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THE PRESIDENCY

No. 228 **26 April 2021**

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

Act No. 5 of 2021: Auditing Profession Amendment Act, 2021

OFISI YA MOPRESIDENTE

No. 228 **26 April 2021**

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

Nomoro 5 ya 2021: Phetolo ya molao wa profeshene ya hlahlobo ya dibuka tsa Tjhelete, 2021

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(English text signed by the President)
(Assented to 23 April 2021)

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the Auditing Profession Act, 2005, so as to insert a definition; to strengthen the governance of the Regulatory Board; to strengthen the investigating and disciplinary processes; to provide for the power to enter and search premises and to subpoena persons with information required for an investigation or disciplinary process; to provide for the power to issue a warrant for purposes of entering and searching of premises; to provide for processes to be followed after an investigation; to provide for sanctions in admission of guilt process and following a disciplinary hearing; to provide for offences relating to investigation and disciplinary process; to provide for the protection and sharing of information; to provide for transitional measures; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 26 of 2005, as amended by section 1 of Act 2 of 2015

1. Section 1 of the the Auditing Profession Act, 2005 (hereinafter referred to as the “principal Act”), is hereby amended by the insertion in subsection (1) after the definition of “company” of the following definition: 5

“ **‘Constitution’** means the Constitution of the Republic of South Africa, 1996;”.

Amendment of section 4 of Act 26 of 2005

2. Section 4 of the principal Act is hereby amended by the addition of the following subsection: 10

“(3)(a) The Regulatory Board must determine a regulatory strategy for performing its functions in terms of subsection (1).

(b) The Regulatory Board must submit the regulatory strategy to the Minister for approval within three months after the date that the Auditing Profession Amendment Act, 2021, takes effect. 15

(c) The Minister—

- (i) may, after consulting the Regulatory Board, make amendments to the strategy referred to in paragraph (b); and
- (ii) must publish in the *Gazette* the approved regulatory strategy within six months after the date that the Auditing Profession Amendment Act, 2020, takes effect. 20

(English text signed by the President)
(Assented to 23 April 2021)

TLHALOSO KA KAKARETSO:

[] Mantswe a ka hara masakana a bontsha ho tlohelwa melaong e teng.
Mantswe a sehetsweng mola a bontsha ho kenngwa melao e teng.

MOLAO

Ho fetola Molao wa Profeshene ya Hlahlobo ya Dibuka tsa Tjhelete, wa 2005, ka ho kenya tlhaloso; ho matlafatsa puso ya Lekgotla la Bolaodi; ho matlafatsa tsamaiso ya dipatlisiso le kgalemelo; ho nehelana ka ho ka kena le ho fuputsa moaho le ho ka bitsa batho ba nang le lesedi le hloka halang bakeng la dipatlisiso kapa tsamaisong ya kgalemelo; ho nehelana ka matla a ho nehelana ka tumello bakeng la ho ka kena le ho fuputsa meaho; ho nehelana ka tsamaiso e fla salwa morao ka mora dipatlisiso; ho nehelana ka ditshitelo tse amanang le dipatlisiso le tsamaiso ya kgalemelo; ho nehelana ka tshireletso le ho arolelana lesedi; ho nehelana ka metjha ya nakwana; le ho nehelana ka dintlha tse amanang le tse mona.

HA E SE E NTSWE MOLAO ke Palamente ya Rephaboloki ya Afrika Borwa ka mokgwa o latelang:—

Phetolo ya karolo 1 ya Molao 26 wa 2005, jwalo ka ha o fetotswe ke karolo 1 ya Molao 2 wa 2015

1. Karolo 1 ya Molao wa Profeshene ya Hlahlobo ya Dibuka tsa Tjhelete, wa 2005 (o bitswang “Molao o ka sehloohong”) o fetotswe ka ho kenngwa ha karolwana (1) ka mora tlhaloso ya “khamphani” ka tlhaloso e latela:
“ ‘Molaotheo’ e hlalosa Molaotheo wa Rephaboliki ya Afrika Borwa, 1996;”.

Phetolo ya karolo 4 ya Molao 26 wa 2005

2. Karolo 4 ya Molao o ka sehloohong o fetotswe ka ho kenngwa ha karolwana e latelang:

“(3)(a) Lekgotla la Taolo le tshwanetse ho hlway] lewa la taolo bakeng la ho ka etsa mesebetsi ya lona ho latela karolwana (1).

(b) Lekgotla la Taolo le tshwanetse ho nehelana ka lewa la taolo ho Letona bakeng la ho ka dumellwa nakong ya dikgwedi tse tharo ka mora letsatsi la hore Molao wa Phetolo ya Profeshene ya Hlahlobo ya Dibuka tsa Tjhelete, 2021, o kene tshebetsong.

(c) Letona—

- (i) ka mora ho kopana le Lekgotla la Bolaodi, le ka e etsa diphetoho ho lewa le hlalolang temaneng (b); le
- (ii) le tshwanetse ho phatlalatsa lewa le dumelletsweng koranteng ya mmuso dikgweding tse tsheletseng ka mora letsatsi la ho kena tshebetsong ha Molao wa Phetolo ya Profeshene ya Hlahlobo ya dibuka tsa tjhelete.

(d) The Minister or the Regulatory Board may request an amendment to the regulatory strategy published in terms of paragraph (c) or a new regulatory strategy be determined in accordance with paragraph (c).”

Amendment of section 11 of Act 26 of 2005

3. Section 11 of the principal Act is hereby amended— 5

(a) by the substitution for subsection (2) of the following subsection:

“(2) The Minister must appoint competent persons **[, who must include registered auditors,]** who are independent of the auditing profession to effectively manage and guide the activities of the Regulatory Board, based on their knowledge and experience.”; 10

(b) by the insertion after subsection (2) of the following subsection:

“(2A) The members appointed in terms of subsection (2) must include—

(a) two persons with at least 10 years’ experience in auditing who were formerly registered as auditors; and 15

(b) two advocates or attorneys with at least 10 years’ experience in practicing law.”;

(c) by the substitution for subsection (4) of the following subsection:

“(4) **[Disregarding any vacancy in its membership, not more than 40% of the members of the Regulatory Board may be registered auditors]** None of the members appointed in terms of this section may be a registered auditor or registered candidate auditor.”; 20

(d) by—

(i) the deletion in subsection (7) of the word “and” at the end of paragraph (b); 25

(ii) the substitution in subsection (7) at the end of paragraph (c) for the expression “.” of the expression “; and”;

(iii) the addition in subsection (7) after paragraph (c) of the following paragraph:

“(d) the qualifications of every person appointed.”; and 30

(e) by the addition after subsection (7) of the following subsections:

“(8) No member may—

(a) share, directly or indirectly, in any of the profits or interests of a registered auditor or any person related to a registered auditor; or 35

(b) receive payments, excluding pension benefits, from a registered auditor.
(9) For purposes of subsection (8)(a), ‘related’ means persons who are connected to one another in any manner contemplated in section 2(1)(a) to (c), read with section 2(2), of the Companies Act, 2008 (Act No. 71 of 2008).”.

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Amendment of section 12 of Act 26 of 2005

4. Section 12 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A member of the Regulatory Board appointed in terms of section 11 holds office for such period, but not exceeding **[two] three** years, as the Minister may determine at the time of his or her appointment.”. 45

Amendment of section 14 of Act 26 of 2005

5. Section 14 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) The chairperson and deputy chairperson each hold office for a period of **[two] three** years from the date of their appointment.”. 50

(d) Letona kapa Lekgotla la Bolaodi le ka kopa phetolo ho lewa la bolaodi le phatlaladitsweng ho latela temana (c) kapa lewa le letjha la bolaodi le ka hlwauwa ho latela temana (c).”.

Phetolo ya karolo 11 ya Molao 26 wa 2005

3. Karolo 11 ya Molao o ka sehloohong o fetotswe— 5
- (a) ka ho fetola karolwana (2) ka karolwana e latelang:
- “(2) Letona le tshwanetse ho kgetha batho ba nang le bokgoni [**ba tshwanetseng ho akga bahlahlobi ba dibuka tsa tjhelete,**] **ba ikemetseng thoko ho profeshene ya bahlahlobi ba dibuka tsa tjhelete** ho ka tsamaisa le ho tataisa mesebetsi ya Lekgotla la Taolo ka tsebo le boiphihlelo ba bona.”;
- (b) ka ho kenya karolwana e latelang ka mora karolwana (2):
- “(2A) Ditho tse kgethuweng ho latela karolwana (2) ditshwanetse ho akga—
- (a) batho ba ba bedi ba neng ba ngodisitswe e le bahlahlobi ba dibuka tsa tjhelete mme ba na le bonyane boiphihlelo ba dilemo tse 10 hlahlobong ya dibuka tsa ditjhelete; le
- (b) Diatfokate kapa diakgente tse pedi tse nang le bonyane dilemo tse 10 di sebetsa ka molao.”;
- (c) ka ho fetola karolwana (4) ka karolwana: 20
- “(4) [**Ho se natse sekgeo se seng le se seng bothong ba yona, ditho tse sa feteng 40% tsa Lekgotla la Bolaodi e ka ba bahlahlobi ba dibuka tsa tjhelete ba ngodisitsweng**] Ditho tse sa thonngwang ho latela karolo ena e ka ba mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng.”;
- (d) ka—
- (i) ho hlakolwa ha lentswe “le” pheletsong ya karolwana (7)(b);
- (ii) phetolo karolwaneng (7) pheletsong ya temana (c) bakeng la polelo “.” ka polelo “; le”; le
- (iii) ho kenyeletso karolwaneng (7) ka mora temana (c) ka temana e latela: “(d) mangolo a motho e mong le e mong ya thontsweng.”; le
- (e) ka kenyeletso ka mora karolwana (7) ya karolwana e latelang:
- “(8) Ha ho setho se ka—
- (a) arolelana, ka ho otlooha kapa ka mokgwa o mong, phaellong e nngwe le e nngwe ya mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng; kapa
- (b) amohela ditefello ho tswa ho mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa ho moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng.
- (9) Bakeng la karolwana (8)(a) ‘mabapi’ e hlalosa batho ba amanang ka mokgwa o mong le o mong o hlalositweng karolong 2(1)(a) ho ya ho (c) e balwa mmoho le karolo 2(2) ya *Companies Act, 2008 (Act No. 71 of 2008)*.”.

Phetolo ya karolo 12 ya Molao 26 wa 2005

4. Karolo 12 ya Molao o ka sehloohong e fetotswe ka ho fetola karolwana (1) ya karolwana e latelang:
- “(1) Setho sa Lekgotla la Bolaodi se thontsweng ho latela karolo 11 se sebetsa bakeng la nako eo, empa e sa feteng dilemo tse [pedi] tharo, ka ha Letona le ka hlwaya ka nako ya ho thonngwa ha hae.”.

Phetolo ya karolo 14 ya Molao 26 wa 2005

5. Karolo 14 ya Molao o ka sehloohong o fetotsweka phetolo karolwaneng (1) bakeng la temana (b) ya temana e latelang:
- “(b) Modulasetulo le motlatsi wa modulasetulo ba kena ofising nako ya dilemo tse [pedi] tharo ho tloha letsatsing le ba thontsweng ka lona.”.

Amendment of section 19 and Act 26 of 2005

6. Section 19 of the principal Act is hereby amended—

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

“(b) in respect of sections 48, 48A, 48B, 49, 50, **[and] 51[,]** and 51B 5
with due regard to the varying nature and seriousness of matters arising
from these sections, in writing delegate or assign appropriate powers or
duties, and oblige the investigating, enforcement and disciplinary
committees to delegate or assign appropriate powers or duties to the chief
executive officer, any employee or any member of the Regulatory 10
Board.”; and

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

“(3) The powers and duties of the investigating, enforcement and
disciplinary committees referred to in sections 48A, 48B, 49, **[and] 50**
and 51B are deemed delegated and assigned by the Regulatory Board to 15
the committees and are subject to this section.”.

Amendment of section 20 of Act 26 of 2005

7. Section 20 of the principal Act is hereby amended—

(a) by the substitution in subsection (3) for paragraph (b) of the following 20
paragraph:

“(b) The Regulatory Board, subject to sections 21, 22 **[and]**, 24 and
24A and taking into account, amongst other factors, the need for
transparency and representivity within the broader demographics of the
South African population, may appoint any person as a member of a
committee, on such terms and conditions as the Regulatory Board may 25
determine.”; and

(b) by the substitution for subsection (5) of the following subsection:

“(5) Sections 15 and 16 relating to meetings and decisions of the
Regulatory Board, respectively, with the necessary changes apply in
respect of any committee[, **except that the committees must meet at** 30
least four times a year].”.

Substitution of section 24 of Act 26 of 2005

8. The following section is hereby substituted for section 24 of the principal Act:

“Investigating committee

24. (1) The investigating committee referred to in section 20(2)(e) 35
must be independent of the auditing profession and include—

(a) two persons with at least 10 years’ experience in auditing who were
formerly registered as auditors; and

(b) an advocate or attorney with at least 10 years’ experience in practicing 40
law.

