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DEPARTEMENT VAN DIE EERSTE MINISTER

No. 440.

23 Maart 1977.

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

No. 22 van 1977: Wysigingswet op Grondbewaring, 1977.

DEPARTMENT OF THE PRIME MINISTER

No. 440.

23 March 1977.

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

No. 22 of 1977: Soil Conservation Amendment Act, 1977.

Act No. 22, 1977

SOIL CONSERVATION AMENDMENT ACT, 1977.

ACT

To amend the Soil Conservation Act, 1969, so as to insert a definition of the expression "this Act"; to determine in greater detail the particulars of directions relating to the keeping of stock; to make different provision relating to the manner in which certain directions shall be declared applicable; to authorize the Minister to order the payment of certain amounts in the case of the erection of certain soil conservation works; to grant to certain officers certain powers to make certain surveys and to erect or to effect certain beacons or marks; and to facilitate proof, in prosecutions under the Act, of the contents of directions, the authority to declare directions applicable and the serving of directions; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 15 March 1977.)*

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

Amendment of section 1 of Act 76 of 1969, as amended by section 1 of Act 4 of 1971 and section 1 of Act 38 of 1971.

1. Section 1 of the Soil Conservation Act, 1969 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "the territory" of the following definition:

"'this Act' includes the regulations;".

Amendment of section 3 of Act 76 of 1969, as amended by section 2 of Act 4 of 1971 and section 1 of Act 11 of 1973.

2. Section 3 of the principal Act is hereby amended by the substitution for paragraph (j) of subsection (1) of the following paragraph:

- "(j) (i) the number of large stock or small stock which may be kept on land;
(ii) the number of large stock as well as small stock which may be kept on land;
(iii) in the event of both large stock and small stock being permitted to be kept on land, the number of the one kind of stock which may be kept in the place of the other kind and, in such an event, the number of small stock which shall, for the purposes of the direction, be deemed to be equal to one head of large stock;
(iv) in the event referred to in subparagraph (iii), the maximum or minimum percentage which one kind of stock, calculated on the basis contemplated in that subparagraph, may or shall constitute of the total number of stock which is permitted to be kept in terms of the direction;".

Substitution of section 4 of Act 76 of 1969.

3. The following section is hereby substituted for section 4 of the principal Act:

WET

Tot wysiging van die Grondbewaringswet, 1969, ten einde 'n omskrywing van die uitdrukking „hierdie Wet” in te voeg; die besonderhede van voorskrifte met betrekking tot die aanhou van vee in groter besonderhede te bepaal; ander voorsiening te maak met betrekking tot die wyse waarop sekere voorskrifte van toepassing verklaar moet word; aan die Minister die bevoegdheid te verleen om die betaling van sekere bedrae te gelas in die geval van die oprigting van sekere grondbewaringswerke; aan sekere beamptes sekere bevoegdhede te verleen om sekere opmetings te maak en om bakens en merke op te rig of aan te bring; en in vervolgings ingevolge die Wet die bewys van die inhoud van voorskrifte, die bevoegdheid om voorskrifte van toepassing te verklaar en die bestelling van voorskrifte, te vergemaklik; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 15 Maart 1977.)

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

1. Artikel 1 van die Grondbewaringswet, 1969 (hieronder die Hoofwet genoem), word hierby gewysig deur die volgende omskrywing na die omskrywing van „grootvee” in te voeg:
„„hierdie Wet” ook die regulasies;”.

Wysiging van artikel 1 van Wet 76 van 1969, soos gewysig deur artikel 1 van Wet 4 van 1971 en artikel 1 van Wet 38 van 1971.

2. Artikel 3 van die Hoofwet word hierby gewysig deur paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 3 van Wet 76 van 1969, soos gewysig deur artikel 2 van Wet 4 van 1971 en artikel 1 van Wet 11 van 1973.

- „(j) (i) die getal grootvee of kleinvee wat op grond aangehou mag word;
- (ii) die getal grootvee sowel as kleinvee wat op grond aangehou mag word;
- (iii) in 'n geval waar grootvee sowel as kleinvee op grond aangehou mag word, die getal van die een soort vee wat in die plek van die ander soort vee aangehou mag word en, in so 'n geval, die getal stuks kleinvee wat vir die doeleindes van die voorskrif geag word gelyk te staan met een stuks grootvee;
- (iv) in die geval in subparagraaf (iii) vermeld, die maksimum of minimum persentasie wat een soort vee, bereken op die grondslag in daardie subparagraaf beoog, van die totale getal vee wat ingevolge die voorskrif aangehou mag word, mag of moet uitmaak;”.

3. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 4 van Wet 76 van 1969.

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“Minister may order construction of soil conservation works.

