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03 October 2019

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## THE PRESIDENCY

No. 1295                      03 October 2019

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

**Act No. 22 of 2019: Property Practitioners Act, 2019**

## VHUPRESIDENDE

No. 1295                      03 October 2019

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

**Nom 22 ya 2019: Mulayo wa Vhashumi vha zwa Ndaka, 2019**

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

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(English text signed by the President)  
(Assented to 19 September 2019)

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# ACT

**To provide for the regulation of property practitioners; to provide for the continuation of the Estate Agency Affairs Board as the Property Practitioners Regulatory Authority; to provide for the appointment of the members of the Board and matters incidental thereto; to provide for the appointment of the Chief Executive Officer and other staff members of the Authority; to provide for transformation of the property practitioners sector; to provide for the establishment of the transformation fund and establishment of the research centre on transformation; to provide for compliance with and enforcement of the provisions of the Act; to provide for the continuation of the Estate Agents Fidelity Fund as the Property Practitioners Fidelity Fund; to provide for consumer protection; to provide for the repeal of the Estate Agency Affairs Act, 1976; and to provide for matters connected therewith.**

## PREAMBLE

**WHEREAS** a healthy property market is a national asset that restores the dignity of all South Africans through the basic constitutional right to ownership of immovable property through security of tenure;

**AND WHEREAS** a property is an asset to enhance economic activity, growth and development;

**AND WHEREAS** patterns of property ownership are historically imbalanced;

**AND WHEREAS** there are distortions within the property market, especially the secondary property market;

**AND WHEREAS** transformation of the property market is a necessary intervention that will benefit the historically disadvantaged individuals;

**AND WHEREAS** consumers require assistance when conducting property transactions;

**AND WHEREAS** property practitioners can play an important role in providing such assistance;

**AND WHEREAS** it is necessary to ensure that such assistance is rendered in a professional way;

**AND** it is necessary to regulate circumstances when such assistance is not rendered in a professional way,

(English text signed by the President)  
(Assented to 19 September 2019)

## MULAYO

Mulayotibe u khou ita mbetshelo dza u langula vhashumi vha zwa ndaka; u ita mbetshelo malugana na u ya phanḁa ha Zhendedzi ḁa zwa Ndaka sa ḁone Maandḁalanga a u Langula Vhashumi vha zwa Ndaka; u ita mbetshelo malugana na u thola miraḁo ya Bodo na zwiḁwe zwine zwa vhone zwo tea; u ita mbetshelo malugana na u thola Muofisi Mulangi na vhaḁwe vhashumi vha tshiimiswa tsha Maandḁalanga; u ita mbetshelo ya u shandukisa sekithara ya vhashumi vha zwa ndaka; u ita mbetshelo ya u thomiwa ha tshikwama tsha tshandukiso na u thomiwa ha senthara ya ḁhḁisiso i lavhelesaho kha zwa tshanduko; u ita mbetshelo malugana na u tevhedza na u tevhedzisa mbetshelo dza Mulayo; u ita mbetshelo malugana na u ya phanḁa ha Tshikwama tshi Thembeaho tsha Mazhendedzi a zwa Ndaka sa tshone Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka; u ita mbetshelo malugana na u tsireledza vharengi; u ita mbetshelo malugana na u fhelisa Mulayo wa *Estate Agency Affairs Act, 1976*; na u ita mbetshelo malugana na zwine zwa kwamana na zwenezwi.

### MARANGA PHANḁA

**HU TSHI KHOU LAVHELESWA URI** maraga wa zwa ndaka wavhuḁi ndi thundu ya lushaka ine ya vusuludza tshirunzi tsha Vhoḁhe Vhathu vha Afrika Tshipembe nga kha pfanelo dza ndemesa dza ndayotewa dza u vha muḁe wa ndaka i sa endedzei nga kha tsireledzo ya u vha muḁe wa ndaka iyo;

**NAHONE HU TSHI KHOU LAVHELESWA URI** ndaka ndi thundu ine ya khwaḁhisa mvelaphanḁa na nyaluwo ya ikonomi na zwoḁhe zwine zwa itwa kha ikonomi;

**NAHONE HU TSHI KHOU LAVHELESWA URI** nḁila dza u vha muḁe wa ndaka zwiḁa kale dzo vha dzi dza tshiḁalula;

**NAHONE HU TSHI KHOU LAVHELESWA URI** hu na zwi songo dzulaho zwavhuḁi kha maraga wa zwa ndaka, zwiḁulusa kha makete wa ndaka wa sekondari;

**NAHONE HU TSHI KHOU LAVHELESWA URI** u khwiḁisa makete wa zwa ndaka ndi u dzhenelela u thusa zwi ḁḁeaho u itela uri vhathu vho vhaishwaho nga tshiḁalula zwiḁa kale vha vhuḁwe;

**NAHONE HU TSHI KHOU LAVHELESWA URI** vharengi vha ḁḁa thuso musi hu tshi itwa ḁhirantsekisheni dza thengiso ya ndaka;

**NAHONE HU TSHI KHOU LAVHELESWA URI** vhashumi vha zwa ndaka vha nga shuma mushumo wa ndemesa kha u fha thusa iyo;

**NAHONE HU TSHI KHOU LAVHELESWA URI** zwi a ḁḁeaho u itela u vhone uri iyo thuso i khou ḁetshedzwa nga nḁila ya phrofeshinaḁa;

**NAHONE** zwi a ḁḁeaho uri hu langulwe nyimele musi iyo thuso i sa khou ḁetshedzwa lwa phrofeshinaḁa,

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

## ARRANGEMENT OF SECTIONS

### *Sections*

<b>CHAPTER 1</b>	5
<b>DEFINITIONS, APPLICATION, OBJECTS AND ESTABLISHMENT OF AUTHORITY</b>	
1. Definitions	
2. Application of Act	
3. Objects of Act	10
4. Exemption from Act	
5. Establishment of Property Practitioners Regulatory Authority	
6. Functions of Authority	
<b>CHAPTER 2</b>	
<b>BOARD OF AUTHORITY</b>	
	15
7. Composition and appointment of Board	
8. Disqualification from membership of Board	
9. Powers and duties of Board	
10. Good governance and code of ethics	
11. Conflict of interest of members of Board	20
12. Termination of Board membership	
13. Meetings of Board	
14. Committees of Board	
15. Dissolution of Board	
<b>CHAPTER 3</b>	
<b>APPOINTMENT OF CEO AND STAFF OF AUTHORITY</b>	
	25
16. Appointment of CEO	
17. Staff of Authority	
18. Conflict of interest of employees	
19. Delegation	30
<b>CHAPTER 4</b>	
<b>TRANSFORMATION OF PROPERTY SECTOR</b>	
	35
20. Property sector transformation	
21. Property Sector Transformation Fund	
22. Property Sector Research Centre	
23. Exemptions in respect of accounting records and trust accounts	
<b>CHAPTER 5</b>	
<b>COMPLIANCE AND ENFORCEMENT</b>	
	40
24. Appointment of inspectors	
25. Powers of inspectors to enter, inspect, search and seize	
26. Compliance notices	
27. Fine as compensation	
28. Lodging of complaints	
29. Mediation	
30. Adjudication	45

**U**KHWATHISWE nga Phalamennde ya Riphabuḽiki ya Afrika Tshipembe, nga ndila i tevhelaho:—

**NZUDZANYO DZA KHETHEKANYO**

*Khethekanyo*

**NDIMA YA 1 5**

**ṬHALUTSHEDZO, ZWINE MULAYO WA KWAMA, ZWIPIKWA NA U THOMIWA HA MAANḂALANGA**

1. Ṭhalutshedzo
2. Zwine Mulayo wa kwama
3. Zwipikwa zwa Mulayo 10
4. U vhoḂhololwa kha u tevhedza Mulayo
5. U thomiwa ha MaanḂalanga a Ndangulo ya Vhashumi vha zwa Ndaka
6. Mishumo ya MaanḂalanga

**NDIMA YA 2**

**BODO YA MAANḂALANGA 15**

7. MiraḂo yo vhumbaho Bodo na u tholwa ha iyi miraḂo
8. U sa tsha fusha ṭhoḂea dza u vha muraḂo wa Bodo
9. MaanḂa na mishumo ya Bodo
10. Kuvhusele kwavhuḂi na mulayo wa vhuḂifari
11. KhuḂano ya madzangalelo kha miraḂo ya Bodo 20
12. U fhelisa vhuraḂo ha u vha muraḂo wa Bodo
13. Miṭangano ya Bodo
14. Komiti dza Bodo
15. U fhaladza Bodo

**NDIMA YA 3 25**

**U THOLWA HA MUOFISI MULANGI NA VHASHUMI VHA MAANḂALANGA**

16. U tholwa ha Muofisi Mulangi
17. Vhashumi vha MaanḂalanga
18. KhuḂano ya madzangalelo ya vhashumi
19. Vhurumelwa 30

**NDIMA YA 4**

**TSHANDUKO YA SEKITHARA YA ZWA NDAKA**

20. Tshanduko ya sekithara ya zwa ndaka
21. Tshikwama tsha Tshanduko ya Sekithara ya zwa Ndaka
22. Senthara ya ṬhoḂisiso ya Sekithara ya zwa Ndaka 35
23. U vhoḂholola malugana na rekhodo dza akhaunthingi na akhaunthu dza thirasiti

**NDIMA YA 5**

**U TEVHEDZA MULAYO NA U TEVHEDZISA MULAYO**

24. U thola vhaingameli 40
25. MaanḂa a vhaingameli a u dzhena, u ingamela, u ṭoḂulusa na u dzhia
26. NḂivhadzo malugana na u tevhedza Mulayo
27. Ndaṭiso sa mbadelo
28. U vhiga mbilaelo
29. Vhukonanyi 45
30. Khaṭulo

## 6

31. Adjudication Appeal Committee

**CHAPTER 6****FINANCES**

32. Funds of Authority  
33. Financial year and deposits 5

**CHAPTER 7****PROPERTY PRACTITIONERS FIDELITY FUND**

34. Property Practitioners Fidelity Fund  
35. Primary purpose of Fund  
36. Control and management of Fund 10  
37. Claims from Fund  
38. Payments from Fund  
39. Authorisation of grants  
40. Indemnity insurance  
41. Fees payable by property practitioner 15  
42. Co-operation by claimant  
43. Actions against Authority in respect of Fund  
44. Application of insurance monies  
45. Transfer of rights and remedies to Authority  
46. Fund exempt from insurance laws 20

**CHAPTER 8****PROPERTY PRACTITIONERS**

47. Application for Fidelity Fund certificate  
48. Prohibition on rendering services without Fidelity Fund certificate  
49. Mandatory time periods for issuing certificates 25  
50. Disqualification from issue of Fidelity Fund certificate  
51. Amendment of Fidelity Fund certificate  
52. Withdrawal or lapse of Fidelity Fund certificate  
53. Mandatory display of Fidelity Fund certificate  
54. Trust account 30  
55. Duty of property practitioner to keep accounting records and other documents  
56. Property practitioner not entitled to remuneration in certain circumstances  
57. Mandatory indemnity insurance  
58. Limitation on relationships with other property market service providers  
59. Insolvency or liquidation of property practitioner 35

**CHAPTER 9****CONDUCT OF PROPERTY PRACTITIONERS**

60. Application of this Chapter and Chapter 10  
61. Code of conduct for property practitioners  
62. Sanctionable conduct 40  
63. Undesirable practices  
64. Supervision of candidate property practitioners  
65. Franchising

31. Komiti ya Aphiḽi ya Vhuhafuli

**NDIMA YA 6**

**MASHELENI**

32. Masheleni a Maanḽalanga  
33. Nwaha wa muvhalelano na dzidiphosithi 5

**NDIMA YA 7**

**TSHIKWAMA TSHI THEMBEAHO TSHA VHASHUMI VHA ZWA NDAKA**

34. Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka  
35. Ndivho khulwane ya Tshikwama  
36. Kulangele kwa Tshikwama 10  
37. Mbilo dzi bvaho kha Tshikwama  
38. Mbadelo dzi bvaho kha Tshikwama  
39. U tendelwa ha magavhelo  
40. Ndindakhombo ya u tsireledza tshinyalelo  
41. Masheleni a badelwaho nga mushumi wa zwa ndaka 15  
42. Tshumisano i lavhelelwaho kha muitambilo  
43. Maga ane a dzhielwa Maanḽalanga malugana na Tshikwama  
44. Khumbelo ya tshelede dza ndindakhombo  
45. U rathisela pfanelo na thasululo kha Maanḽalanga  
46. Masheleni a vhofhololwaho kha milayo ya ndindakhombo 20

**NDIMA YA 8**

**VHASHUMI VHA ZWA NDAKA**

47. Khumbelo ya ḽhanziela ya Tshikwama i Sumbedzaho u Thembea  
48. Nyiledzo malugana na u ḽetshedza tshumelo hu si na ḽhanziela ya Tshikwama i Sumbedzaho u Thembea 25  
49. Zwifhinga zwine zwa tou vhoḽha zwa u ḽetshedza ḽhanziela  
50. U sa tsha fusha ḽhoḽea dza u fhiwa ḽhanziela ya Tshikwama i Sumbedzaho u Thembea  
51. U khwiḽiswa ha ḽhanziela ya Tshikwama i Sumbedzaho u Thembea  
52. U dzhiululwa kana u fhela ha ḽhanziela ya Tshikwama i Sumbedzaho u Thembea 30  
53. U ḽana ḽhanziela ya Tshikwama i Sumbedzaho u Thembea zwine zwa tou kombetshedza  
54. Akhaunthu ya Thirasiti  
55. Mushumo wa mushumi wa zwa ndaka wa u vhlunga dzirekhodo dza akhaunthingi na maḽwe maḽwalwa 35  
56. Mushumi wa zwa ndaka ha tei u wana muholo kha nyimele dzenedzo dzo teaho u sa wana  
57. Ndindakhombo ya tsireledzo ine ya tou kombetshedza  
58. Phungudzelo ya vhusaka na vhaḽwe vhaḽetshedzatshumelo dza maraga ya ndaka 40  
59. U sa tsha vha na tshelede ya u badela zwikolodo kana u rengiswa ha thundu ya mushumi wa zwa ndaka

**NDIMA YA 9**

**VHUḽIFARI HA MUSHUMI WA ZWA NDAKA 45**

60. U shumiswa ha Ndimya ya 9 na Ndimya ya 10  
61. Mulayo wa vhuḽifari ha vhashumi vha zwa ndaka  
62. Vhuḽifari vhune ha ita uri hu itwe ndaḽiso  
63. Maitele a sa ḽoḽei  
64. U lavhelesa mushumi wa zwa ndaka ane a kha ḽi tou guda 50  
65. U ita furantshaisa

66. Prohibition on conduct to influence issue of certain certificates

## CHAPTER 10

### CONSUMER PROTECTION

67. Mandatory disclosure form  
68. Agreements 5  
69. Consumer education and information

## CHAPTER 11

### GENERAL

70. Regulations  
71. Penalties 10  
72. Delegation of powers by Minister  
73. Legal proceedings against Authority  
74. Use of name of Authority  
75. Transitional provisions  
76. Repeal 15  
77. Short title and commencement

## CHAPTER 1

### DEFINITIONS, APPLICATION, OBJECTS AND ESTABLISHMENT OF AUTHORITY

#### Definitions 20

1. In this Act, unless the context otherwise indicates—
- “**accounting records**”—
- (a) means information in written or electronic form concerning the trust accounts of the property practitioner as required in terms of this Act, including but not limited to, records of all transactions involving trust monies, general and subsidiary ledgers and other documents and books used in the administration of the trust accounts; and 25
- (b) in relation to the property practitioner’s business as such, means information in written or electronic form concerning the financial affairs of the business as required in terms of this Act or any other Act that may be applicable to the business of the property practitioner, including but not limited to, records of assets, liabilities, income and expenses, general and subsidiary ledgers and other documents and books used in the preparation of financial statements of the business; 30
- “**audit**” has the meaning ascribed to it in the Auditing Profession Act, 2005 (Act No. 26 of 2005); 35
- “**auditor**” means an individual or firm registered in terms of section 37 or 38 of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
- “**Authority**” means the Property Practitioners Regulatory Authority established in terms of section 5; 40
- “**Board**” means the Board of Authority contemplated in Chapter 2;
- “**candidate property practitioner**” means a person who has not yet met all the qualification or experience required as prescribed, to practise as a property practitioner and who is undergoing training under the supervision of a property practitioner, or a program created by the Authority; 45
- “**CEO**” means the Chief Executive Officer of the Authority appointed in terms of section 17;
- “**Chairperson**” means the Chairperson of the Board;
- “**code of conduct**” means the code of conduct prescribed in terms of section 61;
- “**consumer**” means a consumer as defined in section 1(a) or (c) of the Consumer Protection Act, 2008 (Act No. 68 of 2008); 50
- “**conveyancer**” means a conveyancer as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979);



66. Nyiledzo malugana na vhuḍifari ha u tuṭuwedza u netshedza ṭhanziela dzenedzo

#### NDIMA YA 10

#### TSIRELEDZO YA VHARENGI

67. Fomo ine ya tou kombetshedza ya u bvukulula 5  
 68. Thendelano  
 69. Nḍivhiso na pfunzo zwa vharengi

#### NDIMA YA 11

#### NYANGAREDZO

70. Ndangulo 10  
 71. Ndaṭiso  
 72. U hwesa maandḗa nga Minisṭa  
 73. Tsengo ya mulayo malugana na Maandḗalanga  
 74. U shumisa dzina ḗa Maandḗalanga  
 75. Nzudzanyo dza tshanduko 15  
 76. Pheliso  
 77. Dzina ḗipfufhi na u thoma u shumisa Mulayo

#### NDIMA YA 1

- ṬHALUTSHEDZO, ZWINE MULAYO WA KWAMA, ZWIPIKWA NA U THOMIWA HA MAANDḗALANGA** 20

#### Ṭhalutshedzo

1. Kha uno Mulayo, nga nḍa ha musi zwo sumbedzwa nga inwe nḍila—  
**“rekhodo dza akhaunthingi”**—
- (a) zwi amba nḍivhiso yo tou nḍwalwaho ya ḗlekiṭhironiki malugana na akhaunthu dza thirasiti dza mushumi wa zwa ndaka dzi ṭoḍwaho u ya nga uno Mulayo, hu tshi katelwa zwi sa gumihho kha, rekhodo dza ṭhirantsekisheni dzoṭhe dzi kwamahho masheleni a thirasiti, rekhodo dza ṭhirantsekisheninyangaredzi na dza khamphani dzo farwaho nga khamphani khulwane na maḥwe maḥwalwa na dzibugu dzi shumiswaho kha zwa vhulangi ha akhaunthu dza thirasiti; na 25
- (b) zwi tshi kwama bindu ḗa mushumi wa zwa ndaka ngauralo, zwi amba nḍivhiso yo tou nḍwalwaho kana ya ḗlekiṭhironiki ine ya kwama zwa masheleni a bindu u ya nga zwi ṭoḍwaho nga uno Mulayo kana Mulayo muḥwe na muḥwe wo teaho bindu ḗa mushumi wa zwa ndaka, hu tshi katelwa zwi sa fheleliho kha, rekhodo dza thundu, zwikolodo, masheleni a dzhenaho na a shumiswaho, ṭhirantsekisheninyangaredzi na dza khamphani dzo fwarwaho nga khamphani khulwane na maḥwe maḥwalwa a zwiṭṭamennde zwa bindu; 30
- “ṭholo”** ṭhalutshedzo ya ipfi ḗi i dzhiwa i tshi wela kha zwa Mulayo wa *Auditing Profession Act, 2005 (Act No. 26 of 2005)*;
- “muṭoli”** zwi amba muthu o nḍwalisaho kana feme yo nḍwalisaho u ya nga khethekanyo ya 37 kana 38 ya Mulayo wa *Auditing Profession Act, 2005 (Act No. 26 of 2005)*; 40
- “Maandḗalanga”** zwi amba Maandḗalanga a Ndaulo ya Vhashumi vha zwa Ndaka o thomiwaho hu tshi khou tevhedzwa khethekanyo ya 5;
- “Bodo”** zwi amba Bodo ya Maandḗalanga yo bulwaho kha Ndima ya 2;
- “mushumi wa zwa ndaka ane a kha ḍi guda”** zwi amba muthu a saathu fusha ṭhoḍea dzo fhelelaho dza ndalukano kana tshenzhemo i ṭoḍeaho sa zwo randelwaho, kha zwi kwamahho u shuma sa mushumi wa zwa ndaka nahone a tshi kha ḍi guda nga fhasi ha vhulavhelesi ha mushumi wa zwa ndaka, kana mbekanyamushumo yo itwaho nga Maandḗalanga; 45
- “Muofisi-Mulangi”** zwi amba Muofisi-Mulangi wa tshiimiswa tsha Maandḗalanga o tholiwaho hu tshi khou tevhedzwa khethekanyo ya 17; 50
- “Mudzulatshidulo”** zwi amba Mudzulatshidulo wa Bodo;

- “**days**” means calendar days including Saturdays, Sundays and Public Holidays but excluding the period between 15 December to 15 January of the preceding year;
- “**Department**” means the national Department of Human Settlements;
- “**Estate Agency Affairs Act**” means the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976); 5
- “**Estate Agency Affairs Board**” means the Estate Agency Affairs Board established by section 2 of the Estate Agency Affairs Act;
- “**Fund**” means the Property Practitioners Fidelity Fund contemplated in section 34;
- “**Fidelity Fund certificate**” means a Fidelity Fund certificate contemplated in section 47(1); 10
- “**immediate family member**” means a parent, child, brother or sister, or any person married to such a person, or a life partner of such a person;
- “**inspector**” means a person appointed in terms of section 24;
- “**mandatory disclosure form**” means the form referred to in section 67; 15
- “**Minister**” means the Minister of Human Settlements;
- “**principal**” means a property practitioner who is a director of a company, member of a close corporation, trustee of a trust, partner of a partnership or owner of sole proprietorship that operates as a property practitioner;
- “**property practitioner**”— 20
- (a) means any natural or juristic person who or which for the acquisition of gain on his, her or its own account or in partnership, in any manner holds himself, herself or itself out as a person who or which, directly or indirectly, on the instructions of or on behalf of any other person—
- (i) by auction or otherwise sells, purchases, manages or publicly exhibits for sale property or any business undertaking or negotiates in connection therewith or canvasses or undertakes or offers to canvas a seller or purchaser in respect thereof; 25
- (ii) lets or hires or publicly exhibits for hire property or any business undertaking by electronic or any other means or negotiates in connection therewith or canvasses or undertakes or offers to canvass a lessee or lessor in respect thereof; 30
- (iii) collects or receives any monies payable on account of a lease of a property or a business undertaking;
- (iv) provides, procures, facilitates, secures or otherwise obtains or markets financing for or in connection with the management, sale or lease of a property or a business undertaking, including a provider of bridging finance and a bond broker, but excluding any person contemplated in the definition of “financial institution” in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990); 35 40
- (v) in any other way acts or provides services as intermediary or facilitator with the primary purpose to, or to attempt to effect the conclusion of an agreement to sell and purchase, or hire or let, as the case may be, a property or business undertaking, including, if performing the acts mentioned in this subparagraph, a home ownership association, but does not include— 45
- (aa) a person who does not do so in the ordinary course of business;

- “**mulayo wa vhuḍifari**” zwi amba mulayo wa vhuḍifarri wo randelwaho hu tshi khou tevhedzwa khethekanyo ya 61;
- “**murengi**” zwi amba murengi sa zwe zwa ṭalutshedzwa kha khethekanyo ya 1(a) kana (c) ya Mulayo wa *Consumer Protection Act, 2008 (Act No. 53 of 1976)*;
- “**murathisi wa ndaka**” zwi amba murathisi u ya nga zwe zwa ṭalutshedzwa kha khethekanyo ya 1 ya Mulayo wa *Attorneys Act, 1979 (Act No. 53 of 1979)*; 5
- “**maḍuvha**” zwi amba maḍuvha a khaḷenda hu tshi khou katelwa Migivhela, Dzisondaha na Holodeni dza Nnyi na Nnyi fhedzi hu sa katelwi tshifhinga tsha vhukati ha dzi 15 Nyendavhusiku u swika dzi 15 Phando dzi rangelaho ṅwaha;
- “**Muhasho**” zwi amba Muhasho wa Lushaka wa zwa Madzulo a Vhathu; 10
- “**Mulayo wa zwa Mazhendedzi a Ndaka**” zwi amba Mulayo wa *Estate Agency Affairs Act, 1976 (Act No. 112 of 1976)*;
- “**Bodo ya zwa Mazhendedzi a Ndaka**” zwi amba Bodo ya zwa Mazhendedzi a Ndaka yo thomiwaho nga khethekanyo ya 2 ya Mulayo wa zwa Mazhendedzi Ndaka; 15
- “**Tshikwama**” zwi amba Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka tsho bulwaho kha khethekanyo ya 34;
- “**ṭhanziela ya Tshikwama i Sumbedzaho u Thembea**” zwi amba ṭhanziela ya Tshikwama i Sumbedzaho u Thembeaho yo bulwaho kha khethekanyo ya 47(1);
- “**muraḍo wa muṭa wa tsinisa nga vhushaka**” zwi amba mubebi, ṅwana, 20 murathu kana mukomana / khaladzi, kana muthu muṅwe na muṅwe o malaho/malwaho henefho, kana ṭhama ya vhutshilo hoṭhe ka uyo muthu;
- “**muingameli**” zwi amba muthu o tholwaho hu tshi khou tevhedzwa khethekanyo ya 24;
- “**fomo ya u bvukulula ine ya tou kombetshedza**” zwi amba fomo yo bulwaho 25 kha khethekanyo ya 67;
- “**Minista**” zwi amba Minista wa zwa Madzulo a Vhathu;
- “**Thoho**” zwi amba mushumi wa zwa ndaka ane a vha mulangi wa khamphani, muraḍo wa koporasi ṭhukhu, thirasitii wa thirasiti, ṭhama kha tshumisano kana muṅe wa khamphani ya muthu muthili sa mushumi wa zwa ndaka; 30
- “**mushumi wa zwa ndaka**”—
- (a) zwi amba muthu wa vhukuma (mvelo) ane kana tshiimiswa tshine tsha shuma tshi tshi khou itela u wana mbuelo kha akhaunthu yatsho/yawe kana kha tshumisano ya u tou ṭamana, nga ṅḍila ifhio na ifhio a ḍifara, tshiimiswa tsha ḍifara sa muthu ene muṅe kana tshiimiswa tshone tshine zwo livha kana u sa 35 livha, nga kha ndaela dza kana ho imelwa muthu ufhio na ufhio—
- (i) nga okusheni kana nga ṅḍila a rengisa, u renga, u langa kana a ṭanela tshitshavha nga ha u rengisa ndaka kana bindu ḷṅwe na ḷṅwe kana u luvheledza malugana na zwenezwo kana u galatsha kana u dzhia kana u fha murengisi kana murengi malugana na zwenezwi; 40
- (ii) a hirisa kana kha tshitshavha, a ṭana uri hu na ndaka kana bindu ḷṅwe na ḷṅwe nga ṅḍila ya ḷḷekithironiki kana ṅḍila dziṅwe na dziṅwe kha, a ita nyambedzano dzi kwamaho zwenezwi kana u galatsha kana u dzhia kana u fha zwi kwamaho u galatsha malugana na murendi na murentisi; 45
- (iii) ane a kuvhanganya kana u ṭanganedza tshelede ṅwe na ṅwe i badelwaho kha akhaunthu malugana na ndaka ine ya khou renndiwa kana zwi tshi kwama bindu; 50
- (iv) ṅetshedza, renga, leludza, wana kana nga ṅḍila a wana kana u vhambedza zwa u wana masheleni kana zwi kwamaho vhulangi, u rengisa kana u renndisa ndaka kana bindu, hu tshi katelwa muṅetshedzi wa masheleni a tshikolodo, na murengisi wa bondo wa bondo, fhedzi hu sa katelwi muthu muṅwe na muṅwe o bulwaho kha ṭalutshedzo ya ipfi “tshiimiswa tsha zwa masheleni” kha khethekanyo ya 1 ya Mulayo wa *Financial Services Board Act, 1990 (Act No. 97 of 1990)*; 55
- (v) ane nga ṅḍila ṅwe na ṅwe a ita kana a ṅetshedza tshumelo sa mukonanyi kana muleludzi ndivho khulwane i ya u, kana u lingedza u khunyeledza thendelano ya u rengisa na u renga, kana u hira kana u renndisa, kana u hira kana u renndisa, sa zwine nyimele ya vha zwone, kha ndaka kana mushumo wa bindu, hu tshi katelwa, arali a tshi khou shuma mishumo yo bulwaho kha pharagirafu ṭhukhu, asosiesheni ya zwa 60 vhaṅe vha dzinṅḍu, fhedzi hu sa katelwi—
- (aa) muthu ane a sa ite zwo raloho kha mushumo wa bindu;

- (bb) where the person is a natural person and that person in the ordinary course of business offers a property for sale which belongs to him or her in his or her personal capacity;
- (cc) an attorney or candidate attorney as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979); or 5
- (dd) a sheriff as defined in section 1 of the Sheriffs Act, 1986 (Act No. 90 of 1986), when he or she performs any functions contemplated in paragraph (a) of this definition, irrespective of whether or not he or she has been ordered by a court of law to do so; or
- (vi) renders any other service specified by the Minister on the recommendation of the Board from time to time by notice in the *Gazette*; 10
- (b) includes any person who sells, by auction or otherwise, or markets, promotes or advertises any part, unit or section of, or rights or shares, including time share and fractional ownership, in a property or property development;
- (c) includes any person who for remuneration manages a property on behalf of another; 15
- (d) includes a trust in respect of which the trustee, for the acquisition of gain on the account of the trust, directly or indirectly in any manner holds out that it is a business which, on the instruction of or on behalf of any other person, performs any act referred to in paragraph (a); 20
- (e) for the purposes of sections 34, 46, 48, 59, 60, 61 and 65 includes—
- (i) any director of a company or a member of a close corporation who is a property practitioner as defined in paragraph (a);
- (ii) any person who is employed by a property practitioner as envisaged in paragraph (a) and performs on his, her or its behalf any act referred to in subparagraph (i), (ii), (iv), (v) or (vi) of that paragraph; 25
- (iii) any trustee of a trust which is a property practitioner as envisaged in paragraph (d);
- (iv) any person who is employed by a property practitioner as envisaged in paragraph (b) and performs on its behalf any act referred to in subparagraph (i), (ii), (iv), (v) or (vi) of paragraph (a); and 30
- (v) any person who is employed by a property practitioner contemplated in paragraph (a) or (b) to manage, supervise or control the day-to-day operations of the business of that property practitioner;
- (f) includes any person who is employed by or renders services to an attorney or a professional company as defined in section 1 of the Attorneys Act, 1979, other than an attorney or candidate attorney, and whose duties consist wholly or primarily of the performance of any act referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a), on behalf of such attorney or professional company whose actions will be specifically covered by the Attorneys' Fidelity Fund and not the Property Practitioners Fidelity Fund; 35 40
- (g) for the purposes of section 61 and any regulation made under section 70, includes any person who was a property practitioner at the time when he or she was guilty of any act or omission which allegedly constitutes sanctionable conduct referred to in section 62, 45
- but does not include an attorney who, on his own account or as a partner in a firm of attorneys or as a member of a professional company, as defined in section 1 of the Attorneys Act, 1979, or a candidate attorney as defined in that section, who performs any act referred to in paragraph (a), in the course of and in the name of

- (bb) hune muthu a vha uri ndi muthu wa mvelo nahone uyo muthu kha mushumo zwawo wa bindu a rengisa ndaka ine ndi yawe o imela ene muṅe;
- (cc) axenṅde kana axenṅde ane a kha ḍi tou guda sa zwe zwa ṭalutshedzwa kha khethekanyo ya 1 ya Mulayo wa *Attorneys Act, 1979 (Act No.53 of 1979)*; kana 5
- (dd) muḍinda wa khothe sa zwe zwa ṭalutshedzwa kha khethekanyo ya 1 ya Mulayo wa *Sheriffs Act, 1986 (Act No. 90 of 1986)*, musi a tshi shuma mishumo miṅwe na miṅwe yo bulwaho kha phara ya (a) ya ṭalutshedzo, hu songo sedzwa uri o laelwa nga khothe uri a ri pfalo; 10 kana
- (vi) ṅetshedza tshumelo inwe na inwe yo ṭaluswaho nga Minista zwo themendelwa nga Bodo misi yoṅhe nga ṅdivhadzo kha Gazette;
- (b) hu tshi khou katelwa muthu muṅwe na muṅwe ane a rengisa, nga okusheni kana nga inwe ṅḍila, kana u vhambadza, kungedzela tshipiḍa tshinwe na tshinwe, yuniti kana khethekanyo ya, pfanelo kana mikovhe, hu tshi khou katelwa u kovhekana tshifhinga tsha u vha vhaṅe vha ndaka kana ndaka ine vhaṅe vhayo ndi vhanzhi, kha ndaka kana mveledziso ya ndaka; 15
- (c) hu tshi katelwa muthu muṅwe na muṅwe ane musi a tshi khou zwi itela muholo a langa ndaka o imela muṅwe; 20
- (d) hu tshi katelwa thirasiti ane thirasitii a shumaho mushumo muṅwe na muṅwe wo bulwaho kha pharagirafu ya (a), u itela u wana mbuelo kha akhaunthu ya thirasiti, zwo livha kana u sa livha nga ṅḍila inwe na inwe zwa vha uri ndi bindu line, nga kha ndaela ya kana ho imelwa muthu muṅwe na muṅwe; 25
- (e) u itela ndivho dza khethekanyo dza 34, 46, 48, 59, 60, 61 na 65 hu tshi katelwa—
- (i) mulangi muṅwe na muṅwe wa khamphani kana muraḍo wa koporasi ṭhukhu ane a shuma sa mushumi wa zwa ndaka u ya nga ṭalutshedzo i re kha phara ya (a);
- (ii) muthu muṅwe na muṅwe o tholwaho nga mushumi wa zwa ndaka sa zwo lavhelelwaho kha phara ya (a) nahone ane a shuma o tou imiela mushumi wa zwa ndaka, a tshi shuma mushumo wo bulwaho kha phara ṭhukhu ya (i), (ii), (iv), (v) kana (vi) ya iyo phara; 30
- (iii) thirasitii muṅwe na muṅwe wa thirasiti ane a vha mushumi wa zwa ndaka sa zwo lavhelelwaho kha phara ya (d); 35
- (iv) muthu muṅwe na muṅwe o tholwaho nga mushumi wa zwa ndaka sa zwo lavhelelwaho kha phara ya (b) nahone ane a shuma mishumo miṅwe na miṅwe o tou imela sa zwo bulwaho kha phara ṭhukhu ya (i), (ii), (iv), (v) kana (vi) ya pharagirafu (a); na
- (v) muthu muṅwe na muṅwe o tholwaho nga mushumi wa zwa ndaka sa zwo bulwaho kha phara ya (a) kana (b) u itela u langa, u lavhelesa kana u langula mashumele a ḍuvha na ḍuvha a bindu la uyo mushumi wa zwa ndaka; 40
- (f) hu tshi katelwa muthu muṅwe na muṅwe o tholwaho nga kana ane a ṅetshedza tshumelo kha axenṅde kana khamphani ya phrofeshinala sa zwo ṭalutshedzwaho kha khethekanyo ya 1 ya Mulayo wa *Attorneys Act, 1979*, nga ṅḍa ha axenṅde kana axenṅde ane a kha ḍi guda, nahone ane mishumo yawe ya katela zwoṅhe kana zwiḥulwanesa u shuma mushumo ufhio na ufhio wo bulwaho kha phara ṭhukhu ya (i), (ii), (iii), (iv), (v) kana (vi) dza phara ya (a); ho imelwa uyo axenṅde kana khamphani ya phrofeshinala ine mishumo yayo i ḍo katelwa nga Tshikwama tshi Thembeaho tsha Axenṅde nahone hu si Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka; 45
- (g) u itela ndivho dza khethekanyo ya 61 na ndangulo inwe na inwe yo itwaho nga fhasi ha khethekanyo ya 70, hu katelwa muthu muṅwe na muṅwe we a vha e mushumi wa zwa ndaka nga tshifhinga tsha musi a tshi vha na mulandu wa u khakha hune o humbulelwa uri zwi ita uri a gwevhelwe vhuḍifari ho bulwaho kha khethekanyo ya 62, fhedzi zwi sa kateli axenṅde kana muraḍo wa khamphani ya phrofeshinala, sa zwe zwa ṭalutshedzwa kha khethekanyo ya 1 ya Mulayo wa *Attorneys Act, 1979*, kana axenṅde ane a kha ḍi guda sa zwo ṭalutshedzwaho kha yeneyo khethekanyo, ane a shuma mushumo muṅwe na muṅwe wo bulwaho kha phara ya (a), ngomu ha, na nga dzina la, na u bva 50 55 60

- and from the premises of such attorney's or professional company's practice, provided that such an act may not be performed—
- (i) in partnership with any person other than a partner in the practice of that attorney as defined in section 1 of the Attorneys Act, 1979; or
  - (ii) through the medium of or as a director of a company other than such professional company; and
- “**advertise**” for the purposes of this definition does not include advertising in compliance with the provisions of any other law;
- “**prescribe**” means prescribe by regulation;
- “**property**” means immovable property, and any interest, right or duty associated with it as contemplated in section 2;
- “**record**” means any recorded information regardless of form or medium;
- “**registration certificate**” means a registration certificate as contemplated in section 47(2);
- “**this Act**” includes any regulations made under this Act; and
- “**trust money**” means—
- (a) money entrusted to a property practitioner in his or her capacity as a property practitioner;
  - (b) money collected or received by a property practitioner and payable in respect of or on account of any act referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (a) of the definition of a “property practitioner”;
  - (c) any other money, including insurance premiums, collected or received by a property practitioner and payable in respect of any immovable property, business undertaking or contract for the building or erection of any improvements on immovable property.