(2) No member of the investigating committee may—

(a) share, directly or indirectly, in any of the profits or interests of a
registered auditor or any person related to a registered auditor; or

(b) receive payments, excluding pension benefits, from a registered 45
auditor.

(3) For purposes of subsection (2)(a) ‘related’ means persons who are
connected to one another in any manner contemplated in section 2(1)(a) to
(c), read with section 2(2), of the Companies Act, 2008 (Act No. 71 of
2008.”.

Phetolo ya karolo 19 ya Molao 26 wa 2005**6. Karolo 19 ya Molao o ka sehloohong o fetotswe—****(a) ka phetoho karolwaneng (1) bakeng la temana (b) ya temana e latelang:**

“(b) ho latela karolo 48, 48A, 48B, 49, 50, [le] 51[,] le 51B ho elelletswe mokgwa o fapaneng le bohlokwa ba dintlha tse hlahellang ho tswa dikarolong tseo, ka ho ngola thomo kapa ho nehelana ka matla kapa mesebetsi le ho kgontsha dipatlisiso, kenngo tshebetsong le dikomiti tsa kgalemelo ho roma kapa ho nehelana ka matla kapa mesebetsi ho mohlanga wa phethahatso ya ka sehloohong, mosebeletsi e mong le e mong kapa setho sefe kapa sefe sa Lekgotla la Bolaodi.”; le

(b) ka phetoho karolwaneng (3) ya karolwana e latelang:

“(3) Matla le mesebetsi ya dipatlisiso, kenngo tshebetsong le dikomiti tsa kgalemo tse hlahoswang karolong 48A, 48B, 49, [le] 50, le 51B di nkuwa e le thomo le ho nehelwa ke Lekgotla la Bolaodi ho dikomiti mme di tshwanetse ho ipapisa le karolo ena.”.

Phetolo ya karolo 20 ya Molao 26 wa 2005**7. Karolo 20 ya Molao o ka sehloohong e fetotswe—****(a) ka ho fetola karolwana (3) ka temana (b) ya karolwana e latelang:**

“(b) Ho ipapisitse le karolo 21, 22 [le], 24 le 24A le ho nahana, ka hara dintlha tse ding, bohlokwa ba ponaletso le kemelo dipalopalong tse phahlaletseng tsa setjhaba, le ka kgetha motho e mong le e mong ho ba setho sa komiti ka dintlha le diphelelo tse tla hlwauwa ke Lekgotla la Bolaodi.”; le

(b) ka ho fetola karolwana (5) ka karolwana e latelang:

“(5) Karolwana 15 le 16 tse amanang le dikopano le diqeto tsa Lekgotla la Bolaodi ka diphetoho tse hlokaahalang tse sebetsang komiting e nngwe le e nngwe, ntle le hore dikomiti ditshwanetse ho kopana bonyane [hane ka selemo].”.

Phetolo ya karolo 24 ya Molao 26 wa 2005**8. Molao o latelang o fetotswe bakeng la karolo 24 ya Molao o ka sehloohong:****“Komiti ya dipatlisiso**

24. (1) Komiti ya dipatlisiso e hlahoswang karolong 20(2)(e) e tshwanetse ho ikemela ho profeshene ya hlahlobo ya dibuka tsa tjhelete mme e akge—

(a) batho ba babedi bao e neng e le bahlahlobo ba dibuka ba ngodisitsweng mme ba na le boiphihlelo ba dilemo tse 10 motho ka mong hlahlobong ya dibuka tsa tjhelete; le

(b) atfokate kapa akgente e nang le bonyane dilemo tse 10 e sebetsa ka molao.

(2) Ha ho setho sa komiti ya dipatlisiso se tla—

(a) arolelana, ka ho otloloha kapa ka mokgwa o mong, phahello e nngwe le e nngwe ya mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng kapa motho e mong le e mong ya amanang le mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng; kapa

(b) fumana ditefello ho tswa ho mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng.

(3) Bakeng la karolwana (2)(a) ‘amanang’ e hlahosa batho ba amanang ka mokgwa o mong le o mong o hlahositsweng karolong 2(1)(a) to (c), e balwa mmoho le karolo 2(2), ya Companies Act, 2008 (Act No. 71 of 2008).”.

Insertion of sections 24A and 24B in Act 26 of 2005

9. The following sections are hereby inserted in the principal Act after section 24:

“Disciplinary committee

24A. (1) The Regulatory Board must appoint a disciplinary committee, referred to in section 20(2)(f), whose members are independent of the auditing profession, consisting of as many competent members as it may determine necessary to deal with disciplinary hearings in terms of this Act. 5

(2) The disciplinary committee must have one third of its members being—

- (a) persons with at least 10 years’ experience in auditing who were formerly registered as auditors; 10
- (b) advocates or attorneys with at least 10 years’ experience in practicing law; and
- (c) other suitably qualified persons as determined by the Regulatory Board. 15

(3)(a) No member of the disciplinary committee may—

- (i) share, directly or indirectly, in any of the profits or interests of a registered auditor or any person related to a registered auditor; or
- (ii) receive payments, excluding pension benefits, from a registered auditor. 20

(b) For purposes of paragraph (ii) ‘related’ means persons who are connected to one another in any manner contemplated in section 2(1)(a) to (c), read with section 2(2), of the Companies Act, 2008 (Act No. 71 of 2008). 25

(4) The Regulatory Board must appoint a retired judge or senior counsel as chairperson of the disciplinary committee. 25

(5) The functions of the chairperson of the disciplinary committee are to—

- (a) appoint from among the members of the disciplinary committee a disciplinary hearing panel for every hearing; 30
- (b) monitor consistency in the application of disciplinary hearing rules by disciplinary hearing panels;
- (c) facilitate efficient disciplinary hearings; and
- (d) perform any other function as prescribed by rules by the Regulatory Board. 35

(6) Despite section 20(5), read with section 15(4), when the disciplinary committee convenes a disciplinary hearing under section 50, the hearing must be conducted by a panel of at least three members including a member referred to in subsection (2)(a) and a member referred to in subsection (2)(b). 40

(7)(a) The chairperson of the disciplinary committee must appoint a member referred to subsection (2)(b) to chair the proceedings of the disciplinary hearing.

(b) The power to appoint a member to chair the proceedings of a disciplinary hearing referred to in paragraph (a) may not be delegated in terms of section 19. 45

(8) A member of the disciplinary committee may not participate in a panel contemplated in subsection (6) if he or she has an interest in a matter considered by the disciplinary hearing panel.

(9) A person may resign as a member of the disciplinary committee by giving at least three months’ written notice to the Regulatory Board or a shorter period of notice approved by the Regulatory Board. 50

(10) A member of the disciplinary committee may not use his or her position or any information by virtue of his or her work for the committee to— 55

- (a) improperly benefit himself or herself or another person;
- (b) impede the committee’s ability to perform its functions.

Ho kenngwa ha karolo 24A le 24B ho Molao 26 wa 2005

9. Dikarolo tse latelang dikentswe Molaong o ka sehloohong ka mora karolo 24:

“Komiti ya kgalemelo

- 24A.** (1) Lekgotla la Bolaodi le tshwanetse ho kgetha komiti ya kgalemelo, e hlalosewang karoong 20(2)(f), eo ditho tsa yona di ikemetseng kgahlano le profeshene ya hlahlobo ya dibuka tsa tjhelete e akgang ka hare ditho tse nang le bokgoni jwalo ka ha e ka hlwaya bohlokwa ho ka sebetsana le ho mamelwa ha kgalemelo ho latela Molao ona. 5
- (2) Komiti ya kgalemelo e tshwanetse ho ba le nngwe borarong ya ditho tsa yona ho ba— 10
- (a) batho bao e neng e le bahlahlobi ba dibuka tsa tjhelete ba ngodisitsweng mme e mong le e mong a na le boiphihle bonyane ba dilemo tse 10 hlahlobong ya dibuka tsa tjhelete;
- (b) atfokate kapa akgente e nang le bonyane dilemo tse 10 a sebetsa ka molao; le 15
- (c) batho ba bang b aba nang le boiphihlelo jwalo ka ha Lekgotla la Bolaodi le ka hlwaya.
- (3)(a) Ha ho setho sa komiti ya kgalemelo se ka—
- (i) arolelanang, ka ho otloloha kapa ka mokgwa o mong, phahello e nngwe le e nngwe ya mohlahlobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlahlobi wa dibuka tsa tjhelete ya ngodisitsweng; kapa 20
- (ii) fumana ditefello ho tswa ho mohlahlobi wa dibuka tsa tjhelete ya ngodisitsweng kapa motho e mong le e mong ya amanang le moithuti wa mohlahlobi wa dibuka tsa tjhelete ya ngodisitsweng. 25
- (b) Bakeng la temana (ii) ‘ya amanang’ e hlalosa batho ba amanang ka mokgwa o hlalositweng karolong 2(1)(a) ho ya ho (c), e balwa mmoho le karolo 2(2) ya *Companies Act, 2008 (Act No. 71 of 2008)*.
- (4) Lekgotla la Bolaodi le tshwanetse ho thonya moahlodi ya beileng meja fatshe kapa moeletsu ya ka sehloohong e le modulasetulo wa komiti ya kgalemelo. 30
- (5) Mesebetsi ya modulasetulo wa komiti ya kgalemelo ke ho—
- (a) kgetha ho tswa dithong tsa komiti ya kgalemelo lekgotla la kgalemelo ho ka mamela kgalemelo e nngwe le e nngwe;
- (b) ho disa tsepamo ya ho kenngweng tshebetsong ya melao ya ho mamelwa ha kgalemelo ke lekgotla la kgalemelo; 35
- (c) ho nolofatsa tsamaisa ya ho mamelwa ha kgalemelo; le
- (d) ho etsa mosebetsi o mong le o mong o hlalositweng ke melao ya Lekgotla la Bolaodi.
- (6) Le ntle ho karolo 20(5), e balwa ha mmoho le karolo 15(4), ha komiti ya kgalemelo e bitsa ho mamelwa ha kgalemelo ka tlasa karolo 50, ho mamelwa ho tshwanetse ho etsa ke lekgotla la batho ba bararo ba akgang setho sehloohong karolwaneng (2)(a) le setho se hlalosewang karolwaneng 2(b). 40
- (7)(a) Modulasetulo wa komiti ya kgalemelo o tshwanetse ho kgetha setho se hlalosewang karolwaneng (2)(b) ho ka ba modulasetulo wa tsamaiso yah o mamelwa ha kgalemelo. 45
- (b) Matla a ho kgetha setho ho ka ba modulasetulo wa ditsamaiso tsa ho mamelwa ha kgalemelo e hlalosewang temaneng (a) e ka se be thomo ho latela karolo 19. 50
- (8) Setho sa komiti ya kgalemelo se keke sa ba le seabo lekgotleng le hlalositweng karolwaneng (6) e bang sena le kgahleho ntlheng eo lekgotla la kgalemelo le e mamela.
- (9) Motho a ka itokolla ho ba setho sa komiti ya kgalemelo ka ho nehelana ka tsebiso ya dikgwedi tse tharo ho Lekgotla la Bolaodi kapa nako e kgutshwane ya tsebiso e dumelletsweng ke Lekgotla la Bolaodi. 55
- (10) Setho sa komiti ya lekgotla la kgalemelo se ka se sebedisi boemo ba hae kapa lesedi le leng le le leng ka lebaka la mosebetsi wa hae ho—
- (a) una molemo bakeng la hae kapa motho e mong;
- (b) sitisa bokgoni ba komiti ho etsa mosebetsi wa yona. 60

Subcommittees of Regulatory Board**24B.** (1) The Regulatory Board—

- (a) must establish an enforcement committee to deal with recommendations made by the investigating committee on matters investigated; and 5
- (b) may establish other subcommittees to assist with the performance of its functions.
- (2) The Regulatory Board must appoint the members of a subcommittee referred to in subsection (1) from among its members.
- (3) The enforcement committee must include— 10
- (a) a person with at least 10 years' experience in auditing who was formerly registered as an auditor; and
- (b) an advocate or attorney with at least 10 years' experience in practising law.”

