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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 442.

23 Maart 1977.

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

No. 24 van 1977: Wysigingswet op Misstowwe, Veevoedsel, Landboumiddels en Veemiddels, 1977.

No. 442.

23 March 1977.

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

No. 24 of 1977: Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act, 1977.

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

ACT

To amend the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947, so as to delete the definitions of certain expressions and to define or further define certain expressions; to further regulate the appointment, powers, functions and duties of the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies, the registration of fertilizers, farm feeds, agricultural remedies and stock remedies, and the cancellation of such registration; to provide for the availability, lapse and return of a certificate of registration, the furnishing of reasons for the refusal, imposition of conditions or cancellation of a certificate of registration, and an appeal against decisions of the said Registrar to a board; to further regulate the control over the sale, acquisition, disposal or use of fertilizers, farm feeds, agricultural remedies and stock remedies; to provide for the furnishing of certain particulars before the administration of fertilizers, farm feeds, agricultural remedies and stock remedies in certain circumstances; to further regulate the manufacture and sale of fertilizers and farm feeds containing substances derived from animal carcasses; to make further provision for or in connection with the designation of technical advisers and analysts, the power of entering premises and vehicles, investigations concerning compliance with the provisions of the said Act, and the analysis of samples and seizure of exhibits; to further regulate the import of fertilizers, farm feeds, agricultural remedies and stock remedies; to amend certain penalties; to make further provision in connection with a special defence in case of prosecutions; to extend the power to make regulations; and to limit the liability of the State, the Minister and certain persons in respect of acts done in good faith under the said Act; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 15 March 1977.)

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

1. Section 1 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “advertisement” of the following definition:

“‘advertisement’ means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference distributed to members of the public or brought to their

Amendment of section 1 of Act 36 of 1947, as amended by section 32 of Act 28 of 1961, section 1 of Act 60 of 1970, section 1 of Act 17 of 1972 and section 16 of Act 13 of 1975.

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

notice in any other manner and which is intended to promote the sale of fertilizers, farm feeds, agricultural remedies or stock remedies or encourage the use thereof or draw attention to the nature, properties, advantages or uses thereof;”;

- (b) by the substitution for the definition of “agricultural remedy” of the following definition:

“‘agricultural remedy’ means any chemical substance or biological remedy, or any mixture or combination of any substance or remedy intended or offered to be used—

(a) for the destruction, control, repelling, attraction or prevention of any undesired microbe, alga, nematode, fungus, insect, plant, vertebrate, invertebrate, or any product thereof, but excluding any chemical substance, biological remedy or other remedy in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), or the Hazardous Substances Act, 1973 (Act No. 15 of 1973); or

(b) as plantgrowth regulator, defoliant, desiccant or legume inoculant, and anything else which the Minister has by notice in the *Gazette* declared an agricultural remedy for the purposes of this Act;”;

- (c) by the insertion after the definition of “analyst” of the following definitions:

“‘board’ means any board appointed by the Minister in terms of section 5;

‘establishment’, in relation to a fertilizer, farm feed, agricultural remedy or stock feed, means the premises where such fertilizer, farm feed, agricultural remedy or stock feed is manufactured, controlled, packed, marked or labelled for the purposes of sale;”;

- (d) by the deletion of the definition of “brand”;

- (e) by the substitution for the definition of “farm feed” of the following definition:

“‘farm feed’ means—

(a) (i) any substance obtained by a process of crushing, gristing or grinding, or by the addition to any substance or the removal therefrom of any ingredient; or

(ii) any condimental food, vitamin or mineral substance or other substance which possesses or is alleged to possess nutritive properties; or

(iii) any bone product, intended or sold for the feeding of domestic animals or livestock; or

(b) any stock lick or substance which can be and is used as a stock lick, whether or not such stock lick or substance possesses medicinal properties,

but does not include straw, chaff, unground hay, silage, any cereal in the grain or any substance which would otherwise be a farm feed but has been ground, crushed, gristed or prepared for any person, in accordance with his directions for his own use, unless the Minister has by notice in the *Gazette* declared such substance a farm feed for the purposes of this Act;”;

