



# Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 650

Cape Town  
Kaapstad

19 August 2019

No. 42647

## THE PRESIDENCY

No. 1082 19 August 2019

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

**Act No. 6 of 2019: Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019**

## VHUPRESIDENDE

No. 1082 19 August 2019

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

**Nom 6 ya 2019: Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndivho Yapo wa, 2019**

ISSN 1682-5843



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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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(English text signed by the President)  
(Assented to 13 August 2019)

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# ACT

**To provide for the protection, promotion, development and management of indigenous knowledge; to provide for the establishment and functions of the National Indigenous Knowledge Systems Office; to provide for the management of rights of indigenous knowledge communities; to provide for the establishment and functions of the Advisory Panel on indigenous knowledge; to provide for access and conditions of access to knowledge of indigenous communities; to provide for the recognition of prior learning; to provide for the facilitation and coordination of indigenous knowledge-based innovation; and to provide for matters incidental thereto.**

## PREAMBLE

**RECOGNISING** that the liberation of South Africa and its people from centuries of racial discriminatory colonial rule and domination and the establishment of a constitutional democracy was, is and will remain a historic achievement of all our people;

**EMPHASISING** that the Constitution of the Republic of South Africa, 1996, enshrines the founding values of human dignity, the achievement of equality, non-racism and non-sexism, as well as the Bill of Rights entrenches inalienable rights to and freedom of human dignity, equality, education, culture, religion, language, research, creativity, environment and property, among others;

**NOTING** that the Republic of South Africa as a sovereign democratic state has taken its rightful place in the family of sovereign states and is committed and obligated to observe international treaties, covenants, as well as international law;

**REALISING** that the Government of the Republic of South Africa is committed to the economic, cultural and social upliftment and well-being of its people, free of discrimination;

**TAKING** into account that in the exercise of its sovereignty, South Africa has enacted and continues to enact legislation that underpins the protection, promotion and development of indigenous knowledge systems and indigenous knowledge;

**RECOGNISING** that indigenous knowledge is a national asset and that it is therefore in the national interest to protect and promote indigenous knowledge through law, policy and both public and private sector programmes;

**WISHING** to encourage the use of indigenous knowledge in the development of novel, socially and economically applicable products and services;

**ACCEPTING** that indigenous innovation is a unique approach to social innovation that informs and underpins the work of indigenous communities,

(English text signed by the President)  
(Assented to 13 August 2019)

## MULAYO

U ita mbetshelo malugana na tsireledzo, nyaluso, mveledziso na u langa ndivho ya yapo; u ita mbetshelo ya uri hu vhe na u thomiwa ha Ofisi ya Lushaka ya Sisiteme dza Ndivho Yapo na mishumo yayo; u ita mbetshelo ya kulangele kwa pfanelo dza zwitshavha zwa ndivho yapo; u ita mbetshelo ya uri hu thomiwe Phanele ya Vhuelethshedzi kha zwa ndivho yapo na mishumo ya iyo phanele; u ita mbetshelo ya u swikelela na milayo ya u swikelela ndivho ya zwitshavha zwapo; u ita mbetshelo ya lavhelesa-vho zwine muthu a vha na ndivho khazwo a so ngo tou dzhena tshikolo; u ita mbetshelo ya u leludza na u konanya vhuthomi ho sendekaho kha ndivho yapo; na u ita mbetshelo ya zwi kwamaho izwi.

### MVULATSWINGA

**NGA U VHONA** uri mbofholowo ya shango la Afrika Tshipembe na vathu vha lo kha minwaha minzhi ya tshitalula na u vhuswa nga vhukoloni na u tsikeledzwa na u thomiwa ha mbofholowo ya demokirasi zwo vhaho hone, zwi re hone na zwino nahone zwine zwa do dzula zwi divhazwakale yo swikelelwaho nga vathu vhashu vhothe;

**NGA U OMBEDZELA** uri Ndayotewa ya Riphabuliki ya Afrika Tshipembe ya, 1996, i tsireledza ndayo dza tshirunzi tsha muthu, u swikelela u edana ha vathu, u edana ha mirafho na u edana ha mbeu khathihi na Mulayotibe wa Pfanelo une wa khwaṭhisa pfanelo dza ndemesa na mbofholowo kana tshirunzi tsha muthu, u edana, pfunzo, mvelele, vhurerele, luambo, thoḏisiso, vhukoni, mupo na ndaka, na zwinwe zwinzhi;

**NGA U DZHIELA NṬHA** uri Riphabuliki ya Afrika Tshipembe ndi shango lo diimisaho nga lothe lo dzhia tshikhala tshone-tshone kha muṭa wa mashango o imaho nga othe nahone lo diimisela na u vhofhea kha u tevhedza thendelano dza lifhasi, milanga na mulayo wa lifhasi;

**NGA U LIMUWA** uri Muvhuso wa Afrika Tshipembe wo diimisela kha zwa ikonomi, mvelele na u khwiṅisa vhutshilo kha zwa matshilele, ndondolo ya vathu vha lo, na mbofholowo kha tshitalula;

**NGA U DZHIELA NṬHA** uri nga u shumisa vhuḏilangi, Afrika Tshipembe lo sika milayo nahone li khou ya phanda na u sika milayo ine ya khwaṭhisa tsireledzo, nyaluso na mveledziso ya sisiteme dza ndivho yapo;

**NGA U VHONA** uri ndivho yapo ndi ndaka ya lushaka na uri ndi zwi funwaho nga lushaka uri hu tsireledzwe na u alusa ndivho yapo nga kha mulayo, mbekanyamaitele na nga mbekanyamushumo dza sekithara dza phuraivethe na dza muvhuso;

**NGA U FUNA** u tuṭuwedza u shumiswa ha ndivho yapo kha u bveledzisa nganetshelo, matshilisano na ikonomi nga ndila yo fanelaho zwibveledzwa na tshumelo;

**NGA U ṬANGANEDZA** uri u thoma zwithu zwapo ndi ndila yo khetheaho kha u thoma zwa matshilisano zwine zwa khwaṭhisa mushumo wa zwitshavha zwapo,

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa,  
as follows:—

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**U** KHWAṬHISWE nga Phalamennde ya Riphabuḽiki ya Afrika Tshipembe, nga nḽila i tevhelaho:—

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1. Ṭhalutshedzo

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**CHAPTER 1****DEFINITIONS****Definitions**

1. In this Act, unless the context indicates otherwise— 20  
 “**access**” includes the acquisition of indigenous knowledge by natural and legal persons as facilitated by NIKSO in terms of this Act;  
 “**accreditation**” means a formal procedure by which NIKSO grants or delegates authority to an assessor to assess and verify the qualification of indigenous knowledge practitioners in accordance with pre-determined requirements for purpose of certification; 25  
 “**assessor**” means a qualified person accredited and assigned by NIKSO to assess applicants according to applicable pre-determined standards having regard to that person’s possession of indigenous knowledge, expertise and skills for the purpose of being certified as an indigenous knowledge practitioner; 30  
 “**benefit sharing**” means the fair and equitable sharing of monetary and non-monetary benefits in terms of a benefit sharing agreement between the trustee of the indigenous community and the licence holder;  
 “**certification**”, in respect of indigenous knowledge practitioners, means the formal qualification acknowledgment, subject to an assessment by an assessor of a practitioner within a discipline or practice, according to applicable, pre-determined standards, having regard to that person’s possession of indigenous knowledge expertise and skills; 35  
 “**commercial use**” means the use of indigenous knowledge for financial gain;  
 “**Constitution**” means the Constitution of the Republic of South Africa, 1996; 40  
 “**cultural and social identity**” means the particular and distinctive identity or characteristics of a certain indigenous community or of an individual as far as he or she is influenced by belonging to a certain indigenous community;  
 “**Curator**” means the Curator of indigenous knowledge, who is the head of the Registration Office of Indigenous Knowledge appointed in terms of section 18 of this Act; 45  
 “**Department**” means the department responsible for science and technology;  
 “**discipline of practice**” means a group of people who share the same understanding and methodology of a given practice, craft or profession, which—  
 (a) evolved spontaneously; or 50

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**NDIMA YA 7****U SHUMISWA HA NDIVHO YAPO SA VHUBINDUDZI**

25. U bveledzisa tshibveledzwa, u tshi bindudza, tshumelo na maitetele  
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 33. Nzudzanyo dza tshanduko  
 34. Dzina lipfufhi na u thoma u shumisa Mulayo

