



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 147

1991

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

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

No. 21 of 1991: Prevention of Undesirable Residue in Meat Act, 1991.

**PREVENTION OF UNDESIRABLE RESIDUE
IN MEAT ACT, 1991****ACT**

To provide for control over the administration of certain products to animals which may cause undesirable residue in meat and meat products; to further regulate the slaughtering of animals and the marketing of meat and meat products; and to provide for incidental matters.

(Signed by the President on 5 December 1991)

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

Definitions.

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

“analyst” means a person designated under section 9 as an analyst;

“Director” means the person who holds the post of Director: Veterinary Services in the Ministry;

“Group I substance” means -

(a) any product consisting of or containing -

(i) stilbenes, stilbenes derivatives, or their salts and esters;

(ii) thyrostatic substances;

(iii) anabolic growth stimulants with a hormonal action;

(b) any product with oestrogenic, androgenic or gestagenic actions, but excluding any such product which has been declared as a Group II substance; and

(c) any other product declared as a Group I substance under section 2;

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“Group II substance” means any product declared as a Group II substance under section 2;

“Group III substance” means any product declared as a Group III substance under section 2;

“inspector” means a person designated under section 7 as an inspector;

“meat” means any portion of the carcass of an animal ordinarily used for human consumption;

“meat product” means any commodity wholly or partly derived from the processing of meat;

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

“Ministry” means the Ministry of Agriculture, Water and Rural Development;

“prescribed” means prescribed by regulation made under this Act;

“prohibited substance” means any product declared as a prohibited substance under section 2;

“public service” means the public service mentioned in section 2 of the Public Service Act, 1980 (Act 2 of 1980);

“Public Service Commission” means the Commission established by section 4 of the Public Service Act, 1980 (Act 2 of 1980);

“this Act” includes any regulation made or notice issued under this Act;

“veterinarian” means a person registered or deemed to be registered in terms of the Veterinary and Para-Veterinary Professions Proclamation, 1984 (Proclamation AG. 14 of 1984), to practise a veterinary profession; and

“withdrawal time”, in relation to a Group II or Group III substance, means the appropriate withdrawal time prescribed under section 2.

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Minister's power in relation to certain substances.

2. (1) The Minister may by notice in the *Gazette*, for the purposes of this Act -

(a) declare, either as a Group I or a Group II or a Group III substance -

(i) any product being a substance or containing a substance registered as a stock remedy or farm feed in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947);

(ii) any product being a substance registered as a medicine in terms of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965); or

(iii) any product consisting of or containing oestrogen, testosterone or progesterone or any other product which is used, or recommended as suitable for use, in connection with livestock or wild animals for therapeutic purposes or for purposes of fattening or improving fertility, growth, production or working capacity and which, when administered to an animal, has a hormonal action and causes or, in the opinion of the Minister, is likely to cause a residue in the tissue of such animal;

(b) declare any product used or recommended as suitable for use, or manufactured or sold for use in connection with livestock or wild animals, whether or not such product is a Group I or Group II or Group III substance, and which is not a stock remedy or farm feed registered as such in terms of the said Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947, or a medicine registered as such in terms of the said Medicines and Related Substances Control Act, 1965, as a prohibited substance;

(c) whether in general or in respect of any particular Group II or Group III substance, prescribe a period (in this Act referred to as a "withdrawal time") during which, following the treatment of an animal with such substance, the meat of such animal shall be considered unfit for human con-

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sumption or the processing thereof into a meat product.

(2) The Minister may amend or revoke any notice issued under subsection (1).

Prohibition on possession of prohibited substances.

3. No person shall have in his or her possession any prohibited substance except for the purpose of the carrying out of any research and with the written approval of the Minister and subject to such conditions as the Minister may impose.

Prohibition on the administration of certain substances to certain animals.

4. (1) Except with the written approval of the Director and subject to such conditions as the Director may impose, no person shall administer or cause or permit to be administered any Group I substance to any prescribed animal.

(2) No person shall administer or cause or permit to be administered any Group II substance to any prescribed animal, except -

(a) if it is administered to such an animal -

(i) by a veterinarian or by a person acting under the directions and control of a veterinarian;
or

(ii) by the owner or person in control of the animal concerned and such owner or person has obtained such substance upon the prescription of a veterinarian; and

(b) if it is administered for a prescribed purpose and in the prescribed manner.

Prohibition on slaughtering of animals to which certain substances were administered.

5. (1) No person shall deliver or cause or permit to be delivered, any prescribed animal for slaughter to any prescribed abattoir, knowing or having reasonable grounds to suspect that -

(a) any prohibited substance or Group I substance has at any time been administered to such animal;

(b) any Group II or Group III substance has been administered to such animal and that the withdrawal time applying to such substance has not yet expired.

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(2) The owner or person in charge of an abattoir may, if such owner or person has reasonable grounds to believe that any prescribed animal which is being or has been delivered to such abattoir contrary to the provisions of subsection (1), refuse to receive such animal at such abattoir or take such steps as he or she deems necessary to return the animal concerned to the owner or any other person in charge thereof.

