



Government Gazette

REPUBLIC OF SOUTH AFRICA
REPHABLIKI YA AFRIKA BORWA

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Kaapstad,

THE PRESIDENCY

No. 1233 15 December 2015

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

Act No. 11 of 2015: Agrément South Africa Act, 2015

MO-PRESIDENTE

No. 1233 15 December 2015

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebiso ya kakaretso:—

Nmr 11 ya 2015: Molao wa Tumellano Afrika Borwa, 2015



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*(English text signed by the President)
(Assented to 13 December 2015)*

ACT

To provide for the establishment of Agrément South Africa as a juristic person; to determine its objects, powers and duties; to prescribe the manner in which it is managed and governed; to provide for transitional arrangements; and to provide for matters connected therewith.

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

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(English text signed by the President)
(Assented to 13 December 2015)

MOLAO

Go phethagaletša hlango ya Tumellano Afrika Borwa bjalo ka sehlongwa; go laetša maikemišetso, maatla le ditshwanelo tša yona; go laela ka mokgwa woo e swanetšego go bušwa; go phethagaletša dithulaganyo tša nakwana; mme le go phethagaletša merero ye malebana.

E DIRWA MOLAO KE Palamente ya Rephabliki ya Afrika Borwa, ka moo go latelago:—

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Definitions

1. (1) In this Act, unless the context indicates otherwise—
- “**Agrément Certificate**” means a certificate issued by Agrément South Africa in terms of this Act;
 - “**Board**” means the Board contemplated in section 9; 5
 - “**certificate holder**” means the person or entity in whose name an Agrément Certificate is issued;
 - “**certified**” means certified in terms of this Act;
 - “**committee**” means a committee of the Board established under or in terms of this Act; 10
 - “**competent person**” means a person who is qualified by virtue of his or her experience and training;
 - “**construction industry**” means the broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment; 15
 - “**construction related product or system**” means a product, material, component, element, system, method, assembly, process or procedure intended for use in the construction of a building or infrastructure within the built environment;
 - “**fit-for-purpose**” means a construction related product or system’s ability to be consistently developed, manufactured, applied and installed such that it fulfills its intended purpose; and “**fitness-for-purpose**” has a corresponding meaning; 20
 - “**Minister**” means the Minister responsible for public works;
 - “**non-standardised construction related product**” means a construction related product or system, which may not necessarily be regarded as innovative and for which no SABS standard specification exists or which falls outside the scope and requirements of an existing SABS standard specification; 25
 - “**organ of state**” means an organ of state as defined in section 239 of the Constitution, 1996;
 - “**PFMA**” means the Public Finance Management Act, 1999 (Act No.1 of 1999), as amended; 30
 - “**prescribe**” means to prescribe by—
 - (i) rules issued by Agrément South Africa; or
 - (ii) regulations issued by the Minister in terms of this Act;
 - “**quality management systems**” means the systems developed for the control or quality of production and installation or erection of certified construction related products or systems based on the general principles and requirements of any relevant approved SABS standard; 35
 - “**SABS**” refers to the South African Bureau of Standards, whose continued existence is provided for in the Standards Act, 2008 (Act No. 8 of 2008); and
 - “**this Act**” includes a rule or regulation issued in terms of this Act. 40

Administrative justice

2. (1) Any administrative process conducted or decision taken in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless otherwise provided for in this Act.
- (2) All notices required in terms of this Act shall be submitted in writing. 45

Agrément South Africa

3. (1) Agrément South Africa, which was established by the Minister and which exists when this Act takes effect continues so to exist and is a juristic person.
- (2) The PFMA applies to Agrément South Africa.

Objects 50

4. The objects of Agrément South Africa are to—
- (a) provide assurance to specifiers and users of the fitness-for-purpose of non-standardised construction related products or systems;
 - (b) support and promote the process of integrated socio-economic development in the Republic as it relates to the construction industry; 55

Dihlalošo

1. (1) Mo Molaong o, ntle le ge tshwaraganyo e hlaloša ka tsela ye nngwe—
“**Setifikeiti sa tetla**” e ra setifikeiti se newago ke Tumellano Afrika Borwa go ya
ka Molao wo;
“**Boto**” e ra Boto ye hlalošitšwego go karolo 9; 5
“**mong setifikeiti**” e ra motho goba sehlolongwa seo setifikeiti se newago ka leineng
la sona;
“**netefaditšwe**” e ra netefaditšwe go ya ka Molao o;
“**komiti**” e ra komiti ya Boto e hlanngwego ka tlase ga goba go ya ka Molao o;
“**motho yo nago le boitekanelo**” e ra motho yo nago le boitekanelo go ya ka 10
boitemogelo bja gagwe le katišo;
“**intasteri ya kago**” e ra nyalano ya diintasteri le makala ao a tlišago boleng
hlangong le hlokomelong ya dithoto tša go ya go ile gare ga tikologo ye agilwego;
“**setšweletšwa goba tsela ye sepelelanago le kago**” e ra setšweletšwa, metheriale,
karolo, elemente, tsela, mokgwa, kopanyo, tshepetšo goba tshepedišo tše tšilego go 15
dirišwa kagong ya moago goba lenaneokgoparara gare ga tikologo ye agilwego;
“**e loketšego morero**” e ra bokgoni bja setšweletšwa goba tsela bakeng sa go
tšweletšwa go ya go ile, go šomišwa le go tsenywa ka moo e ka kgonago go
fihlelela morero wa yona wa makemišetšo; mme “**tokelo morero**” e na le hlalošo
ye sepelelanago; 20
“**Tona**” e ra Tona ya maikarabelo a mešomo ya mmušo;
“**setšweletšwa sa kago se sepelelanago le se sa direlwago maemo**” e ra
setšweletšwa se sepelelanago le sa kago seo se ka se bonwego bjalo ka sa motheo
mme seo se hlokago netefatšo ya maemo a taetšo a SABS;
“**lekala la mmušo**” e ra lekala la mmušo ka ge go hlalošitšwe go karolo 239 ya 25
Molaotheo, 1996;
“**PFMA**” e ra *Public Finance Management Act*, 1999 (Molao 1 wa 1999), bjalo ka
ge o fetošitšwe;
“**laela**” e ra go laela ka—
(i) melao ye newago ke Tumellano Afrika Borwa; goba 30
(ii) melawana ye newago ke Tona go ya ka Molao wo;
“**ditšela tša taolo ya boleng**” e ra ditšela tše hlangwetšwego taolo goba tšweletšo
ya boleng le tsenyo goba kemišo ya ditšweletšwa goba ditšela tše netefaditšwego
tša kago tše sepelelanago le melaokakaretšo le dinyakwa tša maemo afe goba afe a
dumelletšwego ke SABS; 35
“**SABS**” e ra *South African Bureau of Standards*, yeo tšwelope le go ba gona ga
yona go phethagaleditšwe go *Standards Act*, 2008 (Molao. 8 wa 2008); gape
“**Molao o**” o akaretša molao goba molawana o neilwego go ya ka Molao o.

Toka ya tshepedišo

2. (1) Tshepetšo ya taolo efe goba efe goba dipheo tše tšerwego go ya ka Molao o di 40
swanetše go phethagatšwa goba go dirwa go ya ka *Promotion of Administrative Justice*
Act, 2000 (Molao 3 wa 2000), ntle le ge Molao o o phethagaletša ka tsela ye nngwe.
(2) Ditsebišo ka moka tše hlokegago go ya ka Molao wo di tla romelwa ka tsela ya
lengwalo.

Tumellano Afrika Borwa

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3. (1) Tumellano Afrika Borwa, e hlanngwe ke Tona mme e lego gona ge Molao o o
thoma go šoma e tla tšwelapele ka go ba gona mme ke sehlonywa.
(2) PFMA e šoma go Tumellano Afrika Borwa.

