

REPUBLIC OF SOUTH AFRICA

ANIMAL HEALTH BILL

*(As introduced in the National Council of Provinces as a section 76 Bill; explanatory summary of Bill published in Government Gazette No 22546 of 10 August 2001)
(The English text is the official text of the Bill)*

(SELECT COMMITTEE ON LAND AND ENVIRONMENTAL AFFAIRS
ON REQUEST OF THE MINISTER FOR AGRICULTURE AND LAND AFFAIRS)

[B 64—2001]

ISBN 0 621 31326 2

No. of copies printed 1 800

BILL

To provide for measures to promote animal health and to control animal diseases; to assign executive authority with regard to certain provisions of this Act to provinces; to regulate the importation and exportation of animals and things; to establish animal health schemes; and to provide for matters connected therewith.

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

Definitions

1. (1) In this Act, unless the context indicates otherwise—
- “animal” means— 5
 - (a) any mammal, bird, fish, reptile or amphibian which is a member of the phylum vertebrates, including the carcass thereof;
 - (b) any invertebrate which is prescribed as an animal for the purpose of this Act;
 - “animal disease” means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by any protozoon, bacterium, virus, fungus, prion, rickettsia, parasite, other organism or substance; 10
 - “animal or thing” means any animal, infectious thing, contaminated thing, animal product and any progeny or product in respect thereof;
 - “animal product” means any part or portion of, or product derived from or yielded by, any animal, including any such part, portion or product that has been processed; 15
 - “assignee” means any person, undertaking, body, institution or association designated under section 4;
 - “authorised person” means a person contemplated in section 3(1)(a)(ii);
 - “contaminated thing” means any thing other than an animal or an infectious thing— 20
 - (a) by means of which an animal disease can be spread; or
 - (b) which in the prescribed manner is declared to be a contaminated thing for the purposes of this Act;
 - “controlled animal disease” means any animal disease which is— 25
 - (a) prescribed to be a controlled animal disease for the purpose of this Act; or
 - (b) not indigenous or native to the Republic;
 - “controlled purpose” means the prevention of the bringing into the Republic, or the prevention or combating of or control of an outbreak or the spreading, or the eradication, of any animal disease or, where applicable, of any parasite;
 - “controlled veterinary procedure” in relation to any animal or thing, means— 30
 - (a) the isolation, detention, inspection, counting, examination, testing, immunisation, disinfection, dipping, observation, sampling, marking, movement, treatment, care, destruction or any other disposal thereof;
 - (b) the carrying out of any intervention or of any post-mortem or other examination thereon; or 35
 - (c) the rendering of any service pertaining specifically to the veterinary profession referred to in the rules made under section 30(1)(a) of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), in respect of any such animal or thing, 40
- for any controlled purpose; 40

- “control measure” means any measure prescribed under section 28(1)(g);
- “conveyance” means any aircraft, ship, boat, train, motor car, van, wagon, truck, cart or other vehicle, or animal, or other mode of transport of whatever kind, including the fittings and equipment and, in the case of an animal, the harness and tackle thereof; 5
- “conveyer” means a person who conveys any imported animal or thing in transit through the Republic;
- “department” means the national Department of Agriculture;
- “Director-General” means the Director-General of the department;
- “infectious thing” means— 10
- (a) an animal that is infected or is suspected of being infected with an animal disease;
 - (b) the progeny or product of an animal referred to in paragraph (a);
 - (c) any protozoon, bacterium, virus, fungus, prion, rickettsia, parasite or other organism or substance that can cause an animal disease; and 15
 - (d) any other thing that is prescribed to be an infectious thing for the purposes of this Act;
- “in transit” means the conveyance of an animal or thing that has been imported through a port of entry into the Republic, in transit through the Republic to another country after its release from the port of entry; 20
- “land” includes any building, structure, enclosure, premises, harbour, jetty, quay or mooring;
- “MEC” means the member of the Executive Council of the province in question responsible for animal health in that province;
- “Minister” means the national Minister of Agriculture; 25
- “national executive officer” means the officer designated as such in terms of section 2(1);
- “officer” means an officer as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), who is authorised in terms of section 3(1)(a) and (2); 30
- “owner”, in relation to—
- (a) animals or things, conveyances and other movable property, means the person in whom ownership in respect thereof is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Livestock Brands Act, 1962 (Act No. 87 of 1962), or of which the ownership cannot readily be established, the user of the land on which such game or animals are present is deemed to be the owner thereof; and 35
 - (b) land— 40
 - (i) means the person in whose name that land is registered;
 - (ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;
 - (iii) that is subject to a usufruct, means the usufructuary; and
 - (iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorised by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator thereof; 50
- “parasite” means any organism that is detrimental to the health of any animal, or which is capable of causing or spreading any animal disease;
- “permit” means any permit issued under this Act;
- “prescribed” means prescribed by regulation; 55
- “progeny or product”, in relation to any animal or infectious thing other than an animal, contaminated thing, animal product or parasite, means any other animal or animal product, other such infectious thing, or other contaminated thing, animal product or parasite, obtained or derived therefrom, or descended or produced by, from or by means thereof, whatever the connection or degree of descent or relationship; 60
- “provincial executive officer” means the officer of the province in question designated as such in terms of section 5(2);

- “quarantine station” means any quarantine station established under section 11;
- “quarantine camp” means any quarantine camp declared under section 11;
- “regulation” means any regulation made under section 28;
- “remedy” means any stock remedy which has been registered under the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), including any medicine or veterinary medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
- “scheme” means any scheme established under section 16;
- “this Act” includes any regulation and scheme;
- “user”, in relation to land—
- (a) means any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether or not he or she resides thereon;
 - (b) in the case of land under the control of a local government body as defined in section 1(1) or (2) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), means that local government body;
 - (c) means any other person who is generally recognised as having a right of tenure on the land concerned; and
- “veterinarian” means a veterinarian as defined in section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).
- (2) For the purposes of this Act, unless the context indicates otherwise, any reference to land, in the case of land registered under a separate title deed as a separate unit in any deeds registry and that is adjoined by other land separately registered in the name of the same owner, must, irrespective of the respective pieces of land being divided physically by natural means or by roads, railway lines, aqueducts or otherwise, be construed as a reference to such land and such adjoining land as one unit.

Designation of, and powers and functions of national executive officer

2. (1) (a) The Minister must designate an officer of the department who is a veterinarian as national executive officer.
- (b) The national executive officer exercises the powers conferred on him or her and performs the duties imposed upon him or her by or under this Act subject to the control and directions of the Minister.
- (2) Whenever the national executive officer considers an application or a request in terms of this Act, he or she may—
- (a) request the applicant concerned to provide such additional information as may be necessary within a specified period;
 - (b) conduct any necessary investigation or inquiry in connection with the application or request ; and
 - (c) refuse, postpone or grant the application or request subject to such conditions as may be necessary.
- (3) (a) The national executive officer may, on application, grant an extension of the period contemplated in subsection (2)(a) in writing.
- (b) An application for extension must be in writing and must set out the reasons for the application.
- (4) The national executive officer must notify the applicant in writing of any decision reached and, if an application or a request is refused, of the reasons for refusal.
- (5) (a) If, after an application or a request has been approved or granted, the national executive officer becomes aware of circumstances which, if they had been known to him or her or if they had prevailed when he or she considered the application or request, would have resulted in the refusal of the application or request or in the imposition of conditions or additional conditions, he or she may, by written notice to the applicant—
- (i) revoke such approval or grant; or
 - (ii) amend it by imposing conditions or additional conditions.
- (b) The national executive officer must give reasons for any such revocation or amendment.

