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No. 36703

THE PRESIDENCY

No. 530 24 July 2013

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

Act No. 14 of 2013: National Environmental Management Laws Amendment Act, 2013

MO-PRESIDENTE

No. 530 24 July 2013

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebiso ya kakaretso:—

Nmr 14 ya 2013: Molao wa Phetolelo ya Melao ya Bosetshaba ya Tsamaiso ya Tikologo, wa 2013



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

GENERAL EXPLANATORY NOTE:

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

(English text signed by the President)
(Assented to 24 July 2013)

ACT

To amend the—

- **National Environmental Management: Biodiversity Act, 2004**, so as to amend certain definitions and to define certain words and expressions; to revise the objectives of the Act to emphasise the need to protect the ecosystem as a whole, including species which are not targeted for exploitation; to revise the purpose of Chapter 4 to provide for the regulation of threatened and indigenous species to ensure that the utilisation of these species are done in an ecologically sustainable manner; to effect certain textual amendments to the provisions on protection of species; to address some of the regulatory gaps within the permitting system; to facilitate the implementation of self-administration; to extend the functions of the scientific authority to include assisting with species to which an international agreement regulating international trade applies; to revise the purpose and application of Chapter 6; to insert a provision to allow for the domestic or subsistence use of indigenous biological resources; to repeal the appeal provisions; to provide for circumstances under which a permit application or permit may be deferred, refused, cancelled or suspended; to extend the powers of the Minister to make regulations; to add offences and penalties; and to provide for the Minister to declare amnesty in certain circumstances;
- **National Environmental Management: Air Quality Act, 2004**, so as to align the penalties with other specific environmental management Acts;
- **National Environmental Management: Waste Act, 2008**, so as to provide for textual amendment to the definition of waste;
- **National Environment Management Laws Amendment Act, 2008**, so as to correct an incorrect citation; and
- **National Environmental Management: Protected Areas Amendment Act, 2009**, so as to correct an incorrect citation,

and to provide for matters connected therewith.

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

Amendment of section 1 of Act 10 of 2004, as amended by section 29 of Act 14 of 2009

1. Section 1 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

(a) by the insertion after the definition of “biological diversity” or “biodiversity” of the following definition:

“**‘biodiversity sector’** means any sector or sub-sector that carries out restricted activities involving indigenous biological resources, whether for commercial or for conservation purposes;”

(b) by the deletion in the definition of “bioprospecting” of the word “or” at the end of paragraph (b), the insertion in that definition of the word “or” at the end of paragraph (c) and the addition to that definition of the following paragraph:

“(d) the trading in and exporting of indigenous biological resources in order to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours, extracts and essential oils;”

(c) by the insertion after the definition of “Board” of the following definition: “**‘commercial exploitation’**, means the engaging in any bioprospecting activity with the intention of making a profit;”

(d) by the substitution for the definition of “commercialisation” of the following definition:

“**‘commercialisation’**, in relation to indigenous biological resources, includes the following activities:

(a) the filing of any complete intellectual property application, whether in South Africa or elsewhere;

(b) obtaining or transferring any intellectual property rights or other rights;

(c) commencing [**clinical trials and**] product development, including the conducting of market research and seeking pre-market approval for the sale of resulting products; [**or**]

(d) the multiplication of indigenous biological resources through cultivation, propagation, cloning or other means to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours [**and**], extracts and essential oils;

(e) trading in and exporting of indigenous biological resources to develop and produce products, such as drugs, industry enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours, extracts and essential oils; and

(f) commercial exploitation;”

(e) by the substitution for the definition of “competent authority” of the following definition:

“**‘competent authority’**, in relation to the control of an alien or invasive species, means—

(a) the Minister;

(b) the MEC; or

[(b)](c) an organ of state in the national, provincial or local sphere of government [**designated by regulation**] delegated as a competent authority for the control of an alien species or a listed invasive species in terms of [**this Act**] section 42 of the National Environmental Management Act, 1998; [**or**

(c) **any other organ of state;**”

(f) by the substitution for the definition of “delegation” of the following definition:

“**‘delegation’**, in relation to a duty, includes an instruction to perform the duty] has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998;”

A E ATLANEGISIWE ke Palamente ya Rephaboliki ya Aforika Borwa, jaana:—

Go fetolwa ga karolo 1 ya Molao 10 wa 2004, jaaka o fetotswe ka karolo 29 ya Molao 14 wa 2009

1. Karolo 1ya Molao wa Bosetšhaba wa Tsamaiso ya Tikologo: Molao *Biodiversity* 5
wa, 2004, wa fetolwa—
- (a) ka go kwala morago ga tlhaloso ya “tlholego ka go farologana” kgotsa
“pharologano ya tlholego” tlhaloso e e latelang:
“**‘lekala la pharologano ya tlholego’** go bolela lekala lengwe le lengwe
kgotsa lekalanyana le le dirang ditiro tse di lebaganeng le metswedi ya 10
ditshedi tsa tlholego, le fa e le mabaka a kgwebelano kgotsa a pabalelo;”;
- (b) ka go tlosa mo tlhalosong ya “bioprospecting” lefoko “kgotsa” mo bofelong
jwa temana (b), ka go kwala mo tlhalosong ya lefoko “kgotsa” mo bofelong
jwa temana (c) le ka go tlaleletsa tlhaloso ya lefoko leo ka temana e e latelang:
“(d) kgwebelano ka le go romelwante ga dirwê tsa tlhago ka
maikaelelo go tlhoma le go tlhagisa dikuno tsa diritibatsi, enzyme
tša indaseteri, ditatso tša dijo, menko, ditlolo, dikgomaretsi,
diolorini, mebala, ditamosiwa le mafura a tlholego;”; 15
- (c) ka go kwala morago ga tlhaloso ya “Boto” tlhaloso e e latelang:
“**‘tirisobotlhatswa ya kgwebelano’**, go bolela go dira tiro ngwe le 20
ngwe ya bioprospecting ka maikaelelo a go dira morokotso;”;
- (d) ka go kwala boemong jwa tlhaloso ya “kgwebelano” tlhaloso e e latelang:
“**‘kgwebelano’** mabapi le metswedi ya dirwê tsa tlhago e akaretsa ditiro
tse di latelang:
(a) go diriwa ga kopo ngwe le ngwe ya thoto ya bong, mo Aforika 25
Borwa kgotsa felo gongwe le gongwe;
(b) kamogelo kgotsa tšhutiso ya tshwanelo ngwe le ngwe ya thoto ya
bong kgotsa ditshwanelo tse dingwe;
(c) tshimololo ya [**diteko tša saense le**] tlhabololo ya dikuno, go
akarediwa le go diriwa ga tshakatsheko ya mebaraka le go batla 30
katlanegiso ya pele ya mebaraka tebang le thekiso ya dikuno;
[**kgotsa**]
(d) koketso ya metswedi ya tlhago ka go kotula, phatlalatso, koketso
kgotsa mekgwa e mengwe ya go tlhabolola le ya tlhagisa ya dikuno
tša diritibatsi, dienzyme tša indaseteri, ditatso tša dijo, menko, 35
ditlolo, dikgomaretsi, dioleoresini, mebala [**le**], ditamosiwa le
mafura a tlholego;
(e) kgwebelano ka le go romelwante ga dirwê tsa tlhago ka maikaelelo
a go tlhoma le go tlhagisa dikuno tša diritibatsi, enzyme tša
indaseteri, ditatso tša dijo, menko, ditlolo, dikgomaretsi, diolorini,
mebala, ditamosiwa le mafura a tlholego; le 40
(f) tiriso botlhatswa ya kgwebelano;”;
- (e) ka go kwala mo boemong jwa tlhaloso ya “bolaodi jo bo na leng bokgoni”
tlhaloso e e latelang:
“**‘bolaodi jo bo na leng bokgoni’**, tebang le taolo ya ditshedi tse di sa 45
batlegeng kgotsa tse di kotsi, go bolela—
(a) Tona;
(b) Mec; kgotsa
[(b)](c) lefapha la puso mo logatong la bosetšhaba, porofense kgotsa
pusoselegae [**le le theilweng ka molao**] le tlhomilwe jaaka bolaodi 50
jo bo na leng bokgoni go laola ditshedi tse di sa batlegeng kgotsa tse
di kotsi go ya ka [**Molao ô**] karolo 42 ya Molao wa Bosetšhaba wa
Tsamaiso ya Tikologo wa 1998; [**kgotsa**
(c) **setheo sengwe le sengwe sa puso**]”;
(f) ka go kwala boemong jwa tlhaloso ya “taelo” tlhaloso e e latelang: 55
“**‘taelo’**, [**tebang le tiro, go akaretsa taelo ya go dira tiro**] e na le
tlhaloso e tlhalositsweng ka yona mo karolo 1 ya Molao wa Bosetšhaba
wa Tsamaiso ya Tikologo wa 1998;”;

- (g) by the substitution for the definition of “Department” of the following definition:
“**‘Department’** means the national Department **[of Environmental Affairs and Tourism]** responsible for environmental affairs;”;
- (h) by the substitution for the definition of “derivative” of the following definition: 5
“**‘derivative’**, in relation to an animal, plant or other organism, means any part, tissue or extract[,] of an animal, plant or other organism, whether fresh, preserved or processed, and includes any genetic material or chemical compound derived from such part, tissue or extract;”;
- (i) by the substitution for paragraph (b) of the definition of “genetic resource” of the following paragraph: 10
“(b) the genetic potential **[or]**, characteristics or information of any species;”;
- (j) by the substitution for the definition of “issuing authority” of the following definition: 15
“**‘issuing authority’**, in relation to **[permits]** a permit or registration regulating **[the matters]** a matter mentioned in section 87, means—
(a) the Minister as contemplated in section 87A(1) or (3); **[or]**
(b) the MEC as contemplated in section 87A(2) or (3); or 20
[(b)](c) an organ of state in the national, provincial or local sphere of government **[designated by regulation in terms of section 97]** delegated in terms of section 42 of the National Environmental Management Act, 1998 or assigned in terms of section 41 of the National Environmental Management Act, 1998 as an issuing 25
authority for **[permits]** a permit or registration of the kind in question;”;
- (k) by the insertion after the definition of “restricted activity” of the following definition: 30
“**‘self-administration’** means the introduction of measures to facilitate compliance with provisions of the Act and standards set by associations or organisations recognised through the system contemplated in terms of section 59(f) of the Act, but excludes measures that relate to the issuance of permits in terms of Chapter 7 or functions of environmental management inspectors;” 35

Amendment of section 2 of Act 10 of 2004

2. Section 2 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the insertion in paragraph (a) after subsection (1) of the following subparagraph:

- “(iA) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;” 40

Amendment of section 51 of Act 10 of 2004

3. Section 51 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the deletion of the word “and” at the end of paragraph (c), the insertion of the word “and” at the end of paragraph (d) and the addition of the following paragraph: 45

- “(e) provide for the regulation of threatened or protected indigenous species to ensure that the utilisation of these species is managed in an ecologically sustainable manner.”

