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REPHABOLIKI YA AFORIKA BORWA

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No. 40773

THE PRESIDENCY

No. 344 6 April 2017

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

Act No. 2 of 2017: Justice Administered Fund Act, 2017

MOPRESIDENTE

No. 344 6 April 2017

Go itsisiwi fano gore MoPresidente o saennwe Molao o o latelang o o phasalediwang kitso ya botlhe fano:—

No. 2 wa 2017: Molao Wa letlole le le Tsamaisiwang ke Bosiamisi, 2017



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

(English text signed by the President)
(Assented to 4 April 2017)

ACT

To provide for the establishment of a Justice Administered Fund; to provide for the management, control, investment and utilisation of money in the Fund; and to provide for matters connected therewith.

PARLIAMENT of the Republic of South Africa, enacts as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
 - “**accounting officer**” means the person accountable for the Fund as contemplated in section 4; 5
 - “**Department**” means the Department of Justice and Constitutional Development;
 - “**Director-General**” means the Director-General of the Department;
 - “**financial year**” means a year starting on 1 April and ending on 31 March, of each year; 10
 - “**Fund**” means the Justice Administered Fund established by section 2;
 - “**Minister**” means the cabinet member responsible for the administration of justice;
 - “**National Revenue Fund**” means the National Revenue Fund mentioned in section 213 of the Constitution; 15
 - “**National Treasury**” means the National Treasury established by section 5 of the Public Finance Management Act;
 - “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - “**reserve account**” means the reserve account established by section 5; and 20
 - “**this Act**” includes the regulations.

Establishment of Justice Administered Fund

2. There is hereby established a Fund to be known as the Justice Administered Fund.

Finances of Fund

3. The following monies on behalf of third parties must be administered through the Fund: 25
 - (a) Money received in terms of maintenance orders made in terms of the Maintenance Act, 1998 (Act No. 99 of 1998);
 - (b) money received as bail, payable in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or any other Act of Parliament; 30

(English text signed by the President)
(Assented to 4 April 2017)

MOLAO

Go tlamela ka go tlhomiwa ga Letlole le le Tsamaisiwang ke Bosiamisi; go tsenya mo taolong boemong jwa bolaodi, taolo, tsadiso le tiriso ya madi mo Letloleng; le go tlamela mo mabakeng a a tsamaelanang le lona.

PALAMENTE ya Rephaboliki ya Aforika Borwa, e dira molao jaana:—

Ditlhaloso

1. Mo Molaong ono, ntle le fa bokao bo tlhalosa ka mokgwa mongwe—
“**motlhankedi yo o rwalang maikarabelo**” o kaya motlhankedi yo o rwalang maikarabelo a a kailweng mo karolong 4; 5
“**Lefapha**” le kaya Lefapha la Bosiamisi le Tlhabololo ya Molaotheo;
“**Mokaedikakaretso**” o kaya Mokaedikakaretso wa Lefapha;
“**ngwaga wa ditšhelete**” e kaya ngwaga e e simololang ka 1 Moranang go fitlha ka 31 Mopitlwe, ngwaga nngwe le nngwe; 10
“**Letlole**” le kaya Letlole le le Tsamaisiwang Ke Bosiamisi le le tlhomilweng ke karolo 2;
“**Tona**” e kaya leloko la Kabinete le le rweleng maikarabelo a botsamaisi jwa bosiamisi;
“**Letlole la Lotseno la Bosetšhaba**” le kaya Letlole la Lotseno la Setšhaba le le kailweng mo karolong 213 ya Molaotheo; 15
“**Matlole a Bosetšhaba**” a kaya Matlole a Bosetšhaba a a tlhomilweng ke karolo 5 ya *Public Finance Management Act*;
“**Public Finance Management Act**” e kaya *Public Finance Management Act*, 1999 (Molao 1 wa 1999); 20
“**akhaonto ya resefe**” e kaya akhaonto ya resefe e e tlhomilweng ke karolo 5; le
“**Molao ono**” o akaretsa le melawana.

