



Government Gazette

REPUBLIC OF SOUTH AFRICA
REPHABLIKI YA AFRIKA BORWA

Vol. 594 Cape Town, 9 December 2014 **No. 38315**
Kaapstad,

THE PRESIDENCY

No. 1013 9 December 2014

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

Act No. 39 of 2014: Legal Aid South Africa Act, 2014

OFISI YA MOPRESIDENTE

No. 1013 9 December 2014

Mona ho tsebiswa hore Mopresidente o amohetse Molao ona o latelang, o phatlalatswang mona bakeng sa tsebisiso ya setjhaba ka bophara:—

No 39 ya 2014: Thuso ya Molao Africa Borwa, 2014



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

*(English text signed by the President)
(Assented to 9 December 2014)*

ACT

To ensure access to justice and the realisation of the right of a person to have legal representation as envisaged in the Constitution and to render or make legal aid and legal advice available; for that purpose to establish an entity called Legal Aid South Africa with a Board of Directors and to define its objects, powers, functions, duties and composition; to provide for the independence and impartiality of Legal Aid South Africa; to provide for the appointment of the Board of Directors and qualification for membership thereof; to provide for the appointment of a chairperson and a deputy chairperson; to provide for the term of appointment of a member of the Board of Directors; to provide for the termination of membership of the Board of Directors; to provide for meetings of the Board of Directors, quorum and procedure; to provide for the establishment of committees by the Board of Directors; to provide for the delegation of powers and the assignment of duties or functions of the Board of Directors; to provide for the appointment of a chief executive officer and his or her functions; to provide for the appointment of employees and the designation of certain officials as agents of Legal Aid South Africa and their terms and conditions of employment; to provide for the protection of client privilege in certain circumstances; to provide for the recovery of costs by Legal Aid South Africa; to provide for the finances of Legal Aid South Africa; to provide for the provision of legal aid by direction of courts in criminal matters; to provide for the making of regulations; to provide for the compilation of a Legal Aid Manual; to provide for the amendment or repeal of laws; to provide for transitional arrangements; and to provide for matters incidental thereto.

Parliament of the Republic of South Africa enacts as follows:—

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1 5

DEFINITIONS

1. Definitions

CHAPTER 2

LEGAL AID SOUTH AFRICA

2. Establishment of Legal Aid South Africa and its relationship with Board 10
3. Objects of Legal Aid South Africa
4. Powers, functions and duties of Board
5. Independence and impartiality of Legal Aid South Africa
6. Composition and appointment of Board
7. Qualification for membership of Board 15

*(English text signed by the President)
(Assented to 9 December 2014)*

MOLAO

Ho etsa bonnete ba phumaneho ya toka le tsebo ya tokelo ya motho ho ba le moemedi wa molao jwalo ka ha ho hlalositse ka hare ho Molaotheo le ho nehelana kapa ho etsa thuso ya molao le keletso ya molao di be teng ; bakeng la maikemisetso a ho ka theha motheho o bitswang Thuso Molao ya Afrika Borwa o nang le Lekgotla la Balaodi le ho hlalosa maikemisetso, matla, mesebetsi le sebopeho; ho nehelana ka boikemelo le ho hloka leeme ha Thuso ya Molao Afrika Borwa; ho nehelana ka ho thongwa ha Lekgotla la bolaodi le ditlhoko bakeng la botho; ho nehelana ka ho thongwa ha modulasetulo le motlasi wa modulasetulo; ho nehelana ka nako ya ho thongwa ha setho sa Lekgotla la Bolaodi; ho nehelana ka ho fediswa ha botho ba Lekgotla la Bolaodi; ho nehelana ka dikopano tsa Lekgotla la Bolaodi, khoramo le tsamaiso; ho nehela Lekgotla la Bolaodi ho ka theha dikomiti; ho ka nehelana ka phano ya matla le tshebetso kapa mesebetsi ya Lekgotla la Bolaodi; ho ka nehelana ka ho ka thongwa ha mohlanka e moholo wa phethahatso le mesebetsi ya hae; ho nehelana ka ho thongwa ha basebetsi le ho kgethwa ha basebetsi ba itseng e le baemedi ba Lekgotla la Bolaodi Afrika Borwa mmoho le dintlha le dipehelo tsa mosebetsi wa bona; ho nehelana ka tshireletso ya menyetla ya mosebedisi maamong a itseng; ho ka nehela Lekgotla la Bolaodi Afrika Borwa ka phumaneho ya ditjeho; ho ka nehelana ka ditjhelete tsa Lekgotla la Bolaodi Afrika Borwa; ho nehelana ka phano ya thuso ya molao ka taelo ya lekgotla la dinyewe dintlheng tsa bosinyi; ho nehelana ka ho etswa ha melao ho ka nehelanaka ho etswa ha Bukana ya Thuso ya Molao; ho nehelana ka ho fetolwa kapa ho hlakolwa ha melao; ho nehelana ka ditlhophiso tse bohareng le ho nehelana ka dintlha tse amanang le tse mona.

Palamente ya Rephaboliki ya Afrika Borwa e etsa molao ka mokgwa o latela:—

TATELANO YA DIKAROLO

Dikarolo

KGAOLO 1 5

DITLHALOSO

1. Ditlhaloso

KGAOLO 2

THUSO YA MOLAO AFRIKA BORWA

- | | | |
|----|--|----|
| 2. | Ho thehwa ha Thuso ya Molao Afrika Borwa le kamano ya teng le lekgotla | 10 |
| 3. | Maikemisetso a Thuso ya Molao Afrika Borwa | |
| 4. | Matla le mesebetsi ya Lekgotla | |
| 5. | Boikemelo le ho hloka leeme ha Thuso ya Molao Afrika Borwa | |
| 6. | Sebopeho le ho thongwa ha Lekgotla | |
| 7. | Ditlhoko bakeng la botho ba Lekgotla | 15 |

4

- 8. Chairperson and deputy chairperson
- 9. Term of appointment
- 10. Termination of membership of Board
- 11. Meetings of Board
- 12. Quorum and procedure 5
- 13. Committees of Board
- 14. Delegation of powers and assignment of duties or functions of Board

CHAPTER 3

PERFORMANCE OF ADMINISTRATIVE WORK OF LEGAL AID SOUTH AFRICA 10

- 15. Appointment of chief executive officer
- 16. Functions of chief executive officer

CHAPTER 4

SUPPORT STRUCTURE OF LEGAL AID SOUTH AFRICA

- 17. Employees and agents of Legal Aid South Africa 15
- 18. Terms and conditions of employment of employees
- 19. Protection of client privilege in certain circumstances
- 20. Recovery of costs by Legal Aid South Africa
- 21. Finances of Legal Aid South Africa

CHAPTER 5 20

GENERAL PROVISIONS

- 22. Provision of legal aid by direction of courts in criminal matters
- 23. Regulations
- 24. Legal Aid Manual
- 25. Amendment or repeal of laws 25
- 26. Transitional arrangements
- 27. Short title and commencement

SCHEDULE

Laws Amended or Repealed

CHAPTER 1 30

DEFINITIONS

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**agent**” means an official of the Department of Justice and Constitutional Development who is designated to assist legal aid applicants in completing applications for legal aid; 35
 - “**Board**” means the Board of Directors appointed in terms of section 6;
 - “**candidate attorney**” means a person undergoing practical vocational training (articles of clerkship) with a view to being admitted and enrolled as an attorney;
 - “**chief executive officer**” means the chief executive officer appointed in terms of section 15; 40
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**director**” means a member of the Board of Directors;
 - “**Legal Aid South Africa**” means the national public entity, that is established under section 2(1), in order to give effect to the objects provided for in section 3; 45
 - “**legal practitioner**” means a practising attorney or advocate;
 - “**Minister**” means the Cabinet member responsible for the administration of justice;

5

8. Modulasetulo le Motlatsi wa modulasetulo
9. Nako ya ho thonngwa
10. Phediso ya botho ba Lekgotla
11. Dikopano tsa Lekgotla
12. Khoramo le tsamaiso 5
13. Dikomiti tsa Lekgotla
14. Phano ya matla le mesebetsi ya Lekgotla

KGAOLO 3**TSAMAISO YA MOSEBETSI WA THUSO YA MOLAO AFRIKA BORWA**

15. Ho thonngwa ha mohlanka e moholo wa phethahatso 10
16. Mesebetsi ya mohlanka e moholo wa phethahatso

KGAOLO 4**MERALO YA TSHEHETSO YA THUSO YA MOLAO AFRIKA BORWA**

17. Basebetsi le baemedi ba Thuso ya Molao Afrika Borwa
18. Dintlha le dipehelo tsa ho hira basebetsi 15
19. Tshireletso ya menyetla ya mosebedisi maamong a itseng
20. Thuso ya Molao Afrika Borwa ho ka fumana ditjeho
21. Ditjhelete tsa Thuso ya Molao Afrika Borwa

KGAOLO 5**PHANO KA KAKARETSO 20**

22. Phano ya thuso ya molao ka taelo ya makgotla a dinyewe dintlheng tsa tshenyo
23. Melao
24. Bukana ya Thuso ya Molao
25. Phetoho kapa tlhakolo ya melao
26. Ditlhophiso tse bohareng 25
27. Sehlooho le qaleho

SEJULE

Melao e Fetotsweng le e Hlakotsweng

KGAOLO 1**DITLHALOSO 30****Ditlhaloso**

1. Molaong ona, ntle le ha sengolwa se hlalosa ka tsela enngwe—
 - “**moemedi**” e hlalosa setho sa Lefapha la Toka le Ntshetsopele ya Molaotheo se kgethuweng ho ka thusa batho ba etsang kopo ya thuso ya molao ka ho ba tlatsisa dikopo tsa thuso ya molao; 35
 - “**Lekgotla**” e hlalosa Lekgotla la Balaodi ba thontsweng ho latela karolo 6;
 - “**leqwetha la moithuti**” e hlalosa motho ya ntseng a le thupellong ka tjhebelopelo ya ho ba leqwetha le felletseng (tumellano mahareng a leqwetha le leqwetha la moithuti)
 - “**mohlanka e moholo wa phethahatso**” e hlalosa mohlanka e moholo wa phethahatso ya thontsweng ho latela karolo 15; 40
 - “**Molaotheo**” e hlalosa Molaotheo wa Rephaboliki ya Afrika Borwa, 1996;
 - “**molaodi**” e hlalosa setho sa Lekgotla la Bolaodi;
 - “**Thuso ya Molao Afrika Borwa**” e hlalosa motheo wa setjhaba wa naha o theuweng ka tlasa karolo 2(1), e le ho nehela ka tshebetso ho maikemisetsa a molao 45
 - jwalo ka ha ho hlalositse karolong 3;
 - “**mosebeletsi wa molao**” e hlalosa mmuelli kapa leqwetha;
 - “**Letona**” e hlalosa setho sa Kabinete se ikarabella tsamaisong ya toka;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
“this Act” includes the regulations made under section 23(1).

CHAPTER 2

LEGAL AID SOUTH AFRICA

5

Establishment of Legal Aid South Africa and its relationship with Board

2. (1) There is hereby established a national public entity as provided for in the Public Finance Management Act, to be known as Legal Aid South Africa, which is governed by a Board appointed under section 6.

(2) The Board, of which the powers, functions and duties are set out in section 4, is represented by the chief executive officer and any director or directors as may be designated by the Board. 10

Objects of Legal Aid South Africa

3. The objects of Legal Aid South Africa are to—

- (a) render or make available legal aid and legal advice; 15
- (b) provide legal representation to persons at state expense; and
- (c) provide education and information concerning legal rights and obligations, as envisaged in the Constitution and this Act.

