



FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

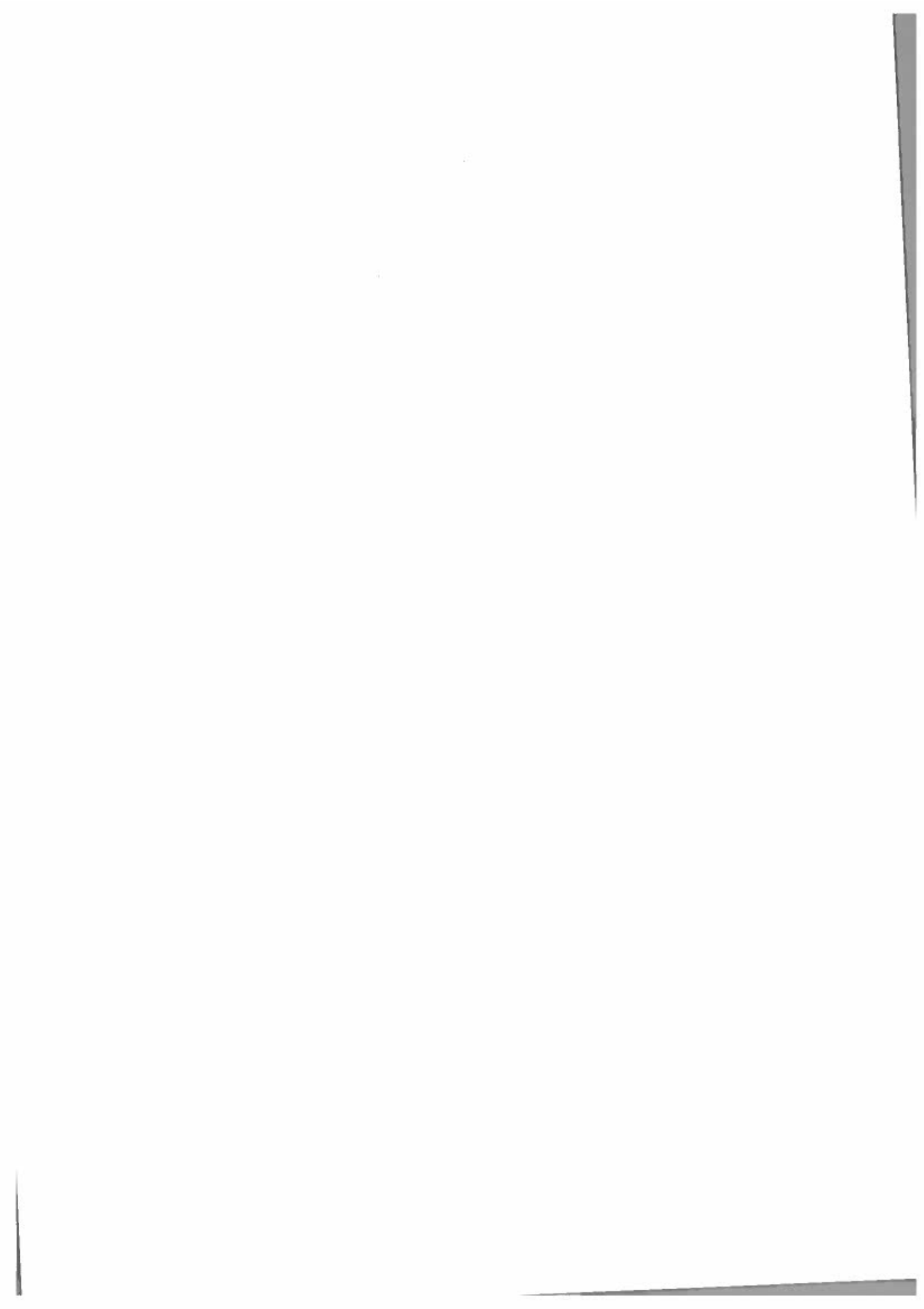
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OFFICE OF THE PREMIER	OFISI YA TONAKGOLO	KANTOOR VAN DIE PREMIER
No. 2 25 March 2024	No. 2 25 Hlakubele 2024	No. 2 25 Maart 2024
It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-	Ho tsebiswa mona hore Tonakgolo o dumetse Molao o latelang, o phatlaladitsweng ho ba lesedi le akaretsang:-	Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-
NO. 2 OF 2024: FREE STATE INTEGRATED BUSINESS SUPPORT, LICENSING AND REGULATION ACT, 2024	NO. 2 WA 2024 : MOLAO FREISTATA WA TSHEHETSO YA DIKGWEBO TSE KOPANETSWENG, DILAESENSE TSA KGWEBO LE TSAMAISO, 2024	NO. 2 VAN 2024 : VRYSTAATSE WET OP GEÏNTEGREERDE LISENSIËRING EN REGULERING VAN BESIGHEIDSONDER-STEUNING, 2024



ACT

To provide for the regulation, control and licensing of businesses within the Free State Province; to establish the Free State Business Licensing Authority; to create the Free State Advisory Council and the Free State Regulatory Directorate; to provide for the appointment of the Free State Business Regulator; to provide for appointment and assignment of Local Licensing Authorities; Licensing Officers and Inspectors; to provide for licensing of persons and businesses; to provide for the imposition of licensing fees; to provide the powers and duties of the Licensing Officers; to provide for Free State Business support and for matters connected therewith or incidental thereto.

PREAMBLE

RECOGNISING –

- (1) The socio-economic injustice, imbalances and inequities of the past;
- (2) The need to lead the divisions of the past and establish a society based on demonstrating values, social justice and fundamental human rights; and
- (3) The need to improve the economic quality of life for all citizens of the Province and free the innovative economic potential of citizens.

BEARING IN MIND THAT –

- (1) Article 2(1) of the United Nations Covenant on Economic, Social and Cultural Rights provides for co-operation on economic and technical rights through the means of adoption of legislative measures;
- (2) Articles 2(3) provides for developing countries with regard to human rights to their national economy to determine to what extent they would guarantee the economic rights recognized by member States;
- (3) Article 4 provides for the enjoyment of the rights by the State to be in conformity with the Covenant subject to limitations as determined by law, must be compatible with the nature of rights and solely for the purpose of promoting general welfare of the democratic society;
- (4) The right to equality and human dignity as enriched in the Constitution in section 9 and 10 respectively;
- (5) In terms of section 22 of the Constitution the practice of right to trade, occupation or profession may be regulated by law.

AND IN ORDER TO –

- (1) Achieve the progressive realization of right to trade;
- (2) Make progress towards achieving economic empowerment and development of the people of the Province;
- (3) Ensure financial and environmental wellbeing of the citizens of the Province;
- (4) Create a single business regulation framework throughout the Province and to eliminate a fragmentation of business regulation in the Province;
- (5) Promote sustainable, equitable, appropriate, efficient, and effective empowerment of business within the Province; and
- (6) Ensure a healthy environment and business relations throughout the Province;

AND WHEREAS the Free State Provincial Government acknowledges that the Province must have self-sufficient and vibrant businesses and regulatory framework for its citizens to practice and freely enjoy the right to trade,

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows:-

(English text assented to and signed by the Premier on 25 March 2024.)

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CHAPTER 1

PRELIMINARY PROVISIONS

Definitions		5
1.	In this Act, unless the context indicates otherwise –	
	“ Advisory Council ” means the Free State Provincial Advisory Council as contemplated in Chapter 2 of this Act;	10
	“ Barber shop ” means a small informal establishment providing services to enhance appearances of the hair and beard normally based in townships or street corners;	
	“ Business Act ” means the Business Act, 1991 (Act No. 71 of 1991);	15
	“ Business premises ” means the physical outlet, physical structure, space, or place from which a business operates;	
	“ Citizens ” means citizen of the Republic of South Africa by birth, descent or naturalization as contemplated in the South African Citizens Act, 1995 (Act No. 88 of 1995);	20
	“ Constitution ” means the Constitution of the Republic of South Africa, 1996;	25
	“ Department ” means the Department responsible for business development and economic affairs in the Free State Provincial Government;	
	“ Designated Licensing Authorities ” means Licensing Authorities as contemplated in terms of Section 41 of this Act	30
	“ Escort agency ” means adult entertainment business operations;	
	“ Hair salon ” means an establishment providing services designed to enhance hair of any person;	35
	“ Head of Department ” means the Head of Department as contemplated in Schedule 2 of the Public Service Act, 1994 (Proclamation 103 of 1994);	
	“ Inspector ” means any person –	40
	(a) appointed as an inspector by the responsible Member; or	
	(b) specially authorized by the Business Licencing Authority to exercise any authority, power or duty conferred in terms of this Act;	
	“ License ” means a licence issued in terms of this Act;	

- “Licensed premises”** means the premises on which business is taking place under the authority of a licence issued in terms of this Act;
- “Licensee”** means any person who holds a valid license or temporary license issued in terms of this Act; 5
- “Licensing Officer”** means Licensing officer as contemplated in terms of section 11 of this Act;
- “Local Licensing Authority”** means any municipality, or any person or body designated as a local licensing authority as contemplated in terms of section 41 of this Act; 10
- “MEC for Finance”** means the Member of Executive Council responsible for finance in the Province; 15
- “Municipality”** means a Municipality referred to in section 155 of the Constitution and established by and under section 11 and 12 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998); 20
- “National Small Enterprise Support Strategy”** means the national policy in support of Small Business Enterprises as published by the Minister responsible for Economic Development in the *Gazette*, and includes the policy as stated in the White Paper on National Strategy for the Development and Promotion of Small Enterprise in South Africa (Notice 213, published in *Government Gazette* No. 16317 of 28 March 1995); 25
- “Permit”** means a license granted in terms of this Act for appointment of a business manager or assistant manager for licensed premises; 30
- “Prescribed”** means prescribed by this Act and its Regulations, and prescribe has a corresponding meaning; 35
- “Province”** means the Free State Province established in terms of section 103(1)(b) of the Constitution; 35
- “Provincial Gazette”** means the *Provincial Gazette* of the Province of Free State as published by the Government Printer;
- “Provincial Legislature”** means the Legislature of the Province of Free State referred to section 104 of the Constitution; 40
- “Publish”** means the exhibit, circulate, announce or cause to be exhibited or circulated or announced in any manner whatsoever;

“Regulator” means any Senior Official of the Department at the level of Chief Director or Director, designated as the Business and Licensing Regulator in terms of this Act;

“Regulations” means any regulations made in terms of this Act;

“responsible Member” means Member of the Executive Council responsible for matters related to business development and economic affairs in the Province;

“Service provider” means any public or private entity providing support services to small enterprise;

“Small Business” means small business as defined in the National Small Enterprise Business Act, 1996 (Act No.102 of 1996);

“Spaza shop” means a small shop often run from a private home within a residential area with specifications as prescribed in the Regulations;

“this Act” includes the schedules, guidelines and the Regulations;

“Treatment Spa” means an establishment providing a non-medical procedure to help the health of the body such as a massage, manicuring, facial and body related.

Objects of the Act

2. The objects of the Act are –

- (a) to provide for the designation of the Regulator;
- (b) to provide a regulatory framework which makes it possible for citizens of the Province to establish viable and thriving business;
- (c) to provide for the designation of business licensing authorities, licensing officers and inspectors;
- (d) to ensure that the businesses promote the Province’s objectives of developing business industries based on promotion of tourism, employment, economic and social development in the Province;
- (e) to promote opportunities for historically disadvantaged persons to participate fully in the business industries, through licensing and regulation of businesses within the Province;
- (f) to create the mandatory establishment of the provincial advisory council and the provincial licensing authority;

- (g) to provide an enabling environment for municipalities to –
 - (i) implement local economic development and to grow supporting value chains and industries; 5
 - (ii) implement the integrated business licensing regime; 5
- (h) to promote and support the development of representative associations of enterprises owned by citizens and non-profit organizations; 10
- (i) to ensure the enterprise support and development imperatives. 10

Application of the Act

- 3. (1) Save for a person in possession of a license issued in terms of any national legislation, this Act applies to any person operating a business in the Province referred to in section 18. 15
- (2) The granting of any application in terms of this Act does not relieve the person granted the application from complying with any other law or legal requirement in relation to the business in question. 20
- (3) A person who complies with the provisions of this Act is not exempted from complying with any other relevant provisions of the provincial or national legislation. 25

Exemptions

- 4. (1) The responsible Member may, on application and if circumstances so warrant, declare that this Act, excluding such provisions as he or she may determine, do not apply to – 30
 - (a) premises occupied, controlled or maintained by a government department or public entity; 35
 - (b) employees of a department or public entity contemplated in subsection (1) and its bona fide guests, for business on such premises; and 35
 - (c) a statutory institution or premises in or at a public resort, national park or game or nature reserve. 40

- (2) The responsible Member may, on application and if circumstances so warrant, declare that this Act, excluding such provisions as he or she may determine, do not apply to the sale, by a person named in the declaration, of any relevant item, if that person is a licensed auctioneer acting on behalf of a bona fide cultural or welfare organization or an educational institution. 5
- (3) A declaration issued under subsection (1) and (2) may be subject to such conditions set out therein as the responsible Member may in his or her discretion impose as mentioned. 10
- (4) The responsible Member may at any time after the issue of a declaration under subsection (1) or (2), by a notice delivered or tendered to the person named in the declaration, concerned, subject to the relevant provisions of the Promotion of Administration Justice Act, 2000 (Act No. 3 of 2000) – 15
- (a) in his or her discretion impose such reasonable conditions or further conditions as may be set out in the notice, to which the notice shall be subject;
- (b) withdraw or amend any condition imposed by him or her under this section; or 20
- (c) withdraw or amend such declaration.
- (5) Notwithstanding the provisions of subsection (1) or (4) a business which is carried on by a charitable, religious, educational, cultural or agricultural association, organization or institution of a public nature, if all profits derived from the business are devoted entirely and derived from the business and devoted entirely to the purpose of that or any other such association, organization or institution, is exempted by the Act. 25
30

Prohibitions

5. (1) A person may not – 35
- (a) conduct business referred to in section 18 unless in accordance with the provisions of this Act;
- (b) conduct business in premises which are not licensed or approved in terms of this Act. 40
- (2) A person may not conduct a business –
- (a) in premises owned by a Government Department or a Municipality; 45
- (b) in a building declared a heritage site, unless authorized in terms of applicable legislation.

- (3) The owner or lawful occupier of any building, dwelling, structure or premises of any other nature may not use such building, dwelling, structure or premises for business purposes or allow any other person to conduct any activity therein or thereon, unless he or she, or the person conducting the business activity in or on such building, dwelling, structure or premises, is in possession of a license issued in terms of this Act. 5
- (4) The owner of any building, dwelling, structure, or premises of any nature must take reasonable steps to ensure that such building, dwelling, structure or premises is not used for any business activity by persons who are not in possession of a license issued in terms of this Act. 10

CHAPTER 2

FREE STATE PROVINCIAL ADVISORY COUNCIL 15

Power to Facilitate and establish Free State Provincial Advisory Council

6. The responsible Member is hereby empowered to, within a reasonable time, facilitate for the creation and establishment of an Advisory Council to represent and promote the interest of small enterprise as contemplated in the National Strategy for the Development and Promotion of Small Enterprises in the Province. 20

Responsible Member's duty to determine the Constitution of the Provincial Advisory Council 25

7. (1) The responsible Member must through an open and transparent process of consultation determine a constitution for the Advisory Council referred to in section 6 of this Act. 30
- (2) The constitution of the Advisory Council must – 30
- (a) in general provide for –
- (i) the composition of the Advisory Council; 35
- (ii) the quorum and meetings of the Advisory Council;
- (iii) the procedure for the functioning of the Advisory Council; 40
- (iv) interaction with Provincial Legislature, the Department, Municipalities and Department of Trade and Industry and provincial and national statutory bodies; and
- (v) any other matter that may be necessary to facilitate the proceedings, activities or business of the Advisory Council. 45
- (b) specifically require the Advisory Council to advise the responsible Member on –

- (i) strategies to address identified market failures affecting the business sector;
- (ii) the impact of current and new legislation on small enterprises; 5
- (iii) national standards pertaining to small enterprise development and regulation;
- (iv) measures to ensure the creation of physical business infrastructure through viable business sites; 10
- (v) the development of skills in all aspects of running of a business;
- (vi) steps to be taken to create access for small enterprise into value chains; 15
- (vii) constraints affecting the viability of the small enterprise community; 20
- (viii) methods to liaise with the small enterprise community to identify their needs;
- (ix) methods to monitor and influence the provision of support services to the small enterprise sector; 25
- (x) determination of specific procurement and pragmatic support which allow government and its main contractors –
 - (aa) to buy from large group and groups of local enterprises, with systems linking them so they can supply if they were one large enterprise; 30
 - (bb) to compel enterprises that get government contracts to spend a certain percentage of their procurement spent on enterprises or entrepreneurs and cooperatives owned by citizens; and 35
- (xi) any other matter that the responsible Member may deem appropriate. 40

CHAPTER 3

REGULATION AUTHORITY AND THE LICESING OFFICER

Establishment of the Regulation Authority and Designation of the Regulator	5
8. The responsible Member is hereby empowered to establish the functions of the Regulation Authority within the Department and to designate any official of the Department at the level of Chief Director or Director as the Free State Business and Licensing Regulator.	10
Objectives of the Regulator	
9. (1) The objectives of the Office of the Regulator are to –	15
(a) ensure that all persons, bodies and entities conducting businesses within the Province –	
(i) possesses the necessary business licence issued in terms of this Act, Regulations and any other applicable law or by-law;	20
(ii) are licensed and registered in terms of this Act; and	
(iii) do not trade or conduct illegal activities.	25
(b) ensure that all businesses and persons licenced, permitted and registered in terms of this Act –	
(i) are conducted or conduct themselves in a manner that promotes the integrity of the business industry in the Province;	30
(ii) do not cause harm to the public;	
(iii) do not engage or trade in illegal merchandise or activities; and	35
(iv) do not deliberately mislead the public.	
(c) ensure the participation of historically disadvantaged individuals in the mainstream economy;	40
(d) impose restrictive measures in the regulation of businesses in the Province;	
(e) provide a standardized regulatory framework for both formal and informal trading within the Province;	45
(f) provide a conducive environment for the growth and development of formal and informal traders within the Province into the mainstream economy;	50

- (g) provide measures to foster business development and skills transfer in the Province;
- (h) create an enabling environment for the interaction and exchange of ideas amongst and between – 5
 - (i) formal and informal businesses; and
 - (ii) provincial and local government within the Province; 10
- (i) provide for a regulatory framework which promotes and enforces legislative compliance by all businesses trading within the Province. 10

Powers, duties, and functions of the Regulator

- 10. (1) The Regulator must through the Licensing Officer or designated Local Licencing Authorities – 15
 - (a) receive, consider and process all applications; 20
 - (b) register all businesses operating within the Province in the Automated Business Licencing and information management system; and
 - (c) exercises and perform such other powers, duties and functions assigned to him or her by any other legislation or by-law. 25
- (2) The Regulator, in exercising and performing his or her powers, duties and functions in terms of subsection (1)(a) –
 - (a) must determine – 30
 - (i) any conditions or restrictions to be attached to any business licence;
 - (ii) the scope of the business licences; and 35
 - (iii) trading hours of business categories.
 - (b) may amend, substitute or rescind any – 40
 - (i) condition or restrictions;
 - (ii) scope or trading hours, contemplated in paragraph(a);
 - (c) may in terms of prescribed criteria suspend or withdraw for an indefinite period of time or such period as it may determine; 45

- (d) may cause any business to seize operations until such time as the Regulator is satisfied that the business has met all minimum requirements as stipulated in the licence;
- (e) must, where there has been a breach of any condition attached to the business licence, revoke and cancel the business licence; 5
- (f) must engage the inspector to undertake any investigation to determine the sustainability of – 10
- (i) an applicant in respect of a business licence; or
- (ii) business premises in respect of any business licence application; 15
- (g) may institute any legal proceedings against –
- (i) any licenced person; or
- (ii) any other person, in respect of any contravention of any provision of this Act; 20
- (h) facilitate the appointment of Licensing Officers and Inspectors in terms of this Act; 25
- (i) ensure that designated managers and/or assistant managers are licensed subject to a condition that they remain at business premises at all times during business hours.
- (j) conduct hearings, call for the attendance of witnesses at such hearings and demand the production of any books, records and any other documents which, in the opinion of a Regulator, has been used in connection with or will reveal a contravention of the Act; 30
- (k) ensure compliance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); 35
- (l) licence and control business activities within the Province; and
- (m) conduct an enquiry into alleged contravention of the Act and take appropriate action against any license, which may include – 40
- (i) instituting legal action against such licensee or person;
- (ii) suspending or cancelling the license; or 45
- (iii) levying a fine or penalty on such license or person: provided that the amount of such fine or penalty does not exceed the prescribed amount.

Designation of Licensing Officers

11. (1) The responsible Member must, in consultation with the Member responsible for the Department of Co-operative Governance and relevant Municipalities, designate one of their senior officials with requisite skills and experience in business licensing as a Provincial Licensing Officer and 5 Officials as Licensing Officers within different District Municipalities. 5
- (2) The Licensing Officers must, in the performance of their functions and duties in terms of this Act, be assisted by officers and employees appointed in terms of the prescripts applicable to the Departments and Municipalities concerned. 10
- (3) The Licensing Officer may delegate any of his or her duties and functions to any official of the Department or Municipality concerned and the delegation by the Licensing Officer – 15
- (a) must be in writing;
- (b) must not prohibit the Licensing Officer from exercising or performing that power, duty or function; and 20
- (c) may at any time be withdrawn or cancelled in writing by the Licensing Officer.
- (4) Where the Licensing Officer is for any reason unable to perform any of his or her functions, the Head of Department in consultation with the Municipal Manager of the relevant Municipality may appoint another person for a period not exceeding six (6) months until the Officer is able to resume those functions. 25
- 30

Powers, duties and functions of the Licensing Officers

12. (1) The Licensing Officer must –
- (a) investigate and furnish the Regulator with a report, regarding any matter relating directly or indirectly to the business industry within the Province; 35
- (b) determine and make recommendations regarding any conditions or restrictions to be attached to the granting of business licenses, or under which a business license may be issued; 40
- (c) examine the application within a reasonable time from the expiry of twenty (21) days period referred to in section 20, to determine whether the applicant has complied with the provisions of section 20(3). 45

- (2) Where such provisions have not been complied with, issue a notice to the applicant within a reasonable time to ensure compliance within fourteen (14) days.
- (3) If the applicant fails to comply with the notice referred to in this section, the Licensing Officer must prepare a report and make recommendations that will inform the decision of the Regulator. 5

Expert and other assistance

13. (1) The Authority may appoint such experts or other persons as service providers to assist the Regulator and the Licensing Officer in the exercise and performance of their powers, duties and functions. 10
- (2) The experts or other persons appointed under subsection (1) may attend any meetings of the Regulator but may not vote at such meetings. 15

Position of public trust

14. The Regulator and the Licensing Officer are in a position of public trust and may not – 20
- (a) accept any donation, reward or other benefit from or on behalf of any person, or a licensee under this Act; 25
- (b) participate in any business activity contemplated in this Act within the Province, except in the performance of his or her duties; and 25
- (c) solicit or accept employment from a licensee or an applicant in terms of this Act within a period of one (1) year after the termination of his or her appointment as a Regulator. 30

Confidentiality

15. (1) No official of the Department or any other person associated with the Regulator or the Licensing Officer in terms of this Act, may disclose any information, documents, or records at the disposal of or belonging to the Authority, except – 35
- (a) to any person who requires it for the performance of his or her functions in terms of this Act, or any other relevant law in force in the Republic of South Africa; or 40
- (b) to any other person in terms of an order of a competent court or under this Act. 45

- (2) Notwithstanding the provisions of subsection (1), the Regulator and/or Department is not prohibited from disclosing any information or statistics, if such information or statistics do not refer to or reflect on the affairs of a business of any applicant for a license under this Act, a licensee, or any other person connected therewith or person who has made representation to the Department or Regulator. 5

Administrative Support

16. The Department must provide administrative support to the Office of the Regulator. 10

CHAPTER 4

BUSINESS LICENSING

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PART 1

GENERAL

Compulsory Licensing

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17. (1) No person is allowed to conduct a business listed under section 18, in any area within the Province unless –
- (a) that person is a holder of a business license issued to him or her in terms of this Act; or 25
- (b) it is a business which has been exempted in terms of subsection (2)(b) from the application of this Chapter. 30
- (2) The responsible Member may, by notice in the *Provincial Gazette* –
- (a) amend Schedule 2;
- (b) exempt certain businesses from the application of the provisions of this Chapter; and 35
- (c) withdraw the exemption of any businesses contemplated in subsection 2(b). 40
- (3) No person or business may –
- (a) employ or offer employment to any person to manage any business activity, if such person is subjected to a disqualification referred to in section 19 of this Act; 45

- (b) sell products that are harmful to consumers or do not comply with the relevant approved health and safety standards.
 - (4) Any person or business who –
 - (a) contravenes subsection (1) or (3); 5
 - (b) conducts any business using a business license issued to another person; 10
 - (c) lets or allows any person to conduct business using business license issued to another licensed person; or
 - (d) is employed as manager or assistant manager and does not have a manager's permit, 15
- is guilty of an offence in terms of this Act.

Categories of Licenses

- 18. (1) An application for a business license in terms of this Act may be made in respect of the following categories – 20
- PART A** 25
- (a) a license for the sale of consumables –
 - (i) a retail store;
 - (ii) a grocers' license; 30
 - (iii) a spaza shop;
 - (iv) a hardware store; 35
 - (v) tent rental and accessories thereto;
 - (vi) motor mechanic services;
 - (vii) auto body repairers; 40
 - (viii) a bookstore;
 - (ix) dealer in office equipment and data systems; 45
 - (x) dealer or collector in glass and glassware;

- (xi) furniture and household appliance dealer;
 - (xii) laundry and dry cleaner;
 - (xiii) shoemaker and repairer; 5
 - (xiv) a bakery;
 - (xv) a butchery; 10
 - (xvi) accommodation establishments; or
 - (xvii) a restaurant.
- (b) a license for the sale of any beauty or lifestyle services – 15
- (i) a beauty salon license;
 - (ii) a hair salon license; 20
 - (iii) a treatment spa license;
 - (iv) a gym license; or
 - (v) barber shop. 25

PART B

- (a) a license for the sale of any lifestyle and sport entertainment services rendered on the business premises – 30
- (i) a video games arcade license;
 - (ii) a video hire shop; or 35
 - (iii) record bar or dealer in music.

PART C

- (a) a license for the sale any adult entertainment services – 40
- (i) a massage parlor;
 - (ii) an escort agency; or 45
 - (iii) a strip club license.

PART D

- (a) a license for managers or assistant managers.
- (2) The provisions of subsection (1) do not apply to a person licensed in terms of any applicable legislation. 5
- (3) There shall be no limit to a number of licenses for any person except if there are conditions imposed for a business zoned or demarcated areas provided for business development by the State. 10

Disqualification

- 19. (1) A person may not be issued with a license if he or she – 15
 - (a) is a minor;
 - (b) an illegal immigrant;
 - (c) is under curatorship; 20
 - (d) is or has been declared by a competent court to be of unsound mind;
 - (e) has been convicted and sentenced to a term of imprisonment without an option of a fine, except where such disqualification ends immediately on expiry of the term of imprisonment; or 25
 - (f) has had his or her business license cancelled in terms of this Act, dependent on that disqualification ending – 30
 - (i) after three years of the date of cancellation of a license; or
 - (ii) on such other date determined by the Authority; or
 - (iii) has been convicted of an offence in terms of this Act, subject to that disqualification ending after three (3) months of the date of conviction. 35
- (2) No Company, close corporation, association, partnership or trust may be issued with a business license, if a person who is disqualified in terms of subsection (1) – 40
 - (a) has a controlling interest in that company, close corporation, association or trust; 45
 - (b) is a partner in that partnership; or

- (c) is the main beneficiary in that trust.

PART 2

PROCEDURE FOR LICENSING APPLICATIONS

5

Application

20. (1) Any person who wishes to apply for a business licence in respect of the categories listed under section 18 must – 10
- (a) lodge an application with the relevant licensing officer using a prescribed Form on any weekday, except weekends and public holidays; and 15
- (b) pay the prescribed application fee.
- (2) The application must include and be accompanied by –
- (a) a description of the location of the premises in terms of identifiable landmarks; 20
- (b) a certified copy of an identity document of the applicant, or if a company or close corporation, its registration number; 25
- (c) in relation to the premises in respect of which licensing is being sought, the details in respect of the premises, including a plan of the premises;
- (d) a tax clearance certificate issued by South African Revenue Service indicating whether the applicant is registered as a taxpayer; 30
- (e) proof of lawful occupation of the premises, in the form of a title deed or a lease agreement in the name of the applicant or a permission to occupy the premises issued in favour of the applicant by the relevant authority, where applicable; 35
- (f) a written consent from the owner of the premises or the relevant authority for the applicant to conduct the intended business from the premises concerned, where applicable; and 40
- (g) security clearance issued by the South African Police Service.
- (3) A Licensing Officer must, within fourteen (14) days of receipt of the application submitted in terms of subsection (1) – 45
- (a) acknowledge receipt of the application in writing;

- (b) examine the application in order to determine whether it is complete, and where the application is not complete, issue a notice in the prescribed form calling on the applicant to supplement or remedy the incomplete application, within a period of twenty one (21) days of dispatch of the notice. 5

Public inspection of the application

21. (1) Any application submitted in terms of section 20(1), must – 10
- (a) on the expiration of the periods contemplated in section 20(3); and
- (b) subject to subsection (3), be open for public inspection by interested persons – 15
- (i) in the offices of the relevant Local Licencing Authority by interested persons; and
- (ii) for a period of ten (10) days. 20
- (2) Any person wishing to obtain a copy of the application must pay where there is a prescribed fee to the Regulator. 25
- (3) A Licensing Officer may – 25
- (a) on receipt of the application of the applicant in the prescribed manner; or
- (b) on his or her own accord, determine that any part of the application, subject to the provisions of Chapter 4 of the Promotion of Access to information Act, 2000 (Act No. 2 of 2000), not be open to public inspection contemplated in subsection (1) and (2). 30

Objections and representations against Application

22. (1) Any person wishing to lodge any objection to the application contemplated in section 20 must do so by making written representations within five (5) days of the expiry of the inspection period contemplated in Section 21(1)(b)(ii) in the manner prescribed. 35
- (2) If upon the expiration of the period contemplated in subsection(1), any objections and representations received, a Licensing Officer, must – 40
- (a) forthwith, furnish the applicant with a copy of any objection and written representations submitted in terms of subsection (1); and 45

- (b) invite the applicant to submit in writing, within five (5) days, his or her response to the issues raised in the objection and written representations contemplated in subsection (1).
- (3) The person making objections or making representations must – 5
 - (a) serve a copy thereof to the Regulator and to the applicant or his or her representative; and
 - (b) submit proof of service to the applicant and to the Regulator. 10
- (4) The person making representations or objections must set out the following –
 - (a) his or her full name and address; 15
 - (b) his or identity number or, if a company or close corporation, its registration number;
 - (c) if applicable, the name or address of his or her representative; 20
 - (d) the nature of his or her interest in the refusal of the application; and
 - (e) comprehensive grounds for the objection to the application. 25
- (5) The applicant may, within seven (7) days of receipt of an objection or representations, submit a written response to the Regulator.