Amendment of section 56 of Act 10 of 2004

4. Section 56 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (d) of the following paragraph: 50
“(d) protected species, being any species which are of **[such]** high conservation value or national importance **[that they require national protection, although they are not listed in terms of** 55

- (g) ka go kwala boemong jwa tlhaoso ya “Lefapha” tlhaloso e e latelang:
“**Lefapha**’ go bolela Lefapha [la Merero ya Tikologo le Bojanala] le le rweleng maikarabelo a merero ya tikologo;”;
- (h) ka go kwala boemong jwa tlhaoso ya “setlhagisiwa go tswa go” tlhaloso e e latelang 5
“**setlhagiswa go tswa go**’, tebang le phologolo, semela kgotsa setshedi se sengwe go bolela karolo ngwe le ngwe, thišu kgotsa setamosiwa[,] sa phologolo, semela kgotsa ditshedi tse dingwe, le fa e le ditswa mmung, dijo tse dikgotleleditsweng go akarediwa setlhagiswa sengwe le sengwe sa dikuno kgotsa sa khemikale e e ntshitsweng mo thišung kgotsa setamosiwa;”;
- (i) ka go kwala boemong jwa temana (b) tlhaloso ya “motswedi wa digenetiki” ya temana e e latelang:
“(b) bokgoni jwa digenetiki [kgotsa], dintlha kgotsa tshedimosetso ya setshedi sengwe le sengwe;”;
- (j) ka go kwala boemong jwa “Bolaodi jwa katlanegiso” tlhaloso e e katelang:
“**bolaodi jwa katlanegiso**’ tebang le [diphemiti] phemiti kgotsa kwadiso e e laolang [merero] ntlha e e tlhalositsweng mo karolo 87, go bolela—
(a) Tona go ya ka tlhaloso ya karolo 87A(1) kgotsa (3); [kgotsa] 20
(b) Mec go ya ka tlhaloso ya karolo 87A(2) kgotsa (3); kgotsa
[(b)](c) lefapha la puso mo logatong la bosetšhaba, porofense kgotsa pusoselegae [le le theilweng ka ditaello tsa karolo 97] le tlhomilwe go ya ka karolo 42 ya Molao wa Bosetšhaba wa Tsamaiso ya Tikologo wa 1998 kgotsa le le laetsweng go ya ka karolo 41 ya Molao wa Bosetšhaba wa Tsamaiso ya Tikologo wa 1998 jaaka bolaodi jwa katlanegiso ya [diphemiti] phemiti kgotsa kwadiso ya mofuta oo;” le 25
- (k) ka go kwala morago ga tlhaloso ya “tiro e ileditsweng” tlhaloso e e latelang:
“**tsamaiso ya sebele**’ go bolela go tsengwa tirisong ga maano a go mametlelela kobamelo ya ditaello tsa Molao le maemo a tlhomamisi-tsweng ke mekgatlho kgotsa makoko a amogetsweng ka lenaane la le tlhalositsweng mo karolo 59(f) ya Molao, mme fela go sa akaretswe maano a amang kaabo ya diphemiti go ya ka mabaka a Kgaolo 7 kgotsa ditiro tsa batlhatlhabi ba taolo ya tikologo;”.

Go fetolwa ga karolo 2 ya Molao 10 wa 2004

2. Karolo 2 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity* wa 2004, o fetolwa ka go tlaleletsa mo temana (a) morago ga karolotlaleletso (1) ka temanatlaleletso e e latelang:

“(iA) botlhokwa jwa tshireletso ya taolo ya ditshedi le tlhologo ka kakaretso, go akarediwa ditshedi tse di sa dirisiweng botlhatswa;”.

Go fetolwa ga karolo 51 ya Molao 10 wa 2004

3. Karolo 51 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, o fetolwa ka go tlosa lefoko “le” mo bofelong jwa temana (c), ka go kwala lefoko “le” mo bofelong jwa temana (d) le ka go oketsa ka temana e e latelang:

“(e) go tlamela ka taolo ya ditshedi tse di mo kotsing kgotsa ditshedi tsa tlhago tse di sireleditsweng go netefatsa fa tirisio ya ditshedi tseno e laolwa ka tsela e tsamaelanang le ntshetsopele ya tshomarelo ya ditshedi.”.

Go fetolwa ga karolo 56 ya Molao 10 wa 2004

4. Karolo 56 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity* wa, 2004, wa fetolwa—

(a) ka go kwala mo karolotlaleletso (1) boemong jwa temana (d) temana e e latelang:

“(d) ditshedi tse di sireleditsweng, e ka nna setshedi sengwe le sengwe [ebong] sa maemo a kwa godimo a tshireletso, kgotsa a botlhokwa jwa bosetšhaba [tse ditlhokang tshireletso ya bosetšhaba, le fa di

paragraph (a), (b) or (c)] or require regulation in order to ensure that the species are managed in an ecologically sustainable manner.”; and

(b) by the insertion after subsection (1) of the following subsections:

“(1A) The Minister may further categorise within the different categories of species listed in subsection (1)(a) to (d) when compiling the lists referred to in subsection (1).”

(1B) The notice contemplated in subsection (1) may apply generally throughout the Republic or a province, as the case may be, or only in a specified area or category of areas.”.

Amendment of section 57 of Act 10 of 2004, as amended by section 35 of Act 14 of 2009

5. Section 57 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

(a) by the substitution for the heading of the following heading:

“**Restricted activities involving listed threatened or protected species and species to which an international agreement regulating international trade applies**”;

(b) by the insertion after subsection (1) of the following subsection:

“(1A) A person may not import, export, re-export or introduce from the sea, a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora without a permit issued in terms of Chapter 7.”;

(c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following for the words:

“The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, prohibit the carrying out of any activity—”;

(d) by the substitution for subsection (3) of the following subsection:

“(3) [Subsection] Subsections (1) [does] and (1A) do not apply in respect of a specimen of a listed threatened or protected species or a species to which an international agreement regulating international trade applies conveyed from outside the Republic in transit through the Republic to a destination outside the Republic, provided that such transit through the Republic takes place [under the control of an environmental management inspector] with the required original documentation from the country of origin accompanying the shipment.”;

(e) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, exempt a person or category of persons from a restriction contemplated in subsection (1) or (1A).”;

(f) by the addition of the following subsections:

“(5) A notice in terms of subsection (2) or (4) may—

(a) apply generally—

(i) throughout the Republic or a province, as the case may be, or only in a specified area or specified category of areas;

(ii) to all persons or only to a specified category of persons;

(iii) to all species or only to a specified species or specified category of species; or

(b) differentiate between—

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or categories of species.”.

sa tlhalosiwa mo temana (a), (b) kgotsa (c)] kgotsa tse di tlhokang go sireletswa ka molao go netefatsa fa taolo ya ditshedi e tsamaelana le ntshetsopele ya tshomarelo ya ditshedi.”; le

- (b) ka go kwala morago ga karotlaleletso (1) dikarotlaleletso tse di latelang: 5
“(1A) Gape, Tona e ka tlhaola ditshedi ka maemo a farologaneng go ya ka tlhaloso ya karotlaleletso (1)(a) go fitlha go (d) fa a thala lenaane le le tlhalositsweng mo karotlaleletso (1).
(1B) Kitsiso e e tlhalositsweng mo karotlaleletso (1) e ka dirisiwa mo Rephaboliking ka bophara kgotsa mo porofenseng, jaaka go tlhokega, kgotsa fela mo kgaolong e tlhalositsweng kgotsa go ya ka maemo a dikgaolo.”. 10

Go fetolwa ga karolo 57 ya Molao 10 wa 2004, jaaka o fetotswe mo karolo 35 ya Molao 14 wa 2009

5. Karolo 57 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, wa fetolwa— 15

- (a) ka go kwala boemong jwa setlhogo, setlhogo se se latelang:
“**Ditiro tsa kiletso tse di amang lenaane la ditshedi tse di mo kotsing kgotsa ditshedi tse di sireleditsweng le ditshedi tse di amiwang ke kgolagano ya boditšhabatšhaba e laolang kgwebelano le dinagantle**”;
(b) ka go kwala morago ga karotlaleletso (1) karotlaleletso e e latelang:
“(1A) Ga go ope yo o tshwanetseng go amogela, go romelantle go romelantle gape, kgotsa go tsamaisa ka lewatile dirw? tsa ditshedi tse di tlhalositsweng mo *Convention on International Trade in Endangered Species of Wild Fauna and Flora* ntle le lokwalotetla le le tlhalositsweng mo Kgaolo 7.”; 20
(c) ka go kwala mo karotlaleletso (2) fa pele ga temana (a) mafoko a a latelang:
“Go ya ka kitsiso mo Lokwalodikgang la Puso le mabaka a ka tlhomamisiwang ke Tona, Tona e ka thibela tiragatso ya tiro ngwe le ngwe—”; 25
(d) ka go kwala mo karotlaleletso (3) karotlaleletso e e latelang:
“(3) [Karotlaleletso] Dikarotlaleletso (1) [ya letla] mme (1A) ga e dirisiwe mabapi le serwê sa setschedi se se mo kotsing go ya ka tlhaloso kgotsa setshedi se se sireleditsweng, kgotsa ditshedi tse di tlhalositsweng mo tumelanong ya boditšhabatšhaba e e laolang kgwebelano ya dinagantle go ntshiwa mo Rephaboliki go romelwa go lefelo kwantle ga Rephaboliki, fa fela thomelo ya go ntshiwa mo Rephaboliking e diriwa [ka fa tlase ga taolo ya motlhatlhoi wa tsamaiso ya tikologo] e patilwe ka ditokomane tsa leruri tse di tlhokegang tsa naga ya setlogo go tsamaya le thoto.”; 30
(e) ka go kwala mo karotlaleletso (4) boemong jwa temana (a) temana e e latelang:
“(a) Go ya ka kitsiso mo Lokwalodikgang la Puso le mabaka a ka tlhomamisiwang ke Tona mo kitsisong, Tona e ka, thibela motho kgotsa maemo a rileng a batho go amiwa ke kiletso e e tlhalositsweng mo karotlaleletso (1) kgotsa (1A).”; le 35
(f) ka go tlaleletsa ka karotlaleletso e e latelang:
“(5) Kitsiso go ya ka karotlaleletso (2) kgotsa (4) e ka—
(a) ama ka kakaretso—
(i) Rephaboliki ka bophara kgotsa porofense, ka moo go leng botlhokwa, kgotsa fela mo kgaolong e e kgethilweng kgotsa dikarolo tsa dikgaolo tse di kgethilweng; 50
(ii) batho botlhe kgotsa maemo a kgethilweng a batho;
(iii) ditshedi tsothle kgotsa ditshedi tse di kgethilweng fela kgotsa maemo a kgethilweng a ditshedi; kgotsa 55
(b) go farologanyo gare ga—
(i) dikgaolo kgotsa dikgaolo tse di farologaneng;
(ii) batho kgotsa magato a farologaneng a batho; kgotsa
(iii) ditshedi kgotsa magato a farologaneng a ditshedi.”.

