



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 645. 18th April, 1973.

No. 645. 18 April 1973.

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

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

No. 33 of 1973: Perishable Agricultural Produce Sales Amendment Act, 1973.

No. 33 van 1973: Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1973.

Act No. 33, 1973

PERISHABLE AGRICULTURAL PRODUCE SALES  
AMENDMENT ACT, 1973.**ACT**

**To amend the Perishable Agricultural Produce Sales Act, 1961, in order to provide for the suspension of its provisions with reference to certain persons and co-operative organizations under certain circumstances; for the prescribing by regulation of certain matters in connection with the sale of produce by a commission agent; to regulate certain matters in connection with the trust account to be kept by a commission agent and the control and administration of, and the recovery of any deficit in, such a trust account, and to confer certain powers in that connection on the Secretary for Agricultural Economics and Marketing; to provide that the proceeds of a sale of produce by a commission agent shall not form part of his assets; to confer jurisdiction on any magistrate's court in matters provided for in the said Act; to provide for the proving of certain facts by affidavit; to transfer the power to make regulations to the Minister of Agriculture; and to provide for incidental matters.**

*(Afrikaans text signed by the State President.)*  
*(Assented to 11th April, 1973.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of  
section 1 of  
Act 2 of 1961,  
as amended by  
section 1 of  
Act 31 of 1966  
and section 1 of  
Act 39 of 1972.

**1.** Section 1 of the Perishable Agricultural Produce Sales Act, 1961 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "this Act" of the following definition:

"'trust account' means a trust account kept in terms of section 19 (1);".

Insertion of  
section 1A in  
Act 2 of 1961.

**2.** The following section is hereby inserted in the principal Act after section 1:

"Application  
of Act.

**1A.** (1) This Act shall not apply with reference to the business carried on by any person of selling produce on behalf of, and in terms of an agreement with, a control board as defined in section 1 of the Marketing Act, 1968 (Act No. 59 of 1968), in his capacity as agent of that board.

(2) If the Minister is satisfied that the provisions or any particular provision of this Act have or has an unnecessarily restrictive effect on an otherwise satisfactory system of sale of produce employed by a co-operative agricultural society, co-operative agricultural company or farmers' special co-operative company registered as such in terms of the Co-operative Societies Act, 1939 (Act No. 29 of 1939), he may by notice in the *Gazette* suspend the operation of those provisions or any provision in

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## WET

Tot wysiging van die Wet op die Verkoop van Bederfbare Landbouprodukte, 1961, ten einde voorsiening te maak vir die opskorting van die bepalings daarvan met betrekking tot sekere persone en koöperatiewe organisasies onder sekere omstandighede; vir die voorskryf by regulasie van sekere aangeleenthede in verband met die verkoop van produkte deur 'n kommissie-agent; om sekere aangeleenthede in verband met die trustrekening wat 'n kommissie-agent moet hou en die beheer en administrasie van, en die verhaal van 'n tekort in, so 'n trustrekening te reël, en om sekere bevoegdhede in dié verband aan die Sekretaris van Landbou-ekonomie en -bemarking te verleen; om te bepaal dat die opbrengs van 'n verkoop van produkte deur 'n kommissie-agent nie deel van sy bates uitmaak nie; om aan 'n landdroshof bevoegdheid te verleen in aangeleenthede waarvoor in genoemde Wet voorsiening gemaak word; om voorsiening te maak vir die bewys van sekere feite deur middel van 'n beëdigde verklaring; om die bevoegdheid om regulasies uit te vaardig aan die Minister van Landbou oor te dra; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 11 April 1973.)

**DAAR WORD BEPAAL** deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 1 van die Wet op die Verkoop van Bederfbare Landbouprodukte, 1961 (hieronder die Hoofwet genoem), word hierby gewysig deur na die omskrywing van „sekretaris” die volgende omskrywing in te voeg:

„trustrekening” 'n trustrekening ingevolge artikel 19 (1) gehou;”.

Wysiging van artikel 1 van Wet 2 van 1961, soos gewysig deur artikel 1 van Wet 31 van 1966 en artikel 1 van Wet 39 van 1972.