Objections hearings

- 23. (1) Where the Regulator has received objections or representations in relation to an application, the Regulator must, before considering an application, hold an objection hearing. 30
- (2) The Regulator must – 35
 - (a) determine the date, time and place of the hearing; and
 - (b) notify the interested parties about the details of the objection hearing. 40
- (3) At the hearing contemplated in subsection (1) –
 - (a) any interested person may present their objections based on written representations and applicant must be given an opportunity to respond to the objection; 45
 - (b) the applicant and each such person may be assisted or represented by any person of his or her choice.

- (4) The Regulator may, communicate for the purpose of dealing with any matter before it at an objection hearing –
- (a) by written notice delivered by hand, e-mail or post, require any person to appear before it to give evidence or to produce any book, plan or other document or article in his or her possession or under his or her control; 5
 - (b) call upon any person present in or at the place where such matter is dealt with by the Regulator, to appear before it to give evidence or to produce any book, plan or other document or article which such person may at the time have in his or her possession; 10
 - (c) question any person appearing before it; 15
 - (d) refuse to hear a person appearing before it who refuses to be sworn in or to be affirmed; and
 - (e) not hear any matter which is frivolous or vexatious, or which it does not have authority to hear as provided for in this Act. 20
- (5) An objection hearing must be –
- (a) held in a manner prescribed; and 25
 - (b) open to the public, unless the Regulator has ruled that the hearing must be held in private in terms of subsection (6)(b).
- (6) The Regulator may direct that – 30
- (a) any person who disrupts the good order of the hearing, must leave the hearing; and
 - (b) the objection hearing be held in private, if the Regulator deems fit. 35
- (7) The Regulator or his or her delegate presiding over the objection hearing at which a person appears as a witness must ensure that an oath or affirmation is administered to the witness or witnesses.
- (8) If the Regulator is not a Commissioner of Oath, he or she may be assisted by any person who is a Commissioner of Oath in terms of the Justice, Peace and Commissioners of Oath Act, 1963 (Act No. 16 of 1963). 40

Consideration of applications by Regulator

24. (1) The Regulator must within fourteen (14) days of conclusion of the hearing, consider the application and inform the applicant. 45

- (2) In considering an application, the Regulator must consider –
- (a) all documents and representations submitted by the applicant in terms of section 20(2) and the objector in terms of section 22; 5
 - (b) all reports submitted by the inspector subject to inspection of premises; 10
 - (c) the inspector’s reports contemplated in section 38(5) of this Act; 10
 - (d) the suitability of the premises for the proposed business in relation to –
 - (i) land use management; 15
 - (ii) environmental health; 15
 - (iii) fire and safety; 20
 - (iv) environmental management; 20
 - (v) building control; 25
 - (vi) law enforcement; and 25
 - (vii) any other criteria. 25
 - (e) whether the application is contrary to the provisions of this Act or any other law; 30
 - (f) whether the application contributes to the objects of the Act as contemplated in section 2 of this Act; 30
 - (g) any matter of public interest. 35
- (3) The Regulator may, if considered necessary and subject to the timeframe contemplated in subsection (1) –
- (a) carry out an inspection of the premises; 40
 - (b) call upon the services of an experts or service providers to undertake such further investigations necessary to assist the Regulator to consider the application; and 40
 - (c) hold a hearing, in which case the provisions of section 24 will be applicable, with the necessary changes. 45

- (4) After having considered an application, the Regulator may –
- (a) grant the application, subject to –
 - (i) such terms and conditions it may deem fit; 5
 - (ii) such trading days and hours he or she may determine in consultation with the relevant Municipality; and
 - (iii) in relation to premises not yet complete or that require structural alteration so as to make the premises suitable, such conditions relating to the completion or alteration of the premises as the Regulator may deem fit, within a time period stipulated; or 10
 - (b) refuse the application; 15
 - (c) uphold or refuse an objection contemplated in section 22(1);
 - (d) postpone the matter to a later date, if the circumstances so dictate. 20
- (5) Before granting an application, the Regulator must satisfy him or herself that –
- (a) the applicant is not disqualified from holding a licence in terms of this Act; 25
 - (b) the premises upon which the business will be conducted will upon completion be suitable for use by the applicant for the purposes of the licence; and 30
 - (c) the use of the proposed premises for the proposed activity would not be contrary to existing zoning laws or land use rights.
- (6) In determining whether the application will be in the public interest as contemplated in subsection (5)(a), the Regulator must consider, without detracting from the generality thereof, the extent to which the proposed licence will contribute to, or detract from, the achievement of the objects of the Act, including the extent to which the proposed licence will or is likely to impact on the socio- economic rights of society, including the prevalence of crime. 35
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Communication of decision

25. (1) Within a period of seven (7) days of the Regulator having made a decision on an application, the Licensing Officer must communicate the decision in writing – 45

- (a) to the applicant and, where the application has been granted subject to conditions or has been refused, provide reasons for the decision;
- (b) to any person who objected to or made representations in writing, where the application has been granted; and 5
- (c) in the event that an application or objection is refused, any decision must include –
 - (i) written reasons for the decision; 10
 - (ii) advice on the right to appeal or review the decision of the Regulator; and
 - (iii) the details of the Appeal Authority. 15
- (2) The Regulator must simultaneously inform the applicant that the license will be issued upon payment of the prescribed fee. 20

PART 3 20

PROVISIONS APPLICABLE TO LICENSE HOLDERS

Validity of a License

- 26. (1) Any licensed business issued in terms of this Act is valid for period of three (3) years. 25
- (2) The license of any licensed person or premises takes effect on the date on which the business license certificate is issued and remains in effect until – 30
 - (a) the license is cancelled in terms of this Act;
 - (b) has lapsed; or 35
 - (c) the licensed person is –
 - (i) deceased;
 - (ii) sequestrated or estate is wound up; 40
 - (iii) dissolved or deregistered; or
 - (iv) no longer trading. 45

Renewal of license

- 27. (1) A licence, subject to the provisions of this Act and the conditions under which it was granted, remains in force until the date of renewal.

- (2) It is the responsibility of the licensee to renew a licence with the Regulator by paying the prescribed licence fee before the date on which the licence becomes renewable.
- (3) If a licensee fails to renew his or her licence by the date of renewal, the licence lapses and the licensee must – 5
- (a) cease the activities authorised by the licence; and
- (b) if he or she so wishes, apply to the Regulator for a new licence in accordance with the provisions of this Act, in which event all the provisions of this Act relating to an application for a new licence apply, with the necessary changes. 10

Suspension of licence 15

28. (1) The Regulator may at any time, and after giving the licensee concerned an opportunity to be heard, suspend for such period as it may determine, any licence if – 20
- (a) any information given to the Regulator during an objection contemplated in section 23 or any information contained in any application made by the licensee for the purpose of obtaining a licence, a variation to any specification or condition attached to a licence, the renewal or transfer of a license or for the removal of the business concerned to other licensed premises, was at the time of being furnished false information in any material respect or was subject to any material omission with the intention to mislead the Regulator; 25
- (b) the licensee is disqualified from holding a licence in terms of this Act; 30
- (c) the licensee, an employee of such licensee or any other person acting on his or her behalf has failed to comply with any term or condition of the licence or any provision of this Act or has not complied with such term, condition or provision within 30 days, or such further period as the Regulator may in writing allow, after delivery of a written notice by the Regulator to the licensee requiring such failure to be remedied; or 35
- (d) the licensee has, without the prior written consent of the Regulator, failed to conduct the business activities authorised by his or her licence for a period of 12 consecutive months. 40

- (2) The Regulator may, pending an enquiry contemplated in subsection (1), immediately suspend the licence of any licensee for a material contravention of any provision of this Act, a condition of a licence or of the rules.
- (3) The Regulator may at any time lift any order of suspension issued in terms of subsection (1) if the reasons for such suspension have been remedied to the satisfaction of the Regulator. 5
- (4) When a licence is suspended in terms of subsection (1) – 10
- (a) the Regulator must immediately inform the licensee in writing of such suspension and of the reasons for the suspension; and
- (b) the licensee has no claim to a refund of any licence fee paid or any portion thereof. 15

Cancellation of license

29. (1) Where the Department considers that sufficient grounds exist for the cancellation of a licence, it must serve a written notice on the licensee which must – 20
- (a) notify the licensee that the Department proposes to consider the cancellation of the license concerned; 25
- (b) state clearly the ground or grounds for cancellation;
- (c) invite the licensee to, within 30 days after the date of the written notice to – 30
- (i) make written representations to the Regulator; or
- (ii) notify the Regulator in writing that the he or she intends making oral representations to the Regulator; and 35
- (iii) state clearly that, should the licensee fail to respond to the written notice in the manner contemplated in paragraph (c), the Regulator will take a decision as to whether the licence concerned should be cancelled. 40
- (2) Where written representations are made to the Regulator by the holder of a license, the Regulator must –
- (a) on such representation consider whether or not the license should be cancelled; or 45
- (b) take such decision as may be justified by the information at its disposal and the written representations received.

- (3) When a licensee notifies the Regulator that he or she intends making oral representations to it, the Regulator must set a date, time and place for the hearing and notify the licensee concerned in writing.
- (4) The licensee may be assisted or represented at a hearing by any person of his or her choice. 5
- (5) The Regulator must after the hearing, in the case of any licence, take a decision as to whether or not the licence concerned should be cancelled. 10
- (6) The Regulator must convey to the licensee, in writing –
- (a) the relevant decision of the Regulator; and
- (b) the reasons for the said decision. 15
- (7) A licence must be cancelled forthwith if the licensee or any person in control of the licensee has been convicted of an offence in terms of this Act.
- (8) A Licensee may apply in a prescribed manner for cancellation of a licence upon payment of prescribed fee. 20

Surrender of license and conditions imposed thereon

30. The Regulator may, in his or her discretion and subject to this Act, impose any conditions on the surrender of a licence. 25

Transfer of License

31. (1) A licensee may at any time make application to the Regulator for his or her licence to be transferred to another person provided that the person is not disqualified in terms of section 19 of this Act. 30
- (2) A Licensee applying in terms of subsection (1) must submit the original licence to the Regulator in accordance with the prescribed manner and upon payment of a prescribed fee. 35
- (3) When an application is granted, the Regulator must cause the name of the licensee to be altered appropriately on the licence and systems of the Regulator. 40

Death of Licensee

32. In the event of the death of a licensee any licence which was held by that person must be dealt with in terms of the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965). 45

Relocation of business operations

33. (1) Any licensed person who intends to relocate his or her license from a licensed premises to other premises, must submit an application to the Regulator in a prescribed Form. 5
- (2) The application for the removal of a business license to other premises must be processed in terms of the provisions of section 20, 21, 23, 24, 25 and 26 of this Act. 10
- (3) The Regulator must issue a certificate of relocation, as prescribed after –
- (a) he or she has granted the application for the relocation of a license; and 15
- (b) the licensed person has paid the prescribed relocation fee.
- (4) The certificate of relocation must –
- (a) reflect the name of the prospective premises; and 20
- (b) contain conditions as may be imposed by the Regulator.

Management of Businesses

34. (1) A licensee may appoint any natural person as a manager and/or assistant manager of the licensed business. 25
- (2) The manager contemplated in subsection (1) must –
- (a) be in possession of a managers' permit issued in terms of subsection (3); and 30
- (b) not be disqualified in terms of section 19. 35
- (3) Any licensee wishing to appoint a manager for any licensed business must submit an application for the manager's permit to the Regulator in a prescribed Form.
- (4) The Regulator must process the application for a manager's and/or assistant manager's permit submitted in terms of subsection (3) in the manner and within timeframes, as prescribed. 40
- (5) If the application contemplated in subsection (3) has been granted, the Licensing Officer must, upon payment of the prescribed manager's and/or assistant manager's permit fee, issue the manager's permit. 45

PART 4

LICENSING FEES

Application and renewal fees		5
35.	(1) The responsible Member must, in consultation with the MEC for Finance, in a prescribed manner and by notice in the <i>Provincial Gazette</i> , determine the standard tariffs that must be applicable for business licenses in terms of this Act for –	10
	(a) application fees, contemplated in section 20;	
	(b) renewal fees, contemplated in section 27;	15
	(c) cancellation fees, contemplated in section 29;	
	(d) transfer fees, contemplated in section 31;	
	(e) relocation fees, contemplated in section 33;	20
	(f) manager's permit fees, contemplated in section 34; and	
	(g) assistant manager's fees, contemplated in section 34.	25
	(2) The responsible Member may, by notice in the <i>Provincial Gazette</i> determine the framework for the determination of tariffs contemplated in subsection (1) based on the size and location of business.	
	(3) The responsible Member must, in consultation with the MEC responsible for Finance, by notice in the <i>Gazette</i> and on annual basis revise and publish in the <i>Provincial Gazette</i> tariffs contemplated in subsection (1).	30

CHAPTER 5

COMPLIANCE AND ENFORCEMENT

Appointment of Inspectors

36.	(1) The responsible Member may appoint an official within the public service as an inspector for the purposes of this Act.	40
	(2) An inspector must, on appointment, be provided with a certificate of appointment in the prescribed Form signed by the responsible Member.	
	(3) An inspector must, whenever performing a function or exercising a power in terms of this Act, have such certificate of appointment in his or her possession and must produce it whenever requested to do so by any person affected by the actions of the inspector concerned.	45

- (4) The conduct of inspectors as contemplated in terms of in section 38 is subject to the Code of Conduct for inspectors, issued by the responsible Member in terms of section 40(3)(c) of this Act.

Position of public trust 5

37. An inspector is in a position of public trust and may not –
- (a) accept any donation, reward or other benefit from or on behalf of any person, a licensee or registrant under this Act or any other person associated with an activity and neither may any such licensee, or person give or offer or intimate that he or she is willing to give or offer any donation, reward or other benefit; 10
 - (b) participate in any business activity contemplated in this Act in the Province, except in the performance of his or her duties; and 15
 - (c) solicit or accept employment from a licensee or an applicant for a licence in terms of this Act within one year after the termination of his or her appointment as an inspector: Provided that an inspector may solicit and accept such employment within such period if – 20
 - (i) the Department has consented thereto in writing, after having satisfied itself that –
 - (aa) exceptional circumstances exist; and 25
 - (bb) such employment would not frustrate the purpose of this Act; and
 - (ii) the responsible Member has concurred with the Regulator. 30

Functions and powers of inspectors

38. (1) An inspector may at any time enter premises to – 35
- (a) issue a compliance notice and make appropriate recommendations to the Regulator; 40
 - (b) investigate any complaint referred to the Regulator; 40
 - (c) question the licensee or any person deemed by the inspector to be in charge of the premises at the time as to any entries in such books, accounts, records and documents or request any information about any business equipment; 45
 - (d) demand from any licensee, the production of any books, documents or records or statements relating to the licensed business; and

- (e) inspect the licensed premises and consider compliance with the conditions attached thereto.
- (2) An inspector may at any time and without prior notice or permission enter, be and remain upon any licensed premises and may enter any premises if he or she has reasonable suspicion that any business is being conducted on such premises and request the owner of the business or manager or employee of the business to produce – 5
- (a) a business license contemplated in section 20; 10
- (b) manager’s permit contemplated in section 34;
- (c) an informal trading permit issued in terms of the Business Act; or 15
- (d) an assistant manager’s permit contemplated in section 34.
- (3) Where an inspector has reason to believe that a provision of this Act or the conditions attached to a licence have been contravened, he or she must within fourteen (14) days, investigate the matter in the manner contemplated in this section and must forthwith furnish the Regulator with a report on the findings of such investigation. 20
- (4) A person commits an offence if he or she – 25
- (a) obstructs or hinders an inspector or a member of the South African Police Service accompanying such inspector in the performance of their functions under this section;
- (b) when asked to give an explanation or information to an inspector, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or 30
- (c) falsely represents himself or herself to an inspector. 35
- (5) An Inspector may conduct an inspection and compile a report in respect of any –
- (a) licensed or permitted premises to monitor and enforce compliance with this Act or any other law; 40
- (b) objections contemplated in sections 22 and 23;
- (c) applications contemplated in sections 20, 27,31 and 33 must include, where applicable, inspectors’ reports in matters pertaining to – 45
- (i) land use management;

- (ii) environmental health;
 - (iii) fire and safety;
 - (iv) environmental management; 5
 - (v) building control; and
 - (vi) any other report. 10
- (6) Subject to subsection (5) and the provisions of any other law, an inspector may –
- (a) question any person present on the premises in respect of any matter which may be relevant to the inspection; 15
 - (b) question any person whom, the inspector on reasonable grounds, believes may have information relevant to the inspection;
 - (c) inspect any document that a person is required to keep in terms of this Act or any other law or that may be relevant to any business-related inspection; 20
 - (d) copy the document referred to in paragraph (c), or if necessary, remove the document in order to copy it; 25
 - (e) take photographs or make audio visual recording of anything or any process, action or condition on or regarding any land or premises;
 - (f) with the assistance of a police officer from South African Police Services, seize and remove any item which in his or her opinion may furnish proof of a contravention of any provision of this Act or any other law; 30
 - (g) do all things necessary for conducting the inspection without exceeding his or her powers as contemplated in this Act; 35
 - (h) order the immediate closure of business operations if the inspector, according to the powers vested in him or her as contemplated in this Act, can on reasonable grounds demonstrate that the business concerned is – 40
 - (i) in breach of its business license or trading permit;
 - (ii) trading illegally; 45

- (iii) trading without a licence or permit;
- (iv) posing a danger to the interests of the health and safety of the public; or
- (v) a repeat offender, where all other reasonable alternative measures to prevent the business from contravening the provisions of this Act and any other law, have been exhausted.

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- (7) An inspector who removes any item in terms of subsection 6(f) from a premises being inspected, must issue a receipt, in the prescribed Form, to the owner or person in charge of the business.

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Enquiries by Regulator

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39. (1) The Regulator may conduct an enquiry into any matter falling within the scope of his or her powers and functions.

- (2) The Regulator may, after any enquiry, find a licensee guilty of not complying with any of the provisions of this Act –

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(a) suspend the relevant licence;

(b) cancel a licence; or

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(c) levy a fine or penalty on such licensee or person: Provided that the amount of such fine or penalty does not exceed the prescribed amount.

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CHAPTER 6

THE ROLE OF THE RESPONSIBLE MEMBER AND OTHER ORGANS OF STATE

35

Role of the responsible Member

40. (1) Without derogating from any responsibilities and powers conferred on him or her by the Constitution, the Business Act, this Act or any other applicable law, the responsible Member is responsible for –

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(a) governance and stewardship of the Provincial Business Licensing and Regulation System;

(b) governance and stewardship of the Regulator in terms of the provisions of this Act;

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- (c) in a prescribed manner, clearly delineate in the roles and responsibilities of the Regulator, Provincial Departments, Municipalities and any Public Entity taking into consideration the Constitution, this Act and the National Small Enterprise Act, in order to prevent duplication of services and wasting of resources and, to ensure the equitable provision and financing of business development services, licensing and regulation. 5
- (2) The responsible Member must, within twelve (12) months of the coming into operation of this Act, after consultation with the South African Police Services and other departments and by notice in the *Provincial Gazette*, develop the Codes of Conduct for – 10
- (a) licensees; 15
- (b) licensing authorities; and
- (c) inspectors.
- (3) The responsible Member may issue the following directive to the Regulator relating to the objects of this Act in consultation with the Advisory Council as contemplated in section 6 of this Act – 20
- (a) ensure the protection of the citizens' right to trade as enshrined in terms of section 22 of the Constitution; 25
- (b) facilitate, implement, monitor, advise and assist the Provincial Government with the development of a shared and sustainable socio-economic development agenda for the Province; 30
- (c) facilitate, monitor and support strategic partnerships that involve the public sector, private sector, knowledge sector, organised labour and civil society in the implementation of provincial developmental agenda; 35
- (d) address historical imbalances in the provision of infrastructure and funding of businesses in the Province;
- (e) develop and promote township businesses and encourage a culture of excellence in business performance and management; 40
- (f) recognise and encourage innovation and creativity in business formulations;

- (g) serve as a provincial hub for socio-economic research, knowledge, catalyst for informed policy and decision making and planning towards sustainable economic development;
- (h) must impose any fine against any person found to have contravened any provision of this Act, which must not exceed the prescribed amount stipulated in section 44 of this Act; 5
- (i) take such other lawful steps to ensure compliance with the provisions of this Act. 10

Designation of Local Licensing Authorities

41. (1) The responsible Member, in consultation with the relevant municipality and after inviting the relevant municipality to make representations in the manner prescribed and by notice in the *Provincial Gazette*, designate such municipality as a Local Licensing Authority as contemplated in section 2 of the Business Act for – 15
- (a) the whole area falling under the municipality concerned; and/or 20
 - (b) a particular area within the municipality boundaries of the municipality concerned.
- (2) If any Municipality in the Province lacks the necessary capacity to be designated as a Local Licencing Authority in respect of any area contemplated in subsection (1)(a) or (b), the responsible Member may – 25
- (a) for a period not exceeding 24 months, in a manner contemplated in subsection (1) and (3)(a), designate any other municipality, person or body within the Province as the Local Licencing Authority for the area concerned; and 30
 - (b) determine the terms of reference for that person or that body. 35
- (3) The responsible Member must –
- (a) prior to exercising his or her powers in terms of subsection 2(b), consult the municipality being designated as the Local Licensing Authority; 40
 - (b) ensure that Local Licencing Authority designated in terms of subsection (2) has the necessary administrative capacity and support to – 45
 - (i) exercises and perform its powers, duties and functions in terms of this Act; and

<ul style="list-style-type: none"> <li style="margin-left: 40px;">(ii) where the designated Local Licencing Authority, is a municipality, assist with the capacity development of the municipality concerned to take over as the Local Licencing Authority at the expiry of the period contemplated in subsection (2)(a). 	5
<ul style="list-style-type: none"> (4) The responsible Member may exercise his or her powers in terms of subsection 2(a) – <ul style="list-style-type: none"> (a) if he or she has established that the municipality, person or body concerned does not have the requisite capacity to perform the powers and functions of a Local Licencing Officers contemplated in section 11 of this Act; or (b) upon receipt of a request, in the prescribed form from the relevant municipality. 	10 15
<ul style="list-style-type: none"> (5) The responsible Member, after inviting the relevant municipality, person or body to make representations in the manner prescribed and by notice in the <i>Provincial Gazette</i>, may withdraw the designation of such Municipality, person, or body as a Local Licencing Authority, if the municipality, person or body concerned has – <ul style="list-style-type: none"> (a) contravened the provisions of this Act or Regulations issued in terms of this Act; or (b) failed to perform its functions and duties as a Local Licencing Authority in accordance with the provisions of this Act. 	20 25
Delegation of Powers	30
<ul style="list-style-type: none"> 42. The responsible Member may delegate any power conferred on him or her by this Act, except the power to – <ul style="list-style-type: none"> (a) make Regulations referred to in section 45 of this Act and section 2 of the Business Act; or (b) designate Local Licensing Authorities in terms of this Act. 	35
CHAPTER 7	40
GENERAL PROVISIONS	
Appeals	45
<ul style="list-style-type: none"> 43. (1) Any person who is aggrieved by a decision of the Regulator made in accordance with the provisions of this Act, may appeal to the responsible Member in the manner prescribed. 	

- (2) The provisions of subsection (1) do not limit the right of any person aggrieved by a decision of the Regulator from applying to any Court with jurisdiction for a review of such decision.
- (3) The responsible Member may appoint an ad hoc appeals authority to hear an appeal contemplated in subsection (1) to assist him or her in taking an informed decision. 5

Offences and Penalties

44. (1) Any person who contravenes any provision of this Act, if such contravention is not elsewhere in this Act declared to be an offence, commits an offence. 10
- (2) Any person convicted of conducting any business without a valid licence issued in terms of this Act is, on conviction and in addition to any forfeiture of his or her stock or merchandise, liable to imprisonment for a period not exceeding one year with the option of a fine. 15
- (3) Any person who conducts any business without a business license as contemplated in terms of this Act is, on conviction and in addition to forfeiture of his or her stock or merchandise, liable for imprisonment for a period not less than one year without an option of a fine. 20

Regulations, Guidelines and Conditions

45. (1) The responsible Member may by notice in the *Provincial Gazette* and after consultation with organised local government representing local government provincially, make Regulations or issue guidelines not inconsistent with the provisions of this Act in respect of – 25
- (a) the matters listed in section 35; 30
- (b) any matter that may be prescribed in terms of this Act; and
- (c) any matter that may facilitate the application of this Act. 35
- (2) Regulations and guidelines made or issued in terms of subsection (1) may differentiate between –
- (a) different kinds of municipalities which may, for the purpose of the Regulations, be defined in the Regulations either in relation to categories or types of businesses or in any other way; 40
- (b) different categories of licenses and fees applicable thereto; and 45

- (c) different categories of licensees as the differentiation does not amount to unfair discrimination.
- (3) Regulations in terms of subsection (1) may prescribe penalties for the contravention of or non-compliance with any specific provisions of the Regulations, which may include an appropriate fine and imprisonment not exceeding six months. 5
- (4) Draft Regulations and guidelines must be published in the *Provincial Gazette* for public comment before their enactment in terms of subsection (1). 10
- (5) The absence of a regulation or guideline that may be prescribed in terms of this Act does not prevent –
- (a) the application of any provision of this Act in connection with the regulation or guideline that may be prescribed; or 15
- (b) the performance of a function or the exercise of a power assigned in such provisions. 20
- (6) Guidelines issued in terms of subsection (1) are not binding. 20
- (7) Compliance with guidelines issued in terms of subsection (1) may be taken into account in the determination of inter-governmental policies and arrangements. 25
- (8) Regulations made in terms of this section –
- (a) must be submitted to Provincial Legislature at least thirty (30) days before publication in the *Provincial Gazette*; and 30
- (b) take effect on a date determined in the Regulations, which must be the date of publication or a date determined by the Premier in the *Provincial Gazette*. 35

Repeal or amendment of laws

46. The Laws mentioned in Part A and Part B of schedule 2 are in so far as they apply to the Province, hereby repealed to the extent indicated in the third column of the said Schedule. 40

Transition and savings

47. (1) Upon coming into operation of the Act the following issued in the terms of the Business Act, will be deemed to be valid until they expire – 45
- (a) licences issued under the Business Act;

(b) compliance notices; and

(c) fines.

- (2) Any person who holds a licence in terms of Business Act, must apply for renewal in terms of this Act. 5
- (3) A person who holds a licence in terms of subsection (2), is not exempted from complying with any relevant provisions of the Business Act and from complying any other law or legal requirement in relation to the Business in question. 10
- (4) Any application for a licence or matter received by the Licencing Authority under the Business Act and not disposed of prior to the date of commencement of this Act, must be dealt with in terms this Act. 15

Short title

48. This Act is called the Free State Integrated Business Support, Licensing and Regulation Act, 2024 and comes into operation on a date to be determined by the Premier by notice in the *Provincial Gazette*. 20

Schedule 1 – Repeal of Laws

Schedule 2 – Businesses exempted

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SCHEDULE 1**REPEAL OF LAWS****PART A: LEGISLATION**

No. and Year of Law	Short Title	Extent of Repeal
Act No. 71 of 1991	Business Act	The assignment of the whole, in so far as it relates to the Province

PART B: REGULATIONS

No. and Year of Law	Short Title	Extent of Repeal
Regulation No. PN786 of 1991	Regulations Relating to Businesses	Whole, in so far as it relates to the Province

SCHEDULE 2**BUSINESSES EXEMPTED AS CONTEMPLATED IN CHAPTER 4 OF THIS ACT**

- (1) State owned entities;
- (2) Non-profit organisations;
- (3) Welfare organisations;
- (4) Faith-based organisations; and
- (5) Businesses which are regulated by industry specific codes or industry specific registrations.

MOLAO

Ho fana ka tsamaiso, taolo, le ho fana ka dilaesense tsa dikgwebo ka hare ho Provense ya Freistata, ho theha Lekala la Dilaesense tsa Dikgwebo, ho qala Lekgotla la Boeletsisi la Freistata le Bolaodi ba Tsamaiso ba Freistata, bakeng sa ho hira Motsamaisi wa Dikgwebo Freistata; bakeng sa ho hira le ho fana ka boikarabelo ho Makala a Metse a Dilaesense; Bahlanka ba Dilaesense le Balekodi; bakeng sa ho fa batho le dikgwebo dilaesense; ho qobella ditefello tsa dilaesense; bakeng sa ho fana ka matla le mesebetsi ya Bahlanka ba Dilaesense; bakeng sa tshehetso ya Dikgwebo Freistata le dintlha tsohle tse amehang kapa tse amehang boemong boo.

SELELEKELA

KANANELO –

- (1) kgethollo ya moruo wa setjhaba, ho hloka botsitso le tekano tsa nako e fetileng;
- (2) bohlokwa ba ho etella pele dikarohano tsa nako e fetileng le ho theha setjhaba se ikamahanyang le ho bontsha boleng, ho hloka toka le ditokelo tsa botho tsa motheo; le
- (3) bohlokwa ba ho ntlafatsa boleng ba moruo wa Bophelo bakeng sa baahi bohle ba Provense le ho bulela baahi ho bontsha bokgoni ka mehopolo e metjha ya moruo.

