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STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 781.

13 Maart 1992

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

No. 12 van 1992: Wet op Landbouprodukte-Agente, 1992.

No. 781.

13 March 1992

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

No. 12 of 1992: Agricultural Produce Agents Act, 1992.

WET

Om voorsiening te maak vir die instelling van 'n Raad vir Landbouprodukte-agente en getrouheidsfondse ten opsigte van landbouprodukte-agente; vir beheer oor sekere bedrywighede van landbouprodukte-agente; en vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Maart 1992.)*

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

Woordomskrywing

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “agent” iemand wat, met die oog op winsbejag vir eie rekening of in 'n vennootskap, hom op enige wyse voordoens as iemand wat, of regstreeks of onregstreeks adverteer dat hy, in opdrag van of namens iemand anders, landbouprodukte koop of verkoop of ten opsigte daarvan onderhandel of 'n koper of verkoper daarvoor werf of onderneem of aanbied om 'n koper of verkoper daarvoor te werf, maar uitgesonderd—
 - (a) 'n beheerraad soos omskryf in artikel 1 van die Bemarkingswet, 1968 (Wet No. 59 van 1968), wat ingevolge 'n skema soos insgelyks omskryf, 'n landbouprodukt waarop so 'n skema van toepassing is, koop en verkoop;
 - (b) iemand wat in die loop van sy agentskap die betrokke landbouprodukt namens 'n beheerraad in paragraaf (a) bedoel, koop en verkoop; en
 - (c) 'n plaaslike bestuur soos omskryf in artikel 84(1)(f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), wat 'n landbouprodukt wat aan 'n agent soos hierbo omskryf, toevertrou is, namens daardie agent by veiling verkoop; (i)
 - (ii) “beampte” 'n beampte soos omskryf in artikel 1 van die Staatsdienswet, 1984 (Wet No. 111 van 1984), en ook 'n werknemer soos aldus omskryf; (xiv)
 - (iii) “beslote korporasie” 'n beslote korporasie bedoel in die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984); (v)
 - (iv) “bouvereniging” 'n onderlinge bouvereniging geregistreer kragtens die Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965); (iv)
 - (v) “depositonemende instelling” 'n instelling wat ingevolge die Wet op Depositonemende Instellings, 1990 (Wet No. 94 van 1990), finaal as 'n depositonemende instelling geregistreer is; (vii)
 - (vi) “fonds”, met betrekking tot—
 - (a) varsprodukte-agente, die getrouheidsfonds in artikel 12(2) bedoel;
 - (b) lewendehawe-agente, die getrouheidsfonds in artikel 12(3) bedoel; (x)
 - (vii) “getrouheidsfondssertifikaat” 'n getrouheidsfondssertifikaat ingevolge artikel 16 uitgereik of geag ingevolge daardie artikel uitgereik te gewees het; (viii)
 - (viii) “inspekteur” 'n inspekteur in artikel 27 bedoel; (xi)
 - (ix) “landbouprodukt” 'n artikel in Deel A of B van Bylae 1 genoem of kragtens subartikel (2) van hierdie artikel daarin bygevoeg; (ii)
 - (x) “lewendehawe-agent” 'n agent wat as sodanig met betrekking tot 'n landbouprodukt in Deel B van Bylae 1 vermeld, optree; (xii)
 - (xi) “Minister” die Minister van Landbou; (xiii)
 - (xii) “ouditeur” iemand wat ingevolge artikel 15 van die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), as

ACT

To provide for the establishment of an Agricultural Produce Agents Council and fidelity funds in respect of agricultural produce agents; for the control of certain activities of agricultural produce agents; and for matters connected therewith.

(English text signed by the State President.)

(Assented to 3 March 1992.)

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

Definitions

1. (1) In this Act, unless the context otherwise indicates—

- 5 (i) “agent” means a person who, for the acquisition of gain on his own account or in a partnership, in any manner holds himself out as a person who, or directly or indirectly advertises that he, on the instructions of or on behalf of any other person, purchases or sells agricultural produce or negotiates in connection therewith or canvasses or undertakes or offers to canvass a purchaser or seller therefor, but excluding—
 - 10 (a) a control board as defined in section 1 of the Marketing Act, 1968 (Act No. 59 of 1968), which in terms of a scheme likewise defined, purchases and sells an agricultural product to which such scheme relates;
 - 15 (b) a person who, in the course of his agency, purchases and sells the agricultural product concerned on behalf of a control board referred to in paragraph (a); and
 - 20 (c) a local authority as defined in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), which sells an agricultural product entrusted to an agent as defined above, on behalf of that agent at an auction; (i)
- 25 (ii) “agricultural product” means an article specified in Part A or B of Schedule 1 or added thereto under subsection (2) of this section; (ix)
- (iii) “auditor” means a person registered in terms of section 15 of the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991), as an accountant or auditor, and engaged in public practice as such; (xii)
- 30 (iv) “building society” means a mutual building society as registered under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965); (iv)
- (v) “close corporation” means a close corporation referred to in the Close Corporations Act, 1984 (Act No. 69 of 1984); (iii)
- 35 (vi) “council” means the Agricultural Produce Agents Council established by section 2; (xiii)
- (vii) “deposit-taking institution” means an institution registered finally as a deposit-taking institution in terms of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990); (v)
- 40 (viii) “fidelity fund certificate” means a fidelity fund certificate issued in terms of section 16 or deemed to have been issued in terms of that section; (vii)
- (ix) “fresh produce agent” means an agent acting as such with regard to any agricultural product specified in Part A of Schedule 1; (xvii)
- 45 (x) “fund”, in relation to—
 - (a) fresh produce agents, means the fidelity fund referred to in section 12(2);
 - (b) livestock agents, means the fidelity fund referred to in section 12(3); (vi)

- rekenmeester en ouditeur geregistreer is en as sodanig openbare praktyk beoefen; (iii)
- (xiii) "raad" die Raad vir Landbouprodukte-agente by artikel 2 ingestel; (vi)
- (xiv) "reëls" reëls kragtens artikel 22 uitgevaardig; (xvi)
- (xv) "registrateur" die Registrateur van Landbouprodukte-agente ingevolge artikel 8 aangestel; (xv) 5
- (xvi) "trustrekening" 'n trustrekening in artikel 19 bedoel; (xvii)
- (xvii) "varsprodukte-agent" 'n agent wat as sodanig met betrekking tot 'n landbouprodukt in Deel A van Bylae 1 vermeld, optree. (ix)
- (2) Die Minister kan Bylae 1 by kennisgewing in die *Staatskoerant* wysig. 10

Instelling van Raad vir Landbouprodukte-agente

2. Hierby word 'n regspersoon met die naam die Raad vir Landbouprodukte-agente ingestel.

Samestelling van raad

3. (1) Die Minister stel as lede van die raad aan— 15
- (a) twee beamptes, van wie—
- (i) een 'n beampte van die Departement van Landbou is;
- (ii) een na oorlegpleging met die Minister van Justisie vanweë sy regs-kennis aangestel word;
- (b) twee persone deur die Suid-Afrikaanse Landbou-unie benoem, van wie— 20
- (i) een produsente van die artikels in Deel A van Bylae 1 vermeld, verteenwoordig; en
- (ii) een produsente van die artikels in Deel B van Bylae 1 vermeld, verteenwoordig; 25
- (c) vier persone wat as varsprodukte-agente optree of wat direkteure van maatskappye of koöperasies of lede van beslote korporasies is wat as varsprodukte-agente optree, van wie—
- (i) drie benoem word deur 'n liggaam deur die Minister erken en bekend as die Instituut van Markagente van Suid-Afrika; en 30
- (ii) een benoem word deur 'n liggaam deur die Minister erken en bekend as die Assosiasie van Koöperatiewe Markagente; en
- (d) vier persone wat as lewendehawe-agente optree of wat direkteure van maatskappye of koöperasies of lede van beslote korporasies is wat as lewendehawe-agente optree, van wie— 35
- (i) drie benoem word deur 'n liggaam deur die Minister erken en bekend as die Suid-Afrikaanse Federasie van Lewendehawe-afslaaers; en
- (ii) een benoem word deur 'n liggaam deur die Minister erken en bekend as die Vereniging van Abattoiragente van die Republiek van Suid-Afrika. 40
- (2) (a) Wanneer dit nodig word om 'n lid in subartikel (1)(b), (c) of (d) bedoel, aan te stel, versoek die regstrateur die betrokke liggaam skriftelik om binne 'n in bedoelde versoek vermelde tydperk, wat nie minder as 60 dae is nie, die toepaslike benoemings skriftelik aan hom voor te lê. 45
- (b) Indien so 'n liggaam in gebreke bly om binne die vermelde tydperk aan bedoelde versoek te voldoen, kan die Minister die persone wat hy geskik ag, aanstel in die plek van die persone wat deur daardie liggaam benoem moes word.
- (c) Die werksaamhede van die regstrateur in hierdie subartikel uiteengesit, word vir die doeleindes van die eerste aanstelling van lede van die raad deur die Direkteur-generaal: Landbou verrig. 50
- (3) Niemand word as lid van die raad—
- (a) aangestel nie, indien—
- (i) hy nie 'n Suid-Afrikaanse burger is wat permanent in die Republiek woonagtig is nie; 55
- (ii) hy 'n ongerehabiliteerde insolvent is;
- (iii) hy versuim of nie in staat is nie om ten volle te voldoen aan 'n uitspraak of bevel, met inbegrip van 'n kostebevel, wat 'n geregshof in 'n siviele geding teen hom gegee het;

- (xi) "inspector" means an inspector referred to in section 27; (viii)
- (xii) "livestock agent" means an agent acting as such with regard to any agricultural product specified in Part B of Schedule 1; (x)
- (xiii) "Minister" means the Minister of Agriculture; (xi)
- 5 (xiv) "officer" means an officer as defined in section 1 of the Public Service Act, 1984 (Act No. 111 of 1984), and includes an employee as so defined; (ii)
- (xv) "registrar" means the Registrar of Agricultural Produce Agents appointed in terms of section 8; (xv)
- 10 (xvi) "rules" means rules made under section 22; (xiv)
- (xvii) "trust account" means a trust account referred to in section 19. (xvi)
- (2) The Minister may amend Schedule 1 by notice in the *Gazette*.

Establishment of Agricultural Produce Agents Council

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

Constitution of council

3. (1) The Minister shall appoint as members of the council—
- (a) two officers, of whom—
 - (i) one shall be an officer of the Department of Agriculture;
 - 20 (ii) one shall, after consultation with the Minister of Justice, be appointed on account of his knowledge of law;
 - (b) two persons nominated by the South African Agricultural Union, of whom—
 - (i) one shall represent producers of the articles specified in Part A of Schedule 1; and
 - 25 (ii) one shall represent producers of the articles specified in Part B of Schedule 1;
 - (c) four persons acting as fresh produce agents, or who are directors of companies or co-operatives or members of close corporations acting as fresh produce agents, of whom—
 - 30 (i) three shall be nominated by a body recognized by the Minister and known as the Institute of Market Agents of South Africa; and
 - (ii) one shall be nominated by a body recognized by the Minister and known as the Association of Co-operative Market Agents; and
 - 35 (d) four persons acting as livestock agents, or who are directors of companies or co-operatives or members of close corporations acting as livestock agents, of whom—
 - (i) three shall be nominated by a body recognized by the Minister and known as the South African Federation of Livestock Auctioneers; and
 - 40 (ii) one shall be nominated by a body recognized by the Minister and known as the Association of Abattoir Agents of the Republic of South Africa.
- (2) (a) Whenever it becomes necessary to appoint a member referred to in
45 subsection (1)(b), (c) or (d), the registrar shall request the body concerned in writing to submit the applicable nominations to him in writing within a period specified in such request, which period shall not be less than 60 days.
- (b) If such body fails to comply with the said request within the specified period, the Minister may at his discretion appoint such persons as he may deem
50 fit, in the place of the persons required to be nominated by that body.
- (c) The duties of the registrar set out in this subsection shall for the purposes of the first appointment of members of the council be performed by the Director-General: Agriculture.
- (3) No person shall be appointed as a member of the council—
- 55 (a) if—
 - (i) he is not a South African citizen resident in South Africa;
 - (ii) he is an unrehabilitated insolvent;
 - (iii) he has failed or is unable to comply in full with a judgment or order, including an order as to costs, given against him by a court
60 of law in civil proceedings;

- (iv) hy skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is, of weens 'n ander misdryf tot 'n tydperk van gevangenisstraf sonder die keuse van 'n boete gevonnissen is;
- (b) ingevolge subartikel (1)(b) aangestel nie, indien hy as varsprodukte-agent of lewendehawe-agent optree, of 'n direkteur van 'n maatskappy of koöperasie of 'n lid van 'n beslote korporasie is wat as varsprodukte-agent of lewendehawe-agent optree; of 5
- (c) ingevolge subartikel (1)(c) of (d) aangestel nie, indien die raad—
- (i) ingevolge artikel 16(6), sover dit van toepassing is, geweier het om 'n getrouheidsfondssertifikaat uit te reik aan hom of aan die maatskappy of koöperasie waarvan hy 'n direkteur is of die beslote korporasie waarvan hy 'n lid is; of 10
- (ii) ingevolge artikel 26(1)(c) die getrouheidsfondssertifikaat wat uitgereik is aan hom of aan die maatskappy of koöperasie waarvan hy 'n direkteur is of aan die beslote korporasie waarvan hy 'n lid is, ingetrek het en nie die tenuitvoerlegging van bedoelde intrekking opgeskort het nie. 15
- (4) (a) 'n Lid van die raad beklee sy amp, behoudens die bepalinge van artikel 4—
- (i) indien hy 'n beampte is, vir solank dit die Minister behaag; en 20
- (ii) indien hy 'n ander lid is, vir drie jaar, maar behou na verstryking van die tydperk waarvoor hy aangestel is sy amp vir 'n verdere tydperk van hoogstens drie maande totdat sy opvolger aangestel is.
- (b) Indien 'n lid van die raad om die een of ander rede ophou om sy amp te beklee, kan die Minister, behoudens die bepalinge van subartikel (2), iemand vir die onverstreke gedeelte van sy ampstermyn in sy plek aanstel. 25
- (c) Iemand wie se ampstermyn as lid van die raad verstryk het, kan weer aangestel word.
- (5) Aan 'n lid van die raad wat nie 'n beampte is nie, word ten opsigte van sy dienste as sodanig, uit die fondse van die raad die besoldiging en toelaes betaal wat die raad in die algemeen of in enige besondere geval bepaal. 30

Ontruiming van amp deur lede van raad

4. 'n Lid van die raad ontruim sy amp indien—
- (a) hy onbevoeg word soos in artikel 3(3) bedoel;
- (b) hy geestelik versteurd word; 35
- (c) hy sonder verlof van die raad van meer as twee agtereenvolgende vergaderings van die raad afwesig was;
- (d) hy as lid van die raad bedank en die registrateur skriftelik daarvan in kennis gestel het;
- (e) hy 'n lid in artikel 3(1)(b), (c) of (d) bedoel, is en die betrokke liggaam die registrateur skriftelik in kennis stel dat so 'n lid nie meer daardie liggaam se benoemde lid is nie; of 40
- (f) hy volgens die oordeel van die Minister, na raadpleging van die ander lede van die raad, nie meer 'n geskikte persoon is om in die raad te dien nie. 45

Voorsitter en ondervoorsitter van raad

5. (1) Die lede van die raad kies op die eerste vergadering van die raad en daarna wanneer dit nodig word, uit die geledere van die lede in artikel 3(1)(b), (c) of (d) bedoel, 'n voorsitter en 'n ondervoorsitter van die raad.
- (2) Die lid in artikel 3(1)(a)(i) bedoel, sit tydens die verkiesing van die voorsitter en ondervoorsitter voor. 50
- (3) Die ampstermyn van die voorsitter en die ondervoorsitter loop ten einde na die eerste vergadering van die raad na die einde van die boekjaar van die raad waarin hulle aldus verkies is.
- (4) Die voorsitter en die ondervoorsitter kan hul ampte ontruim sonder om hul lidmaatskap van die raad te beëindig. 55
- (5) Wanneer die voorsitter afwesig is of nie in staat is om sy werksaamhede voort te sit nie, neem die ondervoorsitter as voorsitter waar, en indien sowel die voorsitter as die ondervoorsitter van 'n vergadering afwesig is of nie in staat is om

- (iv) he has been convicted of an offence involving an element of dishonesty or has been sentenced for any other offence to a period of imprisonment;
- 5 (b) in terms of subsection (1)(b), if he acts as a fresh produce agent or livestock agent, or is a director of a company or co-operative or a member of a close corporation acting as a fresh produce agent or livestock agent; or
- (c) in terms of subsection (1)(c) or (d), if the council has—
- 10 (i) in terms of section 16(6), in so far as it applies, refused to issue a fidelity fund certificate to him or to the company or co-operative of which he is a director or to the close corporation of which he is a member; or
- 15 (ii) in terms of section 26(1)(c) withdrawn the fidelity fund certificate issued to him or to the company or co-operative of which he is a director or to the close corporation of which he is a member, and has not suspended the execution of such withdrawal.
- (4) (a) A member of the council shall, subject to the provisions of section 4—
- 20 (i) if he is an officer, hold office at the pleasure of the Minister; and
- (ii) if he is any other member, hold office for three years, but shall on the termination of the period for which he has been appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed.
- (b) If a member of the council ceases to hold office for any reason, the Minister may, subject to the provisions of subsection (2), appoint any person in
- 25 his place for the unexpired period of his term of office.
- (c) A person whose term of office as a member of the council has expired shall be eligible for reappointment.
- (5) A member of the council who is not an officer shall be paid, in respect of his services as such, such remuneration and allowances out of the funds of the
- 30 council as the council may determine in general or in any particular case.

