



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1597.

2 October 1996

No. 1597.

2 Oktober 1996

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

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 47 of 1996: Marketing of Agricultural Products Act, 1996.

No. 47 van 1996: Wet op Bemaking van Landbouprodukte, 1996.

# ACT

To authorise the establishment and enforcement of regulatory measures to intervene in the marketing of agricultural products, including the introduction of levies on agricultural products; to establish a National Agricultural Marketing Council; and to provide for matters connected therewith.

*(Afrikaans text signed by the President.)  
(Assented to 27 September 1996.)*

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

## Definitions

1. (1) In this Act, unless the context indicates otherwise—
  - (i) “agricultural product” means a primary product declared as an agricultural product in terms of subsection (2); (x) 5
  - (ii) “business plan” means a detailed and systematic formulation of a programme of action with specified objectives, time-frames, and a budget; (iii)
  - (iii) “class” in relation to an agricultural product, means a kind or a variety thereof determined according to the size, mass, measure, number, quantity, measurements, colour, appearance, purity or chemical, physical or micro-biological composition, or any other feature or characteristic thereof, or a unit or quantity thereof; (ix) 10
  - (iv) “consumers” means end users of agricultural products; (xviii)
  - (v) “control board” means a control board constituted in terms of the Marketing Act, 1968 (Act No. 59 of 1968), for the implementation of schemes in terms of that Act; (ii) 15
  - (vi) “Council” means the National Agricultural Marketing Council established in terms of section 3; (xv)
  - (vii) “Department” means the Department of Agriculture in the national government; (iv) 20
  - (viii) “directly affected group” means any group of persons which is party to the production, sale, purchase, processing or consumption of an agricultural product and includes labour employed in the production or processing of such product; (v) 25
  - (ix) “Director-General” means the Director-General of the Department; (vi)
  - (x) “food security” means access, by all individuals, to sufficient food of sufficient quality, necessary for a healthy and active life; (xx)
  - (xi) “inspector” means an inspector appointed in terms of section 21; (viii)
  - (xii) “levy” means a levy introduced by the Minister on agricultural products, in terms of section 15; (vii) 30
  - (xiii) “market” means any market for agricultural products; (xi)
  - (xiv) “Minister” means the Minister responsible for agriculture; (xii)
  - (xv) “officer” means an officer of the Department, as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No.103 of 1994); (i) 35
  - (xvi) “parliamentary committees” means the Select or Portfolio Committees of Parliament responsible for agricultural affairs; (xiii)
  - (xvii) “producer” means a person who produces an agricultural product; (xiv)
  - (xviii) “sell” includes agree to sell or to sell on behalf of, or to offer, to advertise, to keep, to expose, to transmit, to convey, to deliver or to prepare for sale, or to exchange or to dispose of in any way for any consideration; (xix) 40
  - (xix) “statutory measure” means a levy contemplated in section 15, and a direction contemplated in sections 16, 17, 18 and 19; (xvi)

(xx) "trust" means a trust as defined in section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988). (xvii)

(2) (a) The Minister may by notice in the *Gazette*, after consultation with the Council, declare any product to be an agricultural product for the purposes of this Act, and may amend or repeal any such notice. 5

(b) Every notice issued under paragraph (a) shall be laid upon the table in Parliament and Parliament may thereupon confirm, amend or reject any such notice or any specific declaration in any such notice.

(c) Every declaration made under paragraph (a) shall be valid until repealed under paragraph (a) or rejected under paragraph (b). 10

### Intervention in marketing of agricultural products

2. (1) A statutory measure may only be introduced in terms of this Act if the Minister is satisfied that such measure will directly and substantially advance one or more of the objectives mentioned in subsection (2), without being substantially detrimental to one or more of such objectives. 15

(2) The objectives of this Act are—

(a) the increasing of market access for all market participants;

(b) the promotion of the efficiency of the marketing of agricultural products;

(c) the optimisation of export earnings from agricultural products;

(d) the enhancement of the viability of the agricultural sector. 20

(3) No statutory measure or prohibition in terms of section 22 which is likely to be substantially detrimental to food security, the number of employment opportunities within the economy or to fair labour practice may be instituted in terms of this Act.

