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

Act No. 6 of 2019: Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019

THE PRESIDENCY

No. 1082 19 August 2019

Zwi khou divhadiwa henefha uri mupresidende o tendelana na uyu mulayo une wa khou andadiwa hu u itela ngdivhado kha tshitshavha:—

Nom 6 ya 2019: Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndivho Yapo wa, 2019

VHUPRESIDENDE

No. 1082 19 August 2019
ACT

To provide for the protection, promotion, development and management of indigenous knowledge; to provide for the establishment and functions of the National Indigenous Knowledge Systems Office; to provide for the management of rights of indigenous knowledge communities; to provide for the establishment and functions of the Advisory Panel on indigenous knowledge; to provide for access and conditions of access to knowledge of indigenous communities; to provide for the recognition of prior learning; to provide for the facilitation and coordination of indigenous knowledge-based innovation; and to provide for matters incidental thereto.

PREAMBLE

RECOGNISING that the liberation of South Africa and its people from centuries of racial discriminatory colonial rule and domination and the establishment of a constitutional democracy was, is and will remain a historic achievement of all our people;

EMPHASISING that the Constitution of the Republic of South Africa, 1996, enshrines the founding values of human dignity, the achievement of equality, non-racism and non-sexism, as well as the Bill of Rights entrenches inalienable rights to and freedom of human dignity, equality, education, culture, religion, language, research, creativity, environment and property, among others;

NOTING that the Republic of South Africa as a sovereign democratic state has taken its rightful place in the family of sovereign states and is committed and obligated to observe international treaties, covenants, as well as international law;

REALISING that the Government of the Republic of South Africa is committed to the economic, cultural and social upliftment and well-being of its people, free of discrimination;

TAKING into account that in the exercise of its sovereignty, South Africa has enacted and continues to enact legislation that underpins the protection, promotion and development of indigenous knowledge systems and indigenous knowledge;

RECOGNISING that indigenous knowledge is a national asset and that it is therefore in the national interest to protect and promote indigenous knowledge through law, policy and both public and private sector programmes;

WISHING to encourage the use of indigenous knowledge in the development of novel, socially and economically applicable products and services;

ACCEPTING that indigenous innovation is a unique approach to social innovation that informs and underpins the work of indigenous communities,
Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndīvho Yapo wa, 2019

Mulayo

U ita mbetselo malugana na tsireledzo, nyaluso, mveledziso na u langa ndīvho ya yapo; u ita mbetselo ya uri hu vhe na u thomiwa ha Ofisi ya Lushaka ya Sisijeme dza Ndīvho Yapo na mishumo yapo; u ita mbetselo ya kulangele kwa pfanelo dza zwitshavha zwa ndīvho yapo; u ita mbetselo ya uri hu thomiwe Phanele ya Vhuvelshedi kha zwa ndīvho yapo na mishumo ya iyo phanele; u ita mbetselo ya u swikelela na milayo ya u swikelela ndīvho ya zwitshavha zwapo; u ita mbetselo ya laшеlesa-vho zwinz muthu a vha na ndīvho khazwo a so ngo tou dzhena tshikolo; u ita mbetselo ya u leludza na u konanya vhuthomi ho sendekaho kha ndīvho yapo; na u ita mbetselo ya zwi kwamaho izwi.

MVULATSWINGA

NGA U VHONA

uri mbofolowo ya shango jа Afrika Tshipembe na vhatu vhało kha mǐnważa minzhi ya tshiţalula na u vhuswa nga vhukoţoni na u tsekedzwa na u thomiwa ha mbofolowo ha demokirasi zwo vhaho hone, zwi re hone na zwinz na ndīvho zwinz na ndīvho yapo ya dzu zwi džiţhavzakale yo swikelelwaho nga vhatu vhashu vhoţe;

NGA U OMBEDZELA

uri Ndayotewa ya Riphabuljiki ya Afrika Tshipembe ya, 1996, i tsireledza ndayo dza tshirunzi tsha muthu, u swikelela u edana ha vhatu, u edana ha mirafho na u edana ha mbeu kha tshiţalula na Mulayotibe wa Pfanelo une wa khwaţhisa pfanelo dza ndemesa na mbofolowo ka tshirunzi tsha muthu, u edana, pfunzo, mvelele, vhurereli, iumbo, tḥoqdisiso, vhukoni, mupo na ndaka, na zwiwwe zwinzhi;

NGA U DZHIELA NTHA

uri Riphabuljiki ya Afrika Tshipembe ndi shango lo džimisaho nga loţhe lo dzhia tshikhala thone-thone kha muta wa mashango o imaho nga oţhe na hones lo džimisela na u vhofhea kha u tevhedza thendelano dza liţhasi, milanga na mulayo wa liţhasi;

NGA U LIMUWA

uri Muvhuso wa Afrika Tshipembe wo džimisela kha zwa ikonomi, mvelele na u khwinjisa vhutshilo kha zwa matshilele, ndondolo ya vhatu vhało, na mbofolowo kha tshiţalula;

NGA U DZHIELA NTHA

uri nga u shumisa vhudilangi, Afrika Tshipembe lo sika milayo nanze lo khoy na phandaka na u sika milayo ine ya khwaţhisa tsireledzo, nyaluso na mveledziso ya sisijeme dza ndīvho yapo;

NGA U VHONA

uri ndīvho yapo ndi ndaka ya lushaka na u ndi zwi funwahoko nga lushaka u ri tsireledzwe na u alusa ndīvho yapo nga kha mulayo, mbekanyamaitele na nga mbekanyamushumo dza sekithara dza phuraivethe na dza muvhuso;

NGA U FUNA

u ṭuţuwedza u shumiswa ha ndīvho yapo kha u bveledziza nganetselweho, matshilisano na ikonomi nga ndīlo ya fanelela zo bveledzwe na tshumelo;

NGA U TANGANEDZA

uri u thoma zwiţhwa zwapo ndi ndīlo yo khethecahoko kha u thoma zwa matshilisano zwinz zwa khwaţhisa mushumo wa zwitshavha zwapo,
B E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

CHAPTER 1
DEFINITIONS

1. Definitions

CHAPTER 2
APPLICATION AND OBJECTS OF ACT

2. Application of Act
3. Objects of Act

CHAPTER 3
NATIONAL INDIGENOUS KNOWLEDGE SYSTEMS OFFICE

4. Establishment of NIKSO
5. Functions and Powers of NIKSO
6. Administration of NIKSO
7. Establishment of Advisory Panel
8. Role of Advisory Panel

CHAPTER 4
PROTECTION OF INDIGENOUS KNOWLEDGE

9. Subject matter of protection
10. Term of protection
11. Eligibility criteria for protection
12. Vesting of rights in indigenous knowledge
13. Rights conferred

CHAPTER 5
RECOGNITION OF PRIOR LEARNING OF INDIGENOUS KNOWLEDGE PRACTITIONERS

14. Accreditation of assessors
15. Certification of indigenous knowledge practitioners
16. Register of Designations

CHAPTER 6
REGISTRATION OF INDIGENOUS KNOWLEDGE

17. Registration Office for Indigenous Knowledge
18. Curator of indigenous knowledge
19. Register of indigenous knowledge
20. Registration of indigenous knowledge
21. Inspection of Register
22. Certificates of Curator to be prima facie evidence
23. Register to be constructive notice
24. Amendment of Register
UKHWATšHISWE nga Phalamennde ya Riphabuljiki ya Afrika Tshipembe, nga njila i tevhelaho:—

NZUDZANYO DZA KHETHEKANYO

NDIMA YA 1

TšHALUTSHEDZO

1. Tšhalutshedzo

NDIMA YA 2

KUSHUMISELE KWA MULAYO NA ZWIPIKWA ZWA MULAYO

2. Kushumisele kwa Mulayo
3. Zwipikwa zwa Mulayo

NDIMA YA 3

OFISI YA LUSHAKA YA SISIŢEME DZA NĐIVHO YAPO

4. U thomiwa ha NIKSO
5. Mishumo na Maanđa a NIKSO
6. Kulangele kwa NIKSO
7. U thomiwa ha Phanele ya Vhueleletshedzi
8. Mushumo wa Phanele ya Vhueleletshedzi

NDIMA YA 4

TSIRELEDZO YA NĐIVHO YAPO

9. Mafhungo a thero dzine dza khou tsireledzwa
10. Vhulapfu ha tshifhinga tsha u tsireledza
11. Ndjila dzine dza shumiswa uri ndivho yapo i tsireledzwe
12. U fha pfanelo dza ndivho yapo
13. Pfanelo dzo qetshedzwaoho

NDIMA YA 5

U DZHIELA NTHA NĐIVHO I SONGO WANWAHO TSHIKOLONI YA VHASHUMI VHA ZWA NĐIVHO YAPO

14. U tendelwa ha vhaţhathuţhi
15. Tšanziela dza vhashumi vha zva ndivho yapo
16. Redzhisiţara ya Madzina a vhuimo

NDIMA YA 6

U WALISWA HA NĐIVHO YAPO

17. Ofisi ya u walisa Ndipvho Yapo
18. Mulondoli wa Ndipvho Yapo
19. Redzhisitara ya Ndipvho Yapo
20. U ñwaliswa ha ndipvho yapo
21. U ingamel wa ha Redzhisitara
22. Tšanziela dza Mulondoli ndi hone vhuţanzi ha prima facie
23. Redzhisitara i vha yone ndipvhadzo
24. U khakhulula Redzhisitara
CHAPTER 7
COMMERCIAL UTILISATION OF INDIGENOUS KNOWLEDGE

25. Product development, commercialisation, services and processes
26. Access to and use of indigenous knowledge

CHAPTER 8
ENFORCEMENT OF RIGHTS

27. Dispute Resolution Committee
28. Offences and penalties

CHAPTER 9
GENERAL PROVISIONS

29. Transnational arrangements
30. Multiple claims to indigenous knowledge
31. Regulations
32. Effect on other laws
33. Transitional arrangements
34. Short title and commencement

