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CAPE TOWN, 19 JUNE 1998

No. 18985

KAAPSTAD, 19 JUNIE 1998

OFFICE OF THE PRESIDENT

No. 831. 19 June 1998

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

No. 21 of 1998: Land Bank Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 831. 19 Junie 1998

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

No. 21 van 1998: Wysisingswet op die Landbank, 1988.

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 Land Bank Act, 1944, so as to delete and insert certain definitions; to regulate the business of the bank; to provide for the restructuring of the board and removal from office of the members of the board; to provide for meetings of the board; to provide further for the remuneration of members of the board; to provide anew for appointment of staff; to provide for financial assistance to farmers so as to authorise the bank to lend money to financial intermediaries; to provide for the advancement of monies to joint ventures, partnerships and institutions; to provide for the provision of alternative security; to provide for the advancement of loans to companies involved in agriculture; to repeal certain sections of the Agricultural Credit Act, 1966 (Act No. 28 of 1966); and to provide for matters connected therewith.

(English text signed by the Acting President.)
(Assented to 11 June 1998.)

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

Amendment of section 2 of Act 13 of 1944, as amended by section 1 of Act 42 of 1951, section 1 of Act 60 of 1957, section 1 of Act 13 of 1953, section 1 of Act 47 of 1959, section 5 of Act 31 of 1969, section 1 of Act 41 of 1972, Proclamation 147 of 1979, section 1 of Act 89 of 1985, section 5 of Act 80 of 1989 and section 1 of Act 93 of 1986 5

1. Section 2 of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is amended—

- (a) by the deletion of the definition of “adviser”; 10
- (b) by the substitution for the definition of “board” of the following definition: “‘board’ means the board of directors of the bank as constituted under section four”; 10
- (c) by the substitution for the definition of “chairman” of the following definition: “‘chairperson’ means the chairperson of the board designated under section four”; 15
- (d) by the substitution for the definition of “company” of the following definition:

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 Landbankwet, 1944, ten einde sekere woordomskrywings te skrap en in te voeg; om die besigheid van die bank te reël; om voorsiening te maak vir die herstrukturering van die raad en ampsontruiming van lede van die raad; om voorsiening te maak vir vergaderings van die raad; om verder voorsiening te maak vir vergoeding van raadslede; om opnuut voorsiening te maak vir die aanstelling van personeel; om voorsiening te maak vir finansiële bystand aan boere om sodoende die bank te magtig om geld aan finansiële tussengangers te leen; om voorsiening te maak vir die voorskiet van geld aan gesamentlike ondernemings, vennootskappe en instellings; om voorsiening te maak vir die verskaffing van alternatiewe sekuriteit; om voorsiening te maak vir die beskikbaarstelling van lenings aan maatskappye wat by landbou betrokke is; om sekere bepalinge van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966) te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Waarnemende President geteken.)
(Goedgekeur op 11 Junie 1998.)*

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

Wysiging van artikel 2 van Wet 13 van 1944, soos gewysig deur artikel 1 van Wet 42 van 1951, artikel 1 van Wet 60 van 1957, artikel 1 van Wet 13 van 1953, artikel 1 van Wet 47 van 1959, artikel 5 van Wet 31 van 1969, artikel 1 van Wet 41 van 1972, Proklamasie 147 van 1979, artikel 1 van Wet 89 van 1985, artikel 5 van Wet 80 van 1989 en artikel 1 van Wet 93 van 1986

1. Artikel 2 van die Landbankwet, 1944 (hieronder die Hoofwet genoem), word gewysig—

- 10 (a) deur die omskrywing van “adviseur” te skrap;
- (b) deur die omskrywing van “besturende direkteur” deur die volgende omskrywing te vervang:
“besturende direkteur” die besturende direkteur kragtens artikel [vier bis] 13 aangestel;”;
- 15 (c) deur die volgende omskrywing na die omskrywing van “bank” in te voeg:
“‘departement’ die Departement van Landbou;”;
- (d) deur die volgende omskrywing na die omskrywing van “beslote korporasie” in te voeg;

- “‘company’ means a company as defined in the Companies Act, 1973 (Act No. 61 of 1973), whether the expression occurs on its own or in conjunction with the expression ‘co-operative society’;”;
- (e) by the deletion of the definition of “co-operative company”;
- (f) by the substitution for the definition of “co-operative society” of the following definition: 5
 “‘co-operative society’ means a co-operative as defined in section 1 of the Co-operatives Act, 1981 (Act No. 91 of 1981);”;
- (g) by the insertion of the following definition after the definition of “co-operative society”: 10
 “‘department’ means the Department of Agriculture;”;
- (h) by the insertion of the following definition after the definition of “farmer”:
 “‘financial intermediary’ means any institution which, as part of its activities, obtains loans from the bank and, on the basis of such loans, advances monies or extends credit to the public or a sector of the public involved in agriculture or agriculture-related activities or for the acquisition of property for agricultural purposes.”; 15
- (i) by the insertion of the following definition after the definition of “futures contract”:
 “‘institution’ means any company, co-operative society, trust, communal property association or voluntary association, whether incorporated or not;”;
- (j) by the deletion of the definition of “general manager”;
- (k) by the substitution for the definition of “managing director”, of the following definition: 20
 “‘managing director’ means the managing director appointed under section [four bis] 13;”;
- (l) by the substitution for the definition of “Minister” of the following definition:
 “‘Minister’ means the Minister [of Finance, or any other Minister of State acting in his stead] for Agriculture and Land Affairs;”;
- (m) by the deletion of the definition of “staff”; and 30
- (n) by the substitution for the definition of “this Act” of the following definition:
 “‘this Act’ includes the regulations and notices [made] promulgated thereunder;”.

Amendment of section 4 of Act 13 of 1944, as amended by sections 2 and 3 of Act 42 of 1951, section 1 of Act 46 of 1965, section 7 of Act 31 of 1969, section 2 of Act 92 of 1970 and section 9 of Act 51 of 1991 and Proclamation 147 of 1979 35

2. Section 4 of the principal Act is amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) (a) The business of the bank shall be controlled by a board of directors appointed by the Minister and who shall— 40
 (i) direct and conduct the operations and business of the bank; and
 (ii) determine and implement policies to administer this Act.
 (b) The board shall consist of—
 (i) a chairperson;
 (ii) the managing director; 45
 (iii) not less than six or more than ten other members.”; and
- (b) by the deletion of subsections (3), (4) and (5).

Repeal of section 4bis of Act 13 of 1944

3. Section 4bis of the principal Act is repealed.

Substitution of section 5 of Act 13 of 1944, as amended by section 8 of Act 31 of 1969 and section 9 of Act 51 of 1991 and Proclamation 147 of 1979 50

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

- 5 “finansiële tussenganger” ’n instelling wat, as deel van sy bedrywighede, lenings by die bank bekom en op die basis van sodanige lenings, geld leen of krediet verleen aan die publiek of ’n deel van die publiek wat met landbou of landbouverwante bedrywighede gemoeid is of vir die verkryging van eiendom vir landboudoeleindes;”;
- (e) deur die omskrywing van “hoofbestuurder” te skrap;
- (f) deur die omskrywing van “koöperatiewe maatskappy” te skrap;
- (g) deur die omskrywing van “koöperatiewe vereniging” deur die volgende omskrywing te vervang:
- 10 “‘koöperatiewe vereniging’ ’n koöperatiewe vereniging soos omskryf in artikel 1 van die Koöperasiewet, 1981 (Wet No. 91 van 1981);”;
- (h) deur die omskrywing van “maatskappy” deur die volgende omskrywing te vervang:
- 15 “‘maatskappy’ ’n maatskappy bedoel in die Maatskappywet, 1973 (Wet No. 61 van 1973), hetsy die uitdrukking op sy eie voorkom of in samehang met die uitdrukking “koöperatiewe vereniging”, gebruik word;”;
- (i) deur die omskrywing van “Minister” deur die volgende omskrywing te vervang:
- 20 “‘Minister’ die Minister [van Finansies of ’n ander Staatsminister wat namens hom optree] vir Landbou en Grondsake;”;
- (j) deur die volgende omskrywing na die omskrywing van “besturende direkteur” in te voeg:
- 25 “‘instelling’ enige maatskappy, koöperatiewe vereniging, trust, gemeenskaplike eiendomsvereniging of vrywillige vereniging, hetsy geïnkorporeer al dan nie;”;
- (k) deur die omskrywing van “hierdie Wet” deur die volgende omskrywing te vervang:
- 30 “‘hierdie Wet’ ook die regulasies en kennisgewings [uit kragte daarvan gemaak] daarkragtens uitgevaardig;”;
- (l) deur die omskrywing van “personeel” te skrap;
- (m) deur die omskrywing van “raad” deur die volgende omskrywing te vervang:
- 35 “‘raad’ die raad van direkteure van die bank soos ingevolge artikel vier saamgestel;”;
- (n) deur die omskrywing van “voorsitter” deur die volgende omskrywing te vervang:
- “‘voorsitter’ die voorsitter van die raad soos ingevolge artikel vier aangewys;”.

Wysiging van artikel 4 van Wet 13 van 1944, soos gewysig deur artikels 2 en 3 van Wet 42 van 1951, artikel 1 van Wet 46 van 1965, artikel 7 van Wet 31 van 1969, artikel 2 van Wet 92 van 1970 en artikel 9 van Wet 51 van 1991 en Proklamasie 147 van 1979

2. Artikel 4 van die Hoofwet word gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 45 “(1) (a) Die besigheid van die bank word beheer deur ’n raad van direkteure aangestel deur die Minister en wat—
- (i) die werksaamhede en besigheid van die bank beheer en bestuur; en
- (ii) beleidsaspekte om hierdie Wet te administreer, bepaal en implementeer.
- (b) Die raad bestaan uit—
- 50 (i) ’n voorsitter;
- (ii) die besturende direkteur;
- (iii) minstens ses maar hoogstens tien ander lede.”; en
- (b) deur subartikels (3), (4) en (5) te skrap.

Herroeping van artikel 4bis van Wet 13 van 1944

3. Artikel 4bis van die Hoofwet word herroep.

55 Vervanging van artikel 5 van Wet 13 van 1944, soos gewysig deur artikel 8 van Wet 31 van 1969, artikel 9 van Wet 51 van 1991 en Proklamasie 147 van 1979

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

“Appointment, vacancies and removal from office of members of board

5. (1) No person may be appointed as a member of the board if he or she is disqualified to act as a director of a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973).

(2) (a) Members of the board have to disclose their personal, professional and business interests on appointment to the bank and notify it when these change.

(b) The bank shall cause a written record of members' interests to be kept.

(3) A member of the board shall vacate his or her office if—

(a) he or she becomes of unsound mind;

(b) he or she has been absent from more than two consecutive meetings without leave of the chairperson for each absence;

(c) he or she resigns and has notified the chairperson in writing of his or her resignation; or

(d) he or she becomes subject to the criteria set out in subsection (1).

(4) If the office of a member of the board becomes vacant before the expiry of the period for which he or she was appointed, the Minister shall appoint a person to fill the vacancy for the unexpired period of office of such member.

