

NOTICE 2679 OF 1999

DEPARTMENT OF AGRICULTURE

DRAFT ANIMAL HEALTH BILL

The draft Animal Health Bill, 1999, is hereby published for comment. The draft Bill is also available on **Web:** <http://www.nda.agric.za>.

Interested persons are hereby invited to submit written comments concerning the Bill to:

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Comments shall be submitted within six (6) weeks of the date of publication, hereof in the Gazette.

Director: Animal Health and Production

DRAFT ANIMAL HEALTH BILL

To provide for measures to promote animal health and to control animal diseases; to assign executive authority with regard to certain provisions of this Act to provinces; to regulate the importation and exportation of animals and things; the establishment of animal health schemes, and for matters connected therewith.

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

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Definitions

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

“animal” means -

(a) any mammal, bird, fish, reptile or amphibian which is a member of the phylum vertebrates, including the carcass thereof;

(b) any invertebrate which is by regulation declared to be an animal for the purpose of this Act;

“animal disease” means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by any protozoon, bacterium, virus, fungus, parasite, other organism or substance;

“animal or thing” means any animal, infectious thing, contaminated thing, animal product and any progeny or product in respect thereof;

“animal product” means any part or portion of, or product derived from or yield by any animal, including any such part, portion or product that has been processed;

“authorised person” means any person authorised in terms of section 3;

“contaminated thing” means any thing other than an animal or an infectious thing

(a) by means of which an animal disease can be spread; or

(b) which is by regulation declared to be a contaminated thing for the purposes of this Act;

“controlled animal disease” means any animal disease in respect of which any general or particular control measure has been prescribed, and any animal disease which is not indigenous or native to the Republic;

“controlled purpose” means the prevention of the bringing into the Republic, or the prevention or combating of or control over an outbreak or the spreading, or the eradication, of any animal disease or, where applicable of any parasite;

“controlled veterinary procedure” in relation to any animal or thing, means -

(a) the isolation, detention, inspection, counting, examinations, testing, immunisation, disinfection, observation, sampling, marking, treatment, care, destruction or any other disposal of;

(b) the carrying out of any operation or of any post-mortem examination on -; or

(c) the rendering of any service pertaining specifically to the veterinary profession referred to in the rules made under section 30(1)(a) of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), in respect of-

any such animal or thing for any controlled purpose.

“control measure” means any measure prescribed by the Minister under section 15;

“conveyance” means any aircraft, ship, boat, train, motor car, van, wagon, truck, cart or other vehicle, or animal, or other mode of transport of whatever kind, including the fittings and equipment and, in the case of an animal, the harness and tackle thereof;

“conveyer” means a person who conveys any animal or thing in transit through the Republic;

“department” means the Department of Agriculture in the national government;

“executive officer” means an officer designated under section 2(1);

“director-general” means the director-general of the department;

“infectious thing” means -

(a) an animal that is infected or is suspected of being infected with an animal disease;

(b) the progeny or product of an animal referred to in paragraph (a);

(c) any protozoon, bacterium, virus, fungus, parasite or other organism or substance that can cause an animal disease; and

(d) any other thing that is by regulation declared to be an infectious thing for the purposes of this Act;

“land” includes any building, structure, enclosure, premises, harbour, jetty, quay or mooring on land;

“MEC” means the member of the executive council of a province who is responsible for the agriculture portfolio in that province;

“Minister” means the Minister of Agriculture;

“officer” means any officer as defined in section 1 (1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“owner” means in relation to -

(a) animals and other moveable property, the person in whom ownership in respect thereof is vested and includes a person who is responsible for the charge, control or management thereof or a person who has such animal or movable property in his or her possession: Provided that in the case of game or animals that are not branded in terms of the Livestock Brands Act, 1962 (Act No. 87 of 1962), or of which the ownership cannot readily be established, the user of the land on which such game or animals are present shall be deemed to be the owner thereof; and

(b) land-

(i) the person in whose name that land is registered;

(ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;

(iii) that is subject to an usufruct, means the usufructuary; and

(iv) of which the owner or purchaser is a minor, mentally disordered person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or

another person authorised by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator thereof;

“parasite” means any organism that is detrimental to the health of any animal, or which is capable of causing or spreading any animal disease;

“permit” means any permit issued under this Act;

“prescribe” means prescribe by regulation;

“progeny or product” in relation to any animal or infectious thing other than an animal, contaminated thing, animal product or parasite, means any other animal or animal product, other such infectious thing, or other contaminated thing, animal product or parasite, obtained or derived therefrom, or descended or produced by, from or by means thereof, whatever the connection or degree of descent or relationship;

“province” means any province referred to in section 103(1) of the Constitution of the Republic of South Africa, 1996 (No. 108 of 1996);

“provincial executive” means any person designated under section 4(1);

“quarantine station” means any quarantine station established or declared under section 12;

“regulation” means any regulation made under this Act;

“remedy” means any stock remedy which has been registered under the Fertilisers, Farm Feed, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), including any medicine or veterinary medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

“scheme” means any animal health scheme established under section 18;

“this Act” includes any regulation, control measure and scheme;

“user” in relation to land, means -

(a) any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier irrespective of whether or not he or she resides thereon;

(b) in the case of land under the control of a local government body as defined in section 1(1) or (2) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), that local government body;

(c) any other person who is generally recognised as having a tenure right on the land concerned; and

“veterinarian” means any person who is registered in terms of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of .1982), to practise the veterinary profession of veterinarian.

(2) For the purposes of this Act, unless the context otherwise indicates, any reference to land, in the case of land registered under a separate deed of title as a separate unit in any deeds registry and that is adjoined by other land separately registered in the name of the same owner, shall, irrespective of the respective pieces of land being divided physically by natural means or by roads, railway lines, aqueducts or otherwise, be construed as a reference to such land and such adjoining land as one unit.

Designation and powers and duties of executive officer

2. (1) The Minister shall designate an officer of the department who is a veterinarian as executive officer.

(2) The executive officer shall subject to the control of the Minister exercise the powers and perform the duties conferred or imposed upon the executive officer by or under this Act.

(3) Whenever the executive officer considers an application, claim or request lodged with or directed to him or her in terms of this Act, the executive officer may-

- (a) request the applicant concerned to provide, within 30 days, such additional information as may be required by the executive officer;
- (b) conduct or cause to be conducted any investigation or inquiry in connection therewith which may be necessary: and
- (c) in his or her discretion refuse or grant such application, claim or request, subject to such conditions as he or she may deem necessary.

(4) When any application, claim or request is refused, the executive officer shall notify the applicant concerned in writing of the decision and the reasons therefor.

(5) (a) The executive officer may, on application or request, grant an extension for compliance with any provision of this Act.

(b) An application or request for extension shall be submitted to the executive officer in writing and shall set out reasons for requesting the granting of extension.

(c) An extension referred to in paragraph (a) shall be granted in writing for the period determined by the executive officer.

(d) When an application or request is refused, the executive officer shall notify the applicant in writing of the decision and of the grounds on which the refusal is based.

(6) The executive officer shall issue, subject to such conditions as he or she may determine, a document as proof of approval to a person whose application or request has been approved.

(7) (a) If at any time the executive officer becomes aware of circumstances which, if it was known to him or her or had prevailed when first considering the application or request concerned, would have resulted in the refusal of such application or request or in the granting thereof subject to additional conditions or requirements, he or she may —

(i) by written notice to the person concerned revoke such document;
or

(ii) issue a substitutionary document as proof of assent or approval to the person concerned;

(b) The executive officer may, on the written request of a person to whom a document referred to in subsection (6) has been issued, issue a substitutionary document as proof of assent or approval.

Delegations and authorisations by executive officer

3. (1) The executive officer may delegate or assign any of his or her powers and duties

(a) to an officer under his or her control;

(b) to an authorised person;

(c) in addition to the powers and duties referred to in section 5(1), with the approval of the Minister acting in concurrence with the MEC of a particular province, to the provincial executive designated in terms of section 4(1) in respect of the province concerned.

(2) A power or duty that is assigned to a provincial executive referred to in subsection (1)(c), may be further delegated or assigned by such provincial officer to an officer under his or her control or to an authorised person.