Vacating of office by members of council

4. A member of the council shall vacate his office if—
- (a) he becomes subject to any disqualification referred to in section 3(3);
- (b) he becomes of unsound mind;
- 35 (c) he has been absent from more than two consecutive meetings of the council without the leave of the council;
- (d) he resigns as a member of the council and has notified the registrar in writing of his resignation;
- (e) he is a member referred to in section 3(1)(b), (c) or (d), and the body
- 40 concerned notifies the registrar in writing that such member is no longer that body's nominated member; or
- (f) in the opinion of the Minister, after consultation with the other members of the council, he is no longer fit to serve on the council.

Chairman and vice-chairman of council

- 45 5. (1) The members of the council shall at the first meeting of the council and thereafter as occasion arises, from among the members referred to in section 3(1)(b), (c) or (d) elect a chairman and a vice-chairman of the council.
- (2) The member referred to in section 3(1)(a)(i) shall preside during the election of the chairman and vice-chairman.
- 50 (3) The term of office of the chairman and the vice-chairman shall terminate after the first meeting of the council after the end of the financial year of the council during which they were so elected.
- (4) The chairman and the vice-chairman may vacate their offices without terminating their membership of the council.
- 55 (5) When the chairman is absent or is unable to perform his duties, the vice-chairman shall act as chairman, and if both the chairman and the vice-chairman are absent from a meeting or are unable to perform the duties of

die werksaamhede van voorsitter te verrig nie, kies die aanwesige lede iemand uit hul geledere om op daardie vergadering voor te sit.

(6) Iemand wie se ampstermyn as voorsitter of ondervoorsitter weens tydverloop verstryk het, kan tot dié amp herkies word: Met dien verstande dat niemand vir meer as ses agtereenvolgende jare as voorsitter of ondervoorsitter mag dien nie.

Vergaderings en besluite van raad

6. (1) Die raad vergader vir die eerste keer op die tyd en plek wat die Minister bepaal en daarna op die tyd en plekke wat die voorsitter of, indien hy afwesig is, die ondervoorsitter van tyd tot tyd bepaal.

(2) Die voorsitter van die raad kan te eniger tyd 'n buitengewone vergadering van die raad belê, wat gehou moet word op die tyd en plek wat hy bepaal, en moet op skriftelike versoek wat deur minstens vier lede van die raad onderteken is, 'n buitengewone vergadering van die raad belê, wat binne twee weke vanaf die datum van ontvangs van bedoelde versoek gehou moet word op die tyd en plek wat hy bepaal.

(3) Die persoon wat op 'n vergadering van die raad voorsit, bepaal die prosedure op daardie vergadering.

(4) (a) Die meerderheid van al die lede van die raad maak 'n kworum vir 'n vergadering van die raad uit.

(b) Die beslissing van 'n meerderheid van die lede van die raad wat op 'n vergadering van die raad aanwesig is, maak 'n besluit van die raad uit.

(c) By 'n staking van stemme oor 'n aangeleentheid het die persoon wat op die betrokke vergadering voorsit, benewens sy beraadslagende stem 'n beslissende stem.

(5) Geen besluit deur die raad geneem of handeling op gesag van die raad verrig, is ongeldig nie bloot vanweë 'n toevallige vakature in die raad of omdat iemand wat nie geregtig was om as 'n lid van die raad sitting te neem nie, as so 'n lid sitting geneem het op die tydstip waarop die besluit geneem of die handeling gemagtig is, indien die besluit geneem of handeling gemagtig is deur die meerderheid van die lede van die raad wat toe aanwesig was en geregtig was om as lede van die raad sitting te neem.

Komitees van raad

7. (1) (a) Daar is twee uitvoerende komitees van die raad wat met aangeleenthede betreffende onderskeidelik die beroepe van varspprodukte-agent en lewendehawe-agent handel.

(b) Die uitvoerende komitees bestaan onderskeidelik uit die lede van die raad in paragrafe (b)(i) en (c), en paragrafe (b)(ii) en (d), van artikel 3(1) bedoel.

(c) Behoudens die bepalings van hierdie Wet en die voorskrifte van die raad kan die onderskeie uitvoerende komitees gedurende tydperke tussen vergaderings van die raad al die bevoegdhede en werksaamhede van die raad met betrekking tot die onderskeie genoemde beroepe, uitoefen of verrig.

(d) Behalwe vir sover die raad anders gelas, word die bepalings van paragraaf (c) van hierdie subartikel nie uitgelê as sou dit 'n uitvoerende komitee magtig om 'n besluit van die raad of 'n komitee in subartikel (2)(a) bedoel, tersyde te stel of te wysig nie.

(e) Die bepalings van artikel 6(3), (4) en (5) is *mutatis mutandis* van toepassing op die uitvoerende komitee.

(2) (a) Die raad kan na goeddunke een of meer ander komitees bestaande uit soveel lede van die raad en ander persone as wat die raad nodig ag, aanstel om, onderworpe aan die voorskrifte van die raad, die werksaamhede van die raad te verrig wat die raad bepaal, of om die raad te adviseer oor 'n aangeleentheid wat by hierdie Wet aan die raad opgedra is, en die raad kan te eniger tyd so 'n komitee ontbind of hersaamstel.

(b) Die voorsitter van so 'n komitee is 'n lid van die raad deur die raad aangewys.

(c) Die bepalings van artikels 3(5) en 6(3), (4) en (5) is *mutatis mutandis* op so 'n komitee van toepassing.

chairman, the members present shall from among their number elect a person to preside at that meeting.

- (6) A person whose term of office as chairman or vice-chairman has expired through effluxion of time shall be eligible for re-election to this office: Provided that no person shall serve as chairman or vice-chairman for more than six consecutive years.

Meetings and decisions of council

6. (1) The council shall meet for the first time at a time and place determined by the Minister and thereafter at such times and places as the chairman or, in his absence, the vice-chairman may from time to time determine.

- (2) The chairman of the council may at any time convene an extraordinary meeting of the council to be held at a time and place determined by him, and shall, upon a written request signed by not less than four members of the council, convene an extraordinary meeting thereof to be held within two weeks after the date of receipt of such request, at a time and place determined by him.

- (3) The person presiding at a meeting of the council shall determine the procedure at that meeting.

- (4) (a) The quorum for a meeting of the council shall be a majority of all its members.

- (b) The decision of a majority of the members of the council present at a meeting thereof shall constitute a decision of the council.

- (c) In the event of an equality of votes on any matter the person presiding at the meeting concerned shall have a casting vote in addition to his deliberative vote.

- (5) No decision taken by the council or act performed under the authority of the council shall be invalid by reason only of a casual vacancy on the council or of the fact that any person not entitled to sit as a member of the council, sat as such a member at the time the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the majority of the members of the council who were present at the time and entitled to sit as members of the council.

Committees of council

7. (1) (a) There shall be two executive committees of the council which shall deal with matters relating to the occupations of fresh produce agent and livestock agent, respectively.

- (b) The executive committees shall consist of the members of the council referred to in paragraphs (b)(i) and (c), and paragraphs (b)(ii) and (d), respectively, of section 3(1).

- (c) Subject to the provisions of this Act and the directives of the council, the respective executive committees may during periods between meetings of the council exercise all the powers and perform all the functions of the council with regard to the respective said occupations.

- (d) Except in so far as the council may direct otherwise, the provisions of paragraph (c) of this subsection shall not be construed as authorizing an executive committee to set aside or amend any decision of the council or a committee referred to in subsection (2)(a).

- (e) The provisions of section 6(3), (4) and (5) shall *mutatis mutandis* apply to the executive committee.

- (2) (a) The council may at its discretion appoint one or more other committees consisting of so many members of the council and other persons as the council may deem necessary, to perform, subject to the directives of the council, such functions of the council as the council may determine, or to advise the council on any matter assigned to the council by or under this Act, and the council may at any time dissolve or reconstitute such a committee.

- (b) The chairman of any such committee shall be a member of the council designated by the council.

- (c) The provisions of sections 3(5) and 6(3), (4) and (5) shall *mutatis mutandis* apply to any such committee.

(3) Behoudens die bepalings van subartikel (4) word die raad nie ontdoen of onthef van 'n werksaamheid in subartikel (1)(c) of (2)(a) bedoel nie.

(4) 'n Besluit van enige genoemde komitee kan deur die raad ingetrek of gewysig word of na so 'n komitee terugverwys word en word, totdat dit aldus ingetrek of gewysig is, geag 'n besluit van die raad te wees: Met dien verstande dat 'n besluit van 'n genoemde uitvoerende komitee slegs ingetrek of gewysig word indien 'n besluit betreffende sodanige intrekking of wysiging aangeneem is deur minstens twee derdes van die lede van die raad wat op 'n vergadering daarvan aanwesig is.

Registrateur en personeel

8. (1) Die werk verbonde aan die verrigting van die werksaamhede van die raad en sy komitees word verrig deur—

- (a) die Registrateur van Landbouprodukte-agente, wat deur die raad vir die doeleindes van hierdie Wet aangestel moet word; en
- (b) persone met wie die raad ooreenkomste vir die verrigting van besondere bedrywighede of die lewering van besondere dienste aangegaan het.

(2) Die registrateur kan 'n bevoegdheid of plig hom by of kragtens hierdie Wet verleen of opgelê, deleger of opdra aan iemand wat deur die raad aangestel is om die registrateur in sy werk by te staan.

Oogmerke van raad

9. Die oogmerke van die raad is om die beoefening van die beroep van agent te reël, en om die status en waardigheid van daardie beroep en die integriteit van persone wat daardie beroep beoefen, te handhaaf en te bevorder.

Werksaamhede van raad

10. Die werksaamhede van die raad is om—

- (a) enige werksaamhede in verband met agente wat by hierdie Wet of enige ander wet aan die raad opgedra is, te verrig;
- (b) inligting in te win in verband met agente en persone wat om die uitreiking van getrouheidsfondssertifikate aansoek doen;
- (c) die roerende of onroerende goed wat die raad vir die verrigting van sy werksaamhede nodig ag, te huur, te koop of andersins te verkry, en goed wat aldus gekoop of verkry is, te verhuur of te verkoop of andersins daaroor te beskik; en
- (d) in die algemeen die stappe te doen wat nodig is om sy oogmerke te bereik.

Fondse van raad

11. (1) Die fondse van die raad bestaan uit—

- (a) geld ingevolge hierdie Wet aan die raad betaal; en
 - (b) enige ander geld wat die raad uit 'n ander bron toeval.
- (2) Die raad wend sy fondse aan ter bestryding van die uitgawes wat die raad by die verrigting van sy werksaamhede en die uitoefening van sy bevoegdhede kragtens hierdie Wet aangaan.
- (3) Die raad moet 'n rekening open by 'n depositonemende instelling of bouvereniging, en moet in daardie rekening alle geld bedoel in subartikel (1) stort.
- (4) Die raad kan geld wat hy ingevolge subartikel (3) in 'n rekening gestort het en wat nie vir onmiddellike gebruik nodig is nie, belê.
- (5) Die boekjaar van die raad eindig in elke jaar op die datum wat die raad van tyd tot tyd bepaal.
- (6) Die raad moet—
- (a) rekeningkundige aantekeninge laat hou van alle geld deur hom ontvang of bestee, en van al sy bates, laste en finansiële transaksies; en
 - (b) so gou doenlik, maar hoogstens drie maande na die einde van elke boekjaar, finansiële jaarstate laat opstel wat, met alle gepaste besonderhede, die geld deur hom ontvang en die uitgawes deur hom aangegaan gedurende, en sy bates en laste aan die einde van, daardie boekjaar aantoon.

(3) Subject to the provisions of subsection (4), the council shall not be divested of or exempted from any function referred to in subsection (1)(c) or (2)(a).

- (4) Any decision of any said committee may be withdrawn or amended by the council or referred back to such committee and shall, until it has been so withdrawn or amended, be deemed to be a decision of the council: Provided that a decision of any said executive committee may be withdrawn or amended only if the decision for such withdrawal or amendment was passed by at least two thirds of the members of the council present at a meeting thereof.

Registrar and staff

8. (1) The work incidental to the performance of the functions of the council and its committees shall be performed by—
- (a) the Registrar of Agricultural Produce Agents, who shall be appointed by the council for the purposes of this Act; and
 - (b) persons with whom the council has entered into agreements for the performance of specific activities or the rendering of specific services.
- (2) The registrar may delegate or assign to a person appointed by the council to assist the registrar in his work, any power or duty conferred or imposed upon him by or under this Act.

Objects of council

9. The objects of the council shall be to regulate the practising of the occupation of agent, and to maintain and enhance the status and dignity of that occupation and the integrity of persons practising that occupation.

Functions of council

10. The functions of the council are—
- (a) to perform any functions in connection with agents entrusted to the council by this Act or any other law;
 - (b) to gather information in connection with agents and persons applying for the issue of fidelity fund certificates;
 - (c) to hire, purchase or otherwise acquire such movable or immovable property as the council may deem necessary for the effective performance of its functions, and to let, sell or otherwise dispose of property so purchased or acquired; and
 - (d) generally, to take such steps as it may deem necessary to achieve its objects.