Maikemišetšo

4. Maikemišetšo a Tumellano Afrika Borwa ke go— 50
(a) phethagaletša netefatšo go ditsebi le badiriši ba ditšweletšwa goba ditšela tše
sepelelanago le kago tše sa direlwago maemo tše loketšego morero;
(b) thekga le go godiša tshepetšo ya tlhabollo ye kopantšwego ya leago ekonomi
mo Rephabliki ka ge e sepelelana le intasteri ya tša kago;

- (c) support and promote the introduction and use of certified non-standardised construction related products or systems in the local or international market;
- (d) support policy makers to minimize the risk associated with the use of a non-standardised construction related product or system; and
- (e) be an impartial and internationally acknowledged South African centre for the assessment and confirmation of fitness-for-purpose of non-standardised construction related products or systems. 5

Powers and duties

5. (1) In order to achieve its objects, Agrément South Africa may exercise the power to— 10
- (a) assess and, if satisfied, certify the fitness-for-purpose of a non-standardised construction related product or system;
 - (b) issue, amend, suspend, reinstate, withdraw or renew an Agrément Certificate;
 - (c) enter into an agreement with a person, entity or organ of state, whose services are required to achieve an object or perform a function of Agrément South Africa or the Board; 15
 - (d) provide services in relation to the objects of Agrément South Africa to a person, entity or organ of state; and
 - (e) exercise any other power as may be prescribed or necessary to achieve the objects of Agrément South Africa. 20
- (2) In order to achieve its objects Agrément South Africa has the duty to—
- (a) create appropriate structures to execute its executive and operational functions;
 - (b) develop any rules, processes, procedures, criteria or guidelines necessary to achieve the objects of Agrément South Africa and the execution of its duties; 25
 - (c) monitor and evaluate the quality management systems of a certified construction related product or system, in its manufacture, application, installation or erection processes;
 - (d) communicate relevant information to stakeholders in respect of the technical, socio-economic and regulatory aspects of a non-standardised construction related product or system certified by Agrément South Africa; 30
 - (e) support and promote the introduction and use of certified non-standardised construction related products or systems in the local or international market;
 - (f) establish and maintain international links with peer organizations;
 - (g) open and operate a banking account in the name of Agrément South Africa; 35
 - and
 - (h) encourage research and development of non-standardised construction related products or systems.
- (3) Agrément South Africa may—
- (a) acquire or dispose of property or a right in respect thereof, but immovable property must be acquired or disposed of with the prior written consent of the Minister; 40
 - (b) invest its funds not immediately required;
 - (c) insure Agrément South Africa against any— 45
 - (i) loss, damage or risk; or
 - (ii) liability it may incur in the application of this Act;
 - (d) institute or defend legal action;
 - (e) determine, charge and collect fees for any services rendered, product and document produced;
 - (f) charge interest in respect of money due to it from the day after such money becomes due and payable; and 50
 - (g) grant a person, entity or organ of state an exemption from the payment of any fee, or a portion thereof.

- (c) thekga le go godiša tsenyo le tirišo ya ditšweletšwa goba ditsela tše sepelelanago le kago tše sa direlwago maemo tše netefaditšwego marakeng wa boselegae goba boditšhabatšhaba;
- (d) thekga badiradipholisi go fokotša kotsi ye sepelelanago le tirišo ya setšweletšwa goba tsela e sepelelanago le kago e sa direlwago maemo; gape le 5
- (e) go ba senthara ya Afrika Borwa ye sa kgethellego ka mogwa wo sa swanelago ye tsejwago boditšhabatšhaba malebana le fetleko le netefatšo tše loketšego morero ya ditšweletšwa goba ditsela tše sepelelanago le kago tše sa direlwago maemo.

Maatla le ditshwanelo

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5. (1) Bakeng sa go fihlelela maikemišetšo a yona, Tumellano Afrika Borwa e ka diriša maatla go—

- (a) fetleka le go, ge e kgotsofetše, netefatša tokelo morero ya setšweletšwa goba tsela e sepelelanago le kago e sa direlwago maemo;
- (b) nea, fetoša, fega, tšošološa, gogela morago goba mpshafatša Setifiketi sa 15 Tetla;
- (c) tsenela tumellano le motho, sehlongwa goba lekala la mmušo seo ditirelo tša sna di hlokegago bakeng sa go fihlelela maikemišetšo goba go phethagatša mošomo wa Tumellano Afrika Borwa goba Boto;
- (d) phethagaletša ditirelo tše malebana le maikemišetšo a Tumellano Afrika 20 Borwa go motho, sehlongwa goba lekala la mmušo; gape
- (e) go diragatša maatla afe goba afe ka moo go ka phethagaletšwago goba hlokegago go fihlelela maikemišetšo a Tumellano Afrika Borwa.

(2) Bakeng sa go fihlelela maikemišetšo a yona, Tumellano Afrika Borwa e na le maikarabelo a go—

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- (a) hlama dibopego tše swanetšego bakeng sa go phethagatša mešomo ya yona ya kuduthamaga le tshepetšo;
- (b) hlama melao efe goba efe, ditshepetšo, ditshepedišo, tekanyetšo goba methalohlhali ye swanetšego go fihlelela maikemišetšo a Tumellano Afrika 30 Borwa le phethagatšo ya mešomo ya yona;
- (c) lekola le go fetleka ditsela tša taolo ya boleng tša setšweletšwa goba tsela ye sepelelanago le kago, tšweletšong ya yona, tiragatšong, tsenyong goba ditshepetšong ya kemišo;
- (d) bolela tshedimošo ye swanetšego go bakgathatema malebana le dilo tša sethekeniki, leago ikonomi le tša taolo ya setšweletšwa goba tsela e 35 sepelelanago le kago e sa direlwago maemo e netefaditšwego ke Tumellano Afrika Borwa;
- (e) theka le go godiša tsenyo le tirišo ya ditšweletšwa goba ditsela tše sepelelanago le kago tše sa direlwago maemo tše netefaditšwego marakeng wa boselegae goba boditšhabatšhaba;
- (f) hlama le go hlokomela dikgokaganyo tša boditšhabatšhaba le mekgatlo ye mengwe ye swanago;
- (g) bula le go šomiša akhaonto ya panka leineng la Tumellano Afrika Borwa; le go
- (h) hlohleletša dinyakišišo le tšweletšo ya ditšweletšwa goba ditsela tše 45 sepelelanago le kago tše sa direlwago maemo.

(3) Tumellano Afrika Borwa e ka—

- (a) hwetša goba ya kgapela thoko thoto goba tokelo ye malebana, efela thoto ye sa šutešwego e swanetše go hwetšwa goba go kgapela thoko peleng ka tetla ya Tona ka tsela ya lengwalo; 50
- (b) beeletša ditšhelete tša yona tše di sa hlokegego semetseng;
- (c) tšhireletšo ya Tumellano Afrika Borwa kgahlanong le—
 - (i) tahlegelo, tshenyegelo go kotsi; goba
 - (ii) sekoloto seo e ka tsenagio go sona tiragatšong ya Molao o;
- (d) diragatša goba emela legato la molao; 55
- (e) laola, fetola le go kgoboketša ditšhelete bakeng sa tirelo ye neilwego, ditšweletšwa le ditokomane tše neilwego;
- (f) lefiša tswala malebana le tšhelete ye kolotwago go tloga letšatšikgweding leo tšhelete e thomago go kolotwa la lona; gape e ka
- (g) kgetholla motho, sehlongwa goba lekala la mmušo bakeng sa tefelo efe goba 60 efe, goba karolo ya tefelo yeo.

(4) The powers and duties of Agrément South Africa must be exercised and performed impartially and without undue influence.

Certification

6. (1) Agrément South Africa must make rules in terms of section 27 to determine the processes, procedures and forms for and relating to the— 5
- (a) issuing;
 - (b) amendment;
 - (c) suspension;
 - (d) reinstatement;
 - (e) withdrawal; or 10
 - (f) renewal,
- of an Agrément Certificate.
- (2) Subject to the payment of the required fees, Agrément South Africa must issue a certificate in the prescribed form, if it is satisfied that a non-standardised construction related product or system is fit-for-purpose. 15
- (3) An Agrément Certificate is valid for three years from the date of issue thereof, subject to—
- (a) there being no changes to the subject matter for which such certificate is issued;
 - (b) the conditions of certification as stipulated thereon; or 20
 - (c) changes in the law or national standard.
- (4) Agrément South Africa may, by notice to a certificate holder stipulating the reasons therefor and the effective date thereof—
- (a) amend, suspend or withdraw a condition stipulated in the Agrément Certificate or impose a new condition; or 25
 - (b) amend, suspend or withdraw the Agrément Certificate.
- (5) It is an offence for a person to falsely represent that a construction related product or system is certified by Agrément South Africa, if an Agrément Certificate has not been issued for such product or system or if such certificate has been suspended or withdrawn in terms of subsection (4). 30
- (6) A person who commits an offence in terms of subsection (5) is liable on conviction to a fine or to imprisonment for a period not exceeding three years.