### Establishment of National Agricultural Marketing Council

3. There is hereby established a council to be known as the National Agricultural Marketing Council. 25

### Constitution of Council

4. (1) The Council shall consist of ten members.

(2) The members of the council shall be persons who have practical knowledge and experience of one or more of the following, namely— 30

(a) the commercial production of agricultural products;

(b) agricultural product-related trade and industry;

(c) agricultural economics, including agricultural marketing and international agricultural trade;

(d) consumer issues relating to agricultural products, including issues relating to previously disadvantaged communities; and 35

(e) the production and marketing of agricultural products by small-scale and previously disadvantaged farmers.

(3) The membership of the Council shall consist of two persons from each of the categories listed in subsection (2). 40

(4) Whenever it is necessary to appoint a member of the Council—

(a) the Minister shall, by notice in the *Gazette* as well as in the national news media, including at least two newspapers circulating throughout the Republic, call for the nomination of persons who comply with the criteria referred to in subsection (2); 45

(b) the Minister shall establish a selection committee, consisting of not more than seven members appointed by the Minister, of whom two shall be the chairpersons of the parliamentary committees or their delegates;

(c) the Minister shall refer all nominations received to such selection committee;

(d) the selection committee shall compile a short-list of candidates in accordance with the provisions of subsections (2) and (3) and shall submit the short-list to the Secretary to Parliament for submission to the parliamentary committees; 50

- (e) the parliamentary committees shall, within 30 days after they have placed the consideration of the short-list on their agendas, jointly recommend to the Minister a list of not less than three candidates for each of the categories contemplated in subsection (2); and
- (f) the Minister shall appoint such number of members as is required from the list of candidates recommended by the parliamentary committees. 5
- (5) Until the parliamentary committees recommend candidates as contemplated in subsection (4)(e) the Minister may temporarily reappoint Council members whose terms of office have expired.
- (6) Any nomination contemplated in subsection (4), shall, in addition to any other relevant information that may be required, specify whether the nominee is available to serve on the Council in a full-time or part-time capacity. 10
- (7) The Minister shall appoint one of the members of the Council to the position of chairperson and another member as vice-chairperson.
- (8) When the first Council is constituted in terms of this Act, half of the members shall, subject to section 6, be appointed for a period of four years, and the other half for a period of two years, after which all appointments to the Council shall be for a period not exceeding four years. 15
- (9) Before the expiration of a member's term of office the procedure set out in subsection (4) shall be followed for the appointment of a successor. 20
- (10) A retiring member is eligible for re-appointment, but no member may serve as chairperson for consecutive terms which exceed eight years in total.
- (11) The chairperson, vice-chairperson and not more than three other members designated by the Minister may hold their offices in a full-time capacity.
- (12) A member of the Council shall be paid such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance. 25

#### Meetings and recommendations of Council

5. (1) The Council shall meet for the first time at the time and place determined by the Minister and thereafter at the times and places determined by the chairperson or, if he or she is absent, the vice-chairperson. 30
- (2) When the chairperson is absent or not able to perform his or her functions, the vice-chairperson shall act as chairperson and, if both the chairperson and the vice-chairperson are absent from a meeting or not able to perform their functions, the members present shall elect a person from their ranks to preside at that meeting.
- (3) The Council shall determine the procedure for calling a meeting, the procedure to be followed at meetings, as well as the times at which and manner in which members of the Council shall be notified of meetings. 35
- (4) (a) Six members of the Council shall constitute a quorum for a meeting of the council.
- (b) In any advice or recommendation to the Minister as contemplated in section 9(1), the minority views of any one or more members of the Council, as well as any relevant report emanating from a committee appointed in terms of section 7, shall be included. 40
- (c) If the Council does not appoint a committee to consider a particular issue the Council shall as far as possible give directly affected groups an opportunity to comment on such an issue directly to the Council and in any report that the Council transmits to the Minister on such an issue, the full spectrum of comments received by the Council shall be presented as far as is reasonably possible. 45
- (5) No decision or recommendation by the Council to the Minister or action taken on authority of such decision or recommendation shall be invalid merely because of a casual vacancy in the Council or because a person who was not entitled to sit as member of the Council did sit as such when the decision was taken or the recommendation was formulated, if the decision or recommendation was agreed upon by a majority of the members of the Council who were then present and entitled to sit as members of the Council, and if the provisions of subsection (4)(b) were complied with. 50