2. Die volgende artikel word hierby in die Hoofwet na artikel 1 ingevoeg:

„Toepassing van Wet.

**1A.** (1) Hierdie Wet is nie van toepassing nie met betrekking tot die besigheid deur iemand gedryf van produkte te verkoop ten behoeve van en volgens 'n ooreenkoms met 'n beheerraad soos omskryf in artikel 1 van die Bemarkingswet, 1968 (Wet No. 59 van 1968), in sy hoedanigheid van agent van daardie raad.

(2) Indien die Minister oortuig is dat die bepalings of 'n besondere bepaling van hierdie Wet 'n onnodig stremmende uitwerking het op 'n andersins bevredigende stelsel van verkoop van produkte wat gevolg word deur 'n koöperatiewe landbouvereniging, koöperatiewe landboumaatskappy of spesiale koöperatiewe boeremaatskappy, as sodanig geregistreer ingevolge die Wet op Koöperatiewe Verenigings, 1939 (Wet No. 29 van 1939), kan hy by kennisgewing in die *Staatskoerant* die werking

Invoeging van artikel 1A in Wet 2 van 1961.

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question, as the case may be, with reference to the society or company concerned.

(3) If a commission agent and a local authority have entered into an agreement in terms of which the local authority acquires full control over the receipt, handling and disposal of the proceeds of all sales of produce by that commission agent on behalf of any principal, and which complies with the requirements (if any) of the Minister in that connection, the Minister may by notice in the *Gazette*—

- (a) suspend the operation of any of or all the provisions of this Act with reference to that commission agent for the duration of such agreement; and
  - (b) declare that any provision of which the operation is so suspended shall *mutatis mutandis* apply to that local authority with reference to its receipt, handling and disposal of such proceeds.
- (4) (a) The Minister may at any time amend or withdraw a notice published under subsection (2) or (3) by a further notice in the *Gazette*.
- (b) The Minister shall so withdraw a notice published under subsection (3) if the agreement by virtue of which such notice was published ceases to have any force or if, in the opinion of the Minister, that agreement is not being implemented by the parties.”.

Amendment of section 2 of Act 2 of 1961, as amended by section 2 of Act 31 of 1966 and section 2 of Act 39 of 1972.

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

Amendment of section 14 of Act 2 of 1961, as amended by section 1 of Act 8 of 1962, section 1 of Act 17 of 1965, section 13 of Act 31 of 1966 and section 7 of Act 39 of 1972.

4. Section 14 of the principal Act is hereby amended—

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

“(a) fail, within a prescribed period after he disposes of any produce, to account in the prescribed manner correctly and in full to his principal for the proceeds of that produce and to pay to his principal the balance of those proceeds after deducting any amount which he is entitled to retain;”;

- (b) by the substitution for paragraph (j) of that subsection of the following paragraph:

“(j) sell by private treaty any produce entrusted to him for sale, without issuing forthwith, when he sells such produce, in respect of each such sale a sales note indicating the prescribed particulars clearly and legibly and of which a copy shall be furnished to the principal concerned when account is given as required by paragraph (a): Provided that where more than one sale is effected on any one day on behalf of a principal, a statement

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van daardie bepalings of 'n betrokke bepaling, na gelang van die geval, met betrekking tot die betrokke vereniging of maatskappy opskort.

(3) Indien 'n kommissie-agent en 'n plaaslike bestuur 'n ooreenkoms aangegaan het waarvolgens die plaaslike bestuur volle beheer verkry oor die ontvangs en hantering van en beskikking oor die opbrengs van alle verkope van produkte deur daardie kommissie-agent ten behoeve van 'n prinsipaal, en wat aan die vereistes (indien daar is) van die Minister in dié verband voldoen, kan die Minister by kennisgewing in die *Staatskoerant*—

(a) die werking van enigeen van of al die bepalings van hierdie Wet met betrekking tot daardie kommissie-agent vir die duur van bedoelde ooreenkoms opskort; en

(b) verklaar dat 'n bepaling waarvan die werking aldus opgeskort word, *mutatis mutandis* op daardie plaaslike bestuur van toepassing is met betrekking tot sy ontvangs en hantering van en beskikking oor bedoelde opbrengs.

