



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuisblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS + 1c AVB 20c PRICE + 1c GST
BUITELANDS 30c ABROAD
POSVRY · POST FREE

VOL. 177]

KAAPSTAD, 28 MAART 1980

CAPE TOWN, 28 MARCH 1980

[No. 6909

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 568.

28 Maart 1980.

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

No. 6 van 1980: Wysigingswet op Bemarking, 1980.

DEPARTMENT OF THE PRIME MINISTER

No. 568.

28 March 1980.

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

No. 6 of 1980: Marketing Amendment Act, 1980.

Wet No. 6, 1980

WYSIGINGSWET OP BEMARKING, 1980

ALGEMENE VERDUIDELIKENDE NOTA:**[]**

Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Bemarkingswet, 1968, ten einde die kwalifikasies van persone wat geregtig is om oor 'n gepubliseerde skema te stem, verder te reël; die strawwe wat 'n skema kan voorskryf, te verhoog; die amps-termyn van lede van beheerrade verder te reël; voorsiening te maak vir plaasvervangers vir lede van genoemde rade; voorsiening te maak vir die verlening van bystand deur 'n beheerraad aan sekere komitees en organisasies; die bestryding van die uitgawes van die Suid-Afrikaanse Landbou-unie uit 'n sekere fonds verder te reël; die aanstelling van agente deur 'n beheerraad onderworpe te stel aan die goedkeuring van die Minister van Landbou; voorsiening te maak vir die verhaal van 'n verlies wat 'n poel kon gely het as gevolg van 'n versuim om produkte te lewer ooreenkomstig kennisgewing aan 'n beheerraad of die lewering van produkte sonder sodanige kennisgewing; die strawwe vir sekere oortredings te verhoog; en sekere bepalings in ooreenstemming met nuwe wetgewing te bring; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Maart 1980.)

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

Wysiging van
artikel 13 van
Wet 59 van 1968.

1. Artikel 13 van die Bemarkingswet, 1968 (hieronder die Hoofwet genoem), word hierby gewysig deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

„(3) Niemand is geregtig om oor die gemelde besluit te stem nie behalwe 'n **[blanke]** persoon van die leeftyd van een-en-twintig jaar of ouer—”.

Wysiging van
artikel 23 van
Wet 59 van 1968.

2. Artikel 23 van die Hoofwet word hierby gewysig deur die woord „tweehonderd” deur die woord „duisend” en die woord „ses” deur die woord „twaalf” te vervang.

Wysiging van
artikel 28 van
Wet 59 van 1968,
soos gewysig deur
artikel 9 van
Wet 52 van 1969,
artikel 2 van
Wet 68 van 1972,
artikel 4 van
Wet 31 van 1973
en artikel 10 van
Wet 109 van 1977.

3. Artikel 28 van die Hoofwet word hierby gewysig—

(a) deur in paragraaf (b) van subartikel (1) die woorde wat 15 die voorbehoudsbepaling voorafgaan, deur die volgende woorde te vervang:

„(b) Die lede van 'n beheerraad word, behoudens enige bepaling in die tersaaklike skema opgeneem uit hoofde van die bepalings van paragraaf (a) en 20 behoudens die bepalings van subartikel (2) en artikel 15 (4), deur die Minister aangestel vir **[’n]** die tydperk wat hy bepaal, maar van hoogstens drie jaar.”; en

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GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Marketing Act, 1968, so as to further regulate the qualifications of persons entitled to vote on a published scheme; to increase the penalties that may be prescribed by a scheme; to further regulate the period of office of members of control boards; to provide for alternate members for members of such boards; to provide for the rendering of assistance by a control board to certain committees and organizations; to further regulate the defraying of expenditure of the South African Agricultural Union out of a certain fund; to make the appointment of agents by a control board subject to the approval of the Minister of Agriculture; to provide for the recovery of loss which a pool could have suffered as a result of a failure to deliver products in accordance with a notice to a control board or the delivery of any products without such notice; to increase the penalties for certain offences; and to bring certain provisions into line with new legislation; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 18 March 1980.)