### Application of Act

2. This Act applies to the marketing, promotion, managing, sale, letting, financing and purchase of immovable property, and to any rights, obligations, interests, duties or powers associated with or relevant to such property.

### Objects of Act

3. The objects of the Act are to—
- (a) provide for the regulation of property practitioners;
  - (b) provide for the establishment of the Authority;
  - (c) provide for the powers, functions and governance of the Authority;
  - (d) provide for the protection and promotion of the interests of consumers;
  - (e) provide for a dispute resolution mechanism in the property market;
  - (f) provide for the education, training and development of property practitioners and candidate Property Practitioners;
  - (g) provide for a framework for the licensing of property practitioners;
  - (h) provide for a just and equitable legal framework for the marketing, managing, financing, letting, renting, sale and purchase of property;
  - (i) promote meaningful participation of historically disadvantaged individuals and small, micro and medium enterprises in the property market;
  - (j) provide for the transformation of the property market and the establishment of the Property Sector Transformation Fund;



kha zwifhaṭo zwa uyo axennde kana mushumo wa khamphani ya phrofeshinaḷa, tenda izwo zwa sa shuṅwe—

- (i) hu tshi khou shumisanwa na muthu muṅwe na muṅwe nga nṅa ha mushumisani/thama kha zwa mushumo wa uyo axennde sa zwo ṭalutshedzwaho kha khethekanyo ya 1 ya Mulayo wa *Attorneys Act*, 1979; kana 5
- (ii) nga kha tshirathisi tsha, kana sa mulangi wa khamphani nga nṅa ha iyo khamphani ya phrofeshinaḷa, na “u kungedzela” ngauri ndivho dza ino ṭalutshedzo a dzi kateli u kungedzela hu u tevhedza mbetshelo dza mulayo; na 10

“randela” zwi amba u randela nga ndangulo;

“ndaka” zwi amba ndaka ine ya sa endedzee, na nyingapfuma, pfanelo kana muthelo une wa kwama yeneyo thundu sa zwe zwa bulwa kha khethekanyo ya 2; “rekhodo” zwi amba rekhodo ifhio na ifhio hu songo sedzwa uri ndi rekhodo ya lushaka ḁe; 15

“ṭhanziela ya u ṅwalisa” zwi amba ṭhanziela ya u ṅwalisa sa zwe zwa bulwa kha khethekanyo ya 47(2);

“uno Mulayo” hu katelwa ndangulo dzo itwaho nga fhasi ha uno Mulayo; nahone “masheleni a thirasiti” zwi amba—

- (a) masheleni ane o fariwa nga mushumi wa zwa ndaka saizwi e mushumi wa zwa ndaka; 20
- (b) masheleni o kuvhanganywaho kana o ṭanganedzwaho nga mushumi wa zwa ndaka nahone ane a badelwa u ya nga zwe zwa bulwa kha pharagirafu ṭhukhu ya (i), (ii), (iii) kana (iv) ya pharagirafu ya (a) ya ṭalutshedzo ya ipfi “mushumi wa zwa ndaka”; 25
- (c) tshede inwe na inwe, hu tshi katelwa mbadelo dza ndindakhombo, yo kuvhanganywaho kana yo ṭanganedzwaho nga mushumi wa zwa ndaka nahone i badelwaho malugana na thundu ifhio na ifhio i sa endedzwi, bindu kana konṭiraka ya tshifhaṭo kana u fhaṭwa ha zwi kwamaho u khwiṅisa ndaka i sa endedzei. 30

### Zwine Mulayo wa kwama

2. Zwi kwamiwaho nga hoyu Mulayo ndi zwa mbambadzo, vhulangi, thengiso, u renndisa, u fha masheleni na u renga ndaka i sa endedzei, na pfanelo dziṅwe na dziṅwe, zwine zwa vha mbofho, nyingapfuma, mishumo na maandṅa zwine izwi zwi livhanywa na yeneyo ndaka. 35

### Zwipikwa zwa Mulayo

3. Zwipikwa zwa Mulayo ndi u—

- (a) ita mbetshelo malugana na u langula vhashumi vha zwa ndaka;
- (b) ita mbetshelo malugana na u thomiwa ha Maandṅalanga;
- (c) ita mbetshelo malugana na maandṅa, mishumo na vhuvhusi ha Maandṅalanga; 40
- (d) ita mbetshelo malugana na tsireledzo na u ṭuṭuwedza madzangalelo a vharengi;
- (e) ita mbetshelo malugana na zwi kwamaho nṅila ya u tandulula phambano kha maraga wa zwa ndaka;
- (f) ita mbetshelo malugana na pfunzo, vhugudisi na mvelaphanḁa kha vhashumi vha zwa ndaka na vhashumi vha zwa ndaka vhane vha kha ḁi guda; 45
- (g) u ita mbetshelo malugana na mutheo wa u fha ḷaisentse vhashumi vha zwa ndaka;
- (h) ita mbetshelo ya mulayo u sa dzhiho sia zwi tshi ḁa kha mafhungo a u vhambadza, u langa, u kolodisa masheleni, u hirisa, renndisa, thengiso na u renga ndaka; 50
- (i) u ṭuṭuwedza u dzhenelela hu pfadzaho kha avho vhe vha vho khethululwa zwiḷa kale na kha zwi kwamaho vhubindudzi vhuṭukusa, vhuṭuku na ha vhukati kha zwa maraga wa ndaka;
- (j) ita mbetshelo malugana na khwiṅifhadzo ya maraga wa zwa ndaka na u thomiwa ha Tshikwama tsha Tshanduko ya Sekithara ya zwa Ndaka; 55
- (k) ita mbetshelo kha u khwiṅisa maraga wa zwa ndaka u itela uri Vhathu vha Afrika Tshipembe vha kone-vho u vha vhaṅe vha ndaka musi hu na u dzhenelela na u itwa ha mbekanyamushumo dza vhaṅe vhane vha vha vharengi vha ndaka nga nṅila ine ya swikelelea nahone kha maraga wa sekondari; na 60

- (k) provide for the transformation of the property market that facilitates property ownership to more South Africans through structured interventions and the creation of property consumer ownership programmes in the affordable and secondary market; and
- (l) create a mechanism for responding and implementation of directives received from the Minister, from time to time. 5

#### Exemption from Act

4. (1) Any person (hereinafter referred to as the applicant) may, subject to the provisions of this section, be exempted from compliance with any specific provision of this Act. 10

(2) The applicant must, in the prescribed manner and form, submit the application for exemption to the Authority, accompanied by—

- (a) an explanation of the reasons for the application; and
- (b) any applicable supporting documents.

(3) The Authority may direct the applicant to— 15

- (a) furnish additional information which may be relevant; and
- (b) appear in person before the Authority to support his or her application and provide verbal responses to questions raised by the Authority.

(4) (a) Any person may raise an objection to the Authority as prescribed regarding the exemption which has been granted to a person or an entity in terms of this section. 20

(b) The Authority must consider the objection and determine whether such objection may be sustained.

(5) The Authority must consider and decide on the application, taking into account whether—

- (a) the granting of the exemption is likely to impact negatively on the interests of the general public; 25
- (b) the granting of the exemption is likely to impact negatively on competition in the property sector or the property practitioners' industry;
- (c) the granting of the exemption is likely to benefit one section of the property practitioners' industry to the detriment of another; 30
- (d) appropriate, sufficient and effective regulatory protection of consumers' rights and interests exists; and
- (e) the exemption would not defeat the objects of the Act.

(6) The Authority may—

- (a) approve the application, together with a record of the matters contemplated in subsection (7): Provided that the exemption may not exceed three years and may not be applied retrospectively; 35
- (b) decline the application; or
- (c) refer the application back to the applicant for further investigation or consideration, as the case may be. 40

(7) If the Authority approves the application, the Authority must publish the decision on its website, which must include—

- (a) the provision of the Act from which exemption is granted;
- (b) the person to whom the exemption applies;
- (c) the date from which and the date up to when the exemption applies; 45
- (d) any conditions that apply to the exemption;
- (e) the reasons for granting the exemption;
- (f) a declaration that the granting of an exemption does not create any special rights or legitimate interests which may apply to the category of persons so exempted; and 50
- (g) a declaration that any exemption granted may be amended or withdrawn subject to the provisions of this section.

(8) Any person who is adversely affected by the decision of the Authority may request the Authority to provide written reasons.

(9) (a) Any person may, at any time in writing, request the Minister to review any exemption granted in terms of this section. 55

(b) The Minister must instruct the person requesting the review to notify the Authority as well as any other person specified by the Minister, for the account of the person requesting that review, and to submit any comments received to the Minister.



- (l) ita ndila ya u fhindula na u shumisa zwo laelwaho nga Minista misi yothe.

#### U vhothololwa kha u tevhedza Mulayo

4. (1) Muthu muñwe na muñwe (afha a tshi khou vhidzwa u pfi muhumbeli) a tshi khou tevhedza mbetshelo dza ino khethekanyo, a nga vhothololwa uri a sa tevhedze yenyoye mbetshelo ya uno Mulayo. 5
- (2) Muhumbeli a tshi khou tevhedza ndila na fomo yo teaho u tea u isa khumbelo kha Maandlalanga ya uri a tendelwe u sa vhothiwa nga Mulayo, nahone khumbelo i fhelekedzwe nga —
- (a) thalutshedzo ya mbuno dza iyo khumbelo; na
- (b) mañwalwa mañwe na mañwe o teaho. 10
- (3) Maandlalanga a do vhudza muhumbeli uri a—
- (a) xekedze inwe ndivhiso ine ya khou xodea; nahone
- (b) a divhonadze phanda ha maandlalanga u itela uri a tikedze khumbelo yawe na u fhindula mbudziso nga mulomo dzine Maandlalanga a do vhudzisa. 15
- (4). (a) Muthu muñwe na muñwe a nga hanedzana na Maandlalanga sa zwe zwa randelwa malugana na u vhothololwa ho xetshedzwaho muthu kana tshiimiswa u ya nga ino khethekanyo. 15
- (b) Maandlalanga a tea u lavhelesa kxanedzo nahone Maandlalanga a lavhelese uri naa iyo kxanedzo i a khwathisedzwa naa.
- (5) Maandlalanga a tea u lavhelesa nahone Maandlalanga a dzhie tsheo malugana na khumbelo, a tshi khou dzhiela ntha arali— 20
- (a) u tendela uho u sa tevhedza uno Mulayo zwi tshi do kwama tshitshavha tshothe nga ndila i si yavhuqi;
- (b) u tendela u sa tevhedza uno Mulayo zwi tshi do kwama mutajisano nga ndila i si yavhuqi kha sekithara ya zwa ndaka kana sekithara ya vhashumi vha zwa ndaka; 25
- (c) u tendela uho u sa tevhedza uno Mulayo zwi tshi do vhuedza khethekanyo nthihi fhedzi kha ndowetshumo ya zwa vhashumi vha zwa ndaka ngeno hu tshi khou huvhala vhaiwe;
- (d) hu na ndangulo ya tsireledzo ya pfanelo dza vharengi vha ndaka yo teaho, yo linganelaho nahone ine ya khou shumiswa; na 30
- (e) u tendela u sa tevhedza uno Mulayo zwi tshi do thithisa zwipikwa zwa Mulayo.
- (6) Maandlalanga a a nga—
- (a) tendela iyo khumbelo, kxathihi na rekhodo ya mafhungo o bulwaho kha khethekanyo thukhu ya (7): Tenda u tendela ha sa paqe minwaha miraru nahone hu sa do shumiswa ho sedzwa zwa murahu; 35
- (b) hanela iyo khumbelo; kana
- (c) humisela murahu khumbelo kha muhumbeli u itela uri hu itwe tsedzuluso kana u lavhelesa, u ya nga zwine nyimele ya vha zwone. 40
- (7) Arali Maandlalanga a tendela iyo khumbelo, Maandlalanga a tea uri a andadze iyo tsheo kha webusaithi ya one Maandlalanga, nahone iyo nyanadzo i tea u katela—
- (a) mbetshelo ya Mulayo ine ya khou ita uri hu vhe na u vhotholola;
- (b) muthu ane a khou vhothololwa;
- (c) datumu ya uri u vhotholola zwi thoma lini zwa guma lini; 45
- (d) nyimele dziñwe na dziñwe dzine dza khou shumiswa kha uho u vhotholola;
- (e) mbuno dzine dza khou ita uri hu vhe na uho u vhothololwa;
- (f) hu bulwe uri u vhothololwa a hu iti uri hu vhe na pfanelo dza tshipentshela kana dzangalelo lo teaho line la nga shumiswa kha khethekanyo ya vhatu vhane vha khou vhothololwa; na 50
- (g) u bula uri u vhothololwa ho tendelwaho hu nga khwinifhadzwa kana u dziululwa hu tshi khou tevhedzwa mbetshelo ya ino khethekanyo.
- (8) Muthu muñwe na muñwe ane a kwamea nga ndila i si yavhuqi nga tsheo ya Maandlalanga a nga humbela uri Maandlalanga a mu fhe mbuno dzo tou ñwalwaho.
- (9) (a) Muthu muñwe na muñwe nga tshifhinga tshiñwe na tshiñwe nga u tou ñwala a nga humbela Minista uri a tole mbothololo inwe na inwe yo fhiwaho u ya nga ino khethekanyo. 55
- (b) Minista u tea u laela muthu ane a khou humbela tholo ya mbothololo uri a divhadze Maandlalanga na muthu o bulwaho nga Minista, u itela muthu ane a khou humbela tholo, na u isa mahumbulwa o xanganedzwaho kha Minista. 60

- (10) The Authority may on good grounds amend, suspend or withdraw an exemption.  
 (11) The Authority must publish the exemption on its website.

### **Establishment of Property Practitioners Regulatory Authority**

5. (1) There is hereby established a juristic person to be known as the Property Practitioners Regulatory Authority. 5  
 (2) The Authority is a National Public Entity subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).  
 (3) The Authority is governed and acts through a Board known as the Board of the Authority.  
 (4) The Authority must provide regulatory mechanisms in respect of the financing, 10 marketing, managing, letting, hiring, sale, property consumer education and purchase of property, and may do all that is necessary or expedient to achieve the objects of this Act.  
 (5) The Authority is accountable to the Minister.

### **Functions of Authority**

6. The functions of the Authority are to— 15  
 (a) regulate the conduct of property practitioners in dealing with the consumers;  
 (b) regulate the conduct of property practitioners in so far as marketing, managing, financing, letting, renting, hiring, sale and purchase of property are concerned;  
 (c) regulate and ensure that there is compliance with the provisions of the Act; 20  
 (d) ensure that the consumers are protected from undesirable and sanctionable practices as set out in section 62 and section 63;  
 (e) regulate any other conduct which falls within the ambit of the Act in as far as property practitioners and consumers in this market are concerned;  
 (f) provide for the education, training and development of property practitioners 25 and candidate property practitioners;  
 (g) educate and inform consumers about their rights as set out in section 69; and  
 (h) implement measures to ensure that the property sector is transformed as set out in Chapter 4.

## **CHAPTER 2** 30

### **BOARD OF AUTHORITY**

#### **Composition and appointment of Board**

7. (1) The Board consists of—  
 (a) not less than nine but not more than 12 non-executive members, including the Chairperson, appointed by the Minister; and 35  
 (b) the CEO, who serves on the Board by virtue of his or her office.  
 (2) The total number of the Board members contemplated in subsection (1)(a) must consist of—  
 (a) a combination of the following skills and competencies: 40  
 (i) Sufficient financial expertise;  
 (ii) relevant legal experience;  
 (iii) sufficient experience as property practitioners;  
 (iv) sufficient experience in rural and land reform;  
 (v) sufficient experience in the promotion and protection of the consumer 45 interests; and

(10) Maandlanga arali hu na mbuno dzavhuḍi, a nga khwiḿisa, imisa kana u dzhiulula uho u vhofoholola.

(11) Maandlanga a tea u anḍadza uho u vhofoholola kha webusaiti ya one Maandlanga.

#### **U thomiwa ha Maandlanga a Ndangulo ya Vhashumi vha zwa Ndaka** 5

5. (1) Hu khou thomiwa tshiimiswa tshine tsha pfi Maandlanga a Ndangulo ya Vhashumi vha zwa Ndaka.

(2) Maandlanga ndi Tshiimiswa tsha Muvhuso wa Lushaka hu tshi khou tevhedzwa Mulayo wa *Public Management Act*, 1999 (Act No. 1 of 1999).

(3) Maandlanga a vhuswa na u shuma nga kha Bodo ine ya pfi Bodo ya Maandlanga. 10

(4) Maandlanga a tea u fha nḍila dza ndangulo malugana na zwa u fha masheleni, u vhambadza, u renndisa, u hirisa, thengiso, u renga ndaka na pfunzo vharengi vha ndaka, na uri Maandlanga a nga ita zwoṭhe zwine zwa ṭoḍa kana zwine zwa tea u itwa nga u ṭavhanya u itela u swikelela zwipikwa zwa uno Mulayo. 15

(5) Maandlanga a vhiga ngei kha Miniṣṭa.

#### **Mishumo ya Maandlanga**

6. Mishumo ya Maandlanga ndi u—

- (a) langula vhuḍifari ha vhashumi vha zwa ndaka musi vha tshi shumana na vharengi; 20
- (b) langula vhuḍifari ha vhashumi vha zwa ndaka zwi tshi kwama mbambadzo, u langa, u fha masheleni, u renndisa, u hirisa, thengiso na zwa u renga ndaka;
- (c) langula na u vhona uri mbetshelo dza Mulayo dzi tevhedzwe;
- (d) vhona uri vharengi vho tsireledzea kha zwiito zwi sa ṭoḍei na maitele ane a ita uri hu itwe nḍaṭiso u ya nga ha zwo sumbedzwaho kha khethekanyo ya 62 na khethekanyo ya 63; 25
- (e) langula vhuḍifari vhuḿwe na vhuḿwe vhune ha wela kha tshikoupu tsha Mulayo zwi tshi kwama vhashumi vha zwa ndaka na vharengi kha maraga;
- (f) ṅetshedza pfunzo, vhubudisi na mvelaphanḍa zwa vhashumi vha zwa ndaka na vhashumi vha zwa ndaka vhane vha kha ḍi guda; 30
- (g) funza na u ḍivhisa vharengi nga ha ppanelo dzavho dzi re kha khethekanyo ya 69; na
- (h) shumisa maga u itela u vhona uri sekithara ya zwa ndaka i shanduke nahone i khwiḿifhale sa zwo sumbedzwaho kha Ndimba ya 4.

#### **NDIMA YA 2** 35

#### **BODO YA MAANDLANGA**

#### **Miraḍo yo vhubaho Bodo na u tholwa ha iyi miraḍo**

7. (1) Bodo i na miraḍo—

- (a) i si ho fhasi ha miraḍo ya ṭahe fhedzi i sa paḍi fumimbili ya miraḍo i sa weli kha khorotshitumbe, hu tshi khou katelwa Mudzulatshidulo o tholwaho nga Miniṣṭa; na 40
- (b) Muofisi-Mulangi ane a shuma kha Bodo nga nwambo wa uri ndi ene o faraho ofisi.

(2) Nomboro yoṭhe yo fhelela ya miraḍo ya Bodo yo bulwaho kha khethekanyo ṭhukhu ya (1)(a) i tea u vha na — 45

- (a) vhatu vha re na vhukoni ho ṭanganelanaho kha zwi tevhelaho:
  - (i) nḍivho yo linganaho kha zwa masheleni;
  - (ii) tshenzhemo yo teaho kha zwa mulayo;
  - (iii) tshenzhemo yo linganaho ya u shuma sa mushumi wa zwa ndaka;
  - (iv) tshenzhemo yo linganaho kha zwa mbuedzedzo ya mashangohaya na mavu; 50
  - (v) tshenzhemo yo linganaho malugana na nyaluwo na tsireledzo ya madzangalelo a vharengi; na

- (b) at least—
- (i) one member nominated by the Minister of Trade and Industry, in consultation with the Minister; and
  - (ii) one member nominated by the Minister of Public Works, in consultation with the Minister. 5
- (3) (a) The Minister must, prior to the appointment of members of the Board as contemplated in subsection (1)(a), or to filling a vacancy, issue an invitation in the *Gazette* and at least two newspapers circulating nationally in the Republic for the nomination of persons meeting the requirements to serve on the Board.
- (b) A member of the Board contemplated in subsection (1)(a) who is not a public servant or in the full-time employ of the State may be paid out of the funds of the Authority the remuneration and allowances that may be determined generally or in any particular case by the Minister in concurrence with the Minister of Finance. 10
- (4) The Minister must ensure that—
- (a) the appointment of members of the Board is governed by the overriding principle of selection based on merit, determined by an assessment of— 15
    - (i) the objects, functions and operations of the Authority;
    - (ii) the competencies collectively required for serving on the Board, including the relevant skills, expertise and experience relating to governing an organ of state, having regard to subsection (2); and 20
    - (iii) the qualifications, skills, expertise and experience of each individual prospective candidate;
  - (b) the Board is broadly representative with regard to race, gender and disability; and
  - (c) the majority of persons serving on the Board are not public servants contemplated in section 8 of the Public Service Act, 1994 (Proclamation No. 103 of 1994). 25
- (5) When the Chairperson of the Board—
- (a) is absent from a meeting of the Board, the remaining members must nominate one of them to act as Chairperson for that meeting; or 30
  - (b) vacates his or her office, the Minister must within three months appoint a Chairperson in accordance with subsection (3).
- (6) A non-executive member of the Board holds office for a period of three years.
- (7) A member of the Board who is upon completion of his or her three-year term of office eligible for reappointment, but— 35
- (a) no member may serve more than two consecutive terms of office; and
  - (b) the Minister may not reappoint more than five members of the same Board.

#### **Disqualification from membership of Board**

- 8.** The Minister may not appoint a person to the Board—
- (a) who is not a South African citizen or a permanent resident, and who is not ordinarily resident in the Republic; 40
  - (b) who is a member of Parliament, a member of a provincial legislature, a member of Cabinet or a Deputy Minister, a Premier or other member of a provincial executive council, a member of the National House of Traditional Leaders or a Provincial House of Traditional Leaders, or a mayor or other member of a municipal council; 45
  - (c) who or whose spouse, life partner, immediate family member, business partner or associate, holds an office in or is employed by or has any other interest whatsoever, whether direct or indirect, in any company or other entity which supplies goods or renders services to the Authority, unless such an interest is declared for purposes of considering that person's nomination; 50

- (b) miraqo i si ho fhasi ha—
- (i) muraqo muthihi o nangiwo nga Minista wa zwa Makwevho na Nqowetshumo; a tshi khou kwamana na Minista; na
  - (ii) muraqo muthihi o nangiwo nga Minista wa Tshumelo dza Tshitshavha, a tshi khou kwamana na Minista. 5
- (3) (a) Minista phanda ha musu hu tshi tholwa miraqo ya Bodo sa zwe zwa bulwa kha khethekanyo thukhu ya (1)(a), kana u vala tshikhala, ene Minista u do ita thambo kha Gazete na kha gurandza dzi si ho fhasi ha mbili dza lushaka kha Riphabuliki u itela uri hu nangwe vhatu vhane vha fusha thodea dza uri vha shumele Bodo.
- (b) Muraqo wa Bodo wo bulwaho kha khethekanyo thukhu ya (1)(a) ane a si mushumeli wa muvhuso kana a sa khou shumaho kha Muvhuso lwa tshifhinga tsho fhelelaho a nga badelwa masheleni a Maandlanga sa muhulo na magavhelo ane a nga tiwa nga u tou angaredza kana kha nyimele yeneyo ha ta Minista a tshi khou tendelana na Minista wa zwa Masheleni. 10
- (4) Minista u tea u vhona uri u— 15
- (a) tholiwa ha miraqo ya Bodo zwi tshi khou vhuswa nga ndayo dza u nanguludza zwo sendeka kha u tea ha muthu onoyo, zwo sendeka-vho kha thathuvho ya—
    - (i) zwipikwa, mishumo na mashumele zwa Maandlanga;
    - (ii) vhukoni vhune ha thodea kha u shuma kha Bodo, hu tshi khou katelwa vhukoni, ndivho na tshenzhemo malugana na u langa tshiimiswa tsha muvhuso, ho lavheleswa khethekanyo thukhu ya (2); na 20
    - (iii) ndalukano, vhukoni, na tshenzhemo zwa muthu muwe na muwe ane a khou lavhelelwa;
  - (b) Nga vhuphara, Bodo yo yanganyisa vhatu yo sedza u imelwa ha murafho, mbeu na vuholefhalo; na 25
  - (c) vhunzhi ha vhatu vha shumaho kha Bodo a si vhashumeli vha muvhuso sa zwo bulwaho kha khethekanyo ya 8 ya Mulayo wa *Public Service Act*, 1994 (Proclamation No. 103 of 1994).
- (5) Musi Mudzulatshidulo wa Bodo a—
- (a) si ho mutanganoni wa Bodo, miraqo i re hone i tea u nanga muraqo muthihi uri a vhe ene Mudzulatshidulo wa mutangano; kana 30
  - (b) tutshela ofisi, Minista u tea u thola Mudzulatshidulo muswa hu saathu u fhela minwedzi miraru u ya nga khethekanyo thukhu ya (3).
- (6) Muraqo wa Bodo ane a si muraqo wa khorotshitumbe u vha kha ofisi ya Bodo lwa minwaha miraru. 35
- (7) Muraqo wa Bodo musu o fhedza tshifhinga tsha minwaha miraru ya u vha kha ofisi u a dovha a tholea, fhedzi—
- (a) a hu na muraqo ane a nga shuma lwa zwifhinga zwine zwa fhira luvhili kha ofisi zwi tshi khou tou tevhekana; na
  - (b) Minista a nga si dovhe a thola miraqo muthihi ine ya fhira mitanu i tshi bva kha yeneyo Bodo yo fhelelwaho nga tshifhinga. 40

#### U sa tsha fusha thodea dza u vha miraqo wa Bodo

8. Minista a nga si thole muthu kha Bodo—
- (a) ane a sa vhe Mudzulapo wa Afrika Tshipembe kana mudzulapo wa tshothe, nahone ane a sa vhe mudzuli fhedzi kha Riphabuliki; 45
  - (b) ane a vha miraqo wa Phalamennde, miraqo wa vhusimamilayo ha vundu, miraqo wa Khabinete kana Muthusa Minista, Muphrimia kana muwe miraqo wa khorotshitumbe ya vundu, miraqo wa Ndu ya Lushaka ya Vhurangaphanda ha Sialala kana Ndu ya Vundu ya Vhurangaphanda ha Sialala, kana meyara kana muwe miraqo wa khoro ya masipala; 50
  - (c) ane mufarisi kana ane mufarisi wawe, thama ya vhutshilo hothe, miraqo wa tsinisa wa muta, thama kana mushumisani kha zwa vhubindudzi, o fara ofisi kha kana o tholwa nga kana u na dzangalelo kha, lo livhaho kana li songo livhaho, kha khamphani inwe na inwe kana tshinwe tshiimiswa tshine tsha rengisela thundu kana u fha tshumelo kha one Maandlanga, nga nda ha musu ilo dzangalelo lo bvukulwa u itela ndivho dza uri u nangiwa ha uyo muthu hu lavheleswe; 55

- (d) who is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008);
- (e) who has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty, or of any other offence for which such person has been sentenced to direct imprisonment without the option of a fine, other than an offence committed prior to 27 April 1994 demonstrably associated with political objectives; 5
- (f) whose name, or the name of a juristic person of whom the person was a director, member, trustee, partner, shareholder, holder of membership or other beneficial interest has been listed by the National Treasury on its Register for Tender Defaulters established by section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004); 10
- (g) who has been discharged from a position of trust;
- (h) whose membership of a board or other accounting authority of a public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), has been prematurely terminated due to a dishonourable discharge; 15
- (i) who has at any time been found to be in contravention of this Act or the Estate Agency Affairs Act;
- (j) who is of unsound mind; or 20
- (k) who is an unrehabilitated insolvent.

#### **Powers and duties of Board**

##### **9.** The functions of the Board are to—

- (a) ensure that the Authority complies with this Act and any other applicable law;
- (b) ensure that the Authority performs its duties efficiently and effectively; 25
- (c) provide corporate governance for the Authority;
- (d) determine and enforce the broad policy framework within which the Authority must pursue its objects and perform its functions;
- (e) ensure that the Authority exercises its powers in accordance with the principles of transparency and accountability; 30
- (f) manage the marketing, promotion, sale, lease, financing, purchasing, registration and transfer of property of the Authority;
- (g) advise the Minister on—
  - (i) the efficacy of this Act;
  - (ii) the state of transformation of the industry; 35
  - (iii) prescribing of regulations;
  - (iv) education and training of property practitioners; and
  - (v) any other matter on which the Minister requires the advice of the Board;
- (h) maintain the Fund and hold it in trust; and
- (i) perform any other power or duty conferred on the Board by this Act or any other applicable law. 40

#### **Good governance and code of ethics**

##### **10.** (1) The Board must—

- (a) approve codes of ethics applicable to all members of the Board and employees of the Authority, respectively; and 45
- (b) from time to time, review those codes to ensure compliance with all current law, principles of good governance and ethical behaviour.

(2) Nothing in this section prevents the Board from voluntarily adopting any code, protocol or charter not in conflict with any policy, code, protocol, guideline or similar document contemplated in subsection (1) and applicable to its members. 50



- (d) ane o bviswa uri a sa tsha vha Mulanguli wa khamphani yo katelwaho hu tshi khou tevhedzwa Mulayo wa *Companies Act, 2008 (Act No.71 of 2008)*;
- (e) ane o wanwa mulandu kha zwi kwamaho mbilo kana vhugevhenga tsengoni nga khothe ya mulayo, hu nga vha hu kha la Afrika Tshipembe kana mashangoḁavha, uri muthu uyo o ita vhufhura, ha ngo fhulufhedzea, nga ndila i si ya phrofeshinala, u sa fhulufhedzea kana u vunda vhuḁifhinduleli ha u vha mulondoli wa masheleni/thundu, kana vhutshinyi vhuḁwe na vhuḁwe he uyo muthu a vhu ita nahone a gwevhelwa tou dzula tironngoni hu si na u badela ndaḁiso, nga nḁa ha vhutshinyi he ha itwa phanda ha dzi 21 Lambamai 1994 nahone vhu tumanaho na zwa politiki; 5 10
- (f) ane dzina lawe, kana dzina la tshiimiswa he muthu uyo a vha e mulanguli, muraḁo, thirasitii, thama, mufaramukovhe, a na vhoraḁo kana liḁwe dzangalelo li kha mutevhe wo itwaho nga Gwama la Lushaka kha Rezhisitara ya u swifhadzwa ha dzina la muḁetshedzi wa tshumelo nga thendara yo thomiwaho u ya nga khethekanyo ya 29, ya Mulayo wa *Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)*; 15
- (g) ane o rulwa mushumo wa u vha thirasiti;
- (h) ane vhoraḁo hawe ha u vha kha Bodo kana kha maḁwe maanḁalanga a vhuḁifhinduleli kha tshiimiswa tsha tshitshavha sa zwo talutshedzwaho kha khethekanyo ya 1 ya Mulayo wa *Public Finance Management Act, 1999 (Act No. 1 of 1999)*, vhoraḁo uho ho fheliswa tshifhinga tshi saathu u swika nga ḁwambo wa u sa fhulufhedzea; 20
- (i) ane nga tshifhinga tshiḁwe na tshiḁwe a wanwa mulandu wa u pfukekanya uno Mulayo kana Mulayo wa *Estate Agency Affairs Act, 1976*;
- (j) ane a zwo ngo dzudzana maluvhini; kana 25
- (k) ane o kundelwa u badela zwikolodo zwawe lwe a sa tsha vusuludzea.

#### Maanḁa na mishumo ya Bodo

##### 9. Mishumo ya Bodo ndi u—

- (a) vhona uri Maanḁalanga a khou tevhedza uno Mulayo na miḁwe milayo yoḁhe yo teaho; 30
- (b) vhona uri Maanḁalanga a khou shuma mishimo yao zwavhuḁi;
- (c) ḁetshedza vhuvhusi kha one Maanḁalanga;
- (d) lavhelesa na u tevhedzisa mutheo wa mbekanyamaitele ine Maanḁalanga a tea u swikelela zwipikwa na u shuma mishumo yao;
- (e) vhona uri Maanḁalanga a khou shumisa maaanḁa nga ndila i re khagala nahone nga ndila ya vhuḁifhinduleli; 35
- (f) langa mbambadzo, u kungedzela, thengiso, thendelano ya u rennda, u lambedza masheleni, u renga, u ḁwalisa na u rathisa ndaka ya Maanḁalanga;
- (g) eletshedza Minista kha— 40
- (i) u shuma zwavhuḁi ha uno Mulayo;
- (ii) nyimele ya u khwiḁisa ḁowetshumo;
- (iii) u randela ndangulo;
- (iv) pfunzo na vhugudisi kha avho vhashumi vha zwa ndaka; na
- (v) mafhungo maḁwe na maḁwe ane Minista a ḁḁa ngeletshedzo i bvaho kha Bodo; 45
- (h) tikedza Tshikwama na uri tshi vhe kha thirasitii; na
- (i) shuma mushumo muḁwe na muḁwe kana mushumo we wa hweswa Bodo u ya nga uno mulayo kana miḁwe milayo yoḁhe yo teaho.

#### Kuvhusele kwavhuḁi na mulayo wa vhuḁifari

##### 10. (1) Bodo i tea u— 50

- (a) tendela milayo ya vhuḁifari yo teaho kha miraḁo yoḁhe ya Bodo na vhashumi vha Maanḁalanga; na
- (b) ḁola iyo milayo ya vhuḁifari misi yoḁhe u itela u vhona uri i khou anana na milayo yoḁhe, ndayo dza kuvhusele kwavhuḁi na mikhwa yavhuḁi.

(2) Kha ino khethekanyo a hu na tshi thivhelaho Bodo kha u vha na mulayo muḁwe na muḁwe, kuitele kana tshata i sa hanedzaniho na mbekanyamaitele, mulayo, kuitele, tsumbandila kana liḁwalwa sa zwo ambiwaho kha khethekanyo thukhu ya (1) nahone lo fanelaho miraḁo ya yone Bodo. 55

### Conflict of interest of members of Board

**11.** (1) A member of the Board must, upon appointment, submit a declaration to the Minister, made under oath or by affirmation, to the effect that he or she is not disqualified from appointment as contemplated in section 8.

(2) A member of the Board or of a committee of the Board, as the case may be, must immediately when he or she becomes aware of any conflict of interest, in writing, inform the Chairperson of the Board or the chairperson of a Board committee, as the case may be, of such conflict, and the relevant chairperson must immediately excuse that member from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict is considered. 5 10

(3) The Chairperson of the Board or of a committee of the Board must, immediately when he or she becomes aware of any conflict of interest, in writing, inform the Board or the Board committee of such conflict, and the Chairperson must recuse himself or herself from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict is considered. 15

### Termination of membership of Board

**12.** (1) The Minister may, after having afforded a member of the Board a reasonable opportunity to make submissions in writing, terminate that member's membership of the Board if that member has—

- (a) failed to immediately declare any conflict of interest as contemplated in section 11; 20
- (b) repeatedly and knowingly disregarded or contravened any code of ethics contemplated in section 10 or any other applicable law; or
- (c) failed to attend three consecutive meetings of the Board or a Board committee without the permission of the Chairperson or of the Board or the Chairperson of the relevant Board committee. 25

(2) The Minister must, when terminating the membership of a member of the Board, in writing, inform both the Board and that member of the reasons for that termination.

(3) If a member of the Board at any time during his or her term of office becomes disqualified to be a Board member on any of the grounds contemplated in section 8, that member— 30

- (a) must immediately in writing inform the Minister and the Chairperson of the Board of that disqualification, and once the Minister has been so informed he or she must forthwith in writing remove that member from the Board; and
- (b) may not attend a Board meeting or a Board committee meeting from the time he or she has so become disqualified until he or she is removed by the Minister. 35

(4) A member of the Board may resign by giving one month's notice in writing to the Minister.

(5) The termination of membership of the Board or resignation from the Board does not in any way prevent or influence the institution or continuance of proceedings against the person whose membership of the Board was terminated or who resigned from the Board, as the case may be. 40

### Meetings of Board

**13.** (1) The Board must meet at least once in every three months. 45

(2) The Chairperson or Board must forthwith call a special meeting of the Board, if requested in writing to do so by at least three members of the Board.

(3) A majority of members of the Board constitute a quorum for a meeting of the Board.

(4) The Chairperson has a casting vote only. 50



**Khuḁano ya madzangalelo kha miraḁo ya Bodo**

- 11.** (1) Muraḁo wa Bodo musi a tshi tou tholiwa u tea u bvukululela Miniṣṭa, nahone izwo zwo itwa nga u tou ana kana u tou khwaṭhisedza nga nḁila ine zwa ḁo ita uri zwa sa sie a sa tsha fusha ṭhoḁea dza u tholwa sa zwe zwa bulwa kha khethekanyo ya 8.
- (2) Muraḁo wa Bodo kana komiti ya Bodo, u ya nga hune nyimele ya vha zwone, nga u ṭavhanya musi a tshi to u ḁivha uri hu na khuḁano ya madzangalelo, nga u tou ṅwala u tea u vhudza Mudzulatshidulo wa komiti ya Bodo, u ya nga hune nyimele ya vha zwone, a mu vhudze nga ha iyo khuḁano, na uri nga u tou ṭavhanya, mudzulatshidulo o teaho u tea u imisa uyo muraḁo kha u dzhenelela na u voutha kha muṭangano ufhio na ufhio kana zwiṅwe na zwiṅwe zwine zwa khou itwa zwa vha zwi tshi kwama zwenezwo zwe zwa vhangahuri hu vhe na khuḁano ya madzangalelo.
- (3) Mudzulatshidulo wa Bodo kana komiti ya Bodo nga u ṭavhanya zwenezwi a tshi tou thoma u ḁivha nga ha khuḁano ya madzangalelo nahone nga u tou ṅwala, u tea u ḁivhadza Bodo kana komiti ya Bodo nga ha iyo khuḁano, nahone Mudzulatshidulo u tea u ḁivvisa kha u dzhenelela na u vouta kha muṭangano kana zwiṅwe na zwiṅwe zwine zwa khou itwa zwo vhangahuri hu vhe na khuḁano ya madzangalelo.

