



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1461.

4 Julie 1990

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

No. 86 van 1990: Wet op Landbounavorsing, 1990.

No. 1461.

4 July 1990

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

No. 86 of 1990: Agricultural Research Act, 1990.

WET

Om 'n regspersoon te stig om landbounavorsing te behartig; sy oogmerke, werksaamhede, bevoegdhede en pligte te bepaal; die wyse waarop hy beheer en bestuur word, voor te skryf; sy werknemersaangeleenthede en geldsake te reël; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Junie 1990.)*

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

Woordomskrywing

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—
 - (i) “boekjaar” die tydperk van 1 April in 'n jaar tot 31 Maart in die daaropvolgende jaar; (vi) 5
 - (ii) “die LNR” die Landbounavorsingsraad by artikel 2 ingestel; (xiv)
 - (iii) “hierdie Wet” ook 'n regulasie; (xv)
 - (iv) “Hoofbestuurskomitee” die Hoofbestuurskomitee in artikel 16 bedoel; (v)
 - (v) “landbou” die aanwending van produksiemiddele en die benutting van die natuurlike landbouhulpbronne deur die mens vir die produksie van, onder 10
andere, voldoende voedsel, vesel en drank van gehalte; (i)
 - (vi) “Minister”, behoudens die bepalinge van artikel 6, die Minister van Landbou; (ix)
 - (vii) “navorsing” die ontsluiting, vermeerdering en verbetering van kennis in die 15
landbou- en verwante wetenskappe deur middel van oorspronklike en ander ondersoeke en metodes van wetenskaplike aard met die bevordering van landbou as doelwit; (xii)
 - (viii) “nywerheid” 'n nywerheid wat by die verwerking van landbouprodukte betrokke is op die gebiede deur die Minister by kennisgewing in die 20
Staatskoerant bepaal; (vii)
 - (ix) “ontwikkeling” die aktiwiteite waardeur kennis verkry deur navorsing, benutbaar gemaak word; (iv)
 - (x) “president” die persoon wat ingevolge artikel 18 as hoof- uitvoerende 25
beampte van die LNR aangestel is; (x)
 - (xi) “Raad” die Raad in artikel 8 (1) bedoel; (iii)
 - (xii) “regulasie” 'n regulasie ingevolge hierdie Wet uitgevaardig; (xi)
 - (xiii) “tegnologie-oordrag” die oordra van kennis, en tegnieke en prosesse vir die toepassing daarvan; (xiii)
 - (xiv) “uitvinding” ook die ontwikkeling, op welke wyse ook al, van nuwe 30
diererasse, plantkultivars en ander organismes; (viii)
 - (xv) “voorsitter” die persoon wat ingevolge artikel 11 (1) as die voorsitter van die Raad aangestel is; (ii)

Instelling van Landbounavorsingsraad

2. Daar word hierby 'n regspersoon ingestel wat die Landbounavorsingsraad heet. 35

ACT

To establish a juristic person to deal with agricultural research; to determine its objects, functions, powers and duties; to prescribe the manner in which it is to be managed and governed; to regulate its employee matters and financial affairs; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 21 June 1990.)*

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

Definitions

1. In this Act, unless the context otherwise indicates—
- 5 (i) “agriculture” means the utilization of the means of production and the utilization by man of the natural agricultural resources for the production of, among other things, sufficient food, fibre and drink of quality; (v)
 - (ii) “chairman” means the person appointed in terms of section 11 (1) as the chairman of the Council; (xv)
 - 10 (iii) “Council” means the Council referred to in section 8 (1); (xi)
 - (iv) “development” means the activities by which knowledge acquired through research is utilized; (ix)
 - (v) “Executive Management Committee” means the Executive Management Committee referred to in section 16; (iv)
 - 15 (vi) “financial year” means the period from 1 April in any year to 31 March in the next succeeding year; (i)
 - (vii) “industry” means any industry involved in the processing of agricultural products in such fields as the Minister may determine by notice in the *Gazette*; (viii)
 - 20 (viii) “invention” includes the development, in whatever way, of new animal breeds, plant cultivars and other organisms; (xiv)
 - (ix) “Minister” means, subject to the provisions of section 6, the Minister of Agriculture; (vi)
 - (x) “president” means the person appointed in terms of section 18 as the chief executive officer of the ARC; (x)
 - 25 (xi) “regulation” means a regulation made in terms of this Act; (xii)
 - (xii) “research” means the furtherance, accumulation and improvement of knowledge in the agricultural and related sciences through original and other investigations and methods of a scientific nature with the advancement of agriculture as its object; (vii)
 - 30 (xiii) “technology transfer” means the transfer of knowledge, and techniques and processes for the application thereof; (xiii)
 - (xiv) “the ARC” means the Agricultural Research Council established by section 2; (ii)
 - 35 (xv) “this Act” includes a regulation. (iii)

Establishment of Agricultural Research Council

2. There is hereby established a juristic person to be known as the Agricultural Research Council.

Wet No. 86, 1990

WET OP LANDBOUNAVORSING, 1990

Oogmerke van LNR

3. Die oogmerke van die LNR is om deur navorsing, ontwikkeling en tegnologie-oordrag die landbou en nywerheid te bevorder en daardeur by te dra tot die verbetering van die lewenskwaliteit van die bevolking van die Republiek, en met inagneming van die beskerming van die omgewing die ander werksaamhede te verrig wat by of kragtens hierdie Wet aan die LNR opgedra word. 5

Werksaamhede, bevoegdhede en pligte van LNR

4. (1) Ten einde sy oogmerke te bereik, kan die LNR—
- (a) navorsing, ontwikkeling en tegnologie-oordrag onderneem en bevorder in verband met— 10
 - (i) die optimale benutting van die landbouhulpbronne en die verbetering van die produksievermoë van dié hulpbronne;
 - (ii) die rehabilitering en verbetering van die landbouhulpbronne;
 - (iii) die ontsluiting van moontlikhede en die generering van nuwe kennis om bepaalde probleme op te los; 15
 - (iv) die verbetering van die voedingswaarde en kwaliteit van landbouprodukte;
 - (v) die besoeiding van die omgewing en die voorkoming daarvan ten opsigte van die landbou;
 - (vi) die verbetering van bestaande tegnieke en die skepping van nuwe tegnieke vir die verwerking van landbouprodukte en om die houervermoë van bederfbare landbouprodukte te verbeter; 20
 - (b) die tegnologiese kundigheid in sy besit benut en dit algemeen beskikbaar stel;
 - (c) inligting oor sy oogmerke en werksaamhede publiseer, en fasiliteite vir die insameling en verspreiding van inligting oor navorsing en ontwikkeling skep; 25
 - (d) fasiliteite skep en beheer op daardie gebiede van navorsing, ontwikkeling en tegnologie-oordrag wat die Raad van tyd tot tyd bepaal;
 - (e) samewerking tussen die Republiek en ander lande bevorder met betrekking tot navorsing, ontwikkeling en tegnologie-oordrag; 30
 - (f) met persone, instellings en verenigings wat navorsing, ontwikkeling en tegnologie-oordrag in ander lande onderneem, saamwerk;
 - (g) met enige instelling of persoon saamwerk ter bevordering van navorsing en ontwikkeling of met so 'n instelling of persoon kontrakteer om navorsing en ontwikkeling vir die LNR te onderneem; 35
 - (h) met onderwysowerhede en wetenskaplike of tegniese verenigings in die Republiek saamwerk ter bevordering van—
 - (i) die onderrig van potensiële navorsers in skole, en aan teknikons, kolleges en universiteite; en 40
 - (ii) die opleiding van navorsers en tegniese deskundiges;
 - (i) toekennings aan enige instelling doen ter bevordering van navorsing en ontwikkeling deur hul personeel of vir die skepping van fasiliteite vir sodanige navorsing en ontwikkeling;
 - (j) die opleiding van navorsingswerkers by wyse van die toekenning van beurse of hulptoelae vir navorsing, ontwikkeling en tegnologie-oordrag en die maak van geldelike bydraes tot navorsings-, ontwikkelings- en tegnologie-oordragprogramme, bevorder; 45
 - (k) studiebeurse en -lenings aan enige persoon toeken;
 - (l) behoudens die bepalinge van artikel 5, ooreenkomste sluit met enige persoon, instelling, regering of administrasie, op die voorwaardes waarvoor die LNR en daardie persoon, instelling, regering of administrasie ooreenkom; 50
 - (m) met die goedkeuring van die Minister, wat met die instemming van die Minister van Finansies optree— 55
 - (i) roerende en onroerende goed koop of op 'n ander wyse verkry, of besit of huur, en daardie goed vervreem, verhuur, verpand of andersins beswaar;
 - (ii) van tyd tot tyd op die voorwaardes wat die Raad goedkeur, geld by wyse van lenings uit enige bron en teen die sekuriteit wat die Raad goedvind, opneem; en 60

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Objects of ARC

3. The objects of the ARC are, through research, development and technology transfer, to promote agriculture and industry and thereby to contribute to the improvement of the quality of life of the people of the Republic, and having regard to the protection of the environment to perform such other functions as may be assigned to the ARC by or under this Act.

Functions, powers and duties of ARC

4. (1) In order to achieve its objects, the ARC may—
- (a) undertake and promote research, development and technology transfer in connection with—
- (i) the optimal utilization of the agricultural resources and the improvement of the production capacity of such resources;
 - (ii) the rehabilitation and improvement of the agricultural resources;
 - (iii) the opening of possibilities and the generation of new knowledge to solve particular problems;
 - (iv) the improvement of the nutritional value and quality of agricultural products;
 - (v) the pollution of the environment and the prevention thereof in respect of agriculture;
 - (vi) the improvement of existing techniques and the creation of new techniques for the processing of agricultural products and to improve the keeping quality of perishable agricultural products;
- (b) utilize the technological expertise in its possession and make it generally available;
- (c) publish information concerning its objects and functions, and establish facilities for the collection and dissemination of information in connection with research and development;
- (d) establish and control facilities in those fields of research, development and technology transfer which the Council may from time to time determine;
- (e) promote co-operation between the Republic and other countries with regard to research, development and technology transfer;
- (f) co-operate with persons, institutions and associations undertaking research, development and technology transfer in other countries;
- (g) co-operate with any institution or person to promote research and development, or contract with such institution or person to undertake research and development for the ARC;
- (h) co-operate with educational authorities and scientific or technical societies in the Republic for the promotion of—
- (i) the instruction of potential researchers in schools, technikons, colleges and universities; and
 - (ii) the training of researchers and technical experts;
- (i) make grants to any institution for the advancement of research and development by their staff or for the establishment of facilities for such research and development;
- (j) promote the training of research workers by means of the granting of bursaries or grants-in-aid for research, development and technology transfer and the making of monetary contributions for research, development and technology transfer programmes;
- (k) grant study bursaries and educational loans to any person;
- (l) subject to the provisions of section 5, enter into agreements with any person, institution, government or administration, upon such conditions as the ARC and that person, institution, government or administration may agree;
- (m) with the approval of the Minister, acting with the concurrence of the Minister of Finance—
- (i) purchase, or otherwise acquire or possess, hire, alienate, let, pledge or otherwise encumber movable and immovable property;
 - (ii) borrow money from time to time on such conditions as the council may approve, by way of loans from any source and against the security which the Council may deem fit; and