Renewal of certificate

7. (1) A certificate holder must, at least three months prior to the expiry of the existing Agrément Certificate, apply to Agrément South Africa for the renewal of such certificate. 35
- (2) Agrément South Africa may condone the late application for the renewal of the certificate referred to in subsection (1).
- (3) An application for renewal referred to in subsection (1) must be in the prescribed form and accompanied by the prescribed fee. 40

Keeping of register

8. (1) Agrément South Africa must establish and maintain a register of the applications rejected and certificates issued, amended, suspended, reinstated, withdrawn and renewed.
- (2) Agrément South Africa must make the register available to the public on its website. 45
- (3) Agrément South Africa must by notice in the *Gazette* publish the details to be recorded in the register.
- (4) A certificate holder must, in writing, notify Agrément South Africa of changes to its details recorded in such register within 30 days after such a change. 50

Board of Agrément South Africa

9. (1) Agrément South Africa is governed by the Board.

(4) Maatla le ditshwanelo tša Tumellano Afrika Borwa di swanetše go diragatšwa ntle le kgethollo ye sa swanelago mme ntle le khuetšo ya tirišo ya maatla.

kabo ya Disetifikeiti

6. (1) Tumellano Afrika Borwa e swanetše go dira melao go ya ka karolo 27 go laola ditshepetšo, ditshepedišo le diforomo tša le tše malebana le— 5
- (a) go nea;
 - (b) phetošo;
 - (c) phego;
 - (d) tšošološo;
 - (e) phedišo; goba 10
 - (f) mpshafatšo,
- ya Setifikeiti sa Tetla.
- (2) Go ya ka tefelo ya ditefelo tše hlokegago, Tumellano Afrika Borwa e swanetše go nea Setifikeiti ka tsela ye beilwego, ge e kgotsofetše gore setšweletšwa goba tsela e sepelelanago le kago e sa direlwago maemo e loketše morero. 15
- (3) Setifikeiti sa Tetla se šoma botelele bja nako ya mengwaga ye meraro go tloga letšatšikgwedi leo se neilwego ka lona go ya ka—
- (a) ge diphetogo di sa ba gona go tše neetšwego morero wa setifikeiti;
 - (b) dipeelano tša setifikeiti di hlalošitšwe go sona; goba
 - (c) diphetolo tša molao goba maemo a bosetšhaba. 20
- (4) Tumellano Afrika Borwa e ka, ka tsebišo e hlalošago mabaka ao go mong setifikeiti mme le letšatšikgwedi leo—
- (a) fetoša, fega goba go fediša peelano e hlalošitšwego Setifikeiting sa Tetla goba ya gapeletša peelano; goba
 - (b) fetoša, fega goba fediša Setifikeiti sa Tetla. 25
- (5) Ke molato gore motho a diriše gore setšweletšwa goba tsela ka bofora e sepelelanago le kago bjalo ka ye netefaditšwego ke Tumellano Afrika Borwa, ge Setifikeiti sa Tetla se sa newa bakeng sa setšweletšwa goba tsela ye goba ge Setifikeiti se fegilwe goba se fedišitšwe go ya ka karolwana (4).
- (6) Motho yo dirago molato go ya ka karolwana (5) o na le molato mme ge a 30 tšhotšhiswa o tla lefela faene goba a išwa kgolegong botelele bja nako ye sa fetego mengwaga ye meraro.

Mpshafatšo ya setifikeiti

7. (1) Mong setifekeite o swanetše go, dikgwedi tše tharo peleng ga phelelo ke nako ya Setifikeiti sa Tetla, dira kgopelo go Tumellano Afrika Borwa bakeng sa mpshafatšo 35 ya Setifikeiti se.
- (2) Tumellano Afrika Borwa e ka thekga kgopelo ya ka morago ga nako bakeng sa mpshafatšo ya Setifikeiti se hlalošitšwego go karolwana (1).
- (3) Kgopelo ya mpshafatšo ye hlalošitšwego go karolwana (1) e swanetše go ba ka tsela ye beilwego mme e sepele le tefelo ye beilwego. 40

Go lotwa ga puku ya ngwadišo

8. (1) Tumellano Afrika Borwa e swanetše go hlama le go hlokomela puku ya ngwadišo ya dikgopelo tše ganeditšwego le ditifikeiti tše neilwego, fetošitšwego, fegilwego, tšošološitšwego, fedišitšwego mme le tše mpshafaditšwego.
- (2) Tumellano Afrika Borwa e swanetše go dira puku ya ngwadišo ye hwetšagalago 45 wepesaeteng ya yona ya setšhaba.
- (3) Tumellano Afrika Borwa e swanetše, ka tsebišo *Kuranteng ya Mmušo*, go gatiša dintlha tše swanetšwego go ngwalwa pukung ya ngwadišo.
- (4) Mong Setifikeiti o swanetše, ka tsela ya lengwalo, go tsebiša, Tumellano Afrika Borwa ka ga diphetogo tša dintlha tša tšona tše ngwadišitšwego pukung ya ngwadišo mo 50 matšatšing a 30 morago ga phetošo ye.

Bobo ya Tumellano Afrika Borwa

9. (1) Tumellano Afrika Borwa e bušwa ke Boto.

- (2) The Board is the accounting authority of Agrément South Africa and consists of—
 - (a) a minimum of seven members, but not more than eleven members, appointed by the Minister; and
 - (b) the Chief Executive Officer by virtue of his or her office.
- (3) The Chief Executive Officer is a non-voting member on the Board. 5

Appointment of members of Board

- 10.** (1) The members of the Board referred to in section 9(2)(a) must be competent persons with—
- (a) experience and expertise in one or more of the following—
 - (i) facets of construction, particularly as it relates to innovation, infrastructure development, housing, quality assurance and certification; 10
 - (ii) business management, finance, law or marketing;
 - (iii) international or foreign standardisation and technical infrastructure matters; or
 - (iv) the application of the construction regulations and the enforcement thereof; and 15
 - (b) specialist knowledge about the needs and functions in one or more of the following sectors of the construction industry—
 - (i) organs of state regulating the construction industry;
 - (ii) providers of buildings and infrastructure, including materials and products; 20
 - (iii) relevant technical, scientific and professional institutions and associations; and
 - (iv) relevant community based structures, including non-governmental organisations. 25
- (2) When members for a new term of office on the Board are to be appointed, the Minister must, not less than three months prior to the expiry of the term of office of the sitting Board, appoint a selection committee to select the members of the Board in accordance with the procedure contemplated in subsection (3).
- (3) The selection committee must— 30
- (a) publish a notice in at least two official languages in—
 - (i) the *Gazette*; and
 - (ii) two nationally circulated newspapers, calling for applications, on the prescribed form, of persons as candidates for membership on the Board; 35
 - (b) compile a shortlist of candidates for appointment;
 - (c) screen and interview shortlisted candidates;
 - (d) recommend candidates for appointment by the Minister within 60 days from the closing date for applications; and
 - (e) compile a list of eligible candidates which were not shortlisted. 40
- (4) The notice referred to in subsection (3)(a) must include—
- (a) an explanation of the selection process;
 - (b) the criteria to qualify for selection; and
 - (c) the closing date for submission of applications.
- (5) The Minister must, within 30 days from the date of receipt of the recommendations of the selection committee, appoint the members of the Board. 45
- (6) Notwithstanding subsections (2), (3), (4) and (5), in the event where no applications or insufficient qualifying applications are received to fill all seats on the Board, the Minister may, subject to section 9(2)(a), appoint any number of members of his or her choice who comply with the requirements of this Act. 50
- (7) The Minister must designate one member of the Board as chairperson.
- (8) The members of the Board are appointed in their personal capacity.
- (9) The names of the members of the Board and the date of commencement of their term of office must be published by the Minister in the *Gazette* and in at least two nationally circulated newspapers within 60 days after the members are appointed. 55

(2) Boto ke bolaodi bja maikarabelo bja Tumellano Afrika Borwa mme e hlanngwe ka—

(a) Bonnye bja maloko a šupa, efela e sego a go feta maloko a lesometee, a thwetšwego ke Tona; gape

(b) Mohlankedi Kuduthamaga Mogolo ka mošomo wa gagwe. 5

(3) Mohlankedi Kuduthamaga Mogolo ke leloko le sa kgatheng tema dikgethong tša Boto.