HO HOPOLA HORE –

- (1) Sehlooho sa 2(1) sa Tumellano ya Matjhaba a Kopaneng ka Ditokelo tsa ditaba tsa Moruo, Setjhaba le Ditlwaelo se dumella tshebedisano ka ditokelo tsa moruo le botekgeniki ka mokgwa wa ho ananela dipehelo tsa molao;
- (2) Sehlooho sa 2(3) bakeng sa dinaha tse holong mabapi le ditokelo tsa botho moruong wa naha ho netefatsa hore ditokelo tsa bona tsa moruo di ananelwa ke ditho tse ding tsa matjhaba a kopaneng;
- (3) Sehlooho sa 4 bakeng sa ho natefelwa ke ditokelo ka ho ikamahanya le Tumellano ho ikamahantswe le dipehelo ho latela molao, mefuta ya ditokelo e lokela ho amahannngwa mme ebe bakeng sa ho kgothalletsa thekolohelo ya setjhaba se phelang mmusong wa demokrasi ka kakaretso;
- (4) Tokelo ya tekano le seriti sa botho jwaloka ha e hlahella ho Molao wa Motheo ho Karolo ya 9 le ya 10 ka ho latelana;
- (5) Ho latela karolo ya 22 ya Molao wa Motheo ho kenya tshebetsong tokelo ya ho hweba, tshebetso kapa profeshene di ka tsamaiswa ke molao.

MOLEMONG WA HO –

- (1) Fihlella kgatelopele ya tokelo ya ho hweba;
- (2) Ho ba le kgatelopele mabapi le ho fihlella ho matlafatsa moruo le ho ntshetsa batho ba Provense pele;
- (3) Netefatsa boiketlo ba baahi ba Provense ho tsa ditjhelete le tikoloho;
- (4) Qala leano le le leng la tsamaiso ya kgwebo Provense ka bophara le ho fedisa ditsamaiso tse arohaneng tsa dikgwebo ka hare ho Provense;
- (5) Kgothalletsa kgwebo e ikemetseng, e lekanang, e phethahetseng, e sebetsang hantle le phahamiso e sebetsang hantle ka hare ho Provense; le
- (6) Netefatsa tikoloho le dikamano tsa kgwebo tse phetseng hantle Provense ka bophara.

MMUSO WA Provense ya Freistata o ananela hore Provense e hloka ho ba le dikgwebo tse ikemetseng tse nang le morolo mme baahi ba sebetse mme ba natefelwe ke ditokelo tsa ho hweba ka bolokolohi,

EBE HO ETSWA MOLAO ke Lekgotla la Ketsamelao la Provense ya Freistata, ka tsela e latelang:-

(Sengolwa sa Senyesemane se ananetswe le ho saenelwa ke Tonakgolo ka la 25 Hlakubele 2024.)

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TLHOPHISO YA DIKAROLO**KGAOLO 1****DITOKISETSO TSA MOTHEO**

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1. Ditlhalosetso
2. Sepheo sa Molao
3. Tshebediso ya Molao
4. Ditokollo
5. Dithibello

KGAOLO 2**LEKALA BOELETSI LA FREISTATA**

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6. Matla a ho tataisa le ho theha Lekala la Boeletsi la Freistata
7. Setho se Ikarabellang ho etsa qeto ya Molao wa Motheo wa Lekala la Boeletsi la Provense

KAROLO 3**QOHOLLO YA MOHLANKA WA BOTSAMAISI LE DILAESENSE**

8.	Qohollo ya Motsamaisi	5
9.	Sepheo sa Motsamaisi	
10.	Matla le mesebetsi ya Motsamaisi	
11.	Qohollo ya Bahlanka ba Dilaesense	10
12.	Matla, mesebetsi, tshebetso ya Bahlanka ba Dilaesense	
13.	Ditsibi le dithuso tse ding tse ka tshehetsang Motsamaisi	15
14.	Maemo a letlole la setjhaba	
15.	Maemo a Lekunutu	
16.	Tshehetso ya Botsamaisi	20

KGAOLO 4**DILAESENSE TSA DIKGWEBO** 25**KAROLO 1****KAKARETSO**

17.	Dilaesense tse Tlamang (Setlamo)	30
18.	Mekgahlelo ya Dilaesense	
19.	Nyediso	35

KAROLO 2**METJHA YA HO KENYA KOPO YA LAESENSE**

20.	Kopo	40
21.	Tekolo ya Setjhaba ya dikopo	
22.	Dikganyetso le boemedi kgahlano le dikopo	45
23.	Ho mamelwa ha dikganyetso	

24. Tekolo ya dikopo ke Motsamaisi
 25. Ho diha qeto e entsweng ke Motsamaisi

KAROLO 3

5

DITOKISETSO TSE HLOKEHANG HO BENG BA DILAESENSE

26. Boemo le bonnete ba Laesense 10
 27. Ho ntjhafatsa Laesense
 28. Ho fanyehwa ha laesense
 29. Ho hlakola Laesense 15
 30. Ho kgutlisa Laesense le pehelo tseo o di fuwang
 31. Ho fetisetsa Laesense 20
 32. Ho fediswa ha Laesense
 33. Ho tlosa kgwebo ho e isa sebakeng se seng
 34. Tsamaiso ya Dikgwebo 25

KAROLO 4

DITEFELLO TSA DILAESENSE

35. Kopo le ntjhafatso

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KGAOLO 5

DITEKOLO, DIPHUPUTSO LE DIPOTSO

35

36. Khiro ya Balekodi
 37. Maemo a tshepo ya setjhaba 40
 38. Tshebetso le matla a balekodi
 39. Diphuputso tsa Motsamaisi

KGAOLO 6**SEABO SA SETHO SE IKARABELLANG LE MAKALA A MANG A MMUSO**

- | | | |
|-----|---------------------------------|----|
| 40. | Seabo sa Setho se Ikarabellang | 5 |
| 41. | Qohollo ya Lekala la Dilaesense | |
| 42. | Kabo ya Matla | 10 |

KGAOLO 7**TLATSETO E AKARETSANG**

- | | | |
|-----|-----------------------------------|----|
| 43. | Boipiletso | 15 |
| 44. | Tlolo tsa molao le Dikotlo | |
| 45. | Ditsamaiso, Ditataiso le Dipehelo | 20 |
| 46. | Ho phumula le ho fetola melao | |
| 47. | Diphetoho le dipolokelo | |
| 48. | Sehlooho se sekgutshwane | 25 |

KEMISO (SHEJULE) 1 – HO PHUMULA MELAO**KEMISO (SHEJULE) 2 – DIKGWEBO TSE NYEHLISEDITSWENG KA MOLAO**

KGAOLO 1

DITOKISETSO TSA SETHATO

Ditlhalosetso	5
1. Molaong ona, ntle le ha kutlwisiso ho bolela ka mokgwa o fapaneng -	
“Lekgotla la Boelets” ho bolela Lekgotla la Boelets la Provense ya Freistata jwaloka ha e nahanisitswe ho Kgaolo 2 ya Molao ona;	10
“Lebenkele la ho kuta moriri” ho bolela motheo o monyane wa kgwebo e sa rerwang e fanang ka ditshebeletso tse ntlafatsang meriri le ditedu hangata di fumaneha metseng ya makeishene le dikoung tsa mebila;	15
“Salunu ya botle” ho bolela motheo o fanang ka ditshebeletso tse reretsweng ho ntlafatsa ponahalo, jwaloka ho lokisa moriri, tlhahiso, ntlafatso ya sefahleho, le ho sidilwa;	
“Molao wa kgwebo” ho bolela Molao wa Kgwebo, wa 1991 (Molao No. 71 wa 1991);	20
“Makgotla a kgwebo” ho kenyelletsa makala a sa etseng phaello kapa ao eseng a mmuso a thehilweng ke motho e mang kapa mang ya nang le maikemisetso a ho ntlafatsa le ho tshehetsa dikgwebo ka hare ho Freistata;	25
“Meaho ya kgwebo” ho bolela dibaka tse ahilweng, meaho, tulo kapa sebaka seo kgwebo e sebeletsang ho sona;	
“Kgwebo e tswelang” e kenyelletsa ho rekisetsa setjhaba thepa le ditshebeletso meahong e tsitsitseng kapa ka tsela ya tshebediso tsa dipalangwang;	30
“Molaotheo” ho bolela Molaotheo wa Rephaboliki ya Afrika Borwa, 1996;	
“Lefapha” ho bolela Lefapha le ikarabellang ditabeng tsa ntshetsopele ya dikgwebo le moruo ka hara Mmuso wa Provense ya Freistata;	35
“Molaodi ya Thontsweng wa Dilaesense” e bolela Bolaodi ba Dilaesense jwalo ka ha bo hlahoswa ho latela Karolo 41 ya Molao ona.	
“Setsi sa kgwebo ya diotswa” ho bolela kgwebo ya ditshebeletso tsa boithabiso tsa batho ba baholo;	
“Salunu ya moriri” ho bolela kgwebo e fanang ka ditsheneletso tsa ho ntlafatsa moriri wa motho ofe kapa ofe;	
“Hlooho ya Lefapha” ho bolela Hlooho ya Lefapha jwalo ka ha shejulu 21 ya Molao wa Tshebetso tsa Setjhaba;	

- “Molekodi”** ho bolela motho e mong le e mong ya hirilweng ho ba molekodi ke Setho se ikarabellang; kapa ho fuwa tumello e ikgethang ke Lekgotla la Dilaesense tsa Dikgwebo ho sebedisa tumello eo a e fuweng, matla kapa mesebetsi e matleng a hae ho latela Molao ona; 5
- “Laesense”** ho bolela laesense e ntshitsweng ka Molao ona; 10
- “Meaho e nang le laesense”** ho bolela meaho eo kgwebo e etsetswang ho yona tlasa Taolo ya laesense e ntshitsweng ka Molao; **“Monga laesense”** ho bolela motho ofe kapa ofe ya nang le laesense e molaong kapa laesense ya nakwana e ntshitsweng ka Molao ona; 15
- “Mohlanka wa Dilaesense”** ho bolela mohlanka wa dilaesense jwaloka ha e nahanisitswe karolong ya 11 ya Molao ona;
- “Bolaodi ba Dilaesense ba Lehac”** ho bolela Masepala ofe kapa ofe, kapa motho ofe kapa ofe kapa lekala le nang le tokelo ya bolaodi ba dilaesense ba lehae jwaloka ha ho hlahella ho latela karolo ya 41 ya Molao ona; 20
- “SLP sa Ditjhelete”** ho bolela Setho sa Lekgotla la Phethahatso se ikarabellang ditabeng tsa ditjhelete ka hare ho Provense; 25
- “Masepala”** ho bolela Masepala jwaloka ho boletswe ho Karolo 155 ya Molao wa Motheo wa Rephaboliki ya Afrika Borwa, 1996, le ho thewa tlasa Karolo ya 11 le ya 12 ya Molao wa Motheo wa Metse wa, 1998 (Molao wa No.117 wa 1998); 30
- “Leano la Naha la Tshehetso ya Dikgwebo tse Nyenyane”** ho bolela leano la naha le tshehetsang Dikgwebo tse Nyenyane jwalo ka ha ho phatlaladitswe ho tsa Ntshetsopele ya Moruo, ka hare ho Koranteng ya Mmuso, mme e kenyelletsa leano jwaloka ha e hlahella ho Pampiri e Tshweu mabapi le Leano la Naha la Ntshetsopele le Phahamiso ya Dikgwebo tse Thuthuhang ka hare ho Afrika Borwa (Tsebiso ya 213, e phatlaladitsweng Koranteng ya Mmuso. 16317 ya 28 Hlakubele 1995); 35
- “Phemiti”** ho bolela laesense e ntshitsweng ho latela Molao ona bakeng sa ho hira motsamaisi wa kgwebo le motlatsa-motsamaisi bakeng sa meaho e nang le dilaesense; 40
- “Komiti ya Lefapha”** ho bolela Komiti ya Lekgotla la Ketsamelao la Freistata le kgethetsweng ho beha leihlo tshebetsong le boikarabellong ba Mafapha; 45
- “Taolo”** ho bolela se laetsweng ke Molao le melawana, mme taolo e na le ditlhaloetso tse tsamaelanang;
- “Provense”** ho bolela Provense ya Freistata e thehilweng ho latela Karolo 103(1)(b) ya Molao wa Motheo;
- “Koranta ya Mmuso”** ho bolela Lesedinyana la Provense ya Freistata jwaloka ha ho phatlaladitswe ke Bahatise ba Mmuso;

“ Lekgotla la Ketsamelao la Provense ” ho bolela Lekgotla la Ketsamelao la Provense ya Freistata le hlalotswang ho karolo 104 ya Molao wa Motheo,	5
“ Phatlalatso ” ho bolela ho pepesa, ho phatlalatsa tsebiso kapa ho ntsha tsebiso ka mekgwa e mengata.	10
“ Motsamaisi ” ho bolela Mohlanka ofe kapa ofe ya ka Sehloohong wa Mmuso boemong ba Motsamaisi e Moholo kapa Motsamaisi, ya kgethetsweng ho ba Molaodi wa Dilaesense tsa Dikgwebo ho latela Molao ona;	15
“ Melawana ” ho bolela melawana yohle e entsweng ho latela Molao ona.	15
“ Setho se ikarabellang ” ho bolela Setho sa Lekgotla la Phethahatso se ikarabellang ditabeng tse amang ntshetsopele ya dikgwebo le moruo ka hare ho Provense;	
“ Mofani wa Ditshebeletso ” ho bolela lekala le lefe kapa lefe la setjhaba kapa la poraefete le nehelanang ka ditshebeletso dikgwebong tse nyenyane	20
“ Kgwebo e Nyenyane ” ho bolela dikgwebo tse nyenyane jwaloka ho hlalotswa ka hara Molao wa Naha wa Dikgwebo tse Nyenyane, 1996 (Molao wa 102 wa 1996);	25
“ Lebenkele la spaza ” ho bolela lebenkele le lenyenyane leo hangata le hwebang matlong a poraefete, dibakeng tsa bodulo, jwalo ka ha ho boletswe ke melawana.	25
“ Molao ona ” ho kenyetsetsa le dishejule, ditataiso le melawana;	
“ Setsi sa Kalafo ya mmele ” ho bolela sebaka se fanang ka ditshebeletso tseo e seng tsa bongaka ho thusa ka phekolo ya mmele jwaloka, ho sidila mmele, matsoho le manala le tsohle tse amanang le mmele.	30
Dintlha tsa Molao	35
2. Dintlha tsa Molao ke –	
(a) ho fana ka taolo ya Bolaodi,	
(b) ho fana ka moralo wa bolaodi o netefatsang hore baahi ba Provense ba qala dikgwebo tse ikemetseng tse atlehang,	40
(c) ho fana ka taolo ya bolaodi ba dilaesense tsa dikgwebo, bahlanka le balaodi ba dilaesense,	45
(d) ho netefatsa hore kgwebo e phahamisa merero ya Provense ya ho ntshetsopele ya diindasteri tsa dikgwebo tse mabapi le phahamiso ya ntshetsopele ya bohahlaodi, khiri, ntshetsopele ya moruo le setjhaba ka hare ho Provense,	50
(e) ho phahamisa menyetla bakeng sa batho ba neng ba kotetswe nakong ya nalane e fetileng ho ba le seabo se felletseng indastering ya kgwebo ka dilaesense le tsamaiso ya dikgwebo ka hare ho Provense,	

- (f) ho qala motheo o tlamang wa boelets'i ba Provense le bolaodi ba Provense ba dilaesense,
- (g) ho fana ka tikoloho e kgothalletsang bokgoni ba di Mmasepala ba –
- (i) ho kenya tshebetsong ntshetsopele ya moruo wa metse ho kgothalletsa ntshetsopele le ho tshehetsa metjha yohle (ketane) ya boleng le diindasteri; 5
- (ii) ho kenya tshebetsong mokgwa wa ho fa dikgwebo tse kopaneng dilaesense le;
- (h) ho phahamisa le ho tshehetsa ntshetsopele ya boemedi ba mekgatlo ya dikgwebo tsa setjhaba le mekgatlo eo eseng ya mmuso; 10
- (i) ho netefatsa tshehetso ya dikgwebo le bohlokwa ba ntshetsopele.

Tshebediso ya Molao 15

3. (1) Ho sa kenyelletswe motho e mong le emong ya nang le laesense e ntshitsweng ho latela molao wa naha, Molao ona o tlama mang kapa mang ya etsang kgwebo ka hara Provense jwalo ka ho boletswe Karolong ya 18. 20
- (2) Ho amohela laesense ka Molao ha ho bolele hore motho ya e fuweng ha a tshwanela ho ikamahanya le melao e meng kapa ditlhoko tsa molao mabapi le kgwebo eo a e tsamaisang.
- (3) Motho ya sekehelang diphelelo tsa Molao ona, ha ho bolele hore ha a tshwanela ho sekehela le melao le diphelelo tse ding tse mabapi le melao e meng ya provense kapa naha. 25

Ditokollo 30

4. (1) Setho se ikarabellang se ka, nakong ya kopo le ha maemo a dumela, ho phatlallatsa hore Molao ona, ka ntle le ditumello tse a ka nahanang hore ha di sebetse ho –
- (a) meaho e sebediswang, e laolwang kapa ho hlokomelwa ke lefapha kapa lekala la mmuso; 35
- (b) basebetsi ba lefapha kapa lekala la setjhaba jwaloka ha ho hlahoswa ho karolwana (1) le baeti ba nnete, bakeng sa kgwebo e meahong eo; le 40
- (c) sithi se molaong kapa meaho e sebakeng sa setjhaba sa boithapollo, dipakeng tsa naha kapa serapeng sa phoofolo tse hlaha.

- (2) Setho se ikarabellang se ka, nakong ya kopo mme ha maemo a dumela, phatlalatsa hore Molao ona, ntle feela ha dipehelo tseo ka moo a bonang ho tshwanela, di sa sebetse thekong, ke motho ya boletsweng phatlatsong, ya ntlha efe kapa efe e amehang, ha motho oo ele rafantisi ya nang le laesense a emetse mokgatlo wa nnete wa setso kapa thekolohelo kapa sitsi sa thuto. 5
- (3) Phatlalatso e ntshwang tlasa karolwana (1) le (2) e ka ikamahanya le dipehelo tse behilweng ho ya ka moo Setho se ikarabellang se boneng ho tshwaneleha jwalo ka ha ho boletswe. 10
- (4) Setho se ikarabellang se ka, nakong efe kapa efe kamorao ho phatlalatso tlasa karolwana ya (1) kapa (2), ka tsela ya tsebiso e ntshitsweng kapa filwe motho ya boletsweng phatlatsong, ya amehang, ka tlase ho dipehelo tse amehang tsa Molao wa Phahamiso ya Tsamaiso ya Toka, 2000 (Molao No. 3 wa 2000) – 15
- (a) a ka sebedisa kgetho yah ae ho laela tlasa mabaka kapa maemo jwalo ka ha ho hlahella ka hara tsebiso eo tsebiso e itshetlehileng ka yona;
- (b) ho hula kapa fetola dipehelo dife kapa dife tseo a di susumelleditseng tlasa karolo ena; kapa 20
- (c) ho hula kapa ho fetola diphatlatso tseo.
- (5) Ho sa natse dipehelo tsa karolwana (1) kapa (4) kgwebo e susumetswang ke ketso tsa mohua, tumelo, thuto kapa ditsi tsa setjhaba, ha melemo yohle e kenang kgwebong e sebedisetswa sepheo seo kapa mekgatlo e meng kapa ditsi tse ding, Molao o a e qoholla. 25
- Dithibella** 30
5. (1) Motho a ke ke a –
- (a) etsa kgwebo e boletsweng ho karolo 18 a sa ikamahanya le dipehelo tsa Molao ona; 35
- (b) etsa kgwebo meahong e se nang laesense kapa e sa tjahellwang monwana ho latela Molao ona.
- (2) Motho a ke ke a hweba – 40
- (a) meahong ya Lefapha la Mmuso kapa ya Mmasepala;
- (b) meahong e phatlaladitsweng e le ya nalane ya setjhaba, ntle le ha ana le tokelo ho latela melawana e amehang. 45

- (3) Monga moaho ofe kapa ofe, bodulo, marako kapa ya dulang ka molao ho etsa kgwebo moahong oo, sebakeng seo, marakong ao a ka etsa jwalo ha feela a ena le laesense e ntshitsweng ho latela Molao ona.
- (4) Monga moaho ofe kapa ofe, bodulo, marako kapa sebaka sa mofuta ofe kapa ofe o lokela ho nka mehato e amohelehang ho netefatsa hore moaho, bodulo, marako kapa sebaka seo, ha se sebediswe ke mang kapa mang ya se nang laesense e ntshitsweng ka Molao ona. 5

KGAOLO 2 10

LEKGOTLA LA BOELETSI LA PROVENSE YA FREISTATA

Matla a ho Hokahanya le ho theha Lekgotla la Boelets'i la Provense ya Freistata 15

6. Setho se ikarabellang ka hona se filwe matla a hore, nakong e amohelehang, hlokomela ho qala le ho theha Lekgotla la Boelets'i ho emela le ho phahamisa ditabatabelo tsa dikgwebo tse nyane jwaloka ha ho hlalosa ka hara Leano la Naha bakeng sa Ntshetsopele le Phahamiso ya Dikgwebo tse Nyenyane ka hara Provense. 20

Mosebetsi wa Setho se ikarabellang wa ho etsa Molaotheo wa Lekgotla la Boelets'i 20

7. (1) Setho se ikarabellang se tshwanetse ka tshebetso e nang le ponaletso ya ditherisano a etse molao wa motheo wa Lekala la Boelets'i jwalo ka ho hlalosa ho Karolo 6 ya Molao ona. 25
- (2) Molaotheo wa Lekgotla la Boelets'i o tshwanela –
- (a) ka kakaretso o kenyelletse – 30
- (i) ditho tsa Lekgotla la Boelets'i;
- (ii) palo e hlokehang bakeng sa ho qala kopano le dikopano tsa lekgotla la Boelets'i; 35
- (iii) metjha bakeng sa tshebetso sa Lekgotla la Boelets'i;
- (iv) tshebedisano le Lekgotla la Ketsamelao la Freistata, Lefapha, Dimmasepala le Lefapha la Kgwebisano le mekgatlo ya Provense le naha ya molao; le 40
- (v) ntlha efe kapa efe e ka hlokahalang ho ditsamaiso diketsahalo kapa mesebetsi ya Lekala la Boelets'i.
- (b) ka ho otloloha, ho kopa Lekala la Boelets'i ho elets'a Setho se ikarabellang ka – 45

- (i) maano a hlwailweng a tla rarolla dikgaello tse hlwailweng tse amang lekala la kgwebo;
- (ii) kgahlamelo ya molao ona le o motjha dikgwebong tse nyane; 5
- (iii) maemo a naha mabapi le ntshetsopele le tsamaiso ya dikgwebo tse nyenyane;
- (iv) metjha e tla netefatsa hore ho thehwa marangrang bakeng la dikgwebo tse meahong ka dibaka tse sebetsang tsa dikgwebo; 10
- (v) ntshetsopele ya tsebo mekgahlelong yohle ya ho etsa kgwebo; 15
- (vi) mehato e lokelwang ho nkwa bakeng sa ho etsa phihlelo ho metjha ya boleng bakeng sa dikgwebo tse nyenyane;
- (vii) ditshita tse amang katleho ya lekala la dikgwebo tse nyenyane; 20
- (viii) mekgwa ya ho buisana le lekala la dikgwebo tse nyenyane bakeng sa ho hlwaya ditlhoko tsa bona;
- (ix) mekgwa ya ho beha leihlo le ho susumelletsa phano ya ditshebelletso lekaleng la dikgwebo tse nyenyane; 25
- (x) ho nka qeto ya theko e tobileng le tshehetso e sebetsang e dumellang mmuso le borakonteraka ba oona ba sehlooho – 30
- (aa) ho reka ho sehlopha kapa dihlopha tse kgolo tsa borakgwebo ba lehae, ka tsela ya tshebetso e ba amahanyang hore ba kgone ho aba ditshebeletso eka ke sehlopha se le seng se seholo sa kgwebo; 35
- (bb) ho tlama dikgwebo tse fumanang dikonteraka tsa mmuso ho sebedisetsa peresente e itseng ya ditheko tsa tsona ho dikgwebo tse ntseng di thutuha le le dikgwebo tse kopanetsweng tsa baahi, le 40
- (xi) le taba enngwe le enngwe eo Setho se ikarabellang se e bonang e le molemo.

KGAOLO 3

HO THONNGWA HA MOTSAMAI SI LE MOHLANKA WA DILAESENSE

Ho Thonngwa ha Motsamaisi	5
8. Ka hona, Setho se ikarabellang se na le matla a ho thinya tshebetso ya Bolaodi ba Tsamaiso ka hara Lefapha le ho roma mohlanka ofe kapa ofe wa Lefapha boemong ba Molao ya ka Schloohong kapa Motsamaisi jwalo ka Motsamaisi wa Dikgwebo le Dilaesense wa Freistata.	10
Maikemisetso a Motsamaisi	
9. (1) Maikemisetso a Kantoro ya Motsamasi ke ho –	15
(a) netefatsa hore batho bohle, mekgatlo, le makala a etsang kgwebo ka hare ho Provense –	
(i) a na le dilaesense tsa dikgwebo tse hlokalalang tse ntshitsweng ho latela Molao ona, Melawana kapa melao ya metse;	20
(ii) ba na le dilaesense le ho ngodiswa ho latela Molao ona; le	
(iii) ha ba hwebe le ho etsa dintho tse seng molaong.	25
(b) netefatsa hore dikgwebo tsohle le batho ba nang le dilaesense, ba dumelletsweng le ho ngodiswa ka Molao ona –	
(i) ba etsa kgwebo le ho itshwara ka tsela e rotloetsang seriti sa kgwebo le indasteri ka hare ho Provense;	30
(ii) ha e behe bophelo ba setjhaba kotsing;	
(iii) ha e rekise ka hona ho sebedisa thepa le diketso tse seng molaong; le	35
(iv) ho se thetse setjhaba ka maikemisetso.	
(c) ho netefatsa seabo sa batho ba neng ba kotetswe ho latela nalane ka hare ho lepatlelo la moruo o moholo;	40
(d) susumelletsa dikgato tse thibelang tsamaisong ya kgwebo ka hare ho Provense;	
(e) ho fana ka leano la tsamaiso le tlwaelehang bakeng sa kgwebo e molaong le e seng molaong ka hare ho Provense;	45
(f) ho fana ka tikoloho e amohelang bakeng sa kgolo le ntshetsopele ya bahwebi ba molaong le ba seng molaong ka hare ho Provense ho ba kenya lepatlelong la moruo o moholo;	50

- (g) ho fana ka mehato ya ho kgothalletsa ntshetsopele ya kgwebo le phethisetsano ya tsebo ka hare ho Provense;
- (h) ho theha tikoloho e etsang bokgoni ba dipuisano le phaphanyetsano ya mehopolo mahareng le ka hara – 5
- (i) dikgwebo tse molaong le tse seng molaong; le
- (ii) mmuso wa Provense le wa metse ka hare ho Provense. 10
- (i) ho fana la ka leano la botsamaisi le kgothalletsang le ho susumelletsa sekehelo ya molao ke dikgwebo tsohle ka hare ho Provense.

