



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

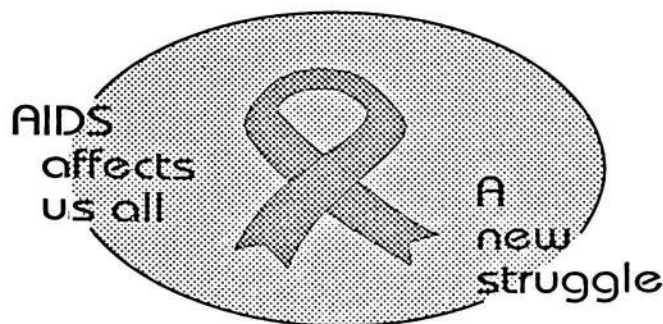
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Vol. 8

BISHO/  
KING WILLIAM'S TOWN, 8 JANUARY 2001

**No. 703**  
(Extraordinary)

**We all have the power to prevent AIDS**



**Prevention is the cure**

**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH

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## CONTENTS

*No.**Page  
No.      Gazette  
         No.*

### PROVINCIAL NOTICE

- |   |   |   |     |
|---|---|---|-----|
| 4 | Publication of Livestock Improvement Bill, 2000 (Eastern Cape)..... | 3 | 703 |
|---|---|---|-----|
- 
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## PROVINCIAL NOTICE

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### NOTICE 4 OF 2000

### PROVINCE OF THE EASTERN CAPE

### DEPARTMENT OF AGRICULTURE AND LAND AFFAIRS

### PUBLICATION OF LIVESTOCK IMPROVEMENT BILL, 2000 (EASTERN CAPE)

The above-mentioned Bill is hereby published in terms of Rule 152(1) of the Rules of the Legislature of the Province of the Eastern Cape, for general information and comment.

Any person who wishes to comment on the said Bill must submit such comment in writing to the Head of Department, Department of Agriculture and Land Affairs, Private Bag X0040, Bisho, 5605, Province of the Eastern Cape, to reach him within 14 days of the publication hereof.

**LD 2**

**PROVINCE OF THE EASTERN CAPE**

**LIVESTOCK IMPROVEMENT BILL, 2000**

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**As introduced**

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**(BY THE MEMBER OF THE EXECUTIVE  
COUNCIL RESPONSIBLE FOR AGRICULTURE  
AND LAND AFFAIRS)**

## LD 2

## BILL

To provide for the development and promotion of the livestock industry; to enhance and control the collection and sale of semen and ova and the artificial insemination and; to establish a system of evaluation and certification of the performance of certain animals with the object of improving the genetic production potential of certain kinds and breeds of animals and making these accessible to livestock breeders; and to provide for matters connected therewith.

BE IT ENACTED by the Legislature of the Province of the Eastern Cape as follows:

*Definitions*

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

**"advertisement"** in relation to animal or genetic material and in relation an inseminator, semen collector, embryo collector, embryo transferor, animal breeders society or registering authority means any written, illustrated, visual or other descriptive or verbal statement, communication, representation or reference which is brought to the notice of a member of the public and which is intended to promote the sale or encourage the use of such animal or genetic material, or is intended to offer services of an inseminator, semen collector, embryo collector embryo transferor, animal breeders society or registering authority, and **"advertise"** has a corresponding meaning;

**"animal"** means any kind of animal or any animal of any specified breed of any such kind of animal as may in terms of section 2 have been declared to be an animal for the purposes of any provision of this Act;

**"animal breeders" society** means a group of persons promoting the breeding, the recording or the registration, the genetic improvement and the use of a kind of animal of a specified breed of such kind of animal in the Province, and registered as such in terms of section 11;

**"animal" improvement** means the scientifically based identification of genetically superior animals by means of the integrated registration and genetic information system or in a manner approved by the registrar and the discerning use thereof to improve the production or performance ability of the animal population in the interest of the Province;

**"appeal board"** means the appeal board specified in section 20(2);

**"breed"** means a population of animals which produces progeny possessing a high degree of genetic stability as evidenced by identifiable uniformity in breed standards and performance;

**"breeder"** means the owner of a breeding female animal at the time of natural or artificial conception or at the birth of progeny;

**"breed standards"** means a written set of phenotypic standards of excellence determined and applied in terms of the constitution of an animal breeders Society;

**"centre"** means premises registered in terms of section 8(1)(b)(i) for the collection, evaluation, processing, packing, labeling, storing and sale of semen, embryos or ova as the case may be, of certain kinds of animals;

**"Department"** means the Department of Agriculture;

**"donor animal"** means an animal which has been approved in terms of section 8(1)(b)(ii) for collection of genetic material;

**"intact animal"** means an animal that has been approved in terms of section 8(1)(b)(iii) for natural breeding purposes;

**"embryo"** means a fertilized ovum of an animal,

**"embryo transferor"** means person who carries out the transferring of ova or embryos into recipient female animals who is registered as such in terms of section 8(1)(a) in respect of an animal for which he or she has completed the prescribed course of instruction;

**"Gazette"** means the Provincial gazette;

**"genetic material"** means ova, embryos semen and any other material originating from animal through which the hereditary factors of such animal can be transferred;