**Ufhelisa vhuraḁo ha u vha muraḁo wa Bodo**

- 12.** (1) Nga murahu ha musi muraḁo wa Bodo o fhiwa tshikhala tsha u ṅetshedza ḁikumedzwa nga u tou ṅwala, Miniṣṭa a nga fhelisa vhuraḁo ha uyo muraḁo wa u vha kha Bodo arali uyo muraḁo wa Bodo o—
- (a) kundelwa u ḁibvukulula nga u ṭavhanya malugana na khuḁano ya madzangalelo sa zwo bulwaho kha khethekanyo ya 11;
- (b) pfuka kana a songo ṭhonifha milayo ya vhuḁifari lunzhi nga khole sa zwe zwa bulwa kha khethekanyo ya 10 kana kha mulayo muṅwe na muṅwe wo teaho;
- (c) kundelwa u vha hone kha muṭangano miraru i tshi tou tevhekana ya Bodo kana komiti ya Bodo ngeno a songo fhiwa thendelo nga Mudzulatshidulo kana Bodo kana Mudzulatshidulo wa komiti ya Bodo yo teaho.
- (2) Musi Miniṣṭa a tshi fhelisa vhuraḁo ha muraḁo ha u vha kha Bodo, nga u tou ṅwala ene Miniṣṭa u tea u ḁivhisa Bodo na muraḁo uyo nga ha mbuno dza uri ndi ngani a tshi khou fhelisa vhuraḁo ha muraḁo wa Bodo.
- (3) Arali muraḁo wa Bodo nga tshifhinga tshiṅwe na tshiṅwe musi a tshi khou shuma kha ofisi a mbo sa tsha fusha ṭhoḁea dza u vha muraḁo wa Bodo zwo vhangwa nga mbuno dzo bulwaho kha khethekanyo ya 8, uyo muraḁo—
- (a) nga u ṭavhanya nahone nga u tou ṅwala u tea u ḁivhisa Miniṣṭa na Mudzulatshidulo wa Bodo nga uho u sa tsha fusha ṭhoḁea hawe, na uri zwenezwi musi Miniṣṭa o ḁivhiswa nga ha izwi, nga u tou ṅwala, ene Miniṣṭa u tea u namba a bvisa uyo muraḁo wa Bodo; nahone
- (b) a nga si tsha dzhenela muṭangano wa Bodo kana muṭangano wa komiti ya Bodo misi yoṭhe musi o vha ane a sa tsha fusha ṭhoḁea u swika a tshi bvisa nga Miniṣṭa.
- (4) Muraḁo wa Bodo a nga ḁirula mushumo nga u tou fha nḁivhadzo ya ṅwedzi muthihi o tou zwi ṅwalela Miniṣṭa.
- (5) U fhelisa vhuraḁo kha Bodo kana u rula mushumo a zwi thivheli kana a zwi ṭuṭuwedzi tshiimiswa kana u ya phanḁa na u sengisa muthu ane vhuraḁo hawe kha Bodo ho fheliswa kana o rula mushumo wa Bodo, u ya nga nyimele.

**Miṭangano ya Bodo**

- 13.** (1) Bodo i tea u ṭangana lu si ho fhasi ha luthihi kha miṅwedzi miraru miṅwe na miṅwe.
- (2) Mudzulatshidulo u kana Bodo i tea u ramba muṭangano wa tshipentshela wa Bodo, arali zwo humbelwa nga u tou ṅwala uri zwi pfi pfalo nga miraḁo i si ho fhasi ha miraru yo salaho ya Bodo.
- (3) Vhunzhi ha miraḁo ya Bodo ndi yone ine ya vhumba khoramu ya muṭangano wa Bodo.
- (4) Arali u voutha ha wa thai, Mudzulatshidulo voutu yawe u ifha tshigwada tshine a funa uri hu kone u dzhiwa tsho.

(5) Any minutes of a meeting, or a decision, signed by the Chairperson of the meeting, or by the chairperson of the next meeting of the Board, as the case may be, is evidence of the proceedings of that meeting or adoption of that decision, as the case may be.

(6) A meeting of the Board may be conducted by electronic communication and individual Board members may participate in a meeting by electronic communication, if the Board so approves, but the electronic communication facility employed must enable all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting. 5

(7) The Board must, in addition to this section, adopt a charter setting out its rules of operation in line with applicable good corporate governance codes. 10

(8) The Board determines its own procedures at meetings of the Board.

### **Committees of Board**

**14.** (1) The Board may appoint committees to assist it in efficiently and effectively performing its functions and exercising its powers.

(2) The Chairperson of the Board may not serve on any of the Board's committees. 15

(3) The Board must determine the experience and qualifications of the members of the committees as well as the composition, period of service, rules and procedures of those committees.

(4) The Board remains responsible and accountable for anything done by its committees. 20

### **Dissolution of Board**

**15.** (1) Subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the Minister may dissolve the Board if—

(a) the Board collectively disregards or contravenes any document contemplated in section 10 or any applicable law; or 25

(b) the Auditor-General has for two successive years qualified his or her audit report or noted matters of emphasis or has declined to express an opinion on the accounts, financial statements and financial management of the Authority.

(2) Upon dissolution of the Board, the Minister must appoint an administrator to take over the functions of the Board and to do anything which the Board might otherwise be empowered or required to do by or under this Act, subject to such conditions as the Minister may determine. 30

(3) The appointment contemplated in subsection (2) may not exceed a period of 12 months.

## **CHAPTER 3 35**

### **APPOINTMENT OF CEO AND STAFF OF AUTHORITY**

#### **Appointment of CEO**

**16.** (1) The Board must, with the approval of the Minister, appoint a suitably qualified and experienced person as CEO for a period not exceeding five years.

(2) The CEO is accountable to the Board and is responsible and accountable for the day-to-day management and operations of the Authority. 40

(3) The Board must, prior to the appointment of the CEO, satisfy itself that the person whom it intends to appoint has a suitable combination of qualifications, skills and experience to lead and manage the Authority.

(4) The appointment of the CEO is subject to the conclusion of a written performance contract entered into between the CEO and the Board within three months of the appointment of the CEO. 45

(5) The CEO and any company in which he or she is a director may not trade with the Authority within 12 months after the termination of his or her employment by or resignation from the Authority. 50

(6) A CEO may be re-appointed after the expiration of his or her term of office for one additional term of five years.

(5) Maambiwa mañwe na mañwe a muṭangano, kana tsheo, zwo sainwaho nga Mudzulatshidulo wa muṭangano, kana nga mudzulatshidulo wa muṭangano u tevhelaho wa Bodo, u ya nga nyimele, ndi hone vhuṭanzi ha zwe zwa itwa kha uyo muṭangano kana tsheo ye ya tendelanwa, zwi tshi ya nga nyimele.

(6) Muṭangano wa Bodo u nga farwa hu tshi khou shumiswa vhudavhidzani ha iḽekithironiki na uri muthu ane a vha muraḽo wa Bodo a nga dzhenela muṭangano wa Bodo a khou shumisa vhudavhidzani ha iḽekithironiki, arali zwo tendiwa nga Bodo, fhedzi vhudavhidzani ha iḽekithironiki vhune ha khou shumiswa vhu tea u ita uri vhatu vhoṭhe vha kone u dzhenela muṭangano nga kathihi hu si na muñwe wa vhukati nahone u dzhenela uho hu konadzee zwavhuḽi. 5

(7) Nga nṭha ha ino khethekanyo, Bodo i tea u vha na tshata ine ya khou sumbedza ndayo dza kushumele dzine dza elana na milayo ya mavhusele avhuḽi. 10

(8) Bodo ndi yone ine ya ta maitele ayo a miṭangano ya Bodo.

#### Komiti dza Bodo

14. (1) Bodo i nga thola dzikomiti u itela u thusa kha mashumele avhuḽi a mishumo na u shumisa maanḽa. 15

(2) Mudzulatshidulo wa Bodo a nga shuma kha komiti inwe na inwe ya Bodo.

(3) Bodo i tea u ta tshenzhemo na ndalukano dza miraḽo ya dzikomiti kathihi na mavhumbela adzo, vhulapfu ha tshifhinga tsha u shuma kha dzikomiti, ndayo na maitele a idzo komiti. 20

(4) Bodo ndi yone i re na vhuḽifhinduleli ha tshinwe na tshinwe tshine tsha itwa nga komiti.

#### Ufhaladza Bodo

15. (1) Hu tshi khou tevhedzwa mbetshelo dza Mulayo wa *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)*, Minisṭa a nga fhaladza Bodo— 25

(a) arali Bodo yoṭhe nga guṭe i songo tevhedza kana musi yo pfuka ḽinwalwa ḽifhio na ḽifhio ḽo bulwaho kha khethekanyo ya 10 kana mulayo muñwe na muñwe wo fanelaho; kana

(b) Muṭoli-Muangaredzi lwa miñwaha mivhili i tshi tou tevhokana a vha a khou bvisa muvhigo wa uri zwa masheleni a zwi tshimbili zwavhuḽi nahone hu na zwine zwa khou ombedelwa kana o hana u amba muhumbulo malugana na dziakhaunthu, zwiṭaṭamennde na kulangele kwa masheleni a Maanḽalanga. 30

(2) Musi hu tshi tou fhaladzwa Bodo, Minisṭa u tea u thola mulangi ane a ḽo shuma mishumo ya Bodo na u ita tshinwe na tshinwe, a tshi khou tevhedza idzo nyimele dzine Minisṭa a ta. 35

(3) U tholiwa ho bulwaho kha khethekanyo ṭhukhu ya (2), a hu paḽi miñwedzi ya 12.

### NDIMA YA 3

#### UTHOLWA HA MUOFISI MULANGI NA VHASHUMI VHA MAANḽALANGA

##### U tholwa ha Muofisi Mulangi

16. (1) Bodo musi Minisṭa o zwi tendela, i tea u thola muthu o teaho ane a fusha ṭhoḽea nahone a re na tshenzhemo ane a ḽo shuma sa Muofisi Mulangi lwa miñwaha i sa paḽi miṭanu. 40

(2) Muofisi Mulangi u vhiga kha Bodo nahone u na vhuḽifhinduleli kha mushumo wa vhumangi ḽuvha na ḽuvha na mashumele a Maanḽalanga.

(3) Bodo musi hu saathu u tholwa Muofisi Mulangi i tea u thoma ya fushea uri muthu ane ya khou ṭoḽa u thola u na ndalukano, vhukoni na tshenzhemo zwa vhurangaphanḽa na u langa Maanḽalanga. 45

(4) U tholwa ha Muofisi Mulangi hu tevhedza u khunyeledzwa ha konṭiraka yo tou ḽinwalwaho ya mashumele vhukati ha Bodo na Muofisi Mulangi hu saathu u fhela miñwedzi miraru musi ho tholwa Muofisi Mulangi. 50

(5) Muofisi Mulangi na khamphani inwe na inwe ine a vha mulangi wayo a i tei u ita zwa makwevho na Maanḽalanga hu saathu u fhela miñwedzi ya 12 nga murahu ha musi ho fhela mushumo wa Muofisi Mulangi nga, kana nga u tou rula mushumo.

(6) Muofisi Mulangi a nga tholwa hafhu nga murahu ha u fhela ha tshifhinga tshawe tsha u shuma kha ofisi nahone a nga tholwa hafhu lwa miñwe miñwaha miṭanu. 55

(7) The CEO may resign by giving three months' notice in writing to the Board, unless the parties agree on a shorter period.

(8) Upon resignation or removal of the CEO, the Board must immediately appoint a new CEO or another suitable person as acting CEO on the terms and conditions determined by the Board, until a new CEO is appointed. 5

(9) If the Board has not appointed a new CEO within six months after the position of the CEO became vacant, the Board must within 14 days after the expiry of that six-month period report to the Minister the reasons why it has not done so.

(10) The termination of the CEO's employment contract or the CEO's resignation does not in any way prevent or influence the institution or continuance of legal or disciplinary proceedings against him or her. 10

### Staff of Authority

17. (1) The CEO must appoint suitably qualified persons to assist the CEO to efficiently and effectively perform his or her functions under this Act, in accordance with an employment policy approved by the Board. 15

(2) The CEO must ensure that all employees of the Authority are adequately qualified and trained for their respective positions.

(3) The code of ethics for employees of the Authority contemplated in section 10(1) applies to all employees of the Authority to the extent indicated in the code.

### Conflict of interest of employees 20

18. (1) An employee of the Authority must, on appointment, submit to the CEO a statement in writing in which that person declares whether or not he or she has any direct or indirect interest, financially or otherwise, which—

(a) may constitute a conflict of interest in respect of his or her functions as a member of staff of the Authority; or 25

(b) could reasonably be expected to compromise the Authority in the performance of its functions.

(2) If an employee of the Authority acquires an interest contemplated in subsection (1), he or she must immediately in writing declare that fact to the CEO.

(3) An employee of the Authority may not be present at, or take part in, the discussion of or the taking of a decision on any matter before the Authority in which that member has an interest contemplated in subsection (1). 30

(4) An employee of the Authority may not use his or her position or privileges, or confidential information obtained as a member of staff of the Authority, for personal gain or to improperly benefit another person. 35

(5) The Authority must institute disciplinary proceedings against any employee of the Authority who fails or refuses to comply with or contravenes subsection (1), (2), (3) or (4) in accordance with applicable employment and labour law.

(6) The Authority must keep a register of the interests of members of staff disclosed in terms of subsections (1) and (2), and must update that register every three months. 40

### Delegation

19. (1) The CEO may, in writing, delegate any of his or her functions or powers to any of the staff members of the Authority subject to any qualifications he or she may determine.

(2) The delegation of any function or power under subsection (1) does not preclude the CEO from exercising such function or power. 45

(7) Muofisi Mulangi a nga rula mushumo nga u tou ita ndivhadzo ya miwedzi miraru nahone o tou n'walela Bodo, nga nnda ha musu Bodo na Muofisi Mulangi vho tendelana kha tshifhinga tshipfufhi.

(8) Musu Muofisi Mulangi o rula mushumo kana o pandelwa, Bodo i tea u thola Muofisi Mulangi muswa nga u t'v'hanya kana muwe muthu o teaho ane a do tou farela Muofisi Mulangi hu tshi khou tevhezwa milayo yo tiwaho nga Bodo u swika hu tshi tholwa Muofisi Mulangi muswa. 5

(9) Arali Bodo i songo thola Muofisi Mulangi muswa kha miwedzi ya rathi nga murahu ha musu poso ya Muofisi Mulangi yo vha na tshikhala, Bodo musu hu saathu u fhela maduvha a 14 nga murahu ha u fhela ha iyo miwedzi ya rathi i tea u v'higela Minista mbuno dza uri ndi ngani hu songo tholwa Muofisi Mulangi muswa. 10

(10) U fheliswa ha koniraka ya u tholwa ha Muofisi Mulangi kana u rula mushumo nga Muofisi Mulangi a zwi thivheli kana a zwi t'v'wedzi u tevhelwa ha mulayo malugana na uyo Muofisi Mulangi a sa tsha shumaho kha Maand'langa.

#### **Vhashumi vha maand'langa** 15

**17.** (1) Muofisi Mulangi u tea u thola v'vathu vho teaho uri vha thuse Muofisi Mulangi u itela uri ene Muofisi Mulangi a kone u shuma zwavhuqi mishumo yawe nga fhasi ha uno Mulayo, hu tshi khou tevhezwa mbekanyamaitele ya zwa mushumo na matholele yo t'nganedzwaho nga Bodo.

(2) Muofisi Mulangi u tea u v'hona uri vhashumi vhothe vha Maand'langa vha khou fusha thodea nahone vho gudiswa ho sedzwa idzo poso dzavho. 20

(3) Mulayo wa vhuqifari wa vhashumi vha tshiimiswa tsha Maand'langa wo ambiwaho kha khethekanyo ya 10(1) u katela vhashumi vhothe vha tshiimiswa tsha Maand'langa u ya nga henefho he zwa sumbedziswa zwone kha mulayo wa vhuqifari.

#### **Khudano dza madzangalelo ya vhashumi** 25

**18.** (1) Mushumi wa tshiimiswa tsha Maand'langa musu a tshi tou tholwa u tea u isa tshit'atamennde kha Muofisi Mulangi tsho tou n'walwa tshine khatsho mushumi u tea u bula madzangalelo o livhaho kana a songo livhaho, a zwa masheleni arali e hone kana nga inwe ndila, ane—

(a) a nga ita uri hu vhe na khudano ya madzangalelo malugana na mishumo yawe sa izwi e mushumi wa tshiimiswa tsha Maand'langa; kana 30

(b) a khou lavhelwa uri a nga kwama nga ndila i si yavhuqi tshiimiswa tsha Maand'langa kha u shuma mishumo.

(2) Arali mushumi wa tshiimiswa tsha Maand'langa a mbo vha na khudano ya madzangalelo sa zwo ambwaho kha khethekanyo thukhu ya (1), u tea u n'walela Muofisi Mulangi nga u tou t'v'hanya u itela u bula ilo dzangalelo. 35

(3) Mushumi wa tshiimiswa tsha Maand'langa a nga si kone u vha hone kana a nga si kone u dzhenelwa kha zwa u rera madzhiela a tsho kha fhungo jinwe na jinwe ja tshiimiswa tsha Maand'langa hune uyo mushumi a vha na khudano ya dzangalelo kha zwenezwo zwine zwa khou rerwa sa zwe zwa ambiwa kha khethekanyo thukhu ya (1). 40

(4) Mushumi wa tshiimiswa tsha Maand'langa a nga si shumise vhuimo hawe kana zwo khetheaho/privileges, kana mafhungo a tshidzumbe e a a wana sa mushumi wa tshiimiswa tsha Maand'langa, a vho zwi itela u vhuelwa ene muqe kana a ita uri muwe muthu a vhuelwe nga ndila i songo teaho.

(5) Maand'langa a tea u ita uri hu vhe na maga a usenga uri hu kaidzwe mushumi wa tshiimiswa tsha Maand'langa a kundelwaho kana a hanaho u anana na kana a pfukaho khethekanyo thukhu dza (1), (2), (3) kana (4) u ya nga mulayo wa zwa mushumo wo teaho. 45

(6) Tshiimiswa tsha Maand'langa tshi tea u n'walisa madzangalelo a vhashumi o bulwaho u ya nga khethekanyo dza (1) na (2), nahone redzhisit'ara i tea u dzula i songo salela murahu kha miwedzi miraru miwe na miwe. 50

#### **Vhurumelwa**

**19.** (1) Nga u tou n'wala, Muofisi Mulangi, a nga hwesa mishumo yawe na maand'a awe mushumi muwe na muwe wa tshiimiswa tsha Maand'langa hu tshi khou tevhezwa ndalukano dzine ene muqe Muofisi Mulangi a tou dzi ta. 55

(2) U hweswa ha mishumo na maand'a nga fhasi ha khethekanyo thukhu ya (1), a zwi thivheli Muofisi Mulangi u shuma iyo mishumo na u shumisa maand'a.

(3) The CEO remains responsible and accountable for all acts and omissions in terms of or under such a delegation.

(4) The CEO may in writing revoke any delegation under subsection (1).

(5) The CEO must maintain a register of all delegations under subsection (1).

## CHAPTER 4

5

### TRANSFORMATION OF PROPERTY SECTOR

#### Property sector transformation

**20.** (1) The Property Sector Transformation Charter Code as amended from time to time applies to all property practitioners.

(2) When procuring property related goods and services, all organs of state must utilise the services of property practitioners who comply with the broad-based black economic empowerment and employment equity legislation and policies.

(3) The Authority must from time to time—

(a) implement and assess measures to progressively promote an inclusive and integrated property sector; 15

(b) implement appropriate measures and assess the state of transformation within the property sector;

(c) create such mechanisms for the continuous monitoring and evaluation of the sector performance on the transformation imperatives and granting of incentives as may be prescribed; and 20

(d) introduce measures to be implemented, which may include incubation and capacity building programmes to redress the imbalances of the past.

#### Property Sector Transformation Fund

**21.** (1) The Authority must, within six months of its establishment, open a Property Sector Transformation Fund into which grants contemplated in section 38 are paid. 25

(2) The Minister may prescribe measures to promote economic transformation by facilitating the accessibility of finance for property ownership, property development and investment in order to enable meaningful participation of historically disadvantaged individuals including women, youth and people with disabilities.

(3) The Authority must utilise the Property Sector Transformation Fund in such a manner as may be prescribed, which may include the following transformation and empowerment programmes: 30

(a) Principalisation Programme, to promote Black owned firms and principals.

(b) Regularisation Programme, to promote and encourage participation of the historically disadvantaged due to non-compliance. 35

(c) Consumer Awareness Programme, to promote awareness of property transactions and business undertaking.

(d) Work Readiness Programme, to promote and enhance participation of the historically disadvantaged in the property sector.

(4) The Authority must in consultation with the services SETA develop special dispensation for the training and development of the historically disadvantaged which must include recognition of prior learning. 40



(3) Muofisi Mulangi ndi ene ane a dzula a na vhuḍifhinduleli kha zwoṭhe zwo itwaho na zwi songo itwaho nga uvho vhurumelwa.

(4) Muofisi Mulangi nga u tou nḵwala u tea u dzhiulula maanḍa kha vhurumelwa u ya nga khethekanyo ṭhukhu ya (1).

(5) Muofisi Mulangi u tea u vhulunga redzhisitara ya vhurumelwa nga fhasi ha khethekanyo ṭhukhu ya (1). 5

#### NDIMA YA 4

#### TSHANDUKO YA SEKITHARA YA ZWA NDAKA

##### Tshanduko ya sekithara ya zwa ndaka

20. (1) Mulayo wa Tshata ya Tshanduko ya Sekithara ya zwa Ndaka une wa khwiṅiswa misi yoṭhe u khou kwama kana u katela vhashumi vhoṭhe vha zwa ndaka. 10

(2) Musi hu tshi khou itwa zwa u renga tshumelo na thundu zwi tshi khoy kwama ndaka, zwiimiswa zwoṭe zwa muvhuso zwi tea u shumisa tshumelo ya vhashumi vha zwa ndaka vhane vha anana na *broad-based black economic empowerment* na mbekanyamaitele na mulayosiṅwa wa zwa ulingana mushumoni. 15

(3) Misi yoṭhe maanḍalanga a tea u—

(a) shumisa na u lavhelesa maga u itela u ṭuṭuwedza uri hu vhe na sekithara ya zwa ndaka yo ṭanganelanaho nahone ine ya katela muṅwe na muṅwe;

(b) shumisa maga o teaho na u lavhelesa nyimele ya tshanduko kha sekithara ya zwa ndaka; 20

(c) ita nḍila dzenedzo dzine dza ita uri hu vhe na u dzulela u lavhelesa na u ṭhathuvhiwa ha kushumele kwa sekithara kha zwa tshanduko ine ya tou kombetshedza na u fha malamba u ya nga zwine zwa nga vha zwo randelwa; na

(d) thoma maga ane a tea u tevhedzwa, ane a nga katela u gudisa na mbekanyamushumo dza u alusa vhukoni izwi zwi tshi khou itelwa u lulamisa zwi kwamaho u sa lingana ha vhathu zwiḵa kale. 25

##### Tshikwama tsha Tshanduko ya Sekithara ya zwa Ndaka

21. (1) Maanḍalanga hu saathu u fhela miṅwedzi ya rathi o sikiwa, a tea u vula Tshikwama tsha Tshanduko ya Sekithara ya zwa Ndaka tshine khatsho magavhelo o bulwaho a ḍo kona u badelwa. 30

(2) Ministḵa a nga randela maga a u alusa tshanduko ya ikononi nga u leludza u swikelelwa ha masheleni ane a konisa vhathu u renga ndaka, u bindulisa na u bveledzi ndaka u itela vhe vha vha vho khethululwa zwiḵa kale na vhone vha kone u dzhenelela-vho hu tshi khou katelwa vhafumakadzi, vhaswa na vhathu vhane vha khou tshila na vuholefhali. 35

(3) Maanḍalanga a tea u shumisa Tshikwama tsha Tshanduko ya Sekithara ya zwa Ndaka nga nḍila yo randelwaho, zwine izwi zwi nga katela mbekanyamushumo dza u maanḍafhadza na tshanduko dzi tevhelaho:

(a) Mbekanyamushumo dzine dza alusa vhurangaphanḍa ha vharema na feme dzine vhaṅe vhadzo ndi vharema. 40

(b) Mbekanyamushumo ya ndangulo, u itela u alusa na u ṭuṭuwedza u dzhenelela ha avho vhe vha vha vho khethululwa zwiḵa kale, zwo itiswa nga u sa tevhedza milayo na mbekanyamaitele.

(c) Mbekanyamushumo dzine dza ita uri vharengi vha vhe na nḍivho, izwi zwi tshi khou itelwa uri vha ḍivhe nga ha ṭhirantsekisheni dza ndaka na thendelano kha zwi kwamaho bindu. 45

(d) Mbekanyamushumo dzine dza ita uri muthu a kone mushumo, u itela u ṭuṭuwedza na u khwathisa u dzhenelela ha avho vhe vha vha vho khethululwa zwiḵa kaleni kha sekithara ya zwa ndaka. 50

(4) Maanḍalanga a tea uri a tshi khou kwamana na tshumelo dza vha Maanḍalanga a Sekithara ya Vhugudisi na Pfunzo (SETA) a bveledzise sisiṭeme ya tshipentshela ya u itela vhugudisi na u bveledzisa vhathu vhe vha vha vho khethululwa zwiḵa kale ine iyi sisiṭeme ya tshipentshela i tea u dzhiela nḵha nḍivho ye vhathu vha kona u i wana hu si nga u tou gudela tshikoloni. 55

**Property Sector Research Centre**

- 22.** (1) The Property Sector Research Centre is hereby established.
- (2) The Property Sector Research Centre must conduct market research in partnership with the National Research Foundation and institutions of higher learning.
- (3) The Property Sector Research Centre must— 5
- (a) be aimed at increasing the national scientific research and innovation capability through the development of human capacity and stimulating the generation of new knowledge in the property sector;
  - (b) be the central repository of expert knowledge on pre-determined areas of the transformation of the property sector in South Africa; and 10
  - (c) support the realisation of South Africa's transformation into knowledge-based economy in which the generation of knowledge translates into socio-economic benefits.
- (4) The property sector research agenda must prioritise the following: 15
- (a) Identification of barriers to entry and meaningful participation in the property sector by historically disadvantaged individuals;
  - (b) Demographic distribution of skills that determine resilience in the property sector;
  - (c) An inclusive, accessible and transformatory curriculum development and enhancement in the technical and vocational education and training and higher education sectors in South Africa; 20
  - (d) Systematic patterns of discriminatory behaviour in the property development and management value-chain;
  - (e) Efficacy of compliance, monitoring and enforcement mechanisms to advance the transformation of the property sector; 25
  - (f) The rural-urban dynamic in property sector growth and transformation; and
  - (g) The contribution of the property sector in urban spatial transformation and economy.
- (5) The Property Sector Research Centre must annually promote consumer awareness and education, which must include: 30
- (a) The education of consumers on their rights and responsibilities in respect of property ownership and development;
  - (b) All the empowerment programmes of the Authority; and
  - (c) Consumer protection and lodging of claims

**Exemptions in respect of accounting records and trust accounts** 35

- 23.** (1) A property practitioner whose turnover is below R2,5 million must cause his, her or its accounting records to be subjected to an independent review by a registered accountant subject to the provisions of section 54(1) to (7), applied with the necessary changes.
- (2) The Minister may by notice in the *Gazette*— 40
- (a) determine the circumstances under which certain property practitioners may be exempted from keeping trust accounts; and
  - (b) determine a different dispensation for the review of accounting records for those property practitioners.

**CHAPTER 5** 45**COMPLIANCE AND ENFORCEMENT****Appointment of inspectors**

- 24.** (1) The CEO—
- (a) must appoint any suitably qualified person as an inspector; and



**Senthara ya Thodisiso ya Sekithara ya zwa Ndaka**

- 22.** (1) Afha hu khou thomiwa Senthara ya Thodisiso ya Sekithara ya zwa Ndaka.
- (2) Senthara ya Thodisiso ya Sekithara ya zwa Ndaka i tea u ita thodisiso nga ha maraga i tshi khou shumisana na *National Research Foundation* na zwiimiswa zwa pfunzo ya ntha. 5
- (3) Senthara ya Thodisiso ya Sekithara ya zwa Ndaka i tea u—
- (a) engedza thodisiso ya lushaka ya sainthifiki na vhukoni ha u thoma zwithu zwiswa na kha mveledziso ya vhukoni ha vathu na u tũtũwedza u sikwa ha ndivho ntswa kha sekithara ya zwa ndaka;
- (b) tea u vha yone dũlu lihulwane la ndivho ya vhadivhi malugana na masia a dzulaho o tiwa u itela tshanduko kha sekithara ya zwa ndaka kha shango la Afrika Tshipembe; na 10
- (c) tikedza uri tshanduko Afrika Tshipembe i vhonele i ya vhukuma kha ikonomi yo sendekaho kha ndivho ine u sikwa ha ndivho zwa vha zwi tshi khou amba mbuelo kha zwa ikonomi na matshiliso. 15
- (4) Adzhenda ya thodisiso ya sekithara ya zwa ndaka i tea u dzhielesa ntha zwi tevhelaho:
- (a) U kona u divha zwi thivhelaho u dzhena na u dzhenela lwo fhelelaho kha sekithara ya zwa ndaka nga avho vhe vha vho khethululwa zwi la kale;
- (b) Phadaldzo ya ndivho na vhukoni kha mirafho u itela u lavhelesa khwinifhadzo kha sekithara ya zwa ndaka; 20
- (c) U kona u katela vathu vhothe, u swikelela ha vhothe na u khwathisa na mveledziso ya kharikhulamu yo shandukaho kha sekithara dza vhugudisi na pfunzo ya ntha na pfunzo ya mishumo ya zwanãa na thekhenikha la shangoni la Afrika Tshipembe; 25
- (d) Sisiteme ya zwiito zwa mikhwa ya tshilula kha mveledziso ya ndaka na ndaulo ya zwi kwamaho mveledziso ya ndaka;
- (e) kushumele kwa ndila dza u anana, u lavhelesa na u tevhedzisa milayo na mbekanyamaitele u itela u khwinisa tshanduko kha sekithara ya zwa ndaka;
- (f) u shanduka-shanduka kha zwi kwamaho mashangohaya u ya kha vhupo ha dziqoroboni kha nyaluwo na tshanduko ya sekithara ya zwa ndaka; na 30
- (g) u shela mulenzhe ha sekithara ya zwa ndaka kha ikonomi na tshanduko ya vhupo ha dziqoroboni;
- (5) Senthara ya Thodisiso ya Sekithara ya zwa Ndaka nga nwaha muñwe na muñwe i tea u tũtũwedza zwi kwamaho pfunzo na ndivho ya vharengi, zwine zwa katela: 35
- (a) Pfunzo ya vharengi ine ya kwama ppanelo dzavho na vhuqifhinduleli havho malugana na u vha muñe wa ndaka na u bveledzisa ndaka;
- (b) Mbekanyamushumo dzothe dza u maandafhadza dza one Maandalinga; na
- (c) Tsireledzo ya vharengi na u vhiga zwi kwamaho mbilo.

**U vhotholola malugana na rekhodo dza akhaunthingi na akhaunthu dza thirasiti 40**

- 23.** (1) Mushumi wa zwa ndaka ane tshedele ye a shuma nga nwaha ya vha fhasi ha milioni dza R2.5 u tea u ita uri rekhodo dzawe dza akhaunthingi dzi lavheleswe kana u tolwa nga muakhaunthenthe o nwalisaho hu tshi khou tevhedzwa mbetshelo dza khethekanyo ya 54(1) u ya kha (7), dzi tshi khou shumiswa na tshanduko dzo fanelaho. 45
- (2) Nga ndivhadzo kha *Gazete* Ministãa a nga—
- (a) lavhelesa nyimele dzine nga fhasi hadzo vhenevho vhashumi vha zwa ndaka vha nga vhothololwa kana u tendelwa uri vha sa vhe na akhaunthu dza thirasiti; na
- (b) u lavhelesa sisiteme yo fhambanaho u itela u tola rekhodo dza akhaunthingi dza avho vhashumi vha zwa ndaka. 50

**NDIMA YA 5****UTEVHEDZA MULAYO NA U TEVHEDZISA MULAYO****U thola vhaingameli**

- 24.** (1) Muofisi Mulangi—
- (a) u tea u thola muthu muñwe na muñwe o teaho nahone ane a fusha thodeãa uri a vhe ene muingameli; nahone 55

- (b) must issue each inspector with a certificate in the prescribed form stating that the person has been appointed as an inspector in terms of this Act and with the inspector's identification card.
- (2) When the inspector performs his or her functions in terms of this section, the inspector must— 5
- (a) be in possession of a certificate of appointment or an inspector's identification card issued to that inspector in terms of subsection (1)(b);
- (b) immediately show that certificate or inspector's identification card to any person who— 10
- (i) is affected by the inspector's actions in terms of this Act; or
- (ii) requests to see the certificate or inspector's identification card; and
- (c) have the powers of a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and may exercise the powers conferred on a peace officer by law.

