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REPUBLIEK VAN SUID-AFRIKA

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THE PRESIDENCY

No. 807 10 June 2002

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 15 of 2002: Land and Agricultural Development Bank Act, 2002.

DIE PRESIDENSIE

No. 807 10 Junie 2002

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

No. 15 van 2002: Wet op die Land- en Landbou-ontwikkelingsbank, 2002.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 8 June 2002.)*

ACT

To provide for a juristic person known as the Land and Agricultural Development Bank; to provide for the mandate of the Bank; to provide for governance of the Bank; to regulate the management and control of the Bank; to provide for the funding of the Bank; to provide for the business of the Bank; to provide for risk management of the Bank; and to provide for related matters.

PREAMBLE

RECOGNISING THAT racially discriminatory practices and laws of the past and apartheid deprived historically disadvantaged people of land resulting in their exclusion from the agricultural sector and racially skewed patterns of ownership of land in South Africa;

IN ORDER TO effect a change in the patterns of land ownership by promoting greater participation in the agricultural sector by historically disadvantaged persons and an increase in ownership of agricultural land by such persons through the provision of appropriate financial services;

IN ORDER TO promote sustainable agrarian reform and development of agricultural resources;

IN ORDER TO strengthen existing agricultural financial services; and

IN ORDER TO promote a competitive and profitable agricultural sector,

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

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*(Engelse teks deur die President geteken.)
(Goedgekeur op 8 Junie 2002.)*

WET

Om vir 'n regs persoon bekend as die Land- en Landbou-ontwikkelingsbank voorsiening te maak; om vir die mandaat van die Bank voorsiening te maak; om vir die bestuur van die Bank voorsiening te maak; om die bestuur en beheer van die Bank te reël; om vir die finansiering van die Bank voorsiening te maak; om vir die besigheid van die Bank voorsiening te maak; om vir risikobestuur van die Bank voorsiening te maak; en om vir verwante aangeleenthede voorsiening te maak.

AANHEF

MET ERKENNING DAT gebruike en wette van die verlede wat op grond van ras gediskrimineer het en apartheid histories benadeelde mense van grond ontnem het, wat hulle uitsluiting van die landbousektor en patrone van grondeienaarskap wat met betrekking tot ras skeefgetrek is, in Suid-Afrika tot gevolg gehad het;

TEN EINDE 'n verandering in die patroon van grondeienaarskap teweeg te bring deur groter deelname in die landbousektor deur histories benadeelde persone en 'n toename in eienaarskap van landbougrond deur sodanige persone deur die verskaffing van toepaslike finansiële dienste te bevorder;

TEN EINDE volhoubare landbouhervorming en ontwikkeling van landbouhulpbronne te bevorder;

TEN EINDE bestaande finansiële dienste vir die landbou te versterk; en

TEN EINDE 'n mededingende en winsgewende landbousektor te bevorder,

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PART I**FUNDAMENTAL PRINCIPLES AND INTERPRETATION****Definitions**

1. In this Act, unless the context indicates otherwise—
- “Bank” means the Land and Agricultural Development Bank of South Africa trading as the Land Bank; 5
 - “Board” means the board of directors of the Bank as constituted in terms of section 8; 10
 - “chairperson” means the chairperson of the Board designated in terms of section 8(1);
 - “Chief Executive Officer” means the person appointed in terms of section 17(1);
 - “Department” means the Department in the national sphere of government administering this Act;
 - “financial service” means a financial service normally rendered by a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), save for accepting deposits other than as provided for in this Act; 15
 - “government” means the government of the Republic of South Africa;
 - “Minister” means the Minister responsible for agriculture;
 - “prescribed” means prescribed by regulation;
 - “this Act” includes the regulations; 20
 - “valuer” means a valuer appointed under section 50(2), and includes a Board member, an adviser or employee of the Bank authorised in writing to value any property offered as security for an advance under this Act.

Continued existence and legal personality of Bank

2. (1) The Bank established under section 3 of the Land Bank Act, 1912 (Act No. 18 of 1912), and which continued to exist in terms of section 3 of the Land Bank Act, 1944 (Act No. 13 of 1944), continues to exist under the name of the Land and Agricultural Development Bank of South Africa despite the repeal of those Acts. 25
- (2) The Bank is a legal person and is, in its corporate capacity, capable of suing and being sued and is, subject to the provisions of this Act, capable of purchasing or otherwise acquiring, holding or alienating property, movable or immovable, and of performing such acts as legal persons may generally by law perform. 30
- (3) The Bank must be administered and managed as provided for in this Act.
- (4) The Bank is exempt from the provisions of any other law specially governing banks or other financial institutions unless such other law expressly provides for its application to the Bank. 35
- (5) The Minister, the Board and employees of the Bank must, where it is so provided and unless exempted by the Minister of Finance, comply with the applicable provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in the management and conduct of the business and operations of the Bank. 40
- (6) The State is the sole shareholder of the Bank.

Objects of Bank

3. (1) The objects of the Bank are the promotion, facilitation and support of—
- (a) equitable ownership of agricultural land, in particular the increase of ownership of agricultural land by historically disadvantaged persons; 45
 - (b) agrarian reform, land redistribution or development programmes aimed at historically disadvantaged persons or groups of such persons for the development of farming enterprises and agricultural purposes;
 - (c) land access for agricultural purposes;
 - (d) agricultural entrepreneurship; 50
 - (e) the removal of the legacy of past racial and gender discrimination in the agricultural sector;
 - (f) the enhancement of productivity, profitability, investment and innovation in the agricultural and rural financial systems;

DEEL I**FUNDAMENTELE BEGINSELS EN UITLEG****Woordomskrywing**

1. In hierdie Wet, tensy die teendeel uit die samehang blyk, beteken—
- “Bank” die Land- en Landbou-ontwikkelingsbank van Suid-Afrika wat sake doen 5
 - as die Landbank;
 - “Departement” die Departement in die nasionale sfeer van regering wat hierdie Wet administreer;
 - “Direksie” die raad van direkteure van die Bank soos saamgestel ingevolge artikel 8; 10
 - “finansiële diens” ’n finansiële diens gewoonlik gelewer deur ’n finansiële instelling soos omskryf in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), behalwe vir die aanvaarding van deposito’s anders as waarvoor in hierdie Wet voorsiening gemaak word;
 - “hierdie Wet” ook die regulasies; 15
 - “hoof- uitvoerende beampte” die persoon ingevolge artikel 17(1) aangestel;
 - “Minister” die Minister verantwoordelik vir landbou;
 - “regering” die regering van die Republiek van Suid-Afrika;
 - “voorgeskryf” voorgeskryf by regulasie;
 - “voorsitter” die voorsitter van die Direksie aangewys ingevolge artikel 8(1); 20
 - “waardeerder” ’n waardeerder aangestel kragtens artikel 47(2), en ook ’n Direksieliid, ’n adviseur of werknemer van die Bank wat skriftelik gemagtig is om enige eiendom wat as sekuriteit vir ’n voorskot kragtens hierdie Wet aangebied word, te waardeer.

Voortbestaan en regs persoonlikheid van Bank 25

2. (1) Die bank opgerig kragtens artikel 3 van die Landbankwet, 1912 (Wet No. 18 van 1912) en wat voortbestaan het ingevolge artikel 3 van die Landbankwet, 1944 (Wet No. 13 van 1944), bly voortbestaan onder die naam Land- en Landbou-ontwikkelingsbank van Suid-Afrika ondanks die herroeping van daardie Wette.
- (2) Die Bank is ’n regspersoon en is in sy korporatiewe hoedanigheid in staat om te dagvaar en gedagvaar te word en is, behoudens die bepalings van die Wet in staat om roerende of onroerende eiendom aan te koop, andersins te verkry, te hou of te vervreem, en om die handelinge te verrig wat regspersone in die algemeen regtens kan verrig.
- (3) Die Bank moet soos in hierdie Wet bepaal geadministreer en bestuur word.
- (4) Die Bank word vrygestel van die bepalings van enige ander wet wat spesifiek 35
- banke of ander finansiële instellings beheer tensy sodanige ander wet uitdruklik vir die toepassing daarvan op die Bank voorsiening maak.
- (5) Die Minister, die Direksie en Bankwerknemers moet, waar dit aldus bepaal word en tensy van nakoming deur die Minister van Finansies vrygestel, die toepaslike bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), in 40
- die bestuur en bedryf van die besigheid en werksaamhede van die Bank nakom.
- (6) Die Staat is die alleenaandeelhouer van die Bank.

Doelstellings van Bank

3. (1) Die doelstellings van die Bank is die bevordering, fasilitering en ondersteuning van— 45
- (a) regverdigde eienaarskap van landbougrond, spesifiek die toename van die eienaarskap van landbougrond deur histories benadeelde persone;
 - (b) landbouhervorming, grondhervreeding of ontwikkelingsprogramme gemik op histories benadeelde persone of groepe van sodanige persone vir die ontwikkeling van boerderyondernemings en landboudoeleindes; 50
 - (c) toegang tot grond vir landboudoeleindes;
 - (d) landbou-entreprenerskap;
 - (e) die verwydering van die nalating van rasse- en geslagsdiskriminasie in die landbousektor van die verlede;
 - (f) die versterking van produktiwiteit, winsgewendheid, belegging en innovering 55
 - in die landbou- en landelike finansiële stelsels;

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- (g) programmes designed to stimulate the growth of the agricultural sector and the better use of land;
 - (h) programmes designed to promote and develop the environmental sustainability of land and related natural resources;
 - (i) programmes that contribute to agricultural aspects of rural development and job creation; 5
 - (j) commercial agriculture; and
 - (k) food security.
- (2) The Bank must achieve its objects by—
- (a) providing financial services to promote and facilitate access to ownership of land for the development of farming enterprises and for agricultural purposes by historically disadvantaged persons; 10
 - (b) providing financial services in support of any of its objects;
 - (c) facilitating and mobilising private sector finance to the agricultural sector; and
 - (d) providing such assistance as is necessary for carrying out the objects of the Bank. 15

PART II**MANAGEMENT OF BANK****Control of Bank by Board**

4. (1) The Minister must appoint a board of directors to manage the business of the Bank. 20

(2) Whenever it is necessary to appoint a member of the Board the Minister must, by notice in the *Gazette* as well as in other appropriate media and by written invitation to the relevant parliamentary committees, call for the nomination of persons who are not disqualified in terms of section 10 to serve on the Board. 25

Functions of Board

5. (1) The Board must—
- (a) direct and control the operations and business of the Bank;
 - (b) implement the policies laid down in this Act;
 - (c) develop strategies for the efficient management of the Bank; and 30
 - (d) develop a code of good practice.

(2) In carrying out its functions, the Board must exercise utmost care and act in the best interests of and for the benefit of the Bank.

(3) The Board has all the powers necessary to carry out its functions in terms of this Act. 35

Board accountability

6. Board members are individually and collectively accountable to the Minister.

Role of Minister

7. The Minister—
- (a) is responsible for the development of policy with regard to agriculture, agrarian reform and matters incidental thereto; and 40
 - (b) may from time to time issue policy directives to the Board not inconsistent with this Act.

Composition of Board

8. (1) The Board consists of no fewer than seven and no more than 12 persons, including those contemplated in subsections (3) and (4). 45

(2) The majority of the members of the Board must serve in a non-executive capacity.

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- (g) programme wat ontwerp is om die groei van die landbousektor en beter gebruik van grond te stimuleer;
 - (h) programme wat ontwerp is om grond en verwante natuurlike hulpbronne se volhoubaarheid ten opsigte van die omgewing te bevorder en te ontwikkel; en
 - (i) programme wat tot die landbou-aspekte van landelike ontwikkeling en werksverskaffing bydra; 5
 - (j) kommersiële landbou; en
 - (k) voedselsekerheid.
- (2) Die Bank moet sy doelstellings bereik deur—
- (a) finansiële dienste te voorsien om toegang tot eienaarskap van grond vir die ontwikkeling van boerderyondernemings en vir landboudoeleindes deur histories benadeelde persone te bevorder en te fasiliteer; 10
 - (b) die voorsiening van finansiële dienste ter ondersteuning van enige van sy doelstellings;
 - (c) die fasilitering en mobilisering van privaatsektorfinansiering aan die landbousektor; en 15
 - (d) die voorsiening van die bystand wat vir die bereiking van die doelstellings van die Bank nodig is.

DEEL II**BESTUUR VAN BANK**

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Beheer van Bank deur Direksie

4. (1) Die Minister moet 'n Direksie aanstel om die besigheid van die Bank te bestuur.
- (2) Wanneer dit nodig is om 'n lid van die Direksie aan te stel, moet die Minister, by kennisgewing in die *Staatskoerant* asook ander toepaslike media en op skriftelike uitnodiging aan die betrokke parlementêre komitees, 'n oproep doen vir die benoeming van persone wat nie kragtens artikel 10 onbevoeg geraak het om in die Direksie te dien nie. 25

Funksies van Direksie

5. (1) Die Direksie moet—
- (a) die werksaamhede en besigheid van die Bank lei en beheer; 30
 - (b) die beleid implementeer wat in hierdie Wet neergelê is;
 - (c) strategieë vir die doeltreffende bestuur van die Bank ontwikkel; en
 - (d) 'n goeie praktykskode ontwikkel.
- (2) In die verrigting van sy funksies moet die Direksie uiterste sorg uitoefen en in die beste belang van en tot voordeel van die Bank optree. 35
- (3) Die Direksie beskik oor al die bevoegdhede wat nodig is om sy funksies kragtens hierdie Wet te verrig.

