



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 453.

15 March 1989

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

No. 18 of 1989: Agricultural Pests Amendment Act, 1989.

No. 453.

15 Maart 1989

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

No. 18 van 1989: Wysigingswet op Landbouplae, 1989.

Act No. 18, 1989

AGRICULTURAL PESTS AMENDMENT ACT, 1989

## 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 Agricultural Pests Act, 1983, so as to define or further define certain expressions; to further regulate the delegation of powers and assignment of duties to a person who is not an officer; to extend the powers of the executive officer with regard to imported controlled goods; to oblige users of land to report the presence of red-billed quelea on land; to provide that payment of fees may be required from persons applying for exemption from the provisions of a control measure; to empower the Minister to combat red-billed quelea and to authorize other persons to perform such combating and certain other acts on land; to provide that notice of entry upon land need not be given if the user of the land does not reside upon the land and cannot readily be traced; to extend the powers regarding the recovery of fees and expenses; to create further offences and to increase penalties; and to further provide for the furnishing of evidence; and to provide for matters connected therewith.

*(Afrikaans text signed by the acting State President.)  
(Assented to 7 March 1989.)*

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

**Amendment of section 1 of Act 36 of 1983, as amended by section 1 of Act 47 of 1986**

1. Section 1 of the Agricultural Pests Act, 1983 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “department” of the following definition:
 

“‘department’ means the Department of **[Agriculture]** Agricultural Economics and Marketing;”;
  - (b) by the deletion of the definition of “Director-General”; 10
  - (c) by the substitution for the definition of “exotic animal” of the following definition:
 

“‘exotic animal’ means any vertebrate member of the animal kingdom which is not indigenous to the Republic, and includes the eggs of such a member, but does not include such a member which is an animal to which the Livestock Improvement Act, 1977 (Act No. 25 of 1977), applies or which is a fish as defined in section 1 of the Sea **[Fisheries]** Fishery Act, **[1973 (Act No. 58 of 1973)]** 1988 (Act No. 12 of 1988);”;
  - (d) by the insertion after the definition of “honey” of the following definition:
 

“‘import’ means to introduce controlled goods into the Republic or to bring about the introduction of such goods into the Republic;”;
  - (e) by the substitution for the definition of “insect” of the following definition:
 

“‘insect’ means any invertebrate member of the animal kingdom, irrespective of the stage of development thereof, but not such a member—

    - (a) included in the definition of ‘fish’ in section 1 of the Sea **[Fisheries]** 25

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- Fishery Act, [1973 (Act No. 58 of 1973)] 1988 (Act No. 12 of 1988); or
- (b) that can affect man or an animal only;”;
- (f) by the substitution for the definition of “local authority” of the following definition: 5  
 “‘local authority’ means any institution or body contemplated in section 84 (1) (f) of the **[Republic of South Africa Constitution] Provincial Government Act, 1961 (Act No. 32 of 1961);**”;
- (g) by the substitution for the definition of “officer” of the following definition: 10  
 “‘officer’ means an officer or employee as defined in section 1 of the Public Service Act, **[1957 (Act No. 54 of 1957)] 1984 (Act No. 111 of 1984);**”;  
 and
- (h) by the substitution for the definition of “pathogen” of the following definition: 15  
 “‘pathogen’ means any algae, fungus, bacterium, virus, mycoplasma, spiroplasm, viroid or rickettsia-like organism, but does not include any **[infectious thing or parasite as defined in section 1 of the Animal Diseases and Parasites Act, 1956 (Act No. 13 of 1956)]** such pathogen that can cause a disease in man or an animal only;” 20