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- (iii) op sy eie, of in medewerking met enige persoon, 'n maatskappy oprig met die doel om op enige wyse 'n uitvinding of tegnologiese kundigheid te ontwikkel of te benut, en vir dié doel 'n belang in of beheer oor 'n maatskappy of 'n statutêre liggaam bedoel in artikel 1 van die Skatkiswet, 1975 (Wet No. 66 van 1975), verkry; 5
 - (n) dienste huur of verhuur;
 - (o) as 'n eindproduk van navorsing, ontwikkeling en tegnologie-oordrag wat die LNR onderneem het of laat onderneem het—
 - (i) verslae, rekenaarprogramme en ander intellektuele eiendom produseer en verkoop; 10
 - (ii) instrumente, toerusting en dergelike items vervaardig en verkoop;
 - (iii) produkte produseer, verwerk en verkoop;
 - (iv) marknavorsing doen of laat doen en die resultate daarvan verkoop; en
 - (v) dienste wat nie regstreeks met navorsing verband hou nie, teen betaling verskaf; 15
 - (p) op die voorwaardes waaromtrent ooreengekom word, enige navorsingsinstituut, -eenheid of -aktiwiteit instel of onderneem of dit onder die beheer plaas van 'n universiteit, teknikon, kollege of ander opvoedkundige of wetenskaplike instelling;
 - (q) alles doen wat na die mening van die Raad nodig of bevorderlik is vir die bereiking van sy oogmerke of wat bereken is om regstreeks of onregstreeks die waarde van die goed of regte van die LNR te verhoog of winsgewend te maak. 20
- (2) Die LNR moet, benewens sy werksaamhede ingevolge hierdie Wet of enige ander wet— 25
- (a) en behoudens sy oogmerke, die ondersoeke, navorsing, ontwikkeling en tegnologie-oordrag onderneem wat die Minister aan hom opdra;
 - (b) die Minister van raad dien oor navorsing, ontwikkeling en tegnologie-oordrag op die gebied van landbou; en
 - (c) inligting oor landbounavorsing en -ontwikkeling in die Republiek op 'n 30 vrywillige grondslag koördineer deur die skepping en byhou van 'n sentrale register van landbounavorsings- en ontwikkelingsprojekte en die maatreëls tref wat hy goeddunk ter bereiking van dié doelwit.

Uitoefening van bevoegdhede van LNR buite Republiek

5. (1) Die LNR kan op versoek van of met die voorafverkreë goedkeuring van die Minister navorsing, ontwikkeling en tegnologie-oordrag in enige gebied buite die Republiek onderneem namens enige persoon (met inbegrip van enige instelling, regering of administrasie). 35

(2) Behoudens die bepalinge van subartikel (3) is die bepalinge van hierdie Wet, vir sover hulle toegepas kan word, *mutatis mutandis* van toepassing op die uitoefening deur die LNR van sy bevoegdhede ingevolge hierdie artikel asof die gebied waarin hy sy bevoegdhede aldus uitoefen binne die Republiek is. 40

(3) Ondanks andersluidende bepalinge van hierdie Wet word navorsing, ontwikkeling en tegnologie-oordrag kragtens subartikel (1) onderneem op die voorwaardes waaromtrent daar ooreengekom word tussen die LNR en die persoon (met inbegrip van enige instelling, regering of administrasie) namens wie die navorsing, ontwikkeling en tegnologie-oordrag gedoen gaan word, en wat deur die Minister goedgekeur word. 45

(4) Die Minister kan met die instemming van die Minister van Finansies die LNR vrywaar teen verliese wat hy mag ly as gevolg van 'n handeling of versuim van die persoon, instelling, regering of administrasie in subartikel (1) bedoel. 50

Uitvoering van Wet

6. Die Staatspresident kan by proklamasie in die *Staatskoerant* bepaal dat 'n bevoegdheid of plig in die proklamasie vermeld en wat by hierdie Wet aan die Minister opgedra of hom opgelê is, deur die Minister na oorleg met een of meer ander aldus vermelde Ministers uitgeoefen of verrig moet word. 55

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- (iii) on its own, or in association with any person, establish a company for the purpose of developing or exploiting in any manner any invention or technological expertise, and for this purpose acquire an interest in or control over a company or statutory body referred to in section 1 of the Exchequer Act, 1975 (Act No. 66 of 1975);
- (n) hire or let services;
- (o) as an end-product of research, development and technology transfer undertaken or caused to be undertaken by the ARC—
- (i) produce and sell reports, computer programmes and other intellectual property;
- (ii) manufacture and sell instruments, equipment and similar items;
- (iii) produce, process and sell products;
- (iv) conduct or commission market research and sell the results thereof; and
- (v) provide, against payment, services not directly related to research;
- (p) establish or undertake any research institute, unit or activity or place it under the control of any university, technikon, college or other educational or scientific institution on such conditions as may be agreed upon;
- (q) do everything which in the opinion of the Council is conducive to the achievement of its objects or is calculated, directly or indirectly, to enhance or render profitable the value of the property or rights of the ARC.
- (2) The ARC shall, in addition to its functions in terms of this Act or any other law—
- (a) and subject to its objects, undertake the investigations, research, development and technology transfer which the Minister may assign to it;
- (b) advise the Minister on research, development and technology transfer in the field of agriculture; and
- (c) co-ordinate on a voluntary basis information on agricultural research and development in the Republic by implementing and keeping a central register of agricultural research and development projects, and institute such measures as it may deem fit to achieve such goal.

Exercise of powers of ARC outside Republic

5. (1) The ARC may at the request or with the prior approval of the Minister undertake research, development and technology transfer in any territory outside the Republic on behalf of any person (including any institution, government or administration).

(2) Subject to the provisions of subsection (3), the provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* to the exercising by the ARC of its powers in terms of this section as if the territory in which it so exercises its powers were within the Republic.

(3) Notwithstanding anything to the contrary in this Act contained, research, development and technology transfer shall under subsection (1) be undertaken on such conditions as may be agreed upon between the ARC and the person (including any institution, government or administration) on whose behalf the research, development and technology transfer are to be undertaken, and as may be approved by the Minister.

(4) The Minister may with the concurrence of the Minister of Finance indemnify the ARC against any losses which it may incur consequent upon any act or omission of the person, institution, government or administration referred to in subsection (1).

Administration of Act

6. The State President may by proclamation in the *Gazette* determine that any power or duty mentioned in the proclamation and which is by this Act conferred or imposed upon the Minister, shall be exercised or performed by the Minister after consultation with one or more other Ministers so mentioned.

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Oordrag van werksaamhede en bevoegdhede

7. (1) Die Staatspresident kan, na oorleg deur die Minister met die Raad en 'n raad of liggaam wat by of kragtens 'n Wet van die Parlement ingestel is, 'n werksaamheid of bevoegdheid wat aan dié raad of liggaam opgedra of verleen is, aan die LNR oordra om deur die LNR verrig of uitgeoefen te word. 5

(2) Die Staatspresident kan, na oorleg deur die Minister met die Raad en 'n raad of liggaam wat by of kragtens 'n Wet van die Parlement ingestel is, 'n werksaamheid of bevoegdheid wat aan die LNR opgedra of verleen is, aan dié raad of liggaam oordra om deur hom verrig of uitgeoefen te word.

(3) Die LNR of 'n raad of liggaam bedoel in subartikels (1) en (2) kan met die goedkeuring van die betrokke Minister enige goed, met inbegrip van grond en geboue, wat gebruik word in verband met die verrigting of uitoefening van 'n werksaamheid of bevoegdheid wat ingevolge genoemde subartikels oorgedra word, aan 'n betrokke raad of liggaam of die LNR, na gelang van die geval, oordra. 10

Beheer oor, en bestuur van sake van, LNR

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8. (1) Die sake van die LNR word bestuur deur 'n raad, wat, behoudens die bepalings van hierdie Wet, die beleid en doelstellings van die LNR bepaal en in die algemeen beheer uitoefen oor die verrigting van sy werksaamhede.

(2) Die Minister kan van tyd tot tyd om duplisering van die werksaamhede van die LNR met dié van ander instellings te voorkom, behoudens die bepalings van subartikel (3) enige aangeleentheid met betrekking tot navorsing, ontwikkeling en tegnologie-oordrag waarvoor daar in hierdie Wet voorsiening gemaak word, voorbehou as 'n aangeleentheid ten opsigte waarvan 'n besluit van die Raad onderworpe is aan die toestemming van die Minister. 20

(3) Die Minister en die Minister van Finansies kan gesamentlik van tyd tot tyd enige finansiële aangeleentheid waarvoor daar in hierdie Wet voorsiening gemaak word, voorbehou as 'n aangeleentheid ten opsigte waarvan 'n besluit van die Raad onderworpe is aan die toestemming van die Minister met die instemming van die Minister van Finansies. 25

Samestelling van Raad

30

9. (1) Die Raad bestaan uit—

- (a) die voorsitter; en
- (b) hoogstens 12 ander lede wat deur die Minister aangestel word, naamlik—
 - (i) twee lede benoem deur die Suid-Afrikaanse Landbou-unie;
 - (ii) twee lede uit 'n lys van persone benoem deur die beheerrade ingestel kragtens artikel 25 van die Bemarkingswet, 1968 (Wet No. 59 van 1968); 35
 - (iii) twee lede uit 'n lys van persone benoem deur tersiêre onderwysinstellings wat landboukundiges en veeartsenykundiges oplei;
 - (iv) drie lede vanuit die privaatsektor; 40
 - (v) twee lede wat na die mening van die Minister beskik oor kundigheid op die gebied van landbou, ontwikkeling en tegnologie-oordrag;
 - (vi) die president, wat ampshalwe in die Raad dien.

(2) By die aanstelling van 'n lid van die Raad, met inbegrip van die voorsitter, word die prestasies van so 'n persoon op die gebied van die landbouwetenskap, of sy besondere kennis of ondervinding aangaande een of ander aspek van die LNR se werksaamhede, in ag geneem. 45

Besoldiging, toelaes en diensvoorwaardes van lede van Raad

10. (1) 'n Lid van die Raad, uitgesonderd iemand wat heeltyds in diens van die Staat is, ontvang die besoldiging en toelaes wat die Minister met die instemming van die Minister van Finansies bepaal: Met dien verstande dat die besoldiging en toelaes van lede kan verskil na gelang hulle in 'n heeltydse of deeltydse hoedanigheid dien. 50

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Transfer of functions and powers

7. (1) The State President may, after consultation by the Minister with the Council and a council, board or body established by or under any Act of Parliament, transfer any function or power entrusted to or conferred upon any such council, board or
5 body to the ARC to be performed or exercised by the ARC.