(4) (a) Die Minister kan 'n kennisgewing kragtens subartikel (2) of (3) uitgevaardig te eniger tyd deur middel van 'n verdere kennisgewing in die *Staatskoerant* wysig of intrek.

(b) Die Minister moet 'n kennisgewing kragtens subartikel (3) uitgevaardig, aldus intrek indien die ooreenkoms op grond waarvan die kennisgewing uitgevaardig is, ophou om van krag te wees of indien die partye volgens die Minister se mening daardie ooreenkoms nie uitvoer nie.”

3. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (2) te skrap.

Wysiging van artikel 2 van Wet 2 van 1961, soos gewysig deur artikel 2 van Wet 31 van 1966 en artikel 2 van Wet 39 van 1972.

4. Artikel 14 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

„(a) bly in gebreke om binne 'n voorgeskrewe tydperk nadat hy oor produkte beskik, aan sy prinsipaal korrek en ten volle op die voorgeskrewe wyse vir die opbrengs van daardie produkte rekenskap te gee en die saldo van daardie opbrengs, na aftrekking van enige bedrag wat hy geregtig is om te behou, aan sy prinsipaal te betaal nie;” en

(b) deur paragraaf (j) van daardie subartikel deur die volgende paragraaf te vervang:

(j) verkoop produkte wat aan hom vir verkoop toevertrou is uit die hand nie sonder om onverwyld wanneer hy die produkte verkoop ten opsigte van elke sodanige verkoping 'n verkoopnota uit te reik waarin die voorgeskrewe besonderhede duidelik en leesbaar aangetoon word en waarvan 'n kopie aan die betrokke prinsipaal verstrekk moet word wanneer die by paragraaf (a) vereiste rekenskap gegee word: Met dien verstande dat

Wysiging van artikel 14 van Wet 2 van 1961, soos gewysig deur artikel 1 van Wet 8 van 1962, artikel 1 van Wet 17 van 1965, artikel 13 van Wet 31 van 1966 en artikel 7 van Wet 39 van 1972.

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indicating clearly and legibly the said prescribed particulars in respect of all the sales in question may be furnished to that principal in lieu of the copies of the sales notes relating to those sales.”.

Amendment of  
section 19 of  
Act 2 of 1961.

5. Section 19 of the principal Act is hereby amended by the addition of the following subsections, the existing section becoming subsection (1):

“(2) The costs in connection with the control and administration of a trust account shall be paid by the commission agent concerned.

(3) Except with the consent of the secretary, a commission agent shall not deposit in his trust account any money other than money referred to in subsection (1) and money intended for the defrayment of costs in terms of subsection (2).”.

Insertion of  
sections 19A, 19B,  
19C, 19D and 19E  
in Act 2 of 1961.

6. The following sections are hereby inserted in the principal Act after section 19:

“Auditing  
of trust  
account.

19A. (1) A commission agent shall under section 17 keep separate records of all moneys deposited in his trust account and all amounts paid from it, and shall balance his books relating to such trust account annually as at a date determined by him, and cause them to be audited within a prescribed period after that date by an accountant and auditor registered as such under the Public Accountants and Auditors Act, 1951 (Act No 51 of 1951).

(2) A commission agent shall forthwith notify the secretary of the date determined by him as contemplated in subsection (1).

(3) The accountant and auditor who performed any audit contemplated in subsection (1) shall within fourteen days after completing such audit furnish the secretary with a certificate on his findings on the prescribed form.

Secretary's  
powers in  
connection  
with control  
and ad-  
ministration  
of trust  
account.