4. (1) The Minister may by means of a direction order the owner of land to construct the soil conservation works referred to in such direction either on land belonging to such owner or on land belonging to another person, in such manner and within such period as may be mentioned in such direction, if the Minister is of the opinion that the construction of such soil conservation works is necessary in order to achieve any object of this Act in respect of the land belonging to such owner.

(2) (a) A direction referred to in subsection (1)—

(i) shall be contained in a written notice to be served on the owner ordered to construct the soil conservation works and, if the soil conservation works are to be erected on land belonging to another person, on that person as well; or

(ii) shall be published by the Minister by notice in the *Gazette*.

(b) The Minister may amend or withdraw such a direction or may, subject to such conditions as he may determine, suspend it by serving a written notice on the owner or owners or by publishing a notice in the *Gazette*.

(2A) Soil conservation works constructed in terms of the provisions of this section shall be maintained by the owner ordered to construct such soil conservation works and by every person who subsequently becomes the owner of the land in respect of which such soil conservation works have been erected.

(3) The costs in connection with the construction and maintenance of any soil conservation works constructed under the provisions of this section shall be borne by the person ordered by the Minister to construct such soil conservation works, or who is under this section obliged to maintain such works (as the case may be).

(4) Where the owner of land who is obliged under the provisions of this section to construct or maintain soil conservation works, refuses or neglects to do so, the Minister may cause such steps to be taken as he may deem necessary in order to construct or maintain such soil conservation works and may recover the costs in connection with the taking of such steps from such owner.”.

Substitution of section 5 of Act 76 of 1969, as amended by section 1 of Act 21 of 1974.

4. The following section is hereby substituted for section 5 of the principal Act:

“Minister may order payment of certain amounts.

5. (1) (a) The Minister may on application by the owner of land who has constructed any soil conservation works after having been ordered to do so in terms of section 4 (1), which in the opinion of the Minister have increased or are likely to increase the value of land belonging to another person, order such other person to pay such owner the amount determined by the Minister.

(b) In determining the amount referred to in paragraph (a) the Minister shall, in addition to any other relevant circumstance, also take the following into consideration, namely—

(i) the costs in connection with the construction of the soil conservation works in question;

(ii) the part of such costs defrayed in terms of section 6 (c);

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„Minister kan oprigting van grondbewaringswerke gelas.

4. (1) Die Minister kan die eienaar van grond by wyse van 'n voorskrif gelas om die grondbewaringswerke wat in sodanige voorskrif vermeld word of op grond wat aan sodanige eienaar behoort of op grond wat aan iemand anders behoort op dié wyse en binne dié tydperk in die voorskrif vermeld, op te rig, indien die Minister van oordeel is dat die oprigting van dié grondbewaringswerke nodig is ten einde 'n doelstelling van hierdie Wet te bereik ten opsigte van grond wat aan sodanige eienaar behoort.

(2) (a) 'n Voorskrif in subartikel (1) bedoel—

(i) word vervat in 'n skriftelike kennisgewing wat bestel word aan die eienaar wat gelas word om die grondbewaringswerke op te rig en, indien die grondbewaringswerke op grond wat aan iemand anders behoort, opgerig moet word, ook aan daardie ander persoon; of

(ii) word deur die Minister by kennisgewing in die *Staatskoerant* gepubliseer.

(b) Die Minister kan so 'n voorskrif wysig of intrek of kan dit, onderworpe aan die voorwaardes wat hy bepaal, opskort deur 'n skriftelike kennisgewing aan die betrokke eienaar of eenaars te bestel of deur 'n kennisgewing in die *Staatskoerant* te publiseer.

(2A) Grondbewaringswerke wat ingevolge die bepalings van hierdie artikel opgerig is, word in stand gehou deur die eienaar wat gelas is om daardie grondbewaringswerke op te rig en deur elke persoon wat daarna die eienaar word van die grond ten opsigte waarvan dié grondbewaringswerke opgerig is.

(3) Die koste verbonde aan die oprigting en instandhouding van grondbewaringswerke wat ingevolge die bepalings van hierdie artikel opgerig word, word gedra deur die persoon wat deur die Minister gelas is om daardie grondbewaringswerke op te rig of wat kragtens hierdie artikel verplig is om sodanige werke in stand te hou (na gelang van die geval).

(4) Waar die eienaar van grond wat kragtens die bepalings van hierdie artikel verplig is om grondbewaringswerke op te rig of in stand te hou, weier of versuim om dit te doen, kan die Minister die stappe doen wat hy nodig ag ten einde sodanige grondbewaringswerke op te rig of in stand te hou, en kan hy die koste verbonde aan die doen van sodanige stappe op die eienaar verhaal.”

4. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

„Minister kan betaling van sekere bedrae gelas.