(2) The State President may, after consultation by the Minister with the Council and a council, board or body established by or under any Act of Parliament, transfer any function or power entrusted to or conferred upon the Council to such council, board or body to be performed or exercised by it.

10 (3) The ARC or a council, board or body referred to in subsections (1) and (2) may, with the approval of the Minister concerned, transfer any property, including land and buildings, used in connection with the performance or exercise of a function or power transferred in terms of the said subsections, to a council, board or body concerned or the ARC, as the case may be.

15 Control over, and management of affairs of, ARC

8. (1) The affairs of the ARC shall be managed by a council, which shall, subject to the provisions of this Act, determine the policy and objectives of the ARC and exercise control generally over the performance of its functions, the exercise of its powers and the execution of its duties.

20 (2) The Minister may from time to time, to prevent duplication of the functions of the ARC with those of other institutions, and subject to the provisions of subsection (3), reserve any matter relating to research, development and technology transfer provided for in this Act, as a matter in respect of which a decision of the Council shall be subject to the consent of the Minister.

25 (3) The Minister and the Minister of Finance may jointly from time to time reserve any financial matter provided for in this Act as a matter in respect of which a decision of the Council shall be subject to the consent of the Minister with the concurrence of the Minister of Finance.

Constitution of Council

30 9. (1) The Council shall consist of—

(a) the chairman; and

(b) not more than 12 other members appointed by the Minister, namely—

(i) two members nominated by the South African Agricultural Union;

35 (ii) two members from a list of persons nominated by the control boards established under section 25 of the Marketing Act, 1968 (Act No. 59 of 1968);

(iii) two members from a list of persons nominated by tertiary educational institutions which train agriculturists and veterinarians;

(iv) three members from the private sector;

40 (v) two members who in the opinion of the Minister possess expertise in the field of agriculture, development and technology transfer;

(vi) the president, who shall serve on the Council by virtue of his office.

(2) In appointing a member of the Council, including the chairman, due regard shall be had to the achievements of such person in the field of agricultural science,
45 or his special knowledge or experience regarding one or other aspect of the ARC's functions.

Remuneration, allowances and conditions of service of members of Council

10. (1) A member of the Council other than a person who is in the full-time employment of the State, shall receive such remuneration and allowances as the
50 Minister may determine with the concurrence of the Minister of Finance: Provided that the remuneration and allowances of members may differ according to whether they serve in a full-time or part-time capacity.

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(2) Die diensvoorwaardes van 'n lid van die Raad wat nie 'n beampte is soos omskryf in artikel 1 (1) van die Staatsdienswet, 1984 (Wet No. 111 van 1984), nie, word deur die Minister met die instemming van die Minister van Finansies bepaal.

(3) Die besoldiging en toelaes bedoel in subartikel (1) en die uitgawes verbonde aan die diensvoorwaardes in subartikel (2) bedoel, word uit die fondse van die LNR 5 betaal.

Voorsitter en ondervoorsitter van Raad

11. (1) Die Minister stel na oorleg met die Raad 'n persoon as voorsitter aan, en kan na goeë dunnke so 'n aanstelling te eniger tyd intrek: Met dien verstande dat in die geval van die eerste Raad so 'n voorsitter slegs deur die Minister aangestel word. 10

(2) (a) Die Minister stel na oorleg met die voorsitter een van die lede van die Raad as ondervoorsitter aan, wat as voorsitter optree wanneer die voorsitter om enige rede afwesig is, of nie in staat is om as voorsitter op te tree nie, of wanneer die voorsitter hom daartoe versoek.

(b) Die Minister kan 'n aanstelling kragtens paragraaf (a) gedoen te eniger tyd 15 na goeë dunnke intrek.

(3) Wanneer sowel die voorsitter as die ondervoorsitter van die Raad om enige rede afwesig is of nie in staat is om op te tree nie, kies die Raad uit eie geledere iemand om as voorsitter waar te neem.

Ampstermyn van lede van Raad

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12. (1) 'n Lid van die Raad, uitgesonderd die president, bekleë sy amp vir 'n tydperk van hoogstens drie jaar, maar kan weer aangestel word.

(2) 'n Lid van die Raad ontruim sy amp indien hy—

(a) die ouderdom van 70 jaar bereik;

(b) insolvent verklaar word of sy boedel ten bate van sy skuldeisers oorgee; 25

(c) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonniss word;

(d) sonder verlof van die voorsitter van drie agtereenvolgende vergaderings van die Raad afwesig is;

(e) as lid bedank; 30

(f) (i) ingevolge die bepalings van die Kieswet, 1979 (Wet No. 45 van 1979), as 'n kandidaat vir verkiesing tot lid van die Parlement genomineer word; of

(ii) ingevolge die bepalings van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983), as lid van die Parlement 35 benoem, of as lid van die Presidentsraad aangestel of aangewys word; of

(g) kragtens subartikel (3) van sy amp onthef word.

(3) Die Minister kan 'n lid van die Raad te eniger tyd van sy amp onthef indien hy van oordeel is dat daardie lid onbekwaam is om sy pligte te vervul of dat hy hom 40 wangedra het.

(4) Indien 'n lid te sterwe kom of by skriftelike kennisgewing, gerig aan die Minister, bedank of ingevolge subartikel (2) of (3) ophou om 'n lid te wees, kan die Minister, behoudens die bepalings van artikel 9, iemand vir die onverstreke deel van sy ampstermyn in sy plek aanstel. 45

Vergaderings van Raad

13. (1) Die vergaderings van die Raad word gehou op die tye en plekke wat die Raad bepaal: Met dien verstande dat die eerste vergadering gehou word op die tyd en plek wat die voorsitter bepaal.

(2) Die voorsitter, of in sy afwesigheid die ondervoorsitter, kan te eniger tyd 'n 50 spesiale vergadering van die Raad belê, wat gehou word op die tyd en plek wat die voorsitter of die ondervoorsitter, na gelang van die geval, bepaal: Met dien verstande dat indien minstens vyf lede van die Raad 'n skriftelike versoek te dien effekte tot die Minister rig, 'n spesiale vergadering van die Raad belê moet word op die tyd en plek wat die Minister bepaal. 55

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(2) The conditions of service of a member of the Council who is not an officer as defined in section 1 (1) of the Public Service Act, 1984 (Act No. 111 of 1984), shall be determined by the Minister with the concurrence of the Minister of Finance.

(3) The remuneration and allowances referred to in subsection (1) and the expenditure connected with the conditions of service referred to in subsection (2), shall be paid out of the funds of the ARC.

Chairman and vice-chairman of Council

11. (1) The Minister shall, after consultation with the Council, appoint a person as chairman and may in his discretion rescind such appointment at any time: Provided that in the case of the first Council such chairman shall be appointed only by the Minister.

(2) (a) The Minister shall after consultation with the chairman appoint one of the members of the Council as vice-chairman, who shall act as chairman whenever the chairman is for any reason absent, or unable to act as chairman, or whenever he is requested thereto by the chairman.

(b) The Minister may in his discretion at any time rescind an appointment made under paragraph (a).

(3) Whenever both the chairman and the vice-chairman of the Council are for any reason absent or unable to act, the Council shall from among its number elect a person to act as chairman.

Period of office of members of Council

12. (1) A member of the Council, other than the president, shall hold office for a period not exceeding three years, but shall be eligible for reappointment.

(2) A member of the Council shall vacate his office if—

(a) he reaches the age of 70 years;

(b) he is declared insolvent or surrenders his estate for the benefit of his creditors;

(c) he is found guilty of an offence and sentenced to imprisonment without the option of a fine;

(d) he is absent from three consecutive meetings of the Council without the consent of the chairman;

(e) he resigns as a member;

(f) (i) he is in terms of the provisions of the Electoral Act, 1979 (Act No. 45 of 1979), nominated as a candidate for election as a member of Parliament; or

(ii) he is in terms of the provisions of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), nominated as a member of Parliament, or is appointed or designated as a member of the President's Council; or

(g) his term of office is terminated in terms of subsection (3).

(3) The Minister may at any time discharge a member of the Council from office if he is of the opinion that such member is incompetent to fulfil his duties or is guilty of misconduct.

(4) If a member dies or by written notice, directed to the Minister, resigns or in terms of subsection (2) or (3) ceases to be a member, the Minister shall, subject to the provisions of section 9, appoint a person in his place for the unexpired period of his term of office.

Meetings of Council

13. (1) The meetings of the Council shall be held at such times and places as the Council may determine: Provided that the first meeting shall be held at such time and place as the chairman may determine.

(2) The chairman, or in his absence the vice-chairman, may at any time convene a special meeting of the Council, which shall be held at such time and place as the chairman or the vice-chairman, as the case may be, may direct: Provided that, when at least five members of the Council submit a written request to the Minister in this respect, a special meeting of the Council shall be held at such time and place as the Minister may direct.

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(3) Die kworum vir 'n vergadering van die Raad is 'n meerderheid van sy lede.

(4) 'n Besluit van die Raad word geneem by 'n besluit van die meerderheid van die lede wat op 'n vergadering van die Raad aanwesig is, en by 'n staking van stemme oor enige aangeleentheid het die persoon wat op die betrokke vergadering voorsit, 'n beslissende stem benewens sy beraadslagende stem as lid van die Raad. 5

(5) Die voorsitter kan iemand wat na sy oordeel 'n belang het by die werksaamhede van die LNR toelaat om die verrigtinge van die Raad by te woon of om iemand vir so 'n doel te benoem, en om deel te neem aan daardie besprekings van die Raad wat na die oordeel van die voorsitter betrekking het op die belange van die betrokke persoon of die belange wat so 'n persoon verteenwoordig, maar dié persoon of sy 10 benoemde kan nie oor enige besluit stem nie.

(6) Notule moet van die verrigtings van elke vergadering van die Raad gehou word, en moet so spoedig moontlik op 'n daaropvolgende vergadering van die Raad bekragtig word.

Vergaderings van Raad geag behoorlik gehou te gewees het

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14. Wanneer die notule van die verrigtings van 'n vergadering ingevolge artikel 13 (6) bekragtig is, word so 'n vergadering, tensy die teendeel bewys word, geag behoorlik belê en gehou te gewees het, en word alle lede teenwoordig by die vergadering geag behoorlik bevoeg te gewees het om die vergadering by te woon en aan die verrigtinge deel te neem. 20

Geldigheid van besluite en handeling van Raad

15. Geen besluit of handeling van die Raad of handeling verrig op gesag van die Raad is ongeldig bloot weens die feit dat die Raad nie uit die volle getal lede in artikel 9 (1) bedoel, bestaan het nie, of bloot weens die feit dat 'n onbevoegde persoon aanwesig was of gehandel het as lid van die Raad toe 'n besluit geneem of handeling verrig is nie. 25

Hoofbestuurskomitee

16. Die Raad wys 'n hoofbestuurskomitee aan, wat bestaan uit die president en soveel ander lede wat werknemers van die LNR is as wat die Raad nodig ag, en wat, onderworpe aan die voorskrifte en beheer van die Raad, vir die bestuur van die sake 30 van die LNR ooreenkomstig die oogmerke en beleid van die LNR verantwoordelik is.

