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GOVERNMENT GAZETTE

STAATSKOERANT

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

1516.

14 November 1997

No. 1516.

14 November 1997

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

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

59 of 1997: Marketing of Agricultural Products Amendment Act, 1997

No. 59 van 1997: Wysigingswet op die Bemarking van Landbouprodukte, 1997.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Marketing of Agricultural Products Act, 1996, so as to amend, delete and insert certain definitions; to emphasise the legal personality of the Council; to provide anew for the staff matters of the Council; to provide anew for the financing of the Council; to provide for regulatory measures other than statutory measures; to provide anew for the determination of the maximum value of levies on a particular agricultural product; to redefine the Minister's powers with regard to pools; to make certain textual alterations; to make fresh provision with regard to the property of control boards or similar bodies; and to provide for the furnishing of information to the Council; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 6 November 1997.)

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

Amendment of section 1 of Act 47 of 1996

1. Section 1 of the Marketing of Agricultural Products Act, 1996 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "agricultural product" of the following definition:

"'agricultural product' means a [primary] product declared as an agricultural product in terms of subsection (2);";

(b) by the substitution for the definition of "parliamentary committees" of the following definition:

"'parliamentary committees' means the Select [or] and Portfolio Committees of Parliament responsible for agricultural affairs;";

(c) by the insertion after the definition of "producer" of the following definition:

"'regulatory measure' means any measure relating to the regulation of the marketing of agricultural products;";

(d) by the deletion of the definition of "sell";

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op die Bemarking van Landbouprodukte, 1996, ten einde sekere woordskrywings te wysig, te skrap en in te voeg; om die regs persoonlikheid van die Raad te beklemtoon; om opnuut vir die personeelaangeleenthede van die Raad voorsiening te maak; om opnuut vir die finansiering van die Raad voorsiening te maak; om vir regulerende maatreëls anders as statutêre maatreëls voorsiening te maak; om opnuut vir die vasstelling van die maksimum waarde van heffings op 'n bepaalde landbouprodukt voorsiening te maak; om die Minister se bevoegdhede met betrekking tot poele nader te omskryf; om sekere tekstuele veranderinge aan te bring; om opnuut met betrekking tot die eiendom van beheerrade en soortgelyke liggame voorsiening te maak; en om vir die verstrekking van inligting aan die Raad voorsiening te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)

(Goedgekeur op 6 November 1997.)

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

Wysiging van artikel 1 van Wet 47 van 1996

1. Artikel 1 van die Wet op die Bemarking van Landbouprodukte, 1996 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur die woordskrywing van “landbouprodukt” deur die volgende woordskrywing te vervang:

“‘landbouprodukt’ ’n [**primêre**] produk wat as ’n landbouprodukt verklaar is ingevolge subartikel (2);”;

10 (b) deur die woordskrywing van “parlementêre komitees” deur die volgende woordskrywing te vervang:

“‘parlementêre komitees’ die Gekose [**of**] en Portefeuljekomitees van die Parlement verantwoordelik vir landbou-aangeleenthede;”;

15 (c) deur die volgende woordskrywing na die woordskrywing van “Raad” in te voeg:

“‘regulerende maatreël’ ’n maatreël in verband met die regulering van die bemarking van landbouprodukte;”;

(d) deur die woordskrywing van “statutêre maatreël” deur die volgende woordskrywing te vervang:

(e) by the substitution for the definition of "statutory measure" of the following definition:

" 'statutory measure' means a levy contemplated in section 15, and a direction contemplated in sections 16, [17] 18 and 19;"; and

(f) by the deletion of the definition of "trust".

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Substitution of section 3 of Act 47 of 1996

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

"Establishment of National Agricultural Marketing Council

3. There is hereby established a [council] juristic person to be known as the National Agricultural Marketing Council."

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Substitution of section 8 of Act 47 of 1996

3. The following section is hereby substituted for section 8 of the principal Act:

"Personnel of Council and conditions of service

8. (1) [(a)] Such officers or employees appointed in terms of the Public Service Act, 1994, as may be necessary for the proper performance by the Council of its functions, shall be designated for that purpose on a full-time basis by the Director-General after consultation with the Council.