Delegation and assignment of powers and duties by national executive officer

3. (1) (a) The national executive officer may delegate any power conferred on him or her or assign any duty imposed on him or her by or under this Act—
- (i) to any officer under his or her control;

- (ii) to a person who is not an officer;
- (iii) with the approval of the MEC, to a provincial executive officer.
- (b) A power or duty delegated or assigned to a provincial executive officer may be further delegated or assigned by such provincial executive officer to any officer under his or her control or to an authorised person. 5
- (2) (a) The national executive officer must furnish the officers, authorised persons and provincial executive officers contemplated in subsection (1) with a written authority in which it is stated that the person mentioned therein is authorised to exercise the powers and perform the duties specified therein.
- (b) The authorisation contemplated in paragraph (a) may— 10
 - (i) be written in general terms;
 - (ii) refer to cases of a particular nature;
 - (iii) refer to a specified prescribed measure;
 - (iv) refer to specified animal diseases or parasites; or
 - (v) refer to animal diseases or parasites in a specified area. 15
- (3) When exercising a power or performing a duty delegated or assigned under this section, the officer, authorised person or provincial executive officer must produce the authorisation contemplated in subsection (2)(a) at the request of any person.
- (4) The national executive officer is not divested of any power or duty delegated or assigned and may amend or withdraw any decision made or instruction given by an officer, authorised person or provincial executive officer by virtue of such delegation or assignment, unless the decision has been conveyed to the person in respect of whom the decision applies, in which case the decision may be amended or withdrawn only if the amendment or withdrawal is to the benefit of that person or if that person consents to the amendment or withdrawal. 20 25

Designation of assignees

- 4. (1) The Minister may assign the administration of this Act or certain provisions thereof, throughout the Republic or in a particular area, to any person with an interest in or particular knowledge of animals and animal health.
- (2) An assignment contemplated in subsection (1) must set out the powers and duties of the assignee who must exercise the powers and perform the duties subject to the directives of the national executive officer. 30
- (3) Unless the Minister in a particular case directs otherwise, an assignee has no recourse against the State in respect of any expenses incurred in connection with the exercise of the powers or the performance of the duties in question. 35
- (4) The chief executive officer, chairperson or any other person in charge of any assignee which is not a natural person—
 - (a) must act on behalf of that assignee in the exercise of the powers and the performance of the duties in question; and
 - (b) may in writing delegate or transfer to an employee of that assignee any power which the assignee may exercise or any duty which the assignee must perform in terms of this Act, or may in writing authorise or direct any such employee to exercise such power or perform such duty. 40
- (5) (a) A power exercised or duty performed by an employee contemplated in subsection (4) is regarded as having been exercised or performed by the chief executive officer, chairperson or any person in charge, as the case may be. 45
- (b) The chief executive officer, chairperson or any person in charge may at any time amend or withdraw a decision made or an order given by such an employee unless the decision has been conveyed to the person in respect of whom the decision applies, in which case the decision may be amended or withdrawn only if the amendment or withdrawal is to the benefit of that person or if that person consents to the amendment or withdrawal. 50
- (6) Subject to subsection (2), an assignee may in consultation with the national executive officer determine a fee payable by the owner for the exercise of powers and the performance of duties by the assignee in terms of this Act. 55
- (7) If an assignee does not comply with a provision of this Act, or with a direction by the national executive officer, the national executive officer may terminate or suspend the assignment.

Assignment of certain functions to provincial executives

5. (1) Subject to subsections (2), (3) and (4) and section 6, the functions set out in sections 8(1), (3) and (4), 11 and 12(1)(b), (c), (d) and (e) to (7), 13, 14, 15, 16, 18, 19, 20, 21 and 22 are hereby assigned to the provincial executive of each province.
- (2) (a) Every MEC must designate an officer of the province in question who is a veterinarian as provincial executive officer. 5
- (b) A provincial executive officer must exercise the powers and perform the duties assigned to the provincial executive of his or her province by subsection (1).
- (3) A provincial executive officer— 10
- (a) may delegate any power or assign any duty contemplated in subsection (2)(b) to an officer under his or her control;
- (b) must provide the national executive officer with such reports regarding the application of the provisions referred to in subsection (1) as the national executive officer may require.
- (4) (a) The national executive officer must monitor the performance of the functions assigned by this section in every province in order to verify that essential national standards are being applied throughout the Republic. 15
- (b) At prescribed intervals the national executive officer must compile reports of the functions monitored as contemplated in paragraph (a) and furnish a copy thereof to the relevant provincial executive officer. 20
- (5) The national executive officer may by notice in writing require the provincial executive officer or any other person in possession of information required by the national executive officer for purposes of monitoring the performance of the functions assigned by this section, to provide such information to the national executive officer within the period specified in the notice. 25
- (6) If, in a particular case, the national executive officer is of the opinion that an act or omission by a particular provincial executive officer represents a material deviation from the essential national standards, he or she must inform the provincial executive officer concerned of the deviation and request the provincial executive officer to take such steps in connection therewith as may be necessary. 30

Suspension of assignment

6. (1) The Minister may suspend an assignment contemplated in section 5 by notice in the *Gazette*, in general or in a particular instance, in the event of—
- (a) contravention of any provision of this Act, or the occurrence, in a province or in a country adjacent to a province, of any event of such a nature and extent that it could detrimentally affect animal health in a province or in the Republic as a whole; or 35
- (b) a written request to do so by an MEC.
- (2) The suspension may be— 40
- (a) in respect of one or more specified provinces or specified portions thereof or the Republic as a whole;
- (b) in general or with regard to a particular matter;
- (c) for such period or subject to such conditions as the Minister may determine.
- (3) In the event of a suspension, the national executive officer must implement the necessary essential national standards and such other provisions of this Act in the area in question for such period as may be necessary to give effect to this section. 45
- (4) For purposes of subsection (3), the provincial executive officer of the province in question must co-operate with the national executive officer and put any facilities used in the province in respect of animal health at the disposal of the national executive officer. 50
- (5) If the expenditure incurred during a particular year by or on behalf of a particular province for the purposes contemplated in this section exceeds the appropriation for that purpose by the provincial legislature in question, the deficit must be defrayed from money appropriated by Parliament for that purpose.
- (6) When the reason for the suspension ceases to exist, the Minister must lift the suspension. 55

Limitations on investigations, experiments and research with, and manufacture and evaluation of, certain products

7. (1) Subject to subsection (2), no person may without the written authority of the national executive officer or contrary to any condition imposed by him or her on such authority— 5

- (a) conduct any investigation, experiment or research with any vaccine, serum, toxin, antitoxin, antigen or other biological product that consists of or originates wholly or partially from any animal or thing;
- (b) use any vaccine, serum, toxin, antitoxin, antigen or other biological product referred to in paragraph (a) for the manufacture or evaluation of a product or remedy used for or intended to be used for the testing, diagnosis, prevention, treatment or cure of any animal disease or parasite or for the maintenance or improvement of the health, growth, production or working capacity of any animal; or 10
- (c) for the purpose of any investigation, experiment or research referred to in paragraph (a) or for the manufacture or evaluation of a product or remedy referred to in paragraph (b) infect or contaminate any animal or thing with any animal disease or parasite. 15

(2) Subsection (1) does not apply to any substance in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965) and the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947). 20

Restriction on exportation

8. (1) Subject to subsection (4), no person may export any animal or thing from the Republic unless the national executive officer has issued an export health certificate to such person. 25

(2) A certificate referred to in subsection (1), must contain specific information required by the competent authority in the country of import with regard to—

- (a) the health status of the animal or thing to be exported;
- (b) the occurrence or non-occurrence of particular animal diseases in the Republic or in the area of origin of the animal or thing to be exported; and 30
- (c) any other information that may be required by such authority.

(3) (a) An application for such certificate must—

- (i) be made in the prescribed manner to the national executive officer; and
- (ii) be accompanied by a document issued by the competent authority of the importing country authorising such importation. 35

(b) The applicant must, on receipt of the certificate referred to in paragraph (a), pay the prescribed fee.

(4) Subsection (1) does not apply to the exportation of any animal or thing to a country in respect of which the competent authority does not require a certificate referred to in that subsection if the exporter can provide the national executive officer with written proof thereof. 40

(5) (a) The national executive officer may, under the circumstances contemplated in paragraph (b), prohibit the exportation of a particular animal or thing, or a particular consignment of animals or things to any country. 45

(b) The circumstances referred to in paragraph (a) includes the situation where the national executive officer is of the opinion that—

- (i) from a veterinary point of view, the export thereof would be detrimental to the animal health status of the country to which it is intended for export; or
- (ii) it is not possible, where applicable, to certify compliance with the conditions specified in the document referred to in subsection (3)(a)(ii). 50

Restriction on animals or things imported and in transit

9. (1) Subject to subsection (8), no person may import any animal or thing into or convey any imported animal or thing in transit through the Republic except on the authority of a permit issued by the national executive officer. 55

(2) An application for an import or in transit permit referred to in subsection (1) must be made in the prescribed manner and must be accompanied by the prescribed fee.

