



# Government Gazette

REPUBLIC OF SOUTH AFRICA  
RIPHABLIKI YA AFRIKA DZONGA

Vol. 578 Cape Town,  
Kaapstad, 5 August 2013

**No. 36729**

## THE PRESIDENCY

No. 558 5 August 2013

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

**Act No. 6 of 2013: Co-operatives Amendment Act, 2013**

## HOFISI YA PRESIDENTE

No. 558 5 August 2013

Hi mi tivisa leswaku Presidente u amukerile nawu lowu wu phablixiwke ku andzisa vutivi bya n'wina:—

**No 6 of 2013: Ku antswisiwa ka Nawu wa Mabindzuntirhisano, 2013**



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



**RITO RO HALMUSELA HI KU ANGARHELA:**

[ ] Marito lama nga dzwiharisiwa endzeni ka swiangi swa swikwere ya komba leswi tluriweke eka swinawana leswi nga kona.

\_\_\_\_\_ Marito lawa ya nga khwatihatiwa hi ntila lowu khomaneke ya komba leswi ngenisiweke eka swinawana leswi nga kona.

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*(English text signed by the President)*  
*(Assented to 2 August 2013)*  
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## NAWU

Ku antswisa Nawu wa Mabindzuntirhisano, 2005, ku endlela ku lulamisela ku siviwa na ku engeteleriwa ka tinhlamuselo tin'wana; ku lulamisela vuxirho byo hlanganisa bya mabindzuntirhisano; ku lulamisela mikhetekanyo ya mabindzuntirhisano ya masungulo; ku lulamisela mabindzuntirhisano ya xiyimo xa le henhla; ku lulamisela ku yisiwa ka mahungu ka lembe eka mutsarisi; ku antswisa mitolovelo ya tiakhawunti hi ku lulamisela oditi na nkambisiso lowu tiyimeleke wa mabindzuntirhisano; ku lulamisela ku hakeriwa ka timali hi mabindzuntirhisano, to hlanganisa, ku hambanyisa, ku cinca kumbe ku hundziselela mabindzuntirhisano; 'ku lulamisela ku herisiwa ka mabindzuntirhisano hi ku tsakela hikwalaho ka xiboho xo hlawuleka; ku lulamisela ku va bindzuntirhisano ri endla xikombelo xa xileriso mayelana na endlelo ro herisa; ku lulamisela ku va mutsarisi kumbe Huvo yo tengisa yi lerisa ku herisiwa ka bindzuntirhisano; ku siva Bodo yo Tsundzuxa na Huvo yo Tsundzuxa; ku lulamisela ku tumbuluxiwa, mitirho na matimba ya Ejensi ya Nhuluvukiso wa Mabindzuntirhisano; ku lulamisela ku hakeleriwa na vulawuri bya timali ta Ejensi; ku lulamisela leswi nga voniwangiki na ku tirhisa matimba ya Ejensi; ku lulamisela ku tumbuluxiwa, lava vumbaka na mitirho ya Huvo yo tengisa ya Mabindzuntirhisano; ku tiyisisa ku landzelela misinya ya vuxaka bya le xikarhi ka mfumo; ku lulamisela vuxaka bya le xikarhi ka mfumo eka xiyenge xa mabindzuntirhisano; na ku lulamisela ku siviwa ka vito na Manghenelo; na ku lulamisela timhaka leti fambelanaka na swona.

**A** WU SIMEKIWI Palamende ya Riphabuliki ra Afrika Dzonga, hi ndlela leyi:—

**Ku antswisiwa ka xiyenge xa 1 xa Nawu 14 wa 2005**

1. Xiyenge xa 1 xa Nawu wa mabindzuntirhisano, 2005 (lowu laha wu vuriwaka Nawunkulu), xa antswisiwa—

(a) hi ku siviwa ka nhlamuselo ya “Bodo yo Tsundzuxa” ya nhlamuselo leyi landzelaka:

“**[Bodo] Huvo yo Tsundzuxa**’ swi vula Huvo yo Tsundzuxa Mabindzuntirhisano **[Bodo]** leyi tumbuluxiweke hi xiyenge xa 85 xa Nawu lowu;”;

(b) ku ngenisiwa endzhaku ka nhlamuselo ya “Bodo yo Tsundzuxa” ka tinhlamuselo leti landzelaka:

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- “**Agency**” means the Co-operatives Development Agency established by section 91A;”;
- (c) by the insertion in subsection (1) after the definition of “agricultural co-operative” of the following definition:  
“**audited report**” means a report by an auditor examining and evaluating the financial statements, social report and management decision report;”;
- (d) by the substitution in subsection (1) for the definition of “auditor” of the following definition and by correcting the alphabetical order of the definitions of “agricultural co-operatives” and “auditor” in the principal Act:  
“**annual report**” means a document prepared by the Board containing financial statements, a social report and the management decision report;  
**associate member**” means the person contemplated in section 14A;  
**audit**” means the examination of, in accordance with prescribed and applicable auditing standards—  
(a) financial statements or financial and other information prepared in accordance with suitable criteria;  
(b) social reports; and  
(c) management decision reports,  
with the objective of expressing an opinion as to their fairness and compliance with identified criteria, including the reporting framework as published by the Minister in the *Gazette* in terms of section 47(4) and any applicable statutory requirements;  
**Auditing Profession Act**” means the Auditing Profession Act, 2005 (Act No. 26 of 2005);”;
- (e) by the insertion in subsection (1) before the definition of “auditor” of the following definition:  
“**auditor**” means a registered auditor as contemplated in the Auditing Profession Act;”;
- (f) by the insertion in subsection (1) after the definition of “auditor” of the following definitions:  
“**Board**” means the Board of directors set out in section 32;  
**Commission**” means the Co-operative Conflict Resolution Commission contemplated in section 91V;  
**community development**” means a set of values and practices which aim to combat poverty, assist the historically disadvantaged and unite communities, by developing individual and collective skills, knowledge and experience and thus empower communities to undertake initiatives to combat social, economic, political or environmental challenges;”;
- (g) by the deletion in subsection (1) of the definition of “Commission”;
- (h) by the insertion in subsection (1) after the definition of “Companies Act” of the following definition:  
“**constitution**” means a governance document adopted by all members or prospective members of a co-operative, which sets out the objectives, policies and management of that particular co-operative;”;
- (i) by the substitution in subsection (1) for the definition of “co-operative” of the following definition:  
“**co-operative**” means an autonomous association of persons united voluntarily to meet their common economic, [and] social or cultural needs and aspirations through a jointly owned and democratically controlled enterprise organised and operated on co-operative principles;”;
- (j) by the substitution in subsection (1) for the definition of “co-operative principles” of the following definition:  
“**co-operative principles**” means—  
(a) *Voluntary and Open Membership* requiring co-operatives to be voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without discrimination on the basis of race, gender, sex, pregnancy,

- “**Ejensi**” swi vula Ejensi ya Nhluvukiso wa Mabindzuntirhisano leyi tumbuluxiweke hi ku landza xiyenge xa 91A;”;
- (c) hi ku siviwa ka nhlamuselo ya “muoditi” ya nhlamuselo leyi landzelaka eka xiyengetsongo xa (1) na ku lulamisa nandzelelano wa tialifabete ta nhlamuselo ya “mabindzuntirhisano ya vurimi” na “muoditi” eka Nawunkulu: 5
- “**muoditi**” swi vula muoditi loyi a tsarisiweke tanihilaha swi langutisiweke eka Nawu wa Vuthwaseri byo Odita;”;
- (d) hi ku ngenisiwa ka tinhlamuselo leti landzelaka eka xiyentsongo xa (1) endzhaku ka nhlamuselo ya “mabindzuntirhisano ya vurimi”: 10
- “**xiviko xa lembe**” swi vula tsalwa leri nga na switatimende swa timali, xiviko xa vanhu na xiviko xa xoboho xa vufambisi;
- Xirho xo tatisa**’ swi vula munhu loyi a langutisisiweke eka xiyenge xa 14A;”;
- “**oditi**” swi vula ku kambela hi ku landza mimpimo leyi vekiweke na leyi tirhaka yo odita— 15
- (a) Switatimende swa timali kumbe timali na mahungu man’wana lama lulamisiweke hi ku landza endlelo leri faneleke;
- (b) Swiviko swa vanhu; na
- (c) Swiviko swa swiboho swa vufambisi, 20
- Hi xikongomelo xo boxa mavonelo ya ku va kahle na ku landzelela endlelo leri vekiweke, ku katsa rimba ro vika tanihilaha swi kandziyisiweke hi Holobye eka *Gazete* hi ku landza xiyenge xa 47(4) na swilaveko swihi na swihi swa nawu lei tirhaka;
- Nawu wa Vuthwaseri byo Odita**’ swi vula *Auditing Profession Act, 2005* (Nawu wa No. 26 wa 2005);”;
- (e) hi ku ngenisiwa ka nhlamuselo leyi landzelaka eka xiyengetsongo xa (1) emahlweni ka nhlamuselo ya “muoditi”: 25
- “**Xiviko lexi oditiweke**” swi vula xiviko xa muoditi loyi a kambelaka na ku pima switatimende swa timali, xiviko xa vanhu na xiviko xa swiboho swa vufambisi;”;
- (f) hi ku ngenisiwa ka ka tinhlamuselo leti landzelaka eka xiyengetsongo xa (1) endzhaku ka nhlamuselo ya “muoditi”: 30
- “**Bodo**” swi vula Bodo ya varhangeri leyi vekiweke eka xiyenge xa 32;
- Khomixini**’ swi vula Khomixini yo Ololoxa Siphiko swa Mabindzuntirhisano leyi langutisiweke eka xiyenge xa 91V;
- nhluvukiso wa vaaki**’ swi vula nkoka na mitolovelole leyi kongomisiweke eka ku herisa vusweti na vanhu lava a va nga khomiwanga kahle eka nkarhi lowu nga hundza, ku hlanganisa vaaki, loko ku ri karhi ku hlukukisiwa swikili swa munhu na swa vanhu vo tala, vutivi na ntokoto, leswi nyikaka vaaki ku endla matshalatshala yo herisa swiphiko swa vanhu, swa ikhonomi, swa tipolitiki na swa mbangu;”;
- (g) hi ku susiwa ka nhlamuselo ya “Khomixini” eka xiyengetsongo xa (1);
- (h) hi ku ngenisiwa endzhaku ka nhlamuselo ya “Nawu wa Tikhamphani” ya nhlamuselo leyi landzelaka: 45
- “**vumbiwa**” swi vula tsalwa ra mafumele leri tekeleriweke hi swirho hinkwaswo kumbe lava nga ta va swirho swa bindzuntirhisano, leri andlaka swikongomelo, tipholisi na vufambisi bya bindzuntirhisano rolero;”;
- (i) hi ku siviwa ka nhlamuselo ya “bindzuntirhisano” ya nhlamuselo leyi landzelaka eka xiyengetsongo xa (1): 50
- “**bindzuntirhisano**” swi vula nhlango wa vanhu lava hlanganisiweke hi ku lava ku fikelela swilaveko swa vona leswi fanaka swa ikhonomi [na] vumunhu kumbe mfuwo na ku tsakela hi ku tirhisa bindzu leri hlanganerike hi ndlela ya xidemokirasi leri tirhisiwaka hi misinya yo tirhisana;”;
- (j) hi ku siviwa ka nhlamuselo ya “misinya ya bindzuntirhisano” ya Nhlamuselo leyi landzelaka eka xiyengetsongo xa (1): 55
- “**misinya ya bindzuntirhisano**” swi vula—
- (a) Vuxirho hi ku tsakela na ku va byi Pfulekile lebyi lavaka leswaku mabindzuntirhisano ya va hi ku tsakela, ku pfuleka Eka vanhu hinkwavo ku va va tirhisa vukorhokeri bya wona na ku lava ku amukela vutihlamuleri bya vuxirho, ku ri hava ku hlawula ko ya hi 60

- marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth;
- (b) *Democratic Member Control* requiring co-operatives to be democratic organisations controlled by their members through— 5
- (i) members actively participating in setting their policies and making decisions by majority vote;
  - (ii) men and women serving as elected representatives and being accountable to the members;
  - (iii) equal voting rights in Category A and B primary co-operatives (one member, one vote); and 10
  - (iv) a democratic organisation for voting in Category C primary, secondary and tertiary co-operatives and the national apex co-operative;
- (c) *Member Economic Participation* requiring members to contribute equally in amounts proportionate to their membership shares and democratically control the capital of their co-operative usually by— 15
- (i) retaining part of the capital as common property of the co-operative;
  - (ii) giving members limited compensation, if any, on capital subscribed as a condition of membership; 20
  - (iii) allocating surpluses to the reserves required in terms of section 46 and any additional reserves required by the co-operative's constitution or considered necessary or desirable by the members; 25
  - (iv) benefiting members in proportion to their transactions with the co-operative; and
  - (v) supporting other activities approved by the members;
- (d) *Autonomy and Independence* requiring co-operatives to be autonomous, self-help organisations controlled by their members and if co-operatives enter into agreements with other organisations, including governments, or raise capital from external sources, they should do so on terms that ensure democratic control by their members and maintain their co-operative autonomy; 30
- (e) *Education, Training and Information* requiring co-operatives to provide appropriate education and practical training for their members, elected representatives and employees so that they can contribute effectively to the development of their co-operatives and are able to inform the general public, particularly young people and opinion leaders, about the nature and benefits of co-operation; 35
- (f) *Co-operation among Co-operatives* requiring co-operatives to serve their members as effectively as possible and strengthen the co-operative movement by working together through local, national, regional and international structures where possible; and 40
- (g) *Concern for Community* requiring co-operatives to work for the sustainable development of their communities through policies approved by their members;” 45
- (k) by the substitution in subsection (1) for the definition of “financial services co-operative” of the following definition: 50
- “**‘financial [services] co-operative’** means a [**primary**] co-operative whose main objective is to provide financial services to its members [**or a secondary co-operative that provides financial services to a primary co-operative**];”;

- rixaka, rimbewu, vuyimani, xiyimo xa vukati, rixaka na laha munhu a humaka kona, muhlovo, ku tsakela ka swa masangu, vukhale, vutsoniwa, vukhongereri, ripfalo, ku tshembha, mfuwo, ririmi kumbe ku velekiwa;
- (b) *Vulawuri bya Swirho bya Xidemokirasi* lebyi lavaka leswaku mabindzuntirhisano ya va mihlangano ya xidemokirasi leyi lawuriwaka hi hi swirho swa yona hi—
- (i) ku va swirho swi teka xiave e ku vumbeni tipholisi na ku teka swiboho hi vhoti ya lavotala;
  - (ii) vavanuna na vavavsati lava tirhaka tanihi vayimeri lava hlawuriweke na ku va na vutihlamuleri eka swirho;
  - (iii) timfanelo to ringana to vhota eka mabindzuntirhisano yo sungula ya Nkhetekanyo wa A na B (xirho xin'we, vhoti yin'we); na
  - (iv) nhlango wa xidemokirasi wo vhota eka mabindzuntirhisano yo sungula ya Nkhetekanyo wa C, mabindzuntirhisano ya vumbirhi nay a vunharhu na bindzuntirhisano ra rixaka ra le maninginingini;
- (c) *Ku va na Xiave ka Swirho eka Ikhonomi* leswi lavaka ku hoxa xandla hi ku ringana ka mitsengo leyi fambelanaka na mikavelo ya vuxirho bya vona na ku lawula ntsengo wa bindzuntirhisano hi ndlela ya xidemokirasi hi ku—
- (i) hlayisa xiphemu xa ntsengo tanihi nhundzu ya bindzuntirhisano;
  - (ii) ku nyika swirho ku rilisiwa ka le hansi, loko ku ri kona, eka ntsengo lowu vekiweke tanihi hi xilaveko xa vuxirho;
  - (iii) ku nyika misalo eka ku hlayisa lo ku olavekaka hi ku landza xiyenge xa 46 na mihlayiso yin'wana leyi laviwaka hi vumbiwa ra mabindzuntirhisano kumbe swirho swi yi teka yi fanerile kumbe ku va kahle;
  - (iv) swirho leswi vuyeriwaka hi ku fambelana na tithirasiexixini ta swona na bindzuntirhisano; na
  - (v) ku seketela misingiriko yin'wana leyi pfumeleriweke hi swirho;
- (d) *Ku tiyimela* leswi lavaka leswaku bindzuntirhisano ri tiyimela, Mihlangano yo tipfuna leyi lawuriwaka hi swirho swa yona naswona loko mabindzuntirhisano ya nghena eka ntwanano na mihlangano yin'wana, Ku katsa mfumo, kumbe ku kuma mali ku suka eka swihlovo swa le handle, ya fanele ku endla tano hi ndlela leyi tiyisisaka ku lawula ka xidemokirasi hi swirho na ku hlayisa ku tiyimela ka mabindzuntirhisano;
- (e) *Dyondzo, Vuleteri na Mahungu* leswi lavaka leswaku mabindzuntirhisano ya nyika dyondzo leyi ringaneleke na vuleteri byo vonaka eka swirho swa wona, vayimeri lava hlawuriweke na vatirhi leswaku va jota ku hoxa xandla hi ku hetiseka eka nhluvukiso wa mabindzuntirhisano ya vona na ku kota ku tivisa vanhu hinkwavo, ngopfu vanhu lavatsongo na varhangeri, mayelana na muxaka na mimbuyelo ya bindzuntirhisano;
- (f) *Ku tirhisana exikarhi ka Mabindzuntirhisano* leswi avaka leswaku mabindzuntirhisano ya tirhela swirho swa wona hi laha swi kotekaka hakona na ku tiyisa nhlango wa mabindzuntirhisano hi ku tirhisana eka muganga, rixaka na xifundza na swiakiwa swa matiko ya le handle laha swi kotekaka; na
- (g) *Ku khumbheka ka Vaaki* leswi lavaka leswaku mabindzuntirhisano ya tirhela ku yisa emahlweni ka nhuvukiso wa vaaku hi tipholisi leti pfumeleriweke hi swirho swa wona;”;
- (k) hi kusiviwa ka nhlamuselo ya “bindzuntirhisano ra vukorhokeri bya timali” ya nhlamuselo leyi landzelaka eka xiyengetsongo xa (1):
- “ **‘bindzuntirhisano ra [vukorhokeri] bya timali’** swi vula bindzuntirhisano [ro sungula] leri xikongomelonkulu xa rona ku nga ku nyika vukorhokeri bya timali ek aswirho swa rona [kumbe bindzuntirhisano ra vumbirhi leri nyikaka vukorhokeri bya timali eka bindzuntirhisano ro sungula];”;

- (l) by the insertion in subsection (1) after the definition of ‘financial services co-operative’ of the following definition:
- “**‘financial statements’** means statements drafted by the Board for a particular financial period and includes—
- (a) a statement of financial position (balance sheet);
  - (b) an income statement;
  - (c) a statement of changes in membership shares;
  - (d) a statement of cash flows; and
  - (e) notes, comprising a summary of accounting policies and other explanatory notes;”;
- (m) by the substitution in subsection (1) for the definition of “housing co-operatives” of the following definition:
- “**‘housing co-operative’** means a [primary] co-operative which provides housing to its members [, or a secondary co-operative that provided technical sectoral services to primary housing co-operatives];”;
- (n) by the insertion in subsection (1) after the definition of “housing co-operative” of the following definitions:
- “**‘independent review’** means an assessment by an independent reviewer of the financial statements and the social and management decision reports so as to determine, through performing a preliminary inquiry using analytical procedures and evaluating the sufficiency and appropriateness of evidence obtained, whether there is reason to believe the financial statements, social reports and management decision reports are not prepared in all material respects in accordance with the applicable reporting framework;
- ‘independent reviewed report’** means a report by an independent reviewer examining and evaluating the financial statements, social report and management decision report;
- ‘independent reviewer’** means—
- (a) a registered auditor, or a member in good standing of a professional body that has been accredited in terms of section 33 of the Auditing Profession Act; or
  - (b) a person who is qualified to be appointed as an accounting officer of a close corporation in terms of section 60(1), (2) and (4) of the Close Corporations Act, 1984 (Act No. 69 of 1984);
- ‘juristic person’** means—
- (a) a juristic person; and
  - (b) a trust, irrespective of whether or not it was established within or outside of the Republic;”;

**‘management decision report’** means an assessment report drafted by the Board that accompanies the financial statements and that assesses the co-operative’s compliance with all legal requirements and the requirements contained in its own constitution;”;

(o) by the insertion in subsection (1) after the definition of “Minister” of the following definition:

“**‘national apex co-operative’** means the national apex co-operative contemplated in section 6(1)(d);”;

(p) by the substitution in subsection (1) for the definition of “primary co-operative” of the following definition:

“**‘primary co-operative’** means a co-operative whose object is to provide employment or services to its members and to facilitate community development, formed by a minimum of—

    - (a) five natural persons [whose object is to provide employment or services to its members and to facilitate community development]; or



- (l) hi ku ngenisiwa ka nhlamuselo leyi landzelaka endzhaku ka nhlamuselo ya “bindzuntirhisano ra vukorhokeri bya timali” eka xiyenge xa (1):  
“**switatimende swa timali**’ swi vula switatimende swa timali leswi pfapfarhutiweke hi Bodo eka nkarhi wo karhi wa timali naswona swi katsa—  
(a) xitatimende xa xiyimo xa timali (phepha ra balansi);  
(b) xitatimende xa muholo;  
(c) xitatimende xa ku cinca ka mikavelo ya vuxirho;  
(d) xitaimende xa mali leyi nga nghena na leyi nga tirhisiwa; na  
(e) tinotsi, leti nga na nkomiso wa tipholisi ta tiakhawunti na tinotsi tin’wana to hlamusela;”;
- (m) hi ku siviwa ka nhlamuselo ya “mabindzuntirhisano ra swa tindlu” ya nhlamuselo leyi eka xiyengetsongo xa (1) :  
“**bindzuntirhisano ra swa tindlu**’ swi vula bindzuntirhisano [ro sungula] leri lulamiselaka swirho swa rona tindlu [, kumbe bindzuntirhisano ra vumbirhi leri lulamiselaka vukorhokeri bya thekinoloji ya xiyenge ku ya eka mabindzuntirhisano ya tindlu];”;
- (n) hi ku ngenisiwa ka nhlamuselo leyi landzelaka endzhaku ka nhlamuselo ya “bindzuntirhisano ra timali” eka xiyengetsongo xa (1):  
“**nkambisiso lowu tiyimeleke**’ ku asesiwa ka switatimende swa timali hi mukambisisi loyi a tiyimeleke na swiviko swa vanhu na vufambisi ku endlela ku kuma loko kuri na xivangelo xo tshembha switatimende swa timali, swiviko swa vanhu na swiviko swa swiboho swa vufambisi swi nga lulamisiwanga hi matihelo hinkwawo hi ku landza rimba leri tirhalka ra mavikelo, hi ku endla ndzavisiso wo sungula hi ku tirhisa maendlelo yo xopaxopa na ku pima ku ringanela na ku va kahle ka vumbhoni lebyi kumiweke;  
**xiviko xa mukambisisi loyi a tiyimeleke**’ loyi a kambelaka na ku pima switatimende swa timali, swiviko swa vanhu na xiviko xa xiboho xa vufambisi;  
**xiviko xa mukambisisi loyi a tiyimeleke**’ swi vula xiviko xa akhawunti lexi kambisisiweke na ku asesiwa hi mukamberi loyi a tiyimeleke; swi vula—  
(a) muoditi loyi a tsarisiweke, kumbe xirho lexi nga eka xiyimo xa kahle na huvo ya vuthwaseri lexi nga pfumeleriwa hi ku landza xiyenge xa 33 xa *Auditing Profession Act*; kumbe  
(b) munhu loyi a thwaseleke ku va a thoriwa tanihi muofisiri loyi a nga na vutihlamuleri bya nhlango hi ku landza xiyenge xa 60(1), (2) na (4) xa *Close Corporation Act*, 1994 (Nawu wa No. 69 wa 1984);  
**munhu la nga na matimba ya nawu**’ swi vula—  
(a) munhu loyi a nga na matimba ya nawu; na  
(b) thrast, swi nga ri na mhaka loko yi sunguriwe endzeni kumbe ehandle ka Riphabliki;”;
- xiviko xa xiboho xa vufambisi** swi vula xiviko xa ku kamberiwa lexi pfapfarhutiweke hi Bodo lexi fambaka swin’we na switatimende swa timali naswona ku va lexi kambelaka ku landzelela ka bindzuntirhisano ka ka swilaveko hinkwaswo swa nawu na swilaveko leswi nga eka vumbiwa ra rona;”;
- (o) hi ku ngenisiwa ka nhlamuselo leyi landzelaka endzhaku ka nhlamuselo “Holobye” eka xiyengetsongo xa (1):  
“**bindzuntirhisano ra rixaka ra le maningingini**’ swi vula bindzuntirhisano ra rixakx ra le maningingini leri langutisiweke kea xiyenge xa 6(1)(d);”;
- (p) hi ku siviwa ka nhlamuselo leyi landzelaka endzhaku ka nhlamuselo ya “bindzuntirhisano ro sungula eka xiyengetsongo xa (1):  
“**bindzuntirhisano ro sungula**’ swi vula bindzuntirhisano leri xikongomelo xa rona ku nga ku lulamisela ku thoriwa kumbe vukorhokeri eka swirho swa rona na ku vevukisa nhluvukiso wa vaaki, leri vumbiwa hi nhlayo ya le hansi ya—  
(a) vanhu va ntlhanu [leri xikongomelo xa rona ku nga ku lulamisela ku thoriwa kumbe vukorhokeri eka swirho swa rona na ku vevukisa nhluvukiso wa vaaki]; kumbe

- (b) two juristic persons; or  
(c) a combination of any five persons, whether natural or juristic;”;
- (q) by the insertion in subsection (1) after the definition of “primary co-operative” of the following definition:  
“**Public Finance Management Act**’ means the Public Finance Management Act, 1999 (Act No. 1 of 1999);”;
- (r) by the substitution in subsection (1) for the definition of “social co-operative” of the following definition:  
“**social co-operative**’ is a [non-profit] co-operative which engages in the provision of social services to its members, such as care for the elderly, children and the sick;”;
- (s) by the insertion in subsection (1) after the definition of “social co-operative” of the following definition:  
“**social report**’ means an assessment report drafted by the Board and that assesses the social impact and ethical performance of the co-operative in relation to its stated vision, mission, goals and the code of social responsibility of the co-operative as set out in its constitution;”;
- (t) by the substitution in subsection (1) for the definition of “supervisory committee” of the following definition:  
“**supervisory committee**’ means a committee contemplated in section 27(3)(b);”;
- (u) by the substitution in subsection (1) for the definition of “surplus” of the following definition and by correcting the alphabetical order of the definitions of “surplus” and “supervisory committee” in the principal Act:  
“**surplus**’ means the amount, if any, by which the total financial value received by a co-operative during a particular period, whether as a result of overcharging its own members for goods or services supplied to them, transactions with non-members or otherwise, exceeds its total financial costs and expenditure for that period;”;
- (v) by the substitution in subsection (1) for the definition of “tertiary co-operative” of the following definition:  
“**tertiary co-operative**’ means a sectoral or multi-sectoral co-operative whose members are secondary co-operatives and whose [object] objectives [is] are to advocate and engage organs of state, the private sector and stakeholders on behalf of its members, [and may also be referred to as a co-operative apex] in line with its sectoral or geographical mandate;”;
- (w) by the insertion in subsection (1) after the definition of “this Act” of the following definitions:  
“**Tribunal**’ means the Co-operatives Tribunal established by section 91L;  
“**trust**’ means the arrangement through which the ownership in property of one person is by virtue of a trust instrument made over or bequeathed—  
(a) to another person, the trustee, in whole or in part, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument; or  
(b) to the beneficiaries designated in the trust instrument, which property is placed under the control of another person, the trustee, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument,  
but does not include the property of another which is to be administered

- (b) vanhu vambirhi lava nga na matimba y a nawu; kumbe  
(c) ku katsana ka ntlhanu wa vanhu, van'wan an a van'wana kumbe  
lava nga na matimba ya nawu;”;
- (q) hi ku ngenisiwa ka nhlamuselo leyi landzelaka endzhaku ka nhlamuselo ya  
“bindzuntirhisano yo sungula” eka xiyengetsongo xa (1): 5  
“**Public Finance Mangement Act**’ swi vula *Public Finance  
Management Act, 1999* (Nawu wa No. 1 wa 1999);”;
- (r) hi ku siviwa ka nhlamuselo ya “mindzuntirhisano ra vanhu” ra nhlamuselo  
leyi landzelaka eka xiyengetsongo xa (1): 10  
“**bindzuntirhisano ra vanhu**’ i bindzuntirhisano [leri nga  
vuyeriwiki] leri nghenelelaka eka ku nyika vukorhokeri bya vanhu eka  
swsirho swa rona, tanihi nhlaysi wa vadyuhari, vana na vanhu lava  
vabyaka;”;
- (s) hi ku ngenisiwa ka nhlamuselo ya “bindzuntirhisano ra vanhu” ya  
nhlamuselo leyi landzelaka eka xiyengetsongo xa (1): 15  
“**xiviko xa vanhu**’ swi vula xiviko xa ku kamberiswa lexi pfapfarhu-  
tiweke hi Bodo lexi kambelaka ntikelo eka vanhu na matirhelo ya kahle  
ya bindzuntirhisano mayelana na xivono lexi ri xi boxeke, mixini,  
swikongomelo na khodi ya vutihlamuleri bya bindzuntirhisano eka  
vanhu tanihilaha swi vekiweke hakona eka vumbiwa ra rona;”;
- (t) hi ku siviwa ka nhlamuselo ya “komiti yo langutela” ya nhlamuselo leyi  
landzelaka eka xiyengetsongo xa (1): 20  
“**komiti yo langutela**’ swi vula komiti leyi langutisiweke eka xiyenge  
xa 27(3)(b);”;
- (u) ku siviwa ka nhlamuselo ya “nsalo” ya nhlamuselo ya leyi landzelakaeka 25  
xiyengetsongo xa (1) na ku lulamisa ku landzelelana ka tialifabeteta  
nhlamuselo ya “nsalo” na “Komiti yo langutela” eka Nawunkulu:  
“**nsalo**’ swi vula ntsengo, loko wu ri kona lowu ntsengo wa nkoka wa  
mali leyi amukeriweke hi bindzuntirhisano eka nkarhi wo karhi wu  
hundzaka ntsengo wa ku durheriwa na ku tirhisiwa ka mali eka nkarhi 30  
wololo, hambu swi vangiswa hi ku chajiwa ku hundza mpimo ka swirho ka  
nhundzu kumbe vukorhokeri lebyi va nyikiweke byona, na lava nga riki  
swirho kumbe hi ndlela yin’wana;”;
- (v) hi ku ngenisiwa ka nhlamuselo ya “bindzuntirhisano” ya nhlamuselo leyi  
landzelaka eka xiyengetsongo xa (1): 35  
“**bindzuntirhisano**’ ra xiyenge kumbe ra swo tala leri swirho swa rona  
swiyenge swi ga mabindzuntirhisano ya vubirhi na lava [xikongomelo]  
swikongomelo swa wona [ ku nga] ku nga ku yimela ku tihlanganisa na  
swirho swa mfumo, swiyenge leswi nga riki swa mfumo na vatekaxiave  
hi ku yimela swirho swa rona, [naswona ri nga tlhela ri vuriwa 40  
**bindzuntirhisano ra le maninginingini**] ku fambisana na vurhumiwa  
bya rona bya xiyenge kumbe ndhawu;”;
- (w) hi ku ngenisiwa ka tinhlamuselo leti landzelaka endzhaku ka nhlamuselo ya  
“Nawu lowu” eka xiyengetsongo xa (1): 45  
“**Huvo yo tengisa**’ swi vula Huvo yo tengisa ya Mabindzuntirhisano  
leyi tumbuluxiweke hi xiyenge xa 91L;  
**thrust**’ swi vula malulamiselwa lawa ha wona vun’wini bya nhundzu ya  
munhu un’we, hikwalaho k ova kona ka thrust byi hundziseriwaka  
kumbe ku tshikiwa—  
(a) eka munhu un’wana, thrusti, yi helerile kumbe xiphemu xa yona, ku 50  
va yoi lawuriwa kumbe ku tshikiwa ku ya hi ku lulamisela ka  
xitirhisiwa xa thrust ku vuyisela munhu kumbe ntlawa wa vanhu  
lava pfumeleriweke eka xitirhisiwa xa thrust kumbe ku fikelela  
xikongomelo lexi lexi boxiweke eka xitirhisiwa xa thrust; kumbe  
(b) eka muvuyeriwa loyi a pfumeleriweke eka xitirhisiwa xa thrust, lexi 55  
nhundzu yi vekiweke ehansi ka ka vulawuri bya munhu un’wana,  
thrusti, ku va yi lawuriwa kumbe ku tshikiwa ku ya hi ku lulamisela  
ka xitirhisiwa xa thrusti ku vuyeriwa munhu kumbe ntlawa wa vanhu  
lava pfumeleriweke eka xitirhisiwa xa thrust kumbe ku fikelela  
xikongomelo lexi boxiweke eka xitirhisiwa xa thrust, 60  
kambe swi nga latsi nhundzu ya un’wana leyi lawuriwaka hi munhu  
un’wana tanihi loyi a nga na vutihlamuleri, mudyondzisi kumbe

- by any person as executor, tutor or curator in terms of the provisions of the Administration of Estates Act 1965 (Act No. 66 of 1965);” and
- (x) by the substitution in subsection (1) for the definition of “worker co-operative” of the following definition:
- “**‘worker co-operative’** means a primary co-operative in which the members pursue the objective of optimally utilising their labour by building a jointly owned and self-managed enterprise.”.

#### Amendment of section 2 of Act 14 of 2005

2. Section 2 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (d) of the following paragraph:
- “(d) promote equity and greater participation [**by black persons, especially those in rural areas, women, persons with disability and youth**] in the formation of, and management of, co-operatives by persons from previously disadvantaged communities, as determined by the Minister by notice in the *Gazette*.”;
- (b) by the substitution for paragraphs (f) and (g) of the following paragraphs, respectively:
- “(f) facilitate the provision of support programmes that target newly formed and emerging co-operatives, [**specifically those co-operatives that consist of black persons, women, youth, disabled persons or persons in the rural areas**] particularly those whose members are persons from previously disadvantaged communities, as determined by the Minister by notice in the *Gazette*, and that promote equity and greater participation by [**its**] such members;
- (g) ensure the design and implementation of the co-operative development support programmes by all the relevant agencies of national departments [**including but not limited to Khula, NEF, NPI, SEDA, IDC, SAQI, SABS, CSIR, PIC, DBSA, SALGA and SETA’s**], provinces and other entities established for furthering the purposes of the co-operative sector, and compliance with uniform norms and standards prescribed by this Act.”; and
- (c) by the deletion of the word “and” at the end of paragraph (h), the insertion of the word “and” at the end of paragraph (i) and the addition of the following paragraph:
- “(j) promote the establishment of public private partnerships as contemplated in the Public Finance Management Act, the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and the Treasury Regulations.”.

#### Amendment of section 3 of Act 14 of 2005

3. Section 3 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “A co-operative must comply with the co-operative principles referred to in this Act and is deemed to do so if—”;
- (b) by the substitution in subsection (1) for paragraphs (b) and (e) of the following paragraphs, respectively:
- “(b) in the case of [**a**] category A and B primary [**co-operative**] co-operatives, each member has only one vote;
- (e) [**at least five per cent**] a percentage of the surplus is set aside as [**a**] an indivisible reserve in [**a reserve fund and is not divisible amongst its members**] accordance with the requirements of section 46(1);”;

- mulanguteri ku ya hi ku lulamisela ka *Administration of Estates Act* 1965 |  
(Nawu wa No. 66 wa 1965);” na
- (x) hi ku siviwa ka nhlamuselo ya “bindzuntirhisano ra mutirhi” ya nhlamuselo  
leyi landzelaka eka xiyengetosngo xa (1):  
“**‘bindzuntirhisano ra mutirhi’** swi vula bindzuntirhisano ro sungula 5  
leri swirho swa rona swi landzelelaka xikongomelo xo tirhisa vatirhi va  
swona hi ku aka bindzu ra vun’wini byo hlanganeriwa na ku tilawula ha  
roxé.”

### Ku antswisiwa ka xiyenge xa 2 xa Nawu wa 14 wa 2005

2. Xiyenge xa 2 xa Nawunkulu xa antswisiwa— 10
- (a) hi ku siviwa ka ndzimana ya (d) ya ndzimana leyi landzelaka:  
“(d) ku tlakusa ku ringana na ku teka xiave [**hi vanhu va ntima, ngopfu**  
**lava nga ematikoxikaya, vaxisati, vatsoniwa na vantshwa**] e ku  
vumbeni ka, na vulawuri bya, mabindzuntirhisano hi vanhu lava  
humaka eka vaaki lava a va hlawuriwa hi ndlela yo biha eka nkarhi 15  
lowu nga hundza, tanihilaha swi ga vekiwa hi Holobyé hi ku tivisa  
eka *Gazete*;”;
- (b) hi ku siviwa ka tindzimana ta (f) na (g) ta tndzimana leti landzelaka, hi ku  
landzelelana ka tona:  
“(f) ku vevukisa ku lulamisela minongonoko ya nseketelo leyi 20  
pakanisaka eka mabindzuntirhisano lawa ya sungulaka, [ngopfu  
mabindzuntirhisano lawa ya nga na vanhu va ntima, vaxisati,  
vantshwa, vatsoniwa kumbe vanhu va le matikoxikaya] vanhu  
lava humaka eka mitlawa leyi a yi hlawuriwa hi ndlela yo biha eka  
nkarhi lowu nga hundza, tanihlaha swi vekiweke hi Holobyé hi ku 25  
tivisa eka *Gazete*, na lawa ya tlakusaka ku ringana na ku tekaxiave  
hi swirho [**swa wona**] swoleswo;
- (g) tiyisisa dizayini na ku tirhisa minongonoko yo seketela nhluvukiso  
wa bindzuntirhisano hi tiejensi hinkwavo leti faneleke ta  
tinzawulo ta rixaka [ku katsa kambe swi nga heleli ntse na eka 30  
Khula, NEF, NPI, SEDA, IDC, SAQI, SABS, CSIR, PIC, DBSA,  
SALGA na tiSETA], swifundzankulu na mavandla man’wana lawa  
ya tumbuluxiriweke ku yisa emhalweni swikongomelo swo yisa  
emahlweni xiyenge xa bindzuntirhisano, na hi ku landzelela milawu  
leyi fanaka na mipimo leyi vekiweke hi Nawu lowu;”; na 35
- (c) hi ku susiwa ka rito “na” emakumu ka ndzimana ya (h), ku nghenisiwa ka rito  
“na” emakumu ka ndzimana ya (i) na ku engeteleriwa ka ndzimana leyi  
landzelaka:  
“(j) tlakusa ku tumbuluxiwa ka xinakulobyé xa mfumo na lava nga  
rikimfumo tanihilaha swi langusiweke hakona eka *Public Finance* 40  
*Management Act, Municipal Finance Management Act, 2003*  
(Nawu wa No. 56 wa 2003), na Swinawana swa vutameri bya Mali  
ya Tiko.”

### Ku antswisiwa ka xiyenge xa 3 xa Nawu wa 14 wa 2005

3. Xiyenge xa 3 xa Nawunkulu xa antswisiwa— 45
- (a) hi ku siviwa ka marito lama rhngelaka ndzimanaya (a) ya maritolama  
landzelaka eka xiyengetosngo xa (1):  
“Bindzuntirhisano ri fanele ku landzelela misinya ya mabindzunti-  
rhisano leyi vuriweke eka Nawu lowu naswona ri fanele ku endla tano  
loko—”;
- (b) hi u siviwa ka tindzimana ta (b) na (e) ta tindzimana leti landzelaka eka  
xiyengetosngo xa (1), hi ku landzelelana ka tona;  
“(b) loko ku ri eka [**bindzuntirhisano**] mabindzuntirhisano yo sungula  
[ya] nkhetekanyo wa A na B, xirho xin’wana na xin’wana xi na vhoti  
yin’we; 55
- (e) [**kwalomu kanthlanu wa tiphesente**] phesente ya nsalo yi vekiwa  
etlhelho tanihi leyi hlayisiwaka leyi nga avanyisiweki [eka nkhwama  
lowu hlayisiwaka naswona yi aviwa exikarhi ka swirho swa  
rona] hi ku landza swilaveko swa xiyenge xa 46(1);”

- (c) by the substitution for subsection (3) of the following subsection:
- “(3) The constitution of a category C primary, secondary, [or] tertiary or the national apex co-operative may provide that the members have more than one vote: Provided that **[in the case of a secondary co-operative no member shall have more than fifteen per cent of the vote of all the members of the co-operative]** where a co-operative has—
- (a) three members, no member has voting rights in excess of 40 per cent;
  - (b) four members, no member has voting rights in excess of 30 per cent; and
  - (c) five members, no member has voting rights in excess of 25 per cent.”; and
- (d) by the addition of the following subsections:
- “(4) In instances where there are more than five members, the constitution of a category C primary, secondary, tertiary or the national apex co-operative may provide that the members have more than one vote, provided that no member shall have more than seventeen per cent of the votes of all the members of the co-operative.
- (5) Voting rights in respect of category C primary co-operatives, secondary and tertiary co-operatives registered in terms of applicable legislation prior to the commencement of the Co-operatives Amendment Act, 2013, are regulated by the provision on voting rights contained in its constitution as it was immediately prior to the commencement of the Co-operatives Amendment Act, 2013.
- (6) All co-operatives must comply with the prescribed principles of good governance for co-operatives.
- (7) The Minister must publish the principles of good governance for co-operatives referred to in subsection (6) by notice in the *Gazette* within six months of the commencement of the Co-operatives Amendment Act, 2013.”.

**Amendment of section 4 of Act 14 of 2005**

4. Section 4 of the principal Act is hereby amended—
- (a) by the deletion in subsection (1) of the word “and” at the end of paragraph (b), the insertion of the word “and” at the end of paragraph (c) and the addition of the following paragraph:  
“(d) the national apex co-operative.”; and
  - (b) by the substitution in subsection (2) for paragraph (f) of the following paragraph:  
“(f) financial [**services**] co-operative;”.

**Amendment of section 5 of Act 14 of 2005**

5. Section 5 of the principal Act is hereby amended by the deletion of subsection (2).

**Amendment of section 6 of Act 14 of 2005**

6. Section 6 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 45  
“(1) An application to register a co-operative must be made by—
    - (a) a minimum of—
      - (i) five natural persons; or
      - (ii) two juristic persons; or
      - (iii) a combination of any five persons, 50  
in the case of a primary co-operative;
    - (b) a minimum of two [**or more**] operational primary co-operatives in the case of a secondary co-operative; or

- (c) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka:  
“(3) Vumbiwa ra bindzuntirhisano ra nkhetekanyo wa C ro sungula, ra vumbirhi [**kumbe**] bindzuntirhisano ra vnharhu kumbe ra le maninginingini ri nga ha lulamisela leswaku swirho swi va na tivhoti to tlula yin’we: Loko ku ri leswaku [**loko ku ri eka bindzuntirhisano ra vumbirhi ku hava xirho lexi nga ta va na ku hundza khumentlhanu wa tipesente ta vhoti ya swirho hinkwaswo swa bindzuntirhisano**] laha bindzuntirhisano ri nga na—
- (a) swirho swinharhu, ku hava xirho lexi nga na mfanelo yo vhoti ku hundza 40 wa tipesente; 10  
(b) swirho swa mune, ku hava xirho xi nga na mfanelo yo vhoti ku hundza 30 wa tipesente; na  
(c) ntlhanu kumbe swirho swo tala, ku hava xirho xi nga na mfanelo yo vhoti ku hundza 25 wa tipesente.”; na
- (d) hi ku tatisiwa ka swiyengetsongo leswi landzelaka: 15  
“(4) Vumbiwa ra bindzuntirhisano ro sungula ra nkhetekanyo wa C, ra vuvumbirhi, ra vnharhu kumbe bindzuntirhisano ra ra rixaka ra le maninginingini ri nga ha lulamisela leswaku swirho swi va na tivhoti to hundza yin’we, loko kuri leswaku ku hava xirho lexi nga ta va na ku hundza khumenkombo wa tipesente ta tivhoti ta swirho hinkwaswo swa bindzuntirhisano. 20  
(5) Timfanelo to vhoti mayelana na mabindzuntirhisano yo sungula ya nkhetekanyo wa C, mabindzuntirhisano ya vumbirhi na ya vnharhu lawa ya tsarisiweke hi ku landza milawu leyi tirhaka loko Nawu wa ku Antswisiwa ka Mabindzuntirhisano, 2013, ti lawuriwa hi ku lulamisela ka timfanelo to vhoti leti nga eka vumbiwa ra wona tanihilaha swi nga ta va swi ri hakona xikan’wekan’we loko Nawumbisi wa ku Antswisiwa ka Nawu wa Mabindzuntirhisano, 2013 wu nga si sungula ku tirha. 25  
(6) Mabindzuntirhisano hinkwawo ya fanele ku landzelela misinya ya mafumele lamanene ya mabindzuntirhisano 30  
(7) Holobye u fanele ku hangalasa misinya ya mafumele lamanene ya mabindzuntirhisano lawa ya vuriweke eka xiyengetsongo xa (6) hi ku tivisa eka *Gazete* eka nkarhi wa tsevu wa tin’hweti wa ku sungula ku tirha ka Nawu wa ku Antswisiwa ka mabindzuntirhisano, 2013.”.

