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STAATSKOERANT

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 598.

27 Maart 1975.

No. 598.

27 March 1975.

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

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

No. 12 van 1975: Wet op Agentskapsverkoop van Landbouprodukte, 1975.

No. 12 of 1975: Agricultural Produce Agency Sa¹ 1975.

Act No. 12, 1975 AGRICULTURAL PRODUCE AGENCY SALES ACT, 1975.

Definitions.

1. (1) In this Act, unless the context otherwise indicates—
- (i) "abattoir" means an abattoir as defined in section 1 of the Abattoir Commission Act, 1967 (Act No. 86 of 1967); (i)
 - (ii) "Commission" means the Commission for Fresh Produce Markets established by the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970); (viii)
 - (iii) "commission agent" means any person who, for a commission, sells a product in the Republic on behalf of any other person and who exercises control over either the product or the proceeds of the sale of the product, or over both the product and the proceeds, excluding—
 - (a) a control board which sells a product under a scheme on behalf of any other person;
 - (b) any person who as agent of a control board sells a product on behalf of such board;
 - (c) any statutory agent;
 - (d) any local authority which sells by auction a product entrusted to an agent for sale, on behalf of that agent: Provided that any such agent shall for the purposes of any such sale be deemed to be a commission agent; or
 - (e) any person who sells livestock, as defined in Schedule 1, on behalf of any other person; (ix)
 - (iv) "control board" means a control board as defined in section 1 of the Marketing Act, 1968 (Act No. 59 of 1968); (v)
 - (v) "Department" means the Department of Agricultural Economics and Marketing; (vi)
 - (vi) "employee", in relation to a company which carries on business as a commission agent, includes any director of the company; (xxv)
 - (vii) "fresh produce market" means a fresh produce market as defined in section 1 of the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970); (xx)
 - (viii) "guarantee fund" means a fidelity guarantee fund established under section 27; (xxiv)
 - (ix) "livestock auctioneer" means any person who, for a commission, sells livestock, as defined in Schedule 1, by auction in the Republic on behalf of any other person; (x)
 - (x) "local authority" means any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xiii)
 - (xi) "market master" means any person in charge of a fresh produce market of which a local authority is the owner as defined in the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970); (xi)
 - (xii) "Meat Board" means a control board established under a scheme relating to slaughter animals, meat, meat products and by-products as defined in the Marketing Act, 1968 (Act No. 59 of 1968); (xxii)
 - (xiii) "Minister" means the Minister of Agriculture; (xiii)
 - (xiv) "officer" means any person who is in the service of the Department, and, in relation to a regulated product, includes a person who is in the service of the control board concerned; (iii)
 - (xv) "prescribed" means prescribed by regulation under this Act; (xxiii)

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Wet No. 12, 1975

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

- (i) „abattoir” ’n abattoir soos omskryf in artikel 1 van die Wet op die Abattoirkommissie, 1967 (Wet No. 86 van 1967); (i)
- (ii) „afwagsaldo”, met betrekking tot ’n trustrekening, ’n bedrag in ’n trustrekening wat as gevolg van die tydsverloop tussen die stort van geld in die trustrekening en die trek daarvan uit die trustrekening in ’n proses waarby sodanige stortings en onttrekkings voortdurend gemaak word, na die mening van die Sekretaris deurlopend onbenut lê; (xxiii)
- (iii) „beampte” iemand wat in diens van die Departement is en, met betrekking tot ’n beheerde produk, ook iemand wat in die diens van die betrokke beheerraad is; (xiv)
- (iv) „beheerde produk” ’n handelsartikel wat ’n produk ingevolge hierdie Wet is ten opsigte waarvan ’n skema van krag is; (xviii)
- (v) „beheerraad” ’n beheerraad soos omskryf in artikel 1 van die Bemarkingswet, 1968 (Wet No. 59 van 1968); (iv)
- (vi) „Departement” die Departement van Landbou-
ekonomie en -bemarking; (v)
- (vii) „hierdie Wet” ook enige regulasie kragtens hierdie Wet uitgevaardig; (xxiv)
- (viii) „Kommissie” die Kommissie vir Varsproduktemarke, ingestel by die Wet op die Kommissie vir Varsproduktemarke, 1970 (Wet No. 82 van 1970); (ii)
- (ix) „kommissie-agent” iemand wat teen kommissie ’n produk in die Republiek ten behoeve van iemand anders verkoop en wat oor of die produk of die opbrengs van die verkoop van die produk of sowel die produk as die opbrengs, beheer uitoefen, uitgesonderd—
 - (a) ’n beheerraad wat ingevolge ’n skema ’n produk ten behoeve van iemand anders verkoop;
 - (b) iemand wat as agent van ’n beheerraad ’n produk ten behoeve van daardie raad verkoop;
 - (c) ’n statutêre agent;
 - (d) ’n plaaslike bestuur wat ’n produk wat aan ’n agent vir verkoop toevertrou is, namens daardie agent by veiling verkoop: Met dien verstande dat so ’n agent vir die doeleindes van sodanige verkoping geag word ’n kommissie-agent te wees; of
 - (e) iemand wat lewende hawe, soos in Bylae 1 omskryf, ten behoeve van iemand anders verkoop; (iii)
- (x) „lewende hawe-afslaer” iemand wat teen kommissie die verkoop van lewende hawe, soos in Bylae 1 omskryf, ten behoeve van iemand anders by wyse van veiling in die Republiek behartig; (ix)
- (xi) „markmeester” iemand in bevel van ’n varsproduktemark waarvan ’n plaaslike bestuur die eienaar, soos in artikel 1 van die Wet op die Kommissie vir Varsproduktemarke, 1970 (Wet No. 82 van 1970) omskryf, is; (xi)
- (xii) „Minister” die Minister van Landbou; (xiii)
- (xiii) „plaaslike bestuur” enige instelling of liggaam wat in artikel 84 (1) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961), beoog word; (x)
- (xiv) „produk” ’n handelsartikel in Deel A van Bylae 1 genoem of kragtens subartikel (2) tot ’n produk verklaar; (xvi)
- (xv) „registrasie” registrasie ingevolge die bepalinge van hierdie Wet, en het „geregistreer” ’n ooreenstemmende betekenis; (xvii)

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fee: Provided that no registration fee shall be payable in respect of any such application by a person referred to in section 2 (4).

(2) An applicant shall furnish such particulars in connection with his application as the Secretary may require.

(3) Subject to the provisions of section 4, the Secretary shall grant the application.

(4) The Secretary shall issue a certificate of registration in the prescribed form to any person—

(a) who is in terms of section 2 (3) deemed to have been registered as a commission agent;

(b) whose application for registration has been granted in terms of subsection (3) of this section or section 5.

(5) Any registration as a commission agent shall be subject to such conditions as may from time to time be prescribed.

Registration as commission agent may be refused in certain circumstances.

4. (1) The Secretary may refuse an application for registration as a commission agent if he is satisfied that—

(a) the applicant or any employee of the applicant has contravened or has failed to comply with any provision of this Act or any law referred to in Schedule 2;

(b) any previous registration of the applicant has been cancelled under this Act or any law referred to in Schedule 2;

(c) any registration of any person has been cancelled under this Act or any law referred to in Schedule 2 consequent upon any act or omission of the applicant or any employee of the applicant;

(d) any registration of any employee of the applicant has been cancelled under this Act or any law referred to in Schedule 2;

(e) the applicant has contravened or has failed to comply with any condition of registration imposed in respect of any previous registration under this Act or any law referred to in Schedule 2;

(f) the application contains a statement which is false in any material respect;

(g) the applicant has been convicted of an offence involving fraud or dishonesty;

(h) the applicant is an unrehabilitated insolvent; or

(i) the applicant has, in relation to his business as commission agent or to the business as commission agent of any other person, been guilty of any other conduct which in the opinion of the Secretary warrants the refusal of the application.

(2) For the purposes of paragraph (g) or (i) of subsection (1) any reference in that subsection to an applicant shall, in the case of an applicant who is a company, be construed as including a reference to a director of such company.

(3) Whenever a matter referred to in subsection (1) (a), (c), (d), (e) or (i) takes place in the course of the business of a partnership and the Secretary is unable to determine whether any particular member of the partnership is responsible therefor, each member of that partnership shall, for the purposes of this section, be deemed to be so responsible, unless he can prove to the satisfaction of the Secretary that he is not so responsible and that he could not have prevented such matter taking place.

Appeal to Minister against refusal of application for registration as commission agent.

5. Any person whose application for registration as a commission agent has been refused by the Secretary under section 4 (1), may appeal within the prescribed period and in the prescribed manner to the Minister against such refusal, and the Minister may confirm the said refusal or grant the application and direct the Secretary to register the appellant as a commission agent.

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vergesel word: Met dien verstande dat geen registrasiegeld betaalbaar is nie ten opsigte van so 'n aansoek deur iemand in artikel 2 (4) bedoel.

(2) 'n Aansoeker moet die besonderhede in verband met sy aansoek verstrek wat die Sekretaris verlang.

(3) Behoudens die bepalinge van artikel 4, moet die Sekretaris die aansoek toestaan.

(4) Die Sekretaris moet 'n registrasiesertifikaat in die voorgeskrewe vorm uitreik aan enigiemand—

(a) wat kragtens artikel 2 (3) geag word as 'n kommissie-agent geregistreer te wees;

(b) wie se aansoek om registrasie ingevolge subartikel (3) van hierdie artikel of artikel 5 toegestaan is.

(5) Registrasie as kommissie-agent is onderhewig aan die voorwaardes wat van tyd tot tyd voorgeskryf mag word.

4. (1) Die Sekretaris kan 'n aansoek om registrasie as 'n kommissie-agent weier indien hy oortuig is dat—

Registrasie as kommissie-agent kan in sekere omstandighede geweier word.

(a) die aansoeker of 'n werknemer van die aansoeker 'n bepaling van hierdie Wet of 'n wet in Bylae 2 vermeld, oortree het of versuim het om daaraan te voldoen;

(b) 'n vorige registrasie van die aansoeker kragtens hierdie Wet of 'n wet in Bylae 2 vermeld, ingetrek is;

(c) 'n registrasie van iemand kragtens hierdie Wet of 'n wet in Bylae 2 vermeld, ingetrek is as gevolg van 'n handeling of versuim van die aansoeker of 'n werknemer van die aansoeker;

(d) 'n registrasie van 'n werknemer van die aansoeker kragtens hierdie Wet of 'n wet in Bylae 2 vermeld, ingetrek is;

(e) die aansoeker 'n voorwaarde van registrasie opgelê ten opsigte van 'n vorige registrasie kragtens hierdie Wet of 'n wet in Bylae 2 vermeld, oortree het of versuim het om daaraan te voldoen;

(f) die aansoek 'n verklaring bevat wat in 'n wesenlike opsig vals is;

(g) die aansoeker skuldig bevind is aan 'n misdryf waarby bedrog of oneerlikheid betrokke was;

(h) die aansoeker 'n ongerehabiliteerde insolvent is; of

(i) die aansoeker in verband met sy besigheid as kommissie-agent of die besigheid as kommissie-agent van enige ander persoon, hom skuldig gemaak het aan enige ander optrede wat na die oordeel van die Sekretaris die weiering van die aansoek regverdig.

(2) 'n Verwysing in subartikel (1) na 'n aansoeker word, in die geval van 'n aansoeker wat 'n maatskappy is, by die toepassing van paragraaf (g) of (i) van daardie subartikel uitgelê as 'n verwysing ook na 'n direkteur van daardie maatskappy.

(3) Wanneer 'n in subartikel (1) (a), (c), (d), (e) of (i) bedoelde aangeleentheid in die loop van die besigheid van 'n vennootskap plaasvind en die Sekretaris nie kan bepaal of 'n besondere lid van die vennootskap daarvoor aanspreeklik is nie, word elke lid van daardie vennootskap by die toepassing van hierdie artikel geag aldus aanspreeklik te wees tensy hy ten genoeë van die Sekretaris kan bewys dat hy nie aldus aanspreeklik is nie en dat hy nie kon verhoed het dat bedoelde aangeleentheid plaasvind nie.

5. Iemand wie se aansoek om registrasie as 'n kommissie-agent deur die Sekretaris kragtens artikel 4 (1) geweier is, kan binne die voorgeskrewe tydperk en op die voorgeskrewe wyse teen sodanige weiering na die Minister appelleer, en die Minister kan bedoelde weiering bekragtig of die aansoek toestaan en die Sekretaris gelas om die appellant as 'n kommissie-agent te registreer.

Appel na Minister teen weiering van aansoek om registrasie as kommissie-agent.

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Suspension or
cancellation of
registration as
commission agent.

6. (1) The Minister may suspend the registration of any commission agent for any period determined by him, or cancel such registration, if he is satisfied with reference to such commission agent that—

- (a) he or any of his employees has contravened or failed to comply with any provision of this Act or any law referred to in Schedule 2;
- (b) his application for registration contains a statement which is false in any material respect;
- (c) he has contravened or failed to comply with any condition of his registration;
- (d) he has been convicted of an offence involving fraud or dishonesty;
- (e) he has failed to furnish the Secretary with any return referred to in section 38 on or before the prescribed date;
- (f) he is an unrehabilitated insolvent; or
- (g) he has, in relation to his business as commission agent or to the business as commission agent of any other person, been guilty of any other conduct which in the opinion of the Minister warrants the suspension or cancellation of his registration.

(2) For the purposes of paragraph (d) or (g) of subsection (1) any reference in that subsection to a commission agent shall, in the case of a commission agent who is a company, be construed as including a reference to a director of such company.

(3) The provisions of section 4 (3) shall *mutatis mutandis* apply with reference to any matter referred to in subsection (1) (a), (c) or (g) of this section.

Registration of
salesmen.

7. (1) Except as provided in subsections (3) and (4), a commission agent shall not employ or have in his service a salesman who is not registered as such in respect of his current period of service with the commission agent concerned.

(2) Any person who immediately prior to the commencement of this Act was in the service of a commission agent as a registered salesman in terms of any law referred to in Schedule 2, shall for the purposes of subsection (1) be deemed to be registered as a salesman in the service of that commission agent for as long as he continues after such commencement without a break in the service of such commission agent as an employee.

(3) A commission agent who immediately prior to the commencement of this Act lawfully had in his service any person as a salesman who is not in terms of subsection (2) deemed to have been registered as a salesman in his service, may without that person being registered as a salesman in his service, further employ him as a salesman for a period not exceeding three months as from the date of such commencement, or for such longer period as from such date as may be fixed by the Minister by notice in the *Gazette*.

(4) (a) A commission agent may employ any person as a salesman or he may order any of his employees to perform the duties and functions of a salesman before such person or employee is registered as a salesman, provided such person or employee is to the best of the knowledge of the commission agent concerned not a person whose registration has been cancelled, suspended or refused, and he shall submit to the Secretary within thirty days of such employment or order an application referred to in section 8 in respect of such person or employee.

(b) This Act shall apply to a person or employee referred to in paragraph (a) as if such person or employee were registered as a salesman.

