



Fund-Raising Amendment Bill [B 29b—2020]

Request For Written Submission On The Fund-Raising Amendment Bill [B 29b—2020]

The Portfolio Committee on Health and Social Development request members of public and interested stakeholders to submit written submission on the Bill.

The Fund-Raising Amendment Bill seeks to amend the Fund-raising Act, 1978, so as to amend certain definitions; to effect certain textual amendments to provide greater clarity; to provide for the discontinuation of certain funds and for the dissolution of any boards responsible for those funds; to establish the Disaster Relief and National Social Development Fund and to transfer any amounts remaining in the discontinued funds to the Disaster Relief and National Social Development Fund; to empower the Minister to make regulations in respect of the financial year of a fund; and to provide for matters connected therewith.

Written Submissions can be sent to the Committee Coordinator, Ms R Mohammed, on or before Friday, 07 June 2023 Email: rmohammed@ncpleg.gov.za

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REPUBLIC OF SOUTH AFRICA

FUND-RAISING AMENDMENT BILL

*(As agreed to by the Portfolio Committee on Social Development
(National Assembly))*

(MINISTER OF SOCIAL DEVELOPMENT)

[B 29B—2020]

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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.

BILL

To amend the Fund-raising Act, 1978, so as to amend certain definitions; to effect certain textual amendments to provide greater clarity; to provide for the discontinuation of certain funds and for the dissolution of any boards responsible for those funds; to establish the Disaster Relief and National Social Development Fund and to transfer any amounts remaining in the discontinued funds to the Disaster Relief and National Social Development Fund; to empower the Minister to make regulations in respect of the financial year of a fund; 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 107 of 1978, as amended by section 1 of Act 41 of 1980

1. Section 1 of the Fund-raising Act, 1978 (Act No. 107 of 1978) (hereafter referred to as the principal Act), is hereby amended— 5

(a) by the substitution for the definition of “Minister” of the following definition:
“**Minister** means the Minister **[of Social Welfare and Pensions]** responsible for social development and, for the purposes of Chapter II, **[includes]** means the Minister **[of Defence]** responsible for defence in so far as that Chapter applies in relation to the South African Defence Force Fund;” and 10

(b) by the substitution for the definition of “Secretary” of the following definition:
“**Secretary** means the **[Secretary for Social Welfare and Pensions]** Director-General of the Department of Social Development and, for purposes of Chapter II, **[includes]** means the **[Head of the South African Defence Force]** Secretary of Defence in so far as that Chapter applies in relation to the South African Defence Force Fund;”. 15

Substitution of section 17 of Act 107 of 1978 20

2. Section 17 of the principal Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:
“(3) A board shall consist of not more than **[fifteen]** ~~ten~~ members, of whom at least one half shall be appointed on a full-time basis.”;

- (b) by the substitution for subsection (4) of the following subsection:
“(4) At least half of the members of a board shall be persons who are not officers in the public service or the security services referred to in section 199(1) of the Constitution of the Republic of South Africa, 1996.”; and 5
- (c) by the substitution for subsection (11) of the following subsection:
“(11) A member who is not an officer of the public service or the security services shall be paid such allowances from the Fund in question as the Minister may with the concurrence of the Minister of Finance determine.”. 10

Amendment of section 18 of Act 107 of 1978, as amended by section 4 of Act 41 of 1980, section 1 of Act 19 of 1981, section 2 of Act 82 of 1983, section 4 of Act 115 of 1991 and section 2 of Act 43 of 1994

3. Section 18 of the principal Act is hereby amended— 15
- (a) by the substitution for paragraph (a) of the following paragraph: 15
“(a) the board of the Disaster Relief and National Social Development Fund shall be, with due regard to the financial position of that Fund and the requirements of each case [,]—
(i) to render to persons, organizations and bodies who or which suffer damage or loss caused by a disaster; and 20
(ii) to identify the prescribed social development activities or empowerment projects, and to provide, such assistance, in cash or otherwise, as the board may deem fair and reasonable;”;
- (b) by the substitution for paragraph (b) of the following paragraph: 25
“(b) the board of the South African Defence Force Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such aid as the board may deem fair and reasonable to—
(i) [members and] former members of the South African 30
Defence Force and of auxiliary services established and designated in accordance with section 80(1) of the Defence Act, 1957 (Act No. 44 of 1957), and their dependants; and
(ii) members and former members of the South African 35
National Defence Force and auxiliary services established and designated under section 199 of the Constitution of the Republic of South Africa, 1996, and sections 11, 16, and 17 of the Defence Act, 2002 (Act No. 42 of 2002), and their dependants,
who suffer financial hardship or financial distress arising, directly or 40
indirectly, out of any service or duties contemplated in section 3(2) of the Defence Act, 1957, section 201(2) of the Constitution of the Republic of South Africa, 1996, and sections 18 and 19 of the Defence Act, 2002, performed by such members, and to provide facilities to or for such members and former members who perform 45
or performed such service or duties;”;
- (c) by the deletion of paragraphs (c) to (e).

Amendment of section 20 of Act 107 of 1978

4. Section 20 of the principal is hereby amended by the addition of the following subsection: 50
“(3) A board must ensure the disbursement of funds or provision of assistance is done within a reasonable time, in consultation with the Minister, in line with section 50 of the Public Finance Management Act (Act No. 1 of 1999).”.

Amendment of section 22 of Act 107 of 1978

5. Section 22 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Funds referred to in section 16, read with section 25A (2)(b), shall consist of—”; and

(b) by the substitution for subsections (4) to (8) of the following subsections, respectively:

“(4) A board shall deposit all the moneys received by it in an account which it shall open with a banking institution registered in terms of the Banks Act, [1965 (Act No. 23 of 1965)] 1990 (Act No. 94 of 1990).

(5) A board shall from time to time invest with the **[Public Debt Commissioners] Public Investment Corporation Limited** established by section 2(1) of the Public Investment Corporation Act, 2004 (Act No. 23 of 2004), or in such other manner as the Minister may, with the concurrence of the Minister of Finance, determine, all moneys which are not required for immediate use or as a reasonable working balance.

(6) The financial year of a fund shall terminate on 31 March in each year or as prescribed by the Minister.

(7) Each Fund is, subject to the directions of the Minister, under the control of the Secretary, who—

(a) is the accounting officer of the Fund; and

(b) must keep full and proper records of the financial affairs of the Fund and must prepare financial statements for each financial year, in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(8) The records and financial statements contemplated in subsection (7) must be audited by the Auditor-General and must—

(a) be included as part of the annual report and audited financial statements of the Department of Social Development or the Department of Defence and Military Veterans, as the case may be, referred to in section 40 of the Public Finance Management Act, 1999; and

(b) be submitted to the relevant Minister to enable compliance with section 65 of the Public Finance Management Act, 1999.”.

Substitution of section 25 of Act 107 of 1978

6. The following section is hereby substituted for section 25 of the principal Act:

“Performance of administrative work of boards

25. (1) The administrative work, including receipt and disbursement of money incidental to the performance of the functions or the exercise of the powers of a board or of any committee of the board, must—

(a) in the case of the Disaster Relief and National Social Development Board, be performed by officers in the public service designated by the Secretary and who must be under his or her control;

(b) in the case of the South African Defence Force Fund Board, be performed by members of the South African National Defence Force designated by the Secretary and who must be under his or her control.

(2) The disbursement of funds or provision of assistance as contemplated—

(a) in section 18(a) must be carried out by the South African Social Security Agency established by section 2 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

(b) in section 18(b) must be carried out by the Board referred to in that section.”.

Insertion of section 25A in Act 107 of 1978

7. The following section is inserted after section 25 of the principal Act:

“Discontinuation and transfer of certain funds

- 25A.** (1) In this section ‘**effective date**’ means the date of commencement of section 7 of the Fund-raising Amendment Act, 2022. 5
- (2) As from the effective date—
- (a) the following funds established under section 16 cease to exist:
 - (i) The Refugee Relief Fund;
 - (ii) the State President’s Fund; and
 - (iii) the Social Relief Fund; 10
 - (b) the Disaster Relief Fund established under section 16(a) continues to exist under the name of the Disaster Relief and National Social Development Fund;
 - (c) all amounts credited to any fund referred to in paragraph (a) immediately before the effective date vest in the Disaster Relief and National Social Development Fund; 15
 - (d) any board established by the Minister in terms of section 17 and responsible for managing a fund referred to in paragraph (a) is dissolved; and
 - (e) subject to paragraph (c), all liabilities, assets and rights existing as well as accruing of the funds referred to in paragraph (a) must devolve upon the Department of Social Development.”. 20

Amendment of section 36 of Act 107 of 1978

8. Section 36 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph: 25

“(c) the financial year of the Fund as contemplated in section 22(6);”.

Short title and commencement

9. (1) This Act is called the Fund-raising Amendment Act, 2022, and takes effect on a date fixed by the President by Proclamation in the *Gazette*.

(2) Different dates may, under subsection (1), be so fixed in respect of different provisions of this Act. 30

MEMORANDUM ON THE OBJECTS OF THE FUND-RAISING AMENDMENT BILL, 2020

1. PURPOSE OF BILL

The Fund-raising Amendment Bill, 2020 (“the Bill”), aims to rationalise the Fund-raising Act, 1978 (Act No. 107 of 1978) (“the principal Act”), by consolidating the Disaster Relief Fund, the Refugee Relief Fund, the Social Relief Fund and the State President’s Fund into the Disaster Relief and National Social Development Fund, so as to focus on proactive mitigation of disasters and promote the social development of communities. The consolidation of the Funds will streamline administrative processes, and enable more efficient services to poor communities and reduce costs.

2. SUMMARY OF PROVISIONS OF BILL

- 2.1 Clause 1 seeks to amend the definitions of “Minister” and “Secretary” to remove obsolete references in section 1 of the principal Act.
- 2.2 Clause 2 seeks to amend section 17 of the principal Act. The proposed amendment mainly intends to reduce the maximum number of members of a board established under the principal Act to administer a fund from 15 to ten.
- 2.3 Clause 3 seeks to amend section 18 of the principal Act to make provision for the objects of the Disaster Relief and National Social Development Fund which consolidates the funds that it replaces in the principal Act.
- 2.4 Clause 4 seeks to amend section 20 of the principal Act in order to empower the Minister to give directions to a board in respect of disbursement of funds and to ensure that a board acts in line with section 50 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.5 Clause 5 seeks to amend section 22 of the principal Act mainly to provide for the financial management and control of the funds established in the principal Act in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 2.6 Clause 6 seeks to substitute section 25 of the principal Act. The proposed substitution seeks to further provide for the administrative work of the boards and for disbursement of funds managed by the boards established in the principal Act.
- 2.7 Clause 7 seeks to insert section 25A in the principal Act in order to provide for the discontinuation and transfer of certain funds. The new section 25A provides that, as from the effective date, which is the date of commencement of section 7 of the Fund-raising Amendment Act, 2022—
 - (a) the following funds established under section 16 of the principal Act cease to exist:
 - (i) The Refugee Relief Fund;
 - (ii) the State President’s Fund; and
 - (iii) the Social Relief Fund;
 - (b) the Disaster Relief Fund established under section 16(a) of the principal Act continues to exist under the name of the Disaster Relief and National Social Development Fund;
 - (c) all amounts credited to any fund referred to in paragraph (a), immediately before the effective date, vest in the Disaster Relief and National Social Development Fund;
 - (d) any board established by the Minister in terms of section 17 and responsible for managing a fund referred to in paragraph (a) is dissolved; and
 - (e) subject to paragraph (c), all liabilities, assets and rights existing as well as accruing of the funds referred to in paragraph (a) must devolve upon the Department of Social Development.

