders a railway safety inspector in the exercise of his or her powers or the performance of his or her duties in terms of this Act is guilty of an offence. 25

(2) A person convicted of an offence in terms of subsection (1) is liable on conviction to a fine or imprisonment for a period not exceeding 15 years, or to both a fine and such imprisonment.

(3) Any person who contravenes or fails to comply with any other section of this Act is guilty of an offence. 30

(4) A person convicted of an offence in terms of subsection (3) is liable on conviction to a fine or imprisonment for a period not exceeding 5 years, or to both a fine and such imprisonment.

Enquiry in respect of compensation for harm, loss or damage suffered 35

46. Where a person is convicted of an offence in terms of this Act and—

(a) another person has suffered harm or loss as a result of the act or omission constituting the offence; or

(b) damage has been caused to property or to the environment, the Court may, in the same proceedings— 40

(i) at the written request of the person who suffered the harm or loss; or

(ii) at the written request of the Minister or the Regulator in respect of the damage caused to property or the environment; and

(iii) in the presence of the convicted person, enquire without pleadings into the harm, loss or damage and determine the extent thereof. 45

- (b) mme o lokela ho lokodisa hantle mabaka a boipiletso boo.
- (3) Ka morao hoba mohlanka ya ka sehloohong wa phethahatso a hlalobe mabaka a boipiletso le mabaka a mohlalobi wa polokeho a qeto ya hae, ka potlako ho latela ka moo ho ka kgonehang ka teng—
- (a) o tla tiisa, a qhelele thoko kapa a etse qeto e nngwe e fapaneng; kapa 5
- (b) a fetole qeto efe kapa efe bakeng sa qeto e entsweng ke mohlalobi wa polokeho le qeto ya mohlanka ya ka sehloohong wa phethahatso.

Boipiletso ho lekgotla kgahlanong le qeto e entsweng ke mohlanka ya ka sehloohong wa phethahatso

44. (1) Motho e mong le e mong eo ditokelo tsa hae di anngweng hampe ke qeto ya mohlanka ya ka sehloong wa phethahatso, kapa ka ho phethahatsa matla ao a nang le wona ho latela Molao ona, a ka etsa boipiletso ho lekgotla kgahlano le qeto eo. 10
- (2) Boipiletso bo jwalo bo tlameha—
- (a) ho kenngwa nakong ya matsatsi a 60 ka morao ho letsatsi leo qeto e neng e tsebahatswa ka lona ke lekgotla kapa letsatsi le leng le tlang ha morao ho latela ka moo lekgotla le tla dumela ka teng; 15
- (b) ho lokodisa mabaka a hao a boipiletso.
- (3) Lekgotla ka morao hoba le lekole mabaka a hao a boipiletso le ho lekola qeto ya mohlanka ya ka sehloohong wa phethahatso, le lokela hore ka potlako ka moo ho kgonehang ka teng le— 20
- (a) tiise, le qhelele ka thoko kapa le fane ka qeto e nngwe e fapaneng; kapa
- (b) fetole qeto ya mohlanka ya ka sehloohong wa phethahatso bakeng sa qeto ya lekgotla.

KGAOLO YA BOLESHOME

DITLOLO TSA MOLAO LE PHEKO

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Ditlolo tsa molao

45. (1) Motho e mong le e mong ya-tloang molao kapa ya hlolehang ho inyalanya le temana ya 22, 24 kapa 36 ya sistisang polokeho ya mohlalobi wa ralewa ha asebetse ho ya ka Molao ona, o molato;
- (2) Motho ya ahlolwang ka tlolo ya molao ho latela karolwana ya (1) o lokelwa ke ho lefiswa ka morao hoba a fumanwe a le molato kapa a ahlolwa nako e sa feteng dilemo tse 15 tjhankaneng, kapa tsona bobedi eleng tefiso le ho hlola tjhankaneng. 30
- (3) Motho ofe kapa ofe ya tloang molao kapa ya hlolehang ho ipapisa le karolo efe kapa efe ya Molao o molato ka tlolo ya molao.
- (4) Motho ya fumanwang a le molato ka tlolo ya molao ho latela karolwana ya (3) o lokelwa ke kahlolo ya ho lefiswa kapa ho hlola tjhankaneng nakong ya dilemo tse sa feteng dilemo tse 5, kapa kahlolo tsena di le pedi eleng ya ho lefiswa le ho hlola tjhankaneng. 35