Funds of council

11. (1) The funds of the council shall consist of—
- (a) money paid to the council in terms of this Act; and
 - (b) all other money which may accrue to the council from any other source.
- (2) The council shall utilize its funds to defray expenses incurred by the council in the performance of its functions and the exercise of its powers under this Act.
- (3) The council shall open an account at a deposit-taking institution or building society, and shall deposit all moneys referred to in subsection (1) therein.
- (4) The council may invest any moneys deposited by it in an account in terms of subsection (3) and which are not required for immediate use.
- (5) The financial year of the council shall end in each year upon the date determined by the council from time to time.
- (6) The council shall—
- (a) cause accounting records to be kept of all moneys received or expended by it, and of all its assets, liabilities and financial transactions; and
 - (b) as soon as possible, but not later than three months after the end of each financial year, cause annual financial statements to be prepared showing, with all the appropriate particulars, the money received and the expenditure incurred by it during, and its assets and liabilities at the end of, that financial year.

(7) Die aantekeninge en finansiële jaarstate in subartikel (6) bedoel, word geouditeer deur 'n ouditeur wat deur die raad aangestel word.

(8) Die raad moet binne ses maande na die einde van elke boekjaar 'n afskrif van die geouditeerde finansiële jaarstate in subartikel (6)(b) bedoel, tesame met 'n verslag oor die bedrywigheide van die raad gedurende daardie boekjaar, aan die Minister voorlê. 5

(9) Afskrifte van die finansiële jaarstate en van die verslag in subartikel (8) bedoel—

(a) lê by die kantoor van die raad ter insae van die publiek gedurende werksure; en 10

(b) is van die raad verkrygbaar teen betaling van die bedrag wat die raad daarvoor bepaal.

(10) Die werksaamhede van die raad ingevolge hierdie artikel kan afsonderlik ten opsigte van varsprodukte-agente en lewendehawe-agente verrig word.

Instelling en beheer van getrouheidsfondse

12. (1) Daar word hierby twee fondse ingestel met onderskeidelik die name die Varsprodukte-agente-getrouheidsfonds en die Lewendehawe-agente-getrouheidsfonds. 15

(2) Die Varsprodukte-agente-getrouheidsfonds bestaan uit—

(a) die bedrag geld in die getrouheidswaarborgfonds ingestel kragtens artikel 27 van die Wet op Agentskapverkoop van Landbouprodukte, 1975 (Wet No. 12 van 1975); 20

(b) elke bedrag wat onmiddellik voor die inwerkingtreding van hierdie artikel aan of vir die rekening van die fonds in paragraaf (a) bedoel, betaalbaar is, en op of na sodanige datum van inwerkingtreding betaal word; 25

(c) geld wat ingevolge subartikel (4) aan of vir die rekening van genoemde fonds deur varsprodukte-agente betaal is;

(d) geld wat deur of namens genoemde fonds ingevolge hierdie Wet verhaal word; 30

(e) geld wat genoemde fonds uit hoofde van 'n versekeringskontrak in artikel 15 bedoel, ontvang;

(f) inkomste verkry uit die belegging van geld in genoemde fonds; en

(g) enige ander geld wat genoemde fonds uit 'n ander bron toeval. 35

(3) Die Lewendehawe-agente-getrouheidsfonds bestaan uit—

(a) geld wat ingevolge subartikel (4) aan of vir die rekening van genoemde fonds deur lewendehawe-agente betaal is;

(b) geld wat deur of namens genoemde fonds ingevolge hierdie Wet verhaal word;

(c) geld wat genoemde fonds uit hoofde van 'n versekeringskontrak in artikel 15 bedoel, ontvang; 40

(d) inkomste verkry uit die belegging van geld in genoemde fonds; en

(e) enige ander geld wat genoemde fonds uit 'n ander bron toeval.

(4) (a) Elke agent wat die houer is van 'n getrouheidsfondssertifikaat moet jaarliks voor of op 'n datum vir dié doel deur die raad bepaal, 'n bedrag wat bereken is op die grondslag of op die wyse wat die raad bepaal, aan die raad vir die rekening van die betrokke fonds betaal. 45

(b) 'n Bepaling deur die raad ingevolge paragraaf (a) word gemaak met inagneming van die doel waarvoor die betrokke fonds ingestel is, asook die huidige bates en toekomstige verpligtinge van daardie fonds. 50

(5) (a) Die fondse word ingestel om persone ooreenkomstig die bepalings van hierdie Wet te vergoed vir geldelike verliese deur hulle gely vanweë die versuim van—

(i) kommissie-agente soos omskryf in artikel 1 van die Wet op die Agentskapverkoop van Landbouprodukte, 1975, wat voor die inwerkingtreding van hierdie artikel lede van die getrouheidswaarborgfonds in subartikel (2)(a) van hierdie artikel bedoel, was, om die bepalings van genoemde Wet en die regulasies daarkragtens uitgevaardig, na te kom; en 55

(ii) agente wat in besit van geldige getrouheidsfondssertifikate is, om die bepalings van hierdie Wet en die reëls na te kom. 60

(7) The records and annual financial statements referred to in subsection (6) shall be audited by an auditor appointed by the council.

(8) The council shall within six months of the end of each financial year submit to the Minister a copy of the audited annual financial statements referred to in subsection (6)(b), together with a report on the activities of the council during that financial year.

(9) Copies of the annual financial statements and of the report referred to in subsection (8) shall—

- (a) be open to public inspection at the office of the council during office hours; and
- (b) be obtainable from the council against payment of the amount determined therefor by the council.

(10) The functions of the council in terms of this section may be performed separately in respect of fresh produce agents and livestock agents.

15 Establishment and control of fidelity funds

12. (1) There are hereby established two funds to be known as the Fresh Produce Agents Fidelity Fund and the Livestock Agents Fidelity Fund, respectively.

(2) The Fresh Produce Agents Fidelity Fund shall consist of—

- (a) money in the fidelity guarantee fund established under section 27 of the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975);
- (b) each amount which is immediately prior to the commencement of this section payable to or on the account of the fund referred to in paragraph (a), and is paid on or after such date of commencement;
- (c) money paid to or on account of the said fund in terms of subsection (4) by fresh produce agents;
- (d) money recovered by or on behalf of the said fund in terms of this Act;
- (e) money received by the said fund by virtue of a contract of insurance referred to in section 15;
- (f) income derived from the investment of money in the said fund; and
- (g) any other money accruing to the said fund from any other source.

(3) The Livestock Agents Fidelity Fund shall consist of—

- (a) money paid to or on account of the said fund in terms of subsection (4) by livestock agents;
- (b) money recovered by or on behalf of the said fund in terms of this Act;
- (c) money received by the said fund by virtue of a contract of insurance referred to in section 15;
- (d) income derived from the investment of money in the said fund; and
- (e) any other money accruing to the said fund from any other source.

(4) (a) Each agent who is the holder of a fidelity fund certificate shall annually before or on a date determined by the council for this purpose, pay to the council for the account of the applicable fund an amount calculated on such basis or in such manner as the council may determine.

(b) A determination by the council in terms of paragraph (a) shall be made with due regard to the purpose for which the fund concerned has been established, as well as the present assets and future obligations of that fund.

(5) (a) The funds are established to compensate persons in accordance with the provisions of this Act for monetary losses suffered by them as a result of the failure of—

- (i) commission agents as defined in section 1 of the Agricultural Produce Agency Sales Act, 1975, who were members of the fidelity guarantee fund referred to in subsection (2)(a) of this section prior to the commencement of this section, to comply with the provisions of the said Act and the regulations made thereunder; and
- (ii) agents who are in possession of valid fidelity fund certificates, to comply with the provisions of this Act and the rules.

- (b) Vergoeding ingevolge paragraaf (a)—
- (i) is slegs uit die fonds in subartikel (2) bedoel betaalbaar indien dit op 'n landbouprodukt in Deel A van Bylae 1 vermeld, betrekking het; en
 - (ii) is slegs uit die fonds in subartikel (3) bedoel betaalbaar indien dit op 'n landbouprodukt in Deel B van Bylae 1 vermeld, betrekking het. 5
- (c) Ondanks die bepalings van paragraaf (a) kan die Minister, indien hy van oordeel is dat die saldo in 'n bepaalde fonds voldoende is om die verpligtinge in daardie paragraaf beoog, na te kom, goedkeur dat die gedeelte van die inkomste in subartikels (2)(f) en (3)(d) bedoel wat hy bepaal, aan die raad beskikbaar gestel word vir aanwending soos in artikel 11(2) beoog. 10
- (6) Die fondse word ooreenkomstig die bepalings van hierdie Wet deur die raad beheer en bestuur.
- (7) Die raad moet by 'n deponering van instelling of bouvereniging afsonderlike rekeninge open waarin die geld in die onderskeie fondse gehou moet word. 15
- (8) Die raad kan enige geld in die fondse wat nie vir onmiddellike gebruik nodig is nie, belê.
- (9) Die boekjaar van die fondse eindig op die datum in elke jaar wat die raad bepaal.
- (10) Geen bepaling van 'n wet betreffende versekering is ten opsigte van die fondse van toepassing nie. 20
- (11) Die bepalings van artikel 11(6), (7), (8) en (9) is *mutatis mutandis* op die fondse van toepassing.

Betalings uit fondse

13. (1) Behoudens die bepalings van hierdie Wet word die toepaslike fonds aangewend vir— 25
- (a) alle eise teen die fonds in artikel 14 bedoel wat deur die raad vereffen of teen die betrokke fonds toegeken of vasgestel is;
 - (b) vergoeding, na goeddunke van die raad, aan 'n eiser vir uitgawes aangegaan ten opsigte van die bewys van sy eis; 30
 - (c) regs- en rekeningkundige koste aangegaan by, en ander uitgawes wat voortvloei uit, die ondersoek en verdediging van 'n eis wat teen die fonds ingestel word;
 - (d) premies ten opsigte van versekeringskontrakte wat ingevolge artikel 15 deur die raad aangegaan word; 35
 - (e) die koste verbonde aan die beheer en bestuur van die fonds, met inbegrip van toelaes en besoldiging wat vir dié doel aan lede van die raad en aan 'n komitee van die raad, die registrateur en persone in artikel 8(2) bedoel, betaal word; en
 - (f) ander betalings wat ingevolge hierdie Wet uit die fonds gedoen moet of kan word. 40
- (2) Die raad kan na goeddunke 'n bedrag uit die toepaslike fonds betaal as rente op die bedrag van 'n vonnis wat teen die fonds verkry is of van 'n eis teen die fonds wat erken is: Met dien verstande dat—
- (a) die rente nie loop nie van 'n datum vroeër as die datum waarop die betrokke eis skriftelik ingevolge subartikel (3)(a)(i) by die raad ingedien is; en 45
 - (b) die rentekoers nie die geldende rentekoers wat kragtens artikel 1(2) van die Wet op die Voorgeskrewe Rentekoers, 1975 (Wet No. 55 van 1975), voorgeskryf is, mag oorskryf nie. 50
- (3) Ondanks die bepalings van subartikel (1) het niemand 'n eis teen 'n fonds nie—
- (a) tensy die eiser—
 - (i) dit skriftelik by die raad ingedien het binne ses maande nadat hy van die betrokke verlies bewus geword het of deur die uitoefening van redelike sorg daarvan bewus kon geword het; en 55
 - (ii) binne drie maande nadat hy skriftelik deur die raad daartoe versoek is, die bewyse van daardie verlies wat die raad redelikerwys vereis, aan die raad verskaf het; en
 - (b) indien die eiser— 60
 - (i) 'n bestuurder, verteenwoordiger, agent, werknemer of lid van die

- (b) Compensation in terms of paragraph (a) shall—
- (i) only be payable from the fund referred to in subsection (2) if it relates to an agricultural product specified in Part A of Schedule 1; and
 - (ii) only be payable from the fund referred to in subsection (3) if it relates to an agricultural product specified in Part B of Schedule 1.
- (c) Notwithstanding the provisions of paragraph (a), the Minister may, if he is of the opinion that the balance of a particular fund is sufficient to meet the obligations contemplated in that paragraph, approve that such portion of the income referred to in subsections (2)(f) and 3(d) as may be determined by him, be made available to the council for utilization as contemplated in section 11(2).
- (6) The funds shall be controlled and administered by the council in accordance with the provisions of this Act.
- (7) The council shall open separate accounts with a deposit-taking institution or building society in which the money in the respective funds is to be kept.
- (8) The council may invest any money in the funds not required for immediate use.
- (9) The financial year of the funds shall terminate on such date in each year as the council may determine.
- (10) No provision of any law relating to insurance shall apply in respect of the funds.
- (11) The provisions of section 11(6), (7), (8) and (9) shall *mutatis mutandis* apply to the funds.

Payments out of funds

13. (1) Subject to the provisions of this Act, the applicable fund shall be utilized for—
- (a) all claims against the fund referred to in section 14 and paid by the council or allowed or established against the fund concerned;
 - (b) compensation, in the discretion of the council, to a claimant for expenses incurred in respect of proof of his claim;
 - (c) legal and accounting costs incurred in, and other expenses arising from, the investigation and defence of a claim made against the fund;
 - (d) premiums in respect of contracts of insurance entered into by the council in terms of section 15;
 - (e) the costs incidental to the control and administration of the fund, including allowances and remuneration paid for this purpose to members of the council and a committee of the council, the registrar and the persons referred to in section 8(2); and
 - (f) other payments required or permitted to be made out of the fund in terms of this Act.
- (2) The council may in its discretion pay an amount out of the applicable fund as interest on the amount of any judgment obtained against the fund or of any claim against the fund admitted: Provided that—
- (a) the interest shall not run from a date earlier than the date on which the claim concerned was lodged in writing with the council in terms of subsection (3)(a)(i); and
 - (b) the rate of interest shall not exceed the prevailing rate of interest prescribed under section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).
- (3) Notwithstanding the provisions of subsection (1), no person shall have any claim against a fund—
- (a) unless the claimant—
 - (i) has lodged it in writing with the council within six months after he became aware of the loss concerned, or by the exercise of reasonable care could have become aware thereof; and
 - (ii) has within three months after having been requested thereto in writing by the council, furnished the council with such proof of that loss as the council may reasonably require; and
 - (b) if the claimant—
 - (i) is a manager, representative, agent, employee or member of the

gesin is van die agent wie se versuim of beweerde versuim die betrokke verlies veroorsaak het;

- (ii) in die geval van 'n agent wat 'n maatskappy of koöperasie is, 'n direkteur van daardie maatskappy of koöperasie is;
- (iii) in die geval van 'n agent wat 'n beslote korporasie is, 'n lid van daardie beslote korporasie is. 5

Eise teen fondse en aksies teen raad

14. (1) 'n Eis vir die vergoeding uit 'n fonds van 'n geldelike verlies wat onder die omstandighede in artikel 12(5) uiteengesit, ontstaan het, moet, behoudens die bepalings van artikel 13(3), by die raad ingedien word. 10

(2) Indien die raad so 'n eis erken, word 'n betaling ooreenkomstig die bepalings van artikel 13(1) aan die betrokke eiser gedoen: Met dien verstande dat die bedrag van sodanige betaling nie groter mag wees nie as die verskil tussen die bedrag van die verlies deur die betrokke eiser gely, en die bedrag of waarde van alle geld of ander voordele wat daardie eiser uit 'n ander bron ontvang het of geregtig is om te ontvang. 15

(3) Indien die raad 'n eis verwerp, kan 'n aksie teen die raad ten opsigte van daardie eis ingestel word in die hof binne wie se jurisdiksie die skuldoorsaak ontstaan het, mits die eiser volgens die oordeel van die raad alle beskikbare regsmiddels aangewend het teen die agent ten aansien van wie die eis ontstaan het. 20

(4) In 'n aksie teen die raad ten opsigte van 'n fonds is alle verwerre wat beskikbaar sou gewees het vir die agent ten aansien van wie die eis ontstaan het, vir die raad beskikbaar.