- 2.8 Clause 8 seeks to amend section 36 of the principal Act in order to further provide for the making of regulations.
- 2.9 Clause 9 provides for the short title and commencement of the Act. It will be noted that the commencement clause provides for different commencement dates in respect of the sections of the Act to be proclaimed so as to cater for the bringing into operation of, for instance, the aforesaid section 7 of the Fund-raising Amendment Act, 2022, at a later date to enable the Department to prepare for the implementation thereof.

3. DEPARTMENT/ BODIES/ PERSONS CONSULTED

- 3.1 The Presidency, National Treasury, Department of International Relations and Cooperation, Department of Cooperative Governance and Traditional Affairs, Department of Defence and Military Veterans, Department of Home Affairs, Black Sash, all nine provincial Departments of Social Development and the South African Social Security Agency were consulted and supported the Bill.
- 3.2 The Bill was published in *Gazette* No. 40861, under Notice No. 469 of 26 May 2017 for public comments for a period of 30 days.

4. FINANCIAL IMPLICATIONS FOR STATE

- 4.1 The existing funds under the Fund-raising Act, other than the South African Defence Force Fund, will be consolidated into one Disaster Relief and National Social Development Fund. The current values of the various relief funds are as follows:

Disaster Relief Fund	R28 000 000 (Active)
State President's Fund	R40 741 682 (Dormant)
Refugee Relief Fund	R640 408.03 (Dormant)
Social Relief Fund	R39 008 852 (Dormant)
Total	R108 390 942.03

- 4.2 The Board members will be remunerated from the Disaster Relief and Social Development Fund. In line with section 17(11) of the principal Act, the Board will be paid per sitting in accordance with the remuneration scale the Minister in concurrence with the Minister of Finance may determine.

5. PARLIAMENTARY PROCEDURE

- 5.1 The State Law Advisers and the Department of Social Development are of the opinion that the Bill should be dealt with in terms of the procedure prescribed by the provisions of section 76 of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely "welfare services".
- 5.2 The principles in the case of *Tongoane and Others v National Minister for Agriculture and Land Affairs and Others* 2010 (8) BCLR 741 (CC) are important when determining if a Bill ought to be tagged as either a section 75 or 76 Bill. The test laid down in that case for determining the procedure to be followed in enacting a Bill is whether the provisions of the Bill fall within a functional area listed in Schedule 4 or, in substantial measure, affect the interests of the provinces.
- 5.3 The tagging of the Bill requires firstly, considering all the provisions of the Bill and determining whether they substantially impact the interests of the provinces. Thereafter a consideration of whether or not the impact of these provisions is not so small as to be regarded as trivial must be carried out. The tagging of Bills before Parliament must be informed by the need to ensure that provinces fully and effectively exercise their appropriate role in the process of considering national legislation that substantially affects them.

- 5.4 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

REPHABOLIKI YA AFRIKA BORWA

SETSHWANTSHO SA MOLAO WA TOKISO WA HO NYOLLA MOKOTLA

*(Jwalo ka ha ho dumellanwe ke Komiti ya Potfoliyo ya tsa
Ntshetsopele ya Setjhaba (Ntlo ya Seema
ya Naha))*

(LETONA LA NTSHETSOPELE YA SETJHABA)

NOUTO YA KAKARETSE E HLALOSANG:

- [] Mantswe a mofuta wa mongolo o motenya a ka hara masakana tsa sekwere a bontsha ho tlohelwa ho tswang ho fetisweng ha molao ho seng ho le teng.
- _____ Mantswe a sehetsweng mola ka o otlohileng a bontsha ho kennwa ka hara ho fetisweng ho seng ho le teng ha molao.
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SETSHWANTSHO SA MOLAO

Ho lokisa Molao wa ho Nyolla Mokotla, 1978, e le ho fetola ditlhaloso tse itseng; ho kenya tshebetsong ditokoso tse itseng tsa mongolo ho fana ka tlhakisetso e kgolo; ho fana ka ho kginwa ha matlole a itseng le bakeng sa ho qhalwa ha diboto tse ikarabella bakeng sa matlole ao; ho theha Letlole la Kimillo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha le ho fetisetsa ditjhelete dife kapa dife tse setseng matloleng a sa tswelleng pele ho Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha; ho matlafatsa Letona ho etsa melawana e mabapi le selemo sa ditjhelete sa letlole; le ho nehelana bakeng sa dintho tse amanang.

HORE O TLE O FETISWE ke Palamente ya Rephaboliki ya Afrika Borwa, ka tsela e latelang:—

Tokiso ya karolo ya 107 ya 1978, jwalo ka ha e lokisitswe ke karolo ya 1 ya Molao wa 41 ya 1980

1. Karolo ya 1 ya Molao wa ho Nyolla Mokotla, 1978 (Molao wa Nmr. ya 107 wa 1978) (mona 5 moo o tsejwang ka hore ke Molao wa sehlooho), mona o lokisitswe—

- (a) ka ho nkelwa sebaka ha tlhaloso ya "Letona" ke tlhaloso ena e latelang: "'Letona' le bolela Letona [la Thekolohelo ya Setjhaba le Dipenshene] le ikarabellang bakeng sa ntshetsopele ya setjhaba le, bakeng sa maikemisetso a Kgaolo ya II, [kenyelletsa] e bolela Letona [la Tshireletso] le ikarabellang bakeng sa tshireletso ha feela Kgaolo ya 10 e sebetsa mabapi le Letlole la Lebotho la Tshireletso la Afrika Borwa;" le
- (b) ka ho nkelwa sebaka ha tlhaloso ya "Mongodi" ke tlhaloso ena e latelang: "'Mongodi' e bolela [Mongodi wa Thekolohelo ya Setjhaba le Dipenshene] 15 Molaodi-Kakaretso wa Lefapha la Ntshetsopele ya Setjhaba le, bakeng sa maikemisetso a Kgaolo II, [ho kenyelletsa] e bolela [Hlooho ya Lebotho la Tshireletso la Afrika Borwa] Mongodi wa Tshireletso e sebetsa mabapi le Letlole la Lebotho la Tshireletso la Afrika Borwa;"

Ho nkelwa sebaka ha karolo ya 17 ya Molao wa 107 wa 1978

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2. Karolo ya 17 Molao wa sehlooho mona e lokisitswe—

- (a) ka ho nkelwa sebaka ha karolwana ya (3) ya karolwana e latelang: "(3) Boto e tla ba le ditho tse sa feteng ditho tse [leshome le metso e mehlano] leshome, tseo bonyane se le seng se lokelang ho kgethwa bakeng sa nako ya moshwelella."

(b) ka ho nkelwa sebaka ha karolwana ya (4) ya karolwana e latelang:

“(4) Bonyane halofo ya ditho tsa boto e lokela ho ba batho bao e seng bahlanka ka hara tshebeletso ya setjhaba kapa ditshebeletso tsa tshireletso tse boletsweng karolong ya 199(1) ya Molao wa motheo wa Rephaboliki ya Afrika Borwa, 1996.”; le 5

(c) ka ho nkelwa sebaka ha karolwana ya (11) ya karolwana e latelang:

“(11) Setho seo e seng mohlanka wa tshireletso ya setjhaba kapa tshebeletso ya tshireletso se tla lefshwa ditjhelete tse tswang Letloleng lena jwalo ka ha Letona ka tumellano le Letona la Ditjhelete le ka etsa qeto.”. 10

Tokiso ya karolo ya 18 ya 107 ya 1978, jwalo ka ha e lokisitswe ke karolo ya 4 ya Molao wa 41 ya 1980, karolo 1 Molao wa 19 wa 1981, karolo ya 2 ya Molao wa 82 wa 1983, karolo ya 4 ya Molao wa 115 wa 1991 le karolo ya 2 ya Molao wa 43 wa 1994

3. Karolo ya 18 Molao wa sehlooho mona e lokisitswe—

(a) ka ho nkelwa sebaka ha seratswana sa (a) sa seratswana se latelang: 15

“(a) boto ya Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha e tla, ho latela boemo ba ditjhelete ba Letlole le ditlhoko tsa ntlha ka nngwe [.]—

(i) ho fa batho, mekgatlo le ditheo tseo kapa tse bang le tshenyo kapa tahlehelo e bakilweng ke koduwa; le 20

(ii) qolla mesebetsi e kgothaleditsweng ya ntshetsopele ya setjhaba kapa diprojeke tsa ho matlafatsa,

le ho fana, ka thuso e jwalo, tjhelete ya kontane kapa ka e nngwe, ho ya ka moo boto e ka bonang ho na le toka ebile ho utlwahala;”;

(b) ka ho nkelwa sebaka ha seratswana sa (b) sa seratswana se latelang: 25

“(b) boto ya Letlole la Lebotho la Tshireletso la Afrika Borwa e tla, ho latela boemo ba ditjhelete ba Letlole le ditlhoko tsa ntlha ka nngwe, fana ka thuso e jwalo ho ya ka moo boto e bonang ho na le toka ebile ho utlwahala ho—

(i) **[ditho le]** ditho tsa mehleng tsa Lebotho la Tshireletso 30 la Afrika Borwa le ditshebeletso tsa tlatsetso tse theilweng le ho kgethwa ho latela karolo ya 80(1) ya Molao wa Tshireletso, 1957 (Molao wa Nmr. ya 44 wa 1957, le batshehetsuwa; le

(ii) ditho le ditho tsa mehleng tsa Lebotho la Naha la Tshireletso la Afrika Borwa le tshireletso tsa tlatsetso tse theilweng 35 le ho kgethwa tsa karolo ya 199 ya Molao wa motheo wa Rephaboliki ya Afrika Borwa, 1996, le dikarolo tsa 11, 16, le 17 tsa Molao wa Tshireletso, 2002 (Molao wa Nmr. ya 42 wa 2002), le batshehetsuwa ba bona,

ba nang le mathata a ditjhelete kapa kgatello ya tjhelete e bakilweng, ka kotloloho kapa 40

e seng ka kotloloho, ka lebaka la tshebeletso kapa mesebetsi efe kapa efe e boletsweng ka hara karolo ya 3(2) ya Molao wa Tshireletso, 1957, karolo ya 201(2) ya Molao wa motheo wa Rephaboliki ya Afrika Borwa, 1996, le dikarolo tsa 18 le 19 tsa Molao wa Tshireletso, 2002, o entsweng ke ditho tse jwalo, le ho fana ka

disebediswa ho kapa bakeng sa ditho tse jwalo le ditho tsa mehleng tse etsang 45

kapa tse entseng tshebeletso kapa mesebetsi e jwalo;”;

(c) ka ho hlakola diratswana (c) ho isa ho (e).