#### Vacation of office by member of Council

6. (1) A member of the Council shall vacate his or her office if— 55

- (a) he or she has been absent without the permission of the chairperson for more than two consecutive meetings of the council; or
  - (b) he or she has tendered his or her resignation to the Minister in writing; or
  - (c) his or her term of office is terminated by the Minister on the advice of the Council and after having granted such member an opportunity to refute any allegation made against him or her. 5
- (2) If a member's term of office expires before a replacement has been appointed, such member shall continue in office for a period not exceeding three months or until a replacement is appointed.

#### Committees of Council 10

7. (1) The Council may appoint one or more committees to advise the Council or to perform such of the Council's functions as the Council may entrust to it.
- (2) The Council shall exercise effective control over such committees and shall determine the procedure of appointment and terms of office of committee members.
- (3) In the appointment of committee members, the Council shall, in so far as is reasonably possible, ensure that the relevant directly affected groups are represented. 15
- (4) Notwithstanding the provisions of subsection (3), each committee shall consist of at least one Council member appointed by the Council.
- (5) The Council shall not be divested of any power or function temporarily granted or entrusted to a committee in terms of subsection (1). 20
- (6) Any committee established in terms of subsection (1) may be dissolved by a decision of the Council.

#### Personnel and finances of Council

8. (1) (a) Such officers or employees appointed in terms of the Public Service Act, 1994, as may be necessary for the proper performance by the Council of its functions, shall be designated for that purpose on a full-time basis by the Director-General after consultation with the Council. 25
- (b) The personnel referred to in subsection (a) shall be under the control of the chairperson of the Council.
- (2) The Council may, with the approval of the Director-General, enter into agreements with persons for the performance of specific duties or the provision of specific services. 30
- (3) The Minister shall be responsible for approving the budget for the Council after consultation with the Minister of Finance, and the expenses of the Council and committees of the Council shall be funded by the Department from money appropriated for that purpose by Parliament or received from other sources approved by the Minister. 35
- (4) The chairperson of the Council shall ensure that proper books and financial records are kept by the Council, which books and records shall be audited by the Auditor-General.

#### Functions of Council

9. (1) Subject to the provisions of section 2, the Council— 40
- (a) shall, when requested by the Minister, or of its own accord, investigate, in terms of section 11(2), the establishment, continuation, amendment or revocation of statutory measures affecting the marketing of agricultural products, evaluating the desirability, necessity or efficiency and if necessary, proposing alternatives to the establishment, continuation, amendment or repeal of a statutory measure and report to and advise the Minister accordingly; 45
  - (b) shall prepare and submit to the Minister for consideration statutory measures and changes to statutory measures which the Minister directs it to prepare;
  - (c) shall, whenever requested by the Minister and at least once annually, report on the activities of the Council; 50

- (d) may direct any institution or body of persons designated for the purpose of the implementation or administration of a statutory measure in terms of section 14, to furnish the Council with such information pertaining to a statutory measure as the Council, the Minister or the parliamentary committees may require; 5
- (e) may undertake investigations and advise the Minister regarding—
- (i) agricultural marketing policy and the application thereof;
  - (ii) the co-ordination of agricultural marketing policy in relation to national economic, social and development policies and international trends and developments; and 10
  - (iii) the possibilities for promoting the objectives mentioned in section 2(2);
- (f) shall monitor the application of statutory measures and report thereon to the Minister and shall evaluate and review such measures at least every two years;
- (g) shall prepare a budget of its expenses, in consultation with the Director-General, on an annual basis for approval by the Minister. 15
- (2) Copies of all reports which are submitted to the Minister in terms of subsection (1) shall simultaneously be despatched to the parliamentary committees for their information.