(3) A permit referred to in subsection (1) must—

- (a) be obtained by an importer or conveyer before the relevant animal or thing is brought into the Republic;
- (b) where the national executive officer requires that the animal or thing in question has to be kept in isolation at a quarantine station or camp referred to in section 11 (1) upon arrival in the Republic, only be issued after proof has been furnished to the national executive officer that accommodation has been reserved at such quarantine station and the reservation fees referred to in section 11 (5) have been paid, or in the case of a quarantine camp, after such camp has been approved by the provincial executive officer; and
- (c) subject to subsection (4), be valid for one consignment only.
- (4) If a person imports any animal or thing of the same class from the same country on a regular basis, or regularly conveys such imported animals or things in transit through the Republic, and the national executive officer is satisfied that it will not defeat the objects of this Act, a permit referred to in subsection (1) may be issued for the importation into or conveyance in transit through the Republic of consecutive consignments of any animal or thing of the same class during the period specified in the permit.
- (5) Any animal or thing in respect of which a permit referred to in subsection (1) or (4) has been issued may—
- (a) only be introduced into the Republic through the place of entry specified in the permit in question;
- (b) be introduced within the period specified in such permit;
- (c) be detained in the prescribed manner at the relevant place of entry;
- (d) be made available to the national executive officer at such place of entry for the purpose of performing such controlled veterinary procedures or other acts on or in connection therewith as the national executive officer may deem necessary; and
- (e) not be removed from such place of entry without the written authority of the national executive officer, or contrary to any condition referred to in section 10(1).
- (6) (a) The national executive officer may, if he or she knows or reasonably suspects that any animal or thing is, contrary to any provision of this Act or any condition of a permit—
- (i) being removed or has been removed from any place outside the Republic for the purpose of import into or conveyance in transit through the Republic;
- (ii) about to be imported into or conveyed in transit through the Republic; or
- (iii) present on or in any conveyance, or forms part of any consignment that is being or has been brought into the Republic,
- direct that such animal or thing or any specific portion thereof may not be brought into the Republic or removed from the place of entry, as the case may be, except with the national executive officer's consent and on the conditions that he or she may determine.
- (b) The national executive officer must, as soon as practicable, make known the provisions of such direction in respect of such importation, off-loading, removal or conveyance to all persons who, to the knowledge of the national executive officer, are or will be involved in the importation, off-loading, removal or conveyance in transit, as the case may be, or to any person in whose service any such persons are, or who exercises control over them.
- (7) A permit that has been issued in terms of section 6(1)(a) or (c) of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and any direction given in terms of section 6(3) of that Act, that are in force on the date of commencement of this section, are respectively deemed to be a permit referred to in subsection (1) and a directive referred to in subsection (6) of this section.
- (8) Despite the provisions of subsection (1), a permit referred to in that subsection may not be required in cases where international agreements pertaining to the importation of any animal or thing, bind the country of export and the Republic.

Detention and disposal of imported animal or thing, and animal or thing conveyed in transit

- 10.** (1) No person may remove any imported animal or thing or animal or thing conveyed in transit that is detained at the place of entry without the written authority of the national executive officer or contrary to any condition imposed by the national executive officer in granting such authority.

- (2) Any imported animal or thing that is required in terms of any provision of this Act to be kept in isolation at any quarantine station, camp, institution or other place, as may be determined by the national executive officer, for purposes of any controlled veterinary procedure must—
- (a) be removed to such quarantine station, camp, institution or place by or under the supervision of the national executive officer; and
 - (b) be detained at the quarantine station, camp, institution or place for the period determined by the national executive officer.
- (3) No person may remove any animal or thing referred to in subsection (2) from any quarantine station, camp, institution or place referred to in that subsection, without the written authority of the national executive officer or contrary to any condition imposed by him or her in granting such authority.
- (4) (a) If it is suspected or determined that an imported or in transit conveyed animal or thing is infected with an animal disease or poses a health risk, the national executive officer may direct the importer or conveyer to—
- (i) destroy such animal or thing; or
 - (ii) dispose of such animal or thing,
- in the manner and within the time period as the national executive officer may determine and at the expense of such importer or conveyer, as the case may be.
- (b) If the animal or thing is not destroyed or disposed of within the time period determined by the national executive officer, the national executive officer may, in terms of section 19(2)(f), seize such animal or thing and dispose of it at his or her discretion.
- (c) The national executive officer may recover all expenses incurred in connection with a disposal referred to in paragraph (b) from the importer or conveyer concerned.
- (5) Any authority granted in terms of section 8 of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and that is in force on the date of commencement of this section is deemed to be an authority granted in terms of subsection (1) of this section.

Quarantine stations and quarantine camps

- 11.** (1) The national executive officer may—
- (a) establish at any place in the Republic a quarantine station for the accommodation of any imported animal or thing that is required or permitted in terms of this Act to be detained or isolated; and
 - (b) declare any suitable place in the Republic other than a place referred to in paragraph (a), to be a quarantine camp for the accommodation of any animal that is required or permitted in terms of this Act to be detained or isolated.
- (2) A quarantine station or camp must be equipped and used for the purpose of the performance of controlled veterinary procedures in respect of any animal or thing referred to in subsection (1).
- (3) The national executive officer must, in the case of a quarantine station, appoint an officer as quarantine master to take charge of such quarantine station subject to the instructions of the national executive officer.
- (4) Any person who intends to import an animal that is required to be isolated in terms of a permit referred to in section 9, must apply to the applicable quarantine master to reserve accommodation for such animal at that quarantine station.
- (5) An applicant must, on receipt of the written confirmation of the reservation of accommodation for an animal referred to in subsection (4), immediately pay the applicable prescribed reservation fees to the quarantine master concerned.
- (6) The applicant must pay to the quarantine master the applicable prescribed accommodation fee upon accommodation of the animal in question in the quarantine station concerned.
- (7) Fees paid by any person in terms of subsection (5), must—
- (a) be utilised as part payment of fees payable in terms of subsection (6);
 - (b) be refunded to the person who paid the fees, if—
 - (i) such person has in writing cancelled the reservation and has returned, at least 30 days before the commencement of the period for which he or she has reserved accommodation, a permit issued to him or her for the importation of the animal or thing to the national executive officer; or
 - (ii) the national executive officer withdraws the permit issued under section 9(1); or
 - (c) otherwise be forfeited to the State.

Fencing

- 12.** (1) The national executive officer may—
- (a) erect a permanent fence on any land situated along the international boundaries of the Republic, in order to prevent the straying of animals into or out of the Republic; 5
 - (b) erect a permanent fence on or as near as possible to the boundaries of any national park, provincial park or private game reserve to prevent the movement of animals into or out of such park or reserve; or
 - (c) erect a temporary fence on or across any land to prevent movement of animals into or out of such land; 10
 - (d) install gates, grids or other passages in such a fence; and
 - (e) construct any road, bridge, causeway, culvert or drift giving access to or required for use in connection with the erection, maintenance, inspection and alteration of such a fence.
- (2) The national executive officer must notify the owner or user, as the case may be, of the land in question, of the intention to erect such a fence as well as the nature of such a fence, in the prescribed manner. 15
- (3) The national executive officer may, for the purpose of the application of subsection (1), and after notice is given in terms of subsection (2)—
- (a) enter upon and occupy the land, and take with him or her such assistance, officers, conveyance, tents, materials, tools or other things as the executive officer considers necessary; 20
 - (b) provide, in the case of a permanent fence, permanent housing, or in the case of a temporary fence temporary housing together with the necessary accessories and equipment on any suitable place on the land for the officers who will maintain such fence; 25
 - (c) subject to subsection (5), dig out and remove any sand, soil, clay, gravel, stone, water, wood or other material that he or she requires from any place on the land or on any nearby land; and
 - (d) remove vegetation where applicable. 30
- (4) The national executive officer—
- (a) must maintain any fence erected and any gate, grid and other passage installed in terms of subsection (1); and
 - (b) may from time to time effect such alterations or replacements thereto as he or she deems necessary. 35
- (5) The national executive officer may, on submission of a written application to the national executive officer by the land owner or user, as the case may be, pay to such owner or user reasonable compensation on a basis determined by the national executive officer, for the use of any material referred to in subsection (3)(c).
- (6) (a) If any action performed in terms of subsection (1) will be of advantage to the owner or user, as the case may be, of the land in question, the national executive officer may, subject to paragraph (b), recover any portion of the costs involved from such owner or user, as the case may be, of such land. 40
- (b) Any amount recoverable in terms of paragraph (a) must be determined by the national executive officer on a basis determined by him or her, and the national executive officer must notify the owner or user, as the case may be, in writing of the amounts recoverable and of the basis on which it was calculated. 45
- (7) No person may—
- (a) without the written authority of the national executive officer, remove, alter or impair the efficacy of any fence that has been erected under subsection (1), or of any gate, grid or passage installed therein under subsection (1) (d); 50
 - (b) alter, obstruct or damage any construction contemplated in subsection (1)(e); or
 - (c) remove or damage any housing provided under subsection (3)(b). 55

