

**FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES ACT 36
OF 1947**

[NB: The short title has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

[ASSENTED TO 3 JUNE 1947] [DATE OF COMMENCEMENT: 1 JUNE 1948]

(Afrikaans text signed by the Governor-General)

as amended by

Fertilizers, Farm Feeds, Seeds and Remedies Amendment Act 48 of 1950

Seeds Act 28 of 1961

Fertilizers, Farm Feeds and Remedies Amendment Act 60 of 1970

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 24 of 1977

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 4 of 1980

General Law Amendment Act 49 of 1996

South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998

[with effect from a date to be proclaimed - see PENDLEX]

ACT

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

[Long title amended by s. 3 of Act 48 of 1950 and by s. 44 of Act 28 of 1961 and substituted by s. 16 of Act 60 of 1970, by s. 22 of Act 24 of 1977 and by s. 10 of Act 4 of 1980.]

[NB: The long title has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

1 Definitions

[NB: The definitions of 'advertisement', 'establishment', and 'registrar' have been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

In this Act, unless the context otherwise indicates-

'advertisement' means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference distributed to members of the public or brought to their notice in any other manner and which is intended to promote the sale of fertilizers, farm feeds, agricultural remedies or stock remedies or encourage the use thereof or draw attention to the nature, properties, advantages or uses thereof, and 'advertise' has a corresponding meaning;

[Definition of 'advertisement' substituted by s. 1 (a) of Act 24 of 1977 and by s. 1 (a) of Act 4 of 1980.]

'agricultural remedy' means any chemical substance or biological remedy, or any mixture or combination of any substance or remedy intended or offered to be used-

- (a) for the destruction, control, repelling, attraction or prevention of any undesired microbe, alga, nematode, fungus, insect, plant, vertebrate, invertebrate, or any product thereof, but excluding any chemical substance, biological remedy or other remedy in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965), or the Hazardous Substances Act, 1973 (Act 15 of 1973); or
- (b) as plant growth regulator, defoliant, desiccant or legume inoculant, and anything else which the Minister has by notice in the Gazette declared an agricultural remedy for the purposes of this Act:

[Definition of 'agricultural remedy' inserted by s. 1 (a) of Act 60 of 1970 and substituted by s. 1 (b) of Act 24 of 1977.]

'analyst' means a person appointed as such in terms of section fourteen;

'board' means any board appointed by the Minister in terms of section 6;

[Definition of 'board' inserted by s. 1 (c) of Act 24 of 1977.]

[Definition of 'establishment' inserted by s. 1 (c) of Act 24 of 1977.]

'brand'

[Definition of 'brand' deleted by s. 1 (d) of Act 24 of 1977.]

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

'farm feed' means-

- (a) (i) any substance obtained by a process of crushing, gristing or grinding, or by the addition to any substance or the removal therefrom of any ingredient; or
- (ii) any condimental food, vitamin or mineral substance or other substance which possesses or is alleged to possess nutritive properties; or
- (iii) any bone product, intended or sold for the feeding of domestic animals or livestock; or
- (b) any stock lick or substance which can be and is used as a stock lick, whether or not such stock lick or substance possesses medicinal properties, but does not include straw, chaff, unground hay, silage, any cereal in the grain or any substance which would otherwise be a

farm feed but has been ground, crushed, gristed or prepared for any person, in accordance with his directions for his own use, unless the Minister has by notice in the Gazette declared such substance a farm feed for the purposes of this Act;

[Definition of 'farm feed' substituted by s. 1 (e) of Act 24 of 1977.]

'farming requisite'

[Definition of 'farming requisite' substituted by s. 1 (b) of Act 60 of 1970 and deleted by s. 1 (f) of Act 24 of 1977.]

'fertilizer' means any substance which is intended or offered to be used for improving or maintaining the growth of plants or the productivity of the soil;

'mark' means a mark as defined in section 1 of the Trade Marks Act, 1963 (Act 62 of 1963);

[Definition of 'mark' inserted by s. 1 (g) of Act 24 of 1977.]

'inspector'

[Definition of 'inspector' deleted by s. 1 (h) of Act 24 of 1977.]

'Minister' means the Minister of Agriculture;

[Definition of 'Minister' substituted by s. 1 (c) of Act 60 of 1970.]

'officer' means an officer as defined in section 1 of the Public Service Act, 1957 (Act 54 of 1957);

[Definition of 'officer' inserted by s. 1 (i) of Act 24 of 1977.]

'pest control operator' means a person who as, or in the course of, his trade or occupation administers agricultural remedies for the purposes for which they are intended;

[Definition of 'pest control operator' inserted by s. 1 (b) of Act 4 of 1980.]

'prescribed' means prescribed by regulation under this Act;

'registrar' means the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies designated in terms of section 2, and includes an officer acting under a delegation from or under the control or direction of the registrar;

[Definition of 'registrar' inserted by s. 1 (j) of Act 24 of 1977.]

'regulation' means any regulation made under this Act;

[Definition of 'regulation' inserted by s. 1 (j) of Act 24 of 1977.]

'Republic'

[Definition of 'Republic' inserted by s. 1 of Act 17 of 1972 and deleted by s. 1 of Act 49 of 1996.]

'remedy'

[Definition of 'remedy' deleted by s. 1 (d) of Act 60 of 1970.]

'Secretary'

[Definition of 'secretary' substituted by s. 1 (e) of Act 60 of 1970 and deleted by s. 1 (k) of Act 24 of 1977.]

'seed'

[Definition of 'seed' deleted by s. 32 of Act 28 of 1961.]

'sell' includes agree to sell, or to offer, advertise, keep, expose, transmit, convey, deliver or manufacture for sale or to exchange or to dispose of to any person in any manner for any consideration whatever, or to transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid; and 'sale' has a corresponding meaning;

[Definition of 'sell' substituted by s. 1 (l) of Act 24 of 1977.]

'sterilizing plant' means a plant used for sterilizing of bones or other substances derived from cattle, members of the horse family, sheep, goats, pigs, poultry or ostriches, of any age, or from any vertebrate or invertebrate specified by the Minister from time to time by notice in the Gazette;

[Definition of 'sterilizing plant' substituted by s. 1 (f) of Act 60 of 1970.]

'stock remedy' means a substance intended or offered to be used in connection with domestic animals, livestock, poultry, fish or wild animals (including wild birds), for the diagnosis, prevention, treatment or cure of any disease, infection or other unhealthy condition, or for the maintenance or improvement of health, growth, production or working capacity, but excluding any substance in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);

[Definition of 'stock remedy' inserted by s. 1 (g) of Act 60 of 1970 and substituted by s. 1 (m) of Act 24 of 1977.]

'technical adviser' means a technical adviser designated in terms of section 14;

[Definition of 'technical adviser' inserted by s. 1 (m) of Act 24 of 1977.]

'this Act' includes any regulations thereunder.

2 Designation of registrar

- (1) The Minister shall designate an officer in the Department of Agricultural Technical Services as the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies who shall, subject to any instructions issued by the Minister, exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon the registrar under this Act.
- (2) (a) Any power conferred upon, function assigned to or duty imposed upon the registrar may be exercised, performed or carried out by an officer under a delegation from or under the control or direction of the registrar.
(b) Any decision made or instruction issued by any such officer may be withdrawn or amended by the registrar, and shall, until it has been so withdrawn or amended, be deemed, except for the purpose of this paragraph, to have been made or given by the registrar.

[S. 2 amended by s. 2 of Act 60 of 1970 and substituted by s. 2 of Act 24 of 1977.]

[NB: S. 2 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

3 Registration of fertilizers, farm feeds, agricultural remedies, stock remedies, sterilizing plants and pest control operators

- (1) (a) Application for registration of a fertilizer, farm feed, agricultural remedy, stock remedy, sterilizing plant or pest control operator shall be made to the registrar in the prescribed manner and shall be accompanied by the prescribed application fee.

- (b) Any person applying for registration in terms of paragraph (a) shall supply or make available to the registrar, in the manner and at the time and place that he determines, the samples and particulars that he requires.
- (2) If, after consideration of any such application and after such investigation and enquiry as he may deem necessary, the registrar is satisfied that-
 - (a) the fertilizer, farm feed, agricultural remedy or stock remedy in respect of which registration is applied for is suitable and sufficiently effective for the purposes for which it is intended, and complies with such requirements as may be prescribed, and that it is not contrary to the public interest that it be registered, and that the establishment where it is manufactured is suitable for such manufacture, he shall register such fertilizer, farm feed, agricultural remedy or stock remedy;
 - (b) the sterilizing plant in respect of which registration is applied for is suitable and sufficiently effective for the purpose for which it is intended, and complies with such requirements as may be prescribed, and that it is not contrary to the public interest that such sterilizing plant be registered, he shall register such sterilizing plant;
 - (c) the pest control operator in respect of whom registration is applied for has the prescribed qualifications or is otherwise, to such extent as may be determined by the registrar, skilled in the use of agricultural remedies, and that it is not contrary to the public interest that such pest control operator be registered, he shall register such pest control operator:

Provided that the registrar may refuse an application for registration of a fertilizer, farm feed, agricultural remedy, stock remedy, sterilizing plant or pest control operator if any previous registration of such a fertilizer, farm feed, agricultural remedy, stock remedy, sterilizing plant or pest control operator has been cancelled under section 4.