Go tlhomiwa ga Letlole le le Tsamaisiwang ke Bosiamisi

2. Go tlhomilwe fano Letlole le le tla itsegeng jaaka Letlole le le Tsamaisiwang ke Bosiamisi. 25

Ditšhelete tsa Letlole

3. Madi a a latelang mo boemong jwa matlhakore a boraro a tshwanetse go tsamaiswa go ya ka Letlole:
 - (a) Madi a a amogetsweng go ya ka taelo ya tlamelo e e dirilweng go ya ka *Maintenance Act*, 1998 (Molao 99 wa 1998); 30
 - (b) madi a a amogetsweng jaaka beili e e duelwang go ya ka *Criminal Procedure Act*, 1977 (Molao 51 wa 1977), kgotsa Molao mongwe le mongwe wa Palamente;

- (c) money paid to court in terms of any Rule of Court or any other law, of which the intended beneficiary is a third party;
- (d) money received which cannot immediately be allocated into any of the categories listed in paragraphs (a) to (c); and
- (e) interest earned, or bank charges raised on money paid into or retained by the Fund. 5

Management, control and administration of Fund

4. For the purposes of the Public Finance Management Act, the Director-General is accountable for the Fund.

Bank accounts and reserve account 10

5. (1) The accounting officer must, within the Fund, open and maintain bank accounts as he or she deems fit and assign to each such bank account a name that clearly identifies the account, one of which must be a separate account to be known as the reserve account.

(2) Section 7 of the Public Finance Management Act applies with the necessary changes to the accounts contemplated in subsection (1). 15

(3) The Minister, in consultation with the Minister of Finance, may, by notice in the *Gazette*, determine a limit on the maximum credit balance permitted in the reserve account.

- (4) (a) Any—
 - (i) unclaimed money; and 20
 - (ii) money which cannot immediately be allocated into any of the categories listed in section 3(a) to (c),

due to beneficiaries, must within 30 days, after receipt thereof, be paid into the reserve account.

- (b) If— 25
 - (i) a beneficiary claims an amount of money that has been paid into the reserve account in terms of paragraph (a)(i); or
 - (ii) the allocation of money that has been paid into the reserve account in terms of paragraph (a)(ii) becomes known,

within 10 years after it has been paid into the reserve account, the reserve account will be debited and the money will be paid to the beneficiary or be allocated correctly. 30

(5) The funding for any deficit not covered by the reserve account is to be negotiated with the National Treasury within the budgetary framework prescribed by the National Treasury, subject to an appropriation by Parliament.

Utilisation of money in Fund 35

6. (1) The money in the Fund referred to in section 3(a) to (d)—

- (a) may only be used for the purposes for which it has been paid into the Fund; and
- (b) must be paid directly from the Fund to the party entitled to the payment in question. 40

(2) (a) The bank costs relating to bank accounts opened and maintained in respect of the Fund must be defrayed against the interest earned in respect of those accounts, and any net balance of interest earned on those accounts must be paid into the reserve account.

(b) If the bank costs referred to in paragraph (a) exceed the amount of interest earned, the net balance of the bank costs must be defrayed from the reserve account. 45

- (3) The money in the reserve account may only be used—
 - (a) for the purposes referred to in subsection (2)(b); and
 - (b) to cover any deficit in the Fund.

(4) The accounting officer must ensure that any amount in excess of the amount in the reserve account contemplated in section 5(3) is paid over to the National Revenue Fund. 50

- (c) madi a a duetsweng kgotlatshekelo go ya ka Taolo ya Kgotlatshekelo kgotsa molao mongwe le mongwe, o e leng gore moamogeladitshwanelo yo o ikaeletsweng ke letlhakore la boraro;
- (d) madi a a amogetsweng ao a ka se aroganngweng ka bonako go ya ka ditlhophatse di neetsweng mo ditemaneng (a) go fitlha go (c); le 5
- (e) tsalo e e bonweng, kgotsa dituediso tsa banka tse di kgobokantsweng go tswa mo mading a a duetsweng mo kgotsa a a beilweng ke Letlole.

