



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

R2,50

WINDHOEK — 28 August 1992

No. 465

## CONTENTS

### GOVERNMENT NOTICE

	<i>Page</i>
No. 107 Promulgation of Agronomic Industry Act, 1992 (Act 20 of 1992), of the National Assembly .....	1

---

## Government Notice

---

### OFFICE OF THE PRIME MINISTER

No. 107

1992

#### PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 20 of 1992: Agronomic Industry Act, 1992.

---

## **ACT**

**To provide for the establishment of a Board for the Agronomic Industry in Namibia, to regulate its powers and functions and to provide for matters incidental thereto.**

*(Signed by the President on 15 August 1992)*

### **ARRANGEMENT OF SECTIONS**

Section:

#### **PART I PRELIMINARY PROVISIONS**

1. Interpretation.
2. Application of Act.

#### **PART II ESTABLISHMENT, COMPOSITION, PROCEEDINGS AND POWERS OF THE BOARD**

3. Establishment of The Namibian Agronomic Board.
4. Composition of Board.
5. Tenure of office and allowances of Board members and advisers.
6. Vacation of office by Board member.
7. Chairperson and Deputy Chairperson of Board.
8. Meetings and proceedings of the Board.
9. Objects of the Board.
10. Powers of the Board.
11. Appeals from decision of the Board.

**PART III  
ADVISORY COMMITTEES AND INSPECTORS  
OF THE BOARD**

12. Advisory Committees of the Board.
13. Appointment and powers of inspectors.

**PART IV  
FINANCES, ACCOUNTS AND AUDITING**

14. Funds of the Board and bank accounts.
15. Estimates of annual income and expenditure.
16. Financial year.
17. Accounts, auditing, financial and operational reports.
18. Levies.

**PART V  
MISCELLANEOUS PROVISIONS**

19. General prohibition of sale of controlled products.
20. Fixing of prices.
21. Restriction of importation and exportation of controlled products.
22. Offences and penalties.
23. Evidence at trial.
24. Regulations.

**PART VI  
FINAL PROVISIONS**

25. Repeal of law and saving.
26. Short title and commencement.

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

PART I  
PRELIMINARY PROVISIONS

Interpretation.

1. In this Act, unless the context otherwise requires -

“adviser” means a person appointed under subsection (4) of section 4 to advise the Board;

“advisory committee” means an advisory committee appointed under section 12;

“agronomic crop” means a crop declared to be an agronomic crop under subsection (2) of section 2;

“agronomic product” means a product derived from the processing of an agronomic crop and includes a manufactured product containing a substantial portion of an agronomic crop;

“Board” means the Namibian Agronomic Board referred to in section 3;

“Chairperson” and “Deputy Chairperson” means the Chairperson and Deputy Chairperson of the Board elected under section 7;

“controlled product” means an agronomic crop or agronomic product to which the provisions of this Act apply;

“crop” means a plant, tree or shrub and includes a part thereof;

“inspector” means a person appointed as an inspector of controlled products by the Board under subsection (1) of section 13;

“member of the Board” means a member of the Board appointed under section 4 of this Act, and includes an acting member appointed under subsection (3) of section 4;

“Minister” means the Minister for Agriculture, Water and Rural Development;

“premises” includes a vehicle, aircraft or vessel;

“prescribed” means prescribed by or under the provisions of this Act;

“processing” includes -

- (a) the threshing of a cereal; and
- (b) the shelling of a legume;

“producer” includes, except in section 4 -

- (a) a person who has acquired a quantity of an agronomic crop either as remuneration for service rendered or as consideration for the cultivation of his or her land by another person; and
- (b) a person engaged in the production, manufacture, processing, importation or exportation of a controlled product;

“sell” includes, except in section 11 -

- (a) to attempt or agree to sell;
- (b) to mark with a selling price;
- (c) to offer, advertise or expose for sale;
- (d) to export, transmit, convey, deliver or prepare for sale;

(e) to exchange; and

(f) to dispose of for any consideration whatsoever,

and "sale" has a corresponding meaning; and

"this Act" includes regulations and notices made or issued, under and amendments to the Agronomic Industry Act, 1992.

Application of Act.