Substitution of section 58 of Act 10 of 2004, as substituted by section 36 of Act 14 of 2009

6. The following section is hereby substituted for section 58 of the National Environmental Management: Biodiversity Act, 2004:

“Amendment of notices” 5

58. The Minister may by notice in the *Gazette* amend or repeal any notice published in terms of section 56(1), **[56(2)]** or 57(2) or (4).”.

Amendment of section 59 of Act 10 of 2004

7. Section 59 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended— 10

(a) by the deletion of the word “and” at the end of paragraph (e) and the substitution for paragraph (f) of the following paragraph:

“(f) may prescribe a system and the requirements for the compulsory or voluntary registration of persons, institutions, ranching operations, game farms, nurseries, captive breeding or keeping operations and other facilities or operations, and the recognition of associations relating to these persons, operations or facilities; and”; and 15

(b) by the addition of the following paragraph:

“(g) may prescribe a system and the requirements for the compulsory registration of professional hunters, hunting outfitters and trainers in the hunting industry.”. 20

Amendment of section 60 of Act 10 of 2004

8. Section 60 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister must establish a scientific authority for the purpose of assisting in regulating and restricting the trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies.” 25

Substitution to section 61 of Act 10 of 2004

9. Section 61 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution in subsection (1) for paragraph (d) of the following paragraph: 30

“(d) make non-detriment findings on the impact of actions relating to the international trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies, and must submit those findings to the Minister;” 35

Substitution of section 62 of Act 10 of 2004

10. The following section is hereby substituted for section 62 of the National Environmental Management: Biodiversity Act, 2004:

“Annual non-detriment findings” 40

62. (1) The **[scientific authority]** Minister must, by notice in the *Gazette*, publish **[in the Gazette]** any **[annual]** non-detriment findings made by the scientific authority on trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies, in accordance with **[an]** the requirements of the international agreement regulating international trade **[in specimens of** 45

Go fetolwa ga karolo 58 ya Molao 10 wa 2004, jaaka o fetotswe ka karolo 36 ya Molao 14 wa 2009

6. Karolo e e latelang e kwadiwa boemong jwa karolo 58 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004:

“Kitsiso ya diphetogo 5

58. Ka kitsiso mo Lokwalodikgang la Puso, Tona e kgona go fetola kgotsa go fedisa kitsiso ngwe le ngwe e e phatlaladitsweng ya karolo 56(1), [56(2)] kgotsa 57(2) kgotsa (4).”.

Go fetolwa ga karolo 59 ya Molao 10 wa 2004

7. Karolo 59 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 wa fetolwa—

(a) ka go tlosa lefoko “le” mo bofelong jwa temana (e) le go kwala boemong jwa temana (f) temana e e latelang:

“(f) a ka tlhalosa mokgwa le ditlhokego tsa kwadiso ya kgapeletso kgotsa ya boithaopo ya batho, ditheo, mafelo a botsomi, polasi ya diphologolo, tshingwana ya dimela, ditirelo tsa go tsadisa ka kgapeletso kgotsa ditirelo tsa go bolokela le madirelo a mangwe; koptsa madirelo le kamogelo ya mekgatlho e e lebaganyeng le batho bao, ditirelo kgotsa di diriswa; le”;

(b) ka go tlaleletsa ka temana e e latelang: 20

“(g) a ka tlhaloso mokgwa le ditlhokego tsa kwadiso ya kgapeletso ya batsomi ba ba letleletsweng, diaparo tsa batsomi le bakatissi ba indaseteri ya batsomi.”.

Phetolo ya karolo 60 ya Molao 10 wa 2004

8. Karolo 60 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, o fetolwa ka go kwala boemong jwa karolotlaleletso (1) karolotlaleletso e e latelang:

“(1) Tona e tshwanetse go tlhoma bolaodi jwa saense go thusa ka taolo le kiletso ya kgwebo ya dirwê tsa ditshedi tse di mo kotsing le ditshedi tse di sireleditsweng le ditshedi tse di amiwang ke kgolagano ya boditšhabatšhaba e e laolang kgwebelano ya dinagantle.”.

Tlaleletso mo karolo 61 ya Molao 10 wa 2004

9. Karolo 61 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, e fetolwa ka go tlaleletsa mo karolotlaleletso (1) boemong jwa temana (d) ka temana e e latelang: 35

“(d) go dira ditshwetso e se nang kotsi ka ga ditlamorago tsa ditiro tse di amang kgwebelano ya boditšhabatšhaba ya dirwê tsa ditshedi tse di mo kotsing le ditshedi tse di sireleditsweng le ditshedi tse di amiwang ke tumelano ya boditšhabatšhaba e e laolang kgwebelano ya dinagantle, e bile Tona o tshwanetse go romelelwa dipholo tseo;”.

Go kwadiwa ga karolo 62 ya Molao 10 wa 2004

10. Karolo e e latelang e kwala boemong jwa karolo 62 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004:

“Ditshwaelo tse di se nang kotsi tsa ngwaga le ngwaga

62. (1) [bolaodi jwa saense] Tona e tshwanetse go phasalatsa ka kitsiso mo Lokwalodikgang la Puso [mo Lokwalodikgang la Puso] ngwe le ngwe ya ditshwaelo tse di se nang kotsi [ngwaga le ngwaga] tse di dirilweng ke bolaodi jwa saense ka ga kgwebelano ya dirwê tsa di ditshedi tse di mo kotsing kgotsa tse di sireleditsweng le ditshedi tse di amiwang ke tumelana ya boditšhabatšhaba e e laolang kgwebelano le dinagantle, go tsamaelana le

listed threatened or protected species which is] that are binding on the Republic.

(2) Any interim findings of the scientific authority must be published in the *Gazette* by the Minister for public information within 30 days after the **[decision] finding** has been made. 5

(3) Before publishing, amending or repealing a notice in terms of subsection (1), the Minister must publish any non-detriment findings made by the scientific authority in the *Gazette*, inviting members of the public to submit to the scientific authority, within 30 days of publication in the *Gazette*, written scientific information relating to the non-detriment findings.” 10

Insertion of section 62A in Act 10 of 2004

11. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 62:

“Amendment of notices” 15

62A. The Minister may by notice in the *Gazette* amend or repeal a notice published in terms of section 62(1).”

Amendment of section 63 of Act 10 of 2004

12. Section 63 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) Before publishing a notice in terms of section 52(1), 53(1), 56(1) [or], 57(2) or 57(4), or amending or repealing such a notice in terms of section 55 or 58, the Minister must follow a consultative process in accordance with sections 99 and 100.”

Amendment of section 66 of Act 10 of 2004 25

13. Section 66 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

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

“(1) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, exempt [from the provisions of section 65]— 30

(a) any alien species specified in the notice; [or]

(b) any alien species of a category specified in the notice; or

(c) any person, from the provisions of section 65.”; and 35

(b) by the addition of the following subsection:

“(4) The notice in terms of subsection (1) may—

(a) apply generally— 40

(i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;

(ii) to all persons or only to a specified category of persons;

(iii) to all species or only to a specified species or specified category of species; or

(b) differentiate between— 45

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or categories of species.”

ditlhokego tsa tumelano ya boditšhabatšhaba e e laolang kgwebelano ya dinagantle [ka ga dirwê tsa ditshedi tse di mo kotsing kgotsa tse di sireleditsweng] tse di tlamang Rephaboliki.

(2) Tshwaelo ngwe le ngwe ya nakwana ya bolaodi jwa saense e tshwanetse go phatlaladiwa mo Lokwalodikgang la Puso ke Tona go itsise baagi ka ga tshedimose tse eo mo nakong ya matsatsi a le 30 morago ga [kitsiso] ya tshwaelo.

(3) Pele go phatlalatswa, go fetolwa kgotsa go tloswa kitsiso go ya ka karotlaleletso (1), Tona e tshwanetse go phatlalatsa tshwaelo ngwe ngwe e e senang kotsi e e dirilweng ke bolaodi jwa saense mo Lokwalodikgang la Puso, ka go laletsa maloko a setšhaba go romela bolaodi jwa saense ditshwaelo tsa bona mo nakong ya matsatsi a le 30 morago ga phatlalatswa ya kitsiso mo Lokwalodikgang la Puso.”.

Go kwalwa karolo 62A mo Molao 10 wa 2004

11. Karolo e latelang e kwadiwa mo molaong wa Tsamaiso ya Bosetšhaba wa Tikologo: Molao wa *Biodiversity*, wa 2004, morago ga karolo 62:

“Phetolo ya kitsiso

62A. Ka kitsiso mo Lokwalodikgang la Puso, Tona e ka fetola kgotsa phimola kitsiso e e phatlaladitsweng go ya ka karolo 62(1).”.

Phetolo ya karolo 63 ya Molao 10 wa 2004

12. Karolo 63 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, wa fetolwa ka go kwala karotlaleletso (1) ya karotlaleletso e e latelang:

“(1) Pele go phatlalatsa kitsiso go tsamaelana le karolo 52(1), 53(1), 56(1) [kgotsa], 57(2) kgotsa 57(4), kgotsa go fetolwa kgotsa go fedisiwa ga kitsiso ya mofuta oo, go tsamaelana le karolo 55 kgotsa 58, Tona e tshwanetse go tshwara dipuisano go tsamaelana le dikarolo 99 le 100.”.

Phetolo ya karolo 66 ya Molao 10 wa 2004

13. Karolo 66 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

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

“(1) Ka kitsiso mo Lokwalodikgang la Puso le go ya ka lebaka lengwe le lengwe le le tlhomamisiwang ke Tona mo kitsisong, Tona e ka iletsa [tiragatso ya ditaello tsa karolo 65]—

(a) setshedi sengwe le sengwe se se kotsi se se tlhalositsweng mo kitsisong; [kgotsa]

(b) setshedi sengwe le sengwe se se kotsi sa maemo a tlhalositsweng mo kitsisong; kgotsa

(c) mongwe le mongwe, go ya ka ditaello tsa karolo 65.”; le

(b) ka go tlaleletsa ka karotlaleletso e e latelang:

“(4) Kitsiso go ya ka karotlaleletso (1) e ka—

(a) ama ka kakaretso—

(i) Rephaboliki ka bophara kgotsa porofense, ngwe le ngwe le fa e le ka mokgwa ofe kgotsa fela kgaolo e e tlhopilweng kgotsa dikgaolo tsa maemo a tlhopilweng;

(ii) batho botlhe kgotsa batho ba maemo a tlhopilweng;

(iii) ditshedi tsotlhe kgotsa ditshedi tse di kgethilweng fela kgotsa ditshedi tsa maemo a kgethilweng; kgotsa

(b) go farologanyo gare ga—

(i) dikgaolo kgotsa maemo a dikgaolo;

(ii) batho kgotsa maemo a batho; kgotsa

(iii) ditshedi kgotsa maemo a ditshedi.”.

Amendment of section 70 of Act 10 of 2004

14. Section 70 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the addition of the following subsection:

“(4) A notice in terms of subsection (1) may—

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|--|----|
| (a) apply generally— | 5 |
| (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas; | |
| (ii) to all persons or only to a specified category of persons; | |
| (iii) to all species or only to a specified species or a specified category of species; or | 10 |
| (b) differentiate between— | |
| (i) areas or categories of areas; | |
| (ii) persons or categories of persons; or | |
| (iii) <u>species or categories of species.</u> ”. | |

Amendment of section 71 of Act 10 of 2004

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15. Section 71 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the addition of the following subsections:

“(3) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, exempt a person from a restriction contemplated in subsection (1) or (2).