Tokiso ya karolo ya 20 ya Molao wa 107 wa 1978

4. Karolo ya 20 ya sehlooho mona e lokisitswe ka tlatseletsa ka karolwana ena e latelang: 50

“(3) Boto e tlameha ho netefatsa hore ho lefshwa ha ditjhelete kapa phano ya thuso e etswa nakong e utlwahalang, ka ho ikopanya le Letona, ho latela karolo ya 50 ya Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba (Molao wa Nmr. ya 1 wa 1999.”;

Tokiso ya karolo ya 22 ya Molao wa 107 wa 1978

5. Karolo ya 22 Molao wa sehlooho mona e lokisitswe—

- (a) ka ho nkelwa sebaka karolwaneng ya (1) ha mantswe a etelang pele seratswana (a) sa mantswe a latelang:
“Matlole a boletsweng karolong ya 16, ha a balwa le karolo ya 25A (2)(b), a thewa ka—”; le
- (b) ka ho nkelwa sebaka ha dikarolwana tsa (4) ho ya ho (8) tsa dikarolwana tse latelang, ka ho latela ka moo di boletsweng ka teng:
“(4) Boto e tla boloka ditjhelete tsohle tse amohetsweng ke yona ka hara akhaonte eo e tlang ho e bula le setheo sa banka se ngodisitsweng ho latela 10 Molao wa Dibanka, [1965 (Molao wa Nmr. ya 23 wa 1965)] 1990 (Molao wa Nmr. ya 94 wa 1990).
(5) Boto nako le nako e tla tsetela le [Bakhomishenara ba Sekoloto sa Setjhaba] Koporasi ya Matsete a Setjhaba e Sehetsweng Moedi e theilweng ho latela karolo ya 2(1) ya Molao wa Koparasi ya Matsete a Setjhaba, 2004 (Molao wa Nmr. ya 23 wa 2004), kapa ka tsela eo Letona le ka, ka 15 tumellano le Letona la Ditjhelete, etsa qeto ka, ditjhelete tsohle tse sa hlokalaleng bakeng sa tshebediso ya hang kapa jwalo ka tjhelete e setseng e utlwahalang.
(6) Selemo sa ditjhelete sa letlole se tla fella ka la 31 Hlakubele selemo ka seng kapa jwalo ka ha ho kgothaletswe ke Letona.
(7) Letlole ka leng, ka ho latela ditaello tsa Letona, tlasa 20 taolo ya Mongodi, eo—
(a) e leng mohlanka ya ikarabellang wa Letlole; le
(b) a lokelang ho boloka direkoto ka botlalo le ka nepo tsa ditaba tsa ditjhelete tsa Letlole lena mme o tlameha ho hlophisa ditatementsa tsa ditjhelete bakeng sa selemo sa ditjhelete ka seng, ho latela Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba, 1999, (Molao wa Nmr. ya 1 wa 25 1999).
(8) Direkoto le ditatementsa tsa ditjhelete tse boletsweng karolwaneng ya (7) di tlameha ho hlalohjwa ke Mohlahlobi-Kakaretso mme di tlameha ho—
(a) kenyelletswa jwalo ka karolo ya tlaleha ya selemo le selemo tsa Lefapha la Ntshetsopele ya Setjhaba kapa 30 Lefapha la Tshireletso le Mekaubere ya Sesole, ka moo ho ka bang ka teng, tse boletsweng ho karolo ya 40 ya Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba, 1999; le
(b) ho romelwa ho Letona le amanang e le ho kgontsha ho ikobela molao le karolo ya 65 wa Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba, 1999.”.

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Ho nkelwa sebaka ha karolo ya 25 wa Molao 107 wa 1978

6. Karolo e latelang mona e nkelwa sebaka bakeng sa karolo ya 25 ya Molao wa

sehlooho: "Ho phethahatswa ha mosebetsi wa tsamaiso wa diboto

- 25.** (1) Mosebetsi wa tsamaiso, ho kenyelletsa kamohelo le ho lefshwa ha tjhelete e amanang le ho phethahatswa ha mesebetsi kapa ho sebediswa ha matla a boto kapa a komiti efe kapa efe ya boto, o tlameha—
- (a) maelana le Boto ya Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha, ho etswa ka bahlanka ba tshebetso ya setjhaba ba thontsweng ke Mongodi mme o tlameha ho ba tlasa taolo ya hae;
- (b) mabapi le Boto ya Letlole la Lebotho la Tshireletso la Afrika Borwa, etswa ke ditho Lebotho la Tshireletso la Afrika Borwa le thontsweng ke Mongodi mme bo tlameha ho ba ka tlasa taolo ya hae.
- (2) Ho lefshwa ha letlole kapa ho fanwa ka thuso jwalo ka ha ho boletsweng—
- (a) karolong ya 18(a) ho tlameha ho etswa ke Setheo sa Tshireletso ya Setjhaba sa Afrika Borwa se theilweng ka karolo ya 2 ya Molao wa Setheo sa Tshireletso ya Setjhaba sa Afrika Borwa, 2004 (Molao wa Nmr. ya 9 wa 2004);
- (b) karolong ya 18(b) o tlameha ho phethahatswa ke Boto e boletsweng karolong eo.”.

Ho kenngwa ha karolo ya 25A ka hara Molao wa 107 wa 1978

7. Karolo e latelang e kentswe ka mora karolo ya 25 ya Molao wa sehlooho:

"Ho kginwa le ho fetisetswa ha matlole tse itseng

- 25A.** (1) Karolong ena 'letsatsi la ho kena tshebetsong' le bolela letsatsi la ho qala la karolo ya 7 ya Molao wa Tokiso wa ho Nyolla Mokotla, 2022. 5
- (2) Ho tloha mohla letsatsi la ho kena tshebetsong—
- (a) matlole a latelang a theilweng tlasa karolo ya 16 a emisa ho ba teng: 10
- (i) Letlole la Kimollo ya Baphaphathehi;
 - (ii) Letlole la Mopresidente wa Naha, le
 - (iii) Letlole la Kimollo ya Setjhaba;
- (b) Letlole la Kimollo ya Setjhaba le ileng la thewa tlasa karolo ya 16(a) le tswela pele ho ba teng tlasa lebitso la Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha;
- (c) ditjhelete tsohle tse lefuweng ho letlole lefe kapa lefe le boletsweng seratswaneng sa (a) hanghang pele ho letsatsi la ho kena tshebetsong e lokela ho ba ho Letlole la Kimollo ya Dikoduwa le 15 Ntshetsopele ya Setjhaba ya Naha;
- (d) boto efe kapa efe e theilweng ke Letona ho latela karolo ya 17 mme e ikarabella ho tsamaisa letlole le boletsweng seratswaneng sa (a) e qhaduwe; le
- (e) ho ipapisitswe le seratswana sa (c), melato, thepa le ditokelo tsohle tse teng esitana le 20 matlole a bang le phaello a boletsweng seratswaneng sa (a) a tlameha ho fetisetswa ho Lefapha la Ntshetsopele ya Setjhaba.”.

Tokiso ya karolo ya 36 Molao wa 107 wa 1978

8. Karolo ya 36 ya Molao wa sehlooho mona e lokisitswe ka ho nkelwa sebaka ha karolwana (1) bakeng sa seratswana sa (c) sa seratswana se latelang: 25
- “(c) selemo sa ditjhelete sa letlole jwalo ka ha se boletsweng ho karolo ya 22(6);”.

Thaetlele e kgutshwanyane le qalo

9. (1) Molao ona o bitswa Molao wa Tokiso wa ho Nyolla Mokotla, 2022, mme o kena tshebetsong ka letsatsi le kgethuweng ke Mopresidente ka Phatlalatso ka hara *Kasete*.
- (2) Matsatsi a fapaneng a ka, tlasa karolwana ya (1), a kgethwa mme a se hlole a fetoha mabapi le diphelelo tse 30 fapaneng tsa Molao.

**MEMERANDAMO YA MAIKEMISETSE A SETSHWANTSHO
SA MOLAO WA TOKISO WA HO NYOLLA
MOKOTLA**

1. SEPHEO YA SETSHWANTSHO SA MOLAO

Setshwants'ho sa Molao wa Tokiso wa ho Nyolla Mokotla, 2020 ("Setshwants'ho sa Molao"), se ikemiseditse ho beha mabaka a Molao wa ho Nyolla Mokotla, 1978 (Molao wa Nmr. ya 107 wa 1978) ("Molao wa sehlooho"), ka ho koponya Letlole la Kimollo ya Dikoduwa, Letlole la Kimollo ya Baphaphathehi, Letlole la Kimollo ya Setjhaba le Letlole la Mopresidente wa Naha ho ba Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha, e le ho tsepamisa maikutlo ho pebofatso ya pele ho nako ya dikoduwa le ho kgothaletsa ntshetsopele ya setjhaba ka hara setjhaba. Ho kopanngwa ha Matlole ho tla nolofatsa mekgwatsamaiso, le ho kgontsha ditshebetso tse ngata tse nang le bokgono ho setjhaba se futsanehileng esitana le ho fokotsa ditjeo.