Thwalo ya maloko a Boto

10. (1) Maloko a Boto a hlalošitšwego go karolo 9(2)(a) a swanetše go ba le bokgoni bjo latelago— 10

(a) boitemogelo le tsebo go ye nngwe goba tše dingwe tša tše dilatelago—

(i) motheo go tša kago, gagolo ka ge di go sepelelana le hlango, tšweletšo ya mananeokgoparara, dintlo, netefatšo ya boleng le ditifikeiti;

(ii) taolo ya kgwebo, ditšhelete, molao goba thekišo;

(iii) bomaemo bja boditšhabatšhaba le bošele le merero ya manane- 15
okgoparara a sethekgeniki; goba

(iv) tiragatšo ya melawana ya kago le tiragatšo ya seo; le

(b) tsebo ya setsebi ka ga dinyakwa le mešomo lekaleng goba makaleng a latelago a intasteri ya kago—

(i) makala a mmušo a laolago intasteri ya kago; 20

(ii) baabi ba meago le mananeokgoparara, go akaretšwa metheriale le ditšweletšwa;

(iii) dihlolongwa le mekgatlo tše malebana tša sethekgeniki, saense le 25
profešene; gape

(iv) dibopego tša tikologo, go akaretšwa mekgatlo yeo e sego ya mmušo. 25

(2) Ge maloko a nako ye mpsha ya kantoro Botong a thwalwa, Tona o swanetše go, ka tlase ga dikgwedi tše tharo pele ga phelelo ya nako ya mošomo ya Boto, thwala komiti ya kgetho ye tla kgethago maloko a Boto go ya ka ditshepedišo tše hlalošitšwego go karolwana (3).

(3) Komiti ye ya kgetho e swanetše go— 30

(a) gatiša tsebišo ka maleme a mabedi a semmušo—

(i) Kuranteng ya mmušo; gape

(ii) dikuranteng tše pedi tše phatlalatšwago bosetšhaba, go amogelwa 35
dikgopelo, foromong ye beilwego, tša batho bjalo ka bonkgetheng bakeng sa boloko Botong;

(b) dira lenaneokgetho la bonkgetheng bakeng sa thwalo;

(c) fetleka le go botšološa bonkgetheng bao ba hlophilwego;

(d) dira diswayaswayo bakeng sa thwalo ka Tona mo matšatšing a 60 go tloga 40
letšatšikgwedi la tswalelo ya dikgopelo; mme

(e) dira lenaneo la bonkgetheng bao ba swanetšego mošomo efela ba sa 40
kgethelwa potšološo.

(4) Tsebišo ye hlalošitšwego go karolwana (3)(a) e swanetše go akaretša—

(a) hlalošo ya tshepetšo ya dikgetho;

(b) mokgwa wa tekanyetšo bakeng sa phihlelelo ya dinyakwa tša kgetho; le

(c) letšatšikgwedi la mafelelo bakeng sa thomelo ya dikgopelo. 45

(5) Tona o swanetše, mo matšatšing a 30 go tšwa letšatšikgweding la kgwetšo ya diswayaswayo tša komiti ya dikgetho, go thwala maloko a Boto.

(6) Go sa setšwe dikarolwana (2), (3), (4) le (5), ge go direga gore ga go dikgopelo goba dikgopelo tša maswanedi tše sa lekanelego di hweditšwe go tlatša ditulo ka moka tša Boto, Tona a ka, go ya ka karolo 9(2)(a), thwala maloko a palo efe goba efe a 50
boikgethelo bja gagwe ao a fihlelelago dinyakwa tša Molao wo.

(7) Tona o swanetše go kgetha leloko le tee la Boto bjalo ka Modulasetulo.

(8) Maloko a Boto a thwalwa ka go ikemela.

(9) Maina a maloko a Boto le letšatšikgwedi la thomo ya nako ya bona ya modiro di swanetše go gatišwa ke Tona *Kuranteng ya Mmušo* le ge e ka ba dikuranteng tše pedi tše 55
patlatatšwago bosetšhaba mo matšatšing a 60 morago ga thwalo a maloko.

Term of office of members of Board

11. (1) The appointed members of the Board hold office for a period not exceeding three years, but members continue in office until the new members of the Board take office.

(2) A member of the Board may not serve for more than two consecutive terms of office. 5

Disqualification from membership

12. A person may not be appointed or continue to serve as a member of the Board if he or she—

- (a) is not a South African citizen and ordinarily resident in the Republic; 10
- (b) is an unrehabilitated insolvent, whose insolvency was caused by his or her negligence or incompetence;
- (c) has been employed by Agrément South Africa as a consultant in the past three financial years;
- (d) is a supplier or customer, has a contractual relationship with or is a 15 professional advisor to Agrément South Africa;
- (e) is a person who has been removed from an office of trust on account of misconduct;
- (f) is a person who has been convicted—
 - (i) in South Africa of an offence other than an offence committed prior to 27 20 April 1994, associated with political objectives, and was sentenced to imprisonment without the option of a fine, or, in the case of fraud or corruption, to a fine or imprisonment or both;
 - (ii) in a foreign country of an offence, which is also an offence in South Africa, and was sentenced to imprisonment without an option of a fine or, 25 in the case of fraud or corruption, to a fine or imprisonment or both;
- (g) is declared by a court to be mentally ill or unfit; or
- (h) has, in terms of this Act or any Act regulating his or her profession, been found guilty of unprofessional conduct.

Vacation of office 30

13. (1) The Minister may, on reasonable grounds, at any time after consulting the Board, terminate the term of office of a member of the Board contemplated in section 9(2)(a).

(2) The Minister may terminate membership of a member of the Board if the member— 35

- (a) fails to perform his or her functions as a member of the Board;
- (b) obstructs, impedes or unduly influences a member of the Board, the Chief Executive Officer or a staff member of Agrément South Africa in the exercise of a power or the performance of his or her duties in terms of this Act;
- (c) fails to declare a conflict between his or her interests and those of Agrément 40 South Africa;
- (d) acts in a manner that is likely to bring Agrément South Africa and the Board into disrepute;
- (e) misuses or misappropriates Agrément South Africa funds or resources; or
- (f) approves or engages in unauthorised or irregular expenditure or fruitless and 45 wasteful expenditure.

(3) A member of the Board must vacate his or her office if he or she—

- (a) becomes disqualified in terms of section 12;
- (b) resigns by giving at least two months' written notice to the Minister;
- (c) has been absent without leave of the chairperson of the Board for more than 50 two consecutive meetings of the Board;
- (d) is removed by the Minister in terms of subsection (1); or
- (e) is a member of the Board and the Minister dissolves the Board in terms of section 14(6).

(4) The Minister must, within 60 days from the date on which a vacancy on the Board 55 arose, appoint a person to fill such vacancy, and a member so appointed holds office for the remainder of the term.

Botelele bja nako bakeng sa go šoma ga maloko Botong

11. (1) Maloko a thwetšwego a šoma botelele bja nako ye sa fetego mengwaga ye meraro, efela maloko a tšwelapele ka mošomo go fihlela maloko a mafsa a thoma mošomo.

(2) Leloko la Boto ga se la swanela go šoma makgetlo a go feta ditheme tše pedi ka tatellano. 5

Phedišo ya boloko

12. Motho a ka se thwalwe goba a tšwelapele ka go šoma bjalo ka leloko la Boto ge—

- (a) e se moagi wa Afrika Borwa gape e se modudi mo Rephabliki;
- (b) e le mokoloti yo sa tšošološwago, mme sekolo sa gagwe e le ka lebaka la bošaedi goba go se dire ka tsela ga gagwe; 10
- (c) athwetšwe ke Tumellano Afrika Borwa bjalo ka moeletši mo mengwageng ye meraro ya ditšhelete;
- (d) e le boabi goba moreki, mme a na le Tswalano ya tumellano le goba e le moeletši ka profešene wa Tumellano Afrika Borwa; 15
- (e) e le motho o ntšhitšwego kantorong ya tša trasete ka lebaka la maitshwarompe;
- (f) e le motho yo tšhotšhisitšwego—
 - (i) Mo Afrika Borwa ka molato ntle le molato o dirilwego pele ga 27 Aporile 1994, wo sepelelanago le maikemišetšo a sepolotiki, mme a be a hweditše kahlolo ya go išwa kgolegong ntle le kgetho ya faene, goba, bakeng sa bomenetša goba bomenemene, go faene goba go išwa kgolegong goba dikotlo ka bobedi bja tšona; 20
 - (ii) nageng ye šele ka molato, wo e lego molato mo Afrika Borwa, mme a be a nhweditše kahlolo ya go išwa kgolegong ntle le kgetho ya faene goba, bakeng sa bomenetša goba bomenemene, go faene goba go išwa kgolegong goba dikotlo ka bobedi bja tšona; 25
- (g) a bonwe ke kgorotshoko gore o na le bolwetši bja monagano; goba
- (h) a na le, go ya ka Molao wo goba Molao ofe goba ofe o laolago profešene ya gagwe, molato bakeng sa maitshwara a sa swanelago profešeneng. 30

Tholo ya modiro

13. (1) Tona a ka, ka mabaka a kwagalago, ka nako efe goba efe morago ga go boledišana le Boto, fediša mošomo wa leloko la Boto ka mo go hlalošitšwego go karolo 9(2)(a).