19B. (1) If—

- (a) the amount standing to the credit of the trust account of a commission agent is in the opinion of the secretary insufficient for the payment of all amounts which are to be paid from it; or
  - (b) the renewal of the registration of a commission agent has been refused under section 6; or
  - (c) the registration of a commission agent has been suspended or cancelled under section 7 or the suspension or cancellation of such registration under that section is being considered; or
  - (d) a commission agent has ceased to carry on business as such,
- the secretary may by notice in writing to the commission agent concerned—
- (i) prohibit him from exercising or performing any right, power or function incidental to the control and administration of his trust account and specified in the notice, including the right, power or function to receive or handle or dispose of any money which is to be paid into



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waar meer as een verkoping op een dag ten behoewe van 'n prinsipaal gedoen word, 'n staat waarin die voormelde voorgeskrewe besonderhede duidelik en leesbaar ten opsigte van al die betrokke verkopings aangetoon word, aan daardie prinsipaal verstrekk kan word in die plek van die kopieë van die verkoopnotas wat op daardie verkopings betrekking het."

5. Artikel 19 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg, terwyl die bestaande artikel subartikel (1) word: Wysiging van artikel 19 van Wet 2 van 1961.

„(2) Die koste in verband met die beheer en administrasie van 'n trustrekening word deur die betrokke kommissie-agent betaal.

(3) Behalwe met die sekretaris se toestemming mag 'n kommissie-agent geen ander geld in sy trustrekening stort nie as geld in subartikel (1) bedoel en geld wat vir die delging van koste ingevolge subartikel (2) bedoel is."

6. Die volgende artikels word hierby in die Hoofwet na artikel 19 ingevoeg: Invoeging van artikels 19A, 19B, 19C, 19D en 19E in Wet 2 van 1961.

„Ouditering van trustrekening.

19A. (1) 'n Kommissie-agent moet ingevolge artikel 17 aparte aantekeninge hou van alle gelde wat in sy trustrekening gestort word en alle betalings daaruit, en moet sy boeke wat op daardie trustrekening betrekking het jaarliks op 'n datum deur hom bepaal, afsluit en dit binne 'n voorgeskrewe tydperk na daardie datum laat ouditeer deur 'n rekenmeester en ouditeur wat as sodanig kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), geregistreer is.

(2) 'n Kommissie-agent moet die sekretaris onverwyld in kennis stel van die datum deur hom bepaal soos in subartikel (1) beoog.

(3) Die rekenmeester en ouditeur wat 'n in subartikel (1) beoogde audit gedoen het, moet binne veertien dae nadat hy die audit voltooi het, 'n sertifikaat oor sy bevindings op die voorgeskrewe vorm aan die sekretaris verstrekk.

Sekretaris se bevoegd-hede in verband met beheer en administrasie van trustrekening.

19B. (1) Indien—

(a) die bedrag wat in krediet van die trustrekening van 'n kommissie-agent staan, volgens die mening van die sekretaris nie voldoende is om alle bedrae te betaal wat daaruit betaal moet word nie; of

(b) die hernuwing van die registrasie van 'n kommissie-agent kragtens artikel 6 geweier is; of

(c) die registrasie van 'n kommissie-agent kragtens artikel 7 opgeskort of ingetrek is of die opskorting of intrekking van bedoelde registrasie kragtens daardie artikel oorweeg word; of

(d) 'n kommissie-agent opgehou het om as sodanig besigheid te dryf,

kan die sekretaris by skriftelike kennisgewing aan die betrokke kommissie-agent—

(i) hom verbied om 'n reg, bevoegdheid of werksaamheid uit te oefen of te verrig wat in verband staan met die beheer en administrasie van sy trustrekening en wat in die kennisgewing vermeld is, met inbegrip van die reg, bevoegdheid of werksaamhede om geld wat in die trust-

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that account, or to authorize or direct any payment from that account or to sign any cheque or order for such a payment;

(ii) prohibit him from exercising or performing any such right, power or function otherwise than in accordance with the secretary's requirements as set out in the notice;

(iii) require him to hand over, or make available in any other specified manner, to a person specified in the notice, such books or other documents indicated in the notice or demanded by that person, and to perform such acts so specified or so demanded, as may be necessary in order to render the relevant prohibition or any requirement under subparagraph (ii) or any authorization under subsection (2) effective.

(2) When the secretary acts under subsection (1), he may in writing authorize any person (including, subject to such conditions as the Minister may determine in consultation with the Minister of Finance, any officer) to exercise or perform, in the place of the commission agent concerned, any right, power or function to which the relevant prohibition relates.