Powers, functions and duties of Board

4. (1) The Board may do all that is necessary or expedient to achieve the objects referred to in section 3, including the following: 20

- (a) Provide legal services, representation and advice, by—
 - (i) employing legal practitioners and candidate attorneys;
 - (ii) employing paralegals, who are persons that are not legal practitioners but have knowledge and understanding of the law, its procedures and its social context acquired through training, education, work experience or a national registered qualification in paralegal practice; and 25
 - (iii) procuring the services of legal practitioners in private practice by entering into contracts or agreements with them and other entities.
- (b) Determine, in consultation with the Minister and the Minister of Finance, its own staff establishment and the terms and conditions of employment for its staff as provided for in section 18. 30
- (c) Purchase or otherwise acquire, hold or alienate any—
 - (i) movable property; or
 - (ii) immovable property with the approval of the Minister acting in consultation with the Minister of Finance. 35
- (d) Hire or let any movable or immovable property.
- (e) Fix conditions subject to which legal aid is to be rendered, including—
 - (i) conditions in accordance with which any rights in respect of costs recovered or recoverable in any legal proceedings or any dispute in respect of which the aid is rendered, are ceded to Legal Aid South Africa; 40
 - and
 - (ii) the payment of contributions to Legal Aid South Africa by persons to whom legal aid is rendered.
- (f) Provide legal representation at state expense as envisaged in the Constitution and this Act, where substantial injustice would otherwise result and render or make legal aid and legal advice available. 45
- (g) Conduct programmes to promote public awareness of constitutional and other legal rights and public understanding of the objects, role and activities of Legal Aid South Africa. 50
- (h) Pay out of the funds of Legal Aid South Africa such remuneration and allowances to members of the Board, their alternates and any committee members appointed in accordance with section 13 who are not in the full-time service of the State, as may be determined by the Minister of Finance from time to time. 55

“**Molao wa Taolo ya Tjhelete ya Setjhaba**” e hlalosa *Public Finance Management Act, 1999 (Act No. 1 of 1999)*; le
 “**Molao ona**” e kenyeletsa melao e entsweng ka tlasa karolo 23(1).

KGAOLO 2

THUSO YA MOLAO AFRIKA BORWA

5

Ho thehwa ha Thuso ya Molao Afrika Borwa le kamano ya teng le Lekgotla

2. (1) Mona ho thehwa motheo wa setjhaba wa naha jwalo ka ha ho hlalositse Molaong wa Taolo ya Tjhelete ya Setjhaba ho tla tsejwa e le Thuso ya Molao Afrika Borwa e laolwang ke Lekgotla le thontsweng ka tlasa karolo 6.

(2) Lekgotla, leo matla le mesebetsi ya lona e hlalositse karolong 4, le emetswe ke Mohlanka e moholo wa phethahatso le molaodi kapa balaodi ba bang le ba bang jwalo ka ha lekgethile.

Maikemisetso a Thuso ya Molao Afrika Borwa

3. Maikemisetso a Thuso ya Molao Afrika Borwa ke ho—

- (a) nehelana kapa ho etsa thuso ya molao le keletso ho ba teng; 15
- (b) nehelana ka kemedi ya molao bathong ka ditjeho tsa mmuso; le
- (c) nehelana ka thuto le lesedi mabapi le ditokelo le setlamo sa molao jwalo ka ha, ho hlalositse Molaotheong le molaong ona.

Matla le mesebetsi ya Lekgotla

4. (1) Lekgotla le ka etsa tsohle tse kgonehang ho ka fihlella maikemisetso a hlalositse karolong 3, ho kenyeleditse tse latelang: 20

- (a) Ho nehelana ka ditshebeletso, kemedi le keletso ya molao, ka—
 - (i) ho hira basebeletsi ba molao le maqwetha a baithuti;
 - (ii) ho hira bathusi ba maqwetha, e se babuelli empa ba na le tsebo le kutlwisiso ya molao, tsamaiso ya teng le moelelo wa teng wa setjhaba oo bao fumaneng ka thupello, thuto, tsebo ya mosebetsi kapa lengolo le ngodistsweng la naha tshebetsong ya ho thusa maqwetha; le 25
 - (iii) ho fumana ditshebeletso tsa babuelli tshebetsong ya poraevete ka ho kena ditumellanong le bona le metheo e meng.
- (b) Ho ka hlwaya, ka ho kopana le Letona ha mmoho le Letona la Ditjhelete, basebeletsi ba teng le dintlha le dipehelo tsa ho hirwa bakeng la basebetsi jwalo ka ha ho hlalositse karolong 18.
- (c) Ho reka kapa ho fumana, ho tshwara kapa ho tsamaisa—
 - (i) thepa e tsamayang; kapa
 - (ii) thepa e sa tsamaeng ka tumello ya Letona le dumellane le Letona la Ditjhelete. 35
- (d) Ho hira kapa ho hirisa thepa e nngwe le e nngwe e tsamayang kapa e sa tsamaeng.
- (e) Ho lokisa maemo ao thuso ya molao e tlang ho nehelwa, ho kenyeleditse—
 - (i) maemo ho latela ditokelo tse ding le tse ding mabapi le ditjeho tse fumanehileng kapa tse ka fumanehang tsamaisong e nngwe le e nngwe ya molao kapa ngangisano mabapi le thuso e nehetsweng, di nehelwa Thuso ya Molao Afrika Borwa; le 40
 - (ii) thuso ya tefello ho Thuso ya Molao Afrika Borwa ke batho ba fumantshwang thuso ya molao. 45
- (f) Ho nehelana ka kemedi ya molao ka ditjeho tsa mmuso jwalo ka ha ho hlalositse Molaotheong le Molaong ona, moo ho hloka toka ho kabang teng le ho nehelana kapa ho etsa thuso ya molao le keletso ho ba teng.
- (g) Ho ka etsa mananeo a ho eelliswa setjhaba ka ditokelo tsa molaotheo le melao e meng ha mmoho le kutlwisiso ya setjhaba ka maikemisetso, seabo le mesebetsi ya Thuso ya Molao Afrika Borwa. 50
- (h) Tefello ya matlole a Thuso ya Molao Afrika Borwa jwalo ka moputso wa ditho tsa Lekgotla, le ba fetolwang ha mmoho le ditho tse ding le tse ding tsa dikomiti tse thontsweng, ho latela karolo 13, e se basebetsi ba mmuso ba dinako tsohle, jwalo ka ha Letona la ditjhelete le ka hlwaya nako le neko. 55

(i) Do all things and perform all functions necessary for, or incidental to, the attainment of the objects of Legal Aid South Africa.

(2) The Board is the accounting authority of Legal Aid South Africa in accordance with section 49 of the Public Finance Management Act, and is charged with the responsibilities referred to in that Act. 5

Independence and impartiality of Legal Aid South Africa

5. Legal Aid South Africa, its directors, employees and agents must serve impartially and independently and exercise their powers and perform their duties and functions in good faith and without fear, favour, bias or prejudice.

Composition and appointment of Board 10

6. (1) The Board consists of the following 14 voting members, appointed by the Minister in writing:

- (a) A judge in active service of a court referred to in section 166(a), (b) or (c) of the Constitution, nominated by the Chief Justice of South Africa after consultation with the Board. 15
- (b) Eight members who, as a whole, have the skills referred to in section 7(d).
- (c) The chief executive officer.
- (d) Three employees appointed by the Board for the management of Legal Aid South Africa, and who are responsible for the management, including the financial management, of Legal Aid South Africa and who are actively involved in developing and implementing Legal Aid South Africa's strategy nominated by the Board. 20
- (e) The Director-General: Justice and Constitutional Development, or his or her nominee.

(2) The Minister may appoint a person to serve as an alternate in the place of any member referred to in subsection (1)(b), (c) and (d) during that member's absence from any meeting of the Board, if that person is qualified to be appointed as such member and has been nominated in the same manner as that member. 25

(3) A decision taken by the Board or an act performed under the authority of the Board is not invalid merely because of a vacancy on the Board or because a person who is not entitled to sit as a member sat as a member at the time the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the required majority of members present at the time, who were entitled to sit as members. 30

(4) In the case of directors referred to in subsection (1)(b), the Board must, whenever necessary, invite nominations for the appointment of persons as directors in the manner determined by the Minister in consultation with the Board. 35

(5) Any vacancy on the Board arising pursuant to section 10 must be filled in accordance with this section.

Qualification for membership of Board

7. (1) A director must, subject to subsection (2)— 40

- (a) be a fit and proper person;
- (b) be a South African citizen;
- (c) not be an unrehabilitated insolvent;
- (d) not be a person declared to be of unsound mind by a court of the Republic;
- (e) not be a person who has been convicted in a court of first instance— 45
 - (i) of an offence and sentenced to more than 12 months' imprisonment without the option of a fine; or
 - (ii) of an offence, which involves any element of dishonesty, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, other than a conviction for an offence committed prior to 27 April 1994 associated with political objectives; or 50
 - (iii) of an offence under the Companies Act, 2008 (Act No. 7 of 2008), the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984 (Act No. 69 of 1984), the Competition Act, 1998 (Act No. 89 of 1998), the Financial Intelligence Act, 2001 (Act No. 38 of 2001), the Financial Markets Act, 2012 (Act No. 19 of 2012), or Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004); 55

(i) Ho e tsa tsohle le ho phetha mesebetsi yohle jwalo ka ha ho ka hlokeha ho ka fihlella maikemisetso a Thuso ya Molao Afrika Borwa.

(2) Thuso ya Molao Afrika Borwa e ikarabella ho Lekgotla ho latela karolo 49 ya Molao wa Taolo ya Ditjhelete tsa Setjhaba le maikarabelo a hlahositsweng ka hare ho Molao. 5

Boikemelo ba Thuso ya Molao Afrika Borwa

5. Thuso ya Molao Afrika Borwa, Balaodi, basebetsi le baemedi ba teng, ba tshwanetse ba sebetse ka boikemelo le ho sebedisa matla ka ho hloka leeme.

Sebopeho le ho thonngwa ha Lekgotla

6. (1) Lekgotla le akga ditho tse 14 tse kgethang, tse thontsweng ke Letona ka ho dingolla: 10

(a) Moahlodi ya sebetsang lekgotleng la dinyewe le hlahositsweng karolong 166(a), (b) kapa (c) ya Molaotheo, ya kgethuweng ke Moahlodi e Moholo wa Afrika Borwa ka mora ho kopana le Lekgotla.

(b) Ditho tse robedi tsenang le bokgoni bo hlahositsweng karolong 7(d). 15

(c) Mohlanka e moholo wa phethahatso.

(d) basebetsi ba bararo ba thontsweng ke Lekgotla bakeng la botsamaisi ba Thuso ya Molao Afrika Borwa bo kenyeleditseng tsamaisao ya ditjhelete tsa Thuso ya Molao Afrika Borwa ba na le seabo thehong le ho kenya tshebetsong leano la Thuso ya Molao Afrika Borwa le thontsweng ke Lekgotla. 20

(e) Molaodi-kakaretso: Toka le ntshetsopele ya Molaotheo kapa kgetho ya hae.