Komitees van Raad

17. (1) (a) Die Raad kan een of meer komitees benoem, wat raadskomitees heet, en wat, onderworpe aan die voorskrifte van die Raad, dié werksaamhede 35 van die Raad verrig wat die Raad bepaal: Met dien verstande dat die volgende raadskomitees benoem moet word:

(i) 'n Raadskomitee wat die LNR se werksaamhede op 'n deurlopende grondslag teenoor die oogmerke van die LNR evalueer; en

(ii) 'n raadskomitee wat die geldsake van die LNR moniteer. 40

(b) So 'n komitee bestaan uit een of meer persone, na gelang die Raad bepaal, wat lede van die Raad, werknemers van die LNR of ander deskundiges kan wees.

(c) Die Raad kan te eniger tyd 'n komitee in paragraaf (b) bedoel, ontbind of die getal lede daarvan verminder of vermeerder. 45

(d) Indien 'n komitee in paragraaf (a) bedoel uit meer as een lid bestaan, wys die Raad 'n lid van die komitee as die voorsitter daarvan aan.

(2) (a) Die president kan een of meer komitees benoem, wat beplanningskomitees heet, en wat—

(i) navorsingsterreine moet uitstip en prioriteite daarvolgens moet be- 50 paal;

(ii) die finansiering van die beoogde navorsing, ontwikkeling en tegnologie-oordrag beplan met inagneming van die beskikbare kundigheid en die ekonomiese meriete daarvan;

(iii) die vordering van navorsings-, ontwikkelings- en tegnologie-oordrag- 55 projekte evalueer;

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(3) The quorum for a meeting of the Council shall be a majority of its members.

(4) A decision of the Council shall be taken by resolution of the majority of the members present at any meeting of the Council and, in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote as a member of the Council.

(5) The chairman may allow any person who in his opinion has an interest in the functions of the ARC to attend the proceedings of the Council, or to nominate a person for such purpose, and to take part in such discussions of the Council as in the opinion of the chairman relate to the interests of the person in question or to the interests represented by such a person, but such person or his nominee may not vote in respect of any decision.

(6) Minutes shall be kept of the proceedings of every meeting of the Council, and shall as soon as possible be confirmed at a subsequent meeting of the Council.

Meetings of Council deemed to be duly held

14. Whenever the minutes of the proceedings of a meeting have been confirmed in terms of section 13 (6), such meeting shall, unless the contrary is proved, be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified to attend the meeting and to participate in the proceedings.

Validity of decisions and acts of Council

15. No decision or act of the Council or act done under the authority of the Council shall be invalid by reason only of the fact that the Council did not consist of the full number of members referred to in section 9 (1), or by reason only of the fact that a disqualified person was present or acted as a member of the Council, at the time when such decision was taken or act was done.

Executive Management Committee

16. The Council shall designate an executive management committee, which shall consist of the president and so many other members, who shall be employees of the ARC, as the Council may deem necessary and who shall, subject to the directives and control of the Council, be responsible for the management of the affairs of the ARC in accordance with the objects and policy of the ARC.

Committees of Council

17. (1) (a) The Council may nominate one or more committees, called council committees, which shall, subject to the instructions of the Council, perform such functions of the Council as the Council may determine: Provided that the following council committees shall be appointed:

(i) A council committee which shall, on a continuous basis, evaluate the activities of the ARC against the objects of the ARC; and

(ii) a council committee to monitor the financial affairs of the ARC.

(b) Such a committee shall consist of one or more persons, as the Council may determine, being members of the Council, employees of the ARC, or other experts.

(c) The Council may at any time dissolve a committee referred to in paragraph (b) or decrease or increase the number of its members.

(d) If a committee referred to in paragraph (a) consists of more than one member, the Council shall designate a member of the committee as the chairman thereof.

(2) (a) The president may nominate one or more committees, called planning committees, which shall—

(i) outline research areas and determine priorities accordingly;

(ii) plan the financing of the envisaged research, development and technology transfer, taking into consideration the available expertise and the economic merits thereof;

(iii) evaluate the progress of research, development and technology transfer projects;

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- (iv) onderworpe aan die voorskrifte van die president, handelende na oorleg met die Raad, die ander werksaamhede verrig wat die president bepaal.
- (b) 'n Komitee in paragraaf (a) bedoel, bestaan uit een of meer lede, wat na die goeddunke van die president aangestel word uit werknemers van die LNR, 5
ander deskundiges en persone deur belanghebbende instansies benoem.
- (c) Die president kan te eniger tyd so 'n komitee ontbind of hersaamstel.
- (d) Indien so 'n komitee uit meer as een lid bestaan, wys die lede van die komitee 'n lid van die komitee as die voorsitter daarvan aan.
- (e) 'n Komitee bedoel in paragraaf (a) kan, onderworpe aan die voorskrifte 10
van die president, subkomitees aanstel.
- (3) Die LNR kan aan die lede van enige komitee in subartikels (1) en (2) bedoel wat nie in die heeltydse diens van die Staat is nie, of nie lede van die Raad of werknemers van die LNR is nie, die besoldiging en toelaes betaal wat die Minister met die instemming van die Minister van Finansies bepaal. 15
- (4) Die Raad of president word nie onthef van die verrigting van 'n werksaamheid wat by hierdie artikel aan 'n raadskomitee of 'n beplanningskomitee opgedra is nie.

President van LNR

- 18. (1) Die Raad stel 'n hoof- uitvoerende beampte vir die LNR aan, wat die pos van president van die LNR beklee: Met dien verstande dat die eerste president deur 20
die Minister aangestel word.
- (2) Die president is die voorsitter van die Hoofbestuurskomitee, is saam met die ander lede daarvan verantwoordelik vir die bestuur van die sake van die LNR, en doen oor daardie sake verslag soos deur die Raad van hom verlang word.
- (3) Wanneer die president om die een of ander rede afwesig is of nie in staat is om 25
sy pligte uit te voer nie, of wanneer die amp van president vakant is, kan die Raad op die voorwaardes en teen die besoldiging en toelaes wat hy bepaal soos in subartikel (4) beoog, 'n werknemer van die LNR aanstel om as president waar te neem tydens sodanige afwesigheid of onvermoë, of totdat 'n president ingevolge subartikel (1) aangestel is, en terwyl daardie werknemer aldus waarneem, het hy al 30
die bevoegdhede en verrig hy al die pligte van die president.
- (4) Die president word aangestel vir 'n tydperk van hoogstens vyf jaar op die voorwaardes, met inbegrip van voorwaardes betreffende die betaling van besoldiging en toelaes, wat die Raad behoudens die bepalinge van artikel 19 (1) (b) bepaal, maar kan by die verstryking van sy ampstermyn, met sy instemming, weer aangestel 35
word.

Personeel van LNR en diensvoorwaardes

- 19. (1) (a) Die president kan behoudens paragraaf (b) en op die voorwaardes wat die Raad bepaal, die werknemers aanstel wat hy nodig ag om die 40
werksaamhede van die LNR te verrig.
- (b) Die LNR betaal aan sy werknemers die besoldiging, toelaes, subsidies en ander voordele wat die Raad bepaal, ooreenkomstig 'n stelsel wat van tyd tot tyd deur die Minister met die instemming van die Minister van Finansies goedgekeur word.
- (c) Die LNR kan benewens die werknemers in paragraaf (a) bedoel, by die 45
verrigting van sy werksaamhede bygestaan word deur beamptes en werknemers in die staatsdiens wat ingevolge artikel 14 (3) (a) van die Staatsdienswet, 1984 (Wet No. 111 van 1984), tot die beskikking van die LNR gestel is.
- (d) Iemand wat 'n pos in die staatsdiens beklee, kan met sy skriftelike 50
instemming en die instemming van die hoof van die departement waarin hy werksaam is, na die LNR oorgeplaas word, waarna hy vanaf die datum van sy oorplasing geag word ingevolge hierdie artikel aangestel te gewees het: Met dien verstande dat—
 - (i) sy salaris of salarisskaal ten opsigte van die pos nie minder gunstig mag 55
wees nie as die salaris of salarisskaal wat op hom van toepassing was as 'n persoon in diens van die Staat;
 - (ii) siekte- en vakansieverlof waarmee so iemand onmiddellik voor sy oorplasing gekrediteer was, geag word verlof te wees waarmee hy in die diens van die LNR gekrediteer is; 60

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- (iv) subject to the instructions of the president, acting after consultation with the Council, perform such other functions as the president may determine.
- (b) A committee referred to in paragraph (a) shall consist of one or more members, appointed by the president in his discretion from employees of the ARC, other experts and persons nominated by interested authorities.
- (c) The president may at any time dissolve or reconstitute such a committee.
- (d) If such a committee consists of more than one member, the members of the committee shall designate a member of the committee as the chairman thereof.
- (e) A committee referred to in paragraph (a) may, subject to the instructions of the president, appoint subcommittees.
- (3) The ARC may pay to members of any committee referred to in subsections (1) and (2) who are not in the full-time employment of the State, or are not members of the Council or employees of the ARC, such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.
- (4) The Council or president shall not be absolved from the performance of any function conferred by this section upon any council committee or a planning committee.

20 President of ARC

18. (1) The Council shall appoint a chief executive officer for the ARC, who shall occupy the post of president of the ARC: Provided that the first president shall be appointed by the Minister.

(2) The president shall be the chairman of the Executive Management Committee, shall, together with the other members thereof, be responsible for the management of the affairs of the ARC, and shall report on such affairs as may be required of him by the Council.

(3) Whenever for any reason the president is absent or unable to carry out his duties, or whenever there is a vacancy in the office of the president, the Council may, subject to such conditions and the payment of such remuneration and allowances as it may determine as contemplated in subsection (4), appoint an employee of the ARC to act as president during such absence or inability, or until a president has been appointed in terms of subsection (1), and that employee shall, while so acting, have all the powers and perform all the duties of the president.

(4) The president shall be appointed for a period not exceeding five years on such conditions, including conditions relating to the payment of remuneration and allowances, as the Council may determine subject to the provisions of section 19 (1) (b), but may, at the expiration of his period of office, with his consent, be reappointed.

40 Staff of ARC and conditions of service

19. (1) (a) The president may, subject to paragraph (b) and on such conditions as the Council may determine, appoint the employees whom he deems necessary to perform the functions of the ARC.

(b) The ARC shall pay to its employees such remuneration, allowances, subsidies and other benefits as the Council may determine, in accordance with a system approved from time to time by the Minister, with the concurrence of the Minister of Finance.

(c) The ARC may, in addition to the employees referred to in paragraph (a), be assisted in the performance of its functions by officers and employees in the public service who have been placed at the disposal of the ARC in terms of section 14 (3) (a) of the Public Service Act, 1984 (Act No. 111 of 1984).