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[(b) The personnel referred to in subsection (a) shall be under the control of the chairperson of the Council.

(2) The Council may with the approval of the Director-General enter into agreements with persons for the performance of specific duties or the provision of specific services.

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(3) The Minister shall be responsible for approving the budget for the Council after consultation with the Minister of Finance, and the expenses of the Council and committees of the Council shall be funded by the Department from money appropriated for that purpose by Parliament or received from other sources approved by the Minister.

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(4) The chairperson of the Council shall ensure that proper books and financial records are kept by the Council, which books and records shall be audited by the Auditor-General.]

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(2) Any officer or employee of the Department may be selected by the Council, in consultation with the Director-General, for transfer to the Council, and if the selection is accepted by such officer or employee, he or she shall, notwithstanding any provision to the contrary in the Public Service Act, 1994 (Proclamation No. 103 of 1994), as from the fixed date or such later date as may be agreed upon between the Director-General and the Council, cease to be such an officer or employee and, without interruption of his or her service, become an employee of the Council.

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(3) Any person so transferred shall, with effect from the date of his or her transfer, be appointed by the Council on the conditions of service determined by it to a post in the Council which is similar to that which such person occupied in the Department immediately prior to such transfer: Provided that—

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(a) such person's salary or salary scale shall not be reduced by such appointment;

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(b) such person shall retain all vacation and sick leave standing to his or her credit with the Department immediately preceding his or her transfer, including all monetary benefits attached thereto;

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(c) such person shall be compensated by the Council for any loss which he or she may incur as a result of such transfer in respect of unemployment benefit contributions, medical aid contributions or other expenditure on health care that is necessary so as not to place him or her in a less favourable position with regard to such expenditure than that which applied to him or her immediately prior to

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“statutêre maatreël” ’n heffing in artikel 15 beoog, en ’n lasgewing in artikels 16, [17,] 18 en 19 beoog;” ;

(e) deur die woordskrywing van “trust” te skrap; en

(f) deur die woordskrywing van “verkoop” te skrap.

5 Vervanging van artikel 3 van Wet 47 van 1996

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

“Instelling van Nasionale Landboubemarkingsraad

3. Hierby word ’n [raad] regspersoon ingestel wat die Nasionale Landboubemarkingsraad heet.”.

10 Vervanging van artikel 8 van Wet 47 van 1996

3. Artikel 8 van die Hoofwet word hierby deur die volgende artikel vervang:

“Personeel van Raad en diensvoorwaardes

8. (1) [(a)] Die beamptes of werknemers, aangestel ingevolge die Staatsdienswet, 1994, wat nodig mag wees vir die behoorlike verrigting deur die Raad van sy werksaamhede, word vir daardie doel op ’n heeltydse grondslag deur die Direkteur-generaal na oorleg met die Raad toegewys.

[(b) Die personeel in subartikel (a) bedoel, val onder die beheer van die voorsitter van die Raad.

(2) Die Raad kan met die Direkteur-generaal se goedkeuring ooreenkomste vir die uitvoering van bepaalde pligte of die verskaffing van bepaalde dienste met persone aangaan.

(3) Die Minister is verantwoordelik vir die goedkeuring van die begroting van die Raad na oorleg met die Minister van Finansies, en uitgawes van die Raad word deur die Departement befonds uit geld wat vir daardie doel deur die Parlement bewillig is of vanuit ander bronne, wat deur die Minister goedgekeur is, ontvang is.

(4) Die voorsitter van die Raad moet verseker dat behoorlike boeke en finansiële opgawes deur die Raad gehou word, welke boeke en opgawes deur die Ouditeur-generaal geouditeer moet word.]

(2) Enige beampte of werknemer van die Departement kan in oorleg met die Direkteur-generaal deur die Raad gekies word vir oorplasing na die Raad, en indien die keuse deur daardie beampte of werknemer aanvaar word, hou hy of sy, ondanks enige andersluidende bepaling in die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), vanaf die vasgestelde datum of die latere datum waarop die Direkteur-generaal en die Raad ooreenkom, op om so ’n beampte of werknemer te wees en word hy of sy sonder onderbreking van sy of haar diens ’n werknemer van die Raad.