(2) Letona le ka kgetha motho ya tla emela setho se seng le se seng ho latela karolwana (1)(b), (c) le (d) nakong eo setho se leng siyo kopanong ya Lekgotla, e bang motho eo a na le bokgoni ba ho ka kgethwa e le setho mme a kgethwa ka tsela e tshwanang le ya setho. 25

(3) Qeto e entsweng ke Lekgotla kapa mosebetsi o entsweng ka tlasa taolo ya Lekgotla o ka se qhelelwe ka thoko ka lebaka la sekgeo sa mosebetsi Lekgotleng kapa motho ya sa tshwanelang ho ba Lekgotleng a bile teng ka nako eo qeto e neng e etswa kapa mosebetsi o neng o dumelwa ke boholo ba ditho tse neng dile teng ka nako eo, ba neng ba dumeleleha ho ba ditho. 30

(4) Ntlheng ya balaodi e hlahositsweng karolwaneng (1)(b), Lekgotla le tshwanetse le meme bonkgetheng ho ka ba balaodi ka mokgwa o tla hlwauwa ke Letona ka kopanelo le Lekgotla ha ho hlokeha.

(5) Sekgeo se seng le se seng sa mosebetsi Lekgotleng se hlahellang ho latela karolo 10 se tshwanetse ho tlatswa ho latela karolo ena. 35

Ditlhoko bakeng la ho ba setho sa Lekgotla

7. (1) Ho ipapisitswe le karolwana (2) Balaodi ba tshwanetse ho—

(a) ba batho ba nnete;

(b) ba baahi ba Afrika Borwa;

(c) e se be motho ya sa kgoneng ho lefella mekitlane ya hae; 40

(d) e se be motho ya fumanweng a sa itekanela ka hlooho ke lekgotla la dinyewe la Rephaboliki;

(e) e se be motho ya fumanweng a le molato lekgotleng leo nyewe e qadileng ho lona—

(i) tlong ya molao le kahlolong ya dikgwedi tse fetang 12 tjhankaneng ntle le lekgetho ya ho ka lefiswa; kapa 45

(ii) ka tlolo ya molao e akgang ho hloka botshepehi ka hare ho Rephaboliki kapa ka ntle ho Rephaboliki e bang ketso e le ya tlolo ya molao ka hare ho Rephaboliki, ntle le kahlolo bakeng la tlolo ya molao o entsweng pele ho 27 Mmesa 1994 o ikamahantse le maikemisetso a dipolotiki; kapa 50

(iii) tlolo ya molao ka tlasa *Companies Act*, 2008 (*Act No. 7 of 2008*), le *Insolvency Act*, 1936 (*Act No. 24 of 1936*), le *Close Corporations Act*, 1984 (*Act No. 69 of 1984*), le *Competiton Act*, 1998 (*Act No. 89 of 1998*), le *Financial Intelligence Act*, 2001 (*Act No. 38 of 2001*), le *Financial Markets Act*, 2012 (*Act No. 19 of 2012*), kapa Kgaolo 2 ya *Preventing and Combating of Corrupt Activities Act*, 2004 (*Act No. 12 of 2004*): 55

Provided that if the person in question lodges an appeal against the conviction or sentence, he or she must be suspended from office, pending the outcome of the appeal;

- (f) not have been prohibited from being a director of a company; or
- (g) not have been removed from an office of trust, on the grounds of misconduct involving dishonesty. 5

(2) When constituting the Board in terms of section 6, the following factors must, as far as is practicable, be taken into account—

- (a) the racial and gender composition of South Africa;
- (b) the objects of Legal Aid South Africa and the Board; 10
- (c) representation of persons with disabilities;
- (d) provincial representation; and
- (e) experience in and knowledge of—
 - (i) business management;
 - (ii) information technology; 15
 - (iii) the provision of legal services, including experience as a practising attorney or advocate;
 - (iv) corporate governance;
 - (v) accounting or auditing;
 - (vi) community-based knowledge relevant to legal aid; 20
 - (vii) legal education and training;
 - (viii) civil and criminal proceedings and the functioning of the courts and tribunals in general; and
 - (ix) knowledge in public interest law.

Chairperson and deputy chairperson 25

8. (1) The judge appointed in terms of section 6(1)(a) is the chairperson of the Board and the Minister must, in writing designate one of the directors referred to in section 6(1)(b) as deputy chairperson of the Board, who must act as the chairperson if the position of chairperson is vacant or during the absence or incapacity of the chairperson.

(2) The deputy chairperson, when acting as chairperson as provided for in subsection (1), has all the powers, duties and functions of the chairperson. 30

(3) If both the chairperson and deputy chairperson are absent from a meeting of the Board, a person elected by the directors present from among themselves, must preside at that meeting.

Term of appointment 35

9. The chairperson, the deputy chairperson and a director referred to in section 6(1)(a), (b) and (d) and any alternate member appointed in terms of section 6(2) holds office for a term of not less than three years and not more than five years, as determined by the Minister, in writing, at the time of his or her appointment and may be reappointed for one additional term only. 40

Termination of membership of Board

10. (1) A director ceases to be a director of the Board when—

- (a) he or she resigns on one month's written notice addressed to the Minister and the Board;
- (b) he or she no longer meets the qualifications for membership listed in section 7; 45
- (c) in the case of a director referred to in section 6(1)(c) and (d), he or she is no longer in the employment of Legal Aid South Africa; or
- (d) his or her term of office as director expires.

(2) The Minister may remove a director from office for—

- (a) failing to perform the duties of a director or to perform them diligently and efficiently; 50
- (b) permanent incapacity;
- (c) being absent from three consecutive meetings of the Board without the chairperson's leave and without good reason; or

Ha feela motho eo ho buang ka yena mona a etsa kopo ya boipiletso kgahlano le ho fumanwa a le molato kapa kahlolo, o tshwanetse ho ka kgaolwa mosebetsing ha ho sa ntse ho emetswe diphetho tsa boipiletso;

- (f) a so thibelwe ho ka ba molaodi wa kgwebo; kapa
(g) ha a so ntshwe ofising ya botshepehi ka lebaka la boitshwaro bo sa lokang bo akgang ho hloka botshepehi. 5

(2) Ha ho thehwa Lekgotla ho latela karolo 6, dintlha tse latelang dishwanetse dinahaniswe, ka moo ho kgonahalang—

- (a) morabe le bong ho ya ka moo Afrika Borwa e leng ka teng;
(b) maikemisetso a Thuso ya Molao Afrika Borwa le Lekgotla; 10
(c) kemedi ya diqhwalala;
(d) kemedi ya provense; le
(e) boiphihlelo le tsebo ho—
(i) tsamaisong ya kgwebo;
(ii) thekenoloji ya lesedi; 15
(iii) phano ya ditshebeletso tsa molao tse akgang boiphihlelo ho tshebetso ya leqwetha kapa mmuelli;
(iv) tsamaiso ya puso;
(v) akhaonting le bohlakisi;
(vi) tsebo ya setjhaba e amanang le thuso ya molao; 20
(vii) thuto ya molao le thupello;
(viii) ditsamaiso tsa tlolo ya molao le setjhaba le tshebetsong ya makgotla a dinyewe le lekgotla le ikgethileng la toka ka kakaretso; le
(ix) tsebo ho molao wa kgahleho ya setjhaba.

Modulasetulo le Motlatsi wa modulasetulo 25

8. (1) Moahlodi ya thontsweng ho latela karolo 6(1)(a) ke modulasetulo wa Lekgotla mme Letona le tshwanetse le hlwae e mong wa balaodi ho ba motlatsi wa modulasetulo wa Lekgotla ka ho mongolla, jwalo ka ha ho hlahositswe karolong 6(1)(b), mme o tshwanetse ho ba modulasetulo wa nakwana ha modulasetulo a le siyo, kapa a sa kgone ho ka phetha mosebetsi wa hae wa bodulasetulo. 30

(2) Motlatsi wa modulasetulo ha a sebetsa e le modulasetulo wa nakwana jwalo ka ha ho hlahositswe karolwaneng (1), o na le matla le mesebetsi yohle ya modulasetulo.

(3) E bang modulasetulo le Motlatsi wa modulasetulo Ba le siyo kopanong ya Lekgotla, motho ya kgethwang ke balaodi ba teng mahareng a bona, o tshwanetse ho ba modulasetulo wa kopano. 35

Nako ya ho thongwa

9. Modulasetulo, Motlatsi wa modulasetulo le molaodi ya hlahositsweng karolong 6(1)(a), (b) le (d) ha mmoho le setho se seng le se seng se thontsweng ho latela karolo 6(2) ba sebetsa sehla se le seng ka tlasa dilemo tse tharo mme se sa fete dilemo tse hlano, jwalo ka ha Letona le ka hlwaya ka ho ngola, ka nako ya ho thongwa ha hae mme a ka thongwa hape bakeng sa keketseho ya sehla se le seng. 40

Phediso ya botho ba Lekgotla

10. (1) Molaodi o tlohela bolaodi ba Lekgotla ha a—
(a) itokolla ka ho nehelana ka tsebiso e ngotsweng ya kgwedi ho Letona le ho Lekgotla; 45
(b) ha a sa na tse hlokehang ho ka ba setho jwalo ka ha ho hlahositswe karolong 7;
(c) ha a sa le tshebetsong ya Thuso ya Molao Afrika Borwa jwalo ka ha ho hlahositswe karolong 6(1)(c) mabapi le molaodi le (d), ha a sa le tshebetsong ya Thuso ya Molao Afrika Borwa; kapa 50
(d) nako ya hae ya ofisi e le molaodi e a feela.
(2) Letona le ka tlosa molaodi ofising bakeng la—
(a) ho hloleha ho phetha mesebetsi ya bolaodi kapa ho e phetha ka mahlahahlaha;
(b) ho hloleha hwa moshwelella;
(c) ho ba siyo dikopanong tsa Lekgotla makgetlo a mararo a latelanang ka ntle le kgefutso ya modulasetulo le ka ntle ho lebaka le utlwahalang; kapa 55

(d) engaging in any activity that is reasonably capable of undermining the integrity of Legal Aid South Africa.

(3) Before removing a director from office in terms of subsection (2), the Minister must afford the person in question an opportunity to be heard.

Meetings of Board

5

11. (1) The Board must meet at least four times every year at a time and place as determined by the Board.

(2) (a) The secretary of the Board must, at any time, upon the request in writing of—

(i) the chairperson of the Board; or

(ii) not less than four directors, subject to paragraph (b),

convene a special meeting of the Board, to be held at a time and place as the chairperson may determine.

(b) At least one of the directors referred to in paragraph (a)(ii) must be a director referred to in section 6(1)(a) or (b).

10

Quorum and procedure

15

12. (1) The quorum at any meeting of the Board is half of its members, plus one.

(2) Any decision at any meeting of the Board must be taken by a majority of votes of the directors present, and in the event of an equality of votes, the person presiding at the meeting has a casting vote in addition to a deliberative vote.

(3) The Board may determine the procedure of its meetings.

20

Committees of Board

13. (1) The Board may, in writing and in the interest of good governance, establish one or more committees, consisting of one or more directors, employees or other persons designated or appointed by the Board, to assist it in exercising its powers and the performance of its functions as it may deem necessary.

25

(2) The Board—

(a) must determine the powers, duties and functions of a committee;

(b) must designate a member of a committee as chairperson and, if it deems it necessary, may designate a member of a committee as deputy chairperson;

(c) may, at any time, remove a member of a committee or dissolve a committee;

and

(d) may determine the procedure for the conduct of the meetings of a committee.

(3) When constituting a committee the following factors must, as far as is practicable, be taken into account—

(a) the racial and gender composition of South Africa;

(b) the objects of the committee in question; and

(c) representation of persons with disabilities.

