

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

**NORTH-WEST
NOORD WES**

**PROVINCIAL GAZETTE
PROVINSIALEKOERANT**

Price R1,20

18/11/1994

Prys R1,20

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No.

NOTICE NO. 74

It is hereby notified that the Premier has
assented to the following Act which is
hereby published for general information.

Act No. 17 of 1994 : North West Agricultural
Marketing Amendment Act, 1994

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

Wet No. 17 van 1994 : Noord-Wes Wysigingswet op
Landboumarketing, 1994

ACT

To amend the Agricultural Marketing Act, 1989; in section 1 to insert the definition of "responsible Member" and to delete the definition of "Minister"; in section 4 so as to change the composition of the Board and to dissolve the existing Board; in section 5 to further provide for the disqualification of a member of the Board; in section 18 to further provide for the removal of the General Manager from office; in section 20 in regard to the secondment of officers in the Public Service to the Board in terms of the Public Service Act, 1994; in section 49 so as to provide that the responsible Member only guarantees a loan subject to the provisions of section 30 of the North West Provincial Exchequer Act, 1994 read with section 157(3) of the Constitution of the Republic of South Africa, 1993; to generally substitute some terms so as to bring them in line with the terms used in the Constitution of the Republic of South Africa, 1993; and to provide for incidental matters.

(English text signed by the Premier on 15/11/1994).

BE IT ENACTED by the Premier and the Legislature of the North West Province as follows:-

Amendment of section 1 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

1. Section 1 of the Agricultural Marketing Act, 1989 (hereinafter referred to as the Principal Act) is hereby amended -

(a) by the insertion immediately after the definition of "class"

of the following definition:

" 'Constitution' means the Republic of South Africa Constitution Act, 1993;"

- (b) by the substitution for the definition of "dealing in the course of trade" of the following definition:

" 'dealing in the course of trade', in relation to any controlled product, shall, except to the extent excluded in the Scheme (if any) which governs such controlled product, include -

- (a) the purchase and every act performed in the processing or manufacture of the controlled product by or on behalf of any person, if the product so purchased, processed or manufactured or any quantity of such product is, for any consideration whatsoever, disposed of or destined to be disposed of by or on behalf of such person, whether in the state in which it was purchased or in any state or form into which it was processed or converted by manufacture, or if such product or any quantity thereof is used or destined for use in the processing or manufacture of any product or commodity so disposed of or destined to be so disposed of;

- (b) the purchase and every act performed in the preparation, processing or manufacture of the controlled product by any person, if the product so purchased, prepared, processed or manufactured or any quantity of such product is, for any consideration whatsoever, supplied or destined to be supplied,

whether separately or as part of any meal or dish, to any other person who is neither a member of the household of such firstmentioned person nor a bona fide non-paying guest of such firstmentioned person or a member of his or her household; and

- (c) for the purposes of section 41, the treatment, processing, sale, conveyance or storage of such product on behalf of the owner thereof;"
- (c) by the deletion of the definition of "Minister";
- (d) by the substitution for the definition of "producer" of the following definition:

" 'producer', in relation to -

- (a) any product, whether controlled or uncontrolled, includes any person concerned with the production, processing or manufacture of such product;
- (b) any quantity of a controlled product which has been acquired from any person either as a consideration for the right of such person to use land on which he or she has produced such product, or as remuneration for services rendered to any person producing such product; includes the person who so acquired such quantity of that controlled product;
- (c) any quantity of a controlled product which is imported or introduced into the Province, includes the person who so imports or introduces such quantity of that

controlled product;

(d) in relation to any controlled product, any person who, in accordance with the provisions of section 27, has been or is from time to time stipulated or identified as a producer of such controlled product;"

(e) by the insertion immediately after the definition of "product" of the following definitions -

" 'Province' means the Province of North West established by section 124 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

'responsible Member' means the Member of the Executive Council responsible for Agriculture and Environmental Affairs;"

(f) by the substitution for the definition of "the Board" of the following definition-

" 'the Board' means the North West Agricultural Marketing Board contemplated by section 3;"

Substitution of section 4 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

2.(1) The following section is hereby substituted for section 4 of the Principal Act -

"Composition of 4.(1) Notwithstanding anything to the contrary

Board, and
appointment and
tenure of office
of members.

contained in this Act, the Board shall consist of
the following members, namely -

- (a) one officer in the Public Service
designated from time to time by the
responsible Member;
- (b) one officer in the employment of the
Board designated by the responsible
Member;
- (c) two members being producers nominated
by the North West Farmers' Union and
approved by the responsible Member;
- (d) one member appointed by the Council for
Consumer Affairs and approved by the
responsible Member who shall represent
the interests of consumers in the
Province;
- (e) two members appointed by the
responsible Member who shall represent
the interests of the agricultural
industry in the Province; and
- (f) not more than three additional members
appointed by the responsible Member who
are by virtue of their qualifications,
expertise and experience suited to
serve on the Board.