**Ku antswisiwa ka xiyenge xa 4 xa Nawu wa 14 wa 2005** 35

4. Xiyenge xa 4 xa nawunkulu xa antswisiwa—  
(a) hi ku susiwa ka rito eka xiyengetsongo xa (1) “na” emakumu ka ndzimana ya (b), ku ngenisiwa ka rito “na” emkumu ka ndzimana ya (c) na ku tatisiwa ka ndzimana leyi landzelaka:  
“(d) bindzuntirhisano ra rixaka ra le maninginingini.”; na 40  
(b) hi ku siviwa ka ndzimana ya (f) ya ndzimana leyi landzelaka xiyengetsongo xa (2):  
“(f) bindzuntirhisano ra [**vukorhokeri**] bya timali;”.

**Ku antswisiwa ka xiyenge xa 5 xa Nawu wa 14 wa 2005**

5. Xiyenge xa 5 xa Nawunkulu xa antswisiwa hi ku susiwa ka xiyengetsongo xa (2). 45

**Ku antswisiwa ka xiyenge xa 6 xa Nawu wa 14 wa 2005**

6. Xiyenge xa 6 xa Nawunkulu xa antswisiwa—  
(a) hi ku siviwa ka xiyengetsongo xa (1) xa xiyengetsongo lexi landzelaka:  
“(1) xikombelo xo tsarisa bindzuntirhisano xi fanele ku endliwa hi— 50  
(a) minimamu ya—  
(i) vanhu va ntlhanu; kumbe  
(ii) vanhu vumbirhi lava nga na matimba ya nawu; kumbe  
(iii) ku katsana ka vanhu vahi kumbe vahi va ntlhanu,  
eka bindzuntirhisano ro sungula;  
(b) minimamu ya mabindzuntirhisano mambirhi [**kumbe yo tala**] yo sungula ya matirhele loko ku ri eka bindzuntirhisano ra vumbirhi; kumbe 55

- (c) a minimum of two [**or more**] operational secondary co-operatives, in the case of a tertiary co-operative;”;
- (b) by the addition in subsection (1) of the following paragraph:
  - “(d) a minimum of—
    - (i) three operational sectoral tertiary co-operatives that operate on a national level; and
    - (ii) five operational multi-sectoral tertiary co-operatives that operate on a provincial, district or local level, in the case of the national apex co-operative.”;
- (c) by the insertion after subsection (1) of the following subsections:
  - “(1A) For purposes of this section and in relation to a co-operative, ‘operational’ means a co-operative that has held its annual general meeting and has submitted its annual report, audited report or independent reviewed report as applicable, to the registrar in its last financial year.
  - (1B) An operational secondary co-operative may join the national apex co-operative where there is no sectoral or multi-sectoral tertiary co-operative that can represent the secondary co-operative.”;
- (d) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:
  - “(a) [**the**] a constitution [**of**] for the co-operative, that complies with section 13 and is signed by the founder members;
  - (b) a list of the founder members and proof of their identity;”;
- (e) by the insertion in subsection (2) of the word “and” at the end of paragraph (d); and
- (f) by the addition in subsection (2) of the following paragraph:
  - “(e) a proposed name for the co-operative and a request to reserve that name.”.

**Amendment of section 8 of Act 14 of 2005**

- 7. Section 8 of the principal Act is hereby amended—
  - (a) by the deletion in subsection (2) of the word “and” after paragraph (b) and the insertion of the word “and” at the end of paragraph (a); and
  - (b) by the deletion in subsection (2) of paragraph (c).

**Amendment of section 9 of Act 14 of 2005**

- 8. Section 9 of the principal Act is hereby amended—
  - (a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:
    - “(b) a person who originally entered into the contract ceases to be personally bound by it.”;
  - (b) by the substitution for subsection (4) of the following subsection:
    - “(4) If a co-operative does not ratify the contract, or is not deemed to have done so in terms of subsection (8), the person who originally entered into the contract continues to be personally bound by the contract, unless the contract expressly provides otherwise.”; and
  - (c) by the addition of the following subsections:
    - “(5) Where the contract is entered into by more than one person and unless the contract provides otherwise, all of those persons will be personally, jointly and severally liable under the contract in the event that it is not ratified by the subsequently incorporated co-operative.



- (c) minimamu ya mabindzuntirhisano mambirhi [kumbe yo tala] ya vumbirhi ya matirhele loko ku ri eka bindzuntirhisano ra vunharhu:
- (b) hi ku tatsiwa ka ndzimana leyi landzelaka eka xiyengetsongo xa (1):
- “(d) minimamu ya—
- (i) mabindzuntirhisano ya xiyenge ya lehenhla ya matirhelo manharhu ya le maninginingini lawa ya tirhaka eka levehele ya rixaka; na 5
- (ii) mabindzuntirhisano ya swiyenge swo tala ya le henhla ya matirhelo ya ntlhanu lawa ya tirhaka eka xifundzankulu, xifundza kumbe levhele ya muganga, 10
- loko ku ri eka bindzuntirhisano ra le maninginingini ra rixaka.”;
- (c) hi ku ngenisiwa ka swiyengetsongo leswi landzelaka endzhaku ka xiyengetsongo xa (1):
- “(1A) Hi swikongomelo swa xiyenge lexi na himayelana na bindzuntirhisano, ‘matirhelo’ swi vula bindzuntirhisano leri nga va na nhlengeletano ya lembe na ku va ri yisile xiviko xa rona xa lembe, xiviko lexi oditiweke kumbe xiviko lexi kambisisiweke hi loyi a tiyimeleke tanihilaha swi tirhaka hakona, eka mutsarisi eka lembe ximali ra rona leri nga hundza. 15
- (1B) Bindzuntirhisano ra vumbirhi ra matirhelo ri nga ha hlangana na bindzuntirhisano ra le henhla ra rixaka lah ku nga hava bindzuntirhisano ra xiyenge kumbe bindzuntirhisano ra le henhla ra swiyenge swot ala leri nga yimelaka bindzuntirhisano ra vumbirhi.”; 20
- (d) hi ku siviwa ka tindzimana ta (a) na (b) ta tindzimana leti landzelaka ta xiyengetsongo xa (2) xa, hi ku landzelelana ka tona: 25
- “(a) vumbiwa [ra] bindzuntirhisano, leri landzelelaka xiyenge xa 13 na ku sayiniwa hi swirho leswi sunguleke bindzuntirhisano;
- (b) nxaxamelo wa swirho leswi sunguleke bindzuntirhisano na vumbhoni bya vutitivisi bya swona;”;
- (e) hi ku ngenisiwa rito “na” emakumu ka ndzimana ya (d) ya xiyengetsongo xa (2); na 30
- (f) hi ku tatsiwa ka ndzimana leyi landzelaka eka xiyengetsongo xa (2):
- “(e) vito leri ringanyetiweke ra bindzuntirhisano na xikombeloxo hlayisa vito ro.”.

**Ku antswisiwa ka xiyenge xa 8 xa Nawu wa 14 wa 2005** 35

**7. Xiyenge xa 8 xa Nawunkulu xa antswisiwa—**

- (a) hi ku susiwa ka rito “na” endzhaku ka ndzimana ya (b) eka xiyengetsongo xa (2) na ku ngenisiwa ka rito “na” emakumu ka ndzimana ya (a); na
- (b) hi ku susiwa ka ndzimana ya (c) eka xiyengetsongo xa (2).

**Ku antswisiwa ka xiyenge xa 9 xa Nawu wa 14 wa 2005** 40

**8. Xiyenge xa 9 xa Nawunkulu xa antswisiwa—**

- (a) hi ku siviwa ka ndzimana ya (b) ya ndzimana leyi landzelaka eka xiyengetsongo xa (3):
- “(b) munhu loyi eku sunguleni a ngheneke eka kontiraka wa yi ma ku va yena a bohiwa hi kontiraka;”; 45
- (b) hi ku siviwa ka xiyengetsongo xa (4) xa xiyengetsongo lexi landzelaka:
- “(4) Loko bindzuntirhisano ri pfumelelana na kontiraka, kumbe ri tekiwa ri endle tano hi ku landza xiyenge xa (8), munhu loyi a ngheneke eka kontiraka ekusunguleni u ta va yena la yaka emahlweni a bohiwa hi kontiraka, handle kaloko kontiraka yi hlamusela malulamiselolo man’wana.”; na 50
- (c) hi ku tatsiwa ka xiyengetsongo lexi landzelaka:
- “(5) Laha kontiraka yi ngheneriwaka hi vanhu vo hundza un’we na handlekaloko kontiraka yi lulamisela hi ndlela yin’wana, vanhu volavo hinkwavo yi ta va boha tanihi hi munhu un’we, vahlanganile na hi vunyingi bya vona lomo ku ri leswaku ya mukeriwa hi bindzuntirhisano leri hlanganisiweke. 55

- (6) If the co-operative wishes to ratify the pre-incorporation contract, it must ratify the whole contract and all of its terms.
- (7) If, after its incorporation, a co-operative enters into a contract on the same terms as, or in place of, a contract contemplated in subsection (1), the liability of the person who entered into such contract in the name of or on behalf of the co-operative will be discharged. 5
- (8) Where a co-operative receives written notification of the existence of a pre-incorporation contract and does not expressly ratify or reject the pre-incorporation contract by way of a resolution within three months of the date of receipt of the written notification, the co-operative will be deemed to have ratified that contract.” 10

**Amendment of section 10 of Act 14 of 2005**

9. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection: 15
- “(2) A co-operative must have the **[words]** word—
- (a) ‘co-operative’ or ‘co-op’ as part of its name in the case of a co-operative registered before the commencement of the Co-operatives Amendment Act, 2013; [and]
- (b) **[the word “limited”]** ‘Limited’ or the abbreviation ‘Ltd’ as the last word of its name, unless the constitution of a co-operative does not limit the liability of its members in respect of co-operatives registered before the commencement of the Co-operatives Amendment Act, 2013; and 20
- (c) ‘co-op Limited’ or ‘co-op Ltd’ as the last words of its name in the case of a co-operative registered after the commencement of the Co-operatives Amendment Act, 2013.” 25
- (b) by the deletion of subsection (3);
- (c) by the substitution for subsection (6) of the following subsection: 30
- “(6) If the name of a **[secondary or tertiary]** co-operative indicates a restriction on the business that may be carried on by a co-operative, the constitution of that co-operative may not be amended to remove that restriction unless its name is also amended accordingly.”; and
- (d) by the addition of the following subsections: 35
- “(7) A co-operative may use a trademark name registered to it by the registrar followed by the abbreviation ‘co-op’ and ‘Ltd’ if the constitution of the co-operative authorises the use of such trademark name.
- (8) Only the national apex co-operative registered in terms of section 6(1)(d) may use or have as a part of its name the word ‘apex’.
- (9) The registrar must—
- (a) automatically correct the name of any co-operative that at the commencement of the Co-operatives Amendment Act, 2013, has the word ‘apex’ in its name, so that the word ‘apex’ is substituted for the word ‘tertiary’; and 40
- (b) notify each affected co-operative in writing within 60 days of the commencement of the Co-operatives Amendment Act, 2013, of the amendment so effected.” 45

**Amendment of section 12 of Act 14 of 2005**

10. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 50
- “Unlawful use of [word] words required to be part of the name of a co-operative”;**

(6) Loko bindzuntirhisano ri tsakela ku amukela kontiraka ya loko ku nga si hlanganisiwa, ri fanele ku amukela kontiraka hinkwayo na swipimelo swa yona hinkwaswo.

(7) Loko endzhaku ko hlanganisiwa, bindzuntirhisano ri nghena eka eka kontiraka na swipimelo swo fana tanihi, kumbe eka ndhawu ya kontiraka leyi langutisiweke eka xiyengetsongo xa (1), vutihlamuleri bya munhu loyi a ngheneke eka kontiraka yoleyo hi vito ra kumbe hi ku yimela bindzuntirhisano u ta tshunxiwa.

(8) Laha bindzuntirhisano ri kumaka xitiviso xo tsiwa xa vukona bya kontiraka loko u nga si hlanganisiwa mabindzuntirhisano ivi ri nga amukeli kumbe ku alelana na kontiraka ya loko ku nga si hlanganisiwa hi ndlela ya xiboho ea nkarhi wa tin'hwetitinhharhu ku sukela siku leri xitiviso xi amukeriweke ha rona, bindzuntirhisano ri ta tekiwa ri amukerile kontiraka.”.

#### Ku antswisiwa ka xiyenge xa 10 xa Nawu wa 14 wa 2005

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#### 9. Xiyenge xa 10 xa Nawunkulu xa antswisiwa—

(a) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka:

“(2) bindzuntirhisano ri fanele ku va na [marito] rito—

(a) “bindzuntirhisano” kumbe “co-op” tanihi xiphemu xa vito ra rona eka mabindzuntirhisano lawa ya tsarisiweke endzhaku ka kaloko Nawu wo Antswisa mabindzuntirhisano, 2013 wu sungurile ku tirha; [na]”;

(b) [rito “pimiwile”] ‘Pimiwile’ kumbe nkomiso “Ltd” tanihi rito ro hetelela ra vito ra rona, handlekaloko vumbiwa ra bindzuntirhisano ri nga pimi vutihlamuleri bya swirho swa rona] eka bindzuntirhisano leri tsarisiweke loko Nawu wa ku Antswisiwa ka Mabindzuntirhisano, 2013 wu nga si sungula ku tirha; na

(c) ‘co-op’ Pimiwile kumbe ‘co-op Ltd’ tanihi rito ro hetelela ra vito ra rona eka bindzuntirhisano leri tsarisiweke endzhakukaloko Nawu wa ku Antswisiwa ka Mabindzuntirhisano, 2013 wu sungule ku tirha.”;

(b) hi ku susiwa ka xiyengetsongo xa (3);

(c) hi ku siviwa ka xiyengetsongo xa (6) xa xiyengetsongo lexi landzelaka:

“(6) Loko vito ra bindzuntirhisano [ra vumbirhi kumbe ra vunharhu] ri komba ku aleriwa eka bindzu leri nga yisiwaka emahlweni hi bindzuntirhisano, vumbiwa ra bindzuntirhisano rolero ri nga ka ri nga cinciwi ku susa ku aleriwa koloko handlekaloko na vito ra rona ri cinciwa.”; na

(d) hi ku engeteleriwa ka swiyengetsongo leswi landzelaka:

“(7) Bindzuntirhisano ri nga ha tirhisa vito ra mfungho leri ri tsarisiweke ha rona hi mutsarisi ri landzeriwa hi nkomiso ‘co-op’ na ‘Ltd’ loko vumbiwa ra bindzuntirhisano ri pfumelela ku tirhisiwa ka vito rolero ra mfungho.

(8) I bindzuntirhisano ra le rixaka ra le maninginingini leri tsarisiweke hi ku landza xiyenge xa (1)(d) ntsena ri nga ha tirhisa kumbe ku va na rito ‘maninginingini’ tanihi xiphemu xa xa vito ra rona.

(9) Mutsarisi u fanele—

(a) ku lulamisa vito ra bindzuntirhisano rihi na rihi leri loko Nawu wa ku Antswisiwa wa Mabindzuntirhisano, 2013 wu sungula ku tirha ri nga na rito ‘maninginingini’ eka vito ra rona, leswaku rito ‘maninginingini’ ri siviwa hi rito ‘henhla’; na

(b) ku tivisa bindzuntirhisano leri khumbekaka hi ku cinca loku endlweke hi ku tsala eka nkarhi wa 60 wa masiku loko Nawu wa ku Antswisiwa ka Mabindzuntirhisano, 2013 wu sungule ku tirha.”.

#### Ku antswisiwa ka xiyenge xa 12 xa Nawu wa 14 wa 2005

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#### 10. Xiyenge xa 12 xa Nawunkulu xa antswisiwa—

(a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka:

“Ku tirhisiwa lo ku nga ri ki enawini ka “[rito] marito lama faneleke ku va xiphemu xa vito ra bindzuntirhisano”;

- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
“It is an offence for any **[entity]** natural or juristic person other than a co-operative registered in terms of this Act to—”;
- (c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
“(b) use or authorise the use of the words ‘co-operative’, ‘co-op’, **‘co-operative limited’, ‘co-operative ltd’, or ‘co-op ltd’**, ‘co-operative Limited’, or ‘co-operative Ltd’ as part of its name.”; and
- (d) by the addition of the following subsection:  
“(2) Any natural or juristic person found guilty of an offence in terms of subsection (1) is liable to a fine not exceeding one million rand.”.

**Amendment of section 13 of Act 14 of 2005**

- 11.** Section 13 of the principal Act is hereby amended—
- (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:  
“(1) A co-operative registered in terms of this Act must **[adopt]** have a constitution that complies with section 14.  
(2) A co-operative **[where the]** whose members are required to hold shares must **[adopt]** have a constitution that complies with sections 14 and 15.  
(3) Secondary and tertiary co-operatives and the national apex co-operative must **[adopt]** have a constitution that complies with sections 14 and 16.”;
- (b) by the deletion of subsection (5); and
- (c) by the addition of the following subsection:  
“(6) Every group of persons or co-operatives that intends to register as a co-operative must submit a constitution for the proposed co-operative in the prescribed manner and form to the registrar for registration.”.

**Amendment of section 14 of Act 14 of 2005**

- 12.** Section 14 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:  
“**[Provisions] Minimum requirements for all [co-operatives] co-operative constitutions**”;
- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
“(b) whether it is a primary co-operative, a secondary co-operative, **[or]** a tertiary co-operative or the national apex co-operative;”;
- (c) by the insertion in subsection (1) after paragraph (b) of the following paragraph:  
“(bA) whether it is a co-operative that concludes transactions with both members and non-members of that co-operative or a co-operative that does not conclude transactions with persons who are not members of the co-operative;”;
- (d) by the substitution in subsection (1) for paragraph (e) of the following paragraph:  
“(e) a provision stipulating **[that each member has one vote in all meetings of the co-operative except in the case of secondary or tertiary co-operatives]** the voting rights of each member, as contemplated in section 3;”;

- (b) hi ku siviwa ka marito lama rhangelaka ndzimana ya (a) ya marito lama landzelaka eka xiyengetsongo xa (1):  
I nandzu ku va **[vandal]** rihhi na rihhi munhu kumbe munhu loyi a nga na matimba ya nawu handle ka bindzuntirhisani leri tsarisiweke hi ku landza Nawu lowuri—”; 5
- (c) hi ku siviwa ka ndzimana ya (b) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1):  
“(b) ku tirhisa kumbe ku pfumelela ka ku tirhisiwa ka marito ‘bindzuntirhisano’, ‘co-op’, **[bindzuntirhisano leri pimiweke]**, **“bindzuntirhisano ltd”**, kumbe **“co-op ltd”**, ‘bindzuntirhisano leri pimiweke’, kumbe “bindzuntirhisano Ltd”, tanihi xiphemu xa vito ra rona.”; na 10
- (d) hi ku engeteleriwa ka xiyengetsongo lexi landzelaka:  
“(2) Munhu wihi na wihi kumbe munhu loyi a nga na matimba ya nawu loyi anga kumekaka a ri na nandzu wa ku onha hi ku landza xiyengetsongo xa (1) u fanele ku hakela ndziho lowu nga hundziki miliyoni ya tirhandi.” 15

### Ku antswisiwa ka xiyenge xa 13 xa Nawu wa 14 wa 2005

11. Xiyenge xa 13 xa Nawunkulu xa antswisiwa—
- (a) ku siviwa ka swiyengetsongo swa (1), (2) na (3) xa swiyengetsongo leswi landzelaka, hi ku landzelelana ka swona:  
“(1) Bindzuntirhisano leri tsarisiweke hi ku landza Nawu lowu ri fanele ku **[tekelela]** ku va na vumbiwa leri landzelelaka xiyenge xa 14.  
(2) Bindzuntirhisano **[laha]** leri swirho swi faneleke ku va na mikavelo ri fanele ku **[tekelela]** ku va na vumbiwa leri landzelelaka swiyenge swa 14 na 15. 25  
(3) Mabindzuntirhisano ya vumbirhi na ya vunharhu ya rixaka ya le maninginingini ya fanele ku **[tekelela]** ku va na vumbiwa leri landzelelaka swiyenge swa 14 na 16.”;
- (b) hi ku susiwa ka xiyengetsongo xa (5); na 30
- (c) hi ku engeteleriwa ka xiyengetsongo lexi landzelaka:  
“(6) Ntlawa wun’wana na wun’wana wa vanhu kumbe mabindzuntirhisano lawa ya lavaka ku tsarisa tanihi bindzuntirhisano ya fanele ku yisa vumbiwa ra wona ra bindzuntirhisano leri ringanyetiweke ndlela na xivumbeko lexi vekaweke eka mutsarisi ku endlela ku tsarisa.” 35

### Ku antswisiwa ka xiyenge xa 14 xa Nawu wa 14 wa 2005

12. Xiyenge xa 14 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka:  
“**[Ku lulamisela] Swilaveko swa minimamu swa [mabindzuntirhisano] hinkwawo mavumbiwa ya bindzuntirhisano**”; 40
- (b) hi ku siviwa ka ndzimana ya (b) ya ndzimana leyi andzelaka eka xiyengetsongo xa (1):  
“(b) hambiloko ku ri bindzuntirhisano ro sungula, bindzuntirhisano ra vumbirhi, **[kumbe]** ra vunharhu kumbe bindzuntirhisano ra rixaka ra le maninginingini;” 45
- (c) hi ku ngenisiwa ka ndzimana leyi landzelaka endzhaku ka ndzimana ya (b) eka xiyengetsongo xa (1):  
“(bA) hambi i bindzuntirhisano leri hetisisaka ku cincisana na swirho kumbe lava nga riki swirho swa bindzuntirhisano rolero kumbe i bindzuntirhisano leri nga hetisisiki ku cincisana na vanhu lava nga ri ki swirho swa bindzuntirhisano;” 50
- (d) hi ku siviwa ka ndzimana ya (e) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1):  
“(e) ku lulamisela lo ku boxaka **[leswaku xirho xin’wana na xin’wana xa bindzuntirhisano xi na vhoti yin’we eka tinhlegetano hinkwato ta bindzuntirhisano handleka bindzuntirhisano ra vumbirhi kumbe ra vunharhu] timfanelo to vhoti ta xirho xin’wana na xin’wana, tanihilaha swi langutisiweke hakona eka xiyenge xa 3;**” 55

- (e) by the substitution in subsection (1) for paragraph (i) of the following paragraph:  
“(i) the term of office of directors, which [**may not be more than four years**] must be reasonable, and whether a director may be re-appointed for a [**second or further**] consecutive term of office: Provided that the manner for rotation of directors is stipulated in the constitution of the co-operative;”;
- (f) by the insertion in subsection (1) after paragraph (l) of the following paragraph:  
“(1A) a provision relating to the extension of the period for the repayment of the nominal value of membership shares in the event of the death of a member of the co-operative: Provided that such period must not exceed two years;”;
- (g) by the substitution in subsection (1) for paragraph (dd) of the following paragraph:  
“(dd) a provision for the appointment of directors, executive and non-executive directors, on condition that only members may be appointed as directors or executive directors.”;
- (h) by the substitution in subsection (2) for paragraph (d) of the following paragraph:  
“(d) a provision for a member to appoint a proxy to attend and vote at a general meeting on that member’s behalf, or for postal votes: Provided that no person may act as a proxy for more than [20 per cent of the members entitled to vote at a meeting] the percentage provided for in section 28(5), or for such lesser percentage of members as may be stipulated in the constitution of the co-operative;”;
- (i) by the deletion in subsection (2) of paragraph (g);
- (j) by the deletion in subsection (2) of the word “and” at the end of paragraph (i);
- (k) by the substitution in subsection (2) for paragraph (j) of the following paragraph:  
“(j) provision for the settlement of disputes between members of the co-operative, [or] between a member of the co-operative and the co-operative itself[.], between the co-operative and any other interested persons; and”;
- (l) by the addition to subsection (2) of the following paragraph:  
“(k) a provision determining whether the co-operative allows for the appointment of non-executive independent directors: Provided that non-executive independent directors may only be selected from associate members of the co-operative.”.

**Insertion of section 14A in Act 14 of 2005**

13. The following section is hereby inserted in the principal Act after section 14:

**“Associate members**

- 14A.** (1) The constitution of a co-operative may provide for persons—
- (a) who want to provide support to the co-operative without becoming members of the co-operative; or
- (b) who may benefit from a co-operative without becoming members of the co-operative,
- to be appointed as associate members.

- (e) hi siviwa ka ndzimana ya (i) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1):  
“(i) nkarhi wo va entirhweni wa varhangeri, lowu[**nga ta ka wu nga hundzi mune wa malembe**] wu fanele ku va lowu twisisekaka, na loko ku ri leswaku mufambisinkulu a nga ha tlhela a thoriwa ra [**vumbirhi kumbe ku hundza**] ku va ehofisini hi ku landzelela: Loko ku ri leswaku ndlela yo cincana ka vafambisi yi vekiwile eka vumbiwa ra bindzuntirhisano;”;
- (f) hi ku nghenisiwa ka ndzimana leyi landzelaka endzhaku ka ndzimana ya (l) eka xiyenge xa (1):  
“(1A) ku lulamisela mayelana na ku engeteleriwa ka nkarhi wo hakelela nkoka wo ka wu nga nyawuli wa minkavelo ya vuxirho loko xirho xa bindzuntirhisano xi lova: Loko ku ri leswaku nkarhi wolowo a wu fanelanga ku hundza malembe mambirhi;”;
- (g) hi ku susiwa ka ndzimana ya (dd) ya ndziomana leyi landzelaka eka xiyengetsongo xa (1);  
“(dd) ku lulamisela ku thoriwa ka vafambisi, vafambisi va xiyimo xa le henhla na lava nga riki va xiyi o xa le henhla hi xipimelo xa leswaku i swirho ntsena swi nga thoriwaka tanihi vafambisi kumbe vafambisi va xiyimo xa le henhla.”;
- (h) hi ku susiwa ka ndzimana ya (d) ya ndzimana leyi landzelaka eka xiyengetsongo xa (2);  
“(d) ku lulamisela ku va xirho xi thola muyimeri ku va kona ku vhota eka tihlungeletano ta mani na mani hi ku yimela xirho xolexo, kumbe tivhoti leti posiwaka: Loko ku ri leswaku ku hava munhu loyi a nga va ka muyimeri wa wo hundza [**20 wa tipesente ta swirho leswi nga na mfanelo wo vhota eka nhlungeletano**] phesente leyi lulamiseriweke eka eka xiyenge xa 28(5), kumbe phesente ya le hansa ya swirho tanihilaha swi nga ha vekiwaka hakona eka vumbiwa ra bindzuntirhisano;”;
- (i) hi ku susiwa ka ndzimana ya (g) eka xiyengetsongo xa (2);
- (j) hi ku susiwa ka rito “na” emakumu ka ndzimana ya (i) eka xiyengetsongo xa (2);
- (k) hi ku siviwa ka ndzimana ya (j) ya ndzimana leyi landzelaka eka eka xiyengetsongo xa (2):  
“(j) ku lulamisela ku ololoxiwa ka nkwetlembetano exikarhi ka swirho swa bindzuntirhisano, [**kumbe**] exikarhi ka xirho xa bindzuntirhisano na bindzuntirhisano ha roxe[.], exikarhi ka bindzuntirhisano na vanhu van’wana lava nga na ntsakelo; na”;
- (l) hi ku nghenisiwa ka ndzimana leyi landzelaka eka xiyengetsongo xa (2):  
“(k) ku lulamisela loku kambaka loko ku ri leswaku bindzuntirhisano ri pfumelela ku thoriwa ka vafambisi lava tiyimeleke lava nga riki vafambisi va le henhla: Loko ku ri leswaku vafambisi lava tiyimeleke lava nga ri ki va xiyimo xa le henhla va nga ha hlawuriwa ku suka eka swirho swa bindzuntirhisano swo ngetelela.”.

### Ku nghenisiwa ka xiyenge xa 14A eka Nawu wa 14 wa 2005

13. Xiyenge lexi landzelaka xa nghenisiwa eka Nawunkulu endzhaku ka xiyenge xa 14:

“Swirho swo hlanganisa 50

14A. (1) Vumbiwa ra bindzuntirhisano ri nga ha lulamisela vanhu—

- (a) lava lavaka ku nyika nseketelo eka bindzuntirhisano handle ko va swirho swa bindzuntirhisano ku thoriwa tanihi swirho swo hlanganisa; kumbe
- (b) lava va nga ha vuyeriwaka ku suka eka bindzuntirhisano handle ko va swirho swa bindzuntirhisano, ku thoriwa tanihi swirho swo hlanganisa. 55

(2) Associate membership is a temporary membership which is valid for a period of 12 months: Provided that nothing in this section prohibits an associate member from applying for full membership at any time.

(3) After the period of 12 months, associate members, subject to the approval by the members of the co-operative—

- (a) have the choice to become full members of a co-operative; or
- (b) may have their associate membership renewed for a further 12 month period.

(4) A co-operative that has associate members must indicate in its financial reporting system the full number of both its members and associate members.

(5) Associate members do not have any voting rights.”.

**Insertion of section 15A in Act 14 of 2005**

14. The following section is hereby inserted in the principal Act after section 15:

**“Categories of primary co-operatives**

**15A.** (1) The Minister must prescribe the monetary threshold for the annual revenue or projected annual revenue for each of the following categories of primary co-operatives:

- (a) A category A primary co-operative which is a small primary co-operative;
- (b) a category B primary co-operative which is a small to medium primary co-operative; and
- (c) a category C primary co-operative which is a medium to large co-operative.

(2) Category A, B and C primary co-operatives are primary co-operatives that are excluded from legislation applicable to deposit-taking financial co-operatives and co-operative banks.

(3) For purposes of this section—

- (a) **‘projected annual revenue’** means a reasonable estimate of the gross value of the economic benefits that are likely to be received by a newly registered co-operative as a result of its ordinary activities during its first financial year; and
- (b) **‘annual revenue’** means the gross value of the economic benefits actually received by a co-operative as a result of its ordinary activities in a financial year.”.

**Amendment of section 16 of Act 14 of 2005**

15. Section 16 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:  
**“Provisions for secondary and tertiary co-operatives and the national apex co-operative”;**
- (b) by the deletion of subsection (1); and
- (c) by the substitution for subsection (2) of the following subsection:

**“(2) The constitution of a secondary, [or] tertiary or the national apex co-operative may provide for—**

- (a) the further objectives of a secondary, [or] tertiary or the national apex co-operative which may include any activity that is not inconsistent with the objectives of any of its members, and which is undertaken for their exclusive benefit; and
- (b) the further objectives of a tertiary co-operative or the national apex co-operative which may include representing the interests of co-operatives within a sector or region, providing assistance for education and training, establishing a guarantee fund to facilitate external financing of its members, and the establishment of an audit fund to assist members to have their operations audited;”.



(2) Vuxirho byo hlanganisa i bya nkarhinyana ku ringana 12 wa tin'hweti: Loko ku ri leswaku ku hava xa nchumu ku suka eka xiyenge lexi xi alelaka xirho xo hlanganisa ku endla xikombelo xa vuxirho bya nkarhi hinkwawo

(3) Ku ya hi ku pfumeleriwa hi swirho swa bindzuntirhisano, endzhaku ka nkarhi wa 12 wa tin'hweti— 5

(a) swirho swo hlanganisa swi na ku tihlawulela ku va swirho leswi hetisekeke swa bindzuntirhisano ku ya hi mpfumelelo wa swirho swa nkarhi wolowo swa bindzuntirhisano; kumbe

(b) vuxirho bya vona byo hlanganisa byi nga ha pfuxetiwa ku ringana nkarhi wa 12 wa tin'hweti. 10

(4) Mabindzuntirhisano lawa ya nga na swirho swo hlanganisa ya fanele ku komba swirho leswi heleleke swa bindzuntirhisano na swirho swo hlanganisa eka sisiteme ya vona ya swiviko swa timali.

(5) Swirho swo hlanganisa swi hava timfanelo tih kumbe tih to vhota.”. 15

#### Ku ngenisiwa ka xiyenge xa 15A eka Nawu wa 14 wa 2005

14. Xiyenge lexi landzelaka xa ngenisiwa eka nawunkulu endzhaku ka xiyenge xa 15:

##### “Mikhetekanyo ya mabindzuntirhisano yo sungula

15A. (1) Holobye u fanele ku veka mali kumbe mbuyelo lowu languteriweke wa lembe eka wun'wana na wun'wana wa mikhetekanyo ya mabindzuntirhisano yo sungula leyi landzelaka: 20

(a) Bindzuntirhisano ro sungula ra nkhetekanyo wa A leri nga bindzuntirhisano leritsongo ro sungula;

(b) bindzuntirhisano ro sungula ra nkhetekanyo wa B leri nga bindzuntirhisano leritsongo ku ya exikarhi; na 25

(c) bindzuntirhisano ro sungula ra nkhetekanyo wa C leri nga ra le xikarhi ku ya eka bindzuntirhisano lerikulu.

(2) Mabindzuntirhisano yo sungula ya nkhetekanyo wa A, B na C i mabindzuntirhisano yo sungula lawa ya nga katsiwiki eka milawu leyi tirhaka eka mabindzuntirhisano ya vukorhokeri bya timali lawa ya tekaka diphoziti na tibangi ta mabindzuntirhisano. 30

(3) Hi swikongomelo swa xiyenge lexi—

(a) **‘mbuyelo wa timali lowu languteriweke wa lembe’** swi vula ku bvumba lo ku tiwisisekaka ka ntsengo hinkwawo wa mimbuyelo wa swa ikhonomi leyi nga ha kumiwaka hi bundzuntirhisano lera ha ku tsarisiwaka hikwalaho ka migingiriko ya rona ya nkarhi wa lembe xinmali ra rona ro sungula; na 35

(b) **‘timali ta lembe’** swi vula nkoka hikwawo wa mimbuyelo ya ikhonomi leyi kumiweke hi bindzuntirhisano hikwalaho ka migingiriko ya rona eka lembeximali.”. 40

#### Ku antswisiwa ka xiyenge xa 16 xa Nawu wa 14 wa 2005

15. Xiyenge xa 16 xa Nawunkulu xa antswisiwa—

(a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka:

**“Ku lulamisela ka mabindzuntirhisano ya vumbirhi nay a vunharhu na mabindzuntirhisano ya rixaka ya le maninginingini”;** 45

(b) hi ku susiwa ka xiyengetsongo xa (1); na

(c) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka:

“(2) Vumbiwa ra bindzuntirhisano ra vumbirhi, [kumbe] bindzuntirhisano ra vunharhu kumbe bindzuntirhisano ra rixaka ra le maninginingini ri nga ha lulamisela— 50

(a) swikongomelo swo ngetelela swa bindzuntirhisano ra vunharhu kumbe rixaka ra le maninginingini leswi ng ha katsaka nghingiriko wihi na wihi lowu nga landzeleriki swikongomelo swa swirho swihi na swihi, naswona lowu endleriwaka ku vuyerisa swona; na 55

(b) swikongomelo swo ngetelela swa bindzuntirhisano ra vunharhu kumbe bindzuntirhisano ra rixaka ra le maninginingini leswi nga katsaka ku yimela mitsakelo ya mabindzuntirhisano lama nga eka xiyenge kumbe xifundza, ku nyika nseketelo wa dyondzo na vuleteri, ku tumbuluxa nkrama wo tiyisisa ku vevukisa tihakelo ta le handle ta swirho swa rona, na ku tumbuluxiwa ka nkrama wa oditi ku pfuneta swirho ku va matirhelo ya swona ma oditiwa;” 60

**Insertion of section 16A in Act 14 of 2005**

16. The following section is hereby inserted in the principal Act after section 16:

**“Functions of the national apex co-operative**

**16A.** (1) The functions of the national apex co-operative must include advocacy and engaging organs of state, the private sector and stakeholders on behalf of its members. 5

(2) Any other functions of the national apex co-operative must be determined by its members and included in the constitution of the national apex co-operative.

(3) The Minister may publish guidelines for the functions of the national apex co-operative by notice in the *Gazette*.”. 10

**Amendment of section 19 of Act 14 of 2005**

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

(a) by the substitution for the heading of the following heading: 15  
“**[Functions] Restrictions on functions of co-operatives**”;

(b) by the substitution for subsection (2) of the following subsection:  
“(2) A co-operative must not pursue any objective or perform any act that is not authorised by its constitution.”; and

(c) by the addition of the following subsections: 20  
“(3) Subject to subsections (1) and (2), a co-operative must record all business transactions concluded with members and non-members in its annual financial statements.

(4) Any co-operative or director of a co-operative which contravenes the provisions of subsection (1), (2) or (3) is—

(a) guilty of an offence; and 25  
(b) on conviction liable to a fine not exceeding one million rand.”.

**Amendment of section 21 of Act 14 of 2005**

18. Section 21 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (c) of the following paragraph: 30  
“(cA) if it has a supervisory committee, the minutes of meetings of that committee in a minute book;”;

(b) by the substitution in subsection (1) for paragraph (f) of the following paragraph: 35  
“(f) a register of directors’ and employees’ interests in contracts or undertakings, envisaged in section [38] 37;”;

(c) by the substitution for subsection (2) of the following subsection: 40  
“(2) Every co-operative must retain its accounting records and financial statements for a period of—  
(a) five years after the end of the financial year to which they relate; or  
(b) such longer period as may be prescribed by the Minister by notice in the *Gazette*.”.

**Amendment of section 22 of Act 14 of 2005**

19. Section 22 of the principal Act is hereby amended by the addition of the following subsection: 45

“(4) (a) An inspector appointed by the registrar or the Tribunal as contemplated in this Act may, in accordance with this Act and national legislation that regulates access to information, examine the records of a co-operative during the normal business hours of that co-operative.

**Ku ngenisiwa ka xiyenge xa 16A eka Nawu wa 14 wa 2005**

16. Xiyenge lexi landzelaka xa ngenisiwa eka Nawunkulu endzhaku ka xiyenge xa 16:

**“Mitrho ya bindzuntirhisano ra rixaka ra le maninginingini**

- 16A.** (1) Mitrho ya bindzuntirhisano yi fanele ku katsa vuyimeri na 5  
ku tirhisana na swirho swa mfumo, vandla ro ka ri nga ri ra mfumo na  
vatekaxiave hi ku yimela swirho swa rona.  
(2) Mitrho leyin’wana ya bindzuntirhisano ra rixaka ra le maningini-  
ngini yi fanele ku vekiwa hi swirho swa rona naswona yi fanele ku katsiwa 10  
eka vumbiwa ra bindzuntirhisano ra rixaka ra le maninginingini.  
(3) Holoby e nga ha hangalasa swiletelo swa mitirho ya bindzuntir-  
hisano ra rixaka ra le maninginingini hi ku tivisa eka *Gazete*.”

**Ku antswisiwa ka xiyenge xa 19 xa Nawu wa 14 wa 2005**

17. Xiyenge xa 19 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka: 15  
“**[Mitrho] ku aleriwa eka mitirho ya mabindzuntirhisano**”;
- (b) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka:  
“**(2) Bindzuntirhisano ri fanele ku ka ri nga endli xikongomelo kumbe**  
**ku endla nghingiriko lowu nga pfumeleriwangiki hi vumbiwa.**”; na
- (c) hi ku engeteleriwa ka swiyengetsongo leswi landzelaka: 20  
“**(3) Hi ku ya hi xiyengetsongo xa (1) na (2), bindzuntirhisano ri**  
**fanele ku komba ku cincisana hinkwako ka bindzu loku endliweke na**  
**lava nga ri ki swirho eka switatimende swa lembe swa timali swa**  
**bindzuntirhisano.**  
(4) Bindzuntirhisano rin’wana na rin’wana kumbe murhangerinkulu 25  
wa bindzuntirhisano leri tlulaka ku lulamisela ka xiyengetsongo xa (1),  
(2) kumbe (3)—  
(a) u na nandzu wo tlula nawu; na  
(b) loko a bohiwa u ta hakela fayini leyi nga hundziki n’we wa 30  
**mamiliyoni ya tirhandi.**”

**Ku antswisiwa ka xiyenge xa 21 xa Nawu wa 14 wa 2005**

18. Xiyenge xa 21 xa Nawunkulu xa antswisiwa—
- (a) hi ku ngenisiwa ka ndzimana leyi landzelaka eka xiyengetsongo xa (1) xa  
ndzimana ya (c): 35  
“**(cA)loko ri ri na komiti yo langutela, makanelwa ya tinhlengeletano ta**  
**komiti yoleyo eka buku ya makanelwa;**”;
- (b) hi ku siviwa ka ndzimana ya (f) ya ndzimana leyi landzelaka eka  
xiyengetsongo xa (1):  
“**(f) rhijisitara ra mitsakelo ya varhangerinkulu na vatirhi’ eka swiboho**  
**swa tikhondiraka, leswi languteriweke eka xiyenge xa [38] 37;**” na 40
- (c) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka:  
“**(2) Bindzuntirhisano rin’wana na rin’wana ri fanele ku hlayisa**  
**tirhekhodo ta rona ta tinkota na switatimende swa timali nkarhi wo**  
**ringana—**  
(a) 5 wa malembe emakumu ka lembe ximali ra tinkota toleto; kumbe 45  
(b) Nkarhi wo leha tanihilaha swi vekiweke hakona hi Holoby hi ku  
**tivisa eka *Gazete*.**”

**Ku antswisiwa ka xiyenge xa 22 xa Nawu wa 14 wa 2005**

19. Xiyenge xa 22 xa Nawunkulu xa antswisiwa hi engeteleriwa ka xiyengetsongo  
lexi landzelaka: 50  
“**(4) (a) Mukamberi loyi a thoriweke hi mutsarisi kumbe Huvo yo tengisa**  
**tanihilaha swi langutisiweke eka Nawu lowu, a nga ha kambela tirhekhodo ta**  
**bindzuntirhisano hi nkarhi wa ntirho wa bindzuntirhisano rolero hi ku landza Nawu**  
**lowu na milawu ya rixaka leyi lawulaka ku kumiwa ka mahungu.**”

(b) Any director or employee of a co-operative who fails to disclose information or provide access to the records of the co-operative to the inspector referred to in paragraph (a), is guilty of an offence and on conviction liable to a fine not exceeding one million rand.”.

**Amendment of section 23 of Act 14 of 2005**

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20. Section 23 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) In co-operatives where members do not hold shares, members are only liable for such amount as is owed to the co-operative in terms of their membership agreement.”.