(5) The Minister may, on the term of office of the board lapsing without a new board having been appointed, reappoint the existing board for a maximum period of three months at a time until a new board has been appointed.”

Substitution of section 6 of Act 13 of 1944, as amended by sections 2 and 3 of Act 13 of 1953 and section 2 of Act 93 of 1986

5. The following section is substituted for section 6 of the principal Act:

“Meetings of board

6. (1) The members of the board shall, not less than once in every four months, meet at such times and places and in the manner as the chairperson may from time to time determine.

(2) The chairperson may at any time convene an extraordinary meeting of the board to be held at a time and place and in the manner determined by him or her and shall, upon a written request of the managing director or two other members, convene an extraordinary meeting to be held within two weeks after the date of receipt of such request.

(3) The board may publish the procedure to be followed at a meeting thereof by notice in the *Gazette*.

(4) In the absence of a published procedure under subsection (3), the person presiding at a meeting of the board shall determine the procedure to be followed at such meeting.

(5) (a) The quorum for a meeting of the board shall be half of the members plus one.

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

(c) In the event of any equality of votes on any matter the person presiding at a meeting of the board has a casting vote in addition to his or her deliberative vote.

(6) No decision taken by the board or act performed under the authority of the board shall be invalid by reason only of a casual vacancy on the board or of the fact that any person not entitled to sit as a member of the board sat as such a member at the time the decision was taken or the act was authorised.

(7) (a) If the board takes a decision in any other manner than at a formal meeting such decision shall come into effect immediately but must be reduced to writing and submitted for noting at the first formal meeting of the board following such decision.

(b) The board shall cause a written record of its proceedings to be kept.”

“Aanstelling, vakatures en ampsontruiming van raadslede

5. (1) Geen persoon word as 'n lid van die raad aangestel nie indien hy of sy gediskwalifiseer is om as 'n direkteur van 'n maatskappy wat kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), geïnkorporeer is, op te tree.

(2) (a) Lede van die raad moet hulle persoonlike, professionele en besigheidsbelange by aanstelling aan die bank openbaar en die bank haar van enige verandering in kennis stel.

(b) Die bank moet toesien dat 'n geskrewe rekord van lede se belange bygehou word.

(3) 'n Lid van die raad ontruim sy of haar amp indien—

(a) hy of sy kranksinnig word;

(b) hy of sy van meer as twee agtereenvolgende vergaderings afwesig is sonder die verlof van die voorsitter vir elke afwesigheid;

(c) hy of sy bedank en die voorsitter skriftelik van sy of haar bedanking in kennis stel; of

(d) hy of sy onderhewig word aan die kriteria bedoel in subartikel (1).

(4) Indien die setel van 'n raadslid vakant word voordat die tydperk waarvoor hy of sy aangestel is, verstryk het, moet die Minister iemand aanstel om die vakature te vul vir die onverstreke deel van die ampstermyn van sodanige lid.

(5) Die Minister kan, totdat 'n nuwe raad aangestel is, en indien die ampstermyn van die raad verstryk het voordat 'n nuwe raad aangestel is, die bestaande raad vir 'n maksimum tydperk van drie maande op 'n keer aanstel.”.

Vervanging van artikel 6 van Wet 13 van 1944, soos gewysig deur artikels 2 en 3 van Wet 13 van 1953 en artikel 2 van Wet 93 van 1986

5. Artikel 6 van die Hoofwet word deur die volgende artikel vervang:

“Vergaderings van raad

6. (1) Die raad vergader nie minder nie as een keer elke vier maande op die tyd en plek en op die wyse wat die voorsitter van tyd tot tyd bepaal.

(2) Die voorsitter kan te eniger tyd 'n buitengewone vergadering van die raad belê op die tyd en plek en op die wyse deur hom of haar bepaal en moet op die skriftelike versoek van die besturende direkteur of twee ander lede, 'n buitengewone vergadering belê, welke vergadering binne twee weke nadat sodanige versoek ontvang is, moet plaasvind.

(3) Die raad kan die prosedure wat by 'n vergadering van die raad gevolg moet word in die *Staatskoerant* publiseer.

(4) By onstentenis van 'n publikasie van 'n prosedure kragtens subartikel (3), bepaal die persoon wat by 'n vergadering van die raad voorsit, die prosedure wat by so 'n vergadering gevolg moet word.

(5) (a) Die kworum vir 'n vergadering van die raad is die helfte van die lede plus een.

(b) Die besluit van die meerderheid van die aanwesige lede op 'n vergadering van die raad, is 'n besluit van die raad.

(c) In die geval van 'n staking van stemme oor enige aangeleentheid, het die persoon wat by die vergadering van die raad as voorsitter optree, benewens sy of haar beraadslagende stem ook 'n beslissende stem.

(6) Geen besluit wat deur die raad geneem of handeling wat op gesag van die raad verrig is, is ongeldig nie bloot omdat daar 'n toevallige vakature op die raad was of weens die feit dat enige persoon wat nie geregtig was om as 'n raadslid sitting te hê nie, toe die besluit geneem of die handeling gemagtig is, sitting op die raad geneem het.

(7) (a) Indien die raad 'n besluit neem op enige ander wyse as by 'n formele vergadering tree sodanige besluit onmiddellik in werking maar moet op skrif gestel word en by die eerste formele vergadering van die raad wat volg op die neem van die besluit, vir kennisname voorgelê word.

(b) Die raad hou skriftelik rekord van sy verrigtinge.”.

Substitution of section 7 of Act 13 of 1944, as substituted by section 2 of Act 13 of 1953 and section 2 of Act 93 of 1986

6. The following section is substituted for section 7 of the principal Act:

“Executive committees

7. (1) (a) The board may appoint committees consisting of as many 5
members of the board, staff of the bank and advisers to the bank as may be
deemed necessary to perform such functions or exercise such powers of the
board as the board may perform or exercise under this Act, and may at any
time dissolve or reconstitute such a committee.
(b) The chairperson of any such committee shall be a member of the 10
board.
(c) The provisions of section 5(3) and (4), 6(1) and (3) up to and
including (7) and 10 shall *mutatis mutandis* apply to any such committee.
(2) The board is not divested of any function or power conferred upon a 15
committee under subsection (1).
(3) Any decision of a committee performing a function or exercising a
power of the board shall be tabled at a board meeting and may be
withdrawn or amended by the board or referred back to such committee and
shall, until it has been so withdrawn or amended, be deemed to be a 20
decision of the board.”

Substitution of section 8 of Act 13 of 1944

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

“Advisory committees

8. The board may appoint committees consisting of as many members of 25
the board, staff of the bank, advisers to the bank and other persons as may
be deemed necessary to advise the board in general or on any particular
matter.”

Repeal of section 9 of Act 13 of 1944

8. Section 9 of the principal Act is repealed.

Substitution of section 10 of Act 13 of 1944, as amended by section 1 of Act 10 of 1952, section 3 of Act 47 of 1959, section 3 of Act 46 of 1965, section 1 of Act 5 of 1968, section 24 of Act 70 of 1968, section 46 of Act 97 of 1986 and section 9 of Act 51 of 1991 30

9. The following section is substituted for section 10 of the principal Act:

“Remuneration of members of board 35

10. A member of the board other than the managing director shall be paid
for his or her services as member such remuneration and allowances out of
the funds of the bank as determined by the Minister.”

Amendment of section 11 of Act 13 of 1944, as amended by section 46 of Act 97 of 1986 40

10. Section 11 of the principal Act is amended—

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

“[(1)] The [Minister] board may, upon such conditions as [he] it may
determine, appoint in respect of the bank or any branch of the bank, [not
more than three persons as] advisers to advise the bank in such matters 45
as [the board may refer] may be referred to them.”; and

(b) by the deletion of subsection (2).

Vervanging van artikel 7 van Wet 13 van 1944, soos vervang deur artikel 2 van Wet 13 van 1953 en artikel 2 van Wet 93 van 1986

6. Artikel 7 van die Hoofwet word deur die volgende artikel vervang:

“Uitvoerende komitees

- 5 7. (1) (a) Die raad kan komitees aanstel wat uit soveel lede van die raad, personeel van die bank en adviseurs van die bank bestaan wat nodig geag word om die werksaamhede te verrig of die bevoegdhede uit te oefen van die raad wat die raad kragtens hierdie Wet mag verrig of uitoefen en kan te eniger tyd sodanige komitee ontbind of hersaamstel.
- 10 (b) Die voorsitter van enige sodanige komitee is 'n lid van die raad.
- (c) Die bepalings van artikels 5(3) en (4), 6(1) en (3) tot en met (7) en 10, is *mutatis mutandis* van toepassing op enige sodanige komitee.
- (2) Die raad is nie ontdoen nie van enige werksaamheid of bevoegheid wat aan 'n komitee kragtens subartikel (1) opgedra is.
- 15 (3) Enige besluit van 'n komitee wat 'n werksaamheid verrig of 'n bevoegdheid van die raad uitoefen, moet by 'n vergadering van die raad ter tafel gelê word en kan deur die raad teruggetrek of gewysig word of na sodanige komitee terugverwys word en word, totdat dit aldus teruggetrek of gewysig word, geag 'n besluit van die raad te wees.”

20 **Vervanging van artikel 8 van Wet 13 van 1944**

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

“Adviserende komitees

- 25 8. Die raad kan komitees aanstel wat uit soveel lede van die raad, personeel van die bank, adviseurs van die bank en soveel ander persone wat nodig geag word, bestaan om die raad in die algemeen of met betrekking tot enige spesifieke aangeleentheid te adviseer.”

Herroeping van artikel 9 van Wet 13 van 1944

8. Artikel 9 van die Hoofwet word herroep.

- 30 **Vervanging van artikel 10 van Wet 13 van 1944, soos gewysig deur artikel 1 van Wet 10 van 1952, artikel 3 van Wet 47 van 1959, artikel 3 van Wet 46 van 1965, artikel 1 van Wet 5 van 1968, artikel 24 van Wet 70 van 1968, artikel 46 van Wet 97 van 1986 en artikel 9 van Wet 51 van 1991**

9. Artikel 10 van die Hoofwet word deur die volgende artikel vervang:

“Besoldiging van raadslede

- 35 10. Daar word aan elke lid van die raad, behalwe die besturende direkteur, die vergoeding en toelaes vir sy of haar dienste uit die fondse van die bank betaal wat die Minister bepaal.”

Wysiging van artikel 11 van Wet 13 van 1944, soos gewysig deur artikel 46 van Wet 97 van 1986

- 40 10. Artikel 11 van die Hoofwet word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

 “[(1)] Die [Minister] raad kan op die voorwaardes wat die raad bepaal, ten opsigte van die bank of enige tak van die bank [hoogstens drie persone as] adviseurs aanstel om die bank van advies te dien in verband met aangeleenthede wat [die raad] na hulle verwys word.”; en

45 (b) deur subartikel (2) te skrap.