(3) (a) The executive officer shall issue to each officer, authorised person or provincial executive referred to in subsection (1) a written authority stating that the person mentioned therein is authorised to exercise the powers and perform the duties specified therein, either —

(i) in general;

(ii) in cases of a particular nature;

(iii) in respect of a specified control measure;

(iv) in respect of specified animal diseases or parasites; or

(v) in respect of animal diseases or parasites in a specified area.

(b) An officer or authorised person shall produce such authority and proof of his or her identity on request of a person affected by the exercising of the powers or the performance of the duties concerned.

(3) Any power exercised or duty performed by an officer, authorised person or provincial executive referred to in subsection (1) shall be deemed to have been exercised or performed by the executive officer.

(4) The executive officer shall not be divested of any power, duty or function so delegated or assigned and may amend or withdraw any decision made or instruction given by an officer, authorised person or provincial executive by virtue of such delegation or assignment unless such decision has been conveyed to the person in respect of whom the decision applies, in which case the decision may be amended or withdrawn only if the amendment or withdrawal is to the benefit of such person or if he or she consents thereto.

Designation of and defecation by provincial executive

4. (1) The MEC of each province shall designate an officer in the province concerned who is a veterinarian as a provincial executive.

(2) The powers and duties referred to in section 5(3)(a) may be further delegated by the provincial executive to an officer under his or her control or to an authorised person.

(3) An officer or authorised person referred to in subsection (2) shall show proof of his or her identity and authority when requested to do so by a person who is affected by the exercising of the powers or the performance of the duties.

(4) Any power exercised or duty performed in terms of this section by a person referred to in subsection (2), shall be deemed to have been exercised or performed by the provincial executive: Provided that the provincial executive may at any time amend or withdraw any decision made or order given by such person unless such decision has been conveyed to the person in respect of which the decision applies, in which case the decision may be amended or withdrawn only if the amendment or withdrawal is to the benefit of such person or if such person consents thereto.

Assignment of executive authority to provinces

5. (1) Each province shall have executive authority with regard to the implementation of the provisions of sections 12,13 (except subsection (l)(a)), 14, 15,16, 17, 20, 21, 22, 23 and 24 within the province in question.

(2) Such executive authority shall vest in the provincial executive designated in terms of section 4(1).

(3) A provincial executive shall, for the purpose of the implementation of the provisions referred to in subsection (1), -

(a) be empowered to exercise all the powers and perform all the duties conferred or imposed upon the executive officer by or under the said provisions; and

(b) be vested with all other powers granted to the executive officer by or under this Act in so far as those powers relate to the application of the said provisions, and any reference to the executive officer in the relevant sections

as well as the sections referred in subsection (1) shall be deemed to be reference to the provincial executive concerned.

(4) A provincial executive shall -

- (a) report the occurrence of a controlled animal disease or any abnormal occurrence of any other animal disease in the province in question to the executive officer and to the other provincial executives designated in respect of the respective provinces as contemplated in section 4(1); and
- (b) provide the executive officer at mutually agreed intervals with reports regarding the application of the provisions referred to in subsection (1), as the executive officer may require.

(5) The executive officer shall-

- (a) notwithstanding the provisions of subsection (2), audit the exercising of the relevant powers and the performance of the relevant duties in each province as he or she may deem necessary in order to verify that the national norms and standards are applied through the Republic;
- (b) compile a report on each audit referred to in paragraph (a) and shall provide copies thereof to all other provincial executives.

(6) If the executive officer is in a particular case of the opinion that an act or omission by a particular provincial executive represents a material deviation from the national norms and standards referred to in subsection (5)(a), the executive officer may, with the approval of the Minister, take such steps in connection with that case as the executive officer is authorised by law to take: Provided that the Minister may only grant such approval with the concurrence of the MEC concerned.

Suspension of executive authority

6. (1) The Minister may suspend the operation of section 5 if he or she -

- (a) is satisfied that a violation of any provision of this Act or the occurrence of any animal disease in a province or on land in a country bordering such province, is of such nature and extent that it threatens Or could detrimentally effect the health of animals in another province or in the Republic as a whole; or
- (b) is requested in the prescribed manner to do so by the MEC of the province in question.

(2) The suspension referred to in subsection (1) shall be in the form of a notice published in the Gazette.

(3) Suspension of the operation of section 5 maybe -

(a) in respect of one or more specified provinces or specified portions thereof, or the Republic as a whole; and

(b) in general or with regard to a particular animal disease or parasite,

(4) The notice referred to in subsection (2) shall stipulate -

(a) the province or area in respect of which the suspension will be applicable;

(b) the particular animal disease or the generality of the suspension, as the case may be;

(c) the date upon which the suspension will commence;

(d) the duration of the suspension; and

(e) any other prescribed information as may be required.

(5) The executive officer shall for the duration of the suspension assume responsibility for the implementation of the necessary control measures in the province to which such suspension relates.

(6) Officers in the service of the provincial executive of the province in question or if needed officers of any other province, as well as any facilities utilised by such officers, shall be at the disposal of the executive officer in so far as it is required for the purpose of subsection (5).

(7) If the Minister is satisfied that the grounds for a suspension have been removed, he or she shall revoke such suspension by way of a notice published in the Gazette.

Designation of Assignees

7. (1) The Minister may, for the purposes of the application of this Act or certain provisions thereof, designate any person, undertaking, body, institution or association having an interest in or particular knowledge in respect of any animal or thing, as an assignee in respect of that animal or thing.

(2) An assignee thus designated shall —

(a) subject to the directions of the executive officer, exercise the powers and perform the duties that are conferred upon or assigned to the executive officer by or under this Act.

(b) in the case of a juristic person, notwithstanding anything to the contrary contained in any other law or in the absence of any express provision to that effect, be competent to exercise the powers and perform the duties referred to in paragraph (a); and

(c) unless the Minister in a particular case otherwise directs, have no recourse against the State in respect of any expenses incurred in connection with the exercising of such powers or the performance of such duties.

(3) The chief executive official, chairman or other person in charge of such assignee who is not a natural person-

(a) shall act on behalf of that assignee in the exercising of the powers and the performance of the duties concerned; and

(b) may in writing delegate or transfer to any employees of that assignee any such power or duty that the assignee concerned shall or may exercise or perform by or under this Act, or in writing authorize or direct any such employee to exercise such power or perform such duty.

(4) A power exercised or duty performed by an employee referred to in paragraph (b) shall be deemed to have been exercised or performed by the chief executive official, chairman or other person in charge, as the case may be: Provided that the chief executive official, chairman or other person in charge, as the case may be, may at any time amend or withdraw any decision made or order given by such employee unless the decision has been conveyed to the person in respect of whom the decision applies, in which case the decision may be amended or withdrawn only if the amendment or withdrawal will be to the benefit of that person or if that person consents thereto

(5) An assignee may determine a fee, which fee shall be made known by notice in the Gazette, in respect of the powers exercised and duties performed by such assignee to ensure compliance with this Act,

(6) If an assignee was negligent in the exercising of a power or the performance of a duty under this Act, or did not comply with the directions of the executive officer, or did not comply with procedures or practices which that assignee was obliged to follow or apply, or that he or she acted *ma/a fide*, the executive officer may forthwith terminate or suspend the designation of the assignee concerned.

Limitations on investigations, experiments and research with, and manufacture and evaluation of, certain products

8. (1) Subject to subsection (2), no person shall -

(a) conduct any investigation, experiment or research with any vaccine, serum, toxin, anti-toxin, antigen or other biological product that consists of or originates wholly or partially of any animal or thing: Provided that the foregoing provisions of this paragraph shall not apply to any substance in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

(b) use any vaccine, serum, toxin, anti-toxin, antigen or other biological product referred to in paragraph (a) for the manufacture or evaluation of a product or remedy used for or intended to be used for the testing, diagnosis, prevention, treatment or cure of any animal disease or parasite, or for the maintenance or improvement of the health, growth, production or working capacity of any animal; or

(c) for the purposes of any investigation, experiment or research referred to in paragraph (a), or for the manufacture or evaluation of a product or remedy referred to in paragraph (b), -

(i) infect or contaminate any animal or thing with any animal disease or parasite; or

(ii) introduce into or collect in the Republic, or have in his or her possession, or remove or transport from the place where it is normally found or kept, any animal or thing which is capable of spreading any animal disease or parasite.