**NDIMA YA 1****THALUTSHEDZO****Thalutshedzo**

1. Kha uno Mulayo, nga nnda ha musi nyimele i tshi sumbedza nga inwe ndila— 20  
 “u swikelela” zwi katela u wana ndivho yapo nga muthu wa mvelo na nga  
 zwiimiswa zwo tshimbidzwa nga NIKSO i tshi khou tevhedza uno Mulayo;  
 “utendela” zwi amba kuitele kwa NIKSO u fha kana u hwesa maandla kha uyo  
 muthathuvhi uri a thathuvhe na u khwaṭhisedza ndalukano dza vhashumi vha zwa  
 ndivho yapo u ya nga thodda dzo dzulaho dzo vhwewa ndivho i ya u fha thanziela; 25  
 “muthathuvhi” zwi amba muthu o fushaho ndalukano nahone o tendelwaho  
 nahone a hweswa mushumo nga NIKSO uri a thathuvhe vhashumbeli u ya nga  
 zwiṭandadi zwo vhwaho nahone zwo teaho ho sedzwa ndivho, vhudivhi na  
 vhukoni zwine uyo muhumbeli a vha na zwo ndivho i ya u mu fha thanziela ya uri  
 ndi mushumi wa zwa ndivho yapo; 30  
 “u kovhekana mbuelo” zwi amba u kovha mbuelo nga ndila i sa dzihho sia  
 nahone mbuelo dzi linganaho dza tshedele na dzi si dza tshedele hu tshi khou  
 tevhedzwa thendelano ya u kovhekana mbuelo vhukati ha mulondoli wa  
 tshitshavha tshapo na uyo muṅe wa laisente; 35  
 “u fha thanziela” zwi tshi khou kwama vhashumi vha zwa ndivho ya sialala, zwi  
 amba khwaṭhisedzo ya ndalukano ya fomaḷa, hu tshi tevhedzwa thathuvho yo  
 itwaho nga muthathuvhi kha uyo mushumi wa iyo thero kana mushumo, u ya nga  
 zwiṭandadi zwo vhwaho nahone zwo teaho, ho lavheleswa vhukoni vhune uyo  
 muthu a vha na zwo;  
 “u bindudza” zwi amba u shumisa ndivho yapo kha u wana masheleni; 40  
 “Ndayotewa” zwi amba Ndayotewa ya Riphabuḷiki ya Afrika Tshipembe ya,  
 1996;  
 “vhuṅe ha zwa matshilele na mvelele” zwi amba phambano ya vhuṅe yeneyo  
 kana zwiṭaluli zwa tshitshavha tshapo tshenetsho kana muthu zwi tshi ṭuṭuwedzwa  
 nga tshenetsho tshitshavha tshapo; 45  
 “Mulondoli” zwi amba Mulondoli wa ndivho yapo sa ene thoho ya Ofisi ya u  
 walisa Ndivho Yapo o tholwaho hu tshi khou tevhedzwa khethekanyo ya 18 ya uno  
 Mulayo;  
 “Muhasho” zwi amba Muhasho u re na vhuḍifhinduleli kha zwa saintsi na  
 thekhnodzhi; 50

- (b) is created based on people's engagement, in a process of collective learning in a shared domain of human endeavour;
- "functional"**, in relation to indigenous knowledge, means knowledge that is scientific and, or technical in nature;
- "indigenous community"** means any recognisable community of people— 5
- (a) developing from, or historically settled in a geographic area or areas located within the borders of the Republic;
- (b) characterised by social, cultural and economic conditions, which distinguish them from other sections of the national community; and
- (c) who identify themselves as a distinct collective; 10
- "indigenous cultural expression"** means expressions that have a cultural content that developed within indigenous communities and have assimilated into their cultural and social identity, including but not limited to—
- (a) phonetic or verbal expressions;
- (b) musical or sound expressions; 15
- (c) expressions by action; and
- (d) action tangible expressions;
- "indigenous knowledge"** means knowledge which has been developed within an indigenous community and has been assimilated into the cultural and social identity of that community, and includes— 20
- (a) knowledge of a functional nature;
- (b) knowledge of natural resources; and
- (c) indigenous cultural expressions;
- "indigenous knowledge practitioner"** means a person who is certified as sufficiently knowledgeable in indigenous knowledge practices to render a related service, subject to section 15 of this Act and relevant prescribed practice standards being met; 25
- "licence holder"** means any person who successfully enters into a licence agreement with an indigenous community to use indigenous knowledge;
- "Minister"** means the Minister responsible for science and technology; 30
- "natural resources"** means any materials and components that can be found within the environment and may exist as a separate entity, such as genetic resources, fresh water, air, and mineral deposits with actual or potential use or value;
- "NIKSO"** means the National Indigenous Knowledge Systems Office established in section 4; 35
- "prescribed"** means prescribed by regulations;
- "prior informed consent"** means the consent in respect of indigenous knowledge granted by a trustee, which has been obtained— 40
- (a) free from any manipulation, interference or coercion;
- (b) after full disclosure of the intent and scope of the activity; and
- (c) in a language and process understandable to the community;
- "Registration Office"** means the Registration Office for Indigenous Knowledge within NIKSO;
- "Register"** means the Register of indigenous knowledge provided for in section 19, and includes any official documents, compilations or records, including databases, reflecting information in respect of indigenous knowledge kept by NIKSO; 45
- "Register of Designations"** means a register of names and levels of competencies of certified indigenous knowledge practitioners and accredited assessors; 50
- "regulations"** means regulations made in terms of this Act;
- "this Act"** includes the regulations; and
- "trustee"** means a natural or legal person that is duly delegated in terms of the practices of an indigenous community to represent that indigenous community in matters pertaining to indigenous knowledge and to be vested with the custodianship of indigenous knowledge emanating from it, which person is deemed to be a trustee appointed in terms of the law of trusts and to have the powers and duties of such a trustee, with any reference in this Act to an act performed, or the rights held, by an indigenous community deemed to be a reference to that act performed, or rights held, by the trustee of that indigenous community. 55 60



- “thero ya mushumo”** zwi amba tshigwada tsha vhathu vhane vha fana kha u pfesesa na ngona dza mushumo wonoyo, vhutsila na phrofesheni yeneyo, zwine izwi—
- (a) zwo vha hone nga lwa mupo; kana
- (b) zwo itwa nga n̄wambo wa u ambedzana ha vhathu, 5  
nga kha kuitele kwa u guda vhathu vhe guṭe fhethu hune vha tou kovhekana ndingedzo dza vhathu;
- “n̄divho ya sainthifiki kana thekhenikhaḷa”** ho sedzwa n̄divho yapo, zwi amba n̄divho ine ya vha sainthifiki na, kana thekhenikhaḷa;
- “tshitshavha tshapo”** zwi amba tshitshavha tshi ḡivheaho tsha vhathu— 10
- (a) vha bvaho kha kana tshine nga ḡivhazwakale tsho vha tshi khou dzula kha v̄hupov hu wanalaho ngomu ha mikano ya Riphabuḷiki;
- (b) vhane vha ḡaluswa nga nyimele dza matshilele, mvelele na ikonomi, zwine izwi zwa ita uri vha sa fane na vhaṅwe kha dziṅwe khethekanyo dza tshitshavha tsha lushaka; na 15
- (c) vhane vha ḡiḡivha vhe tshigwada tsho fhambanaho na zwiṅwe;
- “kuambeke kwa mvelele kwapo”** zwi amba kuambeke kwo faraho mvelele ya tshitshavha nahone izwi zwo bva kha heneḡho ngomu ha zwitshavha zwapo nahone zwa ṅongovhela kha mvelele na kutshilele, hu tshi katelwa zwi sa gumihho kha zwi tevhelaho— 20
- (a) kuambeke kwa ipfi kana fonetika;
- (b) muungo wa kuambeke na muzika;
- (c) zwi v̄honalaho nga nyito; na
- (d) nyito i sumbedzaho zwi v̄honalaho;
- “n̄divho yapo”** zwi amba n̄divho yo bveledziswaho ngomu kha tshitshavha tshapo na u nwelela kha mvelele kana v̄huvha ha kutshilele kha tshitshavha, nahone zwi tshi katela— 25
- (a) n̄divho ya sainthifiki kana ya thekhenikhaḷa;
- (b) n̄divho ya zwiko zwa mupo; na
- (c) mbonalo ya mvelele yapo; 30
- “mushumi wa zwa n̄divho yapo ”** zwi amba muthu o fhiwaho ḡhanziela i sumbaho uri u na n̄divho yo linganaho nga hamaitela a zwa n̄divho yapo uri a kone u fha tshumelo a tshi khou tevhedza khethekanyo ya 15 ya uno Mulayo na zwiḡandadi zwa maitele o randelwaho a tshi tea u fushwa-vho;
- “muṅe wa ḷaisentse”** zwi amba muthu muṅwe na muṅwe o konaho u dzhena kha thendelano ya ḷiasentse na tshitshavha tshapo uri a shumise n̄divho yapo; 35
- “Minista”** zwi amba Minista a re na v̄huḡifhinduleli kha zwa saintsi na thekhn̄oḡdzhi;
- “zwiko zwa mupo”** zwi amba zwishumiswa na zwipiḡa-piḡa zwine zwa nga wanwa kha mupo nahone zwine zwa vha hone sa zwithu zwo imaho nga zwoḡhe, sa *genetic resources*, maḡi, muya, na zwa migodi zwine zwa nga shumiswa zwavhukuma kana lwa ndeme; 40
- “NIKSO”** zwi amba Ofisi ya Lushaka ya Sisiteme dza N̄divho Yapo yo sikwaho u ya nga khethekanyo ya 4;
- “randela”** zwi amba u randela nga ndangulo; 45
- “u tenda wo thoma wa v̄hudzwa”** zwi amba u tenda malugana na u fha n̄divho yapo nga thirasitii, ine yo wanwa—
- (a) nga mahala zwi so ngo tshimbidzwa zwavhuḡi, ho vha na u dzhenelekanya kana u kombetshedza;
- (b) nga murahu ha u bula n̄divho na tshikoupu tsha mushumo; nahone 50
- (c) hu tshi khou shumiswa luambo na kuitele ku pfesewaho nga tshitshavha;
- “Ofisi ya u walisa”** zwi amba Ofisi ya u walisa N̄divho Yapo i re ngei kha Ofisi ya NIKSO;
- “Redzhisiḡara”** zwi amba Redzhisiḡara ya n̄divho yapo zwine izwi zwi na mbetshelo kha khethekanyo ya 19, nahone zwi katela maṅwalwa maṅwe na maṅwe a tshiofisi, rekhodo dzo itwaho, hu tshi katelwa databeisi, dzi sumbedzaho mafhungo a n̄divho yapo o v̄hulungwaho nga NIKSO; 55
- “Redzhisiḡara ya madzina a v̄huimo”** zwi amba redzhisiḡara ya madzina na ḷeveḷe dza v̄hukoni ha v̄hashumi vha zwa n̄divho yapo vho fhiwaho ḡhanziela na v̄haḡhaḡhuvhi vho tendelwaho; 60
- “Ndangulo”** zwi amba ndangulo dzo itwaho u ya nga uno Mulayo;
- “uno Mulayo”** zwi katela ndangulo; na

**CHAPTER 2****APPLICATION AND OBJECTS OF ACT****Application of Act**

2. This Act applies to all—
- (a) persons in the Republic, including the State; and 5
  - (b) indigenous knowledge registered under this Act.