CHAPTER 1
DEFINITIONS

Definitions

1. In this Act, unless the context indicates otherwise—
   “access” includes the acquisition of indigenous knowledge by natural and legal persons as facilitated by NIKSO in terms of this Act;
   “accreditation” means a formal procedure by which NIKSO grants or delegates authority to an assessor to assess and verify the qualification of indigenous knowledge practitioners in accordance with pre-determined requirements for purpose of certification;
   “assessor” means a qualified person accredited and assigned by NIKSO to assess applicants according to applicable pre-determined standards having regard to that person’s possession of indigenous knowledge, expertise and skills for the purpose of being certified as an indigenous knowledge practitioner;
   “benefit sharing” means the fair and equitable sharing of monetary and non-monetary benefits in terms of a benefit sharing agreement between the trustee of the indigenous community and the licence holder;
   “certification”, in respect of indigenous knowledge practitioners, means the formal qualification acknowledgment, subject to an assessment by an assessor of a practitioner within a discipline or practice, according to applicable, pre-determined standards, having regard to that person’s possession of indigenous knowledge expertise and skills;
   “commercial use” means the use of indigenous knowledge for financial gain;
   “cultural and social identity” means the particular and distinctive identity or characteristics of a certain indigenous community or of an individual as far as he or she is influenced by belonging to a certain indigenous community;
   “Curator” means the Curator of indigenous knowledge, who is the head of the Registration Office of Indigenous Knowledge appointed in terms of section 18 of this Act;
   “Department” means the department responsible for science and technology;
   “discipline of practice” means a group of people who share the same understanding and methodology of a given practice, craft or profession, which—
   (a) evolved spontaneously; or
NDIMA YA 7

U SHUMISWA HA NDIVHO YAPO SA VHUBINDUDZI

25. U bveledzisa tshibveledzwa, u tshi bindudza, tshumelo na maitele
26. U swikelela na u shumisa ndivho yapo

NDIMA YA 8

KUTEVHEDZELE KWA PFANELO

27. Komiti ya u Thasulula Phambano
28. Vhutshinyi na ndaqiso

NDIMA YA 9

MBETSHELO NYANGAREDZI

29. Nzudzanyo dza tshanduko
30. Ndjivho yapo ine vhanzhi vhavho
31. Ndangulo
32. U kwamea ha miiwe milayo
33. Nzudzanyo dza tshanduko
34. Dzina jipfufhi na u thoma u shumisa Mulayo

NDIMA YA 1

THALUTSHEDZO

Thalutshedzo

1. Kha uno Mulayo, nga ndja ha musi nyimele i tshi sumbedza nga inwe ndjila—
   “u swikelela” zwi katele u wana ndivho yapo nga muthu wa mvelo na nga zwiimiswa zwo tshimbidzwa nga NIKSO i tshi khou tevhedza uno Mulayo;
   “utendela” zwi amba kuitele kwa NIKSO u fha kana u hwesa maamda kha uyo mujjaŋhuvi uri a ṣaŋhuuwe na u kwaŋhisedzwa ndalukano dza vhshumoni vha zwa ndivho yapo u ya nga ṣojo dzo dzulaho dzo vheva ndivho i ya u fha ṣaŋaziela;
   “muŋjaŋhuvi” zwi amba muthu o fushaho ndalukano nahone o tendelwaho nahone a hwesa mushumo nga NIKSO uri a ṣaŋhuuwe vhaumbhneli u ya nga zwiŋhando zwo vheva nahone zwo teaho ho sedzwu ndivho, vhujivhi na vhukoni zwine uyo mumbeloni a vha na zwo ndivho i ya u mu ṣaŋaziela ya uri ndi mshumi wa zwa ndivho yapo;
   “u kovhekana mbuelo” zwi amba u kova mbuelo nga ndjila i sa dzhihiho sia nahone mbuelo dzio linganaho dza tshelele na dzisida tshelele hu tshi khou tevhedzwa thendelano ya u kovhekana mbuelo vhukati ha mulondoli wa tshitshavha tshapo na uyo mupe wa jaisentsi;
   “u ṣaŋaziela” zwi tshi khou kwama vhshumoni vha zwa ndivho yapo sialala, zwi amba kwaŋhisedzwo ya ndalukano ya fomaha, hu tshi tevhedzwa ṣaŋhuuwe yo itwaho nga mujjaŋhuvi kha uyo mshumi wa iyo thero kana mushumo, u ya nga zwiŋhando zwo vheva nahone zwo teaho, hu lahvelwesi vhukoni vhune uyo muthu a vha na zwo;
   “u bindudza” zwi amba u shumisa ndivho yapo kha u wana mashelelisi;
   “Ndlayeteva” zwi amba Ndlayeteva ya Riphambuljiki ya Afrika Tshipembe ya, 1996;
   “vhune ha zwa matshilele na mvelo” zwi amba phambano ya vhune yeneyo kana zwiŋataluli zwa tshitshavha tshapo tshenetshe kana muthu zwi tshi tšuŋwedzwa nga tšenetshe tshitshavha tshapo;
   “Mulondoli” zwi amba Mulondoli wa ndivho yapo sa ene ũhando ya Oﬁsi ya u walisa Ndjivho Yapo o tholwaho hu tshi khou tevhedzwa khethekanyo ya 18 ya uno Mulayo;
   “Muhasho” zwi amba Muhasho u re na vhujihinduleli kha zwa saintsi na thekhnojodzhi;
(b) is created based on people’s engagement,
in a process of collective learning in a shared domain of human endeavour;
“functional”, in relation to indigenous knowledge, means knowledge that is
scientific and, or technical in nature;
“indigenous community” means any recognisable community of people—
(a) developing from, or historically settled in a geographic area or areas located
within the borders of the Republic;
(b) characterised by social, cultural and economic conditions, which distinguish
them from other sections of the national community; and
(c) who identify themselves as a distinct collective;
“indigenous cultural expression” means expressions that have a cultural content
that developed within indigenous communities and have assimilated into their
cultural and social identity, including but not limited to—
(a) phonetic or verbal expressions;
(b) musical or sound expressions;
(c) expressions by action; and
(d) action tangible expressions;
“indigenous knowledge” means knowledge which has been developed within an
indigenous community and has been assimilated into the cultural and social
identity of that community, and includes—
(a) knowledge of a functional nature;
(b) knowledge of natural resources; and
(c) indigenous cultural expressions;
“indigenous knowledge practitioner” means a person who is certified as
sufficiently knowledgeable in indigenous knowledge practices to render a related
service, subject to section 15 of this Act and relevant prescribed practice standards
being met;
“licence holder” means any person who successfully enters into a licence
agreement with an indigenous community to use indigenous knowledge;
“Minister” means the Minister responsible for science and technology;
“natural resources” means any materials and components that can be found
within the environment and may exist as a separate entity, such as genetic
resources, fresh water, air, and mineral deposits with actual or potential use or
value;
“NIKSO” means the National Indigenous Knowledge Systems Office established
in section 4;
“prescribed” means prescribed by regulations;
“prior informed consent” means the consent in respect of indigenous knowledge
granted by a trustee, which has been obtained—
(a) free from any manipulation, interference or coercion;
(b) after full disclosure of the intent and scope of the activity; and
(c) in a language and process understandable to the community;
“Registration Office” means the Registration Office for Indigenous Knowledge
within NIKSO;
“Register” means the Register of indigenous knowledge provided for in section
19, and includes any official documents, compilations or records, including
databases, reflecting information in respect of indigenous knowledge kept by
NIKSO;
“Register of Designations” means a register of names and levels of competencies
of certified indigenous knowledge practitioners and accredited assessors;
“regulations” means regulations made in terms of this Act;
“this Act” includes the regulations; and
“trustee” means a natural or legal person that is duly delegated in terms of the
practices of an indigenous community to represent that indigenous community in
matters pertaining to indigenous knowledge and to be vested with the custodian-
ship of indigenous knowledge emanating from it, which person is deemed to be a
trustee appointed in terms of the law of trusts and to have the powers and duties of
such a trustee, with any reference in this Act to an act performed, or the rights held,
by an indigenous community deemed to be a reference to that act performed, or
rights held, by the trustee of that indigenous community.
“thero ya mushumo” zwi amba tshigwada tsha vhathu vhane vha fana kha u pfesesa na ngona dza mushumo wonoyo, vhutsila na phrofesheni yeneyo, zwine izwi—

(a) zwo vha hone nga lwa mupo; kana nga kha kuitele kwa u guda vhathu vhe gute fhethu hune vha tou kovhekana ndingedzo dza vhathu;

“ndjivho ya sainthifiki kana thhekhenihaka” ho sedzwa ndjivho yapo, zwi amba ndjivho ine ya vha sainthifiki na, kana thhekhenihaka;

“tshitshavha tshapo” zwi amba tshitshavha tshi dįvheaho tsha vhathu—

(a) vha bvaho kha kana tshine nga dįvhaziakale tsoho vha tshi khou dzula kha vhupov hu nanalaho ngomu ha mikano ya Rhiphabuljiki;

(b) vhane vha paluswa nga nyimele dza matshilele, mvelele na ikonomi, zwine izwi ita uri vha sa fane na vhawhe kha dįziwhe khethekanyo dza tshitshavha tsha lushaka; na

(c) vhane vha dįdįvho vhe tshigwada tso hambanaho na zwine;

“kuambele kwa mvelele kwapo” zwi amba kuambele kwo faraho mvelele ya tshitshavha nahone izwi zwo bva kha henefho ngomu ha zwitshavha zwapo nahone zwa pongovhela kha mvelele na kutshilele, hu tshi katela sa gumiho kha zwi tevhelaho—

(a) kuambele kwa ipfi kana foneti; (b) muungo wa kuambele na muzika; (c) zwi vhonalaho nga nyito; na

(d) nyito i sumbedzaho zwi vhonalaho;

“ndjivho yapo” zwi amba ndjivho yo bveledziswaho ngomu kha tshitshavha tshapo na u mvelele kha mavelela kha khethekanyo, nahone zwi tshi katela—

(a) ndjivho ya sainthifiki kana ya thhekhenihaka; (b) ndjivho ya zwiko zwa mupo; na