5. (1) (a) Die Minister kan, op aansoek van die eienaar van grond wat grondbewaringswerke opgerig het nadat hy kragtens artikel 4 (1) gelas is om dit te doen, wat na die oordeel van die Minister die waarde van grond wat aan 'n ander persoon behoort, verhoog het of waarskynlik sal verhoog, sodanige ander persoon gelas om die bedrag wat die Minister bepaal aan bedoelde eienaar te betaal.

(b) Wanneer die Minister die in paragraaf (a) bedoelde bedrag bepaal, moet hy, benewens enige ander ter sake dienende omstandigheid, ook die volgende in aanmerking neem, te wete—

(i) die koste verbonde aan die oprigting van die betrokke grondbewaringswerke;

(ii) die gedeelte van sodanige koste wat ingevolge artikel 6 (c) bestry is;

Vervanging van artikel 5 van Wet 76 van 1969, soos gewysig by artikel 1 van Wet 21 van 1974.

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(iii) the extent to which the soil conservation works concerned have or are likely to have a beneficial effect on the land of such owner and such other person;

(iv) the extent to which the value of such land has been increased or is likely to be increased as a result of the construction of the soil conservation works in question.

(2) (a) Where an owner of land has constructed any soil conservation works on land belonging to another person in compliance with a direction, as a result of which the value of such land in the opinion of the Minister has been reduced or is likely to be reduced, the Minister may on application of such other person, order such owner to pay such other person the amount determined by the Minister.

(b) In determining the amount referred to in paragraph (a), the Minister shall, in addition to any other relevant circumstance, also take into consideration the extent to which the construction of the soil conservation works in question has or is likely to have a detrimental effect on the land of such owner and such other person, as well as the extent to which the value of such land has been reduced or is likely to be reduced as a result of such construction.”.

Amendment of section 17 of Act 76 of 1969, as amended by section 3 of Act 21 of 1974.

5. Section 17 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Any officer referred to in subsection (1), any member of a soil conservation committee and any person duly authorized thereto by the Minister—

(a) may enter upon land at all reasonable times for the purpose of—

(i) ascertaining the desirability of constructing upon that land any soil conservation works or of declaring directions applicable with reference to that land; or

(ii) making surveys and of erecting or effecting beacons or marks which indicate the position of soil conservation works which are to be constructed or which indicate the area to which a direction has been declared applicable; or

(iii) inspecting any soil conservation works which are being or have been constructed on that land; or

(iv) ascertaining whether the provisions of this Act, any condition subject to which financial assistance by way of a subsidy or a grant has been rendered or any direction which is applicable to or with reference to that land has been or is being properly carried out or complied with;

(b) shall at all reasonable times have right of way over any land over which it is reasonably necessary to proceed in order to reach land referred to in paragraph (a).”.

Amendment of section 20 of Act 76 of 1969, as amended by section 4 of Act 21 of 1974.

6. Section 20 of the principal Act is hereby amended by the insertion after paragraph (dA) of the following paragraph:

“(dB) the form and dimensions of beacons or marks referred to in section 17 (3), the manner of their erecting, effecting, marking for identification, maintenance and repair;”.

Amendment of section 21 of Act 76 of 1969, as amended by section 4 of Act 4 of 1971.

7. Section 21 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) contravenes or fails to comply with any provision of this Act; or”; and

(b) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

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- (iii) die mate waarin die betrokke grondbewaringswerke 'n voordelige uitwerking op die grond van bedoelde eienaar en bedoelde ander persoon het of waarskynlik sal hê;
- (iv) die mate waarin die waarde van daardie grond as gevolg van die oprigting van die betrokke grondbewaringswerke verhoog is of waarskynlik verhoog sal word.
- (2) (a) Waar 'n eienaar van grond grondbewaringswerke op grond wat aan 'n ander persoon behoort, opgerig het ter voldoening aan 'n voorskrif, as gevolg waarvan die waarde van sodanige grond na die oordeel van die Minister verminder is of waarskynlik verminder sal word, kan die Minister, op aansoek van sodanige ander persoon, daardie eienaar gelas om aan sodanige ander persoon die bedrag wat die Minister bepaal, te betaal.
- (b) Wanneer die Minister die in paragraaf (a) bedoelde bedrag bepaal, moet hy benewens enige ander ter sake dienende omstandigheid, ook die mate waarin die oprigting van die betrokke grondbewaringswerke 'n nadelige uitwerking op die grond van bedoelde eienaar en bedoelde ander persoon het of waarskynlik sal hê, asook die mate waarin die waarde van daardie grond as gevolg van sodanige oprigting verminder is, of waarskynlik verminder sal word, in aanmerking neem.

5. Artikel 17 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) 'n In subartikel (1) bedoelde amptenaar, 'n lid van 'n grondbewaringskomitee en iemand behoorlik deur die Minister daartoe gemagtig—

Wysiging van artikel 17 van Wet 76 van 1969, soos gewysig deur artikel 3 van Wet 21 van 1974.