Disposal of straying animals

- 13.** (1) Whenever an owner or user, as the case may be, of land finds on such land or whenever an owner of animals finds amongst his or her animals, any animal, which he or she knows has strayed thereto or has been unlawfully removed from a place outside the Republic, or which can reasonably be suspected of having so strayed or been removed, he or she must— 60

- (a) immediately isolate such animal;
 - (b) immediately report the presence thereof to the national executive officer in the prescribed manner; and
 - (c) detain the animal in isolation on the land on which it was found pending further instruction from the national executive officer. 5
- (2) The national executive officer may, after the presence of a foreign animal has been reported to him or her in terms of paragraph (b) of subsection (1)—
- (a) if—
 - (i) any person who proves that he or she is the owner of the animal, submits within two days after such report to the national executive officer, a written request to the national executive officer for the restoration to him or her of the animal and reimburses the State for any expenses incurred in connection with the animal within seven days after having been requested to do so; and 10
 - (ii) the animal or any progeny or product thereof, does not pose a disease threat or is not concerned in or may not afford evidence in the commission or suspected commission of an offence, and that the circumstances under which the animal has been found justifies such a restoration, 15direct that the animal and any such progeny or product thereof be restored to the owner; 20
 - (b) direct that the person who found the animal must immediately move the animal and any such progeny or product thereof to a place indicated by the national executive officer for purposes of the performance of controlled veterinary procedures in respect thereof by the national executive officer, or destroy it, or otherwise dispose of it in accordance with the instructions of the national executive officer; 25
 - (c) himself or herself deal with the animal, and any such progeny or product thereof, in accordance with any applicable provision of section 20; or
 - (d) seize the animal or any such progeny or product thereof, in accordance with any applicable provisions of section 20, and in his or her discretion destroy it or dispose thereof for the benefit of the State. 30
- (3) Subsections (1), (2) and (4) apply with the necessary changes in respect of any animal and any progeny or product thereof found on land by the owner or user, as the case may be, of the land, or by any owner of animals thereon, if such person knows that it has strayed thereto, or has been unlawfully removed, or if it can reasonably be suspected of having so strayed or been removed from any other place in the Republic, and if such person knows that any circumstance referred to in section 17(1)(b) is present in respect thereof, or can reasonably be so suspected. 35
- (4) No person may, except pursuant to a provision of subsection (2) or under authority of the national executive officer— 40
- (a) remove any animal or any progeny or product thereof, referred to in subsection (1) or (3) from any place where it is being detained in isolation in terms of any provision of this section; or
 - (b) contravene or fail to comply with any direction or instruction referred to in subsection (2)(b) that has been addressed to him or her. 45

Directives

- 14.** (1) The national executive officer may direct any owner or user, as the case may be, of land or any owner of any animal or thing—
- (a) to comply with any provision of this Act with regard to the land, animal or thing as specified in such directive; or 50
 - (b) to perform or abstain from performing any act specified in the directive with regard to such land, animal or thing.
- (2) A directive may provide that anything required in terms thereof must be complied with in the manner and within the period specified therein. 55
- (3) A directive must be in the form of a written notice that must be served in the prescribed manner on the owner or user, as the case may be, of the land in question or the owner of the animal or thing in question, and must be binding on the owner of such animal or thing, and on the owner or user, as the case may be, of the land specified therein and on his or her successor in title in respect of that land. 60
- (4) (a) The national executive officer may—

- (i) amend any directive; or
 - (ii) if the national executive officer is satisfied after such investigation, inspection or examination as he or she deems necessary that the provisions of the directive have been complied with and that the objects thereof have been achieved, withdraw any directive, 5
if such amendment or withdrawal does not exempt the person concerned from complying with any other provision of this Act, that is binding on him or her.
- (b) The amendment or withdrawal of a directive as contemplated in paragraph (a) must be made known in the manner set out in subsection (3).
- (5) A document that was issued as an order in terms of section 15 of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and is in force on the date of commencement of this section, is deemed to be a directive in terms of this section. 10

Assumption of control over land, animal or thing

- 15.** (1) The national executive officer may, for any controlled purpose, declare by notice referred to in subsection (4), that he or she assumes control over any land, animal or thing for such controlled purpose. 15
- (2) The control referred to in subsection (1) must be exercised if the national executive officer is satisfied that—
- (a) the owner or user, as the case may be, of the land or owner of the animal or thing refuses, fails or is unable to apply a prescribed measure in question in a manner that will ensure the achievement of the objects thereof; or 20
 - (b) the occurrence of any animal disease in the animal or thing on such land or adjoining land, threatens or could detrimentally affect the animal health status in the province in question or any specific part thereof, or in any other province, or the Republic as a whole. 25
- (3) Assumption of control over land may be in respect of any land or a specified part thereof and may include all or specified fences, structures, facilities and improvements on such land.
- (4) A notice of assumption of control must—
- (a) be served in a prescribed manner on the owner or user, as the case may be, of the land in question, or on the owner of the animal or thing in question; 30
 - (b) define the land and specify the extent of such assumption as referred to in subsection (3);
 - (c) specify the reason for assumption of control over the land as referred to in subsection (3); 35
 - (d) specify the date of commencement of such assumption of control; and
 - (e) where possible, specify the duration of such assumption of control.
- (5) Subject to subsection (6), the national executive officer may at any time after a notice has been served and as from the commencement date specified therein—
- (a) enter upon and occupy the land, and take with him or her any such assistance, officers, conveyance, appliance, instruments, tools, remedies and other things as the national executive officer may deem necessary for his or her purpose; 40
 - (b) establish a camp together with the necessary accessories and equipment on the land and construct a road giving access thereto;
 - (c) erect any fence or gate thereon, or alter or remove any existing fence or gate; 45
 - (d) use any suitable place on the land for the destruction or other disposal of any animal or thing, irrespective of whether or not it originated from or was found on that land;
 - (e) make use of grazing, wood and water found on that land;
 - (f) perform any controlled veterinary procedure or act on the land that the user or owner thereof, as the case may be, is required to perform in terms of this Act, and recover any expenditure connected therewith from such owner or user; 50
 - (g) perform such other procedure or acts on or in respect of the land as the national executive officer may deem necessary for the controlled purpose. 55
- (6) Despite subsection (5), the national executive officer may not effect any structural alterations or erect any permanent structures, except fences, on any land over which the national executive officer assumes control in terms of this section, unless the Minister has previously consented thereto.

Animal health schemes

- 16.** (1) The Minister may by notice in the *Gazette* establish a scheme in respect of any controlled purpose or for the improvement of animal health.
- (2) The Minister may under subsection (1) establish different schemes in respect of different kinds of animals, different animal diseases or parasites, different classes of persons and different areas. 5
- (3) A notice referred to in subsection (1) must—
- (a) set out the objects of the scheme;
 - (b) define the kind of animal, the animal disease or parasite and areas to which the scheme applies; 10
 - (c) specify the kind of animal that is susceptible to the animal disease or parasite concerned, that is the carrier thereof and that may cause or spread it;
 - (d) define the kind of animal in respect of which controlled veterinary procedure, test, examination, treatment or disposal by persons authorised in the scheme, must be done, applied or effected; 15
 - (e) describe the manner in which any animal referred to in paragraph (d) may become infected with the animal disease or parasite in question, and the characteristics of such infection in each such kind of animal;
 - (f) indicate the tests to which the animals in question and the progeny or products thereof, must be subjected in order to ascertain whether the animals are infected with the animal disease in question; 20
 - (g) determine the methods according to which such tests must be carried out, and the remedy, substance or equipment to be used for such tests, and describe the manner in which the results must be interpreted;
 - (h) determine the manner in which animals that are infected with the animal disease concerned and the progeny or product thereof, must be treated, kept, cared for or otherwise disposed of; 25
 - (i) determine the measures that must be taken to prevent the infection or re-infection of the animals in question and the progeny or product thereof with the animal disease concerned, or the spreading thereof; 30
 - (j) determine the requirements for participation in the scheme;
 - (k) determine the manner in which a person may apply for admission to participate in the scheme, the particulars to be furnished in such application and the circumstances under which such application must be refused;
 - (l) determine the manner in which a person is admitted to participate in the scheme and the circumstances under which such participation must lapse or be cancelled; 35
 - (m) determine the manner in which and the period during which animals to which the scheme applies must be kept, cared for and treated, and the control to which such animals must be subjected; 40
 - (n) specify the information to be recorded by persons participating in the scheme;
 - (o) determine the facilities to be provided by a person participating in a scheme for the purpose of performing controlled veterinary procedures and required tests, or for any other acts necessary to promote the objectives of a scheme;
 - (p) specify the marks with which and the manner in which the animals must be marked; 45
 - (q) determine the manner in which animals complying with the requirements of the scheme must be certified, the restrictions on the use of such certificate and the circumstances under which such certificate must lapse;
 - (r) determine the circumstances under which a scheme must apply to a specific class of persons or in a specific area and the specific requirement that must be complied with; 50
 - (s) determine that the provisions of a scheme must be binding on a person who is enrolled for participation therein;
 - (t) specify the tariffs that must be payable for services rendered in terms of such scheme; 55
 - (u) determine other powers and duties to be exercised and performed by defined persons or officers in terms of such scheme;
 - (v) provide for any other matter that the Minister may deem necessary or expedient in order that the objects of the scheme may be achieved or promoted. 60
- (4) The generality of paragraph (v) is not limited by subsection (3).