**Objects of Act**

3. The objects of this Act are to—
- (a) protect the indigenous knowledge of indigenous communities from unauthorised use, misappropriation and misuse; 10
  - (b) promote public awareness and understanding of indigenous knowledge for the wider application and development thereof;
  - (c) develop and enhance the potential of indigenous communities to protect their indigenous knowledge;
  - (d) regulate the equitable distribution of benefits; 15
  - (e) promote the commercial use of indigenous knowledge in the development of new products, services and processes;
  - (f) provide for registration, cataloguing, documentation and recording of indigenous knowledge held by indigenous communities;
  - (g) establish mechanisms for the accreditation of assessors and the certification of indigenous knowledge practitioners; and 20
  - (h) recognise indigenous knowledge as prior art under intellectual property laws.

**CHAPTER 3****NATIONAL INDIGENOUS KNOWLEDGE SYSTEMS OFFICE****Establishment of NIKSO 25**

4. NIKSO is hereby established within the Department.

**Functions and powers of NIKSO**

5. The functions and powers of NIKSO include—
- (a) implementation of this Act;
  - (b) protecting and recognising indigenous knowledge as property owned by indigenous communities; 30
  - (c) facilitating the redress of rights and benefits to indigenous communities which have previously been deprived of such rights and benefits;
  - (d) facilitating and coordinating the development of indigenous knowledge;
  - (e) establishing and managing the registration of assessors and indigenous knowledge practitioners; 35
  - (f) empowering indigenous communities through education and awareness campaigns to enable them to recognise and utilise indigenous knowledge for cultural and economic benefit;
  - (g) determining the criteria for issuing licences for the use of indigenous knowledge; 40
  - (h) certifying licence agreements for the use of indigenous knowledge;

“**thirasitii**” zwi amba muthu wa vhukuma wa mvelo kana tshiimiswa tsho ruñwaho u ya nga maitele a tshitshavha tshapo uri a imele itsho tshitshavha tshapo kha mafhungo a kwamaho ndivho yapo nahone a hweswe na maandā a u londola ndivho yapo i bvaho kha itsho tshitshavha ane uyo muthu a dzhiwa o tholwa sa thirasitii hu tshi khou tevhedzwa mulayo wa thirasitii nahone a vhe na maandā na mishumo ya u vha thirasitii hawe, ho sedzwa uno Mulayo kha mushumo une a vha o u shuma, kana pfanelo dza tshitshavha tshapo tshi dzhiwaho tshi tshi kwamana na iyo nyito yo itwaho, kana pfanelo dzo farwaho nga thirasitii wa itsho tshitshavha tshapo.

## NDIMA YA 2 10

### KUSHUMISELE KWA MULAYO NA ZWIPIKWA ZWA MULAYO

#### Kushumisele kwa Mulayo

2. Uyu Mulayo u shuma kha—
- vhathu vhothe vha Riphabuḽiki, hu tshi katelwa Muvhuso; na
  - ndivho inwe na inwe yo nwaliswaho nga fhasi ha uno Mulayo. 15

#### Zwipikwa zwa Mulayo

3. (1) Zwipikwa zwa uyu Mulayo ndi u—
- tsireledza ndivho yapo ya zwitshavha zwapo uri ya sa shumiswe zwi songo tendelwa, na uri ya sa dzhiwe zwi songo tendelwa;
  - tuṭuwedza tshitshavha uri tshi divhe na u pfesesa nga ha ndivho yapo uri i shumiswe na u bveledziswa nga ndila yo tanḽavhuwaho; 20
  - bveledzisa na u khwinisa vhukoni ha zwitshavha zwapo kha u tsireledza ndivho yapo ine ndi yavho;
  - langula phaḽaladzo i linganaho ya mbuelo;
  - tuṭuwedza zwa vhubindudzi kha ndivho yapo musi hu tshi bveledzwa zwibveledzwa zwiswa, tshumelo ntswa na maitele maswa; 25
  - itela uri hu vhe na mbetshelo ya u nwalisa, u dzundzanya/vhekanya, u nwalana na u rekhoda ndivho yapo ine zwitshavha zwapo zwa vha nayo;
  - thoma ndila dza u tendela vhaṭhathuvhi na u fha ṭhaziela vhashumi vha zwa ndivho yapo; na 30
  - lavhelesa /dzhiela nṭha ndivho yapo sa vhutsila ha u thoma nga fhasi ha milayo ya zwa vhuṅe ha ndivho.

## NDIMA YA 3

### OFISI YA LUSHAKA YA SISITEME DZA NDIVHO YAPO

#### U thomiwa ha NIKSO 35

4. NIKSO i khou thomiwa nga ngomu kha Mhasho.

#### Mishumo na maandā a NIKSO

5. (1) Mishumo na maandā zwa NIKSO hu katelwa—
- u shumisa uyu Mulayo;
  - u tsireledza na u lavhelesa ndivho yapo sa ndaka ine vhaṅe vhayo ndi zwitshavha zwapo; 40
  - u leludza u khakhulula pfanelo na mbuelo kha zwitshavha zwapo zwine zwo khakhelwa tshifhingani tsho fhelaho zwa si dipiṅe nga pfanelo na mbuelo dza zwa ndivho yapo;
  - u leludza na u konanya mveledziso ya ndivho yapo; 45
  - u thoma na u langula u nwalisa vhaṭhathuvhi na vhashumi vha ndivho yapo;
  - u maandāfhadza zwitshavha zwapo nga kha pfunzo na mafulo a uri vhathu vha divhe na u kona u vhone na u shumisa ndivho yapo kha mbuelo ya mvelele na ikononi;
  - u ta ndila dza u netshedza laisentse dza u shumisa ndivho yapo; 50
  - u khwaṭhisedza thendelano dza laisentse malugana na u shumisa ndivho yapo;

- (i) assisting indigenous communities in the negotiation of benefit sharing agreements for the use of indigenous knowledge;
- (j) facilitating the negotiation of licences between trustees and users for the use of indigenous knowledge for commercial purposes;
- (k) making recommendations to the Minister regarding norms and standards for the certification of indigenous practitioners; 5
- (l) liaising with the Department to facilitate the entering into of licence agreements with users of indigenous knowledge on behalf of an indigenous community where the relevant indigenous community cannot be identified;
- (m) ensuring that the Register of Designations is maintained and made available; 10  
and
- (n) carrying out any functions that are consistent with the objects of this Act.

### Administration of NIKSO

6. (1) The Minister must appoint a suitably skilled and qualified person as the Head of NIKSO in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994). 15
- (2) The Head of NIKSO—
- (a) is responsible for the administration and general management of NIKSO, subject to directions and instructions issued by the Minister or the Director-General as delegated by the Minister; and 20
  - (b) must report to the Director-General on all matters relating to the management of NIKSO.
- (3) The staff of NIKSO consists of such number of employees as may be—
- (a) appointed by the Minister, in accordance with the Public Service Act, 1994; or
  - (b) seconded from any organ of state, 25
- as are necessary to enable NIKSO to perform its functions.

### Establishment of Advisory Panel

7. (1) The Minister may establish an Advisory Panel based on criteria as prescribed, consisting of a minimum of five, but no more than ten, members on specific matters relating to the objects of this Act. 30
- (2) The Advisory Panel must be broadly representative of the—
- (a) different relevant government departments;
  - (b) indigenous knowledge practitioners;
  - (c) industry; and
  - (d) specialists in the discipline of practice, 35
- based on criteria as prescribed.
- (3) The Advisory Panel may be convened by the Head of NIKSO, as and when the need arises.
- (4) The members of the Advisory Panel, with the exclusion of subsection (2)(a) representatives who are subject to public service remuneration prescriptions, must only be remunerated for time spent on the business of NIKSO, in accordance with rates determined by the Minister, with the concurrence of the Minister of Finance. 40
- (5) A member of the Advisory Panel holds office for a period of three years and may, upon expiry of that period, be reappointed for a further period of three years.
- (6) Notwithstanding subsection (5), for the sake of continuity, the Minister may reappoint a core of at least three members of the Advisory Panel, as prescribed. 45
- (7) The Minister may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), remove a member of the Advisory Panel for—
- (a) non-performance;
  - (b) serious misconduct; 50
  - (c) conduct that undermines the integrity or objective of the Advisory Panel; or
  - (d) being convicted of a criminal offence and sentenced to imprisonment without the option of a fine.

- (i) u thusa zwitshavha zwapo kha nyambedzano dza thendelano dza u kovhekana mbuelo musi hu tshi shumiswa ndivho yapo;
- (j) u tshimbidza nyambedzano dza laisense vhukati ha dzithirasitii na vhashumisi vha ndivho yapo kha zwa ndivho dza vhubindudzi;
- (k) u ita themendelo kha Minista malugana na ndayo na zwiandadi zwa u fha 5  
thanziela dza vhashumi vha zwa ndivho yapo;
- (l) u kwamana na Muhasho u itela u tshimbidza zwi kwamaho u dzhena kha thendelano dza laisense na vhashumisi vha ndivho yapo ho imelwa tshitshavha tshapo hune tshitshavha tsho teaho tshapo tsha sa qivhee;
- (m) u vhona uri Redzhisitara ya Madzina a vhuimo yo vhlungea nahone i a 10  
wanalea; na
- (n) u shuma mishumo miwe na miwe ine ya yelana na zwipikwa zwa uno Mulayo.