Amendment of section 36 of Act 26 of 2005, as substituted by section 4 of Act 2 of 2015 15**10.** Section 36 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 20
- “(1) Subject to this section, [The] the fact that the accreditation of a professional body has ended in terms of section 35 does not affect the registration under this Act of any registered auditor or registered candidate auditor who was a member of the professional body at the time of the termination.”; and
- (b) by substitution for subsection (2) of the following subsection: 25
- “(2) Registered auditors or registered candidate auditors referred to in subsection (1) who were members of the professional body referred to in subsection (1) must, within six months of the termination of the accreditation of the professional body or within such other period as may be prescribed by the Regulatory Board, provide written proof to the satisfaction of the Regulatory Board that they[— 30
- (a)] have become members of another accredited professional body[; or
- (b) have made arrangements for their continuing professional development as recognised or prescribed by the Regulatory Board].” 35

Amendment of section 37 of Act 26 of 2005, as substituted by section 5 of Act 2 of 2015**11.** Section 37 of the principal Act is hereby amended—

- (a) by the insertion after subsection (1) of the following subsection: 40
- “(1A) An individual may only be registered with the Regulatory Board if he or she is a member of a professional body accredited in terms of section 32(2).”; 45
- (b) by the deletion of paragraph (b) of subsection (2); and
- (c) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 45
- “(b) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery, uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any offence involving dishonesty, other than [theft, fraud or forgery,] an offence committed prior to 27 April 1994 associated with political objectives[, and has been sentenced to imprisonment without the option of a fine or to a fine exceeding such an amount as may be prescribed by the Minister]”. 50

Dikomiti tse tlase tsa Lekgotla la Bolaodi**24B. (1) Lekgotla la Bolaodi—**

- (a) le tshwanetse ho theha komiti ya kenngo tshebetsong e tlo sebetsana le dikgothaletso tse entsweng ke komiti ya dipatlisiso dintlheng tse fupuditsweng; le 5
- (b) ka theha dikomiti tse ding tse ka tlase ho ka thusa ka tshebetsong ya mesebetsi ya yona.
- (2) Lekgotla la Bolaodi le tshwanetse ho kgetha ditho tsa komiti e ka tlase ho yona e hlalositse karolwaneng (1) ho tswa dithong tsa yona.
- (3) Komiti ya kenngo tshebetsong e tshwanetse ho akga— 10
- (a) motho ya ileng a ngodiswa e le mohlalobi wa dibuka tsa tjhelete mme ana le bonyane dilemo tse 10 tsa boiphihlelo hlahlobong ya dibuka tsa tjhelete; le
- (b) atfokate kapa akgenta e nang le bonyane dilemo tse 10 e sebetsa ka molao.”. 15

Phetolo ya karolo 36 ya Molao 26 wa 2005, jwalo ka ha o fetotswe ke karolo 4 ya Molao 2 wa 2015**10. Karolo 36 ya Molao o ka sehloohong o fetotswe—**

- (a) ka phetolo ya karolwana (1) ka karolwana e latelang: 20
- “(1) Ho ikamahantswe le karolo ena, Ntlha ya hore tumello ya lekala la profeshenale e fedile ho latela karolo 35 ha e ame ngodiso, ka tlasa molao ona, ya mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng eo e neng e le setho sa lekala la profeshenale ka nako ya phediso.”; le
- (b) ka phetolo ya karolwana (2) ya karolo e latelang: 25
- “(2) Bahlalobi ba dibuka tsa tjhelete ba ngodisitsweng kapa baihuti ba bahlalobi ba dibuka ba ngodisitsweng ba hlalositse karolwaneng (1) bao e neng e le ditho tsa lekala la profeshenale le hlalositse karolwaneng (1) ba tshwanetse ho nehelana ka bopaki bo ngotsweng bo kgotsofatsang Lekgotla la Bolaodi, dikgweding tse tshelletseng tsa ho fediswa ha tumello ya lekala la profeshenale kapa nakong e tlabe e hlalositse ke Lekgotla la Bolaodi, hore[— 30
- (a)] e se e le ditho tsa lekala le leng la profeshenale le dumelletseng[; kapa
- (b) **ba entse dithlophiso tsa ho ka tswelapele ka ntshetsopele ya profeshenale jwalo ka ha ho tsejwa kapa Lekgotla la Bolaodi le hlalositse].”** 35

Phetolo ya karolo 37 ya Molao 26 wa 2005, jwalo ka ha o fetotswe ke karolo 5 ya Molao 2 wa 2015**11. Karolo 37 ya Molao o ka sehloohong e fetotswe—** 40

- (a) ka ho kenngwa ha karolwana e latelang ka mora karolwana (1): 40
- “(1A) Motho a ka ngodiswa le Lekgotla la Bolaodi e bang e le setho sa mokgatlo wa profeshenale o dumelletseng ho latela karolo 32(2).”; le
- (b) ka ho hlakola temana (b) ya karolwana (2); le 45
- (c) ka phetolo ya karolwana (3) bakeng la temana (b) ya temana e latelang: 45
- “(b) o ahlotse, ka hare ho Rephaboliki kapa sebakeng se seng, ka lebaka la boshodu, thetso, boqhekanyetsi, ho bua ka tokomane ya boqhekanyetsi, leshano, tlolo ya molao ka tlasa *Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)*, kapa tlolo ya molao e akgang ho se bue nnete, ntle le [boshodu, thetso kapa boqhekanyetsi,] tlolo ya molao e entsweng pele ho 27 Mmesa 1994 e amanang le maikemisetso a sepolotiki [mme a ahlotse ho kwallwa ka ntle le ho nehelwa kgetho ya faene e fetang palo e tla be e hlwauwe ke Letona]” 50 55

Amendment of section 39 of Act 26 of 2005, as substituted by section 7 of Act 2 of 2015

12. Section 39 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) Subject to subsection (3), the Regulatory Board may cancel the registration of any registered auditor that is an individual or any registered candidate auditor, and—
- (a) whose estate is sequestrated or provisionally sequestrated or who enters into a compromise with creditors or who has applied for debt review; or
 - (b) who ceases to be a member of an accredited professional body **[and does not within six months of such cessation provide written proof to the satisfaction of the Regulatory Board that such registered auditor or registered candidate auditor has made arrangements for his or her continuing professional development].”**

Amendment of section 41 of Act 26 of 2005, as amended by section 9 of Act 2 of 2015

13. Section 41 of the principal Act is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection:
 - “(4) Except with the consent of the Regulatory Board, a registered auditor may not knowingly employ—
 - [(a) any person who is for the time being suspended from public practice under any provision of this Act; or]**
 - (b) any person who is no longer registered as a registered auditor as a result of the termination of his or her registration in terms of section 39(1)(c) or the cancellation of his or her registration in terms of section 51B(3)(a)(iv) or (v); or
 - (c) any person who applied for registration under section 37(3), but whose application the Regulatory Board declined.”; and
- (b) by the substitution in subsection (6) for paragraph (d) of the following paragraph:
 - “(d) engage in public practice during any period in respect of which the registered auditor has been disqualified from registration **[suspended from public practice]; or”**.

Amendment of section 45 of Act 26 of 2005

14. Section 45 of the principal Act is hereby amended by the addition of the following subsections:

- “(7) If an individual registered auditor has reported an irregularity to the Regulatory Board in terms of subsection (1)—
- (a) the individual registered auditor may not be removed; and
 - (b) the entity may not remove the registered auditor, until subsection (3) is complied with.
- (8) Where an individual registered auditor has reported an irregularity in terms of subsection (1) and resigns from the firm before subsection (3) is complied with, that auditor must do the necessary handover to the incoming auditor regardless of when the resignation takes effect.”.

Amendment of section 48 of Act 26 of 2005

15. Section 48 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceeding paragraph (a) of the following words:
 - “The Regulatory Board must refer a matter brought against a registered auditor to the investigating committee appointed under section 20 if the Regulatory Board—”;

Phetolo ya karolo 39 ya Molao 26 wa 2005, jwalo ka ha o fetotswe ke karolo 7 ya Molao 2 wa 2015

12. Karolo 39 ya Molao o ka sehloohong o lokisitswe ka ho fetola karolwana (2) ka karolwana e latelang:

- “(2) Ho ikamahantswe le karolwana (3), Lekgotla la Bolaodi le ka hlakola ngodiso ya mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti e mong le e mong wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng, le—
- (a) thepa ya hae e nkuweng kapa e nkuwa nakonyana kapa ya keneng dipuisanong le bo ramokitlane ba hae kapa ya etseng kopo ya mekitlane ya hae ho ka shebisiswa setjha; kapa
- (b) ya tlohelang hob a setho sa lekala la profeshenale le ngodisitsweng [mme dikgweding tse tshela tsa tsamaiso ya phediso a nehelane ka bopaki ho ngotsweng ho kgotsofatsa Lekgotla la Bolaodi hore mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng o entse dihlhophiso bakeng la ntshetsopele ya ntlafatso ya profeshenale].”.

Ka phetolo ya karolo 41 ya Molao 26 wa 2005, jwalo ka ha o fetotswe ke karolo 9 ya Molao 2 wa 2015

13. Karolo 41 ya Molao o ka sehloohong o fetotswe—
- (a) ka phetolo ya karolo (4) ya karolwana e latelang:
- “(4) Ntle le ka tumello ya Lekgotla la Bolaodi, mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a ka se nehelane ka mosebetsi a sa tsebe—
- [**(a) ho motho e mong le e mong ya thibetsweng nakwana ho sebetsa setjhabeng ka tlasa Molao ona; kapa]**
- (b) Motho e mong le e mong ya sa ngodiswang e le mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ka lebaka la ho kgaolwa ha ngodiso ya hae ho latela karolo 39(1)(c) kapa ho hlakolwa ha ngodiso ya hae ho latela karolo 51B(3)(a)(iv) kapa (v); kapa
- (c) motho e mong le e mong ya etseng kopo ya ho ngodiswa ka tlasa karolo 37(3), empa kopo ya hae e hannwe ke Lekgotla la Bolaodi.”;
- (b) ka phetolo ya karolo (6) bakeng la temana (d) ya karolwang e latelang:
- “(d) ho ka le seabo ho sebetsa setjhabeng nakong e nngwe le e nngwe eo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a sa dumellwang ho ka ngodisa [**thibetsweng nakwana ho sebetsa setjhabeng**]; kapa”.

Phetolo ya karolo 45 ya Molao 26 wa 2005

14. Karolo 45 ya Molao o ka sehloohong o fetotswe ka ho kenngwa ha karolwana e latelang:

- “(7) E bang mohlalobi wa dibuka tsa tjhelete ya ngodisweng a tlalehile ho sa lokang ho Lekgotla la Bolaodi ho latela karolwana (1)—
- (a) mohlalobi wa dibuka tsa tjhelete a ka se tloswe; mme
- (b) motheo o ka se tlose mohlalobi wa dibuka, tsa tjhelete ya ngodisitsweng ho fihlela ho ikamahantswe le karolwana (3).
- (8) Moo mohlalobi wa dibuka tsa tjhelete ya ngodisitswe ya mong a tlalehile ho fosahala ho latela karolwana (1) le ho itokolla femeng pele ho ikamahangwa le karolwana (3), mme mohlalobi wa dibuka tsa tjhelete o tshwanetse ho nehela mohlalobi kwa dibuka ya tla kena ho sa natse hore ho itokolla ha hae ho qala neng.”.

Phetolo ya karolo 48 ya Molao 26 wa 2005

15. Karolo 48 ya Molao o ka sehloohong o fetotswe—
- (a) ka phetolo ho karolwana (1) a ho fetola mantse a latelang temana (a) ka mantse a latelang:
- “Lekgotla la Bolaodi le tshwanetse ho lebisa ntlha e tlisitsweng kgahlano le mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ho komiti ya dipatlisiso e thontsweng ka tlasa karoo 20 e bang Lekgotla la Bolaodi le—”;

- (b) by the insertion after subsection (1) of the following subsection:
 “(1A)(a) Despite subsection (1), the enforcement committee referred to in section 24B may, if considered appropriate, refer a non-audit matter brought against a registered auditor to the relevant professional body accredited in terms of section 32(2) for investigation and disciplinary proceedings. 5
 (b) The enforcement committee may only refer a non-audit matter in terms of paragraph (a) if it is a matter that falls within the constitution and rules of the professional body.”;
- (c) by the substitution in subsection (2) for paragraph (c) of the following paragraph: 10
 “(c) The Regulatory Board must refer to **[an]** the investigation committee any record or report received by it under this subsection.”;
- (d) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 15
 “(b) obtain evidence to determine whether or not in its opinion the registered auditor concerned should be charged and, if so, recommend to the **[Regulatory Board]** enforcement committee the charge or charges that may be preferred against that registered auditor.”; and 20
- (e) by the substitution for subsections (5), (6) and (7) of the following subsections, respectively:
 “(5) (a) In investigating a charge of improper conduct the investigating committee may— 25
 (i) require or, if necessary, subpoena, the registered auditor to whom the charge relates or any other person with specific knowledge of the matter under investigation to produce to the committee any object or information, including but not limited to any working papers, statements, correspondence, books or other documents, which is in the possession or under the control of that registered auditor or other person and which relates to the subject matter of the charge, including specifically, but without limitation, any working papers of the registered auditor; 30
 (ii) inspect and, if the investigating committee considers it appropriate, retain any such information for the purposes of its investigations; and 35
 (iii) make copies of and take extracts from such information.
 (b) **[The provisions of this subsection apply regardless of whether the registered auditor is of the opinion that such information contains confidential information about a client]** The obligation to produce any information under paragraph (a)(i) may not be excused by reason of any alleged confidential information of a client contained therein. 40
 (c) A subpoena issued in terms of paragraph (a)(i) must— 45
 (i) be in the prescribed form;
 (ii) be signed by an authorised official of the Regulatory Board; and
 (iii) be served on the person concerned.
 (d) For purposes of this section, service contemplated in paragraph (c)(iii)— 50
 (i) at the last known address appearing from the Regulatory Board’s records; or
 (ii) effected in any manner agreed upon between the an employee authorised by or the investigating committee and the person or registered auditor being subpoenaed, 55
 constitutes proper service.
 (e) A person who has been issued with a subpoena under paragraph (a)(i) may not, without just cause, fail to provide the information, working paper, statement, correspondence, book or other document specified in the subpoena, in his or her possession or custody or control which he or she has been required to produce. 60
 (f) The law relating to privilege, as applicable to a witness subpoenaed to provide a book, document or object in a civil trial before a court applies, with the necessary changes, in relation to the production of any

