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# Buitengewone Provinsiale Koerant

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### PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Agricultural Development Service Bill, 2001

P.N. 156/2001

25 May 2001

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 15 June 2001:

(a) by posting it to:

The Secretary:  
Western Cape  
Provincial Parliament  
P.O. Box 648  
Cape Town  
8000

(b) by e.mail to:

aferreir@pawc.wcape.gov.za

(c) by fax to:

A. Ferreira  
(021) 4834584

P. J. C. Pretorius  
*Secretary to Parliament*

## INHOUD

### PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wetsontwerp op die Wes-Kaapse Landbou-ontwikkelingsdiens, 2001

P.K. 156/2001

25 Mei 2001

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 15 Junie 2001:

(a) deur dit te pos aan:

Die Sekretaris:  
Wes-Kaapse  
Provinsiale Parlement  
Posbus 648  
Kaapstad  
8000

(b) deur e.pos aan:

aferreir@pawc.wcape.gov.za

(c) deur dit te faks aan:

A. Ferreira  
(021) 4834584

P. J. C. Pretorius  
*Sekretaris van Parlement*

# BILL

To provide for the establishment, powers, functions and funding of a juristic person to promote, facilitate, support and develop agriculture in the Western Cape and for other activities directly or indirectly related thereto, and to provide for matters incidental thereto.

**B**E IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

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# WETSONTWERP

Om voorsiening te maak vir die instelling, bevoegdhede, funksies en befondsing van 'n regs persoon om landbou in die Wes-Kaap te bevorder, te fasiliteer, te ondersteun en te ontwikkel, en vir ander aktiwiteite wat regstreeks of onregstreeks daarmee verband hou, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

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### CHAPTER 1: DEFINITIONS

#### Definitions 15

1. (1) In this Act, unless the context otherwise indicates —
  - (i) “**agricultural sector**” means those activities directly or indirectly relating to agricultural production in the Province;
  - (ii) “**chairperson**” means the chairperson of the Directors of the Service appointed in terms of section 9(1); 20
  - (iii) “**chief executive officer**” means the chief executive officer of the Service appointed in terms of section 12;
  - (iv) “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
  - (v) “**Department**” means the component of the Department of Economic Affairs, Agriculture and Tourism in the Province responsible for agriculture; 25
  - (vi) “**Directors**” means the Directors of the Service appointed in terms of section 6;
  - (vii) “**financial year**” means the period from 1 April in any year to 31 March in the next succeeding year; 30
  - (viii) “**Fund**” means the Western Cape Agricultural Development Service Fund established by section 19;
  - (ix) “**Premier**” means the Premier referred to in section 37 of the Provincial Constitution; 35
  - (x) “**prescribe**” means to prescribe by regulation in terms of section 25;
  - (xi) “**Province**” means the Province of the Western Cape;
  - (xii) “**Provincial Minister of Finance**” means the member of the Provincial Cabinet responsible for financial matters or, if that person is the same person as the responsible Minister, the Premier; 40
  - (xiii) “**Provincial Parliament**” means the Provincial Parliament referred to in section 9(1) of the Provincial Constitution;
  - (xiv) “**responsible Minister**” means the member of the Provincial Cabinet responsible for agriculture;
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### HOOFSTUK 1 : WOORDOMSKRYWINGS

#### 15 Woordomsrywings

1. (1) In hierdie Wet, tensy dit uit die samehang anders blyk, beteken —

- (i) “**Departement**” die komponent van die Departement van Ekonomiese Sake, Landbou en Toerisme in die Provinsie wat vir landbou verantwoordelik is;
- 20 (ii) “**Diens**” die Wes-Kaapse Landbou-ontwikkelingsdiens by artikel 2 ingestel;
- (iii) “**Direkteure**” die Direkteure van die Diens ingevolge artikel 6 aangestel;
- 25 (iv) “**finansiële jaar**” die tydperk van 1 April in enige jaar tot 31 Maart in die daaropvolgende jaar;
- (v) “**Fonds**” die Wes-Kaapse Landbou-ontwikkelingsfonds by artikel 19 ingestel;
- (vi) “**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
- 30 (vii) “**hierdie Wet**” ook enige regulasie kragtens artikel 25 uitgevaardig;
- (viii) “**hoof uitvoerende beampte**” die hoof uitvoerende beampte van die Diens ingevolge artikel 12 aangestel;
- (ix) “**landbousektor**” die aktiwiteite wat regstreeks of onregstreeks met landbouproduksie in die Provinsie verband hou;
- 35 (x) “**ondervoorsitter**” die ondervoorsitter van die Direkteure van die Diens ingevolge artikel 9(1) aangestel;
- (xi) “**Premier**” die Premier in artikel 37 van die Provinsiale Grondwet bedoel;
- 40 (xii) “**Provinsiale Minister van Finansies**” die lid van die Provinsiale Kabinet verantwoordelik vir finansiële aangeleenthede of, indien daardie persoon dieselfde persoon as die verantwoordelike Minister is, die Premier;
- (xiii) “**Provinsiale Parlement**” die Provinsiale Parlement in artikel 9(1) van die Provinsiale Grondwet bedoel;
- 45 (xiv) “**Provinsie**” die Provinsie Wes-Kaap;
- (xv) “**verantwoordelike Minister**” die lid van die Provinsiale Kabinet verantwoordelik vir landbou;

- (xvi) "this Act" includes any regulation made under section 25;
- (xvii) "vice-chairperson" means the vice-chairperson of the Directors of the Service appointed in terms of section 9(1).
- (2) Where in this Act any functionary is required to take a decision —
  - (a) in consultation with another functionary, the decision requires the concurrence of the other functionary and if that other functionary is a body of persons, it must express its concurrence in accordance with its own decision-making procedures, and
  - (b) after consultation with another functionary, the decision must be taken in good faith after consulting and giving serious consideration to the views of the other functionary.

## CHAPTER 2: WESTERN CAPE AGRICULTURAL DEVELOPMENT SERVICE

### Establishment of Western Cape Agricultural Development Service

- 2. The Western Cape Agricultural Development Service is hereby established as a juristic person.

### Objects of Service

- 3. The objects of the Service are —
  - (a) to supply and provide and to support services and facilities for research, technology development, the transfer of technology, the supporting of farmers and training, whether directly or indirectly related to agricultural production in the Province in terms of an agreement between the Directors and the responsible Minister;
  - (b) to create and maintain a database which can be used for the formulation, promotion and implementation of agricultural policy and strategy;
  - (c) to implement legislation applicable to the agricultural sector as determined by the responsible Minister, and
  - (d) to provide the services and programmes referred to in section 4(1).

### Transfer of functions, services and programmes, employment contracts, records and assets, liabilities, rights and obligations to Service

- 4. (1) The existing functions, services and programmes of the Department, as determined by the responsible Minister, are transferred as a going concern to the Service with effect from a date to be determined by the Minister by notice in the *Provincial Gazette*.
- (2) With effect from the date contemplated in subsection (1), the employment contracts of all officers serving the Department in respect of the functions, services and programmes referred to in subsection (1) are transferred in terms of section 197(1)(a) of the Labour Relations Act, 1995 (Act 66 of 1995), with all rights and obligations continuing in force, as contemplated in section 197(2)(a) of that Act.
- (3) All personnel records and information of the Department, including all financial and administrative information relating to the officers referred to in subsection (2), in the possession of other provincial departments must be delivered to the Service without delay after the date contemplated in subsection (1).
- (4) All movable assets, liabilities, rights and responsibilities with regard to the functions, services and programmes referred to in subsection (1) are transferred to the Service on the date contemplated in subsection (1), and the Directors must to the satisfaction of the Head of Department: Economic Affairs, Agriculture and Tourism in the Province conclude all the outstanding responsibilities of the Department.

### Control of Service

- 5. The Service is controlled by the Directors appointed in terms of section 6, who —
  - (a) are jointly and individually accountable to the responsible Minister regarding the activities of the Service;

- (xvi) "voorsitter" die voorsitter van die Direkteure van die Diens ingevolge artikel 9(1) aangestel;
- (xvii) "voorskryf" by regulasie ingevolge artikel 25 voorskryf.
- (2) Waar in hierdie Wet 'n funksionaris 'n besluit moet neem —
- 5 (a) in oorleg met 'n ander funksionaris, vereis die besluit die instemming van die ander funksionaris en indien daardie ander funksionaris 'n liggaam van persone is, hy sy instemming moet uitdruk in ooreenstemming met sy eie besluitnemingsprosedures, en
- 10 (b) na oorleg met 'n ander funksionaris, moet die besluit in goeie trou geneem word na oorlegpleging en met ernstige oorweging van die menings van die ander funksionaris.