### Kulangele kwa NIKSO

6. (1) Minista u tea u thola muthu ane a fusha thodea nahone a re na vhukoni uri a vhe 15  
ene Thoho ya Ofisi ya Lushaka ya Sisiteme dza Ndivho Yapo u ya nga Mulayo wa Tshumelo ya Muvhuso wa, 1994 (Mulevho wa nomboro ya.103 wa 1994).

(2) Thoho ya NIKSO—

- (a) ndi vhuqifhinduleli kha ndaulo ya na u langa NIKSO, a tshi khou tevhedza 20  
ndaela dzi bvaho kha Mulangi-Muangaredzi kana Minista; na
- (b) u tea u vhiga mafhungo othe a kwamaho u laula NIKSO kha Mulangi-Muangaredzi.

(3) Vhashumi vha NIKSO ndi tshivhalo tshenetsho—

- (a) tsho tholwaho nga Minista a tshi khou tevhedza Mulayo wa Tshumelo dza 25  
Muvhuso wa, 1994; kana
- (b) avho vho tou dzinginywaho uri vha tholwe vha tshi bva kha zwiwe zwiimiswa zwa muvhuso,

hu na thodea ya uri NIKSO i shume zwavhuqi.

### U thomiwa ha Phanele ya Vhueleletshedzi

7. (1) Minista a nga vhumba Phanele ya Vhueleletshedzi a tshi khou shumisa ndila dzo 30  
randelwaho, ine iyo phanele i do vha i na mirado i si ho fhasi ha mitanu, fhedzi iyo mirado a i nga fhiri fumi, ine ya do lavhelesa kha mafhungo eneo a kwamaho zwipikwa zwa uno Mulayo.

(2) Phanele ya Vhueleletshedzi nga vhuphara i imela—

- (a) mihasho ya muvhuso yo fhambanaho; 35
- (b) vhashumi vha zwa ndivho yapo;
- (c) ndowetshumo; na
- (d) vhadivhi kha thero ya uno mushumo,

zwo sendeka kha ndila yo randelwaho.

(3) Phanele ya Vhueleletshedzi i nga vha na mutangano yo rambiwa nga Thoho ya 40  
NIKSO, musi hu na thodea.

(4) Mirado ya Phanele ya Vhueleletshedzi, hu songo katelwa khethekanyo thukhu ya 45  
(2)(a)vhaimelileli vhane vha hola muvhusoni u ya nga thendelo ya muvhuso, vha do to badelwa fhedzi tshifhinga tshe vha tshi fhedza vhe kha mushumo wa NIKSO, hu tshi khou tevhedzwa mitengo yo tiwaho nga Minista o tendelana na Minista wa zwa Masheleni.

(5) Murado wa Phanele ya Vhueleletshedzi u vha murado wa Phanele lwa miwaha miraru, nahone musi tshifhinga tsho fhela tsha u vha kha ofisi, murado a nga dovha a tholwa hafhu lwa miwaha miraru.

(6) Naho hu na khethekanyo ya (5), hu tshi itelwa uri hu vhe na u ya phanda 50  
zwavhuqi, Minista a nga thola hafhu mirado miraru ya Phanele ya Vhueleletshedzi sa zwo randelwaho.

(7) Minista a tshi khou tevhedza Mulayo wa *Promotion of Administrative Justice Act*, 2000 (Act No. 3 of 2000), a nga pandela murado wa Phanele ya Vhueleletshedzi zwi tshi 55  
khou itiswa nga—

- (a) u sa kona u shuma ha uyo murado;
- (b) u sa qifara zwavhuqi ha uyo murado;
- (c) vhuqifari vhune ha nyadza tshirunzi kana zwipikwa zwa Phanele ya Vhueleletshedzi; kana
- (d) u wanwa mulandu wa vhutshinyi nahone murado uyo o gwevhelwa u dzula 60  
dzhele hu si na u tou badela ndatso ya masheleni.

- (8) NIKSO must provide administrative and secretarial support to the Advisory Panel.  
 (9) For the purpose of subsection (2)(c), “industry” means any sector of an economy dealing in the commercial use of indigenous knowledge based products and services.

#### **Role of Advisory Panel**

- 8.** The Advisory Panel must— 5  
 (a) provide expert and strategic advice to NIKSO in respect of the protection, promotion, development and management of indigenous knowledge;  
 (b) assist with the mobilisation of indigenous communities for purposes of pursuing specific activities conducted by NIKSO; and  
 (c) advise NIKSO on any specific issue referred to it and execute any task that NIKSO may entrust to it in terms of this Act. 10

### **CHAPTER 4**

#### **PROTECTION OF INDIGENOUS KNOWLEDGE**

##### **Subject matter of protection**

- 9.** (1) This Act protects registered indigenous knowledge. 15  
 (2) Indigenous knowledge constitutes property of indigenous communities within the meaning of section 25 of the Constitution.

##### **Term of protection**

- 10.** (1) Indigenous knowledge is protected for as long as it meets the eligibility criteria set out in section 11. 20  
 (2) If indigenous knowledge ceases to meet the eligibility criteria set out in section 11, it falls into the public domain from the date of proven ineligibility.

##### **Eligibility criteria for protection**

- 11.** The protection of indigenous knowledge contemplated in section 9 applies to indigenous knowledge, which— 25  
 (a) has been passed on from generation to generation within an indigenous community;  
 (b) has been developed within an indigenous community; and  
 (c) is associated with the cultural and social identity of that indigenous community. 30

##### **Vesting of rights in indigenous knowledge**

- 12.** (1) Subject to section 9, the custodianship of indigenous knowledge eligible for protection vests in the trustee of that indigenous community.  
 (2) The trustee of the indigenous community— 35  
 (a) holds the indigenous knowledge in trust on behalf of the indigenous community; and  
 (b) is responsible for and accountable to the indigenous community for the protection of their rights.  
 (3) In the event that, and for as long as, the indigenous community of the relevant indigenous knowledge cannot be identified and designated, NIKSO must act as custodian of that indigenous knowledge, with the rights and obligations of a trustee in respect of that indigenous knowledge. 40

##### **Rights conferred**

- 13.** (1) Subject to subsection (3), the indigenous community holding indigenous knowledge has the exclusive right to— 45  
 (a) any benefits arising from its commercial use;  
 (b) be acknowledged as its origin; and  
 (c) limit any unauthorised use of the indigenous knowledge.



(8) NIKSO i tea u thusa Phanele ya Vhueleledzi nga ndaulo na vhuñwaleli.

(9) U itela ndivho ya khahekanyo thukhu ya (2)(c), “nṱowetshumo” zwi amba sekithara inwe ya zwa ikonomi ine ya shumana na zwa u shumisa ha ndivho yapo kha u bindundza zwo sendeka kha zwibveledzwa na tshumelo.

#### **Mushumo wa Phanele ya Vhueleledzi** 5

**8.** Phanele ya Vhueleledzi i tea u—

- (a) fha muḍivhi na nyeletshedzo NIKSO malugana na tsireledzo, nyaluso, mveledziso na ndaulo ya sisiteme ya ndivho yapo;
- (b) thusa nga u vhea fhethu huthihi zwitshavha zwapo u itela uri hu shumiwe mishumo ya NIKSO; na 10
- (c) eletshedza NIKSO malugana na mafhungo o ḍiswaho na u shuma mishumo ine NIKSO ya fha Phanele u ya nga Mulayo uno.

### **NDIMA YA 4**

#### **TSIRELEDZO YA NḐIVHO YAPO**

#### **Mafhungo a thero dzine dza khou tsireledzwa** 15

**9.** (1) Uyu Mulayo u tsireledza ndivho yapo yo nwaliswaho.

(2) NḐivho yapo i vhumba ndaka ine yo ambiwa kha khethekanyo ya 25 ya Ndayotewa.

#### **Vhulapfu ha tshifhinga tsha u tsireledza**

**10.** (1) NḐivho yapo i tsireledzwa lwa tshifhinga tsha musi i tshi kha ḍi fusha thodea dza uri i tsireledzwe u ya nga khethekanyo ya 11. 20

(2) Arali ndivho yapo ya swika tshifhinga tshine ya vha i sa tsha fusha thodea dza khethekanyo ya 11, i mbo wela fhasi ha tshitshavha tshoṱhe u tou bva nga ḍuvha line ya sa tsha fusha.

#### **Nḑila dzine dza shumiswa uri ndivho yapo i tsireledzwe** 25

**11.** U tsireledza ndivho yapo ho bulwaho kha khethekanyo ya 9 hu shumiswa kha ndivho yapo ine—

- (a) yo ratha i tshi bva kha murafho u ya kha muñwe murafho ngomu kha tshitshavha tshapo;
- (b) yo bveledziswa kha tshitshavha tshapo; na 30
- (c) i na vhushaka na vhuṱe ha mvelele na matshilisano zwa tshitshavha tshapo.

#### **U fha pfanelo dza ndivho yapo**

**12.** (1) Hu tshi khou tevhedzwa khethekanyo ya 9, vhuṱhogomeli ha ndivho yapo ine ya tea u tsireledzwa vhu hweswa thirasitii wa tshitshavha tshapo tshenetsho. 35

(2) Thirasitii wa tshitshavha tshapo—

- (a) o fara ndivho yapo i re kha thirasitii o imela tshitshavha tshapo; na
- (b) u na vhuḍifhinduleli nahone u tea u vhigela tshitshavha tshapo nga ha u tsireledzwa ha pfanelo dzavho sa tshitshavha.

(3) Kha nyimele ine muṱe wa ndaka yapo a sa ḍivhei kana u sumbea na musi tshitshavha tshapo tsha iyo ndivho yapo tshi sa ḍivhei, NIKSO ndi yone ine ya ḑo dzhiiwa sa vhulondoli ha iyo ndivho yapo, na pfanelo na vhuḍifhinduleli ha thirasitii malugana na ndivho yapo iyo. 40

#### **Pfanelo dzo ṅetshedzwaho**

**13.** (1) Hu tshi tevhedzwa khethekanyo thukhu ya (3), muṱe wa ndivho yapo u na pfanelo dzo khetheaho malugana na ndivho yapo kha— 45

- (a) mbuelo dzi wanwaho musi hu tshi bindudzwa iyo ndivho;
- (b) u ambiwa na u livhuwiwa uri ndi ene muṱe wa ndivho; na
- (c) u thivhela u shumiswa ha iyo ndivho yapo zwi songo tendelwa.