(2) The executive officer may exempt a person, in writing, from any prohibition specified in subsection (1), under such conditions as may be specified therein.

Restriction on exportation

9. (1) Subject to the provisions of subsection (4), no person shall export any animal or thing from the Republic unless the executive officer has issued an export certificate to such person.

(2) A certificate referred to in subsection (1), shall contain specific information required by the competent authority in the country of import with regard to-

(a) the health status of the animal, or thing to be exported;

(b) the occurrence or non-occurrence of particular animal diseases in the Republic or in the area of origin of the animal or thing to be exported; and

(c) any other information that may be required by such authority.

(3) (a) An application for such certificate shall-

(i) be made in the prescribed manner to the executive officer; and

(ii) be accompanied by a document issued by the competent authority of the importing country authorizing such importation.

(b) The applicant shall, on receipt of the certificate referred to in paragraph (a), pay the prescribed fee.

(4) The provisions of subsection (1) shall not apply to the exportation of any animal or thing to a country in respect of which the competent authority does not require a certificate referred to in that subsection: Provided that the exporter can provide the executive officer with written proof thereof.

(5) (a) The executive officer may, under the circumstances contemplated in paragraph (b), delay the exportation of a particular animal or thing, or a particular consignment of animals or things to any country until that country is made aware of such circumstances.

(b) The circumstances referred to in paragraph (a) includes the situation where the executive officer is of the opinion that -

- (i) from a veterinary point of view, the export thereof would be detrimental to the animal health status of the country to which it is intended for export; or
- (ii) it is not possible, where applicable, to certify compliance with the conditions specified in the document referred to in subsection (3)(a) (ii).

Restriction on importation and in transit conveyance of animals and things

10.(1) Subject to subsection (8), no person shall import into or convey in transit through the Republic any animal or thing except on the authority of a permit issued by the executive officer.

(2) An application for an import permit referred to in subsection (1) shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

(3) A permit referred to in subsection (1) shall-

- (a) be obtained by an importer or conveyer before the relevant animal or thing is brought into the Republic;
- (b) where the executive officer requires that the animal or thing in question has to be kept in isolation at a quarantine station or camp upon arrival in the Republic, only be issued after proof has been furnish to the executive officer that accommodation has been reserved at such quarantine station and the fees referred to in section 12 (5) have been paid, or in the case of a quarantine camp, after such camp has been approved by the executive officer: and
- (c) subject to subsection (4), be valid for one consignment only.

(4) If a person imports any animal or thing of the same class from the same country on a regular basis, or regularly conveys it in transit through the Republic, and the executive officer is satisfied that it will not defeat the objects of this Act, a permit referred to in subsection (1) may be issued for the importation into or in transit conveyance through the Republic of consecutive consignments of any animal or thing of the same class during the period specified in the permit.

(5) Any animal or thing in respect of which a permit referred to in subsection (1) has been issued shall -

- (a) only be introduced in the Republic through the place of entry specified in the permit in question;
- (b) be introduced within the period specified in such permit;

(c) be detained in the prescribed manner at the relevant place of entry; and be made available to the executive officer at such place of entry for the purpose of performing such controlled veterinary procedures or other acts on or in connection therewith as the executive officer may deem necessary; and

(d) not be removed from such place of entry without the written authority of the executive officer, or contrary to any condition referred to in section 11(1).

(6) (a) The executive officer may, if he or she knows or reasonably suspects that any animal "or thing is, contrary to any provision of this Act or any condition of a permit-

(i) being removed or has been removed from any place outside the Republic for the purpose of import into or conveyance in transit through the Republic;

(ii) about to be imported into or conveyed in transit through the Republic;
or

(iii) present on or in any conveyance, or forms part of any consignment that is being or has been brought into the Republic,

direct that such animal or thing or any specific portion thereof, shall not be brought into the Republic or removed from the place of entry, as the case may be, except with the executive officer's consent and on the conditions that he or she may determine.

(b) The executive officer shall, as soon as practicable, make known the provisions of such direction to all persons whom, to the knowledge of the executive officer, are or will be involved in the importation, off-loading, removal or conveyance in transit, as the case may be, or to any person in whose service any such persons are, or who exercises control over them, or in respect of such importation, off-loading, removal or conveyance.

(7) 'A permit that has been issued in terms of section 6(1)(a) or (c) of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and any direction given in terms of section 6(3) of the said Act, that are in force on the date of commencement of this section, shall respectively be deemed to be a permit referred to in subsection (1) and a directive referred to in subsection (6) of this section.

(8) Notwithstanding the provisions of subsection (1), a permit referred to in that subsection may not be required in cases where international agreements, pertaining to the importation of any animal or thing, bind the country of import and the Republic.

Detention and disposal of imported and in transit conveyed animals or things

11. (1) No person shall remove any imported or in transit conveyed animal or thing that is detained at the place of entry without the written authority of the executive officer or contrary to any condition imposed by the executive officer in granting such authority.

(2) Any imported animal or thing that is required in terms of any provision of this Act to be detained at any quarantine station, camp, institution or other place, as may be

determined by the executive officer, for purposes of any controlled veterinary procedure shall-

- (a) be removed to such quarantine station, camp, institution or place by or under the supervision of the executive officer; and
- (b) be detained at the quarantine station, camp, institution or place for the period determined by the executive officer.

(3) No person shall remove any animal or thing referred to in subsection (2), from any quarantine station, camp, institution or place referred to in the said subsection, without the written authority of the executive officer or contrary to any condition imposed by him on her in granting such authority.

(4)(a) If it appears that an imported or in transit conveyed animal or thing is infected with an animal disease or poses a health risk, the executive officer may direct the importer or conveyer to-

- (i) destroy such animal or thing; or
- (ii) dispose of such animal or thing,

in the manner and within the time period as the executive officer may determine and at the expense of such importer or conveyer, as the case may be.

(b) If the animal or thing is not destroyed or disposed of within the time period determined by the executive officer, the executive officer may, in terms of section 21 (2)(e), seize such animal or thing and dispose of it at his or her discretion.

(c) The executive officer may recover all expenses incurred in connection with a disposal referred to in paragraph (b) from the importer or conveyer concerned.

(5) Any authority granted in terms of section 8 of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and that is in force on the date of commencement of this section shall be deemed to be an authority granted in terms of subsection (1) of this section.

Quarantine stations and quarantine camps

12. (1) The executive officer may -

- (a) establish at any place in the Republic a quarantine station for the accommodation of any imported animal or thing that is required or permitted in terms of this Act to be detained or isolated; and
- (b) declare any suitable place in the Republic other than a place referred to in paragraph (a), to be a quarantine camp for the accommodation of any animal or thing that is required or permitted in terms of this Act to be detained or isolated.

(2) A quarantine station or camp shall be equipped and used for the purpose of the performance of controlled veterinary procedures in respect of *any animal* or thing referred to in subsection (1).

(3) The executive officer shall in the case of a quarantine station, appoint an officer as quarantine master to take charge of such quarantine station subject to the instructions of the executive officer.

(4) Any person who intends to import an animal that is required to be isolated in terms of a permit referred to in section 10, shall apply to the applicable quarantine master to reserve accommodation for such animal at that quarantine station.

(5) An applicant shall, on receipt of the written confirmation for the accommodation of an animal referred to in subsection (4), pay the applicable prescribed reservation fees forthwith, to the quarantine master concerned.

(6) The applicant shall pay to the quarantine master the applicable prescribed accommodation fee upon occupation of the animal in question in the quarantine station concerned.

(7) Fees paid by any person in terms of subsection (5), shall-

(a) be utilised as part payment of fees payable in terms of subsection (6);

(b) be refunded to the person who paid the fees, if

(i) such person has in writing canceled the reservation and has returned, at least 30 days before the commencement of the period for which he or she has reserved accommodation, a permit issued to him or her for the importation of the animal or thing, to the executive officer; or

(ii) the executive officer withdraws the permit issued under section 10(1) ;
or

(c) otherwise be forfeited to the State.

Fencing

13.(1) The executive officer may erect-

(a) a permanent fence on any land situated along the international boundaries of the Republic, in order to prevent the straying of animals into the Republic;

(b) a permanent fence on the boundaries of any national park, provincial park or private game reserve to prevent the movement of animals into or out of such park or reserve; or

(c) a temporary fence on or across any land to prevent movement of animals within the Republic.