Amendment of section 12 of Act 13 of 1944, as amended by section 2 of Act 41 of 1972 and Act 89 of 1985

11. Section 12 of the principal Act is amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “[(1)] No member of the board or official of the bank shall at any meeting [thereof] of the board or of any committee thereof or at a meeting of officials of the bank take part in the discussion of or vote upon, and no adviser shall [advise the bank] give any advice in connection with—
- (a) any application for an advance under this Act by any person who is related to that member, official or adviser within the third degree of affinity or [consanguinity] blood relationship or, if [such person] the applicant is a company, any director or shareholder thereof, or, if [such person] the applicant is a close corporation, any member thereof, who is related to that member, official or adviser within the third degree of affinity or [consanguinity] blood relationship; [or]
- (b) any such application by any person or who is a debtor or creditor of that member, official or adviser or in partnership with or in the employ of that member, official or adviser; or
- (c) any such application by any person who is a debtor or creditor under a mortgage bond of any body of persons, whether incorporated or not, of which that member, official or adviser is a director or under which he or she holds any office or position other than that of auditor.”; and
- (b) by the deletion of subsection (2).

Substitution of section 13 of Act 13 of 1944, as amended by section 9 of Act 42 of 1951, section 4 of Act 13 of 1953, section 2 of Act 60 of 1957, section 4 of Act 46 of 1965 and section 9 of Act 51 of 1991

12. The following section is substituted for section 13 of the principal Act:

“Appointment of staff

- 13. (1)** The Minister shall appoint a suitable person as managing director of the bank.
- (2)** The managing director shall—
- (a) be responsible for—
- (i) the management of the day-to-day affairs of the bank, subject to the directions of the board; and
- (ii) administrative control over the staff appointed under paragraph (b);
- (b) on such conditions as the board may determine, appoint general managers and other officials or contract with any person to supply such services as may be necessary to perform the work connected with the business of the bank;
- (c) be paid and pay staff such remuneration, allowances, subsidies and other service benefits in accordance with a remuneration structure as may be determined from time to time in consultation with the board.”.

Repeal of sections 14 and 14bis of Act 13 of 1944

13. Sections 14 and 14bis of the principal Act are repealed.

Amendment of section 21 of Act 13 of 1944, as amended by sections 5 and 6 of Act 47 of 1959, section 1 of Act 35 of 1961, section 1 of Act 14 of 1964, section 5 of Act 46 of 1965, section 3 of Act 41 of 1972, section 1 of Act 52 of 1975, section 1 of Act 109 of 1976, section 2 of Act 20 of 1980, section 1 of Act 88 of 1981, section 3 of Act 89 of 1985, section 6 of Act 88 of 1988, section 1 of Act 93 of 1988, sections 7 and 8 of Act 80 of 1989, section 17 of Act 108 of 1991 and section 1 of Act 24 of 1995

14. Section 21 of the principal Act is amended—

Wysiging van artikel 12 van Wet 13 van 1944, soos gewysig deur artikel 2 van Wet 41 van 1972 en artikel 2 van Wet 89 van 1985

11. Artikel 12 van die Hoofwet word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

5 “[(1)] Geen lid van die raad of beampte van die bank mag op 'n vergadering [daarvan] van die raad of van enige komitee daarvan of by 'n vergadering van beamptes van die bank aan besprekings deelneem of stem nie, en geen adviseur [mag die bank van advies dien nie] mag enige advies gee in verband met—

10 (a) 'n aansoek om 'n voorskot kragtens hierdie Wet deur 'n persoon aan wie daardie lid, beampte of adviseur deur bloed- of aanverwantskap binne die derde graad verwant is of, indien [bedoelde persoon] die applikant 'n maatskappy is, 'n direkteur of aandeelhouer daarvan of, indien [bedoelde persoon] die applikant 'n beslote korporasie is, 'n lid daarvan, aan wie daardie lid, beampte of adviseur deur bloed- of

15 (b) so 'n aansoek deur iemand wat skuldenaar of skuldeiser van daardie lid, beampte of adviseur is of iemand wat met daardie lid, beampte of adviseur in vennootskap is of by hom in diens is; of

20 (c) so 'n aansoek deur iemand wat ingevolge 'n verbandakte skuldenaar is van enige liggaam van persone, hetsy met regs persoonlikheid beklee al dan nie, waarvan daardie lid, beampte of adviseur 'n direkteur is of waarby hy of sy 'n ander amp of betrekking as die van ouditeur beklee.”; en

25 (b) deur die subartikel (2) te skrap.

Vervanging van artikel 13 van Wet 13 van 1944, soos gewysig deur artikel 9 van Wet 42 van 1951, artikel 4 van Wet 13 van 1953, artikel 2 van Wet 60 van 1957, artikel 4 van Wet 46 van 1965 en artikel 9 van Wet 51 van 1991

12. Artikel 13 van die Hoofwet word deur die volgende artikel vervang:

30 “Aanstelling van personeel

13. (1) Die Minister stel 'n bevoegde persoon as besturende direkteur van die bank aan.

(2) Die besturende direkteur—

35 (a) is verantwoordelik vir—

(i) die bestuur van die dag-tot-dag besigheid van die bank onderhewig aan die voorskrifte van die raad; en

(ii) administratiewe beheer oor die personeel kragtens paragraaf (b) aangestel;

40 (b) stel op die voorwaardes soos deur die raad bepaal, algemene bestuurders en ander beamptes aan, of gaan kontrakte aan met enige persoon vir die lewering van die dienste wat nodig is om die werk te verrig wat met die besigheid van die bank verband hou;

45 (c) word betaal en betaal die personeel die vergoeding, toelaes, subsidies en ander diensvoordele in ooreenstemming met 'n vergoedingsstruktuur wat van tyd tot tyd in oorleg met die raad bepaal word.”

Herroeping van artikels 14 en 14bis van Wet 13 van 1944, soos gewysig deur artikel 5 van Wet 13 van 1953 en artikel 1 van Wet 38 van 1963

13. Artikels 14 en 14bis van die Hoofwet word herroep.

50 Wysiging van artikel 21 van Wet 13 van 1944, soos gewysig deur artikels 5 en 6 van Wet 47 van 1959, artikel 1 van Wet 35 van 1961, artikel 1 van Wet 14 van 1964, artikel 5 van Wet 46 van 1965, artikel 3 van Wet 41 van 1972, artikel 1 van Wet 52 van 1975, artikel 1 van Wet 109 van 1976, artikel 2 van Wet 20 van 1980, artikel 1 van Wet 88 van 1981, artikel 3 van Wet 89 van 1985, artikel 6 van Wet 88 van 1988, artikel 1 van Wet 93 van 1988, artikels 7 en 8 van Wet 80 van 1989, artikel 55 17 van Wet 108 van 1991 en artikel 1 van Wet 24 van 1995

14. Artikel 21 van die Hoofwet word gewysig—

Act No. 21, 1998

LAND BANK AMENDMENT ACT, 1998

- (a) by the insertion of the following subparagraph after subparagraph (iiA) of paragraph (a) of subsection (1):
“(iiB) on the provision of such collateral or on such other conditions as may from time to time be determined by the board; or”;
- (b) by the insertion of the following paragraph after paragraph (c)[*ter*] of subsection (1):
“(c)*bis* to advance money to any joint venture, partnership or institution;”;
- (c) by the insertion of the following paragraph after paragraph (e)[*quat*] *ter* of subsection (1):
“(e)*quat* to make investments, either on its own or in conjunction with other bodies or persons involved in agriculture or agriculture-related activities;”; and
- (d) by the addition of the following paragraph after paragraph (g) of subsection (1):
“(g)*bis* to enter into agreements with financial intermediaries;”.

Amendment of section 23 of Act 13 of 1944, as amended by section 4 of Act 41 of 1972, section 2 of Act 85 of 1981 and section 4 of Act 89 of 1985

15. Section 23 of the principal Act is amended by the substitution of subsection (1) of the following subsection:

- “(1) No advance shall be made to any person, except—
- (a) upon a written application which shall be in the form prescribed by the board and shall indicate the purpose for which the advance is required; and
- [*(b)* upon a resolution of a properly constituted meeting of the board and after due consideration of the application for such advance,]
- (b)* [or] until the bond or other security which is proposed to be given in respect of the advance has been registered as required by law or otherwise completed, [and, where such other security consists of stock issued by the Republic Government, the cession thereof to the bank has been embodied in a deed which, together with the stock concerned, has been delivered to the bank] or until such conditions as the board may determine have been complied with.”.

Amendment of section 25 of Act 13 of 1944, as amended by section 8 of Act 47 of 1959, section 11 of Act 31 of 1969, section 3 of Act 88 of 1981 and Proclamation 147 of 1979

16. Section 25 of the principal Act is amended—

- (a) by the deletion of subparagraph (ii) of paragraph (a); and
- (b) by the addition of the following subsection, the existing subsection becoming subsection (1):
“(2) The board may deviate from the provisions of subsection (1) by determining alternative security or other conditions on which advances under this Act are made.”.

Repeal of sections 26, 26A and 26B of Act 13 of 1944

17. Sections 26, 26A and 26B are repealed.

Amendment of section 34 of Act 13 of 1944, as amended by section 15 of Act 47 of 1959, section 8 of Act 46 of 1965, section 9 of Act 5 of 1968, section 3 of Act 52 of 1975, section 5 of Act 89 of 1985 and section 3 of Act 93 of 1986

18. Section 34 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

- “(1) (a) Notwithstanding the provisions of section 25 the [board] bank may, [upon completion of a promissory note by a farmer] on the conditions that the board may determine make an advance to a farmer to enable him or her to defray any costs which, in the opinion of the [board] bank, are connected with the production, cultivation, gathering, processing or marketing of any crops by him or her or pay any debts incurred by him or her to defray such costs [or to] including

- (a) deur die volgende subparagraaf na subparagraaf (iiA) van paragraaf (a) van subartikel (1) in te voeg:
"(iiB) teen die verskaffing van sodanige sekuriteit of op sodanige ander voorwaardes soos van tyd tot tyd deur die raad bepaal; of";
- 5 (b) deur die volgende paragraaf na paragraaf (c)[*ter*] van subartikel (1) in te voeg:
"(c)bis om geld aan enige gesamentlike onderneming, vennootskap of instelling voor te skiet";
- 10 (c) deur die volgende paragraaf na paragraaf (e)[*quat*] *ter* van subartikel (1) in te voeg:
"(e)quat om beleggings, hetsy op sy eie of in medewerking met ander liggame of persone te maak wat betrokke is by landbou of landbouverwante aktiwiteite"; en
- 15 (d) deur die volgende paragraaf na paragraaf (g) van subartikel (1) in te voeg:
"(g)bis om ooreenkomste met finansiële tussengangers aan te gaan";

Wysiging van artikel 23 van Wet 13 van 1944, soos gewysig deur artikel 4 van Wet 41 van 1972, artikel 2 van Wet 85 van 1981 en artikel 4 van Wet 89 van 1985

15. Artikel 23 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 20 "(1) Geen voorskot word aan enigiemand verstrekkend, behalwe—
- (a) op skriftelike aansoek wat in die vorm moet wees wat die raad voorskryf en die doel moet aandui waarvoor die voorskot nodig is; en
- 25 [(b) ingevolge besluit van 'n behoorlik saamgestelde vergadering van die raad en na behoorlike oorweging van die aansoek om so 'n voorskot,]
- (b) [of] voordat die verband of ander sekuriteit wat ter versekering van die voorskot aangebied word, volgens voorskrif van die Wet geregistreer of andersins voltooi is [en, waar sodanige ander sekuriteit bestaan uit
- 30 effekte deur die Republiekregering uitgereik, die sessie daarvan deur die bank in 'n akte beliggaam is wat, tesame met die betrokke effekte, aan die bank oorhandig is nie] of totdat aan sodanige voorwaardes wat die raad mag bepaal, voldoen is."

