

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain odd numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 321      Cape Town      13 March 1992      **No. 13829**

## THE PRESIDENCY

No. 781

13 March 1992

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

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



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

# ACT

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

*(English text signed by the State President.)  
(Assented to 3 March 1992.)*

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

## Definitions

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

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

### Establishment of Agricultural Produce Agents Council

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

### Constitution of council

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

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

#### Vacating of office by members of council

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

#### Chairman and vice-chairman of council

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

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

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

#### Meetings and decisions of council

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

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

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

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

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

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

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

#### Committees of council

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

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

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

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

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

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

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

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

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

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

#### **Registrar and staff**

10 8. (1) The work incidental to the performance of the functions of the council and its committees shall be performed by—

(a) the Registrar of Agricultural Produce Agents, who shall be appointed by the council for the purposes of this Act; and

15 (b) persons with whom the council has entered into agreements for the performance of specific activities or the rendering of specific services.

(2) The registrar may delegate or assign to a person appointed by the council to assist the registrar in his work, any power or duty conferred or imposed upon him by or under this Act.

#### **Objects of council**

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

#### **Functions of council**

10. The functions of the council are—

25 (a) to perform any functions in connection with agents entrusted to the council by this Act or any other law;

(b) to gather information in connection with agents and persons applying for the issue of fidelity fund certificates;

30 (c) to hire, purchase or otherwise acquire such movable or immovable property as the council may deem necessary for the effective performance of its functions, and to let, sell or otherwise dispose of property so purchased or acquired; and

(d) generally, to take such steps as it may deem necessary to achieve its objects.

#### **35 Funds of council**

11. (1) The funds of the council shall consist of—

(a) money paid to the council in terms of this Act; and

(b) all other money which may accrue to the council from any other source.

(2) The council shall utilize its funds to defray expenses incurred by the council  
40 in the performance of its functions and the exercise of its powers under this Act.

(3) The council shall open an account at a deposit-taking institution or building society, and shall deposit all moneys referred to in subsection (1) therein.

(4) The council may invest any moneys deposited by it in an account in terms of subsection (3) and which are not required for immediate use.

45 (5) The financial year of the council shall end in each year upon the date determined by the council from time to time.

(6) The council shall—

(a) cause accounting records to be kept of all moneys received or expended by it, and of all its assets, liabilities and financial transactions; and

50 (b) as soon as possible, but not later than three months after the end of each financial year, cause annual financial statements to be prepared showing, with all the appropriate particulars, the money received and the expenditure incurred by it during, and its assets and liabilities at the end of, that financial year.

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

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

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

(a) be open to public inspection at the office of the council during office hours; and

(b) be obtainable from the council against payment of the amount determined therefor by the council.

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

#### 15 Establishment and control of fidelity funds

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

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

(a) money in the fidelity guarantee fund established under section 27 of the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975);

(b) each amount which is immediately prior to the commencement of this section payable to or on the account of the fund referred to in paragraph (a), and is paid on or after such date of commencement;

(c) money paid to or on account of the said fund in terms of subsection (4) by fresh produce agents;

(d) money recovered by or on behalf of the said fund in terms of this Act;

(e) money received by the said fund by virtue of a contract of insurance referred to in section 15;

(f) income derived from the investment of money in the said fund; and

(g) any other money accruing to the said fund from any other source.

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

(a) money paid to or on account of the said fund in terms of subsection (4) by livestock agents;

(b) money recovered by or on behalf of the said fund in terms of this Act;

(c) money received by the said fund by virtue of a contract of insurance referred to in section 15;

(d) income derived from the investment of money in the said fund; and

(e) any other money accruing to the said fund from any other source.

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

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

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

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

(ii) agents who are in possession of valid fidelity fund certificates, to comply with the provisions of this Act and the rules

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

#### Payments out of funds

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



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

#### Claims against funds and actions against council

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

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

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

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

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

(a) there shall pass to the council, to the extent of such settlement, all the rights and remedies of the claimant in respect of such claim against the agent concerned or any other person or, if applicable, in the case of the death, insolvency or other legal incapacity of such agent or other person, against the estate of the said agent or other person;

30 (b) the council may use any security furnished by an agent in terms of section 17, to reimburse the fund concerned for the amount for which the claim concerned was settled.

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

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

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

#### Insurance contracts

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

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

(a) by virtue of any contract entered into in terms of subsection (1) with an insurer, have any right of action against that insurer; and

50 (b) have any right or claim in respect of money paid or payable to the council in favour of that fund by an insurer in accordance with such contract.