(3) Enige persoon aldus oorgeplaas, word met ingang van die datum van sy of haar oorplasing, deur die Raad op die diensvoorwaardes wat die Raad bepaal, aangestel in ’n pos in die Raad wat soortgelyk is aan die pos in die Departement wat sodanige persoon onmiddellik voor sy of haar oorplasing beklee het: Met dien verstande dat—

(a) sodanige persoon se salaris of salarisskaal nie deur daardie aanstelling verminder word nie;

(b) sodanige persoon alle vakansie- en siekteverlof behou wat onmiddellik voor sy of haar oorplasing tot sy of haar krediet by die Departement staan, met inbegrip van alle geldelike voordele wat daaraan gekoppel word;

(c) sodanige persoon deur die Raad vergoed word vir enige uitgawe wat hy of sy as gevolg van sodanige aanstelling mag aangaan ten opsigte van bydraes vir werkloosheidsvoordele, mediese hulpfondsbydraes of ander uitgawes aan gesondheidsorg wat nodig is ten einde hom of haar nie in ’n minder gunstige posisie ten opsigte van sodanige onkoste te plaas as dié waarin hy of sy onmiddellik voor sy of haar

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his or her transfer, as well as for any other loss arising from any transfer from his or her present headquarters to new headquarters in accordance with the procedure applicable to officers and employees of the Department; and

- (d) such person's conditions of employment in respect of matters not specified in paragraphs (a) to (c) shall not be less favourable to him or her than those which applied to him or her immediately prior to the transfer.

(4) Any person transferred from the Department in terms of subsection (2) who immediately prior to such transfer was a member of the Government Employees Pension Fund, shall notwithstanding any provision to the contrary in any law or in the rules of that pension fund, upon such transfer remain a member of that pension fund for all purposes and the Council shall contribute to the said pension fund in respect of that person to the same extent as an employer is required in terms of the laws on and the rules of that pension fund to contribute to that pension fund in respect of an employee who is a member of that fund.

(5) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer shall be deemed to have taken place when an officer or employee of the Department is transferred to the Council in terms of subsection (2), and the position of such officer or employee in respect of the phasing in of tax levied on a benefit or advantage derived by reason of employment or the holding of any office as contemplated in Schedule 7 to the Income Tax Act, 1962, shall be deemed to remain unchanged.

(6) Any disciplinary steps instituted or contemplated against any person transferred from the Department in terms of subsection (2) in respect of alleged misconduct committed prior to his or her transfer to the Council, shall be disposed of or instituted, as the case may be, in terms of the laws applicable to him or her immediately before such transfer.

(7) At least one month before the fixed date, the Director-General shall in writing inform every officer and employee concerned either—

- (a) that he or she has been selected for transfer to the Council in terms of subsection (2), and of the post that will be occupied by him or her and the date on which the transfer is to take effect; or
(b) that he or she is to remain with the Department and of the post which he or she will occupy.

(8) Notwithstanding any provision to the contrary in the Public Service Act, 1994, any proposed action of which an officer or employee is notified in terms of subsection (7), shall be deemed to be an act which may form the subject of an appeal to the Minister in terms of the said Act.

(9) Any such appeal shall be lodged within 14 days of receipt of such notification by the officer or employee.

(10) Any employee of the Council shall be entitled to the ordinary severance conditions and benefits, excluding special voluntary severance conditions, not less favourable to him or her than those prescribed under the Public Service Act, 1994, in respect of a person to whom that Act applies and whose services are terminated.

(11) The Council may enter into agreements with persons for the performance of specific duties or the provision of specific services, and may employ persons to assist it in the performance of its functions.

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

(13) For the purposes of this section, the term "fixed date" shall mean the date determined by the Minister by notice in the *Gazette*.

aanstelling was nie, asook vir enige ander uitgawe voortspruitend uit 'n oorplasing vanaf sy of haar bestaande hoofkwartier na 'n nuwe hoofkwartier, ooreenkomstig die prosedure wat van toepassing is op beamptes en werknemers van die Departement; en

- 5 (d) sodanige persoon se diensvoorwaardes ten opsigte van aangeleenthede wat nie in paragrawe (a) tot (c) gespesifiseer is nie, nie vir hom of haar minder gunstig mag wees as dié wat onmiddellik voor die oorplasing vir hom of haar gegeld het nie.