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**Amendment of section 24 of Act 14 of 2005**

21. Section 24 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If a co-operative determines that the repayment of a member’s membership shares upon the withdrawal of that member’s membership, would adversely affect its financial well-being, the co-operative may, subject to other legislation and its constitution, defer such payment for a period not exceeding two years.”.

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**Substitution of section 25 of Act 14 of 2005**

22. The following section is hereby substituted for section 25 of the principal Act:

“**[Transfer] Repayment of membership, member loan or membership share** 20

25. Despite any provisions contained in its constitution, if a co-operative determines that the repayment after the death of any member of the co-operative, of the nominal value of [a member’s]—

25

(a) that member’s membership shares[,];

(b) [all] any other amounts held to the member’s credit including any member loan; or

(c) any interest accrued on those amounts up to the date of the payment, would adversely affect its financial well-being, the co-operative may direct that repayment be deferred for a period not exceeding two years after the date of the death of a member of the co-operative.”.

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**Insertion of section 26A in Act 14 of 2005**

23. The following section is hereby inserted in the principal Act after section 26:

“**Annual submission to registrar**

**26A.** The Minister must, by notice in the *Gazette*, determine the— 35

(a) form, manner and time period for the annual submission of information to the registrar regarding the—

(i) membership of the co-operative;

(ii) members of the co-operative; and

(iii) the nature and value of the contribution made by each member to the co-operative; and 40

(b) annual fees payable to the registrar by different categories of co-operatives.”.

(b) Murhangeri wihi na wihi kumbe mutirhi wa bindzuntirhisano loyi a hlulekaka ku boxa mahungu kumbe ku lulamisela ku kumiwa ka tirhekhodo ta bindzuntirhisano, eka mukamberi loyi a boxiweke eka ndzimana ya (a) u na nandzu loko a bohiwa u ta hakela fayini leyi nga hundziki n'we wa mamiliyoni ya tirhandi.”

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#### **Ku antswisiwa ka xiyenga xa 23 xa Nawu wa 14 wa 2005**

20. Xiyenge xa 23 xa Nawunkulu xa antswisiwa hi ku engeteleriwa ka xiyengetsongo lexi landzelaka, xiyenge lexi nga kona xi va xiyengetsongo xa (1):

“(2) Eka mabindzuntirhisano lawa swirho swi nga riki na mikavelo, swirho swi na vutihlamuleri bya ntsengo wa mali leyi kolotiwaka bindzuntirhisano hi ku landza ntwanano wa vuxirho.”

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#### **Ku antswisiwa ka xiyenge xa 24 xa Nawu wa 14 wa 2005**

21. Xiyenge xa 24 xa Nawunkulu xa antswisiwa hi ku siviwa ka xiyengetsongo xa (1) xa xiyengetsongo lexi landzelaka:

“(1) Loko bindzuntirhisano ri vona leswaku ku hakela mikavelo ya vuxirho loko xirho xi suka eka vuxirho swi ta khumba timali hi ndlela yo ka yi nga ri kahle, hi ku landza milawu yin'wana na vumbiwa ra rona, bindzuntirhisano ri nga ha yimisa tihakelo toleto ku ringana nkarhi lowu nga hundziki malembe mambirhi.”

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#### **Ku siviwa ka xiyenge xa 25 xa Nawu wa 14 wa 2005**

22. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 25 xa Nawunkulu: 20

“**[Ku hundziseriwa] Ku hakeriwa ka vuxirho, loni ya xirho kumbe nkavelo wa xirho**

25. Hambiloko ku ri na ku lulamisela kwihi kumbe kwihi eka vumbiwa ra rona, loko bindzuntirhisano ri vona leswaku hakelo ya nkoka wo sungula ya endzhaku ka rifu ra xirho xa bindzuntirhisano [ya xirho]—

25

(a) mikavelo ya vuxirho ya xirho xolexo [,];

(b) mitsengo [**hinkwayo**] yihi na yih handle ka leyi kolotiwaka hi xirho ku katsa na loni yih kumbe yih ya xirho; kumbe

(c) ntwalo wihi kumbe wihi lowu kumiweke eka mitsengo yoleyo ku, fikela siku ra ku hakela, wu ta onha xiyimo xa rona xa timali, bindzuntirhisano ri nga lerisa leswaku hakelo yi nga ha yimisiwa nkarhi lowu nga hundziki malembe mambirhi endzhaku ka rifu ra xirho xa bindzuntirhisano.”

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#### **Ku ngenisiwa ka xiyenge xa 26A eka Nawu wa 14 wa 2005**

23. Xiyenge lexi landzelaka xa ngen isiwa eka Nawunkulu endzhaku ka xiyenge xa 26: 35

“**Ku yisiwa ka lembe eka mutsarisi**

**26A.** Holobye, hi ku tivisa eka *Gazete*, u fanele ku veka—

(a) muxaka, nkarhi na ndlela yo yisiwa ka mahungu ka lembe eka mutsarisi mayelana na—

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(i) vuxirho bya bindzuntirhisano;

(ii) swirho swa bindzuntirhisano; na

(iii) muxaka na na nkoka wa tihakelo leti endliweke hi xirho xin'wana na xin'wana eka binndzuntirhisano; na

(b) timali ta lembe leti hakeriwaka mutsarisi hi bindzuntirhisano hi mikhetekanyo yo hambana ya mabindzuntirhisano.”

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**Amendment of section 27 of Act 14 of 2005**

**24.** Section 27 of the principal Act is hereby amended by the addition of the following subsections:

- “(4) The supervisory committee—
- (a) must be elected at the meeting contemplated in section 29(1)(a), when the Board is elected; 5
  - (b) must consist of members who are not directors; and
  - (c) may be established for every co-operative if the constitution of the co-operative concerned provides for such committee. 10
- (5) The supervisory committee—
- (a) is responsible for supervising the Board by representing the interests of its members; 10
  - (b) must, if there is reasonably reliable information that indicates that any act or omission by the Board may impact negatively on the co-operative or any of its members, call a special meeting of all its members to discuss such act or omission; and 15
  - (c) must, within seven days after a special meeting contemplated in paragraph (b), in writing inform the— 15
    - (i) Tribunal of the outcome of such meeting; and
    - (ii) Board and the member or members affected or concerned of the meeting’s decision and reasons for the decision. 20
- (6) If the supervisory committee has not complied with subsection (5)(c), a member of the co-operative may report the matter to the Tribunal for investigation.”.

**Amendment of section 28 of Act 14 of 2005** 25

**25.** Section 28 of the principal Act is hereby amended by the addition of the following subsections:

- “(3) If provided for in the constitution of a co-operative, a member of that co-operative may at any time appoint another member of the co-operative as a proxy to participate in and vote at a general or special meeting on behalf of the member concerned: Provided that the member may not appoint more than one proxy to exercise that member’s voting rights. 30
- (4) A proxy appointment—
- (a) must be in writing, dated and signed by the member; 35
  - (b) must clearly set out the details of the vote to be cast on behalf of the member in respect of each decision on the agenda; and
  - (c) remains valid for the period expressly set out in the appointment, unless it is revoked in writing by the member concerned prior to the meeting.
- (5) The number of votes by proxy during any general or special meeting may not exceed 25 per cent of the total membership of the co-operative concerned: 40  
Provided that—
- (a) the number of proxies that a member of a co-operative with 20 members or more, may carry on behalf of another member or other members as contemplated in subsection (3), may not exceed five per cent of the total membership of the co-operative concerned; and 45
  - (b) a member of a co-operative with less than 20 members may carry only one proxy on behalf of another member as contemplated in subsection (3).”.

**Ku antswisiwa ka xiyenge xa 27 xa Nawu wa 14 wa 2005**

**24.** Xiyenge xa 27 xa Nawunkulu xa antswisiwa hi ku engetela swiyengetsongo leswi landzelaka—

“(4) Komiti leyi langutelaka—

(a) yi fanele ku hlawuriwa eka nhlengeletano leyi langutisiweke eka xiyenge xa 29(1)(a), loko ku hlawuriwa Bodo ya varhangeri; 5

(b) yi fanele ku vumbiwa hi swirho leswi nga riki varhangeri; na

(c) yi nga ha tumbuluxeriwa bindzuntirhisano rin’wana na rin’wana loko vumbiwa ra bindzuntirhisano leri khumbekaka ri lulamisela komiti yoleyo. 10

(5) Komiti leyi langutelaka—

(a) yi na vutihlamuleri byo langutela huvo ya varhangeri, hi ku yimela ku tsakela ka swirho swa yona;

(b) yi fanele ku rhamba nhlengeletano ya nkoka ya swirho swa yona hinkwaswo, loko ku ri na ku ehleketela ka kahle loku twisisekaka ka leswaku xiendlo xihhi kumbe xihhi kumbe ku tluriwa ko karhi hi huvo ya varhangeri ku nga ha onha bindzuntirhisano kumbe xirho kumbe swirho ku ta kanela xiendlo kumbe ku tluriwa koloko; na 15

(c) eka nkarhi wa nkombo wa masiku endzhaku ka nhlengeletano yo hlawuleka leyi langutisiweke eka ndzimna ta (b), hi ku tsala, yi fenele ku tivisa— 20

(i) Huvo yo tengisa hi mbuyelo wa nhlengeletano yoleyo; na

(ii) Bodo ya varhangeri na xirho kumbe swirho leswi khumbekaka hi xiboho xa nhlengeletano na swivangelo swa xiboho.

(6) Loko komiti ya vulanguteri yi nga landzelelanga xiyengetsongo xa (5)(c), xirho xa bindzuntirhisano xi nga ha rhipota mhaka eka Huvo yo tengisa ku va yi langutisisiwa.”. 25

**Ku antswisiwa ka xiyenge xa 28 xa Nawu wa 14 wa 2005**

**25.** Xiyenge xa 28 xa Nawunkulu xa antswisiwa hi ku engeteleriwa ka swiyengetsongo leswi landzelaka: 30

“(3) Loko swi lulamiseriwile eka vumbiwa, xirho xa bindzuntirhisano xi nga ha thola xirho xin’wana xa bindzuntirhisano tanihi la yimelaka ku va a nghenelela hi ku yimela xirho na ku vhota eka nhlengeletano yo hlawuleka kumbe nhlengeletano yin’wana na yin’wanahi ku yimela xirho lexi khumbekaka: Loko ku ri leswaku xirho xexo xi nga hlawuri lava yimelaka vo tlula vambirhi ku endla timfanelo to vhota. 35

(4) Ku thoriwa ka layimelaka—

(a) swi fanele ku va hi ku tsala, swi sikuhatiwile na ku sayiniwa hi xirho;

(b) swi fanele kuveka erivaleni vuxokoxoko bya vhoti leyi nga ta endliwa hi ku yimela xirho mayelana na xiboho xin’wana na xin’wana lexi nga eka ajenda; naswona 40

(c) swi va leswi nga enawini ku ringana nkarhi lowu vekiweke loko ku thoriwa, handlekaloko swi cinciwa hi ku tsala hi xirho lexi khumbekaka loko ku nga si va na nhlengeletano.

(5) Nhlayo ya tivhoti ta loyi a yimelaka hi nkarhi wa nhlengeletano yin’wana na yin’wana kumbe nhlengeletano yo hlawuleka yi nga ka yi nga hundzi 25 wa tiphesente ta ntsengo wa vuxirho bya bindzuntirhisano leri khumbekaka: Loko ku ri leswaku— 45

(a) nhlayo ya tivhoti to yimela leti xirho xa bindzuntirhisano leri nga na 20 wa swirho kumbe ku tlula xi nga va ka na tona hi ku yimela xirho xin’wana kumbe swirho tanihilaha swi langutisiweke hakona eka xiyengetsongo xa (3), ti nge hundzi ntlhanu wa tiphesente ta ntsengo wa vuxirho bya bindzuntirhisano leri khumbekaka; naswona 50

(b) xirho xa bindzuntirhisano leri nga na swirho swa le hansi ka 20 xi nga ha va na vhoti yin’we ntsena yo yimela xirho xin’wana tanihilaha swi nga langutisiwa hakona eka xiyengetsongo xa (3).” 55

**Amendment of section 29 of Act 14 of 2005**

26. Section 29 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:  
“(a) subject to section 50, appoint an auditor as determined by the Minister by notice in the Gazette, [subject to section 50] depending on the category and level of the co-operative;” 5
  - (b) by the insertion in subsection (2) after paragraph (a) of the following paragraph:  
“(aA) appoint an independent reviewer as determined by the Minister by notice in the Gazette, depending on the category and level of the co-operative;” 10
  - (c) by the insertion of the word “and” at the end of paragraph (f) and the addition of the following paragraph:  
“(g) consider the activity plan presented by the Board.” 15
  - (d) by the addition of the following subsection:  
“(3) For purposes of this section ‘activity plan’ means a document that summarises the operational and financial objectives of the co-operative for the next financial year, including—  
    (a) clear business goals with reasons why these goals are believed to be attainable; and  
    (b) how funds in the co-operative will be utilised.” 20

**Substitution of heading to Chapter 5 of Act 14 of 2005**

27. The following heading is hereby substituted for the heading to Chapter 5 of the principal Act: 25  
“[MANAGEMENT] GOVERNANCE OF CO-OPERATIVES”.

**Amendment of section 32 of Act 14 of 2005**

28. Section 32 of the principal Act is hereby amended—
- (a) by the substitution for subsection (3) of the following subsection:  
“(3) The [board of directors] Board must be elected at the annual general meeting for such period as [may be] is set out in the constitution of the co-operative [, which period may not be more than four years].” 30
  - (b) by the addition of the following subsections:  
“(4) The Board may in the event of a vacancy by way of a resolution appoint a director for the remainder of the period referred to in subsection (3), subject to any requirements in the constitution of the co-operative: Provided that such resolution must be ratified at the next general meeting of the co-operative. 35  
    (5) Other issues relating to the Board which are not provided for in this Act, may be provided for in the constitution of the co-operative. 40  
    (6) The members of a co-operative may by special resolution passed at a meeting—  
        (a) convened by the supervisory committee; or  
        (b) called by at least 25 per cent of members where such co-operative does not have a supervisory committee, 45  
        dissolve the Board if such members find justifiably good reason that the board is dysfunctional or has acted contrary to any law.”



**Ku antswisiwa ka xiyenge xa 29 xa Nawu wa 14 wa 2005**

26. Xiyenge xa 29 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka ndzimana ya (a) eka xiyengetsongo xa (2) xa ndzimana leyi landzelaka: 5  
“(a) ku ya hi xiyenge xa 50, ku thola muoditi tanihilaha swi vekiwaka hi Holobye eka Gazette, [ku ya hi xiyenge xa 50] ku ya hi nkhetekanyo na levhele ya bindzuntirhisano;”;
- (b) hi ku ngenisiwa ka ndzimana leyi landzelaka endzhaku ka ndzimana ya (a) eka xiyengetsongo xa (2): 10  
“(aA) thola mukambisisi loyi a tiyimeleke loyi a a tiyimeleke tanihilaha swi vekiweke hi Holobye eka Gazette ku ya hi nkhetekanyo na lavhele ya bindzuntirhisano;”;
- (c) hi ku ngenisiwa ka rito “na” emakumu ka ndzimana ya (f) na ku engeteleriwa ka ndzimana leyi landzelaka: 15  
“(g) tekela enhlokweni pulani ya nghingiriko leyi andlariweke hi Bodo.”; na
- (d) hi ku tatiwa ka xiyengetsongo lexi landzelaka: 20  
“(3) Hi swikongomelo swa xiyenge lexi “ pulani ya nghingiriko” swi vula tsalwa leru katsakanyaka swikongomelo swa bindzuntirhisano swa matirhelo na swa timali swa lembe ximlai leru landzelaka, ku katsa—  
(a) Swikongomelo swa bindzu leswi nga erivaleni na swivangelo swo va swikongomelo swoleswo swi kota ku fikeleleka; na  
(b) Ndlela leyi timali ta bindzuntirhisano ti nga ta tirhisiwa.”.

**Ku siviwa ka nhlokomhaka ya Kavanyisa ka 5 ka Nawu wa 14 wa 2005**

27. Nhlokomhaka leyi landzelaka yi siva hi nhlokomhaka ya Kavanyisa ka 5 ka Nawunkulu: 25  
“[VUFAMBISI] MAFUMELE YA MABINDZUNTIRHISANO”.

**Ku antswisiwa ka xiyenge xa 32 xa Nawu wa 14 wa 2005**

28. Xiyenge xa 32 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka xiyengetsongo xa (3) hi xiyengetsongo lexi landzelaka: 30  
“(3) [Bodo ya varhangeri] Bodo yi fanele ku hlawuriwa eka nhlengeltano ya lembe ya mani na mani ku ringana nkarhi wo va entirhweni tanihlaha [swi nga ha] vekiwaka hakona eka vumbiwa ra bindzuntirhisano [, Nkarhi wo va entirhweni lowu nga hundziki mune wa malembe].”; na 35
- (b) ku engeteleriwa ka swiyengetsongo leswi landzelaka: 40  
“(4) Loko ku pfuleka xivandla, Huvo yi nga ha thola murhangeri ku ringana nkarhi lowu saleke wa nkarhi lowu vuriweke eka xiyengetsongo xa (3) ku ya hi swilaveko swihi na swihi leswi nga eka vumbiwa ra bindzuntirhisano: Loko ku ri leswaku swilaveko swoleswo swi fanele ku tiyisisiwa eka nhlengeltano leyi landzelaka ya bindzuntirhisano.  
(5) Timhaka letin’wana ta meyalana na Bodo leti nga lulamiseri-wangiki eka Nawu lowu, ti nga ha lulamiseriwa eka vumbiwa ra bindzuntirhisano.  
(6) Swirho swa bindzuntirhisano, hi xibohe xo hlawuleka lexi pasisisweke eka nhlengeltano— 45  
(a) leyi rhambweke hi komiti yo rhangela; kumbe  
(b) leyi rhambiweke hi hikwalomu ka 25 wa tiphesente ta swirho laha bindzuntirhisano ro tano ri nga hava komiti yo rhangela, swi nga herisa Bodo loko swirho swoleswo swi ri na swivangelo swo twala swa leswaku bodo a yi le ku tirheni kumbe yi hi endle hi ndlela yo hambana na nawu wihi kumbe wihi.” 50

**Substitution of section 38 of Act 14 of 2005**

29. The following section is hereby substituted for section 38 of the principal Act:

**“Acceptance of commission, remuneration or reward prohibited in certain circumstances**

38. (1) Subject to subsection (2), a director or employee of a co-operative may not use their position or any information obtained while acting in their capacity as director or employee to gain any commission, remuneration, reward or other advantage for themselves or for any person other than the co-operative, unless they have disclosed full particulars of the nature and extent of such commission, remuneration, reward or other advantage and the material circumstances relating to its acquisition in writing to the co-operative and the co-operative has given its written approval to such acquisition by the director, member or other person, as the case may be. 5 10

(2) Notwithstanding the provisions of subsection (1), a director or employee of a co-operative may not in any circumstances use their position or any information obtained while acting in their capacity as director or employee to gain any commission, remuneration, reward or other advantage for themselves or for any person other than the co-operative through or in connection with any transaction to which the co-operative is a party. 15 20

(3) A director or employee who contravenes subsection (1) or (2) is guilty of an offence and upon conviction liable to such penalty as is contained in section 92(3).”.

**Amendment of section 39 of Act 14 of 2005** 25

30. Section 39 of the principal Act is hereby amended—

(a) by the addition to subsection (1) of the following paragraphs:

“(d) of the reason for the resignation or removal of a director from office; and

(e) of such further information as may be prescribed by the Minister.”; 30 and

(b) by the addition of the following subsection:

“(4) The Minister must by notice in the *Gazette*, prescribe the form, manner and time period for submission of the information required in terms of subsection (1) and (2).”.

**Amendment of section 41 of Act 14 of 2005**

31. Section 41 of the principal Act is hereby amended by the substitution for subsections (3), (4) and (5) of the following subsections, respectively:

“(3) The constitution may permit additional membership shares to be issued to members. 40

(4) All membership shares issued must be of the same class and ranking for all purposes including rights, liabilities and interest payments.

(5) Interest on membership shares is only payable on membership shares, or that portion of membership shares, that are paid up.”.

**Amendment of section 44 of Act 14 of 2005** 45

32. Section 44 of the principal Act is hereby amended—

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

“(3) A co-operative may provide in its constitution that the whole, or a part, of the patronage proportion of a member, determined by the board in respect of a financial year, must be applied to purchase membership shares in [a] the co-operative for the member.”; and 50

**Ku antswisiwa ka xiyenge xa 38 xa Nawu wa 14 wa 2005**

29. Xiyenge lexi landzelaka xa antswisiwa hi xiyenge xa 38 xa Nawunkulu:

**“Ku amukela khomixini, muholo kumbe ku hakeriwa lo ku aleriwaka eka swiyimo swin’wana**

38. (1) Hi ku ya hi xiyengetsongo xa (2), mufambisi kumbe muthoriwa wa bindzuntirhisano a nga ka a nga tirhisi mahungu lama a ma kumeke loko a ri karhi a tirha tanihi mufambisi kumbe mutirhi ku kuma khomixini, muholo kumbe ku hakeriwa kumbe ku vuyeriwa kwihi na kwihi ka yena kumbe ka munhu un’wana handle ka khomixini, handlekaloko a boxile muxaka na matirhelo ya khomixini yoleyo, muholo, ku hakeriwa ku hakeriwa kumbe kuku vuyeriwa na timhaka ta nkoka leti fambelanaka na ku kumiwa ka yona hi ku tsalela bindzuntirhisano naswona bindzuntirhisano ri va ri n yikile mpfumelelo eka mufambisi, xirho kumbe munhu un’wana hi ku tsala. 5

(2) Ku ri karhi ku landzeleriwa ku lulamisela ka xiyengetsongo xa (1), mufambisi kumbe mutirhi wa bindzuntirhisano a nga ka a nga tirhisi xiyimo xa yena kumbe mahungu lama a ma kumeke loko a ri karhi a tirha tanihi mufambisi kumbe mutirhi ku kuma khomixini, muholo, hakelo kumbe ku vuyeriwa kwihi na kwihi ka yena n’wini kumbe ka muhu un’wana handleka bindzuntirhisano mayelana na ku cincisana loku bindzuntirhisano ri khumbekaka. 10

(3) Mufambisi kumbe mutirhi loyi a tlulaka xiyengetsongo xa (1) kumbe (2) u na nandzu naswona loko a bohiwa u ta fanela ku hakelo ndziho lowu nga eka xiyenge xa 92(3).” 15

**Ku antswisiwa ka xiyenge xa 39 xa Nawu wa 14 wa 2005** 25

30. Xiyenge xa 39 xa Nawunkulu xa antswisiwa—

(a) hi ku engeteleriwa ka tindzimana leti landzelaka eka xiyengetsongo xa (1):

“(d) xivangelo xa ku tshika ntiro kumbe ku sisiwa ka mufambisi entirhweni; na

(e) Mahungu man’wana yo ngetelela la ma nga ha vekiwaka hi Holobye.”; na 30

(b) hi ku tatisiwa ka xiyengetsongo lexi landzelaka:

“(4) Holobye, hi xitiviso eka Gazette u fanele ku veka muxaka, maendlelo na nkarhi wa ku yisiwa ka mahungu mayelana lama lavekaka hi ku landza xiyengetsongo xa (1) na (2).”. 35

**Ku antswisiwa ka xiyenge xa 41 xa Nawu wa 14 wa 2005**

31. Xiyenge xa 41 xa Nawunkulu xa antswisiwa hi ku siviwa ka swiyengetsongo swa (3), (4) na (5) swa swiyengetsongo leswi landzelaka:

“(3) Vumbiwa ri nga pfumelela ku nyika swirho mikavelo yo engetela ya vuxirho. 40

(4) Mikavelo hinkwayo ya vuxirho leyi nyikiwaka yi fanele ku va ya ntlawa na mpimo wo ringana eka swikongomelo hinkwaswo ku katsa timfanelo, vutihlamuleri na tihakelo ta ntswalo.

(5) Ntswalo wa mikavelo ya vuxirho wu hakeriwa eka mikavelo ya vuxirho tsena, kumbe xiphemu xolexo xa mikavelo ya vuxirho leyi nga hakeleriwa hi ku hetiseka.”. 45

**Ku antswisiwa ka xiyenge xa 44 xa Nawu wa 14 wa 2005**

32. Xiyenge xa 44 xa Nawunkulu xa antswisiwa—

(a) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka:

“(3) Bindzuntirhisano ri nga ha lulamisela eka vumbiwa ra rona ku va xiphemu kumbe mbuyelo wa xirho hinkwawo, lowu voniwaka hi bodo eka lembe ximali, wu fanele ku tirhisiwa ku xavela xirho mikavelo ya vuxirho [eka] bindzuntirhisano.”; na 50

(b) by the addition of the following subsection:

“(5) The surplus that is—

- (a) not set aside in a reserve in terms of section (3)(1)(e);
- (b) not set aside in any additional reserve required by any other applicable law or the constitution of the co-operative; or
- (c) not used in the purchase of membership shares in terms of section (44)(3),

may be placed in such fund or funds and used for such purposes as are authorised by the constitution.”.

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**Substitution of section 46 of Act 14 of 2005**

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33. The following section is hereby substituted for section 46 of the principal Act:

**“Reserves for co-operatives**

**46.** (1) During each financial year a co-operative must retain indivisible reserves equal to such amount as may be determined by its constitution: Provided that such reserves must not be less than one per cent and not more than five per cent of its net asset value as reflected in its most recent audited report, independent reviewed report or annual report.

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(2) The reserve referred to in subsection (1) must be indivisible amongst members of the co-operative.

(3) This section does not prevent a co-operative from making provision in its constitution for additional reserves, whether indivisible or otherwise, in excess of the percentages referred to in subsection (1).

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(4) The Minister must, by notice in the *Gazette*, provide guidelines for—

- (a) the manner in which records in respect of the reserves must be kept;
- (b) the purposes for which any of the reserves may be used; and
- (c) the manner in which a co-operative must report on the use of its reserves.”.

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**Substitution of heading to Chapter 7 of Act 14 of 2005**

34. The following heading is hereby substituted for the heading to Chapter 7 of the principal Act:

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**“[AUDIT] AUDITED REPORTS AND INDEPENDENT REVIEWED REPORTS OF CO-OPERATIVES”.**

**Substitution of section 47 of Act 14 of 2005**

35. The following section is hereby substituted for section 47 of the principal Act:

**“Audited report**

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**47.** (1) The following co-operatives must produce an audited report to the registrar in respect of each financial year:

- (a) Category C primary co-operatives;
- (b) Secondary co-operatives;
- (c) Tertiary co-operatives; and
- (d) The national apex co-operative.

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(b) hi ku engetelriwa ka xiyengetsongo lexi landzelaka;

“(5) Nsalo lowu—

(a) nga vekiwangiki etlhelo eka leswi hlayisiweke hi ku landza xiyenge xa 3(1)(e);

(b) nga vekiwangiki etlhelo eka leswi hlayisiweke swo tatisa leswi lavekaka hi nawu wihi kumbe wihi lowu tirhaka kumbe vumbiwa ra bindzuntirhisano; kumbe

(c) lowu nga tirhisiwangiki eka ku xava mikavelo ya vuxirho hi ku landza xiyenge xa (44)(3),

wu nga ha vekiwa eka nkwama wolowo kumbe mikwama na ku tirhisiwa hi swikongomelo swoleswo tanihilaha swi pfumeleriwaka hi vumbiwa.”.

### Ku siviwa ka xiyenge xa 46 xa Nawu wa 14 wa 2005

33. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 46 xa Nawunkulu:

“**Leswi hlayiseriweke mabindzuntirhisano** 15

46. (1) Lembe rin’wana na rin’wana bindzuntirhisano ri fanele ku veka etlhelo mali leyi hlayisiwaka leyi nga avanyisekeki exikarhi ka swirho swa rona tanihilaha swi nga vekiwa hakona hi vumbiwa: Loko ku ri leswaku nhlaysiwo wolowo a wu le hansi ka phesente yin’wena ku va wu nga ri hansi ka ntlhanu wa tiphesente ta nkoka wa tinhundzu ta rona tanihilaha swi kombisiweke eka xiviko xa lembe xa nkarhi wolowo xa ku kamberiwa ka tinkota. 20

(2) Leswi hlayisiweke leswi vuriweke eka xiyengetsongo xa (1) swi fanele ku ka swi nga hambanyiseki exikarhi ka swirho swa bindzuntirhisano. 25

(3) Xiyenge lexi a xi aleli bindzuntirhisano ku veka ku lulamisela nhlaysiwo wo tatisa eka vumbiwa ra rona, hambu wu ri wo avanyiseka kumbe wu nga avanyiseki exikarhi ka swirho swa bindzuntirhisano, ku hundza phesente leyi vuriweke eka xiyengetsongo xa (1).

(4) Hi ku tivisa eka *Gazete*, Holobye u fanele ku nyika swiletelo swa— 30

(a) ndlela leyi tirhekhodo ta mayelana na timali leti hlayisiweke ti faneleke ku vekiwa hayona;

(b) swikongomelo leswi mali leyi hlayisiweke kumbe swiphemu swa yona swi nga tirhiseriwaka swona; na

(c) ndlela leyi bindzuntirhisano ri faneleke ku vika swikongomelo leswi mali leyi hlayisiweke yi tirhiseriweke swona.”. 35

### Ku siviwa ka nhlokomhaka ya Kavanyisa ka 7 ka Nawu wa 14 wa 2005

34. Nhlokomhaka leyi landzelaka ya siviwa ekanhlokomhaka ya Kavanyisa ka 7 ka Nawunkulu:

“**[ODITI] NA SWIVIKO LESWI ODITIWEKE NA SWIVIKO SWA NKAMBISISO LOWU TIYIMELEKE WA MABINDZUNTIRHISANO**”.

### Ku siviwa ka xiyenge xa 47 xa Nawu wa 14 wa 2005

35. Xiyenge lexi landzelaka xa siviwa eka xiyenge xa 47 xa Nawunkulu:

“**Xiviko lexi oditiweke**

47. (1) Mabindzuntirhisano lama landzelaka ya fanele ku yisa xiviko lexi oditiweke xa lembe ximali rin’wana na rin’wana eka Mutsarisi: 45

(a) Mabindzuntirhisano yo sungula ya Nkhetekanyo wa C;

(b) Mabindzuntirhisano ya vumbirhi; (c) Mabindzuntirhisano ya vunharhu; na

(d) Mabindzuntirhisano ya le maninginingini. 50

(2) Category B primary co-operatives must produce an independent reviewed report to the registrar in respect of each financial year.

(3) Category A primary co-operatives must produce an annual report which report does not have to be audited or independently reviewed, to the registrar in respect of each financial year, signed by the directors of the co-operative.

(4) The Minister must, within three months after the commencement of the Co-operatives Amendment Act, 2013, by notice in the *Gazette* publish a co-operative reporting system framework.”.

**Substitution of section 48 of Act 14 of 2005**

36. The following section is hereby substituted for section 48 of the principal Act:

**“Consideration of audited or independent reviewed reports**

**48.** (1) Every co-operative must circulate the audited report, the independent reviewed report or the annual report to all its members at least fourteen days prior to an annual general meeting.

(2) The annual general meeting must consider and discuss the audited report, independent reviewed report or annual report in order to take resolutions on the future conduct of the business of the co-operative.

(3) The chairperson of the Board or the person who acted as chairperson at the annual general meeting where the audited report, independent reviewed report or annual report was discussed and considered, must—

(a) accept the audited report, independent reviewed report or annual report; and

(b) sign acceptance of and implement the resolution taken at the annual general meeting on the future conduct of the business of the co-operative.

(4) A co-operative may not issue, publish or circulate copies of the audited report, independent reviewed report or annual report for public information unless the report has been discussed and considered by the annual general meeting in accordance with subsections (2) and (3).

(5) The audited report, independent reviewed report or annual report must be made available for inspection to any member of the co-operative at the registered office of the co-operative for at least 21 days after the meeting at which it was considered.

(6) The Board—

(a) must submit a copy of the audited report, independent reviewed report or annual report and the outcome of the general meeting’s discussion and consideration thereof to the registrar within 15 days of the resolution of the annual general meeting; or

(b) if the general meeting resolves to delay submitting the audited report, independent reviewed report or annual report to the registrar, the chairperson of the Board or the person who acted as chairperson at the meeting must notify the registrar in writing within 15 days of the resolution of the reasons for such delay and the action the co-operative intends taking in order to address the situation.

(7) After receipt of the audited report, independent reviewed report or annual report and the views expressed by the annual general meeting on the

(2) Mabindzuntirhisano yo sungula ya nkhetekanyo wa B ya fanele ku yisa xiviko lexi tiyimeleke lexi kambisisiweke xa lembe rin'wana na rin'wana eka Mutsarisi.

(3) Mabindzuntirhisano yo sungula ya nkhetekanyo wa A ya fanele ku yisa xiviko xa lembe ximali rin'wana na rin'wana lexi nga ta ka va xi nga oditiwanga kumbe ku kambisisiwa hi loyi a tiyimeleke, eka mutsarisi lexi sayiniweke hi varhangeri va bindzuntirhisano. 5

(4) Holobye u fanele ku kandziyisa rimba ra sisiteme ya marhipotelo ya bindzuntirhisano hi ku tivisa eka *Gazete*, ka nkarhi wa tin'hweti tinharhu endzhaku ka ku sungula ku tirha ka ku Antswisiwa ka Nawu wa Mabindzuntirhisano, 2013.”. 10

### Ku siviwa ka xiyenge xa 48 xa Nawu wa14 wa 2005

36. Xiyenge lexi landzelaka xa siviwa eka xiyenge xa 48 xa Nawunkulu:

**“Ku tekeriwa enhlokweni ka swiviko leswi oditiweke kumbe swa nkambisiso lowu tiyimeleke 15**

**48.** (1) Bindzuntirhisano rin 'wana na rin' wana ri fanele ku rhendzelekisa xiviko lexi kambisisiweke xi ri xoxe kumbe xa lembe xa ka swirho hinkwaswo kwalomu ka khumemune wa masiku ku nga si va na nhlengeletano ya mani na mani ya lembe.

(2) Nhlengeletano ya mani na mani ya lembe yi fanele ku tekela enhlokweni na ku kanela xiviko lexi oditiweke, xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe ku endlela ku teka swiboho swa mafambiselo ya bindzu ya bindzuntirhisano eka nkarhi lowu taka. 20

(3) Mutshami wa xitulu wa Bodo kumbe munhu loyi a yimeleke mutshami wa xitulu eka nhlengeletano ya lembe ya mani na mani laha xiviko xa lembe xa lexi oditiweke xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe xi kaneriweke na ku langutisiwa, u fanele ku— 25

(a) amukela xiviko lexi oditiweke, xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe; na

(b) ku sayina ku amukela na ku tirhisa xiboho lexi tekiweke eka nhlengeletano ya lembe ya mani na mani ya mafambiselo ya bindzu ra bindzuntirhisano eka nkarhi lowu taka. 30

(4) Bindzuntirhisano ri nga ka ri nga nyiki, ku hangalasa kumbe ku rhandzelekisa tikhopi ta xiviko lexi oditiweke, xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe ku tivisa vanhu handlekaloko xiviko xi kaneriwile na ku langutisiwa hi nhlengeletano ya lembe ya mani na mani hi ku landza swiyengetsongo swa (2) na (3). 35

(5) Xiviko lexi oditiweke, xiviko xa nkambisiso lowu tiyimeleke kumbe xiviko xa lembe swi fanele ku va kona ku va swi kamberiwa hi xirho xihhi na xihhi xa bindzuntirhisano eka tihofisi leti tsarisiseketa bindzuntirhisano ku ringana kwalomu ka 21 wa masiku endzhaku ka nhlengeletano leyi swi nga langutisiwa eka yona. 40

(6) Bodo—

(a) yi fanele ku yisa xiviko lexi oditiweke, xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe xa tinkota na mbuyelo wa nkanelo wa nhlengeletano ya mani na mani na ku langutisiwa hi Mutsarisi eka nkarhi wa 15 wa masiku ya xiboho xa nhlengeletano ya lembe ya mani na mani; kumbe 45

(b) loko nhlengeletano ya lembe ya mani na mani yi boha ku hlwerisa ku yisisiwa ka xiviko lexi oditiweke, xiviko lexi kamberiweke xi ri xoxe kumbe xiviko xa lembeeka mutsarisi, mutshami wa xitulu wa Bodo kumbe munhu loyi a yimeleke mutshami wa xitulu eka nhlengeletano u fanele tsalela mutsarisi ku n'wui tivisa eka nkarhi wa 15 wa masiku hi swivangelo swa xiboho xa ku hlwerisiwa koloko na xendlo lexi nga ta tekiwa hi bindzuntirhisano ku lulamisa xiyimo. 50 55

(7) Endzhaku ko amukela xiviko lexi oditiweke, xiviko lexi kambisisiweke xi ri xoxe kumbe xiviko xa lembe na mavonelo lawa ya humesiweke hi nhlengeletano ya mani na mani ya ndlela leyi bindzu ra

manner in which the co-operatives' business was conducted the registrar must consider the report and where necessary may—

- (a) request further information from the co-operative;
- (b) refer the report and views expressed to the Agency for assistance to the co-operative in terms of section 91C(1)(c)(iii), (d)(i) or (iv); and
- (c) take other appropriate steps as to facilitate compliance by the co-operative with the co-operative principles.”.

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**Substitution of section 49 of Act 14 of 2005**

37. The following section is hereby substituted for section 49 of the principal Act:

**“Auditor and independent reviewer disqualified from acting**

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**49. (1)** A person is disqualified from being an [auditor of a cooperative]—

(a) auditor or independent reviewer of a co-operative if that person—

(i) has a personal or material interest in a co-operative or in any of its affiliates or where the co-operative is a secondary, tertiary or the national apex co-operative, in any of its [subsidiaries] members or in the business of any of its directors or senior employees; [or]

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(ii) is not registered with the South African Institute for Chartered Accountants or does not satisfy the requirements for registration as an auditor as contemplated in Chapter III of the Auditing Profession Act; or

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(iii) does not act in accordance with the code of conduct pertaining to their accounting professional body; or

(b) auditor or independent reviewer of a co-operative in any other circumstances that [are considered to] constitute a conflict of interest in terms of the code of professional conduct applicable to the relevant auditor or independent reviewer.

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(2) A formal finding by the relevant accounting regulatory body of a contravention of its code of conduct, or a conflict of interest, will be sufficient proof of non-compliance or a conflict of interest for purposes of subsection (1)(a)(iii) or (b).”.

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**Amendment of section 50 of Act 14 of 2005**

38. Section 50 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

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**“Appointment and termination of auditor or independent reviewer”;**

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

“The members must appoint an auditor or independent reviewer—”;

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

“(2) Despite subsection (1), if an auditor or an independent reviewer is not appointed at any meeting, the [incumbent] previously appointed auditor [continues] or independent reviewer will continue in office until a successor is appointed.”;

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

“(2A) The Board must within thirty days of the appointment of an auditor or independent reviewer, notify the registrar of such appointment in the prescribed manner.”;



- bindzuntirhisano ri nga endliwa hayona, mutsarisi u fanele ku langutisisa xiviko naswona laha swi faneleke nga ha—
- (a) kombela mahungu man'wana yo tatisa ku suka eka bindzuntirhisano;
  - (b) hundzisela xiviko na mavonelo lawa ya boxiweke eka Ejensi ku pfuna bindzuntirhisano hi ku landza xiyenge xa 91C(1)(c)(iii), (d)(i) kumbe (iv); na
  - (c) ku teka magoza man'wana lama faneleke ku vevukisa ku va bindzuntirhisano ri landzelela misinya ya mabindzuntirhisano.”.

**Ku antswisiwa ka xiyenge xa 49 xa Nawu wa 14 wa 2005**

37. Xiyenge lexi landzelaka xi siviwa hi xiyenge xa 49 xa Nawunkulu: 10

**“Mioditi na mukambisis loyi a tiyimeleke lava nga pfumeleriwi ku tirha**

**49. (1) Munhu a nga pfumeleriwi ku va [muoditi wa bindzuntirhisano]—**

- (a) muoditi kumbe mukambisis loyi a tiyimeleke wa bindzuntirhisano loko munhu yoloye—
  - (i) a ri na ntsakelo eka bindzuntirhisano kumbe eka swin'wana swa switsarisiwa swa rona kumbe laha bindzuntirhisano ri nga ra vumbirhi, ravunharhu kumbe bindzuntirhisano ra rixaka ra le maninginingini, eka swirho [swo ngetelela] kumbe bindzu ra un'wana wa varhangeri va bindzuntirhisano kumbe va tirhi va xiyimo xa le henhla; [kumbe]
  - (ii) a nga tsarisiwanga eka Vandla ra Tichatadi Akhawutente ra Afrika Dzonga kumbe a nga fikeleli swilaveko swo tsarisiwa tanihi muoditi tanihilaha swi langutisiweke hakona eka Kavanyisa ka III ka Nawu wa Phurofexini ya Vaoditi; kumbe
  - (iii) a nga tirhi hi ku landza khodi ya matikhomele ku ya hi huvo ya vona leyi tsarisiweke ya vuthwaseri; kumbe
- (b) muoditi kumbe mukambisis loyi a tiyimeleke wa bindzuntirhisano eka xiyimo xihhi kumbe xihhi **[lexi tekiwaka xi]** tisa ku hambana ka ntsakelo hi ku landza khodi ya matirhelo ya swa tinkota lawa ya tirhaka eka muoditi kumbe mukambisis loyi a tiyimeleke loyi a faneleke.
  - (2) Loko huvo leyi faneleke yo lawula tinkota yi kuma leswaku kun a ku tluriwa ka khodi ya yona ya matirhelo, kumbe ku lwisana ka ntsakelo hi swikongomelo swa xiyengetsongo xa (1)(a)(iii) kumbe (b).”.