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6. (1) Die Minister kan die registrasie van 'n kommissie-agent opskort vir enige tydperk deur hom bepaal, of so 'n registrasie intrek, indien hy met betrekking tot daardie kommissie-agent oortuig is dat—

Opskorting of
intrekking van
registrasie as
kommissie-agent.

- (a) hy of enigeen van sy werknemers 'n bepaling van hierdie Wet of 'n wet in Bylae 2 vermeld, oortree het of versuim het om daaraan te voldoen;
- (b) sy aansoek om registrasie 'n verklaring bevat wat in 'n wesenlike opsig vals is;
- (c) hy 'n voorwaarde van sy registrasie oortree het of versuim het om daaraan te voldoen;
- (d) hy skuldig bevind is aan 'n misdryf waarby bedrog of oneerlikheid betrokke was;
- (e) hy versuim het om 'n in artikel 38 bedoelde opgawe voor of op die voorgeskrewe datum aan die Sekretaris te verstrek;
- (f) hy 'n ongerehabiliteerde insolvent is; of
- (g) hy, in verband met sy besigheid as kommissie-agent of die besigheid as kommissie-agent van enige ander persoon, hom skuldig gemaak het aan enige ander optrede wat na die oordeel van die Minister die opskorting of intrekking van sy registrasie regverdig.

(2) 'n Verwysing in subartikel (1) na 'n kommissie-agent word, in die geval van 'n kommissie-agent wat 'n maatskappy is, by die toepassing van paragraaf (d) of (g) van daardie subartikel uitgelê as 'n verwysing ook na 'n direkteur van daardie maatskappy.

(3) Die bepalings van artikel 4 (3) is *mutatis mutandis* van toepassing met betrekking tot 'n in subartikel (1) (a), (c) of (g) van hierdie artikel bedoelde aangeleentheid.

7. (1) Behalwe soos in subartikels (3) en (4) bepaal, mag 'n kommissie-agent nie 'n verkoopsman wat nie ten opsigte van sy lopende dienstermyn by die betrokke kommissie-agent as sodanig geregistreer is nie, in sy diens neem of in sy diens hê nie.

Registrasie van
verkoopsmanne.

(2) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet in die diens van 'n kommissie-agent as 'n geregistreerde verkoopsman was ingevolge 'n wet in Bylae 2 vermeld, word by die toepassing van subartikel (1) geag as verkoopsman in diens van daardie kommissie-agent geregistreer te wees vir so lank as wat hy na bedoelde inwerkingtreding sonder onderbreking as werknemer in die diens van sodanige kommissie-agent bly.

(3) 'n Kommissie-agent wat onmiddellik voor die inwerkingtreding van hierdie Wet iemand wettiglik as verkoopsman in sy diens gehad het wat nie ingevolge subartikel (2) geag word as 'n verkoopsman in sy diens geregistreer te wees nie, kan daardie persoon sonder dat hy as verkoopsman in sy diens geregistreer is, verder as verkoopsman in sy diens vir 'n tydperk van hoogstens drie maande vanaf die datum van bedoelde inwerkingtreding, of vir die langer tydperk vanaf daardie datum wat die Minister by kennisgewing in die *Staatskoerant* bepaal, hê.

(4) (a) 'n Kommissie-agent kan 'n persoon as 'n verkoopsman in sy diens neem of hy kan enigeen van sy werknemers opdrag gee om die pligte en werksaamhede van 'n verkoopsman te verrig voordat sodanige persoon of werknemer as 'n verkoopsman geregistreer is, mits sodanige persoon of werknemer nie iemand is nie wie se registrasie na die beste wete van die betrokke kommissie-agent ingetrek, opgeskort of geweier is, en hy moet 'n in artikel 8 bedoelde aansoek ten opsigte van sodanige persoon of werknemer binne dertig dae na sodanige indiensneming of opdrag by die Sekretaris indien.

(b) Hierdie Wet is op 'n in paragraaf (a) bedoelde persoon of werknemer van toepassing asof sodanige persoon of werknemer as 'n verkoopsman geregistreer is.

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Application for
and conditions of
registration of
salesman.

8. (1) An application for the registration of a salesman shall be made by the commission agent concerned to the Secretary in the form and manner prescribed, and shall be accompanied by the prescribed registration fee: Provided that no registration fee shall be payable in respect of any such application—

- (a) by a local authority; or
- (b) in respect of a salesman referred to in section 7 (3), who has as from the commencement of this Act remained continuously in the service of the commission agent concerned.

(2) Subject to the provisions of section 9, the Secretary shall grant the application.

(3) The Secretary shall issue a certificate of registration in the prescribed form to a commission agent—

- (a) in respect of every person who is in terms of section 7 (2) deemed to have been registered as a salesman in his service;
- (b) whose application for registration of a salesman has been granted in terms of subsection (2) of this section or by virtue of section 10.

(4) Subject to the provisions of section 9, the registration of a salesman shall be of force and effect as long as he continues without a break in his service to be an employee of the commission agent concerned.

(5) Section 3 (2) and (5) shall *mutatis mutandis* apply with reference to a registration in terms of this section.

Refusal, suspension
or cancellation of
registration of
salesman.

9. The Secretary may refuse an application for the registration of a salesman or he may suspend the registration of a salesman for a specified period or he may cancel such registration if he is satisfied that—

- (a) the applicant or the salesman has contravened or failed to comply with any provision of this Act or any law referred to in Schedule 2;
- (b) the salesman has been convicted of an offence involving fraud or dishonesty; or
- (c) the salesman has, in relation to his vocation as a salesman, been guilty of any other conduct which in the opinion of the Secretary warrants the refusal of the application or the suspension or cancellation of the registration, as the case may be.

Appeal to Minister
against action
under section 9.

10. If the application for registration of a salesman is refused under section 9 or the registration of a salesman is suspended or cancelled under that section, the commission agent concerned may appeal to the Minister against that refusal, suspension or cancellation within the prescribed period and in the prescribed manner, and the Minister may, after consideration of such an appeal, dismiss the appeal or allow it in whole or in part or make such order in connection therewith as he may think fit.

Registration
numbers.

11. There shall be allotted to each person upon any registration a registration number which shall be endorsed on the certificate of registration.

Register.

12. The Secretary shall keep a register, and such register shall state—

- (a) the name and business address of every person who is registered and—
 - (i) in the case of a salesman, also the name and business address of the commission agent who caused him to be registered as a salesman; and
 - (ii) in the case of a commission agent who is a company, also the name and business address of each director of such company;

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8. (1) 'n Aansoek om die registrasie van 'n verkoopsman moet deur die betrokke kommissie-agent by die Sekretaris in die voorgeskrewe vorm en op die voorgeskrewe wyse gedoen en van die voorgeskrewe registrasiegeld vergesel word: Met dien verstande dat geen registrasiegeld betaalbaar is nie ten opsigte van so 'n aansoek—

Aansoek om en
voorwaardes van
registrasie van
'n verkoopsman.

(a) deur 'n plaaslike bestuur; of
(b) ten opsigte van 'n verkoopsman in artikel 7 (3) bedoel, wat vanaf die inwerkingtreding van hierdie Wet sonder onderbreking in die diens van die betrokke kommissie-agent gebly het.

(2) Behoudens die bepalinge van artikel 9, moet die Sekretaris die aansoek toestaan.

(3) Die Sekretaris moet 'n registrasiesertifikaat in die voorgeskrewe vorm uitreik aan 'n kommissie-agent—

(a) ten opsigte van elke persoon wat ingevolge artikel 7 (2) geag word as verkoopsman in sy diens geregistreer te wees;

(b) wie se aansoek om registrasie van 'n verkoopsman ingevolge subartikel (2) van hierdie artikel of uit hoofde van artikel 10 toegestaan is.

(4) Behoudens die bepalinge van artikel 9, is die registrasie van 'n verkoopsman van krag vir solank hy sonder onderbreking in sy diens 'n werknemer van die betrokke kommissie-agent bly.

(5) Artikel 3 (2) en (5) is *mutatis mutandis* van toepassing met betrekking tot 'n registrasie ingevolge hierdie artikel.

9. Die Sekretaris kan 'n aansoek om registrasie van 'n verkoopsman weier of die registrasie van 'n verkoopsman vir 'n bepaalde tyd opskort of sodanige registrasie intrek, indien hy oortuig is dat—

Weiering,
opskorting of
intrekking van
registrasie van
verkoopsman.

(a) die aansoeker of die verkoopsman 'n bepaling van hierdie Wet of 'n wet in Bylae 2 vermeld, oortree het of versuim het om daaraan te voldoen;

(b) die verkoopsman skuldig bevind is aan 'n misdryf waarby bedrog of oneerlikheid betrokke was; of

(c) die verkoopsman, in verband met sy beroep as verkoopsman, hom skuldig gemaak het aan enige ander optrede wat na die oordeel van die Sekretaris die weiering van die aansoek of die opskorting of intrekking van die registrasie, na gelang van die geval, regverdig.

10. Indien die aansoek om registrasie van 'n verkoopsman kragtens artikel 9 geweier word of die registrasie van 'n verkoopsman kragtens daardie artikel opgeskort of ingetrek word, kan die betrokke kommissie-agent teen daardie weiering, opskorting of intrekking binne die voorgeskrewe tydperk en op die voorgeskrewe wyse na die Minister appelleer, en die Minister kan na oorweging van so 'n appèl die appèl van die hand wys of in sy geheel of gedeeltelik toestaan of in verband daarmee die bevel uitreik wat hy goedvind.

Appèl na Minister
teen optrede
kragtens artikel 9.

11. Daar word aan elke persoon by enige registrasie 'n registrasienommer toegeken wat op die registrasiesertifikaat geëndosseer moet word.

Registrasie-
nommers.

12. Die Sekretaris hou 'n register, en sodanige register vermeld—

Register.

(a) die naam en besigheidsadres van elke persoon wat geregistreer is en—

(i) in die geval van 'n verkoopsman, ook die naam en besigheidsadres van die kommissie-agent wat hom as verkoopsman laat registreer het; en

(ii) in die geval van 'n kommissie-agent wat 'n maatskappy is, ook die naam en besigheidsadres van elke direkteur van daardie maatskappy;

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- (b) the registration number allotted to every such person in terms of section 11;
- (c) the product in respect of which a commission agent has been registered;
- (d) particulars of the security given by a commission agent in terms of section 26, and of any exemption granted under that section;
- (e) the date of cancellation or suspension of any registration or of the lapsing of the registration of a salesman on the termination of his period of service as an employee of the commission agent concerned;
- (f) in the case of a commission agent, whether he is a member of a partnership and, if so, particulars of such partnership; and
- (g) such additional information as the Secretary may consider necessary.

Surrender of certificate of registration.

13. Any person who ceases to carry on business as a commission agent or whose registration as a commission agent has been cancelled or suspended under this Act, or the commission agent concerned, in the case of a salesman whose registration has been so cancelled or suspended or has lapsed on the termination of his period of service as an employee of the commission agent who caused him to be registered as a salesman, shall surrender the relevant certificate of registration to the Secretary within seven days after he has so ceased to carry on business as a commission agent or the cancellation, suspension or lapsing concerned has taken place.

Notice of cessation of business, and of cancellation or suspension of registration.

14. The Secretary shall publish particulars of every cessation to carry on business as a commission agent which comes to his knowledge by virtue of section 13, and of every cancellation or suspension of registration of a commission agent, in the *Gazette* and, if he deems it necessary, in one or more appropriate newspapers.

PART 2

HANDLING OF PROCEEDS OF PRODUCTS BY COMMISSION AGENTS

Proceeds of sale not part of commission agent's assets.

15. The proceeds of the sale of any product 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 21 (1) or (2) or by the principal concerned for the payment of those proceeds or by any creditor of that principal.

Proceeds of sale to be paid to principal within prescribed period.

16. A commission agent shall within a prescribed period after he disposes of any product, account in the prescribed manner correctly and in full to his principal for the proceeds of that product and pay to his principal the balance of those proceeds after deducting any amount which he is entitled to retain.

Commission agent to keep trust account.

17. (1) Subject to the provisions of subsection (4), a commission agent shall keep a trust account in the prescribed manner in which the proceeds of any sale of products on behalf of his principal shall be deposited: Provided that in the case of a partnership only one such trust account shall be kept in respect of the business of such partnership.

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

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- (b) die registrasienommer aan elke sodanige persoon ingevolge artikel 11 toegeken;
- (c) die produk ten opsigte waarvan 'n kommissie-agent geregistreer is;
- (d) besonderhede van die sekuriteit deur 'n kommissie-agent ingevolge artikel 26 verstrekk en van enige vrystelling kragtens daardie artikel verleen;
- (e) die datum van intrekking of opskorting van enige registrasie of van die verval van die registrasie van 'n verkoopsman by die beëindiging van sy dienstermyn as 'n werknemer van die betrokke kommissie-agent;
- (f) in die geval van 'n kommissie-agent, of hy 'n lid van 'n vennootskap is en, indien wel, besonderhede van sodanige vennootskap; en
- (g) die bykomende inligting wat die Sekretaris noodsaaklik ag.

13. Iemand wat ophou om as kommissie-agent besigheid te dryf of wie se registrasie as kommissie-agent kragtens hierdie Wet ingetrek of opgeskort is, of die betrokke kommissie-agent, in die geval van 'n verkoopsman wie se registrasie aldus ingetrek of opgeskort is of verval het by die beëindiging van sy dienstermyn as 'n werknemer van die kommissie-agent wat hom as verkoopsman laat registreer het, moet die betrokke registrasiesertifikaat aan die Sekretaris afgee binne sewe dae nadat hy aldus opgehou het om as kommissie-agent besigheid te dryf of die betrokke intrekking, opskorting of verval plaasgevind het.

Afgee van
registrasiesertifikaat.

14. Die Sekretaris moet besonderhede van elke staking om as kommissie-agent besigheid te dryf wat hy uit hoofde van artikel 13 te wete kom, en van elke intrekking of opskorting van registrasie van 'n kommissie-agent, in die *Staatskoerant* en, indien hy dit nodig ag, in een of meer gepaste nuusblaaie publiseer.

Kennisgewing van
staking van
besigheid, en van
intrekking of
opskorting van
registrasie.

DEEL 2

HANTERING VAN OPBRENGS VAN PRODUKTE DEUR KOMMISSIE-AGENTE

15. Die opbrengs van die verkoop van 'n produk 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 21 (1) of (2) of deur die betrokke prinsipaal vir betaling van daardie opbrengs of deur 'n skuldeiser van daardie prinsipaal.

Opbrengs van
verkoop nie deel
van kommissie-
agent se bates.

16. 'n Kommissie-agent moet binne 'n voorgeskrewe tydperk nadat hy oor 'n produk beskik, aan sy prinsipaal juis en ten volle op die voorgeskrewe wyse vir die opbrengs van daardie produk rekenskap gee en die saldo van daardie opbrengs, na aftrekking van enige bedrag wat hy geregtig is om te behou, aan sy prinsipaal betaal.

Opbrengs van
verkoop moet
binne voorgeskrewe
tydperk aan
prinsipaal
betaal word.