Aanspreeklikheid van Direksie

6. Direksielede is afsonderlik en gesamentlik teenoor die Minister aanspreeklik.

Rol van Minister

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7. Die Minister—
- (a) is verantwoordelik vir die ontwikkeling van beleid met betrekking tot landbou, landbouhervorming en gepaardgaande aangeleenthede; en
 - (b) kan van tyd tot tyd beleidsriglyne wat nie met hierdie Wet onbestaanbaar is nie, aan die Direksie uitreik. 45

Samestelling van Direksie

8. (1) Die Direksie bestaan uit minstens sewe en hoogstens 12 persone, met inbegrip van die persone in subartikels (3) en (4) beoog.
- (2) Die meerderheid van die lede van die Direksie moet in 'n nie-uitvoerende hoedanigheid dien. 50

(3) The Chief Executive Officer is a member of the Board by virtue of his or her office and serves as an executive director.

(4) The Minister may appoint any other employee of the Bank to serve as an executive director for as long as he or she remains an employee of the Bank.

(5) The Minister must designate one of the Board members as chairperson of the Board and another as deputy chairperson to act as chairperson when the chairperson is unable to do so. 5

(6) Board members viewed collectively must—

- (a) represent a broad cross-section of the population of the Republic;
- (b) be suited to serve on the Board by virtue of suitable qualifications, expertise and experience; and 10
- (c) be committed to the objectives of this Act.

Appointment and term of office of Board member

9. (1) The Minister may appoint a Board member for such period as the Minister may determine in the case of each member but such period may not exceed five years. 15

(2) Any Board member may after the expiry of his or her term of office be reappointed as a Board member unless he or she—

- (a) was removed from his or her office by the Minister in terms of section 12; or
- (b) has become disqualified in terms of section 10 to serve as a member of the Board. 20

(3) Despite subsection (1), the Minister may, before the term of office of any Board member has expired, extend the term of office of a Board member until a new Board has been appointed, but the period of that extension may not exceed six months.

Disqualification

10. A person may not be appointed as a Board member if that person— 25

- (a) is not a citizen of, or does not hold a permanent residence permit for residence in, the Republic;
- (b) is subject to an order of a competent court declaring that person to be mentally ill;
- (c) is convicted after commencement of this Act, whether in the Republic or elsewhere, of any offence for which such person is sentenced to imprisonment without the option of a fine; 30
- (d) has been convicted—
 - (i) in the Republic of theft, perjury or an offence in terms of the Corruption Act, 1992 (Act No. 94 of 1992); 35
 - (ii) elsewhere, of any offence corresponding materially with any offence referred to in subparagraph (i);
 - (iii) whether in the Republic or elsewhere, of any other offence involving dishonesty; or
 - (iv) of an offence in terms of this Act; 40
- (e) is disqualified to act as a director of a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
- (f) has, according to a determination by an equality court, contravened section 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000). 45

Vacating of office by Board member

11. (1) A Board member may resign from the Board by giving one month's written notice to the Minister.

(2) The chairperson may resign as chairperson of the Board, remaining as a Board member, on one month's written notice to the Minister 50

(3) A Board member must vacate his or her office if he or she has been absent from more than two consecutive meetings of the Board without leave of the chairperson for each such absence.

(4) If the office of a non-executive Board member becomes vacant before the expiry of the period for which he or she was appointed, the Minister must appoint another person to fill the vacancy for the unexpired period of office of that member. 55

(3) Die hoof- uitvoerende beampte is 'n lid van die Direksie uit hoofde van sy of haar ampsbekleding en dien as 'n uitvoerende direkteur.

(4) Die Minister kan enige ander werknemer van die Bank aanstel om as 'n uitvoerende direkteur te dien vir solank as wat hy of sy 'n werknemer van die Bank bly.

(5) Die Minister moet een van die Direksielede as voorsitter van die Direksie aanwys en 'n ander een as adjunkvoorsitter om as voorsitter op te tree wanneer die voorsitter dit nie kan doen nie. 5

(6) Direksielede, gesamentlik gesien, moet—

- (a) 'n breë kruissnit van die bevolking van die Republiek verteenwoordig;
- (b) geskik wees om uit hoofde van toepaslike kwalifikasies, kundigheid en ondervinding in die Direksie te dien; en 10
- (c) aan die doelstellings van hierdie Wet toegewy wees.

Aanstelling en ampstermyn van Direksielid

9. (1) Die Minister kan 'n Direksielid vir die tydperk aanstel wat die Minister ten opsigte van elke lid bepaal maar sodanige tydperk mag nie vyf jaar oorskry nie. 15

(2) Enige Direksielid kan na die verstryking van sy of haar ampstermyn as 'n Direksielid heraanstelling word tensy hy of sy—

- (a) ingevolge artikel 12 deur die Minister uit sy of haar amp verwyder is; of
- (b) ingevolge artikel 10 onbevoeg geraak het om as 'n Direksielid te dien.

(3) Ondanks subartikel (1) kan die Minister, voordat die ampstermyn van enige Direksielid verstryk het, die ampstermyn van die Direksielid verleng totdat 'n nuwe Direksie aangestel is, maar die tydperk van daardie verlenging mag nie ses maande oorskry nie. 20

Onbevoegdheid

10. 'n Persoon kan nie in die Direksie aangestel word nie indien daardie persoon— 25

- (a) nie 'n burger van die Republiek is of 'n permanente verblyfpermit vir verblyf in die Republiek het nie;
- (b) aan 'n bevel van 'n bevoegde hof onderhewig is wat daardie persoon geestesongesteld verklaar;
- (c) na inwerkingtreding van hierdie Wet skuldig bevind word, hetsy in die Republiek of elders, aan enige misdryf waarvoor daardie persoon gevonnissen word tot gevangenisstraf sonder keuse van 'n boete; 30
- (d) (i) in die Republiek skuldig bevind is aan diefstal, meened of 'n misdryf ingevolge die Wet op Korruptie, 1992 (Wet No. 94 van 1992);
- (ii) elders skuldig bevind is aan enige misdryf wat wesenlik ooreenstem met enige misdryf in subparagraaf (i) bedoel; 35
- (iii) hetsy in die Republiek of elders, skuldig bevind is aan enige ander misdryf waarvan oneerlikheid deel uitmaak; of
- (iv) skuldig bevind is aan 'n misdryf ingevolge hierdie Wet;
- (e) onbevoeg is om as 'n direkteur van 'n maatskappy ingelyf kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), op te tree; of 40
- (f) volgens 'n vasstelling deur 'n gelykheidshof, artikel 7 van die "Promotion of Equality and Prevention of Unfair Discrimination Act, 2000" (Wet No. 4 van 2000), oortree het.

Ampsontruiming deur Direksielid

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11. (1) 'n Direksielid kan uit die Direksie bedank deur een maand skriftelike kennis aan die Minister te gee.

(2) Die voorsitter kan as voorsitter van die Direksie bedank maar as 'n Direksielid aanbly deur een maand skriftelike kennis aan die Minister te gee.

(3) 'n Direksielid moet sy of haar amp ontruim indien hy of sy, sonder verlof van die voorsitter vir elke sodanige afwesigheid, van meer as twee opeenvolgende vergaderings van die Direksie afwesig was. 50

(4) Indien die amp van 'n nie-uitvoerende Direksielid voor die verstryking van die tydperk waarvoor hy of sy aangestel was, vakant raak, moet die Minister 'n ander persoon aanstel om die vakature vir die onverstreke ampstermyn van daardie lid te vul. 55

Removal from office of Board member

12. The Minister may remove a Board member from office prior to the expiry of that Board member's term of office—

- (a) if there is good reason for doing so; or
- (b) in terms of section 21(5).

5

Meetings of Board

13. (1) The Board members must, not less than once every three months, meet at such time and place and in such manner as the chairperson may from time to time determine.

(2) The chairperson—

- (a) may at any time convene an extraordinary meeting of the Board to be held at the time and place and in the manner determined by the chairperson; 10
- (b) must, upon receipt of a written request of two other members, convene an extraordinary meeting of the Board to be held within 14 days after the date of receipt of that request, at the time and place and in the manner determined by the chairperson; and 15
- (c) in the event of an extraordinary meeting being convened in terms of paragraph (a) or (b), must, by way of the most expeditious medium, give notice to all Board members of that meeting and the matter to be discussed at that meeting.

(3) The person presiding at a meeting of the Board must determine a fair and reasonable procedure to be followed at that meeting. 20

(4) At a meeting of the Board—

- (a) the quorum is half the number of the Board members appointed at that time plus one;
- (b) a decision approved by the majority of the Board members present at a duly constituted meeting is a decision of the Board; 25
- (c) in the event of an equality of votes being cast by the Board members present at a meeting, the person presiding at that meeting has a deciding vote in addition to his or her deliberative vote.

Conditions of service of Board member

14. (1) The Minister must in consultation with the Minister of Finance determine the remuneration, allowances and other benefits of the chairperson and other Board members and that remuneration and those allowances must be paid out of the funds of the Bank. 30

(2) The Minister may prescribe any other reasonable conditions of appointment to the Board in order to achieve the objectives of this Act. 35

(3) The Minister may for purposes of subsection (1) make different determinations in respect of different positions on the Board.

Committees of Board

15. (1) The Board may subject to subsection (2)—

- (a) appoint committees consisting of as many Board members, Bank employees and advisers to the Bank as may be necessary to perform such functions as the Board may direct; and 40
- (b) at any time dissolve or reconstitute a committee appointed in terms of paragraph (a).

(2) The chairperson of a committee must be a member of the Board. 45

(3) A recommendation of a committee—

- (a) must be tabled at the following meeting of the Board;
- (b) may be referred back to that committee;
- (c) is a decision of the Board only if the Board has approved that recommendation. 50

(4) The Board is not divested of any function conferred upon or delegated to a committee in terms of this section.

(5) The Board must appoint an audit committee, of which—

- (a) the chairperson is a Board member; and
- (b) the members who are not in the employ of the Bank. 55

Verwydering uit amp van Direksielid

12. Die Minister kan 'n Direksielid voor die verstryking van daardie Direksielid se ampstermyn uit die amp verwyder—

- (a) indien daar 'n goeie rede is om dit te doen; of
- (b) ingevolge artikel 21(5).

5

Vergaderings van Direksie

13. (1) Direksielede moet minstens een maal elke drie maande vergader op die tyd, plek en wyse wat die voorsitter van tyd tot tyd bepaal.

(2) Die voorsitter—

- (a) kan te eniger tyd 'n buitengewone vergadering van die Direksie belê wat plaasvind op die tyd, plek en wyse deur die voorsitter bepaal; 10
- (b) moet, na ontvangs van 'n skriftelike versoek deur twee ander lede, 'n buitengewone vergadering van die Direksie belê wat binne 14 dae na die datum van ontvangs van daardie versoek moet plaasvind, op die tyd, plek en wyse deur die voorsitter bepaal; en 15
- (c) moet in die geval van 'n buitengewone vergadering ingevolge paragraaf (a) of (b) belê, by wyse van die vinnigste middel aan alle Direksielede kennis gee van daardie vergadering en die aangeleentheid wat op daardie vergadering bespreek gaan word.

(3) Die persoon wat by 'n vergadering van die Direksie voorsit, moet 'n regverdige en redelike prosedure bepaal wat by daardie vergadering gevolg moet word. 20

(4) By 'n vergadering van die Direksie—

- (a) is die kworum die helfte van die getal Direksielede wat op daardie tystip aangestel is, plus een;
- (b) is 'n besluit deur die meerderheid van aanwesige Direksielede by 'n behoorlik gekonstitueerde vergadering, 'n besluit van die Direksie; 25
- (c) in die geval van 'n staking van stemme uitgebring deur die Direksielede aanwesig by die vergadering, het die persoon wat by daardie vergadering voorsit 'n beslissende stem benewens sy of haar beraadslagende stem.

Diensvoorwaardes van Direksielid

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14. (1) Die Minister moet in oorleg met die Minister van Finansies die vergoeding, toelaes en ander voordele van die voorsitter en ander Direksielede vasstel en daardie vergoeding en toelaes word uit die fondse van die Bank betaal.

(2) Die Minister kan enige ander redelike voorwaardes vir aanstelling in die Direksie voorskryf ten einde die doelstellings van hierdie Wet te bereik. 35

(3) Die Minister kan vir die doeleindes van subartikel (1) verskillende vasstellings ten opsigte van verskillende poste in die Direksie doen.

Komitees van Direksie

15. (1) Die Direksie kan behoudens subartikel (2)—

- (a) komitees aanstel wat bestaan uit soveel Direksielede, Bankwerknemers en adviseurs van die Bank wat nodig is om die funksies te verrig wat die Direksie bepaal; en 40
- (b) te eniger tyd 'n komitee kragtens paragraaf (a) aangestel, ontbind of hersaamstel.