**Request for establishment, continuation, amendment or repeal of statutory measure** 20

10. (1) A directly affected group or the parliamentary committees may in writing request the Minister to establish, continue, amend or repeal one or more statutory measures.
- (2) A request under subsection (1) shall, where relevant, contain particulars—
- (a) regarding the agricultural products or class of agricultural products to which such existing or proposed statutory measure relates, the categories and sub-categories of directly affected groups which will probably be affected by such establishment, continuation, amendment or repeal, evidence of support by directly affected groups, and the geographical areas in which the statutory measure applies or should apply; 25 30
  - (b) in the case of a request to establish or continue a statutory measure, of the manner in which one or more of the objectives referred to in section 2(2) will be furthered as a result thereof and demonstrate that none of the other such objectives will be substantially prejudiced and that such establishment or continuation will not contravene section 2(3); 35
  - (c) in the case of a request to amend or repeal a statutory measure, of the reasons why such statutory measure fails or has ceased to further one or more of the objectives referred to in section 2(2) or why it is substantially detrimental to one or more of the other such objectives or contravenes section 2(3);
  - (d) regarding the business plan to be implemented in order to establish, continue, amend or repeal the statutory measure; 40
  - (e) subject to section 13(2)(a), regarding the duration of the implementation of the statutory measure;
  - (f) regarding an institution or body of persons which might be a suitable vehicle for implementation; 45
  - (g) regarding the most appropriate way of organising the inspection and enforcement of the intervention.
- (3) Any particulars contemplated in subsection (2)(f) shall include a motivation as to why such institution or body of persons would be the most appropriate vehicle for the implementation, and shall give details as to the legal standing of that institution or body of persons, as well as its composition, and the degree to which that composition reflects the various parties interested in the proposed intervention. 50
- (4) Any request in terms of subsection (1) shall contain particulars in respect of the financial implications of such request for the fiscus.

**Consideration of request**

11. (1) Upon receipt of a request in terms of section 10 which is not inconsistent with the provisions of section 2, the Minister shall refer the request to the Council for investigation and a report thereon.
- (2) Upon receipt of such a request, the Council shall— 5
- (a) publish a notice setting out particulars of the request and an explanation in connection therewith in the *Gazette* and such magazines or newspapers as may be sufficient in order to bring the request to the attention of directly affected groups, and inviting such directly affected groups to lodge any objections or representations relating to the request within a specified time; 10
  - (b) if necessary, appoint a committee in terms of section 7, which shall consider such objections or representations and advise the Council;
  - (c) consider the objections and representations from, and level of support among, directly affected groups, and the advice of the committee, if applicable; and
  - (d) report on its findings and make a recommendation to the Minister within 60 15 days or such longer period as may be approved by the Minister.
- (3) The Council may, upon receipt of a request to amend a statutory measure, on reasonable grounds determine that the proposed amendment is not significant and that it is not necessary to act in terms of subsection (2).
- (4) A determination under subsection (3) shall only be made if the proposed 20 amendment places no additional statutory burden on any directly affected group.
- (5) The Council shall consider whether any proposal made in terms of subsection 10(2)(g) and 10(3) would be optimal or may make its own recommendation regarding implementation.
- (6) If the request is for the introduction, amendment or repeal of a levy, the Council 25 shall send a copy of its recommendations to the parliamentary committees for their information.

**Recommendations to Council by provincial government**

12. A provincial government shall be entitled to submit a request to the Minister in terms of section 10, and may, from time to time, make representations to the Minister on 30 any matter relating to the marketing of agricultural products.