(c) mbonalo ya mvelele yapo;

“mushumi wa zwa ndjivho yapo ” zwi amba a muthu o fhiwo thanziela i sumbaho uri u na ndjivho yo linganaho nga hamaitele a zwa ndjivho yapo uri u a kone u fha tshumelo a tshi khou tevhedza khethekanyo ya 15 ya uno Mulayo na zwangadzi zwi matshilele o randelwaho a tshi tea u fashwe-vho;

“muge wa laisentse” zwi amba a muthu o munwe na muge wa khethekanyo u dzhena kha thendelano ya laisentse na tshitshavha tsha luponu a umhlo o ndjivho yapo; na

“Minisỹtα” zwi amba Minisỹta a re na vhudỹifhinduleli kha za saintsi na tekhnoũlodzhi;

“zwiko zwa mupo” zwi amba zwishumiswa na zwipid’a-pid’a zwine zwi nga wanwa kha mupo nanwe zwine zwa vha hone sa zwithe u nga mahala kha zwi ngokupha u na zwithe, sa genetic resources, maği, muya, sa nga migodi zwine zwa nga shumiswa zwavhukuma kana lwa ndemene;

“NIKSO” zwi amba Ofisi ya Lushaka ya Sisĩte̩me dza Ndįivho Yapo yo sikwaho u ya nga khethekanyo ya 4; na

“randela” zwi amba u Randela nga ndangulo;

“u tenda wo thomą wa vhudzawa” zwi amba u tenda malugana na u fha ndjivho yapo nga thirasiti, ine yo wanwa—

(a) nga māhala zwi so nga tshímibidzwa zwavhuljis, ho vha na u dzhenelelekananya kana u komba₄ḥedza;

(b) nga murahu ha u bula ndjivho na thikoupou tsha mushumo; nahone

(c) hu tshi khou shumiswa luambo na kuitele ku pfeseswaho nga tshitshavha;

“Ofisi ya u walisa” zwi amba Ofisi ya u walisa Ndįivho Yapo i re ngei kha Ofisi ya NIKSO;

“Redzhisĩtara” zwi amba Redzhisĩtara ya ndjivho yapo zwine izwi na mbetshelo khu khethekanyo ya 19, nahone zwi katela mainwalwa mainwe na mainwe a tshioũs, rekho wo dзо itwahe, hu tshi katela databasei, dzi sumbedzaho mahunu nga ndjivho yapo o vhulungwahe nga NIKSO;

“Redzhisĩtara ya madzina a vhŭmu” zwi amba redzhisĩtara ya madzina na lelele dza vhukoni ha vhahumhi zwi a ndjivho yapo vho fhiwo thanziela na vhahathuhvhi vho tendelwaho;

“Ndangulo” zwi amba ndangulo dзо itwahe u ya nga uno Mulayo;

“uno Mulayo” zwi katela ndangulo; na
CHAPTER 2
APPLICATION AND OBJECTS OF ACT

Application of Act

2. This Act applies to all—
   (a) persons in the Republic, including the State; and
   (b) indigenous knowledge registered under this Act.

Objects of Act

3. The objects of this Act are to—
   (a) protect the indigenous knowledge of indigenous communities from unauthorised use, misappropriation and misuse;
   (b) promote public awareness and understanding of indigenous knowledge for the wider application and development thereof;
   (c) develop and enhance the potential of indigenous communities to protect their indigenous knowledge;
   (d) regulate the equitable distribution of benefits;
   (e) promote the commercial use of indigenous knowledge in the development of new products, services and processes;
   (f) provide for registration, cataloguing, documentation and recording of indigenous knowledge held by indigenous communities;
   (g) establish mechanisms for the accreditation of assessors and the certification of indigenous knowledge practitioners; and
   (h) recognise indigenous knowledge as prior art under intellectual property laws.

CHAPTER 3
NATIONAL INDIGENOUS KNOWLEDGE SYSTEMS OFFICE

Establishment of NIKSO

4. NIKSO is hereby established within the Department.

Functions and powers of NIKSO

5. The functions and powers of NIKSO include—
   (a) implementation of this Act;
   (b) protecting and recognising indigenous knowledge as property owned by indigenous communities;
   (c) facilitating the redress of rights and benefits to indigenous communities which have previously been deprived of such rights and benefits;
   (d) facilitating and coordinating the development of indigenous knowledge;
   (e) establishing and managing the registration of assessors and indigenous knowledge practitioners;
   (f) empowering indigenous communities through education and awareness campaigns to enable them to recognise and utilise indigenous knowledge for cultural and economic benefit;
   (g) determining the criteria for issuing licences for the use of indigenous knowledge;
   (h) certifying licence agreements for the use of indigenous knowledge;
Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndvivo Yapo wa, 2019

"thirasitii" zwi amba muthu wa vhakuma wa mvelo kana tshiimiswa tsho runiwaho u ya nga maitele a tshitshavha tshapo uri a imele istho tshitshavha tshapo kha mafhungo a kwamaho ndivho yapo nahone a hweswe na maanda a u londola ndivho yapo i bvaho kha istho tshitshavha ane uyo muthu a dzhiiwa o tolwya sa thirasitii hu tshi khou tevhedzwa mulayo wa thirasitii nahone a vhe na maanda na mishumo ya u vha thirasitii hawe, ho sedzwa uno Mulayo kha mushumo une a vha o u shuma, kana pfunelo dza tshitshavha tshapo tshi dzhiiwaho tshi tshi kwamana na iyo nyito yo itwaho, kana pfunelo dzo farwaho nga thirasitii wa istho tshitshavha tshapo.

NDIMA YA 2

KUSHUMISELE KWA MULAYO NA ZWIPIKWA ZWA MULAYO

Kushumisele kwa Mulayo

2. Uyu Mulayo u shuma kha—
   (a) vhathu vho the vha Riphabu liki, hu tshi katelwa Muvhuso; na
   (b) ndivho inwe na inwe yo ñwaliswa nga ñhasi ha uno Mulayo.

Zwipikwa zwa Mulayo

3. (1) Zwipikwa zwa uyu Mulayo ndi u—
   (a) tsireledza ndivho yapo ya zwitshavha zwapo uri ya sa shumiswe zwi songo tendelwa, na uri ya sa dzhiiwe zwi songo tendelwa;
   (b) tujwedza tshitshavha uri tshi djiwe na u pfesesa nga ha ndivho yapo uri i shumiswe na u bvelejiswisa nga njila yo tanjavhuwaho;
   (c) bvelejisiza na u kwihinga vhukoni ha zwitshavha zwapo kha u tsireledza ndivho yapo ine ndi yawho;
   (d) langula phaJaladzo i linganaho ya mbuelo;
   (e) tujwedza zwa vhubindudzi kha ndivho yapo musi hu tshi bvelezwada zwivelvedzwa zwiswa, tshumelo ntswa na maitele maswa;
   (f) itela uri hu vhe na mbetshele ya u ñwalisa, u dzundzanyavhekanya, u ñwala na u rekho da ndivho yapo ine zwitshavha zwapo zwa vha vho ya;
   (g) thoma njila dza u tendela vhaJahjuvhvi na u fha zitawo vhaJahjuvhvi vha zwa ndivho yapo na;
   (h) lavhelesa /dzhiela njha ndivho yapo sa vhutsila ha u thoma nga ñhasi ha milayo ya zwa vhune ha ndivho.

NDIMA YA 3

OFISI YA LUSHAKA YA SISI TEME DZA NDIVHO YAPO

U thomiwa ha NIKSO

4. NIKSO i khou thomiwa nga ngomu kha Muhasho.

Mishumo na maanda a NIKSO

5. (1) Mishumo na maanda zwa NIKSO hu katelwa—
   (a) u shumisa uyu Mulayo;
   (b) u tsireledza na u lavhelesa ndivho yapo sa ndaka ine vhune vhayo ndi zwitshavha zwapo;
   (c) u leludza u khakhulula pfanelo na mbuelo kha zwitshavha zwapo zwine zwo khakhelwa tshitshingani tsho fhelaho zwa si djiphine nga pfanelo na mbuelo dzwa ndivho yapo;
   (d) u leludza na u konanya mveledziso ya ndivho yapo;
   (e) u thoma na u langula u ñwalisa vhaJahjuvhvi na vhamsunga vha ndivho yapo;
   (f) u maandaJahdzwa zwitshavha zwapo nga kha pfunzo na mafulo a uri vhathu vha djiwe na u kona u vhona na u shumisa ndivho yapo kha mbuelo ya mvelede na ekonomi;
   (g) u ta njila dza u petsheza Jaisentse dza u shumisa ndivho yapo;
   (h) u kwahJisedza thendelano dza Jaisentse malugana na u shumisa ndivho yapo;
(i) assisting indigenous communities in the negotiation of benefit sharing agreements for the use of indigenous knowledge;
(j) facilitating the negotiation of licences between trustees and users for the use of indigenous knowledge for commercial purposes;
(k) making recommendations to the Minister regarding norms and standards for the certification of indigenous practitioners;
(l) liaising with the Department to facilitate the entering into of licence agreements with users of indigenous knowledge on behalf of an indigenous community where the relevant indigenous community cannot be identified;
(m) ensuring that the Register of Designations is maintained and made available; and
(n) carrying out any functions that are consistent with the objects of this Act.

Administration of NIKSO

6. (1) The Minister must appoint a suitably skilled and qualified person as the Head of NIKSO in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The Head of NIKSO—
(a) is responsible for the administration and general management of NIKSO, subject to directions and instructions issued by the Minister or the Director-General as delegated by the Minister; and
(b) must report to the Director-General on all matters relating to the management of NIKSO.

(3) The staff of NIKSO consists of such number of employees as may be—
(a) appointed by the Minister, in accordance with the Public Service Act, 1994; or
(b) seconded from any organ of state,
as are necessary to enable NIKSO to perform its functions.

Establishment of Advisory Panel

7. (1) The Minister may establish an Advisory Panel based on criteria as prescribed, consisting of a minimum of five, but no more than ten, members on specific matters relating to the objects of this Act.