17. (1) Behoudens die bepalinge van subartikel (4) moet 'n kommissie-agent 'n trustrekening op die voorgeskrewe wyse hou waarin die opbrengs van enige verkoop van produkte ten behoeve van sy prinsipaal gestort word: Met dien verstande dat in die geval van 'n vennootskap slegs een sodanige trustrekening gehou moet word ten opsigte van die besigheid van sodanige vennootskap.

Kommissie-agent
moet trustrekening
hou.

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

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(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).

(4) The provisions of subsection (1) shall not apply to—

- (a) a local authority which carries on the business of a commission agent;
- (b) a co-operative agricultural society, a co-operative agricultural company or a farmers' special co-operative company registered as such in terms of the Co-operative Societies Act, 1939 (Act No. 29 of 1939), in respect of the business of a commission agent carried on by any such society or company with reference to vegetables, fruit, culinary herbs or miscellaneous market products as defined in Schedule 1, delivered to it by its members.

Auditing of trust account.

18. (1) A commission agent shall in terms of section 36 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 administration of trust account.

19. (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 registration of a commission agent has been suspended or cancelled under section 6 or the suspension or cancellation of such registration under that section is being considered; or
- (c) 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 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 paragraph (ii) of this subsection or any authorization under subsection (2) effective.

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(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.

(4) Die bepalings van subartikel (1) is nie van toepassing nie—

(a) op 'n plaaslike bestuur wat die besigheid van kommissie-agent dryf;

(b) op 'n koöperatiewe landbouvereniging, 'n koöperatiewe landboumaatskappy of 'n spesiale koöperatiewe boeremaatskappy as sodanig geregistreer ingevolge die Wet op Koöperatiewe Verenigings, 1939 (Wet No. 29 van 1939), ten opsigte van die besigheid van kommissie-agent wat so 'n vereniging of maatskappy dryf met betrekking tot groente, vrugte, kombuiskruie of diverse markprodukte soos omskryf in Bylae I, wat deur lede daarvan daaraan gelewer is.

18. (1) 'n Kommissie-agent moet ingevolge artikel 36 aparte aantekeninge hou van alle geld wat in sy trustrekening gestort word en alle bedrae daaruit betaal, 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.

Ouditering van
trustrekening.

(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 verstrek.

19. (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

Sekretaris se
bevoegdhede in
verband met beheer
en administrasie van
trustrekening.

(b) die registrasie van 'n kommissie-agent kragtens artikel 6 opgeskort of ingetrek is of die opskorting of intrekking van bedoelde registrasie kragtens daardie artikel oorweeg word; of

(c) '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 werksaamheid om geld wat in die trustrekening 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 voorskrifte 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 voorskrif kragtens paragraaf (ii) van hierdie subartikel of 'n magtiging kragtens subartikel (2) effektief te maak.

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(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.

20. If—

(a) the registration of a commission agent has been suspended or cancelled under section 6; or

(b) 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
commission agent.

21. (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 who is a company, be construed as including a reference to a director of such company.

Investment of
suspense balance
in trust account.

22. (1) A commission agent may, with the approval of the Secretary, invest in the prescribed manner such portion of the suspense balance in his trust account as may be determined by him in consultation with the Secretary.

(2) (a) A commission agent shall be entitled to the income on the investment of any amount under subsection (1): Provided that if such commission agent is or becomes a member of a guarantee fund, the income on the investment of each such amount for a period of one year, calculated from the date of investment of such amount or the date on which that commission agent so became a member of a guarantee fund, whichever date may be the later date, shall accrue to the guarantee fund concerned.

(b) Money which accrues to a guarantee fund under the proviso to paragraph (a), shall be paid by the commission agent to the Secretary for the benefit of the fund concerned within thirty days after the expiry of the period referred to in the said proviso.

(3) The Secretary may at any time order a commission agent to convert, in whole or in part, any investment made by him under this section into money for the purposes of his trust account.

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(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) moet deur die betrokke kommissie-agent betaal word.

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

20. Indien—Afsluiting van
trustrekening.

(a) die registrasie van 'n kommissie-agent kragtens artikel 6 opgeskort of ingetrek is; of

(b) '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.

21. (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.

Sekretaris kan
tekort in
trustrekening op
kommissie-agent
verhaal.

(2) Die koste in verband met 'n vordering deur die Sekretaris kragtens subartikel (1) moet uit die trustrekening betaal word 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.

22. (1) 'n Kommissie-agent kan, met die goedkeuring van die Sekretaris, die deel van die afwagsaldo in sy trustrekening wat hy in oorleg met die Sekretaris bepaal, op die voorgeskrewe wyse belê.

Belegging van
afwagsaldo in
trustrekening.

(2) (a) 'n Kommissie-agent is geregtig op die inkomste op die belegging van 'n bedrag kragtens subartikel (1): Met dien verstande dat indien daardie kommissie-agent lid is of word van 'n waarborgfonds, die inkomste op die belegging van elke sodanige bedrag vir 'n tydperk van een jaar, gereken vanaf die datum van belegging van daardie bedrag of die datum waarop daardie kommissie-agent aldus lid van 'n waarborgfonds geword het, na gelang van watter datum die jongste datum is, die betrokke waarborgfonds toeval.

(b) Geld wat 'n waarborgfonds kragtens die voorbehoudsbepaling by paragraaf (a) toeval, moet deur die kommissie-agent binne dertig dae na afloop van die tydperk in daardie voorbehoudsbepaling bedoel, aan die Sekretaris ten bate van die betrokke fonds betaal word.

(3) Die Sekretaris kan te eniger tyd 'n kommissie-agent gelas om 'n belegging deur hom kragtens hierdie artikel gemaak, in die geheel of ten dele vir die doeleindes van sy trustrekening te gelde te maak.

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Disposal of
unclaimed
proceeds of sale
of products.

23. (1) The proceeds of the sale of products sold on behalf of any person by a commission agent which on the last day of the month of February or the last day of the month of August in any year have, for a period of not less than one hundred and eighty days after the date of the sale of such products, remained unclaimed by the person entitled to such proceeds, shall, after deduction therefrom of any amount which that commission agent may be entitled to retain, be paid over to the Secretary by such commission agent within thirty days after the last day of the month in question.

(2) Any payment made to the Secretary under subsection (1) shall be accompanied by the prescribed particulars.

(3) The Minister may direct any particular commission agent to dispose of all amounts which have to be paid over to the Secretary in terms of subsection (1) and which are less than one rand each, in such other manner as he may determine.

Special account for
unclaimed moneys
to be kept.

24. (1) The Secretary shall keep a special account to which all amounts paid to him in terms of section 23 shall be credited and all amounts paid or deposited in terms of section 25 shall be debited.

(2) Such special account shall be audited annually by the Controller and Auditor-General.

Disposal of
unclaimed money
paid to Secretary.

25. (1) The Secretary shall, as soon as practicable after the receipt of any unclaimed money paid to him under section 23 give notice in the *Gazette* as to—

- (a) the name of the person who is entitled to such money;
- (b) the amount to which such person is so entitled; and
- (c) the name of the commission agent who paid such money,

and call upon such person to claim such money in the prescribed manner within ninety days after the date of such notification.

(2) No money shall be paid to any person by virtue of the provisions of subsection (1) unless the Secretary is satisfied that such person is entitled to such money.

(3) If within the period of ninety days referred to in subsection (1), no valid claim has been lodged in respect of such money, the Secretary shall deposit such money—

- (a) to the credit of the person entitled thereto, in the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), if such person is, in the opinion of the Secretary, not a Bantu as defined in section 1 of the Population Registration Act, 1950 (Act No. 30 of 1950); or
- (b) in the South African Bantu Trust Fund established in terms of section 8 of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), to be utilized in accordance with the provisions of that Act, if the person entitled thereto is, in the opinion of the Secretary, a Bantu as so defined: Provided that the person entitled thereto may claim such money from the South African Bantu Trust Fund within a period of thirty years as from the date upon which he became entitled to claim such money.

(4) Before a sum of money is in consequence of the provisions of subsection (1) paid over to the person entitled thereto or deposited in terms of subsection (3), the Secretary shall deduct therefrom, for the benefit of the Consolidated Revenue Fund,

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23. (1) Die opbrengs van die verkoop van produkte deur 'n kommissie-agent ten behoeve van 'n persoon verkoop wat op die laaste dag van die maand Februarie of die laaste dag van die maand Augustus van die een of ander jaar vir 'n tydperk van minstens honderd-en-tagtig dae na die datum van die verkoop van daardie produkte nie deur die persoon wat op bedoelde opbrengs geregtig is, opgeëis is nie, moet na aftrekking daarvan van 'n bedrag wat daardie kommissie-agent geregtig mag wees om te behou, binne dertig dae na die laaste dag van die betrokke maand deur bedoelde kommissie-agent aan die Sekretaris oorbetal word.

Beskikking oor
onopgeëiste
opbrengs van
die verkoop van
produkte.

(2) 'n Betaling wat kragtens subartikel (1) aan die Sekretaris gemaak word, moet vergesel wees van die voorgeskrewe besonderhede.

(3) Die Minister kan 'n bepaalde kommissie-agent gelas om oor alle bedrae wat ingevolge subartikel (1) aan die Sekretaris oorbetal moet word en wat elk minder as een rand is, te beskik op die ander wyse wat hy bepaal.

24. (1) Die Sekretaris moet 'n spesiale rekening hou wat met alle bedrae wat ingevolge artikel 23 aan hom betaal word, gekrediteer moet word en met alle bedrae wat ingevolge artikel 25 betaal of gestort word, gedebiteer moet word.

Spesiale rekening
vir onopgeëiste
gelde gehou te
word.

(2) Bedoelde spesiale rekening moet jaarliks deur die Kontroleur- en Ouditeur-generaal geouditeer word.

25. (1) Die Sekretaris moet, so gou doenlik na die ontvangs van onopgeëiste geld kragtens artikel 23 aan hom betaal, kennis in die *Staatskoerant* gee aangaande—

Beskikking oor
onopgeëiste geld
wat aan Sekretaris
betaal is.

(a) die naam van die persoon wat op daardie geld geregtig is;

(b) die bedrag waarop bedoelde persoon aldus geregtig is; en

(c) die naam van die kommissie-agent wat daardie geld betaal het,

en bedoelde persoon versoek om daardie geld binne negentig dae na die datum van bedoelde kennisgewing op die voorgeskrewe wyse op te eis.

(2) Geen geld word uit hoofde van die bepalings van subartikel (1) aan iemand betaal nie tensy die Sekretaris oortuig is dat daardie persoon op daardie geld geregtig is.

(3) Indien daar binne die in subartikel (1) bedoelde tydperk van negentig dae geen geldige eis ten opsigte van bedoelde geld ingedien is nie, stort die Sekretaris daardie geld—

(a) indien die persoon wat daarop geregtig is, na die oordeel van die Sekretaris nie 'n Bantoe soos omskryf in artikel 1 van die Bevolkingsregistrasiewet, 1950 (Wet No. 30 van 1950), is nie, in die voogdyfonds bedoel in artikel 86 van die Boedelwet, 1965 (Wet No. 66 van 1965), om aan bedoelde persoon gekrediteer te word; of

(b) indien die persoon wat daarop geregtig is, na die oordeel van die Sekretaris 'n Bantoe is soos aldus omskryf, in die Suid-Afrikaanse Bantoe-trustfonds, ingestel ingevolge artikel 8 van die Bantoe-trust en -grond Wet, 1936 (Wet No. 18 van 1936), om aangewend te word ooreenkomstig die bepalings van daardie Wet: Met dien verstande dat die persoon wat daarop geregtig is daardie geld binne 'n tydperk van dertig jaar vanaf die datum waarop hy geregtig geword het om daardie geld op te eis, van die Suid-Afrikaanse Bantoe-trustfonds kan opeis.

(4) Voordat 'n som geld uit hoofde van die bepalings van subartikel (1) aan die persoon wat daarop geregtig is, oorbetal word of ingevolge subartikel (3) gestort word, trek die Sekretaris ten bate van die Gekonsolideerde Inkomstefonds administrasie-

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an administration fee consisting of such percentage of the said amount as the Minister may in consultation with the Minister of Finance from time to time determine.

PART 3

SECURITY BY COMMISSION AGENTS AND FIDELITY GUARANTEE FUNDS

Security by
commission agent.

26. (1) Subject to the provisions of subsection (2), no person, other than a local authority, shall carry on the business of a commission agent unless he has given the Secretary the prescribed security to fulfil any obligation that may arise towards any person in respect of the proceeds of any product entrusted to him by that person for sale, or in respect of damage to, or loss of, such product, including any obligation to pay the taxed costs of any action for the recovery of such proceeds or of compensation in respect of such damage or loss, but excluding any obligation to pay interest on such proceeds or compensation.

(2) The provisions of subsection (1) shall not apply to a co-operative agricultural society, a co-operative agricultural company or a farmers' special co-operative company registered as such in terms of the Co-operative Societies Act, 1939 (Act No. 29 of 1939), in respect of the business of a commission agent carried on by such society or company with reference to vegetables, fruit, culinary herbs or miscellaneous market products as defined in Schedule 1, delivered to it by its members.

(3) A commission agent who—

- (a) has carried on business as such lawfully and without a break with reference to a particular product for a period of not less than two years;
- (b) has during the said period not been convicted of an offence involving fraud or dishonesty; and
- (c) is in respect of such product a member of a guarantee fund of which the liability has commenced in terms of section 31 (2) (a),

shall be exempt from the provisions of subsection (1) as from a date determined by the Minister in so far as such commission agent carries on business as such with reference to the product in respect of which the said guarantee fund has been established: Provided that the security given by any such commission agent in terms of subsection (1) prior to the date of his being so exempted, shall remain of force and effect for a prescribed period after the said date for the fulfilment of any obligation which arose before the said date.

Establishment of
fidelity guarantee
funds.

27. (1) The Minister may by notice in the *Gazette* establish a fidelity guarantee fund for commission agents who carry on business as such with reference to any product referred to in such notice.

(2) A guarantee fund shall consist of—

- (a) all amounts paid to or on account of the fund in terms of section 30;
- (b) the income from time to time accruing from the investment of the fund;
- (c) all moneys recovered by or on behalf of the fund in the exercise of any right of action conferred by section 33; and
- (d) all other moneys that may be lawfully paid into the fund.

Membership of
guarantee funds.

28. (1) Only a commission agent registered as such in respect of the product mentioned in a notice referred to in section 27 may become a member of the guarantee fund established by

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gelde daarvan af bestaande uit die persentasie van bedoelde bedrag wat die Minister in oorleg met die Minister van Finansies van tyd tot tyd bepaal.

DEEL 3

SEKERHEIDSTELLING DEUR KOMMISSIE-AGENTE EN
GETROUHEIDSWAARBORGFONDSE

26. (1) Behoudens die bepalings van subartikel (2), mag niemand, behalwe 'n plaaslike bestuur, die besigheid van kommissie-agent dryf nie tensy hy die voorgeskrewe sekuriteit aan die Sekretaris verstrek het om enige verpligting na te kom wat mag ontstaan teenoor iemand ten opsigte van die opbrengs van 'n produk wat so iemand aan hom vir verkoop toevertrou het, of ten opsigte van skade aan of verlies van sodanige produk, met inbegrip van 'n verpligting om die getakseerde koste van 'n geding vir die verhaal van sodanige opbrengs, of van vergoeding ten opsigte van sodanige skade of verlies, te betaal, maar met uitsluiting van 'n verpligting om rente op sodanige opbrengs of vergoeding te betaal.