- (f) by the deletion of the definition of “farming requisite”;

- (g) by the insertion after the definition of “fertilizer” of the following definition:

“‘mark’ means a mark as defined in section 1 of the Trade Marks Act, 1963 (Act No. 62 of 1963);”;

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

- (h) by the deletion of the definition of "inspector";
- (i) by the insertion after the definition of "Minister" of the following definition:
 "'officer' means an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);";
- (j) by the insertion after the definition of "prescribed" of the following definitions:
 "'registrar' means the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies designated in terms of section 2, and includes an officer acting under a delegation from or under the control or direction of the registrar;
 'regulation' means any regulation made under this Act;";
- (k) by the deletion of the definition of "Secretary";
- (l) by the substitution for the definition of "sell" of the following definition:
 "'sell' includes agree to sell, or to offer, advertise, keep, expose, transmit, convey, deliver or manufacture for sale or to exchange or to dispose of to any person in any manner for any consideration whatever, or to transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid; and 'sale' has a corresponding meaning;";
- (m) by the substitution for the definition of "stock remedy" of the following definition:
 "'stock remedy' means a substance intended or offered to be used in connection with domestic animals, livestock, poultry, fish or wild animals (including wild birds), for the diagnosis, prevention, treatment or cure of any disease, infection or other unhealthy condition, or for the maintenance or improvement of health, growth, production or working capacity, but excluding any substance in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);"; and
- (n) by the insertion after the definition of "stock remedy" of the following definition:
 "'technical adviser' means a technical adviser designated in terms of section 14;".

Substitution of section 2 of Act 36 of 1947, as amended by section 2 of Act 60 of 1970 and section 16 of Act 13 of 1975.

2. The following section is hereby substituted for section 2 of the principal Act:

"Designation of registrar. 2. (1) The Minister shall designate an officer in the Department of Agricultural Technical Services as the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies who shall, subject to any instructions issued by the Minister, exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon the registrar under this Act.

(2) (a) Any power conferred upon, function assigned to or duty imposed upon the registrar may be exercised, performed or carried out by an officer under a delegation from or under the control or direction of the registrar.

(b) Any decision made or instruction issued by any such officer may be withdrawn or amended by the registrar, and shall, until it has been so withdrawn or amended, be deemed, except for the purpose of this paragraph, to have been made or given by the registrar."

Substitution of section 3 of Act 36 of 1947,

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

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

as substituted by section 3 of Act 60 of 1970 and amended by section 16 of Act 13 of 1975.

“Registration of fertilizers, farm feeds, agricultural remedies and stock remedies.

3. (1) Every application for the registration of a fertilizer, farm feed, agricultural remedy or stock remedy shall be submitted to the registrar in the form determined by the registrar and shall be accompanied by the prescribed registration fee, and any person so applying shall supply or make available to the registrar, in the manner and at the time and place that he determines, the samples and other particulars that he specifies.

(2) If, after consideration of any such application and after such investigation and enquiry as he may deem necessary, the registrar is satisfied that the fertilizer, farm feed, agricultural remedy or stock remedy in question is suitable and sufficiently effective for the purposes for which it is intended, and complies with such requirements as may be prescribed, and that it is not contrary to the public interest that it be registered, and that the establishment where it is manufactured is suitable for such manufacture, he shall register such fertilizer, farm feed, agricultural remedy or stock remedy.

(3) Any registration under this section may be made subject to such conditions as may be determined by the registrar and shall be valid for such period as may be prescribed and the registrar shall issue in respect of such registration a certificate of registration to the person applying therefor.”

Substitution of section 4 of Act 36 of 1947, as substituted by section 4 of Act 60 of 1970 and amended by section 16 of Act 13 of 1975.

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

“Cancellation of registration.

