

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
MARKETING OF  
AGRICULTURAL PRODUCTS  
AMENDMENT BILL**

[B 76—97]

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*(As agreed to by the Portfolio Committee on Agriculture, Water Affairs and Forestry  
(National Assembly))*

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[B 76A—97]

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REPUBLIEK VAN SUID-AFRIKA

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**PORTEFEULJEKOMITEE-AMENDEMENTE  
OP  
WYSIGINGSWETSONTWERP  
OP DIE BEMARKING VAN  
LANDBOUPRODUKTE**

[w 76—97]

*(Soos goedgekeur deur die Portefeuljekomitee oor Landbou, Waterwese en Bosbou  
(Nasionale Vergadering))*

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[W 76A—97]

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**AMENDMENTS AGREED TO**  
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 MARKETING OF AGRICULTURAL PRODUCTS AMENDMENT BILL  
 [B 76-97]  
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CLAUSE 1

1. On page 2, from line 10, to omit paragraph (b).
2. On page 4, from line 2, to omit "or any products derived therefrom"

CLAUSE 3

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 2:

**Substitution of section 8 of Act 47 of 1996**

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

**"Personnel of Council and conditions of service**

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

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

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

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

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

(2) Any officer or employee of the Department may be selected by the Council, in consultation with the Director-General, for transfer to the Council, and if the selection is

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

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

- (a) such person's salary or salary scale shall not be reduced by such appointment;
- (b) such person shall retain all vacation and sick leave standing to his or her credit with the Department immediately preceding his or her transfer, including all monetary benefits attached thereto;
- (c) such person shall be compensated by the Council for any loss which he or she may incur as a result of such transfer in respect of unemployment benefit contributions, medical aid contributions or other expenditure on health care that is necessary so as not to place him or her in a less favourable position with regard to such expenditure than that which applied to him or her immediately prior to his or her transfer, as well as for any other losses arising from any transfer from his or her present headquarters to new headquarters in accordance with the procedure applicable to officers and employees of the Department; and
- (d) such person's conditions of employment in respect of matters not specified in paragraphs (a) to (c) shall not be less favorable to him or her than those which applied to him or her immediately prior to the transfer.

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

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

(6) Any disciplinary steps instituted or contemplated against any person transferred from the Department in terms of subsection (2) in respect of alleged misconduct committed prior to his or her transfer to the Council, shall be disposed of or

instituted, as the case may be, in terms of the laws applicable to him or her immediately before such transfer.

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

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

(b) that he or she is to remain with the Department and of the post which he or she will occupy.

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

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

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

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

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

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

#### CLAUSE 6

1. On page 6, from line 43, to omit paragraph (a) and to substitute:

“(a) the amount of such levy, or the formula by which such a levy shall be calculated: Provided that the value of the levies on a particular agricultural product shall not exceed, *in total*, five percent of the guideline price for such agricultural product, which guideline price shall—

(i) be based on an average price [realised minus the cost incurred up to] at its first point of sale during a preceding period not exceeding three years; and

(ii) be determined by the Minister in consultation with the Council by notice in the *Gazette*;”

#### NEW CLAUSE

1. That the following be a new Clause to follow Clause 7:

#### **Amendment of section 19 of Act 47 of 1996**

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

**“Registration**

**19.** The Minister may by notice in the *Gazette*, direct that any **[producer of a particular] person mentioned with regard to an agricultural product or class thereof [or any person who disposes of such an agricultural product or class thereof for a profit, or any person involved in the purchase, sale, processing or production of such agricultural products or a class thereof] 10** which the notice pertains and which such person has in his or her possession or under his or her control, shall be registered as specified in the notice.”.

## LONG TITLE

- I. On page 2, in the second line, after “Council” to insert:  
; to provide anew for the staff matters of the Council