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

1. Section 13 of the Marketing Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“(3) No person shall be entitled to vote on the said resolution except a **[white]** person of or above the age of twenty-one years—”.

Amendment of section 13 of Act 59 of 1968.
2. Section 23 of the principal Act is hereby amended by the substitution for the words “two hundred” of the words “one thousand” and for the word “six” of the word “twelve”.

Amendment of section 23 of Act 59 of 1968.
3. Section 28 of the principal Act is hereby amended—
 - (a) by the substitution in paragraph (b) of subsection (1) for the words preceding the proviso of the following words:

“(b) The members of a control board shall, subject to any provision included in the relevant scheme by virtue of the provisions of paragraph (a) and to the provisions of subsection (2) and section 15 (4), be appointed by the Minister for **[a]** such period, not exceeding three years, as he may determine”; and

Amendment of section 28 of Act 59 of 1968, as amended by section 9 of Act 52 of 1969, section 2 of Act 68 of 1972, section 4 of Act 31 of 1973 and section 10 of Act 109 of 1977.

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- (b) deur die volgende paragraaf by genoemde subartikel (1) te voeg:

„(e) Wanneer 'n lid van 'n beheerraad afwesig is of nie in staat is om sy ampspligte uit te voer nie, kan die Minister iemand anders wat hy geskik ag, aanstel om op te tree in die plek van daardie lid gedurende sy afwesigheid of solank hy nie in staat is om sy ampspligte uit te voer nie, en so iemand beklee sy amp asof hy lid van dié beheerraad is: Met dien verstande dat iemand wat aldus aangestel is om in die plek van 'n voorsitter of onder-voorsitter van 'n beheerraad op te tree, slegs die pligte van 'n gewone lid uitvoer tensy dié beheerraad anders besluit.”.

Wysiging van artikel 35 van Wet 59 van 1968, soos gewysig deur artikel 3 van Wet 68 van 1972.

4. Artikel 35 van die Hoofwet word hierby gewysig deur die volgende paragraaf by te voeg:

„(c) aan—

- (i) 'n komitee of organisasie wat deur die Suid-Afrikaanse Landbou-unie ingestel of in die lewe geroep is om die een of ander vertakking van die landboubedryf te bevorder; en
(ii) 'n organisasie wat in die lewe geroep is om die een of ander vertakking van die landboubedryf te bevorder en by genoemde Unie of 'n provinsiale landbou-unie geaffilieer is:

Met dien verstande dat die beheerraad nie sodanige bystand aan so 'n komitee of organisasie verleen nie, tensy dié komitee of organisasie deur middel van en met die goedkeuring van genoemde Suid-Afrikaanse Landbou-unie vertoë daarvoor tot dié beheerraad gerig het.”.

Wysiging van artikel 46D van Wet 59 van 1968, soos ingevoeg deur artikel 15 van Wet 109 van 1977.

5. Artikel 46D van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (2) die woorde wat paragraaf (b) voorafgaan deur die volgende woorde te vervang:
„(2) Die gelde in bedoelde rekening **[kan] moet** aangewend word—

- (a) om uitgawes te bestry wat deur die Suid-Afrikaanse Landbou-unie aangegaan word **[vir die doeleindes]** in verband met die verrigting van sy werksaamhede, uitgesonderd uitgawes wat aldus aangegaan word in verband met 'n komitee of organisasie bedoel in artikel 35 (c) [wat die Minister goedkeur na voorlegging aan hom deur die bedoelde Suid-Afrikaanse Landbou-unie van 'n raming van sy behoeftes vir sodanige doeleindes]; en

- (b) deur na genoemde subartikel (2) die volgende subartikel in te voeg:

„(2A) Genoemde Suid-Afrikaanse Landbou-unie moet by tussenpose van drie jaar, maar nie later nie as 31 Maart van die betrokke jaar, die Minister voorsien van 'n raming van sy uitgawes in verband met die verrigting van sy werksaamhede bedoel in subartikel (2) (a) gedurende die onmiddellik daaropvolgende drie boekjare van genoemde Unie, en die Minister bepaal na goeddunke, na oorleg met genoemde Unie en die bemarkingsraad, die bedrag wat jaarliks gedurende genoemde drie boekjare aan genoemde Unie kragtens genoemde subartikel (2) (a) betaal moet word: Met dien verstande dat die Minister op versoek van genoemde Unie en na oorleg met genoemde bemarkingsraad die aldus bepaalde bedrag ten opsigte van 'n bepaalde jaar kan verhoog.”.