35

Delegation of powers and assignment of duties or functions of Board

14. (1) Subject to the provisions of the Public Finance Management Act, the Board may, in writing, delegate any of its powers or assign any of its duties or functions imposed on or assigned to it, to any director, committee, employee or agent of Legal Aid South Africa.

40

(2) A delegation or assignment in terms of subsection (1)—

(a) is subject to any conditions and directions as the Board may deem appropriate; and

(b) does not divest the Board of the responsibility for the exercise of the power or the performance of the duty or function.

45

CHAPTER 3

PERFORMANCE OF ADMINISTRATIVE WORK OF LEGAL AID SOUTH AFRICA

50

Appointment of chief executive officer

15. (1) The Board must, whenever necessary, appoint a fit and proper person who has applicable knowledge and experience, as the chief executive officer of Legal Aid South Africa.

- (d) ho phetha ketso e nyenyefatsang seriti sa Thuso ya Molao Afrika Borwa.
(3) pele molaodi a ntshwa ofising ho latela karolwana (2), Letona le tshwanetse ho nehela motho eo ho buang ka yena mona monyetla wa ho ka mamelwa.

Dikopano tsa Lekgotla

11. (1) Lekgotla le tshwanetse le kopane bonyane makgetlo a mane ka selemo ka nako 5
le sebaka se tla hlwauwang ke Lekgotla.
(2) (a) Mongodi wa Lekgotla o tshwanetse ho, nako e nngwe le e nngwe, ka kopo e
ngotsweng ho—
(i) modulasetulo wa Lekgotla; kapa
(ii) balaodi ba sa feteng bone, ho latela serapa (b), 10
ho bitsa kopano e ikgethileng ya Lekgotla e tla tshwarwa ka nako le sebaka se tla
hlwauwa ke modulasetulo.
(b) Bonyane e mong wa balaodi ba hlalositsweng serapeng (a)(ii) o tshwanetse ho ba
molaodi ya hlalositsweng karolong 6(1)(a) kapa (b).

Khoramo le tsamaiso 15

12. (1) Khoramo kopanong e nngwe le e nngwe ya Lekgotla ke halofo ya ditho tsohle
le nngwe.
(2) Qeto e nngwe le e nngwe kopanong e nngwe le e nngwe e tshwanetse e nkuwe ke
boholo ba dikgetho tsa balaodi ba teng kopanong, moo ho nang le ho lekana ha dikgetho,
motho ya tsamaiso kopano o tla etsa kgetho ya hae e le e kaolang kgang. 20
(3) Lekgotla le ka hlwaya tsamaiso dikopanong tsa yona.

Dikomiti tsa Lekgotla

13. (1) Lekgotla le ka theha komiti e le nngwe kapa tse ngata, tse akgang molaodi a
le mong kapa ba bangata, basebetsi kapa batho ba bang bakgethuweng kapa thontsweng
ke Lekgotla, ka ho ngollwa le bakeng la puso e ntle, ho ka thusa ho sebedisa matla a yona 25
le ho phetha mesebetsi ya yona ka moo ho hloka halang.
(2) Lekgotla—
(a) le tshwanetse le hlwae matla le mesebetsi ya komiti;
(b) le tshwanetse ho kgetha setho sa komiti ho ba modulasetulo, mme ha ho
hloka hala, le ka kgetho setho sa komiti ho ba Motlatsi wa modulasetulo; 30
(c) nako e nngwe le e nngwe, le ka tlosa setho sa komiti kapa la fedisa komiti; le
(d) ho ka hlwaya tsamaiso ya dikopano tsa komiti.
(3) Ha ho thehwa komiti, dintlha tse latelang ditshwanetse dinahanwe, ka moo ho
kgonehang ka teng—
(a) morabe le bong ho ya ka moo Afrika Borwa e leng ka teng; 35
(b) maikemisetsa a komiti eo ho buang ka yona mona; le
(c) kemedi ya diqhwalala.

Phano ya matla le mesebetsi ya Lekgotla

14. (1) Mabapi le Molao wa Taolo ya Ditjhelete tsa Setjhaba, Lekgotla le ka nehelana
ka matla a lona kapa mesebetsi ya lona e enehetsweng ho molaodi e mong le e mong, 40
komiti, mosebetsi kapa moemedi wa Thuso ya Molao Afrika Borwa ka ho mongolla.
(2) Phano kapa tshebetso ho latela temananyana (1)—
(a) e itshetlehile ho dimo ha maemo le taelo eo Lekgotla le bonang e lokile; mme
(b) ha e tlose maikarabelo ho Lekgotla ho ka sebedisa matla kapa ho phetha
mesebetsi ya yona. 45

KGAOLO 3

HO PHETHWA HA MOSEBETSI WA THUSO YA MOLAO AFRIKA BORWA

Ho thonngwa ha mohlanka e moholo wa phethahatso

15. (1) Lekgotla le tshwanetse ho kgetha motho ya nepahetseng ya nang le bokgoni le
tsebo ho ba mohlanka e moholo wa phethahatso wa Thuso ya Molao Afrika Borwa ha ho 50
hlokeha.

- (2) The chief executive officer—
- (a) holds office—
 - (i) for an agreed term not exceeding five years, which may be renewed; and
 - (ii) on the terms and conditions as determined by the Board which must be in a written contract of employment and which must include the terms and conditions of employment and set specific measurable performance standards; and
 - (b) receives the remuneration, allowances and other service benefits as the Board may determine in accordance with section 18.
- (3) Whenever the chief executive officer is absent, unable to perform the functions of that office or during a vacancy in the office of the chief executive officer, the chairperson, in conjunction with the chief executive officer if he or she is available, must designate a senior employee of Legal Aid South Africa, excluding members of the Board, to act as the chief executive officer.

Functions of chief executive officer 15

- 16.** (1) The chief executive officer under the strategic direction of the Board—
- (a) is responsible for the general administration of Legal Aid South Africa;
 - (b) must manage and direct its activities to promote and give effect to the objects of Legal Aid South Africa; and
 - (c) must supervise its staff.
- (2) Subject to the provisions of section 56 of the Public Finance Management Act, the chief executive officer has such powers and duties as may, in writing, be delegated or assigned to him or her by the Board.

CHAPTER 4

SUPPORT STRUCTURE OF LEGAL AID SOUTH AFRICA 25

Employees and agents of Legal Aid South Africa

- 17.** (1) The chief executive officer must, subject to subsection (3) and section 18—
- (a) in consultation with the Board, appoint as many senior employees;
 - (b) appoint as many other employees; and
 - (c) designate certain officials as agents in cooperation with the Department of Justice and Constitutional Development,
- as may be necessary to assist Legal Aid South Africa in the exercise of its powers and performance of its functions.
- (2) (a) Legal Aid South Africa has the right to operate its offices and justice centres without having to seek accreditation from any law society referred to in the Attorneys Act, 1979 (Act No. 53 of 1979), and is entitled to employ candidate attorneys, subject to the provisions of the Attorneys Act, 1979.
- (b) For the purposes of paragraph (a), “justice centre” means offices of Legal Aid South Africa which administer and provide legal aid in the Republic.
- (c) Despite the provisions of paragraph (a), attorneys and candidate attorneys employed by Legal Aid South Africa must be members, in good standing, of the law society having jurisdiction and are subject to the disciplinary control of the law society in question.
- (3) When appointing employees and designating agents as contemplated in subsection (1), the following factors must, as far as is practicable, be taken into account—
- (a) the racial and gender composition of South Africa;
 - (b) the objects of Legal Aid South Africa and the Board; and
 - (c) representation of persons with disabilities.

Terms and conditions of employment of employees 50

- 18.** (1) The Board may, in consultation with the Minister and the Minister of Finance, appoint on such conditions and at such remuneration, employees referred to in sections 15 and 17 to assist in the performance of its functions.

15

(2) Mohlanka e moholo wa phethahatso—

(a) o sebetsa—

(i) nako e dumelletswe e sa feteng dilemo tse hlano, e ka nnang ya ntjhafatswa; le

(ii) ka dintlha le diphelelo tse tshwanetseng ho hlahella tumellanong e ngotsweng ya mosebetsi mme e nehelane ka boemo boitseng ba hlahlobo ya mosebetsi jwalo ka ha Lekgotla le hlwaile; mme

(b) o fumana tefello, meputso le dikuno tse ding tsa tshebetso jwalo ka ha Lekgotla le ka hlwaya ho latela karolo 18.

(3) Ha mohlanka e moholo wa phethahatso a le siyo, a sa kgone ho ka phetha mesebetsi ya ofisi kapa sekgeo sa mosebetsi ofising ya mohlanka e moholo wa phethahatso, modulasetulo ka kopanelo le mohlanka e moholo wa phethahatso, e bang a le teng, o tshwanetse ho kgetha mosebeletsi ya ka sehloohong wa Thuso ya Molao Afrika Borwa, ho sa kenyeletsa ditho tsa Lekgotla ho ka ba mohlanka e moholo wa phethahatso wa nakwana.

Mesebetsi ya mohlanka e moholo wa phethahatso**16.** (1) Mohlanka e moholo wa phethahatso ka tlasa bolaodi ba Lekgotla—

(a) o ikarabella kakaretso ya tsamaisong ya Thuso ya Molao Afrika Borwa;

(b) o tshwanetse ho laola le ho tsamaisa mesebetsi ya yona e le ho ka phahamisa maikemisetso a Thuso ya Molao Afrika Borwa; mme

(c) o tshwanetse ho laola basebetsi.

(2) Ho ipapisitswe le karolo 56 ya Molao wa Taolo ya Ditjhelete tsa Setjhaba, mohlanka e moholo wa phethahatso o na le matla le mesebetsi a ka e nehelwang ke Lekgotla, ka ho ngollwa.

KGAOLO 4

25

TSHEHETSO YA MORALO WA THUSO YA MOLAO AFRIKA BORWA**Basebetsi le baemedi ba Thuso ya Molao Afrika Borwa****17.** (1) Ho latela karolwana (3) le karolo 18, Mohlanka e moholo wa phethahatso o tshwanetse—

(a) ka ho kopana le Lekgotla, ho thonya basebetsi ba bangata ba ka sehloohong;

(b) ho thonya basebetsi ba bangata; le

(c) ho ka kgetha basebetsi ho ba baemedi ka tshebedisano mmoho le Lefapha la Toka le Ntshetsopele ya Molaotheo,

ka ha Thuso ya Molao Afrika Borwa e ka hloka tshebedisong ya matla le ho phethweng ha mesebetsi.

(2) (a) Thuso ya Molao Afrika Borwa e na le tokelo ya ho ka sebedisa diofisi tsa teng le makala a toka ka ntle le ho hloka tumello ho tswa ho mokgatlo ofe kapa ofe wa molao o hlalositsweng ho *Attorneys Act, 1979 (Act No. 53 of 1979)*, mme e ka hira leqwetha la moithuti ho ipapisitswe le *Attorneys Act, 1979*.

(b) Bakeng la maikemisetso a serapa (a), "lekala la toka" e hlalosa diofisi tsa Thuso ya Molao Afrika Borwa tse tsamaisang le ho nehelana ka thuso ya molao ka hare ho Rephaboloki.

(c) Ho sa natse serapa (a), maqwetha le maqwetha a baithuti ba hirilweng ke Thuso ya Molao Afrika Borwa e tshwanetse e be ditho tse emeng hantle tsa mokgatlo wa maqwetha ba nang le matla mme ba ka laolang kgalemelo mokgatlong o hlalositsweng wa maqwetha.