(2) The members referred to in paragraphs (c),

(d), (e) and (f) of subsection (1) - hereinafter referred to as appointed members - shall be appointed by the responsible Member on such terms and conditions and for such period (not exceeding three years), and be paid such remuneration (if any), as the responsible Member may determine either generally, in respect of all such members, or specially, in respect of each individual member, which he or she shall cause to be specified in the letter of appointment to be issued in respect of each of such members.

(3) The responsible Member shall, from the number of the appointed members, designate one as chairperson and another as vice-chairperson of the Board for such period and on such terms and conditions as he or she may determine.

(4) Upon the expiration of the term of office of an appointed member, he or she shall be eligible for re-appointment.

(5) The appointed members who are not in the full-time service of the State shall be entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them in connection with the performance of their functions and duties as such members, and may for that purpose be paid such allowances as the Board may from time to time determine in consultation with the responsible Member."

(2) Upon the appointment by the responsible Member of a new Board in terms of section 4(2) of the Principal Act (which he or she is empowered to do) the Board existing at the time of such appointment shall notwithstanding any provision in the Principal Act to the contrary be dissolved.

Substitution of section 5 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

3. The following section is hereby substituted for section 5 of the Principal Act:

"Disqualification
for membership
of Board.

5. Notwithstanding the provisions of section 4, a person shall be disqualified from being appointed or remaining a member of the Board -

- (a) if he or she is subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or authority of such a country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (b) if he or she is subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective;
- (c) if he or she has been convicted of any offence whatsoever other than an offence

which is regarded as a political offence, in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than six months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as such a member;

(d) he or she -

(i) is nominated as a candidate for election as a member of the Provincial Legislature; or

(ii) is nominated as a senator; or

(iii) is a member of the Executive Council; or

(iv) is a Minister or Deputy Minister of State.".

Substitution of section 6 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

4. The following section is hereby substituted for section 6 of the Principal Act:

"Removal and
resignation

6.(1) Notwithstanding the provisions of section 4(2), the term of office of any appointed member

of members
from office.

may before the expiration thereof, be terminated
by the responsible Member (whereupon such member
shall be removed from office) -

- (a) on account of his or her misconduct;
- (b) on account of unfitness for the duties
of his or her office;
- (c) on the ground of a permanent infirmity
of mind or body which renders him or
her incapable of discharging the duties
of his or her office or discharging
them properly;
- (d) if he or she is or has become
disqualified in terms of section 5;
- (e) when he or she ceases to hold any
qualification which, in terms of
section 4(1)(c) or (e), is a
prerequisite to his or her appointment
as a member;
- (f) if in the opinion of the responsible
Member, there are good and sufficient
reasons for doing so.

(2) An appointed member may at any time resign
from his or her office upon two months' written
notice tendered to the responsible Member."

Substitution of section 18 of Act 24 of 1982 as of force in the North West
Province on 27 April 1994.

5. The following section is hereby substituted for section 18 of the
Principal Act:

"Removal of
General
Manager from
office.

18.(1) The responsible Member may remove the
General Manager from office -

- (a) on account of his or her misconduct;
- (b) on account of unfitness for the duties
of his or her office;
- (c) on the ground of a permanent infirmity
of mind or body which renders him or
her incapable of discharging the duties
of his or her office or discharging
them properly;
- (d) on the ground that he or she has become
subject to a disqualification referred
to in section 17(1)(b);
- (e) if in the opinion of the responsible
Member, there are good and sufficient
reasons for doing so.

(2) The responsible member may, whenever there
is being undertaken any enquiry or investigation
for the purpose of establishing whether or not
there exist sufficient cause for the removal of the
General Manager from office in terms of subsection
(1), suspend the General Manager from his or her
office pending the outcome of such an enquiry or
investigation.

(3) Whenever the General Manager is suspended in
accordance with the provisions of subsection (2),
he or she shall in respect of the period of his or

her suspension not be entitled to any emoluments under this Act: Provided that -

- (a) if the period of his or her suspension endures for longer than two months, the Board shall, until such time as such suspension is terminated and the General Manager is either removed from office under subsection (1) or restored to his or her office, pay to the General Manager an amount equal to such portion of his or her basic salary as would have accrued to him or her in respect of the period in excess of such two-month period; and
- (b) if he or she is restored to his or her office, he or she shall, in respect of the period of his or her suspension, and in addition to any amount paid or payable to him or her under paragraph (a) of this proviso, be paid all such emoluments as would have been payable to him or her under this Act had he or she not been so suspended."

Amendment of section 20 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

6. Section 20 of the Principal Act is hereby amended in subsection

(4) -

- (a) by the substitution for paragraph (a) of the following paragraph:

"(a) The provisions of this section shall not be construed so as to preclude the Board from procuring, by way of agreement with the government of the Province, the services of any officer of the Public Service on secondment to the Board in terms of the Public Service Act, 1994 (Act 103 of 1994).";

- (b) in paragraph (b), by the substitution for the word "his" of the words "his or her".