2. This Act shall apply to -

(a) crops declared by the Minister, by notice in the *Gazette*, to be agronomic crops for the purpose of this Act; and

(b) agronomic products.

## PART II ESTABLISHMENT, COMPOSITION, PROCEEDINGS AND POWERS OF THE BOARD

Establishment of the  
Namibian Agronomic  
Board.

3. (1) Notwithstanding the provisions of section 25, of this Act, the body corporate established under section 3 of the Agronomic Industry Proclamation, 1985 (Proclamation AG. 11 of 1985) and known as the South West African Agronomic Board, shall continue to exist as a body corporate to be known as the Namibian Agronomic Board, and shall -

(a) have perpetual succession and an official stamp;

(b) be capable of suing and being sued in its corporate name;

(c) be capable of holding, purchasing or otherwise acquiring and disposing of movable and immovable property for the purposes of carrying out its functions and objectives under this Act; and

(d) continue to perform the functions and duties and carry out the objectives of the Board under this Act.

(2) All assets vested in and liabilities incurred by the South West African Agronomic Board immediately before the commencement of this Act, shall vest in the Namibian Agronomic Board and any legal proceedings in respect thereof, pending immediately before the said commencement shall continue and be concluded as if they were instituted under this Act.

(3) A reference in any law, document or register to the South West African Agronomic Board shall, except where it is inappropriate, be construed as a reference to the Namibian Agronomic Board: Provided that the Registrar of Deeds may, at the request of the Board and free of charge, make appropriate entries or endorsements with respect to the change of name in or on any register, title deed or other document as the Board may deem necessary.

Composition of Board.

4. (1) The Board shall consist of fourteen members appointed by the Minister, of whom -

- (a) nine shall be persons selected by the Minister from amongst persons nominated by an organisation which in his or her opinion is representative of producers of agronomic crops;
- (b) one shall be a person selected by the Minister from amongst persons nominated by an organisation which in his or her opinion is representative of processors of agronomic crops;
- (c) one shall be a person selected by the Minister from amongst persons nominated by an organisation which in his or her opinion is representative of persons trading in controlled products;
- (d) one shall be a marketing agent of a controlled product;
- (e) one shall be an officer employed in the Public Service; and
- (f) one shall be a person selected by the Minister from amongst persons nominated by an organisation which in his or her opinion is representative of consumers of controlled products.

(2) Where an organisation specified in paragraphs (a), (b), (c) or (f) of subsection (1) does not exist or fails to nominate the required number of persons for selection, the Minister may appoint such other persons as he or she may deem fit to be Board members under this section.

(3) Whenever any member of the Board is temporarily absent or there is a vacancy in the membership of the Board, the Minister may appoint a person he or she deems fit to act as a member of the Board for a specific period.

(4) The Board may from time to time appoint not more than three persons to advise it in the performance of its functions and duties under this Act, for such period as it may determine.

Tenure of office, and allowances of Board members and advisers.

5. (1) A member of the Board other than -

- (a) a member referred to in subsection (1)(e) of section 4; or
- (b) an acting member appointed under subsection (3) of section 4,

shall hold office for such period not exceeding three years, as the Minister may at the time of appointment determine.

(2) A member referred to in subsection (1)(e) of section 4 shall hold office for as long as the Minister deems necessary.

(3) Notwithstanding the provisions of subsection (1) of this section, a member of the Board whose period of office expires by effluxion of time shall be eligible for re-appointment for a further term.

(4) Every -

- (a) member of the Board other than a member referred to in subsection (1)(e) of section 4;
- (b) acting member; and
- (c) adviser to the Board,

shall be paid out of the funds of the Board, such allowances as the Board, with the approval of the Minister, may from time to time determine.



Vacation of office by  
Board members.

6. A member of the Board shall vacate his or her office if -

- (a) he or she signifies his or her intention to resign by written notice to the Minister;
- (b) his or her estate is sequestrated or he or she compromises with his or her creditors;
- (c) he or she is detained in an institution as a person of unsound mind under the provisions of any law;
- (d) he or she is convicted of a criminal offence and sentenced to a term of imprisonment without the option of a fine;
- (e) he or she has been absent from three consecutive meetings of the Board without its leave; or
- (f) the Minister for good and sufficient reasons removes him or her from office.