Matla, mesebetsi, le tshebetso ya Motsamaisi

10. (1) Motsamaisi o tshwanetse ka tshebetso ya Mohlanka wa Dilaesense kapa Bolaodi ba Dilaesense ba Lehac – 15
- (a) a amohele, a lekole le ho sebetsa dikopo tsohle; 20
- (b) a ngodise dikgwebo tsohle tse sebetsang ka hare ho Provense ho tsa Dilaesense tsa Dikgwebo tse Itsamaisang le tsamaiso ya tlhahisoleseding; le
- (c) ho kenya tshebetsong le ho phethahatsa matla a mang, tshebetso le mesebetsi eo a e filweng ka molao o mong le melawana ya makgotla a metse. 25
- (2) Motsamaisi, tshebedisong ya matla a hae, tshebetso le mesebetsi ho latela karolwana (1)(a) – 30
- (a) O tshwanela ho nka qeto ya –
- (i) maemo afe kapa afe kapa dithibella tse amahanngwang le laesense; 35
- (ii) meedi ya dilaesense; le
- (iii) dihora tsa tshebetso bakeng sa mefuta ya dikgwebo. 40
- (b) a ka beha sebakeng kapa ho hlakola -
- (i) maemo le dithibella;
- (ii) menyetla kapa dihora tsa tshebetso, tse nahanisitsweng ho serapa sa (a); 45
- (c) a ka, ho latela ditaello tse behilweng bakeng sa ho fanyeha kapa ho hula ka ho sa kgutleng kapa nakong e tla qetwa;

- (d) aka, susumelletsa kgwebo efe kapa efe ho emisa tshebetso ho fihla Molaodi a ikgotsofatsa hore kgwebo e fihleletse ditlhoko tsohle tse amohelehang jwalo ka ha di boletswe laesenseng;
- (e) tshwanela, moo ho bileng le ho tloiswa diphelelo tsa laesense ya kgwebo, a hule le ho hlakola laesense ya kgwebo eo; 5
- (f) tshwanela ho boisana le molekodi ho etsa diphuputso dife kapa dife ho etsa geto ka botsitso ba – 10
- (i) mokopi wa laesense ya kgwebo; kapa
- (ii) meaho ya kgwebo e amahanngwang le kopo ya laesense ya kgwebo; 15
- (g) aka qala ditshebetso tsa molao kgahlano le –
- (i) mothoo e mong le eming ya nang le laesense; kapa
- (ii) motho ofe kapa ofe , ya sebetsang kgahlano le karolo efe kapa efe ya Molao ona; 20
- (h) ho etsa kgonahalo ya ho thonngwa ha Bahlanka ba Dilaesense le Balekodi ho latela Molao ona; 25
- (i) netefatsa hore batsamaisi ba kgethilweng kapa bathusi ba bathusi ba tla fuwa dilaesense ha fela bat la fumaneha meahong ya kgwebo ka dinako tsohle tsa tshebetso;
- (j) ho tsamaisa ho mamelwa ha dinyewe, ho memela dipaki kopanong eo le ho batla tlhahiso ya dibuka dife kapa dife, dikgatiso le ditokomane dife kapa dife, tseo ho ya ka Motsamaisi, di sebediseditswe ho tlola Molao; 30
- (k) ho netefatsa hore ho latelwa dikateng tsa Molao wa Phahamiso ya Tsamaiso ya Toka, 2000 (Molao. No. 3 wa 2000); 35
- (l) laesense le taolo ya diketsahalo tsa dikgwebo ka hare ho Provense;
- (m) ho etsa dipatlisiso tse mabapi le menyenyetsi ya ho tloiswa ha Molao le ho nka kgato e loketseng kgahlanong le laesense efe kapa efe e kenyelletsang – 40
- (i) ho thakgola mehato ya semolao kgahlano le dilaesense tse jwalo kapa batho; 45
- (ii) ho fanyeha kapa ho hlakola laesense; kapa
- (iii) ho beha kotlo hodima dilaesense tse jwalo kapa batho: ntle le ha e ba boleng ba kotlo ha bo fete tjelete e behilweng. 50

Ho Thonngwa ha Bahlanka ba Dilaesense

11. (1) Setho se Ikarabellang se tshwanetse, ka ditherisano le Setho Se Ikarabellang Lefapheng la Mmuso wa Lehae le Bomasepala ba amehang, ho hirwe mohlanka e mong w aba ka sehloohong ya nang le tsebo le boiphihlelo ka dialesense ts dikgwebo ele Mohlanka wa Provense wa Dilaesense le Bahlanka ba 5 ele Bahlanka ba Dilaesense ka hare ho Bomasepala ba Ditereke. 5
- (2) Bahlanka ba Dilaesense ba tshwanetse, tshebetsong le boikarabellong ba bona ho latela Molao, ba thuswe ke bahlanka le basebeletsi ho latela melawana e teng ya Mafapha le Bomasepalala. 10
- (3) Mohlanka wa Dilaesense a ka fetisetsa emeng ya mesebetsi le boikarabello ba hae ho mohlanka e mong le e mong wa Lefapha kapa Masepala o amehang mme ho fetiswa ho ha mesebetsi e meng ho ke Mohlanka wa Dilaesense – 15
- (a) e be e ngotsweng; 20
- (b) e se ke ya thibela Mohlanka wa Dilaesense ho phethisa matla ao, tshebetso kapa boikarabelo; mme
- (c) e ka hulwa nakong e nngwe le e nngwe kapa e phumulwe ka lengolo ke Mohlanka wa Dilaesense. 25
- (4) Ha e ba Mohlanka wa Dilaesense ka mabaka afe kapa afe a sitwang ho etsa mesebetsi ya hae, Hloho ya Lefapha e ikarabellang mmoho le Motsamaisi wa Masepala a ka thonya motho e mong nakong e sa feteng dikgwedi tse tshelolang ho fihla nakong eo Mohlanaka wa Dilaesense a qala hape ka mosebetsi wa hae. 30

Matla, mesebetsi le boikarabello ba Mohlanka wa Dilaesense

12. (1) Mohlanka wa Dilasense o tshwanela – 35
- (a) ho fuputsa le ho nehela Motsamaisi pehelo, e mabapi le taba efe kapa efe e amanang ka ho toba kapa ka ditsela tse ding indastering ya kgwebo ka hare ho Provense; 40
- (b) ho etsa qeto le ho etsa ditshsinyo mabapi le maemo afe kapa afe kapa dithibella tse hloakang ho hlomathiswa kabong ya laesense ya kgwebo kapa maemo ao laesense ya kgwebo e lokelang ho ntshwa ka ona; 45
- (c) ho lekola kopo nakong e amohelang ka mora matsatsi a mashome a mabedi le motso (21) a boletsweng ho *Karolo* 20, ho etsa qeto hore kopo e jwalo e ikamahantse diphelelo tsa *Karolo* 20(3);

- (2) ebang diphelelo tse jwalo di sa latelwa, ho ntshwe tsebiso kgahlano le mokopi nakong e amohelhang ho netefatsa hore o ikamahanya le diphelelo matsatsing a leshome le metso e mene (14); mme
- (3) ebang mokopi a hloleha ho ithobela tsebiso e boletsweng karolwaneng 5(b), Mohlanka wa Dilaesense o tshwanetse a lokise pehelo mme a etse ditshisinyo tse tla kgohalletsa qeto ya Molekodi. 5

Setsibi le dithuso tse ding

13. (1) Bolaodi bo ka hira ditsibi tse jwalo kapa batho bao e tla ba bafani ba ditshebeletso ho thusa Molekodi le Mohlanka wa Dilaesense mosebetsing le tshebedisong ya matla, mesebetsi le boikarabellong ba bona. 10
- (2) Setsibi kapa bath oba babang ba hirilweng tlasa karolwana (1) ba ka kenela dikopano dife kapa dife tsa Molekodi empa ba keke ba ba le matla a ho kgetha dikopanong tse jwalo. 15

Boemo ba Letlole la Setjhaba

14. Molaodi le Mohlanka wa Dilaesense ba boemong ba Tshepo ya setjhaba mme ba ke ke ba— 20
- (a) amohela dithuso dife kapa dife, meputso kapa melemo ho tswa kapa maemong a motho ofe kapa ofe, kapa laesense tlasa Molao ona; 25
- (b) ba le seabo diketsahalang tsa kgwebo efe kapa efe Molaong ona ka hare ho Provense, ntle feela le tshebetsong le mesebetsing ya hae; mme
- (c) kopa kapa ho amohela mesebetsi ho tswa ho monga laesense kapa mokopi ho latela Molao ona Nakong ya selemo (1) ka mora hoba mesebetsi wa hae o fele jwaloka Molaodi. 30

Lekunutu

15. (1) Ha ho mohlanka wa Lefapha kapa motho ofe kapa ofe ya amanang le Molekodi kapa Mohlanka wa Dilaesense ho latela Molao ona, ya ka phatlalatsang tlhahisoleseding efe kapa efe, ditokomane, kapa dikgatiso tse teng kapa tsa Bolaodi, ntle feela – 35
- (a) ho motho ya e kopang bakeng sa tshebetso ya mesebetsi wa hae ho latela Molao ona, kapa molao o amehang o tshebetsong ka hare hoo Riphaboliki ya Afrika Borwa; kapa 40
- (b) ho motho ofe kapa ofe ho latela ho ithokomolla taelo ya lekgotla la dinyewe kapa tlasa Molao ona. 45

- (2) Ho sa natse dipehelo tsa karolwana (1), Molekodi le kapa Lefapha ha ba thibelwa ho ka phatlalatsa tlhahisoleseding kapa dipalopalo, ebang tlhahisoleseding eo kapa dipalopalo tseo di sa behe ditaba tsa kgwebo ya mokopi wa laesense pepeneneng tlasa Molao ona, laesense kapa motho mang kapa mang ya amanang le motho ofe kapa ofe ya tshetlehetseng Lefapha kapa Molaudi puo. 5

Tshehetso ya Botsamaisi

16. Mosebetsi wa Setho se ikarabellang wa ho etsa qeto ka Molaotheo wa Lekgotla la Boelets. 10

KGAOLO YA 4

DILAESENSE TSA DIKGWEBO 15

KAROLO 1

KAKARETSO

20

Dilaesense tsa Molao

17. (1) Ha ho motho ya dumelletsweng ho tsamaisa kgwebo e lenaneng le hlahellang tlasa Karolo 18, ka hare ho sebaka sefe kapa sefe ka hare ho Provense ntle feela – 25
- (a) ha motho eo a na le laesense ho latela Molao ona; kapa
- (b) e le kgwebo e qohollotswe ho latela karolwana (2)(b) ho ikamahanya le Kgaolo ena. 30
- (2) Setho se ikarabellang se ka, ka tsebiso Koranteng ya Mmuso wa Provense –
- (a) ho fetola Sekejule 2; 35
- (b) ho se kenyelletse dikgwebo tse itseng bakeng sa ho qoba tshebediso ya dipehelo tsa Kgaolo ena; le ho
- (c) hula qohollo ya kgwebo efe kapa efe jwaloka ho hlahella karolwaneng 2(b). 40
- (3) Ha ho motho kapa kgwebo e ka –
- (a) thonya kapa ho fana ka mosebetsi ho motho ho tsamaisa diketsahalo tsa kgwebo efe kapa efe, ebang motho ya jwalo a phumutswe ho latela karolwana 19 ya Molao ona; 45

(b) rekisang dihlahiswa tse kotsi ho bareki kapa di sa ikamahanye le kapa tse sa ikamahanye le maemo a bophelo le polokeho.

(4) Motho ofe kapa ofe kapa kgwebo e –

5

(a) tlolang karolwana (1) kapa (3);

(b) tsamaisa kgwebo efe kapa efe a sebedisa laesense ya motho o mong;

(c) a tlohella kapa ho dumella motho ofe kapa ofe ho tsamaisa kgwebo a sebedisa laesense ya motho e mong; kapa

10

(d) thonya motho ofe kapa ofe jwaloka motsamaisi wa kgwebo a sena phemiti ya tumello ya ho ba motsamaisi jwaloka ha e hlaloswa ho Molao ona,

15

motho ofe kapa ofe ya o tlola molao.

Dihlopha tsa Dilaesense

20

18. (1) Kopo ya laesense ya kgwebo ho latela Molao e ka etswa ka dihlopha tse latelang -

KAROLO A

25

(a) Kopo bakeng sa Thekiso ya disebediswa–

(i) lebenkele la thepa le ditshebeletso;

(ii) laesense ya dijo;

30

(iii) lebenkele la sephaza;

(iv) lebenkele la disebediswa tsa hae;

35

(v) ditente tse hirwang le disebediswa tsa teng;

(vi) ditshebeletso tsa ho lokisa dikoloi;

(vii) ba kobollang mmele ya dikoloi;

40

(viii) lebenkele la dibuka;

(ix) morekisi wa thepa ya kantoro le data systems;

45

(x) morekisi le mmokelli wa kgalase le thepa ya kgalase;

- (xi) morekisi wa thepa ya ka tlung le disebediswa tsa motlakase tsa ka tlung;
- (xii) ditshebeletso tsa ho hlatswa le tlhwekiso e ommeng; 5
- (xiii) moetsi wa dieta le ya di lokisang;
- (xiv) lebaka;
- (xv) selakga; 10
- (xvi) kgwebo ya bodulo; kapa
- (xvii) sebaka sa ho jella. 15
- (b) laesense bakeng sa ho rekisa ditshebeletso tsa botle le mokgwa wa ho phela –
- (i) laesense ya salunu ya botle; 20
- (ii) laesense ya salunu ya moriri;
- (iii) laesense ya phekole eo eseng ya bongaka ya mmele;
- (iv) laesense ya sebaka sa boikwetliso; kapa 25
- (v) lebenkele la ho kuta moriri.
- KAROLO B** 30
- (a) laesense bakeng sa thekiso ya ditshebeletso tsa mokgwa wa bophelo le dipapadi tse fumanehang sebakeng sa kgwebo –
- (i) laesense ya dipapadi tsa ditshwantsho; 35
- (ii) lebenkele le hirisang dikgatiso tsa ditshwantsho; kapa
- (iii) sebaka sa kgatiso kapa ditshebeletso tsa mmimo.
- KAROLO C** 40
- (a) laesense ya ditshebeletso tsa boithabiso ba bath oba baholo –
- (i) sebaka sa ho sidila mmele; 45
- (ii) sitsi tsa ditshebeletso tsa bootswa; kapa
- (iii) laesense ya sebaka seo ho tsolwang.

KAROLO D

- (a) laesense bakeng sa batsamaisi le bathusi ba botsamaisi.
- (2) Dipehelo tsa karolwana (1) ha e ame motho ya nang le laesense ho latela melawana e teng. 5
- (3) Ho keke ha ba le moedi bakeng sa palo ya dilaesense bakeng sa motho ofe kapa ofe ntle feela haeba ho na le maemo a behilweng bakeng sa kgwebo e reruweng kapa e behilweng sebakeng se kgethetsweng ntshetsopele ya dikgwebo ke mmuso. 10

Ho nyaolwa

19. (1) Motho a ke ke a fuwa laesense ebang – 15
- (a) a le tlase dilemong;
- (b) e le mophaphathehi ya seng molaong; 20
- (c) a le tlasa tekoloi ya molao;
- (d) ho phatlaladitswe ke makgotla a dinyewe a nang le boiphihlelo hore mohopolo wa hae ke o sa phethahalang; 25
- (e) o kile a tshwawa mme a qoswa ho hlola teronkong nako e itseng ntle le kgetho ya kotlo, ntle fela ha ho nyaolwa ho emisa ha nako ya teronko e fellwa ke nako; kapa
- (f) eo laesense ya hae e kileng ya phumulwa ho latela Molao ona, ho itshetlehile hore nako ya ho nyaolwa e felang – 30
- (i) ka mora dilemo tse tharo laesense e phumutswe; kapa
- (ii) dinakong tse tla bolelwa ke Bolaodi; kapa 35
- (iii) o kile a tshwarelwa tlolo ya molao ho latela Mola ona, ho itshetlehile hore ho nyaolwa ho fela kgwedding tse tharo (3) tsa ho tshwarwa ha hae. 40
- (2) Ha ho Khamphani, kgwebo e nang le ditho tse mmalwa, dikamano, tshebedisano kapa letlole tse tla abelwa laesense, ebang motho ya nyaotsweng ho latela karolwana (1)–
- (a) ya nang le tokelo ya taolo ya kgwebo eo, kgwebo e nang le ditho tse mmalwa, dikamano kapa letlole; 45
- (b) molekane selekaneng seo; kapa

- (c) mojalefa ya ka sehlohong ka letloleng.

KAROLO 2

MOKGWATSAMAISO WA DILAESENSE

5

Kopo

20. (1) Motho e mong le e mong ya lakatsang ho etsa kopo ya laesense ya kgwebo lenaneng le itseng sa dilaesense tse lenaneng le hlahellang ho Karolo 18 o boletsweng – 10
- (a) a kenye kopo ho mohlanka ya amehang a sebedisa foromo e loketseng kapa e boleletsweng letsatsi lefe kapa lefe la beke, ntle le mafelo a beke le matsatsi a setjhaba a phomolo; mme 15
- (b) a ntshe tefo e tshwanetseng.
- (2) Kopo e tshwanela ho kenyelletsa le ho tsamaiswa le – 20
- (a) tlhakisetsa ya moo sebaka se leng teng ho sebediswa matshwao a naha a bonahalang;
- (b) khopi e netefaditsweng ka molao le bukana ya boitsibiso ya mokopi, kapa ya khampani, kgwebo ya ditho tse mmalwa, le boingodiso ba teng; 25
- (c) mabapi le meaho eo laesense e hlokahalang bakeng sa yona, dintlha tse fellettseng ka moaho, moralo wa moaho; 30
- (d) lengolo le netefatsang maemo a matle a lekgetho le ntshitsweng ke Ditshebeletso tsa Kuno tsa Afrika Borwa le bontshang hore mokopi o ingodisitse jwalo ka molekgetho;
- (e) bopaki ba molao ba ho netefatsa meaho ka tsela ya tokomane ya molao e netefatsang tokelo ya ho dula sebakeng e nehetsweng mokupi ke bolaodi bo amehang, moo ho hlokehang; 35
- (f) tumello e ngotsweng ho tswa ho monga meaho kapa bolaodi bo amehang bakeng sa mokopi hore a etse kgwebo meahong e boletsweng, moo ho hlokehang; le 40
- (g) lengolo le pakang hore o ka tshepuwa le ntshwang ke ba Ditshebeletso tsa Sepolesa sa Afrika Borwa. 45
- (3) Mohlanka wa Dilaesense o tshwanela, nakong ya matsatsi a leshome le metso e mene (14) a fumane kopo ho latela karolwana (1) –
- (a) a ananele ho fumana kopo ka lengolo;

- (b) a hlahlobe kopo hore a kgone ho nka qeto hore e phethahetse, mme ebang e sa phethahala, a ntshe tsebiso ka foromo e kgethilweng le tsebisang mokopi ho lokisa kopo ya hae e sa phethahalang nakong ya matsatsi a mashome a mabedi le motso (21) tsebiso e tswile.

Tekolo ya setjhaba ya dikopo

5

21. (1) Kopo efe kapa efe e kentsweng ho latela karolo 20(1), e tshwanetse –
- (a) ha e fellwa ke nako jwaloka ha ho hlalositse ho karolo 20(3); mme 10
- (b) ho itshetlehlilwe ho karolwana (3), ho bulelwe tekolo ya setjhaba bakeng sa batho banang le kgahleho –
- (i) dikantorong tsa Bolaodi ba Metse ya Mahae bathong banang le kgahleho; mme 15
- (ii) ebe nakong ya matsatsi a leshome (10).
- (2) Motho ofe kapa ofe ya ka ratang ho fumana khopi ya kopo a ka lefa moo ho hlokehang ditefello jwalo ka ha Motsaisi a laetse. 20
- (3) Mohlanka wa Dilaesense –
- (a) ha a fumana kopo ka tsela e hlalositsweng; kapa 25
- (b) ka thato ya hae, a etse qeto karolong efe kapa efe ya kopo, a ikamahantse le diphelelo tsa Kgaolo 4 ya Molao wa Phahamiso ya Phihlello ya Tlhahisoleseding, 2000 (Molao. No. 2 wa 2000), ese bulelwe setjhaba jwaloka ha ho hlalositse ho karolwana (1) le (2). 30

Dikganyetso le kemedi kgahlano le kopo

22. (1) Motho ofe kapa ofe ya lakatsang ho etsa kganyetso mabapi le kopo jwaloka ha ho hlaloswa ho karolo 20 o tshwanela ho etsa kemedi ka lengolo nakong ya matsatsi a mahlano ho fetile ditekolo jwaloka ha ho hlaloswa ho karolo 21(1)(b)(ii) ka tsela e behilweng. 35
- (2) Ebang nako e fetile jwaloka ha ho hlalositse ho *karolwana (1)*, kganyetso efe kapa efe e kemedi e fumaneng, Mohlanka wa Dilaesense, o tshwanela – 40
- (a) hang-hang, a nehele mokopi khopi ya kganyetso bo rometsweng ho latela karolwana (1), mme

- (b) a meme mokopi hore a arabe ka lengolo nakong ya matsatsi a mahlano dintlheng tse hlahisitsweng kganyetsong le pehelong e ngotsweng jwaloka ha ho hlalositswe ho karolwana (1).
- (3) Motho ya kenyang kganyetso kapa kemedi o tshwanela – 5
- (a) ho nehela Molaodi le mokopi kapa kemedi khopi kapa moemedi wa mokopi; mme
- (b) a romele bopaki ba mokopi ho mokopi le Molaodi. 10
- (4) Motho ya etsa kganyetso kapa kemedi o tshwanela ho romela tse latelang –
- (a) mabitso ka botlalo le aterese; 15
- (b) nomoro ya boitsibiso kapa, ebang ele khamphani kapa kgwebo ya ditho tse mmalwa, ebe dinomoro tsa yona tsa boingodiso;
- (c) ha ho hlokeha, lebitso kapa aterese ya moemedi; 20
- (d) mofuta wa kgahleho kganyetsong ya kopo; le
- (e) mabaka a kenelletseng bakeng sa ho hanyetsa kopo.
- (5) Mokopi a ka, matsatsing a supileng (7) ho amohetswe kganyetso kapa pehelo, ho romelwe karabo ka lengolo ho Moalodi. 25

Ho mamelwa dikganyetso

23. (1) Moo Molaodi a amohetseng dikganyetso kapa dikemedi tse mabapi le kopo, Molaodi o tshwanela, pele a lekola kopo, a be le kopano ya ho mamelwa ha kganyetso. 30
- (2) Molaodi o tshwanela – 35
- (a) ho etsa qeto ka letsatsi, nako le sebaka sa ho mamela kganyetso; mme
- (b) a tsebise bohle banang le kgahleho ka ditlhophiso tsa ho mamelwa ha kganyetso. 40
- (3) Kopanong ya ho mamela jwaloka ho hlalositswe ho karolwana (1) –
- (a) motho ofe kapa ofe ya nang le kgahleho a ka beha kganyetso ya hae ka lengolo mme mokopi o tshwanela ho fuwa monyetla ho arabela kganyetso; 45
- (b) mokopi le motho ya jwalo a ka thuswa kapa a emelwa ke motho e mong le e mong wa kgetho ya hae.

- (4) Molaodi aka, tsebisa sepheo mabapi le ho sekaseka taba efe kapa efe pele ho mamelwa kganyetso –
- (a) ka tsebiso e ngotsweng, e rometsweng ka letsoho, e-meli, poso, kapa motho ofe kapa ofe ya tlo hlahella kapela bolaodi a hlahise buka, moralo kapa tokomane efe kapa efe eo a nang le yona kapa e tlasa taolo ya hae; 5
 - (b) ho bitsa motho ofe kapa ofe ya teng sebakeng seo kopanong ya ho mamela e tshwaretsweng teng ke Molaodi, ho hlahella kapela Molaodi ho tla fana ka bopaki kapa ho hlahisa buka, moralo kapa ditokomane tse ding kapa sengolwa seo motho a ka bang ka sona se le matsohong ka nako eo; 10
 - (c) ho botsa motho e mong le e mong ya tla hlahellang ka pela yona; 15
 - (d) ho hana ho mamela motho ya hlahelletseng kapela hae ebang a hana ho ikana hore a dumellwe ho fana ka bopaki; mme
 - (e) ho se mamele taba e hlokolosi kapa e hlohlontshang ditsebe, kapa eo a senang matla a ho e mamela ho latela Molao ona. 20
- (5) Ho mamelwa ha kganyetso ho tshwanela ho –
- (a) tshwarwe ka mokgwa o hlalositsweng; mme 25
 - (b) ho be phatlalatsa setjhabeng, ntle le ha Molaodi a laetse hore kopano ebe ya poraefete ho ikamahantswe le karolwana (6)(b).
- (6) Molaodi a ka laela hore – 30
- (a) motho ofe kapa ofe ya sitisang tsamaiso e ntle ya kopano, o tshwanela ho tswa ka kopanong; mme
 - (b) ho mamelwa ha kganyetso ho tshwarwe poraefete, ka moo Molaodi a bonang dintho ka teng. 35
- (7) Molaodi kapa morumuwa ya tsamaisang kopano ya ho mamelwa ha kganyetso, moo motho a hlahellang e le paki o tshwanelang ho mo nkisa kano kapa boitlamo. 40
- (8) Ebang Molaodi ese Mokomishenara wa Kano, a ka thuswa ke motho ofe kapa ofe eo e leng Mokomishenara wa Kano ho latela Molao wa Toka, Kgotso le Bakomishenara ba Kano, 1963 (Molao wa No. 16 wa 1963). 45

Ho lekolwa ha dikopo ke Molaodi

24. (1) Molaodi o tshwanetse hore nakong ya matsatsi a leshome le metso e mene (14) ya ho phethelwa ha ho mamelwa, a lekole kopo mme a tsebise mokopi.

- (2) Ha a lekola kopo, Molaodi o tshwnetse ho lekola –
- (a) ditokomane tsohle le dikemedi tse rometsweng ke mokopi ho latela karolo 20(2) le mohanyetsi ho latela karolo ya 22; 5
 - (b) ditlaleho tsohle tse rometsweng ke mohlalobi tse mabapi le ho lekola meaho;
 - (c) ditlaleho tsa mohlalobi jwaloka ha di hlaloswa ho karolo 38(5) ya Molao ona; 10
 - (d) botsitso ba meaho bakeng sa ho etsa kgwebo bo mabapi le –
 - (i) tsamaiso ya tshebediso ya mobu; 15
 - (ii) maemo a tikoloho;
 - (iii) mello le polokeho;
 - (iv) bolaodi ba tikoloho; 20
 - (v) taolo ya meaho;
 - (vi) tshebediso ya molao; le 25
 - (vii) motjha ofe kapa ofe.
 - (e) ebe kopo e fapane le dipheho tsa Molao ona kapa molao ofe kapa ofe; 30
 - (f) ebe kopo e ikamahantse le maikemisetso a Molao jwaloka ha ho hlaloswa ho *Karolo 2* ya Molao ona;
 - (g) ntlha enngwe le e nngwe eo setjhaba se ka e thahasellang. 35
- (3) Molaodi aka, ebang a bona ho hlokahala ho ikamahantswe le nako e behilweng ho karolwana (1) –
- (a) swelapele ka ho lekola meaho; 40
 - (b) kopa ditshebelletso tsa setsibi kapa mofani wa ditshebeletso tse jwalo tse hlokehang bakeng sa ho thusa Molaodi bakeng sa ho sekaseka kopo; le
 - (c) ho tshwara kopano ya ho mamela. Moo dipheho tsa *karolwana 24* di tla sebetsa, mmoho le diphethoho tse hlokahalang. 45

- (4) Kamora ho sekaseka kopo, Molaodi a ka –
- (a) Fana ka tumello ya kopo, tlase ho –
- (i) melao le dipehelo di bonwa di hlokeha; 5
- (ii) matsatsi le dihora tse tshebetso qetuweng ka ditherisano le Mmasepala ya ikarabellang; mme
- (iii) mabapi le meaho e so qetweng kapa e hlokang ditokiso hore e lokele kgwebo, maemo a jwalo a amanang le ho qetellwa le ho lokisa meaho ka moo Lekgotla e ka bonang ho tshwaneleha, nakong e behilweng; kapa 10
- (b) ho hana kopo. 15
- (c) ho dumela kapa ho hana kganyetso jwaloka ha ho hlalositse ho karolo ya 22(1);
- (d) ho busetsa morao taba ho isa letsatsing le tla bewa, ebang maemo a laela jwalo. 20
- (5) Pele ho dumelwa kopo, Molaodi o tshwanetse ho ikgotsofatsa ka hore -
- (a) mokopi ha a nyaolwa bakeng sa ho ba le laesense ho latela Molao, 25
- (b) meaho eo kgwebo e tla sebelletsang ho yona ha e qetile e lokele ho ba maemong a ho sebediswa ke mokopi bakeng sa laesense; mme
- (c) tshebediso ya moaho o hlwauweng ebe bakeng sa mosebetsi oo e se be kgahlano le melao ya dibaka kapa ditokelo tsa tshebediso ya mobu. 30
- (6) Bakeng sa ho hlahloba hore kopo e molemong wa setjhaba jwaloka se bolelwang ke karolwana (5)(a), Molaodi o tshwanetse ho nahana, ntle le ho tloha kakaretsong, seo kopo ena e ka se etsang ho fihlella dikateng tsa Molao, ho kenyelletsa le ditsela tseo kopo ena e ka bang le seabo ditokelong tsa moruong wa setjhaba, ho kenyelletsa le boteng ba ditlolo tsa molao. 35

Phatlalatsa ya qeto 40

25. (1) Nakong ya matsatsi a supileng (7) kamora hoba Molaodi a nke qeto kopong, Mohlanka wa Dilaesense o tla tsebisa ka lengolo –

- (a) mokopi, moo kopo e abetsweng teng ho ikamahantswe le maemo a behilweng kapa ha kopo e sa dumellwa, a fane ka mabaka bakeng sa qeto e jwalo;
- (b) ho motho ofe kapa ofe ya kentseng kganyetso kapa kemedi ka lengolo, ha kopo e tjahelletswa monwana; le 5
- (c) le ha kopo kapa kganyetso e qheletswe ka thoko, qeto efe kapa efe e tshwanela ho kenyelletsa – 10
- (i) mabaka a qositseng qeto ka lengolo;
- (ii) ho fana ka keletso mabapi le tokelo ya ho ipiletsa kapa ho shejwa hape qeto ya Molaodi le 15
- (iii) dintlha tsa Molaodi wa Boipiletso.
- (2) Molaodi o lokela hore ka nako yona eo a tsebise mokopi hore laesense e tla abuwa hang ha ho lefuwe ditefello tse boletsweng tsohle. 20

KGAOLO 3

DIPEHELO TSE BEHETSWENG BENG BA DILAESENSE

Nako ya Laesense 25

26. (1) Kgwebo efe kapa efe e nang le laesense ho latela Molao ona e tshebetsong nakong ya dilemo tse tharo (3). 30
- (2) Laesense ya motho ofe kapa ofe ya nang le yona kapa ya moaho e kena tshebetsong mohla Setifikeiti sa laesense ya kgwebo se tswileng ho fihlela –
- (a) laesense e be e phumulwa ka Molaot;
- (b) e fellwa ke nako; kapa 35
- (c) monga laesense a –
- (i) hlokahetse; 40
- (ii) futsanehile ka molao kapa thoto ya bolelletswa;
- (iii) e fedisitser kapa a phumutswa dibukeng; kapa
- (iv) a sa hlole a hweba. 45

Ntjhafatso ya Laesense

27. (1) Laesense, ho ikamahantswe Molao ona le dipehelo tseo e ntshitsweng ka tsona, e tla ba tshebetsong ho fihla e ntjhafatswa. 50

- (2) Karabelo ba monga laesense ho ntjhafatsa laesense le Molaodi ka ho ntsha ditefello tse behilweng pele e fellwa ke nako.
- (3) Ebang monga laesense a hloleha ho ntjhafatsa laesense ya hae pele ho nako, laesense e tla fellwa ke nako mme laesense e tshwanela ho – 5
- (a) emisa ka tshebetso ya molao, mme
- (b) ebang a na le kgahleho, a ka etsa kopo e ntjha ho Molaodi ho latela dipheho tsa Molao, moo dipheho tsohle tsa Molao ona tse mabapi le kopo ya laesense e ntjha di tla mo tlama, ka diphetoho tse hlokehang. 10

Ho fanyehwa ha laesense

28. (1) Nakong efe kapa efe, ka mora ho neha monga laesense e amehang monyetla wa ho mamelwa, Molaodi a ka fanyeha bakeng sa nako eo a tla e beha olaodi Nakong efe kapa efe, ka mora ho nehela mokopi monyetla wa ho mamelwa, a ka fanyeha bakeng sa nako eo a tla e beha – 15
- (a) tlhahisoleseding efe kapa efe e fuwang Molaodi Nakong ya diphuputso jwaloka ha ho hlalosewa ho *Karolo 23* kapa lesedi lefe kapa lefe le fumanehang kopong ha ho ne ho etswa kopo ya laesense, ho fapana ha qohollo efe kapa efe kapa maemo a behilweng hodima laesense, ntjhafatso kapa ho fitisetswa kapa ho tloswa ha kgwebo e amehang ho ya moahong o mong, ka nako eo lesedi le fosahetseng le neng le ntshwa kapa ka lebaka la ho ithokomolosa dintlha tse ding ka morero wa ho thetsa Molaodi; 20
- (b) monga laesense o nyaotswe bakeng sa ho tshwara laesense ho latela Molao ona; 30
- (c) monga laesense, mosebeletsi wa monga laesense kapa motho ofe kapa ofe ya thwereng mokobobo o hlolehile ho ikamahanya le melao le dipheho tse behilweng ho latela Molao nakong ya matsatsi a mashome a mararo 30, kapa nako e ekeditsweng eo Molaodi a ka e dumellang ka lengolo, ka mora ho ntshwa ha tsebisano e ngotsweng ke Molaodi ho ya ho monga laesense a kopang hore a lokise moo a hlolehileng teng; kapa 35
- (d) monga laesense, ntle le ho kopa tumello la lengolo Molaodi, o hlolehile ho tsamaisa ditaba tsa kgwebo jwaloka ha dihlahella laeseng Nakong ya dikgwedi tse 12 tse latelanang. 40

- (2) Molaodi a ka, ho ikamahantswe le diphuputso jwaloka ho hlaloswa ho Karolo 23(1), ho fanyeha hang-hang laesense ya motho ofe kapaofe bakeng sa ho tloa diphelelo tsa Molao ona tsa bohlokwa, maemo a laesense kapa a melawana. 5
- (3) Molaodi Nakong efe kapa efe aka, emisa taelo ya ho fanyehwa ho ntshitsweng ho latela karolwana (1) ebang mabaka a ho fanyehwa a lokisitswe ka tsela e kgotsofaditseng Molaodi .
- (4) Ha laesense e fanyehilwe ho latela *karolwana (1)* – 10
- (a) molaodi o tshwanela ho tsebisa monga laesense hang hang ka lengolo ka ho fanyeha hoo le mabaka a ho fanyeha; mme
- (b) monga laesense ha ana tokelo yah o kgutlisetswa ditefello tse entsweng kapa karolo ya teng. 15

Ho phumula laesense

29. (1) Moo Lefapha le bonang ho na le mabaka a lekaneng a ho phumula laesense, le ka nehela monga laesense tsebiso e ngotsweng – 20
- (a) ho hlokomedisa monga laesense hore Lefapha le lohotha ho phumula laesense ya hae; 25
- (b) ho hlalosa ka ho hlaka mabaka a ho phumula laesense;
- (c) ho mema monga laesense ho, Nakong ya matsatsi a 30 ka mora ho fumana tsebiso e ngotsweng ho – 30
- (i) itlaleha ho Molaodi ka lengolo; kapa
- (ii) tsebisa Molaodi ka lengolo hore o ikemiseditse ho itlaleha ho yena ka molomo; le 35
- (iii) ho hlakisa hore, ebang monga laesense a hloleha ho araba ka lengolo ka tsela e hlakiswang ke serapa (c), Molaodi o tla nka qeto ya hore laesense eo e phumulwe.
- (2) Moo ditlaleho tse ngotsweng di isitsweng ho Molaodi ke monga laesense, Molaodi o tshwanela – 40
- (a) tlalehong e jwalo heben such representation consider whether or not the laesense e tla phumulwa; kapa 45
- (b) a nke qeto e ka tshehetswang ke lesedi le teng le tlaleho e ngotsweng.