- (3) Any registration under this section shall be subject to the prescribed and any additional conditions as may be determined by the registrar and shall be valid for such period as may be prescribed, and the registrar shall issue in respect of such registration a certificate of registration to the person applying therefor.
- (4) (a) Any registration under this section may be renewed when the period for which it is valid has lapsed.
 - (b) The provisions of subsections (1), (2) and (3) shall *mutatis mutandis* apply to the renewal of any registration.

[S. 3 substituted by s. 3 of Act 60 of 1970, by s. 3 of Act 24 of 1977 and by s. 2 of Act 4 of 1980.]

[NB: S. 3 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

4 Cancellation of registration

- (1) The registrar may cancel the registration of any fertilizer, farm feed, agricultural remedy or stock remedy at any time if he is satisfied-
 - (a) that a person has in connection with the registration concerned contravened or failed to comply with a provision of this Act;

[Para. (a) substituted by s. 3 (a) of Act 4 of 1980.]

- (aA) that a person has contravened or failed to comply with a condition to which the registration concerned is subject;

[Para. (aA) inserted by a. 3 (a) of Act 4 of 1980.]

- (b) that such fertilizer, farm feed, agricultural remedy or stock remedy is not of the composition and efficacy specified in the application for registration thereof, does not possess the chemical, physical and other properties so specified and does not comply with any requirements that may be prescribed;
- (c) that the practices followed and facilities available at or in respect of the establishment or the operation of the undertaking at such establishment are not suitable for the manufacture of the fertilizer, farm feed, agricultural remedy or stock remedy concerned;

[Para. (c) substituted by s. 3 (b) of Act 4 of 1980.]

- (d) that the person managing such undertaking does not have sufficient knowledge of the relevant provisions of this Act or of the practices to be followed in the operation of such undertaking;
 - (e) that it is contrary to the public interest that such fertilizer, farm feed, agricultural remedy or stock remedy, shall remain registered; or
 - (f) that any incorrect or misleading advertisement is used in connection with such fertilizer, farm feed, agricultural remedy or stock remedy.
- (2) The registrar may cancel the registration of any sterilizing plant at any time if he is satisfied that-
- (a) a person has in connection with the registration concerned contravened or failed to comply with a provision of this Act;
 - (b) a person has contravened or failed to comply with a condition to which the registration concerned is subject;
 - (c) the sterilizing plant does not comply with the prescribed conditions or is otherwise not effectively equipped for the sterilization of the substances referred to in the definition of 'sterilizing plant';
 - (d) it is contrary to the public interest that the sterilizing plant shall remain registered.

[Sub-s. (2) added by s. 3 (c) of Act 4 of 1980.]

- (3) The registrar may cancel the registration of any pest control operator at any time if he is satisfied that-
- (a) the pest control operator has contravened or failed to comply with a provision of this Act or a condition of his registration;
 - (b) the pest control operator has failed to comply with an order issued under section 6A;
 - (c) it is contrary to the public interest that the pest control operator shall remain registered.

[Sub-s. (3) added by s. 3 (c) of Act 4 of 1980.]

[S. 4 substituted by s. 4 of Act 60 of 1970 and by s. 4 of Act 24 of 1977.]

[NB: S. 4 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

4A Availability, lapse and return of certificate of registration

- (1) The person to whom a certificate of registration has been issued in terms of section 3 (3) shall-
- (a) in the case of a fertilizer, farm feed, agricultural remedy or stock remedy, cause that certificate of registration or a copy thereof to be available for inspection by the registrar at all times at the establishment where such fertilizer, farm feed, agricultural remedy or stock remedy is manufactured; or

- (b) in the case of a sterilizing plant or a pest control operator, produce that certificate of registration or a copy thereof to the registrar when he is so requested.

[Sub-s. (1) substituted by s. 4 (a) of Act 4 of 1980.]

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

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

(2A) The registration of any sterilizing plant and the certificate of registration issued in respect of such registration shall lapse if the registered plant ceases to be used as a sterilizing plant.

[Sub-s. (2A) inserted by s. 4 (b) of Act 4 of 1980.]

(2B) The registration of any pest control operator and the certificate of registration issued in respect of such registration shall lapse if the registered person ceases to be a pest control operator.

[Sub-s. (2B) inserted by s. 4 (b) of Act 4 of 1980.]

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

[Sub-s. (3) substituted by s. 4 (c) of Act 4 of 1980.]

[S. 4A inserted by s. 5 of Act 24 of 1977.]

[NB: S. 4A has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

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

If-

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

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

[S. 5 substituted by s. 6 of Act 24 of 1977.]

6 Appeal against decisions of registrar

- (1) A person who feels aggrieved by any decision referred to in section 5 may, within the period and in the manner prescribed and upon payment of the prescribed fees, appeal to the Minister against such decision.
- (2) The Minister shall refer the appeal for consideration and decision to a board of which the members shall be appointed by him, and which shall consist of-

- (a) one person designated as chairman on account of his knowledge of law; and
 - (b) two persons who in the opinion of the Minister command sufficient knowledge regarding the matters which will probably be in issue when the appeal is considered.
- (3) Any appeal noted in terms of subsection (1) shall be heard on the date and at the time and place fixed by the chairman of the board and he shall advise the appellant and the registrar in writing thereof.
- (4) The chairman of the board may for the purposes of the decision of an appeal-
 - (a) summon any person who, in his opinion, may give relevant information concerning the issues in the appeal or who has or is suspected to have in his possession or custody or under his control any document which has any bearing upon the issues in the appeal, to appear before the board at a time and place specified in the summons, to be interrogated or to produce that document, and the chairman may retain for examination any document so produced;
 - (b) administer an oath to or accept an affirmation from any person called as a witness at the hearing of the appeal;
 - (c) call any person present at the hearing of the appeal as a witness and interrogate him and require him to produce any document in his possession or custody or under his control.
- (5) The procedure at the hearing of an appeal shall be determined by the chairman of the board in question.
- (6) Any person appealing in terms of this section and the registrar may be represented at the hearing of such appeal by an advocate or an attorney.
- (7) If a person appointed under subsection (2)-
 - (a) dies during the hearing of the appeal or so soon before the commencement of such hearing that the vacancy cannot be filled in time;
 - (b) is unable to act and another person cannot be appointed in time; or
 - (c) is, after the hearing has commenced, unable to continue therewith, the appellant and the registrar may agree that the investigation be continued by the remaining members, in which event, where the member who has died or has become incapacitated was or is the chairman of the board, the Minister shall designate one of the remaining members to act as chairman.
- (8)
 - (a) If the parties do not agree under subsection (7), the hearing shall be adjourned in order that the Minister may appoint a member, in accordance with the requirement of subsection (2), in the place of the member who has died or has become incapacitated.
 - (b) Where an appointment has been made in terms of paragraph (a), the hearing shall, if the parties so agree, be continued as from the stage at which the hearing was interrupted by the death or incapacitation of the member in question, or shall, if the parties do not so agree, be commenced de novo.
- (9) The board may after hearing and considering the appeal-
 - (a) confirm, set aside or vary the relevant decision of the registrar;
 - (b) order the registrar to execute the decision of the board in connection therewith.
- (10) The chairman of the board shall notify the appellant and the registrar in writing of the decision of the board.
- (11) If the board sets aside any decision by the registrar, the prescribed fees paid by the appellant in respect of the appeal in question shall be refunded to him or, if the board varies any such

decision, it may in its discretion direct that the whole or any part of such fees be refunded to the appellant.

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

[S. 6 substituted by s. 7 of Act 24 of 1977.]

6A Registrar may order pest control operator to discontinue use of certain equipment

If the registrar is of opinion that any equipment used by any registered pest control operator for the administration of any particular agricultural remedy is so unsuited for the administration of such remedy that the purpose for which the remedy is administered may be defeated, he may order the pest control operator to discontinue the use of such equipment when administering the said remedy.

[S. 6A inserted by s. 5 of Act 4 of 1980.]