#### Prohibition on acting as agent under certain circumstances

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

(b) The provisions of paragraph (a) shall in the case of a person...

- (2) No person shall receive remuneration for the performance of an act as an agent, unless—
- (a) the act has been performed by the holder of a valid fidelity fund certificate; or
  - 5 (b) the council has under subsection (3) exempted such person from complying with the provisions of subsection (1).
- (3) (a) The council may on application grant written exemption from the provisions of subsection (1) to a person—
- 10 (i) who only occasionally acts as an agent; and
  - (ii) whose scope of business as an agent, in the opinion of the council does not justify the issue of a fidelity fund certificate.
- (b) Such exemption shall be granted subject to such conditions as the council may in each case determine.
- (4) An application for a fidelity fund certificate shall be made in the manner 15 determined by the council, and shall be accompanied by the applicable amount determined by the council for this purpose.
- (5) After consideration of any such application the council shall, subject to the provisions of subsection (6), issue to the applicant a fidelity fund certificate in the form determined by the council.
- 20 (6) The council may refuse to issue a fidelity fund certificate to a person who—
- (a) has at any time by reason of improper conduct been dismissed from a position of trust;
  - (b) has at any time been convicted of an offence involving an element of dishonesty;
  - 25 (c) is of unsound mind;
  - (d) has at any time been convicted of a contravention of the Agricultural Produce Agency Sales Act, 1975 (Act No. 12 of 1975), and whose registration as a commission agent as defined in the said Act, was as a result thereof cancelled in terms of section 6 of that Act;
  - 30 (e) has after an investigation in terms of section 24, been found guilty of improper conduct, if the council has as a result thereof withdrawn the fidelity fund certificate previously issued to the person concerned;
  - (f) is an unrehabilitated insolvent; or
  - 35 (g) in the case of a company or co-operative, has a director or employee, and in the case of a close corporation, has a member or employee, who is subject to a disqualification set out in paragraph (a), (b), (c), (d), (e) or (f).
- (7) Any person to whom a fidelity fund certificate has been issued in terms of subsection (5) shall, when requested thereto by the council, pay to the council 40 within the period determined by the council the amount determined by the council.
- (8) (a) Subject to the provisions of paragraph (b), each person who immediately prior to the commencement of this section was a member of the fidelity guarantee fund established under section 27 of the Agricultural Produce Agency 45 Sales Act, 1975 (Act No. 12 of 1975), shall be deemed to be the holder of a fidelity fund certificate issued by the council in terms of this Act.
- (b) The validity of a fidelity fund certificate referred to in paragraph (a) shall lapse 90 days after the date of commencement of this section unless the holder thereof has on or before such date paid to the council the applicable amount 50 determined by the council for this purpose.
- (9) Each agent who is the holder of a fidelity fund certificate shall—
- (a) annually on or before a date determined by the council, pay to the council the amount determined by the council for the maintenance of such certificate;
  - 55 (b) forthwith notify the council in writing—
    - (i) of any change of his business or postal address;
    - (ii) if the partnership of which he is a partner, dissolves;
    - (iii) if he becomes a member of a partnership;
    - 60 (iv) if, in the case of a company, co-operative or close corporation, a change in the directorship of that company or co-operative or the membership of that close corporation has occurred; and

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

### Security by agents

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

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

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

#### Trust accounts

19. (1) Subject to the provisions of subsection (2), each agent who is the holder of a fidelity fund certificate shall—
- (a) open and keep a trust account at a deposit-taking institution; and
- (b) forthwith deposit therein the proceeds of the sale of agricultural produce sold by him on the instructions of or on behalf of his principal.
- (2) (a) Only one trust account shall be kept in respect of the business of an agent who is a partnership.
- (b) The Minister may on the recommendation of the council and by notice in the *Gazette* suspend the operation of the provisions of this section and of section 20, or such portions thereof as he may determine, in relation to a particular category of agent if he is satisfied that the said provisions or any portion thereof has an unnecessarily restrictive effect on the disposal of the proceeds of the sale of agricultural produce by such category of agent.
- (c) A suspension in terms of paragraph (b) shall—
- (i) only be valid in respect of an agent of the category concerned who has furnished the council with such security as the council may determine, to fulfil any obligation that may arise towards any person in respect of the proceeds of the sale of agricultural produce by that agent; and
- (ii) be subject to such conditions and requirements as the Minister may on the recommendation of the council determine and set out in the said notice.
- (3) An agent referred to in subsection (1)—
- (a) may invest any amount paid into his trust account with a view to payment as contemplated in section 20 and which is not immediately required for any particular purpose, in a separate savings or other interest-bearing account opened by him with any deposit-taking institution;
- (b) shall forthwith after opening a trust account or other account referred to in paragraph (a), or if any change occurs in connection with any such account, notify the council thereof in the manner determined by the council;
- (c) shall keep separate accounting records referred to in section 18 in respect of his trust account and savings or interest-bearing accounts referred to in paragraph (a) of this subsection, and shall balance such accounting records within 21 days after the end of each month.
- (4) An auditor referred to in section 18(2) shall immediately after completing an audit contemplated in that section, transmit to the council a report in the form determined by the council regarding his findings, and a copy thereof to the agent concerned.
- (5) (a) An amount deposited or to be deposited in terms of subsection (1)(b) in the trust account of an agent—
- (i) shall not be liable to be attached or subjected to any form of execution under a judgment or order of a court of law except such an order issued in pursuance of a claim by the principal concerned; and

