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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 803.

19 April 1991

No. 803.

19 April 1991

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

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

No. 18 of 1991: Animal Diseases Amendment Act, 1991.

No. 18 van 1991: Wysigingswet op Diersiektes, 1991.

Act No. 18, 1991

ANIMAL DISEASES AMENDMENT ACT, 1991

GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

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

ACT

To amend the Animal Diseases Act, 1984, so as to further define a certain expression; to further regulate the declaration of places to be quarantine stations; to extend the control measures relating to the importation of animals, parasites and contaminated or infectious things to the conveyance in transit thereof; to further regulate the seizure and disposal of, and compensation payable in respect of, controlled animals and things; to create additional offences and revise penalties; and to extend the application of presumptions; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 8 April 1991.)*

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

Amendment of section 1 of Act 35 of 1984

1. Section 1 of the Animal Diseases Act, 1984 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "officer" 5 of the following definition:

"‘officer’ means any officer or employee as defined in section 1 (1) of the Public Service Act, [1957 (Act No. 54 of 1957)] 1984 (Act No. 111 of 1984), acting under delegation from or control of the director;"

Amendment of section 2 of Act 35 of 1984

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2. Section 2 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The director of the **[Division of Veterinary Services]** Directorate of Animal Health of the department, who shall be a veterinarian, shall exercise the powers and perform the duties conferred or imposed upon the director by or 15 under this Act.”

Amendment of section 5 of Act 35 of 1984

3. Section 5 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The **[Minister]** director may— 20
(a) with the approval of the Minister, at any place in the Republic establish, or cause to be established, a quarantine station for the accommodation of imported animals or things which are in terms of this Act required or permitted to be detained or isolated; and

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- (b) declare any place where any animal or thing which may be seized under this Act, or which is in terms of this Act required or permitted to be detained or isolated, is found, to be a quarantine station for the accommodation of such animal or thing **[until the animal or thing is otherwise disposed of]**.”.

Amendment of section 6 of Act 35 of 1984

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4. Section 6 of the principal Act is hereby amended—

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

“(a) No person shall import into or convey in transit through the Republic any animal, parasite or contaminated or infectious thing **[into the Republic]** except under the authority of a permit and in compliance with any condition imposed in such permit.”; 10

- (b) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

“(i) shall be obtained by an importer before the relevant animal or thing is removed from or out of any place outside the Republic by means of any conveyance or by any other means for the purpose of importing it into or conveying it in transit through the Republic;”; and 15

- (c) by the addition of the following paragraph to subsection (1):

“(c) When any person imports into or conveys in transit through the Republic animals or things of the same class on a regular basis from the same country, the director may, if he is satisfied that it will not defeat a controlled purpose, issue to such a person a permit referred to in paragraph (a) to so import or convey during the period specified therein consecutive consignments of animals or things of the same class.”. 20 25

Repeal of section 7 of Act 35 of 1984

5. Section 7 of the principal Act is hereby repealed.

Amendment of section 11 of Act 35 of 1984

6. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 30

“(2) A veterinarian or any other person who finds the incidence or suspected incidence of any controlled animal disease in any animal or progeny or product thereof, shall immediately report such incidence to the director.”.

Amendment of section 12 of Act 35 of 1984

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7. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (d) of subsection (2) of the following paragraph:

“(d) seize the animal, or any such progeny or product thereof, in accordance with the provisions of section 17 (1), and in his discretion destroy it, or dispose thereof for the benefit of the State.”; and 40

- (b) by the substitution for subsection (3) of the following subsection:

“(3) The provisions of subsections (1) **[(a) and (b)]**, (2) **[(c)]** and (4) **[(a)]** shall *mutatis mutandis* also apply in respect of any animal, and any progeny or product thereof, found on land by the owner or manager of the land, or by any owner of animals thereon, if such person knows that it had 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 subsection (1) (b) of section 17 is present in respect thereof, or it can reasonably be so suspected.”. 45 50

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Amendment of section 17 of Act 35 of 1984

8. Section 17 of the principal Act is hereby amended—

(a) by the insertion of the following subsections after subsection (2):

“(2A) (a) Notwithstanding the provisions of subsection (2), the director shall remain in possession of and retain control over any animal or other thing referred to in subsection (1) (a) seized by him under the said subsection and which is an infectious or contaminated thing or is on reasonable grounds suspected to be an infectious or contaminated thing, and he may at his discretion dispose thereof. 5

(b) Before the director disposes of any animal or other thing under paragraph (a), he may place such thing at the disposal of a police official referred to in subsection (2) for any investigation such police official deems necessary. 10

(2B) (a) Notwithstanding the provisions of subsection (2), any animal or thing which has been seized in terms of subsection (1) (a) on the ground of no permit having been obtained for the importation thereof, together with any progeny or product thereof, may, where the director is of the opinion that a permit would have been issued if an application therefor had been made, be returned to the person who has imported the animal or thing to be removed at his own expense within the period determined by the director, from the Republic. 15 20