- (2) Subject to subsection (3), a person wishing to make commercial use of indigenous knowledge must—
- (a) apply through NIKSO for a licence in accordance with section 26(1); and
  - (b) when so applying, must indicate—
    - (i) the identity of the indigenous community; 5
    - (ii) the place of origin of the indigenous knowledge; and
    - (iii) whether prior informed consent of the indigenous community has been obtained and a benefit sharing arrangement entered into with that indigenous community.
- (3) An individual member of the indigenous community holding indigenous knowledge who wishes to make commercial use of the indigenous knowledge— 10
- (a) must obtain permission from the indigenous community; and
  - (b) may only make commercial use of that indigenous knowledge in a manner and subject to the indigenous community imposed terms and conditions as formalised in an agreement with the trustee. 15

## CHAPTER 5

### RECOGNITION OF PRIOR LEARNING OF INDIGENOUS KNOWLEDGE PRACTITIONERS

#### Accreditation of assessors

14. (1) A certified indigenous knowledge practitioner may apply to NIKSO in the prescribed manner for recognition and accreditation as an assessor. 20
- (2) In processing a subsection (1) application, NIKSO—
- (a) must evaluate each application in accordance with the prescribed procedures and requirements; and
  - (b) may issue an accreditation certificate to act as an assessor if it is satisfied that the applicant meets the prescribed criteria. 25
- (3) NIKSO may impose any reasonable conditions on such accreditation.
- (4) NIKSO may, in the prescribed manner, cancel the accreditation of an assessor, if the assessor has—
- (a) made a false declaration or intentionally submitted a fraudulent application to NIKSO; 30
  - (b) failed to comply with or contravened any of the conditions of the accreditation;
  - (c) failed or refused to comply with the prescribed accreditation process;
  - (d) accepted unlawful compensation, in respect of the certification of an indigenous knowledge practitioner; 35
  - (e) charged excessive or unreasonable fees in respect of the certification of an indigenous knowledge practitioner;
  - (f) undermined, through any act of omission, the interests of the discipline or practice for which the assessor is registered; or 40
  - (g) been convicted of a criminal offence and sentenced to imprisonment without the option of a fine.
- (5) The Minister must prescribe accreditation procedures to be followed by registered assessors.

#### Certification of indigenous knowledge practitioners 45

15. (1) Any person who wishes to register their qualifications as an indigenous knowledge practitioner must apply, in the prescribed manner, to NIKSO to be so certified and recorded in the Register of Designations.
- (2) NIKSO may refer the application for certification to an assessor for assessment and recommendation. 50
- (3) In assessing the eligibility of an applicant, the assessor must apply the prescribed norms and standards for certification of indigenous knowledge practitioners.
- (4) Upon completion of the assessment, if an applicant meets all the prescribed requirements, the assessor must recommend to NIKSO that a certificate of competency be issued to the applicant for purposes of certification. 55



- (2) Hu tshi tevhedzwa khethekanyo thukhu ya (3), muthu ane a funa u shumisa ndivho yapo kha zwa u bindula u tea u—
- (a) ita khumbelo nga kha ya laisente kha NIKSO u ya nga khethekanyo ya 26(1);  
na
- (b) musi khumbelo i tshi itiwa hutea u sumbedzwa— 5
- (i) dzina la/vhufe ha tshitshavha tshapo;
- (ii) fhethu ha vhubvo ha iyo ndivho yapo; na
- (iii) uri naa u tenda muthu o thoma a vhudzwa ha mupe wa ndivho yapo ho wanala kha tshitshavha tsha ndivho yapo nahone nzudzanyo dza u kovhekana mbuelo dzo itwa na itsho tshitshavha tshapo naa. 10
- (3) Muthu wa tshitshavha tsha ndivho yapo a re na ndivho yapo ane a funa u ita vhubindudzi ha ndivho yapo—
- (a) u tea u wana themendelo u bva kha tshitshavha tshapo; nahone
- (b) a nga ita fhedzi vhubindudzi nga iyo ndivho yapo nga ndila ine ya tevhedza milayo yo vhwahwa ya tshitshavha tsha ndivho yapo sa zwe zwa tendelanwa na thirasitii. 15

### NDIMA YA 5

#### U DZHIELA NTHA NDIVHO I SONGO WANWAHO TSHIKOLONI YA VHASHUMI VHA ZWA NDIVHO YAPO

- U tendelwa ha vhaṭhaṭhuvhi** 20
- 14.** (1) Mushumi wa zwa ndivho ya sialala a re na ṭhanziela a nga ita khumbelo ngei kha NIKSO a tshi khou tevhedza ndila yo randelwaho uri a tendelwe u vha muṭhaṭhuvhi.
- (2) Musi hu tshi khou shumiswa khumbelo ya khethekanyo ya (1), NIKSO—
- (a) i tea u sengulusa khumbelo inwe na inwe u ya nga maitele na ṭhoḏea dzo randelwaho; na 25
- (b) i nga ṅetshedza ṭhanziela ya u tendela uri muhumbeli a vhe muṭhaṭhuvhi arali khumbelo yo fusha zwine zwa khou ṭoḏwa nga ofisi uri muhumbeli ngoho o fusha ndila dzo randelwaho.
- (3) NIKSO i nga vhea milayo i pfadzaho musi i tshi tshi fha thendelo.
- (4) NIKSO nga ndila yo randelwaho i nga fhelisa uho u tendelwa ha muṭhaṭhuvhi, arali muṭhaṭhuvhi o— 30
- (a) bula mazwifhi kana nga khole o ṅetshedza khumbelo lwa vhuḥfura kha NIKSO;
- (b) o kundelwa u anana kana o pfuka milayo i kwamaho u tendelwa;
- (c) kundelwa kana o hana u anana na kuitele kwa u tendelwa kwo randelwaho; 35
- (d) ṭanganedza mbadelo zwi si ho mulayoni, malugana na u fha ṭhanziela ya mushumi wa ndivho yapo;
- (e) badelisa masheleni a sa pfadzi nahone o kalulesaho malugana na u fha ṭhanziela ya ndivho yapo;
- (f) o vha na lunyadzo nga u pfuka madzangalelo a thero kana mushumo wa muṭhaṭhuvhi o ṅwalisaho; kana 40
- (g) wanwa mulandu wa vhutshinyi nahone o gwevhiwa u dzula dzhele hu si na u badela ndaṭiso.
- (5) Minista a nga yandela maitela a u tendela ane a tea u tevhendzwa nga vhaṭhaṭhuvhi vho ṅwaliswaho. 45

#### ṭhanziela dza vhashumi vha zwa ndivho yapo

- 15.** (1) Muthu muṅwe na muṅwe ane a funa u ṅwalisa ndalukano dzawe sa mushumi wa zwa ndivho yapo u tea u ita khumbelo nga ndila yo randelwaho ngei kha NIKSO uri a wane ṭhanziela ya u khwaṭhisedza na u rekhodiwa kha redzhisitara ya Mushumo.
- (2) NIKSO i nga isa khumbelo uri i khwaṭhisedzwe ngei kha muṭhaṭhuvhi ane a ḏo i ṭhaṭhuvha na u ita themendelo. 50
- (3) Musi hu tshi khou ṭhaṭhuvhiwa uri muhumbeli u a fusha ṭhoḏea naa, muṭhaṭhuvhi u tea u shumisa zwiṭandadi na milayo yo randelwaho musi hu tshi khwaṭhisedzwa uri muthu ndi mushumi wa zwa ndivho yapo.
- (4) Musi u ṭhaṭhuvhi zwo fhela, arali muhumbeli o fusha ṭhoḏea dzoṭhe dzo randelwaho, muṭhaṭhuvhi u tea u ita themendelo kha NIKSO uri hu ṅekedzwe ṭhanziela ya vhuḥkoni kha muhumbeli ndivho i ya u khwaṭhisedza. 55

- (5) Subject to subsection (4), NIKSO must—
- (a) issue the certificate of competency to the applicant; and
  - (b) record the applicant as a certified indigenous knowledge practitioner in the Register of Designations.
- (6) Subject to subsection (5), no indigenous knowledge practitioner may practice for gain, unless the practitioner is registered with the relevant government department and been granted permission to practice in terms of the applicable prescribed practice standards. 5
- (7) NIKSO may, in the prescribed manner, revoke the certification of an indigenous knowledge practitioner if such practitioner has— 10
- (a) made a false declaration or intentionally submitted a fraudulent application to NIKSO;
  - (b) failed or refused to comply with the prescribed certification procedures;
  - (c) failed to comply with or contravened any of the conditions set out in the certificate; 15
  - (d) undermined, through any act or omission, the interests of the discipline of practice for which the practitioner is certified;
  - (e) been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or
  - (f) voluntarily relinquished practice as an indigenous knowledge practitioner. 20
- (8) The Minister must prescribe application standards and procedures to be followed by applicants.

### Register of Designations

16. (1) NIKSO must—
- (a) keep the Register of Designations in the prescribed manner; and 25
  - (b) ensure the security of the Register of Designations.
- (2) Where information may be accessed by persons other than the indigenous community or an individual within that indigenous community, NIKSO must facilitate such access on payment of a prescribed fee.