Wysiging van artikel 53 van Wet 59 van 1968.

6. Artikel 53 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

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(b) by the addition to the said subsection (1) of the following paragraph:

“(e) Whenever a member of a control board is absent or unable to fulfil his duties, the Minister may appoint any other person whom he considers suitable to act in the place of that member during his absence or while he is unable to fulfil his duties, and such person shall hold office as if he were a member of such control board: Provided that a person so appointed to act in the place of a chairman or a vice-chairman of a control board shall perform the duties of an ordinary member only, unless such control board decides otherwise.”

4. Section 35 of the principal Act is hereby amended by the addition of the following paragraph:

“(c) (i) a committee or organization established or instituted by the South African Agricultural Union to promote any branch of the agricultural industry; (ii) any organization instituted to promote any branch of the agricultural industry and affiliated with the said Union or a provincial agricultural union: Provided that the control board shall not grant such assistance to such a committee or organization unless the committee or organization has, through and with the approval of the said South African Agricultural Union, made representations therefor to such board.”

Amendment of section 35 of Act 59 of 1968, as amended by section 3 of Act 68 of 1972.

5. Section 46D of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (b) of the following words:

“(2) The moneys in such account **[may] shall** be utilized—

(a) to meet expenditure incurred by the South African Agricultural Union **[for such purposes connected with]** in connection with the performance of its functions, excluding any expenditure so incurred in connection with any committee or organization contemplated in section 35 (c) [as the Minister may approve after submission to him by the said South African Agricultural Union of an estimate of its requirements for such purpose];” and

(b) by the insertion after the said subsection (2) of the following subsection:

“(2A) The said South African Agricultural Union shall at intervals of three years but not later than 31 March of the year in question submit to the Minister an estimate of its expenditure in connection with the performance of its functions contemplated in subsection (2) (a) during the immediately ensuing three financial years of the said Union, and the Minister shall in his discretion and after consultation with the said Union and the marketing council determine the amount which shall under the said subsection (2) (a) be paid annually to the said Union during the said three financial years: Provided that the Minister may at the request of the said Union and after consultation with the said marketing council increase in respect of a particular year the amount so determined.”

Amendment of section 46D of Act 59 of 1968, as inserted by section 15 of Act 109 of 1977.

6. Section 53 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 53 of Act 59 of 1968.

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„(1) 'n Skema kan sy beheerraad magtig om, onderworpe aan die goedkeuring van die Minister en die voorwaardes deur **[die Minister]** hom goedgekeur, die agente aan te stel wat die raad nodig ag vir die behoorlike verrigting van sy werksaamhede.”. 5

Wysiging van artikel 66 van Wet 59 van 1968, soos gewysig deur artikel 11 van Wet 68 van 1972.

7. Artikel 66 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (3) deur die volgende paragraaf te vervang:
- „(c) waar die raad dit billik ag om dit te doen, van 'n produsent wat aan die raad 'n hoeveelheid van die produk gelewer het— 10
- (i) wat verskil van die hoeveelheid waarvan die betrokke produsent aldus kennis gegee het; of
- (ii) ten opsigte waarvan daardie produsent versuim het om aldus kennis te gee,
- 'n bedrag ten bate van die poel verhaal wat, volgens skatting 15 deur die raad **[met die goedkeuring van die Minister]** gemaak, ongeveer gelyk staan met die bedrag van verlies **[deur]** wat die poel gelyk of, as dit nie vir die optrede van die raad was nie, kon gelyk het, as gevolg van sodanige verskil in hoeveelheid of sodanige versuim 20 om kennis te gee: Met dien verstande dat 'n bedrag wat per eenheid of hoeveelheid van die produk verhaal word nie 'n bedrag wat in die skema voorgeskryf moet word, oorskry nie.”.