**Ku antswisiwa ka xienge xa 50 xa Nawu wa 14 wa 2005**

38. Xiyenge xa 50 xa Nawunkulu xa antswisiwa—

- (a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka: **“Ku thoriwa na ku herisiwa ka muoditi kumbe mukambisis”;**
- (b) hi ku siviwa ka marito lawa ya rhangela ndzimana ya (a) ya marito lama landzelaka eka xiyengetsongo xa (1): **“Swirho swi fanele ku thola muoditi kumbe mukambisi loyi a tiyimeleke—”;**
- (c) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka: **“(2) Hambileswi ku nga na xiyengetsongo xa (1), loko muoditi kumbe mukambisis loyi a tiyimeleke a nga thoriwi enhlengeltanini yihi kumbe yihi, [ loyi a nga kona] muoditi loyi loyi a thoriweke eka nkarhi lowu nga hundza [ u ya emahlweni] kumbe mukambisis loyi a tiyimelek u ta ya emahlweni a tirha ku fikela loko ku thoriwa loyi a nga ta n'wi siva.”;**
- (d) hi ku nghenisiwa ka xiyengetsongo lexi landzelaka endzhaku ka xiyengetsongo xa (2): **“(2A) Bodo yi fanele ku tivisa mutsarisi hi ku thoriwa koloko hi ndlela leyi vekiweke eka nkarhi wa makumenharhu wa masiku a thoriwile.”;**

- (e) by the substitution for subsection (3) of the following subsection: 5  
“(3) If a co-operative fails to appoint either an auditor or an independent reviewer in accordance with subsections (1) and (2), the [registrar may approve the person nominated by the board of the co-operative to audit its books for one financial year] members of the Board will be subject to a fine imposed by the registrar, which fine may not exceed the amount calculated according to the ratio for one year imprisonment determined in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).”;
- (f) by the substitution for subsection (4) of the following subsection: 10  
“(4) The fees payable to the auditor or independent reviewer in terms of subsection (3) must be approved by the registrar.”;
- (g) by the substitution for subsections (5) and (6) of the following subsections: 15  
“(5) An auditor or independent reviewer of a co-operative ceases to hold office when the auditor or independent reviewer dies, resigns or is removed in terms of section 51 or is struck off [from] the roll of auditors in terms of the laws of the Republic or is prohibited by law from registering or re-registering with an accredited professional body.  
(6) A resignation of an auditor or independent reviewer becomes effective on the date on which a written resignation is received by a co-operative, or on the date specified in the resignation, whichever is later.  
(7) A vacancy created in terms of sections (5) or (6) must be filled for the remainder of the period of office of the resigning auditor or independent reviewer, within thirty days of the date of the post becoming vacant by the Board, by way of a resolution according to the requirements set out in the constitution of the co-operative: Provided that such resolution must be ratified at the next general meeting held by the co-operative.  
(8) Nothing in this section prohibits a co-operative which did not appoint an auditor or an independent reviewer, for any reason, from appointing an auditor or an independent reviewer at a general meeting.” 20 25 30

**Amendment of section 51 of Act 14 of 2005**

- 39. Section 51 of the principal Act is hereby amended—**
- (a) by the substitution for the heading of the following heading: 35  
“**Removal of auditor or independent reviewer**”;
- (b) by the substitution for subsection (1) of the following subsection:  
“(1) The members may by ordinary resolution remove an auditor or independent reviewer from office.”;
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 40  
“A vacancy created by the removal of an auditor or independent reviewer must—”;
- (d) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 45  
“(a) be filled at the meeting at which the auditor or independent reviewer is removed; or”;
- (e) by the substitution for subsection (3) of the following subsection:  
“(3) An auditor or independent reviewer appointed in terms of subsection (2) holds office [for the unexpired term of his or her predecessor] until the close of the next annual general meeting.” 50

- (e) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka  
“(3) Loko bindzuntirhisano ri hluleka ku thola muoditi kumbe mukambisisi loyi a tiyimeleke hi ku landza swiyengetsongo swa (1) na (2), **[mutsarisi a nga ha pfumelela munhu loyi a hlawuriweke hi bodo ya bindzuntirhisano ku odita tibuku ta rona eka lembe ximali rin’we]** swirho swa Bodo swi ta fayiniwa hi mutsarisi, naswona fayini yoleyo yi fanele ku ka yi nga hundzi ntsengo lowu khakhuletiweke hi ku landza rhexiyo ya ku pfalleriwa ekhotsweni ku ringana lembe leswi pimiwaka hi ku landza *Adjustment of Fines Act*, 1991 (Nawu wa No. 101 wa 1991).”;
- (f) hi ku susiwa ka xiyengetsongo xa (4) xa xiyengetsongo lexi landzelaka:  
“(4) Timali leti hakeriwaka muoditi kumbe mukambisisi loyi a tiyimeleke hi ku landza xiyengetsongo xa (3) ti fanele ku pfumeleriwa hi mutsarisi.”; na
- (g) hi ku siviwa ka swiyengetsongo swa (5) na (6) swa swiyengetsongo leswi landzelaka:  
“(5) Muoditi kumbe mukambisi loyi a tiyimeleke wa bindzuntirhisano wa suka ehofisini loko a lova, a tshika ntirho kumbe a susiwa hi ku landza xiyenge xa 51 kumbe a susiwa **[eka]** rho lo ya vaoditi hi ku landza nawu wa Riphabliki kumbe ku aleriwa ku tsarisa kumbe ku tlhela atsarisa na huvo ya vuthwaseri leyi pfumeleriweke leyi pfumeleriweke.  
(6) Ku tshika ntirho ka muoditi kumbe mukambisisi loyi a tiyimeleke swi sungula ku tirha hi siku leri bindzuntirhisano ri amukelaka papilla ro tshika ntirho, kumbe hi siku leri vuriweke epapileni, siku rihi kumbe rihi leri nga ta va riri ra le ndzhaku.  
(7) xiyimo xa ntirho lexi tumbuluxiweke hi ku landza swiyenge swa (5) na (6) xi fanele ku siviwa ku ringa na nkarhi lo wu saleke wo va entirhweni wa muoditi kumbe mukambisisi loyi a tiyimeleke loyi a tshikeke ntirho, eka nkarhi wa masiku ya makumenharhu yak u pfuleka ka xivandla, hi ku va Bodo yi teka xibo ho hi ku landza swilavekeo leswi vekiweke eka vumbiwa ra bindzuntirhisano: Loko ku ri leswaku xibo ho xolexo xi fanele ku pfumelelaniwa ha xona eka nhlengelletano ya mani na mani leyi landelakaleyi nga ta khomiwa hi bindzuntirhisano.  
(8) Ku hava xo karhi eka xiyenge lexi xi alelaka bindzuntirhisano leri nga tholangiki muoditi kumbe mukambisisi loyi a tiyimeleke, hi xivangelo xihi kumbe xihi ku thola muoditi kumbe mukambisisi loyi a tiyimeleke eka nhlengeltam o ya mani na mani.”.

### Ku antswisiwa ka xiyenge xa 51 xa Nawu wa 14 wa 2005

39. Xiyenge xa 51 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka:  
“**Ku susiwa ka muoditi kumbe mukambisisi loyi a tiyimeleke**”;
- (b) hi ku siviwa ka xiyengetsongo xa (1) xa xiyengetsongo lexi landzelaka:  
“(1) Hi xibo ho xin’wana na xin’wana, swirho swi nga ha susa muoditi kumbe mukambisisi loyi a tiyimeleke ehofisini.”;
- (c) hi ku siviwa ka marito lama rhangelaka ndzimana ya (a) ya marito lama landzelaka eka xiyengetsongo xa (2):  
“xivandla xa ntirho lexi vaka kona hikwalaho ka ku susiwa ka muoditi kumbe mukambisisi loyi a tiyimeleke xi fanele—”;
- (d) hi ku siviwa ka ndzimana ya (a) ya ndzimana leyi landzelaka eka xiyengetsongo xa (2):  
“(a) xi siviwa eka nhlengelletano leyi muoditi kumbe mukambisisi loyi a tiyimeleke a susiwaka; kumbe”;
- (e) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka:  
“(3) Muoditi kumbe mukambisisi loyi a tiyimeleke loyi a thoriweke hi ku landza xiyengetsongo xa (2) u va ehofisini **[eka nkarhi lowu nga si fikaka emakumu wa loyi a n’wi siveke]** ku fikela ku pfala ka nhlengelletano ya mani na mani leyi landzelaka ya lembe.”.

**Amendment of section 52 of Act 14 of 2005**

40. Section 52 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:  
“**Attendance of meeting by auditor or independent reviewer**”;
  - (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
“The auditor or independent reviewer of a co-operative is entitled—”;
  - (c) by the substitution in subsection (1) for paragraph (a) of the following paragraph:  
“(a) to be given notice of any general meeting at which a report of the auditor or independent reviewer is to be discussed;”;
  - (d) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  
“(c) to address the meeting on matters relating to the auditor’s or independent reviewer’s duties.”; and
  - (e) by the substitution for subsection (2) of the following subsection:  
“(2) A director or a member of a co-operative may require the auditor, [or] former auditor, independent reviewer or former independent reviewer to attend a general meeting at the expense of the co-operative and answer questions relating to their duties as [the auditor’s] auditor or independent reviewer: Provided that the auditor, [or] former auditor, independent reviewer or former independent reviewer [of the co-operative] is given at least 10 days prior written notice [of 10 days] of such meeting.”.

**Amendment of section 53 of Act 14 of 2005** 25

41. Section 53 of the principal Act is hereby amended—
- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:
    - “(1) At the request of the auditor or independent reviewer the members, directors, employees, agents or [mandataries] mandataries of a co-operative must provide any information, explanations, and access to any documents of the co-operative or where the co-operative is a secondary, tertiary or the national apex co-operative, any of its [subsidiaries] members that are, in the opinion of the auditor, necessary for the purposes of the audit or in the independent reviewer’s opinion, necessary for the purposes of the independent review.
    - (2) At the request of the auditor or independent reviewer, the directors must obtain from any present or former directors, employees, agents or [mandataries] mandataries of the co-operative the information and explanations that such persons are reasonably able to provide and that are, in the auditor’s opinion, necessary for the purposes of the audit, or in the independent reviewer’s opinion necessary for the purposes of the independent review.”; and
  - (b) by the addition of the following subsections:
    - “(3) The auditor or an independent reviewer has the right of access at all times to all accounting records, books and documents of the co-operative, and is entitled to require from the members, directors, employees, agents or mandataries of the co-operative any information and explanations necessary for the performance of the auditor’s or independent reviewer’s duties.
    - (4) A co-operative, member, director, employee, agent or mandatory who fails to comply with subsections (1) or (2) is guilty of an offence.
    - (5) A member, director, employee, agent or mandatory of the co-operative who fails to comply with subsection (3) is guilty of an offence.

**Ku antswisiwa ka xiyenge xa 52 xa Nawu wa 14 wa 2005**

40. Xiyenge xa 52 xa nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka nhlokomhaka ya nhlokomhaka leyi landzelaka: 5  
“ku ya ka muoditi na mukambisisi loyi a tiyimeleke etihlengeletanini”;
- (b) hi ku siviwa ka marito lawa ya rhangelaka ndzimana ya (a) ya marito lama landzelaka eka xiyengetsongo xa (1):  
“Muoditi kumbe mukambisisi loyi a tiyimeleke wa bindzuntirhisano u na mfanelo—”;
- (c) hi ku siviwa ka ndzimana ya (a) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1): 10  
“(a) ku nyikiwa xitiviso xa nhlengeletano ya mani na mani leyi xiviko xa muoditi kumbe mukambisisi loyi a tiyimeleke xi nga ta kaneriwa;”;
- (d) hi ku siviwa ka ndzimana ya (c) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1): 15  
“(c) ku vulavula eka nhlengeletano hi timhaka leti fambelanaka na mitirho ya muoditi kumbe mukambisisi loyi a tiyimeleke.”; na
- (e) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka: 20  
“(2) Murhangeri kumbe xirho xa bindzuntirhisano xi nga ha lava leswaku muoditi, [kumbe] khale ka muoditi, mukambisisi loyi a tiyimeleke kumbe khale ka mukambisisi loyi a tiyimeleke a va kona eka nhlengeletano ku ri ku durheriwa ka bindzuntirhisano na ku hlamula swivutiso mayelana na mitirho ya vona [vaoditi] muoditi kumbe mukambisisi loyi a tiyimeleke: Loko ku ri leswaku muoditi, [kumbe] khale ka muoditi, mukambisisi loyi a tiyimeleke kumbe khale ka mukambisisi loyi a tiyimeleke [wa bindzuntirhisano] u nyikiwa xiviso lexi tsariweke kwalomu ka nkarhi wa 10 ra masiku ku nga si va na [xa nhlengeletano ya tano] nhlengeletano yo tano.”. 25

**Ku antswisiwa ka xiyenge xa 53 xa Nawu wa 14 wa 2005**

41. Xiyenge xa 53 xa Nawunkulu xa antswisiwa— 30
- (a) hi ku siviwa ka swiyengetsongo swa (1) na (2) swa swiyengetsongo leswi landzelaka:
- “(1) Hi xikombelo xa muoditi kumbe mukambisisi loyi a tiyimeleke swirho, varhangeri, vatirhi, vayimeri kumbe [varhumeriwa] vharumeriwa va bindzuntirhisano va fanele ku nyika mahungu man’wana na man’ wana, tinhlamuselo, na ku fikeleriwa ka matsalwa man’wana na man’ wana ya bindzuntirhisano kumbe ka [swiengeteleriwa] swirho swa rona leswi hi ku vona ka muoditi ma faneleke eka swikongomelo swa oditi kumbe hi ku vona ka mukambisisi loyi a tiyimeleke, ma faneleke eka swikongomelo nkambisiso lowu tiyimeleke. 35
- (2) Hi xikombelo xa muoditi kumbe mukambisisi loyi a tiyimeleke, varhangeri va fanele ku kuma mahungu na tinhlamuselo ku suka eka varhangeri va nkarhi wolowo kumbe va nkarhi lowu nga hundza, vatirhi, vayimeri kumbe [varhumiwa] va bindzuntirhisano, lama vanhu volavo va kotaka ku ma nyika naswona lama hi ku vona ka muoditi, ma faneleke eka swikongomelo swa oditi, kumbe hi ku vona ka mukambisisi loyi a tiyimeleke ma faneleke eka swikongomelo swa nkambisiso lowu tiyimeleke.”; na 45
- (b) hi ku engeteriwa ka swiyengetsongo leswi landzelaka: 50  
“(3) Muoditi kumbe mukambisisi loyi a tiyimeleke u na mfanelo yo kuma tirhekhodo hinkwato ta tinkota, tibuku na matsalwa ya bindzuntirhisano hi minkarhi hinkwayo, naswona u na mfanelo yo lava mahungu na tinhlamuselo leti faneleke ku va a tirha mitirho ya muoditi kumbe mukambisisi loyi a tiyimeleke. 55
- (4) Bindzuntirhisano, xirho, murhangeri, mutirhi, muyimeri kumbe murhumeriwa loyi a hlulekaka ku landzelela swiyengetsongo swa (1) na (2) u na nandzu.
- (5) Murhangeri wa bindzuntirhisano loyi a hlulekaka ku landzelela xiyengetsongo xa (3) u na nandzu. 60

- (6) The auditor or an independent reviewer may apply to a court for an appropriate order to enforce the rights set out in subsections (1), (2) or (3), and a court may—
- (a) make any order that is just and reasonable to prevent frustration of the auditor's or independent reviewer's duties by the co-operative or any of its members, directors, employees, agent or mandatories; and
  - (b) make an order of costs personally against any member, director, employee, agent or mandatory whom the court has found to have wilfully and knowingly frustrated, or attempted to frustrate, the performance of the auditor's or independent reviewer's functions."

**Amendment of section 54 of Act 14 of 2005**

42. Section 54 of the principal Act is hereby amended by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

- "(1) A director or employee who becomes aware of any error or misstatement in a financial statement, social report or management decision report that the auditor [or], former auditor, independent reviewer or former independent reviewer has reported on, must notify the auditor or independent reviewer without delay.
- (2) An auditor [or], former auditor, independent reviewer or former independent reviewer of a co-operative who is notified of, or in any other manner becomes aware of, a material error or misstatement in a financial statement, social report or management decision report on which they have reported to the Board, must inform the [of directors] Board and registrar accordingly.
- (3) When the auditor [or], former auditor, independent reviewer or former independent reviewer informs the Board [of directors] of an error or misstatement in a financial statement, social report or management decision report in terms of subsection (2), the directors must—
- (a) prepare and issue revised financial statements, a social report or management decision report; and
  - (b) inform the members and the registrar of the error or misstatement."

**Repeal of section 55 of Act 14 of 2005**

43. Section 55 of the principal Act is hereby repealed.

**Amendment of section 56 of Act 14 of 2005**

44. Section 56 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:

- "(c) if any membership share of an amalgamating co-operative is not to be converted into membership shares or other securities of the amalgamated co-operative, the amount of money that the holders of those membership shares are to receive in addition to or instead of shares of the amalgamated co-operative;"

**Amendment of section 60 of Act 14 of 2005**

45. Section 60 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

- "(4) After the members of the co-operative have approved the division, the constitutions of the co-operatives to be constituted by the division must be submitted to the registrar for approval together with a notice of their registered offices [and], a notice of the directors and members of the co-operatives in question and the prescribed fee as contemplated in section 70A."

**Amendment of section 62 of Act 14 of 2005**

46. Section 62 of the principal Act is hereby amended—

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

- (6) Muoditi kumbe mukambisisi loyi a tiyimeleke a nga ha endla xikombelo xa le khoto xa xileriso lexi faneleke xo sindzisa timfanelo leti boxiweke eka swiyengetsongo swa (1), (2) kumbe (3), naswona khoto yi nga ha—
- (a) endla xileriso xihhi kumbe xihhi lexi lulameke no twisiseka ku sivela tsandzekisiwa ka mitirho ya muoditi kumbe mukambisisi loyi a tiyimelekewe hi bindzuntirhisano kumbe un'wana wa varhangeri va rona kumbe vatrhi; na
- (b) ku endla xileriso xo hakeleriwa hi murhangeri kumbe mutirhi loyi khoto yi nga kuma leswaku u tsandzekisile kumbe ku ringeta ku tsandzekisa ku endliwa ka mitirho ya muoditi kumbe mukambisisi loyi a tiyimeleke ha vomu.”.

**Ku antswisiwa ka xiyenge xa 54 xa Nawu wa 14 wa 2005**

42. Xiyenge xa 54 xa Nawunkulu xa antswisiwa hi ku siviwa ka xiyengetsongo xa(1) na (2) xa xiyengetsongo lexi landzelaka:
- “(1) Murhangeri kumbe mutirhi loyi a tivaka xihoxo xihhi kumbe xihhi kumbe ku nga tsariwi kahle ka xitatimende xa timali, xiviko xa vanhu kumbe xiviko xa xiboho xa varhangeri lexi muoditi [**kumbe**] khale ka muoditi, mukambisisi loyi a tiyimeleke kumbe khale ka mukambisisi loyi a tiyimeleke a xi vikeke, u fanele ku tivisa muoditi kumbe mukambisisi loyi a tiyimeleke handle ko heta nkarhi.
- (2) Muoditi [**kumbe**], khale ka muoditi mukambisisi loyi a tiyimeleke kumbe khale ka muoditi loyi a tiyimeleke wa bindzuntirhisano loyi a tivisiweke hi xihoxo kumbe ku nga tsariwi kahle ka xitatimende xa timali, xiviko xa vanhu kumbe xiviko xa xiboho xa varhangeri lexi a nga xi vikeriwa Bodo, u fanele ku tivisa Bodo [ya varhangeri] na mutsarisi.
- (3) loko muoditi [**kumbe**], khale ka muoditi, mukambisi loyi a tiyimeleke kumbe khale ka mukambisi loyi a tiyimeleke a tivisa bodo [**ya varhangeri**] hi xihoxo kumbe xitatimende lexi hoxekeke eka xitatimende xa timali, swa vanhu kumbe xiviko xa xiboho xa vufambisi mayelana na xiyenge xa (2), Varhangeri va fanele—
- (a) ku lulamisa ka ku nyika xitatimende xa timali lexi pfuxetiweke, xiviko xa vanhu kumbe xiviko xa xiboho xa vufambisi; na
- (b) ku tivisa swirho na mutsarisi hi xihoxo kumbe xitatimende lexi hoxekeke.”.

**Ku herisiwa ka xiyenge xa 55 xa Nawu wa 14 wa 2005**

43. Xiyenge xa 55 xa Nawunkulu xa herisiwa. 35

**Ku antswisiwa ka xiyenge xa 56 xa Nawu wa 14 wa 2005**

44. Xiyenge xa 56 xa Nawunkulu xa antswisiwa hi ku siviwa ka ndzimana ya (c) ya ndzimana leyi landzelaka eka xiyengetsongo xa (2):
- “(c) loko nkavelo wa vuxirho byihi kumbe byihi wa bindzuntirhisano ra nhlanganelo wu nga lavi ku cinciwa wu va mikavelo ya vuxirho kumbe vusirheleri byin'wana na byin'wana bya bindzuntirhisano ra nhlanganelo, ntsengo wa mali leyi vinyi vamikavelo ya vuxirho byebyo va faneleke ku yi kuma hi ku engtela eka kumbe ematshan'wini ya mikavelo ya bindzuntirhisano ra nhlanganelo;”.

**Ku antswisiwa ka xiyenge xa 60 xa Nawu wa 14 wa 2005** 45

45. Xiyenge xa 60 xa Nawunkulu xa antswisiwa hi ku siviwa ka xiyengetsongo xa (4) xa xiyengetsongo lexi landzelaka:
- “(4) Endzhaku kaloko swirho swa bindzuntirhisano swi ta va swi pfumelerile ku ava, mavumbiwa ya mabindzuntirhisano leri nga ta vumbiwa hi ku avanyisa ri fanele ku yisiwa eka mutsarisi ku va ri pfumeleriwa xikan'we na xitiviso xa tihofisi ta vona leti tsarisiweke, [**na**] xitiviso xa varhangeri na swirho swa bindzuntirhisano rolero na mali leyi vekiweke leyi langutisiweke eka xiyenge xa 70A.”.

**Ku antswisiwa ka xiyenge xa 62 xa Nawu wa 14 wa 2005**

46. Xiyenge xa 62 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka ndzimana ya (a) ya ndzimana leyi landzelaka eka xiyengetsongo xa (1): 55

- “(a) convert—
- (i) into any other form of co-operative;
  - (ii) into a company as contemplated in the Companies Act, 2008 (Act No. 71 of 2008); or
  - (iii) into any form of corporate or unincorporated body other than a co-operative or a company, in accordance with the applicable legislation.”; 5
- (b) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:  
“A declaration by the [**board of directors of the co-operative**] Board must be attached to an application in terms of subsection (1), establishing—”;
- (c) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:  
“If the registrar is satisfied that there has been compliance with the provisions of this Act and after payment of the prescribed fee contemplated in section 70A, the registrar must—”;
- (d) by the deletion in subsection (6) of the word “and” at the end of paragraph (a), the insertion of the word “and” at the end of paragraph (b) and the addition of the following paragraph: 20  
“(c) in the case of the conversion of a co-operative into another form of legal entity or different form of co-operative, register the newly converted form of legal entity or co-operative.”;
- (e) by the substitution in subsection (7) for paragraph (c) of the following paragraph: 25  
“(c) if the co-operative is converted into a company[,]—  
(i) all members of the co-operative become shareholders of that company; and  
(ii) it cannot continue to use the word “co-operative” in its name or any of its documents, marketing and other materials.” 30

#### Amendment of section 63 of Act 14 of 2005

47. Section 63 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

- “(6) The registrar must approve the application referred to in subsection (1) if reasonably satisfied that there has been compliance with the relevant provisions of this Act, [**and**] the constitutions of the co-operatives in question and the payment of the prescribed fee as stipulated in section 70A.” 35

#### Amendment of section 64 of Act 14 of 2005

48. Section 64 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of the following paragraph: 40  
“(a) written notice of at least three months of the proposal has been given to each known creditor who has a claim exceeding one thousand rand or such other amount as the Minister may [**from time to time**] prescribe by notice in the Gazette.”; and
- (b) by the addition of the following subsection, the existing section becoming subsection (1): 45  
“(2) It is an offence for any director to make a false declaration in respect of this section.”

#### Amendment of section 66 of Act 14 of 2005

49. Section 66 of the principal Act is hereby amended— 50

- (a) by the substitution in subsection (2) for paragraphs (d) and (e) of the following paragraphs, respectively:  
“(d) two certified copies of the company’s memorandum [**and articles of association**] of incorporation;



- “(a) cinca—
- (i) ku ya eka muxaka wihi kumbe wihi wa bindzuntirhisano;
  - (ii) ku ya eka khamphani tanihilaha swi langutisiweke hakona eka *Companies Act*, 2008 (Nawu wa No. 71 wa 2008); kumbe
  - (iii) ku ya eka muxaka wihi kumbe wihi wa bindzuntirhisano kumbe huvo leyi nga riki ya ntirhisano handle ka bindzuntirhisano kumbe khamphani, hi ku landza nawu lowu tirhaka.”;
- (b) hi ku siviwa ka marito lama rhangelaka ndzimana ya (a) ya mrito lama landzelaka eka xiyengetsongo xa (4):  
“Ntiyisiso hi [**bodo ya varhangeri va bindzuntirhisano**] Bodo wu fanele ku khomisiwa eka xikombelo hi ku landza xiyengetsongo xa (1), ku kumisisa—”;
- (c) hi ku siviwa marito lama rhangelaka ndzimana ya (a) ya marito lama landzelaka eka xiyenge xa (6):  
“Loko mutsarisi a enerisekile leswaku ku vile na ku landzelela ku lulamisela ka Nawu lowu na loko ku ta va ku hakeriwile mali leyi vekiweke leyi langutisiweke eka xiyenge xa 70A, murtsarisi u fanele ku—”;
- (d) hi ku susiwa ka rito “na” emakumu ka ndzimana ya (a), na ku nghenisiwa ka rito “na” emakumu ka ndzimana ya (b) na ku engeteriwa ka ndzimana leyi landzelaka:  
“(c) loko bindzuntirhisano ri cinciwa ri va muxaka wun’wana wa vandal leri nga enawini kumbe muxaka wun’wana wa bindzuntirhisano, tsarisa muxaka lowu cinciweke wa vandla lera ha ku cinciwaka leri nga enawini kumbe bindzuntirhisano.”; na
- (e) hi ku siviwa ka ndzimana ya (c) ya ndzimana leyi landzelaka eka xiyengetsongo (7):  
“(c) loko bindzuntirhisano ri cinciwa ku va khamphani[,]—  
(i) swirho hinkwaswo swa bindzuntirhisano swi va na nkavelo eka khamphani yoleyo; na  
(ii) yi nga ka yi nga ha yi emahlweni yi tirhisa vito “bindzuntirhisano” tanihi hi vito ra yona.”.

**Ku antswisiwa ka xiyenge xa 63 xa Nawu wa 14 wa 2005** 35

47. Xiyenge xa 63 xa Nawu lowu xa antswisiwa hi ku siviwa ka xiyengetsongo xa (6) xa xiyengetsongo lexi landzelaka:  
“(6) Mutsarisi u fanele ku pfumelela xikombelo lexi vuriweke eka xiyengetsongo xa (1) loko a enerisekile hi ndlela yo twisiseka leswaku ku ve na ku landzelela ku lulamisela loku faneleke ka Nawu lowu, [na] vumbiwa ra mabindzuntirhisano lama khumbekaka na ku hakeriwa ka mali leyi vekiweke tanihilaha swi vuriweke hakona eka xiyenge xa 70A.”.

**Ku antswisiwa ka xiyenge xa 64 xa Nawu wa 14 wa 2005**

48. Xiyenge xa 64 xa nawu lowu xa antswisiwa—
- (a) hi ku siviwa ka ndzimana ya (a) ya ndzimana leyi landzelaka: 45  
“(a) xitiviso lexi tsariweke xa kwalomu ka tin’hweti tinharhu to va xiringanyeto xi nyikiwile mukolotiwa un’wana na un’wana loyi a tivekaka loyi a nga na xikoxo lexi hundzaka gidi ra tirhandi kumbe ntsego lowu Holobye a nga taw u veka [**nkharhi na nkarhi**] hi ku tivisa eka *Gazete*.”; na 50
- (b) hi ku tataisiwa ka xiyengetsongo lexi landzelaka, xiyenge elxi nga kona xi va xiyengetsongo xa (1):  
“(2) I nandzu ku va murhangerinkulu un’wan na un’wana a endla xihlmabanyo xa vunwa mayelana na xiyenge lexi.”.

**Ku antswisiwa ka xiyenge xa 66 xa Nawu wa 14 wa 2005** 55

49. Xiyenge xa 66 xa Nawu lowu xa antswisiwa—
- (a) hi ku siviwa ka tindzimana ta (d) na (e) ta tindzimana leti landzelaka eka xiyengetsongo xa (2):  
“(d) tikhopi timbirhi leti nga setifayiwa ta memorandamu yo katsiwa ya khamphani [**na tiatikili ta nhlango**] to hlanganisa;

(e) two copies of [either] a [proposed] new constitution in terms of this Act [or a proposed amendment of the memorandum and articles of association of the company bringing the memorandum and articles] that ensures that the newly converted co-operative fulfils all the [into line with the] provisions of this Act;”;

(b) by the substitution for subsection (3) of the following subsection:  
“(3) A company intending to convert into a co-operative must convert within 90 days from the date on which the application was submitted to the registrar.”.

**Amendment of section 67 of Act 14 of 2005**

50. Section 67 of the principal Act is hereby amended—

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

“(c) the constitution of the new co-operative,”;

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

“(b) the [memorandum and articles of association or] new constitution [, as the case may be, are] of the co-operative is registered [conditionally or unconditionally], and a certificate is issued in duplicate that the company has been incorporated as a co-operative in terms of this Act [and that the memorandum and articles of association or new constitution, as the case may be, have been submitted in the manner contemplated in this Act].”;

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

“(4) One copy of the certificate and [of the memorandum and articles of association or] the new constitution [, as the case may be,] must be sent to the applicant and the other copy must be retained within the office of the registrar.”.

**Amendment of section 68 of Act 14 of 2005**

51. Section 68 of the principal Act is hereby amended—

(a) by the substitution for paragraph (c) of the following paragraph:

“(c) the constitution of the new co-operative substitutes the memorandum of incorporation;”;

(b) by the substitution for paragraph (f) of the following paragraph:

“(f) the constitution [or the memorandum and articles of association, as the case may be, bind] binds the co-operative, its directors and each member to the same extent as if it had been signed by each of them, subject to this Act.”.

**Amendment of section 69 of Act 14 of 2005**

52. Section 69 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A co-operative which [as], whilst it was a company, [has given] gave the registrar an undertaking under section 66(3) [to the registrar] must, within [one year] 90 days of the date of its incorporation as a co-operative [amend its memorandum and articles of association or replace its memorandum and articles of association with a new] submit a constitution [so as to bring it into conformity] that complies with the [provisions] requirements of this Act to the registrar.”.

- (e) tikhopi timbirhi [**ku nga ha va**] vumbiwa rintshwa [**leri ringanyetieweke**] hi ku landza Nawu lowu [**kumbe ta ndzinganyeto wa ku antswisiwa ka memorandamu na tiatikili ta nhlango ta khamphani leswi tisaka memorandamu na tiatikili**] leswi tiyisisaka leswaku bindzuntirhisano lera ha ku cinciwaka ri landzelela ku lulamisela hinkwako [**ku fmabelana na**] ku lulamisela ka Nawu lowu;”; na 5
- (b) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka:  
“(3) **Khamphani leyi leyi lavaka ku cinca yi va bindzuntirhisano yi fanele ku cinca eka nkarhi wa 90 wa masiku ku sukela siku ra ku yisiwa ka xitiviso eka mutsarisi.**” 10

#### Ku antswisiwa ka xiyenge xa 67 xa Nawu wa 14 wa 2005

50. Xiyenge xa 67 xa Nawunkulu xa antswisiwa—

- (a) hi ku siviwa eka xiyengetsongo xa (2) xa ndzimana ya (c) ya ndzimana leyi landzelaka: 15  
“(c) vumbiwa ra bindzuntirhisano lerintshwa,”;
- (b) hi ku siviwa eka xiyengetsongo xa (3) ka ndzimana ya (b) ya ndzimana:  
“(b) [**memorandamu na tiatikili ta nhlango kumbe**] vumbiwa lerintshwa [, **tanihilaha xiyimo xi nga ta va xi ri hakona, swa**], ra bindzuntirhisano ra tsarisiwa [**ku ri na swipimelo kumbe ku ri hava swipimelo**], naswona ku nyikiwa setifikheti ya leswaku khamphani yi katsiwile tanihi bindzuntirhisano hi ku landza Nawu lowu [**na leswaku memorandamu na tiatikili ta nhlango kumbe vumbiwa lerintshwa, tanihilaha xiyimo xi nga ta va xiri hakona, swi yisiwile hi ndlela leyi langutisiweke eka Nawu lowu**].”; na 20 25
- (c) hi ku siviwa ka xiyengetsongo xa (4) xa xiyengetsongo lexi landzelaka:  
“(4) Khopi yin’we ya setifikheti [**na ya memorandamu na tiatikili ta nhlango kumbe**] vumbiwa lerintshwa [, **tanihilaha xiyimo xi nga ta va hakona,**] ri fanele ku yisiwa eka mukombera naswona khopi leyin’wana yi fanele ku sala ehofisini ya mutsarisi.” 30

#### Ku antswisiwa ka xiyenge xa 68 xa Nawu wa 14 wa 2005

51. Xiyenge xa 68 xa Nawunkulu xa antswisiwa—

- (a) hi ku siviwa ka ndzimana ya (c) ya ndzimana leyi landzelaka: 35  
“(c) vumbiwa ra bindzuntirhisano lerintshwa ri siva memorandamu na tiatikili ta nhlango;”; na
- (b) hi ku siviwa ka ndzimana ya (f) ya ndzimana leyi landzelaka:  
“(f) vumbiwa [**kumbe memorandamu na tiatikili ta nhlango, tanihilaha xiyimo xi nga ta va xi ri hakona, ti boha**] yi boha bindzuntirhisano, varhangeri va rona na xirho xin’wana na xin’wana hi ndlela yo fana na loko yi sayiniwile hi xirho xin’wana na xin’wana, hi ku ya hi Nawu lowu.” 40

#### Ku antswisiwa ka xiyenge xa 69 xa Nawu wa 14 wa 2005

52. Xiyenge xa 69 xa Nawunkulu xa antswisiwa hi ku siviwa ka xiyengetsongo xa (1) xa xiyengetsongo lexi landzelaka: 45
- “(1) Bindzuntirhisano leri [**tanihi**], loko ra ha ri khamphani, ri nga khamphani ri nga tiboha ehansi ka xiyenge xa 66(3) [**eka mutsarisi**] ri fanele, ku [**antswisa memorandamu ya rona na tiatikili ta nhlango kumbe ku siva memorandamu ya rona na tiatikili ta nhlango hi**] vumbiwa lerintshwa yisa vumbiwa eka nkarhi wa [**lembe rin’we**] 90 wa masiku ku suka eka siku ra ku ngenhisiwa ka rona tanihi bindzuntirhisano [**ku endlela leswaku ri landzelela**] leri landzelelaka [**ku lulamisela**] swilaveko swa Nawu lowu eka mutsarisi.” 50

**Insertion of section 70A of Act 14 of 2005**

53. The following section is hereby inserted in the principal Act after section 70:

**“Fees for amalgamation, division, conversion or transfer**

70A. (1) A co-operative that undertook to amalgamate, divide, convert or transfer, must pay the prescribed fee to the registrar. 5  
(2) The Minister must, after consultation with the registrar, by notice in the *Gazette* prescribe—  
(a) the fees payable in respect of matters contemplated in subsection (1);  
(b) the person by whom the fees must be paid;  
(c) the manner of payment of such fees; and  
(d) where necessary, the interest payable in respect of overdue fees.”. 10

**Substitution of section 71 of Act 14 of 2005**

54. The following section is hereby substituted for section 71 of the principal Act:

**“Modes of winding-up**

71. (1) A co-operative may be wound up— 15  
(a) voluntarily in terms of section 71A;  
(b) by an order of the court in terms of section 72; or  
(c) by an order of the Tribunal in terms of section 72B.  
(2) The Minister must, by notice in the *Gazette*, prescribe procedures relating to each of the modes of winding-up within three months of commencement of the Co-operatives Amendment Act, 2013.”. 20

**Insertion of section 71A in Act 14 of 2005**

55. The following section is hereby inserted in the principal Act after section 71:

**“Voluntary winding-up**

71A. A co-operative may be wound up voluntarily by special resolution.”. 25

**Amendment of section 72 of Act 14 of 2005**

56. Section 72 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“A court or the Tribunal may, on application by an interested person, order that a co-operative be wound up, if—”; 30

**Insertion of sections 72A and 72B in Act 14 of 2005**

57. The following sections are hereby inserted in the principal Act after section 72:

**“Application for declaratory order**

72A. The registrar may approach the court or the Tribunal for a declaratory order that the liquidation process is deemed to have been finalised if the liquidator concerned has not complied fully with the provisions of the Act. 35

**Ku ngenisiwa ka xiyenge xa 70A eka Nawu wa 14 wa 2005**

53. Xiyenge lexi landzelaka xa ngenisiwa eka Nawunkulu endzhaku ka xiyenge xa 70:

**“Timali to hlanganisa, ku ava, ku cinca na ku hundzisela**

- 70A.** (1) Bindzuntirhisano leri tiboheke ku hlanganisa, ku ava, ku cinca kumbe ku hundzisela, ri fanele ku hakela mali leyi vekiweke eka mutsarisi. 5  
(2) Holobye, endzhaku ko tihlanganisa na mutsarisi, hi ku tivisa eka *Gazete*, u fanele ku veka—  
(a) timali leti hakeriwaka mayelana na timhaka leti langutisiweke eka xiyengetsongo xa (1); 10  
(b) munhu loyi a faneleke ku hakela timali;  
(c) mahakelelo ya timali toleto; na  
(d) ntswalo lowu hakeriwaka mayelana na timali leti nga hlwela ku hakeriwa, laha swi faneleke.”

**Ku siviwa ka xiyenge xa 71 xa Nawu wa 14 wa 2005**

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54. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 71 xa Nawunkulu:

**“Tindlela to herisa**

- 71.** (1) Bindzuntirhisano ri nga herisiwa—  
(a) hi ku swi tsakela eka xiyenge xa 71A; 20  
(b) hi xileriso xa khoto ehansi ka xiyenge xa 72; kumbe  
(c) hi xileriso xa Mutsarisi kumbe Huvo yo tengisa ehansi ka xiyenge xa 72B.  
(2) Holobye, hi ku tivisa eka *Gazete*, u fanele ku veka endlelo mayelanana ku tindlela to herisa eka nkarhi wa tin’hweti tinharhu ta ku sungula ku tirha ka Nawu wa Mabindzuntirhisano wa 2013.” 25

**Ku ngenisiwa ka xiyenge xa 71A eka Nawu wa 14 wa 2005**

55. Xiyenge lexi landzelaka xa ngenisiwa eka Nawunkulu endzhaku ka xiyenge xa 71:

**“Ku herisa hi ku tsakela**

- 71A.** Bindzuntirhisano ri nga ha herisiwa hi ku tsakela hi xiboho xo hlawuleka xa hlawuleka.” 30

**Ku antswiswa ka xiyenge xa 72 xa Nawu wa 14 wa 2005**

56. Xiyenge xa 72 xa Nawunkulu xa antswisiwa hi ku siviwa ka marito lama rhangela ndzimana ya (a) ya marito lama landzelaka (b):

- “Loko ku ri na xikombelo xo suka eka munhuloyi a nag na natsakelo, khoto kumbe Huvo yo tengeisa yinga ha lerisa leswaku bindzuntirhisano ri herisiwa loko—”;

**Ku ngenisiwa ka swiyenge swa 72A na 72B eka Nawu wa 14 wa 2005**

57. Swiyenge leswi landzelaka swa ngenisiwa eka Nawunkulu endzhaku ka xiyenge xa 72:

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**“Xikombelo xa xileriso xa xiboho**

- 72A.** Mutsarisi a nga ha tihlanganisa na khoto ku kuma xileriso xa xiboho xa leswaku endlelo ro herisa ri tekiwa ri hetisiwile hi mutsarisi loko muherisi loyi a khumbekaka a nga landzelelanga ku lulamisela aka Nawu hi ku hetiseka. 45

**Winding-up by order of Tribunal**

- 72B.** The Tribunal may order that a co-operative be wound up if—
- (a) the co-operative has more than once been convicted of an offence in terms of section 19(4);
  - (b) for a continuous period of two years, the co-operative has not—
    - (i) transacted business;
    - (ii) submitted the annual reports or the equivalent thereof as required in terms of this Act; and
    - (iii) held annual general meetings;
  - (c) the co-operative was formed for a particular period or for the occurrence of a particular event and that period has expired or that event has occurred;
  - (d) after an investigation, the Tribunal is of the opinion that the incorporation of the co-operative was obtained through fraud or was not fully in compliance with this Act; or
  - (e) after receiving written affidavits from members of the co-operative or after an investigation, the Tribunal is of the opinion that the co-operative does not carry out its objectives according to co-operative principles as required by this Act.”.

**Repeal of sections 73, 74, 75 and 76 of Act 14 of 2005** 20

58. Sections 73, 74, 75 and 76 of the principal Act are hereby repealed.

**Substitution of section 77 of Act 14 of 2005**

59. The following section is hereby substituted for section 77 of the principal Act:

**“Judicial management**

- 77.** (1) If the Tribunal has reason to believe that any activity of a co-operative is likely to result in an order of provisional judicial management being issued in respect of such co-operative, the Tribunal must provide every form of support that is within its mandate, as set out in Chapter 12C, to the co-operative concerned. 25
- (2) In the event of the Tribunal not being able to transform the co-operative concerned into an operational co-operative, the procedures in subsection (3) relating to judicial management will apply. 30
- (3) The Minister must, by notice in the *Gazette*, publish procedures relating to judicial management within three months of commencement of the Co-operatives Amendment Act, 2013. 35
- (4) For the purposes of this section and in relation to a co-operative, ‘operational’ means a co-operative that has held its annual general meeting and has submitted its annual report, audited report or independent reviewed report as applicable, to the registrar in its last financial year.”.

**Substitution of section 81 of Act 14 of 2005** 40

60. The following section is hereby substituted for section 81 of the principal Act:

**“Submission of documentation to registrar**

**81.** Any documentation or information that a co-operative is required to submit to the Advisory Council, Agency, registrar or Tribunal must be submitted in such form and manner as may [from time to time] be prescribed.”. 45

**Ku herisa hi xileriso xa mutsarisi kumbe Huvo yo tengisa**

- 72B.** Huvo yo tengisa yi nga ha lerisa leswaku bindzuntirhisano ri herisiwa loko—
- (a) bindzuntirhisano ri kumiwile ri ri na nandzu hi ku landza xiyenge xa 19(4) ku ku hundza ko ringana kan'we; 5
  - (b) eka nkarhi wo ringana malembe mambirhi hi ku landzelelana, bindzuntirhisano ri nga—
    - (i) endlaka ku cincana ka bindzu;
    - (ii) yisanga swiviko swa lembe swa tiakhawunti kumbe swo fana na swona leswi faneleke hi ku landza Nawu lowu; na 10
    - (iii) khomanga tinhlengetano ta lembe;
  - (c) bindzuntirhisano ri vumbiwile eka nkarhi wo karhi kumbe loko ku ta va na ntirho wo karhi naswona nkarhi wolowo wu hundzeriwile kumbe ntirho wolowo wu humelerile; 15
  - (d) endzhaku ka ndzavisiso, mutsarisi kumbe Huvo yo tengisa yi vona onge ku kastiwa ka bindzuntirhisano swi kumiwile hi vukungundwana naswona a ku landzeleriwanga Nawu lowu hi ku hetiseka; kumbe 20
  - (e) endzhaku ka ku kuma swihlambanyo swo tsariwa ku suka eka swirho swa bindzuntirhisano kumbe endzhaku ka vulavisisi, mutsarisi kumbe Huvo yo tengisa yi vona onge bindzuntirhisano a ri fikeleli swikongomelo swa rona hi ku landza misinya ya bindzuntirhisano tanihilaha swi lavekaka hakona hi Nawu lowu.”.

**Ku herisiwa ka swiyenge swa 73, 74, 75 na 76 swa Nawu wa 14 wa 2005**

58. Swiyenge swa 73, 74, 75 na 76 swa Nawunkulu swa herisiwa.

**Ku siviwa ka xiyenge xa 77 xa Nawu wa 14 wa 2005** 25

59. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 77 xa Nawunkulu:

**“Mafambiselo ya swa nawu**

- 77.** (1) Loko Huvo yo tengisa yi ri na xivangelo xo tshemba leswaku nghingiriko wo karhi wa bindzuntirhisano wu ta va nga leswaku ri nyikiwa xileriso mafambiselo ya swa nawu, Huvo yo tengisa yi fanele ku nyika nseketelo wun'wan na wun'wana lowu nga ehansi ka vurhumiwa bya yona tanihilaha swi vekiweke hakona eka Kavanyisa ka 12C. 30
- (2) Loko ku ri eka xiyimo lexi Huvo yo tengisa yi nga kotiki ku cinca bindzuntirhisano leri khumbekaka ri va bindzuntirhisano ra matirhelo, maendlelo lama nga eka xiyengetsongo xa (3) mayelana na mafambiselo ya swa nawu ma ta tirha. 35
- (3) Hi ku tivisa eka *Gazete*, Holobye u fanele ku hangalasa maendlelo mayelana na mafambiselo ya swa nawu eka nkarhi wa tin'wheti tinharhu ta ku sungulaku tirha ka Ka Antswisiwa ka Nawu wa Mabindzuntirhisano, 2013. 40
- (4) Hi Swikongomelo swa xiyenge lexi na hi ku landza bindzuntirhisano, ‘matirhelo’ swi vula bindzuntirhisano leri nga yisa xiviko xa lembe, xiviko lexi oditiweke kumbe xiviko lexi kambisisi hi la nga tiyimela tanihi laha swi tirhaka hakona, eka mutsarisi eka lembe ximali leri hundzeke.”.