Potsisiso mabapi le ditlhapiso bakeng sa ho tswa kotsi, tahlehelo kapa tshenyo eo o ileng wa ba le yona

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46. Moo motho ofe kapa ofe a ileng a fumanwa a le molato mme a fuwa kotlo ho latela Molao ona mme—
- (a) ho na le motho ya tswileng kotsi kapa ya lahlehetsweng ka lebaka la ketso eo kapa bolebaadi boo eleng tlolo ya molao; kapa
- (b) ho na le tshenyo e bakilweng theepeng kapa tikolohong, Lekgotla le ka nna la etsa hore nyeweng yona eo— 45
- (i) ka kopo e ngotsweng ya motho ya tswileng kotsi kapa ya lahlehetsweng; kapa
- (ii) ka kopo e ngotsweng e tswang ho Letona kapa ho Bolaodi ho latela tshenyo e bakilweng theepeng kapa tikolohong; le 50
- (iii) boteng ba motho ya fumanwang a le molato, a etsa potsisiso ntle le ho totobatsa boemo ba hae ntlheng ya ho tswa kotsi, tahlehelo kapa tshenyo le ho tsepamisa boholo ba kameho eo.

Award of damages

47. After making a determination in terms of section 46, the Court may—
- (a) award damages for the loss or harm suffered by the person referred to in section 46 against the convicted person;
 - (b) order the convicted person to pay for the cost of any remedial measures to be taken; or
 - (c) order that the convicted person implement remedial measures .

Offences in relation to employer and employee relationships

48. Whenever an act or omission by an employee or agent constitutes an offence in terms of this Act, and the act or omission takes place with the express or implied permission of the employer or principal, that employer or principal, as the case may be, is, in addition to the employee or agent, liable to conviction for that offence.

Liability of juristic person

49. A person who is or was a director, trustee or member of a juristic person at the time of the commission by that juristic person of an offence in terms of this Act is himself or herself guilty of the said offence, and is liable, on conviction, to the penalty specified if the offence in question resulted from the failure of the director, trustee or member to take all steps that were necessary under the circumstances to prevent the commission of the offence, as long as the proof of the said offence by the juristic person constitutes evidence on the face of it, that the director is guilty in terms of this section.

CHAPTER 11**GENERAL PROVISIONS REGARDING REGULATIONS****Making of regulations**

50. (1) The Minister may, after consultation with the board, and by notice in the *Gazette*, make regulations as to any matter—
- (a) required to be prescribed in terms of this Act;
 - (b) which is necessary to prescribe for the effective administration of this Act.
- (2) Any regulation made in terms of subsection (1) may provide that—
- (a) the contravention thereof, or failure to comply therewith, is an offence; and
 - (b) a person convicted of that offence is punishable with a prescribed fine or a term of imprisonment not longer than the period so prescribed.
- (3) The Minister must, before making any regulations in terms of this Act—
- (a) publish a notice in the *Gazette*—
 - (i) setting out the draft regulations; and
 - (ii) inviting written comments to be submitted on the proposed regulations, specifying an address to which, and a date before which, the comments may be submitted, which date may not be earlier than 60 days after publication of the notice;
 - (b) consider what further steps, if any, are appropriate to bring the contents of the notice to the attention of interested persons;
 - (c) consider all comments received on or before the date specified in paragraph (a)(ii); and

Ho putswa mabapi le tshenyehelo

47. Ka morao hoba ho tsepamiswe ntlha ena ho latela temana ya 46, Lekgotla le ka nna la—

- (a) fana ka moputso bakeng sa tahlehelo kapa ho tswa kotsi hoo motho a ileng a ba le hona hoo ho buuwan ka hona temaneng ya 46 kgahlanong le moqosuwa; 5
- (b) laela hore moqosuwa a lefelle ditshenyehelo tsa mehato e nkilweng ya tlhabollo kapa eo eleng hona e tla nkuwa; kapa
- (c) laela hore mehato ya tokiso e etsuwe ke moqosuwa.