Wysiging van artikel 25 van Wet 13 van 1944, soos gewysig deur artikel 8 van Wet 47 van 1959, artikel 11 van Wet 31 van 1969, artikel 3 van Wet 88 van 1981 en
 35 **Proklamasie 147 van 1979**

16. Artikel 25 van die Hoofwet word gewysig—

- (a) deur subparagraaf (ii) van paragraaf (a) te skrap; en
- (b) deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:
- 40 "(2) Die raad kan van die bepalings van subartikel (1) afwyk deur die vasstelling van alternatiewe sekuriteit of ander voorwaardes waarkragtens voorskotte ingevolge hierdie Wet toegestaan word."

Herroeping van artikels 26, 26A en 26B van Wet 13 van 1944

17. Artikels 26, 26A en 26B van die Hoofwet word herroep.

45 **Wysiging van artikel 34 van Wet 13 van 1944, soos gewysig deur artikel 15 van Wet 47 van 1959, artikel 8 van Wet 46 van 1965, artikel 9 van Wet 5 van 1968, artikel 3 van Wet 52 van 1975, artikel 5 van Wet 89 van 1985 en artikel 3 van Wet 93 van 1986**

18. Artikel 34 van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 50 "(1) (a) Ondanks die bepalings van artikel 25, kan die [*raad*] bank aan 'n boer [by voltooiing van 'n promesse deur hom] op die voorwaardes wat die raad bepaal 'n voorskot aan 'n boer verstrekkend ten einde hom of haar in staat te stel om die koste te bestry wat volgens die oordeel van die [*raad*] bank in verband staan met die produksie, bewerking, insameling, verwerking of bemarking van 'n oes
- 55 deur hom of haar of om skulde te delg wat deur hom of haar aangegaan is om

costs or debt relating to the [or to] purchase of livestock or farming machinery or other implements or equipment and [to install] the instalment of such machinery or equipment and property.

(b) Notwithstanding the provisions of any other law, any advance made under paragraph (a) to a person deemed to be a minor as the result of the customary marriage or customs of such a person, shall for the purposes of this Act be deemed to be an advance made to a person who is emancipated by law.' 5

Amendment of section 35 of Act 13 of 1944, as amended by section 17 of Act 47 of 1959

19. The following section is substituted for section 35 of the principal Act: 10

"Advances to co-operative societies and companies

35. (1) The bank may, on the conditions determined by the board, lend money to a co-operative society or a company.

(2) A loan in terms of subsection (1) shall only be made to a co-operative society or company involved in agriculture or agriculture-related activities or for the acquisition of property for agricultural purposes." 15

Amendment of section 38 of Act 13 of 1944, as amended by section 19 of Act 47 of 1959

20. The following section is substituted for section 38 of the principal Act:

"Security for advance to co-operative societies

38. (1) A [company] co-operative society to which any advance has been made under section *thirty-five*, may notwithstanding anything to the contrary contained in its memorandum, if any, and articles of association or regulations as security for that advance, cede to the bank all the [company's] co-operative society's right and title to— 25

(a) the amount of subscribed but unpaid capital and to the amount of any contingent liability attaching to its shares; and

(b) the amount of any debts owing or which may thereafter be owing to the [company] co-operative society.

(2) Such cession shall be in such form as the board may determine, shall be exempt from stamp duty, and shall— 30

(a) if the board so directs, be accompanied by a list, certified by two persons duly authorized thereto, showing as at the date of the cession—

(i) the names and addresses of all persons holding shares in the [company] co-operative society; 35

(ii) the number of shares registered in the name of each such person and the amount paid up in respect thereof;

(iii) the nominal value of such shares; and

(iv) the amount of any contingent liability attaching to the shares; and 40

(b) bind such of the agricultural produce of the member of the [company] co-operative society as was actually in the possession of, or in transit to the [company] co-operative society or its agents, and in respect of which the advance was made.

(3) Every list mentioned in paragraph (a) of subsection (2), shall, when certified as in that paragraph prescribed, be evidence in favour of the bank, that the persons mentioned therein are liable to pay the amount stated therein, and the board may enforce payment of that liability as if it were a liability mentioned in subsection (2) of section *sixty-three*. 45

(4) The bank may require lists similar to those mentioned in subsection 50

sodanige koste te bestry, insluitend koste of skulde [of] om lewende hawe of landboumasjinerie of ander -implemente of -toerusting aan te koop, en die installering van sodanige masjinerie of toerusting en eiendom [te installeer].

- 5 (b) Ondanks die bepalings van enige ander wet, word enige voorskot kragtens paragraaf (a) toegestaan aan 'n persoon wat geag word 'n minderjarige te wees as gevolg van 'n gewoonregtelike huwelik of gewoontes van sodanige persoon, vir die doeleindes van hierdie Wet geag 'n voorskot aan 'n volgens wet geëmansipeerde persoon, te wees."

10 Wysiging van artikel 35 van Wet 13 van 1944, soos gewysig deur artikel 17 van Wet 47 van 1959

19. Artikel 35 van die Hoofwet word deur die volgende artikel vervang:

"Voorskotte aan koöperatiewe verenigings en maatskappye

- 15 35. (1) Die bank kan, op die voorwaardes deur die raad bepaal, geld aan 'n koöperatiewe vereniging of 'n maatskappy leen.
(2) 'n Lening ingevolge subartikel (1) word slegs aan 'n koöperatiewe vereniging of maatskappy gemaak wat betrokke is by landbou of landbouverwante bedrywighede of vir die verkryging van eiendom vir landbou-doeleindes."

20 Wysiging van artikel 38 van Wet 13 van 1944, soos gewysig deur artikel 19 van Wet 47 van 1959

20. Artikel 38 van die Hoofwet word deur die volgende artikel vervang:

"Sekuriteit vir voorskotte aan koöperatiewe verenigings

- 25 38. (1) 'n [Maatskappy] Koöperatiewe vereniging waaraan kragtens artikel vyf en dertig 'n voorskot verstrekk is, kan, ondanks andersluidende bepalings in sy akte van oprigting (as daar is) en statute of regulasies, as sekuriteit vir daardie voorskot aan die bank al sy regte en aanspraak sedeer op—
(a) die bedrag van ingeskrewe maar onbetaalde kapitaal en die bedrag van enige voorwaardelike aanspreeklikheid wat aan sy aandele verbonde is; en
30 (b) die bedrag van skulde wat aan hom verskuldig is of later verskuldig mag word.
(2) So 'n sessie moet in die vorm wees wat die raad voorskryf en is nie aan seëlregte onderhewig nie, en—
35 (a) moet, as die raad dit gelas, vergesel gaan van 'n lys, wat gesertifiseer is deur twee persone wat behoorlik daartoe gemagtig is, en waarin—
(i) die name en adresse van alle persone wat aandele in die [maatskappy] koöperatiewe vereniging het;
(ii) die aantal aandele wat in die naam van elk van daardie persone geregistreer is en die bedrag wat daarop betaal is;
40 (iii) die nominale waarde van die aandele; en
(iv) die bedrag van enige voorwaardelike aanspreeklikheid wat aan die aandele verbonde is,
op die datum van die sessie vermeld; en
45 (b) verbind landboupprodukte van lede van die [maatskappy] koöperatiewe vereniging wat werklik in besit was van of onderweg was na die [maatskappy] koöperatiewe vereniging of sy agente, en ten opsigte waarvan die voorskot verstrekk is.
(3) Elke lys bedoel in paragraaf (a) van subartikel (2) is, wanneer dit volgens voorskrif van daardie paragraaf gesertifiseer is, bewys ten gunste van die bank dat die daarin genoemde persone vir die betaling van die daarin gemelde bedrae aanspreeklik is, en die raad kan betaling van die aanspreeklikheid afdwing asof dit 'n in subartikel (2) van artikel drie-en-sestig bedoelde aanspreeklikheid was.
50 (4) Die bank kan eis dat dergelike lyste as wat in subartikel (2) bedoel

(2), to be furnished to it from time to time in respect of any further shares which may be issued by the [company] co-operative society concerned, and the cession referred to in subsection (1) shall be deemed to include the shares appearing in such lists.

(5) When a [company] co-operative society has, in terms of subsection (1), ceded its right to an amount mentioned in paragraph (a) of that subsection, the board may, by notice in writing addressed to the [company] co-operative society at the place which it has mentioned to the board or to the bank as its address, prohibit the [company] co-operative society from effecting or registering, without the board's consent in writing, the transfer of any share in the [company] co-operative society which is not paid-up in full or to which any contingent liability attaches, and thereafter while the [company] co-operative society owes the bank any money by virtue of the advance which was secured by the cession in question, the [company] co-operative society shall not effect or register the transfer of any such share as aforesaid without the board's consent in writing.

(6) While a [company] co-operative society owes the bank any money by virtue of an advance mentioned in subsection (1)—

(a) all agricultural produce and all products manufactured by the [company] co-operative society from any agricultural produce; and

(b) all articles or substances purchased by the [company] co-operative society with money so advanced to it,

which are in the possession of or in transit to the [company] co-operative society or an agent of the [company] co-operative society, shall be deemed to have been pledged to the bank as effectually as if they had been expressly pledged and delivered to the bank, and any disposal thereof by or on behalf of the [company] co-operative society, without the consent in writing of the board, shall be null and void.

(7) The board may require a [company] co-operative society to furnish such further security for any advance aforesaid as the board may deem necessary in order that the advance may be adequately secured.”.

Amendment of section 39 of Act 13 of 1944

21. The following section is substituted for section 39 of the principal Act:

“Sale of produce by a co-operative society indebted to the bank under a cash credit account

39. Notwithstanding anything contained in any law or in the regulations of a co-operative society [or co-operative company], any produce delivered to that society [or company], and any product manufactured therefrom by the society [or company] shall, while such society [or company] is indebted to the bank in respect of an advance in the form of a cash credit account, be realisable only by the society [or company] in the ordinary course of its business or by the bank in the exercise of the powers conferred on it by this Act, and such produce or product, or the proceeds thereof shall not, while such debt with interest and costs remains unpaid, be attached in execution by any person other than the bank, except with the written consent of the bank.”.

Amendment of section 40 of Act 13 of 1944, as amended by section 20 of Act 47 of 1959

22. The following section is substituted for section 40 of the principal Act:

“Liability of members of co-operative society for advance in form of a cash credit account

40. (1) If an advance in the form of a cash credit account has been made by the bank to any co-operative [company] society—

word, van tyd tot tyd aan hom verstrekkend moet word ten opsigte van enige verdere aandele wat deur die betrokke [maatskappy] koöperatiewe vereniging uitgegee mag word, en die in subartikel (1) bedoelde sessie word geag die aandele wat in sodanige lysie verskyn, in te sluit.