Chairperson and Deputy  
Chairperson of Board.

7. (1) The members of the Board shall from time to time elect from amongst themselves -

- (a) one person to be the Chairperson of the Board;  
and
- (b) one person to be the Deputy Chairperson of the Board,

both of whom shall, as long as they remain members of the Board, hold office for such period being not less than twelve months, as the Board may determine at the time of their election.

(2) Whenever the Chairperson is for any reason unable to perform his or her duties under this Act, the Deputy Chairperson shall act in his or her stead.

(3) Whenever the Chairperson and Deputy Chairperson are unable to preside over a meeting of the Board by reason of their absence therefrom, or for any other reason, the members present shall elect one of themselves to preside over that meeting.

Meetings and proceedings  
of the Board.

8. (1) Meetings of the Board shall be held at such times and places as the Board may from time to time determine.

(2) The Chairperson may at any time, and shall at the request of not less than six members of the Board, convene a special meeting of the Board to be held at such time and place as he or she may determine, after giving not less than fourteen days notice of such meeting to all members of the Board.

(3) The quorum for a meeting of the Board shall be eight members.

(4) All questions at a meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes the Chairperson or other member presiding, shall in addition to his or her deliberative vote, have a casting vote.

(5) A decision or resolution of the Board shall not be rendered invalid only by reason of a vacancy in the Board's membership or the fact that a person who is not entitled to attend a meeting of the Board was in attendance when the decision or resolution was taken, if that decision or resolution was made by a majority of the members present and entitled to vote.

Objectives of the Board.

9. The objectives of the Board are to promote the agronomic industry and to facilitate the production, processing, storage and marketing of controlled products in Namibia.

Powers of the Board.

10. (1) The Board shall have the following powers, namely -

(a) subject to the approval of the Minister, to employ such persons as it may deem necessary for the performance of its functions under this Act, and to determine the duties, responsibilities, and terms and conditions of service of the said employees;

(b) to purchase, hire or otherwise acquire than by way of donation, movable property and to rent, let, sell, hypothecate or otherwise dispose of such movable property;

**AGRONOMIC INDUSTRY ACT, 1992**

- (c) with the approval of the Minister to acquire movable or immovable property by way of gift, grant or donation;
- (d) with the approval of the Minister to purchase, or acquire by lease or sublease, immovable property and to let, sublet, sell, hypothecate or otherwise dispose of such immovable property, except immovable property acquired by way of gift or donation;
- (e) to use in such manner as the Minister may approve any property donated to the Board;
- (f) with the approval of the Minister to take out insurance policies and to pay for the premiums out of the funds of the Board in respect of -
  - (i) bodily injury, disablement or death of members, employees and advisers of the Board, and of members of an advisory committee, being the direct result of an accident occurring in the course of their official duties under this Act; and
  - (ii) any loss or damage to property or risk or liability arising out of the performance of the functions or duties of the Board;
- (g) subject to conditions approved by the Minister, to appoint persons as agents of the Board to assist it in the performance of its functions and, subject to a right of appeal to the Minister, to refuse the application of any person to be appointed as agent or to terminate the appointment of any person as agent;
- (h) with the approval of the Minister -
  - (i) to engage in activities that will foster and improve the market for controlled products in Namibia or elsewhere;
  - (ii) to render assistance by way of donation, loan or in any other manner to any body representing producers of agronomic crops in Namibia; and

**AGRONOMIC INDUSTRY ACT, 1992**

- (iii) to render assistance by way of donation, loan or in any other manner to any person, body or organisation in Namibia carrying out research in the improvement of production, preservation, preparation, processing, storage or marketing of controlled products; and
- (i) to establish an information service for the agronomic industry in Namibia with a view to providing information, guidance and advice to producers of controlled products and other interested parties;
- (j) to register any person on application in the prescribed form, as a producer of a controlled product, on such conditions as the Board may determine and to refuse, subject to a right of appeal to the Minister, any such application;
- (k) to require any person engaged in the production, marketing, preparation, processing, preservation or storage of a controlled product to -
  - (i) keep specified records with respect to the product; and
  - (ii) furnish the Board with specified information or returns in a specified manner and at specified times;
- (l) with the approval of the Minister to borrow such monies as the Board may require for the performance of its functions and achievement of its objectives under this Act;
- (m) subject to a right of appeal to the Minister to cancel the registration of a person registered under paragraph (j) of this subsection, who in their opinion has contravened the provisions of this Act or any of the conditions of registration;
- (n) with the approval of the Minister, to prohibit the producer of a controlled product from selling, importing or exporting that product except -