(5) Wanneer die raad enige eis kragtens hierdie Wet ten volle of gedeeltelik vereffen— 25

(a) gaan daar op die raad, tot die omvang van sodanige vereffening, alle regte en regsmiddele oor wat die eiser ten opsigte van daardie eis teen die betrokke agent of iemand anders of, indien toepaslik, in die geval van die dood, insolvensie of ander regsonbevoegdheid van daardie agent of ander persoon, teen die boedel van bedoelde agent of ander persoon het; en 30

(b) kan die raad sekuriteit wat ingevolge artikel 17 deur 'n agent verstrekk is, gebruik om die betrokke fonds te vergoed vir die bedrag waarvoor die betrokke eis vereffen is.

(6) (a) Die raad kan na goeë dunnke beslis oor die volgorde waarin eise wat deur die raad erken of deur die hof toegeken is, uit die toepaslike fonds betaal word. 35

(b) Indien die bedrag tot krediet van 'n fonds te eniger tyd onvoldoende is om al sodanige eise te betaal, kan die raad die betrokke eise betaal na verhouding van die bedrag wat op daardie tydstip in die betrokke fonds beskikbaar is.

(c) 'n Gedeeltelike betaling kragtens paragraaf (b) word geag volle en afdoende betaling ten opsigte van die betrokke eis te wees. 40

Versekeringskontrakte

15. (1) Die raad kan 'n versekeringskontrak met 'n geregistreerde versekeraar soos omskryf in artikel 1(1) van die Wet op Versekering, 1943 (Wet No. 27 van 1943), aangaan waardeur 'n fonds in die mate en op die wyse in daardie kontrak bepaal, skadeloos gestel word teen aanspreeklikheid om eise ingevolge hierdie Wet te betaal. 45

(2) Geen persoon wat 'n eis kragtens hierdie Wet teen 'n fonds het, het—

- (a) op grond van 'n kontrak wat ingevolge subartikel (1) met 'n versekeraar aangegaan is, 'n reg van aksie teen daardie versekeraar nie; en 50
- (b) 'n reg of eis ten opsigte van geld wat ooreenkomstig so 'n kontrak deur 'n versekeraar aan die raad ten bate van daardie fonds betaal is of betaalbaar is nie.

Verbod op optrede as agent onder sekere omstandighede

16. (1) (a) Behoudens die bepalings van subartikel (2) mag niemand as agent optree nie tensy hy die houer van 'n geldige getrouheidsfondssertifikaat is. 55

(b) Die bepalings van paragraaf (a) is in die geval van 'n vennootskap op elke lid van daardie vennootskap van toepassing.

- family of the agent whose omission or alleged omission has caused the loss concerned;
- (ii) in the case of an agent who is a company or co-operative, is a director of that company or co-operative;
- 5 (iii) in the case of an agent who is a close corporation, is a member of that close corporation.

Claims against funds and actions against council

14. (1) A claim for the reimbursement from a fund of a monetary loss that arose under the circumstances set out in section 12(5) shall, subject to the provisions of section 13(3), be lodged with the council.

(2) If the council admits such a claim, a payment shall be made to the claimant concerned in accordance with the provisions of section 13(1): Provided that the amount of such payment shall not be more than the difference between the amount of the loss suffered by the claimant concerned, and the amount or value of all moneys or other benefits received or entitled to be received by that claimant from any other source.

(3) If the council rejects a claim, an action in respect of that claim may be instituted against the council in the court within whose jurisdiction the cause of the claim arose, provided the claimant has, in the opinion of the council, exhausted all legal remedies against the agent in respect of whom the claim arose.

(4) In any action against the council in respect of a fund, all defences which would have been available to the agent in respect of whom the claim arose, shall be available to the council.

25 (5) When the council settles in full or in part any claim under this Act—

- (a) there shall pass to the council, to the extent of such settlement, all the rights and remedies of the claimant in respect of such claim against the agent concerned or any other person or, if applicable, in the case of the death, insolvency or other legal incapacity of such agent or other person, against the estate of the said agent or other person; and
- 30 (b) the council may use any security furnished by an agent in terms of section 17, to reimburse the fund concerned for the amount for which the claim concerned was settled.

(6) (a) The council may in its discretion decide on the order in which claims admitted by the council or awarded by the court shall be paid out of the applicable fund.

(b) If at any time the amount to the credit of a fund is insufficient to pay all such claims, the council shall pay those claims proportionally to the amount available in the fund concerned at that time.

40 (c) A proportional payment under paragraph (b) shall be deemed to be full and final payment in respect of the claim concerned.

Insurance contracts

15. (1) The council may enter into a contract of insurance with a registered insurer as defined in section 1(1) of the Insurance Act, 1943 (Act No. 27 of 45 1943), whereby a fund will be indemnified, to the extent and in the manner provided by such contract, against liability to pay claims under this Act.

(2) No claimant having a claim against a fund under this Act shall—

- (a) by virtue of any contract entered into in terms of subsection (1) with an insurer, have any right of action against that insurer; and
- 50 (b) have any right or claim in respect of money paid or payable to the council in favour of that fund by an insurer in accordance with such contract.

Prohibition on acting as agent under certain circumstances

16. (1) (a) Subject to the provisions of subsection (2), no person shall act as 55 an agent unless he is the holder of a valid fidelity fund certificate.

(b) The provisions of paragraph (a) shall, in the case of a partnership, apply to each member of that partnership.

- (2) Niemand mag vergoeding ontvang vir 'n handeling as agent verrig nie, tensy—
- (a) die handeling verrig is deur die houer van 'n geldige getrouheidsfondssertifikaat; of
 - (b) die raad kragtens subartikel (3) sodanige persoon vrygestel het van nakoming van die bepalings van subartikel (1). 5
- (3) (a) Die raad kan op aansoek skriftelik vrystelling van die bepalings van subartikel (1) verleen aan iemand—
- (i) wat slegs by geleentheid as agent optree; en
 - (ii) wie se omvang van besigheid as agent na die oordeel van die raad nie die uitreiking van 'n getrouheidsfondssertifikaat regverdig nie. 10
- (b) So 'n vrystelling word verleen op die voorwaardes wat die raad in elke geval bepaal.
- (4) 'n Aansoek om 'n getrouheidsfondssertifikaat word gedoen op die wyse wat die raad bepaal, en gaan vergesel van die toepaslike bedrag wat die raad vir dié doel bepaal. 15
- (5) Na oorweging van so 'n aansoek reik die raad, behoudens die bepalings van subartikel (6), 'n getrouheidsfondssertifikaat in die vorm deur die raad bepaal, aan die aansoeker uit.
- (6) Die raad kan weier om 'n getrouheidsfondssertifikaat uit te reik aan iemand wat— 20
- (a) te eniger tyd weens onbehoorlike gedrag uit 'n vertrouensposisie ontslaan is;
 - (b) te eniger tyd skuldig bevind is aan 'n misdryf waarvan oneerlikheid 'n element is; 25
 - (c) geestelik versteurd is;
 - (d) te eniger tyd skuldig bevind is aan 'n oortreding van die Wet op die Agentskapsverkoping van Landbouprodukte, 1975 (Wet No. 12 van 1975), en wie se registrasie as kommissie-agent soos in genoemde Wet omskryf, as gevolg daarvan ingevolge artikel 6 van daardie Wet ingetrek is; 30
 - (e) na 'n ondersoek ingevolge artikel 24 aan onbehoorlike gedrag skuldig bevind is, indien die raad as gevolg daarvan die getrouheidsfondssertifikaat wat voorheen aan die betrokke persoon uitgereik is, ingetrek het;
 - (f) 'n ongerehabiliteerde insolvent is; of 35
 - (g) in die geval van 'n maatskappy of koöperasie, 'n direkteur of werknemer, en in die geval van 'n beslote korporasie, 'n lid of werknemer het wat aan 'n onbevoegdheid in paragraaf (a), (b), (c), (d), (e) of (f) uiteengesit, onderhewig is.
- (7) Iemand aan wie 'n getrouheidsfondssertifikaat ingevolge subartikel (5) uitgereik is, moet, wanneer deur die raad daartoe versoek, die bedrag wat die raad bepaal, binne die tydperk wat die raad bepaal, aan die raad betaal. 40
- (8) (a) Behoudens die bepalings van paragraaf (b) word elke persoon wat onmiddellik voor die inwerkingtreding van hierdie artikel 'n lid was van die getrouheidswaarborgfonds wat kragtens artikel 27 van die Wet op die Agentskapsverkoping van Landbouprodukte, 1975 (Wet No. 12 van 1975), ingestel is, geag die houer te wees van 'n getrouheidsfondssertifikaat wat ingevolge hierdie Wet deur die raad uitgereik is. 45
- (b) Die geldigheid van 'n getrouheidsfondssertifikaat in paragraaf (a) bedoel, verval 90 dae na die datum van inwerkingtreding van hierdie artikel tensy die houer daarvan voor of op sodanige datum die toepaslike bedrag wat die raad vir dié doel bepaal, aan die raad betaal het. 50
- (9) Elke agent wat die houer van 'n getrouheidsfondssertifikaat is, moet—
- (a) jaarliks voor of op 'n datum wat deur die raad bepaal word, die bedrag wat die raad bepaal, ten opsigte van die instandhouding van sy getrouheidsfondssertifikaat aan die raad betaal; 55
 - (b) die raad onverwyld skriftelik in kennis stel—
 - (i) van enige verandering van sy sake- of posadres;
 - (ii) indien die vennootskap waarvan hy 'n vennoot is, ontbind;
 - (iii) indien hy 'n lid van 'n vennootskap word; 60
 - (iv) indien, in die geval van 'n maatskappy, koöperasie of beslote korporasie, 'n verandering van die direkteurskap van daardie maatskappy of koöperasie of die lidmaatskap van daardie beslote korporasie plaasgevind het; en

(2) No person shall receive remuneration for the performance of an act as an agent, unless—

- (a) the act has been performed by the holder of a valid fidelity fund certificate; or
- 5 (b) the council has under subsection (3) exempted such person from complying with the provisions of subsection (1).

(3) (a) The council may on application grant written exemption from the provisions of subsection (1) to a person—

- (i) who only occasionally acts as an agent; and
- 10 (ii) whose scope of business as an agent, in the opinion of the council does not justify the issue of a fidelity fund certificate.

(b) Such exemption shall be granted subject to such conditions as the council may in each case determine.

(4) An application for a fidelity fund certificate shall be made in the manner determined by the council, and shall be accompanied by the applicable amount determined by the council for this purpose.

(5) After consideration of any such application the council shall, subject to the provisions of subsection (6), issue to the applicant a fidelity fund certificate in the form determined by the council.

20 (6) The council may refuse to issue a fidelity fund certificate to a person who—

- (a) has at any time by reason of improper conduct been dismissed from a position of trust;
- (b) has at any time been convicted of an offence involving an element of dishonesty;
- 25 (c) is of unsound mind;
- (d) has at any time been convicted of a contravention of the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975), and whose registration as a commission agent as defined in the said Act, was as a result thereof cancelled in terms of section 6 of that Act;
- 30 (e) has after an investigation in terms of section 24, been found guilty of improper conduct, if the council has as a result thereof withdrawn the fidelity fund certificate previously issued to the person concerned;
- (f) is an unrehabilitated insolvent; or
- 35 (g) in the case of a company or co-operative, has a director or employee, and in the case of a close corporation, has a member or employee, who is subject to a disqualification set out in paragraph (a), (b), (c), (d), (e) or (f).

(7) Any person to whom a fidelity fund certificate has been issued in terms of subsection (5) shall, when requested thereto by the council, pay to the council within the period determined by the council the amount determined by the council.

(8) (a) Subject to the provisions of paragraph (b), each person who immediately prior to the commencement of this section was a member of the fidelity guarantee fund established under section 27 of the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975), shall be deemed to be the holder of a fidelity fund certificate issued by the council in terms of this Act.

(b) The validity of a fidelity fund certificate referred to in paragraph (a) shall lapse 90 days after the date of commencement of this section unless the holder thereof has on or before such date paid to the council the applicable amount

50 determined by the council for this purpose.

(9) Each agent who is the holder of a fidelity fund certificate shall—

- (a) annually on or before a date determined by the council, pay to the council the amount determined by the council for the maintenance of such certificate;

- 55 (b) forthwith notify the council in writing—
 - (i) of any change of his business or postal address;
 - (ii) if the partnership of which he is a partner, dissolves;
 - (iii) if he becomes a member of a partnership;
 - 60 (iv) if, in the case of a company, co-operative or close corporation, a change in the directorship of that company or co-operative or the membership of that close corporation has occurred; and

- (v) van enige verdere besonderhede wat die raad na aanleiding van 'n kennisgewing ingevolge die voorafgaande subparagrafe aanvra.
- (10) (a) 'n Getrouheidsfondssertifikaat uitgereik aan 'n agent verval wanneer hy onbevoeg word soos in subartikel (6) beoog.
- (b) Die raad kan die getrouheidsfondssertifikaat van 'n agent intrek indien— 5
- (i) hy kragtens artikel 26 aan onbehoorlike gedrag skuldig bevind word;
 - (ii) hy versuim om die bedrag in subartikel (9)(a) bedoel, te betaal binne drie maande na die datum van 'n skriftelike versoek daarom deur die registrateur gerig aan sy jongsbekende posadres, soos in die stukke van die raad aangeteken; 10
 - (iii) hy versuim om binne drie maande na die datum van 'n skriftelike versoek daarom deur die registrateur gerig aan sy genoemde posadres, sy sake-adres en posadres aan die registrateur te verstrek;
 - (iv) hy versuim om aan die bepalings van artikel 18(2) of 19(1) te voldoen.
- (c) Indien 'n getrouheidsfondssertifikaat aldus verval of ingetrek word, moet die registrateur deur middel van 'n skriftelike kennisgewing, gerig aan die betrokke agent se genoemde posadres, hom daarvan in kennis stel en besonderhede daarvan laat publiseer in 'n Afrikaanse en 'n Engelse koerant wat in omloop is in die distrik waarin genoemde agent se jongsbekende sake-adres, soos in die stukke van die raad aangeteken, geleë is. 15 20
- (d) Iemand wat in besit is van of beheer het oor 'n getrouheidsfondssertifikaat wat kragtens paragraaf (a) of (b) verval het of ingetrek is, na gelang van die geval, moet die sertifikaat aan die registrateur terugbesorg binne 30 dae na die datum van die kennisgewing in paragraaf (c) bedoel.
- (e) 'n Getrouheidsfondssertifikaat wat kragtens hierdie subartikel verval het of ingetrek is, is nietig vanaf sodanige verval of intrekking. 25

Sekuriteit deur agente

17. (1) Die raad kan vereis dat 'n agent wat die houër van 'n getrouheidsfondssertifikaat is, binne die tydperk deur die raad bepaal die sekuriteit wat die raad bepaal, aan die raad moet verstrek vir gebruik deur die raad soos in artikel 14(5)(b) beoog, ten opsigte van 'n eis voortspruitend uit 'n handeling of versuim van daardie agent, en wat binne twee jaar nadat die getrouheidsfondssertifikaat aan hom uitgereik is, plaasgevind het. 30
- (2) So 'n sekuriteit word aan die betrokke agent terugbesorg ses maande nadat die tydperk in subartikel (1) bedoel, verstryk het, tensy 'n ondersoek kragtens artikel 24 voor bedoelde verstryking na 'n handeling of versuim of beweerde handeling of versuim van die betrokke agent gehou word. 35