**Amendment of section 2 of Act 36 of 1983**

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

- (a) by the substitution for subsection (4) of the following subsection: 25  
 “(4) (a) If the Minister deems it fit, he may delegate or assign any power or duty conferred or imposed upon **[him or]** the executive officer under this Act to a person who is not an officer.  
 (b) When the Minister thus delegates or assigns a power or duty, he may determine that—  
 (i) the power or duty shall be exercised or performed at the expense of the person concerned; 30  
 (ii) the person concerned shall have no recourse against the State for any expenses thus incurred; and  
 (iii) the person concerned shall exercise his powers and perform his duties subject to the instructions of the executive officer.  
 (c) A juristic person established under any law and to whom a power or duty has thus been delegated or assigned, shall, notwithstanding the absence of any express provision to that effect in the law under which it was established, be deemed to be competent to exercise such power or perform such duty. 35  
 (d) Such juristic person may in writing authorize any person in its employment to exercise the power or to perform the duty concerned.”;  
 and
- (b) by the substitution for subsection (5) of the following subsection: 40  
 “(5) Any decision or order of such a person may at any time be withdrawn or amended by the **[Minister] executive officer** and shall, until it has been 45 so amended or withdrawn and except in the application of this **[paragraph] subsection**, be deemed to be a decision or order of the **[Minister or] executive officer [as the case may be].**”.

**Amendment of section 3 of Act 36 of 1983**

## 3. Section 3 of the principal Act is hereby amended by the substitution for 50 subsection (3) of the following subsection:

- “(3) The executive officer may, on application by a person **[wishing to import] importing controlled goods and against payment of the prescribed fees [grant consent that]—**  
 (a) [the] carry out an inspection contemplated in subsection (2) (b) [be carried 55 out] at a time other than during the official office hours of the executive officer; or

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(b) perform any other function in respect of such controlled goods.”.

**Amendment of section 4 of Act 36 of 1983, as amended by section 2 of Act 47 of 1986**

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

- (a) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (b) of the following words: 5  
 “(b) order the person by whom or on whose behalf such goods have been imported, or the person in possession or in charge of such goods—”;  
 and
- (b) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs, respectively: 10  
 “(c) **[order that]** destroy or cause to be destroyed such goods or such part thereof as he may determine **[be destroyed]**, after having given the person by whom or on whose behalf those goods have been imported or the person in possession or in charge of those goods at least seven 15  
days’ written notice of his intention to do so: Provided that where in the opinion of the executive officer the destruction of the goods is urgently required or the giving of notice is impracticable, notice need not be given;
- (d) where a person refuses or neglects to carry out any provision of an order contemplated in paragraph (a) or (b), **[order that]** destroy or 20  
cause to be destroyed the goods in question [be destroyed];”.

**Substitution of section 5 of Act 36 of 1983**

5. The following section is hereby substituted for section 5 of the principal Act:

**“Compulsory notification of presence of certain pests on land**

5. (1) A user of land shall forthwith notify the nearest available 25  
 magistrate, justice of the peace, police officer or officer of the department if flying locusts or voetgangers have appeared on the land concerned or if flying locusts have deposited eggs thereon or roosting or breeding swarms of red-billed quelea are present thereon, describe to  
him as accurately as possible where on such land the flying locusts, 30  
 voetgangers, **[or]** eggs or red-billed quelea occur, and give him such further relevant information as he may request.

(2) A person who has been notified as provided in subsection (1), shall forthwith convey the information concerned to the Director-General of the department.”. 35

**Amendment of section 6 of Act 36 of 1983**

6. Section 6 of the principal Act is hereby amended by the addition of the following paragraph to subsection (3):

“(c) set out the fees payable by a person applying for a permit referred to in paragraph (b).”. 40

**Amendment of section 8 of Act 36 of 1983**

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

- (a) by the substitution for paragraph (a) of the following paragraph: 45  
 “(a) combat flying locusts **[and]**, voetgangers and red-billed quelea, and destroy eggs of flying locusts;”; and
- (b) by the addition of the following subsections, the existing section becoming subsection (1):  
 “(2) The Minister may authorize any person to perform at the expense of such person and subject to the control of the Minister, the acts referred to in subsection (1) (a) and (b), and such person shall have no recourse 50  
against the State for any expenses so incurred.