**"inseminator"** means a person who carries out the artificial insemination of animals and who is registered as such in terms of section 8(1)(a) in respect of a kind of animal for which he or she has completed the required course of instruction;

**"integrated registration and genetic information system"** means a computers system which has been established in co-operation with the department to integrate the pedigrees and performance data of animals;

**"MEC"** means the Member of the Executive Council responsible for agriculture in the Province;

**"officer"** means an officer as defined in section 1 (1) of the Public Service Act, 1994 (Proclamation 103 of 1994);



## LD 2

**"ovum"** means an ovum of an animal;

**"prescribed"** means prescribed by regulation;

**"Province"** means province of the Eastern Cape;

**"register"** means the register kept in terms of section 5;

**"registering authority"** means an animal breeders society or a group of animal breeder; societies which is registered in terms of section 11(2);

**"registrar"** means the officer designated as Registrar of Livestock Improvement in terms of section 3 of this Act;

**"regulation"** means a regulation made under this Act;

**"sell"** includes agree to sell, offer, advertise, keep, expose, display, transmit, convey or deliver for sale, within or outside the Province or exchange or dispose or deliver to any person in any manner, whether for a consideration or otherwise, and **"sale"** has a corresponding meaning,

**"semen"** means the semen of an animal,

**"semen collector"** means any person who collects, evaluates, processes, packs or stores semen, or who carries out the artificial insemination of animal and who is registered as such in terms of section 8(1)(a); in respect of a kind of animal for which he or she has completed the prescribed course of instruction;

**"stud book animal"** means an animal registered or recorded in the herd book kept by a registering authority; and **"stud animal"**, **"thoroughbred animal"**, **"registered animal"** and

**"recorded animal"** has a corresponding meaning;

**"this Act"** includes the regulations made hereunder;

**"veterinarian"** means a person registered or deemed to be registered in terms of the Veterinary and Para-veterinary Professions Act, 1982 (Act No. 19 of 1982), to practise as a veterinary profession as defined in section 1 of that Act.

## LD 2

*Application of the Act*

2. (1) The provisions of this Act shall apply with reference to any such kind of animal or an animal of a specified breed of such kind of animal as the MEC may by notice in the *Gazette* declared to be an animal for the purposes of this Act.

(2) Different kinds of animals or animals of different breeds of that kind of animals may be so declared in relation to different provisions of this Act.

(3) Provided that—

- (a) the MEC may likewise declare that any provisions of this Act shall only apply to one or more specified areas of the Province; or
- (b) to any person or persons belonging to a specified class.

*Designation of registrar*

3. (1) The MEC shall designate an officer in the Department, who shall be an animal scientist, as a registrar of Livestock improvement, who shall exercise the powers and perform the duties conferred or imposed upon the registrar in terms of this Act.

(2) The Registrar may delegate some of his powers to an officer who has the required qualifications and skills.

*Discretionary powers of registrar*

4. (1) (a) Any discretionary power conferred on the registrar by this Act, shall not be exercised by him or her to the prejudice of any applicant or any other person who appears to the registrar to be an interested party, without giving such applicant or other person an opportunity of being heard within such period as may be prescribed or, if no period has been prescribed, within such reasonable period as the registrar may determine.

(b) An applicant or other person mentioned in paragraph (a) may waive such right to be heard.

(2) Whenever in terms of this Act any period is specified within which any act is to be performed or anything is to be done, the registrar may, save where it is expressly otherwise provided, extend such period either before or after its expiry.



**LD 2*****Register***

5. (1) The registrar shall keep a register of semen collectors, inseminators, embryo collectors, embryo transferors, centres, donor animals, animal breeder societies, registering authorities and intact animals registered or approved for natural breeding purposes in which the prescribed particulars relating to such semen collectors, inseminators, embryo collectors, embryo transferors, centres, intact animals and registering authorities shall be recorded.

(2) The registrar shall keep a record of all intact animals which are used for breeding purposes in the Province.

(3) The register shall, upon payment of the prescribed fee, be open for inspection at the office of the registrar during office hours.

(4) The registrar shall furnish any person, at his request and on payment of the prescribed fee with a copy of any particulars recorded in the register or a certificate in respect thereof.

***Register to be evidence***

6. (1) The register shall be prima facie evidence of all matters noted therein.

(2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other thing authorized by this Act to be done, has or has not been done, shall be prima facie evidence of the matters specified in such certificate.

(3) A copy of an entry in the register or an extract from the register, purporting to be certified by the registrar, shall be admitted as evidence in any court of law without further proof for production of the original.