Sekuriteit deur
kommissie-agent.

(2) Die bepalings van subartikel (1) is nie van toepassing nie op 'n koöperatiewe landbouvereniging, 'n koöperatiewe landboumaatskappy of 'n spesiale koöperatiewe boeremaatskappy as sodanig geregistreer ingevolge die Wet op Koöperatiewe Verenigings, 1939 (Wet No. 29 van 1939), ten opsigte van die besigheid van kommissie-agent wat so 'n vereniging of maatskappy dryf met betrekking tot groente, vrugte, kombuis-kruie of diverse markprodukte, soos omskryf in Bylae 1, wat deur lede daarvan daaraan gelewer is.

(3) 'n Kommissie-agent wat—

- (a) vir 'n tydperk van minstens twee jaar wettiglik en onafgebroke met betrekking tot 'n bepaalde produk besigheid as sodanig gedryf het;
- (b) gedurende bedoelde tydperk nie skuldig bevind is aan 'n misdryf waarby bedrog of oneerlikheid betrokke was nie; en
- (c) ten opsigte van so 'n produk lid is van 'n waarborgfonds waarvan die aanspreeklikheid ingevolge artikel 31 (2) (a) begin loop het,

word vanaf 'n datum deur die Minister bepaal, van die bepalings van subartikel (1) vrygestel vir sover sodanige kommissie-agent met betrekking tot die produk waarvoor bedoelde waarborgfonds ingestel is, as sodanig besigheid dryf: Met dien verstande dat die sekuriteit deur so 'n kommissie-agent ingevolge subartikel (1) verstrek voor die datum waarop hy aldus vrygestel is, vir 'n voorgeskrewe tydperk na bedoelde datum van krag bly tot nakoming van enige verpligting wat voor bedoelde datum ontstaan het.

27. (1) Die Minister kan by kennisgewing in die *Staatskoerant* 'n getrouheidswaarborgfonds instel vir kommissie-agente wat as sodanig besigheid dryf met betrekking tot 'n in die kennisgewing vermelde produk.

Instelling van
getrouheids-
waarborgfondse.

(2) 'n Waarborgfonds bestaan uit—

- (a) alle bedrae aan of op rekening van die fonds ingevolge artikel 30 betaal;
- (b) die inkomste wat van tyd tot tyd uit die belegging van die fonds oloop;
- (c) alle geld wat deur of namens die fonds verhaal word by die uitoefening van 'n reg van aksie deur artikel 33 verleen; en
- (d) enige ander geld wat wettiglik in die fonds gestort word.

28. (1) Slegs 'n kommissie-agent wat as sodanig geregistreer is ten opsigte van die produk in 'n in artikel 27 bedoelde kennisgewing vermeld, kan 'n lid word van die waarborgfonds by

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that notice, and any such commission agent shall so become a member—

- (a) in the case of a commission agent already registered, on the date of establishment of the fund, as such in respect of the product in question, with effect from the date of establishment of that fund;
- (b) in the case of a commission agent being registered as such in respect of the product in question on a date after the establishment of the fund, with effect from the date of his registration.

(2) A relevant partnership shall not as such become a member of a guarantee fund, but each member of such a partnership shall become a member of a guarantee fund.

(3) A commission agent shall remain a member of a relevant guarantee fund until his registration as a commission agent is cancelled under section 6 or he ceases to carry on business as such.

Administration
and control of
guarantee funds.

29. (1) A guarantee fund shall be administered and controlled by the Secretary who shall keep proper account of the matters of the fund.

(2) The Secretary shall cause an account to be opened at the South African Reserve Bank to which all moneys which accrue to a guarantee fund shall be credited and all payments therefrom shall be debited.

(3) A guarantee fund shall be audited annually by the Controller and Auditor-General.

Contributions to
guarantee funds by
commission agents.

30. (1) Every commission agent who is a member of a guarantee fund, shall contribute annually a prescribed amount to the fund of which he is a member, which amount shall be payable to the Secretary for the benefit of that fund before or on a prescribed date: Provided that if two or more members carry on business in partnership as a commission agent, such members shall jointly contribute the prescribed amount to the fund concerned.

(2) The Minister may, by notice in the *Gazette*, suspend the provisions of subsection (1) in relation to any particular guarantee fund, if he is satisfied that the net assets of that fund will be sufficient to cover all foreseeable claims in terms of section 31, and the Minister may likewise by notice in the *Gazette* withdraw any first-mentioned notice if he is no longer so satisfied.

Payments from
guarantee fund.

31. (1) The moneys in a guarantee fund shall, subject to the provisions of subsections (2) and (3), be utilized for the fulfilment of any obligation that may arise towards any person in respect of the proceeds of a product to which that fund relates and which was entrusted by that person to a commission agent who is a member of that fund, for sale, or in respect of damage to, or loss of, any such product, including any obligation to pay the taxed costs of any action for the recovery of such proceeds, or compensation in respect of such damage or loss, but excluding any obligation to pay interest on such proceeds or compensation.

(2) No proceedings shall be instituted for the payment of a claim in terms of subsection (1) from a guarantee fund and no payment of any such claim shall be made from a guarantee fund—

- (a) before a date fixed by the Minister by notice in the *Gazette* as the date on which the liability of such fund shall for the purposes of subsection (1) commence;
- (b) if the cause of action arose before a date fixed under paragraph (a);
- (c) until security given by the commission agent concerned in terms of section 26, has been exhausted; and
- (d) unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the commission agent concerned and against

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daardie kennisgewing ingestel, en so 'n kommissie-agent word aldus lid—

- (a) in die geval van 'n kommissie-agent wat op die datum van instelling van die fonds reeds as sodanig ten opsigte van die betrokke produk geregistreer is, met ingang van die datum van instelling van daardie fonds;
- (b) in die geval van 'n kommissie-agent wat op 'n datum na instelling van die fonds as sodanig ten opsigte van die betrokke produk geregistreer word, met ingang van die datum van sy registrasie.

(2) 'n Betrokke vennootskap word nie as sodanig lid van 'n waarborgfonds nie, maar elke lid van so 'n vennootskap word lid van 'n waarborgfonds.

(3) 'n Kommissie-agent bly lid van 'n betrokke waarborgfonds totdat sy registrasie as kommissie-agent kragtens artikel 6 ingetrek is of hy ophou om as sodanig besigheid te dryf.

29. (1) 'n Waarborgfonds word deur die Sekretaris bestuur en beheer wat behoorlik moet boekhou van die sake van die fonds. Bestuur en beheer van waarborgfondse.

(2) Die Sekretaris laat 'n rekening by die Suid-Afrikaanse Reserwebank open wat met alle geld wat aan 'n waarborgfonds toeval, gekrediteer moet word en met alle betalings daaruit gedebiteer moet word.

(3) 'n Waarborgfonds moet jaarliks deur die Kontroleur en Ouditeur-generaal geouditeer word.

30. (1) Elke kommissie-agent wat lid van 'n waarborgfonds is, moet jaarliks 'n voorgeskrewe bedrag tot die fonds waarvan hy lid is, bydra, welke bedrag voor of op 'n voorgeskrewe datum aan die Sekretaris ten bate van daardie fonds betaalbaar is: Met dien verstande dat indien twee of meer lede in vennootskap as kommissie-agent besigheid dryf, bedoelde lede gesamentlik die voorgeskrewe bedrag tot die betrokke fonds moet bydra. Bydraes tot waarborgfondse deur kommissie-agente.

(2) Die Minister kan by kennisgewing in die *Staatskoerant* die bepalings van subartikel (1) met betrekking tot 'n bepaalde waarborgfonds opskort, indien hy oortuig is dat die netto bates van daardie fonds voldoende sal wees om enige voorsienbare eise ingevolge artikel 31 te dek, en die Minister kan insgelyk by kennisgewing in die *Staatskoerant* 'n eersbedoelde kennisgewing intrek indien hy nie langer aldus oortuig is nie.

31. (1) Die geld in 'n waarborgfonds word, behoudens die bepalings van subartikels (2) en (3), aangewend om enige verpligting na te kom wat mag ontstaan teenoor iemand ten opsigte van die opbrengs van 'n produk waarop daardie fonds betrekking het en wat so iemand aan 'n kommissie-agent wat lid van daardie fonds is, vir verkoop toevertrou het, of ten opsigte van skade aan of verlies van so 'n produk, met inbegrip van 'n verpligting om die getakseerde koste van 'n geding vir die verhaal van sodanige opbrengs of van vergoeding ten opsigte van sodanige skade of verlies, te betaal, maar met uitsluiting van 'n verpligting om rente op sodanige opbrengs of vergoeding te betaal. Betalings uit waarborgfonds.

(2) Geen verrigtinge word vir die betaling van 'n eis uit 'n waarborgfonds ingevolge subartikel (1) ingestel nie en geen betaling van so 'n eis word uit 'n waarborgfonds gemaak nie—

- (a) voor 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel as die datum waarop die aanspreeklikheid van daardie fonds by die toepassing van subartikel (1) begin loop;
- (b) indien die eisoorsaak voor 'n kragtens paragraaf (a) vasgestelde datum ontstaan het;
- (c) voordat sekuriteit deur die betrokke kommissie-agent ingevolge artikel 26 verstrekk, uitgeput is; en
- (d) tensy en totdat die eiser gebruik gemaak het van alle toepaslike regte van aksie en ander regsmiddels beskikbaar teen die betrokke kommissie-agent en teen

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- all other persons liable in respect of the loss suffered by such claimant.
- (3) (a) The provisions of subsection (2) (c) shall not apply to a claim in respect of a commission agent exempted under subsection (3) of section 26 from the provisions of subsection (1) of that section.
- (b) The Secretary may, if he deems fit, waive the requirement referred to in subsection (2) (d) in respect of any particular claim or claims against a commission agent, and thereafter such claim or claims shall be proved in the prescribed manner as a valid claim or claims before it is or they are paid from the guarantee fund concerned.
- Defences to claims against a guarantee fund.** 32. In any action brought against the Secretary in respect of any claim against a guarantee fund, all defences which would have been available to the commission agent against whom the claim arose, shall be available to the Secretary.
- Transfer of rights of action.** 33. On payment out of a guarantee fund of any moneys in settlement in whole or in part of any claim in terms of section 31 (1), all the rights and remedies of the claimant against the commission agent and any other person liable in respect of the loss of the claimant, shall be transferred to the Secretary to the extent of such payment.
- Investment of moneys in guarantee funds.** 34. Any moneys in a guarantee fund which are not required for immediate use, shall be invested by the Secretary with the Public Debt Commissioners or in such other manner as the Minister may in consultation with the Minister of Finance determine.
- Guarantee funds exempt from taxes.** 35. The income of a guarantee fund shall be exempt from the provisions of any law relating to the payment of income tax or any other tax or levy by the State.

PART 4

DUTIES OF, AND PROHIBITIONS RELATING TO, COMMISSION AGENTS

- Records.** 36. A commission agent shall maintain, in either of the official languages of the Republic, adequate books of the conduct of his business as such, and shall retain each such book, together with the vouchers, receipts and other prescribed documents that relate to any entry appearing therein, and each written permission referred to in sections 43 (1) (b) and 46 and a true copy of every written communication referred to in sections 44 and 45, for a period of at least three years after the last entry in respect of any transaction has been made in such book or after any action was last taken under such permission or the last relevant communication was made, as the case may be.
- Certain information to be furnished to Secretary.** 37. (1) A commission agent shall forthwith notify the Secretary—
- of any change of his business address;
 - of the dissolution of a partnership of which he is a member;
 - if he becomes a member of a partnership;
 - in the case of a commission agent who is a company, of any change in the directorate of such company and of the name and business address of any new director;
 - of the full names of every person whom he employs as a salesman or of any of his employees whom he orders to perform the duties or functions of a salesman, stating the date of such employment or order; and

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alle ander persone aanspreeklik ten opsigte van die verlies deur sodanige eiser gely.

(3) (a) Die bepalinge van subartikel (2) (c) is nie op 'n eis ten opsigte van 'n kommissie-agent wat kragtens subartikel (3) van artikel 26 van die bepalinge van subartikel (1) van daardie artikel vrygestel is, van toepassing nie.

(b) Die Sekretaris kan, ten opsigte van 'n bepaalde eis of eise teen 'n kommissie-agent, na goeie dunnke afstand doen van die in subartikel (2) (d) bedoelde vereiste, en daarna moet daardie eis of eise op die voorgeskrewe wyse as 'n geldige eis of eise bewys word voordat dit uit die betrokke waarborgfonds betaal word.

32. In 'n aksie teen die Sekretaris in verband met 'n waarborgfonds ingestel, is alle verweermiddels wat vir die kommissie-agent, teen wie die eis ontstaan het, beskikbaar sou gewees het, vir die Sekretaris beskikbaar. Verweermiddels ten opsigte van eise teen 'n waarborgfonds.

33. By betaling uit 'n waarborgfonds van enige geld ter algehele of gedeeltelike vereffening van enige eis ingevolge artikel 31 (1), word alle regte en regsmiddels van die eiser teen die kommissie-agent en 'n ander persoon aanspreeklik ten opsigte van die verlies van die eiser, aan die Sekretaris in die mate van sodanige betaling oorgedra. Oordrag van regte van aksie.

34. Geld in 'n waarborgfonds wat nie vir onmiddellike gebruik nodig is nie, moet deur die Sekretaris by die Openbare Skuldkommissaris of op die ander wyse wat die Minister in oorleg met die Minister van Finansies bepaal, belê word. Belegging van geld in waarborgfondse.

35. Die inkomste van 'n waarborgfonds word vrygestel van die bepalinge van 'n wet betreffende die betaling van inkomste-belasting of 'n ander belasting of heffing deur die Staat. Waarborgfondse van belastinge vrygestel.

DEEL 4

PLIGTE VAN, EN VERBODSBEPALINGS BETREFFENDE,
KOMMISSIE-AGENTE

36. 'n Kommissie-agent moet in enigeen van die amptelike Aantekeninge. tale van die Republiek toereikend boekhou van die dryf van sy besigheid as sodanig, en moet elke sodanige boek, tesame met die bewysstukke, kwitansies en ander voorgeskrewe stukke wat op 'n inskrywing daarin betrekking het, en elke in artikels 43 (1) (b) en 46 bedoelde skriftelike toestemming en 'n juiste afskrif van elke in artikels 44 en 45 bedoelde skriftelike mededeling, behou vir 'n tydperk van minstens drie jaar nadat die jongste inskrywing ten opsigte van enige transaksie in sodanige boek gemaak is of nadat 'n handeling laas uit hoofde van sodanige toestemming verrig is of die jongste betrokke mededeling gemaak is, na gelang van die geval.

37. (1) 'n Kommissie-agent moet onverwyld kennis aan die Sekretaris verstrek— Sekere inligting moet aan Sekretaris verstrek word.