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(3) Any act referred to in subsection (1) (a) may be performed by a person referred to in subsection (2) on land forming part of a park or the parks as defined in section (1) of the National Parks Act, 1976 (Act No. 57 of 1976), only after having obtained the consent of the National Parks Board of Trustees established under section 5 (1) of the said Act, or any officer or employee of such board authorized thereto by the board.” 5

**Amendment of section 9 of Act 36 of 1983**

8. Section 9 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) after having notified the user of land concerned of his intention to do so, 10 take with him such persons, animals, vehicles, goods and material as he may require for the purposes of an act referred to in subsection (1) when he enters upon or proceeds over that land: Provided that such notice need not be given if the user of the land concerned does not reside on that land and cannot readily be traced.” 15

**Substitution of section 10 of Act 36 of 1983**

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

**“Recovery of fees and expenses**

10. (1) Any amount owing in respect of fees contemplated in section 3 (3), 6 (3) or 7 (3), expenses incurred **[by the State]** in the exercise of any power mentioned in section 4 (1) (c) or (d) or 8 (1) (b) and the interest mentioned in subsection (3) shall constitute a debt to the State or any person authorized in terms of section 8 (2), as the case may be, by the person or user of land concerned from the dates contemplated in subsections (2) and (3), respectively. 25

(2) Where such fees **[contemplated in section 3 (3) or 7 (3)]** are owing or where **[the State has incurred]** such expenses **[as contemplated in subsection (1)]** have been incurred, the executive officer or the authorized person concerned, as the case may be, shall determine the amount thereof and shall cause a notice to be served on the person or user of land concerned in which he is ordered to pay that amount not later than a date specified in the notice. 30

(3) If the amount owing is unpaid on the specified date, interest thereon shall be payable from the day following immediately on that date at the standard rate of interest determined in terms of section 26 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and applicable on the date of the notice mentioned in subsection (2).” 35

**Amendment of section 13 of Act 36 of 1983, as amended by section 1 of Act 17 of 1985**

10. Section 13 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 40

“(a) contravenes or refuses or fails to comply with the provisions of section 3 (1) or (2), including any condition imposed in connection with a permit, or any condition in a notice referred to in section 3 (4);”;

(b) by the insertion of the following paragraph after paragraph (a) of subsection (1): 45

“(aA) if found in possession of controlled goods in respect of which there is a reasonable suspicion that such goods were imported without a permit referred to in section 3 (1), or contrary to a condition of such a permit or a condition set out in a notice issued under section 3 (4), and who is not able to give a satisfactory account of such possession;” and 50

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- (c) by the substitution for subparagraphs (i), (ii) and (iii) of subsection (3) of the following subparagraphs:
- “(i) on a first conviction of an offence in terms of paragraph (a) or (aA), to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; 5
- (ii) on a first conviction of an offence in terms of paragraph (b), (c), (d) or (e), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (iii) on a second or subsequent conviction of an offence mentioned in subparagraph (i), whether the same or some other offence mentioned in that subparagraph, in the case of a natural person, to imprisonment for a period not exceeding ten years, and in the case of a juristic person, to a fine not exceeding R50 000; 10
- (iv) on a second or subsequent conviction of an offence mentioned in subparagraph (ii), whether the same or some other offence mentioned in that subparagraph, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; 15
- (v) on conviction of an offence in terms of paragraph (f), (g), (h), (i) or (j), to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.” 20

**Amendment of section 14 of Act 36 of 1983**

11. Section 14 of the principal Act is hereby amended by the insertion after paragraph (c) of the following paragraph:

- “(cA) any statement or entry contained on any parcel or in a book or document kept by or purported to be issued by any person, or by the manager, agent or employee of such a person, shall be admissible in evidence against such person as proof of the facts set forth in that statement or entry, unless it is proved that such statement or entry was not made by such person, or by the manager, agent or employee of such person in the course of his work as manager or in the course of his agency or employment;” 25 30

**Short title**

13. This Act shall be called the Agricultural Pests Amendment Act, 1989.