(5) The Minister may, after consultation with the MEC of the province in question, declare by notice in the *Gazette* that participation in a particular scheme must be compulsory in the province concerned, or in a specified part thereof.

(6) A scheme in terms of which any form of monetary assistance may be rendered to participants must only be established with the approval of the Minister of Finance. 5

(7) A scheme may be applicable to the whole of the Republic or to a particular province specified therein or to a specified part thereof.

(8) The Minister may, after consultation with the MEC concerned, by notice in the *Gazette* amend or revoke a scheme.

Duties of owners and users regarding health of animals 10

17. (1) Any owner or user, as the case may be, of land on which there are animals and any owner of animals must—

(a) take, with due observance of the provisions of this Act, all reasonable steps that are necessary—

(i) to prevent the infection of his or her animals with any animal disease or parasite; 15

(ii) to prevent the spreading of any animal disease or parasite from the relevant land or animal; and

(iii) for the eradication of any animal disease and parasite on the relevant land or in respect of the animal in question; and 20

(b) whenever such animal—

(i) has become or can reasonably be suspected of having become infected with any animal disease or parasite, apply in respect of such animal the prescribed treatment or any other treatment that may be deemed suitable and customary in the particular circumstances; and 25

(ii) has become or can reasonably be suspected of having become infected with a controlled animal disease, immediately report such incidence in the prescribed manner to the national executive officer;

(c) report immediately to the national executive officer, any abnormal morbidity and mortality amongst his or her animals in the prescribed manner. 30

(2) A veterinarian or any other person, who finds the incidence or suspected incidence of any controlled animal disease in any animal or thing or any abnormal morbidity and mortality amongst animals on any land must immediately report such incidence in the prescribed manner to the national executive officer.

Services rendered by national executive officer 35

18. (1) Subject to subsection (2), and whenever the owner or user, as the case may be, of any land, or the owner of an animal or thing applies in the prescribed manner to the national executive officer—

(a) for the rendering of advice by the national executive officer to such person regarding the fitness or the health of; 40

(b) to effect or perform any examination or controlled veterinary procedure or any other act connected with a controlled purpose, in respect of; or

(c) for a prescribed certificate of fitness or health in respect of, that land, animal or thing, as the case may be, the national executive officer may render such advice, effect or perform such examination or performance, or issue such certificate or refuse to issue it, as the case may be. 45

(2) The national executive officer is not obliged to render any service referred to in subsection (1) if the required officers, equipment or accommodation for the animal or thing at a place, institution or quarantine station necessary for the purpose is not available to the national executive officer. 50

(3) Subject to subsection (4), the person to whom a service is rendered under this section must pay the prescribed fee to the national executive officer in respect of the service rendered.

(4) The national executive officer may exempt a person referred to in subsection (3) from the payment of fees referred to in that subsection if the rendering of the relevant service— 55

(a) is in accordance with the policy aims of the department regarding the promotion of animal health;

(b) is in the interest of the livestock industry in the Republic;

- (c) is necessary due to an abnormal morbidity or mortality of animals; or
- (d) is necessary as a result of an unusual animal disease affecting or that can affect an appreciable number of animals.

Powers to enter, search and to carry out inspections and controlled veterinary procedures 5

19. (1) Subject to the provisions of subsection (5), the national executive officer may, in order to exercise the powers or perform the duties conferred or imposed upon him or her by or under this Act and for that purpose only, at any reasonable time—
- (a) enter upon any land, place, premises or conveyance in or upon which any animal or thing or other article in respect of which this Act applies, is or is on reasonable grounds suspected to be; 10
 - (b) proceed over any land in order to reach any land, place, premises or conveyance referred to in paragraph (a);
 - (c) order to stop and enter upon, take control of or board any conveyance referred to in paragraph (a) at any place within the Republic or in the territorial waters of the Republic as defined in the Maritime Zones Act, 1994 (Act No. 15 of 1994). 15
- (2) The national executive officer may, when acting under subsection (1)—
- (a) take along such officers, assistants, conveyances, implements, equipment, instruments, remedies and other aids as may be required in order to exercise the powers and perform the duties concerned; 20
 - (b) direct the owner, user or a person in control of or employed at such land, place, premises or conveyance concerned, or of any animal or thing that is present therein or thereon, as the case may be, to render all reasonable assistance that is required to exercise the powers and perform the duties concerned in connection with that land, place, premises, conveyance, animal or thing or anything else kept thereon or therein; 25
 - (c) require that a person referred to in paragraph (b) immediately or at a time and place fixed by the national executive officer produce to the national executive officer those animals or things that he or she requires for any controlled veterinary procedure or other act in terms of this Act; 30
 - (d) search for any animal or thing or anything else to which this Act applies, and, if it is suspected on reasonable grounds to be present on or in such land, place, premises or conveyance, require the owner, user or person as the case may be in charge thereof to produce it to the national executive officer; 35
 - (e) make any investigation he or she deems necessary regarding the presence of any animal disease or parasite;
 - (f) isolate, detain or seize any animal or thing that he or she knows or on reasonable grounds suspects to be infected with an animal disease or parasite, or to be so contaminated for a particular controlled purpose; 40
 - (g) remove anything seized from the place, premises or conveyance where it has been seized, or leave it thereon and if he or she deems it necessary, attach any identification mark or seal thereto, or to the container thereof;
 - (h) install beacons or affix marks or seals on the land, or any animal or thing or on anything else; 45
 - (i) inspect or test any appliance or equipment that is available for use in connection with an animal disease;
 - (j) take such samples of any animal, thing, remedy or other articles that may be deemed necessary, and for this purpose open any container in which that animal or thing or other article is contained; 50
 - (k) test, examine or analyse any sample referred to in paragraph (j), or cause it to be tested, examined or analysed;
 - (l) ascertain whether anything required to be done in terms of this Act has been or is being done;
 - (m) inspect and supervise the doing of anything that a person is required to do in terms of this Act; 55
 - (n) check, count and establish the identity, origin and descent of any animal or thing found during an inspection and treat it against any animal disease, effect any controlled veterinary procedure in respect thereof, and make the prescribed temporary or permanent marks in the prescribed manner thereon; 60