- (b) ka ho kenngwa ha karolwana e latelang ka mora karolwana (1):
 “(1A)(a) Le ntle ho karolwana (1), komiti ya kenngo tshobetsong e hlahlositsweng karolong 24B e ka lebisa ntlha e seng ya hlahlobo ya dibuka tsa tjhelete e kgahlano le mohlalobi wa dibuka ya ngodisitsweng ho mokgatlo wa profeshenale o dumelletsweng ho latela karolo 32(2) bakeng la dipatlisiso le tsamaiso ya kgalemelo. 5
 (b) Komiti ya kenngo tshebetsonge ka lebisa ntlha e seng ya hlahlobo ya dibuka e bang nthla eo e le ka hara molatheo le melao ya lekgotla la profeshenale ho latela temana (a).”;
- (c) ka phetolo ho karolwana (2) bakeng la temana (c) ya temana e latelang: 10
 “(c) Lekgotla la Bolaodi le tshwanetse ho fetisetse ho komiti ya dipatlisiso rekoto kapa tlaleho e nngwe le e nngwe e fumanehileng ka tlasa karolwana ena.”;
- (d) ka phetolo ho karolwana (3) bakeng la temana (b) ya temana e latelang: 15
 “(b) ho fumana bopaki ho ka hlwaya hore na ka mohoplo wa yona mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a ka qoswa na, e bang ho le jwalo, e kgothaleitse [**Lekgotla la Bolaodi**] komiti ya kenngo tshebetsong qoso kapa diqoso tse kgahlano le le mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng.”; le
- (e) ka phetolo bakeng la karolwana (5), (6) le (7) ka dikarolwana tse latelang: 20
 “(5) (a) Dipatlisisong tsa qoso ya boitshwaro bo sa lokang komiti e ka—
 (i) kopa kapa, e bang ho hlokeha, ho bitsa, mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng eo diqoso dileng kgahlano le ena kapa motho e mong ka tsebo e itseng ntlheng e ka tlasa dipatlisiso ho ka nehela komiti ntho e nngwe le e nngwe kapa lesedi, ho akgang dipampiri tse ding le tse ding tsa mosebetsi, ditokodiso, dipuisano, dibuka kapa ditokomane tse ding, tse leng ho kapa ka tlasa taolo ya mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa motho e mong ya amanang le qoso, ho akgang, le ka ntle ho moedi, dipampiri tse ding le tse ding tsa mosebetsi tsa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng; 30
 (ii) ho shebisisa le, e bang dipatlisiso tsa komiti dinka ho lokile, ho nka lesedi le leng le le leng ka maikemisetso a dipatlisiso tsa teng; le 35
 (iii) ho etsa dikhopi le ho qotsa ho tswa lesedi le jwalo.
 (b) [**Nehelano ya karolwana ena e sebetsa ho sa natse hore mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng o na le mohopolo wa hore lesedi leo le akga lesedi la lekunutu la mosebedisi wa tshebetso ya hae**] Maikarabelo a ho hlahisa lesedi lefe kapa lefe ka tlasa temana (a)(i) e ka se behelwe thoko ka lebaka la hore lesedi leo le akga lesedi la lekunutu la mosebedi wa tshebetso ya hae. 40
 (c) Pitso e nehetsweng ka temana (a)(i) e tshwanetse—
 (i) ho ba ka mokgwa o hlahosang;
 (ii) e saenwe ke motho ya dumelletsweng wa Lekgotla la Bolaodi; le 45
 (iii) e nehelwe motho ya amehang.
 (d) Bakeng la karolo ena, tshebetso e hlahositsweng temaneng (c)(iii)—
 (i) atereseng ya ho qetela e tsejwang e hlahellang direktong tsa Lekgotla la Bolaodi; kapa 50
 (ii) ekentswe tshebetsong ka mokgwa o mong le o mong oo dumellanweng ka ona mahareng a Lekgotla la Bolaodi kapa komiti ya dipatlisiso le motho kapa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ya bitsitsweng. 55
 e lekana le tshebetso e lokileng.
 (e) Motho ya nehetsweng pitso ka tlasa temana (a)(i) a ka se hlolehe ho nehelana ka lesedi, pampiri ya tshebetso, tokodiso, dipuisano, buka kapa tokomane e hlahositsweng ho pitso e leng ho yena kapa tlhokomelong yah ae kapa ka tlasa taolo ya hae eo ka hlokanang ho ka e hlahisa. 60
 (f) Molao o amanang le molemo, ka ha o sebetsa ho dipaki ho nehelana ka buka, tokomane kapa sesebediswa nyeweng ya setjhaba e ka pela lekgotla la dinyewe o sebetsa ka diphetoho tse hlokalang, mabapi le

object or information, including but not limited to any working papers, statements, correspondence, books or other documents, to the investigating committee.

(g) A person subpoenaed in terms of this section is not entitled to payment by the Regulatory Board for providing information to the investigating committee. 5

(6) Nothing in this section limits or affects the right of any professional body to take disciplinary or other action against any of its members in accordance with its constitution and rules after the finalisation of the matter by the Regulatory Board. 10

(7) The investigating committee must, after the conclusion of the investigation, submit a report stating its recommendations to the [Regulatory Board] enforcement committee regarding any matter referred to it in terms of this section.”.

Insertion of sections 48A and 48B in Act 26 of 2005 15

16. The following sections are hereby inserted in the principal Act after section 48:

“Powers to enter and search premises

48A. (1) The investigating committee, referred to in section 20(2)(e) may, for the purposes of investigating alleged improper conduct, authorise one or more suitably qualified persons (herein referred to as ‘the authorised person’) to enter any premises— 20

(a) with the prior consent of—

(i) in the case of a private residence, the person apparently in control of the business reasonably believed to be conducted at the private residence, and the occupant of the private residence or the part of the private residence to be entered; or 25

(ii) in the case of any other premises, the person apparently in control of the premises, after informing that person that—

(aa) granting consent will enable the authorised person to enter the premises and for the authorised person to subsequently search the premises and to do anything contemplated in subsection (7); and 30

(bb) he or she is under no obligation to admit the authorised person in the absence of a warrant; or

(b) without prior consent and without prior notice to any person if the entry is authorised by a warrant. 35

(2)(a) The chairperson of the investigating committee must issue the authorised person with a certificate in the prescribed form stating that the person has been authorised in terms of subsection (1).

(b) When exercising powers in terms of this section, the authorised person must— 40

(i) be in possession of a certificate of appointment; and

(ii) immediately show that certificate to any person who is affected by the authorised person’s actions in terms of this section or who requests to see the certificate. 45

(3) The authorised person has the authority to search the premises and to do anything contemplated in subsection (7).

(4) The authorised person exercising powers in terms of this section must do so with strict regard to—

(a) an affected person’s right to— 50

(i) dignity;

(ii) freedom and security;

(iii) privacy; and

(iv) other constitutional rights; and

(b) decency and good order as the circumstances require, in particular by— 55

(i) entering and searching only such areas or objects as are reasonably required for the purposes of the investigation;

tlhahiso ya sesebediswa kapa lesedi, ho akga ka hare dipampiri tsa mosebetsi, ditokodiso, puisano, dibuka kapa ditokomane, ho komiti ya dipatlisiso.

(g) Motho ya bileditsweng lekgotleng ho latela karolo ena a ka se fumantshwe tefello ke Lekgotla la Bolaodi bakeng la ho nehelana ka lesedi ho komiti ya dipatlisiso. 5

(6) Ha letho karolong ena le fokotsang kapa le amang tokelo ya mokgatlo wa profeshenale ho nka bohato ba kgalemelo kapa bohato bofe kapa bofe kgahlano le setho sefe kapa sefe sa yona ho latela molatheop le melao ka mora hore Lekgotla la Bolaodi le phethele ntlha eo. 10

(7) Ka mora ho phethela dipatlisiso, komiti ya dipatlisiso e tshwanetse ho nehelana ka tlaleho e hlahosang dikgothaletso tsa yona ho [Lekgotla la Bolaodi] komiti ya kenngo tshabetsong mabapi le ntlha e nngwe le e nngwe e lebiswang ho yona ho latela karolo ena.”.

Ho kenngwa ha karolo 48A ho ya ho 48B Molaong 26 wa 2005 15

16. Dikarolo tse latelang dikenyeditswe Molaong o ka sehloohong ka mora karolo 48:

“Matla a ho kena le ho fuputsa moaho

48A. (1) Bakeng la ho ka etsa dipatlisiso, komiti ya dipatlisiso e hlahoswang karolong 20(2)(e) e ka dumela mosebeletsi wa Lekgotla la Bolaodi ya dumelletswe ho ka kena moahong o mong le o mong— 20

(a) ka tumello e nehetsweng pele—

(i) moo e leng bodulo ba poraefete, motho eo ho utlwahalang a leng taelong ya kgwebo eo ho dumelwang e etswa sebakeng sa bodulo ba poraevete mme badudi ba bodulo ba poraevete kapa karolo ya bodulo ba poraevete bo tla kenwa; kapa 25

(ii) boemong ba meaho e meng, motho ya taolong ya meaho, ka mora ho tsebisa motho eo hore—

(aa) ho nehela tumello ho tla kgontsha mohlanka ho ka kena meahong le hore mohlanka a phenyokolle meaho mme a etse se seng le se seng se hlahoswang karolwaneng (7); mme 30

(bb) ha ana boitlamo ba ho ka amohela mohlanka ka ntle le lengolo la tumello; kapa

(b) ka ntle ho tumello ya e ntsweng pele le ka ntle ho tsebiso e entsweng pele ho motho e mong le e mong e bang ho kena ho dumellwa ka lengolo la tumello. 35

(2)(a) Modulasetulo wa komiti ya dipatlisiso o tshwanetse ho nehela motho ya dumelletswe setifikeiti se hlahosang hore motho eo o dumelletswe ho latela karolwana (1). 40

(b) ha a sebedisa matla ho latela karolo ena, motho ya dumelletswe o tshwanetse ho—

(i) ba le setifikeiti sa ho thonngwa; le

(ii) a bontshe setifikeiti se oho motho e mong le e mong ya anngwang ke diketso tsa motho ya dumelletswe ho latela karolo ena kapa ya kopang ho bona setifikeiti. 45

(3) Motho ya dumelletswe o na le tumello yah o ka batilsisa moaho le ho etsa sohle se hlahoswang karolwaneng (7).

(4) Motho ya dumelletswe ya sebedisang matla ho latela karolo ena o tshwanetse ho etsa jwalo a tsepamisitse maikutlo ho— 50

(a) ditokelo tsa motho ya amehang—

(i) seriti;

(ii) tokoloho le tshireletso;

(iii) poraevesi; le

(iv) ditokelo tse ding tsa semolaotheo; le. 55

(b) tlhompho le mokgwa o motle jwalo ka ha maemo a hloka, ha holoholo ka—

(i) ho kena le phenyokolla dibaka tseo kapa dintho tseo jwalo ka ha ho hloka hloka ka maikemisetsa a ho etsa dipatlisiso;

- (ii) conducting the search discreetly and with due decorum;
 - (iii) causing as little disturbance as possible; and
 - (iv) concluding the search as soon as possible.
- (5) An entry or search of premises in terms of this section must be done, at a reasonable time within ordinary business hours—
- (a) unless the warrant authorising it expressly authorises entry at night; or
 - (b) in the case of a search contemplated in subsection (1)(a)(ii), if the authorised person on reasonable grounds believes that the purpose for which the entry and search is sought, is likely to be defeated by a delay, as close to ordinary business hours as the circumstances reasonably permit.
- (6) The authorised person may be accompanied and assisted during the entry and search of any premises for an investigation by a member of the investigating committee or an employee of the Regulatory Board.
- (7)(a) While on the premises in terms of this section, the authorised person has access to any part of the premises and to any document or item on the premises, and may do any of the following:
- (i) Open or cause to be opened any strongroom, safe, cabinet or other container in which the authorised person reasonably suspects there is a document or item that may afford evidence of the alleged improper conduct;
 - (ii) examine, make extracts from and copy any document on the premises;
 - (iii) question any person on the premises to find out information relevant to the investigation;
 - (iv) require a person on the premises to produce to the authorised person any document or item that is relevant to the investigation and is in the possession or under the control of the person;
 - (v) require a person on the premises to operate any computer or similar system on or available through the premises to—
 - (aa) search any information in or available through that system; and
 - (bb) produce a record of that information in any media that the authorised person reasonably requires;
 - (vi) if it is not practicable or appropriate to make a requirement in terms of subparagraph (v), operate any computer or similar system on or available through the premises for a purpose set out in that subparagraph; and
 - (vii) take possession of, and take from the premises, a document or item that may afford evidence of the contravention concerned or be relevant to the request.
- (b) The authorised person must, on request, allow the person apparently in charge of the premises a reasonable opportunity to make copies of any document or item before it is taken as mentioned in paragraph (a)(vii).
- (c) The authorised person must give the person apparently in charge of the premises a written receipt for documents or items taken as mentioned in paragraph (a)(vii).
- (d) Subject to paragraph (e), the chairperson of the investigating committee must ensure that any document or item taken by the authorised person as mentioned in paragraph (a)(vii) is returned to the person when—
- (i) retention of the document or item is no longer necessary to achieve the object of the investigation; or
 - (ii) all proceedings arising out the investigation have been finally disposed of.
- (e) A document or item need not be returned to the person who produced it if it is not in the best interest of the public or any member or members of the public for the documents or items to be returned.
- (f) A person from whose premises a document or item was taken as mentioned in paragraph (a)(vii), or its authorised representative, may,