(2) The Advisory Panel must be broadly representative of the—
(a) different relevant government departments;
(b) indigenous knowledge practitioners;
(c) industry; and
(d) specialists in the discipline of practice,

based on criteria as prescribed.

(3) The Advisory Panel may be convened by the Head of NIKSO, as and when the need arises.

(4) The members of the Advisory Panel, with the exclusion of subsection (2)(a) representatives who are subject to public service remuneration prescriptions, must only be remunerated for time spent on the business of NIKSO, in accordance with rates determined by the Minister, with the concurrence of the Minister of Finance.

(5) A member of the Advisory Panel holds office for a period of three years and may, upon expiry of that period, be reappointed for a further period of three years.

(6) Notwithstanding subsection (5), for the sake of continuity, the Minister may reappoint a core of at least three members of the Advisory Panel, as prescribed.

(7) The Minister may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), remove a member of the Advisory Panel for—
(a) non-performance;
(b) serious misconduct;
(c) conduct that undermines the integrity or objective of the Advisory Panel; or
(d) being convicted of a criminal offence and sentenced to imprisonment without the option of a fine.
Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndvihlo Yapo wa, 2019

Nom 6 ya 2019

13

(i) u thusa zwitshavha zwaupo kha nyambedzano dza thendelano dza u kovhekana mbuelo musi hu tshi shumiswa ndivhu yapo;

(j) u tshimbidza nyambedzano dza laisense vhukati ha dzithirasitii na vhashumisi vha ndivhu yapo kha zwa ndivhu dza vhubindudzi;

(k) u ita themendelo kha Minista malugana na ndayo na zwitandadi zwa u fha ġhansiela dza vhashumi vha zwa ndivhu yapo;

(l) u kwamana na Muhasho u itela u tshimbidza zwi kwamahlo u dzhena kha thendelano dza laisense na vhashumisi vha ndivhu yapo ho imelwa tshitshavha tshapo hune tshitshavha tsho teaho tshapo tsha sa ġihe; 

(m) u vhona uri Redzhisitara ya Madzina a vhuno yo vhulunguza nhone a i wamanea; na

(n) u shuma mishumo miiwe na miiwe ine ya yelana na zwipikwa zwa uno Mulayo.

Kulangele kwa NIKSO

6. (1) Minista u tea u thola muthu ane a fusha ũtho dza nhone a re na vhukoni uri a vhe ene Ūtho ya Ofisi ya Lushaka ya Sisitēme dza Ndivhu Yapo u ya nga Mulayo wa Tshumelo ya Muvhuso, 1994 (Mulevhvo wa nomboro ya.103 wa 1994). 

(2) Ūtho ya NIKSO—

(a) ndi vhulufinduleli kha ndaulo ya na u langa NIKSO, a tshi khou tevhedza ndaela dze izvako kha Mulangi-Muangaredzi kana Minista; na

(b) u tea u vhiga mafhungo oghe a kwamahlo u laula NIKSO kha Mulangi- Muangaredzi.

(3) Vhashumi vha NIKSO ndi tshivhahlo tshenetshe—

(a) tsho tholwaho nga Minista a tshi khou tevhedza Mulayo wa Tshumelo dza Muvhuso wa, 1994; kana

(b) avho vho tou dzinginywaho uri vha tholwe vha tshi bva kha zwi iwe zwimiswa zwa muvhuso, hu na ũtho dza uri NIKSO  

U thomiwa ha Phanele ya Vhuelelshedzi

7. (1) Minista a nga vhumba Phanele ya Vhuelelshedzi a tshi khou shumisa njila dzo randelwaho, ine iyo phanele i do vha i na mirađo i si ho fhisi ho mituľu, fhedzi iyo mirađo a i nga fhiri fumi, ine ya do lavhelesa kha mafhungo eneo a kwamahlo zwipikwa zwa uno Mulayo.

(2) Phanele ya Vhuelelshedzi nga vhuphara i imela—

(a) mihasho ya muvhuso yo fhambanaho;

(b) vhashumi vha zwa ndivhu yapo;

(c) ndowetshumo; na

(d) vhawetsho kha thoer a uno musumo, zwo sendeka kha njila yo randelwaho.

(3) Phanele ya Vhuelelshedzi i nga vha na muţhangano yo ramibiwa nga Ūtho ya NIKSO, musi hu na ũthoja.

(4) Mirađo ya Phanele ya Vhuelelshedzi, hu songo katelwa khethekanyo ũthuku ya (2)(a)vhaimelileli vhane vha hola muvhusoni u ya nga thendelo ya muvhuso, vha do to badelwa fhedzi tshifhinga tse vha tshi fhedza vhe kha mushumo wa NIKSO, hu tshi khou tevhedza mitengo yo tiwaho nga Minista o tendelana na Minista wa zwi Masheleli.

(5) Mirađo wa Phanele ya Vhuelelshedzi u nga murađo wa Phanel ele lwa minwa ha Miraruru, nahone musi tshifhinga tsho fhela tsha u vha kha ofisi, murađo a nga doha a tholwa hafhu lwa minwa ha Miraruru.

(6) Naho hu na khethekanyo ya (5), hu tshi ile wa u vhe vha na u ya phandla zwavhuđi, Minista a nga thola hafhu murađo miraruru ya Phanele ya Vhuelelshedzi sa zwo randelwaho.

(7) Minista a tshi khou tevhedza Mulayo wa Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), a nga pandela murađo wa Phanele ya Vhuelelshedzi zwi tshi khou itiswa nga—

(a) u sa kona u shuma ha uyo murađo;

(b) u sa ġifarwa zwavhuđi ha uyo murađo;

(c) vhulufari vhune ha nyadza thsiuri kana zwipikwa zwa Phanele ya Vhuelelshedzi; kana

(d) u wanwa mulandu wa vhutshinyi nhone murađo uyo o gwevhelwa u dzula dzhele hu si na u tou badiel naňiyo sa masheleli.
(8) NIKSO must provide administrative and secretarial support to the Advisory Panel.
(9) For the purpose of subsection (2)(c), “industry” means any sector of an economy dealing in the commercial use of indigenous knowledge based products and services.

Role of Advisory Panel

8. The Advisory Panel must—
   (a) provide expert and strategic advice to NIKSO in respect of the protection, promotion, development and management of indigenous knowledge;
   (b) assist with the mobilisation of indigenous communities for purposes of pursuing specific activities conducted by NIKSO; and
   (c) advise NIKSO on any specific issue referred to it and execute any task that NIKSO may entrust to it in terms of this Act.

CHAPTER 4

PROTECTION OF INDIGENOUS KNOWLEDGE

Subject matter of protection

9. (1) This Act protects registered indigenous knowledge.
   (2) Indigenous knowledge constitutes property of indigenous communities within the meaning of section 25 of the Constitution.

Term of protection

10. (1) Indigenous knowledge is protected for as long as it meets the eligibility criteria set out in section 11.
    (2) If indigenous knowledge ceases to meet the eligibility criteria set out in section 11, it falls into the public domain from the date of proven ineligibility.

Eligibility criteria for protection

11. The protection of indigenous knowledge contemplated in section 9 applies to indigenous knowledge, which—
    (a) has been passed on from generation to generation within an indigenous community;
    (b) has been developed within an indigenous community; and
    (c) is associated with the cultural and social identity of that indigenous community.

Vesting of rights in indigenous knowledge

12. (1) Subject to section 9, the custodianship of indigenous knowledge eligible for protection vests in the trustee of that indigenous community.
    (2) The trustee of the indigenous community—
        (a) holds the indigenous knowledge in trust on behalf of the indigenous community; and
        (b) is responsible for and accountable to the indigenous community for the protection of their rights.
    (3) In the event that, and for as long as, the indigenous community of the relevant indigenous knowledge cannot be identified and designated, NIKSO must act as custodian of that indigenous knowledge, with the rights and obligations of a trustee in respect of that indigenous knowledge.

Rights conferred

13. (1) Subject to subsection (3), the indigenous community holding indigenous knowledge has the exclusive right to—
    (a) any benefits arising from its commercial use;
    (b) be acknowledged as its origin; and
    (c) limit any unauthorised use of the indigenous knowledge.
Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndívho Yapo wa, 2019

Nom 6 ya 2019

15

(8) NIKSO i tea u thusa Phanele ya Vhueletshedzi nga ndaulo na vhuunwaleli.

(9) U itela ndívho ya khakekanyo ũthukhu ya (2)(c), “ńţwetshumo” zwi amba sekithara iñwe ya zwĩ ikionomi ine ya shumana na zwã u shumisa ha ndívho yapo kha u bindundza zwo sendeka kha zwibeledzwa na tshumelo.

Mushumo wa Phanele ya Vhueletshedzi

8. Phanele ya Vhueletshedzi i tea u—

(a) fha mudívhi na nyeletshedzo NIKSO malugana na tsireledzo, nyaluso, mveledziso na ndaulo ya sisišeme ya ndívho yapo;

(b) thusa nga u vhea fhethu hethehi zwichavha zwapo u itela uri hu shumiwe mishumo ya NIKSO; na

(c) eletshedza NIKSO malugana na mafhungo o dišwaho na u shuma mishumo ine NIKSO ya fha Phanele u ya nga Mulayo uno.

NDIMA YA 4

TSIRELEDZO YA NDÍVHO YAPO

Mafhungo a therò dzine dza khou tsireledzwa

9. (1) Uyu Mulayo u tsireledza ndívho yapo yo ñwaliswaho.

(2) Ndívho yapo i vhumba ndaka ine yo ambiwa kha khethekanyo ya 25 ya Ndâyotewa.

Vhulapfu ha tshifhinga tsha u tsireledza

10. (1) Ndívho yapo i tsireledzwa lwa tshifhinga tsha musi i tshi kha di fusha ũtõde dza uri i tsireledzwe u ya nga khethekanyo ya 11.

(2) Arali ndívho yapo ya swika tshifhinga tshine ya vha i sa tsha fusha ũtõde dza khethakanyo ya 11, i mbo wela ḥiše hai tshitshavha tšho tšhe u tou bva nga ñvũa line ya sa tsha fusha.