(4) A notice in terms of subsection (3) may—

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|--|----|
| (a) apply generally— | 20 |
| (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas; | |
| (ii) to all persons or only to a specified category of persons; | 25 |
| (iii) to all species or only to a specified species or a specified category of species; or | |
| (b) differentiate between— | |
| (i) areas or categories of areas; | |
| (ii) persons or categories of persons; or | 30 |
| (iii) <u>species or categories of species.</u> ”. | |

Insertion of section 71A in Act 10 of 2004

16. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 71:

“Prohibitions

71A. (1) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, specify a specimen of a listed invasive species for which a permit to carry out a restricted activity may not be issued in terms of Chapter 7.

(2) The notice in terms of subsection (1) may—

- | | |
|--|----|
| (a) apply generally— | 40 |
| (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas; | |
| (ii) to all persons or only to a specified category of persons; | |
| (iii) to all species or only to a specified species or a specified category of species; or | 45 |
| (b) differentiate between— | |
| (i) areas or categories of areas; | |
| (ii) persons or categories of persons; or | |
| (iii) <u>species or categories of species.</u> ”. | 50 |

Substitution of section 72 of Act 10 of 2004

17. The following section is hereby substituted for section 72 of the National Environmental Management: Biodiversity Act, 2004:

Phetolo ya karolo 70 ya Molao 10 wa 2004

14. Karolo 70 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, o fetolwa ka go tlaletswa ka karolotlaleletso e e latelang:

“(4) Kitsiso go ya ka karolotlaleletso (1) e ka—

- | | |
|--|----|
| (a) ama ka kakaretso— | 5 |
| (i) Rephaboliki ka bophara kgotsa porofense, ngwe le ngwe le fa e le ka mokgwa ofe kgotsa fela kgaolo e tlhopilweng kgotsa dikgaolo tsa maemo a tlhopilweng; | |
| (ii) batho kgotsa batho ba maemo; | |
| (iii) ditshedi kgotsa ditshedi tsa maemo; kgotsa | 10 |
| (b) go farologanya gare ga— | |
| (i) dikgaolo kgotsa maemo a dikgaolo; | |
| (ii) batho kgotsa batho ba maemo; kgotsa | |
| (iii) ditshedi kgotsa maemo a ditshedi.” | |

Phetolo ya karolo 71 ya Molao 10 wa 2004

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15. Karolo 71 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 e fetolwa ka go tlaletswa ka karolotlaleletso e e latelang:

“(3) Ka kitsiso mo Lokwalodikgang la Puso le go ya ka mabaka a tlhomamisitsweng ke Tona, Tona e ka iletsa motho go diragatsa taelo ya karolotlaleletso (1) kgotsa (2).

(4) Kitsiso go ya ka karolotlaleletso (3) e ka—

- | | |
|--|----|
| (a) ama ka kakaretso— | |
| (i) Rephaboliki ka bophara kgotsa porofense, ngwe le ngwe le fa e le ka mokgwa ofe kgotsa fela kgaolo e tlhopilweng kgotsa dikgaolo tsa maemo a tlhopilweng; | 20 |
| (ii) batho botlhe kgotsa batho ba maemo a tlhopilweng; | |
| (iii) ditshedi tsotlhe kgotsa ditshedi tse di kgethilweng kgotsa ditshedi tsa maemo a kgethilweng; kgotsa | 25 |
| (b) go farologanyo gare ga— | |
| (i) dikgaolo kgotsa maemo a dikgaolo; | |
| (ii) batho kgotsa batho ba maemo; kgotsa | 30 |
| (iii) ditshedi kgotsa ditshedi tsa maemo.” | |

Go kwadiwa ga karolo 71A mo Molao 10 wa 2004

16. Karolo e e latelang e kwadiwa mo Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, morago ga karolo 71:

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“Dikiletso

71A. (1) Ka kitsiso ya Lokwalodikgang la puso, Tona e ka tlhalosa serwê sa setshedi se se ileditsweng seo se kitlang se ntshetswa phemiti ya tiro go ya ka Kgaolo 7.

(2) Kitsiso go tsamaelana le karolotlaleletso (1) e ka—

- | | |
|---|----|
| (a) ama ka kakaretso— | 40 |
| (i) Rephaboliki ka bophara kgotsa porofense, le fa e le ka mokgwa ofe kgotsa fela kgaolo e e tlhopilweng kgotsa dikgaolo tsa maemo a kgethilweng; | |
| (ii) batho botlhe kgotsa batho ba maemo a kgethilweng; | 45 |
| (iii) ditshedi tsotlhe kgotsa fela ditshedi tse di kgethilweng kgotsa ditshedi tsa maemo a kgethilweng; kgotsa | |
| (b) go farologanyo gare ga— | |
| (i) dikgaolo kgotsa dikgaolo tsa maemo; | |
| (ii) batho kgotsa maemo a batho; kgotsa | 50 |
| (iii) ditshedi kgotsa maemo a ditshedi.” | |

Phetolo ya karolo 72 ya Molao 10 wa 2004

17. Karolo e e latelang e kwadiwa boemong jwa karolo 72 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004:

“Amendment of notices

72. (1) The Minister may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 70(1)(a), 71(3) or 71A(1).

(2) The MEC may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 70(1)(b).”

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Amendment of section 79 of Act 10 of 2004

18. Section 79 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Before publishing a notice in terms of section 66(1), 67(1) [or], 70(1), 71(3) or 71A(1), or amending or repealing such a notice in terms of section 68 or 72, the Minister must follow a consultative process in accordance with sections 99 and 100.”

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Amendment of section 80 of Act 10 of 2004

19. Section 80 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) The purpose of this Chapter is—

- (a) to regulate bioprospecting involving indigenous genetic and biological resources;
- (b) to regulate the export from the Republic of indigenous genetic and biological resources for the purpose of bioprospecting or any other kind of research; **[and]**
- (c) to provide for a fair and equitable sharing by stakeholders in benefits arising from bioprospecting involving indigenous genetic and biological resources; and
- (d) to ensure that the nation’s indigenous genetic and biological resources are developed and utilized in an ecologically sustainable manner while promoting social and economic development, in particular in the areas where the indigenous genetic or biological resources and associated traditional knowledge is accessed.”

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Amendment of section 86 of Act 10 of 2004, as amended by section 42 of Act 14 of 2009

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20. Section 86 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the deletion in subsection (1) of the word “or” at the end of paragraph (a), the deletion in that subsection of the word “and” at the end of paragraph (b) and the insertion in that subsection after paragraph (b) of the following paragraphs:

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“(bA) declare that this Chapter does not apply to the activity of collection, use, propagation cultivation or trade of indigenous biological resources for domestic use or subsistence purposes; or

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(bB) declare that the benefit sharing agreements and material transfer agreements contemplated in section 83 and 84 do not apply to certain categories of commercial or industrial exploitation of indigenous biological resources.”;

- (b) by the deletion in subsection (1) of paragraph (c);

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- (c) by the insertion after subsection (1) of the following subsection:

“(1A) The Minister may amend or withdraw any notice referred to in subsection (1).”; and

- (d) by the substitution for subsection (2) of the following subsection:

“(2) Before publishing a notice in terms of subsection (1), or amending or repealing such a notice in terms of subsection (1A), the Minister must follow a consultative process in accordance with sections 99 and 100.”

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“Phetolo ya dikitsiso

72. (1) Ka kitsiso mo Lokwalodikgang la Puso, Tona e ka fetola kgotsa tlosa kitsiso ngwe le ngwe e e phasaladitsweng go ya ka karolo 70(1)(a), 71(3) kgotsa 71A(1).

(2) Ka kitsiso mo Lokwalodikgang la Puso, MEC e ka fetola kgotsa tlosa kitsiso ngwe le ngwe e e phasaladitsweng go ya ka karolo 70(1)(b).”. 5

Phetolo ya karolo 79 ya Molao 10 wa 2004

18. Karolo 79 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 e fetolwa ka go kwala karotlaleletso (1) boemong jwa karotlaleletso e e latelang: 10

“(1) Pele ga phatlalatsa ya kitsiso go ya ka karolo 66(1), 67(1) **[kgotsa]**, 70(1), 71(3) kgotsa 71A(1), kgotsa go fetola kgotsa go tlosa kitsiso eo go ya ka karolo 68 kgotsa 72, Tona e tshwanetse go latela tsamaiso ya dipuisano go tsamaelana le karolo 99 le 100.”.

Phetolo ya karolo 80 Molao 10 wa 2004

19. Karolo 80 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, e fetolwa ka go akaretsa karotlaleletso (1) ya karotlaleletso e e latelang:

“(1) Maikaelelo a Kgaolo ô ke—

- (a) go laola ponelopele e amang metswedi ya dijenetiki le ditshedi tsa tlhago;
- (b) go laola dirommelwantle tsa Rephaboliki tsa metswedi ya dijenetiki le ditshedi tsa tlhago mabapi le ponelopele kgotsa mofuta mongwe le mongwe wa dipatlisiso; [le]
- (c) go tlamela ka botsayakarolo jo bo lolameng le kabelano ka tekano ya beng ba dishere ya merokotso ya ditlhagiswa tsa *bioprospecting* e amanag le dijenetiki le metswedi ya tlhago; le
- (d) go netefatsa fa metswedi ya dijenetiki le ditshedi tsa tlhago tsa setšhaba e tlhabololwa le go dirisiwa ka tsela ya go šomarela ditshedi le tlhabololo ya maemo a katlatleloloago le moruo, le phitlhelelo ya metswedi ya dijenetiki le ditshedi, segolo jaang mo dikgaolong tsa metswedi ya dijenetiki le mo kitso e golagantsweng ya ditshedi tsa setso e bonwang gona.”. 25 30

Phetolo ya karolo 86 ya Molao 10 wa 2004, jaaka o fetotswe ka karolo 42 ya Molao 14 wa 2009

20. Karolo 86 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

- (a) ka go tlosa mo karotlaleletso (1) lefoko “kgotsa” mo bofelong jwa temana (a), go tlosa mo karotlaleletso eo lefoko “le” mo bofelong jwa temana (b) le go kwala mo karotlaleletso eo morago ga temana (b) ya ditemana tse di latelang:

“(bA) Kgaolo ê, ga e ame ditiro tsa kgobokanyo, tiriso, phasalatso ya kgwebo kgotsa kgwebo ya metswedi ya ditshedi tsa tlhago tse di dirisiwang mo gae kgotsa mabaka a kgwebelano; kgotsa

(bB) ditumelano tsa kabelano ya morokotso le ditumelano tsa tuelo ya tšhelete ya dirwê tse di tshalositsweng mo karolo 83 le 84 ga di ame maemo a rileng a kgwebelano kgotsa tirisobotlhatswa ya kgwebelano ya metswedi ya ditshedi tsa tlhago.”; 45

- (b) ka go tlosa mo karotlaleletso (1) temana (c);

- (c) ka go kwala morago ga karotlaleletso (1) karotlaleletso e e latelang:

“(1A) Tona e ka fetola kgotsa gogela morago kitsiso ngwe le ngwe e tshalositsweng mo karotlaleletso (1).”; le

- (d) ka go kwala boemong jwa karotlaleletso (2) karotlaleletso e e latelang: 50

“(2) Pele go phatlalatswa kitsiso go ya ka karotlaleletso (1), kgotsa go fetola kgotsa go tlosa kitsiso ya mofuta oo, go ya ka karotlaleletso (1A), Tona e tshwanetse go latela tsamaiso ya dipuisano go tsamaelana le karolo 99 le 100.”.