(3) Any costs incurred by the owner or person in charge of an abattoir in connection with the return of an animal in terms of subsection (2), shall be paid by, or may be recovered from, the owner or any other person in charge of the animal.

Export of meat or meat products to prescribed countries.

6. (1) Notwithstanding anything to the contrary in any law contained, no meat or meat product derived from a prescribed animal shall be exported to any prescribed country, unless -

- (a) such animal was slaughtered at a prescribed abattoir;
- (b) the meat of such animal was cut at a prescribed cutting plant;
- (c) in the case of a meat product, such meat product was processed at a prescribed processing plant; and
- (d) such meat, and where necessary, such meat product, was stored at a prescribed cold storage pending exportation.

(2) Whenever the Director comes to the conclusion that any meat or meat product intended for export to a prescribed country -

- (a) is meat or a meat product derived from a prescribed animal -
 - (i) to which a prohibited substance or Group I substance has at any time been administered; or
 - (ii) to which a Group II or Group III substance has been administered and which was

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slaughtered before the withdrawal time applying to such substance expired;

- (b) contains any residue of any prohibited substance or Group I or Group II or Group III substance; or
- (c) is meat or a meat product in respect of which any provision of subsection (1) has not been complied with,

the Director shall cause such meat or meat product to be seized and removed to such place as the Director may determine or cause any other steps to be taken in order to prevent such meat from being dispatched from Namibia.

(3) Any meat or meat product seized in terms of subsection (2), shall be disposed of in a manner as prescribed.

Inspectors.

7. (1) The Minister may designate officers or employees in the public service, or other persons, as inspectors to exercise and perform, subject to the instructions and directives of the Director, the powers and functions conferred upon or assigned to an inspector by or under this Act.

(2) An inspector who is not an officer or employee in the public service, shall receive such remuneration and allowances as the Minister may determine in consultation with the Public Service Commission.

(3) Every person designated as an inspector under subsection (1) shall be furnished with a certificate signed by the Minister stating that such person has been so designated.

(4) Any interested person may, where any inspector exercises any power or function under this Act, require such inspector to produce the certificate referred to in subsection (3) to him or her.

(5) The Director may authorise, subject to such conditions as the Director may impose, any person to accompany an inspector during the performance by such inspector of any function in terms of this Act.

Powers of inspectors.

8. (1) Subject to the provisions of this section, an inspector may at any reasonable time without a warrant

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and without permission, enter upon any premises, vehicle or vessel, and on or in such premises, vehicle or vessel perform any such act as he or she may deem necessary in order to ascertain whether the provisions of this Act have been or are being complied with, and may -

- (a) inspect or cause to be inspected any prescribed animal, meat, meat product, substance or any instrument, equipment or other article being used or destined to be used for the administration of substances to animals, found by him or her on or in such premises, vehicle or vessel, and demand from the person in charge thereof any information regarding such animal, meat, meat product, substance, instrument, equipment or other article;
- (b) cause any vehicle or vessel to be brought to a halt and have it searched in order to ascertain whether any prescribed animal, meat, meat product, prohibited substance or Group I or Group II substance is being transported on or in such vehicle or vessel;
- (c) examine any book or document found by him or her on or in any such premises, vehicle or vessel, and which he or she on reasonable grounds suspects to relate to any matter referred to in this Act and make copies of or extracts from such book or document, and demand from the owner or custodian of any such book or document an explanation of any entry therein;
- (d) seize and remove or cause to be removed any animal, meat, meat product, substance, book, document, instrument, equipment or other article which he or she may lawfully inspect, examine or search for under this section which in his or her opinion may afford evidence of a contravention of any provision of this Act; and
- (e) take any sample or cause any sample to be taken of the tissue, blood or discharge of a prescribed animal, or of meat or any meat product or any substance for the purposes of any test, analysis or examination provided for in this Act and direct any person on the premises, vehicle or vessel on which such sample is taken, to assist him or her therein.

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(2) No search of the home of any person shall be carried out under the provisions of subsection (1) unless such search is authorised by a search warrant which has been issued by a magistrate or judge upon information on oath that -

- (a) there are reasonable grounds for believing that any article referred to in the said subsection is in the possession or under the control of any person or upon or at any home within the area of jurisdiction of such judicial officer;
- (b) such search is necessary for a purpose referred to in Article 13(1) of the Namibian Constitution;

Provided that this subsection shall not be so construed as to prohibit the carrying out of any such search without a warrant in circumstances contemplated in Article 13(2)(b) of the Namibian Constitution.

(3) Any search carried out pursuant to the provisions of this section shall -

- (a) not be excessively intrusive having regard to the relevant offence allegedly committed under this Act; and
- (b) comply with the provisions of section 21(3)(a) and (4) and section 29 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

(4) Any inspector who carries out a search without a warrant, shall inform any person found at the home concerned, of the objectives of the search.