(ii) shall not form part of the assets of that agent or, if he is a natural person and has died, or has become insolvent, of his deceased or insolvent estate.

(b) The provisions of paragraph (a) shall not apply to the remainder of the amount concerned after the principal of the agent concerned has been paid as contemplated in section 20(1).

#### Payments from trust accounts

20. (1) An agent who is the holder of a fidelity fund certificate shall pay to his principal from his trust account the proceeds of the sale of an agricultural product sold on the instruction or on behalf of such principal after he has deducted from such proceeds his remuneration as an agent and the other expenses incurred by him in connection with the sale of that agricultural product.

(2) (a) If the amount to be paid by an agent to his principal in terms of subsection (1) has not been claimed by the principal concerned within 180 days after the sale concerned, that agent shall pay the amount concerned from his trust account to the council, and furnish the council with the particulars required in the rules in connection therewith.

(b) Money so paid to the council shall be dealt with in the manner set out in section 21.

(3) Any withdrawal from a trust account for the purposes of a payment or deduction referred to in subsection (1), the withdrawal of interest earned on a trust account or an interest-bearing account referred to in section 19(3)(a), and a payment to the council in terms of subsection (2) of this section, shall be made at the time and in the manner set out in the rules.

(4) No withdrawals other than those specified in subsection (3) shall be made from a trust account or a savings or interest-bearing account referred to in section 19(3)(a): Provided that any fees deducted from such accounts by the institution at which they are kept shall be deemed to form part of the remuneration referred to in subsection (1) of this section of the agent concerned.

#### 30 Disposal of unclaimed moneys

21. (1) The council shall keep separate records, in the manner set out in section 11(6), of unclaimed money paid to it in terms of section 20(2), and of the disposal of such money in terms of the provisions of this section.

(2) The council shall as soon as practicable after unclaimed money has been so paid to it, by notice in the *Gazette* state—

(a) the name of the person entitled to that money;

(b) the amount of money to which the said person is so entitled; and

(c) the name of the agent who paid that money,

and call upon the said person to claim that money from the council within 90 days after the date of the said notice.

(3) No money shall be paid to any person by virtue of the provisions of subsection (2) unless he satisfies the council that he is entitled to that money.

(4) If, within the period referred to in subsection (2), no valid claim has been lodged in respect of such money, the council shall deposit that money in the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), to be credited in accordance with the provisions of the said Act to the person entitled thereto.

(5) Before any money is by virtue of the provisions of subsection (2) paid over to the person entitled thereto or deposited in terms of subsection (4), the council may deduct therefrom, for the benefit of the council, an administration fee consisting of 15 per cent of the said amount.

#### Rules

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

- (a) the procedure to be complied with by an agent in connection with the sale of any agricultural product;
- (b) the form and manner in which records are to be kept by an agent in connection with agricultural products received for sale and in connection with the sale or other disposal of such agricultural products;
- 5 (c) the manner in which and period within which account shall be given to agents' principals of the sale or other disposal of agricultural products;
- (d) the manner in which a trust account shall be kept, the control and administration of such trust account, the disposal of any money in such trust account, and any other matter connected with such trust account;
- 10 (e) the payment of unclaimed money to the council in terms of section 20(2);
- (f) the returns and the information to be furnished by an agent to the council;
- 15 (g) the code of conduct to be followed in the practising of the occupation of agent; and
- (h) any matter which the council deems necessary or expedient for the achievement or promotion of its objects or for the exercise of its powers or for the performance of its functions, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
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(2) Different rules may be made under subsection (1) in respect of different categories of agents or in respect of agents according as they deal with different categories of agricultural products, and such different rules may differ in such respects as the council may deem expedient.