5 (5) Wanneer 'n [maatskappy] koöperatiewe vereniging ooreenkomstig subartikel (1) sy reg tot 'n bedrag bedoel in paragraaf (a) van daardie subartikel gesedeer het, kan die raad deur skriftelike kennisgewing gerig aan die [maatskappy] koöperatiewe vereniging op die plek wat die [maatskappy] koöperatiewe vereniging aan die raad of die bank as sy
10 adres aangegee het, die [maatskappy] koöperatiewe vereniging verbied om, sonder skriftelike toestemming van die raad, die oordrag van 'n aandeel in die [maatskappy] koöperatiewe vereniging wat nie ten volle betaal is nie of waaraan 'n voorwaardelike aanspreeklikheid verbonde is, teweeg te bring of te registreer, en daarna mag die [maatskappy]
15 koöperatiewe vereniging solank hy aan die bank geld skuld ten opsigte van die voorskot wat deur die betrokke sessie verseker is, geen oordrag van 'n aandeel soos voormeld sonder skriftelike toestemming van die raad teweegbring of registreer nie.

(6) Solank as 'n [maatskappy] koöperatiewe vereniging aan die bank geld skuld op grond van 'n voorskot bedoel in subartikel (1), word—
20 (a) alle landbouprodukte en alle produkte wat deur die [maatskappy] koöperatiewe vereniging uit landbouprodukte vervaardig word; en
(b) alle artikels of stowwe deur die [maatskappy] koöperatiewe vereniging gekoop met geld wat aldus aan hom voorgeskiet is,
25 en wat in besit is van of onderweg is na die [maatskappy] koöperatiewe vereniging of 'n agent van die [maatskappy] koöperatiewe vereniging, geag net so daadwerklik aan die bank verpand te wees asof dit uitdruklik aan die bank verpand en oorhandig was, en is afstand daarvan deur of namens die [maatskappy] koöperatiewe vereniging, sonder skriftelike
30 toestemming van die raad, nietig.

(7) Die raad kan eis dat 'n [maatskappy] koöperatiewe vereniging vir 'n voorskot soos voormeld die verdere sekuriteit verstrekkend wat die raad nodig ag ten einde die voorskot voldoende te verseker.”

Wysiging van artikel 39 van Wet 13 van 1944

35 21. Artikel 39 van die Hoofwet word deur die volgende artikel vervang:

“Verkoop van produkte deur koöperatiewe vereniging wat op kaskredietrekening aan die bank geld skuld

39. Ondanks andersluidende bepalings van een of ander wet, of van die regulasies van 'n koöperatiewe vereniging [of koöperatiewe maatskappy,] mag, solank as daardie vereniging [of maatskappy] op kaskredietrekening geld aan die bank skuld, produkte wat aan die vereniging [of
40 maatskappy] gelewer is en produkte wat deur die vereniging [of maatskappy] daarvan vervaardig is, tot geld gemaak word alleen deur die vereniging [of maatskappy] in die gewone loop van sy besigheid of deur
45 die bank by die uitoefening van die bevoegdheid kragtens hierdie Wet aan hom verleen, en kan aldus gelewerde of vervaardigde produkte of die opbrings daarvan nie, terwyl daardie skuld met rente en koste nog nie betaal is, sonder skriftelike toestemming van die bank, deur iemand anders as die bank in beslag geneem word nie.

50 Wysiging van artikel 40 van Wet 13 van 1944, soos gewysig deur artikel 20 van Wet 47 van 1959

22. Artikel 40 van die Hoofwet word deur die volgende artikel vervang:

“Aanspreeklikheid van lede van koöperatiewe verenigings vir voorskot in vorm van kaskredietrekening

55 40. (1) Indien 'n voorskot in die vorm van 'n kaskredietrekening deur die bank aan 'n koöperatiewe [maatskappy] vereniging verstrekkend is—

- (a) every member of that **[company]** co-operative society shall, in addition to any other amount for which he or she may have become liable to the bank in respect of such advance, be liable to the bank as surety for the repayment of the advance, with interest and costs, by the **[company]** co-operative society, in an amount equal to the amount which he or she has received from the **[company]** co-operative society out of the advance or which has been paid out of the advance for any goods supplied or in respect of any services rendered to him or her by the **[company]** co-operative society; 5
- (b) such **[company]** co-operative society shall, whenever required by the bank to do so, furnish to the bank a list, certified by two persons duly authorized thereto, showing the name and address of every member of the **[company]** co-operative society who is liable to the bank in terms of paragraph (a), the amount in which he or she is so liable, and any other particulars which the bank may require. 10
- (2) Every such list so certified shall be evidence in favour of the bank that each person mentioned therein is so liable in the amount stated therein. 15
- (3) If any list required by the bank under paragraph (b) of subsection (1) is not furnished to the bank within thirty days after the date upon which the **[company]** co-operative society concerned was required to furnish such list, the members of the **[company]** co-operative society shall be jointly and severally liable to the bank in respect of the advance made to the **[company]** co-operative society. 20
- (4) The board shall—
- (a) in respect of the liability of any member of a co-operative **[company]** society under the provisions of subsection (1) of this section, have the same powers of recovery and obligations incidental thereto as it has in terms of section *sixty-three* in respect of any contingent liability attaching to shares; and 25
- (b) in respect of the liability of any such member under the provisions of subsection (3) of this section, have the powers of recovery and obligations incidental thereto which it would have had under this Act. **[had such company been a co-operative society.]** 30

Amendment of section 41 of Act 13 of 1944, as amended by section 21 of Act 47 of 1959 35

23. The following section is substituted for section 41 of the principal Act:

“Advances to co-operative societies to facilitate export of produce, and security for such advances

- 41.** (1) A co-operative **[company]** society which exports agricultural produce **[overseas]**, may, if authorized in the manner prescribed by its constitution, apply to the bank in a form prescribed by the board, for an advance from the bank in the form of a cash credit account, on such security as is hereinafter described, to enable the **[company]** co-operative society to meet the cost incidental to such export. 40
- (2) Such cost shall include the moneys expended or to be expended on packing materials, railage, port charges, shipping freight and all other expenditure reasonably incurred or to be incurred in placing and selling the produce on a market **[overseas]** outside the Republic of South Africa. 45
- (3) The application for the advance shall be signed by two persons duly authorized thereto, and when so signed shall bind the **[company]** co-operative society for the repayment of the advance and interest due to the bank and all charges incurred by the bank in recovering such advance and interest. 50

- (a) is elke lid van daardie **[maatskappy]** koöperatiewe vereniging, benewens enige ander bedrag waarvoor hy of sy ten opsigte van daardie voorskot teenoor die bank aanspreeklik mag geword het, teenoor die bank aanspreeklik as borg vir die terugbetaling van die voorskot, met rente en koste, deur die **[maatskappy]** koöperatiewe vereniging, tot 'n bedrag gelyk aan die bedrag wat hy of sy uit die voorskot van die **[maatskappy]** koöperatiewe vereniging ontvang het of wat deur die **[maatskappy]** koöperatiewe vereniging uit die voorskot betaal is vir goedere wat aan hom of haar verskaf of vir dienste wat aan hom of haar gelewer is;
- (b) moet die **[maatskappy]** koöperatiewe vereniging, telkens as die bank dit vereis, die bank voorsien van 'n lys wat gesertifiseer is deur twee persone wat behoorlik daartoe gemagtig is, waarin vermeld word die naam en adres van elke lid van die **[maatskappy]** koöperatiewe vereniging wat volgens paragraaf (a) teenoor die bank aanspreeklik is, die bedrag waarvoor hy of sy aldus aanspreeklik is, en alle ander besonderhede wat die bank mag vereis.
- (2) Elke aldus gesertifiseerde lys is bewys ten gunste van die bank dat elke daarin genoemde persoon aldus aanspreeklik is vir die bedrag wat daarin vermeld word.
- (3) Indien 'n lys wat kragtens paragraaf (b) van subartikel (1) deur die bank vereis is, nie binne dertig dae na die datum waarop daardie lys van die betrokke **[maatskappy]** koöperatiewe vereniging vereis is, aan die bank voorsien word nie, is die lede van die **[maatskappy]** koöperatiewe vereniging gesamentlik en afsonderlik teenoor die bank aanspreeklik ten opsigte van die voorskot wat aan die **[maatskappy]** koöperatiewe vereniging verstrekk is.
- (4) Die raad het—
- (a) ten opsigte van die aanspreeklikheid van 'n lid van 'n koöperatiewe [maatskappy] vereniging ingevolge die bepalings van subartikel (1) van hierdie artikel, dieselfde bevoegdhede tot verhaal en dieselfde daarmee in verband staande verpligtings as wat hy volgens artikel drie-en-sestig ten opsigte van voorwaardelike aanspreeklikheid verbonde aan aandele het; en
- (b) ten opsigte van die aanspreeklikheid van so 'n lid ingevolge die bepalings van subartikel (3) van hierdie artikel, dieselfde bevoegdhede tot verhaal en dieselfde daarmee in verband staande verpligtings as wat hy kragtens hierdie Wet sou gehad het, **[as daardie maatskappy 'n koöperatiewe vereniging was.]**".

40 **Wysiging van artikel 41 van Wet 13 van 1944, soos gewysig deur artikel 21 van Wet 47 van 1959**

23. Artikel 41 van die Hoofwet word deur die volgende artikel vervang:

"Voorskotte van koöperatiewe verenigings om uitvoer van produkte te vergemaklik

45 **41. (1)** 'n Koöperatiewe **[maatskappy]** vereniging wat landbouprodukte **[oorsee]** uitvoer, kan, indien hy volgens voorskrif van sy konstitusie daartoe gemagtig is, op 'n deur die raad voorgeskrewe vorm by die bank aansoek doen om 'n voorskot van die bank in die vorm van 'n kaskredietrekening, teen die sekuriteit wat hieronder beskryf word, ten einde die **[maatskappy]** koöperatiewe vereniging in staat te stel om die koste verbonde aan die uitvoer te dek.

50 (2) Bedoelde koste sluit in gelde wat aan verpakkingsmateriaal, spoorvrag, hawegelde en skeepsvrag uitgegee is of gaan word en alle ander onkoste wat redelikerwys beloop is of gaan word om die produkte op 'n **[oorsese mark]** 'n mark buite die Republiek van Suid-Afrika te plaas en te verkoop.

55 (3) Die aansoek om die voorskot moet onderteken wees deur twee persone wat behoorlik daartoe gemagtig is, en verbind, wanneer dit aldus onderteken is, die **[maatskappy]** koöperatiewe vereniging tot terugbetaling van die voorskot en rente aan die bank verskuldig en alle koste wat deur die bank gemaak word om die voorskot en rente te verhaal.

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(4) The board may grant such application on such conditions as it may determine, the rate of interest being such as is lawfully charged for the time being by the board for advances on cash credit accounts.