- (3) Ha mong laesense a tsebisa hore o araba ka molomo, Molaodi o ltshwanela ho beha letsatsi, nako le sebaka sa ho mamelwa mme a tsebise monga laesense ka lengolo.
- (4) Monga laesense a ka thuswa ke motho ofe kapa ofe wa kgetho ya hae nakong eo nyewe e mametsweng. 5
- (5) Molaodi o tshwanetse ka mora ho mamela, nyeweng ya laesense efe kapa efe, a nke qete ya hore ebe laesense eo e phumulwe kapa jwang. 10
- (6) Molaodi o tshwanetse ho fetisa molaetsa ho monga laesense, ka lengolo –
- (a) qeto e loketseng ya Molaodi; le
- (b) mabaka a qeto e nkilweng. 15
- (7) Laesense e lokela ho phumulwa pele ebang monga laesense kap motho ofe kapa ofe a ahloletsw tlole ya mola ho latela Molao ona.
- (8) Monga laesense a ka etsa kopo ya ho phumula laesense ka mokgwa o behilweng ha a se a entse ditefello tse behilweng. 20

Ho kgutlisa laesense le maemo a behilweng ke hona

30. Molaodi ka pono ya hae le ho latela Molao ona, a ka susumelletsa ho phumulwa ha laesense. 25

Ho fetisetsa laesense

31. (1) Monga laesense Nakong efe kapa efe a ka etsa kop oho Molaodi ho fetisetsa laesense ya hae ho motho e mong ha fela moth eo a sa nyaolwa ho latela *Karolo 19* ya Molao ona. 30
- (2) Monga laesense ha a etsa kop oho latela *karolwana (1)* o tshwanetse ho romela laesense sa sethato ho Molaodi ho latela ho ikamahantswe le mekgwa ya ditefello tse behilweng. 35
- (3) Ha kopo e amohetswe, Molaodi o tshwanetse a fetole mabitso a monga laesense ka ho phethahala laesenseng le tsamaisong ya Molaodi. 40

Ho shwa ha monga laesense

32. Ha ho etsahala monga laesense a shwe, laesense efe kapa efe e mabitsong a hae e lokela ho sejetsw h olatela diphelelo tsa Molao wa Tsamaiso ya Mafa, 1965 (Molao. 66 wa 1965).

Ho isa tshebetso ya kgwebo sebakeng se seng

33. (1) Motho ofe kapa ofe yan ang le laesense ya ikemiseditseng ho tlosa kgwebo ho e isa sebakeng se seng, o tshwanela ho etsa kop oho Molaodi a sebedisa foromo e loketseng. 5
- (2) Kopo yah o tlosa kgwebo se bakeng se itseng hoy a ho se seng e tshwanetswe e sebetswe ho latela dipehelo tsa karolo 20,21,23, 24, 25 le 26 ya Molao ona. 10
- (3) Molaodi o tshwanetse ho nehelana ka lengolo la tokelo ya ho tsamaisa kgwebo, jwaloka ho loketse ka mora –
- (a) ho fana ka tumello ya kopo ya ho tsamaisa kgwebo; mme 15
- (b) ya filweng laesense a entse ditefello tse hlokehand bakeng sa ho tsamaisa kgwebo.
- (4) Lengolo la ho tsamaisa kgwebo le tshwanela – 20
- (a) ho bontsha lebitso la sebaka se hlwauweng; le
- (b) ho kenya maemo a ka behwang ke Molaodi.

Tsamaiso ya Dikgwebo 25

34. (1) Monga laesense a ka hira motho ofe kapa ofe ya tshwanehileng ho ba motsamaisimmoho kapa le mothusi wa motsamaisi wa kgwebo abetsweng laesense. 30
- (2) Motsamaisi jwaloka ha ho hlalose ho *Karolwana (1)* o tshwanetse –
- (a) a be le phemiti ya batsamaisi e ntshitswe tlasa *karolwana (3)*; mme
- (b) a be a sa nyaolwa ho larela Karolo 19. 35
- (3) Monga laesense ofe kapa ofe ya ikemiseditseng ho hira motsamaisi bakeng sa kgwebo e nehetsweng laesense o tshwanela ho romela kopo ya phemiti ya motsamaisi ho Molaodi ka foromo e kgethilweng. 40
- (4) Molaodi o tshwanela ho sebetsa kopo ya botsamaisi le, kapa mothusa motsamaisi e rometsweng ho latela karolwana (3) ka mokgwa le ka nako tse behilweng, ka moo ho hlokehang.
- (5) Ha kopo jwloka ha e hlalose ho karolwana (3) e se e amohetswe, Mohlanka wa Dilaesense o tshwanetse, ha tefello ya motsamaisi kapa motlatsa motsamaisi e se e entswe, a nehelane ka phemiti. 45

KAROLO 4**DITEFELLO TSA DILAESENSE**

Dikopo le ditefello tsa ntjhafatso	5
35. (1) Setho se ikarabellang se tshwanela, ka ditherisano le SLP sa Ditjhelete, ka mokgwa o behilweng le ka tsebiso e hlahellang Lengolong la Mmuso la Ditsibiso, ho etsa qeto ya ditefo tse tlwaelehileng tse loketseng dilaesense tsa dikgebo ho latela Molao ona bakeng sa –	10
(a) ditefello tsa dikopo, jwaloka ha di hlahella ho karolo 20;	
(b) ditefello tsa ntjhafatso, jwaloka ha di hlahella ho karolo 27;	15
(c) ditefello tsa ho phumula, jwaloka ha di hlahiswa ho karolo 29;	
(d) ditefello tsa ho fetisa, jwaloka ha di hlahella ho karolo 31;	
(e) ditefello tsa ho tsamaisa, jwaloka ha di hlahella ho karolo 33;	20
(f) ditefello tsa phemiti ya botsamaisi, jwaloka ha di hlahella ho karolo 34; le	
(g) ditefello tsa Mothusi wa motsamaisi, jwaloka ha di hlahella ho karolo 34.	25
(2) Setho se ikarabellang se ka, ka tsebiso Lengolong la Muso la Ditsibiso nka qeto ya ditefo jwaloka ha di hlahella ho karolwana (1) ho latela boholo le sebaka sa kgwebo.	30
(3) Setho se ikarabellang se tshwanela, ka ditherisano le SLP sa ditjhelete, ka tsebiso e hlahellang Lengolong la Mmuso la Ditsibiso jwaloka ha ho hlahella ho karolwana (1).	35

KGAOLO 5**BOIKAMAHANYO LE MOLAO**

Khiri ya Balekodi	40
36. (1) Setho se ikarabellang se ka hire mohlanka wa lefapha la ditshebeletso tsa setjhaba jwaloka molekodi ho ikamahanya le Molao ona.	
(2) Molekodi o tshwanetse, Nakong eo a hirwang, a fuwe lengolo la khiri ka foromo e loketseng le tekennweng ke Setho se ikarabellang.	45
(3) Molekodi o tshwanetse, nakong eo a etsang mosebetsi wa hae kapa a kenyanf matla a hae tshebetsong ho latela Molao ona, abe le lengolo leo la khiri matsohong mme le ntshwe nakong eo le ka batlwang ke motho ofe kapa ofe ya amehang ka lebaka la mehato e nkwang ke molekodi ya amehang.	50

- (4) Boitshwaro ba balekodi jwaloka ha ho hlahella ho *Karolo 38* bo itshetlehile Melaong ya Boitshwaro ya balekodi, e ntshitsweng ke Setho se ikarabellang ho latela *Karolo 40(3)(c)* ya Molao ona.

Boemo ba Sekema sa Setjhaba

5

37. Molekodi o boemong ba letlole la setjhaba mme ha a tshwanela ho –

- (a) lefapha le dumetse ke hona ka lengolo, ka mora ho ikgotsofatsa hore amohela dithuso dife kapa dife, meputso le melemo ho tswa kapa boemong ba motho ofe kapa ofe, laesense kapa ya ngodisitsweng tlasa Molao ona kapa motho ofe kapa ofe ya amahanngwang le diketso tseo, mme haho a tshwaela hore le laesense efe kapa efe, kapa motho kapa ya haufi a ka lakatsa ho fana ka thuso, moputso kapa molemo; 10
- (b) ka karolo diketsahalong tsa kgwebo jwaloka ha ho hlahella Molaong ona ka hare ho Profense, ntle feela ha ele tshebetso ya hae; le 15
- (c) ho kopa kapa ho amohela mosebetsi ho monga laesense kapa mokopi wa laesense ho latela Molao ona Nakong ya selemo ka mora ho fela ha mosebetsi wa hae jwaloka molekodi – 20
- (i) ntle le ha molekodi eo a ka kopa kapa ho amohela mosebetsi oo nakonh eo ebang – 25
- (aa) hon a le maemo a ikgethileng; mme
- (bb) khiro eo e keke ya sitisa sepheo sa Molao ona; mme
- (ii) setho se ikarabellang se dumellane le Molaodi. 30

Tshebetso le matla a balekodi

38. (1) Molekodi a ka kena meahong Nakong efe kapa ho –

35

- (a) fana ka tsebiso ya boikamananyo le ho etsa ditshisinyo ho Molaodi;
- (b) ho fuputsa tlaleho efe kapa efe e lebisitsweng ho Molaodi;
- (c) botsa monga laesense dipotso kapa motho ofe kapa ofe ya ikarabellang moahong kanako e oho latela se hlahellang dibukeng, mekitlaneng, dikgatisong kapa dikopong tsa lesedi lefe kapa lefe ka thepa ya kgwebo; 40
- (d) a ka di batla ho monga laesense, ho bona dibuka, ditokomane kapa dikgatiso le mangolo ohle a amanang le kgwebo e nehetsweng laesense; mme

- (e) ho lekola meaho a nehetsweng dilaesence le ho nka qeto hore e ikamahanya le melao na.
- (2) Molekodi a ka kena meahong nako efe kapa efe a sa fana ka tsebiso kapa tumello yah o kena, a ka ba le ho ema meahong e efe kapa efe e nang le laesense ebang ana le dipelaelo ka kgwebo e etswang moo mme a kope monga kgwebo kapa motsamaisi ho hlahisa – 5
- (a) laesense ya kgwebo jwaloka ha ho hlahella ho karolo 20; 10
- (b) phemiti ya motsamaisi jwloka ha ho hlahella ho karolo 34;
- (c) phemiti yah o hweba ho sa ngodiswang e ntshitsweng ka Molao wa Dikgwebo; kapa 15
- (d) phemiti ya mothusa motsamaisi jwaloka ha ho hlahella ho skarolo 34
- (3) Moo molekodi a nang le lebaka la ho dumela hore diphelelo tsa Molao ona le maemo a tsamayang le laesense a hatiketswe, o tshwanela hore matsatsi a leshome le metso e mene (14), a fuputse taba eo ka tsela e oho hlahellang karolong ena mme o tshwanetse a qale a nehela Molaodi pehelo ya tseo a di sibullutsing diphuputsong tsa hae. 20
- (4) Motho o tlola molao ha a – 25
- (a) thibella le ho sitisa molekodi kapa setho sa Ditshebeletso tsa Sepolesa sa Afrika Borwa se felehedseng molekodi eo tshebetsong yah ae tlasa karolo ena;
- (b) a kopuwa tlhalosetso kapa lesedi ke molekodi, a fana ka tlhalosetso le lesedi le fosahetseng kapa le lahlehisang; kapa 30
- (c) kapa a ipolela ka tsela e fosahetseng ho molekodi.
- (5) Molekodi a ka lekola mme a etsa pehelo e mabapi le – 35
- (a) meaho e nehetsweng laesense kapa e fuweng tumello ho lekola le ho hatella boikamahanyo ka Molao ona kapa melawana e meng;
- (b) dikganyetso jwloka ha ho hlahella ka hare ho dikarolo eleng karolo 22 le 23 40
- (c) dikopo jwaloka ha di hlahella ho *dikarolo 20, 27,31* le 33 di tshwanela ho kenyelletsa, moo ho hlokehang. Pehelo ya molekodi dintlheng tse amanang le ho – 45
- (i) tshebediso ya mobu;

- (ii) maemo a tikoloho;
- (iii) mello le polokeho;
- (iv) tsamaiso ya polokeho; 5
- (v) taolo ya meaho; le
- (vi) pehelo efe kapa efe. 10
- (6) Ho ikamahantswe le *karolwana* (5) le dipehelo tsa molao ofe kapa ofe, molaodi a ka –
- (a) botsa motho ofe kapa ofe ya teng meahong mabapi le ntlha efe kapa efe e e amang molekodi; 15
- (b) botsa motho e mong le e mong eo, molekodi ka mabaka a utlwahalang, a dumela hore a amana le bole Kodi;
- (c) tokomane efe kapa efe eo motho a hlohang ho e boloka ho latela Molao ona kapa melawana e meng e ka amahana le bole Kodi ba kgwebo; 20
- (d) hatisa ditokomane tseo ho buuwang ka tsona ho *serapa* (c), kapa ha ho hlokeha, ho tlosa tokomane hore e hatiswe; 25
- (e) ho nka dinepe ka dikgatiso tse utlwahalang le ho bonahala tsa ntho efe kapa efe, tshebetso, diketsahalo kapa maemo mabapi le mobu kapa meaho; 30
- (f) ka thuso ya mohlanka ya tswang Ditshebeletsong tsa Sepolesa sa Afrika Borwa, hon ka le ho tlosa thepa efe kapaefee hoy a ka yena e ka sebediswang e le bopaki bah o hatikelwa ha dipehelo tsa Molao ona kapa melawana efe kapa efe; 35
- (g) ho etsa ntho tsohle tse hlokehang ho etsa ditekoolo ntle le ho tloa matla a hae jwloka ha ho hlahella Molaong ona;
- (h) laela ho kwalwa ha kgwebo hang hang ebang molekodi, ho latela matla ao aa filweng kapa jwaloka ha ho hlahella Molaong ona, ka maemo a utlwahalang a ka bontsha hore kgwebo e amehang e – 40
- (i) tlotse melao ya laesense ya yona ya kgwebo kapa phemiti yah o hweba; 45
- (ii) hweba ntle le molao;

- (iii) hweba ntle le laesense kapa phemiti;
 - (iv) e ka hlahisa kotsi mabapi le Bophelo le tshireletso ya setjhaba; kapa
 - (v) motlodi wa molao ya iphetaphetang, moo mawama ohle a ho thibela kgwebo ho hatikela dipehelo tsa Molao ona le melawana e meng, a entsweng.
- (7) Molekodi ya tlosang thepa efe kapa efe ho latela *Karolwana 6(f)* meahong e lekolwa, o tshwanela ho ntsha resiti, ka foromo e boletsweng, ho monga thepa kapa motho ofe kapa ofe ya ikarabellang kgwebong.

Diphuputso tsa Molaodi

39. (1) Molaodi a ka etsa diphuputso ditabeng tsohle tse welang tshebetsong ya hae.
- (2) Molaodi a ka, ka mora diphuputso, a fumana monga laesense a le molato wa ho se ikamahanye le dipehelo tsa Molao ona –
- (a) fanyeha laesense e amehang;
 - (b) phumule laesense; kapa
 - (c) a dihe kotlo le ditefello hodima laesense e jwalo kapa motho: Ntle le haeba ditefello tse jwalo kapa kotlo ha e fete tjhelete e behilweng ka molao.

KGAOLO 6

SEABO SA SETHO SE IKARABELLANG

LE MAKALA A MANG A MMUSO

Seabo sa Setho se ikarabellang

40. (1) Ntle le ho tjhetjha boikarabelong le matleng a beuweng hodima ha eke Molao wa Motheo, Molao wa Kgwebo, Molao ona kapa melaawana e meng e amehang, Setho se ikarabella ho –
- (a) puso le tataiso ya Tshebetso ya Profense ya Dilaesense tsa Kgwebo;
 - (b) puso le tataiso ya Molaodi ho latela dipehelo tsa Molao ona;

- (c) Setho se ikarabellang se tshwanetse, ka tsela e molaong, a hlakise seabo le boikarabelo ba Molaodi, Mafapha a Profense, Bomasepala, le Makala afe kapa afe a Setjhaba a ikamahantse le Molao wa Motheo, Molao ona le Molao wa Naha wa Dikgwebo tse Nyenyane, ho thibela ho iphetha ha ditshebeletso le ho senya ditshebeletso le, ho netefatsa hore dikgwebo di tshetswa ka ho lekana ka ditjhelete tsa ditshebeletso tsa ntshetsopele ya dikgwebo, dilaesense le tsamaiso. 5
- (2) Setho se ikarabellang se tshwanela, nakong ya kgwedi tse leshome le metso e mmedi (12) tsa tshebetso ya Molao ona, ka mora ditherisano le Ditshebeletso tsa Sepolesa sa Afrika Borwa le mafapha a mang ka tsebiso Lengolong la Mmuso la Ditsibiso, a etse Melao ya Boitshwaro bakeng sa – 10
- (a) beng ba dilaesense; 15
- (b) makala a Dilaesense; le
- (c) balekodi. 20
- (3) Setho se ikarabellang se ka ntsha ditaelo tse latelang ho Molaodi mabapi dikateng tsa Molao ona ka ditherisano le Lkala la Boelets'i jwaloka ha ho hlahella ho Karolo 6 ya Molao ona –
- (a) ho netefatsa tshireletseho ya ditokelo tsa setjhaba tsa ho hweba jwaloka ha ho hlahella ho latela Karolo 22 ya Molao wa Motheo; 25
- (b) ho tsamaisa, kenya tshebetsong, le ho beha leihlo, elets'a le ho thusa Mmuso wa Profense ka ntshetsopele ya merero ya moruo e arolelanwang bakeng sa Profense; 30
- (c) ho tsamaisa, beha leihlo, le ho tshhetsa ditshebedisano tsa bohlokwa tse kenneletsang makala a setjhaba, makala a poraefete, makala atsebo, basebetsi ba ikopantseng, le mekgahlo ya setjhaba ho kenya tshebetsong morero wa ntshetsopele ya profense; 35
- (d) ho lokisa ho se lekane a Nakong ya pele phanong ya ditshebeletso le dithusong tsa dikgwebo ka ditjhelete ka hare ho Profense;
- (e) ho ntshetsapele le ho phahamisa dikgwebo tsa metse ya mahae le ho kgothalletsa setso le boqhetseke tshebetsong le tsamaisong ya kgwebo; 40
- (f) ho lemoha le ho kgothalletsa mekgwa e metjha e bohlale yah o theha dikwebo; 45

- (g) ho sebetsa jwaloka sits isa diphuputso tsa moruo wa setjhaba, tsebo, mahalale a maano le hon ka diqeto le moralo wa ntshetsopele ya moruo e tsitsitseng;
- (h) tshwanetse ho ntsha dikotlo kgahlano le motho ofe kapa ofe ya fumanwang a hatiketse dipehele dife kapa dife tsa Molao ona, di seke tsa fetisa ditefello tse behilweng ka mola oho latela *Karolo 44* ya Molao ona; 5
- (i) anke mehato ya mola oho netefatsa boikamahanyo le dipehelo tsa Molao ona. 10

Ho Romela Balaodi ba Dilaesense Boemong ba Metse

41. (1) Setho se ikarabellang ka ditherisano le masepala ya amehang ka mora ho mema masepala eo hore o tlo fana ka puo ho latela dipehelo tsa tsebiso e entsweng Koranteng ya Mmuso, masepala eo o tla kgethwa e le ona Lekgotla la Dilaesense la Lehae jwaloka ha ho hlahella ho Karolo ya 2 ya Molao wa Kgwebo – 15
- (a) sebaka sohle se welang ka tlasa masepala eo ya amehang, le kapa 20
- (b) sebaka se itseng se leng moeding wa masepala ya amehang.
- (2) Ebang Masepala ofe kapa ofe ka hara Provense a a sena bokgoni ba ho kaba Lekgotla la Dilaesens la Lehae ho latela karolwana ya (1) (a) e hlahellang kapa (b), Setho se ikarabellang se ka – 25
- (a) nakong e sa feteng dikgwedi tse 24 ho latela dipehelo tsa karolwana ya (1) le ya (3)(a), hlwaya mmasepala e mong, motho kapa lekala ka hara provense hore ebe Lekgotla la Dilaesense la Lehae bakeng la sebaka se amehang; le 30
- (b) ho fana ka dipeelo tsa tshebetso ho motho kapa lekala. 35
- (3) Setho se ikarabellang se lokela – 35
- (a) pele a sebedisa matla a hae ho latela karolwana ya (2) (b), a ka rerisana le le mmasepala e le ona o tlang ho ikarabella hoba Lekgotla la Dilaesense la Lehae; 40
- (b) ho netefatsa hore Lekgotla la Dilaesense la Lehae ho latela karolwana ya (2) le na le bokgoni ba tsamaiso le tshehetso ho –
- (i) le ho phethahatsa matla a lona, mesebetsi le tshebetso ho latela Molao ona; le

- (ii) Moo Lekgotla la Dilaesense la Lehae, mmasepala o thusetsa ka ntshetsopele ya bokgoni ba mmasepala o amehang hore o ka ikarabella ho laola Lekgotla la Dilaesense la Lehae Nakong eo nako ya lona e fihlang pheletsong ho latela karolwana ya (2) (a). 5
- (4) Setho se ikarabellang se ka sebedisa matla a sona ho latela karolwana ya (2)(a) –
- (a) ebang a thehile masepala, batho kapa lekala le amehang ba hloka bokgoni bo hlokehang ho ka phetha mosebetsi wa bona le ho sebedisa matla ka tshwanelo e le Bahlanka ba Dilaesense ba Lehae jwaloka ha ho hlahella Karolong ya 20 (11) ya Molao ona kapa 10
- (b) kamora ho fumana kopo ho latela foromo e nepahetseng ho tswa ho mmasepala ya amehang. 15
- (5) Setho se Ikarabellang kamora ho mema mmasepala ya lokelang, motho kapa lekala hot la fana ka puo ho latela dipheho tse hlalositsweng Koranteng ya Provense, se ka kgina, masepala eo, motho kapa lekala hore e be lona Lekgotla la Dilaesense la Lehae, ebang masepala, motho kapa lekala le amehang le ena – 20
- (a) tlotse dipheho tsa Molao ona kapa melawana e ntshitsweng ho latela Molao ona kapa 25
- (b) ba hloleha ho phetha mesebetsi le boikarabello jwaloka Lekgotla la Dilaesense la Lehae ho latela dipheho tsa Molao ona.
- Karolelano ya Matla** 30
42. Setho se ikarabellang se ka arolelana matla ho ya nang le tokelo ho latela Molao ona, ntle fela le matla a ho –
- (a) ho etsa melawana e leng ho hlahellan ho Karolo ya 45 ya Molao ona le Karolo ya 2 ya Molao wa Kgwebo, kapa 35
- (b) ho fa Makgotla a Dilasense a Lehae matla ho latela Molao ona.
- KGAOLO YA 7** 40
- DITUMELLO KA KAKARE'TSO**
- Boipiletso** 45
43. (1) Mang kapa mang ya sa dumellaneng le qeto ya Molaodi e entsweng ho latela dipheho tsa Molao ona, a ka etsa boipileto ho Setho se Ikarabellang ka mokgwa o hlalositsweng.

- (2) Dipehelo tsa *karolwana (1)* ha di fokotse matla a mang kapa mang ya sa thabiswang ke qeto ya Molaodi hore a ka etsa kop oho Lekgotla le leng le le leng la Dinyewe le sebakeng seo hore le lekole qeto eo.
- (3) Setho se Ikarabellang se ka hire lekgotla la maipiletso la nakwana hot la mamela boipiletso bo hlahellang *karolwaneng ya (1)* hore le mo thuse hore a tle a etse qeto e nepahetseng a ena le lesedi. 5

Ditlolo tsa molao le Dikotlo

44. (1) Motho mang kapa mang ya tlolang dipehelo tsa Molao ona, ebang pehelo eo e sa hlahelle kae kapa kae ka hara Molao ona hore ke tlolo ya molao, a tlalal molao. 10
- (2) Motho mang kapa mang ya qosetswang ho etsa kgwebo a se na laesense jwalo ka ha Molao o hlalosa o tla qoswa le ho lahlehelwa ke thepa ya hae kapa tseo a nang le tsona, a tjamelwe ke tjhankana ya nako e sa feteng selemo kapa ho lefa tjelete ya kahlolo. 15
- (3) Motho mang kapa mang ya nang le kgwebo a sena laesense e hantle jwaloka ha ho hlahella ho latela Molao ona, ha qoswa le ho lahlehelwa ke thepa ya hae kapa tseo a nang le tsona o tla tjamelwa ke tjhankana ya nako e sa feteng selemo kapa kgetho ya ho lefa tjelete ya kahlolo. 20

Melawana, Ditataiso le Dipehelo

45. (1) Setho se Ikarabellang ka tsebiso Koranteng ya Provense, mme kamora ditherisano le mmuso wa selehae o emetseng mebuso ya metse provenseng, se tla etsa melawana kapa ho fana ka tataiso tse sa nyallaneng le dipeelo tsa Molao ona mabapi le- 30
- (a) dintlha tse hlalositsweng ho Karolo ya 35;
- (b) ntlha efe kapa efe e ka hlalosewang ho latela Molao ona; mme 35
- (c) ntlha efe kapa efe e ka (c) kgothalletsang tshebediso ya Molao ona.
- (2) Melawana le ditataiso tse entsweng kapa tse ntshitsweng ho latela *karolwana ya (1)* e ka etsa phapang mahareng a: 40
- (a) mmasepala wa mofuta o itseng o ka nnang molemong wa melawana ena a la hlalosewang melawaneng mohlomong mabapi le mekgahlelo kapa mefuta ya dikgwebo kapa ka tsela e nngwe;
- (b) mefuta e fapaneng ya dilaesense le ditefello tse leng teng; le 45

- (c) mefuta e fapaneng ya dilaesense kapa ha hona phapang e kaalo e bontshang kgetholo e itseng.
- (3) Melawana ho latela *karolwana ya (1)* e ka fana ka dikotlo mabapi le ho tlola kapa ho se ikamahanye le dipeelo dife kapa dife tsa melawana, tse ka kenyelletsang tefiso ya tjelete ya kotlo e lokelang le ho hlahelwa tjhankaneng Nakong ya dikgwedi tse sa feteng tse tsheletseng. 5
- (4) Melawana e radilweng le ditataiso di lokelwa ho phatlalatswa *Koranteng ya Provense* hore setjhaba se hlahise maikutlo pele e kenngwa tshebetsong ho latela *karolwang ya (1)*. 10
- (5) Ho ba siyo ha molawana kapa tataiso e ka hlahiswang ho latela Molao ona o ke keng wa thibela – 15
- (a) tshebediso ya dipeelo tsa Molao ona hammoho le ka kopanelo le melawana kapa ditataiso tse tlang ho hlahisa kapa
- (b) phethahatso ya tshebetso e itseng kapa ho nehwa matla bakeng la seo. 20
- (6) Ditataiso tse leng teng ho latela *karolwana ya (1)* ha di tlame.
- (7) Boikamahanyo le ditataiso tse leng teng ho latela karolwana ya (1) di ka sebediswa Nakong eo ho sebetsanang le ho hlophisa maano a mebuso ya kopanelo. 25
- (8) Melawana e entsweng ho latela karolo ena –
- (a) e tlameha ho romellwa ho Lekgotla la Ketsamelao la Provense bonane matsatsi a mashome a mararo (30) pele ho etswa phatlalatso *Koranteng ya Mmuso* le 30
- (b) o qala ho sebediswa le tlang ho behwa ka hara melawana, e leng letsatsi la phatlalatso kapa letsatsi le tlang ho behwa ke Tonakgolo *Koranteng ya Provense* 35

Ho Phumulwa kapa ho fetolwa ha Melao

46. Melao e hlahellang Karolong ya A la Karolong ya B ya Shejule 2 ka moo e tlang ho sebediswa kateng ke Provense ka hona e phumula ho latela dipeelo tse hlahellang kholomong ya boraro ya Shejule eo ho buang ka yona. 40

Diphetoho le dipoloko

47. (1) Ha Molao ona o se o kentswe tshebetsong dintlha tse hlahellang ho latela Molao wa Kgwebo, di tla nkuwa di nepahetse ho fihlella nako eo di tlang ho fihla pheletsong – 45
- (a) laesense e ntshitsweng ho latela Molao wa Kgwebo;

- (b) tsebiso ya ho ikamahanya; le
 - (c) dikotlo.
- (2) Mang kapa mang ya nang le laesense ho latela Molao wa Kgwebo, o lokela ho etsa kopo ya ho ntjhafatsa ho latela Molao ona. 5
- (3) Mang kapa mang ya nang le laesense ho latela karolwana ya (2) ha behellwe thoko ho latela dipeelo tsa Molao wa Kgwebo le ho se ikamahanye le molao o fe kapa ofe kapa ho latela tse hlokwang ke molao ho ya Kgwebo e. 10
- (4) Kopo efe kapa efe ya laesense kapa eng kapa eng eo Lekgotla la Dilaesense di e fumanang ho latela Molao wa Kgwebo tse sa phethelwang pele Molao ona o kena tshebetsong di lokela ho lokiswa ho ya ka Molao ona. 15

Sehlooho se sekgutshwane

48. Molao ona o bitswa Molao Freistata wa Tshehetso ya Dikgwebo tse Kopanetsweng, Dilaesense tsa Kgwebo le Tsamaiso, 2024 mme o tla kena tshebetsong ka letsatsi leo Tonakgolo a tlang ho le hlwaya ka tsebiso ya Koranteng ya Provense. 20

Shejule 1 – Ho Phumulwa ha Molao

Shejule 2 – Dikgwebo tse sa kenyelletswang

SHEJULE 1**HO PHUMULA MELAO****KAROLO A: KETSOMELAO**

No. le Selemo sa Molao	Sehlooho Sekgutshwane	se	Extent of Repeal
Molao No. 71 wa 1991	Mola wa Kgwebo		Tshebetso ya kakaretso, kaha o amanang le Provense

KAROLO B: KETSOMELAO

No. le Selemo sa Molao	Sehlooho Sekgutshwane	se	Extent of Repeal
Molao wa No. PN786 of 1991	Melao e Amanag le Dikgwebo		Kaofela, kaha o amana le Provense yohle.