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

### 30 **Improper conduct**

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

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

### **Inquiry by council**

40 24. (1) The council may, either of its own accord or as a result of a complaint, charge or allegation lodged with it, institute an inquiry into the conduct of an agent who is the holder of a fidelity fund certificate, or into an act or omission or alleged act or omission of such agent in the practising of his occupation, or into a contravention or alleged contravention of this Act or the rules by such agent.

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

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

55 on the said criminal charge.

### Procedure at inquiry

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

**Disciplinary powers of council**

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

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

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

(3) The registrar shall—

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

(4) (a) If at the end of the period for which the taking of a decision has been 20 postponed under subsection (2), the council is satisfied that the agent concerned has observed all the relevant conditions, the registrar shall inform the agent concerned that the council will not take a decision under subsection (1).

(b) If the execution of a decision has been suspended under subsection (2) and 25 the council is satisfied that the agent concerned has observed all the relevant conditions throughout the period of suspension, the registrar shall inform such agent that such decision will not be executed.

(5) If an agent fails to comply with any conditions determined under subsection (2), the council shall take a decision under subsection (1), or cause 30 the decision taken under subsection (1)(c) to be executed, unless the said agent satisfies the council that the non-compliance with such conditions was due to circumstances beyond his control.

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

**35 Inspections**

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

(2) An inspector shall be furnished with a certificate signed on behalf of the 40 council and stating that the said person has been designated as an inspector under this Act.

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

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

- (a) enter any place in respect of which he has reason to believe that any 50 person there is acting as an agent or that it is being used for the purposes of an agent business;
- (b) order any agent or employee of an agent—
  - (i) to produce to him the fidelity fund certificate of that agent;
  - (ii) to produce to him any book, record or other document in the possession or under the control of that agent or employee;
  - 55 (iii) to furnish him with such information in respect of that fidelity fund certificate, book, record or other document as he may require;
  - (iv) to grant him such assistance as he may demand in order to enable him to perform his functions in terms of this subsection;
- (c) examine or make extracts from or copies of such fidelity fund certifi- 60 cate, book, record or other document;



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

#### Preservation of secrecy

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

#### 15 Offences and penalties

29. (1) Any person who—
- (a) contravenes or fails to comply with a provision of section 12(4)(a), 16(1) or (9)(a), 19(1), 20 or 28;
  - (b) contravenes or fails to comply with a provision of section 16(2), (7), (9)(b) or (10)(d), 18 or 19(3)(b) or (c);
  - (c) contravenes or fails to comply with a requirement under section 17(1) or a condition or requirement under section 19(2)(c);
  - (d) (i) hinders or obstructs an inspector in the exercise of his powers or the performance of his duties under section 27;
  - (ii) without valid excuse refuses or fails to answer to the best of his ability any question which an inspector in the exercise of his powers or the performance of his duties under the said section has put to him;
  - (iii) refuses or fails to comply to the best of his ability with any requirement made by an inspector in the exercise of his powers or the performance of his duties under the said section; or
  - (iv) wilfully furnishes to an inspector any information which is false or misleading;
  - (e) in any application in terms of this Act, knowingly furnishes information or makes a statement which is false or misleading,
- shall be guilty of an offence.
- (2) Any person who is convicted of an offence—
- (a) mentioned in subsection (1)(a), (c) or (d)(i), (ii) or (iii), shall be liable—
    - (i) on a first conviction, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both that fine and that imprisonment;
    - (ii) on a second or subsequent conviction, whether of the same offence or any other offence mentioned in this paragraph, to a fine not exceeding R16 000 or to imprisonment for a period not exceeding four years or to both that fine and that imprisonment;
  - (b) mentioned in subsection (1)(b), (d)(iv) or (e), shall be liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both that fine and that imprisonment.
- (3) Notwithstanding anything to the contrary contained in any law, a magistrate's court is competent to give any judgment or issue any order provided for in this Act.

#### Deficit in trust account

30. (1) Whenever any agent or his manager, representative agent, employee

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

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

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

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

#### Presumptions and evidence

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

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

#### Vicarious liability

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

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

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

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

#### Defects in form

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

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

#### 5 Restriction of liability

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

#### Repeal of laws

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

#### Short title and commencement

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

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

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

Flowers.  
Ornamental plants.  
Pot plants.  
Vegetables, as defined in Part C.  
Fruit, as defined in Part C.  
Culinary herbs, as defined in Part C.  
Miscellaneous market products, as defined in Part C.

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

Livestock, as defined in Part C.  
Meat, as defined in Part C.  
By-products, as defined in Part C.  
Cured hides and cured skins, as defined in Part C.

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

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

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

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