

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.



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

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# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

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VOL. 321

KAAPSTAD, 11 MAART 1992

No. 13823

CAPE TOWN, 11 MARCH 1992

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 775.

11 Maart 1992

No. 775.

11 March 1992

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

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

No. 9 van 1992: Wysigingswet op Landbouplae, 1992.

No. 9 of 1992: Agricultural Pests Amendment Act, 1992.

**GENERAL EXPLANATORY NOTE:**

- [**                    **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

# ACT

To amend the Agricultural Pests Act, 1983, so as to emend certain definitions; to provide for the designation of more than one executive officer; to provide that the Minister may assign certain of his powers to a person who is not an officer; to make other provision in connection with the person to be notified of the presence of certain pests; and to extend the powers of the Minister to prescribe control measures so as to include red-billed quelea; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)*  
*(Assented to 3 March 1992.)*

**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 and section 1 of Act 18 of 1989**

- 5     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:
- 10             “ ‘department’ means the Department of **[Agricultural Economics and Marketing]** Agriculture;” ; and
- (b) by the substitution for the definition of “executive officer” of the following definition:
- “ ‘executive officer’ means **[the]** an officer designated in terms of section 2(1);”.

15 **Amendment of section 2 of Act 36 of 1983, as amended by section 2 of Act 18 of 1989**

2. Section 2 of the principal Act is hereby amended—
- (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:
- 20             “(1) The Minister shall designate **[an officer]** as many officers of the department as he may deem necessary as executive **[officer]** officers, who shall, subject to the instructions of the Minister, exercise the powers and perform the duties conferred or imposed upon **[the]** an executive officer under this Act.
- 25             (2) **[The]** An executive officer may delegate any **[of his powers]** power conferred upon him by or under this Act to an officer,

except the power to order under section 7 that something be destroyed.

- 5 (3) Any decision or order of such an officer may at any time be withdrawn or amended by the executive officer concerned and shall, until it has been so withdrawn or amended and except in the application of this paragraph, be deemed to be a decision or order of **[the] such** executive officer.”;
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- 10 “(a) If the Minister deems it fit, he may delegate or assign any power conferred upon him by section 8 or any power or duty conferred or imposed upon [the] an executive officer by or under this Act to a person who is not an officer.”;
- (c) by the substitution for subparagraph (iii) of paragraph (b) of subsection (4) of the following subparagraph:
- 15 “(iii) the person concerned shall exercise his powers and perform his duties subject to the instructions of the executive officer concerned.”; and
- (d) by the substitution for subsection (5) of the following subsection:
- 20 “(5) Any decision or order of **[such a] an** authorized person may at any time be withdrawn or amended by the Minister or the executive officer concerned, as the case may be, and shall, until it has been so amended or withdrawn and except in the application of this subsection, be deemed to be a decision or order of the Minister or such executive officer.”.
- 25

**Amendment of section 3 of Act 36 of 1983, as amended by section 3 of Act 18 of 1989**

3. Section 3 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:
- 30 “(2) A person importing controlled goods into the Republic on the authority of a permit—
- (a) shall do so only through a prescribed port of entry, except where **[the] an** executive officer has determined some other place;
- (b) shall present them at that place to the executive officer concerned for such inspection as he deems necessary;
- 35 (c) shall not remove them from that place before the executive officer concerned has consented in writing thereto.
- (3) **[The] An** executive officer may, on application by a person importing controlled goods and against payment of the prescribed fees—
- 40 (a) carry out an inspection contemplated in subsection (2)(b) at a time other than during the official office hours of **[the] such** executive officer; or
- (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 and section 4 of Act 18 of 1989**

4. Section 4 of the principal Act is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:
- 50 “If **[the] an** executive officer has ascertained or suspects on reasonable grounds that controlled goods have been imported into the Republic or have been or will be conveyed contrary to the provisions of this Act or a condition referred to in section 3(4) or of the permit concerned, or that there is with or in any imported goods any pathogen, insect or exotic animal the importation of which has not been authorized, he may—”;
- 55 (b) by the substitution for the proviso to paragraph (c) of subsection (1) of the following proviso:

- “Provided that where in the opinion of **[the] such** executive officer the destruction of the goods is urgently required or the giving of notice is impracticable, notice need not be given;”;
- 5 (c) by the substitution for subsections (2) and (3) of the following subsections, respectively:
- “**(2)** When anything is required to be done in terms of this Act within a certain period, **[the] an** executive officer may, before or after the expiry thereof and on application or of his own accord, in his discretion determine a further period within which it shall be done.
- 10 **(3)** When **[the] an** executive officer deems it necessary for the exercise of his powers or the performance of his duties, he may institute any inquiry and in his discretion request any information and demand the production of any document from any person who in his opinion can supply such information or has the custody of such document.”; and
- 15 (d) by the substitution for the words preceding paragraph (a) of subsection (4) of the following words:
- “When **[the] an** executive officer may issue or grant any order, permit or authority in terms of this Act, he may at any time, on application or of his own accord—”.
- 20

**Substitution of section 5 of Act 36 of 1983, as substituted by section 5 of Act 18 of 1989**

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

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

- 30 **5. [(1)]** A user of land shall forthwith notify the nearest **[available magistrate, justice of the peace, police officer or]** officer of the department **or an authorized person** 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, voetgangers, eggs or red-billed quelea occur, and give him such further relevant information as he may request.
- 35 **[(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”.