SHEJULE 2**DIKGWEBO TSE SA KENYELLETSWANG JWALOKA HA DI HLAHELLANG KGAOLONG YA 4
YA MOLAO ONA**

- (1) Dikgwebo tsa Mmmuso;
- (2) Mekgatla e sa Etseng Phaello;
- (3) Mekgatlo ya Thekolohelo;
- (4) Mekgatlo ya Dikereka; le
- (5) Dikgwebo tse laolwang ke industry e itseng kapa bongodiso ba ikgethileng le indasteri.

WET

Om voorsiening te maak vir die regulering, beheer en lisensiëring van ondernemings in die Provinsie Vrystaat; om die Vrystaatse Ondernemingslisensiëringsgesagsliggaam te vestig; om die Vrystaatse Adviesraad en die Vrystaatse Reguleringdirektoraat te skep; om voorsiening te maak vir die aanstelling van die Vrystaatse Ondernemingsreguleerder; om voorsiening te maak vir die aanstelling en aanwysing van plaaslike lisensiëringsgesagsliggame, lisensiëringsbeamptes, en inspekteurs; om voorsiening te maak vir die lisensiëring van persone en ondernemings; om voorsiening te maak vir die oplê van lisensiegelde; om voorsiening te maak vir die magte en pligte van lisensiëringsbeamptes; om voorsiening te maak vir Vrystaatse ondernemingsondersteuning en vir kwessies wat daarmee verband hou of daaruit voortspuit.

AANHEF

MET ERKENNING VAN –

- (1) die sosio-ekonomiese ongeregtighede, ongelikhede en onregverdighele van die verlede;
- (2) die noodsaak om die verdelings van die verlede te genees en 'n samelewing te vestig wat gegrond is op die vertoon van waardes, maatskaplike geregtigheid en fundamentele menseregte; en
- (3) die noodsaak om die ekonomiese lewensgehalte van al die burgers van die Vrystaat te verbeter en die innoverende ekonomiese potensiaal van die burgers te ontsluit.

MET INAGNEMING DAT –

- (1) Artikel 2(1) van die Verenigde Nasies se Verdrag oor Ekonomiese, Maatskaplike, en Kulturele Regte voorsiening maak vir samewerking oor ekonomiese en tegniese regte deur middel van die aanvaarding van wetgewende maatreëls;
- (2) Artikel 2(3) voorsiening maak vir ontwikkelende lande om ten opsigte van menseregte en hulle nasionale ekonomie te bepaal tot watter mate hulle die ekonomiese regte wat deur lidstate erken word, sal waarborg;
- (3) Artikel 4 voorsiening maak dat die uitoefening van die regte deur die Staat in ooreenstemming met die verdrag moet wees, onderhewig aan beperkings soos deur wetgewing bepaal, moet dit versoenbaar met die aard van die regte en slegs vir die oogmerk van die bevordering van die algemene welstand van die demokratiese samelewing wees;
- (4) Die reg tot gelykheid en menswaardigheid wat onderskeidelik in artikel 9 en 10 van die Grondwet verskans is;
- (5) Ingevolge artikel 22 van die Grondwet, die onderneem van die reg tot handeldrywing, die beoefening van 'n beroep of 'n professie deur wetgewing gereguleer mag word.

EN TEN EINDE –

- (1) Die progressiewe bereiking van die reg tot handel te bereik;
- (2) Vordering te maak ten opsigte van die bereiking van ekonomiese bemagtiging en die ontwikkeling van die mense van die Provinsie;
- (3) Die finansiële en omgewingswelstand van die burgers van die Provinsie te verseker;
- (4) 'n Enkele ondernemingsreguleringsraamwerk regdeur die Provinsie te skep en om 'n versplintering van ondernemingsregulering in die Provinsie uit te skakel;
- (5) Volhoubare, billike, gepaste, doeltreffende, en doelmatige bemagtiging van sakeondernemings in die Provinsie te bevorder; en
- (6) 'n Gesonde omgewing en ondernemingsverhoudings regdeur die Provinsie te verseker.

EN AANGESIEN die Vrystaat Provinsiale Regering erken dat die Provinsie selfonderhoudende en lewenskragtige ondernemings en 'n regulatoriese raamwerk vir sy burgers moet hê om handel te dryf en die reg tot handeldrywing vrylik te kan geniet,

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:-

(Engelse teks deur die Premier bekragtig en geteken op 25 Maart 2024.)

5

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HOOFSTUK 1

VOORBEREIDENDE BEPALINGS

Definisies	5
1. In hierdie Wet, tensy die konteks dit anders aandui –	
“ Adviesraad ” dui op die Vrystaatse Provinsiale Adviesraad soos in hoofstuk 2 van hierdie Wet beoog word;	10
“ Barbierwinkel ” dui op ’n klein informele instelling wat dienste verskaf om die voorkoms van hare en baard te verbeter en wat normaalweg in swart woonbuurte of op straathoeke geplaas is;	15
“ Behandeling-spa ” dui op ’n instelling wat ’n niemediese prosedure verskaf om die gesondheid van die liggaam te bevorder, soos ’n massering, manikure, en ontspanning van die gesig of liggaam;	15
“ Burgers ” dui op burgers van die Republiek van Suid-Afrika deur geboorte, afkoms of naturalisasie soos beoog in die Wet op Suid-Afrikaanse Burgerskap, 1995 (Wet No. 88 van 1995);	20
“ Departement ” dui op die Departement wat verantwoordelik is vir ondernemingsontwikkeling en ekonomiese sake in die Vrystaat Provinsiale Regering;	25
“ Aangewese Lisensiëringsgesagsliggame ” beteken lisensiëringsgesagsliggame soos in die vooruitsig gestel kragtens Afdeling 41 of hierdie Wet.	30
“ Departementshoof ” dui op die Departementshoof soos beoog in Bylae 2 van die Staatsdienswet, 1994 (Proklamasie 103 van 1994);	
“ Diensverskaffer ” dui op enige openbare of private entiteit wat steundienste aan klein sakeondernemings verskaf;	35
“ Gelisensieerde ” dui op enige persoon wat ’n geldige lisensie of tydelike lisensie hou wat ingevolge hierdie Wet uitgereik is;	
“ Gelisensieerde persele ” dui op die persele waarop ondernemings bedryf word onder die gesag van ’n lisensie wat ingevolge hierdie Wet uitgereik is;	40
“ Gesellinagentskap ” dui op sakebedrywighede vir volwasse vermaak;	
“ Grondwet ” dui op die Grondwet van die Republiek van Suid-Afrika, 1996;	45
“ Haarsalon ” dui op ’n instelling wat dienste verskaf wat daarop gemik is om die hare van enige persoon te verbeter.	
“ hierdie Wet ” sluit die bylae, riglyne en regulasies in;	

“Inspekteur” dui op –	5
(a) enige persoon wat as ’n inspekteur aangestel is deur die verantwoordelike Lid; of	
(b) enige persoon wat spesiaal deur die Ondernemingslisensiëringsgesagsliggaam gemagtig is om enige gesag, mag of plig uit te oefen wat ingevolge hierdie Wet verleen is;	10
“Klein Onderneming” dui op ’n klein onderneming soos gedefinieer in die Nasionale Kleinondernemingswet, 1996 (Wet No. 102 van 1996);	15
“Lisensie” dui op ’n lisensie wat ingevolge hierdie Wet uitgereik is;	
“Lisensiëringsbeampte” dui op ’n lisensiëringsbeampte soos ingevolge artikel 11 van hierdie Wet beoog word;	20
“LUR van Finansies” dui op die Lid van die Uitvoerende Raad wat vir finansies in die Provinsie verantwoordelik is;	
“Munisipaliteit” dui op ’n munisipaliteit waarna in artikel 155 van die Grondwet van die Republiek van Suid-Afrika, 1996, verwys word en wat ingestel is deur en ingevolge artikel 11 en 12 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998);	25
“Nasionale Ondersteuningsstrategie vir Klein Sakeondernemings” dui op die nasionale beleid ter ondersteuning van klein sakeondernemings soos dit deur die Minister wat vir Ekonomiese Ontwikkeling verantwoordelik is in die <i>Staatskoerant</i> gepubliseer is en dit sluit die beleid in soos uiteengesit in die Witskrif op die Nasionale Strategie vir die Ontwikkeling en Bevordering van Klein Sakeondernemings in Suid-Afrika (Kennisgewing 213 gepubliseer in die Staatkoerant No. 16317 van 28 Maart 1995);	30
“Ondernemingspersele” dui op die fisiese verkooppunt, fisiese struktuur, ruimte of plek van waar ’n onderneming bedryf word.	35
“Permit” dui op ’n lisensie wat toegestaan is ingevolge hierdie Wet vir die aanstelling van ’n ondernemingsbestuurder of assistentbestuurder vir gelisensieerde persele;	40
“Plaaslike lisensiëringsgesagsliggaam” dui op enige munisipaliteit of enige persoon of liggaam wat aangewys is as ’n plaaslike lisensiëringsgesagsliggaam soos in artikel 41 van hierdie Wet beoog word;	45
“Provinsiale Koerant” dui op die <i>Provinsiale Koerant</i> van die Provinsie Vrystaat soos dit deur die Staatsdrukker gepubliseer word;	
“Provinsiale Wetgewer” dui op die provinsiale wetgewer van die Provinsie Vrystaat waarna in artikel 104 van die Grondwet verwys word;	

“ Provinsie ” dui op die Provinsie Vrystaat wat ingevolge artikel 103(1)(b) van die Grondwet gevestig is;	5
“ Publiseer ” dui op die vertoon, sirkulering, aankondiging, of om daartoe aanleiding te gee om vertoon te word, gesirkuleer te word of aangekondig te word op enige wyse wat ook al;	10
“ Regulasies ” dui op enige regulasies wat ingevolge hierdie Wet uitgevaardig word;	
“ Reguleerder ” dui op enige senior beampte van die Departement op die vlak van Hoofdirekteur, of Direkteur wat aangewys is as die Reguleerder van Ondernemings en Lisensiering ingevolge hierdie Wet;	15
“ Spaza-winkel ” dui op ’n klein winkeltjie wat dikwels uit ’n private woning binne ’n residensiële gebied bedryf word met spesifikasies soos wat in die regulasies voorgeskryf word;	20
“ verantwoordelike Lid ” dui op ’n Lid van die Uitvoerende Raad wat verantwoordelik is vir sake wat met ondernemingsontwikkeling en ekonomiese aangeleenthede in die Provinsie verband hou;	25
“ Voorgeskrewe ” dui op dit wat deur hierdie Wet en sy regulasies voorgeskryf word en voorskryf het ’n ooreenstemmende betekenis;	
“ Wet op Besighede ” dui op die Wet op Besighede, 1991 (Wet No. 71 van 1991).	30

Oogmerke van die Wet

2. Die oogmerke van die Wet is –
- | | |
|---|----|
| (a) om voorsiening te maak vir die aanwysing van die Reguleerder; | 35 |
| (b) om voorsiening te maak vir ’n regulatoriese raamwerk wat dit vir burgers van die Provinsie moontlik maak om lewensvatbare en florerende ondernemings te vestig; | 40 |
| (c) om voorsiening te maak vir die aanwysing van ondernemingslisensieringsgesags-liggame, lisensieringsbeamptes en inspekteurs; | |
| (d) om te verseker dat die ondernemings die oogmerke van die Provinsie bevorder van die ontwikkelende ondernemingsnywerhede wat gegrond is op die bevordering van toerisme, indiensneming, en ekonomiese en maatskaplike ontwikkeling in die Provinsie; | 45 |
| (e) om geleenthede vir histories benadeelde persone te bevorder om ten volle aan die ondernemingsnywerhede deel te neem, deur lisensiering en regulering van ondernemings binne die Provinsie; | 50 |
| (f) om die verpligte vestiging van die provinsiale adviesraad en die provinsiale lisensieringsgesagsliggaam te skep; | |

- (g) om 'n instaatstellende omgewing te voorsien aan munisipaliteite om –
- (i) plaaslike ekonomiese ontwikkeling te implementeer en om ondersteunende waardekettings en nywerhede uit te bou; 5
 - (ii) die geïntegreerde ondernemingslisensiëringsbedeling te implementeer;
- (h) om die ontwikkeling van verteenwoordigende verenigings van sakeondernemings wat deur burgers en organisasies sonder winsbejag besit word te bevorder en te ondersteun; 10
- (i) om seker te maak dat sakeondernemingsondersteuning en ontwikkelingsopdragte gebeur. 15

Toepassing van die Wet

3. (1) Behalwe vir enige persoon in besit van 'n lisensie wat ingevolge enige nasionale wetgewing uitgereik is, is hierdie Wet van toepassing op enige persoon wat 'n onderneming waarna in artikel 18 verwys word in die Provinsie bedryf. 20
- (2) Die toestaan van enige aansoek ingevolge die Wet stel die persoon waaraan die aansoek toegestaan is nie vry om te voldoen aan enige ander wet of wetlike vereistes ten opsigte van die betrokke onderneming nie. 25
- (3) 'n Persoon wat voldoen aan die bepalings van hierdie Wet is nie vrygestel van voldoening aan enige ander toepaslike bepalings of van provinsiale of nasionale wetgewing nie. 30

Kwytskeldings

4. (1) Die verantwoordelike Lid mag, op aansoek en indien omstandighede dit regverdig, verklaar dat hierdie Wet, met uitsluiting van sodanige bepalings soos hy of sy mag bepaal, nie van toepassing is nie op – 35
- (a) persele wat betrek, beheer of onderhou word deur 'n regeringsdepartement of openbare entiteit;
 - (b) werknemers van 'n departement of openbare entiteit soos beoog in subartikel (1) en sy bona fide gaste, vir handeldrywing op sodanige persele; en 40
 - (c) 'n statutêre instelling of perseel in of by 'n openbare oord, nasionale park of wilds- of natuurreservaat. 45

- (2) Die verantwoordelike Lid mag, op aansoek en indien omstandighede dit regverdig, verklaar dat hierdie Wet, uitgesluit sodanige bepalings as wat hy of sy mag bepaal, nie van toepassing is op die verkoop, deur 'n persoon wat in hierdie verklaring genoem is, van enige toepaslike item nie, indien daardie persoon 'n gelisensieerde afslaer is wat namens 'n bona fide kulturele of welsynsorganisasie of 'n opvoedkundige instelling optree. 5
- (3) 'n Verklaring wat ingevolge subartikel (1) en (2) uitgereik is, mag onderhewig wees aan sodanige voorwaardes soos wat daarin uiteengesit word, wat die verantwoordelike Lid volgens sy of haar diskresie mag oplê. 10
- (4) Die verantwoordelike Lid mag te eniger tyd na die uitreiking van 'n verklaring ingevolge subartikel (1) of (2), deur 'n kennisgewing wat aan die persoon wat in die betrokke verklaring genoem word, afgelewer of gegee word, onderhewig aan die tersaaklike bepalings van die Wet op die Bevordering van Administrasiegeregtigheid, 2000 (Wet No. 3 van 2000) – 15
- (a) na sy of haar diskresie sodanige voorwaardes of verdere voorwaardes oplê as wat in die kennisgewing uiteengesit mag word, waaraan die kennisgewing onderworpe sal wees; 20
- (b) enige voorwaarde wat deur hom of haar ingevolge hierdie artikel opgelê is, terugtrek of wysig; of
- (c) sodanige verklaring terugtrek of wysig. 25
- (5) Nieteenstaande die bepalings van subartikel (1) of (4) word 'n onderneming wat deur 'n liefdadigheids-, godsdienstige, opvoedkundige, kulturele of landbouvereniging, organisasie of instelling van 'n openbare aard bedryf word, indien alle winste wat uit die onderneming verkry word geheel en al gewy word aan die doel van daardie of enige ander sodanige vereniging, organisasie of instelling, deur die Wet vrygestel. 30

Verbodsbepalings

5. (1) 'n Persoon mag nie – 35
- (a) sake bedryf waarna in artikel 18 verwys word nie, behalwe as dit in ooreenstemming met die bepalings van hierdie Wet is. 40
- (b) sake bedryf op persele wat ingevolge hierdie Wet nie gelisensieerd goedgekeur is nie.
- (2) 'n Persoon mag nie 'n onderneming bedryf – 45
- (a) op 'n perseel wat deur 'n regeringsdepartement of 'n munisipaliteit besit word nie;
- (b) in 'n gebou wat as 'n erfenisterrein verklaar is nie, tensy dit gemagtig is ingevolge toepaslike wetgewing.

- (3) Die eienaar of wettige okkupeerder van enige gebou, woning, struktuur of perseel van enige ander aard mag nie sodanige gebou, woning, struktuur of perseel vir ondernemingsdoeleindes gebruik, of enige ander persoon toelaat om enige aktiwiteit daarin of daarop te gedryf nie, tensy hy of sy, of die persoon wat die ondernemingsaktiwiteit in of op sodanige gebou, woning, struktuur of perseel bedryf, in besit is van 'n lisensie wat ingevolge hierdie Wet uitgereik is. 5
- (4) Die eienaar van enige gebou, woning, struktuur of perseel van enige aard moet redelike stappe neem om te verseker dat sodanige gebou, woning, struktuur of perseel nie gebruik word vir enige ondernemingsbedrywighede deur persone wat nie in besit van 'n lisensie is wat ingevolge hierdie Wet uitgereik is nie. 10

HOOFSTUK 2

15

VRYSTAAT PROVINSIALE ADVIESRAAD

Mag om die Vrystaat Provinsiale Adviesraad moontlik te maak en te vestig

20

6. Die bevoegdheid word hiermee aan verantwoordelike Lid verleen om binne 'n redelike tyd die skepping en vestiging van 'n Adviesraad moontlik te maak om die belange van klein sakeondernemings te verteenwoordig en te bevorder soos beoog in die Nasionale Strategie vir die Ontwikkeling en Bevordering van Klein Sakeondernemings in die Provinsie. 25

Die verantwoordelike Lid se plig om die grondwet van die Provinsiale Adviesraad te bepaal

7. (1) Die verantwoordelike Lid moet deur 'n oop en deursigtige konsultasieproses 'n grondwet bepaal vir die Adviesraad waarna in artikel 6 van hierdie Wet verwys word. 30
- (2) Die grondwet van die Adviesraad moet – 35
- (a) oor die algemeen voorsiening maak vir –
- (i) die samestelling van die Adviesraad; 40
- (ii) die kworum en vergadering van die Adviesraad; 40
- (iii) die prosedure vir die funksionering van die Adviesraad; 45
- (iv) interaksie met die Provinsiale Wetgewer, die Departement, munisipaliteite en die Departement van Handel en Nywerheid en provinsiale en nasionale statutêre liggame; en 45
- (v) enige ander kwessie wat nodig mag wees om die verrigtinge, aktiwiteite of besigheid van die Adviesraad moontlik te maak. 50
- (b) spesifiek van die Adviesraad vereis om die verantwoordelike Lid te adviseer oor –

- (i) strategieë om geïdentifiseerde markmislukkings aan te pak wat die sektor beïnvloed;
- (ii) die impak van huidige en nuwe wetgewing op klein sakeondernemings; 5
- (iii) nasionale standarde wat verband hou met kleinondernemingsont-wikkeling en -regulering;
- (iv) maatreëls om die skepping van fisieke ondernemingsinfrastruktuur deur lewensvatbare besigheidpersele te verseker; 10
- (v) die ontwikkeling van vaardighede in alle aspekte van die bedryf van 'n onderneming; 15
- (vi) stappe wat geneem moet word om toegang vir klein sakeondernemings tot die waardeketting te skep;
- (vii) beperkings wat die lewensvatbaarheid van die kleinsakeondernemings-gemeenskap strem; 20
- (viii) metodes om met die kleinsakeondernemingsgemeenskap te skakel om hulle behoeftes te identifiseer; 25
- (ix) metodes om die voorsiening van ondersteuningsdienste aan die kleinsake-ondernemingssektor te monitor en beïnvloed;
- (x) vasstelling van spesifieke verkrygings- en pragmatiese ondersteuning wat die regering en sy belangrikste kontrakteurs toelaat om – 30
 - (aa) aan te koop by groot groepe en groepe van plaaslike sakeondernemings met stelsels wat hulle koppel sodat hulle kan lewer asof hulle een groot sakeonderneming is; 35
 - (bb) sakeondernemings wat regeringskontrakte kry te verplig om 'n sekere persentasie van hulle aankopebesteding te bestee aan sakeondernemings of entrepreneurs en koöperasies wat deur burgers besit word; en 40
- (xi) enige ander saak wat die verantwoordelike Lid as toepaslik mag beskou. 45

HOOFSTUK 3

AANWYSING VAN DIE REGULEERDER EN DIE LISENSIËRINGSBEAMPTE

Vestiging van die Reguleringsgesagsliggaam en die aanwysing van die Reguleerder	5
8. Die bevoegdheid word hierdeur aan die verantwoordelike Lid verleen om die funksies van die Reguleringsgesagsliggaam binne die Departement te vestig en om enige beampste van die Departement op die vlak van Hoofdirekteur of Direkteur aan te wys as die Vrystaatse Reguleerder van Ondernemings en Lisensiëring.	10
Oogmerke van die Reguleerder	
9. (1) Die oogmerke van die Kantoor van die Reguleerder is om –	15
(a) te verseker dat alle persone, liggame en entiteite wat ondernemings binne die Provinsie bedryf –	
(i) die nodige ondernemingslisensie wat ingevolge hierdie Wet, regulasies en enige ander toepaslike wet of verordening uitgereik is, besit;	20
(ii) gelisensieerd en geregistreer is ingevolge hierdie Wet; en	25
(iii) nie onwettig handel dryf of onwettige aktiwiteite uitvoer nie.	
(b) te verseker dat alle ondernemings en persone gelisensieerd is, permitte het en geregistreer is en ingevolge hierdie Wet –	30
(i) hulself gedra op 'n wyse wat die integriteit van die ondernemingsnywerheid in die Provinsie bevorder;	
(ii) nie skade aan die publiek berokken nie;	35
(iii) nie betrokke raak by onwettige goedere of aktiwiteite nie; en	
(iv) nie die publiek doelbewus mislei nie.	
(c) die deelname van histories benadeelde individue in die hoofstroomekonomie te verseker;	40
(d) beperkende maatreëls in te stel met die regulering van ondernemings in die Provinsie;	
(e) 'n gestandaardiseerde regulerende raamwerk vir beide formele en informele handel in die Provinsie te voorsien;	45
(f) 'n bevorderlike omgewing vir die groei en ontwikkeling van formele en informele handelaars binne die Provinsie binne die hoofstroomekonomie te voorsien;	50

(g)	maatreëls te voorsien om ondernemingsontwikkeling en vaardigheidsoordrag in die Provinsie te bevorder;	
(h)	'n bevorderlike omgewing skep vir die interaksie en uitruil van idees onder en tussen –	5
(i)	formele en informele ondernemings; en	
(ii)	die provinsiale en plaaslike regerings binne die Provinsie.	10
(i)	'n regulatoriese raamwerk te voorsien wat wetlike voldoening bevorder en afdwing deur alle ondernemings wat binne die Provinsie handel dryf.	
Magte, pligte en funksies van die Reguleerder		15
10.	(1) Die Reguleerder moet deur die lisensieringsbeampte of aangewysde plaaslike lisensieringsowerhede –	
(a)	alle aansoeke ontvang, oorweeg en prosessee;	20
(b)	alle ondernemings wat binne die Provinsie handel dryf in die geoutomatiseerde ondernemingslisensierings- en inligtingbestuurstelsel registreer; en	25
(c)	sodanige ander magte, pligte en funksies uitoefen en uitvoer wat aan hom of haar deur enige ander wetgewing of verordening opgelê is.	
(2)	Die Reguleerder, in die uitoefening en uitvoering van sy of haar magte, pligte en funksies ingevolge subartikel (1)(a) –	30
(a)	moet bepaal –	
(i)	of enige voorwaardes of beperkings aan enige ondernemingslisensie geheg moet word;	35
(ii)	wat die omvang van die ondernemingslisensie is; en	
(iii)	wat die handelsure van ondernemingskategorieë is.	40
(b)	mag enige van die volgende wysig, vervang of ophef –	
(i)	voorwaardes of beperkings;	
(ii)	omvang van handelsure, soos in paragraaf (a) beoog word;	45
(c)	mag ingevolge voorgeskrewe kriteria vir 'n onbepaalde tydperk of sodanige tydperk soos deur hulle bepaal opskort of onttrek;	

- (d) mag veroorsaak dat enige onderneming werksaamhede staak tot tyd en wyl die Reguleerder tevrede is dat die onderneming voldoen aan alle minimum vereistes wat in die lisensie uiteengesit is;
- (e) moet, waar daar 'n verbreking van enige voorwaarde wat aan die ondernemingslisensie gestel is, die ondernemingslisensie terugtrek en kanselleer; 5
- (f) moet met die inspekteur in gesprek tree om enige ondersoeke te onderneem om die lewensvatbaarheid vas te stel van – 10
- (i) 'n aansoeker ten opsigte van 'n ondernemingslisensie; of
- (ii) 'n ondernemingsperseel ten opsigte van enige ondernemingslisensie-aansoek; 15
- (g) mag enige wetlike aksies instel teen –
- (i) enige gelisensieerde persoon; of 20
- (ii) enige ander persoon ten opsigte van enige oortreding van enige bepaling van hierdie Wet. 20
- (h) maak die aanstelling van die lisensieringsbeampte en inspekteurs ingevolge hierdie Wet moontlik; 25
- (i) verseker dat aangewysde bestuurders en/of assistentbestuurders gelisensieerd is, onderworpe aan 'n voorwaarde dat hulle ten alle tye gedurende besigheidsure by die besigheidperseel bly; 30
- (j) hou verhore, roep getuies op tot die bywoning van sodanige verhore en vereis die oorhandiging van enige boeke, rekords en enige ander dokumente wat, na die mening van die Reguleerder, gebruik is in verband met die Wet of wat 'n oortreding van die Wet sal blootlê; 35
- (k) verseker voldoening aan die bepalings van die Wet op die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000);
- (l) lisensieer en beheer ondernemingsaktiwiteite binne die Provinsie; 40
- (m) onderneem 'n ondersoek na die beweerde oortreding van die Wet en neem toepaslike aksie teen enige lisensiehouer, wat mag insluit –
- (i) die instel van 'n regsaksie sodanige gelisensieerde of persoon; 45
- (ii) die opskorting of kansellering van die lisensie; of
- (iii) die oplê van 'n boete of strafmaatreeël op sodanige lisensie of persoon, met die voorbehoud dat die bedrag van sodanige boete of strafmaatreeël nie die voorgeskrewe bedrag oorskry nie. 50