**Powers of inspectors to enter, inspect, search and seize** 15

25. (1) An inspector may, at any reasonable time and without prior notice, conduct an inspection to determine whether the provisions of this Act are being or have been complied with, and for that purpose, may without a search warrant—
- (a) enter and inspect any business premises, except a private residence, of a property practitioner; 20
- (b) require the property practitioner, manager, employee or an agent of the property practitioner to—
- (i) produce to him or her the fidelity fund certificate of that property practitioner;
- (ii) produce to him or her any book, record or other document related to the inspection and in the possession or under the control of that property practitioner, manager, employee or agent; or 25
- (iii) furnish him or her with such information in respect of the fidelity fund certificate, book, record or other document at such a place and in such manner as the inspector may determine; and 30
- (c) examine or make extracts from, or copies of, any such fidelity fund certificate, book, record or other document.
- (2) Where a property practitioner conducts his or her business at his or her private residence, the inspector must notify the property practitioner in advance and in writing before conducting the inspection in terms of subsection (1), and set out the details of the inspection. 35
- (3) An inspector may, on authority of a search warrant—
- (a) enter and search any premises and any person on those premises if there are reasonable grounds for believing that there is an article or record therein that has a bearing on the inspection; 40
- (b) examine any such article or record that is in those premises;
- (c) request any person on the premises to unlock or otherwise provide unhindered access to any safe, storage facility or other receptacle on the premises, or to point out any other person on the premises who can do so;
- (d) request information about any article, document or record that has a bearing on the inspection; 45
- (e) take extracts from, or make copies of, any book, computer, document or record that is on or in the premises and that has a bearing on the inspection;
- (f) use any computer system on the premises that has a bearing on the inspection, or require assistance of any person on the premises to use that computer system, to— 50
- (i) search any data contained in or available on that computer system; or
- (ii) reproduce any record from that data;

- (b) u tea u fha muingameli muñwe na muñwe thanziela nga ndila yo randelwaho, hu bulwe-vho uri muthu o tholelwa uri a vhe muingameli hu tshi khou tevhedzwa uno Mulayo nahone hu vhe na khadi ya vhuñe ya muingameli uyo.
- (2) Musi muingameli a tshi khou shuma mishumo yawe u ya nga ino khethekanyo, muingameli u tea— 5
- (a) u vha a na thanziela ya uri o tholwa kana a na khadi ya vhuñe ya muingameli u ya nga khethekanyo thukhu ya (1)(b);
- (b) u sumbedza thanziela kana khadi yawe ya vhuñe kha muthu muñwe na muñwe ane—
- (i) a kwamea nga zwine muingameli a ita u ya nga uno Mulayo; kana 10
- (ii) a humbela u vhona thanziela kana khadi ya vhuñe ya muingameli; na
- (c) maanḁa a muofisiri wa Mulalo sa zwo talutshedzwaho kha khethekanyo ya 1 ya Mulayo wa *Criminal Procedure Act, 1977 (Act No.51 of 1977)*, na uri a nga shumisa maanḁa o hweswaho muofisiri wa zwa Mulalo nga mulayo.
- Maanḁa a vhaingameli a u dzhena, u ingamela, u ṭodulusa na u dzhia** 15
- 25.** (1) Muingameli nga tshifhinga tshiñwe na tshiñwe tshi pfa dzaho nahone a songo ranga u ḁivhadza a nga ingamela u itela u lavhelesa uri naa mbetshelo dza uno Mulayo dzi khou tevhedzwa kana dzo tevhedzwa, nahone hu songo vhuya ha vha na khwaṭhisedzo ya u ṭodulusa—
- (a) a nga dzhena a ingamela kha zwifhaṭo zwa bindu, nga nḁani ha hayani hune ha dzulwa hone, ha mushumi wa zwa ndaka; 20
- (b) ṭoda mushumi wa zwa ndaka, mulanguli, mushumi kana razhendedzi wa mushumi wa zwa ndaka a tshi—
- (i) sumbedza muingameli thanziela ya tshikwama i sumbedzaho u thembea ya uyo mushumi wa zwa ndaka; 25
- (ii) sumbedza muingameli bugu, rekhodo inwe na inwe, kana mañwe mañwalwa ane uyo mushumi wa zwa ndaka, mulanguli, mushumi kana razhendedzi a vha nao kana a re fhasi ha ndango yawe nahone a re na vhushaka na nyingamelo; kana
- (iii) fha muingameli iyo nḁivhiso malugana na thanziela ya tshikwama i sumbedzaho u thembea, bugu, rekhodo kana mañwe mañwalwa a re afho fhethu nahone nga ndila ine muingameli a ḁo ta; na 30
- (c) ṭhaṭhuvha kana u dzhia zwi bvaho heneffho, kana khophi dza, thanziela ya tshikwama i thembea, bugu, rekhodo kana mañwe mañwalwa.
- (2) Hune mushumi wa zwa ndaka a vha a khou ita vhubindudzi hawe hayani hawe ha phuraivethe, muingameli u tea u ḁivhadza mushumi wa zwa ndaka hu tshe na tshifhinga nahone nga u tou nḁwala phanḁa ha musi hu tshi ingamelwa u ya nga khethekanyo thukhu ya (1), nahone hu sumbedzwe zwidodombedzwa malugana na u ingamela. 35
- (3) Muingameli a tshi khou shumisa maanḁa a u ṭodulusa a nga—
- (a) dzhena a ita tzedzuluso kha zwifhaṭo zwiñwe na zwiñwe na kha muthu muñwe na muñwe kha izwo zwifhaṭo arali hu na mbuno dzi pfa dzaho dza u tenda uri hu na atikiḁi kana rekhodo heneffho ine ya vha na zwine zwa tea u ingamelwa; 40
- (b) ṭhaṭhuvha inwe na inwe ya atikiḁi kana rekhodo ine ya vha heneffho zwifhaṭoni; 45
- (c) humbela muthu muñwe na muñwe kha izwo zwifhaṭo uri a khiulule kana uri a sa khakhise u swikelelwa ha sefo, tshotoredzhi kana rekhodo i re afho zwifhaṭoni, kana uri a sumbe muthu muñwe na muñwe a re afho zwifhaṭoni ane a nga kona u pfalo;
- (d) humbele nḁivhiso nga ha atikiḁi, ḁiñwalwa kana rekhodo ine ya vha na zwine zwa khou ṭodwa uri zwi ingamelwe; 50
- (e) dzhia zwi re kha iyo rekhodo, kana khophi ya, bugu ifhio na ifhio, khomphiyutha, ḁiñwalwa kana rekhodo ine kha kana i re ngomu zwifhaṭoni nahone ine ya vha na zwine zwa khou ṭodelwa u ingamelwa;
- (f) shumisa sisiṭeme ya khomphiyutha inwe na inwe kha zwifhaṭo zwine zwa vha na zwine zwa khou tea u ingamelwa, kana a tou ṭoda thuso kha muthu ufhio na ufhio heneffho zwifhaṭoni uri a shumise sisiṭeme ya khomphiyutha, u itela u— 55
- (i) ita tzedzuluso ya data i re kha kana i re hone kha sisiṭeme ya khomphiyutha; kana 60
- (ii) u bvedzulula rekhodo inwe na inwe i bvaho kha data;

- (g) seize any output from that computer for examination and copying;
- (h) attach and if necessary remove from the premises for examination and safekeeping anything that has a bearing on the inspection; and
- (i) seize and retain any such fidelity fund certificate, book, record or other document that may afford evidence of sanctionable conduct under this Act: 5  
 Provided that the person from whom the fidelity fund certificate, book, record or other document was taken shall, at his or her request and at his or her expense, be allowed to make copies thereof or extracts therefrom, under the supervision of the inspector concerned.
- (4) The search warrant contemplated in subsection (3) may only be issued by a judge 10  
 or a magistrate if it appears from the information given by the inspector under oath or affirmation that—
- (a) there are reasonable grounds for suspecting that a contravention of the Act has occurred or is occurring;
- (b) a search of the premises is likely to yield information pertaining to the alleged 15  
 contravention; and
- (c) the search is reasonably necessary for the purposes of enforcing the Act.
- (5) The search warrant must identify the premises that may be entered and searched and specify the parameters within which the inspector may perform an entry, search or 20  
 seizure.
- (6) The search warrant is valid only until—
- (a) the warrant is executed;
- (b) the warrant is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
- (c) the purpose of issuing it has lapsed; or 25
- (d) the expiry of one month after the date it was issued,  
 whichever occurs first.
- (7) The warrant may be executed only during the hours of 08h00 and 17h00 of a day other than a Saturday, Sunday or public holiday, unless the judge or the magistrate who issued it authorises that it may be executed at any other time that is reasonable in the 30  
 circumstances.
- (8) Immediately before commencing with the execution of a search warrant, the inspector executing that warrant must—
- (a) if the owner or person in control of the premises to be searched is present— 35
- (i) provide identification to that person and explain to that person the authority by which the warrant is being executed; and
- (ii) hand exact copies of the warrant and of this section to that person or to the person named in it; or
- (b) if no person is present, affix an exact copy of the search warrant at the entrance 40  
 to the premises in a prominent and visible place.
- (9) The inspector authorised to conduct search entry and search in terms of a search warrant issued in terms of subsection (3), may be accompanied and assisted by one or more police officers.
- (10) The inspector and any police officer accompanying the inspector must, when entering and searching any premises in terms of a search warrant, conduct that entry and 45  
 search with strict regard to decency and every person's right to dignity, freedom, security and privacy.
- (11) During any search, only a female inspector or police officer may search a female person and only a male inspector or police officer may search a male person.

- (g) dzhia tshithu tshiinwe na tshiinwe tshine tsha khou bva kha khomphiyutha uri tshi thathuvhiwe na u kopiwa;
- (h) nambatedza nahone arali zwi tshi todeha ha to bvisiwa afho zwifhatoni hu tshi khou itelwa uri zwe zwa bviswa zwi thathuvhiwe na u vhulunga tshiinwe na tshiinwe tshine tsha vha na zwine zwa tea u ingameliwa; na 5
- (i) dzhia na u fara tshithu tshiinwe na tshiinwe u tou fana na thanziela ya tshikwama i sumbedzaho u thembea, bugu, rekhodo kana manwe manwalwa ane a ita uri hu waniwe vhuṭanzi malugana na vhuṭanzi vhune ha ita uri hu itwe ndatiso u ya nga uno Mulayo: Tenda uyo muthu ane thanziela ya tshikwama i sumbedzaho u thembea, bugu, rekhodo kana manwe manwalwa zwa vha zwo dzhiwa khae a tea uri musi o tou humbela nahone hu tshi khou shuma masheleni awe ene muṅe a tea u tendelwa u ita dzikhophi kana u wana zwi re henefho ngomu kha liṅwalwa a nga fhasi ha vhulavhelesi ha muingameli a kwameaho. 10
- (4) Khwaṭhisedzo ya tsedzuluso yo bulwaho kha khethekanyo thukhu ya (3) i nga netshedzwa fhedzi nga muḥatuli kana madzhisitirata arali ndivhiso yo netshedzwaho nga muingameli nga fhasi ha muano kana khwaṭhisedzo uri— 15
- (a) hu na mbuno dzi pfalaho malugana na u humbulela uri Mulayo u khou pfukiwa kana wo pfukiwa;
- (b) u ita tsedzuluso afho zwifhatoni zwi na tshikhala tsha u nga swikisa kha u wana ndivhiso malugana na khumbulelo ine ya vha hone; nahone 20
- (c) u ita tsedzuluso zwi tea u itwa u itela ndivho dza uri Mulayo u tevhedzwe.
- (5) Khwaṭhisedzo ya u ita tsedzuluso i tea u bula dzina la zwifhato zwine zwa khou tea u nga dzhenwa khazwo musi hu tshi sedzuluswa nahone hu taluswe na mikano ine muingameli a do shuma vhukati hayo musi a tshi dzhena, a sedzulusa kana a dzhia. 25
- (6) Khwaṭhisedzo ya u sedzulusa i vha ine ya khou shuma u swikela—
- (a) mushumo wayo u tshi itwa;
- (b) musi zwenezwo i tshi tou fheliswa nga muthu we a i netshedza kana, ya fheliswa uyo muthu a siho, nga muṅwe muthu ane a vha na maanḍalanga ane a fana na onoyo we a i netshedza; 30
- (c) ndivho ya uri i netshedzwe i tshi fhela; kana
- (d) u fhela hayo ha nwedzi muthihi nga murahu ha datumu ye ya netshedzwa ngayo, hu tshi shumiswa tshine tsha swika u thoma.
- (7) Khwaṭhisedzo ya u sedzulusa i nga shumiswa fhedzi vhukati ha zwifhinga zwa 08h00 na 17h00 kha dḥvha nga nḍa ha Mugivhela, Swondaha kana holodeni ya nnyi na nnyi, nga nḍa ha musi muḥatuli kana madzhisitirata we a i netshedza o tenda uri i nga shumiswa tshifhinga tshiinwe na tshiinwe tshine tsha pfadza u ya nga nyimele. 35
- (8) Nga u tou tavhanya phanda ha u thoma u shumiswa ha khwaṭhisedzo ya u ita tsedzuluso, muingameli ane a khou shumisa khwaṭhisedzo a nga—
- (a) arali muṅe wa zwifhato kana muthu ane a khou langula zwifhato zwine zwa khou ya u sedzuluswa a hone— 40
- (i) muingameli u tea u diḍivhadza kha uyo muthu nahone a talutshedze kha uyo muthu maanḍalanga ane khwaṭhisedzo ya khou itelwa; na
- (ii) muingameli u tea u fha khophi dza khwaṭhisedzo na ino khethekanyo kha uyo muthu kana kha muthu o bulwaho khayoy; kana 45
- (b) arali hu si na muthu, khophi i tou nambatedzwa ya iyo khwaṭhisedzo ya u sedzulusa henefho muṅangoni wa zwifhato kha vhufhethu hune ha vha khagala nahone hune ya do vhonala.
- (9) Muingameli o fhiwaho maanda a u ita tsedzuluso o tou dzhena fhethu afho nahone a sedzulusa u ya nga khwaṭhisedzo yo netshedzwaho u ya nga khethekanyo thukhu ya (3), a nga fhelekedzwa na u thuswa nga pholisa lithihi kana mapholisa. 50
- (10) Muingameli na pholisa liṅwe na liṅwe line la khou fhelekedza muingameli musi vha tshi dzhena u sedzulusa zwifhatoni zwiinwe na zwiinwe u ya nga khwaṭhisedzo ya u sedzulusa vha tea u dzhena vha sedzulusa vho diimisela nahone vha na mikhwa vha tshi dovha hafhu vha thonifha na pfanelo ya tshileme tsha muthu, mbofholowo, tsireledzo na tshidzombe. 55
- (11) Musi hu tshi khou sedzuluswa, muingameli wa tshifumakadzini kana pholisa la tshifumakadzini fhedzi ndi vhone vhane vha nga sedzulusa nga u phuphuledza-phuphuledza muthu wa tshifumakadzini nahone ane a do phuphuledza-phuphuledza wa tshinnani hu tshi do itwa nga muingameli kana pholisa wa tshinnani-vho. 60

- (12) An inspector who removes anything from premises being searched must—
- (a) issue a written receipt for it to the owner of or person in control of the premises in sufficient detail to identify each specific thing so removed; and
  - (b) return it as soon as practicable after achieving the purpose for which it was removed to the person from whose control it was taken, unless it is to be used as evidence in any subsequent proceedings, in which case the inspector must forthwith in writing inform the person from whose control it was taken of that fact. 5

(13) During a search conducted under a search warrant, a person may refuse to permit the removal of an article, document or record on the grounds that it contains privileged or protected information, but that person may not cause such article, document or record to be amended, altered or destroyed until the inspector has been afforded a reasonable time to act under subsection (14). 10

(14) If the owner or person in control of an article or document refuses to give the article, document or record to the inspector conducting the search, that inspector may in writing request the registrar or sheriff of the High Court that has jurisdiction to attach and remove the article, document or record for safe custody until a court determines whether or not the information is privileged or protected. 15

(15) A police officer who is assisting the inspector in terms of this section may use as much force as is necessary, including breaking a door or window of the premises, or the breaking of any lock which prevents the search of any safe, storage facility or other receptacle on the premises, to overcome resistance by any person to the entry and search. 20

(16) Before using force, a police officer must audibly demand admission or access and must announce the purpose of entry, unless it is reasonable to believe that doing so may induce someone to destroy, dispose of or conceal an article, document or record that forms part of the search or is otherwise relevant to the search. 25

(17) A person who submits any information to an inspector or makes any statement to him or her may indicate to the inspector that he or she claims confidentiality in respect of any information or statement so provided, and the inspector must deal with such information in accordance with the relevant law. 30

### Compliance notices

26. (1) The Minister must, from time to time, determine—
- (a) contraventions of the Act that are of a minor nature; and
  - (b) contraventions of the Act that are of a substantial nature. 35

(2) The Minister must publish the determinations referred to in subsection (1) by notice in the *Gazette* and the Authority must publish the determinations on its website and via any other medium it deems fit.

(3) The Minister must, by notice in the *Gazette*, prescribe the maximum fines in respect of each type of contravention which the Authority may determine for the purposes of subsection (5): Provided that such a maximum fine may not for a particular year exceed the amount prescribed in respect of one year of imprisonment in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), at any particular moment in time. 40

(4) The Authority may, where an inspection or investigation by an inspector indicates a contravention of this Act which is of a minor nature as determined under subsection (1), issue a compliance notice in the prescribed format to the person so allegedly contravening this Act, calling on that person to comply with this Act within a period specified in the compliance notice, which period must be reasonable in the circumstances. 45

(5) The Authority may, in the compliance notice, determine a fine to be paid by the person concerned if such person, in writing, on the compliance notice acknowledges his, her or its failure to comply with this Act as stated in the compliance notice. 50



- (12) Muingameli ane a dzhia tshithu tshiinwe na tshiinwe afho zwifhatoni zwine zwa khou sedzuluswa u tea u —
- (a) ngetshedza rasithi yo tou nwalwaho kha uyo muṅe wa zwifhato kana muthu ane a khou langa zwifhato ho dodombedzwa zwidombedzwa zwa u tulusa tshithu tshiinwe na tshiinwe tsho dzhiwaho; na 5
- (b) u humisa itsho tsha dzhiwa musi ho no thoma ha swikelelwa ndivho ye tsha dzhielwa yone tshi humiselwe kha uyo muthu we a dzhielwa, nga nṅa ha musi tshi tshi kha ḡi ḡo ya u shumiswa sa vhuṅanzi kha khothe/tsengo ine ya khou ya u itwa, nahone arali zwo ralo muingameli u ḡo tea u nṅwalela uyo we a dzhielwa a mu vhudza mbuno dzo teaho. 10
- (13) Musi hu tshi khou sedzuluswa hu tshi khou shumiswa kwhathisedzo ya u sedzulusa, muthu a nga hana u fha thendelo ya u dzhiwa ha atikiḡi, ḡinwalwa kana rekhodo a tshi khou hana o ḡisendeka kha mbuno dza uri hu na mafhungo o faredzwaho henefho ane a si a nnyi na nnyi kana mafhungo o tsireledzwaho, fhedzi uyo muthu a nga si ite uri atikiḡi iyo, ḡinwalwa iḡo kana rekhodo iyo i khwiṅiswe, shandukiswe kana u kherukanywa u swikela muingameli a tshi wana tshifhinga tshi pfadzaho tsha u shumisa khethekanyo tshukhu ya (14). 15
- (14) Arali muṅe wa kana muthu ane a khou langa iyi atikiḡi kana iḡo ḡinwalwa a hana u fha muingameli atikiḡi, ḡinwalwa kana rekhodo uri a ite tsedzuluso, uyo muingameli nga u tou nṅwala a nga humbela redzhiṅtra kana muḡinḡa wa Khothe Khulwane a re na maanḡalanga kha uyo mukano uri a nambatedze na u dzhia atikiḡi, ḡinwalwa kana rekhodo uri i iswe kha vhufhethu ho tsireledzeaho u swika khothe i tshi lavhelesa uri naa mafhungo ayo ndi o khetheaho naa kana ndi o tsireledzwaho. 20
- (15) Pholisa ḡine ḡa khou thusa muingameli u ya nga iyi khethekanyo ḡi nga shumisa khombetshedzo u ya nga afho hune u kombetshedza ha tḡoḡea, hu tshi khou katelwa u kwasha vothi kana fasitere afho zwifhatoni, kana u kwasha ḡoko ine ya khou thivhela u sedzulusa sefoni, tshitoredzhi kana tshifaredzi henefho zwifhatoni, u itela u kunda uvho vhuḡonḡi vhone ha khou itwa nga muthu. 25
- (16) Phanḡa ha u shumisa khombetshedzo, pholisa ḡi tea u amba zwi tshi tou pfala uri ḡi khou tḡoḡa u dzhena na uri pholisa ḡi tea u ḡivhadza ndivho ya u dzhena, nga nṅa ha musi hu na lutendo lu pfalaho uri u ita zwenezwo zwa u humbela u dzhena zwi nga ita uri muthu ane a sa tḡoḡe u vula a nga vho tshinyadza, laḡa kana u dzumba atikiḡi, ḡinwalwa kana rekhodo ine ya khou ita uri hu vhe na tsedzuluso kana yone ine ya khou tḡoḡwa. 30
- (17) Muthu ane a fha muingameli nḡdivhiso ifhio na ifhio kana ane a ita tshiḡatamennde a nga sumbedza kha uyo muingameli uri u khou tḡoḡa tshidzombe malugana na nḡdivhiso iinwe na iinwe kana tshiḡatamennde tsho ngetshedzwaho, nahone muingameli u tea u shumana na iyo nḡdivhiso u ya nga mulayo wo fanelaho. 35

#### Nḡdivhadzo malugana na u tevhedza Mulayo

26. (1) Minisṅa misi yoḡhe u tea u lavhelesa u—
- (a) pfukiwa ha uno Mulayo hune ha vha hu songo tou kalula; na 40
- (b) pfukwa ha uno Mulayo ho kalulaho.
- (2) Minisṅa u tea u anḡadza zwo tiwaho zwine zwo bulwa kha khethekanyo tshukhu ya (1) nga nḡdivhadzo kha Gazete nahone Maanḡalanga a tea u anḡadza zwo tiwaho kha webusaithi na kha khasho yo fanelaho.
- (3) Nga nḡdivhadzo kha Gazete, Minisṅa u tea u randela ndaḡiso khulwanesa malugana na u pfuka Mulayo huṅwe na huṅwe hune Maanḡalanga a nga lavhelesa u itela ndivho ya khethekanyo tshukhu ya (5): Tenda iyo ndaḡiso khulwanesa ya sa paḡe mutengo wo randelwaho malugana na nṅwaha muthihi wa u valelwa dzhele u ya nga Mulayo wa *Adjustment of Fines Act, 1991 (Act No. 101 of 1991)*, kha tshifhinga tshiinwe na tshiinwe tshenetsho. 45
- (4) Maanḡalanga afho hune nyingamelo kana tsedzuluso nga muingameli ya sumbedza u pfukiwa ha uno Mulayo hune u pfuka uho a hongo hulesa sa zwo tiwaho nga fhasi ha khethekanyo tshukhu ya (1), a nga ngetshedza nḡdivhadzo malugana na u tevhedza nga nḡila yo randelwaho kha uyo muthu ane a khou humbulelwa uri u khou pfuka uno Mulayo, uyo muthu a vhudzwe uri a tevhedze uno Mulayo hu saathu u fhela tshifhinga tsho bulwaho kha nḡdivhadzo ya uri a tevhedze Mulayo, tshine itsho tshifhinga ndi tshifhinga tshine tsha pfadza ho sedzwa nyimele. 50
- (5) Maanḡalanga a tshi khou tevhedza nḡdivhadzo, a ḡo ta tshikalo tsha ndaḡiso ine ya tea u badelwa nga muthu a kwameaho arali uyo muthu nga u tou nṅwala a tsi khou fhindula iyo nḡdivhadzo, a ṅanganedza uri o kundelwa u tevhedza uno Mulayo sa zwe zwa bulwa kha nḡdivhadzo malugana na u tevhedza Mulayo. 60



(6) The fine contemplated in subsection (5) must be paid to the Authority within a period specified in the compliance notice.

(7) Any fine paid in consequence of a compliance notice accrues to the Fund, and the person named in that notice may not be prosecuted for having committed such contravention. 5

(8) Any contravention of a minor nature may not be taken into consideration when considering any application by or other proceedings against the person concerned.

### **Fine as compensation**

**27.** (1) The Authority may, whenever a fine has been imposed on a property practitioner under this Act and taking into account any amounts paid under the mandatory indemnity insurance contemplated in section 57, if any, order that any portion of the fine be applied towards the payment of compensation to any person who suffered a pecuniary loss as a result of the conduct of that property practitioner. 10

(2) The Authority may, on receipt of a fine imposed on a property practitioner, make the payment contemplated in subsection (1), but no such payment may be made until all appeals in respect of the imposition of the fine have lapsed or have been finalised or abandoned. 15

(3) This section does not preclude any person from referring any dispute against a property practitioner or other person to the Authority, but if an award is made by an Authority in favour of a person who has received payment from the Authority as contemplated in subsection (2), the Authority must take that payment into account. 20

### **Lodging of complaints**

**28.** (1) Any person may, in the prescribed form, lodge a complaint with the Authority against a property practitioner in respect of financing, marketing, management, letting, hiring, sale or purchase of property. 25

(2) The Authority must, in writing, within seven days acknowledge receipt thereof and inform the complainant of the case number assigned to the complaint.

(3) After receiving the complaint, the Authority may require the complainant to submit further information or documentation in relation to the complaint.

### **Mediation**

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**29.** (1) An Authority may—

- (a) if it believes that a complaint may be resolved through mediation; or
- (b) on application by the person concerned,

refer the complaint for mediation, as prescribed.

(2) Within seven days of referral to mediation, the Authority must appoint a suitably qualified person as a mediator. 35

(3) The mediator must within seven days of appointment—

- (a) give notice of the mediation as prescribed to all parties concerned; and
- (b) set the matter down for mediation within 30 days.

(4) (a) The mediator assists the parties to resolve the dispute. 40

(b) If the parties come to an agreement which resolves the matter or mediation has failed, the mediator must—

- (i) issue a certificate stating the outcome of the mediation; and
- (ii) serve a copy of that certificate on each party to the dispute.

(5) The Authority must keep the records of all mediation proceedings, including the agreements where applicable, as prescribed. 45

(6) Notwithstanding the provisions of subsection (1), property practitioners may consent to refer an inter-property practitioners' dispute for mediation by the Authority, and the Authority may provide such mediation service on a cost recovery basis.

(6) Ndaṭiso yo bulwaho kha khethekanyo ṭhukhu ya (5) i tea u badelwa Maanḍalanga hu saathu u fhela tshifhinga tsho bulwaho kha nḍivhadzo ya malugana na uho u pfuka Mulayo.

(7) Ndaṭiso inwe na inwe ine ya badelwa zwo itiswa nga nḍivhadzo ya malugana na u pfuka Mulayo i kuvhangana ngei kha Tshikwama, nahone muthu o bulwaho kha iyo nḍivhadzo a nga si tshutshiselwe uho u pfuka Mulayo. 5

(8) U pfuka Mulayo huṅwe na huṅwe hu songo hulesaho hu nga si dzhielwe nṅha musu hu tshi khou lavheleswa khumbelo inwe na inwe nga kana dziṅwe nyito sa tsengo malugana na muthu a kwameaho.

### Ndaṭiso sa mbadelo 10

27. (1) Maanḍalanga, tshifhinga tshiṅwe na tshiṅwe musu ho hweswa ndaṭiso kha mushumi wa zwa ndaka nga fhasi ha uno Mulayo nahone hu tshi dzhielwa nṅha masheleni maṅwe na maṅwe o badelwaho nga fhasi ha ndindakhombo yo bulwaho kha khethekanyo ya 57, arali i hone, Maanḍalanga a fha ndaela uri tshipiḍa tshiṅwe na tshiṅwe tsha ndaṭiso tshi shume kha mbadelo ya ndiliso kha muthu muṅwe na muṅwe o huvhadzwaho nga u xeelwa zwo itiswa nga vhuḍifari ha mushumi wa zwa ndaka. 15

(2) Maanḍalanga a tshi tou ṭanganedza ndaṭiso ye ya hweswa kha mushumi wa zwa ndaka, a ḍo mbo ḍi ita mbadelo yo bulwaho kha khethekanyo ṭhukhu ya (1), fhedzi a hu na mbadelo ine ya ḍo itwa u swikela khaṭululo dzoṭhe dzi tshi ranga dza fhela dzine dza kwama ndaṭiso yo itwaho kana khaṭululo dzo litshwa. 20

(3) Ino khethekanyo a i thivheli muthu ufhio na ufhio kha u isa phambano kha Maanḍalanga ine phambano iyo i kwama mushumi wa zwa ndaka kana muṅwe muthu, arali nyavhelo yo itwa nga Maanḍalanga zwi tshi thusa muthu ane o ṭanganedza mbadelo i bvaho kha Maanḍalanga sa zwe zwa bulwa kha khethekanyo ṭhukhu ya (2), Maanḍalanga a tea u dzhiela iyo mbadelo nṅha. 25

### U vhiga mbilaelo

28. (1) Muthu muṅwe na muṅwe kha fomo yo randelwaho a nga vhiga mbilaelo ngei kha Maanḍalanga a tshi khou hwelela mushumi wa zwa ndaka malugana na zwi kwamaho masheleni, zwa maraga, ndaulo, u renndisa, u hirisa, thengiso kana u renga ndaka. 30

(2) Maanḍalanga nga u tou ṅwala, hu saathu fhela maḍuvha a sumbe a tea u amba uri o ṭanganedza mbilaelo nahone a vhudze muhweleli nga ha nomboro ya mulandu wo vulwaho nga muhweleli.

(3) Nga murahu ha u ṭanganedza mbilaelo, Maanḍalanga a nga ṭoda muhweleli a tshi ḍisa vhuṭanzi vhuṅwe kana ḷiṅwalwa ḷi re na vhushaka na mbilaelo. 35

### Vhukonanyi

29. (1) Maanḍalanga—

(a) arali a tshi khou tenda uri mbilaelo i nga tanduluwa nga u tou konanya; kana

(b) musu muhweleli a kwameaho o tou ita khumbelo,

anga isa mbilaelo kha zwa vhukonanyi, u ya nga he zwa randelwa. 40

(2) Hu saathu fhela maḍuvha a sumbe musu ho iswa mbilaelo kha zwa vhukonanyi, Maanḍalanga a tea u thola muthu ane a fusha ṭhoḍea uri a vhe ene mukonanyi.

(3) Mukonanyi hu saathu fhela maḍuvha a sumbe o tholiwa u tea u—

(a) fha nḍivhadzo vhoṭhe vha kwameaho nga ha uho u konanya sa zwe zwa randelwa; na 45

(b) ita uri fhungo ḷi dzulelwe hu saathu fhela maḍuvha a 30.

(4) (a) Mukonanyi u thusa vha kwameaho uri vha tandulule phambano.

(b) Arali vha kwameaho vha kona u tendelana kha zwine zwa tandulula phambano kana vhukonanyi ha kundelwa, mukonanyi u tea u—

(i) ṅetshedza ṭhanziela ine ya khou buletshedza mvelelo dza vhukonanyi; na 50

(ii) fha khophi ya ṭhanziela muṅwe na muṅwe wa vha kwameaho nga phambano.

(5) Maanḍalanga a tea u vhulunga rekhodo dza zwe zwa itea kha vhukonanyi, hu tshi katelwa thendelano henefho hune zwa konadzea, u ya nga he zwa randelwa.

(6) Naho hu na mbetshelo dza khethekanyo ṭhukhu ya (1), vhashumi vha zwa ndaka vha nga tenda u isa phambano vhukati ha vhashumi vha zwa ndaka kha zwa vhukonanyi nga Maanḍalanga, nahone Maanḍalanga a nga ṅetshedza iyo tshumelo ya vhukonanyi nga nḍila ine ya tea u badelwa. 55

(7) If a matter is not resolved as contemplated in this section, the matter must be adjudicated in accordance with section 30.

### Adjudication

#### 30. (1) If—

- (a) a person on whom a compliance notice has been served in accordance with section 26— 5
- (i) fails to comply with this Act as demanded in the compliance notice;
  - (ii) fails to timeously comply with the compliance notice; or
  - (iii) fails to timeously pay the fine determined by the Authority; or
- (b) mediation has been attempted in accordance with section 29 but has failed; 10
- (c) the serious nature of the complaint and the contravention in question warrants, the Authority must cause a notice of adjudication to be served on the person concerned as prescribed.

(2) The Authority must appoint an independent legally qualified person as an adjudicator to conduct an adjudication of a complaint in terms of this section, who for purposes of this section is referred to as the “adjudicator”. 15

(3) The Authority may upon application from the adjudicator on good grounds appoint independent assessors to assist him or her.

(4) Within 14 days of the appointment of the adjudicator, the adjudicator must—

- (a) give notice of the adjudication as prescribed to all parties concerned; and 20
- (b) set the matter down for hearing within 60 days.

(5) The adjudication must be held expeditiously, subject to upholding the rules of natural justice and in accordance with prescribed procedure.

(6) (a) The adjudicator must upon conclusion of the adjudication make a determination as to whether the complaint is upheld or not. 25

(b) If the complaint is upheld, the adjudicator must make an order which in the circumstances is appropriate, and such an order has the status of an order of a magistrate’s court and must be executed accordingly.

(7) The order contemplated in subsection (6) may include—

- (a) a fine which may not exceed the amount determined by the Minister of Justice for the purposes of section 29(1)(a) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944); 30
- (b) if appropriate in the circumstances, an order that the Authority pays not more than 80 percent of the fine as a compensation award to the complainant; and
- (c) any other appropriate order under the circumstances. 35

(8) The adjudicator must upon finalisation of the adjudication process provide written reasons for any of his or her determinations or orders.

(9) The Authority must keep the records of all hearings, including the order made and written reasons provided by the adjudicator, as prescribed.

(10) Notwithstanding the provisions of subsection (2), property practitioners may consent to refer an inter-property practitioners’ dispute for adjudication by the Authority, and the Authority may provide such service on a cost recovery basis. 40

(11) Subject to the provisions of subsection (7)(b), any fine paid pursuant to an order made by the adjudicator accrues to the Fund.

### Adjudication Appeal Committee

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31. (1) Any person who is aggrieved by the decision of the adjudicator in terms of section 28 may appeal against such decision to the Adjudication Appeal Committee in the prescribed format.

(7) Arali phambano i songo tanduluwa sa zwe zwa bulwa kha ino khethekanyo, phambano i tea u haṭulwa u ya nga khethekanyo ya 30.

### **Khaṭulo**

**30.** (1) Arali—

- (a) muthu ane ndivhadzo ya uri hu vhe na zwine a tea u zwi tevhezela o i fhiwa 5  
hu tshi khou tevhezela khethekanyo ya 26—  
(i) a kundelwa u tevhezela uno Mulayo naho ndivhadzo ya u tevhezela yo  
vha i kombetshedzaho;  
(ii) a kundelwa u tevhezela ndivhadzo ya u tevhezisa nga tshifhinga; kana  
(iii) a kundelwa u badela ndaṭiso nga tshifhinga yo tiwaho nga Maanḑalanga; 10  
kana  
(b) vhukonanyi ho lingedzwa u ya nga khethekanyo ya 29 fhedzi ha kundelwa;  
(c) vhuhulu ha vhuvha ha mbilaelo na u pfuka zwo teaho hu kwameho zwa vha  
zwi tshi khwaṭhisedza,

Maanḑalanga a tea u ita uri ndivhadzo ya vhuhaṭuli i ṅetshedzwe muthu ane a kwamea u 15  
ya nga he zwa randelwa.

(2) Maanḑalanga a tea u thola muthu ane a vha na ndalukano dza mulayo uri hu vhe  
ene muhaṭuli ane a ḑo tshimbidza zwa u haṭula kha iyo mbilaelo hu tshi khou tevhezwa  
ino khethekanyo, ane hu tshi khou itelwa ndivho dza ino khethekanyo muthu uyo u  
vhidzwa u pfi ndi “muhaṭuli”. 20

(3) Maanḑalanga musi hu na khumbelo ine ya bva kha muhaṭuli nahone hu na mbuno  
dzavhuḑi, Maanḑalanga a nga thola mulavhelesi o ḑiimisaho ane a ḑo thusa ene  
muhaṭuli.

(4) Hu saathu fhela maḑuvha a 14 ho tholwa muhaṭuli, muhaṭuli u tea u—

- (a) fha ndivhadzo vhathu vhoṭhe vha kwameaho nga ha u haṭula u ya nga he zwa 25  
randelwa; nahone  
(b) ita uri fhungo ḽi thetsheswe hu saathu fhela maḑuvha a 60.

(5) U haṭula hu tea u itwa nga u ṭavhanya, hu tshi khou tevhezwa ndayo na  
vhulamukanyi ha mvelo na u ya nga kuitele kwo randelwaho.

(6) (a) Muhaṭuli musi hu tshi tou fhela zwa vhuhaṭuli u tea u lavhelesa uri mbilaelo yo 30  
dzingindela kana a yo ngo dzingindela naa.

(b) Arali mbilaelo yo dzingindela, muhaṭuli u tea u ita ndaela ine yo tea idzo nyimele,  
nahone iyo ndaela i na vhuimo vhune ha tou fana na ndaela ine ya itwa nga  
madzhisitaraṭa wa kotho nahone i tea u tevhezwa nga ndila yone.

(7) Ndaela yo bulwaho kha khethekanyo ṭhukhu ya (6) i nga katela— 35

- (a) mulifho une wa sa paḑe mutengo wo tiwaho nga Ministṭa wa zwa  
Vhulamukanyi ndivho dzi dza u itela khethekanyo ya 29(1)(a) ya Mulayo wa  
*Magistrates' Court Act, 1944 (Act No. 32 of 1944)*;  
(b) arali zwo tea nyimele, ndaela ya uri Maanḑalanga a badela phesente i sa paḑi  
80 ya mulifho sa ndiliso kha muhweleli; na 40  
(c) ndaela inwe na inwe yo teaho nyimele.

(8) Muhaṭuli musi hu tshi tou fhela zwa u haṭula u tea u fha mbuno dzo tou ṅwalwaho  
malugana na tsheo dzawe kana ndaela dze a ita.

(9) Maanḑalanga a tea u vhulunga rekhodo nga ha u thetsheswa hoṭhe ha mbilaelo,  
hu tshi katelwa ndaela yo itwaho na mbuno dzo tou ṅwalwaho dze dza ṅetshedzwa nga 45  
muhaṭuli, sa zwe zwa randelwa.

(10) Naho hu na mbetshelo dza khethekanyo ṭhukhu ya (2), mushumi wa zwa ndaka  
a nga tenda hu tshi iswa mbilaelo vhukati ha vhashumi vha zwa ndaka u itela uri  
mbilaelo i haṭulwe nga Maanḑalanga, nahone Maanḑalanga a nga ṅetshedza iyo  
tshumelo hu si nga mahala. 50

(11) Hu tshi khou tevhezwa mbetshelo dza khethekanyo ṭhukhu ya (7)(b), mulifho  
muṅwe na muṅwe u badelwaho nga murahu ha ndaela yo itwaho nga muhaṭuli i  
kuvhanganywa kha Tshikwama.

### **Komoti ya Aphili ya Vhuhaṭuli**

**31.** (1) Muthu muṅwe na muṅwe o khakhelwaho nga tsheo ya khaṭulo u ya nga 55  
khethekanyo ya 28 a nga ita aphili ya u hanedza iyo tsheo. Aphili i itwa ngei kha Komiti  
ya Aphili ya Vhuhaṭuli nga ndila yo randelwaho.

- (2) The Authority must, within 14 days of the date on which it received the notice of appeal in terms of subsection (1), establish an Adjudication Appeal Committee consisting of three independent suitably qualified persons to hear the appeal.
- (3) Within 14 days of the appointment of the Adjudication Appeal Committee, the Adjudication Appeal Committee must- 5
- (a) give notice of the appeal as prescribed to all parties concerned; and
  - (b) set the matter down for hearing within 60 days.
- (4) The appeal must be held expeditiously, subject to upholding the rules of natural justice and in accordance with prescribed procedure.
- (5) (a) The Adjudication Appeal Committee must upon conclusion of the appeal make a determination as to whether the complaint is upheld or not. 10
- (b) If the complaint is upheld, the Adjudication Appeal Committee must make an order which in the circumstances is appropriate, and such an order has the status of an order of a magistrate's court and must be executed accordingly.
- (6) The Adjudication Appeal Committee must upon finalisation of the appeal process provide written reasons for any of its determinations or orders. 15
- (7) The Authority must keep the records of all appeals, including the order made and written reasons provided by the Adjudication Appeal Committee, as prescribed.