7 Sale of fertilizers, farm feeds, agricultural remedies and stock remedies

- (1) No person shall sell any fertilizer, farm feed, agricultural remedy or stock remedy unless-
- (a) it is registered under this Act under the name or mark under which it is so sold: Provided that a fertilizer, farm feed, agricultural remedy or stock remedy in respect of which the period of validity of the registration has expired, the certificate of registration has been cancelled in terms of section 4 or has lapsed in terms of section 4A (2) and which, before or on the date of such cancellation or lapse, was no longer under the control of, or owned by the person to whom that certificate of registration was issued, may, subject to the provisions of section 7bis, be sold;
 - (b) it is, subject to the provisions of paragraph (c), packed in such manner and mass or volume as may be prescribed;
 - (c) the container in which it is sold, complies with the prescribed requirements and is sealed and labelled or marked in such manner as may be prescribed or, if it is not sold in a container, it is accompanied by the invoice referred to in section 9; and
 - (d) it is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified, and complies with the prescribed requirements.
- (2) (a) No person shall for reward or in the course of any industry, trade or business-
- (i) use, or recommend the use of, any agricultural remedy or stock remedy for a purpose or in a manner other than that specified on the label on a container thereof or described on such container;
 - (ii) use any agricultural remedy unless he is a pest control operator registered in terms of this Act or otherwise than in the presence and under the supervision of a pest control operator so registered.

[Para. (a) substituted by s. 6 of Act 4 of 1980.]

- (b) The provisions of paragraph (a) shall, in the case of a stock remedy, not apply to a veterinarian registered under the Veterinary Act, 1933 (Act 16 of 1933).

[S. 7 substituted by s. 60 of 1970 and by s. 8 of Act 24 of 1977.]

[NB: S. 7 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

7bis Prohibition on acquisition, disposal, sale or use of certain fertilizers, farm feeds, agricultural remedies and stock remedies

- (1) The Minister may by notice in the Gazette-
 - (a) prohibit the acquisition, disposal, sale or use of fertilizers, farm feeds, agricultural remedies or stock remedies; or
 - (b) prohibit such acquisition, disposal, sale or use, except in accordance with such conditions as may be specified in the notice or except under the authority of and in accordance with such conditions as may be specified in a permit issued by the registrar, and may in like manner repeal or amend any such notice.
- (2) Any prohibition issued under subsection (1) may apply-
 - (a) throughout the Republic or in one or more specified areas;
 - (b) to any person or to persons belonging to any specified class or group of persons or to persons other than persons belonging to any such class or group of persons; or
 - (c) in respect of all or one or more classes or kinds of fertilizers, farm feeds, agricultural remedies or stock remedies.
- (3) Any condition referred to in subsection (1) shall not be subject to any limitations of whatever nature, and such conditions may differ in respect of different areas, persons or classes or groups of persons.

[S. 7bis inserted by s. 1 of Act 48 of 1950 and substituted by s. 6 of Act 60 of 1970 and by s. 9 of Act 24 of 1977.]

[NB: S. 7bis has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

8 Use of sterilizing plant

No person shall use any sterilizing plant unless such plant has been registered in terms of section three.

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

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

[S. 9 substituted by s. 7 of Act 60 of 1970 and by s. 10 of Act 24 of 1977.]

[NB: S. 9 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

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

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

such administration, notify such owner or person of-

- (a) the purpose of such administration;
- (b) the registered name and number of the fertilizer, farm feed or agricultural remedy so to be administered;
- (c) the precautions to be taken before, during and after such administration.
- (d) the number of his certificate of registration, if he is a registered pest control operator.

[Para. (d) added by s. 7 of Act 4 of 1980.]

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

[S. 10 repealed by s. 33 of Act 28 of 1961 and inserted by s. 11 of Act 24 of 1977.]

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[S. 11 repealed by s. 34 of Act 28 of 1961.]

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

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

- (a) has been sterilized in such manner as may be prescribed; or
- (b) has, subject to the provisions of section 16, been imported in terms of a permit issued under the Animal Diseases and Parasites Act, 1956 (Act 13 of 1956).

[S. 12 substituted by s. 12 of Act 24 of 1977.]

13 Exclusion of any fertilizer, farm feed, agricultural remedy or stock remedy from operation of Act

The Minister may by notice in the Gazette exclude, subject to such conditions as he may determine, any fertilizer, farm feed, agricultural remedy or stock remedy from the operation of any or all of the provisions of this Act.

[S. 13 substituted by s. 8 of Act 60 of 1970.]

[NB: S. 13 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

14 Designation of technical advisers and analysts

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

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

[S. 14 amended by s. 35 of Act 28 of 1961 and substituted by s. 9 of Act 60 of 1970 and by s. 13 of Act 24 of 1977.]

[NB: S. 14 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

15 Power of entering premises, examinations, analysis of samples, and seizure

- (1) The registrar may at all reasonable times-
 - (a) enter upon and examine any place, premises or vehicle in respect of which he has reason to believe that on or in it there is manufactured, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited, sold or used any fertilizer, farm feed, agricultural remedy or stock remedy, and examine or test any such fertilizer, farm feed, agricultural remedy, stock remedy or any ingredient thereof;
 - (b) examine all books and documents on or in any place, premises or vehicle referred to in paragraph (a) in respect of which he has reasonable grounds for believing that they relate to any fertilizer, farm feed, agricultural remedy, stock remedy or an ingredient thereof, and make copies of or extracts from such books or documents;
 - (c) examine any operations or processes carried out at any place or premises referred to in paragraph (a) in connection with the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition, selling or use of any fertilizer, farm feed, agricultural remedy or stock remedy, and demand from the person in charge of such operations or processes, or the owner of or the person having the custody of any fertilizer, farm feed, agricultural remedy or stock remedy or an ingredient thereof, any relevant information or explanation relating to any such operations or processes, or fertilizer, farm feed, agricultural remedy, stock remedy or ingredient;
 - (d) demand from the owner or any person having the custody of any book or document referred to in paragraph (b) an explanation relating to any record or entry therein;
 - (e) seize any book, document, fertilizer, farm feed, agricultural remedy or stock remedy which may furnish proof of an offence in terms of this Act, or any quantity of any fertilizer, farm feed, agricultural remedy or stock remedy in respect of which there is reason to believe that any such offence has been committed, and remove from or leave on or in the place, premises or vehicle in question, any book, document, fertilizer, farm feed, agricultural remedy or stock remedy, or any quantity thereof, which has so been seized, and may in his discretion place on such book, document, fertilizer, farm feed, agricultural remedy or stock remedy, or the container thereof, such identification mark or seal as he may deem necessary;
 - (f) take samples or cause samples to be taken of any fertilizer, farm feed, agricultural remedy, stock remedy or an ingredient thereof, and open any container which contains or is suspected to contain anything used or intended for use in the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition or sale of any fertilizer, farm feed, agricultural remedy or stock remedy, and examine, analyse, grade or classify such samples, or cause such samples to be examined, analysed, graded or classified.
- (2) Where the registrar carries out any examination in terms of subsection (1) in the presence of any person affected thereby, he shall first produce his written authority to such person.
- (3) Any sample taken in terms of subsection (1) shall-
 - (a) be taken in accordance with the prescribed method;
 - (b) be taken in the presence of the owner or the person having the custody of that fertilizer,

farm feed, agricultural remedy, stock remedy or ingredient thereof, or, if such owner or person is not available, in the presence of any other witness; and

- (c) in the presence of such owner or person, or such witness, be divided into three parts, and each part shall be packed in a suitable container and sealed with a seal and be labelled or marked in such manner as the nature thereof permits, so that such sample may be readily identified.
- (4) One part each of the sample which has been thus divided shall-
- (a) be handed or forwarded by registered post to such owner or person;
 - (b) together with a certificate in the prescribed form be forwarded to an analyst who shall as soon as practicable test, examine or analyse the said part in accordance with the methods which the registrar may determine, and the result of such test, examination or analysis shall be recorded by such analyst on the prescribed form and be submitted to the registrar; and
 - (c) be retained by the registrar.
- (5) The owner of anything from which any sample referred to in subsection (1) (f) was taken, may claim from the registrar an amount equal to the market value of such sample.

[S. 15 amended by s. 36 of Act 28 of 1961 and by s. 10 of Act 60 of 1970 and substituted by s. 14 of Act 24 of 1977.]

[NB: S. 15 has been substituted and a s. 15A has been inserted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

16 Import of fertilizers, farm feeds, agricultural remedies and stock remedies

- (1) No person shall import any fertilizer, farm feed, agricultural remedy or stock remedy into the Republic unless-
- (a) such fertilizer, farm feed, agricultural remedy or stock remedy is registered in terms of this Act, is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified and complies with the requirements prescribed in respect thereof and is packed in a sealed container which is marked or labelled in the prescribed manner with the prescribed particulars;
 - (b) in the case of a fertilizer or farm feed containing bone or any other substance derived from the carcass of an animal, a permit referred to in section 12 has been issued in respect thereof.
- (2) Notwithstanding the provisions of subsection (1) the registrar may, in his discretion and on such conditions as he may determine, in writing permit the import of any consignment of any fertilizer, farm feed, agricultural remedy or stock remedy which does not comply with the requirements referred to in subsection (1) (a).
- (3) Fertilizers, farm feeds, agricultural remedies or stock remedies imported shall-
- (a) only be imported through a prescribed port or place;
 - (b) if the registrar directs that a sample thereof be taken, not be removed from any such port or place without the written authority of the registrar;
 - (c) if the registrar thus directs, be made available for examination and the taking of a sample at any such port or place in the prescribed manner; and
 - (d) if a sample thereof has thus been taken, not be sold in the Republic except on the written authority of the registrar and subject to the conditions specified therein.