10 (4) Enige persoon wat ingevolge subartikel (2) vanaf die Departement oorgeplaas is en wat onmiddellik voor sodanige oorplasing 'n lid was van die Regeringswerknemerspensioenfonds bly, ondanks enige andersluidende bepaling in enige wet of in die reëls van daardie pensioenfonds, by sodanige oorplasing vir alle doeleindes 'n lid van daardie pensioenfonds en die Raad dra in dieselfde mate ten opsigte van daardie persoon tot
15 genoemde pensioenfonds by as wat 'n werkgewer ingevolge die wette op en reëls van daardie pensioenfonds ten opsigte van 'n werknemer wat 'n lid is van daardie pensioenfonds moet bydra.

(5) By die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word daar geag dat geen verandering van werkgewer plaasgevind het wanneer 'n beampte of werknemer van die Departement
20 ingevolge subartikel (2) na die Raad oorgeplaas word nie, en die posisie van sodanige beampte of werknemer ten opsigte van die infasering van belasting gehef op 'n voordeel of gewin ontvang vanweë diens of bekleding van 'n amp soos beoog in Bylae 7 by die Inkomstebelastingwet, 1962, word geag onveranderd te bly.

(6) Enige dissiplinêre stappe ingestel of beoog teen enige persoon wat ingevolge subartikel (2) vanaf die Departement oorgeplaas is ten opsigte van beweerde wangedrag gepleeg voor sy of haar oorplasing na die Raad, word ingestel of afgehandel, na gelang van die geval, ingevolge die wette
30 wat op hom of haar van toepassing was onmiddellik voor sodanige oorplasing.

(7) Ten minste een maand voor die vasgestelde datum stel die Direkteur-generaal elke betrokke beampte en werknemer van die Departement skriftelik in kennis of—

- 35 (a) dat hy of sy gekies is vir oorplasing na die Raad ingevolge subartikel (2), en van die pos wat deur hom of haar bekleed sal word en die datum waarop die oorplasing sal geskied; of
(b) dat hy of sy by die Departement aanbly en van die pos wat hy of sy sal bekleed.

40 (8) Ondanks enige andersluidende bepaling in die Staatsdienswet, 1994, word enige voorgestelde optrede waarvan 'n beampte of werknemer ingevolge subartikel (7) in kennis gestel word, geag 'n handeling te wees wat die onderwerp kan uitmaak van 'n appèl na die Minister ingevolge genoemde Wet.

45 (9) Enige sodanige appèl moet binne 14 dae vanaf ontvangs deur die beampte of werknemer van sodanige kennisgewing aangeteken word.

(10) Enige werknemer van die Raad is geregtig op die gewone skeidingsvoorwaardes en -voordele, uitsluitende spesiale vrywillige skeidingsvoorwaardes, wat nie vir hom of haar minder gunstig is nie as dié wat ingevolge die Staatsdienswet, 1994, voorgeskryf word ten opsigte van 'n
50 persoon op wie daardie Wet van toepassing is en wie se dienste beëindig word.

(11) Die Raad kan met persone ooreenkomste vir die uitvoering van bepaalde pligte of die verskaffing van bepaalde dienste aangaan, en kan persone in diens neem om hom met die verrigting van sy werksaamhede by te staan.

55 (12) Die Raad betaal sy werknemers die salarisse, toelaes, subsidies en ander voordele wat die Raad bepaal, in ooreenstemming met 'n stelsel wat van tyd tot tyd deur die Minister, met die instemming van die Minister van Finansies, bepaal word.

60 (13) By die toepassing van hierdie artikel beteken die uitdrukking "vasgestelde datum" die datum wat deur die Minister by kennisgewing in die *Staatskoerant* bepaal is."

Insertion of section 8A in Act 47 of 1996

4. The following section is hereby inserted after section 8 of the principal Act:

“Financing of Council

8A. (1) The funds of the Council shall consist of monies appropriated by Parliament and interest earned on investments by the Council.

(2) The Council shall utilise its funds for defraying expenses in connection with the performance of its functions.