**Ku siviwa ka xiyenge xa 81 xa Nawu wa 14 wa 2005** 45

60. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 81 xa Nawunkulu:

**“Ku yisiwa ka matsalwa eka Mutsarisi**

**81.** Tsalwa rihi kumbe rihi kumbe mahungu lawa bindzuntirhisano ri faneleke ku ma yisa eka Huvo yo Tsundzuxa, Ejensi, mutsarisi kumbe Huvo yo tengisa ri fanele ku yisiwa hi ndlela leyi nga ha vekiwaka [nkarhi na nkarhi].”.

**Amendment of section 82 of Act 14 of 2005**

61. Section 82 of the principal Act is hereby amended by the addition of the following subsection:

- “(3) The registrar must—
- (a) on receipt of information from a person wishing to examine a document as contemplated in subsection (1) that the document has not been submitted or has not been submitted in accordance with the requirements of this Act, investigate such information to determine why the document has not been submitted or has not been properly submitted; and
  - (b) in the event that a particular document has not been submitted or has not been properly submitted, take the necessary steps to ensure that the co-operative concerned submits or rectifies the document concerned.”.

**Substitution of section 84 of Act 14 of 2005**

62. The following section is hereby substituted for section 84 of the principal Act:

**“Investigation by registrar”** 15

- 84.** (1) The registrar may order an investigation into or inspection of the business of a co-operative if the registrar—
- (a) has reason to believe that the co-operative **[is not conducting]** has conducted its affairs [in accordance with] in contravention of—
    - (i) the co-operative principles **[or is contravening]**; 20
    - (ii) its constitution; or
    - (iii) a provision of this Act; or
  - (b) is satisfied that circumstances exist which justify such an investigation or inspection.
- (2) The registrar— 25
- (a) must refer the matter for resolution to the Tribunal if the results of the investigation or inspection contemplated in this section warrant further action; or
  - (b) may make any recommendation he or she considers appropriate following an investigation or inspection in terms of subsection (1), which may include a recommendation to—
    - [(a)] (i) the co-operative;
    - (ii) the Agency, if additional support for the co-operative is required;
    - [(b)](iii) the Minister **[in terms of section 73]**; and 35
    - [(c)](iv) the relevant prosecuting authority.
- (3) A co-operative, member, director, employee, agent or mandatory who fails to provide any information required by the registrar for the investigation or inspection as contemplated in this section, is guilty of an offence.”. 40

**Amendment of Chapter 12 of Act 14 of 2005**

63. Chapter 12 of the principal Act is hereby amended by the substitution for the expression “Advisory Board”, wherever it appears, of the expression “Advisory Council”.

**Amendment of section 86 of Act 14 of 2005** 45

64. Section 86 of the principal Act is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of the following words:  
“The functions of the Advisory **[Board]** Council are to advise the Minister generally[,] and to make recommendations, with regard to—”; 50



### Ku antswisiwa ka xiyenge xa 82 xa Nawu wa 14 wa 2005

61. Xiyenge xa 82 xa Nawunkulu xa antswisiwa hi ku tatisiwa ka xiyengetsongo lexi landzelaka:

“(3) Mutsarisi u fanele—

- (a) Toko a kuma mahungu ku suka eka munhu loyi a kambelaka tsalwa tanihilaha swi langutisiweke eka xiyengetsongo xa (1) u fanele ku kambisisa mahungu wolawo ku kuma leswaku hikokwalahokayini matsalwa ma nga yisiwanga kumbe leswaku hikokwalahokayini ku yisiwile matsalwa lawa ya hoxekeke, ku hambana na ku lulamisela ka Nawu lowu; na 5
- (b) loko ku ri leswaku tsalwa ro karhi a ri yisiwanga kumbe ku yisiwile tsalwa leri hoxekeke, ku teka magoza lawa ya faneleke ku vona leswaku bindzuntirhisano leri khumbekaka ra yisa kumbe ku lulamisa tsalwa leri khumbekaka.” 10

### Ku siviwa ka xiyenge xa 84 xa Nawu wa 14 wa 2005

62. Xiyenge lexi landzelaka xa siviwa hi xiyenge xa 84 xa Nawunkulu:

“**Ndzavisiso wa mutsarisi** 15

84. (1) Mutsarisi a nga ha lerisa ku lavisisiwa kumbe ku kamberiwa Ka bindzu ra bindzuntirhisano loko mutsarisi—

(a) a ri na xivangelo xo tshemba leswaku bindzuntirhisano [**a ri le ku fambiseni**] ri fambisile timhaka ta rona [**hi ku landza**] ku tluriwa ka— 20

(i) misinya ya bindzuntirhisano [**kumbe ri le ku tluleni**];

(ii) vumbiwa ra rona; kumbe

(iii) ku lulamisela ka Nawu lowu; kumbe

(b) a eneriseka leswaku ku na swiyimo leswi seketelaka ku lavisisa kumbe ku kambela. 25

(2) Mutsarisi—

(a) u fanele ku yisa mhaka eka Huvo yo tengisa ku va yi tshunxiwa loko ku ri leswaku mbuyelo wa ku lavisisa kumbe ku kambela leswi langutisiweke eka xiyenge lexi swi pfumelela xiendlo xo ya emahlweni; kumbe 30

(b) a nga ha nyika swibumabumelo leswi a vonaka swi fanerile endzhaku ka ndzavisiso kumbe ku kambela hi ku ya hi xiyengetsongo xa (1), leswi nga katsaka xibumabumelo eka—

[(a)] (i) bindzuntirhisano;

(ii) Ejansi, loko nseketelo wo ya emahlweni wa bindzuntirhisano wu laveka; 35

[(b)](iii) Holobye [**ku ya hi xiyenge xa 73**]; na

[(c)](iv) Matimba ya vuchuchisi lawa ya faneleke.

(3) Bindzuntirhisano, xirho, murhangerinkulu, mutirhi, muthoriwa, muyimeri kumbe murhumiwa loyi a hlulekaka ku nyika mutsari mahungu lawa ya lavekaka eka ndzavisiso kumbe ku kambela tanihilaha swi langutisiweke eka xiyenge lexi, u na nandzu.” 40

### Ku antswisiwa ka Kavanyisa ka 12 ka Nawu wa 14 wa 2005

63. Kavanyisa ka 12 ka Nawunkulu ka antswisiwa hi ku siviwa ka rito “Bodo yo Tsundzuxa hi rito “Huvo yo Tsundzuxa” kwihi na kwihi laha ri kumekaka eka Kavanyisa loku. 45

### Ku siviwa ka xiyenge xa 86 xa nawu wa 14 wa 2005

64. Xiyenge xa 86 xa Nawunkulu xa siviwa—

(a) hi ku siviwa ka marito lama rhangelaka ndzimana ya (a) ya marito lama landzelaka; 50

Mitirho ya [**Bodo**] Huvo yo Tsundzuxa i ku tsundzuxa Holobye eka swin’wana na swin’wana [,] na ku nyika swibumabumelo, mayelana na—”;

- (b) by the substitution for paragraph (d) of the following paragraph:
  - “(d) the provision of support programmes that—
    - (i) target co-operatives[, **especially those co-operatives that consist of black persons, women, youth, disabled persons or persons in the rural areas**] as determined by the Minister by notice in the *Gazette*; and
    - (ii) promote equity and greater participation by [its] members of co-operatives;”;
- (c) by the deletion of paragraph (e); and
- (d) by the substitution for paragraph (f) of the following paragraph:
  - “(f) any matter referred to the Advisory **[Board]** Council by the Minister, the Agency, a co-operative, proposed co-operative or member of a co-operative that relates to **[promoting]** any matter pertaining to co-operatives, including but not limited to, the promotion of the development of co-operatives; and”.

**Amendment of section 87 of Act 14 of 2005**

65. Section 87 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
    - “(1) The Minister must appoint as members of the Advisory **[Board]** Council not less than five but not more than ten persons **[capable of representing]** appropriately qualified to represent the interests of co-operatives in the Republic.”; and
  - (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
    - “(b) to represent different relevant constituencies including trade unions, business, co-operative support organisations, women, youth, the disabled and academics.”.

**Insertion of Chapters 12A, 12B and 12C in Act 14 of 2005**

66. The following Chapters are hereby inserted in the principal Act after Chapter 12:

“CHAPTER 12A 30

**CO-OPERATIVES DEVELOPMENT AGENCY**

*Part 1*

*Establishment, legal status, functions and powers of Agency*

**Establishment of Co-operatives Development Agency**

- 91A.** (1) The Co-operatives Development Agency is hereby established. 35  
(2) The Agency must exercise its powers and perform its functions in accordance with this Act and any other relevant law.  
(3) After consultation with the relevant authorities, the Agency may establish satellite branches in every province, metropolitan municipality and district municipality in accordance with this Chapter. 40

**Objectives of Agency**

- 91B.** The objectives of the Agency are to—
- (a) support, promote and assist with the development of co-operatives;
  - (b) provide financial and non-financial assistance to co-operatives to enable the development of co-operatives, provided that deposit-taking 45

- (b) hi ku siviwa ka ndzimana ya (d) ya ndziamna leyi landzelaka:  
“(d) ku lulamisela minongonoko yo seketela leyi—  
(i) kongomeke mabindzuntirhisano [**ngopfungopfu mabindzuntirhisano lawa ya nga vantima, vaxisati, vantshwa, vato-sniwa kumbe vanhu lava nga le matikoxikaya**] tanihilaha swi vuriweke hi Holobye hi xitiviso eka *Gazete*; na 5  
(ii) ku tlakusa ndzingano na ku ngehelela hi matimba hi swirho [**swa rona**] swa mabindzuntirhisano;”;
- (c) hi ku susiwa ka ndzimana ya (e); na
- (d) hi ku siviwa ka ndzimana ya (f) ya ndzimana leyi landzelaka: 10  
“(f) mhaka yihi na yihi leyi yisiwaka eka [**Bodo**] Huvo yo Tsundzuxa hi Holobye, Ejensi, bindzuntirhisano, bindzuntirhisano leri ringnyeti-weke kumbe xirho xa bindzuntirhisano, leyi fambelanaka na ku [**tlakusa**] mhaka yin’wan na yin’wana leyi fambelanaka na mabindzuntirhisano, ku katsa kambe ku nga ri ku tlakusa ntsena, ka bindzuntirhisano ra nhluvukiso; na” 15

### Ku antswisiwa ka xiyenge xa 87 xa Nawu wa 14 wa 2005

65. Xiyenge xa 87 xa nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka xiyengetsongo xa (1) xa xiyengetsongo lexi landzelaka: 20  
“(1) Holobye u fanele ku thola vanhu lava nga ri ki hansi ka tlhanu kambe va nga hundzi 10 tanihi swirho swa [**Bodo**] Huvo yo Tsundzuxa [**lava kotaka ku yimela**] lava thwaseleke ku ringana ku yimela mitsakelo ya bindzuntirhisano eka Riphabliki.”; na
- (b) hi ku siviwa ka ndzimana ya (b) ya ndizmana leyi landzelaka eka xiyengetsongo xa (2): 25  
“(b) ku yimela swiphemu swo hambanahambana leswi khumbekaka ku katsa mihlangano ya vatirhi, bindzu, mihlangano leyi seketelaka bindzuntirhisano, vaxisati, vantshwa, vatsoniwa na swidyo-ndzeki.”.

### Ku ngenisiwa ka Kavanyisa ka 12A, 12B na 12C eka Nawu wa 14 wa 2005 30

66. Kavanyisa loku landzelaka ka ngenisiwa eka Nawunkulu endzhaku ka Kavanyisa ka 12:

#### “KAVANYISA KA 12A

#### EJENSI YA NHLUVUKISO WA MABINDZUNTIRHISANO

#### *Xiphemu xa 1* 35

#### *Ku tumbuluxiwa, xiyimo xa swa nawu, mitirho na matimba ya Ejensi*

#### Ku tumbuluxiwa ka Ejensi ya Nhluvukiso wa Bindzuntirhisano

91A. (1) Ejensi ya Nhluvukiso wa Bindzuntirhisano ya tumbuluxiwa.

(2) Ejensi yi fanele ku tirhisa matimba ya yona na ku endla mitirho ya yona hi ku landza Nawu lowu na nawu wihi kumbe wihi lowu faneleke. 40

(3) Endzhaku ko ti hlanganisa na matimba lawa ya faneleke, Ejensi yi nga ha sungula marhavi ya sathelayiti eka xifundzankulu xin ‘wana na xin’ wana, masipala wa le madorobeni na masipala wa xifundza hi ku landza Kavanyisa loku.

#### Swikongomelo swa Ejensi 45

91B. Swikongomelo swa Ejensi i ku—

- (a) seketela, ku tlakusa na ku pfuneta hi nhluvukiso wa mabindzuntirhisano; 50  
(b) nyika mpfuneto wa timali na wo ka wu nga ri wa timali eka mabindzuntirhisano ku endla leswaku makota ku hluka, loko ku ri leswaku mabindzuntirhisano ya vukorhokeri bya timali lama tekaka

- financial co-operatives will not be eligible for financial support, but will be eligible for non-financial support;
- (c) provide business support services, including but not limited to pre-registration support, registration, business plan development, mentorship and post-registration support and access to market services to co-operatives; 5
  - (d) provide assistance and support to the registrar for the registration and deregistration of co-operatives;
  - (e) provide, facilitate and coordinate training and education support to co-operatives; 10
  - (f) assist co-operatives in fully complying with the requirements of this Act;
  - (g) provide access to information regarding all products, programmes and services available to co-operatives;
  - (h) raise awareness of and research into any matter affecting the effective, efficient and sustainable functioning of co-operatives and the co-operatives sector; 15
  - (i) provide the necessary support within the Agency's capacity to enable individual co-operatives to become and remain operational;
  - (j) report to the Tribunal and any other relevant role-players on co-operatives that the Agency has supported; 20
  - (k) carry out independent review reports on behalf of the qualifying primary co-operatives and ensure that such co-operatives submit these reports to the registrar; and
  - (l) develop and maintain data on co-operatives in partnership with the registrar, relevant national and provincial departments, municipalities and other role players. 25

#### Functions of Agency

- 91C.** (1) The Agency, in order to achieve its objectives, must—
- (a) establish competencies and capabilities in its operations, including the following functional areas: 30
    - (i) Financial support services (excluding co-operative banks registered under the Co-operatives Banks Act, 2007 (Act No. 40 of 2007);
    - (ii) non-financial support; 35
    - (iii) education and training;
    - (iv) support and extension services;
    - (v) market development; and
    - (vi) monitoring and evaluation;
  - (b) through its financial support services— 40
    - (i) design financial products to support the needs of co-operatives;
    - (ii) take responsibility for and implement any financial support programmes transferred to the Agency;
    - (iii) enter into agreements with other financial institutions and development agencies to establish co-funding and other partnership arrangements for the purposes of making financial support available to co-operatives; and 45
    - (iv) enter into agreements with the Co-operative Banks Development Agency and the Reserve Bank to link financing of co-operatives with co-operative banks and other financial co-operatives; 50
  - (c) through its education and training—
    - (i) assist co-operatives;
    - (ii) enter into agreements with relevant training institutions to provide training to co-operatives; and 55

- diphoziti ya nga vi na vutihlamuleri bya nseketelo wa timali, kambe ya va na vutihlamuleri bya nseketelo wo ka wu nga ri wa timali;
- (c) nyika vukorhokeri bya nseketelo, leyi ehanhla ka yin'wana, yi katsaka nseketelo wa loko ku nga si tsarisiwa, ku tsarisa, nhluvukiso wa kungu ra bindzu, ku letela na ku hlayisa mabindzuntirhisano, ku katsa na fikelela ka mabindzu ntirhisano ka vukorhokeri bya makete; 5
- (d) nyika mpfuneto na nseketelo eka CIPC ku tsarisa na ku huma ka mabindzuntirhisano eka ntsariso;
- (e) lulamisela, vevukisa na ku fambisa vuleteri na nseketelo wa dyondzo eka; 10
- (f) pfuneta mabindzuntirhisano ku landzelela swilaveko swa Nawu lowu hi ku hetiseka;
- (g) nyika ku fikeleriwa ka mahungu mayelana na swikumiwa hinkwaswo, minongonoko na vukorhokeri lebyi nga kona mabindzuntirhisano;
- (h) tisa xilemukiso na ndzavisiso mayelana na mhaka yihi kumbe yihi leyi khumbaka ku tirha hi ku hetiseka, ku tirha hi nkarhi na matirhelo lawa ya yaka emahlweni ya mabindzuntirhisano; 15
- (i) nyika nseketelo lowu faneleke eka vuswikoti bya Ejensi ku endlela ku va bindzuntirhisano rin'wana na rin'wana ri ri tirha na ku tshama ri ri karhi ri tirha; 20
- (j) hundzisela mahungu eka mabindzuntirhisano lawa ya seketeriweke hi Ejensi eka Huvo yo tengisa kumbe vtekaxiave van'wana lava faneleke;
- (k) endla swiviko swa nkambisiso lowu tiyimeleke hi ku yimela mabidzuntirhisano yo sugula lawa ya tiyimeleke na ku tiyisisa leswaku mabindzuntirhisano wolawo ya yisa swiviko swoleswo eka mutsarisi; na 25
- (l) hluvukisa na ku hlayisa data ya mabindzuntirhisano hi xinakulobye na mutsarisi, tindzawulo leti faneleke ta xifundzankulu na ta rixaka, timasipala na vatakexiave van'wana. 30

### Mitirho ya Ejensi

**91C.** (1) Ku endlela ku kota ku fikelela swikongomelo swa yona, Ejensi yi fanele ku—

- (a) tumbuluxa vuswikoti na ku koteka eka matirhelo ya yona, ku katsa swivandla leswi landzelaka swa matirhelo: 35
- (i) Vukorhokeri bya nseketelo wa timali (ku nga katsiwi tibangi ta mabindzuntirhisano leti tsarisiweke ehansi ka *Co-operatives Banks Act, 2007* (Nawu wa No. 40 wa 2007);
- (ii) nseketelo wo ka wu nga ri wa timali; 40
- (iii) dyondzo na vuleteri;
- (iv) nseketelo nba vukorhokeri byo ndlandlamuxa;
- (v) nhluvukiso wa makete; na
- (vi) ku langutela na ku pima;
- (b) hi vukorhokeri bya yona bya nseketelo wa timali; 45
- (i) dizayina swikumiwa swa timali ku seketela swilaveko swa mabindzuntirhisano;
- (ii) ku hlayisa na ku hangalasa minongonoko ya nseketelo wa timali leti hundziseriweke eka Ejansi;
- (iii) nghena eka mitwanano na swivandla swin'wana swa timali na tiajensi ta nhluvukiso ku tumbuluxa ku pfunetana ku hakelela na ku lulamisela ka xinakulobye xin'wana; na 50
- (iv) nghena eka mitwanano na Ejensi ya Nhluvukiso wa Tibangi ta Bindzuntirhisano na Bangi ya rhizevheku hlanganisa kuha-kelelriwa ka mabindzuntirhisano na tibangi ta bindzuntirhisano na mabindzuntirhisano man'wana ya timali; 55
- (c) hi ku tirhisa dyondzo na vuleteri—
- (i) pfuneta mihlangano ya mabindzuntirhisano ya le maninginingini;
- (ii) nghena eka mitwanano na swivandla swa vuleteri leswifanelekeku lulamisela vuleteri bya mabindzuntirhisano; na

- (iii) provide technical and management training to co-operatives;
  - (d) through its support and extension services—
    - (i) promote and provide business development and other relevant support to co-operatives;
    - (ii) establish partnerships with community development workers, community development practitioners, community-based organisations, non-governmental organisations and co-operative associations in order to deliver support services to co-operatives;
    - (iii) assist and establish partnerships with any relevant organ of state to implement information relating to co-operatives and the shared support services centres aimed at providing information services to co-operatives at local level;
    - (iv) provide mentorship support to co-operatives; and
    - (v) develop and maintain data on co-operatives in partnership with the registrar, relevant national and provincial departments, municipalities, other interested governmental and non-governmental agencies and other persons;
  - (e) through its market development—
    - (i) promote access to export and marketing assistance offered by organs of state, and bilateral and multilateral agreements with other countries that are available to co-operatives;
    - (ii) link co-operatives to domestic and international markets;
    - (iii) form collaborative relationships with the South African Bureau of Standards and Proudly South African and other stakeholders to promote quality co-operative products and services; and
    - (iv) link co-operatives with state and private sector market opportunities;
  - (f) through its monitoring and evaluation—
    - (i) conduct research on co-operatives in partnership with higher education institutions;
    - (ii) monitor and evaluate trends and patterns in the development of co-operatives;
    - (iii) identify the needs of co-operatives and make recommendations on appropriate support programmes; and
    - (iv) identify gaps in existing and future support programmes and propose appropriate changes;
  - (g) report on or investigate its own activities in response to any complaint received by it or where it considers it necessary or desirable for the proper fulfilment of its functions;
  - (h) consider such recommendations, suggestions and requests concerning co-operatives as it may receive from the Minister; and
  - (i) conduct or commission such research as it deems fit or as requested by the Minister.
- (2) The Agency must—
- (a) participate in the activities of international bodies whose main purpose is to develop, promote and support co-operatives;
  - (b) encourage growth of category A primary co-operatives and category B primary co-operatives by providing the necessary advice and support to enable those co-operatives to comply with the auditing and accounting requirements provided for in this Act;
  - (c) report to the Department, and on any other matter at the request of the Minister; and

- (iii) ku lulamisela nseketelo wa swa xithekiniki na na vuleteri bya vufambisi eka mabindzuntirhisano;
- (d) hi ku tirhisa nseketelo na vukorhokeri byo ndlandlamuxa—
- (i) ku tlakusa na ku lulamisela nhluvukiso wa mabindzu na nseketelo wun'wana lowu faneleke eka mabindzuntirhisano; 5
  - (ii) tumbuluxa xinakulobye na vatirhi va nhluvukiso wa muganga, mihlangano leyi simekiweke eka vaakindhawu, mihlangano leyi nga ri ki ya mfumo na mihlangano ya bindzuntirhisano ku endlela ku nyika vukorhokeri bya nseketelo eka mabindzuntirhisano; 10
  - (iii) ku pfuneta na ku tumbuluxa xinakulobye na xirho lexi faneleke xa mfumo mayelana na ku tirhisiwa ka mahungu ya bindzuntirhisano tisenthara ta vukorhokeri byo hlanganiwa leti kongomisiweke eka ku nyika vukorhokeri bya mahungu lama faneleke eka mabindzuntirhisano eka levhele ya muganga; 15
  - (iv) ku lulamisela nseketelo wa vuxirho eka mabindzuntirhisano; na
  - (v) hluvukisa na ku hlayisa data ya mabindzuntirhisano hi ku tirhisan an mutsarisi, tindzawulo leti faneleke ta xifundzankulu na ta rixak, timasipala na vatekaxiave van'wana;
- (e) hi ku tirhisa nhluvukiso wa makete—
- (i) ku tlakusa ku fikeleriwa ka ku xavisela ehandle ka tiko na mpfuneto wa makete lowu nyikiwaka hi swirho swa mfumo, na mitwanano ya vambirhi kumbe ya lavotala na matiko man'wana, taihlaha swi yelanaka na mabindzuntirhisano; 20
  - (ii) ku hlanganisa mabindzuntirhisano na timakete ta laha kaya na ta le matiko ya le handle; na 25
  - (iii) ku vumba xinakulobye xo tirhisana na Byuro ya mipimo ya Afrika Dzonga na *Proudly South African* na vatekaxiave van'wana ku tlakusa nkoka wa swikumiwa na vukorhokeri; na
  - (iv) ku hlanganisa mabindzuntirhisano na mikateko ya timakete ta mfumo na leti nga riki ta mfumo; 30
- (f) hi ku langutisisa na ku pima—
- (i) ku endla vulavisisi bya mabindzuntirhisano hi xinakulobye na swivandla swa dyondzo ya le henhla;
  - (ii) ku langutela na ku pima maendlekelo na tipheteni eka nhluvukiso wa mabindzuntirhisano; 35
  - (iii) ku kuma swilaveko swa mabindzuntirhisano na ku endla swibumabumelo swa minongonoko ya nseketelo lowu faneleke; na
  - (iv) ku kuma laha ku nga na ku kayivela eka minongonoko ya nseketelo ya nkarhi wa sweswi na ya nkarhi lowu taka na ku ringanyeta ku cinca lo ku faneleke; 40
- (g) ku vika kumbe ku endla vulavisisi byihi na byihi lebyi yi vonaka byi fanerile kumbe hikwalaho ko va yi amukele xivilelo;
- (h) ku tekela enhlokweni swibumabumelo swoleswo, swiringanyeto na swikombelo mayelana na mabindzuntirhisano loko yi swi amukela ku suka eka Holobye; na 45
- (i) ku endla vulavisisi kumbe ku endla leswaku ku va na vulavisisi tanihilaha yi nga ha vonaka swi fanerile kumbe loko swi komberiwile hi Holobye.
- (2) Ejensi yi fanele ku— 50
- (a) tekaxiave eka migingiriko ya tihuvo ta matiko ya le handle lawa xikongomelo xa wona ku nga ku hluvukisa, ku tlakusa na ku seketela mabindzuntirhisano;
- (b) hlohlotela ku kula ka mabindzuntirhisano yo sungula ya Nkhetekanyo wa A na mabindzuntirhisano yo sungula ya Nkhetekanyo wa B hi ku nyika xitsundzuxo na nseketelo lowu faneleke ku endlela leswaku mabindzuntirhisano lawa ya vuriweke ya landzelela swilaveko swa tioditi na tinkota leswi lulamiseriweke eka Nawu lowu; 55
- (c) ku vikela ndzawulo, na le ka mhaka yihi kumbe yihi hi xikombelo xa Holobye; na 60

- (d) where applicable, coordinate with other relevant agencies to promote and support co-operatives.

**Functions of Agency in respect of satellite offices of Agency**

- 91D.** The Agency, in order to achieve its objectives in relation to satellite offices of the Agency—
- (a) must enter into a memorandum of understanding with the member of the Executive Council responsible for economic development in the province or the Municipal Council, as the case may be, on the most effective delivery mechanism for co-operative support;
  - (b) in consultation with the member of the Executive Council responsible for economic development or the Municipal Council, as the case may be, may delegate some of the functions of the satellite offices to a provincial department responsible for economic development, a metropolitan municipality or a district municipality, as the case may be, subject to any conditions the Agency may impose in respect of such delegation; and
  - (c) must implement the memorandum of understanding, which must be monitored through the MINMEC structures.

**General powers of Agency**

- 91E.** The Agency is subject to the Public Finance Management Act, and—
- (a) the system of financial management and administration of the Agency must comply with Schedule 3A to the Public Finance Management Act;
  - (b) the head of the Agency is the Accounting authority of the Agency;
  - (c) must collect fees and invest funds;
  - (d) must finance its publications; and
  - (e) the head of the Agency may—
    - (i) delegate any power or function assigned to the head of the Agency to any employee of the Agency with the appropriate skill and qualification to properly exercise that power or perform that function; or
    - (ii) authorise any employee of the Agency to perform any function, exercise any power or fulfil any duty assigned to the Agency.

**Reporting by Agency**

- 91F.** (1) The Agency must report to the Minister on the exercise of its powers, the performance of its functions and its financial expenditure, as prescribed.
- (2) The Agency must submit to the Minister—
- (a) any report as may be requested by the Minister; and
  - (b) any other information relating to the development of co-operatives as may be requested by the Minister.

**Part 2**

**Funding and financial management of Agency** 45

**Funding of Agency**

- 91G.** (1) The Co-operative Development Fund is hereby established and is the repository fund for the Agency.
- (2) The administration of the Co-operative Development Fund vests with the Agency.
- (3) The administration and financial management of the Co-operative



- (d) laha swi kotekaka, yi tirhisana na tiejensi tin'wana leti faneleke ku tlakusa na ku seketela mabindzuntirhisano.

#### Mitirho ya Ejensi mayelana na tihofisi ta Ejensi ta sathelayiti

- 91D.** Ejensi, ku va yi kota ku fikelela swikongomelo swa yona mayelana na tihofisi ta Ejensi ta sathelayiti—
- (a) yi fanela ku nghena eka memorandamu yo twisisana na Xirho xa Huvonkulu loyi a nga na vutihlamuleri bya nhlukiso wa ikhonomieka xifundzankulu kumbe Huvo ya masipala, hilaha swi nga tava swi ri hakona, eka tindlela leti rirhaka ta mphakelo wa vukorhokeri ku seketela bindzuntirhisano; 5
- (b) Hi ku tirhisana na Xirho xa Huvonkulu loyi a nga na vutihlamuleri bya nhluvukiso wa ikhonomi kumbe Huvo ya Masipala hilaha swi nga ta va swi ri hakona, yi nga ha rhumela yin'wana ya mitirho ya tihofisi ta ejensi ta sathelayiti eka ndzawulo ya xifundzankulu leyi nga na vutihlamuleri bya nhluvukiso wa ikhonomi, masipala wa le madorobeni kumbe masipala wa xifundzatsongo, hilaha swi nga ta va swi ri hakona, ku ya hi swipimelo leswi Ejensi yi nga swi vekaka mayelana na vurhumiwa byolebyo; na 10
- (c) Ku va yo fanele ku tirhisa memorandamu ya ntwanano, leyi faneleke ku langutisisiwa hi swiakiwa swa MINMEC. 15 20

#### Matimba man'wana na man'wana ya Ejensi

- 91E.** Ejensi yi landzelela Nawu wa Mafambiselo ya Timali ta Mfumo, na—
- (a) sisiteme ya mafambiselo na vulawuri ya Ejensi yi fanele ku landzelela Xedulu ya 3A ya Nawu wa Mafambiselo ya Timali ta Mfumo; 25
- (b) nhloko ya Ejensi hi yena a nga na vutihlamuleri bya tiakhawunti ta Ejensi;
- (c) u fanele ku hlengeleta timali na ku vekisa timali;
- (d) u fanele ku hakelela ku hangalasiwa ka yona; naswona
- (e) nhloko ya Ejensi a nga ha— 30
- (i) nyika mutirhi wihi na wihi wa Ejensi loyi a nga na swikili leswi faneleke na vuthwaseri matimba man'wana na man'wana lama a nyikiweke wona; kumbe
- (ii) ku pfumelela mutirhi wihi na wihi wa Ejensi ku endla mitirho leyi nyikiweke Ejensi. 35

#### Ku vika ka Ejensi

- 91F.** (1) Ejensi yi fanele ku vikela Xiyengenkulu: Mabindzuntirhisano eka ku tirhisa ka yona matimba yona, ku endla ka mitirho ya yona na matirhiselo ya yona ya timali, tanihilaha swi nga vekikiwa hakona.
- (2) Ejensi yi fanele ku yisa eka Holoye— 40
- (a) xiviko xa xihl na xihl tanihilaha swi nga ta komberiswa hakona hi Holobye, na;
- (b) mhaka yin'wana na yin'wana leyi fambelanaka na nhluvukiso wa mabindzuntirhisano.

*Xiphemu xa 2* 45

#### Mahakeleriwele na mafumele ya Ejensi

#### Mahakeleriwele ya Ejensi

- 91G.** (1) Nkwama wa nhluvukiso wa Bindzuntirhisano wa tumbuluxiwa naswona i xihlovo xa timali ta Ejensi.
- (2) Vulawuri bya Nkwama wa Nhluvukiso wa Bindzuntirhisano bi le ka Rjensi. 50
- (3) Vulawuri na vufambisi bya timali ta Nkwama wa Nhluvukiso wa Bindzuntirhisano byi fanele ku landzelela bya vandal ra mfumo ra rixaka

Development Fund must comply with that of a national public entity listed in Schedule 3, Part A, to the Public Finance Management Act.

(4) The head of the Agency is the accounting authority for the Co-operative Development Fund, as contemplated in Chapter 6 of the Public Finance Management Act.

(5) The Agency is funded by—

- (a) monies appropriated for that purpose by Parliament;
- (b) interest on investments by the Agency;
- (c) donations and contributions lawfully received by the Agency; and
- (d) all other monies which may accrue to the Agency from any other legal source.

#### **Annual budget and strategic plan**

**91H.** The annual budget and strategic plan of the Agency must be submitted to the Minister in terms of the Public Finance Management Act.

#### **Financial management, financial statements and annual report**

**91I.** The financial management of the Agency and the preparation and submission of financial statements and annual reports must comply with the provisions of the Public Finance Management Act.

### **Part 3**

#### ***National government oversight and executive authority***

##### **Executive authority**

**91J.** (1) The Minister is the executive authority for the Agency in terms of the Public Finance Management Act and the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The Agency is accountable to the Minister.

(3) The Minister must—

- (a) ensure that the Agency complies with this Act, the Public Finance Management Act and any other applicable legislation;
- (b) ensure that the Agency is managed responsibly and transparently;
- (c) ensure that the Agency meets its contractual and other obligations related to the performance of its functions;
- (d) after consultation with the Agency, provide guidelines for communication between the Minister and the Agency; and
- (e) monitor and annually review the performance of the Agency.

##### **Information**

**91K.** The Agency must provide the Minister with access to any information as may be reasonably requested.

### **CHAPTER 12B**

#### **CO-OPERATIVES TRIBUNAL**

##### **Establishment, legal status and composition of Co-operatives Tribunal**

**91L.** (1) The Co-operatives Tribunal is hereby established and—

- (a) has jurisdiction throughout the Republic;
- (b) is independent and subject to the Constitution of the Republic of South Africa, 1996, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), this Act and other applicable legislation;

leri xaxametiweke eka Xedulu ya 3, Xiphemu xa A, eka Nawu wa Mafambiselo ya Timali ta Mfumo.

(4) Nhloko ya Ejensi u na matimba ya akhawunti ya Nkwama wa nhluvukiso wa Bindzuntirhisano, tanihilaha swi nga langutisiwa eka Kavanyisa ka 6 ka Nawu wa Mafambiselo ya Timali ta Mfumo.

(5) Ejensi yi hakeleriwa hi—

(a) timali leti lulamiseriweke xikongomelo xexo hi Palamende;

(b) ntswalo wa vuvekisi hi Ejensi;

(c) timali letin'wana hinkwato leti nga kumiwaka hi Ejensi ku suka eka xihlovo xin'wana na xin'wana lexi nga enawini; na

(d) minyikelo leyi kumiweke hi Ejensi hi ndlela leyi nga enawini.

### **Mpimanyeto wa lembe na pulani ya xiratejeji**

**91H.** (1) Mpimanyeto wa lembe na pulani ya xiratejeji swi fanele ku yisiwa eka Holobye ku ya hi Nawu wa Mafambiselo ya Timali ta Tiko.

### **Mafambiselo ya timali, switatimende swa timali na xiviko xa lembe**

**91I.** Mafambiselo ya timali ta Ejensi na ku lulamisa na ku yisa switatimende swa timali na swiviko swa lembe swi fanele ku landzelela ku lulamisela ka Nawu wa Mafambiselo ya Timali ta Tiko.

### *Xiphemu xa 3*

#### *Swihoxo swa mfumo wa rixaka na matimba ya le henhla*

### **Matimba ya le henhla**

**91J.** (1) Holobye i matimba ya le henhla ya Ejensi hi mayelana na Nawu wa Mafambiselo ya Timali ta Mfumona Public Service Act, 1994 (Xitiviso xa No. 103 xa 1994).

(2) Ejensi yi na vutihlamuleri eka Holobye.

(3) Holobye u fanele ku—

(a) vona leswaku Ejensi yi landzelela Nawu lowu, Nawu wa Mafambiselo ya Timali ta Mfumo na milawu yin'wana leyi tirhaka;

(b) vona leswaku Ejensi yi fambisiwa hi vutihlamuleri no va erivaleni;

(c) vona leswaku Ejensi yi fikelela kontiraka ya timfanelo ta yona na ku boheka kun'wana loku fambelanaka na ku tirha mitirho ya yona;

(d) endzhaku ko tihlanganisa na, ku nyika swiletelo swo vulavurisana exikarhi ka Holobye na Ejensi; na

(e) ku langutela na ku kambisisa matirhele ya Ejensi lembe na lembe.

### **Mahungu**

**91K.** Ejensi yi fanele ku lulamisela Holobye kumbe muyimeri wa holobye ku kuma mahungu wahi kumbe wahi tanihilaha swi nga ta komberiwa hakona.

### **KAVANYISA KA 12B**

#### **HUVO YO TENGISA YA MABINDZUNTIRHISANO**

### **Ku tumbuluxiwa, xiyimo xa nawu na lava vumbaka Huvo yo tengisa ya Bindzuntirhisano**

**91L.** (1) Huvo yo tengisa ya bindzuntirhisano ya tumbuluxiwa na—

(a) yi na matimba yo tirha eka Riphabliki hinkwaro;

(b) ya tiyimela naswona yi tirha ku ya hi Vumbiwa ra Riphabliki ra Afrika Dzonga, 1996, *Promotion of Administrative Justice Act*, 2000 (Nawu wa No.3 wa 2000), Nawu lowu na milaw yin'wana leyi tirhaka;

- (c) must assist with the judicial management, winding-up, deregistration, conflict resolution and liquidation of co-operatives and the conducting of investigations into their activities so as to ensure compliance with this Act; and
- (d) must perform its functions impartially, without fear, favour or prejudice. 5

**Appointment and composition of Tribunal**

**91M.** (1) The Minister must—

- (a) appoint a person as chairperson of the Tribunal, who may be appointed for a second consecutive term; 10
- (b) appoint no more than ten other persons as full-time or part-time members of the Tribunal, who may be appointed for a second consecutive term after consultation with the chairperson;
- (c) designate a member of the Tribunal as deputy chairperson of the Tribunal; and 15
- (d) appoint persons to fill any vacancy on the Tribunal.

(2) A person must not be appointed as chairperson or member of the Tribunal if that person—

- (a) is not a South African citizen;
- (b) is not permanently resident in the Republic; 20
- (c) is not solvent;
- (d) is subject to an order of a competent court declaring that person to be mentally unfit;
- (e) within the previous ten years has been or is convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or an offence involving dishonesty; 25
- (f) has been convicted of any offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect and sentenced to imprisonment without the option of a fine; or 30
- (g) has, as a result of dishonesty or other improper conduct, been removed from an office of trust.

(3) The membership of a member of the Tribunal ceases if he or she— 35

- (a) becomes disqualified in terms of subsections (1) or (2) from being a member of the Tribunal;
- (b) resigns by written notice addressed to the chairperson of the Tribunal or the Minister;
- (c) is declared by the High Court to be of unsound mind, mentally ill or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973); 40
- (d) has, without the leave of the Tribunal, been absent from more than two consecutive meetings of the Agency; or
- (e) ceases to be permanently resident in the Republic. 45

(4) If a member of the Tribunal dies or vacates his or her office before the expiration of his or her term of office, the Minister must, within 60 days from the date on which the vacancy occurred, appoint a person to fill the vacancy for the unexpired period for which that member was appointed.

(5) The Tribunal must comprise persons with suitable qualifications and experience in economics, law, the co-operative industry or public affairs. 50

(6) The deputy chairperson performs the functions of chairperson whenever—

- (a) the office of chairperson is vacant; or
- (b) the chairperson is for any other reason temporarily unable to perform his or her functions. 55

(7) The term of office of the chairperson and members of the Tribunal

- (c) yi fanele ku pfuneta hi vufambisi bya nawu, ku herisa, ku susiwa eka ntsariso, ku ololoxa swiphiso, ku hangalasa na ku endla vulavisisi ku vtiyisisa ku landzelela Nawu lowu; na
- (d) yi fanele endla mitirho ya yona ku nga ri na ku hlawula, ku chava, ku tsakela kumbe ku kheta. 5

**Matholelo na lava vumbaka Huvo yo tengisa**

**91M. (1) Holobye u fanele ku—**

- (a) thola mutshami wa xitulu wa Huvo yo tengisa; loyi anga tlhelaka a thoriwa ra vumbirhi; 10
- (b) ku thola vanhu lava nag hundziki 10 tanih vatirhi va nkarhinyana kumbe va nakrhi hinkwawo va Huvo yo tengisa, lava nga tlhelaka va thoriwa nakambe endzhaku ko tihlanganisa na mutshami wa xitulu; 10
- (c) hlawula xirho xa Huvo yo tengisa, tinihi xandla xa mutshami wa xitulu xa Huvo yo tengisa; na 15
- (d) ku thola vanhu ku tata ndhawu leyi pfulekeke eka Huvo yo tengisa. 15  
(2) munhu a nga fanelanga ku thoriwa tanihi mutshami wa xitulu kumbe xirho xa Huvo yo tengisa loko munhu yoloye—
- (a) a nga ri muakatiko wa Afrika Dzonga; 20
- (b) a nga ri mutshami wa le ka Riphabliki wa nakrhi hinkwawo; 20
- (c) a ri eswikweletini; 20
- (d) a tiyisisiwile swi ri enawini ku va a nga hanyaka kahle emiehleketweni; 20
- (e) a khomiwile eka nkarhi wa 10 ra malembe eka riphabliki kumbe kun'wana hi vukhamba, vuxisi, ku hamba kumbe ku vulavula hi matsalwa ya vunwa, ku hamba ehansi ka xihlambanyo, nandzu ehansi ka *Prevention and Combating of Corrupt activities Act, 2004* (Nawu wa No. 12 wa 2004), nandzu ehansi ka *Financial Intelligence Centre Act, 2001* (Nawu wa No. 38 wa 2001), kumbe nandzu lowu khumbaka ku nga tshembeki; 25
- (f) a khomiwile hi nandzu lowu endliweke endzhaku ka Vumbiwa ra Riphabliki ra Afrika-Dzonga, 1993 (nawu wa No. 200 wa 1993), ri sungule ku tirha na ku gweviwa ku ya ekhotsweni handle ko hlawula ku fayina; kumbe 30
- (g) hikwalaho ka matikhomele yo biha, a susiwile eka hofisi leyi lavaka ku tshembeka. 35
- (3) Vuxirho bya xirho xa Huvo yo tengisa bya herisiwa loko—
- (a) a aleriwa hi ku landza swiyengetsongo swa (1) kumbe (2) ku va xirho xa Huvo yo tengisa; 40
- (b) a tshika hi xitiviso lexi tsariweke lexi kongomisiwaka eka mutshami wa xitulu wa Huvo yo tengisa kumbe Holobye; 40
- (c) a viriwa ku va loyia nga tshamisekangiki emiehleketweni hi Khotonkulu, ku vabya emiehleketweni kumbe a khomiwa ehansi ka *Mental health Act, 1973* (Nawu wa No. 18 wa 1973); 40
- (d) a nga va nga kona eka tinhlangeletano to hundza timbirhi hiku landzelelana handle ko tivisa Huvo yo tengisa; kumbe 45
- (e) a nga ha vi mutshami wa Riphabliki wa nkarhi hinkwawo. 45
- (4) Loko xirho xa Huvo yo tengisa xi lova kumbe ku suka ehofisi ku nga si hela nkarhi wa xona w ova ehofisini, Holobye u fanele ku thola munhu ku siva xivandla lexi pfulekeke eka nkarhi wa 60 wa masiku ku sukela siku ra ku pfuleka ka xivandla ku ringana nkarhi lowu xirho xolexo a xi tholeriwe wona. 50
- (5) Huvo yo tengisa yi va na vanhu lava nga na vuthwaseri byo ringana na ntokoto wa swa ikhonomi, nawu, vumaki bya bindzuntirhisano kumbe timhaka ta mfumo. 50
- (6) Xandla xa mutshami wa xitulu xi endla mitirho ya mutshami wa xitulu nkarhi na nkarhi loko— 55
- (a) hofisi ya mutshami wa xitulu yi pfulekile; kumbe 55
- (b) mutshami wa xitulu a nga koti ku tirha mitirho ya yena swa xinkarhana hikwalaho ka swivangelo swo karhi. 55
- (7) Nkarhi wo va entirhweni wa mutshami wa xitulu na swirho swa Huvo 60

- must be no longer than five years: Provided that should a term be renewed as provided for in paragraphs (1)(a) and (b), the Minister—
- (a) may determine differing terms of service for members, none of which may be longer than five years;
  - (b) must take into account the need for continuity when appointments are made so that the term of office of all members of the Tribunal are not terminated at the same time; and
  - (c) may not appoint a chairperson or member for a third term, consecutive or otherwise.
- (8) The Minister may, after due inquiry, dissolve the Tribunal if it fails to—
- (a) adhere to this Act;
  - (b) perform the functions as contemplated in section 91N.
- (9) Upon dissolution of the Tribunal as contemplated in subsection (8), the Minister must appoint an interim Tribunal in the manner set out in this section, for a period not exceeding six months.