Amendment of section 87 of the Act 10 of 2004

21. Section 87 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the deletion of the word “or” at the end of paragraph (c), the insertion of the word “or” at the end of paragraph (d) and the insertion after paragraph (d) of the following paragraph:

“(e) the import, export, re-export or introduction from the sea, of a specimen of a species listed in terms of the international agreement referred to in section 57(1A).”.

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Insertion of section 87A in Act 10 of 2004

22. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 87:

“Issuing authority

87A. (1) The Minister is the issuing authority responsible for deciding an application for a permit for—

- (a) the carrying out of a restricted activity involving a specimen of a listed threatened or protected species—
- (i) in a national protected area;
 - (ii) that is a marine species; or
 - (iii) applied for by an official, on behalf of—
 - (aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;
 - (bb) a national protected area;
 - (cc) the South African National Biodiversity Institute; or
 - (dd) an organ of state in the national sphere of government;
- (b) the import, export, re-export or introduction from the sea, of a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora—
- (i) originating from a national protected area;
 - (ii) that is a marine species; or
 - (iii) applied for by an official, on behalf of—
 - (aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;
 - (bb) a national protected area;
 - (cc) the South African National Biodiversity Institute; or
 - (dd) an organ of state in the national sphere of government;
- (c) the carrying out of a restricted activity involving a specimen of an alien or a listed invasive species;
- (d) the commercialisation phase of bioprospecting involving any indigenous biological resources; or
- (e) the export of any indigenous biological resources from the Republic for the purpose of bioprospecting.

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(2) The MEC is the issuing authority responsible for deciding an application for any permit not listed in subsection (1).

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(3) Notwithstanding subsections (1) and (2), the Minister and the MEC may in writing agree that any application for a permit or a type of permit—

- (a) contemplated in subsection (1) may be decided by the MEC; or
- (b) contemplated in subsection (2) may be decided by the Minister.”.

Phetolo ya karolo 87 ya Molao 10 wa 2004

21. Karolo 87 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, e fetolwa ka go tlosa lefoko “kgotsa” mo bofelong jwa temana (c), go kwalwa lefoko “kgotsa” mo bofelong jwa temana (d) le go tlaleletsa ka temana e e latelang:

“(e) ditswantle, diromelantle kgotsa tsamaiso ka lewatle ya dirwê tsa ditshedi tse di tlhalositsweng mo tumelanong ya boditšhatšhaba e e tlhalositsweng mo karolo 57(1A).”.

Go kwalwa karolo 87A mo Molao 10 wa 2004

22. Karolo e e latelang e kwadiwa mo molaong wa Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 morago ga karolo 87:

“Bolaodi jwa katlanegiso

87A. (1) Tona ke bolaodi jwa katlanegiso jo bo rweleng maikarabelo a go dira tshwetso ya kopo mabapi le phemiti boemong jwa—

(a) tiragatso ya tiro e e ileditsweng e amang dirwê tsa ditshedi tse di tlhalositsweng jaaka tse di mo kotsing kgotsa ditshedi tse di sireleditsweng—

(i) mo kgaolong ya bosetšhaba e e sireleditsweng;

(ii) tse e leng ditshedi tsa metsi; kgotsa

(iii) tse di diretsweng kopo ke motlhankedi, boemong jwa—

(aa) lefapha la porofense kgotsa lekala la porofense ya puso e e rweleng maikarabelo a pabalesego ya mefuta ya tlhago e e farologaneng ya porofense;

(bb) kgaolo ya bosetšhaba e e sireleditsweng;

(cc) Institšhuti ya Bosetšhaba ya *Biodiversity* ya Aforika Borwa; kgotsa

(dd) setheo sa puso sa lekala la puso ya bosetšhaba;

(b) Diromelwantle, ditswantle le diromelwantle-gape kgotsa tsamaiso ka lewatle ya serwe sa setshedi se se tlhalositsweng go ya ka *Convention on International Trade in Endangered Species of Wild Fauna and Flora*—

(i) se se tlhagang go tswa go kgaolo ya bosetšhaba e e sireleditsweng;

(ii) seo e leng setshedi sa metsi; kgotsa

(iii) tse di diretsweng kopo ke motlhankedi, boemong jwa—

(aa) lefapha la porofense kgotsa lekala la porofense ya puso e e rweleng maikarabelo a pabalesego ya mefuta ya tlhago e e farologaneng ya porofense;

(bb) kgaolo ya bosetšhaba e e sireleditsweng;

(cc) Institšhuti ya Bosetšhaba ya *Biodiversity* ya Aforika Borwa; kgotsa

(dd) setheo sa puso sa lekala la puso ya bosetšhaba;

(c) tiragatso ya tiro e e ileditsweng e amang serwô sa setshedi se se batlegeng kgotsa se se tlhalositsweng jaaka se se senyang;

(d) kgwebalno ya logato la *bioprospecting* le le amang metswedi ya ditshedi tsa tlholego; kgotsa

(e) go romelwantle ga metswedi mengwe le mngwe ya ditshedi tsa tlholego go tswa go Rephaboliki ka ntlha ya mabaka a *bioprospecting*.

(2) MEC ke bolaodi jwa katlanegiso jo bo rweleng maikarabelo a go dira tshwetso ya kopo ya phemiti ngwe le ngwe e e sa tlhalosiwang mo karolotlaleletso (1).

(3) Go sa nyatswe karolotlaleletso (1) le (2), Tona le MEC ba ka dumelana ka lekwalo gore kopo ngwe le ngwe ya pheniti kgotsa mofuta wa phemiti—

(a) o o tlhalositsweng mo karolotlaleletso (1) o ka tlhomamisiwa ke MEC; kgotsa

(b) o o tlhalositsweng mo karolotlaleletso (2) o ka tlhomamisiwa ke Tona.”.

Amendment of section 88 of the Act 10 of 2004

23. Section 88 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended by the deletion in subsection (2) of the word “or” at the end of paragraph (c), the insertion in that subsection of the word “or” at the end of paragraph (d) and the addition of the following paragraph:

- “(e) defer a decision to issue a permit if the applicant is under investigation for the contravention or failure to comply with any provision of this Act, until such time that the investigation is concluded and—
- (i) no prosecution in respect of such contravention or failure is instituted against the applicant concerned;
 - (ii) the applicant concerned is acquitted or found not guilty, if a prosecution in respect of such contravention or failure has been instituted; or
 - (iii) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.”

Insertion of section 92A in Act 10 of 2004

24. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 92:

“Refusal of permits

92A. (1) An issuing authority may refuse a permit—

- (a) if the carrying out of the restricted activity is likely to have a negative impact on the survival of the listed threatened or protected species;
- (b) if the applicant has been convicted of an offence in terms of this Act; or
- (c) in accordance with a ground for refusal contemplated in any regulation.

(2) The Minister may from time to time issue directives, which are binding on the issuing authority, to ensure the effective implementation of subsection (1).”

Amendment of section 93 of Act 10 of 2004

25. Section 93 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the deletion of the word “or” at the end of paragraph (a) and the addition of the following paragraphs:
 - “(c) the applicant or permit holder has been convicted of an offence in terms of this Act; or
 - (d) the carrying out of the restricted activity has a detrimental impact on the species.”; and
- (b) by the addition of the following subsection, the existing section becoming subsection (1):
 - “(2) An issuing authority may recover any reasonable costs incurred by that authority and necessitated by the cancellation of the permit, from the permit holder.”

Insertion of section 93B in Act 10 of 2004

26. The following section is hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 93A:

“Suspension of permits

93B. (1) An issuing authority which issued a permit may suspend the permit if—

Phetolo ya karolo 88 ya Molao 10 wa 2004

23. Karolo 88 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, e fetolwa ka go tlosa mo karotlaleletso (2) lefoko “kgotsa” mo bofelong jwa temana (c), ka go kwala mo karotlaleletso eo lefoko “kgotsa” mo bofelong jwa temana (d) le go tlaleletsa ka temana e e latelang:

- “(e) go kgaphelathoko tshwetso ya go abelwa phemiti fa mokopi a le ka fa tlase ga dipatlisiso ka ntlha ya go tlola kgotsa go palelwa ke go obamela taelo ngwe le ngwe ya Molao, go fitlhela dipatlisiso di fela; le—
- (i) fa go sena kgetsi kgatlhano le mokopi kgotsa go tlhoka kobamelo kgatlhano le mokopi yo o maleba;
 - (ii) fa mokopi yo o maleba a golotswe kgotsa a bonwa a se molato morago ga tshoko kgotsa tlhokego ya go obamela; kgotsa
 - (iii) fa mokopi yo o amegang a bonwe molato ke kgotlatshekelo ya molao e bile a dirisitse mekgwa yotlhe ya semolao malebana le boipileitso le tshokatsheko ya kgetsi.”

Tlaleletso ya karolo 92A mo Molao 10 wa 2004

24. Karolo e e latelang e kwadiwa mo Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, morago ga karolo 92:

“Go ganwa ga kopo ya diphemiti

- 92A.** (1) bolaodi jwa katlanegiso ya diphemiti bo ka gana go ntsha phemiti—
- (a) Fa go nale kgonagalo ya gore tiragatso ya tirelo e ileditsweng e ka nna le seabe se se mašwe mo botshelong jwa ditshedi tse di mo kotsing kgotsa tse di sireleditsweng;
 - (b) Fa mokopi a bonwe molato ka tatofatso ngwe go ya ka Molao ô; kgotsa
 - (c) go tsamaelana lebaka lengwe le lengwe la go gana kopo le le tlhalositweng mo molawaneng mongwe le mongwe.
- (2) Nako ngwe le ngwe Tona e ka ntsha ditaello tse di tlamang bolaodi jwa katlanegiso, go netefatsa tiragatso ya karotlaleletso (1) ka manontlhotlho.”

Phetolo ya karolo 93 ya Molao 10 wa 2004

25. Karolo 93 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

- (a) ka go tlosa lefoko “kgotsa” mo bofelong jwa temana (a), le go tlaleletsa ka temana e e latelang:
 - “(c) fa mokopi kgotsa mongwa phemiti a bonwe molato go ya ka Molao ô; kgotsa
 - (d) fa tiragatso ya tiro e ileditsweng e nale seabe se se mašwe go ditshedi;”;
- (b) ka go tlaleletsa karotlaleletso e e latelang, ka karolo ya ga jaana ya karotlaleletso (1):
 - “(2) Bolaodi jwa katlanegiso bo ka batla tshenyegelo ngwe le ngwe e e diragaletseng bolaodi joo, e tlhodilweng ke go fedisiwa ga phemiti ya mongwa phemiti.”