(2) Die voorsitter van 'n komitee moet 'n Direksielid wees. 45

(3) 'n Aanbeveling van 'n komitee—

- (a) moet op die volgende vergadering van die Direksie ter tafel gelê word;
- (b) kan na daardie komitee terugverwys word;
- (c) is 'n besluit van die Direksie slegs indien die Direksie daardie aanbeveling goedgekeur het. 50

(4) Die Direksie word nie ontnem van enige funksie wat kragtens hierdie artikel aan 'n komitee opgedra of gedelegeer word nie.

(5) Die Direksie moet 'n ouditkomitee aanstel, waarvan—

- (a) die voorsitter 'n Direksielid is; en
- (b) die lede nie in diens van die Bank is nie. 55

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(6) The Board must ensure that every committee is provided with written authority from the Board setting out the parameters and context within which a function is to be performed by that committee.

(7) The Board is accountable for any function performed by a committee in terms of this section.

5

Delegation by Board

16. (1) The Board may from time to time by resolution delegate any of its powers and assign any of its duties to the Chief Executive Officer or any other Bank employee.

(2) A delegation or assignment by the Board under subsection (1) must be in writing and specify the period for which such function is delegated or assigned, the purposes of the delegation or assignment and any conditions and restrictions that the Board may impose.

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(3) A delegation or assignment under subsection (1) does not prevent the performance by the Board of a delegated or assigned function.

(4) The Board may withdraw or amend a delegation or assignment made by it.

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Appointment of Chief Executive Officer

17. (1) The Minister must, after consultation with the Board, appoint a suitable person as Chief Executive Officer of the Bank.

(2) The Bank must pay the Chief Executive Officer the remuneration, allowances, subsidies and other service benefits determined from time to time by the Minister in consultation with the Minister of Finance and after the Minister had consulted with the Board.

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(3) The Minister may, after consultation with the Board, terminate the employment of the Chief Executive Officer in accordance with applicable employment law.

Powers and duties of Chief Executive Officer

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18. (1) The Chief Executive Officer is responsible for—

(a) the management of the day-to-day affairs of the Bank, subject to the directions of the Board; and

(b) control over the staff of the Bank.

(2) The Chief Executive Officer may delegate any power or assign any duty to an employee of the Bank including a power delegated to him or her or a duty assigned to him or her by the Board in terms of section 16 unless the Board in its written delegation or assignment to the Chief Executive Officer expressly prohibits such further delegation or assignment.

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(3) A delegation or assignment under subsection (2) does not prevent the Chief Executive Officer from exercising the delegated power or performing the assigned duty.

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(4) The Chief Executive Officer may withdraw or amend a delegation or assignment made by him or her.

Appointment of staff

19. The Chief Executive Officer must—

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(a) employ staff to perform such services as may be necessary to conduct the business of the Bank, on such conditions as the Board determines; and

(b) arrange for the payment to staff of remuneration, allowances, subsidies and other service benefits in accordance with a remuneration structure determined annually by the Board, subject to applicable labour law.

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Appointment of advisers

20. The Bank may, on such conditions as the Board may determine, appoint a person to advise the Board or the Bank, as the case may be, on such matters as may be referred to the adviser.

(6) Die Direksie moet seker maak dat elke komitee van 'n skriftelike magtiging van die Direksie voorsien word waarin die parameters en konteks waarbinne 'n funksie wat deur daardie komitee verrig moet word, uiteengesit word.

(7) Die Direksie is aanspreeklik vir enige funksie wat kragtens hierdie artikel deur 'n komitee verrig word.

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Delegering deur Direksie

16. (1) Die Direksie kan van tyd tot tyd by besluit enige van sy bevoegdhede deleger en enige van sy pligte toewys aan die hoof- uitvoerende beampte of enige ander Bankwerknemer.

(2) 'n Delegasie of toewysing deur die Direksie kragtens subartikel (1) moet op skrif wees en die tydperk waarvoor daardie funksie gedelegeer of toegewys word, die doeleindes van die delegasie of toewysing en enige voorwaardes en beperkings wat die Direksie oplê, uiteensit.

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(3) 'n Delegasie of toewysing kragtens subartikel (1) verhinder nie die Direksie om 'n gedelegeerde of toegewese funksie te verrig nie.

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(4) Die Direksie kan 'n delegasie of toewysing deur hom gedoen, intrek of wysig.

Aanstelling van hoof- uitvoerende beampte

17. (1) Die Minister moet na oorlegpleging met die Direksie 'n geskikte persoon as hoof- uitvoerende beampte van die Bank aanstel.

(2) Die Bank moet aan die hoof- uitvoerende beampte die vergoeding, toelaes, subsidies en ander diensvoordele betaal wat van tyd tot tyd deur die Minister in oorleg met die Minister van Finansies en nadat die Minister met die Direksie oorleg gepleeg het, bepaal word.

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(3) Die Minister kan na oorlegpleging met die Direksie die diens van die hoof- uitvoerende beampte ooreenkomstig toepaslike arbeidsreg beëindig.

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Bevoegdhede en pligte van hoof- uitvoerende beampte

18. Die hoof- uitvoerende beampte is verantwoordelik vir—

(a) die bestuur van die dag-tot-dag sake van die Bank, behoudens instruksies van die Direksie; en

(b) beheer oor die personeel van die Bank.

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(2) Die hoof- uitvoerende beampte kan enige bevoegdheid deleger of enige plig toewys aan 'n werknemer van die Bank, met inbegrip van 'n bevoegdheid of 'n plig ingevolge artikel 16 deur die Direksie aan hom of haar gedelegeer of toegewys, tensy die Direksie in sy skriftelike delegering of toewysing aan die hoof- uitvoerende beampte uitdruklik sodanige verdere delegering of toewysing verbied.

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(3) 'n Delegasie of toewysing kragtens subartikel (2) verhinder nie die hoof- uitvoerende beampte om die gedelegeerde bevoegdheid of toegewese plig uit te oefen of uit te voer nie.

(4) Die hoof- uitvoerende beampte kan 'n delegasie of toewysing deur hom of haar gedoen, intrek of wysig.

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Aanstelling van personeel

19. Die hoof- uitvoerende beampte moet—

(a) personeel in diens neem om die dienste te lewer wat nodig is om, op die voorwaardes wat die Direksie bepaal, die besigheid van die Bank te bedryf; en

(b) reëlins tref vir die betaling van vergoeding, toelaes, subsidies en ander diensvoordele aan personeel ooreenkomstig 'n vergoedingstruktuur wat jaarliks deur die Direksie bepaal word, behoudens toepaslike arbeidsreg.

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Aanstelling van adviseurs

20. Die Bank kan op die voorwaardes wat die Direksie bepaal 'n persoon aanstel om die Direksie of die Bank, na gelang van die geval, te adviseer oor die aangeleenthede wat na die adviseur verwys word.

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Conflict of interest

21. (1) A Board member must, on his or her appointment to the Board, in writing disclose to the Minister and the Board any of his or her material interests which may constitute a conflict of interest in respect of his or her duties as Board member, and he or she must in writing inform the Minister and the Board if any such conflict arises after his or her appointment. 5

(2) (a) A Board member who has a direct or indirect material interest, whether financial or otherwise, in a proposed agreement which is to be entered into by the Bank must refrain from participating in any discussion or consideration of that agreement and from voting in respect of that agreement. 10

(b) A Board member who obtains a material interest in an agreement contemplated in paragraph (a) after the agreement has been entered into must table full particulars of the nature and extent of that interest at the first Board meeting following the date on which the interest was obtained.

(3) A Board member or employee of the Bank must at any meeting of the Board or the Bank refrain from taking part in the decision-making process in respect of an application for or an agreement in respect of the rendering of financial services by the Bank submitted by a— 15

(a) person who is related to or is a business or life partner of that member or employee, as the case may be; 20

(b) company of which that member or employee, as the case may be, is a director, shareholder or employee;

(d) close corporation of which that member or employee, as the case may be, is a member or which has a member who is related to or is a business or life partner of that member or employee; 25

(d) person who is a debtor or creditor of that member or employee;

(e) person who is in partnership or any financial association with that member or employee;

(f) person who is in the employ of that member or employee; or

(g) person who is a debtor or creditor under a mortgage bond of any body of persons, whether incorporated or not, of which that member or employee is a director or under which he or she holds any office or position other than that of auditor. 30

(4) The Board may from time to time determine any additional policy or stipulate a code of conduct in respect of conflicts of interest applicable to the Board or employees of the Bank. 35

(5) A Board member who fails to comply with subsection (2) or (3) may be removed from office by the Minister.

(6) No person may disclose any information contemplated in subsection (1) except in terms of a law or court order that compels such disclosure. 40

(7) Any person who contravenes subsection (6) is guilty of an offence.

PART III**FUNDS AND BUSINESS OF BANK****Funds of Bank**

22. (1) The funds of the Bank consist of— 45

(a) capital vested in the Bank;

(b) funds derived from its operating activities;

(c) interest earned on funds invested in terms of section 23;

(d) such funds as may be appropriated by Parliament for use by the Bank;

(e) proceeds of loans obtained by the Bank; 50

(f) subject to subsections (2) and (3), monies received as donations or grants; and

(g) moneys received on deposit.

(2) The Bank may accept donations and grants to be used in carrying out its developmental mandate.

Botsing van belange

21. (1) 'n Direksielid moet, by sy of haar aanstelling in die Direksie, skriftelik aan die Minister en die Direksie enige van sy of haar wesenlike belange openbaar wat 'n botsing van belange ten opsigte van sy of haar pligte as Direksielid kan uitmaak, en hy of sy moet die Minister en die Direksie skriftelik in kennis stel indien sodanige botsing na sy of haar aanstelling ontstaan. 5

(2) (a) 'n Direksielid wat 'n regstreekse of onregstreekse wesenlike belang, hetsy finansiële of andersins, het in 'n voorgestelde ooreenkoms wat deur die Bank aangegaan staan te word, moet hom- of haarself daarvan weerhou om aan enige bespreking of oorweging van daardie ooreenkoms deel te neem en om ten aansien van daardie ooreenkoms te stem. 10

(b) 'n Direksielid wat 'n wesenlike belang in 'n ooreenkoms beoog in paragraaf (a) verkry nadat die ooreenkoms aangegaan is, moet by die eerste vergadering van die Direksie wat na die datum van verkryging van daardie belang plaasvind, volle besonderhede van die aard en omvang van daardie belang ter tafel lê. 15

(3) 'n Direksielid of Bankwerknemer moet by enige vergadering van die Direksie of die Bank hom- of haarself daarvan weerhou om deel te neem aan die besluitnemingsproses ten opsigte van 'n aansoek om of 'n ooreenkoms ten opsigte van die lewering van finansiële dienste deur die Bank ingedien deur 'n—

(a) persoon wat verwant is aan of 'n besigheidsvennoot of lewensmaat is van daardie lid of werknemer, na gelang van die geval; 20

(b) maatskappy waarvan daardie lid of werknemer, na gelang van die geval, 'n direkteur, aandeelhouer of werknemer is;

(c) beslote korporasie waarvan daardie lid of werknemer, na gelang van die geval, 'n lid is of wat 'n lid het wat verwant is aan of 'n besigheidsvennoot of lewensmaat is van daardie lid of werknemer; 25

(d) persoon wat 'n skuldenaar of skuldeiser van daardie lid of werknemer is;

(e) persoon wat in vennootskap is met of in enige finansiële verbintenis staan tot daardie lid of werknemer;

(f) persoon wat in diens van daardie lid of werknemer is; of 30

(g) persoon wat 'n skuldenaar of skuldeiser is kragtens 'n verbandakte van enige groep persone, hetsy ingelyf of nie, waarvan daardie lid of werknemer 'n direkteur is of waarkragtens hy of sy enige amp of posisie anders as dié van ouditeur beklee.

(4) Die Direksie kan van tyd tot tyd enige addisionele beleid of gedragskode bepaal ten opsigte van botsings van belange wat op die Direksie of Bankwerknemers van toepassing is. 35

(5) 'n Direksielid wat versuim om aan subartikel (2) of (3) te voldoen, kan deur die Minister ontslaan word.

(6) Geen persoon mag, behalwe ingevolge 'n wet of hofbevel wat sodanige openbaring vereis, enige inligting beoog in subartikel (1) openbaar nie. 40

(7) Enige persoon wat subartikel (6) oortree, is aan 'n misdryf skuldig.

DEEL III**FONDSE EN BESIGHEID VAN BANK****Fondse van Bank** 45

22. (1) Die fondse van die Bank bestaan uit—

(a) kapitaal in die Bank belê;

(b) fondse verkry uit sy operasionele bedrywighede;

(c) rente verdien uit fondse belê ingevolge artikel 23;

(d) fondse wat die Parlement vir gebruik deur die Bank bewillig; 50

(e) die opbrengs van lenings deur die Bank verkry;

(f) behoudens subartikels (2) en (3), geld as skenkings of toekennings ontvang; en

(g) gelde ontvang op deposito.

(2) Die Bank kan skenkings en toekennings aanvaar wat gebruik moet word in die uitvoering van sy ontwikkelingsmandaat. 55

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(3) The Bank must utilise donations and grants in accordance with any conditions imposed by the donor concerned, but those conditions may not be inconsistent with the objects of the Bank as contained in this Act.

(4) The Bank must utilise the funds referred to in subsection (1) to achieve the objects of the Bank as contained in this Act.

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Investment of funds

23. (1) The Board must adopt an investment policy, to be approved in writing by the Minister, with guidelines to regulate the investment of funds of the Bank in terms of this section.