### Functions of Tribunal

- 91N.** The Tribunal or a member of the Tribunal acting in accordance with this Act, may—
- (a) adjudicate applications by any member or director of a co-operative whose rights in terms of the constitution of the co-operative or this Act have been infringed and make such order it considers fit;
  - (b) adjudicate any other application regarding any other infringement of this Act or the constitution of the co-operative and make such order as it considers fit;
  - (c) assist in respect of conflict or dispute resolution as directed by the Minister or as requested or applied for by the Advisory Council, supervisory committee or member of a co-operative after all internal conflict resolution mechanisms have been exhausted;
  - (d) recommend to the Unit responsible for co-operative policy, legislation, strategy and administrative support the appointment of inspectors, investigators and other support staff to carry out inspections or investigations or to provide services to the Tribunal;
  - (e) assist in respect of the process, reference and processing of the requested dissolution, winding-up or liquidation of a co-operative, either by directive from the Minister or upon written request submitted by such co-operative or creditors of such co-operative directly to the Tribunal;
  - (f) assist the relevant agencies with the enforcement of and compliance with the provisions of this Act;
  - (g) assist the registrar of co-operatives in maintaining and updating the co-operative database and registration database;
  - (h) monitor and compel co-operatives to submit financial information as provided for in this Act;
  - (i) provide technical support in respect of any matter pertaining to a co-operative that has been transferred to it by the Agency in accordance with section 91B;
  - (j) have regard to international developments in the field of co-operative law;
  - (k) consult any person, organisation or institution with regard to any matter relating to co-operatives; and
  - (l) where the Agency has referred a co-operative to it for the purposes of placing that co-operative under judicial management, comply with the judicial management provisions set out in section 77 and Schedule 1B.

- yo tengisa a wu fanelanga ku hundza ntlhanu wa malembe: Loko ku ri leswaku nkarhi wa pfuxetiwa tanihilaha swi lulamiseriweke hakona eka tindzimana ta (1)(a) na (b), Holobye—
- (a) a nga ha veka swipimelo swo hambana swa ntirho wa swirho leswi nga hundziki ntlhanu wa malembe; 5
  - (b) u fanele ku tekela enhlokweni swilaveko swa ku ya emahlweni loko ku thoriwa ku endlela leswaku nkarhi wo va entirhweni wa swirho hinkwaswo swa Huvo yo tengisa wu nga tsemiwi hi nkarhi wun'we; naswoma
  - (c) a nga ka a nga tholi mutshami wa xitulu kumbe xirho nkarhi wa vunharhu, hi ku landzelelana kumbe hi ndlela yin'wana. 10
- (8) Endzhaku ko lavisisa, Holobye a nga ha herisa Huvo yo tengisa loko yi hluleka ku—
- (a) landzelela Nawu lowu;
  - (b) endla mitirho tanihilaha swi langutisiweke hakona eka xiyenge xa 91N. 15
- (9) Loko ku herisiwa Huvo yo tengisa tanihlaha swi langutisiweke hakona eka xiyengetsongo xa (8), Holobye u fanele ku thola Huvo yo tengisa ya nkarhinyana hi ndlela leyi vekiweke eka xigenge lexi, nkarhi lowu nga hundziki tin'hwetwi ta tsevu. 20

### Mintirho ya Huvo yo tengisa

91N. Huvo yo tengisa kumbe xirho xa Huvo yo tengisa lexi tirhaka hi ku landza Nawu lowu xi nga ha—

- (a) avanyisa mayelana na xikombelo xihlaha kumbe xihlaha lexi nga endlwaka hi ku landza Nawu lowu, na ku endla xileriso xihlaha kumbe xihlaha lexi faneleke mayelana na xikombelo xolexo; 25
- (b) avanyisa xikombelo xihlaha na xihlaha mayelana ni ku tluriwa ka Nawu lowu kumbe Vumbiwa ra bindzuntirhisano na ku nyika swileriso leswi yi vonaka swi fanerile; 30
- (c) pfuneta mayelana na ntlimbo kumbe xintshuxo xa nkwelembetano tanihilaha swi lerisiweke hi Holobye kumbe swi komberisiweke kumbe ku endla xikombelo eka Huvo yo Tsundzuxa, komiti yo lawula kumbe xirho xa bindzuntirhisano ntsens loko tindlela hinkwato ta le ndzeni to tshunxa nkwelembetano ti endlwile; 35
- (d) bumabumela eka Murhangerinkulu: Mabindzuntirhisano ku thola vakamberi, valavisisi na vatirhi van'wana vo pfuneta ku endla vukamberi kumbe vulavisisi kumbe ku lulamisela mitirho ya Huvo yo tengisa; 40
- (e) pfuneta mayelana na endlwile, ku yelanisa na ku endlwile ka xikombelo xo herisa, ku hangalasa xuma xa bindzuntirhisano, ku nga ha va hi xileriso xo suka eka Holobye kumbe xikombelo lexi tsariweke bindzuntirhisano rolero kumbe vakolotiwa va bindzuntirhisano rolero ku ya eka Huvo yo tengisa; 45
- (f) pfuneta hi ku sindzisa na ku landzelela ku lulamisela ka Nawu lowu;
- (g) pfuneta mutsarisi wa mabindzuntirhisano ku hlayisa na ku lulamisa databeyisi ya mabindzuntirhisano na ku tsarisa databeyisi; 50
- (h) langutela na ku sindzisa mabindzuntirhisano ku yisa mahungu ya timali tanihlaha swi lulamiseriweke eka nawu lowu;
- (i) nyika nseketelo wa xithekiniki mayelana na mhaka yihlaha na yihlaha leyi fambelanaka bindzuntirhisano leyi hundziseriweke eka yona hi Ejensi hi ku landza xiyenge xa 91B; 55
- (j) ku tekela enhlokweni nhluvukiso wa matiko ya le handle eka xiyenge xa nawu wa bindzuntirhisano;
- (k) tihlanganisa na munhu un'wana na un'wana, nhlanganano kumbe xivandla mayelana na mhaka yihlaha na yihlaha; na
- (l) ku hundzisa timhaka leti fambelanaka na bindzuntirhisano leti nga hundziseriwa eka huvo hi Ejensi ya vufambisi bya swa nawu hi ku landza xiyenge xa 77 na Xedulu ya 1B.

**Prohibition on Tribunal**

- 91O.** The Tribunal or any member of the Tribunal must not—
- (a) adjudicate on any matter related to the Co-operative Banks Appeals Board or any other body with similar powers; and
  - (b) take receipt of any matter referred to it by the Co-operative Banks Appeals Board or any other body with similar powers.

**Appointment and composition of investigators, inspectors or inspectorate**

- 91P.** (1) The Tribunal, as directed by the Minister—
- (a) must recommend the appointment of any suitable employee of the Tribunal or any other suitable person employed by the State, as the case may be, as inspector or investigator; and
  - (b) must issue each inspector or investigator with a certificate in the prescribed form stating that the person has been appointed as an inspector or investigator in terms of this Act.
- (2) When an inspector or investigator performs any of his or her functions in terms of this Act, the inspector or investigator—
- (a) must be in possession of a certificate issued by the Tribunal to him or her in terms of subsection (1);
  - (b) must inform any person who is affected by the inspector's or investigator's actions in terms of this Act of the existence of the certificate referred to in sub-section (2)(a) and of that person's right to see it; and
  - (c) must show that certificate to any such person who—
    - (i) is affected by the inspector's or investigator's actions in terms of this Act; and
    - (ii) requests to see the certificate.

**Adjudication of hearings before Tribunal**

- 91Q.** (1) The Tribunal—
- (a) must conduct its adjudication proceedings contemplated in this Act expeditiously and in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
  - (b) may conduct its adjudication proceedings informally at a time and place determined by the Tribunal.
- (2) Adjudication proceedings before the Tribunal must be open to the public, provided that the Tribunal may exclude members of the public or specific persons or categories of persons from attending the proceedings—
- (a) if in the opinion of the Tribunal, the evidence to be presented is confidential information, but only to the extent that the information cannot otherwise be protected;
  - (b) if proper conduct of the hearing requires it; or
  - (c) for any other reason that would be justifiable in civil proceedings in a High Court.
- (3) At the conclusion of the adjudication of the hearing, the presiding member must issue a decision together with written reasons for the decision.

**Right to participate in hearing**

**91R.** The following persons may participate in an adjudication hearing contemplated in this Chapter, in person or through a representative, and



**Ku aleriwa ka Huvo yo tengisa**

**91O.** Huvo yo tengisa kumbe xirho xa huvo yo tengisa a xi fanelanaga ku—

- (a) avanyisa timhaka leti fambelanaka na Bodo yo Apila ya Tibangi ta Bindzuntirhisano kumbe huvo yin'wana na yin'wana leyi nga na matimba lama fanaka; na 5
- (b) ku amukela timhaka leti hundziseriweke eka yona hi Bodo yo Apila ya Tibangi ta Bindzuntirhisano kumbe huvo yin'wana leyi nga na matimba lama fanaka.

**Ku thola na lava nga ta va valavisisi, vakamberi kumbe vukamberi** 10

**91P.** (1) Huvo yo tengisa tanihilaha yi nga leteriwa hi Holobye—

- (a) yi fanele ku bumabumela ku thoriwa ka mutirhi wihi kumbe wihi loyi a ringaneleke wa Huvo yo tengisa kumbe munhu wihi kumbe wihi loyi a ringaneleke loyi a thoriweke hi Mfumo, tanihilaha xiyimo xi nga ta va xi ri hakona, tanihi mukamberi kumbe mulavisisi; na 15
- (b) yi fanele ku nyika mukamberi na mulavisisi setifikheti hi ndlela leyi vekiwewe leyi vulaka leswaku munhu yoloye u thoriwile tanihi mukamberi kumbe mulavisisi hi ku landza Nawu lowu.
- (2) loko mukamberi kumbe mulavisisi a endla ntirho wihi kumbe wihi wa mukamberi hi ku landza Nawu lowu, mukamberi kumbe mulavisisi— 20
- (a) u fanele ku va a ri na setifikheti yo thoriwa leyi nyikiweke mukamberi yoloye hi Huvo yo tengisa hi ku landza xiyengetsongo xa (1);
- (b) u fanele ku tivisa munhu wihi kumbe wihi loyi a khumbekaka hi swendlo swa mukamberi kumbe mulavisisi hi vukona bya setifikheti leyi vuriweke eka xiyengetsongo xa (2) 9a hi ku landza Nawu lowu na timfanelo ta muhu yoloye ta yi vona; na 25
- (c) u fanele ku komba setifikheti yoleyo eka munhu wihi kumbe wihi loyi a— 30
- (i) khumbekaka hi swendlo swa mukamberi kumbe mulavisisi hi ku landza Nawu lowu; na
- (ii) loko a kombela ku vona setifikheti.

**Ku avanyisiwa ka ntengo emahlweni ka Huvo yo tengisa**

**91Q.** (1) Huvo yo tengisa—

- (a) yi fanele ku endla mafambiselo ya vuavanyisi bya yona lawa ya langutisiweke eka Nawu lowu hi xihatla na hi ku landza Promotion of Administrative Justice Act, 2000 (Nawu wa No. 3 wa 200); naswona 35
- (b) yi nga ha endla mafambiselo ya yona ya vuavanyisi hi ndlela yo ka yi nga ri ya ximfumo hi karhi na ndhawu leyi vekiwewe hi Huvo yo tengisa.
- (2) Mafambiselo ya vuavanyisi emahlweni ka Huvo yo tengisa ya fanele ku va lama pfulekeke eka vanhu, loko ku ri leswaku Huvo yo tengisa yi nga ha alela swirho swa vanhu kumbe vanhu vo karhi kumbe nkhetekanyo wa vanhu ku va kona eka mafambiselo— 40
- (a) loko kuri leswaku ku ya hi hi vonelo ra Huvo yo tengisa, vumbhoni lebyi nga ta nyikiwa i mahungu ya xihundla, kambe ku ri xihundla xo fikela laha mahungu ya nga ta ka ya nga sirheleleki 45
- (b) loko matikhomele ya kahle ya ntengo ya lava swona; kumbe
- (c) hikwalaho ka xivangelo xihhi kumbe xihhi lexi nga hlamuselekaka eka mafambiselo ya Khotonkulu.
- (3) Emahetelelweni ya mafambiselo ya vuavanyisi, xirho lexi rhangelaka xi fanele ku nyika xiboho xikan'we na swivangelo swa xiboho leswi tsariweke. 50

**Mfanelo yo nghenelela eka ntengo**

**91R.** Vanhu lava landzelaka va nga ha nghenelela eka ntengo wo avanyisa lowu langutisiweke eka Kavanyisa loku, hi xiviri kumbe hi 55

may put questions to witnesses and inspect any books, documents or items presented at the hearing:

- (a) The Agency;
- (b) the Commission;
- (c) the applicant or complainant; or
- (d) any other person who has a material interest in the hearing, unless in the opinion of the Tribunal that interest is adequately represented by another participant.

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#### **Powers of Tribunal in adjudicating hearing**

**91S.** The Tribunal may—

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- (a) question any person under oath or affirmation;
- (b) give directions prohibiting or restricting the publication of any evidence given to the Tribunal; and
- (c) direct, order or summon any person—
  - (i) to appear at any specified reasonable time and place;
  - (ii) to produce any book, document or item necessary for the purposes of the hearing; or
  - (iii) to perform any other act in relation to this Act.

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#### **Rules of procedure**

**91T.** Subject to the provisions of this Act, the Tribunal may determine the procedure for an adjudication hearing, with due regard to the circumstances of the case and in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

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#### **Witnesses**

**91U.** (1) Any person giving evidence at an adjudication hearing before the Tribunal must answer all questions directed to him or her at the hearing.

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(2) During an adjudication hearing, the Tribunal may order a person to answer any question or to produce any article or document.

#### **Appointment, composition and functions of Co-operative Conflict Resolution Commission**

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**91V.** (1) The Tribunal must constitute a Co-operative Conflict Resolution Commission as and when it considers it necessary or desirable, which Commission may be dissolved at the discretion of the Tribunal.

(2) The Commission must consist of not less than five members.

(3) The chairperson of the Tribunal may refer any matter that has been submitted to the Tribunal to the Commission for mediation and resolution if the chairperson is of the view that the interests of justice, the co-operative concerned and the members of the co-operative concerned would be served by such referral.

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(4) Any party who does not accept the finding of the Commission may, within a period of thirty days after such finding, request in writing that the matter and the finding be referred to the Tribunal for adjudication and final decision.

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#### **Right to information**

**91W.** (1) The Tribunal, an investigator, inspector or inspectorate as contemplated in section 91P has the right of access at all times to all records, books and documents of every co-operative, and is entitled to

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muyimeri naswona va nga ha vutisa timbhoni swivutiso na ku kambela tibuku, matsalwa na tiayitheme leti nyikiweke eka ntengo:

- (a) Ejesi;
- (b) Khomixini;
- (c) muendli wa xikombelo kumbe muvileri; kumbe
- (d) munhu wihi kumbe wihi loyi a nga na ku tsakela eka ntengo, handlekaloko hi ku vona ka Huvo yo tengisa ku tsakela koloko ku yimeriwa hi ku ringana hi un'wana la nghenelelaka.

#### **Matimba ya Huvo yo tengisa eku avanyiisiweni ka ntengo**

**91S.** Huvo yo tengisa yi nga ha— 10

- (a) vutisa munhu wihi kumbe wihi ehansi ka xihlambanyo kumbe ku ntiyisiso
- (b) nyika swiletelo leswi aelaka kumbe ku sivela ku hangalasiwa ka ka vumbhoni lebyi nyikiweke Huvo yo tengisa; na
- (c) ku letela, ku lerisa kumbe ku vitana munhu wihi kumbe wihi— 15
  - (i) ku va kona hi nkarhi lowu vekiweke lowu twisisekaka na ndhawu;
  - (ii) ku humesa buku yihi kumbe yihi, tsalwa kumbe ayitheme leyi faneleke hi xikongomelo xa ntengo; kumbe
  - (iii) ku endla xiendlo xihhi kumbe xihhi mayelana na Nawu lowu. 20

#### **Milawu ya mafambiselo**

**91T.** Ku ya hi ku lulamisela ka Nawu lowu, Huvo yo tengisa yi nga ha veka maendlelo ya ntengo wo avanyisa, ku ya swiyimo swa nandzu na hi ku ya hi *Promotion of Administrative Justice Act* (Nawu wa No. 3 wa 2000).

#### **Timbhoni** 25

**91U.** (1) Munhu un'wana na un'wana loyi a nyikaka vumbhoni emahlweni ka Huvo yo tengisa eka ntengo wo avanyisa u fanele ku hlamula swivutiso hinkwaswo leswi kongomisiweke eka yena hi nkarhi wa ntengo.  
(2) Hi nkarhi wa ntengo wo avanyisa, Huvo yo tengisa yi nga ha lerisa munhu ku hlamula xivutiso xihhi kumbe xihhi kumbe ku humesa atikili yihi kumbe yihi kumbe tsalwa. 30

#### **Ku thoriwa, lava vumbaka na mitirho ya Khomixini yo Tshunxa Ntlimbo ya Bindzuntirhisano**

**91V.** (1) Huvo yo tengisa yi fanele ku sungula Khomixini yo Tshunxa Ntlimbo loko swi laveka, leyi nga ta herisiwa hi ku tsakela ka Huvo yo tengisa. 35

(2) Khomixini yi fanele ku vumbiwa hi swirho leswi nga riki hansi ka ntlhanu.

(3) Mutshami wa xitulu wa Huvo yo tengisa a nga ha hundzisela mhaka yihi kumbe yihi leyi yisiweke eka Huvo yo tengisa eka Khomixini ku kuma vulamuri na xitshunxo loko hi ku vona ka mutshami wa xitulu hi ku tsakela ka vululami, bindzuntirhisano leri khumbekaka na swirho swa bindzuntirhisano leri khumbekaka swi ta pfuneka hi ku hundziseriwa koloko. 40

(4) Munhu wihi kumbe wihi loyi a nga amukeleki leswi kumiweke hi Khomixini a nga ha kombela leswaku mhaka na leswi kumiweke swi hundziseriwa eka Huvo yo tengisa ku va yi swi languta na ku teka xiboho xo hetelela hi ku tsala ku nga si hela makumenharhu wa masiku endzhaku ka loko swi ta va swi kumiwile. 45

#### **Mfanelo ya mahungu** 50

**91W.** (1) Huvo yo tengisa, mulavisisi, mukamberi kumbe vukamberi tanihilaha swi langutisiweke eka xiyenge xa 91P, yi na mfanelo yo kuma tirhekhodo hinkwato hi mikarhi hinkwayo, tibuku na matsalwa ya

require from the directors or employees of the co-operative any information and explanations necessary for the performance of the functions of the Tribunal, investigator, inspector or inspectorate.

(2) A co-operative, director or employee who fails to comply with subsection (1) is guilty of an offence.

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### Summons

**91X.** (1) At any time during an investigation, the Tribunal or the Commission, as the case may be, may issue a summons to any person who is believed to be able to furnish any information on the subject of the investigation or to have possession or control of any book, document or other object that has a bearing on that subject, to—

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- (a) appear before the Tribunal, Commission, an inspector or investigator, to be questioned at a time and place specified in the summons; or
- (b) deliver or produce to the Tribunal, Commission, an inspector or investigator, any book, document or other object referred to in paragraph (a), at a time and place specified in the summons.

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(2) A summons contemplated in subsection (1)—

- (a) must be signed by the chairperson of the Tribunal or Commission, as the case may be, or by an employee of the Tribunal or Commission designated in writing by the chairperson concerned; and
- (b) may be served in the same manner as a subpoena in a criminal case issued by a Magistrates' Court.

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(3) An inspector or investigator before whom a person is summoned to appear or to whom a person is required to deliver any book, document or other object, may—

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- (a) interrogate and administer an oath to, or accept an affirmation from, the person named in the summons; and
- (b) retain any such book, document or other object for examination, for a period not exceeding two months or such longer period as the Tribunal or Commission, on good cause shown, may allow.

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(4) A person questioned by the Tribunal, Commission, an inspector or investigator conducting an investigation must answer each question truthfully and to the best of that person's ability, but—

- (a) a person is not obliged to answer any question if the answer is self-incriminating; and
- (b) the person asking the questions must inform that person of the right set out in paragraph (a).

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(5) No self-incriminating answer given or statement made by any person to the Tribunal, Commission, an inspector or investigator exercising powers in terms of this Act will be admissible as evidence in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in section 92(2)(a) and only to the extent that the answer or statement is relevant to the offence.

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### Authority to enter and search under warrant

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**91Y.** (1) A judge of the High Court or a magistrate may issue a warrant to enter and search any premises that are within the jurisdiction of that judge or magistrate if, from information on oath or affirmation, there are reasonable grounds to believe that—

bindzuntirhisano naswona yi na mfanelo yo lava mahungu wahi kumbe wahi na tinhlamuselo leti lavekaka ku endlela ku tirha mitirho ya Huvo yo tengisa, mulavisisi, mukamberi kumbe vukamberi.

(2) Bindzuntirhisano, murhangeri kumbe muofisiri loyi a hlulekaka ku landzelela xiyengetsongo xa (1) u na nandzu.

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### Masamanisi

**91X.** (1) Nkarhi wun'wana na wun'wana lowu ku endlwaka ndzavisiso.

Huvo yo tengisa kumbe Khomixini, tanihilaha xiyimo xi nga ta va xi ri hakon, yi nga ha nyika samanisi eka munhu un'wana na un'wana loyi a ehleketeleriwaka ku va a kota ku nyika mahungu wahi kumbe wahi eka mhaka leyi lavisisiwaka kumbe ku va na buku yihi kumbe yihi, tsalwa kumbe nchumu wun'wana lowu fambelanaka na mhaka yoleyo ku—

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(a) ya emahlweni ka Huvo yo tengisa kumbe Khomixini kumbe emahlweni ka mukamberi kumbe mulavisisi, ku vutisiwa eka nkarhi na ndhawu leyi vekaweke eka samanisi; kumbe

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(b) ku yisa kumbe ku humesa buku yihi kumbe yihi, tsalwa kumbe nchumu wun'wana lowu vuriweke eka ndzimana ya (a) eka Huvo yo tengisa kumbe Khomixini kumbe eka mukamberi eka nkarhi na ndhawu leyi vuriweke eka samanisi.

(2) Samanisi leri langutisiweke eka xiyengetsongo xa (1)—

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(a) ri fanele ku sayiniwa hi Mutshami wa xitulu waHuvo yo tengisa kumbe khomixini, tanihlaha xiyimo xi nga ta va xiri hakona, kumbe hi mutirhi wa Huvo yo tengisa kumbe Khomixini leyi rhumeriweke hi mutshami wa xituli loyi a khumbekaka hi ku tsala; na

(b) ri nga nyikiwa hi ndlela yo fana na manyikelo ya xileriso xo ya ekhoto eka nandzu wa vugevenga lexi nyikiwaka hi khoto ya majisitarata.

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(3) Mukamberi kumbe mulavisisi loyi munhu a lerisiwaka ku ya emhalweni ka yena kumbe loyi munhu a faneleke ku yisa buku yihi kumbe yihi, tsalwa kumbe nchumu wun'wana a nga ha—

(a) konanisa na ku n'wi nyika xihlambanyo kumbe ku amukela xitiyisiso ku suka eka munhu loyi a vuriweke eka masamanisi; na

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(b) khoma buku yo tano, tsalwa kumbe nchumu wun'wana ku wu kambisisa, ku ringana nkarhi lowu nga hundziki tin'hweti timbirhi kumbe nkarhi lowu nga ta pfumeleriwa hi khoto loko ku kombiwile xivangelo xa kahle.

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(4) Munhu loyi a vutisiweke hi Huvo yo tengisa, Khomixini mukamberi kumbe mulavisisi loyi a endlaka vulavisisi u fanele ku hlamula xivutiso xin'wana na xin'wana hi ntiyiso na hi vuswikoti bya xiyimo xa le henhla xa munhu yoloye, kambe—

(a) munhu a nga boheki ku hlamula xivutiso xihhi na xihhi loko nhlamulo ya xona yi n'wi endlala vaka na nandzu; na

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(b) munhu la vutisaka swivutiso u fanele ku tivisa munhu yoloye hi timfanelo leti vekaweke eka ndzimana ya (a).

(5) A ku na nhlamulo leyi nyikiweke leyi endlaka munhu a va na nandzu kumbe xitatimende lexi endlaweke hi munhu wihhi kumbe wihhi eka Huvo yo tengisa, Khomixini, mukamberi kumbe mulavisisi loyi a tirhisaka matimba hi ku landza Nawu lowu xi nga ta amukeriwa tanihi vumbhoni eka mafambiselo ya nandzu ehenhla ka munhu yoloye lexi endlaweke eka khoto yihi kumbe yihi, handle ka le ka mafambiselo ya nandzu wo hlambanya hi vunwa kumbe lowu munhu yoloye a tengisiwaka hi nandzu lowu langutisiweke eka xiyenge xa 92(2)(a) naswona ntsena ku fika eka xiyimo lexi nhlamulo kumbe xitaitimende xi faneleke eka nandzu.

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### Matimba yo nghena na ku secha ehansi ka mpfumelelo

**91Y.** (1) Muavanyisi wa Khotonkulu kumbe majisitarata a nga ha nyika mpfumelelo wo nghena na ku secha tindhawu tihhi kumbe tihhi leti nga ehansi ka vulawuri bya muavanyisi kumbe majisitarata yoloye, loko, ku suka eka mahungu ya xihlambanyo kumbe xitiyisiso, ku ri na swivangelo swo twala swo tshemba leswaku—

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- (a) a contravention of this Act has taken place, is taking place or is likely to take place on the premises; or
  - (b) that anything connected with an investigation in terms of this Act is in the possession of or under the control of a person who is on the premises. 5
- (2) A warrant to enter and search may be issued at any time and must specifically—
- (a) identify the premises that may be entered and searched; and
  - (b) authorise an investigator, inspector or police officer to enter and search the premises to question any person or inspect any books, documents or items found on the premises. 10
- (3) A warrant to enter and search is valid until the occurrence of the following:
- (a) The warrant is executed;
  - (b) the warrant is cancelled by the person who issued it or by a person with similar authority as the person who issued it;
  - (c) the purpose for issuing it has lapsed; or
  - (d) the expiry of one month after the date on which it was issued. 15
- (4) A warrant to enter and search may be executed only during the day, unless the judge or magistrate who issued it, authorises that it may be executed at night at a time that is reasonable in the circumstances. 20
- (5) A person authorised by a warrant issued in terms of subsection (2) may enter and search the premises named in that warrant.
- (6) Immediately before commencing with the execution of a warrant, a person executing that warrant must— 25
- (a) if the owner or person in control of the premises to be searched, is present—
    - (i) provide identification to that person and explain to that person the authority by which the warrant is being executed; and
    - (ii) hand a copy of the warrant to that person or to the person named in it; or 30
  - (b) if none of the persons contemplated in paragraph (a) are present, affix a copy of the warrant to the premises in a prominent and visible place, and must return within a reasonable time to check if the persons contemplated in paragraph (a) have returned or take any necessary and lawful steps to secure the presence of such a person. 35

**Powers to enter and search**

- 91Z.** (1) A person who is authorised under section 91Y to enter and search premises, may—
- (a) enter the premises; 40
  - (b) search the premises;
  - (c) search any person on the premises if there are reasonable grounds for believing that the person has personal possession of an article or document that has a bearing on the investigation;
  - (d) examine any article or document that is on or in those premises that has a bearing on the investigation; 45
  - (e) request information about any article or document from the owner, or person in control, of the premises or from any person who has control of the article or document or from any other person who may have the information; 50
  - (f) take extracts from, or make copies of, any book or document that is on or in the premises that has a bearing on the investigation;
  - (g) use any computer system on the premises, or require the assistance of any person on the premises to use that computer system, to— 55
    - (i) search any data contained in or available to that computer system;

- (a) ku vile na ku tluriwa ka Nawu lowu, ku le ku humeleleni kumbe ku nga ha humelela eka tindhawu toleto; kumbe
- (b) leswaku swo karhi leswi fambelanaka na vulavisisi hi ku landza Nawu lowu swi na, kumbe swi le ka vulawuri bya munhu loyi a nga endhawini yoleyo. 5
- (2) Mpfumelelo wo nghena na ku secha wu nga ha nyikiwa nkarhi wun'wana na wun'wana naswona wu fanele ku veka erivaleni—
- (a) ku boxa tindhawu leti nga ha ngheniwaka na ku sechiwa; na
- (b) ku nyika matimba eka mulavisisi, mukamberi kumbe phorisa yo nghena na ku secha tindhawu yoleyo ku vutisa munhu un 'wana na un' wana kumbe ku kambela tibuku tihi kumbe tihi, matsalwa kumbe tiayitheme leti kumekaka endhawini yoleyo. 10
- (3) Mpfumelelo wo nghena na ku secha wu tirha ku fikela loko:
- (a) Mpfumelelo wu tirhisiwile;
- (b) mpfumelelo wu khanseriwa hi munhu loyi a wu nyikeke kumbe hi munhu loyi a nga na matimba lawa ya fanaka na loyi a wu nyikeke;
- (c) xikongomelo xo nyikiwa ka wona xi herile; kumbe
- (d) ku hundzeriwa hi nkarhi wa n'hwetl loko wu ta va wu nyikiwile. 15
- (4) Mpfumelelo wo nghena no secha wu nga ha tirhisiwa na nhlikani ntsena, handlekaloko muavanyisi kumbe majisitarata loyi a wu nyikeke a nyika matimba ya leswaku wu nga ha tirhisiwa navusiku hi nkarhi lowu tiwisisekaka eka swiyimo swa kona. 20
- (5) Munhu loyi a nyikiweke matimba hi mpfumelelo lowu nyikiweke hi ku landza xiyenge xa (2) a nga ha nghena na ku secha tindhawu leti vuriweke eka mpfumelelo. 25
- (6) Xikan'wekan'we loko ku nga si sungula ku tirhisiwa mpfumelelo, munhu loyi a nqa tirhisaka mpfumelelo wolowo u fanele—
- (a) loko n'wini wa ndhawu leyi faneleke ku sechiwa kumbe munhu loyi a nga na vulawuri bya yona a ri kona—
- (i) a nyika xo titivisa eka munhu yoloye na ku hlamusela munhu yoloye matimba lawa ha wona mpfumelelo wu tirhisiwaka; na
- (ii) ku nyika munhu yoloye kumbe munhu loyi a vuriweke eka mpfumelelo khopi ya mpfumelelo; kumbe
- (b) loko lava vuriweke eka ndzimana ya (a) va nga ri kona, a namarheta khopi ya mpfumelelo eka ndhawu leyi vonakaka a tlhela a vuya hi nkarhi lowu twisisekaka ku ta kamba loko vanhu lava langutisiweke eka ndzimana ya (a) va nga vuyanga kumbe ku teka magoza lama faneleke na ku va enawini ku tiyisisa vukona bya munhu yoloye. 30 35

### Matimba yo nghena na ku secha

- 91Z.** (1) Munhu loyi a nyikiweke matimba yo nghena na ku secha tindhawu ehansi ka xiyenge xa 91Ry a nga ha— 40
- (a) nghena eka tindhawu toleto;
- (b) secha tindhawu toleto;
- (c) secha munhu wihi kumbe wihi loyi a nga etindhawini toleto loko ku ri na swivangelo swo twala swo tshemba leswaku munhu yoloye u khomile atikili kumbe tsalwa leri khumbekaka eka vulavisisi; 45
- (d) kambela atikili yihi kumbe yihi kumbe tsalwa leri nga eka tindhawu teto leri khumbekaka eka vulavisisi;
- (e) kombela mahungu hi atikili yihi kumbe yihi kumbe tsalwa ku suka eka n'wini wa rona, kumbe munhu loyi a nga na vulawuri bya tindhawu kumbe ku suka eka munhu loyi a nga na vulawuri bya atikili kumbe tsalwa kumbe ku suka eka munhu wihi kumbe wihi loyi a nga va ka a ri na mahungu; 50
- (f) teka mitshaho kumbe ku endla tikhopi ku suka eka buku yihi kumbe yihi kumbe tsalwa leri nga etindhawini leri khumbekaka eka vulavisisi; 55
- (g) tirhisa sisiteme yihi kumbe yihi ya khomphyuta leyi nga etindhawini kumbe ku lava ku pfuniwa hi munhu wihi kumbe wihi loyi a nga etindhawini ku tirhisa sisiteme yoleyo ya khomphyuta ku—
- (i) secha data yihi kumbe yihi leyi nga eka khomphyuta yoleyo; 60

- (ii) reproduce any record from that data that has a bearing on the investigation; or
  - (iii) seize any output from that computer system that has a bearing on the investigation for examination and copying; and
  - (h) attach and, if necessary, remove from the premises for examination and safekeeping, anything that has a bearing on the investigation.
- (2) Section 91AA applies to—
- (a) any person questioned by an inspector or a police officer in terms of this section; and
  - (b) to any answer given or statement made to an inspector or a police officer in terms of this section.
- (3) An inspector authorised to conduct an entry and search in terms of section 91Y may be accompanied and assisted by a police officer.

**Conduct of entry and search**

- 91AA.** (1) A person who enters and searches any premises under this Chapter must conduct the entry and search with strict regard for decency and order, and with regard for each person’s right to dignity, freedom, security and privacy.
- (2) During any search contemplated in this Chapter, only a female inspector or police officer may search a female person and only a male inspector or police officer may search a male person.
- (3) A person who enters and searches any premises under this Chapter must, before questioning any person—
- (a) advise that person of the right to be assisted at the time by an advocate or attorney; and
  - (b) allow that person reasonable time to exercise the right contemplated in paragraph (a).
- (4) A person who removes anything from the premises being searched, must—
- (a) issue a receipt for it to the owner or person in control of the premises; and
  - (b) return it as soon as practicable after achieving the purpose for which it was removed.
- (5) Subject to subsection (6), during a search a person may only refuse to permit the inspection or removal of an article or document on the ground that it contains privileged information.
- (6) If the owner or person in control of an article or document refuses in terms of subsection (5) to give that article or document to the person conducting the search, the person conducting the search may request the registrar or sheriff of the High Court that has jurisdiction to attach and remove the article or document for safe custody until that court determines whether or not the information is privileged.
- (7) The Commission must compensate anyone who suffers damage because of a forced entry during a search.

**Compromise between co-operative and creditors**

- 91BB.** (1) This section applies to every co-operative.
- (2) The board of a co-operative or the liquidator of a co-operative that is being wound up, may propose an arrangement or a compromise of its financial obligations to all its creditors or to all the members of any class of its creditors, by delivering a copy of the proposal and notice of the meeting to consider the proposal, to—
- (a) every creditor of the co-operative or every member of the relevant



- (ii) ku kandziyisa nakambe rhekhodo yihi kumbe yihi ku suka eka data yoleyo; kumbe
- (iii) teka swihi kumbe swihi leswi nga tekiwaka eka khomphyuta yoleyo ku swi kambela na ku swi kopa; na
- (h) ku khomanisa na ku susa nchumu wun'wana na wun'wana lowu khumbekaka eka vulavisisi eka tindhawu toleto ku ya kambela kumbe ku hlayisa loko swi fanerile. 5
- (2) Xiyenge xa 91AA xi tirha eka—
- (a) munhu wihi kumbe wihi loyi a vutisiwaka hi mukamberi kumbe phorisa hi ku landza xiyenge lexi; na 10
- (b) le ka nhlamulo yihi kumbe yihi kumbe xitatimende lexi nyikiweke mukamberi kumbe phorisa hi ku landza xiyenge lexi.
- (3) Mukamberi loyi a pfumeleriweke ku nghena na ku secha hi ku landza xiyenge xa 91Y a nga ha famba xikan'we na ku pfuniwa hi phorisa. 15

### **Ku nghena na ku secha**

- 91AA.** (1) Munhu loyi a nghanaka na ku secha tindhawu ehansi ka Kavanyisa loku u fanele ku nghena na ku secha hi ku tekela enhlokweni mhaka ya ku va kahle na ku veketela swilo kahle, na ku tekela enhlokweni mfanelo ya munhu un 'wana na un' wana ya ndzhuti, tshunxeko, nsirhelelo na xihundla. 20
- (2) Hi nkarhi wa ku secha kwihi na kwihi loku langutisiweke ehansi ka Kavanyisa loku, i mukamberi wa xisati ntsena kumbe phorisa loyi a nga sechaka munhu wa xisati na mukamberi wa xinuna kumbe phorisa a nga sechaka munhu wa xinuna. 25
- (3) Munhu loyi a nghanaka na ku secha tindhawu ehansi ka Kavanyisa loku, loko a nga si vutisa munhu wihi kumbe wihi—
- (a) u fanele ku tsundzuxa munhu yoloye hi mfanelo yo pfuniwa hi qwetankulu kumbe qweta hi nkarhi wolowo; na
  - (b) ku pfumelela munhu yoloye ku tirhisa timfanelo leti langutisiweke eka ndzimana ya (a). 30
- (4) Munhu loyi a susaka xanchumu ku suka eka tindhawu leti sechiwaka u fanele ku—
- (a) nyika rhasiti ya xona eka n'wini wa ndhawu kumbe eka munhu loyi a nga na vulawuri bya yona; na
  - (b) ku tlherisa nchumu wolowo hi xihatla lexi kotekaka endzhaku ko fikelela xikongomelo lexi a wu tekeriwa xona. 35
- (5) Ku ya hi xiyengetsongo xa (6), hi nkari wo secha munhu a nga ha ala ku pfumelela vukamberi kumbe ku susiwa ka atikili kumbe tsalwa ntsena hi xivangelo xa leswaku ri na mahungu lawa ya nga xihundla. 40
- (6) Loko n'wini kumbe loyi a nga na vulawuri bya atikili kumbe tsalwa leri sechiwaka a ala ku nyika atikili kumbe tsalwa eka munhu loyi a endlaka vulavisisi hi ku landza xiyenge xa (5), munhu loyi a sechaka a nga ha kombela mutsarisi kumbe xandla xa Majaji (*xerifi*) ya Khotonkulu ya ndhawu yoleyo ku khomisa na ku susa atikili kumbe tsalwa ku va ri hlayisiwa ku fikela khoto yoleyo yi teka xiboho xa loko mahungu ya ri xihundla kumbe ya nga ri xihundla. 45
- (7) Khomixini yi nga ha rilisa munhu wihi na wihi loyi a onhakeriweke hikwalaho ka ku nghena hi ku tirhisa matimba hi nkarhi wo secha.

### **Ku twelana exikarhi ka bindzuntirhisano na vakolotiwa**

- 91BB.** (1) Xiyenge lexi xi tirha eka bindzuntirhisano rin'wana na rin'wana. 50
- (2) Bodo ya bindzuntirhisano kumbe muhangalasi wa bindzuntirhisano leri herisiwaka, yi nga ha ringanyeta ku lulamisela ku twelana eka ku boheka ka rona hi swa timali eka vakolotiwa va rona hinkwavo, kumbe swirho hinkwaswo swa ntlawa wihi kumbe wihi wa vakolotiwa va rona, hi ku yisa khopi ya swiringanyeto na xitiviso xa nhlengeletano ku langutisisa xiringanyeto eka—
- (a) mukolotiwa un'wana na un'wana wa bindzuntirhisano, kumbe xirho xinwana na xin'wana xa ntlawa lowu faneleke wa mukolotiwa loyi 55

- class of creditors whose name or contact details are known to or can reasonably be obtained by the co-operative; and
- (b) the Tribunal.
- (3) A proposal contemplated in subsection (2) must contain all the information reasonably required to enable the creditors to decide whether or not to accept or reject the proposal, and must be divided into the following three parts:
- (a) Part A: Background, which must include at least—
- (i) a complete list and valuation of all the material assets of the co-operative and an indication as to which assets are held as security by creditors as of the date of the proposal;
  - (ii) a complete list of the creditors of the co-operative and the amount of their claims as of the date of the proposal, an indication as to which creditors would qualify as secured, preferential or concurrent in terms of the laws of insolvency and an indication of which of the creditors have proved their claims;
  - (iii) the reasonably likely benefits, if any, that would be received by creditors, in their specific classes, if the co-operative were to be placed in liquidation; and
  - (iv) whether the proposal includes a proposal made informally by a creditor of the co-operative.
- (b) Part B: Proposals, which must include at least—
- (i) the nature and duration of any proposed debt moratorium;
  - (ii) the extent to which the co-operative is to be released from the payment of its debts;
  - (iii) the treatment of existing contracts and the ongoing activities of the co-operative;
  - (iv) the property of the co-operative that is proposed to be available to pay creditors' claims;
  - (v) the order of preference in which the proceeds of property of the co-operative will be applied to pay creditors if the proposal is adopted; and
  - (vi) the benefits of adopting the proposal as compared to the benefits that would be received by creditors if the co-operative were to be placed in liquidation.
- (c) Part C: Assumptions and conditions, which must include at least—
- (i) a statement of the conditions that must be satisfied, if any, for the proposal to—
    - (aa) come into operation; and
    - (bb) be fully implemented;
  - (ii) the effect, if any, that the proposal contemplates on the number of employees and their terms and conditions of employment; and
  - (iii) a projected—
    - (aa) balance sheet for the co-operative; and
    - (bb) statement of envisaged income and expenses for the ensuing three years, prepared on the assumption that the proposal is accepted.
- (4) The projected balance sheet and statement contemplated in subsection (3)(c)(iii)—
- (a) must include a notice of any significant assumptions on which the projections are based; and

- vito kumbe adirese ya yena yi tivekaka eka bindzuntirhisano kumbe ri nga kumekaka hi ku olova hi bindzuntirhisano; na
- (b) Huvo yo tengisa.
- (3) Xiringanyeto lexi langutisiweke eka xiyengetsongo xa (2) xi fanele ku va na mahungu hinkwawo lawa ya lavekaka ku vevukisela vakolotiwa ku teka xiboho xa loko ku ri leswaku va nga amukela kumbe va nga amukeli xiringanyeto, naswona xi fanele ku avanyisiwa hi swiphemu swinharhu leswi landzelaka:
- (a) Xiphemu xa A: Mahungu ya masungulo, lawa ya faneleke ku katsa—
- (i) nxaxamelo lowu heleleke wa tinhundzu hinkwato ta bindzuntirhisano, ku katsa na ku kombisa leswaku hi tihhi tinhundzu leti nga na vakolotiwa hinkarhi wa ku endla xiringanyeto;
- (ii) nxaxamelo lowu heleleke wa vakolotiwa va bindzuntirhisano hi siku ra ku endliwa ka xiringanyeto, ku katsa na ku kombisa leswaku hi vahi vakolotiwa lava nga ta fikelela ku va va sirhelelekile, va amukeleka ku ya hi nawu na ku va fambisana na milawu yo wa ka bindzu na ku kombisa leswaku hi vahi va vakolotiwa la va nga humesa vumbhoni bya swikoxo swa vona;
- (iii) ku vuyeriwa loku nga kotekaka, loko ku ri kona, lo ku nga ta kumiwa hi vakolotiwa, eka mitlawa ya vona yo karhi, loko bindzuntirhisano ro hangalasiwa; na
- (iv) loko ku ri leswaku xiringanyeto xi katsa xiringanyeto lexi endliweke swi nga ri enawini hi vakolotiwa va bindzuntirhisano.
- (b) Xiphemu xa B: Swiringanyeto, leswi faneleke ku katsa—
- (i) muxaka na nkarhi wa xiringanyeto xihhi kumbe xihhi xa ku yimisiwa ka xikweleti;
- (ii) leswaku bindzuntirhisano ri ta tshikisiwa ku hakela swikweleti swa rona ku fikela kwihi na leswaku xikweleti xihhi kumbe xihhi xi ringanyetiwa ku cinciwa ku va ndzingano eka bindzuntirhisano kumbe bindzuntirhisano rin'wana ku fika kwihi;
- (iii) leswaku tikontiraka ti tekiwa hi ndlela yihi na ku ya emahlweni ka mitirho ya bindzuntirhisano;
- (iv) nhundzu ya bindzuntirhisano leyi ringanyetiwa ku va yi ri kona ku hakela swikoxo swa vakolotiwa;
- (v) ku landzelelana ka ku tsakela ka ndlela leyi mbuyelo wa nhundzu ya bindzuntirhisano wu nga ta tirhisiwa ku hakela vakolotiwa loko xiringanyeto xi tirhisiwa; na
- (vi) ku vuyeriwa hi ku tekelela xiringanyeto ku hambana na ku vuyeriwa lo ku nga ta kumiwa hi vakolotiwa loko bindzuntirhisano ri nga herisiwa.
- (c) Xiphemu xa C: Ku ehleketelela na swipimelo, leswi faneleke ku katsa—
- (i) xitatimende xa swipimelo leswi faneleke ku fikeleriwa, loko swi ri kona, ku va xiringanyeto xi—
- (aa) tirha; na
- (bb) ku tirhisiwa hi ku hetiseka;
- (ii) ku pfuna, loko swi ri kona, lo ku pulani yi ku langutisisaka eka nhlayo ya vatirhi na mikarhi ya vona yo va entirhweni na swipimelo swa mathoriwele; na
- (iii) nkunguhato wa—
- (aa) phepha ro balansa ra bindzuntirhisano; na
- (bb) xitatimende xa muholo lowu languteriweke na ku durheriwa ka malembe manharhu lawa ya landzelaka, swi lulamisiwa hi ku swi teka leswaku xiringanyeto xi ta amukeriwa.
- (4) Phepha ro balansa leri languteriweke na xitatimende lexi laviwaka hi xiyengetsongo xa (3)(c)(iii)—
- (a) swi fanele ku katsa xitiviso xa ku ehleketelela kwihi kumbe kwihi ka nkoka lo ku ku ehleketelela ku sukelaka kona; naswona

- (b) may include alternative projections based on varying assumptions and contingencies.
- (5) A proposal must conclude with a certificate by an authorised director or the employee of the co-operative, stating that any—
  - (a) factual information provided appears to be accurate, complete and up to date; and
  - (b) projections provided are estimates made in good faith on the basis of factual information and assumptions as set out in the statement.
- (6) A proposal contemplated in this section will be adopted by the creditors of the co-operative or the members of a relevant class of creditors, if it is supported by a majority in number, representing at least 75 per cent in value of the creditors or class, as the case may be, present and voting in person or voting by proxy, at a meeting called for that purpose.
- (7) If a proposal is adopted as contemplated in subsection (6)—
  - (a) the co-operative may apply to the court for an order approving the proposal; and
  - (b) the court, on an application in terms of paragraph (a), may approve the compromise as set out in the adopted proposal if it considers it just and equitable to do so, having regard to—
    - (i) the number of creditors of any affected class of creditors who were present or represented at the meeting and who voted in favour of the proposal; and
    - (ii) in the case of a compromise in respect of a co-operative being wound up, the report as contemplated in Schedule 1A.
- (8) A copy of an order of the court approving a compromise—
  - (a) must be filed with the registrar by the co-operative within five working days;
  - (b) must be attached to each copy of the co-operative's constitution that is kept at its registered office; and
  - (c) is final and binding on all the co-operative's creditors or all the members of the relevant class of creditors, as the case may be, as of the date on which it is filed.