- (o) require that a person referred to in paragraph (b), immediately or at a time and place fixed by the national executive officer, produce to the national executive officer for inspection, or provide him or her with a copy of, any register, book, record or other document that such person is required to keep or produce in terms of this Act; 5
- (p) demand from the owner, user or custodian, as the case may be, of such register, book, record or other document or data-capturing device an explanation regarding any entry, deletion, alteration, omission or note therein;
- (q) make in or on such register, book, record or other document such notes that may be deemed expedient, in respect of any entry appearing thereon or therein or that is required to appear therein or which, in the opinion of the national executive officer, is inaccurate or false; 10
- (3) The national executive officer must when entering upon any land, place, premises or conveyance in terms of subsection (1), show proof of his or her identity and authority when requested thereto by the owner or user, as the case may be, of the land or conveyance or the owner of the animal or thing concerned. 15
- (4) In the case of action under subsection (2) (i), (k) and (m) by the national executive officer, the owner or user, as the case may be, of the land in question or the owner of the animal or thing in question, must pay the prescribed fees or the amount determined by the national executive officer, for the performance of such action. 20
- (5) Despite subsection (1), powers to enter, search and carry out inspections, and performance of any act referred to in subsections (1) and (2) must, for the purpose of proving the commission or suspected commission of an offence under this Act or for any other purpose other than those envisaged in subsection (1), be conducted under the authority of a warrant. 25
- (6) A warrant referred to in subsection (5) must be issued by a judge of the High Court or a magistrate who has jurisdiction in the area where the land, or conveyance in question are situated, or where the conveyance will be, and must only be issued if it appears from information on oath that there are reasonable grounds for believing that anything in respect of which the provisions of this Act applies is upon or on such land, or conveyance, and must specify which of the acts mentioned in subsections (1) and (2) may be performed thereunder by the person to whom it is issued. 30
- (7) A warrant issued in terms of this section must be executed by day, unless the person who issues the warrant authorises the execution thereof by night, at times which must be reasonable, and entry upon and search of any land or conveyance must be conducted with strict regard to decency and order, including— 35
- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.
- (8) The national executive officer, when executing the warrant in terms of this section must immediately before commencing with the execution— 40
- (a) identify himself or herself to the person in control of the land or conveyance, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent spot on the land or conveyance; and 45
- (b) supply at the request of such a person, particulars regarding his or her authority to execute such warrant.
- (9) The national executive officer may without a warrant enter any land or conveyance and perform any of the acts mentioned in subsections (1) and (2) for any purpose referred to in subsection (5), if— 50
- (a) the owner, user or any person referred to in subsection (2) (b), who is competent to do so, consents thereto; or
- (b) he or she on reasonable ground believes— 55
- (i) that a warrant will be issued to him or her in terms of subsection (6) if he or she applies for such warrant; and
- (ii) that the delay in obtaining such warrant would defeat the object of the investigation.
- (10) A warrant issued in terms of subsection (6) may be issued on any day and must be in force until—
- (a) it is executed; or 60
- (b) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; or
- (c) the expiry of one month from the date of its issue; or

(d) the purpose for which the warrant was issued, no longer exists, whichever may occur first.

Disposal of isolated, detained or seized animal or thing

- 20.** (1) Any animal or thing that is isolated, detained or seized in terms of section 19(2)(f) may— 5
- (a) if the national executive officer is of the opinion that the owner or user, as the case may be, of the land or the owner of the animal or thing, possesses the necessary means to isolate or detain and care for such animal or thing in a manner that will ensure that the relevant animal disease or parasite will not spread, be placed in the care of such person in accordance with conditions agreed upon by the national executive officer with such person; 10
 - (b) be removed by the national executive officer to a place that he or she deems suitable for the purpose of performing any controlled veterinary procedure thereon;
 - (c) be slaughtered, by the national executive officer, if it is a living animal and a post-mortem examination is considered necessary; 15
 - (d) if the national executive officer is of the opinion that—
 - (i) any isolation or treatment thereof will not promote the relevant controlled purpose; or
 - (ii) the calculated cost of the performance of any act referred to in paragraphs (a) and (b) exceeds the estimated value of the animal or thing; or 20
 - (iii) no means, remedy or equipment is available to perform any act referred to in paragraph (a) or (b),
be destroyed or otherwise disposed of, or the owner concerned may be ordered to so destroy or dispose of it in the manner determined by the national executive officer; 25
 - (e) in the case of an outbreak of an animal disease, be destroyed or otherwise disposed of by the national executive officer if the disease concerned—
 - (i) is not indigenous or native to the Republic; or 30
 - (ii) will have a detrimental effect on the animal disease free status of a province or a part thereof or of the Republic as a whole.
- (2) (a) The national executive officer must, as soon as he or she is satisfied that the isolation, detention or seizure of any animal or thing in terms of section 19(2)(f), is no longer necessary for any controlled purpose, return it to the owner concerned. 35
- (b) If the animal or thing cannot be returned to the owner within the prescribed period, the national executive officer may—
- (i) if he or she is able to dispose of the animal or thing in a manner beneficial to the State, so dispose of it, in which case any expenditure resulting therefrom must be defrayed from the income obtained therefrom; or 40
 - (ii) where paragraph (a) is not applicable, dispose of the animal or thing at his or her discretion.
- (3) The carcass of any animal isolated, detained or seized in terms of section 19(2)(f), which has been destroyed or slaughtered pursuant to subsection (1)(c), (d) and (e) of this section, must be forfeited to the State, and the national executive officer may— 45
- (a) if he or she is able to dispose of the carcass in a manner beneficial to the State, so dispose of it, in which case any expenditure resulting therefrom must be defrayed from the income obtained therefrom; or
 - (b) where paragraph (a) is not applicable, dispose of the carcass at his or her discretion. 50
- (4) An owner of any animal or thing isolated, detained or seized in terms of section 19(2)(f), must reimburse the State for any reasonable expenses incurred by the national executive officer in connection with the performance by him or her of any act under any provision of subsection (1), (2) or (3) in respect thereof, and which costs cannot be defrayed from any income referred to in subsection (3)(a), but this subsection does not apply in respect of any animal to which any provision of an animal health scheme applies. 55
- (5) If no criminal proceedings are instituted in connection with any animal or thing isolated, detained or seized in terms of section 19(5), or if it appears that such animal or thing is not required at the trial for purpose of evidence and the national executive officer is satisfied that the isolation, detention or seizure of such animal or thing in terms of 60

section 19(5) is no longer necessary for any controlled purpose he or she must return it to the owner concerned.

Compensation

21. (1) Subject to subsection (4), the owner of any animal or thing that has been destroyed or otherwise disposed of pursuant to any prescribed measure, or any provision of section 20(1) or (3), or any other provision of this Act, by the national executive officer or on his or her authority, may submit an application for compensation for the loss of the animal or thing to the national executive officer. 5

(2) The national executive officer may, taking into consideration—

- (a) the applicable compensation, based on a fair market value of the animal or thing, that has been prescribed for purposes of this section or, where no compensation has been so prescribed, any amount fixed by him or her in accordance with any criterion deemed applicable by the national executive officer; 10
- (b) the value of any thing that has, in connection with the animal or thing, been returned to the owner; 15
- (c) any amount that is due to the State by the owner pursuant to any provision of this Act in respect of the animal or thing; and
- (d) any amount that may accrue to the owner from any insurance thereof, fix a fair amount as compensation. 20

(3) Despite subsection (2), the national executive officer must, where a carcass has been disposed of in terms of section 20(3), fix the nett income accruing from such disposal against any amount payable to the State by the owner concerned by virtue of any provision of this Act in respect of that carcass, to be set off, as compensation in respect of the carcass, if— 25

- (a) the owner is otherwise entitled in terms of this section to compensation; and
- (b) the nett income exceeds the amount prescribed in respect of any such carcass.

(4) No compensation is payable for the destruction or disposal, in terms of this Act, of any animal or thing that has been connected with the commission of an offence in terms of this Act, or in respect of which such offence has been committed. 30

Appeals

22. (1) Any person whose interests are affected by any decision, direction, action or omission by the national executive officer, provincial executive officer, authorised person or an assignee, or any person under the control or direction of such person under this Act, may appeal against such decision, direction, action or omission to the Minister or the MEC of the relevant province, as the case may be. 35

(2) An appeal referred to in subsection (1) must be lodged in the prescribed manner within the prescribed period and the prescribed fee must be payable in respect of such appeal.

(3) The Minister or the MEC, as the case may be, must— 40

- (a) refer the appeal for investigation and decision to an appeal board, the members of which must be appointed by the Minister or such MEC; and
- (b) designate one of the members as chairperson of the appeal board.

