

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 even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 500.

14 Maart 1979.

No. 500.

14 March 1979.

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

No. 10 van 1979: Wysigingswet op Plantverbetering, 1979.

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

No. 10 of 1979: Plant Improvement Amendment Act, 1979.

Act No. 10, 1979

PLANT IMPROVEMENT AMENDMENT ACT, 1979.

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 Plant Improvement Act, 1976, so as to insert a definition of "business", and to substitute the definitions of "owner or occupier", "nursery" and "establishment"; to provide that the particulars of an establishment which have been entered in the register of establishments shall be cancelled upon the termination or expiry of the registration of the establishment; to provide that if any business is conducted on premises which are separated from one another, all such premises shall be registered in terms of this Act; to authorize the Minister to exempt certain businesses from the provisions of this Act; to provide for a denomination under which the varieties of certain plants may be sold; to determine who shall bear the costs involved in obtaining certain results; to provide that certain persons and bodies who perform functions in connection with the application of a scheme shall perform such functions subject to the directions of the Registrar of Plant Improvement; to grant to the said registrar certain powers in connection with the taking of samples; to make punishable the furnishing of false particulars in connection with any plant or propagating material; and to indemnify certain persons in respect of certain acts performed *bona fide* under a provision of this Act or any scheme; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 6 March 1979.)

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

Amendment of
section 1 of
Act 53 of 1976.

1. Section 1 of the Plant Improvement Act, 1976 (hereinafter referred to as the principal Act), is hereby amended— 5
- (a) by the insertion after the definition of "board" of the following definition: 5
- "'business' means the business of—
- (a) a nursery; 10
- (b) the cleansing of propagating material for sale; 10
- (c) the prepacking of propagating material for sale; or 10
- (d) the sale of propagating material;" 10
- (b) by the substitution for the definition of "establishment" of the following definition: 15
- "'establishment' means any premises
- [**(a) on which the business of a nursery is conducted; or 15
- (b) on which the cleansing, prepacking or sale of propagating material is undertaken and **]** 20

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on which any business is conducted and which **[is]** have been registered in terms of this Act;”;

- (c) by the substitution for the definition of “nursery” of the following definition:
 “‘nursery’ means **[a business from which]** any 5
premises where plants are sold or grown for sale;”;
- (d) by the substitution for the definition of “owner or occupier” of the following definition:
 “‘owner or occupier’, in relation to an establishment, means the person **[to whom a certificate of** 10
registration in respect of an establishment has been issued under this Act and] who is the owner or lessee of the establishment or who otherwise has the right of management, care, control or use thereof;” 15

Amendment of section 4 of Act 53 of 1976.

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

- (a) by the deletion of paragraph (e) of subsection (1); and
 (b) by the addition of the following subsection:

“(4) When the registration of an establishment is terminated or expires, the particulars thereof which have 20
been entered into the register in terms of subsection (1) shall be cancelled.”.

Substitution of section 6 of Act 53 of 1976.

3. The following section is hereby substituted for section 6 of the principal Act:

“Prohibition of conducting of business on unregistered premises.

6. (1) (a) No person shall conduct **[the business of** 25
a nursery or undertake the business of cleansing, prepacking or selling propagating material unless such business is registered as an establishment under this Act or is] any business unless the premises on which the business is 30
 conducted or, if the business is conducted on two or more premises which are separated from one another, all such premises are registered in terms of this Act in respect of such business, or are exempt from **[registration]** the provisions of 35
this section in terms of section 10.

- (b) The registration of a cleaner or seller of seed under section 3 of the Seeds Act, 1961 (Act No. 28 of 1961), or of a nursery under section 2 of the Agricultural Pests Act, 1973 (Act No. 3 of 40 1973), shall, if current at the date of commencement of this Act, remain valid until 31 August first following on the date of expiration of such registration.

(2) **[The owner or occupier of a registered** 45
establishment shall not] No person shall conduct on or from the premises of an establishment any [activity] business [in respect of which registration is required under this Act] unless such [activity is specified in the relevant certificate of 50
registration as an activity which may be undertaken by such establishment, and such owner or occupier shall comply with any condition specified in such certificate] premises have in terms of this Act
been registered in respect of such business.” 55

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Substitution of
section 7 of
Act 53 of 1976.

4. The following section is hereby substituted for section 7 of the principal Act:

7. (1) An application for the registration of **[a business as an establishment]** any premises in respect of a business under this Act shall be made to the registrar by the **[owner or occupier of the establishment]** person intending to conduct the business on such premises in the form and manner prescribed, and shall be accompanied by the application fee prescribed **[for the kind of establishment in question]**. 5

(2) The registrar shall consider an application referred to in subsection (1) and may undertake any investigation in connection therewith which he may deem necessary. 15

(3) If the registrar, after considering an application under subsection (2), is satisfied that the **[business may be registered as an establishment in terms of this Act]** premises may be registered in respect of the business he shall register the **[establishment]** premises and— 20

(a) issue a certificate of registration in respect thereof to the person who applied for the registration; and

(b) enter the applicable particulars referred to in section 4 (1) in the register. 25

(4) The registration of **[an establishment]** premises in respect of any business under subsection (3) shall not necessarily imply that the establishment conforms to the requirements referred to in section 9 (2), and the registrar may, if he deems it necessary, make the registration subject to such conditions as he may in each case determine. 30

(5) If the registrar refuses **[the registration of a business as an establishment,]** an application for registration referred to in subsection (1), he shall in writing advise the person who applied for the registration of his decision and of the grounds on which it is based.”. 35

Amendment of
section 9 of
Act 53 of 1976.