(2) The executive officer shall notify, in writing, the owner and user, as the case may be, of the land in question, of the intention to erect such fence.

(3) The executive officer may-

- (a) install gates, grids or other passages in the fence; and
- (b) construct, re-construct or repair; and maintain any road, bridge, causeway, culvert or drift giving access to or is required for use in connection with the erection, maintenance, inspection and alteration of such a fence.

(4) The executive officer shall maintain any fence erected and any gate, grid and other passage installed in terms of subsection (1) and (3) respectively, and the executive officer may from time to time effect such alterations thereto as he or she deems necessary.

(5) The executive officer may, for the purpose of the application of subsections (1) and (3), and after written notice is given to the owner or user, as the case may be, of the relevant land -

- (a) enter upon and occupying the land, and take with him or her such assistance, officers, conveyance, tents, materials, tools or other things as the executive officer considers necessary;
- (b) establish a permanent or temporary camp together with the necessary accessories and equipment on any suitable place on the land; and
- (c) subject to subsection (6), dig out and remove any sand, soil, clay, gravel, stone, water, wood or other material that he or she requires from any place on the land or on any nearby land.

(6) The executive officer may, on submission of a written application to the executive officer by the land owner or user, as the case may be, pay to such owner or user reasonable compensation on a basis determined by the executive officer, for the use of any material referred to in subsection (5)(c).

(7) (a) If the executive officer is of the opinion that any action performed in terms of subsections (1) and (3) will be of advantage to the owner or user, as the case may be, of the land in question, the executive officer may, subject to paragraph (b), recover any portion of the costs involved from such owner or user, as the case may be, of such land.

(b) Any amount recoverable in terms of paragraph (a) shall be determined by the executive officer on a basis determined by him or her, and the executive officer shall notify the owner or user, as the case may be, in writing of the amounts recoverable and of the basis on which it was calculated.

(8) No person shall -

- (a) without the written authority of the executive officer, remove, alter or impair efficacy of any fence that has been erected under subsection (1), or of any gate, grid or passage installed therein under subsection (3) (a); or

- (b) alter, obstruct or damage any road that has been built under subsection (3)(b), or any bridge, causeway, culvert or drift constructed thereon.

Disposal of straying animals

14.(1) Whenever an owner or user, as the case may be, of land finds on such land or whenever an owner of animals finds amongst his or her animals, any animal, which he or she knows has strayed thereto or has been unlawfully removed from a place outside the Republic, or which can reasonably be suspected of having so strayed or removed, he or she shall-

- (a) forthwith isolate such animal:
- (b) forthwith report the presence thereof to the executive officer in the prescribed manner; and
- (c) detain the animal in isolation pending further instruction from the executive officer

(2) The executive officer may, after the presence of a foreign animal has been reported to him or her in terms of paragraph (b) of subsection (1), -

- (a) if -
- (i) any person who proves that he or she is the owner of the animal, submits within two days after such report to the executive officer, a written request to the executive officer for the restoration to him or her of the animal and reimburses the State for any expenses incurred in connection with the animal within seven days after having been requested to do so; and
- (ii) the executive officer is of the opinion that the animal or any progeny or product thereof, does not pose a disease threat or is not concerned in or may not afford evidence in the commission or suspected commission of an offence, and that the circumstances under which the animal has been found justifies such a restoration-

direct that the animal and any such progeny or product thereof be restored to the owner;

- (b) direct that the person who found the animal shall forthwith remove the animal and any such progeny or product thereof to a place indicated by the executive officer for purposes of the performance of controlled veterinary procedures in respect thereof by the executive officer, or destroy it, or otherwise dispose of it in accordance with the instructions of the executive officer;
- (c) himself or herself deal with the animal, and any such progeny or product thereof, in accordance with any applicable provision of section 22; or

- (d) seize the animal or any such progeny or product thereof, in accordance with the provisions of section 21(1), and in his or her discretion destroy it or dispose thereof for the benefit of the State.

(3) The provisions of subsections (1), (2) and (4) shall apply *mutatis mutandis* in respect of any animal and any progeny or product thereof found on land by the owner or user, as the case may be, of the land, or by any owner of animals thereon, if such person knows that it has strayed thereto, or has been unlawfully removed, from any other place in the Republic, or if it can reasonably be suspected of having so strayed or been removed and knows that any circumstance referred to in section 19(1)(b) is present in respect thereof, or it can reasonably be so suspected,

(4) No person shall, except pursuant to a provision of subsection (2) or under authority of the executive officer -

- (a) remove any animal or any progeny or product thereof, referred to in subsection (1) or (3) from any place where it is being detained in isolation in terms of any provision of this section; or
- (b) contravene or fail to comply with any direction or instruction referred to in subsection (2)(b) that has been addressed to him or her.

Control measures

15.(1) The Minister may, after consultation with the MEC of the respective provinces, prescribe by means of regulations, control measures with regard to national norms and standards that shall apply throughout the Republic.

(2) Control measures may relate to-

- (a) the designation of specified animal diseases as controlled animal diseases;
- (b) the designation of specified areas as controlled areas in respect of certain controlled animal diseases;
- (c) the application of controlled veterinary procedures with regard to any animal or thing;
- (d) the isolation of any animal or thing;
- (e) access to certain places;
- (f) the taking and analysis of samples of any animal or thing;
- (g) the records to be kept in respect of any animal or thing;
- (h) the movement of animal or thing;
- (i) the hunting, shooting, catching and disposing of game;
- (j) the slaughter of any animal under certain conditions;

- (k) actions with regard to the carcass of any animal, and the progeny and product of such animal, infected with controlled animal diseases;
- (l) the disposal of an animal or thing;
- (m) the erection and use of dipping tanks, spray races and crushes;
- (n) the use of specified remedies in respect of specified controlled animal diseases; and
- (o) any other matter that the Minister may deem necessary or expedient in order to achieve or promote the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(3) A control measure may-

- (a) impose a prohibition, restriction or obligation with regard to any matter mentioned in subsection (2);
- (b) provide that a person may by means of a written consent be exempted from the prohibition, restriction or obligation concerned ; and
- (c) specify the procedure with regard to the lodging of an application for such consent and the fees, if any, that are payable in respect thereof.

(4) Different control measures may be prescribed in respect of -

- (a) different provinces;
 - (b) different kinds of animals;
 - (c) different animal diseases;
 - (d) different classes of owners and users of land, or owners of animals,
- or in such other respects as the Minister may determine

(5) If a control measure has been prescribed for a particular area, the executive officer shall in the manner prescribed, notify all owners and users, as the case may be, of land and owners of animals, in that area, of the type of control measure that will apply, the area that will be affected and, where applicable, the period within which the control measure shall apply.

Orders with regard to control measures

16.(1) The executive officer may, order any owner or user, as the case may be, of land or any owner of any animal or thing -

- (a) to comply with any provision of the particular control measure with regard to the land, animal or thing as specified in such order; or
- (b) to perform or abstain from performing any other act on or with regard to such land, animal or thing;

(2) An order may provide that anything required in terms thereof shall be complied with in the manner and within the period specified therein.

(3) An order shall be in the form of a written notice that shall be served in the prescribed manner on the owner or user, as the case may be, of the land in question or the owner of the animal or thing in question, and shall be binding on the owner of such animal or thing, and on the owner or user, as the case may be, of the land specified therein and on his or her successor in title in respect of that land

(4)(a) The executive officer may -

- (i) amend any order; or
- (ii) if the executive officer is satisfied after such investigation, inspection or examination as he or she deems necessary that the provisions of the order have been complied with and that the objects thereof have been achieved, withdraw any order:

Provided that such amendment or withdrawal shall not exempt the person concerned from complying with any other provision of any control measure that is binding on him or her.

(b) The amendment or withdrawal of an order as contemplated in paragraph (a) shall be made known in the manner set out in subsection (3).

(5) A document that was issued as an order in terms of section 15 of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and is in force on the date of commencement of this section, shall be deemed to be an order in terms of this section.

Assumption of control over land, animal or thing

17.(1) The executive officer may, for any controlled purpose, declare by notice referred to in subsection (4), that he or she assumes control over any land, animal or thing for such controlled purpose.