(d) Any person who occupies a post in the public service, may with his written consent and the consent of the head of the department in which he is employed, be transferred to the ARC, after which he shall from the date of his transfer be deemed to have been appointed under this section: Provided that—

- (i) his salary or salary scale in respect of the post shall not be less favourable than the salary or salary scale which was applicable to him as a person employed by the State;
- (ii) any sick or vacation leave which stood to the credit of such person immediately prior to his transfer, shall be deemed to be leave credited to him in the employment of the ARC;

- (iii) pensioengewende diens deur so iemand voor sy oorplasing verrig of teruggekoop, geag word pensioengewende diens te wees wat deur hom in diens van die LNR verrig is;
- (iv) aan niemand as gevolg van sodanige oorplasing en aanstelling 'n hoër aftree-ouderdom toegeken word as dié wat hy in diens van die Staat gehad het nie; en
- (v) so 'n persoon aansoek kan doen—
 - (aa) om kragtens artikel 15 van die Algemene Pensioenwet, 1979 (Wet No. 29 van 1979), as rustende lid verklaar te word;
 - (bb) om kragtens die Wet op die Pensioenfonds vir Geassosieerde Inrigtings, 1963 (Wet No. 41 van 1963), lid te word van die fonds soos omskryf in artikel 1 van daardie Wet; of
 - (cc) om lid te word van 'n eie pensioenfonds soos bedoel in die eerste voorbehoud by paragraaf (g).
- (e) Die salaris of salarisskaal in paragraaf (d) (i) bedoel, mag nie sonder die skriftelike toestemming van die betrokke persoon gewysig word nie. 15
- (f) Die Raad kan op die voorwaardes wat hy goedvind 'n werknemer van die LNR, hetsy vir 'n besondere diens of vir 'n tydperk, afstaan aan die diens van 'n Staatsdepartement, die regering van 'n ander land of gebied, of 'n instelling of persoon binne of buite die Republiek, mits so 'n werknemer se regte, voorregte en voordele uit hoofde van sy diensvoorwaardes as werknemer van die LNR nie deur die afstanddoening nadelig geraak word nie: Met dien verstande dat 'n werknemer nie aan die diens van die regering van sodanige ander land of gebied, of van 'n instelling of persoon buite die Republiek, afgestaan word nie tensy die werknemer daartoe instem. 20 25
- (g) Die LNR word vir die doeleindes van die Wet op die Pensioenfonds vir Geassosieerde Inrigtings, 1963 (Wet No. 41 van 1963), geag 'n geassosieerde inrigting te wees: Met dien verstande dat die LNR enige ander pensioenfonds of -fondse kragtens die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), vir sy werknemers kan instel: Met dien verstande voorts dat die vordering van 'n werknemer teen so 'n nuwe pensioenfonds op die datum waarop hy by die fonds aansluit, nie kleiner is nie as die vordering wat daardie werknemer op vermelde datum gehad het ten opsigte van diens verrig as lid van 'n pensioenfonds geadministreer deur die Departement van Nasionale Gesondheid en Bevolkingsontwikkeling waarvan hy 'n lid was op die datum onmiddellik voor die datum waarop hy by die nuwe pensioenfonds aangesluit het. 30 35
- (h) In die geval waar 'n werknemer aansoek doen om lidmaatskap van, en sy pensioenvoordele oorgeplaas word na, 'n pensioenfonds in paragraaf (g) bedoel— 40
 - (i) staak sy lidmaatskap van die pensioenfonds vanwaar sy voordele oorgeplaas word en het hy geen verdere vorderingsreg teen sodanige pensioenfonds nie;
 - (ii) betaal die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word, aan die pensioenfonds waarvan hy 'n lid word 'n bedrag gelyk aan die befondsingspersentasie van eersgenoemde fonds, vermenigvuldig met die aktuariële verpligting van daardie fonds ten opsigte van die werknemer soos op die datum van die oorplasing, plus rente verdien teen die bankkoers vanaf die datum van die oorplasing tot die datum van betaling daarvan; 50
 - (iii) dra die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word, enige vordering wat dit teen die werknemer mag hê, oor aan die betrokke pensioenfonds waarvan hy 'n lid word; en
 - (iv) betaal die Staat ten opsigte van daardie werknemer indien hy 'n lid word van 'n pensioenfonds bedoel in paragraaf (g) ingestel kragtens die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), aan sodanige pensioenfonds 'n bedrag gelyk aan die verskil tussen die aktuariële verpligting van die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word en die bedrag betaal ingevolge subparagraaf (ii), plus rente bereken teen die bankkoers vanaf die datum van die oorplasing tot die datum van betaling. 55 60
- (i) Die bepalinge van paragraaf (h) is *mutatis mutandis* van toepassing indien 'n werknemer wat op die datum van sy oorplasing kragtens paragraaf (d)

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- (iii) pensionable service performed or bought back by such person before his transfer shall be deemed to be pensionable service performed by him in the service of the ARC;
- 5 (iv) no person shall as a consequence of such transfer and appointment acquire a retirement age which is higher than that which applied to him in the service of the State; and
- (v) such a person may apply—
- 10 (aa) to be declared a dormant member in terms of section 15 of the General Pensions Act, 1979 (Act No. 29 of 1979);
- (bb) to become in terms of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), a member of the fund as defined in section 1 of that Act; or
- (cc) to become a member of an own pension fund as referred to in the first proviso to paragraph (g).
- 15 (e) The salary or salary scale referred to in paragraph (d) (i) may not be altered without the written consent of the person concerned.
- (f) The Council may, on such conditions as it may deem fit, second an employee of the ARC, either for a particular service or for a period of time, to the service of a department of State, the government of any other
- 20 country or territory, an institution or a person in or outside the Republic, provided such an employee's rights, privileges and benefits by virtue of his conditions of service as an employee of the ARC are not adversely affected by such secondment: Provided that an employee shall not be seconded to the service of the government of such other country or territory, or an
- 25 institution or person outside the Republic, unless the employee consents thereto.
- (g) The ARC shall for the purposes of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), be deemed to be an associated institution: Provided that the ARC may, under the Pension Funds Act, 1956 (Act No. 24 of 1956), establish any other pension fund or funds for its employees: Provided that the claim of an employee against such new pension fund on the date on which he becomes a member of the fund, shall not be smaller than the claim which such employee had on the said date in respect of service performed as a member of a pension fund administered by the Department of National Health and Population Development of which he was a member on the date immediately preceding the date on which he joined the new pension fund.
- 30 (h) In the case where an employee applies for membership of, and his pension benefits are transferred to, a pension fund referred to in paragraph (g)—
- 40 (i) his membership of the pension fund from which his benefits are transferred shall terminate and he will have no further claim against such pension fund;
- (ii) the pension fund from which an employee's benefits are transferred shall pay to the pension fund of which he becomes a member, an
- 45 amount equal to the financing percentage of the first-mentioned fund, multiplied by the actuarial liability of that fund in respect of such employee as on the date of the transfer, plus interest calculated at the bank rate from the date of the transfer to the date of payment thereof;
- 50 (iii) the pension fund from which an employee's benefits are transferred shall cede any claim which it may have against the employee to the pension fund of which he becomes a member; and
- (iv) the State shall, in respect of that employee on his becoming a member of a pension fund referred to in paragraph (g) established in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), pay to such pension fund an amount equal to the difference between the actuarial liability of the pension fund from which the employee's benefits are transferred and the amount paid in terms of subparagraph (ii), plus interest calculated at the bank rate from the date of the transfer to the date of payment.
- 55 60 (i) The provisions of paragraph (h) shall *mutatis mutandis* apply if an employee who on the date of his transfer under paragraph (d) (v) (aa) elected to be a

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(v) (aa) gekies het om 'n rustende lid te wees, op 'n later stadium kragtens artikel 15A van die Algemene Pensioenwet, 1979 (Wet No. 29 van 1979), verkies dat sy opgelope pensioenvoordele na 'n ander pensioenfonds oorgeplaas word.

(j) By die toepassing van hierdie artikel—

- (i) is die aktuariële verpligting van 'n pensioenfonds ten opsigte van 'n bepaalde lid of groep lede van die fonds, die aktuariële verpligting soos bepaal deur 'n aktuaris in opdrag van die Minister van Nasionale Gesondheid en Bevolkingsontwikkeling, met betrekking tot die betrokke lid of groep lede van die fonds; 10
- (ii) is die befondsingspersentasie van 'n pensioenfonds die markwaarde van die bates van die fonds uitgedruk as 'n persentasie van die totale aktuariële verpligting van die fonds, nadat sodanige bates en verpligting verminder is met die bedrag van die verpligting van die fonds teenoor al sy pensioentrekkers, soos bepaal ten tyde van die mees onlangse aktuariële waardering van die fonds of enige hersiening daarvan gedoen in opdrag van die Minister van Nasionale Gesondheid en Bevolkingsontwikkeling; en 15
- (iii) is die bankkoers die koers soos van tyd tot tyd kragtens artikel 10 (2) van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989), vasgestel. 20

(2) Die Raad kan van tyd tot tyd op die voorwaardes en teen die sekerheid wat hy goedvind—

- (a) kollaterale sekerheid, met inbegrip van waarborge, aan 'n geregistreerde finansiële instelling verskaf ten opsigte van 'n lening wat deur daardie finansiële instelling aan 'n werknemer toegestaan is, ten einde die werknemer in staat te stel om onroerende eiendom vir die doeleindes van bewoning te verkry, te verbeter of te vergroot; 25
- (b) woonhuise, woonstelle of woonstelgeboue vir bewoning deur werknemers bou, laat bou, koop of huur, en kan daardie woonhuise of woonstelle aan werknemers verkoop of verhuur, of daardie woonhuise, woonstelle of woonstelgeboue andersins vervreem, verhuur of andersins daarmee handel; en 30
- (c) sport- of vermaaklikheidsverenigings, sosiale klubs, sosiale- en gesondheidsdienste, restourante, tehuise, beurskemas vir studiedoeleindes of ander dergelike ondernemings of skemas wat na sy oordeel vir sy werknemers voordelig kan wees, instel, stig, oprig of bedryf. 35

(3) Indien iemand wat in enige hoedanigheid in diens van die LNR of ten behoeve van die LNR in diens is 'n besering of siekte opdoen terwyl hy besig is met, en wat regstreeks toegeskryf kan word aan, enige werksaamheid in die loop van sodanige diens, kan die LNR met die instemming van die Minister, verleen met die instemming van die Minister van Finansies, na goeë dunks vergoeding aan sodanige persoon of, in geval van sy dood, aan sy afhanklikes betaal. 40

(4) Die bepalings van subartikel (3) raak nie die reg van enige persoon om skadevergoeding te verhaal ten opsigte van enige besering of siekte in daardie subartikel bedoel nie. 45

Finansiering van LNR

20. (1) Die fondse van die LNR bestaan uit—

- (a) geld wat die Parlement bewillig ter finansiering van die werksaamhede van die LNR; 50
- (b) geld wat ingevolge subartikel (4) aan die LNR betaal word;
- (c) geld verkry uit hoofde van kontrakte en die werksaamhede deur die LNR verrig;
- (d) geld ingevolge artikel 4 (1) (m) (ii) deur die LNR geleen;
- (e) gelde of tantième bedoel in artikel 24 (2) wat aan die LNR betaal word; 55
- (f) die opbrengs van die verkoop van aandele, en van diwidende op aandele deur die LNR gehou, in enige maatskappy bedoel in artikel 4 (1) (m) (iii);
- (g) skenkings of bydraes wat die LNR van enige persoon, instelling, regering, administrasie of enige ander bron ontvang;
- (h) rente op beleggings deur die LNR. 60

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dormant member, at a later stage under section 15A of the General Pensions Act, 1979 (Act No. 29 of 1979), elects to have his accrued pension benefits transferred to another pension fund.