(a) van enige verandering van sy besigheidsadres;

(b) van die ontbinding van 'n vennootskap waarvan hy 'n lid is;

(c) as hy 'n lid van 'n vennootskap word;

(d) in die geval van 'n kommissie-agent wat 'n maatskappy is, van 'n verandering in die direksie van daardie maatskappy en van die naam en besigheidsadres van 'n nuwe direkteur;

(e) van die volle name van elke persoon wat hy as verkoopsman in diens neem of van enige van sy werknemers wat hy opdrag gee om die pligte of werksaamhede van 'n verkoopsman te verrig, met vermelding van die datum van sodanige indienneming of opdrag; en

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(f) of the date on which the period of service of any person in his employ, who is registered as a salesman or whose registration as such is pending, terminated for any reason, stating particulars of and the reasons for such termination,

and the Secretary shall alter the register referred to in section 12 accordingly.

(2) A commission agent shall furnish such additional information in regard to any matter referred to in subsection (1) as the Secretary may require.

Annual returns.

38. Any person who is required by section 26 to give security to the Secretary, shall annually before or on a prescribed date furnish the Secretary with a written return containing the prescribed particulars in regard to his conduct of the business of a commission agent.

Reports by commission agents to their principals.

39. (1) Whenever any product which has been entrusted for sale to a commission agent, is not disposed of within three business days after receipt thereof, the commission agent shall forthwith advise his principal in writing of the quantity and condition of such product, and similar reports shall be submitted weekly thereafter until such product is disposed of.

(2) The provisions of subsection (1) shall not apply in respect of cured hides and cured skins, as defined in Schedule 1.

Prohibitions.

40. No commission agent shall—

- (a) make use of any fraudulent practice in connection with the measuring of the mass or counting or other determination of the quantity of any product received, purchased, sold or handled by him in the course of business;
- (b) display any sample taken from a product entrusted to him for sale, or sell such product by sample, unless such sample is in all respects representative of the product to which the sample purports to relate;
- (c) give, offer or undertake to give any purchaser any rebate in respect of the sale of a product entrusted to him, except from his commission;
- (d) wilfully misrepresent by word, deed or otherwise the outward appearance, size, kind, grade, quality, mass or quantity of any product received, purchased, sold, offered for sale or handled by him in the course of business; or
- (e) wilfully make any false or misleading statement in the course of business.

Issue of sales note at sale of product.

41. (1) A commission agent shall issue—

- (a) in the case of a sale by auction of any product entrusted to him for sale, forthwith after the auction; or
- (b) in the case of a sale of any such product by private treaty, forthwith, when he so sells such product,

in respect of each such sale a sales note indicating the prescribed particulars clearly and legibly, and shall furnish the principal concerned with a copy thereof when account is given as required by section 16: Provided that where more than one sale is effected on any one day on behalf of a principal, a statement 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.

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(f) van die datum waarop die diensydperk van 'n persoon by hom in diens wat as verkoopsman geregistreer is, of wie se registrasie as sodanig hangende is, om enige rede geëindig het, met vermelding van besonderhede van en die redes vir sodanige beëindiging,

en die Sekretaris moet die in artikel 12 bedoelde register dien-ooreenkomstig wysig.

(2) 'n Kommissie-agent moet die bykomende inligting ten opsigte van 'n in subartikel (1) genoemde aangeleentheid verstrek wat die Sekretaris verlang.

38. Iemand van wie daar by artikel 26 vereis word om sekuriteit aan die Sekretaris te verstrek, moet jaarliks voor of op 'n voorgeskrewe datum 'n skriftelike opgawe bevattende die voorgeskrewe besonderhede betreffende die dryf deur hom van die besigheid van kommissie-agent aan die Sekretaris verstrek.

Jaarlikse
opgawes.

39. (1) Wanneer daar nie oor 'n produk wat aan 'n kommissie-agent vir verkoop toevertrou is, binne drie besigheidsdae na ontvangs daarvan beskik is nie, moet die kommissie-agent onverwyld sy prinsipaal skriftelik van die hoeveelheid en toestand van daardie produk in kennis stel, en soortgelyke verslae moet daarna weekliks verstrek word totdat daar oor bedoelde produk beskik is.

Verslae deur
kommissie-agente
aan hul prinsipale.

(2) Die bepalings van subartikel (1) is nie van toepassing nie ten opsigte van bereide huide en bereide velle, soos in Bylae 1 omskryf.

40. Geen kommissie-agent—

Verbodsbepalings.

- (a) maak gebruik van enige bedrieglike praktyk in verband met die meet van die massa of tel of ander vasstelling van die hoeveelheid van 'n produk deur hom ontvang, gekoop, verkoop of gehanteer in die loop van besigheid nie;
- (b) vertoon 'n monster geneem van 'n produk aan hom vir verkoop toevertrou, of verkoop so 'n produk volgens monster nie tensy sodanige monster in alle opsigte verteenwoordigend is van die produk waarop die monster heet betrekking te hê;
- (c) gee aan enige koper 'n korting of bied aan of onderneem om aan enige koper 'n korting toe te staan ten opsigte van die verkoop van 'n produk aan hom toevertrou nie, behalwe uit sy kommissie;
- (d) maak opsetlik deur woord, daad of andersins enige wanvoorstelling betreffende die uiterlike voorkoms, grootte, soort, graad, kwaliteit, massa of hoeveelheid van 'n produk deur hom ontvang, gekoop, verkoop, vir verkoop aangebied of gehanteer in die loop van besigheid nie; of
- (e) maak opsetlik enige valse of misleidende verklaring in die loop van besigheid nie.

41. (1) 'n Kommissie-agent moet—

Uitreiking van
verkoopnota by
verkoop van
produk.

(a) in die geval van 'n verkoping by veiling van 'n produk wat aan hom vir verkoop toevertrou is, onverwyld na afloop van die veiling; of

(b) in die geval van 'n verkoping van so 'n produk uit die hand, onverwyld wanneer hy die produk aldus verkoop,

ten opsigte van elke sodanige verkoping 'n verkoopnota uitreik waarin die voorgeskrewe besonderhede duidelik en leesbaar aangetoon word, en 'n afskrif daarvan aan die betrokke prinsipaal verstrek wanneer die by artikel 16 vereiste rekenskap gegee word: Met dien verstande dat waar meer as een verkoping op een dag ten behoeve van 'n prinsipaal geskied, 'n staat waarin die voormelde voorgeskrewe besonderhede duidelik en leesbaar ten opsigte van al die betrokke verkopings aangetoon word, aan daardie prinsipaal verstrek kan word in die plek van die afskrifte van die verkoopnotas wat op daardie verkopings betrekking het.

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- (2) (a) Whenever a local authority sells by auction on behalf of a commission agent any product entrusted to him for sale, the sales note referred to in subsection (1) which relates to such sale, shall be issued by that local authority.
- (b) One copy of that sales note shall forthwith be delivered by the said local authority to that commission agent, which copy shall be given by the commission agent to the principal in question when account is given as required by section 16.
- (3) If the Minister is satisfied that the provisions of subsection (1) have an unnecessarily restrictive effect on an otherwise satisfactory system of sale of vegetables, fruit, culinary herbs or miscellaneous market products, as defined in Schedule 1, employed by a commission agent or class of commission agents carrying on business as a commission agent in respect of such products in any other place than a fresh produce market under the control of a local authority, he may, subject to such conditions as he may think fit, exempt that commission agent or class of commission agents from the provisions of subsection (1) in respect of the carrying on of such business.

Where sales of products by commission agents by auction are to be held.

42. (1) No commission agent shall sell by auction any product entrusted to him for sale, otherwise than—

- (a) in the case of vegetables, fruit, culinary herbs and miscellaneous market products, as defined in Schedule 1, on a fresh produce market under the control of a local authority or on premises let or approved by a local authority as a fresh produce market;
- (b) in the case of meat and by-products derived from slaughtered cattle, sheep, goats and pigs, as so defined, obtained at an abattoir where a scheme is applied, and cured hides and cured skins as so defined, in a place approved by the Meat Board for this purpose;
- (c) in the case of any other product, in a place to which all members of the public have free access.

(2) Subsection (1) shall not apply to any sale of any product by auction held in any enclosure or within any building or other structure, by any church or any charitable or educational organization, or at any show held by, or under the auspices of, an agricultural society, if all persons who at the time of the sale have been admitted to such enclosure, building, structure, show or any part thereof, are given free access to such sale.

Restrictions relating to products offered for sale by auction.

43. (1) A commission agent who conducts any sale of a product entrusted to him for sale, by auction—

- (a) shall not refuse to accept any bid at or higher than the reserve price placed thereon, unless he believes on reasonable grounds (the burden of proof of which shall be upon him), that the bidder is unable to comply with the conditions of sale as to payment;
- (b) shall not sell such product which did not attain the reserve price placed thereon and which remains unsold at the conclusion of the auction, by private treaty at a price which is lower than the highest bid received at that auction in respect of such product, unless he has first obtained the written permission of the person designated by the Secretary for that purpose.

(2) The provisions of subsection (1) (a) shall *mutatis mutandis* apply to a local authority which conducts the sale of any product by auction on a fresh produce market on behalf of the commission agent to whom such product has been entrusted for sale.

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- (2) (a) Wanneer 'n plaaslike bestuur namens 'n kommissie-agent 'n produk wat aan hom vir verkoop toevertrou is, by veiling verkoop, moet die in subartikel (1) bedoelde verkoopnota wat op daardie verkoping betrekking het deur daardie plaaslike bestuur uitgereik word.
- (b) Een afskrif van dié verkoopnota moet onverwyld deur genoemde plaaslike bestuur aan dié kommissie-agent oorhandig word, welke afskrif deur die kommissie-agent aan die betrokke prinsipaal verstrek moet word wanneer die by artikel 16 vereiste rekenskap gegee word.
- (3) Indien die Minister oortuig is dat die bepalings van subartikel (1) 'n onnodig stremmende uitwerking het op 'n andersins bevredigende stelsel van verkoop van in Bylae 1 omskrewe groente, vrugte, kombuiskruie of diverse markprodukte wat gevolg word deur 'n kommissie-agent of klas kommissie-agente wat ten opsigte van bedoelde produkte as kommissie-agent besigheid dryf op 'n ander plek as 'n varsproduktemark onder beheer van 'n plaaslike bestuur, kan hy daardie kommissie-agent of klas kommissie-agente, onderworpe aan die voorwaardes wat hy goetvind, van die bepalings van subartikel (1) ten opsigte van die dryf van bedoelde besigheid vrystel.

42. (1) Geen kommissie-agent verkoop by veiling 'n produk wat aan hom vir verkoop toevertrou is nie, behalwe—

Waar verkopings van produkte deur kommissie-agente by veiling moet plaasvind.

- (a) in die geval van groente, vrugte, kombuiskruie en diverse markprodukte, soos omskryf in Bylae 1, op 'n varsproduktemark onder beheer van 'n plaaslike bestuur of op 'n perseel deur 'n plaaslike bestuur verhuur of goedgekeur as 'n varsproduktemark;
- (b) in die geval van aldus omskrewe vleis en neweprodukte, van geslagte beeste, skape, bokke en varke, wat verkry word by 'n abattoir waar 'n skema toegepas word, en aldus omskrewe bereide huide en bereide velle, op 'n plek deur die Vleisraad vir dié doel goedgekeur;
- (c) in die geval van enige ander produk, op 'n plek waar toe alle lede van die publiek vrye toegang het.

(2) Subartikel (1) is nie van toepassing nie op 'n verkoping van 'n produk by veiling wat in 'n omheinde plek of in 'n gebou of ander struktuur deur 'n kerklike, liefdadigheids- of opvoedkundige organisasie gehou word, of by 'n tentoonstelling wat deur of onder beskerming van 'n landbouvereniging gehou word, indien aan alle persone wat tydens die verkoping tot bedoelde omheinde plek, gebou, struktuur, tentoonstelling of 'n deel daarvan toegelaat is, vrye toegang tot daardie verkoping verleen word.

43. (1) 'n Kommissie-agent wat 'n verkoping van 'n produk wat aan hom vir verkoop toevertrou is, by veiling hou—

Beperkings met betrekking tot produkte vir verkoop by veiling aangebied.

- (a) mag nie weier om 'n bod teen of hoër as die reserweprys wat daarop geplaas is, te aanvaar nie, tensy hy op redelike gronde vermoed (die bewyslas waarvan op hom rus) dat die bieder nie in staat is om die verkoopsvoorwaardes ten opsigte van betaling na te kom nie;
- (b) verkoop nie so 'n produk wat by daardie veiling nie die reserweprys behaal het nie wat daarop geplaas is en wat by die sluiting van die veiling onverkoop is, uit die hand nie teen 'n prys wat minder is as die hoogste bod by sodanige veiling ten opsigte van daardie produk verkry, tensy hy vooraf die skriftelike toestemming verkry het van die persoon deur die Sekretaris vir dié doel aangewys.

(2) Die bepalings van subartikel (1) (a) is *mutatis mutandis* van toepassing op 'n plaaslike bestuur wat die verkoping van 'n produk namens die kommissie-agent aan wie daardie produk vir verkoop toevertrou was, op 'n varsproduktemark by veiling hou.

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Purchase of
products by
commission agent.

44. No commission agent shall purchase for himself or on behalf of any other person any product entrusted to him for sale, without informing his principal in writing of such fact when account is given as required by section 16.

Sale of products
by commission
agent to persons
in whose business
he has a financial
interest.

45. No commission agent shall knowingly sell any product which has been entrusted to him for sale, to any person in whose business he, his wife or partner or employee has any financial interest, without informing his principal in writing of such fact when account is given as required by section 16.

Destruction of
products by
commission agent.

46. No commission agent shall destroy any product entrusted to him for sale without first obtaining the written permission of—

- (a) a health inspector having jurisdiction; or
- (b) the person designated for that purpose by the Secretary.

Payment of
commission and
other remuneration
to commission
agent.

47. No commission agent shall accept or request the payment of a commission or any other remuneration in respect of the sale of any product entrusted to him for sale, in excess of the prescribed amount or rate or from persons or a class of persons other than the prescribed persons or class of persons.

PART 5

LIVESTOCK AUCTIONEERS

Sale of livestock
by auction to be
in public.

48. (1) No livestock auctioneer shall sell by auction livestock as defined in Schedule 1 (hereinafter in this Part referred to as "livestock") entrusted to him for sale, in any other place than one to which all members of the public have free access.

(2) Subsection (1) shall not apply to any sale held in any enclosure or within any building or other structure, by any church or any charitable or educational organization or at any show held by, or under the auspices of, an agricultural society, or at a race meeting held by, or under the auspices of, a licensed racing club, if all persons who at the time of the sale have been admitted to such enclosure, building, structure, show or race meeting or any part thereof, are given free access to such sale.

Restrictions in
respect of sale of
livestock.

49. (1) No livestock auctioneer shall—

- (a) purchase for himself or on behalf of any other person livestock entrusted to him for sale; or
- (b) knowingly sell livestock entrusted to him for sale to any person in whose business he, his wife or partner or employee has any financial interest,

without informing his principal in writing of such fact when he gives account to his principal of the proceeds of that livestock.