2. KGUTSUFATSO YA DIPEHELO TSA SETSHWANTSHO SA MOLAO

- 2.1 Polelwana ya 1 e batla ho lokisa ditlhaloso tsa "Letona" le "Mongodi" ho tlosa direferense tse seng di sa sebebdiswe ka hara karolo ya 1 ya Molao wa Sehlooho.
- 2.2 Polelwana ya 2 e batla ho lokisa karolo ya 17 ya Molao wa sehlooho. Tokiso e hlahisitsweng haholoholo e ikemiseditse ho fokotsa palo e hodimo ka ho fetisisa ya ditho tsa boto e theilweng tlasa Molao wa sehlooho ho tsamaisa letlole ho tloha ho 15 ho ya ho leshome.
- 2.3 Polelwana ya 3 e batla ho lokisa karolo ya 18 ya Molao wa sehlooho ho etsa pehelo bakeng sa maikemisetso a Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha e kopanyang matlole ao e a nkelang sebaka ka hara Molao wa sehlooho.
- 2.4 Polelwana ya 4 e batla ho lokisa karolo ya 20 ya Molao wa sehlooho e le ho matlafatsa Letona ho fana ka ditaelo ho boto mabapi le ho lefshwa ha matlole le ho netefatsa hore boto e sebetse ho latela karolo ya 50 ya Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba, (Molao wa Nmr. ya 1 wa 1999).
- 2.5 Polelwana ya 5 e batla ho lokisa karolo ya 22 ya Molao wa sehlooho haholoholo e le ho kgontsha tsamaiso ya ditjhelete le taolo ya matlole a theilweng ka hara Molao wa sehlooho ho latela Molao wa Tsamaiso ya Ditjhelete tsa Setjhaba, (Molao wa Nmr. ya 1 wa 1999).
- 2.6 Polelwana ya 6 e batla ho nkela sebaka karolo ya 25 ya Molao wa sehlooho. Ho nkelwa sebaka ho hlahisitsweng ho batla ho fana ka mosebetsi wa tsamaiso wa diboto le bakeng sa ho lefshwa ha matlole a tsamaiswang ke diboto tse theilweng ka Molao wa sehlooho.
- 2.7 Polelwana ya 7 e batla ho kenya karolo ya 25A ka hara molao wa sehlooho e le ho fana ka ho kginwa le ho fetisetwa ha ha matlole a itseng. Karolo e ntjha ya 25A e fana ka, ho tloha mohlala letsatsi la ho kena tshetsong, e leng letsatsi la ho qala la karolo ya 7 ya Molao wa Tokiso wa ho Nyolla Mokotla, 2022—
 - (a) matlole a latelang a theilweng tlasa karolo ya 16 ya Molao wa sehlooho a emisa ho ba teng:
 - (i) Letlole la Kimollo ya Baphaphathehi;
 - (ii) Letlole la Mopresidente wa Naha, le
 - (iii) Letlole la Kimollo ya Setjhaba;
 - (b) Letlole la Kimollo ya Setjhaba le ileng la thewa tlasa karolo ya 16(a) ya Molao wa sehlooho le tswela pele ho ba teng tlasa lebitso la Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha;
 - (c) ditjhelete tsohle tse lefuweng ho letlole lefe kapa lefe le boletsweng seratswaneng sa (a), hanghang pele ho letsatsi la ho kena tshetsong, e lokela ho ba ho Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha;
 - (d) boto efe kapa efe e theilweng ke Letona ho latela karolo ya 17 mme e ikarabella ho tsamaisa letlole le boletsweng seratswaneng sa (a) e qhaduwe; le
 - (e) ipapisa le seratswana sa (c), thwalo ya boikarabelo, thepa le ditokelo tse seng di le teng esitana le matlole a bang le phaello a boletsweng seratswaneng sa (a) a tlameha ho fetisetwa ho Lefapha la Ntshetsopele ya Setjhaba.

- 2.8 Polelwana ya 8 e batla ho lokisa karolo ya 36 ya Molao wa sehlooho e le ho boela e fana ka ho etswa ha melawana.
- 2.9 Polelwana ya 9 e fana ka thaetlele e kgutshwanyane le qalo ya Molao. Ho tla hlokomelwa hore polelwana ya qalo e fana ka matsatsi a fapaneng a ho qala mabapi le dikarolo tsa Molao tse tla phatlalatswa e le ho kgontsha ho kenya tshebetsong ha, mohlala, karolo ya 7 e seng e boletswe ya Molao wa Tokiso wa ho Nyolla Mokotla, 2022, letsatsing le tla bolelwa e le ho kgontsha Lefapha ho hlophisa bakeng sa ho kenngwa tshebetsong.

3. LEFAPHA/ DITHEO/ BATHO BAO HO IKOPANTSWENG LE BONA

- 3.1 Kantoro ya Mopresidente, Lefapha la Matlotlo la Naha, Lefapha Dikamano le Tshebedisanommoho ya Matjhaba, Lefapha la Puso ya Kopanelo le Merero ya Setso, Lefapha la Tshireletso le Mekaubere ya Sesole, Lefapha la Ditaba tsa Selehae, Black Sash, Mafapha ohle a robong a provense a Ntshetsopele ya Setjhaba le Setheo sa Tshireletso ya Setjhaba sa Afrika Borwa ho ile ha ikopangwa le tsona mme di tshehetsa Setshwantsho sena sa Molao.
- 3.2 Setshwantsho sa Molao se ile sa phatlalatsa ka hara Gazete ya Nmr. ya 40861, tlasa Tsebiso ya Nmr. ya 469 ya 26 Motsheanong 2017 bakeng sa ditshwaelo tsa setjhaba bakeng sa nako ya matsatsi a 30.

4. DITLAMORAO TSA DITJHELETE BAKENG SA NAHA

- 4.1 Matlole a seng a le teng tlasa Molao wa ho Nyolla Mokotla, ntle feela le Letlole la Lebotho la Tshireletso la Afrika Borwa, a la kopangwa ho ba Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba ya Naha. Boleng ba jwale matlole a fapaneng a kimollo a eme ka tsela e latelang:

Letlole la Kimollo ya Dikoduwa	R28 000 000 (E ya sebetsa)
Letlole la Mopresidente wa Naha	R40 741 682 (Le phomotse)
Letlole la Kimollo ya Baphaphathehi	R640 408.03 (Le phomotse)
Letlole la Kimollo ya Setjhaba	R39 008 852 (Le phomotse)
Kakaretso	R108 390 942.03

- 4.2 Ditho tsa Boto di tla putswa ho tswa ho Letlole la Kimollo ya Dikoduwa le Ntshetsopele ya Setjhaba. Ho ipapisitswe le karolo ya 17(11) ya Molao wa sehlooho, Bona ena e tla lefshwa ho latela kopano ka nngwe ho ipapisitswe le sekala sa moputso seo Letona ka tumellano le Letona la Ditjhelete ba ka etsa qeto ka sona.

5. TSAMAISO YA PALAMENTENG

- 5.1 Baeletsi ba tsa Molao ba Naha le Lefapha la Ntshetsopele ya Setjhaba ba na le maikutlo a reng Setshwantsho sena sa Molao ho lokela ho sebetsanwa le sona ho latela tsamaiso e kgothaleditsweng ke diphelelo tsa karolo ya 76 ya Molao wa motheo hobane e wela tla sebaka sa tshebetso se ngotsweng Shejuleng ya 4 ya Molao wa motheo, e leng "ditshebetso tsa thekolohelo".
- 5.2 Melawana nyeweng ya *Tongoane le ba Bang v Letona la Naha la tsa Temothuo le Ditaba tsa Mobu le ba Bang* 2010 (8) BCLR 741 (CC) e bohlokwa ha ho etswa qeto ya haeba Setshwantsho sa Molao se tlameha ho hloptjhwa jwalo ka Setshwantsho sa Molao sa karolo ya 75 kapa 76. Teko e behilweng nyeweng eo bakeng sa ho etsa qeto ka tsamaiso e tlang ho latelwa ha ho fetiswa Setshwantsho sa Molao ke hore na diphelelo tsa Setshwantsho sa Molao di wela tla sebaka sa tshebetso se boletsweng Shejuleng ya 4 kapa, ka mohato o moholo, ya ama ditabatabelo tsa diprovence.
- 5.3 Ho hloptjhwa ha Setshwantsho sena sa Molao sa pele ho hloka, ho lekodisisa diphelelo tsohle tsa Setshwantsho sa Molao le ho etsa qeto ya hore na di ama ditabatabelo tsa diprovence. Ka mora moo tekodisiso ya hore na sekgahla sa diphelelo tsena ha e nyane haholo di lokela hore di nkwa di se bohlokwa di lokela ho etswa. Ho hloptjhwa ha Ditshwantsho tsa Molao mane Palamenteng ho tlameha ho tshehetswa ke tlhokeho ya ho netefatsa hore diprovence di sebedisa seabo sa tsona ka ho phethahala le ka tsela e sebetsang mokgwatsamaisong wa ho lekodisisa molao wa naha o di amang haholo.

- 5.4 Baeletsi ba Molao ba Naha ba na le maikutlo a reng ha ho hlokahale ho isa Setshwantsho sena sa Molao ho Ntlo ya Naha ya Baetapele ba Setso ho latela karolo ya 18(1)(a) ya Molao wa Boetapele ba Setso le Moralo wa Puso, 2003 (Molao wa Nmr. ya 41 wa 2003), ha e sale e se na le dipheho tse amanang le molao wa setso kapa meetlo ya setjhaba se phelang ho latela tsela ya setso.

IRIPHABLIKI YOMZANTSI AFRIKA

**UMTHETHO
OYILWAYO
WOTSHINTSHO
WOKONYUSA
INKGXOWA**

*(Njengoko kuvunyelwene neKomiti yePotifoliyo kuPhuhliso
lwezeNtlalo (INdu yoWisomthetho)*

(UMPHATHISWA WOPHUHLISO LWEZENTLALO)

[B 29B—2020]

ISBN 978-1-4850-xxxx-x

Inani leekopi ezishicilelweyo..... 150

INQAKU LENGCACISO JIKELELE:

- [] Amagama achwethezwe ngqindilili kwizibiyeli ezisisikwere akhombisa okucinyiweyo kwimithetho ewisiweyo.
- _____ Amagama akrwelwe umgca ngomgca ongqindilili akhombisa okufakiweyo kwimithetho ewisiweyo esele ikhona.
-
-

UMTHETHO OYILWAYO

Ukutshintsha umThetho wonyuso lweNgxowa, 1978, kunye nokutshintsha iinkcazelo ezithile; ukwenza kusebenze utshintsho lwemibhalo ukunika ingcaciso engaphaya; ukubonelela ngokuyekiswa kokusebenza kweengxowamali ezithile kunye nokupheliswa kwazo naziphi na iibhodi ezinoxanduva lwezo ngxowamali; ukuseka iNgxowamali yoNcedo kwiNtlakele kunye neyoPhuhliso lwezeNtlalo yeSizwe kunye nokudlulisela naziphi na izixa eziseleyo kwezo ngxowamali ziphelisiweyo kwiNgxowamali yoNcedo kwiNtlekele kunye nePhuhliso lwezeNtlalo yeSizwe; ukuxhobisa uMphathiswa ukuba enze imimiselo ngokunxulumene nonyakamali wengxowamali; kunye nokubonelela ngemicimbi enxulumene nayo apho.