(2) The control referred to in subsection (1) shall be exercised if the executive officer is satisfied that -

- (a) the owner or user, as the case may be, of the land or owner of the animal or thing refuses, fails or is unable to apply a control measure in question in a manner that will ensure the achievement of the objects thereof; or
- (b) the occurrence of any animal disease in the animal or thing on such land or adjoining land, threatens or could detrimentally affect the animal health status

in the province in question or any specific portion thereof, or in any other province, or the Republic as a whole.

(3) Assumption of control over land may be in respect of any land or a specified portion thereof and may include all or specified fences, structures, facilities and improvements on such land.

(4) A notice of assumption of control shall -

- (a) be served in a prescribed manner on the owner or user, as the case may be, of the land in question, or on the owner of the animal or thing in question;
- (b) define the land and specify the extent of such assumption as referred to in subsection (3);
- (c) specify the date of commencement of such assumption of control; and
- (d) where possible, specify the duration of such assumption of control

(5) Subject to the provisions of subsection (6), the executive officer may at any time after a notice has been served and as from the commencement date specified therein -

- (a) enter upon and occupy the land, and take with him or her any such assistance, officers, conveyance, appliance, instruments, tools, remedies and other things as the executive officer may deem necessary for his or her purpose;
- (b) establish a camp, together with the necessary accessories and equipment on the land and construct a road giving access thereto;
- (c) remove any vegetation on the land;
- (d) erect any fence or gate thereon, or alter or remove any existing fence or gate;
- (e) use any suitable place on the land for the destruction or other disposal of any animal or thing, irrespective of whether or not it originated from or was found on that land;
- (f) make use of grazing, fuel and water found on that land;
- (g) perform any act on the land that the user or owner thereof, as the case may be, is required in terms of this Act to perform, and recover any expenditure connected therewith from such owner or user; and
- (h) perform such other acts on or in respect of the land as the executive officer may deem necessary for the controlled purpose.

(6) Notwithstanding the provisions of subsection (5), the executive officer shall not effect any structural alterations or erect any permanent structures, except fences on any land over which the executive officer assumes control in terms of this section, unless the Minister has previously consented thereto.

Animal health schemes

18.(1) The Minister may by notice in the Gazette establish a scheme in respect of any controlled purpose or for the improvement of animal health.

(2) The Minister may under subsection (1) establish different schemes in respect of different kinds of animals, different animal diseases or parasites, different classes of persons and different areas.

(3) A notice referred to in subsection(1) shall -

- (a) set out the objects of the scheme;
- (b) define the kind of animal, the animal disease or parasite and areas to which the scheme applies;
- (c) specify the kind of animal that is susceptible to the animal disease or parasite concerned, which are the carriers thereof and which may cause or spread it;
- (d) define the kind of animal in respect of which controlled veterinary procedure, test, examination, treatment or disposal by persons authorised in the scheme, shall be done, applied or effected;
- (e) describe the manner in which any animal referred to in paragraph (d) may become infected with the animal disease or parasite in question, and the characteristics of such infection in each such kind of animal;
- (f) indicate the tests to which the animals in question and the progeny or products thereof, shall be subjected, in order to ascertain whether the animals are infected with the animal disease in question;
- (g) determine the methods according to which such test shall be carried out, and the remedy, substance or equipment to be used for such test, and describe the manner in which the results shall be interpreted;
- (h) determine the manner in which animals that are infected with the animal disease concerned and the progeny or product thereof, shall be treated, kept, cared for or other wise disposed of;
- (i) determine the measures that shall be taken to prevent the infection or re-infection of the animals in question and the progeny or product thereof with the animal disease concerned, or the spreading thereof;
- (j) determine the requirements for participation in the scheme;
- (k) determine the manner in which a person may apply for admission to participate in the scheme, the particulars to be furnished in such application and the circumstances under which such application shall be refused;
- (l) determine the manner in which a person or animal shall be admitted to participate in the scheme and the circumstances under which such participation shall lapse or be cancelled;

- (m) determine the manner in which and the period during which animals to which the scheme applies shall be kept, care for and treated, and the *control* to which such animals shall be subjected;
- (n) specify the information to be recorded by persons participating in the scheme;
- (o) determine the facilities to be provided by a person participating in a scheme for the purpose of performing of controlled veterinary procedures and required tests, or for any other acts necessary to promote the objectives of a scheme;
- (p) specify the marks with which and the manner in which the animals shall be marked;
- (q) determine the manner in which animals complying with the requirements of the scheme shall be certified, the restrictions on the use of such certificate and the circumstances under which such certificate shall lapse;
- (r) determine the circumstances under which a scheme shall apply to a specific class of persons or in a specific area and the specific requirement that shall be complied with;
- (s) determine that the provisions of a scheme shall be binding on a person who is enrolled for participation therein;
- (t) specify the tariffs that shall be payable for services rendered in terms of such scheme;
- (u) determine other powers and duties to be exercised and performed by defined persons or officers in terms of such scheme;
- (v) provide for any other matter that the Minister may deem necessary or expedient in order that the objects of the scheme may be achieved or promoted, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(4) The Minister may, after consultation with the MEC of the province in question, declare by notice in the Gazette that participation in a particular scheme shall be compulsory in the province concerned, or in a specified portion thereof.

(5) A scheme in terms of which any form of monetary assistance may be rendered to participants shall only be established with the approval of the Minister of Finance.

(6) A scheme may be applicable to the whole of the Republic or to a particular province specified therein or to a specified portion thereof.

(7) The Minister may, after consultation with the MEC concerned, amend or revoke a scheme at any time in the Gazette.

Duties of owners and users regarding health of animals

19.(1) Any owner or user, as the case may be, of land on which there are animals and any owner of animals shall -

- (a) take, with due observance of the provisions of this Act, all reasonable steps -
 - (i) to prevent the infection of any animal with any animal disease or parasite;
 - (ii) to prevent the spreading of any animal disease or parasite from the relevant land or animal; and
 - (iii) that are necessary for the eradication of any animal disease and parasite on the land or in respect of the animal in question; and
- (b) whenever such animal -
 - (i) has become or can reasonably be suspected of having become infected with any animal disease or parasite, apply in respect of such animal the prescribed treatment that may be deemed suitable and customary in the particular circumstances; and
 - (ii) has become or can reasonably be suspected of having become infected with a controlled animal disease, immediately report such incidence in a prescribed manner to the executive officer.
- (c) report, immediately to the executive officer, any abnormal mobility and mortality amongst his or her animals.

(2) A veterinarian or any other person, who finds the incidence or suspected incidence of any controlled animal disease in any animal or thing shall immediately report such incidence to the executive officer.

Services rendered by executive officer

20.(1) The executive officer may, subject to subsection (2), whenever the owner or user, as the case may be, of any land, or the owner of an animal or thing, applies voluntarily in the prescribed manner to the executive officer -

- (a) for the rendering of advice by the executive officer to such person regarding the fitness or the health of-;
- (b) to effect or perform any examination or controlled veterinary procedure or any other act connected with a controlled purpose, in respect of-; or
- (c) for a prescribed certificate of fitness or health in respect of-

that land, animal or thing, as the case may be, shall render such advice, effect or perform such examination or performance, or issue such certificate or refuse to issue it, as the case may be.

(2) The executive officer shall not be obliged to render any service referred to in subsection (1) if the required officers, equipment or accommodation for the animal or thing at a place, institution or quarantine station necessary for the purpose is not available to the executive officer.

(3) Subject to subsection (4), the person to whom a service is rendered under this section, shall pay the prescribed fee in respect of the service rendered.

(4) The executive officer may exempt a person referred to in subsection (3) from the payment of fees referred to in that subsection if the rendering of the relevant service-

- (a) is in accordance with the policy aims of the department regarding the promotion of animal health;
- (b) is in the interest of the livestock industry in the Republic;
- (c) is necessary due to an abnormal morbidity or mortality of animals; or
- (d) is necessary as a result of an unusual animal disease affecting or that can affect an appreciable number of animals.