(b) If the person referred to in paragraph (a) refuses to accept any such animal or thing, or so to remove it from the Republic, the director may at his discretion destroy it or otherwise dispose of it for the benefit of the State.”; and 25

(b) by the substitution for subsection (6) of the following subsection:

“(6) **[The]** An owner **[in respect]** of any animal or thing seized under subsection **[(1) (b)]** (1), shall reimburse the State any reasonable expenses incurred by the director in connection with the performance by him of any act under any provision of subsection (2B), (3), (4) or (5) in respect thereof, and which cannot be defrayed from any income referred to in subsection (5) (a): Provided that the foregoing provisions of this subsection shall not apply in respect of any animal to which any provision of an animal health scheme applies.”. 30

Amendment of section 19 of Act 35 of 1984

9. Section 19 of the principal Act is hereby amended by the addition of the following subsection: 35

“(4) No compensation shall be payable in respect of any animal or thing which has been used in connection with the commission of an offence in terms of this Act or in respect of which such offence has been committed, as the case may be, and which has been destroyed or otherwise disposed of by the director or by his order pursuant to the provisions of this Act.”. 40

Amendment of section 32 of Act 35 of 1984

10. Section 32 of the principal Act is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (m) of subsection (1) of the following subparagraph: 45

“(i) removes or causes to be removed, any animal or thing **[for the importation]** in respect of which a permit referred to in section 6 (1) (a) is required to be obtained, from or out of any place outside the Republic, **[and places it on any conveyance, or causes it to be placed]** with the object of importing it **[by means of such conveyance]** into, or conveying it in transit through, the Republic, without such permit having been issued to him; or” 50

(b) by the addition of the following subparagraph to paragraph (m):

“(iii) is found in possession of any animal or thing in respect of which a permit referred to in section 6 (1) (a) is required to be obtained and in respect of which there is a reasonable suspicion that it was imported into the Republic without such permit or contrary to a condition of such permit, and is unable to give a satisfactory account of such possession;” 55 60

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- (c) by the substitution for paragraph (u) of subsection (1) of the following paragraph:
 “(u) contravenes any provision of section 4 (3), 12 (1) (a) or (b), (3) or (4) (b), or 24, or fails to comply therewith;”;
- (d) by the substitution for item (bb) of subsection (1) of the following item: 5
 “(bb) on a first conviction of an offence referred to in any paragraph [(b) (iii), (e), (f), (g), (j), (n) (i), (q), (r) (i) or (ii), (s) or (t)] of this subsection other than a paragraph mentioned in item (aa), be liable to a fine not exceeding [R5 000] R8 000 or to imprisonment for a period not exceeding [five] two years, or to both such fine and such imprisonment;”;
- (e) by the substitution for item (cc) of subsection (1) of the following item:
 “(cc) on a second conviction of an offence referred to in item (bb), be liable to a fine not exceeding [R10 000] R16 000 or to imprisonment for a period not exceeding [ten] four years, or to both such fine and such imprisonment;”;
- (f) by the deletion of items (dd) and (ee) of subsection (1); and
- (g) by the substitution for item (ff) of subsection (1) of the following item:
 “(ff) on a third or subsequent conviction of an offence referred to in [items] item (bb) [or (dd), respectively], be liable to imprisonment for a period 20 not exceeding the [periods] period referred to in item (cc) [or (ee), respectively], without the option of a fine.”.

Amendment of section 33 of Act 35 of 1984**11. Section 33 of the principal Act is hereby amended—**

- (a) by the substitution in paragraph (c) of subsection (1) for subparagraphs (i), 25 (ii) and (iii) of the following subparagraphs, respectively:
 “(i) he did not so import it or bring it in; [or]
 (ii) he so imported it or brought it in lawfully; [or]
 (iii) he, before the alleged contravention, had lawfully been an owner in respect thereof, and that it had not been removed from any place 30 where it had been present or detained, by himself or on his authority; or”;
- (b) by the addition to paragraph (c) of subsection (1) of the following subparagraph:
 “(iv) in the case of an animal, any brand that appears thereon and 35 corresponds with a brand registered by a competent authority in another State or territory, is the brand registered in the Republic in favour of himself or of the person from whom he bought or acquired such animal;”;
- (c) by the addition of the following subsection: 40
 “(3) The provisions of subsections (1) and (2) shall, in so far as they can be applied, apply *mutatis mutandis* in civil proceedings resulting from the implementation of this Act.”.

Amendment of section 34 of Act 35 of 1984**12. Section 34 of the principal Act is hereby amended by the substitution for 45 subsection (4) of the following subsection:**

- “(4) In the application of this section in any [prosecution] proceedings, evidence that any land, animal, thing or conveyance was, at the time of the act or omission charged or in issue, in the possession or under the custody, supervision, control or care of any manager, representative, agent, employee or 50 member of the household of a principal, shall be *prima facie* proof that the relevant principal is an owner in respect thereof.”.

Short title and commencement

13. (1) This Act shall be called the Animal Diseases Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in 55 the *Gazette*.

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