(2) Tona a ka fediša boloko bja leloko ge leloko le— 35

- (a) palelwa ke go phethagatša modiro w lona bjalo ka leloko la Boto;
- (b) palediša, thibela goba le hlohleletša ka tsela ye sa swanelago leloko la Boto, Mohlankedi Kuduthamaga Mogolo goba mošomi wa Tumellano Afrika Borwa tiragatšong ya gagwe ya maatla goba phethagatšo ya mošomo go ya ka Molao o; 40
- (c) palelwa ke go tšweletša thulano ya dikgahlegelo magareng ga dikgahlegelo tša lona le tša Tumellano Afrika Borwa;
- (d) dira ka tsela ye ka tlaišago Tumellano Afrika Borwa le Boto;
- (e) dirišampe goba le lekanyetša ka tsela ye sa swanelago ditšhelete le methopo ya Tumellano Afrika Borwa; goba 45
- (f) dumelela goba le tsenela tšhomišo ya tšhelete ye sa dumelelwago goba ye sa sepelego ka tsela ye swanetšego mme ya tshenyo.

(3) Leloko la Boto le swanetše go rola modiro ge—

- (a) le ganetšwa go ya ka karolo 12;
- (b) tlogela mošomo ka go nea temošo ya dikgwedi tše pedi, ka tsela ya lengwalo go Tona; 50
- (c) le be le se mošomong ntle le go tšea matšatši a modulasetulo wa Boto botelele bja dikopano tša go feta tše pedi tša Boto ka tatellano;
- (d) a tlošitšwe ke Tona go ya ka karolwana (1); goba
- (e) e le leloko la Boto mme Tona a fediša Boto go ya ka karolo 14(6). 55

(4) Tona o swanetše, mo matšatšing a 60 go tloga letšatšikgwedi leo sekgoba se bilego gona, go thwala motho o tlatša sekgoba se, mme leloko le thwaletšego se le šoma bakeng sa nako ye šaletšego ya theme.

Dissolution of Board

14. (1) If the Minister, on reasonable grounds, believes that the Board is not performing its obligations under this Act or the PFMA, the Minister may, in writing, request copies of the records, including minutes of meetings and financial statements of Agrément South Africa in order to ascertain the extent of the Board's compliance or non-compliance with this Act or the PFMA. 5

(2) The Chief Executive Officer must furnish the copies of the records requested by the Minister in terms of subsection (1) within 15 days from the date of the Minister's request.

(3) The Minister may appoint an investigator to— 10
(a) investigate the affairs of the Board; and
(b) prepare a report in respect of such investigation for the Minister.

(4) An investigator must be given access to all documentation or information relevant to the investigation held by or on behalf of Agrément South Africa.

(5) A member of the Board, the Board, the Chief Executive Officer, staff of Agrément South Africa or a person appointed by Agrément South Africa must co-operate fully with an investigation conducted by the investigator. 15

(6) The Minister may dissolve the Board by notice in the *Gazette*, after consultation with the members of the Board on an enquiry contemplated in subsection (1) or an investigation contemplated in subsection (3). 20

(7) If the Board is dissolved in terms of subsection (6), the Minister shall exercise the powers and perform the duties of the Board in terms of this Act and the PFMA until a new Board is appointed.

Remuneration and allowances of members of Board

15. (1) A member of the Board, other than a person who is in the employ of an organ of state and in receipt of a salary from public funds, must receive such remuneration and allowances as the Minister, with the concurrence of the Minister responsible for finance, may determine. 25

(2) Members of the Board who are employed by an organ of state must be reimbursed for out-of-pocket expenses. 30

Chairperson

16. (1) The chairperson designated in terms of section 10(7) holds office during his or her term of office as a member of the Board.

(2) The chairperson may designate another member of the Board to perform his or her functions during the chairperson's absence. 35

(3) If the chairperson is absent or unable to perform his or her functions in terms of the Act and has not, for whatever reason, made a designation in terms of subsection (2), the members of the Board must elect one of the members to act as chairperson until the chairperson resumes duty or vacates office.

(4) A chairperson may, after giving 30 days' notice to the Minister, vacate office as chairperson of the Board. 40

Meetings of Board

17. (1) The Board must meet at least four times a year.

(2) Subject to section 29(3), the Minister must, within 30 days of the appointment of members to a new term of office on the Board, determine the time and place of the first meeting of the Board. 45

(3) The Board must determine the time and place of any future meeting.

(4) (a) The chairperson may, at any time, convene a special meeting of the Board, to be held on such a date and at such place as he or she may determine.

(b) The chairperson must, upon a written request by the Minister, convene a special meeting to be held on such a date and at such place as determined by the Minister. 50

Phedišo ya Boto

14. (1) Ge tona, ka mabaka a kwagalago, a dumela gore Boto ga e diragatše ditlamego tša yona ka tlase ga Molao o goba PFMA, Tona, ka tsela ya lengwalo, a ka kgopela dikhopi tša direkhoto, go akaretšwa metsotso le ditatamente tša matlotlo tša Tumellano Afrika Borwa bakeng sa go netefatša botebo bja kobamelo ya Boto goba go hloka kobamelo ya Molao o goba PFMA. 5

(2) Mohlankedi Kuduthamaga Mogolo o swanetše go phethagatša dikhophi tša direkhoto tše kgopelwago ke Tona go ya ka karolwana (1) mo matšatšing a 15 go tloga letšatsikgwele la kgopelo ya Tona.

(3) Tona a ka thwala monyakišiši go— 10

(a) nyakišiša merero ya Boto; gape

(b) beakanya pego malebana le nyakišišo ye bakeng sa Tona.

(4) Monyakišiši o swanetše go newa phihlelelo ya ditokomane ka moka goba tshedimošo ye malebana le nyakišišo ye dirilwego ke goba bakeng sa Tumellano Afrika Borwa. 15

(5) Leloko la Boto, Boto, Mohlankedi kuduthamaga Mogolo, bašomi ba Tumellano Afrika Borwa goba motho yo thwetšwego ke Tumellano Afrika Borwa o swanetše go ba le tšhomišano ye phethagetšego nyakišišong ye dirwago ke monyakišiši.

(6) Tona a ka fediša Boto ka tsebišo Kuranteng ya mmušo, morago ga therišano le maloko a Boto ka nyakišišo e hlalošitšwego go karolwana (1) goba nyakišišo ye hlalošitšwego go karolwana (3). 20

(7) Ge Boto e fedišwa go ya ka karolwana (6), Tona o swanetše go diragatša maatl a mme a phethagatše ditshwanelo tša Boto go ya ka Molao o le PFMA go fihlela Boto e thwalwa.

Moputso le ditshwanelo tša maloko a Boto 25

15. (1) Leloko la Boto, ntle le motho yo thwetšwego ke lekala la mmušo mme yo hwetšago moputšo gotšwa ditšheleteng tša mmušo, le swanetše go hwetša moputso o le ditshwanelo ka moo Tona a ka laelago, ka tetla ya Tona ye nago le maikarabelo a tša matlotlo.

(2) Maloko a Boto ao a thwetšwego ke mmušo a swanetše go lefelwa bakeng sa ditshenyagalelo gotšwa dikhwameng tša bona. 30

Modulasetulo

16. (1) Modulasetulo go ya ka karolo 10(7) o šoma mo nakong ya gagwe bjalo ka leloko la Boto.

(2) Modulasetulo a ka kgetha leloko le lengwe la Boto go phethagatša mešomo ya gagwe ge a se gona. 35

(3) Ge modulasetulo a se gona goba a palelwa ke go phethagatša mešomo ya gagwe go ya ka Molao o mme a se a , ka lebaka lefe goba lefe, kgetha go ya ka karolwana (2), maloko a Boto a swanetše go kgetha motho yo mongwe wa maloko go dira bjalo ka modulasetulo go fihlela modulasetulo o tšwetšapele mošomo wa gagwe goba a bowa mošomong. 40

(4) Modulasetulo, morago ga matšatši a 30 a tsebišo, a ka rola modiro wa bodulasetulo Botong.