40 **Amendment of section 6 of Act 36 of 1983, as amended by section 6 of Act 18 of 1989**

6. Section 6 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- 45 “**(1)** In order to prevent and combat the spreading of pathogens, **red-billed quelea**, insects and exotic animals, the Minister may by notice in the *Gazette* prescribe control measures which shall be complied with or carried out by a user of land.”;
- (b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:
- 50 “**(c)** the combating of pathogens, **red-billed quelea**, insects or exotic animals;”;
- (c) by the substitution for paragraph (g) of subsection (2) of the following paragraph:
- 55 “**(g)** the notification of the occurrence of specified pathogens, **roosting or breeding swarms of red-billed quelea**, insects or exotic animals, on land;”;
- and
- (d) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) provide that **[any]** an executive officer may exempt any person from such a prohibition or obligation by means of a permit;”.

**Amendment of section 7 of Act 36 of 1983, as amended by section 3 of Act 47 of 1986**

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

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

“**(1) [The] An** executive officer may by written notice, which shall be served in the prescribed manner, order any user of land to observe or carry out the provisions of a particular control measure on or with respect to any quarantine area determined in that order, or to do or omit to do any other act on or with respect to such quarantine area in order to further the objects of this Act.”;

(b) by the substitution for subsections (3) and (4) of the following subsections, respectively:

“(3) The executive officer concerned may, upon application by the user of land concerned and against payment of the prescribed fees, if any, withdraw or amend an order, and for that purpose carry out the necessary inspection of the quarantine area.

(4) (a) Notwithstanding any prohibition in an order referred to in subsection (1) the executive officer concerned may in writing authorize a user of land to remove anything from the quarantine area concerned in order to cleanse or destroy it.

(b) An application for such authority shall be submitted in writing to the executive officer concerned.”; and

(c) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) An application for the payment of compensation in terms of paragraph (a) shall only be considered if it is submitted in writing to the executive officer concerned within 90 days after the date on which the things in question have been destroyed.”.

**Amendment of section 9 of Act 36 of 1983, as amended by section 8 of Act 18 of 1989**

8. Section 9 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of subsection (4) of the following words:

“**[The] An** executive officer may at any reasonable time—”; and

(b) by the substitution for subsection (5) of the following subsection:

“(5) When **[the] an** executive officer wishes to exercise any power referred to in subsection (4) on or in connection with any land, building or vehicle, he may require the user of land, owner or person in charge concerned, or his manager, agent or employee, to render him such reasonable assistance as may be necessary in the circumstances to enable him to exercise the power in question.”.

**Amendment of section 10 of Act 36 of 1983, as substituted by section 9 of Act 18 of 1989**

9. Section 10 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Where such fees are owing or where such expenses have been incurred, the executive officer concerned 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 by not later than a date specified in the notice.”.

**Amendment of section 11 of Act 36 of 1983**

10. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- 5           “(1) If **[the] an** executive officer has refused any application, submitted to him in writing, to act under any of his powers, or if he of his own accord has amended or withdrawn any order, authority or permit or any condition attached thereto, he shall as soon as practicable notify the person concerned in writing of the reasons for his refusal or conduct.”.

10 **Amendment of section 13 of Act 36 of 1983, as amended by section 1 of Act 17 of 1985 and section 10 of Act 18 of 1989**

11. Section 13 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

- 15           “(d) obstructs or hinders **[the] an** executive officer, an officer or an authorized person in the exercise of his powers or the performance of his duties;”.

**Amendment of section 14 of Act 36 of 1983, as amended by section 11 of Act 18 of 1989**

12. Section 14 of the principal Act is hereby amended—

- 20           (a) by the substitution for paragraphs (b) and (c) of the following paragraphs, respectively:

          “(b) a document which purports to have been certified by **[the] an** executive officer to the effect that it is a copy of the order to which the proceedings relate, shall be received as evidence in any court without further proof or the production of the original order;

25           (c) if a copy of an order referred to in paragraph (b) purports to have been endorsed by **[the] an** executive officer to the effect that the order concerned has been served on the person named in that order in a certain manner, it shall be presumed that such order has been served on the said person in that manner, unless the contrary is proved;”;

- 30           (b) by the substitution for paragraph (d) of the following paragraph:

          “(d) where it is proved that a marker, peg, label or other mark has been damaged, destroyed, removed, shifted, altered or otherwise tampered with contrary to the provisions of this Act, it shall be presumed that it was done by the person who was the user of land in respect of the land in question on the date on which **[the] an** executive officer became aware of such damage, destruction, removal, shifting, alteration or tampering, unless the contrary is proved.”.

40 **Short title**

13. This Act shall be called the Agricultural Pests Amendment Act, 1992.