Rekeninge

18. (1) Elke agent wat die houër van 'n getrouheidsfondssertifikaat is, moet ten opsigte van sy werksaamhede as sodanig, by 'n plek wat die raad goedkeur en in een van die amptelike tale volledige en juiste rekeningkundige aantekeninge hou van— 40
- (a) alle geld wat hy ontvang, hou of bestee, met inbegrip van geld wat hy in 'n trustrekening in artikel 19(1)(a) bedoel, stort of in 'n spaar- of rentedraende rekening in artikel 19(3)(a) bedoel, belê; 45
 - (b) al sy bates en laste; en
 - (c) al sy finansiële transaksies.
- (2) So 'n agent moet genoemde rekeningkundige aantekeninge op sy koste deur 'n ouditeur laat ouditeer binne vier maande na die einddatum van elke boekjaar van die agent, welke einddatum nie deur hom sonder die vooraf verkreeë skriftelike goedkeuring van die raad gewysig mag word nie. 50
- (3) 'n Agent bedoel in subartikel (1) moet die rekeningkundige aantekeninge wat ingevolge hierdie artikel gehou moet word, vir 'n tydperk van minstens drie jaar nadat die jongste inskrywing ten opsigte van enige transaksie daarin gedoen is, by die toepaslike plek in subartikel (1) bedoel, bewaar tesame met die bewysstukke, kwitansies en ander stukke wat op daardie rekeningkundige aantekeninge betrekking het. 55

- (v) of any further particulars requested by the council as a result of a notice in terms of the preceding subparagraphs.
- (10) (a) A fidelity fund certificate issued to an agent shall lapse when he becomes disqualified as contemplated in subsection (6).
- 5 (b) The council may withdraw the fidelity fund certificate of an agent if—
- (i) he is found guilty of improper conduct under section 26;
 - (ii) he fails to pay the amount referred to in subsection (9)(a) within three months after the date of a written request therefor by the registrar, addressed to his last known postal address, as entered in the records of
 - 10 the council;
 - (iii) he fails to furnish the registrar with his business address and postal address within three months after the date of a written request therefor by the registrar, addressed to his said postal address;
 - (iv) he fails to comply with the provisions of section 18(2) or 19(1).
- 15 (c) If a fidelity fund certificate so lapses or is so withdrawn, the registrar shall by means of a written notice addressed to the said postal address of the agent concerned, notify him thereof and cause particulars thereof to be published in an Afrikaans and an English newspaper circulating in the district in which the said agent's last known business address, as entered in the records of the council, is
- 20 situated.
- (d) A person who is in possession of or has under his control a fidelity fund certificate which has lapsed or has been withdrawn under paragraph (a) or (b), as the case may be, shall return the certificate to the registrar within 30 days after the notice referred to in paragraph (c).
- 25 (e) A fidelity fund certificate which has lapsed or has been withdrawn under this subsection, shall be void with effect from such lapse or withdrawal.

Security by agents

17. (1) The council may require that an agent who is the holder of a fidelity fund certificate shall furnish to the council within the period determined by the
- 30 council such security as the council may determine, for use by the council as contemplated in section 14(5)(b), in respect of any claim arising from an act or omission by that agent, and which has occurred within two years after the fidelity fund certificate was issued to him.
- (2) Such security shall be returned to the agent concerned six months after the
- 35 period referred to in subsection (1) has expired, unless an inquiry under section 24 into an act or omission or alleged act or omission of the agent concerned is being held before such expiration.

Accounts

18. (1) Every agent who is the holder of a fidelity fund certificate shall in
- 40 respect of his activities as such, keep, at a place approved by the council, in one of the official languages full and correct accounting records of—
- (a) all money received, kept or expended by him, including money deposited in a trust account referred to in section 19(1)(a) or invested in a savings or interest-bearing account referred to in section 19(3)(a);
 - 45 (b) all his assets and liabilities; and
 - (c) all his financial transactions.
- (2) Such agent shall cause the said accounting records to be audited at his expense by an auditor within four months after the final date of every financial year of the agent, which final date shall not be amended by him without the prior
- 50 written approval of the council.
- (3) An agent referred to in subsection (1) shall retain the accounting records to be kept in terms of this section, for a period of at least three years after the latest entry in respect of any transaction was made therein, at the applicable place referred to in subsection (1), together with the vouchers, receipts and
- 55 other documents relating to those accounting records.

(4) Indien die saak van bedoelde agent om welke rede ook al ten einde loop, moet die agent—

- (a) die rekeningkundige aantekeninge in subartikel (1) bedoel, afsluit binne 21 dae, of die ander tydperk wat die raad bepaal, na die datum waarop hy sy laaste bedrywigheid as agent verrig het, en dit daarop binne drie maande na sodanige datum laat ouditeer soos in subartikel (2) beoog; en 5
- (b) die raad onverwyld skriftelik in kennis stel van die plek waar sodanige rekeningkundige aantekeninge en die bewysstukke, kwitansies en ander stukke in subartikel (3) bedoel wat op daardie aantekeninge betrekking het, bewaar word soos in daardie subartikel beoog. 10

(5) (a) Indien genoemde agent versuim of na die mening van die raad waarskynlik sal versuim om die bepalinge van subartikel (4) na te kom, kan die raad iemand aanwys om namens die betrokke agent aan daardie bepalinge te voldoen.

(b) Wanneer die raad iemand kragtens paragraaf (a) aanwys, is die uitgewas aangegaan in verband met die verrigting van die betrokke werksaamhede op die betrokke agent verhaalbaar. 15

Trustrekeninge

19. (1) Behoudens die bepalinge van subartikel (2), moet elke agent wat die houder van 'n getrouheidsfondssertifikaat is— 20

- (a) 'n trustrekening by 'n deponistomende instelling open en hou; en
- (b) onverwyld die opbrengs van die verkoping van landbouprodukte wat in opdrag van of namens sy prinsipaal deur hom verkoop is, daarin stort.

(2) (a) Slegs een trustrekening moet ten opsigte van die saak van 'n agent wat 'n vennootskap is, gehou word. 25

(b) Die Minister kan op aanbeveling van die raad en by kennisgewing in die *Staatskoerant* die werking van die bepalinge van hierdie artikel en van artikel 20, of die gedeeltes daarvan wat hy bepaal, met betrekking tot 'n bepaalde kategorie agent opskort indien hy oortuig is dat genoemde bepalinge of 'n gedeelte daarvan 'n onnodig stremmende uitwerking op die beskikking oor die opbrengs van die verkoop van landbouprodukte deur sodanige kategorie agent het. 30

(c) 'n Opskorting ingevolge paragraaf (b)—

- (i) is slegs geldig ten opsigte van 'n agent van die betrokke kategorie wat die raad van die sekuriteit wat die raad bepaal, voorsien het om enige verpligting na te kom wat mag ontstaan teenoor iemand ten opsigte van die opbrengs van die verkoop van landbouprodukte deur daardie agent; en 35
- (ii) is onderworpe aan die voorwaardes en vereistes wat die Minister op aanbeveling van die raad bepaal en in genoemde kennisgewing uiteensit.

(3) 'n Agent in subartikel (1) bedoel— 40

- (a) kan enige bedrag wat in sy trustrekening gestort is met die oog op betaling soos in artikel 20 beoog, en nie onmiddellik vir enige besondere doel nodig is nie, belê in 'n afsonderlike spaar- of ander rentedraende rekening wat hy by 'n deponistomende instelling geopen het; 45
- (b) moet onverwyld nadat hy 'n trustrekening of ander rekening bedoel in paragraaf (a) geopen het, of wanneer enige verandering in verband met enige sodanige rekening plaasvind, die raad op die wyse wat die raad bepaal, daarvan in kennis stel; 50
- (c) moet afsonderlike rekeningkundige aantekeninge in artikel 18 bedoel, hou ten opsigte van sy trustrekening en spaar- of rentedraende rekeninge in paragraaf (a) van hierdie subartikel bedoel, en sodanige rekeningkundige aantekeninge binne 21 dae na die einde van elke maand afsluit.

(4) 'n Ouditeur in artikel 18(2) bedoel, moet onmiddellik nadat hy 'n oudit in daardie artikel beoog, voltooi het, 'n verslag oor sy bevindinge in die vorm wat die raad bepaal aan die raad, en 'n afskrif daarvan aan die betrokke agent, deurstuur. 55

(5) (a) 'n Bedrag wat ingevolge subartikel (1)(b) in die trustrekening van 'n agent gestort is of gestort moet word—

- (i) is nie vir beslaglegging vatbaar of aan enige vorm van eksekusie ingevolge 'n uitspraak of bevel van 'n geregshof onderworpe nie, behalwe so 'n bevel uitgereik na aanleiding van 'n eis deur die betrokke prinsipaal; en 60

(4) If the business of such agent is terminated for any reason whatsoever, the agent concerned shall—

- (a) balance the accounting records referred to in subsection (1) within 21 days, or such other period as the council may determine, of the date on which he performed his last activity as an agent, and thereupon have them audited as contemplated in subsection (2) within three months of the said date; and
 - (b) forthwith notify the council in writing of the place at which such accounting records and the vouchers, receipts and other documents referred to in subsection (3) which relate to those records are retained as contemplated in that subsection.
- (5) (a) If such agent fails or is in the opinion of the council likely to fail to comply with the provisions of subsection (4), the council may designate a person to comply with those provisions on behalf of the agent concerned.
- (b) When the council designates a person under paragraph (a), the expenditure incurred in connection with the performance of the functions concerned shall be recoverable from the agent concerned.

Trust accounts

19. (1) Subject to the provisions of subsection (2), each agent who is the holder of a fidelity fund certificate shall—

- (a) open and keep a trust account at a deposit-taking institution; and
 - (b) forthwith deposit therein the proceeds of the sale of agricultural produce sold by him on the instructions of or on behalf of his principal.
- (2) (a) Only one trust account shall be kept in respect of the business of an agent who is a partnership.

(b) The Minister may on the recommendation of the council and by notice in the *Gazette* suspend the operation of the provisions of this section and of section 20, or such portions thereof as he may determine, in relation to a particular category of agent if he is satisfied that the said provisions or any portion thereof has an unnecessarily restrictive effect on the disposal of the proceeds of the sale of agricultural produce by such category of agent.

(c) A suspension in terms of paragraph (b) shall—

- (i) only be valid in respect of an agent of the category concerned who has furnished the council with such security as the council may determine, to fulfil any obligation that may arise towards any person in respect of the proceeds of the sale of agricultural produce by that agent; and
- (ii) be subject to such conditions and requirements as the Minister may on the recommendation of the council determine and set out in the said notice.

(3) An agent referred to in subsection (1)—

- (a) may invest any amount paid into his trust account with a view to payment as contemplated in section 20 and which is not immediately required for any particular purpose, in a separate savings or other interest-bearing account opened by him with any deposit-taking institution;
- (b) shall forthwith after opening a trust account or other account referred to in paragraph (a), or if any change occurs in connection with any such account, notify the council thereof in the manner determined by the council;
- (c) shall keep separate accounting records referred to in section 18 in respect of his trust account and savings or interest-bearing accounts referred to in paragraph (a) of this subsection, and shall balance such accounting records within 21 days after the end of each month.

(4) An auditor referred to in section 18(2) shall immediately after completing an audit contemplated in that section, transmit to the council a report in the form determined by the council regarding his findings, and a copy thereof to the agent concerned.

(5) (a) An amount deposited or to be deposited in terms of subsection (1)(b) in the trust account of an agent—

- (i) shall not be liable to be attached or subjected to any form of execution under a judgment or order of a court of law except such an order issued in pursuance of a claim by the principal concerned; and

- (ii) maak nie deel uit van die bates van daardie agent of, indien hy 'n natuurlike persoon is en te sterwe kom of insolvent raak, van sy bestorwe of insolvente boedel nie.

(b) Die bepaling van paragraaf (a) is nie van toepassing nie op die restant van die betrokke bedrag nadat die prinsipaal van die betrokke agent betaal is soos in artikel 20(1) beoog. 5

Betalings uit trustrekeninge

20. (1) 'n Agent wat die houer van 'n getrouheidsfondssertifikaat is, moet die opbrengs van die verkoping van 'n landbouprodukt wat in opdrag van of namens sy prinsipaal verkoop is, uit sy trustrekening aan sodanige prinsipaal betaal nadat hy van sodanige opbrengs sy vergoeding as agent en die ander uitgawes deur hom aangegaan in verband met die verkoping van daardie landbouprodukt afgetrek het. 10

(2) (a) Indien die bedrag wat 'n agent ingevolge subartikel (1) aan sy prinsipaal moet betaal, nie binne 180 dae na die betrokke verkoping deur die betrokke prinsipaal opgeëis word nie, moet daardie agent die betrokke bedrag vanuit sy trustrekening aan die raad betaal en die besonderhede wat in die reëls vereis word, in verband daarmee aan die raad verstrek. 15

(b) Daar word oor geld wat aldus aan die raad betaal is, beskik op die wyse in artikel 21 uiteengesit. 20

(3) 'n Onttrekking uit 'n trustrekening vir die doeleindes van 'n betaling of aftrekking in subartikel (1) bedoel, die onttrekking van rente verdien op 'n trustrekening of 'n spaar- of rentedraende rekening in artikel 19(3)(a) bedoel, en 'n betaling aan die raad ingevolge subartikel (2) van hierdie artikel, word gedoen op die tyd en wyse in die reëls uiteengesit. 25

(4) Geen ander betalings as dié in subartikel (3) vermeld, mag uit 'n trustrekening of 'n spaar- of rentedraende rekening in artikel 19(3)(a) bedoel, gedoen word nie: Met dien verstande dat enige gelde wat van sodanige rekeninge afgetrek word deur die instelling waar dit gehou word, geag word deel van die vergoeding in subartikel (1) van hierdie artikel bedoel, van die betrokke agent te wees. 30

Beskikking oor onopgeëiste geld

21. (1) Die raad moet op die wyse in artikel 11(6) uiteengesit afsonderlike aantekeninge hou van onopgeëiste geld wat ingevolge artikel 20(2) aan hom betaal is, en van die beskikking oor sodanige geld ingevolge die bepalinge van hierdie artikel. 35

(2) Die raad moet so gou doenlik nadat onopgeëiste geld aldus aan hom betaal is, by kennisgewing in die *Staatskoerant* vermeld—

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

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

(c) die naam van die agent wat daardie geld betaal het, 40

en bedoelde persoon versoek om daardie geld binne 90 dae na die datum van publikasie van bedoelde kennisgewing van die raad op te eis.

(3) Geen geld word uit hoofde van die bepalinge van subartikel (1) aan iemand betaal nie tensy hy die raad oortuig dat hy op daardie geld geregtig is.

(4) Indien geen geldige eis ten opsigte van sodanige geld binne die in subartikel (2) bedoelde tydperk ingedien is nie, stort die raad daardie geld in die voogdyfonds bedoel in artikel 86 van die Boedelwet, 1965 (Wet No. 66 van 1965), om ooreenkomstig die bepalinge van genoemde Wet aan die persoon wat daarop geregtig is, gekrediteer te word. 45

(5) Voordat geld uit hoofde van die bepalinge van subartikel (2) aan die persoon wat daarop geregtig is, oorbetal word of ingevolge subartikel (4) gestort word, trek die raad ten bate van die raad administrasiegelde daarvan af bestaande uit 15 persent van bedoelde bedrag. 50

Reëls

22. (1) Die raad kan ten opsigte van agente wat die houters van getrouheidsfondssertifikate is reëls uitvaardig aangaande— 55

- (ii) shall not form part of the assets of that agent or, if he is a natural person and has died, or has become insolvent, of his deceased or insolvent estate.
- (b) The provisions of paragraph (a) shall not apply to the remainder of the amount concerned after the principal of the agent concerned has been paid as contemplated in section 20(1).