(3) The costs of any control or administration of a trust account in terms of an authorization under subsection (2) shall be paid by the commission agent concerned.

(4) The secretary may at any time vary or cancel a notice under subsection (1) or any authorization under subsection (2).

Winding-up  
of trust  
account

**19C. If—**

- (a) the renewal of the registration of a commission agent has been refused under section 6; or
- (b) the registration of a commission agent has been suspended or cancelled under section 7; or
- (c) a commission agent has ceased to carry on business as such,

the commission agent concerned shall wind up his trust account in the prescribed manner and pay out, in the prescribed manner, the amount standing to the credit thereof to the persons entitled thereto.

Secretary  
may recover  
deficit in  
trust account  
from com-  
mission  
agent.

**19D. (1)** If the amount standing to the credit of a trust account is at any time insufficient for the payment of all amounts which are payable from that account, the secretary may, if he deems it expedient, recover the deficit for the benefit of that trust account from the commission agent concerned, as if the amount of the deficit were a debt due by that commission agent to the secretary.

(2) The costs in connection with any claim by the secretary under subsection (1) shall be paid from the trust account in so far as the secretary is unable to recover such costs from the commission agent, and the secretary's claim for such costs shall have preference over any other claim payable from that trust account.

(3) A reference in this section to a commission agent shall, in the case of a commission agent which is a company, be construed as including a reference to a director of such company.



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rekening gestort moet word, te ontvang of te hanteer of daarvoor te beskik of om 'n betaling uit daardie rekening te magtig of te gelas of om 'n tjek of order vir so 'n betaling te teken;

(ii) hom verbied om so 'n reg, bevoegdheid of werksaamheid op 'n ander wyse uit te oefen of te verrig as ooreenkomstig die sekretaris se vereistes soos in die kennisgewing uiteengesit;

(iii) van hom vereis dat hy aan 'n in die kennisgewing vermelde persoon die boeke of ander stukke in die kennisgewing aangedui of deur daardie persoon vereis, moet oorhandig of op 'n ander vermelde wyse beskikbaar moet stel, en die handelinge aldus vermeld of aldus vereis, moet verrig, wat nodig is om die betrokke verbod of 'n vereiste kragtens subparagraaf (ii) of 'n magtiging kragtens subartikel (2) effektief te maak.

(2) Wanneer die sekretaris kragtens subartikel (1) optree, kan hy enigiemand (met inbegrip, behoudens die voorwaardes wat die Minister in oorleg met die Minister van Finansies bepaal, van 'n beampte) magtig om 'n reg, bevoegdheid of werksaamheid waarop die betrokke verbod betrekking het, in die plek van die betrokke kommissie-agent uit te oefen of te verrig.

(3) Die koste van beheer of administrasie van 'n trustrekening ingevolge 'n magtiging kragtens subartikel (2) word deur die betrokke kommissie-agent betaal.

(4) Die sekretaris kan te eniger tyd 'n kennisgewing kragtens subartikel (1) of 'n magtiging kragtens subartikel (2) verander of intrek.

Afsluiting  
van trust-  
rekening.

## 19C. Indien—

- (a) die hernuwing van die registrasie van 'n kommissie-agent kragtens artikel 6 geweier is; of
- (b) die registrasie van 'n kommissie-agent kragtens artikel 7 opgeskort of ingetrek is; of
- (c) 'n kommissie-agent opgehou het om as sodanig besigheid te dryf,

moet die betrokke kommissie-agent sy trustrekening op die voorgeskrewe wyse afsluit en die bedrag wat in krediet daarvan staan op die voorgeskrewe wyse aan die persone uitbetaal wat daarop geregtig is.

Sekretaris  
kan tekort  
in trust-  
rekening op  
kommissie-  
agent ver-  
haal.

19D. (1) Indien die bedrag wat in krediet van 'n trustrekening staan te eniger tyd nie voldoende is om alle bedrae wat uit daardie rekening betaalbaar is, te betaal nie, kan die sekretaris, indien hy dit dienstig ag, die tekort ten bate van daardie trustrekening op die betrokke kommissie-agent verhaal asof die bedrag van die tekort 'n skuld van die kommissie-agent aan die sekretaris was.