- (j) For the purposes of this section—
- 5 (i) the actuarial liability of a pension fund in respect of a specific member or group of members of the fund, means the actuarial liability, as determined by an actuary instructed by the Minister of National Health and Population Development, with regard to the said member or group of members of the fund;
- 10 (ii) the financing percentage of a pension fund means the market value of the assets of the fund expressed as a percentage of the total actuarial liability of the fund, after such assets and liabilities have been reduced with the amount of the liability of the fund towards all its pensioners, as determined at the time of the most recent actuarial assessment of
- 15 the fund or any reappraisal thereof done on the instructions of the Minister of National Health and Population Development; and
- (iii) bank rate means the rate determined from time to time under section 10 (2) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).
- 20 (2) The ARC may from time to time on such conditions and against such security as it may deem fit—
- (a) provide collateral security, including guarantees, to a registered financial institution in respect of a loan granted to an employee by that financial institution, to enable the employee to acquire, improve or enlarge immovable property for residential purposes;
- 25 (b) build, cause to be built, purchase or rent houses, flats or flat buildings for occupation by employees, and may sell or let those houses or flats to employees, or otherwise dispose of, let or otherwise deal with those houses, flats or flat buildings; and
- 30 (c) establish, institute, erect or maintain sports or recreational societies, social clubs, social and health services, restaurants, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in its opinion may be beneficial to its employees.
- (3) If a person who is employed in any capacity by or on behalf of the ARC suffers
- 35 an injury or contracts a disease while engaged in, and which is directly attributable to, any activity in the course of such employment, the ARC may with the consent of the Minister, granted with the concurrence of the Minister of Finance, in its discretion pay compensation to such person or, in the event of his death, to his dependants.
- 40 (4) The provisions of subsection (3) shall not affect the right of any person to claim damages in respect of any injury or disease referred to in that subsection.

Financing of ARC

20. (1) The funds of the ARC shall consist of—
- 45 (a) money appropriated by Parliament to finance the functions of the ARC;
- (b) money paid to the ARC in terms of subsection (4);
- (c) money received by virtue of contracts and the functions performed by the ARC;
- (d) money borrowed by the ARC in terms of section 4 (1) (m) (ii);
- 50 (e) fees or royalties referred to in section 24 (2) which are paid to the ARC;
- (f) the proceeds from the sale of shares, and from dividends on shares held by the ARC, in any company referred to in section 4 (1) (m) (iii);
- (g) donations or contributions which the ARC may receive from any person, institution, government, administration or any other source;
- (h) interest on investments by the ARC.

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- (2) (a) Die LNR wend sy fondse aan ter bestryding van uitgawes in verband met die verrigting van sy werksaamhede en die uitoefening van sy bevoegdhede.
- (b) Die LNR moet geld beoog in subartikel (1) (a) aanwend ooreenkomstig die staat van sy geraamde inkomste en uitgawes vermeld in subartikel (3), soos deur die Minister goedgekeur: Met dien verstande dat, behoudens die 5 bepaling van paragraaf (a), die LNR 'n bedrag of gedeelte van 'n bedrag wat vir 'n besondere doel in verband met 'n bepaalde aangeleentheid aldus aangewend moet word, vir enige ander doel in verband met daardie aangeleentheid kan aanwend: Met dien verstande voorts dat die LNR, met die instemming van die Minister, enige saldo van dié geld wat aan die einde 10 van die betrokke boekjaar van die LNR oorbly, vir enige uitgawes in verband met die uitoefening van sy bevoegdhede of die verrigting van sy werksaamhede kan aanwend.
- (c) Die LNR moet skenkings of bydraes beoog in subartikel (1) (g) aanwend ooreenkomstig die voorwaardes, as daar is, wat die betrokke skenker of 15 bydraer opgelê het.
- (3) (a) Die LNR—
- (i) moet in elke boekjaar, op die tydstip deur die Minister bepaal, 'n staat van sy geraamde inkomste en uitgawes gedurende die daaropvolgende boekjaar; en 20
- (ii) kan gedurende enige boekjaar op enige tydstip aanvullende state van sy geraamde uitgawe vir daardie boekjaar, aan die Minister voorlê vir sy goedkeuring, verleen met die instemming van die Minister van Finansies.
- (b) Die LNR gaan geen uitgawes aan wat die totale bedrag wat kragtens 25 paragraaf (a) goedgekeur is, oorskry nie.
- (4) Die LNR kan, ten opsigte van werk of dienste wat hy kragtens hierdie Wet voltooi of gelewer het, of vir die benutting van sy fasiliteite of regte wat voortspruit uit ontdekkings, uitvindings of verbeterings, die geld vorder of die ander geldelike 30 reëling tref wat hy goedvind.
- (5) (a) Die LNR kan enige onbestede gedeelte van sy fondse belê by die Korporasie vir Openbare Deposito's ingestel by artikel 2 van die Wet op die Korporasie vir Openbare Deposito's, 1984 (Wet No. 46 van 1984), of, onderworpe aan die goedkeuring van die Minister, handelende met die instemming van die Minister van Finansies, op 'n ander wyse daaroor 35 beskik.
- (b) Die LNR kan die reserwefondse instel en sodanige bedrae daarin stort wat die Minister, handelende met die instemming van die Minister van Finansies, goedkeur.

Rekenpligtige beampte

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21. (1) Die president is die rekenpligtige beampte belas met die verantwoording van al die geld ontvang, die aanwending daarvan en die gebruik en versorging van die eiendom van die LNR.

(2) Die rekenpligtige beampte moet die rekeningkundige aantekeninge laat hou wat nodig is om die stand van die sake en besigheid van die LNR redelik weer te gee 45 en om die transaksies en finansiële toestand van die besigheid van die LNR te verduidelik.

Boekhouding, ouditering en jaarverslag

22. (1) Die Ouditeur-generaal ouditeer die rekeningboeke, rekeningstate en finansiële jaarstate van die LNR en lê 'n afskrif van sy verslag oor die ouditering van 50 bedoelde state aan die Raad voor.

(2) Die boekhouding, opstel en openbaarmaking van finansiële jaarstate van 'n maatskappy bedoel in artikel 4 (1) (m) (iii) geskied volgens die bepaling van die Maatskappywet, 1973 (Wet No. 61 van 1973): Met dien verstande dat die Ouditeur-generaal ondanks die bepaling van Hoofstuk X van die Maatskappywet, 1973, die 55 finansiële jaarstate van so 'n maatskappy ouditeer, en afskrifte van sodanige jaarstate binne ses maande na die einde van die betrokke boekjaar aan die Minister moet voorlê.

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- (2) (a) The ARC shall utilize its funds for defraying expenses in connection with the performance of its functions and the exercise of its powers.
- (b) The ARC shall utilize any money contemplated in subsection (1) (a) in accordance with the statement of its estimated income and expenditure referred to in subsection (3), as approved by the Minister: Provided that, subject to the provisions of paragraph (a), the ARC may utilize any amount or portion of any amount required to be so utilized for a particular purpose in connection with a specified matter, for any other purpose in connection with that matter: Provided further that the ARC may, with the concurrence of the Minister, utilize any balance of the money remaining at the end of the ARC's financial year in question, for any expenses in connection with the exercise of its powers or the performance of its functions.
- (c) The ARC shall utilize any donations or contributions contemplated in subsection (1) (g) in accordance with the conditions, if any, imposed by the donor or contributor concerned.
- (3) (a) The ARC—
- (i) shall in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure during the following financial year; and
- (ii) may in any financial year at any time submit supplementary statements of its estimated expenditure for that financial year, to the Minister for his approval, granted with the concurrence of the Minister of Finance.
- (b) The ARC shall not incur any expenditure which exceeds the total amount approved under paragraph (a).
- (4) The ARC may, in respect of any work performed or services rendered by it under this Act, or for the use of its facilities or rights consequent upon any discoveries, inventions or improvements, charge such fee or make such other financial arrangement as it may deem fit.
- (5) (a) The ARC may invest any unexpended portion of its funds with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), or, subject to the approval of the Minister acting with the concurrence of the Minister of Finance, dispose thereof in any other manner.
- (b) The ARC may establish such reserve funds and deposit therein such amounts as the Minister, acting with the concurrence of the Minister of Finance, may approve.

Accounting officer

21. (1) The president shall be the accounting officer charged with the responsibility of accounting for all money received, the utilization thereof and the use and care of the property of the ARC.

(2) The accounting officer shall cause such records of account to be kept as are necessary to represent fairly the state of affairs and business of the ARC and to explain the transactions and financial position of the business of the ARC.

Accounting, auditing and annual report

22. (1) The Auditor-General shall audit the books of accounts, accounting statements and annual financial statements of the ARC and shall submit a copy of his report on the audit of the said statements to the Council.

(2) The keeping, compilation and publication of annual financial statements of a company referred to in section (1) (m) (iii) shall be done in accordance with the provisions of the Companies Act, 1973 (Act No. 61 of 1973): Provided that the Auditor-General shall, notwithstanding the provisions of Chapter X of the Companies Act, 1973, audit the annual financial statements of such a company, and shall submit, within six months after the end of the financial year concerned, copies of such annual statements to the Minister.

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(3) Die Raad moet aan die Minister die inligting verstrek wat hy van tyd tot tyd in verband met die bedrywighede en geldelike gesteldheid van die LNR aanvra, en moet so gou moontlik na die einde van elke boekjaar 'n jaarverslag oor die LNR se sake en werksaamhede ten opsigte van daardie boekjaar aan die Minister voorlê, wat onder meer insluit—

- (a) 'n geouditeerde balansstaat, met inbegrip van aantekeninge daarop of 'n dokument daarby aangeheg wat inligting by hierdie Wet vereis, verstrek;
- (b) 'n geouditeerde inkomstestaat, met inbegrip van 'n soortgelyke finansiële staat waar sodanige vorm gepas is, en aantekeninge daarop of 'n dokument daarby aangeheg wat die inligting by hierdie Wet vereis, verstrek;
- (c) 'n staat van kontantvloei-inligting;
- (d) die verslag van die ouditeure.

(4) Die finansiële state bedoel in subartikel (3) (a), (b) en (c) moet—

- (a) in ooreenstemming wees met algemeen aanvaarde rekeningkundige praktyk;
- (b) die stand van die sake en werksaamhede van die LNR en die resultate daarvan, redelik weergee; en
- (c) enige tersaaklike aangeleentheid wat nie uitdruklik by hierdie Wet voorgeskryf word nie en wat die sake van die LNR raak of waarskynlik sal raak, sowel by wyse van syfers as by wyse van 'n beskrywende verslag vermeld, wat, waar nodig, uitbrei op syfers in die finansiële state en dit verduidelik.