(2) The Bank may not, without the prior written approval of the Minister, invest money in an unlisted company, trust or other equivalent legal entity, business undertaking or venture.

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Power to raise additional funds

24. (1) The Board must adopt a borrowing policy to be approved in writing by the Minister and the Minister of Finance.

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(2) The borrowing policy must contain guidelines to regulate the Bank's borrowings in terms of this section.

(3) The Bank may raise additional funds, including by way of borrowing, from such persons and on such terms as the Board may determine from time to time, in terms of the borrowing policy contemplated in subsection (1).

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Distribution of surplus funds

25. (1) The Board may resolve to distribute to the State such surplus funds held by the Bank as are not required for the operations of the Bank.

(2) The resolution of the Board referred to in subsection (1) may not be implemented unless expressly approved in writing by the Minister.

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(3) Surplus funds distributed to the State in terms of this section must be paid into the National Revenue Fund.

Conduct of business and security arrangements

26. (1) The business of the Bank is to provide agricultural and rural financial services in furtherance of the objects of the Bank contemplated in section 3, against security or on such alternative conditions as the Board may from time to time determine, or in such other manner as may be provided for by this Act.

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(2) The Bank may conduct its business by way of any operation, method or practice envisaged in this Act or in any other applicable law, including but not limited to—

(a) providing finance for the purposes contemplated in section 3;

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(b) investing money;

(c) providing grant funding;

(d) providing insurance services within its sphere of operation;

(e) providing export and import financial services within its sphere of operation;

(f) developing and putting into operation an effective agricultural risk management system;

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(g) discounting secured bills;

(h) making equity investments;

(i) acting as a distribution agency for government aid programmes;

(j) acting as a credit guarantee administrator;

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(k) managing, buying, leasing and selling of immovable and movable property;

(l) providing agency functions on behalf of other persons; and

(m) in general, making all such advances and performing all such acts as the Bank may by this Act or any other law be authorised to make or perform or which reasonably form part of or are generally associated with agricultural or developmental financial services.

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(3) The Bank may not conduct any business referred to in paragraphs (b), (c), (d) and

(3) Die Bank moet die skenkings en toekennings gebruik ooreenkomstig die voorwaardes deur die betrokke skenker gestel, maar daardie voorwaardes mag nie met die doelstellings van die Bank, soos vervat in hierdie Wet, onbestaanbaar wees nie.

(4) Die Bank moet die fondse bedoel in subartikel (1) gebruik om die doelstellings van die Bank, soos in hierdie Wet vervat, te verwesenlik.

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Belegging van fondse

23. (1) Die Direksie moet 'n beleggingsbeleid aanneem wat skriftelik deur die Minister goedgekeur moet word, met riglyne om die belegging van fondse van die Bank ingevolge hierdie artikel te reguleer.

(2) Die Bank mag nie sonder die voorafverkreë skriftelike goedkeuring van die Minister geld in 'n ongenoteerde maatskappy, trust of ander soortgelyke regsentiteit, besigheidsonderneming of onderneming belê nie.

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Bevoegdheid om addisionele fondse op te neem

24. (1) Die Direksie moet 'n leningsbeleid aanneem wat skriftelik deur die Minister en die Minister van Finansies goedgekeur moet word.

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(2) Die leningsbeleid moet riglyne bevat om die die Bank se lenings ingevolge hierdie artikel te reguleer.

(3) Die Bank kan addisionele fondse opneem, ook by wyse van lening, van die persone en op die voorwaardes wat die Direksie van tyd tot tyd bepaal, ingevolge die leningsbeleid in subartikel (1) beoog.

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Uitkering van surplusfondse

25. (1) Die Direksie kan besluit om surplusfondse wat deur die Bank gehou word en nie vir die werksaamhede van die Bank nodig word nie, aan die Staat uit te keer.

(2) Die besluit van die Direksie in subartikel (1) bedoel kan nie toegepas word nie tensy dit uitdruklik skriftelik deur die Minister goedgekeur word.

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(3) Surplusfondse wat ingevolge hierdie artikel aan die Staat uitgekeer word, moet in die Nasionale Inkomstefonds inbetaal word.

Bedryf van besigheid en sekuriteitsreëlings

26. (1) Die besigheid van die Bank is om landbou- en landelike finansiële dienste vir die bevordering van die doelstellings van die Bank in artikel 3 beoog, te verskaf, teen sekuriteit of op die alternatiewe voorwaardes wat die Direksie van tyd tot tyd bepaal, of op enige ander wyse as waarvoor daar deur hierdie Wet voorsiening gemaak word.

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(2) Die Bank kan sy besigheid bedryf by wyse van enige bedrywigheid, metode of praktyk in hierdie Wet of in enige ander toepaslike reg beoog, met inbegrip van maar nie beperk nie tot—

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(a) die voorsiening van finansiering vir die doeleindes in artikel 3 beoog;

(b) die belegging van geld;

(c) die voorsiening van toekenningsfinansiering;

(d) die voorsiening van versekeringsdienste binne sy sfeer van bedrywigheid;

(e) die voorsiening van uitvoer- en invoerfinansieringsdienste binne sy sfeer van bedrywigheid;

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(f) die ontwikkeling en indiensstelling van 'n effektiewe landbourisiko-bestuurstelsel;

(g) verdiskontering van versekerde wissels;

(h) die doen van beleggings in aandele;

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(i) optrede as 'n verspreidingsagentskap vir regeringshulpprogramme;

(j) optrede as 'n kredietwaarborgadministrateur;

(k) die bestuur, koop, verhuring en verkoop van onroerende en roerende eiendom;

(l) die verrigting van agentskapsfunksies namens ander persone; en

(m) in die algemeen, die verskaffing van alle voorskotte en die verrigting van alle handelinge wat die Bank deur hierdie Wet of enige ander reg gemagtig word om te verskaf of te verrig of wat redelikerwys deel is van of in die algemeen geassosieer word met landbou- of ontwikkelings- finansiële dienste.

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(3) Die Bank mag nie enige besigheid bedoel in paragrawe (b), (c), (d) en (e) van subartikel (2) bedryf nie behalwe met die skriftelike goedkeuring van die Minister en

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(e) of subsection (2) without the written approval of the Minister and must conduct such business in accordance with such conditions as the Minister may impose.

(4) When the Bank provides insurance cover, the Long Term Insurance Act, 1998 (Act No. 52 of 1998), and the Short Term Insurance Act, 1998 (Act No. 53 of 1998), do not apply to the Bank.

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Conditions of business

27. (1) The Minister may, after consultation with the Board, prescribe the conditions under which the Bank may offer financial services to the public, including but not limited to conditions relating to—

- (a) any security or collateral; 10
- (b) the maintenance, repair and improvements of security or collateral;
- (c) insurance of security or collateral;
- (d) interest on advances or other debts;
- (e) repayment of advances or other debts; and
- (f) the Bank's powers of inspection, 15

and thereafter those conditions must be included in any agreement entered into by the Bank for the provision of agricultural financial services.

(2) In the event of the Minister amending any condition made in terms of this section, that amendment must only be included in an agreement entered into by the Bank after the date of promulgation of that amendment.

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Application for advance

28. (1) The Bank may not make an advance to any person—

- (a) unless that person has submitted a written application indicating the purpose for which the advance is required;
- (b) unless that person has met every condition imposed by law or by the Bank in respect of the advance or any matter or thing associated with the advance; 25
- (c) until every condition pertaining to the security which is proposed to be given in respect of the advance has been met;
- (d) until a valuation of the security or any other thing has been completed to the satisfaction of the Bank; and 30
- (e) until the Bank has, in writing, approved the application and a written agreement has been entered into for the purposes of the advance. 35

(2) The Bank may not provide any agricultural or rural financial service out of the funds of the Bank to any person where such provision might create a conflict of interests unless there has been compliance with section 21.

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Substitution of debtors

29. (1) Despite anything to the contrary in this Act, any person who acquires the whole of any land hypothecated to the Bank under a registered mortgage bond may, with the consent of the Bank granted on an application in the form prescribed by the Bank, take over all the obligations of the debtor under that mortgage bond and be substituted as debtor in respect of that bond. 40

(2) A substitution in terms of subsection (1) does not constitute a novation.

(3) When a person is substituted in terms of subsection (1), the advance secured by the mortgage bond is for the purposes of this Act deemed to have been made to that person by the Bank.

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Statutory pledges

30. (1) While any person owes the Bank any money by virtue of an advance in terms of this Act—

- (a) all agricultural produce and all products manufactured by that person from any agricultural produce with money so advanced to him or her; and 50

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moet sodanige besigheid bedryf ooreenkomstig die voorwaardes wat die Minister bepaal.

(4) Wanneer die Bank versekeringsdekking verskaf, is die bepalings van die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998) of die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998) nie op die Bank van toepassing nie. 5

Voorwaardes van besigheid

27. (1) Die Minister kan na oorlegpleging met die Direksie die voorwaardes voorskryf waarkragtens die Bank finansiële dienste aan die publiek kan aanbied, met inbegrip van maar nie beperk nie tot voorwaardes wat verband hou met—

- (a) enige sekuriteit of kollateraal; 10
- (b) die instandhouding, herstel en verbeterings van sekuriteit of kollateraal;
- (c) versekering van sekuriteit of kollateraal;
- (d) rente op voorskotte of ander skulde;
- (e) terugbetaling van voorskotte of ander skulde; en
- (f) die Bank se bevoegdhede met betrekking tot inspeksie, 15

en daarna moet daardie voorwaardes ingesluit word in enige ooreenkoms aangegaan deur die Bank vir die voorsiening van landbou- finansiële dienste.

(2) In die geval waar die Minister enige regulasie uitgevaardig ingevolge hierdie artikel wysig, moet daardie wysigings slegs ingesluit word in 'n ooreenkoms aangegaan deur die Bank na die datum van promulgasie van daardie wysiging. 20

Aansoek om voorskot

28. (1) Die Bank kan nie 'n voorskot aan enige persoon toestaan nie—

- (a) tensy daardie persoon 'n skriftelike aansoek ingedien het waarin die doel waarvoor die voorskot nodig word, uiteengesit is;
- (b) tensy daardie persoon al die voorwaardes nagekom het wat by wet opgelê of deur die Bank vereis word ten opsigte van enige aangeleentheid of saak wat met die voorskot verband hou; 25
- (c) totdat al die voorwaardes wat verband hou met die sekuriteit wat voorgestel word om ten opsigte van die voorskot gegee te word, nagekom is;
- (d) totdat 'n waardasie van die sekuriteit of enige ander saak tot bevrediging van die Bank voltooi is; en 30
- (e) totdat die Bank die aansoek skriftelik goedgekeur het en 'n skriftelike ooreenkoms vir die doeleindes van die voorskot aangegaan is.

(2) Die Bank mag nie aan enige persoon enige landbou- of landelike finansiële dienste uit die fondse van die Bank verskaf waar sodanige verskaffing 'n botsing van belange kan veroorsaak nie tensy daar aan artikel 21 voldoen is. 35

Vervanging van skuldenaar

29. (1) Ondanks enigiets tot die teendeel in hierdie Wet, kan enige persoon wat die geheel van enige grond verkry wat kragtens 'n geregistreerde verband aan die bank verhipotekeer is, met die toestemming van die Bank wat op aansoek in die vorm wat deur die Bank voorgeskryf word, verleen word, al die verpligtings van die skuldenaar kragtens daardie verband oorneem en as skuldenaar ten opsigte van daardie verband vervang word. 40

(2) 'n Vervanging kragtens subartikel (1) stel nie 'n novasie daar nie.

(3) Wanneer 'n persoon kragtens subartikel (1) vervang is, word die voorskot wat deur die verband verseker is, vir doeleindes van hierdie Wet geag deur die Bank aan daardie persoon toegestaan te gewees het. 45

Statutêre Pande

30. (1) Terwyl enige persoon geld aan die Bank ooreenkomstig 'n voorskot kragtens hierdie Wet skuld, word— 50

- (a) alle landbouprodukte en alle produkte wat deur daardie persoon uit enige landbouprodukte vervaardig is met die geld wat aldus aan hom of haar voorgeskiet is; en

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- (b) any agricultural produce purchased by that person with money so advanced to him or her,

which is in the possession of or in transit to that person or an agent of that person, is deemed to have been pledged to the Bank as effectually as if it had been expressly pledged and delivered to the Bank, and any disposal thereof by or on behalf of that person, without the consent in writing of the Bank, is void. 5

(2) While any person owes the Bank any money by virtue of an advance in terms of this Act, in respect of agricultural produce held by that person in terms of a silo certificate, the products held by virtue of the silo certificate are deemed to have been pledged to the Bank as effectually as if the products have been delivered to the Bank despite the fact that the silo certificate or any other required registration is not registered in the name of the Bank. 10

Charge loans

31. (1) The Bank may advance money for the erection of—

- (a) water supply infrastructure; 15
- (b) bore holes;
- (c) main line and irrigation equipment;
- (d) all pumping requirements for irrigation;
- (e) dams;
- (f) internal or external fencing; 20
- (g) electricity supply by any supplier;
- (h) silos; and
- (i) roads to access farming areas.