(2) No livestock auctioneer shall sell by auction livestock entrusted to him for sale by any person, together with any other livestock so entrusted to him by any other person, unless the said persons have consented thereto.

Certain provisions
relating to
commission agents
to apply to
livestock
auctioneers.

50. (1) The provisions of sections 40, 41 (1) (a), 43 (1) and 47 shall *mutatis mutandis* apply to a livestock auctioneer in respect of the sale by him by auction of livestock entrusted to him for sale: Provided that the reference in section 43 (1) (b) to the

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44. Geen kommissie-agent koop vir homself of ten behoeve van iemand anders 'n produk wat aan hom vir verkoop toevertrou is nie, sonder om sodanige feit skriftelik aan sy prinsipaal mee te deel wanneer die by artikel 16 vereiste rekenskap gegee word.

Koop van produkte deur kommissie-agent.

45. Geen kommissie-agent verkoop wetens 'n produk wat aan hom vir verkoop toevertrou is, aan iemand in wie se besigheid hy, sy vrou of vennoot of werknemer enige geldelike belang het nie, sonder om sodanige feit aan sy prinsipaal skriftelik mee te deel wanneer die by artikel 16 vereiste rekenskap gegee word.

Verkoop van produkte deur kommissie-agent aan persone in wie se besigheid hy 'n geldelike belang het.

46. Geen kommissie-agent vernietig 'n produk aan hom vir verkoop toevertrou nie sonder dat hy vooraf die skriftelike toestemming verkry van—

Vernietiging van produkte deur kommissie-agent.

(a) 'n gesondheidsinspekteur met regsbevoegdheid; of

(b) die persoon vir daardie doel deur die Sekretaris aangewys.

47. Geen kommissie-agent aanvaar of versoek die betaling van 'n kommissie of ander vergoeding ten opsigte van die verkoop van 'n produk aan hom vir verkoop toevertrou, hoër as die voorgeskrewe bedrag of koers of van persone of 'n klas persone anders as die voorgeskrewe persone of klas persone nie.

Betaling van kommissie en ander vergoeding aan kommissie-agent.

DEEL 5

LEWENDE HAWE-AFSLAERS

48. (1) Geen lewende hawe-afslaer verkoop by veiling enige lewende hawe soos in Bylae 1 omskryf (hieronder in hierdie Deel „lewende hawe” genoem) wat aan hom vir verkoop toevertrou is nie op 'n ander plek as een waartoe alle lede van die publiek vrye toegang het.

Verkoop van lewende hawe by veiling moet in die openbaar geskied.

(2) Subartikel (1) is nie van toepassing nie op 'n verkoping wat in 'n omheinde plek of in 'n gebou of ander struktuur deur 'n kerklike, liefdadigheids- of opvoedkundige organisasie gehou word, of by 'n tentoonstelling wat deur of onder beskerming van 'n landbouvereniging gehou word, of by 'n wedrenbyeenkoms wat deur of onder beskerming van 'n gelisensieerde wedrenklub gehou word, indien aan alle persone wat tydens die verkoping tot bedoelde omheinde plek, gebou, struktuur, tentoonstelling of wedrenbyeenkoms of 'n deel daarvan toegelaat is, vrye toegang tot daardie verkoping verleen word.

49. (1) Geen lewende hawe-afslaer—

(a) koop vir homself of ten behoeve van iemand anders lewende hawe wat aan hom vir verkoop toevertrou is nie; of

(b) verkoop wetens lewende hawe wat aan hom vir verkoop toevertrou is, aan iemand in wie se besigheid hy, sy vrou of vennoot of werknemer enige geldelike belang het nie,

Beperkinge met betrekking tot die verkoop van lewende hawe.

sonder om sodanige feit skriftelik aan sy prinsipaal mee te deel wanneer hy aan sy prinsipaal rekenskap van die opbrengs van daardie lewende hawe gee.

(2) Geen lewende hawe-afslaer verkoop by veiling lewende hawe wat deur iemand aan hom vir verkoop toevertrou is, saam met ander lewende hawe wat deur iemand anders aldus aan hom toevertrou is nie, tensy bedoelde persone hul toestemming daartoe gegee het.

50. (1) Die bepalinge van artikels 40, 41 (1) (a), 43 (1) en 47 is *mutatis mutandis* op 'n lewende hawe-afslaer ten opsigte van die verkoop deur hom by veiling van lewende hawe wat aan hom vir verkoop toevertrou is, van toepassing: Met dien

Sekere bepalinge met betrekking tot kommissie-agente op lewende hawe-afslaers van toepassing.

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written permission of a person designated by the Secretary, shall, for the purposes of such application, be construed as the permission of the owner of the livestock concerned.

(2) The Minister may by notice in the *Gazette* apply any or all of the provisions of this Act which refer to commission agents and which have not been made applicable to livestock auctioneers by subsection (1), to livestock auctioneers in general or to any class of livestock auctioneers stated in the notice.

(3) The Minister may at any time amend or withdraw a notice under subsection (2) by a further notice in the *Gazette*.

Perusal of documents relating to sale of livestock.

51. (1) Any person who has entrusted and delivered any livestock to a livestock auctioneer for sale, may within ninety days after such delivery order such auctioneer by notice in writing to submit for inspection to himself or to an accountant and auditor named in such notice (who shall be registered as such under the Public Accountants and Auditors Act, 1951 (Act No. 51 of 1951)), every book or document relating to such livestock which is in his possession.

(2) Such person or accountant and auditor shall not disclose any information obtained from such inspection which is irrelevant and does not concern such person.

PART 6

STATUTORY AGENTS

Security by statutory agents.

52. The Minister may direct any statutory agent to give the Secretary or, in the case of a regulated product, the control board in question, such security as the Minister may at his discretion from time to time determine, to fulfil any obligation that may arise towards any person in respect of the proceeds of any product entrusted to such statutory agent for sale in terms of any notice under section 84F of the Marketing Act, 1968 (Act No. 59 of 1968), or any provision included in a scheme by virtue of section 64 (1) of the said Act, or in respect of damage to or loss of any such product, including any obligation to pay the taxed costs of any action for the recovery of such proceeds, or of compensation in respect of such damage or loss, but excluding any obligation to pay interest on such proceeds or compensation.

Minister may apply certain provisions to statutory agent.

53. (1) The Minister may by notice in the *Gazette* apply any or all of the provisions of this Act relating to commission agents, to a statutory agent referred to in the notice.

(2) The Minister may at any time amend or withdraw a notice under subsection (1), by a further notice in the *Gazette*.

PART 7

INSPECTIONS

Certain irregularities may be summarily investigated for purposes of settling claim for damages.

54. If any person alleges to an officer designated under section 55 that a contravention of this Act or a breach of any contract relating to the purchase or sale of any product has taken place and that he has suffered or may suffer damages in consequence of such contravention or breach, such officer may summarily investigate the allegation and shall, if he is satisfied that the allegation is not unfounded, report the matter to a person

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verstande dat die verwysing in artikel 43 (1) (b) na die skriftelike toestemming van die persoon deur die Sekretaris aangewys, by sodanige toepassing uitgelê word as die toestemming van die eienaar van die betrokke lewende hawe.

(2) Die Minister kan by kennisgewing in die *Staatskoerant* enige van of al die bepalings van hierdie Wet wat op kommissie-agente betrekking het en wat nie by subartikel (1) op lewende hawe-afslaers van toepassing gemaak is nie, op lewende hawe-afslaers in die algemeen of op 'n in die kennisgewing vermelde klas lewende hawe-afslaers toepas.

(3) Die Minister kan 'n kennisgewing kragtens subartikel (2) te eniger tyd by kennisgewing in die *Staatskoerant* wysig of intrek.

51. (1) Iemand wat lewende hawe aan 'n lewende hawe-afslaer vir verkoop toevertrou en gelewer het, kan binne negentig dae na sodanige lewering bedoelde afslaer by skriftelike kennisgewing gelas om elke boek of dokument in sy besit, wat op bedoelde lewende hawe betrekking het, aan homself of aan 'n in bedoelde kennisgewing vermelde rekenmeester en ouditeur (wat as sodanig kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1951 (Wet No. 51 van 1951), geregistreer moet wees) vir insae voor te lê.

(2) Bedoelde persoon of rekenmeester en ouditeur mag geen inligting deur so 'n insae verkry, wat nie ter sake is nie en bedoelde persoon nie raak nie, openbaar nie.

Insae in stukke wat op verkoop van lewende hawe betrekking het.

DEEL 6

STATUTÊRE AGENTE

52. Die Minister kan 'n statutêre agent gelas om die sekuriteit, wat na goeddunke deur die Minister van tyd tot tyd vasgestel word, aan die Sekretaris of, in die geval van 'n beheerde produk, aan die betrokke beheerraad, te verstrek, om enige verpligting na te kom wat mag ontstaan teenoor iemand ten opsigte van die opbrengs van 'n produk wat ingevolge 'n kennisgewing kragtens artikel 84F van die Bemarkingswet, 1968 (Wet No. 59 van 1968), of 'n bepaling in 'n skema ingesluit kragtens artikel 64 (1) van genoemde Wet, aan sodanige statutêre agent vir verkoop toevertrou is, of ten opsigte van skade aan of verlies van sodanige produk, met inbegrip van 'n verpligting om die getakseerde koste van 'n geding vir die verhaal van sodanige opbrengs of van vergoeding ten opsigte van sodanige skade of verlies, te betaal, maar met uitsluiting van 'n verpligting om rente op sodanige opbrengs of vergoeding te betaal.

Sekuriteit deur statutêre agente.

53. (1) Die Minister kan by kennisgewing in die *Staatskoerant* enige van of al die bepalings van hierdie Wet wat op kommissie-agente betrekking het, op 'n statutêre agent in die kennisgewing vermeld, toepas.

(2) Die Minister kan 'n kennisgewing kragtens subartikel (1) te eniger tyd deur middel van 'n verdere kennisgewing in die *Staatskoerant* wysig of intrek.

Minister kan sekere bepalings op statutêre agent toepas.

DEEL 7

INSPEKSIES

54. As iemand teenoor 'n beampte wat kragtens artikel 55 aangewys is, beweer dat 'n oortreding van hierdie Wet of die nie-nakoming van 'n kontrak betreffende die koop of verkoop van 'n produk plaasgevind het en dat hy as gevolg van sodanige oortreding of nie-nakoming skade gely het of mag ly, kan sodanige beampte die bewering summier ondersoek en, indien hy oortuig is dat die bewering nie ongegrond is nie, rapporteer hy die geval aan 'n persoon wat deur die Sekretaris vir die

Sekere onreëlmatighede kan summier ondersoek word vir doeleindes van skikking van eis vir skadevergoeding.

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designated by the Secretary for the purposes of this section for the purpose of attempting to effect a settlement between the parties in regard to the matter of damages.

Inspections.

55. (1) The Secretary may designate any officer to perform the functions referred to in subsection (2) with reference to any product.

(2) The officer designated under subsection (1) may at any reasonable time—

- (a) enter the place of business of a commission agent, livestock auctioneer or statutory agent;
- (b) examine any book or other document which relates to the business of a commission agent, livestock auctioneer or statutory agent and require from the commission agent, livestock auctioneer or statutory agent concerned or the custodian of such book or document, an explanation of any entry therein;
- (c) question any person whom he reasonably believes to be in possession of information relating to any contravention or alleged contravention of any provision of this Act;
- (d) 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;
- (e) require the production of any account, invoice or other document issued by a commission agent, livestock auctioneer or statutory agent in the course of his business as such, and an explanation of any entry therein, from the owner or custodian thereof;
- (f) make extracts from and copies of any book or document referred to in paragraph (b) or (e), and for the purposes of any proceedings against any person, seize any such book or document; and
- (g) require the production of any certificate of registration issued in terms of this Act, from the holder or custodian thereof.

PART 8

OFFENCES, PENALTIES AND OTHER JUDICIAL MATTERS

Preservation of secrecy.

56. No person shall disclose any information obtained in the discharge of his powers or duties under this Act, except—

- (a) to the extent to which it may be necessary for the proper administration of this Act; or
- (b) for the purposes of any legal proceedings thereunder:

Provided that the Secretary may furnish a market master, a control board or the Commission with such information as he may deem expedient.

Offences and penalties.

57. Any person who—

- (a) contravenes or fails to comply with section 2 (1) or (2) or section 7 (1), 13, 16 or section 17 (1) or (3) or section 18, 20, 22 (2) (b) or section 23 (1) or (2) or section 26 (1), 30 (1), 36, 37, 38, 39 (1), 40 or section 41 (1) or (2) or section 42 (1), 43, 44, 45, 46, 47, 48 (1), 49, 51 (2) or 56;
- (b) in any application made in terms of this Act, knowingly makes or causes to be made a statement which is false in a material respect;
- (c) contravenes or fails to comply with any condition of his registration;

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doeleindes van hierdie artikel aangewys is vir die doel om 'n skikking tussen die partye betreffende die kwessie van skadevergoeding te probeer bewerkstelling.

55. (1) Die Sekretaris kan 'n beampte aanwys om die in Inspeksies. subartikel (2) bedoelde werksaamhede met betrekking tot enige produk te verrig.

(2) Die beampte kragtens subartikel (1) aangewys, kan te eniger redelike tyd—

- (a) die besigheidsplek van 'n kommissie-agent, lewende hawe-afslaer of statutêre agent betree;
- (b) enige boek of ander stuk wat betrekking het op die besigheid van 'n kommissie-agent, lewende hawe-afslaer of statutêre agent ondersoek, en van die betrokke kommissie-agent, lewende hawe-afslaer of statutêre agent of die bewaarder van sodanige boek of stuk, 'n verduideliking van enige inskrywing daarin eis;
- (c) enigiemand ondervra wat, na hy redelikerwys vermoed, in besit is van inligting betreffende enige oortreding of beweerde oortreding van enige bepaling van hierdie Wet;
- (d) 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;
- (e) die voorlegging van enige rekening, faktuur of ander stuk wat deur 'n kommissie-agent, lewende hawe-afslaer of statutêre agent in die loop van sy besigheid as sodanig uitgereik is, en 'n verduideliking van enige inskrywing daarin, van die eienaar of bewaarder daarvan eis;
- (f) uittreksels uit of afskrifte van enige boek of stuk in paragraaf (b) of (e) vermeld, maak, en vir die doeleindes van enige verrigtinge teen enige persoon, op enige sodanige boek of stuk beslag lê; en
- (g) die voorlegging van enige registrasiesertifikaat uitgereik ingevolge hierdie Wet, van die houer of bewaarder daarvan eis.

DEEL 8

MISDRYWE, STRAWWE EN ANDER GEREGETELIKE AANGELEENTHEDE

56. Niemand mag enige inligting openbaar wat hy by die Geheimhouding. uitoefening van sy bevoegdhede of vervulling van sy pligte kragtens hierdie Wet verkry het nie, behalwe—

- (a) in die mate waarin dit vir die behoorlike toepassing van hierdie Wet nodig mag wees; of
- (b) vir die doeleindes van 'n regsgeding daarkragtens:

Met dien verstande dat die Sekretaris aan 'n markmeester of aan 'n beheerraad of aan die Kommissie die inligting kan verstrek wat hy dienstig ag.