- (4) The provisions of section 15 relating to samples shall mutatis mutandis apply with reference to a sample taken in terms of this section.
- (5) If any fertilizer, farm feed, agricultural remedy or stock remedy, which in terms of subsection (3) (b) may not be removed from a port or place, is found to comply with the requirements of this Act, no rent charges shall be payable by the importer in respect of the period in which it could not be so removed, or where the Railways Administration is required to deliver or to forward that fertilizer, farm feed, agricultural remedy or stock remedy, in respect of any portion of the period in question which is subsequent to the presentation to the Railways Administration of a delivery order, or a forwarding order, as the case may be.
- (6) (a) If any fertilizer, farm feed, agricultural remedy or stock remedy has been imported contrary to the provisions of this section, such fertilizer, farm feed, agricultural remedy or stock remedy shall at the option of the importer thereof-
 - (i) at the expense of such importer be removed by him from the Republic within such period as the registrar may determine; or
 - (ii) be forfeited to the State and be either destroyed or otherwise disposed of as the registrar may direct, and if such importer fails to remove such fertilizer, farm feed, agricultural remedy or stock remedy in terms of the provisions of subparagraph (i) within the period referred to in that subparagraph, it shall be forfeited to the State, and be either destroyed or otherwise disposed of as the registrar may direct.
- (b) Any costs incurred by the State in connection with the destruction or disposal of any fertilizer, farm feed, agricultural remedy or stock remedy in terms of the provisions of paragraph (a), may be recovered from the importer concerned.

[S. 16 amended by s. 37 of Act 28 of 1961 and by s. 2 of Act 17 of 1972 and substituted by s. 15 of Act 24 of 1977.]

[NB: S. 16 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

17 Preservation of secrecy

Any person who discloses except to the Minister or to any other person for the purpose of the performance of his duties or the exercise of his functions under this Act or when required to do so by any court or under any law, any information acquired by him in the exercise of any duty or function under this Act, in relation to the business or affairs of any other person shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or imprisonment for a period not exceeding twelve months.

18 Offences and penalties

- (1) Any person who-
 - (a) fails to comply with the provisions of section 9;
 - (b) obstructs or hinders the registrar, any technical adviser or any analyst in the exercise of his powers or performance of his duties under this Act;
 - (bA) fails to make any statement or give any explanation if he is requested thereto by the registrar in the exercise of his powers or the performance of his duties under this Act;
 - (bB) fails to comply with an order issued under section 6A;

[Para. (bB) inserted by s. 8 (a) of Act 4 of 1980.]

- (c) contravenes or fails to comply with the provisions of section 7, 8, 10, 12 or 16 or with any condition contemplated in section 3 (3), 16 (2) or 16 (3) (d);

[Para. (c) substituted by s. 8 (b) of Act 4 of 1980.]

(c)bis acquires, disposes of, sells or uses fertilizers, farm feeds,

- (d) agricultural remedies or stock remedies contrary to a prohibition issued under section 7bis;
- (e) tampers with any sample taken in terms of this Act, or with anything seized in terms of this Act;
- (f) makes use, in connection with any fertilizer, farm feed, agricultural remedy or stock remedy, of any certificate, invoice or other document issued in respect of any other fertilizer, farm feed, agricultural remedy or stock remedy, or which is no longer valid;
- (g) makes any false or misleading statement in connection with any fertilizer, farm feed, agricultural remedy or stock remedy-
 - (i) in an application for the registration thereof;
 - (ii) in any invoice issued in terms of section 9;
 - (iii) in any advertisement thereof;
 - (iv) in the course of the sale thereof;
 - (v) in an application for a permit referred to in section 7bis (1) (b);
 - (vi) in a notice referred to in section 10;
 - (vii) if he acts in accordance with the provisions of section 16 (1) (b);
- (h) sells any fertilizer, farm feed, agricultural remedy or stock remedy upon the container of which a false or misleading statement in connection with such contents is printed or written;
- (i) sells any fertilizer, farm feed, agricultural remedy or stock remedy which is not of the kind, nature, composition, strength, potency or quality described or represented when so sold;
- (j) having been duly summoned in terms of section 6 (4) (a) to appear before the board, fails without lawful excuse so to appear;
- (k) having appeared as a witness before the board, refuses without lawful excuse to be sworn or to make affirmation or to produce any document or answer any question which he may be lawfully required to produce or answer;
- (l) fails to comply with the provisions of section 4A (1) or (3), shall be guilty of an offence and liable on conviction-
 - (i) in the case of a contravention under paragraph (a), (b), (bA) or (l) to a fine not exceeding five hundred rand or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment; and
 - (ii) in the case of a contravention under paragraph (bB), (c), (c)bis, (e), (f), (g), (h), (i), (j) or (k) to a fine not exceeding one thousand rand or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Para. (ii) substituted by s. 8 (c) of Act 4 of 1980.]

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

and of which such person is the owner, or which are in his possession, to be forfeited to the State.

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

[S. 18 amended by s. 2 of Act 48 of 1950, by s. 38 of Act 28 of 1961 and by s. 11 of Act 60 of 1970 and substituted by s. 16 of Act 24 of 1977.]

[NB: S. 18 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

19 Jurisdiction of magistrate's court

Notwithstanding anything to the contrary in any other law contained a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

20 Procedure and evidence

- (1) In any criminal proceedings under this Act-

- (a) any quantity of a fertilizer, farm feed, agricultural remedy or stock remedy in or upon any premises, place, vessel or vehicle at the time a sample thereof is taken pursuant to the provisions of this Act shall, unless the contrary be proved, be deemed to be of the same composition, to have the same degree of efficacy and to possess in all other respects the same properties as that sample;

[Para. (a) amended by s. 39 (a) of Act 28 of 1961 and by s. 17 of Act 24 of 1977.]

- (b) any person who is proved to have tampered with any sample shall be deemed to have acted with fraudulent intent unless the contrary is proved;
- (c) a certificate stating the result of an analysis or test carried out in pursuance of the provisions of subsection (3) of section fifteen and purporting to be signed by the analyst who carried out such analysis or test shall be accepted as prima facie proof of the facts stated therein;
- (d) any statement or entry contained in any book or document kept by any manufacturer, importer or owner of a fertilizer, farm feed, agricultural remedy or stock remedy, or by the manager, agent or employee of such person, or found upon or in any premises occupied by, or any vehicle used in the business of such person, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by such person, or by any manager, agent or employee of such person in the course of his work as manager, or in the course of his agency or employment.

[Para. (d) amended by s. 39 (b) of Act 28 of 1961 and by s. 17 of Act 24 of 1977.]

- (2) No prosecution shall be instituted as a result of any analysis or test performed in terms of the provisions of section fifteen or section sixteen, unless a copy of the analyst's certificate has been transmitted at least twenty-one days before the institution of such prosecution to the person who is to be the accused.

[NB: S. 20 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

21 Special defence in case of prosecutions

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

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

[S. 21 amended by s. 40 of Act 28 of 1960 and by s. 12 of Act 60 of 1970 and substituted by s. 18 of Act 24 of 1977.]

[NB: S. 21 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, provisions which will be put into operation by proclamation. See PENDLEX.]

22 Acts or omissions by manager, agent or employee

- (1) Whenever any manager, agent or employee of any manufacturer, importer or owner of a fertilizer, farm feed, agricultural remedy or stock remedy does or omits to do any act which it would be an offence under this Act for such manufacturer, importer or owner to do or omit to do, then unless it is proved that-
 - (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the manufacturer, importer or owner; and
 - (b) all reasonable steps were taken by the manufacturer, importer or owner to prevent any act or omission of the kind in question; and
 - (c) it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or to omit to do acts whether lawful or unlawful of the character of the act or omission charged, the manufacturer, importer or owner, as the case may be, shall be presumed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

[Sub-s. (1) amended by s. 41 of Act 28 of 1961 and by s. 19 of Act 24 of 1977.]

- (2) Whenever any manager, agent or employee of any such manufacturer, importer or owner does or omits to do an act which it would be an offence under this Act for the manufacturer, importer or owner to do or omit to do, he shall be liable to be committed and sentenced in respect thereof as if he were the manufacturer, importer or owner.
- (3) Any such manager, agent or employee may be so convicted and sentenced in addition to the manufacturer, importer or owner.