Amendment of section 43 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

7. Section 43 of the Principal Act is hereby amended -

- (a) in subsection (2) -

- (i) by the substitution for the proviso in paragraph (b) of the following proviso:

"Provided that such a deficit shall not be made good from the General Reserve Fund in so far as such deficit is, in the circumstances determined by the responsible Member, defrayed by the Government of the Province from moneys specially appropriated by the Provincial Legislature for that purpose;";

- (ii) by the substitution for the word "Minister" in paragraph (d) of the expression "responsible Member";

- (b) in subsection (3), by the substitution for the word "Minister" of the expression "responsible Member".

Amendment of section 46 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

- 8. Section 46 of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board shall open and maintain with any commercial or other bank registered in the Republic a current account in which shall be deposited, subject to the provisions of section 47, all such moneys as are, in terms of this Act, from time to time vested in or entrusted to the administration and control of, and are by section 50 required to be accounted for, by the Board.".

Amendment of section 49 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

- 9. Section 49 of the Principal Act is hereby amended -

- (a) in subsection (1), by the substitution for the word "Minister" wherever it appears in that subsection of the expression "responsible Member";

- (b) by the substitution for subsection (2) of the following subsection:

"(2) The Member of the Executive Council responsible for Finance and Provincial Expenditure may, subject to the provisions of section 30 of the North West Provincial Exchequer Act, 1994 read with section 157(3) of the Constitution of the Republic of South Africa, 1993, on behalf of the Government of the Province, guarantee the repayment of

any loan raised by the Board in accordance with the provisions of subsection (1), as well as the interests and any other charges and costs payable in connection with such loan.";

- (c) in subsections (3) and (4), by the substitution for the terms "Republic", "Minister" and "Minister of Finance" wherever they occur in the subsections of the terms "Province", "responsible Member" and "Member of the Executive Council responsible for Finance and Provincial Expenditure", respectively.

Amendment of section 51 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

10. Section 51 of the Principal Act is hereby amended -

- (a) in subsection 2, by the substitution for the words "him" and "his" wherever they occur in that subsection of the words "him or her" and "his or her", respectively;

- (b) by the substitution for subsection (4) of the following subsection:

"(4) The Board shall, not later than three months after receipt of the Auditor's report referred to in subsection (2), submit a copy of the audited financial statements of the Board, together with such report and the reports referred to in subsection (3), to the responsible Member who shall, within fourteen days after receipts thereof, lay it on the table in the Provincial Legislature, if the Provincial Legislature is then in session, or, if the Provincial Legislature is not then

in session, within fourteen days after the commencement of its next ensuing session."

Amendment of section 62 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

11. Section 62 of the Principal Act is hereby amended by the deletion of paragraph (b).

Insertion of section 68A of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

12. The following section is hereby inserted as section 68A of the Principal Act:

"Application of Act to the North West territory.	68A. This law and any amendment thereof shall apply in the whole territory of the North West Province as defined in Part 1 of Schedule 1 to the Constitution of the Republic of South Africa, 1993."
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Substitution of section 70 of Act 29 of 1989 as of force in the North West Province on 27 April 1994.

13. The following section is hereby substituted for section 70 of the Principal Act:

"Short title.	70. This Act shall be called the North West Agricultural Marketing Act, 1989."
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Amendment of Act 29 of 1989 as of force in the North West Province on 27 April 1994 by generally substituting the terms "Republic", "Minister",

"Minister of Finance", "Gazette", "Bophuthatswana", "chairman" "vice-chairman", "chairmanship", "Parliament", "National", "national", "he", "him", "his" and "himself" for the terms "Province", "responsible Member", "Member of the Executive Council responsible for Finance and Provincial Expenditure", "Provincial Gazette", "North West", chairperson", "vice-chairperson", "chairpersonship", "Provincial Legislature",

"Provincial", "provincial", "he or she", "him or her", "his or her" and "himself or herself", respectively.

14. The Principal Act is amended, generally, by the substitution for the terms "Republic", "Minister", "Minister of Finance", "Gazette", "Bophuthatswana", "chairman", "vice-chairman", "chairmanship", "Parliament", "National", "national", "he", "him", "his" and "himself", wherever they remain in the Principal Act after the amendments effected by the preceding sections of this Act of the terms "Province", "responsible Member", "Member of the Executive Council responsible for Finance and Provincial Expenditure", "Provincial Gazette", "North West", chairperson", "vice-chairperson", "chairpersonship", "Provincial Legislature", "Provincial", "provincial", "he or she", "him or her", "his or her" and "himself or herself", respectively.

Short title.

15. This Act shall be called the North West Agricultural Marketing Amendment Act, 1994.