## HOOFTUK 2: WES-KAAPSE LANDBOU-ONTWIKKELINGSDIENS

### Instelling van Wes-Kaapse Landbou-ontwikkelingsdiens

2. Die Wes-Kaapse Landbou-ontwikkelingsdiens word hierby as 'n regspersoon  
15 ingestel.

### Oogmerke van Diens

3. Die oogmerke van die Diens is —
- 20 (a) om navorsing, tegnologie-ontwikkeling, die oordrag van tegnologie, die ondersteuning van boere en opleiding te verskaf en te lewer en om dienste en fasiliteite daarvoor te steun, hetsy regstreeks of onregstreeks in verband met landbouproduksie in die Provinsie ingevolge 'n ooreenkoms tussen die Direkteure en die verantwoordelike Minister;
- (b) om 'n databasis te skep en in stand te hou wat gebruik kan word vir die formulering, bevordering en implementering van landboubeleid en -strategie;
- 25 (c) om wetgewing van toepassing op die landbousektor soos deur die verantwoordelike Minister bepaal, te implementeer, en
- (d) om die dienste en programme in artikel 4(1) bedoel, te verskaf.

### Oordrag van funksies, dienste en programme, dienskontrakte, rekords en bates, laste, regte en verpligtinge aan Diens

- 30 4. (1) Die bestaande funksies, dienste en programme van die Departement, soos deur die verantwoordelike Minister bepaal, word as 'n lopende onderneming aan die Diens oorgedra met ingang van 'n datum wat die Minister by kennisgewing in die *Provinsiale Koerant* bepaal.
- (2) Met ingang van die datum in subartikel (1) bedoel, word die dienskontrakte van  
35 alle beamptes in die Departement ten opsigte van die funksies, dienste en programme in subartikel (1) bedoel, oorgedra ingevolge artikel 197(1)(a) van die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995), met alle regte en verpligtinge wat van krag bly, soos in artikel 197(2)(a) van daardie Wet bedoel.
- (3) Alle personeelrekords en -inligting van die Departement, met inbegrip van alle  
40 finansiële en administratiewe inligting met betrekking tot die beamptes in subartikel (2) bedoel, in die besit van ander provinsiale departemente, moet ná die datum in subartikel (1) bedoel, sonder versuim aan die Diens verskaf word.
- (4) Alle roerende bates, laste, regte en verantwoordelikhede met betrekking tot die funksies, dienste en programme in subartikel (1) bedoel, word na die Diens oorgedra  
45 op die datum in subartikel (1) bedoel, en die Direkteure moet tot tevredenheid van die Departementshoof: Ekonomiese Sake, Landbou en Toerisme in die Provinsie al die uitstaande verantwoordelikhede van die Departement afhandel.

### Beheer oor Diens

5. Die Diens word beheer deur die Direkteure wat ingevolge artikel 6 aangestel word  
50 en wat —
- (a) gesamentlik en individueel teenoor die verantwoordelike Minister aanspreeklik is betreffende die aktiwiteite van die Diens;

- (b) must, in accordance with the laws regulating agriculture in so far as they relate to the objects referred to in section 3 and the functions, services and programmes referred to in section 4(1) and the policy determinations of the responsible Minister, direct the activities of the Service;
- (c) may establish and appoint persons to the committees and working groups the Directors consider necessary for the performance of their functions, but — 5
  - (i) the majority of the members of a committee must be Directors, and
  - (ii) committees and working groups must function in accordance with terms of reference determined by the Directors.

#### Appointment of Directors

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6. (1) Subject to subsections (2) and (3) and after consultation with the standing committee of the Provincial Parliament responsible for the agricultural sector, the responsible Minister must appoint the following persons as Directors:

- (a) two persons from a list of nominees representing developing agriculture in the Province; 15
  - (b) two persons from a list of nominees representing commercial agriculture in the Province;
  - (c) one person from a list of nominees compiled by the institutions of tertiary education in the Province dealing with the training of agriculturists, and
  - (d) four other persons from nominations received in terms of subsection (3). 20
- (2) (a) An employee of the Service, a member of Parliament or a provincial legislature and a person who has been declared insolvent or of unsound mind by a competent court or who has been convicted of an offence and sentenced to imprisonment without the option of a fine or to a fine of more than R50 000 is not eligible for appointment as a Director, but any person who appeals against such conviction or sentence is not regarded as having been sentenced until the appeal has been decided. 25
- (b) The Directors must be South African citizens who, in the opinion of the responsible Minister, can individually or collectively place at the disposal of the Service a wide variety of skills, including —
- (i) ability in or experience of administration and management; 30
  - (ii) knowledge or experience of research, technology development, advisory agricultural activities and the training of agriculturists, and
  - (iii) an understanding of the needs and activities of the emergent and commercial agricultural communities within the Province.
- (3) The responsible Minister must, before appointing a Director contemplated in subsection (1)(d), by notice in the *Provincial Gazette* and in such other media as may be considered appropriate, invite all interested parties to submit, within the period mentioned and in the manner determined in the notice, the names of persons who, in the opinion of such interested parties, are fit and proper persons to be so appointed, stating the grounds upon which the opinion is based. 40

#### Period of office of Directors

7. (1) Subject to subsection (2), a Director holds office for the period, not exceeding four years, which the responsible Minister determines at the time of the Director's appointment.
- (2) In the case of the first Directors the responsible Minister must appoint five of them for a period of four years and the others for a period of two years. 45
- (3) Subject to section 6, a Director is eligible for reappointment, but no Director may hold office for more than two consecutive periods of office.

#### Vacation of office of Director

8. (1) If a Director — 50
- (a) dies;
  - (b) is declared insolvent or of unsound mind by a competent court;
  - (c) is removed from office in terms of subsection (2);

- (b) in ooreenstemming met die wette wat die landbou reguleer in soverre dit betrekking het op die oogmerke in artikel 3 bedoel en die funksies, dienste en programme in artikel 4(1) bedoel en die beleidsbepalings van die verantwoordelike Minister, leiding moet gee vir die aktiwiteite van die Diens;
- 5 (c) die komitees en werkgroepe kan instel en persone in sulke komitees en werkgroepe kan aanstel wat die Direkteure nodig ag vir die verrigting van hulle funksies, maar —
  - (i) die meerderheid van die lede van 'n komitee moet Direkteure wees, en
  - 10 (ii) komitees en werkgroepe moet funksioneer in ooreenstemming met opdragte deur die Direkteure bepaal.

#### Aanstelling van Direkteure

6. (1) Behoudens subartikels (2) en (3) en na oorleg met die staande komitee van die Provinsiale Parlement verantwoordelik vir die landbousektor moet die verantwoordelike Minister die volgende persone as Direkteure aanstel:

- (a) twee persone uit 'n lys van benoemdes wat die ontwikkelende landbou in die Provinsie verteenwoordig;
- (b) twee persone uit 'n lys van benoemdes wat die kommersiële landbou in die Provinsie verteenwoordig;
- 20 (c) een persoon uit 'n lys benoemdes saamgestel deur die instellings vir tersiêre onderwys in die Provinsie wat met die opleiding van landboukundiges te doen het, en
- (d) vier ander persone uit benoemings wat ingevolge subartikel (3) ontvang is.
- (2) (a) 'n Werknemer van die Diens, 'n lid van die Parlement of 'n provinsiale wetgewer en 'n persoon wat insolvent of geestelik versteur verklaar is deur 'n bevoegde hof of wat aan 'n misdryf skuldig bevind is en gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete of tot 'n boete van meer as R50 000, kom nie vir aanstelling as 'n Direkteur in aanmerking nie, maar enige persoon wat teen sodanige skuldigbevinding of vonnis appelleer, word nie as gevonnissen beskou nie totdat die appèl beslis is.
- 30 (b) Die Direkteure moet Suid-Afrikaanse burgers wees wat, na die mening van die verantwoordelike Minister, individueel of gesamentlik 'n wye verskeidenheid vaardighede tot beskikking van die Diens kan stel, insluitende —
  - (i) vaardigheid in of ondervinding van administrasie en bestuur;
  - (ii) kennis of ondervinding van navorsing, tegnologie-ontwikkeling, adviserende landbou-aktiwiteite en die opleiding van landboukundiges, en
  - 35 (iii) 'n begrip van die behoeftes en aktiwiteite van die opkomende en kommersiële landbougemeenskappe in die Provinsie.
- (3) Die verantwoordelike Minister moet, voordat hy of sy 'n Direkteur bedoel in subartikel (1)(d) aanstel, by kennisgewing in die *Provinsiale Koerant* en in sodanige ander media as wat geskik geag word, alle belanghebbende partye versoek om, binne die tydperk gemeld en op die wyse bepaal in die kennisgewing, die name voor te lê van persone wat na die mening van sodanige belanghebbende partye geskikte en gepaste persone is om aldus aangestel te word, met vermelding van die gronde waarop die mening berus.