[NB: S. 22 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

23 Regulations

(1) The Minister may make regulations-

- (a) prescribing the manner in which fertilizers, farm feeds, agricultural remedies, stock remedies, sterilizing plants and pest control operators may be registered, the manner in which any such registration may be renewed and the information to be furnished and the fees to be paid with any application for registration and renewal of registration;

[Para. (a) amended by s. 13 (1) (b) of Act 60 of 1970 and substituted by s. 9 (a) of Act 4 of 1980.]

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

[Para. (b) amended by s. 42 (a) of Act 28 of 1961 and by s. 13 of Act 60 of 1970 and substituted by s. 20 (a) of Act 24 of 1977.]

- (c) prescribing the manner in which and the time within which an appeal under section six must be noted and prosecuted;
- (d) prescribing the particulars to be set forth in any invoice to be furnished under section nine;
- (e) prescribing the composition, efficacy, chemical, physical or other property required in respect of any substance in order that it may be imported, sold or registered as a fertilizer, farm feed, agricultural remedy or stock remedy, as the case may be;

[Para. (e) amended by s. 42 (b) of Act 28 of 1961 and by s. 13 (1) (c) of Act 60 of 1970 and substituted by s. 20 (b) of Act 24 of 1977.]

- (f) prescribing the limits within which any fertilizer, farm feed, agricultural remedy or stock remedy may be deficient in any of its ingredients and the proportion in which any preservative, antiseptic or other constituent may be present therein;

[Para. (f) amended by s. 13 (1) (c) of Act 60 of 1970.]

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

[Para. (g) amended by s. 42 (c) of Act 28 of 1961 and by s. 13 (1) (d) of Act 60 of 1970 and substituted by s. 20 (c) of Act 24 of 1977.]

- (h) prescribing the processes by which fertilizers, farm feeds, agricultural remedies or stock remedies, or substances used in the manufacture of fertilizers, farm feeds, agricultural remedies or stock remedies shall be sterilized, and the manner of inspection of sterilizing plants;

[Para. (h) amended by s. 13 (1) (d) of Act 60 of 1970.]

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

[Para. (hA) inserted by s. 20 (d) of Act 24 of 1977.]

- (hB) prescribing the records to be kept and the returns to be rendered in respect of registered

sterilizing plants;

[Para. (hB) inserted by s. 9 (b) of Act 4 of 1980.]

(hC) prescribing the records to be kept and the returns to be rendered by registered pest control operators;

[Para. (hC) inserted by s. 9 (b) of Act 4 of 1980.]

(i) for preventing the adulteration of fertilizers, farm feeds, agricultural remedies or stock remedies or the tampering with containers thereof;

[Para. (i) amended by s. 42 (c) of Act 28 of 1961 and by s. 13 (1) (d) of Act 60 of 1970.]

(j) prescribing the methods to be employed, the fees to be paid, and the certificates to be issued in respect of the examination, analysis or test of samples taken under this Act;

(k) for preventing the use of false or misleading statements in advertisements of fertilizers, farm feeds, agricultural remedies or stock remedies;

[Para. (k) amended by s. 42 (c) of Act 28 of 1961 and by s. 13 (1) (d) of Act 60 of 1970.]

(l) requiring any person who has in his possession or under his control any fertilizers, farm feeds, agricultural remedies or stock remedies, to keep records relating thereto in the form and manner prescribed, and to render returns in the form and manner and at the times prescribed;

[Para. (l) amended by s. 42 (c) of Act 28 of 1961 and by s. 13 (1) (d) of Act 60 of 1970.]

(IA)

[Para. (IA) inserted by s. 13 (1) (e) of Act 60 of 1970 and deleted by s. 20 (e) of Act 24 of 1977.]

(m) prohibiting the disposal, acquisition or use of any farm feed as a fertilizer;

(n) in respect of any other matter under this Act which is to be prescribed, and generally for the efficient carrying out of the objects and purposes of this Act.

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

[Sub-s. (2) amended by s. 42 (c) of Act 28 of 1961 and by s. 13 (1) (f) of Act 60 of 1970 and substituted by s. 20 (f) of Act 24 of 1977.]

(3) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, but not exceeding the maximum penalty prescribed by section eighteen.

(4) Before any regulations are made under this section, such regulations shall be published by the Minister in the Gazette together with a notice intimating that it is proposed to issue such regulations as regulations under this section within a stated period, but not less than four weeks as from the date of the said publication, and inviting interested persons to submit any objections to or representations concerning the proposed regulations: Provided that, if the Minister thereafter determines on any alterations in the regulations published as aforesaid, as a result of any objections or representations submitted thereon, it shall not be necessary to publish such alterations, before finally issuing the regulations in terms of subsection (1).

(5) Any regulation involving financial matters shall be made in consultation with the Minister of Finance.

[Sub-s. (5) added by s. 13 (1) (g) of Act 60 of 1970.]

[S. 23 amended by s. 13 (1) (a) of Act 60 of 1970.]

[NB: S. 23 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices

Regulatory Authority Act 132 of 1998, a provision which will be put into operation by proclamation.
See PENDLEX.]

23A Limitation of liability

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

[S. 23A inserted by s. 21 of Act 24 of 1977.]

24

[S. 24 repealed by s. 14 of Act 60 of 1970, inserted by s. 3 of Act 17 of 1972 and repealed by s. 1 of Act 49 of 1996.]

25 Repeals the Fertilizers, Farm Foods, Seeds and Pest Remedies Act 21 of 1917.

26 Short title

This Act shall be called the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947.

[S. 26 amended by s. 43 of Act 28 of 1961 and substituted by s. 15 of Act 60 of 1970.]

[NB: S. 26 has been substituted by s. 50 (1) (b) of the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998, provisions which will be put into operation by proclamation.
See PENDLEX.]

PENDLEX:

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947 after amendment by the South African Medicines and Medical Devices Regulatory Authority Act 132 of 1998

Long title

ACT

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

Section 1 - definitions

- 'advertisement' means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference distributed to members of the public or brought to their notice in any other manner and which is intended to promote the sale of fertilizers, farm feeds, agricultural remedies or encourage the use thereof or draw attention to the nature, properties, advantages or uses thereof, and 'advertise' has a corresponding meaning;
- 'establishment', in relation to a fertilizer, farm feed, or agricultural remedy, means the premises where such fertilizer, farm feed, or agricultural remedy is manufactured, controlled, packed, marked or labelled for the purposes of sale;
- 'registrar' means the Registrar of Fertilizers, Farm Feeds, and Agricultural Remedies designated in terms of section 2, and includes an officer acting under a delegation from or under the control or direction of the registrar;

Section 2 - Designation of registrar

- (1) The Minister shall designate an officer in the Department of Agricultural Technical Services as the Registrar of Fertilizers, Farm Feeds, and Agricultural Remedies who shall, subject to any instructions issued by the Minister, exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon the registrar under this Act.
- (2)
 - (a) Any power conferred upon, function assigned to or duty imposed upon the registrar may be exercised, performed or carried out by an officer under a delegation from or under the control or direction of the registrar.
 - (b) Any decision made or instruction issued by any such officer may be withdrawn or amended by the registrar, and shall, until it has been so withdrawn or amended, be deemed, except for the purpose of this paragraph, to have been made or given by the registrar.

Section 3 - Registration of fertilizers, farm feeds, agricultural remedies, sterilizing plants and pest control

- (1)
 - (a) Application for registration of a fertilizer, farm feed, agricultural remedy, sterilizing plant or pest control operator shall be made to the registrar in the prescribed manner and shall be accompanied by the prescribed application fee.

- (b) Any person applying for registration in terms of paragraph (a) shall supply or make available to the registrar, in the manner and at the time and place that he or she determines, the samples and particulars that he requires.
- (2) If, after consideration of any such application and after such investigation and enquiry as he or she may deem necessary, the registrar is satisfied that-
- (a) the fertilizer, farm feed, or agricultural remedy in respect of which registration is applied for is suitable and sufficiently effective for the purposes for which it is intended, and complies with such requirements as may be prescribed, and that it is not contrary to the public interest that it be registered, and that the establishment where it is manufactured is suitable for such manufacture, he or she shall register such fertilizer, farm feed or agricultural remedy;
 - (b) the sterilizing plant in respect of which registration is applied for is suitable and sufficiently effective for the purpose for which it is intended, and complies with such requirements as may be prescribed, and that it is not contrary to the public interest that such sterilizing plant be registered, he or she shall register such sterilizing plant;
 - (c) the pest control operator in respect of whom registration is applied for has the prescribed qualifications or is otherwise, to such extent as may be determined by the registrar, skilled in the use of agricultural remedies, and that it is not contrary to the public interest that such pest control operator be registered, he or she shall register such pest control operator:

Provided that the registrar may refuse an application for registration of a fertilizer, farm feed, agricultural remedy, sterilizing plant or pest control operator if any previous registration of such a fertilizer, farm feed, agricultural remedy, sterilizing plant or pest control operator has been cancelled under section 4.