57. Iemand wat—

- (a) artikel 2 (1) of (2) of artikel 7 (1), 13, 16 of artikel 17 (1) of (3) of artikel 18, 20, 22 (2) (b) of artikel 23 (1) of (2) of artikel 26 (1), 30 (1), 36, 37, 38, 39 (1), 40 of artikel 41 (1) of (2) of artikel 42 (1), 43, 44, 45, 46, 47, 48 (1), 49, 51 (2) of 56 oortree of versuim om daaraan te voldoen;
- (b) in 'n aansoek gedoen ingevolge hierdie Wet, wetens 'n verklaring doen of laat doen wat in 'n wesenlike opsig vals is;
- (c) enige voorwaarde van sy registrasie oortree of versuim om daaraan te voldoen;

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- (d) contravenes or fails to comply with any prohibition under section 19 (1) (i) or (ii) or any requirement under section 19 (1) (iii);
- (e) fails to comply with any order or direction under section 22 (3), 23 (3), 51 (1) or 52;
- (f) falsely holds himself out to be an officer designated under section 55 (1);
- (g) refuses or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief any lawful question put to him by an officer designated under section 55 (1) in the exercise of his powers, or gives an answer to any such question or makes any relevant statement to such officer which is false in any material respect, knowing such answer or such statement to be false;
- (h) refuses or fails without sufficient cause to comply with any lawful requirement of an officer designated under section 55 (1) in the exercise of his powers; or
- (i) hinders or obstructs any officer in the discharge of his powers or duties under this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

**Judgment for
deficit in trust
account.**

58. (1) Whenever any commission agent, due to the appropriation by him or his employee of money in his trust account, is convicted of an offence 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 who is a company, be construed as including a reference to a director of such company.

**Liability of
commission agent,
livestock
auctioneer and
statutory agent.**

59. (1) Whenever the employee or agent of any commission agent, livestock auctioneer or statutory agent does or omits to do any act which it would be an offence under this Act for such commission agent, livestock auctioneer or statutory agency to do or omit to do, such commission agent, livestock auctioneer or statutory agent, as the case may be, shall be deemed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof unless he proves that—

- (a) he did not permit or connive at such act or omission; and
- (b) he took all reasonable measures to prevent an act or omission of the nature in question; and
- (c) it was not under any condition or in any circumstances within the scope of the authority or the course of the employment of the employee or agent to do or omit to do acts, whether lawful or unlawful, of the character of the act or omission charged.

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- (d) 'n verbod kragtens artikel 19 (1) (i) of (ii) of 'n vereiste kragtens artikel 19 (1) (iii) oortree of versuim om daaraan te voldoen;
 - (e) versuim om aan 'n lasgewing kragtens artikel 22 (3), 23 (3), 51 (1) of 52 te voldoen;
 - (f) valslik voorgee dat hy 'n beampte is wat kragtens artikel 55 (1) aangewys is;
 - (g) sonder voldoende oorsaak weier of versuim om volledig en bevredigend na die beste van sy kennis en oortuiging te antwoord op enige wettige vraag aan hom gestel by die uitoefening van sy bevoegdhede deur 'n beampte aangewys kragtens artikel 55 (1), of wat aan so 'n beampte 'n antwoord op sodanige vraag verstrek, of enige relevante verklaring doen wat in 'n wesenlike opsig vals is, wetende dat sodanige antwoord of sodanige verklaring vals is;
 - (h) sonder voldoende oorsaak weier of versuim om te voldoen aan enige wettige vereiste gestel by die uitoefening van sy bevoegdhede deur 'n beampte kragtens artikel 55 (1) aangewys; of
 - (i) enige beampte by die uitoefening van sy bevoegdhede of die vervulling van sy pligte ingevolge hierdie Wet hinder of belemmer,
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens een jaar, of met sowel sodanige boete as sodanige gevangenisstraf.

58. (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.

Vonnis vir tekort
in trustrekening.

(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.

59. (1) Wanneer die werknemer of agent van enige kommissie-agent, lewende hawe-afslaer of statutêre agent 'n daad of versuim begaan wat ingevolge hierdie Wet 'n misdryf sou wees indien daardie kommissie-agent, lewende hawe-afslaer of statutêre agent dit begaan het, word daardie kommissie-agent, lewende hawe-afslaer of statutêre agent, na gelang van die geval, geag self daardie daad of versuim te begaan het, en kan dié kommissie-agent, lewende hawe-afslaer of statutêre agent ten opsigte daarvan skuldig bevind en gevonnissen word tensy hy bewys dat—

Aanspreeklikheid
van kommissie-
agent, lewende
hawe-afslaer en
statutêre agent.

- (a) hy bedoelde daad of versuim nie veroorloof of oogluikend toegelaat het nie; en
- (b) hy alle redelike maatreëls getref het om 'n daad of versuim van die betrokke aard te voorkom; en
- (c) 'n daad of versuim, hetsy wettig of onwettig, van die ten laste gelegde aard onder geen voorwaardes of omstandighede binne die bestek van die bevoegdheid of in die loop van die diens van die werknemer of agent geval het nie.

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(2) For the purposes of subsection (1) (b) the fact that a commission agent, livestock auctioneer or statutory agent forbade an act or omission of the nature in question shall not by itself be regarded as sufficient proof that he took all reasonable measures to prevent such act or omission.

(3) Whenever any employee or agent of any such commission agent, livestock auctioneer or statutory agent does or omits to do an act which it would be an offence under this Act for such commission agent, livestock auctioneer or statutory agent to do or omit to do, such employee or agent shall be liable to be convicted and sentenced in respect thereof as if he were that commission agent, livestock auctioneer or statutory agent.

(4) Any such employee or agent may be so convicted and sentenced in addition to the commission agent, livestock auctioneer or statutory agent concerned.

Proof of certain facts by affidavit.

60. Whenever upon—

- (a) the trial of any person charged with the commission of an offence under this Act or an offence involving fraud or dishonesty in connection with a trust account;
- (b) an enquiry contemplated in section 58; or
- (c) the trial of any proceedings instituted by the Secretary under section 21 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 55 (1) 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.

Limitation of liability.

61. The State or its employees, the Minister or an officer designated under section 55 (1), or a control board to which any power, duty or function has been assigned under section 66, or its employees, shall not be liable in respect of anything done in good faith under the provisions of this Act.

Jurisdiction of a magistrate's court.

62. 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.

PART 9

REGULATIONS AND MISCELLANEOUS MATTERS

Regulations.

63. (1) The Minister may make regulations—

- (a) prescribing any certificate or other document or form to be issued or used for the purposes of this Act;
- (b) 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 such trust account, and any other matter incidental to such trust account;
- (c) prescribing the particulars to be furnished by a commission agent in order to fix the amount of security to be given in terms of section 26;

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(2) By die toepassing van subartikel (1) (b) word die feit dat 'n kommissie-agent, lewende hawe-afslaer of statutêre agent 'n daad of versuim van die betrokke aard verbied het, nie op sigself as voldoende bewys beskou dat hy alle redelike maatreëls getref het om so 'n daad of versuim te voorkom nie.

(3) Wanneer 'n werknemer of agent van so 'n kommissie-agent, lewende hawe-afslaer of statutêre agent 'n daad of versuim begaan wat 'n misdryf ingevolge hierdie Wet sou wees as sodanige kommissie-agent, lewende hawe-afslaer of statutêre agent dit begaan het, kan dié werknemer of agent ten opsigte daarvan skuldig bevind en gevonniss word asof hy daardie kommissie-agent, lewende hawe-afslaer of statutêre agent was.

(4) So 'n werknemer of agent kan benewens die betrokke kommissie-agent, lewende hawe-afslaer of statutêre agent aldus skuldig bevind en gevonniss word.

60. Wanneer by—

(a) die verhoor van iemand wat aangekla is weens 'n oortreding van hierdie Wet of 'n misdryf waarby bedrog of oneerlikheid met betrekking tot 'n trustrekening betrokke is;

(b) 'n in artikel 58 beoogde ondersoek; of

(c) die verhoor van verrigtinge deur die Sekretaris ingestel vir die verhaal van 'n tekort in 'n trustrekening kragtens artikel 21,

Bewys van sekere feite deur middel van beëdigde verklarings.

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 55 (1) 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.

61. Die Staat of sy werknemers, die Minister of 'n beampte kragtens artikel 55 (1) aangewys of 'n beheerraad aan wie 'n bevoegdheid, plig of werksaamheid kragtens artikel 66 oorgedra is of sy werknemers, is nie aanspreeklik ten opsigte van enigiets wat te goeder trou kragtens die bepalinge van hierdie Wet gedoen is nie.

Beperking van aanspreeklikheid.

62. Ondanks andersluidende wetsbepalinge, is 'n landdroshof bevoeg om 'n bevel uit te vaardig en 'n uitspraak te gee waarvoor hierdie Wet voorsiening maak.

Regsbevoegdheid van 'n landdroshof.

DEEL 9

REGULASIES EN DIVERSE AANGELEENTHEDE

63. (1) Die Minister kan regulasies uitvaardig—

Regulasies.

(a) wat enige sertifikaat of ander dokument of vorm voorskryf wat vir die doeleindes van hierdie Wet uitgereik of gebruik moet word;

(b) 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 geld in so 'n trustrekening, en enige ander aangeleentheid wat met so 'n trustrekening in verband staan;

(c) wat die besonderhede voorskryf wat deur 'n kommissie-agent verstrekk moet word ten einde die bedrag van sekuriteit te bepaal wat ingevolge artikel 26 verstrekk moet word;

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- (d) as to the manner in which the amount of security contemplated in section 26 shall be calculated, the manner in which such security shall be given, the manner in which it shall be made available to any person for whose benefit it is given and the circumstances under which and conditions on which two or more commission agents may give security collectively;
- (e) prescribing the returns to be furnished by a commission agent, livestock auctioneer or statutory agent;
- (f) as to the form and manner in which records are to be kept by a commission agent, livestock auctioneer or statutory agent, the particulars to be entered therein and the period for which they shall be retained;
- (g) prescribing the procedure to be followed by a commission agent or livestock auctioneer in connection with the sale of any product;
- (h) prescribing the particulars to be furnished by a commission agent, livestock auctioneer or statutory agent to his principal in respect of the sale of any product on behalf of such principal;
- (i) prescribing the manner in which any product shall be marked or labelled, including the manner in which consignments of a product shall be identified;
- (j) as to any matter which by this Act is required or permitted to be prescribed by regulation;
- (k) as to, generally, any matter which he considers necessary or expedient to prescribe in order that the objects and purposes of this Act may be better achieved, the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs.

(2) Different regulations may be made—

- (a) under subsection (1) with reference to different classes of persons or different classes of products;
- (b) under paragraph (g) of subsection (1) in respect of any product sold on a fresh produce market under the control of a market master and any product sold at any other place, and any regulations so made in respect of any product sold elsewhere than on a fresh produce market under the control of a market master may provide for exemption from the provisions thereof to be granted by the Secretary either at his discretion or on such a basis and subject to such conditions as may be determined by the Minister or prescribed by regulation.

(3) Any regulation made under subsection (1) and relating to State revenue or expenditure shall be made in consultation with the Minister of Finance.

(4) Regulations made under subsection (1) may in respect of any contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of two hundred rand or imprisonment for a period not exceeding six months.

Assignment of powers, duties and functions to an officer.

64. (1) The Secretary may in writing authorize any officer to exercise or perform in general or in a particular case or in cases of a particular nature, any power, duty or function conferred or imposed on the Secretary by or in terms of this Act, but may amend or withdraw any relevant decision of any officer so authorized.

(2) The Secretary may at any time revoke in writing any authorization under subsection (1), and no such authorization

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- (d) betreffende die wyse waarop die bedrag van sekuriteit soos beoog in artikel 26 bereken moet word, die wyse waarop sodanige sekuriteit verstrekk moet word, die wyse waarop dit beskikbaar gestel moet word aan die persoon ten behoeve van wie dit verstrekk is en die omstandighede waaronder en die voorwaardes waarop twee of meer kommissie-agente gesamentlik sekuriteit kan verskaf;
 - (e) wat die opgawes voorskryf wat deur 'n kommissie-agent, lewende hawe-afslaer of statutêre agent verstrekk moet word;
 - (f) betreffende die vorm waarin en die wyse waarop aantekeninge deur 'n kommissie-agent, lewende hawe-afslaer of statutêre agent gehou moet word, die besonderhede wat daarin opgeteken moet word en die tydperk waarvoor dit behou moet word;
 - (g) wat die prosedure voorskryf wat deur 'n kommissie-agent of lewende hawe-afslaer nagekom moet word in verband met die verkoop van 'n produk;
 - (h) wat die besonderhede voorskryf wat deur 'n kommissie-agent, lewende hawe-afslaer of statutêre agent aan sy prinsipaal verstrekk moet word ten opsigte van die verkoop van 'n produk ten behoeve van sodanige prinsipaal;
 - (i) wat die wyse voorskryf waarop 'n produk gemerk of van 'n etiket voorsien moet word, met inbegrip van die wyse waarop besendings van 'n produk geïdentifiseer moet word;
 - (j) betreffende enige aangeleentheid wat kragtens hierdie Wet by regulasie voorgeskryf moet of kan word;
 - (k) betreffende, oor die algemeen, enige aangeleentheid wat hy nodig of dienstig ag om voor te skryf ten einde die oogmerke en doeleindes van hierdie Wet beter te verwesenlik, sonder dat die algemeenheid van die bevoegdhede wat deur hierdie paragraaf verleen word deur die bepalings van die voorafgaande paragraawe beperk word.
- (2) Verskillende regulasies kan uitgevaardig word—
- (a) kragtens subartikel (1) met betrekking tot verskillende klasse persone of verskillende klasse produkte;
 - (b) kragtens paragraaf (g) van subartikel (1) met betrekking tot 'n produk verkoop op 'n varsproduktemark onder die beheer van 'n markmeester en 'n produk verkoop op 'n ander plek, en regulasies aldus uitgevaardig met betrekking tot 'n produk verkoop op 'n ander plek as 'n varsproduktemark onder die beheer van 'n markmeester, kan voorsiening maak vir die vrystelling van die bepalings daarvan deur die Sekretaris of na sy goeddunke of volgens die grondslag en onderworpe aan die voorwaardes wat deur die Minister bepaal of by regulasie voorgeskryf word.
- (3) 'n Regulasie kragtens subartikel (1) uitgevaardig en wat op Staatsinkomste of -uitgawe betrekking het, word in oorleg met die Minister van Finansies uitgevaardig.
- (4) Regulasies kragtens hierdie artikel uitgevaardig kan ten opsigte van enige oortreding daarvan of versuim om daaraan te voldoen 'n straf voorskryf wat 'n boete van tweehonderd rand of gevangenisstraf vir 'n tydperk van ses maande nie te bowe gaan nie.

