

REPUBLIC OF SOUTH AFRICA

**AGRICULTURAL DEBT
MANAGEMENT AMENDMENT
BILL**

(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill published in Government Gazette No 23798 of 6 September 2002) (The English text is the official text of the Bill)

(MINISTER FOR AGRICULTURE AND LAND AFFAIRS)

[B 45—2002]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP
BESTUUR VAN LANDBOUSKULD**

(Soos ingedien by die Nasionale Vergadering as 'n artikel 75-wetsontwerp; verduidelikende opsomming van Wetsontwerp in Staatskoerant No 23798 van 6 September 2002 gepubliseer) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)

(MINISTER VIR LANDBOU EN GRONDSAKE)

[W 45—2002]

ISBN 0 621 32982 7

GENERAL EXPLANATORY NOTE:

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

BILL

To amend the Agricultural Debt Management Act, 2001, so as to make provision for the preparation, execution and attestation of documents for registration or filing at a deeds registry by an officer of the department; and to provide for matters connected therewith.

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

Amendment of section 9 of Act 45 of 2001

1. Section 9 of the Agricultural Debt Management Act, 2001, is hereby amended—
 - (a) by the substitution for the heading of the following heading: 5
 “Registration and filing of documents and exemptions”; and
 - (b) by the substitution for subsection (1) of the following subsection:
 “(1) Despite the provisions of any other Act, a mortgage bond, agreement, consent, authorisation or other document tendered for the purposes of this Act at any deeds registry for registration or filing, may be prepared, executed and attested by an officer of the department.” 10

Short title

2. This Act is called the Agricultural Debt Management Amendment Act, 2002.

MEMORANDUM ON THE OBJECTS OF THE AGRICULTURAL DEBT MANAGEMENT AMENDMENT BILL, 2002

1. In terms of section 11 of the Agricultural Debt Management Act, 2001 (Act No. 45 of 2001) (“the Act”), the Act will come into operation on a date determined by the President by proclamation in the *Gazette*. It was intended that the Act should come into operation on 1 April 2002.

2. In terms of section 9(1) of the Act, an officer in the Department of Agriculture may, despite the provisions of any other Act, tender a mortgage bond, agreement, consent, authorisation or any other document at any deeds registry for registration or filing. The Department was advised that “tendering” also includes the framing of the said documentation and the same principles as provided for in the Agricultural Credit Act, 1966 (Act No. 28 of 1966) (to be repealed by the Act), would apply.

3. The Chief Registrar of Deeds indicated that section 9(1) of the Act is not in line with the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937). He indicated that the Act does not provide for the framing of mortgage bonds, agreements, consents, authorisations and other documentation by officials of the Department of Agriculture. Section 9(1) only provides for the tendering (*lodging*) of such documentation by an officer of the Department at the Deeds Registry for registration.

4. As is currently the case with the application of the Agricultural Credit Act, 1966, it is imperative that officials in the Department of Agriculture still be in a position to frame and tender the relevant documents in order to prevent fruitless or wasteful expenditure and claims against the State. The commencement of the Act was thus postponed.

5. In order to clarify certain provisions relating to the Deeds Registries Act, 1937, the Chief State Law Adviser and Chief Registrar of Deeds recommended that section 9(1) of the Act be amended.

6. PERSONS CONSULTED

The Chief State Law Adviser and the Chief Registrar of Deeds were consulted.

7. FINANCIAL IMPLICATIONS FOR STATE

None.

8. PARLIAMENTARY PROCEDURE

The State Law Advisers and the national Department of Agriculture are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.