(5) No such advance shall be made except in respect of produce which is to be or has been exported [oversea] outside the Republic of South Africa, and which is consigned to or the sale whereof is controlled by a co-operative organisation [oversea] outside the Republic of South Africa approved by the board. 5

(6) Every such advance and the interest thereon shall be repayable to the bank within one year from the date thereof, and no further advance shall be made under this section to any [company] co-operative society as long as any prior advance thereunder and the interest thereon remain unpaid. 10

(7) Any such advance may be made on the security only of produce of any of the members of the [company] co-operative society, if the board is satisfied that such produce is to be exported and, in accordance with the [company's] co-operative society's constitution, is being sold through the [company] co-operative society: Provided that the board may, before making any such advance, require the [company] co-operative society to furnish other and additional security which it may think necessary adequately to secure the advance. 15 20

(8) As from the date of the advance and until the amount thereof and the interest due thereon and the aforesaid charges for the recovery thereof have been repaid to the bank, the ownership of the produce in respect of which the advance is made shall, notwithstanding that there has been no delivery thereof to the bank, become divested from the owner thereof and be vested in the bank as if it had been actually delivered to it. 25

(9) The proceeds of the sale of such produce [oversea] outside the Republic of South Africa shall also be deemed, as from the date of sale, to be vested in the bank or its agent or representative [oversea] outside the Republic of South Africa, and it shall be a breach of the conditions of the advance for the [company] co-operative society to direct or permit any such proceeds to be paid over without the board's consent to any person other than the bank or such agent or representative. 30

(10) Nothing in this section contained shall be construed as rendering the bank liable, either to the said owner, the [company] co-operative society, the purchaser or any other person, in respect of any contract of sale of the produce or in respect of any obligation for which a person is liable by reason of ownership. 35

(11) If the [company] co-operative society fails to pay when due, any amount for which it has become liable under this section, or to observe any of the conditions of the advance thereunder, the board may, after giving seven days' notice by registered letter addressed to the [company] co-operative society at the address recorded in the bank's books, without recourse to a court of law, seize and sell either by public auction or private treaty, any of the produce aforesaid forming the security for the advance, or so much thereof as will suffice to pay the amount then owing to the bank by the [company] co-operative society, and shall apply the proceeds of the sale to the liquidation or reduction of the amount and any expenses incurred by the board in connection with the seizure and sale. 40 45

(12) If part of the security is a cession in favour of the bank of all the [company's] co-operative society's right and title to the amount of subscribed but unpaid capital and to the amount of any contingent liability attaching to shares and the amount of any debts owing or which may thereafter be owing to the company, the provisions of section *sixty-three* shall *mutatis mutandis* apply in respect of the realization thereof." 50 55

(4) Die raad kan so 'n aansoek toestaan op die voorwaardes wat hy bepaal, en rente moet daarop betaal word teen die koers wat alsdan wettiglik deur die raad vir voorskotte op kaskredietrekening bereken word.

5 (5) So 'n voorskot word nie verstrekk nie behalwe ten opsigte van produkte wat [oorsee] uitgevoer is of gaan word buite die Republiek van Suid-Afrika en wat aan 'n deur die raad goedgekeurde oorsese koöperatiewe organisasie buite die Republiek van Suid-Afrika versend, of waarvan die verkoop deur so 'n organisasie beheer word.

10 (6) Elke sodanige voorskot, en die rente daarop, is aan die bank terugbetaalbaar binne een jaar vanaf die datum daarvan, en geen verdere voorskot word kragtens hierdie artikel aan 'n [maatskappy] koöperatiewe vereniging toegestaan solank as enige vorige voorskot daaronder, en die rente daarop, nie terugbetaal is nie.

15 (7) So 'n voorskot kan verstrekk word uitsluitlik teen sekuriteit van produkte van een of meer lede van die [maatskappy] koöperatiewe vereniging indien die raad bevind dat daar produkte uitgevoer gaan word en, ooreenkomstig die konstitusie van die [maatskappy] koöperatiewe vereniging deur tussenkoms van die [maatskappy] koöperatiewe vereniging verkoop word: Met dien verstande dat die raad, voordat hy so 'n voorskot verstrekk verder en meer sekuriteit, wat hy nodig mag ag om die voorskot voldoende te verseker, van die [maatskappy] koöperatiewe vereniging kan vereis.

20 (8) Vanaf die datum van die voorskot, en totdat die bedrag daarvan en die daarop verskuldigde rente en voormelde koste vir die verhaal daarvan, aan die bank terugbetaal is, word die eiendomsreg op die produkte ten opsigte waarvan die voorskot verstrekk is, hoewel dit nie aan die bank gelewer is nie, aan die eienaar daarvan onttrek en in die bank gevestig, asof dit werklik aan die bank gelewer was.

25 (9) Die opbringste van verkoop van daardie produkte [oorsee] buite die Republiek van Suid-Afrika word ook geag vanaf die datum van verkoping in die bank of sy [oorsese] agent of verteenwoordiger, buite die Republiek van Suid-Afrika gevestig te wees, en die [maatskappy] koöperatiewe vereniging maak hom aan verbreking van die voorwaardes van die voorskot skuldig indien hy gelas of toelaat dat daardie opbringste sonder die raad se toestemming aan iemand anders as die bank of sy agent of verteenwoordiger oorbetaal word.

30 (10) Die bepalings van hierdie artikel word nie uitgelê om aan die bank aanspreeklikheid op te lê, hetsy teenoor die genoemde eienaar, die [maatskappy] koöperatiewe vereniging die koper of iemand anders, ten opsigte van enige kontrak in verband met die verkoop van die produkte of ten opsigte van enige verpligting waarvoor 'n persoon op grond van eiendomsreg aanspreeklik is nie.

35 (11) Indien die [maatskappy] koöperatiewe vereniging versuim om 'n bedrag waarvoor hy ingevolge hierdie artikel aanspreeklik geword het op die vervaldag te betaal, of om aan 'n voorwaarde van die voorskot daaronder te voldoen, kan die raad sewe dae nadat hy per geregistreerde brief gerig aan die [maatskappy] koöperatiewe vereniging aan die adres in die boeke van die bank aangeteken, kennis gegee het, sonder geregtelike proses voormelde produkte wat as sekuriteit vir die voorskot dien, of soveel daarvan as wat voldoende is om die dan aan die bank deur die [maatskappy] koöperatiewe vereniging verskuldigde bedrag te betaal, in beslag neem en by publieke veiling of uit die hand verkoop en die opbringste van die verkoping aanwend om daardie bedrag en enige onkoste deur die raad in verband met die beslaglegging en verkoop behoort, af te betaal of te verminder.

40 (12) Indien deel van die sekuriteit bestaan uit 'n sessie ten gunste van die bank van al die [maatskappy] koöperatiewe vereniging se reg en aanspraak op die bedrag van ingeskrewe maar onbetaalde kapitaal en op die bedrag van enige voorwaardelike aanspreeklikheid verbonde aan aandele en die bedrag van skulde wat aan die [maatskappy] koöperatiewe vereniging verskuldig is of daarna verskuldig mag word, is die bepalings van artikel drie-en-sestig *mutatis mutandis* van toepassing ten opsigte van die tot geld maak daarvan.”.

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Amendment of section 42 of Act 13 of 1944, as amended by section 42 of Act 47 of 1959

24. The following section is substituted for section 42 of the principal Act:

“Guarantee of contracts of co-operative societies

42. (1) The board may guarantee the performance of any contract, 5
entered into or to be entered into—

- (a) by any co-operative society [or company], whether jointly with any other society [or company], or otherwise; or
- (b) by any person or co-operative society [or company] approved by the board and acting on behalf of any one or more co-operative societies 10
[or companies],

and relating to the supply of produce or to payment for grain bags and farming requisites generally or to the repayment of loans or to any other business which the society [or company] concerned may lawfully perform: Provided that any such guarantee in respect of a contract referred to in paragraph (b) shall be limited to the extent to which a co-operative society [or company] is interested in the performance of that contract. 15

(2) In the event of the failure of any such person or society [or company] to carry out the term of any such contract in so far as the person or society [or company] is liable to do so, or to conduct the business which is the subject of that contract to the satisfaction of the board, the board may complete the contract or abandon the same on such terms as it may be able to arrange or (in the case of a contract referred to in paragraph (b) of subsection (1)) as it may determine, and— 20

- (a) in the case of any such contract referred to in paragraph (a) of subsection (1), recover from the society [or company] which is in default, and its members, any loss sustained by the bank; or
- (b) in the case of any such contract referred to in paragraph (b) of the subsection, recover from every society [or company] on whose behalf the relevant guarantee was given, and its members, its shares of any such loss, 30

in the same manner as an advance in the form of a cash credit account made by the bank to a co-operative society [or company], may be recovered from the society [or company] and its members under the provisions of this Act, and any such provisions relating to the recovery of any such advance shall *mutatis mutandis* apply in respect of the recovery of any such loss. 35

(3) The co-operative society [or company] shall in respect of any guarantee given under this section indemnify the bank to the extent of its interests in the contract, and any such indemnity shall, subject to the provisions of subsections (1) and (2), if signed by two persons duly authorized thereto, bind the society [or company] and all the members thereof. 40

(4) The society [or company] shall in respect of any guarantee given under this section, pay to the bank a fee to be determined by the board, not exceeding one-fifth of one per cent on the amount guaranteed, but no other charge or fee shall be payable in respect of such guarantee and no stamp duty shall be payable in respect of such guarantee or of any indemnity given under subsection (3).” 45

Insertion of section in Act 13 of 1944

25. The following section is inserted after section 45*bis* of the principal Act: 50

“Advances to financial intermediaries, joint ventures, partnerships, trusts and associations

45*ter*. Notwithstanding the provisions of section 25, the bank may, on the conditions that the board may determine, lend money—

Wysiging van artikel 42 van Wet 13 van 1944, soos gewysig deur artikel 22 van Wet 47 van 1959