***Requirements for registration or approval***

7. (1) A semen collector, inseminator, embryo collector or embryo transferor shall be registered if-

(a) he or she has successfully completed the prescribed course of instruction;

(b) a veterinarian who has been designated by the registrar for such purpose has certified that the semen collector, inseminator, embryo collector or embryo transferor as the case may be, has in his or her opinion registered sufficient practical and theoretical knowledge of the manner in which, in the case of a semen collector, semen or, in the case of an embryo collector, embryos or ova

LD 2

collected, evaluated, processed, packed or stored in terms of this Act, and in which animals, in the case of a semen collector, may be so artificially inseminated or, in the case of an embryo collector or embryo transferor, be implanted with an ovum or embryo; and

- (c) he or she complies with such other requirements as may be prescribed.
- (2) The premises where the genetic material is collected, evaluated, processed, packed, labeled, stored and sold may be registered as a centre if—
- (a) the prescribed facilities are available at such premises for such purpose;
  - (b) the technical operations at such premises, with reference to care of animals being kept there, and the collection, evaluation, processing,, packing, labeling and storage of genetic material , are controlled and managed by a person who complies with the prescribed requirements;
  - (c) such premises comply with other requirements as may be prescribed.
- (3) An intact animal may be approved as a donor of genetic material or for natural breeding purposes, as the case maybe, if-
- (a) a veterinarian has certified in the form determined by the registrar that such animal is acceptable in respect of-
    - (i) general state of health;
    - (ii) absence of disease;
    - (iii) the quality of its semen; and
    - (iv) such other attributes as may be prescribed;
  - (b) such animal complies with other prescribed requirements.

***Registration or approval***

8. (1) Any person who-

- (a) is a semen collector, inseminator, embryo collector and embryo transferor and desires to be registered as such; or

LD 2

(b) desires-

- (i) that any premises be registered as a centre; or
- (ii) that any animal be approved as donor of genetic material or semen;
- (iii) intact animal be used for natural breeding purposes;

shall apply therefor to the registrar in such form as the registrar may determine and in the manner therefor, and such an application shall be accompanied by the prescribed application fee for the kind of registration concerned or approval, as well such information or documents in connection therewith as may be prescribed or the registrar may require.

(2) A group of persons who desire to be registered as an animal breeders society shall apply to the registrar in the form determined by the prescribed manner and such application shall be accompanied by the constitution of the animal breeders society, and the prescribed application fee.

(3) An animal breeders' s society or group of animal breeders societies who desire to be registered as a registering authority shall apply to the registrar in the form determined by the registrar and in the prescribed manner, and such application shall be accompanied by the constitution of the registering authority, and the prescribed application fee.

(4) The registrar shall consider an application made in terms of subsection (1), (2), on and may make any enquiry in connection therewith which he or she, may deem necessary.

(5) If the registrar refuses to grant an application made in terms of subsection (1), (2) or (3) he or she shall notify the applicant in writing of his or her decision and the grounds on which it was based.

(6) If the registrar is convinced that an application referred to subsection (1) may be granted he or she shall-

- (a) register the applicant as semen collector, inseminator, embryo collector, embryo transferor or import agent, as the case may be, and issue a registration certificate to him or her; or
- (b) register the premises as a centre and issue a registration certificate to the applicant; or

LD 2

- (c) grant the application for the approval of the animal or intact animal concerned as a donor animal and issue a certificate of approval , and record the applicable prescribed particulars in the register.

(7) If the registrar is convinced that an application referred to in subsection (.2) or (3) may be granted, he or she shall-

(a) register-

(i) the group of persons as animal breeders society; or

(ii) the animal breeders society or group of animal breeders society as a registering authority, and issue to the annual breeders society or registering authority, as the case may be a registration certificate;

(b) record the applicable particulars in the register;

(c) only in the case of the first registration publish by notice in the *Gazette* the registration of the animal breeders society or registering authority, as the case may be , and the date from which the registration is valid and he or she shall notify the registrar of companies thereof, who shall as soon as possible after such date record the name of the animal breeders society or the registering authority, as the case may be, in the register held in term of the Companies Act, 1973 (Act No.61 of 1973).

(8) The registration of a semen collector, embryo collector, embryo transferor as such, or of any premises as a centre, the approval of an animal or intact animal, for the purpose of collection of genetic material or for natural breeding purposes, as the case may be, or of an animal breeders society or registering authority, shall be subject to the provisions of this Act and such conditions as may be prescribed or, in so far as they are not contrary to the provisions of this Act.

(9) (a) An animal breed's society or registering authority shall be a juristic person from the date of its registration referred to in subsection (7).

(b) Subject to the provisions of the Companies Act, 1973 (Act No. 61 of 1973), do not apply to an animal breeders society or registering authority.

LD 2

(c) The MEC may by notice in the *Gazette* declare any provision of the Companies Act, 1973 (Act No. 61 of 1973) which is consistent with the provisions of this Act, applicable to an animal breeders society or registering authority, with such amendments as may be set out in the notice, and may withdraw or amend such notice.

(d) The assets, liabilities, rights and duties which a person possess in his or her capacity as a member of the group of persons referred to in subsection (2) on behalf of the members, shall pass on to the animal breeders society from the date of registration referred to in subsection (7).

(10) An owner of an intact animal approved for natural breeding purposes shall brand it or cause it to be branded in the prescribed manner.

(11) If the registrar refuses to grant an application made in terms of subsection (1), he shall in writing advise the person who made such application of his or her decision and of the grounds on which it is based.