Ditlolo tsa molao tse mabapi le dikamano tsa ramosebetsi le mosebetsi

48. Ha ketso kapa bolebadi ba mosebetsi kapa moromuwa e nkuwa e le tlolo ya molao 10
ho latela Molao ona mme hona ho etsuwa ka boomo kapa tumello e sa qaqiswang hantle
ya ramosebetsi kapa hlooho ya mosebetsing, ho latela ka moo ditaba di leng ka teng,
ramosebetsi kapa hlooho ya mosebetsi, ho latela ka moo ditaba di leng ka teng, ha
mmoho le taba ya hore mosebetsi kapa moromuwa kapa hlooho ya mosebetsi, o tla jara
boikarabelo ba kotlo ya tlolo eo ya molao; kapa. 15

Boikarabelo ba Motho wa molao⁴⁹

49. Motho e mong le e mong eo eleng molaodi kapa eo e neng e le molaodi, setho sa
Terasete kapa setho sa motho wa molao nakong eo motho eo wa molao ya ileng a
fumanwa a le molato ka tlolo ya molao tlasa Molao ona ena a neng a tlola molao ona ka
boyena o tla fumanwa a le molato wa tlolo e bolelwang mme o na le boikarabelo kotlong 20
ya ho lefiswa e qaqisitsweng ha e ba tlolo eo ya molao eo ho buuwang ka yna e ile ya ba
teng ka lebaka la ho hloleha ha molaodi hore a nke mehato yohle e utlwalang e neng
e hlokahala tlasa maemo oo ho thibela hore tlolo eo ya molao e seke ya ba teng: Ha feela
ho na le bopaki ba tlolo eo e bolelwang ke motho eo wa molao e tla ba bopaki bo
bonahalang boo molaodi aa tla fumanwa a le molato ka bona tlasa karolo ena. 25

KGAOLO YA LESHOME LE MOTSO O MONG**DIPEHELANO TSE AKARETSANG TSE MABAPI LE MELAWANA****Ho etswa ha melawana**

50. (1) Letona, ka morao hoba le tshware ditherisano le lekgotla le ka morao hore le
etse tsebiso Koranteng ya Mmuso, le ka ba le hona ho etsa melawana mabapi le taba e 30
nngwe le e nngwe—

- (a) e hlokwang kapa e dumeletsweng hore e laeletswe ho latela Molao ona;
- (b) e leng e hlokehang bakeng sa ho laeletsa tsamaiso e sebetsang hantle ya Molao
ona.

(2) Molawana ofe kapa ofe o etswang ho latela temanyana ya (1) o ka nna wa beha 35
hoe—

- (a) tlolo ya molao oo kapa ho hloleha ho inyalanya le ona, ke tlolo ya molao; mme
- (b) motho ya fumanwang a le molato ka tlolo eo ya molao o tla fuwa kotlo e nang
le tefiso e laeleditsweng kapa nako ya ho hlola tjhankaneng nako e sa feteng 40
nako e laeleditsweng.

(3) Letona le lokela hore pele ho etswa molawana ofe kapa ofe ho latela Molao ona,

- (a) le phatlalatse tsebiso Koranteng ya Mmuso—
 - (i) moo le lokodisang setshwantsho sa melawana eo; le
 - (ii) ho mema maikutlo a ngotsweng hore a kenngwe mabapi le melawana eo
e hopotsweng, moo ho totobatswang aterese moo maikutlo ana a 45
lokelang ho romelwa teng pele ho letsatsi le itseng, eleng letsatsi le
kekeng la e ba pele ho nako ya matsatsi a 60 ka morao hoba ho etswe
phatlalatso ya tsebiso eo;
- (b) ho lekola mehato e meng hape e ka bang teng hape, ha e ba ho na le e meng,
e tshwanetseng e tla etsa hore dikahare tsa tsebiso ena di finyelle bathong ba 50
nang le thahasello, le ho nka mehato eo Letona le hopolang hore ke e
loketseng;
- (c) ho thuisa maikutlo kaofela a amohetsweng mohla letsatsi leo le boletsweng
kapa pele ho letsatsi leo le qaqisitsweng seratswaneng sa (a)(ii); le

- (d) on request by the National Assembly or the National Council of Provinces or a committee of the National Assembly or the National Council of Provinces, report on the extent to which a specific comment has been taken into account, or if a comment was not taken into account, provide the reason why it was not taken into account.