24. Artikel 42 van die Hoofwet word deur die volgende artikel vervang:

“Waarborg van kontrakte van koöperatiewe verenigings

- 5 **42.** (1) Die raad kan die nakoming waarborg van 'n kontrak aangegaan of aangegaan te word—
- (a) deur 'n koöperatiewe vereniging [**of maatskappy**], hetsy saam met 'n ander vereniging [**of maatskappy**] of andersins; of
- 10 (b) deur 'n persoon of koöperatiewe vereniging [**of maatskappy**] wat deur die raad goedgekeur is en wat namens een of meer koöperatiewe verenigings [**of maatskappye**] optree,
- en wat betrekking het op die lewering van produkte of betaling van graansakke en landboubenodighede in die algemeen of die terugbetaling van lenings of op ander besigheid wat die betrokke vereniging [**of maatskappy**] wettig kan verrig: Met dien verstande dat so 'n waarborg ten
- 15 opsigte van 'n kontrak in paragraaf (b) bedoel, beperk word tot die mate waarin 'n koöperatiewe vereniging [**of maatskappy**] by die nakoming van daardie kontrak belang het.
- (2) Ingeval so 'n persoon, vereniging [**of maatskappy**] in gebreke bly om die bepalings van so 'n kontrak na te kom vir sover daardie persoon, vereniging [**of maatskappy**] daartoe verplig is, of om die besigheid wat die onderwerp van die kontrak is tot bevrediging van die raad te dryf, kan die raad die kontrak uitvoer of laat verval op die voorwaardes wat hy in staat mag wees om te reël of (in die geval van 'n kontrak in paragraaf (b)
- 20 van subartikel (1) bedoel) wat hy mag bepaal, en—
- (a) in die geval van 'n kontrak in paragraaf (a) van subartikel (1) bedoel, op die vereniging [**of maatskappy**] wat in gebreke gebly het, en sy lede, enige verlies verhaal wat die bank gely het; of
- (b) in die geval van 'n kontrak in paragraaf (b) van daardie subartikel
- 25 bedoel, op elke vereniging [**of maatskappy**] ten behoeve waarvan die betrokke waarborg gegee is, en sy lede, sy aandeel van daardie verlies verhaal,
- op dieselfde wyse as wat 'n voorskot in die vorm van 'n kaskredietrekening deur die bank aan 'n koöperatiewe vereniging [**of maatskappy**]
- 30 verstrek, kragtens die bepalings van hierdie Wet op die vereniging [**of maatskappy**] en sy lede verhaal kan word, en al die bedoelde bepalings met betrekking tot die verhaal van so 'n voorskot is *mutatis mutandis* ten opsigte van die verhaal van so 'n verlies van toepassing.
- (3) Die koöperatiewe vereniging [**of maatskappy**] moet die bank ten opsigte van 'n waarborg kragtens hierdie artikel gegee, vrywaar in die mate waarin hy by daardie kontrak belang het, en so 'n vrywaring wat onderteken is deur twee persone wat behoorlik daartoe gemagtig is, verbind, behoudens die bepalings van subartikels (1) en (2), die vereniging [**of maatskappy**] en al sy lede.
- 35 (4) Die vereniging [**of maatskappy**] moet ten opsigte van 'n waarborg wat kragtens hierdie artikel gegee word, aan die bank die gelde betaal wat die raad vasstel, maar hoogstens een-vyfde van een persent van die gewaarborgde bedrag, en geen ander koste of gelde is ten opsigte van so 'n waarborg betaalbaar nie, en geen seëlregte is ten opsigte van so 'n
- 40 waarborg of 'n vrywaring wat volgens subartikel (3) verstrek word, betaalbaar nie.”

Invoeging van artikel in Wet 13 van 1944

25. Die volgende artikel word in die Hoofwet na artikel 45*bis* ingevoeg:

- 55 **“Voorskotte aan finansiële tussengangers, gesamentlike ondernemings, trusts en vrywillige verenigings**

45ter. Ondanks die bepalings van artikel 25, kan die bank op die voorwaardes wat die raad bepaal, geld leen—

- (a) to financial intermediaries in order to facilitate the advancement of money or the extension of credit by such intermediaries to the public or a sector of the public involved in agriculture or agriculture-related activities or for the acquisition of property for agricultural purposes;
- (b) to any joint venture, partnership or institution in order to enhance agriculture or any agriculture-related activity or for the acquisition of property for agricultural purposes.” 5

Substitution of section 63 of Act 13 of 1944, as amended by section 27 of Act 47 of 1959

26. The following section is substituted for section 63 of the principal Act: 10

“Remedies in respect of advances to co-operative societies

63. (1) If a [company] co-operative society indebted to the bank—

- (a) is dissolved for any reason whatsoever; or
- (b) is removed from the register of co-operative [companies] societies kept by the registrar; or 15
- (c) fails to observe the conditions of any advance made by the board; or
- (d) fails to pay any amount upon due date; or
- (e) fails to make payment to the bank when required to do so in accordance with subsection (3) of section *thirty-six*; or
- (f) has ceased, in the opinion of the board, to carry on business; or 20
- (g) was established for a period and that period has expired, the board may, after giving seven days' notice by registered letter, addressed to the [company] co-operative society at the address recorded in the bank's books, and after due notice to the mortgagees, without recourse to a court of law, seize and sell, either by public auction or by private treaty, 25 any or all of the [company's] co-operative society's assets which have been specially mortgaged to the bank, and exercise, in such order as it shall determine, any one or all of the powers vested in it by virtue of the cession mentioned in subsection (1) of section *thirty-eight*.

(2) If any person, whose liability to pay any subscribed but unpaid capital or any contingent liability attaching to shares, has accrued in terms of the [company's] co-operative society's memorandum, if any, and articles of association or regulations, fails, upon written demand being made by the board, to pay such amount within seven days after the date of demand, the board may, after notice to the mortgagees and without recourse to a court of law, seize and sell through the sheriff so much of the immovable or movable property of such person as may appear to be necessary to make good the amount including the costs incurred by such seizure and sale. 30 35

(3) The board in having recourse to the remedies provided by this section, shall, in every case sell as aforesaid movable property before 40 selling immovable property, and the provisions of paragraph (c) of subsection (2) of section *fifty-five* and the proviso to that subsection shall apply to any immovable property so sold: Provided that, if any property so sold is not specially hypothecated to the bank, but is specially hypothecated to some other person, or is subject in favour of some other person to a 45 hypothecation of a date prior to any hypothecation in favour of the bank, the board shall pay to such person the proceeds of such sale (after deducting any costs incurred by the bank in connection therewith) or so much thereof as may be owing to that person under the deed of hypothecation.

- 5 (a) aan finansiële tussengangers ten einde die voorskiet van geld of die uitbreiding van krediet deur sulke tussengangers aan die publiek of deel van die publiek wat betrokke is by landbou of landbouverwante aktiwiteite of vir die verkryging van eiendom vir landboudoeleindes te vergemaklik;
- (b) aan enige gesamentlike onderneming, vennootskap of instelling ten einde landbou of enige landbouverwante aktiwiteite te bevorder of vir die verkryging van eiendom vir landboudoeleindes.”

Vervanging van artikel 63 van Wet 13 van 1944 soos gewysig deur artikel 27 van Wet 47 van 1959

26. Artikel 63 van die Hoofwet word deur die volgende artikel vervang:

“Regsmiddels ten opsigte van voorskotte aan koöperatiewe verenigings

15 **63.** (1) Indien 'n [maatskappy] koöperatiewe vereniging wat aan die bank geld skuld—

- (a) om een of ander rede ontbind word; of
- (b) verwyder word van die register van koöperatiewe [maatskappye] verenigings wat deur die registrateur gehou word; of
- 20 (c) versuim om die voorwaardes van 'n voorskot deur die raad verstrek, na te kom; of
- (d) versuim om enige bedrag op die vervaldag te betaal; of
- (e) versuim om, wanneer hy ooreenkomstig subartikel (3) van artikel ses-en-dertig daartoe aangesê word, betaling aan die bank te doen; of
- 25 (f) volgens die raad se oordeel opgehou het om besigheid te doen; of
- (g) vir 'n tydperk gestig was en daardie tydperk verstryk het, kan die raad, na sewe dae kennisgewing per geregistreerde brief, gerig aan die [maatskappy] koöperatiewe vereniging aan die adres in die boeke van die bank aangeteken, en na behoorlike kennisgewing aan die verbandnemers, sonder geregtelike prosesse enige van die bates of al die bates van die [maatskappy] koöperatiewe vereniging wat spesiaal aan die bank verhipotekeer is, in beslag neem en by publieke veiling of uit die hand
- 30 verkoop, en, in die volgorde wat die raad bepaal, een of meer van die bevoegdhede uit kragte van die in subartikel (1) van artikel agt-en-dertig bedoelde sessie aan hom verleen, uitoefen.

35 (2) Indien iemand deur wie 'n bedrag ten opsigte van aanspreeklikheid weens ingeskrewe maar onbetaalde kapitaal of voorwaardelike aanspreeklikheid verbonde aan aandele, ingevolge die memorandum (as daar is) en akte van oprigting of regulasies van die [maatskappy] koöperatiewe vereniging betaalbaar geword het, versuim om op skriftelike aansegging deur die raad, daardie bedrag binne sewe dae na die datum van die aansegging te betaal, kan die raad, na kennisgewing aan die verbandnemers, en sonder geregtelike prosesse, deur die balju soveel van die roerende of onroerende goed van bedoelde persoon in beslag neem en verkoop as wat nodig mag lyk om die bedrag, met inbegrip van die koste

40 in verband met die inbeslagneming en verkoping beloop, te dek.

45 (3) Die raad moet, wanneer hy van die in hierdie artikel bepaalde regsmiddels gebruik maak, in elke geval roerende goed soos voormeld verkoop voordat hy tot die verkoping van onroerende goed oorgaan, en die bepalinge van paragraaf (c) van subartikel (2) van artikel vyf-en-vyftig, en van die voorbehoudsbepaling by daardie subartikel is op aldus verkoopte onroerende goed van toepassing: Met dien verstande dat, indien aldus verkoopte eiendom nie spesiaal aan die bank verhipotekeer is nie, maar spesiaal aan iemand anders verhipotekeer is, of ten gunste van iemand anders onderhewig is aan 'n hipoteek van 'n vroeër datum as enige

55 hipoteek ten gunste van die bank, die raad die opbrings van bedoelde verkoping (na aftrekking van alle koste deur die bank in verband daarmee beloop), of soveel daarvan as wat volgens die hipoteekakte aan bedoelde persoon verskuldig mag wees, aan hom moet betaal.

(4) The persons liable to pay any subscribed but unpaid capital or any contingent liability attaching to shares, shall be the persons whose names appear on the list of shareholders furnished by the **[company]** co-operative society at the time of signing the cession mentioned in subsection (1) of section *thirty-eight*, or from time to time thereafter, and they shall be liable to the extent stated in those lists: Provided that if any shares have, after the signing of such cession, been transferred with the board's written consent, the transferee, and not the person mentioned in any such list, shall be liable in respect of the shares so transferred. 5

(5) All amounts collected by the board and, subject to the provisions of subsection (3) of this section, the proceeds of the sale of immovable or movable property, shall be employed to reduce or liquidate the **[company's]** co-operative society's debt to the bank, and any surplus after liquidation of such debt shall be paid over to the **[company]** co-operative society or its legal representative. 10 15

(6) For the purposes of this section 'debt' includes, in addition to an advance and the interest thereon, the expenses incurred by the board in making the advance and in recovering it with interest as aforesaid."

Transitional provisions

27. (1) The board which is in office at the time of the promulgation of this Act shall be deemed to be the board appointed in terms of section 4 of the principal Act for the remainder of its members' original period of office. 20

(2) The person who is chairperson at the time of the promulgation of this Act shall be the managing director of the bank for the remainder of his or her term of office and the Minister shall designate a substituting chairperson in terms of section 4 of the principal Act. 25

Repeal and amendment of laws

28. (1) The laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column thereof.