(5) The procedure to be followed by an inspector in obtaining and transmitting any sample intended for testing, analysis or examination in connection with criminal proceedings in terms of this Act, shall be as prescribed: Provided that any sample of the tissue of an animal shall only be taken by a veterinarian.

Analysts.

9. (1) The Minister may designate officers or employees in the public service, or other persons, who in the opinion of the Minister are qualified by their technical training and possess competent knowledge, skill and experience, as analysts to test, analyse or examine samples

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of substances, meat, meat products or any other matter which may be or is required to be tested, analysed or examined in terms of this Act.

(2) An analyst who is not an officer or employee in the public service shall receive such remuneration and allowances as the Minister may determine in consultation with the Public Service Commission.

(3) An analyst shall, for the purpose of testing, analysing or examining any sample or reporting the result, employ or use such methods or forms or complete such certificates or reports as may be prescribed, and shall be vested with such other powers, duties or functions as may be prescribed.

(4) Any test, analysis or examination of a sample by an analyst shall be conducted in a prescribed laboratory.

Preservation of secrecy.

10. No person shall disclose to any other person any information acquired by him or her in the performance of his or her duties in terms of this Act relating to the business of any person, except for the purposes of the performance of his or her duties under this Act or when required to do so by any court or under any law.

Offences and penalties.

11. Any person -

- (a) who contravenes any provision of section 3, 4 or 5;
- (b) who refuses or fails to reply to any question put to him or her by an inspector in the exercise of his or her powers in terms of this Act, or in reply to such a question makes any statement or representation knowing it to be false or not knowing or believing it to be true;
- (c) who obstructs or hinders an inspector in the exercise of his or her powers or the performance of his or her duties in terms of this Act;
- (d) who falsely represents himself or herself to be an inspector,

shall be guilty of an offence and on conviction be liable -

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- (i) on a first conviction, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
- (ii) on a second conviction, to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (iii) on a third or subsequent conviction, to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Jurisdiction of magistrates' court.

12. Notwithstanding anything to the contrary in any law contained, a magistrates' court shall have jurisdiction to impose any penalty provided for in section 11.

Proof and presumptions.

13. In any prosecution under this Act it shall, unless the contrary is proved, be presumed that -

- (a) any instrument used in the taking of a sample in terms of this Act and the container in which it was placed for the delivery or transmitting of such sample to an analyst, was free of any substance or contamination which could have influenced the results of such test, analysis or examination;
- (b) any substance or any tissue, blood or discharge of a prescribed animal, or meat or meat product, at the time a sample thereof is taken in terms of this Act, is in the same condition or possesses the same properties as such sample.

Defects in form.

14. A defect in the form of a notice, certificate, report or other document issued, made or furnished in terms of this Act shall not lead to invalidity or be a ground for exception in legal proceedings, provided the requirements for such a notice, certificate, report or other document are substantially complied with and its meaning is clear.

Restriction of liability.

15. No person, including the State, shall be liable in respect of anything done in good faith in the exercise or performance of a power or duty conferred or imposed by or under this Act.

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Regulations.

16. (1) The Minister may make regulations -

- (a) in relation to any matter which in terms of this Act is required or permitted to be prescribed;
- (b) to regulate the manufacture or marketing, of any Group I or Group II or Group III substance in terms of this Act;
- (c) providing for the keeping of registers in relation to the administration of Group I or Group II or Group III substances and the manufacture or marketing of such substances;
- (d) the purposes for and the manner in which any Group II substance may be administered to prescribed animals;
- (e) the marking of prescribed animals to which any Group I or Group II or Group III substances have been administered;
- (f) prescribing the requirements to be complied with by any person who sells or otherwise disposes of any prescribed animal to which any Group I or Group II or Group III substances has been administered;
- (g) conferring upon or assigning to inspectors such other powers and functions as the Minister may deem fit,

and, in general, with regard to any matter which the Minister may consider necessary or expedient to prescribe or regulate in order to attain or further the objectives of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(2) Different regulations which differ in the respects deemed expedient by the Minister, may, subject to the provisions of this Act, be made under subsection (1) in respect of different Group I or Group II or Group III substances or different kinds of prescribed animals.

(3) A regulation may prescribe penalties for any contravention of or failure to comply with its provisions,

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but not exceeding a fine of R2 000 or imprisonment exceeding a period of six months.

Delegation of powers.

17. (1) The Minister may, subject to such conditions as the Minister may deem fit to impose, delegate the powers conferred by section 7(1) and (3) and section 9(1) to any officer or employee in the public service attached to the Ministry.

(2) The Director may, subject to such conditions as the Director may deem fit to impose, delegate the powers conferred by section 7(5) to any officer in the public service attached to the Directorate: Veterinary Services of the Ministry.

(3) The delegation of any power under subsection (1) or (2) shall not divest the Minister or Director, as the case may be, of the power so delegated and the Minister or Director, as the case may be, may amend or set aside anything done by the delegate in the exercise of such a power.

State bound.

18. This Act shall bind the State.

Short title and commencement.

19. This Act shall be known as the Prevention of Undesirable Residue in Meat Act, 1991, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.