- (ii) ho etsa diphuputso ka lenyene le ka boitshwaro bo botle;
- (iii) ho ba ka tshetiso le ha e ka ba e nyenyane ka mokgwa o hloka halang; le
- (iv) ho phethela diphuputso ka pele ka moo ho hloka halang.
- (5) Ho kena kapa ho phenyokolla meaho ho latela karolo ena e tshwanetse ho etswa ka nako e loketseng mme le ka dinako tsa dihora tsa mosebetsi— 5
- (a) ntle le ha lengolo le nehelanang ka tumello le hlalosa ka ho totobala hore ho ka kenwa bosiu; kapa
- (b) ntlheng ya phenyokollo e hlalositse karolwaneng (1)(a)(ii), e bang mohlanka a kgolwa hore mabaka a maikemisetso a ho kena le ho phenyokolla a ka nna a hlolwa ke tiehiso e atometse dinakong tse tlwaelehileng tsa tshetso jwalo ka ha maemo a ka dumella. 10
- (6) Motho ya dumelletseng a ka tsamaya le ho thuswa kapa setho sa komoti ya dipatlisiso kapa mosebeletsi wa Lekgotla la Bolaodi ka nako ya ho kena le ho phenyokolla meaho e meng le e meng bakeng la ho etsa dipatlisiso. 15
- (7) (a) Ka nako eo setho se dumelletseng se ntseng se le meahong ho latela karolo ena, le lebakeng la ho etsa dipatlisiso, se na le tokelo ya ho fihlella karolo e nngwe le e nngwe ya meaho le tokomane e nngwe le e nngwe kapa thepa e nngwe le e nngwe e meahong, mme se ka etsa e nngwe le e nngwe ya tse latelang: 20
- (i) A ka bula kapa a etsa ho bulwe phaposi ya ho behwa ha thepa, seifi, kabinete kapa nkgoo eo mohlanka a belaelang hore ho na le tokomane kapa ho hong hotla nehelana ka bopaki ba tlolo ya molao o amehang kapa ho amehang le kopo; 25
- (ii) a ka hlahlobo, ho qotsa ho tswa ho khopi kapa tokomane e nngwe le e nngwe e meahong;
- (iii) a ka botsa motho e mong le e mong ya meahong ho fumana lesedi le amanang ke ditlisiso; 30
- (iv) a ka hloka hore motho ya meahong ho hlalosa tokomane e nngwe le e nngwe e manang le dipatlisiso mme a na le yona kapa e le ka tlasa taolo ya motho eo;
- (v) a ka hloka motho ya meahong ho ka sebedisa khompyutha kapa mofuta o mong wa sesebediswa ho se teng meahong ho— 35
- (aa) batla lesedi le leng le le leng le teng; le
- (bb) ho hlalosa rekoto ya lesedi leo ka mokgwa o mong le o mong oo mohlanka a ka hloka ka ona;
- (vi) e bang ho sa kgonahale kapa ho se hantle ho ka etsa tlhoko ho latela temananyana (v), sebedisa khompyutha kapa mofuta o mong wa sesebediswa kapa o teng kapa o fumanehang meahong ka maikemisetso a hlalositse temananyaneng; le 40
- (vii) ho nka le ho nka ho tswa meahong tokomane kapa ho hong ho tla nehelana ka bopaki ba tlolo ya molao kapa e amanang le kopo. 45
- (b) motho ya dumelletseng o tshwanetse ho dumella motho eo ho utlwahalang e le ya ikarabellang ho meaho monyetla wa ho ka etsa di khopi tsa tokomane e nngwe le e nngwe kapa se seng le se seng pele se ka nkuwa jwalo ka ha ho hlalositse temaneng (a)(vii). 50
- (c) Setho se dumelletseng se tshwanetse ho nehela ho motho ya ikarabellang meahong eo selipi se ngotsweng bakeng la ditokomane jwalo ka ha ho hlalositse temaneng (a)(vii). 50
- (d) Ho ipapisitse le temana (e), modulasetulo wa komiti ya dipatlisiso o tshwanetse ho etsa bonnete hore tokomane e nngwe le e nngwe kapa ntho e nngwe le e nngwe e nkuweng ke motho ya dumelletseng jwalo ka ha ho hlalositse temaneng (a)(vii) e kgutlisetswa ho motho ha— 55
- (i) ho nkuwa ha tokomane ho sa hlotse ho hloka halaho ka fihlella maikemisetso dipatlisiso; kapa
- (ii) ditsamaiso tse hlahellang ka lebaka la dipatlisiso di se di qhaduwe.
- (e) Ha ho hlokehe hore mohlanka a ka kgutlisa tokomane ho motho ya e hlahisitse e bang e se kgahlehong ya setjhaba kapa setho se seng le se seng sa setjhaba bakeng la ditokomane hore di ka kgutliswa. 60
- (f) Motho eo meaho ya hae ho fumaneng tokomane jwalo ka ha ho hlalositse temaneng (a)(vii), kapa kemedi e dumelletseng, ka dinako tse

during normal office hours and under the supervision of the chairperson of the investigating committee, examine, copy and make extracts from the document or item.

(8) The authorised person or any person assisting that person as provided for in subsection (6), may use reasonable force to exercise any power in terms of this section. 5

(9) The law relating to privilege, as applicable to a witness subpoenaed to provide a book, document or object in a civil trial before a court applies, with the necessary changes, in relation to the production of any information, including but not limited to any working papers, statements, correspondence, books or other documents, to the investigating committee acting in accordance with this section. 10

(10)(a) A person who is questioned, or required to produce a document or information during an investigation in terms of this section, may object to answering the question or to producing the document or the information on the grounds that the answer, the contents of the document or the information may tend to incriminate the person. 15

(b) The authorised person must inform the person of the right to object in terms of this section at the commencement of the investigation.

(c) On such an objection, the authorised person may require the question to be answered or the document or information to be produced, in which case the person must answer the question or produce the document. 20

(d) An answer given or a document or information produced, as required in terms of paragraph (c), may be used for the purposes of an investigation or disciplinary process by the investigating committee or the disciplinary committee in terms of this Act. 25

(e) An incriminating answer given, and an incriminating document or information produced, as required in terms of paragraph (c), is not admissible as evidence against the person in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for a contravention of section 53 based on the false or misleading nature of the answer. 30

Warrants

48B. (1)(a) A judge or magistrate who has jurisdiction may issue a warrant for the purposes of section 48A on application by a person authorised in terms of section 48A(1). 35

(b) The judge or magistrate may issue a warrant in terms of this section—

(i) on written application by the person authorised in terms of section 48A(1) setting out under oath or affirmation why it is necessary to enter and investigate the premises; and 40

(ii) if it appears to the magistrate or judge from the information under oath or affirmation that—

(aa) there are reasonable grounds for suspecting that improper conduct has occurred; and

(bb) entry and search of the premises are likely to yield information pertaining to the improper conduct. 45

(2) A warrant must be signed by the judge or magistrate issuing it.

(3) The person authorised in terms of section 48A(1) who enters premises under the authority of a warrant must—

(a) if there is apparently no one in charge of the premises when the warrant is executed, fix a copy of the warrant on a prominent and accessible place on the premises; and 50

(b) on reasonable demand by any person on the premises, produce the warrant or a copy of the warrant.

(4) The warrant must identify the premises that may be entered and searched and specify the parameters within which the person authorised in terms of section 48A(1) may perform an entry, search or seizure. 55

(5) A 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; 60

tlwaelehleng tsa tshebetso, le ka tlasa tataiso ya moduslasetulo wa komiti ya dipatlisiso, a ka hlahlobo, a etsa khopi le ho qotsa ho tswa tokomaneng.

(8) Mohlanka le motho e mong le e mong ya thusang mohlanka, jwalo ka ha ho hlahositswe karolwaneng (6), a ka sebedisa matla a mang le a mang ho latela karolo ena.

(9) Molao o amanang le kuno, jwalo ka ha o sebetsa ho paki e betsitsweng ho ka nehelana ka buka, tokomane kapa ho hong nyeweng ya setjhaba e ka pela lekgotla la dinyewe o a sebetsa, ka diphetoho tse hlokaahlang, mabapi le ho etswa ha lesedi le leng le le leng ho akga ka hare dipampiri tse ding le tse ding tsa tshebetso, ditokodiso, dipuisano, dibuka, kapa ditokomane tse ding, ho komiti ya dipatlisiso ho latela karolo ena.

(10)(a) Motho ya botswang dipotso, kapa ya hlokwang ho ka hlahisa tokomane kapa lesedi nakong ya dipatlisiso ho latela karolo ena, a ka hana ho araba dipotso kapa ho hlahisa tokomane kapa lesedi ka lebaka la hore karabo, dikahare tsa tokomane kapa lesedi di ka tshwarisa motho eo.

(b) Motho ya dumelletseng o tshwanetse ho tsebisa motho ka tokelo ya ho hana ho latela karolo ena qalehong ya dipatlisiso.

(c) Ho hana hoo, motho ya dumelletseng a ka hloka hore dipotso di arabuwe kapa tokomane kapa lesedi le hlahiswe moo motho a tshwanetse ho araba dipotso kapa ho hlahisa tokomane.

(d) Karabo kapa tokomane kapa lesedi le nehetsweng jwaloka ah ho hlokaahala ho latela temaneng (c), e ka sebediswa maikemisetsong a dipatlisiso kapa tsamaiso ya kgalemelo ke komiti ya dipatlisiso kapa komiti ya kgalemelo ho latela Molao ona.

(e) Karabo e tshwarisang e nehetsweng, tokomane e tshwarisang kapa lesedi le hlahisitsweng, ho latela temana (c), ha e nkuwe e le bopaki kgahlano le motho nyeweng ya tlolo ya molao, ntle le tlo long ya molao bakeng la ho se bue nnete kapa seo motho a ileng a qosetswa sona bakeng la tlolo ya karolo 53 e itshetlehleng ho karabo e fosahetseng kapa e seng ya nnete.

Tumello

48B. (1)(a) Moahlodi kapa mmaseterata ya nang le matla a ka nehelana ka tumello bakeng la karolo 48A ka kopo ya mohlanka ya dumelletseng ho latela 48A(1).

(b) Moahlodi kapa mmaseterata a ka nehelana ka tumello ho latela karolo ena—

(i) ka kopo e ngotsweng ke mohlanka ya dumelletseng ho latela karolo 48A(1) e hlahosang ka tlasa boikano hore hobaneng ho le bohlokwa ho kena le ho batlisisa meaho; le

(ii) e bang ho bonahala mo mmaseterata kapa moahlodi ho tswa leseding le ngotsweng ka tlasa boikano hore—

(aa) tlolo ya Molao ona e etsahetse, e a etsahala kapa e ka nna ya tlo etsahala; le

(bb) ho kena le ho batlisisa meaho ho ka nehelana ka lesedi le amanang le tlolo ya molao.

(2) Tumello e nehetsweng ho latela karolo ena e tshwanetse ho saenwa ke moahlodi kapa mmaseterata ya e nehelang.

(3) Mohlanka ya dumelletseng ho latela karolo 48A(1) ya kenang meahong ka tlasa tumello o tshwanetse—

(a) e bang ho bonahala ho sena motho ya ikarabellang ho meaho ha tumello e kenngwa tshebetsong, kenya khopi ya tumello sebakeng se fihlillehang meahong; mme

(b) ha hona le motho ofe kapa ofe a e hlokwang meahong, hlahisa tumello kapa khopi ya tumello.

(4) Tumello e tshwanetse e bontshe moaho o tla kenwa le ho fuputswa le ho hlakisa sebaka seo motho a dumelletseng ho ka kena ho sona, ho fuputswa le ho hapa ho latela karolo 48A(1).

(5) Tumello e sebetsa feela ho fihlella—

(a) tumello e sebeditse;

(b) tumello e fedisitswe ke motho ya e nehetseng kapa, e bang motho eo a le siyo, ke motho ya boemong bo lekanang le ba hae;

- (c) the purpose of issuing it has lapsed; or
 (d) the expiry of one month after the date it was issued,
 whichever occurs first.”.