4. The registrar may cancel the registration of any fertilizer, farm feed, agricultural remedy or stock remedy at any time if he is satisfied—

- (a) that any person has failed to comply with any condition subject to which such fertilizer, farm feed, agricultural remedy or stock remedy has been registered;
- (b) that such fertilizer, farm feed, agricultural remedy or stock remedy is not of the composition and efficacy specified in the application for registration thereof, does not possess the chemical, physical and other properties so specified and does not comply with any requirements that may be prescribed;
- (c) that the practices followed and facilities available at or in respect of the establishment or the operation of the undertaking at such establishment are not suitable for the manufacture of the fertilizer, farm feed, agricultural remedy or stock remedy concerned, or that the prescribed records and information are not kept there or furnished in respect thereof;
- (d) that the person managing such undertaking does not have sufficient knowledge of the relevant provisions of this Act or of the practices to be followed in the operation of such undertaking;
- (e) that it is contrary to the public interest that such fertilizer, farm feed, agricultural remedy or stock remedy, shall remain registered; or
- (f) that any incorrect or misleading advertisement is used in connection with such fertilizer, farm feed, agricultural remedy or stock remedy.”

Insertion of section 4A in Act 36 of 1947.

5. The following section is hereby inserted in the principal Act after section 4:

“Availability, lapse and return of certificate of registration.

4A. (1) The person to whom a certificate of registration has been issued in respect of any fertilizer, farm feed, agricultural remedy or stock remedy shall cause that certificate of registration or a copy thereof to be available for inspection by the

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

registrar at all times at the establishment where such fertilizer, farm feed, agricultural remedy or stock remedy is manufactured.

(2) The registration of any fertilizer, farm feed, agricultural remedy or stock remedy and the certificate of registration issued in respect of such registration shall lapse—

- (a) if the person to whom that certificate of registration has been issued, ceases to manufacture or sell the fertilizer, farm feed, agricultural remedy or stock remedy in question; or
- (b) if the establishment in question is no longer used for the manufacture of such fertilizer, farm feed, agricultural remedy or stock feed.

(3) When the registration of any fertilizer, farm feed, agricultural remedy or stock remedy has lapsed in terms of subsection (2) or has been cancelled in terms of section 4, the certificate of registration in question shall, within the prescribed period, be returned to the registrar by the person to whom it was issued.”

Substitution of section 5 of Act 36 of 1947.

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

“Furnishing of reasons for refusal of, determination of conditions on or cancellation of registration.

5. If—

- (a) any application for registration in terms of this Act is refused;
- (b) conditions are determined under section 3 (3) on registration; or
- (c) any registration is cancelled in terms of section 4,

the registrar shall in writing furnish the applicant concerned or the person to whom the certificate of registration in question was issued, with the reasons for such refusal, determination of conditions or cancellation, as the case may be.”

Substitution of section 6 of Act 36 of 1947.

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

“Appeal against decisions of registrar.

6. (1) A person who feels aggrieved by any decision referred to in section 5 may, within the period and in the manner prescribed and upon payment of the prescribed fees, appeal to the Minister against such decision.

(2) The Minister shall refer the appeal for consideration and decision to a board of which the members shall be appointed by him, and which shall consist of—

- (a) one person designated as chairman on account of his knowledge of law; and
- (b) two persons who in the opinion of the Minister command sufficient knowledge regarding the matters which will probably be in issue when the appeal is considered.

(3) Any appeal noted in terms of subsection (1) shall be heard on the date and at the time and place fixed by the chairman of the board and he shall advise the appellant and the registrar in writing thereof.

(4) The chairman of the board may for the purposes of the decision of an appeal—

- (a) summon any person who, in his opinion, may give relevant information concerning the issues in the appeal or who has or is suspected to have in his possession or custody or under his control any document which has any bearing upon the issues in the appeal, to appear before the board at a time and place specified in the summons, to be interrogated or to produce that document, and the chairman may retain for examination any document so produced;

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

(b) administer an oath to or accept an affirmation from any person called as a witness at the hearing of the appeal;

(c) call any person present at the hearing of the appeal as a witness and interrogate him and require him to produce any document in his possession or custody or under his control.

(5) The procedure at the hearing of an appeal shall be determined by the chairman of the board in question.

(6) Any person appealing in terms of this section and the registrar may be represented at the hearing of such appeal by an advocate or an attorney.