## CHAPTER 12C

### INTERGOVERNMENTAL RELATIONS

#### **Applicability of intergovernmental relations framework policies and legislation**

- 91CC.** Intergovernmental relations between the three spheres of government and specifically—
- (a) the Department;
  - (b) provincial government departments responsible for economic development;
  - (c) municipalities;
  - (d) provincial public entities;
  - (e) municipal public entities;
  - (f) the Agency;
  - (g) the Tribunal;
  - (h) the Commission;
  - (i) structures established in accordance with this Act;
  - (j) structures established in accordance with any other national law; and

- (b) swi nga ha katsa ku ehleketelela kun'wana ku ya hi ku swi teka swi ri tano na ku va swi humelela loko ku va na swo karhi leswi humelelaka.
- (5) Xiringanyeto xi fanele ku hetelela hi setifikheti ya murhangeri loyi a nga na matimba kumbe muofisiri loyi a pfumeleriweke wa bindzuntirhisano lexi vulaka leswaku— 5
- (a) mahungu ma ntiyiso lama nyikiwaka ya tikomba ya ri ntiyiso, ya helerile na ku va ya famba na nkarhi; na
- (b) ku ehleketelela lo ku nyikiweke i ku bvumba lo ku endliweke hi moya wa kahle hi ku landza mahungu ya ntiyiso na ku swi teka swiri tano tanihilaha swi vekiweke eka xitatimende. 10
- (6) Xiringanyeto lexi langutisiweke eka xiyenge lexi xi ta va xi tekiwile hi vakolotiwa va bindzuntirhisano kumbe swirho swa ntlawa wa vakolotiwa lava faneleke, loko swi seketeriwa hi vunyingi bya nhlayo leyi yimelaka kwalomu ka 75 wa tipesente hi nkoka wa vakolotiwa kumbe ntlawa, tanihilaha xiyimo xi nga ta va xi ri hakona, lava nga kona na ku vhota hi xiviri kumbe hi ku rhumela eka nhlengeletano leyi vitaniweke hi xikongomelo xexo. 15
- (7) Loko xiringanyeto xi tekiwa tanihilaha swi langutisiweke eka xiyengetsongo xa (6)—
- (a) bindzuntirhisano ri nga ha endla xikombelo xa le khoto xi va xileriso lexi pfumelelaka xiringanyeto; na 20
- (b) khoto, hi xikombelo hi ku landza ndzimana ya (a) yi nga ha pfumelela ku twelana tanihiala swi vekiweke hakona eka xiringanyeto lexi tekiweke, loko yi vona swi lulamile na ku ringanela ku va yi endla tano, hi ku tekela enhlokweni— 25
- (i) nhlayo ya vakolotiwa va ntlawa wihi kumbe wihi lowu khumbekaka, lava a va ri kona kumbe ku yimeriwa eka nhlengeletano naswona lava va nga vhota hi ku yima na xiringanyeto; na
- (ii) loko ku fikeleriwa ku twelana mayelana na bindzuntirhisano leri herisiwaka, xiviko tanihilaha swi langutisiweke eka Xedulu ya 1A. 30
- (8) Khopi ya xileriso xa khoto lexi pfumelelaka ku fikelela ku twelana—
- (a) yi fanele ku tatiwa na mutsarisi hi bindzuntirhisano eka nkarhi wa ntlhanu wa masiku ya ntirho; 35
- (b) yi fanele ku khomisiwa eka khopi yin'wana na yin'wana ya vumbiwa ra bindzuntirhisano leri vekiwaka eka hofisi ya rona leyi tsarisiweke; na
- (c) I yo hetelela na ku boha eka vakolotiwa hinkwaswo vabindzuntirhisano, kumbe swirho hinkwaswo swa ntlawa lowu faneleke wa vakolotiwa, tanihilaha xiyimo xi nga ta va xi ri hakona hi siku leri xi nyikiwaka. 40

## KAVANYISA KA 12C

### VUXAKA BYA LE XIKARHI KA MFUMO

**Ku tirhiseka ka tipholisi ta rimba ra vuxaka bya le xikarhi ka mfumo na nawu** 45

**91CC.** Vuxaka exikarhi ka swiyenge swinharhu swa mfumo na hi ku kongoma —

- (a) Ndzawulo; 50
- (b) Tindzawulo ta mfumo wa xifundzhankulu leti nga vutihlamuleri bya nhluvukiso wa ikhonomi;
- (c) Timasipala;
- (d) Mavandla ya vanhu ya xifundzankulu;
- (e) Mavandala ya vanhu ya masipala;
- (f) Ejensi;
- (g) Huvo yo tengisa; 55
- (h) Khomixini;
- (i) swiakiwa leswi sunguriweke hi ku landza Nawu lowu;
- (j) swiakiwa leswi sunguriweke hi ku landza nawu wihi kumbe wihi wa rixaka; na

(k) structures established in accordance with provincial law, must be interpreted in accordance with the principles of co-operative governance referred to in section 41(1) of the Constitution, the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), national and the applicable transversal provincial policies, and other legislation regulating intergovernmental relations. 5

**Intergovernmental structures**

**91DD.** (1) All intergovernmental structures contemplated in this section—

- (a) functioning at the commencement of the Co-operatives Amendment Act, 2013; or 10
- (b) established or recognised as contemplated in national or provincial legislation, will continue to function as contemplated in the relevant enabling legislation. 15

(2) The following intergovernmental local government structures are recognised for purposes of this Act:

- (a) Intergovernmental local government structures as provided for in national legislation; and
- (b) any other intergovernmental local government structure established by the Minister after consultation with the Minister responsible for co-operative governance and traditional affairs as contemplated in—
  - (i) this Act; and
  - (ii) any other national legislation. 20

(3) The Minister, after consultation with the Minister responsible for co-operative governance and traditional affairs, may, by notice in the *Gazette*, declare provisions of this Act applicable to any structure contemplated in this chapter. 25

(4) Intergovernmental structures established as contemplated in this Act must, in addition to their functions contemplated in this Act, comply with the principles of co-operative governance referred to in section 41(1) of the Constitution, the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), national and the applicable transversal provincial policies and other legislation regulating intergovernmental relations. 30 35

**Functions of intergovernmental structures**

**91EE.** An intergovernmental structure established as contemplated in this Act must—

- (a) promote co-operative governance;
- (b) ensure co-ordination on planning, budgeting, provisioning of services and support to and monitoring and evaluation in respect of, co-operatives; 40
- (c) advise the Minister and the members of the Executive Council responsible for economic development on any matter related to co-operatives; 45
- (d) submit copies of the approved minutes of all meetings to the Minister, members of the Executive Council responsible for economic development and the entities contemplated in section 91CC, represented in such structure;
- (e) perform any functions and duties in accordance with the principles of co-operative governance referred to in section 41(1) of the Constitution, the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), national and the applicable transversal provincial policies and other legislation regulating intergovernmental relations; and 50
- (f) perform any functions and duties as may be determined by the Minister by notice in the *Gazette.* 55

(k) swiakiwa leswi sunguriweke hi ku landza nawu wa xifundzankulu, swi fanele ku twisisiwa hi ku landza misinya ya mafumele ya bindzuntirhisano leyi vuriweke eka xiyenge xa 41 (1) xa Vumbiwa, ku lulamisela ka *Intergovernmental Relations Framework Act, 2005* (Nawu wa No. 13 wa 2005), tipholisi ta rixaka na to hundzuluxa ta xifundzankulu leti tirhaka, na milawu yin'wana leyi lawulaka vuxaka bya le xikarhi ka mfumo.

#### **Swiakiwa swa le xikarhi ka mfumo**

**91DD.** (1) Swiakiwa hinkwaswo swa mfumo leswi langutisiweke eka xiyenge lexi—

(a) leswi nga ku tirheni hi nkarhi wa ku sungula ka Nawu wo Antswisa Mabindzuntirhisano, 2013; kumbe

(b) leswi sunguriweke kumbe ku tekeriwa enhlokweni tanihilaha swi langutisiweke hakona eka nawu wa rixaka kumbe wa xifundzankulu.

(2) Swiakiwa leswi landzelaka swa le xikarhi ka mfumo wa muganga swi tekeriwa enhlokweni hi swikongomelo swa Nawu lowu:

(a) swiakiwa swa le xikarhi ka mfumo wa muganga tanihilaha swi nga lulamiseriwa hakona eka nawu wa rixaka; na

(b) xiakiwa xihhi kumbe xihhi xa le xikarhi ka mfumo wa muganga lexi sunguriweke hi Holobye endzhaku ko tihlanganisa na Holobye loyi a nga na vutihlamuleri bya mfumontirhisano na timhaka ta xintu tanihilaha swi nga langutisiwa hakona eka—

(i) nawu lowu; na

(ii) nawu wihi kumbe wihi wa rixaka.

(3) Endzhaku ko tihlanganisa na Holobye loyi a nga na vutihlamuleri bya mfumontirhisano na timhaka ta xintu, Holobye, hi ku tivisa eka *Gazete*, a nga ha boxa ku lulamisela ka Nawu lo ku tirhaka eka xiakiwa xihhi kumbe xihhi lexi langutisiweke eka kavanyisa loku.

(4) Swiakiwa swale ndzeni ka mfumo leswi sunguruweke tanihilaha swi langutisiweke hakona eka Nawu lowu, hi ku ngetelela eka mitirho ya swona leyi langutisiweke eka Nawu lowu, swi fanele ku landzelela minsinya ya mafumele ya mabindzuntirhisano leyi vuriweke eka xiyenge xa 41(1) xa Vumbiwa, ku lulamisela ka *Intergovernmental Relations Framework Act, 2005* (Nawu wa No. 13 wa 2005), tipholisi ta rixaka na tipholisi leti tirhaka to hundzuluxa ta xifundzankulu na milawu yin'wana leyi lawulaka vuxaka bya le xikarhi ka mfumo.

#### **Mitirho ya swiakiwa swa le xikarhi ka mfumo**

**91EE.** Xiakiwa xa le xikarhi ka mfumo lexi sunguriweke tanihilaha swi nga langutisiwa hakona eka Nawu lowu xi fanele ku—

(a) tlakusa mafumele ya bindzuntirhisano;

(b) ku tiyisisa ku tirhisana eka ku pulana, mpimanyeto, ku lulamisela vukorhokeri na nseketelo na ku langutisisa na ku pima mayelana na mabindzuntirhisano;

(c) tsundzuxa Holobye na Swirho swa Huvonkulu leswi nga na vutihlamuleri bya nhluvukiso wa ikhonomi eka mhaka yin'wana na yin'wana leyi fambelanaka na mabindzuntirhisano;

(d) yisa tikhopi ta makanelwa lawa ya pfumeleriweke eka Holobye, Swirho swa Huvonkulu leswi nga na vutihlamuleri bya nhluvukiso wa ikhonomi na mavandla lawa ya langutisisiweke eka xiyenge xa 91CC, lawa ya yimeriweke eka xiakiwa xo tano;

(e) endla mitirho yihi kumbe yihi hi ku landza misinya ya mafumele ya bindzuntirhisano leyi vuriweke eka xiyenge xa 41(1) xa Vumbiwa, ku lulamisela ka *Intergovernmental Relations Framework Act, 2005* (Nawu wa No. 13 wa 2005), tipholisi ta rixaka na leti lawulaka vuxaka bya le xikarhi ka mfumo; na

(f) ku endla mitirho yihi kumbe yihi tanihilaha swi nga ta vekiwa hakona hi Holobye hi ku tivisa eka *Gazete*.

**Administrative and procedural arrangements**

**91FF.** Every structure's administrative and procedural arrangements must comply with the framework for intergovernmental relations contemplated in section 91JJ.

**Establishment, composition and functions of Inter-Provincial Coordination Committee on Co-operatives** 5

**91GG.** (1) The Inter-Provincial Co-ordination Committee on Co-operatives is hereby established.

(2) The Inter-Provincial Co-ordination Committee on Co-operatives consists of the following members appointed by the Minister: 10

- (a) One person to represent the Minister;
- (b) one person in the full-time employment of each of—
  - (i) the Department;
  - (ii) the national department responsible for co-operative governance; and 15
  - (iii) such other national departments of state identified by the Minister;
- (c) two representatives from the National Interdepartmental Co-ordination Committee on Co-operatives; and
- (d) one person from each provincial government, in the full-time employ 20 of such government.

(3) The Minister must appoint from among the members of the Inter-Provincial Co-ordination Committee on Co-operatives a chairperson and a deputy chairperson.

(4) The deputy chairperson must act as chairperson when the chairperson is not available. 25

(5) A member of the Inter-Provincial Co-ordination Committee on Co-operatives may designate an alternate to attend a meeting of the Inter-Provincial Co-ordination Committee on Co-operatives in his or her place. 30

(6) The Inter-Provincial Co-ordination Committee on Co-operatives must co-ordinate all co-operatives development programmes developed at provincial level.

(7) The National Interdepartmental Co-ordination Committee on Co-operatives and the Inter-Provincial Co-ordination Committee on Co-operatives must meet on at least a quarterly basis to discuss matters of mutual interest. 35

**Establishment of Provincial Interdepartmental and Municipal Coordinating Structure**

**91HH.** (1) A Provincial Interdepartmental and Municipal Co-ordinating Structure must be established in every province by the provincial department responsible for economic development concerned, which must also outline the role of local government in the establishment of the Municipal Co-ordinating Structure. 40

(2) The Provincial Interdepartmental and Municipal Co-ordinating Structure must— 45

- (a) develop provincial co-operatives strategies in consultation with all relevant stakeholders: Provided that the strategies must be guided by this Act, the national co-operative policy, the national co-operative strategy and the provincial growth and development strategy; 50
- (b) co-ordinate the co-operative development and support activities for all provincial government departments dealing with co-operatives;
- (c) co-ordinate the provision of support of co-operatives across departments aligned with provincial priorities and the priorities of the Department; 55



### Vulawuri na maveketelelo ya maendlelo

**91FF.** Vulawuri bya xiakiwa xin'wana na xin'wana na maveketelelo yamaendlelo swi fanele ku landzelela rimba ra vuxaka bya le xikarhi ka mfumo leswi langutisiweke eka xiyenge xa 91JJ.

### **Ku sunguriwa, lava vumbaka na mitirho ya Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ya Mabindzuntirhisano** 5

**91GG.** (1) Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ya Mabindzuntirhisano ya sunguriwa.

(2) Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ya Mabindzuntirhisano yi na swirho leswi landzelaka leswi thoriweke hi Holoby: 10

(a) Munhu u n'we loyi a nga ta yimela Holoby; 10  
(b) Munhu un'we loyi a nga mutirhi wa nkarhi hinkwawo wa yin'wana na yin'wana ya —

- (i) Ndzawulo; 15
- (ii) Ndzawulo ya rixaka leyi nga na vutihlamuleri bya mafumele ya bindzuntirhisano; na 15
- (iii) tindzawulo ta tin'wana ta mfumo wa rixaka leti vuriweke hi Holoby; 15

(c) Vayimeri vambirhi ku suka eka Komiti yo Hlanganisa Exikarhi ka mfumo wa Rixaka ya Mabindzuntirhisano; na 20

(d) Munhu un'we ku suka eka mfumo wun'wana na wun'wana wa xifundzankulu, loyi a thoriweke swa nkarhi hinkwawo hi mfumo wolowo.

(3) Holoby u fanele ku thola mutshami wa xitulu na xandla xa mutshami wa xitulu ku suka eka swirho swa Komiti yo Hlanganisa ya Mabindzuntirhisano Exikarhi ka Swifundzankulu. 25

(4) Xandla xa mutshami wa xitulu u fanele ku tirha tanihi mutshami wa xitulu loko mutshami wa xitulu a nga ri kona.

(5) Xirho xa Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ya Bindzuntirhisano xi nga ha rhumela un'wana ku va eka nhlengeletano ya Komiti yo Hlanganisa ya Mabindzuntirhisano Exikarhi ka Swifundzankulu eka ndhawu ya xona. 30

(6) Komiti yo Hlanganisa ya Mabindzuntirhisano Exikarhi ka Swifundzankulu yi fanele ku hlanganisa minongonoko hinkwayo ya mabindzuntirhisano ya nhluvukiso leyi hluvukisiweke eka lavhele ya xifundzankulu. 35

(7) Komiti yo Hlanganisa ya Rixaka ya Mabindzuntirhisano ya le xikarhi ka tindzawulo na Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ti fanele ku hlangana kotara yin'wana na yin'wana ku kanela timhaka ta ntsakelo wo fana. 40

### **Ku tumbuluxiwa ka swiakiwa swo hlanganisa exikarhi ka tindzawulo ta xifundzankulu na masipala**

**91HH.** (1) Mfumo wa Xifundzankulu na Xiakiwa xo Fambisa Masipala swi fanela ku tumbuluxiwa eka xifundzankulu xin'wana na xin'wana hi ndzawulo ya xifundzankulu leyi nga na vutihlamuleri bya nhluvukiso wa ikhonomi, lowu fanelek ku tlhela wu andlala ntirho wa mfumo wa muganga eku tumbuluxiweni ka Xiakiwa xo Hlanganisa Masipala. 45

(2) Xiakiwa xo hlanganisa exikarhi ka Masipala na le xikarhi ka Ndzawulo ya Xifundzankulu xi fanele ku—

(a) hluvukisa maqhinga ya bindzuntirhisano a xifundzankulu hi ku tihlanganisana vatekaxiave hinkwavo lava faneleke: Loko ku ri hi leswaku maqhinga ya fanele ku leteriwa hi Nawu lowu, pholisi ya rixaka ya bindzuntirhisano, qhinga ra rixaka ra bindzuntirhisano na kulaka xifundzankulu na qhinga ra nhluvukiso; 50

(b) fambisa nhluvukiso wa bindzuntirhisano na migingiriko yo seketela ya tindzawulo hinkwato ta mfumo wa xifundzankulu leti tirhanaka na mabindzuntirhisano; 55

(c) fambisa ku nyika nseketelo wa mabindzuntirhisano lowu fambelanaka na swirhangisiwa swa xifundzankulu na swirhangisiwa swa Ndzawulo eka tindzawulo hinkwato; 60

- (d) report to the Provincial Legislature concerned and the Department;
- (e) report to the Department on activities relating to co-operatives of the provincial departments responsible for economic development;
- (f) support the provincial structures of the Agency; and
- (g) collaborate and co-ordinate with all municipalities as regards the promotion of, and the provision of support for, co-operatives and submit reports as prescribed.

**Dispute and conflict resolution**

**91II.** Any dispute or conflict in respect of the exercise, performance and carrying out by an entity contemplated in section 91DD of its powers and functions as contemplated in this Act or any other law, must be resolved in accordance with the framework contemplated in section 91JJ.

**Framework for intergovernmental relations**

**91JJ.** (1) The Minister must, subject to the principles of co-operative governance referred to in section 41(1) of the Constitution and the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005)—

- (a) and after consultation with the Members of the Executive Council responsible for economic development and the entities contemplated in section 91DD, develop a framework for intergovernmental relations; and
- (b) publish the framework contemplated in paragraph (a) by notice in the *Gazette* within six months after commencement of the Co-operatives Amendment Act, 2013.

(2) Every intergovernmental structure recognised or established in accordance with this Act must comply with the framework contemplated in subsection (1) in accordance with the principles of co-operative governance referred to in section 41(1) of the Constitution, the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), national and the applicable transversal provincial policies and other legislation regulating intergovernmental relations.”.

**Amendment of section 92 of Act 14 of 2005**

**67.** Section 92 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) for the following subsection:

“(3) Any person who contravenes or who fails to comply with the provisions of sections 12, 19, 21, 22, 38, [and] 39, 53, 64(2), 84(3), 91W(2), 92(1) or item 4 of Part 4 of Schedule 1, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 24 months, or to both [a] such fine and such imprisonment.”;
- (b) by the addition of the following subsection:

“(4) Despite anything to the contrary contained in any other law, a Magistrate’s Court has jurisdiction to impose any penalty contemplated in subsection (3).”.

**Insertion of sections 94A and 94B in Act 14 of 2005**

**68.** The following sections are hereby inserted in the principal Act after section 94:

- (d) ku vikela Huvo yo endla milawu ya Xifundzankulu leyi faneleke na Ndzawulo;
- (e) Vikela Ndzawulo hi migingiriko leyi fambelanaka na mabindzuntirhisano ya tindzawulo ta xifundzanklululeti nga na vutihlamuleri bya nhluvukiso wa ikhonomi;
- (f) seketela swiakiwa swa Ejensi swa xifundzankulu; na
- (g) ku tirhisana na ku hlanganisa na timasipala hinkwato mayelana na ku tlakusa, na ku nyika nseketelo eka mabindzuntirhisano na ku yisa swiviko tanihilaha swi vekiveke hakona.

**Nkwetlembetano na ku tshunxa ntlimbo** 10

**91II.** Nkwetlembatano wihi na wihi kumbe ntlimbo mayelana na ku endliwa ka ntirho hi xivandla lexi langutsiweke eka xiyenge xa 91DD xa matimba na mitirho tanihilaha swi langusiweke eka nawu lowu kumbe nawu wun'wana na wun'wana, swi fanele ku tshunxiwa hi ku landza rimba leri langutsiweke eka xiyenge xa 91JJ. 15

**Rimba ra vuxaka exikarhi ka mfumo**

**91JJ.** (1) Ku ya hi misinya ya mafumele ya bindzuntirhisano leyi vuriweke eka xiyenge xa 41(1) xa vumbiwa na ku lulamisela ka *Intergovernmental Relations Framework Act*, (Nawu wa No. 13 wa 2005), Holoby u fanele ku— 20

- (a) Hluvukisa rimba ra vuxaka bya le xikarhi ka mfumo endzhaku ko tihlanganisa na Swirho swa Huvonkulu leswi nga na vutihlamuleri bya nhluvukiso wa vumbiwa na mavandla lawa ya langutsiweke eka xiyenge xa 91DD; na
- (b) Hangalasa rimba leri langutsiweke eka ndzimana ya (a) hi ku tivisa eka *Gazete* eka nkarhi wa tsevu wa tin'hwetwi endzhaku ko sungula ka Nawu wa ku Antswisiwa ka Mabindzuntirhisano 2013. 25

(2) Xiakiwa xin'wana na xin'wana xa le xikarhi ka mfumo lexi tekeriwaka enhlokweni kumbe lexi sunguruweke hi ku landza Nawu lowu xi fanele ku landzelela rimba leri langutsiweke eka xiyengetsongo xa (1) hi ku landza misinya ya mafumele ya bindzuntirhisano leyi vuriweke eka xiyenge xa 41(1) xa Vumbiwa, ku lulamisela ka *Intergovernmental Relations Framework Act*, 2005 (Nawu wa No. 13 wa 2005), tipholisi ta rixaka na leti faneleke ta xifundzankulu to cinca milawu leyi lawulaka vuxaka exikarhi ka mfumo.”. 30 35

**Ku antswisiwa ka xiyenge xa 92 xa Nawu wa 14 wa 2005**

**67.** Xiyenge xa 92 xa Nawunkulu xa antswiswa—

- (a) hi ku siviwa ka xiyengetsongo xa (3) xa xiyengetsongo lexi landzelaka:  
“(3) Munhu wihi kumbe wihi loyi a tlulaka kumbe ku hluleka ku landzelela ku lulamisela ka xiyenge xa 12, 19, 21, 22, 38, [na] 39, 53, 64(2), 84(3), 91W(2), 92(1) kumbe ayitheme ya 4 ya xiphemu xa xa 4 xa Xedulu ya 1, u na nandzu naswona a nga khomiwa a riha kumbe ku pfaleriwa ejele ku ringana nkarhi lowu nga hundziki 24 wa tin'hwetwi, kumbe haswimbirhi ndziho na ku pfaleriwa ejele.”; na
- (b) hi ku ngenisiwa ka xiyengetsongo lexi landzelaka: 45  
“(4) Hambiloko ku ri na swin'wana swo hambana leswi nga eka nawu wihi kumbe wihi, Khoto ya Majisitarata yi na matimba yo sindzisa ndziho wihi kumbe wihi lowu lulamiseriweke eka xiyengetsongo xa (3).”.

**Ku ngenisiwa ka swiyenge swa 94A na 94B eka Nawu wa 14 wa 2005** 50

**68.** Swiyenge leswi landzelaka swa ngenisiwa eka Nawunkulu endzhaku ka xiyenge xa 94:

**“Reporting, monitoring, evaluation and assessment**

**94A.** The Minister must, by notice in the *Gazette* and within six months after the commencement of the Co-operatives Amendment Act, 2013, taking into account national and relevant provincial norms and standards, publish a framework—

- (a) providing for minimum norms and standards in respect of procedures for and the frequency of monitoring, evaluation and assessment of—
    - (i) all structures established or recognised in accordance with this Act;
    - (ii) the status of the co-operative movement;
    - (iii) the various levels of co-operatives contemplated in this Act; and
    - (iv) the categories of primary co-operatives; and
  - (b) establishing the necessary mechanisms, processes, procedures and Indicators required for the effective implementation thereof,
- to report on, monitor, evaluate, assess and determine the impact of the exercise of powers, the performance of functions, the execution of duties and the operational efficiency of such structures and co-operatives.

**Co-operative Policy, Legislation, Strategy and Administrative Support**

**94B.** (1) The Department must provide for co-operative policy, legislation, strategy and administrative support that, in respect of co-operatives—

- (a) formulate, implement and update—
  - (i) a policy framework;
  - (ii) a regulatory framework; and
  - (iii) an administrative framework;
- (b) implement the framework for monitoring and evaluation as contemplated in section 94A;
- (c) provide information at the request of the Advisory Council and Tribunal on any matter that should be considered by the Advisory Council or Tribunal;
- (d) establish the structures contemplated in this Act and provide the Advisory Council and Tribunal with the financial, personnel, technical, training, infrastructural and other support that is necessary for its effective functioning; and
- (e) administer the provisions of this Act, including the appointment of support staff for the Advisory Council and the Tribunal.

(2) The unit responsible for Co-operative Policy, Legislation, Strategy and Administrative support—

- (a) must advise the Minister in respect of the Tribunal and the Agency;
- (b) has a monitoring role in respect of intergovernmental structures; and
- (c) must advise the Minister on—
  - (i) the status and functioning of the entities referred to in paragraph (a);
  - (ii) the status and functioning of intergovernmental structures established in accordance with Chapter 12A;
  - (iii) the status of the co-operative movement; and
  - (iv) mechanisms that would promote the co-operative movement.”.

**Amendment of section 97 of Act 14 of 2005**

**69.** Section 97 of the principal Act is hereby amended—

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

“(2) The provisions of this Act—

- (a) apply to a co-operative referred to in subsection (1); and

**“Ku vika, ku langutisisa, ku pima na ku kambela**

- 94A.** Holobye u fanele ku kandziyisa rimba, hi xitiviso eka *Gazete* naswona eka nkarhi wa tin’hwetlwa ta tsevu Nawu lowu wa Mabindzuntirhisano, 2013 wu ta va wu sungurile, hi ku tekela enhlokweni milawu na mipimo ya rixaka na leyi faneleke ya xifundzankulu— 5
- (a) leri nyikaka milawu ya minimamu na mipimo mayelana na maendlelo na ku vuyelela ka ku langutisisa, ku pima na ku kamberiswa ka—
- (i) swiakiwa hinkwaswo leswi sunguriweke kumbe ku tekeriwa enhlokweni hi ku landza Nawu lowu;
  - (ii) xiyimo xa nhlango wa bindzuntirhisano; 10
  - (iii) Swiyimo swo hambanahambana swa mabindzuntirhisano lama langutisiweke eka nawu lowu; na
  - (iv) mikhetekanyo yo hambanahambana ya mabindzuntirhisano yo sungula; na
- (b) ku sungula tindlela leti faneleke, maendlelo, mafambiselo na swikombo leswi lavekaka ku va swi tirhisiwa hi ku hetiseka, ku vika, ku langutisisa, ku pima, ku kambela na ku vona ntikelo wa ku tirhisa matimba, ku endlamitirho na ku tirheka hi nkarhi ka swiakiwa swoleswo namabindzuntirhisano. 15

**Pholisi ya Bindzuntirhisano, Nawu, Qhinga na Nseketelo wa Vulawuri 20**

- 94B.** (1) Ndzawulo yi fanele ku lulamisela pholisi ya bindzuntirhisano, nawu, qhinga na nseketelo wa vulawuri lowu hi mayelana na mabindzuntirhisano, ri fanele ku—
- (a) tumbuluxa, ku tirhisa na ku pfluxeta— 25
- (i) rimba ra pholisi;
  - (ii) rimba ro lawula; na
  - (iii) rimba ra vulawuri;
- (b) tirhisa rimba ku langutisisa na ku pima tanihilaha swi langutisiweke eka xiyenge xa 94A;
- (c) nyika mahungu hi xikombelo xa Huvo yo Tsundzuxa na Huvo yo tengisa eka mhaka yihi kumbe yihi leyi faneleke ku tekeriwa enhlokweni hi Huvoyo Tsundzuxa kumbe Huvo yo tengisa; 30
- (d) sungula swiakiwa leswi langutisiweke eka Nawu lowu na ku nyika Huvo yo Tsundzuxa na Huvo yo tengisa nseketelo wa timali, vatirhi, xithekiniki, vuleteri, switirhisiwa na nseketelo wun’wana lowu lavekaka ku va yi tirha hi ku hetiseka; na 35
- (e) lawula ku lulamisela ka Nawu lowu, ku katsa ku thoriwa ka vatirhi vo seketela va Huvo yo Tsundzuxa na va Huvo tengisa.
- (2) Yuniti leyi nga na vutihlamulerti bya Pholisi ya Bindzuntirhisano, Nawu, Qhinga na Nseketelo wa vulawuri— 40
- (a) yi fanele ku tsundzuxa Holobye mayelana na Huvo yo tengisa na Ejensi;
- (b) yi na ntirho wo langutela mayelana na swiakiwa swa le xikarhi ka mfumo; naswona
- (c) yi fanele ku tsundzuxa Holobye hi— 45
- (i) xiyimo na matirhelo ya mavandla la ma vuriweke eka ndzimana ya (a);
  - (ii) xiyimo na matirhelo ya swiakiwa swa le xikarhi ka mfumo leswi tumbukluxiweke hi ku landza Kavanyis a ka 12A;
  - (iii) xiyimo xa nhlango wa bindzuntirhisano; na 50
  - (iv) tindlela leti nga ta tlakusa nhlango wa bindzuntirhisano.”.

**Ku antswisiwa ka xiyenge xa 97 xa nawu wa 14 wa 2005**

- 69.** Xiyenge xa 97 xa Nawunkulu xa antswisiwa—
- (a) hi ku siviwa ka xiyengetsongo xa (2) xa xiyengetsongo lexi landzelaka: 55
- “(2) ku lulamisela ka Nawu lowu—
- (a) ka tirha eka bindzuntirhisano leri vuriweke eka xiyengetsongo xa (1); na

- (b) are transitional for a period of two years from the date of commencement of the Co-operatives Amendment Act, 2012, for co-operatives to update their constitutions in accordance with the provisions of this Act, and in case of non-compliance after the two-year transitional period, a co-operative will be deemed to be deregistered.”;
- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:  
“On receipt of [**an application in terms of subsection (2)(b)]** the constitution of a co-operative, the registrar must—”;
- (c) by the substitution in subsection (3) for paragraph (b) of the following paragraph:  
“(b) issue a directive to the co-operative specifying—  
(i) the non-compliance of the constitution with the Act;  
(ii) the period allowed for the rectification of the constitution; and  
(iii) the consequences of non-compliance in terms of section 2(b).”;
- (d) by the addition of the following subsections:  
“(7) The Minister must, by notice in the *Gazette*, within three months after the commencement of the Co-operatives Amendment Act, 2013, publish—  
(a) model constitutions, model business plans and a framework for process planning; and  
(b) such other forms that he or she may consider necessary, for use by co-operatives.  
(8) An entity contemplated in section 62(1)(a) of this Act must publish a notice of its conversion within 30 days after receipt of the notification of approval from the registrar.  
(9) The Minister must, before the commencement of the Co-operatives Amendment Act, 2013, appoint the chairperson and other members of the Tribunal as contemplated in section 91N.”.

**Substitution of item 6 of Part 1 of Schedule 1 to Act 14 of 2005**

70. The following item is hereby substituted for item 6 of Part 1 of Schedule 1 to the principal Act:

- “**[Exclusion] Application of other legislation**”
6. The provisions of the Share **[Block]** Blocks Control Act, 1980 (Act No. 59 of 1980)[,] do not apply—  
(a) to a housing co-operative registered in terms of this Act in respect of every individual unit owned by the housing co-operative concerned that is used by a member in terms of a rental agreement; and  
(b) to a housing co-operative registered in terms of this Act in respect of every individual unit of the housing co-operative concerned that has been transferred in ownership to a member.”.

**Substitution of item 6 of Part 2 of Schedule 1 to Act 14 of 2005**

71. The following item is hereby substituted for item 6 of Part 2 of Schedule 1 to the principal Act:

- “**Application of labour legislation**”
6. (1) An employee of a worker co-operative is any member or non-member of a co-operative who satisfies the definition of ‘employee’ as defined in the Labour Relations Act, 1995 (Act No. 66 of 1995).”

- (b) i ka nkarhi wo hundzuluxa eka nkarhi lowu wa malembe mambirhi ku sdukela siku ra ku sungula ka Nawumbisi wa ku Antswisiwa ka Mabindzuntirhisano, 2013, ku va mabindzuntirhisano ya antswisa vumbiwa ra wona hi ku landza ku lulamisela ka Nawu lowu, naswona laha ku nga na kuka ku nga landzeleriwi endzhaku ka nkarhi wo hundzuluxa wa malembe mambirhi, bindzuntirhisano ri ta tekiwa ri susiwile eka ntsariso.”; 5
- (b) hi ku siviwa ka marito lama rhangelaka ndzimana ya (a) ya marito lama landzelaka eka xiyengetsongo xa (3):  
“Loko ku amukeriwa [**xikombelo hi ku landza xiyengetsongo xa (2)(b)**] vumbiwa ra bindzuntirhisano, mutsarisi u fanele ku—”; 10
- (c) hi ku siviwa ka ndzimana ya (b) ya ndzimana leyi landzelaka eka xiyengetsongo xa (3):  
“(b) nyika bindzuntirhisano xiletelo lexi vekaka erivaleni—  
(i) ku nga landzeleri vumbiwa na Nawu 15  
(ii) nkarhi lowu pfumeleriwa ku lualmisa vumbiwa; na  
(iii) switandzhaku swa ku nga landzeleri hi ku landza xiyenge xa 2(b).”; na
- (d) hi ku tatiwa ka swiyengetsongo eswi landzelaka:  
“(7) Holobye u fanele ku hangalasa hi ku tivisa eka *Gazete* ku nga si hela tin’hweti tinharhu endzhaku ka ku sungula ka Nawu wo Antswisa Mabindzuntirhisano, 2013— 20  
(a) xikombiso xa mavumbiwa, xikombiso xa tipulani ta bindzu, rimba ro pulana maendlelo; na  
(b) tifomo tin’wana leti a nga ha vonaka ti fanerile, leti nga tirhisiwaka hi mabindzuntirhisano. 25  
(8) Vandla leri langutisiweke eka xiyenge xa 62(1)(a) xa Nawu lowu ri fanele ku hanglasa xitiviso xa ku cinciwa ka rona eka nkarhi wa 30 wa masiku endzhaku ko amukela xitiviso xa mpfumelelo ku suka eka mutsarisi. 30  
(9) Holobye loko ku nga si sungula ku tirha ka Nawu wo atswisa Mabindzuntirhisano, 2013, u fanele ku thola mutshami wa xitulu na swirho leswin’wana swa Huvo yo tengisa tanihilaha swi langutisiweke hakona eka xiyenge xa 91N.”.

**Ku antswisiwa ka Ayitheme ya 6 ya Xiphemu xa 1 xa Xedulu ya 1 eka Nawu wa 14 wa 2005** 35

70. Ayitheme leyi landzelaka ya siviwa hi ayitheme ya 6 ya Xiphemu xa 1 xa Xedulu ya 1 eka Nawukulu:

**“[ku nga katsiwi] Ku tirhisiwa ka milawu yin’wana**

6. Ku lualamisela *Share [Block] Blocks Control Act, 1980* (Nawu wa No. 59 wa 1980) [,] a wu tirhi— 40
- (a) eka mabindzuntirhisano ya tindlu lama tsarisiweke hi ku landza Nawu lowu hi mayelana na yuniti yin’wana na yin’wana leyi nga ya bindzuntirhisano ra tindlu hi ku landza ntwanano wo rhenta; na
- (b) eka bindzuntirhisano ra tindlu leri tsarisiweke hi ku nlandza Nawu lowu mayelana na yuniti yin’wana na yin’wana ya bindzuntirhisano ra yindlu leri khumbekaka leri vun’wini bya rona byi nga hundziseriwa eka xirho.”. 45

**Ku siviwa ka Ayitheme ya 6 ya Xiphemu xa 2 xa Xedulu ya 1 eka Nawu wa 14 wa 2005** 50

71. Ayitheme leyi landzelaka ya siviwa hi ayitheme ya 6 ya Xiphemu xa 1 xa Xedulu ya 1 eka Nawukulu:

**“Ku tirhisiwa ka milawu ya vatirhi**

6. (1) Mutirhi wa bindzuntirhisano ra vatirhi i xirho xin’wana na xin’wana kumbe la nga riki xirho loyi a fikelelaka nhlamuselo ya ‘mutirhi’ tainhilaha yi hlamuseriweke hakona eka *Labour Relations Act, 1995* (Nawu wa No. 66 wa 1995). 55

(2) All worker co-operatives must comply with labour legislation.

(3) Despite subsection (1), a co-operative may apply to a bargaining council with jurisdiction over the sector within which the co-operative operates or, where there is no such bargaining council, to the Minister of Labour for full or partial exemption from the need to comply with applicable labour legislation in respect of employees of the co-operative. 5

(4) The bargaining council or the Minister of Labour, as the case may be, may only grant an exemption in terms of sub-section (3) if reasonably satisfied that there are good grounds for doing so.

(5) The Minister must, in consultation with the Minister of Labour, within six months from the date of commencement of the Co-operatives Amendment Act, 2013, and thereafter from time to time, make regulations determining what constitutes good grounds for the purposes of subsection (4).” 10

**Insertion of item 1A in Part 3 of Schedule 1 to Act 14 of 2005** 15

72. The following item is hereby inserted in Part 3 of Schedule 1 to the principal Act after item 1:

**“Name of co-operative**

1A. The name of a financial co-operative must comply with the provisions of section 10 of this Act, except where otherwise required by other legislation.” 20

**Substitution of item 6 of Part 3 of Schedule to Act 14 of 2005**

73. The following item is hereby substituted for item 6 of Part 3 of Schedule 1 to the principal Act:

**“Exemption** 25

6A. The registrar may, in consultation with the registrar of Banks, the registrars of Long-term Insurance or Short-term Insurance, or the registrar of Medical Schemes, as the case may be, direct that all co-operatives, to whom this part applies, or any category of co-operative to whom this part applies, other than a co-operative bank, must provide a recommendation letter from the regulator as contemplated in the Banks Act, 1990 (Act No. 94 of 1990), in compliance with any requirement for exemption from any provision of the Banks Act, 1990 (Act No. 94 of 1990), the Long-term Insurance Act, 1998 (Act No. 52 of 1998), the Short-term Insurance Act, 1998 (Act No. 53 of 1998), or the Medical Schemes Act, 1998 (Act No. 131 of 1998).” 30 35

**Substitution of item 8 of Part 3 of Schedule 1 to Act 14 of 2005**

74. The following item is hereby substituted for item 8 of Part 3 of Schedule 1 to the principal Act:

**“Definitions** 40

8. For the purposes of this Part, “financial service” means any financial or banking service a co-operative may provide to its members, and includes



(2) Mabindzuntirhisano hinkwawo ya vতিরhi ya fanele ku landzelela milawu ya vতিরhi.