## CHAPTER 6

### FINANCES 20

#### Funds of Authority

32. (1) The funds of the Authority consist of—
- (a) monies appropriated by Parliament;
  - (b) fees paid to the Authority by property practitioners;
  - (c) all monies derived from any investments in terms of section 33(2); and 25
  - (d) all other monies which may accrue to the Authority from any other source.
- (2) The Authority must utilise its funds to defray the expenses incurred by it in the performance of its functions and the exercise of its powers, but—
- (a) any monies or other property donated or bequeathed to the Authority must be utilised in accordance with the conditions of such donation or bequest; and 30
  - (b) if the Authority—
    - (i) after an inspection or investigation has found that a property practitioner failed to comply with any duty imposed upon him or her in terms of this Act;
    - (ii) has incurred any liability to pay costs in respect of any proceedings 35 instituted by it in terms of this Act for the recovery from a property practitioner of any amount which is payable by him, her or it to the Authority or the Fund; or
    - (iii) has incurred any liability to pay audit fees in respect of an audit done on the instructions of the Authority in a case where an audit contemplated in 40 section 54 has not been done,
- the Authority may recover the costs of such inspection or investigation in so far as it relates to such duty or the taxed amount of such costs on an attorney and client scale or the amount of such audit fees, as the case may be, from the property practitioner concerned. 45
- (3) The Minister must by notice in the *Gazette*, prior to the commencement of the Act and thereafter annually prior to the beginning of a financial year of the Authority, after consultation with the Board, determine the fees payable in terms of or under this Act.

- (2) Maandlanga hu saathu fhela maḍuvha a 14 u bva kha datumu ya musu o ṭanganedza ndivhadzo ya aphili u ya nga khethekanyo ṭhukhu ya (1), a tea u thoma Komiti ya Aphili ya Vhuhutuli ine ya vha na vthathu vhararu vhane vha fusha ṭhōḍea nahone vho tou ḍiimisaho uri vha thetshesele aphili.
- (3) Hu saathu fhela maḍuvha a 14 ho tholwa Komiti ya Aphili ya Vhuhutuli, Komiti ya Aphili ya Vhuhutuli i tea u—
- (a) fha ndivhadzo vhothe vha kwameaho nga ha aphili sa zwe zwa randelwa; na
- (b) ita uri fhungo li thetsheswe hu saathu fhela maḍuvha a 60.
- (4) Aphili i tea u itwa nga u ṭavhanya, hu tshi khou tevhedzwa ndayo dza vhumukanyi ha mvelo nahone hu tshi khou tevhedzwa-vho na kuitele kwo randelwaho.
- (5) (a) Komiti ya Aphili ya Vhuhutuli musu hu tshi tou fhela aphili i tea u mbo ita tsheo ya uri naa mbilaelo yo dzingindela kana a yo ngo dzingindela.
- (b) Arali mbilaelo yo dzingindela, Komiti ya Aphili ya Vhuhutuli i tea u ita ndaela yo teaho nyimele, nahone iyo ndaela i na vhuimo ha ndaela ine ya tou fana na ya madzhisitarata wa kotho nahone i tea u tevhedzwa zwavhuḍi.
- (6) Komiti ya Aphili ya Vhuhutuli musu hu tshi tou fhela aphili i tea u mbo ṭetshedza mbuno dzo tou ṅwaliwa malugana na tsheo ye ya dzhia na ndaela ye ya itwa.
- (7) Maandlanga a tea u vhumunga rekhodo dza aphili dzothe, hu tshi khou katelwa ndaela yo itwaho na mbuno dzo ṅwalwaho zwo ṭetshedzwaho nga Komiti ya Aphili ya Vhuhutuli, sa zwe zwa randelwa.

## NDIMA YA 6

### MASHELENI

#### Masheleni a Maandlanga

32. (1) Masheleni a Maandlanga hu katelwa—
- (a) tshedele ine ya avhiwa i tshi bva Phalamenndeni;
- (b) tshedele ine ya badelwa Maandlanga nga vhashumi vha zwa ndaka;
- (c) tshedele yothe ine ya bva kha u bindudza u ya nga khethekanyo ya 33(2); na
- (d) tshedele yothe ine ya nga kuvhanganywa kha Maandlanga i tshi bva kha tshiko tshiṅwe na tshiṅwe.
- (2) Maandlanga a tea u shumisa masheleni ao kha u badela zwo itwaho nga Maandlanga zwi kwamaho mushumo wa Maandlanga na u shumisa maanda, fhedzi—
- (a) masheleni maṅwe na maṅwe kana ndaka zwo lambedzwaho kana zwo fhiwaho Maandlanga zwi tea u shumiswa u ya nga milayo ya uho u lambedzwa kana u ḡewa sa ifa; nahone
- (b) arali Maandlanga—
- (i) nga murahu ha u ingamela kana tsedzuluso Maandlanga a vha o wana uri mushumi wa zwa ndaka o kundelwa u tevhedza mushumo wawe kana o kundelwa u tevhedza uno Mulayo;
- (ii) o ita uri hu vhe na tshikolodo ndivho i ya u badela tshiṅwe na tshiṅwe tsho itwaho hu tshi khou tevhedzwa uno Mulayo u itela u wana masheleni ane mushumi wa zwa ndaka a khou koloda kana Maandlanga a tea u badela kha one aṅe kana kha Tshikwama; kana
- (iii) o ita uri hu vhe na tshikolodo u itela u badela masheleni a ṭholo malugana na ṭholo yo itwaho zwo itiswa nga ndaela dza one Maandlanga kha nyimele hune ṭholo yo bulwaho kha khethekanyo ya 54 ya vha i saathu u itwa,
- Maandlanga a nga wana murahu iyo tshedele ya uho u ingamelwa kana tsedzuluso saizwi zwi na vhumshaka na uyo mushumo kana tshedele yo ṭumbulwaho ya ayo masheleni kha axenḍe na mutengo wa khasitama kana masheleni a iyo ṭholo, u ya nga nyimele ya zwithu, u bva kha mushumi wa zwa ndaka a kwameaho.
- (3) Nga ndivhadzo kha *Gazete*, phanda ha u thoma u shuma ha uno Mulayo na nga murahu ha hone nga ṅwaha nga ṅwaha phanda ha mathomo a ṅwaha wa muvhalelano wa Maandlanga, nga murahu ha u kwamana na Bodo, Ministā u ta masheleni a badelwaho u ya nga uno Mulayo.



**Financial year and deposits**

**33.** (1) The financial year of the Authority is the period from 1 April in any year to 31 March in the following year, but the first financial year of the Authority begins on the date that this Act comes into operation, and ends on 31 March following that date.

(2) The Authority may invest or deposit money of the Authority that is not immediately required for contingencies or to meet current expenditures on a call or short-term fixed deposit account with any bank approved by the National Treasury. 5

**CHAPTER 7****PROPERTY PRACTITIONERS FIDELITY FUND****Property Practitioners Fidelity Fund 10**

**34.** (1) The Fund established by section 12 of the Estate Agents Affairs Act, 1976, known immediately before the commencement of this Act as the Estate Agents Fidelity Fund, continues to operate as if it were established in terms of this Act, under the name Property Practitioners Fidelity Fund.

(2) The following must be paid into the Fund: 15

- (a) All monies paid as fees in accordance with this Act to or on account of the Fund;
- (b) income derived from the investment of monies in the Fund in terms of section 33(2);
- (c) all monies recovered by or on behalf of the Fund in the exercise of any right of action conferred by this Act; 20
- (d) all monies received on behalf of the Fund from any insurance company;
- (e) interest paid to the Fund; and
- (f) any other monies accruing to the Fund from any other source.

**Primary purpose of Fund 25**

**35.** (1) Subject to the provisions of this Chapter, the Fund must be maintained and applied to reimburse persons who suffer pecuniary loss by reason of—

- (a) theft of trust money committed by a property practitioner who was in possession of a Fidelity Fund certificate at the time of the theft; or
- (b) the failure by a property practitioner to comply with section 54(1) or (3). 30

(2) No person has any claim against the Authority as contemplated in subsection (1) unless the claimant has—

- (a) within three years after the circumstances giving rise to a claim came into being, given notice to the Authority of such claim as contemplated in section 37; or 35
- (b) within the three-year period contemplated in paragraph (a) after a written request was sent to him or her by the Authority, furnished to the Authority such proof as it may reasonably require.

**Control and management of Fund**

**36.** (1) Subject to subsections (2) and (3), the Authority is responsible for the management and administration of the Fund. 40

(2) The Authority may, with the approval of the Minister, outsource the management and administration of the Fund to any portfolio management company or a financial institution in terms of the Financial Services Board Act, 1990, on the terms and conditions approved by the Minister, subject to subsection (3). 45



**Nwaha wa muvhalelano na dzidiphosithi**

33. (1) Nwaha wa muvhalelano wa Maandlanga ndi dzi 1 dza Lambamai kha nwaha muñwe na muñwe u swika dzi 31 dza Thafamuhwe dza nwaha u tevhelaho, fhedzi nwaha wa muvhalelano wa u thoma wa Maandlanga u thoma nga ñuvha ñine uno Mulayo wa thoma u shuma, nahone wa fhela nga dzi 31 dza Thafamuhwe dza nwaha u tevhelaho ilo ñuvha. 5

(2) Maandlanga a nga bindudza kana u diphositha tshelede ya Maandlanga kha ine a tođi u shumiswa nga u ñavhanya kana ine a i tođi u shumiswa zwenezwo kana kha akhauthu ya diphosithi ya u bindudza ya tshifhinga tshipfufhi kha bannga inwe na inwe u ñwalisaho na Muhasho wa Gwama ña Muvhuso. 10

**NDIMA YA 7****TSHIKWAMA TSHI THEMBEAHO TSHA VHASHUMI VHA ZWA NDAKA****Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka**

34. (1) Tshikwama tsho thomiwaho u ya nga khethekanyo ya 12 ya Mulayo wa *Estate Agents Affairs Act*, 1976, tshi ñivheaho hu saathu u thoma u shuma uno Mulayi sa tshone Tshikwama tshi Thembeaho tsha Mazhendedzi a zwa Ndaka, tshi ya phanña na u shuma u tou nga tsho thomiwa nga uno Mulayo, nga fhasi ha dzina ñine ña pfi Tshikwama tshi Thembeaho tsha Vhashumi vha zwa Ndaka. 15

(2) Masheleni a tevhelaho a tea u badelwa kha Tshikwama:

- (a) Tshelede yoñhe yo badelwaho sa mbadelo u ya nga uno Mulayo kha kana kha akhaunthu ya Tshikwama; 20
- (b) tshelede yo dzhenaho i tshi bva kha tshelede dza u bindudza kha Tshikwama u nga khethekanyo ya 33(2);
- (c) tshelede yoñhe vhuishwaho nga kana ho imelwa Tshikwama hu tshi khou shumiswa pfanelo inwe na inwe yo hweswaho nga uno Mulayo; 25
- (d) tshelede yoñhe yo ñanganedzwaho ho imelwa Tshikwama i tshi bva kha khamphani ya ndindakhombo;
- (e) nzwalelo dzo badelwaho kha Tshikwama; na
- (f) tshelede inwe na inwe yo kuvhanganywaho kha Tshikwama i tshi bva kha zwiko zwiñwe na zwiñwe. 30

**Ndivho khulwane ya Tshikwama**

35. (1) Hu tshi khou tevhedzwa mbetshelo dza ino Ndima, Tshikwama tshi tea u tikedzwa na u shumiswa kha u badela vhatu vhe vha vhaaisala zwo itiswa nga u xeelwa nga masheleni nga vhangana ña—

- (a) u tswiwa ha tshelede ya tshikwama zwo itwa nga mushumi wa zwa ndaka ane o vha a na ñanziela ya Tshikwama i Sumbedzaho u Thembea nga tshifhinga tsha u tswiwa; kana 35
- (b) u kundelwa nga mushumi wa zwa ndaka malugana na u anana na khethekanyo ya 54(1) kana (3).

(2) A hu na muthu a re na mbilo ifhio na ifhio kha Maandlanga sa zwe bulwa kha khethekanyo ñhukhu ya (1) nga nnña ha musu muitambilo o— 40

- (a) ita ndivhiso kha Maandlanga nga ha iyo mbilo sa zwo bulwaho kha khethekanyo ya 37; nahone hu saathu fhela miñwaha miraru nga murahu ha nyimele yo itisaho uri hu itwe mbilo iyo; kana
- (b) ñetshedza Maandlanga tsumbo ine ya khou tođwa, hu saathu fhela miñwaha miraru yo bulwaho kha phara ya (a) nga murahu ha u rumelwa ha khumbelo khae yo tou ñwalwaho nga Maandlanga. 45

**Kulangele kwa Tshikwama**

36. (1) Hu tshi khou tevhedzwa khethekanyo ñhukhu dza (2) na (3), Maandlanga a na vhuđifhinduleli kha kulangele kwa Tshikwama. 50

(2) Maandlanga musu hu na thendelo ya Minista, a nga ita uri tshumelo ya kulangele kwa Tshikwama i shuñwe nga khamphani ya u langa phothifolio kana tshiimiswa tsha masheleni u ya nga Mulayo wa *Financial Services Board Act*, 1990, ho sedzwa milayo yo tendelwaho nga Minista, hu tshi khou tevhedzwa khethekanyo ñhukhu ya (3).

(3) Each member of the Board, or if the management and administration of the Fund has been outsourced to any portfolio management company or institution as contemplated in subsection (2), that portfolio management company or institution, owes a fiduciary duty and a duty of care and skill to the Fund, and any such portfolio management company or financial institution may be held liable in accordance with the principles relating to breach of a fiduciary duty, for any loss, damages or costs sustained by the Fund as a consequence of any breach by such portfolio management company or financial institution of such a duty. 5

### Claims from Fund

37. (1) A claim for compensation from the Fund must be lodged with the Authority in the prescribed manner. 10

(2) A person is not entitled to claim against the Authority in respect of theft of trust money by a property practitioner unless such a person has, before lodging a claim with the Authority, laid a criminal charge against that property practitioner.

(3) The Authority must hold an inquiry in the prescribed manner into any claim lodged with the Authority in respect of the Fund. 15

### Payments from Fund

38. (1) Subject to the provisions of this Act, the following must, whenever required, be paid out of the Fund:

- (a) The amount of all claims, including costs, allowed or established against the Fund as provided for in this Chapter; 20
- (b) in the discretion of the Board, any contribution in respect of any expense incurred by any claimant in establishing a claim;
- (c) all legal, accounting and other expenses incurred in investigating and defending claims made against the Fund or otherwise incurred in relation to the Fund; 25
- (d) all premiums payable in respect of contracts of insurance entered into by the Authority in terms of section 40;
- (e) the expenses incurred in the management, control and administration of the Fund by the Authority, or if the management and administration of the Fund has been outsourced to a portfolio management company or financial institution as contemplated in section 36(2), by that institution, as the case may be, in accordance with the terms and conditions approved by the Minister; 30
- (f) grants as contemplated in section 39; and 35
- (g) any other monies which may be paid out of the Fund in accordance with this Act.

(2) The Minister may, in consultation with the Board, by notice in the *Gazette* limit the amount which may be paid from the Fund in respect of any category of claims.

(3) Any monies in the Fund not immediately required for the purposes of the Fund must, on the terms and conditions approved by the Minister, be invested with or in an institution approved by the National Treasury. 40

### Authorisation of grants

39. (1) Subject to the terms and conditions that it may determine, the Board may authorise grants from the Fund— 45

- (a) with regard to—
  - (i) research in fields of activity relevant to the business of property practitioners;
  - (ii) the maintenance and promotion of the standard of conduct of property practitioners; 50

(3) Muraḍo muḥwe na muḥwe wa Bodo, kana arali ndaulo ya Tshikwama yo iswaho u shuḥwa nga khamphani ya ndaulo ya phothifoḷio kha khamphani ya ndaulo ya phothifoḷio ifhio na ifhio kana tshiimiswa sa zwo bulwaho kha khethekanyo ḡhukhu ya (2), iyo khamphani ya ndaulo ya phothifoḷio kana tshiimiswa, tshi na vhuḍifhinduleli ha mushumo na mushumo wa ndondolo na vhukoni kha Tshikwama, na uri iyo khamphani ya ndaulo ya phothifoḷio kana tshiimiswa tsha zwa masheleni tshi na vhuḍifhinduleli u ya nga ndayo dzi kwamaho u pfuka uyo mushumo wa vhuḍifhinduleli, kha ndozwo iḥwe na iḥwe, tshinyalelo kana masheleni o lovhaho a Tshikwama zwo vhangwa nga uho u pfuka milayo nga iyo khamphani ya ndaulo ya phothifoḷio kana tshiimiswa tsha masheleni.

#### Mbilo dzi bvaho kha Tshikwama

37. (1) Mbilo ya mbadelo i bvaho kha Tshikwama i tea u itwa kha Maanḍalanga nga ḥḍila yo randelwaho.

(2) Muthu ha tei u ita mbilo Kha Maanḍalanga malugana na u tswiwa ha tshelede ya tshikwama zwo itwa nga mushumi wa zwa ndaka nga ḥḍa ha musi uyo muthu musi a saathu ita mbilo ngei kha Maanḍalanga, a tea u thoma a vula mulandu a tshi vulela vhutshinyi ho itwaho nga mushumi wa zwa ndaka.

(3) Maanḍalanga a tea u ita ḥḍisiso nga ḥḍila yo randelwaho malugana na mbilo yo itwaho kha one Maanḍalanga malugana na Tshikwama.

#### Mbadelo dzi bvaho kha Tshikwama

38. (1) Hu tshi khou tevhedzwa mbetshelo dza uno Mulayo, misi yoḥe musi zwi tshi ḥḍea, zwi tevhelaho zwi ḥḍo badelwa nga tshelede i bvaho kha Tshikwama:

- (a) Tshelede ya mbilo dzoḥe, hu tshi katelwa tshelede, yo tendelwaho kana yo thomiwaho malugana na Tshikwama u ya nga mbetshelo ya ino Ndima;
- (b) u ya nga hune Bodo ya vhona zwo tea, mbadelo iḥwe na iḥwe malugana na tshelede yo shumiswaho nga uyo ane a khou vhila musi a tshi khou ita mbilo;
- (c) masheleni oḥe o badelwaho zwi tshi kwama mulayo, na zwiḥwe-vho zwe zwa badelwa musi hu tshi khou sedzuluswa na u imelela mbilo malugana na Tshikwama kana masheleni o shumiswaho zwi tshi kwama Tshikwama;
- (d) mbadelo dzoḥe dza ndindakhombo dzi badelwaho malugana na dzikonḡiraka dza ndindakhombo dzo itwaho nga Maanḍalanga hu tshi khou tevhedzwa khethekanyo ya 40;
- (e) masheleni o shumiswaho kha zwi kwamaho ndaulo, ya Tshikwama nga Maanḍalanga, kana arali ndaulo ya Tshikwama yo ita uri mushumo u tou shuḥwa nga khamphani ya ndaulo ya phothifoḷio kana tshiimiswa tsha zwa masheleni sa zwo bulwaho kha khethekanyo ya 36(2), nga tshiimiswa, u ya nga hune nyimele ya vha zwone, hu tshi khou tevhedzwa ndayo dzo tendelwaho nga Minista;
- (f) magavhelo u ya nga zwe zwa bulwa kha khethekanyo ya 39; na
- (g) masheleni maḥwe na maḥwe ane a nga badelwa a tshi bva kha Tshikwama u ya nga uno Mulayo.

(2) Minista a tshi khou kwamana na Bodo, nahone nga kha ḥḍivhadzo i re kha *Gazete* u ḥḍo ita phungudzelo ya tshelede ine ya nga badelwa i tshi bva kha Tshikwama malugana na khethekanyo ya dzimbilo.

(3) Masheleni maḥwe na maḥwe a re kha Tshikwama ane ha ḥḍi u shumiswa nga u ḥavhanya nga Tshikwama, musi hu tshi khou tevhedzwa milayo yo teaho ine Minista o i tendela, masheleni ayo a tea u binduliswa kha tshiimiswa tsho khwaḥhisedzwaho nga Muhasho wa zwa Gwama Ḷa Lushaka.

#### U tendelwa ha magavhelo

39. (1) Hu tshi khou tevhedzwa milayo ine ya nga tiwa, Bodo i nga tendela magavhelo a tshi bva kha Tshikwama—

- (a) malugana na—
  - (i) ḥḍisiso kha masia a mushumo une wa elana na zwa bindu Ḷa vhashumi vha zwa ndaka;
  - (ii) u londola na u alusa zwiḡandadi zwa vhuḍifari ha vhashumi vha zwa ndaka;

- (iii) the maintenance and promotion of the training standards of property practitioners;
- (iv) the education and training of property practitioners; and
- (v) transformation of the property sector;
- (b) to any association or society of property practitioners for the purpose of enabling that association or society to maintain and promote the interests of property practitioners; and 5
- (c) of the amount that it may determine for the purposes of—
  - (i) advertising and promoting the services and facilities offered by property practitioners in general; or 10
  - (ii) promoting public awareness in respect of consumer rights in matters relating to immovable property.

(2) The Board may at any time revoke any authorisation contemplated in subsection (1) on reasonable grounds.

#### **Indemnity insurance** 15

**40.** The Authority may in the public interest arrange any group insurance scheme with any insurer registered as a short-term insurer in terms of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), for the provision of insurance to cover property practitioners' liability to members of the public on the grounds of malpractice, up to an amount determined by the Board. 20

#### **Fees payable by property practitioner**

- 41.** (1) A property practitioner must annually pay to the Fund—
- (a) a prescribed application fee for a Fidelity Fund certificate in accordance with the provisions of section 47; and
  - (b) any amount that the Minister may, after consultation with the Minister of Finance and the Board, determine from time to time by notice in the *Gazette*. 25
- (2) The Minister must in exercising the powers conferred in subsection (1), specify a method or standard to determine the percentage by which the amounts contemplated in paragraphs (a) and (b) of that subsection are automatically adjusted annually on 1 April of every subsequent year, but— 30
- (a) the Minister may at any time override such an automatic adjustment by making a new determination in terms of subsection (1); and
  - (b) the Minister must not later than five years after making a determination contemplated in subsection (1) or paragraph (a), as the case may be, make a new determination in terms of subsection (1). 35

#### **Cooperation by claimant**

- 42.** (1) A person who has lodged a claim contemplated in section 36(1) must, upon request by the Authority participate, cooperate and assist the Authority in respect of any matter concerning the claim.
- (2) The Authority may withhold payment from the Fund of any amount payable to a person who fails or refuses to substantially comply with any reasonable request made in writing by— 40
- (a) the South African Police Service or other organ of state responsible for investigating or monitoring crime or criminal activity, to cooperate and assist in its investigation of any criminal charge laid against a property practitioner; 45

- (iii) u londola na u alusa zwiṭandadi zwa vhugudisi ha vhashumi vha zwa ndaka;
  - (iv) pfunzo na vhugudisi ha vhashumi vha zwa ndaka; na
  - (v) tshanduko ya sekithara ya zwa ndaka;
  - (b) kha asosiesheni kana sosaithi ya vhashumi vha zwa ndaka u itela ndivho ya u ita uri asosiesheni kana sosaithi i londole na u alusa madzangalelo a vhashumi vha zwa ndaka; na 5
  - (c) tshelede ine ya nga ta i tshi itela ndivho dza u—
    - (i) kungedzela na u alusa tshumelo dza na zwishumiswa zwi ṅetshedzwaho nga mushumi wa zwa ndaka nga u tou angaredza; kana 10
    - (ii) alusa ṅdivho tshitshavhani nga ha pfanelo dza vharengi kha mafhungo a kwamaho zwa ndaka i sa endedzwi.
- (2) Bodo nga tshifhinga tshiṅwe na tshiṅwe i nga fhelisa u tendelwa ho bulwaho kha khethekanyo ṭhukhu ya (1) musi hu na mbuno dzi pfalaho.

#### **Ndindakhombo ya u tsireledza tshinyalelo** 15

40. Ho sedzwa dzangalelo la tshitshavha Maandḷalanga a nga ita nzudzanyo ya tshikimu tsha ndindakhombo kha khamphani ya ndindakhombo iṅwe na iṅwe yo ṅwalisaho sa khamphani ya zwa ndindakhombo ya tshifhinga tshipfufhi u ya nga Mulayo wa *Short term Insurance Act, 1998 (Act No. 53 of 1998)*, u itela mbetshelo ya ndindakhombo ya u tsireledza tshikolodo tsha mushumi wa zwa ndaka kha miraqo ya tshitshavha ho sedzwa zwa kushumele ku si kwavhuḍi, u swika kha tshelede ine ya ḍo tiwa nga Bodo. 20

#### **Masheleni a badelwaho nga mushumi wa zwa ndaka**

41. (1) Mushumi wa zwa Ndaka nga ṅwaha nga ṅwaha kha Tshikwama u tea u badela— 25
- (a) tshelede yo randelwaho ya khumbelo ya ṭhanziela ya Tshikwama i Sumbedzaho u Thembea u ya nga mbetshelo dza khethekanyo ya 47; na
  - (b) tshelede iṅwe na iṅwe ine Miniṣṭa, nga murahu ha musi o kwamana na Miniṣṭa wa zwa Masheleni na Bodo, a ḍo ta misi yoṭhe nahone zwo itwa nga ṅdivhadzo kha *Gazete*. 30
- (2) Miniṣṭa u tea u shumisa maanḍa awe e a hweswa nga khethekanyo ṭhukhu ya (1) a ṭaluse ngona kana tshiṭandadi tsha u ta phesenthe ine masheleni o bulwaho kha pharagirafu dza (a) kana (b) dza iyo khethekanyo ṭhukhu dza tou dzula dzo gonya nga dzoṭhe ṅwaha nga ṅwaha nga dzi 1 dza Lambamai ṅwaha muṅwe na muṅwe une wa tevhela; fhedzi— 35
- (a) Miniṣṭa misi yoṭhe u na maanḍa a u hana uho u gonya ha ṅwaha nga ṅwaha nga u tou ta nga huswa hu tshi khou tevhedzwa khethekanyo ṭhukhu ya (1); na
  - (b) Miniṣṭa hu saathu fhira miṅwaha miṭanu nga murahu ha u ita zwa u ta sa zwe zwa bulwa kha khethekanyo ṭhukhu ya (1) kana phara ya (a), u ya nga hune nyimele ya vha zwone, u tea u ta nga huswa a tshi khou tevhedza khethekanyo ṭhukhu ya (1). 40

#### **Tshumisano i lavhelelwaho kha muitambilo**

42. (1) Muthu ane a khou ita mbilo o bulwaho kha khethekanyo ya 36(1) musi o humbelwa nga Maandḷalanga, u tea u dzenela, shumisane na nahone a thuse Maandḷalanga malugana na tshiṅwe na tshiṅwe tshi kwamaho mbilo. 45
- (2) Maandḷalanga a nga fara mbadelo i bvaho kha Tshikwama ine mbadelo iyo ya vha ya mutengo muṅwe na muṅwe i tshi tea u badelwa kha muthu ane a kundelwa kana ane a hana u anana na khumbelo i pfadzaho yo itwaho nga u tou ṅwala nga—
- (a) Tshumelo ya Tshipholisa ya Afrika Tshipembe kana tshiṅwe tshiimiswa tsha muvhuso tshi re na vhuḍifhinduleli ha tzedzuluso kana u lavhelesa tshugevhenga kana zwiito zwa vhugevhenga, u shumisana na u thusa kha tzedzuluso ya mulandu muṅwe na muṅwe wa vhugevhenga wo vulwaho u tshi khou kwama mushumi wa zwa ndaka; 50

- (b) the National Directorate of Public Prosecutions, any other prosecuting authority or any organ of state responsible for asset forfeiture investigations or proceedings, in respect of any investigation or proceedings in a court of law of which the relevant property practitioner is the subject or defendant, as the case may be; or 5
- (c) the Authority to cooperate and assist in—
- (i) the investigation of any complaint against the relevant property practitioner; or
  - (ii) the exercise of the Authority's rights and remedies against the relevant property practitioner pursuant to the provisions of this Act. 10
- (3) Neither the Fund nor the Authority is liable for payment of interest on any amount withheld as contemplated in subsection (2).

#### **Actions against Authority in respect of Fund**

- 43.** (1) No person may commence any action against the Authority for payment from the Fund after the expiry of three years from the date of a written notification by the Authority addressed to the claimant, or his, her or its legal representative, if any, informing the claimant that the Authority— 15
- (a) rejects the claim to which the action relates; or
  - (b) requires compliance with section 42.
- (2) No person may recover from the Authority any amount larger than the difference between the amount of the loss suffered by him or her and the amount or value of all monies or other benefits which he or she received or is entitled to receive out of any other source in respect of such loss. 20
- (3) No right of action lies against the Authority in respect of any loss suffered by—
- (a) the spouse, life partner, business partner or immediate family member of a property practitioner by reason of any negligent or intentional conduct including theft committed by such property practitioner; or 25
  - (b) any property practitioner by reason of any negligent or intentional conduct including theft committed—
    - (i) by his, her or its business partner; 30
    - (ii) if such property practitioner is a company, by any director of such company;
    - (iii) if he or she is a director of a company, by any co-director in such company;
    - (iv) if such property practitioner is a close corporation, by any member of such corporation; 35
    - (v) if he or she is a partner in a partnership, by any other partner of such partnership; or
    - (vi) by any person employed by him or her as a property practitioner;
  - (c) any person as a result of negligent or intentional conduct including theft, or as a result of any other act or omission in connection with trust monies held or received on account of any other person, by any person referred to in paragraph (d) of the definition of "property practitioner" in section 1. 40

#### **Application of insurance monies**

- 44.** (1) No claimant having a claim against the Authority under this Chapter has by virtue of any contract entered into in terms of section 40 by the Authority with an insurer, have any right of action against that insurer. 45
- (2) No claimant having a claim against the Authority under this Chapter has any right or claim in respect of any money paid or payable to the Authority by an insurer in accordance with a contract entered into in terms of section 33, but such money must be paid into the Fund and applied by the Authority in accordance with the provisions of this Chapter to settle any relevant claim. 50



- (b) Khethekanyo ya Lushaka ya Vhutshutshisi ha Lushaka, maanḁalanga maḁwe na maḁwe kha zwa vhutshutshisi kana tshiiḁiswa tshiḁwe na tshiḁwe tsha muvhuso tshi re na vhuḁifhinduleli kha zwa tzedzuluso dza u xelaxela ha ndaka kana tsengo, malugana na tzedzuluso iḁwe na iḁwe kana tsengo ngei khothe ya mulayo hune mushumi wa zwa ndaka o teaho ha vha ene muhwelelwa, u ya nga hune zwithu zwa vha; kana 5
- (c) Maanḁalanga u itela u shumisana na u thusa kha—
- (i) tzedzuluso ya mbilaelo ifhio na ifhio ine ya kwama mushumi wa zwa ndaka; kana
- (ii) u shumisa pfanelo dza Maanḁalanga na thandululo zwi tshi kwama mushumi wa zwa ndaka o teaho hu tshi khou tevhelwa mbetshelo dza uno Mulayo. 10

(3) A si Tshikwama nahone a si Maanḁalanga a re na vhuḁifhinduleli ha u badela nzwalelo kha tshelede yo farwaho u ya nga zwe bulwa kha khethekanyo ḁukhu ya (2). 15

#### Maga ane a dzhielwa Maanḁalanga malugana na Tshikwama

43. (1) A huna muthu ane a ḁo thoma ḁiga ḁiḁwe na ḁiḁwe ḁi kwamaho Maanḁalanga malugana na mbadelo i bvaho kha Tshikwama nga murahu ha u fhela ha miḁwaha miraru u bva kha datumu ya u ḁwalwa ha ḁdivhadzo nga one Maanḁalanga yo livhiswa kha muitambilo, kana muimeleli wa ene muitambilo, arali a hone, hu tshi khou vhudzwa muitambilo uri Maanḁalanga— 20

(a) a khou hana mbilo; kana

(b) a khou ḁoḁa hu tshi tevhedzwa khethekanyo ya 42.

(2) A hu na muthu ane a ḁo vhuisa tshelede i tshi bva kha Maanḁalanga ine ya vha nznhi u fhira tshelede yo lozweaho ya muitambilo na tshelede kana ndeme ya tshelede yoḁthe kana mbuelo dzine kana dzo ḁanganedzwaho kana yo teaho u ḁanganedzwa i tshi bva kha tshiko tshiḁwe na tshiḁwe malugana na uho u lozwea. 25

(3) A hu na pfanelo ya nyito malugana na Maanḁalanga malugana na u xelaxela ho pfiwaho nga—

(a) mufarisi, ḁhama ya vhutshilo hoḁthe, mushumisani kha zwa mabindu kana muraḁo wa tsinisa wa muḁa wa mushumi wa zwa ndaka nga mbuno i kwamaho u sa londa kana nga khole hu tshi katelwa vhuvhava ho itwaho nga uyo mushumi wa zwa ndaka; kana 30

(b) mushumi wa zwa ndaka muḁwe na muḁwe nga vhanga ḁa u sa londa kana nga khole hu tshi khou katelwa vhuvhava ho itwaho— 35

(i) nga ene muḁe kana nga mushumisani kha zwa bindu;

(ii) arali uyo mushumi wa zwa ndaka e khamphani, nga mulanguli wa khamphani muḁwe na muḁwe wa iyo khamphani;

(iii) arali e mulanguli wa khamphani, nga mulangi-ngae kha iyo koporasi;

(iv) arali uyo mushumi wa zwa ndaka hu koporasi ḁukhu, nga muraḁo muḁwe na muḁwe wa yeneyo koporasi; 40

(v) arali hu ḁhama kha vhuḁhaka ha bindu, nga ḁhama ya zwa bindu ya honoho vhuḁama; kana

(vi) nga muthu muḁwe na muḁwe o tholwaho nga sa mushumi wa zwa ndaka; 45

(c) muthu muḁwe na muḁwe zwo itiswa nga u sa londa kana nga khole hu tshi katelwa vhuvhava, kana zwo itiswa nga u khakha zwi tshi ḁumana na tshelede dza tshikwama dzo farwaho kana dzo ḁanganedzwaho kha akhaunthu ya muthu ufhio na ufhio, nga muthu o bulwaho kha pharagirafu ya (d) ya ḁhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1. 50

#### Khumbelo ya tshelede dza ndindakhombo

44. (1) A hu na muitambilo a re na mbilo kha Maanḁalanga nga fhasi ha ino Ndima nga ḁwambo wa koḁiraka iḁwe na iḁwe yo itwaho u ya nga khethekanyo ya 40 nga Maanḁalanga na khamphani ya ndindakhombo, a re na pfanelo iḁwe na iḁwe ya nyito kha iyo khamphani ya ndindakhombo. 55

(2) A hu na muitambilo ane a vha na mbilo kha Maanḁalanga nga fhasi ha ino Ndima ane a vha na pfanelo ifhio na ifhio kana mbilo malugana na tshelede iḁwe na iḁwe i badelwaho kha Maanḁalanga nga khamphani ya ndindakhombo u ya nga koḁiraka yo itwaho u ya nga khethekanyo ya 32, fhedzi iyo tshelede i tea u badelwa kha Tshikwama nahone ya tea u humbelwa nga Maanḁalanga u ya nga mbetshelo dza ino ndima u itela u badela mbilo. 60



**Transfer of rights and remedies to Authority**

45. If the Authority settles in full or in part any claim under this Chapter, all the rights and remedies of the claimant in respect of such claim against the property practitioner concerned or any other person or, in the case of the death, insolvency or other legal incapacity of that property practitioner or other person, against the estate of that property practitioner or other person shall pass to the Authority, without qualification or diminution, to the extent of such settlement. 5

**Fund exempt from insurance laws**

46. No provision of any law relating to insurance applies to or in respect of the Fund.

**CHAPTER 8**

10

**PROPERTY PRACTITIONERS****Application for Fidelity Fund certificate**

47. (1) Every property practitioner, excluding a property practitioner referred to in paragraph (g) of the definition of “property practitioner” in section 1, must, within the prescribed period and in the prescribed manner, every three years apply to the Authority for a Fidelity Fund certificate, and such application must be accompanied by the fees contemplated in section 34. 15

(2) A property practitioner referred to in paragraph (d) of the definition of “property practitioner” in section 1, must, within the prescribed period and in the prescribed manner, apply to the Authority for a registration certificate, and such application must be accompanied by the fees contemplated in section 34. 20

(3) Subject to sections 43 and 52, the Authority must, upon receipt of an application contemplated in subsection (1) or (2) and the relevant fees, if the applicant concerned—  
 (a) meets or has met all requirements provided for in or under this Act; and  
 (b) is not disqualified in terms of section 48 from being issued with a Fidelity Fund certificate, 25

issue to the applicant concerned a Fidelity Fund certificate in the prescribed form, which is valid until 31 December of the year to which such application relates.

(4) A property practitioner who applies to the Authority for a Fidelity Fund certificate or a registration certificate, after the prescribed period referred to in subsection (1) or (2), or whose application is not accompanied by the fees referred to in section 34, must in addition to the applicable fee pay a prescribed penalty to the Authority and the Authority may not issue a Fidelity Fund certificate to the property practitioner concerned until the penalty has been paid. 30

(5) A property practitioner may not use or display a lapsed Fidelity Fund certificate. 35

(6) A property practitioner must, upon request from any relevant party, produce a Fidelity Fund certificate or certified copy thereof.

(7) A property practitioner whose contact details change during the period of validity of his, her or its Fidelity Fund certificate, must within 14 days of such a change taking place in writing provide the Authority with his, her or its new contact details. 40

**U rathisela pfanelo na thasululo kha Maandlalanga**

45. Arali Maandlalanga a badela tshelede yothe kana a tou badela inwe ya mbilo nga fhasi ha ino Ndima, pfanelo dzothe na thandululo dza muitambilo malugana na iyo mbilo kha mushumi wa zwa ndaka a kwameaho kana muinwe muthu kana, kha nyimele ya musu ho vha na u lovha, u kundelwa nga u badela zwikolodo kana zwinwe zwi kwamaho u sa kona zwo sedza mulayo kha uyo mushumi wa zwa ndaka kana muinwe muthu, kha ndaka ya uyo mushumi wa zwa ndaka kana muinwe muthu, pfanelo dzi do fhirela kha Maandlalanga, hu si na ndalukano na u fhungudzea, kha vhuhulu ha iyo mbadelo.