Ndíla dzine dza shumiswa uri ndívho yapo i tsireledzwe

11. U tsireledza ndívho yapo ho bulwaho kha khethekanyo ya 9 hu shumiswa kha ndívho yapo ine—

(a) yo rathia i tshi bva kha murafho u y a kha muĩwe murafho ngomu kha tshitshavha tshapo;

(b) yo bveledziswa kha tshitshavha tshapo; na

(c) i na vhushaka na vhune ha myelele na matshilisano zwa tshitshavha tshapo.

U fha pfanelo dza ndívho yapo

12. (1) Hu tshi khou tevhedzwa khethakanyo ya 9. vhůţhogomeli ha ndívho yapo ine ye tsa tsireledzwa vhũ hweswa thirasitii wa tshitshavha tshapo tshenetsho.

(2) Thirasitii wa tshitshavha tshapo—

(a) o fara ndívho yapo i re kha thirasitii o imela tshitshavha tshapo; na

(b) u na vhudiţiňdeluli naheone u tsa tshigela tshitshavha tshapo nga ha u tsireledzwa ha pfanelo dzavho sa tshitshavha.

(3) Kha nyimele ine mune wa ndaka yapo a sa ũvũi kana u sumbea na musi tshitshavha tshapo tsha iyo ndívho yapo tshi sa ũvũi, NIKSO ndi yone ine ya do dzhiwa sa vhulondoli ha iyo ndívho yapo, na pfanelo na vhudiţiňdeluli ha thirasitii malugana na ndívho yapo iyo.

Pfanelo dzo getshedzwa ha

13. (1) Hu tshi tevhedzwa khethakanyo ũthukhu ya (3), mune wa ndívho yapo u na pfanelo dzo khetheaho malugana na ndívho yapo kha—

(a) mbuela dze wanwaho musi hu tshi bindudzwa iyo ndívho;

(b) u ambiwa na u lvhuwiwa uri ndi ene mune wa ndívho; na

(c) u tshihela u shumiswa ha iyo ndívho yapo zwi songo tendelwa.
(2) Subject to subsection (3), a person wishing to make commercial use of indigenous knowledge must—
   
   (a) apply through NIKSO for a licence in accordance with section 26(1); and
   
   (b) when so applying, must indicate—
       
       (i) the identity of the indigenous community;
       
       (ii) the place of origin of the indigenous knowledge; and
       
       (iii) whether prior informed consent of the indigenous community has been obtained and a benefit sharing arrangement entered into with that indigenous community.

(3) An individual member of the indigenous community holding indigenous knowledge who wishes to make commercial use of the indigenous knowledge—

   (a) must obtain permission from the indigenous community; and
   
   (b) may only make commercial use of that indigenous knowledge in a manner and subject to the indigenous community imposed terms and conditions as formalised in an agreement with the trustee.

CHAPTER 5

RECOGNITION OF PRIOR LEARNING OF INDIGENOUS KNOWLEDGE PRACTITIONERS

Accreditation of assessors

14. (1) A certified indigenous knowledge practitioner may apply to NIKSO in the prescribed manner for recognition and accreditation as an assessor.

   (2) In processing a subsection (1) application, NIKSO—
       
       (a) must evaluate each application in accordance with the prescribed procedures and requirements; and
       
       (b) may issue an accreditation certificate to act as an assessor if it is satisfied that the applicant meets the prescribed criteria.

   (3) NIKSO may impose any reasonable conditions on such accreditation.

   (4) NIKSO may, in the prescribed manner, cancel the accreditation of an assessor, if the assessor has—
       
       (a) made a false declaration or intentionally submitted a fraudulent application to NIKSO;
       
       (b) failed to comply with or contravened any of the conditions of the accreditation;
       
       (c) failed or refused to comply with the prescribed accreditation process;
       
       (d) accepted unlawful compensation, in respect of the certification of an indigenous knowledge practitioner;
       
       (e) charged excessive or unreasonable fees in respect of the certification of an indigenous knowledge practitioner;
       
       (f) undermined, through any act of omission, the interests of the discipline or practice for which the assessor is registered; or
       
       (g) been convicted of a criminal offence and sentenced to imprisonment without the option of a fine.

   (5) The Minister must prescribe accreditation procedures to be followed by registered assessors.

Certification of indigenous knowledge practitioners

15. (1) Any person who wishes to register their qualifications as an indigenous knowledge practitioner must apply, in the prescribed manner, to NIKSO to be so certified and recorded in the Register of Designations.

   (2) NIKSO may refer the application for certification to an assessor for assessment and recommendation.

   (3) In assessing the eligibility of an applicant, the assessor must apply the prescribed norms and standards for certification of indigenous knowledge practitioners.

   (4) Upon completion of the assessment, if an applicant meets all the prescribed requirements, the assessor must recommend to NIKSO that a certificate of competency be issued to the applicant for purposes of certification.
(2) Hu tshi tevhedzwa khethekanyo ũhuku ya (3), muthu ane a funa u shumisa ndivho yapo kha zwa u bindula u tea u—
   (a) ita khumbelo nga kha ya jaisentse kha NIKSO u ya nga khethekanyo ya 26(1); na
   (b) musi khumbelo i tshi itiwa hutea u sumbedzwa—
      (i) dzina la/vhuqe ha tshitshavha tshapo;
      (ii) fhetlu ha vhuvho ha iyo ndivho yapo; na
      (iii) uri naa u tenda muthu o thoma a vhudzwa ha mupe wa ndivho yapo ho
            wanala kha tshitshavha tsha ndivho yapo nahone nzudzanyo dza u
            kovhekana mbuelo dzo itwa na itsho tshitshavha tshapo naa.
(3) Muthu wa tshitshavha tsha ndivho yapo a re na ndivho yapo ane a funa u ita
    vhubindudzi ha ndivho yapo—
   (a) u tea u wana themendelo u bva kha tshitshavha tshapo; nahone
   (b) a nga ita fhedzi vhubindudzi nga iyo ndivho yapo nga ndila ine ya tevhedza
        milayo yo vhevahou ya tshitshavha tsha ndivho yapo sa zwe zwa tendelanwa
        na thirasisiti.

NDIMA YA 5

U DZHIELA NTHA NDIVHO I SONGO WANWAHO TSHIKOLONI YA VHASHUMI VHA ZWA NDIVHO YAPO

U tendelwa ha vhaθatθuhvhi

14. (1) Mushumi wa zwa ndivho ya sialala a re na ũhaniela a nga ita khumbelo ngei
   kha NIKSO a tshi khou tevhedza ndila yo randelwaho uri a tendelwe u vha muθatθuhvhi.
   (2) Musi hu tshi khou shumisiwa khumbelo ya khethekanyo ya (1), NIKSO—
      (a) i tea u sengulusa khumbelo inwe na inwe u ya nga maitele na ũhodea dzo
          randelwaho; na
      (b) i nga ൌshedza ũhaniela ya u tendela uri muhumbeli a vhe muθatθuhvhi arali
          khumbelo yo fushe zwa ùhle kha ũhodea zwa nga olisiri uri muhumbeli ngoho o
          fushe ndila dzo randelwaho.
(3) NIKSO i nga vhea milayo i pfadzaho musi i tshi tshi fa thendelo.
(4) NIKSO nga ndila yo randelwaho i nga fhelisa uho u tendelwa ha muθatθuhvhi, arali
    muθatθuhvhi o—
      (a) bula mazwifhi kana nga khole o ൌshedza khumbelo lwa vhufhura kha
          NIKSO;
      (b) o kundelwa u anana kana o pfuka milayo i kwamaho u tendelwa;
      (c) kundelwa kana o hana u anana na kuitele kwa u tendelwa kwo
          randelwaho;
      (d) tgaŋanedza mbadelo zwi si ho mulayomi, malugana na u fha ũhaniela ya
          mushumi wa ndivho yapo;
      (e) beledisa mashelele a sa pfadzile na kana olukalimanura na u fha ũhaniela ya
          mushumi wa ndivho yapo;
      (f) o vha na lunyadzo nga u pfuka mazangalelo a theru kana mushumo wa
          muθatθuhvhi o ൌwalsaho; kana
      (g) wanwa mulandu wa vhatshinyi nahe o gwevhiwa u dzula dzhele hu si na u
          beleda ndatʃiso.
(5) Minisṭa a nga yandela maietele a u tendela ane a tea u tevhenzwa nga vhaθa
    θuhvhi vho ൌwalsiwaθo.

Thaniela dza vhashumi vha zwa ndivho yapo

15. (1) Musu muiwe na muiwe ane a funa u ณwalsi ndalukano dzawe sa mushumi
    wa zwa ndivho yapo u tea u ita khumbelo nga ndila yo randelwaho ngei kha NIKSO uri
    a wane ũhaniela ya u kwaŋhisedza na u rekhoθiwa kha redẑisitʃara ya Musumo.
   (2) NIKSO i nga isa khumbelo uri i kwaŋhisedzwe ngei kha muθatθuhvhi ane a ʒi i
       ũhaniela na u ita themendelo.
   (3) Musi hu tshi khou ũhanieliwa uri muhumbeli u a fushe ũhodea naa, muθatθuhvhi
       u tea u shumisa ziwiθandadi na milayo yo randelwaho musi hu tshi kHzisθedzwa uro
       muthu ndi mushumi wa zwa ndivho yapo.
   (4) Musi u ũhaniela zwo fhele, arali muhumbeli o fushe ũhodea dzote dzo
       randelwaho, muθatθuhvhi u tea u ita themendelo kha NIKSO uri hu geθkedze ʒieliela
       ya vhukoni kha muhumbeli ndivho i ya u kwaŋhisedza.
Act No. 6 of 2019
Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019

18

(5) Subject to subsection (4), NIKSO must—
(a) issue the certificate of competency to the applicant; and
(b) record the applicant as a certified indigenous knowledge practitioner in the Register of Designations.

(6) Subject to subsection (5), no indigenous knowledge practitioner may practice for gain, unless the practitioner is registered with the relevant government department and been granted permission to practice in terms of the applicable prescribed practice standards.