Bolaodi, taolo le tsamaiso ya Letlole

4. Mokaedikakaretso ke, go tsamaelana le *Public Finance Management Act*, motlhankedi yo o rweleng maikarabelo a Letlole. 10

Diakhaonto tsa banka le akhaonto ya resefe

5. (1) Motlhankedi yo o rweleng maikarabelo o tshwanetse, mo Letloleng, go bula le go tlamela diakhaonto tsa banka jaaka a bona go tshwanetse le go naya akhaonto nngwe le nngwe eo ya banka leina le le supang ka botlalo akhaonto, nngwe ya tsona e tshwanetse go nna akhaonto e e kwa thoko e e tla itsegeng jaaka akhaonto ya resefe. 15

(2) Karolo 7 ya *Public Finance Management Act* e diragatswa le diphetogo tse di tlhokegang mo diakhaontong tse di tlhalositsweng mo karotlaleletsong (1).

(3) Tona, ka therisano le Tona ya Matlotlo, ka kitsiso mo Lokwalodikgang la Puso, a ka tlhomamisa selekano sa tshalelo ya keretiti ya makisimamo e e dumeletsweng mo akhaontong ya resefe. 20

(4) (a) Nngwe le nngwe ya—

(i) madi a a sa lopiwang; le

(ii) madi ao a ka se aroganngweng ka bonako go ya ka ditlhophatse di neetsweng mo karolong 3(a) go fitlha go (c),

aa tshwanetseng go duelwa baamogeladituelo, a tshwanetse gore mo matsatsing a le 30, morago ga kamogelo ya ona, a duelwe mo akhaontong ya resefe. 25

(b) Fa—

(i) moamogelatuelo a lopa tuelo ya madi a a setseng a duetswe mo akhaontong ya resefe go ya ka temana (a)(i); kgotsa

(ii) go aroganngwa ga madi a a setseng a duetswe mo akhaontong ya resefe go ya ka temana (a)(ii) go itsagala, 30

mo dingwageng tse lesome morago ga fa a sena go duelwa mo akhaontong ya resefe, madi a tla gogwa go tswa mo akhaontong ya resefe le go duelwa go moamogelatuelo kgotsa go aroganngwa ka tshwanelo.

(5) Go duelwa ga madi a a tlhaetseng, ao a sa duelwang ke akhaonto ya resefe, go tla rerisanwa le Matlotlo a Bosetšhaba go tsamaelana le letlhomeso la tekanyetsokabo le le beilweng ke Matlotlo a Bosetšhaba, go ya ka kabo ya Palamente. 35

Tiriso ya madi a a mo Letloleng

6. (1) Madi a a mo Letloleng a a kailweng mo karolong 3(a) go fitlha go (d)—

(a) a ka dirisetswa fela maitlhomao a dueletsweng mo Letloleng; le 40

(b) a tshwanetse go duelwa ka tlhamalalo go tswa mo Letloleng go ya go letlhakore le le tshwanetsweng ke tuelo e e kailweng.

(2) (a) Ditshenyegelo tsa banka tse di amanang le diakhaonto tsa banka, tse di butsweng le go tlamelwa go ya ka Letlole, di tshwanetse go duelelwa kगतलhanong le tsalo e e bonweng go ya ka diakhaonto tseo e bile madi mangwe le mangwe a tsalo a a bonweng mo diakhaontong tseo a tshwanetse go duelwa mo akhaontong ya resefe. 45

(b) Fa ditshenyegelo tsa banka tse di kailweng mo temaneng (a) di feta madi a tsalo a a bonweng, madi a a setseng a ditshenyegelo tsa banka a ka duelwa go tswa mo akhaontong ya resefe.

(3) Madi a a leng mo akhaontong ya resefe a ka dirisetswa fela— 50

(a) maitlhomao a a kailweng mo karotlaleletsong (2)(b); le

(b) go duelela madi a a tlhaelang mo Letloleng.

(4) Motlhankedi yo o rwalang maikarabelo o tshwanetse go netefatsa gore madi mangwe le mangwe a a setseng go tswa mo mading a a leng mo akhaontong ya resefe e e tlhalositsweng mo karolong 5(3), a duelwa go Letlole la Lotseno la Bosetšhaba. 55

Investment of money not immediately required

7. (1) Any money in the Fund which is not required for immediate use, may be invested with a financial institution approved by the Minister of Finance, and may be withdrawn when required.