Dikopano tša Boto

17. (1) Boto e swanetše go kopana gane ka ngwaga. 45

(2) Karolwana 29(3), Tona o swanetše, mo matšatšing a 30 a thwalo ya maloko, go thwala maloko go theme ye mpsha ya mošomo go Boto, mme a laele nako le lefelo la kopano ya Boto.

(3) Boto e swanetše go laola nako le lefelo bakeng sa kopano efe goba efe ya nakong e tlogo. 50

(4) (a) Modulasetulo, nakong efe goba efe, a ka dira kopano ye kgethegilego ya Boto go swarwa ka letšatšikgwele le lefelo le laetšwago ke yena.

(b) Modulasetulo, ka kgopelo ya tsela ya lengwalo ka Tona, a ka dira kopano ye kgethegilego ye ka swarwago ka letšatšikgwele mme le lefelong le tla laetšwago ke Tona. 55

(c) The chairperson must, upon a written request by a majority of the members of the Board, convene a special meeting to be held, within 30 days after the date of receipt of the request, on such date and at such place as the chairperson may determine.

(d) The request referred to in paragraphs (b) and (c) must clearly state the purpose of the special meeting. 5

(5) Subject to the approval of the chairperson, a person who is not a member of the Board may attend or take part, but may not vote, in a meeting of the Board.

(6) A majority of the members constitutes a quorum for a meeting of the Board.

(7) Decisions of the Board require the supporting vote of a majority of members present at a meeting. 10

(8) In the event of an equality of votes, the member presiding has a casting vote in addition to a deliberative vote.

(9) The Board may take a decision without a meeting of the Board, provided that a written consent, detailing the decision taken, is signed by all voting members of the Board. 15

(10) The Board must keep minutes of its proceedings and decisions.

(11) (a) Members of the Board may participate in and act at any meeting through telephone or video conference or any other electronic communication equipment by means of which all persons participating in the meeting can communicate with each other. 20

(b) Participation in a meeting through methods referred to in paragraph (a) shall constitute attendance and presence in person at the meeting of the person or persons so participating.

(12) The Board may regulate the proceedings at its meetings as it may deem fit.

Conflict of interest of member of Board

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18. (1) A member of the Board may not have a conflict of interest with Agrément South Africa.

(2) A member of the Board may not, during and for a period of two years following the lapse or termination of his or her term of office, directly or indirectly enter into a contractual relationship with Agrément South Africa for the supply of any goods or services. 30

(3) A member of the Board who has a direct or indirect financial, personal or other interest in any matter which is to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest must, before or during such meeting, declare the interest. 35

(4) A person may, in writing, inform the chairperson of a meeting, before a meeting, of a conflict or possible conflict of interest of a member of the Board of which such person may be aware.

(5) A member of the Board referred to in subsections (3) and (4) is obliged to recuse himself or herself from the meeting during the discussion and voting of the matter in which he or she has an interest. 40

Committees

19. (1) The Board may establish one or more committees, which must perform the functions determined by the Board.

(2) The Board must determine the composition, processes and procedures of such committees. 45

(3) A committee established under subsection (1) performs the relevant functions subject to the instructions of the Board.

(4) The Board may, from time to time, dissolve or reconstitute a committee established in terms of subsection (1). 50

(5) The Board must designate a member of that committee to act as chairperson.

Chief Executive Officer

20. (1) Subject to section 29(4), the Board must appoint a suitably qualified, experienced and competent person as the Chief Executive Officer.

(2) The Chief Executive Officer holds office for a period not exceeding five years and may be reappointed upon the expiry of his or her term of office. 55

- (c) Modulasetulo, ka kgopelo ya tsela ye lengwalo ka bontšhi bja maloko a Boto, o swanetše go dira kopano ye kgethegilego ye tla swarwago mo matšatšing a 30 morago ga letšatšikgwedi la kgwetšo ya kgopelo, ka letšatšikgwedi mme le lefelo leo le tla laetšwago ke modulasetulo.
- (d) Kgopelo ye kgethegilego ye hlalošitšwego go ditema (b) le (c) e swanetše go hlaloša morero wa kopano ye kgethegilego. 5
- (5) Go ya ka tetla ya modulasetulo, motho yo e sego leloko la Boto a ka ya goba a tšea karolo, efela o kgethollwa ge go dirwa dikgetho, kopanong ya Boto.
- (6) Bontšhi bja maloko a dira tekanyetšo bakeng sa kopano ya Boto.
- (7) Dipheto tša Boto di hloka bouto ya thekgo ya bontšhi bja maloko a lego gona kopanong. 10
- (8) Bakeng sa ge dikgetho di lekalekana, leloko modulasetulo o na le monyetla wa go kgetha godimo ga kgetho ya gagwe ya peleng.
- (9) Boto e ka dira sepheto ntle le kopano ya Boto, ge fela tetla ka tsela ya lengwalo ye hlalošago sepheto se dirilwego, e na le mosaeno wa maloko ka moka a Boto ao a nago le tetla ya go kgetha. 15
- (10) Boto e swanetše go lota metsotso ya ditshepetšo tša yona le dipheto.
- (11) (a) Maloko a Boto a ka tšea karolo go mme a dira go kopano ka mogala goba bidio goba sedirišwa sefe goba sefe sa poledišano ya elektroniki moo batho ka moka bao ba tšea go karolo kopanong ba ka boledišanago. 20
- (b) Go tšea karolo kopanong ka ditsela tše hlalošitšwego go tema (a) go tla tsewa bjalo ka go ba gona kopanong ka sebele ga motho goba batho bao ba tšea go karolo.
- (12) Boto e ka laola ditshepetšo dikopanong tša yona ka moo e ka bonago go hlokega.

Thulano ya dikgahlegelo tša maloko a Boto

18. (1) Leloko la Boto ga se la swanela go ba le thulano ya kgahlegelo le Tumellano Afrika Borwa. 25
- (2) Leloko la Boto ga se la swanela go, ka nako ya mme le bakeng sa mengwaga ye mebedi go latela phelo goba phedišo ya nako ya gagwe kantorong, ka tsela ye thwii goba yeo e sego ye thwii go tsenela tumellano le Tumellano Afrika Borwa go abela dithoto dife goba dife goba ditirelo. 30
- (3) Leloko la Boto leo le nago le kgahlegelo ye thwii ya ditšhelete, ka bo lona goba kgahlegelo go morero o mongwe o swanetšego go hlalošwa kopanong mme o goba o ka bago le thulano ya kgahlegelo goba kgonagalo ya thulano ya dikgahlegelo le swanetše go bega se pele goba ka nako ya kopano.
- (4) Motho, ka tsela ya lengwalo, a ka tsebiša modulasetulo wa kopano pele ga kopano, ka ga thulano ya kgahlegelo ya leloko la Boto leo motho a ka tsebago ka lona. 35
- (5) Leloko la Boto le hlalošitšwego go karolwana (3) le (4) le swanetše go ikgetholla kopanong ka nako ya ditherišano le dikgotho moo a nago le kgahlegelo gona.

Dikomiti

19. (1) Boto e ka hlama komiti ye tee goba tše ntšhi tše swanetšego go phethagatša mešomo ye laetšwago ke Boto. 40
- (2) Boto e swanetše go laola hlamego, ditshepetšo le ditshepedišo tša dikomiti tše.
- (3) Komiti ye hlanngwego ka tlase ga karolwana (1) e dira mešomo ye malebana go ya ka ditaelo tša Boto.
- (4) Boto e ka, ka nako le nako, fediša goba ya aga ka leswa komiti ye hlanngwego go ya ka karolwana (1). 45
- (5) Boto e swanetše go kgetha leloko la komiti go dira bjalo ka modulasetulo.

Mohlankedi Kuduthamaga Mogolo

20. (1) Go ya ka karolo 29(4), Boto e swanetše go thwala motho yo swanetšego wa boitemogelo bjalo ka Mohlankedi Kuduthamaga Mogolo. 50
- (2) Mohlankedi Kuduthamaga Mogolo o šoma botelele bja nako ye sa fetego mengwaga ye mehlano ebile a ka thwalwa gape ge nako ya gagwe e fela.

(3) The appointment of the Chief Executive Officer is subject to such conditions as the Board determines, which includes the determination of remuneration and allowances in accordance with a system approved by the Minister in consultation with the Minister responsible for finance.