MAWUWISE KE NGOKO yiPalamente yeRiphabliki yoMzantsi Afrika, njengoku kulandelayo:—

Utshintsho lwecandelo loku-1 lomThetho we-107 ka-1978, njengoko utshintshwe licandelo loku-1 lomThetho wama-41 ka-1980

1. Icandelo loku-1 lomThetho wonyuso lweNgxowa, 1978 (umThetho we-107 ka-1978)(apha ekubhekiselwa kuwo njengomThetho ongundoqo), ngale ndlela 5 uyatshintshwa—

- (a) ngotshintsho lwenkcazelo ka “**Mphathiswa**” lwenkcazelo elandelayo: “**uMphathiswa**’ uthetha uMphathiswa [**weNtlalontle kwezeNtlalo neMihlaphantsi**] onoxanduva lophuhliso lwezentlalo kunye, nangeenjongo zeSahluko II, [**liquka**] uthetha uMphathiswa [**wezoKhuselo**] onoxanduva lokhuselo ukuza kuthi ga ngoku kukuba iSahluko sisebenza ngokunxulumene neNgxowamali yoMkhosi wezoKhuselo waseMzantsi Afrika;” kwaye 10

- (b) ngotshintsho lwenkcazelo ka “Nobhala” lwenkcazelo elandelayo: “**uNobhala**” uthetha [**uNobhala weNtalontle kwezeNtlalo neMihlaphantsi**] uMlawuli Jikelele weSebe loPhuhliso lwezeNtlalo 15 kunye, nangeenjongo zeSahluko II [**liquka**] uthetha [**INTloko yoMkhosi woKhuselo waseMzantsi Afrika**] uNobhala wezoKhuselo ukuza kuthi ga ngoku kukuba iSahluko sisebenza ngokunxulumene neNgxowamali yoMkhosi wezoKhuselo waseMzantsi Afrika;”.

Ukutshintshwa kwecandelo le-17 lomThetho we-107 ka-1978

20

2. Icandelo le-17 lomThetho ongundoqo ngale ndlela liyatshintshwa—

- (a) ngotshintsho lwecandelwana (3) lamacandelwana alandelayo: “(3) Ibhodi iza kuba namalungu angekho ngaphezulu [**ishumi elinesihlanu**] kwalishumi, lawo ubuncinane isiqingatha sawo siza konyulwa ngokusekelwe kwixesha eliphelelyo.”;

- (b) ngotshintsho lwecandelwana (4) lamacandelwana alandelayo:
“(4) Ubuncinane isiqingatha samalungu ebhodi iya kuba ngabantu abangengawo amagosa enkonzo karhulumente okanye iinkonzo zokhuselo ekubhekiselwe kuzo kwicandelo 199(1) loMgaqosiseko weRiphabliki yaseMzantsi Afrika, 1996.”; kunye 5
- (c) nangotshintsho lwecandelwana (11) lamacandelwana alandelayo:
“(11) Ilungu elingelilo igosa lenkonzo karhulumente okanye iinkonzo zokhuselo liza kuhlululwa izibonelelo ezinjalo ezivela kwiNgxowamali ebandakanyekayo njengoko uMphathiswa ngokuvumelana noMphathiswa wezeMali enokumisela.”. 10

Utshintsho lwecandelo le-18 lomThetho we-107 ka-1978, njengoko utshintshwe licandelo lesi-4 lomThetho wama-41 ka-1980, icandelo loku-1 lomThetho we-19 ka-1981, icandelo lesi-2 lomThetho wama-82 ka-1983, icandelo lesi-4 lomThetho we-115 ka-1991 kunye necandelo lesi-2 lomThetho wama-43 ka-1994

3. Icandelo le-18 lomThetho ongundoqo ngale ndlela liyatshintshwa—
- (a) ngotshintsho lomhlathi (a) lomhlathi olandelayo: 15
“(a) ibhodi yeNgxowamali yoNcedo lweNtlekele kunye noPhuhliso lwezeNtlalo leSizwe iya, ngokuphathelene nesimo sezimali saloo Ngxowamali kunye neemfuneko zemeko nganye [,]—
- (i) kunikela ebantwini, kwimibutho nakumaqumrhu ehlelwe ngumonakalo okanye yilahleko ebangwe yintlekele; kunye 20
(ii) nokuchonga imisetyenzana yophuhliso lwezintlalo emiselweyo okanye iiprojekthi zokuxhobisa, kunye nokubonelela, ngoncedo olunjalo, luyimali okanye ngenye indlela, njengoko ibhodi inokulubona lunobulungisa kwaye lufanelekile;”;
- (b) ngotshintsho lomhlathi (b) lomhlathi olandelayo: 25
“(b) ibhodi yeNgxowamali yoMkhosi woKhuselo waseMzantsi Afrika, ngokuphathelene nesimo sezimali saloo Ngxowamali kunye neemfuneko zemeko nganye, iya kunika uncedo olunjalo njengoko ibhodi inokulubona lunobulungisa kwaye lufanelekile koku—
- (i) **[amalungu kunye]** nabo babesakuba ngamalungu oMkhosi woKhuselo 30
waseMzantsi Afrika kunye neenkonzo ezincedisayo ezisekwe ngokungqinelana necandelo lama-80(1) lomThetho woKhuselo, 1957 (umThetho wama-44 ka-1957), kunye nabaxhomekeki bawo; kunye
- (ii) **namalungu kunye nabo babesakuba ngamalungu oMkhosi woKhuselo weSizwe waseMzantsi Afrika kunye neenkonzo ezincedisayo ezisekwe** 35
kwaye zonyulwa phantsi kwecandelo le-199 loMgaqosiseko weRiphabliki yaseMzantsi Afrika, 1996, kunye namacandelo ele-11, 16, nele-17 lomThetho woKhuselo, 2002 (umThetho wama-42 ka-2002), kunye namaxhomekeki bawo.
- elehlwa bubunzima kwezezimali okanye ingxaki yezimali evela, 40
ngokungqalileyo okanye
ngokungqalanga, kuyo nayiphi inkonzo okanye imisebenzi exelwe kwicandelo 3(2) lomThetho woKhuselo, 1957, icandelo 201(2) loMgaqosiseko weRiphabliki yaseMzantsi Afrika, 1996, kunye namacandelo ele-18 nele-19 lomThetho woKhuselo, 2002, eyenziwa ngamalungu anjalo, kunye nokubonelela ngezibonelelo kumalungu anjalo kunye nabo babesakuba ngamalungu awenza 45
okanye enze inkonzo okanye imisebenzi enjalo;”;
- (c) nangokucinywa kwemihlathi (c) ukuya ku (e).

Utshintsho lwecandelo lama-20 lomThetho we-107 ka-1978

4. Icandelo lama-20 lomThetho ongundoqo ngale ndlela liyatshintshwa ngokufakwa kwamacandelwana alandelayo: 50

“(3) Ibhodi kufuneka iqinisekise ukukhutshwa kwemali okanye ulungiselelo loncedo olwenziwa kwixesha elifanelekileyo, idibene noMphathiswa, ngokungqinelana necandelo lama-50 lomThetho woLawulo lweMali kaRhulumente (umThetho woku-1 ka-1999).”

Utshintsho lwecandelo lama-22 lomThetho we-107 ka-1978

5. Icandelo lama-22 lomThetho ongundoqo ngale ndlela liyatshintshwa—

- (a) ngotshintsho kwicandelwana (1) kumagama andulela umhlathi (a) amagama olandelayo:

“iINGxowamali ekubhekiselwe kuzo kwicandelo le-16, lifundwa necandelo lama-25A (2)(b), linoku—”; kwaye 5

- (b) ngotshintsho lwecandelwana kumacandelwana (4) ukuya ku (8) lamacandelwana alandelayo, ngokwahukahlukeneyo:

“(4) Ibhodi iya kudiphozitha zonke iimali ezifunyenwe yiyo kwiakhawunti leyo iza kube ivulwe kwiziko elibhalisiweyo 10 ngokomThetho weeBhanki, [1965 (umThetho wama-23 ka-1965)] 1990 (umThetho wama-94 ka-1990).

(5) Ibhodi iza kwenza utyalomali ixesha nexesha [**abaKomishinala beTyala likaRhulumente**] kwiQumrhu loTyalomali lukaRhulumente Limited elisekwe licandelo 2(1)lomThetho weQumrhu loTyalomali 10 lukaRhulumente, 2004 (umThetho wama- 23 ka-2004), okanye ngenye indlela enjalo njengoko uMphathiswa, 15 ngokuvumelana noMphathiswa wezeMali. enokumisela, zonke iimali ezingafunelwa ukusetyenziswa ngoko nangoko okanye njengebhalansi yokusebenza efanelekileyo.

(6) Unyakamali wengxowamali uza kuphela ngowama-31 kaMatshi kunyaka ngamnye okanye njengoko kumiselwe nguMphathiswa.

(7) INgxowamali nganye, ngokuxhomekeke kwimiyalelo yoMphathiswa, phantsi kolawulo lukaNobhala, lowo— 20

(a) aligosa elinoxanduva lweNGxowamali; kwaye

(b) agcine iirekhodi ezipheleleyo nezifanelekileyo zemcimbi yezimali yeNGxowamali kwaye kufuneka alungise iziteyitimenti zezimali 25 zonyakamali ngamnye,

ngokomThetho woLawulo lweMali kaRhulumente, 1999 (umThetho woku-1 ka-1999).

(8) Iirekhodi kunye neziteyitimenti zezimali ezixelwe kwicandelwana

(7) kufuneka ziphicothwe nguMphicothi Ncwadi kwaye kufuneka—

(a) ziqukwe njengenxenywe yengxelo yonyaka kunye neziteyitimenti zezimali eziphicothiweyo zeSebe loPhuhliso lwezeNtlalo okanye 30 zeSebe lezoKhuselo nanaGqala eMfazwe, njengoko imeko inokufuma njalo, ekubhekiselwe kuyo kwicandelo lama-40 lomThetho woLawulo lweMali kaRhulumente, 1999; kwaye

(b) kufuneka zingeniswe kuMphathiswa obandakanyekayo ukuze kwenzekwe ukuthotyelwa kwecandelo lama-65 lomThetho woLawulo lweMali kaRhulumente, 1999.” 35

Ukutshintshwa kwecandelo lama-25 lomThetho we-107 ka-1978

6. Icandelo elilandelayo ngale ndlela litshintshelwa icandelo lama-25 lomThetho

ongundoqo:

“Ukwenziwa komsebenzi wolawulo weebhodi

25. (1) Umsebenzi wolawulo, kuquka ukufunyanwa kunye nokukhutshwa kwemali enxulumene nokwenziwa kwemisebenzi okanye ukusetyenziswa 40 kwamagunya ebhodi okanye ayo nayiphi ikomiti yebhodi, kufuneka—

(a) kwimeko yeBhodi yeNGxowamali yoNcedo lweNtlekele kunye noPhuhliso lwezeNtlalo leSizwe, yenziwe ngamagosa akwinkonzo karhulumente onyulwe nguNobhala kwaye ekufuneka babe phantsi kolawulo lwakhe;

(b) kwimeko yeBhodi uyeNGxowamali yoMkhosi woKhuselo waseMzantsi Afrika, 45 yenziwe ngamalungu oMkhosi woKhuselo weSizwe waseMzantsi Afrika onyulwe nguNobhala kwaye ekufuneka babe phantsi kolawulo lwakhe.