5

Consideration of regulations

51. The Minister must, within 30 days after making any regulations in terms of this Act, table the regulations in the National Assembly and the National Council of Provinces.

CHAPTER 12

10

GENERAL AND TRANSITIONAL PROVISIONS

State bound

52. This Act binds all organs of State.

Limitation of liability

53. Neither the State nor any other person is liable for any damage or loss caused by— 15
- (a) the exercise of any power or the performance of any duty in terms of this Act; or
 - (b) the failure to exercise any power, or perform any duty in terms of this Act, unless the exercise of, or the failure to exercise, the power, or the performance of, or failure to perform, the duty was unlawful, negligent or in bad faith. 20

Financial assistance

54. (1) Where a proposed activity, construction or any other work, is likely to improve the safety of a railway or safe railway operations, application may be made by the board or any person to the Minister for financial assistance in respect of that proposed activity, construction or other work. 25
- (2) Where an application is received by the Minister in terms of subsection (1), the Minister may, if satisfied that the application has been duly made and that safe railway operations are likely to be enhanced by the carrying out of the proposed activity, construction or other work, authorise financial assistance for the purpose of defraying the costs of the whole or part of the activity, construction or other work. 30
- (3) The financial assistance referred to in subsection (2) must be from funds—
- (a) appropriated by Parliament for that purpose; or
 - (b) which may in terms of this Act be used for the purposes in question.
- (4) A person who wilfully fails to comply with any obligations imposed by this Act is not eligible for financial assistance in terms of this Act. 35
- (5) The Minister may make regulations concerning—
- (a) eligibility for financial assistance;
 - (b) the manner in which financial assistance must be applied for; and
 - (c) the terms and conditions applicable to any financial assistance granted.

International co-operation

40

55. (1) The Minister may, by notice in the *Gazette*, require the Regulator to implement any international agreement entered into by the Republic and a foreign government relating to safe railway operations.

- (d) hore ha Palamente ya Naha e etsa kopo kapa Lekgotla la Naha la Diprovence kapa komiti ya Palamente kapa ya Lekgotla la Naha la Diprovence ho be le tlaleho ka moo maikutlo a itseng a ikgethang a ileng a lekolwa ka teng, kapa ha e ba maikutlo ha nkellwa hloohong, le teng ho fanwe ke lebaka hore ke hobaneng ha maikutlo ao a sa ka a tsotellwa.

5

Ha ho tadingwa melawana

51. Letona le lokela hore nakong ya matsatsi a 30 ka morao ho ba le etse molawana ofe kapa ofe ho latela Molao ona, le teke melawana ka Palamenteng ya Setjhaba le Lekgotleng la Diprovence tsa Naha.

KGAOLO YA LESHOME LE METSO E MMEDI

10

DIPEHELANO TSA NAKWANA LE TSA KAKARETSONG

Ho tlameha ha Mmuso

52. Molao ona o tlama makala ohle a Mmuso.

Ho sehelwa moedi ha Boikarabelo

53. Mmuso kapa motho ofe kapa ofe e mong o na le boikarabelo tshenyehelong efe kapa efe kapa tahlehelong e bakilweng ke— 15

- (a) phethisong ya matla afe kapa afe kapa phethahatsong ya mosebetsi ofe kapa ofe ho latela Molao ona; kapa
- (b) ho hloleha ho phethisa matla afe kapa afe, kapa ho phethahatsa mosebetsi ofe kapa ofe ho latela Molao ona, ntle le ha ho phethisa kapa ho hloleha ho phethisa matla, kapa phethahatso kapa tlholeho ya ho phethahatsa mosebetsi ona e ne e le ketso eo eseng ya molao, e bohlaswa kapa e le ntho e entswe ka tshwetso. 20