Wysiging van artikel 90 van Wet 59 van 1968, soos gewysig deur artikel 20 van Wet 52 van 1969, artikel 24 van Wet 69 van 1970, artikel 19 van Wet 31 van 1973, artikel 7 van Wet 73 van 1974 en artikel 24 van Wet 109 van 1977.

8. Artikel 90 van die Hoofwet word hierby gewysig— 25
- (a) deur in subparagraaf (i) van subartikel (1) die woord „vierhonderd” deur die woord „tweeëduisend” en die woorde „twaalf maande” deur die woorde „twee jaar” te vervang;
- (b) deur in subparagraaf (ii) van genoemde subartikel die 30 woord „tweehonderd” deur die woord „duisend” en die woord „ses” deur die woord „twaalf” te vervang;
- (c) deur in subparagraaf (iii) van genoemde subartikel die 35 woord „honderd” deur die woord „vyfhonderd” te vervang; en
- (d) deur in subartikel (2) na die uitdrukking „67,” die uitdrukking „69,” in te voeg.

Wysiging van artikel 92 van Wet 59 van 1968, soos gewysig deur artikel 21 van Wet 52 van 1969 en artikel 25 van Wet 109 van 1977.

9. Artikel 92 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:
- „(5) Die bepalinge van artikel **[360 (4) en (5)] 35 (4)** van 40 die Strafproseswet, **[1955 (Wet No. 56 van 1955)] 1977 (Wet No. 51 van 1977)**, is *mutatis mutandis* van toepassing op 'n verbeurdverklaring kragtens subartikel (4) van hierdie artikel.”.

Kort titel.

10. Hierdie Wet heet die Wysigingswet op Bemarking, 1980. 45

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“(1) A scheme may empower its control board to appoint, subject to the approval of the Minister and the conditions approved by **[the Minister]** him, such agents as it may consider necessary for the proper performance of its functions.”.

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7. Section 66 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (3) of the following paragraph:

Amendment of section 66 of Act 59 of 1968, as amended by section 11 of Act 68 of 1972.

“(c) where the board considers it equitable to do so, recover for the benefit of the pool from any producer who has delivered to the board a quantity of that product—

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(i) which differs from the quantity of which such producer so gave notice; or

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(ii) in respect of which such producer failed to give notice,

an amount assessed by the board **[with the approval of the Minister]** as being approximately equal to the amount of any loss which the pool suffered [by such pool] or, but for any action by the board, could have suffered, in consequence of such difference in quantity or such failure to give notice: Provided that any amount recovered per unit or quantity of the product shall not exceed an amount which shall be prescribed in the scheme.”.

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25 8. Section 90 of the principal Act is hereby amended—

Amendment of section 90 of Act 59 of 1968, as amended by section 20 of Act 52 of 1969, section 24 of Act 69 of 1970, section 19 of Act 31 of 1973, section 7 of Act 73 of 1974 and section 24 of Act 109 of 1977.

(a) by the substitution in subparagraph (i) of subsection (1) for the words “four hundred” of the words “two thousand” and for the words “twelve months” of the words “two years”;

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(b) by the substitution in subparagraph (ii) of the said subsection for the words “two hundred” of the words “one thousand” and for the word “six” of the word “twelve”;

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(c) by the substitution in subparagraph (iii) of the said subsection for the word “one” of the word “five”; and

(d) by the insertion in subsection (2) after the expression “67,” of the expression “69,”.

9. Section 92 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 92 of Act 59 of 1968, as amended by section 21 of Act 52 of 1969 and section 25 of Act 109 of 1977.

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“(5) The provisions of section **[360 (4) and (5)]** 35 (4) of the Criminal Procedure Act, **[1955 (Act No. 56 of 1955)]** 1977 (Act No. 51 of 1977), shall *mutatis mutandis* apply to any forfeiture in terms of subsection (4) of this section.”.

10. This Act shall be called the Marketing Amendment Act, Short title.
45 1980.