Aanwysing van Lisensiëringsbeamptes

11. (1) Die verantwoordelike Lid moet, in oorlegpleging met die Lid wat verantwoordelik is vir die Departement van Samewerkende Regering en die toepaslike munisipaliteite een van die senior amptenare met die benodigde vaardighede en ondervinding in ondernemingslisensiëring as 'n provinsiale lisensiëringsbeampte en 5 beamptes as lisensiëringsbeamptes binne die verskillende distriksmunisipaliteite aanstel. 5
- (2) Die lisensiëringsbeamptes moet, wanneer hulle hulle funksies en pligte ingevolge hierdie Wet uitvoer, bygestaan word deur beamptes en werknemers wat ingevolge die voorskrifte wat van toepassing is op die betrokke departemente en munisipaliteite aangestel is. 10
- (3) Die lisensiëringsbeampte mag enige van sy of haar pligte en funksies na enige amptenaar van die betrokke departement of munisipaliteit delegeer en die delegering deur die lisensiëringsbeampte – 15
- (a) moet op skrif gestel wees; 20
- (b) moet nie die lisensiëringsbeampte verhoed om daardie mag, plig of funksie uit te oefen of te onderneem nie; 25
- (c) mag enige tyd op skrif teruggetrek of gekanselleer word deur die lisensiëringsbeampte. 25
- (4) Wanneer die lisensiëringsbeampte om enige rede nie in staat is om enige van sy of haar pligte uit te voer nie mag die Departementshoof in oorlegpleging met die munisipale bestuurder van die toepaslike munisipaliteit 'n ander persoon vir 'n tydperk van nie langer as ses (6) maande nie aanstel totdat die beampte in staat is om daardie pligte te hervat. 30

Magte, pligte en funksies van die Lisensiëringsbeampte

12. (1) Die lisensiëringsbeampte moet – 35
- (a) ondersoek instel en die Reguleerder van 'n verslag voorsien oor enige aangeleentheid wat direk of indirek met die ondernemingsnywerheid binne die Provinsie verband hou; 40
- (b) 'n bepaling maak en aanbevelings doen oor enige voorwaardes of beperkings wat gevoeg moet word by die toestaan van ondernemingslisensies of onderhewig waaraan 'n ondernemingslisensie uitgereik mag word; 45
- (c) die aansoek ondersoek binne 'n redelike tyd vanaf die verstryking van die tydperk van een-en-twintig (21) dae waarna in artikel 20 verwys word om te bepaal of die aansoeker voldoen het aan die bepalings van artikel 20(3);

- (2) Waar daar nie aan sodanige bepalings voldoen is nie, 'n kennisgewing binne 'n redelike tyd aan die applikant uitreik om seker te maak dat daar binne veertien (14) dae wel daaraan voldoen word;
- (3) Indien die aansoeker in gebreke bly om aan die kennisgewing waarna in hierdie artikel verwys is te voldoen, moet die lisensiëringsbeampte 'n verslag voorberei en aanbeveling doen wat die besluit van die Reguleerder sal rig. 5

Kundige en ander hulp aan die Reguleerder

- 13.** (1) Die Gesagsliggaam mag sodanige kenners of ander persone as diensverskaffers aanstel om die Reguleerder en die lisensiëringsbeampte in die uitoefening en uitvoer van hulle magte, pligte en funksies by te staan. 10
- (2) Die kundiges of ander persone wat aangestel is ingevolge subartikel (1) mag enige vergadering van die Reguleerder bywoon maar mag nie by sodanige vergaderings stem nie. 15

Posisie van openbare vertroue

- 14.** Die Reguleerder en die lisensiëringsbeampte is in 'n posisie van openbare vertroue en mag nie – 20
- (a) enige donasie, vergoeding of enige ander voordeel van of namens enige persoon, of 'n gelisensieerde ingevolge hierdie Wet aanvaar nie; 25
- (b) deelneem aan enige besigheidsaktiwiteit wat in hierdie Wet in die Provinsie beoog word nie, behalwe met die uitvoer van sy of haar pligte; en
- (c) werk van 'n lisensiehouer of 'n aansoeker ingevolge hierdie Wet versoek of aanvaar binne 'n tydperk van een (1) jaar na die beëindiging van sy of haar aanstelling as 'n Reguleerder nie. 30

Vertroulikheid

- 15.** (1) Geen amptenaar van die Departement of enige ander persoon wat met die Reguleerder of die lisensiëringsbeampte geassosieer is ingevolge hierdie Wet, mag enige inligting, dokumente of rekords waartoe die Gesagsliggaam toegang het of wat aan hulle behoort bekendmaak nie, behalwe– 35
- (a) aan enige persoon wat dit benodig vir die uitvoer van sy of haar funksies ingevolge hierdie Wet, of enige ander toepaslike wet wat in die Republiek van Suid-Afrika toegepas word; of 40
- (b) aan enige ander persoon ingevolge 'n bevel van 'n bevoegde hof of ingevolge hierdie Wet. 45

- (2) Nieteenstaande die bepalings van subartikel (1), word die Reguleerder en/of Departement nie verbied om enige inligting of statistiek bekend te maak nie, indien sodanige inligting of statistiek nie verwys na of lig werp op die belange van 'n onderneming van enige aansoeker vir 'n lisensie ingevolge hierdie Wet, 'n lisensiehouer of enige ander persoon wat daarmee verbind is of persoon wat 'n voorlegging aan die Departement of Reguleerder gemaak het nie. 5

Administratiewe ondersteuning

16. Die Departement moet administratiewe ondersteuning aan die Kantoor van die Reguleerder verskaf. 10

HOOFSTUK 4

ONDERNEMINGSLISENSIËRING

DEEL 1

ALGEMEEN

Verpligte lisensiëring

17. (1) Geen persoon word toegelaat om 'n onderneming te bedryf wat in artikel 18 gelys word, in enige gebied binne die Provinsie nie, tensy – 25
- (a) daardie persoon 'n houer van 'n ondernemingslisensie is wat aan hom of haar uitgereik is ingevolge hierdie Wet; of
- (b) dit 'n onderneming is wat ingevolge subartikel (2)(b) van die toepassing van hierdie hoofstuk vrygestel is. 30
- (2) Die verantwoordelike Lid mag, deur 'n kennisgewing in die *Provinsiale Koerant* – 35
- (a) bylae 2 wysig;
- (b) sekere ondernemings vrystel van die toepassing van die bepalings van hierdie hoofstuk; en 40
- (c) die vrystelling van enige ondernemings soos beoog in subartikel 2(b) terugtrek.
- (3) Geen persoon of onderneming mag – 45
- (a) enige persoon in diens neem of 'n pos aanbied om enige ondernemingsaktiwiteit te bestuur, indien sodanige persoon onderworpe is aan 'n diskwalifikasie waarna in artikel 19 van hierdie Wet verwys word;

- (b) produkte verkoop wat skadelik vir verbruikers is of nie voldoen aan die toepaslike goedgekeurde gesondheid- en veiligheidstandaarde nie.

(4) Enige persoon of onderneming wat – 5

- (a) subartikel (1) of (3) oortree;

(b) enige besigheid doen met gebruikmaking van 'n ondernemingslisensie wat aan 'n ander persoon uitgereik is; 10

(c) enige persoon toelaat om besigheid te doen met gebruikmaking van 'n ondernemingslisensie wat aan 'n ander gelisensieerde persoon uitgereik is; of 15

(d) in diens is as 'n bestuurder of assistent bestuurder en nie in besit is van 'n bestuurderspermit nie,

is skuldige aan 'n oortreding ingevolge hierdie Wet.

20

Kategorieë lisensies

18. (1) 'n Aansoek om 'n ondernemingslisensie ingevolge hierdie Wet mag gedoen word ten opsigte van die volgende kategorieë –

25

DEEL A

(a) 'n lisensie vir die verkoop van verbruiksartikels –

(i) 'n kleinhandelwinkel; 30

(ii) 'n kruidenierslisensie;

(iii) 'n spaza-winkel;

35

(iv) 'n hardewarewinkel;

(v) verhuring van tente en bykomstighede daarvoor;

(vi) motorwerktuigkundige dienste; 40

(vii) paneelklopper;

(viii) 'n boekwinkel;

45

(ix) handelaar van kantoortoerusting en data-stelsels;

(x) handelaar of versamelaar van glas en glasware;

(xi)	handelaar van meubels en huishoudelike toerusting;	
(xii)	wasgoeddienste en droogskoonmakery;	
(xiii)	schoenmaker en schoenhersteller;	5
(xiv)	bakkery;	
(xv)	slaghuis;	10
(xvi)	akkommodasieverskaffers;	
(xvii)	restaurant.	
(b)	'n lisensie vir die verkoop van enige skoonheids- of lewensstyldienste –	15
(i)	'n skoonheidsalonsiensie;	
(ii)	'n haarsalonsiensie;	20
(iii)	'n behandeling-spa-lisensie;	
(iv)	'n gimnasiumlisensie; of	25
(v)	'n barbierlisensie.	

DEEL B

(a)	'n lisensie vir die verkoop van enige lewensstyl- en sportontspanningsdienste wat op die ondernemingsperseel gelewer word –	30
(i)	'n videospelletjie-arkadelisensie;	35
(ii)	'n videoverhuringwinkel;	
(iii)	'n platewinkel of handelaar in musiek.	

DEEL C

(a)	'n lisensie vir die verkoop van enige volwasse vermaaklikheidsdienste –	40
(i)	'n masseringssalon;	45
(ii)	'n gesellinagentskap;	
(iii)	'n ontkleedansklublisensie.	

DEEL D

- (a) 'n lisensie vir bestuurders of assistentbestuurders.
- (2) Die bepalings van subartikel (1) is nie van toepassing op 'n gelisensieerde persoon ingevolge enige toepaslike wetgewing nie. 5
- (3) Daar sal geen perk op die getal lisensies vir enige persoon wees nie, behalwe as daar voorwaardes afgedwing word vir 'n afgebakende of gesoneerde besighedsgebied wat deur die Staat vir ondernemingsontwikkeling beskikbaar gestel is. 10

Diskwalifisering

19. (1) 'n Lisensie mag nie aan 'n persoon uitgereik word nie as hy of sy – 15
- (a) 'n minderjarige is;
- (b) 'n onwettige immigrant is; 20
- (c) onder kuratorskap is;
- (d) geestesongesteld is of deur 'n bevoegde hof as geestesongesteld verklaar is; 25
- (e) skuldig bevind is en gevonnissen is tot gevangenisstraf sonder die opsie van 'n boete, behalwe waar sodanige diskwalifisering onmiddellik eindig by die verstryking van die gevangenisstraf; of
- (f) sy of haar ondernemingslisensie laat kanselleer het ingevolge hierdie Wet, afhankelijk daarvan dat hierdie diskwalifisering beëindig word – 30
- (i) na drie jaar vanaf die datum van die kansellering van 'n lisensie; of 35
- (ii) op sodanige ander datum wat deur die Gesagsliggaam bepaal is.
- (iii) skuldig bevind is aan 'n oortreding ingevolge hierdie Wet, onderhewig daaraan dat daardie diskwalifisering na drie (3) maande vanaf die datum van skuldigbevinding eindig. 40
- (2) Daar mag nie 'n besighedslisensie aan enige maatskappy, beslote korporasie, vereniging, vennootskap of trust uitgereik word nie indien 'n persoon wat gediskwalifiseer is ingevolge subartikel (1) – 45
- (a) 'n beherende belang in daardie maatskappy, beslote korporasie, vereniging of trust het;
- (b) 'n vennoot is in daardie vennootskap; of 50

- (c) die grootste begunstigde in daardie trust is.

DEEL 2

LISENSIËRINGSPROSEDURE

5

Aansoek

20. (1) Enige persoon wat wil aansoek doen vir 'n ondernemingslisensie ten opsigte van die kategorieë wat in artikel 18 gelys is, moet – 10
- (a) 'n aansoek inhandig by die toepaslike lisensiëringsbeampte deur gebruik te maak van die voorgeskrewe vorm op enige weeksdag, behalwe naweke en openbare vakansie dae; en 15
- (b) die voorgeskrewe aansoekgelde betaal.
- (2) Die aansoek moet die volgende insluit en vergesel wees van –
- (a) 'n beskrywing van die ligging van die perseel volgens identifiseerbare landmerke; 20
- (b) 'n gesertifiseerde afskrif van 'n identiteitsdokument van die aansoeker, of indien dit 'n maatskappy of beslote korporasie is, die registrasienommer daarvan; 25
- (c) met betrekking tot die perseel waarvoor daar 'n lisensie benodig word, die besonderhede met betrekking tot die perseel, insluitend 'n plan van die perseel; 30
- (d) 'n belastingklaringsertifikaat wat uitgereik is deur die Suid-Afrikaanse Inkomstediens wat aandui of die aansoeker geregistreer is as 'n belastingbetaler; 35
- (e) bewys van die wettige beset van die perseel, in die vorm van 'n titelakte of 'n huurooreenkoms in die naam van die aansoeker of toestemming om die perseel te beset wat ten gunste van die aansoeker deur die toepaste gesagsliggaam uitgereik is, waar van toepassing; 40
- (f) 'n geskrewe toestemming van die eienaar van die perseel of die toepaslike gesagsliggaam vir die aansoeker om die beplande onderneming te bedryf vanuit die betrokke perseel, waar van toepassing; en 45
- (g) sekerheidsklaring uitgereik deur die Suid-Afrikaanse Polisie diens.
- (3) 'n Lisensiëringsbeampte moet binne veertien (14) dae vanaf ontvangs van die aansoek wat ingehandig is ingevolge subartikel (1) –
- (a) skriftelik ontvangs van die aansoek erken;

- (b) die aansoek ondersoek ten einde vas te stel of dit volledig is, en waar die aansoek nie volledig is nie, 'n kennisgewing in die voorgeskrewe formaat uitreik waarin 'n oproep aan die aansoeker gedoen word om die onvolledige aansoek aan te vul of reg te stel, binne 'n tydperk van een-en-twintig (21) dae na die versending van die kennisgewing. 5

Openbare inspeksie van die aansoek

21. (1) Enige aansoek wat ingevolge artikel 20(1) ingehandig is, moet – 10
- (a) by die verval van die tydperke wat in artikel 20(3) beoog word; en
- (b) onderhewig aan subartikel (3), oopgestel word vir openbare inspeksie deur belangstellende persone – 15
- (i) in die kantore van die toepaslike plaaslike lisensiëringsgesagsliggaam deur belangstellende persone, en;
- (ii) vir 'n tydperk van tien (10) dae. 20
- (2) Enige persoon wat graag 'n afskrif van die aansoek wil bekom, moet 'n voorgeskrewe fooi aan die Reguleerder betaal, waar daar so 'n fooi gehef word.
- (3) 'n Lisensiëringsbeampte mag – 25
- (a) by ontvangs van die aansoek van die aansoeker op die voorgeskrewe wyse; of
- (b) op sy of haar eie inisiatief, bepaal dat enige deel van die aansoek, onderhewig aan die bepalings van hoofstuk 4 van die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 of 2000), nie oop mag wees vir openbare inspeksie soos in subartikel (1) en (2) beoog word nie. 30
- 35

Besware en voorleggings teen die aansoek

22. (1) Enige persoon wat enige beswaar teen die aansoek wil inhandig soos in artikel 20 beoog word, moet dit doen deur geskrewe voorleggings te doen binne vyf (5) dae na die verstryking van die inspeksie tydperk wat in artikel 21(1)(b)(ii) beoog word, op die wyse wat voorgeskryf word. 40
- (2) Indien by die verstryking van die tydperk wat in subartikel (1) beoog word, enige besware en voorleggings ontvang is, moet 'n lisensiëringsbeampte – 45
- (a) die aansoeker onmiddellik voorsien van 'n afskrif van enige beswaar en skriftelike voorlegging wat ingevolge subartikel (1) ingehandig is; en

- (b) die aansoeker uitnoui om binne vyf (5) dae, sy of haar antwoord op die kwessies wat geopper is in die beswaar en skriftelike voorleggings wat in subartikel (1) beoog word, skriftelik in te dien.
- (3) Die persoon wat beswaar of voorleggings maak, moet – 5
- (a) 'n afskrif daarvan op die Reguleerder en die aansoeker of sy of haar verteenwoordiger bedien; en
- (b) bewys van die bediening op die aansoeker aan die Reguleerder oorhandig. 10
- (4) Die persoon wat voorleggings of besware maak, moet die volgende uiteensit – 15
- (a) sy of haar volle name en adres;
- (b) sy of haar identiteitsnommer of, in die geval van 'n maatskappy of beslote korporasie, die registrasienommer daarvan; 20
- (c) indien van toepassing, die naam en adres van sy of haar verteenwoordiger;
- (d) die aard van sy of haar belang in die weiering van die aansoek; en 25
- (e) omvattende gronde vir die beswaar teen die aansoek.
- (5) Die aansoeker mag, binne sewe (7) dae van ontvangs van 'n beswaar of voorlegging, 'n geskrewe antwoord by die Reguleerder inhandig. 30

Beswaarverhore

23. (1) Waar die Reguleerder besware of voorleggings ten opsigte van 'n aansoek ontvang het, moet die Reguleerder, voor die oorweging van 'n aansoek, 'n beswaarverhoor hou. 35
- (2) Die Reguleerder moet –
- (a) die datum, tyd en plek van die verhoor bepaal; en 40
- (b) die partye wat belangstel in kennis stel van die besonderhede van die beswaarverhoor.
- (3) By die verhoor wat in subartikel (1) beoog word – 45
- (a) mag enige belangstellende persoon hulle besware voorlê gegrond op geskrewe voorleggings en die aansoeker moet 'n geleentheid gegee word om te reageer op die beswaar;
- (b) die aansoeker en elke sodanige persoon mag bygestaan of verteenwoordig word deur enige persoon van sy of haar keuse.

- (4) Die Reguleerder mag kommunikeer met die doel om enige aangeleentheid voor hulle te hanteer tydens 'n beswaarverhoor –
- (a) deur 'n geskrewe kennisgewing wat per hand afgelewer is, per e-pos of pos van enige persoon te vereis om voor hulle te verskyn om getuienis te lewer of om enige boek, plan of ander dokument of artikel in sy of haar besit of onder sy of haar beheer te toon; 5
 - (b) deur 'n oproep op enige persoon wat teenwoordig is binne of by die plek waar sodanige saak deur die Reguleerder gehanteer word te doen om voor hulle te verskyn om getuienis te lewer of om enige boek, plan of dokument of artikel wat sodanige persoon op daardie tydstip in sy of haar besit mag hê, te toon; 10
 - (c) enige persoon ondervra wat voor hulle verskyn; 15
 - (d) weier om 'n persoon aan te hoor wat voor hulle verskyn wat weier om ingesweer te word of om 'n plegtige verklaring af te lê; en
 - (e) en nie enige saak aanhoor wat onbenullig of kwelsugtig is, of waarvoor hulle nie die gesag het om aan te hoor nie, waarvoor in hierdie Wet voor voorsiening gemaak word. 20
- (5) 'n Beswaarverhoor moet – 25
- (a) op die voorgeskrewe wyse gehou word; en
 - (b) oop wees vir die publiek, tensy die Reguleerder beslis het dat die verhoor privaat gehou moet word ingevolge subartikel (6)(b). 30
- (6) Die Reguleerder mag opdrag gee dat –
- (a) enige persoon wat die goeie orde van die verhoor ontwrig, die verhoor moet verlaat; en 35
 - (b) die beswaarverhoor privaat gehou moet word indien die Reguleerder dit nodig ag.
- (7) Die Reguleerder of sy of haar afgevaardigde wat die voorsitter is van die beswaarverhoor waartydens 'n persoon as 'n getuie verskyn, moet toesien dat 'n eed of plegtige verklaring deur die getuie of getuies afgelê word. 40
- (8) Indien die Reguleerder nie 'n kommissaris van ede is nie, mag hy of sy bygestaan word deur enige persoon wat 'n kommissaris van ede is ingevolge die Wet op Vrederegters en Kommissarisse van Ede, 1963 Wet No. 16 van 1963). 45

Oorweging van aansoeke deur die Reguleerder

24. (1) Die Reguleerder moet binne veertien (14) dae van die afhandeling van die verhoor, die aansoek oorweeg en die aansoeker in kennis stel. 50

- (2) Met die oorweging van 'n aansoek, moet die Reguleerder die volgende oorweeg –
- (a) alle dokumente en voorleggings wat deur die aansoeker ingehandig is ingevolge artikel 20(2) en deur die beswaarmaker ingevolge artikel 22; 5
 - (b) alle verslae wat deur die inspekteur ingehandig is, onderhewig aan die inspeksie van persele; 10
 - (c) die inspekteur se verslae soos in artikel 38(5) van hierdie Wet beoog word;
 - (d) die geskiktheid van die persele vir die voorgestelde onderneming met betrekking tot – 15
 - (i) grondgebruiksbestuur;
 - (ii) omgewingsgesondheid; 20
 - (iii) brande en veiligheid;
 - (iv) omgewingsbestuur;
 - (v) boubesluit; 25
 - (vi) wetstoepassing; en
 - (vii) enige ander kriteria. 30
 - (e) of die aansoek teenstrydig is met die bepalings van hierdie Wet of enige ander wet;
 - (f) of die aansoek bydra tot die oogmerke van die Wet soos in artikel 2 van hierdie Wet beoog word; 35
 - (g) enige kwessie van openbare belang.
- (3) Die Reguleerder mag, indien nodig geag en onderhewig aan die tydraamwerk soos in artikel (1) beoog word – 40
- (a) 'n inspeksie van die perseel uitvoer;
 - (b) die dienste van kundiges of diensverskaffers gebruik om sodanige verdere ondersoek te onderneem as wat nodig is om die Reguleerder by te staan om die aansoek te oorweeg; en 45
 - (c) 'n verhoor hou, in welke geval die bepalings van artikel 24 van toepassing sal wees, met die nodige veranderinge.

- (4) Nadat 'n aansoek oorweeg is, mag die Reguleerder –
- (a) die aansoek toestaan, onderhewig aan –
 - (i) sodanige bepalings en voorwaardes as wat geskik geag word; 5
 - (ii) sodanige handelsdae en -ure soos wat hy of sy mag bepaal, in oorlegpleging met die toepaslike munisipaliteit; en
 - (iii) met betrekking tot persele wat nog nie voltooi is nie of wat strukturele veranderinge vereis om die perseel geskik te maak, sodanige voorwaardes wat verband hou met die voltooiing of verandering van die persele soos die Reguleerder geskik mag vind, binne 'n aangeduide tydskema; of 10
15
 - (b) die aansoek weier;
 - (c) 'n beswaar handhaaf of weier soos wat in klousule 22(1) beoog word; 20
 - (d) die saak uitstel na 'n latere datum, indien die omstandighede dit so noodsaak.
- (5) Voordat 'n aansoek toegestaan word, moet die Reguleerder hulself tevrede stel dat – 25
- (a) die aansoeker nie gediskwalifiseerd is om 'n lisensie te hou nie, ingevolge hierdie Wet; 30
 - (b) die persele waarop die onderneming bedryf gaan word na voltooiing geskik sal wees vir die gebruik deur die aansoeker vir die doel van die lisensie; en
 - (c) die gebruik van die voorgestelde persele vir die voorgestelde aktiwiteit nie teenstrydig sal wees met die bestaande soneringswette of grondgebruiksregte nie. 35
- (6) Met bepaling of die aansoek in openbare belang sal wees soos in subartikel (5) (a) beoog word, moet die Reguleerder, sonder om afbreuk te doen aan die algemeenheid daarvan, die omvang waartoe die voorgestelde lisensie sal bydra tot, of afbreek doen aan die bereiking van die oogmerke van die Wet, insluitend die mate waartoe die voorgestelde lisensie 'n impak het of waarskynlik sal hê op die sosio-ekonomiese regte van die samelewing, oorweeg, insluitend die voorkoms van misdaad. 40
45

Kommunikering van die besluit

25. (1) Binne 'n tydperk van sewe (7) dae nadat die Reguleerder 'n besluit oor 'n aansoek geneem het moet die lisensieringsbeampte die besluit op skrif kommunikeer – 50

- (a) aan die aansoeker en, waar die aansoek toegestaan is onderhewig aan voorwaardes of indien dit geweier is, redes verskaf vir die besluit;
- (b) aan enige persoon wat beswaar aangeteken het of skriftelike voorleggings gemaak het, waar die aansoek toegestaan is; en 5
- (c) in die geval wat die aansoek of beswaar geweier is, moet die volgende by enige besluit ingesluit wees –
 - (i) geskrewe redes vir die besluit; 10
 - (ii) advies oor die reg om te appelleer of die besluit van die Reguleerder te hersien; en
 - (iii) die besonderhede van die Appèlgesagsliggaam. 15
- (2) Die Reguleerder moet gelyktydig die aansoeker inlig dat die lisensie uitgereik sal word na betaling van die voorgeskrewe gelde. 20

DEEL 3

20

BEPALINGS WAT OP LISENSIEHOERS VAN TOEPASSING IS

Geldigheid van 'n lisensie

25

26. (1) Enige gelisensieerde onderneming waarvan die lisensie ingevolge hierdie Wet uitgereik is, is geldig vir 'n tydperk van drie (3) jaar. 25
- (2) Die lisensie van enige gelisensieerde persoon of perseel word van krag op die datum waarop die ondernemingslisensiesertifikaat uitgereik word en bly van krag totdat – 30
- (a) die lisensie gekanselleer word ingevolge hierdie Wet;
 - (b) dit verval het; of 35
 - (c) die gelisensieerde persoon –
 - (i) afgesterf het; 40
 - (ii) gesekwestreer of die boedel afgehandel is;
 - (iii) ontbind is of die registrasie teruggetrek is; of
 - (iv) nie langer handel dryf nie. 45

Hernuwing van 'n lisensie

27. (1) 'n Lisensie, onderhewig aan die bepalings van hierdie Wet en die voorwaardes waaronder dit toegestaan is, bly van krag tot op die datum van hernuwing. 50

- (2) Dit is die verantwoordelikheid van die gelisensieerde om 'n lisensie te hernu by die Reguleerder deur die voorgeskrewe lisensiegelde te betaal voor die datum waarop die lisensie hernubaar word.
- (3) Indien 'n gelisensieerde nie daarin slaag om sy of haar lisensie teen die hernuwingsdatum te hernu nie, verval die lisensie en moet die gelisensieerde – 5
- (a) die aktiwiteite staak wat deur die lisensie gemagtig is; en 10
- (b) as hy of sy dit so verkies, aansoek doen by die Reguleerder vir 'n nuwe lisensie in ooreenstemming met die bepalings van hierdie Wet, in welke geval al die bepalings van hierdie Wet wat verband hou met 'n aansoek vir 'n nuwe lisensie, met die nodige wysigings van toepassing is. 15

Opskorting van 'n lisensie

28. (1) Die Reguleerder mag te enige tyd en nadat daar aan die betrokke gelisensieerde 'n geleentheid gegun is om aangehoor te word, enige lisensie vir sodanige tydperk soos wat die Reguleerder bepaal, opskort indien – 20
- (a) enige inligting wat aan die Reguleerder gegee is gedurende 'n beswaar soos waarvoor in artikel 23 voorsiening gemaak word, of enige inligting wat vervat is in enige aansoek wat deur die gelisensieerde vir die doel van die verkryging van 'n lisensie, 'n aanpassing van enige bepaling of voorwaarde wat aan 'n lisensie geheg is, die hernuwing of oordrag van 'n lisensie, of vir die verwydering van die betrokke onderneming na 'n ander gelisensieerde perseel ingehandig is, ten tyde van die inhandiging daarvan valse inligting in enige wesentlike opsig was, of onderhewig was aan enige wesentlike weglating met die bedoeling om die Reguleerder te mislei; 25
- (b) die gelisensieerde gediskwalifiseer is om 'n houder van 'n lisensie ingevolge hierdie Wet te wees; 35
- (c) die gelisensieerde, 'n werknemer van sodanige gelisensieerde, of enige ander persoon wat namens hom of haar optree nie daarin geslaag het nie om te voldoen aan enige bepaling of voorwaarde van die lisensie, of enige bepaling van hierdie Wet, of nie voldoen het aan sodanige bepaling of voorwaarde binne 30 dae of sodanige verdere tydperk soos wat die Reguleerder skriftelik mag toelaat, na die aflewering van 'n skriftelike kennisgewing deur die Reguleerder aan die gelisensieerde wat vereis dat sodanige versuim reggestel word; of 40
- (d) die gelisensieerde, sonder die vooraf skriftelike toestemming van die Reguleerder, vir 'n tydperk van 12 opeenvolgende maande versuim het om die ondernemingsaktiwiteite uit te voer wat deur sy of haar lisensie gemagtig is. 50

- (2) Die Reguleerder mag, hangende 'n ondersoek soos wat in subartikel (1) beoog word, onmiddellik die lisensie van enige gelisensieerde opskort vir 'n wesentlike oortreding van enige bepaling van hierdie Wet, 'n voorwaarde van 'n lisensie of van die reëls. 5
- (3) Die Reguleerder mag te enige tyd enige bevel of opskorting wat uitgereik is ingevolge subartikel (1) ophef, indien die redes vir sodanige opskorting tot die bevrediging van die Reguleerder reggestel is.
- (4) Wanneer 'n lisensie opgeskort word ingevolge subartikel (1) – 10
- (a) moet die Reguleerder onmiddellik die gelisensieerde skriftelik in kennis stel van sodanige opskorting en van die redes vir die opskorting; en
- (b) het die gelisensieerde geen eis vir 'n terugbetaling van enige lisensiegelde wat betaal is of enige gedeelte daarvan nie. 15

Kansellering van 'n lisensie

29. (1) Wanneer die Departement van mening is dat voldoende gronde bestaan vir die kansellering van 'n lisensie, moet hulle 'n skriftelike kennisgewing op die gelisensieerde bedien wat – 20
- (a) die gelisensieerde in kennis moet stel dat die Departement voorstel om die kansellering van die betrokke lisensie te oorweeg; 25
- (b) die rede of gronde vir kansellering duidelik moet uiteensit;
- (c) die gelisensieerde moet uitnoui om binne 30 dae na die datum van die geskrewe kennisgewing – 30
- (i) geskrewe voorleggings aan die Reguleerder te maak; of
- (ii) die Reguleerder skriftelik in kennis te stel dat hy of sy van voorneme is om mondelinge voorleggings aan die Reguleerder te maak; en 35
- (iii) dit duidelik moet stel dat indien die gelisensieerde sou versuim om te reageer op die skriftelike kennisgewing op die wyse wat in paragraaf (c) beoog word, die Reguleerder 'n besluit sal neem of die betrokke lisensie gekanselleer moet word. 40
- (2) Waar skriftelike voorleggings aan die Reguleerder deur die lisensiehouer gemaak word, moet die Reguleerder – 45
- (a) by sodanige voorlegging oorweeg of die lisensie gekanselleer moet word, al dan nie; of
- (b) sodanige besluit neem soos wat geregverdig mag word deur die inligting wat tot hulle beskikking is en die skriftelike voorleggings wat ontvang is. 50

- (3) Wanneer 'n gelisensieerde die Reguleerder in kennis stel dat hy of sy van voorneme is om mondelinge voorleggings aan hulle te maak, moet die Reguleerder 'n datum, tyd en plek vir die verhoor vasstel en die betrokke gelisensieerde skriftelik in kennis stel. 5
- (4) Die gelisensieerde mag tydens 'n verhoor bygestaan of verteenwoordig word deur enige persoon van sy of haar keuse.
- (5) Die Reguleerder moet na die verhoor, in die geval van enige lisensie, 'n besluit neem of die betrokke lisensie gekanselleer moet word, al dan nie. 10
- (6) Die Reguleerder moet skriftelik aan die gelisensieerde oordra –
- (a) wat die toepaslike besluit van die Reguleerder is; en 15
- (b) wat die redes vir die genoemde besluit is.
- (7) 'n Lisensie moet onmiddellik gekanselleer word indien die gelisensieerde of enige persoon wat in beheer van die gelisensieerde is, skuldig bevind is aan 'n oortreding ingevolge hierdie Wet. 20
- (8) 'n Gelisensieerde mag op die voorgeskrewe wyse aansoek doen vir die kansellering van 'n lisensie na betaling van die voorgeskrewe gelde.