Payments from trust accounts

20. (1) An agent who is the holder of a fidelity fund certificate shall pay to his principal from his trust account the proceeds of the sale of an agricultural product sold on the instruction or on behalf of such principal after he has deducted from such proceeds his remuneration as an agent and the other expenses incurred by him in connection with the sale of that agricultural product.
- (2) (a) If the amount to be paid by an agent to his principal in terms of subsection (1) has not been claimed by the principal concerned within 180 days after the sale concerned, that agent shall pay the amount concerned from his trust account to the council, and furnish the council with the particulars required in the rules in connection therewith.
- (b) Money so paid to the council shall be dealt with in the manner set out in section 21.
- (3) Any withdrawal from a trust account for the purposes of a payment or deduction referred to in subsection (1), the withdrawal of interest earned on a trust account or an interest-bearing account referred to in section 19(3)(a), and a payment to the council in terms of subsection (2) of this section, shall be made at the time and in the manner set out in the rules.
- (4) No withdrawals other than those specified in subsection (3) shall be made from a trust account or a savings or interest-bearing account referred to in section 19(3)(a): Provided that any fees deducted from such accounts by the institution at which they are kept shall be deemed to form part of the remuneration referred to in subsection (1) of this section of the agent concerned.

30 Disposal of unclaimed moneys

21. (1) The council shall keep separate records, in the manner set out in section 11(6), of unclaimed money paid to it in terms of section 20(2), and of the disposal of such money in terms of the provisions of this section.
- (2) The council shall as soon as practicable after unclaimed money has been so paid to it, by notice in the *Gazette* state—
- (a) the name of the person entitled to that money;
- (b) the amount of money to which the said person is so entitled; and
- (c) the name of the agent who paid that money,
- and call upon the said person to claim that money from the council within 90 days after the date of the said notice.
- (3) No money shall be paid to any person by virtue of the provisions of subsection (2) unless he satisfies the council that he is entitled to that money.
- (4) If, within the period referred to in subsection (2), no valid claim has been lodged in respect of such money, the council shall deposit that money in the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), to be credited in accordance with the provisions of the said Act to the person entitled thereto.
- (5) Before any money is by virtue of the provisions of subsection (2) paid over to the person entitled thereto or deposited in terms of subsection (4), the council may deduct therefrom, for the benefit of the council, an administration fee consisting of 15 per cent of the said amount.

Rules

22. (1) The council may, in respect of agents who are the holders of fidelity fund certificates, make rules as to—

- (a) die prosedure wat deur 'n agent nagekom moet word in verband met die verkoop van 'n landbouprodukt;
- (b) die vorm waarin en die wyse waarop aantekeninge deur 'n agent gehou moet word in verband met landbouprodukte wat vir verkoop ontvang word en in verband met die verkoop van of ander beskikking oor sodanige landbouprodukte; 5
- (c) die wyse waarop en tydperk waarbinne rekenskap van die verkoop van of ander beskikking oor landbouprodukte aan agente se prinsipale gegee moet word;
- (d) die wyse waarop 'n trustrekening gehou moet word, die beheer en administrasie van so 'n trustrekening, die beskikking oor geld in so 'n trustrekening, en enige ander aangeleentheid wat met so 'n trustrekening in verband staan; 10
- (e) die betaling van onopgeëiste geld aan die raad ingevolge artikel 20(2);
- (f) die opgawes en die inligting wat deur 'n agent aan die raad verstrekk moet word; 15
- (g) die gedragskode wat in die beoefening van die beroep van agent nagevolg moet word; en
- (h) enige aangeleentheid wat die raad vir die bereiking of bevordering van sy doelstellings of vir die uitoefening van sy bevoegdhede of vir die verrigting van sy werksaamhede of dienste nodig of dienstig ag, en die algemeenheid van hierdie bepaling word nie deur die voorafgaande paragrawe van hierdie subartikel beperk nie. 20

(2) Verskillende reëls kan kragtens subartikel (1) ten opsigte van verskillende kategorieë agente of ten opsigte van agente na gelang hulle met verskillende kategorieë landbouprodukte handel, uitgevaardig word, en sodanige verskillende reëls kan verskil in die opsigte wat die Raad dienstig ag. 25

(3) Geen reël wat kragtens subartikel (1) uitgevaardig is of wysiging of intrekking daarvan is van krag nie totdat dit deur die Minister goedgekeur en deur die registrateur by kennisgewing in die *Staatskoerant* gepubliseer is. 30

Onbehoorlike gedrag

23. 'n Agent wat die houer is van 'n getrouheidsfondssertifikaat is skuldig aan onbehoorlike gedrag indien hy—

- (a) enige bepaling van hierdie Wet of die reëls of van die gedragskode in artikel 22(1)(g) bedoel, oortree of versuim om daaraan te voldoen; 35
- (b) skuldig bevind word aan 'n misdryf waarvan oneerlikheid 'n element is; of
- (c) met inagneming van sy beroep, hom deur enige ander handeling of versuim, na die oordeel van die raad, onprofessioneel, onbehoorlik of skandelik gedra het. 40

Ondersoek deur raad

24. (1) Die raad kan, hetsy uit eie beweging of na aanleiding van 'n klagte, beskuldiging of bewering wat by hom ingedien is, ondersoek instel na die gedrag van sodanige agent wat die houer is van 'n getrouheidsfondssertifikaat, of na 'n handeling of versuim of beweerde handeling of versuim van sodanige agent in die beoefening van sy beroep, of na 'n oortreding of beweerde oortreding van hierdie Wet of die reëls deur sodanige agent. 45

(2) Indien sodanige gedrag, handeling, versuim of oortreding of beweerde handeling, versuim of oortreding die onderwerp van straf- of sivilregtelike verrigtinge in 'n geregshof uitmaak of volgens die oordeel van die raad waarskynlik sal uitmaak, kan die raad die ondersoek uitstel totdat daardie verrigtinge afgehandel is. 50

(3) Die vryspreking of die skuldigbevinding van 'n agent deur 'n geregshof op 'n strafregtelike aanklag belet nie dat 'n ondersoek ingevolge hierdie artikel ten opsigte van hom ingestel word nie, selfs al sou die feite wat ondersoek word, as hulle bewys sou word, die misdryf uitmaak wat uiteengesit is in die strafregtelike aanklag waarop hy aldus vrygespreek of skuldig bevind is, of 'n ander misdryf uitmaak waaraan hy by sy verhoor op bedoelde strafregtelike aanklag skuldig bevind kon gewees het. 55

- (a) the procedure to be complied with by an agent in connection with the sale of any agricultural product;
- (b) the form and manner in which records are to be kept by an agent in connection with agricultural products received for sale and in connection with the sale or other disposal of such agricultural products;
- (c) the manner in which and period within which account shall be given to agents' principals of the sale or other disposal of agricultural products;
- (d) the manner in which a trust account shall be kept, the control and administration of such trust account, the disposal of any money in such trust account, and any other matter connected with such trust account;
- (e) the payment of unclaimed money to the council in terms of section 20(2);
- (f) the returns and the information to be furnished by an agent to the council;
- (g) the code of conduct to be followed in the practising of the occupation of agent; and
- (h) any matter which the council deems necessary or expedient for the achievement or promotion of its objects or for the exercise of its powers or for the performance of its functions, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(2) Different rules may be made under subsection (1) in respect of different categories of agents or in respect of agents according as they deal with different categories of agricultural products, and such different rules may differ in such respects as the council may deem expedient.

(3) No rule made under subsection (1) or amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published by notice in the *Gazette* by the registrar.

30 Improper conduct

23. An agent who is the holder of a fidelity fund certificate shall be guilty of improper conduct if—

- (a) he contravenes or fails to comply with any provision of this Act or the rules or of the code of conduct referred to in section 22(1)(g);
- (b) he is convicted of an offence involving an element of dishonesty; or
- (c) with due regard to his occupation, he has through any other act or omission in the opinion of the council conducted himself unprofessionally, improperly or disgracefully.

Inquiry by council

24. (1) The council may, either of its own accord or as a result of a complaint, charge or allegation lodged with it, institute an inquiry into the conduct of an agent who is the holder of a fidelity fund certificate, or into an act or omission or alleged act or omission of such agent in the practising of his occupation, or into a contravention or alleged contravention of this Act or the rules by such agent.

(2) If such conduct, act, omission or contravention or alleged act, omission or contravention forms or is in the opinion of the council likely to form the subject of criminal or civil proceedings in a court of law, the council may postpone the inquiry until such proceedings have been determined.

(3) The acquittal or the conviction of an agent by a court of law upon a criminal charge shall not be a bar to an inquiry in respect of him in terms of this section, even if the facts being inquired into would, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted, or any other offence of which he might have been convicted at his trial on the said criminal charge.

Prosedure by ondersoek

25. (1) So 'n ondersoek word gehou op die datum, tyd en plek wat die voorsitter van die raad bepaal, en die registrateur moet die betrokke agent skriftelik daarvan in kennis stel.

(2) Die raad kan na goëddunke een of meer persone aanstel om getuienis ter stawing van die aanklag aan te voer en om iemand wat as getuie vir die verweer opgeroep is, onder kruisverhoor te neem, en die raad kan na goëddunke vergoeding aan enige sodanige persoon betaal.

(3) Die raad kan vir die doeleindes van die ondersoek—

(a) iemand wat na die oordeel van die raad in staat is om inligting te verstrek wat van wesenlike belang vir die ondersoek is, of wat die raad rede het om te glo enige boek, dokument of aantekening wat op die onderwerp van die ondersoek betrekking het, in sy besit of bewaring of onder sy beheer het, dagvaar om op 'n tyd en plek in die dagvaarding vermeld, te verskyn om ondervra te word of om bedoelde boek, dokument of aantekening oor te lê, en kan 'n boek, dokument of aantekening aldus oorgelê, vir ondersoek behou; en

(b) deur die persoon wat by die ondersoek voorsit, iemand wat by die ondersoek teenwoordig is, 'n eed oplê of van hom 'n bevestiging aanneem, en hom ondervra of laat ondervra deur iemand wat deur die raad kragtens subartikel (2) aangestel is om die getuienis by die ondersoek aan te voer, en hom aansê om enige boek, dokument of aantekening in sy besit of bewaring of onder sy beheer oor te lê.

(4) (a) 'n Dagvaarding in subartikel (3) bedoel, moet sover moontlik in die vorm wees soos voorgeskryf in die toepaslike reëls gemaak of in stand gehou kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshoue, 1985 (Wet No. 107 van 1985), vir landdroshoue, en moet deur die voorsitter van die raad of deur iemand deur die raad daartoe gemagtig, onderteken word, en word op dieselfde wyse beteken as 'n dagvaarding in 'n strafgeding deur 'n landdroshof uitgereik.

(b) Die bepalinge van artikel 51(2) van die Wet op Landdroshoue, 1944 (Wet No. 32 van 1944), is *mutatis mutandis* van toepassing op iemand op wie 'n dagvaarding ooreenkomstig paragraaf (a) beteken is.

(5) Die regsbepalings met betrekking tot privilegie, soos van toepassing op 'n getuie wat gedagvaar is om in 'n siviele verhoor in 'n geregshof getuienis af te lê of 'n boek, dokument of aantekening oor te lê, is *mutatis mutandis* van toepassing in verband met die ondervraging van of oorlegging van 'n boek, dokument of aantekening deur iemand wat ingevolge hierdie artikel gedagvaar is.

(6) Indien die gedrag of 'n handeling, versuim of oortreding of beweerde handeling, versuim of oortreding van 'n agent wat die onderwerp van 'n ondersoek ingevolge hierdie artikel uitmaak, neerkom op 'n misdryf waaraan hy deur 'n geregshof skuldig bevind is, is 'n gesertifiseerde afskrif van die oorkonde van die uitspraak met betrekking tot sy verhoor en skuldigbevinding deur daardie hof, nadat die betrokke agent geïdentifiseer is as die persoon wat in die oorkonde as die beskuldigde genoem word, voldoende bewys dat hy bedoelde misdryf gepleeg het, tensy die skuldigbevinding deur 'n hoër hof tersyde gestel word.

(7) 'n Agent ten opsigte van wie die ondersoek ingevolge hierdie artikel ingestel word, is geregtig om by die ondersoek teenwoordig te wees, deur 'n ander persoon bygestaan of verteenwoordig te word, getuienis af te lê en, hetsy persoonlik of deur 'n verteenwoordiger—

(a) aangehoor te word;

(b) getuies op te roep;

(c) iemand wat as getuie opgeroep is ter stawing van die aanklag, onder kruisverhoor te neem; en

(d) insae te hê in stukke wat as getuienis voorgelê is.

(8) Die raad moet 'n oorkonde van die verrigtinge tydens 'n ondersoek hou of laat hou.

(9) Iemand wat, nadat hy behoorlik beëdig is of 'n bevestiging gedoen het, by 'n ondersoek wat kragtens hierdie artikel gehou word, valse getuienis aflê met die wete dat daardie getuienis vals is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat regtens vir die misdryf meenede opgelê kan word.

Procedure at inquiry

25. (1) Any such inquiry shall be held on such date and at such time and place as may be determined by the chairman of the council, and the registrar shall inform the agent concerned in writing thereof.
- 5 (2) The council may in its discretion appoint one or more persons to adduce evidence in support of the charge and to cross-examine any person called as a witness for the defence, and the council may remunerate any such person as it may deem fit.
- (3) The council may for the purposes of such inquiry—
- 10 (a) summon any person who, in the opinion of the council, is able to furnish information of material importance to the inquiry, or who the council has reason to believe has in his possession or custody or under his control any book, document or record relating to the subject of the inquiry, to appear at a time and place specified in the summons to be examined or to produce such book, document or record, and may
- 15 retain for examination any book, document or record so produced; and
- (b) through the person presiding at the inquiry, administer an oath to, or accept an affirmation from, any person present at the inquiry, and examine him or cause him to be examined by the person appointed by
- 20 the council to adduce the evidence at the inquiry, and instruct him to produce any book, document or record in his possession or custody or under his control.
- (4) (a) A summons referred to in subsection (3) shall as far as possible be as prescribed in the applicable rules made or maintained under section 6 of the
- 25 Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), for magistrates' courts, and shall be signed by the chairman of the council or by a person authorized thereto by the council, and shall be served in the same manner as a summons issued by a magistrate's court in criminal proceedings.
- (b) The provisions of section 51(2) of the Magistrates' Courts Act, 1944 (Act
- 30 No. 32 of 1944), shall apply *mutatis mutandis* to a person on whom a summons has been served in accordance with paragraph (a).
- (5) The law relating to privilege, as applicable to a witness summoned to give evidence or to produce a book, document or record in a civil trial before a court of law, shall *mutatis mutandis* apply in relation to the examination of or the
- 35 production of any book, document or record by any person summoned in terms of this section.
- (6) If the conduct or an act, omission or contravention or alleged act, omission or contravention of an agent which is the subject of an inquiry in terms of this section, amounts to an offence of which he has been convicted by a court of law,
- 40 a certified copy of the record of the judgment relating to his trial and conviction by that court of law shall, upon the identification of the agent concerned as the person referred to in the record as the accused, be sufficient proof of the commission by him of such offence unless the conviction has been set aside by a superior court.
- (7) An agent in respect of whom the inquiry is instituted in terms of this section shall be entitled to be present at the inquiry, to be assisted or represented by another person, to give evidence and either personally or through a representative—
- 50 (a) to be heard;
- (b) to call witnesses;
- (c) to cross-examine any person called as a witness in support of the charge; and
- (d) to have access to documents produced in evidence.
- (8) The council shall keep or cause to be kept a record of the proceedings at
- 55 the inquiry.
- (9) Any person who, having been duly sworn or having made an affirmation, tenders false evidence at an inquiry held under this section, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties which may lawfully be imposed for the offence of perjury.