#### 45 Ampstermyn van Direkteure

- 7. (1) Behoudens subartikel (2) beklee 'n Direkteur die amp vir 'n termyn van hoogstens vier jaar wat die verantwoordelike Minister ten tyde van die Direkteur se aanstelling bepaal.
- (2) In die geval van die eerste Direkteur moet die verantwoordelike Minister vyf van hulle vir 'n termyn van vier jaar aanstel en die ander vir 'n termyn van twee jaar.
- (3) Behoudens artikel 6 kan 'n Direkteur heraanstelling word, maar geen Direkteur mag die amp meer as twee opeenvolgende ampstermyne beklee nie.

#### Ampsontruiming van Direkteur

- 8. (1) Indien 'n Direkteur —
  - 55 (a) sterf;
  - (b) insolvent of geestelik versteur verklaar word deur 'n bevoegde hof;
  - (c) ingevolge subartikel (2) van die amp onthef word;

- (d) is convicted of an offence and sentenced to imprisonment without the option of a fine or to a fine of more than R50 000;
- (e) is absent from three consecutive Directors' meetings without the consent of the chairperson;
- (f) submits his or her resignation in writing to the chairperson, or
- (g) becomes a member of Parliament or a provincial legislature or an employee of the Service,

the Director concerned ceases to hold office, but a Director who appeals against a conviction or sentence is not regarded as having been sentenced until the appeal has been decided.

(2) The responsible Minister may at any stage remove a Director from office on the grounds of misconduct, incapacity or incompetence.

(3) Subject to section 6, the responsible Minister must forthwith fill any vacancy in the office of a Director.

#### Chairperson and vice-chairperson of Directors

9. (1) Within three months of the appointment of the first Directors, the responsible Minister must, after consultation with the Directors, appoint one of the Directors as chairperson and one as vice-chairperson for such period as the responsible Minister may determine at the time of the appointment, but the responsible Minister may, if good reason exists, terminate a chairperson's or vice-chairperson's term of office before the expiry of the period originally determined and must in such event advise the Directors in writing of the reason or reasons for such termination.

(2) The responsible Minister must, within one month of the occurrence of any vacancy in the office of chairperson or vice-chairperson, fill that vacancy in accordance with subsection (1).

(3) If, for any reason, the chairperson is unable to act as chairperson, the vice-chairperson must perform the functions of the chairperson.

(4) If both the chairperson and the vice-chairperson are absent from a meeting of the Directors, the Directors present must choose a person from among themselves to act as the chairperson at that meeting.

(5) Subject to section 10, the Directors must meet for the dispatch of their business, adjourn and otherwise regulate their meetings as the chairperson deems fit, and the provisions of section 28(1) and (2) of the Provincial Constitution apply, with the necessary changes, to meetings of the Directors.

#### Meetings and decisions of Directors

10. (1) The first meeting of the Directors must be held at a time and place determined by the responsible Minister but not later than three months after the appointment of the chairperson and vice-chairperson, and thereafter the Directors must meet at such times and places as determined by the chairperson, but the Directors must meet at least once every three months.

(2) The chairperson or the responsible Minister may at any time, either of his or her own volition or at the written request of not fewer than two of the Directors, by notice convene an extraordinary meeting of the Directors, which must be held at the time and place determined by the chairperson or the responsible Minister, as the case may be.

(3) A notice convening an extraordinary meeting of the Directors must state the purpose of the meeting.

(4) The quorum for a meeting of the Directors is seven persons, but at least two Directors contemplated in section 6(1)(d) must always be present.

(5) The decision of a simple majority of the Directors present at a meeting constitutes a decision of the Directors, and in the event of an equality of votes on any matter the person presiding at the meeting must, in addition to that person's deliberative vote, exercise a casting vote.

(6) A decision taken by the Directors at a time when —

- (a) there was a vacancy in the office of a Director;
  - (b) any person who was not entitled to sit as a Director, sat as a Director, or
  - (c) any Director contravened the provisions of subsection (8),
- is not invalid if —

- (d) aan 'n misdryf skuldig bevind word en gevonniss word tot gevangenisstraf sonder die keuse van 'n boete of tot 'n boete van meer as R50 000;
  - (e) van drie agtereenvolgende vergaderings van die Direkteure afwesig is sonder die toestemming van die voorsitter;
  - 5 (f) sy of haar bedanking skriftelik aan die voorsitter voorlê, of
  - (g) 'n lid van die Parlement of van 'n provinsiale wetgewer of 'n werknemer van die Diens word,
- hou die betrokke Direkteur op om die amp te beklee, maar 'n Direkteur wat teen 'n skuldigbevinding of vonnis appeleer, word nie geag gevonniss te wees nie totdat die
- 10 appèl beslis is.
- (2) Die verantwoordelike Minister kan 'n Direkteur te eniger tyd van die amp onthef op grond van wangedrag, ongeskiktheid of onbekwaamheid.
  - (3) Behoudens artikel 6 moet die verantwoordelike Minister enige vakature in die amp van Direkteur onverwyld vul.

### 15 Voorsitter en ondervoorsitter van Direkteure

- 9. (1) Binne drie maande na die aanstelling van die eerste Direkteure moet die verantwoordelike Minister, na oorleg met die Direkteure, een van die Direkteure as voorsitter en een as ondervoorsitter aanstel vir die tydperk wat die verantwoordelike Minister ten tyde van die aanstelling bepaal, maar die verantwoordelike Minister kan,
- 20 as daar goeie redes bestaan, 'n voorsitter of ondervoorsitter se ampstermyn beëindig voor verstryking van die tydperk wat oorspronklik bepaal is en moet in so 'n geval die Direkteure skriftelik in kennis stel van die rede of redes vir sodanige beëindiging.
- (2) Die verantwoordelike Minister moet binne een maand na die ontstaan van enige vakature in die amp van voorsitter of ondervoorsitter die vakature ooreenkomstig
- 25 subartikel (1) vul.
- (3) Indien die voorsitter om enige rede nie in staat is om as voorsitter op te tree nie, moet die ondervoorsitter die funksies van die voorsitter verrig.
- (4) Indien sowel die voorsitter as die ondervoorsitter afwesig is van 'n vergadering van die Direkteure, moet die aanwesige Direkteure 'n persoon uit hulle geledere kies
- 30 om op daardie vergadering as voorsitter op te tree.
- (5) Behoudens artikel 10 moet die Direkteure vergader vir die afhandeling van hulle sake, hulle vergaderings verdaag en andersins reël soos wat die voorsitter goedvind, en die bepalings van artikel 28(1) en (2) van die Provinsiale Grondwet is, met die nodige veranderings, op vergaderings van die Direkteure van toepassing.