(5) 'n Verslag in subartikel (3) bedoel, word in beide amptelike tale gedruk.

(6) Die Minister lê 'n verslag wat ingevolge subartikel (3) aan hom voorgelê is, so spoedig doenlik daarna in die Parlement ter Tafel.

Verhaal van verlies en skade

23. (1) Indien iemand wat in diens van die LNR is of was die LNR enige verlies of skade berokken het deurdat hy—

- (a) versuim het om geld verskuldig aan die LNR en vir die invordering waarvan hy verantwoordelik is of was, in te vorder;
- (b) verantwoordelik is of was vir 'n onreëlmatige uitbetaling van geld van die LNR of vir 'n uitbetaling van sodanige geld wat nie deur 'n behoorlike bewysstuk gestaaf word nie;
- (c) weens versuim om sy pligte uit te voer, verantwoordelik is of was vir 'n vrugtelose uitgawe van geld van die LNR;
- (d) verantwoordelik is of was vir 'n tekort in of die vernietiging of beskadiging van die LNR se geld, seëls, sigwaardestukke en vorms wat 'n potensiele waarde het, sekuriteite, uitrusting, voorrade of enige ander goed van die LNR; en
- (e) weens versuim om sy pligte uit te voer, vir 'n eis teen die LNR verantwoordelik is of was,

moet die rekenpligtige beampte die bedrag van sodanige verlies of skade vasstel, en kan hy so iemand by skriftelike kennisgewing gelas om die geheel of 'n gedeelte van die bedrag wat aldus vasgestel is, binne 30 dae vanaf die datum van die kennisgewing aan die LNR te betaal.

(2) Indien iemand wat in diens van die LNR is en wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, versuim om dié bedrag te betaal binne die tydperk in die betrokke kennisgewing bepaal, word die bedrag, behoudens die bepalinge van subartikels (4), (5) en (6), van sy maandelikse salaris afgetrek: Met dien verstande dat so 'n aftrekking nie in een maand meer as 'n kwart van sy maandelikse salaris beloop nie.

(3) Indien iemand wat in diens van die LNR was en wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, versuim om die bedrag te betaal binne die tydperk in die betrokke kennisgewing bepaal, moet die rekenpligtige beampte, behoudens die bepalinge van subartikels (4), (5) en (6), die bedrag deur middel van geregtelike prosedure op die betrokke persoon verhaal.

(4) Indien iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, binne die in die betrokke kennisgewing bepaalde tydperk aanbied om die bedrag in paaiemente te betaal, kan die rekenpligtige beampte hom toelaat om te betaal in die paaiemente wat na die mening van die rekenpligtige beampte redelik is.

(5) Iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, kan binne 'n tydperk van 30 dae vanaf die datum van die lasgewing skriftelik by die Raad teen

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- (3) The Council shall furnish the Minister with such information as he may call for from time to time in connection with the activities and financial position of the ARC and shall as soon as practicable after the end of each financial year submit to the Minister an annual report on the ARC's affairs and functions in respect of that financial year, which shall, *inter alia*, include—
- (a) an audited balance sheet, including notes thereon or a document annexed thereto providing information required by this Act;
 - (b) an audited income statement, including any similar financial statement where such form is appropriate, and including any notes thereon or a document annexed thereto providing information required by this Act;
 - (c) a statement of cash flow information;
 - (d) the report of the auditors.
- (4) The financial statements referred to in subsection (3) (a), (b) and (c) shall—
- (a) be in conformity with generally accepted accounting practice;
 - (b) fairly reflect the state of affairs and functions of the ARC and the results thereof; and
 - (c) refer to any relevant matter not specifically prescribed by this Act which affects or is likely to affect the affairs of the ARC, both by way of figures and by a descriptive report, amplifying and explaining, where necessary, figures in the financial statements.
- (5) A report referred to in subsection (3) shall be printed in both official languages.
- (6) As soon as practicable after a report has been submitted to the Minister in terms of subsection (3), he shall table it in Parliament.

Recovery of loss and damage

23. (1) If a person who is or was in the employment of the ARC caused the ARC any loss or damage because he—
- (a) failed to collect money due to the ARC and for the collection of which he is or was responsible;
 - (b) is or was responsible for an irregular payment of money of the ARC or for a payment of such money not supported by a proper voucher;
 - (c) is or was responsible for fruitless expenditure of money of the ARC owing to failure to carry out his duties;
 - (d) is or was responsible for a deficiency in, the destruction of or any damage to the ARC's money, stamps, face value documents and forms having potential value, securities, equipment, stores or any other property of the ARC; and
 - (e) is or was responsible for a claim against the ARC owing to failure to carry out his duties,
- the accounting officer shall determine the amount of such loss or damage, and may order that person, by notice in writing, to pay to the ARC, within 30 days from the date of such notice, the whole or any part of the amount so determined.
- (2) If a person who is in the employment of the ARC and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (5) and (6), be deducted from his monthly salary: Provided that such deduction shall not in any month exceed a fourth of his monthly salary.
- (3) If a person who was in the employment of the ARC and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the accounting officer shall, subject to the provisions of subsections (4), (5) and (6), recover the amount from the person concerned by legal process.
- (4) If a person who has in terms of subsection (1) been ordered to pay an amount, offers, within the period stipulated in the notice in question, to pay the amount in instalments, the accounting officer may allow payment in such instalments as the accounting officer may consider reasonable.
- (5) A person who has in terms of subsection (1) been ordered to pay an amount may within a period of 30 days from the date of such order appeal in writing against

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so 'n lasgewing appèl aanteken, met opgaaf van die gronde van sy appèl, en die Raad kan, na die ondersoek wat hy nodig ag, die appèl verwerp of gelas dat die appellant geheel en al of ten dele, na gelang van wat die Raad billik en redelik ag, van die betaling van daardie bedrag kwytgeskeld word.

(6) Iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, kan, in plaas van kragtens subartikel (5) by die Raad appèl aan te teken, by 'n bevoegde hof aansoek doen binne 'n tydperk van 30 dae vanaf die datum van die lasgewing, of binne die verdere tydperk wat die hof toelaat, om 'n bevel waarby die lasgewing tersyde gestel of daardie bedrag verminder word, en die hof kan op so 'n aansoek, indien hy nie deur die rekenpligtige beaampte aan die hand van die omstandighede van die geval oortuig word nie dat die lasgewing tereg gegee is of dat daardie bedrag juis is, 'n bevel uitreik waarby die lasgewing tersyde gestel word of daardie bedrag verminder word, na gelang van die geval.

Ontdekkings, uitvindings en verbeterings deur werknemers van LNR en ander persone

24. (1) Behoudens die bepalings van subartikels (5) en (6) berus die regte op alle ontdekkings en uitvindings en op alle verbeterings ten opsigte van prosesse, apparaat en masjinerie wat gedoen word deur—

- (a) werknemers van die LNR of beamptes en werknemers in die staatsdiens wat kragtens artikel 19 (1) (c) tot die beskikking van die LNR gestel is;
- (b) persone wat die LNR met enige ondersoek of navorsing behulpsaam is; of
- (c) persone aan wie beurse of hulptoelae deur die LNR toegeken is, by die LNR.

(2) Die LNR kan die ontdekkings, uitvindings en verbeterings in subartikel (1) bedoel, beskikbaar stel vir gebruik in die openbare belang op die voorwaardes en onderworpe aan die betaling van die gelde of tantième wat die LNR bepaal.

(3) Indien die regte op 'n ontdekking, uitvinding of verbetering ingevolge subartikel (1) by die LNR berus, kan die Raad aan die persoon wat vir die ontdekking, uitvinding of verbetering verantwoordelik is die bonus toeken wat die Raad goedvind, of voorsiening maak vir geldelike deelname deur so iemand in die winste uit dié ontdekking, uitvinding of verbetering verkry, in die mate wat die Minister met die instemming van die Minister van Finansies bepaal.

(4) Die LNR kan aansoek doen om 'n patent ten opsigte van enige ontdekking, uitvinding of verbetering in subartikel (1) bedoel, en by die toepassing van die Wet op Patente, 1978 (Wet No. 57 van 1978), en die Wet op Planttelersregte, 1976 (Wet No. 15 van 1976), word die LNR as die sessionaris van die betrokke ontdekker of uitvinder beskou.

(5) Die regte ten opsigte van 'n ontdekking, uitvinding of verbetering deur die LNR gemaak in die loop van 'n ondersoek namens of ten behoeve van 'n ander persoon, instelling, regering of administrasie berus, tensy anders ooreengekom, by die LNR.

(6) Die bepalings van hierdie artikel is nie van toepassing nie ten opsigte van 'n ontdekking, uitvinding of verbetering in subartikel (1) bedoel wat, volgens die oordeel van die Minister, deur die betrokke persoon gedoen is anders as—

- (a) in die loop van sy werk as werknemer van die LNR;
- (b) tydens die verrigting van werksaamhede ten opsigte waarvan hy kragtens artikel 19 (1) (c) tot beskikking van die LNR gestel is;
- (c) in die loop van enige ondersoek of navorsing waarmee hy die LNR behulpsaam was; of
- (d) in die loop van navorsing ten opsigte waarvan hy 'n beurs of hulptoelae van die LNR ontvang,

en wat geen verband met sodanige werk, ondersoek of navorsing hou nie.

Regulasies

25. (1) Die Minister kan, na oorleg met die Raad, regulasies uitvaardig betreffende—

- (a) die prosedure by die voorlê van name aan die Minister vir aanstelling as lede van die Raad;
- (b) die vul van toevallige vakatures in die Raad en die aanstelling van persone om namens afwesige lede op te tree;

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such order to the Council, stating the grounds for his appeal, and the Council may, after such investigation as it may deem necessary, dismiss the appeal, or order that the appellant be exempted, either wholly or partly, as the Council may deem fair and reasonable, from the payment of such amount.

- 5 (6) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the Council under subsection (5), apply within a period of 30 days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not
10 convinced by the accounting officer on the merits of the case that the order was rightly made or that the amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.

Discoveries, inventions and improvements by employees of ARC and other persons

24. (1) Subject to the provisions of subsections (5) and (6) the rights in all
15 discoveries and inventions and in all improvements in respect of processes, apparatus and machinery made by—

- (a) employees of the ARC or officers and employees in the public service who have been placed at the disposal of the ARC under section 19 (1) (c);
(b) persons assisting the ARC with any investigation or research; or
20 (c) persons to whom bursaries or grants-in-aid have been granted by the ARC, shall vest in the ARC.

(2) The ARC may make the discoveries, inventions and improvements referred to in subsection (1) available for use in the public interest subject to such conditions and the payment of such fees or royalties as the ARC may determine.