- (3) Any registration under this section shall be subject to the prescribed and any additional conditions as may be determined by the registrar and shall be valid for such period as may be prescribed, and the registrar shall issue in respect of such registration a certificate of registration to the person applying therefor.
- (4) (a) Any registration under this section may be renewed when the period for which it is valid has lapsed.
- (b) The provisions of subsections (1), (2) and (3) shall mutatis mutandis apply to the renewal of any registration.

Section 4 - Cancellation of registration

- (1) The registrar may cancel the registration of any fertilizer, farm feed, or agricultural remedy at any time if he or she is satisfied-
- (a) that a person has in connection with the registration concerned contravened or failed to comply with a provision of this Act;
 - (aA) that a person has contravened or failed to comply with a condition to which the registration concerned is subject;
 - (b) that such fertilizer, farm feed, or agricultural remedy is not of the composition and efficacy specified in the application for registration thereof, does not possess the chemical, physical and other properties so specified and does not comply with any requirements that may be prescribed;
 - (c) that the practices followed and facilities available at or in respect of the establishment or the operation of the undertaking at such establishment are not suitable for the manufacture of the fertilizer, farm feed, or agricultural remedy concerned;

- (d) that the person managing such undertaking does not have sufficient knowledge of the relevant provisions of this Act or of the practices to be followed in the operation of such undertaking;
 - (e) that it is contrary to the public interest that such fertilizer, farm feed, or agricultural remedy, shall remain registered; or
 - (f) that any incorrect or misleading advertisement is used in connection with such fertilizer, farm feed, or agricultural remedy.
- (2) The registrar may cancel the registration of any sterilizing plant at any time if he or she is satisfied that-
- (a) a person has in connection with the registration concerned contravened or failed to comply with a provision of this Act;
 - (b) a person has contravened or failed to comply with a condition to which the registration concerned is subject;
 - (c) the sterilizing plant does not comply with the prescribed conditions or is otherwise not effectively equipped for the sterilization of the substances referred to in the definition of "sterilizing plant";
 - (d) it is contrary to the public interest that the sterilizing plant shall remain registered.
- (3) The registrar may cancel the registration of any pest control operator at any time if he or she is satisfied that-
- (a) the pest control operator has contravened or failed to comply with a provision of this Act or a condition of his registration;
 - (b) the pest control operator has failed to comply with an order issued under section 6A;
 - (c) it is contrary to the public interest that the pest control operator shall remain registered.

Section 4A - Availability, lapse and return of certificate of registration

- (1) The person to whom a certificate of registration has been issued in terms of section 3 (3) shall-
- (a) in the case of a fertilizer, farm feed, or agricultural remedy, cause that certificate of registration or a copy thereof to be available for inspection by the registrar at all times at the establishment where such fertilizer, farm feed, or agricultural remedy is manufactured; or
 - (b) in the case of a sterilizing plant or a pest control operator, produce that certificate of registration or a copy thereof to the registrar when he or she is so requested.
- (2) The registration of any fertilizer, farm feed, or agricultural remedy and the certificate of registration issued in respect of such registration shall lapse-
- (a) if the person to whom that certificate of registration has been issued, ceases to manufacture or sell the fertilizer, farm feed, or agricultural remedy in question; or
 - (b) if the establishment in question is no longer used for the manufacture of such fertilizer, farm feed, agricultural remedy or stock feed.
- (2A) The registration of any sterilizing plant and the certificate of registration issued in respect of such registration shall lapse if the registered plant ceases to be used as a sterilizing plant.
- (2B) The registration of any pest control operator and the certificate of registration issued in respect of such registration shall lapse if the registered person ceases to be a pest control operator.

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

Section 7 - Sales of fertilizers, farm feeds, and agricultural remedies

- (1) No person shall sell any fertilizer, farm feed, or agricultural remedy unless-
- (a) it is registered under this Act under the name or mark under which it is so sold: Provided that a fertilizer, farm feed, or agricultural remedy in respect of which the period of validity of the registration has expired, the certificate of registration has been cancelled in terms of section 4 or has lapsed in terms of section 4A (2) and which, before or on the date of such cancellation or lapse, was no longer under the control of, or owned by the person to whom that certificate of registration was issued, may, subject to the provisions of section 7bis, be sold;
 - (b) it is, subject to the provisions of paragraph (c), packed in such manner and mass or volume as may be prescribed;
 - (c) the container in which it is sold, complies with the prescribed requirements and is sealed and labelled or marked in such manner as may be prescribed or, if it is not sold in a container, it is accompanied by the invoice referred to in section 9; and
 - (d) it is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified, and complies with the prescribed requirements.
- (2) (a) No person shall for reward or in the course of any industry, trade or business-
- (i) use, or recommend the use of, any or agricultural remedy for a purpose or in a manner other than that specified on the label on a container thereof or described on such container;
 - (ii) use any agricultural remedy unless he is a pest control operator registered in terms of this Act or otherwise than in the presence and under the supervision of a pest control operator so registered.

Section 7bis - Prohibition on acquisition, disposal, sale or use of certain fertilizers, farm feeds, and agricultural remedies

- (1) The Minister may by notice in the Gazette-
- (a) prohibit the acquisition, disposal, sale or use of fertilizers, farm feeds, or agricultural remedies; or
 - (b) prohibit such acquisition, disposal, sale or use, except in accordance with such conditions as may be specified in the notice or except under the authority of and in accordance with such conditions as may be specified in a permit issued by the registrar, and may in like manner repeal or amend any such notice.
- (2) Any prohibition issued under subsection (1) may apply-
- (a) throughout the Republic or in one or more specified areas;
 - (b) to any person or to persons belonging to any specified class or group of persons or to persons other than persons belonging to any such class or group of persons; or
 - (c) in respect of all or one or more classes or kinds of fertilizers, farm feeds, or agricultural remedies.

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

Section 9 - Invoices required in case of sale of fertilizers, farm feeds, agricultural remedies not in container

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

Section 13 - Exclusion of any fertilizer, farm feed, or agricultural remedy from operation of Act

The Minister may by notice in the Gazette exclude, subject to such conditions as he or she may determine, any fertilizer, farm feed, or agricultural remedy from the operation of any or all of the provisions of this Act.

Section 14 - Designation of technical advisers and analysts

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

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

Section 15 - Power of entering premises, examinations, analysis of samples, and seizure

- (1) The registrar acting on the authority of and in accordance with a warrant issued under section 15A may at any reasonable time-
- (a) enter upon or enter and inspect any place, premises or vehicle in respect of which he or she on reasonable grounds believes that on or in it there is manufactured, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited, sold or used any fertilizer, farm feed, or agricultural remedy and examine or test any such fertilizer, farm feed, agricultural remedy or any ingredient thereof;
 - (b) examine any book or document on or in any place, premises or vehicle referred to in paragraph (a) in respect of which he or she believes on reasonable grounds that it relates to any fertilizer, farm feed, agricultural remedy, or an ingredient thereof, and make copies of or extracts from such book or document;
 - (c) examine any operations or processes carried out at any place or premises referred to in paragraph (a) in connection with the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition, selling or use of any fertilizer, farm feed, or agricultural remedy and demand from the person in charge of such operations or processes, or the owner of or the person having the custody of any fertilizer, farm feed, or agricultural remedy or an ingredient thereof, any relevant information or explanation relating to any such operations or processes, or fertilizer, farm feed, agricultural remedy, or ingredient;
 - (d) demand from the owner or any person having the custody of any book or document referred to in paragraph (b) an explanation relating to any record or entry therein;