(3) The Council—

(a) shall in each financial year, at the time determined by the Minister, submit a budget of its estimated income and expenditure during the following financial year for approval by the Minister obtained with the concurrence of the Minister of Finance;

(b) may in any financial year, at any time submit supplementary budgetary inputs of its estimated expenditure for that financial year, to the Minister for his or her approval in consultation with the Minister of Finance;

(c) shall not incur any expenditure which exceeds the total amount approved under paragraphs (a) and (b);

(d) may with the approval of the Minister invest any surplus funds of the Council: Provided that any surplus at the end of a financial year shall be carried over to the next financial year and form part of the budget of the Council for that financial year.

(4) (a) The chairperson of the Council shall be the accounting officer charged with the responsibility of accounting for all money received and the utilisation thereof.

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

(c) The accounting officer shall submit year-end financial statements to the Minister within four months after the end of each financial year.

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

(6) The financial year of the Council shall be the period from 1 April in any year to 31 March in the succeeding year.”

Amendment of section 9 of Act 47 of 1996

5. Section 9 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (a) and (e) of the following paragraphs, respectively:

“(a) shall, when requested by the Minister, or of its own accord, investigate, in terms of section 11(2), the establishment, continuation, amendment or revocation of statutory measures and other regulatory measures affecting the marketing of agricultural products, evaluating the desirability, necessity or efficiency and if necessary, proposing alternatives to the establishment, continuation, amendment or repeal of a statutory measure or other regulatory measure and report to and advise the Minister accordingly;”;

“(e) may undertake investigations and advise the Minister regarding—

(i) agricultural marketing policy and the application thereof;

(ii) the co-ordination of agricultural marketing policy in relation to national economic, social and development policies and international trends and developments; **[and]**

(iii) the possibilities for promoting the objectives mentioned in section 2(2); and

(iv) the effect that the marketing of products has on the objectives mentioned in section 2(2).” ; and

(b) by the deletion of paragraph (g).

Invoeging van artikel 8A in Wet 47 van 1996

4. Die volgende artikel word hierby na artikel 8 van die Hoofwet ingevoeg:

“Finansiering van Raad

8A. (1) Die fondse van die Raad bestaan uit geld wat die Parlement bewillig en rente verdien op beleggings deur die Raad.

(2) Die Raad wend sy fondse aan ter bestryding van uitgawes in verband met die verrigting van sy werksaamhede.

(3) Die Raad—

(a) moet in elke boekjaar, op die tydstip deur die Minister bepaal, 'n staat van sy geraamde inkomste en uitgawes gedurende die daaropvolgende boekjaar voorlê vir die Minister se goedkeuring, verleen met die instemming van die Minister van Finansies;

(b) kan gedurende enige boekjaar op enige tydstip aanvullende state van sy geraamde uitgawes vir daardie boekjaar voorlê aan die Minister vir sy of haar goedkeuring in oorleg met die Minister van Finansies;

(c) gaan geen uitgawes aan wat die totale bedrag wat kragtens paragrawe (a) en (b) goedgekeur is, oorskry nie;

(d) kan met die goedkeuring van die Minister enige surplusfondse van die Raad belê: Met dien verstande dat enige surplus aan die einde van 'n boekjaar oorgedra word na die volgende boekjaar en deel uitmaak van die begroting van die Raad vir daardie boekjaar.

(4) (a) Die voorsitter van die Raad is die rekenpligtige beampte belas met die verantwoording van al die geld ontvang en die aanwending daarvan.

(b) Die rekenpligtige beampte moet die rekeningkundige aantekeninge laat hou wat nodig is om die stand van sake van die Raad juis weer te gee en om die transaksies en finansiële toestand van die Raad te verduidelik.

(c) Die rekenpligtige beampte moet eindjaar-finansiële state aan die Minister voorlê binne vier maande na die einde van elke boekjaar.

(5) Die Ouditeur-generaal ouditeer die rekeningboeke, rekeningstate en finansiële jaarstate van die Raad en lê 'n afskrif van die verslag oor die auditering van bedoelde state aan die Raad voor.

(6) Die boekjaar van die Raad strek oor die tydperk vanaf 1 April in enige jaar tot 31 Maart in die daaropvolgende jaar.”