(3) Ha ho thongwa basebetsi le ho kgetha baemedi jwalo ka ha ho hlalositse karolwaneng (1) dintlha tse latelang ditshwanetse di nahanwe ka moo ho kgonahalang—

(a) morabe le bong ho ya ka moo Afrika Borwa e leng ka teng;

(b) maikemisetso a Thuso ya Molao Afrika Borwa le Lekgotla; le

(c) kemedi ya diqhwalala.

Dintlha le diphelelo tsa ho hira basebetsi**18.** (1) Ka kopanelo le Letona le Letona la tjhelete, Lekgotla le ka thonya basebetsi ho latela maemo le meputso jwalo ka ha ho hlalositse karolong 15 le 17 ho ka thusa ka ho phetha mesebetsi ya yona.

55

(2) The provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), relating to collective bargaining are applicable when the terms and conditions of employment are determined as provided for in subsection (1).

(3) Any expenditure arising from the application of this section may not exceed the appropriated budget allocation to Legal Aid South Africa in terms of the Public Finance Management Act. 5

Protection of client privilege in certain circumstances

19. (1) A private legal practitioner who has been instructed by Legal Aid South Africa to represent a person who qualifies for legal aid under this Act must, when requested by Legal Aid South Africa, grant access to the information and documents contained in the file relating to the person in question for the sole purpose of conducting a quality assessment of the work done by the legal practitioner. 10

(2) The information and documents referred to in subsection (1) remain privileged information against any other party as information between attorney and client, despite having been made available to Legal Aid South Africa. 15

Recovery of costs by Legal Aid South Africa

20. (1) Whenever in any judicial proceedings or any dispute in respect of which legal aid is rendered to a litigant or other person by Legal Aid South Africa, costs become payable to that litigant or other person in terms of a judgment of the court or a settlement or otherwise, it is, subject to the powers of the Board referred to in section 4 with regard to the fixing of conditions, deemed that the litigant or other person has ceded his or her rights to those costs to Legal Aid South Africa. 20

(2) A litigant or person referred to in subsection (1) or his or her legal representative or Legal Aid South Africa must, at any time before payment of the costs deemed in terms of subsection (1) to be ceded to Legal Aid South Africa, whether before or after those costs become payable, give the person by whom the costs are to be paid at his or her last known address and the registrar or clerk of the court concerned notice in writing that legal aid is being or has been rendered, and Legal Aid South Africa may proceed in its own name to have those costs taxed and to recover them, without being substituted on the record of the judicial proceedings concerned, if any, for the litigant in question. 30

(3) The costs referred to in subsection (1) must be calculated and the bill of costs concerned, if any, must be taxed or agreed as if the litigant or person to whom legal aid was rendered, had obtained the services of the legal representative acting on his or her behalf in the proceedings or dispute concerned, without the aid of Legal Aid South Africa. 35

Finances of Legal Aid South Africa

21. The funds of Legal Aid South Africa consist of—
(a) money appropriated by Parliament; and
(b) money received from any other source,
and must be budgeted for, managed and accounted for, in terms of the Public Finance Management Act. 40

CHAPTER 5

GENERAL PROVISIONS

Provision of legal aid by direction of courts in criminal matters

22. (1) A court in criminal proceedings may only direct that a person be provided with legal representation at state expense, if the court has— 45

- (a) taken into account—
- (i) the personal circumstances of the person concerned;
 - (ii) the nature and gravity of the charge on which the person is to be tried or of which he or she has been convicted, as the case may be; 50
 - (iii) whether any other legal representation at state expense is available or has been provided; and

(2) *Labour Relations Act, 1995 (Act No. 66 of 1995)*, mabapi le ditherisano ka dintlha tsa basebetsi e sebetsa ha dintlha le dipehelo tsa ho hira di hlwauwe ho latela ka moo ho hlalositsweng ka teng karolwaneng (1).

(3) Ditjeho tse ding le tse ding tse hlahellang tshebetsong ya karolo ena di ka sefete tekanyetso ya kabo ya Thuso ya Molao Afrika Borwa ho latela Molao wa Taolo ya Ditjhelete tsa Setjhaba. 5

Tshireletso ya menyetla ya mosebedisi maemong a itseng

19. (1) Mosebeletsi wa molao wa poraevete ya laetsweng ke Thuso ya Molao Afrika Borwa ho ka emela motho ya dumelletsehlang ho ka fumantshwa thuso ya molao ka tlasa Molao ona o tshwanetse ho nehelana ka tumello leseding le ditokomaneng tsa motho eo ho buang ka yena mona ka lebaka la ho ka hlahloba boleng ba mosebetsi o entsweng ke mosebeletsi wa molao wa poraevete, ha a kopuwa ke Thuso ya Molao Afrika Borwa. 10

(2) Lesedi le ditokomane tse hlalolang karolwaneng (1) e dula e le lesedi le sa fumaneheng kgahlano le mang kapa mang ka ha e le lesedi mahareng a mmuelli le mosebedisi, le ha dinehetsewe Thuso ya Molao Afrika Borwa. 15

Thuso ya Molao Afrika Borwa ho ka fumana ditjeho

20. (1) Ditsamaisong tse ding le tse ding tsa semolao kapa ngangisano e nngwe le e nngwe eo thuso ya molao e nehelwang motletlebi kapa motho e mong ke Thuso ya Molao Afrika Borwa, ditjeho dilefuwa ke motletlebi eo kapa motho e mong ho latela kahlolo ya lekgotla la dinyewe kapa tumellano ho latela matla a Lekgotla a hlalositsweng karolong 4 mabapi le ho ka lokisa maemo, ho nkuwang hore motletlebi kapa motho e mong o nehelane ka ditokelo tsa hae tsa ditjeho tse ho Thuso ya Molao Afrika Borwa. 20

(2) Motletlebi kapa motho ya hlalolang karolwaneng (1) kapa moemedi wa hae wa molao kapa Thuso ya Molao Afrika Borwa o tshwanetse ho nehela motho ya tlo lefuwa ditjeho aterese e tsejwang ya hae le morejistara kapa tlelaka ya lekgotla la dinyewe tsebiso e ngotsweng hore thuso ya molao e ya nehelwa kapa e nehetswe le hore Thuso ya Molao Afrika Borwa e ka tswela pele ka lebitso la yona ho ka fumantshwa ditjeho tseo le lekgetho la tsona ka ntle le ho ka fetolwa direktong tsa tsamaiso ya semolao bakeng la motletlebi eo ho buang ka yena mona, ho sa natse hore ke pele kapa ka morao hore ditjeo tseo di lefelle. 30

(3) Ditjeho tse hlalolang karolwaneng (1) ditshwanetse dibalwe mme ditjeho tsohle, e bang di le teng, ditshwanetse dikenyetse lekgetho kapa ho dumellanwe ka ha e ka motletlebi kapa motho ya ileng a nehelwa thuso ya molao, o ile a fumantshwa ditshebeletso tsa moedi wa molao ya ileng a moemela ditsamaisong kapa ngangisanong e hlalolang mona, ka ntle le ho ka thuswa ke Thuso ya Molao Afrika Borwa. 35

Ditjhelete tsa Thuso ya Molao Afrika Borwa

21. Matlole a Thuso ya Molao Afrika Borwa a akga—

(a) tjhelete e abuweng ke Palamente; le

(b) tjhelete e fumanweng mehloding e meng, 40

mme e tshwanetse e kenyetsewe tekanyetsong, e laolwe le ho nkuwa maikarabelo bakeng la yona ho latela Molao wa Taolo ya Tjhelete ya Setjhaba.

KGAOLO 5

PHANO KA KAKARETSO

Phano ya thuso ya molao ka taelo ya lekgotla la molao dintlheng tsa tshenyo 45

22. (1) Lekgotla la dinyewe ntlheng ya tshenyo le ka laela hore motho a ka nehelwa moemedi wa molao ka ditshenyehelo tsa mmuso, e bang lekgotla le—

(a) nahanne ka—

(i) maemo a motho eo ho buang ka yena;

(ii) mofuta wa qososo eo motho a e qosetswang kapa a e qoseditsweng; 50

(iii) hore na kemedi ya molao ka ditshenyehelo tsa mmuso e a fumaneha kapa e nehetswe; le

- (iv) any other factor which in the opinion of the court should be taken into account; and
- (b) subject to subsection (3), referred the matter, together with any report the court may consider necessary, for the attention of Legal Aid South Africa, for evaluation and report by Legal Aid South Africa and Legal Aid South Africa has made a recommendation whether or not the person concerned qualifies for legal representation, as provided for in subsection (2)(c)(i). 5
- (2) (a) If a court refers a matter in terms of subsection (1)(b), Legal Aid South Africa must, in accordance with the regulations made under section 23(1) and the Legal Aid Manual, evaluate and report on the matter. 10
- (b) The report in question must be in writing and be submitted to the registrar or the clerk of the court, as the case may be, who must make a copy thereof available to the court and the person concerned.
- (c) The report must include—
- (i) a recommendation whether or not the person concerned qualifies for legal representation; 15
- (ii) particulars relating to the factors referred to in subsection (1)(a)(i) and (iii); and
- (iii) any other factor which, in the opinion of Legal Aid South Africa, should be taken into account. 20
- (3) A court may only refer a matter in terms of subsection (1)(b) if the person concerned—
- (a) (i) has applied to Legal Aid South Africa for legal representation at state expense; 25
- (ii) has been refused legal representation at state expense by Legal Aid South Africa; and
- (iii) has exhausted his or her internal right to appeal within the structures of Legal Aid South Africa against the refusal;
- (b) has applied for legal representation and has not received any response to the application within a reasonable time; or 30
- (c) has been refused legal representation at state expense by Legal Aid South Africa and the court is of the opinion that there are particular circumstances that need to be brought to the attention of Legal Aid South Africa by the court in a report referred to in subsection (1)(a)(ii).
- (4) (a) Any decision by Legal Aid South Africa in any criminal proceedings relating to— 35
- (i) the particular legal practitioner to be assigned to any person;
- (ii) the fee to be paid by Legal Aid South Africa to a particular practitioner;
- (iii) the number of legal practitioners to be assigned to a particular person or group of persons; or 40
- (iv) the contribution, if any, to be paid to Legal Aid South Africa by the persons in question and when and the manner in which the fee is to be paid,
- is subject to review by the High Court at the instance of the person affected thereby.
- (b) Legal Aid South Africa may, in any review proceedings referred to in paragraph (a)(ii), not be required to pay more than the maximum amounts determined in the Legal Aid Manual in terms of section 24(1)(c). 45
- (5) Only a court in review proceedings may make an order relating to the matters referred to in subsection (4).
- (6) In determining whether any person is entitled to legal representation at state expense and before any court orders the provision of legal representation at state expense, the legal aid applicant bears the onus of showing, on a balance of probabilities, that he or she— 50
- (a) is unable to afford the cost of his or her own legal representation;
- (b) has made a full disclosure of all relevant facts and documents pertaining to his or her inability to pay for his or her own legal representation; 55
- (c) has a lifestyle that is consistent with his or her alleged inability to afford the cost of his or her own legal representation; and
- (d) has cooperated fully with any investigation conducted by Legal Aid South Africa.
- (7) No accused person may receive legal representation at state expense if that person has applied for the release of an amount for reasonable legal expenses in terms of section 60