64. (1) Die Sekretaris kan 'n beampte skriftelik magtig om in die algemeen of in 'n bepaalde geval of in gevalle van 'n bepaalde aard, 'n bevoegdheid, plig of werksaamheid uit te oefen of te verrig wat by of ingevolge hierdie Wet aan die Sekretaris verleen of opgedra is, maar kan 'n betrokke beslissing van 'n aldus gemagtigde beampte wysig of intrek.

(2) Die Sekretaris kan te eniger tyd 'n magtiging kragtens subartikel (1) skriftelik intrek, en geen sodanige magtiging belet

Oordrag van
bevoegdhede,
pligte en
werksaamhede aan
'n beampte.

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shall prevent the exercise or performance of the relevant power, duty or function by the Secretary himself.

Application of Act.

65. (1) 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, or disposal of the proceeds, of products, 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 question, as the case may be, with reference to the society or company concerned, in so far as the said provisions or provision relate to the sale, or the disposal of the proceeds, of products delivered to it by its members.

(2) 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 products 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 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.

(3) (a) The Minister may at any time amend or withdraw a notice under subsection (1) or (2) by a further notice in the *Gazette*.

(b) The Minister shall so withdraw a notice under subsection (2) 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.

Secretary's powers, duties and functions may be assigned to a control board.

66. (1) The Minister may by notice in the *Gazette* and subject to such conditions and limitations as may be specified in such notice, assign any power, duty or function conferred or imposed on the Secretary by or in terms of this Act with reference to a regulated product, to the control board concerned.

(2) A control board to whom any power, duty or function has been assigned under subsection (1), may, with the approval of the Minister, appoint from among its members a committee and authorize such committee to perform in general or in a particular case any such power, duty or function so assigned to it: Provided that no such authorization shall prevent the exercise or performance of the relevant power, duty or function by that board itself.

(3) For the purposes of subsections (1) and (2), any reference in this Act to the Secretary shall with reference to any power, duty or function so assigned, be construed as a reference to the control board or committee in question, as the case may be.

(4) The Minister may at any time amend or withdraw any notice under subsection (1) by a further notice in the *Gazette*.

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die uitoefening of verrigting van die betrokke bevoegdheid, plig of werksaamheid deur die Sekretaris self nie.

65. (1) 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 of beskikking oor die opbrengs 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 van daardie bepalings of 'n betrokke bepaling, na gelang van die geval, met betrekking tot die betrokke vereniging of maatskappy opskort, vir sover bedoelde bepalings of bepaling betrekking het op die verkoop of die beskikking oor die opbrengs van produkte wat deur lede daarvan daaraan gelewer word.

Toepassing van
Wet.

(2) 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 enige 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.
- (3) (a) Die Minister kan 'n kennisgewing kragtens subartikel (1) of (2) te eniger tyd deur middel van 'n verdere kennisgewing in die *Staatskoerant* wysig of intrek.
- (b) Die Minister moet 'n kennisgewing kragtens subartikel (2) aldus intrek indien die ooreenkoms op grond waarvan die kennisgewing afgekondig is, ophou om van krag te wees of indien die partye volgens die Minister se mening daardie ooreenkoms nie uitvoer nie.

66. (1) Die Minister kan by kennisgewing in die *Staatskoerant* en behoudens die voorwaardes en beperkings in die kennisgewing vermeld, enige bevoegdheid, plig of werksaamheid wat by of ingevolge hierdie Wet aan die Sekretaris met betrekking tot 'n beheerde produk verleen of opgelê is, aan die betrokke beheerraad oordra.

Sekretaris se
bevoegdhede,
pligte of werk-
saamhede kan aan
'n beheerraad
oorgedra word.

(2) 'n Beheerraad aan wie 'n bevoegdheid, plig of werksaamheid kragtens subartikel (1) oorgedra is, kan, met die Minister se goedkeuring, 'n komitee uit sy lede aanstel en daardie komitee magtig om, in die algemeen of in 'n bepaalde geval, so 'n bevoegdheid, plig of werksaamheid aldus aan hom oorgedra, uit te oefen of te verrig: Met dien verstande dat geen sodanige magtiging die uitoefening of verrigting van die betrokke bevoegdheid, plig of werksaamheid deur daardie raad self, belet nie.

(3) By die toepassing van subartikels (1) en (2) word 'n verwysing in hierdie Wet na die Sekretaris, met betrekking tot 'n bevoegdheid, plig of werksaamheid aldus oorgedra, uitgelê as 'n verwysing na die betrokke beheerraad of komitee, na gelang van die geval.

(4) Die Minister kan 'n kennisgewing kragtens subartikel (1) te eniger tyd deur middel van 'n verdere kennisgewing in die *Staatskoerant* wysig of intrek.

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Repeal of laws
and savings.

67. (1) Subject to the provisions of subsection (2), the laws specified in Schedule 2 are hereby repealed.

(2) Any designation, regulation or notice or anything else which has been done, made or issued under a provision of a law repealed by subsection (1) and which may be done, made or issued under a corresponding provision of this Act, shall be deemed to have been done, made or issued under such corresponding provision.

Short title and
commencement.

68. (1) This Act shall be called the Agricultural Produce Agency Sales Act, 1975, and shall, subject to the provisions of subsection (2), come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) (a) The provisions of this Act in so far as they relate to the keeping of trust accounts by commission agents who do not carry on business as such in respect of vegetables, fruit, culinary herbs and miscellaneous market products, as defined in Schedule 1, shall not come into operation on the date contemplated in subsection (1), but shall, subject to the provisions of paragraph (b) of this subsection, come into operation on a separate date fixed by the State President by proclamation in the *Gazette*, which date shall be a date at least twelve months after the date of publication of the relevant proclamation.

(b) Different dates may under paragraph (a) be fixed in respect of different classes of commission agents.

Schedule 1

PART A: PRODUCTS

- Item 1* Flowers;
Ornamental plants;
Pot plants.
- Item 2* Vegetables, as defined in Part B;
Fruit, as so defined;
Culinary herbs, as so defined;
Miscellaneous market products, as so defined.
- Item 3* Livestock, as defined in Part B.
- Item 4* Meat, as defined in Part B;
By-products derived from slaughtered cattle, sheep, goats and pigs, as so defined;
Cured hides and cured skins, as so defined.

PART B: DEFINITIONS OF OR RELATING TO PRODUCE

- (i) "By-products", in relation to slaughtered cattle, sheep, goats and pigs, includes all portions of slaughtered cattle, sheep, goats and pigs other than the meat thereof but excludes karakul pelts. (vii)
- (ii) "Culinary herbs" means coriander, fennel, ginger, marjoram, parsley, sage, mint and thyme. (v)
- (iii) "Cured hides" or "cured skins" means hides or skins derived from cattle, sheep or goats and which have been treated against decay with a preservative. (i)
- (iv) "Fruit" means apples, apricots, avocados, bananas, blackberries, Cape gooseberries, cherries, coconuts, custard apples, figs, grapes, grapefruit, granadillas, guavas, jak fruit, kumquats, lemons, limes, litchis, loganberries, loquats, mangos, medlars, mulberries, nectarines, olives, oranges, papaws, peaches, pears, pineapples, plums, pomegranates, prickly pears, prunes, quinces, raspberries, sour figs, strawberries, tangelos, tangerines, tree tomatoes and youngberries. (ix)
- (v) "Karakul pelt" means a flayed karakul lamb skin intended for the pelt trade. (iv)
- (vi) "Livestock" means cattle, sheep, goats, pigs, horses, mules and donkeys. (vi)
- (vii) "Meat" means any portions of slaughtered cattle, sheep, goats and pigs ordinarily sold for human consumption, including such other portions thereof as at the time of sale forming part of such first-mentioned portions while they so form part thereof. (viii)
- (viii) "Miscellaneous market products" means commodities sold or offered for sale with the approval of the owner of a fresh produce market, as contemplated in section 1 of the

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Wet No. 12, 1975

67. (1) Behoudens die bepalings van subartikel (2) word die Herroeping van wette en voorbehoude.

(2) Enige aanwysing, regulasie of kennisgewing, of enigiets anders wat kragtens 'n bepaling van 'n by subartikel (1) herroep wet gedoen, uitgevaardig of uitgereik is en wat kragtens 'n ooreenstemmende bepaling van hierdie Wet gedoen, uitgevaardig of uitgereik kan word, word geag kragtens sodanige ooreenstemmende bepaling gedoen, uitgevaardig of uitgereik te wees.

68. (1) Hierdie Wet heet die Wet op Agenskapsverkoop van Landbouprodukte, 1975, en tree, behoudens die bepalings van subartikel (2), in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. Kort titel en inwerkingtreding.

(2) (a) Die bepalings van hierdie Wet vir sover dit betrekking het op die hou van trustrekenings deur kommissie-agente wat nie ten opsigte van groente, vrugte, kombuiskruie en diverse markprodukte, soos in Bylae 1 omskryf, as sodanig besigheid dryf nie, tree nie in werking op die in subartikel (1) beoogde datum nie, maar tree, behoudens die bepalings van paragraaf (b) van hierdie subartikel, in werking op 'n afsonderlike datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal, welke datum 'n datum minstens twaalf maande na die datum van afkondiging van die betrokke proklamasie moet wees.

(b) Verskillende datums kan kragtens paragraaf (a) ten opsigte van verskillende klasse kommissie-agente bepaal word.

Bylae 1

DEEL A: PRODUKTE

- Item 1 Blomme;
Potplante;
Sierplante.
- Item 2 Groente, soos omskryf in Deel B;
Vrugte, soos aldus omskryf;
Kombuiskruie, soos aldus omskryf;
Diverse markprodukte, soos aldus omskryf.
- Item 3 Lewende hawe, soos omskryf in Deel B.
- Item 4 Vleis, soos omskryf in Deel B;
Neweprodukte van geslagte beeste, skape, bokke en varke afkomstig, soos aldus omskryf;
Bereide huide en bereide velle, soos aldus omskryf.

DEEL B: OMSKRYWINGS VAN OF BETREFFENDE PRODUKTE

- (i) „Bereide huide” of „bereide velle” beteken huide of velle wat afkomstig is van beeste, skape of bokke en wat met 'n preserveermiddel teen bederf behandel is. (iii)
- (ii) „Diverse markprodukte” beteken handelartikels wat met goedkeuring van die eienaar van 'n varsproduktemark, soos beoog in artikel 1 van die Wet op die Kommissie van Varsproduktemarke, 1970 (Wet No. 82 van 1970), op sy mark verkoop of vir verkoop aangebied word, maar nie ook groente, vrugte en kombuiskruie nie. (viii)
- (iii) „Groente” beteken aartappels, andyvies, artisjokke, aspersies, bamja, beet, blaarslaai, blomkool, boerboontjies, botterboontjies, brandrissies, eivrugte, geelwortels, groenboontjies, groenertjies, groenmielies, groenuie, kafferwaatlemoene, kalbas, komkommers, koolrape, kopkool, knoffel, madumbies, marankas, okra, pampoene, patats, peperwortels, preie, rabarber, radyse, rape, salotte, sampioene, seldery, skorsies, soe-soe, soetriet, soetrissies, spanspekke, spinasie, spruitkool, suikerriet, suuruietjies, tamaties, uie, waatlemoene, winterblomkool, witloof en witwortels. (ix)
- (iv) „Karakoelpels” beteken 'n afgeslagte karakoellamvel bestem vir die pelshandel. (v)
- (v) „Kombuiskruie” beteken gemmer, koljander, kruisement, marjolein, pietersielie, salie, tiemie en vinkel. (ii)
- (vi) „Lewende hawe” beteken beeste, skape, bokke, varke, perde, muile, en donkies. (vi)
- (vii) „Neweprodukte”, met betrekking tot geslagte beeste, skape, bokke en varke, beteken ook alle gedeeltes van geslagte beeste, skape, bokke en varke uitgesonderd die vleis daarvan maar nie ook karakoelpelse nie. (i)
- (viii) „Vleis” beteken gedeeltes van geslagte beeste, skape, bokke en varke wat gewoonlik vir menslike verbruik verkoop word, met inbegrip van die ander gedeeltes daarvan wat by

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Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970), but does not include vegetables, fruit and culinary herbs. (ii)

- (ix) "Vegetables" means artichokes, asparagus, bamja, beetroot, bell peppers, brinjals, broad beans, broccoli, Brussels sprouts, butter beans, cabbage, calabash, carrots, cauliflower, celery, chayote, chillies, cucumbers, endives, French endives, garlic, green beans, green mealies, green peas, horse-radishes, kaffir melons, kohl rabi, leeks, lettuce, madumbies, marankas, mushrooms, musk-melons, okra, onions, parsnips, pickle onions, potatoes, pumpkins, radishes, rhubarb, shallots, spinach, spring onions, squashes, sugar-cane, sweet cane, sweet potatoes, tomatoes, turnips and watermelons. (iii)

Schedule 2

LAWS REPEALED

No. and year of law	Title
Act No. 37 of 1956	Livestock and Produce Sales Act, 1956.
Act No. 2 of 1961	Perishable Agricultural Produce Sales Act, 1961.
Act No. 8 of 1962	Perishable Agricultural Produce Sales Amendment Act, 1962.
Act No. 17 of 1965	Perishable Agricultural Produce Sales Amendment Act, 1965.
Act No. 31 of 1966	Perishable Agricultural Produce Sales Amendment Act, 1966.
Act No. 4 of 1967	Livestock and Produce Sales Amendment Act, 1967.
Act No. 47 of 1968	Livestock and Produce Sales Amendment Act, 1968.
Act No. 39 of 1972	Perishable Agricultural Produce Sales Amendment Act, 1972.
Act No. 33 of 1973	Perishable Agricultural Produce Sales Amendment Act, 1973.

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die verkoop 'n deel uitmaak van eersgenoemde gedeeltes, solank dit aldus 'n deel daarvan uitmaak. (vii)

- (ix) „Vrugte” beteken aarbeie, appelkose, appelliefies, appels, avokado's, boomtamaties, braambessies, druiwe, frambose, granate, grenadellas, jakka, kaalperskes, kersies, koejawels, kokosneute, koemkwats, kwepers, lemmetjies, lemoene, lietsjies, loganbessies, lukwarte, mango's, mispels, moerbeie, nartjies, olywe, papajas, pere, perskes, piesangs, pruime, pruimedante, pomelo's, pynappels, suurvyne, suurlemoene, tangelo's, turksvyne, vla-appels, vye en youngbessies. (iv)

Bylae 2

WETTE HERROEP

No. en jaar van wet	Titel
Wet No. 37 van 1956	Wet op die Verkoop van Lewende Hawe en Produkte, 1956.
Wet No. 2 van 1961	Wet op die Verkoop van Bederfbare Landbouprodukte, 1961.
Wet No. 8 van 1962	Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1962.
Wet No. 17 van 1965	Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1965.
Wet No. 31 van 1966	Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1966.
Wet No. 4 van 1967	Wysigingswet op die Verkoop van Lewende Hawe en Produkte, 1967.
Wet No. 47 van 1968	Wysigingswet op die Verkoop van Lewende Hawe en Produkte, 1968.
Wet No. 39 van 1972	Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1972.
Wet No. 33 van 1973	Wysigingswet op die Verkoop van Bederfbare Landbouprodukte, 1973.