(3) Hambileswi ku nga na xiyengetsongo xa (1), bindzuntirhisano ri nga endla xikombelo eka huvo yo kanerisana leyi nga na matimba ehenhla ka xiyenge lexi bindzuntirhisano ri tihaka eka xona, kumbe eka Holobye wa Vতিরhi loko ku ri hava huvo yo kanerisana ku kuma mpfumelelo wo ka ri nga landzeleli milawu leyi tihaka ya vতিরhi mayelana na vতিরhi va bindzuntirhisano.

(4) huvo yo kanerisana kumbe Holobye wa Vতিরhi, anga ha nyika mpfumelelo hi ku landza xiyengetsongo xa (3) loko a enerisekile leswaku nku na siwvangelo swo twala swo endla tano.

(5) Endzhaku ko tihlanganisa na Holobye wa vতিরhi, Holobye, u fanele ku endla swinawana leswi vekaka swivangelo swa twisiseaka swa xikongomelo xa xiyengetsongo xa (4) eka nkarhi wa tsevu wa tin'hweti ku sukela siku ra ku sungula ku tirha ka ku Antswisiwa ka Nawu wa Mabindzuntirhisano, 2013 na nkarhi na karhi ku sukela kwalaho.”.

#### **Ku ngenisiwa ka Ayitheme ya 1A eka xiphemu xa 3 xa xedulu ya 1 ya Nawu wa 4 wa 2005**

72. Ayitheme leyi landzelaka ya ngenisiwa eka Xiphemu xa 3 xa Xedulu ya 1 eka Nawunkulu endzhaku ka ayitheme ya 1:

##### **“Vito ra bindzuntirhisano**

**1A.** Vito ra bindzuntirhisano ra timali ri fanele ku landzelela ku lulamisela ka xiyenge xa 10 xa Nawu lowu, handle ka laha swi lavekaka hi ndlela yoleyo hi milawu yin'wana.”.

#### **Ku siviwa ka ayitheme ya 6 ya xiphemu xa 3 xa Xedulu ya 1 eka Nawu wa 14 wa 2005**

73. Ayitheme leyi landzelaka ya siviwa hi ayitheme ya 6 ya Xiphemu xa 3 xa Xedulu ya 1 eka Nawunkulu.

##### **“Ku nga ngenisiwi**

**6A.** Hi ku tihlanganisa na Mutsarisi wa Tibangi, Mutsarisi wa Ndzindzakhombo wa Nkarhi wo leha na wa Nkarhi wo koma, kumbe Mutsarisi wa Swikimi swa Vutshunguri, hilaha xiyimo xi nga tava hakona, mutsarisi a nga ha lerisa leswaku mabindzuntirhisano hinkwawo lawa xiphemu lexi xi tihaka, kumbe nkhetekanyo wa bindzuntirhisano lowu xiphemu lexi xi tihaka, handle ka bangi ya bindzuntirhisano, xi fanele ku nyika papila ro bumabumela ku suka eka mulawuri tanihilaha swi langutisiweke eka *Banks Act*, 1990 (Nawu wa No. 94 wa 1990), hi ku landzelela xilaveko xihhi kumbe xihhi xo ka ku nga ngenisiwi eka ku lulamisela kwihi kumbe kwihi ka *Banks Act*, 1990 (Nawu wa No. 94 wa 1990), *Long-term Insurance Act*, 1998 (Nawu wa No. 52 wa 1998), *Short-term Insurance Act*, 1998 (Nawu wa No. 53 wa 1998), kumbe *Medical Schemes Act*, 1998 (Nawu wa No. 131 wa 1998).”.

#### **Ku siviwa ka ayitheme ya 8 ya Xiphemu xa 3 xa Xedulu ya 1 eka Nawu wa 14 wa 2005**

74. Ayitheme leyi landzelaka ya siviwa hi ayitheme ya 8 ya Xiphemu xa 3 xa Xedulu ya 1 eka Nawunkulu:

##### **“Tinhlamuselo**

**8.** Hi swikongomelo swa xiphemu lexi ‘mitirho ya timali’ swi vula ntirhowihi kumbe wihi wa timali kumbe bangi lowu bindzuntirhisano ri nga

the provision of long-term and short-term insurance, as envisaged in terms of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or the Short-term Insurance Act, 1998 (Act No. 53 of 1998), and the business of a medical scheme, as envisaged in terms of the Medical Schemes Act, 1998 (Act No. 131 of 1998), or funeral services, as envisaged in the Friendly Societies Act, 1956 (Act No. 25 of 1956).” 5

**Addition of Part 5 to Schedule 1 to Act 14 of 2005**

75. The following part is hereby added in the principal Act to Schedule 1:

***“Part 5***

***Social co-operatives***

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**Application of this Part**

1. (1) This Part applies to social co-operatives which must comply with—

- (a) the requirements contemplated in this Part; and
- (b) all other relevant provisions of this Act.

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**Requirements of constitution**

2. In addition to any other requirements of this Act, the constitution of a social co-operative must specify the nature of the social service the co-operative aims to provide its members.

**Surplus**

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3. A social co-operative may—

- (a) set aside 100 per cent of its surplus to an indivisible reserve; and
- (b) capitalise all donations and grants, in order to enjoy the benefits of public benefit organisations.

**Termination of membership**

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4. (1) Despite any other provisions of this Act, the constitution of a social co-operative may give the Board of the social co-operative the power to terminate the membership of a member if there is good reason to do so.

(2) Before terminating the membership of a member, the Board must give such member—

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- (a) written notice that termination is contemplated;
- (b) written reasons for the proposed termination which, in the case of a member who has served a period of probation, must relate to the conduct or capacity of the member to carry out his or her duties, or to the operational requirements of the co-operative; and
- (c) a right to be heard.

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(3) A member whose membership is terminated by the Board has a right to appeal to a general meeting within the time limit set out in the constitution.

(4) A termination of the membership of a member by the Board is confirmed on appeal if the members, at a duly called general meeting, do not reverse the decision of the Board.

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(5) If a general meeting is called to consider the appeal of a member whose membership is terminated and a quorum of members is not present, the decision of the Board cannot be confirmed.

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wu nyikaka eka swirho swa rona, naswona swi katsa ku nyikiwa ka ndzindzakhombo wa nkarhi wo leha na wa nkarhi wo koma, tanihilaha swi languteriweke hi ku landza *Long-term Insurance Act*, 1998 (Nawu wa No. 52 wa 1998) kumbe *Short-term Insurance Act*, 1998 (Nawu wa No. 53 wa 1998) na bindzu ra xikimi xa vutshunguri, tanihilaha swi languteriweke hi ku landza *Medical Schemes Act*, 1998 (Nawu wa No. 131 wa 1998), na mitirho ya swo lahla, tanihlaha swi languteriweke eka *Friendly Societies Act*, 1956 (Nawu wa No. 25 wa 1956).”

### Ku ngenisiwa ka Xiphemu xa 5 eka Xedulu ya 1 eka Nawu wa 14 wa 2005

75. Xiphemu lexi landzelaka xa ngenisiwa eka Nawunkulu endzhaku ka Xiphemu xa 4 xa Xedulu ya 1:

#### “Xiphemu xa 5

##### *Mabindzuntirhisano ya vanhu*

##### **Ku tirhisa xiphemu lexi**

1. (1) Xiphemu lexi xi tirha eka mabindzuntirhisano ya vanhu lama landzelelaka—  
 (a) swilaveko leswi langutisiweke eka Xiphemu lexi; na  
 (b) ku lulamisela hinkwako loku faneleke ka Nawu lowu.

##### **Swilaveko swa vumbiwa**

2. Ku ngetelela eka swilaveko swihi kumbe swihi swa Nawu lowu, vumbiwa ra bindzuntirhisano ra vanhu ri fanele ku boxa muxaka wa ntirho wa vanhu lowu ri lava ku wu nyika eka swirho swa rona.

##### **Swo ngetelela**

3. Bindzuntirhisano ra vanhu ri nga ha—  
 (a) veka ethelo swiengetelo swa rona swa tipesente ta 100 eka vuhlayiselo lebyi nga avanyisekiki; na  
 (b) ku hlanganisa minyikelo hinkwayo, ku endlela ku tiphina hi ku vuyeriwa ka mihlangano leyi vuyerisaka vanhu.

##### **Ku herisa vuxirho**

4. (1) Hambiloko ku ri na ku lulamisela kwihi kumbe kwihi ka Nawu lowu, vumbiwa ra bindzuntirhisano ra vanhu ri nga ha nyika bodo ya varhangeri va bindzuntirhisano ra vanhu matimba yo herisa vuxirho bya xirho loko ku ri na xivangelo xa kahle xo endla tano.

(2) Loko ku nga si herisiwa vuxirho bya xirho, bodo ya varhangeri yi fanele ku nyika xirho xexo—

(a) xitiviso xa leswaku ku le ku langutisiweni ka ku herisiwa ka vuxirho;  
 (b) swivangelo leswi tsariweke swa xiringanyeto swo herisa leswi eka xirho lexi nga heta nkarhi wo ringetiwa (*probation*), swi fanele ku fambelana na matikhomele kumbe vuswikoti bya xirho byo endla mitirho ya xona, kumbe swilaveko swa matirhelo ya bindzuntirhisano; na  
 (c) mfanelo yo yingisiwa.

(3) xirho lexi vuxirho bya xona byi herisiwaka hi bodo ya varhangeri xi na mfanelo yo apila eka nhlengeletano ya mani na mani eka nkarhi lowu vekeweke eka vumbiwa.

(4) Ku herisiwa ka Vuxirho bya xirho xa bodo ya varhangeri swa tiyisiwa eka apili loko swirho swi nga cinci xiboho xa bodo ya varhangeri eka nhlengelatanano ya mani na mani leyi rhambiweke hi ndlela leyi faneleke.

(5) Loko nhlengelatanano ya mani na mani yi rhambiwa ku ta languta apili ya xirho lexi vuxirho bya xona byi herisiweke naswona ku nga ri na nhlayo leyi ringaneleke ya swirho, xiboho xa Bodo ya varhangeri xi nge tiyisiwa.

**Definitions**

5. For the purposes of this part ‘social co-operative’ means a co-operative whose main objective is to provide social services to its members.”.

**Substitution of long title of Act 14 of 2005**

76. The following long title is hereby substituted for the long title of the principal Act: 5

**“To provide for co-operative principles and for compliance with co-operative principles; to provide for the categories, application for registration and registration of co-operatives; to provide for the constitution and functions of co-operatives; to provide for the registered offices of co-operatives, as well as the record-keeping by co-operatives; to provide for membership and general meetings of members, and governance of co-operatives; to provide for the capital structures and the financial reporting and the independent audit or review of co-operatives; to provide for the board of directors; to provide for the management of co-operatives through their board of directors; to provide for the capital structure of co-operatives; to provide for the amalgamation, division, conversion and transfer of co-operatives to any other form of juristic person; to provide for the winding-up and deregistration of co-operatives; to provide for judicial management of co-operatives; to provide for the administration of the Act; to establish the Co-operatives Advisory Council; to provide for the membership and functions of the Council; to establish the Co-operatives Development Agency; to provide for the governance of the Agency; to provide for the legal status, functions and powers of the Agency; to establish the Board of the Agency; to provide for the governance of the Agency; to provide for the funding and financial management of the Agency; to establish the Co-operatives Tribunal; to provide for the functions and composition of the Tribunal; to provide for special provisions relating to certain kinds of co-operatives; to provide for co-operation between governmental agencies in for the promotion and support of co-operatives; and to provide for matters connected therewith.”.** 10  
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**Substitution of Preamble to Act 14 of 2005**

77. The following Preamble is hereby substituted for the Preamble to the principal Act: 35

**“PREAMBLE**

**WHEREAS** the Republic of South Africa acknowledges the need for the registration of co-operatives, in accordance with—  
\* the Constitution;  
\* international conventions and treaties; and  
\* national, provincial and local government transversal policy and statutory-regulatory frameworks,  
as well as the need for the development of a viable, autonomous, self-reliant and self-sustaining co-operative movement to promote community development and entrepreneurship, create employment and successful enterprises, eradicate poverty and improve the socio-economic well-being of the members of co-operatives in accordance with the co-operative principles; 40  
45  
**AND WHEREAS** the Constitution and national legislation enjoins government to play a fundamental role in promoting the development of co-operatives: 50  
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**Tinhlamuselo**

5. Hi swikongomelo swa xiphemu lexi ‘bindzuntirhisano ra vanhu’ swi vula bindzuntirhisano leri xikongomelonkulu xa rona ku nga ku nyika mitirho ya vanhu eka swirho swa rona.”.

**Ku siviwa ka vito ro leha ra Nawu wa 14 wa 2005**

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76. Vito leri landzelaka ro leha ra siviwa eka vito ro leha ra Nawunkulu:

“**Ku lulamisela misinya ya bindzuntirhisano na ku landzelela misinya ya bindzuntirhisano, ku lulamisela mikhetekanyo, xikombelo xo tsarisa na ku tsarisiwa ka mabindzuntirhisano; ku lulamisela vumbiwa na mitirho ya mabindzuntirhisano; ku lulamusela tihofisi leti tsarisiweke ta mabindzuntirhisano, ku katsa na ku va mabindzuntirhisano ya hlayisa tirhekhodo; ku lulamisela vuxirho na tinhlangeletano ta swirho, na mafumele ya mabindzuntirhisano; ku lulamisela swiakiwa swa nhundzu na tioditi ta mabindzuntirhisano; ku lulamisela bodo ya varhangeri; ku lulamisela vufambisi bya mabindzuntirhisano hi bodo ya wona ya varhangeri; ku lulamisela swiakiwa swa nhundzu ya mabindzuntirhisano; ku lulamisela oditi na nkambisiso lowu tiyimeleke wa mabindzuntirhisano; ku lulamisela ku hlanganisiwa, ku hambanyisa na ku cinca na ku hundzisa mabindzuntirhisano eka muxaka wihi kumbe wihi wa munhu loyi a nga na matimba ya naw; ku lulamisela ku herisiwa na ku susiwa eka ntsariso ka mabindzuntirhisano, ku lulamisela vufambisi bya swa nawu bya mabindzuntirhisano; ku lulamisela vulawuri bya Nawu: ku lulamisela ku sunguriwa ka Huvo yo Tsundzuxa ya Mabindzuntirhisano; ku lulamisela vuxirho na mitirho ya Huvo, ku luamisela mafumele ya Ejensi; ku lulamisela xiyimo xa nawu xa, mitirho na matimba ya Ejensi; ku tumbuluxa Bodo ya Ejensi; ku lulamisela mafumele ya Ejensi; ku lulamisela ku hakelela na mafambiselo ya timali ta Ejensi; ku tumbuluxa Huvo yo tengisa ya Mabindzuntirhisano; ku lulamisela mitirho na lava vumbaka Huvo yo tengisa; ku nyika ku lulamisela ka nkoka mayelana na tinxaka tin’wana ta mabindzuntirhisano; ku lulamisela ku tirhisana exikarhi ka ejensi ta mfumo ku endlela ku kota ku tlakusa na ku seketela mabindzuntirhisano; na ku lulamisela timhaka leti fambelanaka na wona.”.**

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**Ku siviwa ka Manghenelo ya Nawu wa 14 wa 2005**

77. Manghenelo lawa ya landzelaka ya siviwa eka Manghenelo ya Nawunkulu:

**“MANGHENELO**

**KU RI HI LESWAKU** Riphabliki ra Afrika Dzonga ri tekela enhlokweni xilaveko xo tsarisiwa mabindzuntirhisano, hi ku landza—

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- \* Vumbiwa;
- \* tinhlangeletano ta matiko ya tinxakaxaka na mitwanano;
- \* pholisi yo hundzuluxa ya rixaka, ya xifundzankulu na mfuwo wa muganga na marimba yo lawula ku katsa na xilaveko xa nhluvukiso lowu tirhaka,

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lowu tiyimelaka na nhlungano wa bindzuntirhisano lowu kotaka ku tiyisa emahlweni ha woxe ku endllela ku hluvukisa mabindzu, ku tumbuluxa mitirho na mabindzu lawa ya humelelaka, ku herisa vusweti na ku antswisa rihanyo lerinene ra ikhonomi ya vanhu eka swirho swa bindzuntirhisano hi ku landza misinya ya bindzuntirhisano;

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**NA LOKO KU RI HI LESWAKU** Vumbiwa na nawu wa rixaka wu sindzisa mfumo ku teka goza ra nkoka ro tlakusa ku hluvukisiwa ka mabindzuntirhisano:

- \* in accordance with the co-operative international principles recognised and implemented in South Africa;
- \* in accordance with the Millennium Development Goals, including sustainable social and economic development;
- \* through the establishment of public private partnerships;
- \* through support, and participation in, government initiatives relating to rural development, land reform and agrarian transformation; and
- \* by addressing the developmental needs arising from the socio-economic environment of South Africa;

**AND WHEREAS** the Constitution and national legislation enjoins the three spheres of government to be accountable and responsible in supporting and promoting the development and effective functioning of co-operatives in order to bring about a vibrant co-operative movement in South Africa;

**AND WHEREAS** this Act is aligned with ILO Recommendation 193 of 2002, which was also ratified by the South African government, and with co-operative values and principles outlined in the Co-operative Statement of Identity adopted by the International Co-operative Alliance (ICA) in 1995, which states that—

- \* co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity;
- \* co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others; and
- \* co-operative principles are guidelines by which co-operatives put their values into practice,

**AND WHEREAS** all co-operatives are obligated to contribute towards community development in line with the co-operative principle of concern for community.”.

#### **Substitution of Table of Contents of Act 14 of 2005**

**78.** The following Table of Contents is hereby substituted for the Table of Contents of the principal Act:

#### **“CONTENTS**

##### *Sections*

#### **CHAPTER 1**

#### **DEFINITIONS, PURPOSES AND APPLICATION OF ACT 35**

1. Definitions and interpretation
2. Purpose of Act
3. Compliance with co-operative principles
4. Forms and kinds of co-operatives
5. Application of Act 40
- 5A. Application of Co-operative Banks Act

- \* Ku ya hi misinya ya matiko ya tinxaka leyi tekeriwaka enhlokweni na ku yi tirhisiwa e Afrika Dzonga;
- \* tekelela Swikongomelo swa Nhluvukiso swa Mileniyamu, ku katsa hluvukiso wa vanhu lowu yisekaka emahlweni na nhluvukiso wa ikhonomi;
- \* hi ku sunguriwa ka xinakulobye xa mfumo na mavandla lawa ya nga riki ya mfumo;
- \* seketela na ku nghenelela eka matshalatshala ya mfumo lama fambelanaka na nhluvukiso wa matiko xikaya, ku hundzuluxa eka swa misava na ku hundzuluxa eka swa vurimi; na
- \* ku lulamisa swilaveko swa nhluvukiso leswi sukaka eka mbangu wa ikhonomi ya vanhu va Afrika Dzonga;

**NA LOKO KU RI HI LESWAKU** Vumbiwa na nawu wa rixaka swi hlanganisa swiyenge swinharhu swa mfumo ku va na vutihlamuleri byo seketela na ku tlakusa nhluvukiso na ku tirha hi ku hetiseka ka mabindzuntirhisano ku endlela ku tisa nhlungano wa mabindzuntirhisano lawa ya tirhaka eAfrika Dzonga;

**NA LOKO KU RI HI LESWAKU** nawu lowu wu fambelana na Swibumabumelo swa ILO 193 swa 2002, leswi nga tlhela swi tiyisisiwa hi mfumo wa Afrika Dzonga, na nkoka wa bindzuntirhisano na misinya leyi andlariweke eka Xititimende xa Vutitivisi xa Mabinudzuntirhisano lexi tekeleriweke Nhlunganelo wa Mabindzuntirhisano wa Tinxaka (ICA) hi 1995, lexi vulaka leswaku—

- \* mabindzuntirhisano ya simekiwile eka nkoka wo tipfuna ha wexe, ku va ni vutihlamuleri ha wexe, xidemokirasi, ndzingano, ku lulama na vun'we;
- \* swirho swa bindzuntirhisano swi tshembela eka co-operative members believe in the nkoka wa vumunhu wa ku tshembheka, ku va erivaleni, vutihlamuleri na ku hlayisa vanhu van'wana; na
- \* misinya yo bindzuntirhisano i swiletelo leswi mabindzuntirhisano ya fikelelaka nkoka hi ku endla,

**NASWONA TANIHILESWI** mabindzuntirhisano hinkwawo ya boheka ku hoxa xandla eka nhluvukiso wa vaaki hi ku fambelana na nsinya wa bindzuntirhisano lowu khumbaka vaaki,”.

**Ku siviwa ka Tafula ra Vundzeni ra nawu wa 14 wa 2005** 35

78. Tafula ra Vundzeni leri landzelaka ra siviwa hi Tafula ra Vundzeni ra Nawunkulu:

#### “VUNDZENI

*Sewiyenge*

#### KAVANYISA KA 1

**TINHLAMUSELO, SWIKONGOMELO NA KU TIRHISIWA KA NAWU** 40

1. Tinhlamuselo na matwisiselo
2. Xikongomelo xa nawu
3. Ku landzelela misinya ya bindzuntirhisano
4. Tinxaka ta Mabaindzuntirhisano
5. Ku tirhisiwa ka Nawu wa 5A
- 5A. Ku tirhisiwa ka *Co-operative Banks Act*

## CHAPTER 2

### REGISTRATION, CONSTITUTION, POWERS OF CO-OPERATIVE AND REGISTERED OFFICE AND RECORD KEEPING BY CO-OPERATIVE

#### *Part 1* 5

##### *Application to register and name*

- 6. Application to register co-operative
- 7. Registration of co-operative
- 8. Effect of registration
- 9. Pre-incorporation contract 10
- 10 Name of co-operative
- 11. Directive from registrar to change name
- 12. Unlawful use of [**word ‘co-operative’**] words required to be part of the name of a co-operative

#### *Part 2* 15

##### *Constitution and powers of co-operative*

- 13. Constitution of co-operative
- 14. [**Provisions**] Minimum requirements for all [co-operatives] co-operative constitutions
- 14A. Associate members 20
- 15. Provisions where members are required to hold shares
- 15A. Categories of primary co-operatives
- 16. Provisions for secondary and tertiary co-operatives and the national apex co-operative
- 16A. Functions of the national apex co-operative 25
- 17. Consequences of invalidity
- 18. Amendment to constitution
- 19. [**Functions**] Restrictions on functions of co-operatives

#### *Part 3*

##### *Registered office and record keeping by co-operative* 30

- 20. Registered office of co-operative
- 21. Record keeping by co-operative
- 22. Access to information

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- 23. Liability of members
- 24. Withdrawal of membership
- 25. [**Transfer**] Repayment of membership, member loan or membership share
- 26. Powers of registrar in case of reduced number of members 40
- 26A. Annual submission to registrar

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### GENERAL MEETINGS

- 27. Structure for decision making
- 28. General meetings 45
- 29. Annual general meetings



**KAVANYISA KA 2**

**NTSARISO, VUMBIWA, MATIMBA YA MABINDZUNTIRHISANO  
NA HOFISI LEYI TSARISIWEKE NA KU HLAYISA  
TIRHEKHODO HI BINDZUNTIRHISANO**

*Xiphemu xa 1* 5

*Xikombelo xo tsarisa na vito*

6. Xikombelo xo tsarisa bindzuntirhisano
7. Ntsariso wa bindzuntirhisano
8. Ku pfuna ka ntsariso
9. Nkontiraka ya loko ku nga si hlanganiwa 10
10. Vito ra bindzuntirhisano
11. Xileriso xo suka eka mutsarisi xo cinca vito
12. Ku tirhisiwa ko ka ku nga ri enwini ka [**rito 'bindzuntirhisano'**]  
marito lama faneleke ku va xiphemu xa bindzuntirhisano

*Xiphemu xa 2* 15

**Vumbiwa na matimba ya bindzuntirhisano**

13. Vumbiwa ra bindzuntirhisano
14. [**Ku lulamisela**] Swilaveko swa masungulo swa [mabindzuntirhisano] hinkwawo mavumbiwa ya bindzuntirhisano 20
- 14A. Swirho swo tatisa
15. Ku lulamisela laha swirho swi faneleke ku va na mikavelo
- 15A. Mikhetekanyo ya mabindzuntirhisano yo sungula
16. Ku lulamisela ka mabindzuntirhisano ya vumbirhi na ya vunharhu na mabindzuntirhisano ya le maninginingini
- 16A. Mitirho ya mabindzuntirhisano ya le maninginingini 25
17. Switandzhaku swo va ku nga ri ntiyiso
18. Ku antswisiwa ka vumbiwa
19. [**Mitirho**] ku aleriwa ka mitirho ya bindzuntirhisano

*Xiphemu xa 3*

*Hofisi leyi tsarisiweke na ku hlayisa rhekhodo hi bindzuntirhisano* 30

20. Hofisi leyi tsarisiweke ya bindzuntirhisano
21. Ku hlayisa tirhekhodo hi bindzuntirhisano
22. Ku fikelela mahungu

**KAVANYISA KA 3**

**VUXIRHO BYA MABINDZUNTIRHISANO** 35

23. Vutihlamuleri bya swirho
24. Ku tshika ka vuxirho
25. [**ku hundzisela**] Hakelo ya vuxirho, loni ya xirho kumbe nkavelo wa xirho
26. Matimba ya mutsarisi loko ku ri na nhlayo ya le hansi ya swirho 40
- 26A. Ku yisiwa ka lembe eka mutsarisi

**KAVANYISA KA 4**

**TINHLENGELETANO TA MANI NA MANI**

27. Xiakiwa na ku teka swiboho
28. Tinhlengeletano ta mani na mani 45
29. Tinhlengeletano ta lembe ta mani na mani

- 30. Representation at meetings
- 31. Minutes of general meetings

## CHAPTER 5

### **[MANAGEMENT] GOVERNANCE OF CO-OPERATIVES**

- 32. Board of directors 5
- 33. Appointment of directors
- 34. Meetings and resolutions of board of directors
- 35. Minutes of meetings of board of directors
- 36. Board of directors may delegate functions to director or committee or manager 10
- 37. Disclosure of interest
- 38. Acceptance of commission, remuneration or reward prohibited in certain circumstances
- 39. Returns relating to directors

## CHAPTER 6 15

### **CAPITAL STRUCTURE**

- 40. Capital of co-operative
- 41. Membership shares
- 42. Issue of certificates in respect of membership shares or member loans
- 43. Funds of members 20
- 44. Patronage proportion
- 45. Prohibited and permitted loans and security
- 46. **[Reserve fund of members]** Reserves for co-operatives

## CHAPTER 7

### **[AUDIT] AUDITED REPORTS AND INDEPENDENT REVIEWED REPORTS OF CO-OPERATIVES 25**

- 47. **[Audit]** Audited report
- 48. **[Approval of auditor's report and financial statements]** Consideration of audited report or independent reviewed reports
- 49. Auditor and independent reviewer disqualified from acting 30
- 50. Appointment and termination of auditor or independent reviewer
- 51. Removal of auditor or independent reviewer
- 52. Attendance of meeting by auditor or independent reviewer
- 53. Right to information
- 54. Notice of error 35
- 55. **[Exemptions]**

## CHAPTER 8

### **AMALGAMATION, DIVISION, CONVERSION AND TRANSFER**

- 56. Amalgamation
- 57. Approval of amalgamation 40
- 58. Effect of registration of amalgamated co-operative
- 59. Division of co-operatives
- 60. Approval of division

30. Vuyimeri eka nhlengeletano
31. Makanelwa ya Tihlengelletano ta mani na mani

#### KAVANYISA KA 5

##### [VUFAMBISI] MAFUMELE YA MABINDZUNTIRHISANO

32. Bodo ya varhangeri 5
33. Ku thoriwa ka varhangeri
34. Tihlengelletano na swiboho swa bodo ya varhangeri
35. Makanelwa ya nhlengelletano ya varhangeri
36. Bodo ya varhangeri yi nga ha rhumela mitirho eka murhangeri kumbe eka komiti kumbe mufambisi 10
37. Ku boxa ntsakela
38. Ku amukela khomixini, muholo kumbe ku vuyeriwa lo ku aleriweke eka swiyimo swin'wana
39. Ku vuyeriwa lo ku yelanaka na varhangeri

#### KAVANYISA KA 6

15

##### SWIAKIWA SWA TIMALI

40. Timali ta bindzuntirhisano
41. Mikavelo ya vuxirho
42. Mhaka ya tisetifikheti mayelana na mikavelo ya vuxirho kumbe tiloni ta xirho 20
43. Mikwama ya swirho
44. Xiphemu xa nseketelo
45. Tiloni leti aleriweke na leti pfumeleriweke na nsirhelelo
46. [Nkwama lowu hlayiseriweke swirho] Nhlayiso wa mabindzuntirhisano 25

#### KAVANYISA KA 7

##### [ODITI] SWIVIKO LESWI ODITIWEKE NA SWIVIKO SWA NKAMBISISO LOWU TIYIMELEKE WA MABINDZUNTIRHISANO

47. [Odit] Xiviko lexi oditiweke 30
48. [Mpfumelelo wa xiviko xa muoditi na switatimende swa timali] Ku tekala enhlokweni leswi oditiweke kumbe nkambisiso lowu tiyimeleke xiviko xa akhawunti ya lembe
49. Muoditi na mukambisiso loyi a tiyimeleke loyi a aleriwaka ku tirha
50. Ku thoriwa na ku yimisiwa ka muoditi kumbe mukambisiso loyi a tiyimeleke 35
51. Ku susiwa ka muoditi kumbe mukambisiso loyi a tiyimeleke
52. Ku ya ka muoditi kumbe mukambisiso loyi a tiyimeleke etinhle-ngeletanini
53. Mfanelo ya mahungu 40
54. Xitiviso xa xihoxo
55. [Ku nga nghenisiwi]

#### KAVANYISA KA 8

##### KU HLANGANISIWA, KU AVANYISA, KU CINCA NA KU HUNDZUSELA

45

56. Ku hlanganisa
57. Mpfumelelo wo hlanganisa
58. Ku pfuna ka ku tsarisiwa ka bindzuntirhisano leri hlanganisiweke
59. Ku avanyisiwa ka mabindzuntirhisano
60. Mpfumelelo wo avanyisa 50

- 61. Effect of registration of co-operatives constituted in terms of division
- 62. Conversion of co-operative to any other form of juristic person
- 63. Transfers
- 64. Protection of creditors
- 65. Registration of property upon amalgamation, division, conversion or transfer 5
- 66. Application to convert company into co-operative
- 67. Consideration of application
- 68. Effects of incorporation of company as co-operative
- 69. Special provision relating to company which has given an undertaking under section 66(3) 10
- 70. Registrar to give notice of conversion to registrar of Companies
- 70A. Fees for amalgamation, division, conversion and transfer

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- 71. Modes of winding-up
- 71A. Voluntary winding-up
- 72. Winding-up by order of court
- 72A. Application for declaratory order
- 72B. Winding-up by order of Tribunal 20
- 73. [Winding-up or de-registration by order of Minister]
- 74. [Admission and proving of claims against co-operative being wound up]
- 75. [Distribution account]
- 76. [Contribution account] 25

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#### JUDICIAL MANAGEMENT

- 77. [Circumstances in which co-operatives may be placed under judicial] Judicial management

#### CHAPTER 11 30

#### ADMINISTRATION OF ACT

- 78. Registrar of Co-operatives
- 79. Seal and official stamp of registrar
- 80. Register of co-operatives to be kept by registrar
- 81. Submission of documentation to registrar 35
- 82. Inspection of documents
- 83. Form of records kept may be prescribed
- 84. Investigation by registrar

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#### CO-OPERATIVES ADVISORY [BOARD] COUNCIL 40

- 85. Establishment of Co-operatives Advisory [Board] Council
- 86. Functions of Advisory [Board] Council
- 87. Members of Advisory [Board] Council
- 88. Term of office and conditions of service of members of Advisory [Board] Council 45
- 89. Meetings of Advisory [Board] Council
- 90. Public hearings
- 91. Accountability to Parliament

61. Ku pfuna ka ntsariso wa mabindzuntirhisano lawa ya vumbiweke mayelana na ku avanyisa  
62. Ku cinciwa ka mabindzuntirhisano ku ya eka muxaka wihi kumbe wihi wa munhu la nga na matimba  
63. Ku hundziseriwa 5  
64. Ku sirhelela vakolotiwa  
65. Ku tsarisiwa ka nhundzu loko ku hlanganisiwa, ku avanyisa, ku cinciwa kumbe ku hundziseriwa  
66. Xikombelo xo cinca khamphani yi va bindzuntirhisano  
67. Ku tekela xikombelo enhlokweni 10  
68. Ku pfuna ko katsa khamphani tanihi bindzuntirhisano  
69. Ku lulamisela ko hlawuleka mayelana na khamphani leyi tiboheke ehansi ka xiyenge xa 66(3)  
70. Mutsarisi u ta nyika xitiviso xo cinciwa ka Vutsarisi bya tikhamphani  
70A. Timali ti hlanganisa, ku avanyisa, ku cinca na ku hundzisele 15

#### KAVANYIASA KA 9

#### KU HERISIWA NA KU SUSIWA KA MABINDZUNTIRHISANO EKA NTSARISO

71. Tindlela to herisa  
71A. Ku herisa hi ku swi tsakela 20  
72. Ku herisa hikwalaho ka xileriso xa khoto  
72A. Xikombelo xa xileriso xo tiyisisa  
72B. Ku herisa hikwalaho ka xileriso xa mutsarisi kumbe Huvo yo tengisa  
73. [Ku herisa kumbe ku susiwa eka ntsariso hi xileriso xa Holobye]  
74. [ku amukeriwa na vumbhoni bya xikoxo ehenhla ka bindzuntirhisano leri herisiwaka] 25  
75. [Akhawunti yo hangalasa]  
76. [Akhawunti ya minyikelo]

#### KAVANYISA KA 10

#### VUFAMBISI BYA SWA NAWU 30

77. [Swiyimo leswi eka swona mabindzuntirhisano ya nga ha vekiwaka ehansi ka nawu] vufambisi bya swa nawu

#### KAVANYISA KA 11

#### VULAWURI BYUA NAWU

78. Mutsarisi wa mabindzuntirhisano 35  
79. Sili na xigandlu xa mutsarisi xa ximfumo  
80. Rhijisitara ra mabindzuntirhisano ri ta vekiwa hi mutsarisi  
81. Ku yisiwa ka matsalwa eka mutsarisi  
82. Ku kamberiwa ka matsalwa  
83. Muxaka wa tirhekhodo leti vekiwaka wu nga ha boxiwa 40  
84. Vulavisi bya mutsarisi

#### KAVANYISA KA 12

#### [BODO] HUVO YO TSUNDZUXA YA MABINDZUNTIRHISANO

85. Ku sunguriwa ka [Bodo] Huvo yo Tsundzuxa ya Mabindzuntirhisano  
86. Mitirho ya [Bodo] Huvo yo tsundzuxa 45  
87. Swirho swa [Bodo] Huvo yo tsundzuxa  
88. Nkarhi wo va entirhweni na swipimelo swa matirhelo ya swirho swa [Bodo] Huvo yo tsundzuxa  
89. Tinhlengeltano ta [Bodo] Huvo yo tsundzuxa  
90. mitengo ya mani na mani 50  
91. Vutihlamuleri eka Palamende

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**CO-OPERATIVES DEVELOPMENT AGENCY**

*Part 1*

*Establishment, legal status, functions and powers of Agency*

- 91A. Establishment of Co-operatives Development Agency 5
- 91B. Objectives of Agency
- 91C. Functions of Agency
- 91D. Functions of Agency in respect of satellite offices of Agency
- 91E. General Powers of Agency
- 91F. Reporting by Agency 10

*Part 2*

*Funding and financial management of Agency*

- 91G. Funding of Agency
- 91H. Annual budget and strategic plan
- 91I. Financial management, financial statements and annual report 15

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*National government oversight and executive authority*

- 91J. Executive authority
- 91K. Information

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- 91L. Establishment, legal status and composition of Co-operatives Tribunal
- 91M. Appointment and composition of Tribunal
- 91N. Functions of Tribunal
- 91O. Prohibition on Tribunal 25
- 91P. Appointment and composition of inspectors or inspectorate
- 91Q. Adjudication of hearings before Tribunal
- 91R. Right to participate in hearing
- 91S. Powers of Tribunal in adjudicating hearing
- 91T. Rules of procedure 30
- 91U. Witnesses
- 91V. Appointment, composition and functions of Co-operative Conflict Resolution Commission
- 91W. Right to information
- 91X. Summons 35
- 91Y. Authority to enter and search under warrant
- 91Z. Powers to enter and search
- 91AA. Conduct of entry and search
- 91BB. Compromise between co-operative and creditors

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**INTERGOVERNMENTAL RELATIONS**

- 91CC. Applicability of intergovernmental relations framework policies and legislation
- 91DD. Intergovernmental structures
- 91EE. Functions of intergovernmental structures 45
- 91FF. Administrative and procedural arrangements

**KAVANYISA KA 12A**

**EJENSI YA NHLUVUKISO WA MABINDZUNTIRHISANO**

*Xiphemu xa 1*

*Ku tumbuluxiwa, xiyimo xa nawu, mitirho na matimba ya Ejensi*

- 91A. Ku sunguriwa ka Ejensi ya Nhluvukiso wa Mabindzuntirhisano 5  
91B. Swikongomelo swa Ejensi  
91C. Mitirho ya Ejensi  
91D. Mitirho ya Ejensi mayelana na tihofisi ta Ejensi ta sathelayiti  
91E. Matimba man'wana na man'wana ya Ejensi  
91F. Ku vika hi Ejensi 10

*Xiphemu xa 2*

*Ku hakelela na mafambiselo ya timali ta Ejensi*

- 91G. Ku hakelela Ejensi  
91H. Mpimanyero wa lembe na pulani ya xitirateji  
91I. Mafambiselo ya timali, switatimende swa timali na xiviko xa lembe 15

*Xiphemu xa 3*

*Xihoxo xa mfumo wa rixaka na matimba ya le henhla*

- 91J. Matimba ya le henhla  
91K. Mahungu

**KAVANYISA KA 12B**

**HUVO YO TENGISA MABINDZUNTIRHISANO**

- 91L. Ku tumbuluxiwa, xiyimo xa nawu na lava vumbaka Huvo yo tengisa  
ya Mabindzuntirhisano  
91M. Ku thoriwa na lava vumbaka Huvo yo tengisa  
91N. Mitirho ya Huvo yo tengisa 25  
91O. Ku aleriwa ka Huvo yo tengisa  
91P. Ku thoriwa na lava vumbaka vakamberi kumbe vukamberi  
91Q. Ku avanyisiwa ka mitengo emahlweni ka Huvo yo tengisa  
91R. Mfanelo yo nghenelela eka ntengo  
91S. Matimba ya Huvo yo tengisa eka ku avanyisa ntengo 30  
91T. Milawu ya mafambiselo  
91U. Timbhoni  
91V. Ku thoriwa, lava vumbaka na mitirho ya Khomixini yo Tshunxa  
Swiphiso ya Mabindzuntirhisano  
91W. Mfanelo ya mahungu 35  
91X. Masamanisi  
91Y. Matimba yo nghena na ku secha ehansi ka mpfumelelo  
91Z. Matimba yo nghena na ku secha  
91AA. Ku nghena na ku secha  
91BB. Ku twelana exikarhi ka bindzuntirhisano na vakolotiwa 40

**KAVANYIASA KA 12C**

**VUXAKA BYA LE NDZENI KA MFUMO**

- 91CC. Ku tirhiseka ka tipholisi ta rimba ra vuxaka exikarhi ka mfumo na  
nawu  
91DD. Swiakiwa swa le xikarhi ka mfumo 45  
91EE. Mitirho ya swiakiwa swa le xikarhi ka mfumo  
91FF. Vulawuri na maveketelelo ya maendlelo

91GG. Establishment, composition and functions of Inter-Provincial Co-ordination Committee on Co-operatives	5
91HH. Establishment of Provincial Interdepartmental and Municipal Coordinating Structure	
91II. Dispute and conflict resolution	
<u>91JJ. Framework for intergovernmental relations</u>	

### CHAPTER 13

#### MISCELLANEOUS PROVISIONS

92. Offences	
93. Appeal to Minister	10
94. Exclusion	
94A. Reporting, monitoring, evaluation and assessment	
<u>94B. Co-operative Policy, Legislation, Strategy and Administrative Support</u>	
95. Regulations	
96. Delegation by Minister	15
97. Transitional provisions	
98. Repeal of laws and savings	
99. Short title and commencement	

### SCHEDULE 1

#### SPECIAL PROVISIONS RELATING TO CERTAIN KINDS OF CO-OPERATIVES 20

Part 1 Housing co-operatives	
Part 2 Worker co-operatives	
Part 3 Financial co-operatives	
Part 4 Agricultural co-operatives	25
<u>Part 5 Social co-operatives</u>	

### SCHEDULE 2

Laws repealed by section 98”.

#### Substitution of expressions in Act 14 of 2005

79. The principal Act is hereby amended by the substitution for the expressions “reserve fund” and “financial services co-operatives” wherever they appear of the expressions “indivisible reserve” and “financial co-operative”, respectively. 30

#### Short title and commencement of Act

80. This Act is called the Co-operatives Amendment Act, 2013, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 35



91GG. Ku tumbuluxiwa, lava vumbaka na mitirho ya Komiti yo Hlanganisa Exikarhi ka Swifundzankulu ya Mabindzuntirhisano	5
91HH. Ku tumbuluxiwa ka Xiakiwa xo Hlanganisa Exikarhi ka Tindzawulo ta Xifundzankulu na Xiakiwa xo Fambisa xa Masipala	
91II. Nkwetlembetano na ku tshunxa ntlimbo	
91JJ. <u>Rimba ra vuxaka exikarhi ka mfumo</u>	

### KAVANYISA KA 13

#### KU LULAMISELA LO KU KATSAKA HINKWASWO

92. Milandzu	10
93. Ku apila eka Holobye	
94. Ku nga katsiwi	
94A. <u>Ku vika, ku langutisisa, ku pima na ku hlahluva</u>	
94B. <u>Pholisi ya Bindzuntirhisano, Nawu, Qhinmga na Nseketelo wa Vulawuri</u>	
95. Swinawana	15
96. Vurhumiwa bya Holobye	
97. Ku lulamisela ku hundzuluxa	
98. Ku herisa milawu na ku hlayisa	
99. Vitonkomiso na ku sungula	

#### XEDULU YA 1 20

#### KU LUAMISELA KA NKOKA LOKU FAMBELANAKA NA MUXAKA WUN'WANA WA MABINDZUNTIRHISANO

Xiphemu xa 1 Mabindzuntirhisano ya swa Tindlu	25
Xiphemu xa 2 Mabindzuntirhisano ya swa Vatrhi	
Xiphemu xa 3 Mabindzuntirhisano ya swa Timali	
Xiphemu xa 4 Mabindzuntirhisano ya swa vurimi	
<u>Xiphemu xa 5 Mabindzuntirhisano ya swa Vanhu</u>	

#### XEDULU YA 2

Milawu leyi herisiweke hi xiyenge xa 98”.

#### Ku siviwa swivulwa eka Nawu wa 14 wa 2005 30

79. Nawunkulu wa cincywa hi ku siviwa ka swivulwa “mali leyi hlayisiweke” na mabindzuntirhisano ya mitirho ya timali” hinwako laha ya kumekaka hi swivulwa “nhlayiso lowu nga avekiki” na bindzuntirhisano ra timali”.

#### Vitonkomiso na ku sungula ka Nawu

80. Nawu lowu wu vuriwa Ku antswisiwa ka Nawu wa Mabindzuntirhisano, 2013, 35 naswona wu sungula ku tirha hi siku leri vekiweke hi Puresidente hi ku tivisa eka *Gazete*.