- (iv) ntlha e nngwe le e nngwe e le mohopolong wa lekgotla hore e nahaniswe; le
- (b) ho latela karolwana (3), e fetiseditseng ntlha ena, mmoho le tlaleho eo lekgotla le nahanang e le bohlokwa ho Thuso ya Molao Afrika Borwa, bakeng la Thuso ya Molao ho ka hlahloba le ho tlaleha mme Thuso ya Molao Afrika Borwa e nehelane ka kgothaletso ho sa natse hore motho ya hlalolang mona a ka nehelwa kemedi ya molao, jwalo ka ha ho hlalositse karolwaneng (2)(c)(i). 5
- (2) (a) E bang lekgotla le lebisa ntlha ho latela karolwana (1)(b), Thuso ya Molao Afrika Borwa e tshwanetse e hlahlobe le ho tlaleha ntlha eo, e ipapisitse le melao e entsweng ka tlasa karolo 23(1) le Bukana ya Thuso ya Molao. 10
- (b) Tlaleho e hlalolang mona e tshwanetse e be e ngotsweng mme e nehelwe morejistara kapa tlelereke ya lekgotla, ya tshwanetseng ho etsa khophi e tla fumaneha bakeng la lekgotla le motho ya hlalolang mona.
- (c) Tlaleho e tshwanetse ho akga— 15
- (i) kgothaletso ho sa natse hore na motho ya hlalolang mona a ka nehelwa kemedi ya molao;
- (ii) dintlha tse amanang le tse hlalositsweng karolwaneng (1)(a)(i) le (iii); le
- (iii) ntlha e nngwe le e nngwe, ho latela mohopolo wa Thuso ya Molao Afrika Borwa, e tshwanetse e nkuwe. 20
- (3) Lekgotla le ka lebisa ntlha ho latela karolwana (1)(b) ha feela motho ya hlalolang mona—
- (a) (i) a entse kopo ho Thuso ya Molao Afrika Borwa bakeng la kemedi ya molao ka ditjeho tsa mmuso;
- (ii) ha Thuso ya Molao Afrika Borwa e mohanetse ka kemedi ya molao ka ditjeho tsa mmuso; le 25
- (iii) ha a se a qetile ditokelo tsa hae tsa ka hare tsa ho ipiletsa ka hare ho Thuso ya Molao Afrika Borwa kgahlano le ho hanelwa;
- (b) o entse kopo bakeng la kemedi ya molao mme ha a so fumantshwe karabo nakong e utlwahalang; kapa 30
- (c) o hanetswe ho ka nehelwa kemedi ya molao ka ditjeho tsa mmuso ke Thuso ya Molao Afrika Borwa mme lekgotla le na le mohopolo wa hore ho na le maemo a hlokang ho ka ehliswa Thuso ya Molao Afrika Borwa ke lekgotla ka tlaleho e hlalolang karolwaneng (1)(a)(ii).
- (4) (a) Qeto e nngwe le e nngwe ya Thuso ya Molao Afrika Borwa tsamaisong e nngwe le e nngwe ya bosenyi e amanang le— 35
- (i) mosebeletsi wa molao ya tla nehelwa ho motho e mong le e mong;
- (ii) tefello e ka lefellowang ke Thuso ya Molao Afrika Borwa ho mosebeletsi ya itseng;
- (iii) palo ya basebeletsi ba molao ho ka nehelwa motho kapa sehlopha sa batho ba itseng; kapa 40
- (iv) tefello, e bang e le teng, ho ka lefella Thuso ya Molao Afrika Borwa ke motho ya hlalolang mona, le hore neng ha mmoho le mokgwa oo tefello e tlo etswa ka teng,
- e tla shebisiswa ke Lekgotla le Phahameng la dinyewe bakeng la motho ya amehang. 45
- (b) Thuso ya Molao Afrika Borwa ho ka etsahala le se lefelle tefello e phahameng e hlwauweng Bukaneng ya Thuso ya Molao ho latela karolo 24(1)(c), tsamaisong e hlalositsweng serapeng (a)(ii) ya ho shebisiswa botjha.
- (5) Lekgotla le shebisisang botjha ke lona feela le ka nehelanang ka taelo e amanang le dintlha tse hlalolang karolwaneng (4). 50
- (6) Ka ho hlwaya hore motho e mong le emong o na le bohona ba ho ka fumantshwa moemedi wa molao ka ditjeho tsa mmuso le pele lekgotla le leng le le leng le nehelana ka taelo ya nehelano ya moemedi wa molao ka ditjeho tsa mmuso, mokopi wa thuso ya molao o tshwanetse ho bontsha, ka kgonahalo ya nnete, hore—
- (a) ha a kgone ho ka lefella ditjeho tsa moemedi wa hae wa molao; 55
- (b) o nehelane ka dintlha le ditokomane tsohle tse mabapi le ho se kgone ho lefella moemedi wa hae wa molao;
- (c) o phela ho latela ho se kgone ho lefella ditjeho tsa hae tsa moemedi wa molao; mme
- (d) o bile le tshebedisano mmoho dipatlisisong tse ding le tse ding tsa Thuso ya Molao Afrika Borwa. 60
- (7) Ha ho moqosuwa ya ka fumantshwang moemedi wa molao ka ditjeho tsa mmuso e bang motho eo a entse kopo ya ho ntshwa ha tjelete bakeng la ditjeo tsa molao ho

44(1)(b) of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), and where the court has turned down the application due to a lack of a full disclosure as required in terms of section 44(2)(b) of that Act.

Regulations

- 23.** (1) The Minister must, after receipt of recommendations of the Board, make regulations relating to— 5
- (a) the types of matters, both civil and criminal, in respect of which Legal Aid South Africa—
 - (i) provides legal aid;
 - (ii) does not provide legal aid; and 10
 - (iii) provides limited legal aid and the circumstances in which it does so;
 - (b) the requirements or criteria that an applicant must comply with in order to qualify for legal aid, as well as the terms and conditions on which such legal aid is made available to the applicant;
 - (c) the policy relating to the approval or refusal of legal aid, the termination of legal aid and appeals against such refusal or termination of legal aid; and 15
 - (d) any matter which it is necessary or expedient to prescribe for the proper implementation or administration of this Act.
- (2) Any regulations made under subsection (1) must, before publication thereof in the *Gazette*, be tabled in Parliament by the Minister for approval. 20
- (3) The regulations made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding one year.

Legal Aid Manual

- 24.** (1) The Board must compile, amend and approve a Legal Aid Manual and must at least every second year review the Legal Aid Manual relating to— 25
- (a) the procedures in terms of which applications for legal aid are administered;
 - (b) the systems and methods whereby legal aid is delivered;
 - (c) the requirements and criteria for the accreditation of private legal practitioners who render legal services to legal aid recipients on the instructions of Legal Aid South Africa and the terms and conditions subject to which such instructions are allocated to accredited legal practitioners, including the fees and disbursements that are payable by Legal Aid South Africa to accredited legal practitioners, taking into consideration the salary scales applicable to the public service; and 30
 - (d) the regulation of any other administrative matter which the Board deems necessary for the effective and efficient functioning of Legal Aid South Africa. 35
- (2) The Board must submit the Legal Aid Manual and any amendment thereof to the Minister who must—
- (a) table the Legal Aid Manual and any amendment thereof in Parliament; and 40
 - (b) simultaneously give notice thereof by notice in the *Gazette*.
- (3) The Legal Aid Manual and any amendment thereof takes effect 60 days after the publication of the notice referred to in subsection (2)(b) and is binding on all persons and organisations providing legal aid assistance in terms of this Act. 45
- (4) The Board must publish the Legal Aid Manual and any amendments thereof on its website and a copy thereof must be available for inspection at all offices of Legal Aid South Africa.

Amendment or repeal of laws

- 25.** (1) The laws mentioned in the second column of the Schedule are amended or repealed to the extent indicated in the third column thereof. 50

latela karolo 44(1)(b) ya *Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998)*, le moo lekgotla le hanneng kopo ka lebaka la ho se nehelane ka dintlha tse phethahetseng jwalo ka ha ho hlokahala karolong 44(2)(b) ya Molao.

Melao

23. (1) Ka mora ho fumana dikgothaletso tsa Lekgotla, Letona le tshwanetse ho etsa melao e amanang le— 5

- (a) mefuta ya dintlha, ya setjhaba le ya bosenyi, moo Thuso ya Molao Afrika Borwa—
 - (i) e nehelanang ka thuso ya molao;
 - (ii) e sa nehelaneng ka thuso ya molao; le 10
 - (iii) ho nehelana ka thuso e kgutsufaditsweng ya molao le maemo a teng;
- (b) ditlhoko kapa mokgwa oo mokopi a tshwanetseng ho ikamahanya le ona ho ka nehelwa thuso ya molao ha mmoho le dintlha le dipehelo tseo thuso eo ya molao e bang teng bakeng la mokopi;
- (c) pholisi e amanang le phumaneho kapa ho hanwa ha phano ya thuso ya molao, ho kgaolwa ha thuso ya molao le boipiletso kgahlano le ho hanwa kapa ho kgaolwa ha thuso ya molao; le 15
- (d) ntlha e nngwe le e nngwe e bohlokwa kapa e hlokahalang ho ka hlalosa ho kenngwa tshebetsong ho lokileng kapa tsamaiso ya Molao ona.

(2) Melao e meng le e meng e entsweng ka tlasa karolwana (1) e tshwanetse e tekwe Palamenteng ke Letona bonyane matsatsi a 30 pele e phatlalatswa *Gazetteng*. 20

(3) Melao e entsweng ka tlasa karolwana (1) e ka nehelana ka hore motho e mong le e mong ya tlolang molao ona kapa ya sa ipapising le ona o molato wa ho tlola molao mme a ka lefiswa kapa a kwallwa bakeng la nako e sa feteng selemo.

Bukana ya Thuso ya Molao 25

24. (1) Lekgotla le tshwanetse le kopanye, fetole le ho dumela Bukana ya Thuso ya Molao mme le tshwanetse le shebisise botjha Bukana ya Thuso ya Molao bonyane selemong se seng le se seng sa bobedi mabapi le—

- (a) ditsamaiso ho latela mokgwa oo dikopo tsa thuso ya molao disebeletswang ka teng; 30
- (b) mekgwa le ditsela tseo thuso ya molao e nehelwang ka yona;
- (c) ditlhokeho le mokgwa bakeng la tumello ya basebeletsi ba molao ba poraevete ba nehelanang ka ditshebeletso tsa molao ho baamohedi ba thuso ya molao ka taelo ya Thuso ya Molao Afrika Borwa le ka dintlha le dipehelo ha feela ditaello tseo dinehelwa basebeletsi ba molao ba dumelletsweng, ho 35
kenyeleditswe ditjhelete le ditjeho tse lefuwang ke Thuso ya Molao Afrika Borwa ho basebeletsi ba molao ba dumelletsweng, ho nahannwe le ka meputso e amehang ya tshebeletso ya setjhaba; le
- (d) taolo ya ntlha e nngwe le e nngwe ya tsamaiso eo Lekgotla le e boneng e le ya bohlokwa bakeng la tshebetso e phethahetseng ya Thuso ya Molao Afrika 40
Borwa.

(2) Lekgotla le tshwanetse le nehelane ka Bukana ya Thuso ya Molao le diphetoho tsa teng ho Letona ya tshwanetseng ho—

- (a) teka Bukana ya Thuso ya Molao le diphetoho tse ding le tse ding Palamenteng; le 45
- (b) ka nako e le nngwe, ho nehelana ka tsebiso, ka tsebiso *Gazetteng*.