(2) Before any payment is made in respect of the advance referred to in subsection (1), the Bank must transmit in writing to the Registrar of Deeds concerned information stating— 25

- (a) the date and amount of the advance made in terms of this section and, if the advance is made in respect of more than one property, the amount which each owner is liable to pay;
- (b) the person to whom the advance has been made; and 30
- (c) the property description in respect of which the advance is made,

and on receipt of that information the Registrar of Deeds must cause a note thereof to be made in his or her registers in respect of the property and must transmit forthwith to the Bank a certified copy of that note.

(3) The making of a note in terms of subsection (2) has the effect of creating in favour of the Bank a charge upon the property until the amount of the advance together with interest and costs has been repaid. 35

(4) On receipt of written information from the Bank that the amount of the advance together with interest and costs has been repaid, the Registrar of Deeds must delete from his or her registers the note referred to in subsection (2). 40

(5) If—

- (a) an instalment or interest in respect of an advance is still unpaid three months from the date on which payment thereof became due; or
- (b) the advance has not been applied for the purpose for which it was made,

the Bank may at any time require the debtor to repay the whole advance forthwith together with interest and costs or such portion thereof as he or she is liable to repay, and any interest due. 45

(6) No transfer of any property, or any partition deed of transfer in respect thereof, may be registered by any Registrar of Deeds except on production to the Registrar of a certificate signed by a duly authorised official of the Bank indicating— 50

- (a) that all instalments and interest up to then due to the Bank in respect of the advance have been paid; and
- (b) the amount still owing in respect of the advance and, if the property is being partitioned or any portion thereof is being transferred, the amount of the advance still owing which attaches to each separate portion of the property. 55

(7) The certificate referred to in subsection (6) is *prima facie* proof of the facts stated therein and the Registrar of Deeds must note the amount of any liability which attaches

(b) enige landbouprodukte wat daardie persoon met die geld wat aldus aan hom of haar voorgeskiet is, aangekoop het, en wat in besit van of op pad na daardie persoon of 'n agent van daardie persoon is, geag effektiewelik aan die Bank verpand te gewees het asof dit uitdruklik aan die Bank verpand en gelewer was, en enige vervreemding daarvan deur of namens daardie persoon sonder die Bank se skriftelike toestemming, is nietig. 5

(2) Terwyl enige persoon geld aan die Bank ooreenkomstig 'n voorskot kragtens hierdie Wet skuld ten opsigte van landbouprodukte wat deur daardie persoon kragtens 'n opgaarkuilsertifikaat gehou word, word die produkte gehou kragtens die opgaarkuilsertifikaat geag effektiewelik aan die Bank verpand te gewees het asof die produkte aan die Bank gelewer was ten spyte daarvan dat die opgaarkuilsertifikaat of enige ander vereiste registrasie nie in die Bank se naam geregistreer was nie. 10

Laslenings

31. (1) Die Bank kan geld voorskiet vir die oprigting van—

- (a) waterverskaffingsinfrastruktuur; 15
- (b) boorgate;
- (c) hooflyn- en besproeiingstoerusting;
- (d) alle pompbenodigdhede vir besproeiing;
- (e) damme;
- (f) interne of eksterne omheining; 20
- (g) elektrisiteitstoevoer deur enige verskaffer;
- (h) opgaarkuile; en
- (i) paaie om toegang na boerderygebiede te verkry.

(2) Die Bank moet skriftelik voordat enige betaling ten opsigte van die voorskot vermeld in subartikel (1) gemaak word, aan die betrokke Registrateur van Aktes inligting deurstuur wat vermeld— 25

- (a) die datum en die bedrag van die voorskot kragtens hierdie artikel gemaak en, indien die voorskot gemaak is ten opsigte van meer as een eiendom, die bedrag wat elke eienaar aanspreeklik is om te betaal; 30
- (b) die persoon aan wie die voorskot gemaak is; en
- (c) die eiendomsbeskrywing ten opsigte waarvan die voorskot gemaak is, en by ontvangs van daardie inligting moet die Registrateur van Aktes 'n aantekening ten opsigte van die eiendom in sy of haar registers laat maak en onverwyld 'n gesertifiseerde afskrif van daardie aantekening aan die Bank deurstuur.

(3) Die maak van 'n aantekening kragtens subartikel (2) het die effek om 'n vordering ten opsigte van die grond ten gunste van die Bank te vestig totdat die bedrag van die voorskot met rente en koste terugbetaal is. 35

(4) By ontvangs van skriftelike inligting vanaf die Bank dat die bedrag van die voorskot tesame met rente en koste terugbetaal is, moet die Registrateur van Aktes die aantekening vermeld in subartikel (2) uit sy of haar registers skrap. 40

(5) Indien—

- (a) 'n paalement of rente ten opsigte van 'n voorskot steeds onbetaald is drie maande vanaf die datum waarop betaling daarvan verskuldig geword het; of 45
- (b) die voorskot nie vir die doeleindes waarvoor dit toegestaan is, aangewend is nie,

kan die Bank die skuldenaar te eniger tyd versoek om onverwyld die hele voorskot tesame met rente en koste of sodanige gedeelte as waarvoor hy of sy aanspreeklik is, asook enige rente verskuldig, terug te betaal.

(6) Geen oordrag van enige eiendom, of enige verdelingsoordragsakte ten opsigte daarvan, mag deur 'n Registrateur van Aktes geregistreer word nie behalwe by voorlegging aan die Registrateur van 'n sertifikaat wat deur 'n behoorlik gemagtigde beampte van die Bank wat geteken is en aandui— 50

- (a) dat alle paalemente en rente wat tot dan ten opsigte van die voorskot aan die Bank verskuldig is, betaal is; en
- (b) die bedrag wat nog ten opsigte van die voorskot verskuldig is en, indien die eiendom verdeel of 'n gedeelte daarvan oorgedra word, die bedrag van die voorskot wat aan elke afsonderlike gedeelte van die eiendom verbind word wat nog ten opsigte van die voorskot verskuldig is. 55

(7) Die sertifikaat in subartikel (6) vermeld, is *prima facie* bewys van die feite wat daarin vermeld word, en die Registrateur van Aktes moet die bedrag van enige aanspreeklikheid wat kragtens daardie sertifikaat aan die eiendom verbind word, op die 60

to the property in terms of that certificate on the document of title or deed of transfer of that property or of the relevant portion thereof.

Members of society to remain liable

32. (1) Despite anything to the contrary in any law, every member of a co-operative society, as defined in section 1 of the Co-operatives Act, 1981 (Act No. 91 of 1981), remains liable after his or her withdrawal from the society for every debt or obligation to the Bank which was—

- (a) incurred by the society while he or she was a member thereof; and
- (b) undischarged at the date of that withdrawal,

until the Bank has given a certificate to the effect that it is satisfied that the society and its remaining members are capable of discharging the debt or obligation.

(2) The Bank may not delay or refuse the issue of a certificate contemplated in subsection (1) unreasonably.

PART IV

RISK MANAGEMENT AND OTHER OPERATIONAL MATTERS

Remedies in case of default

33. (1) Despite anything to the contrary in any other law or any agreement and without prejudice to any other remedies the Bank may have, the Bank may in respect of advances that it has made take any action envisaged in subsection (3) if any of the circumstances envisaged in subsection (2) exist.

(2) The circumstances contemplated in subsection (1) are if—

- (a) payment of any sum of money, due in respect of any advance made in terms of this Act, is in arrear, whether it is the capital sum or interest thereon;
- (b) any such advance has been applied for a purpose other than the purpose for which it was made;
- (c) the advance has not within a reasonable time been applied for the purpose for which it was made;
- (d) any other condition to which the advance is subject has not been complied with substantially;
- (e)
 - (i) the debtor becomes insolvent, commits any act of insolvency in terms of section 8 of the Insolvency Act, 1936 (Act No. 24 of 1936), or is sequestrated by virtue of an order of court in terms of that Act;
 - (ii) the debtor is sentenced to imprisonment without the option of a fine;
 - (iii) judgment is obtained against the debtor for the payment of any sum of money;
 - (iv) any asset of the debtor is by order of a competent court declared executable or is attached in pursuance of an order of any such court;
- (f) the debtor is deceased, and his or her estate is about to be dealt with in terms of section 34 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or has been sequestrated;
- (g) the debtor is a company or close corporation which has been placed under judicial management or is being wound up or is being deregistered, as the case may be; or
- (h) the debtor is a private company or close corporation and any director, shareholder or member thereof is sentenced to imprisonment without the option of a fine.

(3) As contemplated in subsection (1) the Bank may—

- (a) refuse to pay any portion of an advance which has been approved, but which has not yet been paid;
- (b) after the expiry of seven days after the Bank has in writing—
 - (i) made a demand for the repayment of the advance, addressed to the address of the debtor stated in the form of application for the advance; and

titelbewys of oordragsakte van daardie eiendom of van die betrokke gedeelte daarvan aanteken.

Lede van vereniging bly aanspreeklik

32. (1) Nieteenstaande enigiets tot die teendeel in enige reg, bly elke lid van 'n koöperatiewe vereniging, soos omskryf in die Koöperasiewet, 1981 (Wet No. 91 van 1981), na ys of haar uittrede uit daardie vereniging aanspreeklik vir elke skuld of verpligting teenoor die Bank wat— 5

(a) deur die vereniging aangegaan is terwyl hy of sy 'n lid daarvan was; en

(b) wat op die datum van daardie uittrede nie gedelg is nie,

totdat die Bank 'n sertifikaat uitgereik het te dien effekte dat die Bank oortuig is dat die vereniging en die oorblywende lede in staat is om die skuld of verpligting te delg. 10

(2) Die Bank mag nie onredelik weier om die sertifikaat in subartikel (1) uit te reik of dit vertraag nie.

DEEL IV

RISIKOBESTUUR EN ANDER BEDRYFSAANGELEENTHEDE

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Remedies in geval van wanbetaling

33. (1) Ondanks enige andersluidende bepalinge in enige ander wet of enige ooreenkoms en sonder benadeling van enige ander remedies wat die Bank mag hê, kan die Bank ten opsigte van voorskotte deur die Bank toegestaan enige stappe beoog in subartikel (3) doen indien enige van die omstandighede beoog in subartikel (2) bestaan. 20

(2) Die omstandighede beoog in subartikel (1) bestaan indien—

(a) betaling van enige som geld, verskuldig ten opsigte van enige voorskot ingevolge hierdie Wet toegestaan, agterstallig is, hetsy dit die kapitaalbedrag of rente daarop is;

(b) enige sodanige voorskot aangewend is vir 'n ander doel as dié waarvoor dit toegestaan is; 25

(c) die voorskot nie binne 'n redelike tyd vir die doel waarvoor dit toegestaan is, aangewend is nie;

(d) enige ander voorwaarde waaraan die voorskot onderhewig is, nie wesenlik nagekom is nie; 30

(e) (i) die skuldenaar insolvent raak, enige daad van insolvensie kragtens artikel 8 van die Insolvensiewet, 1936 (Wet No. 24 van 1936) begaan, of ooreenkomstig 'n bevel van die hof kragtens daardie wet gesekwestreer word;

(ii) die skuldenaar tot gevangenisstraf sonder keuse van 'n boete gevonnis word; 35

(iii) vonnis teen die skuldenaar verkry word vir die betaling van enige som geld; of

(iv) enige van die skuldenaar se bates by bevel van 'n bevoegde hof vatbaar vir eksekusie verklaar is of in navolging van 'n bevel van enige sodanige hof op beslag gelê word; 40

(f) die skuldenaar oorlede is, en daar ooreenkomstig artikel 34 van die Boedelwet, 1965 (Wet No. 66 van 1965) met sy of haar boedel staan gehandel te word, of hy of sy gesekwestreer is;

(g) die skuldenaar 'n maatskappy of beslote korporasie is wat onder geregtelike bestuur geplaas is of gelikwider of gederegistreer word, na gelang van die geval; of 45

(h) die skuldenaar 'n private maatskappy of beslote korporasie is en enige direkteur, aandeelhouer of lid daarvan gevonnis word tot gevangenisstraf sonder die keuse van 'n boete. 50

(3) Die Bank kan soos beoog in subartikel (1)—

(a) weier om enige gedeelte van 'n voorskot wat goedgekeur is, maar wat nog nie betaal is nie, te betaal;

(b) na die verstryking van sewe dae nadat die Bank skriftelik—

(i) die terugbetaling van die voorskot geëis het, gerig aan die adres van die skuldenaar vermeld in die aansoekvorm vir die voorskot, en 55

- (ii) given notice to the holder of a preferrent or similar security in respect of the property of the debtor and, if appropriate, to the Registrar of Deeds, apply to a court of law for an order contemplated in subsection (4).

(4) (a) If the Bank makes an application in terms of subsection (3)(b), and if there is evidence supported by affidavit that—

- (i) a liquidated amount in money is due and payable to the Bank;
- (ii) the Bank intends without undue delay to institute an action in that court against the debtor for recovery of the debt;
- (iii) the debtor has no bona fide defence to the intended action;
- (iv) if such action were instituted, the court would have jurisdiction in respect of the debtor and the cause of action;
- (v) the debtor has property at his or her disposal from which the debt or part thereof could be satisfied if the property were available for execution after judgment;
- (vi) a substantial danger exists that if an action for the recovery of the debt is instituted against the debtor, he or she will dispose of such property or will remove it from the area of jurisdiction of the court in order to evade satisfaction of the debt, or that the delay likely to be caused by the institution of an action for recovery of the debt would result in the property having no value due to its perishable nature;
- (vii) arrangements including the giving of security have been or will be made by the Bank in order to protect the interests of the debtor or any other person whose interests might be affected by the granting of the order mentioned herein,

a court of law may authorise the Bank to attach and sell by public auction or public tender, so much of the property and rights of the debtor as may be necessary to liquidate the amount owing in respect of the advance made by the Bank, together with interest and costs in respect thereof.