**AGRONOMIC INDUSTRY ACT, 1992**

- (i) after due registration with the Board and due compliance with the conditions of registration; or
  - (ii) through the agency of the Board or of specified persons; or
  - (iii) in accordance with the terms of exemption by the Board from the prohibition; or
  - (iv) in such quantities, or for such purpose, or at such times as the Board may direct; or
  - (v) in accordance with the terms of a permit issued under paragraph (o) of this subsection; or
  - (vi) in accordance with any other conditions and for purposes specified by the Board;
- (o) to issue permits with respect to the sale, importation or exportation of a controlled product;
- (p) subject to a right of appeal to the Minister -
- (i) to cancel the permit of any person who in their opinion has contravened the terms of that permit or the provisions of this Act;
  - (ii) to prohibit any person from erecting or operating a factory, or refrigeration plant or processing plant for the purposes of producing, processing or storing a controlled product except with the written approval of and in accordance with conditions determined by the Board, or any exemption from the prohibition, by the Board.
- (q) to buy a controlled product at such price as the Minister may approve, and to treat, classify, pack, store, process, insure, advertise or convey in an unprocessed or semi-processed form and to sell the controlled product, or to withhold the product from the market;
- (r) with the approval of the Minister, to undertake the marketing or distribution for sale of a con-

trolled product or to act as agent for the purposes of receipt, conveyance, processing, classification or sale of that product;

- (s) to co-operate with any other body involved in the marketing and distribution of a controlled product; and
- (t) to exercise such other powers as may be necessary for the performance of its functions and achievement of its objectives under this Act.

(2) A requirement by the Board under paragraph (k) of subsection (1) and any prohibition under this section and the date of commencement thereof shall be communicated by -

- (a) notice in the *Gazette*; or
- (b) notice to the persons affected, in such manner as the Minister may from time to time or in a particular case, determine.

Appeal from decision of the Board.

11. Where under this Act a decision of the Board is subject to a right of appeal to the Minister, the person aggrieved by the decision may within fourteen days after notification of the decision, lodge an appeal with the Minister, who may confirm, vary or set aside the decision as he or she deems fit.

### PART III ADVISORY COMMITTEES AND INSPECTORS OF THE BOARD

Advisory Committees of the Board.

12. (1) The Board may -

- (a) from time to time establish advisory committees to advise it in the performance of any of its duties and may for such period as it may determine, appoint such members of the Board or other persons as it may deem necessary to be members of the advisory committees; and

- (b) designate a member of an advisory committee to be Chairperson thereof and in his or her absence, any other member to act as Chairperson.

(2) The Chairperson of the Board shall be an ex-officio member of every advisory committee.

(3) In the performance of its duties, an advisory committee shall -

- (a) act in accordance with the directions of the Board and the provisions of this Act; and
- (b) in respect of its findings and recommendations, report to the Board which shall then take the final decision on any matter.

(4) Members of an advisory committee other than members of the Board shall receive such allowances as the Board may, with the approval of the Minister, from time to time, determine.

(5) The provisions of subsection (5) of section 8 shall *mutatis mutandis* apply to the meetings and proceedings of an advisory committee.

Appointment and powers  
of Inspectors.

13. (1) The Board may appoint any of its employees to be an inspector of controlled products, under this Act and furnish him or her with a certificate of appointment, which he or she shall produce on demand, in the performance of his or her duties under this Act.