5. Section 9 of the principal Act is hereby amended— 40

- (a) by the substitution for subsection (1) of the following subsection:
“(1) The person to whom a certificate of registration has been issued under section 7 (3) may, before the expiry of the registration, apply to the registrar in the form and manner prescribed, for the renewal of the registration, and the application shall be accompanied by the prescribed renewal fee **[prescribed for the kind of establishment in question]**.”; 45
- (b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:
“(c) that the prescribed facilities for the kind of business conducted or undertaken at the establishment in question are available at the establishment;” and 50
- (c) by the substitution for paragraph (e) of subsection (2) of the following paragraph:
“(e) that the prescribed records regarding the plants or propagating material handled at the establishment are being kept for the period and in the manner prescribed, and that such information in connection therewith as he may require has been furnished to him; and” 55 60

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Substitution of section 10 of Act 53 of 1976.

6. The following section is hereby substituted for section 10 of the principal Act:

“Exemption from registration.

10. **[(1)]** The Minister may by notice in the *Gazette* and on such conditions as he may specify in the notice, exempt from **[registration under]** the provisions of section 6 any **[specific nursery or nurseries in general]** business conducted on particular premises or any kind of business. 5

[(2)] A business from which only propagating material prepacked at a registered establishment is sold, is exempt from registration if such propagating material is sold in the original unopened containers in which it was thus prepacked. 10

Amendment of section 12 of Act 53 of 1976.

7. Section 12 of the principal Act is hereby amended by the deletion of paragraph (b) of subsection (1). 15

Amendment of section 13 of Act 53 of 1976.

8. Section 13 of the principal Act is hereby amended by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs respectively:

“(b) under a denomination other than the denomination entered in respect thereof in the varietal list: Provided that, in the case of a variety of a kind of plant in respect of which an entry has been made as contemplated in section 15 (3), the denomination which shall be used for such variety, shall be that which is generally used for that variety; 20 25

(c) if any qualifying term or reference **[whatsoever]** is added to or used in connection with **[the]** a denomination **[entered in respect thereof in the varietal list]** referred to in paragraph (b);”.

Amendment of section 18 of Act 53 of 1976.

9. Section 18 of the principal Act is hereby amended by the addition of the following paragraph to subsection (6), the existing subsection becoming paragraph (a): 30

“(b) The provisions of subsection (4) (b) shall *mutatis mutandis* apply to the costs involved in obtaining results under paragraph (a).” 35

Amendment of section 24 of Act 53 of 1976.

10. Section 24 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) (i) designate the person who or the body which shall exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon such person or body under a scheme; 40

(ii) if the person or body referred to in subparagraph (i) is not an official in the department, or a body consisting of such officials, provide that such person or body shall exercise, perform or carry out its or his powers, functions or duties subject to the directions of the registrar;” and 45 50

(b) by the substitution for paragraph (f) of the following paragraph:

“(f) indicate the kinds **[or varieties]** of plants and **[propagating material]** varieties thereof to which the provisions of a scheme shall apply;” 55

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Amendment of
section 25 of
Act 53 of 1976.

11. Section 25 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) shall consist of the **[prescribed]** quantity or mass determined by the registrar, taken in accordance with **[prescribed]** the methods determined by him;”.

Amendment of
section 26 of
Act 53 of 1976.

12. Section 26 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) The registrar shall determine the manner in which plants and propagating material imported in terms of subsection (1) or (2) shall be presented for examination and sampling in terms of subsection (4), and the manner in which and the time and place at which the examination and sampling shall be carried out **[shall be as prescribed]**.”.

Amendment of
section 35 of
Act 53 of 1976.

13. Section 35 of the principal Act is hereby amended by the substitution for paragraphs (f) and (g) of subsection (1) of the following paragraphs respectively:

“(f) who conducts **[the] a business [of a nursery] in conflict with the provisions of section 6 [or who undertakes the cleansing, prepacking or sale of propagating material on premises which are not registered in terms of this Act]** or who operates an establishment which does not conform to the requirements referred to in section 9 (2);

(g) who—

- (i) sells any plant or propagating material in contravention of section 13 **[or who]**;
- (ii) imports or sells any plant or propagating material in contravention of section 26 **[or who]**;
- (iii) exports any plant or propagating material in contravention of section 27;
- (iv) furnishes any particulars in connection with a plant or propagating material on any container in which it is sold or on a label which is attached to such plant or container, which do not correspond with **the true properties thereof;**”.

Substitution of
section 38 of
Act 53 of 1976.

14. The following section is hereby substituted for section 38 of the principal Act:

“Limitation of liability. 38. No compensation shall be payable by the State, the Minister, the registrar or an officer acting under a delegation from or under the control or direction of the registrar, or by a person or body designated in terms of section 24 or any person authorized thereto in writing by such person or body, in respect of any act done in good faith under this Act or a scheme.”.

Short title
and commencement.

15. (1) This Act shall be called the Plant Improvement Amendment Act, 1979, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

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