(b) In making such an order the court may impose conditions with regard to the institution of the action and the giving of security by the Bank for any damages which the debtor or any persons might suffer or costs which might be incurred as a consequence of the attachment of any of his or her property.

(c) If it is reasonable or just in the circumstances or if compelling considerations exist and the Bank has provided necessary guarantees or other safeguards, the court may authorise the Bank to attach and sell the debtor's property and rights without recourse to ordinary court processes.

(d) Any person affected by an order referred to in paragraphs (a) to (c) may apply to a competent court to have the order set aside.

(5) The Bank must in pursuance of an order of Court granted in terms of subsection (4) and after the sale of any property of the debtor, transfer that property to the purchaser and give the purchaser a good and valid title thereto without encumbrances.

(6) The Bank may make an advance in terms of this Act and on such conditions as it may deem fit to the purchaser of the property envisaged in subsection (5), for the purpose of defraying the whole or part of the purchase price.

(7) The proceeds of a sale pursuant to a court order contemplated in subsection (4) must be applied as envisaged in section 30.

(8) Where the property sold is immovable property the Bank must submit a certified copy of the court order contemplated in subsection (4) to the Registrar of Deeds who must make the appropriate entries or endorsements on the relevant title deeds to effect the transfer of the property to the purchaser.

(9) If an attachment in execution of a court order is made by an ordinary creditor against the debtor's property—

- (a) the Bank's statutory preferential right to the proceeds of the realisation of the debtor's property at the sale takes precedence over the rights of the ordinary creditor despite his or her having a writ or similar instrument; and
- (b) the proceeds received must after payment of the costs incurred in connection with the attachment and sale, be paid in their entirety to the Bank, unless they

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- (ii) kennis gegee het aan die houer van 'n preferente of soortgelyke sekuriteit ten opsigte van die eiendom van die skuldenaar en ook, indien van toepassing, aan die Registrateur van Aktes,
by 'n geregshof aansoek doen vir 'n bevel beoog in subartikel (4).
- (4) (a) Indien die Bank 'n aansoek kragtens subartikel (3)(b) bring en daar getuienis is wat deur 'n beëdigde verklaring gestaaf word dat— 5
- (i) 'n gelikwideerde bedrag in geld aan die Bank verskuldig en betaalbaar is;
 - (ii) die Bank van voorneme is om sonder onbehoorlike vertraging 'n geding in daardie hof teen die skuldenaar vir die verhaling van die skuld in te stel; 10
 - (iii) die skuldenaar geen bona fide-verdediging teen die voorgenome geding het nie;
 - (iv) indien sodanige geding ingestel sou word, die hof jurisdiksie ten opsigte van die skuldenaar en die gedingsoorsaak sou hê;
 - (v) die skuldenaar eiendom tot sy of haar beskikking het waarvan die skuld of gedeelte daarvan gedelg sou kon word indien die eiendom na vonnis vir eksekusie beskikbaar sou wees; 15
 - (vi) 'n materiële gevaar bestaan dat indien die geding vir die verhaling van die skuld teen die skuldenaar ingestel sou word, hy of sy sodanige eiendom sal vervreem of dit uit die jurisdiksionele gebied van die hof sal verwyder ten einde delging van die skuld te ontduik, of dat die vertraging wat waarskynlik deur die instelling van 'n geding vir die verhaling van die skuld sal ontstaan, tot gevolg sal hê dat die goed waardeloos sal wees weens die bederfbare aard daarvan; 20
 - (vii) reëlins, met inbegrip van die stel van sekuriteit, deur die Bank getref is of sal word ten einde die belange van die skuldenaar of enige ander persoon wie se belange deur die toestaan van die bevel hierin vermeld, geraak sal word, te beskerm, 25
- kan die hof die Bank magtig om op soveel van die eiendom en regte van die skuldenaar beslag te lê en dit op openbare veiling of openbare inskrywing te verkoop as wat nodig mag wees om die verskuldigde bedrag ten opsigte van die voorskot deur die Bank toegestaan, te delg, tesame met rente en koste ten opsigte daarvan. 30
- (b) Die hof kan wanneer dit so 'n bevel maak voorwaardes bepaal ten opsigte van die instel van aksie en die stel van sekuriteit deur die Bank vir enige skade wat die skuldenaar of enige persone mag ly of koste wat aangegaan mag word as gevolg van die beslaglegging van enige van sy of haar eiendom. 35
- (c) Indien dit redelik of regverdig in die omstandighede is of indien dwingende oorwegings bestaan en die Bank die nodige waarborge of ander beskerming verskaf het, kan die hof die Bank magtig om op die skuldenaar se eiendom en regte beslag te lê sonder gebruikmaking van gewone hofprosedes. 40
- (d) Enige persoon wat geraak word deur 'n bevel in paragrawe (a) tot (c) genoem, kan by 'n bevoegde hof om tersydestelling van die bevel aansoek doen.
- (5) Die Bank moet in navolging van 'n hofbevel ingevolge subartikel (4) toegestaan en na die verkoop van enige eiendom van die skuldenaar, daardie eiendom aan die koper oordra en die koper 'n goeie en geldige titel daartoe gee, sonder beswarings. 45
- (6) Die Bank kan 'n voorskot ingevolge hierdie Wet op die voorwaardes wat hy geskik ag aan die koper van die eiendom beoog in subartikel (5) toestaan met die doel om die geheel of 'n gedeelte van die aankoopprys te bestry.
- (7) Die opbrengs van 'n verkoping in navolging van 'n hofbevel beoog in subartikel (4) moet aangewend word soos beoog in artikel 30. 50
- (8) Indien die eiendom wat verkoop is onroerende eiendom is, moet die Bank 'n gesertifiseerde afskrif van die hofbevel beoog in subartikel (4) by die Registrateur van Aktes indien wat die tersaaklike inskrywings en endossemente op die betrokke titelaktes moet aanbring ten einde die oordrag van die eiendom aan die koper te bewerkstellig. 55
- (9) Indien 'n gewone skuldeiser vir die tenuitvoerlegging van 'n hofbevel op die skuldenaar se eiendom beslag lê—
- (a) geniet die Bank se statutêre preferente reg op die opbrengs van die tegeldemaking van die skuldenaar se eiendom by die verkoping daarvan voorkeur bo die gewone skuldeiser se regte ten spyte daarvan dat hy of sy oor 'n lasbrief of 'n soortgelyke instrument beskik; en 60
 - (b) moet die opbrengs wat ontvang is na betaling van die koste aangegaan in verband met die beslaglegging en verkoping in sy geheel aan die Bank betaal

exceed the amount owing to the Bank in respect of the advance and the amount of the interest and costs in respect thereof.

(10) The sequestration or liquidation of the debtor's estate does not limit the Bank's right to apply to court for an order in terms of subsection (4) or its rights to deal with the debtor's property in terms of this section and section 34, despite any law which provides that the property of the debtor vests in his or her trustee or liquidator in the event of his or her sequestration or liquidation. 5

(11) A sheriff, the trustee of an insolvent estate, the assignee of an assigned estate, the executor of the estate of a deceased person or a liquidator or judicial manager of an insolvent company, close corporation or co-operative may not sell property mortgaged to the Bank to secure advances by the Bank, unless the Bank agrees in writing to that sale or has failed to sell that mortgaged property within three months after receipt of a written notice from that person requesting the Bank to sell that property. 10

(12) If the Bank has attached land or other security in terms of subsection (4) and that attachment has been noted by the Registrar of Deeds, that land or other security may not in any manner be hypothecated or charged, despite any other law to the contrary, except with the written consent of the Bank. 15

(13) A mortgage bond, whether special or general, registered to secure the payment of a debt not previously secured which was incurred prior to the Bank making an advance to the debtor concerned, does not confer any preference if the estate of the mortgage debtor is sequestrated or liquidated, or the Bank proceeds in terms of subsection (3), within a period of 12 months after the registration of that mortgage bond. 20

(14) A mortgage bond, whether special or general, registered to secure the payment of a debt which is incurred after the Bank has made an advance to the debtor concerned, does not confer any preference if the estate of the mortgage debtor is sequestrated or liquidated, or the Bank proceeds in terms of subsection (3), within a period of 12 months after the Bank made that advance. 25

Application of balance of proceeds of sale

34. (1) If the Bank has realised property or rights in accordance with section 33, the surplus of the proceeds of the realisation, if any, must, after payment of all costs incurred by the Bank in connection with the attachment and sale, be applied— 30

- (a) towards reducing or liquidating any amount owing in terms of any bond or other real right which ranks prior to the Bank's bond or real right; and
- (b) if any surplus remains, towards reducing or liquidating the amount owing to the Bank in respect of the advance, together with interest and costs in respect thereof; and 35
- (c) if any balance remains, as envisaged in subsection (3).

(2) Any other creditor who holds a statutory preferential right over property of the debtor in terms of any other law ranks after the Bank's preferential rights in terms of this Act. 40

(3) Any surplus not paid in terms of subsection (1) must be paid to the debtor, but if there is any other person who in law is entitled to payment, the amount that he or she is entitled to must be paid to him or her, and the remainder of that surplus, if any, must then be paid to the debtor.

Financial management

35. (1) The Board must cause the necessary books of account to be kept. 45

(2) The books of account and financial statements of the Bank must be audited by the Auditor-General annually.

word, tensy dit die bedrag oorskry wat aan die Bank ten opsigte van die voorskot en die bedrag van die rente en koste ten opsigte daarvan verskuldig is.

(10) Die sekwestrasie of likwidasië van die skuldenaar se boedel beperk nie die Bank se regte om by die hof vir 'n bevel kragtens subartikel (4) aansoek te doen nie of die Bank se regte om met die skuldenaar se eiendom kragtens hierdie artikel of artikel 34 te handel nie, nieëntstaande enige reg wat daarvoor voorsiening maak dat die skuldenaar se eiendom in sy of haar trustee of likwidateur gevestig is in die geval van sy of haar sekwestrasie of likwidasië.

(11) 'n Balju, die trustee van 'n insolvente boedel, die regverkrygende van 'n boedel wat afgestaan is, die eksekuteur van 'n oorledene se boedel of 'n likwidateur of geregtelike bestuurder van 'n insolvente maatskappy, beslote korporasie of koöperasie mag nie eiendom wat aan die Bank beswaar is om voorskotte deur die Bank te verkry, verkoop nie, tensy die Bank skriftelik tot daardie verkoping instem of versuim het om daardie beswaarde eiendom te verkoop binne drie maande na ontvangs van 'n skriftelike kennisgewing van daardie persoon waarin die Bank versoek word om die eiendom te verkoop.

(12) Indien die Bank op grond of ander sekuriteit kragtens subartikel (4) beslag gelê het en daardie beslaglegging deur die Registrateur van Aktes aangeteken is, mag daardie grond of ander sekuriteit nie op enige wyse verhipotekeer of belas word nie, nieëntstaande enige ander reg tot die teendeel, behalwe met die Bank se skriftelike toestemming.

(13) 'n Verband, hetsy spesiaal of algemeen, geregistreer om die betaling van 'n skuld wat nie voorheen verseker was nie, te verseker, welke skuld aangegaan is voordat die Bank 'n voorskot aan die betrokke skuldenaar gemaak het, skep geen voorkeur nie indien die boedel van die verbandskuldenaar gesekwestreer of gelikwedeer word of indien die Bank kragtens subartikel (3) optree, binne 'n tydperk van 12 maande na die registrasie van daardie verband.

(14) 'n Verband, hetsy spesiaal of algemeen, geregistreer om die betaling van 'n skuld te verseker wat aangegaan is nadat die Bank 'n voorskot aan die betrokke skuldenaar gemaak het, skep geen voorkeur nie indien die boedel van die verbandskuldenaar gesekwestreer of gelikwedeer word of indien die Bank kragtens subartikel (3) voortgaan, binne 'n tydperk van 12 maande na die registrasie van daardie verband.

Aanwending van balans van opbrengs van verkoping

34. (1) As die Bank eiendom of regte ooreenkomstig artikel 33 te gelde gemaak het, moet die oorskot van die opbrengs van die tegeldemaking, indien enige, na betaling van alle koste deur die Bank aangegaan in verband met die beslaglegging en verkoping, aangewend word—

- (a) ten behoeve van die vermindering of delging van enige bedrag verskuldig kragtens enige verband of ander saaklike reg wat voor die Bank se verband of saaklike reg in rangorde staan; en
- (b) indien 'n oorskot oorbly, ten behoeve van die vermindering of delging van die bedrag verskuldig aan die Bank ten opsigte van die voorskot, tesame met rente en koste ten opsigte daarvan; en
- (c) indien enige balans oorbly, soos beoog in subartikel (3).

(2) Enige ander skuldeiser wat 'n statutêre preferente reg oor die skuldenaar se eiendom kragtens enige ander reg hou, staan in rangorde na die Bank se preferente regte kragtens hierdie Wet.