### 35 Vergaderings en besluite van Direkteure

- 10. (1) Die eerste vergadering van die Direkteure moet gehou word op 'n tyd en plek wat die verantwoordelike Minister bepaal, maar nie later nie as drie maande na die aanstelling van die voorsitter en die ondervoorsitter, en daarna moet die Direkteure vergader op die tyd en plekke wat die voorsitter bepaal, maar die Direkteure moet
- 40 minstens een keer elke drie maande vergader.
- (2) Die voorsitter of die verantwoordelike Minister kan te eniger tyd, hetsy uit eie beweging of op skriftelike versoek van minstens twee van die Direkteure, by kennisgewing 'n buitengewone vergadering van die Direkteure belê, wat gehou moet word op die tyd en plek wat die voorsitter of die verantwoordelike Minister, na gelang
- 45 van die geval, bepaal.
- (3) 'n Kennisgewing om 'n buitengewone vergadering van die Direkteure te belê, moet die doel van die vergadering meld.
- (4) Die kworum vir 'n vergadering van die Direkteure is sewe persone, maar minstens twee Direkteure in artikel 6(1)(d) beoog, moet altyd teenwoordig wees.
- 50 (5) Die besluit van 'n gewone meerderheid van die Direkteure teenwoordig op 'n vergadering maak 'n besluit van die Direkteure uit, en in die geval van 'n staking van stemme oor enige aangeleentheid moet die persoon wat op die vergadering voorsit, benewens daardie persoon se beraadslagende stem ook 'n beslissende stem uitbring.
- (6) 'n Besluit wat deur die Direkteure geneem is op 'n tydstip toe —
- 55 (a) daar 'n vakature in die amp van Direkteur was;
- (b) enige persoon wat nie geregtig was om as 'n Direkteur te sit nie, as 'n Direkteur gesit het, of
- (c) enige Direkteur die bepalings van subartikel (8) oortree het, is nie ongeldig nie indien —

- (i) the decision was taken by a majority of the Directors, and
- (ii) at least five of the Directors constituting that majority were entitled to sit as such and complied with the provisions of subsection (8).

(7) The Directors must allow the chief executive officer, and may allow any other person who is not a Director to attend any of their meetings and may allow the chief executive officer or other person to take part in the proceedings at the meeting, without having the right to vote. 5

(8) (a) When the Directors are in session, a Director may not take part in a discussion of, or participate in the making of a decision on, any matter in which that Director or the spouse, a close relative, a partner, the employer or an employee of that Director has any personal and direct or indirect pecuniary interest, unless the Director concerned first declares the nature, extent and particulars of that interest and thereafter the person presiding at the meeting has ruled that the Director concerned may take part in the deliberation on or the decision of the matter. 10

(b) For the purpose of paragraph (a) — 15

- (i) "spouse" includes a person with whom the Director lives as if they were married or with whom the Director habitually cohabits, and
- (ii) "close relative" means a parent, child, brother, or sister.

(9) Any Director who contravenes the provisions of subsection (8) is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding 12 months, or both. 20

(10) The minutes of the meetings of the Directors and any committee and working group appointed in terms of this Act must be signed by the person who acts as the chairperson at the next meeting.

#### **Powers and duties of Service** 25

11. (1) Subject to the provisions of this Act and in order to achieve its objects referred to in section 3 —

- (a) the Service must perform any function conferred upon, or delegated to, the Service by or with the approval of the responsible Minister by or in terms of any legislation, in a manner consistent with that legislation or delegation; 30
- (b) the Service must diligently implement agricultural policy for the Province as laid down by the responsible Minister, in accordance with the strategy determined by that Minister, and
- (c) an employee of the Service must, with the consent of the Directors, perform any function assigned or delegated to the employee concerned in terms of any law, but when deciding to give the consent contemplated in the foregoing provision, the Directors must have due regard to the objects and capabilities of the Service. 35

(2) Subject to the provisions of this Act and in order to achieve its objects referred to in section 3, the Service may — 40

- (a) in relation to any matter which is directly or indirectly aimed at achieving the objects of the Service —
  - (i) with the consent of the responsible Minister and on the conditions determined by that Minister, co-operate, negotiate or enter into agreements with international organisations and any national, provincial or local government in the Republic of South Africa or elsewhere; 45
  - (ii) create or terminate companies, trusts or other bodies corporate in consultation with the responsible Minister and the Provincial Minister of Finance;
  - (iii) acquire or alienate shares or any other interest in companies, trusts or other bodies corporate in consultation with the responsible Minister and the Provincial Minister of Finance; 50
  - (iv) provide services;
  - (v) provide facilities for research, technology development, technology transfer, support of farmers and agricultural training; 55

- (i) die besluit deur 'n meerderheid van die Direkteure geneem is, en
  - (ii) minstens vyf van die Direkteure wat daardie meerderheid uitgemaak het, geregtig was om as sodanig te sit en aan die bepalings van subartikel (8) voldoen het.
- 5 (7) Die Direkteure moet die hoof uitvoerende beampte en kan enige ander persoon wat nie 'n Direkteur is nie, toelaat om enige van hulle vergaderings by te woon en kan die hoof uitvoerende beampte of ander persoon toelaat om aan die verrigtinge op die vergadering deel te neem, maar die betrokke persoon het nie stemreg nie.
- (8) (a) Wanneer die Direkteure in sessie is, mag 'n Direkteur nie deelneem aan 'n bespreking van, of die neem van 'n besluit oor, enige aangeleentheid waarby daardie Direkteur of die gade, 'n nabye bloedverwant, 'n vennoot, die werkgewer of 'n werknemer van daardie Direkteur enige persoonlike en regstreekse of onregstreekse geldelike belang het nie, tensy die betrokke Direkteur eers die aard, omvang en besonderhede van daardie belang verklaar en die persoon wat op die vergadering
- 10 voorsit, daarna beslis het dat die betrokke Direkteur aan die bespreking oor of die beslissing van die aangeleentheid mag deelneem.
- (b) Vir doeleindes van paragraaf (a) —
- (i) sluit "gade" 'n persoon in met wie die Direkteur saamwoon asof hulle getroud is of met wie die Direkteur gewoonlik saamleef, en
  - (ii) beteken "nabye bloedverwant" 'n ouer, kind, broer of suster.
- 20 (9) Enige Direkteur wat die bepalings van subartikel (8) oortree, begaan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 12 maande, of albei.
- (10) Die notule van die vergaderings van die Direkteure en enige komitee en
- 25 werkgroep wat ingevolge hierdie Wet aangestel is, moet onderteken word deur die persoon wat op die volgende vergadering as voorsitter optree.

#### Bevoegdhede en pligte van Diens

11. (1) Behoudens die bepalings hierdie Wet en ten einde sy oogmerke in artikel 3 bedoel te bereik —
- 30 (a) moet die Diens enige funksie verrig wat aan die Diens opgedra of gedelegeer is deur of met die goedkeuring van die verantwoordelike Minister by of ingevolge enige wetgewing, op 'n wyse in ooreenstemming met daardie wetgewing of delegering;
- (b) moet die Diens landboubeleid vir die Provinsie soos deur die verantwoorde-
- 35 like Minister bepaal, ywerig implementeer in ooreenstemming met die strategie wat daardie Minister bepaal, en
- (c) moet 'n werknemer van die Diens, met die instemming van die Direkteure, enige funksie verrig wat ingevolge enige wet aan die betrokke werknemer opgedra of gedelegeer is, maar wanneer die Direkteure besluit om toestemming te gee soos in die voorgaande bepaling bedoel, moet hulle die oogmerke en vermoëns van die Diens behoorlik in ag neem.
- 40 (2) Behoudens die bepalings van hierdie Wet en ten einde sy oogmerke in artikel 3 bedoel te bereik, kan die Diens —
- (a) met betrekking tot enige aangeleentheid wat regstreeks of onregstreeks gerig is op die bereiking van die oogmerke van die Diens —
- 45 (i) met die instemming van die verantwoordelike Minister en op die voorwaardes deur daardie Minister bepaal, saamwerk of onderhandel of ooreenkomste aangaan met internasionale organisasies en enige nasionale, provinsiale of plaaslike regering in die Republiek van Suid-Afrika of elders;
- 50 (ii) maatskappye, trusts of ander regspersone skep of beëindig in oorleg met die verantwoordelike Minister en die Provinsiale Minister van Finansies;
- (iii) aandeel of enige ander belang in maatskappye, trusts of ander regspersone verkry of vervreem in oorleg met die verantwoordelike Minister en die Provinsiale Minister van Finansies;
- 55 (iv) dienste verskaf;
- (v) fasiliteite vir navorsing, tegnologie-ontwikkeling, tegnologie-oordrag, steun vir boere en landbou-opleiding verskaf;

- (i) a South African citizen, and
- (ii) a fit and proper person with knowledge of and experience in management may be appointed as chief executive officer.