- (e) seize any book, document, fertilizer, farm feed, or agricultural remedy which may furnish proof of an offence in terms of this Act, or any quantity of any fertilizer, farm feed, or agricultural remedy in respect of which there is reason to believe that any such offence has been committed, and remove from or leave on or in the place, premises or vehicle in question, any book, document, fertilizer, farm feed, or agricultural remedy or any quantity thereof, which has so been seized, and may in his discretion place on such book, document, fertilizer, farm feed, or agricultural or the container thereof, such identification mark or seal as he may deem necessary;
 - (f) take samples or cause samples to be taken of any fertilizer, farm feed, agricultural remedy, or an ingredient thereof, and open any container which contains or is suspected to contain anything used or intended for use in the manufacture, processing, treatment, preparation, grading, classification, packing, marking, labelling, holding, bottling, removal, transport, exhibition or sale of any fertilizer, farm feed, or agricultural remedy and examine, analyse, grade or classify such samples, or cause such samples to be examined, analysed, graded or classified.
- (2) Where the registrar carries out any examination in terms of subsection (1) in the presence of any person affected thereby, he or she shall first produce his or her written authority to such person.
- (3) Any sample taken in terms of subsection (1) shall-
 - (a) be taken in accordance with the prescribed method;
 - (b) be taken in the presence of the owner or the person having the custody of that fertilizer, farm feed, agricultural remedy, or ingredient thereof, or, if such owner or person is not available, in the presence of any other witness; and
 - (c) in the presence of such owner or person, or such witness, be divided into three parts, and each part shall be packed in a suitable container and sealed with a seal and be labelled or marked in such manner as the nature thereof permits, so that such sample may be readily identified.
- (4) One part each of the sample which has been thus divided shall-
 - (a) be handed or forwarded by registered post to such owner or person;
 - (b) together with a certificate in the prescribed form be forwarded to an analyst who shall as soon as practicable test, examine or analyse the said part in accordance with the methods which the registrar may determine, and the result of such test, examination or analysis shall be recorded by such analyst on the prescribed form and be submitted to the registrar; and
 - (c) be retained by the registrar.
- (5) The owner of anything from which any sample referred to in subsection (1) (f) was taken, may claim from the registrar an amount equal to the market value of such sample.
- (6) Subject to section 15A (1) the registrar may, during the day, without a warrant enter upon and examine any place, premises or vehicle after having identified himself or herself and in accordance with section 15 exercise the powers of seizure, removal, detention, collecting evidence and search (except the power to search any person), if-
 - (a) the person who is competent to consent to the entry and to such search, seizure removal and detention, gives that consent; or
 - (b) the registrar on reasonable grounds believes that-
 - (i) the required warrant will be issued to him or her in terms of section 15A if he or she were to apply for the warrant; and
 - (ii) the delay that would ensue by first obtaining the warrant would defeat the object or

purpose of the entry, search, seizure, removal, detention, collection of evidence and other steps.

- (7) Subsection (6) (b) does not serve as authority for, and may not be applied for the purpose of, entering and searching any private dwelling, nor for conducting such seizure and removal, the collection of evidence and the taking of the said other steps therein.

Section 15A - Provisions relating to issue and execution of warrant

- (1) The warrant contemplated in section 15 will be issued in chambers by any judge of the High Court or by a magistrate who has jurisdiction in the area where any fertilizer, farm feed, or agricultural remedy has been, or is being or is likely to be manufactured, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited, sold or used, and will be only issued if it appears to the judge or magistrate from information on oath or affirmation that there are reasonable grounds for believing that any fertilizer, farm feed, or agricultural remedy has been, or is being or is likely to be manufactured, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited, sold or used, and the registrar seeking the warrant may be asked to specify which of the powers contemplated in section 15A is or are likely to be exercised.
- (2) A warrant in terms of this section may be issued on any day and will be in force until-
- (a) it has been executed; or
 - (b) it is cancelled by the judge or magistrate who issued it, or, if not available, by any other judge, or by any other magistrate with similar authority; or
 - (c) the expiry of one month from the day of its issue; or
 - (d) the purpose for which the warrant was issued, no longer exists whichever may occur first.
- (3) A warrant issued in terms of this section may be executed by day only, unless the person who has issued the warrant has authorised the execution thereof by night at times which must be reasonable, and the entry upon or into and search of any place, premises or vehicle specified in the warrant, and the search of any person thereat, thereon or therein, must be conducted with strict regard to decency and order, including-
- (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 of his or her person; and
 - (c) the right of a person to his or her personal privacy.
- (4) The registrar executing a warrant in terms of this section must immediately before commencing with the execution thereof-
- (a) identify himself or herself to the person in control of the place, premises or vehicle to be entered upon or entered, if that person is present, and hand to that person a copy of the warrant, but if no such person is present he or she must affix a copy of the warrant, to a prominent spot at, on or to the place, premises, or vehicle;
 - (b) furnish that person at his or her request with particulars regarding the registrar's authority to execute such warrant;
 - (c) for the purpose of paragraph (b) the registrar may be requested to produce the certificate issued in respect of him or her under section 26.
- (5) The registrar may use such force as may be reasonably necessary to overcome any resistance to entry and search.

- (6) The registrar may enter upon or enter, and search any place, premises or vehicle, and may search any person thereat, thereon or therein, only if he or she audibly has first demanded access thereto and has notified the purpose of the entry, unless the registrar on reasonable grounds believes that any fertilizer, farm feed or agricultural remedy book or document which is the subject of a search may be tampered with, destroyed or be lost if access is first demanded and that purpose notified.
- (7) If, during the execution of a warrant in terms of this section, a person claims that any goods, document, book or article found at, on or in the place, premises or vehicle in question contains privileged information and refuses the inspection or removal thereof, the registrar is executing the warrant, if of the opinion that the goods, document book or article may be relevant to and necessary for the investigation of any complaint or any alleged or suspected manufacturing, processing, treatment, preparation, grading, classification, packaging, marking, labelling, holding, removal, transportation, exhibition, sale, or use may be relevant to and necessary for the investigation of any complaint, must request the registrar of the High Court having jurisdiction, or the registrar's deputy, to seize and remove such goods, documents, books or articles for safe custody until the court has made a ruling on the question whether or not the information in question is privileged.
- (8) In undertaking any search for and inspection and seizure of suspected goods, documents, books or articles the registrar may be assisted by the complainant (if any) or any knowledgeable person in identifying any fertilizer, farm feed, or agricultural remedy.
- (9) No answer given or statement made by any person to the registrar exercising his or her powers in terms of section 15 (1) (c) and (d) or given or made to the registrar exercising like powers by virtue of section 15 (6) will, if self-incriminating, be admissible as evidence against that person in criminal proceedings instituted in any court against him or her.
- (10) The provisions of subsection (2) regarding the manner in which a search must be conducted, and subsections (4), (5), (6), (7) and (8) shall apply mutatis mutandis to the registrar acting by virtue of section 15 (6).

Section 16 - Import of fertilizers, farm feeds, and agricultural remedies

- (1) No person shall import any fertilizer, farm feed, or agricultural remedy into the Republic unless-
 - (a) such fertilizer, farm feed, or agricultural remedy is registered in terms of this Act, is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified and complies with the requirements prescribed in respect thereof and is packed in a sealed container which is marked or labelled in the prescribed manner with the prescribed particulars;
 - (b) in the case of a fertilizer or farm feed containing bone or any other substance derived from the carcass of an animal, a permit referred to in section 12 has been issued in respect thereof.
- (2) Notwithstanding the provisions of subsection (1) the registrar may, in his or her discretion and on such conditions as he or she may determine, in writing permit the import of any consignment of any fertilizer, farm feed, or agricultural remedy which does not comply with the requirements referred to in subsection (1) (a).
- (3) Fertilizers, farm feeds, or agricultural remedies imported shall-
 - (a) only be imported through a prescribed port or place;
 - (b) if a sample thereof has thus been taken, not be sold in the Republic except on the written authority of the registrar and subject to the conditions specified therein.
- (4) The provisions of section 15 relating to samples shall mutatis mutandis apply with reference to a sample taken in terms of this section.

- (5) If any fertilizer, farm feed, or agricultural remedy, which in terms of subsection (3) (b) may not be removed from a port or place, is found to comply with the requirements of this Act, no rent charges shall be payable by the importer in respect of the period in which it could not be so removed, or where the Railways Administration is required to deliver or to forward that fertilizer, farm feed, or agricultural remedy, in respect of any portion of the period in question which is subsequent to the presentation to the Railways Administration of a delivery order, or a forwarding order, as the case may be.
- (6) (a) If any fertilizer, farm feed, or agricultural remedy has been imported contrary to the provisions of this section, such fertilizer, farm feed, or agricultural remedy shall at the option of the importer thereof-
- (i) at the expense of such importer be removed by him or her from the Republic within such period as the registrar may determine; or
 - (ii) be forfeited to the State and be either destroyed or otherwise disposed of as the registrar may direct, and if such importer fails to remove such fertilizer, farm feed, or agricultural remedy in terms of the provisions of subparagraph (i) within the period referred to in that subparagraph, it shall be forfeited to the State, and be either destroyed or otherwise disposed of as the registrar may direct.
- (b) Any costs incurred by the State in connection with the destruction or disposal of any fertilizer, farm feed, or agricultural remedy in terms of the provisions of paragraph (a), may be recovered from the importer concerned.