***Renewal of registration or approval***

9. (1) The registration of a semen collector, embryo collector, embryo transferor, or of premises as a centre, the approval of an animal or intact animal for the purpose of collecting semen, or for natural breeding purposes, as the case may be, shall subject to the earlier termination thereof under this Act, be valid from the date of issue of the certificate in respect thereof under section 8 (6) until the date of expiry indicated thereon, and shall thereafter be renewable from time to time.

(2) Any person to whom a certificate has been issued in terms of section 8(6) or (7), may within the prescribed time and in such form as the registrar may determine and the manner prescribed therefore apply to the registrar for the renewal of the registration or approval, and such an application shall be accompanied by the prescribed renewal fee for the registration or such approval, as well as by such information or documents in connection therewith as may be prescribed or the registrar may require.

(3) The provisions of section 7 (1), (2) and (3) shall apply *mutatis mutandis* apply in respect of an application mentioned in subsection (1).

(4) A renewal granted by virtue of subsection (2) shall, subject to the earlier termination thereof in terms of this Act, be valid for the prescribed period, and an application for the further renewal thereof shall be made within the prescribed period in accordance with the provisions of subsection (1), read with the provisions of subsection (2).

LD 2

(5) The registrar shall not consider an application for the renewal of a registration or approval which was received after the date of expiry thereof unless such application was received within ninety days after such date of expiry and such additional fee as may be prescribed, has been paid.

*Termination of registration or approval*

10. (1) The registrar may at any time terminate the registration of a semen collector, inseminator, embryo collector, embryo transferor, or of any premises as a centre, and he or she may likewise withdraw the approval of an animal, if he or she is convinced that-

- (a) a requirement of this Act referred to in section 7 has not been complied with; or
- (b) in the case of the approval of an animal, the animal no longer complies with the provisions of section 7(3).

(2) If the registrar terminates the registration of a semen collector, inseminator, embryo collector or embryo transferor as such, or of any premises as a centre or withdraws the approval of an animal or intact animal as the case may be, he or she shall in writing inform the person to whom the certificate was issued therefor and of the grounds on which such termination is based.

(3) When a registration has been terminated or an approval has been withdrawn-

- (a) the certificate shall be returned within the prescribed period to the registrar by the person to whom it was issued;
- (b) in the case of an approval of an animal which is withdrawn in terms of subsection (1)(b), any person who has in his possession any semen or ova which have been collected from the animal before such withdrawal, shall destroy forth with such semen or ova in such manner as the registrar may determine by notice in writing to that person.

(4) The owner of an unregistered intact animal which has not been approved for breeding purposes in terms of this Act shall castrate such animal, or cause it to be castrated or may slaughter or sell it for slaughter not later than 30 days after being informed of the registrar's decision.



LD 2

(5) An intact animal that has not been approved for breeding purposes and has not been castrated by its owner in terms of subsection (6), shall be impounded, the pound master shall forthwith notify the registrar, who shall, if he or she is convinced that such an animal is unregistered, and he or she does not approve of it for breeding purposes, castrate it or cause it to be castrated.

*Animal breeders society*

11. (1) A group of persons may be registered as an animal breeders society if-

- (a) the kind of animal with which such a group of persons is concerned, has been declared in terms of section 2 to be animal for the purposes of this Act;
- (b) no other such registration has been granted in respect of an animal breeder society which is concerned with the same breed of such kind of animal;
- (c) the constitution of such group of persons specifically provides-
  - (i) the promoting, breeding, recording or registration, genetic improvement and use of a kind of animal of a specified breed of such kind of animal;
  - (ii) for the determination and the application of breed standards, and for the recommendation, in its sole discretion to a registering authority of the recording or registration of an animal or of a specified breed bred in the Province;
  - (iii) for the continued commitment to animal improvement;
  - (iv) for the manner in which the constitution may be amended; and

(2) An animal breeders society or group of animal breeders societies may be registered as a registering authority with reference to the kind of animal or kinds of animals of a specified breed or such kind of breed of animals if-

- (a) no other registration has been granted in respect of a registering authority which is concerned with the same animal or breed of animal: Provided that if another registering authority has been previously registered as such in respect of a specified kind of animal, the registrar may, with due allowance for the decision of the majority of the breeders registered as such with the relevant animal breeders society concerned with such kind or breed of such kind of animal, grant an application referred to in section 8(3).

- (b) the constitution of such registering authority provides that-
- (i) before any information with reference to an individual animal is accepted and the animal is registered or recorded, such information shall be subject to verification in respect of the correctness of parentage, the inter-birth cycle of the dam the ownership of the parents at the time of serving and the birth of the animal;
  - (ii) the manner of verification of a registration particulars, the manner in which in records are kept, the contents of the records shall comply with other requirements determined by the registrar, in consultation with all the other registering authorities;
  - (iii) the applicable fee, if any, for the registration of prefixes and suffixes for participation in the integrated registration and genetic information system, shall be paid to the organization referred to in section 8.
  - (iv) a breeders right to direct participation in the integrated registration and genetic information system is acknowledged in the event of the animal breeders society failure to comply with its own constitution in the opinion of the registrar.
  - (v) the manner in which the constitution may be amended, is described; and
- (c) such animal breeders society or group of animal breeders societies complies with such requirements as may be prescribed.