**Masheleni a vhothololwaho kha milayo ya ndindakhombo** 10

46. A hu na mbetshelo ya mulayo i kwamaho ndindakhombo ine ya kwama kha kana malugana na Tshikwama.

**NDIMA YA 8****VHASHUMI VHA ZWA NDAKA****Khumbelo ya thanziela ya Tshikwama i Sumbedzaho u Thembea** 15

47. (1) Mushumi wa zwa ndaka muinwe na muinwe hu sa katelwi mushumi wa zwa ndaka o bulwaho kha pharagirafu ya (g) ya thalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, u tea, u ta khumbelo minwaha miraru minwe na minwe kha Maandlalanga u itela u wana thanziela ya Tshikwama i Sumbedzaho u Thembea, nahone iyo khumbelo i tea u fhelekedzwa nga masheleni o bulwaho kha khethekanyo ya 34, nahone khumbelo iyo i tea u itwa hu saathu fhira tshifhinga tsho randelwaho nahone i itwe nga ndila yo randelwaho.

(2) Mushumi wa zwa ndaka o bulwaho kha pharagirafu ya (d) kha thalutshedzo ya ipfi “mushumi wa zwa ndaka kha khethekanyo ya 1, hu saathu u fhela tshifhinga tsho randelwaho nahone nga ndila yo randelwaho, u tea u ita khumbelo kha Maandlalanga u itela u nwalisa thanziela, nahone iyo khumbelo i tea u fhelekedzwa nga masheleni o bulwaho kha khethekanyo ya 34.

(3) Hu tshi khou tevhedzwa khethekanyo 43 na 52, Maandlalanga musu a tshi tou tangedza khumbelo yo bulwaho kha khethekanyo thukhu ya (1) kana (2) na masheleni o teaho, arali muhumbeli a kwameaho—

(a) a tshi fusha thodea kana o fusha thodea dza mbetshelo nga fhasi ha uno Mulayo; nahone

(b) a songo hanelwa u fhiwa thanziela u ya nga khethekanyo ya 48, Maandlalanga a do tea u fha muhumbeli a kwameaho thanziela ya Tshikwama i Sumbedzaho u Thembea nga ndila yo randelwaho, ine iyo thanziela i do shuma u swika nga dzi 31 dza Nyendavhusiku kha wonoyo iwaha une khumbelo ya khou itelwa wone.

(4) Mushumi wa zwa ndaka a humbelaho thanziela ya Tshikwama i Sumbedzaho u Thembea kana u nwalisa thanziela kha Maandlalanga, nga murahu ha tshifhinga tsho randelwaho sa zwo bulwaho kha khethekanyo thukhu ya (1) kana (2), kana ane khumbelo yawe a yo ngo fhelekedzwa nga tshelede yo bulwaho kha khethekanyo ya 34, u a tea u badela ndatso yo randelwaho kha Maandlalanga nahone Maandlalanga ha nga ngetshedzi thanziela ya Tshikwama i Sumbedzaho u Thembea kha uyo mushumi wa zwa ndaka a kwameaho u swikela a tshi badela ndatso.

(5) Mushumi wa zwa ndaka a nga si shumise kana u tana thanziela ya Tshikwama i Sumbedzaho u Thembea yo fhirelwa nga tshifhinga.

(6) Mushumi wa zwa ndaka musu hu na khumbelo ine ya bva kha muinwe na muinwe a kwameaho nahone o teaho, u tea u bvisa thanziela ya Tshikwama i Sumbedzaho u Thembea kana khophi ya iyo thanziela.

(7) Mushumi wa zwa ndaka ane zwidodombedzwa zwawe zwa vhukwamani zwo shandukiswa nga tshifhinga tsha musu iyo thanziela i saathu u fhirelwa nga tshifhinga tsha u vha i shumaho, hu saathu fhela maduvha a 14 ho shandukiswa izwo zwidodombedzwa nga u tou iwala u tea u fha Maandlalanga zwidodombedzwa zwa vhukwamani zwisa.

**Prohibition on rendering services without Fidelity Fund certificate**

- 48.** (1) No person or entity may act as a property practitioner unless, in addition to any other requirements provided for in or under this Act—
- (a) he or she or it has been issued with a Fidelity Fund certificate contemplated in section 47; or 5
  - (b) if he or she or it employs any other person as a property practitioner, that person has also been issued with a Fidelity Fund certificate contemplated in section 47.
- (2) If an entity is—
- (a) a company; 10
  - (b) a close corporation;
  - (c) a trust; or
  - (d) a partnership,
- every director of such a company, every member of such a close corporation, every trustee of such a trust and every partner of such a partnership, as the case may be, must have been issued with a Fidelity Fund certificate contemplated in section 47. 15
- (3) Any person who contravenes or fails to comply with subsection (1) is guilty of an offence.
- (4) A person who contravenes or fails to comply with subsection (1) must, immediately upon receipt of a request from any relevant party in writing, repay any amount received in respect of or as a result of any property transaction during such contravention. 20
- (5) A person who fails to comply with a request contemplated in subsection (4) is guilty of an offence.
- (6) The provisions of this section apply irrespective of— 25
- (a) what appellation a person or entity is described by; or
  - (b) whether he, she or it is registered, certified or appointed or acts in terms of or under or for purposes of any other Act.

**Mandatory time periods for issuing certificates**

- 49.** (1) The Authority must, within 30 working days, consider any application submitted to it in terms of this Act, which fully meets the prescribed requirements, unless the Authority, on good grounds in writing, informs the applicant of the reasons why that period is to be extended, provided that such extension may not exceed 20 working days. 30
- (2) The period of 30 working days contemplated in subsection (1) commences afresh if the Authority requests the applicant to submit additional information or to correct the said application. 35
- (3) If the Authority has failed to comply with subsection (1), the application is deemed to have been approved and the Authority must, upon written request by the applicant within 10 working days, issue the applicant with the relevant certificate. 40

**Disqualification from issue of Fidelity Fund certificate**

- 50.** The Authority may not issue a Fidelity Fund certificate to—
- (a) any person who—
    - (i) is not a South African citizen and does not lawfully reside in the Republic; 45
    - (ii) has, at any time in the preceding five years, been found guilty of contravening this Act, the Estate Agency Affairs Act, or any similar legislation in any other jurisdiction;

**Nyiledzo malugana na u n̄etshedza tshumelo hu si na t̄hanziela ya Tshikwama i Sumbedzaho u Thembea**

48. (1) A hu na muthu ane kana tshiimiswa tshine tsha nga shuma sa mushumi wa zwa ndaka nga n̄nda ha musu nga n̄tha ha dzīnwe t̄hōdēa dzo vhetshelwaho kha kana nga fhasi ha uno Mulayo— 5

- (a) uyo muthu kana itsho tshiimiswa tsho n̄etshedzwa t̄hanziela ya Tshikwama i Sumbedzaho u Thembea sa zwo bulwaho kha khethekanyo ya 47; kana
- (b) arali uyo muthu kana itsho tshiimiswa tsho thola muthu sa mushumi wa zwa ndaka, ane uyo muthu o n̄etshedzwa t̄hanziela ya Tshikwama i Sumbedzaho u Thembea sa zwo bulwaho kha khethekanyo ya 47. 10

(2) Arali tshiimiswa hu—

- (a) khamphani;
- (b) koporasi t̄hukhu;
- (c) thirasiti; kana
- (d) tshine tsha shumisanwa natsho, 15

mulanguli mūnwe na mūnwe wa yeneyo khamphani, murādo mūnwe na mūnwe wa yeneyo koporasi t̄hukhu, thirasitii mūnwe na mūnwe wa yeneyo thirasiti na mūnwe na mūnwe a re t̄hama ya tshumisano, u ya nga hune zwa vha, hu tea u vha o n̄etshedzwa t̄hanziela ya Tshikwama i Sumbedzaho u Thembea sa zwo bulwaho kha khethekanyo ya 47. 20

(3) Muthu mūnwe na mūnwe ane a pfukekanya kana ane a kundelwa u tevhedza khethekanyo t̄hukhu ya (1) u na mulandu wa vhuthinyi.

(4) Muthu ane a pfukekanya kana ane a kundelwa u tevhedza khethekanyo t̄hukhu ya (1), nga u tou t̄avhanya musu a tshi tou wana khumbelo i bvaho ho teaho nahone yo tou n̄walwa, u tea u badela tshelede ifhio na ifhio yo t̄angedzwaho malugana na kana zwo vhangwa nga t̄hirantsekisheni īnwe na īnwe nga tshifhinga tshenetsho tsha uho u sa tevhedza khethekanyo ya Mulayo. 25

(5) Muthu ane a kundelwa u tevhedza khumbelo yo bulwaho kha khethekanyo t̄hukhu ya (4) u na mulandu wa uri o khakha.

(6) Mbetshelelo dza ino khethekanyo dzi shumiswa hu songo sedzwa— 30

- (a) kūtalutshedzwe kwa aphili ya muthu kana tshiimiswa; kana
- (b) muthu o n̄walisa kana tshiimiswa tsho n̄walisa, u vha hone ha t̄hanziela kana u tholwa kana u shuma u ya nga, kana nga fhasi ha, kana u itela ndivho dza mūnwe Mulayo.

**Zwifhinga zwine zwa tou vhofha zwa u n̄etshedza t̄hanziela** 35

49. (1) Maan̄dalanga hu saathu fhela māduvha a 30 a mushumo, a tea u lavhelesa khumbelo īnwe na īnwe yo d̄iswaho u ya nga uno Mulayo, ine iyo khumbelo i khou fusha t̄hōdēa dzo t̄he dzo randelwaho, nga n̄nda ha musu Maan̄dalanga arali hu na zwivhangu zwi re khagala a tshi nga tou n̄walela muhumbeli mbuno dza uri māduvha a 30 a tea u engedzwa, tenda uho u engedza māduvha hu sa d̄o fhira māduvha a 20 a mushumo. 40

(2) Tshifhinga tsha māduvha a 30 a mushumo o bulwaho kha khethekanyo ya (1) a thomululwa u vhalwa nga huswa arali Maan̄dalanga a humbela muhumbeli uri a d̄ise n̄divhiso kana u lulamisa khumbelo.

(3) Arali Maan̄dalanga a kundelwa u tevhedza khethekanyo t̄hukhu ya (1), zwi dzhiiwa khumbelo ya muhumbeli yo tendelwa nahone Maan̄dalanga a tea uri musu muhumbeli o humbela nga u tou n̄wala hu saathu u fhela māduvha a 10 a mushumo, Maan̄dalanga a n̄etshedze muhumbeli t̄hanziela yo teaho. 45

**U sa tsha fusha t̄hōdēa dza u fhiwa t̄hanziela ya Tshikwama i Sumbedzaho u Thembea** 50

50. Maan̄dalanga a nga si n̄etshedze t̄hanziela ya Tshikwama i Sumbedzaho u Thembea

- (a) muthu mūnwe na mūnwe ane—
  - (i) a sa vhe Mudzulapo wa Afrika Tshipembe nahone ane a sa vhe na thendelo ya u dzula kha Riphabūl̄iki lwa mulayo; 55
  - (ii) ane kha mīnwaha mītanu yo fhiraho o wanwa mulandu wa u pfuka Mulayo wa *Estate Agency Affairs Act, 1976*, kana mulayosīnwa mūnwe na mūnwe une wa fana na yeneyi kha vhūnwe vhūpo;

- (iii) has been found in any civil or criminal proceedings by a court of law, whether in the Republic or elsewhere, to have acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty, or of any other offence for which such person has been sentenced to imprisonment without the option of a fine; 5
- (iv) is of unsound mind;
- (v) has, at any time in the preceding five years by reason of improper conduct, been dismissed from a position of trust;
- (vi) is an unrehabilitated insolvent;
- (vii) is not in possession of a valid tax clearance certificate; 10
- (viii) has been prohibited by any legislation, enacted in the Republic or elsewhere, from practicing as a property practitioner or from occupying a position of trust, including any juristic person to whom the disqualifications in subparagraphs (ii), (iii), (vi) and (vii) apply with the necessary changes; 15
- (ix) has been found guilty by a competent tribunal or a court of law of unfairly differentiating, distinguishing or excluding directly or indirectly anyone on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; 20
- (x) is not in possession of a valid BEE certificate;
- (b) any property practitioner who or, if such property practitioner is a company, any director or member of management of that company, or if such property practitioner is a close corporation, any member referred to in paragraph (a) of the definition of “property practitioner” in section 1, or if such property practitioner is a trust, any trustee, or if such property practitioner is a partnership, any partner, who— 25
  - (i) in the preceding five years has been found guilty of contravention of this Act or the Estate Agency Affairs Act, 1976;
  - (ii) does not comply with the prescribed standard of training; 30
  - (iii) does not have the practical experience determined by the Authority; or
  - (iv) has at any time been guilty of any act or omission in respect of which any person had to be compensated pursuant to the provisions of section 38 from the Fund, unless the property practitioner has repaid the relevant amount in full to the Authority, or the Authority is of the opinion that satisfactory arrangements for the settlement of such amount have been made and has confirmed such arrangements; 35
- (c) any property practitioner contemplated in paragraph (a) of the definition of “property practitioner” in section 1, if such property practitioner carries or intends to carry on business as a property practitioner under a trade name which is identical or confusingly similar to the trade name of another property practitioner— 40
  - (i) already issued with a Fidelity Fund certificate; or
  - (ii) whose Fidelity Fund certificate is suspended or has lapsed or been withdrawn in terms of this Act; or 45
- (d) any property practitioner who is a director of a company, or who is a member referred to in paragraph (b) of the definition of “property practitioner” in section 1 of a close corporation—
  - (i) of which the Fidelity Fund certificate was withdrawn by the Authority in terms of section 52; or 50
  - (ii) which was prohibited in terms of section 48 from operating in any way on its trust, savings or other interest-bearing accounts referred to in terms of that section.

- (iii) o wanwa mulandu kha zwi kwamaho mbilo kana zwa vhugevhenga nga khothe ya mulayo, hu nga vha kha la Afrika Tshipembe kana kha liñwe shango, o wanwa mulandu wa u ita zwa vhufhura, u sa fhulufhedzea, u sa vha phrofeshinaja, u sa thomphea kana u pfuka mushumo wa vhuḏifhinduleli ha u vha thirasitii, kana vhutshinyi vhuñwe na vhuñwe he ha ita uri uyo muthu a valelwe dzhele a songo tendelwa na u tou badela ndaḥiso; 5
- (iv) ane muhumbulo wawe a u shumi zwavhuḏi;
- (v) o pandelwaho kha vhuimo ha u vha thirasitii zwo itiswa nga vhuḏifari vhu si havhuḏi kha miñwaha miṭanu yo fhiraho; 10
- (vi) ane o kundelwa u badela zwikolodo lwe a sa tsha dovha a vusuludzea;
- (vii) ane ha na ṭhanziela ine ya sumbedza uri mafhungo a muthelo o dzula zwavhuḏi;
- (viii) ane o hanelwa u ya nga mulayosiñwa, wo itwaho kha Riphabuḽiki kana kha liñwe shango, o hanelwa u shuma sa mushumi wa zwa ndaka kana u hanelwa u fara vhuimo ha u vha thirasitii, hu tshi katelwa khamphani ine u hanelwa uho na u sa tsha fusha ṭhoḏea uho kha phara dza (ii), (iii), (vi) na (vii) zwa shuma khathihi na tshanduko dzo teaho; 15
- (ix) ane o wanwa mulandu nga thribunaja kana khothe ya mulayo une mulandu uyo ndi u kwamaho u fhambanyisa vhatu nga ndila i sa pfadzi, u fhambanyisa kana u ṭalula nga ndila yo livhaho kana i songo livhaho zwo sendeka kha murafho, mbeu, vhuimana, mbingano, vhubvo ha murafho, muvhala, ndila ya kudzekanele, vhukale, vuholefhalo, vhurerele, luvalo, lutendo, mvelele, luambo na mbebo; 20
- (x) ane ha na ṭhanziela ya BEE; 25
- (b) mushumi muñwe na muñwe wa zwa ndaka ane kana, arali uyo mushumi wa zwa ndaka hu khamphani, mulangi muñwe na muñwe kana muraḏo wa vhulangi wa iyo khamphani, kana arali uyo mushumi wa zwa ndaka hu koporasi ṭhukhu, muraḏo o bulwaho kha pharagirafu ya (a) kha ṭhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, kana arali uyo mushumi wa zwa ndaka hu thirasiti, thirasitii, kana arali uyo mushumi wa zwa ndaka hu mushumisani, ṭhama muñwe na muñwe, ane— 30
- (i) kha miñwaha miṭanu yo fhelaho o wanwa mulandu wa u pfuka uno Mulayo kana Mulayo wa *Estate Agency Affairs Act, 1976*; 35
- (ii) a sa anane na tshiṭandadi tsho randelwaho tsha vhugudisi; 35
- (iii) ha na tshenzhemo ya mushumo yo tiwaho nga Maanḏalanga; kana
- (iv) o wanwa mulandu wa nyito ifhio na ifhio kana u sa tevhedza malugana na muthu muñwe na muñwe ane o tewa u badelwa hu tshi khou tevhelwa mbetshelo dza khethekanyo ya 38 u bva kha Tshikwama, nga nda ha musi mushumi wa zwa ndaka o badela murahu tshelede yo teaho nga vhuḏalo ngei kha Maanḏalanga, kana Maanḏalanga a na muhumbulo wa uri nzudzanyo dzi fushaho dza u badela iyo tshelede dzo itwa nahone idzo nzudzanyo dzo khwaṭhisedzwa; 40
- (c) mushumi muñwe na muñwe wa zwa ndaka o bulwaho kha pharagirafu ya (a) ya ṭhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, arali uyo mushumi wa zwa ndaka a tshi shuma kana a tshi humbula u shuma zwa bindu sa mushumi wa zwa ndaka nga fhasi ha dzina la bindu line la tou fana kana la kanganyisa zwi tshi itwa nga u fana na dzina la bindu la muñwe mushumi wa zwa ndaka— 45
- (i) ane o no fhiwa ṭhanziela ya Tshikwama i Sumbedzaho u Thembea; kana 50
- (ii) ane ṭhanziela ya Tshikwama i Sumbedzaho u Thembea yo imiswa u shumiswa kana yo fhirelwa nga tshifhinga kana yo dzhiululwa u ya nga uno Mulayo; kana
- (d) mushumi wa zwa ndaka muñwe na muñwe ane ndi mulanguli wa khamphani, kana ane a vha muraḏo o bulwaho kha pharagirafu ya (b) ya ṭhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1 ya koporasi ṭhukhu— 55
- (i) ine ṭhanziela ya Tshikwama i Sumbedzaho u Thembea yo dzhiululwa nga Maanḏalanga u ya nga khethekanyo ya 52; kana
- (ii) ine yo iledzwa u shuma mishumo ya thirasiti kana zwiñwe u ya nga khethekanyo yeneyo ya 48. 60



**Amendment of Fidelity Fund certificate**

- 51.** (1) For the purposes of this section, “**holder**” means the holder of a Fidelity Fund certificate.
- (2) The Authority may, at any time in writing, inform the holder that the Authority intends to amend any particulars of the Fidelity Fund certificate held by the holder, and the Authority must— 5
- (a) provide reasons for the proposed amendment; and
  - (b) invite the holder to submit a written response within a prescribed period.
- (3) The Authority may, after due consideration of any response received, including that of any person other than the holder, amend the particulars of the Fidelity Fund certificate and issue an amended Fidelity Fund certificate to the holder. 10
- (4) When issuing the Fidelity Fund certificate contemplated in subsection (3), the Authority must, simultaneously in writing—
- (a) provide the holder with reasons for the amendment;
  - (b) provide the holder with a copy of any response received from the other person; 15
  - and
  - (c) request the immediate return of the original Fidelity Fund certificate.
- (5) A person who, in terms of paragraph (c), is requested to return the original Fidelity Fund certificate to the Authority, must—
- (a) do so forthwith; or 20
  - (b) if that Fidelity Fund certificate cannot be returned, submit a declaration made under oath or affirmed to the Authority as to the reasons and circumstances preventing that person from doing so.
- (6) An amended Fidelity Fund certificate comes into operation on the date on which it is served by the Authority on the holder. 25
- (7) If the holder prevents delays or avoids service of the amended Fidelity Fund certificate by the Authority or attempts to do so, the amended Fidelity Fund certificate comes into operation on the date on which the Authority first attempted to serve the amended Fidelity Fund certificate on the holder.
- (8) If the Authority attempted to serve the amended Fidelity Fund certificate on the holder but was unsuccessful for the reason that the holder prevented, delayed or avoided the Authority from doing so, the Authority must, for the general public’s information, publish the date on which the amended Fidelity Fund certificate came into operation, and the nature or contents of the amendment, in any medium which it deems adequate for this purpose. 30 35

**Withdrawal or lapse of Fidelity Fund certificate**

- 52.** (1) The Authority may, whether on its own initiative or pursuant to an instruction issued by a court of law or an adjudicator contemplated in section 30, withdraw a Fidelity Fund certificate issued to—
- (a) any person, partnership or trust summoned in the prescribed manner to appear before the Authority if that person or trust, without just cause, fails to comply with the summons and prior to the date of the appearance stated in the summons has not been excused in writing by the Authority, from so appearing; 40
  - (b) a company or close corporation, if—
    - (i) the Fidelity Fund certificate of any director of the company or of any member of the corporation has lapsed in terms of subsection (5); or 45

**Ukhwiniiswa ha thanziela ya Tshikwama i Sumbedzaho u Thembea**

**51.** (1) U itela ndivho ya ino khethekanyo, “**muṅe**” zwi amba muṅe wa thanziela ya Tshikwama tshi Thembeaho.

(2) Maandlalanga nga tshifhinga tshiiwe na tshiiwe nahone nga u tou ṅwala, a ḑo ḑivhisa mufari uri Maandlalanga a khou humbula u khwiṅisa zwidodombedzwa zwa thanziela ya Tshikwama i Sumbedzaho u Thembea ya muṅe wayo, nahone Maandlalanga a tea u—

- (a) u fha mbuno dza u dzinginya u ita iyo khwiṅiso; na
- (b) vhidza muṅe wa thanziela u itela uri a ḑise phindulo yo tou ṅwalwaho hu saathu u fhela tshifhinga tsho randelwaho.

(3) Maandlalanga nga murahu ha u lavhelesa phindulo yo ṅangedzwaho, hu tshi katelwa na phindulo ya uyo ane a sa vhe muṅe wa thanziela, Maandlalanga a ḑo kona u khwiṅisa zwidodombedzwa zwa thanziela ya Tshikwama i Sumbedzaho u Thembea nahone a ḑo konaha u ṅetshedza thanziela ya Tshikwama i Sumbedzaho u Thembea yo khwiṅiswaho kha uyo muṅe wayo.

(4) Musi hu tshi ṅetshedzwa thanziela ya Tshikwama i Sumbedzaho u Thembea yo bulwaho kha khethekanyo ṅukhu ya (3), Maandlalanga nga khathihi nahone nga u tou ṅwala a tea u—

- (a) fha muṅe wa thanziela mbuno dza uho u khwiṅisa;
- (b) fha muṅe wa thanziela khophi ya phindulo iṅwe na iṅwe yo ṅangedzwaho u bva kha muṅwe muthu; na
- (c) humbela u humiselwa murahu ha thanziela ya oridzhinaḑa ya Tshikwama i Sumbedzaho u Thembea.

(5) Muthu ane u ya nga pharagirafu ya (c) o humbelwa u humisa thanziela ya oridzhinaḑa ya Tshikwama i Sumbedzaho u Thembea kha Maandlalanga u tea —

- (a) u zwi ita nga u ṅavhanya; kana
- (b) uri arali iyo thanziela ya Tshikwama i Sumbedzaho u Thembea i sa humisei, a ise khwaṅhisedzo yo bulwaho fhasi ha muano kana a khwaṅhisedzele Maandlalanga nga ha mbuno na nyimele dzi thivhelaho u humisa iyo thanziela.

(6) Thanziela ya Tshikwama i Sumbedzaho u Thembea i thoma u shuma nga datumu ine ya ṅetshedzwa muṅe wayo nga Maandlalanga.

(7) Arali muṅe wa thanziela a thivhela, lengisa kana u sa ṅetshedzwa thanziela yo khwiṅiswaho ya Tshikwama i Sumbedzaho u Thembea nga Maandlalanga kana ndingedzo dza u pfalo, thanziela yo khwiṅiswaho i thoma u shuma nga datumu ye Maandlalanga a ita ndingedzo dza u thoma u ṅetshedza iyo thanziela yo khwiṅiswaho kha muṅe wayo.

(8) Arali Maandlalanga o lingedza u ṅetshedza thanziela yo khwiṅiswaho ya Tshikwama i Sumbedzaho u Thembea kha muṅe wayo fhedzi zwa sa konadzee nga vhangala uri muṅe wa thanziela ndi ene o thivhelaho, o lengisaho kana o zwi thivhelaho, Maandlalanga uri a ri pfalo, Maandlalanga a tshi itela ṅdivhiso ya tshitshavha, a tea u aṅadza datumu ine thanziela yo khwiṅiswaho yo thoma u shuma ngayo, na izwo zwe zwa khwiṅiswa kha zwirathisi zwinzhi zwine zwa vhonala zwi tshi nga fusha ino ndivho ya u aṅadza.

**U dzhiululwa kana u fhela ha thanziela ya Tshikwama i Sumbedzaho u Thembea**

**52.** (1) Maandlalanga one aṅe o tou zwi thoma kana a tshi khou tevhela ndaela yo ṅetshedzwaho nga kotho ya mulayo kana muhaṅuli sa zwo bulwaho kha khethekanyo ya 30, Maandlalanga a nga dzhiulula thanziela ya Tshikwama i Sumbedzaho u Thembea ye ya ṅetshedzwa—

- (a) muthu muṅwe na muṅwe, ṅhama kana thirasiti o vhidzwaho u ya nga ṅḑila yo randelwaho uri a ḑivhonadze phanḑa ha Maandlalanga arali uyo muthu kana thirasiti hu si na tshivhangisi tshi pfalaho a kundelwa u anana na ḑiṅwalo ḑa u vhidzwa nahone phanḑa ha datumu ya u ḑivhonadza zwo bulwaho kha samanisi uri a hongo vha na pfarelo yo tou ṅwalwaho nga Maandlalanga, kha uho u ḑivhonadza;
- (b) khamphani kana koporasi ṅukhu, arali—
  - (i) thanziela ya Tshikwama i Sumbedzaho u Thembea ya mulangi wa khamphani kana muraḑo muṅwe na muṅwe wa koporasi yo fhirelwa u ya nga khethekanyo ṅukhu ya (5); kana

- (ii) any director of such company, or any member, referred to in paragraph (a) of the definition of “property practitioner” in section 1, of such corporation, has lapsed in terms of subsection (5), or any trustee of a trust or the person responsible for the trust, becomes subject to any disqualification referred to in section 50(b)(ii) and (iii) or section 50(c); 5
- (c) a person or trust becomes subject to any disqualification referred to in section 50(b)(ii), (iii) or section 50(c).
- (2) A person who is in possession or in control of any Fidelity Fund certificate which has been withdrawn in terms of subsection (1) must refrain from using or displaying that Fidelity Fund certificate. 10
- (3) A court may, on good cause and upon application by the Authority or any other competent person, withdraw any Fidelity Fund certificate issued to any person, and thereupon order that the person contemplated in subsection (2) or any other person to immediately refrain from using and displaying that Fidelity Fund certificate.
- (4) A Fidelity Fund certificate lapses immediately and is of no force and effect if the person to whom it has been issued— 15
- (a) in the case of a natural person, the person to whom it has been issued dies or becomes subject to any disqualification referred to in section 50(a)(ii) to (vi);
- (b) is a company or a close corporation, and the company or close corporation is being wound up, whether provisionally or otherwise, or is deregistered, as the case may be; 20
- (c) is a partnership, and one of the partners is sequestered; or
- (d) in the case of a trust with only one trustee, that trustee is sequestered.
- (5) A person who is in possession or control of a Fidelity Fund certificate which has been withdrawn or has lapsed must immediately return that certificate to the Authority, or if that Fidelity Fund certificate cannot be returned, submit a declaration made under oath or affirmed as to the reasons and circumstances preventing the property practitioner from doing so. 25
- (6) A person whose Fidelity Fund certificate has been withdrawn in terms of subsection (1) or has lapsed in terms of subsection (4), may not directly or indirectly participate in the management of any business carried out by a property practitioner in his, her or its capacity as such, or participate in the carrying out of such business, or be employed, directly or indirectly, in any capacity in such business, except with the written consent of the Authority and subject to the conditions that the Authority may determine. 30 35
- (7) A property practitioner may not directly or indirectly in any capacity whatsoever employ a person contemplated in subsection (6), or allow or permit such person directly or indirectly to participate in any capacity in the management or the carrying on of his, her or its business as a property practitioner, except with the consent in writing of the Authority, and subject to the conditions that the Authority may impose. 40
- (8) The Authority has no liability whatsoever in respect of the withdrawal or lapse of a Fidelity Fund certificate, except where the withdrawal was due to the Authority’s negligence.
- (9) A person, partnership or trust whose Fidelity Fund certificate has been withdrawn or lapsed in terms of this section may re-apply for a Fidelity Fund certificate when it, he or she again qualifies for such a certificate. 45
- (10) A person who uses or displays the Fidelity Fund certificate contemplated in subsection (2) is guilty of an offence.

- (ii) mulanguli muñwe na muñwe wa iyo khamphani, kana muraḁo muñwe na muñwe, o bulwaho kha pharagirafu ya (a) ya ḁhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, ya iyo koporasi, yo fhirelwa u ya nga khethekanyo ḁhukhu ya (5), kana thirasitii muñwe na muñwe kana muthu a re na vhuḁifhinduleli ha thirasiti, a vha ane a tea u sa tsha fusha ḁhoḁea sa zwo bulwaho kha khethekanyo ya 50(b)(ii) na (iii) kana khethekanyo ya 50(c);
- (c) muthu kana thirasiti u tea u vha ane a khou sa tsha fusha ḁhoḁea dzo bulwaho kha khethekanyo ya 50(b)(ii), (iii) kana khethekanyo ya 50(c).
- (2) Muthu a re na, kana ane a langa ḁhanziela ya Tshikwama i Sumbedzaho u Thembea ine iyo ḁhanziela yo dzhiululwa hu tshi khou tevhedzwa khethekanyo ḁhukhu ya (1) u tea u litsha u shumisa kana u ḁana iyo ḁhanziela.
- (3) Khothe, musi zwo tea nahone hu na khumbelo yo itwaho nga Maanḁalanga kana muñwe muthu, khothe i nga dzhiulula ḁhanziela ya Tshikwama i Sumbedzaho u Thembea ye ya ḁetshedzwa muthu muñwe na muñwe, nahone ya ita na ndaela ya u laela uri muthu o bulwaho kha khethekanyo ḁhukhu ya (2) kana muthu muñwe na muñwe uri a litshe u shumisa na u ḁana iyo ḁhanziela.
- (4) ḁhanziela ya Tshikwama i Sumbedzaho u Thembea i mbo ḁi vha i sa tsha shuma nga u ḁavhanya arali muthu we a i ḁetshedzwa—
- (a) kha nyimele ya muthu wa mvelo, muthu uyo o lovha kana muthu uyo a vho wela kha nyimele ya u sa tsha fusha ḁhoḁea sa zwo bulwaho kha khethekanyo ya 49(a) (ii) u ya kha (vi);
- (b) kha nyimele ya musi hu khamphani kana koporasi ḁhukhu, nahone khamphani kana koporasi ḁhukhu ya wa, lwa tshifhinga nyana kana nga inwe nḁila, kana ya vha i sa tsha vha yo ḁwalisaho, u ya nga heneffho hune nyimele ya vha;
- (c) kha nyimele ya musi hu tshumisano, nahone muthihi wa ḁhama a wa nahone a tea u rengiselwa ndaka uri hu lifhiwe zwikolodo zwawe; kana
- (d) kha nyimele ya musi hu Thirasiti nahone i re na thirasitii muthihi fhedzi, uyo thirasiti a tshi khou dzhielwa ndaka nga vhang ḁa u sa badela zwikolodo.
- (5) Muthu a re na kana ane a vha kha ndango ya ḁhanziela ya Tshikwama i Sumbedzaho u Thembea ine iyo ḁhanziela yo dzhiululwa kana a i tsha shuma nga u ḁavhanya uyo muthu u tea u humisela ḁhanziela kha Maanḁalanga, kana arali iyo ḁhanziela i sa nga si humiswe, uyo muthu u tea u isa khwaḁhisedzo yo itwaho nga fhasi ha muano ya u bula mbuno na nyimele dzi thivhelaho uyo mushumi wa zwa ndaka a tshi humisa ḁhanziela.
- (6) Muthu ane ḁhanziela yawe ya Tshikwama i Sumbedzaho u Thembea yo dzhiululwa u ya nga khethekanyo ḁhukhu ya (1) kana ḁhanziela yawe a i tsha shuma u ya nga khethekanyo ḁhukhu ya (4), nga nḁila yo livhaho na nḁila i songo livhaho uyo muthu a nga si dzhenelele kha ndaulo ya bindu ḁi shumaho zwa mushumi wa zwa ndaka kana a nga si imele iḁo bindu sa mushumi wa zwa ndaka kana u dzhenelela kha u shuma zwa iḁo bindu, kana u tholwa, zwo livha kana u sa livha, kha u imela iḁo bindu, nga nnḁa ha musi hu na thendelo yo tou ḁwalwaho nga Maanḁalanga nahone a tevhedze milayo yo tiwaho nga one Maanḁalanga.
- (7) Mushumi wa zwa ndaka nga nḁila yo livhaho kana i songo livhaho a nga si thole muthu o bulwaho kha khethekanyo ḁhukhu ya (6), kana u tendela uyo muthu nga nḁila yo livhaho kana i songo livhaho a tshi dzhenelela kha ndaulo ya kana u shuma kha bindu ḁawe a tshi khou dzhenelela sa mushumi wa zwa ndaka, nga nnḁa ha musi hu na thendelo yo tou ḁwalwaho yo itwaho nga Maanḁalanga, nahone uyo muthu a tshi tea u tevhedza zwo ambiwaho nga Maanḁalanga.
- (8) Maanḁalanga ha na vhuḁifhinduleli malugana na u dzhiululwa kana u sa tsha shuma ha ḁhanziela ya Tshikwama i Sumbedzaho u Thembea, nga nnḁa ha musi u dzhiulula ḁhanziela zwo itiswa nga u sa londa ha Maanḁalanga.
- (9) Muthu, vhuḁama kha zwa bindu kana thirasiti ane ḁhanziela yawe ya Tshikwama i Sumbedzaho u Thembea yo dzhiululwa kana i sa tsha shuma u ya nga ino khethekanyo, muthu a nga ita khumbelo hafhu ya ḁhanziela musi a tshi vho dovha hafhu u fusha ḁhoḁea dza u wana iyo ḁhanziela.
- (10) Muthu ane a shumisa kana u ḁana ḁhanziela ya Tshikwama i Sumbedzaho u Thembea yo bulwaho kha khethekanyo ḁhukhu ya (2) u na mulandu wa u ita vhutshinyi.

**Mandatory display of Fidelity Fund certificate**

- 53.** (1) A holder of a Fidelity Fund certificate must—
- (a) prominently display his, her or its Fidelity Fund certificate in every place of business from where he, she or it conducts property transactions, to enable consumers to easily inspect it; 5
  - (b) ensure that the prescribed sentence regarding holding a Fidelity Fund certificate is reproduced in legible lettering on any letter head or marketing material relating to that property practitioner;
  - (c) in any agreement relating to property transactions entered into by him or her or by his, her or its company, close corporation, partnership, trust or other entity permitted to conduct the business of a property practitioner, include the prescribed clause which ensures that he, she or it guarantees the validity of the certificate. 10
- (2) A person who contravenes subsection (1) is guilty of an offence.

**Trust account** 15

- 54.** (1) Every property practitioner—
- (a) must open and keep one or more separate trust accounts, which must contain a reference to this section, with a bank registered in terms of the Banks Act, 1990, (Act No. 94 of 1990);
  - (b) must immediately after opening a trust account contemplated in paragraph (a) appoint an auditor as prescribed; 20
  - (c) must immediately after opening a trust account as contemplated in paragraph (a) and appointing an auditor as contemplated in paragraph (b), provide the Authority as prescribed with all information in respect of such account or accounts and such auditor; and 25
  - (d) or his, her or its responsible or designated employee, as the case may be, must immediately deposit all trust money held or received by or on behalf of that property practitioner in the relevant trust account.
- (2) Despite subsection (1), any property practitioner may invest in a separate savings or other interest-bearing account opened by him, her or it with any bank any monies deposited in his, her or its trust account which are not immediately required for any particular purpose, provided that— 30
- (a) savings or other interest-bearing accounts must contain a reference to this subsection; and
  - (b) property practitioner must as prescribed provide the Authority with all information in respect of such account. 35
- (3) A property practitioner must retain all trust money deposited in terms of subsection (1) or invested in terms of subsection (2), until he, she or it—
- (a) is lawfully entitled to such money; or
  - (b) is lawfully instructed in writing to make payment therefrom to any person. 40
- (4) Any bank which manages trust accounts for purposes of this Act must, from time to time as prescribed, submit a certificate to the Authority declaring interest in respect of that account.
- (5) Every property practitioner must—
- (a) keep separate accounting records of all monies deposited by him, her or it in his, her or its trust account and of all monies invested by him, her or it in any savings or other interest-bearing accounts contemplated in subsection (2); 45
  - (b) balance his, her or its books and records relating to any account contemplated in paragraph (a) at intervals of not more than one month, and cause them as well as all his, her or its business accounts or any other account into which monies are deposited in connection with any property transaction to be audited by the same auditor contemplated in subsection (1)(b), within six months after the final date of the financial year of the property practitioner concerned; and 50

**U țana țhanziela ya Tshikwama i Sumbedzaho u Thembea zwine zwa tou kombetshedza**

- 53.** (1) Muņe wa țhanziela ya Tshikwama i Sumbedzaho u Thembea u tea u—
- (a) țana țhanziela yawe ya Tshikwama i Sumbedzaho u Thembea huņwe na huņwe afho binduni ȷawe hune ene a shumela hone kana hune bindu ȷawe ȷa vha hone, u itela uri vharengi vha kone u tshi vhona; 5
- (b) vhona uri mitaladzi yo randelwaho malugana na u vha muņe wa țhanziela ya Tshikwama i Sumbedzaho u Thembea i a bveledzululwa zwavhuđi nga maȷedere kha mabambiri a bindu kana matheriaȷa a u vhambadza malugana na mushumi wa zwa ndaka; 10
- (c) uri kha thendelano inwe na inwe malugana na țhirantsekisheni dzine dza itwa nga ene, nga khamphani yawe, koporasi țhukhu, vhuțama kha zwa bindu, thirasiti kana tshinwe tshiimiswa tsho tendelwaho u ita vhubindudzi ha u vha mushumi wa zwa ndaka, hu tshi katelwa khethekanyo yo randelwaho ine ya vhona uri ene uyo muņe wa țhanziela a vhona uri țhanziela ndi yavhukuma. 15
- (2) Muthu ane a pfuka khethekanyo țhukhu ya (1) u na mulandu wa vhutshinyi.