35 Wysiging van artikel 9 van Wet 47 van 1996

5. Artikel 9 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragrawe (a) en (e) deur onderskeidelik die volgende paragrawe te vervang:

“(a) ondersoek die Raad, op versoek van die Minister of uit eie beweging, ingevolge artikel 11(2), die instelling, voortsetting, wysiging of herroeping van statutêre maatreëls en ander regulerende maatreëls wat die bemarking van landbouprodukte raak, evalueer hy die wenslikheid, noodsaaklikheid of doeltreffendheid en, indien nodig, stel hy alternatiewe voor vir die instelling, voortsetting, wysiging of herroeping van 'n statutêre maatregel of ander regulerende maatregel en doen hy verslag aan en adviseer die Minister dienooreenkomstig;”;

“(e) kan die Raad ondersoek doen en die Minister adviseer rakende—

(i) landboubemarkingsbeleid en die toepassing daarvan;

(ii) die koördinering van landboubemarkingsbeleid met betrekking tot nasionale ekonomiese, sosiale en ontwikkelingsbeleid en internasionale neigings en ontwikkelings; **[en]**

(iii) die moontlikhede vir die bevordering van die oogmerke in artikel 2(2) vermeld; **en**

(iv) die uitwerking wat die bemarking van produkte het op die oogmerke in artikel 2(2) vermeld.”; en

(b) deur paragraaf (g) te skrap.

Amendment of section 15 of Act 47 of 1996

6. Section 15 of the principal Act is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph:

- “(a) the amount of such levy, or the formula by which such a levy shall be calculated: Provided that the value of the levies on a particular agricultural product shall not exceed, in total, five percent of the guideline price for such agricultural product, which guideline price shall— 5
- (i) be based on an average price [realised minus the cost incurred up to] at its first point of sale during a preceding period not exceeding three years; and 10
- (ii) be determined by the Minister in consultation with the Council by notice in the Gazette;”.

Amendment of section 17 of Act 47 of 1996

7. Section 17 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively: 15

“(1) The Minister may, apart from any pooling arrangements that may be instituted in terms of section 16, [by notice in the Gazette direct] arrange that a pool [shall] be conducted by a particular body, at a particular location for the purchase and sale of a particular agricultural product or a class thereof and publicise such arrangement by notice in the Gazette. 20

(2) A pool conducted in terms of subsection (1) shall be conducted on the basis that any person who sells to, buys from or participates in any way in such a pool, shall not be compelled to sell [exclusively] to or buy [exclusively] from such a pool.”.

Amendment of section 19 of Act 47 of 1996 25

8. The following section is hereby substituted for section 19 of the principal Act:

“Registration

19. The Minister may by notice in the *Gazette*, direct that any [producer of a particular] person mentioned with regard to an agricultural product or class thereof [or any person who disposes of such an agricultural product or class thereof for a profit, or any person involved in the purchase, sale, processing or production of such agricultural products or a class thereof] to which the notice pertains and which such person has in his or her possession or under his or her control, shall be registered as specified in the notice.”. 30 35

Amendment of section 20 of Act 47 of 1996

9. Section 20 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister shall [annually] by notice in the *Gazette* and through the news media invite any group of persons which regards itself as a group that is directly affected by this Act or any market intervention in terms thereof and which complies with the criteria determined by the Council and set out in the said notice, to furnish the Council with full particulars regarding the reasons why it regards itself so to be affected or potentially affected, its composition, its address and any other information that may be required.”. 40 45

Amendment of section 21 of Act 47 of 1996

10. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may [appoint] designate and authorise a person as an

Wysiging van artikel 15 van Wet 47 van 1996

6. Artikel 15 van die Hoofwet word hierby gewysig deur in subartikel (4) paragraaf (a) deur die volgende paragraaf te vervang:

- 5 “(a) die bedrag van so ’n heffing, of die formule waarvolgens so ’n heffing bereken word: Met dien verstande dat die waarde van die heffings op ’n bepaalde landbouprodukt in totaal nie vyf persent van die riglynprys vir daardie landbouprodukt oorskry nie, welke riglynprys—
- 10 (i) gebaseer word op ’n gemiddelde prys [wat gerealiseer word minus die koste wat aangegaan is tot en met] by sy eerste verkoops punt [oorskry nie] gedurende ’n voorafgaande tydperk wat nie drie jaar oorskry nie; en
- (ii) deur die Minister in oorleg met die Raad by kennisgewing in die Staatskoerant bepaal word;”.