(c) A Director, a member of Parliament or a provincial legislature and a person who has been declared insolvent or of unsound mind by a competent court, is an unrehabilitated insolvent or has been convicted of an offence and sentenced to imprisonment without the option of a fine may not be appointed as chief executive officer. 5

(d) The responsible Minister may, if the Directors have not yet been appointed, appoint the first chief executive officer in accordance with paragraphs (b) and (c), and may in consultation with the Provincial Minister of Finance determine the remuneration and other service benefits of the chief executive officer. 10

(2) Subject to subsection (1)(d), the chief executive officer must be appointed by the Directors in consultation with the responsible Minister for a period not exceeding five years determined by the Directors in consultation with the responsible Minister. 15

(3) A chief executive officer is eligible for reappointment.

(4) In addition to the powers, functions and duties conferred on a chief executive officer by the provisions of this Act, the chief executive officer must —

- (a) be in charge of the other employees of the Service and of such officers and employees as may be seconded to the Service from the Department; 20
- (b) be accountable to the Directors for the activities and management of the Service;
- (c) ensure that proper minutes are kept of the meetings of the Directors and any committees and working groups appointed in terms of section 5(c), and
- (d) submit to the responsible Minister within 14 days after the conclusion of any meeting of the Directors a draft copy of the minutes thereof which has been cleared with the chairperson. 25

(5) If the chief executive officer is absent or for any reason unable to perform his or her functions or whenever there is a vacancy in the office of chief executive officer, the Directors must appoint another person to act as chief executive officer during such absence or inability or until a chief executive officer has been appointed in terms of subsection (1). 30

(6) An acting chief executive officer must, for the duration of the appointment, perform the functions of the chief executive officer.

#### Financial control of Service 35

13. The financial control of the Service is regulated by the applicable provisions of the Public Finance Management Act, 1999 (Act 1 of 1999), and the regulations, instructions and directives in terms of that Act.

#### Funds and assets of Service

14. (1) The funds and assets of the Service consist of — 40

- (a) appropriations from the Provincial Parliament pursuant to an annual budget and any additional budget submitted by the Directors as contemplated in section 53 of the Public Finance Management Act, 1999;
- (b) donations or bequests received by the Service;
- (c) income generated by the Service in accordance with the provisions of this Act, including service fees, user charges, royalties and rental, as determined by the Directors in terms of section 11(2)(s), and 45
- (d) movable and immovable assets acquired by the Directors.

(2) Any portion of the appropriation referred to in subsection (1)(a) which has not been spent at the end of any financial year reverts back to the Provincial Revenue Fund, on the understanding that the Provincial Parliament may reallocate any portion thereof, or the whole amount, in the next financial year. 50

(3) The Service must deposit all money received by it into an account referred to in section 11(2)(k).

- (i) 'n Suid-Afrikaanse burger, en
- (ii) 'n geskikte en gepaste persoon met kennis en ondervinding van bestuur mag as hoof uitvoerende beampte aangestel word.
- (c) 'n Direkteur, 'n lid van die Parlement of 'n provinsiale wetgewer en 'n persoon wat insolvent of geestelik versteur verklaar is deur 'n bevoegde hof, 'n ongerehabiliteerde insolvent is of skuldig bevind is aan 'n misdryf en gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete, mag nie as hoof uitvoerende beampte aangestel word nie.
- (d) Die verantwoordelike Minister kan, as die Direkteur nog nie aangestel is nie, die eerste hoof uitvoerende beampte in ooreenstemming met paragrafe (b) en (c) aanstel en kan in oorleg met die Provinsiale Minister van Finansies die besoldiging en ander diensvoordele van die hoof uitvoerende beampte bepaal.
- (2) Behoudens subartikel (1)(d) moet die hoof uitvoerende beampte deur die Direkteur in oorleg met die verantwoordelike Minister aangestel word vir 'n tydperk van hoogstens vyf jaar wat deur die Direkteur in oorleg met die verantwoordelike Minister bepaal word.
- (3) 'n Hoof uitvoerende beampte kan heraan gestel word.
- (4) Benewens die bevoegdhede, funksies en pligte wat by die bepalinge van hierdie Wet aan 'n hoof uitvoerende beampte opgedra word, moet die hoof uitvoerende beampte —
  - (a) in beheer wees van die ander werknemers van die Diens en van sodanige beamptes en werknemers as wat van die Departement na die Diens gesekeundeer word;
  - (b) teenoor die Direkteur aanspreeklik wees vir die aktiwiteite en bestuur van die Diens;
  - (c) verseker dat behoorlike notule gehou word van die vergaderings van die Direkteur en enige komitees en werkgroepe wat ingevolge artikel 5(c) aangestel is, en
  - (d) binne 14 dae na die afsluiting van enige vergadering van die Direkteur 'n konsepafskrif van die notule daarvan wat met die voorsitter uitgeklaar is, aan die verantwoordelike Minister voorlê.
- (5) Indien die hoof uitvoerende beampte afwesig is of om enige rede nie in staat is om sy of haar funksies te verrig nie of wanneer daar 'n vakature in die amp van hoof uitvoerende beampte is, moet die Direkteur 'n ander persoon aanstel om as hoof uitvoerende beampte waar te neem gedurende sodanige afwesigheid of onvermoë of totdat 'n hoof uitvoerende beampte ingevolge subartikel (1) aangestel is.
- (6) 'n Waarnemende hoof uitvoerende beampte moet vir die duur van die aanstelling die funksies van die hoof uitvoerende beampte verrig.

#### Finansiële beheer oor Diens

13. Die finansiële beheer oor die Diens word geregleer deur die toepaslike bepalinge van die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), en die regulasies, instruksies en lasgewings ingevolge daardie Wet.

#### Fondse en bates van Diens

14. (1) Die fondse en bates van die Diens bestaan uit —
- (a) bewilligings van die Provinsiale Parlement voortspruitend uit 'n jaarlikse begroting en enige bykomende begroting wat deur die Direkteur voorgelê is soos bedoel in artikel 53 van die Wet op Openbare Finansiële Bestuur, 1999;
  - (b) skenkings en bemakings wat deur die Diens ontvang word;
  - (c) inkomste wat deur die Diens gegenereer word in ooreenstemming met die bepalinge van hierdie Wet, insluitende diensgelde, gebruikersheffings, tantieme en huurgeld, soos deur die Direkteur bepaal ingevolge artikel 11(2)(s), en
  - (d) roerende en onroerende bates wat deur die Direkteur verkry is.
- (2) Enige deel van die bewilling in subartikel (1)(a) bedoel wat aan die einde van 'n finansiële jaar nie bestee is nie, val terug aan die Provinsiale Inkomstefonds, met die verstandhouding dat die Provinsiale Parlement enige deel daarvan of die hele bedrag in die volgende finansiële jaar kan hertoewys.
- (3) Die Diens moet alle geld wat hy ontvang, stort in 'n rekening in artikel 11(2)(k) bedoel.

(4) All money or assets belonging to the Service which accrued to the Service by virtue of any donation or bequest must be used in accordance with the conditions, if any, of the donation or bequest.

(5) Any condition of a donation referred to in subsection (4) may be altered by agreement between the donor, the Service and the responsible Minister.

(6) The Premier may in consultation with the responsible Minister transfer to the Service, conditionally or otherwise, movable property belonging to the Province in order to enable the Service to perform its functions and achieve its objects.

#### **Remuneration of Directors**

15. Directors who are not in the full-time employment of the State must be paid out of the funds of the Service the remuneration and allowances determined by the responsible Minister in consultation with the Provincial Minister of Finance, but a Director who ceases to hold office in terms of section 8(1) or who is removed from office in terms of section 8(2) is not entitled to any remuneration in respect of the period during which that Director would have held office had the vacation or removal not occurred.

#### **Service benefits of employees of Service**

16. Subject to the Labour Relations Act, 1995 (Act 66 of 1995), and any other applicable laws or collective agreements, the Directors may —

- (a) determine and pay to, or in respect of, its chief executive officer and other employees remuneration, allowances, bonuses, subsidies and pensions and other service benefits in terms of a system which the responsible Minister, in consultation with the Provincial Minister of Finance, approves;
- (b) in the case of the death of or injury to the chief executive officer or any other employee or a former employee which occurred in the course of their employment, determine and pay gratuities to the chief executive officer and to such other employee or former employee or their dependants.

#### **Delegation of powers, functions and duties**

17. (1) The Directors may delegate to the chief executive officer, any committee and working group appointed in terms of this Act or any employees of the Service any power, function or duty assigned, entrusted or delegated to the Directors or the Service in terms of this Act.