(4) The appeal board referred to in subsection (3)(a) consists of at least three persons, who have adequate skills and are suitable to decide on the appeal concerned. 45

(5) A person who has a direct or indirect interest in the outcome of an appeal must not be appointed as a member of the appeal board concerned, and if such person has been appointed, he or she must recuse himself or herself or must be disqualified and the Minister or the MEC, as the case may be, must appoint another person as member of the appeal board in question. 50

(6) All the members of an appeal board constitute a quorum for a meeting of that board and—

- (a) the decision of the majority of the members thereof is the decision of that appeal board; and
- (b) the chairperson of that appeal board has, in the case of an equality of votes, a casting vote in addition to his or her deliberative vote. 55

- (7) (a) The appellant may request the appeal board in question or be requested by that appeal board to appear at an inquiry before the board so as to be heard or questioned.
- (b) An appellant appearing at such inquiry is entitled to legal representation.
- (8) Any appeal board may—
- (a) confirm, set aside or amend any decision, direction, action or omission which is the subject of the appeal; or 5
- (b) make any other order in connection therewith as the board may deem fit.
- (9) The decision of an appeal board, together with the reasons therefor, must be in writing and copies thereof must be furnished to the Minister or the MEC, as the case may be, the appellant and the national executive officer, provincial executive officer, assignee or authorised person, as the case may be. 10
- (10) If a decision, direction or action which is the subject of an appeal—
- (a) is set aside, the amount referred to in subsection (2) must be refunded to the appellant concerned; or
- (b) is amended, such portion of the amount referred to in subsection (2), as the board concerned may determine, must be refunded to the appellant concerned. 15

Determination and payment of fees and other amounts

- 23.** (1) All fees payable by any person in terms of any provision of this Act, except amounts that are fixed under any such provision by the national executive officer must be determined by the Minister with the concurrence of the Minister of Finance. 20
- (2) Fees and amounts referred to in subsection (1)—
- (a) that have been determined and are mentioned in any regulation or direction made or given under this Act must, within 60 days after having become recoverable; or
- (b) that have been determined but are not so mentioned, or which have been fixed as contemplated in subsection (1), must, within 60 days after the debtor concerned has in the prescribed manner been notified of the amount due, be paid in the prescribed manner. 25

Keeping and producing of documents

- 24.** (1) A copy of any permit, authority, directive or other document that has been issued, granted, served or given to a person by the national executive officer or the provincial executive officer under this Act and, in the case of a directive, the prescribed documents that must be obtained in connection with the serving thereof, as well as any application, correspondence or other document submitted to the national executive officer or provincial executive officer and arising from the administration and application of this Act, must be stored safely by such person for the periods that are fixed in respect thereof by or pursuant to any provision of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996). 30 35
- (2) Any person who is required under this Act to have a permit, authority or other document, or to whom a permit, authority, directive, certificate or other document has been issued, granted, served or given in terms of this Act, must on request, immediately produce the permit, authority, directive, certificate or document concerned to the national executive officer, provincial executive officer, assignee, an authorised person or a customs officer. 40
- (3) Any permit, authority, directive, certificate or other document that was issued, granted or served on a person by the national executive officer under this Act must, for the duration of the validity thereof, be kept safely by the person in whose favour it was issued or granted, or on whom it was served. 45

Confidentiality

- 25.** (1) No person may disclose any information that relates to the business or affairs of any person, acquired by him or her through the exercise of his or her powers or performance of his or her duties in terms of this Act, except— 50
- (a) in so far as it is necessary for the proper application of the provisions of this Act;
- (b) for the purpose of any legal proceedings under this Act; 55
- (c) when ordered to do so by any competent court;
- (d) if the Minister, in the public interest, authorises the disclosure thereof; or

- (e) to the extent necessary in order to comply with a law dealing with access to information.

Application of Act in respect of the State

- 26.** This Act, excluding—
 - (a) the provisions of any section in so far as it—
 - (i) imposes a duty to pay any fees; or
 - (ii) grants a right to claim any compensation; and
 - (b) the penal provisions,
 binds the State.

Defects in form 10

- 27.** A defect in the form of any document that in terms of any law is required to be executed in a particular manner, or in a document issued in terms of this Act, may not, if the document substantially complies with the applicable legal requirements, render unlawful any administrative act performed in terms of this Act in respect of the matter to which such document relates, and is not a ground for exception to any legal procedure that may be taken in respect of such matter. 15

Regulations

- 28.** (1) The Minister may make regulations—
 - (a) regarding any matter which in terms of this Act is required or permitted to be prescribed; 20
 - (b) regarding the qualifications, powers and duties of specified persons;
 - (c) regarding the payment of fees for services rendered by an officer in terms of this Act;
 - (d) prescribing—
 - (i) things other than animals or infectious things, as contaminated things; and
 - (ii) animal products or other things, as infectious things;
 - (e) declaring certain invertebrates to be an animal for the purpose of this Act;
 - (f) regarding the manner and periods within which specified applications have to be submitted, the documents that are to accompany such applications and the fees that are payable in respect of such applications; 30
 - (g) regarding measures which may relate to—
 - (i) the importation and exportation of any animal or thing;
 - (ii) the designation of specified animal diseases as controlled animal diseases; 35
 - (iii) the designation of specified areas as controlled areas in respect of certain controlled animal diseases;
 - (iv) the application of controlled veterinary procedures with regard to any animal or thing;
 - (v) the manner in which any animal or thing which is required or permitted to be isolated under this Act, must be isolated and cared for and treated in isolation; 40
 - (vi) the manner in which any infectious or contaminated thing, or anything that can be suspected of being an infectious or contaminated thing, must be cared for, treated, disinfected, destroyed or disposed of; 45
 - (vii) access to certain places;
 - (viii) the taking and analysis of samples of any animal or thing;
 - (ix) records to be kept in respect of any animal or thing;
 - (x) the movement of any animal or thing;
 - (xi) hunting, shooting, capture and disposing of game; 50
 - (xii) the slaughter of any animal under certain conditions;
 - (xiii) actions with regard to the carcass of any animal, and the progeny and product of such animal, infected with a controlled animal disease;
 - (xiv) the disposal of any animal or thing;
 - (xv) the erection and use of dipping tanks, spray races and crushes; 55
 - (xvi) the use of specified remedies in respect of specified controlled animal diseases; and

- (h) prescribing any matter that may be expedient or necessary in order to achieve the purposes of this Act.
- (2) A measure referred to in paragraph (1)(g) may—
 - (a) impose a prohibition, restriction or obligation with regard to any matter mentioned in that paragraph; 5
 - (b) provide that a person may by means of a written consent be exempted from the prohibition, restriction or obligation concerned; and
 - (c) specify the procedure with regard to the lodging of an application for such consent and the fees, if any, that are payable in respect thereof.
- (3) If a measure referred to in paragraph (1)(g) has been prescribed for a particular area, the national executive officer must in the manner prescribed, notify all owners and users, as the case may be, of land and owners of animals, in that area, of the type of measure that will apply, the area that will be affected and, where applicable, the period within which the measure must apply. 10
- (4) Different regulations that differ in respects deemed expedient by the Minister may be made under this section, subject to the provisions of this Act, in relation to different areas in the Republic, different classes of animals and things or animal diseases or parasites. 15

Offences and penalties

- 29.** (1) Any person who— 20
- (a) contravenes or fails to comply with any provision of sections 7, 8(1), 9(1), (4) and (5), 10(1) and (3), 12, 13(4) or 25;
 - (b) removes any animal or thing that has been isolated or is being detained under or pursuant to any provision of this Act, without the written authority of the national executive officer or contrary to any condition of such authority, from such isolation or detention; 25
 - (c) obstructs or hinders the national executive officer, provincial executive officer, an authorised person, assignee or any other person in the exercise of any power or the performance of any duty under this Act;
 - (d) refuses or fails to comply with any prohibition, restriction or obligation, or any condition relating thereto, contained in a prescribed measure that applies to such person or any animal or thing belonging to or in the control of such person; 30
 - (e) refuses or fails to comply with any directive issued in terms of section 14 (1);
 - (f) refuses or fails to comply with a condition or requirement subject to which a permit, certificate, authority, consent or other proof of assent or approval has been issued under this Act; 35
 - (g) while being a participant in a scheme, contravenes any provision of that scheme or fails to comply therewith;
 - (h) refuses or fails to stop any conveyance, or to permit the national executive officer, provincial executive officer, authorised person or assignee to take it under his or her control, as contemplated in section 19(1), whenever such person is for that purpose directed or requested by the national executive officer, provincial executive officer, authorised person or assignee; 40
 - (i) refuses or fails to render reasonable assistance whenever it is demanded from him or her in terms of section 19(2)(b); 45
 - (j) refuses or fails to provide information or give an explanation or an answer to a question lawfully required in terms of section 19(2)(o) and (p), or furnishes information, an explanation or an answer that is false or misleading, knowing that it is false or misleading; 50
 - (k) damages, destroys or otherwise tampers with any sample taken under this Act, or any object so seized;
 - (l) damages, removes or otherwise tampers with any conveyance, appliance, instrument, tool, equipment, remedy or any other object belonging to or under the supervision or custody of the national executive officer, provincial executive officer, assignee, an authorised person or any other person who is exercising or performing or is required to exercise or perform any power or duty in terms of this Act, with or in connection with any such object or, in the case of any such animal, injures it, or removes it without the consent of any such person, or otherwise interferes with it; 55 60