Section 18 - Offences and penalties

- (1) Any person who-
- (a) fails to comply with the provisions of section 9;
 - (b) obstructs or hinders the registrar, any technical adviser or any analyst in the exercise of his or her powers or performance of his or her duties under this Act;
 - (bA) fails to make any statement or give any explanation if he is requested thereto by the registrar in the exercise of his powers or the performance of his duties under this Act;
 - (bB) fails to comply with an order issued under section 6A;
 - (c) contravenes or fails to comply with the provisions of section 7, 8, 10, 12 or 16 or with any condition contemplated in section 3 (3), 16 (2) or 16 (3) (d);
 - (c)bis acquires, disposes of, sells or uses fertilizers, farm feeds, or agricultural remedies contrary to a prohibition issued under section 7bis;
 - (e) tampers with any sample taken in terms of this Act, or with anything seized in terms of this Act;
 - (f) makes use, in connection with any fertilizer, farm feed, or agricultural remedy, of any certificate, invoice or other document issued in respect of any other fertilizer, farm feed, or agricultural remedy, or which is no longer valid;
 - (g) makes any false or misleading statement in connection with any fertilizer, farm feed, or agricultural remedy-
 - (i) in an application for the registration thereof;
 - (ii) in any invoice issued in terms of section 9;
 - (iii) in any advertisement thereof;
 - (iv) in the course of the sale thereof;

- (v) in an application for a permit referred to in section 7bis (1) (b);
- (vi) in a notice referred to in section 10;
- (vii) if he acts in accordance with the provisions of section 16 (1) (b);
- (h) sells any fertilizer, farm feed, or agricultural remedy upon the container of which a false or misleading statement in connection with such contents is printed or written;
- (i) sells any fertilizer, farm feed, or agricultural remedy which is not of the kind, nature, composition, strength, potency or quality described or represented when so sold;
- (j) having been duly summoned in terms of section 6 (4) (a) to appear before the board, fails without lawful excuse so to appear;
- (k) having appeared as a witness before the board, refuses without lawful excuse to be sworn or to make affirmation or to produce any document or answer any question which he or she may be lawfully required to produce or answer;
- (l) fails to comply with the provisions of section 4A (1) or (3), shall be guilty of an offence and liable on conviction-
 - (i) in the case of a contravention under paragraph (a), (b), (bA) or (l) to a fine not exceeding five hundred rand or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment; and
 - (ii) in the case of a contravention under paragraph (bB), (c), (c)bis, (e), (f), (g), (h), (i), (j) or (k) to a fine not exceeding one thousand rand or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- (2) The court convicting any person of an offence under this Act, may, upon the application of the prosecutor, declare any fertilizer, farm feed, or agricultural remedy in respect of which the offence has been committed and all fertilizers, farm feeds, or agricultural remedies of a similar nature to that in respect of which such person has been convicted, and of which such person is the owner, or which are in his possession, to be forfeited to the State.
- (3) All fertilizers, farm feeds, or agricultural remedies forfeited under this Act shall be destroyed or otherwise dealt with as the Minister may direct.

Section 20 - Procedure and evidence

- (1) In any criminal proceedings under this Act-
 - (a) any quantity of a fertilizer, farm feed, or agricultural remedy in or upon any premises, place, vessel or vehicle at the time a sample thereof is taken pursuant to the provisions of this Act shall, unless the contrary be proved, be deemed to be of the same composition, to have the same degree of efficacy and to possess in all other respects the same properties as that sample;
 - (b) any person who is proved to have tampered with any sample shall be deemed to have acted with fraudulent intent unless the contrary is proved;
 - (c) a certificate stating the result of an analysis or test carried out in pursuance of the provisions of subsection (3) of section fifteen and purporting to be signed by the analyst who carried out such analysis or test shall be accepted as prima facie proof of the facts stated therein;
 - (d) any statement or entry contained in any book or document kept by any manufacturer, importer or owner of a fertilizer, farm feed, or agricultural remedy, or by the manager, agent or employee of such person, or found upon or in any premises occupied by, or any vehicle used in the business of such person, shall be admissible in evidence against him or her as an admission of the facts set forth in that statement or entry, unless it is proved

that that statement or entry was not made by such person, or by any manager, agent or employee of such person in the course of his work as manager, or in the course of his agency or employment.

- (2) No prosecution shall be instituted as a result of any analysis or test performed in terms of the provisions of section fifteen or section sixteen, unless a copy of the analyst's certificate has been transmitted at least twenty-one days before the institution of such prosecution to the person who is to be the accused.

Section 21 - Special defence in case of prosecution

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

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

Section 22 - Acts or omissions by manager, agent or employee

- (1) Whenever any manager, agent or employee of any manufacturer, importer or owner of a fertilizer, farm feed, or agricultural remedy does or omits to do any act which it would be an offence under this Act for such manufacturer, importer or owner to do or omit to do, then unless it is proved that-
 - (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the manufacturer, importer or owner; and
 - (b) all reasonable steps were taken by the manufacturer, importer or owner to prevent any act or omission of the kind in question; and
 - (c) it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or to omit to do acts whether lawful or unlawful of the character of the act or omission charged, the manufacturer, importer or owner, as the case may be, shall be presumed himself or herself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof; and the fact that he or she issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he or she took all reasonable steps to prevent the act or omission.
- (2) Whenever any manager, agent or employee of any such manufacturer, importer or owner does or omits to do an act which it would be an offence under this Act for the manufacturer, importer or owner to do or omit to do, he or she shall be liable to be committed and sentenced in respect thereof as if he or she were the manufacturer, importer or owner.
- (3) Any such manager, agent or employee may be so convicted and sentenced in addition to the manufacturer, importer or owner.

Section 23 - Regulations

- (1) The Minister may make regulations-
- (a) prescribing the manner in which fertilizers, farm feeds, agricultural remedies, sterilizing plants and pest control operators may be registered, the manner in which any such registration may be renewed and the information to be furnished and the fees to be paid with any application for registration and renewal of registration;
 - (b) prescribing the description and conditions under which any substance may be registered, imported or sold as a fertilizer, farm feed, or agricultural remedy under any particular name or mark;
 - (c) prescribing the manner in which and the time within which an appeal under section 6 must be noted and prosecuted;
 - (d) prescribing the particulars to be set forth in any invoice to be furnished under section nine;
 - (e) prescribing the composition, efficacy, chemical, physical or other property required in respect of any substance in order that it may be imported, sold or registered as a fertilizer, farm feed, or agricultural remedy, as the case may be;
 - (f) prescribing the limits within which any fertilizer, farm feed, or agricultural remedy may be deficient in any of its ingredients and the proportion in which any preservative, antiseptic or other constituent may be present therein;
 - (g) prescribing requirements as to the mass and volume and containers in which fertilizers, farm feeds, or agricultural remedies shall be packed, the manner in which they shall be packed into such containers, the manner in which such containers shall be sealed and labelled or marked and the particulars which shall appear on such labels and containers;
 - (h) prescribing the processes by which fertilizers, farm feeds, or agricultural remedies, or substances used in the manufacture of fertilizers, farm feeds, or agricultural remedies shall be sterilized, and the manner of inspection of sterilizing plants;
 - (hA) prescribing the requirements with which any establishment shall comply, the practices which shall be followed in the operation of any undertaking at any establishment, the facilities which shall be available at any establishment, and the records to be kept and the information to be furnished in respect of any establishment and the operation of any undertaking at any establishment;
 - (hB) prescribing the records to be kept and the returns to be rendered in respect of registered sterilizing plants;
 - (hC) prescribing the records to be kept and the returns to be rendered by registered pest control operators;
 - (i) for preventing the adulteration of fertilizers, farm feeds, or agricultural remedies or the tampering with containers thereof;
 - (j) prescribing the methods to be employed, the fees to be paid, and the certificates to be issued in respect of the examination, analysis or test of samples taken under this Act;
 - (k) for preventing the use of false or misleading statements in advertisements of fertilizers, farm feeds, or agricultural remedies;
 - (l) requiring any person who has in his possession or under his or her control any fertilizers, farm feeds, or agricultural remedies, to keep records relating thereto in the form and manner prescribed, and to render returns in the form and manner and at the times prescribed;
 - (m) prohibiting the disposal, acquisition or use of any farm feed as a fertilizer;
 - (n) in respect of any other matter under this Act which is to be prescribed, and generally for

the efficient carrying out of the objects and purposes of this Act.

- (2) Different regulations may be made under this section in respect of different classes or kinds of fertilizers, farm feeds, agricultural remedies and stock remedies, and in respect of different kinds of establishments and different classes or groups of persons.
- (3) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, but not exceeding the maximum penalty prescribed by section 18.
- (4) Before any regulations are made under this section, such regulations shall be published by the Minister in the Gazette together with a notice intimating that it is proposed to issue such regulations as regulations under this section within a stated period, but not less than 4 weeks as from the date of the said publication, and inviting interested persons to submit any objections to or representations concerning the proposed regulations: Provided that, if the Minister thereafter determines on any alterations in the regulations published as aforesaid, as a result of any objections or representations submitted thereafter, it shall not be necessary to publish such alterations, before finally issuing the regulations in terms of subsection (1).
- (5) Any regulation involving financial matters shall be made in consultation with the Minister of Finance.

Section 26 - Short title

This Act shall be called the Fertilizers, Farm Feeds and Agricultural Remedies Act, 1947.