**Establishment, amendment or revocation of statutory measure**

13. (1) The Minister may, after consideration of the Council's recommendations, establish, amend or revoke a statutory measure by notice in the *Gazette*, refer the matter back to the Council for further investigation or decline to take any action: Provided that 35 the Minister shall in each case publish his or her reasons for a specific decision in the *Gazette* within 30 days of such decision.
- (2) A notice whereby a statutory measure is established, shall—
- (a) determine the date on which the statutory measure shall come into operation and the date on which it shall cease; 40
  - (b) determine the geographical area in which it shall apply;
  - (c) determine the agricultural product or class thereof to which it shall apply;
  - (d) set out its purpose and aims and how it relates to the objectives referred to in section 2; and
  - (e) contain particulars regarding its implementation, administration and enforce- 45 ment and any other particulars which the Minister may deem necessary.
- (3) A notice whereby a statutory measure is amended or repealed shall—
- (a) determine the date on which such amendment or repeal shall come into operation; and
  - (b) set out the purpose and aims of the amendment or revocation and how these 50 relate to the objectives referred to in section 2.

**Implementation of statutory measures**

14. The Minister may from time to time, by notice in the *Gazette*, entrust to any juristic person or body of persons, institution or the Department the implementation,

administration and enforcement of one or more statutory measures in respect of any agricultural product or class thereof.

### Introduction of levies

15. (1) No levy shall be introduced, amended or repealed in terms of this Act unless the parliamentary committees have been consulted regarding such introduction, amendment or repeal. 5

(2) Within 30 days after the Council's recommendations on proposed levies have been submitted to the parliamentary committees, they shall make a decision on such levies.

(3) If the parliamentary committees do not approve the recommendations of the Council they shall publish the reasons for their decision in the *Gazette* within 30 days of such decision. 10

(4) The Minister may, by notice in the *Gazette*, introduce a levy on an agricultural product or class thereof, which notice shall, in addition to the requirements of section 13, contain the following particulars, namely—

- (a) the amount of such levy, or the formula by which such a levy shall be calculated: Provided that the value of the levies on a particular agricultural product shall not exceed, in total, five percent of the price realised minus the cost incurred up to its first point of sale; 15
- (b) the persons by whom and to whom, the time at which, and the conditions under which, the levy shall be paid; 20
- (c) the different levies introduced on different classes of agricultural products and at different points in the marketing chain between the producer and consumer for each such class, subject to paragraph (a);
- (d) regarding the auditing of the collection of such levies and the particular purposes for which such levies are used. 25

### Control of exports of agricultural products

16. (1) The Minister may by notice under section 13 direct a person who wishes to export the agricultural product or the class of agricultural product to which that notice pertains, to dispose of that product in the manner determined in the notice, subject to such conditions as may be specified in the notice. 30

(2) The Minister may in the notice referred to in subsection (1) prescribe for or exclude from such control—

- (a) a particular class, grade, quantity or percentage of agricultural products;
- (b) a particular date or period of time;
- (c) a particular destination; 35
- (d) information on the transactions and transaction costs that may be made public.

(3) In formulating recommendations with regard to a direction contemplated in subsection (1) the Council shall have regard to—

- (a) the need to encourage some diversity of marketing channels to foreign markets or in respect of different classes of agricultural products; 40
- (b) whether value will be added to the agricultural product before it is exported;
- (c) whether the potential exporters have invested from the commencement of this Act in the development of the market to which the exports relate or intend to develop a new market; and
- (d) whether the exporters have facilitated or have demonstrated an intention to facilitate access to the market by small-scale farmers. 45

### Conducting of pools

17. (1) The Minister may, apart from any pooling arrangements that may be instituted in terms of section 16, by notice in the *Gazette* direct that a pool shall be conducted by a particular body, at a particular location for the purchase and sale of a particular agricultural product or a class thereof. 50



(2) A pool conducted in terms of subsection (1) shall be conducted on the basis that any person who sells to, buys from or participates in any way in such a pool, shall be compelled to sell exclusively to or buy exclusively from such a pool.