Go kwalwa karolo 93B mo Molao 10 wa 2004

26. Karolo e e latelang e kwalwa mo Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 morago ga karolo 93A:

“Go gogela morago diphemiti

- 93B.** (1) Bothati jwa katlanegiso jo bo ntshang diphemiti bo ka gogela morago phemiti fa—

- (a) the carrying out of the restricted activity is likely to have a negative impact on the survival of the listed threatened or protected species; or
- (b) the permit holder is under investigation for the contravention of or failure to comply with any provision of this Act or any condition of the permit.
- (2) An issuing authority may recover any reasonable costs, incurred by that authority and necessitated by the suspension of the permit, from the permit holder.”.

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Repeal of section 94 of Act 10 of 2004

27. Section 94 of the National Environmental Management: Biodiversity Act, 2004, is hereby repealed.

Repeal of section 95 of Act 10 of 2004

28. Section 95 of the National Environmental Management: Biodiversity Act, 2004, is hereby repealed.

Repeal of section 96 of Act 10 of 2004

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29. Section 96 of the National Environmental Management: Biodiversity Act, 2004, is hereby repealed.

Amendment of section 97 of Act 10 of 2004, as amended by section 45 of Act 14 of 2009

30. Section 97 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the deletion in subsection (1)(b) of subparagraph (i);
- (b) by the substitution in subsection (1)(b) for subparagraph (ii) of the following subparagraph:
“(iv) the facilitation of the implementation and enforcement of sections 57(1), 57(1A) or any notice published in terms of section 57(2);”;
- (c) by the insertion in subsection (1)(b) after subparagraph (iii) of the following subparagraph:
“(iiiA) the circumstances in which restricted activities involving threatened or protected species may not be carried out;”;
- (d) by the substitution in subsection (1)(b) for subparagraph (viii) of the following subparagraph:
“(viii) the ecologically sustainable utilization of biodiversity[; or], including—
(aa) limiting the number of permits for a restricted activity;
(bb) qualifications or requirements necessary for the undertaking of a restricted activity;
(cc) criteria for the equitable allocation of permits for a restricted activity;”;
- (e) by the addition to subsection (1)(b) of the following subparagraphs:
“(x) the duty of care in respect of threatened or protected species;
(xi) the management of threatened or protected species that cause damage;
(xii) the collection of samples for genetic analyses;”;
- (f) by the deletion in subsection (1)(c) of subparagraphs (i) and (ii);
- (g) by the insertion in subsection 1(c) after subparagraph (ii) of the following subparagraph:
“(iiA) the circumstances under which a restricted activity involving alien species or listed invasive species, may not be carried out;”;

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- (a) go na le kgonagalo ya gore tirelo e ileditsweng e ka nna le ditlamorago tse di sa itumediseng mo botshelong jwa ditshedi tse di mo kotsing kgotsa tse di sireleditsweng; kgotsa
- (b) mongwa phemiti o ka fa tlase ga dipatlisiso ka ntlha ya tatofatso kgotsa go se obamele taelo ngwe le ngwe ya Molao ô, kgotsa lebaka lengwe le lengwe la phemiti.
- (2) Bothati jwa katlanegiso bo ka batla tshenyegelo ngwe le ngwe e e botlhokwa e tlhodilweng ke go gogela morago ga phemiti ya mongwa phemiti.”.

Go phimolwa karolo 94 ya Molao 10 wa 2004 10

27. Karolo 94 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya phimolwa.

Go phimolwa karolo 95 ya Molao 10 wa 2004

28. Karolo 95 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004 ya phimolwa. 15

Go phimolwa ga karolo 96 ya Molao 10 wa 2004

29. Karolo 96 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya phimolwa.

Phetolo ya karolo 97 ya Molao 10 wa 2004, jaaka o fetotswe mo karolo 45 ya Molao 14 wa 2009 20

30. Karolo 97 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

- (a) ka go tlosa karotlaleletso (1)(b) ya temanatlaleletso (i);
- (b) ka go kwala boemong jwa karotlaleletso 1(b) tematlaleletso (ii) ya temanatlaleletso e e latelang: 25
- “(iv) ntshetsopele ya go tsengwa tirisong le tiragatso ya karotlaleletso 57(1), 57(1A) kgotsa kistsiso ngwe le ngwe e phasaladitsweng go ya ka karolo 57(2);”;
- (c) ka go kwala mo karotlaleletso (1)(b) morago ga temanatlaleletso (iii) ya temanatlaleletso e e latelang: 30
- “(iiiA) mabaka ao ditirelo tse di ileditsweng tse di amanang le ditshedi tse di mo kotsing kgotsa tse di sireleditsweng di sa tshwanelang go diriwa;”;
- (d) Ka go kwala mo karotlaleletso (1)(b) boemong jwa temanatlaleletso (viii) ya temanatlaleletso e e latelang: 35
- “(vii) tiriso ya ditshedi ka mokgwa yo o babalelang tlhago le ditshedi [;kgotsa], go akarediwa—
- (aa) go lekanyetsa palo ya diphemiti tsa ditirelo tse di ileditsweng;
- (bb) maemo kgotsa ditlhokego tse di botlhokwa go dira ditirelo tse di ileditsweng;
- (cc) mokgwa wa kaabo ya diphemiti tsa ditirelo tse di ileditsweng ka tekatekano;”;
- (e) ka go akaretsa mo karotlaleletso (1)(b) ditemanatlaleletso tse di latelang: 40
- “(x) maikarabelo a tlhokomelo tebang le ditshedi tse di mo kotsing kgotsa tse di sireleditsweng; 45
- (xi) taolo ya ditshedi tse di mo kotsing kgotsa tse di sireleditsweng tse di tlholang tshenyo;
- (xii) kgobokanyo ya disampole tsa tshakatsheko ya dijenetiki;”;
- (f) ka go tlosa mo karotlaleletso (1)(c) ya temanatlaleletso (i) le (ii);
- (g) ka go akaretsa mo karotlaleletso (1)(c) morago ga ya temanatlaleletso ya (ii) temanatlaleletso e e latelang: 50
- “(iiA) mabaka ao tiro e ileditsweng e sa tshwanelang go diriwa ka fa tlase ga wona, fa e ama ditshedi tse di mo kotsing kgotsa ditshedi tse di sa batlegeng go ya ka tlhaloso;”;

- (h) by the substitution in subsection (1)(c) for subparagraphs (v) and (vi) of the following subparagraphs, respectively:
- “(v) the assessment of risks and potential impacts on biodiversity of restricted activities involving specimens of alien species or of listed invasive species; **[and]**” 5
- “(vi) the control and eradication of **[listed]** invasive species; **and**”;
- (i) by the addition to subsection (1)(c) of the following subparagraph:
- “(vii) the coordination and implementation of programmes for the prevention, control or eradication of invasive species;”;
- (j) by the insertion in subsection (1) after paragraph (d) of the following paragraph: 10
- “(dA) a system and requirements for the compulsory or voluntary registration of persons, institutions, ranching operations, game farms, nurseries, captive breeding or keeping operations and other facilities or operations;”;
- (k) by the deletion in subsection (1)(e) of subparagraph (i); 15
- (l) by the substitution in subsection 1(f) for subparagraph (i) of the following subparagraph:
- “(i) the conditions subject to which issuing authorities may issue, renew or amend permits or registrations in terms of this Act;”;
- (m) by the substitution in subsection 1(f) for subparagraph (ii) of the following subparagraph: 20
- “(ii) the procedure to be followed and the fees to be paid in connection with the lodging and consideration of applications **[for permits]** and issuance of permits or registrations;”;
- (n) by the insertion in subsection (1)(f) after subparagraph (ii) of the following subparagraph: 25
- “(iiA) the procedure to be followed and the fees to be paid in connection with the marking of specimens;”;
- (o) by the insertion in subsection (1)(f) after subparagraph (vii) of the following subparagraphs: 30
- “(viiA) timeframes for the consideration and issuance of a permit or registration by an issuing authority;
- “(viiB) the conducting and evaluation of a risk assessment;”;
- (p) by the insertion in subsection (1)(f) after subparagraph (viii) of the following subparagraph: 35
- “(viiiA) the different types of permits that may be issued in terms of this Act;”;
- (q) by the substitution in subsection 1(f) for subparagraph (ix) of the following subparagraph: 40
- “(ix) the categories, form and contents of permits and the geographical area where permits apply;”;
- (r) by the insertion in subsection 1(f) after subparagraph (xi) of the following subparagraph: 45
- “(xiA) the circumstances or conditions under which permits or registrations may be amended, refused or cancelled;”;
- (s) by the substitution in subsection 1(f) for subparagraphs (xiii), (xiv) and (xv) of the following subparagraphs: 50
- “(xiii) the period of validity of **[permits]** a permit or registration;
- “(xiv) the transferability of **[permits]** a permit or registration;
- “(xv) the duties and reporting requirements of issuing authorities, **[of the]** permit holders and registration holders;”;
- (t) by the deletion in subsection (1)(f) of subparagraph (xvi);
- (u) by the insertion in subsection (1) after paragraph (f) of the following paragraph: 55
- “(fA) self-administration within the biodiversity sector and the recognition of associations relating to persons, operations or facilities contemplated in section 59 of the Act;”;
- (v) by the deletion of the word “and” at the end of paragraph (g);
- (w) by the substitution of paragraph (h) for the following paragraph: 60
- “(h) any other matter that may be necessary to facilitate the implementation of this Act[.]; **and**”;