Powers to enter, search and to carry out inspections and controlled veterinary procedures

21 .(1) Subject to the provisions of subsection (5), the executive officer, provincial executive, assignee or any other person authorised thereto may, in order to exercise the powers or perform the duties conferred or imposed upon him or her by or under this Act and for that purpose only, at any reasonably time -

- (a) enter upon any land, place, premises or conveyance in or upon which any animal or thing or other article in respect of which this Act applies, is or is on reasonable grounds suspected to be;
- (b) proceed over any land in order to reach any land, place, premises or conveyance referred to in paragraph (a);
- (c) order to stop and enter upon, take control of or board any conveyance at any place within the Republic or in the territorial waters of the Republic as defined in the Maritime Zones Act, 1994 (Act No. 15 of 1994).

(2) The executive officer, assignee, provincial executive, or authorised person may, when acting under subsection (1)-

- (a) take along such officers, assistants, conveyances, implements, equipment, instruments, remedies and other aids as may be required in order to exercise the powers and perform the duties concerned;
- (b) direct a person in control of or employed at such land, place, premises or conveyance concerned, or of any animal or thing that is present therein or thereon, to render all reasonably assistance that is required to exercise the powers and perform the duties concerned in connection with that land, place,

premises, conveyance, animal or thing or anything else kept thereon or therein:

- (c) search for any animal or thing or anything else to which this Act applies, and if it is suspected on reasonable grounds to be present on or in such land, place, premises or conveyance, require the owner or person in charge thereof to produce it to the executive officer;
- (d) make any investigation as he or she deems necessary regarding the presence of any animal disease or parasite;
- (e) isolate, detain or seize any animal or thing for a particular controlled purpose, or that he or she knows or on reasonable grounds suspects to be infected with an animal disease or parasite, or to be so contaminated;
- (f) remove anything seized, from the place, premises or conveyance where it has been seized, or leave it thereon and if he or she deems it necessary, attach any identification mark or seal thereto, or to the container thereof;
- (g) install beacons or affix marks or seals;
- (h) inspect or test any appliance or equipment that is available for use in connection with an animal disease;
- (i) take such samples of any animal, thing or other articles as may be deemed necessary, and for this purpose open any container in which that animal or thing or other article is contained;
- (j) test, examine or analyse any sample referred to in paragraph (i), or cause it to be tested, examined or analysed;
- (k) ascertain whether anything required to be done in terms of this Act has been or is being done;
- (l) inspect and supervise the doing of anything that a person is in terms of this Act required to do;
- (m) check, count and establish the identity, origin and descent of any, animal or thing found during an inspection and treat it against any animal disease, effect any controlled veterinary procedure in respect thereof, and make the prescribed temporary or permanent marks in the prescribed manner thereon;
- (n) require that a person referred to in paragraph (b), forthwith or at a time and place fixed by the executive officer, produce to the executive officer for inspection, or provide him or her with 2 copy of any register, book, record or other document that such person is required in terms of this Act to keep or produce;
- (o) demand from the owner or custodian, as the case may be, of such register, book, record or other document or data capturing device an explanation regarding any entry, deletion, alteration, omission or note therein;

(p) make in or on such register, book, record or other document such notes that may be deemed expedient, in respect of any entry appearing thereon or therein or that is required to appear therein or which, in the opinion of the executive officer, is inaccurate or false;

(3) The executive officer shall when entering upon any land, place, premises or conveyance in terms of subsection (1), show proof of his or her identity and authority when requested thereto by the owner or user, as the case may be, of the land, conveyance, animal or thing concerned.

(4) In the case of action under subsection (2) (h), (i), (j) and (1) by the relevant person referred to in subsection (1), the owner or user, as the case may be, of the land in question or the owner of the animal or thing in question, shall pay the prescribed fees or the amount determined by the assignee, as the case may be, for the performance of such action

(5) Notwithstanding the provisions of subsection (1), powers to enter, search and carry out inspections, and performance of any act referred to in subsections (1) and (2) shall, for the purpose of proving the commission or suspected commission of an offence under this Act or for the purpose of an investigation in terms of section 24, or for any other purpose other than those envisaged in subsection (1), be conducted under the authority of a warrant.

(6) A warrant referred to in subsection (5) shall be issued by a magistrate who has jurisdiction in the area where the land, or conveyance in question are situated, or where the conveyance will be, and shall only be issued if it appears to the magistrate from information on oath that there are reasonable grounds for believing that anything in respect of which the provisions of this Act applies is upon or on such land, or conveyance, and shall specify which of the acts mentioned in subsections (1) and (2) may be performed thereunder by the person to whom it is issued.

(7) A warrant issued in terms of this section shall be executed by day unless the person who issues the warrant, authorises the execution thereof by night, at times which shall be reasonable, and entry upon and search of any land, or conveyance shall be conducted with strict regard to decency and order, including -

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

(8) The executive officer, when executing the warrant in terms of this section shall immediately before commencing with the execution -

- (a) identify himself or herself to the person in control of the land or conveyance, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent spot on the land or conveyance; and
- (b) supply at the request of such a person, particulars regarding his or her authority to execute such warrant.

(9) The executive officer may without a warrant enter any land or conveyance and perform any of the acts mentioned in subsections (1) and (2) for any purpose referred to in subsection (5), if -

- (a) the owner, user or any person referred to in subsection (2) (b), who is competent to do so, consents thereto; or
- (b) he or she on reasonable ground believes -
 - (i) that a warrant will be issued to him or her in terms of subsection (6) if he or she applies for such warrant; and
 - (ii) that the delay in obtaining such warrant would defeat the object of the investigation.

(10) A warrant issued in terms of subsection (5) may be issued on any day and shall be of force until-

- (a) it is executed; or
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; or
- (c) the expiry of one month from the day of its issue; or
- (d) the purpose for which the warrant was issued, no longer exists,

whichever may occur first

Disposal of isolated, detained or seized animal or thing

22.(1) Any animal or thing that is isolated, detained or seized in terms of section 21(2)(e) may -

- (a) be removed to a place that is deemed suitable by the executive officer for the purpose of performing any controlled veterinary procedure thereon;
- (b) be slaughtered, by the executive officer, if it is a living animal and a post-mortem examination is considered necessary;
- (c) if the executive officer is of the opinion that the owner or user, as the case may be, of the land or the owner of the animal or thing, possesses the necessary means to detain and care for such animal or thing in a manner that will ensure that the relevant animal disease or parasite will not spread, be placed in the care of such person in accordance with conditions agreed upon by the executive officer with such person;
- (d) if the executive officer is of the opinion that-

- (i) any isolation or treatment thereof will not promote the relevant controlled purpose; or
- (ii) that the calculated cost of the performance of any act referred to in paragraphs (a) and (c), exceeds the estimated value of the animal or thing; or
- (iii) that no remedy or equipment is available to perform any act referred to in paragraph (a),

be destroyed or otherwise disposed of, or the owner concerned may be ordered to so destroy or dispose of it in the manner determined by the executive officer.

(2) The executive officer shall, as soon as he or she is satisfied that the isolation, detention or seizure of any animal or thing in terms of section 21(2)(e), is no longer necessary for any controlled purpose, return it to the owner concerned.

(3) The carcass of any animal isolated, detained or seized in terms of section 21(2)(e), or which has been slaughtered pursuant to subsection (1)(b), of this section, shall be forfeited to the State, and the executive officer may-

- (a) if he or she is able to dispose of the carcass in a manner beneficial to the State, so dispose of it, in which case any expenditure resulting therefrom shall be defrayed from the income obtained therefrom; or
- (b) where paragraph (a) is not applicable, dispose of the carcass at his or her discretion.

(4) An owner of any animal or thing isolated, detained or seized in terms of section 21(2)(e), shall reimburse the State for any reasonable expenses incurred by the executive officer or authorised person in connection with the performance by him or her of any act under any provision of subsection (1), (2) or (3) in respect thereof, and which costs can not be defrayed from any income referred to in subsection (3)(a): Provided that this subsection shall not apply in respect of any animal to which any provision of an animal health scheme applies.

(5) If no criminal proceedings are instituted in connection with any animal or thing isolated, detained or seized in terms of section 21(5), or it appears that such animal or thing is not required at the trial for purpose of evidence and the executive officer is satisfied that such animal or thing poses no disease threat, the executive officer may release that animal or thing and return it to the owner concerned.