- 25 (3) If the rights in any discovery, invention or improvement are vested in the ARC in terms of subsection (1), the Council may award to the person responsible for the discovery, invention or improvement such bonus as it deems fit, or make provision for financial participation by such person in the profits derived from the discovery, invention or improvement to such extent as the Minister may determine with the
30 concurrence of the Minister of Finance.

(4) The ARC may apply for a patent in respect of any discovery, invention or improvement referred to in subsection (1), and shall for the purposes of the Patents Act, 1978 (Act No. 57 of 1978), and the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976), be regarded as the assignee of the discoverer or inventor in question.

- 35 (5) Unless it is otherwise agreed, the rights in respect of any discovery, invention or improvement made by the ARC in the course of an investigation for or on behalf of another person, institution, government or administration shall vest in the ARC.

- (6) The provisions of this section shall not apply in respect of any discovery, invention or improvement referred to in subsection (1) which, in the opinion of the
40 Minister, was made by the person concerned other than—

- (a) in the course of his employment as an employee of the ARC;
(b) during the performance of functions in respect of which he has been placed at the disposal of the ARC in terms of section 19 (1) (c);
(c) in the course of any investigation or research while assisting the ARC; or
45 (d) in the course of any research in respect of which he receives a bursary or grant-in-aid from the ARC,
and which is not connected with such employment, investigation or research.

Regulations

25. (1) The Minister may, after consultation with the Council, make regulations as
50 to—

- (a) the procedure for the submission of names to the Minister for appointment as members of the Council;
(b) the filling of casual vacancies on the Council and the appointment of persons to act on behalf of absent members;

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- (c) die prosedure by vergaderings van die Raad;
 - (d) geheimhouding ten opsigte van die sake van die LNR;
 - (e) die aangeleenthede ten opsigte waarvan gelde aan die LNR betaalbaar is, die bedrag van sulke gelde en die persone wat vir die betaling daarvan aanspreeklik is en die omstandighede waaronder gelde wat aldus betaal is, 5 terugbetaal moet word;
 - (f) die prosedure ten opsigte van griewe en versoeke van werknemers, en, in die algemeen, betreffende enige aangeleentheid ten opsigte waarvan die Minister, na oorleg met die Raad, dit nodig of dienstig ag om regulasies uit te vaardig 10 ten einde die oogmerke van hierdie Wet te bereik.
- (2) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete van hoogstens R2 000 of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

Delegerings

26. (1) Die Raad kan—
- (a) aan die voorsitter of enige ander lid van die Raad, die president of enige ander werknemer van, of ampsbekleër by, die LNR of aan 'n komitee kragtens artikel 17 (1) ingestel, 'n bevoegdheid by of kragtens hierdie Wet 20 aan die Raad verleen, delegeer; of
 - (b) die voorsitter of enige ander lid van die Raad, die president of enige ander werknemer van, of ampsbekleër by, die LNR of 'n komitee ingevolge artikel 17 (1) ingestel, magtig om 'n plig by of kragtens hierdie Wet aan die Raad opgedra, te verrig.
- (2) Die president kan—
- (a) 'n bevoegdheid by of kragtens hierdie Wet aan die president in sy hoedanigheid as president of rekenpligtige beampte verleen, aan 'n werknemer van, of ampsbekleër by, die LNR delegeer; of
 - (b) daardie werknemer of ampsbekleër magtig om 'n plig wat by of kragtens hierdie Wet aan die president opgedra is, te verrig. 25
- (3) 'n Delegering kragtens subartikels (1) en (2) kan geskied onderworpe aan die voorwaardes en beperkings wat die Raad of die president, na gelang van die geval, bepaal en kan deur die Raad of die president, na gelang van die geval, herroep word.
- (4) Die Raad en die president is nie ontdoen van 'n bevoegdheid deur hom kragtens subartikels (1) en (2) gedelegeer nie, en kan 'n beslissing in die uitoefening 35 van sodanige gedelegeerde bevoegdheid gegee, wysig of intrek.

Oordrag van bates en fondse na LNR

27. (1) Die Minister kan, met die instemming van die Minister van Finansies, roerende en onroerende goed van die Staat aan die LNR oordra ten einde hom in staat te stel om sy werksaamhede te verrig of enige van sy oogmerke te bereik. 40
- (2) Geen onroerende goed wat ingevolge subartikel (1) aan die LNR oorgedra is, mag sonder die goedkeuring van die Minister, verleen met die instemming van die Minister van Finansies, vervreem, beswaar of op enige ander wyse mee gehandel word nie.
- (3) (a) Alle bedrae of onbestede gedeeltes van bedrae en die rente daarop wat op 45 'n datum wat die Minister by kennisgewing in die *Staatskoerant* bepaal, in die Landbounavorsingsrekening ingestel kragtens artikel 2 van die Wet op die Landbounavorsingsrekening, 1964 (Wet No. 37 van 1964), en die Tabaknavorsingsrekening en die Wynnavorsingsrekening ingestel kragtens artikel 2 van die Wet op die Tabak- en Wynnavorsingsrekenings, 1960 (Wet 50 No. 60 van 1960), is, word met ingang van bedoelde datum na die LNR oorgedra.
- (b) Enige voorwaarde wat aan enige bedrag in die navorsingsrekenings vermeld in paragraaf (a) gekoppel is, bly van krag en moet deur die LNR nagekom word, en 'n reserwefonds soos bedoel in artikel 20 (5) (b) moet 55 ten opsigte van elke sodanige bedrag ingestel word.
- (c) Ten opsigte van die bedrae in die Landbounavorsingsrekening vermeld in paragraaf (a) waaraan daar geen voorwaarde gekoppel is soos in paragraaf

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- (c) the procedure at meetings of the Council;
- (d) the preservation of secrecy in respect of the affairs of the ARC;
- (e) the matters in respect of which fees shall be payable to the ARC, the amount of such fees and the persons who shall be liable for the payment thereof and the circumstances in which any fees so paid shall be refunded;
- 5 (f) the procedure in respect of grievances and requests by employees, and, generally, as to any matter in respect of which the Minister, after consultation with the Council, deems it necessary or expedient to make regulations in order to achieve the objects of this Act.
- 10 (2) Any regulation made under subsection (1) may provide that any person who contravenes or fails to comply with a provision thereof shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or imprisonment for a period not exceeding six months.

Delegations

- 15 26. (1) The Council may—
- (a) delegate to the chairman or any other member of the Council, the president or any other employee of, or holder of an office with, the ARC or to a committee established under section 17 (1), any power conferred upon the Council by or under this Act; or
- 20 (b) authorize the chairman or any other member of the Council, the president or any other employee of, or holder of an office with, the ARC or a committee established under section 17 (1), to perform any duty assigned to the Council by or under this Act.
- (2) The president may—
- 25 (a) delegate to an employee of, or the holder of an office with the ARC, any power conferred upon the president by or under this Act in his capacity as president or accounting officer; or
- (b) authorize that employee or holder of an office to perform any duty assigned to the president by or under this Act in the said capacities.
- 30 (3) Any delegation under subsections (1) and (2) may be made subject to such conditions and restrictions as may be determined by the Council or the president, as the case may be, and may be withdrawn by the Council or the president, as the case may be.
- (4) The Council and the president shall not be divested of any power delegated
- 35 under subsections (1) and (2) by it or him, and may amend or withdraw any decision made in the exercise of such delegated power.

Transfer of assets and funds to ARC

27. (1) The Minister may, with the concurrence of the Minister of Finance, transfer any movable or immovable property belonging to the State to the ARC to enable it
- 40 to perform its functions or to achieve any of its objects.
- (2) No immovable property transferred to the ARC in terms of subsection (1), may without the approval of the Minister, granted with the concurrence of the Minister of Finance, be alienated, mortgaged or disposed of in any other manner.
- (3) (a) All amounts or unspent portions of amounts and the interest thereon, being
- 45 in the Agricultural Research Account established under section 2 of the Agricultural Research Account Act, 1964 (Act No. 37 of 1964), and the Tobacco Research Account and the Wine Research Account established under section 2 of the Tobacco and Wine Research Accounts Act, 1960 (Act No. 60 of 1960), on a date determined by the Minister by notice in the
- 50 *Gazette*, shall with effect from such date be transferred to the ARC.
- (b) Any condition attached to any amount in the research accounts referred to in paragraph (a), remains in force and shall be honoured by the ARC, and a reserve fund contemplated in section 20 (5) (b), shall be established in respect of each such amount.
- 55 (c) In respect of the amounts in the Agricultural Research Account referred to in paragraph (a) to which no condition is attached as referred to in

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(b) bedoel nie, word een reserwefonds soos beoog in artikel 20 (5) (b) ingestel.

(4) 'n Registrateur soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), moet by die voorlegging aan hom van 'n sertifikaat deur die Minister dat 'n saaklike reg ten opsigte van onroerende goed in die sertifikaat beskryf, deur die LNR verkry is, die inskrywings of aantekeninge wat hy nodig ag in of op enige tersaaklike register, sertifikaat of ander stuk in sy kantoor of aan hom voorgelê, maak ten einde daardie reg op die naam van die LNR te registreer, en geen seëlreg, kantoorgeld of ander geld is ten opsigte van die registrasie betaalbaar nie. 5

Stakings

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28. Die Minister kan by kennisgewing in die *Staatskoerant* stakings deur werknemers van die LNR verbied en strawwe oplê, en voorsiening maak vir aangeleenthede wat daarmee in verband staan.

Herroeping van wette

29. Die Wet op die Tabak- en Wynnavorsingsrekenings, 1960 (Wet No. 60 van 1960), die Wysigingswet op die Tabak- en Wynnavorsingsrekenings, 1972 (Wet No. 35 van 1972), die Wet op die Landbounavorsingsrekening, 1964 (Wet No. 37 van 1964), en die Wysigingswet op die Landbounavorsingsrekening, 1972 (Wet No. 37 van 1972), word hierby herroep. 15

Kort titel en inwerkingtreding

20

30. (1) Hierdie Wet heet die Wet op Landbounavorsing, 1990, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

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paragraph (b), one reserve fund as contemplated in section 20 (5) (b) shall be established.

- (4) A registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), shall, upon submission to him of a certificate by the Minister that a real right in respect of immovable property described in such certificate has been acquired by the ARC, make such entries or endorsements as he may deem necessary in or on any relevant register or other document in his office or laid before him, in order to register such right in the name of the ARC, and no stamp duty, office or other fee shall be payable in respect of the registration.

10 Strikes

28. The Minister may by notice in the *Gazette* prohibit strikes by employees of the ARC and impose punishments, and provide for matters relating thereto.

Repeal of laws

29. The Tobacco and Wine Research Accounts Act, 1960 (Act No. 60 of 1960), the Tobacco and Wine Research Accounts Amendment Act, 1972 (Act No. 35 of 1972), the Agricultural Research Account Act, 1964 (Act No. 37 of 1964), and the Agricultural Research Account Amendment Act, 1972 (Act No. 37 of 1972), are hereby repealed.

Short title and commencement

30. (1) This Act shall be called the Agricultural Research Act, 1990, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.
(2) Different dates may be so fixed in respect of different provisions of this Act.