#### *Amendment of constitution*

12. (1) Animal breeders society or a registering authority shall make provision in its constitution for the manner in which such constitution may be amended: Provided that such amendment shall not be inconsistent with the provisions of this Act or with the constitution of the relevant registering authority.

(2) The number of copies as may be prescribed of each such amendment or of the amended constitution shall be submitted to the registrar within 30 days after the amendment has been approved by an annual general meeting.

## LD 2

(3) If the registrar is of the opinion that such amendment is inconsistent with the provisions of this Act, he or she shall notify the animal breeders society or registering authority as the case may be, within 30 days in writing thereof and the grounds on which the decision has been made whereupon the amendment shall be null and void.

***Restriction of certain actions in respect of animals and genetic material***

13. (1) No person shall-

(a) collect, evaluate, process, pack or store embryos or ova unless—

(i) he or she is registered as an embryo collector in terms of section 8 (1) (a);

(ii) he or she is the owner of an animal from which the embryo or ova are collected, evaluated, processed, packed or stored.

(2) If a person who is registered as a semen collector, inseminator, embryo collector or embryo transferor in terms of section 8(1)(a) artificially inseminates an animal or transfers ova or embryos into a recipient female animal, he or she shall provide the owner of such an animal with a certificate containing the prescribed particulars.

(3) No person shall keep an unregistered intact animal.

***Restriction on sale of genetic material***

14. (1) No person shall sell genetic material collected in the Province unless such genetic material is accompanied by written warranty.

(2) No person shall advertise that the progeny to be gotten from the use of such genetic material referred to in subsection (1) be recorded or registered in terms of any breed standards, unless the animal breeders society with animals to which the begotten progeny belongs, grants prior approval in writing that such genetic material has been collected from the stud book animal of a specified breed and that such progeny may be eligible for the recording or registration in the herd book kept by the registering authority of that particular kind of animal or breed of such kind of animal.

LD 2

***Restriction on certain actions with reference to stud book animals*****15. (1) No person shall-**

- (a) represent or claim to represent breeders of stud book animals of a specified breed as an animal breeders society;
- (b) advertise that he or she promotes breeding, recording, or registration, genetic improvement and use of a kind of animal of a specified breed of such kind of animal;
- (c) determine and apply breed standards or recommend the recording or registration of an animal of a specified breed of animal bred in the Province.

Unless he or she is registered as an animal breeder's society in terms of section 8(2).

**(2) No person shall in respect of the specified kind of animal or specified breed of \ such kind of animal-**

- (a) issue a certificate of registration of an animal which has been bred in the Province;
- (b) issue a certificate of recording of an animal which has been bred in the Province; or
- (c) issue a certificate with reference to the particulars of the pedigree of an animal which has been bred in the Province;

Unless he or she is registered as a registering authority in terms of section 8(3).

(3) (a) A certificate referred to in section 2(a) or (b) shall only be issued if the registering authority concerned has registered on behalf of the breeder of the animal concerned a prefix or suffix to indicate animals bred by him or her, with the organization which is contracted by the department to operate the integrated and genetic information system.

(b) Such suffix or prefix shall be registered under the conditions and on the payment of the fees determined by the organization referred to in paragraph (a), and the registration of the prefix or suffix shall be maintained on the periodic payment of the fees and under the conditions which have been determined, and such organization shall issue a certificate in respect each such registration.

## LD 2

(c) A prefix or suffix which has been registered on behalf in favour of a person shall not be used by another person as a prefix or suffix or in any other manner to indicate an animal that has been bred by such other person.

(4) A power which in terms of subsection (2) only rests with the registering authority, shall not be construed that it-

- (a) prohibits the breeder of an animal which is not registered or recorded by registering authority to supply particulars of the pedigree of such animal in writing or otherwise; or
- (b) prohibits any person to supply particulars of the pedigree of an animal expressed on the certificate of registration or recording thereof in writing or otherwise.

***Prohibition of false or misleading advertisements***

16. (1) No person shall publish or distribute a false or misleading advertisement in respect of-

- (a) the pedigree or performance particulars of an animal;
- (b) the sale of animal or genetic material; or
- (c) the presentation of semen collection, embryo collection, artificial insemination, or transferring of ova or embryos into recipient female animals, or cause or permit such advertisement to be published or distributed.

(2) If a person, other than the person who advertises the pedigree or performance particulars of an animal, sells an animal or genetic material or performs semen collection, embryo collection, artificial insemination or transferring of a or embryos into recipient female animal or animals to which the false or misleading advertisement relates, is charged with a contravention of subsection (1), it shall be sufficient defence if he or she proves that he or she did know or could not reasonably be expected to have known that the advertisement was false or misleading in any respect, unless it is proved that the accused failed on demand by the registrar to furnish the name and address of the person at whose instance the advertisement was published.

*Confidentiality*

17. Subject to the provisions of the Promotion of Access to Information Act, Act No.2 of 2000, no person shall disclose to any person in-information acquired by him or her in the performance of his or her functions in terms of this Act, or the constitution of an animal breeder's society, or the constitution of a registering authority and which relates to the business or the affairs of another person, without the express written approval of such person, except when required by any court of law or under any legislation.