(3) The notice referred to in subsection (1) shall prescribe—

- (a) the conditions under which the pool shall be conducted; 5
- (b) the dates, times and places when and where delivery to the pool shall take place; and
- (c) the manner in which the costs of the pool shall be recovered or the proceeds of the pool shall be distributed.

#### Records and returns 10

18. (1) The Minister may, by notice in the *Gazette*, direct that any person shall keep such records and returns as may be specified with regard to the agricultural products or classes thereof to which the notice pertains and which such person has in his or her possession or under his or her control, and direct that such records and returns be furnished to the institution or body of persons referred to in the notice. 15

(2) Such records and returns shall be kept for the period or furnished at the time and in the manner determined in such notice.

#### Registration

19. The Minister may, by notice in the *Gazette*, direct that any producer of a particular agricultural product or class thereof or any person who disposes of such an agricultural product or class thereof for a profit, or any person involved in the purchase, sale, processing or production of such agricultural products or a class thereof shall be registered as specified in the notice. 20

#### Register of directly affected groups

20. (1) The Minister shall annually by notice in the *Gazette* and through the news media invite any group of persons which regards itself as a group that is directly affected, or potentially directly affected, by this Act or any market intervention in terms thereof and which complies with the criteria determined by the Council and set out in the said notice, to furnish the Council with full particulars regarding the reasons why it regards itself so to be affected or potentially affected, its composition, its address, and any other information that may be required. 25 30

(2) The Council shall keep a register of all the particulars received in terms of subsection (1).

#### Inspectors

21. (1) The Minister may appoint a person as an inspector to exercise the powers and perform the duties referred to in subsection (3). 35

(2) An inspector shall be furnished with a certificate, signed by or on behalf of the Minister and bearing a declaration that the bearer is an inspector in terms of this Act, which shall be carried by the inspector at all times during the execution of his or her duties. 40

(3) An inspector may, on the authority of a warrant issued in terms of subsection (4)—

- (a) at any reasonable time, enter premises where he or she has reason to believe that a statutory measure or any prohibition, control or direction referred to in this Act has been or is being contravened, in order to investigate and obtain evidence; 45
  - (b) direct a person in control of or employed at such premises—
    - (i) to deliver any book, record or other document that pertains to the investigation and which is in the possession or under the control of that person;
    - (ii) to furnish such information as he or she has with regard to that matter; 50
- and

- (iii) to render such assistance as the inspector requires in order to enable him or her to perform his or her functions under this Act;
- (c) inspect any book, record or other document and make copies thereof or excerpts therefrom;
- (d) seize any agricultural product, material, substance, book, record or other document which is or might be relevant to a prosecution under this Act and keep it in his or her custody: Provided that the person from whose possession or control any book, record or document has been taken, may, at his or her own expense and under supervision of the inspector concerned, make copies thereof or excerpts therefrom;
- (e) take samples of any agricultural product or any material or substance used or intended for use in the sale, manufacture, production, processing, treatment, preparation, grading, classification, packing or marking thereof, and of any agricultural product, material or substance seized in terms of paragraph (d), and examine, analyse, grade or classify such samples.
- (4) A warrant referred to in subsection (3) shall be issued by a judge of the Supreme Court or by a magistrate who has jurisdiction in the area where the premises in question are situated, and shall only be issued if it appears from information on oath that there are reasonable grounds for believing that an article or thing mentioned in subsection (3) is upon or in such premises, and shall specify which of the acts mentioned in that subsection may be performed thereunder by the person to whom it is issued.
- (5) Any inspector executing a warrant in terms of this section shall immediately before commencing the execution—
- (a) identify himself or herself to the person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent place on the premises;
- (b) supply such person at the request of such person, with particulars regarding his or her authority to execute such a warrant.
- (6) Any inspector may without a warrant enter upon any premises, other than a private dwelling, and search for, seize and remove any article or thing referred to in subsection (3) if the person who is competent to do so consents to such entry, search, seizure and removal.
- (7) (a) Any inspector who, on the authority of a warrant issued in terms of subsection (4), enters upon and searches any premises may use such force as may reasonably be necessary to overcome resistance to such entry or search.
- (b) No person may enter upon or search any premises unless he or she has audibly demanded admission to the premises and has notified the purpose of his or her entry, unless such person is, upon reasonable grounds, of the opinion that any article or thing may be destroyed if such admission is first demanded and such purpose is first notified.
- (c) Any entry and search in terms of this section shall be executed by day, unless the execution thereof by night is justifiable and necessary.
- (8) A warrant contemplated in this section may be issued on any day and shall be of force until—
- (a) it is executed; or
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; or
- (c) one month from the date of its issue; or
- (d) the purpose for which the warrant was issued, no longer exists, whichever occurs first.
- (9) If no criminal proceedings are instituted in connection with an agricultural product, material, substance, book, record or other document seized in terms of subsection (3)(d), or if it appears that such agricultural product, material, substance, book, record or other document is not required at the trial for the purposes of evidence or an order of court, that agricultural product, material, substance, book, record or other document shall be returned to the person from whom it was seized.