Substitution of sections 49 to 51 of Act 26 of 2005

17. The following sections are hereby substituted for sections 49 to 51 of the principal Act: 5

“Process following investigation

- 49.** (1) After the conclusion of the processes contemplated in section 48, the enforcement committee contemplated in section 24B must, if sufficient grounds exist for a charge of improper conduct to be preferred against a registered auditor— 10
- (a) follow an admission of guilt process if the enforcement committee believes that the improper conduct of the registered auditor does not warrant a sanction contemplated in section 51B(3)(a)(iv) or (v); or
 (b) refer the matter to the disciplinary committee for a disciplinary hearing. 15
- (2) The enforcement committee must furnish a charge sheet to the registered auditor concerned by electronic means and registered mail.
- (3) A charge sheet must inform the registered auditor charged— 20
- (a) of the details and nature of the charge;
 (b) that the registered auditor, in writing, admit or deny the charge;
 (c) that the registered auditor, together with the admission or denial, submit a written explanation regarding the improper conduct with which charged and, if guilt is admitted, submit factors in mitigation of sentence; and 25
- (d) of the period, which must be reasonable but may not exceed 30 days, within which the plea or the amended plea in terms of paragraph (b) must be submitted to the enforcement committee.
- (4) If a registered auditor admits guilt to the charge— 30
- (a) the registered auditor is considered to have been found guilty as charged; and
 (b) the enforcement committee must deal with the matter in accordance with section 51.
- (5) If a registered auditor denies guilt or fails to submit a denial or plea or if the enforcement committee made a decision in terms of section 49(1)(b), the enforcement committee must, on the expiry of the period referred to in subsection (3)(d), refer the charge sheet and any plea received to the disciplinary committee to be dealt with in accordance with section 50. 35
- (6) The acquittal or the conviction of a registered auditor by a court of law on a criminal charge is not a bar to proceedings against the registered auditor under this Act on a charge of improper conduct, even if the facts stated in the charge of improper conduct would, if proved, constitute— 40
- (a) the offence stated in the criminal charge on which the registered auditor was acquitted or convicted; or
 (b) any other offence of which the registered auditor might have been acquitted or convicted, 45
- at the trial on the criminal charge.

- (c) maikemisetso a ho e nehela a fetile; kapa
 (d) kgwedi e le nngwe e fetile ka mora nako e nehetswe,
 e tlatla pele.”.

Phetolo ya karolo 49 ho ya ho 51 ya Molao 26 wa 2005

17. Dikarolo tse latelang di fetotswe bakeng la karolo 49 ho ya ho 51 ya Molao o ka sehloohong: 5

“Tsamaiso ka mora dipatlisiso

49. (1) Ka mora ho phethela tsamaiso e hlahositsweng karolong 48, komiti ya kenngo tshebetsong e hlahositsweng karolong 24B e bang hona le kgonahalo e lekaneng bakeng la qoso ya maitshwaro a sa lokang kgahlano le mohlalobi wa dibuka tsa tjhelete— 10
- (a) ka mora ho tsamaiso ya ho dumela molato e bang komiti ya kenngo tshebetsong e dumela hore maitshwaro a sa lokang a mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng a sa lokelwa ke kotlo e hlahositsweng karolong 51B(3)(a)(iv) kapa (v); kapa 15
- (b) ho lebisa ntlha ena ho komiti ya kgalemelo bakeng la ho mamelwa ha kgalemelo.
- (2) Komiti ya kenngo tshebetsong e tshwanetse ho nehelana ka lenane la qoso ho mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ka mokgwa wa ilektroniki le ka lengolo le ngodisitsweng. 20
- (3) Lenane la qoso le tshwanetse ho tsebisa mohlalobi wa dibuka tsa tjhelete ya qoswang—
- (a) ka dintlha le mofuta wa qoso;
- (b) hore mohlalobi wa dibuka tsa tjhelete a dumele kapa ho hana qoso, ka ho mongolla; 25
- (c) hore mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a nehelene ka tlhaloso e ngotsweng mabapi le boitshwaro bo sa lokang ba hae boo a bo qosetswang, ha mmoho le ho hana kapa ho dumela ha hae; le
- (d) nako, e tshwanetseng ho utlwahala empa e sa fete matsatsi a 30 ao boipiletso ba hae bo tshwanetseng ho nehelwa Lekgotla la Bolaodi ho latela temana (b). 30
- (4) E bang mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a dumela molato oo a qoswang ka ona—
- (a) mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng o nkuwa a le molato jwalo ka ha a qosuwe; mme 35
- (b) komiti ya kenngo tshebetsong e tshwanetse ho lebisa ntlha ena ho ka sebetswa hanghang ho latela karolo 51.
- (5) E bang mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a hanana le molato kapa a hlaleha ho nehelana ka kganano kapa boipiletso, e bang komiti ya kenngo tshebetsong e entsa qeto ho latela kaorlo 49(1)(b) e tshwanetse, ka mora hore nako e hlahositsweng karolwaneng (3)(d) e fele, komiti ya kenngo tshebetsong e tshwanetse ho lebisa lenane la qoso le boipiletso bong le bo bong bo fumanehileng ho komiti ya kgalemelo ho ka sebetswa ho latela karolo 50. 40
- (6) Ho se fumanwe molato kapa ho ahlolwa ha mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng le lekgotla la dinyewe diqosong tsa tlolo ya molao ha se thibelo ya ho ba le nyewe kgahlano le mohlalobi wa dibuka tsa ditjhelete ya ngodisitsweng ka tlasa Molao ona ka qoso ya maitshwaro a sa lokang, le e bang dintlha tse hlahoswang qosong ya maitshwaro a sa lokang, e bang ho netefaditswe, e le— 50
- (a) tshitelo e hlahositsweng qosong ya tlolo ya molao eo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a ile a fumanwa a se molato kapa a ile a fumanwa a le molato; kapa
- (b) tshitelo e nngwe le e nngwe eo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a ka fumanwang a se molato kapa a fumanwe a se molato nyeweng ya qoso ya tlolo ya molao. 55

Disciplinary hearing

- 50.** (1) Where a matter has been referred to the disciplinary committee as contemplated in section 49(1)(b), the enforcement committee must—
- (a) furnish a charge sheet to the registered auditor concerned;
 - (b) appoint a person to present the charge to the disciplinary hearing panel. 5
- (2) A person presenting the charge to the disciplinary hearing panel may at any time prior to the conclusion of a disciplinary hearing apply to the panel to amend the charge on the grounds that an error exists in its formulation or that a charge is not properly articulated in the original charge sheet. 10
- (3) A hearing before the disciplinary hearing panel is open to the public except where, in the opinion of the chairperson of the panel, any part of the hearing must be held in camera.
- (4) A disciplinary hearing panel may, for the purposes of a disciplinary hearing, subpoena any person with relevant knowledge to appear before the panel at the time and place specified in the subpoena, to be questioned or to produce any object or information, including but not limited to any working papers, statements, correspondence, books or other documents in his or her possession or control which relate to the charge. 15 20
- (5) A subpoena issued in terms of subsection (4) must—
- (a) be in the prescribed form;
 - (b) be signed by an authorised official of the Regulatory Board; and
 - (c) be served on the person concerned.
- (6) For purposes of this section, service contemplated in subsection 25 (5)(c)—
- (a) at the last known address appearing from the Regulatory Board's records; or
 - (b) effected in any manner agreed upon between the Regulatory Board or a disciplinary hearing panel and the person being subpoenaed, 30 constitutes proper service.
- (7) A disciplinary hearing panel may retain any object or information, including but not limited to any working papers, statements, correspondence, books or other documents produced in terms of subsection (4), for the duration of the hearing. 35
- (8) The chairperson of a disciplinary hearing panel must call upon and administer an oath to, or take an affirmation from, any witness at the hearing.
- (9) At a disciplinary hearing the registered auditor charged—
- (a) may be assisted or represented by another person in the proceedings; 40
 - (b) has the right to be heard;
 - (c) may call witnesses;
 - (d) may cross-examine any person called as a witness in support of the charge; and
 - (e) may have access to documents produced in evidence. 45
- (10) A registered auditor charged may—
- (a) at any time before the conclusion of the disciplinary hearing, admit that he or she is guilty of the charge, despite the fact that he or she denied the charge or failed to react in terms of section 49(3)(b); or
 - (b) in the case where the registered auditor makes an admission in terms of paragraph (a), be regarded as guilty of improper conduct as charged. 50
- (11) The person referred to in subsection (1) may during a disciplinary hearing—
- (a) lead evidence and advance arguments in support of the charge and cross-examine witnesses; 55
 - (b) question any person who was subpoenaed in terms of subsection (4); and
 - (c) call anyone to give evidence or to produce any object or information, including but not limited to any working papers, statements, correspondence, books or other documents in his or her possession or 60

Mamelo ya kgalemelo

- 50.** (1) Moo ntlha e lebisitsweng ho komiti ya kgalemelo jwalo ka ha ho hlalositse karolong 49(1)(b), komiti ya kenngo tshebetsong e tshwanetse ho—
- (a) nehela sengolweng sa qoso ho mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ya qoswang; 5
- (b) kgetha motho ya tla hlahisa diqoso lekgotleng la ho mamelwa ha kgalemelo.
- (2) Motho ya hlahisang qoso ho lekgotla la kgalemelo a ka etsa kopo ya ho lokisa qoso ka lebaka la hore ho na le phoso thehong ya yona kapa qoso ha ya hlalosa hantle sengolweng sa qoso. 10
- (3) Mamelo ka pele ho lekgotla la mamelo ya kgalemelo e buletswa setjhaba ntle le moo karolo e itseng ya ho mamelwa e tshwanetse ho mamelwa lekunutung ho latela mohopolo wa modulasetulo wa lekgotla.
- (4) Lekgotla la mamelo ya kgalemelo le ka bitsetsa motho e mong le e mong ka pela lekgotla ka nako le sebakeng se tla hlalosa pitsetsong eo ka maikemisetso a ho mamela kgalemelo, le ho ka botswa dipotso kapa ho ka hlahisa se itseng kapa lesedi le itseng, ho akga ka hare dipampiri tse ding le tse ding tsa tshebetso, ditokodiso, dipuisano, dibuka kapa ditokomane tse leng ho yena kapa tse taolong ya hae tse amanang le qoso. 15 20
- (5) Pitsetso e nehetsweng ho latela karolwana (4) e tshwanetse—
- (a) ho ba ka mokgwa o nehetswe;
- (b) e saenwe ke mosebeletsi ya dumelletseng wa Lekgotla la Bolaodi; mme
- (c) e nehelwe motho ya loketseng. 25
- (6) Bakeng la karolo ena, tshebetso e hlalositweng karolwaneng (5)(c)—
- (a) atereseng ya ho qetela e tsejwang e hlahellang direktong tsa Lekgotla la Bolaodi; kapa
- (b) e etsahale ka mokgwa o mong le o mong o dumetsweng mahareng a Lekgotla la Bolaodi kapa lekgotla la mamelo ya kgalemelo le motho ya bitsitsweng, ho ka ba tshebetso e lokileng. 30
- (7) Lekgotla la mamelo ya kgalemelo le ka tshwara ho hong le ho hong kapa lesedi le ka akgang dipampiri tsa mosebetsi, ditokodiso, dipuisano, dibuka kapa ditokomane tse hlahisitweng ho latela karolwana (4) bakeng la nako ya ho mamelwa. 35
- (8) Modulasetulo wa lekgotla la mamelo ya kgalemelo o tshwanetse ho tsamaisa ho nka kano ya paki e nngwe le e nngwe ho mamelweng.
- (9) Mamelong ya kgalemelo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng ya qoswang— 40
- (a) a ka thuswa kapa ho buellwa ke motho e mong;
- (b) o na le tokelo ya ho mamelwa;
- (c) a ka bitsa dipaki;
- (d) a ka botsisisa motho e mong le e mong dipotso ya bitsitsweng e le paki e tshehetsang qoso; mme
- (e) a ka fihlella ditokomane tse hlahisitweng e le bopaki. 45
- (10) Mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng ya qoswang a ka—
- (a) dumela hore o molato wa qoso nako e nngwe le e nngwe pele ho phethelwa ho mamelwa ha kgalemelo, ho sa natse hore o haneditse qoso kapa o hlolehile ho nka bohato ho latela karolo 49(3)(b) kapa; kapa
- (b) moo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a dumelang ho latela temana (a), a nkuwe le molato wa maitshwara a sa lokang jwalo ka ha a qosuwe. 55
- (11) Motho ya hlaloswang karolwaneng (1) ka nako ya ho mamelwa ha kgalemelo a ka—
- (a) e tella pele bopaki le ho hlahisa ngangisano ya tshehetsong ya qoso le ho botsisisa dipaki;
- (b) ho botsa dipotso motho e mong le e mong ya bitsitsweng ho latela karolwana (4); le
- (c) ho bitsa mang kapa mang ho nehelana ka bopaki kapa ho hlahisa ho hong le hong kapa lesedi, ho akga ka hare dipampiri tsa tshebetso, 60