*Inspection*

18. (1) The registrar or an officer referred to in section 3(2), may perform the functions referred to in subsection (3).

(2) The registrar shall furnish an officer referred to in section 3(2), with a certificate that he or she is authorized to act as an inspector in terms of this Act.

(3) The inspector, on the authority of a warrant issued in terms of subsection (4) shall-

(a) at any reasonable time, enter premises with regard to which he or she has reason to believe that an offence is being or has been committed in terms of this Act, in order to investigate and obtain evidence;

(b) examine or test or cause to be examined or tested, any animal or genetic material to which this Act applies and which is found in or on such premises;

(c) examine or test or cause to be tested any equipment, material, substance or other article which is used or is suspected to be used at or in connection with the collection, evaluation, processing, packing or storing of genetic material or artificial insemination or transferring of ova into recipient female animals;

(d) inspect the operations or processes in connection with any action referred to in paragraph (c), and demand from the owner or custodian of the animal, intact animal, genetic material, equipment, material, substance or other article, or who supervises such operations or processes, any information or explanation regarding the operation, process, animal, intact animal, genetic material, material, substance or other article: Provided



that such information or explanation shall only be admissible in a court of law against such owner or person on a charge referred to in section 22;

- (e) take or cause to be taken, such samples of blood of the animal or genetic material, substance or other article as he or she may deem necessary, and for such purpose open any container in which such genetic material, material, substance or other article
- (f) is contained and require reasonable assistance from the owner or the person who has such animal, genetic material, material substance or other article in his or her custody;
- (g) examine and make copies of or take extracts from any book or document in respect of which he or she on reasonable grounds suspects that it relates to such animal, genetic material, material, substance or other article, irrespective of whether or not it is kept
- (h) on or at the place, premises or conveyance or at any other place, and demand from the owner of such book or document or from the person who has possession thereof an explanation regarding any record or entry therein: Provided that such explanation shall only be admissible as evidence in a court of law against.
- (i) such owner or person on a charge referred to in section 22; and
- (j) seize any number of animals, intact animals, or the whole, or any part of the genetic material, material, substance or other article, or of my book or document.

(4) (a) A warrant referred to in subsection (3) shall be issued by a Judge of the High Court or by a magistrate who has jurisdiction over the area in which the premises are situated, and shall only be issued if it appears from information under oath that there are reasonable grounds to believe that an animal, intact animal, genetic material, substance or other article referred to in subsection (3)(b) or (c) is in or on such premises and shall specify which acts mentioned in that subsection may be performed thereunder by the person to whom it is issued.

(b) A warrant issued in terms of this section shall be executed by day and shall be conducted with strict decency and order.

(5) Any inspector executing a warrant in terms of this section shall immediately before commencing with executions-

- (a) identify him or herself to the person in control of the premises, if such person is present and hand to such person a copy of the warrant or, if
- (b) such person is not present affix a copy thereof to a prominent place on the premises.
- (c) at the request of such a person show the certificate referred in subsection (2) to such person.

(6) (a) A sample taken in terms subsection (3)(e) shall as soon as possible after it has been taken, be submitted to a person competent to test, examine or analyse the sample;

(b) An inspector shall issue a receipt of sampling to the person who has custody of such animal, intact animal or genetic material, at the request of such person.

(7) (a) An inspector may remove any quantity of animals, intact animals, genetic material, material, substance or other article, or any book or document thus seized, from the place, premises or conveyance where he or she seized it or leave it thereon and, if he or she deems it necessary attach such identification mark or seal as he or she may deem necessary on such animal, genetic material, substance or to the article or container thereof, or on such book or document;

(b) the registrar may-

(i) grant authority that an animal, intact animal, genetic material, substance or other article seized in terms of subsection(3)(g), may within the period and in the manner specified in such authorization, be treated or dealt with;

(ii) if he or she is satisfied that the cause for the seizure has been removed by such treatment or action, return that animal, genetic material substance or other article to the person from who it was seized;

(c) if no criminal proceedings are instituted in connection with that animal, intact animal, genetic material substance or other article seized in terms of subsection (3)(g), or if it appears that such animal, intact animal genetic material, material, substance or other article is not required at the trial for the purposes of evidence or an order of court, that animal, genetic material, material substance, or other article shall be returned tied to the person from whom it was seized.

## LD 2

*Complaints against animal breeders societies and registering authorities*

19. (1) (a) If a complaint is lodged with the MEC that an animal breeders society or a registering authority has not properly attained or is unlikely to properly attain the objectives for which a registration certificate has been issued, he or she may refer such complaint for an enquiry to a committee consisting of three members, who in the opinion of the MEC, have expert knowledge of the subject of the complaint;

(b) The MEC shall appoint the members of such committee and he or she designate one member as a chairperson.

(2) The MEC shall, at least once a month prior to commencement of such an enquiry notify such animal breeders society or registering authority in writing of the act or omission which is to be the subject of the enquiry, and of the date on which the enquiry shall commence, and such animal breeders society or registering authority shall be entitled to legal representation.

(3) The provisions of section 15(4) shall *mutatis mutandis* apply with reference to an enquiry referred to in subsection (1).