(4) The Chief Executive Officer must enter into a performance agreement with the Board on acceptance of the appointment. 5

(5) The Chief Executive Officer—

- (a) is accountable to the Board with regard to the functions assigned or delegated to him or her in terms of this Act or by the Board;
- (b) must manage and control the daily activities of Agrément South Africa, in accordance with the business and financial plans of the Board; and 10
- (c) may not, during and for a period of two years following the lapse or termination of his or her period of appointment, directly or indirectly enter into a contractual relationship with Agrément South Africa for the supply of any goods or services. 15

Staff

21. (1) The Chief Executive Officer must, after consulting the Board, appoint staff to enable Agrément South Africa to effectively execute its functions.

(2) Agrément South Africa pays its staff out of its funds such remuneration, allowances, subsidies and other benefits as the Board determines in accordance with a system approved for that purpose by the Minister, with the concurrence of the Minister responsible for finance. 20

(3) An employee of an organ of state may, subject to the Public Service Act, 1994 (Act No. 103 of 1994), or any other Act, be seconded to Agrément South Africa.

Delegation

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22. (1) The Board may delegate any of its powers in terms of this Act, except the power to make rules under section 27, to the Chief Executive Officer, a committee, a staff member or a member of the Board.

(2) The Chief Executive Officer may delegate any of his or her powers in terms of this Act, to a staff member. 30

(3) Any delegation under subsections (1) and (2) must be in writing and—

- (a) is subject to any limitation or condition imposed in terms of this Act or by the Board or Chief Executive Officer, as the case may be;
- (b) does not prevent the exercise of that power in question by the Board or the Chief Executive Officer; and 35
- (c) does not divest the Board or Chief Executive Officer of responsibility for a function or power so delegated.

Funding and investments

23. (1) The funds of Agrément South Africa consist of—

- (a) moneys appropriated by Parliament for the achievement of the objectives of Agrément South Africa; 40
- (b) income derived by virtue of the exercise and performance of its powers and duties;
- (c) donations or contributions received by Agrément South Africa from any source with the approval of the Minister; and 45
- (d) any other income, including interest earned on any investment made in terms of this section.

(2) Agrément South Africa must—

- (a) use its funds to defray expenses incurred by it in the exercise of its powers and the performance of its duties; and 50
- (b) use donations or contributions contemplated in subsection (1)(c) for such purposes and in accordance with such conditions, if any, as are specified by the donor or contributor concerned, with the approval of the Minister.

(3) Thwalo ya Mohlankedi Kuduthamaga Mogolo e sepelelana le dipeelano tše laolwago ke Boto, go akaretšwa taolo ya moputso le ditshwanelo go ya ka tsela ye dumeletšwego ke Tona e nago le maikarabelo a ditšhelete.

(4) Mohlankedi Kuduthamaga Mogolo o swanetše go tsenela tumellano ya phethagatšo ya mošomo le Boto ge a amogela mošomo. 5

(5) Mohlankedi Kuduthamaga Mogolo—

(a) o na le maikarabelo go Boto malebana le mešomo yeo a e neilwego go ya ka Molao o goba Boto;

(b) o swanetše go laola mahlahla a letšatši ka letšatši a Tumellano Afrika Borwa, go ya ka kgwebo le mananeo a Boto; gape 10

(c) ga se a swanela, mo nakong ya goba bakeng sa nako ya mengwaga ye mebedi go latela phelo goba phedišo ya nako ya gagwe ya mošomo, ka tsela ye thwii goba yeo e sego ye thwii go tsenela tswalano ya tumellano le Tumellano Afrika Borwa bakeng sa kabelo ya dithoto goba ditirelo.

Bašomi

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21. (1) Mohlankedi Kuduthamaga Mogolo o swanetše go, morago ga therišano le Boto, thwala bašomi go kgontšha Tumellano Afrika Borwa go dira mešomo ya yona ka phethagalo.

(2) Tumellano Afrika Borwa e lefela bašomi ba yona gotšwa sekhwameng sa yona go swana le meputso, ditshwanelo, dithušo le dikholego tše dingwe ka moo Boto e ka laelago go ya ka tsela ye dumeletšwego bakeng sa lebaka leo le Tona, ka tetla ya Tona ye nago le maikarabelo a tša matlotlo. 20

(3) Mošomi wa lekala la mmušo a ka, go ya ka *Public Service Act*, 1994 (Molao. 103 wa 1994), goba Molao ofe goba ofe, thekgwa go Tumellano Afrika Borwa.

Dithomelo

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22. (1) Boto e ka nea maatla a yona go ya ka Molao wo, ntle le maatla a go dira melao ka tlase ga karolo 27, go Mohlankedi Kuduthamaga Mogolo, komiti, leloko la bašomi goba la Boto.

(2) Mohlankedi Kuduthamaga Mogolo a ka nea maatla a gagwe go ya ka Molao, go mošomi. 30

(3) Thomelo efe goba efe ka tlase ga karolwana (1) le (2) e swanetše go ba ka tsela ya lengwalo gape—

(a) e laolwa ke mollwane goba peelano ye beilwego go ya ka Molao wo goba ka Boto goba Mohlankedi Kuduthamaga Mogolo, ka moo go lego ka gona;

(b) ga e thibele phethagatšo ya maatla a go bolelwago ka ona ke Boto goba Mohlankedi Kuduthamaga Mogolo; gape 35

(c) ga e ganetše Boto goba Mohlankedi Kuduthamaga Mogolo maikarabelo a mošomo goba maatla a neilwego.

Thušo ka ditšhelete le dipeeletšo

23. (1) Sekhwama sa Tumellano Afrika Borwa se na le— 40

(a) ditšhelete tše lekanyeditšwego ke Palamente bakeng sa phihlelelo ya maikemišetšo a Tumellano Afrika Borwa;

(b) letseno le hwetšwago ka tiragatšo le phethagatšo ya mošomo wa yona le ditshwanelo;

(c) meneelo goba ditseka tše hweditšwego ke Tumellano Afrika Borwa gotšwa kae goba kae ka tetla ya Tona; gape 45

(d) letseno lefe goba lefe, go akaretšwa letseno le hwetšwago go dipeeletšo tše dirilwego go ya ka karolo ye.

(2) Tumellano Afrika Borwa e swanetše go—

(a) diriša ditšhelete tša yona go lefela ditshenyagalelo tše bilego gona ge go e phethagatša mošomo wa yona; gape 50

(b) diriša meneelo goba ditseka tše hlalošitšwego go karolwana (1)(c) bakeng sa merero mme le go ya ka dipeelano, ge di le gona, ka moo go hlalošitšwego ke moneedi goba modirasetseka yo malebana, ka tetla ya Tona.

- (3) Agrément South Africa may invest any of its funds not immediately required—
(a) subject to any investment policy that may be prescribed in terms of section 7(4) of the PFMA; and
(b) in such manner as may be prescribed by the Minister.

(4) The Board may, with the approval of the Minister and the Minister responsible for finance, authorise the establishment of such reserve funds and deposit such amounts therein as the Board deems necessary and desirable. 5

(5) The Board must in each financial year, at such time as determined by the Minister, submit a statement of the Board's estimated income and expenditure for the following year to the Minister for his or her approval. 10

(6) The Board must comply with the applicable provisions of the PFMA.

Financial year and accounting

24. The financial year of Agrément South Africa is from 1 April in any year to 31 March in the following year, but the first financial year is from the date of the coming into operation of this Act to 31 March of the following year. 15

Breach of confidence

25. (1) A person who is or was involved in the exercise of a power or performance of a duty in terms of this Act, may not disclose any information which he or she obtained in the exercise of such power or performance of such function.

(2) Subsection (1) does not apply to information disclosed— 20

- (a) to the Minister, chairperson of the Board or Chief Executive Officer;
(b) for the purpose of proper administration or enforcement of this Act;
(c) in terms of a law or as evidence in a court of law; or
(d) for the purpose of the administration of justice.

Limitation of liability 25

26. Neither Agrément South Africa nor any of its employees is liable for any damages or loss caused by—

- (a) the exercise of a power or performance of a duty under this Act; or
(b) the failure to exercise a power, or perform a duty under this Act, unless the exercise of or failure to exercise the power, or performance or failure to perform the duty was unlawful, grossly negligent or in bad faith. 30

Rules

27. Agrément South Africa may, by notice in the *Gazette*, make rules with regard to—

- (a) any matter that it is required or permitted to be prescribed in terms of this Act; and
(b) any other matter for the better execution of this Act or in relation to any power granted to or duty imposed on it by this Act. 35

Regulations

28. (1) The Minister may make regulations regarding any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act. 40

(2) (a) Before the Minister makes a regulation, the Minister must publish a draft regulation in the *Gazette* together with a notice calling on interested persons to comment in writing within a period stated in the notice, but the period may not be less than 30 days from the date of publication of the notice. 45

(b) If the Minister alters the draft regulations as a result of any comment, the Minister need not publish those alterations before making the regulations.