- custody or under his or her control, which such person suspects or believes to have a bearing on the subject of the disciplinary hearing.
- (12) (a) A witness who has been subpoenaed may not—
- (i) without just cause, fail to attend the disciplinary hearing at the time and place specified in the subpoena; 5
 - (ii) refuse to be sworn in or to be affirmed as a witness;
 - (iii) without just cause, fail to answer fully and satisfactorily to the best of his or her knowledge all questions lawfully put to him or her; or
 - (iv) fail to produce any object or information, including but not limited to any working papers, statements, correspondence, books or other documents in his or her possession or custody or under his or her control, which he or she has been required to produce. 10
- (b) A witness must remain in attendance until excused by the chairperson of the disciplinary hearing panel from further attendance.
- (c) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law, with the necessary changes, applies in relation to the examination of any object or information, including but not limited to any working papers, statements, correspondence, books or other documents, or to the production of such information to the disciplinary hearing panel by any person called in terms of this section as a witness. 15 20
- (d) A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.
- (e) A person may not prevent another person from complying with a subpoena or from giving evidence or producing any object or information, including but not limited to any working papers, statements, correspondence, books or other documents, which he or she is in terms of this section required to give or produce. 25
- (f) A person subpoenaed in terms of this section must be reimbursed for incidental costs for providing information and attending the disciplinary hearing by the person who requested the subpoena. 30
- (13) If the improper conduct with which the registered auditor is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court is, on the identification of the registered auditor as the person referred to in the record, sufficient proof of the commission by him or her of that offence, unless the conviction has been set aside by a superior court. 35
- (14) If, for any reason, a member of the disciplinary hearing panel is unable to complete proceedings of the disciplinary hearing, the chairperson of the disciplinary committee may— 40
- (a) direct that the proceedings continue before the remaining disciplinary hearing panel members, two of whom must be members referred to in section 24A(2)(a) and (b); or
 - (b) if there are less than two remaining disciplinary hearing panel members, constitute a new panel and direct that the proceedings start anew. 45

Sanctions in admission of guilt process

- 51.** (1) If a registered auditor admits guilt as contemplated in section 49(4)(a), the enforcement committee may— 50
- (a) caution or reprimand the registered auditor;
 - (b) impose a fine on the registered auditor not exceeding the amount determined by the Minister in the *Gazette* in terms of subsection (2); or

- ditokodiso, dipuisano, dibuka kapa ditokomane tse ding tse leng ho yena kapa tse leng tlhokomelong ya hae kapa tse leng taolong ya hae tseo motho eo a nahanang hore di na le seabo ho mamelweng ha kgalemo.
- (12) (a) Paki e bitsitsweng e ka se— 5
- (i) hlolehe ho ba teng ho mamelweng ha kgalemo ka nako le sebaka se hlahositsweng pitsetsong, ntle le le lebaka le utlwahalang;
- (ii) hane ho nka kano e le paki;
- (iii) hlolehe ho araba ka ho phethahala le ka ho kgotsofatsa ho ya ka tsebo ya hae dipotso tsohle tseo a di botswang; kapa 10
- (iv) hlolehe ho hlahisa ho hong le ho hong kapa lesedi, le akgang dipampiri tsa tshebetso, ditokodiso, dipuisano, dibuka kapa ditokomane tse ho yena kapa tse tsherweng kapa tse ka tlasa taolo ya hae, tseo a hlokwang ho ka di hlahisa.
- (b) Paki e tshwanetse ho dula e le teng ho fihlela e lokollwa ke modulasetulo wa lekgotla la kgalemelo. 15
- (c) Molao o amanang le kuno, jwalo ka ha o sebetse le ho dipaki tse bitsitsweng ho ka nehelana ka bopaki kapa ho hlahisa buka, tokomane kapa ho hong le ho hong nyeweng ya setjhaba ka pela lekgotla la dinyewe a ka etsa kopo mabapi le ho hlahlojwa ha ntho e nngwe le e nngwe kapa lesedi, ho akgang dipampiri tsa tshebetso, ditokodiso, dipuisano, dibuka kapa ditokomane, kapa tlhahiso ya lesedi ho lekgotla la kgalemelo ka motho e mong le e mong ho latela karolo ena jwalo ka paki. 20
- (d) Ka mora hore paki e nke boikano, paki e keke ya nehelana ka tokodiso ntlheng e nngwe le e nngwe e tseba hore karabo eo kapa tokodiso eo e fosahetse. 25
- (e) Motho a ka se thibele motho e mong ho ka ikamahanya le ho bitswa kapa ho nehelana ka bopaki kapa ho hlahisa ho hong le ho hong kapa lesedi le leng le le leng, le akgang dipampiri tsa tshebetso, ditokodiso, dipuisano, dibuka kapa ditokomane tse ding tseo, ho latela karolo ena a tshwanetseng ho nehelana ka tsona kapa ho di hlahisa. 30
- (f) Motho ya kopileng paki ho hlahella ho mamelweng ha kgalemelo o tshwanetse ho lefella ditjeho tse amehang tsa motho ya bitsitsweng ho ka nehelana ka lesedi le ho ba teng mamelong ya kgalemelo.
- (13) Ebang boitshwaro bo sa lokang boo mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a qoswang ka bona bo fihlella ho ba tlolo ya molao eo a ileng a fumanwa a le molato ho yona lekgotleng la dinyewe, khopi e netefaditsweng ya rekoto ya nyewe le kahlolo ya lekgotla leo, ka pontsho ya mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng e le motho ya hlahoswang ke rekoto, ke bopaki bo lekaneng ba ketso eo ya tlolo ya molao, ntle le ha kotlo e behetswe ka thoko ke lekgotla le phahameng. 40
- (14) E bang, ka lebaka lefe kapa lefe, setho sa lekgotla la mamelo ya kgalemelo se sa kgone ho ka phethela ditsamaiso tsa ho mamelwa ha kgalemelo modulasetulo wa komiti ya kgalemelo a ka—
- (a) laela hore ditsamaiso ditswelepele ka pela ditho tsa lekgotla la mamelo ya kgalemelo tse teng, tse pedi e tshwanetse e be ditho tse hlahoswang karolong 24A(2)(a) le (b); kapa 45
- (b) e bang ho setse ditho tse feteng pedi tsa lekgotla la mamelo ya kgalemelo, a ka theha lekgotla mme a laele hore ditsamaiso di qale setjha. 50

Dikotlo tumelong ya molato

- 51.** (1) E bang mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng a dumela molato jwalo ka ha ho hlahositswe karolong 49(4)(a), komiti ya kenngo tshebetsong e tshwanetse ho— 55
- (a) hlokomedisa kapa kgalemela mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng;
- (b) neha mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng faene e sa feteng e hlwauweng ke Letona nako le nako koranteng ya mmuso karolwaneng (2); kapa

(c) require the registered auditor to attend appropriate training or any other relevant non-monetary sanction or more than one relevant non-monetary sanction.

(2) The Minister must determine the amount referred to in subsection (1)(b)—

(a) on the recommendation of the Regulatory Board; and

(b) after publishing in the *Gazette* the proposed amount for comment for at least 30 days.

(3) The enforcement committee may impose more than one of the sanctions referred to in subsection (1).

(4) A sanction imposed in terms of subsection (1) may be suspended for a specific period or until the occurrence of a specific event or made subject to any conditions.

(5) The enforcement committee may order a registered auditor who admitted guilt to the charges to pay such reasonable costs as have been incurred in connection with an investigation or such part thereof as the enforcement committee considers just.

(6) The enforcement committee may, if considered appropriate, request the Regulatory Board to publish in the Board's website the name of the registered auditor who admitted guilt, the charge and the sanction imposed in terms of subsection (1), read with subsection (3), and a cost order in terms of subsection (4).

(7) The Regulatory Board must give effect to the decision of the enforcement committee.”.

Substitution of section 51A of Act 26 of 2005

18. The following section is hereby substituted for section 51A of the principal Act:

“Application of certain provisions to registered candidate auditors

51A. This Chapter [Sections 48, 49, 50 and 51], except section 47, [apply] applies to registered candidate auditors with the necessary changes.”.

Insertion of section 51B in Act 26 of 2005

19. The following section is hereby inserted in the principal Act after section 51A:

“Sanctions in disciplinary hearing process

51B. (1) After the conclusion of a disciplinary hearing contemplated in section 50, the disciplinary hearing panel must—

(a) within 30 days, decide whether or not the registered auditor is guilty as charged and inform the relevant parties in writing of this decision;

(b) if the registered auditor is found guilty in terms of subsection (1)(a), within 30 days after the guilty finding, consider mitigating and aggravating factors for the purpose of determining an appropriate sanction; and

(c) within five days after considering mitigating and aggravating factors, determine the sanction and inform the relevant parties in writing of the final outcome of the disciplinary hearing.

(2) A registered auditor found guilty in terms of subsection (1)(a) may—

(a) address the disciplinary hearing panel in mitigation of sentence; and

(b) call witnesses to give evidence on his or her behalf in mitigation of the sentence.

- (c) hloka mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng ho ka ya thupellong e moloketseng kapa kotlo e nngwe le e nngwe e seng ya tjhelete kapa kotlo e fetang bonngwe sa amaneng le tsa tjhelete.
- (2) Komiti ya kenngo tshebetsong e ka nehelana ka kotlo e fetang bonngwe e hlahoswang karolwaneng (1)(b)—
- (a) ka kgothaletso ya Lekgotla la Bolaodi; le
- (b) ka mora ho phatlalatsa koranteng ya mmuso palo e sisintsweng bakeng la ho utlwa maikutlo bakeng la bonyane nako ya matsatsi a 30.
- (3) Komiti ya kenngo tshebetsong e ka nehelana ka kotlo e fetang bonngwe e hlahositsweng karolwana (1). 5
- (4) Kotlo e nehetsweng ho latela karolwana (1) e ka behelwa ka thoko bakeng la nako e itseng kapa ho fihlela ho etsahala ho hong kapa ho itshetlehile ho maemo a itseng. 10
- (5) Komiti ya kenngo tshebetsong e ka laela mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng ya amohetseng molato wa diqoso ho ka lefella ditjeho tse itseng tse fumanehileng mabapi le dipatlisiso kapa karolo eo komiti ya kenngo tshebetsong e enkanang e lokile. 15
- (6) Komiti ya kenngo tshebetsong e ka kopa Lekgotla la Bolaodi ho ka phatlalatsa lebitso la mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng ya amohetseng molato, qoso le kotlo ho latela karolwana (1), e balwa le karolwana (3), le taelo ya ditjeho ho latela karolwana (4). 20
- (7) Lekgotla la Bolaodi le tshwanetse ho kenya tshebetsong qeto ya komiti ya kenngo tshebetsong.”.

Phetolo ya karolo 51A ya Molao 26 wa 2005

18. Karolo e latelang e fetotswe bakeng la karolo 51A ya Molao o ka sehloohong: 25

“Tshebetso ya dikarolo tse itseng ho baithuti ba bahlahlobo ba dibuka tsa tjhelete ba ngodisitsweng

51A. Kgaolo ena [Karolo 48, 49, 50 le 51] ntle le karolo 47, [e a sebetsa] di sebetsa ho baithuti ba bahlahlobo ba dibuka tsa tjhelete ba ngodisitsweng ka diphetoho tse hlokalalang.”. 30

Ho kenngwa ha karolo 51B ho Molao 26 wa 2005

19. Karolo e latelang e kentswe Molaong o ka sehloohong ka mora karolo 51A:

“Dikotlo tsamaisong ya mamelo ya kgalemelo

- 51B.** (1) Ka moraho ho phethelo ya ho mamelwa ha kgalemelo e hlahositsweng karolong 50, lekgotla la mamelo ya kgalemelo le tshwanetse ho— 35
- (a) etsa qeto hore mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng o molato kapa ha molato wa qoso matsatsing a 30 mme le tsebise ba amehang ka sephetho sena ka ho ba ngolla;
- (b) hlwaya kotlo, e bang mohlahlobo wa dibuka tsa tjhelete ya ngodisitswe a fumanwa a le molato ho latela karolwana (1)(a), ho kenyeleditswe mabaka a mang le a mang a tsebetsang kapa a bebofatsang kotlo matsatsing a 30 ka mora ho fumanwa a le molato; mme 40
- (c) ka mora matsatsi a mahlano ka mora ho hlwaya kotlo, ho tsebisa ba amehang ka sephetho sa ho qetela sa ho mamelwa ha kgalemelo ka hob a ngolla. 45
- (2) Mohlahlobo wa dibuka tsa tjhelete ya ngodisitsweng ya fumanweng a le molato ho latela karolwana (1)(a) a ka—
- (a) bua le lekgotla la kgalemelo ho bebofatsa kotlo; le
- (b) ho bitsa dipaki ho ka nehelana ka bopaki boemong ba hae bebofatsong ya kotlo. 50

- (3) (a) If the registered auditor charged is found guilty or if the registered auditor admits to the charges, the disciplinary hearing panel may—
- (i) caution or reprimand the registered auditor;
 - (ii) impose a fine not exceeding the amount determined by the Minister in the *Gazette* in terms of paragraph (b);
 - (iii) require the registered auditor to attend appropriate training or any other relevant non-monetary sanction or more than one relevant non-monetary sanction;
 - (iv) cancel the registration of the registered auditor concerned and remove his or her name from the register referred to in section 6; or
 - (v) disqualify the registered auditor from registration as a registered auditor on a temporary or permanent basis.
- (b) The Minister must determine the amount referred to in paragraph (a)(ii)—
- (i) on the recommendation of the Regulatory Board; and
 - (ii) after publishing in the *Gazette* the proposed amount for comment for at least 30 days.
- (c) The disciplinary hearing panel may impose more than one of the sanctions referred to in paragraph (a).
- (d) A sanction imposed in terms of paragraph (a) may be suspended for a specific period or until the occurrence of a specific event or made subject to any conditions.
- (4) The disciplinary hearing panel may order any registered auditor found guilty or who admitted guilt to pay such reasonable costs as have been incurred in connection with the investigation and the disciplinary hearing or such part thereof as the disciplinary hearing panel considers just.
- (5) The Regulatory Board must publish in the Board's website, and if deemed necessary, in any other appropriate medium, the name of the registered auditor found guilty, a summary of the charges, the finding and the sanction imposed in terms of subsection (3) and a cost order in terms of subsection (4).
- (6) The Regulatory Board must give effect to the decision of the disciplinary hearing panel.”.