(3) Bukana ya Thuso ya Molao le phetoho e nngwe le e nngwe e kena tshebetsong matsatsing a 60 ka mora phatlalatsa ya tsebiso e hlalositsweng karolwaneng (2)(b) mme e tlama batho bohle le mekgahlo e nehelanang ka thuso ya molao ho latela Molao ona.

(4) Lekgotla le tshwanetse ho phatlalatsa Bukana ya Thuso ya Molao le diphetoho dife kapa dife websaeteng ya teng mme khopi ya tsona e tshwanetse ho ba teng bakeng la hlahlobo diofising tsohle tsa Thuso ya Molao Afrika Borwa. 50

Phetoho kapa tlhakolo ya melao

25. (1) Melao e hlalositse Shejuleng e fetotswe kapa e hlakotswe mme e bontshitswe kholomong ya boraro. 55

(2) Any reference to “the Legal Aid Act, 1969 (Act No. 22 of 1969)” in any law must, with the changes as may be required by the context, be construed as a reference to “the Legal Aid South Africa Act, 2014”.

(3) Any reference to “the Legal Aid Board” in any law must, with the changes as may be required by the context, be construed as a reference to “the Board” established under section 2 of this Act. 5

Transitional arrangements

26. (1) (a) Any person who, immediately before the commencement of this Act, held an office in terms of section 4(1) of the Legal Aid Act, 1969 (Act No. 22 of 1969), is deemed to have been appointed in terms of this Act, and remains in that office for a period of 12 months after the commencement of this Act. 10

(b) The persons referred to in paragraph (a), the chief executive officer referred to in paragraph (c) and the three persons referred to in paragraph (d) must, within the 12 month period referred to in paragraph (a), facilitate the composition and appointment of a Board as provided for in section 6. 15

(c) Despite paragraph (a), the chief executive officer of Legal Aid South Africa holding office at the time of the commencement of this Act is deemed to be a member of the Board for the 12 month period referred to in paragraph (a), who is thereafter eligible for appointment in terms of section 15.

(d) Despite paragraph (a), the Board, as constituted by virtue of paragraphs (a) and (c), must, as soon as possible after the commencement of this Act, but not later than three months thereafter, nominate the three persons referred to in section 6(1)(d) for purposes of appointment by the Minister in terms of that section for the 12 month period referred to in paragraph (a), who are thereafter eligible for appointment in terms of that section. 20

(e) The Minister must, as soon as possible after the commencement of this Act, but not later than three months thereafter, designate one of the persons referred to in paragraph (a) as deputy chairperson of the Board for the 12 month period referred to in paragraph (a). 25

(2) Any person who, immediately before the commencement of this Act, was employed by the Board under the Legal Aid Act, 1969 (Act No. 22 of 1969), continues in that employment and is deemed to have been appointed in terms of this Act. 30

(3) Anything done in terms of a law repealed by section 25 and which could have been done in terms of this Act is regarded as having been done in terms of this Act.

(4) (a) Subject to paragraph (b), all measures which, immediately before the commencement of this Act, were in operation and applied to office-bearers, officers, employees and agents of Legal Aid South Africa, including measures regarding their remuneration, pension, leave and any other terms and conditions of service, continue in operation and apply until they are amended or repealed by this Act. 35

(b) No measure referred to in paragraph (a) may, except in accordance with an applicable law or agreement, be changed in a manner which affects those office-bearers, officers, employees and agents of Legal Aid South Africa to their detriment. 40

(5) All assets, rights, liabilities and obligations which, immediately before the commencement of this Act, vested in the Legal Aid Board under the Legal Aid Act, 1969 (Act No. 22 of 1969), pass to Legal Aid South Africa established under this Act on the date of commencement of this Act. 45

(6) (a) The Legal Aid Guide in force on the date of commencement of this Act remains in force until it is withdrawn and replaced by regulations made under section 23(1) and the Legal Aid Manual referred to in section 24(1).

(b) The first regulations and Legal Aid Manual referred to in paragraph (a) must be made and published within 24 months after the commencement of this Act. 50

Short title and commencement

27. This Act is called the Legal Aid South Africa Act, 2014, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Tebiso e nngwe le e nngwe ho “*Legal Aid Act, 1969 (Act No. 22 of 1969)*” molao o mong le o mong o tshwanetse ho, ka diphetoho tse hlokwang ke sengolwa, o nkuwe e le tebiso ho “Molao wa Thuso ya Molao Afrika Borwa, 2014”.

(3) Tebiso e nngwe le e nngwe ho “Lekgotla la Thuso ya Molao” molaong o mong le o mong o tshwanetse ho, ka diphetoho tse hlokwang ke sengolwa, e nkuwe e le tebiso ho “Lekgotla” le theuweng ka tlasa karolo 2 ya Molao ona. 5

Ditlhophiso tse bohareng

26. (1) (a) Motho e mong le e mong ya keneng ofising pele Molao ona o kena tshebetsong ho latela karolo 4(1) ya *Legal Aid Act, 1969 (Act No. 22 of 1969)*, o nkuwa a thontswe ho latela Molao ona mme o tla tswelapele ka mosebetsi bakeng la dikgwedi tse 12 ka mora hore Molao ona o kene tshebetsong. 10

(b) Batho ba hlahoswang serapeng (a), mohlanka e moholo wa phethahatso ya hlahoswang serapeng (c) le batho ba bararo ba hlahoswang serapeng (d) ba tshwanetse ba tsamaise popo le ho thonngwa ha Lekgotla jwalo ka ha ho hlahositswe karolong 6 nakong ya dikgwedi tse 12 tse hlahositsweng serapeng (a). 15

(c) Ho sa natse serepa (a), mohlanka e moholo wa phethahatso wa Thuso ya Molao Afrika Borwa ya tshebetsong ho tloha ka nako ya qaleho ya Molao ona o nkuwa e le setho sa Lekgotla bakeng la dikgwedi tse 12 jwalo ka ha ho hlahositswe serapeng (a), mme a ka kgethwa hape ho latela karolo 15.

(d) Ho sa natse serapa (a), Lekgotla, jwalo ka ha ho hlahositswe serapeng (a) le (c) le tshwanetse le thonye batho ba bararo ba hlahositsweng karolong 6(1)(d), ka pele ka moo ho kgonehang ka mora qaleho ya Molao ona, bakeng la ho ka thonngwa ke Letona ho latela karolo eo, bakeng la nako ya dikgwedi tse 12 e hlahoswang serapeng (a), bao ka mora moo ba ka thonngwang ho latela dintlha tsa karolo eo. 20

(e) Letona le tshwanetse ho kgetha motho a le mong ya hlahositsweng serapeng (a) ho ba motlatsi wa modulasetulo wa Lekgotla nakong ya dikgwedi tse 12 jwalo ka ha ho hlahositswe serapeng (a), ka potlako ka moo ho ka kgonahalang ka teng ka mora qaleho ya Molao ona, empa e seng ka mora dikgwedi tse tharo. 25

(2) Motho e mong le e mong, pele ho qaleho ya Molao ona, ya neng a hirilwe ke Lekgotla ka tlasa *Legal Aid Act, 1969 (Act No. 22 of 1969)*, o tswela pele ka tshebetso mme o nkuwa a thontswe ho latela Molao ona. 30

(3) Ntho e nngwe le e nngwe e etswang ho latela molao o hlakotsweng ke karolo 25 le o neng o ka etswa ho latela Molao ona o nkuwa o entswe ho latela Molao ona.

(4) (a) Mabapi le serapa (b), metjha yohle eo, pele ho qaleho ya Molao ona, e neng e le tshebetsong mme e sebetsa ho ba ofising, diofisiri, basebetsi kapa baemedi ba Thuso ya Molao Afrika Borwa, ho kenyeletse metjha mabapi le meputso, phenshene, matsatsi a phomolo le dintlha le diphelelo tse ding le tse ding tsa tshebetso, e tswela pele ho sebetsa ho fihlella e fetolwa kapa e hlakolwa ke Molao ona. 35

(b) Ha ho tekanyo e hlahoswang serapeng (a) e ka fetolwang ka mokgwa o ka amang ba ofising, diofisiri, basebetsi le baemedi ba Thuso ya Molao Afrika Borwa tahlehelong ya bona, ntle le boipapisong le molao o amehang le tumellano. 40

(5) Thepa yohle, ditokelo, mekitlane le ditlamo tse, pele ho qaleho ya Molao ona, nehetsweng Lekgotla la Thuso ya Molao ka tlasa *Legal Aid Act, 1969 (Act No. 22 of 1969)*, e fetisetswa ho Thuso ya Molao Afrika Borwa e theuweng ka tlasa Molao ona ka letsatsi la qaleho ya Molao ona. 45

(6) (a) Tataiso ya Thuso ya Molao e tshebetsong ka letsatsi la qaleho ya Molao ona e dula e le tshebetsong ho fihlella e fetolwa ka molao o entsweng ka tlasa karolo 23(1) le Bukana ya Thuso ya Molao e hlahoswang karolong 24(1). 50

(b) Molao ya pele le Bukana ya Thuso ya Molao e hlahoswang serapeng (a) ditshwanetse di etswe di be di phatlalatswe dikgweding tse 24 ka mora qaleho ya Molao ona.

Sehlooho se sekgutshwane le qaleho

27. Molao ona o bitswa Thuso ya Molao Afrika Borwa, 2014, mme o kena tshebetsong ka letsatsi leo Mopresidente a phatlaladitseng ka lona *Gazetteng*.

SCHEDULE

LAWS AMENDED OR REPEALED

Number and year of law	Title	Extent of amendment or repeal
Act No. 22 of 1969	Legal Aid Act, 1969	The repeal of the Act.
Act No. 51 of 1977	Criminal Procedure Act, 1977	<p>1. The amendment of section 73 by the substitution in subsection (2C) for the words “the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “the Legal Aid South Africa Act, 2014”.</p> <p>2. The amendment of section 77 by the substitution in subsection (1A) for the words “in terms of section 3B of the Legal Aid Amendment Act, 1996 (Act No. 20 of 1996) of the words “in terms of section 22 of the Legal Aid South Africa Act, 2014”.</p> <p>3. The amendment of section 143 by the substitution in subsection (2)(a) for the words “the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “the Legal Aid South Africa Act, 2014”.</p> <p>4. The amendment of section 309D by the substitution in subsection (3) for the words “the Legal Aid Board referred to in section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “Legal Aid South Africa referred to in section 2 of the Legal Aid South Africa Act, 2014”.</p>
Act No. 53 of 1979	Attorneys Act, 1979	<p>1. The amendment of section 1 by—</p> <p>(a) the substitution in paragraph (b) of the definition of “community service” for the words “the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “Legal Aid South Africa established under section 2 of the Legal Aid South Africa Act, 2014”; and</p> <p>(b) the substitution in paragraph (c) of the definition of “principal” for the words “the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “Legal Aid South Africa established under section 2 of the Legal Aid South Africa Act, 2014”.</p> <p>2. The amendment of section 3 by—</p> <p>(a) the substitution in subsection (1)(fA) for the words “the Legal Aid Board” of the words “Legal Aid South Africa” and for the substitution of the words “the Legal Aid Board” of the words “Legal Aid South Africa”; and</p> <p>(b) the substitution in subsection (1)(i)(i) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p> <p>3. The amendment of section 4A by the substitution in paragraph (c) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p>