(2) Ukukhutshwa kwemali okanye ulungiselelo loncedo njengoko kuxeliwe —

- (a) kwicandelo le-18(a) kufuneka wenziwe yiArhente yoKhuselo lwezeNtlalo 50 yaseMzantsi Afrika esekwe licandelo lesi-2 lomThetho weArhente yoKhuselo lwezeNtlalo yaseMzantsi Afrika, 2004 (umThetho we-9 ka-2004);
- (b) kwicandelo le-18(b) kufuneka wenziwe yiBhodi ekuibhekiselwe kuyo kwelo candelo.”.

Ukufakwa kwecandelo lama-25A kumThetho we-107 ka-1978

7. Icandelo elilandelayo lifakwa emva kwecandelo lama-25 lomThetho

ongundoqo:

“Ukunqunyanyiswa kunye nokudluliselwa kwemali ethile

- 25A.** (1) Kweli candelo ‘umhla wokusebenza’ uthetha umhla wokuqalisa kwecandelo lesi-7 lomThetho woTshintsho kunyuso lweNgxowa, 2022. 5
- (2) Ukususela ngomhla wokusebenza—
- (a) iingxowamali ezilandelayo ezisekwe phantsi kwecandelo le-16 buyaphela ubukho bazo:
- (i) INgxowamali yoNcedo lweMbacu;
 - (ii) iNgxowamali kaMongameli weLizwe; kunye
 - (iii) neNgxowamali yoNcedo kwezeNtlalo; 10
- (b) INgxowamali yoNcedo kwiNtlekele esekwe phantsi kwecandelo le-16(a) iyaqhuba ukuba khona phantsi kwegama eliyiNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo yeSizwe;
- (c) zonke izixa ezikhredithwe kuyo nayiphi ingxowamali ekubhekiselwe kuzo kumhlathi (a) ngokukhawuleza phambi komhla wokusebenze obekwe kwiNgxowamali yoNcedo lweNtlekele kunye noPhuhliso lwezeNtlalo lweSizwe; 15
- (d) nayiphi na ibhodi esekwe nguMphathiswa ngokwecandelo le-17 kwaye enoxanduva lokulawula ingxowamali ekubhekiselwe kuyo kumhlathi (a) iyapheliswa; kwaye
- (e) ngokuxhomekeke kumhlathi (c), zonke izabelo, impahla namalungelo akhoyo ngokunjalo 20
nokunyunyiswa kweengxowamali ekubhekiselwe kuzo kumhlathi (a) kufuneka zidluliselwe kwiSebe loPhuhliso lwezeNtlalo.”.

Utshintsho lwecandelo lama-36 lomThetho we-107 ka-1978

8. Icandelo lama-36 lomThetho ongundoqo ngale ndlela liyatshintshwa ngokufakwa kwicandelwana

- (1) lomhlathi (c) lomhlathi olandelayo: 25
“(c) unyakamali weNgxowamali njengoko kuxeliwe kwicandelo lama-22(6);”.

IsiHloko esiFutshane nokuqalisa

9. (1) Lo mThetho kuthiwa ngumThetho woTshintsho kunyuso lweNgxowa, 2022, kwaye uqala ukusebenza ngomhla omiselwe nguMongameli ngeSibhengezo *kwiGazethi.*

- (2) Imihla eyohlukeneyo, phantsi kwecandelana (1), elungiswe kanjalo ngokunxulumene namagatya 30
awohlukeneyo alo mThetho.

UYILO LWEMVUMELWANO KWIMIBA YOMTHETHO OYILWAYO WONYUSO LWENGXOWA, 2020

1. INJONGO ZOMTHETHO OYILWAYO

UmThetho oYilwayo woTshintsho kunyuso lweNgxowa, 2020 (“umThetho oYilwayo”), ujolise ekulungiseni umThetho wonyuso lweNgxowa, 1978 (umThetho we-107 ka-1978) (“umThetho ongundoqo”), ngokudibanisa iNgxowamali yoNcedo kwiNtlekele, iNgxowamali yoNcedo kwiiMbacu, iNgxowamali yoNcedo lwezeNtlalo kunye neNgxowamali kaMongameli weLizwe ukuba ibe yiNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo lweSizwe, ukuze kujoliswe kumanyathelo okunciphisa kwangaphambili iintlekele kunye nokukhuthaza uphuhliso lwezentlalo kuluntu. Ukudityaniswa kweNgxowamali kuza kuququzelela iinkqubo zolawulo, kwaye kwenze kunikwe iinkonzo ngempumelelo kuluntu oluhluphekayo kwaye lwehlise iindleko.

2. ISISHWANKATHELO SAMAGATYA OMTHETHO OYILWAYO

- 2.1 Isiqendu soku-1 sifuna ukutshintsha iinkcazelo zika “Mphathiswa” kunye no “Nobhala” ukususa izingqinisiso eziphelelwe lixesha kwicandelo loku-1 lomThetho onguNdoqo.
- 2.2 Isiqendu sesi-2 sifuna ukutshintsha icandelo le-17 lomThetho ongundoqo. Utshintsho olundululwayo kakhulu lujolsie ekwehliseni elona nani liphezulu lamalungu ebhodi esekwe phantsi komThetho ongundoqo ukulawula iingxowamali ukuba ehle kwi-15 esiya kwishumi.
- 2.3 Isiqendu sesi-3 sifuna ukutshintsha icandelo le-18 lomThetho onguNdoqo ukwenza ulungiselelo lwemiba yeNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo yeSizwe ohlanganisa iingxowamali ongena endaweni yazo kumThetho ongundoqo.
- 2.4 Isiqendu sesi-4 sifuna ukutshintsha icandelo lama-20 lomThetho ongundoqo ukuze lixhobise uMphathiswa anike imiyalelo kwibhodi ngokunxulumene nokukhutshwa kwemali kunye nokuqinisekisa ukuba ibhodi isebenza ngokungqinelana necandelo lama-50 lomThetho woLawulo lweMali kaRhulumente, 1999 (umThetho woku-1 ka-1999).
- 2.5 Isiqendu sesi-5 sifuna ukutshintsha icandelo lama-22 lomThetho ongundoqo kakhulu ukuba libonelele ngokuphathwa kunye nolawulo lwezimali zeengxowamali ezisekwe kumThetho ongundoqo ngokungqinelana nomThetho woLawulo lweMali kaRhulumente, 1999 (umThetho woku-1 ka-1999).
- 2.6 Isiqendu sesi-6 sifuna ukutshintsha icandelo lama-25 lomThetho ongundoqo. Utshintsho oluphakanyiswayo lifuna ukubonelela ngokungaphaya ngomsebenzi wolawulo weebhodi kunye nokukhutshwa kwemali elawulwa ziibhodi ezisekwe kumThetho ongundoqo.
- 2.7 Isiqendu sesi-7 sifuna ukufaka icandelo lama-25A kumThetho ongundoqo ukuze ubonelele ngokunqunyanyiswa kunye nokudluliswa kweemali ezithile. Icandelo elitsha lama-25A libonelela ngokuba, ukusukela ngomhla wokusebenza, ongumhla wokuqalisa ukusebenza kwecandelo lesi-7 lomThetho woTshintsho kunyuso lweNgxowa, 2022—
 - (a) iingxowamali ezilandelayo ezisekwe phantsi kwecandelo le-16 lomThetho ongundoqo buyaphela ubukho bazo:
 - (i) INgxowamali yoNcedo lweMbacu;
 - (ii) iNgxowamali kaMongameli weLizwe; kunye
 - (iii) neNgxowamali yoNcedo kwezeNtlalo;
 - (b) INgxowamali yoNcedo kwiNtlekele esekwe phantsi kwecandelo le-16(a) lomThetho ongundoqo iyaqhuba ukuba khona phantsi kwegama eliyiNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo yeSizwe;
 - (c) zonke izixa ezikhredithwe kuyo nayiphi ingxowamali ekubhekiselwe kuyo kumhlathi (a) ngokukhawuleza phambi komhla wokusebenza obekwe kwiNgxowamali yoNcedo lweNtlekele;
 - (d) nayiphi na ibhodi esekwe nguMphathiswa ngokwecandelo le-17 kwaye

enoxanduva lokulawula ingxowamali ekubhekiselwe kuyo kumhlathi
(a) iyapheliswa; kwaye

- (e) ngokuxhomekeke kumhlathi (c), zonke izabelo, impahla namalungelo akhoyo ngokunjalo nokufunyanwa kwemali ekubhekiselwe kuzo kumhlathi (a) kufuneka zidluliselwe kwiSebe loPhuhliso lwezeNtlalo.

- 2.8 Isiqendu sesi-8 sifuna ukutshintsha icandelo lama-36 lomThetho ongundoqo ukuze ubonelele ngokwenziwa kwemimiselo.
- 2.9 Isiqendu se-9 sinika isihloko esifutshane nokuqalisa komThetho. Kuya kuqatshelwa ukuba isiqendu sokuqalisa ukusebenza sibonelela ngemihla eyahlukeneyo yokuqalisa ukusebenza ngokunxulumene namacandelo omThetho oza kuwisa ukuze ulungiselele ukwenza kusebenze, umzekelo, icandelo lesi-7 elikhankanyiweyo ngaphambili lomThetho woTshintsho kunyuso lweNgxowa, 2022, kumhla okamva ukwenza ukuba iSebe lilungiselele ukuphunyezwa kwawo ngaphaya koko.

3. ISEBE/AMAQUMRHU/ABANTU EKUDITYENWE NABO

- 3.1 YiOfisi kaMongameli, iSebe leziMali, iSebe lobuDlelwane kunye neNtsebenziswano neHlabathi, iSebe loLawulo ngeNtsebenziswano neMicimbi yeMveli, iSebe lezoKhuselo namaGqala eMfazwe, iSebe leMicimbi yezeKhaya, i-Black Sash, amaSebe oPhuhliso lwezeNtlalo amaphondo alithoba ewonke kunye neArhente yoKhuselo lwezeNtlalo yoMzantsi Afrika kudityenwe nabo kwaye bawuxhasa umThetho oYilwayo.
- 3.2 UmThetho oYilwayo upapashwe *kwiGazethi* eyiNombolo 40861, phantsi kwesaziso esiyoNombolo 469 sowama-26 Meyi 2017 ukuze uluntu lunike izimvo ithuba leentsuku ezingama-30.

4. IIMPEMBELELO ZEZIMALI KURHULUMENTE

- 4.1 Iingxowamali esele zikhona phantsi komThetho wonyuso lweNgxowa, ngaphandle kweNgxowamali yoMkhosi woKhuselo waseMzantsi Afrika, iza kudityaniswa kwiiNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo yeSizwe. Amaxabiso akhoyo ngoku eemali zoncedo ezohlukeneyo angokulandelayo:

INgxowamali yoNcedo kwiNtlekele	R28 000 000 (Iyasebenza)
INgxowamali kaMongameli weLizwe	R40 741 682 (Ayisebenzi)
INgxowamali yoNcedo lweeMbacu	R640 408.03 (Ayisebenzi)
INgxowamali yoNcedo kwezeNtlalo	R39 008 852 (Ayisebenzi)
Kuphelele	R108 390 942.03

- 4.2 Amalungu eBhodi aza kuhlawulwa kwiNgxowamali yoNcedo kwiNtlekele noPhuhliso lwezeNtlalo. Ngokungqinelana necandelo le-17(11) lomThetho ongundoqo, iBhodi iza kuhlawulwa ngokwendibano yendlu nganye ngokungqinelana nesikeyile semivuzo eso uMphathiswa ngokuvumelana noMphathiswa wezeMali anokusimisela.