(7) If a person appointed under subsection (2)—

(a) dies during the hearing of the appeal or so soon before the commencement of such hearing that the vacancy cannot be filled in time;

(b) is unable to act and another person cannot be appointed in time; or

(c) is, after the hearing has commenced, unable to continue therewith,

the appellant and the registrar may agree that the investigation be continued by the remaining members, in which event, where the member who has died or has become incapacitated was or is the chairman of the board, the Minister shall designate one of the remaining members to act as chairman.

(8) (a) If the parties do not agree under subsection (7), the hearing shall be adjourned in order that the Minister may appoint a member, in accordance with the requirements of subsection (2), in the place of the member who has died or has become incapacitated.

(b) Where an appointment has been made in terms of paragraph (a), the hearing shall, if the parties so agree, be continued as from the stage at which the hearing was interrupted by the death or incapacitation of the member in question, or shall, if the parties do not so agree, be commenced *de novo*.

(9) The board may after hearing and considering the appeal—

(a) confirm, set aside or vary the relevant decision of the registrar;

(b) order the registrar to execute the decision of the board in connection therewith.

(10) The chairman of the board shall notify the appellant and the registrar in writing of the decision of the board.

(11) If the board sets aside any decision by the registrar, the prescribed fees paid by the appellant in respect of the appeal in question shall be refunded to him or, if the board varies any such decision, it may in its discretion direct that the whole or any part of such fees be refunded to the appellant.

(12) A member of the board who is not in the full-time service of the State may be paid such allowances as the Minister may, with the concurrence of the Minister of Finance, determine.”

Substitution of section 7 of Act 36 of 1947, as substituted by section 5 of Act 60 of 1970.

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

“Sale of fertilizers, farm feeds, agricultural remedies and stock remedies.

7. (1) No person shall sell any fertilizer, farm feed, agricultural remedy or stock remedy unless—

(a) it is registered under this Act under the name or mark under which it is so sold: Provided that a fertilizer, farm feed, agricultural remedy or stock remedy in respect of which the period of validity

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

of the registration has expired, the certificate of registration has been cancelled in terms of section 4 or has lapsed in terms of section 4A (2) and which, before or on the date of such cancellation or lapse, was no longer under the control of, or owned by the person to whom that certificate of registration was issued, may, subject to the provisions of section 7bis, be sold;

- (b) it is, subject to the provisions of paragraph (c), packed in such manner and mass or volume as may be prescribed;
- (c) the container in which it is sold, complies with the prescribed requirements and is sealed and labelled or marked in such manner as may be prescribed or, if it is not sold in a container, it is accompanied by the invoice referred to in section 9; and
- (d) it is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified, and complies with the prescribed requirements.

(2) (a) No person shall for reward or in the course of any industry, trade or business use, or recommend the use of, any agricultural remedy or stock remedy for a purpose or in a manner other than that specified on the label on a container thereof or described on such container.

- (b) The provisions of paragraph (a) shall, in the case of a stock remedy, not apply to a veterinarian registered under the Veterinary Act, 1933 (Act No. 16 of 1933)."

Substitution of section 7bis of Act 36 of 1947, as inserted by section 1 of Act 48 of 1950 and substituted by section 6 of Act 60 of 1970.

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

"Prohibition on acquisition, disposal, sale or use of certain fertilizers, farm feeds, agricultural remedies and stock remedies.

7bis. (1) The Minister may by notice in the Gazette—

- (a) prohibit the acquisition, disposal, sale or use of fertilizers, farm feeds, agricultural remedies or stock remedies; or
- (b) prohibit such acquisition, disposal, sale or use, except in accordance with such conditions as may be specified in the notice or except under the authority of and in accordance with such conditions as may be specified in a permit issued by the registrar,

and may in like manner repeal or amend any such notice.

(2) Any prohibition issued under subsection (1) may apply—

- (a) throughout the Republic or in one or more specified areas;
- (b) to any person or to persons belonging to any specified class or group of persons or to persons other than persons belonging to any such class or group of persons; or
- (c) in respect of all or one or more classes or kinds of fertilizers, farm feeds, agricultural remedies or stock remedies.