(7) NIKSO may, in the prescribed manner, revoke the certification of an indigenous knowledge practitioner if such practitioner has—
(a) made a false declaration or intentionally submitted a fraudulent application to NIKSO;
(b) failed or refused to comply with the prescribed certification procedures;
(c) failed to comply with or contravened any of the conditions set out in the certificate;
(d) undermined, through any act or omission, the interests of the discipline of practice for which the practitioner is certified;
(e) been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or
(f) voluntarily relinquished practice as an indigenous knowledge practitioner.

(8) The Minister must prescribe application standards and procedures to be followed by applicants.

Register of Designations

16. (1) NIKSO must—
(a) keep the Register of Designations in the prescribed manner; and
(b) ensure the security of the Register of Designations.

(2) Where information may be accessed by persons other than the indigenous community or an individual within that indigenous community, NIKSO must facilitate such access on payment of a prescribed fee.

CHAPTER 6
REGISTRATION OF INDIGENOUS KNOWLEDGE

Registration Office for Indigenous Knowledge

17. NIKSO must establish a Registration Office for Indigenous Knowledge.

Curator of indigenous knowledge

18. (1) The Minister must appoint a suitably skilled and qualified person as the Curator of indigenous knowledge in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(2) The Curator is responsible for the control of the Registration Office, subject to the directions and instructions issued by the Minister or the Director-General as delegated by the Minister.

(3) The Curator may delegate any of the powers and entrust any of the duties assigned to him or her by this Act, to any officer within NIKSO.

(4) The Curator must permit the trustee to act on behalf of the indigenous community for whom he or she is a trustee, in connection with registration under this Act or any proceeding relating thereto.
(5) NIKSO i tshi khou tevhedza khethekanyo ya (4) i tea—
   (a) u nekedza ɣhanziela ya vhukoni kha muhumbeli; na
   (b) u rekhoa muhumbeli sa mushumi wa zwa ndivho yapo o kwaŋhisedzwaŋho kha Redzhišiŋar ya Mishumo.

(6) Hu tshi khou tevhedza khethekanyo ya (5), a hu na mushumi wa zwa ndivho yapo ane a a nga shuma a tshi itela malamba, nga nndja ha musi mushumo uyo o ńwalisa kha muhahso wo teaho wa muvhuso nahone o ńwiha thendelo ya u shuma u ya nga zwitandadi zwo randelwaho nahone zwo teaho.

(7) NIKSO nga ndjila yo randelwaho, i nga fhelisa ɣhanziela ya mushumi wa zwa ndivho yapo arali uyo mushumi—
   (a) o amba mazwifhi kana o ita tshi ńtamennde tsha mazwifhi kana o ita khumbelo a tshi shumisa vhufhura ngei kha NIKSO;
   (b) o kundelwa u tevhedza kana o hana u tevhedzela maitele o randelwaho a u kwaŋhisedza;
   (c) o kundelwa u tevhedzela kana o pfuka milayo niwne ni niwne yo sumbedzwaho kha ńhanziela;
   (d) nga zwe a ita kana u pfuka a vha o nyadza madzangalelo a maitele kwaoo ane muhumbeli o fhelwa one ńhanziela;
   (e) o wanwanda wa vhutshinyi nahone o gwevhelwa u dzula dzhele hu si na u tou badela ndatijo; kana
   (f) ene mupe o ńtshela mushumo wawe wa u shuma sa mushumi wa zwa ndivho yapo.

(8) Minista fanela utea themendelo kha malugana na milayo na zwitandadi zwa u tendela vhashumi.

Redzhišiŋar ya Madzina a vhuimo

16. (1) NIKSO—
   (a) i vhulunga Redzhišiŋar ya Madzina a vhuimo nga ndila yo randelwaho; na
   (b) i vhona uri hu vho na tsireledzo ya Redzhišiŋar ya Madzina a vhuimo.

(2) Hune mafhungo a nga swikelelwa nga vhathu nga nndja ha tshi tshavha tshapo, NIKSO i tea u thola muthu a re na vhukoni ho teaho nahone ane a vha na ndalukano dzone-dzone sa Mulondoli wa ndivho yapo u ya nga Mulayo wa Tshumelo dza Muvhuso wa, 1994 (Proclamation No. 103 of 1994).

(3) Mulondoli uyu a nga hwesa maandja ake muofisi muwe na muwe ane a wanala kha NIKSO ane a mu themba uri a shume mishumo ye a hweswa yone nga uno Mulayo.

(4) Mulondoli uyu a nga hwesa maandja ake muofisi muwe na muwe ane a wanala kha NIKSO ane a mu themba uri a shume mishumo ye a hweswa yone nga uno Mulayo.

NDIMA YA 6

U WALISWA HA NDIVHO YAPO

Ofisi ya u walisa zwa Ndivho Yapo

17. NIKSO i vhumba Ofisi ya u walisa Ndivho Yapo.

Mulondoli wa ndivho yapo

18. (1) Minista u tea u thola muthu a re na vhukoni ho teaho nahone ane a vha na ndalukano dzone-dzone sa Mulondoli wa ndivho yapo u ya nga Mulayo wa Tshumelo dza Muvhuso wa, 1994 (Proclamation No. 103 of 1994).

(2) Mulondoli wa ndivho yapo u na vhudifhinduleli ha u langa Ofisi ya u walisa a tshi khou tevhedza ndaela dzi bvaho kha Minista na Mulangi-Muangaredzi o rumelwa nga Minista.

(3) Mulondoli uyu a nga hwesa maandja ake muofisi muwe na muwe ane a wanala kha NIKSO ane a mu themba uri a shume mishumo ye a hweswa yone nga uno Mulayo.

(4) Mulondoli uyu a nga hwesa maandja ake muofisi muwe na muwe ane a wanala kha NIKSO ane a mu themba uri a shume mishumo ye a hweswa yone nga uno Mulayo.
Register of indigenous knowledge

19. (1) NIKSO must—
   (a) keep a Register of Indigenous Knowledge in the prescribed manner; and
   (b) ensure the security of the Register.

(2) The Curator must record in respect of each item of indigenous knowledge—
   (a) the particulars of the indigenous community from which the indigenous knowledge originates;
   (b) whether the indigenous knowledge is functional indigenous knowledge or an indigenous cultural expression, or both;
   (c) whether the information provided may only be shared with persons outside the indigenous community with its prior informed consent;
   (d) whether any agreements have been entered into between an outside party and the indigenous community;
   (e) whether the indigenous knowledge is closely related to indigenous knowledge registered by another indigenous community, and if so, details of that indigenous knowledge; and
   (f) any such other particulars as may be prescribed.

(3) The Register is presumed to be evidence of any matters directed or authorised by this Act to be recorded therein.

Registration of indigenous knowledge

20. (1) The trustee of an indigenous community may apply to the Curator in the prescribed manner for the registration of indigenous knowledge.

(2) Subject to the provisions of this Act, the Curator may—
   (a) approve the application;
   (b) approve the application subject to any conditions or limitations, and register the indigenous knowledge; or
   (c) reject the application if it does not meet the criteria set out in section 11.

(3) The Curator must, within 30 days after the registration of the indigenous knowledge—
   (a) issue to the applicant a certificate of registration in the prescribed form; and
   (b) publish, in the prescribed form, a notice of registration in the Indigenous Knowledge Bulletin and any appropriate publication.

(4) In order to exercise any right in respect of indigenous knowledge under this Act, the indigenous community must register the indigenous knowledge in terms of Chapter 6.

Inspection of Register

21. (1) Subject to the provisions of this Act, the Curator must make the Register available for inspection by the public during working hours, upon payment of the prescribed fee.

(2) Notwithstanding subsection (1), additional documents relating to the registration of indigenous knowledge may only be made available to the public, if the person seeking access enters into a prescribed non-disclosure agreement.

(3) The Curator must, as prescribed, at the request of any person, and on payment of the prescribed fee, furnish a copy of an extract of the Register, or a copy of a certificate of registration.

Certificates of Curator to be prima facie evidence

22. (1) A certificate appearing to be issued by the Curator, in respect of any record authorised by this Act, is presumed evidence of the content thereof and action authorised therein, unless proven otherwise.

(2) In any judicial proceedings—
   (a) printed or written copies or extracts appearing to be copies of or extracts from the Register; or
Redzhisiṭara ya ndįvho yapo

19. (1) NIKSO i tea u—
   (a) vhulunga Redzhisiṭara ya Nįdvho Yapo nga ndįla yo randelwaho; na
   (b) vhona uri hu vhe na tsireledzo kha iyo Redzhisiṭara.

(2) Mulondoli u tea u rekhoda tsitenwa tshinwe na tshinwe tsha ndįvho yapo—
   (a) zwidodombedza zwa tshitshavha tshapo afho hune ndįvho yapo yo thoma
       hone; na
   (b) hu nga vha ndįvho i tshi shumiswa kana i ndįvho ya u sumbedza mvelele, kana
       zwoghe; na
   (c) hu nga vha maŋfungo o getshezdwaŋo a tshi nga kovhelela-vho na vha tso
       nga nndią ha tshitshavha tshapo ho ranga ha vha na u tenda wo vhudze;
   (d) hu nga vha thendelano iŋwe na iŋwe ye ya dzhenhe khayo vhukati ha vha tso
       nga nndią na tshitshavha tshapo;
   (e) hu nga vha ndįvho yapo i tshi tjutshelana na ndįvho yapo yo ŋwaliswaho nga
       tshinwe tshitshavha tshapo, naŋone arali zwo ralo, zwidodombedza zwa iyo
       ndįvho; na
   (f) zwidodombedza zwiŋwe na zwiŋwe u ya nga he zwa randelwa.

(3) Redzhisiṭara i dzhiwa hu hone vhunanzi ha maŋfungo maŋwe na maŋwe o
    laelwaho na u tendelwa nga uno Mulayo.

U ŋwaliswa ha ndįvho yapo

20. (1) Thirasitii wa tshitshavha tshapo a nga ita khumbelo kha Mulondoli nga ndįla
    yo randelwaho a tshi itela u ŋwalisa ndįvho yapo.