**Akhaunthu ya thirasiti**

- 54.** (1) Mushumi muņwe na muņwe wa zwa ndaka—
- (a) u vula na u țhogomela akhaunthu nthihi ya thirasiti kana akhaunthu nnzhi dza tshirasiti, dzine dza bula ino khethekanyo, ngei kha bannga yo nwaliswaho u ya nga Mulayo wa *Banks Act*, 1990, (*Act No. 94 of 1990*); 20
- (b) nga u țavhanya musi a tshi tou vula akhaunthu ya thirasiti yo bulwaho kha phara ya (a) u tea u thola muțoli sa zwo randelwaho;
- (c) nga u țavhanya nga murahu ha u vula akhaunthu ya thirasiti sa zwo bulwaho kha pharagirafu ya (a) na u thola muțoli sa zwo bulwaho kha pharagirafu ya (b), sa zwo bulwaho, u tea u fha Maanđalanga nđivhiso malugana na iyo akhaunthu kana idzo dziakhaunthu na uyo muțoli; na 25
- (d) kana, mushumi wawe a re na vhuđifhinduleli kana mushumi o nangwaho, u ya nga hune zwa vha, nga u țavhanya u tea u diphositha tshelede yo farwaho kana u țanganedzwa nga kana ho imelwa uyo mushumi wa zwa ndaka kha akhaunthu ya thirasiti yo teaho. 30
- (2) Naho hu na khethekanyo țhukhu ya (1), mushumi muņwe na muņwe wa zwa ndaka a nga bindudza tshelede kha akhaunthu ya thungo kana inwe akhaunthu i re na nzwalelo dza khwiņesa ine iyo akhaunthu ndi ene o i vulaho kana yo vulwa nga khamphani ngei kha bannga. Iyo tshelede ndi yo diphosithwaho kha akhaunthu ya thirasiti nahone iyo tshelede a i țođi u shumiswa nga u țavhanya, tenda— 35
- (a) akhaunthu ya u vhulunga masheleni kana akhaunthu i re na nzwalelo ya tea u vha na riferentsi ya ino khethekanyo țhukhu; nahone
- (b) mushumi wa zwa ndaka sa zwo randelwaho u tea u fha Maanđalanga nđivhiso yothe nga ha iyo akhaunthu. 40
- (3) Mushumi wa zwa ndaka u tea u fara tshelede yothe ya thirasiti yo diphosithwaho u ya nga khethekanyo țhukhu ya (1) kana yo bindudzwaho u ya nga khethekanyo țhukhu ya (2), u swika a tshi kana i tshi—
- (a) a tshi vha o teaho u wana iyo tshelede; kana
- (b) a tshi laelwa lwa mulayo nga u tou n̄wala uri mbadelo i itwe kha uyo muthu. 45
- (4) Bannga inwe na inwe ine ya langa akhaunthu dza thirasiti i tshi itela ndivho dza uno Mulayo, misi yothe iyo bannga sa zwo randelwaho i tea u isa țhanziela kha Maanđalanga u itela u khwațhisedza nyingapfuma dza iyo akhaunthu.
- (5) Mushumi muņwe na muņwe wa zwa ndaka u tea u—
- (a) vhulunga rekhodo dza tshelede yothe ye a diphositha na tshelede yothe ye ya bindudzwa ngei kha akhaunthu dza u vhulunga tshelede kana dzinwe akhaunthu dza u bindudza tshelede sa zwo bulwaho kha khethekanyo țhukhu ya (2); 50
- (b) dzudzanya dzibugu na dzirekhodo malugana na akhaunthu yo bulwaho kha pharagirafu ya (a) nga zwifhinga zwine zwa vha na tshikhala vhukati tshi sa fhiri n̄wedzi, na akhaunthu dzawe dza zwa bindu kana akhaunthu inwe na inwe ine tshelede ya diphosithwa malugana na țhirantsekisheni ya ndaka inwe na inwe ine ya khou đo țolwa nga muțoli onoyo muthihi o bulwaho kha khethekanyo țhukhu ya (1)(b), hu saathu u fhela min̄wedzi ya rathi nga murahu ha datumu ya u fhedza ya n̄waha wa muvhalelano wa mushumi wa zwa ndaka u kwameaho; na 60



(c) administer the accounts referred to in subsections (1) and (2) in the prescribed manner.

(6) A property practitioner must, forthwith after receipt of an audit report contemplated in subsection (5)(b), submit that report to the Authority, but a property practitioner who submits that report later, may upon payment of a prescribed penalty 5 make a late submission of that report.

(7) Despite subsection (5), the Authority may on good cause at any time order a property practitioner by notice in writing to submit to the Authority within a period stated in such notice, but not less than 30 days, an audited statement prepared by an auditor fully setting out the state of affairs in respect of the matters referred to in 10 subsection (5)(b).

(8) A court may on good cause, upon application by the Authority or any other competent person, prohibit any property practitioner from operating in any way his, her or its trust, savings or other interest-bearing accounts contemplated in subsection (2) and may appoint a curator bonis to control and administer such trust, savings or other 15 interest-bearing accounts, with the rights, duties and powers that the court deems fit.

(9) If—

(a) the Authority refuses under the provisions of this Act to issue a Fidelity Fund certificate to any property practitioner who applied for a Fidelity Fund certificate; 20

(b) a Fidelity Fund certificate issued to any property practitioner has been withdrawn or lapsed without being renewed;

(c) any property practitioner ceases to act as such; or

(d) any property practitioner becomes subject to any disqualification contemplated in section 50, 25

the property practitioner concerned must immediately wind up his, her or its trust account, savings account or other interest-bearing account in the prescribed manner and pay out in the prescribed manner the amount standing to the credit of any such account to the persons entitled to it.

(10) Any property practitioner who winds up an account as contemplated in 30 subsection (10) which contains unclaimed or unidentifiable money, or who has held monies in his, her or its trust account of which the owner or beneficiary could for longer than three years not be identified, must pay that money into the Fund to be held in trust, but the Fund must, upon application in the prescribed manner by the owner or beneficiary of such money and with the provision of sufficient proof, pay that money to 35 that owner or beneficiary.

(11) Any money paid into the Fund in accordance with subsection (11) which has remained unclaimed by the person entitled thereto for a period of 30 years as from the date upon which such person became entitled to claim that money, is forfeited to the 40 Fund.

(12) Despite any other law, the amount standing to the credit of the trust, savings or other interest-bearing account contemplated in subsections (1) and (2) of a property practitioner, does not under any circumstances form part of the assets of such property practitioner or, if he or she was a natural person and has died or has become insolvent, 45 of his or her deceased or insolvent estate.

(13) Despite any other law, no trust money which may have been paid into any account other than an account contemplated in subsection (1) or (2), whether erroneously or not, under any circumstances becomes part of any such account, and does not lose its nature or characteristics as a result of being paid into such other account.

(14) A property practitioner must annually confirm or update the details of his, her or 50 its auditor as prescribed.

(c) laula akhaunthu dzo bulwaho kha khethekanyo thukhu dza (1) na (2) nga ndila yo randelwaho.

(6) Mushumi wa zwa ndaka nga u tsvhanya nga murahu ha u tsvhanyedza muvhigo wa tholo wo bulwaho kha khethekanyo thukhu ya (5)(b), u tea u isa muvhigo kha Maandlalanga, fhedzi mushumi wa zwa ndaka ane a isa muvhigo wa tholo o lenga, u do ri zwenezwo o badela ndatso yo randelwaho a konaha u isa muvhigo uyo wo lenga. 5

(7) Naho hu na khethekanyo ya (5), Maandlalanga musu hu na mbuno ine ya pfala nga tshifhinga tshiinwe na tshiinwe a nga laela mushumi wa zwa ndaka nga ndivhadzo yo tou nwalwaho uri a dize muvhigo wo tolwaho kha Maandlalanga hu saathu fhela tsho bulwaho kha ndivhadzo, fhedzi hu saathu fhela maduvha a 30, une uyo muvhigo wo dzudzanywa nga mutoli nahone u vhea khagala mafhungo a kwamaho zwo bulwaho kha khethekanyo thukhu ya (5)(b). 10

(8) Musu ho itwa khumbelo nga Maandlalanga kana muinwe muthu ane a kona, khothe musu hu na mbuno i pfalaho, i nga iledza mushumi wa zwa ndaka kha u shumisa akhaunthu yawe ya thirasiti, ya u vhulunga masheleni kana inwe akhaunthu ine ya vha na nzwalelo sa zwo bulwaho kha khethekanyo thukhu ya (2) nahone i nga thola muthogomeli uri a londole na u laula iyo akhaunthu ya thirasiti, u vhulunga masheleni kana inwe akhaunthu ine ya vha na nzwalelo, ane uyo muthogomeli u na pfanelo, mishumo na maanda ane khothe ya vhona o tea. 15

(9) Arali— 20

(a) Maandlalanga o disendeka nga mbetshelo dza uno Mulayo a hana u tsetshedza thanziela ya Tshikwama i Sumbedzaho u Thembea kha mushumi wa zwa ndaka we a ita khumbelo ya iyo thanziela;

(b) thanziela ya Tshikwama i Sumbedzaho u Thembea ya tsetshedzwa mushumi wa zwa ndaka muinwe na muinwe ya vha yo dzhiululwa kana i sa tsha shuma nahone i songo tsha vusuludzwa; 25

(c) mushumi wa zwa ndaka a ima u shuma sa mushumi wa zwa ndaka; kana

(d) mushumi wa zwa ndaka a mbo vha ane ha tsha fusha thodza sa zwo bulwaho kha khethekanyo ya 50,

mushumi wa zwa ndaka a kwameaho nga u tsvhanya u tea u namba a fhelisa akhaunthu dzawe dza thirasiti, dza u vhulunga masheleni kana dza u bindudza dzine dza vha na nyingapfuma nga ndila yo randelwaho nahone a badele tshelede kha avho vhane vha tea u i wana nga ndila yo randelwaho. 30

(10) Mushumi wa zwa ndaka muinwe na muinwe ane a fhelisa akhaunthu yo bulwaho kha khethekanyo thukhu ya (10) ine ya vha i na tshelede ine a hongo itwa mbilo yayo kana ine a hu divhei muje wayo, kana ane o fara tshelede kha akhaunthu ya thirasiti ine muje wayo kana muwanambuelo ho fhela minwaha miraru a sa divhei, i tea u badelwa kha Tshikwama tshine tsha farwa nga thirasiti, fhedzi arali hu na khumbelo yo itwaho nga ndila yo randelwaho nga muje wayo kana nga muwanambuelo wa iyo tshelede nahone hu na vhuṭanzi vhu fushaho, iyo tshelede i nga badelwa kha uyo muje wayo kana muwanambuelo. 40

(11) Tshelede inwe na inwe i badelwaho kha Tshikwama u ya nga khethekanyo ya (11) ya sa vhlwe nga muthu ane a tea u i wana lwa tshifhinga tshine tsha nga swika minwaha ya 30 u tou bva kha datumu ye uyo muthu tshelede iyo ya tea u vha yawe uri a ite mbilo, i fhedza i tshi vha tshelede ya Tshikwama. 45

(12) Naho hu na muinwe mulayo ufho na ufho, tshelede yo dzulaho kha akhaunthu ya thirasiti, ya u vhulunga kana kha akhaunthu ya u dzwalisa nyingapfuma sa zwo bulwaho kha khethekanyo dza (1) na (2) ya mushumi wa zwa ndaka, a hu na na nyimele na nthihi ine ya ita uri iyo tshelede hu pfi ndi tshipidza tsha thundu ya uyo mushumi wa zwa ndaka kana arali o vha e muthu wa mvelo nahone o lovha kana a kundelwa u badela zwikolodo, iyo tshelede a i vhi tshipidza tsha ndaka ya mufu kana ndaka ya muthu o fhelelwaho nga tshelede. 50

(13) Naho hu na muinwe mulayo ufho na ufho, a hu na tshelede ya thirasiti ine ya nga vha yo badelwa kha akhaunthu inwe na inwe nga nnda ha akhaunthu yo bulwaho kha khethekanyo thukhu dza (1) kana (2), hu nga vha zwo itea nga u khakha kana hu si u khakha, a hu na nyimele ine ya ita uri iyo tshelede i vhe tshipidza tsha iyo akhaunthu nahone iyo tshelede a i xeletwi nga vuvha hayo kana zwitaluli zwayo zwo vhangwa nga u badelwa kha iyo akhaunthu. 55

(14) Mushumi wa zwa ndaka nga nwaha nga nwaha u tea u khwatshisedza kana u khwinisa zwidombedzwa zwa mutoli wawe sa zwo randelwaho. 60

**Duty of property practitioner to keep accounting records and other documents**

**55.** (1) Despite any other law, a property practitioner must for a period of five years in respect of—

- (a) all documents exchanged with the Authority;
- (b) if applicable, correspondence with his, her or its employer or franchisor; 5
- (c) any agreement incidental to his, her or its carrying on the business of a property practitioner;
- (d) any agreement, mandate, mandatory disclosure form or other document relating to the financing, sale, purchase or lease of a property;
- (e) any advertising or marketing material related to his, her or its carrying on the business of a property practitioner; and 10
- (f) any other document prescribed by the Minister,

from the date of the document or the probable date of the document retain that document and must upon request forthwith provide the Authority with a legible certified copy of that document. 15

(2) The documents contemplated in subsection (1) may be stored electronically if such storage meets the requirements of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).

(3) A property practitioner who contravenes subsection (1) is guilty of an offence.

(4) In addition to the duties contemplated in section 54, a property practitioner must in respect of his, her or its activities— 20

- (a) keep at an address in the Republic the accounting records that are necessary to fairly reflect and explain the state of affairs—
  - (i) of all monies received or expended by him, her or it, including monies deposited to a trust account referred to in section 54(1) or invested in a savings or other interest-bearing account referred to in section 54(2); 25
  - (ii) of all his, her or its assets and liabilities; and
  - (iii) of all his, her or its financial transactions and the financial position of his, her or its business; and
- (b) cause the accounting records contemplated in paragraph (a) to be audited by an auditor within six months after the final date of the financial year of the property practitioner, which final date may not be altered by him, her or it without the prior written approval of the Authority. 30

**Property practitioner not entitled to remuneration in certain circumstances**

**56.** (1) A property practitioner is under no circumstances entitled to any remuneration or other payment in respect of or arising from the performance of any act referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (a) of the definition of “property practitioner” in section 1, unless at the time of the performance of that act— 35

- (a) the property practitioner; and
- (b) if the property practitioner is a company, every director of such company or, if such property practitioner is a close corporation, every member referred to in paragraph (b) of the definition of “property practitioner” in section 1, of that corporation, 40

is in possession of a Fidelity Fund certificate.

(2) A person referred to in paragraph (f) of the definition of “property practitioner” in section 1, and a property practitioner who employs such person, is not entitled to any remuneration or other payment in respect of or arising from the performance by that person of any act referred to in that paragraph, unless at the time of the performance of the act that person is in possession of a registration certificate. 45

**Mushumo wa mushumi wa zwa ndaka wa u vhulunga dzirekhodo dza akhaunthingi na mañwe mañwalwa**

- 55.** (1) Naho hu na muñwe mulayo ufhio na ufhio, mushumi wa zwa ndaka lwa miñwaha miñanu malugana na—
- (a) mañwalwa oñhe a ñekanwaho na Maandlanga; 5
  - (b) arali zwo tea, vhudavhidzani na mutholi wawe kana frantsshaisa;
  - (c) thendelano inwe na inwe yo itiswaho nga uho u shuma bindu li kwamaho u vha mushumi wa zwa ndaka;
  - (d) thendelano inwe na inwe, mushumo, fomo ya u bvukulula hune ha tou kombetshedza kana liñwe liñwalwa li re na vhushaka ha zwa masheleni, thengiso, u renga kana u renta ndaka; 10
  - (e) u kungedzela kana u vhambadza matheriaja a kwamaho mushumo wawe wa zwa bindu ja mushumi wa zwa ndaka; na
  - (f) liñwalo liñwe na liñwe lo randelwaho nga Minista, u tou bva kha datumu ya liñwalo kana datumu ine zwa konadzea liñwalwa a tshi vha 15 na lo nahone u tea uri musu lo humbelwa nga u tou tavhanya a li fhe Maandlanga khathihi na khophi ya ilo liñwalwa yo khwañisedzwaho nga tshiganjo.
- (2) Mañwalwa a bulwaho kha khethekanyo thukhu ya (1) a nga vhulungwa nga ndila ya ilekithironiki arali u pfalo zwi tshi fusha thodea dza Mulayo wa *Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002)*. 20
- (3) Mushumi wa zwa ndaka ane a pfuka khethekanyo thukhu ya (1) u na mulandu wa u ita vhutshinyi.
- (4) Nga ntha ha mishumo yo bulwaho kha khethekanyo ya 54, mushumi wa zwa ndaka zwi tshi kwama mishumo yawe kana mishumo ya khamphani u tea u—
- (a) kha adiresi i re kha RiphabuJiki a vhulunge rekhodo dza zwa akhaunthingi dzine dza thodea kha u sumbedza nyimele ya mafhungo—
    - (i) a tshelede yoñhe yo tangedzwaho kana yo shumiswaho kana nga khamphani, hu tshi katelwa tshelede yo diposithiwaho kha akhaunthu ya thirasiti yo bulwaho kha khethekanyo ya 54(1) kana yo bindudzwaho kha akhaunthu ya u vhulunga masheleni kana inwe akhaunthu ine ya vha 30 na nyingapfuma sa zwo bulwaho kha khethekanyo ya 54(2);
    - (ii) oñhe a khamphani kana awe a thundu na zwikolodo ; na (iii) oñhe a khamphani kana awe a kwamaho thirantsekisheni dza masheleni na tshiimo tsha masheleni tshawe kana khamphani kha zwi kwamaho bindu; na 35
  - (b) a u ita uri rekhodo dza akhaunthingi dzo bulwaho kha pharagirafu ya (a) dzi tolwe nga mutoli hu saathu fhela miñwedzi ya rathi nga murahu ha quvha ja u fhedza ja ñwaha wa muvhalelano wa mushumi wa zwa ndaka, ine iyo datumu ya u fhedzisela a i nga shandukiswi nga, kana nga khamphani hu songo ranga ha tou ñwalwa thendelo nga Maandlanga. 40

**Mushumi wa zwa ndaka ha tei u wana muholo kha nyimele dzenedzo dzo teaho u sa wana**

- 56.** (1) A hu na inwe nyimele ine ya ita uri mushumi wa zwa ndaka a wane muholo kana inwe mbadelo malugana na kana i bvaho kha u shuma mushumo wo bulwaho kha pharagirafu thukhu ya (i), (ii), (iii) kana (iv) ya pharagirafu ya (a) ya thalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, nga nnda ha musu kha itsho tshifhinga tsha u shuma uyo mushumo—
- (a) mushumi wa zwa ndaka; nahone 45
  - (b) arali mushumi wa zwa ndaka hu khamphani, mulanguli muñwe na muñwe o bulwaho kha pharagirafu ya (b) ya thalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, ya iyo koporasi, 50
- a vha a na thanziela ya Tshikwama i Sumbedzaho u Thembea.
- (2) Muthu o bulwaho kha pharagirafu ya (f) ya thalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1, nahone mushumi wa zwa ndaka a tholaho uyo muthu, a vha a sa tei u wana muholo kana inwe mbadelo malugana na kana i bvaho kha mushumo nga uyo muthu kha tshiñwe na tshiñwe tsha a ita sa zwo bulwaho kha pharagirafu, nga nnda ha musu nga tshifhinga tsha u shuma uyo mushumo uyo muthu o vha a na thanziela ya u ñwalisa. 55

(3) A property practitioner, or anyone who performs any functions or exercises any powers normally performed or exercised by a property practitioner, who has received remuneration or other payment contemplated in subsections (1) and (2) must immediately pay that amount to the Fund, and any affected seller, purchaser, lessor or lessee may within three years of that money having been paid to the Fund submit a written claim in respect thereof to the Fund, together with the necessary proof, and the Fund may pay that amount or a portion thereof to that applicant which is equitable in the circumstances. 5

(4) Any amount paid to the Fund contemplated in subsection (3) which is not claimed within three years irrevocably becomes the property of the Fund. 10

(5) A conveyancer may not pay any remuneration or other monies to a property practitioner unless that property practitioner has provided the conveyancer with a certified copy of his, her or its Fidelity Fund certificate valid during the period or on the date of the transaction to which such payment relates, and on the date of such payment: Provided that where all relevant conditions have been met, the conveyancer must pay the remuneration and other monies. 15

(6) Nothing in this section prevents the institution, conducting and conclusion of criminal or any other proceedings in respect of any act contemplated in this section or in sections 36, 44 or 45.

#### **Mandatory indemnity insurance** 20

**57.** (1) The Minister may, for the purposes of providing redress in respect of the contravention of a code of conduct contemplated in section 61 or sanctionable conduct contemplated in section 62, prescribe indemnity insurance which a property practitioner must take out and maintain.

(2) The Minister may, when acting under subsection (1), on reasonable grounds differentiate between— 25

- (a) categories of property practitioners to whom a regulation applies;
- (b) the minimum insured amounts in respect of which such insurance must be taken out and maintained;
- (c) the extent to which conduct in contravention of a code of conduct and sanctionable conduct qualifies for redress under such insurance; and 30
- (d) the maximum amounts payable in terms of such insurance.

#### **Limitation on relationships with other property market service providers**

**58.** (1) A property practitioner may not—

- (a) practise in association with any person which or who is prohibited by any law, any professional code of conduct, any code of ethics or protocol, report or charter on corporate governance, from doing so; or 35
- (b) enter into any arrangement, formally or informally, whereby a consumer is obliged or encouraged to use a particular service provider including an attorney to render any service or ancillary services in respect of any transaction of which that property practitioner was the effective cause. 40

(2) The Minister may by regulation prohibit any relationship which could harm the interests of consumers.

(3) A person who renders any service in contravention of this section is not entitled to any remuneration, payment or consideration in respect of such services rendered, and if the consumer has paid any remuneration, payment or consideration of the relevant service provider must immediately upon request in writing by any affected party repay any such remuneration, payment or consideration, together with interest. 45

(3) Mushumi wa zwa ndaka, kana muñwe na muñwe ane a shuma mishumo miñwe na miñwe kana u shumisa maandza mañwe na mañwe a shumiswa nga mushumi wa zwa ndaka, ane a țanganedza muholo kana mbadelo ifhio na ifhio sa zwo bulwaho kha khethekanyo țhukhu dza (1) na (2) nga u țavhanya u tea u badela iyo tshelede ngei kha Tshikwama, nahone murengisi, murengi, murentisi kana murenti a kwameaho hu saathu fhela miñwaha miraru musi iyo tshelede yo badelwa kha Tshikwama a nga isa mbilo yo tou ñwalwaho ngei kha Tshikwama, khathihi na khwațhisedzo kana tsumbo dzi țođeaho, nahone Tshikwama tshi nga badela iyo tshelede kana tshipiđa tsha iyo tshelede kha uyo ane a khou ita mbilo ine iyo tshelede i lingana na nyimele.

(4) Tshelede iñwe na iñwe yo badelwaho kha Tshikwama yo bulwaho kha khethekanyo țhukhu ya (3) ine a yongo vhilwa kha miñwaha miraru i mbo vha tshelede ya Tshikwama.

(5) Murathisi wa ndaka a nga si badele muholo kana dziñwe tshelede kha mushumi wa zwa ndaka nga nñda ha musi mushumi wa zwa ndaka o fha murathisi wa ndaka khophi yo khwațhisedzwaho yawe ya țhanziela ya Tshikwama i Sumbedzaho u Thembea tshine a tsho ngo fhirelwa nga itsho tshifhinga kana kha datumu ya țhirantsekisheni ine iyo mbadelo ya vha na vhushaka nayo, na nga datumu ya iyo mbadelo: Musi zwe zwa tewa u tevhezwa zwoțhe zwo tevhezwa, murathisi wa ndaka u tea u badela muholo na dziñwe tshelede.

(6) Kha ino khethekanyo a hu na tshine tsha thivhela tshiimiswa kha u ita na u khunyeledza tsengo i kwamavho vhugevhenga kana dziñwe tsengo malugana na nyito ifhio na ifhio yo bulwaho kha ino khethekanyo kana kha khethekanyo dza 36, 44 kana 45.

#### **Ndindakhombo ya tsireledzo ine ya tou kombetshedza**

57. (1) Ministã a tshi itela ndivho dza thandululo malugana na u sa tevhezwa mulayo wa vhuđifari sa zwo bulwaho kha khethekanyo ya 61 kana vhuđifari vhu țanganedzeaho ho bulwaho kha khethekanyo ya 62, ene Ministã a nga randela tsireledzo ya ndindakhombo ine mushumi wa zwa ndaka a tea u i dzhia nahone a tea u i țogomela.

(2) Ministã musi a tshi khou zwi ita nga fhasi ha khethekanyo țhukhu ya (1), nahone hu na mbuno dzine dza pfadza a nga fhambanyisa vukati ha—

- (a) khethekanyo dza vhashumi vha zwa ndaka vhane vha kwamiwa nga ndangulo;
- (b) masheneli a ndindakhombo a fhasisa malugana na ndindakhombo ine ya tea u dzhiiwa nahone ya țogomelwa;
- (c) vhuhulu vhune vhuđifari vhu kwameaho kha u pfuka mulayo wa vhuđifari na vhuđifari vhu țanganedzeaho ha fusha țođeã dza thandululo nga fhasi ha iyo ndindakhombo; na
- (d) masheleni a nțhesa ane a badelwa u ya nga iyi ndindakhombo.

#### **Phungudzelo ya vhushaka na vhañwe vhaņetshedzatshumelo dza maraga ya ndaka**

58. (1) Mushumi wa zwa ndaka a nga si—

- (a) shumisane na muthu ane o iledzwa nga mulayo, nga mulayo wa vhuđifari wa phrofeshinaĵa, mulayo wa vhuđifari kana wa maitele a zwithu, u vhiga kana u tshata ya zwa vhuvhusi ha koporasi, kha u ita zwenezwo; kana
- (b) ite nzudzanyo, nga nđila ya fomaĵa kana i si ya fomaĵa, hune murengi a kombetshedzea kana u țuțuwedzwa u shumisa muņetshedzi wa tshumelo onoyo hu tshi katelwa axennde kha u ñetshedza tshumelo kana tshumelo ya u thusa malugana na țhirantsekisheni ine uyo mushumi wa zwa ndaka ha vha ene o zwi shumaho.

(2) Nga ndangulo, Ministã a nga iledza vhushaka vhune ha nga vhaisa madzangalelo a vharengi.

(3) Muthu muñwe na muñwe ane a ñetshedza tshumelo a tshi khou pfuka ino khethekanyo ha ngo tea u wana muholo, mbadelo kana ha tei u wana malamba malugana na idzo tshumelo dzo ñetshedzwaho, nahone arali murengi o badela muholo, mbadelo kana malamba, muņetshedzatshumelo o teaho nga u tou țavhanya musi hu na khumbelo yo tou ñwalwaho nga ane a kwamea u tea u shumisa uyo muholo, mbadelo, khathihi na nzwalelo dza hone.



(4) A person who, within one month of being requested to do so, fails to repay any such remuneration payment or consideration together with interest is guilty of an offence.

### **Insolvency or liquidation of property practitioner**

- 59.** (1) A property practitioner who— 5
- (a) commits an act of insolvency;
  - (b) is insolvent; or
  - (c) is placed under liquidation, whether provisional or final,
- is immediately disqualified to be a holder of a Fidelity Fund certificate and must within a period of 30 days— 10
- (i) inform the Authority in writing of any matter contemplated in paragraphs (a), (b) or (c);
  - (ii) refrain from using and displaying that Fidelity Fund certificate;
  - (iii) inform his, her or its auditor and the bank holding his, her or its trust account in writing about the disqualification; 15
  - (iv) cease to perform the functions of a property practitioner;
  - (v) inform his, her or its clients, employees or employers or any other affected person in writing of that disqualification;
  - (vi) hand over the administration of his, her or its trust account, together with all relevant information and records, to the Authority; and 20
  - (vii) cause any outstanding matters in consultation with any affected person to be taken over by another property practitioner.
- (2) A person who fails to comply with subsection (1) commits an offence.
- (3) The Authority must wind down the trust account of a property practitioner contemplated in subsection (1) and effect payment of any trust monies in accordance with the rights of affected consumers and other persons. 25
- (4) In the event of insolvency or liquidation of a property practitioner, trust monies in the trust account of that property practitioner do not form part of the insolvent estate.

## **CHAPTER 9**

### **CONDUCT OF PROPERTY PRACTITIONERS 30**

#### **Application of Chapter 9 and Chapter 10**

**60.** The provisions of this Chapter and Chapter 10 apply with the necessary changes to any person who performs any function or renders any service contemplated in the definition of “property practitioner” in section (1), irrespective of whether or not that person is registered with or licensed by the Authority, and in this Chapter and Chapter 10, any reference to a “property practitioner” includes any such person. 35

#### **Code of conduct for property practitioners**

- 61.** (1) The Minister must, after consultation with the Authority, prescribe a code of conduct which every property practitioner must comply with.
- (2) The chief information officers of respectively the Authority and the Department, as the case may be, must on their respective websites publish the code of conduct current at the time. 40
- (3) A property practitioner must on request from a consumer provide him or her with a copy of the code of conduct.

(4) Muthu ane zwenezwi hu saathu fhela ñwedzi muthihi musi khumbelo yo itwa uri a humise zwe a badelwa, ene a kundelwa u humisa muholo, mbadelo khathihi na nzwalelo u na mulandu wa u tshinya.

**U sa tsha vha na tshelede ya u badela zwikolodo kana u rengiswa ha thundu ya mushumi wa zwa ndaka**

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**59.** (1) Mushumi wa zwa ndaka ane—

- (a) a ita nyito i kwamaho zwa u kundelwa u badela zwikolodo;
  - (b) a sa tsha kona u badela zwikolodo nga vhanga ña uri o wa; kana
  - (c) o vhewa fhasi ha u dzhielwa zwine a vha nazwo nga vhanga ña u kundelwa u badela zwikolodo, hu nga vha lwa tshifhinganyana kana lwa tshothe,
- nga u ðavhanya u mbo ði bviswa ngauri ha tsha fusha ðhoðea dza u vha muñe wa ðhanziela ya Tshikwama i Sumbedzaho u Thembea nahone hu saathu fhela tshifhinga tsha maðuvha a 30 u tea u—
- (i) ðivhisa Maandlalanga nga u tou ñwala tshinwe na tshinwe tsho bulwaho kha pharagirafu dza (a), (b) kana (c);
  - (ii) litsha u shumisa na u ðana ðhanziela ya Tshikwama i Sumbedzaho u Thembea;
  - (iii) ðivhisa muðoli wawe na bannga ine ya vha na dziakhaunthu dza thirasiti nga u tou ñwala nga uho u sa tsha fusha ðhoðea;
  - (iv) litsha u shuma mishumo ya mushumi wa zwa ndaka;
  - (v) ðivhisa khasitama dzawe, vhashumi vhawe na vatholi vhawe kana muñwe na muñwe ane a kwamea nahone a zwi ite nga u tou nwala a ðalutshedze uho u sa tsha fusha ðhoðea;
  - (vi) u ðetshedza ndaulo yawe ya akhaunthu ya thirasiti, khathihi na ñdivhiso yothe na dzirekhodo, ngei kha Maandlalanga; na
  - (vii) ita uri mafhungo mañwe na mañwe o salelaho a shuñwe nga muñwe mushumi wa zwa ndaka nahone malugana na izwi muthu a kwameaho u tea u vhudzwa.

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(2) Muthu muñwe na muñwe ane a kundelwa u tevhedza khethekanyo ðhukhu ya (1) u khou ita vhutshinyi.

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(3) Maandlalanga a tea u fhelisa akhaunthu ya thirasiti ya mushumi wa zwa ndaka o bulwaho kha khethekanyo ðhukhu ya (1) nahone mbadelo ya tshelede ya thirasiti i itwe u ya nga pfanelo dza khasitama dzi kwameaho na vhañwe vhathu vha kwameaho.

(4) Arali nyimele ya u sa tsha kona u badela zwikolodo yo swikisa kha uri hu rengiswe ndaka ya mushumi wa zwa ndaka, tshelede dzi re kha akhaunthu ya thirasiti ya uyo mushumi wa zwa ndaka a dzi vhumbi tshipiða tsha ndaka iyo ine ya khou tewa u rengiswa ya mushumi wa zwa ndaka.

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**NDIMA YA 9**

**VHUÐIFARI HA MUSHUMI WA ZWA NDAKA**

**U shumiswa ha Ndimu ya 9 na Ndimu ya 10**

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**60.** Mbetsshelo dza Ndimu ya 10 dzi shumiswa dzi na tshanduko dzo teaho kha muthu muñwe na muñwe ane a shuma mishumo kana u ðetshedza tshumelo yo bulwaho kha ðhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya (1), hu songo sedzwa uri uyo muthu o ñwalisa kana ha ngo ñwalisa kana u fhiwa ðaisentse kana ha ngo fhiwa nga Maandlalanga, nahone kha ino Ndimu na kha Ndimu ya 10, hune ha bulwa “mushumi wa zwa ndaka” hu katelwa uyo muthu muñwe na muñwe.

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**Mulayo wa vhuðifari ha vhashumi vha zwa ndaka**

**61.** (1) Ministu nga murahu ha u kwamana na Maandlalanga, a nga randela mulayo wa vhuðifari une wa tea u tevhedzwa nga mushumi wa zwa ndaka muñwe na muñwe une wa vha hone nga tshenetsho tshifhinga.

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(2) Vhaofisiri vha zwa ñdivhiso vhahulwane vha Maandlalanga na vha Muhasho, zwi tshi ya nga hune zwithu zwa vha, vha tea u anðadza mulayo wa vhuðifari kha webusaiti dzavho.

(3) Mushumi wa zwa ndaka musi hu na khumbelo i bvaho kha murengi u tea u mu fha khophi ya mulayo wa vhuðifari.

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(4) The Board must annually advise the Minister on the efficacy of the code of conduct current at the time.

(5) The Minister may, after consultation with the Authority, prescribe norms and standards in respect of advertising and marketing by property practitioners.

### Sanctionable conduct

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**62.** (1) A property practitioner is guilty of sanctionable conduct if he or she or it—

(a) in the same transaction acts as a property practitioner on behalf of two or more persons whose interests are not in all material respects identical in respect of that transaction, and receives remuneration from all parties concerned in respect of such transaction, unless all affected persons in writing agree thereto; 10

(b) fails in respect of any act performed by him or her or it as a property practitioner to give a full and proper explanation in writing, within 30 days of being called upon by the Authority in writing to do so, to any person having a material interest in the performance of such act; 15

(c) fails to pay any money due to the Authority or in respect of the Fund within one month after such monies become due;

(d) fails to furnish in writing within a period determined by the Authority any information that the Authority has requested in writing and reasonably requires in order to properly exercise its powers under this Act; 20

(e) fails to comply with or contravenes any provision of the code of conduct;

(f) in his or her capacity as a director of a company, or member contemplated in paragraph (b) of the definition of “property practitioner” in section (1), of a close corporation, or trustee of a trust, which is a property practitioner and which failed to comply with section 50 or 51, did not take all reasonable steps to prevent such failure; 25

(g) carries on an undesirable practice prohibited under section 63;

(h) commits an offence involving an element of dishonesty;

(i) fails to inform the Authority within 14 days of a change in his, her or its contact details; 30

(j) differentiates distinguishes or excludes consumers directly or indirectly on the basis of their race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or commit a criminal offence while performing a function of a property practitioner; or 35

(k) fails to comply with or contravenes any provision of this Act.

(2) Subsequent ratification or correction of any conduct contemplated in subsection (1) does not constitute a defence.

(3) If a property practitioner is found guilty of sanctionable conduct, the Authority may after the application of sections 3 and 5 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)— 40

(a) withdraw the Fidelity Fund certificate of that property practitioner;

(b) impose on that property practitioner a fine not exceeding the maximum amount determined by the Minister of Justice and Correctional Services for the purposes of section 29(1)(a) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944); or 45

(c) reprimand such property practitioner and note his, her or its transgression on its website,

provided that the Authority may suspend payment of a fine or any portion thereof or the withdrawal of any Fidelity Fund certificate for a period not exceeding three years and on the further conditions that the Authority may determine. 50

(4) Bodo nga n̄waha nga n̄waha i tea u eletshedza Minist̄a nga ha kushumele kwa mulayo wa vhuḍifari une wa vha hone nga tshenetsho tshifhinga.