(3) Enige oorskot wat nie kragtens subartikel (1) betaal is nie, moet aan die skuldenaar oorbetal word, maar indien daar enige ander persoon is wat regtens op betaling geregtig is, moet die bedrag waarop hy of sy geregtig is, aan hom of haar betaal word, en die restant van daardie oorskot, indien enige, moet dan aan die skuldenaar oorbetal word.

Finansiële bestuur

35. (1) Die Direksie moet toesien dat die nodige rekeningboeke bygehou word.

(2) Die rekeningboeke en finansiële state van die Bank moet jaarliks deur die Ouditeur-generaal geouditeer word.

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BANK ACT, 2002**

(3) The Board must ensure that annual budgets and corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Subsidiaries

36. (1) The Bank may, subject to the Public Finance Management Act, 1999, and with the written approval of the Board, form a wholly owned subsidiary if necessary for its effective operation and the carrying out of its objectives. 5

(2) The majority of the directors of a subsidiary company established by the Bank must be members of the Board.

(3) The memorandum and articles of association of a subsidiary established by the Bank must be approved by the Board prior to its adoption and registration by the Registrar of Companies. 10

Joint ventures

37. The Bank may, subject to the Public Finance Management Act, 1999, and with the approval of the Board, enter into a joint venture with any person for purposes of furthering the objects of the Bank as contained in this Act. 15

General operations

38. (1) The Bank may, at the request of the Minister or another government Department or organ of state, provide such services as it may reasonably be able to render on an agency basis to such parties as the Minister directs on such conditions as the Minister after consultation with the Board may in writing determine. 20

(2) The Bank may act as adviser to the government and organs of state in respect of matters within or associated with the Bank's objectives, and on such terms as may be determined by the Minister from time to time.

(3) The Bank may within the ambit of its objects provide services to private companies and persons on such conditions as the Board may from time to time determine. 25

Transfer of assets

39. The State may transfer assets to the Bank in order to further the objects of the Bank on such terms and conditions as the State may determine. 30

Immovable property

40. (1) The Bank may acquire, hold or dispose of immovable property in the course of its business.

(2) The Board must determine the policy and procedure of the Bank with regard to the acquisition and disposal of immovable property. 35

(3) The Minister may, subject to subsection (4), direct the Bank to make available for purposes of agrarian reform any immovable property it may have acquired from a debtor of the Bank who has defaulted on the repayment of an advance made by the Bank.

(4) Any immovable property made available by the Bank in terms of subsection (3) may be transferred to and registered in the name of another person only after payment of the productive value for purposes of agrarian reform of that property has been received by the Bank or arrangements have been approved by the Board for payment subsequent to that transfer and registration, whether in instalments or not. 40

Preparation and execution of documents and exemption from stamp duties and other fees

41. (1) Notwithstanding the provisions of any other law and for purposes of carrying out the Bank's functions—

(a) any deed of transfer, mortgage bond, notarial bond or document relating to any other security acquired or disposed of by the Bank within the course and scope of its business may be prepared and executed by any employee of the 50

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(3) Die Direksie moet toesien dat jaarlikse begrotings en korporatiewe planne, jaarverslae en geouditeerde finansiële state voorberei en ingedien word ooreenkomstig die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Filiale

36. (1) Die Bank kan behoudens die Wet op Openbare Finansiële Bestuur, 1999, en met die skriftelike goedkeuring van die Direksie, 'n volfiliaal stig indien dit nodig is vir sy effektiewe bedryf en die uitvoering van sy doelstellings. 5

(2) Die meerderheid direkteure van 'n filiaal gestig deur die Bank moet Direksieledes wees.

(3) Die statute en akte van oprigting van 'n filiaal gestig deur die Bank moet deur die Direksie goedgekeur word voor die aanname en registrasie deur die Registrateur van Maatskappye. 10

Gesamentlike ondernemings

37. Die Bank kan, behoudens die Wet op Openbare Finansiële Bestuur, 1999, en met die goedkeuring van die Direksie, 'n gesamentlike onderneming met enige persoon stig met die oog op die bevordering van die doelstellings van die Bank soos vervat in hierdie Wet. 15

Algemene werksaamhede

38. (1) Die Bank kan, op versoek van die Minister of 'n ander regeringsdepartement of staatsorgaan, die dienste verskaf wat dit redelikerwys op 'n agentskapsbasis kan lewer aan die partye deur die Minister bepaal op die voorwaardes wat die Minister skriftelik na oorlegpleging met die Direksie bepaal. 20

(2) Die Bank kan as adviseur van die regering en staatsorgane ten opsigte van aangeleenthede binne of geassosieer met die Bank se doelstellings en op die voorwaardes wat die Minister van tyd tot tyd bepaal. 25

(3) Die Bank kan binne die omvang van sy doelstellings dienste lewer aan privaatmaatskappye en -persone op die voorwaardes wat die Direksie van tyd tot tyd bepaal.

Oordrag van bates

39. (1) Die Staat kan bates aan die Bank oordra ten einde die doelstellings van die Bank te bevorder, op die bedinge en voorwaardes wat die Staat bepaal. 30

Onroerende eiendom

40. (1) Die Bank kan onroerende eiendom verkry, hou en vervreem in die loop van sy besigheid.

(2) Die Direksie moet die beleid en prosedure van die Bank bepaal met betrekking tot die verkryging en vervreemding van onroerende eiendom. 35

(3) Die Minister kan behoudens subartikel (4) die Bank opdrag gee om met die oog op van landbouhervorming enige onroerende eiendom beskikbaar te stel wat dit verkry het van 'n skuldenaar van die Bank wat op die terugbetaling van 'n voorskot deur die Bank toegestaan, in gebreke gebly het. 40

(4) Enige onroerende eiendom deur die Bank ingevolge subartikel (3) beskikbaar gestel kan oorgedra word na en geregistreer word in die naam van 'n ander persoon slegs nadat betaling van die produktiewe waarde vir die doeleindes van landbouhervorming van daardie eiendom deur die Bank ontvang is of reëlins deur die Direksie goedgekeur is vir betaling ná daardie oordrag en registrasie, hetsy in paaielemente of nie. 45

Uitmaak en verly van dokumente en vrystelling van seëlregte en ander gelde

41. (1) Ondanks die bepalings van enige ander wet en met die oog op die verrigting van die Bank se funksies—

(a) kan enige oordragsakte, verband, notariële verband of dokument wat verband hou met enige ander sekuriteit wat verkry is of waaroor beskik is deur die Bank in die loop en bestek van sy besigheid, opgestel en verly word deur enige 50

Bank specially appointed by the Bank for that purpose, and that employee may, with respect to that document, perform the functions of a conveyancer or a notary public even if he or she is not admitted as such, and all such deeds, bonds or other documents must, if registrable, be accepted for registration in any deeds registry or other registration office of the Republic;

- (b) any person admitted as a conveyancer or a notary public, employed by the Bank and rendering professional conveyancing or notarial services to the Bank is not obliged to charge a fee for such services;
- (c) no stamp or transfer duty is payable in respect of any transfer of property to the Bank and no charge or fee of office is payable in respect of any note made on any document at the request of the Bank in any deeds registry or other registration office or in respect of the cancellation of any such note;
- (d) the Bank is not liable for the payment of any search or inspection fee in any master's office, surveyor-general's office, deeds registry or other registration office.

Fees and charges

42. The Board must from time to time approve a structure of fees and charges to be charged by the Bank for its services.

PART V

ADMINISTRATIVE AND TRANSITIONAL MATTERS

Security of confidential information held by Bank

43. (1) Subject to the Constitution and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may—

- (a) in any way disclose any information submitted by any person in connection with any application for any agricultural financial service rendered or offered by the Bank; or
- (b) publish any information obtained in contravention of paragraph (a), unless ordered to do so by a court of law or unless the person who made such application consents thereto in writing.

(2) Any person who contravenes subsection (1) is guilty of an offence.

Winding up of Bank

44. The Bank may not be wound up except by or in terms of an Act of Parliament.

Judicial management of Bank

45. A judicial management order in terms of the Companies Act, 1973 (Act No. 61 of 1973), may be granted in respect of the Bank by a competent court only on application by the Minister or the Board.

Use of name of Bank

- 46. (1) No person who is not in writing authorised by the Bank to do so may—
 - (a) use the name of the Bank or the names “Land Bank” or “Landbank”; or
 - (b) give out or pretend that he or she represents the Bank in any way, including by the use of logos, designs or advertising material used or owned by the Bank.
- (2) Any person who contravenes subsection (1) is guilty of an offence.

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werknemer van die Bank spesiaal deur die Bank vir daardie doel aangestel, en daardie werknemer kan, ten opsigte van daardie dokument, die funksies van 'n aktebesorger of notaris verrig al is hy of sy nie as sodanig toegelaat nie, en alle sodanige aktes, verbande of ander dokumente moet, indien dit registreerbaar is, in enige aktekantoor of ander registrasiekantoor in die Republiek vir registrasie aangeneem word; 5

- (b) is enige persoon wat as 'n aktebesorger of notaris toegelaat is en wat by die Bank in diens is en professionele aktebesorgers- of notariële dienste aan die Bank lewer, nie verplig om gelde vir sodanige dienste te hef nie;
- (c) is geen seël- of herereg ten opsigte van die oordrag van eiendom aan die Bank betaalbaar nie en is geen koste of ampsgelde betaalbaar ten opsigte van 'n aantekening wat op versoek van die Bank op 'n dokument in enige aktekantoor of ander registrasiekantoor gemaak word, of ten opsigte van die rojering van sodanige aantekening nie; 10
- (d) is die Bank nie aanspreeklik vir die betaling van enige opsporings- of inspeksiegelde in die kantoor van 'n meester of 'n landmeter-generaal of 'n aktekantoor of ander registrasiekantoor nie. 15

Gelde en heffings

42. Die Direksie moet van tyd tot tyd 'n struktuur van gelde en heffings goedkeur wat deur die Bank vir sy dienste gehef moet word. 20

DEEL V**ADMINISTRATIEWE EN OORGANGSMAATREËLS****Veiligheid van vertroulike inligting deur Bank gehou**

43. (1) Behoudens die Grondwet en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), mag geen persoon— 25

- (a) op enige wyse enige inligting openbaar wat deur enige persoon verskaf is in verband met enige aansoek om enige landbou- finansiële diens gelewer of aangebied deur die Bank nie; of
- (b) enige inligting wat in stryd met paragraaf (a) verkry is, publiseer nie, tensy hy of sy daartoe deur 'n geregshof beveel word of tensy die persoon wat sodanige 30 aansoek gerig het, skriftelik daartoe instem.

(2) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig.

Likwidasie van Bank

44. Die Bank mag nie gelikwedeer word nie, behalwe ingevolge 'n Wet van die Parlement. 35

Geregtelike bestuur van Bank

45. 'n Bevel tot geregtelike bestuur ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), kan slegs op aansoek van die Minister of die Direksie ten opsigte van die Bank deur 'n bevoegde hof toegestaan word.

Gebruik van naam van Bank 40

46. (1) Geen persoon wat nie skriftelik daartoe deur die Bank gemagtig is nie, kan op enige wyse—

- (a) die naam van die Bank of die name "Land Bank" of "Landbank" gebruik nie; of
- (b) uitgee of voorgee dat hy of sy die Bank op enige wyse verteenwoordig nie, 45 ook nie deur die gebruik van logo's, ontwerpe of advertensiemateriaal wat deur die Bank gebruik of besit word nie.

(2) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig.

General offences

47. (1) If a Bank employee or a Board member, or any adviser, agent, inspector or valuer employed by the Bank directly or indirectly accepts any fee or reward for his or her personal advantage from any person in respect of or in connection with any financial service rendered or offered by the Bank or any application for such financial service, he or she is guilty of an offence. 5

(2) Any person who bribes or attempts to bribe, or corruptly influences or attempts to corruptly influence a Bank employee or Board member, or any adviser, agent, inspector or valuer employed by the Bank in connection with any financial service rendered or offered by the Bank under this Act or with any application for such financial service, is guilty of an offence. 10

(3) Any person who—

- (a) having any pecuniary interest in any land offered as security for financial services rendered or offered by the Bank under this Act;
- (b) being a creditor or debtor of an applicant for any financial services rendered or offered by the Bank under this Act, or being related to or being a business or life partner of such an applicant; 15
- (c) if the applicant is a company, being a director or shareholder thereof, or being related to or being a business or life partner of such director or shareholder; or
- (d) if the applicant is a close corporation, being a member thereof, or being related to or being a business or life partner of such member, 20

acts as a valuer in connection with the land offered as security for any financial service rendered or offered by the Bank, or as an adviser in connection with such financial service, or attends any meeting of the Board and votes upon any resolution having reference to such land or financial service, is guilty of an offence. 25

Penalties

48. Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment or to both a fine and imprisonment.

Regulations

49. (1) The Minister may make regulations not inconsistent with this Act concerning— 30

- (a) any matter that must or may be prescribed in terms of this Act;
- (b) the duties and accountability of members of the Board;
- (c) offences relating to anything that must or may be done or is prohibited in terms of any regulation made under this section; 35
- (d) any matter which it is necessary to prescribe for the effective implementation of this Act.