Wysiging van artikel 17 van Wet 47 van 1996

7. Artikel 17 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur 15 onderskeidelik die volgende subartikels te vervang:

“(1) Die Minister kan, benewens enige poelreëlings wat ingevolge artikel 16 ingestel mag word, [by kennisgewing in die Staatskoerant gelas] reël dat ’n poel bedryf [moet] word deur ’n bepaalde liggaam, by ’n bepaalde plek vir die koop en verkoop van ’n bepaalde landbouprodukt of ’n klas daarvan en so ’n reëling by

20 kennisgewing in die Staatskoerant bekend maak.

(2) ’n Poel wat ingevolge subartikel (1) bedryf word, word bedryf op die grondslag dat enige persoon wat aan so ’n poel verkoop, van so ’n poel koop of op enige wyse daaraan deelneem, nie verplig is om [uitsluitlik] aan so ’n poel te verkoop of [uitsluitlik] daarvan te koop nie.”.

25 Wysiging van artikel 19 van Wet 47 van 1996

8. Artikel 19 van die Hoofwet word hierby deur die volgende artikel vervang:

“Registrasie

19. Die Minister kan by kennisgewing in die *Staatskoerant* gelas dat enige [prosudent van ’n bepaalde] persoon wat vermeld word met

30 betrekking tot ’n landbouprodukt of ’n klas daarvan [of enige persoon wat so ’n landbouprodukt of ’n klas daarvan verhandel vir ’n wins, of enige persoon betrokke by die koop, verkoop, verwerking of produksie van daardie landbouprodukt of ’n klas daarvan] waarop die kennisgewing betrekking het en wat so ’n persoon in sy of haar besit of onder sy of haar

35 beheer het, geregistreer word soos in die kennisgewing vermeld.”.

Wysiging van artikel 20 van Wet 47 van 1996

9. Artikel 20 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister moet [jaarliks] by kennisgewing in die *Staatskoerant* en deur

40 die nuusmedia enige groep persone wat hom beskou as ’n groep wat direk geaffekteerd is of potensieel direk geaffekteerd is deur hierdie Wet of enige markingryping ingevolge daarvan, en wat voldoen aan die kriteria wat deur die Raad bepaal is en in genoemde kennisgewing uiteengesit is, uitnooi om die Raad van volle besonderhede te voorsien betreffende die redes waarom hy homself as

45 aldus geaffekteerd of potensieel geaffekteerd beskou, sy samestelling, sy adres en enige ander inligting wat verlang mag word.”.

Wysiging van artikel 21 van Wet 47 van 1996

10. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

50 “(1) Die Minister kan iemand as inspekteur [aanstel] aanwys en magtig om [die

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inspector to [exercise the powers and] perform the [duties] functions referred to in subsection (3).”.

Amendment of section 26 of Act 47 of 1996

11. Section 26 of the principal Act is hereby amended—

(a) by the substitution for subsections (2) and (3) of the following subsections, 5
respectively:

“(2) From the date of commencement of this Act any property, whether movable or immovable, and whether corporeal or incorporeal, owned, hired or in which any such control board or similar body established by or under a law mentioned in the Schedule has an interest, shall only be disposed of, alienated, let, hypothecated or otherwise dealt with [in order to discharge the scheme’s or body’s liabilities or], with the approval of the Minister [be transferred to a trust, the purpose of which is not inconsistent with this Act]. 10

(3) On dissolution of any scheme in terms of the Marketing Act, 1968 (Act No. 59 of 1968), any surplus or shortfall of assets over liabilities of that scheme shall be dealt with in terms of the applicable scheme [and, failing any provision which prescribes how such surplus or shortfall is to be dealt with, the Minister shall determine how such surplus or shortfall is to be dealt with].”; and 20