(2) Die koste in verband met 'n vordering deur die sekretaris kragtens subartikel (1) word uit die trustrekening betaal vir sover die sekretaris nie in staat is om bedoelde koste op die kommissie-agent te verhaal nie, en die sekretaris se eis vir dié koste geniet voorkeur bo enige ander eis wat uit daardie trustrekening betaalbaar is.

(3) 'n Verwysing in hierdie artikel na 'n kommissie-agent word, in die geval van 'n kommissie-agent wat 'n maatskappy is, uitgelê as 'n verwysing ook na 'n direkteur van daardie maatskappy.

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Proceeds of sale not part of commission agent's assets. **19E.** The proceeds of the sale of any produce by a commission agent on behalf of his principal, except such portion of such proceeds as the commission agent is entitled to retain for himself, shall not form part of his assets and shall not be liable to attachment under any order of a court of law except such an order issued in pursuance of a claim by the secretary under section 19D (1) or (2) or by the principal concerned for the payment of those proceeds or by any creditor of that principal."

Amendment of section 21 of Act 2 of 1961.

**7.** Section 21 of the principal Act is hereby amended by the insertion in subsection (2) after paragraph (c) of the following paragraph:

"(cA) require any information in connection with the trust account of a commission agent from such commission agent or from the manager or other person in control of the bank or other institution where such account is kept;"

Amendment of section 23 of Act 2 of 1961, as amended by section 18 of Act 31 of 1966 and section 10 of Act 39 of 1972.

**8.** Section 23 of the principal Act is hereby amended—

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

"(a) contravenes or fails to comply with section 2 or section 8 (1) or (2) or section 11, 13, 14, 15, 16, 17, 18 or 18A or section 19 (1) or (3) or section 19A, 19C or 22;" and

(b) by the insertion after paragraph (c) of the following paragraph:

"(cA) contravenes or fails to comply with any prohibition imposed under section 19B (1) (i) or (ii) or any requirement made under section 19B (1) (iii);"

Insertion of section 23A in Act 2 of 1961.

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

"Judgment for deficit in trust account. **23A.** (1) Whenever any commission agent, due to the appropriation by him or his employee of money in his trust account, is convicted of a crime involving fraud or dishonesty, and it has been proved that the amount standing to the credit of such trust account is insufficient for the payment of all amounts payable from it, the court convicting him shall, in addition to any punishment imposed in respect of such offence, at the request of the prosecutor made on behalf of the secretary, summarily enquire into and assess the amount of the deficit in the trust account and forthwith give judgment for the amount so assessed, against that commission agent and in favour of the secretary, and any such judgment may be executed as if it were a judgment in civil proceedings.

(2) The secretary shall pay any amount recovered by him under a judgment contemplated in subsection (1), into the trust account in question.

(3) A reference in subsection (1) to a commission agent shall, in the case of a commission agent which is a company, be construed as including a reference to a director of such company."

Insertion of sections 25B and 25C in Act 2 of 1961.

**10.** The following sections are hereby inserted in the principal Act after section 25A:

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Opbrengs  
van ver-  
koop nie  
deel van  
kommissie-  
agent se  
bates.

19E. Die opbrengs van die verkoop van produkte deur 'n kommissie-agent ten behoeve van sy prinsipaal, behalwe die gedeelte van sodanige opbrengs wat die kommissie-agent geregtig is om vir homself te behou, maak nie deel van die kommissie-agent se bates uit nie en is nie vatbaar vir beslaglegging ingevolge 'n bevel van 'n geregshof nie behalwe so 'n bevel uitgereik na aanleiding van 'n vordering deur die sekretaris kragtens artikel 19D (1) of (2) of deur die betrokke prinsipaal vir betaling van daardie opbrengs of deur 'n skuldeiser van daardie prinsipaal."

7. Artikel 21 van die Hoofwet word hierby gewysig deur in subartikel (2) na paragraaf (c) die volgende paragraaf in te voeg: Wysiging van artikel 21 van Wet 2 van 1961.