Thuso ya ditjhelete

54. (1) Moo mosebetsi o lohothwang, kaho kapa mesebetsi e meng e ne e tla ntlafatsa polokeho ya ralewakapa tshebetso e bolokehileng ya ralewa, dikopo di ka nna tsa etswa ke lekgotla kapa motho ofe kapa ofe ho Letona bakeng sa thuso ya ditjhelete e mabapi mosebetsi o lohothwang, kaho kapa mesebetsi e meng. 25

(2) Moo kopo e amohetsweng tlasa temanyana ya (1), Letona, ha le kgotsofetse hore kopo e entswe ka mokgwa o nepahetseng le hore tshebetso e bolokehileng ya ralewa e tla ntlafatswa ha ho ka etswa mosebetsi oo o lohothwang, kaho kapa mosebetsi o mong, le ka nna la dumela hore ho be le thuso ya ditjhelete ka morero wa ho lefella mosebetsi kaofela kapa karolo ya ona, wa kaho kapa mesebetsi e meng. 30

(3) Thuso ya ditjheleteo ho buuwang ka yona temanyaneng ya (2) e lokela hore e be e tswang letloleng— 35

- (a) le abilweng ke Palamente; kapa
- (b) leo tlasa Bili ena kapa leo ka molao le sebedisetswang morero ona oo ho buuweng ka ona.

(4) Motho eo ka boomo a hlolehang ho ikamanya le boitlamo bofe kapa bofe bo qobellwang ke Bili ena ha a tshwanelwa ke ho fumana thuso ena ya ditjhelete tlasa Bili ena. 40

(5) Letona le ka etsa melawana mabapi le —

- (a) ho tshwanelwa ke ho fumana thuso ya ditjhelete;
- (b) mokgwa oo thuso ya ditjhelete e lokelang ho kopuwa ka ona; le
- (c) dipehelo le dipallo tse tsamayang le thuso efe kapa efe ya ditjhelete eo ho nehelanwang ka yona. 45

Tshebedisano ya Matjhaba

55. (1) Letona, ka ditherisano le Kabinete, ka tsebiso ya Koranta ya Mmuso, le ka hloka hore Bolaodi bo phethahatse tumellano efe kapa efe ya matjhaba e kenetsweng ke Afrika Borwa le mmuso wa kantle e amanang le tshebetso ya bolokehileng ya ralewa. 50

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(2) Unless the international agreement provides otherwise, the Regulator must report to the Minister on the performance of any of its functions under subsection (1) within three months after the end of its financial year.

(3) The report referred to in subsection (2) must contain sufficient information to allow the Minister to assess the performance of the Regulator in respect of all its functions in terms of subsection (1) and whether such performance conforms with the objectives set out in the relevant international agreement. 5

Effect of delegation and assignment

56. Where a person is authorised to delegate the exercise of a power and to assign the performance of a duty, unless the contrary intention appears— 10

- (a) such a delegation or assignment does not prevent the exercise of that power or the performance of that duty by the person who made the delegation or the assignment, as the case may be;
- (b) such a delegation or assignment may be made subject to such conditions or limitations as the delegator or assignor may stipulate; and 15
- (c) a power or duty so delegated or assigned when exercised or performed by the delegatee or assignee, must be regarded as having been exercised or performed by the delegator or assignor, as the case may be.

Documents deemed to be properly authorised and issued

57. (1) A notice, directive or other document issued in good faith by the Regulator in terms of this Act, which purports to have been signed by the chairperson or chief executive officer of the Regulator must be regarded as having been properly authorised and issued in terms of a valid decision, until evidence to the contrary is proved. 20

(2) Any document issued without authority in terms of this Act may be ratified subsequently. 25

Documents and steps taken valid under certain circumstances

58. (1) A notice, directive or other document issued in good faith in terms of this Act, but which does not comply with this Act, is valid if the non-compliance is not material and does not prejudice any person.

(2) The failure to take any steps required in terms of this Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure— 30

- (a) is not material;
- (b) has subsequently been rectified; or
- (c) does not prejudice any person.