(2) The Minister may in terms of subsection (1) prescribe a penalty in respect of an offence contemplated in subsection (1)(c), of a fine or imprisonment for a period not exceeding 12 months. 40

(3) A regulation made in terms of subsection (1) may differentiate between different groups, categories or classes of persons if that differentiation is not prohibited by the Constitution.

Valuations

50. (1) The Bank may at any time require a valuation in respect of any security or collateral or property relevant to any agricultural financial service rendered or offered by the Bank. 45

(2) For purposes of undertaking any valuation contemplated in subsection (1), the Bank may from time to time—

Algemene misdrywe

47. (1) Indien 'n werknemer van die Bank of 'n Direksielid, of enige adviseur, agent, inspekteur of waardeerder in diens van die Bank, regstreeks of onregstreeks van enige persoon enige gelde of beloning aanvaar tot sy of haar persoonlike voordeel ten opsigte van of in verband met enige finansiële diens gelewer of aangebied deur die Bank of enige aansoek om sodanige finansiële diens, is hy of sy aan 'n misdryf skuldig. 5

(2) Enige persoon wat 'n Bankwerknemer of 'n Direksielid, of enige adviseur, agent, inspekteur of waardeerder in diens van die Bank omkoop of poog om hom of haar om te koop, of hom of haar op korrupte wyse beïnvloed of poog om hom of haar op korrupte wyse te beïnvloed in verband met enige finansiële diens kragtens hierdie Wet deur die Bank gelewer of aangebied of met 'n aansoek om sodanige finansiële diens, is aan 'n misdryf skuldig. 10

(3) Enige persoon wat—

(a) 'n geldelike belang het in enige grond wat as sekuriteit aangebied word vir finansiële dienste wat kragtens hierdie Wet deur die Bank gelewer of aangebied word; 15

(b) 'n skuldeiser of skuldenaar is van 'n aansoeker om finansiële dienste wat kragtens hierdie Wet deur die Bank gelewer of aangebied word, of wat verwant is aan of 'n besigheidsvennoot of lewensmaat is van so 'n aansoeker;

(c) indien die aansoeker 'n maatskappy is, 'n direkteur of aandeelhouer daarvan is, of wat verwant is aan of 'n besigheidsvennoot of lewensmaat is van sodanige direkteur of aandeelhouer; of 20

(d) indien die aansoeker 'n beslote korporasie is, 'n lid daarvan is, of wat verwant is aan of 'n besigheidsvennoot of lewensmaat is van sodanige lid,

en wat optree as 'n waardeerder in verband met die grond aangebied as sekuriteit vir enige finansiële diens deur die Bank gelewer of aangebied, of as 'n adviseur in verband met sodanige finansiële diens, of wat enige vergadering van die Direksie bywoon en stem oor enige besluit wat verband hou met sodanige grond of finansiële diens, is aan 'n misdryf skuldig. 25

Strawwe

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48. Enige persoon wat aan 'n misdryf kragtens hierdie Wet skuldig bevind word, is strafbaar met 'n boete of met gevangenisstraf, of met beide 'n boete en gevangenisstraf.

Regulasies

49. (1) Die Minister kan regulasies uitvaardig wat nie met hierdie Wet onbestaanbaar is nie betreffende— 35

(a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word;

(b) die pligte en aanspreeklikheid van Direksielede;

(c) misdrywe met betrekking tot enigiets wat moet of kan gedoen word of wat verbied word ingevolge enige regulasie uitgevaardig kragtens hierdie artikel; 40

(d) enige aangeleentheid waarvoor dit nodig is om voor te skryf vir die effektiewe toepassing van hierdie Wet.

(2) Die Minister kan ingevolge subartikel (1) 'n straf voorskryf ten opsigte van 'n misdryf beoog in subartikel (1)(c) van 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 12 maande. 45

(3) 'n Regulasie ingevolge subartikel (1) uitgevaardig kan tussen verskillende groepe, kategorieë of klasse persone onderskei indien daardie onderskeiding nie deur die Grondwet verbied word nie.

Waardasies

50. (1) Die Bank kan te eniger tyd 'n waardasie vereis ten opsigte van enige sekuriteit of kollateraal of eiendom relevant tot enige landbou- finansiële diens gelewer of aangebied deur die Bank. 50

(2) Vir doeleindes van die maak van enige waardasie beoog in subartikel (1), kan die Bank van tyd tot tyd—

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- (a) despite any other law, appoint suitable persons as valuers; or
- (b) instruct a professional valuer or a professional associated valuer registered in terms of section 20(2)(a) of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000),

to inspect and value property or value a deceased estate for purposes of this Act. 5

(3) Despite anything in any law to the contrary, the Bank has free access to the valuation roll of any municipality, and any employee of a municipality must supply without fee or charge to the Bank, upon application, particulars as to any valuation of rateable property in respect of which that authority has power to charge rates or taxes.

Inspections on behalf of Bank

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51. (1) An employee of the Bank, a valuer appointed or instructed in terms of section 50(2) or any other person authorised in writing by the Bank may, subject to subsection (2), enter upon and inspect any property relating to an agreement with the Bank.

(2) A person referred to in subsection (1) may—

- (a) enter and inspect property referred to in subsection (1) at any reasonable time during the day for purposes of ascertaining whether an advance has been or is being applied properly and whether the conditions of any advance are being observed, or for valuation purposes; 15
- (b) make extracts from any document or information system which are necessary for the purposes of the inspection; and 20
- (c) in writing require the owner or occupier of the property, or the agent of the owner or occupier, to give that person written particulars regarding the property which are necessary for the purposes of the inspection.

Transitional matters

52. (1) Anything validly done in terms of the Land Bank Act, 1944 (Act No. 13 of 1944), continues to be valid and of full force and effect despite the repeal of that Act by section 53 and any regulations made in terms of that Act remain in force until repealed in terms of section 49 of this Act. 25

(2) Every person who was an employee of the Land and Agricultural Bank of South Africa operating in terms of the Land Bank Act, 1944, immediately before the repeal of that Act is regarded as having been appointed in terms of section 17 or 19, as the case may be, of this Act, and the employment agreement existing between that person and the Bank immediately before the commencement of this Act continues to have full force and effect without any change as if it had been concluded by virtue of this Act. 30

(3) Unless every applicable provision of labour legislation had been complied with and unless a person contemplated in subsection (2) agrees thereto in writing, the remuneration and other terms and conditions of employment applicable to that person immediately before the commencement of this Act remain applicable to that person after the commencement of this Act, and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before the commencement of this Act, including but not limited to— 35 40

- (a) membership of a pension fund;
- (b) membership of a medical aid scheme;
- (c) employer contributions in connection with such membership;
- (d) accrued pensionable service; 45
- (e) accrued leave benefits;
- (f) remuneration;
- (g) leave benefits; and
- (h) retirement at a specific age.

(4) Despite any provision to the contrary in any law and for the purposes of any law, no change of employer is regarded as having taken place in respect of any employee of the Bank contemplated in subsection (2). 50

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(a) niesteenstaande enige ander reg, geskikte persone as waardeerders aanstel; of
 (b) instruksies uitreik aan 'n professionele waardeerder of 'n professionele geassosieerde waardeerder geregistreer kragtens artikel 20(2)(a) van die Wet op die Eiendomsvalueerdersprofessie, 2000 (Wet No. 47 van 2000),
 om vir doeleindes van hierdie Wet eiendom te ondersoek en te waardeer of om 'n bestorwe boedel te waardeer. 5

(3) Ondanks enige andersluidende bepalings in enige wet het die Bank gratis toegang tot die waardasierol van enige munisipaliteit, en enige werknemer van 'n munisipaliteit moet op aansoek sonder gelde of heffing vir die Bank besonderhede ten opsigte van enige waardasie van belasbare eiendom verskaf ten opsigte waarvan daardie owerheid die bevoegdheid het om heffings of belastinge in te vorder. 10

Inspeksies namens Bank

51. (1) 'n Werknemer van die Bank, 'n waardeerder wat aangestel is, of aan wie 'n instruksie uitgereik is, ingevolge artikel 47(2) of enige ander persoon skriftelik deur die Bank gemagtig kan behoudens subartikel (2) enige eiendom wat verband hou met 'n ooreenkoms met die Bank, binnegaan en ondersoek. 15

(2) 'n Persoon in subartikel (1) bedoel kan—

- (a) eiendom in subartikel (1) bedoel op enige redelike tyd gedurende die dag binnegaan en ondersoek met die oog daarop om vas te stel of 'n voorskot behoorlik aangewend is of word en of die voorwaardes van enige voorskot nagekom word, of met die oog op waardasie; 20
- (b) uittreksels maak van enige dokument of inligtingstelsel wat nodig is vir die doeleindes van die inspeksie; en
- (c) skriftelik van die eienaar of bewoner van die eiendom, of van die agent van die eienaar of bewoner, vereis om aan daardie persoon skriftelike besonderhede met betrekking tot die eiendom wat nodig is vir die doeleindes van die inspeksie te verskaf. 25

Oorgangsmaatreëls

52. (1) Enigiets wat wettiglik gedoen is ingevolge die Landbankwet, 1944 (Wet No. 13 van 1944), hou aan om geldig te wees en om volledig van krag te wees ten spyte van die herroeping van daardie Wet deur artikel 50 en enige regulasies uitgevaardig ingevolge daardie Wet bly van krag totdat dit ingevolge artikel 46 van hierdie Wet herroep word. 30

(2) Elke persoon wat 'n werknemer was van die Land- en Landboubank van Suid-Afrika wat ingevolge die Landbankwet, 1944, bedryf is, onmiddellik voor die herroeping van daardie Wet, word geag ingevolge artikel 17 of 19, na gelang van die geval, van hierdie Wet aangestel te wees, en die indiensnemingsooreenkoms wat onmiddellik voor die inwerkingtreding van hierdie Wet tussen daardie persoon en die Bank bestaan het, hou aan om sonder enige wysigings volledig van krag te wees asof dit uit hoofde van hierdie Wet aangegegaan is. 40

(3) Tensy daar aan elke toepaslike bepaling van arbeidswetgewing voldoen is en tensy 'n persoon beoog in subartikel (2) skriftelik daartoe instem, bly die vergoeding en ander bedinge en voorwaardes van diens wat onmiddellik voor die inwerkingtreding van hierdie Wet op daardie persoon van toepassing is, op daardie persoon van toepassing na die inwerkingtreding van hierdie Wet, en hy of sy bly geregtig op alle regte, voordele en voorregte waarop hy of sy geregtig was onmiddellik voor die inwerkingtreding van hierdie Wet, met inbegrip van maar nie beperk nie tot— 45

- (a) lidmaatskap van 'n pensioenfonds;
- (b) lidmaatskap van 'n mediese hulpskema;
- (c) werkgewerbydraes in verband met sodanige lidmaatskap; 50
- (d) opgeloopte pensioendraende diens;
- (e) opgeloopte verlofvoordele;
- (f) vergoeding;
- (g) verlofvoordele; en
- (h) aftrede op 'n bepaalde ouderdom. 55

(4) Ondanks enige andersluidende bepalings in enige wet en vir die doeleindes van enige wet, word geen verandering van werkgewer geag plaas te gevind het ten opsigte van enige werknemer van die Bank beoog in subartikel (2) nie.

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(5) Any proceedings involving the Bank, whether they be litigation in court or any hearing of whatever nature in terms of labour legislation, which had been instituted immediately before the commencement of this Act, must be disposed of as if this Act had not been enacted, and the Bank retains any rights it had in respect thereof immediately before the commencement of this Act.

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(6) The registrar of deeds must make any entries or endorsements which may be necessary to reflect the correct position regarding ownership of property as a result of section 2 and no office fee or other charge is payable in respect of such entries or endorsements.

(7) Any reference in any legislation to the Land and Agricultural Bank of South Africa or the Land Bank Act, 1944, must be interpreted as a reference to the Bank or to this Act, as the case may be.

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Repeal of Act 13 of 1944

53. The Land Bank Act, 1944 (Act No. 13 of 1944), is hereby repealed.

Short title and commencement

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54. This Act is called the Land and Agricultural Development Bank Act, 2002, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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(5) Enige geding waarby die Bank betrokke is, hetsy litigasie in 'n geregshof of enige verhoor van welke aard ookal ingevolge arbeidswetgewing, wat ingestel was onmiddellik voor die inwerkingtreding van hierdie Wet, moet afgehandel word asof hierdie Wet nie verorden is nie en die Bank behou enige regte wat dit onmiddellik voor die inwerkingtreding van hierdie Wet ten opsigte daarvan gehad het. 5

(6) Die registrateur van aktes moet enige inskrywings of endossemente aanbring wat nodig mag wees om die korrekte posisie ten opsigte van eienaarskap wat as gevolg van artikel 2 mag ontstaan, weer te gee, en geen kantoorgelde of ander heffing is ten opsigte van sodanige inskrywings of endossemente betaalbaar nie.

(7) Enige verwysing in enige wetgewing na die Land- en Landboubank van Suid-Afrika of die Landbankwet, 1944, moet uitgelê word as 'n verwysing na die Bank of na hierdie Wet, na gelang van die geval. 10

Herroeping van Wet 13 van 1944

53. Die Landbankwet, 1944 (Wet No. 13 van 1944), word hierby herroep.

Kort titel en inwerkingtreding

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54. Hierdie Wet heet die Wet op die Land- en Landbou-ontwikkelingsbank, 2002, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