## CHAPTER 6

30

### REGISTRATION OF INDIGENOUS KNOWLEDGE

#### Registration Office for Indigenous Knowledge

17. NIKSO must establish a Registration Office for Indigenous Knowledge.

#### Curator of indigenous knowledge

18. (1) The Minister must appoint a suitably skilled and qualified person as the Curator of indigenous knowledge in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994). 35
- (2) The Curator is responsible for the control of the Registration Office, subject to the directions and instructions issued by the Minister or the Director-General as delegated by the Minister. 40
- (3) The Curator may delegate any of the powers and entrust any of the duties assigned to him or her by this Act, to any officer within NIKSO.
- (4) The Curator must permit the trustee to act on behalf of the indigenous community for whom he or she is a trustee, in connection with registration under this Act or any proceeding relating thereto. 45

- (5) NIKSO i tshi khou tevhedza khethekanyo ya (4) i tea—
- (a) u nekedza tñanziela ya vhukoni kha muhumbeli; na
  - (b) u rekhoda muhumbeli sa mushumi wa zwa ndivho yapo o khwaṭhisedzwaho kha Redzhisitara ya Mishumo.
- (6) Hu tshi khou tevhedzwa khethekanyo ya (5), a hu na mushumi wa zwa ndivho yapo ane a a nga shuma a tshi itela malamba, nga nnḁa ha musi mushumo uyo o ṅwalisa kha muhasho wo teaho wa muvhuso nahone o fhiwa thendelo ya u shuma u ya nga zwiṭandadi zwo randelwaho nahone zwo teaho. 5
- (7) NIKSO nga ṅḁila yo randelwaho, i nga fhelisa tñanziela ya mushumi wa zwa ndivho yapo arali uyo mushumi— 10
- (a) o amba mazwifhi kana o ita tshiṭaṭamennde tsha mazwifhi kana o ita khumbelo a tshi khou shumisa vhuḁhura ngei kha NIKSO;
  - (b) o kundelwa u tevhedza kana o hana u tevhedzela maitele o randelwaho a u khwaṭhisedza;
  - (c) o kundelwa u tevhedzela kana o pfuka milayo miṅwe na miṅwe yo sumbedzwaho kha tñanziela; 15
  - (d) nga zwe a ita kana u pfuka a vha o nyadza madzangalelo a maitele kwao ane muhumbeli o fhelwa one tñanziela;
  - (e) o wanwa mulandu wa vhutshinyi nahone o gwevhelwa u dzula dzhele hu si na u tou badela ndaṭiso; kana 20
  - (f) ene muṅe o ṭutshela mushumo wawe wa u shuma sa mushumi wa zwa ndivho yapo.
- (8) Minista fanela utea themendelo kha malugana na milayo na zwiṭandadi zwa u tendela vhashumi.

#### **Redzhisitara ya Madzina a vhuimo** 25

- 16.** (1) NIKSO—
- (a) i vbulunga Redzhisitara ya Madzina a vhuimo nga ṅḁila yo randelwaho; na
  - (b) i vhona uri hu vhe na tsireledzo ya Redzhisitara ya Madzina a vhuimo.
- (2) Hune mafhungo a nga swikelelwa nga vhathu nga nnḁa ha tshitshavha tsha ndivho yapo kana muthu ngomu ha itsho tshitshavha tshapo, NIKSO i tea u tshimbidza uho u swikelela ho vha na u badelwa ha tshelede yo randelwaho. 30

### **NDIMA YA 6**

#### **U WALISWA HA NḁIVHO YAPO**

##### **Ofisi ya u walisa zwa Nḁivho Yapo**

- 17.** NIKSO i vhumba Ofisi ya u walisa Nḁivho Yapo. 35

##### **Mulondoli wa nḁivho yapo**

- 18.** (1) Minista u tea u thola muthu a re na vhukoni ho teaho nahone ane a vha na ndalukano dzone-dzone sa Mulondoli wa nḁivho yapo u ya nga Mulayo wa Tshumelo dza Muvhuso wa, 1994 (Proclamation No. 103 of 1994).
- (2) Mulondoli wa nḁivho yapo u na vhuḁifhinduleli ha u langa Ofisi ya u walisa a tshi khou tevhedza ndaela dzi bvaho kha Minista na Mulangi-Muangaredzi o rumelwa nga Minista. 40
- (3) Mulondoli uyu a nga hwesa maanḁa awe muofisiri muṅwe na muṅwe ane a wanala kha NIKSO ane a mu themba uri a shume mishumo ye a hweswa yone nga uno Mulayo. 45
- (4) Mulondoli u tea u tendela thirasitii uri a shume o imela tshitshavha tshapo tshine a vha thirasitii watsho malugana na u ṅwalisa nga fhasi ha uno Mulayo kana tshiṅwe na tshiṅwe tshi itwaho.

**Register of indigenous knowledge**

- 19.** (1) NIKSO must—
- (a) keep a Register of Indigenous Knowledge in the prescribed manner; and
  - (b) ensure the security of the Register.
- (2) The Curator must record in respect of each item of indigenous knowledge— 5
- (a) the particulars of the indigenous community from which the indigenous knowledge originates;
  - (b) whether the indigenous knowledge is functional indigenous knowledge or an indigenous cultural expression, or both;
  - (c) whether the information provided may only be shared with persons outside the indigenous community with its prior informed consent; 10
  - (d) whether any agreements have been entered into between an outside party and the indigenous community;
  - (e) whether the indigenous knowledge is closely related to indigenous knowledge registered by another indigenous community, and if so, details of that indigenous knowledge; and 15
  - (f) any such other particulars as may be prescribed.
- (3) The Register is presumed to be evidence of any matters directed or authorised by this Act to be recorded therein.

**Registration of indigenous knowledge** 20

- 20.** (1) The trustee of an indigenous community may apply to the Curator in the prescribed manner for the registration of indigenous knowledge.
- (2) Subject to the provisions of this Act, the Curator may—
- (a) approve the application;
  - (b) approve the application subject to any conditions or limitations, and register 25 the indigenous knowledge; or
  - (c) reject the application if it does not meet the criteria set out in section 11.
- (3) The Curator must, within 30 days after the registration of the indigenous knowledge—
- (a) issue to the applicant a certificate of registration in the prescribed form; and 30
  - (b) publish, in the prescribed form, a notice of registration in the Indigenous Knowledge Bulletin and any appropriate publication.
- (4) In order to exercise any right in respect of indigenous knowledge under this Act, the indigenous community must register the indigenous knowledge in terms of Chapter 6. 35

**Inspection of Register**

- 21.** (1) Subject to the provisions of this Act, the Curator must make the Register available for inspection by the public during working hours, upon payment of the prescribed fee.
- (2) Notwithstanding subsection (1), additional documents relating to the registration 40 of indigenous knowledge may only be made available to the public, if the person seeking access enters into a prescribed non-disclosure agreement.
- (3) The Curator must, as prescribed, at the request of any person, and on payment of the prescribed fee, furnish a copy of an extract of the Register, or a copy of a certificate of registration. 45

**Certificates of Curator to be *prima facie* evidence**

- 22.** (1) A certificate appearing to be issued by the Curator, in respect of any record authorised by this Act, is presumed evidence of the content thereof and action authorised therein, unless proven otherwise.
- (2) In any judicial proceedings— 50
- (a) printed or written copies or extracts appearing to be copies of or extracts from the Register; or

**Redzhisiṭara ya nḍivho yapo**

- 19.** (1) NIKSO i tea u—  
 (a) vhulunga Redzhisiṭara ya Nḍivho Yapo nga nḍila yo randelwaho; na  
 (b) vhona uri hu vhe na tsireledzo kha iyo Redzhisiṭara.
- (2) Mulondoli u tea u rekhoda tshiteṅwa tshiṅwe na tshiṅwe tsha nḍivho yapo— 5  
 (a) zwidodombedzwa zwa tshitshavha tshapo afho hune nḍivho yapo yo thoma hone;  
 (b) hu nga vha nḍivho i tshi shumiswa kana i nḍivho ya u sumbedza mvelele, kana zwoṅhe;  
 (c) hu nga vha mafhungo o ṅetshedzwaho a tshi nga kovhelwa-vho na vhatu vha 10  
 nga nḍa ha tshitshavha tshapo ho ranga ha vha na u tenda wo vhudzwa;  
 (d) hu nga vha thendelano iṅwe na iṅwe ye ya dzhenwa khayi vhukati ha vhatu vha nḍa na tshitshavha tshapo;  
 (e) hu nga vha nḍivho yapo i tshi ṭutshelana na nḍivho yapo yo ṅwaliswaho nga tshiṅwe tshitshavha tshapo, nahone arali zwo ralo, zwidodombedzwa zwa iyo 15  
 nḍivho; na  
 (f) zwidodombedzwa zwiṅwe na zwiṅwe u ya nga he zwa randelwa.
- (3) Redzhisiṭara i dzhiwa hu hone vhuṭanzi ha mafhungo maṅwe na maṅwe o laelwaho na u tendelwa nga uno Mulayo.