(2) Notwithstanding the provisions of subsection (1)— 30

- (a) any application received under section 10 of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), before the commencement of this Act, shall be dealt with as if the said section had not been repealed; and
- (b) any process or action not yet finalised under Part III of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), on the date of commencement of this Act, shall be dealt with as if the said Part had not been repealed. 35

Short title

29. This Act is called the Land Bank Amendment Act, 1998.

(4) Die persone wat aanspreeklik is om ingeskrewe maar onbetaalde kapitaal of voorwaardelike aanspreeklikheid verbonde aan aandele te betaal, is die persone van wie die name verskyn op die lys van aandeelhouders wat tydens die ondertekening van die in subartikel (1) van artikel *agt-en-dertig* bedoelde sessie, of van tyd tot tyd daarna, deur die [maatskappy] koöperatiewe vereniging verstrekkend is, en bedoelde persone is aanspreeklik in die mate wat in daardie lys aangegee word: Met dien verstande dat, indien enige aandele na die ondertekening van die sessie met die raad se skriftelike toestemming oorgedra is, die persoon aan wie die oordrag geskied het, ten opsigte van die aldus oorgedraagde aandele aanspreeklik is, en nie die persoon wat in so 'n lys genoem word nie.

(5) Alle bedrae deur die raad ingevorder en, behoudens die bepalinge van subartikel (3) van hierdie artikel, die opbringe van die verkoop van onroerende of roerende goed, moet ter vermindering of vereffening van die [maatskappy] koöperatiewe vereniging se skuld aan die bank aangewend word, en enige bedrag wat oorbly nadat die skuld vereffen is, moet aan die [maatskappy] koöperatiewe vereniging of sy wetlike verteenwoordiger oorbetaal word.

(6) By die toepassing van hierdie artikel, word onder "skuld" ingegrepe, benewens 'n voorskot en die rente daarop, ook die koste deur die raad beloop in verband met die verstrekking van die voorskot en die verhaal daarvan met rente soos voormeld.

Oorgangsbepalings

27. (1) Die raad wat ten tyde van die afkondiging van hierdie Wet funksioneer, word geag die raad te wees wat ingevolge artikel 4 van die Hoofwet aangestel is vir die oorblywende tydperk van die lede se oorspronklike ampstermyn.

(2) Die persoon wat voorsitter is ten tyde van die afkondiging van hierdie Wet word die besturende direkteur van die bank vir die oorblywende gedeelte van sy of haar ampstermyn en die Minister wys 'n plaasvervangende voorsitter ingevolge die bepalinge van artikel 4 van die Hoofwet aan.

Herroeping en wysiging van wette

28. (1) Die wette in die Bylae vermeld, word hierby herroep of gewysig in die mate in die derde kolom daarvan uiteengesit.

(2) Ondanks die bepalinge van subartikel (1) word—

(a) met enige aansoek ontvang kragtens artikel 10 van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966), voor die inwerkingtreding van hierdie Wet, gehandel asof genoemde artikel nie herroep is nie; en

(b) met enige prosesse of aksie wat op die datum van inwerkingtreding van hierdie Wet nog nie kragtens Deel III van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966), gefinaliseer is nie, gehandel asof genoemde Deel nie herroep is nie.

Kort titel

29. Hierdie Wet heet die Wysigingswet op die Landbank, 1998.

SCHEDULE**LAWS REPEALED OR AMENDED**

No. and year of law	Short title	Extent of repeal or amendment
Act No. 28 of 1966	Agricultural Credit Act, 1966	1. Section 1 is hereby amended by— (a) the insertion after the definition of “Director-General” of the following definition: “ ‘financial intermediary’ means a financial intermediary as defined in section 2 of the Land Bank Act, 1944 (Act No. 13 of 1944);”; and (b) the deletion of the definitions of “board”, “chairman of the board” and “magistrate”. 2. The repeal of Part I, sections 10, 10A, 10B, 10C, 13, 20, Part III, sections 47(a), (b), (c) and (d), 48(1)(a) and 52. 3. The amendment of section 20A— (a) by the substitution for paragraph (b) in subsection (1) of the following paragraph: “(b) any interest earned in terms of funds invested with the Public Investment Commissioners”; (b) by the deletion of paragraph (c); and (c) by the substitution for subsection (3) of the following subsection: “(3) The account shall be debited with— (a) the purchase price of immovable property purchased by the Minister in terms of section 37(3); (b) any amount as determined by the Minister from time to time, to be utilised by the Land Bank under the Land Bank Act, 1944 (Act No. 13 of 1944): Provided that the Land Bank— (i) shall primarily utilise such moneys for the benefit of the historically disadvantaged; and (ii) may, notwithstanding anything to the contrary in the said Act, make grants from such moneys or utilise such moneys for the purposes of capacity building, training and to facilitate the establishment and operation of financial intermediaries; and (c) any amount reimbursed by the direction of the Director-General because the account in his or her opinion has been erroneously credited therewith.”; and (d) by the substitution for subsection (5) of the following subsection: “(5) Moneys standing to the credit of the account which in the opinion of the Minister with the concurrence of the Minister of Finance are not required

BYLAE

WETTE HERROEP OF GEWYSIG

No. en jaar van Wet	Kort titel	In hoeverre herroep of gewysig
Wet No. 28 van 1966	Wet op Landboukrediet, 1966	1. Artikel 1 word gewysig deur— (a) na die woordskrywing van "Direkteur-generaal" die volgende woordskrywing in te voeg: " 'finansiële tussenganger' beteken 'n finansiële tussenganger soos omskryf in artikel 2 van die Landbankwet, 1944 (Wet No. 13 van 1944);"; en (b) deur die woordskrywing van "land-dros", "raad" en "voorsitter van die raad" te skrap. 2. Die herroeping van Deel I, artikels 10, 10A, 10B, 10C, 13, 20, Deel III, artikels 47(a), (b), (c) en (d), 48(1)(a) en 52. 3. Die wysiging van artikel 20A— (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang: "(b) enige rente verdien op fondse by die Openbare Beleggingskommissaris se belê"; (b) deur paragraaf (c) te skrap; en (c) deur subartikel (3) deur die volgende subartikel te vervang: "(3) Die rekening word gedebiteer met— (a) die aankoopprys van onroerende goed deur die Minister kragtens artikel 37(3) aangekoop; (b) 'n bedrag soos van tyd tot tyd deur die Minister bepaal, om kragtens die Landbankwet, 1944 (Wet No. 13 van 1944), deur die Landbank aangewend te word: Met dien verstande dat die Landbank— (i) sodanige bedrag hoofsaaklik aanwend tot voordeel van die histories minderbevoorregtes; en (ii) niesteenstaande enigiets tot die teendeel in genoemde wet vervat, toekennings vanuit sodanige bedrag kan maak of sodanige bedrag kan aanwend om die vermoë van finansiële tussengangers uit te brei, vir opleiding en om die vestiging en werking van finansiële tussengangers te bevorder; en (c) enige bedrag wat in opdrag van die Direkteur-generaal terugbetaal word omdat die rekening na sy of haar oordeel foutiewelik daarmee gekrediteer is."; en (d) deur subartikel (5) deur die volgende subartikel te vervang: "(5) Geld waarmee die rekening gekrediteer is en wat na die oordeel van die Minister, met die instemming van die Minister van Finansies, nie vir onmiddellike gebruik vir die doeleindes

Act No. 21, 1998**LAND BANK AMENDMENT ACT, 1998**

No. and year of law	Short title	Extent of repeal or amendment
		for immediate use as contemplated in subsection (3), shall be invested with the Public Investment Commissioners and may be withdrawn when required for the purposes mentioned in that subsection."
Act No. 45 of 1968	Agricultural Credit Amendment Act, 1968	Section 2.
Act No. 66 of 1970	Agricultural Credit Amendment Act, 1970	Sections 2(a), 2(b), 3, 4(a), 4(b), 5(a), 5(b), 10(a), 10(b), 11(a), 11(b), 15 and 19.
Act No. 10 of 1971	Agricultural Credit Amendment Act, 1971	Sections 2(1) and 4.
Act No. 15 of 1972	Agricultural Credit Amendment Act, 1972	Sections 1 and 2(1).
Act No. 62 of 1973	General Law Amendment Act, 1973	Section 32.
Act No. 67 of 1979	Agricultural Credit Amendment Act, 1979	Sections 1, 2(a) and 2(b).
Act No. 27 of 1980	Agricultural Credit Amendment Act, 1980	Sections 2(a), 2(b) and 3.
Act No. 73 of 1981	Agricultural Credit Amendment Act, 1981	Section 2.
Act No. 67 of 1982	Second Agricultural Credit Amendment Act, 1982	Sections 2, 3 and 4.
Act No. 42 of 1983	Agricultural Credit Amendment Act, 1983	Section 1(a).
Act No. 51 of 1987	Agricultural Credit Amendment Act (House of Assembly), 1987	Sections 1(1), 1(d), 1(e), 1(f), 2(a), 2(b), 3(a), 3(b), 4(a), 4(c), 5, 6, 7(a), 7(b), 8, 12(a), 12(b), 14, 15, 17, 19(a), 19(b), 19(c), 19(d), 20, 21, 22, 23, 24, 25, 35(b) and 36.
Act No. 53 of 1993	Agricultural Credit Amendment Act (House of Assembly), 1993	The whole.

WYSIGINGSWET OP DIE LANDBANK, 1988

Wet No. 21, 1998

No. en jaar van Wet	Kort titel	In hoeverre herroep of gewysig
		van subartikel (3) nodig is nie, moet by die Openbare Beleggingskommissaris se belê word en kan opgevra word wanneer dit nodig is vir die doeleindes in daardie subartikel bedoel.”.
Wet No. 45 van 1968	Wysigingswet op Landboukrediet, 1968	Artikel 2.
Wet No. 66 van 1970	Wysigingswet op Landboukrediet, 1970	Artikels 2(a), 2(b), 3, 4(a), 4(b), 5(a), 5(b), 10(a), 10(b), 11(a), 11(b), 15 en 19.
Wet No. 10 van 1971	Wysigingswet op Landboukrediet, 1971	Artikels 2(1) en 4.
Wet No. 15 van 1972	Wysigingswet op Landboukrediet, 1972	Artikels 1 en 2(1).
Wet No. 62 van 1973	Algemene Regswysigingswet, 1973	Artikel 32.
Wet No. 67 van 1979	Wysigingswet op Landboukrediet, 1979	Artikels 1, 2(a) en 2(b).
Wet No. 27 van 1980	Wysigingswet op Landboukrediet, 1980	Artikels 2(a), 2(b) en 3.
Wet No. 73 van 1981	Wysigingswet op Landboukrediet, 1981	Artikel 2.
Wet No. 67 van 1982	Tweede Wysigingswet op Landboukrediet, 1982	Artikels 2, 3 en 4.
Wet No. 42 van 1983	Wysigingswet op Landboukrediet, 1983	Artikel 1(a).
Wet No. 51 van 1987	Wysigingswet op Landboukrediet (Volksraad), 1987	Artikels 1(1), 1(d), 1(e), 1(f), 2(a), 2(b), 3(a), 3(b), 4(a), 4(c), 5, 6, 7(a), 7(b), 8, 12(a), 12(b), 14, 15, 17, 19(a), 19(b), 19(c), 19(d), 20, 21, 22, 23, 24, 25, 35(b) en 36.
Wet No. 53 van 1993	Wysigingswet op Landboukrediet (Volksraad), 1993	Die geheel.