(3) A failure in good faith to consult with, or send notices to, any relevant person or body as required by this Act does not invalidate any act or process where such consultation is a prerequisite, unless a person is prejudiced by such failure. 35

Service of documents

59. (1) Any notice, directive or other document in terms of this Act, must be served—

- (a) if it is to be served on a natural person— 40
 - (i) by hand delivery to that natural person;
 - (ii) by hand delivery to a responsible person at that natural person's business or residential address;
 - (iii) by registered mail to that natural person's business or residential address; or
 - (iv) where that natural person's business and residential addresses are unknown, despite reasonable enquiry, by publishing it once in the *Gazette* and once in a local newspaper circulating in the area of that natural person's last known residential or business address; or
- (b) if it is intended for a juristic person— 50

(2) Ntle le moo tumellano ya matjhaba e fanang ka monyetla o mong, Bolaodi bo lokela ho tlaleha ho Letona ka phethahatso efe kapa efe ya mesebetsi ya teng tlasa karolwana ya (1) nakong ya dikgwedi tse tharo pheletsong ya selemong sa ditjhelete.

(3) Tlaleho eo ho buuwang ka yona karolwana ya (2) e lokela ho ba le lesedi le lekaneng le tla dumella Letona ho ka hlahlola mesebetsi wa Bolaodi mabapi le mesebetsi ya bona tlasa karolwana ya (1) kgahlanong le merero e lokodisitsweng tumellanong e tshwanetseng ya matjhaba. 5

Tshebetso ya boromuwa le mesebetsi

56. Moo matla a boemedi a fuweng motho ya itseng hore a nehelane ka matla a boemedi a phethahatso ya matla ao, ntle le ha ho hlalela boikemisetso bo fapaneng— 10

- (a) boromuwa bo jwalo moo bo sa thibeleng hore motho ya entseng boemedi boo a phethahatse matla ao, kapa a phethahatse mesebetsi oo;
- (b) boemedi bo jwalo bo ka etswa hore bo itshetlehe dipehelong tse jwalo kapa meeding ho latela ka moo motho ya etsang boemedi boo a ka qaqisang ka teng; le 15
- (c) matla a boemedi ao ho nehelanweng ka yona jwalo, ao ha a phethahatswa kapa a phethiswa ke motho ya fuweng matla a jwalo, a lokelwang ho nkuwa a phethahaditswe kapa a phethisitswe ke motho ya etsang boemedi bo jwalo.

Ditokomane tse nkuwang di ntshitswe e bile di dumeletswe hantle

57. (1) Tsebiso, taelo kapa tokomane e nngwe e ntshitsweng ho latela Molao ona ka moya o motle ke Bolaodi e bile e saennwe ke modulasetulo kapa mohlanka ya ka sehloohong wa phethahatso wa Bolaodi e lokela ho nkuwa e intshitswe e bile e dumeletswe ka moo ho nepahetseng ka teng ho latela qeto e sebetsang, ho fihlela ho ka hlaliswa bopaki bo hanyetsanang. 20

(2) Tokomane efe kapa efe e ntshitsweng ho latela Molao ona ntle le tumello e ka tiiswa ha morao. 25

Ditokomane le mehato tse sebetsang tlasa maemo a itseng

58. (1) Tsebiso, taelo kapa tokomane e nngwe e ntshitsweng ka moya o motle ho latela Molao ona, empa e sa tsamaelane le Molao ona, e na le matla a tshebetso ha tlhokeho ya boikamanyo e se e behang motho ofe kapa ofe ka mosing. 30

(2) Ho hloleha ho nka mehato efe kapa efe e hlokehang ho latela Bili ena jwalo ka ha e le sona se hlokehang pele ho ka fihlela qeto efe kapa efe kapa kgato efe kapa efe ha ho hlokise qeto kapa mohato ofe kapa ofe matla ha e ba ho hloleha hoo—

- (a) e le ho sa amaneng le mooko wa ditaba;
- (b) e le ho seng ho ile ha lokisitswa ka morao ho moo; mme 35
- (c) ho sa behe motho ofe kapa ofe ka mosing.