**U ṅwaliswa ha nḍivho yapo** 20

- 20.** (1) Thirasitii wa tshitshavha tshapo a nga ita khumbelo kha Mulondoli nga nḍila yo randelwaho a tshi itela u ṅwalisa nḍivho yapo.
- (2) Hu tshi khou tevhedzwa uno Mulayo, Mulondoli a nga—  
 (a) tendela iyo khumbelo;  
 (b) tendela khumbelo a tshi khou tevhedza milayo miṅwe na miṅwe kana 25  
 phungudzelo, nahone a kona-ha u ṅwalisa iyo nḍivho yapo; kana  
 (c) hanela khumbelo arali i sa fushi nḍila dzo vhwaho kha khethekanyo ya 11.
- (3) Hu sa athu u fhela maḍuvha a 30, nga murahu ha u ṅwalisa nḍivho yapo, Mulondoli u tea u—  
 (a) ṅetshedza muhumbeli ṭhanziela ya u ṅwalisa a tshi khou tevhedza nḍila yo 30  
 randelwaho; na  
 (b) a nḍadza nḍivhadzo ya u ṅwalisa Nḍivho Yapo kha Gurannḍa ya mafhungo na kha iṅwe nyanḍadzo yo teaho, zwi tshi khou itwa nga nḍila yo randelwaho.
- (4) U itela u shumisa pfanelo zwi tshi kwama nḍivho yapo nga fhasi ha uno Mulayo, tshitshavha tshapo tshi tea u ṅwalisa nḍivho yapo u ya nga Ndimba ya 6. 35

**U ingamelwa ha Redzhisiṭara**

- 21.** (1) Hu tshi khou tevhedzwa mbetshelo dza uyu Mulayo, Mulondoli u tea u ita uri Redzhisiṭara i ingamelwe nga tshitshavha nga tshifhinga tsha mushumo, musi ho badelwa mbadelo yo randelwaho.
- (2) naho hu na khethekanyo ṭhukhu ya (1), maṅwe maṅwalwa a kwamaho u ṅwalisa 40  
 nḍivho yapo a nga itwa uri a wanale nga tshitshavha fhedzi arali muthu ane a khou ṭoḍa u a swikelela a tshi ita thendelano ya u fhulufhedzisa u sa punḍisa mafhungosa zwe zwa randelwa.
- (3) Mulondoli nga nḍila yo randelwaho nahone ho itwa khumbelo nga muthu ufho na ufho nahone ho itwa mbadelo yo randelwaho u tea u fha khophi ya zwi bvaho kha 45  
 Redzhisiṭara, kana khophi ya ṭhanziela ya u ṅwalisa.

**Ṭhanziela dza Mulondoli ndi hone vhuṭanzi ha *prima facie***

- 22.** (1) Ṭhanziela i vhonehala unga yo ṅetshedzwa nga Mulondoli, malugana na rekhodo iṅwe na iṅwe yo tendelwaho nga uno Mulayo, i dzhiwa hu hone vhuṭanzi ha 50  
 zwi re ngomu na zwo itwaho zwo tendelwa, nga nḍa ha musi zwo sumbedzwa nga iṅwe nḍila.
- (2) Kha khaṭulo dziṅwe na dziṅwe—  
 (a) khophi dzo phrinthiwaho na dzo tou ṅwalwaho kana zwe zwa bviswa kha izwi zwi vhonehala hu khophi dza kana zwo bviswaho kha Redzhisiṭara; kana

(b) any document relating to indigenous knowledge certified by the Curator of the Registration Office,  
is presumed evidence of the content thereof, unless proven otherwise, and may be admitted as evidence without further proof or production of the original.

**Register to be constructive notice** 5

**23.** In any proceedings regarding the rights registered in respect of indigenous knowledge, it may be presumed—

- (a) that every party to those proceedings was aware of the particulars entered in the Register from the date of the section 20(3)(b) publication; and
- (b) that any person using the indigenous knowledge did so knowing that it was registered and that it was a pre-condition of use that the person should have entered into a benefit sharing agreement before commencing use. 10

**Amendment of Register**

**24.** (1) The Curator may—

- (a) upon receiving an application from an interested person in the prescribed manner; and 15
- (b) after granting the indigenous community an opportunity to make representations in response to the application, amend the Register.

(2) The Curator must amend an entry in the Register in accordance with any finding by a court. 20

**CHAPTER 7**

**COMMERCIAL UTILISATION OF INDIGENOUS KNOWLEDGE**

**Product development, commercialisation, services and processes**

**25.** (1) NIKSO may, at the request of an indigenous community, provide assistance or facilitate the commercial use of its indigenous knowledge. 25

(2) NIKSO must, in respect of commercial use of indigenous knowledge—

- (a) promote partnerships for innovation and product development;
- (b) coordinate funding;
- (c) develop market strategies; and
- (d) promote commercial use of products, services, processes and the use of technology. 30

**Access to and use of indigenous knowledge**

**26.** (1) Any person who intends to use indigenous knowledge for commercial purposes must—

- (a) apply in the prescribed manner for a licence authorising the use of that indigenous knowledge; and 35
- (b) enter into a licence agreement with the trustee of the relevant indigenous community for the use of that indigenous knowledge,

as facilitated by NIKSO.

(2) NIKSO must consult with the trustee on the terms of the subsection (1)(b) licence agreement for the intended use and benefits payable by the licence holder. 40

(3) In the event that the indigenous knowledge, which is the subject of the licence agreement, is—

- (a) functional in nature, then any obligation on the part of the licence holder to pay a royalty expires 20 years after the date of agreement; and 45
- (b) an indigenous cultural expression, then any obligation on the part of the user to pay a royalty expires 50 years after the date of agreement.



- (b) liñwalwa liñwe na liñwe li kwamaho ndivho yapo lo khwaḥisedzwaho nga Mulondoli wa Ofisiya u walisa, li dzhiwa hu vhuḥanzi ha zwi re ngomu ha, nga nḥa ha musi hu na tsumbo ya iñwe nḥila, nahone li nga ḥangedzwa sa vhuḥanzi hu si na iñwe tsumbo kana u bveledzwa ha liñwalwa la oridzhinaḥa. 5

### Redzhiḥara i vha yone ndivhadzo

23. Kha khothe ya malugana na pfanelo dzo ḥwaliswaho malugana na ndivho yapo, zwi dzhiwa—

- (a) uri muñwe na muñwe a kwameaho kha iyo miḥangano u na ndivho ya zwidodombedzwa zwo dzheniswaho kha Redzhiḥara u bva nga datumu ya u anḥadza khethekanyo ya 20(3)(b); na 10
- (b) uri muthu muñwe na muñwe ane a khou shumisa ndivho yapo o i shumisa a tshi khou ḥivha uri yo ḥwaliswa nahone hu na milayo yo vhwaho ya uri hu vhe na thendelano malugana na u kovhekana mbuelo phanḥa ha musi ndivho i tshi shumiswa. 15

### U khakhulula Redzhiḥara

24. (1) Mulondoli—

- (a) musi o ḥangedza khumbelo i bvaho kha muthu a re na dzangalelo nga nḥila yo randelwaho; na
- (b) nga murahu ha u fha tshitshavha tshapo tshikhala tsha u sumbedza zwi kwamaho khumbelo, Mulondoli u ḥo khakhulula Redzhiḥara. 20

(2) Mulondoli u tea u khakhulula zwo ḥwalwaho kha Redzhiḥara u ya nga mawanwa a khothe.

## NDIMA YA 7

### U SHUMISWA HA NDIVHO YAPO SA VHUBINDUDZI 25

#### U bveledzisa tshibveledzwa, u tshi bindudza, tshumelo na maitele

25. (1) NIKSO musi hu na khumbelo yo itwaho nga tshitshavha tshapo i nga thusa kana u tshimbidza zwa u shumiswa ha ndivho yapo nga nḥila i bindudzaho.

(2) NIKSO malugana na u shumisa ndivho yapo nga nḥila i bindulisaho—

- (a) i tea u ḥuḥwedza tshumisano (vhuḥama) na u bveledzisa tshibveledzwa; 30
- (b) u konanya ndambedzo;
- (c) u ita nḥila dza u vhambadza; na
- (d) u ḥuḥwedza u shumisa zwibveledzwa, tshumelo, kuitele na thekhnoloḥdhi nga nḥila i bindulaho.

#### U swikelela na u shumisa ndivho yapo 35

26. (1) Muthu muñwe na muñwe ane a funa u shumisa ndivho yapo nga nḥila ya bindu u tea u—

- (a) ita khumbelo nga nḥila yo randelwaho uri a wane ḥaisentse i mu tendelaho u shumisa iyo ndivho yapo; na
- (b) ita thendelano na thirasitii wa tshitshavha tshapo tsho teaho u itela u shumisa iyo ndivho yapo, 40

zwi tshi khou tshimbidzwa nga NIKSO.

(2) NIKSO i tea u kwama thirasitii zwi tshi kwama khethekanyo ḥukhu ya (1)(b) maelana na thendelano ya ḥaisentse ya u shumisa na mbuelo dzi badelwaho nga muḥe wa ḥaisentse. 45

(3) Kha nyimele ine ndivho yapo ine y a tea u tevhedza thendelano ya ḥaisentse ndi—

- (a) ya vhuḥa ha saintsi kana thekhenikhaḥa, zwenezwo-ha mbofho iñwe na iñwe kha muḥe wa ḥaisentse malugana na u badela mbadelo i fhela nga murahu ha miñwaha ya 20 ya thendelano; nahone
- (b) ndivho i sumbedzaho zwa mvelele, mbofho ya hone kha mushumisi ane a badela mbadelo i ḥo fhela nga murahu ha miñwaha ya 50 ya thendelano. 50

- (4) No prior informed consent for the use of indigenous knowledge is required for—
- (a) criticism or academic review;
  - (b) reporting news or current events;
  - (c) judicial proceedings;
  - (d) any use that is incidental to the above purposes; and 5
  - (e) in circumstances of national emergencies or natural disasters, as long as the relevant indigenous community is compensated for the use of their indigenous knowledge.

(5) A licence holder must, subject to subsection (1), acknowledge the relevant indigenous community by mentioning them or the geographical place from which the indigenous knowledge originated. 10

(6) Any person who is aggrieved by a NIKSO decision or the conditions imposed with regard to access, may within 60 working days declare a dispute and refer the matter for resolution in terms of section 27.

## CHAPTER 8 15

### ENFORCEMENT OF RIGHTS

#### Dispute Resolution Committee

27. (1) The Minister may, subject to prescribed terms and conditions, appoint members of the Dispute Resolution Committee to resolve any dispute arising from this Act on an ad hoc basis. 20

(2) In resolving a dispute, the Dispute Resolution Committee must consider customary laws which may have a bearing on the subject matter of the dispute.