- (m) alters in any manner or forges in any manner any permit, certificate, consent or other proof of assent or approval that is issued or rendered under this Act, or obtains such document or any other decision that is required or permitted to be given, from the national executive officer, provincial executive officer, assignee, or authorised person under false pretences; 5
 - (n) with the intent to evade any provision of this Act, uses a document that has been altered or forged as contemplated in paragraph (m);
 - (o) damages, destroys, moves, removes, erases, alters or otherwise tampers with any beacon, mark or seal that has, under any provision of this Act, been installed or affixed on, or in connection with, any land, animal or thing or any other thing; 10
 - (p) performs any act for which a permit, consent or authority or other document is required under this Act, without such permit, consent, authority or document having been issued, granted or given in respect thereof to him or her, such performance not being penalised by any other provision of this subsection; 15
 - (q) obtains, or aids and abets any other person to obtain, by means of false representations, any compensation under this Act;
 - (r) contravenes any provision of a prescribed measure, or fails to comply therewith; 20
 - (s) refuses or fails to receive any directive or other document served on him or her in terms of this Act;
 - (t) as a successor in title to an owner of any animal or thing, or land to which the provisions of this Act applies, fails to comply with any instruction, directive or provision that is applicable to that animal or thing, or land; 25
 - (u) contravenes or fails to comply with any provision of this Act, such contravention or failure not being penalised by any other provision of this subsection,
- is guilty of an offence.
- (2) Any person found guilty of an offence under this Act is— 30
 - (a) in the case of a first conviction, liable to a fine or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
 - (b) in the case of a second or subsequent conviction, whether the same or any other offence referred to in subsection (1), liable to a fine or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment. 35
 - (3) An offence relating to the contravening of section 9(6) is, for purposes of jurisdiction of a court, deemed to have been committed in any place where the accused happens to be.
 - (4) Despite anything contained in any other law, a magistrate’s court is competent to impose any penalty provided for in this section. 40
 - (5) On any conviction for an offence under this Act, a conviction for an offence under any Act repealed by section 32(1) of this Act, or of any law made thereunder, is deemed to be a previous conviction under this Act.

Presumptions and evidence 45

- 30. In any prosecution for any offence under this Act—**
- (a) it is presumed, in the absence of evidence to the contrary, that any sample taken from an animal or thing in terms of this Act is representative of that animal or thing from which it was taken and that such animal or thing possesses the same properties as that sample; 50
 - (b) any document purporting to be certified by the national executive officer, assignee, provincial executive officer or authorised person to the effect that it is a true copy of the document to which the proceedings relate, is admissible as evidence in any court without any further proof or the production of the original document; 55
 - (c) particulars of any event, action or facts that have been recorded in terms of a prescribed measure by the national executive officer, assignee, provincial executive officer or authorised person may be accepted as *prima facie* evidence of the event, action or facts in question, and are, in the absence of evidence to the contrary, admissible as evidence in any court; 60

- (d) any declaration or other document that purports to have been issued by the government of, or any competent authority in, any foreign State is *prima facie* evidence of such declaration or of the event, action or facts stated therein and is, in the absence of evidence to the contrary, admissible as evidence in any court.

5

Repeal of laws and transitional provisions

31. (1) Subject to subsection (2), the laws specified in the second column of the Schedule are hereby repealed.

(2) Any regulation or scheme made or anything done under any provision of the Animal Diseases Act, 1984 (Act No. 35 of 1984), and which was in force immediately prior to the commencement of this Act, is deemed to have been made or done under a corresponding provision of this Act.

Short title

32. This Act is called the Animal Health Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

15

SCHEDULE**(Section 31)**

| No. and year of law | Short title |
|----------------------------|-------------------------------------|
| Act No. 35 of 1984 | Animal Diseases Act, 1984 |
| Act No. 18 of 1991 | Animal Diseases Amendment Act, 1991 |

MEMORANDUM ON THE OBJECTS OF THE ANIMAL HEALTH BILL, 2001

BACKGROUND

1.1 The Animal Health Bill (“the Bill”) is drafted to replace the Animal Diseases Act, 1984 (Act No. 35 of 1984) (“the Act”) in order to bring animal health legislation in line with the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), (“the Constitution”) and at the same time to address needs that arose in practice. The Bill seeks to repeal the Act. The Act provides for the control of animal diseases and parasites, for measures to promote animal health, and for matters connected therewith.

CONTENTS OF BILL

1.2 The Bill provides for the control of animal disease and parasites, for measures to promote animal health in general, and for matters connected therewith. The Bill retains the following provisions of the Act:

- (a) The principles of disease control measures as these measures are according to international norms and standards;
- (b) the establishment of quarantine stations;
- (c) the designation of a veterinarian in the department as a national executive officer who will exercise the powers and perform the duties conferred or imposed upon him or her under the Bill;
- (d) the appointment of authorised persons;
- (e) import control aimed at preventing the introduction of exotic animal diseases into the Republic;
- (f) the establishment of animal health schemes to eradicate certain diseases in the Republic;
- (g) services rendered by the State to the animal owner;
- (h) compensation for anything that has been destroyed or disposed of, pursuant to any regulatory measure;
- (i) payment of fees for services rendered;
- (j) appeals against decisions and actions in terms of the Act; and
- (k) the duties of animal owners.

1.3 In addition thereto, the following new provisions are included in the Bill:

- 1.3.1 The designation by the relevant MEC of a provincial official, who must be a veterinarian, as provincial executive officer for each province. The Bill introduces the authority to appoint provincial executive officers that will be responsible for the administration of certain provisions of the Bill on a provincial level.
- 1.3.2 Provision for the assignment of executive authority to provinces with regard to the implementation of certain provisions of the Bill. These provisions include—
 - (a) care of animals and control of animal diseases in the province;
 - (b) the giving of directives by the provincial executive with regard to prescribed measures that have to be complied with; and
 - (c) assumption of control over land and animals in the province by the provincial executive officer in order to prevent the spread of controlled animal diseases.
- 1.3.3 Suspension by the Minister of executive authority assigned to provinces under certain circumstances, for example if a controlled animal disease in the province threatens or can detrimentally affect the animal health status of other provinces or the country as a whole.
- 1.3.4 Powers of entry, search and seizure for the purpose of achieving the objects of the Bill may be conducted without the authority of a warrant. However, such actions for any other purpose, including investigations for the purpose of proving the commission or suspected commission of an offence, will be conducted only under the authority of a warrant.
- 1.3.5 Import control takes international agreements into consideration. Specific arrangements with exporting countries may require special measures.
- 1.3.6 **Export control measures:** The Act does not make provision for exportation. However, the Bill provides for the control of the export of animals and animal products to protect the animal health status of the importing country.

Exportation will occur under the authority of an export certificate if required by the importing country. The said certificate will furnish the importing country with valuable information regarding the health status of the animal and the prevailing health conditions of the area from which the animal originated. This provision also has the effect of promoting international agreements and relations.

2. PERSONS AND INSTITUTIONS CONSULTED

The Bill was published in the *Government Gazette* for general public comment. The following persons were also consulted with regard to, or made comments on, the Bill:

- * Agricultural Research Council: Onderstepoort Veterinary Institute
- * Agri SA
- * All Directors of Veterinary Services of the provinces
- * Crop Protection and Animal Health Association
- * Members of the Executive Councils of the provinces
- * Milk Producers Organisation
- * National African Farmers Union
- * Red Meat Producers Organisation
- * South African Feedlot Association
- * South African Game Farmers Association
- * South African National Defence Force veterinarians
- * South African Pig Producers
- * South African Police Service veterinarians
- * South African Poultry Association
- * South African Veterinary Association
- * South African Veterinary Council
- * Transvaal Agricultural Union
- * University of Pretoria: Faculty of Veterinary Science, Onderstepoort

3. FINANCIAL IMPLICATIONS FOR STATE

None.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the national Department of Agriculture are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76 of the Constitution since it falls within a functional area listed in Schedule 4 of the Constitution, namely "Animal control and disease".