(3) Any condition referred to in subsection (1) shall not be subject to any limitations of whatever nature, and such conditions may differ in respect of different areas, persons or classes or groups of persons."

Substitution of section 9 of Act 36 of 1947,

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

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

as substituted by section 7 of Act 60 of 1970.

“Invoices required in case of sale of fertilizers, farm feeds, agricultural remedies and stock remedies not in a container.

9. Any person who sells any fertilizer, farm feed, agricultural remedy or stock remedy not in a container, shall give to the purchaser at the time of delivery or send to him at the time of despatch an invoice setting forth such particulars in respect of such fertilizer, farm feed, agricultural remedy or stock remedy as may be prescribed.”

Insertion of section 10 in Act 36 of 1947.

11. The following section is hereby inserted in the principal Act after section 9:

“Furnishing of particulars before administration of fertilizers, farm feeds and agricultural remedies.

10. (1) Any person who at the request of the owner or the person in control of a thing administers for consideration any fertilizer, farm feed or agricultural remedy to the said thing, shall, before such administration, notify such owner or person of—

- (a) the purpose of such administration;
- (b) the registered name and number of the fertilizer, farm feed or agricultural remedy so to be administered;
- (c) the precautions to be taken before, during and after such administration.

(2) The notification referred to in subsection (1) may be furnished verbally provided it is confirmed in writing within three days after the administration concerned.”

Substitution of section 12 of Act 36 of 1947.

12. The following section is hereby substituted for section 12 of the principal Act:

“Manufacture and sale of fertilizers and farm feeds containing substances derived from animal carcasses.

12. No person shall manufacture or sell any fertilizer or farm feed containing bone or any other substance derived from an animal carcass, unless such bone or substance—

- (a) has been sterilized in such manner as may be prescribed; or
- (b) has, subject to the provisions of section 16, been imported in terms of a permit issued under the Animal Diseases and Parasites Act, 1956 (Act No. 13 of 1956).”

Substitution of section 14 of Act 36 of 1947, as substituted by section 9 of Act 60 of 1970.

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

“Designation of technical advisers and analysts.

14. For the purpose of this Act, the Minister may from time to time designate persons, including officers, as—

- (a) technical advisers who shall advise the registrar in regard to matters referred to them by the registrar; and
- (b) analysts to analyse samples of fertilizers, farm feeds, agricultural remedies or stock remedies referred to them by the registrar, and to report thereon in the form and manner prescribed.”

Substitution of section 15 of Act 36 of 1947, as amended by section 36 of Act 28 of 1961, section 10 of Act 60 of 1970 and section 16 of Act 13 of 1975.

14. The following section is hereby substituted for section 15 of the principal Act:

“Power of entering premises, examinations, analysis of samples, and seizure.

15. (1) The registrar may at all reasonable times—

- (a) enter upon and examine any place, premises or vehicle in respect of which he has reason to believe that on or in it there is manufactured, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited, sold or used any fertilizer, farm feed, agricultural remedy or stock remedy, and examine or test any such fertilizer, farm feed, agricultural remedy, stock remedy or any ingredient thereof;

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

- (b) examine all books and documents on or in any place, premises or vehicle referred to in paragraph (a) in respect of which he has reasonable grounds for believing that they relate to any fertilizer, farm feed, agricultural remedy, stock remedy or an ingredient thereof, and make copies of or extracts from such books or documents;
- (c) examine any operations or processes carried out at any place or premises referred to in paragraph (a) in connection with the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition, selling or use of any fertilizer, farm feed, agricultural remedy or stock remedy, and demand from the person in charge of such operations or processes, or the owner of or the person having the custody of any fertilizer, farm feed, agricultural remedy or stock remedy or an ingredient thereof, any relevant information or explanation relating to any such operations or processes, or fertilizer, farm feed, agricultural remedy, stock remedy or ingredient;
- (d) demand from the owner or any person having the custody of any book or document referred to in paragraph (b) an explanation relating to any record or entry therein;
- (e) seize any book, document, fertilizer, farm feed, agricultural remedy or stock remedy which may furnish proof of an offence in terms of this Act, or any quantity of any fertilizer, farm feed, agricultural remedy or stock remedy in respect of which there is reason to believe that any such offence has been committed, and remove from or leave on or in the place, premises or vehicle in question, any book, document, fertilizer, farm feed, agricultural remedy or stock remedy, or any quantity thereof, which has so been seized, and may in his discretion place on such book, document, fertilizer, farm feed, agricultural remedy or stock remedy, or the container thereof, such identification mark or seal as he may deem necessary;
- (f) take samples or cause samples to be taken of any fertilizer, farm feed, agricultural remedy, stock remedy or an ingredient thereof, and open any container which contains or is suspected to contain anything used or intended for use in the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition or sale of any fertilizer, farm feed, agricultural remedy or stock remedy, and examine, analyse, grade or classify such samples, or cause such samples to be examined, analysed, graded or classified.