(3) Any party to a matter referred to the Dispute Resolution Committee may take the matter for review to the High Court.

(4) The Dispute Resolution Committee may, as a sanction: 25

- (a) issue a written warning to the licence holder;
- (b) issue a notice prohibiting the unauthorised use of indigenous knowledge by the licence holder; and
- (c) recommend to NIKSO the cancelling, suspending or revoking of the licence rights of a licence holder. 30

#### Offences and penalties

28. Any third party who—

- (a) knowingly makes commercial use of indigenous knowledge in a manner which is not in accordance with an agreement entered into with the indigenous community; and 35
  - (b) infringes the rights of that indigenous community,
- is guilty of an offence and on conviction liable to pay a fine as prescribed.

## CHAPTER 9

### GENERAL PROVISIONS

#### Transitional arrangements 40

29. (1) Indigenous knowledge originating in a foreign jurisdiction must be given the same protection granted to indigenous knowledge originating in the Republic, if the laws of that foreign jurisdiction provide reciprocal protection to indigenous knowledge originating in the Republic.

(2) In instances where indigenous knowledge originates in one or more indigenous communities in foreign jurisdictions and in the Republic, NIKSO must assist the relevant foreign authorities and the indigenous community of the Republic to conclude an arrangement to share equitably in the proceeds accruing to the indigenous communities in terms of that benefit sharing agreement. 45



- (4) A hu na u tenda muthu o thoma a ñivhadzwa malugana na u shumisa ñivho yapo kha zwa—
- (a) ñhlo ya zwa akademi kana tsenguluso;
  - (b) u vhiga mafhungo;
  - (c) zwa khañulo; 5
  - (d) kha ndivho dza ñhoñisiso ya akademi hu si na u bindula; na
  - (e) kha nyimele ya lushaka ya shishi kana zwiwo zwa mupo: tenda tshitshavha tshapo tsho teaho tsha badelwa malugana na uho u shumiswa ha ñivho yapo ya itsho tshitshavha.
- (5) Muthu a re na ñaisentse a tshi khou tevhedza khethekanyo ñhukhu ya (1), u tea u livhuwa tshitshavha tshapo tsho teaho nga u bula dzina kana vhupo afho hune ñivho yapo ya bva hone. 10
- (6) Muthu muñwe na muñwe ane a pfa o khakhelwa nga tsheo ya NIKSO kana milayo yo vhwahwa malugana na uho u swikelela ñivho u tea uri hu sa athu u fhela mañuvha a 60 a mushumo, a ite khandzo na u isa iyo thaidzo uri i tandululwe u ya nga khethekanyo ya vhu 27. 15

## NDIMA YA 8

### KUTEVHEDZELE KWA PFANELO

#### Komiti ya u Thasulula Phambano

27. (1) Minista a tshi khou tevhedza milayo yo randelwaho, a nga thola miraño ya Komiti ya u Thasulula Phambano u itela u tandulula phambano dzi itiswaho nga uyu Mulayo kha yeneyo nyimele. 20
- (2) Musi hu tshi tandululwa phambano, Komiti ya u Tandulula Phambano i tea u lavhelesa milayo ya mvelele ine ya nga thusa kha fhungo ñi kwameaho kha phambano.
- (3) Muñwe na muñwe ane a kwamea kha fhungo ño iswaho kha Komiti ya u Thasulula Phambano, a nga isa ño fhungo Khothe khulwane uri ñi lavheleswe. 25
- (4) Komiti ya u Thasulula Phambano i tshi khou ita ndaño i nga:
- (a) ñetshedza khaidzo yo tou ñwalelwaho muñe wa ñaisentse;
  - (b) ñetshedza ñivhadzo ya u iledza u shumisa ñivho yapo hu si na thendelo i bvaho kha muñe wa ñaisentse; na 30
  - (c) u themendela kha NIKSO uri hu fheliswa, hu imiswe kana u dzhiulula ñaisentse ya pfanelo kha muñe wayo. 30

#### Vhutshinyi na ndaño

28. (1) Muñwe muthu muñwe na muñwe ane—
- (a) ane a tshi zwi ñivha a shumisa ñivho yapo lwa u mu bindulisa nga ñila ine ya lwa na thendelano yo itwaho na tshitshavha tshapo; na 35
  - (b) u pfukekanya pfano dza tshitshavha tshapo,
- u na mulandu wa vhutshinyi nahone u tewa nga u wanwa mulandu a badela na ndaño yo randelwaho.

## NDIMA YA 9

40

### MBETSHELO NYANGAREDZI

#### Nzudzanyo dza tshanduko

29. (1) ñivho yapo ine ya bva kha mukano wa mashangoñavha i tea u tsireledzwa u tou fana na ñivho yapo yo tumbukaho fhano kha Riphabuñiki, arali milayo ya ño shangoñavha ya vha na u ñekana tsireledzo kha ñivho yapo yo tumbukaho fhano kha Riphabuñiki. 45
- (2) Kha nyimele dzine ñivho yapo ya vha yo tumbuka kha tshitshavha tshapo tshithihi kana zwinzhi kha mikano ya ñña na kha Riphabuñiki, NIKSO i tea u thusa maanñalanga o teaho a mashangoñavha na tshitshavha tshapo tsha Riphabuñiki kha u vhina nzudzanyo dza u kovhekana mbuelo i liganaho hu tshi khou tevhedzwa thendelano ya u kovhana mbuelo. 50

**Multiple claims to indigenous knowledge**

**30.** (1) Where there are multiple claims to indigenous knowledge, any remuneration payable under a benefit sharing agreement must be apportioned equally among the trustees.

(2) Where an existing benefit sharing agreement in terms of subsection (1) does not include all the trustees of the relevant indigenous communities, the agreement must be amended accordingly. 5

**Regulations**

- 31.** (1) The Minister may make regulations regarding any matter pertaining to—
- (a) the protection, promotion, development and management of indigenous knowledge; 10
  - (b) procedures for securing registration in the Register and obtaining licences to use indigenous knowledge from NIKSO;
  - (c) matters which may or must be prescribed in terms of this Act; and
  - (d) in general, any ancillary or incidental matter that it is necessary to prescribe for the proper implementation or administration of this Act. 15

**Effect on other laws**

**32.** (1) This Act does not alter or detract from any right in respect of any statute or the common law.

(2) Compliance with any procedures or requirements laid down in this Act does not constitute compliance with any procedures or requirements imposed in any other Act. 20

**Transitional arrangements**

**33.** (1) An indigenous community wishing to register indigenous knowledge already in existence at the time of commencement of this Act, must register such indigenous knowledge in terms of this Act. 25

(2) Any continued use of indigenous knowledge, after the commencement of this Act, must be regulated in terms of a licence agreement between the trustee of the relevant indigenous community and the potential licence holder, entered into within 12 months from the date of commencement of this Act.

**Short title and commencement** 30

**34.** This Act is called the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

**Ndivho yapo ine vhaṅe vhayo ndi vhanzhi**

**30.** (1) Kha nyimele ine vhaṅe vha ndivho yapo vha vha vhe vhanzhi, mbadelo inwe na inwe ine ya ḍo badelwa nga fhasi ha thendelano ya u kovhana mbuelo i ḍo kovhiwa u lingana ya badelwa kha dzithirasitii.

(2) Hune ha vha na thendelano ya u kovhana mbuelo u ya nga khethekanyo ṭhukhu ya (1) i sa kateli dzithirasitii dzo teaho dza zwitshavha zwapo, thendelano i ḍo tea u khwiniswa zwavhuḍi. 5

**Ndangulo**

**31.** (1) Minista a nga ita ndangulo malugana na mafhungo afhio na afhio a kwamaho— 10

- (a) tsireledzo, ṭhuthuwedzo (*nyaluso*), mveledziso na vhulangi ha ndivho yapo;
- (b) maitete a u nwalisa kha Redzhisiṭara na u wana laisentse ya u shumisa ndivho yapo kha NIKSO;
- (c) mafhungo ane a nga kana ane a tea u randelwa u ya nga uyu Mulayo; na
- (d) nga u angaredza, mafhungo maṅwe na maṅwe ane tea u randelwa hu tshi itelwa uri hu vhe na ndaulo yavhuḍi na kushumisele kwa uno Mulayo. 15

**U kwamea ha miṅwe milayo**

**32.** (1) Uyu Mulayo a u thuthi kana a u fhungudzi pfanelo dzi kwamaho mulayo u itwaho nga phalamennde kana mulayo wo ḍowealeho.

(2) U tevhedza maitete na ṭhoḍea dza uyu Mulayo a zwi iti uri muthu a pfi u khou anana na maitete kana ṭhoḍea dzo vhwaho nga miṅwe Milayo. 20

**Nzudzanyo dza tshanduko**

**33.** (1) Tshitshavha tshapo tshinwe na tshinwe tshine tsha khou funa u nwalisa ndivho yapo ye ya vha i hone phanḍa ha u thoma u shuma ha uno Mulayo, tshi tea u nwalisa iyo ndivho yapo u ya nga onoyu Mulayo. 25

(2) U ya phanḍa ha u shumiswa ha ndivho yapo, nga murau ha u thoma u shuma ha uno Mulayo, zwi tea u langulwa u ya nga laisentse ya thendelano vhukati ha thirasitii wa tshitshavha tsho teaho na ane a ḍo wana laisentse, yo itwaho kha miṅwedzi ya 12 u bva kha u thoma u shuma ha uno Mulayo.

**Dzina jipfufhi na u thoma u shumisa Mulayo 30**

**34.** Uyu Mulayo u vhidzwa u pfi Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndivho Yapo wa, 2019, nahone u ḍo thoma u shumiswa nga datumu yo tiwaho nga Phresidennde nga mulevho wa *Gazete*.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za  
Publications: Tel: (012) 748 6053, 748 6061, 748 6065