- (h) ka go akaretsa mo karotlaleletso (1)(c) ditemana (v) le (vi) ka ditemanatlaleletso tse di latelang, ka go farologana:
- “(v) tshekatsheko ya matshosetsi le ponelopele ya ditlamorago go tlhago le ditshedi tsa ditirelo tse di ileditsweng tse di amang dirwê tsa ditshedi tse di kotsi kgotsa tse di sa batlegeng; [le] 5
- (vi) taolo le phediso ya ditshedi tse di tlhalositsweng jaaka tse di sa batlegeng; le”;
- (i) ka go kwala mo karotlaleletso (1)(c) temanatlaleletso e e latelang:
- “(vii) kgolagano le tiragatso ya diporograma tsa go thibela, go laola, kgotsa go fedisa ditshedi tse di kotsi;” 10
- (j) ka go kwala mo karotlaleletso (1) morago ga temanatlaleletso (d) temana e e latelang:
- “(dA) lenaane le ditlhokego mabapi le kwadiso ya kgapeletso kgotsa ya boithaopo ya batho, ditheo, ditirelo tsa batsomi, dipolasi tsa diphologolo, ditshingwana, tsadiso ya kgapeletso kgotsa ditirelo tsa polokelo le ditlabakelo tse dingwe kgotsa ditirelo;” 15
- (k) ka go tlosa mo karotlaleletso (1)(e) temanatlaleletso (i);
- (l) ka go kwala boemong jwa karotlaleletso (1)(f) ya temana (i) temanatlaleletso e e latelang:
- “(i) mabaka ao ka ona bolaodi jwa katlanegiso bo ka ntshang, ntshwafatsa kgotsa fetola diphemiti kgotsa dikwadiso go tsamaelana le Molao ô;” 20
- (m) ka go kwala boemong jwa karotlaleletso (1)(f) temana (ii) ya temanatlaleletso e e latelang:
- “(ii) tsamaiso e e tshwanetseng go dirisiwa le dituelo tse di tshwanetseng go duelwa malebana le go bega le tshekatsheko ya dikopo [mabapi le diphemiti] le go ntshiwa ga diphemiti le kwadiso;” 25
- (n) ka go kwala mo karotlaleletso (1)(f) morago ga temanatlaleletso (ii) temana e e latelang:
- “(iiA) tsamaiso e e tshwanetseng go dirisiwa le dituelo tse di tshwanetseng go duelwa malebana le go tshwaiwa ga dirwê;” 30
- (o) ka go kwala mo karotlaleletso (1)(f) morago ga temanatlaleletso (vii) temana e e latelang:
- “(viiA) dinako tsa go sekaseka le go ntshiwa ga phemiti kgotsa kwaqiso ke bothati jwa katlanegiso; 35
- (viiB) tiragatso le tshekatsheko ya tlhatlhobo ya matshosetsi;”;
- (p) ka go kwala mo karotlaleletso (1)(f) morago ga temanatlaleletso (viii) temana e e latelang:
- “(viiiA) mefuta e farologaneng ya diphemiti tse di tshwanetseng go ntshiwa go tsamaelana le Molao ô;” 40
- (q) ka go kwala mo karotlaleletso 1(f) boemong jwa temanatlaleletso (ix) temanatlaleletso e e latelang:
- “(ix) magato, sebopego le dintlha tsa diphemiti le dikgaolo mo diphemiti di dirang gona;”;
- (r) ka go akaretsa mo karotlaleletso 1(f) morago ga temanatlaleletso (xi) ya temana tlaleletso e e latelang:
- “(xiA) maemo kgotsa mabaka ao diphemiti kgotsa dikwadiso di kgonang go fetolwa, ganwa kgotsa gogelwa morago;”;
- (s) ka go kwala mo karotlaleletso 1(f) boemong jwa temanatlaleletso (xiii), (xiv) le (xv) ya ditemanatlaleletso tse di latelang: 50
- “(xiii) paka ya go nna tirisong ga [diphemiti] phemiti kgotsa kwadiso; (xiv) tshutiso ya [diphemiti] phemiti kgotsa kwadiso; (xv) maikarabelo le ditlhokego tsa tsamaiso ya bolaodi jwa katlanegiso, [tsa] beng ba diphemiti le beng ba dikwadiso;”;
- (t) ka go tlosa mo karotlaleletso (1)(f) ya temanatlaleletso (xvi); 55
- (u) ka go kwala mo karotlaleletso (1) morago ga (f) temana e e latelang:
- “(fA) tsamaiso ya sebele mo lephateng la biodiversity le kamogelo ya mekgathlo e amanang le batho, dikgwebo kgotsa di dirisiwa tse di tlhalositsweng mo karolo 59 ya Molao;”;
- (v) ka go tlosa lefoko “le” mo bofelong jwa temana (g); 60
- (w) ka go kwala mo boemong jwa temana (h) temana e e latelang:
- “(h) morero mongwe le mongwe yo o ka nnang bothokwa go ntshetsapele tiragatso ya Molao ô[.]; le”;

- (x) by the addition of the following paragraph:
“(i) any matter that is necessary or expedient to achieve the objectives of the Act.”; and
- (y) by the insertion after subsection (3) of the following subsection:
“(3A) Any regulation made in terms of this Act must be submitted to Parliament 30 days prior to the publication of the regulations in the Gazette.”.

Amendment of section 98 of Act 10 of 2004

31. Section 98 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution in subsection (1)(b) for subparagraph (iv) of the following subparagraph:
“(iv) generally with respect to all permits [or appeals] or only to a specified category of permits [or appeals]; or”;
- (b) by the substitution in subsection (1)(c) for subparagraph (iv) of the following subparagraph:
“(iv) categories of permits [or appeals].”; and
- (c) by the addition of the following subsection:
“(3) Regulations made in terms of section 97 may differentiate between the penalties for the contravention of the different provisions thereof, but the maximum penalty may not exceed the penalty provided for in subsection (2).”.

Amendment of section 101 of Act 10 of 2004

32. Section 101 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
“(a) section 57(1), 57(1A), 65(1), 67(2), 71(1) [or], 81(1) or 81A(1);”;
 and
- (b) by the insertion in subsection (2) of the word “or” at the end of paragraph (a), the deletion in that subsection of the word “or” at the end of paragraph (b) and the deletion in that subsection of paragraph (c); and
- (c) by the deletion in subsection (3) of the word “or” at the end of paragraph (c), the insertion in that subsection of the word “or” at the end of paragraph (d) and the addition to that subsection of the following paragraph:
“(e) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subsection (1) or (2).”.

Amendment of section 102 of Act 10 of 2004, as amended by section 47 of Act 14 of 2009

33. Section 102 of the National Environmental Management: Biodiversity Act, 2004, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
“(2) If a person is convicted of an offence involving a specimen of a listed threatened or protected species, or an alien species or commencing the commercialisation phase of bioprospecting without a permit issued in terms of Chapter 7, a fine may be determined, either in terms of subsection (1) or equal to three times the commercial value of the specimen or activity in respect of which the offence was committed, whichever is the greater.”; and
- (b) by the insertion after subsection (2) of the following subsection:

- (x) ka go kwala temana e e latelang:
(i) morero mongwe le mongwe yo o leng bothokwa kgotsa wa potlako go ntshetsapele tiragatso ya Molao ô.”; le
- (y) ka go kwala morago ga karotlaleletso (3) tematlaleletso e e latelang:
“(3A) Molawana mongwe le mongwe yo o tshamilweng go ya ka Molao ô, o tshwanetse go tlhagisiwa fa pele ga Palamente mo nakong ya matsatsi a le 30 pele ga phatlalatso ya melawana eo mo Lokwalodikgang la Puso.”.

Phetolo ya karolo 98 ya Molao 10 wa 2004

31. Karolo 98 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

- (a) ka go kwala mo karotlaleletso (1)(b) boemong jwa tematlaleletso (iv) ya tematlaleletso e e latelang:
“(iv) ka tlwaelo go akarediwa dipheleli tsothe **[kgotsa diaphili]** kgotsa dipheleli tsa maemo a kgethegileng **[kgotsa diaphili]**; kgotsa”;
- (b) ka go kwala mo karotlaleletso (1)(c) boemong jwa tematlaleletso (iv) tematlaleletso e e latelang:
“(iv) magato a dipheleli **[kgotsa diaphili]**.”; le
- (c) ka go tlaleletsa ka karotlaleletso e e latelang:
“(3) Melawana e e dirilweng go tsamaelana le karolo 97 e ka farologanya dikotlhao maleba le ditatofatso tse di farologaneng go tsamaelana le ditaelo tsea yona tse di farologaneng, mme fela kotlhao e kwa godimo ga ya tshwanela go feta kotlhao e tlhalositsweng mo karotlaleletso (2).”.

Phetolo ya karolo 101 ya Molao 10 wa 2004

32. Karolo 101 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, ya fetolwa—

- (a) ka go akaretsa mo karotlaleletso (1) boemong jwa temana (a) temana e e latelang:
“(a) karolo 57(1), 57(1A), 65(1), 67(2), 71(1) **[kgotsa]**, 81(1) kgotsa 81A(1)”; le
- (b) ka go kwala mo karotlaleletso (2) lefoko “kgotsa” mo bofelong jwa temana (a), ka go tlosa mo karotlaleletso eo lefoko “kgotsa” mo bofelong jwa temana (b) le go tlosa mo karotlaleletso eo temana (c); le
- (c) ka go tlosa mo karotlaleletso (3) lefoko “kgotsa” mo bofelong jwa temana (c), ka go kwala mo karotlaleletso eo lefoko “kgotsa” mo bofelong jwa temana (d) le go oketsa karotlaleletso eo ka temana e e latelang:
“(e) go letlelela kgotsa go dumelela mongwe le mongwe go dira kgotsa go tlogela go dira, sengwe le sengwe se se leng tatofatso go ya ka karotlaleletso (1) kgotsa (2).”.

Phetolo ya karolo 102 Molao 10 wa 2004, jaaka o fetotswe mo karolo 47 ya Molao 14 wa 2009

33. Karolo 102 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, wa fetolwa—

- (a) ka go kwala mo boemong jwa karotlaleletso (2) karotlaleletso e e latelang:
“(2) fa motho a bonwe molato ka tatofatso e e amang serwê sa setshedi se se kotsi kgotsa se se sireleditsweng, kgotsa setshedi se se sa letlelelwang kgotsa go simolola kgwebelano ya bioprospecting ntle le pheleli go ya ka Kgaolo 7, go ka tlhomamisiwa tuelo ya tšhelete, le fa e le ka mokgwa wa karotlaleletso (1) kgotsa selekanyo sa makgetlho a mararo a tlhwatlhwa ya kgwebo ya dirwê kgotsa tiro mabapi le tatofatso e e dirilweng, ngwe le ngwe e kwa godimo.”; le
- (b) ka go kwala morago ga karotlaleletso (2) karotlaleletso e e latelang:

“(2A) If a person is convicted of an offence involving a specimen of a listed invasive species, a fine may be determined, either in terms of subsection (1) or equal to the estimated cost associated with the control of the specimen in respect of which the offence was committed or both.”.

Insertion of sections 105A and 105B in Act 10 of 2004

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34. The following sections are hereby inserted in the National Environmental Management: Biodiversity Act, 2004, after section 105:

“Emergency incidents

105A. (1) The Minister may, by notice in the *Gazette*, declare an emergency intervention for the purpose of the control or eradication of an alien species or a listed invasive species if that alien species or listed invasive species constitutes a significant threat to the environment.

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(2) A notice contemplated in subsection (1) must—

- (a) list the species to which the emergency intervention relates;
- (b) indicate the reasons for the intervention; and
- (c) provide the details relating to the intervention.

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Amnesty

105B. (1) In this section, ‘amnesty’ means indemnity against prosecution for the—

- (a) carrying out of a restricted activity involving specimens of listed threatened or protected species in terms of section 57(1), alien species in terms of section 65(1) or listed invasive species in terms of section 71(1); or
- (b) engagement in the commercialisation phase of bioprospecting, without a permit issued in terms of Chapter 7.

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(2) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may determine in the notice, declare a period of amnesty to facilitate compliance with the provisions of the Act.

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(3) A notice contemplated in subsection (2) must specify—

- (a) the person or category of persons to whom the amnesty applies;
- (b) the species to which the amnesty applies;
- (c) the restricted activity to which the amnesty applies;
- (d) the period during which a person must apply for a permit; and
- (e) the period for which the amnesty applies.”.