(2) Where the registrar carries out any examination in terms of subsection (1) in the presence of any person affected thereby, he shall first produce his written authority to such person.

(3) Any sample taken in terms of subsection (1) shall—

- (a) be taken in accordance with the prescribed method;
- (b) be taken in the presence of the owner or the person having the custody of that fertilizer, farm feed, agricultural remedy, stock remedy or ingredient thereof, or, if such owner or person is not available, in the presence of any other witness; and

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

(c) in the presence of such owner or person, or such witness, be divided into three parts, and each part shall be packed in a suitable container and sealed with a seal and be labelled or marked in such manner as the nature thereof permits, so that such sample may be readily identified.

(4) One part each of the sample which has been thus divided shall—

(a) be handed or forwarded by registered post to such owner or person;

(b) together with a certificate in the prescribed form be forwarded to an analyst who shall as soon as practicable test, examine or analyse the said part in accordance with the methods which the registrar may determine, and the result of such test, examination or analysis shall be recorded by such analyst on the prescribed form and be submitted to the registrar; and

(c) be retained by the registrar.

(5) The owner of anything from which any sample referred to in subsection (1) (f) was taken, may claim from the registrar an amount equal to the market value of such sample.”

Substitution of section 16 of Act 36 of 1947, as amended by section 37 of Act 28 of 1961 and section 2 of Act 17 of 1972.

15. The following section is hereby substituted for section 16 of the principal Act:

“Import of fertilizers, farm feeds, agricultural remedies and stock remedies.

16. (1) No person shall import any fertilizer, farm feed, agricultural remedy or stock remedy into the Republic unless—

(a) such fertilizer, farm feed, agricultural remedy or stock remedy is registered in terms of this Act, is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified and complies with the requirements prescribed in respect thereof and is packed in a sealed container which is marked or labelled in the prescribed manner with the prescribed particulars;

(b) in the case of a fertilizer or farm feed containing bone or any other substance derived from the carcass of an animal, a permit referred to in section 12 has been issued in respect thereof.

(2) Notwithstanding the provisions of subsection (1) the registrar may, in his discretion and on such conditions as he may determine, in writing permit the import of any consignment of any fertilizer, farm feed, agricultural remedy or stock remedy which does not comply with the requirements referred to in subsection (1) (a).

(3) Fertilizers, farm feeds, agricultural remedies or stock remedies imported shall—

(a) only be imported through a prescribed port or place;

(b) if the registrar directs that a sample thereof be taken, not be removed from any such port or place without the written authority of the registrar;

(c) if the registrar thus directs, be made available for examination and the taking of a sample at any such port or place in the prescribed manner; and

(d) if a sample thereof has thus been taken, not be sold in the Republic except on the written authority of the registrar and subject to the conditions specified therein.

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

(4) The provisions of section 15 relating to samples shall *mutatis mutandis* apply with reference to a sample taken in terms of this section.

(5) If any fertilizer, farm feed, agricultural remedy or stock remedy, which in terms of subsection (3) (b) may not be removed from a port or place, is found to comply with the requirements of this Act, no rent charges shall be payable by the importer in respect of the period in which it could not be so removed, or where the Railways Administration is required to deliver or to forward that fertilizer, farm feed, agricultural remedy or stock remedy, in respect of any portion of the period in question which is subsequent to the presentation to the Railways Administration of a delivery order, or a forwarding order, as the case may be.