Compensation

23.(1) Subject to subsection (4), the owner of any animal or thing that has been destroyed or otherwise disposed of pursuant to any control measure, or any provision of section 22(1) or (3), or any other provision of this Act, by the executive officer or on his or her authority, may submit an application for compensation for the loss of the animal or thing to the executive officer.

(2) The executive officer may, taking into consideration -

- (a) the applicable compensation, based on a fair market value of the animal or thing, that has been prescribed for purposes of this section or, where no compensation has been so prescribed, any amount fixed by him or her in accordance with any criterion deemed applicable by the executive officer ;
- (b) the value of any thing that has, in connection with the animal or thing, been returned to the owner:
- (c) any amount that is due to the State by the owner pursuant to any provision of this Act in respect of the animal or thing: and
- (d) any amount that may accrue to the owner from any insurance thereof,

fix a fair amount as compensation

(3) Notwithstanding the provisions of subsection (2), the executive officer shall, where a carcass has been disposed of in terms of section 22(3), fix the nett income accruing from such disposal against any amount payable to the State by the owner concerned by virtue of any provision of this Act in respect of that carcass, is to be set off, as compensation in respect of the carcass, if -

- (a) the owner is otherwise entitled in terms of this section to compensation; and
- (b) that the nett income exceeds the amount prescribed in respect of any such carcass.

(4) No compensation shall be payable for the destruction or disposal, in terms of this Act, of any animal or thing that has been connected with the commission of an offence in terms of this Act, or in respect of which such offence has been committed.

Appeals

24.(1) Any person whose interests are affected by any decision, direction, action or omission by the executive officer, provincial executive, authorised person or an assignee, or any person under the control or direction of such person under this Act, may appeal against such decision, direction, action or omission to the Minister or the MEC of the relevant province, as the case may be.

(2) An appeal referred to in subsection (1) shall be lodged in the prescribed manner within the prescribed period and the prescribed fee shall be payable in respect of such appeal.

(3) The Minister or the MEC, as the case may be, shall -

- (a) refer the appeal for investigation and decision to an appeal board, the members of which shall be appointed by the Minister or such MEC; and
- (b) designate one of the members as chairperson of the appeal board.

(4) The appeal board referred to in subsection (3)(a) shall consist of at least three persons, who in the opinion of the Minister or the MEC, as the case may be, have adequate skill and are suitable to decide on the appeal concerned.

(5) A person who has a direct or indirect interest in the outcome of an appeal shall not be appointed as a member of the appeal board concerned, and if such person has been appointed, he or she shall recuse him or herself or shall be disqualified and the Minister or the MEC, as the case may be, shall appoint another person as member of the appeal board in question.

(6) All the members of an appeal board shall constitute a quorum for a meeting of that board and -

(a) the decision of the majority of the members thereof shall be the decision of that appeal board; and

(b) the chairman of that appeal board shall, in the case of an equality of votes, have a casting vote in addition to his or her deliberative vote.

(7)(a) The appellant may request the appeal board in question or be requested by that appeal board to appear at an inquiry before the board so as to be heard or questioned.

(b) An appellant appearing at such inquiry shall be entitled to legal representation.

(8) Any appeal board may -

(a) confirm, set aside or amend any decision, direction, action or omission which is the subject of the appeal; or

(b) make any other order in connection therewith as the board may deem fit.

(9) The persons referred to in subsection (1), shall be bound to a decision of an appeal board.

(10) The decision of an appeal board together with the reasons therefor shall be in writing and copies thereof shall be furnished to the Minister or the MEC, as the case may be, the appellant and the executive officer, provincial executive, assignee or authorised person, as the case may be.

(11) If a decision, direction or action which is the subject of an appeal -

(a) is set aside, the amount referred to in subsection (2) shall be refunded to the appellant concerned; and

(b) is amended, such portion of the amount referred to in subsection (2), as the board concerned may determine, shall be refunded to the appellant concerned,

Determination and payment of fees and other amounts

25.(1) All fees payable by any person in terms of any provision of this Act, except amounts that are fixed under any such provision by the executive officer shall be determined by the Minister with the concurrence of the Minister of Finance.

(2) Fees and amounts referred to in subsection (1) -

- (a) that have been determined and are mentioned in any regulation or direction made or given under this Act shall within 60 days after having become recoverable- and
- (b) that have been determined but are not so mentioned, or which have been fixed as contemplated in subsection (1), shall within 60 days after the debtor concerned has in the prescribed manner been notified of the amount due-

be paid in the prescribed manner.

Keeping and production of documents

26.(1) A copy of any permit, authority, order or other document that has been issued, granted, served or given to a person by the executive officer under this Act and, in the case of an order, the prescribed documents that shall be obtained in connection with the sewing thereof, as well as any application, correspondence or other document submitted to the executive officer and arising from the administration and application of this Act, shall be stored safely by such person for the periods that are fixed in respect thereof by or pursuant to any provision of the Archives Act, 1962 (Act No. 6 of 1962).

(2) Any person who is required under this Act to have a permit, authority or other document, or to whom a permit, authority, order, certificate or other document has been issued, granted, served or given in terms of this Act, shall on request, immediately produce the permit, authority, order, certificate or document concerned to the executive officer, assignee, an authorised person or a customs officer.

(3) Any permit, authority, order, certificate or other document that was issued, granted or served on a person by the executive officer under this Act shall, for the duration of the validity thereof, be kept safely by the person in whose favour it was issued or granted to, or on whom it was served.

Confidentiality

27.(1) No person shall disclose any information that relates to the business or affairs of any person, acquired by him or her through the exercise of his or her powers or performance of his or her duties in terms of this Act, except -

- (a) in so far as it is necessary for the proper application of the provisions of this Act;
- (b) where it is deemed to be in the interest of the public;

- (c) for the purpose of any legal proceedings under this Act;
- (d) when ordered to do so by any competent court; or
- (e) if he or she is authorised in writing to do so by the Minister

Application of Act in respect of the State

28. This Act, excluding -

- (a) the provisions of any section in so far as it -
 - (i) imposes a duty to pay any fees; or
 - (ii) grants a right to claim any compensation; and
- (b) the penal provisions,

shall bind the State.

Defects in form

29. A defect in the form of any document that in terms of any law, is required to be executed in a particular manner or in a document issued in terms of this Act, shall, if the document substantially complies with the applicable legal requirements, not render unlawful any administrative act performed in terms of this Act in respect of the matter to which such document relates, and shall not be a ground for exception to any legal procedure that may be taken in respect of such matter.

Regulations

30.(1) The Minister may make regulations -

- (a) regarding any matter which in terms of this Act is required or permitted to be prescribed;
- (b) regarding the qualifications, powers and duties of specified persons;
- (c) regarding the payment of fees if an animal or thing is examined by an officer in terms of this Act and regarding fees determined by assignees;
- (d) prescribing the manner in which any animal or thing which is required or permitted to be isolated under this Act, shall be isolated and cared for and treated in isolation;

- (e) prescribing the manner in which any infectious or contaminated thing, or anything that can be suspected of being an infectious or contaminated thing, shall be cared for, treated, disinfected, destroyed or disposed of ;
- (f) prescribing
 - (i) things other than animals or infectious things, as contaminated things; and
 - (ii) animal products or other things, as infectious things;
- (g) declaring certain invertebrates to be an animal for the purpose of this Act:
- (h) regarding the manner and periods within which specified applications have to be submitted, the documents that are to accompany such applications and the fees that are payable in respect of such applications;
- (i) regarding matters pertaining to the importation and exportation of any-animal or thing; and
- (j) prescribing, in general, any matter that the Minister deems expedient or necessary for the achievement of the purposes of this Act, the generality of this paragraph not being restricted by the provisions of the other paragraphs of this subsection.

(2) Different regulations that differ in the respects deemed expedient by the Minister, may be made under this section, subject to the provisions of this Act, in relation to different areas in the Republic, different classes of animals and things or animal diseases or parasites.