(2) Hu tshi khou tevhedza uno Mulayo, Mulondoli a—
    (a) tendela iyo khumbelo; na
    (b) tendela khumbelo a tshi khou tevhedza milayo miŋwe me miŋwe kana
        phungudzel, naŋone a kona-ha u ŋwalisa iyo ndįvho yapo; kana
    (c) hanela khumbelo arali i sa fushi nga ndįla dzo vheho kha khethekanyo ya 11.

(3) Hu sa atu u fhela maŋweha a 30, nga murahu ha u ŋwalisa ndįho yapo, Mulondoli
    u tea u—
    (a) getshezdwa muheumbeli ḥhanziela ya u ŋwalisa a tshi khou tevhedza ndįla yo
        randelwaho; na
    (b) a ndįdza ndįvhadzo ya u ŋwalisa Nįdvho Yapo kha GurannĎa ya maŋfungo na
        kha iŋwe nyandĎadzo yo teaho, zwi tshi khou itwa nga ndįla yo randelwaho.

(4) U itela u shumisa fpanele zwi tshi kwama ndįvho yapo nga ḥfasa ha uno Mulayo,
    tshitshavha tshapo tshi tea u ŋwalisa ndįvho yapo u ya nga Ndima ya 6.

U ingamelwə ha Redzhisiṭara

21. (1) Hu tshi khou tevhedza mbešelo dza uyu Mulayo, Mulondoli u tea u ita uri
    Redzhisiṭara i ingamelwe nga tshitshavha nga tshiʃhinga tsha mushumo, musi ho badele
    mbadelo yo randelwaho.

(2) Naho hu na khethekanyo ṭhukhu ya (1), maŋwe maŋweha a kwama u ŋwalisa
    ndįvho yapo a nga itwa uri a wana la nga tshitshavha fhedzi arali muthu ane a khou ṭoŋa
    u a siwelela a tshi ita thendelano ya u fhulufhedzisa u sa punĮisa maŋfungosa zwa zwa
    randelwa.

(3) Mulondoli nga ndįla yo randelwaho nahone ho itwa khumbelo nga muthu ufhi na
    ufhio nahone ho itwa mbadelo yo randelwaho u tea u fhi khophi ya zwi bvaŋo nga
    Redzhisiṭara, kana khophi ya ḥhanziela ya u ŋwalisa.

Ṭhanziela dza Mulondoli ndi hone vhunanzi ha prima facie

22. (1) Ṭhanziela i vhonalaho unga yo getshezdwa nga Mulondoli, malugana na
    rekhoda iŋwe na iŋwe yo tendelwaho nga uno Mulayo, i dzhiwa hu hone vhunanzi ha
    zwi re ngomu na zwo itwaho zwo tendelwa, nga nndįha ha musi zwo sumbedza nga
    iŋwe ndįla.

(2) Kha ḥaŋtulo dzįniwe na dzįniwe—
   (a) khophi dzo phrinthiwaho na dzo tou ŋwalwaho kana zwe zwa bviswa kha izwi
       zwi vhonalaha ku khophi dza kana zwo bviswaho kha Redzhisiṭara; kana
Any document relating to indigenous knowledge certified by the Curator of the Registration Office, is presumed evidence of the content thereof, unless proven otherwise, and may be admitted as evidence without further proof or production of the original.

Register to be constructive notice

23. In any proceedings regarding the rights registered in respect of indigenous knowledge, it may be presumed—
   (a) that every party to those proceedings was aware of the particulars entered in the Register from the date of the section 20(3)(b) publication; and
   (b) that any person using the indigenous knowledge did so knowing that it was registered and that it was a pre-condition of use that the person should have entered into a benefit sharing agreement before commencing use.

Amendment of Register

24. (1) The Curator may—
   (a) upon receiving an application from an interested person in the prescribed manner; and
   (b) after granting the indigenous community an opportunity to make representations in response to the application, amend the Register.

   (2) The Curator must amend an entry in the Register in accordance with any finding by a court.

CHAPTER 7

COMMERCIAL UTILISATION OF INDIGENOUS KNOWLEDGE

Product development, commercialisation, services and processes

25. (1) NIKSO may, at the request of an indigenous community, provide assistance or facilitate the commercial use of its indigenous knowledge.

   (2) NIKSO must, in respect of commercial use of indigenous knowledge—
      (a) promote partnerships for innovation and product development;
      (b) coordinate funding;
      (c) develop market strategies; and
      (d) promote commercial use of products, services, processes and the use of technology.

Access to and use of indigenous knowledge

26. (1) Any person who intends to use indigenous knowledge for commercial purposes must—
      (a) apply in the prescribed manner for a licence authorising the use of that indigenous knowledge; and
      (b) enter into a licence agreement with the trustee of the relevant indigenous community for the use of that indigenous knowledge, as facilitated by NIKSO.

   (2) NIKSO must consult with the trustee on the terms of the subsection (1)(b) licence agreement for the intended use and benefits payable by the licence holder.

   (3) In the event that the indigenous knowledge, which is the subject of the licence agreement, is—
      (a) functional in nature, then any obligation on the part of the licence holder to pay a royalty expires 20 years after the date of agreement; and
      (b) an indigenous cultural expression, then any obligation on the part of the user to pay a royalty expires 50 years after the date of agreement.
(b) Jiňwála jiňwe na jiňwe Ji kwamaho ndjivho yapo Jo khwâ Bísezdzwaho nga Mulondoli wa Ofísia u walisa, Ji dzhiwá hu vhütanzíi hwi zwi re ngomu ha, nga nndža ha musi hu na tsumbo ya jiňwe nďila, nahnóre ji nga ũnjanezdza va vhütanzíi hwi sî na jiňwe tsumbo kana u bvâledzwa ha Jiňwála Jo oridzhiâla.

Redzhisiťara i va yone ndjivhadzo

23. Kha khotše ya maluguna na pfaneło dzô ñwaliswaho maluguna na ndjivho yapo, zwi dzhiwá—
   (a) uri muňwe na muňwe a kwameaho kha iyo mîtângano u na ndjivho ya zwidodombedzwa zwo dzheniswaho kha Redzhisiťara u bva nga datumu ya u  şimdiâza khethekanyo ya 20(3)(b); na
   (b) uri muthu muňwe na muňwe ane a khou shumisa ndjivho yapo o i shumisa a tshi khôvúhuri uri yo ñwaliswaho nahone hu na miláyoy vo vhewáha ya uri hu vhe na thendelâno maluguna na u kovhekana mbuelo phandá hwi musi ndjivho i tshi shumiswaho.

U khakhulula Redzhisiťara

24. (1) Mulondoli—
   (a) musi o ũnjanezdza khumbelo i bva hwi kha muthu a re na dzângalelo nga nďila yo randelwaho; na
   (b) nga műrâhu ha u fha tšitshavha tšhapo tšikhala tsha u sumbedza zwi kwamaho khumbelo, Mulondoli u ţo khakhulula Redzhisiťara.
   (2) Mulondoli u tea u khakhulula zwo ñwalwaho kha Redzhisiťara u ya nga mawanwa a khotše.

NDIMA YA 7

U SHUMISWA HA NĎIVHO YAPO SA VHUBINDUDZI

U bvâledzisa tšibvâledzwa, u tshi bindudzwa, tšumelo na mâitele

25. (1) NIKSO musi hu na khumbelo yo ñtwaho nga tšitshavha tšhapo i nga thusa kana u tšimbidzâna zwa u shumiswa ha ndjivho yapo nga nďila i binduladzaho.
   (2) NIKSO maluguna na u shumiswa ndjivho yapo nga nďila i bindulâsaho—
      (a) i tea u ţutuvedza tshumisâno (vhu ţutâma) na u bvâledzisa tšibvâledzwa;
      (b) u konanyâ ndambedzo;
      (c) u ita nďila dza u vhambadza; na
      (d) u ţutuvedza u shumisa zwi bvâledzwa, tšumelo, kuitele na thekhno lodzho nga nďila i bindulsâho.

U swikelela na u shumisa ndjivho yapo

26. (1) Muthu muňwe na muňwe ane a funa u shumisa ndjivho yapo nga nďila ya bindu u tea u—
      (a) ita khumbelo nga nďila yo randelwaho uri a wane ũaisentse i mu tendelâho u shumisha iyo ndjivho yapo; na
      (b) ita thendelâna na thirasiti ũa tšitshavha tšhapo tsho teaho u itela u shumisâ iyo ndjivho yapo, zwi tshi khô tšimbidzwa nga NIKSO.
   (2) NIKSO i tea u kwâma thirasiti zwi tshi kwâma khethékanyo ũhâku hwi (1)(b) maelâna na thendelâno ya ũaisentse ya u shumisa na mbuelo dzî badelwaho nga mûpe wa ũaisentse.
   (3) Kha nyimele ine ndjivho yapo ine y a tea u tevhedza thendelâno ya ũaisentse ndi—
      (a) ya vhuvâ ha sainstí kana thekhênikhâla, zwereñwo ha mbofo itîwe na itîwe kha mune wa ũaisentse maluguna na u badela mbadelo i fheîla nga murâhu ha mînswâa ya 20 y a thendelâno; nahone
      (b) ndjivho i sumbedzâna zwa mvelele, mbofo ya hone kha mushumisí ane a badela mbadelo i ţo fheîla nga murâhu ha mînswâa ya 50 y a thendelâno.
(4) No prior informed consent for the use of indigenous knowledge is required for—
   (a) criticism or academic review;
   (b) reporting news or current events;
   (c) judicial proceedings;
   (d) any use that is incidental to the above purposes; and
   (e) in circumstances of national emergencies or natural disasters, as long as the relevant indigenous community is compensated for the use of their indigenous knowledge.

(5) A licence holder must, subject to subsection (1), acknowledge the relevant indigenous community by mentioning them or the geographical place from which the indigenous knowledge originated.

(6) Any person who is aggrieved by a NIKSO decision or the conditions imposed with regard to access, may within 60 working days declare a dispute and refer the matter for resolution in terms of section 27.