### Prohibition of import and export of agricultural product

22. In extraordinary circumstances and bearing in mind the Republics' international obligations, the Minister may after consultation with the parliamentary committees, by notice in the *Gazette* prohibit the importation into the Republic of any agricultural product or class thereof, or the export of any agricultural product or class thereof from the Republic, or impose conditions, specified in such notice, with regard to any such importation or export. 5

### Transparency and confidentiality

23. (1) All meetings of the Council, or its committees, shall be open unless the chairperson, in cases where he or she deems it justifiable and having given reasons therefor to everyone present, orders the public to withdraw from such meeting for the duration of the discussion of a particular matter or matters on the agenda. 10

(2) No person shall, except in the performance of his or her functions under this Act, or unless required to do so by a court of law or in terms of any law, or with the written consent of the Minister, disclose to any other person information, pertaining to any person, institution or body of persons, collected under section 18 or otherwise acquired in the performance of functions in terms of this Act. 15

### Offences and penalties

24. (1) Any person who contravenes or fails to comply with any provision of this Act or of any statutory measure established by or under this Act, shall be guilty of an offence. 20

(2) A person found guilty of an offence in terms of this Act—

(a) shall on a first conviction be liable to a fine or imprisonment for a period not exceeding two years;

(b) shall on a second or subsequent conviction be liable to a fine or imprisonment for a period not exceeding five years. 25

### Delegation of powers

25. The Director-General may, subject to such conditions as he or she may determine, either in general or in respect of any particular case, delegate in writing any power conferred on him or her by or under this Act, except the power referred to in section 8(2), to any officer of the Department. 30

### Regulation of assets, liabilities and contractual rights and obligations of control boards

26. (1) All control boards established under the Marketing Act, 1968 (Act No. 59 of 1968), as well as organisations funded in terms of section 84A of that Act, shall within 30 days of the commencement of this Act submit to the Minister for his or her approval a business plan for the following twelve months or such shorter period as the Minister may determine. 35

(2) From the date of commencement of this Act any property, whether movable or immovable, and whether corporeal or incorporeal, owned, hired or in which any such control board or similar body established by or under a law mentioned in the Schedule has an interest, shall only be disposed of, alienated, let, hypothecated or otherwise dealt with in order to discharge the scheme's or body's liabilities or, with the approval of the Minister, be transferred to a trust, the purpose of which is not inconsistent with this Act. 40

(3) On dissolution of any scheme in terms of the Marketing Act, 1968 (Act No. 59 of 1968), any surplus or shortfall of assets over liabilities of that scheme shall be dealt with in terms of the applicable scheme and, failing any provision which prescribes how such surplus or shortfall is to be dealt with, the Minister shall determine how such surplus or shortfall is to be dealt with. 45

### Repeal of Acts, and savings

27. (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent shown in the third column thereof. 50