(3) Ho hloleha ka moya o motle ho ka tshwara ditherisano kapa ho romela ditsebiso ho motho ofe kapa ofe ya tshwanelehileng kapa mokgatlong o itseng ho latela ka moo Bili e hlokang hore ho etswe ka teng ha ho hlokise matla ketso efe kapa efe kapa tsela efe kapa efe eo ditherisano tse jwalo di hlokehang pele ka lebaka la yona. 40

Tsela e latelwang ha ho nehelanwa ka ditokomane

59. (1) Tsebiso efe kapa efe, taelo kapa tokomane e nngwe ho latela Molao ona, e tshwanetse hore e fihliswe moo e yang teng—

- (a) ha e ba e lokela hore e finyelle mothong ya tlwaelehileng—
 - (i) ka ho fihliswa ka letsoho mothong eo; 45
 - (ii) ka ho fihliswa ka letsoho mothong ya ikarabellang kgwebong ya motho eo kapa atereseng ya hae ya bodulo;
 - (iii) ka ho e romela ka tsela ya ho posa mangolo ya mangolo a ngodisitsweng kgwebong ya motho kapa atereseng ya hae ya bodulo; kapa
 - (iv) moo aterese ya motho ya jwalo ya kgwebo kapa ya bodulo e sa tsejweng, 50
 - ekasitana le ha ho entswe dipatlisiso tse utlwahalang, ka ho phatlalatsa hang Koranteng ya Mmuso le ho phatlalatsa hang koranteng tse potolohang sebakeng seo motho eo a qeteletswe a dula ho sona kapa atereseng ya hae ya kgwebo; kapa
- (b) ha e ba e reretswe motho wa molao— 55

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- (i) by hand delivery to a responsible person at the registered address or principal place of business of that juristic person;
- (ii) by facsimile to the registered address or principal place of business of that juristic person;
- (iii) by registered mail to the registered address or principal place of business of that juristic person; 5
- (iv) by conspicuously attaching it to the main entrance of the registered address or the principal place of business of that juristic person; or
- (v) by hand delivery to any member of that juristic person's board of directors or governing body. 10

(2) Any notice, directive or other document served according to subsection (1) is considered to have been received by that natural or juristic person, unless the contrary is proved.

Repeal of laws

60. Items 1, 2, 3 and 4 of Schedule 1 to the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989), are repealed. 15

Short title and commencement

61. This Act is called the National Railway Safety Regulator Act, 2002, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MOLAO WA BOLAODI BA POLOKEHO
DITSEBELETSONG TSA RALEWA, 2002

Molao No. 16, 2002

- (i) ka ho fihliswa ka letsoho mothong ya nang le boikarabelo atereseng e ngodisitsweng kapa ya sebakeng sa kgwebo sa sehlooho sa motho wa molao;
 - (ii) ka ho e romela ka fekse atereseng e ngodisitsweng kapa ya sebakeng sa kgwebo sa sehlooho sa motho wa molao; 5
 - (iii) ka ho e romela ka tsela ya ho posa mangolo ya mangolo a ngodisitsweng atereseng e ngodisitsweng kapa sebakeng sa sehlooho sa kgwebo sa motho eo wa molao;
 - (iv) ka ho hokela ka mkgwa o bonahalang tokomane ena sebakeng sa bokeno sa aterese e ngodisitsweng kapa sebakeng sa sehlooho sa kgwebo sa motho wa molao; kapa 10
 - (v) ka ho romela ka letsoho sethong se seng le se seng sa lekgotla la balaodi kapa lekgotleng le laolang sa motho wa molao.
- (2) Tsebiso efe kapa efe, taelo kapa tokomane e nngwe eo ho nehelanweng ka yona ho latela temanyana ya e nkwa e finyeletse ho motho, ntle le ha ho ka bontsha bopaki bo hanyetsanang le ntlha ena. 15

Ho fediswa ha melawana le dipoloko

60. Ditemana tsa 1, 2, 3 le 4 Moralong wa 1 ka Tatelano ya Molao ya Molao wa selemo sa 1989 (Molao wa Nomoro ya 9 wa 1989) wa Tshebeletso ya Dipalangwang ya Afrika Borwa mona e fedisitsweng. 20

Sehlooho se sekgutshwanyane le tshimoloho

61. Ona ke Molao wa Bolaodi ba Polokeho ya Ralewa wa selemo sa 2002, mme o qala ho sebeta ho tloha mohla letsatsi le behilweng ke Mopresidente ka kgweditso e tla etswa Koranteng ya Mmuso.