(2) Subject to the provisions of subsection (3) and for the purposes of ensuring compliance with the provisions of this Act or any permit issued thereunder, an inspector may at all reasonable times and without a warrant or permission, enter premises upon which he or she has reason to suspect that a controlled product is being kept, sold, manufactured, produced, processed, treated, prepared, graded, classified, packed or marked and -

- (a) search the premises in order to ascertain whether a controlled product is present on the premises;
- (b) require a person in charge of the premises to declare all controlled products in his or her possession or under his or her charge;

- (c) inspect or cause to be inspected any controlled products found on the premises and demand such information from the person in charge of the premises as is necessary to establish compliance with the provisions of this Act;
  - (d) take samples of a controlled product found on the premises for purposes of analysis, classification, or grading;
  - (e) seize and remove from the premises, any controlled product or portion thereof, book, document or record which in the inspector's opinion may furnish proof of contravention of the provisions of this Act or a permit issued thereunder, and mark the property with an identification mark;
  - (f) examine any book, document or record found on the premises which in the inspector's opinion may contain information relating to a controlled product, to take copies or extracts therefrom, and demand from the person in charge an explanation of any entry therein; and
  - (g) grade, classify, pack, mark, regrade, reclassify or re-pack in accordance with the provisions of this Act, a controlled product found on the premises; or require the person in charge to grade, classify, pack or mark the controlled product accordingly.
- (2) In the performance of his or her functions under this Act, an inspector may be accompanied and assisted by any of the following persons, namely -
- (a) an assistant;
  - (b) an interpreter; or
  - (c) a police officer.
- (3) No home of any person shall be entered into by an inspector performing his or her duties under this section unless the entry and search has been authorised by a warrant issued by a magistrate or judge within the jurisdiction where the home is situated, upon oath by the inspector that -



- (a) there are reasonable grounds to believe that a controlled product, book, document or record required for further investigation under this Act is in that home; and
- (b) the search is necessary for a purpose referred to in Article 13(1) of the Constitution:

Provided that nothing in this subsection shall be construed as prohibiting a search without a warrant under Article 13(2)(b) of the Constitution.

(4) A search conducted by an inspector under this section shall -

- (a) not be excessively intrusive having regard to the contravention suspected; and
- (b) comply with the provisions of section 21(3)(a) and (4) and section 29 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

#### PART IV FINANCES, ACCOUNTS AND AUDITING

Funds of the Board and bank accounts.

**14. (1)** The funds and resources of the Board shall consist of -

- (a) such moneys as may be appropriated by Parliament for the purposes of the Board;
- (b) all moneys paid to the Board by way of grants, donations, gifts, fees, rent, levies or interest;
- (c) all moneys derived from the sale of any property belonging to the Board, and all accumulations of income derived from any such property; and
- (d) any other funds lawfully received by the Board for its purposes under this Act.

(2) The Board shall, with the approval of the Minister, open with a banking institution and operate -

- (a) a general account into which shall be deposited -

- (i) all moneys received by the Board other than moneys referred to in paragraphs (b) or (c) or this subsection; and
- (ii) all interest derived from the investment of moneys standing to the credit of any account of the Board,

which moneys shall, subject to the directions of the Minister, be used for the performance of the Board's functions under this Act;

- (b) a special account in respect of each special levy imposed into which shall be deposited -
  - (i) all moneys derived from collections of the special levy; and
  - (ii) moneys accruing to that account from any other source,

which moneys shall, subject to the directions of the Minister, be used for the purposes for which the special levy is imposed; and

- (c) a reserve account into which shall be deposited -
  - (i) all such moneys as the Minister may periodically determine; and
  - (ii) moneys accruing to that account from any other source,

which moneys shall be used for such purposes as the Minister may, on the recommendation of the Board, determine.

(3) The Board may, with the prior authorisation of the Minister, transfer funds from one of its accounts to another.

(4) No monies shall be withdrawn from a bank account of the Board except by cheque or other instrument signed by such members or employees of the Board as the Board may by resolution authorise, and every payment out of the funds of the Board shall be authorised by a prior resolution of the Board.

(5) The Board shall, subject to the provisions of section 17 keep proper accounts in respect of moneys received and expended in respect of each bank account, and may, with the approval of the Minister, invest any moneys standing to its credit on any bank account and not immediately required for use, in such manner as it may determine.

Estimates of annual income and expenditure.

**15.** (1) The Board shall before the beginning of every financial year, cause to be prepared and shall adopt annual estimates of income and expenditure for the ensuing year.