5. INKQUBO YASEPALAMENTE

- 5.1 AbaCebisi bezomThetho bakRhulumente kunye neSebe loPhuhliso lwezeNtlalo banoluvo lokuba umThetho oYilwayo kufuneka kujongwane nawo ngokwenkqubo emiselwe ngamatya ecandelo lama-76 loMgaqo-siseko kuba uwela kummandla wokusebenza odweliswe kwiShedyuli yesi-4 kuMgaqo-siseko, eyile “iinkonzo zentlalontle”.
- 5.2 Imithethosiseko kwityala *likaTongoane naBanye* ngokuchasene noMphathiswa wezoLimo neMicimbi yoMhlaba naBanye 2010 (8) BCLR 741 (CC) ibalulekile xa kumiselwa ukuba ingaba umThetho oYilwayo kufuneka uhlelwe mhlawumbi njengomThetho oYilwayo wecandelo lama-75 okanye lama-76 na. Uvavanyo olubekiweyo ke kuloo meko lokumisela inkqubo emayilandelwe ekuwisweni komThetho oYilwayo kukuba ingaba amatya omThetho oYilwayo awela kummandla wokusebenza adwelisiwe na kwiShedyuli yesi-4 okanye, ngomlinganiselo obonakalayo, achaphazela okusemdleni wamaphondo na.
- 5.3 Ukufakwa komThetho oYilwayo kufuna kuqala, ukuthathela ingqalelo onke amatya omThetho kunye nokumisela ukuba ingaba aneempembelelo ezibonakalayo na kokusemdleni wamaphondo. Emva koko uthathelo ngqalelo lokuba ingaba uneempembelelo na okanye hayi kula amatya

aluluncinane kangako ukuba luthathwe njengengento ekufuneka iqhutywe. Ukufakwa kwemiThetho eYilwayo phambi kwePalamente kufuneka kusekelwe kwimfuno yokuqinisekisa ukuba amaphondo asebenzisa ngokupheleleyo kwaye ngempumelelo indima yawo efanelekileyo kwinkqubo yokuthathela ingqalelo umthetho wesizwe owachaphazela kakhulu.

- 5.4 AbaCebisi bomThetho bakaRhulumente banoluvo lokuba ayiyomfuneko ukudlulisela lo mThetho uYilwayo kwiNdlu yeSizwe yeeNkokeli zeMveli ngokwecandelo le-18(1)(a) lomThetho weNkqubosikhokelo yuobuNkokeli beMveli noLawulo, 2003 (umThetho wama-41 ka-2003), kuba ungaqulathanga magatya aphaathelene nomthetho wesintu okanye amasiko oluntu lwemveli.

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP FONDSINSAMELING

*Soos ooreengekom deur die Portefeuljekomitee vir
Maatskaplike Ontwikkeling (Nasionale Vergadering)*

(MINISTER VAN MAATSKAPLIKE ONTWIKKELING)

[B 29B—2020]

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- (b) deur die vervanging van subartikel (4) van die volgende subartikel:
 “(4) Minstens die helfte van die lede van ’n raad sal persone wees wat nie amptenare in die staatsdiens of die veiligheidsdienste waarna in artikel 199(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 verwys word, is nie.”; en
- (c) deur die vervanging van subartikel (11) van die volgende subartikel:
 “(11) ’n Lid wat nie ’n amptenaar in die staatsdiens of die veiligheidsdienste is nie, sal sodanige toelae uit die betrokke fonds betaal word soos wat die Minister, met die instemming van die Minister van Finansies, mag bepaal.”.

Wysiging van artikel 18 van Wet 107 van 1978, soos gewysig deur artikel 4 van Wet 41 van 1980, artikel 1 van Wet 19 van 1981, artikel 2 van Wet 82 van 1983, artikel 4 van Wet 115 van 1991 en artikel 2 van Wet 43 van 1994

3. Artikel 18 van die hoofwet word hiermee gewysig—

- (a) deur die vervanging van paragraaf (a) van die volgende paragraaf:
 “(a) die raad van die Fonds vir rampnoodleniging en nasionale maatskaplike ontwikkeling is om, met behoorlike inagneming van die geldelike toestand van bedoelde fonds en die vereistes van elke geval[,]—
- (i) die hulp wat die raad billik en redelik ag, te verleen aan persone, organisasies en liggame wat skade of verlies ly wat deur ’n ramp veroorsaak word; en
- (ii) die verordende maatskaplike ontwikkelingsaktiwiteit of bemagtigingsprojekte vas te stel,
en om sodanige hulp, in kontant of andersins, wat die raad billik en redelik ag te verskaf;”;
- (b) deur die vervanging van paragraaf (b) van die volgende paragraaf:
 “(b) die raad van die Suid-Afrikaanse Weermagfonds sal, met behoorlike inagneming van die geldelike toestand van bedoelde fonds en die vereistes van elke geval, sodanige hulp wat die raad billik en redelik ag verskaf aan—
- (i) **[lede en]** voormalige lede van die Suid-Afrikaanse Weermag en bystandsdienste en hulle afhanklikes wat ingevolge artikel 80(1) van die Verdedigingswet, 1957 (Wetnr. 44 van 1957), gestig en aangewys is; en
- (ii) lede en voormalige lede van die Suid-Afrikaanse Nasionale Weermag en bystandsdienste en hulle afhanklikes wat ingevolge artikel 199 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wetnr. 42 van 2002) gestig en aangewys is,
 wat geldelike ontbering ondervind of geldelike nood ly wat regstreeks of onregstreeks ontstaan as gevolg van enige diens of pligte wat in artikel 3(2) van die Verdedigingswet, 1957, artikel 201(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 en artikel 18 en 19 van die Verdedigingswet, 2002, wat deur sodanige lede uitgevoer word en om fasiliteite te verskaf aan sodanige lede wat sodanige dienste of pligte uitvoer of uitgevoer het;”;
- (c) deur die skraping van paragrafe (c) tot (e).

Vervanging van artikel 20 van Wet 107 van 1978

4. Artikel 20 van die hoofwet word hiermee gewysig deur die byvoeging van die volgende subartikel:

- “(3) ’n Raad moet verseker dat die uitbetaling van fondse of hulpverlening binne ’n redelike tydperk gedoen word, in oorleg met die Minister, in ooreenstemming met artikel 50 van die Wet op Openbare Finansiële Bestuur (Wetnr. 1 van 1999).”.

Wysiging van artikel 22 van Wet 107 van 1978

5. Artikel 22 van die hoofwet word hiermee gewysig—

- (a) deur die vervanging van subartikel (1) van die woorde wat paragraaf (a) voorafgaan met die volgende woorde:

“Die fonds waarna daar in artikel 16 verwys word, gelees saam met artikel 25A (2)(b), sal bestaan uit—”; en

- (b) deur die vervanging van subartikel (4) tot (8) van die volgende subartikels, onderskeidelik:

“(4) ’n Raad sal alle gelde deur hom ontvang in ’n rekening deponeer wat hy by ’n bankinstelling sal open wat ingevolge Bankwet, [1965 (Wetnr. 23 van 1965)] 1990 (Wetnr. 94 van 1990) geregistreer is.

(5) ’n Raad sal, van tyd tot tyd, alle gelde wat nie vir onmiddellike gebruik of as redelike werkingsbalans vereis word nie in die [Openbare skuldkommissarisse] se Openbare Beleggingskorporasie Beperk belê wat ingevolge artikel 2(1) van die Wet op Openbare Beleggingskorporasies, 2004 (Wetnr. 23 van 2004) gestig is, of op sodanige ander wyse as wat die Minister, met die Minister van Finansies se instemming, mag bepaal 23.

(6) Die boekjaar van ’n fonds sal elke jaar op 31 Maart of soos deur die Minister bepaal, eindig.

(7) Elke fonds is, onderhewig aan die Minister se leiding, onder die Sekretaris se beheer, wat—

- (a) die fonds se rekenpligtige beampte is; en
(b) ingevolge die Wet op Openbare Finansies, 1999 (Wetnr. 1 van 1999) volledige en geskikte rekord van die finansiële sake van die fonds moet hou en finansiële state vir elke boekjaar moet voorberei.

(8) Die rekords en finansiële state wat in subartikel (7) oorweeg word, moet deur die Ouditeur-Generaal geoudit word en moet—

(a) as deel van die jaarverslag en geouditeerde finansiële state van die Departement van Maatskaplike Ontwikkeling of die Departement van Verdediging en Militêre Veterane, welke geval ook al, waarna in Artikel 40 van die Wet op Openbare Finansiële Bestuur, 1999 verwys word, ingesluit word; en

(b) by die toepaslike Minister ingedien word om nakoming tot artikel 65 van die Wet op Openbare Finansiële Bestuur, 1999 in staat te stel.”.

Vervanging van artikel 25 van Wet 107 van 1978

6. Die volgende afdeling word hiermee vervang vir artikel 25 van die hoofwet:

“Prestasie van administratiewe werk van rade

25. (1) Die administratiewe werk, waaronder die ontvangs en uitbetaling van geld wat gepaard gaan met die prestasie van die funksies of die uitoefening van die magte van ’n raad of van enige raadskomitee, moet—

- (a) in die geval van die Raad vir rampnoodleniging en nasionale maatskaplike ontwikkeling, deur staatsdiensamptenare uitgevoer word wat deur die Sekretaris aangewys en onder sy of haar beheer is;
(b) in die geval van die Suid-Afrikaanse Weermagfonds se raad, deur lede van die Suid-Afrikaanse Nasionale Weermag uitgevoer word wat deur die Sekretaris aangewys is en onder sy of haar beheer is.

(2) Die uitbetaling van fondse of die verskaffing van hulp soos oorweeg—

- (a) in artikel 18(a) moet deur die Suid-Afrikaanse Agentskap vir Maatskaplike Sekerheid, wat ingevolge artikel 2 van die Wet op die Suid-Afrikaanse Agentskap vir Maatskaplike Sekerheid, 2004 (Wetnr. 9 van 2004) gestig is, uitgevoer word;
(b) in artikel 18(b) moet deur die raad waarna in daardie artikel verwys word, uitgevoer word.”.

Byvoeging van artikel 25A in Wet 107 van 1978

7. Die volgende artikel word na artikel 25 van die hoofwet, bygevoeg:

“Beëindiging en oordrag van sekere fondse

25A. (1) ‘Intreedatum’ beteken in dié artikel die aanvangsdatum van artikel 7 van die Wet op Fondsinsameling, 2022.

