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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SCIENCE AND INNOVATION

NO. 2647

14 October 2022

**PROTECTION, PROMOTION, DEVELOPMENT AND MANAGEMENT OF INDIGENOUS
KNOWLEDGE ACT, 2019 (ACT NO. 6 OF 2019)****REGULATIONS RELATING TO THE PROTECTION, PROMOTION, DEVELOPMENT
AND MANAGEMENT OF INDIGENOUS KNOWLEDGE**

The Minister of Science and Innovation intends, in terms of section 31(1) of the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (Act No. 6 of 2019), to make the Regulations in the Schedule.

Interested persons are invited to submit, within three months from the date of the publication of this Notice, any written comments or representations on the proposed Regulations to the Director-General, Department of Science and Innovation, Private Bag X894, Pretoria, 0001 (for attention of ..., or by email to ...

.....

MINISTER OF HIGHER EDUCATION SCIENCE AND TECHNOLOGY**DATE:**

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DEFINITIONS

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned and, unless the context otherwise indicates –

“**DSI**” means the Department of Science and Innovation;

“**the Act**” means the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (Act No. 6 of 2019).

ADVISORY PANEL

Appointment of advisory panel

2. (1) The Advisory Panel contemplated in section 7(1) of the Act must consist of, at least, the following officials -
 - (a) official/s from government departments dealing directly with indigenous knowledge;
 - (b) indigenous knowledge practitioner/s considered to be either currently practicing or is/are retired in a specific discipline of practice;
 - (c) official/s from industries that use or have used indigenous knowledge and who have entered into benefit sharing agreements with the relevant communities; and
 - (d) specialist/s in a discipline of practice, working with indigenous knowledge issues and programmes.

PRACTITIONERS AND ASSESSORS

Accreditation of Assessors

3. (1) An application for accreditation in terms of section 14(1) of the Act, must be in the form of Form A in Annexure 1 to these Regulations.

- (2) The cancellation contemplated in section 14(4) of the Act must be subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) The registered assessors must act in accordance with accreditation procedures in schedule 2, and failure to comply with the accreditation procedures constitutes unprofessional conduct.

RECOGNITION OF PRIOR LEARNING

4. (1) Any person who wishes to register their competencies under a designation as an indigenous Knowledge practitioner must apply to NIKSO, using Form B in Annexure 1 to these Regulations.
- (2) In assessing the eligibility of an applicant for recognition of competencies under a designation/in/discipline, the assessors must assess the application in terms of the following criteria:
 - (a) Scope of knowledge (understanding of the discipline);
 - (b) ethics and professionalism (expertise);
 - (c) accountability (responsibility);
 - (d) problem solving; and
 - (e) context.
- (4) The revocation contemplated in section 15(7) must be subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (5) The certified indigenous knowledge practitioner in a designation must act in accordance with certification/recognition procedures in schedule 3, and failure to comply with the certification/recognition procedures constitutes unprofessional conduct.

Register of Designations

5. (1) The Register of Designations contemplated in Section 16(1)(a) of the Act must be kept within a system to be developed by NIKSO.

INDIGENOUS KNOWLEDGE

Registration of Indigenous Knowledge

6. (1) An application by a trustee of an indigenous community to the Curator for registration of indigenous knowledge, in terms of section 20(1) of the Act, must be in the form of Form C in Annexure 1 to these Regulations.

- (2) A certificate of registration of indigenous knowledge, in terms of section 20(3)(a) of the Act, must be in the form of Form D in Annexure 1 to these Regulations.

Register of indigenous knowledge

7. (1) A Register of Indigenous Knowledge, in terms of section 19(1)(a) of the Act, must be in the form of Form E in Annexure 1 to these Regulations.

Amendment of the Register

8. (1) An application to the Curator for the amendment of the Register of Indigenous Knowledge, in terms of section 24(1)(a) of the Act, must be in the form of Form F in Annexure 1 to these Regulations.
- (2) The Curator must, within 7 (seven) days of receipt of an application for amendment, request representation from the affected indigenous community to make representations in response to the application.
- (3) The indigenous community must, within 30 days of receipt of the request as contemplated in regulation 8(2), make representations, failing which the Curator must, subject to Regulation 8(4) make a determination without their representations.
- (4) The indigenous community may request an extension, from a curator, of the 30 days period granted in regulation 8(3), which the Curator may grant or refuse.
- (5) Any person who is aggrieved by the decision of the Curator may, within 60 days after notice of the decision, declare a dispute, and refer the matter for resolution in terms of section 27 of the Act.

Access to and use of indigenous knowledge

9. (1) An application for a license authorising the use of indigenous knowledge for commercial purposes in terms of section 26((1)(a), by any person who intends to use indigenous knowledge for commercial purposes, must be in the form of Form G in Annexure 1 to these Regulations.

DISPUTE RESOLUTION

Dispute Resolution Committee

10. (1) The terms and conditions for the appointment of the dispute resolution committee, contemplated in section 27(1) of the Act, are that the dispute resolution committee must consist of at least -
- (a) a person specialising in the field relating to the subject matter of the dispute;

- (b) a legal expert who has at least 10 years' experience, who shall be the chairperson; and
 - (c) An indigenous knowledge practitioner/s considered to be either currently practicing or is/are retired in a specific discipline of practice.
- (3) The dispute resolution committee must resolve the dispute within 60 days within which the matter was referred for resolution.

Offences and penalties

11. The fine contemplated in section 28 of the Act, shall be an amount not exceeding R400 000.00 in the case of an individual or 40% of the annual turnover in the case of a juristic entity.

GENERAL PROVISIONS

Short title and commencement

12. These Regulations are called the "Regulations relating to the Protection, Promotion, Development and Management of Indigenous Knowledge and will come into operation on the date of promulgation in the *Government Gazette*.

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