(2) Supplementary estimates may be adopted by the Board at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates, shall upon their adoption, be submitted to the Minister for his or her approval.

(4) No expenditure shall be incurred by the Board during a financial year except in accordance with the estimates approved by the Minister under subsection (3) of this section in respect of that financial year.

Financial year.

**16.** The financial year of the Board shall commence on the first day of April in one year and end on the thirty-first day of March in the ensuing year.

Accounts, auditing, financial and operational reports.

**17.** (1) The Board shall, as soon as is practicable after the close of the financial year, prepare a statement of its income and expenditure during the previous financial year and a balance sheet showing its financial position at the end of that financial year.

(2) The Board's statement of accounts and balance sheet referred to in subsection (1) shall be submitted to the Auditor-General who shall audit them and prepare a report in respect thereto.

(3) The Board shall within six months after the close of the financial year submit to the Minister in respect of that financial year -

(a) a report of the Board's operations for that year;

(b) the Auditor-General's report referred to in subsection (2) of this section; and

- (c) a copy of the audited statement of accounts and balance sheet for that year,

and the Minister shall cause the reports and statements to be laid before the National Assembly within fourteen days of receipt thereof or as soon thereafter as the National Assembly resumes sitting.

Levies.

**18.** (1) The Minister may from time to time on the recommendation of the Board and by notice in the *Gazette*, impose a general or special levy on a controlled product or category of controlled products.

(2) The notice imposing the levy shall specify -

- (a) the controlled product or category of controlled products to which the levy applies;
- (b) the rate of levy payable;
- (c) the persons obliged to pay the levy;
- (d) the date with effect from which the levy is due;
- (e) the person or body appointed as agent to collect the levy on behalf of the Board; and
- (f) in the case of a special levy, the purpose for which it is imposed.

(3) The Minister may by notice in the *Gazette* abolish a levy or change the rate of levy payable under this section.

(4) Whenever a levy under this section is paid by one person on behalf of another, the Board shall pay to the first-mentioned person a prescribed commission in respect of the payment, and the person so paying may recover the amount of the levy in the prescribed manner from that other person.

#### PART V MISCELLANEOUS PROVISIONS

**19.** (1) The Minister may by notice in the *Gazette*, prohibit the sale of a controlled product or category or

General prohibition of sale of controlled products.

controlled products or prohibit such sale in a specified area or at a specified place or for a specified purpose -

- (a) unless it is sold according to prescribed grades or categories; or
- (b) unless it contains the prescribed ingredients and complies with the prescribed standards of composition; or
- (c) unless it is packed in a prescribed container in a prescribed manner; or
- (d) unless it is marked with the prescribed particulars in a prescribed manner; or
- (e) if it contains prescribed prohibited substances; or
- (f) unless it is sold in accordance with the conditions of an exemption certificate issued by the Minister under subsection (2) of this section.

(2) The Minister may exempt any person from the general prohibition imposed under subsection (1) by the issue of a certificate specifying the conditions under which that person may sell the controlled product.

Fixing of prices.

**20.** (1) The Minister may after consultation with the Board and by notice in the *Gazette* -

- (a) fix the price of a controlled product;
- (b) require a person selling a controlled product on credit to furnish the Board with a copy of the invoice in respect of the credit sale, for the purposes of ascertaining compliance with the provisions of this section;
- (c) require a person selling a controlled product to display the price of that product in a manner and on premises specified in the notice.

(2) A person who contravenes the provisions of this section by -

- (a) selling a controlled product at a price other than that fixed by the Minister in the notice; or

- (b) failing or refusing to furnish the Board with a copy of an invoice in respect of a credit sale; or
- (c) failing or refusing to display the price of a controlled product in a specified manner or on specified premises,

commits an offence and is liable on conviction to a fine not exceeding R3 000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Restriction of importation and exportation of controlled products.

21. (1) The Minister may after consultation with the Board, by notice in the *Gazette* -

- (a) prohibit the importation into or exportation from Namibia, of a controlled product;
- (b) prohibit the importation into or exportation from Namibia, of a controlled product except by the Board or a holder of a permit issued by the Board and in accordance with the conditions specified in the permit.