- (a) kan te alle redelike tye grond betree ten einde—
 - (i) die raadsaamheid om op daardie grond grondbewaringswerke op te rig of voorskrifte met betrekking tot daardie grond van toepassing te verklaar, vas te stel; of
 - (ii) opmetings te maak en bakens of merke op te rig of aan te bring wat die posisie van grondbewaringswerke wat opgerig staan te word of wat die gebied waarop 'n voorskrif van toepassing verklaar is, aandui; of
 - (iii) grondbewaringswerke wat op daardie grond opgerig word of opgerig is, te inspekteer; of
 - (iv) vas te stel of die bepalinge van hierdie Wet, 'n voorwaarde waarop geldelike bystand by wyse van 'n subsidie of toekenning verleen is of 'n voorskrif wat op of met betrekking tot daardie grond van toepassing is, behoorlik uitgevoer of nagekom is of word;
- (b) het te alle redelike tye reg van deurgang oor grond waaroor dit redelikerwys nodig is om te gaan ten einde grond in paragraaf (a) bedoel, te bereik.”

6. Artikel 20 van die Hoofwet word hierby gewysig deur die volgende paragraaf na paragraaf (dA) in te voeg:

„(dB) die vorm en afmetings van bakens of merke in artikel 17 (3) bedoel, die wyse van hul oprigting, aanbring, merk vir identifisering, instandhouding en herstel;”

Wysiging van artikel 20 van Wet 76 van 1969, soos gewysig deur artikel 4 van Wet 21 van 1974.

7. Artikel 21 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
 - „(a) 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen; of”; en
- (b) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 21 van Wet 76 van 1969, soos gewysig deur artikel 4 van Wet 4 van 1971.

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- “(e) damages, destroys, fails to maintain or without the written permission of the Minister moves or alters—
- (i) any soil conservation works constructed or maintained by the State, any owner or occupier of land or any other person; or
 - (ii) any firebelt or works constructed in terms of a fire protection scheme; or
 - (iii) any beacon or mark constructed or effected in terms of section 17 (3).”

Insertion of
section 26B in
Act 76 of 1969.

8. The following section is hereby inserted in the principal Act after section 26A:

“Admissi-
bility and
evidential
value of
certain
documents.

26B. (1) A document purporting to be certified by an officer in the department as a true copy of a direction shall on the production thereof by any person in a prosecution in terms of this Act be *prima facie* evidence of the particulars of the direction of which that document purports to be a copy, and of the authority in terms of this Act of the person who declared that direction applicable.

(2) If a document referred to in subsection (1) purports to be endorsed by an officer in the department to the effect that he served the direction of which that document purports to be a copy, upon a person mentioned in the endorsement, it shall be presumed in any prosecution in terms of this Act that such direction was served on such person until the contrary is proved.”

Short title.

9. This Act shall be called the Soil Conservation Amendment Act, 1977.

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- „(e) (i) grondbewaringswerke wat deur die Staat, 'n eienaar of bewoner van grond of 'n ander persoon opgerig of in stand gehou word; of
(ii) 'n brandstrook of werke wat ingevolge 'n brandbestrydingsplan aangelê is; of
(iii) 'n baken of merk wat ingevolge artikel 17 (3) opgerig of aangebring is,
beskadig, vernietig, versuim om dit in stand te hou of sonder die skriftelike toestemming van die Minister versit of verander.”

8. Die volgende artikel word hierby in die Hoofwet na artikel 26A ingevoeg:

Invoeging van
artikel 26B in
Wet 76 van 1969.

„Toelaatbaar-
heid en bewys-
krag van
sekere
geskrifte.

26B. (1) 'n Geskrif wat heet deur 'n beampte in die departement as 'n ware afskrif van 'n voorskrif gesertifiseer te wees, is by die oorlegging daarvan deur enigiemand in 'n vervolging ingevolge hierdie Wet *prima facie*-bewys van die besonderhede van die voorskrif waarvan daardie geskrif 'n afskrif heet te wees, en van die magtiging ingevolge hierdie Wet van die persoon wat daardie voorskrif van toepassing verklaar het.

(2) Indien 'n geskrif in subartikel (1) bedoel, heet deur 'n beampte in die departement geëndosseer te wees ten effekte dat hy die voorskrif waarvan daardie geskrif 'n afskrif heet te wees, aan 'n in die endossement genoemde persoon bestel het, word by 'n vervolging ingevolge hierdie Wet vermoed totdat die teendeel bewys word dat daardie voorskrif aan genoemde persoon bestel is.”

9. Hierdie Wet heet die Wysigingswet op Grondbewaring, Kort titel. 1977.