Tugbevoegdhede van raad

26. (1) Indien die raad, na 'n ondersoek kragtens artikel 24, 'n agent skuldig bevind aan onbehoorlike gedrag, kan die raad —
- (a) hom berispe of waarsku;
 - (b) voorwaardes en beperkings oplê waaronder die betrokke agent vir 'n bepaalde tydperk sy beroep mag beoefen; of
 - (c) die getrouheidsfondssertifikaat wat aan daardie agent uitgereik is of geag word uitgereik te wees, intrek.
- (2) Die raad kan die neem van sy beslissing kragtens subartikel (1) uitstel, of die tenuitvoerlegging van sy besluit geneem kragtens subartikel (1)(c) opskort, vir die tydperk en op die voorwaardes wat die raad in elke geval bepaal.
- (3) Die registrateur moet—
- (a) 'n agent wat aldus skuldig bevind is, skriftelik in kennis stel van die besluit van die raad en van die gronde waarop dit gebaseer is; en
 - (b) behalwe waar die tenuitvoerlegging van 'n besluit kragtens subartikel (2) opgeskort is, die naam en adres van die agent wat aldus skuldig bevind is, besonderhede van sy skuldigbevinding en die straf wat hom opgelê is, by kennisgewing in die *Staatskoerant* publiseer.
- (4) (a) Indien die raad na afloop van die tydperk waarvoor die neem van 'n besluit kragtens subartikel (2) uitgestel is, oortuig is dat die betrokke agent al die toepaslike voorwaardes nagekom het, moet die registrateur die betrokke agent meedeel dat die raad nie 'n besluit kragtens subartikel (1) gaan neem nie.
- (b) Indien die tenuitvoerlegging van 'n besluit kragtens subartikel (2) opgeskort is en die raad oortuig is dat die betrokke agent gedurende die hele tydperk van die opskorting al die toepaslike voorwaardes nagekom het, moet die registrateur sodanige agent meedeel dat genoemde besluit nie ten uitvoer gelê gaan word nie.
- (5) Indien 'n agent versuim om aan voorwaardes te voldoen wat kragtens subartikel (2) bepaal is, moet die raad 'n besluit kragtens subartikel (1) neem, of die besluit wat kragtens subartikel (1)(c) geneem is, ten uitvoer laat lê, tensy genoemde agent die raad oortuig dat die nie-nakoming van sodanige voorwaardes aan omstandighede buite sy beheer te wyte was.
- (6) 'n Besluit kragtens hierdie artikel geneem deur 'n komitee wat ingevolge artikel 7 daartoe gemagtig is, tree slegs in werking nadat dit deur die raad bekragtig is.

Inspeksies

27. (1) Die registrateur kan iemand (hieronder 'n inspekteur genoem) aanwys om die bevoegdhede en werksaamhede in subartikel (4) genoem, uit te oefen en te verrig.
- (2) 'n Inspekteur moet voorsien word van 'n sertifikaat wat namens die raad onderteken is en waarin verklaar word dat genoemde persoon as 'n inspekteur kragtens hierdie Wet aangewys is.
- (3) 'n Inspekteur moet op versoek van iemand wat geraak word deur die uitoefening of verrigting deur sodanige inspekteur van 'n bevoegdheid of werksaamheid in subartikel (4) bedoel, die sertifikaat bedoel in subartikel (2) aan so iemand toon.
- (4) 'n Inspekteur kan ondersoek instel om te bepaal of die bepalings van hierdie Wet of die reëls nagekom word of nagekom is en kan te dien einde te alle redelike tye en sonder voorafgaande kennisgewing—
- (a) 'n plek binnegaan ten opsigte waarvan hy rede het om te glo dat iemand daar as agent optree of dat dit vir die doeleindes van 'n agentsaak gebruik word;
 - (b) 'n agent of werknemer van 'n agent gelas om aan hom—
 - (i) die getrouheidsfondssertifikaat van daardie agent te lewer;
 - (ii) enige boek, aantekening of ander stuk in die besit of onder die beheer van daardie agent of werknemer te lewer;
 - (iii) die inligting te verstrek wat hy ten opsigte van sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk verlang;
 - (iv) die bystand wat hy vereis, te verleen ten einde hom in staat te stel om sy werksaamhede ingevolge hierdie subartikel te verrig;
 - (c) enige sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk inspekteur of uittreksels daaruit of afskrifte daarvan maak;

Disciplinary powers of council

26. (1) If the council, after an inquiry under section 24, finds an agent guilty of improper conduct, the council may—

- (a) reprimand or caution him;
- (b) impose conditions and restrictions subject to which the agent concerned may, for a specified period, practise his occupation; or
- (c) withdraw the fidelity fund certificate issued or deemed to have been issued to that agent.

(2) The council may postpone the taking of its decision under subsection (1), or suspend the execution of its decision taken under subsection (1)(c), for such period and subject to such conditions as the council may in each case determine.

(3) The registrar shall—

- (a) inform an agent who is so found guilty, in writing of the decision of the council and of the grounds on which it is based;
- (b) except where the execution of a decision has been suspended under subsection (2), publish the name and address of the agent so found guilty, particulars of his conviction and the penalty imposed upon him, by notice in the *Gazette*.

(4) (a) If at the end of the period for which the taking of a decision has been postponed under subsection (2), the council is satisfied that the agent concerned has observed all the relevant conditions, the registrar shall inform the agent concerned that the council will not take a decision under subsection (1).

(b) If the execution of a decision has been suspended under subsection (2) and the council is satisfied that the agent concerned has observed all the relevant conditions throughout the period of suspension, the registrar shall inform such agent that such decision will not be executed.

(5) If an agent fails to comply with any conditions determined under subsection (2), the council shall take a decision under subsection (1), or cause the decision taken under subsection (1)(c) to be executed, unless the said agent satisfies the council that the non-compliance with such conditions was due to circumstances beyond his control.

(6) A decision taken under this section by a committee authorized thereto in terms of section 7 shall only come into effect after it has been confirmed by the council.

35 Inspections

27. (1) The council may designate a person (hereinafter referred to as an inspector) to exercise and perform the powers and functions mentioned in subsection (4).

(2) An inspector shall be furnished with a certificate signed on behalf of the council and stating that the said person has been designated as an inspector under this Act.

(3) An inspector shall, at the request of any person affected by the exercise or performance by such inspector of any power or function referred to in subsection (4), exhibit the certificate referred to in subsection (2) to such person.

(4) An inspector may conduct an investigation to determine whether the provisions of this Act or the rules are being or have been complied with and may for that purpose at all reasonable times and without giving prior notice—

- (a) enter any place in respect of which he has reason to believe that any person there is acting as an agent or that it is being used for the purposes of an agent business;
- (b) order any agent or employee of an agent—
 - (i) to produce to him the fidelity fund certificate of that agent;
 - (ii) to produce to him any book, record or other document in the possession or under the control of that agent or employee;
 - (iii) to furnish him with such information in respect of that fidelity fund certificate, book, record or other document as he may require;
 - (iv) to grant him such assistance as he may demand in order to enable him to perform his functions in terms of this subsection;
- (c) examine or make extracts from or copies of such fidelity fund certificate, book, record or other document;

- (d) beslag lê op enige sodanige getrouheidsfondssertifikaat, boek, aantekening of ander stuk waarop 'n vervolging of 'n aanklag weens onbehoorlike gedrag kragtens hierdie Wet betrekking het of waarop hy op redelike gronde vermoed so 'n vervolging of aanklag betrekking het, en dit in bewaring hou: Met dien verstande dat die persoon uit wie se besit of bewaring enige getrouheidsfondssertifikaat, boek, aantekening of ander stuk aldus geneem is, op sy versoek toegelaat moet word om op sy eie koste en onder toesig van die betrokke inspekteur, afskrifte daarvan of uittreksels daaruit te maak. 5

Geheimhouding 10

28. Niemand mag, behalwe vir die doeleindes van die verrigting van sy werksaamhede ingevolge hierdie Wet of vir die doeleindes van geregtelike verrigtinge kragtens hierdie Wet of wanneer dit deur 'n hof of kragtens 'n wet van hom vereis word, inligting wat deur hom by die verrigting van sy werksaamhede ingevolge hierdie Wet verkry is en wat op die besigheid of sake van iemand anders betrekking het, aan iemand anders openbaar nie. 15

Misdrywe en strawwe

29. (1) Iemand wat—
- (a) 'n bepaling van artikel 12(4)(a), 16(1) of (9)(a), 19(1), 20 of 28 oortree of versuim om daaraan te voldoen; 20
 - (b) 'n bepaling van artikel 16(2), (7), (9)(b) of (10)(d), 18 of 19(3)(b) of (c) oortree of versuim om daaraan te voldoen; 25
 - (c) 'n vereiste kragtens artikel 17(1) of 'n voorwaarde of vereiste kragtens artikel 19(2)(c) oortree of versuim om daaraan te voldoen;
 - (d) (i) 'n inspekteur by die uitoefening van sy bevoegdhede of die verrigting van sy pligte kragtens artikel 27 hinder of belemmer; 30
 - (ii) sonder geldige verskoning weier of versuim om 'n vraag wat 'n inspekteur by die uitoefening van sy bevoegdhede of die verrigting van sy pligte kragtens genoemde artikel aan hom gestel het, na sy beste vermoë te beantwoord; 30
 - (iii) weier of versuim om na sy beste vermoë aan 'n vereiste deur 'n inspekteur by die uitoefening van sy bevoegdhede of die verrigting van sy pligte kragtens genoemde artikel gestel, te voldoen; of 35
 - (iv) opsetlik aan 'n inspekteur inligting verstrek wat vals of misleidend is;
 - (e) in 'n aansoek ingevolge hierdie Wet wetens inligting verstrek of 'n verklaring doen wat vals of misleidend is, 35
- is aan 'n misdryf skuldig.
- (2) 'n Persoon wat skuldig bevind word aan 'n misdryf—
- (a) in subartikel (1)(a), (c) of (d)(i), (ii) of (iii) vermeld— 40
 - (i) is by 'n eerste skuldigbevinding strafbaar met 'n boete van hoogstens R8 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf;
 - (ii) is by 'n tweede of daaropvolgende skuldigbevinding, hetsy aan dieselfde misdryf of aan enige ander misdryf in hierdie paragraaf vermeld, strafbaar met 'n boete van hoogstens R16 000 of met gevangenisstraf vir 'n tydperk van hoogstens vier jaar of met daardie boete sowel as daardie gevangenisstraf; 45
 - (b) in subartikel (1)(b), (d)(iv) of (e) vermeld, is strafbaar met 'n boete van hoogstens R4 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met daardie boete sowel as daardie gevangenisstraf. 50
- (3) Ondanks andersluidende bepalings van die een of ander wet is 'n landdroshof bevoeg om enige uitspraak te gee of bevel uit te reik waarvoor daar in hierdie Wet voorsiening gemaak word. 55

Tekort in trustrekening

30. (1) Wanneer 'n agent of sy bestuurder, verteenwoordiger, agent, werknemer of gesinslid weens die aanwending van geld in die trustrekening 60

- (d) seize and retain any such fidelity fund certificate, book, record or other document to which any prosecution or charge of improper conduct under this Act may relate or to which he on reasonable grounds believes such prosecution or charge may relate: Provided that the person from whose possession or custody any fidelity fund certificate, book, record or other document was so taken, shall at his request be allowed to make, at his own expense and under the supervision of the inspector concerned, copies thereof or extracts therefrom.

Preservation of secrecy

28. No person shall, except for the purposes of performing his functions in terms of this Act or for the purpose of legal proceedings under this Act or when required to do so by any court or under any law, disclose to any other person any information obtained by him in the performance of his functions in terms of this Act and relating to the business or affairs of any other person.

15 Offences and penalties

29. (1) Any person who—

- (a) contravenes or fails to comply with a provision of section 12(4)(a), 16(1) or (9)(a), 19(1), 20 or 28;
 - (b) contravenes or fails to comply with a provision of section 16(2), (7), (9)(b) or (10)(d), 18 or 19(3)(b) or (c);
 - (c) contravenes or fails to comply with a requirement under section 17(1) or a condition or requirement under section 19(2)(c);
 - (d) (i) hinders or obstructs an inspector in the exercise of his powers or the performance of his duties under section 27;
 - (ii) without valid excuse refuses or fails to answer to the best of his ability any question which an inspector in the exercise of his powers or the performance of his duties under the said section has put to him;
 - (iii) refuses or fails to comply to the best of his ability with any requirement made by an inspector in the exercise of his powers or the performance of his duties under the said section; or
 - (iv) wilfully furnishes to an inspector any information which is false or misleading;
 - (e) in any application in terms of this Act, knowingly furnishes information or makes a statement which is false or misleading,
- shall be guilty of an offence.

(2) Any person who is convicted of an offence—

- (a) mentioned in subsection (1)(a), (c) or (d)(i), (ii) or (iii), shall be liable—
 - (i) on a first conviction, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both that fine and that imprisonment;
 - (ii) on a second or subsequent conviction, whether of the same offence or any other offence mentioned in this paragraph, to a fine not exceeding R16 000 or to imprisonment for a period not exceeding four years or to both that fine and that imprisonment;
- (b) mentioned in subsection (1)(b), (d)(iv) or (e), shall be liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both that fine and that imprisonment.

- (3) Notwithstanding anything to the contrary contained in any law, a magistrate's court is competent to give any judgment or issue any order provided for in this Act.

Deficit in trust account

30. (1) Whenever any agent or his manager, representative, agent, employee or family member owing to the appropriation of money in the trust account

van daardie agent skuldig bevind word aan 'n misdryf waarby bedrog of oneerlikheid betrokke is, en daar bewys is dat die bedrag in krediet van daardie trustrekening nie voldoende is nie om alle bedrae te betaal wat ingevolge artikel 20 daaruit betaalbaar is, moet die betrokke hof, op versoek van die aanklaer ten behoeve van die raad, ondersoek instel na en die bedrag bepaal van die tekort in die trustrekening, en die agent beveel om 'n bedrag gelykstaande met die aldus bepaalde bedrag aan die raad te betaal, en so 'n bevel het in alle opsigte die uitwerking van 'n siviele uitspraak ten gunste van die raad en kan uitgevoer word asof dit so 'n uitspraak was.

(2) 'n Bedrag wat kragtens 'n in subartikel (1) beoogde uitspraak verhaal word, moet in die betrokke trustrekening gestort word.

(3) 'n Verwysing in subartikel (1) na 'n agent word—

(a) in die geval van 'n agent wat 'n vennootskap is, uitgelê as 'n verwysing ook na 'n lid van daardie vennootskap;

(b) in die geval van 'n agent wat 'n beslote korporasie is, uitgelê as 'n verwysing ook na 'n lid van daardie beslote korporasie;

(c) in die geval van 'n agent wat 'n maatskappy of koöperasie is, uitgelê as 'n verwysing ook na 'n direkteur van daardie maatskappy of koöperasie.

Vermoedens en bewyslewering

31. (1) Wanneer daar by 'n vervolging kragtens hierdie Wet of by 'n ondersoek in artikel 24 bedoel, beweer word dat dit betrekking het op 'n sekere landbouprodukt van 'n bepaalde beweerde soort, word daar vermoed dat die betrokke landbouprodukt van daardie soort was, totdat die teendeel bewys word.

(2) By so 'n vervolging of ondersoek is 'n verklaring of inskrywing wat verskyn in enige boek of stuk of in enige mikrofilm- of ander mikroformreproduksie van so 'n boek of stuk wat deur 'n agent of deur sy werknemer gehou word, of wat gevind word op of in 'n plek of perseel wat deur daardie agent geokkupeer word of in 'n voertuig wat in die besigheid van daardie agent gebruik word, as getuienis teen hom toelaatbaar as 'n erkenning van die feite in daardie verklaring of inskrywing uiteengesit, tensy daar bewys word dat daardie verklaring of inskrywing nie deur daardie agent of deur 'n werknemer van daardie agent in die loop van sy diens gedoen is nie.