(2) Where the Board is satisfied that a case of illegal importation or exportation of a controlled product is under investigation against any person applying for a permit under subsection 1(b), the Board shall not issue to that person a permit until the investigation has been concluded and the person exonerated.

(3) A person aggrieved by the Board's refusal to issue a permit under subsection (2) of this section may within fourteen days of the refusal, appeal to the Minister.

Offences and penalties.

22. (1) A person who -

- (a) falsely represents himself or herself to be an inspector under this Act;
- (b) obstructs, hinders or delays an inspector or a person lawfully accompanying him or her in the performance of his or her duties under this Act;
- (c) refuses to answer any questions put to him or her by an inspector in the course of his or her duties under this Act, or in reply to the questions makes a statement or representation knowing it to be false or not believing it to be true;

- (d) without the written consent of an inspector removes from the place where it has been left, tampers with, destroys or in any way makes alteration to anything seized by an inspector in the exercise of his or her powers;
- (e) refuses or fails, without reasonable cause, to comply with a requirement under section 10(1)(k) or 13(2)(b) or (g);
- (f) does any act in contravention of a prohibition imposed under section 10(1), 19 or 21; or
- (g) fails to pay a levy due under this Act within the specified time,

commits an offence and is liable on conviction to a fine not exceeding R3 000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Where a person is convicted of failure to pay a levy under paragraph (g) of subsection (1), the court shall in addition to the penalty imposed for that offence, order that person to pay to the Board the outstanding amount of the levy due, whereupon such order shall be enforced as if it were a judgement debt in civil proceedings.

Evidence at trial.

23. (1) In any proceedings for the trial of a person charged with an offence under this Act, an affidavit sworn by an employee of the Board stating that no person bearing the name of the accused person -

- (a) has furnished the Board with specified information, a return or document within the specified time;
- (b) has paid to the Board the levy due or a part thereof within the specified period;
- (c) is registered with the Board as a producer of controlled products; or
- (d) is the holder of a permit issued under this Act,

shall be proof of the facts stated therein unless contrary evidence is adduced in court.

(2) In any proceedings for the trial of a person charged with an offence under this Act, a certificate authenticated by an inspecting authority under this Act stating -

- (a) the result of an examination or analysis; or
- (b) the grade, group or classification of a controlled product,

shall be proof of the facts stated therein unless contrary evidence is adduced in court.

Regulations.

24. (1) Subject to the provisions of this Act, the Minister may by notice in the *Gazette* make regulations with respect to -

- (a) the methods of treatment, processing or preparation of controlled products for the purpose of their grading or classification;
- (b) the qualifications of persons who are authorised to examine and grade controlled products under this Act and the method of grading;
- (c) the format and procedure of appeals to the Minister under this Act;
- (d) the method and procedure of taking samples of controlled products for inspection under this Act;
- (e) the method and procedure to be followed by inspectors in examining a sample of a controlled product and the quantity of the sample deemed sufficient for purposes of examination;
- (f) the form and procedure of an application for registration as a producer of a controlled product under section 10(1)(j); and
- (g) any other matter under this Act which the Minister may deem necessary or expedient to regulate for the achievement of the objects of this Act.

(2) Different regulations may be made in respect of different categories of persons or controlled products.



**PART VI  
FINAL PROVISIONS**

Repeal of law and saving.

**25. (1)** The Agronomic Industry Proclamation, 1985 (Proclamation AG. 11 of 1985) is repealed.

(2) Notwithstanding the provisions of subsection (1) of this section, any regulation made, levy or prohibition imposed, permit, exemption certificate or order issued or registration or appointment made under the repealed Proclamation and in force at the commencement of this Act, shall be deemed to have been made, imposed or issued, as the case may be, under this Act, and shall continue in force until it expires.

(3) Notwithstanding the provisions of subsection (1) of this section, any trial proceedings pending and any right of appeal subsisting immediately before the commencement of this Act by virtue of the repealed Proclamation, shall continue to be prosecuted and disposed of under the relevant provisions of this Act.

Short title and commencement.

**26.** This Act shall be called the Agronomic Industry Act, 1992, and shall come into operation on a date to be appointed by the President by proclamation in the *Gazette*.

---