(b) by the addition of the following subsection: 20

(4) Any remaining assets or liabilities, rights and obligations acquired or accrued in terms of such a scheme, which have not been dealt with in terms of subsection (3) shall be dealt with in terms of a liquidation process determined by the Minister by notice in the *Gazette*.”. 25

Amendment of section 27 of Act 47 of 1996

12. Section 27 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) the Minister may, [at the request of] after consultation with a control board and [after consultation with] the parliamentary committees, subject to paragraph (a) and subsection (3), by notice in the *Gazette* amend or repeal any scheme, levy, prohibition, requirement, direction, determination, regulation or notice referred to in paragraph (a);”; and 30 35

(b) by the addition to subsection (2) of the following paragraphs:

“(d) the Minister may direct any control board to furnish the Council with such information pertaining to a scheme and its functions as the Council, the Minister or the parliamentary committees may require; 40

(e) any person who is dissatisfied with a decision of a control board which affects his or her rights, may appeal against such decision to the Minister who may, after consultation with the Council, confirm, set aside or vary such decision or make such order in connection therewith as he or she may deem fit.”. 45

Short title

13. This Act shall be called the Marketing of Agricultural Products Amendment Act, 1997.

bevoegdhede in subartikel (3) bedoel, uit te oefen en] die werksaamhede in subartikel (3) bedoel, te verrig.”.

Wysiging van artikel 26 van Wet 47 van 1996

11. Artikel 26 van die Hoofwet word hierby gewysig—

- 5 (a) deur subartikels (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

10 “(2) Vanaf die datum van inwerkingtreding van hierdie Wet word enige bates, hetsy roerend of onroerend, en hetsy liggaamlik of onliggaamlik, besit, gehuur of waarin so ’n beheerraad of soortgelyke liggaam wat by of kragtens ’n wet in die Bylae genoem, ingestel is, ’n belang het, slegs oor beskik, vervreem, verhuur, beswaar of andersins mee gehandel **[ten einde die skema of liggaam se laste af te los of word,]** met die Minister se goedkeuring **[aan ’n trust waarvan die doel nie strydig met hierdie Wet is nie, oorgedra]**.

15 (3) By die ontbinding van enige skema ingevolge die Bemarkingswet, 1968 (Wet No. 59 van 1968), word enige surplus of tekort van bates teenoor laste van daardie skema mee gehandel ingevolge die tersaaklike skema **[en, by gebrek aan enige bepaling wat voorskryf hoe daar met sodanige surplus of tekort gehandel moet word, bepaal die Minister hoe daar met sodanige surplus of tekort gehandel moet word]**.”; en

- 20 (b) deur die volgende subartikel by te voeg:

25 “(4) Enige oorblywende bates of laste, regte en verpligtinge wat ingevolge so ’n skema verkry of opgedoen is, wat nie mee gehandel is ingevolge subartikel (3) nie, word mee gehandel ingevolge ’n likwidasieproces wat deur die Minister by kennisgewing in die Staatskoerant bepaal word.”.

Wysiging van artikel 27 van Wet 47 van 1996

12. Artikel 27 van die Hoofwet word hierby gewysig—

- 30 (a) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang: “(c) kan die Minister, **[op versoek van]** na oorleg met ’n beheerraad en **[na oorleg met]** die parlementêre komitees, behoudens paragraaf (a) en subartikel (3), by kennisgewing in die *Staatskoerant* ’n skema, heffing, verbod, vereiste, lasgewing, bepaling, regulasie of kennisgewing in paragraaf (a) bedoel, wysig of herroep;”;

- 35 (b) deur die volgende paragrawe by subartikel (2) by te voeg:

“(d) kan die Minister enige beheerraad gelas om die Raad van die inligting betreffende ’n skema en sy werksaamhede te voorsien wat die Raad, die Minister of die parlementêre komitees verlang;

40 (e) kan iemand wat ontevrede is met ’n besluit van ’n beheerraad wat sy of haar regte aantast, teen daardie besluit appelleer na die Minister, wat, na oorleg met die Raad, daardie besluit kan bevestig, tersyde stel of wysig of die bevel in verband daarmee kan maak wat hy of sy geskik ag.”.

Kort titel

- 45 13. Hierdie Wet heet die Wysigingswet op die Bemarking van Landbouprodukte, 1997.