Middellike aanspreeklikheid

32. (1) 'n Handeling of versuim van 'n bestuurder, verteenwoordiger, agent, werknemer of gesinslid van 'n agent wat 'n misdryf kragtens hierdie Wet uitmaak, word geag die handeling of versuim van genoemde agent te wees, en daardie agent kan ten opsigte van daardie handeling of versuim skuldig bevind en gevonnissen word tensy bewys word dat—

(a) hy bedoelde handeling of versuim nie veroorloof of oogluikend toegelaat het nie;

(b) hy alle redelike maatreëls getref het om 'n handeling of versuim van die betrokke soort te voorkom;

(c) 'n handeling of versuim, hetsy wettig of onwettig, van die betrokke soort onder geen voorwaarde of omstandighede in die loop van die diens of binne die bestek van die bevoegdheid van die betrokke bestuurder, verteenwoordiger, agent, werknemer of gesinslid geval het nie.

(2) By die toepassing van subartikel (1)(b) word die feit dat 'n agent 'n handeling of versuim van die betrokke soort verbied het, nie op sigself as voldoende bewys beskou dat hy alle maatreëls getref het om so 'n handeling of versuim te voorkom nie.

(3) Die bepalings van subartikel (1) onthef nie die betrokke bestuurder, verteenwoordiger, agent, werknemer of gesinslid van aanspreeklikheid om ten opsigte van die betrokke handeling of versuim skuldig bevind en gevonnissen te word asof hy die betrokke agent was nie.

Vormgebreke

33. 'n Vormgebrek in 'n stuk wat ingevolge hierdie Wet op 'n besondere wyse verly moet word, of in 'n kennisgewing of bevel ingevolge hierdie Wet, maak nie

of that agent, is convicted of an offence involving fraud or dishonesty, and it has been proved that the amount standing to the credit of that trust account is insufficient for the payment of all amounts payable from it in terms of section 20, the court concerned shall at the request of the prosecutor made on behalf of the council, inquire into and determine the amount of the deficit in the trust account and order the agent to pay an amount equal to the amount so determined to the council, and any such order shall have all the effects of and may be executed as if it were a civil judgment in favour of the council.

(2) Any amount recovered under a judgment referred to in subsection (1) shall be paid into the trust account concerned.

(3) A reference in subsection (1) to an agent shall—

- (a) in the case of an agent who is a partnership, be construed as including a reference to a member of that partnership;
- (b) in the case of an agent who is a close corporation, be construed as including a reference to a member of that close corporation;
- (c) in the case of an agent who is a company or a co-operative, be construed as including a reference to a director of that company or co-operative.

Presumptions and evidence

31. (1) Whenever in any prosecution under this Act or at an inquiry referred to in section 24 it is alleged that it relates to a certain agricultural product of a particular alleged kind, it shall be presumed that the agricultural product concerned was of that kind, until the contrary is proved.

(2) In or at any such prosecution or inquiry any statement or entry contained in any book or document or in any microfilm or other microform reproduction of any such book or document kept by any agent or by his employee, or found upon or in any vehicle used in the business of that agent, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by that agent or by any employee of that agent in the course of his employment.

Vicarious liability

32. (1) An act or omission of a manager, representative, agent, employee or family member of an agent which constitutes an offence under this Act shall be deemed to be the act or omission of the said agent, and that agent may be convicted and sentenced in respect of that act or omission unless it is proved that—

- (a) he did not permit or connive at such act or omission;
- (b) he took all reasonable measures to prevent an act or omission of the kind in question;
- (c) an act or omission, whether legal or illegal, of the kind in question did not under any conditions or in any circumstances fall within the course of the employment or the scope of the authority of the manager, representative, agent, employee or family member concerned.

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

(3) The provisions of subsection (1) shall not relieve the manager, representative, agent, employee or family member concerned from liability to be convicted and sentenced in respect of the act or omission in question as if he were the agent concerned.

Defects in form

33. A defect in the form of any document which is in terms of this Act required to be executed in a particular manner, or in a notice or order in terms of this Act,

administratiewe optrede waarop bedoelde stuk, kennisgewing of bevel betrekking het, ongeldig nie, en is in geregtelike verrigtinge nie 'n eksepsiegrond nie, mits daar wesentlik voldoen is aan die vereistes vir so 'n stuk, kennisgewing of bevel en die betekenis daarvan duidelik is.

Beperking van aanspreeklikheid

34. Niemand, met inbegrip van die Staat, is aanspreeklik nie ten opsigte van enigiets wat te goeder trou gedoen is by die uitoefening of verrigting van 'n bevoegdheid of plig wat by of kragtens hierdie Wet verleen of opgelê word.

Herroeping van wette

35. Behoudens die bepalings van artikels 12(2)(a) en (5)(a)(i) en 16(8) word die wette in Bylae 2 vermeld, herroep in die mate in die derde kolom daarvan aangedui.

Kort titel en inwerkingtreeding

36. (1) Hierdie Wet heet die Wet op Landbouprodukte-agente, 1992, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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

shall not invalidate any administrative action to which such document, notice or order relates, or be a ground for exception in legal proceedings, provided the requirements for such a document, notice or order are substantially complied with and its meaning is clear.

5 Restriction of liability

34. No person, including the State, is liable in respect of anything done in good faith in the exercise or performance of a power or duty conferred or imposed by or under this Act.

Repeal of laws

- 10 35. Subject to the provisions of sections 12(2)(a) and (5)(a)(i) and 16(8), the laws specified in Schedule 2 are hereby repealed to the extent indicated in the third column thereof.

Short title and commencement

- 15 36. (1) This Act shall be called the Agricultural Produce Agents Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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

Bylae 1**DEEL A:****LANDBOUPRODUKTE VIR DIE DOELEINDES VAN VARSPRODUKTE-AGENTE**

Blomme.
Sierplante.
Potplante.
Groente, soos omskryf in Deel C.
Vrugte, soos omskryf in Deel C.
Kombuiskruie, soos omskryf in Deel C.
Diverse markprodukte, soos omskryf in Deel C.

DEEL B:**LANDBOUPRODUKTE VIR DIE DOELEINDES VAN LEWENDEHAWE-AGENTE**

Lewende hawe, soos omskryf in Deel C.
Vleis, soos omskryf in Deel C.
Neweprodukte, soos omskryf in Deel C.
Bereide huide en bereide velle, soos omskryf in Deel C.

DEEL C:**OMSKRYWINGS VAN OF BETREFFENDE LANDBOUPRODUKTE**

- (i) "Bereide huide" of "bereide velle" beteken huide of velle wat afkomstig is van beeste, skape of bokke en wat met 'n preserveermiddel teen bederf behandel is. (iii)
- (ii) "Diverse markprodukte" beteken voorwerpe wat met goedkeuring van die eienaar van 'n varsproduktemark op sy mark verkoop of vir verkoop aangebied word, maar nie ook groente, vrugte en kombuiskruie nie. (viii)
- (iii) "Groente" beteken aartappels, andyvies, artisjokke, aspersies, bamja, beet, blaarslaai, blomkool, boerboontjies, botterboontjies, groenertjies, groenmielies, groenuie, kafferwaatlemoene, kalbas, knoffel, komkommers, koolrape, kopkool, madumbies, marankas, okra, pampoene, patats, peperwortels, preie, rabarber, radyse, rape, salotte, sampioene, seldery, skorsies, soe-soe, soetriet, soetrissies, spanspekke, spinasie, spruitkool, suikerriet, suurruitjies, tamaties, uie, waatlemoene, winterblomkool, witloof en witwortels. (ix)
- (iv) "Karakoelpels" beteken 'n afgeslagte karakoellamvel bestem vir die pelshandel. (v)
- (v) "Kombuiskruie" beteken gemmer, koljander, kruisement, marjolein, pietersielie, salie, tiemie en vinkel. (ii)
- (vi) "Lewende hawe" beteken beeste, skape, bokke, varke, perde, muile en donkies. (vi)
- (vii) "Neweprodukte", met betrekking tot geslagte beeste, skape, bokke en varke, beteken ook alle gedeeltes van geslagte beeste, skape, bokke en varke uitgesonderd die vleis daarvan, maar nie ook karakoelpelse nie. (i)
- (viii) "Vleis" beteken daardie gedeeltes van geslagte beeste, skape, bokke en varke wat gewoonlik vir menslike verbruik verkoop word. (vii)
- (ix) "Vrugte" beteken aarbeie, appelkose, appelliefies, appels, avokado's, boomtamaties, braambessies, druiwe, frambose, granate, grenadellas, jakka, kaalperskes, kersies, koejawels, koemkwats, kokosneute, kwepers, lemmetjies, lemoene, lietsjies, loganbessies, lukwarte, mango's, mispels, moerbeie, nartjies, olywe, papajas, pere, perskes, piesangs, pomelo's, pruime, pruimedante, pynappels, suurlemoene, suurvye, tangelo's, turksvye, vla-appels, vye en youngbessies. (iv)

Schedule 1**PART A:****AGRICULTURAL PRODUCTS FOR THE PURPOSES OF FRESH PRODUCE AGENTS**

Flowers.	Wet No. 12 van 1972
Ornamental plants.	Wet No. 12 van 1972
Pot plants.	Wet No. 12 van 1972
Vegetables, as defined in Part C.	Wet No. 12 van 1972
Fruit, as defined in Part C.	Wet No. 12 van 1972
Culinary herbs, as defined in Part C.	Wet No. 12 van 1972
Miscellaneous market products, as defined in Part C.	Wet No. 12 van 1972

PART B:**AGRICULTURAL PRODUCTS FOR THE PURPOSES OF LIVESTOCK AGENTS**

Livestock, as defined in Part C.	Wet No. 12 van 1972
Meat, as defined in Part C.	Wet No. 12 van 1972
By-products, as defined in Part C.	Wet No. 12 van 1972
Cured hides and cured skins, as defined in Part C.	Wet No. 12 van 1972

PART C:**DEFINITIONS OF OR RELATING TO AGRICULTURAL PRODUCTS**

- (i) "By-products", in relation to slaughtered cattle, sheep, goats and pigs, includes all portions of slaughtered cattle, sheep, goats and pigs other than the meat thereof, but excludes karakul pelts. (vii)
- (ii) "Culinary herbs" means coriander, fennel, ginger, marjoram, mint, parsley, sage, and thyme. (v)
- (iii) "Cured hides" or "cured skins" means hides or skins derived from cattle, sheep or goats and which have been treated against decay with a preservative. (i)
- (iv) "Fruit" means apples, apricots, avocados, bananas, blackberries, Cape gooseberries, cherries, coconuts, custard apples, figs, granadillas, grapefruit, grapes, guavas, jak fruit, kumquats, lemons, limes, litchis, loganberries, loquats, mangos, medlars, mulberries, nectarines, olives, oranges, pawpaws, peaches, pears, pineapples, plums, pomegranates, prickly pears, prunes, quinces, raspberries, sour figs, strawberries, tangelos, tangerines, tree tomatoes and young-berries. (ix)
- (v) "Karakul pelt" means a flayed karakul lamb skin intended for the pelt trade. (iv)
- (vi) "Livestock" means cattle, sheep, goats, pigs, horses, mules and donkeys. (vi)
- (vii) "Meat" means those portions of slaughtered cattle, sheep, goats and pigs that are ordinarily sold for human consumption. (viii)
- (viii) "Miscellaneous market products" means articles sold or offered for sale with the approval of the owner of a fresh produce market on his market, but does not include vegetables, fruit and culinary herbs. (ii)
- (ix) "Vegetables" means artichokes, asparagus, bamja, beetroot, bell peppers, brinjals, broad beans, broccoli, Brussels sprouts, butter beans, cabbage, calabash, carrots, cauliflower, celery, chayote, chillies, cucumbers, endives, French endives, garlic, green beans, green mealies, green peas, horseradishes, kaffir melons, kohl rabi, leeks, lettuce, madumbies, marankas, mushrooms, musk-melons, okra, onions, parsnips, pickle onions, potatoes, pumpkins, radishes, rhubarb, shallots, spinach, spring onions, squashes, sugar-cane, sweet cane, sweet potatoes, tomatoes, turnips and watermelons. (iii)

Wet No. 12, 1992

WET OP LANDBOUPRODUKTE-AGENTE, 1992

Bylae 2
WETTE HERROEP
(ARTIKEL 36)

No. en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 12 van 1975	Wet op Agenskapsverkoop van Landbou- produkte, 1975	Die geheel.
Wet No. 82 van 1970	Wet op die Kommissie vir Varsprodukte- markte, 1970	Die geheel.
Wet No. 57 van 1975	Algemene Regswysigingswet, 1975	Artikels 34, 35 en 36.
Wet No. 25 van 1981	Wysigingswet op die Kommissie vir Varspro- duktemarkte, 1981	Die geheel.
Wet No. 20 van 1982	Wysigingswet op Agenskapsverkoop van Landbouprodukte, 1982	Die geheel.
Wet No. 97 van 1986	Wet op die Oordrag van Bevoegdhede en Pligte van die Staatspresident, 1986	Die items in die Eerste en Tweede Bylaes wat op die Wet op die Kommissie vir Varsproduktemarkte, 1970 (Wet No. 82 van 1970), en die Wet op Agenskapsverkoop van Landbou- produkte, 1975 (Wet No. 12 van 1975), betrekking het.
Wet No. 57 van 1987	Wysigingswet op Agenskapsverkoop van Landbouprodukte, 1987	Die geheel.
Wet No. 78 van 1987	Wysigingswet op die Kommissie vir Varspro- duktemarkte, 1987	Die geheel.

Schedule 2**LAWS REPEALED
(SECTION 36)**

No. and year of law	Short title	Extent of repeal
Act No. 12 of 1975	Agricultural Produce Agency Sales Act, 1975	The whole.
Act No. 82 of 1970	Commission for Fresh Produce Markets Act, 1970	The whole.
Act No. 57 of 1975	General Law Amendment Act, 1975	Sections 34, 35 and 36.
Act No. 25 of 1981	Commission for Fresh Produce Markets Amendment Act, 1981	The whole.
Act No. 20 of 1982	Agricultural Produce Agency Sales Amendment Act, 1982	The whole.
Act No. 97 of 1986	Transfer of Powers and Duties of the State President Act, 1986	The items in the First and Second Schedules relating to the Commission for Fresh Produce Markets Act, 1970 (Act No. 82 of 1970), and the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975).
Act No. 57 of 1987	Agricultural Produce Agency Sales Amendment Act, 1987	The whole.
Act No. 78 of 1987	Commission for Fresh Produce Markets Amendment Act, 1987	The whole.

Schedule 3

LAWS REPEALED
(Section 36)

Short title	Act No. and year of law
Transfer of Powers and Duties of the State President Act, 1986	Act No. 97 of 1986
Agricultural Produce Agency Sales Amendment Act, 1987	Act No. 37 of 1987
Commission for Fresh Produce Markets Amendment Act, 1987	Act No. 78 of 1987
The items in the First and Second Schedules relating to the Commission for Fresh Produce Markets Act, 1970 (Act No. 65 of 1970), and the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975)	Act No. 30 of 1985
The whole	Act No. 25 of 1981
Commission for Fresh Produce Markets Amendment Act, 1981	Act No. 37 of 1983
General Law Amendment Act, 1975	Act No. 83 of 1975
Commission for Fresh Produce Markets Act, 1970	Act No. 12 of 1975
The whole	
Sections 34, 35 and 36	