CHAPTER 8

ENFORCEMENT OF RIGHTS

Dispute Resolution Committee

27. (1) The Minister may, subject to prescribed terms and conditions, appoint members of the Dispute Resolution Committee to resolve any dispute arising from this Act on an ad hoc basis.

(2) In resolving a dispute, the Dispute Resolution Committee must consider customary laws which may have a bearing on the subject matter of the dispute.

(3) Any party to a matter referred to the Dispute Resolution Committee may take the matter for review to the High Court.

(4) The Dispute Resolution Committee may, as a sanction:
   (a) issue a written warning to the licence holder;
   (b) issue a notice prohibiting the unauthorised use of indigenous knowledge by the licence holder; and
   (c) recommend to NIKSO the cancelling, suspending or revoking of the licence rights of a licence holder.

Offences and penalties

28. Any third party who—
   (a) knowingly makes commercial use of indigenous knowledge in a manner which is not in accordance with an agreement entered into with the indigenous community; and
   (b) infringes the rights of that indigenous community,
is guilty of an offence and on conviction liable to pay a fine as prescribed.

CHAPTER 9

GENERAL PROVISIONS

Transitional arrangements

29. (1) Indigenous knowledge originating in a foreign jurisdiction must be given the same protection granted to indigenous knowledge originating in the Republic, if the laws of that foreign jurisdiction provide reciprocal protection to indigenous knowledge originating in the Republic.

(2) In instances where indigenous knowledge originates in one or more indigenous communities in foreign jurisdictions and in the Republic, NIKSO must assist the relevant foreign authorities and the indigenous community of the Republic to conclude an arrangement to share equitably in the proceeds accruing to the indigenous communities in terms of that benefit sharing agreement.
(4) A hu na u tenda muthu o thoma a dįivhadzwa malugana na u shumisa ndįivho yapo kha zwa—
   (a) tϯolo ya zwa akademi kana tsenguluso;
   (b) u vhiga maľfungo;
   (c) zwa khaṭhulo;
   (d) kha ndįivho dza tʰōdįisiso ya akademi hu si na u bindula; na
   (e) kha nyimele yalushāka ya shishī kana zwiwo zwa muːpo: tenda tshįtshavha tshapo tsho teaho tsha badelwa malugana na uhu u shumiswa ha ndįivho yapo ya tishe tshįtshavha.

(5) Muthu a re na jaisentse a tsi khou tevhedza khethekanyo وضوعų ya (1), u tea u livhuwa tshįtshavha tshapo tsho teaho nga u bula dzina kana vhupo afho hune ndįivho yapo ya bva hone.

(6) Muthu muŋwe na muŋwe ane a pfə o khaķhelwa nga tsheo ya NIKSO kana miłayo yo vheva ho malugana na uho u swikelela ndįivho u tea uri hu sa athu u fhela maļuva a 60 a mushumo, a ite khanedzwo na u iswa iyo thaidzo uri i tandalulwe u ya nga khethekanyo ya vhuno 27.

NDIMA YA 8
KUTEVHEDZELE KWA PFANELO

Komiti ya u Thasulula Phambano

27. (1) Minisṭa a tshi khou tevhedza milayo yo randelwaho, a nga thola miradзо ya Komiti ya u Thasulula Phambano u iteḷa u tandalula phambano dzị itiswaho nga uyu Mulayo kha yeneyo nyimele.
   (2) Musi lu tshi tandaluluwa phambano, Komiti ya u Tandalula Phambano i tea u lavhelesa milayo ya mvelele ine ya nga thusa kha fhungo ĵi kwameaho kha phambano.
   (3) Muŋwe na muŋwe ane a kwamea kha fhungo ĵo iswaho kha Komiti ya u Thasulula Phambano, a nga iswa ĵo fhungo Khothe khulu ĵane a ĵi lavheleswe.

(4) Komiti ya u Thasulula Phambano i tshi khou ĵa ndātiso i nga:
   (a) petsheدة xa khatđezo yo tou nʔwamele na muŋwe wa ĵaisentse;
   (b) petsheدة ndįivho yapo ya u iledza u shumisa ndįivho yapo hu si na thendelo i bvaho kha muŋwe wa ĵaisentse; na
   (c) u themendela kha NIKSO uri hu fheliswe, hu imiswe kana u dzhiulula ĵaisentse ya pfanele kha muŋwe wayo.

Vhutshinyi na ndātiso

28. (1) Muŋwe muthu muŋwe na muŋwe ane—
   (a) ane a tsi zwi dįivha a shumisa ndįivho yapo lwa u mu bindulisa nga nمجela ine ya lwa na thendelano yo itwaho na tshįtshavha tshapo; na
   (b) u pfukekanya pfano dz工信部 tshįtshavha tshapo, u na mulandu wa vhutshinyi naŋone u tewa nga u wanwa mulandu a badela na ndātiso yo randelwaho.

NDIMA YA 9
MBETSHELO NYANGAREDZI

Nzendzanyo dz工信部 thanduko

29. (1) Ndįivho yapo inė ya bva kha muku lo wa mashangojadvha i tea u tsireledzwo u tou fana na ndįivho yapo yo tumbukaho fhano kha Riphabulji, arali milayo ya ĵlo shangojadvha ya vha na u ĵeke na Tsireledzwo kha ndįivho yapo yo tumbukaho fhano kha Riphabulji.
   (2) Kha nyimele dzine ndįivho yapo ya vha yo tumbuka kha tshįtshavha tshapo tshįthihi kana zwiwindi kha mikanoy ya ndą na kha Riphabulji, NIKSO i tea u thusa maanďalanga o teaho a mashangojadvha na tshįtshavha tshapo tsha Riphabulji kha u vhi na ndzunzunzano dz工信部 kovhenka mudelo i linganaho hu tsi khou tevhedzwo thendelano ya u kovhenka mudelo.
Multiple claims to indigenous knowledge

30. (1) Where there are multiple claims to indigenous knowledge, any remuneration payable under a benefit sharing agreement must be apportioned equally among the trustees.
   (2) Where an existing benefit sharing agreement in terms of subsection (1) does not include all the trustees of the relevant indigenous communities, the agreement must be amended accordingly.

Regulations

31. (1) The Minister may make regulations regarding any matter pertaining to—
   (a) the protection, promotion, development and management of indigenous knowledge;
   (b) procedures for securing registration in the Register and obtaining licences to use indigenous knowledge from NIKSO;
   (c) matters which may or must be prescribed in terms of this Act; and
   (d) in general, any ancillary or incidental matter that it is necessary to prescribe for the proper implementation or administration of this Act.

Effect on other laws

32. (1) This Act does not alter or detract from any right in respect of any statute or the common law.
   (2) Compliance with any procedures or requirements laid down in this Act does not constitute compliance with any procedures or requirements imposed in any other Act.

Transitional arrangements

33. (1) An indigenous community wishing to register indigenous knowledge already in existence at the time of commencement of this Act, must register such indigenous knowledge in terms of this Act.
   (2) Any continued use of indigenous knowledge, after the commencement of this Act, must be regulated in terms of a licence agreement between the trustee of the relevant indigenous community and the potential licence holder, entered into within 12 months from the date of commencement of this Act.

Short title and commencement

34. This Act is called the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019, and comes into operation on a date determined by the President by proclamation in the Gazette.
Ndîvho yapo ine vhaqe vhayo ndi vhanzhi

30. (1) Kha nýimele ine vhaqe vha ndîvho yapo vha vha vhe vhanzhi, mbadelo inwe na inwe ine ya ðo badelewa nga fhasi ya thendelano ya u kovhana mbuelo i ðo kovhiwa u lingana ya badelewa kha dzithirasitii. 
(2) Hune ha vha na thendelano ya u kovhana mbuelo u ya nga khethekanyo ðhukhu ya (1) i sa kateli dzithirasitii dzo teaho dza zwitshavha zwapo, thendelano i ðo te a u khwiniswa zwavhuði.

Ndangulo

31. (1) Minisâta a nga ita ndangulo malugana na maðhungo afhio na afhio a kwamaho—
    (a) tsireledzo, þuthuwedzo (nyaluso), mveledziso na vhulangi ha ndîvho yapo;
    (b) maitele a u ðwalisa kha Redzhisiþara na u wana ðaisentse ya u shumisa ndîvho yapo kha NIKSO;
    (c) maðhungo ane a nga kana ane a tea u randelwa u ya nga uyu Mulayo; na
    (d) nga u angaredza, maðhungo maðwe na maðwe anea tea u randelwa h u tshi itelwa uru vhe na ndaulo yavhuði na kushumisele kwa uno Mulayo.

U kwamea ha miñwe milayo

32. (1) Uyu Mulayo a u thuthi kana a fhungudzi pfanelo dzi kwamaho mulayo u itwaho nga phalamennde kana mulayo wo ðoweleaho.
(2) U tevhedza maitele na þothedâ dza uyu Mulayo a zwi iti uri muthu a pf u khou anana na maitele kana þothedâ dzo vhe waho nga miñwe Milayo.

Nzudzanyo dza tshanduko

33. (1) Tshitshavha tshapo tshinwe tsha khou funa u ðwalisa ndîvho yapo ye ya vha i hone phandâ ha u thoma u shuma ha uno Mulayo, tshi tea u ðwalisa iyo ndîvho yapo u ya nga onoyu Mulayo. 
(2) U ya phandâ ha u shumiswa ha ndîvho yapo, nga murau ha u thoma u shuma ha uno Mulayo, zwi tea u langulwa u ya nga ðaisentse ya thendelano vhukati ha thirasitii wa tshitshavha tsha teaho na ane a ðo wana ðaisentse, yo itwaho kha miñwedzi ya 12 u bva kha u thoma u shuma ha uno Mulayo.

Dzina ljpufhi na u thoma u shumisa Mulayo

34. Uyu Mulayo u vhizwa u pf u Mulayo wa Tsireledzo, Nyaluso, Mveledziso na u Langa Ndîvho Yapo wa, 2019, nahone u ðo thoma u shumiswa nga datumu yo itwaho nga Phresidennde nga mulevho wa Gazete.