(6) (a) If any fertilizer, farm feed, agricultural remedy or stock remedy has been imported contrary to the provisions of this section, such fertilizer, farm feed, agricultural remedy or stock remedy shall at the option of the importer thereof—

- (i) at the expense of such importer be removed by him from the Republic within such period as the registrar may determine; or
- (ii) be forfeited to the State and be either destroyed or otherwise disposed of as the registrar may direct,

and if such importer fails to remove such fertilizer, farm feed, agricultural remedy or stock remedy in terms of the provisions of subparagraph (i) within the period referred to in that subparagraph, it shall be forfeited to the State, and be either destroyed or otherwise disposed of as the registrar may direct.

(b) Any costs incurred by the State in connection with the destruction or disposal of any fertilizer, farm feed, agricultural remedy or stock remedy in terms of the provisions of paragraph (a), may be recovered from the importer concerned."

Substitution of section 18 of Act 36 of 1947, as amended by section 2 of Act 48 of 1950, section 38 of Act 28 of 1961, and by section 11 of Act 60 of 1970.

16. The following section is hereby substituted for section 18 of the principal Act:

"Offences and penalties.

18. (1) Any person who—

- (a) fails to comply with the provisions of section 9;
- (b) obstructs or hinders the registrar, any technical adviser or any analyst in the exercise of his powers or performance of his duties under this Act;
- (bA) fails to make any statement or give any explanation if he is requested thereto by the registrar in the exercise of his powers or the performance of his duties under this Act;
- (c) contravenes or fails to comply with the provisions of section 7, 10, 12 or 16 or with any condition imposed under section 3 (3), 16 (2) or 16 (3) (d);
- (c)bis acquires, disposes of, sells or uses fertilizers, farm feeds, agricultural remedies or stock remedies contrary to a prohibition issued under section 7 bis;
- (e) tampers with any sample taken in terms of this Act, or with anything seized in terms of this Act;
- (f) makes use, in connection with any fertilizer, farm feed, agricultural remedy or stock remedy, of any certificate, invoice or other document issued in respect of any other fertilizer, farm feed, agricultural remedy or stock remedy, or which is no longer valid;

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

- (g) makes any false or misleading statement in connection with any fertilizer, farm feed, agricultural remedy or stock remedy—
- (i) in an application for the registration thereof;
 - (ii) in any invoice issued in terms of section 9;
 - (iii) in any advertisement thereof;
 - (iv) in the course of the sale thereof;
 - (v) in an application for a permit referred to in section 7*bis* (1) (b);
 - (vi) in a notice referred to in section 10;
 - (vii) if he acts in accordance with the provisions of section 16 (1) (b);
- (h) sells any fertilizer, farm feed, agricultural remedy or stock remedy upon the container of which a false or misleading statement in connection with such contents is printed or written;
- (i) sells any fertilizer, farm feed, agricultural remedy or stock remedy which is not of the kind, nature, composition, strength, potency or quality described or represented when so sold;
- (j) having been duly summoned in terms of section 6 (4) (a) to appear before the board, fails without lawful excuse so to appear;
- (k) having appeared as a witness before the board, refuses without lawful excuse to be sworn or to make affirmation or to produce any document or answer any question which he may be lawfully required to produce or answer;
- (l) fails to comply with the provisions of section 4A (1) or (3),

shall be guilty of an offence and liable on conviction—

- (i) in the case of a contravention under paragraph (a), (b), (bA) or (l) to a fine not exceeding five hundred rand or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment; and
- (ii) in the case of a contravention under paragraph (c), (c)*bis*, (d), (e), (f), (g), (h), (i), (j) or (k) to a fine not exceeding one thousand rand or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) The court convicting any person of an offence under this Act, may, upon the application of the prosecutor, declare any fertilizer, farm feed, agricultural remedy or stock remedy in respect of which the offence has been committed and all fertilizers, farm feeds, agricultural remedies or stock remedies of a similar nature to that in respect of which such person has been convicted, and of which such person is the owner, or which are in his possession, to be forfeited to the State.