(2) The delegation of a power, function or duty in terms of subsection (1) does not preclude the exercise of that power, the performance of that function or the carrying out of that duty by the Directors.

(3) A delegation in terms of subsection (1) may at any time be amended or revoked by the Directors.

#### **Performance agreement**

18. (1) At least three months before the start of a financial year the Directors must furnish the responsible Minister with a performance agreement and a business plan in the format determined by that Minister, which format must include a commitment by the Directors to the diligent execution of the agreement and must take into consideration the accountability of the Head of Department: Economic Affairs, Agriculture and Tourism regarding transfer payments to the Service.

(2) The responsible Minister must, within one month of receipt of the performance agreement referred to in subsection (1), in writing accept or refer the agreement back to the Directors for improvement or refuse to accept that agreement, but in the case of a refusal to accept the agreement that Minister must furnish the reasons for such refusal.

(3) The performance agreement referred to in subsection (1) must be regularly reviewed during the financial year concerned.

(4) Alle geld of bates wat aan die Diens behoort wat aan die Diens toegeval het deur enige skenking of bemaking, moet aangewend word in ooreenstemming met die voorwaardes, as daar is, van die skenking of bemaking.

(5) Enige voorwaarde van 'n skenking in subartikel (4) bedoel, kan gewysig word deur ooreenkoms tussen die skenker, die Diens en die verantwoordelike Minister.

(6) Die Premier kan roerende eiendom wat aan die Provinsie behoort, in oorleg met die verantwoordelike Minister aan die Diens oordra, voorwaardelik of andersins, ten einde die Diens in staat te stel om sy funksies te verrig en sy oogmerke te bereik.

#### **Besoldiging van Direkteure**

- 10 15. Direkteure wat nie in die voltydse diens van die Staat is nie, moet uit die fondse van die Diens die besoldiging en toelaes betaal word wat die verantwoordelike Minister in oorleg met die Provinsiale Minister van Finansies bepaal, maar 'n Direkteur wat ingevolge artikel 8(1) ophou om die amp te beklee of wat ingevolge artikel 8(2) van die amp onthef word, is nie geregtig op enige besoldiging ten opsigte van die tydperk
- 15 waartydens daardie Direkteur die amp sou beklee het indien die ontruiming of ontheffing nie plaasgevind het nie.

#### **Diensvoordele van werknemers van Diens**

16. Behoudens die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995), en enige ander toepaslike wette of kollektiewe ooreenkomste kan die Direkteure —
- 20 (a) besoldiging, toelaes, bonusse, subsidies en pensioene en ander diensvoordele bepaal en aan of ten opsigte van sy hoof uitvoerende beampte en ander werknemers betaal ingevolge 'n stelsel wat die verantwoordelike Minister in oorleg met die Provinsiale Minister van Finansies goedkeur;
- 25 (b) in die geval van die dood van of besering aan die hoof uitvoerende beampte of 'n ander werknemer of voormalige werknemer wat in die loop van hulle diens ontstaan het, gratifikasies bepaal en betaal aan die hoof uitvoerende beampte en aan sodanige ander werknemer of voormalige werknemer of hulle afhanklikes.

#### **Delegering van bevoegdhede, funksies en pligte**

- 30 17. (1) Die Direkteure kan aan die hoof uitvoerende beampte, enige komitee en werkgroep wat ingevolge hierdie Wet aangestel is of enige werknemers van die Diens enige bevoegdheid, funksie of plig delegeer wat ingevolge hierdie Wet aan die Direkteure of die Diens opgedra, toevertrou of gedelegeer is.
- (2) Die delegering van 'n bevoegdheid, funksie of plig ingevolge subartikel (1)
- 35 verhoed nie die uitoefening van daardie bevoegdheid, die verrigting van daardie funksie of die uitvoering van daardie plig deur die Direkteure nie.
- (3) 'n Delegasie ingevolge subartikel (1) kan te eniger tyd deur die Direkteure gewysig of ingetrek word.

#### **Prestasie-ooreenkoms**

- 40 18. (1) Minstens drie maande voor die begin van 'n finansiële jaar moet die Direkteure die verantwoordelike Minister voorsien van 'n prestasie-ooreenkoms en 'n sakeplan in die formaat deur daardie Minister bepaal, welke formaat moet insluit 'n verbintenisse deur die Direkteure tot die ywerige uitvoering van die ooreenkoms en die aanspreeklikheid van die Departementshoof: Ekonomiese Sake, Landbou en Toerisme
- 45 betreffende oordragbetalings aan die Diens in ag moet neem.
- (2) Die verantwoordelike Minister moet binne een maand na ontvangs van die prestasie-ooreenkoms in subartikel (1) bedoel, die ooreenkoms skriftelik aanvaar of na die Direkteure terugverwys vir verbetering of weier om daardie ooreenkoms te aanvaar, maar in die geval van 'n weiering om die ooreenkoms te aanvaar moet daardie Minister
- 50 die redes vir sodanige weiering verstrek.
- (3) Die prestasie-ooreenkoms in subartikel (1) bedoel, moet gedurende die betrokke finansiële jaar gereeld hersien word.

### CHAPTER 3: WESTERN CAPE AGRICULTURAL DEVELOPMENT FUND

#### Western Cape Agricultural Development Fund

19. There is hereby established a fund called the Western Cape Agricultural Development Fund, which is separate from the Service and consists of —
- (a) money appropriated by the Provincial Parliament for the Fund; 5
  - (b) loans from money appropriated by the Provincial Parliament for the purpose of loans to the Fund, but for the purpose of any budget or additional budget of the Fund, a request for such a loan is subject to the same requirements and procedures as a request for an appropriation in terms of paragraph (a);
  - (c) loans from the funds of the Service in terms of section 11(2)(n); 10
  - (d) money transferred to the Fund by the service;
  - (e) money, investments and assets accruing to the Fund from any other source, including donations or bequests: Provided that —
    - (i) no donation or bequest may be accepted for the benefit of the Fund if the donation or bequest is subject to any condition, except under the authority of the Directors acting in consultation with the responsible Minister and the Provincial Minister of Finance; 15
    - (ii) the Fund may take over money, assets or investments forming the subject-matter of donations or bequests to the Service and retain them in the form in which they are received or, in consultation with the responsible Minister and the Provincial Minister of Finance, realise them and re-invest the proceeds in accordance with section 21(1) and (2), and 20
  - (f) interest, dividends or other income derived from money, investments and assets belonging to the Fund. 25

#### Money in Fund

20. (1) The Service must open a banking account at a bank as defined in the Banks Act, 1990 (Act 94 of 1990), in the name of the Fund, and must deposit all money received by the Fund into that account.
- (2) The Service must invest any money standing to the credit of the Fund, which is not required for immediate use or as a reasonable working balance, in the territory of the Republic with financial institutions as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984). 30
- (3) Any money standing to the credit of the Fund at the end of any financial year must be carried forward to the next succeeding financial year as a credit in the Fund. 35

#### Utilisation of Fund

21. (1) The money, investments and assets in the Fund must be administered by the Directors and used —
- (a) to undertake or promote any of the objects referred to in section 3 or any related matter which the Directors consider to be of material importance to the achievement of those objects, and 40
  - (b) to defray the expenses incurred by the Service in the administration of the Fund.
- (2) All money, investments and assets of the Fund which accrued to the Fund by virtue of any donation or bequest must be used in accordance with the conditions, if any, of the donation or bequest. 45
- (3) Any condition of a donation referred to in subsection (2) may be altered by agreement between the donor and the Directors, acting in consultation with the responsible Minister and the Provincial Minister of Finance.