(2) Any unexpended balance of the money of the Fund at the end of any financial year shall be carried forward as a credit of the Fund to the next succeeding financial year. 5

(3) Any interest which may accrue to money invested as contemplated in subsection (1) must, on a monthly basis, be paid into the reserve account.

Regulations

8. (1) The Minister may make regulations, in consultation with the Minister of Finance, regarding— 10

(a) the manner in which money—

(i) is received by the Department and paid into the Fund;

(ii) in the Fund is accounted for;

(iii) in the Fund is paid to parties entitled to that payment; and 15

(iv) in the Fund is to be paid to the National Treasury;

(b) the writing-off of losses against the reserve account; and

(c) generally, all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) A regulation made under this section may provide that any person who contravenes, or fails to comply with, a provision thereof is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months. 20

Financial instructions

9. The accounting officer may, in consultation with National Treasury, issue financial instructions which are not in conflict with this Act, the Public Finance Management Act or regulations made, or instructions issued, in terms of section 76 of the Public Finance Management Act, prescribing further procedures to be followed in respect of the management, control and administration of the Fund. 25

Short title and commencement

10. This Act is called the Justice Administered Fund Act, 2017, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 30

Tsadiso ya madi a a sa tlhokegeng ka bonako

7. (1) Madi mangwe le mangwe a a mo Letloleng a a sa tlhokeng go dirisiwa ka bonako, a ka tsadisiwa le setheo sa ditšhelete se se rebotsweng ke Tona ya Matlotlo e bile a ka gogiwa fa go tlhokega.
- (2) Madi mangwe le mangwe a a setseng ao a neng a sa solofelwa a Letlole kwa bokhutlong ba ngwaga nngwe le nngwe ya ditšhelete a tla tseelwa kwa pele jaaka keretiti ya Letlole go ngwaga o o latelang wa ditšhelete. 5
- (3) Tsalo nngwe le nngwe e e ka tswang mo mading a a beleditsweng jaaka go tlhalositswe mo karolotlaleletsong (1), e tshwanetse go duelwa mo akhaontong ya resefe kgwedi le kgwedi. 10

Melawana

8. (1) Tona e ka dira melawana, ka therisano le Tona ya Matlotlo, mabapi le—
- (a) mokgwa o madi—
- (i) a amogelwang ke Lefapha le go duelwa mo Letloleng;
 - (ii) a a mo Letloleng a tseelwang maikarabelo ka ona; 15
 - (iii) a a mo Letloleng a duelwang go matlhakore a a tshwanetsweng ke tuelo; le
 - (iv) a a mo Letloleng a tshwanetseng go duelwa go Matlole a Bosetšhaba;
- (b) go phumulwa ga ditatlhegelo kgatlhanong le akhaonto ya resefe; le
- (c) ka kakaretso, dintlha tsotlhe tse di leng botlhokwa kgotsa matshwanedi go ka beiwa go fitlhelela maikaelelo a Molao ono. 20
- (2) Molawana o o dirilweng ka fa tlase ga karolo eno o ka tlamela gore motho mongwe le mongwe yo o tloang, kgotsa a palelwa ke go latelela kabelo ya ona, a bonwe molato wa tlolelolao mme ka katlholo a ka duedisiwa kgotsa a romelwa kgolegelong sebaka se se sa feteng dikgwedi tse 12. 25

Ditaelo tsa ditšhelete

9. Motlhankedi yo o rwalang maikarabelo o ka, ka therisano le Matlotlo a Bosetšhaba, neelana ka ditaelo tsa ditšhelete, tse di seng kgatlhanong le Molao ono, *Public Finance Management Act* kgotsa melawana e e dirilweng, kgotsa ditaelo tse di rebotsweng, go ya ka karolo 76 ya *Public Finance Management Act*, tse di neelatsang gape ka ditsamaiso tse di tshwanetseng go latelwa mabapi le bolaodi, taolo le tsamaiso ya Letlole. 30

Setlhogo se se khutshwane le tshimologo

10. Molao ono o bidiwa Molao Wa letlole le le Tsamaisiwang ke Bosiamisi, 2017, e bile o tla tsenngwa mo tirisong ka letlha le le beilweng ke Moporesidente ka kgoeletso mo Lokwalodikgang la Puso. 35