„(cA) inligting in verband met die trustrekening van 'n kommissie-agent eis van daardie kommissie-agent of van die bestuurder of ander persoon in beheer van die bank of ander instelling waar daardie trustrekening gehou word;"

8. Artikel 23 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) deur die volgende paragraaf te vervang:

„(a) artikel 2 of artikel 8 (1) of (2) of artikel 11, 13, 14, 15, 16, 17, 18 of 18A of artikel 19 (1) of (3) of artikel 19A, 19C of 22 oortree of versuim om daaraan te voldoen;" en

(b) deur na paragraaf (c) die volgende paragraaf in te voeg:

„(cA) 'n verbod kragtens artikel 19B (1) (i) of (ii) opgelê of 'n vereiste kragtens artikel 19B (1) (iii) gestel, oortree of versuim om daaraan te voldoen;"

Wysiging van artikel 23 van Wet 2 van 1961, soos gewysig deur artikel 18 van Wet 31 van 1966 en artikel 10 van Wet 39 van 1972.

9. Die volgende artikel word hierby in die Hoofwet na artikel 23 ingevoeg:

„Vonnis vir  
tekort in  
trustre-  
kening.

23A. (1) Wanneer 'n kommissie-agent weens die aanwending deur hom of sy werknemer van geld in sy trustrekening, skuldig bevind word aan 'n misdryf waarby bedrog of oneerlikheid betrokke is, en dit bewys is dat die bedrag in krediet van die betrokke trustrekening nie voldoende is om alle bedrae te betaal wat daaruit betaalbaar is nie, moet die hof wat hom skuldig bevind, benewens 'n straf ten opsigte van bedoelde misdryf opgelê, op versoek van die aanklaer ten behoeve van die sekretaris gedoen, op staande voet ondersoek instel na en die bedrag bepaal van die tekort in die trustrekening, en onverwyld vonnis vir die aldus bepaalde bedrag uitspreek teen daardie kommissie-agent en ten gunste van die sekretaris, en so 'n vonnis kan ten uitvoer gelê word asof dit 'n vonnis in 'n siviele geding was.

(2) Die sekretaris moet 'n bedrag wat hy kragtens 'n in subartikel (1) beoogde vonnis verhaal, in die betrokke trustrekening stort.

(3) 'n Verwysing in subartikel (1) na 'n kommissie-agent word, in die geval van 'n kommissie-agent wat 'n maatskappy is, uitgelê as 'n verwysing ook na 'n direkteur van daardie maatskappy."

Invoeging van artikel 23A in Wet 2 van 1961.

10. Die volgende artikels word hierby in die Hoofwet na artikel 25A ingevoeg:

Invoeging van artikels 25B en 25C in Wet 2 van 1961.

## Act No. 33, 1973

PERISHABLE AGRICULTURAL PRODUCE SALES  
AMENDMENT ACT, 1973.

**25B.** Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to issue any order and give any judgment provided for in this Act.

Proof of  
certain facts  
by affidavit.

**25C.** Whenever upon—

- (a) the trial of any person charged with the commission of an offence under this Act or a crime involving fraud or dishonesty in connection with a trust account;
- (b) an enquiry contemplated in section 23A; or
- (c) the trial of any proceedings instituted by the secretary under section 19D for the recovery of a deficit in a trust account,

the question arises whether or not the amount standing to the credit of a particular trust account at a particular date was sufficient for the payment of all amounts which were payable from it, or what the amount of any deficit in a particular trust account was at a particular date, a document purporting to be an affidavit made by a person who, in that affidavit, alleges that he is an officer referred to in section 21 and that the amount standing to the credit of that trust account on the date in question was insufficient for the payment of all amounts which were payable from it, or that such deficit on the date in question amounted to a specified amount, shall, on its mere production at such trial or enquiry by any person, be *prima facie* proof of the facts stated therein."

Amendment of  
section 26 of Act 2  
of 1961, as  
amended by  
section 19 of  
Act 31 of 1966 and  
section 12 of  
Act 39 of 1972.