(5) Minist̄a nga murahu ha u kwamana na Maanḍalanga, a nga randela ndayo na zwiṭandadi malugana na u kungedzela na u vhambadza zwi itwaho nga vhashumi vha zwa ndaka.

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#### Vhuḍifari vhune ha ita uri hu itwe ndaṭiso

62. (1) Mushumi wa zwa ndaka u na mulandu wa vhuḍifari vhune ha ita uri fhiwe ndaṭiso arali a kana a khamphani ya—

- (a) nga ṭhirantsekisheni nthihi a shuma sa mushumi wa zwa ndaka vhuimoni ha vhathu vhavhili kana vhanzhi vhane madzangalelo a sa fane malugana na iyo ṭhirantsekisheni, nahone a ṭanganedza na muholo u bva kha avho vhane vha kwamea kha iyo ṭhirantsekisheni, nga n̄ḍa ha musu vhathu vhoṭhe vhane vha kwamea nga ṭhirantsekisheni vha tendelana nahone zwo tou n̄walwa; 10
- (b) kundelwa malugana na mushumo u shuṅwaho ngae kana ngayo sa mushumi wa zwa ndaka malugana na u fha ṭhalutshedzo yo ḍalaho nga u tou n̄wala, hu saathu u fhela maḍuvha a 30 o /yo vhidzwa nga Maanḍalanga uri a/ i ri pfalo, kha muthu ufho na ufho a re na dzangalelo ḷa u ita zwenezwo; 15
- (c) kundelwa u badela tshelede ine ya tea u badelwa kha Maanḍalanga kana kha Tshikwama hu saathu fhela n̄wedzi muthihi nga murahu ha musu tshelede i tshi tea u badelwa; 20
- (d) kundelwa a/ya kundelwa u n̄ea n̄divhiso Maanḍalanga hu saathu fhela tshifhinga tsho tiwaho nga one Maanḍalanga saizwi Maanḍalanga o humbela iyo n̄divhiso nga u tou n̄wala nahone i tshi khou ṭḍelwa uri Maanḍalanga a kone u shumisa maanḍa nga fhasi ha uno Mulayo; 25
- (e) kundelwa u anana na kana u pfukekanya mbetshelo in̄we na in̄we ya mulayo wa vhuḍifari; 25
- (f) saizwi nga vhuimo/vhuḍifhinduleli sa mulanguli wa khamphani, kana muraḍo o bulwaho kha pharagirafu ya (b) ya ṭhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya (1), ya koporasi ṭhukhu, kana thirasiti wa thirasiti, ane a vha mushumi wa zwa ndaka nahone o kundelwaho u anana na khethekanyo ya 50 kana 51, a songo tevhelaho maga oṭhe a u thivhela uho u kundelwa; 30
- (g) shumaho zwo iledzwaho nga fhasi ha khethekanyo ya 63;
- (h) ita vhutshinyi vhu kwamaho zwa u sa fhulufhedzea;
- (i) kundelwa u vhudza Maanḍalanga hu saathu u fhela maḍuvha a 14 uri zwidodombedzwa zwa vhukwamani zwo shandukiswa; 35
- (j) fhambanyisa kana u khethulula khasiṭama nga n̄ḍila yo livhaho kana i songo livhaho zwo sendeka kha murafho, mbeu, vhuimana, tshiimo tsha mbingano, vhubvo ha murafho, muvhala, kuitele kwa vhudzekani, vhukale, vuholefali, vhurereli, luvalo, lutendo, mvelele, luambo na mbebo kana u ita vhutshinyi ha vhugevhenga zwenezwo musu mushumo wa mushumi wa zwa ndaka u tshi khou shuṅwa; kana 40
- (k) kundelwa u tevhedza kana u pfukekanya mbetshelo in̄we na in̄we ya uno Mulayo. 45
- (2) U khakhulula kana ndulamiso i tevhelaho ya vhuḍifari vhuṅwe na vhuṅwe ho bulwaho kha khethekanyo ṭhukhu ya (1) a i sumbedzi u ḍiimelela. 45
- (3) Arali mushumi wa zwa ndaka o wanwa mulandu wa vhuḍifari vhune ha ita uri a laṭiswe, Maanḍalanga nga murahu ha u shumisa khethekanyo dza 3 na 5 dza Mulayo wa *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)*, a nga—
- (a) dzhiulula ṭhanziela ya Tshikwama i Sumbedzaho u Thembea ya uyo mushumi wa zwa ndaka; 50
- (b) hwesa ndaṭiso kha uyo mushumi wa zwa ndaka ine ya sa fhire ndaṭiso ya n̄thesa yo tiwaho nga Minist̄a wa zwa Vhulamukanyi na Tshumelo dza Ndulamiso hu tshi itelwa ndivho dza khethekanyo ya 29(1)(a) ya Mulayo wa *Magistrates' Courts Act, 1944*; kana— 55
- (c) kaidza uyo mushumi wa zwa ndaka nahone uvho vkhakhi vhu sumbedzwe na kha webusaiti, 55
- tenda Maanḍalanga a imisa mbadelo ya ndaṭiso kana tshipiḍa tsha iyo ndaṭiso kana u dzhiululwa ha ṭhanziela ya Tshikwama i Sumbedzaho u Thembea lwa tshifhinga tshi sa paḍi minwaha miraru nahone nga u shumisa milayo ine Maanḍalanga one aṅe a ḍo tou vhona. 60

(4) The acquittal or conviction of a property practitioner by any court of law upon any criminal charge is not a bar to proceedings against him or her or it under this Act on a charge of sanctionable conduct, despite the facts set forth in the charge of sanctionable conduct constituting, if proved, the offence set forth in the criminal charge on which he, she or it was so acquitted or convicted or any other offence on which he, she or it might have been convicted at his, her or its trial on that criminal charge. 5

### Undesirable practices

**63.** (1) Subject to subsection (2), the Minister may, after consultation with the Board, by notice in the *Gazette*, declare a particular business practice in the property market to be undesirable and consequently prohibited. 10

(2) When deciding whether or not a declaration contemplated in subsection (1) should be made, the Minister and the Board must consider—

- (a) the right of every citizen to freely choose their trade, occupation or profession;
- (b) that the practice concerned, directly or indirectly, has or is likely to have the effect of— 15
  - (i) damaging the relations between property practitioners, or any specific property practitioner, on the one hand, and any specific consumer, category of consumers or the general public on the other hand;
  - (ii) unreasonably prejudicing any consumer or category of consumers;
  - (iii) deceiving any consumer or category of consumers; or 20
  - (iv) unfairly affecting any consumer or category of consumers; and
- (c) that if the practice is allowed to continue, one or more of the objects of this Act as contemplated in section 2 will or is likely to be defeated.

(3) The Authority may issue a compliance notice contemplated in section 26 directing a property practitioner who, on or after the date of the publication of a notice contemplated in subsection (2) carries on a business practice in contravention of that notice, to rectify to the satisfaction of the Authority anything which was caused by or arose out of the carrying on of the business practice concerned, or otherwise deal with the matter as authorised by this Act or any other applicable law. 25

### Supervision of candidate property practitioners 30

**64.** (1) A candidate property practitioner may not draft or complete any document or clause in a document—

- (a) conferring any mandate on any property practitioner to perform any act referred to in paragraph (a), (c) or (d) of the definition of “property practitioner” in section 1; or 35
- (b) relating to the sale or lease of property.

(2) A person who contravenes subsection (1) and a property practitioner who allows an act contemplated in subsection (1) is not entitled to any payment, remuneration, consideration or damages in respect of or by reason of any document contemplated in that subsection or for bringing about the transaction or agreement embodied in that document. 40

(3) In any proceedings in respect of sanctionable conduct, it is no defence that the principal property practitioner was not aware of the acts or omissions of the property practitioner or the candidate property practitioner.

(4) A principal property practitioner who conducts business from more than one business premises must supervise and control the property practitioners and candidate property practitioners in his, her or its employ, despite the fact that those property practitioners conduct their business in branch or other offices. 45

(4) U sa vhonwa mulandu kana u wanwa mulandu ha mushumi wa zwa ndaka nga khothe ya mulayo inwe na inwe kha mulandu muinwe na muinwe a si tshithivheli kha u sengisa mushumi wa zwa ndaka nga fhasi ha uno Mulayo ho sedzwa mulandu wa vhuḏifari vhune ha ita uri hu vhe na ndatiso, naho hu na mbuno dzo vhwahaho kha mulandu u kwamaho vhuḏifari vhune ha ita uri muthu a nyambudzwe une arali zwo khwaḥisedzwa kana hu na tsumbo ine ya sumbedza uri hu na vkhakhahi sa zwo sumbedzwa kha mulandu wa vhugevhenga, une o vha a songo wanwa mulandu kana vhutshinyi vhuinwe na vhuinwe vhune khaho a nga vhonwa mulandu ngei tsengoni ya mulandu wa vhugevhenga.

### Maitele a sa ṭoḏei

**63.** (1) Hu tshi khou tevhedzwa khethekanyo ṭhukhu ya (2), Minista nga murahu ha u kwamana na Bodo, nga kha ndivhadzo kha *Gazete*, a nga divhadza zwidodombedzwa zwa maitele a vhubindudzi kha zwa maraga wa ndaka ane maitele ayo ha ṭoḏei nahone o iledzwaho.

(2) Musi hu tshi dzhiiwa tsho malugana na u divhadza kana u sa divhadza ndivhadzo yo bulwaho kha khethekanyo ṭhukhu ya (1) Minista na Bodo u tea u lavhelesa—

- (a) pfanelo ya mudzulapo ya u nanga kha zwi kwamaho makwevho, mushumo kana phrofesheni;
- (b) uri kuitele ku kwameaho, nga ndila yo livhaho kana i songo livhaho ku nga vha na masiandoitwa kha—
  - (i) u huvhadza vhushaka vhukati ha vhashumi vha zwa ndaka, kana mushumi wa zwa ndaka onoyo, kha sia ja u thoma, na murengi muinwe na muinwe, khethekanyo ya vharengi kana tshitshavha nga u angaredza kha jinwe sia;
  - (ii) nga ndila i sa pfadzi zwa vho ita tshitalula kha murengi muinwe na muinwe kana khethekanyo ya vharengi;
  - (iii) u fhura murengi kana khethekanyo ya vharengi; kana
  - (iv) nga ndila i sa pfadzi zwa vho do kwama murengi muinwe na muinwe kana khethekanyo ya vharengi; na
- (c) uri arali kuitele ku tshi tendelwa u ya phanda, tshipikwa tshithihi tsha kana zwinzhi zwa Mulayo uno sa zwo bulwaho kha khethekanyo ya 2 tshi nga kana zwi nga kwamea lu si lwavhuḏi.

(3) Maandalanga a nga ṛetshedza ndivhadzo ya u tevhedza sa zwo bulwaho kha khethekanyo ya 26 u itela u laela mushumi wa zwa ndaka ane, nga kana nga murahu ha datumu ya u anḏadza ndivhadzo yo bulwaho kha khethekanyo ṭhukhu ya (2) ane uyo mushumi wa zwa ndaka u khou tshimbidza bindu li pfukekanyaho iyo ndivhadzo, u itela u lulamisa zwine zwa swikisa kha u fusha Maandalanga kha tshinwe na tshinwe tsho itiswaho nga u tshimbidza bindu ilo li kwameaho, kana nga inwe ndila ha tou shumaniwa na fhungo sa zwe zwa tendelwa nga uno Mulayo kana mulayo muinwe na muinwe wo teaho.

### U lavhelesa mushumi wa zwa ndaka ane a kha di tou guda

**64.** (1) Mushumi wa zwa ndaka ane a kha di tou guda a nga si vetavete kana u ḏadza jinwalwa kana khethekanyo kha jinwalwa—

- (a) li fhaho mushumo kha mushumi wa zwa ndaka uri a shume mushumo wo bulwaho kha pharagirafu ya (a), (c) kana (d) ya ṭhalutshedzo ya ipfi “mushumi wa zwa ndaka” kha khethekanyo ya 1; kana
- (b) li kwamaho thengiso kana u rennda ndaka.

(2) Muthu ane a pfukekanya khethekanyo ṭhukhu ya (1) na mushumi wa zwa ndaka ane a tendela kuitele kwo bulwaho kha khethekanyo ṭhukhu ya (1), ha ngo fanelwa nga mbadelo, muholo, malamba kana tshinyalelo malugana na kana nga vhanganga ja mbuno ya jinwalwa lo bulwaho kha khethekanyo ṭhukhu iyo kana u ita thirantsekisheni kana thendelano kha ilo jinwalwa.

(3) Kha tsengo inwe na inwe malugana na vhuḏifari vhune ha ita uri hu vhe na ndatiso, mushumi wa zwa ndaka a nga si kone u diimelela nga mbuno ya uri ene o vha a sa divhi nga ha zwi itwaho kana zwi khakhiwaho nga mushumi wa zwa ndaka ane a kha di tou guda.

(4) Mushumi wa zwa ndaka muhulwane ane a khou ita bindu kha mabindu kha zwifhato zwinzhi u tea u lavhelesa na u langa vhashumi vha zwa ndaka na vhashumi vha zwa ndaka vhane vha kha di tou guda vhe a vha thola, naho avho vhashumi vha zwa ndaka vha tshi khou shuma kha mabindu awe ngei kha matavhi kana kha dziinwe ofisi.



**Franchising**

**65.** (1) A franchisee property practitioner may not carry on business under the name of a franchise unless a franchisee property practitioner is the holder of a Fidelity Fund certificate.

(2) A franchisee property practitioner must disclose clearly and unambiguously in all his, her or its written communication, advertising and marketing materials that he, she or it operates in terms of a franchise agreement, as well as the name of the franchisor. 5

(3) The Authority may withdraw the Fidelity Fund certificate of a franchisee property practitioner who carries on business in contravention of subsection (1) or (2).

**Prohibition on conduct to influence issue of certain certificates** 10

**66.** (1) A property practitioner may not in any way offer or receive financial or other incentive to, or otherwise influence, a person who at the request of a seller or lessor issues a certificate required by law, based on his or her expert opinion, in respect of—

- (a) the condition or defects of electrical wiring;
- (b) the presence of vermin; 15
- (c) the presence of water or damp; or
- (d) any other relevant matter or condition which may be provided for in any law.

(2) A property practitioner who contravenes subsection (1) or a person who accepts any such incentive is guilty of an offence.

**CHAPTER 10** 20**CONSUMER PROTECTION****Mandatory disclosure form**

**67.** (1) A property practitioner must—

- (a) not accept a mandate unless the seller or lessor of the property has provided him or her with a fully completed and signed mandatory disclosure in the prescribed form; and 25
- (b) provide a copy of the completed mandatory disclosure form to a prospective purchaser or lessee who intends to make an offer for the purchase or lease of a property.

(2) The completed mandatory disclosure form signed by all relevant parties must be attached to any agreement for the sale or lease of a property, and forms an integral part of that agreement, but if such a disclosure form was not completed, signed or attached, the agreement must be interpreted as if no defects or deficiencies of the property were disclosed to the purchaser. 30

(3) A property practitioner who fails to comply with subsection (1) may be held liable by an affected consumer. 35

(4) Nothing in this section prevents the Authority from taking action against a property practitioner or imposing an appropriate sanction.

(5) Nothing in this section prevents a consumer, for his or her own account, from undertaking a property inspection to confirm the state of the property before finalising the transaction. 40

**Agreements**

**68.** (1) An agreement to sell and purchase or to let and hire property, or the mandatory disclosure form contemplated in section 67, must be drafted by the developer or seller, as the case may be, for his, her or its own account. 45

(2) The Authority must publish from time to time an updated version of guideline agreements on its website.

**U ita furantshaisi**

**65.** (1) Mushumi wa zwa ndaka ane o tou renga furantshaisi a nga si shume zwa bindu nga fhasi ha dzina la furantshaisi nga nnda ha musi mushumi wa zwa ndaka ane a khou shuma sa furantshaisi hu ene mupe wa thanziela ya Tshikwama i Sumbedzaho u Thembea. 5

(2) Mushumi wa zwa ndaka ane o renga furantshaisi u tea u bula zwi khagala nahone zwi si na nyambahunzhi kha vhudavhidzani hothe ho tou nwalwaho, kha khungedzelo na matheriala a mbambadzo uri u khou furantshaisa u ya nga thendelano, na dzina la vhanje vha furantshaisi li bulwe-vho.

(3) Maandlanga a nga dzhiulula thanziela ya Tshikwama i Sumbedzaho u Thembea ya mushumi wa zwa ndaka ane o tou renga furantshaisi ane uyo mushumi wa zwa ndaka u khou ita vhubinduzi a tshi khou pfukekanya khethekanyo thukhu dza (1) kana (2). 10

**Nyiledzo malugana na vhuqifari ha u tufuwedza u netshedza thanziela dzenedzo**

**66.** (1) Mushumi wa zwa ndaka ha tei u fha kana u tangedza masheleni kana dziwe mbadelo kha, kana u tufuwedza, muthu ane ho humbela murengisi kana murenndisi a netshedza thanziela ine ya towa nga mulayo, zwo sendeka kha ndivho yawe, malugana na— 15

- (a) nyimele na u khakhea kha kuwayarelwe kwa mudagani;
- (b) u vha hone ha zwikhokhonono;
- (c) u vha hone ha maqi na mibvuqu; kana 20
- (d) tshinwe na tshinwe tshi teaho kana nyimele ine ya nga vha na mbetsheho kha mulayo muwe na muwe.

(2) Mushumi wa zwa ndaka ane a pfukekanya khethekanyo thukhu ya (1) kana muthu ane a tangedza mbadelo ifhio na ifhio u na mulandu wa u ita vhutshinyi.

**NDIMA YA 10 25****TSIRELEDZO YA VHARENGI****Fomo ine ya tou kombetshedza ya u bvukulula**

**67.** (1) Mushumi wa zwa ndaka u tea u—

- (a) sa tangedza mushumo nga nnda ha musi murengisi kana murenndisi wa ndaka o mu fha fomo yo teaho yo dadziwaho nahone yo sainiwaho ya u bvukulula ine ya tou vhofha; na 30
- (b) fha khophi yo dadziwaho ya u bvukulula ine ya tou vhofha i tshi fhiwa murengi kana murenndi ane a khou toa u renga kana u rennda ndaka.

(2) Fomo ya u bvukulula yo dadziwaho ine ya tou kombetshedza yo sainiwaho nga vha kwameaho vhothe i tea u nambatedzwa kha thendelano ya thengiso kana ya u rennda ndaka, nahone fomo dzi na ndeme kha iyo thendelano, fhedzi arali iyo fomo ya u bvukulula i songo dadziwa, sainiwa kana u nambatedzwa, thendelano i tea u dzhiwa i tshi khou amba uri a hu na vhuudzetudze na zwo khakheaho kha ndaka. 35

(3) Mushumi wa zwa ndaka ane a kundelwa u anana na khethekanyo thukhu ya (1) a nga dzhiwa a na vhuqifhinduleli malugana na khasitama yo kwameaho. 40

(4) Kha ino khethekanyo a hu na tshine tsha thivhela Maandlanga kha u dzhia liga kha uyo mushumi wa zwa ndaka kana u tou ita ndatiso yo teaho.

(5) Kha ino khethekanyo a hu na tshine tsha thivhela murengi, a tshi khou shumisa vhuqifhinduleli hawe ha u ita uri ndaka i ingamelwe u itela u khwathisedza tshiimo tsha ndaka phanda ha musi thirantsekisheni i tshi khunyeledzwa. 45

**Thendelano**

**68.** (1) Thendelano ya u rengisa na u renga kana u renndisa kana u hirisa, kana fomo ya u bvukulula ine ya tou vhofha yo bulwaho kha khethekanyo ya 67, i tea u talatadza nga mubveledzisi kana murengisi u ya nga nyimele ya zwithu.

(2) Maandlanga a tea u andadza tsumbandila yo khwiniswaho kha webusaiti misi yothe. 50

**Consumer education and information**

**69.** (1) The Authority must from time to time conduct campaigns to educate and inform the general public of their rights in respect of property transactions and property practitioners of their functions, duties and obligations.

(2) A property practitioner owes a buyer and a seller a duty of care. 5

**CHAPTER 11****GENERAL****Regulations**

**70.** (1) The Minister may, subject to subsection (2), make regulations regarding any matter that may or must be prescribed in terms of this Act or any incidental matter of a procedural or administrative nature that the Minister considers necessary to prescribe in order to achieve the objects of this Act. 10

(2) Before making any regulation the Minister must—

- (a) consult the Board; and
- (b) publish the proposed regulations for public comment and allow at least 30 days for submission of such comment. 15

**Penalties**

**71.** A person convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding 10 years

**Delegation of powers** 20

**72.** (1) The Minister may, subject to subsections (2) and (3), delegate any power or duty assigned to him or her in terms of this Act, excluding the power to make regulations contemplated in section 70, to the Director-General or to any other senior official in the Department.

(2) A delegation in terms of subsection (1)— 25

- (a) is subject to any limitations, conditions and directions the Minister may impose;
- (b) must be in writing;
- (c) may include the power to sub-delegate; and
- (d) does not divest the Minister of the responsibility concerning the exercise of the power or the performance of the duty. 30

(3) The Minister may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of a provision of this Act or the Estate Agency Affairs Act.

(4) A quarterly report must be submitted to the Minister in respect of any power or duty delegated in terms of subsection (1). 35

**Legal proceedings against Authority**

**73.** (1) Any legal proceedings against the Authority must be instituted in accordance with the Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No. 40 of 2002). 40

(2) The Authority is, for the purposes of subsection (1), deemed to be an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

**Ndivhiso na pfunzo zwa vharengi**

**69.** (1) Maandlalanga misi yothe a tea u ita mafulo a u funza vhathu na u vhudza tshitshavha nga u angaredza nga ha pfanelo dza tshone tshitshavha malugana na thirantsekisheni dza zwa ndaka na nga ha vhashumi vha zwa ndaka ho sedzeswa mishumo ya vhashumi vha zwa ndaka, vhuḑifhinduleli ha vhashumi vha zwa ndaka na zwi vhoḑhaho avha vhashumi vha zwa ndaka. 5

(2) Mushumi wa zwa ndaka u tea u fara murengi na murengisi zwavhuḑi.

**NDIMA YA 11****NYANGAREDZO****Ndangulo** 10

**70.** (1) Minista a tshi khou tevhedza khethekanyo thukhu ya (2), a nga ita ndangulo malugana na tshinwe na tshinwe tshine tsha nga, kana tshine tsha tea u randelwa u ya nga uno Mulayo kana tshinwe na tshinwe tsho teaho ho sedzwa kuitele kana ndaulo ine Minista a vhona yo tea uri hu vhe na u randela u itela u swikelela zwipikwa zwa uno Mulayo. 15

(2) Phanda ha musa Minista a tshi ita ndangulo u tea u—

(a) kwama Bodo; na

(b) anḑadza ndangulo dzo dzinginywaho u itela uri tshitshavha tshi bve muhumbulo na u fha tshitshavha maḑuvha a 30 uri vhathu vha kone u ḑisa iyo mihumbulo yavho. 20

**Ndaḑiso**

**71.** Muthu o wanwaho mulandu wa vhutshinyi u ya nga uno Mulayo u tea u fhiwa ndaḑiso kana a tou ya thronngoni lwa tshifhinga tshi sa paḑi minwaha ya 10.

**Uhwesa maandla nga Minista**

**72.** (1) Minista a tshi khou tevhedza khethekanyo thukhu dza (2) na (3), a nga hwesa maandla na mushumo wawe a tshi khou tevhedza uno Mulayo, hu sa katelwi maandla a u ita ndangulo dzo bulwaho kha khethekanyo ya 70, a nga hwesa Mulanguli-Muangaredzi kana muofisiri muḑwe na muḑwe muhulwane kha Muhasho. 25

(2) Zwa vhurumelwa u ya nga khethekanyo ya (1)—

(a) zwi tevhedza phungudzelo, milayo na ndaela dza Minista; 30

(b) zwi itwa nga u tou ḑwalwa;

(c) zwi nga katela maandla a uri murumelwa na ene a rumele muḑwe; nahone

(d) a zwi dzhii vhuḑifhinduleli ha Minista malugana na u shumisa maandla kana u shuma mushumo wawe ene Minista.

(3) Minista a nga khwaḑhisedza, shandukisa kana u shandula tsho yo dzhiwaho nga vhurumelwa kana yo dzhiwaho nga o rumelwaho nga murumelwa u ya nga mbetshelo ya uno Mulayo kana Mulayo wa zwa Mazhendedzi a Ndaka. 35

(4) Muvhigo wa kotara u tea u iswa kha Minista malugana na maandla kana mushumo wo itwaho nga vhurumelwa hu tshi khou tevhedzwa khethekanyo thukhu ya (1).

**Tsengo ya mulayo malugana na Maandlalanga** 40

**73.** (1) Tsengo inwe na inwe ine ya kwama Maandlalanga i tea u itwa hu tshi khou tevhedzwa Mulayo wa *Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No.40 of 2002)*.

(2) Maandlalanga a tshi khou itela ndivho dza khethekanyo thukhu ya (1), a dzhiwa a tshimiswa tsha muvhuso sa zwo bulwaho kha pharagirafu ya (c) ya thalutshedzo i re kha khethekanyo ya 1 ya Mulayo wo bulwaho. 45

**Use of name of Authority**

- 74.** (1) Unless authorised in writing by the Authority to do so, no person other than the Board or authorised employees of the Authority may in any way—
- (a) use the name of the Authority;
  - (b) represent or make use of descriptions, logos, designs or advertising material used or owned by the Authority, or anything which a reasonable person will interpret to refer to the Authority except as provided for in this Act; or 5
  - (c) use a description signifying or implying some connection between that person and the Authority, except as provided for in this Act.
- (2) Any person who contravenes subsection (1) is guilty of an offence. 10

**Transitional provisions**

- 75.** (1) Upon the commencement of this Act—
- (a) the juristic person known as the Estate Agency Affairs Board established by section 2 of the Estate Agency Affairs Act, and any committee of the Estate Agency Affairs Board appointed in terms of that Act, is hereby disestablished; 15
  - (b) the members of the Estate Agents Affairs Board in office immediately before this Act takes effect, become members of the Property Practitioners Board, and must be regarded as having been appointed to the Property Practitioners Board in terms of section 7;
  - (c) the members contemplated in paragraph (b) hold office for the unexpired period for which such members have been appointed as members of the Estate Agents Affairs Board, as at the date of such members' assumption of office in the Property Practitioners Board in terms of paragraph (b); 20
  - (d) every person employed permanently by the Estate Agency Affairs Board immediately prior to the commencement of this Act is regarded as having been appointed in terms of section 17; 25
  - (e) the remuneration and other terms and conditions of service of any person contemplated in paragraph (d) may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before the commencement of this Act and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including— 30
    - (i) employer contribution to a pension fund;
    - (ii) employer contribution to a medical aid scheme;
    - (iii) employee contributions in connection with membership of a pension fund or medical aid scheme; 35
    - (iv) accrued pensionable service;
    - (v) accrued leave benefits; and
    - (vi) retirement at a specific age;
  - (f) every person contemplated in paragraph (d) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before the commencement of this Act; and 40
  - (g) any proceedings against a person which were instituted in terms of or under the Estate Agency Affairs Act, immediately before the commencement of this Act, must be disposed of as if that Act had not been repealed. 45
- (2) For the purposes of the Income Tax, 1962 (Act No. 58 of 1962), no change of employer is regarded as having taken place when a person is appointed by the Authority in terms of section 17.
- (3) Upon the commencement of this Act—
- (a) all movable, immovable and intellectual property of the Estate Agency Affairs Board, including all financial, administrative and other records of the Estate Agency Affairs Board and all documents in the possession of the Estate Agency Affairs Board, is transferred to the Authority, which then acquires such property; 50

**U shumisa dzina la Maandlanga**

- 74.** (1) Nga nn̄a ha musi zwo tendiwa nahone zwo tou n̄walwa nga Maandlanga u pfalo, a hu na muthu nga nn̄a ha Bodo kana vhashumi vho tendelwaho vhane vha shuma kha Maandlanga vhane vha nga—
- (a) shumisa dzina la Maandlanga; 5
  - (b) imela kana u shumisa nyolo, zwigathalu, nyolo kana matheriala a mbambadzo a shumiswaho kana zwa Maandlanga, kana tshin̄we na tshin̄we tshine muthu a nga talutshedza uri tshi amba Maandlanga nga nn̄a ha mbetshelo kha Mulayo uno; kana
  - (c) shumisa nyolo dzi sumbedzaho na u amba vhumani vhu re hone vhukati ha uyo muthu na Maandlanga, nga nn̄a ha mbetshelo kha uno Mulayo. 10
- (2) Muthu muñwe na muñwe ane a pfukekanya khethekanyo ya (1) u na mulandu wa vhutshinyi.

**Nzudzanyo dza tshanduko**

- 75.** (1) Musi uyu Mulayo u tshi tou thoma u shuma— 15
- (a) tshimiswa tshine tsha divhiwa nga dzina la Bodo ya zwa Ndaka tsho thomiwaho nga khethekanyo ya 2 ya Mulayo wa zwa Mazhendedzi a Ndaka, na komiti in̄we na in̄we ya Bodo ya zwa Mazhendedzi a Ndaka yo tholwaho hu tshi khou tevhedzwa wonoyo Mulayo, i khou fheliswa; 20
  - (b) miraḡo ya Bodo ya zwa Mazhendedzi a Ndaka i re kha ofisi phan̄a ha u thoma u shuma uno Mulayo, i mbo ḡi vha miraḡo ya Bodo ya Vhashumi vha zwa Ndaka, nahone i tea u dzhiwa yo tholwa nga Bodo ya Vhashumi vha zwa Ndaka u ya nga khethekanyo ya 7; 25
  - (c) miraḡo yo bulwaho kha pharagirafu ya (b) i vha kha ofisi lwa tshifhinga tsho salaho tshe ya vha yo tholelwa tshone sa miraḡo ya Bodo ya zwa Mazhendedzi a Ndaka, u bva kha iyo datumu ye miraḡo ya thoma u vha kha ofisi ya Bodo ya Vhashumi vha zwa Ndaka u ya nga pharagirafu ya (b); 30
  - (d) muthu muñwe na muñwe o tholwaho lwa tshoṡhe nga Bodo ya zwa Mazhendedzi a Ndaka phan̄a ha musi uyu Mulayo u tshi thoma u shuma u dzhiwa o thola u ya nga khethekanyo ya 17; 35
  - (e) muholo na milayo miñwe ya kushumele zwa muthu muñwe na muñwe o bulwaho kha pharagirafu ya (d) zwi ḡo dzhiela n̄ha muholo, milayo yo teaho kha muthu phan̄a ha u thoma u shuma ha uno Mulayo nahone muthu u dzula a tshi khou tea u wana pfanelo, mbuelo na zwo khetheaho zwine o vha a tshi ḡi zwi wana phan̄a ha datumu, hu tshi katelwa— 35
    - (i) mbadelo i badelwaho nga mutholi kha tshikwama tsha phentsheni;
    - (ii) mbadelo i badelwaho nga mutholi kha tshikimu tsha zwa dzilafho;
    - (iii) mbadelo dzi badelwaho nga mushumi dzi kwamanaho na vhurafho ha kha tshikwama tsha phentsheni na tshikimu tsha zwa dzilafho;
    - (iv) tshumelo yo kuvhanganywaho zwi tshi kwama phentsheni; 40
    - (v) u ya phentsheni muthu a tshi aluwa o swika kha miñwaha yeneyo; na
    - (vi) mbuelo dzo kuvhanganywaho dza maḡuvha a ḡivi;
  - (f) muthu muñwe na muñwe o bulwaho kha pharagirafu ya (d) u dzula a tshi tea u tevhedza tsho, tsengo/khothe, khaḡulo na ndaela dzo teaho kha uyo muthu phan̄a ha u thoma u shuma ha uno Mulayo; na 45
  - (g) tsengo in̄we na in̄we i kwamaho muthu, ye ya vha yo itwa u ya nga, kana nga fhasi ha Mulayo wa Bodo ya zwa Mazhendedzi a Ndaka, phan̄a ha u thoma u shumisa uno Mulayo dzi tea u shun̄wa u tou fana na musi uno Mulayo u songo vhuya wa fheliswa.
- (2) U itela ndivho dza Mulayo wa *Income Tax, 1962 (Act No. 58 of 1962)*, a zwi dzhiwi ho vha na u shanduka ha mutholi musi muthu a tshi tholwa nga Maandlanga u ya nga khethekanyo ya 17.
- (3) Musi hu tshi thoma u shuma uno Mulayo—
- (a) ndaka yoṡhe ine ya endedzea, i sa endedzei na ndaka i kwamaho nḡivho Bodo ya zwa Mazhendedzi a Ndaka, hu tshi katelwa masheleni, rekhodo dza ndaulo na dziñwe rekhodo dza Bodo ya zwa Mazhendedzi a Ndaka na maiñwalwa oṡhe ane Bodo ya zwa Mazhendedzi a Ndaka ya vha nao, a namba a vha a Maandlanga, saizwi hu Maandlanga ane a tea u wana iyo thundu; 55



- (b) the rights, duties, liabilities and obligations relating to the Estate Agency Affairs Board are transferred to the Authority;
- (c) the Estate Agency Affairs Board is substituted by the Authority as a litigant in all pending litigation or proceedings; and
- (d) all valid and binding agreements entered into by the Estate Agency Affairs Board shall be binding on the Authority as if the Authority had been the contracting party. 5

(4) All funds of the Estate Agents Fidelity Fund immediately before the commencement of this Act are upon commencement of this Act transferred to the Fund, and a claim for compensation instituted against the Estate Agents Fidelity Fund before commencement of this Act must be paid from the Fund if such claim is successful. 10

(5) Any claim with regards to the theft of trust money by a property practitioner committed before the commencement of this Act or the failure of a property practitioner to comply with section 35(1) or (2)(e) of the Estate Agency Affairs Act, in respect of which no proceedings were instituted before the commencement of this Act, must within two years of the commencement of this Act be instituted, and then finalised in accordance with the Estate Agency Affairs Act as if that Act had not been repealed. 15

(6) All regulations made in terms of the Estate Agency Affairs Act remain in full force and effect as if they had been made in terms of or under this Act.

#### **Repeal** 20

76. The Estate Agents Affairs Act, 1976 (Act No. 112 of 1976), is hereby repealed.

#### **Short title and commencement**

77. This Act is called the Property Practitioners Act, 2019, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

- (b) pfanelo, mishumo, zwikolodo na khombetshedzo zwi kwamaho Bodo ya zwa Mazhendedzi a Ndaka zwi mbo vha zwa Maanḡalanga;
- (c) Bodo ya zwa Mazhendedzi a Ndaka i khou namba ya imelwa nga Maanḡalanga sa yone i dzihaho vhuḡifhinduleli kha zwoḡhe zwi kwamaho u suwa na kotho zwine a zwi athu u khunyeledzwa; na 5
- (d) thendelano dzoḡhe dzi re hone na dzine dza vhofha dze Bodo ya zwa Mazhendedzi a Ndaka ya dzhena khadzo dzi ḡo vhofha Maanḡalanga zwa tou dzhiiwa hu Maanḡalanga o dzhenaho kha idzo thendelano.

(4) Masheleni oḡhe a Tshikwama tshi Thembeaho tsha zwa Mazhendedzi a Ndaka e a vha e hone phanḡa ha u thoma u shuma ha uno Mulayo musi uno Mulayo u tshi tou thoma u shuma a khou namba a rathiselwa kha Tshikwama, nahone mbilo dza u badelwa dzo itwaho kha Tshikwama tshi Thembeaho tsha Mazhendedzi a zwa Ndaka phanḡa ha musi hu tshi thoma u shuma uno Mulayo dzi tea u badelwa dzi tshi bva kha Tshikwama arali iyo mbilo yo tshimbila zwavhuḡi. 10

(5) Mbilo iḡwe na iḡwe malugana na vuvhava ha tshelede ho itwaho nga mushumi wa zwa ndaka ho itwaho phanḡa ha u thoma u shuma uno Mulayo kana mushumi wa zwa ndaka a kundelwa u tevhedza khethekanyo ya 35(1) kana 35(2)(e) ya Mulayo wa zwa Mazhendedzi a Ndaka, malugana na uri a hu na tsengo dze dza itwa phanḡa ha u thoma u shuma uno Mulayo, hu saathu u fhela miḡwaha miḡhili ho thoma u shuma uno Mulayo dza tea u itwa, nahone dza khunyeledzwa u ya nga Mulayo wa zwa Mazhendedzi a Ndaka, u tou fana na musi Mulayo u songo vhuya wa fheliswa. 15 20

(6) Ndangulo dzoḡhe dzo itwaho u ya nga Mulayo wa zwa Mazhendedzi a Ndaka, dzi dzula dzi tshi khou shumiswa nahone dzi tshi khou shumiswa u tou fana na musi dzi tshi nga dzo itwa nga fhasi ha uno Mulayo kana hu tshi khou tevhedzwa uno Mulayo.

#### **Pheliso** 25

76. Mulayo wa *Estate Agents Affairs Act, 1976 (Act No. 112 of 1976)*, u khou fheliswa.

#### **Dzina ḡipfufhi na u thoma u shumisa Mulayo**

77. Dzina ḡipfufhi ḡa Mulayo uno ndi Mulayo wa Vhashumi vha zwa Ndaka, 2019, nahone uno Mulayo u ḡo thoma u shuma nga datumu yo dzudzanywaho nga Phresidennde nga mulevho kha Gazete. 30





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