(3) Tumellano Afrika Borwa e ka dira peeletšo ya ditšhelete dife goba dife tša yona tšeo e sa dihlokegago ka nako yeo—

(a) go ya ka pholisi efe goba efe ya peeletšo yeo e ka laelwago go ya ka karolo 7(4) ya PFMA; gape

(b) ka tsela ye ka laolwago ke Tona. 5

(4) Boto e ka, ka tetla ya Tona le Tona e nago le maikarabelo a matlotlo, dumelela hlango ya sekhwama sa ditšhelete tša bakeng sa mme ya tsenya ditšhelete tše ka moo Boto e bonago hlokego le tshwanelo.

(5) Boto e swanetše, ngwageng wo mongwe le wo mongwe wa ditšhelete, mo nakong ye laowago ke Tona, romela setatamente sa letseno le lekanyaditšwego la Boto le ditshenyagalelo bakeng sa ngwaga o latelago bakeng sa tumellelo ya Tona. 10

(6) Boto e swanetše go obamela ditaelo tše swanetšego tša PFMA.

Ngwaga wa ditšhelete le tšhupaletlotlo

24. Ngwaga wa ditšhelete wa Tumellano Afrika Borwa o thoma ka la 1 Aprele ngwageng ofe goba ofe go fihla go 31 Matšhe ngwageng wo latelago, efela ngwaga wa ditšhele o thoma ka letšatšikgwedi la go thoma go šoma ga Molao wo go fihla go 31 Matšhe ngwageng o latelago. 15

Tlolo malebana le tshedimošo ya sephiri

25. (1) Motho yo a goba yo a bego a amane le tiragatšo ya maatla goba phethagatšo ya mošomo go ya ka Molao wo, ga se a swanela go tšweletša tshedimošo efe goba efe yeo a e hweditšego tiragatšong ya maatla a gagwe go ya ka Molao o. 20

(2) Karolwana (1) ga e šome bakeng sa tshedimošo e tšweleditšwego—

(a) go Tona, modulasetulo wa Boto goba Mohlankedi Kuduthamaga Mogolo;

(b) bakeng sa tshepetšo ya tsela goba phethagatšo ya Molao wo;

(c) go ya ka Molao goba bjalo ka bohlatse kgorotshekong ya molao; goba 25

(d) bakeng sa merero ya tshepedišo ya toka.

Mollwane wa thwešo maikarabelo

26. Tumellano Afrika Borwa goba bašomedi bafe goba bafe ba yona ga ba rwale maikarabelo a ditshenyagalelo goba tahlegelo ye hlotšwego ke—

(a) tiragatšo ya maatla goba phethagatšo ya mošomo ka tlase ga Molao wo; goba 30

(b) palelo ya go diragatša maatla, goba go phethagatša mošomo ka tlase ga Molao wo,

ntle le ge phethagatšo ya goba palelo ya phethagatšo ya mošomo e be e se ya molaong, e le ya bošaedi bjo bogolo goba e le ka maikaello mabe.

Melao 35

27. Tumellano Afrika Borwa e ka, ka tsebišo Kuranteng ya Mmušo, dira melao malebana le—

(a) morero ofe goba ofe o hlokegago goba o dumeletšwego go diragatšwa go ya ka Molao o; le

(b) morero ofe goba ofe bakeng sa tiragatšo ye kaone ya Molao wo goba malebana le maatla a newago go goba a gapeletšwego go yona ke Molao o. 40

Melawana

28. (1) Tona a ka dira melawana malebana le morero ofe goba ofe wa thušo goba o bohlokwa wa tshepetšo goba tshepedišo o hlokegago go phethagaletša tsenyotirišong ye swanetšego goba tshepetšo ya Molao o. 45

(2) (a) Pele Tona a dira molawana, Tona o swanetše go gatiša molawanathalwa Kuranteng ya Mmušo gammogo le tsebišo ye bitšago batho bao ba nago le kgahlego bakeng sa go dira diswayaswayo ka tsela ya lengwalo mo nakong ye hlalošitšwego go tsebišo, efela nako ga se ya swanela go ba ye ka tlase ga matšatši a 30 go tloga letšatšikgweding la kgatišo ya tsebišo. 50

(b) Ge Tona a fetoša melawana ka lebaka la swayaswayo efe goba efe, ga go hlokego ya gore Tona a gatiše diphetošo tšeo pele a ka gatiša melawana.

(3) The Minister may, if circumstances necessitate the immediate publication of a regulation, publish that regulation without consultation as contemplated in subsection (2).

Transitional provisions

- 29.** (1) For purposes of this section— 5
“**current Board**” means the Board of Agrément South Africa appointed by the Minister prior to the commencement date; and
“**current CEO**” means the Chief Executive Officer of Agrément South Africa, who is in office prior to the commencement date.
- (2) From the commencement date— 10
(a) all notices, designations and certificates issued by the current Board remain in effect as though they were issued in terms of this Act;
(b) all assets, liabilities, rights and obligations of the current Board remain the assets, liabilities, rights and obligations of Agrément South Africa;
(c) the members of the current Board are deemed to be members of the Board of 15
Agrément South Africa, established in terms of this Act, and will remain in office for the unexpired period of their term of office; and
(d) any criteria set and document issued by the current Board remain in effect as though they were set and issued in terms of this Act.
- (3) The Chairperson of the current Board shall, within 30 days of the commencement 20
date, convene a meeting of the Board.
- (4) The current Chief Executive Officer will remain in office for the duration of his or her contract.
- (5) Any action taken by Agrément South Africa prior to the commencement of this 25
Act is deemed to have been taken in terms of this Act.

Short title and commencement

30. (1) This Act is called the Agrément South Africa Act, 2015, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

(3) Tona a ka, ge maemo a laetša hlokego ya kgatišo ya semeetseng ya molawana, gatiša melawana ntle le therišano bjalo k age go hlalošitšwe go karolwana (2).

Diphethagaletšo tša nakwana

29. (1) Bakeng sa karolo ye—

“**Boto ya bjale**” e ra Boto ya Tumellano Afrika Borwa e thwetšwego ke Tona pele 5
ga thomo ya letšatšikgwedi; gape
“**CEO ya bjale**” e ra Mohlankedi Kuduthamaga Mogolo wa Tumellano Afrika
Borwa, yo a šomago pele ga letšatšikgwedi la go thoma go šoma.

(2) Go tloga ka letšatšikgwedi la go thoma go šoma—

(a) ditsebišo ka moka, dithwalo le ditifikeiti tše neilwego ke Boto ya bjale di 10
tšwelapele ka go šoma e ke di neilwe go ya ka Molao wo;

(b) dithoto ka moka, dikoloto, ditokelo le ditlamego tša Boto ya bjale
ditšwelapele ka go ba dithoto, dikoloto, ditokelo le ditlamego tša Tumellano
Afrika Borwa;

(c) maloko a Boto ya bjale a bonwa bjalo ka maloko a Boto ya Tumellano Afrika 15
Borwa, e hlanngwego go ya ka Molao wo, mme a tla tšwelapele ka go šoma
botelele bja nako ye šaletšego; gape

(d) tekanyetšo efe goba efe ye diragatšwego goba tokomane e newago ke Boto ya
bjale e tla tšwelapele ka go šoma e ke e phethagaditšwe le go newa go ya ka 20
Molao wo.

(3) Modulasetulo wa Boto ya bjale o tla, mo matšatšing a 30 a letšatšikgwedi la go
thoma go šoma, dira kopano ya Boto.

(4) Mohlankedi Kuduthamaga Mogolo wa bjale o tla tšwelapele ka go šoma bakeng
sa botelele bja nako ya tumellano ya gagwe.

(5) Kgato efe goba efe ye dirilwego ke Tumellano Afrika Borwa pele Molao o thoma 25
go šoma e bonwa bjalo ka e tšerwego go ya ka Molao wo.

Thaetlele ye kopana le go thoma go šoma

30. (1) Molao o o tla bitšwa Molao wa Tumellano Afrika Borwa, 2015, mme o tla
thoma go šoma ka letšatšikgwedi le laolwago ke Mopresidente ka kgoeletšo Kuranteng 30
ya Mmušo.