(3) All fertilizers, farm feeds, agricultural remedies or stock remedies forfeited under this Act shall be destroyed or otherwise dealt with as the Minister may direct."

Amendment of section 20 of Act 36 of 1947, as amended by section 39 of Act 28 of 1961.

17. Section 20 (1) of the principal Act is hereby amended by the substitution in paragraphs (a) and (d) for the words "farming requisite" of the words "fertilizer, farm feed, agricultural remedy or stock remedy".

Substitution of section 21 of Act 36 of 1947,

18. The following section is hereby substituted for section 21 of the principal Act:

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

as amended by section 40 of Act 28 of 1960 and section 12 of Act 60 of 1970.

“Special defence in case of prosecutions.

21. It shall be a sufficient defence for a person charged with the sale of any fertilizer, farm feed, agricultural remedy or stock remedy in contravention of section 7 (1) (d) if he proves to the satisfaction of the court—

- (a) that he purchased such fertilizer, farm feed, agricultural remedy or stock remedy under a registered name or mark as being the same in all respects as the article which he purported to sell;
- (b) that he had no reason to believe at the time of the sale that it was in any respect different from such article;
- (c) that he sold it in the original container and in the state in which it was when he purchased it; and
- (d) that the container thereof complied with the prescribed requirements and was sealed and labelled or marked in the prescribed manner with the prescribed particulars.”

Amendment of section 22 of Act 36 of 1947, as amended by section 41 of Act 28 of 1961.

19. Section 22 (1) of the principal Act is hereby amended by the substitution for the words “farming requisite” of the words “fertilizer, farm feed, agricultural remedy or stock remedy”.

Amendment of section 23 of Act 36 of 1947, as amended by section 42 of Act 28 of 1961, section 13 of Act 60 of 1970 and section 16 of Act 13 of 1975.

20. Section 23 of the principal Act is hereby amended—

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

“(b) prescribing the description and conditions under which any substance may be registered, imported or sold as a fertilizer, farm feed, agricultural remedy or stock remedy under any particular name or mark;”;

(b) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

“(e) prescribing the composition, efficacy, chemical, physical or other property required in respect of any substance in order that it may be imported, sold or registered as a fertilizer, farm feed, agricultural remedy or stock remedy, as the case may be;”;

(c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

“(g) prescribing requirements as to the mass and volume and containers in which fertilizers, farm feeds, agricultural remedies or stock remedies shall be packed, the manner in which they shall be packed into such containers, the manner in which such containers shall be sealed and labelled or marked and the particulars which shall appear on such labels and containers;”;

(d) by the insertion in subsection (1) after paragraph (h) of the following paragraph:

“(hA) prescribing the requirements with which any establishment shall comply, the practices which shall be followed in the operation of any undertaking at any establishment, the facilities which shall be available at any establishment, and the records to be kept and the information to be furnished in respect of any establishment and the operation of any undertaking at any establishment;”;

(e) by the deletion of paragraph (IA) of subsection (1); and

(f) by the substitution for subsection (2) of the following subsection:

“(2) Different regulations may be made under this section in respect of different classes or kinds of fertilizers, farm feeds, agricultural remedies and stock remedies, and in respect of different kinds of establishments and different classes or groups of persons.”.

Act No. 24, 1977

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES AMENDMENT ACT, 1977.

Insertion of section 23A in Act 36 of 1947.

21. The following section is hereby inserted in the principal Act after section 23:

"Limitation of liability.

23A. Except where it is expressly otherwise provided for in this Act, no compensation shall be payable by the State, the Minister or the registrar in respect of any act done in good faith under this Act."

Substitution of long title of Act 36 of 1947.

22. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To provide for the appointment of a Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies; for the registration of fertilizers, farm feeds, agricultural remedies and stock remedies; to regulate or prohibit the importation, sale, acquisition, disposal or use of fertilizers, farm feeds, agricultural remedies and stock remedies; to provide for the designation of technical advisers and analysts; and to provide for matters incidental thereto."

Short title and commencement.

23. (1) This Act shall be called the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act, 1977, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.