(4) If the committee referred to in subsection (1) finds that the animal breeders society or registering authority concerned has not properly attained or is unlikely to attain the objectives specified in subsection (1), the MEC may cancel the registration of an animal breeders society or registering authority or suspend it for a period determined by him or her.

(5) Whereupon the powers of the animal breeders society or registering authority shall for the period of suspension or, in the case of the cancellation of registration, respectively vest temporarily in another registering authority determined by the MEC, as the case may be.

(6) When animal breeders society or registering authority voluntarily decides to dissolve in accordance with its constitution or when registration of animal breeders society or registering authority is cancelled in terms of subsection (4), such animal breeders society or registering authority shall be dissolved, and from the date of such cancellation all the remaining assets and liabilities, rights and obligations of such animal breeders society or registering authority shall devolve as may be determined in the constitution of the said animal breeders society.

(7) (a) The registrar shall give notice in the gazette of the cancellation in terms of subsection (4) of the registration of an animal breeders society or registering authority;

(b) The registrar shall delete the name of such animal breeders society or registering authority from the register;

LD 2

(c) The registrar shall notify the registrar of companies of such cancellation whereupon the registrar of companies shall delete the name of such animal breeders society or registering authority from the Register of Companies;

(8) Any member of the committee referred to in subsection (1) who is not in full-time employment of the state, may be paid such allowances as the MEC may in concurrence with the MEC for finance determine.

### *Appeals*

20. (1) A person who is aggrieved by any decision or action taken by the registration in terms of this Act, may, within the period and in the manner prescribed and upon payment of the prescribed fee, appeal to the MEC against that decision or action.

(2) The MEC shall refer the appeal for investigation and decision to a board, the member which shall be appointed by him or her and which shall consist of-

- (a) one person designated as chairperson on account of his or her knowledge of law; and
- (b) two persons whom in the opinion of the MEC have expert knowledge of the subject of the appeal.

(3) An appeal shall be heard on the date and at the place and time fixed by the chairperson of the board, who shall notify the appellant and the registrar, as the case may be, in writing thereof.

(4) (a) The chairperson of the board may, for the purposes of the hearing of the appeal-

- (i) summon any person who in his opinion, may give material information concerning the subject of the hearing or whom he or she believes has in his or her possession or custody or;
- (ii) has under his or her control any document which has any bearing upon the subject of the hearing, to appear before him at a time and place specified in the summons, to be interrogated or to produce that document, and the chairperson may retain for examination any document so produced;

## LD 2

- (b) Administer under oath or accept an affirmation from any person called as a witness at the hearing; and
- (c) Call any person present at the hearing as a witness and interrogate him or her and require him or her to produce any document in his possession or custody or under his control.
- (5) The procedure at the hearing of the appeal shall be as determined by the chairperson.
- (6) The appellant, if he appears before the board at the hearing of the appeal, and the registrar may be represented.
- (7) If a person appointed under subsection (2)-
- (a) dies during the investigation of the appeal or so soon before the commencement of;
  - (b) the investigation that the vacancy cannot be filled in time;
  - (c) is unable to act and another person cannot be appointed in his stead in time; or
  - (d) is, after the investigation has commenced, unable to continue therewith;
- the parties to the appeal 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 chairperson of the board, the MEC shall designate one of the remaining members to act as chairperson.
- (8) If the parties do not agree in terms of subsection (7), the investigation shall be adjourned in order that the MEC may appoint a member in accordance with the requirements of subsection (2) in the place of the member who has died or has become incapacitated.
- (9) Where an appointment has been made under paragraph (a), the investigation shall, if the parties so agree, be continued from the stage at which the investigation was interrupted by the death or incapacity of a member, or shall, if the parties do not so agree, be commenced *de novo*.
- (10) The board may after investigation of the appeal confirm, set aside or vary the relevant decision or action of the registrar and order the registrar to execute the decision of the board in connection therewith.



## LD 2

(11) A decision of the board shall be in writing, and a copy thereof shall be furnished to the registrar, if he or she is a party to the appeal, and the appellant.

(12) If the board sets aside any decision or action, the prescribed fee paid by the applicant in respect of the appeal be refunded to him or her.

(13) If the board varies such decision or action it may direct that the whole or part of such fee as it may determine, be refunded to the applicant.

(14) A member of the board and any person summoned under subsection (4) (a) who are not in the full-time service of the State, may be paid such allowances as the MEC may with the concurrence of the MEC of finance determine.