(2) Vanaf die intreedatum—

- (a) sal die volgende fondse wat ingevolge artikel 16 gestig is, tot ’n einde kom:
 - (i) Die Vluchteling-noodleningsfonds;
 - (ii) die Staatspresidentsfonds; en
 - (iii) die Fonds vir maatskaplike noodlening;
- (b) Die rampnoodleningsfonds wat ingevolge artikel 16(a) gestig is sal steeds met die naam die Fonds vir rampnoodlening en nasionale maatskaplike ontwikkeling bestaan;
- (c) alle bedrae wat onmiddellik voor die intreedatum aan enige fonds waarna daar in paragraaf (a) verwys word gekrediteer is, word aan die fonds vir rampnoodlening en nasionale maatskaplike ontwikkeling oorgedra;
- (d) enige raad wat ingevolge Artikel 17 deur die Minister gestig is en vir die bestuur van ’n fonds waarna in paragraaf (a) verwys word verantwoordelik is, word ontbind; en
- (e) alle bestaande verantwoordelikhede, bates en regte asook ophopings van die fondse waarna in paragraaf (a) verwys word, moet, onderhewig aan paragraaf (c), aan die Departement van Maatskaplike Ontwikkeling oorgedra word.”

Wysiging van artikel 36 van Wet 107 van 1978

8. Artikel 36 van die hoofwet word hiermee gewysig deur die vervanging in subartikel (1) vir paragraaf (c) van die volgende paragraaf:

“(c) die boekjaar van die fonds soos wat in artikel 22(6) oorweeg word.”

Kort titel en intrede

9. (1) Dié Wet heet die Wysigingswetsontwerp op Fondsinsameling, 2022 en is op ’n datum wat deur die President deur Proklamasie in die Staatskoerant vasgestel word, van krag.

(2) Verskillende datums mag, onder subartikel (1), ten aansien van verskillende bepalings van dié Wet, sodanig vasgestel word.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WYSIGINGSWETSONTWERP OP FONDSINSAMELING, 2020

1. OOGMERKE VAN DIE WETSONTWERP

Die Wysigingswetsontwerp op Fondsinsameling, 2020 (“die Wetsontwerp”), poog om die Wet op Fondsinsameling, 1978 (Wetnr. 107 van 1978) (“die hoofwet”) te wysig deur die Rampnoodlenigingsfonds, die Vlughtelinge-noodleningsfonds, die Fonds vir maatskaplike noodlening en die Staatspresidentsfonds in die Fonds vir rampnoodlening en maatskaplike ontwikkeling te verenig om sodoende op proaktiewe mitigasie van rampe te fokus en die maatskaplike ontwikkeling van gemeenskappe te bevorder. Die vereniging van die fondse sal administratiewe prosesse vereenvoudig en doeltreffender dienste aan arm gemeenskappe in staat stel en kostes verminder.

2. OPSOMMING VAN DIE WETSONTWERP SE BEPALINGS

- 2.1 Klousule 1 beoog om die omskrywings van “Minister” en “Sekretaris” te wysig om verouderde verwysings in artikel 1 van die hoofwet, te verwyder.
- 2.2 Klousule 2 beoog om artikel 17 van die hoofwet te wysig. Die voorgestelde wysiging beoog hoofsaaklik om die maksimum aantal lede van ’n raad wat ingevolge die hoofwet gestig is om ’n fonds te bestuur, van 15 na tien te verminder.
- 2.3 Klousule 3 beoog om artikel 18 van die hoofwet te wysig om voorsiening te maak vir die oogmerke van die Fonds vir rampnoodlening en maatskaplike ontwikkeling wat die fondse wat hy in die hoofwet vervang, verenig.
- 2.4 Klousule 4 beoog om artikel 20 van die hoofwet te wysig om sodoende die Minister te bemagtig om leiding aan rade te gee ten aansien van die uitbetaling van fondse en om te verseker dat ’n raad in ooreenstemming met artikel 50 van die Wet op Openbare Finansiële Bestuur, 1999 (Wetnr. 1 van 1999), optree.
- 2.5 Klousule 5 beoog om artikel 22 van die hoofwet te wysig om voorsiening te maak vir die finansiële bestuur en beheer van die fondse wat in die hoofwet gestig is, in ooreenstemming met die Wet op Openbare Finansiële Bestuur, 1999 (Wetnr. 1 van 1999).
- 2.6 Klousule 6 beoog om artikel 25 van die hoofwet te wysig. Die voorgestelde vervanging beoog om verder voorsiening te maak vir die administratiewe werk van die rade en vir die uitbetaling van fondse wat deur die rade wat in die hoofwet gestig is, bestuur word.
- 2.7 Klousule 7 beoog om artikel 25A by die hoofwet te voeg om sodoende voorsiening te maak vir die beëindiging en oordrag van sekere fondse. Die nuwe artikel 25A bepaal dat, vanaf die intreedatum, wat die aanvangsdatum van Artikel 7 van die Wet op Fondsinsameling, 2022 is—
 - (a) die volgende fondse wat ingevolge artikel 16 van die hoofwet tot ’n einde sal kom:
 - (i) Die Vlughtelinge-noodleningsfonds;
 - (ii) die Staatspresidentsfonds; en
 - (iii) die Fonds vir maatskaplike noodlening;
 - (b) Die rampnoodlenigingsfonds wat ingevolge artikel 16(a) van die hoofwet gestig is sal steeds bestaan met die naam die Fonds vir rampnoodlening en nasionale maatskaplike ontwikkeling;
 - (c) alle bedrae wat aan enige fonds waarna daar in paragraaf (a) verwys word gekrediteer is word onmiddellik voor die intreedatum aan die Fonds vir rampnoodlening en nasionale maatskaplike ontwikkeling, oorgedra;
 - (d) enige raad wat ingevolge artikel 17 deur die Minister gestig is en vir die bestuur van ’n fonds waarna in paragraaf (a) verwys word verantwoordelik is, word ontbind; en
 - (e) alle bestaande verantwoordelikhede, bates en regte asook ophoping van die fondse waarna in paragraaf (a) verwys word, moet, onderhewig aan paragraaf (c), aan die Departement van Maatskaplike Ontwikkeling oorgedra word.

- 2.8 Klousule 8 beoog om artikel 36 van die hoofwet te wysig om sodoende verder vir die skep van regulasies voorsiening te maak.
- 2.9 Klousule 8 maak voorsiening vir die kort titel en intrede van die Wet. Daar sal kennis geneem word dat die intreeklausule voorsiening maak vir verskillende intreedatums ten aansien van die Wet se artikels wat geproklameer gaan word om voorsiening te maak vir die inwerkingtreding van, byvoorbeeld, voorgenoemde artikel 7 van die Wysigingswetsontwerp op Fondsinsameling, 2022, op 'n later datum om die departement in staat te stel om vir die inwerkingtreding daarvan voor te berei.

3. DEPARTEMENT/LIGGAAME/PERSONE GERAADPLEEG

- 3.1 Die Presidensie, Nasionale Tesourier, Departement van Internasionale Betrekkinge en Samewerking, Departement van Samewerkende Regering en Tradisionele Sake, Departement van Verdediging en Militêre Veterane, Departement van Binnelandse Sake, Swart Serp, al nege provinsiale Departemente van Maatskaplike Ontwikkeling en die Suid-Afrikaanse Veiligheidsagentskap is geraadpleeg en ondersteun die Wetsontwerp.
- 3.2 Die Wysigingswetsontwerp is vir 'n tydperk van 30 dae in die *Staatskoerant*, nr. 40861, onder Kennisgewingnr. 469 van 26 Mei 2017 vir openbare kommentaar gepubliseer.

4. FINANSIËLE GEVOLGE VIR DIE STAAT

- 4.1 Die bestaande fondse in die Wet op Fondsinsameling, behalwe die Suid-Afrikaanse Weermagfondse, sal verenig word in een Fonds vir rampnoodleniging en nasionale maatskaplike ontwikkeling. Die huidige waardes van die verskeie noodlenigingsfondse is as volg:

Rampnoodlenigingsfonds	R28 000 000 (Aktief)
Staatspresidentsfonds	R40 741 682 (Onaktief)
Vlugtelinge-noodlenigingsfonds	R640 408.03 (Onaktief)
Fonds vir maatskaplike noodleniging	R39 008 852 (Onaktief)
Totaal	R108 390 942.03

- 4.2 Die raadslede sal vanuit die Fonds vir rampnoodleniging en maatskaplike ontwikkeling, vergoed word. Die raad sal, in ooreenstemming met artikel 17(11) van die hoofwet, per sitting betaal word ooreenkomstig die vergoedingskaal wat die Minister, met die Minister van Finansies se instemming, mag bepaal.

5. PARLEMENTÊRE PROSEDURE

- 5.1 Die Staatsregsadviseurs en die Departement van Maatskaplike Ontwikkeling is van mening dat die Wetsontwerp ingevolge die prosedure wat deur die bepalings van artikel 76 van die Grondwet voorgeskryf word hanteer moet word, aangesien dit binne die funksionele gebied wat in Skedule 4 van die Grondwet, naamlik "welsynsdienste", val.
- 5.2 Die beginsels in die saak van *Tongane en Ander v. Nasionale Minister van Landbou en Grondsake en Ander*, 2010 (8) BCLR 741 (CC) is belangrik wanneer daar bepaal word of 'n Wetsontwerp as 'n Artikel 75- of 76-wetsontwerp, geklassifiseer behoort te word. Die toets wat in daardie saak neergelê is om die prosedure wat gevolg moet word wanneer 'n Wetsontwerp uitgevaardig word, te bepaal, is of die Wetsontwerp se bepalings binne die funksionele gebiede wat in Skedule 4 gelys word val of op wesenlike wyse die provinsies se belange beïnvloed.
- 5.3 Die klassifikasie van die Wetsontwerp vereis eerstens dat al die Wetsontwerp se bepalings oorweeg word en dat daar vasgestel word of hulle 'n wesenlike impak op die provinsies se belange het. 'n Oorweging van of die impak van die bepalings nie so klein is as om as onbeduidend geag te word nie moet daarna uitgevoer word. Die klassifikasie van Wetsontwerpe in die Parlement moet ingelig word deur die behoefte om te verseker dat provinsies hulle gepaste rolle in die oorwegingsproses van nasionale wetgewing wat hulle wesenlik beïnvloed, ten volle en doeltreffend uitvoer.

- 5.4 Die Staatsregsadviseurs is van mening dat dit nie nodig is om die Wetsontwerp na die Nasionale Huis van Tradisionele Leiers, ingevolge artikel 18(1)(a) van die Raamwerkwet op Tradisionele Leierskap en Regering, 2003 (Wetnr. 41 van 2003), te verwys nie, aangesien dit nie enige bepalings bevat wat verband hou met gewoontereg of tradisionele gemeenskappe se gewoontes nie.