Prysgawe van 'n lisensie en die voorwaardes wat daaraan opgelê word 25

30. Die Reguleerder mag, volgens sy of haar diskresie en onderhewig aan hierdie Wet, enige voorwaardes vir die prysgawe van 'n lisensie oplê.

Oordrag van 'n lisensie 30

31. (1) 'n Gelisensieerde mag te enige tyd aansoek doen by die Reguleerder dat sy of haar lisensie oorgedra moet word na 'n ander persoon met dien verstande dat die persoon nie gediskwalifiseer is ingevolge artikel 19 van hierdie Wet nie. 35
- (2) 'n Gelisensieerde wat ingevolge subartikel (1) aansoek doen moet die oorspronklike lisensie by die Reguleerder inhandig in ooreenstemming met die voorgeskrewe wyse en na die betaling van 'n voorgeskrewe fooi. 40
- (3) Wanneer 'n aansoek toegestaan word, moet die Reguleerder verseker dat die naam van die gelisensieerde behoorlik verander word op die lisensie en op die stelsels van die Reguleerder.

Afsterwe van 'n gelisensieerde 45

32. In die geval van die afsterwe van 'n gelisensieerde moet enige lisensie wat deur daardie persoon gehou is ingevolge die bepalings van die Boedelwet, 1965 (Wet No. 66 van 1965) hanteer word.

Hervestiging van ondernemingsbedrywighede

33. (1) Enige gelisensieerde persoon wat van voorneme is om sy of haar lisensie van 'n gelisensieerde perseel na 'n ander perseel te skuif, moet 'n aansoek by die Reguleerder inhandig in die voorgeskrewe formaat. 5
- (2) Die aansoek vir die verwydering van 'n ondernemingslisensie na 'n ander perseel moet geprosesseer word ingevolge die bepalings van artikel 20, 21, 23, 24, 25 en 26 van hierdie Wet. 10
- (3) Die Reguleerder moet 'n sertifikaat van hervestiging, soos voorgeskryf, uitreik nadat –
- (a) hy of sy die aansoek vir die hervestiging van 'n lisensie toegestaan het; en 15
- (b) die gelisensieerde persoon die voorgeskrewe hervestigingsfooï betaal het.
- (4) Die hervestigingssertifikaat moet – 20
- (a) die naam van die voorgestelde perseel weerspieël; en
- (b) voorwaardes bevat wat deur die Reguleerder ingestel mag word. 25

Bestuur van ondernemings

34. (1) 'n Gelisensieerde mag enige natuurlike persoon as 'n bestuurder en/of assistentbestuurder van die gelisensieerde onderneming aanstel. 30
- (2) Die bestuurder wat in subartikel (1) beoog word, moet –
- (a) in besit wees van 'n bestuurderspermit wat uitgereik ingevolge subartikel (3); en 35
- (b) nie gediskwalifiseer wees ingevolge artikel 19 nie.
- (3) Enige gelisensieerde wat 'n bestuurder vir enige gelisensieerde onderneming wil aanstel, moet 'n aansoek vir 'n bestuurderspermit by die Reguleerder in 'n voorgeskrewe formaat inhandig. 40
- (4) Die Reguleerder moet die aansoek vir 'n bestuurderspermit en/of assistentbestuurderspermit wat ingevolge subartikel 3 ingehandig is, prosesseer op die wyse en binne die tydraamwerk, soos voorgeskryf. 45
- (5) Indien die aansoek soos in subklousule (3) beoog word, toegestaan is, moet die lisensieringsbeampte, by ontvangs van die betaling van die voorgeskrewe bestuurderspermit en/of assistentbestuurderspermit se gelde, die betrokke permit uitreik.

DEEL 4

LISENSIËRINGSGELDE

Aansoek- en hernuwingsgelde	5
35. (1) Die verantwoordelike Lid moet, in oorlegpleging met die LUR vir Finansies op 'n voorgeskrewe wyse en deur kennisgewing in die <i>Provinsiale Koerant</i> die standaardtariewe bepaal wat van toepassing moet wees op ondernemingslisensies ingevolge hierdie Wet vir –	10
(a) aansoekgelde, soos in artikel 20 beoog;	
(b) hernuwingsgelde, soos in artikel 27 beoog;	15
(c) kanselleringsgelde, soos in artikel 29 beoog;	
(d) oordraggelde, soos in artikel 31 beoog;	
(e) hervestigingsgelde, soos in artikel 33 beoog;	20
(f) bestuurderspermitgelde, soos in artikel 34 beoog; en	
(g) assistentbestuurderspermitgelde, soos in artikel 34 beoog.	25
(2) Die verantwoordelike Lid mag, deur kennisgewing in die <i>Provinsiale Koerant</i> die raamwerk vir die bepaling van tariewe bepaal soos wat in subartikel (1) beoog word, gegrond op die grootte en ligging van die onderneming.	
(3) Die verantwoordelike Lid moet, in oorlegpleging met die LUR wat verantwoordelik is vir Finansies, deur middel van 'n kennisgewing in die <i>Staatskoerant</i> en op 'n jaarlikse basis in die <i>Provinsiale Koerant</i> tariewe hersien en publiseer soos in subartikel (1) beoog word.	30

HOOFSTUK 5 35

VOLDOENING EN AFDWINGING

Aanstelling van inspekteurs	40
36. (1) Die verantwoordelike Lid mag 'n beamppte binne die staatsdiens as 'n inspekteur aanstel vir die doeleindes van hierdie Wet.	
(2) 'n Inspekteur moet by aanstelling voorsien word van 'n aanstellingsertifikaat in die voorgeskrewe formaat wat deur die verantwoordelike Lid geteken is.	45
(3) 'n Inspekteur moet, wanneer ook al 'n funksie uitgevoer word of 'n bevoegdheid uitgeoefen word ingevolge hierdie Wet, sodanige aanstellingsertifikaat in sy of haar besit hê en dit beskikbaar stel wanneer hulle ook al versoek word om dit te doen deur enige persoon wat geraak word deur die aksies van die betrokke inspekteur.	50

- (4) Die gedrag van inspekteurs soos in artikel 38 beoog word, is onderhewig aan die gedragskode vir inspekteurs wat uitgereik word deur die verantwoordelike Lid ingevolge artikel 40(3)(c) van hierdie Wet.

Posisie van openbare vertroue

5

37. 'n Inspekteur is in 'n posisie van openbare vertroue en mag nie –

- (a) enige donasie, beloning of ander voordeel aanvaar van of namens enige persoon, 'n gelisensieerde of 'n registrant ingevolge hierdie Wet, of van enige ander persoon wat geassosieer is met 'n aktiwiteit. Verder mag geen sodanige gelisensieerde of persoon aandui, aanbied of voorgee dat hy of sy gewillig is om enige donasie, beloning of enige ander voordeel aan te bied of te gee nie; 10

- (b) deelneem aan enige sake-aktiwiteit wat in hierdie Wet in die Provinsie in die vooruitsig gestel word, behalwe in die uitvoer van sy of haar pligte; en 15

- (c) 'n werkseleentheid vra of aanvaar van 'n gelisensieerde of 'n aansoeker om 'n lisensie ingevolge hierdie Wet binne een jaar na die beëindiging van sy of haar aanstelling as 'n inspekteur met dien verstande dat 'n inspekteur sodanige indiensneming mag vra en aanvaar binne sodanige tydperk, as – 20

- (i) die Departement skriftelik daartoe ingestem het, nadat hulle hulself vergewis het dat – 25

(aa) uitsonderlike omstandighede bestaan; en

(bb) sodanige indiensneming nie die doelwit van hierdie Wet sal teenwerk nie; en 30

- (ii) die verantwoordelike Lid met die Reguleerder saamgestem het.

Funksies en magte van inspekteurs

35

38. (1) 'n Inspekteur mag te enige tyd 'n perseel betree om –

- (a) 'n voldoeningskennisgewing uit te reik en toepaslike aanbevelings aan die Reguleerder te doen; 40

- (b) enige klagte wat na die Reguleerder verwys is te ondersoek;

- (c) die gelisensieerde of enige persoon wat deur die inspekteur geag is as in beheer van die perseel te wees op daardie stadium te ondervra oor enige inskrywings in sodanige boeke, rekeninge, rekords en dokumente of enige inligting te versoek oor enige ondernemingstoerusting; 45

- (d) van enige gelisensieerde die beskikbaarstelling van enige boeke, dokumente of rekords of state wat verband hou met die gelisensieerde besigheid te eis; en 50

- (e) die gelisensieerde perseel te inspekteer en voldoening aan die voorwaardes wat daaraan geheg is, te oorweeg.
- (2) 'n Inspekteur mag te enige tyd en sonder vooraf kennisgewing of toestemming enige gelisensieerde perseel betree en vertoef en mag enige perseel betree as hy of sy redelike vermoede het dat enige onderneming op sodanige perseel bedryf word en die eienaar van die onderneming of die bestuurder of werknemer van die onderneming versoek om die volgende te toon –
- (a) 'n ondernemingslisensie soos wat in artikel 20 beoog word;
- (b) 'n bestuurderspermit soos wat in artikel 34 beoog word;
- (c) 'n informele handelspermit uitgereik ingevolge die Wet op Besighede; of
- (d) 'n permit vir 'n assistentbestuurder soos wat in artikel 34 beoog word.
- (3) Waar 'n inspekteur rede het om te glo dat 'n bepaling van hierdie Wet of die voorwaardes wat aan 'n lisensie gekoppel is, oortree is, moet hy of sy binne veertien (14) dae die aangeleentheid ondersoek op die wyse wat in hierdie artikel beoog word en moet hy of sy onverwyld 'n verslag oor die bevindinge van sodanige ondersoek aan die Reguleerder verskaf.
- (4) 'n Persoon pleeg 'n misdryf as hy of sy –
- (a) 'n inspekteur of 'n lid van die Suid-Afrikaanse Polisie diens wat sodanige inspekteur vergesel in die uitvoer van hul funksies onder hierdie artikel belemmer of verhinder;
- (b) gevra word om 'n verduideliking of inligting aan 'n inspekteur te gee, en dan 'n verduideliking of inligting gee wat vals of misleidend is, wetend dat dit vals of misleidend is; of
- (c) homself of haarself valslik aan 'n inspekteur voordoen.
- (5) 'n Inspekteur mag 'n inspeksie uitvoer en 'n verslag opstel ten opsigte van enige –
- (a) gelisensieerde of 'n perseel met 'n permit om voldoening aan hierdie Wet of enige ander wetgewing te monitor en af te dwing;
- (b) besware soos wat in artikels 22 en 23 beoog word;
- (c) aansoeke soos wat in artikels 20, 27, 31 en 33 beoog word moet, waar van toepassing, verslae insluit van inspekteurs in sake wat verband hou met –
- (i) grondgebruiksbestuur

- (ii) omgewingsgesondheid;
 - (iii) brand en veiligheid;
 - (iv) omgewingsbestuur; 5
 - (v) gebouebeheer; en
 - (vi) enige ander verslag. 10
- (6) Onderhewig aan subartikel (5) en die bepalings van enige ander wet, mag 'n inspekteur –
- (a) enige persoon wat teenwoordig is op die perseel ondervra oor enige kwessie wat vir die inspeksie van toepassing mag wees; 15
 - (b) enige persoon ondervra wat die inspekteur op redelike gronde vermoed inligting mag hê wat betrekking het op die inspeksie;
 - (c) enige dokument nagaan wat van 'n persoon vereis word om te hou ingevolge hierdie Wet of enige ander wet of wat toepaslik mag wees op enige ondernemingsverwante inspeksie; 20
 - (d) die dokument kopieer waarna in paragraaf (c) verwys is, of, indien nodig, die dokument verwyder ten einde dit te kopieer; 25
 - (e) foto's neem of oudiovisuele opnames maak van enigiets of van enigiets, proses, aksie of toestand met betrekking tot enige grond of perseel; 30
 - (f) met die bystand van 'n polisiebeampte van die Suid-Afrikaanse Polisiediens op enige item beslag lê en te verwyder wat na sy of haar mening bewys mag lewer van 'n oortreding van enige bepaling van hierdie Wet of enige ander wet; 35
 - (g) alles nodig doen om die inspeksie uit te voer sonder om sy of haar magte te oorskry soos dit in hierdie Wet beoog word; en
 - (h) die onmiddellike opskorting van ondernemingsbedrywighede gelas indien die inspekteur, in ooreenstemming met die magte wat aan hom of haar toevertrou is soos in hierdie Wet beoog word, op redelike gronde kan aantoon dat die betrokke onderneming – 40
 - (i) sy ondernemingslisensie of handelspermit verbreek; 45
 - (ii) onwettig handel dryf;

- (iii) sonder 'n lisensie of permit handel dryf;
 - (iv) 'n gevaar inhou vir die gesondheid en veiligheid in die belang van die publiek; of 5
 - (v) 'n gewoonte-oortreder is, waar alle ander redelike alternatiewe maatreëls om die onderneming te verhoed om die bepalings van hierdie Wet en enige ander wet te oortree, uitgeput is. 10
- (7) 'n Inspekteur wat enige item ingevolge subartikel 6(f) verwyder van 'n perseel wat geïnspekteer word, moet 'n kwitansie in die voorgeskrewe formaat aan die eienaar of persoon wat in beheer van die onderneming is, uitreik. 15

Ondersoeke deur die Reguleerder 15

39. (1) Die Reguleerder mag 'n ondersoek instel na enige saak wat binne die raamwerk van sy of haar magte en funksies val. 20
- (2) Die Reguleerder mag, na enige ondersoek, 'n gelisensieerde skuldig bevind aan nievoldoening aan enige van die bepalings van hierdie Wet en mag –
- (a) die toepaslike lisensie opskort; 25
 - (b) 'n lisensie kanselleer; of
 - (c) 'n boete of straf oplê op sodanige gelisensieerde of persoon, onderhewig daaraan dat die bedrag van sodanige boete of straf nie die voorgeskrewe bedrag oorskry nie. 30

HOOFSTUK 6

DIE ROL VAN DIE VERANTWOORDELIKE LID EN ANDER STAATSORGANE 35

Rol van die verantwoordelike Lid

40. (1) Sonder inkorting van enige verantwoordelikhede en magte wat aan hom of haar toegeken word deur die Grondwet, die Wet oor Ondernemings, hierdie Wet of enige ander toepaslike wet, is die verantwoordelike Lid verantwoordelik vir – 40
- (a) bestuur en rentmeesterskap van die provinsiale ondernemingslisensierings en -regulatoriese stelsel; 45
 - (b) bestuur en rentmeesterskap van die Reguleerder ingevolge die bepalings van hierdie Wet.

- (c) op die voorgeskrewe wyse, die rolle en verantwoordelikhede van die Reguleerder, provinsiale departemente, munisipaliteite en enige openbare entiteit duidelik afbaken, met inagneming van die Grondwet, hierdie Wet en die Nasionale Wet op Klein Ondernemings ten einde duplisering van dienste en vermorsing van hulpbronne te voorkom en om die billike voorsiening en finansiering van ondernemingsontwikkelingsdienste, lisensiering en regulering te verseker. 5
- (2) Die verantwoordelike Lid moet, binne 12 maande van die inwerkingtreding van hierdie Wet, na oorlegpleging met die Suid-Afrikaanse Polisiediens en ander departemente en deur kennisgewing in die *Provinsiale Koerant*, die gedragskodes ontwikkel vir – 10
- (a) gelisensieerdes; 15
- (b) lisensieringsgesagsliggame; en
- (c) inspekteurs. 20
- (3) Die verantwoordelike Lid mag die volgende opdrag aan die Reguleerder uitreik wat verband hou met die doelstellings van hierdie Wet om in oorlegpleging met die Advieskomitee, soos beoog in artikel 6 van hierdie Wet – 25
- (a) die beskerming van burgers se reg om handel te dryf soos vasgelê ingevolge artikel 22 van die Grondwet te verseker; 25
- (b) die provinsiale regering met die ontwikkeling van 'n gedeelde en volhoubare sosio-ekonomiese ontwikkelingsagenda vir die Provinsie by te staan, te adviseer, te monitor, te help implementeer en moontlik te maak; 30
- (c) strategiese vennootskappe wat die openbare sektor, privaat sektor, kennissektor, georganiseerde arbeid en burgerlike samelewing by die implementering van provinsiale ontwikkelingsagenda betrek moontlik te maak, te monitor en bystand daaraan te verleen; 35
- (d) historiese ongelykhede met die verskaffing van infrastruktuur en befondsing van onderneming in die Provinsie reg te stel; 40
- (e) ondernemings in swart woonbuurte te ontwikkel en bevorder en om 'n kultuur van uitnemendheid in ondernemingsprestasie en bestuur aan te moedig; 45
- (f) innovasie en skeppendheid in ondernemingsformulering te identifiseer en aan te moedig;

- (g) as 'n provinsiale spilpunt vir sosio-ekonomiese navorsing, kennis, 'n katalisator vir ingeligte beleid en besluitneming te dien en na volhoubare ekonomiese ontwikkeling te beplan;
- (h) enige boete teen enige persoon wat enige bepaling van hierdie Wet oortree het, moet instel, wat nie die voorgeskrewe bedrag wat in artikel 44 van hierdie Wet vasgestel is, moet oorskry nie. 5
- (i) sodanige ander wettige stappe neem om voldoening aan die bepalings van hierdie Wet te verseker. 10

Aanwysing van plaaslike lisensiëringsgesagsliggame

41. (1) Die verantwoordelike Lid moet in oorlegpleging met die toepaslike munisipaliteit en nadat die toepaslike munisipaliteit uitgenooi is om voorleggings op die voorgeskrewe wyse en deur kennisgewing in die *Provinsiale Koerant* te maak, sodanige munisipaliteit aanwys as 'n plaaslike lisensiëringsgesagsliggaam soos dit in artikel 2 van die Wet op Besighede beoog word vir – 15
- (a) die hele gebied wat onder die betrokke munisipaliteit val; en/of 20
 - (b) 'n spesifieke gebied binne die munisipaliteit se grense van die betrokke munisipaliteit. 25
- (2) Indien enige munisipaliteit in die Provinsie die nodige vaardigheid kortkom om aangewys te word as 'n plaaslike lisensiëringsgesagsliggaam ten opsigte van enige gebied soos in subartikel (1)(a) of (b) beoog word, mag die verantwoordelike Lid – 30
- (a) vir 'n tydperk wat nie 24 maande oorskry nie, op 'n wyse wat in subartikel (1) en (3)(a) beoog word, enige ander munisipaliteit, persoon of liggaam in die Provinsie as die plaaslike lisensiëringsgesagsliggaam vir die betrokke gebied aanwys; en 35
 - (b) die opdrag vir daardie persoon of daardie liggaam bepaal.
- (3) Die verantwoordelike Lid moet –
- (a) voordat sy of haar pligte uitgeoefen word ingevolge subartikel 2(b), die munisipaliteit wat aangewys word as plaaslike lisensiëringsgesagsliggaam raadpleeg; 40
 - (b) toesien dat die plaaslike lisensiëringsgesagsliggaam wat aangewys is ingevolge subartikel (2) die nodige administratiewe bevoegdheid en ondersteuning het om – 45
 - (i) sy magte, pligte en funksies uit te voer en toe te pas ingevolge hierdie Wet; en

- (ii) waar die aangewysde plaaslike lisensiëringsgesagsliggaam 'n munisipaliteit is, behulpsaam wees met die kapasiteitsontwikkeling van die betrokke munisipaliteit om oor te neem as die plaaslike lisensiëringsgesagsliggaam teen die verstryking van die tydperk wat in subartikel (2)(a) voorsien word. 5
- (4) Die verantwoordelike Lid mag sy of haar magte uitoefen ingevolge subartikel 2(a) – 10
- (a) as hy of sy vasgestel het dat die betrokke munisipaliteit, persoon of liggaam nie die nodige kapasiteit het om die magte en funksies van 'n plaaslike lisensiëringsgesagsliggaam soos wat in artikel 11 van hierdie Wet beoog word uit te oefen nie; of 15
- (b) by ontvangs van 'n versoek, in die voorgeskrewe formaat vanaf die toepaslike munisipaliteit.
- (5) Die verantwoordelike Lid mag, nadat die toepaslike munisipaliteit, persoon of liggaam uitgenooi is om voorleggings op die voorgeskrewe wyse te maak en deur kennisgewing in die *Provinsiale Koerant*, die aanwysing van sodanige munisipaliteit, persoon of liggaam as 'n plaaslike lisensiëringsgesagsliggaam terugtrek indien die betrokke munisipaliteit, persoon of liggaam – 20
- (a) die bepalinge van hierdie Wet of regulasies wat ingevolge hierdie Wet uitgereik is, oortree het; of 25
- (b) misluk het om sy funksies en pligte as 'n plaaslike lisensiëringsgesagsliggaam in ooreenstemming met die bepalinge van hierdie Wet uit te voer. 30

Delegering van bevoegdhede

42. Die verantwoordelike Lid mag enige mag wat aan hom of haar toegeken is deur hierdie Wet deleger, behalwe die mag om – 35
- (a) regulasies uit te vaardig waarna in artikel 45 van hierdie Wet en artikel 2 van die Wet op Besighede verwys word; of
- (b) plaaslike lisensiëringsgesagsliggame aan te wys ingevolge hierdie Wet. 40

HOOFSTUK 7

ALGEMENE BEPALINGS

Appelle

43. (1) Enige persoon wat ongelukkig is oor 'n besluit van die Reguleerder wat gemaak is in ooreenstemming met die bepalinge van hierdie Wet, mag tot die verantwoordelike Lid appelleer op die voorgeskrewe wyse. 50

- (2) Die bepalings van subartikel (1) beperk nie die reg van enige persoon wat ongelukkig is met 'n besluit van die Reguleerder om by enige hof met jurisdiksie aansoek te doen vir 'n hersiening van sodanige besluit nie.
- (3) Die verantwoordelike Lid mag 'n ad hoc appèlgesagsliggaam aanstel om 'n appèl wat in subartikel (1) voorsien word aan te hoor om hom of haar by te staan om 'n ingeligte besluit te neem. 5

Misdrywe en strafmaatreëls

44. (1) Enige persoon wat enige bepaling van hierdie Wet oortree, indien sodanige oortreding nie elders in hierdie Wet as 'n misdryf verklaar word nie, pleeg 'n misdryf. 10
- (2) Enige persoon wat skuldig bevind word aan die bedryf van enige onderneming sonder 'n geldige lisensie wat uitgereik is ingevolge hierdie Wet, is by skuldigbevinding en bykomend tot enige verbeuring van sy of haar voorraad of handelsware, onderhewig aan gevangenskap vir 'n tydperk wat nie een jaar oorskry nie, met die opsie van 'n boete. 15
- (3) Enige persoon wat enige onderneming sonder 'n ondernemingslisensie bedryf soos wat ingevolge hierdie Wet beoog word, is by skuldigbevinding en bykomend tot verbeuring van sy of haar voorraad of handelsware, onderhewig aan gevangenskap vir 'n tydperk nie minder as een jaar nie sonder die opsie van 'n boete. 20
- 25

Regulasies, riglyne en voorwaardes

45. (1) Die verantwoordelike Lid mag deur 'n kennisgewing in die *Provinsiale Koerant* en na oorlegpleging met georganiseerde plaaslike regering wat plaaslike regerings provinsiaal verteenwoordig regulasies uitvaardig of riglyne uitreik wat nie teenstrydig met die bepalings van hierdie Wet is nie ten opsigte van – 30
- (a) die kwessies wat in artikel 35 gelys is; 35
- (b) enige kwessie wat ingevolge hierdie Wet voorgeskryf mag word; en
- (c) enige kwessie wat die toepassing van hierdie Wet mag vergemaklik. 40
- (2) Regulasies en riglyne wat ingevolge subartikel (1) uitgevaardig of uitgereik is, mag 'n onderskeid tref tussen –
- (a) verskillende soorte munisipaliteite wat, vir die doel van die regulasies, gedefinieer mag word in die regulasies, óf ten opsigte van kategorieë, óf tipes ondernemings, óf op enige ander wyse; 45
- (b) verskillende kategorieë lisensies en gelde wat hierop van toepassing is; en

- (c) verskillende kategorieë gelisensieerdes omdat die onderskeid nie op onregverdig diskriminasie neerkom nie.
- (3) Regulasies ingevolge subartikel (1) mag strafmaatreëls voorskryf vir die oortreding of nievoldoening aan enige spesifieke bepalings van die regulasies, wat 'n gepaste boete en gevangenisstraf van nie meer as ses maande nie mag insluit. 5
- (4) Konsepregulasies en -riglyne moet in die *Provinsiale Koerant* gepubliseer word vir openbare kommentaar voor die inwerkingtreding daarvan ingevolge subartikel (1). 10
- (5) Die afwesigheid van 'n regulasie of riglyn wat ingevolge hierdie Wet voorgeskryf mag word, verhoed nie – 15
- (a) die toepassing van enige bepaling van hierdie Wet in verband met die regulasie of riglyn wat voorgeskryf mag word nie; of
- (b) die uitvoer van 'n funksie of die uitoefening van 'n bevoegdheid wat in sodanige bepalings aangewys is. 20
- (6) Riglyne wat ingevolge subartikel (1) uitgereik is, is nie bindend nie.
- (7) Voldoening aan riglyne wat ingevolge subartikel (1) uitgereik is, mag in ag geneem word by die bepaling van interregeringsbeleide en -reëlings. 25
- (8) Regulasies wat ingevolge hierdie artikel uitgevaardig is –
- (a) moet aan die Provinsiale Wetgewer voorgelê word ten minste dertig (30) dae voor publikasie in die *Provinsiale Koerant*; en 30
- (b) word van krag op 'n datum wat in die regulasies bepaal is, wat die publikasiedatum moet wees of 'n datum wat deur die Premier in die *Provinsiale Koerant* bepaal is. 35

Herroeping of wysiging van wette

46. Die wette wat in deel A en deel B van bylae genoem 2 is, word in soverre dit van toepassing is op die Provinsie, hiermee herroep tot die mate wat in die derde kolom van die genoemde bylae aangedui word. 40

Oorgangsmatreëls en besparings

47. (1) Met inwerkingtreding van die Wet sal die volgende wat uitgereik is ingevolge die Wet op Besighede, as geldig beskou word totdat dit verval – 45
- (a) lisensies wat ingevolge die Wet op Besighede uitgereik is;

- (b) voldoeningskennisgewings; en
- (c) boetes.

- (2) Enige persoon wat 'n lisensie hou ingevolge die Wet op Besighede, moet aansoek doen vir hernuwing ingevolge hierdie Wet. 5
- (3) 'n Persoon wat 'n lisensie hou ingevolge subartikel (2), word nie vrygestel van voldoening aan enige toepaslike bepalings van die Wet op Besighede nie en van voldoening aan enige ander wet of wetlike vereistes wat verband hou met die betrokke onderneming nie. 10
- (4) Enige aansoek om 'n lisensie of 'n kwessie wat deur die lisensiëringsgesagsliggaam ingevolge die Wet op Besighede ontvang is en wat nie afgehandel is voor die aanvangsdatum van hierdie Wet nie, moet ingevolge hierdie Wet hanteer word. 15

Kort titel

- 48. Hierdie Wet word die Vrystaatse Wet op Geïntegreerde Lisensiëring en Regulering van Besigheidsondersteuning, 2024 genoem en tree in werking op 'n datum wat deur die Premier deur kennisgewing in die *Provinsiale Koerant* bepaal sal word. 20

Bylae 1 – Herroeping van wette

- Bylae 2 – Ondernemings wat kwytgeskeld is** 25

BYLAE 1**HERROEPING VAN WETTE****DEEL A: WETGEWING**

No. en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 71 van 1991	Wet op Besighede	Die toewysing van die geheel, in soverre dit betrekking op die Provinsie het.

DEEL B: REGULASIES

No. en jaar van wet	Kort titel	Omvang van herroeping
Regulasie No. PN786 van 1991	Regulasies met betrekking tot Besighede	In geheel, in soverre dit betrekking op die Provinsie het.

BYLAE 2**ONDERNEMINGS WAT VRYGESTEL IS SOOS IN HOOFSTUK 4 VAN HIERDIE WET BEOOG WORD**

- (1) Entiteite wat deur die Staat besit word;
- (2) Niewinsgewende organisasies;
- (3) Welsynsorganisasies;
- (4) Geloofsgegronde organisasies; en
- (5) Ondernemings wat gereguleer word deur nywerheidspesifieke kodes of nywerheidspesifieke registrasies.