***Province not exempt from fees***

21. The Province shall not be exempted from any fees payable in terms of this Act.

***Offences and penalties***

22. (1) Any person who-

- (a) makes or causes to be made a false entry in the register, or who causes a copy which falsely purports to be a copy of an entry in the register, or who produces or tenders or causes to be produced or tendered such entry or copy as evidence;
- (b) refuses or fails to furnish information or give an explanation or answer to the best of his or her ability to question a lawfully demanded from him or her by a person referred to in section 20(4) in the exercising of his or her power or performing his or her duties in terms of this Act, or furnishes information, an explanation or answer to such person which is false or misleading, knowing that is false or misleading;
- (c) having been duly summoned to appear at proceedings in terms of section 20(4), fails without lawful cause so to appear;



## LD 2

- (d) having appeared as witness at proceedings in terms of section 20 (4)(d), refuses without lawful cause to be sworn or make an affirmation or to produce any document
- (e) or answer any question which he or she may lawfully be required to answer;
- (f) collects, evaluates, processes, packs, or stores embryos or ova on behalf of another person in contravention of section 13(1);
- (g) fails to provide the owner of an animal with the prescribed certificate in contravention of section 13(2);
- (h) sells or imports genetic material in contravention of section 14(1);
- (i) advertises in contravention of section of section 14(2);
- (j) makes any false or misleading statement-
  - (i) in connection with an application in terms of this Act; or
  - (ii) at the sale of any animal or genetic material or at the rendering of services relating to the artificial insemination or the transferring of ova or embryos to recipient female animals or the collection, evaluation, processing , packing or labeling of genetic material;
- (k) manages a centre which does not comply with the requirements o section 7(2) or uses premises that are not registered as a centre under this Act, for activities in connection with the collection, evaluation, processing, packing, labeling, transport and sale of genetic material;
- (l) tampers with any sample taken or any animal, intact animal, equipment, book, document or other article seized under this Act;
- (m) acts as an animal breeders' society in contravention of the provisions of section 15 (1);

## LD 2

- (n) other than a registering authority, except in the circumstances referred to section 15(4), furnishes in writing particulars of the registration or recording of an animal bred in the Province, or certifies, publishes, or otherwise makes known the pedigrees of animals;
- (o) uses prefix or suffix not registered in terms of section 15(3) as a prefix or suffix in any other manner to designate animals bred by him or her, or who uses a prefix or suffix registered in terms of that section in favour of any other person;
- (p) in furnishing particulars in the circumstances referred to in section 15(4), makes a false statement relating to the pedigree of an animal;
- (q) contravenes any provision of section 18(3);
- (r) contravenes the provisions of section 19;
- (s) shall be guilty of an offence and on conviction be liable-
  - (i) subsection (1) (c), (d), (f), or (h) to a fine not exceeding R 4000 or imprisonment for a period not exceeding a year or to both such fine and imprisonment;
  - (ii) in the case of-
    - (aa) a first conviction of an offence referred to in paragraph (a), (b), (p), (q), or (r) to a fine not exceeding R 4 000 or imprisonment for a period not exceeding one year or to both such fine and imprisonment;
    - (bb) a second or subsequent conviction of an offence referred to in subparagraph (aa), whether it is the same offence or any other offence referred to in subparagraph (aa), to a fine not exceeding R 8 000 or to imprisonment for a period not exceeding two years or to both such fine and imprisonment;
  - (iii) in the case of-

LD 2

- (aa) a first conviction of an offence referred to in paragraph (e), (g), (i),(j),(k),(l),(m),(n) or (o), to a fine not exceeding R 8 000, or imprisonment not exceeding two years or to both such fine and imprisonment;
- (bb) a second or subsequent conviction of an offence referred to in subparagraph (aa), whether it is the same offence or any other offence referred to in subparagraph (aa), to a fine not exceeding R 16 000 or to imprisonment for a period not exceeding four years or to both such fine and imprisonment.

(2) The court convicting any person of an offence under this Act may upon the application of the prosecutor declare any animal, intact animal or genetic material in respect of which the offence was committed and all other animals, intact animals or genetic material of a similar nature of which such person is the owner or which are in his or her possession, to be forfeited to the State.

(3) Any thing forfeited under subsection (2) shall be disposed in such a manner as the Head of Department may direct.

(4) Costs incurred in respect of any action under subsection (3), may be recovered from the person convicted.

(5) A magistrates' court shall have jurisdiction to impose any penalty provided for by this section.

### *Presumptions of evidence*

23. (1) In any prosecution under this Act-

- (a) any genetic material in or upon a place, premises, vessel at the time a sample thereof is taken in terms of section 21 (3)(e) shall, unless the contrary is proved, be presumed to be the same condition or to possess the same properties as such sample;
- (b) any statement or entry contained in any book or document kept by any person, or the manager, agent or employee of such person, or found upon any premises occupied by, or any vehicle or vessel in the business of any person, shall be admissible in evidence against such person as an admission of the facts set forth in that statement or entry, unless it is

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

*Delegation of powers and assignment of duties*

24. (1) The MEC may either generally or in relation to any particular matter delegate or assign to any officer in the department any power conferred or duty imposed upon him or her under this Act.

(2) An animal breeders society or registering authority may either generally or in relation to any particular matter delegate or assign in writing to its executive body elected in terms of its constitution, or to officers of such animal breeders society or registering authority, any power conferred or duty imposed upon it under this Act.

*Regulations*

25. The MEC may make regulations prescribing, in general, any matter which the MEC deem expedient or necessary for the achievement of the objects of this Act.

*Short title and commencement.*

26. This Act is called the Livestock Improvement Act, 2000 (Eastern Cape) and shall come into effect upon the date to be fixed by Premier by Proclamation in the *Gazette*.

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