#### Financial control of Fund

22. The financial control of the Fund is regulated by the applicable provisions of the Public Finance Management Act, 1999, and the regulations, instructions and directives of that Act. 50

### HOOFSTUK 3: WES-KAAPSE LANDBOU-ONTWIKKELINGSFONDS

#### Wes-Kaapse Landbou-ontwikkelfonds

19. Daar word hierby 'n fonds ingestel wat die Wes-Kaapse Landbou-ontwikkelfonds heet, wat afsonderlik van die Diens is en bestaan uit —

- 5 (a) geld wat die Provinsiale Parlement vir die Fonds bewillig;
- (b) lenings uit geld wat deur die Provinsiale Parlement vir die doel van lenings aan die Fonds bewillig is, maar vir die doel van enige begroting of bykomende begroting van die Fonds is 'n versoek vir so 'n lening onderworpe aan dieselfde vereistes en prosedures as 'n versoek vir 'n  
10 bewilling ingevolge paragraaf (a);
- (c) lenings uit die fondse van die Diens ingevolge artikel 11(2)(n);
- (d) geld wat deur die Diens na die Fonds oorgeplaas word;
- (e) geld, beleggings en bates wat aan die Fonds toeval uit enige ander bron, insluitende skenkings of bemakings: Met dien verstande dat —  
15 (i) geen skenking of bemaking tot voordeel van die Fonds aanvaar mag word nie indien die skenking of bemaking aan enige voorwaarde onderworpe is, uitgesonderd op gesag van die Direkteure handelende in oorleg met die verantwoordelike Minister en die Provinsiale Minister van Finansies;
- 20 (ii) die Fonds geld, bates of beleggings wat die onderwerp uitmaak van skenkings of bemakings aan die Diens kan oorneem en dit in die vorm kan hou waarin dit ontvang is of, in oorleg met die verantwoordelike Minister en die Provinsiale Minister van Finansies, dit kan realiseer en die opbrengs kan herbelê in ooreenstemming met artikel 21(1) en  
25 (2), en
- (f) rente, dividende of ander inkomste verkry uit geld, beleggings en bates wat aan die Fonds behoort.

#### Geld in Fonds

20. (1) Die Diens moet 'n bankrekening op naam van die Fonds open by 'n bank  
30 soos omskryf in die Bankwet, 1990 (Wet 94 van 1990), en moet alle geld wat die Fonds ontvang, in daardie rekening stort.

(2) Die Diens moet enige geld wat tot die krediet van die Fonds is, wat nie vir onmiddellike gebruik of as 'n redelike bedryfsaldo nodig is nie, in die grondgebied van die Republiek belê by finansiële instellings soos omskryf in artikel 1 van die Wet op  
35 Finansiële Instellings (Belegging van Fondse), 1984 (Wet 39 van 1984).

(3) Enige geld wat aan die einde van 'n finansiële jaar tot die krediet van die Fonds is, moet na die eersvolgende finansiële jaar oorgedra word as 'n krediet in die Fonds.

#### Benutting van Fonds

21. (1) Die geld, beleggings en bates in die Fonds moet deur die Direkteure  
40 geadministreer word en gebruik word —

- (a) om enige van die oogmerke in artikel 3 bedoel of enige verwante aangeleentheid wat na die Direkteure se mening van wesenlike belang vir die bereiking van daardie oogmerke is, te onderneem of te bevorder, en
- 45 (b) om die uitgawes te bestry wat die Diens vir die administrasie van die Fonds aangaan.

(2) Alle geld, beleggings en bates van die Fonds wat aan die Fonds toegeval het deur enige skenking of bemaking, moet gebruik word in ooreenstemming met die voorwaardes, as daar is, van die skenking of bemaking.

(3) Enige voorwaarde van 'n skenking in subartikel (2) bedoel, kan gewysig word  
50 by ooreenkoms tussen die skenker en die Direkteure, handelende in oorleg met die verantwoordelike Minister en die Provinsiale Minister van Finansies.

#### Finansiële beheer oor Fonds

22. Die finansiële beheer oor die Fonds word geregleer deur die toepaslike  
55 bepalings van die Wet op Openbare Finansiële Bestuur, 1999, en die regulasies, instruksies en lasgewings van daardie Wet.

## CHAPTER 4: GENERAL PROVISIONS

### Transfer of functions, services or programmes to Department

23. (1) After consultation with the Directors, the responsible Minister may, by notice in the *Provincial Gazette*, determine that a function, service or programme be transferred from the Service to the Department as a going concern. 5

(2) The provisions of section 4(2), (3) and (4) apply, with the necessary changes, to a transfer in terms of subsection (1).

### Reporting by Directors

24. (1) In addition to any reports required in terms of any other law, the Directors must, within a reasonable time, furnish the responsible Minister with any report or reports requested by that Minister. 10

(2) The responsible Minister must table in the Provincial Parliament any report requested in terms of subsection (1).

### Regulations

25. The responsible Minister may, after consultation with the Directors, make regulations in respect of any matter — 15

- (a) which may be dealt with by the responsible Minister in terms of this Act, or
- (b) which the responsible Minister deems necessary for the better achievement of the objects of this Act;

provided that regulations with financial implications must be made in consultation with the Provincial Minister of Finance. 20

### Diligent performance of functions

26. All functions imposed by or pursuant to this Act must be performed diligently and without delay and the Service must give priority to requests from the responsible Minister. 25

### Short title and commencement

27. This Act is called the Western Cape Agricultural Development Service Act, 2001, and comes into operation on a date to be fixed by the Premier by proclamation in the *Provincial Gazette*.

## HOOFTUK 4: ALGEMENE BEPALINGS

### Oordrag van funksies, dienste of programme na Departement

23. (1) Na oorleg met die Direkteure kan die verantwoordelike Minister by kennisgewing in die *Provinsiale Koerant* bepaal dat 'n funksie, diens of program as 'n lopende onderneming van die Diens na die Departement oorgeplaas word.

(2) Die bepalings van artikel 4(2), (3) en (4) is van toepassing, met die nodige veranderings, op 'n oorplasing ingevolge subartikel (1).

### Verslagdoening deur Direkteure

24. (1) Benewens enige verslae wat ingevolge enige ander wet vereis word, moet die Direkteure die verantwoordelike Minister binne 'n redelike tyd voorsien van enige verslag of verslae wat daardie Minister aangevra het.

(2) Die verantwoordelike Minister moet enige verslag wat ingevolge subartikel (1) aangevra is, in die Provinsiale Parlement ter tafel lê.

### Regulasies

25. Die verantwoordelike Minister kan na oorleg met die Direkteure regulasies uitvaardig ten opsigte van enige aangeleentheid —

(a) wat ingevolge hierdie Wet deur die verantwoordelike Minister hanteer kan word, of

(b) wat die verantwoordelike Minister nodig ag vir die beter bereiking van die oogmerke van hierdie Wet;

met dien verstande dat regulasies met finansiële implikasies in oorleg met die Provinsiale Minister van Finansies uitgevaardig moet word.

### Ywerige verrigting van funksies

26. Alle funksies wat by of voortspruitend uit hierdie Wet opgelê is, moet ywerig en sonder versuim verrig word en die Diens moet voorrang verleen aan versoeke van die verantwoordelike Minister.

### Kort titel en inwerkingtreding

27. Hierdie Wet heet die Wet op die Wes-Kaapse Landbou-ontwikkelingsdiens, 2001, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

#### 4. Members of the Board of the Service

The Minister of Agriculture in the Province appoints the following persons as members of the Board:

- (a) Two persons from organisations that represent the developing agricultural communities in the Province.
- (b) Two persons representing commercial agriculture in the Province.
- (c) One person representing tertiary educational institutions in the Province.
- (d) Four other persons as nominated by the broad community.

By notice in the *Provincial Gazette* and the media all interested parties will be invited to submit names of suitable and appropriate persons who will look after the interests of the community and who will be able to contribute to the effective functioning of the Service.

#### 5. Powers and duties of the Service

In order to achieve the above-mentioned objectives, various powers have been delegated to the Service. Some of the most important powers are the following:

- 5.1 To award study bursaries and loans for the training of persons for careers in agriculture.
- 5.2 To create and maintain a database of information on the agricultural sector and to evaluate, process and distribute this information.
- 5.3 To gather, evaluate, process and distribute information with regard to agriculture in the Province.
- 5.4 To draw up, prepare, publish and sell or make available free of charge any publication or software with a view to marketing agriculture in the Province.
- 5.5 To advise the responsible Minister and any other person involved in agriculture in the Province, or elsewhere.
- 5.6 To open and manage offices in the Province and elsewhere.
- 5.7 To co-operate, negotiate or enter into agreements with any national, provincial or local government or any council, in order to achieve the objectives of the Service.
- 5.8 To lease, let, purchase, sell, acquire, exchange, or otherwise alienate any immovable property, with the agreement of the responsible Minister and the provincial Minister of Finance.
- 5.9 To obtain insurance cover for itself and its employees.
- 5.10 To open and operate its own bank accounts, subject to the Banking Act.
- 5.11 To effectively control and manage all the financial affairs of the Service.
- 5.12 To make investments within the Republic with the approval of the provincial Minister of Finance.
- 5.13 To take over and retain investments in the form of donations or bequests made to the Service in the form in which they were received, or realise such investments and donations and reinvest the return.
- 5.14 To donate or lend money to any council, body or person in consultation with the responsible Minister.
- 5.15 To otherwise expend the funds of the Service.
- 5.16 To administer the Western Cape Agricultural Development Fund.
- 5.17 To draw up its own establishment and employ, discipline and dismiss persons.