**11.** (1) Section 26 of the principal Act is hereby amended—

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

"(1) The Minister may make regulations—";

- (b) by the substitution for paragraph (e) of that subsection of the following paragraph:

"(e) as to the manner in which, and the bank or other institution where, a trust account shall be kept, the control and administration of such trust account, the disposal of any moneys in any such trust account, the conditions on which any such trust account may be operated as an interest bearing account or on which interest so earned may be claimed by the commission agent, and any other matter incidental to such a trust account;"

(2) Any regulation made by the State President under section 26 of the principal Act and in force immediately before the commencement of this Act, shall be deemed to have been made by the Minister of Agriculture under the said section as amended by subsection (1) of this section.

Short title and  
commencement.

**12.** (1) This Act shall be called the Perishable Agricultural Produce Sales Amendment Act, 1973, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.

WYSIGINGSWET OP DIE VERKOOP VAN BEDERFBARE  
LANDBOUPRODUKTE, 1973.

Wet No. 33, 1973

„Regsbe-  
voegdheid  
van 'n land-  
droshof.

**25B.** Ondanks andersluidende wetsbepalings, is 'n landdroshof bevoeg om 'n bevel uit te vaardig en 'n uitspraak te gee waarvoor hierdie Wet voorsiening maak.

Bewys van  
sekere feite  
deur middel  
van be-  
edigde ver-  
klaring.**25C.** Wanneer by—

- (a) die verhoor van iemand op 'n aanklag weens 'n oortreding van 'n bepaling van hierdie Wet of 'n misdryf waarby bedrog of oneerlikheid met betrekking tot 'n trustrekening betrokke is;
- (b) 'n in artikel 23A beoogde ondersoek; of
- (c) die verhoor van verrigtinge deur die sekretaris ingestel vir die verhaal van 'n tekort in 'n trustrekening kragtens artikel 19D,

die vraag ontstaan of al dan nie die bedrag in krediet van 'n bepaalde trustrekening op 'n bepaalde datum voldoende was om alle bedrae te betaal wat daaruit betaalbaar was, of wat die bedrag van 'n tekort in 'n bepaalde trustrekening op 'n bepaalde datum was, is 'n geskrif wat 'n beëdigde verklaring heet te wees van iemand wat in daardie beëdigde verklaring beweer dat hy 'n in artikel 21 bedoelde beampte is en dat die bedrag in krediet van daardie trustrekening op die betrokke datum onvoldoende was om alle bedrae te betaal wat daaruit betaalbaar was, of dat bedoelde tekort op die betrokke datum 'n vermelde bedrag beloop het, by blote voorlegging daarvan by sodanige verhoor of ondersoek deur enigiemand, *prima facie*-bewys van die daarin vermelde feite.”

**11. (1)** Artikel 26 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

„(1) Die Minister kan regulasies uitvaardig—”; en

- (b) deur paragraaf (e) van daardie subartikel deur die volgende paragraaf te vervang:

„(e) betreffende die wyse waarop, en die bank of ander instelling waar, 'n trustrekening gehou moet word, die beheer en administrasie van so 'n trustrekening, die beskikking oor gelde in so 'n trustrekening, die voorwaardes waarop so 'n trustrekening as 'n rentegewende rekening geadministreer kan word of waarop rente aldus verdien deur die kommissie-agent opgeëis kan word, en enige ander aangeleentheid wat met so 'n trustrekening in verband staan;”.

(2) 'n Regulasie deur die Staatspresident kragtens artikel 26 van die Hoofwet uitgevaardig en onmiddellik voor die inwerking-treding van hierdie Wet van krag, word geag deur die Minister van Landbou kragtens genoemde artikel soos deur subartikel (1) van hierdie artikel gewysig, uitgevaardig te gewees het.

Wysiging van  
artikel 26 van Wet  
2 van 1961, soos  
gewysig deur  
artikel 19 van Wet  
31 van 1966 en  
artikel 12 van  
Wet 39 van 1972.

**12. (1)** Hierdie Wet heet die Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1973, en die bepalinge daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalinge van hierdie Wet bepaal word.

Kort titel en  
inwerking-treding.



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