Offences and penalties

31 .(1) Any person who -

- (a) contravenes or fails to comply with any provision of sections **8**; 9(1); 10(1), (4), (5); 11(1), **(3)**; 13(8); 14(4)(a) or 27;
- (b) removes any animal or thing that has been isolated or is being detained under or pursuant to any provision of this Act, without the written authority of the executive officer or contrary to any condition of such authority, from such isolation or detention:
- (c) obstructs or hinders the executive officer, an officer, an authorised person, assign or any other person in the exercise of any power or the performance of any duty under this Act;
- (d) refuses or fails to comply with any prohibition, restriction or obligation, or any condition relating thereto, contained in a control measure that applies to such person or any animal or thing belonging to or in the control of such person;
- (e) refuses or fails to comply with any order issued in terms of section 16 (1) ;

- (f) refuse or fails to comply with a condition or requirement subject to which a permit, certificate, authority, consent or other proof of assent or approval has been issued under this Act;
- (g) while being a participant in a scheme, contravenes any provision of that scheme or fails to comply therewith;
- (h) refuses or fails to stop any conveyance, or to permit the executive officer, provincial executive, authorised person or assignee to take it under his or her control, as contemplated in section 21(-), whenever such person is for that purpose directed or requested by the executive officer, provincial executive, authorised person or assignee;
- (i) refuses or fails to render reasonable assistance whenever it is demanded from him or her in terms of section 21(2)(b);
- (j) refuses or fails to provide information or give an explanation or an answer to a question lawfully required in terms of section 21 (2)(n) and (o), or furnishes information, an explanation or an answer that is false or misleading, knowing that it is false or misleading;
- (k) obstructs or hinders, in any manner, the executive officer, provincial executive, assignee or authorised person in the exercise of any power or the performance of any duty under this Act;
- (l) damages, destroys or otherwise tampers with any sample taken under this Act, or any object so seized;
- (m) damages, removes or otherwise tampers with any conveyance, appliance, instrument, tool, equipment, remedy or any other object belonging to or under the supervision or custody of the executive officer, an authorised person, assignee or any other person who is exercising or performing or is required to exercise or perform any power or duty in terms of this Act, with or in connection with any such object or, in the case of any such animal, injures it, or removes it without the consent of any such person, or otherwise interferes with it;
- (n) alters in any manner or forges in any manner any permit, certificate, consent or other proof of assent or approval that is issued or rendered under this Act, or obtains such document or any other decision from the executive officer, provincial executive, assignee or authorised person that is required or permitted to be given, under false pretences;
- (o) with the intent to evade any provision of this Act, uses a document that has been altered or forged as contemplated in paragraph (n)
- (p) damages, destroys, moves, removes, ~~erases~~, alters or otherwise tampers with any beacon, mark or seal that has been under any provision of this Act been installed or **affixed** on, or in connection with, any land, animal or thing or any other thing;

- (q) performs, or abstains from performing, any act for which a permit, consent or authority or other document is required under this Act, without such permit, consent, authority or document having been issued, granted or given in respect thereof to him or her such performance or abstention not being penalised by any other provision of this subsection;
- (r) obtains, or aids and abets any other person to obtain, by means of false representations, any compensation under this Act;
- (s) contravenes any provision of a control measure, or fails to comply therewith;
- (t) refuses or fails to receive any order or other document served on him or her in terms of this Act;
- (u) as a successor in title to an owner of any animal or thing, or land to which the provisions of this Act applies, fails to comply with any instruction, order or provision that is applicable to that animal or thing, or land;
- (v) contravenes or fails to comply with any regulation or provision of the Act, such contravention or failure not being penalised by any other provision of this subsection,

shall be guilty of an offence.

(2) Any person found guilty of an offence under this Act shall -

- (a) in the case of a first conviction, be liable to a fine or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
- (b) in the case of a second or subsequent conviction, whether the same or any other offence referred to in subsection (1), be liable to a fine or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

(3) An offence relating to the contravening of section 10(5) shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed in any place where the accused happens to be.

(4) Notwithstanding anything contained in any other law, a magistrate's court shall be competent to impose any penalty provided for in this section.

(5) On any conviction for any offence under this Act, a conviction for a corresponding offence under any Act repealed by section 34(1) of this Act, or of any law made thereunder, shall be deemed to be a previous conviction under this Act.

Presumptions and evidence

32, In any prosecution for any offence under this Act -

- (a) it shall be presumed, unless the contrary is proved, that any sample taken from an animal or thing in terms of this Act is representative of that animal or

thing from which it was taken and that such animal or thing possesses the same properties as that sample;

- (b) any document purporting to be certified by the executive officer, assignee, provincial executive or authorised person to the effect that it is a true copy of the document to which the proceedings relate, shall be admissible as evidence in any court without any further proof or the production of the original document;
- (c) particulars of any event, action or facts that have been recorded in terms of a control measure by the executive officer, assignee, provincial executive or authorised person, shall be prima facie evidence of the event, action or facts in question, and shall be admitted in evidence in any court, unless the contrary is proved;
- (d) any declaration or other document that purports to have been issued by the government of, or any competent authority in any foreign State, shall be prima facie evidence of such declaration or of the event, action or facts stated therein, and shall be admitted in evidence in any court unless the contrary is proved;

Repeal of laws and transitional provisions

33.(1) Subject to the provisions of subsection (2), the laws specified in column 1 of the Schedule hereto are hereby repealed to the extent indicated in the third column thereof.

(2) Any regulation or scheme made or anything else done under any provision of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and which is in force immediately prior to the commencement of this Act, shall be deemed to have been made or done under a corresponding provision of this Act.

Short title

35. This Act shall be called the Animal Health Act, 1999.

SCHEDULE

No. and year of law	Short title	Extent of repeal
Act No. 35 of 1984	Animal Diseases Act, 1984	The whole Act
Act No. 18 of 1991	Animal Diseases Amendment Act	The Whole Act

MEMORANDUM ON THE OBJECTS OF THE ANIMAL HEALTH BILL, 1999

Animal **production**, being one of the most important agricultural activities in South Africa, is heavily dependent on animal health to yield optimal production. Food **security** and primary preventative health **care** are major priorities at national level, with its aim to increase the availability of safe and nutritious food. The Bill has as one of its objects to promote the well being of South Africans by ensuring an adequate supply of safe animal products, eliminating exposure to **zoonatic** diseases and ensuring revenue from agricultural exports. This is accomplished by-

preventing the **introduction** of exotic animal diseases in the Republic via importation.
controlling the spread of existing animal diseases within the Republic.
preventing the spread of existing animal diseases to other countries via exportation of animals and animal products.

With the coming into operation of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), the current legislation, the Animal Diseases Act, 1984 (Act No. 35 of 1984) had to be revised in order to bring the Act in line with **certain** provisions of the Constitution, as well as to accommodate new developments and changes in both the local and international farm animal industry. The Bill takes into consideration all of the above with its main object to provide for the control of animal diseases and parasites and to further provide for measures to promote animal health.

The Bill proposes to retain the following valuable provisions contained in the Act;

Principles of disease control measures as these measures are according to international norms and standards.

Establishment of quarantine stations.

Import control aimed to prevent the introduction of exotic animal diseases into the Republic.

Establishment of animal health schemes to eradicate certain diseases in the Republic.

Services rendered by the State to the animal owner.

Compensation for anything that has been destroyed or disposed of pursuant to any control measure.

To declare certain animal diseases that have a detrimental effect on the livestock industry and those controlled diseases that are then controlled on a countrywide basis.

To declare **certain** areas in the Republic where controlled animal diseases pose a constant threat or areas that are free of diseases, as **controlled** areas in which strict control measures are applied to prevent the spread of disease from such area or to such areas, as the **case** may be.

In additions thereto the following new provisions are included in the Bill:

The designation of a veterinarian in the department as an executive officer who will exercise the powers and **perform** the duties conferred or imposed upon him or her under the Bill.

The designation of an **official** veterinarian in each province by the **MEC** concerned as the provincial executive for the implementation of **certain** clauses of the Bill on a provincial level.

Importation takes international agreements into consideration.

Control of export of animals and animal products to protect the animal health status of the importing country. This **also has** the effect of promoting international agreements and relations.

Powers of entry and investigation may be conducted without the authority of a warrant under certain circumstances. In all other circumstances a warrant is essential.

Assignment of executive authority to provinces with regard to the implementation of certain clauses of the Bill.

Suspension of executive authority assigned to provinces under certain circumstances

In the opinion of the Department of Agriculture and the State Law Advisers, this Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution. This Bill deals with the control of animal diseases and therefore falls within a functional area (animal control and diseases) as listed in Schedule 4 of the Constitution.