(2) Notwithstanding the repeal of the Marketing Act, 1968 (Act No. 59 of 1968), in terms of subsection (1)—

- (a) any scheme established under that Act, anything done or any measure introduced in terms of that Act or in terms of such a scheme, and any appointment, decision, levy, prohibition, requirement, direction, determination, regulation, or notice made, taken, imposed, given, promulgated or published under a provision of that Act, or under a scheme established under it, shall be valid for a period of one year after the first full meeting of the Council, or until it is repealed by the Minister by notice in the *Gazette*, whichever occurs first; 5
- (b) the Minister may, after consultation with the parliamentary committees, subject to paragraph (a) and subsection (3), fill vacancies which may exist in the control boards established under that Act for such term of office as he or she may deem necessary; and 10
- (c) the Minister may, at the request of a control board and after consultation with the parliamentary committees, subject to paragraph (a) and subsection (3), by notice in the *Gazette* amend or repeal any scheme, levy, prohibition, requirement, direction, determination, regulation or notice referred to in paragraph (a). 15

(3) The Minister may by notice in the *Gazette* extend the period of one year referred to in subsection (2) on the advice of the Council if such extension is not inconsistent with the objectives mentioned in section 2, the need for a smooth transition, or the maintenance of the legal standing of control boards for the collection of outstanding levies. 20

**Short title** 25

28. This Act shall be called the Marketing of Agricultural Products Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Act No. 47, 1996

MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996

**SCHEDULE****ACTS REPEALED [SECTION 27(1)]**

| <b>No. and year of Act</b>   | <b>Short title</b>            | <b>Extent of repeal</b>   |
|------------------------------|-------------------------------|---|
| Act No. 59 of 1968           | Marketing Act, 1968           | The whole   |
| Act No. 52 of 1969           | Marketing Amendment Act, 1969 | The whole   |
| Act No. 69 of 1970           | Marketing Amendment Act, 1970 | The whole   |
| Act No. 78 of 1971           | Marketing Amendment Act, 1971 | The whole   |
| Act No. 68 of 1972           | Marketing Amendment Act, 1972 | The whole   |
| Act No. 31 of 1973           | Marketing Amendment Act, 1973 | The whole   |
| Act No. 73 of 1974           | Marketing Amendment Act, 1974 | The whole   |
| Act No. 38 of 1975           | Marketing Amendment Act, 1975 | The whole   |
| Act No. 50 of 1976           | Marketing Amendment Act, 1976 | The whole   |
| Act No. 109 of 1977          | Marketing Amendment Act, 1977 | The whole   |
| Act No. 6 of 1980            | Marketing Amendment Act, 1980 | The whole   |
| Act No. 66 of 1984           | Marketing Amendment Act, 1984 | The whole   |
| Act No. 79 of 1987           | Marketing Amendment Act, 1987 | The whole   |
| Act No. 11 of 1992           | Marketing Amendment Act, 1992 | The whole   |
| Act No. 188 of 1993          | Marketing Amendment Act, 1993 | Sections 1 and 2  |
| Act No. 22 of 1986 (Ciskei)  | Marketing Act, 1986           | The whole to the extent that it is in force in the area of the former Republic of Ciskei.                 |
| Act No. 14 of 1978 (Lebowa)  | Marketing Act, 1978           | The whole to the extent that it is in force in the area of the former self-governing territory of Lebowa. |
| Act No. 9 of 1985 (Transkei) | Marketing Act, 1985           | The whole to the extent that it is in force in the area of the former Republic of Transkei.               |
| Act No. 18 of 1980 (Venda)   | Marketing Act, 1980           | The whole to the extent that it is in force in the area of the former Republic of Venda.                  |
| Act No. 11 of 1984 (Venda)   | Marketing Amendment Act, 1984 | The whole to the extent that it is in force in the area of the former Republic of Venda.                  |
| Act No. 5 of 1985 (Venda)    | Marketing Amendment Act, 1985 | The whole to the extent that it is in force in the area of the former Republic of Venda.                  |