SHEJULE

MELAO E LOKISITSWENG KAPA E HLAKOTSWENG

Palo le selemo sa molao	Shekho	Boholo ba tokiso kapa tlhakolo
Wet No. 22 van 1969	Wet op Regshulp, 1969.	Die herroeping van die Wet.
Wet 51 van 1977	Strafproseswet, 1977	<p>1. Die wysiging van artikel 73 deur in subartikel (2C) die woorde “die Wet op Regshulp, 1969 (Wet No. 22 van 1969)”, te vervang deur die woorde “the <i>Legal Aid South Africa Act, 2014</i>”.</p> <p>2. Die wysiging van artikel 77 deur in subartikel (1A) die woorde “ingevolge artikel 3 van die Wysigingswet op Regshulp, 1996 (Wet No. 20 van 1996)”, deur die woorde “ingevolge artikel 3 van die <i>Legal Aid South Africa Act, 2014</i>” te vervang.</p> <p>3. Die wysiging van artikel 143 deur in subartikel (2)(a) die woorde “die Wet op Regshulp, 1969 (Wet No. 22 van 1969)”, te vervang deur die woorde “the <i>Legal Aid South Africa Act, 2014</i>”.</p> <p>4. Die wysiging van artikel 309D deur in subartikel (3) die woorde “die Regshulpraad bedoel in artikel 2 van die Wet op Regshulp, 1969 (Wet No. 22 van 1969)”, te vervang deur die woorde “Regshulp Suid-Afrika bedoel in artikel 2 van die <i>Legal Aid South Africa Act, 2014</i>”.</p>
Wet No. 51 van 1977	Wet op Prokureurs, 1979	<p>1. Die wysiging van artikel 1 deur—</p> <p>(a) in paragraaf (b) van die omskrywing van “gemeenskapsdiens” die woorde “die Regshulpraad ingestel kragtens artikel 2 van die Wet op Regshulp, 1969 (Wet No. 22 van 1969)”, te vervang deur die woorde “Regshulp Suid-Afrika ingestel by artikel 2 van die <i>Legal Aid South Africa Act, 2014</i>”; en</p> <p>(b) in paragraaf (c) van die omskrywing van “prinsipaal” die woorde “die Regshulpraad ingestel by artikel 2 van die Wet op Regshulp, 1969 (Wet No. 22 van 1969)”, te vervang deur die woorde “Regshulp Suid-Afrika ingestel by artikel 2 van die <i>Legal Aid South Africa Act, 2014</i>”.</p> <p>2. Die wysiging van artikel 3 deur—</p> <p>(a) in subartikel (1)(fA) die woorde “die Regshulpraad” te vervang deur die woorde “Regshulp Suid-Afrika” en deur die woorde “die Regshulpraad” te vervang deur die woorde “Regshulp Suid-Afrika”; en</p> <p>(b) in subartikel (1)(i)(i) die woorde “die Regshulpraad” deur die woorde “Regshulp Suid-Afrika” te vervang.</p> <p>3. Die wysiging van artikel 4A deur in paragraaf (c) die woorde “die Regshulpraad” deur die woorde “Regshulp Suid-Afrika” te vervang.</p>

Number and year of law	Title	Extent of amendment or repeal
		<p>4. The amendment of section 6 by the substitution in subsection (3)(b) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p> <p>5. The amendment of section 8 by the substitution in subsection (4)(a) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p>
Act No. 66 of 1995	Labour Relations Act, 1995	<p>1. The amendment of subsection (1) of section 149 by—</p> <p>(a) the substitution in paragraph (a) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”; and</p> <p>(b) the substitution in paragraph (b) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p>
Act No. 4 of 2000	Promotion of Equality and Prevention of Unfair Discrimination Act, 2000	<p>1. The amendment of section 30 by the substitution in subsection (1)(c) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p>
Act No. 17 of 2002	Mental Health Act, 2002	<p>1. The amendment of section 15 by the substitution in subsection (2) for the words “section 3(d) of the Legal Aid Act, 1969” of the words “section 4(1)(e) of the Legal Aid South Africa Act, 2014”.</p>
Act No. 38 of 2005	Children’s Act, 2005	<p>1. The amendment of section 55 by the substitution in subsection (1) for the words “the Legal Aid Board referred to in section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969)” of the words “Legal Aid South Africa referred to in section 2 of the Legal Aid South Africa Act, 2014”.</p>
Act No. 75 of 2008	Child Justice Act, 2008	<p>1. The amendment of section 1 by the deletion of the definition of “Legal Aid Board”.</p> <p>2. The amendment of section 1 by the insertion of the following definition:</p> <p>“ ‘Legal Aid South Africa’ means the entity referred to in section 2 of the <u>Legal Aid South Africa Act, 2014</u>”.</p> <p>3. The amendment of section 80 by the substitution in subsection (2) for the words “in the case where the legal representative concerned has been employed by the Legal Aid Board, the Board; or” of the words “in the case where the legal representative concerned has been employed by Legal Aid South Africa, the Board of Directors of Legal Aid South Africa; or”.</p>

Palo le selemo sa molao	Sehlooho	Boholo ba tokiso kapa tlhakolo
		<p>4. Die wysiging van artikel 6 deur in subartikel (3)(b) die woorde “die Regshulpraad” deur die woorde “Regshulp Suid-Afrika” te vervang.</p> <p>5. Die wysiging van artikel 8 deur in subartikel (4)(a) die woorde “die Regshulpraad” te vervang deur die woorde “Regshulp Suid-Afrika”.</p>
Wet No. 66 van 1995	Wet op Arbeidsverhoudinge, 1995	<p>1. Die wysiging van subartikel (1) van artikel 149 deur—</p> <p>(a) in paragraaf (a) die woorde “die Regshulpraad” te vervang deur die woorde “Regshulp Suid-Afrika”; en</p> <p>(b) in paragraaf (b) die woorde “die Regshulpraad” te vervang deur die woorde “Regshulp Suid-Afrika”.</p>
uMthetho Ino.4 ka 2000	uMthetho weNkuthazo wokuPhatha ngoBulungisa, 2000	1. Ukuchibiyela isigaba sama-30 ngokufaka endaweni yesigatshana soku-(1)(c) emagameni “iBhodi labaMeli bakaHulumeni” amagama “AbaMeli baseNingizimu Afrika”.
UMthetho 17 ka-2002	i-Mental Health Act, ka-2002	1. Kwenziwa utshintsho kwisiqendu 15 ngokuthi kwisiqendwana (2) amazwi athi “isiqendu 3(d) se- <i>Legal Aid Act</i> , ka-1969” athatyathelw’ indawo ngamazwi athi “isiqendu 4(2)(e) se- <i>Legal Aid South Africa Act</i> ka-2014”.
uMthetho Ino. 38 ka 2005	uMthetho weZingane, 2005	1. Ukuchibiyela isigaba sama-55 ngokufaka esigatshaneni soku-(1) emagameni “iBhodi labaMeli bakaHulumeni avezwe esigabeni sesi-2 se- <i>Legal Aid Act, 1969 (Act No. 22 of 1969)</i> ” amagama “Abameli kakaHulumeni baseNingizimu Afrika abavezwe esigabeni sesi-2 se- <i>Legal Aid South Africa Act, 2014</i> ”.
Molao wa No. ya 75 wa 2008	Molao wa Bosiamisi jwa Bana, wa 2008	<p>1. Tlhabololo ya karolo ya 1 ka phimolo ya tlhaloso ya “Boto ya Thuso ya Semolao”.</p> <p>2. Tlhabololo ya karolo ya 1 ka go tsenngwa ga tlhaloso e e latelang:</p> <p>“<i>‘Legal Aid South Africa’</i> ke setheo se se <u>kailweng mo karolong 2 ya <i>Legal Aid South Africa Act, 2014</i></u>”.</p> <p>3. Tlhabololo ya karolo ya 80 ka go fetolwa mo karolwaneng ya (2) ga mafoko “mo ntlheng ya fa moemedi wa semolao yo o amegang a thapilwe ke Boto ya Thuso ya Semolao, Boto; kgotsa” go nna “mo ntlheng ya fa moemedi wa semolao yo o amegang a thapilwe ke <i>Legal Aid South Africa</i>, Boto ya Bakaedi ya <i>Legal Aid South Africa</i>; kgotsa”.</p>

Number and year of law	Title	Extent of amendment or repeal
		<p>4. The amendment of section 82 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Where a child appears before a child justice court in terms of Chapter 9 and is not represented by a legal representative of his or her own choice, at his or her own expense the presiding officer must refer the child to [the Legal Aid Board] Legal Aid South Africa for the matter to be evaluated by the Board as provided for in [section 3B(1)(b) of the Legal Aid Act, 1969 (Act No. 22 of 1969)] section <u>22(1)(b) of the Legal Aid South Africa Act, 2014.</u>”.</p> <p>5. The amendment of section 83 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) If a child referred to in subsection (1) does not wish to have a legal representative or declines to give instructions to an appointed legal representative, the court must enter this on the record of the proceedings and a legal representative must, subject to the provisions of the [Legal Aid Guide] Legal Aid Manual referred to in [section 3A of the Legal Aid Act, 1969 (Act No. 22 of 1969)] section <u>24(1) of the Legal Aid South Africa Act, 2014</u>, be appointed by [the Legal Aid Board] Legal Aid South Africa to assist the court in the prescribed manner.”.</p> <p>6. The amendment of section 89 by the substitution in subsection (5)(a) for the words “the Legal Aid Board” of the words “Legal Aid South Africa”.</p>

Palo le selemo sa molao	Sehlooho	Boholo ba tokiso kapa tlhakolo
		<p>4. Tlhabololo ya karolo ya 82 ka go fetolwa mo karolwaneng ya (1) ga karolwana e e latelang:</p> <p>“(1) Mo ngwana a tlhagelelang fa pele ga kgotlatshekelo ya bosiamisi jwa bana go ya ka Kgaolo ya 9 mme a sa emelwa ke moemedi wa semolao yo a itlhophetseng ena, motshwaramarapo ka ditshenyegelo tsa gagwe o tshwanetse go romela ngwana go [Boto ya Thuso ya Semolao] Legal Aid South Africa gore morero o sekasekiwe ke Boto jaaka go tlhagelela mo [karolong ya 3B(1)(b) ya Molao wa Thuso ya Semolao wa 1969 (Molao wa No. ya 22 wa 1969)] karolong 22(1)(b) ya Legal Aid South Africa Act, 2014.”.</p> <p>5. Tlhabololo ya karolo ya 83 ka go fetolwa mo karolwaneng ya (2) ga karolwana e e latelang:</p> <p>“(2) Fa ngwana yo o kailweng mo karolwaneng ya (1) a sa eletse go nna le moemedi wa semolao kgotsa a gana go neela ditaelo go moemedi yo o thapilweng wa semolao, kgotlatshekelo e tshwanetse go tsenya se mo rekhotong ya ditiragalo e bile moemedi wa semolao o tshwanetse, go ikaegilwe ka dikaelo tsa [Kaedi ya Thuso ya Semolao] Bukana ya Thuso ya Semolao e e kailweng mo [karolong ya 3A ya Legal Aid Act, 1969 (Molao wa No. ya 22 wa 1969)] karolong ya 24 (1) ya Molao wa Thuso ya Semolao wa 2014 go thapiwa ke [Boto ya Thuso ya Semolao] Legal Aid South Africa go thusa kgotlatshekelo ka mokgwa o o kailweng.”.</p> <p>6. Tlhabololo ya karolo ya 89 ka go fetolwa mo karolwaneng ya (5)(a) ga mafoko “Boto ya Thuso ya Semolao” go nna “<i>Legal Aid South Africa</i>”.</p>