Substitution of section 53 of Act 26 of 2005

20. The following section is hereby substituted for section 53 of the principal Act:

“Offences relating to investigation and disciplinary process

- 53.** (1) A person is guilty of an offence if he or she—
- (a) without sufficient cause, refuses or fails to comply with any reasonable request by an official authorised by the Regulatory Board in connection with the conduct of an investigation;
 - (b) interferes with or hinders the conduct of an investigation or a disciplinary process;
 - (c) fails, without sufficient cause, to comply with a subpoena in terms of section 48 or 50;
 - (d) having been called under section 50, refuses to be sworn in or to be affirmed as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of the person's knowledge and belief all questions lawfully put concerning the subject of the hearing; or
 - (e) having been duly sworn in or having made an affirmation under section 50, gives a false answer to any question lawfully put to the witness or makes a false statement on any matter, knowing the answer or statement to be false.
- (2) A person convicted of an offence under this section is liable to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.”.

- (3) (a) E bang mohlalobi wa dibuka tsa tjhelete ya ngodisitweng a fumanwa a le molato kapa e bang mohlalobi wa dibuka tsa tjhelete ya ngodisitweng a amohela diqoso, lekgotla la kgalemo le tshwanetse ho—
- (i) hlokomedisa kapa kgalema mohlalobi wa dibuka tsa tjhelete ya ngodisitweng; 5
 - (ii) nehelana ka faene e sa feteng palo e hlwauweng ke Letona nako le nako koranteng ya mmuso ho latela karolwana (b);
 - (iii) hloka mohlalobi wa dibuka tsa tjhelete ho ya thupellong e moloketseng kapa kotlo e nngwe le e nngwe e seng ya tjhelete kapa kotlo e nngwe le e nngwe e fetang bonngwe e seng ya tjhelete; 10
 - (iv) hlakola ngodiso ya mohlalobi wa dibuka tsa tjhelete ya ngodisitweng le ho tlosa lebitso la hae rejitareng e hlalolang karolong 6; kapa
 - (v) se dumelle mohlalobi wa dibuka tsa tjhelete ya ngodisitweng ho ngodisa e le mohlalobi wa dibuka tsa tjhelete bakeng la nakwana kapa nako ya moshwelella. 15
- (b) Letona le tshwanetse ho hlwaya palo e hlalositweng temaneng (a)(ii)—
- (i) ka kgothaletso ya Lekgotla la Bolaodi; le
 - (ii) ka mora ho phatlalatsa koranteng ya mmuso palo e sisintsweng bakeng la ho nonya maikutlo bonyane matsatsi a 30. 20
- (c) Lekgotla la kgalemelo le ka nehelana ka kotlo e fetang bonngwe e hlalositweng temaneng (a).
- (d) Kotlo e nehetsweng ho latela temana (a) e ka behellwa ka thoko bakeng la nako e itseng kapa ho fihlella ketsahalo e itseng e etsahala kapa e etswe ka dipehelo tse ding le tse ding. 25
- (4) Lekgotla la mamelo ya kgalemelo le ka laela mohlalobi wa dibuka tsa tjhelete ya ngodisitweng ya fumanweng a le molato kapa ya amohetseng molato ho ka lefella ditjeho tse fumanehileng tse amanang le dipatlisiso le ho mamelwa ha kgalemelo kapa karolo ya ten geo lekgotla la mamelo ya kgalemelo le e fumanang e loketse. 30
- (5) Lekgotla la Bolaodi le tshwanetse ho phatlalatsa setsheng sa inthanete sa Lekgotla lebitso la mohlalobi wa dibuka tsa tjhelete ya fumanweng a le molato, sephetho le kotlo a e fuweng ho latela karolwana (3) le taelo ya ditjeho ho latela karolwana (4). 35
- (6) Lekgotla la Bolaodi le tshwanetse kenya tshabetsong qeto ya lekgotla la mamelo ya kgalemelo.”.

Phetolo ya karolo 53 ya Molao 26 wa 2005

20. Karolo e latelang e fetotswe bakeng la karolo 53 ya Molao o ka sehloohong:

“Ditshitelo mabapi le dipatlisiso le tsamaiso ya kgalemelo 40

53. (1) Motho o molato wa tshitelo e bang—

- (a) ka ntle le mabaka a utlwahalang, a hloleha kapa a hana ho ikamahanya le kopo e nngwe le enngwe e utlwahalang ya mohlanka ya dumelletseng ke Lekgotla la Bolaodi mabapi le ho la etsa dipatlisiso; 45
 - (b) a sitisa ho etswa ha dipatlisiso kapa tsamaiso ya kgalemelo;
 - (c) a hloleha, ka ntle le mabaka a utlwahalang, ho ikamahanya le pitsetso ho latela karolo 48 kapa 50;
 - (d) ka mora ho bitswa ka tlasa karolo 50, a hane ho nka kano jwalo ka paki kapa a hloleha ho araba ka botlalo le ka ho kgotsofatsa ho latela tsebo ya motho le tumelo hore dipotso tsohle di arabuwe ho latela molao le ho latela nyewe; kapa 50
 - (e) ha a nkile kano ka tlasa karolo 50, a nehelane ka karabo e fosahetseng ho latela potsong e nngwe le e nngwe e nehelwang paki kapa nehelana ka tokodiso e fosahetseng ntlheng e nngwe le e nngwe a tseba hore tokodiso kapa karabo eo e fosahetse. 55
- (2) Motho ya ahloletsweng tshitelo ka tlasa karolo ena o tshwanetse ho faenwa kapa ho kwallwa bakeng la nako e sa feteng dilemo tse hlano kappa ho faenwa le ho kwallwa ka bobedi.”.

Insertion of section 57A in Act 26 of 2005

21. The following section is inserted in the principal Act after section 57:

“Protection of information

- 57A.** (1) The Regulatory Board must in respect of personal information in its possession or under its control comply with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). 5
- (2) A member of the Regulatory Board, a member of any committee envisaged in this Act, an employee of the Regulatory Board or an authorised person referred to in section 48A(1), may not disclose to any person not in the service of the Regulatory Board any information obtained in the performance of functions under this Act except— 10
- (a) for the purpose of enforcing compliance with this Act or any decision made in terms of this Act;
- (b) when required to do so by a court;
- (c) at the written request of, and to, any appropriate regulator which requires it for the institution or an investigation with a view to the institution of any disciplinary process or criminal prosecution; 15
- (d) at the written request of, and to, any appropriate international regulator of audits and auditors that requires such information for the purpose of investigation or a disciplinary process; or 20
- (e) for purposes of referring a non-audit matter in terms of section 48(1A).”.

Amendment of arrangement of sections of Act 26 of 2005

22. The arrangement of sections of the principal Act is amended—
- (a) by the substitution for section 24 of the following sections: 25
- “24. Investigating [**disciplinary**] [**committees**] committee
24A. Disciplinary committee
24B. Subcommittees of Regulatory Board”;
- (b) by the insertion after section 48 of the following sections: 30
- “48A. Powers to enter and search premises
48B. Warrants”;
- (c) by the substitution for section 49 of the following section: 35
- “49. [**Charge of improper conduct**] Process following investigation”;
- (d) by the substitution for section 51 of the following section: 35
- “51. [**Proceedings after hearing**] Sanctions in admission of guilt process”;
- (e) by the insertion after section 51A of the following section: 40
- “51B. Sanctions in disciplinary hearing process”;
- (f) by the substitution for section 53 of the following section: 40
- “53. Offences relating to investigation and disciplinary [**hearings**] process”; and
- (g) by the insertion after section 57 of the following section: 40
- “57A. Protection of information”.

Transitional measures

23. If a registered auditor or registered candidate auditor— 45
- (a) has been charged with improper conduct before the commencement of this Act, the matter must be dealt with in terms of the principal Act, before its amendment by this Act; or
- (b) committed an act of improper conduct but has not been charged before the commencement of this Act, the matter must be dealt with in terms of the principal Act, after its amendment by this Act, except that the sanctions 50 applicable at the time of the act of improper conduct must be applied.

Short title

24. This Act is called the Auditing Profession Amendment Act, 2021.

Kenngo ya karolo 57A ho Molao 26 wa 2005

21. Karolo e latelang e kentswe Molaong o ka sehloohong ka mora karolo 57:

“Tshireletso ya lesedi la botho

- 57A.** (1) Lekgotla la Bolaodi le tshwanetse ho etsa bonnete hore lesedi la botho le ho lona kapa ka tlasa taolo ya lona le ikamahanya le *Protection of Personal Information Act, 2013 (Act No. 4 of 2013)*. 5
- (2) Setho sa Lekgotla la Bolaodi, setho se seng le se seng sa komiti e hlalose Molaong ona, mosebeletsi wa Lekgotla la Bolaodi kapa motho ya dumelletseng ya hlalose karolong 48A(1), a ka se tsebise motho e mong le e mong ya seng tshabetsong ya Lekgotla la Bolaodi lesedi le fumanehileng ketsong ya mosebetsi wa hae ka tlasa Molao ona ntle le—
- (a) maikemisetso a ho Kenya tshabetsong boikamahanyo le Molao ona kapa qeto e nngwe le e nngwe e entsweng ho latela Molao ona;
- (b) ha lekgotla la dinyewe le hloka a etse jwalo;
- (c) ka kopo e ngotsweng, bolaodi bo bong le bo bong bo loketseng bo hlokang bakeng la motheo kapa dipatlisiso ka tjebo ya tsamaiso ya kgalemelo kapa qoso ya tlolo ya molao;
- (d) ka kopo e ngotsweng ya bolaodi ba matjhaba ba hlahlobo ya dibuka tsa tjhelete le bahlahlobo ba dibuka tsa tjhelete e hlokang lesedi le jwalo bakeng la dipatlisiso kapa tsamaiso ya kgalemelo; kapa
- (e) bakeng laho fetisa ntlha e seng ya hlahlobo ya dibuka tsa tjhelete ho latela karolo 48(1A).”.

Phetolo ya tlhophiso ya dikarolo tsa Molao 26 wa 2005

22. Tlhophiso ya dikarolo tsa Molao o ka sehloohong e fetotswe—
- (a) ka phetolo ya karolo 24 ka karolo e latelang: 25
- “24. Diphuputso [kgalemelo] [di] komiti
24A. Dikomiti tsa kgalemo
24B. Dikomiti tse tlase tsa Lekgotla la Bolaodi”;
- (b) ka ho kenya dikarolo tse latelang ka mora karolo 48: 30
- “48A. Matla a ho kena le ho fuputsa moaho
48B. Ditumello”;
- (c) ka phetolo ya karolo 49 ka karolo e latelang:
- “49. [Qoso ya maitshwaro a sa lokang] Tsamaiso e latelang dipatlisiso”;
- (d) ka phetolo ya karolo 51 ka karolo e latelang: 35
- “51. [Tsamaiso ka mora nyewe] Dikotlo kamohelong ya ho ipona molato”;
- (e) ho kenya karolo e latelang ka mora karolo 51A:
- “51B. Kotlo tsamaisong ya nyewe ya kgalemelo”;
- (f) ka phetolo ya karolo 53 ka karolo e latelang 40
- “53. Ditshitele tse amanang le dipatlisiso le ho [mamelwa] tsamaiso ya kgalemelo”; le
- (g) ka ho kenya karolo e latelang ka mora karolo 57:
- “57A. Tshireletso ya lesedi”.

Metjha ya nakwana

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23. E bang mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng kapa moithuti wa mohlalobi wa dibuka tsa tjhelete ya ngodisitsweng—

- (a) o qoswa ka maitshwaro a sa lokang pele ho qaleho ya Molao ona, ntlha ena e tshwanetse ho sebetswa ho latela Molao o ka sehloohong pele ho phetolo ya teng ka Molao ona; kapa 50
- (b) o entse ketso e sa lokang empa ha a ka a qoswa pele Molao ona o kena tshabetsong, ntlha ena e tshwanetse ho sebetswa ho latela Molao o ka sehloohong, ka mora phetolo ya teng ka Molao ona, ntle le hore dikotlo tsa ka nako eo tsa maitshwaro a sa lokang di tshwanetse ho kenngwa tshabetsong.

Sehlooho se sekgutshwane

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24. Molao ona o bitswa Phetolo ya Molao wa Profeshene ya Hlahlobo ya Dibuka tsa Tjhelete wa 2021.

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