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Substitution of certain words in Act 10 of 2004

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35. The National Environmental Management: Biodiversity Act, 2004, is hereby amended by the substitution for the words “designation” or “designated”, whenever it occurs, of the words “assignment” or “delegation”, except in sections 13(1)(b) and 100.

Amendment of Table of Contents of Act 10 of 2004

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36. The Table of Contents of the National Environmental Management: Biodiversity Act, 2004 is hereby amended—

- (a) by the insertion after item 62 of the following item:

“62A. Amendment of notices”;

- (b) by the insertion after item 71 of the following item:

“71A. Prohibitions”;

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- (c) by the insertion after item 87 of the following item:

“87A. Issuing authority”;

- (d) by the insertion after item 92 of the following item:

“92A. Refusal of permits”;

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- (e) by the insertion after item 93A of the following item:

“93B. Suspension of permits”;

“(2A) Fa motho a bonwe molato ka tatofatso e amang serwê sa ditshedi tse di tlhalositsweng jaaka tse dikotsi, go ka tlhomamisiwa tuelo ya tšhelete go ya ka karolotlaleletso (1) kgotsa go tsamaelana le tuelo ya selekanyo sa tlhwalhwa ya taolo ya serwê go ya ka tatofatso e tlhodilweng kgotsa tsoopedi.”

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Go kwadiwa ga dikarolo 105A le 105B mo Molao 10 wa 2004

34. Dikarolo tse di lateng ditlaleletswa mo Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, morago ga karolo 105:

“Ditiragalo tsa maemo a matshosetsi

105A. (1) Ka kitsiso mo Lokwalodikgang la Puso, Tona e ka tlhalosa maano a go rarabolola matshosetsi ka maikaelelo a go laola kgotsa go fedisa setshedi se se kotsi kgotsa setshedi se se tlhalositsweng jaaka se se kotsi e bile se tshosetsa maemo a tikologo.

- (2) Kitsiso e e tlhalositsweng mo karolotlaleletso (1) e tshwanetse go—
- (a) tlhagisa ditshedi tse di lebaganeng le maano a tharabololo;
 - (b) tlhalosa mabaka a tharabololo; le
 - (c) tlamela ka dintlha tse di amang tharabololo.

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Boitshwarelo/Tebalelo

105B. (1) Mo karolong eno, “boitshwarelo” go bolela go sa latofatswe mabapi le—

- (a) go dira tiro e ileditsweng e amanang le dirwô tsa ditshedi tlhalositsweng jaaka tse di mo kotsing kgotsa tse di sireleditsweng go ya ka karolo 57(1), ditshedi tse di sa letlelelwang go ya ka karolo 65(1) kgotsa ditshedi tse senyang go ya ka karolo 71(1); kgotsa
- (b) go dira kgwebelano ya maemo a bioprospecting ntle le phemiti go ya ka Kgaolo 7.

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(2) Ka kitsiso mo Lokwalodikgang la Puso le go tsamaelana le mabaka a tlhomamisitsweng ke Tona mo kitsisong, Tona e ka tlhalosa paka ya boitshwarelo go matlafatsa kobamelo go tsamaelana le ditaelo tsa Molao.

(3) Kitsiso e tlhalositsweng mo karolotlaleletso (2) e tshwanetse go tlhalosa—

- (a) motho kgotsa magato a batho ba ba amiwang ke boitshwarelo;
- (b) ditshedi tse di amiwang ke boitshwarelo;
- (c) tiro e ileditsweng e amiwang ke boitshwarelo;
- (d) paka e batho ba tshwanetseng go dira kopo ya phemiti ka yona; le
- (e) paka e amiwang ke boitshwarelo.”

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Go kwadiwa ga mafoko a rileng mo Molao 10 wa 2004

35. Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, o fetolwa ka go kwala boemong jwa mafoko “taelo” kgotsa “laetsweng” gongwe le gongwe mo le tlhagelelang gona “tiro” kgotsa “taelo”, ntle le mo karolotlaleletso 13(1)(b) le 100.

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Phetolo ya Lenaaneo la Dintlha tsa Molao 10 wa 2004

36. Lenaaneo la Dintlha tsa Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Biodiversity*, wa 2004, le a fetolwa—

- (a) ka go kwala morago ga ntlha 62 ntlha e e latelang:
“62A. Kitsiso ya diphetogo”;
- (b) ka go kwala morago ga ntlha 71 ntlha e e latelang:
“71A. Dikiletso”;
- (c) ka go kwala morago ga ntlha 87 ntlha e e latelang:
“87A. Bolaodi jwa katlanegiso”;
- (d) ka go kwala morago ga ntlha 92 ntlha e e latelang:
“92A. Go ganwa ga kopo ya diphemiti”;
- (e) ka go kwala morago ga ntlha 93A ntlha e e latelang:
“93A. Go gogelwa morago ga diphemiti”;

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- (f) by the deletion of items 94, 95 and 96; and
 (g) by the insertion after item 105 of the following items:
 “105A. Emergency incidents
 105B. Amnesty”.

Amendment of section 55 of Act 39 of 2004

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37. Section 55 of the National Environmental Management: Air Quality Act, 2004, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Regulations made in terms of this Act may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable **[on conviction to—**

(a) **imprisonment for a period not exceeding five years;**

(b) **an appropriate fine; or**

(c) **both a fine and imprisonment]** in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.”.

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Amendment of section 1 of Act 59 of 2008

38. Section 1 of the National Environmental Management: Waste Act, 2008, is hereby amended by the substitution for the definition of “waste” of the following definition:

“**‘Waste’** means that any substance, whether or not that substance can be reduced, re-used, recycled **[and] or** recovered—

(a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;

(b) which the generator has no further use of for the purposes of production;

(c) that must be treated or disposed of; or

(d) that is identified as a waste by the Minister by notice in the *Gazette*;

and includes waste generated by the mining, medical or other sector, but—

(i) a by-product is not considered waste; and

(ii) any portion of waste, once re-used, recycled **[and] or** recovered, ceases to be waste;”.

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Substitution of section 51 of Act 14 of 2009

39. The following section is hereby substituted for section 51 of the National Environment Management Laws Amendment Act, 2009:

“Short title and commencement

51. This Act is called the National Environmental Management Laws Amendment Act, ~~[2008]~~ 2009 and comes into effect on a date fixed by the President by proclamation in the *Gazette*.”.

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Substitution of section 7 of Act 15 of 2009

40. The following section is hereby substituted for section 7 of the National Environmental Management: Protected Areas Amendment Act, 2009:

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“Short title and commencement

[7]9. This Act is called the National Environmental Management: Protected Areas Amendment Act, 2009, and comes into effect on a date fixed by the President by proclamation in the *Gazette*.”.

- (f) ka go tlosa dintlha 94, 95 le 96; le
- (g) ka go kwala morago ga ntlha 105 dintlha tse latelang:
“105A. Ditiragalo tsa maemo a matshosets
“105B. Boitshwarelo/Tebalelo”.

Ukuchibiyela isigaba sama-55 soMthetho wama-39 wezi-2004 5

37. Ngakho-ke isigaba sama-55 sokuPhathwa kwezeMvelo kaZwelonke: uMthetho weZinga loMoya, 2004, uchitshiyelwe ngokufaka endaweni yesigatshana sesi-(2) lesi sigatshana esilandelayo:

- “(2) Izimiso zoMthetho ezimiswe ngokwemigomo yalo Mthetho zingahlinzekela ukuthi noma ubani ophula noma ohluleka ukulandela lowo mbandela unecala futhi uzobhekana [uma elahlwa icala—
- (a) **uzoboshwa isikhathi esingadlulile eminyakeni emihlanu;**
 - (b) **inhlawulo efanele; noma**
 - (c) **abhekane nakho kokubili inhlawulo futhi aboshwe] uma elahlwa icala okokuqala uzokhokha inhlawulo engadlulile R5 wezigidi noma aboshwe isikhathi esingadlulile eminyakeni eyisihlanu futhi uma elahlwa icala okwesibili noma esikhathini esilandelayo uzokhokha inhlawulo engadlulile R10 wezigidi noma aboshwe isikhathi esingadlulile eminyakeni eyi-10 futhi kukhona kokubili uzokhokha inhlawulo futhi aboshwe.”.**

Phetolo ya karolo 1 ya Molao 59 wa 2008 20

38. Karolo 1 ya Tsamaiso ya Bosetšhaba ya Tikologo: Molao wa *Waste Act*, wa 2008, wa fetolwa ka go kwala boemong jwa tlhaloso ya “matlakala” tlhaloso e e latelang:

- “**Matlakala**” go bolela sengwe le sengwe, le fa go kgonega kgotsa go sa kgonagale gore selo seo se fetolwe, dirisiwe boswa, ntshwafadiwe [le] kgotsa setsosoloswe—
- (a) selo se se ntsi, sa batlegeng, latlhlweng, kgotsa sa;
 - (b) seo modirisi a sa tlhole a batla go se dirisa gape;
 - (c) se se tshwanetseng go ntshwafadiwa kgotsa go latlhiwa; kgotsa
 - (d) se se tlhalositsweng ke Tona jaaka matlakala ka kitsiso mo Lokwalodikgang la Puso; se se akaretsa matlakala a dirilweng ke makala a moepo, boitekanelo kgotsa makala a mangwe, mme—
 - (i) tlhagiso ya serwô ga e tseelwe jaaka matlakala; e bile
 - (ii) karolo ngwe le ngwe ya matlakala ga e tlhole e le matlakala fa e diriswa seshwa gape, ntshwafaditswe [le] go tsosoloswa;”.

Vervanging van artikel 51 van Wet 14 van 2009 35

39. Artikel 51 van die Wysigingswet op Nasionale Omgewingsbestuurswette, 2009 word in die Engelse teks gewysig deur dit deur die volgende artikel te vervang:

“Short title and commencement

51. This Act is called the National Environmental Management Laws Amendment Act, [2008] 2009 and comes into effect on a date fixed by the President by proclamation in the *Gazette*.”.

Sithatyathelw’ indawo isiqendu 7 soMthetho 15 ka-2009

40. Kufakelwa isiqendu esilandelayo endaweni yesiqendu 7 se*National Environmental Management: Protected Areas Amendment Act*, ka-2009:

“Igama lawo elifutshane nokuqalisa kwawo ukusebenza 45

[7]9. Lo Mthetho ubizwa ngokuba yi*National Environmental Management: Protected Areas Amendment Act*, ka-2009, kwaye uqalisa ukusebenza ngomhla oqitywe nguMongameli ngokwenza isihlokomiso ku*Shicilelo-Mithetho*.”.

Short title and commencement

41. This Act is called the National Environmental Management Laws Amendment Act, 2013, and comes into effect on the date published by the President in the *Gazette*.

Setlhogo se se khutshwane le tshimologo

41. Molao ô, o bidiwa Molao Phetolelo ya Melao ya Bosetshaba ya Tsamaiso ya Tikologo, wa 2013, mme o tla tsena tirisong ka letlha le le tlhomamisitsweng ke Mopresidente ka kgoeletso mo Lokwalodikgang la Puso.