#### 4. Lede van die Direksie van die Diens

Die Minister van Landbou in die Provinsie stel die volgende persone as lede van die Direksie aan:

- (a) Twee persone van organisasies wat die ontwikkelende landbougemeenskappe in die Provinsie verteenwoordig.
- (b) Twee persone wat kommersiële landbou in die Provinsie verteenwoordig.
- (c) Een persoon wat die tersiêre opvoedkundige instansies in die Provinsie verteenwoordig.
- (d) Vier ander persone soos genomineer deur die breë gemeenskap.

Alle belanghebbende partye sal by kennisgewing in die *Provinsiale Koerant* en deur middel van die media genooi word om name van geskikte en gepaste persone voor te lê wat die belange van die gemeenskap kan behartig en 'n bydrae tot die doeltreffende funksionering van die Diens kan lewer.

#### 5. Bevoegdhede en verpligtinge van die Diens

Om die bovermelde oogmerke te bereik, word verskeie bevoegdhede aan die Diens opgedra. Van die belangrikste bevoegdhede is die volgende:

- 5.1 Om studiebeurse en lenings vir die opleiding van persone vir loopbane in landbou toe te ken.
- 5.2 Om 'n databasis van inligting van die landbousektor te skep en in stand te hou asook om hierdie inligting te evalueer, te verwerk en te versprei.
- 5.3 Om inligting betreffende landbou in die Provinsie te versamel, te evalueer, te verwerk en te versprei.
- 5.4 Die Diens kan met die oog op bemaking van landbou in die Provinsie, enige publikasie of programmatuur opstel, maak, publiseer en verkoop of gratis beskikbaar stel.
- 5.5 Om advies aan die verantwoordelike Minister en aan enige ander persoon wat met landbou in die Provinsie of elders gemoeid is, te verskaf.
- 5.6 Om kantore in die Provinsie en elders te open en te administreer.
- 5.7 Om die Diens se oogmerke te bereik, mag die Diens met enige nasionale, provinsiale of plaaslike regering of enige raad saamwerk, onderhandel of ooreenkomste aangaan.
- 5.8 Die Diens kan met die instemming van die verantwoordelike Minister en die Provinsiale Minister van Finansies onroerende eiendom huur, verhuur, koop, verkoop, verkry, verruil of andersins vervreem.
- 5.9 Die Diens kan ook versekeringsdekking vir homself en vir sy werknemers verkry.
- 5.10 Die Diens mag, onderhewig aan die Bankwet, sy eie bankrekenings open en bedryf.
- 5.11 Om al die finansiële aangeleenthede van die Diens doeltreffend te beheer en te bestuur.
- 5.12 Die Diens kan met die goedkeuring van die Provinsiale Minister van Finansies, beleggings binne die Republiek doen.
- 5.13 Die Diens kan beleggings in die vorm van skenkings of bemakings aan die Diens, oorneem en behou in die vorm soos ontvang, of dit realiseer en die opbrengs herbelê.
- 5.14 Die Diens kan oorleg met die verantwoordelike Minister geld skenk of leen aan enige raad, liggaam of persoon.
- 5.15 Die Diens kan fondse van die Diens andersins bestee.
- 5.16 Die Diens kan die Wes-Kaapse Landbou-ontwikkelingsfonds administreer.
- 5.17 Die Diens kan sy eie diensstaat daarstel en persone in diens neem, dissiplineer en ontslaan.

5.18 To effect the registration of a coat of arms, signs, other emblems and names, as well as the registration of trademarks and patents.

5.19 To generate income by charging service fees, user fees, royalties and rentals.

5.20 To take any other actions that are required to achieve the objectives of the Service.

#### **6. Financial control of the Service**

The financial control of the Service is governed by the Public Finance Management Act, 1999 (Act 1 of 1999), as amended by Act 29 of 1999.

#### **7. Funds and assets of the Service**

7.1 In order to enable the Service to achieve its objectives and perform its functions, the Service can obtain movable assets that the Premier can transfer to the Service in consultation with the responsible Minister.

7.2 At the end of a financial year, any portion of the parliamentary voting that has not been spent, shall revert to the Provincial Income Fund on the understanding that Parliament can reallocate any portion thereof or the whole amount in the following financial year.

#### **8. Western Cape Agricultural Development Fund**

Provision is made for the establishment of a fund separate from the Service and which consists of:

8.1 Money appropriated by the Provincial Parliament.

8.2 Loans by the Provincial Parliament appropriated specifically for this purpose.

8.3 Loans from the funds of the Service.

8.4 Money transferred to the Fund by the Service.

8.5 Money, investments and assets accruing to the Fund from any other source, including donations or bequests.

8.6 Interest, dividends or other income derived from money, investment and assets belonging to the Fund.

#### **9. Other departments, institutions/persons consulted**

Department of Finance (PAWC)

DG of the National Department of Agriculture

National Treasury

Organised Agriculture (Agriculture: Western Cape)

Agricultural Research Council

Stellenbosch University

Organised Labour

Personnel of the Chief Directorate of Agriculture

Director-General: Western Cape

Auditor-General: Western Cape

Cabinet Committee: Economic Sector

Standing Committee: Economic Affairs, Agriculture and Tourism.

5.18 Die Diens kan die registrasie bewerkstellig van 'n wapenskild, kentekens, ander embleme en name, asook die registrasie van handelsmerke en patente.

5.19 Die Diens kan inkomste genereer deur diensfooie, gebruikersgelde, tantieme en huurgelde te vra.

5.20 Die Diens kan enige ander handeling verrig wat vereis word om die oogmerke van die Diens te bereik.

#### **6. Finansiële Beheer oor die Diens**

Die finansiële beheer oor die Diens word geregleer deur die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999) soos gewysig deur Wet 29 van 1999.

#### **7. Fondse en bates van die Diens**

7.1 Om die Diens in staat te stel om sy oogmerke te bereik en sy funksies te verrig, kan die Premier, in oorleg met die verantwoordelike Minister, roerende bates aan die Diens oordra.

7.2 Aan die einde van 'n boekjaar sal enige deel van die parlementêre bewilliging wat nie bestee is nie, terugval aan die Provinsiale Inkomstefonds. Die verstandhouding is egter dat die Parlement enige deel daarvan of die hele bedrag in die volgende boekjaar kan hertoewys.

#### **8. Wes-Kaapse Landbou-ontwikkelingsfonds**

Voorsiening word gemaak vir die instelling van 'n fonds wat afsonderlik is van die Diens en bestaan uit:

8.1 Geld soos bewillig deur die Provinsiale Parlement.

8.2 Lenings deur die Provinsiale Parlement wat spesifiek vir die doel bewillig is.

8.3 Lenings uit die fondse van die Diens.

8.4 Geld wat deur die Diens na die Fonds oorgeplaas word.

8.5 Geld, beleggings en bates wat aan die Fonds toeval uit enige ander bron, insluitend skenkings of bemakings.

8.6 Rente, dividende of enige ander inkomste verkry uit geld, beleggings en bates wat aan die Fonds behoort.

#### **9. Ander departemente/instellings/persone geraadpleeg**

Departement Finansies (PAWK)

DG van die Nasionale Departement van Landbou

Nasionale Tesourie

Georganiseerde Landbou (Landbou: Wes-Kaap)

Landbounavorsingsraad

Universiteit van Stellenbosch

Georganiseerde Arbeid

Personeel van die Hoofdirekoraat van Landbou

Direkteur-generaal: Wes-Kaap

Ouditeur-generaal: Wes-Kaap

Kabinetskomitee: Ekonomiese Sektor

Staande Komitee: Ekonomiese Sake, Landbou en Toerisme.

